

**Country-Wide Ins. Co. v Anyanwu**

2018 NY Slip Op 32900(U)

November 14, 2018

Supreme Court, New York County

Docket Number: 150726/2018

Judge: William Franc Perry

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This opinion is uncorrected and not selected for official publication.

SUPREME COURT OF THE STATE OF NEW YORK  
NEW YORK COUNTY

PRESENT: HON. W. FRANC PERRY PART IAS MOTION 23EFM

Justice

-----X  
COUNTRY-WIDE INSURANCE COMPANY,  
Plaintiff,  
  
- v -  
  
INDEX NO. 150726/2018  
MOTION DATE 09/11/2018  
MOTION SEQ. NO. 001

KAODICHIMMA ANYANWU, PATCHOGUE OPEN MRI, P.C.  
D/B/A SOUTHWEST RADIOLOGY, ARON ROVNER MD,  
PLLC, METRO PAIN SPECIALISTS PROFESSIONAL  
CORPORATION, LIDA'S MEDICAL SUPPLY INC., HUDSON PRO  
ORTHOPAEDICS AND SPORTS MEDICINE, PROFIT REHAB,  
P.T. PLLC, GREEN LAND ACUPUNCTURE P.C., WHIPLASH  
CHIROPRACTIC, P.C., MICHAEL GEORGE ALLEYNE, M.D.,  
P.C., CITIMED SERVICES, PA, HEALTHPLUS SURGERY  
CENTER LLC, HAND BY HAND PT, P.C., NEW CHIROPRACTIC  
CARE, P.C., NORTH FLUSHING PRIMARY MEDICAL CARE  
P.C., BSS MEDICAL P.C., TANDINGAN P.T. P.C., DIGNITY PT,  
P.C.  
Defendant.

DECISION AND ORDER

-----X  
The following e-filed documents, listed by NYSCEF document number (Motion 001) 21, 22, 23, 24, 25,  
26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 41  
were read on this motion to/for JUDGMENT - DEFAULT

This case arises from an automobile accident on February 26, 2017 where defendant  
KAODICHIMMA ANYANWU 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  
(U6517529 16).

Plaintiff commenced an action on or about January 24, 2018, by the filing of a Summons  
and Complaint seeking a declaratory judgment against KAODICHIMMA ANYANWU,  
PATCHOGUE OPEN MRI, P.C. D/B/A SOUTHWEST RADIOLOGY, ARON ROVNER MD,  
PLLC, METRO PAIN SPECIALISTS PROFESSIONAL CORPORATION, LIDA'S MEDICAL  
SUPPLY INC., HUDSON PRO ORTHOPAEDICS AND SPORTS MEDICINE, PROFIT  
REHAB, P.T. PLLC, GREEN LAND ACUPUNCTURE P.C., WHIPLASH CHIROPRACTIC,  
P.C., MICHAEL GEORGE ALLEYNE, M.D., P.C., CITIMED SERVICES, PA,

HEALTHPLUS SURGERY CENTER LLC, HAND BY HAND PT, P.C., - NEW CHIROPRACTIC CARE, P.C., NORTH FLUSHING PRIMARY MEDICAL CARE P.C., BSS MEDICAL P.C., TANDINGAN P.T. P.C., and DIGNITY PT, P.C., due to the alleged breach of contract by KAODICHIMMA ANYANWU in failing to appear for a properly requested and scheduled Examination Under Oath. Plaintiff seeks a declaration that KAODICHIMMA ANYANWU is not an eligible injured person entitled to no-fault benefits under the Policy, and that Plaintiff is not obligated to reimburse KAODICHIMMA ANYANWU for alleged medical treatment, therapy and/or medical supplies rendered.

