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| American Tr. Ins. Co. v Lamb |
| 2019 NY Slip Op 32177(U) |
| July 22, 2019 |
| Supreme Court, New York County |
| Docket Number: 159042/2018 |
| Judge: Debra A. James |
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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. DEBRA A. JAMES PART IAS MOTION 59EFM

Justice

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AMERICAN TRANSIT INSURANCE COMPANY,

Plaintiff,

INDEX NO. 159042/2018
MOTION DATE 04/12/2019
MOTION SEQ. NO. 001

- v -

JAVIEZEL LAMB, AAAMG LEASING CORP., ALLIED
BOARD CERTIFIED PHYSICIANS LLC, BHS SPINAL
CARE CHIROPRACTIC P.C., CONSOLIDATED PHYSICAL
THERAPY & REHAB SERVICES, P.C., GOLDEN SPIRAL
ACUPUNCTURE, P.C., HACKENSACK SURGERY
CENTER, LLC, LLOYD PSYCHOLOGICAL SERVICES,
PLLC, MYRTLE AVENUE TRADING LLC, NEW IMAGE
CHIROPRACTIC P.C., ORTHOPAEDIC SURGERY &
SPORTS MEDICINE, P.C., PARAMOUNT MEDICAL
SERVICES, P.C., ROLAND CHIROPRACTIC, PC, SKY
RADIOLOGY P.C., VERNON REHAB & PHYSICAL
THERAPY, P.C., WAKEFIELD CHIROPRACTIC, P.C. and
WELLMART RX, INC.

**DECISION + ORDER ON
MOTION**

Defendant.

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The following e-filed documents, listed by NYSCEF document number (Motion 001) 4, 5, 6, 7, 8, 9, 10,
11, 12, 13, 14, 15, 16

were read on this motion for JUDGMENT - DECLARATORY

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 JAVIEZEL LAMB, AAAMG LEASING
CORP., BHS SPINAL CARE CHIROPRACTIC P.C., CONSOLIDATED PHYSICAL
THERAPY & REHAB SERVICES, P.C., HACKENSACK SURGERY CENTER, LLC,
LLOYD PSYCHOLOGICAL SERVICES, PLLC, MYRTLE AVENUE TRADING LLC,
ORTHOPAEDIC SURGERY & SPORTS MEDICINE, P.C., PARAMOUNT MEDICAL

SERVICES, P.C., SKY RADIOLOGY P.C., VERNON REHAB & PHYSICAL THERAPY, P.C. and WAKEFIELD CHIROPRACTIC, P.C. to answer or appear. A Stipulation of discontinuance resolves this action against WELLMART RX, INC. Plaintiff is not seeking relief against defendants ALLIED BOARD CERTIFIED PHYSICIANS LLC, and ROLAND CHIROPRACTIC, PC due to inability to serve. Defendants GOLDEN SPIRAL ACUPUNCTURE, P.C. and NEW IMAGE CHIROPRACTIC P.C. have answered.

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 JAVIEZEL LAMB, AAAMG LEASING CORP., BHS SPINAL CARE CHIROPRACTIC P.C., CONSOLIDATED PHYSICAL THERAPY & REHAB SERVICES, P.C., HACKENSACK SURGERY CENTER, LLC, LLOYD

PSYCHOLOGICAL SERVICES, PLLC, MYRTLE AVENUE TRADING LLC,
ORTHOPAEDIC SURGERY & SPORTS MEDICINE, P.C., PARAMOUNT MEDICAL
SERVICES, P.C., SKY RADIOLOGY P.C., VERNON REHAB & PHYSICAL
THERAPY, P.C. and WAKEFIELD CHIROPRACTIC, P.C. 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 JAVIEZEL LAMB to AAAMG
LEASING CORP., BHS SPINAL CARE CHIROPRACTIC P.C., CONSOLIDATED
PHYSICAL THERAPY & REHAB SERVICES, P.C., HACKENSACK SURGERY
CENTER, LLC, LLOYD PSYCHOLOGICAL SERVICES, PLLC, MYRTLE AVENUE
TRADING LLC, ORTHOPAEDIC SURGERY & SPORTS MEDICINE, P.C.,
PARAMOUNT MEDICAL SERVICES, P.C., SKY RADIOLOGY P.C., VERNON
REHAB & PHYSICAL THERAPY, P.C. and WAKEFIELD CHIROPRACTIC, P.C.
and that the defaulting defendants have no rights to litigate or
arbitrate for No-Fault benefits with respect to the January 27,
2018 alleged accident; and it is further

ORDERED that the remaining parties shall appear in IAS Part

59, 60 Centre Street, Room 331, New York, New York 10007, on
September 24, 2019, 10:00 AM for a preliminary conference.

JUL 22 2019

DATE


DEBRA A. JAMES, 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