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SHORT FORM ORDER

SUPREME COURT - STATE OF NEW YORK

Present:

HON. EDWARD W. MC CARTY, III

Justice

TRIAL/IAS, PART 3
NASSAU COUNTY

MARGOT KALB,

Plaintiff(s)

INDEX No.4512/2003

-against-

LIBERTY MUTUAL INSURANCE COMPANY,

Defendant(s)

MOTION DATE:4/29/04
MOTION SEQ.#001

The following papers read on this motion:

Notice of Motion/Order to Show Cause	X
Cross-Motion	
Answering Affidavit	X
Replying Affidavits	X

This motion by defendant seeking summary judgment dismissing the complaint is denied without prejudice to renewal within 60 days in the event that plaintiff is unable to furnish defendant with executed assignments from her remaining unpaid medical providers. The defendant has wholly failed to establish that the care was medically unnecessary. The defendant's alleged lack of standing is curable and it would be pointless to dismiss an action that could be refiled at any time. The allegation that some claims may have been partially satisfied goes to the measure of damages and not liability.

Date 6-22-04

EDWARD W. McCARTY III

J.S.C.

ENTERED

JUN 30 2004

NASSAU COUNTY
COUNTY CLERK'S OFFICE