

American Tr. Ins. Co. v Newell
2026 NY Slip Op 31675(U)
April 13, 2026
Supreme Court, New York County
Docket Number: Index No. 653314/2024
Judge: Emily Morales-Minerva
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SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY

PRESENT: HON. EMILY MORALES-MINERVA PART 42M

Justice

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AMERICAN TRANSIT INSURANCE COMPANY,

Plaintiff,

INDEX NO. 653314/2024

MOTION DATE 12/12/2025

MOTION SEQ. NO. 001

- v -

NATHANIEL NEWELL, ABU MUHAMMAD M. HAQUE, M.D., P.C., BEACH MEDICAL REHABILITATION P.C., BIOMETRIC SIGN INC., BSD OS LLC, DURAMED CARE INC., EVE PHARMACY INC., EXPRESS D CORP, FIVE TOWNS PHYSICIANS P.C., FLEX CHIROPRACTIC, P.C., GLOBAL VERSUS INC., INTEGRATED MEDICAL REHABILITATION AND DIAGNOSTICS P.C., LORE MED EQUIPMENT INC., PSYCHOLOGY 21 P.C., QUEENS CITY REHAB PT P.C., STAY WELL CHIROPRACTIC P.C., TOPAZ V INC., TOWN RX INC, VELVET BK CORP.

DECISION + ORDER ON MOTION

Defendants.

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The following e-filed documents, listed by NYSCEF document number (Motion 001) 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 26

were read on this motion to/for JUDGMENT - DEFAULT

APPEARANCES:

Law Office of Daniel J. Tucker, Freeport, NY (Fotini Lambrianidis, Esq., of counsel), for plaintiff.

EMILY MORALES-MINERVA, J.S.C.

In this action seeking a declaratory judgment, plaintiff AMERICAN TRANSIT INSURANCE COMPANY moves, by notice of motion (sequence number 001), pursuant to CPLR § 3215, for an order granting it a default judgment against defendants NATHANIEL NEWELL, ABU MUHAMMAD M. HAQUE, M.D., P.C., BIOMETRIC SIGN INC., BSD OS LLC, DURAMED CARE INC., EVE PHARMACY INC., EXPRESS D CORP, FIVE TOWNS PHYSICIANS P.C., GLOBAL VERSUS INC., PSYCHOLOGY

21 P.C., QUEENS CITY REHAB PT P.C, TOPAZ V INC., and VELVET BK CORP.

When a defendant fails "to appear, plead or proceed to trial of an action reached and called for trial, or when the court orders a dismissal for any other neglect to proceed, the plaintiff may seek a default judgment against [the defendant]" (CPLR § 3215 [a]). To establish entitlement to a default judgment, plaintiff must file (1) proof it served defendant with the summons and complaint, and (2) "proof of the facts constituting the claim, the default, and the amount due . . . by affidavit made by the party" (see CPLR § 3215 [f]; see also Woodson v Mendon Leasing Corp., 100 NY2d 62, 70 [2003] [providing that "an applicant for a default judgment [must] file 'proof by affidavit made by the party of the facts constituting the claim'"]; 231st Riverdale LLC v 7 Star Home Furniture Inc., 198 AD3d 524, 525 [1st Dept 2021]; Feffer v Malpeso, 210 AD2d 60 [1st Dept 1994]).

Here, plaintiff fails to demonstrate its entitlement to entry of a default judgment against defendants NATHANIEL NEWELL, ABU MUHAMMAD M. HAQUE, M.D., P.C., BIOMETRIC SIGN INC., BSD OS LLC, DURAMED CARE INC., EVE PHARMACY INC., EXPRESS D CORP, FIVE TOWNS PHYSICIANS P.C., GLOBAL VERSUS INC., PSYCHOLOGY 21 P.C., QUEENS CITY REHAB PT P.C, TOPAZ V INC., and VELVET BK CORP. The supporting affidavits, Independent Medical Examination

appointment letters, and medical bills submitted pertain to a "Joshua Scheuermann" under claim number "1135223-01", who is not a party or claimant in this action. This appears to have been submitted in error, as the operative claim in this matter is claim number "1135223-02," submitted by defendant NATHANIEL NEWELL. Therefore, the motion (seq. no. 01) is denied without prejudice.

Accordingly, it is hereby

ORDERED that plaintiff's motion (seq. no. 001) for a default judgment against defendants NATHANIEL NEWELL, ABU MUHAMMAD M. HAQUE, M.D., P.C., BIOMETRIC SIGN INC., BSD OS LLC, DURAMED CARE INC., EVE PHARMACY INC., EXPRESS D CORP, FIVE TOWNS PHYSICIANS P.C., GLOBAL VERSUS INC., PSYCHOLOGY 21 P.C., QUEENS CITY REHAB PT P.C, TOPAZ V INC., and VELVET BK CORP. is dismissed, without prejudice; it is further

ORDERED that, within fifteen days from the date of this decision and order, plaintiff shall serve a copy of this order, with notice of entry, upon defendants; it is further

ORDERED that plaintiff shall bring a renewed default judgment motion, with sufficient evidence, within 90 days from the date of this decision and order; and it is further

ORDERED that the Clerk of Court shall mark the file accordingly.

4/13/2026

DATE


EMILY MORALES-MINERVA, J.S.C.

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