

Dos Santos v Isomedix Operations Inc.

2025 NY Slip Op 34417(U)

November 19, 2025

Supreme Court, New York County

Docket Number: Index No. 150712/2023

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 59

Justice

-----X

JEAN COELHO DOS SANTOS,

Plaintiff,

INDEX NO. 150712/2023

MOTION DATE 11/19/2025

MOTION SEQ. NO. 003

- v -

ISOMEDIX OPERATIONS INC., STERIS ISOMEDIX
SERVICES, INC., STERIS CORPORATION, and V.
PAULIUS & ASSOCIATES,

**DECISION + ORDER ON
MOTION**

Defendants.

-----X

ISOMEDIX OPERATIONS INC., STERIS ISOMEDIX
SERVICES, INC., and STERIS CORPORATION,

Third-Party
Index No. 595636/2023

Third-Party Plaintiffs,

-against-

V. PAULIUS & ASSOCIATES,

Third-Party Defendant.

-----X

ISOMEDIX OPERATIONS INC., STERIS ISOMEDIX
SERVICES, INC., STERIS CORPORATION,

Second Third-Party
Index No. 595589/2024

Third-Party Plaintiffs,

-against-

KUMAGAI GENERAL CONSTRUCTION LLC and LANDI
GENERAL CONSTRUCTION CORP.

Third Party Defendants.

-----X

The following e-filed documents, listed by NYSCEF document number (Motion 003) 84, 85, 86, 91, 92,
93, 94, 95, 96, 97, 98, 99

were read on this motion to/for ORDER OF PROTECTION.

ORDER

Upon the foregoing documents, it is

ORDERED that the motion, pursuant to CPLR 3103, of plaintiff for a protective order is granted; and it is further

ORDERED that plaintiff need not and shall not respond to the Notice to Admit dated September 18, 2025, propounded by defendant V. Paulius & Associates; and it is further

ORDERED that, as directed by prior order, except as exhibits to motions (here, appending the note of issue and workers' compensation board determination to motion papers would have been appropriate) or for demands for bills of particulars and responses thereto (as latter constitute an amplification of the pleadings), counsel shall refrain from posting on NYSCEF discovery demands or responses thereto, as same unnecessarily and improperly clutter the docket, and should be exchanged among counsel only; see In Re Westchester Rockland Newspapers, Inc., 66 AD2d 335, 338 (2nd Dept 1979); and are **not for public viewing** on the official public court docket, and see also Scollo v Good Samaritan Hosp, 175 AD2d 278, 279 (2d Dept 1991) ("Pretrial discovery" "are not 'sittings of court'", "are conducted in private as a matter of modern practice", and "is not a public component of a trial"); and it is further

ORDERED that counsel shall post on NYSCEF joint proposed discovery status conference order or dueling proposed discovery

status conference order(s) at least two days before December 11, 2025, on which date counsel shall appear via Microsoft Teams, unless, by joint request sent to IAS Part 59 Clerk (SFC-Part59-Clerk@nycourts.gov), such appearance be waived by the court.

DECISION

This court agrees with plaintiff's counsel that plaintiff cannot be compelled to respond to a notice to admit in a manner that contradicts his testimony at his examination before trial. In this regard, Groeger v Col-Les Orthopedic Associates, PC, 136 AD2d 952 (4th Dept 1988) is instructive. In Groeger, the Appellate Division, Fourth Department, unanimously modified the trial court's order that granted a protective order with respect to a notice to admit that sought to elicit "statements that had already been admitted at a pretrial deposition", and held that such notice to admit was proper. In contrast, the notice to admit at bar does not seek to have plaintiff admit statements already admitted at his pretrial deposition. Quite to the contrary, such notice to admit attempts to elicit contradictory responses from plaintiff concerning the identity of his employer. Its use to so cross-examine plaintiff is impermissible. See Parra v 99 John Deco Lofts Condominiums, 86 Misc3d 1215(A) (Supreme Court, New York County, 2025, Lebovits J.)

Nor may plaintiff be compelled to authenticate the determination of the workers compensation board, which determination the court notes is not appended to any of the parties motion papers, as plaintiff has no personal knowledge of the worker's compensation board's business practices and processes, see Powell v Burg, 239 AD3d 679, 680 (2d Dept 2025) ("a proper foundation for the admission of a business record must be provided by someone with personal knowledge of the maker's business practices and procedures").

Debra A. James

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<u>11/19/2025</u>			<u>DEBRA A. JAMES, J.S.C.</u>
DATE			
CHECK ONE:	<input type="checkbox"/>	CASE DISPOSED	<input checked="" type="checkbox"/>
	<input checked="" type="checkbox"/>	GRANTED	<input type="checkbox"/>
		DENIED	
APPLICATION:	<input type="checkbox"/>	SETTLE ORDER	<input type="checkbox"/>
CHECK IF APPROPRIATE:	<input type="checkbox"/>	INCLUDES TRANSFER/REASSIGN	<input type="checkbox"/>
			<input checked="" type="checkbox"/>
			NON-FINAL DISPOSITION
			<input type="checkbox"/>
			GRANTED IN PART
			<input type="checkbox"/>
			OTHER
			<input type="checkbox"/>
			SUBMIT ORDER
			<input type="checkbox"/>
			FIDUCIARY APPOINTMENT
			<input type="checkbox"/>
			REFERENCE