

Government Employees Ins. Co. v Grant
2018 NY Slip Op 30965(U)
May 21, 2018
Supreme Court, New York County
Docket Number: 155858/2014
Judge: Eileen A. Rakower
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SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK: PART 6

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GOVERNMENT EMPLOYEES INSURANCE
COMPANY, GEICO INDEMNITY
INSURANCE COMPANY, GEICO
GENERAL INSURANCE COMPANY, and
GEICO CASUALTY COMPANY,

Plaintiffs,

- v -

VINTON GRANT a/k/a VINTON A. GRANT,
ANDRE D. BRISSETT, et al.,

(collectively, the "Policy Defendants")

-and-

FRANKIE GRIFFIN,
THOMAS WASHINGTON, et al.,

(collectively, the "Stated Loss Defendants")

ABDEL-SHAHID REMONDA, P.T.,
ACCELERATED DME RECOVERY, INC.,
et al.,

Defendants.

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AMENDED ORDER

THIS ORDERS SUPERCEDES THE COURT'S OCTOBER 27, 2015.

Index No.
155858/2014

**DECISION
and ORDER**

Mot. Seq. 3

HON. EILEEN A. RAKOWER, J.S.C.

As alleged in the Complaint, Plaintiffs “seek[] to terminate a massive, ongoing, fraudulent scheme perpetrated against GEICO whereby . . . [i]ndividuals and their associates obtain automobile insurance policies from GEICO and other insurers . . . typically through false and fraudulent policy applications . . . , then stage phony automobile ‘accidents’ involving the vehicles insured under the Subject Policies,” and “[a] series of fraudulent claims for No-Fault reimbursement, DIM benefits and liability coverage are then submitted in connection with these staged ‘accidents’ that have each been intentionally caused.” The Verified Complaint alleges, “[t]he policies and claims described below are interrelated in that they share common circumstances, parties, pedigree information including facsimile numbers and addresses, bank records and medical providers, among other information.” The Verified Complaint further alleges, “There are common ringleaders that permeate these claims and it is evident that the insureds and claimants herein are willfully causing these ‘accidents’ in an attempt to commit insurance fraud . . . Additionally, many of the purported ‘accident victims’ of these ‘accidents’ fail to respond to GEICO’s requests for additional verification, including requests that they appear for examinations under oath as required under the Subject Policies and No-Fault laws.”

Specifically, in this action, Plaintiffs seek declaratory judgment, pursuant to CPLR 3001, declaring:

- i) the Subject Policies were procured through fraud, and GEICO therefore is not obligated to pay any claims that arise from the Subject Policies; including but not limited to first-party benefits to the healthcare providers or to the named insureds, including but not limited to No-Fault, uninsured motorist and/or underinsured motorist benefits, nor is GEICO obligated to defend the named insureds or the individuals who operated the insured vehicles for claims that are made against them seeking damages and payment under the Subject Policies; and
- ii) the pertinent accidents were staged, not genuine, and GEICO therefore is not obligated to pay any first-party benefits on the Subject

Policies to the healthcare providers or to the named insureds, including but not limited to No-Fault, uninsured motorist and/or underinsured motorist benefits, nor is GEICO obligated to defend the named insureds or the individuals who operated the insured vehicles for claims that are made against them seeking damages and payment under the Subject Policies; and

- iii) to the extent that insureds and/or claimants who seek to collect first-party benefits from GEICO and systematically fail to respond to GEICO's requests for additional verification, including examinations under oath, such conduct constitutes a material breach of a condition to coverage which relieves GEICO from its obligation to pay the claims.

The named defendants are (1) “individuals who procure automobile insurance policies through false and fraudulent policy applications and, in many instances, are involved in staging the incidents at issue that result in false and fraudulent claims”; (2) “individuals involved in the staged accidents and who assign their rights to No-Fault benefits to the Provider Defendants and/or file claims for personal injuries against the Policy Defendants”; and (3) “healthcare goods and services providers who are assigned rights to No-Fault benefits by the Staged Loss Defendants.”

Plaintiffs now moves for default judgment against the following defendants:¹

¹ Defendants Gregory Jean Francois a/k/a Gregory JeanFrancois a/k/a Gregory J. Francois, Shawn Jackson, Action Potential Chiropractic, PLLC, Chapa Products Corporation, Charles Deng Acupuncture, PC, Charles Deng, Lac, Darren T. Mollo, D.C., Island Life Chiropractic Pain Care, PLLC, Jules Francois Parisien, MD, Ksenia Pavlova, MD, Maiga Products Corporation, Maria Shiela Masiglia, PT, Pierre JJ Renelique, MD, Pierre Jean Jacques Renilique, T&S Medical Supply Corporation, TAM Medical Supply Corp. (collectively, “Movants”) previously moved, pursuant to CPLR 3211(a)(4) and 325(d), for an Order dismissing Plaintiffs’ complaint. Plaintiffs opposed. By Order dated October 8, 2015, Movants’ motion was dismissed and Movants were directed to file and serve an answer.

VINTON GRANT a/k/a VINTON A. GRANT, SHERRON D. BENN, JANEL K. MITCHELL a/k/a JANELLE MITCHELL, RANDOLPH R. DUBOSE, JONATHAN A. FERRILL a/k/a JONATHAN A. FERRIL, CHRISTOPHER ALDRIDGE, HARRY P. LESPINAS, NICOLE J. HARRIS, FRANKIE GRIFFIN, THOMAS WASHINGTON, BARRINGTON SONGUE, GABRIEL FERRIL a/k/a GABRIEL J. FERRIL a/k/a GABRIEL FARREL, BRYANT CARTER a/k/a BRYANT H. CARTER JR., WILFREDO QUINONES, REBECCA MATHURIN, CHRISTOPHER CHIARANTANO, RANARDA F. BOWEN, CALVIN LOUISAIRE, JIBRIEL FERRIL a/k/a JIBRIEL J. FERRIL, MOSIAH MORGAN, JULIE ALEXANDER, JAMAUL SHEPHERD a/k/a JAMAUL M. SHEPHERD, ASHLEY PEREZ, SIMION STEPHENSON, JAMES SEARLES, JOSEPH EDWARDS, NEVILLE A. FRASER, SUSAN WEISS, DENNIS MARTINEZ, CODIE MINGO, GINO SALAZAR, ACCU REFERENCE MEDICAL LAB LIMITED LIABILITY COMPANY, ADVANCED CLINICAL LABORATORY SOLUTIONS, INC., ADVANCED ORTHOPEDICS AND JOINT PRESERVATION P.C., ANDREW J. DOWD, M.D., AXIAL CHIROPRACTIC P.C., BATH ORTHO SUPPLY, INC., BROOKLYN MEDICAL IMAGING, P.C., CMS MEDICAL SUPPLY INC., DAVID NEUMAN, M.D., DENNIS ROSSI, M.D., FLATBUSH MEDICAL CARE, P.C., FOREST HILLS MEDICAL ASSOCIATES, P. C., G A PHYSICAL THERAPY, P.C., GENTLE MEDICAL CARE PC, HILLSIDE SURGICARE, HU'S ACUPUNCTURE & MASSAGE, P.C., IAV MEDICAL SUPPLY INC., INFINITY CHIROPRACTIC HEALTH, P.C., INFINITY PSYCHOLOGICAL SERVICES P.C., JAMES S. KAUFMAN, JSJ ANESTHESIA AND PAIN MANAGEMENT, PLLC, JYOTU SHAH, M.D., KAUFMAN CHIROPRACTIC OFFICE, L & S TOV DRUGS LLC d/b/a SUPER SCRIPT PHARMACY, LEONID REYFMAN, M.D., MAJESTIC ACUPUNCTURE, P.C., MARCEL BENOIT, M.D., MILVOJE MILOSEVIC, M.D., MILLENNIUM AMBULATORY SURGERY CENTER, L.L.C., MOON LIGHT PT, P.C., NEW GENERATION MEDICAL, P.C., NEW YORK DIAGNOSTIC MEDICAL CARE P.C., NEW YORK HOSPITAL QUEENS FOUNDATION, INC. d/b/a NEW YORK HOSPITAL OF QUEENS, NORMAN SVEILICH, D.O., NORTHSTAR MEDICAL, P.C., N.V. MEDICAL SERVICES, P.C., ORTHO-MED EQUIP INC., PARK SLOPE MEDICAL HEIGHTS P.C., PEARL MEDICAL P.C., PETER GAY, M.D., QUEENS SURGI CENTER,

