

Safeco Ins. Co. v Arteaga

2025 NY Slip Op 34998(U)

December 19, 2025

Supreme Court, New York County

Docket Number: Index No. 650450/2025

Judge: Phaedra F. Perry-Bond

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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. PHAEDRA F. PERRY PART 35

Justice

-----X

INDEX NO. 650450/2025

SAFECO INSURANCE COMPANY and
AMERICAN STATES INSURANCE COMPANY,

MOTION DATE 04/25/2025

Plaintiffs,

MOTION SEQ. NO. 001

- v -

ABIGAIL ARTEAGA, ADVANCED MEDICAL SUPPLIES,
INC., AIA MEDICAL, PC, ALL ISLAND ANESTHESIA, PC,
BORO PARK PHARMACY CORP., BURGUNDI MEDICAL,
PC, DANIEL SHAPIRO, MD, PC, JEFFREY KRIEDEL, DPM,
PC, HEALING RECOVERY ORTHO CORP., HOSSEN
MEDICAL CARE OF NY, PLLC, HYOSUK PHYSICAL
THERAPY, PC, JEONGWOOK PT, PC, NEXT GENERATION
PHARMACY CORP., OPTIMAL HEALTH CHIROPRACTIC
AND ACUPUNCTURE, PC, ROCKAWAY BLVD PHARMACY,
INC., SANDEVE MEDICAL SUPPLIES, LLC, SPECIALTY
ANESTHESIA INTERVENTIONS, PC, WESTEND SUPPLY,
INC., WILLIAM L KING, MD, PC,
WILLIS EQUIPMENT CORP.

AMENDED
DECISION + ORDER ON
MOTION

Defendants.

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The following e-filed documents, listed by NYSCEF document number (Motion 001) 9, 10, 11, 12, 13, 14,
15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 38

were read on this motion to/for JUDGMENT - DEFAULT

Upon the foregoing documents, plaintiffs Safeco Insurance Company and American States
Insurance Company (Plaintiffs)' motion for a default judgment pursuant to CPLR 3215 (Motion
Seq. 001) against defendants Abigail Arteaga; AIA Medical PC; Boro Park Pharmacy Corp.;
Burgundi Medical, PC; Daniel Shapiro, MD, PC; Jeffrey Kriegel, DPM, PC; Healing Recovery
Ortho Corp.; Hossen Medical Care of NY, PLLC; Hyosuk Physical Therapy, PC; Jeongwook PT,
PC; Next Generation Pharmacy Corp.; Optimal Health Chiropractic and Acupuncture, PC;
Westend Supply, Inc.; and Willis Equipment Corp. is granted.

Procedural History

This is a declaratory judgment action arising out of no-fault reimbursement claims
submitted in connection to a motor vehicle accident that occurred on June 13, 2024. Plaintiffs,
Safeco Insurance Company and American States Insurance Company (collectively "plaintiffs")
commenced this action on January 23, 2025, against individual defendant Abigail Arteaga

(Arteaga), and defendants Advanced Medical Supplies Inc., AIA Medical PC, All Island Anesthesia PC, Boro Park Pharmacy Corp., Burgundi Medical PC, Daniel Shapiro MD PC, Jeffrey Kriegel DM PC, Healing Recovery Ortho Corp., Hossen Medical Care of NY PLLC, Hyosuk Physical Therapy PC, Jeongwook PT PC, Next Generation Pharmacy Corp, Optimal Health Chiropractic and Acupuncture PC, Rockway Blvd Pharmacy Inc., Sandeve Medical Supplies LLC., Specialty Anesthesia Interventions PC, Westend Supply Inc, William L. King MD PC, and Willis Equipment Corp (collectively “medical provider defendants”).

Plaintiffs currently move for a default judgment pursuant to CPLR § 3215 and seek a declaration pursuant to CPLR § 3017(b). Specifically, plaintiffs seek an order defaulting the non-appearing defendants and declaring that plaintiffs do not have an obligation to pay no-fault benefits to Arteaga and the medical provider defendants, arising on assignment from Arteaga.

