

Country-Wide Ins. Co. v Svitlik
2021 NY Slip Op 31241(U)
April 8, 2021
Supreme Court, New York County
Docket Number: 657089/2019
Judge: Debra A. James
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File No.: 19CW1005472/000339720-001
SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

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COUNTRY-WIDE INSURANCE COMPANY

Index No.: 657089/2019

Plaintiff,
- against -

Judgment

IVAN SVITLIK

("Eligible Injured Party Defendant"),

And

BAY RIDGE ORTHOPEDIC ASSOCIATES, P.C.,
MINGMEN ACUPUNCTURE SERVICES, P.C.,
ALL CITY FAMILY HEALTHCARE CENTER, INC.,
AM CHIROPRACTIC P.C.,
CITY WIDE HEALTH FACILITY, INC.,
RELIEF MEDICAL P.C.,
CONTEMPORARY ORTHOPEDICS, PLLC,
ACCELERATED SURGICAL CENTER OF NEW JERSEY,
AAAMG LEASING CORP.,
SHERMAN ABRAMS LABORATORY,
21ST CENTURY PHARMACY INC.,
LR MEDICAL, PLLC,
COMPREHENSIVE MEDICAL ASSIST P.C.,
CUSTOM RX PHARMACY LLC,
UNIVERSITY ANESTHESIA SERVICES, PC,
ASTORIA ORGANIX PHARMACY, INC.,
WALLEGOOD INC.,
ADVANCED RECOVERY SOLUTION INC C/O EMPOWER COLLECTIONS,
SEDATION VACATION PERIOPERATIVE MEDICINE PLLC,
UNICAST, INC,
BAILEY OUTPATIENT MEDICAL SERVICES P.C.,
PRC SUPPLIES INC.,
and DR. OFFENBACHER MEDICAL IMAGING,
PLLC

("Medical Provider Defendants").

Defendant(s).

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HON. DEBRA A. JAMES, J.S.C

This case arises from an automobile accident on September 13, 2018 where defendant IVAN SVITLIK 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 an insurance policy issued by Plaintiff (ES 9705353 18).

Plaintiff commenced an action on or about November 27, 2019, by the filing of a Summons and Complaint seeking a declaratory judgment against IVAN SVITLIK, BAY RIDGE ORTHOPEDIC ASSOCIATES, P.C., MINGMEN ACUPUNCTURE SERVICES, P.C., ALL CITY FAMILY HEALTHCARE CENTER, INC., AM CHIROPRACTIC P.C, CITY WIDE HEALTH FACILITY, INC., RELIEF MEDICAL P.C., CONTEMPORARY ORTHOPEDICS, PLLC, ACCELERATED SURGICAL CENTER OF NEW JERSEY, AAAMG LEASING CORP., SHERMAN ABRAMS LABORATORY, 21ST CENTURY PHARMACY INC., LR MEDICAL, PLLC, COMPREHENSIVE MEDICAL ASSIST P.C., CUSTOM RX PHARMACY LLC, UNIVERSITY ANESTHESIA SERVICES, PC, ASTORIA ORGANIX PHARMACY, INC., WALLEGOOD INC., ADVANCED RECOVERY SOLUTION INC C/O EMPOWER COLLECTIONS, SEDATION VACATION PERIOPERATIVE MEDICINE PLLC, UNICAST, INC, BAILEY OUTPATIENT MEDICAL SERVICES P.C., PRC SUPPLIES INC., and DR. OFFENBACHER MEDICAL IMAGING, PLLC. due to the alleged breach of contract by IVAN SVITLIK in failing to appear for a properly requested and scheduled Independent Medical Examination. Plaintiff seeks a declaration that IVAN SVITLIK is not an eligible injured person entitled to no-fault benefits under the Policy, and that Plaintiff is not obligated to reimburse IVAN SVITLIK for alleged medical treatment, therapy and/or medical supplies rendered.

