

American Tr. Ins. Co. v Cadet
2025 NY Slip Op 35360(U)
February 7, 2025
Supreme Court, Suffolk County
Docket Number: Index No. 617373/2022
Judge: Paul E. Hennings
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SHORT FORM ORDER

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**SUPREME COURT – STATE OF NEW YORK
I.A.S. PART 75 – SUFFOLK COUNTY**

Mot Date: November 12, 2024
Submitted: January 21, 2025
Mot Seq #: 002/MG

PRESENT: **HON. PAUL E. HENNINGS**
Justice of Supreme Court

-----X
AMERICAN TRANSIT INSURANCE COMPANY,

Plaintiff,

- against -

GHISLAINE CADET, ADVANCED ORTHOPAEDICS, PLLC,
DURAMED, INC., EXACT ORTHOMED, INC.,
EXCELL CLINICAL LAB, INC.,
FIFTH AVENUE SURGERY CENTER, LLC,
FPA HOSPITAL BASED D/B/A
MOUNT SINAI PATHOLOGY OUTREACH
GOOD MEDICA, INC., GOOD SAMARITAN HOSPITAL,
IGOR AMIGUD PHYSICIAN, P.C.,
MANOR MED SUPPLIES, INC., MAXIM ORTHOPAEDICS, PLLC,
MONMARKED M.D., MOTION MEDICAL DIAGNOSTICS, P.C.,
NEW YORK SPINE SPECIALIST,
NORTHWELL HEALTH LABORATORIES, NYEEQASC, LLC,
ORTHOPRO SERVICES, INC.,
ORTHOSUPPLY, LLC, PAUL LERNER, M.D.,
PHOENIX MEDICAL SERVICES, P.C.,
PROMPT MEDICAL SPINE CARE, PLLC,
Q PHARMACY RX, INC.,
RCK MEDICAL SERVICES, P.C., RONALD MAZZA M.D.,
SAMARITAN EMERGENCY MED SERVICES ER,
SEDATION VACATION PERIOPERATIVE MEDICINE, PLLC,
THERAPEUTIC PHYSICAL THERAPY, P.C.,
VITAL CARE GROUP, INC.,
WU-WEI ACUPUNCTURE & HERBS, P.C.,
ZWANGER AND PESIRI RADIOLOGY GROUP, LLP

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112 Broadway Apt C
Malverne, NY 11561

See Annexed List:
Pages 2-4

Defendants.

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Notice of Motion/Order to Show Cause: 1
Affidavits (Affirmations) Annexed: 2
Opposing Affidavits (Affirmations): _____
Reply Affidavits (Affirmations): _____
Affidavits (Affirmations): _____
Other Papers: _____

Upon the papers submitted (notice of motion with supporting papers), it is

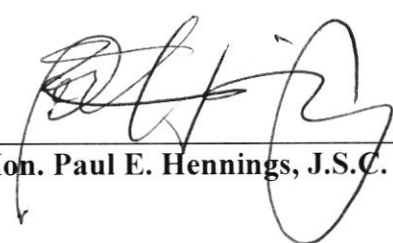
ORDERED that the motion of the Advanced Orthopaedics, PLLC to dismiss for failure to comply with discovery demands is granted, unless the plaintiff provides the discovery demanded within 30 days after the uploading of this order, and it is further

ORDERED if the plaintiff fails to comply, the moving defendant is directed to settle an order granting the motion and dismissing the action against it.

The Court issued a Preliminary Conference Order dated July 30, 2024, directing that the plaintiff provide discovery by September 13, 2024. Thereafter, the defendant has established that discovery properly requested has not been provided. Any good faith attempts to obtain the discovery have failed. If the plaintiff fails to comply with this order, such numerous failures by the plaintiff to comply with discovery demands and orders, it can be inferred that the action is willful and contumacious (*Flynn v. City of New York*, 101 A.D.3d 803 [2nd Dept. 20212]). Therefore, in the exercise of discretion, the motion to dismiss is granted as indicated (*Rosenblatt v. Franklin Hosp. Med. Ctr.*, 165 A.D.3d 862[2nd Dept. 2018]).

So Ordered.

Dated February 7, 2025



Hon. Paul E. Hennings, J.S.C.

_____ **FINAL DISPOSITION** X **NON-FINAL DISPOSITION**

ORDER WITH NOTICE OF ENTRY TO:

Ghislaine Cade
110 Cedar Road
Amityville, NY 11701

Duramed Inc.
43 West 47th Street Suite 203
New York, NY 10036

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1049 5th Avenue
New York, NY 10028

FPA Hospital Based d b/a
Mount Sinai Pathology Outreach
1468 Madison Avenue
Annenberg 15-60
New York, NY 10029

Good Samaritan Hospital
1000 Montauk Highway
West Usliip, NY 11795

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211 East 53rd Street
New York, NY 10022

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Woodhaven, NY 11421

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New York, NY 10075

Monmarked, M.D.
249 South Middleton Road
Pearl River, NY 10965

Motion Medical Diagnostics, P.C.
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Uniondale, NY 11556

New York Spine Specialist
20001 Marcus Avenue Suite 170
Lake Success, NY 11042

Northwell Health Laboratories
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Greenvale, NY 11548

Orthosupply, LLC
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Englewood Cliffs, NJ 07632

Phoenix Medical Services, P.C
165 North Village Avenue Suite 5
Rockville Centre, NY 11570

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Hicksville, NY 11801

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1000 Montauk Highway
West Islip, NY 11795

Sedation Vacation Perioperative Medicine, PLLC
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Valley Stream, NY 11581

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