

|                                                                                                                                                                                                                                |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Country-Wide Ins. Co. v Aleon</b>                                                                                                                                                                                           |
| 2021 NY Slip Op 31204(U)                                                                                                                                                                                                       |
| April 9, 2021                                                                                                                                                                                                                  |
| Supreme Court, New York County                                                                                                                                                                                                 |
| Docket Number: 651846/18                                                                                                                                                                                                       |
| Judge: Gerald Lebovits                                                                                                                                                                                                         |
| Cases posted with a "30000" identifier, i.e., 2013 NY Slip Op <u>30001</u> (U), are republished from various New York State and local government sources, including the New York State Unified Court System's eCourts Service. |
| This opinion is uncorrected and not selected for official publication.                                                                                                                                                         |

File No.: 18CWI002226/000327687-002  
SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK

-----X  
COUNTRY-WIDE INSURANCE COMPANY

**Index No.: 651846/18**

Plaintiff,  
- against -

**JUDGMENT**

JOSEPH KETESHAN ALEON

("Eligible Injured Party Defendant"),

And

THE BROOKDALE HOSPITAL MEDICAL CENTER,  
QUALITY LABORATORY SERVICE,  
METROPOLITAN MEDICAL & SURGICAL P.C.,  
WARREN STREET ORTHOPEDIC REHABILITATION, P.C.,  
ATLAS PHARMACY LLC,  
PSYCHOLOGY AFTER ACCIDENT P.C.,  
URBAN MEDICAL, P.C.,  
BRONX CHIROPRACTIC HEALTH SERVICES, P.C.,  
E B N ACUPUNCTURE P.C.,  
S.A. P.T. P.C.,  
AMERICAN ACUPUNCTURE P.C.,  
PREFERRED MEDICAL, P.C.,  
RAPID IMAGING CORP,  
PARAMOUNT MEDICAL SERVICES, P.C.,  
B AND H PHARMACY D/B/A CHELSEA MOBILITY,  
MANUAL APPROACH PHYSICAL THERAPY P.C.,  
P&D MERCHANDISE CORP.,  
CHIROPRACTIC DIAGNOSTIC EVALUATIONS P.C.,  
and UTR CHIROPRACTIC SERVICES P.C.,

(" Medical Provider Defendants").

Defendant(s).

-----X  
HON. Gerald Lebovits, J.S.C

This case arises from an automobile accident on June 3, 2017 where defendant JOSEPH KETESHAN ALEON 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 (RS8130384 17).

Plaintiff commenced an action on or about April 17, 2018, by the filing of a Summons and Complaint seeking a declaratory judgment against JOSEPH KETESHAN ALEON, THE BROOKDALE HOSPITAL MEDICAL CENTER, QUALITY LABORATORY SERVICE, METROPOLITAN MEDICAL & SURGICAL P.C., WARREN STREET ORTHOPEDIC REHABILITATION, P.C., ATLAS PHARMACY LLC, PSYCHOLOGY AFTER ACCIDENT P.C., URBAN MEDICAL, P.C., BRONX CHIROPRACTIC HEALTH SERVICES, P.C., E B N ACUPUNCTURE P.C., S.A. P.T. P.C., AMERICAN ACUPUNCTURE P.C., PREFERRED MEDICAL, P.C., RAPID IMAGING CORP, PARAMOUNT MEDICAL SERVICES, P.C., B AND H PHARMACY D/B/A CHELSEA MOBILITY, MANUAL APPROACH PHYSICAL THERAPY P.C., P&D MERCHANDISE CORP., CHIROPRACTIC DIAGNOSTIC EVALUATIONS P.C., and UTR CHIROPRACTIC SERVICES P.C., due to the alleged breach of contract by JOSEPH KETESHAN ALEON in failing to appear for a properly requested and scheduled Examination Under Oath. Plaintiff seeks a declaration that by JOSEPH KETESHAN ALEON is not an eligible injured person entitled to no-fault benefits under the Policy, and that Plaintiff is not obligated to reimburse by JOSEPH KETESHAN ALEON for alleged medical treatment, therapy and/or medical supplies rendered.

Plaintiff now moves for a summary judgment pursuant to CPLR § 3212 against, URBAN MEDICAL, P.C., E B N ACUPUNCTURE P.C., AMERICAN ACUPUNCTURE P.C.,

PREFERRED MEDICAL, P.C., RAPID IMAGING CORP, PARAMOUNT MEDICAL SERVICES, P.C., B AND H PHARMACY D/B/A CHELSEA MOBILITY, and P&D MERCHANDISE CORP.

Plaintiff submits affidavits of service showing service upon the Medical Provider Defendants on April 27, 2018 and May 1, 2018. Plaintiff submits the affidavit of Jessica Mena-Sibrian, who is employed as a No-fault litigation/Arbitration Supervisor and the affidavit of Annie Persaud f/k/a Fatima Zuhra, the EUO Clerk at Country-Wide Insurance Company, in support of Plaintiff's motion for summary judgment.

**WHEREFORE**, it is hereby,

**ORDERED** that Plaintiff's motion for summary judgment against URBAN MEDICAL, P.C., E B N ACUPUNCTURE P.C., AMERICAN ACUPUNCTURE P.C., PREFERRED MEDICAL, P.C., RAPID IMAGING CORP, PARAMOUNT MEDICAL SERVICES, P.C., B AND H PHARMACY D/B/A CHELSEA MOBILITY, and P&D MERCHANDISE CORP., is granted; and it is further,

**ORDERED and ADJUDGED** that on the first cause of action Plaintiff owes no duty to Defendants URBAN MEDICAL, P.C., E B N ACUPUNCTURE P.C., AMERICAN ACUPUNCTURE P.C., PREFERRED MEDICAL, P.C., RAPID IMAGING CORP, PARAMOUNT MEDICAL SERVICES, P.C., B AND H PHARMACY D/B/A CHELSEA MOBILITY, and P&D MERCHANDISE CORP. to pay No-Fault claims submitted in relation to the June 3, 2017 loss, Claim No.: 000327687-002, Policy.: RS8130384 17, referenced in the complaint involving JOSEPH KETESHAN ALEON, 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 3, 2017 loss, Claim

No.: 000327687-002, Policy.: RS8130384 17, referenced in the complaint involving JOSEPH KETESHAN ALEON are hereby permanently stayed.

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

Dated: 4/9/21

  
**HON. GERALD LEBOWITZ**  
J.S.C. J.S.C