

**Government Empls. Ins. Co. v Advanced Supplies of
NY Corp.**

2026 NY Slip Op 30037(U)

January 8, 2026

Supreme Court, New York County

Docket Number: Index No. 161331/2024

Judge: James G. Clynes

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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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GOVERNMENT EMPLOYEES INSURANCE COMPANY, INCLUDING ITS SUBSIDIARIES AND AFFILIATES, GEICO GENERAL INSURANCE COMPANY, GEICO INDEMNITY COMPANY AND GEICO CASUALTY COMPANY,

Plaintiff,

- v -

ADVANCED SUPPLIES OF NY CORP., ANDREW D. ADLERSTEIN, D.C., ANGELA A. PLISCHTEJEW, BARRY A. BAKER, M.D., EZRAH MEDICAL, P.C., ESTHER CHAIM MEDICAL, P.C., GLOBAL SURGERY CENTER, LLC, LABORATORY CORPORATION OF AMERICA HOLDINGS A/K/A LABCORP, MODERN RX PHARMACY, INC., MODERN WELLNESS NP IN FAMILY HEALTH, PLLC, NATURALIFE CHIROPRACTIC, P.C., PHARMACY ON GRAND, INC., PORTAL MEDICAL P.C., PRECISE U.S. DIAGNOSTIC CHIROPRACTIC, P.C., RIGHT CHOICE SUPPLY, INC., RIGHT MOTION PT, P.C., ROCKAWAYS ASC DEVELOPMENT, LLC D/B/A ROCKAWAYS AMBULATORY SURGERY CENTER, THIRD AVENUE IMAGING LLC, U.K. SINHA PHYSICIAN, P.C., ULTIMATE RX PHARMACY, INC., UPTOWN HEALTHCARE MANAGEMENT, INC. D/B/A/ EAST TREMONT MEDICAL CENTER, ELVIRA M. CABA, NARELY M. URENA, YISELY Y. URENA

Defendant.

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The following e-filed documents, listed by NYSCEF document number (Motion 001) 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69

were read on this motion to/for

JUDGMENT - DEFAULT

Upon the foregoing documents, it is ordered that the motion by plaintiffs GOVERNMENT EMPLOYEES INSURANCE COMPANY, INCLUDING ITS SUBSIDIARIES AND AFFILIATES, GEICO GENERAL INSURANCE COMPANY, GEICO INDEMNITY COMPANY AND GEICO CASUALTY COMPANY, (GEICO), (plaintiff), for a default judgment in favor of plaintiff and against the eligible injured parties, defendant ELVIRA M. CABA (ELVIRA), NARELY M. URENA (NARELY) and YISELY Y. URENA (YISELY), and medical

provider defendants ANGELA A. PLISCHTEJEW, BARRY A. BAKER, M.D., GLOBAL SURGERY CENTER, LLC, MODERN RX PHARMACY, INC., MODERN WELLNESS NP IN FAMILY HEALTH, PLLC, PHARMACY ON GRAND, INC., PORTAL MEDICAL P.C., PRECISE U.S. DIAGNOSTIC CHIROPRACTIC, P.C., THIRD AVENUE IMAGING LLC, U.K. SINHA PHYSICIAN, P.C. and ULTIMATE RX PHARMACY, INC. only, collectively (the defaulting defendants) is decided as follows.

The court notes that prior to this motion's submission, a stipulation of discontinuance with prejudice was filed with respect to LABORATORY CORPORATION OF AMERICA HOLDINGS A/K/A LABCORP only (stipulated defendant) (NYSCEF DOC NO 17). Moreover, the following defendants filed timely answers: EZRAH MEDICAL, P.C., ADVANCED SUPPLIES OF NY CORP, UPTOWN HEALTHCARE MANAGEMENT INC., d/b/a EAST TREMONT MEDICAL CENTER a/a/o ELVIRA M. CABA, RIGHT CHOICE SUPPLY, INC., ESTHER CHAIM MEDICAL, P.C., NAUTRALIFE CHIROPRACTIC, P.C., RIGHT MOTION PT, P.C., and ROCKAWAYS ASC DEVELOPMENT, LLC d/b/a ROCKAWAYS AMBULATORY SURGERY CENTER (NYSCEF DOC NOS 2, 5, 8, 9 & 44) Accordingly, the court's discussion, decision and order generally does not reference the stipulated nor the answering defendants.

In this action, plaintiff seeks default judgment declaring that plaintiff has no obligation to pay no-fault benefits relating to claims by the eligible injured parties ELVIRA, NARELY and YISELY for alleged injuries sustained from the underlying March 4, 2024, accident (assigned claim number 8804289820000001), based upon the eligible injured parties' failure to respond to plaintiff's summons and verified complaint. the eligible injured parties' failure to appear for two properly noticed Examinations Under Oath (EUOs) and YISELY's failure to appear for two properly noticed Independent Medical Examinations (IMEs), which constituted a breach of a condition precedent to coverage.

On June 16, 2025, PHARMACY ON GRAND, INC filed a late answer to plaintiff's summons and verified complaint (NYSCEF DOC NO 51). Plaintiff then filed a rejection of PHARMACY ON GRAND, INC's answer for being untimely on June 18, 2025 (NYSCEF DOC NO 52).

Late Answer by PHARMACY ON GRAND, INC

Pursuant to CPLR 3012 (d), “(u)pon the application of a party, the court may extend the time to appear or plead, or compel the acceptance of a pleading untimely served, upon such terms as may be just and upon a showing of reasonable excuse for delay or default.” In order to permit the service of an untimely answer as timely, Defendants must provide both a reasonable excuse for the delay and demonstrate a potentially meritorious defense to the action. (see *Bey v Sobro Local Dev Corp*, 177 AD3d 448 [1st Dept 2019] (affirming trial court’s decision to allow for a late filed answer where the delay was not willful, and it was not prejudicial to plaintiff).

Here, plaintiff made a timely rejection of defendant PHARMACY ON GRAND, INC ‘s answer. Moreover, defendant PHARMACY ON GRAND, INC made no application to file or compel a late answer and merely filed their answer, nor did PHARMACY ON GRAND, INC make a showing that it has a reasonable excuse and meritorious defense.

Therefore, defendant PHARMACY ON GRAND, INC’s answer is rejected as untimely

Default Judgment

A plaintiff moving for default judgment must establish proper service on defendant; defendant's default; and the facts constituting plaintiff's claims. (CPLR 3215 [f]).

Here, it is undisputed ELVIRA M. CABA, NARELY M. URENA, YISELY Y. URENA, and the medical provider defendants ANGELA A. PLISCHTEJEW, BARRY A. BAKER, M.D., GLOBAL SURGERY CENTER, LLC, MODERN RX PHARMACY, INC., MODERN WELLNESS NP IN FAMILY HEALTH, PLLC, PHARMACY ON GRAND, INC., PORTAL MEDICAL P.C., PRECISE U.S. DIAGNOSTIC CHIROPRACTIC, P.C., THIRD AVENUE IMAGING LLC, U.K. SINHA PHYSICIAN, P.C. and ULTIMATE RX PHARMACY, INC. have not appeared or responded to plaintiff’s summons and verified complaint. Furthermore, PHARMACY ON GRAND, INC has not responded to plaintiff’s summons and verified complaint in a timely manner and did not provide a sufficient reasonable excuse and meritorious defense to permit a late answer to be filed. Plaintiff (i) established proper service of the summons and verified complaint; and (ii) proof of the facts constituting plaintiff’s claim through the affidavit of Zakiya Connor, and the supporting documents.

Plaintiff has sufficiently established that the eligible injured parties failed to appear to two properly noticed EUOs and YISELY failed to appear for two properly noticed IMEs (*see State*

Farm Mut. Auto. Ins. Co. v All City Family Healthcare Ctr., Inc., 206 AD3d 584, 585, 168 N.Y.S.3d 839 [1st Dept 2022]). The eligible injured parties' failure to appear for two properly noticed EUOs and YISELY's failure to appear for two properly noticed IMEs amount to breaches of a condition precedent to coverage by GEICO.