RADIOLOGY WORKS, P.C., REHAB MEDICAL & DIAGNOSTIC P.C., SADYK FAYZULAYEV, P.A., SHORE ACUPUNCTURE, P.C., SHORE MEDICAL DIAGNOSTIC, P.C., SILVER POINT ACUPUNCTURE, P.C., STAND UP MRI OF BROOKLYN, P.C., THERAPEUTIC CHIROPRACTIC SERVICES P.C., TONI M. LABELLA, LAC, LMT, TOUCH STONE CHIROPRACTIC, P.C., UNLIMITED MEDICAL CARE, P.C., W JOSEPH GORUM MD P.C. and YEVGENIY MARGULIS, PhD.

Plaintiffs do not move for default judgment with respect to the following defendants: Andrew D. Brissett (who interposed an Answer on August 4, 2014); Alfa Medical Supplies, Inc., and Quality Custom Medical Supply, Inc. (who interposed Answers on July 11 and July 22, 2014); and Gopran Farvque, Juan Diaz, and Jazz Leasing Corp. (who interposed Answers on November 14, 2014).

CPLR § 3215 provides, in relevant part: “[o]n any application for judgment by default, the applicant shall file proof ... of the facts constituting the claim, the default and the amount due by affidavit made by the party.” (CPLR § 3215[f]). CPLR § 3215 does not contemplate that default judgments are to be “rubberstamped” once jurisdiction and a failure to appear have been shown. (*Feffer v. Malpeso*, 210 A.D.2d 60, 61 [1st Dep’t 1994]; see also *Gagen v. Kipany Prods.*, 289 A.D. 2d 844, 846 [3d Dep’t, 2001] [“[T]he granting of a default judgment does not become a ‘mandatory ministerial duty’ upon a defendant’s default.”]). Rather, some proof of liability is required to satisfy the court as to the prima facie validity of the uncontested cause of action. (*Feffer*, 210 A.D.2d at 61). The standard of proof on an application for judgment by default “is not stringent, amounting only to some firsthand confirmation of the facts”. (*Id.*).

In support of Plaintiffs’ motion for default judgment, Plaintiff submits the attorney affirmation of Yilo Kang, which annexes a copy of the Summons and Verified Complaint, verified by Plaintiffs’ employee Michael DeGroco, affidavits of service attesting to service on the Defaulting Defendants, and proof of additional mailing.

Based on the foregoing, it is hereby

ORDERED that Plaintiffs’ motion for leave to enter a default judgment

against the following defendants is granted without opposition:

