

Farmers Prop. & Cas. Ins. Co. v Salvant
2025 NY Slip Op 35461(U)
January 14, 2025
Supreme Court, Nassau County
Docket Number: Index No. 604307/24
Judge: Randy Sue Marber
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AMENDED SHORT FORM ORDER

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NASSAUPresent: **HON. RANDY SUE MARBER**
JUSTICE

TRIAL/IAS PART 2

FARMERS PROPERTY AND CASUALTY
INSURANCE COMPANY,

X

Plaintiff,

-against-

Index No.: 604307/24
Motion Sequence...01
Motion Date...10/15/24INDIVIDUAL DEFENDANTS
STEVEN SALVANT,HEALTHCARE DEFENDANTSAVENTA MED SUPPLY INC., CITY MEDICAL OF
UPPER EAST SIDE PLLC d/b/a CITYMD,
INTERBOROUGH THERAPEUTIC SERVICES, P.T.
P.C., J SPORTS MEDICINE P.C., JASON DHUPAN,
NP, JMR CHIROPRACTIC P.C., JORDAN FERSEL
M.D. P.C., JULES F PARISIEN, M.D., MARK
RITCH, DO, MEDISOURCE MEDICAL INC.,
PRECISE MEDICAL SOLUTIONS, LLC, QUALITY
HEALTH FAMILY MEDICAL CARE P.C., QUEST
DIAGNOSTICS, RIDGEWOOD DRUG INC.,
ROCKAWAYS ASC DEVELOPMENT, LLC,
SEDATION VACATION PERIOPERATIVE
MEDICINE PLLC, SHERLIN GOLBARI, PA.,
TRIBOROUGH ASC, LLC, VIOTEK MED
SUPPLIES, INC and W JOSEPH GORUM MD P.C.,

Defendants

X

Papers Submitted:

Notice of Motion.....x

Upon the foregoing papers, the unopposed motion by the Plaintiff,
FARMERS PROPERTY AND CASUALTY INSURANCE COMPANY (hereinafter

“FARMERS”), seeking an Order, pursuant to CPLR § 3215, granting a default judgment in its favor as against the Defendants, STEVEN SALVANT, CITY MEDICAL OF UPPER EAST SIDE PLLC d/b/a CITYMD, INTERBOROUGH THERAPEUTIC SERVICES, P.T. P.C., J SPORTS MEDICINE P.C., JASON DHUPAN, NP, JMR CHIROPRACTIC P.C., JORDAN FERSEL M.D. P.C., MEDISOURCE MEDICAL INC., QUALITY HEALTH FAMILY MEDICAL CARE P.C., QUEST DIAGNOSTICS, SEDATION VACATION PERIOPERATIVE MEDICINE PLLC, TRIBOROUGH ASC, LLC and VIOTEK MED SUPPLIES, INC,¹ is decided as provided herein.

The Complaint seeks a Declaratory Judgment, pursuant to CPLR § 3001, that the Plaintiff is not obligated to pay, honor, or reimburse any of the Defendants for any claims that were submitted by, or on behalf of the Individual Defendant, STEVEN SALVANT, arising out of the alleged accident that occurred on February 14, 2023, based upon material misrepresentations of facts and false and/or fraudulent statements used to procure the subject policy of insurance issued by FARMERS (*See* Summons and Verified Complaint, NYSCEF Doc. Nos. “1” and “2”).

The Plaintiff commenced this action by the electronic filing of a Summons and Verified Complaint on or about March 11, 2023. The Plaintiff established proper service was made upon the Defendants, STEVEN SALVANT, CITY MEDICAL OF UPPER EAST SIDE PLLC d/b/a CITYMD, INTERBOROUGH THERAPEUTIC

¹ A Stipulation of Discontinuance was filed as against the Defendants, MEDISOURCE MEDICAL INC., VIOTEK MED SUPPLIES, INC and QUEST DIAGNOSTICS, on July 31, 2024 and October 10, 2024, respectively (*See* Stipulations of Discontinuance, NYSCEF Doc. Nos. “30” and “55”). Plaintiff’s counsel states that the Defendant, “JASODA DHUPAN” [*sic*], was not served and Plaintiff has not filed a motion for an extension of time to serve (*See* Attorney Affirmation, NYSCEF Doc. No. “32” at ¶ 4). As such, this action shall be dismissed as against said Defendant, only, as abandoned.

SERVICES, P.T. P.C., J SPORTS MEDICINE P.C., JMR CHIROPRACTIC P.C., JORDAN FERSEL M.D. P.C., QUALITY HEALTH FAMILY MEDICAL CARE P.C., SEDATION VACATION PERIOPERATIVE MEDICINE PLLC and TRIBOROUGH ASC, LLC (*See* Affidavits of Service, annexed to Motion as Exhibit “2”).

