

**Five Boroughs Psychology, P.C. v Liberty Mut. Fire  
Ins. Co.**

2025 NY Slip Op 34498(U)

November 25, 2025

Civil Court of the City of New York, Kings County

Docket Number: Index No. CV-734895-22/KI

Judge: Javier Ortiz

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

FIVE BOROUGHS PSYCHOLOGY, P.C.,  
A/A/O KEVIN S. PEARSON,

Index No. CV-734895-22/KI

Plaintiff,

9/18/25 NFA Motion Cal. # 37  
Motion Seq. # 1

-against-

**DECISION AND ORDER**

LIBERTY MUTUAL FIRE INS. CO.,

Recitation, as required by CPLR §2219(a), of the  
papers considered in review of this Motion:

Defendant.

**Papers**

P’s Motion for Default Judgment.....	4-6
D’s Affirmation in Opposition.....	11-19
P’s Case Law.....	21-22

Upon the foregoing cited papers, Plaintiff’s Motion for Default Judgment is GRANTED.

Plaintiff served the summons and complaint upon Defendant on October 4, 2022. (NYSCEF No. 2.) Having not received a timely response, Plaintiff submitted a judgment application on or around January 8, 2023. Defendant thereafter served its answer on or around March 21, 2023. (See NYSCEF No. 9.) Plaintiff rejected the answer as untimely. (NYSCEF No. 10.)

Defendant has failed to establish a reasonable excuse for its late answer. Defendant’s affirmation alleges reasonable excuse due to law office failure, but all that affirmation says is that there was a “heavy volume of complaints received during that time period” so the Complaint “was inadvertently not referred to counsel to interpose an answer.” (NYSCEF No. 12.) The claims affirmation submitted by Liberty Mutual Senior Claim Specialist Donna Frederick (NYSCEF No. 18) is similarly vague about what error occurred here and why Defendant did not submit a timely answer.<sup>1</sup> These vague statements are insufficient for the Court to find a reasonable excuse. (See *Jacobson v State Farm Fire & Cas. Co.*, 84 Misc3d 129(A), 2024 NY Slip Op 51540(U) [App Term, 2d Dept 2024] [reasonable excuse not established where defendant “failed to proffer an

<sup>1</sup> Other defects of this affirmation include that the date upon which the summons and complaint were allegedly forwarded to counsel appears to be wrong, and the affirmation portion of the document is undated.

affidavit from someone with personal knowledge setting forth what the clerical error consisted of, who made the error, who discovered the error, and when the error was discovered.”)]

Accordingly, on the record before it, the Court finds that Defendant has not established a reasonable excuse for its late answer.

As such, Plaintiff is to enter judgment for \$1,586.48 plus interest, attorney’s fees, costs, and disbursements.

This constitutes the Decision and Order of the Court.

Date: Brooklyn, New York  
November 25, 2025

  
\_\_\_\_\_  
Hon. Javier Ortiz  
Civil Court, Kings County

ENETERED - Kings Civil Court  
12/4/2025, 10:52:44 AM

CHECK ONE:	<input checked="" type="checkbox"/>	CASE DISPOSED		<input type="checkbox"/>	NON-FINAL DISPOSITION			
MOTION SEQ. #:1	<input checked="" type="checkbox"/>	GRANTED	<input type="checkbox"/>	DENIED	<input type="checkbox"/>	GRANTED IN PART	<input type="checkbox"/>	OTHER
CHECK IF APPROPRIATE:	<input type="checkbox"/>	SETTLE ORDER	<input type="checkbox"/>		<input type="checkbox"/>	SUBMIT ORDER	<input type="checkbox"/>	STAY CASE
NOTES	<input type="checkbox"/>	INCLUDES TRANSFER/REASSIGN	<input type="checkbox"/>		<input type="checkbox"/>	FIDUCIARY APPOINTMENT	<input type="checkbox"/>	REFERENCE