

Global Liberty Ins. Co. of N.Y. v Laurenceau
2017 NY Slip Op 32780(U)
December 20, 2017
Supreme Court, Bronx County
Docket Number: 300062/15
Judge: Wilma Guzman
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**SUPREME COURT OF THE CITY OF NEW YORK
COUNTY OF BRONX**

IA PART 7

Index No. **300062/15**
Motion Calendar No 12
Motion Date: 09-11-15

GLOBAL LIBERTY INSURANCE COMPANY OF
NEW YORK,

Plaintiff(s),

-against-

GABRIEL LAURENCEAU, DAVIS J. ROLAND,
SHADAYA BLAND, PEBBLES BRANCH, CLIFFORD
ANDRE, JAMES MARCEL, RULX M. JOSEPH,
GREGORY JEAN-MICHAEL, WILFRED LOZANDIER,
DAMADIAN MRI IN CANARSIE, P.C., DHD MEDICAL
P.C., HOWARD M. ROMBOM, PH.D.P.C., KINGS
COUNTY HOSPITAL CENTER ADVANTAGE
RADIOLOGY, P.C. HEALTH ACME ACUPUNCTURE,
P.C. KINGS COUNTY PHYSICIANS, PLLC, LONGEVITY
MEDICAL SUPPLY, INC., NICOLA ROSELLI, OT, DAILY
MEDICAL EQUIPMENT DISTRIBUTION CENTER, INC.,
JAMAICA WELLNESS MEDICAL, P.C., LVOV
ACUPUNCTURE, P.C., OMEGA DIAGNOSTIC IMAGING,
P.C. QUEENS MEDICAL & DIAGNOSTIC SERVICES, P.C.
STAND-UP MRI OF BROOKLYN, P.C. PUGSLEY MEDICAL
CARE, P.C. QUEENS MEDICAL & DIAGNOSTIC SERVICES,
SPARTAN MEDICAL SUPPLY, CORP., AXIAL
CHIROPRACTIC, P.C. A.C. MEDICAL, P.C. ARISDOV
MEDICAL, P.C. ANDREW DOWD, M.D. HARMONY
ANESTHESIOLOGY, P.C.

Defendant(s).

DECISION/ ORDER
Present:
Hon. Wilma Guzman

Recitation, as required by CPLR 2219(a), of the papers considered in the review of this Motion
to: For Amend Pleadings.

Papers	Numbered
Notice of Motion and Affidavits Annexed	
Exhibits	
Other:	

Upon the foregoing papers, the Decision/Order on this Motion is as follows:

Plaintiff's motion for leave to amend the Summons and Complaint to include the Proposed Impleaded Defendants, Queens Surgi Center and Forrest Hills Medical, P.C., heretofore granted on default. Plaintiff has demonstrated a basis for impleading said defendants will not prejudice by the amendment and it appears that the amendment is not devoid of merit. See Household Finance Corp. v. Etesyatse, 25 Misc.3d 134(A) (2nd Dept. 2009).

Plaintiff's motion, pursuant CPLR §2201, to stay any and all arbitrations involving the Proposed Impleaded Defendants Queens Surgi Center and Forrest Hills Medical, P.C., as respective assignees of the Providee Defendants, Gabriel Laurenceau, Davis J. Roland, Shadaya Bland, Pebbles Branch, Clifford Andre, JAMES Marcel, Rulx M. Joseph, Gregory Jean-Michel, Wilfred Lozandier and Arisdov Medical, P.C., that are pending before an arbitral forum and any and all litigation involving defendants which are pending in any Court of competent jurisdiction, is heretofore denied. This Court cannot "stay" an arbitration pursuant CPLR §2201. Pursuant to CPLR §2201, this Court can only grant a stay on an action or proceeding before it. Therefore, that application is denied in it's entirety.

Plaintiff's motion, pursuant CPLR §7503(b), for an Order staying any and all arbitrations between the Proposed Impleaded Defendants, Queens Surgi Center and Forrest Hills Medical, P.C., as respective assignees of the Providee Defendants Gabriel Laurenceau, Davis J. Roland, Shadaya Bland, Pebbles Branch, Clifford Andre, James Marcel, Rulx M. Joseph, Gregory Jean-Michel, Wilfred Lozandier and Arisdov Medical, P.C., is heretofore granted on default. "The party seeking a stay of arbitration has the burden of showing the existence of sufficient evidentiary facts as to stablish a preliminary issue which justify the stay." Matter of American Protection Ins. Co v. DeFalco, 61 A.D.3d 970 (2nd Dept. 2009). Plaintiff has set forth sufficient evidentiary facts to demonstrate that the Providee Defendants may have violated a condition precedent to coverage, to wit, whether the accident was intentional. As such, this Court shall grant a temporary stay on all arbitrations between the Proposed Impleaded Defendant as respective assignees of the Providee Defendants that are pending before an arbitral forum until such time as the condition precedent to coverage is determine.

Plaintiff's motion, pursuant to CPLR §6311, granting plaintiff a preliminary injunction,

enjoining Queens Surgi Center and Forrest Hills Medical, P.C., Davis J. Roland, Shadaya Bland, Pebbles Branch, Clifford Andre, James Marcel, Rulx M. Joseph, Gregory Jean-Michel, Wilfred Lozandier, from commencing, prosecuting or proceeding on any arbitrations or, commencing, prosecuting or proceeding on any lawsuits pending in any Court of competent jurisdiction, pending the outcome and determination of this action, is heretofore granted on default as to Queens Surgi Center and Forrest Hills Medical, P.C., as assigned of defendants and Davis J. Roland, Shadaya Bland, Pebbles Branch, Clifford Andre, JAMES Marcel, Rulx M. Joseph, Gregory Jean-Michel, Wilfred Lozandier. is granted on default.

Accordingly, it is

ORDERED that plaintiff's motion, pursuant to CPLR §1003, for leave to amend the summons and complaint to include the impleaded defendants, Queens Surgi Center and Forrest Hills Medical, P.C., is heretofore granted on default. It is further

ORDERED that plaintiff's motion, pursuant to CPLR §2201, to stay any and all arbitrations involving the Proposed Implead Defendants, Queens Surgi Center and Forrest Hills Medical, P.C., as respective assignees of the Providee Defendants that are pending before an arbitral forum and any and all litigation involving defendants which are pending in any Court of competent jurisdiction, is hereto denied. It is further

ORDERED that plaintiff's motion, pursuant to CPLR§ 7503(b), for an Order staying any and all arbitrations between Queens Surgi Center and Forrest Hills Medical, P.C., as respective assignees of the Providee defendants, is heretofore granted on default. It is further

ORDERED that plaintiff's motion, pursuant to CPLR §6311, granting plaintiff a preliminary injunction, enjoining Queens Surgi Center, Forrest Hills Medical, P.C., and Davis J. Roland, Shadaya Bland, Pebbles Branch, Clifford Andre, JAMES Marcel, Rulx M. Joseph, Gregory Jean-Michel, Wilfred Lozandier from commencing, prosecuting or proceeding on any lawsuits pending in any Court of competent jurisdiction, pending the outcome and determination of this action, is heretofore granted on default. It is further

ORDERED that plaintiff shall serve a copy of this Order with Notice of Entry within Thirty (30) days of entry of this Order.

Pebbles Branch, Clifford Andre, James Marcel, Rulx M. Joseph, Gregory Jean-Michel, Wilfred Lozandier, from commencing, prosecuting or proceeding on any arbitrations or, commencing, prosecuting or proceeding on any lawsuits pending in any Court of competent jurisdiction, pending the outcome and determination of this action, is heretofore granted on default as to Queens Surgi Center and Forrest Hills Medical, P.C., as assigned of defendants and Davis J. Roland, Shadaya Bland, Pebbles Branch, Clifford Andre, JAMES Marcel, Rulx M. Joseph, Gregory Jean-Michel, Wilfred Lozandier. is granted on default.

Accordingly, it is

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ORDERED that plaintiff's motion, pursuant to CPLR §2201, to stay any and all arbitrations involving the Proposed Implead Defendants, Queens Surgi Center and Forrest Hills Medical, P.C., as respective assignees of the Providee Defendants that are pending before an arbitral forum and any and all litigation involving defendants which are pending in any Court of competent jurisdiction, is hereto denied. It is further


ORDERED that plaintiff's motion, pursuant to CPLR § 7503(b), for an Order staying any and all arbitrations between Queens Surgi Center and Forrest Hills Medical, P.C., as respective assignees of the Providee defendants, is heretofore granted on default. It is further

ORDERED that plaintiff's motion, pursuant to CPLR §6311, granting plaintiff a preliminary injunction, enjoining Queens Surgi Center, Forrest Hills Medical, P.C., and Davis J. Roland, Shadaya Bland, Pebbles Branch, Clifford Andre, JAMES Marcel, Rulx M. Joseph, Gregory Jean-Michel, Wilfred Lozandier from commencing, prosecuting or proceeding on any lawsuits pending in any Court of competent jurisdiction, pending the outcome and determination of this action, is heretofore granted on default. It is further

ORDERED that plaintiff shall serve a copy of this Order with Notice of Entry within Thirty (30) days of entry of this Order.

This constitutes the decision and order of the Court.

12/20/17
DATE


HON. WILMA GUZMAN, J.S.C.