

Country-Wide Ins. Co. v Green
2021 NY Slip Op 31385(U)
April 13, 2021
Supreme Court, New York County
Docket Number: 651026/2020
Judge: Melissa A. Crane
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File No.: 19CWI009982/000322091-002
SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

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COUNTRY-WIDE INSURANCE COMPANY

Index No.: 651026/2020

Plaintiff,
- against -

Judgment

MARIE GREEN

("Eligible Injured Party Defendant"),

And

BETH ISRAEL MEDICAL CENTER,
DAMADIAN MRI IN CANARSIE, P.C.,
LONGEVITY MEDICAL SUPPLY, INC.,
DR. ANDRE JOCELYN DUHAMEL MD,
RADIOLOGY DEPARTMENT OF MOUNT SINAI,
HAMZA PHYSICAL THERAPY PLLC,
MASTER CHENG ACUPUNCTURE P.C.,
RALPH INNOVATIVE MEDICAL P.C.,
BRONX CHIROPRACTIC REHABILITATION P.C.,
ELEGANCE REHAB PT P.C.,
RX FOR YOU CORP,
SPINE CARE OF NJ, PC,
BENNETT MEDICAL P.C.,
JFL MEDICAL CARE P.C., and
JOANNA KUSHETSKY P.T.

("Medical Provider Defendants").

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HON. MELISSA A. CRANE, J.S.C. Defendant(s)

HON. _____, J.S.C

This case arises from an automobile accident on November 13, 2016 where defendant MARIE GREEN 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 (PS 9391694 16).

Plaintiff commenced an action on or about February 14, 2020, by the filing of a Summons and Complaint seeking a declaratory judgment against MARIE GREEN, BETH ISRAEL MEDICAL CENTER, DAMADIAN MRI IN CANARSIE, P.C., LONGEVITY MEDICAL SUPPLY, INC., DR. ANDRE JOCELYN DUHAMEL MD, RADIOLOGY DEPARTMENT OF MOUNT SINAI, HAMZA PHYSICAL THERAPY PLLC, MASTER CHENG ACUPUNCTURE P.C., RALPH INNOVATIVE MEDICAL P.C., BRONX CHIROPRACTIC REHABILITATION P.C., ELEGANCE REHAB PT P.C., RX FOR YOU CORP, SPINE CARE OF NJ, PC, BENNETT MEDICAL P.C., JFL MEDICAL CARE P.C., and JOANNA KUSHETSKY P.T., due to the alleged breach of contract by MARIE GREEN in failing to appear for a properly requested and scheduled Independent Medical Examination. Plaintiff seeks a declaration that MARIE GREEN is not an eligible injured person entitled to no-fault benefits under the Policy, and that Plaintiff is not obligated to reimburse MARIE GREEN for alleged medical treatment, therapy and/or medical supplies rendered.

Plaintiff now moves for a default judgment pursuant to CPLR § 3215 against, MARIE GREEN, BETH ISRAEL MEDICAL CENTER, DAMADIAN MRI IN CANARSIE, P.C., DR. ANDRE JOCELYN DUHAMEL MD, RADIOLOGY DEPARTMENT OF MOUNT SINAI, HAMZA PHYSICAL THERAPY PLLC, RALPH INNOVATIVE MEDICAL P.C., ELEGANCE REHAB PT P.C., RX FOR YOU CORP, and BENNETT MEDICAL P.C. No opposition is submitted.

Plaintiff submits affidavits of service showing service upon MARIE GREEN on March 10, 2020 and the Medical Provider Defendants on February 26, 2020, March 2, 2020, and March

11, 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 f/k/a Fatima Zuhra, 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,

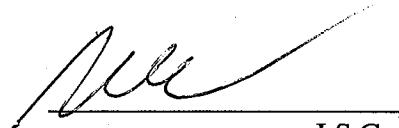
ORDERED that Plaintiff's motion for default judgment against, MARIE GREEN, BETH ISRAEL MEDICAL CENTER, DAMADIAN MRI IN CANARSIE, P.C., DR. ANDRE JOCELYN DUHAMEL MD, RADIOLOGY DEPARTMENT OF MOUNT SINAI, HAMZA PHYSICAL THERAPY PLLC, RALPH INNOVATIVE MEDICAL P.C., ELEGANCE REHAB PT P.C., RX FOR YOU CORP, and BENNETT MEDICAL P.C., is granted; and it is further,

ORDERED and ADJUDGED that on the first cause of action Plaintiff owes no duty to Defendants, MARIE GREEN, BETH ISRAEL MEDICAL CENTER, DAMADIAN MRI IN CANARSIE, P.C., DR. ANDRE JOCELYN DUHAMEL MD, RADIOLOGY DEPARTMENT OF MOUNT SINAI, HAMZA PHYSICAL THERAPY PLLC, RALPH INNOVATIVE MEDICAL P.C., ELEGANCE REHAB PT P.C., RX FOR YOU CORP, and BENNETT MEDICAL P.C., to pay No-Fault claims submitted in relation to the November 13, 2016 loss, Claim No.: 000322091-002, Policy.: PS 9391694 16, referenced in the complaint involving MARIE GREEN, 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 November 13, 2016 loss, Claim No.: 000322091-002, Policy.: PS 9391694 16, referenced in the complaint involving MARIE GREEN, is hereby permanently stayed.

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

Dated: 4-13-2021



J.S.C