

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF QUEENS

MATTHEW E. KELLER,

Plaintiff,

-against-

ST. JOHN'S UNIVERSITY, RSC
INSURANCE BROKERAGE, INC., AETNA
STUDENT HEALTH AGENCY INC., AND
AETNA LIFE INSURANCE CO.,

Defendants.

Index No. 723071/2025

**AFFIRMATION OF PAMELA S. C.
REYNOLDS, ESQ., IN SUPPORT OF ST.
JOHN'S UNIVERSITY'S ORDER TO
SHOW CAUSE FOR ADJOURNMENT
OF PLAINTIFF'S ORDER TO SHOW
CAUSE**

Pamela S.C. Reynolds, does hereby affirm under the penalties of perjury pursuant to CPLR § 2106 as follows:

1. I am a Shareholder with the firm Littler Mendelson, P.C., attorneys for Defendant St. John's University in the above-captioned matter. As such, I have knowledge of the facts and circumstance set forth herein.

2. I make this Affirmation in support of St. John's University's motion by Order to Show Cause, which seeks adjournment of the Plaintiff's Order to Show Cause and Hearing, which is currently scheduled for September 11, 2025 at 2:00 p.m. [NYSCEF #25].

3. Pursuant to CPLR § 2004, the Court has discretion to extend the time fixed by any statute upon such terms as may be just and upon good cause shown, including the terms an Order to Show Cause [*see Matter of State of New York v. Robert C.*, 113 A.D.3d 937 (3d Dep't 2014); *Hendeles v Preferred Contractors Ins. Co. RRG, LLC*, 167 A.D.3d 581, 582 (2d Dep't 2018)].

4. The requested adjournment is sought in good faith and without any intent to unduly delay this matter.

5. St. John's University requests an adjournment of the court appearance to allow time to prepare its defense in this matter.¹ Among other things, witnesses with knowledge in connection with the allegations in this matter, and who may provide affidavits in support of St. John's University's defense, have been or will be on vacation during the time that St. John's University is preparing its defense, hindering St. John's University's ability to fully prepare for an appearance on September 11, 2025.

6. Additionally, I have communicated with representatives for Defendants RSC Insurance Brokerage, Inc., Aetna Student Health Agency Inc., and Aetna Life Insurance Co., and upon information and belief, those Defendants have not received service of the Summons and Complaint or the Order to Show Cause in this matter, even though Plaintiff has filed Affirmations of Service stating that they have been served. Therefore, Defendants RSC Insurance Brokerage, Inc., Aetna Student Health Agency Inc., and Aetna Life Insurance Co. have authorized me to state, for purposes of this Order to Show Cause, that they join in this request for adjournment without waiving service of the Summons, Complaint, and Order to Show Cause, or any defenses that they may have in this matter.

7. I spoke with Plaintiff Matthew E. Keller on September 3, 2025, regarding the adjournment requested herein, and he stated that he is not agreeable with the request.² Therefore,

¹ St. John's University has received copies of documents filed in this action but does not waive any defenses it has challenging whether service of the Order to Show Cause, or the Summons and Complaint, or any other documents, was proper.

² I also informed Plaintiff on September 4, 2025, that there is no express or implied private right of action under New York Insurance Law § 4224, the law on which his two causes of action are based [*see* NYSCEF # 1 at 4-5], rendering his Complaint subject to dismissal [*see Sparkes v. Morrison & Foerster Long-Term Disability Ins. Plan*, 129 F. Supp. 2d 182, 188 (N.D.N.Y. 2001) (dismissing an individual plaintiff's claim asserted under Insurance Law § 4224 on the basis that there is no express or implied private right of action under that statute). *See also Friedman v. New York Life Ins. and Annuity Corp.*, 143 A.D.3d 939, 941 (2d Dep't 2016) (finding that the trial court "properly determined that there is no private right of action, express or implied, under Insurance Law § 4224") (citing, *inter alia*, *Sparkes*)]. On this basis, I requested that Plaintiff withdraw his

St. John's University is making the request to the Court in the form of an Order to Show Cause in light of the short time frame between now and the appearance date.

WHEREFORE, for the reasons stated above, Defendant St. John's University, joined by the other Defendants, respectfully requests that the Court adjourn Plaintiff's Order to Show Cause and Hearing scheduled for September 11, 2025, at 2:00 p.m., and grant such other and further relief as the Court deems just and proper.

I affirm under penalties of perjury under the laws of the State of New York, which may include a fine or imprisonment, that the foregoing is true, and I understand that this document may be filed in an action or proceeding in a court of law.

Dated: September 8, 2025
Fairport, New York

LITTLER MENDELSON, P.C.

By: /s/ Pamela S. C. Reynolds
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Complaint and discontinue this action and Order to Show Cause so as not to waste the time and resources of the Court and the parties, but he declined to do so.