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SUPERIOR COURT OF NEW JERSEY
LAW DIVISION - MERCER COUNTY
DOCKET NO. MER-L-002376-19

MARLENE CARIDE,)
COMMISSIONER OF THE NEW)
JERSEY DEPARTMENT OF)
BANKING & INSURANCE,)

Plaintiff,)

v.)

LYDIE HENRY,)

Defendant.)

Civil Action

ORDER OF FINAL JUDGMENT
BY DEFAULT

J - 020861-21

The Defendant, Lydie Henry ("Defendant"), having been duly served with a copy of the Summons and Complaint in the above-entitled action and having been defaulted for failure to appear, answer or otherwise defend;

FINAL JUDGMENT is on February 5, 2021 ,

entered in the amount of \$4,875.00 against Defendant Lydie Henry, and in favor of the Plaintiff, Marlene Caride, Commissioner of the New Jersey Department of Banking and Insurance.

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

A copy of this order shall be served on all parties by the moving party within 10 days. A party represented by an attorney shall be deemed served by uploading to eCourts.

Unopposed /s/William Anklowitz, J.S.C.

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STATEMENT OF REASONS

Rule 4:43-2 states that a Court may enter a final judgment of default if a default has been entered previously pursuant to R. 4:43-1. Additionally, the applicant must provide the court with proof of service of the instant motion on the defaulting party (unless they did not appear in the action at all) and an affidavit of proof showing the amount of debt and of non-military service. R. 4:43-2; R. 1:5-7. Default judgment shall not be entered against a minor or mentally incompetent defendant. R. 4:43-2(b). If more than six (6) months have elapsed since the entry of default, then the default judgment can only be secured by motion. R. 4:43-2(d).

In actions in which fewer than all defendants have defaulted, default judgment of liability may be entered against the defaulting defendants, but such questions as defendants' respective percentages of liability and total damages due shall be reserved for trial or other final disposition. R. 4:43-2(b).

Here, Plaintiff, Marlene Caride, Commissioner of the State of New Jersey Department of Banking & Insurance, submits a motion to enter default judgment against Defendant, Lydie Henry. This matter arises out of an alleged violation of the New Jersey Insurance Fraud Prevention Act, N.J.S.A. 17:33A-1 to -30 ("the Fraud Act"). Police report indicates that the defendant was involved in a car accident on January 11, 2020. Plaintiff's states that the defendant bought an insurance policy (the "7003 Policy") with Esurance the same day. Plaintiff provides that the defendant had another Esurance Policy ("5233 Policy") previously under the defendant's name, which was canceled and voided for non-payment on October 19, 2018, prior to the defendant's accident. Plaintiff contends that the defendant knowingly provided materially false information to Esurance, defendant's insurance company, on January 14, 2019 by indicating the Collision occurred on January 11, 2019 at 2:35 p.m., when in fact the Collision had occurred on January 11, 2019 at 9:35 a.m. prior to the inception of the 7003 Policy, in violation of N.J.S.A. 17:33A-4 (9) (1). Plaintiff

states that the defendant did not have automobile insurance at the time of the Collision, and an investigation by Esurance Special Investigations Unit revealed that Defendant purchased the 7003 Policy after the collision.

On December 12, 2019, a Complaint was filed by the plaintiff. Plaintiff certifies that on December 18, 2019, process was personally served upon the defendant at defendant's known address, via Leslie Henry, defendant's daughter, and a competent household member over fourteen years of age. Defendant has not answered or responded to plaintiff's Complaint nor did the defendant ask for an extension of time to do so. On August 18, 2020, default was entered against the defendant. Plaintiff now requests default judgment in the amount \$9,875.00 against the defendant, Lydie Henry, with the following breakdown of costs and fees:

- \$5,000.00 for a first-time violation of the Fraud Act, N.J.S.A. 17:33A-5b.
- \$3,810.00 for attorney's fees pursuant to N.J.S.A. 17:33A-5. Schedule is provided.
- \$1,000.00 for statutory surcharge pursuant to N.J.S.A. 17:33A-5.1.
- \$65.00 for costs of service of process pursuant to N.J.S.A. 17:33A5(b).

Plaintiff also requests that pursuant to N.J.S.A. 39:6A-15, the defendant's New Jersey driving privileges be suspended for a period of one year from the date of this judgment.

No opposition has been filed. Defendant has had plenty of time to respond to the Complaint, and the defendant, Ms. Henry, has failed to do so. Default has already been entered against the defendant, and the defendant was notified of the entry. Defendant has been served this motion as well, and yet defendant has failed to respond, file an appearance or defend herself. Plaintiff has also reported and certified that the defendant is not in the military.

Defendant is already being levied \$1000 penalty, attorney's fees and a year loss of license. Plaintiff has not explained why the maximum penalty of \$5000 is warranted and so that is denied.. As such, Plaintiff's motion to enter default judgment against Lydie Henry in the amount of \$4,875.00 is **GRANTED**.