

<b>American Tr. Ins. Co. v Alexia's Pharm. Inc.</b>
2021 NY Slip Op 30413(U)
February 10, 2021
Supreme Court, New York County
Docket Number: 650323/2020
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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AMERICAN TRANSIT INSURANCE COMPANY,  
  
Plaintiff,

**INDEX NO.** 650323/2020  
**MOTION DATE** 9/29/2020  
**MOTION SEQ. NO.** 001

- v -

ALEXIA'S PHARMACY INC, ARTE MEDICAL PRIMARY CARE PC, BIG APPLE MED EQUIPMENT, INC, BLISS ACUPUNCTURE PC, CAVALLARO MEDICAL SUPPLY, INC, CITIMEDICAL I PLLC, CROSSTOWN CHIROPRACTIC PC, HACKENSACK SPECIALTY ASC LLC, HMP ORTHOPAEDICS, INTEGRATED SPECIALTY ASC LLC, JA PHYSICAL THERAPY PC, K&S SURGICAL AND ANESTHESIA GROUP, LLC, MC PHYSICAL THERAPY PC, MEGA PAIN SERVICES PC, METROPOLITAN MED & SURG PC, PREMIER ANESTHESIA ASSOC PA, RIDGEWOOD DIAGNOSTIC LABORATORY LLC, SCOB, LLC, SHAHID MAIN, MD PC, SIGNIFICANT CARE PT PC, STAR OF NY CHIROPRACTIC DIAGNOSTIC P, STILLWELL CHIROPRACTIC PC, TOPLAB, UNION DME CORP and WELLNESS PHYSICAL THERAPY REHAB PLLC,

**DECISION + ORDER ON MOTION**

Defendants.

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The following e-filed documents, listed by NYSCEF document number (Motion 001) 48, 49, 50, 51, 52, 53, 54, 55, 56

were read on this motion for

JUDGMENT - DEFAULT

ORDER

Upon the foregoing documents,

ORDERED and ADJUDGED that plaintiff's motion for a default judgment against ALEXIA'S PHARMACY INC, ARTE MEDICAL PRIMARY CARE PC, BIG APPLE MED EQUIPMENT, INC, BLISS ACUPUNCTURE PC, CROSSTOWN CHIROPRACTIC PC, HACKENSACK SPECIALTY ASC LLC, HMP ORTHOPAEDICS, INTEGRATED SPECIALTY ASC LLC, JA PHYSICAL THERAPY

PC, K&S SURGICAL AND ANESTHESIA GROUP, LLC, MC PHYSICAL THERAPY PC, MEGA PAIN SERVICES PC, METROPOLITAN MED & SURG PC, PREMIER ANESTHESIA ASSOC PA, RIDGEWOOD DIAGNOSTIC LABORATORY LLC, SCOB, LLC, SHAHID MAIN, MD PC, SIGNIFICANT CARE PT PC, STAR OF NY CHIROPRACTIC DIAGNOSTIC P, STILLWELL CHIROPRACTIC PC, TOPLAB, UNION DME CORP and WELLNESS PHYSICAL THERAPY REHAB PLLC 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 Peter McCaughey to ALEXIA'S PHARMACY INC, ARTE MEDICAL PRIMARY CARE PC, BIG APPLE MED EQUIPMENT, INC, BLISS ACUPUNCTURE PC, CROSSTOWN CHIROPRACTIC PC, HACKENSACK SPECIALTY ASC LLC, HMP ORTHOPAEDICS, INTEGRATED SPECIALTY ASC LLC, JA PHYSICAL THERAPY PC, K&S SURGICAL AND ANESTHESIA GROUP, LLC, MC PHYSICAL THERAPY PC, MEGA PAIN SERVICES PC, METROPOLITAN MED & SURG PC, PREMIER ANESTHESIA ASSOC PA, RIDGEWOOD DIAGNOSTIC LABORATORY LLC, SCOB, LLC, SHAHID MAIN, MD PC, SIGNIFICANT CARE PT PC, STAR OF NY CHIROPRACTIC DIAGNOSTIC P, STILLWELL CHIROPRACTIC PC, TOPLAB, UNION DME CORP and WELLNESS PHYSICAL THERAPY REHAB PLLC and that the defaulting defendants have no rights to litigate or arbitrate for No-Fault benefits with respect to the April 18, 2019 alleged accident; and it is further

ORDERED that the remaining parties shall submit a proposed preliminary conference order or proposed competing preliminary conference orders to 59nyef@nycourts.gov and to NYSCEF on or before April 13, 2021.

DECISION

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 ALEXIA'S PHARMACY INC, ARTE MEDICAL PRIMARY CARE PC, BIG APPLE MED EQUIPMENT, INC, BLISS ACUPUNCTURE PC, CROSSTOWN CHIROPRACTIC PC, HACKENSACK SPECIALTY ASC LLC, HMP ORTHOPAEDICS, INTEGRATED SPECIALTY ASC LLC, JA PHYSICAL THERAPY PC, K&S SURGICAL AND ANESTHESIA GROUP, LLC, MC PHYSICAL THERAPY PC, MEGA PAIN SERVICES PC, METROPOLITAN MED & SURG PC, PREMIER ANESTHESIA ASSOC PA, RIDGEWOOD DIAGNOSTIC LABORATORY LLC, SCOB, LLC, SHAHID MAIN, MD PC, SIGNIFICANT CARE PT PC, STAR OF NY CHIROPRACTIC DIAGNOSTIC P, STILLWELL CHIROPRACTIC PC, TOPLAB, UNION DME CORP and WELLNESS PHYSICAL THERAPY REHAB PLLC to answer or appear.

Plaintiff has submitted proof of service of the summons and complaint and proof of service of this motion upon the 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.

<u>2/10/2021</u> DATE	<u><i>Debra A. James</i></u> DEBRA A. JAMES, J.S.C.			
CHECK ONE:	<input type="checkbox"/>	CASE DISPOSED	<input checked="" type="checkbox"/>	NON-FINAL DISPOSITION
	<input checked="" type="checkbox"/>	GRANTED	<input type="checkbox"/>	DENIED
APPLICATION:	<input type="checkbox"/>	SETTLE ORDER	<input type="checkbox"/>	GRANTED IN PART
CHECK IF APPROPRIATE:	<input type="checkbox"/>	INCLUDES TRANSFER/REASSIGN	<input type="checkbox"/>	SUBMIT ORDER
			<input type="checkbox"/>	FIDUCIARY APPOINTMENT
			<input type="checkbox"/>	OTHER
			<input type="checkbox"/>	REFERENCE