

**State Farm Fire & Cas. Co. v 123 Med. Group, P.C.**

2025 NY Slip Op 32297(U)

June 30, 2025

Supreme Court, New York County

Docket Number: Index No. 151183/2025

Judge: Judy H. Kim

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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. JUDY H. KIM PART 04**

*Justice*

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STATE FARM FIRE AND CASUALTY COMPANY,

Plaintiff,

- v -

123 MEDICAL GROUP, P.C. D/B/A OPEN MRI, 999  
CONEY ISLAND ENTERPRISES INC.,ADVANCED  
MEDICAL SUPPLIES INC.,ATLANTIC MEDICAL &  
DIAGNOSTIC, P.C.,BLESS PHYSICAL THERAPY,  
P.C.,BROOKHAVEN SPINE & SPORTS CHIROPRACTIC,  
LLP, BUFFALO CHIROPRACTIC SERVICES,  
P.C.,CHIROPRACTIC EXAM WORKS, P.C.,CITY  
RADIOLOGY, GLEN OAKS RX INC.,INTERVENTIONAL  
SPINE MEDICINE TREATMENT, PLLC,LV ORTHO  
WORLD CORP., ORTHO RECOVERY CORP, PROACTIVE  
MEDICAL CARE, PLLC,TEJ MEDICAL SUPPLIES  
INC.,THAINA BANATTE LMSW P.C.,THE AVENUE  
PHYSICAL THERAPY & CHIROPRACTIC CARE,  
PLL,UNION SCRIPTS RX INC.,WENDY KEISER D.C.,  
DARREL BRANCH, ANDY CELESTE, MARIE CLERMONT,  
MARIE MERZIER,

Defendants.

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The following e-filed documents, listed by NYSCEF document number (Motion 001) 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46

were read on this motion to/for JUDGMENT - DEFAULT.

**DECISION + ORDER ON  
MOTION**

Upon the foregoing documents, plaintiff’s motion for a default judgment is granted on default and for the reasons set forth below.

In this action, plaintiff seeks a declaratory judgment that plaintiff is not obligated to pay no-fault benefits for the medical treatment of Darrel Branch Andy Celeste, Marie Clermont, and Marie Merzier for injuries they allegedly sustained in a motor vehicle collision on February 12,

2024 based upon plaintiff's founded belief that the collision at issue was not an insured event but staged as part of an insurance fraud scheme

Plaintiff now moves for a default judgment against certain defendants, 123 Medical Group, P.C. d/b/a Open MRI, 999 Coney Island Enterprises Inc., Advanced Medical Supplies Inc., Atlantic Medical & Diagnostic, P.C., Bless Physical Therapy, P.C., Brookhaven Spine & Sports Chiropractic, LLP, Buffalo Chiropractic Services, P.C., Chiropractic Exam Works, P.C., City Radiology, Glen Oaks Rx Inc., Interventional Spine Medicine Treatment, PLLC, LV Ortho World Corp., Ortho Recovery Corp., Proactive Medical Care, PLLC, TEJ Medical Supplies Inc., Thaina Banatte LMSW P.C., The Avenue Physical Therapy & Chiropractic Care, PLLC, Union Scripts Rx Inc., Wendy Keiser D.C., Marie Clermont and Marie Merzier.

### **DISCUSSION**

In order to establish its entitlement to a default judgment pursuant to CPLR 3215, plaintiff must submit proof of: (1) service of the summons and complaint; (2) the facts constituting the claim; and (3) defendants' default in answering or appearing (*see Gordon Law Firm, P.C. v Premier DNA Corp.*, 205 AD3d 416, 416 [1st Dept 2022]). Where, as here, service was effected on certain defendants via the New York State Secretary of State pursuant to BCL §306, plaintiff is also required, per CPLR 3215(g)(4), to establish its additional service of the summons and complaint by first class mail at these defendants' last known address (*see Sterk-Kirch v Uptown Communications & Elec, Inc.*, 124 AD3d 413, 414 [1st Dept 2015]).

