

State Farm Mut. Auto. Ins. Co. v BL Pain Mgt. PLLC

2024 NY Slip Op 34717(U)

August 6, 2025

Supreme Court, New York County

Docket Number: Index No. 158086/2024

Judge: James G. Clynes

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This opinion is uncorrected and not selected for official publication.

**SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY**

PRESENT: HON. JAMES G. CLYNES PART 39M

Justice

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STATE FARM MUTUAL AUTOMOBILE INSURANCE
COMPANY.,

Plaintiff,

INDEX NO. 158086/2024

MOTION DATE 03/28/2025

MOTION SEQ. NO. 001

- v -

BL PAIN MANAGEMENT PLLC, CAREX PHARMACY INC.,
DOVE SUPPLY INC., ETMC PHARMACY INC., F&D
PHARMACY INC., FOCAL SUPPLY INC., HEALTH
WELLNESS MEDICAL SERVICES PLLC, HUDSON
PREMIER HEALTHCARE PARTNERS LLC, JPR ONE
INC., KEF SUPPLY INC., MIDWOOD SURGICAL
SUPPLIES INC., NEXT GENERATION DIAGNOSTIC
IMAGING PC, QUALITY HEALTHCARE MANAGEMENT
INC. d/b/a QUALITY LABORATORY SERVICES,
RADCI TI IMAGING PC, RAFAEL YAAKOB OV FAMILY
HEALTH NP PC, RAIA MEDICAL SERVICES PC, RELAY
TECH SERVICES INC., SURGICARE SURGICAL
ASSOCIATES OF ORADELL LLC, TEMPO
ACUPUNCTURE PC, UPTOWN HEALTHCARE
MANAGEMENT INC. d/b/a EAST TREMONT MEDICAL
CENTER, WELLNESS LINE INC., WHIPPLE SUPPLY INC.,
JEFFERSON SANCHEZ-MATOS, MIGUEL SANTA-CRUZ,
LUIS SANTOS CARDENAS and YOSELIN SOTO, ,

Defendant.

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**DECISION + ORDER ON
MOTION**

The following e-filed documents, listed by NYSCEF document number (Motion 001) 32, 33, 34, 35, 36,
37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53

were read on this motion to/for JUDGMENT – DEFAULT and to AMEND PLEADINGS.

In this action, plaintiff, State Farm Mutual Automobile Insurance Company (“State Farm”) seeks:

- A declaratory judgment that it owes no duty to pay for medical services or supplies allegedly provided by BL Pain Management PLLC, Carex Pharmacy Inc., Dove Supply

158086/2024 STATE FARM MUTUAL AUTOMOBILE INSURANCE COMPANY vs. BL PAIN
MANAGEMENT PLLC, CAREX PHARMACY INC., DOVE SUPPLY INC., ETMC PHARMACY INC.,
F&D PHARMACY INC., FOCAL SUPPLY INC., HEALTH WELLNESS MEDICAL SERVICES PLLC,
HUDSON PREMIER HEALTHCARE PARTNERS LLC, JPR ONE INC., KEF SUPPLY INC.,
MIDWOOD SURGICAL SUPPLIES INC., NEXT GENERATION DIAGNOSTIC IMAGING PC,
QUALITY HEALTHCARE MANAGEMENT INC. d/b/a QUALITY LABORATORY SERVICES,
RADCI TI IMAGING PC, RAFAEL YAAKOB OV FAMILY HEALTH NP PC, RAIA MEDICAL
SERVICES PC, RELAY TECH SERVICES INC., SURGICARE SURGICAL ASSOCIATES OF
ORADELL LLC, TEMPO ACUPUNCTURE PC, UPTOWN HEALTHCARE MANAGEMENT INC. d/b/a
EAST TREMONT MEDICAL CENTER, WELLNESS LINE INC., WHIPPLE SUPPLY INC.,
JEFFERSON SANCHEZ-MATOS, MIGUEL SANTA-CRUZ, LUIS SANTOS CARDENAS and
YOSELIN SOTO Motion No. 001

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Inc., ETMC pharmacy Inc., F&D Pharmacy Inc., Focal Supply Inc., Health Wellness Medical Services PLLC, Hudson Premier Healthcare Partners LLC, JPR One Inc., Kef Supply Inc., Midwood Surgical Supplies Inc., Next Generation Diagnostic Imaging PC, Quality Healthcare Management Inc. d/b/a Quality Laboratory Services, Radciti Imaging PC, Rafael Yaakobov Family Health NP PC, Raia Medical Services PC, Relay Tech Services Inc., Surgicare Surgical Associates of Oradell LLC, Tempo Acupuncture PC, Uptown Healthcare Management Inc. d/b/a East Tremont Medical Center, Wellness Line Inc., Whipple Supply Inc. (collectively the Providers) to Miguel Santa-Cruz (Santa-Cruz), Luis Santos Cardenas (Cardenas), and Yoselin Soto (Soto) (collectively the Claimants), for injuries stemming from an incident that allegedly occurred on or about September 27, 2023;

- a declaratory judgment that plaintiff owes no duty to provide defense or indemnification to Jefferson Sanchez-Matos (Sanchez-Matos) or Soto for any potential third liability claims brought against them by any third party, including Santa-Cruz or Cardenas, arising from the alleged September 27, 2023 incident; and
- a permanent stay of all arbitrations, lawsuits and/or claims by defendants relating to the claims of the Claimants arising from the alleged September 27, 2023 incident.

