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10/15/20

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NASSAU

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AVIS BUDGET GROUP, INC.,  
AVIS RENT A CAR SYSTEM, LLC,

Plaintiffs,

-against-

MARIE DESROSIERS a/k/a MERIE DESROSIERS,  
MITHERLINE PERICLES,  
TONY BEAUVIS,

the "Individual Defendants"

-and-

SHIQING LIAN

the "Adverse Vehicle Defendant"

-and-

ADVANTAGE MED INNOVATIONS, INC.,  
AGYAL PHYSICAL THERAPY, PLLC,  
ALFORD A. SMITH M.D., P.C.,  
AMBULATORY SURGICAL CENTER OF  
ENGLEWOOD, LLC,  
ASCE ANESTHESIA PC,  
ATLAS PT, P.C.,  
BEST HANDS-ON PHYSICAL THERAPY, P.C.,  
COMPREHENSIVE PSYCHOLOGICAL  
EVALUATION, P.C.,  
CVS RX, INC. d/b/a EXPRESS PHARMACY,  
DAMADIAN MRI IN CANARSIE, P.C.,  
DIANA BEYNIN, D.C.,  
DOS MANOS CHIROPRACTIC P.C.,  
ENGLEWOOD ORTHOPEDICS GROUP PC,  
ENGLINTON MEDICAL, P.C.,  
EZ TRIBORO SERVICES, INC.,  
HAMID LALANI, M.D.,  
JULES F. PARISIEN, M.D.,  
LENCO DIAGNOSTIC LABORATORIES, INC.,  
LPM PHARMACY INC,

Index No.: 612429/2019

JUDGMENT

Present:  
Hon. Helen Voutsinas, J.S.C.

M & M SUPPLIES GROUP INC, •  
 METRO PAIN SPECIALISTS PROFESSIONAL CORPORATION,  
 MODERN RX INC, •  
 MOLNAR MEDICAL SERVICES PC, •  
 MOUNT SINAI BETH ISRAEL, •  
 ORTHOCARE TECH INC,  
 PROTECHMED INC,  
 QIXIA ACUPUNCTURE P.C., •  
 SHERMAN-ABRAMS LABORATORY, INC., •  
 SP ONE SERVICES, INC., •  
 SPEEDY RECOVERY EQUIPMENT AND SUPPLIES INC, •  
 SPRUCE MEDICAL & DIAGNOSTIC, P.C., •  
 UNICAST, INC., •  
 WELLNESS PHYSICAL THERAPY •  
 REHABILITATION P.L.L.C.,

the "Healthcare Provider Defendants."

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**SIRS:**

NOW, upon the motion of Plaintiff, AVIS BUDGET GROUP, INC., AVIS RENT A CAR SYSTEM, LLC ("AVIS BUDGET"), seeking an Order pursuant to CPLR §3215, granting a default judgement against Defendants, MITHERLINE PERICLES, TONY BEAUVIS, AMBULATORY SURGICAL CENTER OF ENGLEWOOD, LLC, ASCE ANESTHESIA P.C., ATLAS PT, P.C., BEST HANDS-ON PHYSICAL THERAPY, P.C., COMPREHENSIVE PSYCHOLOGICAL EVALUATION, P.C., CVS RX, INC. d/b/a EXPRESS PHARMACY, DAMADIAN MRI IN CANARSIE, P.C., DIANA BEYNIN, D.C., DOS MANOS CHIROPRACTIC P.C., ENGLEWOOD ORTHOPEDICS GROUP PC, ENGLINTON MEDICAL, P.C., EZ TRIBORO SERVICES, INC., Lenco DIAGNOSTIC LABORATORIES, INC., LPM PHARMACY INC, M & M SUPPLIES GROUP INC., MODERN RX INC, MOLNAR MEDICAL SERVICES P.C., MOUNT SINAI BETH ISRAEL, QIXIA ACUPUNCTURE P.C., SHERMAN-ABRAMS LABORATORY, INC., SP ONE SERVICES, INC., SPEEDY RECOVERY EQUIPMENT AND SUPPLIES INC., SPRUCE MEDICAL &

