

State Farm Mut. Auto. Ins. Co. v Smalls
2026 NY Slip Op 31033(U)
March 17, 2026
Supreme Court, New York County
Docket Number: Index No. 158596/2024
Judge: Emily Morales-Minerva
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SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY

PRESENT: HON. EMILY MORALES-MINERVA PART 42M

Justice

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STATE FARM MUTUAL AUTOMOBILE INSURANCE COMPANY,

Plaintiff,

INDEX NO. 158596/2024

MOTION DATE 07/29/2025

MOTION SEQ. NO. 001

- v -

ABDUL RASHID SMALLS, CHARLES SANDERS, DARRELL FOSKY, 360 WELLNESS PT PLLC, ALMA MED SUPPLY CORP, CORONA CHIROPRACTIC HEALTH SERVICES, PC, DRUGS & MORE INC, FIRST STOP PT, PC, GLENMORE MEDICAL, PC, HYGGE MEDICAL SUPPLIES CORP, JANAN SAYYED, DC, PC, KMR MEDICAL CARE, PC, KO NP IN PSYCHIATRY, PC, LONG BEACH CHIROPRACTIC EVALUATION, PC, NARROW PHARMACY INC, NAUTILUS MEDICAL, PC, NEXT GENERATION DIAGNOSTIC IMAGING, PC, OAK STREET MEDICAL, PC, QUEENS RADIOLOGY IMAGING, PC, REACTIVE PHYSICAL THERAPY, PC, SEDATION VACATION PERIOPERATIVE MEDICINE PLLC, SUNSHINE FAMILY HEALTH NP, PLLC, SUPPLY CHOICE NYC INC, TENDER REHAB PT, PC, WILLISTON PARK MEDICAL, PC

Defendants.

DECISION + ORDER ON MOTION

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The following e-filed documents, listed by NYSCEF document number (Motion 001) 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 61, 63

were read on this motion to/for JUDGMENT - DEFAULT

APPEARANCES:

Goldberg Miller & Rubin, PC, New York, NY (Lindsay Ariel Padover, Esq., of counsel), for plaintiff.

EMILY MORALES-MINERVA, J.S.C.

In this action seeking a declaratory judgment, plaintiff STATE FARM MUTUAL AUTOMOBILE INSURANCE COMPANY moves, by notice of motion (sequence number 001), pursuant to CPLR § 3215, for an order granting it a default judgment against defendants ABDUL

RASHID SMALLS a/k/a ABDUL SMALLS, CHARLES SANDERS a/k/a CHARLES SPENCER, DARRELL FOSKEY, 360 WELLNESS PT PLLC, ALMA MED SUPPLY CORP, FIRST STOP PT, PC, GLENMORE MEDICAL, PC, HYGGE MEDICAL SUPPLIES CORP, JANAN SAYYED, DC, PC d/b/a ACTIVE CARE CHIROPRACTIC & NATURAL WELLNESS CENTER, KMR MEDICAL CARE, PC, LONG BEACH CHIROPRACTIC EVALUATION, PC, NAUTILUS MEDICAL, PC, NEXT GENERATION DIAGNOSTIC IMAGING, PC, OAK STREET MEDICAL, PC, REACTIVE PHYSICAL THERAPY, PC, SEDATION VACATION PERIOPERATIVE MEDICINE PLLC a/k/a SEDATION VACATION PERIOP MED, PLLC, SUNSHINE FAMILY HEALTH NP, PLLC, SUPPLY CHOICE NYC INC, TENDER REHAB PT, PC, and WILLISTON PARK MEDICAL, PC.

