

Country-Wide Ins. Co. v Pereyra
2021 NY Slip Op 31037(U)
April 1, 2021
Supreme Court, New York County
Docket Number: 650718/2020
Judge: Louis L. Nock
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File No.: 19CWI007965/000343439-001
SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

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COUNTRY-WIDE INSURANCE COMPANY

Index No.: 650718/2020

Plaintiff,

- against -

JUDGMENT

ALBA PEREYRA

("Eligible Injured Party Defendant"),

And

EAST SIDE PRIMARY MEDICAL CARE, P.C.,
HEALTHWAY MEDICAL CARE P.C.,
ACUPUNCTURE NOW P.C.,
AHARON GUTTERMAN, MD, PLLC,
NEIGHBORHOOD MEDICAL HEALTH CARE P.C.,
NORTHEAST ANESTHESIA, P.C.,
JULES FRANCOIS PARISIEN,
APPLE PAIN MANAGEMENT, P.L.L.C.,
JANAN SAYYED, D.C., P.C.,
FAR ROCKAWAY MEDICAL P.C.,
AMSC, LLC,
SPINE CARE CHIROPRACTIC, P.C.,
EXCELL CLINICAL LABORATORY, INC.,
SEDATION VACATION PERIOPERATIVE MEDICINE PLLC,
MODERN SERVICES PAIN MANAGEMENT P.C.,
NYRX PHARMACY, INC.,
DAVID K ISRAEL MD,
CHC SURGICAL CENTER, LLC,
SUPPORTIVE PRODUCTS CORP,
ALEXIA'S PHARMACY INC.,
PRO BALANCE ACUPUNCTURE, P.C., and
ASC OF ROCKAWAY

("Medical Provider Defendants").

Defendant(s).

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HON. **HON. LOUIS L. NOCK**
J.S.C., J.S.C

This case arises from an automobile accident on March 4, 2019 where defendant ALBA PEREYRA was involved in a motor vehicle accident while allegedly in a vehicle insured by plaintiff, Country-Wide Insurance Company (“Plaintiff”). Defendant made a claim to Plaintiff as a purported injured person under as insurance policy issued by Plaintiff (RS8153850 18).

Plaintiff commenced an action on or about January 31, 2020 by the filing of a Summons and Complaint seeking a declaratory judgment against ALBA PEREYRA, EAST SIDE PRIMARY MEDICAL CARE, P.C., HEALTHWAY MEDICAL CARE P.C., ACUPUNCTURE NOW P.C., AHARON GUTTERMAN, MD, PLLC, NEIGHBORHOOD MEDICAL HEALTH CARE P.C., NORTHEAST ANESTHESIA, P.C., JULES FRANCOIS PARISIEN, APPLE PAIN MANAGEMENT, P.L.L.C., JANAN SAYYED, D.C., P.C., FAR ROCKAWAY MEDICAL P.C., AMSC, LLC, SPINE CARE CHIROPRACTIC, P.C., EXCELL CLINICAL LABORATORY, INC., SEDATION VACATION PERIOPERATIVE MEDICINE PLLC, MODERN SERVICES PAIN MANAGEMENT P.C., NYRX PHARMACY, INC., DAVID K ISRAEL MD, CHC SURGICAL CENTER, LLC, SUPPORTIVE PRODUCTS CORP, ALEXIA'S PHARMACY INC., PRO BALANCE ACUPUNCTURE, P.C., and ASC OF ROCKAWAY due to the alleged breach of contract by ALBA PEREYRA in failing to appear for a properly requested and scheduled Independent Medical Examination. Plaintiff seeks a declaration that ALBA PEREYRA is not an eligible injured person entitled to no-fault benefits under the Policy, and that Plaintiff is not obligated to reimburse ALBA PEREYRA for alleged medical treatment, therapy and/or medical supplies rendered.