*SC*

DIAGNOSTIC, P.C., UNICAST, INC. and WELLNESS PHYSICAL THERAPY REHABILITATION P.L.L.C. based upon the failure of the Defendants to appear and/or serve an Answer in the above matter; and for such any other and further relief as this Court deems just and proper, and upon notice of motion and accompanying Affirmation of Justin A. Calabrese, dated January 27, 2020, and there having been an appearance on behalf of Plaintiff, AVIS BUDGET by Hollander Legal Group, P.C., attorneys for the Plaintiff, and no appearance made on behalf of Defendants, MITHERLINE PERICLES, TONY BEAUVIS, AMBULATORY SURGICAL CENTER OF ENGLEWOOD, LLC, ASCE ANESTHESIA P.C., ATLAS PT, P.C., BEST HANDS-ON PHYSICAL THERAPY, P.C., COMPREHENSIVE PSYCHOLOGICAL EVALUATION, P.C., CVS RX, INC. d/b/a EXPRESS PHARMACY, DAMADIAN MRI IN CANARSIE, P.C., DIANA BEYNIN, D.C., DOS MANOS CHIROPRACTIC P.C., ENGLEWOOD ORTHOPEDICS GROUP PC, ENGLINTON MEDICAL, P.C., EZ TRIBORO SERVICES, INC., Lenco DIAGNOSTIC LABORATORIES, INC., LPM PHARMACY INC, M & M SUPPLIES GROUP INC., MODERN RX INC, MOLNAR MEDICAL SERVICES P.C., MOUNT SINAI BETH ISRAEL, QIXIA ACUPUNCTURE P.C., SHERMAN-ABRAMS LABORATORY, INC., SP ONE SERVICES, INC., SPEEDY RECOVERY EQUIPMENT AND SUPPLIES INC., SPRUCE MEDICAL & DIAGNOSTIC, P.C., UNICAST, INC. and WELLNESS PHYSICAL THERAPY REHABILITATION P.L.L.C, and the Amended Short Form Order from this Court dated, September 21, 2020 which was entered by the clerk of the Court on September 23, 2020, directing Plaintiff to submit an Judgment on notice. A copy of the order which is attached hereto as Exhibit "A", and incorporated herein,

NOW, on motion by Hollander Legal Group, P.C., attorneys for Plaintiff, AVIS BUDGET, it is:

**ORDERED, ADJUDGED AND DECREED THAT:**

1. The Plaintiff, AVIS BUDGET, including any and all AVIS BUDGET companies and subsidiaries is entitled to a Declaratory Judgment against the Defaulting Defendants, MITHERLINE PERICLES, ATLAS PT, P.C., BEST HANDS-ON PHYSICAL THERAPY, P.C., COMPREHENSIVE PSYCHOLOGICAL EVALUATION, P.C., CVS RX, INC. d/b/a EXPRESS PHARMACY, DAMADIAN MRI IN CANARSIE, P.C., DIANA BEYNIN, D.C., DOS MANOS CHIROPRACTIC P.C., ENGLINTON MEDICAL, P.C., EZ TRIBORO SERVICES, INC., Lenco DIAGNOSTIC LABORATORIES, INC., LPM PHARMACY INC, M & M SUPPLIES GROUP INC., MODERN RX INC, QIXIA ACUPUNCTURE P.C., SHERMAN-ABRAMS LABORATORY, INC., SP ONE SERVICES, INC., SPEEDY RECOVERY EQUIPMENT AND SUPPLIES INC., SPRUCE MEDICAL & DIAGNOSTIC, P.C., UNICAST, INC. and WELLNESS PHYSICAL THERAPY REHABILITATION P.L.L.C. that AVIS BUDGET, including any and all AVIS BUDGET companies and subsidiaries are not obligated to provide any coverage, reimbursements, or pay any monies, sums, or funds to any of the Defaulting Defendants, MITHERLINE PERICLES, ATLAS PT, P.C., BEST HANDS-ON PHYSICAL THERAPY, P.C., COMPREHENSIVE PSYCHOLOGICAL EVALUATION, P.C., CVS RX, INC. d/b/a EXPRESS PHARMACY, DAMADIAN MRI IN CANARSIE, P.C., DIANA BEYNIN, D.C., DOS MANOS CHIROPRACTIC P.C., ENGLINTON MEDICAL, P.C., EZ TRIBORO SERVICES, INC., Lenco DIAGNOSTIC LABORATORIES, INC., LPM PHARMACY INC, M & M SUPPLIES GROUP INC., MODERN RX INC, QIXIA ACUPUNCTURE P.C., SHERMAN-ABRAMS LABORATORY, INC., SP ONE SERVICES, INC., SPEEDY RECOVERY EQUIPMENT AND SUPPLIES INC., SPRUCE MEDICAL & DIAGNOSTIC, P.C., UNICAST, INC. and WELLNESS PHYSICAL THERAPY REHABILITATION P.L.L.C. for any and all No-Fault related services for which claims/bills have been, or may be in the future be, submitted by the Defaulting Defendants to the Plaintiff, by or on behalf of MARIE DESROSIERS a/k/a MERIE DESROSIERS, MITHERLINE PERICLES, and TONY BEAUVIS for the automobile incident of January 17, 2019 AVIS BUDGET claim 198003738.
2. That Defendants MARIE DESROSIERS a/k/a MERIE DESROSIERS, MITHERLINE PERICLES and TONY BEAUVIS made material misrepresentations of fact and false and/or fraudulent statements in the presentation of the claim(s) to AVIS BUDGET with regard to the alleged automobile incident of January 17, 2019, AVIS BUDGET claim 198003738, and as such the defaulting defendants, MITHERLINE PERICLES, ATLAS PT, P.C., BEST HANDS-ON PHYSICAL THERAPY, P.C., COMPREHENSIVE PSYCHOLOGICAL EVALUATION, P.C., CVS RX, INC. d/b/a EXPRESS PHARMACY, DAMADIAN MRI IN CANARSIE, P.C., DIANA BEYNIN, D.C., DOS MANOS CHIROPRACTIC P.C., ENGLINTON MEDICAL, P.C., EZ TRIBORO SERVICES, INC., Lenco DIAGNOSTIC LABORATORIES, INC., LPM PHARMACY INC, M & M SUPPLIES GROUP INC., MODERN RX INC, QIXIA ACUPUNCTURE P.C., SHERMAN-ABRAMS LABORATORY, INC., SP ONE SERVICES, INC., SPEEDY RECOVERY EQUIPMENT AND SUPPLIES

INC., SPRUCE MEDICAL & DIAGNOSTIC, P.C., UNICAST, INC. and WELLNESS PHYSICAL THERAPY REHABILITATION P.L.L.C. are not entitled to coverage under the subject policy of insurance or any of its endorsements or amendments thereto.

3. That AVIS BUDGET including any and all AVIS BUDGET companies and subsidiaries are not obligated to provide any first-party coverage, reimbursements, or pay any monies, sums, or funds, including, but not limited to, Personal Injury Protection (PIP) or No-Fault Benefits, Additional Personal Injury Protection (APIP), Supplementary Uninsured/Underinsured Motorists Coverage (SUM), Collision, and Optional Basic Economic Loss (OBEL) coverage, to any of the defaulting defendants, MITHERLINE PERICLES, ATLAS PT, P.C., BEST HANDS-ON PHYSICAL THERAPY, P.C., COMPREHENSIVE PSYCHOLOGICAL EVALUATION, P.C., CVS RX, INC. d/b/a EXPRESS PHARMACY, DAMADIAN MRI IN CANARSIE, P.C., DIANA BEYNIN, D.C., DOS MANOS CHIROPRACTIC P.C., ENGLINTON MEDICAL, P.C., EZ TRIBORO SERVICES, INC., Lenco DIAGNOSTIC LABORATORIES, INC., LPM PHARMACY INC, M & M SUPPLIES GROUP INC., MODERN RX INC, QIXIA ACUPUNCTURE P.C., SHERMAN-ABRAMS LABORATORY, INC., SP ONE SERVICES, INC., SPEEDY RECOVERY EQUIPMENT AND SUPPLIES INC., SPRUCE MEDICAL & DIAGNOSTIC, P.C., UNICAST, INC. and WELLNESS PHYSICAL THERAPY REHABILITATION P.L.L.C. in connection with AVIS BUDGET claim number 198003738, date of loss January 17, 2019. ✓
4. That AVIS BUDGET including any and all AVIS BUDGET companies and subsidiaries are not obligated to provide any coverage, reimbursement, or to pay any monies, sums or funds to any of the Defaulting Defendants for first-party No-Fault Benefits for any healthcare services rendered to MARIE DESROSIERS a/k/a MERIE DESROSIERS MITHERLINE PERICLES and TONY BEAUVIS by the defaulting defendants in connection with the subject loss;
5. That AVIS BUDGET including any and all AVIS BUDGET companies and subsidiaries are not to afford any bodily injury coverage, defense or indemnity to any and all of the Defaulting Defendants for the subject loss;
6. That AVIS BUDGET including any and all AVIS BUDGET companies and subsidiaries are not obligated to afford property damage coverage to any of the defaulting defendants in the adverse vehicle for the subject loss;
7. That AVIS BUDGET's motion for a default judgment against defendants TONY BEAUVIS, SHIQING LIAN, AMBULATORY SURIGICAL CENTER OF ENGLEWOOD, LLC, ASCE ANESTHESIA, PC, ENGLWOOD ORTHOPEDICS GROUP, PC, MOLNAR MEDICAL SERVICES, P.C., and MOUNT SINAI BETH ISRAEL is denied with leave to renew upon proper service against said defendants.

