

Allstate Ins. Co. v Yanson

2025 NY Slip Op 34340(U)

November 14, 2025

Supreme Court, New York County

Docket Number: Index No. 160789/2021

Judge: Mary V. Rosado

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.

**SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY**

PRESENT: HON. MARY V. ROSADO PART 33M

Justice

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ALLSTATE INSURANCE COMPANY, AS SUBROGEE OF
JUDITH FELDMAN, SUSAN SANDLER, HARRIET
SELTZER, LAUREN PETEROY, ALEXANDER MURRAY,
ERIC NIU, ERIC NIU, JAMES PECORA AND JESSICA
LOH,

Plaintiff,

- v -

DAVID YANSON,

Defendant.

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INDEX NO. 160789/2021
MOTION DATE 09/03/2025
MOTION SEQ. NO. 002

**DECISION + ORDER ON
MOTION**

The following e-filed documents, listed by NYSCEF document number (Motion 002) 45, 46, 47, 48, 49, 50, 51, 52, 53, 54

were read on this motion to/for VACATE - DECISION/ORDER/JUDGMENT/AWARD.

Upon the foregoing documents, and after a final submission date of October 3, 2025, Defendant David Yanson’s motion seeking to vacate his administrative default based on his failure to appear at a status conference on August 6, 2025 is granted.

This is the second application by Defendant to vacate his administrative default. A prior application was granted via Decision and Order on September 11, 2024 (NYSCEF Doc. 29). After that application was granted, Defendant appeared for some case management conferences, but he failed to appear at a conference calendared for August 6, 2025, claiming he never received a notification of the conference.

While the Court does not condone Defendant’s behavior, especially since he was on notice of the importance of staying apprised of Court dates based on his prior default, the Court, in the interest of justice, and in its discretion based on Defendant’s *pro se* status, vacates his administrative default one final time (*see, e.g. Mihalakis v Cabrini Medical Center (CMC)*, 176

160789/2021 ALLSTATE INSURANCE COMPANY, AS SUBROGEE OF JUDITH FELDMAN,
SUSAN SANDLER, HARRIET SELTZER, LAUREN PETEROY, ALEXANDER MURRAY, ERIC NIU,
ERIC NIU, JAMES PECORA AND JESSICA LOH vs. YANSON, DAVID
Motion No. 002

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AD2d 589, 590 [1st Dept 1991] [courts are mindful of allowing *pro se* litigants some leeway in the prosecution or defense of their actions]). Moreover, while the Court is mindful that Defendant has failed to set forth a meritorious defense to this action in seeking to vacate his default, the Court balances this factor with Defendant's status as a *pro se* litigant and the relatively minimal prejudice demonstrated by Plaintiff. Therefore, Defendant's application is granted.

However, the leniency ends here. The parties must strictly abide by the following discovery schedule set forth here. Defendant has at this time had plenty of opportunities to receive the discovery he needs to defend this case. If he does not abide by the following discovery schedule, the Court may deem the discovery Defendant fails to seek or obtain waived, unless there is a truly compelling reason proffered.

Accordingly, it is hereby,

ORDERED that Defendant's motion to vacate his administrative default is granted, and the order holding Defendant in administrative default dated August 6, 2025 (NYSCEF Doc. 40) is hereby recalled and vacated; and it is further

ORDERED that the parties must strictly abide by the following discovery schedule:

- A. Any remaining paper discovery must be completed within thirty days;
- B. Party Depositions must be completed within sixty days;
- C. Post-Deposition Discovery, if any, must be completed within sixty days from the completion of party depositions;
- D. The Note of Issue must be filed on or before May 30, 2026;
- E. The parties shall appear for a status conference at 9:30 a.m. on February 9, 2026;

F. Defendant shall contact the E-filing Clerk and/or the *Pro Se* Help Center to ensure he is receiving the necessary notifications to be alerted as to future court dates; and it is further

ORDERED that the note of issue filed by Plaintiff on August 20, 2025 following Defendant's administrative default is vacated and the case is stricken from the trial calendar; and it is further

ORDERED that, within 15 days from the entry of this order, Plaintiff shall serve a copy of this order with notice of entry on all parties and upon the Clerk of the General Clerk's Office, who is hereby directed to strike the case from the trial calendar and make all required notations thereof in the records of the court; and it is further

ORDERED that, within 15 days from completion of discovery as hereinabove directed, the Plaintiff shall cause the action to be placed upon the trial calendar by the filing of a new note of issue and certificate of readiness (for which no fee shall be imposed), to which shall be attached a copy of this order; and it is further

ORDERED that such upon the Clerk of the General Clerk's Office 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); and it is further

[*The remainder of this page is intentionally left blank.*]

ORDERED that within ten days of entry, Defendant shall serve a copy of this Decision and Order, with notice of entry, on Plaintiff via NYSCEF.

This constitutes the Decision and Order of the Court.

11/14/2025
DATE

Mary V Rosado, J.S.C.
HON. MARY V. ROSADO, J.S.C.

CHECK ONE: CASE DISPOSED NON-FINAL DISPOSITION

GRANTED DENIED GRANTED IN PART OTHER

APPLICATION: SETTLE ORDER SUBMIT ORDER

CHECK IF APPROPRIATE: INCLUDES TRANSFER/REASSIGN FIDUCIARY APPOINTMENT REFERENCE