

CHA Acupuncture, P.C. v Nationwide Ins.

2025 NY Slip Op 31283(U)

March 14, 2025

Civil Court of the City of New York, Kings County

Docket Number: Index No. CV-712172-21/KI

Judge: Sherveal R. Mimes

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CIVIL COURT OF THE CITY OF NEW YORK
COUNTY OF KINGS PART 41

CHA ACUPUNCTURE, P.C.
A/A/O DANIEL VASQUEZ,

Index No. CV-712172-21/KI

Plaintiff(s),

Motion Cal. # 50 & 51 NFA 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 and Affidavits Annexed | <u>1</u> |
| Cross Motion and Affidavits Annexed..... | <u>2</u> |
| Answering Affidavits..... | <u>3</u> |
| Replying Affidavits..... | _____ |
| Other..... | _____ |

-against-

NATIONWIDE INS.,

Defendant(s).

Upon the foregoing cited papers, the Decision/Order on Plaintiff’s Motion for Summary Judgment and Defendant’s Cross Motion for Summary Judgment is as follows:

After oral argument, the parties’ respective motions for summary judgment are GRANTED to the extent that both parties established their prima facie case.

Plaintiff established its bills were timely and properly mailed and payment remains outstanding.

Defendant demonstrated that it timely mailed verification requests to Plaintiff, seeking among other items, W-2 forms, lease agreements and other agreements concerning the use or rental of the premises and/or equipment for the locations where services are rendered. Plaintiff established that its response to Defendant’s verification requests included objections to Defendant’s demand for certain other materials on the ground that such materials were not applicable or relevant. Plaintiff also established that its response, including the objections, were consistent with case law that was in effect during the period extending from the assignors’ dates of service (7/2020 – 9/2020) through the time period when verification requests were received and responded to.

Defendant established that it subsequently issued a timely and proper denial based upon improper fee schedule and outstanding verification requests. Defendant’s affiant, Linda Arnold,

fails to set forth good reasons (specific to the plaintiff-provider in this case) for demanding certain items in its verification requests. Defendant also failed to specifically set forth which items remain outstanding.

The remaining matter concerns Defendant's fee schedule defense. The court finds that the parties competing affidavits regarding the appropriate fee schedule rate creates an issue of fact for trial.

This constitutes the decision and order of the Court.

Date: March 14, 2025

 **3/14/25**
Hon. Sherveal R. Mimes
Civil Court, Kings County

ENTERED
Kings Civil Court
4/11/2025, 4:38:11 PM

HON. SHERVEAL MIMES