For purposes of this default motion, this court finds that plaintiff sufficiently set forth the basis for its claims seeking a declaration of noncoverage against ELVIRA M. CABA, NARELY M. URENA and YISELY Y. URENA (see CPLR 3215 [f]; *State Farm Mut. Auto. Ins. Co.*, 195 AD3d 454 at 455-45655 [1st Dept 2021]).

For purposes of this default motion, the court finds that plaintiff sufficiently set forth the basis for plaintiff's claims seeking a declaration of noncoverage against the defaulting defendants (see CPLR 3215 [f]; *State Farm Mut. Auto. Ins. Co.*, 195 AD3d 454 at 455-45655 [1st Dept 2021]).

The motion is granted without opposition. Accordingly, it is

ORDERED that plaintiff's motion seeking a default judgment against the defaulting defendants is granted; and it is further

ORDERED, ADJUDGED and DECLARED to the extent that plaintiff has no duty to pay any no-fault benefits in the form of sums, monies, damages, awards or benefits to ELVIRA M. CABA, NARELY M. URENA, YISELY Y. URENA, ANGELA A. PLISCHTEJEW, BARRY A. BAKER, M.D., GLOBAL SURGERY CENTER, LLC, MODERN RX PHARMACY, INC., MODERN WELLNESS NP IN FAMILY HEALTH, PLLC, PHARMACY ON GRAND, INC., PORTAL MEDICAL P.C., PRECISE U.S. DIAGNOSTIC CHIROPRACTIC, P.C., THIRD AVENUE IMAGING LLC, U.K. SINHA PHYSICIAN, P.C. and ULTIMATE RX PHARMACY, INC., 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 March 4, 2024, accident, referenced by claim number 8804289820000001; and it is further

ORDERED that this judgment shall have no effect as to defendants ANDREW D. ADLERSTEIN, D.C., EZRAH MEDICAL, P.C., ADVANCED SUPPLIES OF NY CORP, UPTOWN HEALTHCARE MANAGEMENT INC., d/b/a EAST TREMONT MEDICAL CENTER a/a/o ELVIRA M. CABA, RIGHT CHOICE SUPPLY, INC., ESTHER CHAIM

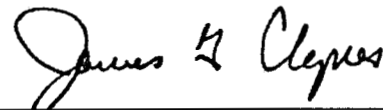
MEDICAL, P.C., NAUTRALIFE CHIROPRACTIC, P.C., RIGHT MOTION PT, P.C., and ROCKAWAYS ASC DEVELOPMENT, LLC d/b/a ROCKAWAYS AMBULATORY SURGERY CENTER; and it is further

ORDERED that the action is severed and shall proceed against defendants ANDREW D. ADLERSTEIN, D.C., EZRAH MEDICAL, P.C., ADVANCED SUPPLIES OF NY CORP, UPTOWN HEALTHCARE MANAGEMENT INC., d/b/a EAST TREMONT MEDICAL CENTER a/a/o ELVIRA M. CABA, RIGHT CHOICE SUPPLY, INC., ESTHER CHAIM MEDICAL, P.C., NAUTRALIFE CHIROPRACTIC, P.C., RIGHT MOTION PT, P.C., and ROCKAWAYS ASC DEVELOPMENT, LLC d/b/a ROCKAWAYS AMBULATORY SURGERY CENTER; 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.



JAMES G. CLYNES, J.S.C.

1/8/2026
DATE

CHECK ONE:

CASE DISPOSED

NON-FINAL DISPOSITION

GRANTED

DENIED

GRANTED IN PART

OTHER

APPLICATION:

SETTLE ORDER

SUBMIT ORDER

CHECK IF APPROPRIATE:

INCLUDES TRANSFER/REASSIGN

FIDUCIARY APPOINTMENT

REFERENCE