Plaintiff has satisfied these requirements. Plaintiff submits an affidavit of service documenting its service of the summons and complaint on the corporate defendants via the New York State Secretary of State and on the individual defendants pursuant to CPLR 308(2) (NYSCEF Doc No. 33, affidavits of service). It has also established the additional mailing of the summons

and complaint upon the corporate defendants as required by CPLR 3215(g)(4) (*see* NYSCEF Doc. No. 43, notice of default with affirmation of mailing) and defendants' default (NYSCEF Doc No. 29, Tarasova affirm.). While defendants Interventional Spine Medicine Treatment, PLLC, Proactive Medical Care, PLLC, Thaina Banatte LMSW, P.C., The Avenue Physical Therapy & Chiropractic Care, PLLC, Wendy Keiser, D.C., Buffalo Chiropractic Services, P.C., LV Ortho World Corp., Ortho Recovery Corp., 123 Medical Group, P.C. d/b/a Open MRI, Bless Physical Therapy, P.C., and Glen Oaks Rx, Inc. filed Answers between March 11, 2025 and May 12, 2025, these filings were timely rejected by plaintiff as untimely pursuant to CPLR 2101(f).

Finally, plaintiff has provided proof of the facts constituting its claim through the affidavit of Micki Fraley, an employee of the Special Investigative Unit of State Farm Fire and Casualty Company (NYSCEF Doc No. 31), detailing the basis for plaintiff's conclusion that the subject collision was staged (*see State Farm Fire and Cas. Co. v Axial Chiropractic, P.C.*, 205 AD3d 656, 657 [1st Dept 2022]).

Accordingly, it is

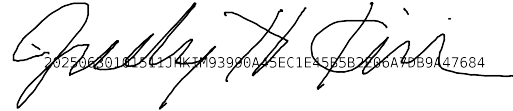
**ORDERED, ADJUDGED, and DECLARED** that State Farm Fire and Casualty Company has no duty to provide, pay, or honor any current or future claims by 123 Medical Group, P.C. d/b/a Open MRI, 999 Coney Island Enterprises Inc., Advanced Medical Supplies Inc., Atlantic Medical & Diagnostic, P.C., Bless Physical Therapy, P.C., Brookhaven Spine & Sports Chiropractic, LLP, Buffalo Chiropractic Services, P.C., Chiropractic Exam Works, P.C., City Radiology, Glen Oaks Rx Inc., Interventional Spine Medicine Treatment, PLLC, LV Ortho World Corp., Ortho Recovery Corp., Proactive Medical Care, PLLC, TEJ Medical Supplies Inc., Thaina Banatte LMSW P.C., The Avenue Physical Therapy & Chiropractic Care, PLLC, Union Scripts Rx Inc., Wendy Keiser D.C., Marie Clermont or Marie Merzier, including but not limited to claims

for Mandatory Personal Injury Protection (No-Fault), Additional Personal Injury Protection, Uninsured/Underinsured Motorist Coverage, and Supplemental Uninsured/Underinsured Motorist Coverage, in connection with the alleged collision of February 12, 2024, under State Farm Fire and Casualty Company claim number 32-63K2-20C; and it is further

**ORDERED** that plaintiff shall, within twenty days from the date of this decision and order, serve a copy of same with notice of entry upon defendants and upon the Clerk of the Court, who is directed to enter judgment accordingly; and it is further

**ORDERED** that such service upon the Clerk of the Court shall be made in accordance with the procedures set forth in the *Protocol on Courthouse and County Clerk Procedures for Electronically Filed Cases* (accessible at the “E-Filing” page on the court’s website).

This constitutes the decision and order of the Court.



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6/30/2025

DATE

HON. JUDY H. KIM, J.S.C.

CHECK ONE:

CASE DISPOSED  
GRANTED  DENIED  
SETTLE ORDER  
INCLUDES TRANSFER/REASSIGN

NON-FINAL DISPOSITION  
GRANTED IN PART  OTHER  
SUBMIT ORDER  
FIDUCIARY APPOINTMENT  REFERENCE

APPLICATION:

CHECK IF APPROPRIATE: