

**State Farm Mut. Auto. Ins. Co. v Carewell Physical
Therapy, P.C.**

2019 NY Slip Op 32949(U)

October 4, 2019

Supreme Court, New York County

Docket Number: 155022/2019

Judge: Shlomo S. Hagler

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SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY

PRESENT: HON. SHLOMO S. HAGLER PART IAS MOTION 17EFM

Justice

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STATE FARM MUTUAL AUTOMOBILE INSURANCE COMPANY,

Plaintiff,

- v -

CAREWELL PHYSICAL THERAPY, P.C.,
JK SPINE HEALTH CHIROPRACTIC, P.C.,
SURGICARE OF BROOKLYN, LLC,
SOVEREIGN MEDICAL MANAGEMENT, LLC,
NORTHERN OASIS ACUPUNCTURE, P.C.,
TRISTATE MULTISPECIALITY MEDICAL SERVICES, P.C.,
DAVID ISRAEL, M.D., MODERN SERVICES PAIN MANAGEMENT, P.C.,
MARK MCMAHON, M.D., MONARCH ANESTHESIA OF JERSEY CITY, LLC,
MOONLIGHT ACUPUNCTURE, P.C.,
NEW YORK CENTER FOR SPECIALTY SURGERY, ACCELERATED SURGICAL CENTER OF NEW JERSEY, LLC,
COLUMBUS IMAGING CENTER, LLC,
MDJ CHIROPRACTIC WELLNESS, P.C.,
REHAB CARE PHYSICAL THERAPY, P.C.,
ANDREW DOWD, M.D., PRINCIPLE LABS, LLC,
BA2RO, INC.,
BURKE PHYSICAL THERAPY, P.C.,
TARGET CHIROPRACTIC, P.C.,
DANIMARK PHYSICAL THERAPY, P.C.,
GM WELLNESS MEDICAL, P.C.,
KHADIJA ROYAL, DAQUAN GAUVIN-MICHIE, ROHAN SAUNDS

Defendant.

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INDEX NO. 155022/2019
MOTION DATE N/A
MOTION SEQ. NO. 001

DECISION + ORDER ON MOTION

The following e-filed documents, listed by NYSCEF document number (Motion 001) 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49

were read on this motion to/for JUDGMENT - DEFAULT

Plaintiff, STATE FARM MUTUAL AUTOMOBILE INSURANCE COMPANY having
duly moved this Court for an Order (1) pursuant to CLPR 3215 seeking a default judgment

against CAREWELL PHYSICAL THERAPY, P.C., JK SPINE HEALTH CHIROPRACTIC, P.C., SURGICARE OF BROOKLYN, LLC, SOVEREIGN MEDICAL MANAGEMENT, LLC, NORTHERN OASIS ACUPUNCTURE, P.C., TRISTATE MULTI SPECIALITY MEDICAL SERVICES, P.C., DAVID ISRAEL, M.D., MODERN SERVICES PAIN MANAGEMENT, P.C., MARK MCMAHON, M.D., MONARCH ANESTHESIA OF JERSEY CITY, LLC, MOONLIGHT ACUPUNCTURE, P.C., ACCELERATED SURGICAL CENTER OF NEW JERSEY, LLC, MDJ CHIROPRACTIC WELLNESS, P.C., REHAB CARE PHYSICAL THERAPY, P.C., ANDREW DOWD, M.D., PRINCIPLE LABS, LLC, TARGET CHIROPRACTIC, P.C., DANIMARK PHYSICAL THERAPY, P.C., GM WELLNESS MEDICAL, P.C., KHADIJA ROYAL, and ROHAN SAUNDS and (2) to amend the summons and complaint to add AMSC LLC, HAPPY APPLE MEDICAL SERVICES, P.C., CARESOFT LEASING CORP, CROSSTOWN MEDICAL, P.C., DAHU ACUPUNCTURE, P.C., FIFTH AVENUE SURGERY CENTER, IGOR AMIGUD PHYSICIAN, P.C., INSTANT MEDICAL CARE, P.C., KOLB RADIOLOGY, P.C., MASPETH RX, INC., PRC SUPPLIES, RIDGEWOOD DIAGNOSTIC LABORATORY, LLC, RIVERSIDE MEDICAL SERVICES, P.C., SABAS NY SERVICES, INC., TRUE HEALTH PHARMACY, INC, and UNITED PHYSICIANS, PLLC as additional defendants (Motion Sequence 001); UPON reading and filing the Notice of Motion dated August 5, 2019, the Affirmation of Michael Tomsy in support of the motion, duly affirmed on August 5, 2019, and the Affidavit of Merit of Timothy Dacey, duly sworn to on July 8, 2019, all with the exhibits annexed thereto, in support, all with proof of service thereof, and no opposition having been filed, and NOW upon the motion of Rubin, Fiorella, Friedman & Mercante, LLP, attorneys for plaintiff, it is

ORDERED, ADJUDGED AND DECLARED that plaintiff's motion for default judgment is granted and the plaintiff has no duty to pay any No-Fault benefits in the form of sums, monies, damages, awards or benefits CAREWELL PHYSICAL THERAPY, P.C., JK SPINE HEALTH CHIROPRACTIC, P.C., SURGICARE OF BROOKLYN, LLC, SOVEREIGN MEDICAL MANAGEMENT, LLC, NORTHERN OASIS ACUPUNCTURE, P.C., TRISTATE MULTI SPECIALITY MEDICAL SERVICES, P.C., DAVID ISRAEL, M.D., MODERN SERVICES PAIN MANAGEMENT, P.C., MARK MCMAHON, M.D., MONARCH ANESTHESIA OF JERSEY CITY, LLC, MOONLIGHT ACUPUNCTURE, P.C., ACCELERATED SURGICAL CENTER OF NEW JERSEY, LLC, MDJ CHIROPRACTIC WELLNESS, P.C., REHAB CARE PHYSICAL THERAPY, P.C., ANDREW DOWD, M.D., PRINCIPLE LABS, LLC, TARGET CHIROPRACTIC, P.C., DANIMARK PHYSICAL THERAPY, P.C., GM WELLNESS MEDICAL, P.C., KHADIJA ROYAL, and ROHAN SAUNDS their agents, employees, assignees or heirs arising out of any current or future proceeding, including without limitation, arbitrations and lawsuits seeking to recover No-Fault benefits with respect to the collision that occurred on the evening of June 24, 2018 into the morning of June 25, 2018, referenced in the complaint, and referenced by claim number 52-4694-H72, and it is further

ORDERED, ADJUDGED AND DECLARED that all No-Fault lawsuits, arbitrations, awards, and claims filed by CAREWELL PHYSICAL THERAPY, P.C., JK SPINE HEALTH CHIROPRACTIC, P.C., SURGICARE OF BROOKLYN, LLC, SOVEREIGN MEDICAL MANAGEMENT, LLC, NORTHERN OASIS ACUPUNCTURE, P.C., TRISTATE MULTI SPECIALITY MEDICAL SERVICES, P.C., DAVID ISRAEL, M.D., MODERN SERVICES PAIN MANAGEMENT, P.C., MARK MCMAHON, M.D., MONARCH ANESTHESIA OF

JERSEY CITY, LLC, MOONLIGHT ACUPUNCTURE, P.C., ACCELERATED SURGICAL CENTER OF NEW JERSEY, LLC, MDJ CHIROPRACTIC WELLNESS, P.C., REHAB CARE PHYSICAL THERAPY, P.C., ANDREW DOWD, M.D., PRINCIPLE LABS, LLC, TARGET CHIROPRACTIC, P.C., DANIMARK PHYSICAL THERAPY, P.C., GM WELLNESS MEDICAL, P.C., KHADIJA ROYAL, and ROHAN SAUNDS arising from the loss that occurred in the night of October 24, 2018 into the morning of October 25, 2018 referenced in the complaint, and referenced by claim number 52-4694-H72 are hereby stayed, and it is further

ORDERED that the action shall continue against COLUMBUS IMAGING CENTER, LLC and BURKE PHYSICAL THERAPY, P.C., who have previously answered the summons and complaint and NEW YORK CENTER FOR SPECIALTY SURGERY and DAQUAN GAUVIN-MICHIE who could not be served; and it is further

ORDERED that the plaintiff's motion for leave to amend the complaint is granted; and it is further

ORDERED that the amended complaint, in the form annexed to the motion papers, shall be deemed served upon service of a copy of this order with notice of entry upon all parties who have appeared in the action; and it is further