VINTON GRANT a/k/a VINTON A. GRANT, SHERRON D. BENN, JANEL K. MITCHELL a/k/a JANELLE MITCHELL, RANDOLPH R. DUBOSE, JONATHAN A. FERRILL a/k/a JONATHAN A. FERRIL, CHRISTOPHER ALDRIDGE, HARRY P. LESPINAS, NICOLE J. HARRIS, FRANKIE GRIFFIN, THOMAS WASHINGTON, BARRINGTON SONGUE, GABRIEL FERRIL a/k/a GABRIEL J. FERRIL a/k/a GABRIEL FARREL, BRYANT CARTER a/k/a BRYANT H. CARTER JR., WILFREDO QUINONES, REBECCA MATHURIN, CHRISTOPHER CHIARANTANO, RANARDA F. BOWEN, CALVIN LOUISAIRE, JIBRIEL FERRIL a/k/a JIBRIEL J. FERRIL, MOSIAH MORGAN, JULIE ALEXANDER, JAMAUL SHEPHERD a/k/a JAMAUL M. SHEPHERD, ASHLEY PEREZ, SIMION STEPHENSON, JAMES SEARLES, JOSEPH EDWARDS, NEVILLE A. FRASER, SUSAN WEISS, DENNIS MARTINEZ, CODIE MINGO, GINO SALAZAR, ACCU REFERENCE MEDICAL LAB LIMITED LIABILITY COMPANY, ADVANCED CLINICAL LABORATORY SOLUTIONS, INC., ADVANCED ORTHOPEDICS AND JOINT PRESERVATION P.C., ANDREW J. DOWD, M.D., AXIAL CHIROPRACTIC P.C., BATH ORTHO SUPPLY, INC., BROOKLYN MEDICAL IMAGING, P.C., CMS MEDICAL SUPPLY INC., DAVID NEUMAN, M.D., DENNIS ROSSI, M.D., FLATBUSH MEDICAL CARE, P.C., FOREST HILLS MEDICAL ASSOCIATES, P. C., G A PHYSICAL THERAPY, P.C., GENTLE MEDICAL CARE PC, HILLSIDE SURGICARE, HU'S ACUPUNCTURE & MASSAGE, P.C., IAV MEDICAL SUPPLY INC., INFINITY CHIROPRACTIC HEALTH, P.C., INFINITY PSYCHOLOGICAL SERVICES P.C., JAMES S. KAUFMAN, JSJ ANESTHESIA AND PAIN MANAGEMENT, PLLC, JYOTU SHAH, M.D., KAUFMAN CHIROPRACTIC OFFICE, L & S TOV DRUGS LLC d/b/a SUPER SCRIPT PHARMACY, LEONID REYFMAN, M.D., MAJESTIC ACUPUNCTURE, P.C., MARCEL BENOIT, M.D., MILVOJE MILOSEVIC, M.D., MILLENNIUM AMBULATORY SURGERY CENTER, L.L.C., MOON LIGHT PT, P.C., NEW GENERATION MEDICAL, P.C., NEW YORK DIAGNOSTIC MEDICAL CARE P.C., NEW YORK HOSPITAL QUEENS FOUNDATION, INC. d/b/a NEW YORK HOSPITAL OF QUEENS, NORMAN SVEILICH, D.O., NORTHSTAR MEDICAL, P.C., N.V. MEDICAL SERVICES, P.C.,

ORTHO-MED EQUIP INC., PARK SLOPE MEDICAL HEIGHTS P.C., PEARL MEDICAL P.C., PETER GAY, M.D., QUEENS SURGI CENTER, RADIOLOGY WORKS, P.C., REHAB MEDICAL & DIAGNOSTIC P.C., SADYK FAYZULAYEV, P.A., SHORE ACUPUNCTURE, P.C., SHORE MEDICAL DIAGNOSTIC, P.C., SILVER POINT ACUPUNCTURE, P.C., STAND UP MRI OF BROOKLYN, P.C., THERAPEUTIC CHIROPRACTIC SERVICES P.C., TONI M. LABELLA, LAC, LMT, TOUCH STONE CHIROPRACTIC, P.C., UNLIMITED MEDICAL CARE, P.C., W JOSEPH GORUM MD P.C. and YEVGENIY MARGULIS, PhD (collectively, "Defaulting Defendants")

; and it is further

ORDERED and ADJUDGED that Plaintiffs are not obligated to pay any first-party benefits on the Subject Policies to the healthcare providers, named insureds and/or claimants, including but not limited to No-Fault, uninsured motorist and/or underinsured motorist benefits, as identified in the Verified Complaint; and it is further

ORDERED and ADJUDGED that Plaintiffs are not obligated to defend nor provide indemnification for the named insureds or the individuals who operated the insured vehicles for claims that are made against them seeking damages and payment under the Subject Policies, as identified in the Verified Complaint; and it is further

ORDERED that the action shall continue as against the remaining defendants.

This constitutes the Decision and Order of the Court. All other requested relief is denied.

DATED: MAY 21, 2018



EILEEN A. RAKOWER, J.S.C.