Plaintiff now moves for a default judgment pursuant to CPLR § 3215 against, IVAN SVITLIK, BAY RIDGE ORTHOPEDIC ASSOCIATES, P.C., MINGMEN ACUPUNCTURE

SERVICES, P.C., ALL CITY FAMILY HEALTHCARE CENTER, INC., CITY WIDE HEALTH FACILITY, INC., RELIEF MEDICAL P.C., CONTEMPORARY ORTHOPEDICS, PLLC, ACCELERATED SURGICAL CENTER OF NEW JERSEY, AAAMG LEASING CORP., 21ST CENTURY PHARMACY INC., LR MEDICAL, PLLC, COMPREHENSIVE MEDICAL ASSIST P.C., CUSTOM RX PHARMACY LLC, UNIVERSITY ANESTHESIA SERVICES, PC, ASTORIA ORGANIX PHARMACY, INC., WALLEGOOD INC., ADVANCED RECOVERY SOLUTION INC C/O EMPOWER COLLECTIONS, SEDATION VACATION PERIOPERATIVE MEDICINE PLLC, UNICAST, INC, BAILEY OUTPATIENT MEDICAL SERVICES P.C., PRC SUPPLIES INC., and DR. OFFENBACHER MEDICAL IMAGING, PLLC. No opposition is submitted.

Plaintiff submits affidavits of service showing service upon IVAN SVITLIK on January 25, 2020 and the Medical Provider Defendants on December 17, 2019, December 26, 2019, and January 20, 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, IVAN SVITLIK, BAY RIDGE ORTHOPEDIC ASSOCIATES, P.C., MINGMEN ACUPUNCTURE SERVICES, P.C., ALL CITY FAMILY HEALTHCARE CENTER, INC., CITY WIDE HEALTH FACILITY, INC., RELIEF MEDICAL P.C., CONTEMPORARY ORTHOPEDICS, PLLC, ACCELERATED SURGICAL CENTER OF NEW JERSEY, AAAMG LEASING CORP., 21ST CENTURY

CUSTOM RX PHARMACY LLC, UNIVERSITY ANESTHESIA SERVICES, PC, ASTORIA ORGANIX PHARMACY, INC., WALLEGOOD INC., ADVANCED RECOVERY SOLUTION INC C/O EMPOWER COLLECTIONS, SEDATION VACATION PERIOPERATIVE MEDICINE PLLC, UNICAST, INC, BAILEY OUTPATIENT MEDICAL SERVICES P.C., PRC SUPPLIES INC., and DR. OFFENBACHER MEDICAL IMAGING, PLLC., is granted; and it is further,

ORDERED and ADJUDGED that on the first cause of action Plaintiff owes no duty to Defendants, IVAN SVITLIK, BAY RIDGE ORTHOPEDIC ASSOCIATES, P.C., MINGMEN ACUPUNCTURE SERVICES, P.C., ALL CITY FAMILY HEALTHCARE CENTER, INC., CITY WIDE HEALTH FACILITY, INC., RELIEF MEDICAL P.C., CONTEMPORARY ORTHOPEDICS, PLLC, ACCELERATED SURGICAL CENTER OF NEW JERSEY, AAAMG LEASING CORP., 21ST CENTURY PHARMACY INC., LR MEDICAL, PLLC, COMPREHENSIVE MEDICAL ASSIST P.C., CUSTOM RX PHARMACY LLC, UNIVERSITY ANESTHESIA SERVICES, PC, ASTORIA ORGANIX PHARMACY, INC., WALLEGOOD INC., ADVANCED RECOVERY SOLUTION INC C/O EMPOWER COLLECTIONS, SEDATION VACATION PERIOPERATIVE MEDICINE PLLC, UNICAST, INC, BAILEY OUTPATIENT MEDICAL SERVICES P.C., PRC SUPPLIES INC., and DR. OFFENBACHER MEDICAL IMAGING, PLLC., to pay No-Fault claims submitted in relation to the September 13, 2018 loss, Claim No.: 000339720-001, Policy.: ES 9705353 18, referenced in the complaint involving IVAN SVITLIK, 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 September 13, 2018 loss,

Claim No.: 000339720-001, Policy.: ES 9705353.18, referenced in the complaint involving IVAN SVITLIK, is hereby permanently stayed.

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

Dated: APR 08 2021

Debra A. James
DEBRA A. JAMES J.S.C