Discussion

Pursuant to CPLR § 3215(f), an application for default judgment must include proof of: (1) service of the summons and complaint; (2) the defendant’s default; and (3) the facts constituting the claim and the amount due. (See *Joosten v Gale*, 129 AD2d 531, 534 [1st Dept 1987]; *231st Riverdale LLC v 7 Star Home Furniture Inc.*, 198 AD3d 524, 525 [1st Dept 2021]; *Beltre v Babu*, 32 AD3d 722, 723–724 [1st Dept 2006]).

Here, plaintiffs have satisfied these elements. The record provides proof of service of the Summons and Complaint upon the non-appearing defendants (NYSCEF Doc. Nos. 13, 14). Additionally, plaintiffs provide a non-military affirmation as to the individually named non-appearing defendants, Abigail Arteaga, Daniel Shapiro, MD, Jeffrey Kriegel, DPM, along with a copy of non-military status generated from the Department of Defense Manpower Data Center (NYSCEF Doc. No. 15). Plaintiffs also provide proof of service for the motion (NYSCEF Doc. No. 32).

The matter has been discontinued against defendants, Sandeve Medical Supplies, LLC, by stipulation of discontinuance dated August 21, 2025 (NYSCEF Doc. No. 35); William L King MD, PC, by stipulation of discontinuance dated July 31, 2025 (NYSCEF Doc. No. 34); Advanced Medical Supplies Inc. and Specialty Anesthesia Interventions PC, by stipulation of discontinuance dated October 30 2025 (NYSCEF Doc. No. 39), and Rockaway Blvd Pharmacy, Inc. by stipulation of discontinuance dated October 31, 2025 (NYSCEF Doc. No. 40). The remaining defendants which include Abigail Arteaga, AIA Medical PC; All Island Anesthesia, PC, Boro Park Pharmacy Corp., Burgundi Medical PC, Daniel Shapiro, MD, PC, Jeffrey Kriegel, DPM, PC, Healing Recovery Ortho Corp., Hossen Medical Care of NY, PLLC, Hyosuk Physical Therapy, PC, Jeongwook PT PC, Next Generation Pharmacy Corp., Optimal Health Chiropractic and Acupuncture, PC, Westend Supply, Inc., and Willis Equipment Corp have not filed an answered or appeared. Plaintiffs’ also attach an Affirmation in Support of its motion for default judgment that lists the non-appearing defendants (NYSCEF Doc. No. 10 ¶ 16).

Further in support of its motion, plaintiffs attach a copy of individual defendant Arteaga's deposition transcript (NYSCEF Doc. No. 23), in which Arteaga stated that she was operating the insured vehicle, a 2006 Honda, at the time of the accident when she sustained physical injuries (*Id.*, p 54 lines 6-12, p 55 lines 6-14, p 89 lines 16-21). As a result of the accident, Arteaga sought services from several medical providers.

Arteaga stated that the vehicle and insurance policy were registered under Arteaga's father, Napoleon Arteaga, who Arteaga stated mostly resides in Queens, New York. However, the garaging address provided to plaintiff was a Pennsylvania address, which plaintiffs argue is a material misrepresentation (*Id.*, p 17 lines 3-4, p 26 lines 1-25, p 27 lines 1-15, p 25 lines 4-25). Plaintiffs also assert that Arteaga's father intentionally omitted Arteaga as an operator/insured.

An insurer may assert a lack of coverage based on the material misrepresentation made from the insured (*see*, Insurance Law § 3105). A misrepresentation is material if the insurer otherwise would not have issued the given policy if it had known the misrepresented facts (*see Ambac. Assur. Corp. v Countrywide Home Loans, Inc.*, 31 NY3d 569, 580 [2018]). Statements that are conclusory, provided by the insurance company's employee, without any further support by documentary evidence is not sufficient to establish the materiality as a matter of law (*Schirmer v Penkert*, 41 AD3d 688, 691 [2d Dept. 2007]).

Here, plaintiffs submit an affidavit (NYSCEF Doc No. 29) from Gabriella Courtier (Courtier), Team Manager at Liberty Mutual Insurance Company Claims Department. Courtier states that plaintiffs are an insurance company "under the Liberty Mutal umbrella" (*Id.*, ¶ 1). Courtier explains plaintiffs' practices on processing new claims.

