

Country-Wide Ins. Co. v Torres
2021 NY Slip Op 31098(U)
April 5, 2021
Supreme Court, New York County
Docket Number: 655763/2019
Judge: Louis L. Nock
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File No.: 19CW1007943/000265354-001
SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

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COUNTRY-WIDE INSURANCE COMPANY

Index No.: 655763/2019

Plaintiff,

- against -

JUDGMENT

FRANCISCO TORRES

("Eligible Injured Party Defendant"),

And

DYNAMIC MEDICAL IMAGING P.C., GOTTLIEB FAMILY CHIROPRACTIC, P.C.,
MODERN CHIROPRACTIC P.C., DOVPHIL ANESTHESIOLOGY GROUP PLLC, MARINA
GALPERIN, M.D., SUCCESS REHAB PT P.C., NEW WAY MASSAGE THERAPY, P.C.,
URBAN WELL ACUPUNCTURE P.C., NORTH EAST EMPIRE MEDICAL, P.C., P.R.
MEDICAL, P.C., HMP ORTHOPAEDICS, P.C., GREAT MEDICAL SERVICES P.C., RIDGE
PAIN MEDICINE & ANESTHESIOLOGY, LLC, NEW CAPITAL SUPPLY INC., WARREN
MEDICAL, P.C., NEW YORK VEIN CENTER, LLC, SMQ MEDICAL P.C., AFFORDABLE
CHIROPRACTIC CARE P.C., HEEL TO TOE FOOT CENTER LLC, MICHAEL BINDER,
M.D., JONALD EVANGELISTA PT, P.C., SPECIALTY SURGERY OF SECAUCUS,
LIMITED LIABILITY COMPANY, COASTAL ANESTHESIA SERVICES, LLC, AEE
MEDICAL DIAGNOSTIC P.C., MILLENNIUM AMBULATORY SURGERY CENTER,
L.L.C., REN'S ACUPUNCTURE P.C., NY SUN PT, P.C., ELEMENT ACUPUNCTURE, P.C.,
ISLAND BILLING AND PROCESSING LLC, DAVID KAPLOWITZ, M.D., AND
GOODHEART CHIROPRACTIC, P.C.

(" Medical Provider Defendants").
Defendant(s).

-----X
HON. LOUIS L. NOCK
HON. _____ **J.S.C.** _____, J.S.C

This case arises from an automobile accident that occurred on or about June 4, 2011
wherein defendant FRANCISCO TORRES was allegedly in a motor vehicle accident involving
a vehicle insured by plaintiff, Country-Wide Insurance Company ("Plaintiff"). Defendant

submitted a claim to Plaintiff as a purported injured person under the insurance policy issued by Plaintiff UI011331 10.

Plaintiff commenced an action on or about October 3, 2019, by the filing of a Summons and Complaint seeking a declaratory judgment against FRANCISCO TORRES, DYNAMIC MEDICAL IMAGING P.C., GOTTLIEB FAMILY CHIROPRACTIC, P.C., MODERN CHIROPRACTIC P.C., DOVPHIL ANESTHESIOLOGY GROUP PLLC, MARINA GALPERIN, M.D., SUCCESS REHAB PT P.C., NEW WAY MASSAGE THERAPY, P.C., URBAN WELL ACUPUNCTURE P.C., NORTH EAST EMPIRE MEDICAL, P.C., P.R. MEDICAL, P.C., HMP ORTHOPAEDICS, P.C., GREAT MEDICAL SERVICES P.C., RIDGE PAIN MEDICINE & ANESTHESIOLOGY, LLC, NEW CAPITAL SUPPLY INC., WARREN MEDICAL, P.C., NEW YORK VEIN CENTER, LLC, SMQ MEDICAL P.C., AFFORDABLE CHIROPRACTIC CARE P.C., HEEL TO TOE FOOT CENTER LLC, MICHAEL BINDER, M.D., JONALD EVANGELISTA PT, P.C., SPECIALTY SURGERY OF SECAUCUS, LIMITED LIABILITY COMPANY, COASTAL ANESTHESIA SERVICES, LLC, AEE MEDICAL DIAGNOSTIC P.C., MILLENNIUM AMBULATORY SURGERY CENTER, L.L.C., REN'S ACUPUNCTURE P.C., NY SUN PT, P.C., ELEMENT ACUPUNCTURE, P.C., ISLAND BILLING AND PROCESSING LLC, DAVID KAPLOWITZ, M.D., AND GOODHEART CHIROPRACTIC, P.C. because the monetary limit on the policy has been reached. Plaintiff seeks a declaration that FRANCISCO TORRES is not an eligible injured person or otherwise entitled to no-fault benefits under the Policy, and that Plaintiff is not obligated to reimburse FRANCISCO TORRES for alleged medical treatment, therapy, lost wages, medical supplies, and/or any other expenses associated with the referenced claim and date of loss.

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Plaintiff now moves for a default judgment pursuant to CPLR § 3215 against, FRANCISCO TORRES, DYNAMIC MEDICAL IMAGING P.C., GOTTLIEB FAMILY CHIROPRACTIC, P.C., MODERN CHIROPRACTIC P.C., DOVPHIL ANESTHESIOLOGY GROUP PLLC, MARINA GALPERIN, M.D., SUCCESS REHAB PT P.C., NEW WAY MASSAGE THERAPY, P.C., URBAN WELL ACUPUNCTURE P.C., NORTH EAST EMPIRE MEDICAL, P.C., HMP ORTHOPAEDICS, P.C., GREAT MEDICAL SERVICES P.C., NEW CAPITAL SUPPLY INC., WARREN MEDICAL, P.C., NEW YORK VEIN CENTER, LLC, SMQ MEDICAL P.C., AFFORDABLE CHIROPRACTIC CARE P.C., HEEL TO TOE FOOT CENTER LLC, JONALD EVANGELISTA PT, P.C., AEE MEDICAL DIAGNOSTIC P.C., MILLENNIUM AMBULATORY SURGERY CENTER, L.L.C., REN'S ACUPUNCTURE P.C., NY SUN PT, P.C., ELEMENT ACUPUNCTURE, P.C., ISLAND BILLING AND PROCESSING LLC, DAVID KAPLOWITZ, M.D., AND GOODHEART CHIROPRACTIC, P.C. No opposition is submitted.

Plaintiff submits affidavits of service showing service upon FRANCISCO TORRES on October 17, 2019 and the Medical Provider Defendants on October 11, 2019, October 14, 2019, October 22, 2019. Plaintiff submits the affidavit of Kyaw Nyein, who is employed as a No-Fault Claim Supervisor at Country-Wide Insurance Company, in support of Plaintiff's motion for default judgment.

WHEREFORE, it is hereby,

ORDERED that Plaintiff's motion for default judgment against, FRANCISCO TORRES, DYNAMIC MEDICAL IMAGING P.C., GOTTLIEB FAMILY CHIROPRACTIC, P.C., MODERN CHIROPRACTIC P.C., DOVPHIL ANESTHESIOLOGY GROUP PLLC, MARINA GALPERIN, M.D., SUCCESS REHAB PT P.C., NEW WAY MASSAGE THERAPY, P.C.,

URBAN WELL ACUPUNCTURE P.C., NORTH EAST EMPIRE MEDICAL, P.C., HMP ORTHOPAEDICS, P.C., GREAT MEDICAL SERVICES P.C., NEW CAPITAL SUPPLY INC., WARREN MEDICAL, P.C., NEW YORK VEIN CENTER, LLC, SMQ MEDICAL P.C., AFFORDABLE CHIROPRACTIC CARE P.C., HEEL TO TOE FOOT CENTER LLC, JONALD EVANGELISTA PT, P.C., AEE MEDICAL DIAGNOSTIC P.C., MILLENNIUM AMBULATORY SURGERY CENTER, L.L.C., REN'S ACUPUNCTURE P.C., NY SUN PT, P.C., ELEMENT ACUPUNCTURE, P.C., ISLAND BILLING AND PROCESSING LLC, DAVID KAPLOWITZ, M.D., AND GOODHEART CHIROPRACTIC, P.C. is granted; and it is further,

ORDERED and ADJUDGED that on the first cause of action Plaintiff owes no further duty to Defendants, FRANCISCO TORRES, DYNAMIC MEDICAL IMAGING P.C., GOTTLIEB FAMILY CHIROPRACTIC, P.C., MODERN CHIROPRACTIC P.C., DOVPHIL ANESTHESIOLOGY GROUP PLLC, MARINA GALPERIN, M.D., SUCCESS REHAB PT P.C., NEW WAY MASSAGE THERAPY, P.C., URBAN WELL ACUPUNCTURE P.C., NORTH EAST EMPIRE MEDICAL, P.C., HMP ORTHOPAEDICS, P.C., GREAT MEDICAL SERVICES P.C., NEW CAPITAL SUPPLY INC., WARREN MEDICAL, P.C., NEW YORK VEIN CENTER, LLC, SMQ MEDICAL P.C., AFFORDABLE CHIROPRACTIC CARE P.C., HEEL TO TOE FOOT CENTER LLC, JONALD EVANGELISTA PT, P.C., AEE MEDICAL DIAGNOSTIC P.C., MILLENNIUM AMBULATORY SURGERY CENTER, L.L.C., REN'S ACUPUNCTURE P.C., NY SUN PT, P.C., ELEMENT ACUPUNCTURE, P.C., ISLAND BILLING AND PROCESSING LLC, DAVID KAPLOWITZ, M.D., AND GOODHEART CHIROPRACTIC, P.C., to pay No-Fault claims submitted in relation to the June 4, 2011 loss,

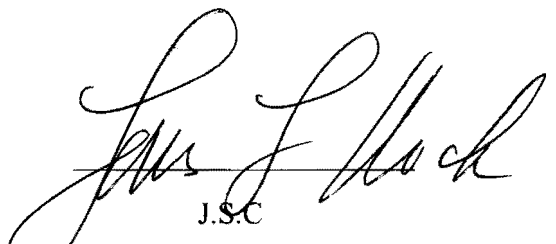
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Claim No.: 000265354-001, Policy.: U1011331 10, referenced in the complaint involving FRANCISCO TORRES, and it is further,

ORDERED and ADJUDGED that on the second cause of action that all arbitrations, lawsuits and enforcement of awards or judgments in connection with the June 4, 2011 loss, Claim No.: 000265354-001, Policy.: U1011331 10, referenced in the complaint involving FRANCISCO TORRES, are hereby permanently stayed.

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

Dated: 4/5/2021


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