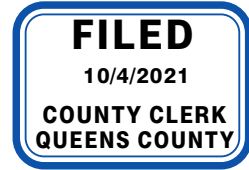


SHORT FORM ORDER

SUPREME COURT OF THE STATE OF NEW YORK - QUEENS COUNTY

Present: Honorable KARINA E. ALOMAR
Justice



-----X
CHIAN TIEN YANG,

IAS PART 23

Index No.: 725077/2020
Motion Date.: 9/09/2021
Motion Seq. No. :1

Plaintiff,

-against-

MOUNTAIN VALLEY INSURANCE COMPANY &
NATIONAL GENERAL INSURANCE COMPANY,

Defendant.

-----X

The following numbered papers were read by this Court on the motion filed by Defendants seeking dismissal of the action for failure to state a cause of action pursuant to CPLR 3211 (a)(1) and (7).

| PAPERS | NUMBERED |
|---|----------|
| Notice of Motion, Affidavit, Exhibits | EF 4-8 |
| Answering Affidavit, Exhibits..... | EF 11-16 |
| Reply, Exhibit..... | EF 17-18 |

Upon the foregoing cited papers, it is ordered that this motion is determined as follows:

Defendants' motion to dismiss the complaint for failure to state a cause of action is granted. The statute of limitation time frame set forth in section number eight (8) of the contract between the parties' clearly states that a suit action is to be brought within twelve months from the date of loss. It is undisputed that the date of loss herein was January 7, 2018. The within action was thereafter commenced on December 23, 2020, thirty five (35) months after the date of loss; a fact Plaintiff does not dispute.

Therefore, based on documentary evidence presented by the Defendant namely a copy of the policy it is conclusively established that the within suit is time barred. *See, Piliaskas v Mountain Valley Insurance Indemnity Company*, 174 AD3d 757 (2019).

The foregoing constitutes the Decision and Order of the Court.
Dated: September 28, 2021

KARINA E. ALOMAR, J.S.C.