

**Government Empls. Ins. Co. v Beach Med.  
Rehabilitation, P.C.**

2025 NY Slip Op 32460(U)

July 10, 2025

Supreme Court, New York County

Docket Number: Index No. 159343/2024

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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GOVERNMENT EMPLOYEES INSURANCE COMPANY,  
INCLUDING ITS SUBSIDIARIES AND AFFILIATES, GEICO  
GENERAL INSURANCE COMPANY, GEICO INDEMNITY  
COMPANY AND GEICO CASUALTY COMPANY,

Plaintiffs,

- v -

BEACH MEDICAL REHABILITATION, P.C., BRONX SC,  
L.L.C. D/B/A EMPIRE STATE AMBULATORY SURGERY  
CENTER, CARESOFT LEASING, CORP., FINO, PT,  
P.C., HEALTHWARE DME, CORP., JOSEPH R. GAMBINO  
D.C., P.C., METRO SCRIPTS, L.L.C., MV PHYSICAL  
THERAPY P.C., NASSAU HEALTH CARE CORP. D/B/A  
NASSAU UNIVERSITY MEDICAL CENTER, NORTH  
SHORE UNIVERSITY HOSPITAL, PHOENIX MEDICAL  
SERVICES, P.C., PONCE ACUPUNCTURE, P.C., PULSE  
MEDICAL CARE, P.C., RICARD ACUPUNCTURE,  
P.C., ROCKAWAYS ASC DEVELOPMENT, L.L.C. D/B/A  
ROCKAWAYS AMBULATORY SURGERY CENTER, ROC  
PHYSICAL THERAPY SVCS., P.C., S & M PHARMACY,  
STAR MEDICAL IMAGING, P.C., UPTOWN HEALTHCARE  
MANAGEMENT, INC. D/B/A EAST TREMONT MEDICAL  
CENTER, YELLOWSTONE MEDICAL REHABILITATION,  
P.C., CRUZ ALVAREZ, ALBERTO LOPEZ,

Defendants.

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**INDEX NO.** 159343/2024  
**MOTION DATE** 04/04/2025  
**MOTION SEQ. NO.** 001

**DECISION + ORDER ON  
MOTION**

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

were read on this motion for JUDGMENT - DEFAULT.

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 Cruz Alvarez and Alberto Lopez for injuries they

allegedly sustained in a motor vehicle collision on April 11, 2023 because these defendants failed to appear for examination under oath (“EUO”) on two or more occasions and GEICO maintains a founded belief that the injuries of Alvarez and Lopez did not arise from an insured incident

Plaintiff now moves for a default judgment against defendants Beach Medical Rehabilitation, P.C., Bronx SC, L.L.C. d/b/a Empire State Ambulatory Surgery Center, Caresoft Leasing, Corp., Fino, PT, P.C., Healthware DME, Corp., Joseph R. Gambino D.C., P.C., Metro Scripts, L.L.C., Mv Physical Therapy P.C., Nassau Health Care Corp. d/b/a Nassau University Medical Center, North Shore University Hospital, Phoenix Medical Services, P.C., Ponce Acupuncture, P.C., Pulse Medical Care, P.C., Ricard Acupuncture, P.C., ROC Physical Therapy SVCS., P.C., S & M Pharmacy, Star Medical Imaging, P.C., Uptown Healthcare Management, Inc. d/b/a East Tremont Medical Center, Yellowstone Medical Rehabilitation, P.C., and Cruz Alvarez.

### **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. To wit, 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. 36, 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. 41, notice of default with affirmation of mailing) and defendants' default (NYSCEF Doc No. 32, Tomsy affirm.). While defendants Caresoft Leasing Corp. and Pheonix Medical Services, P.C. filed an Answer on January 28, 2025, and defendant Beach Medical Rehabilitation, P.C. filed an Answer on February 4, 2025, these answers were timely rejected by plaintiff as untimely pursuant to CPLR 2101(f).

Plaintiff has established that Cruz Alvarez and Alberto Lopez failed to appear for duly scheduled examinations under oath (*see* NYSCEF Doc No. 34 [EUO affirmation] and 39 [EUO Request Letters and Statements on the Record]) and proof of the facts constituting its claim through the affidavit of Debra Harrison, GEICO Claims Associate (NYSCEF Doc No. 33), detailing the basis for plaintiff's conclusion that the injuries alleged did not arise out of the April 11, 2023 collision (*see State Farm Mut. Auto. Ins. Co. v AK Glob. Supply Corp.*, 203 AD3d 556 [1st Dept 2022]).

Accordingly, it is

**ORDERED, ADJUDGED, and DECLARED** that plaintiff Government Employees Insurance Company has no duty to provide, pay, or honor any current or future claims by Beach Medical Rehabilitation, P.C., Bronx SC, L.L.C. d/b/a Empire State Ambulatory Surgery Center, Caresoft Leasing, Corp., Fino, PT, P.C., Healthware DME, Corp., Joseph R. Gambino D.C., P.C., Metro Scripts, L.L.C., Mv Physical Therapy P.C., Nassau Health Care Corp. d/b/a Nassau University Medical Center, North Shore University Hospital, Phoenix Medical Services, P.C., Ponce Acupuncture, P.C., Pulse Medical Care, P.C., Ricard Acupuncture, P.C., Roc Physical

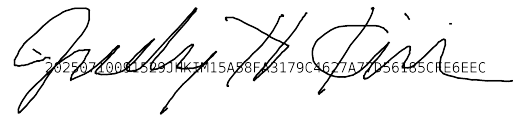
Therapy SVCS., P.C., S & M Pharmacy, Star Medical Imaging, P.C., Uptown Healthcare Management, Inc. d/b/a East Tremont Medical Center, Yellowstone Medical Rehabilitation, P.C., and Cruz Alvarez, including but not limited to claims for Mandatory Personal Injury Protection (No-Fault), Additional Personal Injury Protection, Uninsured/Underinsured Motorist Coverage, and Supplemental Uninsured/Underinsured Motorist Coverage, in connection with the alleged collision of April 11, 2023, referenced by GEICO claim number 8721967000000002; and it is further

**ORDERED** that this action is severed and shall proceed against Rockaways ASC Development, L.L.C. a/k/a Rockaways Ambulatory Surgery Center and Alberto Lopez; 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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HON. JUDY H. KIM, J.S.C.

7/10/2025  
DATE

CHECK ONE:

<input type="checkbox"/>	CASE DISPOSED	<input type="checkbox"/>	DENIED
<input checked="" type="checkbox"/>	GRANTED		

<input checked="" type="checkbox"/>	NON-FINAL DISPOSITION	<input type="checkbox"/>	OTHER
<input type="checkbox"/>	GRANTED IN PART		

APPLICATION:

SETTLE ORDER

SUBMIT ORDER

CHECK IF APPROPRIATE:

INCLUDES TRANSFER/REASSIGN

FIDUCIARY APPOINTMENT

REFERENCE