

Country-Wide Ins. Co. v Jean-Baptiste

2021 NY Slip Op 31774(U)

May 24, 2021

Supreme Court, New York County

Docket Number: 657165/2019

Judge: Debra A. James

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This opinion is uncorrected and not selected for official publication.

File No.: 19CW1008419/000324844-001
SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

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COUNTRY-WIDE INSURANCE COMPANY

Index No.: 657165/2019

Plaintiff,

- against -

JUDGMENT

JACQUELINE JEAN-BAPTISTE

("Eligible Injured Party Defendant"),

And

SINAI DIAGNOSTICS AND INTERVENTIONAL RADIOLOGY P.C.,
NEXRAY MEDICAL IMAGING, P.C.,
JSJ ANESTHESIA AND PAIN MANAGEMENT, PLLC,
AFFINITY ACUPUNCTURE HEALTH CARE, PLLC,
MEDICAL DIAGNOSTIC SERVICES P.C.,
LR MEDICAL, PLLC,
ISLAND AMBULATORY SURGERY CENTER, L.L.C.,
MODERN BROOKLYN MEDICAL, PC,
CERTIFIED MEDICAL SUPPLY INC.,
AVK RX INC,
RIDGWOOD DIAGNOSTIC LABORATORY, LLC,
and M & D ELITE PHARMACY, LLC

(" Medical Provider Defendants").

Defendant(s).

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HON. DEBRA A. JAMES, J.S.C

This case arises from an automobile accident on March 2, 2017 where defendant, JACQUELINE JEAN-BAPTISTE, was involved in a motor vehicle accident while allegedly in a vehicle insured by plaintiff, Country-Wide Insurance Company ("Plaintiff"). Defendant made a claim to Plaintiff as a purported injured person under as insurance policy issued by Plaintiff (U 6520578 16).

Plaintiff commenced an action on or about December 3, 2019, by the filing of a Summons and Complaint seeking a declaratory judgment against JACQUELINE JEAN-BAPTISTE, SINAI DIAGNOSTICS AND INTERVENTIONAL RADIOLOGY P.C., NEXRAY MEDICAL IMAGING, P.C., JSJ ANESTHESIA AND PAIN MANAGEMENT, PLLC, AFFINITY ACUPUNCTURE HEALTH CARE, PLLC, MEDICAL DIAGNOSTIC SERVICES P.C., LR MEDICAL, PLLC, ISLAND AMBULATORY SURGERY CENTER, L.L.C., MODERN BROOKLYN MEDICAL, PC, CERTIFIED MEDICAL SUPPLY INC., AVK RX INC, RIDGEWOOD DIAGNOSTIC LABORATORY, LLC, and M & D ELITE PHARMACY, LLC, due to the alleged breach of contract by JACQUELINE JEAN-BAPTISTE in failing to appear for a properly requested and scheduled Examination Under Oath. Plaintiff seeks a declaration that JACQUELINE JEAN-BAPTISTE is not an eligible injured person entitled to no-fault benefits under the Policy, and that Plaintiff is not obligated to reimburse JACQUELINE JEAN-BAPTISTE for alleged medical treatment, therapy and/or medical supplies rendered.

Plaintiff now moves for a default judgment pursuant to CPLR § 3215 against, JACQUELINE JEAN-BAPTISTE, SINAI DIAGNOSTICS AND INTERVENTIONAL RADIOLOGY P.C., NEXRAY MEDICAL IMAGING, P.C., JSJ ANESTHESIA AND PAIN MANAGEMENT, PLLC, AFFINITY ACUPUNCTURE HEALTH CARE, PLLC, MEDICAL DIAGNOSTIC SERVICES P.C., LR MEDICAL, PLLC, ISLAND AMBULATORY SURGERY CENTER, L.L.C., MODERN BROOKLYN MEDICAL, PC, CERTIFIED MEDICAL SUPPLY INC., AVK RX INC, RIDGEWOOD DIAGNOSTIC LABORATORY, LLC, and M & D ELITE PHARMACY, LLC. No opposition is submitted.

Plaintiff submits affidavits of service showing service upon JACQUELINE JEAN-BAPTISTE on December 19, 2019 and the Medical Provider Defendants on December 19, 2019.

Plaintiff submits the affidavit of Kyaw Nyein who is employed as a No-fault Claim Supervisor and the affidavit of Annie Persaud, the EUO Clerk at Country-Wide Insurance Company, in support of Plaintiff's motion for default judgment.

WHEREFORE, it is hereby,

ORDERED that Plaintiff's motion for default judgment against, JACQUELINE JEAN-BAPTISTE, SINAI DIAGNOSTICS AND INTERVENTIONAL RADIOLOGY P.C., NEXRAY MEDICAL IMAGING, P.C., JSJ ANESTHESIA AND PAIN MANAGEMENT, PLLC, AFFINITY ACUPUNCTURE HEALTH CARE, PLLC, MEDICAL DIAGNOSTIC SERVICES P.C., LR MEDICAL, PLLC, ISLAND AMBULATORY SURGERY CENTER, L.L.C., MODERN BROOKLYN MEDICAL, PC, CERTIFIED MEDICAL SUPPLY INC., AVK RX INC, RIDGEWOOD DIAGNOSTIC LABORATORY, LLC, and M & D ELITE PHARMACY, LLC, is granted; and it is further,

ORDERED and ADJUDGED that on the first cause of action Plaintiff owes no duty to Defendants, JACQUELINE JEAN-BAPTISTE, SINAI DIAGNOSTICS AND INTERVENTIONAL RADIOLOGY P.C., NEXRAY MEDICAL IMAGING, P.C., JSJ ANESTHESIA AND PAIN MANAGEMENT, PLLC, AFFINITY ACUPUNCTURE HEALTH CARE, PLLC, MEDICAL DIAGNOSTIC SERVICES P.C., LR MEDICAL, PLLC, ISLAND AMBULATORY SURGERY CENTER, L.L.C., MODERN BROOKLYN MEDICAL, PC, CERTIFIED MEDICAL SUPPLY INC., AVK RX INC, RIDGEWOOD DIAGNOSTIC LABORATORY, LLC, and M & D ELITE PHARMACY, LLC, to pay No-Fault claims submitted in relation to the March 2, 2017 loss, Claim No.: 000324844-001, Policy.: U 6520578 16, referenced in the complaint involving JACQUELINE JEAN-BAPTISTE, and it is further,

ORDERED and ADJUDGED that on the second cause of action that all arbitrations, lawsuits and enforcement of awards or judgments in connection with the March 2, 2017 loss, Claim No.: 000324844-001, Policy.: U 6520578 16, referenced in the complaint involving JACQUELINE JEAN-BAPTISTE are hereby permanently stayed.

This constitutes the decision and order of the court. The County Clerk is directed to enter Judgment accordingly.

Dated: MAY 24 2021

~~Handwritten signature~~
J.S.C.
DEBRA A. JAMES