Plaintiff now moves for a default judgment pursuant to CPLR § 3215 against, KAODICHIMMA ANYANWU, PATCHOGUE OPEN MRI, P.C. D/B/A SOUTHWEST RADIOLOGY, ARON ROVNER MD, PLLC, METRO PAIN SPECIALISTS PROFESSIONAL CORPORATION, LIDA'S MEDICAL SUPPLY INC., HUDSON PRO ORTHOPAEDICS AND SPORTS MEDICINE, PROFIT REHAB, P.T. PLLC, GREEN LAND ACUPUNCTURE P.C., WHIPLASH CHIROPRACTIC, P.C., MICHAEL GEORGE ALLEYNE, M.D., P.C., CITIMED SERVICES, PA, HEALTHPLUS SURGERY CENTER LLC, HAND BY HAND PT, P.C., NEW CHIROPRACTIC CARE, P.C., NORTH FLUSHING PRIMARY MEDICAL CARE P.C., BSS MEDICAL P.C., TANDINGAN P.T. P.C., and DIGNITY PT, P.C. No opposition is submitted. Plaintiff submits affidavits of service showing service upon KAODICHIMMA ANYANWU on February 28, 2018 and Medical Provider Defendants on February 7, 2018, February 8, 2018, February 9, 2018

Plaintiff submits the affidavit of Jessica Mena-Sibrian, who is employed as a No-fault litigation/Arbitration Supervisor and the affidavit of Annie Persaud f/k/a Fatima Zuhra, the EUO Clerk, in support of Plaintiff's motion for default judgment.

WHEREFORE, it is hereby,

ORDERED that Plaintiff's motion for default judgment against KAODICHIMMA ANYANWU, PATCHOGUE OPEN MRI, P.C. D/B/A SOUTHWEST RADIOLOGY, ARON ROVNER MD, PLLC, METRO PAIN SPECIALISTS PROFESSIONAL CORPORATION, LIDA'S MEDICAL SUPPLY INC., HUDSON PRO ORTHOPAEDICS AND SPORTS MEDICINE, PROFIT REHAB, P.T. PLLC, GREEN LAND ACUPUNCTURE P.C., WHIPLASH CHIROPRACTIC, P.C., MICHAEL GEORGE ALLEYNE, M.D., P.C., CITIMED SERVICES, PA, HEALTHPLUS SURGERY CENTER LLC, HAND BY HAND PT, P.C., NEW CHIROPRACTIC CARE, P.C., NORTH FLUSHING PRIMARY MEDICAL CARE P.C., BSS MEDICAL P.C., TANDINGAN P.T. P.C., and DIGNITY PT, P.C., is granted; and it is further

ORDERED and ADJUDGED that on the first cause of action Plaintiff owes no duty to Defendants KAODICHIMMA ANYANWU, PATCHOGUE OPEN MRI, P.C. D/B/A SOUTHWEST RADIOLOGY, ARON ROVNER MD, PLLC, METRO PAIN SPECIALISTS PROFESSIONAL CORPORATION, LIDA'S MEDICAL SUPPLY INC., HUDSON PRO ORTHOPAEDICS AND SPORTS MEDICINE, PROFIT REHAB, P.T. PLLC, GREEN LAND ACUPUNCTURE P.C., WHIPLASH CHIROPRACTIC, P.C., MICHAEL GEORGE ALLEYNE, M.D., P.C., CITIMED SERVICES, PA, HEALTHPLUS SURGERY CENTER LLC, HAND BY HAND PT, P.C., NEW CHIROPRACTIC CARE, P.C., NORTH FLUSHING PRIMARY MEDICAL CARE P.C., BSS MEDICAL P.C., TANDINGAN P.T. P.C., and DIGNITY PT, P.C., to pay No-Fault claims submitted in relation to the February 26, 2017 loss, Claim No.: 000324780-002, Policy.: U6517529 16 referenced in the complaint involving KAODICHIMMA ANYANWU; 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 February 26, 2017 loss, Claim No.: 000324780-002, Policy.: U6517529 16 referenced in the complaint involving KAODICHIMMA ANYANWU is hereby permanently stayed.

11/14/2018

DATE

W. FRANC PERRY, J.S.C.

CHECK ONE:

CASE DISPOSED

NON-FINAL DISPOSITION

GRANTED

DENIED

GRANTED IN PART

OTHER

APPLICATION:

SETTLE ORDER

SUBMIT ORDER

CHECK IF APPROPRIATE:

INCLUDES TRANSFER/REASSIGN

FIDUCIARY APPOINTMENT

REFERENCE