Plaintiff moves, pursuant to CPLR 3215, for a default judgment against defendants [BL Pain Management PLLC, Carex Pharmacy Inc., Dove Supply Inc., ETMC pharmacy Inc., F&D Pharmacy Inc., Focal Supply Inc., Health Wellness Medical Services PLLC, Hudson Premier Healthcare Partners LLC, JPR One Inc., Kef Supply Inc., Midwood Surgical Supplies Inc., Next Generation Diagnostic Imaging PC, Quality Healthcare Management Inc. d/b/a Quality Laboratory Services, Radciti Imaging PC, Rafael Yaakobov Family Health NP PC, Raia Medical Services PC, Relay Tech Services Inc., Surgicare Surgical Associates of Oradell LLC, Tempo Acupuncture PC, Uptown Healthcare Management Inc. d/b/a East Tremont Medical Center, Wellness Line Inc., Whipple Supply Inc. (collectively the Providers) to Miguel Santa-Cruz (Santa-Cruz), Luis Santos Cardenas (Cardenas), and Yoselin Soto (Soto) (collectively the Claimants) based on defendants'

failure to answer or appear in this action; and to amend the pleadings, pursuant to CPLR 3025, to add Global Surgery Center, LLC, Seongeun Kim Physical Therapy, P.C., and Safe Anesthesia and Pain, LLC (collectively the Additional Providers) as defendants. The motion is unopposed.

A motion for a default judgment must be supported with “proof of service of the summons and the complaint[,] ... proof of the facts constituting the claim, the default and the amount due” (CPLR 3215 [f]; *see also Gordon Law Firm, P.C. v Premier DNA Corp.*, 205 AD3d 416, 416 [1st Dept 2022]). The plaintiff must also offer “some proof of liability ... to satisfy the court as to the prima facie validity of the uncontested cause of action” (*Feffer v Malpeso*, 210 AD2d 60, 61 [1st Dept 1994]). “The standard of proof is not stringent, amounting only to some firsthand confirmation of the facts” (*id.*). A party in default “admits all traversable allegations in the complaint, including the basic allegation of liability, but does not admit the plaintiff’s conclusion as to damages” (*Rokina Opt. Co. v Camera King*, 63 NY2d 728, 730, [1984]).

“Generally, ‘leave to amend a pleading should be freely granted in the absence of prejudice to the nonmoving party where the amendment is not patently lacking in merit’ (*Garcia v Monadnock Constr., Inc.*, 235 AD3d 96, 98 [1st Dept 2025] quoting *Davis v South Nassau Communities Hosp.*, 26 NY3d 563, 580 [NY 2015]). Further, “on a motion for leave to amend, plaintiff does not need to establish the merit of his proposed new allegations, but show that the proffered amendment is not palpably insufficient or clearly devoid of merit” (*Sorge v Gona Realty, LLC*, 188 AD3d 474, 475 [1st Dept 2020] [internal quotation marks and citation omitted])

Plaintiff submits a proposed amended summons and amended verified complaint (NY St Cts Elec Filing [NYSCEF] Doc No. 48, Boucher affirmation, exhibit M).

Plaintiff submits fifteen affirmations of service as to the Providers and four affidavits of service as to the four individual defendants. The affirmations of service all indicate that plaintiff effected services upon each of the respective Providers pursuant to CPLR 303 (a) by delivering to the Secretary of State true copies of the summons, verified complaint and notice of electronic filing (NYSCEF Doc No. 37, Boucher affirmation, exhibit B).

An affidavit of service dated November 21, 2024 (the Sanchez-Matos Affidavit) indicates that plaintiff effected service upon Sanchez-Matos on October 30, 2024 by affixing to the door of an address the summons, complaint, and notice of mandatory e-filing (Boucher affirmation, exhibit B). The affidavit further indicates that service was effected pursuant to CPLR 308 (4) after three prior attempts at personal service at the address.

A second affidavit of service dated November 21, 2024 (the Soto Affidavit) indicates that plaintiff effected service upon Soto on October 30, 2024 by affixing to the door of an address the summons, complaint, and notice of mandatory e-filing (Boucher affirmation, exhibit B). The affidavit further indicates that service was effected pursuant to CPLR 308 (4) after three prior attempts at personal service at the address. Soto's address as indicated on the Soto Affidavit matches Soto's address as indicated on the summons (NYSCEF Doc No. 36, Boucher affirmation, exhibit A), a police report from the subject accident (NYSCEF Doc No. 37, Boucher affirmation, exhibit C), the notice of default dated March 27, 2015 (NYSCEF Doc No. 46, Boucher affirmation, exhibit K), and a claim denial letter dated March 4, 2024 (NYSCEF Doc No. 50, Boucher affirmation, exhibit O).

