

Country-Wide Ins. Co. v Feliz
2021 NY Slip Op 31243(U)
April 9, 2021
Supreme Court, New York County
Docket Number: 657337/2019
Judge: Debra A. James
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.

SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY

PRESENT: HON. DEBRA A. JAMES PART IAS MOTION 59EFM

Justice

-----X

INDEX NO. 657337/2019

COUNTRY-WIDE INSURANCE COMPANY,

MOTION DATE 1/05/2021

Plaintiff,

MOTION SEQ. NO. 001 002

- v -

SIMON FELIZ, EVOLUTION CHIROPRACTIC, P.C., METRO PAIN SPECIALIST, P.C, WESTCHESTER RADIOLOGY & IMAGING, P.C., HEALTHWISE MEDICAL SERVICES, P.C., REBOUND ACUPUNCTURE, P.C., DOS MANOS CHIROPRACTIC P.C., JJL ACUPUNCTURE P.C., FLORAL PARK PHYSICAL THERAPY P.C., M & M SUPPLIES GROUP INC, MAX JEAN-GILLES, PHYSICIAN, P.C., LPM PHARMACY INC. and DEO MEDICAL SERVICES, P.C.,

DECISION + ORDER ON MOTION

Defendant.

-----X

The following e-filed documents, listed by NYSCEF document number (Motion 001) 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29

were read on this motion to/for VACATE - DECISION/ORDER/JUDGMENT/AWARD.

The following e-filed documents, listed by NYSCEF document number (Motion 002) 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56

were read on this motion to/for JUDGMENT - DEFAULT

ORDER

Upon the foregoing documents, it is

ORDERED that the motion (sequence 001) and cross-motion (sequence 002) of defendants METRO PAIN SPECIALIST, P.C., WESTCHESTER RADIOLOGY & IMAGING, P.C. and HEALTHWISE MEDICAL SERVICES, P.C. vacating their default and granting an extension of time to appear and plead is granted without opposition and

plaintiff is directed to accept such defendants' answer; and it is further

ORDERED and ADJUDGED that plaintiff's motion for a default judgment (motion sequence 002) against SIMON FELIZ, EVOLUTION CHIROPRACTIC, P.C., REBOUND ACUPUNCTURE, P.C., DOS MANOS CHIROPRACTIC P.C., JJL ACUPUNCTURE P.C., FLORAL PARK PHYSICAL THERAPY P.C., M & M SUPPLIES GROUP INC, MAX JEAN-GILLES, PHYSICIAN, P.C., LPM PHARMACY INC. and DEO MEDICAL SERVICES, P.C. is granted on default; and it is further

ORDERED, ADJUDGED and DECLARED that plaintiff COUNTRY-WIDE INSURANCE COMPANY is not obligated to honor or pay claims for reimbursement as assignees of SIMON FELIZ to EVOLUTION CHIROPRACTIC, P.C., REBOUND ACUPUNCTURE, P.C., DOS MANOS CHIROPRACTIC P.C., JJL ACUPUNCTURE P.C., FLORAL PARK PHYSICAL THERAPY P.C., M & M SUPPLIES GROUP INC, MAX JEAN-GILLES, PHYSICIAN, P.C., LPM PHARMACY INC. and DEO MEDICAL SERVICES, P.C. and that the defaulting defendants have no rights to litigate or arbitrate for No-Fault benefits with respect to the March 18, 2019 alleged accident; and it is further

ORDERED that the remaining parties shall submit a proposed preliminary conference order or proposed competing preliminary conference orders to NYSCEF on or before May 18, 2021.

DECISION

Defendants METRO PAIN SPECIALIST, P.C., WESTCHESTER RADIOLOGY & IMAGING, P.C. and HEALTHWISE MEDICAL SERVICES, P.C. move (motion sequence 001) and cross-move (motion sequence 002) to vacate their default in answering the complaint and to compel plaintiff to accept their answers. Since plaintiff has not opposed the motion and cross-motion, the relief is granted on default.

Plaintiff COUNTRY-WIDE INSURANCE COMPANY in this declaratory judgment action moves for a default judgment for the relief demanded in the Complaint pursuant to CPLR 3215 based upon the failure of defendants SIMON FELIZ, EVOLUTION CHIROPRACTIC, P.C., REBOUND ACUPUNCTURE, P.C., DOS MANOS CHIROPRACTIC P.C., JJL ACUPUNCTURE P.C., FLORAL PARK PHYSICAL THERAPY P.C., M & M SUPPLIES GROUP INC, MAX JEAN-GILLES, PHYSICIAN, P.C., LPM PHARMACY INC. and DEO MEDICAL SERVICES, P.C. to answer or appear.

Plaintiff has submitted proof of service of the summons and complaint and proof of service of this motion upon the defendants. Defendants have defaulted in appearance on this motion. Plaintiff has further submitted an affidavit of facts pursuant to CPLR 3215 (f), as well as evidence of the default of defendants by attorney affirmation. Plaintiff has also submitted proof of the additional mailings of the summons

required by CPLR 3215(g)(4). This motion is brought within one year of the default. The court shall therefore grant a declaratory judgment on default against the defendants for the relief sought in the Complaint.

4/9/2021

DATE

DEBRA A. JAMES, J.S.C.

CHECK ONE:

CASE DISPOSED

NON-FINAL DISPOSITION

GRANTED

DENIED

GRANTED IN PART

OTHER

APPLICATION:

SETTLE ORDER

SUBMIT ORDER

CHECK IF APPROPRIATE:

INCLUDES TRANSFER/REASSIGN

FIDUCIARY APPOINTMENT

REFERENCE