Pursuant to CPLR § 3215, a plaintiff may move for a default judgment against a defendant who fails to answer or otherwise appear in the action within one year of the default. Pursuant to CPLR § 3215(f), the movant must provide: (i) proof of service of the summons and complaint; (ii) an affidavit by the party setting forth the facts constituting the claim; (iii) proof of the default and/or amount due.

Where a defendant is a domestic or authorized foreign corporation that was served pursuant to Business Corporation Law (“BCL”) § 306(b), CPLR § 3215(g)(4)(i) and (ii) requires that an affidavit be submitted demonstrating that the defaulting defendant was provided with additional notice of the summons and complaint and informed that service was originally effectuated pursuant to BCL § 306. Such additional mailing must be made by first class mail upon the defaulting defendant-corporation at least twenty (20) days before the entry of judgment.

Here, the Plaintiff’s motion has been timely filed within one year of the default. The Plaintiff submitted proof that the Defendants, STEVEN SALVANT, CITY MEDICAL OF UPPER EAST SIDE PLLC d/b/a CITYMD, INTERBOROUGH THERAPEUTIC SERVICES, P.T. P.C., J SPORTS MEDICINE P.C., JMR CHIROPRACTIC P.C., JORDAN FERSEL M.D. P.C., QUALITY HEALTH FAMILY MEDICAL CARE P.C., SEDATION VACATION PERIOPERATIVE MEDICINE PLLC

and TRIBOROUGH ASC, LLC, were duly served with the Summons and Complaint pursuant to the CPLR and BCL. The Plaintiff also submitted proof of compliance with the additional mailing requirements of CPLR § 3215(g)(4)(i), as well as CPLR § 3215(g)(4)(ii). The Plaintiff proffered sworn affidavits from Plaintiff's representatives, Monica Beck, Claims Representative, and John Primiano, Special Investigator, which appropriately serve as sufficient proof of the facts constituting the claim pursuant to CPLR § 3215(f).

It appears from a review of the documentation presented that the necessary parties have been duly served with a notice of this motion and that more than thirty (30) days has elapsed since completion of service. Thus, the within Defendants are in default for failing to answer or otherwise appear in this action.

Accordingly, it is hereby

ORDERED, that the unopposed motion by the Plaintiff, FARMERS PROPERTY AND CASUALTY INSURANCE COMPANY, seeking an Order, pursuant to CPLR § 3215, granting a default judgment in its favor as against the Defendants, STEVEN SALVANT, CITY MEDICAL OF UPPER EAST SIDE PLLC d/b/a CITYMD, INTERBOROUGH THERAPEUTIC SERVICES, P.T. P.C., J SPORTS MEDICINE P.C., JMR CHIROPRACTIC P.C., JORDAN FERSEL M.D. P.C., QUALITY HEALTH FAMILY MEDICAL CARE P.C., SEDATION VACATION PERIOPERATIVE MEDICINE PLLC and TRIBOROUGH ASC, LLC, is **GRANTED**; and it is further

ORDERED, that the Plaintiff, FARMERS PROPERTY AND CASUALTY INSURANCE COMPANY, is under no obligation to pay, honor, or reimburse the within

defaulting Defendants, STEVEN SALVANT, CITY MEDICAL OF UPPER EAST SIDE PLLC d/b/a CITYMD, INTERBOROUGH THERAPEUTIC SERVICES, P.T. P.C., J SPORTS MEDICINE P.C., JMR CHIROPRACTIC P.C., JORDAN FERSEL M.D. P.C., QUALITY HEALTH FAMILY MEDICAL CARE P.C., SEDATION VACATION PERIOPERATIVE MEDICINE PLLC and TRIBOROUGH ASC, LLC, for any claims as referenced in the Complaint that were submitted by, or on behalf of the Individual Defendant, STEVEN SALVANT; and it is further

ORDERED, that this action is dismissed as against the Defendant, JASON DHUPAN, NP, as abandoned; and it is further

ORDERED, that the remaining parties are advised that a **Certification Conference shall be held on March 17, 2025 at 11:00 a.m., in person**; and it is further

ORDERED, that counsel for the Plaintiff shall serve a copy of this Order upon the within Defaulting Defendants at their last known respective address(es) by certified mail, return receipt requested, **AND** by regular mail, within twenty (20) days of the date of entry of this Order. **PROOF OF SERVICE MUST BE FILED WITH THE COURT.**

This constitutes the decision and Order of this Court.

DATED: Mineola, New York
January 14, 2025


HON. RANDY SUE MARBER, J.S.C.

ENTERED

Jan 22 2025

NASSAU COUNTY
COUNTY CLERK'S OFFICE