

State Farm Fire & Cas. Co. v ANMM, Inc.

2026 NY Slip Op 31346(U)

April 1, 2026

Supreme Court, New York County

Docket Number: Index No. 160012/2023

Judge: Matthew V. Grieco

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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. MATTHEW V. GRIECO PART 30M

Justice

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STATE FARM FIRE AND CASUALTY COMPANY,

Plaintiff,

- v -

ANMM, INC., APTECHKA RX, INC., CATALPA MEDICAL SUPPLIES, INC., CCCP EQUIPMENT, INC., DYNAMIC MEDICAL IMAGING, P.C., ENIGMA MANAGEMENT CORP., FIRST HAND PHYSICAL THERAPY, P.C., HOME PHYSICIAN ASSISTANT SERVICES, P.C., JUAN D. DELACRUZ, M.D., KAMM MED SUPPLIES, INC., MAXX SUPPLY CORP., MEDICUS SUPPLY CORP., NEW SENSE ACUPUNCTURE, P.C., NEW YORK MANUAL PT, P.C., ONE TOUCH HEALTH SUPPLY, INC., PAIN RELIEF RX, INC., PEOPLE'S CHOICE PHARMACY NY CORP., PRECISE PAIN MEDICINE, LLC, SANKAR MEDIC SUPPLY, CORP., SPINAL PAIN & REHAB MEDICAL, P.C., SURGIMED CARE, INC., TITAN DIAGNOSTIC IMAGING SERVICES, INC., TRUE RECOVERY SUPPLY, INC., WALMED EQUIPMENT, LLC, WAY TO REHAB PT, P.C., PIERRE WENSLEY, JAMES ST. PIERRE

Defendants.

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INDEX NO. 160012/2023
MOTION DATE 01/08/2026, 01/08/2026
MOTION SEQ. NO. 002 002

DECISION + ORDER ON MOTION

The following e-filed documents, listed by NYSCEF document number (Motion 002) 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65

were read on this motion to/for JUDGMENT - SUMMARY

Upon the foregoing documents, and for the reasons stated infra, the motion is granted.

On October 12, 2023, plaintiff, State Farm Fire and Casualty Company ("State Farm"), commenced this action for a declaratory judgment that it owes no duty to pay any no-fault claims arising out of an alleged motor vehicle collision on July 24, 2022, on the ground that the two claimants, defendants Pierre Wensley and James St. Pierre, failed to appear for duly and properly requested examinations under oath ("EUOs") on

two or more occasions, which constituted a violation of a condition precedent to coverage by the terms of the policy and under the no-fault regulations (NYSCEF Doc. No. 1 [Summons and Complaint]).

Defendants Enigma Management Corp. (“Enigma”), Maxx Supply Corp. (“Maxx”), People’s Choice Pharmacy NY Corp. (“People’s Choice”), Titan Diagnostic Imaging Services, Inc. (“Titan”), and Walmed Equipment, LLC (“Walmed”) answered (NYSCEF Doc. No. 2), as did defendants New Sense Acupuncture, P.C. (“New Sense”) and Spinal Pain & Rehab Medical, P.C. (“Spinal Pain”) (NYSCEF Doc. No. 28).

Plaintiff was unable to serve defendants Wensley, St. Pierre, or Juan D. Delacruz, M.D. (NYSCEF Doc. No. 32 at 6 n.2), and timely moved for default judgment against all the non-answering defendants (NYSCEF Doc. Nos. 31-47), which the Court (Arthur F. Engoron, J.) granted by order entered March 20, 2025 (NYSCEF Doc. No. 48).

Plaintiff now moves pursuant to CPLR 3212 for summary judgment on its claims against the answering defendants (NYSCEF Doc. Nos. 50-65); no opposition has been filed.