Both the Sanchez-Matos Affidavit and the Soto Affidavit are insufficient to establish that Sanchez-Matos or Soto were properly served pursuant to CPLR 308 (4). Specifically, neither of these affidavits indicate that a copy of the pleadings and notice of electronic filing were mailed to the respective individual defendants as required by CPLR 308 (4).

Further, plaintiff does not submit any basis for the Court to conclude that the address on the Sanchez-Matos Affidavit is his business, dwelling place, or usual place of abode. The address on the Sanchez-Matos Affidavit does not match his address as indicated on the summons (Boucher affirmation, exhibit A), the notice of default dated March 27, 2015 (*id.*, exhibit K), or a claim denial letter dated March 4, 2024 (*id.*, exhibit O).

As such, plaintiff has failed to establish that they are entitled to a default judgment as against Sanchez-Matos or Soto.

An affidavit of service dated September 28, 2024 indicates that on September 25, 2024, plaintiff personally served Santa-Cruz with the summons, verified complaint, and notice of electronic filing (id., exhibit B).

An affidavit of service dated September 28, 2024 (the Santos Cardenas Affidavit) indicates that on September 25, 2024, plaintiff effected service of the summons, verified complaint, and notice of electronic filing upon Santos Cardenas pursuant to CPLR 308 (2) by serving said documents upon a person of suitable age and discretion at Santos Cardenas' address and mailing a copy of said documents to the address (Boucher affirmation, exhibit B). Santos Cardenas' address as indicated on the Santos Cardenas Affidavit matches Santos Cardenas's address as indicated on the summons (id, exhibit A) and the notice of default dated March 27, 2015 (id., exhibit K).

Plaintiff submits two status reports from the Department of Defense Manpower Data Center as to Santa-Cruz and Santos Cardenas (NYSCEF Doc No. 45, Boucher affirmation, exhibit J). The status reports indicate that neither Santa-Cruz nor Santos Cardenas are on active military service.

Here plaintiff has failed to furnish proof of the facts constituting the claim. Plaintiff submits two unsigned affirmations by Patricia Bailey (NYSCEF Doc No. 34, Affirmation of Claims Specialist; NYSCEF Doc No. 35, Investigation). As such, neither affirmation meets the requirements of CPLR 2106.

Plaintiff further attaches copies of the medical bills issued by the Additional Providers for medical services and supplies they respectively provided to Soto stemming from the September 27, 2023 incident (NYSCEF Doc No. 47, Boucher affirmation, exhibit L).

Accordingly, it is

ORDERED that the plaintiff, State Farm Mutual Automobile Insurance Company's, motion is granted only to the extent that the summons and verified complaint are hereby amended in accordance with plaintiff's proposed amended summons and amended verified complaint to add Global Surgery Center, LLC, Seongeun Kim Physical Therapy, P.C., and Safe Anesthesia and

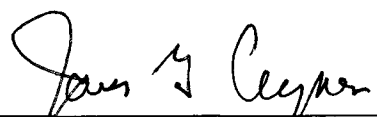
Pain, LLC as defendants and the portion of the motion seeking default judgment against specific defendant providers and defendant claimants is denied; and it is further

ORDERED that within 30 days of the date of filing of the instant Order, plaintiff shall electronically file a copy of the amended summons and amended verified complaint; and it is further

ORDERED that within 30 days of the date of filing of the instant Order, plaintiff shall serve upon all of the defendants, including Global Surgery Center, LLC, Seongeun Kim Physical Therapy, P.C., and Safe Anesthesia and Pain, LLC, a copy of the amended summons and amended verified complaint, a copy of instant decision, and a notice of electronic filing in accordance with the requirements of the CPLR; and it is further

ORDERED that Global Surgery Center, LLC, Seongeun Kim Physical Therapy, P.C., and Safe Anesthesia and Pain, LLC time to answer or otherwise join issue shall be measured from the date of service of the amended summons and amended verified complaint.

This constitutes the Decision and Order of the Court.

<u>8/6/2024</u> DATE	 _____ JAMES G. CLYNES, J.S.C.			
CHECK ONE:	<input type="checkbox"/> CASE DISPOSED	<input type="checkbox"/> DENIED	<input checked="" type="checkbox"/> NON-FINAL DISPOSITION	<input type="checkbox"/> OTHER
APPLICATION:	<input type="checkbox"/> GRANTED		<input checked="" type="checkbox"/> GRANTED IN PART	
CHECK IF APPROPRIATE:	<input type="checkbox"/> SETTLE ORDER		<input type="checkbox"/> SUBMIT ORDER	
	<input type="checkbox"/> INCLUDES TRANSFER/REASSIGN		<input type="checkbox"/> FIDUCIARY APPOINTMENT	<input type="checkbox"/> REFERENCE

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