

SHORT FORM ORDER

**SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NASSAU**

Scam

Present:

**HON. DANIEL PALMIERI
Acting Justice Supreme Court**

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PROGRESSIVE INSURANCE COMPANY,

Plaintiff,

-against-

TRIAL TERM PART: 47

INDEX NO.: 017579/08

MOTION DATE:3-2-09

SUBMIT DATE:3-16-09

SEQ. NUMBER - 001

**RONALD LEGERME, ELENA BONDARENKO,
JIMMY BUTLER, TIFFANY AGEDAY, JUNIOR
NICHOLAS, DAVID CERANT, EDNER JACQUES,
SAINTLY ALERTE, JOSEPH DUMERVIL,
THERESA WEEKS, SONIA TAYLOR, JACK
ALBERT, SANDY GACHELIN, MARIE
METELLUS,**

Individual Defendants,

-and-

**RADIOLOGY TODAY, P.C., QUALITY
PSYCHOLOGICAL SERVICES, P.C., NEOMY
MEDICAL, P.C., PERFECT POINT
ACUPUNCTURE, P.C., LIFEX MEDICAL P.C.,
CHIROPRACTIC BACK CARE, P.C., ALEV
MEDICAL SUPPLY, INC., COMFORT SUPPLY,
INC., KARINA K. ACUPUNCTURE, P.C.,
LEONID SIMAKOVSKY, D.C., EAGLE SURGICAL
SUPPLY, INC., URBAN RADIOLOGY, P.C.,
EXCELLENT CARE PHYSICAL THERAPY, PC.,
SIGNA PSYCHOLOGICAL, P.C., HIGH
DEFINITION MRI, P.C., ALIGN FOR HEALTH
CHIROPRACTIC, P.C., AA ACUPUNCTURE
SERVICE P.C., GLM MEDICAL, P.C., EXCEL
IMAGING, P.C., HURGODA PHYSICAL
THERAPIST, P.C., PMR MEDICAL AND
DIAGNOSTIC, P.C., KINGSBROOK JEWISH
MEDICAL CENTER, KINGSWAY ORTHOPEDIC,
P.C., BROOKLYN KINGS HIGHWAY
ANESTHESIOLOGISTS, LLP, KINGS JM CENTER
PBG, ERIC SENAT, PUSH P. BHANSALI,**

Defendants.

-----X

The following papers have been read on this motion:

Notice of Motion, dated 1-22-09.....1

Plaintiff's unopposed motion pursuant to CPLR §3215 for a default judgment for the relief demanded against them in the complaint is granted as to the following named defendants: Ronald Legerme, Elena Bondarenko, Jimmy Butler, Tiffany Ageday, David Cerant, Edner Jacques, Theresa Weeks, Sonia Taylor, Sandy Gachelin, Marie Metellus, Quality Psychological Services, P.C., Neomy Medical, P.C., Perfect Point Acupuncture, P.D., Lifex Medical, P.C., Chiropractic Back Care, P.C., Alev Medical Supply Inc., Comfort Supply, Inc., Karina K. Acupuncture, P.C., Eagle Surgical Supply, Inc., Urban Radiology, P.C., Excellent Care Physical Therapy, P.C., Sigma Psychological, P.C., Align for Health Chiropractic, P.C., AA Acupuncture Service, P.C., GLM Medical, P.C., Excel Imaging, P.C., Hurgoda Physical Therapist, P.C., PMR Medical and Diagnostic, P.C., Kingsbrook Jewish Medical Center, Kingsway Orthopedic, P.C., Brooklyn Kings Highway Anesthesiologists, LLP, and Eric Senat.

Pursuant to CPLR §306-b, plaintiff's time to serve the defendants Junior Nicholas, Saintly Alerte, Joseph Dumervil, Jack Albert and Leonid Simakovsky D.C., (the Unserved Defendants) is extended *nunc pro tunc* for an additional 150 days from January 21, 2009.

Pursuant to stipulation, the action against defendant High Definition MRI, P.C. has been discontinued.

Pursuant to CPLR 603, the action is severed as to the defaulting defendants and shall continue as to the non-defaulting defendants.

The request for attorneys fees is denied as to the defaulting defendants, since plaintiff failed to direct the Court to any contractual or statutory authority to support such request. *Siamos v. 36-02 35th Ave. Development, LLC*, 54 AD3d 842 (2d Dept. 2008).

Plaintiff's application pursuant to CPLR §308-5 for service by publication upon the Unserved Defendants is denied, with leave to renew. Plaintiff has failed to submit an adequate affidavit demonstrating that service is impractical under paragraphs one, two and four of CPLR §308, (*See Dobkin v. Chapman*, 21 NY2d 490 [1968]; *Contimortgage Corp. v. Isler*, 48 AD3d 732 [2008]), by any person with knowledge which reflects the efforts made to locate and serve the defendants for whom such relief is requested. The pre-printed forms with checked boxes submitted by a process server do not comport with requirements for such relief and the Court notes that the so called affidavits are not signed.

This shall constitute the Decision and Order of this Court.

Submit Judgment.

DATED: March 19, 2009

ENTER



HON. DANIEL PALMIERI
Acting Supreme Court Justice

TO: John E. McCormack, PC
By: Michael Hanratty, Esq.
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Ronald Legerme
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ENTERED

MAR 20 2009
NASSAU COUNTY
COUNTY CLERK'S OFFICE

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