

State Farm Mut. Auto. Ins. Co. v Orthocaretech, Inc.
2021 NY Slip Op 31011(U)
April 1, 2021
Supreme Court, New York County
Docket Number: 153654/2019
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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STATE FARM MUTUAL AUTOMOBILE INSURANCE
COMPANY,

Plaintiff,

INDEX NO. 153654/2019MOTION DATE 10/09/2020MOTION SEQ. NO. 001

- v -

ORTHOCARETECH, INC., AMBULATORY SURGICAL
CENTER OF ENGLEWOOD, L.L.C. D/B/A ASC OF
ENGLEWOOD, L.L.C., ADVANTAGE MED INNOVATIONS,
INC., CVS RX, INC. D/B/A EXPRESS PHARMACY,
ENGLEWOOD ORTHOPEDICS GROUP, P.C., FIVE
BOROUGH SUPPLY, INC., FLORID LEISURE
ACUPUNCTURE, P.C., FRIENDLY ACUPUNCTURE,
P.C., GARA MEDICAL CARE, P.C., JOEUN
CHIROPRACTIC, P.C. D/B/A JOEUN CHIROPRACTIC
SPINE CARE, P.C., NEXRAY MEDICAL IMAGING,
P.C., REHAB CARE PHYSICAL THERAPY, P.C. D/B/A
REHAB CARE PHYSICAL, P.C., WELLMART RX, INC., ROH
PHYSICAL THERAPY, P.C., PSYCHOLOGY HELP,
P.C., VALERIY SABODASH, M.D., SP ONE SERVICES,
INC., SHERMAN-ABRAMS LABORATORY, INC., NEW
YORK CORE CHIROPRACTIC, P.C., COMFORT PHYSICAL
THERAPY, P.L.L.C., ZWADE AMSTERDAM, CHEVY
FRONTO and DENZEL BOBB

Defendant.

DECISION + ORDER ON MOTION

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The following e-filed documents, listed by NYSCEF document number (Motion 001) 40, 41, 42, 43, 44,
45, 46, 47, 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 ORTHOCARETECH, INC., AMBULATORY SURGICAL CENTER
OF ENGLEWOOD, L.L.C. D/B/A ASC OF ENGLEWOOD, L.L.C., CVS RX,
INC. D/B/A EXPRESS PHARMACY, ENGLEWOOD ORTHOPEDICS GROUP, P.C.,

FIVE BOROUGH SUPPLY, INC., FLORID LEISURE ACUPUNCTURE, P.C., FRIENDLY ACUPUNCTURE, P.C., GARA MEDICAL CARE, P.C., JOEUN CHIROPRACTIC, P.C. D/B/A JOEUN CHIROPRACTIC SPINE CARE, P.C., NEXRAY MEDICAL IMAGING, P.C., REHAB CARE PHYSICAL THERAPY, P.C. D/B/A REHAB CARE PHYSICAL, P.C., PSYCHOLOGY HELP, P.C., VALERIY SABODASH, M.D., SP ONE SERVICES, INC., SHERMAN-ABRAMS LABORATORY, INC., NEW YORK CORE CHIROPRACTIC, P.C., COMFORT PHYSICAL THERAPY, P.L.L.C., ZWADE AMSTERDAM, CHEVY FRONTO and DENZEL BOBB is GRANTED on default; and it is further

ORDERED, ADJUDGED and DECLARED that plaintiff STATE FARM MUTUAL AUTOMOBILE INSURANCE COMPANY is not obligated to honor or pay claims for reimbursement as assignees of ZWADE AMSTERDAM, CHEVY FRONTO and DENZEL BOBB to ORTHOCARETECH, INC., AMBULATORY SURGICAL CENTER OF ENGLEWOOD, L.L.C. D/B/A ASC OF ENGLEWOOD, L.L.C., CVS RX, INC. D/B/A EXPRESS PHARMACY, ENGLEWOOD ORTHOPEDICS GROUP, P.C., FIVE BOROUGH SUPPLY, INC., FLORID LEISURE ACUPUNCTURE, P.C., FRIENDLY ACUPUNCTURE, P.C., GARA MEDICAL CARE, P.C., JOEUN CHIROPRACTIC, P.C. D/B/A JOEUN CHIROPRACTIC SPINE CARE, P.C., NEXRAY MEDICAL IMAGING, P.C., REHAB CARE PHYSICAL THERAPY, P.C. D/B/A REHAB CARE PHYSICAL, P.C., PSYCHOLOGY HELP, P.C., VALERIY SABODASH, M.D., SP ONE SERVICES, INC., SHERMAN-ABRAMS LABORATORY, INC., NEW YORK CORE CHIROPRACTIC, P.C., COMFORT PHYSICAL THERAPY, P.L.L.C. and that the defaulting defendants have no rights to litigate or

arbitrate for No-Fault benefits with respect to the June 25, 2018 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 NYSCEF on or before May 18, 2021.

DECISION

Plaintiff STATE FARM MUTUAL AUTOMOBILE 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 against ORTHOCARETECH, INC., AMBULATORY SURGICAL CENTER OF ENGLEWOOD, L.L.C. D/B/A ASC OF ENGLEWOOD, L.L.C., CVS RX, INC. D/B/A EXPRESS PHARMACY, ENGLEWOOD ORTHOPEDICS GROUP, P.C., FIVE BOROUGH SUPPLY, INC., FLORID LEISURE ACUPUNCTURE, P.C., FRIENDLY ACUPUNCTURE, P.C., GARA MEDICAL CARE, P.C., JOEUN CHIROPRACTIC, P.C. D/B/A JOEUN CHIROPRACTIC SPINE CARE, P.C., NEXRAY MEDICAL IMAGING, P.C., REHAB CARE PHYSICAL THERAPY, P.C. D/B/A REHAB CARE PHYSICAL, P.C., PSYCHOLOGY HELP, P.C., VALERIY SABODASH, M.D., SP ONE SERVICES, INC., SHERMAN-ABRAMS LABORATORY, INC., NEW YORK CORE CHIROPRACTIC, P.C., COMFORT PHYSICAL THERAPY, P.L.L.C., ZWADE AMSTERDAM, CHEVY FRONTO and DENZEL BOBB 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>4/1/2021</u>		<u>DEBRA A. JAMES, J.S.C.</u>	
DATE			
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