

Country-Wide Ins. Co. v Cruz
2021 NY Slip Op 31421(U)
April 13, 2021
Supreme Court, New York County
Docket Number: 650281/2020
Judge: Melissa A. Crane
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File No.: 19CWI008867/000289177-002
SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

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COUNTRY-WIDE INSURANCE COMPANY

Index No.: 650281/2020

Plaintiff,

- against -

Proposed Judgment

BRENDA CRUZ

("Eligible Injured Party Defendant"),

And

WYCKOFF HEIGHTS MEDICAL CENTER,
VILLAGE CHIROPRACTIC,
RANDALL VICTOR EHRLICH, M.D., P.C.,
ISURPLY LLC,
AAAMG LEASING CORP.,
NEXRAY MEDICAL IMAGING, P.C.,
EXCEL SURGERY CENTER, L.L.C.,
METRO PAIN SPECIALISTS PROFESSIONAL CORPORATION,
ATLAS ORTHOSURGERY P.C.,
AMERICAN NEUROLOGY SERVICES P.C.,
RIVERFLOW ACUPUNCTURE,
STEVEN M. YAGER, D.P.M., F.A.C.F.A.S., and
VILLAGE PHYSICAL THERAPY, CHIROPRACTIC & ACUPUNCTURE, PLLC

("Medical Provider Defendants").

Defendant(s).

-----X
HON. MELISSA A. CRANE
HON. _____ **J.S.C.**, J.S.C

This case arises from an automobile accident on August 26, 2013 where defendant BRENDA CRUZ 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 (VS7807950 13).

Plaintiff commenced an action on or about January 13, 2020, by the filing of a Summons and Complaint seeking a declaratory judgment against BRENDA CRUZ, WYCKOFF HEIGHTS MEDICAL CENTER, VILLAGE CHIROPRACTIC, RANDALL VICTOR EHRLICH, M.D., P.C., ISURPLY LLC, AAAMG LEASING CORP., NEXRAY MEDICAL IMAGING, P.C., EXCEL SURGERY CENTER, L.L.C., METRO PAIN SPECIALISTS PROFESSIONAL CORPORATION, ATLAS ORTHOSURGERY P.C., AMERICAN NEUROLOGY SERVICES P.C., RIVERFLOW ACUPUNCTURE, STEVEN M. YAGER, D.P.M., F.A.C.F.A.S., and VILLAGE PHYSICAL THERAPY, CHIROPRACTIC & ACUPUNCTURE, PLLC, due to the alleged breach of contract by BRENDA CRUZ in failing to appear for a properly requested and scheduled Independent Medical Examination. Plaintiff seeks a declaration that BRENDA CRUZ is not an eligible injured person entitled to no-fault benefits under the Policy, and that Plaintiff is not obligated to reimburse BRENDA CRUZ for alleged medical treatment, therapy and/or medical supplies rendered.

Plaintiff now moves for a default judgment pursuant to CPLR § 3215 against, BRENDA CRUZ, WYCKOFF HEIGHTS MEDICAL CENTER, VILLAGE CHIROPRACTIC, RANDALL VICTOR EHRLICH, M.D., P.C., ISURPLY LLC, AAAMG LEASING CORP., NEXRAY MEDICAL IMAGING, P.C., EXCEL SURGERY CENTER, L.L.C., ATLAS ORTHOSURGERY P.C., AMERICAN NEUROLOGY SERVICES P.C., RIVERFLOW ACUPUNCTURE, STEVEN M. YAGER, D.P.M., F.A.C.F.A.S., and VILLAGE PHYSICAL THERAPY, CHIROPRACTIC & ACUPUNCTURE, PLLC. No opposition is submitted.

Plaintiff submits affidavits of service showing service upon BRENDA CRUZ on March 5, 2020 and the Medical Provider Defendants on February 26, 2020 and March 10, 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, BRENDA CRUZ, WYCKOFF HEIGHTS MEDICAL CENTER, VILLAGE CHIROPRACTIC, RANDALL VICTOR EHRLICH, M.D., P.C., ISURPLY LLC, AAAMG LEASING CORP., NEXRAY MEDICAL IMAGING, P.C., EXCEL SURGERY CENTER, L.L.C., ATLAS ORTHOSURGERY P.C., AMERICAN NEUROLOGY SERVICES P.C., RIVERFLOW ACUPUNCTURE, STEVEN M. YAGER, D.P.M., F.A.C.F.A.S., and VILLAGE PHYSICAL THERAPY, CHIROPRACTIC & ACUPUNCTURE, PLLC., is granted; and it is further,

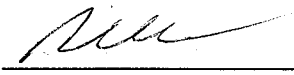
ORDERED and ADJUDGED that on the first cause of action Plaintiff owes no duty to Defendants, BRENDA CRUZ, WYCKOFF HEIGHTS MEDICAL CENTER, VILLAGE CHIROPRACTIC, RANDALL VICTOR EHRLICH, M.D., P.C., ISURPLY LLC, AAAMG LEASING CORP., NEXRAY MEDICAL IMAGING, P.C., EXCEL SURGERY CENTER, L.L.C., ATLAS ORTHOSURGERY P.C., AMERICAN NEUROLOGY SERVICES P.C., RIVERFLOW ACUPUNCTURE, STEVEN M. YAGER, D.P.M., F.A.C.F.A.S., and VILLAGE PHYSICAL THERAPY, CHIROPRACTIC & ACUPUNCTURE, PLLC., to pay No-Fault claims submitted in relation to the August 26, 2013 loss, Claim No.: 000289177-002, Policy.: VS 7807950 13 referenced in the complaint involving BRENDA CRUZ, 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 August 26, 2013 loss,

Claim No.: 000289177-002, Policy.: VS7807950 13 referenced in the complaint involving BRENDA CRUZ, 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