

SHORT FORM ORDER

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SUPREME COURT - STATE OF NEW YORK

**Present: HON. THOMAS P. PHELAN,
Justice.**

PROGRESSIVE ADVANCED INSURANCE COMPANY,

Plaintiffs,

- against-

**BASCOMBE, RASHAAD; BASCOMBE, ANDREW
UZOMA, BAMIDELE; TAYLOR, ROBERT
"Individual Defendants",
ACUPUNCTURE HEALTHCARE PLAZA I, P.C.
AUSTIN DIAGNOSTIC MEDICAL, P.C.,
AVANGUARD MEDICAL GROUP PLLC
AVIR SURGICAL SUPPLY CO. INC.
BIG APPLE ORTHO MED SUPPLY, INC.
BROMER MEDICAL P.C., CHIROPRACTIC LONGEVITY P.C.
CLEARVIEW OF BROOKLYN MEDICAL P.C.
CONEY ISLAND HOSPITAL, FOREST DRUGS
HILLSIDE SURGICAL, INTEGRAL ASSIST MEDICAL P.C.
INTEGRATED MEDICAL CARE OF NY P.C.
METROPOLITAN MEDICAL & SURGICAL P.C.
MY CHOICE PHARMACY, INC.
OMEGA DIAGNOSTIC IMAGING, P.C.
PROGRESSIVE ORTHOPEDICS, PLLC
SYLVIA LOBO MD, ST. GEORGE REHAB PHYSICAL
THERAPY P.C., VNP ACUPUNCTURE P.C.
IDEAL CARE PHYSICAL THERAPY, P.C.
PORT MEDICAL P.C.
ATLANTIC RADIOLOGY IMAGING, P.C.
BAY RIDGE ORTHOPEDIC ASSOCIATES, P.C.
CHIROPRACTIC HEALTH PLUS D.S., P.C.
DIAGNOSTIC MEDICINE P.C.
FIVE BORO PSYCHOLOGICAL AND LICENSED MASTER
SOCIAL WORK SERVICES PLLC, HORIZON RADIOLOGY,
P.C., RELIEF MEDICAL P.C., SANLI ACUPUNCTURE, P.C.**

"Provider Defendants"

Defendants.

**TRIAL/IAS PART 2
NASSAU COUNTY**

Index No. 008691/11

**MOTION SEQUENCE #002
ORIGINAL RETURN DATE:
04/23/12
SUBMISSION DATE: 05/23/12**

The following papers read on this motion:

Notice of Motion.....	1
Stipulation.....	2

Plaintiff moves for an order (a) granting judgment on default, pursuant to CPLR 3215, and for an inquest on reimbursement as to defendants FOREST DRUGS and SYLVIA LOBO MD (the “Defaulting Defendants”) and (b) granting summary judgment, pursuant to CPLR 3212, against defendants FIVE BORO PSYCHOLOGICAL and LICENSED MASTER SOCIAL WORK SERVICES PLLC

The court notes from the outset that this action is for a declaratory judgment and that no relief has been sought for reimbursement. Accordingly, that branch of plaintiffs’ motion for an inquest on reimbursement is denied.

By Stipulation dated May 3, 2012, the motion was withdrawn and the action discontinued as to Five Boro Psychological and Licensed Master Social Work Services PLLC only. Accordingly, the caption of the action is hereby amended to delete defendants Five Boro Psychological and Licensed Master Social Work Services PLLC therefrom.

Plaintiff brings this action seeking a declaratory judgment that plaintiff is under no obligation to reimburse the Provider Defendants, as well as the Individual Defendants, for services purportedly rendered and billed to plaintiff pursuant to the No-Fault Laws and Regulations and Insurance Law of this state based upon the Individual Defendants failure to comply with conditions precedent to coverage.

The Defaulting Defendants were served with the Summons and Verified Complaint. Counsel for plaintiff states that the Defaulting Defendants have failed to appear or otherwise move with respect to the complaint.

In support of plaintiff’s claim, it submits an affirmation of counsel and an affidavit of Adam Figarsky, an employee of plaintiff, as well as a copy of the verified complaint (Ex. A).

Mr. Figarsky avers that the Individual Defendants failed to appear for their EUOs and that a “no show” statement on the record was made. The EUOs were

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requested because plaintiff believed that the Individual Defendants were involved in a staged loss. It is alleged that by failing to appear, they failed to comply with the terms of the insurance policy precluding them from receiving no-fault benefits.

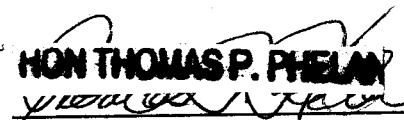
The Individual Defendants purportedly sought treatment from the Provider Defendants for injuries alleged to have been sustained as a result of an accident which occurred on September 24, 2010.

Based upon all of the foregoing, plaintiff's motion for a default judgment is granted as against the Defaulting Defendants, FOREST DRUGS and SYLVIA LOBO MD.

Submit judgment.

This decision constitutes the order of the court.

Dated: May 23, 2012


THOMAS P. PHELAN, J.S.C.

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ENTERED

MAY 30 2012

NASSAU COUNTY
COUNTY CLERK'S OFFICE

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-and-

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