

Country-Wide Ins. Co. v Mancebo

2021 NY Slip Op 31244(U)

April 7, 2021

Supreme Court, New York County

Docket Number: 657471/2019

Judge: Louis L. Nock

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This opinion is uncorrected and not selected for official publication.

File No.: 19CWI004079/000339606-004
SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

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COUNTRY-WIDE INSURANCE COMPANY

Index No.: 657471/2019

Plaintiff,

- against -

JUDGMENT

JUAN MANCEBO

("Eligible Injured Party Defendant"),

And

NYU ED ASSOC-LUTHERAN,
NYU LANGONE HOSPITAL BROOKLYN,
ROXBURY ANESTHESIA, LLC,
ADVANCED ORTHOPEDICS & JOINT PRESERVATION, P.C.,
ORTHO-MED EQUIP, INC.,
COMMUNITY MEDICAL IMAGING PC,
BROOKLYN MEDICAL PRACTICE, PC,
NORTH SHORE FAMILY CHIROPRACTIC, P.C.,
UNICORN ACUPUNCTURE, P.C.,
WELLNESS EXPRESS PT P.C.,
ADVANCED ORTHOPEDICS & JOINT PRESERVATION, P.C.,
BIG APPLE PAIN MANAGEMENT PLLC,
ECLIPSE MEDICAL IMAGING, P.C.,
SURGICORE OF JERSEY CITY, LLC,
AND UNICAST INC.

(" Medical Provider Defendants").

Defendant(s).

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

This case arises from an automobile accident on September 8, 2018 where defendant JUAN MANCEBO 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 (CS 4109313 18).

Plaintiff commenced an action on or about December 16, 2019, by the filing of a Summons and Complaint seeking a declaratory judgment against JUAN MANCEBO, NYU ED ASSOC-LUTHERAN, NYU LANGONE HOSPITAL BROOKLYN, ROXBURY ANESTHESIA, LLC, ADVANCED ORTHOPEDICS & JOINT PRESERVATION, P.C., ORTHO-MED EQUIP, INC., COMMUNITY MEDICAL IMAGING PC, BROOKLYN MEDICAL PRACTICE, PC, NORTH SHORE FAMILY CHIROPRACTIC, P.C., UNICORN ACUPUNCTURE, P.C., WELLNESS EXPRESS PT P.C., ADVANCED ORTHOPEDICS & JOINT PRESERVATION, P.C., BIG APPLE PAIN MANAGEMENT PLLC, ECLIPSE MEDICAL IMAGING, P.C., SURGICORE OF JERSEY CITY, LLC, and UNICAST INC. due to the alleged breach of contract by JUAN MANCEBO in failing to appear for a properly requested and scheduled Examination Under Oath. Plaintiff seeks a declaration that JUAN MANCEBO is not an eligible injured person entitled to no-fault benefits under the Policy, and that Plaintiff is not obligated to reimburse JUAN MANCEBO for alleged medical treatment, therapy and/or medical supplies rendered.

Plaintiff now moves for a default judgment pursuant to CPLR § 3215 against, JUAN MANCEBO, NYU LANGONE HOSPITAL BROOKLYN, ROXBURY ANESTHESIA, LLC, ORTHO-MED EQUIP, INC., COMMUNITY MEDICAL IMAGING PC, BROOKLYN MEDICAL PRACTICE, PC, NORTH SHORE FAMILY CHIROPRACTIC, P.C., UNICORN ACUPUNCTURE, P.C., WELLNESS EXPRESS PT P.C., BIG APPLE PAIN MANAGEMENT PLLC, ECLIPSE MEDICAL IMAGING, P.C., SURGICORE OF JERSEY CITY, LLC, and UNICAST INC. No opposition is submitted.

Plaintiff submits affidavits of service showing service upon JUAN MANCEBO on January 10, 2020 and the Medical Provider Defendants on December 20, 2019, January 3, 2020, and January 8, 2020. Plaintiff submits the affidavit of Kyaw Nyein, who is employed as a No-fault

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Claim Supervisor and the affidavit of Annie 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, JUAN MANCEBO, NYU LANGONE HOSPITAL BROOKLYN, ROXBURY ANESTHESIA, LLC, ORTHO-MED EQUIP, INC., COMMUNITY MEDICAL IMAGING PC, BROOKLYN MEDICAL PRACTICE, PC, NORTH SHORE FAMILY CHIROPRACTIC, P.C., UNICORN ACUPUNCTURE, P.C., WELLNESS EXPRESS PT P.C., BIG APPLE PAIN MANAGEMENT PLLC, ECLIPSE MEDICAL IMAGING, P.C., SURGICORE OF JERSEY CITY, LLC, and UNICAST INC. is granted; and it is further,

ORDERED and ADJUDGED that on the first cause of action Plaintiff owes no duty to Defendants, JUAN MANCEBO, NYU LANGONE HOSPITAL BROOKLYN, ROXBURY ANESTHESIA, LLC, ORTHO-MED EQUIP, INC., COMMUNITY MEDICAL IMAGING PC, BROOKLYN MEDICAL PRACTICE, PC, NORTH SHORE FAMILY CHIROPRACTIC, P.C., UNICORN ACUPUNCTURE, P.C., WELLNESS EXPRESS PT P.C., BIG APPLE PAIN MANAGEMENT PLLC, ECLIPSE MEDICAL IMAGING, P.C., SURGICORE OF JERSEY CITY, LLC, and UNICAST INC., to pay No-Fault claims submitted in relation to the September 8, 2018 loss, Claim No.: 000339606-004, Policy.: CS 4109313 18, referenced in the complaint involving JUAN MANCEBO, 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 8, 2018 loss, Claim No.: 000339606-004, Policy.: CS 4109313 18, referenced in the complaint involving JUAN MANCEBO 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

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

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