

**Country-Wide Ins. Co. v Dolphy**

2021 NY Slip Op 31427(U)

April 13, 2021

Supreme Court, New York County

Docket Number: 656954/2019

Judge: Melissa A. Crane

Cases posted with a "30000" identifier, i.e., 2013 NY Slip Op 30001(U), are republished from various New York State and local government sources, including the New York State Unified Court System's eCourts Service.

This opinion is uncorrected and not selected for official publication.

File No.: 19CWI003668/000338702-001  
SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK

-----X  
COUNTRY-WIDE INSURANCE COMPANY

**Index No.: 656954/2019**

Plaintiff,

- against -

**Judgment**

KHAYDEANN DOLPHY

("Eligible Injured Party Defendant"),

And

DANIEL LAKOFF M.D., CALVIN G. SY, M.D., MARIA HABIB HANNA M.D., LENOX HILL HOSPITAL, BIRCH MEDICAL & DIAGNOSTIC, P.C., COMPREHENSIVE PSYCHOLOGICAL EVALUATION, P.C., CORONA FAMILY CHIROPRACTIC CARE, P.C., ALL COUNTY, LLC, NEW YORK PRESBYTERIAN HOSPITAL, DIRECT RX PHARMACY INC, JMSK MEDICAL DIAGNOSTICS, P.C., FEIDA MEDICAL & ACUPUNCTURE, P.C., PREFERRED MEDICAL, P.C., BRONX COUNTY MEDICAL CARE P.C., PARAMOUNT MEDICAL SERVICES, P.C., CHIROPRACTIC DIAGNOSTIC EVALUATIONS P.C., MISSION PHYSICAL THERAPY, PLLC, NEW YORK JAMES ACUPUNCTURE P.C., CENTRAL SUPPLIES OF NY CORP, TIELING ACUPUNCTURE, P.C., SP ONE SERVICES, INC., UNION WELLNESS PHARMACY INC., COMFORT PHYSICAL THERAPY, PLLC, SOVEREIGN MEDICAL SERVICES, P.C., PRIME RX PHARMACY INC., MT PHYSICAL THERAPY P.C., ELMWOOD PARK MEDICAL GROUP PC, and WSD ACUPUNCTURE P.C.

("Medical Provider Defendants").

Defendant(s).

-----X  
**HON. MELISSA A. CRANE**  
HON. \_\_\_\_\_ **J.S.C.**

This case arises from an automobile accident on August 13, 2018 where defendant KHAYDEANN DOLPHY 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 ( RT 7105247 18).

Plaintiff commenced an action on or about November 22, 2019, by the filing of a Summons and Complaint seeking a declaratory judgment against KHAYDEANN DOLPHY, DANIEL LAKOFF M.D., CALVIN G. SY, M.D., MARIA HABIB HANNA M.D., LENOX HILL HOSPITAL, BIRCH MEDICAL & DIAGNOSTIC, P.C., COMPREHENSIVE PSYCHOLOGICAL EVALUATION, P.C., CORONA FAMILY CHIROPRACTIC CARE, P.C., ALL COUNTY, LLC, NEW YORK PRESBYTERIAN HOSPITAL, DIRECT RX PHARMACY INC, JMSK MEDICAL DIAGNOSTICS, P.C., FEIDA MEDICAL & ACUPUNCTURE, P.C., PREFERRED MEDICAL, P.C., BRONX COUNTY MEDICAL CARE P.C., PARAMOUNT MEDICAL SERVICES, P.C., CHIROPRACTIC DIAGNOSTIC EVALUATIONS P.C., MISSION PHYSICAL THERAPY, PLLC, NEW YORK JAMES ACUPUNCTURE P.C., CENTRAL SUPPLIES OF NY CORP, TIELING ACUPUNCTURE, P.C., SP ONE SERVICES, INC., UNION WELLNESS PHARMACY INC., COMFORT PHYSICAL THERAPY, PLLC, PRIME RX PHARMACY INC., MT PHYSICAL THERAPY P.C., ELMWOOD PARK MEDICAL GROUP PC, and WSD ACUPUNCTURE P.C., due to the alleged breach of contract by KHAYDEANN DOLPHY in failing to appear for a properly requested and scheduled Independent Medical Examination. Plaintiff seeks a declaration that KHAYDEANN DOLPHY is not an eligible injured person entitled to no-fault benefits under the Policy, and that Plaintiff is not obligated to reimburse KHAYDEANN DOLPHY for alleged medical treatment, therapy and/or medical supplies rendered.

