

**State Farm Mut. Auto. Ins. Co. v Adagio Chiropractic,
P.C.**

2025 NY Slip Op 34723(U)

December 10, 2025

Supreme Court, New York County

Docket Number: Index No. 150012/2025

Judge: James G. Clynnes

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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. JAMES G. CLYNES PART 39M

Justice

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STATE FARM MUTUAL AUTOMOBILE INSURANCE COMPANY,

Plaintiff,

INDEX NO. 150012/2025

MOTION DATE 07/24/2025

MOTION SEQ. NO. 001

- v -

ADAGIO CHIROPRACTIC, P.C., ARGO SUPPLY CORPORATION, INSPIRE REHAB PT, P.C., MEDICAL SUPPLY OF NY SERVICES, INC., MIDWOOD ORTHOMED SUPPLY, INC., MOSAIC DIAGNOSTIC IMAGING, PLLC, NATHANIEL NAZZA, D.C., NEXT GENERATION DIAGNOSTIC IMAGING, P.C., JAJAIRA RODRIGUEZ, MANUEL MARTINEZ

Defendant.

DECISION + ORDER ON MOTION

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The following e-filed documents, listed by NYSCEF document number (Motion 001) 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 43

were read on this motion to/for JUDGMENT - DEFAULT

Upon the foregoing documents, it is Upon the foregoing documents, plaintiff STATE FARM MUTUAL AUTOMOBILE INSURANCE COMPANY (State Farm) moves, pursuant to CPLR 3215 for leave to enter default judgment against all defendants. The Court notes that after this motion's submission, a stipulation withdrawing the motion and accepting certain late answer was filed with respect to defendants NEXT GENERATION DIAGNOSTIC IMAGING, P.C. (NYSCEF Doc No [Doc] 39, 40, & 43).

Defendants MEDICAL SUPPLY OF NY SERVICES, INC., MOSAIC DIAGNOSTIC IMAGING, ADAGIO CHIROPRACTIC, P.C, filed late answers (Docs 12 & 15) and plaintiff filed a notice of rejection (Docs 14 & 16). Thus, because MEDICAL SUPPLY OF NY SERVICES, INC., MOSAIC DIAGNOSTIC IMAGING, ADAGIO CHIROPRACTIC, P.C, answers are untimely and are in default.

In this action, State Farm efiled a summons and complaint on December 31, 2024 (Docs 1 & 22), State Farm seeks, a declaratory judgment that it owes no duty to pay any and all no-fault claims arising from the underlying February 22, 2024, collision which was assigned claim number 32-64F2-23W. State Farm alleges that the no-fault regulations have been violated because JAJAIRA RODRIGUEZ (“RODRIGUEZ”) and MANUEL MARTINEZ (“MARTINEZ”) (collectively, “the Claimants”) injuries did not rise from the insured incident and MARTINEZ failed to appear for a fully and properly scheduled examination under oath (EUO) on two occasions, a violation of a condition precedent for coverage.

Within one year of default, plaintiff brings this motion for default judgment pursuant to CPLR 3215, against the defendants who were served with the summons and verified complaint but failed to timely answer the summons and complaint or otherwise appear. These defendants are ADAGIO CHIROPRACTIC, P.C., ARGO SUPPLY CORPORATION, INSPIRE REHAB PT, P.C., MEDICAL SUPPLY OF NY SERVICES, INC., MIDWOOD ORTHOMED SUPPLY, INC., MOSAIC DIAGNOSTIC IMAGING, PLLC. (collectively the medical provider defendants), JAJAIRA RODRIGUEZ and MANUEL MARTINEZ (collectively the defaulting defendants). Despite service of the motion papers (affirmation of service Doc 32), the defaulting defendants did not oppose the motion. As to RODRIGUEZ and MARTINEZ plaintiff also efiled the May 19, 2025, SCRAA report pursuant to the Servicemembers Civil Relief Act (Doc 31), which states RODRIGUEZ and MARTINEZ are not on active duty, did not leave active duty within 367 days, and was not notified if a future call-up to active duty.

A plaintiff moving for a default judgment based upon a defendant’s failure to appear must submit proof of service of the summons and complaint and proof of the facts constituting the claim” (*PV Holding Corp. v. AB Quality Health Supply Corp.*, 189 AD3d 645,645 [1st Dept 2020]),

citing CPLR 3215[f]). “By failing to answer, the defaulting defendants are ‘deemed to have admitted’ the allegations in the verified complaint” (*State Farm Mut. Auto. Ins. Co. v. Surgicore of Jersey City, LLC*, 195 AD3d 454, 455 [1st Dept 2021]). Here, plaintiff has established proper service upon the defaulting defendants ADAGIO CHIROPRACTIC, P.C., ARGO SUPPLY CORPORATION, INSPIRE REHAB PT, P.C., MEDICAL SUPPLY OF NY SERVICES, INC., MIDWOOD ORTHOMED SUPPLY, INC., MOSAIC DIAGNOSTIC IMAGING, PLLC., JAJAIRA RODRIGUEZ and MANUEL MARTINEZ, that the defaulting defendants failed to appear or answer, and that the time to do so has expired. As such, defendants are in default of this proceeding. State Farm has sufficiently proven the facts constituting its claim for default judgment through the affirmation of Michael E. Tomsy and the attached exhibits.

Plaintiff also sufficiently established that MARTINEZ failed to appear for a properly noticed EUO on two occasions (*see Hertz Vehs., LLC v. Alluri*, 171 AD3d 432,432 [1st Dept 2019] [internal citation omitted]).

The motion is granted without opposition. Accordingly, it is

ORDERED for purposes of this motion plaintiff seeking default judgment against the defaulting defendants is granted; and it is further

ORDERED, ADJUDGED and DECLARED that plaintiff has no duty to pay any no-fault benefits in the form of sums, monies, damages, awards or benefits to ADAGIO CHIROPRACTIC, P.C., ARGO SUPPLY CORPORATION, INSPIRE REHAB PT, P.C., MEDICAL SUPPLY OF NY SERVICES, INC., MIDWOOD ORTHOMED SUPPLY, INC., MOSAIC DIAGNOSTIC IMAGING, PLLC., JAJAIRA RODRIGUEZ and MANUEL MARTINEZ, their agents, employees, assignees or heirs arising out of any current or future proceeding, including without limitation, arbitrations and lawsuits seeking to recover no-fault benefits with respect to the claims

submitted in connection with the February 22, 2024 accident, referenced by claim 32-64F2-23W; and it is further

ORDERED that this judgment shall have no effect as to defendant NEXT GENERATION DIAGNOSTIC IMAGING, P.C.; and it is further

ORDERED that the action is severed and shall proceed against defendant NEXT GENERATION DIAGNOSTIC IMAGING, P.C.; and it is further

ORDERED that, within twenty days after this decision and order is uploaded to NYSCEF, counsel for plaintiff shall serve a copy of this decision and order, with notice of entry, upon defendants, as well as the office of the County Clerk who shall enter judgment accordingly; and it is further

ORDERED that service upon the office of the County Clerk 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 at the address www.nycourts.gov/supctmanh).

This constitutes the Decision and Order of the Court.

12/10/2025
DATE

James L. Cleves

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: