

Albany Med. Ctr. Hosp. v Ryan
2025 NY Slip Op 35511(U)
February 27, 2025
Supreme Court, Albany County
Docket Number: Index No. 901763-24
Judge: Kimberly A. O'Connor
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STATE OF NEW YORK
SUPREME COURT

COUNTY OF ALBANY

ALBANY MEDICAL CENTER HOSPITAL,

Plaintiff,

- against -

DECISION AND ORDER

Index No.: 901763-24

AMY RYAN,

Defendant.

(Supreme Court, Albany County, All Purpose Term)

(Justice Kimberly A. O'Connor, Presiding)

APPEARANCES: ORDD LAW, LLP
Attorneys for Plaintiff
(Thomas R. McCornick, Esq. of Counsel)
19 Executive Park Drive
Clifton Park, New York 12065

O'CONNOR, J.:

Background

On January 18, 2024, plaintiff Albany Medical Center Hospital filed a breach of contract action against defendant, seeking to recover Seventeen Thousand and Twenty-Three Dollars and Two Cents (\$17,023.02), with interest from September 3, 2022, plus costs, for hospital and/or medical services rendered to defendant by plaintiff on September 3, 2022. Although defendant did not formally file an answer, defendant's spouse, William H. Ryan, wrote to plaintiff's counsel on March 16, 2024, acknowledging service of the pleadings. In the correspondence, defendant's spouse stated that on September 3, 2022, defendant suffered injuries in a motor vehicle accident which he and defendant believed would be covered under defendant's Progressive Insurance

("Progressive") policy. After the denial of their claim for insurance coverage was issued, defendant and her husband were informed that their health coverage through Capital District Physicians' Health Plan ("CDPHP") would cover defendant's claim. According to defendant's husband, he and defendant provided this information to plaintiff's billing unit along with their CDPHP medical insurance information, at which time plaintiff informed them that if there was an issue with coverage, defendant and her husband would be notified. Defendant's husband stated that because they never received a notification from plaintiff about a denial of the claim, they assumed the matter was resolved. Although not properly filed, plaintiff consented to treating this correspondence as defendant's answer.

Plaintiff now moves for summary judgment pursuant to CPLR 3212. Defendant did not oppose the motion.

Discussion

A motion for summary judgment "shall be granted if, upon all the papers and proof submitted, the cause of action . . . shall be established sufficiently to warrant the court as a matter of law in directing judgment in favor of any party" (*see* CPLR 3212[b]). Summary judgment is a "drastic remedy which should be granted when there is no doubt as to the absence of triable issues" (*see Andre v. Pomeroy*, 35 N.Y.2d 361, 364 [1974]; *see also Sillman v. Twentieth Century-Fox Film Corp.*, 3 N.Y.2d 395, 404 [1957]).

On a motion for summary judgment, the moving party has the burden of showing "a prima facie . . . entitlement to judgment as a matter of law" by "tendering sufficient evidence to demonstrate the absence of material issues of fact" (*Voss v. Netherlands Ins. Co.*, 22 N.Y.3d 728, 734 [2014] [internal quotation marks omitted], quoting *Alvarez v. Prospect Hosp.*, 68 N.Y.2d 320, 324 [1986] *see also Winegrad v. New York Univ. Med. Ctr.*, 64 N.Y.2d 851, 853 [1985]; *Phillips*

v. Town of Glenville, 160 A.D.3d 1264, 1265-66 [3d Dep't 2018]; *Cromer v. Rosenweig Ins. Agency*, 156 A.D.3d 1192, 1193 [3d Dep't 2017]). "Failure to make such prima facie showing requires denial of the motion, regardless of the sufficiency of the opposing papers" (*Alvarez*, 68 N.Y.2d at 324; *see also Winegrad*, 64 N.Y.2d at 853).

If the moving party has demonstrated a right to judgment as a matter of law, then the burden shifts to the party opposing the motion to demonstrate, by admissible proof, either the existence of a genuine issue of material fact requiring trial of the action or an acceptable excuse for the failure to make such a demonstration (*see CPLR 3212[b]*; *Zuckerman v. City of New York*, 49 N.Y.2d 557, 562 [1980]; *see also Vega v. Restani Constr. Corp.*, 18 N.Y.3d 499, 503 [2012]; *Alvarez*, 68 N.Y.2d at 324; *Cromer* 156 A.D.3d at 1193). "[M]ere conclusions, expressions of hope or unsubstantiated allegations or assertions are insufficient," to defeat summary judgment (*Zuckerman*, 49 N.Y.2d at 562; *see also Lau v. Margaret E. Pescatone Parking, Inc.*, 30 N.Y.3d 1025, 1027 [2017]; *Justinian Capital SPC v. WestLB AG*, 28 N.Y.3d 160, 168 [2016]; *230 Park Ave. Holdco, LLC v. Kurzman Karelson & Frank, LLP*, 27 N.Y.3d 1109, 1110-11 [2016]).

"It is not the court's function on a motion for summary judgment to assess credibility" (*Ferrante v. Am. Lung Ass'n*, 90 N.Y.2d 623, 631 [1997]; *see also Justinian Capital SPC*, 28 N.Y.3d at 172; *Vega*, 18 N.Y.3d at 505; *Lacasse v. Sorbello*, 121 A.D.3d 1241, 1242 [3d Dep't 2014]). Rather, the court's "function on a summary judgment motion is to view the evidence in the light most favorable to the party opposing the motion, giving that party the benefit of every reasonable inference" (*Barra v. Norfolk S. Ry.*, 75 A.D.3d 821, 822-23 [3d Dep't 2010], quoting *Boyce v. Vasquez*, 249 A.D.2d 724, 726 [3d Dep't 1998]; *see also Vega*, 18 N.Y.3d at 503; *Ortiz v. Varsity Holdings LLC*, 18 N.Y. 3d 335, 339 [2011]), and "decide only whether [any] triable issues have been raised" (*Barlow v. Spaziani*, 63 A.D.3d 1225, 1226 [3d Dep't 2009]; *see also*

Justinian Capital SPC, 28 N.Y.3d at 172; *Vega*, 18 N.Y.3d at 505; *Lacasse*, 121 A.D.3d at 1242; *Boston v. Dunham*, 274 A.D.2d 708, 709 [3d Dep't 2000]).

Analysis

“A cause of action for breach of contract requires that the plaintiff show the existence of a contract, the performance of its obligations under the contract, the failure of the defendant to perform its obligations and damages resulting from the defendant's breach” (*Velocity Investments, LLC v. Lymon*, 218 A.D.3d 1091, 1091 [3d Dep't 2023] [internal quotation marks and citations omitted]; see *Please Me, LLC v. State*, 215 A.D.3d 1149, 1150 [3d Dep't 2023]; *Ampower-US, LLC v. WEG Transformers USA, LLC*, 214 A.D.3d 1129, 1131 [3d Dep't 2023]). Considering this, on a motion for summary judgment, “[a] plaintiff meets its prima facie burden of proof . . . regarding a breach of contract action based upon a loan in default by proffering evidence of the obligation and the defendant’s default” (*Velocity Investments, LLC v. Lymon*, 218 A.D.3d at 1091 [citations omitted]).

In support of its motion for summary judgment, plaintiff submitted a billing invoice for defendant’s visit to the Albany Medical Center Hospital Emergency Department on September 3, 2022. The invoice identified defendant as a patient and listed a total balance of Seventeen Thousand and Twenty-Three Dollars and Two Cents (\$17,023.02). Within this document, next to a payment adjustment calculation dated November 15, 2022, plaintiff acknowledged the existence of defendant’s CDPHP health insurance yet did not deduct any amount from the total amount due. Plaintiff also submitted a Statement of Material Facts, which were sworn to by Karen Mein, plaintiff’s Vice President of Finance. Mein confirmed that plaintiff promptly billed both Progressive and CDPHP for coverage, yet both claims for coverage were denied. Mein explained that because the claims were denied plaintiff “is unable to send this claim to either Progressive or

CDPHP again,” so it is defendant’s responsibility to submit another coverage claim (NYSCEF Doc. No. 7). Mein stated that defendant has refused to pay any portion of the hospital bill despite plaintiff’s repeated requests for payment. In further support, plaintiff submitted a copy of the denial of defendant’s Progressive claim, which stated that because defendant was “an occupant of a motorcycle” she was not eligible for no-fault benefits (NYSCEF Doc. No. 8). The denial form also noted that the insurance coverage does not provide coverage for medical payments. Plaintiff also submitted a document entitled “AMC Remittance Response Single EOB – Single Claim” which indicated that when defendant’s CDPHP health insurance claim was processed for services rendered to defendant by plaintiff on September 3, 2022, defendant’s insurance coverage was denied for the full amount due (NYSCEF Doc. No. 8). A copy of defendant’s insurance card confirms that defendant and her husband William Ryan have CDPHP health insurance.

