

Liberty Mut. Ins. Co. v Alcantara

2025 NY Slip Op 32596(U)

July 3, 2025

Supreme Court, New York County

Docket Number: Index No. 655020/2022

Judge: Lori S. Sattler

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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. LORI S. SATTLER PART 02M

Justice

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LIBERTY MUTUAL INSURANCE COMPANY, LM
GENERAL INSURANCE COMPANY,

Plaintiff,

INDEX NO. 655020/2022

MOTION DATE 11/14/2024

MOTION SEQ. NO. 002

- v -

LUIS MIGUEL MATEO ALCANTARA, ADVANCED
ORTHOPEDICS AND JOINT PRESERVATION
PC,BROOKLYN MEDICAL PRACTICE PC,COMMUNITY
MEDICAL IMAGING OF BROOKLYN PC,EXACT
ORTHOMED INC.,GLOBAL ORTHO INC, GOOD MEDICA
INC.,JAMAICA HOSPITAL ER DEPT, JAMAICA HOSPITAL
MEDICAL CENTER, NORTH SHORE FAMILY
CHIROPRACTIC PC,ORTHO CHOICE, INC, PRIMECARE
DRUG AND SURGICAL CORP, ROXBURY ANESTHESIA
LLC,SURGICORE OF JERSEY CITY LLC,UNICORN
ACUPUNCTURE PC

**DECISION + ORDER ON
MOTION**

Defendant.

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The following e-filed documents, listed by NYSCEF document number (Motion 002) 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70

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

In this declaratory judgment action, Plaintiffs Liberty Mutual Insurance Company and LM General Insurance Company (“Plaintiffs”) move for summary judgment against all answering defendants, Advanced Orthopedics and Joint Preservation PC, Community Medical Imaging of Brooklyn PC, Exact Orthomed Inc, Good Medica Inc., and Surgicore of Jersey City LLC (“Answering Defendants”). Although Jamaica Hospital ER Dept. and Jamaica Hospital Medical Center were included in the motion, the action has since been discontinued as against them. The Answering Defendants submit no opposition to the motion.

This action arises out of claims for No-Fault reimbursement due to a motor vehicle accident on December 30, 2021. The accident purportedly occurred when a car sideswiped the

2014 Grand Jeep Cherokee owned by the individual defendant Luis Miguel Mateo Alcantara (“Alcantara”) in Queens, New York (NYSCEF Doc. 1).

A party seeking summary judgment pursuant to CPLR 3212(b) “must make a prima facie showing of entitlement to judgment as a matter of law, tendering sufficient evidence to demonstrate the absence of any material issues of fact” (*Alvarez v Prospect Hosp.*, 68 NY2d 320, 324 [1986]). Failure to make such a showing requires denial of the motion (*Winegrad v New York Univ. Med. Center*, 64 NY2d 851, 853 [1985]).

Here, Plaintiffs contend that Alcantara made a material misrepresentation by falsely claiming that he lived in Oswego, New York on his car insurance application. Where a party has made a material misrepresentation in their application, an insurer may deny coverage pursuant to Insurance Law § 310. A misrepresentation is material when, “had the true facts been known, either the insurer would not have issued the policy or would have charged a higher premium” (Insurance Law § 3105[b][1]; *Alexi Home Design, Inc. v Union Mut. Fire Ins. Co.*, 233 AD3d 449 [1st Dept 2024]).

Plaintiff includes a vehicle locator report on Alcantara’s car from October 18, 2021 through December 2021. The report showed 12 detections of the car in Wantagh, New York, Queens, New York and multiple sightings in Brooklyn, New York (NYSCEF Doc. 59). Vehicle locator reports show no sightings of any of the three cars insured by the policy in Oswego, New York (NYSCEF Docs. 59-61). An Accurint report was also run, which listed a Brooklyn address for Alcantara for the period of June 2020 through November 2021 (NYSCEF Doc. 62).

Alcantara appeared for an examination under oath EUO, at which he testified that he lived with a girlfriend in Oregon, New York. After taking a break in the examination to meet with his lawyer, he testified that they had lived in Oswego, New York. He had no contact

information for the girlfriend, and no documentation which showed that he resided there. He could not identify the cross streets and had no response when asked about the fact that the address listed does not exist. His bank accounts, drivers license, and two forms of identification list a Brooklyn address. He further testified that the other two cars listed on the policy did not belong to him and that he insured them for the owners, who paid him in cash (NYSCEF Doc. 65).

According to Plaintiff's underwriter, Kenton Roache, the policy premium would have been \$6,095 more if he had listed a Brooklyn address (NYSCEF Doc. 66). Plaintiff further submitted an affidavit from its investigator Karen Casazza (NYSCEF Doc. 63), who indicates that her investigation shows that Alcantara misrepresented his address in the insurance application. The police report for the accident documented Alcantara's address as being in Brooklyn, as did his no-fault application and medical bills. The investigator went to Oswego and learned that the address listed on the application does not exist.

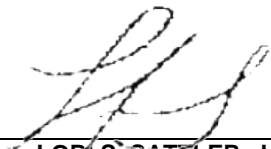
Based on the totality of documentation submitted, the Court finds that a higher premium would have been charged if Alcantara had listed a Brooklyn address and therefore his misrepresentations were material. Accordingly, Plaintiff's motion for summary judgment is granted. It is hereby

ORDERED that Plaintiff's motion for summary judgment is granted as against the Answering Defendants, Advanced Orthopedics and Joint Preservation PC, Community Medical Imaging of Brooklyn PC, Exact Orthomed Inc, Good Medica Inc., and Surgicore of Jersey City LLC, and it is further

ORDERED any arbitration or court hearing brought by the Answering Defendants for No-Fault benefits stemming from the purported accident of December 30, 2021 is permanently stayed, and it is further

ORDERED that Plaintiff's denials of all claims for No-Fault claims by the Answering Defendants is valid.

7/3/2025
DATE


LORI S. SATTLER, J.S.C.

CHECK ONE:

CASE DISPOSED

GRANTED

SETTLE ORDER

INCLUDES TRANSFER/REASSIGN

DENIED

NON-FINAL DISPOSITION

GRANTED IN PART

SUBMIT ORDER

FIDUCIARY APPOINTMENT

OTHER

REFERENCE

APPLICATION:

CHECK IF APPROPRIATE: