

**Hertz Vehs., LLC v Active United Care Physical
Therapy, PLLC**

2026 NY Slip Op 30669(U)

February 24, 2026

Supreme Court, New York County

Docket Number: Index No. 160369/2023

Judge: Matthew V. Grieco

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This opinion is uncorrected and not selected for official publication.

SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY

PRESENT: HON. MATTHEW V. GRIECO PART 30M

Justice

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HERTZ VEHICLES, LLC,

Plaintiff,

- v -

ACTIVE UNITED CARE PHYSICAL THERAPY, PLLC, ALL CITY FAMILY HEALTHCARE, INC., AMERIPATH NEW YORK, LLC, BEST CARE WELLNESS CENTER, LLC, BETTER SOON RX, INC., CCCP EQUIPMENT, INC., CHAYIM MED PRODUCTS CORP., CHIROPRACTIC EVALUATION SERVICE, P.C., ERNEST BONAPARTE, FAR ROCKAWAY MEDICAL, P.C., GARDEN MEDICAL CARE, P.C., HOLLIS DRUGS, INC., KENCO CARE SUPPLY CORP., ONE HAND 1 PHYSICAL THERAPY, P.C., OPTIMAL HEALTH CHIROPRACTIC AND ACPUNCTURE, P.C., REFUAH DIAGNOSTICS, LLC, SENECA AVENUE ACUPUNCTURE, P.C., STAR MEDICAL IMAGING, P.C., TITAN DIAGNOSTIC IMAGING SERVICES, INC., TOTAL ANESTHESIA PROVIDER, P.C., DEJA TAITT, DUVON RUSSELL, JARIUF PLEASANTS

Defendant.

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The following e-filed documents, listed by NYSCEF document number (Motion 002) 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85

were read on this motion to/for

AMEND CAPTION/PLEADINGS

DECISION + ORDER ON MOTION

Upon the foregoing documents, and for the reasons stated infra, plaintiff's motion to amend the pleadings is granted.

Plaintiff, Hertz Vehicles, LLC, moves pursuant to CPLR 3025(b) for leave to amend the pleadings to add as defendants Chai Diagnostics LLC, Diagnostic Neurology, P.C., and Longevity Medical Supply. Inc.

On October 24, 2023, plaintiff commenced this action for a declaratory judgment that it owes no duty to pay any no-fault claims arising out of an alleged motor vehicle collision on December 18, 2022, on the ground that defendants claimants Jariuf Pleasants, Deja Taitt, and Duvon Russell did not comply with their obligations concerning examinations under oath, which constituted breaches of a condition precedent, vitiating coverage (NYSCEF Doc. No. 1 [Summons and Complaint]). Plaintiff filed an amended complaint as of right on November 16, 2023 (NYSCEF Doc. No. 3; *see* CPLR 3025[a]). By order entered March 19, 2025, the Court (Arthur F. Engoran, J.) granted default judgment against the non-answering defendants: the three claimants and multiple medical providers (NYSCEF Doc. No. 70 [Decision and Order]).

Plaintiff now seeks leave to file and serve a second amended complaint (NYSCEF Doc. No. 77 [Proposed Second Amended Summons and Complaint]) to add as defendants three providers it asserts were previously unknown to it and from which it has recently received medical bills for services purportedly rendered to the claimants (NYSCEF Doc. No. 73 [Aff. in Support of Motion]; Doc. No. 75 [Aff. of Hertz Claims Adjuster]). The motion is unopposed.

Leave to amend a pleading should be freely granted, absent prejudice to the non-moving party (*see Davis v South Nassau Communities Hosp.*, 26 NY3d 563, 580 [2015]; CPLR 3025[b]). Prejudice requires some indication that the defendants have been hindered in the preparation of their case or have been prevented from taking some measure in support of their position (*see Kocourek v Booz Allen Hamilton, Inc.*, 85 AD3d 502, 504 [1st Dept 2011]). Even under that liberal standard, however, the proposed pleading must not be devoid of merit (*see id.*; *Reyes v BSP Realty Corp.*, 171 AD3d 504 [1st Dept 2019]) and there must be “appropriate substantiation” as

circumstances dictate (*Hoppe v Bd. of Directors of 51-78 Owners Corp.*, 49 AD3d 477 [1st Dept 2008]; see *Briggs v New York City Tr. Auth.*, 132 AD2d 451 [1st Dept 1987] [affidavit of merits needed to explain reasons for delay and facts warranting increased ad damnum clause]; *Velarde v City of New York*, 149 AD3d 457 [1st Dept 2017] [evidentiary proof that could be considered on a motion for summary judgment required to show defendants acted recklessly or in concert with assailant, rather than negligently]).

Here, plaintiff's submissions, including an affirmation from its claims adjuster, establish the reason for the delay in naming the new defendants and the merits of the proposed pleading.

Accordingly, it is

ORDERED that the plaintiff's motion for leave to amend the amended complaint is granted; and it is further

ORDERED that the second amended complaint, in the form annexed to the motion papers, shall be deemed served upon service of a copy of this order with notice of entry upon all parties who have appeared in the action; and it is further

ORDERED that a supplemental summons and second amended complaint, in the form annexed to the motion papers, shall be served, in accordance with the Civil Practice Law and Rules, upon the additional parties in this action within 30 days after service of a copy of this order with notice of entry; and it is further

ORDERED that the action shall bear the following caption:

HERTZ VEHICLES, LLC

Plaintiff(s),

-against-

ACTIVE UNITED CARE PHYSICAL THERAPY PLLC, ALL CITY FAMILY HEALTHCARE, INC., AMERIPATH NEW YORK LLC, BEST CARE WELLNESS CENTER LLC, BETTER SOON RX INC., CCCP EQUIPMENT, INC., CHAYIM MED PRODUCTS CORP, CHIROPRACTIC EVALUATION SERVICE, P.C., ERNEST BONAPARTE, ETMC PHARMACY, INC., EXPRESS DME, INC., FAR ROCKAWAY MEDICAL P.C., GARDEN MEDICAL CARE, P.C., HOLLIS DRUGS INC., KENCO CARE SUPPLY CORP, ONE HAND 1 PHYSICAL THERAPY P.C., OPTIMAL HEALTH CHIROPRACTIC AND ACUPUNCTURE P.C., REFUAH DIAGNOSTICS LLC, SENECA AVENUE ACUPUNCTURE P.C., STAR MEDICAL IMAGING P.C., TITAN DIAGNOSTIC IMAGING SERVICES INC., TOTAL ANESTHESIA PROVIDER P.C., CHAI DIAGNOSTICS LLC, DIAGNOSTIC NEUROLOGY, P.C., LONGEVITY MEDICAL SUPPLY, INC., DEJA TAITT, DUVON RUSSELL and JARIUF PLEASANTS

Defendant(s).

And it is further

ORDERED that counsel for the moving party shall serve a copy of this order with notice of entry upon the County Clerk and the Clerk of the General Clerk's Office, who are directed to mark the court's records to reflect the parties being added pursuant hereto; and it is further

ORDERED that such service upon the County Clerk and the Clerk of the General Clerk's Office shall be made in accordance with the procedures set forth in the Protocol on Courthouse and County Clerk Procedures for Electronically Filed Cases (accessible at the "E-Filing" page on the court's website).

2/24/2026

DATE

MATTHEW V. GRIECO, J.S.C.

CHECK ONE:

CASE DISPOSED

GRANTED

SETTLE ORDER

INCLUDES TRANSFER/REASSIGN

DENIED

NON-FINAL DISPOSITION

GRANTED IN PART

SUBMIT ORDER

FIDUCIARY APPOINTMENT

OTHER

REFERENCE