Plaintiff now moves for a default judgment pursuant to CPLR § 3215 against, , KHAYDEANN DOLPHY, DANIEL LAKOFF M.D., CALVIN G. SY, M.D., MARIA HABIB HANNA M.D., LENOX HILL HOSPITAL, BIRCH MEDICAL & DIAGNOSTIC, P.C., COMPREHENSIVE PSYCHOLOGICAL EVALUATION, P.C., ALL COUNTY, LLC, NEW

YORK PRESBYTERIAN HOSPITAL, JMSK MEDICAL DIAGNOSTICS, P.C., PREFERRED MEDICAL, P.C., PARAMOUNT MEDICAL SERVICES, P.C., CHIROPRACTIC DIAGNOSTIC EVALUATIONS P.C., MISSION PHYSICAL THERAPY, PLLC, NEW YORK JAMES ACUPUNCTURE P.C., UNION WELLNESS PHARMACY INC., COMFORT PHYSICAL THERAPY, PLLC, PRIME RX PHARMACY INC., MT PHYSICAL THERAPY P.C. No opposition is submitted.

Plaintiff submits affidavits of service showing service upon KHAYDEANN DOLPHY on December 30, 2019 and the Medical Provider Defendants on December 19, 2019, and January 31, 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,

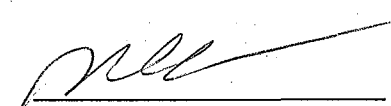
**ORDERED** that Plaintiff's motion for default judgment against KHAYDEANN DOLPHY, DANIEL LAKOFF M.D., CALVIN G. SY, M.D., MARIA HABIB HANNA M.D., LENOX HILL HOSPITAL, BIRCH MEDICAL & DIAGNOSTIC, P.C., COMPREHENSIVE PSYCHOLOGICAL EVALUATION, P.C., ALL COUNTY, LLC, NEW YORK PRESBYTERIAN HOSPITAL, JMSK MEDICAL DIAGNOSTICS, P.C., PREFERRED MEDICAL, P.C., PARAMOUNT MEDICAL SERVICES, P.C., CHIROPRACTIC DIAGNOSTIC EVALUATIONS P.C., MISSION PHYSICAL THERAPY, PLLC, NEW YORK JAMES ACUPUNCTURE P.C., UNION WELLNESS PHARMACY INC., COMFORT PHYSICAL THERAPY, PLLC, PRIME RX PHARMACY INC., MT PHYSICAL THERAPY P.C., is granted; and it is further,

**ORDERED and ADJUDGED** that on the first cause of action Plaintiff owes no duty to Defendants, KHAYDEANN DOLPHY, DANIEL LAKOFF M.D., CALVIN G. SY, M.D., MARIA HABIB HANNA M.D., LENOX HILL HOSPITAL, BIRCH MEDICAL & DIAGNOSTIC, P.C., COMPREHENSIVE PSYCHOLOGICAL EVALUATION, P.C., ALL COUNTY, LLC, NEW YORK PRESBYTERIAN HOSPITAL, JMSK MEDICAL DIAGNOSTICS, P.C., PREFERRED MEDICAL, P.C., PARAMOUNT MEDICAL SERVICES, P.C., CHIROPRACTIC DIAGNOSTIC EVALUATIONS P.C., MISSION PHYSICAL THERAPY, PLLC, NEW YORK JAMES ACUPUNCTURE P.C., UNION WELLNESS PHARMACY INC., COMFORT PHYSICAL THERAPY, PLLC, PRIME RX PHARMACY INC., MT PHYSICAL THERAPY P.C., to pay No-Fault claims submitted in relation to the August 13, 2018 loss, Claim No.: 000338702-001, Policy.: RT 7105247 18, referenced in the complaint involving KHAYDEANN DOLPHY, 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 13, 2018 loss, Claim No.: 000338702-001, Policy.: RT 7105247 18, referenced in the complaint involving KHAYDEANN DOLPHY, 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