Based on the foregoing, the Court finds that plaintiff established a prima facie showing of entitlement to judgment as a matter of law on its cause of action for breach of contract. While plaintiff did not submit a document demonstrating the existence of a written agreement, plaintiff provided proof sufficient to demonstrate that defendant entered into an agreement, expressly or implied, with plaintiff for hospital and/or medical services rendered to defendant by plaintiff on September 3, 2022 (*see generally Matter of Pache v. Aviation Volunteer Fire Co.*, 20 A.D.3d 731, 732 [3d Dep’t 2005], *lv denied* 6 N.Y.3d 705 [2006]). In the answer submitted by defendant’s husband, the husband concedes that defendant accepted hospital and/or medical services from plaintiff, and argued that while the Progressive insurance coverage claim was denied and defendant has not paid any portion of the hospital bill, defendant has CDPHP medical insurance to cover the expenses claimed by plaintiff. The proof submitted by plaintiff establishes that defendant’s CDPHP health insurance coverage claim for hospital and/or medical services rendered to

defendant by plaintiff on September 3, 2022, was denied. Considering the proof before the Court in support of summary judgment, and the admissions stated within defendant's answer, the Court finds that plaintiff established a prima facie showing to judgment as a matter of law on its cause of action for breach of contract.

Turning to the remainder of plaintiff's requested relief, CPLR 5001(a) provides that "[i]nterest shall be recovered upon a sum awarded because of a breach of performance of a contract." While the interest rate and date from which interest can be computed are left to the Court's discretion (*see* CPLR 5001[a]), generally speaking, "[i]nterest shall be computed from the earliest ascertainable date the cause of action existed" (CPLR 5001[b]). "A breach of contract cause of action accrues and begins to run when the plaintiff possesses a legal right to demand payment" (*Kyer v. Ravena Coeymans-Selkirk Cent. School Dist.*, 144 A.D.3d 1260, 1262 [3d Dep't 2016] [citations omitted]; *see Fitzgerald Morris Baker Firth P.C. v. Mayor of Hoosick Falls*, 179 A.D.3d 1361, 1362 [3d Dep't 2020]).

The record establishes that defendant entered into an agreement with plaintiff on September 3, 2022, for hospital services and/or care rendered that day, and further establishes that defendant's care ended on September 3, 2022. Considering this, the earliest ascertainable date for a breach of contract is September 3, 2022, as it was the day plaintiff's services were completed and plaintiff possessed a legal right to demand payment (*see Kyer v. Ravena Coeymans-Selkirk Cent. School Dist.*, 144 A.D.3d at 1262). In the absence of a written contract stating otherwise, the Court will apply a legal interest rate of 9.0% pursuant to CPLR 5004. Thus, in the absence of any opposition to plaintiff's motion for summary judgment, the Court grants summary judgment in plaintiff's favor as to the sum of Seventeen Thousand and Twenty-Three Dollars and Two Cents

(\$17,023.02), plus interest at a rate of 9.0%, running from September 3, 2022, to the date of entry of Judgment. The Court additionally grants plaintiff's request for costs and disbursements.

Any remaining arguments not specifically addressed herein have been considered and found to be lacking in merit or need not be reached in light of this determination.

Accordingly, it is hereby

ORDERED, that plaintiff's motion for summary judgment is granted; and it is further

ORDERED, that the Albany County Clerk shall enter judgment in favor of plaintiff Albany Medical Center Hospital and against defendant Amy Ryan in the sum of Seventeen Thousand and Twenty-Three Dollars and Two Cents (\$17,023.02), plus interest at a rate of 9.0%, running from September 3, 2022, to the date entry of Judgment; and it is further

ORDERED, that plaintiff is awarded Five Hundred and Fifty Dollars (\$550.00) in costs and disbursements.¹

This memorandum constitutes the Decision and Order of the Court. The original Decision and Order is being uploaded to the NYSCEF system for filing and entry by the Albany County Clerk. The signing of this Decision and Order and uploading to the NYSCEF system shall not constitute filing, entry, service, or notice of entry under CPLR 2220 and § 202.5-b(h)(2) of the Uniform Rules for the New York State Trial Courts. Counsel is not relieved from the applicable provisions of those Rules with respect to filing, entry, service, and notice of entry of the original Decision and Order.

SO ORDERED.

ENTER.

¹ Although plaintiff submitted a Bill of Costs on January 9, 2025, which requested Six Hundred and Ninety Dollars (\$690.00) in costs and disbursements, plaintiff failed to substantiate the alleged costs of a service fee and a Sheriff's fee, despite the Court's request for plaintiff to do so. Thus, the Court declines to award disbursements for such fees, and subtracts the amount requested from plaintiff's calculation.

Dated: February 27, 2025
Albany, New York



HON. KIMBERLY A. O'CONNOR
Acting Supreme Court Justice



02/27/2025

Papers Considered:

1. Summons, dated January 18, 2024; Verified Complaint, dated January 18, 2024; Affidavit of Service, sworn to March 26, 2024; *and*
2. Plaintiffs' Notice of Motion for Summary Judgment, dated September 4, 2024; Affidavit of Thomas R. McCormick, Esq., in Support of Motion, sworn to September 4, 2024, with Exhibits A-B annexed, including Defendant's Answer; Statement of Material Facts, sworn to August 30, 2024, with Exhibit 1 annexed; Bill of Costs, filed January 9, 2025.