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SUPERIOR COURT OF NEW JERSEY
SPECIAL CIVIL PART-ESSEX COUNTY
DOCKET NO. ESX-DC-22532-25

SUSAN OCHS¹, ACTING)
COMMISSIONER OF THE)
NEW JERSEY DEPARTMENT OF)
BANKING AND INSURANCE,)
)
Plaintiff,)
)
v.)
)
MARQUIETA JOHNSON,)
)
)
)
Defendant.)

Civil Action

ORDER

**SPECIAL CIVIL PART: STATUTORY
PENALTIES**

AMOUNT IN CONTROVERSY: \$26,000.00

This matter coming before the Court on the application of Jennifer Davenport, Acting Attorney General (by William E. Vaughan, Deputy Attorney General, appearing), attorney for the Plaintiff, Susan Ochs, Acting Commissioner of the New Jersey Department of Banking and Insurance, on a motion for final judgment by default; and

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

Defendant, Marqueta Johnson (“Defendant”), having been duly served with a copy of the Summons and Complaint in the above-captioned action, and default having been entered for Defendant’s failure to appear, answer, or otherwise, defend;

This Court now finds that Defendant violated the New Jersey Insurance Fraud Prevention Act, N.J.S.A. 17:33A-1 to -30 (“Fraud Act”) by failing to disclose in an automobile insurance application that she was recently involved in an accident and, once she had insurance, she knowingly misrepresented the date of an automobile accident in support of a claim for insurance benefits;

Specifically, Defendant, by failing to disclose to Progressive, in an automobile insurance application and subsequent support claim for insurance benefits that her vehicle was involved in an accident on February 7, 2022, when, in fact, the damage to the policy vehicle was present prior to policy’s inception, Defendant presented materially false statements in support of a claim for payment or other benefits pursuant to an insurance policy knowing that the statements were false, in violation of N.J.S.A 17:33A-4(a)(1) and N.J.S.A. 17:33A-4(a)(3).

FINAL JUDGMENT is on this 13th day of March , 2026, entered in the amount of \$26,000.00 against Defendant and in favor of Plaintiff, Susan Ochs, Acting Commissioner of the New Jersey Department of Banking and Insurance. This amount consists of:

- a. \$10,000.00 in civil penalties for two (2) violations of the Fraud Act pursuant to N.J.S.A. 17:33A-5(b);
- b. attorneys’ fees of \$15,000.00 pursuant to N.J.S.A. 17:33A-5(b); and
- c. a statutory fraud surcharge of \$1,000.00 pursuant to N.J.S.A. 17:33A-5.1.

IT IS FURTHER ORDERED, that Defendant shall not operate a motor vehicle over the highways of this State for a period of one (1) year from the date of entry of judgment pursuant to N.J.S.A. 39:6A-15.

IT IS FURTHER ORDERED, that a copy of this Order shall be deemed served on all parties upon it being uploaded onto eCourts.

/s/ Kevin J. O'Connor, J.S.C.

Hon. Kevin J. O'Connor , J.S.C.

_____ opposed

_____ unopposed

STATEMENT OF REASONS

Plaintiff, Susan Ochs, Acting Commissioner of the New Jersey Department of Banking and Insurance (“DOBI”), brings this motion for entry of final judgment by default against Defendant, Marquieta Johnson (“Defendant”). The Complaint filed by DOBI alleges that Defendant violated the New Jersey Insurance Fraud Prevention Act, N.J.S.A. 17:33A-1 (the “Act”) by failing to disclose in an automobile insurance application that she had been recently involved in an accident and, when the policy was issued, knowingly misrepresented the date of an automobile accident in support of her claim for insurance benefits.

On January 8, 2026, this matter was scheduled for trial and Defendant failed to appear. The record reflects that notice of the trial was mailed to Defendant by the Court. The Court entered default against Defendant for failure to appear.

On February 9, 2026, DOBI filed a motion for entry of final judgment by default against the Defendant. On February 10, 2026, Defendant filed opposition to the motion. In her opposition, Defendant requested the opportunity to have her “day in court to say my side to things due to some of the facts in this case being false.” No substantive argument was made in Defendant’s opposition.

