

<b>American Tr. Ins. Co. v Nova</b>
2019 NY Slip Op 32079(U)
July 15, 2019
Supreme Court, New York County
Docket Number: 157142/2018
Judge: Debra A. James
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**SUPREME COURT OF THE STATE OF NEW YORK  
NEW YORK COUNTY**

**PRESENT: HON. DEBRA A. JAMES PART IAS MOTION 59EFM**

*Justice*

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**INDEX NO. 157142/2018**

AMERICAN TRANSIT INSURANCE COMPANY,

**MOTION DATE 03/22/2019**

Plaintiff,

**MOTION SEQ. NO. 001**

- v -

RAFAEL NOVA, ACCURATE DIAGNOSTIC LABS, INC.,  
BOLESLAV KOSHARSKYY, MEDICAL PRACTICE, PC,  
CONQUER PAIN, PC, EXCELL CLINICAL LAB, INC., FIFTH  
AVENUE SURGERY CENTER, LLC, FJ ORTHOPAEDICS  
AND PAIN MANAGEMENT PLLC, IGOR AMIGUD  
PHYSICIAN PC, IHOME REHAB, LLC, ISLAND  
AMBULATORY SURGERY CENTER, L.L.C., JONATHAN  
LEWIN MD PC, JSJ ANESTHESIA AND PAIN  
MANAGEMENT, PLLC, LAGUNA CHIROPRACTIC  
PC, LENCO DIAGNOSTIC LABORATORIES, INC.,  
PARAMOUNT MEDICAL SERVICES, PC, PREFERRED  
MEDICAL, PC, PROTECHMED INC., PSYCHOLOGY  
AFTER ACCIDENT PC, TOWN SUPPLY, INC., UNITED  
PHYSICIANS PLLC, VALLEY ACUPUNCTURE, PC and  
WELLNESS DIAGNOSTIC IMAGING PC,

**DECISION + ORDER ON  
MOTION**

Defendants.

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The following e-filed documents, listed by NYSCEF document number (Motion 001) 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27

were read on this motion for JUDGMENT - DEFAULT

Upon the foregoing documents,

Plaintiff AMERICAN TRANSIT INSURANCE COMPANY in this declaratory judgment action moves for a default judgment for the relief demanded in the Complaint pursuant to CPLR 3215 based upon the failure of defendants RAFAEL NOVA, ACCURATE DIAGNOSTIC LABS, INC., BOLESLAV KOSHARSKYY, MEDICAL PRACTICE, PC, CONQUER PAIN, PC, EXCELL CLINICAL LAB, INC., FIFTH AVENUE SURGERY CENTER, LLC, FJ ORTHOPAEDICS AND PAIN MANAGEMENT PLLC, IGOR

AMIGUD PHYSICIAN PC, IHOME REHAB, LLC, JONATHAN LEWIN MD PC,  
LAGUNA CHIROPRACTIC PC, Lenco DIAGNOSTIC LABORATORIES, INC.,  
PARAMOUNT MEDICAL SERVICES, PC, PREFERRED MEDICAL, PC,  
PSYCHOLOGY AFTER ACCIDENT PC, UNITED PHYSICIANS PLLC, VALLEY  
ACUPUNCTURE, PC and WELLNESS DIAGNOSTIC IMAGING PC  
to answer or appear. Stipulations of discontinuance resolve the  
action against the defendants TOWN SUPPLY, INC., PROTECHMED  
INC., ISLAND AMBULATORY SURGERY CENTER, L.L.C. and JSJ  
ANESTHESIA AND PAIN MANAGEMENT, PLLC.

Plaintiff has submitted proof of service of the summons and  
complaint and proof of service of this motion upon defendants.  
Defendants have defaulted in appearance on this motion.  
Plaintiff has further submitted an affidavit of facts pursuant  
to CPLR 3215 (f), as well as evidence of the default of  
defendants by attorney affirmation. Plaintiff has also  
submitted proof of the additional mailings of the summons  
required by CPLR 3215(g)(4). This motion is brought within one  
year of the default. The court shall therefore grant a  
declaratory judgment on default against the defendants for the  
relief sought in the Complaint.

Accordingly, it is

ORDERED and ADJUDGED that plaintiff's motion for a default  
judgment against RAFAEL NOVA, ACCURATE DIAGNOSTIC LABS, INC.,  
BOLESLAV KOSHARSKYY, MEDICAL PRACTICE, PC, CONQUER PAIN, PC,

EXCELL CLINICAL LAB, INC., FIFTH AVENUE SURGERY CENTER, LLC, FJ ORTHOPAEDICS AND PAIN MANAGEMENT PLLC, IGOR AMIGUD PHYSICIAN PC, IHOME REHAB, LLC, JONATHAN LEWIN MD PC, LAGUNA CHIROPRACTIC PC, LENCO DIAGNOSTIC LABORATORIES, INC., PARAMOUNT MEDICAL SERVICES, PC, PREFERRED MEDICAL, PC, PSYCHOLOGY AFTER ACCIDENT PC, UNITED PHYSICIANS PLLC, VALLEY ACUPUNCTURE, PC and WELLNESS DIAGNOSTIC IMAGING PC is GRANTED on default; and it is further

ORDERED, ADJUDGED and DECLARED that plaintiff AMERICAN TRANSIT INSURANCE COMPANY is not obligated to honor or pay claims for reimbursement as assignees of RAFAEL NOVA to ACCURATE DIAGNOSTIC LABS, INC., BOLES LAV KOSHARSKYY, MEDICAL PRACTICE, PC, CONQUER PAIN, PC, EXCELL CLINICAL LAB, INC., FIFTH AVENUE SURGERY CENTER, LLC, FJ ORTHOPAEDICS AND PAIN MANAGEMENT PLLC, IGOR AMIGUD PHYSICIAN PC, IHOME REHAB, LLC, JONATHAN LEWIN MD PC, LAGUNA CHIROPRACTIC PC, LENCO DIAGNOSTIC LABORATORIES, INC., PARAMOUNT MEDICAL SERVICES, PC, PREFERRED MEDICAL, PC, PSYCHOLOGY AFTER ACCIDENT PC, UNITED PHYSICIANS PLLC, VALLEY ACUPUNCTURE, PC and WELLNESS DIAGNOSTIC IMAGING PC and that the defaulting defendants have no rights to litigate or

arbitrate for No-Fault benefits with respect to the June 5, 2017  
alleged accident.

JUL 15 2019  
DATE

*Debra A. James*  
DEBRA A. JAMES, J.S.C.

CHECK ONE:

CASE DISPOSED  
 GRANTED  DENIED

NON-FINAL DISPOSITION

APPLICATION:

SETTLE ORDER

GRANTED IN PART  OTHER

CHECK IF APPROPRIATE:

INCLUDES TRANSFER/REASSIGN

SUBMIT ORDER

FIDUCIARY APPOINTMENT  REFERENCE