

Country-Wide Ins. Co. v Martin
2021 NY Slip Op 31420(U)
April 13, 2021
Supreme Court, New York County
Docket Number: 650278/2020
Judge: Melissa A. Crane
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File No.: 19CWI004074/000340858-002
SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

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COUNTRY-WIDE INSURANCE COMPANY

Index No.: 650278/2020

Plaintiff,

- against -

JUDGMENT

RAYON MARTIN

("Eligible Injured Party Defendant"),

And

NEW YORK CITY HEALTH AND HOSPITALS CORPORATION, JAMAICA HOSPITAL MEDICAL CENTER, JAMAICA HOSPITAL D/B/A JAMAICA HOSPITAL EMERGENCY DEPARTMENT – RADIOLOGY, GREEN ACRES HOME CARE, INC. D/B/A ISLAND SURGICAL SUPPLY CO, ALL CITY FAMILY HEALTHCARE CENTER, INC., FIVE ELEMENTS ACUPUNCTURE P.C., INTEGRATED NEUROLOGICAL ASSOCIATES, PLLC, NEW AGE NEUROLOGY, P.C., KETAN D. VORA, DO, P.C., RENAISSANCE CHIROPRACTIC WELLNESS, P.C., NASSAU CHIROPRACTIC SERVICES P.C., PRECISION PAIN MANAGEMENT P.C., SHERMAN ABRAMS LABORATORY INC, CHIROPRACTIC TESTING SERVICES OF NEW YORK, P.C., CVS RX, INC., AMBULATORY SURGICAL CENTER OF ENGLEWOOD LLC, ASCE ANESTHESIA PC, BHS SPINAL CARE CHIROPRACTIC P.C., COMPREHENSIVE MEDICAL ASSIST P.C., SMK PHARMACY, CORP. D/B/A NATURE'S FIRST LONG TERM CARE & COMPOUNDING, PROTECHMED INC, ENGLEWOOD ORTHOPEDICS GROUP PC, ALL BEST TRADING, INC., BROOKLYN MCDONALD MEDICAL CARE PLLC, SP ONE SERVICES, INC., SEDATION VACATION PERIOPERATIVE MEDICINE PLLC, UNICAST INC., INSTAR MEDICAL P.C., and DURAMED INC.

("Medical Provider Defendants").

Defendant(s).

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HON. **HON. MELISSA A. CRANE**
J.S.C.

This case arises from an automobile accident on November 19, 2018 where defendant RAYON MARTIN 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 (RS 8124421 18).

Plaintiff commenced an action on or about January 13, 2020, by the filing of a Summons and Complaint seeking a declaratory judgment against RAYON MARTIN, NEW YORK CITY HEALTH AND HOSPITALS CORPORATION, JAMAICA HOSPITAL MEDICAL CENTER, JAMAICA HOSPITAL D/B/A JAMAICA HOSPITAL EMERGENCY DEPARTMENT – RADIOLOGY, GREEN ACRES HOME CARE, INC. D/B/A ISLAND SURGICAL SUPPLY CO, ALL CITY FAMILY HEALTHCARE CENTER, INC., FIVE ELEMENTS ACUPUNCTURE P.C., INTEGRATED NEUROLOGICAL ASSOCIATES, PLLC, NEW AGE NEUROLOGY, P.C., KETAN D. VORA, DO, P.C., RENAISSANCE CHIROPRACTIC WELLNESS, P.C., NASSAU CHIROPRACTIC SERVICES P.C., PRECISION PAIN MANAGEMENT P.C., SHERMAN ABRAMS LABORATORY INC, CHIROPRACTIC TESTING SERVICES OF NEW YORK, P.C., CVS RX, INC., AMBULATORY SURGICAL CENTER OF ENGLEWOOD LLC, ASCE ANESTHESIA PC, BHS SPINAL CARE CHIROPRACTIC P.C., COMPREHENSIVE MEDICAL ASSIST P.C., SMK PHARMACY, CORP. D/B/A NATURE’S FIRST LONG TERM CARE & COMPOUNDING, PROTECHMED INC, ENGLEWOOD ORTHOPEDICS GROUP PC, ALL BEST TRADING, INC., BROOKLYN MCDONALD MEDICAL CARE PLLC, SP ONE SERVICES, INC., SEDATION VACATION PERIOPERATIVE MEDICINE PLLC, UNICAST INC., INSTAR MEDICAL P.C., and DURAMED INC., due to the alleged breach of contract by RAYON MARTIN in failing to appear for a properly requested and scheduled Independent Medical Examination. Plaintiff seeks a declaration that RAYON MARTIN is not an eligible injured person entitled to no-fault benefits

under the Policy, and that Plaintiff is not obligated to reimburse RAYON MARTIN for alleged medical treatment, therapy and/or medical supplies rendered.

Plaintiff now moves for a default judgment pursuant to CPLR § 3215 against, RAYON MARTIN, JAMAICA HOSPITAL MEDICAL CENTER, JAMAICA HOSPITAL D/B/A JAMAICA HOSPITAL EMERGENCY DEPARTMENT – RADIOLOGY, GREEN ACRES HOME CARE, INC. D/B/A ISLAND SURGICAL SUPPLY CO, ALL CITY FAMILY HEALTHCARE CENTER, INC., FIVE ELEMENTS ACUPUNCTURE P.C., INTEGRATED NEUROLOGICAL ASSOCIATES, PLLC, NEW AGE NEUROLOGY, P.C., KETAN D. VORA, DO, P.C., RENAISSANCE CHIROPRACTIC WELLNESS, P.C., NASSAU CHIROPRACTIC SERVICES P.C., PRECISION PAIN MANAGEMENT P.C., SHERMAN ABRAMS LABORATORY INC, CHIROPRACTIC TESTING SERVICES OF NEW YORK, P.C., CVS RX, INC., AMBULATORY SURGICAL CENTER OF ENGLEWOOD LLC, ASCE ANESTHESIA PC, BHS SPINAL CARE CHIROPRACTIC P.C., COMPREHENSIVE MEDICAL ASSIST P.C., SMK PHARMACY, CORP. D/B/A NATURE'S FIRST LONG TERM CARE & COMPOUNDING, PROTECHMED INC, ENGLEWOOD ORTHOPEDICS GROUP PC, BROOKLYN MCDONALD MEDICAL CARE PLLC, SP ONE SERVICES, INC., SEDATION VACATION PERIOPERATIVE MEDICINE PLLC, INSTAR MEDICAL P.C., and DURAMED INC.. No opposition is submitted.

Plaintiff submits affidavits of service showing service upon RAYON MARTIN on March 10, 2020 and the Medical Provider Defendants on February 28, 2020, March 4, 2020, March 9, 2020, March 10, 2020, August 19, 2020, and August 21, 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, RAYON MARTIN, JAMAICA HOSPITAL MEDICAL CENTER, JAMAICA HOSPITAL D/B/A JAMAICA HOSPITAL EMERGENCY DEPARTMENT – RADIOLOGY, GREEN ACRES HOME CARE, INC. D/B/A ISLAND SURGICAL SUPPLY CO, ALL CITY FAMILY HEALTHCARE CENTER, INC., FIVE ELEMENTS ACUPUNCTURE P.C., INTEGRATED NEUROLOGICAL ASSOCIATES, PLLC, NEW AGE NEUROLOGY, P.C., KETAN D. VORA, DO, P.C., RENAISSANCE CHIROPRACTIC WELLNESS, P.C., NASSAU CHIROPRACTIC SERVICES P.C., PRECISION PAIN MANAGEMENT P.C., SHERMAN ABRAMS LABORATORY INC, CHIROPRACTIC TESTING SERVICES OF NEW YORK, P.C., CVS RX, INC., AMBULATORY SURGICAL CENTER OF ENGLEWOOD LLC, ASCE ANESTHESIA PC, BHS SPINAL CARE CHIROPRACTIC P.C., COMPREHENSIVE MEDICAL ASSIST P.C., SMK PHARMACY, CORP. D/B/A NATURE'S FIRST LONG TERM CARE & COMPOUNDING, PROTECHMED INC, ENGLEWOOD ORTHOPEDICS GROUP PC, BROOKLYN MCDONALD MEDICAL CARE PLLC, SP ONE SERVICES, INC., SEDATION VACATION PERIOPERATIVE MEDICINE PLLC, INSTAR MEDICAL P.C., and DURAMED INC., is granted; and it is further,

ORDERED and ADJUDGED that on the first cause of action Plaintiff owes no duty to Defendants, RAYON MARTIN, JAMAICA HOSPITAL MEDICAL CENTER, JAMAICA HOSPITAL D/B/A JAMAICA HOSPITAL EMERGENCY DEPARTMENT – RADIOLOGY, GREEN ACRES HOME CARE, INC. D/B/A ISLAND SURGICAL SUPPLY CO, ALL CITY

FAMILY HEALTHCARE CENTER, INC., FIVE ELEMENTS ACUPUNCTURE P.C., INTEGRATED NEUROLOGICAL ASSOCIATES, PLLC, NEW AGE NEUROLOGY, P.C., KETAN D. VORA, DO, P.C., RENAISSANCE CHIROPRACTIC WELLNESS, P.C., NASSAU CHIROPRACTIC SERVICES P.C., PRECISION PAIN MANAGEMENT P.C., SHERMAN ABRAMS LABORATORY INC, CHIROPRACTIC TESTING SERVICES OF NEW YORK, P.C., CVS RX, INC., AMBULATORY SURGICAL CENTER OF ENGLEWOOD LLC, ASCE ANESTHESIA PC, BHS SPINAL CARE CHIROPRACTIC P.C., COMPREHENSIVE MEDICAL ASSIST P.C., SMK PHARMACY, CORP. D/B/A NATURE'S FIRST LONG TERM CARE & COMPOUNDING, PROTECHMED INC, ENGLEWOOD ORTHOPEDICS GROUP PC, BROOKLYN MCDONALD MEDICAL CARE PLLC, SP ONE SERVICES, INC., SEDATION VACATION PERIOPERATIVE MEDICINE PLLC, INSTAR MEDICAL P.C., and DURAMED INC., to pay No-Fault claims submitted in relation to the November 19, 2018 loss, Claim No.: 000340858-002, Policy.: RS8124421 18, referenced in the complaint involving RAYON MARTIN 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 19, 2018 loss, Claim No.: 000340858-002, Policy.: RS 8124421 18, referenced in the complaint involving RAYON MARTIN, is hereby permanently stayed.

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

Dated: 4-7-2021


J.S.C