

**PV Holding Corp. v Wellness Diagnostic Imaging,  
P.C.**

2019 NY Slip Op 32629(U)

September 5, 2019

Supreme Court, New York County

Docket Number: 159556/2018

Judge: W. Franc Perry

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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. W. FRANC PERRY PART IAS MOTION 23EFM

Justice

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INDEX NO. 159556/2018  
MOTION DATE 6/11/2019  
MOTION SEQ. NO. 001

PV HOLDING CORP. INCLUDING ALL OF ITS  
SUBSIDIARIES AND AFFILIATES, INCLUDING BUT NOT  
LIMITED TO AVIS BUDGET, LLC, AVIS CAR RENTAL,  
LLC, BUDGET CAR RENTAL, LLC, BUDGET TRUCK  
RENTAL, LLC, PAYLESS CAR RENTAL, INC. AND  
ZIPCAR, INC., Plaintiff,

- v -

WELLNESS DIAGNOSTIC IMAGING, P.C., PREFERRED  
MEDICAL, P.C., VALLEY ACUPUNCTURE, SYNERGY  
HEALTH CHIROPRACTIC, P.C., LAGUNA  
CHIROPRACTIC, P.C., SPRING REHAB P.T., P.C.,  
BRADLEY WASSERMAN, M.D., P.L.L.C., LENOX HILL  
RADIOLOGY AND MEDICAL IMAGING ASSOCIATES,  
P.C., EAST SIDE PRIMARY MEDICAL CARE, P.C.,  
PROTECHMED, INC., METROPOLITAN SURGICAL  
SERVICES, ROXBURY ANESTHESIA, L.L.C., ALEXIOS  
APAZIDIS, M.D., P.C., PARAMOUNT MEDICAL  
SERVICES, SPIRIT NY ACUPUNCTURE, WENDELL  
JOSPEH GORUM, M.D., MYRTLE AVENUE TRADING,  
LLC, MARC ALONY,  
Defendants.

DECISION, ORDER AND  
JUDGMENT

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The following e-filed documents, listed by NYSCEF document number (Motion 001) 26, 27, 28, 29, 30,  
31, 32, 33, 34, 35, 36, 37, 38

were read on this motion to/for JUDGMENT - DEFAULT

Plaintiff, PV HOLDING CORP. INCLUDING ALL OF ITS SUBSIDIARIES AND  
AFFILIATES, INCLUDING BUT NOT LIMITED TO AVIS BUDGET, LLC, AVIS CAR  
RENTAL, LLC, BUDGET CAR RENTAL, LLC, BUDGET TRUCK RENTAL, LLC,  
PAYLESS CAR RENTAL, INC. and ZIPCAR, INC., having duly moved this Court for an Order  
(1) pursuant to CLPR 3215 seeking a default judgment against WELLNESS DIAGNOSTIC  
IMAGING, P.C., SYNERGY HEALTH CHIROPRACTIC, P.C., LAGUNA CHIROPRACTIC,  
P.C., SPRING REHAB P.T., P.C., BRADLEY WASSERMAN, M.D., P.L.L.C., EAST SIDE  
PRIMARY MEDICAL CARE, P.C., METROPOLITAN SURGICAL SERVICES, ROXBURY

ANESTHESIA, L.L.C., ALEXIOS APAZIDIS, M.D., P.C., PARAMOUNT MEDICAL SERVICES, SPIRIT NY ACUPUNCTURE, and MYRTLE AVENUE TRADING, LLC, (2) pursuant to CPLR 3025(b) granting plaintiff leave to amend the complaint to add PREFERRED MEDICAL, P.C., and VALLEY ACUPUNCTURE, P.C., as additional defendants; and (3) pursuant to CPLR 3217(b), discontinuing the action as against WENDELL JOSPEH GORUM, M.D.; and

UPON reading and filing the Notice of Motion dated May 13, 2019, the Affirmation of Kyeko Stewart., Esq., in support of the motion, duly affirmed on May 13, 2019, the Affirmation of David F. Boucher Jr., Esq., duly affirmed on March 29, 2019, the Affidavit of Merit of John Kovacik, duly sworn to on March 30, 2019, all with the exhibits annexed thereto, in support, all with proof of service thereof, and no opposition having been filed, and

NOW upon the motion of Rubin, Fiorella, Friedman & Mercante, LLP, attorneys for plaintiff, it is hereby