Plaintiff now moves for a default judgment pursuant to CPLR § 3215 against, ALBA PEREYRA, EAST SIDE PRIMARY MEDICAL CARE, P.C., AHARON GUTTERMAN, MD, PLLC, NORTHEAST ANESTHESIA, P.C., APPLE PAIN MANAGEMENT, P.L.L.C., JANAN

SAYYED, D.C., P.C., FAR ROCKAWAY MEDICAL P.C., AMSC, LLC, EXCELL CLINICAL LABORATORY, INC., SEDATION VACATION PERIOPERATIVE MEDICINE PLLC, MODERN SERVICES PAIN MANAGEMENT P.C., NYRX PHARMACY, INC., CHC SURGICAL CENTER, LLC, SUPPORTIVE PRODUCTS CORP, PRO BALANCE ACUPUNCTURE, P.C., and ASC OF ROCKAWAY. No opposition is submitted.

Plaintiff submits affidavits of service showing service upon ALBA PEREYRA on March 2, 2020 and the Medical Provider Defendants on February 27, 2020, March 4, 2020, March 10, 2020, June 26, 2020. Plaintiff submits the affidavit of Jessica Mena-Sibrian, who is employed as a No-fault litigation/Arbitration Supervisor and the affidavit of Annie Persaud, the Administrative Assistant at the Medical Evaluations Unit and the affidavit of Anita Megnauth, the NF Administrative Assistant in support of Plaintiff's motion for default judgment.

WHEREFORE, it is hereby,

ORDERED that Plaintiff's motion for default judgment against, ALBA PEREYRA, EAST SIDE PRIMARY MEDICAL CARE, P.C., AHARON GUTTERMAN, MD, PLLC, NORTHEAST ANESTHESIA, P.C., APPLE PAIN MANAGEMENT, P.L.L.C., JANAN SAYYED, D.C., P.C., FAR ROCKAWAY MEDICAL P.C., AMSC, LLC, EXCELL CLINICAL LABORATORY, INC., SEDATION VACATION PERIOPERATIVE MEDICINE PLLC, MODERN SERVICES PAIN MANAGEMENT P.C., NYRX PHARMACY, INC., CHC SURGICAL CENTER, LLC, SUPPORTIVE PRODUCTS CORP, PRO BALANCE ACUPUNCTURE, P.C., and ASC OF ROCKAWAY, is granted; and it is further,

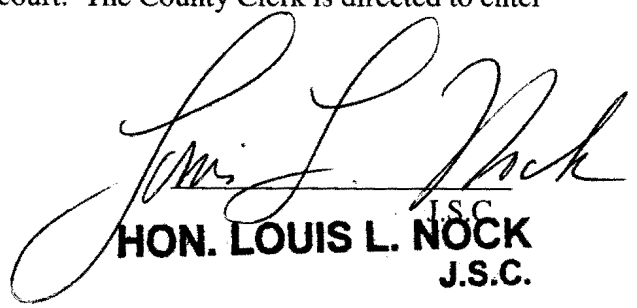
ORDERED and ADJUDGED that on the first cause of action Plaintiff owes no duty to Defendants, ALBA PEREYRA, EAST SIDE PRIMARY MEDICAL CARE, P.C., AHARON GUTTERMAN, MD, PLLC, NORTHEAST ANESTHESIA, P.C., APPLE PAIN

MANAGEMENT, P.L.L.C., JANAN SAYYED, D.C., P.C., FAR ROCKAWAY MEDICAL P.C., AMSC, LLC, EXCELL CLINICAL LABORATORY, INC., SEDATION VACATION PERIOPERATIVE MEDICINE PLLC, MODERN SERVICES PAIN MANAGEMENT P.C., NYRX PHARMACY, INC., CHC SURGICAL CENTER, LLC, SUPPORTIVE PRODUCTS CORP, PRO BALANCE ACUPUNCTURE, P.C., and ASC OF ROCKAWAY, to pay No-Fault claims submitted in relation to the March 4, 2019 loss, Claim No.: 000343439-001, Policy.: RS8153850 18, referenced in the complaint involving ALBA PEREYRA, and it is further,

ORDERED and ADJUDGED that on the second cause of action that all arbitrations, lawsuits and enforcement of awards or judgments in connection with the March 4, 2019 loss, Claim No.: 000343439-001, Policy.: RS8153850 18, referenced in the complaint involving ALBA PEREYRA, is hereby permanently stayed.

This constitutes the decision and order of the court. The County Clerk is directed to enter Judgment accordingly.

Dated: 4/1/2021


HON. LOUIS L. NOCK
 J.S.C.
 J.S.C.