

Nationwide Affinity Ins. Co. of Am. v Thomas
2020 NY Slip Op 02258 [182 AD3d 469]
April 9, 2020
Appellate Division, First Department
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[*1]

Nationwide Affinity Insurance Company of America, Respondent, v James Thomas et al., Appellants.

The Rybak Firm, PLLC, Brooklyn (Karina Barska of counsel), for appellants.

Hollander Legal Group, P.C., Melville (Allan S. Hollander of counsel), for respondent.

Judgment, Supreme Court, New York County (Gerald Lebovits, J.), entered February 19, 2019, granting Nationwide's motion for summary judgment to the extent of declaring that plaintiff was not obligated to provide coverage under the subject insurance policy by virtue of the claimants' failures to appear for examinations under oath, unanimously affirmed, without costs. The court properly granted summary judgment for a declaration of no coverage on the obligation by plaintiff to reimburse the healthcare provider defendants-appellants for their treatment of the claims of the claimant defendants as they failed to appear for timely and properly noticed EUOs, which constitutes a breach of a condition precedent, vitiating coverage. Concur—Friedman, J.P., Kapnick, Webber, González, JJ.