

<b>American States Ins. Co. v Smalls</b>
2026 NY Slip Op 30973(U)
March 9, 2026
Supreme Court, New York County
Docket Number: Index No. 655876/2025
Judge: James G. Clynes
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SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY

PRESENT: HON. JAMES G. CLYNES PART 39M

Justice

-----X

AMERICAN STATES INSURANCE COMPANY, SAFECO
INSURANCE COMPANY,

Plaintiff,

INDEX NO. 655876/2025

MOTION DATE 12/15/2025

MOTION SEQ. NO. 001

- v -

JAVONNE SMALLS, SHALENA PANNELL, TRAVIS
JOHNSON, ALEMAN CHIROPRACTIC SERVICES, AMSC
LLC, ANDREW HALL MD PLLC, ANGELA PLISCHTEJEW,
AZ CARE PT PC, BODY LOGICS PT, PC, CENTRAL RX
PHARMACY, CENTURION MIDTOWN ANESTHESIA
PC, CHESTER MEDICAL SERVICE, PC, EAST MIDWOOD
MEDICAL PC, EAST TREMONT MEDICAL CENTER, FIFTH
AVENUE SURGERY CENTER LLC, INSTA RX INC, KINGS
DIAGNOSTIC MEDICAL PC, LEVY'S PHARMACY INC,
MARCO EQUIPMENT INC, MEDEX DIAGNOSTIC AND
TREATMENT, MIDDLE NECK MED SUPPLY INC, NEW
YORK MEDICAL & DIAGNOSTIC, NEXTSTEP HEALING
INC, PHARMACY ON GRAND, INC, QUEENS MEDICAL
PROFESSIONAL PC, RIGHT CHOICE SUPPLY INC,
SEDATION VACATION PERIOPERATIV, SUNRISE
HEALING SUPPLY SERVICE, ULTIMATE RX PHARMACY
INC, UPTOWN REHABILITATION PT PC

DECISION + ORDER ON
MOTION

Defendant.

-----X

The following e-filed documents, listed by NYSCEF document number (Motion 001) 8, 9, 10, 11, 12, 13,
16, 17

were read on this motion to/for LEAVE TO FILE

Upon the foregoing documents, the motion by plaintiffs AMERICAN STATES
INSURANCE COMPANY and SAFECO INSURANCE COMPANY for an Order pursuant to
CPLR 1003 and CPLR 3025(b) granting leave to amend the summons and complaint to add
medical provider defendant NEW YORK MEDICAL & DIAGNOSTIC CARE PC name and
address, adding individual defendants JAVONNE SMALLS, SHALENA PANNELL and
TRAVIS JOHNSON names and addresses to the summons and effectuating service of the
amended summons and complaint. Plaintiff's motion is granted without opposition.

Plaintiffs move seeking leave to amend the summons and complaint to add medical
provider defendant NEW YORK MEDICAL & DIAGNOSTIC CARE PC name and address,

adding individual defendants JAVONNE SMALLS, SHALENA PANNELL and TRAVIS JOHNSON names and addresses to the summons and effectuating service of the amended summons and complaint. Plaintiffs contend that there will be no prejudice or surprise to the defendants in this action as discovery has not stated and there is no evidence that granting this motion would result in defendants losing any rights, changing their positions or incurring significant expense. Plaintiffs further contends that the original summons and complaint included the medical provider defendant, NEW YORK MEDICAL & DIAGNOSTIC CENTER, INC, at 80-46 Kew Gardens Rd, Kew Gardens, NY 11415 and that the correct name and address for this defendant is NEW YORK MEDICAL & DIAGNOSTIC CARE PC., at 240-06 Hillside Ave., Hollis, NY 11423; that the individual defendants name and addresses were inadvertently omitted from the Summons; and that there is no prejudice or surprise to the defendants in this action if service of the supplemental summons and amended complaint is made.

Pursuant to CPLR § 3025(b), “[a] party may amend his pleading, or supplement it by setting forth additional or subsequent transactions or occurrences, at any time by leave of court or by stipulation of all parties.” Leave to amend pleadings is generally freely granted, absent prejudice and surprise resulting from the delay. *See Edenwald Contr. Co. v City of New York*, 60 NY2d 957, 959 (1983); *Antwerpse Diamantbank N.V. v Nissel*, 27 AD3d 207, 208 (1st Dept 2006). To find prejudice, there must be some indication that the defendant has been hindered in the preparation of his case or prevented from taking some measure in support of his position. *See Abdelnabi v NYC Transit Authority*, 273 AD2d 114, 115 (1st Dept 2000).

Here, plaintiff’s motion for leave to amend the summons and complaint to add medical provider defendant NEW YORK MEDICAL & DIAGNOSTIC CARE PC name and address, adding individual defendants JAVONNE SMALLS, SHALENA PANNELL and TRAVIS JOHNSON names and addresses to the summons and effectuating service of the amended summons and complaint Will not result in prejudice or surprise and nor will effectuating service of the amended summons and complaint upon the defendants in this action . Accordingly, it is hereby

ORDERED that the motion by plaintiffs for leave to amend is granted without opposition; and it is further

ORDERED that the 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 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:

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK

-----X  
AMERICAN STATES INSURANCE COMPANY and  
SAFECO INSURANCE COMPANY,

Index No.: 655876/2025

Plaintiffs,

-against-

JAVONNE SMALLS  
SHALENA PANNELL  
TRAVIS JOHNSON

Individual Defendants,

and

ALEMAN CHIROPRACTIC SERVICES  
AMSC LLC  
ANDREW HALL MD PLLC  
ANGELA PLISCHTEJEW  
AZ CARE PT PC  
BODY LOGICS PT, PC  
CENTRAL RX PHARMACY  
CENTURION MIDTOWN ANESTHESIA PC  
CHESTER MEDICAL SERVICE, PC  
EAST MIDWOOD MEDICAL PC  
EAST TREMONT MEDICAL CENTER  
FIFTH AVENUE SURGERY CENTER LLC  
INSTA RX INC  
KINGS DIAGNOSTIC MEDICAL PC  
LEVY'S PHARMACY INC  
MARCO EQUIPMENT INC MEDEX  
DIAGNOSTIC AND TREATMENT  
NEW YORK MEDICAL & DIAGNOSTIC CARE PC

NEXTSTEP HEALING INC  
PHARMACY ON GRAND, INC  
QUEENS MEDICAL PROFESSIONAL PC  
RIGHT CHOICE SUPPLY INC  
SEDATION VACATION PERIOPERATIV  
SUNRISE HEALING SUPPLY SERVICE  
ULTIMATE RX PHARMACY INC  
UPTOWN REHABILITATION PT PC

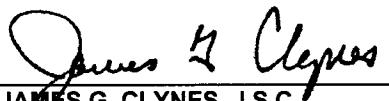
Medical Provider Defendants,  
Collectively, The Defendants.

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 at the address (www.nycourts.gov/supctmanh)).

This constitutes the Decision and Order of the Court.

<u>3/9/2026</u> DATE	 JAMES G. CLYNES, J.S.C.			
CHECK ONE:	<input type="checkbox"/>	CASE DISPOSED	<input checked="" type="checkbox"/>	NON-FINAL DISPOSITION
	<input checked="" type="checkbox"/>	GRANTED	<input type="checkbox"/>	DENIED
APPLICATION:	<input type="checkbox"/>	SETTLE ORDER	<input type="checkbox"/>	GRANTED IN PART
CHECK IF APPROPRIATE:	<input type="checkbox"/>	INCLUDES TRANSFER/REASSIGN	<input type="checkbox"/>	SUBMIT ORDER
			<input type="checkbox"/>	FIDUCIARY APPOINTMENT
			<input type="checkbox"/>	OTHER
			<input type="checkbox"/>	REFERENCE