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**SHORT FORM ORDER**

**SUPREME COURT - STATE OF NEW YORK**

Present: **ANTONIO I. BRANDVEEN**  
J. S. C.

PROGRESSIVE CASUALTY INSURANCE COMPANY,  
PROGRESSIVE SPECIALTY INSURANCE COMPANY and  
PROGRESSIVE PREFERRED INSURANCE COMPANY,

Plaintiffs,

- against -

RAFAT ODEH, NATALYA GURARITY, ABED NAGEEB, IRINA  
FREYDLINDA, MAURICIO GRANILLO, MARIA ALEKSINA-  
TEEVYAW, HAYTHAM ABDULLAH, MANSOOR YAHYA,  
FRANCOIS WOLD, HIBA ODEH, MAHA MOHAMMAD, SERGIO  
KMET, INNA MISHINA, FARIS ODEH, RAED ODH, NADIA  
JAFFAL, ABRAHAM NAGEEB and ELMIS ROHAS (INDIVIDUAL  
DEFENDANTS") AMD CHIROPRACTIC, PC, AVGUR SUPPLY  
INC., AVR MEDICAL SUPPLY INC., BEDFORD MEDICAL CARE  
PC, BEDFORD MEDICAL DIAGNOSTIC PC, CLEARVIEW OF  
BROOKLYN MEDICAL PC, CLOVE MEDICAL SUPPLY, INC.,  
CMS MEDICAL SUPPLY INC., COMPLETE EQUIPMENT INC.,  
COMPREHENSIVE PSYCHOLOGICAL EVALUATIONS, PC, DB  
SUPPLY INC, DEDICATED CHIROPRACTIC PC, DOVPHIL  
ANESTHESIOLOGY GROUP PLLC, EMERGENCY PHYSICAL  
SERVICES OF NEW YORK, PC, GABA MEDICAL, PC, GOODWILL  
ACPUNCTURE, PC, JUDAH SCHORR MD, PC, KHALIKA  
AYESHA ROWE, M. SADEES MD, PC, MAGIC TOUCH PHYSICAL  
THERAPY, PC, MANHATTAN COMPREHENSIVE MEDICINE,  
PLLC, MEDCARE SUPPLY, INC., MOBILITY EXPERTS MEDICAL  
PC, NEW AGE ORTHOPEDIC REHABILITATION PC,  
NORTHEAST EMPIRE MEDICAL, PC, NYC MEDICAL OFFICE,  
PC, OLGA BARD, PARK RADIOLOGY, PC, PERSONAL TOUCH  
MEDICAL PC, PRIORITY MEDICAL DIAGNOSTICS, PC,  
PROFESSIONAL HEALTHCARE & CHIROPRACTIC SVC, PC, RG  
BAY INC, SANFORD R. WERT MC, PC, SHORE MEDICAL  
DIAGNOSTIC, PC, SM CHIROPRACT, PC, SMA MEDICAL, INC, SP  
MORTHOTIC SURGICAL & MEDICAL SUPPLY, INC, STAND-UP  
MRI OF BENSONHURST PC, SUPERIOR HEALTH  
CHIROPRACTIC PC, SYNERGYFIRST MEDICAL PLLC,  
SYNERGYFIRST MEDICAL GROUP PLLC, TONG LI, MD PC,  
WESTEN MEDICAL SUPPLY INC, ZIA JAGHORY, MD

Defendants.

TRIAL / IAS PART 29  
NASSAU COUNTY

Index No. 13797/10

Motion Sequence No. 004

The following papers having been read on this motion:

Notice of Motion, Affidavits, & Exhibits .....	<u>1</u>
Answering Affidavits .....	<u>2</u>
Replying Affidavits .....	<u>3</u>
Briefs: Plaintiff's / Petitioner's .....	_____
Defendant's / Respondent's .....	_____

The plaintiff moves this court for an order pursuant to CPLR 3212 granting summary judgment against defendant RAED ODEH. The underlying action is for declaratory judgment pursuant to CPLR § 3017(b) defining and declaring the rights, duties, obligations and legal relationship by and between PROGRESSIVE and the defendants. The motion is granted.

In a affirmation in support, Frank G. Dispirito, Esq., attorney for plaintiff avers the action concerns five staged sham “accidents” intentionally caused by the defendants with the involvement of the defendant medical facilities. Counsel further contends all five of the were in a span of seven months from August 2002 through April 2010 , each immediately after insurance policy inception; the same two vehicles were used in these losses; vehicle ownership and insurance changed hands among the same parties; occupants of the Progressive vehicles end up in opposing vehicles; all five loses are linked by one more persons by direct blood relationship; all five losses occurred in the same manner and the occupants of the Progressive vehicle treated with the same medical providers overlapping all five losses. Plaintiff submits the police reports, policy documents, no-fault applications, transcripts of examinations under oath and correspondence in further support of the motion. The pro se defendant RAFAT ODEH submits an affidavit in opposition asserting he has a right to a jury trial with exhibits.

Here, upon review of the submissions of the parties the court finds the plaintiff has meet its burden of proof. Summary judgment is a drastic remedy that is awarded only when it is clear that no triable issue of fact exists (*Alvarez v. Prospect Hosp.*, 68 N.Y.2d 320, 325;

*Andre v. Pomeroy*, 35 N.Y.2d 361). Summary judgment is the procedural equivalent of a trial (*Museums at Stony Brook v. Village of Patchogue Fire Dept.*, 146 A.D. 2d 572).

Thus the burden falls upon the moving party to demonstrate that, on the facts, it is entitled to judgment as a matter of law (*see, Whelen v. G.T.E. Sylvania Inc.*, 182 A.D. 2d 446).

Summary judgment is a drastic remedy that is awarded only when it is clear that no triable issue of fact exists (*Alvarez v. Prospect Hosp.*, 68 N.Y.2d 320, 325; *Andre v. Pomeroy*, 35 N.Y.2d 361). Summary judgment is the procedural equivalent of a trial (*Museums at Stony Brook v. Village of Patchogue Fire Dept.*, 146 A.D. 2d 572). Thus the burden falls upon the moving party to demonstrate that, on the facts, it is entitled to judgment as a matter of law (*see, Whelen v. G.T.E. Sylvania Inc.*, 182 A.D. 2d 446) Once that burden is met the burden shifts to the opposing party to demonstrate the existence of a material issue of fact (*see Alvarez v. Prospect Hosp., supra*).

Here, the answering defendant has failed to raise a triable material issue of fact and the motion is granted in its entirety.

So ordered.

Dated: **March 30, 2012**

ENTER:



J. S. C.

**ENTERED**

**APR 03 2012**

**NASSAU COUNTY  
COUNTY CLERK'S OFFICE**

FINAL DISPOSITION