**ORDERED**, that Plaintiff is directed to serve a copy of this Judgment with Notice of Entry against all Defaulting Defendants via regular mail within thirty (30) days.

This constitutes the decision and Judgment of this Court.

Dated: 10/15/2020  
Mineola, NY

ENTER:

  
HONORABLE HELEN VOUTSINAS  
J.S.C.

**ENTERED**

**OCT 19 2020**

**NASSAU COUNTY  
COUNTY CLERK'S OFFICE**

**SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NASSAU - IAS/TRIAL PART 25  
Present: Hon. Helen Voutsinas, J.S.C.**

-----X  
**AVIS BUDGET GROUP, INC.,  
AVIS RENT A CAR SYSTEM, LLC,**

**Plaintiffs,**

**-against-**

**Index No.: 612429/2019**

**MARIE DESROSIERS a/k/a MERIE DESROSIERS,  
MITHERLINE PERICLES, TONY BEAUVIS,**

**Motion Sequence No.: 001**

**the "Individual Defendants"**

**AMENDED  
SHORT FORM ORDER**

**-and-**

**SHIQING LIAN,**

**the "Adverse Vehicle Defendant"**

**-and-**

**ADVANTAGE MED INNOVATIONS, INC.,  
AGYAL PHYSICAL THERAPY, PLLC,  
ALFORD A. SMITH M.D., P.C.,  
AMBULATORY SURGICAL CENTER OF  
ENGLEWOOD, LLC  
ASCE ANESTHESIA PC,  
ATLAS PT, P.C.,  
BEST HANDS-ON PHYSICAL THERAPY, P.C.,  
COMPREHENSIVE PSYCHOLOGICAL  
EVALUATION, P.C.,  
CVS RX, INC. d/b/a EXPRESS PHARMACY,  
DAMADIAN MRI IN CANARSIE, P.C.,  
DIANA BEYNIN, D.C.,  
DOS MANOS CHIROPRACTIC P.C.,  
ENGLEWOOD ORHTOPEDICS GROUP PC,  
ENGLINTON MEDICAL, P.C.,  
EZ TRIBORO SERVICES, INC.,  
HAMID LALANI, M.D.,  
JULES F. PARISIEN, M.D.,  
LENCO DIAGNOSTIC LABORATORIES, INC.,  
LPM PHARMACY INC,  
M & M SUPPLIES GROUP INC,  
METRO PAIN SPECIALISTS PROFESSIONAL  
CORPORATION,**

**MODERN RX INC,  
MOLNAR MEDICAL SERVICES PC,  
MOUNT SINAI BETH ISRAEL,  
ORTHOCARE TECH INC,  
PROTECHMED INC,  
QIXIA ACUPUNCTURE P.C.,  
SHERMAN-ABRAMS LABORATORY, INC.,  
SP ONE SERVICES, INC.,  
SPEEDY RECOVERY EQUIPMENT AND SUPPLIES INC,  
SPRUCE MEDICAL & DIAGNOSTIC, P.C.,  
UNICAST, INC.,  
WELLNESS PHYSICAL THERAPY  
REHABILITATION P.L.L.C.,**

**the "Healthcare Provider Defendants."**

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The following papers were read on this motion:

Notice of Motion, Affidavit and Affirmation in Support, Exhibits .....1

Plaintiffs Avis Budget Group, Inc. and Avis Rent A Car System, LLC (hereinafter jointly referred to as "AVIS") move for a default judgment against the following defendants:

**MITHERLINE PERICLES,  
TONY BEAUVIS,  
AMBULATORY SURGICAL CENTER OF ENGLEWOOD, LLC,  
ASCE ANESTHESIA P.C.,  
ATLAS PT, P.C.,  
BEST HANDS-ON PHYSICAL THERAPY, P.C.,  
COMPREHENSIVE PSYCHOLOGICAL EVALUATION, P.C.,  
CVS RX, INC. d/b/a EXPRESS PHARMACY,  
DAMADIAN MRI IN CANARSIE, P.C.,  
DIANA BEYNIN, D.C.,  
DOS MANOS CHIROPRACTIC P.C.,  
ENGLEWOOD ORHTOPEDICS GROUP PC,  
ENGLINTON MEDICAL, P.C.,  
EZ TRIBORO SERVICES, INC.,  
LENCO DIAGNOSTIC LABORATORIES, INC.,  
LPM PHARMACY INC.,  
M & M SUPPLIES GROUP INC.,  
METRO PAIN SPECIALISTS PROFESSIONAL CORPORATION,  
MODERN RX INC.,  
MOLNAR MEDICAL SERVICES P.C.,  
MOUNT SINAI BETH ISRAEL,  
QIXIA ACUPUNCTURE P.C.,  
SHERMAN-ABRAMS LABORATORY, INC.,**



**SP ONE SERVICES, INC.,  
SPEEDY RECOVERY EQUIPMENT AND SUPPLIES INC.,  
SPRUCE MEDICAL & DIAGNOSTIC, P.C.,  
UNICAST, INC., and  
WELLNESS PHYSICAL THERAPY REHABILITATION P.L.L.C.**

The motion is determined as hereinafter provided.

This action was commenced by the filing of a summons and verified complaint on September 10, 2019. AVIS seeks a declaratory judgment regarding an alleged automobile incident of January 17, 2019, as follows:

(a) A declaratory judgment that the alleged automobile incident of January 17, 2019 (Avis claim number 198003738), was not the product of a covered event(s) as defined by the No-Fault Regulation since the incident of January 17, 2019, was the product of staged and/or intentional events;

(b) A declaratory judgment that any personal injuries allegedly sustained by Marie Desrosiers, Mitherline Pericles, and Tony Beauvis were intentionally caused by said individuals;

(c) A declaratory judgment that the Individual Defendants made material misrepresentations of fact and false and/or fraudulent statements in the presentation of the claim to Avis with regard to the alleged automobile incident of January 17, 2019 (Avis claim number 198003738), and as such are not covered events under the No-Fault Regulation;

(d) A declaratory judgment that Avis is not obligated to provide any first party coverage, reimbursements, or pay any monies, sums, or funds, including but not limited to No-Fault Benefits, uninsured/underinsured benefits and uninsured/underinsured benefits, to any of the Defendants in connection with the subject incident of January 17, 2019;

(e) A declaratory judgment that Avis, by reason of no coverage and since the alleged incident of January 17, 2019 (Avis claims number 198003738), was the product of staged and/or intentional events, is not required to pay any sums, monies, damages, awards and/or benefits to any of the defendants named herein, their agents, employees, assignors and/or heirs arising out of any current or future proceedings, all uninsured/underinsured motorist lawsuits and arbitrations, arbitrations and lawsuits seeking to recover no-fault benefits and third-party lawsuits and arbitrations arising out of the alleged incident of January 17, 2019;

In more simple terms, AVIS seeks a declaration that it has no obligation to provide liability coverage for, or to pay for any harm, injury or treatment for any alleged injuries related to the alleged incident of January 17, 2019, under its claim no. 198003738.

In support of the motion, AVIS submits the affirmation of its attorney, Justin A. Calabrese, Esq., the summons and verified complaint, the affidavit of Irene Ford, a Special Investigator for AVIS, affidavits of service, and other exhibits.

As to the merits, AVIS asserts that AVIS Claim number 198003738 involves an alleged automobile incident, which reported occurred on January 17, 2019. On that date, it is alleged that a vehicle owned by AVIS, a gray Nissan Rogue bearing New York State license plate number HYZ5566, was involved in an incident. At the time of the alleged incident, the subject vehicle was being operated by defendant Marie Desrosiers a/k/a Merie Desrosiers ("Desrosiers") and allegedly contained passengers Mitherline Pericles ("Pericles") and Tony Beauvis ("Beauvis"). The vehicle was allegedly involved in an incident with a vehicle operated and registered to Shiqing Lian ("Lian") and containing no passengers.