Plaintiffs also submit an affidavit (NYSCEF Doc No. 19) from William Giaimo (Giaimo), a Special Investigator at Liberty Mutual Insurance. Giaimo states that he visited the addresses in both Queens, New York and Reading, Pennsylvania. He represents that on his residency investigation, he spoke with several neighbors at the Pennsylvania address but could not obtain much information from the neighbors regarding who resided at the garaging address. Giaimo states that he observed the mailbox was overstuffed and could see names on an envelope that read "Rodriguez Family from Senior Information Dept" and "Gladys M. Cubilete-Galva from Direct Auto Insurance." The affidavit also provides that Liberty Mutual scheduled an Examination Under Oath (EUO) with Napoleon Arteaga to verify the garaging and residency issue. At the EOU, Napoleon Arteaga testified he used his deceased friends address for insurance purposes, because it would be cheaper. Giaimo states that Napoleon Arteaga also confirmed that he did not live at the Pennsylvania address (*Id.*, ¶ ¶ 8, 12, 14-15; *see* NYSCEF Doc. No. 25; 26 p 40 lines 8-23). Giaimo concludes that based on his investigations, the evidence he found suggested the policy address should have been in Jamaica, Queens and not in Reading, Pennsylvania and that denials were subsequently issued for claims based on his investigation (*Id.*, ¶ 4, 16).

Further in support of its motion, plaintiffs submit an affidavit (NYSCEF Doc. No. 27) from Glenn S. Rivera (Rivera), a Personal Lines Underwriting Manager for plaintiffs and Liberty Mutual Insurance Company. Rivera states that had plaintiffs known the residence of Arteaga and Arteaga’s father; the policy would have costed “approximately \$4,596.52 more and approximately \$16,129.82 more using the Queens, New York address...” (Id., ¶ 6). “While the materiality of a misrepresentation is usually question for the jury, materiality can be established by an affidavit from an underwriter and documentary evidence concerning its underwriting practices showing that the same policy would not have been issued if the correct information had been provided” (Liberty Mut. Ins. Co. v Assoumanou, 2024 NY Slip Op 31951[U], *5 [Sup Ct., NY County 2024]). Plaintiffs have provided an affidavit from their underwriter and sufficient documentary evidence to support its claim and its decision to deny the no-fault benefits based on the material misrepresentation.

For the reasons above, therefore, it is

ORDERED that Safeco Insurance Company and American States Insurance Company’s motion for a default judgment is granted as against defendants Abigail Arteaga; AIA Medical PC; Boro Park Pharmacy Corp.; Burgundi Medical, PC; Daniel Shapiro, MD, PC; Jeffrey Kriegel, DPM, PC; Healing Recovery Ortho Corp.; Hossen Medical Care of NY, PLLC.; Hyosuck Physical Therapy, PC; Jeongwook PT, PC; Next Generation Pharmacy Corp.; Optimal Health Chiropractic and Acupuncture, PC.; Westend Supply, Inc.; and Willis Equipment Corp.; and it is further

ADJUDGED and DECLARED that Safeco Insurance Company, American States Insurance Company have no obligation to pay any pending, previously denied or future claims submitted to said insurers by Abigail Arteaga; AIA Medical PC; Boro Park Pharmacy Corp.; Burgundi Medical, PC; Daniel Shapiro, AMD, PC; Jeffrey Kriegel, DPM, PC; Healing Recovery Ortho Corp.; Hossen Medical Care of NY, PLLC.; Hyosuck Physical Therapy, PC; Jeongwook PT, PC; Next Generation Pharmacy Corp.; Optimal Health Chiropractic and Acupuncture, PC.; Westend Supply, Inc.; and Willis Equipment Corp.

This constitutes the decision and order of the court.

12/19/2025
DATE


PHAEDRA F. PERRY-BOND, J.S.C.

CHECK ONE:

CASE DISPOSED
GRANTED DENIED
SETTLE ORDER
INCLUDES TRANSFER/REASSIGN

NON-FINAL DISPOSITION
GRANTED IN PART
SUBMIT ORDER
FIDUCIARY APPOINTMENT

OTHER
 REFERENCE