

**State Farm Mut. Auto. Ins. Co. v All City Family
Healthcare Ctr., Inc.**

2023 NY Slip Op 32923(U)

August 22, 2023

Supreme Court, New York County

Docket Number: Index No. 157339/2021

Judge: Mary V. Rosado

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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. MARY V. ROSADO PART 33M

Justice

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STATE FARM MUTUAL AUTOMOBILE INSURANCE
COMPANY,

Plaintiff,

INDEX NO. 157339/2021

MOTION DATE 03/27/2023

MOTION SEQ. NO. 002

- v -

ALL CITY FAMILY HEALTHCARE CENTER, INC., AVK RX,
INC., BAY RIDGE ORTHOPEDIC ASSOCIATES, P.C.,
BNT-AMS CORP., CAVALLARO MEDICAL SUPPLY, INC.
A/K/A CALLAVARO MEDICAL SUPPLY, INC., COME
CHIROPRACTIC, P.C., CVAP MEDICAL, P.C., EAST COAST
MED GROUP, INC., EMMONS AVENUE MEDICAL OFFICE,
P.C., GOOD MEDICA, INC., GOTHAM MEDICINE,
P.C., HILLSIDE PRIMARY MEDICAL CARE, P.C., IDEAL
CARE PHARMACY, INC., INTEGRATIVE FAMILY HEALTH
NP, P.L.L.C., ISLAND AMBULATORY SURGERY CENTER,
L.L.C., KALFAYAN MEDICAL CARE, P.L.L.C., LENCO
DIAGNOSTIC LABORATORIES, INC., LONGEVITY
MEDICAL SUPPLY, INC., LR MEDICAL, P.L.L.C., LZ
GROUP MEDICAL SERVICES, P.C., MDCA PSYCHOLOGY
CARE, P.C., METROPOLITAN MEDICAL & SURGICAL P.C.
A/K/A METRO MEDICAL & SURGICAL, P.C., NEXRAY
MEDICAL IMAGING, P.C., NYC FAMILY HEALTH NP, P.C.,
OLD STAR, INC., PRECISE MEDICAL SOLUTIONS, L.L.C.,
PSG PSYCHOLOGY, P.L.L.C., PULMONARY AND SLEEP
MEDICAL, P.C., QUALITY CARE RX, INC., REHAB TIME
PT, P.C., RIBEIRO PAIN MANAGEMENT, P.L.L.C., RIGHT
CHOICE SUPPLY, INC., SEDATION VACATION
PERIOPERATIVE MEDICINE, P.L.L.C., NEXRAY MEDICAL
IMAGING, P.C. A/K/A SOUL RADIOLOGY, STAND-UP MRI
OF BENSONHURST, P.C., THERALOGICS, INC., SIMEON
ISSACS, M.D., MARK RITCH, D.O., P.A., MICHAEL
YURYEV, D.O., BHMC HOSPITAL, BROOKDALE
HOSPITAL MEDICAL CENTER, DANIEL ZENO, EVELYNE
VICTOR, PETERSON VICTOR, JOSE ORDONEZ, JOSE
ORDONEZ AUTO REPAIR AND BODY SHOP CORP,
JEEFRY METIVIER

Defendant.

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The following e-filed documents, listed by NYSCEF document number (Motion 002) 114, 115, 116, 117,
118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132

were read on this motion to/for AMEND CAPTION/PLEADINGS

**DECISION + ORDER ON
MOTION (AMENDED)**

Upon the foregoing documents, there being no opposition, and good cause having been shown, Plaintiff State Farm Mutual Automobile Insurance Company's ("Plaintiff") motion seeking to amend the Complaint to include AN Physician Assistant, P.C., Galaxy RX, Inc. and South Shore Osteopathic Medicine, P.C. as additional defendants is granted.

Leave to amend pleadings is freely granted in the absence of prejudice if the proposed amendment is not palpably insufficient as a matter of law (*Mashinsky v Drescher*, 188 AD3d 465 [1st Dept 2020]). A party opposing a motion to amend must demonstrate that it would be substantially prejudiced by the amendment, or the amendments are patently devoid of merit (*Greenburgh Eleven Union Free School Dist. V National Union Fire Ins. Co.*, 298 AD2d 180, 181 [1st Dept 2002]). Delay alone is not sufficient to deny leave to amend (*Johnson v Montefiore Medical Center*, 203 AD3d 462 [1st Dept 2022]).

Here, there is no opposition to Plaintiff's motion. Accordingly, there has been no demonstration of any prejudice that would result from Plaintiff's proposed amendment. Moreover, a preliminary conference has not yet taken place and this case is ostensibly in the early stages of discovery. As such, there has been no prejudice demonstrated by any of the Defendants. Therefore, Plaintiff's motion is granted.

Accordingly, it is hereby

ORDERED that Plaintiff State Farm Mutual Automobile Insurance Company's motion for leave to amend the Complaint is granted; and it is further

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ORDERED that this action shall bear the following caption:

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

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STATE FARM MUTUAL AUTOMOBILE INSURANCE
COMPANY,

Index No.: 157339/2021

Plaintiff,

-against-

ALL CITY FAMILY HEALTHCARE CENTER, INC., AVK
RX, INC., BAY RIDGE ORTHOPEDIC ASSOCIATES, P.C.,
BNT-AMS CORP., CAVALLARO MEDICAL SUPPLY, INC.
A/K/A CALLAVARO MEDICAL SUPPLY, INC., COME
CHIROPRACTIC, P.C., CVAP MEDICAL, P.C., EAST COAST
MED GROUP, INC., EMMONS AVENUE MEDICAL
OFFICE, P.C., GOOD MEDICA, INC., GOTHAM MEDICINE,
P.C., HILLSIDE PRIMARY MEDICAL CARE, P.C., IDEAL
CARE PHARMACY, INC., INTEGRATIVE FAMILY
HEALTH NP, P.L.L.C., ISLAND AMBULATORY
SURGERY CENTER, L.L.C., KALFAYAN MEDICAL
CARE, P.L.L.C., LENCO DIAGNOSTIC LABORATORIES,
INC., LONGEVITY MEDICAL SUPPLY, INC., LR
MEDICAL, P.L.L.C., LZ GROUP MEDICAL SERVICES,
P.C., MDCA PSYCHOLOGY CARE, P.C., METROPOLITAN
MEDICAL & SURGICAL P.C. A/K/A METRO MEDICAL &
SURGICAL, P.C., NEXRAY MEDICAL IMAGING, P.C.,
NYC FAMILY HEALTH NP, P.C., OLD STAR, INC.,
PRECISE MEDICAL SOLUTIONS, L.L.C., PSG
PSYCHOLOGY, P.L.L.C., PULMONARY AND SLEEP
MEDICAL, P.C., QUALITY CARE RX, INC., REHAB TIME
PT, P.C., RIBEIRO PAIN MANAGEMENT, P.L.L.C., RIGHT
CHOICE SUPPLY, INC., SEDATION VACATION
PERIOPERATIVE MEDICINE, P.L.L.C., NEXRAY
MEDICAL IMAGING, P.C. A/K/A SOUL RADIOLOGY,
STAND-UP MRI OF BENSONHURST, P.C.,
THERALOGICS, INC., SIMEON ISSACS, M.D., MARK
RITCH, D.O., P.A., MICHAEL YURYEV, D.O., BHMC
HOSPITAL, BROOKDALE HOSPITAL MEDICAL CENTER,
DANIEL ZENO, EVELYNE VICTOR, PETERSON VICTOR,
JOSE ORDONEZ, JOSE ORDONEZ AUTO REPAIR AND
BODY SHOP CORP, JEEFRY METIVIER. AN PHYSICIAN
ASSISTANT, P.C., GALAXY RX, INC., and SOUTH SHORE
OSTEOPATHIC MEDICINE, P.C.

Defendants

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And it is further,

ORDERED that AN Physician Assistant, P.C., Galaxy RX, Inc. and South Shore Osteopathic Medicine, P.C. be added to the caption in this matter as Defendants and that the parties and the Clerk of the Court are to ensure that the caption is amended on any future filings accordingly, and it is further

ORDERED that on or before September 15, 2023, the parties shall submit a proposed preliminary conference order via NYSCEF and e-mail to SFC-Part33-Clerk@nycourts.gov. If the parties are unable to agree upon a proposed preliminary conference order, the parties shall appear for an in-person preliminary conference on September 20, 2023 at 9:30 a.m. in 60 Centre Street, Room 442, New York, New York; and it is further

ORDERED that within 30 days of entry, counsel for Plaintiff shall serve a copy of this Decision and Order, with notice of entry, on all parties to this action and the Clerk of the Court; and it is further

ORDERED that the Clerk of the Court is directed to enter judgment accordingly.

This constitutes the Decision and Order of the Court.

<u>8/22/2023</u> DATE	<u>Mary V Rosado JSC</u> HON. MARY V. ROSADO, 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"/>	REFERENCE
			<input type="checkbox"/>	OTHER