

| |
|--|
| Country-Wide Ins. Co. v Brown |
| 2022 NY Slip Op 30577(U) |
| February 22, 2022 |
| Supreme Court, New York County |
| Docket Number: Index No. 652943/2021 |
| Judge: Lyle E. Frank |
| Cases posted with a "30000" identifier, i.e., 2013 NY Slip Op <u>30001</u> (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. |

SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY

PRESENT: HON. LYLE E. FRANK PART 11M

Justice

-----X

COUNTRY-WIDE INSURANCE COMPANY,

Plaintiff,

- v -

ROXANE BROWN, ORANGE REGIONAL MEDICAL CENTER D/B/A GARNET HEALTH MEDICAL CENTER, NEUROLOGICAL SURGERY, P.C., CRYSTAL RUN HEALTHCARE LLP, LYNBROOK ANESTHESIA SERVICES, P.C., METROPOLITAN MEDICAL & SURGICAL P.C., NEW YORK SURGERY CENTER QUEENS, LLC, ATLAS PHARMACY LLC, JEREMY J. FREDERICK, M.D., P.C., SKY RADIOLOGY P.C., AMILOR ACUPUNCTURE P.C., ALAN BECKLES, M.D., P.C., DEMETRIOS KARAKIZIS D.C., P.C., ORANGE EMERGENCY SERVICES, P.C., ENERGETIC REHAB PT, P.C., MAHMOUD EL SAYED, DPT, M & D ELITE PHARMACY, LLC

Defendant.

-----X

INDEX NO. 652943/2021
MOTION DATE N/A
MOTION SEQ. NO. 001

DECISION + ORDER ON MOTION

The following e-filed documents, listed by NYSCEF document number (Motion 001) 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40 were read on this motion to/for JUDGMENT - DEFAULT.

Plaintiff commenced this action for a judgment declaring that it owes no duty to pay any No-Fault benefits arising out of an alleged motor vehicle accident which occurred on October 1, 2017.¹

Plaintiff now moves for a default judgment pursuant to CPLR § 3215 against, defendants ROXANE BROWN, ORANGE REGIONAL MEDICAL CENTER D/B/A GARNET HEALTH MEDICAL CENTER, NEUROLOGICAL SURGERY, P.C., CRYSTAL RUN HEALTHCARE LLP, LYNBROOK ANESTHESIA SERVICES, P.C., METROPOLITAN MEDICAL &

¹ The Court would like to thank Dimitrios Patellis for his assistance in this matter.

SURGICAL P.C., JEREMY J. FREDERICK, M.D., P.C., SKY RADIOLOGY P.C., AMILOR ACUPUNCTURE P.C., ALAN BECKLES, M.D., P.C., DEMETRIOS KARAKIZIS D.C., P.C., ORANGE EMERGENCY SERVICES, P.C., ENERGETIC REHAB PT, P.C., and MAHMOUND EL SAYED, DPT. No opposition is submitted as to these entities. The only opposition was by defendant NEW YORK SURGERY CENTER QUEENS, LLC, who also cross-moves to compel discovery.

An application for a default judgment must be supported by either an affidavit of facts made by one with personal knowledge of the facts surrounding the claim or a complaint verified by a person with actual knowledge of the facts surrounding the claim. *Zelnick v Biderman Industries U.S.A., Inc.*, 242 AD2d 227 [1st Dept 1997]; *Hazim v Winter*, 234 AD2d 422 [2d Dept 1996].

In support of the motion, plaintiff submits affidavits of service showing service of the summons and verified complaint was duly served upon defendants ROXANE BROWN, ORANGE REGIONAL MEDICAL CENTER D/B/A GARNET HEALTH MEDICAL CENTER, NEUROLOGICAL SURGERY, P.C., CRYSTAL RUN HEALTHCARE LLP, LYNBROOK ANESTHESIA SERVICES, P.C., METROPOLITAN MEDICAL & SURGICAL P.C., JEREMY J. FREDERICK, M.D., P.C., SKY RADIOLOGY P.C., AMILOR ACUPUNCTURE P.C., ALAN BECKLES, M.D., P.C., DEMETRIOS KARAKIZIS D.C., P.C., ORANGE EMERGENCY SERVICES, P.C., ENERGETIC REHAB PT, P.C., and MAHMOUND EL SAYED, DPT. Plaintiff also submits the affidavit of Jessica Mena-Sibrian, who is employed as a No-fault litigation/Arbitration Supervisor at Country-Wide Insurance Company, as well as the payment ledger to establish that benefits have been exhausted. To date,

the above defendants have failed to answer, appear, or obtain an order from the court extending its time to do so, and the time to answer or otherwise appear has expired.

The Court also grants the cross-motion for discovery of defendant NEW YORK SURGERY CENTER QUEENS, LLC, which is unopposed. Accordingly, it is hereby

ORDERED that plaintiff's motion for default judgment against, ROXANE BROWN, ORANGE REGIONAL MEDICAL CENTER D/B/A GARNET HEALTH MEDICAL CENTER, NEUROLOGICAL SURGERY, P.C., CRYSTAL RUN HEALTHCARE LLP, LYNBROOK ANESTHESIA SERVICES, P.C., METROPOLITAN MEDICAL & SURGICAL P.C., JEREMY J. FREDERICK, M.D., P.C., SKY RADIOLOGY P.C., AMILOR ACUPUNCTURE P.C., ALAN BECKLES, M.D., P.C., DEMETRIOS KARAKIZIS D.C., P.C., ORANGE EMERGENCY SERVICES, P.C., ENERGETIC REHAB PT, P.C., and MAHMOUND EL SAYED, DPT is granted; and it is further

ADJUDGED and DECLARED that plaintiff is entitled to declaratory judgment that there is no no-fault coverage for benefits claimed by defendants, ROXANE BROWN, ORANGE REGIONAL MEDICAL CENTER D/B/A GARNET HEALTH MEDICAL CENTER, NEUROLOGICAL SURGERY, P.C., CRYSTAL RUN HEALTHCARE LLP, LYNBROOK ANESTHESIA SERVICES, P.C., METROPOLITAN MEDICAL & SURGICAL P.C., JEREMY J. FREDERICK, M.D., P.C., SKY RADIOLOGY P.C., AMILOR ACUPUNCTURE P.C., ALAN BECKLES, M.D., P.C., DEMETRIOS KARAKIZIS D.C., P.C., ORANGE EMERGENCY SERVICES, P.C., ENERGETIC REHAB PT, P.C., and MAHMOUND EL SAYED, DPT 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 subject loss, are hereby permanently stayed as to the above named defendants; and it is further

. ORDERED that plaintiff shall respond to all of defendant NEW YORK SURGERY CENTER QUEENS, LLC's discovery demands within 45 days from the date of service of this order with notice of entry.


20220222102230LFRANK141637A938D64EF0B66BB17D05F9A8B6

LYLE E. FRANK, J.S.C.

2/22/2022
DATE

CHECK ONE:

CASE DISPOSED

NON-FINAL DISPOSITION

GRANTED

DENIED

GRANTED IN PART

OTHER

APPLICATION:

SETTLE ORDER

SUBMIT ORDER

CHECK IF APPROPRIATE:

INCLUDES TRANSFER/REASSIGN

FIDUCIARY APPOINTMENT

REFERENCE