

**Davidoff Law Firm, PLLC v Ellwood City Med. Ctr.,  
LLC**

2019 NY Slip Op 32002(U)

July 10, 2019

Supreme Court, New York County

Docket Number: 650376/2019

Judge: Debra A. James

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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. DEBRA A. JAMES PART IAS MOTION 59EFM**

*Justice*

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**INDEX NO. 650376/2019**

DAVIDOFF LAW FIRM, PLLC and JONATHAN DAVIDOFF,

**MOTION DATE 02/15/2019**

Plaintiff,

**MOTION SEQ. NO. 001**

- v -

ELLWOOD CITY MEDICAL CENTER, LLC, GRANT WHITE,  
AMERICORE HEALTH, LLC, PINEVILLE MEDICAL CENTER,  
LLC, IZARD COUNTY MEDICAL CENTER, LLC D/B/A  
COMMUNITY MEDICAL CENTER CLINIC OF CALICO ROCK  
D/B/A COMMUNITY MEDICAL CENTER OF HORSESHOE BEND  
D/B/A COMMUNITY MEDICAL CENTER CLINIC OF  
MELBOURNE, AH OF IZARD COUNTY, LLC, AMERICORE  
HEALTH ENTERPRISES, LLC, PINEVILLE COMMUNITY  
HOSPITAL ASSOCIATION, LLC D/B/A TOTAL CARE PHARMACY  
PCH D/B/A TOTAL CARE RURAL CLINIC and ELLWOOD CITY  
HOSPITAL,

**DECISION AND ORDER**

Defendant.

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The following e-filed documents, listed by NYSCEF document number (Motion 001) 2, 9

were read on this motion for SUMMARY JUDGMENT (BEFORE JOIND)

Upon the foregoing documents, it is

In this action seeking damages for breach of a settlement agreement, plaintiffs DAVIDOFF LAW FIRM, PLLC and JONATHAN DAVIDOFF moves for summary judgment in lieu of complaint under CPLR 3213 against defendants ELLWOOD CITY MEDICAL CENTER, LLC, GRANT WHITE, AMERICORE HEALTH, LLC, PINEVILLE MEDICAL CENTER, LLC, IZARD COUNTY MEDICAL CENTER, LLC D/B/A COMMUNITY MEDICAL CENTER CLINIC OF CALICO ROCK D/B/A COMMUNITY MEDICAL CENTER OF HORSESHOE BEND D/B/A COMMUNITY MEDICAL CENTER CLINIC OF MELBOURNE, AH OF IZARD COUNTY, LLC, AMERICORE HEALTH ENTERPRISES, LLC, PINEVILLE COMMUNITY HOSPITAL ASSOCIATION, LLC D/B/A TOTAL CARE PHARMACY PCH D/B/A TOTAL CARE RURAL CLINIC and

ELLWOOD CITY HOSPITAL. Plaintiffs submit a copy of the settlement agreement signed by the defendants in addition to an affidavit as to the terms thereof and defendants' failure to pay thereupon. Plaintiffs submit proof of service of this application upon the defendant.

The court determines that this action "is based upon an instrument for the payment of money only" pursuant to CPLR 3213 and that the other requirements of the statute have been met. Therefore, plaintiffs' motion shall be granted on default as defendants have not appeared or submitted papers on the motion.

Accordingly, it is hereby

ORDERED that plaintiffs' motion for a default judgment against defendants ELLWOOD CITY MEDICAL CENTER, LLC, GRANT WHITE, AMERICORE HEALTH, LLC, PINEVILLE MEDICAL CENTER, LLC, IZARD COUNTY MEDICAL CENTER, LLC D/B/A COMMUNITY MEDICAL CENTER CLINIC OF CALICO ROCK D/B/A COMMUNITY MEDICAL CENTER OF HORSESHOE BEND D/B/A COMMUNITY MEDICAL CENTER CLINIC OF MELBOURNE, AH OF IZARD COUNTY, LLC, AMERICORE HEALTH ENTERPRISES, LLC, PINEVILLE COMMUNITY HOSPITAL ASSOCIATION, LLC D/B/A TOTAL CARE PHARMACY PCH D/B/A TOTAL CARE RURAL CLINIC and ELLWOOD CITY HOSPITAL is granted; and it is further

ORDERED that the Clerk of the Court is directed to enter judgment in favor of the plaintiffs DAVIDOFF LAW FIRM, PLLC and JONATHAN DAVIDOFF and against defendants ELLWOOD CITY MEDICAL CENTER, LLC, GRANT WHITE, AMERICORE HEALTH, LLC, PINEVILLE MEDICAL CENTER,

LLC, IZARD COUNTY MEDICAL CENTER, LLC D/B/A COMMUNITY MEDICAL CENTER CLINIC OF CALICO ROCK D/B/A COMMUNITY MEDICAL CENTER OF HORSESHOE BEND D/B/A COMMUNITY MEDICAL CENTER CLINIC OF MELBOURNE, AH OF IZARD COUNTY, LLC, AMERICORE HEALTH ENTERPRISES, LLC, PINEVILLE COMMUNITY HOSPITAL ASSOCIATION, LLC D/B/A TOTAL CARE PHARMACY PCH D/B/A TOTAL CARE RURAL CLINIC and ELLWOOD CITY HOSPITAL in the principal sum of \$75,000.00, with interest of \$ \_\_\_\_\_ at the statutory rate as prayed for from the date of January 15, 2019 until the date of entry of judgment, as calculated by the Clerk, together with costs and disbursements as taxed by the Clerk of \$ \_\_\_\_\_, for a total of \$ \_\_\_\_\_ ; and it is further

ORDERED that the issue of attorney's fees to be assessed against defendants ELLWOOD CITY MEDICAL CENTER, LLC, GRANT WHITE, AMERICORE HEALTH, LLC, PINEVILLE MEDICAL CENTER, LLC, IZARD COUNTY MEDICAL CENTER, LLC D/B/A COMMUNITY MEDICAL CENTER CLINIC OF CALICO ROCK D/B/A COMMUNITY MEDICAL CENTER OF HORSESHOE BEND D/B/A COMMUNITY MEDICAL CENTER CLINIC OF MELBOURNE, AH OF IZARD COUNTY, LLC, AMERICORE HEALTH ENTERPRISES, LLC, PINEVILLE COMMUNITY HOSPITAL ASSOCIATION, LLC D/B/A TOTAL CARE PHARMACY PCH D/B/A TOTAL CARE RURAL CLINIC and ELLWOOD CITY HOSPITAL is referred for determination pursuant CPLR 3215 (b) to a Special Referee and that within 60 days from the date of this Order the plaintiff shall cause a copy of this order with notice of entry, including proof of service thereof, to be filed with the Special Referee clerk (Room 119M, 646-386-3028 or

spref@courts.state.ny.us) to arrange a date for a reference to determine pursuant to CPLR 4317 (b); and it is further

ORDERED and ADJUDGED that pursuant to CPLR 3215 (b) the Clerk is directed to enter judgment in favor of plaintiffs DAVIDOFF LAW FIRM, PLLC and JONATHAN DAVIDOFF and against defendants ELLWOOD CITY MEDICAL CENTER, LLC, GRANT WHITE, AMERICORE HEALTH, LLC, PINEVILLE MEDICAL CENTER, LLC, IZARD COUNTY MEDICAL CENTER, LLC D/B/A COMMUNITY MEDICAL CENTER CLINIC OF CALICO ROCK D/B/A COMMUNITY MEDICAL CENTER OF HORSESHOE BEND D/B/A COMMUNITY MEDICAL CENTER CLINIC OF MELBOURNE, AH OF IZARD COUNTY, LLC, AMERICORE HEALTH ENTERPRISES, LLC, PINEVILLE COMMUNITY HOSPITAL ASSOCIATION, LLC D/B/A TOTAL CARE PHARMACY PCH D/B/A TOTAL CARE RURAL CLINIC and ELLWOOD CITY HOSPITAL in accordance with the report of the aforementioned Special Referee without any further application.

**JUL 10 2019**

DATE

*Debra A. James, J.S.C.*  
DEBRA A. JAMES, J.S.C.

CHECK ONE:

CASE DISPOSED

NON-FINAL DISPOSITION

GRANTED

DENIED

GRANTED IN PART

OTHER

APPLICATION:

SETTLE ORDER

SUBMIT ORDER

CHECK IF APPROPRIATE:

INCLUDES TRANSFER/REASSIGN

FIDUCIARY APPOINTMENT

REFERENCE