

SHORT FORM ORDER

SUPREME COURT - STATE OF NEW YORK

Present:

HON. KENNETH A. DAVIS,

Justice

TRIAL/IAS, PART 11
NASSAU COUNTY

EAGLE INSURANCE COMPANY,

Plaintiff(s),

SUBMISSION DATE: 05/07/02

INDEX No.: 16323/01

-against-

JACQUES DIVIGNAUD, HENRY CASE and OVALY
MARTE,

Defendant(s).

MOTION SEQUENCE #1

The following papers read on this motion:

Notice of Motion..... X

Upon the foregoing papers, plaintiff's unopposed motion for an order granting a default judgment, pursuant to CPLR § 3215, declaring that Eagle Insurance Company has no duty to defend and indemnify Henry Case and Jacques Divignaud with respect to those claims of Ovaly Marte in the lawsuit pending in the Supreme Court, Kings County Index No. 27984/01 is granted. It appears from a review of the documentation presented that all necessary parties have been served with notice of this application, and further, that the relief requested is appropriate.

The instant action stems from an alleged staged motor vehicle accident that occurred on September 9, 2000. Plaintiff insured defendant Jacques Divignaud under policy number PE1-0107-0815-7-A. Said policy covered a 1987 Subaru. The accident alleged occurred at the intersection of Cross Bay Blvd. and 153rd Avenue in Queens, New York. Plaintiff's investigators determined that the insured vehicle was involved in four separate accidents and that the named insured had his driver's license stolen and did not own the insured vehicle. The instant action was commenced on or about October 22, 2001 with filing of a summons and complaint.

The Court hereby declares that plaintiff has no duty to defend and indemnify Henry Case and Jacques Divignaud with respect to those claims of Ovaly Marte in the lawsuit pending in the Supreme Court, Kings County Index No. 27984/01.

Submit Judgment on Notice.

This decision constitutes the order of the court.

ENTERED

MAY 13 2002

Dated: _____

MAY 16 2002

HON. KENNETH A. DAVIS

J.S.C.

NASSAU COUNTY
COUNTY CLERK'S OFFICE