

Country-Wide Ins. Co. v Vidanapathirana
2021 NY Slip Op 31202(U)
April 7, 2021
Supreme Court, New York County
Docket Number: 651722/2020
Judge: Louis L. Nock
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This opinion is uncorrected and not selected for official publication.

Plaintiff commenced an action on or about March 16, 2020, by the filing of a Summons and Complaint seeking a declaratory judgment against LANKA VIDANAPATHIRANA, DR WILLIAM HAMMOND, METROPOLITAN MEDICAL & REHAB ,PC, TENDER TOUCH PHYSICAL THERAPY, CHIROPRACTIC EXAM WORKS, P.C., GREENLEAF ACUPUNCTURE PC., QUALITY ORTHO & COMPLETE JOINT CARE,P.C., ATLAS RADIOLOGY, P.C., ~~AMDO MEDICAL, P.C.~~, PAVO CRISTATUS MEDICAL, P.C., and QUEENS BOULEVARD CHIROPRACTIC, P.C., due to the alleged breach of contract by LANKA VIDANAPATHIRANA in failing to appear for a properly requested and scheduled Examination Under Oath. Plaintiff seeks a declaration that LANKA VIDANAPATHIRANA is not an eligible injured person entitled to no-fault benefits under the Policy, and that Plaintiff is not obligated to reimburse LANKA VIDANAPATHIRANA for alleged medical treatment, therapy and/or medical supplies rendered.

Plaintiff now moves for a default judgment pursuant to CPLR § 3215 against, LANKA VIDANAPATHIRANA, WILLIAM HENRY HAMMOND JR. D.C., METROPOLITAN MEDICAL & REHABILITATION, P.C., TENDER TOUCH PHYSICAL THERAPY, CHIROPRACTIC EXAM WORKS, P.C., ATLAS RADIOLOGY, P.C., ~~AMDO MEDICAL, P.C.~~, PAVO CRISTATUS MEDICAL, P.C., and QUEENS BOULEVARD CHIROPRACTIC, P.C. No opposition is submitted.

Plaintiff submits affidavits of service showing service upon LANKA VIDANAPATHIRANA on August 13, 2020 and the Medical Provider Defendants on May 11, 2020, August 15, 2020, and August 17, 2020. Plaintiff submits the affidavit of Jessica Mena-Sibrian, who is employed as a No-fault litigation/Arbitration Supervisor and the affidavit of Annie

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Persaud, the EUO Clerk 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, LANKA VIDANAPATHIRANA, WILLIAM HENRY HAMMOND JR. D.C., METROPOLITAN MEDICAL & REHABILITATION, P.C., TENDER TOUCH PHYSICAL THERAPY, CHIROPRACTIC EXAM WORKS, P.C., ATLAS RADIOLOGY, P.C., ~~AMDO MEDICAL, P.C.~~, PAVO CRISTATUS MEDICAL, P.C., and QUEENS BOULEVARD CHIROPRACTIC, P.C., is granted; and it is further,

ORDERED and ADJUDGED that on the first cause of action Plaintiff owes no duty to Defendants, LANKA VIDANAPATHIRANA, WILLIAM HENRY HAMMOND JR. D.C., METROPOLITAN MEDICAL & REHABILITATION, P.C., TENDER TOUCH PHYSICAL THERAPY, CHIROPRACTIC EXAM WORKS, P.C., ATLAS RADIOLOGY, P.C., ~~AMDO MEDICAL, P.C.~~, PAVO CRISTATUS MEDICAL, P.C., and QUEENS BOULEVARD CHIROPRACTIC, P.C. to pay No-Fault claims submitted in relation to the August 4, 2019 loss, Claim No.: 000345926-001, Policy.: AS 2508125 19, referenced in the complaint involving LANKA VIDANAPATHIRANA, 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 August 4, 2019 loss, Claim No.: 000345926-001, Policy.: AS 2508125 19, referenced in the complaint involving LANKA VIDANAPATHIRANA are hereby permanently stayed.

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

Dated: 4/7/21

[Handwritten Signature]
J.S.C.
HON. LOUIS L. NOCK
J.S.C.

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