

**State Farm Fire & Cas. Co. v Careplus Pain Mgt. & Rehab, P.C.**

2020 NY Slip Op 30049(U)

January 3, 2020

Supreme Court, New York County

Docket Number: 156896/2018

Judge: Melissa A. Crane

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SUPREME COURT OF THE STATE OF NEW YORK — NEW YORK COUNTY

PRESENT: MELISSA A. CRANE  
HON. MELISSA CRANE Justice

PART 15

STATE FARM FIRE AND CASUALTY COMPANY

INDEX NO. 156896/2018  
MOTION DATE \_\_\_\_\_  
MOTION SEQ. NO. 001  
MOTION CAL. NO. \_\_\_\_\_

- v -

CAREPLUS PAIN MANAGEMENT AND REHAB,  
P.C., DANADA INTERNAL MEDICINE, P.C., FUNCTION  
INTEGRATED PHYSICAL THERAPY, P.C., GET WELL  
SOON ACUPUNCTURE, P.C., HEEMOON CHOO ACUPUNCTURE, P.C.,  
MARYSOL JABIGUERO AMPONIN, P.T., P.C., JOEUN CHIROPRACTIC, P.C.,  
M&J CHIROPRACTIC, P.C., PEACEFUL ACUPUNCTURE, P.C., and  
BLANCA FIGUEROA

The following papers, numbered \_ to \_ were read on this motion to/for \_\_\_\_\_.

	PAPERS NUMBERED
Notice of Motion/Order to Show Cause — Affidavits — Exhibits ...	_____
Answering Affidavits — Exhibits _____	_____
Replying Affidavits _____	_____

CROSS-MOTION: YES NO

Upon the foregoing papers, it is ordered that this motion is

This case arises from an automobile accident that occurred on November 3, 2017, involving defendant Blanca Figueroa (“Figueroa”). Figueroa alleges that she sustained serious bodily injuries while she was driving a 2016 Toyota that plaintiff insured. Figueroa submitted claims to plaintiff, State Farm Fire and Casualty Company (“State Farm”), for no-fault benefits under the insurance policy that plaintiff issued. Figueroa assigned the rights to collect no-fault benefits to co-defendants/medical providers. Plaintiff commenced an action on or about July 25, 2018, by a Summons and Complaint, seeking a declaratory judgment against claimant as well as numerous co-defendants/medical providers under State Farm policy number 194-7867-32, claim number 32-2064-R75.

MOTION/CASE IS RESPECTFULLY REFERRED TO JUSTICE FOR THE FOLLOWING REASON(S):

First, plaintiff has discontinued this action against the defendant DANADA INTERNAL MEDICINE, P.C. (*see* NYSCEF Doc No 12, Stipulation of Discontinuance).

Plaintiff, State Farm, now moves for a default judgment pursuant to CPLR 3215 against the remaining non-answering defendants: CAREPLUS PAIN MANAGEMENT AND REHAB, P.C., FUNCTION INTEGRATED PHYSICAL THERAPY, P.C., GET WELL SOON ACUPUNCTURE, P.C., HEEMOON CHOO ACUPUNCTURE, P.C., MARYSOL JABIGUERO AMPONIN, P.T., P.C., JOEUN CHIROPRACTIC, P.C., M&J CHIROPRACTIC, P.C., PEACEFUL ACUPUNCTURE, P.C. and BLANCA FIGUEROA (collectively, as the “defaulting defendants”). Plaintiff has submitted proof of service of the summons and complaint, proof of the facts constituting the claim, and proof of defendants’ failure to answer or appear (*see* CPLR 3215; *see also*, *Atlantic Cas. Ins. Co. v RJNJ Services, Inc.*, 89 AD3d 649 [2nd Dept 2011]). Plaintiff demonstrates prima facie its denial of no-fault claims based on Blanca Figueroa’s misrepresentations as to where the insured vehicle was principally garaged. Cathy Pardi, a State Farm employee in the underwriting department, states in her affidavit that Blanca Figueroa insured the State Farm insured vehicle at 2418 Route 9D, Wappingers Falls, New York 12590. However, an investigation of this claim revealed that Figueroa did not reside at the address used to obtain the insurance policy. The investigation concluded that the insured resided, and the vehicle was principally garaged, in Queens, New York at all times during the policy period. Had plaintiff been aware of the false information, State Farm would not have issued the policy. Grace Gigi Trials, State Farm No-Fault claim specialist, attests to the timely mailing and denial of no-fault bills.

None of defendants have answered or otherwise appeared, or have opposed this motion.

Accordingly, it is

**ORDERED** that plaintiff, State Farm's, motion for default judgment against defendants CAREPLUS PAIN MANAGEMENT AND REHAB, P.C., FUNCTION INTEGRATED PHYSICAL THERAPY, P.C., GET WELL SOON ACUPUNCTURE, P.C., HEEMOON CHOO ACUPUNCTURE, P.C., MARYSOL JABIGUERO AMPONIN, P.T., P.C., JOEUN CHIROPRACTIC, P.C., M&J CHIROPRACTIC, P.C., PEACEFUL ACUPUNCTURE, P.C. and BLANCA FIGUEROA, is granted without opposition; and it is further

**ADJUDGED AND DECLARED** that defendant BLANCA FIGUEROA is not eligible injured persons entitled to no-fault benefits under State Farm policy number 194-7867-32, claim number 32-2064-R75; and it is further

**ADJUDGED AND DECLARED** that defendants CAREPLUS PAIN MANAGEMENT AND REHAB, P.C., FUNCTION INTEGRATED PHYSICAL THERAPY, P.C., GET WELL SOON ACUPUNCTURE, P.C., HEEMOON CHOO ACUPUNCTURE, P.C., MARYSOL JABIGUERO AMPONIN, P.T., P.C., JOEUN CHIROPRACTIC, P.C., M&J CHIROPRACTIC, P.C., PEACEFUL ACUPUNCTURE, P.C. and BLANCA FIGUEROA, are not entitled to no-fault coverage for the motor vehicle accident that occurred on November 3, 2017, involving individual defendant Blanca Figueroa, for claims submitted under State Farm policy number 194-7867-32, claim number 32-2064-R75, as referenced in the complaint, and plaintiff, State Farm, has no duty to provide, pay, honor, or reimburse any claims in any current or future proceedings, including without limitation arbitrations and/or lawsuits, seeking to recover no-fault benefits arising out of the November 3, 2017 accident; and it is further

**ADJUDGED AND DECLARED** that all arbitrations and lawsuits brought by defendants relating to no-fault claims arising out of the November 3, 2017 accident are stayed

and the defendants are enjoined from commencing any new lawsuit or arbitrations against State Farm arising out of the accident.

DATED: 1-3-2020, 2019  
New York, New York

ENTER:



MELISSA A. CRANE, J.S.C

**HON. MELISSA A. CRANE**  
J.S.C.

Check one:  FINAL DISPOSITION     NON-FINAL DISPOSITION  
Check if appropriate: MOTION IS:  GRANTED     DENIED     GRANTED IN PART     OTHER  
Check if appropriate:  DO NOT POST     REFERENCE     SETTLE ORDER     SUBMIT ORDER  
 FIDUCIARY APPOINTMENT