

FILED

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Susanne Lavelle, J.S.C.

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SUPERIOR COURT OF NEW JERSEY
LAW DIVISION - HUDSON COUNTY
DOCKET NO. HUD-L-003269-22

JUSTIN ZIMMERMAN¹,)
ACTING COMMISSIONER OF THE)
NEW JERSEY DEPARTMENT OF)
BANKING AND INSURANCE,)

Plaintiff,)

v.)

JOEL RODRIGUEZ-BRETON,)
MAYELIN RODRIGUEZ-)
DEROGRIGUEZ and RUDDY)
PEREZ-BLANCO,)

Defendants.)

Civil Action

ORDER OF FINAL JUDGMENT
BY DEFAULT

THIS MATTER HAVING BEEN opened to the Court on the application of Matthew J. Platkin, Attorney General of New Jersey, (by Nicholas Kant, Deputy Attorney General, appearing), attorney for Plaintiff, Justin Zimmerman, Acting Commissioner of the New Jersey Department

¹ Pursuant to R. 4:34-4, the caption has been revised to reflect the current Acting Commissioner of the Department.

of Banking and Insurance on a motion for final judgment by default;
and

Defendants, Joel Rodriguez-Breton ("Rodriguez-Breton"),
Mayelin Rodriguez-DeRodriguez ("Rodriguez-DeRodriguez"), and
Ruddy Perez-Blanco ("Perez-Blanco") (collectively, "Defendants"),
having been duly served with copies of the Summons and Complaint
in the above-captioned action, and default having been entered for
Defendants' failure to appear, answer, or otherwise defend;

This Court now finds that Defendants, conspired with one
another and knowingly made false statements to an insurance company
in support of automobile insurance claims, in violation of the New
Jersey Insurance Fraud Prevention Act, N.J.S.A. 17:33A-1 to -30
("Fraud Act");

Specifically, Defendant Rodriguez-Breton indicated that he
had two passengers in his vehicle at the time of the accident,
when in fact, he was the sole occupant, in violation of N.J.S.A.
17:33A-4(a)(1).

Specifically, Defendants Rodriguez-DeRodriguez and Perez-
Blanco indicated that they were injured as passengers in an
automobile accident, when in fact there were no passengers in that
vehicle at the time of the accident, in violation of N.J.S.A.
17:33A-4(a)(1).

Specifically, Defendants conspired with each other in
reporting to an insurance company that they were injured as

passengers in an automobile accident, when in fact there were no passengers in that vehicle at the time of the accident, in violation of N.J.S.A. 17:33A-4(b).

FINAL JUDGMENT is on this 20th day of October 2023, against Defendants, and in favor of Plaintiff, Justin Zimmerman, Acting Commissioner of the New Jersey Department of Banking and Insurance as follows:

1. \$10,000.00 in civil penalties against Rodriguez-Breton for three (3) violations of the Fraud Act pursuant to N.J.S.A. 17:33A-5(b);

2. \$10,000.00 in civil penalties against Rodriguez-DeRodriguez for three (3) violations of the Fraud Act pursuant to N.J.S.A. 17:33A-5(b);

3. \$10,000.00 in civil penalties against Perez-Blanco for three (3) violations of the Fraud Act pursuant to N.J.S.A. 17:33A-5(b);

4. Attorneys' fees in the amount of \$3,500.00 against Defendants, jointly and severally, pursuant to N.J.S.A. 17:33A-5(b);

5. Costs of service in the amount of \$135.00 against Rodriguez-Breton, pursuant to N.J.S.A. 17:33A-5(b);

6. Costs of service in the amount of \$25.00 against Rodriguez-DeRodriguez, pursuant to N.J.S.A. 17:33A-5(b);

7. Costs of service in the amount of \$135.00 against Perez-Blanco, pursuant to N.J.S.A. 17:33A-5(b);

8. A statutory fraud surcharge of \$1,000.00 against Rodriguez-Breton, individually, pursuant to N.J.S.A. 17:33A-5.1; and

9. A statutory fraud surcharge of \$1,000.00 against Rodriguez-DeRodriguez, individually, pursuant to N.J.S.A. 17:33A-5.1; and

10. A statutory fraud surcharge of \$1,000.00 against Perez-Blanco, individually, pursuant to N.J.S.A. 17:33A-5.1;

IT IS FURTHER ORDERED, that pursuant to N.J.S.A. 39:6A-15, Defendants' driving privileges will be suspended for a period of one (1) year from the date of this judgment.

