

Aly v Ampadu

2026 NY Slip Op 31121(U)

March 23, 2026

Supreme Court, Kings County

Docket Number: Index No. 512044/2022

Judge: Anne J. Swern

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At an IAS Trial Term, Part 75 of the Supreme Court of the State of New York, Kings County, at the Courthouse located at 360 Adams Street, Brooklyn, New York on the 23rd day of March 2026

P R E S E N T: HON. ANNE J. SWERN, J.S.C.

OSAMA ALY,

Plaintiff(s),

-against-

MILLICENT O. AMPADU AND INTERCITY
PHYCHOTHERAPY LCSW P.C.,

Defendant(s).

DECISION & ORDER

Index No.: 512044/2022

Return Date: 1/8/2026

Motion Seq.: 4 & 5
(HYBID E-FILE CASE)

Recitation of the following papers as required by CPLR 2219(a):

	Papers Numbered
Notice of Motion and Supporting Documents	1, 2 (Hard Copy)
Affirmation in Opposition and Supporting Documents (NYSCEF 56-60)	3
Reply Affirmation (NYSCEF 64)	4
NYSCEF DOC.	
Notice of Cross-Motion and Supporting Documents	55-60
Affirmation in Opposition and Supporting Documents	64

Upon the foregoing papers, the decision and order of the Court is as follows:

This is an action to recover damages arising out of an alleged assault. Plaintiff alleges that he was struck by defendant on 6/19/2021 while lawfully present on Ms. Ampadu’s premises. Defendants served an answer through counsel on 6/2/2022. However, defense counsel was relieved as defendants’ attorney by an order dated 1/23/2025. On 4/30/2025, the corporate defendant did not appear by an attorney and Ms. Ampadu did not appear in her individual capacity for a final discovery conference. Therefore, the Court issue a final pre-note of issue discovery order dated 4/30/2025 on default. Plaintiff served this order of Ms. Ampadu.

Based on defendants' failure to appear in this action after their counsel was discharged, plaintiff then filed a motion to preclude defendants from offering evidence at the trial based on the failure to comply with 4/30/2025 final discovery order. Defendants did not appear in Court on 10/23/2025 concerning the motion. Therefore, the Court granted the motion precluding defendants from offering evidence in defense of the issue of liability in this action on default by an order dated 10/23/2025. The Court denied all other requested relief in the motion.

On 11/20/2025, Ms. Ampadu filed a *pro se* Notice of Appearance and the current motion to vacate the preclusion order. The basis of the motion is that she could not obtain a copy of her file from her prior attorney and without the file, she was unable to retain new counsel. Further, she did not receive notice of the Court dates for the final discovery conference and plaintiff's preclusion motion.

In opposition to Ms. Ampadu's motion, plaintiff filed a cross-motion seeking a) a default judgment against Integrity Psychotherapy LCSW PC and setting this matter down for an inquest and b) denying Ms. Ampadu's motion to vacate the preclusion order and directing that a trial be held on damages because it would be prejudicial to plaintiff since Ms. Ampadu failed to appear for pre-trial deposition testimony and otherwise participate in discovery. Additionally, Ms. Ampadu has not demonstrated a reasonable excuse for not appearing in Court because notice was mailed to her by plaintiff with the final pre-note of issue discovery order dated 4/30/2025 and the preclusion order dated 10/23/2025. Plaintiff also points out that the corporate defendant remains in default as Ms. Ampadu cannot appear on its behalf because corporations must be represented by an attorney and cannot appear *pro se* (*DeMartino v Golden*, 150 AD3d 1200 [2d Dept 2017], *citing* CPLR § 321 [a]).

Ms. Ampadu served an affirmation asking that the Court grant her request because to preclude testimony ignores her prior participation in the case and improperly deprives defendants of the fundamental right to defend plaintiff's claims.

Ms. Ampadu's motion is denied. The Court cannot vacate the default of the corporate defendant because she cannot appear on behalf of her corporation (*DeMartino v Golden*, 150 AD3d 1201). Therefore, the corporate defendant remains in default. As to Ms. Ampadu, while the Court is mindful that she is now a *pro se* litigant, she did not participate in discovery and refused to participate with her attorney from approximately 10/2022 through 2/2024, which refusal formed the basis of her attorney's request to be relieved as counsel (NYSCEF 16). Ms. Ampadu also did not appear in Court in connection with her attorney's Order to Show Cause to be relieved as counsel.

Therefore, as a *pro se* litigant, the Court cannot grant Ms. Ampadu greater rights than litigants represented by counsel by excusing repeated non-compliance with its Orders and Rules of Procedure. (*Ewa v City of New York*, 201 N.Y. Misc. LEXIS 5603, at p.4 [Aliotta, J. Sup. Ct., 2018], *affirmed* 186 AD3d 1195 [2d Dept 2020]).

The Court has considered the parties' remaining arguments and finds same to be without merit.

Accordingly, it is hereby

ORDERED that defendant MILLICENT O. AMPADU's motion to vacate the preclusion order as to liability per the order dated 10/23/2025 is DENIED (MS #4), and it is further

ORDERED that plaintiff's cross-motion for default judgment against INTEGRITY PSYCHOTHERAPY LCSW, P.C. is GRANTED (MS #5), and it is further

ORDERED that the inquest as to damages against INTEGRITY PSYCHOTHERAPY
LCSW, P.C. shall be held at the time of trial of this action with defendant MILLICENT O.
AMPADU, and it is further

ORDERED that this action shall proceed to trial on the issue of plaintiff's damages with
defendant MILLICENT O. AMPADU, and it is further

ORDERED that plaintiff shall the Note of Issue and Certificate of Readiness for the trial
on damages on or before 4/24/2026, and it is further

ORDERED that plaintiff shall serve a copy of this Order on defendants within 15 days of
its entry in NYSCEF.

This constitutes the decision and order of the Court.

E N T E R:



Hon. Anne J. Swern, J.S.C.
Dated: 3/23/2026