When a defendant fails "to appear, plead or proceed to trial of an action reached and called for trial, or when the court orders a dismissal for any other neglect to proceed, the plaintiff may seek a default judgment against [the defendant]" (CPLR § 3215 [a]). To establish entitlement to a default judgment, plaintiff must file (1) proof it served defendant with the summons and complaint, and (2) "proof of the facts constituting the claim, the default, and the amount due . . . by affidavit made by the party" (see CPLR § 3215 [f]; see also Woodson v Mendon Leasing Corp., 100 NY2d 62, 70 [2003] [providing that "an applicant for a default judgment [must] file 'proof by affidavit made by the party of the facts constituting the claim'"]; 231st Riverdale LLC v 7 Star Home Furniture Inc.,

198 AD3d 524, 525 [1st Dept 2021]; Feffer v Malpeso, 210 AD2d 60 [1st Dept 1994]).

Here, plaintiff demonstrates its entitlement to entry of a default judgment against CHARLES SANDERS a/k/a CHARLES SPENCER, 360 WELLNESS PT PLLC, ALMA MED SUPPLY CORP, FIRST STOP PT, PC, GLENMORE MEDICAL, PC, HYGGE MEDICAL SUPPLIES CORP, JANAN SAYYED, DC, PC d/b/a ACTIVE CARE CHIROPRACTIC & NATURAL WELLNESS CENTER, KMR MEDICAL CARE, PC, LONG BEACH CHIROPRACTIC EVALUATION, PC, NAUTILUS MEDICAL, PC, NEXT GENERATION DIAGNOSTIC IMAGING, PC, OAK STREET MEDICAL, PC, REACTIVE PHYSICAL THERAPY, PC, SEDATION VACATION PERIOPERATIVE MEDICINE PLLC a/k/a SEDATION VACATION PERIOP MED, PLLC, SUNSHINE FAMILY HEALTH NP, PLLC, SUPPLY CHOICE NYC INC, TENDER REHAB PT, PC, and WILLISTON PARK MEDICAL, PC. Plaintiff submits, among other things, the affirmations of service; the affirmations of additional mailing; the affirmation of Denise Avallon, SIU Claims Specialist for plaintiff; the examination under oath appointment letters; and an attorney affirmation (see CPLR § 3215 [f]; see also Licurgo-Villar v Samouha, 227 AD3d 619, 620 [1st Dept 2024]; Guzetti v City of New York, 32 AD3d 234 [1st Dept 2006]).

However, plaintiff has not demonstrated its entitlement to entry of a default judgment against defendants ABDUL RASHID SMALLS a/k/a ABDUL SMALLS and DARRELL FOSKEY. The affidavits of service pursuant to CPLR § 308 (2) are defective.

Accordingly, it is hereby

ORDERED that plaintiff's motion (seq. no. 001) for a default judgment against defendants CHARLES SANDERS a/k/a CHARLES SPENCER, 360 WELLNESS PT PLLC, ALMA MED SUPPLY CORP, FIRST STOP PT, PC, GLENMORE MEDICAL, PC, HYGGE MEDICAL SUPPLIES CORP, JANAN SAYYED, DC, PC d/b/a ACTIVE CARE CHIROPRACTIC & NATURAL WELLNESS CENTER, KMR MEDICAL CARE, PC, LONG BEACH CHIROPRACTIC EVALUATION, PC, NAUTILUS MEDICAL, PC, NEXT GENERATION DIAGNOSTIC IMAGING, PC, OAK STREET MEDICAL, PC, REACTIVE PHYSICAL THERAPY, PC, SEDATION VACATION PERIOPERATIVE MEDICINE PLLC a/k/a SEDATION VACATION PERIOP MED, PLLC, SUNSHINE FAMILY HEALTH NP, PLLC, SUPPLY CHOICE NYC INC, TENDER REHAB PT, PC, and WILLISTON PARK MEDICAL, PC is granted; it is further

ORDERED that the Clerk of Court is directed to enter judgment in favor of plaintiff STATE FARM AUTOMOBILE INSURANCE COMPANY, and against defendants CHARLES SANDERS a/k/a CHARLES SPENCER, 360 WELLNESS PT PLLC, ALMA MED SUPPLY CORP, FIRST STOP PT, PC, GLENMORE MEDICAL, PC, HYGGE MEDICAL SUPPLIES CORP, JANAN SAYYED, DC, PC d/b/a ACTIVE CARE CHIROPRACTIC & NATURAL WELLNESS CENTER, KMR MEDICAL CARE, PC, LONG BEACH CHIROPRACTIC EVALUATION, PC, NAUTILUS MEDICAL, PC, NEXT GENERATION DIAGNOSTIC IMAGING, PC, OAK STREET MEDICAL, PC, REACTIVE PHYSICAL THERAPY, PC, SEDATION VACATION PERIOPERATIVE MEDICINE PLLC a/k/a SEDATION VACATION PERIOP MED, PLLC, SUNSHINE FAMILY HEALTH NP, PLLC,