IT IS FURTHER ORDERED, that a copy of this Order be served upon all parties within 7 days of the date of receipt.


Hon. Susanne Lavelle J.S.C.

This motion was:

 Opposed x Unopposed

STANDARD

After a default has been entered, a final judgment may be entered by the clerk or the court. If application for default is made more than 6 months after entry of the default, the application must be by notice of motion served in accordance with R. 1:6. Pursuant to R. 4:43-2, the Court must make a specific set of

findings to grant a Default Judgment. First, default entered by the Court was made in accordance with R. 4:43-1. Second, Defendant is not a minor or mentally incapacitated person. Third, a non-military affidavit is included in the proofs pursuant to R. 1:5-7. This affidavit must attest to personal knowledge or attach a statement from the Department of Defense that the defendant is not in the military or on active duty. Fourth, there is proof of service of notice to all parties by ordinary mail to the same address where process served. Fifth, Movant's Attorney certifies having no knowledge of defendant's change of address. Sixth, a cause of action is stated. Prickett v. Allard, 126 N.J. Super. 438, 66 NJ 6 (1974). Seventh, the proofs provided by Movant are competent and persuasive. Morales v. Santiago, 217 N.J. Super. 496 (App. Div. 1987). Finally, Eighth, Plaintiff's claim is for a certain sum, which can be reasonably computed.

ANALYSIS

Cause of Action Against Defendants

This matter comes before the Court on Plaintiff (Justin Zimmerman)'s Motion for Entry of Final Judgment by Default against Defendants (Joel Rodriguez-Breton, Mayelin Rodriguez-DeRodriguez, and Ruddy Perez-Blanco) upon the grounds that Defendants have failed to appear in this action. Plaintiff commenced this action by filing a Complaint on September 30, 2022. (Exhibit B). On October 21, 2022, the Complaint in this action was served on Rodriguez-Breton and Rodriguez-DeRodriguez at 6308 Dewey Ave., Apt. 2B, West New York, New Jersey 07093, and Plaintiff is not aware they have moved. (Exhibits C and D). The Complaint was served on Perez-Blanco at 6003 Fillmore Place, Apt. 401 S, West New York, New Jersey 07093, and Plaintiff is not aware he moved. (Exhibit E). Based on a search of public records, at all relevant times, Defendants resided at those addresses. (Mitchell Cert.)

Defendants having failed to answer the Complaint, Plaintiff filed Requests to Enter Default against each Defendant. On April 3, 2023, Default was entered against the three Defendants by the Clerk. (Exhibit B.) Plaintiff certifies that Defendants are not infants or incompetent persons and are not currently serving in the United States Military. (Exhibit A.). Plaintiff also provides proof of service upon all Defendants of Notice of this Motion. Pursuant to R. 4:43-1, on January 30, 2023, a copy of the Request for Entry of Default was sent to Rodriguez-Breton and Rodriguez-DeRodriguez by regular and certified mail to their current residence. (Exhibits F and G). The regular mailings sent to Defendants were not returned to Plaintiff's office. The certified mail was delivered to their building, according to the US Post Office's website. The certified mail to Perez-Blanco was returned as unclaimed, but not as "unable to forward."