ORDERED that a supplemental summons and amended complaint, in the form annexed to the motion papers, shall be served, in accordance with the Civil Practice Law and Rules, upon the additional parties in this action within 30 days after service of a copy of this order with notice of entry; and it is further

ORDERED that the action shall bear the following caption:

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STATE FARM MUTUAL AUTOMOBILE INSURANCE
COMPANY,

Plaintiff,

- v -

CAREWELL PHYSICAL THERAPY, P.C.,
JK SPINE HEALTH CHIROPRACTIC, P.C.,
SURGICARE OF BROOKLYN, LLC,
SOVEREIGN MEDICAL MANAGEMENT, LLC,
NORTHERN OASIS ACUPUNCTURE, P.C.,
TRISTATE MULTISPECIALITY MEDICAL SERVICES, P.C.,
DAVID ISRAEL, M.D., MODERN SERVICES PAIN
MANAGEMENT, P.C.,
MARK MCMAHON, M.D., MONARCH ANESTHESIA OF
JERSEY CITY, LLC,
MOONLIGHT ACUPUNCTURE, P.C.,
NEW YORK CENTER FOR SPECIALTY SURGERY,
ACCELERATED SURGICAL CENTER OF NEW JERSEY,
LLC,
COLUMBUS IMAGING CENTER, LLC,
MDJ CHIROPRACTIC WELLNESS, P.C.,
REHAB CARE PHYSICAL THERAPY, P.C.,
ANDREW DOWD, M.D., PRINCIPLE LABS, LLC,
BA2RO, INC.,
BURKE PHYSICAL THERAPY, P.C.,
TARGET CHIROPRACTIC, P.C.,
DANIMARK PHYSICAL THERAPY, P.C.,
GM WELLNESS MEDICAL, P.C.,
KHADIJA ROYAL, DAQUAN GAUVIN-MICHIE, ROHAN
SAUNDS AMSC LLC, HAPPY APPLE MEDICAL
SERVICES, P.C., CARESOFT LEASING CORP,
CROSTOWN MEDICAL, P.C., DAHU ACUPUNCTURE,
P.C., FIFTH AVENUE SURGERY CENTER, IGOR AMIGUD
PHYSICIAN, P.C., INSTANT MEDICAL CARE, P.C., KOLB
RADIOLOGY, P.C., MASPETH RX, INC., PRC SUPPLIES,
RIDGEWOOD DIAGNOSTIC LABORATORY, LLC,
RIVERSIDE MEDICAL SERVICES, P.C., SABAS NY
SERVICES, INC., TRUE HEALTH PHARMACY, INC,
UNITED PHYSICIANS, PLLC

Defendant.

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And it is further

ORDERED that counsel for the moving party shall serve a copy of this order with notice of entry upon the County Clerk (60 Centre Street, Room 141B) and the Clerk of the General Clerk's Office (60 Centre Street, Room 119), who are directed to mark the court's records to reflect the parties being added pursuant hereto; and it is further

ORDERED that such service upon the County Clerk and the Clerk of the General Clerk's Office shall be made in accordance with the procedures set forth in the *Protocol on Courthouse and County Clerk Procedures for Electronically Filed Cases* (accessible at the "E-Filing" page on the court's website at the address (ww.nycourts.gov/suptmanh)].

10/4/2019
DATE


SHLOMO S. HAGLER, J.S.C.

CHECK ONE:	<input type="checkbox"/>	CASE DISPOSED	<input type="checkbox"/>	DENIED	<input checked="" type="checkbox"/>	NON-FINAL DISPOSITION	<input type="checkbox"/>	OTHER
APPLICATION:	<input checked="" type="checkbox"/>	GRANTED	<input type="checkbox"/>		<input type="checkbox"/>	GRANTED IN PART	<input type="checkbox"/>	
CHECK IF APPROPRIATE:	<input type="checkbox"/>	SETTLE ORDER	<input type="checkbox"/>		<input type="checkbox"/>	SUBMIT ORDER	<input type="checkbox"/>	REFERENCE
	<input type="checkbox"/>	INCLUDES TRANSFER/REASSIGN	<input type="checkbox"/>		<input type="checkbox"/>	FIDUCIARY APPOINTMENT	<input type="checkbox"/>	