ORDERED and ADJUDGED that plaintiff's motion for default judgment is granted and the plaintiff has no duty to pay any No-Fault benefits in the form of sums, monies, damages, awards or benefits to WELLNESS DIAGNOSTIC IMAGING, P.C., SYNERGY HEALTH CHIROPRACTIC, P.C., LAGUNA CHIROPRACTIC, P.C., SPRING REHAB P.T., P.C., BRADLEY WASSERMAN, M.D., P.L.L.C., EAST SIDE PRIMARY MEDICAL CARE, P.C., METROPOLITAN SURGICAL SERVICES, ROXBURY ANESTHESIA, L.L.C., ALEXIOS APAZIDIS, M.D., P.C., PARAMOUNT MEDICAL SERVICES, SPIRIT NY ACUPUNCTURE, and MYRTLE AVENUE TRADING, LLC, their agents, employees, assignees or heirs arising out of any current or future proceeding, including without limitation, arbitrations and lawsuits seeking to recover No-Fault benefits with respect to the collision that

occurred on June 3, 2017, referenced in the complaint, and referenced by claim number 178029001, and it is further

ORDERED and ADJUDGED that all No-Fault lawsuits, arbitrations, awards, and claims filed by WELLNESS DIAGNOSTIC IMAGING, P.C., SYNERGY HEALTH CHIROPRACTIC, P.C., LAGUNA CHIROPRACTIC, P.C., SPRING REHAB P.T., P.C., BRADLEY WASSERMAN, M.D., P.L.L.C., EAST SIDE PRIMARY MEDICAL CARE, P.C., METROPOLITAN SURGICAL SERVICES, ROXBURY ANESTHESIA, L.L.C., ALEXIOS APAZIDIS, M.D., P.C., PARAMOUNT MEDICAL SERVICES, SPIRIT NY ACUPUNCTURE, and MYRTLE AVENUE TRADING, LLC, arising from the June 3, 2017, loss referenced in the complaint, and referenced by claim number 178029001, are hereby stayed, and it is further

ORDERED that plaintiff's motion seeking leave to amend the Complaint to add PREFERRED MEDICAL, P.C., and VALLEY ACUPUNCTURE, P.C., as additional defendants is granted; and it is further

ORDERED that the Amended Verified Complaint, in the form annexed to the motion papers (NYSCEF DOC. NO. 35), 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 the Amended Summons, and the Amended Verified Complaint, in the form annexed to the motion papers, shall be served by movant, in accordance with the Civil Practice Law and Rules, upon the additional parties, PREFERRED MEDICAL, P.C., and VALLEY ACUPUNCTURE, P.C., 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:

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PV HOLDING CORP. INCLUDING ALL OF ITS SUBSIDIARIES  
AND AFFILIATES, INCLUDING BUT NOT LIMITED TO AVIS  
BUDGET, LLC, AVIS CAR RENTAL, LLC, BUDGET CAR  
RENTAL, LLC, BUDGET TRUCK RENTAL, LLC, PAYLESS CAR  
RENTAL, INC. AND ZIPCAR, INC.,

Plaintiff,

-v-

WELLNESS DIAGNOSTIC IMAGING, P.C., PREFERRED  
MEDICAL, P.C., SYNERGY HEALTH CHIROPRACTIC, P.C.,  
LAGUNA CHIROPRACTIC, P.C., SPRING REHAB P.T., P.C.,  
BRADLEY WASSERMAN, M.D., P.L.L.C., LENOX HILL  
RADIOLOGY AND MEDICAL IMAGING ASSOCIATES, P.C.,  
EAST SIDE PRIMARY MEDICAL CARE, P.C., PROTECHMED,  
INC., METROPOLITAN SURGICAL SERVICES, ROXBURY  
ANESTHESIA, L.L.C., ALEXIOS APAZIDIS, M.D., P.C.,  
PARAMOUNT MEDICAL SERVICES, SPIRIT NY  
ACUPUNCTURE, WENDELL JOSPEH GORUM, M.D., MYRTLE  
AVENUE TRADING, LLC, VALLEY ACUPUNCTURE, P.C., and  
MARC ALONY,

Defendants.

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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 (60 Centre Street, Room 141B) and the Clerk of the General Clerk's Office (60 Centre Street, Room 119), 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 <http://www.nycourts.gov/courts/ljd/supctmanh/>); and it is further

ORDERED that the action is discontinued as against WENDELL JOSPEH GORUM, M.D., and it is further

ORDERED that the action is severed and shall continue as against defendant MARC ALONY; and it is further

ORDERED that all parties shall appear for a preliminary conference on November 26, 2019, at the Courthouse located at 80 Centre St, Room 307, New York, New York at 9:30 AM.

This constitutes the decision, order and judgment of the Court.

9.5.19

DATE

W. FRANC PERRY, 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