

**Burke 2 Physical Therapy, P.C. v State Farm Mut.
Auto. Ins. Co. PIP/BI Claims**

2024 NY Slip Op 34756(U)

January 26, 2024

Civil Court of the City of New York, Kings County

Docket Number: Index No. 747869/19

Judge: Sandra E. Roper

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.

CIVIL COURT OF THE CITY OF NEW YORK
COUNTY OF KINGS PART 40

BURKE 2 PHYSICAL THERAPY, P.C.,
A/A/O HOLLOWAY, GERALD,

Plaintiff,

-against-

STATE FARM MUTUAL AUTO. INS. CO.,
PIP/BI CLAIMS

Defendant.

Index No. 747869/19

Motion Cal. # 32+33 Motion Seq. # 1+2

DECISION AND ORDER

Recitation, as required by CPLR §2219(a) of the papers considered in review of this Motion:

Papers

Notice of Motion/Cross-Motion & Affidavits Annexed 1-2	
Answering Affidavits.....	3
Replying Affidavits.....	4
Exhibits.....	

Upon the foregoing cited papers and after oral argument, the Decision/Order on Plaintiff’s Motions to dismiss affirmative defenses and compel discovery and the advanced combined Defendant’s Cross-motion to compel discovery and in opposition to producing SIU file as immune from discovery is advanced, and decided as follows:

Initially, Plaintiff’s motion to dismiss affirmative defenses is DENIED.

Plaintiff’s Motion to compel discovery responses is GRANTED TO THE EXTENT, specifically the entire SIU file shall be produced with the exclusion of privileged material contained therein within 60 days of this Decision and Order. Defendant shall specifically identify the excluded material with respect to which the privilege is being asserted and establish with specificity the basis of such privilege. See *Bombard v. Amica Mut. Ins. Co.*, 11 A.D.3d 647, 648 (2d Dept, 2004). Defendant’s cross-motion to Compel discovery and combined opposition to protect SIU File as immune from discovery are inextricably intertwined and thus advanced for global resolution in this Discovery Schedule Order. Defendant’s motion to compel discovery is GRANTED TO THE EXTENT that Plaintiff shall respond to the discovery demands/verification requests within 60 days of this Decision and Order. Failure of either Party to comply with this Discovery Schedule Order may result in preclusion as well as striking of pleadings.

This constitutes the Decision and Order of the Court.

Counsel for Plaintiff – Printed Name and Initials: Richard Perchik Esq.

Counsel for Defendant – Printed Name and Initials:

Date: January 26, 2024
Brooklyn, New York



Hon. Sandra Elena Roper
Civil Court Kings County