AVIS investigated the incident, and requested Desrosiers, Pericles and Beauvis to each appear for an Examination Under Oath ("EUO"). As a result of the testimony provided by said individuals, together with the rest of its investigation, AVIS concluded that the subject loss was not the result of a legitimate occurrence, that in fact the incident was a, intentional, staged event and part of a scheme perpetrated by the Individual Defendants. Accordingly, AVIS asserts that it is not obligated to provide any coverage for the alleged incident, including the payment of any claims for no-fault services submitted by the Healthcare Provider Defendants. The Court finds that AVIS, through its verified complaint and affidavit of its Special Investigator, Irene Ford, has made a sufficient showing as to the merits of its claims.

AVIS avers that all of the defendants were properly served with the summons and verified complaint. Defendants ADVANTAGE MED INNOVATIONS, INC., PROTECHMED, INC. and ORTHOCARE TECH, INC., by their attorneys, filed an answer with counterclaims, on November 8, 2019. On December 18, 2019, AVIS filed its reply to the counterclaims Defendants AGYAL PHYSICAL THERAPY, PLLC, ALFORD A. SMITH, M.D., JULES F. PARISIEN, M.D. and METRO PAIN SPECIALISTS PROFESSIONAL CORPORATION, by their attorneys, filed its answer.

AVIS asserts that the remaining defendants have failed to answer or otherwise appear in the action, and moves for entry of a default judgment as to specified defendants. The Court will address the application with respect to each defendant.

**MITHERLINE PERICLES:** The affidavit of service shows that the defendant was personally served with the summons and verified complaint on September 27, 2019, by delivery of the papers to her personally. Service upon this defendant has been established.

**TONY BEAUVIS:** The affidavit of service shows that the defendant was served with the summons and complaint on October 4, 2019 by delivery of the papers to "the recipient's sister" who was a person of suitable age and discretion (but would not provide her name) and by mailing copies of the summons and complaint to his last known residence. However, the affidavit of service

fails to provide a description of the person to whom the papers were delivered, as required by CPLR §306. Service upon this defendant has not been established.

**SHIQING LIAN:** The affidavit of service shows that the defendant was served by delivery of the summons and complaint on November 4, 2019 to Meng Qi, a person of suitable age and discretion and by mailing copies of the summons and complaint to defendant's last known residence. However, the affidavit of service fails to provide a description of the person to whom the papers were delivered, as required by CPLR §306. Service upon this defendant has not been established. In addition, plaintiff's notice of motion does not indicate that any relief is sought as against this defendant.

**AMBULATORY SURGICAL CENTER OF ENGLEWOOD, LLC:** The affidavit of service shows that defendant was served on October 10, 2019 by delivery to defendant, "a foreign corporation", at 25 Rockwood Place, #105, Englewood, New Jersey 07631, by delivering the papers thereat to Michelle Perez, an employee thereof.

CPLR § 311-a, which governs service on limited liability companies, provides as follows:

(a) Service of process on any domestic or foreign limited liability company shall be made by delivering a copy personally to (i) any member of the limited liability company in this state, if the management of the limited liability company is vested in its members, (ii) any manager of the limited liability company in this state, if the management of the limited liability company is vested in one or more managers, (iii) to any other agent authorized by appointment to receive process, or (iv) to any other person designated by the limited liability company to receive process, in the manner provided by law for service of a summons as if such person was a defendant. Service of process upon a limited liability company may also be made pursuant to article three of the limited liability company law.

Michelle Perez, to whom the papers were delivered, is described as an employee of defendant. As such service by delivery of the papers to her is insufficient. Moreover, even if she was a member or manager of defendant, delivery of the papers would have to have been made in New York. Nor is there any allegation or evidence that she was an agent authorized by appointment to receive process or designated by the company to receive process. Service upon this defendant has not been established.

**ASCE ANESTHESIA PC:** The affidavit of service shows that that defendant, a foreign corporation, was served on October 10, 2019 at 25 Rockwood Place, #105, Englewood, New Jersey 07631, by delivering the papers thereat to Michelle Perez, "an employee thereof".

Proper service upon a corporation is made by delivering the summons and complaint "to an officer, director, managing or general agent, or cashier or assistant cashier or to any other agent authorized by appointment or law to receive service." (CPLR § 311[a][1]). Further, sufficient evidence must be presented showing that the process server reasonably determined that the individual served held one of the positions required by CPLR § 311[a][1] for service to be valid.

