

Country-Wide Ins. Co. v Mclaughlin

2021 NY Slip Op 31426(U)

April 13, 2021

Supreme Court, New York County

Docket Number: 656364/2019

Judge: Melissa A. Crane

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This opinion is uncorrected and not selected for official publication.

File No.: 19CWI004027/000335661-001-001
SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

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COUNTRY-WIDE INSURANCE COMPANY

Index No.: 656364/2019

Plaintiff,

- against -

Judgment

JHUSTEEN MCLAUGHLIN

("Eligible Injured Party Defendant"),

And

PHOENIX MEDICAL SERVICES, P.C.,
METROPOLITAN MEDICAL & SURGICAL P.C.,
FRANCOIS JULES PARI SIEN, M.D., P.C.,
SKY RADIOLOGY P.C.
AMILOR ACUPUNCTURE P.C.,
DEMETRIOS KARAKIZIS D.C., P.C.,
EXCELL CLINICAL LABRAROPRY, INC,
ENERGETIC REHAB PT, P.C.,
ALAN MEDICAL SERVICES P.C.,
SUMMER PT PC,
M EL SAYED PHYSICAL THERAPY, P.C.,
ADVANCED ORTHOPEDICS. PLLC,
SP ORTHOTIC SURGICAL & MEDICAL SUPPLY, INC.,
And LI ACUPUNTURE P.C.

("Medical Provider Defendants").

Defendant(s).

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

This case arises from an automobile accident on March 24, 2018 where defendant JHUSTEEN MCLAUGHLIN 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 8125385 17).

Plaintiff commenced an action on or about October 29, 2019, by the filing of a Summons and Complaint. Plaintiff filed an Amended Summons and Amended Complaint on November 12, 2019, seeking a declaratory judgment against JHUSTEEN MCLAUGHLIN, PHOENIX MEDICAL SERVICES, P.C., METROPOLITAN MEDICAL & SURGICAL P.C., FRANCOIS JULES PARISIEN, M.D., P.C., SKY RADIOLOGY P.C., AMILOR ACUPUNCTURE P.C., DEMETRIOS KARAKIZIS D.C., P.C., EXCELL CLINICAL LABRAROPRY, INC, ENERGETIC REHAB PT, P.C., ALAN MEDICAL SERVICES P.C., SUMMER PT PC, M EL SAYED PHYSICAL THERAPY, P.C., ADVANCED ORTHOPEDICS. PLL, SP ORTHOTIC SURGICAL & MEDICAL SUPPLY, INC., and LI ACUPUNTURE P.C., due to the alleged breach of contract by JHUSTEEN MCLAUGHLIN in failing to appear for a properly requested and scheduled Independent Medical Examination. Plaintiff seeks a declaration that JHUSTEEN MCLAUGHLIN is not an eligible injured person entitled to no-fault benefits under the Policy, and that Plaintiff is not obligated to reimburse JHUSTEEN MCLAUGHLIN for alleged medical treatment, therapy and/or medical supplies rendered.

Plaintiff now moves for a default judgment pursuant to CPLR § 3215 against JHUSTEEN MCLAUGHLIN, PHOENIX MEDICAL SERVICES, P.C., METROPOLITAN MEDICAL & SURGICAL P.C., FRANCOIS JULES PARISIEN, M.D., P.C., SKY RADIOLOGY P.C., AMILOR ACUPUNCTURE P.C., DEMETRIOS KARAKIZIS D.C., P.C., EXCELL CLINICAL LABRAROPRY, INC, ENERGETIC REHAB PT, P.C., ALAN MEDICAL SERVICES P.C., M EL SAYED PHYSICAL THERAPY, P.C., ADVANCED ORTHOPEDICS. PLL, SP ORTHOTIC

SURGICAL & MEDICAL SUPPLY, INC., and LI ACUPUNTURE P.C. No opposition is submitted.

Plaintiff submits affidavits of service showing service upon JHUSTEEN MCLAUGHLIN on December 21, 2019 and the Medical Provider Defendants on November 22, 2019, December 5, 2019, and January 14, 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, JHUSTEEN MCLAUGHLIN, PHOENIX MEDICAL SERVICES, P.C., METROPOLITAN MEDICAL & SURGICAL P.C., FRANCOIS JULES PARISIEN, M.D., P.C., SKY RADIOLOGY P.C., AMILOR ACUPUNCTURE P.C., DEMETRIOS KARAKIZIS D.C., P.C., EXCELL CLINICAL LABRAROPRY, INC, ENERGETIC REHAB PT, P.C., ALAN MEDICAL SERVICES P.C., M EL SAYED PHYSICAL THERAPY, P.C., ADVANCED ORTHOPEDICS. PLL, SP ORTHOTIC SURGICAL & MEDICAL SUPPLY, INC., and LI ACUPUNTURE P.C., is granted; and it is further,

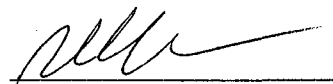
ORDERED and ADJUDGED that on the first cause of action Plaintiff owes no duty to Defendants, JHUSTEEN MCLAUGHLIN, PHOENIX MEDICAL SERVICES, P.C., METROPOLITAN MEDICAL & SURGICAL P.C., FRANCOIS JULES PARISIEN, M.D., P.C., SKY RADIOLOGY P.C., AMILOR ACUPUNCTURE P.C., DEMETRIOS KARAKIZIS D.C., P.C., EXCELL CLINICAL LABRAROPRY, INC, ENERGETIC REHAB PT, P.C., ALAN MEDICAL SERVICES P.C., M EL SAYED PHYSICAL THERAPY, P.C., ADVANCED

ORTHOPEDICS. PLL, SP ORTHOTIC SURGICAL & MEDICAL SUPPLY, INC., and LI ACUPUNTURE P.C. to pay No-Fault claims submitted in relation to the March 24, 2018 loss, Claim No.: 000335661-001, Policy.: RS 8125385 17, referenced in the complaint involving JHUSTEEN MCLAUGHLIN, 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 March 24, 2018 loss, Claim No.: 000335661-001, Policy.: RS 8125385 17, referenced in the complaint involving JHUSTEEN MCLAUGHLIN, 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

HON. MELISSA CRANE