To obtain summary judgment, the movant must make a prima facie showing of entitlement to judgment as a matter of law by tendering evidentiary proof in admissible form that eliminates all material issues of fact (*see Alvarez v Prospect Hosp.*, 68 NY2d 320, 324 [1986]; *Zuckerman v City of New York*, 49 NY2d 557, 562 [1980]). The failure to make such a showing requires denial of the motion, regardless of the sufficiency of the opposing papers (*see Alvarez*, 68 NY2d at 324; *Winegrad v New York Univ. Med. Ctr.*, 64 NY2d 851, 853 [1985]). If the movant succeeds in making a prima facie showing, then the burden shifts to the party opposing the motion to submit proof in evidentiary form sufficient to raise a question of material fact requiring a trial on the

matter (*see Alvarez*, 68 NY2d at 324; *Zuckerman*, 49 NY2d at 562). The facts must be viewed in the light most favorable to the non-movant (*see Vega v Restani Constr. Corp.*, 18 NY3d 499, 503 [2012]).

As to the substance of the motion, “[t]he failure of a person eligible for no-fault benefits to appear for a properly noticed EUO constitutes a breach of a condition precedent vitiating coverage” (*Mapfre Ins. Co. of New York v Manoo*, 140 AD3d 468, 470 [1st Dept 2016]).

As previously determined on the motion for default judgment, plaintiff established a prima facie case that both claimants failed to appear for duly and properly requested EUOs on two or more occasions, which constituted a violation of a condition precedent to coverage by the terms of the policy and under the no-fault regulations (NYSCEF Doc. No. 48). Defendants have not submitted any opposing papers to raise a question of fact.

It is therefore

ORDERED that plaintiff’s motion for summary judgment on its claims against the answering defendants, Enigma, Maxx, People’s Choice, Titan, Walmed, New Sense, and Spinal Pain, is granted; and it is further

ADJUDGED and DECLARED that plaintiff owes no duty to afford, pay, or cover any no-fault claims of defendants Enigma, Maxx, People’s Choice, Titan, Walmed, New Sense, and Spinal Pain as to the claims pertaining to Pierre Wensley and James St. Pierre arising out of the alleged incident of July 24, 2022, reflected in State Farm claim number 52-37F1-08P; and it is further

ORDERED and ADJUDGED that all no-fault lawsuits, arbitrations, awards, judgments, and claims filed by defendants Enigma, Maxx, People’s Choice, Titan,

Walmed, New Sense, and Spinal Pain as to the claims pertaining to Pierre Wensley and James St. Pierre arising out of the alleged incident of July 24, 2022, reflected in State Farm claim number 52-37F1-08P, are hereby dismissed or stayed; and it is further


ORDERED that the balance of this action, against defendants Juan D. Delacruz, M.D., Pierre Wensley, James St. Pierre, is severed and continued, but plaintiff is directed to either seek leave to serve them or file a stipulation of discontinuance as against them (CPLR 306-b) within 30 days of entry of this order; and it is further

ORDERED that, within 30 days from entry of this order, movant shall serve a copy of this order with notice of entry on the Clerk of the General Clerk's Office, who is hereby directed to reflect the above order, judgement, and declaration by appropriately marking the court's records; and it is further

ORDERED that such service upon the Clerk of the General Clerk's Office 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).

This constitutes the decision and order of the Court.

4/1/2026
DATE


MATTHEW V. GRIECO, J.S.C.

CHECK ONE:	<input type="checkbox"/> CASE DISPOSED	<input checked="" type="checkbox"/> NON-FINAL DISPOSITION
	<input checked="" type="checkbox"/> GRANTED	<input type="checkbox"/> GRANTED IN PART
	<input type="checkbox"/> DENIED	<input type="checkbox"/> OTHER
APPLICATION:	<input type="checkbox"/> SETTLE ORDER	<input type="checkbox"/> SUBMIT ORDER
CHECK IF APPROPRIATE:	<input type="checkbox"/> INCLUDES TRANSFER/REASSIGN	<input type="checkbox"/> FIDUCIARY APPOINTMENT
		<input type="checkbox"/> REFERENCE