SUPPLY CHOICE NYC INC, TENDER REHAB PT, PC, and WILLISTON PARK MEDICAL, PC; it is further

ORDERED and ADJUDGED that plaintiff STATE FARM AUTOMOBILE INSURANCE COMPANY is not obligated to honor or pay any current or future claims from defendants CHARLES SANDERS a/k/a CHARLES SPENCER, 360 WELLNESS PT PLLC, ALMA MED SUPPLY CORP, FIRST STOP PT, PC, GLENMORE MEDICAL, PC, HYGGE MEDICAL SUPPLIES CORP, JANAN SAYYED, DC, PC d/b/a ACTIVE CARE CHIROPRACTIC & NATURAL WELLNESS CENTER, KMR MEDICAL CARE, PC, LONG BEACH CHIROPRACTIC EVALUATION, PC, NAUTILUS MEDICAL, PC, NEXT GENERATION DIAGNOSTIC IMAGING, PC, OAK STREET MEDICAL, PC, REACTIVE PHYSICAL THERAPY, PC, SEDATION VACATION PERIOPERATIVE MEDICINE PLLC a/k/a SEDATION VACATION PERIOP MED, PLLC, SUNSHINE FAMILY HEALTH NP, PLLC, SUPPLY CHOICE NYC INC, TENDER REHAB PT, PC, and WILLISTON PARK MEDICAL, PC pursuant to claim number 52-57S3-30F; it is further

ORDERED that, within twenty days from the date of this decision and order, plaintiff shall serve a copy of this order, with notice of entry, on defendants CHARLES SANDERS a/k/a CHARLES SPENCER, 360 WELLNESS PT PLLC, ALMA MED SUPPLY CORP, FIRST STOP PT, PC, GLENMORE MEDICAL, PC, HYGGE MEDICAL SUPPLIES CORP, JANAN SAYYED, DC, PC d/b/a ACTIVE CARE CHIROPRACTIC & NATURAL WELLNESS CENTER, KMR MEDICAL CARE, PC, LONG BEACH CHIROPRACTIC EVALUATION, PC, NAUTILUS MEDICAL, PC, NEXT GENERATION DIAGNOSTIC IMAGING, PC, OAK STREET MEDICAL, PC,

REACTIVE PHYSICAL THERAPY, PC, SEDATION VACATION PERIOPERATIVE MEDICINE PLLC a/k/a SEDATION VACATION PERIOP MED, PLLC, SUNSHINE FAMILY HEALTH NP, PLLC, SUPPLY CHOICE NYC INC, TENDER REHAB PT, PC, and WILLISTON PARK MEDICAL, PC, as well as on the Clerk of the Court, who shall enter judgment accordingly; it is further

ORDERED that plaintiff's motion (seq. no. 001) for a default judgment against defendants ABDUL RASHID SMALLS a/k/a ABDUL SMALLS and DARRELL FOSKEY is denied, without prejudice; and it is further

ORDERED that the Clerk of Court shall mark the file accordingly.

3/17/2026
DATE


EMILY MORALES-MINERVA, J.S.C.

CHECK ONE:	<input type="checkbox"/> CASE DISPOSED	<input checked="" type="checkbox"/> DENIED	<input checked="" type="checkbox"/> NON-FINAL DISPOSITION	<input type="checkbox"/> OTHER
APPLICATION:	<input type="checkbox"/> GRANTED	<input type="checkbox"/> DENIED	<input checked="" type="checkbox"/> GRANTED IN PART	<input type="checkbox"/> OTHER
CHECK IF APPROPRIATE:	<input type="checkbox"/> SETTLE ORDER		<input type="checkbox"/> SUBMIT ORDER	<input type="checkbox"/> REFERENCE
	<input type="checkbox"/> INCLUDES TRANSFER/REASSIGN		<input type="checkbox"/> FIDUCIARY APPOINTMENT	