

SHORT FORM ORDER

SUPREME COURT - NEW YORK STATE - NASSAU COUNTY

PRESENT: HON. ANTHONY L. PARGA

JUSTICE

-----X PART 4

NATIONWIDE AGRIBUSINESS INSURANCE
COMPANY,

Plaintiff,

INDEX NO. 607259/17

XXX

-against-

MOTION DATE: 11/29/17

SEQUENCE NO. 001

INDIVIDUAL DEFENDANTS

ANGEL ROJAS

RICHARD ROMANOFF

CORPORATE DEFENDANT

NEBRASKALAND, INC.

HEALTHCARE PROVIDER DEFENDANTS

COMPLETE ORTHOPEDIC SERVICES, INC.,

CONCOURSE CHIROPRACTIC, PLLC,

CONCOURSE CHIROPRACTIC SPINE & JOINT PLLC,

DASSA ORTHOPEDIC MEDICAL SERVICES, PC,

LENOX HILL RADIOLOGY AND MEDICAL IMAGING ASSOCIATES, PC,

LENOX HILL RADIOLOGY, FORDHAM,

LINCOLN HOSPITAL AUXILARY, INC.,

THIRD AVENUE OPEN MRI, INC.,

VISTA MEDICAL REHABILITATION, PC,

Defendants.

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Notice of Motion, Affs. & Exs..... 1

Upon the foregoing papers, it is ordered that the motion by plaintiff, Nationwide Agribusiness Insurance Company, for an order granting a default judgment against defendants Angel Rojas, Complete Orthopedic Services, Inc., Concourse Chiropractic, PLLC, Concourse Chiropractic Spine & Joint, PLLC, Dassa Orthopedic Medical Services, PC, Lenox Hill Radiology and Medical Imaging Associates, PC, Lenox Hill Radiology, Fordham, Lincoln Hospital Auxilary, Inc., Third Avenue Open MRI, Inc., and Vista Medical Rehabilitation, PC, (hereinafter referred to as the "defaulting defendants"), pursuant to CPLR §3215, is granted without opposition. This Court notes that plaintiff no longer seeks relief against defendants Richard Romanoff and Nebraskaland, Inc.

The plaintiff commenced this action seeking the following relief:

- 1) That Nationwide is not obligated to provide any coverage, reimbursements, or pay any monies, sums, or funds to any of the defendants named herein for any and all No-Fault related services for which claims/bills have been, or may in the future be, submitted by the defendants to the plaintiff, by or on behalf of Angel Rojas;
- 2) A declaratory judgment pursuant to CPLR §3001 that at the time of the alleged incident of September 15, 2016, Angel Rojas was not an “eligible injured person” pursuant to New York State No-Fault law §5102, and as such is not covered under the policy of insurance or endorsements issued by Nationwide to its insured, Nebraskaland, Inc., and Richard Romanoff;
- 3) A declaratory judgment pursuant to CPLR §3001 that the injuries sustained by Angel Rojas did not come from the use or operation of a Nationwide insured vehicle;
- 4) A declaratory judgment pursuant to CPLR §3001 that Angel Rojas’ injuries were caused while he was operating a motorcycle;
- 5) A declaratory judgment pursuant to CPLR §3001 that Angel Rojas made material misrepresentations of fact and false and/or fraudulent statements in the presentation of the claim to Nationwide with regard to the motor vehicle incident of September 15, 2016, and as such is not covered under the policy of insurance or endorsements issued by Nationwide to its insured, Nebraskaland, Inc., and Richard Romanoff;
- 6) A declaratory judgment pursuant to CPLR §3001 that Nationwide is under no obligation to pay any monies, fees, sums or otherwise convey any monetary benefit or insurance benefits to Individual Defendant, Angel Rojas, who allegedly suffered an injury or any defendant who allegedly provided any medical treatment (PIP Benefits), care or therapeutic treatment to Angel Rojas stemming from the alleged incident of September 15, 2016;
- 7) A declaratory judgment pursuant to CPLR §3001 that Nationwide is under no obligation to afford any bodily injury coverage to Individual Defendant,

Angel Rojas, who allegedly suffered economic harm and personal injuries stemming from the alleged incident of September 15, 2016;

- 8) For costs and disbursements of this action; and
- 9) For such other and further relief as this Court deems just, proper and equitable.

In support of its application, movant submits a Summons and Verified Complaint, along with Affidavits of Service documenting timely service upon each of the defaulting defendants. The Verified Complaint, setting forth the merits of this action, is sworn to by Marie Green, an employee of Nationwide. Plaintiff also submits the Examination Under Oath of Angel Rojas and Richard Romanoff and the affidavit of Richard Romanoff. Finally, plaintiff submits the affidavit of Marie Green further setting forth the merits of this action. To date, the defaulting defendants have not served answers or otherwise appeared in this action.

For the subject loss of September 15, 2016, under a motor vehicle insurance policy issued by plaintiff to defendant Nebraskaland, Inc. under policy number CCP135925A and Claim No. 775328-GD:

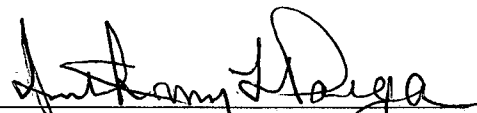
- 1) Nationwide is not obligated to provide any coverage, reimbursements, or pay any monies, sums, or funds to any of the defendants named herein for any and all No-Fault related services for which claims/bills have been, or may in the future be, submitted by the defendants to the plaintiff, by or on behalf of Angel Rojas;
- 2) Nationwide is under no obligation to pay any monies, fees, sums or otherwise convey any monetary benefit or insurance benefits to Individual Defendant, Angel Rojas, who allegedly suffered an injury or any defendant who allegedly provided any medical treatment (PIP Benefits), care or therapeutic treatment to Angel Rojas stemming from the alleged incident of September 15, 2016;
- 3) Nationwide is under no obligation to afford any bodily injury coverage to Individual Defendant, Angel Rojas, who allegedly suffered economic harm and personal injuries stemming from the alleged incident of September 15, 2016;

Plaintiff's request for monetary damages and costs and disbursements of this action is denied.

Submit judgment accordingly on notice by regular mail.

This shall constitute the decision and order of this Court. Any relief not expressly granted herein is denied.

Dated: January 23, 2018


Anthony L. Parga, J.S.C.

cc: Angel Rojas
2974 Valentine Avenue, #3A
Bronx, NY 10458

Richard Romanoff
10 Coventry Court
Purchase, NY 10577

Nebraskaland, Inc.
Hunts Point Coop Market
355 Food Court Center
Bronx, NY 10474

Complete Orthopedic Services, Inc.
2094 Front Street
East Meadow, NY 11554

Concourse Chiropractic PLLC
2676 Grand Concourse
Bronx, NY 10458

Concourse Chiropractic Spine & Joint PLLC
2488 Grand Concourse, 3rd Floor
Bronx, NY 10458

Dassa Orthopedic Medical Services PC
7 Carlton Drive
Mount Kisco, NY 10549

Lenox Hill Radiology and Medical Imaging Associates PC
61 East 77th Street
New York, NY 10075

ENTERED

JAN 24 2018

**NASSAU COUNTY
COUNTY CLERK'S OFFICE**

Lenox Hill Radiology, Fordham
410 East 189th Street
Bronx, NY 10451

Lincoln Hospital Auxiliary Inc
234 East 149th Street
Bronx, NY 10451

Third Avenue Open MRI Inc
1430 Broadway, Room 1107
New York, NY 10018

Vista Medical Rehabilitation PC
529 Beach 20th Street
Far Rockaway, NY 11691