In the instant motion, Plaintiff provides a clear cause of action supplemented by competent and persuasive proofs. Plaintiff's claim against Defendant Rodriguez- Breton is for three violations of the New Jersey Insurance Fraud Prevention Act, N.J.S.A. 17:33A-1 to -30. Specifically, he falsely stated to Allstate in reporting the accident and in an examination under oath that Rodriguez-DeRodriguez and Perez-Blanco were in car, when in fact they were not. (Exhibits A-F). Thus, Rodriguez-Breton made two knowingly false material statements in support of insurance claims, in violation of N.J.S.A. 17:33A-4(a)(1). He also conspired with Rodriguez-DeRodriguez and Perez-Blanco, in violation of N.J.S.A. 17:33A-4(b). Plaintiff's claim against Rodriguez-DeRodriguez is for three violations of the Fraud Act. Specifically, she falsely represented to Allstate in her PIP application and under oath that she was injured in the accident, although she was not in the car. (Exhibits D, G and H). She made knowingly false material statements in

support of an insurance claim and conspired with Rodriguez-Breton and Perez-Blanco. Plaintiff's claim against Perez-Blanco is for three violations of the Fraud Act. He falsely represented to Allstate in his PIP application and under oath that he was injured in the accident, although he was not in the car. (Exhibits D, I and J). Thus, he made knowingly false material statements in support of an insurance claim and conspired with the other Defendants. Thus, for three violations, Plaintiff could seek up to \$30,000 from each Defendant. However, Plaintiff seeks only \$10,000 in civil penalties from each Defendant.

Penalties and Costs Requested by Plaintiff

Court costs and reasonable attorneys' fees are also mandated by the Fraud Act. N.J.S.A. 17:33A-5(b). When determining an award of attorneys' fees, the court must determine the "lodestar," which is the "number of hours reasonably expended multiplied by a reasonable hourly rate." Rendine v. Pantzer, 141 N.J. 292, 334-335 (1995). In determining whether hourly rates are reasonable, the court should consider "the prevailing market rates in the relevant community" by assessing the "experience and skill of the prevailing party's attorneys and compare their rates prevailing in the community for similar services by lawyers of reasonably comparable skill, experience, and reputation." Id., at 337.

Plaintiff is seeking compensation for the legal services provided by Nicholas Kant, Assistant Section Chief, and Jessica Lugo, Deputy Attorney General. Plaintiff provides proof of the time spent working on this matter by each employee, their hourly rates, and the appropriate calculations. Accordingly, Plaintiff could seek compensation of \$4,189 in legal services. (Exhibit J). However, Plaintiff seeks only \$3,500 in reasonable attorneys' fees because all of this work was reasonable and necessary to prosecute this case on behalf of Plaintiff. Plaintiff seeks that this amount be ordered against Defendants, jointly and severally.

In addition to attorneys' fees, the Fraud Act also provides for court costs pursuant to N.J.S.A. 17:33A-5(b). Thus, Plaintiff seeks reimbursement of the costs of service upon each Defendant, for a total of \$295.00. Pursuant to N.J.S.A. 17:33A-5.1, in addition to any other penalty, fine or charge imposed, a person who committed insurance fraud shall be subject to a statutory fraud surcharge in the amount of \$1,000.00. Plaintiff thus seeks a separate \$1,000 surcharge against each Defendant, for a total of \$3,000.

Finally, any person who has violated a provision of the Fraud Act arising out of automobile insurance fraud based on a claim for damages arising out of a motor vehicle accident shall not operate a motor vehicle over the highways of this State for a period of one year from the date of judgment. N.J.S.A. 39:6A-15. This statute applies because Defendants each made false statements to an insurance company in support of a claim for payment arising from a car accident. (Mitchell Cert.). Thus, Plaintiff requests the Driver's license suspension for one year against each Defendant. The Court finds that Plaintiff has provided persuasive proof in their moving papers and relevant New Jersey law to support these requests. The amount requested by Plaintiff is also for a certain sum that can be reasonably calculated.

Plaintiff's Motion to Enter Final Judgment by Default Against Defendants is Granted.