

Gruenspecht v Upper E. Side Pain Medicine P.C.

2026 NY Slip Op 30046(U)

January 7, 2026

Supreme Court, New York County

Docket Number: Index No. 805195/2018

Judge: Kathy J. King

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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. KATHY J. KING PART **06**

Justice

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INDEX NO. 805195/2018

MARK GRUENSPECHT, and KATHERINA GRUENSPECHT

MOTION DATE 04/14/2025

Plaintiffs,

MOTION SEQ. NO. 006

- v -

UPPER EAST SIDE PAIN MEDICINE P.C., and GORDON
FREEDMAN,

**DECISION + ORDER ON
MOTION**

Defendants.

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The following e-filed documents, listed by NYSCEF document number (Motion 006) 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163

were read on this motion to/for DISCOVERY.

Upon the foregoing documents, and oral arguments having been heard, Plaintiffs Mark Gruenspecht and Katherina Gruenspecht ("Plaintiffs") move for an Order:

- 1) Pursuant to CPLR 3101(f), all insurance documentation and information for the period of 2003-2016;
- 2) The policies of insurance covering the basic liability, excess, co-insurance and all other applicable liability, medical payments, coverage, as they apply to the underlying occurrence in effect for the period of 2003-2016, including all endorsements, terms and conditions;
- 3) Copies of all certificates of insurance in effect for the period of 2003-2016;
- 4) Copies of all contracts, sub-contracts, leases, franchises, and indemnification agreements in effect for the period of 2003-2016. As well as an affidavit of excess insurance coverage from the defendant(s), personally;
- 5) Clarification regarding the insurance policy limits; specifically, clarification on the total
- 6) amount of insurance policy funds available which shall mean the actual funds available after taking into account erosion and any other offsets, that can be used to satisfy a judgement in this action or to reimburse for payments made to satisfy judgement; and

7) Pursuant to CPLR 3025(b), granting Plaintiffs leave to amend the Complaint to clarify that the alleged medical malpractice occurred continuously from 2003 through 2016. Defendants Upper East Side Pain Medicine P.C., and Gordon Freedman (“Defendants”) oppose the motion.

BACKGROUND

This medical malpractice action arises from the treatment of Mark Gruenspecht, one of the Plaintiff in the instant action, by Defendants from 2003 to 2016. Plaintiffs commenced this action by the filing of a Summons and Verified Complaint on June 14, 2018. Defendants joined issue by filing a Verified Answer on July 11, 2018. The Verified Complaint alleges that the Defendants negligently prescribed plaintiff dangerous amounts and combinations of schedule II and schedule IV narcotics, along with dangerous amounts of off-label Subsys, without any medical justification, commencing in or around 2012 and continuing through December 22, 2015, causing injuries to Plaintiff Mark Gruenspecht. By Decision and Order dated November 19, 2024, this Court granted the motion of Plaintiffs seeking leave of this Court to serve an amended Summons and Complaint to add his wife Katherina Gruenspecht as a party plaintiff, to assert a cause of action for loss of consortium and amending the caption to reflect the addition of Katherina Gruenspecht.

Plaintiffs now move to compel disclosure from Defendants of several documents pertaining to insurance coverage maintained by Defendants for the period of 2003-2016 and amend the Complaint to clarify that the alleged medical malpractice occurred continuously from 2003 through 2016.

Defendants oppose the motion.

DISCUSSION

Upon consideration of the moving papers, the Court finds that Plaintiff has established a right to the requested insurance disclosure pursuant to CPLR 3101(f), as the Plaintiff's Supplemental Bill of Particulars alleges a continuous period of medical malpractice spanning from 2003 through 2016, rendering all policies in effect during those years material and necessary to the prosecution of this action. Consequently, as the requested information is essential for a transparent assessment of the available coverage to satisfy a potential judgment, Plaintiff's motion to compel is granted.

Further, it is well settled that CPLR 3025(b), in its relevant part, provides that a party may amend his or her pleading, or supplement it by setting forth additional transactions or occurrences, at any time by leave of court, which shall be freely given upon such terms as may be just (*see Krakovski v Stavros Assoc., LLC*, 173 AD3d 1146, 1147, 103 NYS3d 553 [2019], *see also Davis v South Nassau Communities Hosp.*, 26 NY3d 563, 580, 26 NYS3d 231, 46 NE3d 614 [2015]).

Accordingly, the Court grants the Plaintiffs' oral request for permission to amend the pleading so as to include the 2003-2016 as the relevant dates of treatment, which should be freely given where the proposed amendment is neither palpably insufficient nor patently devoid of merit, and there is no evidence that the amendment would prejudice or surprise the opposing party, such as in this instant matter (*see Krakovski v Stavros Assoc., LLC*, 173 AD3d 1146, 1147, 103 NYS3d 553 [2019], *see also Davis v South Nassau Communities Hosp.*, 26 NY3d 563, 580, 26 NYS3d 231, 46 NE3d 614 [2015]).

Based on the foregoing, it is hereby

ORDERED that Plaintiffs' request for a leave to amend the complaint to clarify that the alleged medical malpractice occurred continuously from 2003 through 2016. is granted; and it is further

ORDERED that Plaintiff is to amend the Complaint in accordance with this Order within thirty (30) days of the date of this Order; and it is further

ORDERED that the Verified Amended Complaint shall be deemed served upon the Defendants UPPER EAST SIDE PAIN MEDICINE P.C., and GORDON FREEDMAN, by the Plaintiff E-Filing the same on the electronic court filing system (“NYSCEF”); and it is further

ORDERED that Plaintiffs’ motion compelling the Defendants to produce the demanded documents pertaining to insurance coverage maintained by Defendants for the period of 2003-2016 is granted; and it is further

ORDERED that Defendants are to produce the demanded documents pertaining to insurance coverage maintained by Defendants for the period of 2003-2016 within forty-five (45) days of service of a copy of this Order; and it is further

ORDERED that the Plaintiff is directed to serve a copy of this Order upon the Defendants, by first class regular mail to their Counsel’s last known address within twenty (20) days of the date of this Order.

This constitutes the Decision and Order of the Court.

1/7/2026
DATE

Kathy J. King
KATHY J. KING, 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