The Court granted Defendant’s request for oral argument and the matter was heard on March 13, 2026. Defendant was sworn in and stated that her failure to appear for trial was based upon her confusion as to a docket entry that there would be no oral argument of the motion for summary judgment filed by DOBI. However, Defendant also testified that she did not contest the allegations by DOBI and specifically admitted to engaging in the violations of the Act alleged in the Complaint. The Defendant did not present any testimony or proofs to contest the amount of the statutory fine, attorney’s fees and costs sought by DOBI in its motion.

DISCUSSION AND DECISION

This is a Special Civil Part matter and the process for entry of default is set forth in Rule 6:6-3(c), which parallels Rule 4:43-2(b). Pursuant to Rule 4:43-2(b), a trial court has discretion to require proof of the quantum of damages as well as entitlement to relief, prior to entry of default judgment. EnviroFinance Grp., LLC v. Env't Barrier Co., LLC, 440 N.J. Super. 325 (App. Div. 2015) (internal citations omitted); *see also* Kolczycki v. City of E. Orange, 317 N.J. Super. 505, 514 (App. Div. 1999) ("[T]he trial court has the discretionary power to require proof of liability."). However, "[w]here the trial court undertakes to exercise such discretion, the court should ordinarily apply the prima facie standard to plaintiff's proofs, thus not weighing evidence or finding facts but only determining bare sufficiency." Kolczycki, 317 N.J. Super. at 514 (citing Heimbach, 229 N.J. Super. at 20-24). "[P]rima facie [evidence is evidence] that, if unrebutted, would sustain a judgment in the proponent's favor." Baures v. Lewis, 167 N.J. 91, 118 (2001). "When a trial court exercises its discretion to require proof of liability as a prerequisite to entering judgment against a defendant who has defaulted, what is required . . . is that the plaintiff adduce proofs which show that the facts alleged 'might have been the case' or, to say the same thing in different words, that they could conceivably be proved at trial, and that, if proved, they would establish the legally required elements of plaintiff's claim for relief." Heimbach v. Mueller, 229 N.J. Super. 17, 23 (App. Div. 1988) (internal citation omitted) (quoting Trans World Airlines v. Hughes, 449 F.2d 51, 64 (2d Cir. 1971)).

To deny judgment against a defaulted defendant, some required element of plaintiff's prima facie case must be missing, or some obvious rule of law must provide cause to bar the claim. Heimbach, 229 N.J. Super. at 23-24. The court has the authority to *sua sponte* refuse to enter judgment if the complaint on its face fails to state a cause of action even if the defendant is

in default. See Prickett v. Allard, 126 N.J. Super. 438 (App. Div. 1974). Further, a court may dispose of a case at a proof hearing if the evidence presented is so "inherently incredible that the trial judge is justified in refusing to believe it." Heimbach, 229 N.J. Super. at 24 n.3. Generally speaking though, as we noted in Heimbach that "a defendant's default admit[s] every allegation of fact in the complaint which was susceptible of proof by legitimate evidence except: (1) allegations which were made indefinite or erroneous by other allegations of the complaint, (2) allegations which were contrary to facts of which the court would take judicial notice, or (3) allegations which were contrary to uncontroverted material in the file of the case." Id. at 22-23 (citing Trans World Airlines, 449 F.2d. at 63).

In the case at bar, the Court concludes that DOBI has made the required prima facie showing to establish entitlement to entry of default judgment against Defendant. As noted above, Defendant did not contest, and specifically admitted to, the violations of the Act set forth in the Complaint. Thus, even if Defendant's failure to appear at trial were excusable, she clearly cannot present a meritorious defense to the claims asserted by DOBI.

The Court also finds that the statutory penalty, surcharge, and attorney's fees and costs sought by DOBI are authorized by the Act and reasonable. N.J.S.A. 17:33A-5(b). At the argument of this matter, Defendant requested relief from the one-year suspension of her driver's license being sought by DOBI. The applicable statute states where a defendant has been found to have violated the provisions of the 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 or conviction." N.J.S.A. 39:6A-15. This language is mandatory. Accordingly, the Court finds that this sanction is appropriate. The Court therefore enters default judgment in favor of DOBI against Defendant.