(See *Hossain v. Fab Cab Corp.*, 7 AD3d 484 [2d Dept 2008]; *Gleizer v. American Airlines Inc.*, 30 AD3d 376 [2d Dept 2006]). Here, the process server avers only that Michelle Perez is an employee of the corporation. There is no allegation or evidence that she was an officer, director, managing or general agent, cashier or assistant cashier or any other agent authorized by appointment or law to receive service on behalf of defendant. Service upon this defendant has not been established.

ATLAS P.T., P.C.: The affidavit of service shows that service was effectuated pursuant to §306 of the Business Corporation Law on October 24, 2019. Service was completed on November 6, 2019 when the affidavit of service was filed with the Nassau County Clerk' s Office. Further, plaintiff also submits an affidavit showing that on November 6, 2019 an additional copy of the summons and verified complaint together with the required notice were served upon defendant via first class mail pursuant to CPLR §3215[g][4]. Service upon this defendant has been established.

BEST HANDS-ON PHYSICAL THERAPY, P.C.: The affidavit of service shows that service was effectuated pursuant to §306 of the Business Corporation Law on October 7, 2019. Service was completed on November 6, 2019 when the affidavit of service was filed with the Nassau County Clerk' s Office. Further, plaintiff also submits an affidavit showing that on November 6, 2019 an additional copy of the summons and verified complaint together with the required notice were served upon defendant via first class mail pursuant to CPLR §3215[g][4]. Service upon this defendant has been established.

COMPREHENSIVE PSYCHOLOGICAL EVALUATION, P.C.: The affidavit of service shows that service was effectuated pursuant to §306 of the Business Corporation Law on October 7, 2019. Service was completed on November 6, 2019 when the affidavit of service was filed with the Nassau County Clerk' s Office. Further, plaintiff also submits an affidavit showing that on November 6, 2019 an additional copy of the summons and verified complaint together with the required notice were served upon defendant via first class mail pursuant to CPLR §3215[g][4]. Service upon this defendant has been established.

CVS RX, INC. d/b/a EXPRESS PHARMACY: The affidavit of service shows that service was effectuated pursuant to §306 of the Business Corporation Law on October 7, 2019. Service was completed on November 6, 2019 when the affidavit of service was filed with the Nassau County Clerk' s Office. Further, plaintiff also submits an affidavit showing that on November 6, 2019 an additional copy of the summons and verified complaint together with the required notice were served upon defendant via first class mail pursuant to CPLR §3215[g][4]. Service upon this defendant has been established.

DAMADIAN MRI IN CANARSIE, P.C.: The affidavit of service shows that service was effectuated pursuant to §306 of the Business Corporation Law on October 7, 2019. Service was completed on November 6, 2019 when the affidavit of service was filed with the Nassau County Clerk' s Office. Further, plaintiff also submits an affidavit showing that on November 6, 2019 an additional copy of the summons and verified complaint together with the required notice were served upon defendant via first class mail pursuant to CPLR §3215[g][4]. Service upon this defendant has been established.

DIANA BEYNIN, D.C.: The affidavit of service shows that the defendant was personally served with the summons and verified complaint on September 27, 2019, by delivery of the papers to her personally. Service upon this defendant has been established.

DOS MANOS CHIROPRACTIC P.C.: The affidavit of service shows that service was effectuated pursuant to §306 of the Business Corporation Law on October 7, 2019. Service was completed on November 6, 2019 when the affidavit of service was filed with the Nassau County Clerk' s Office. Further, plaintiff also submits an affidavit showing that on November 6, 2019 an additional copy of the summons and verified complaint together with the required notice were served upon defendant via first class mail pursuant to CPLR §3215[g][4]. Service upon this defendant has been established.

ENGLEWOOD ORTHOPEDICS GROUP, P.C.: The affidavit of service shows that that defendant, a foreign corporation, was served on October 10, 2019 at 25 Rockwood Place, #105, Englewood, New Jersey 07631, by delivering the papers thereat to Michelle Perez, an employee thereof.

Proper service upon a corporation is made by delivering the summons and complaint “to an officer, director, managing or general agent, or cashier or assistant cashier or to any other agent authorized by appointment or law to receive service.” (CPLR § 311[a][1]). Further, sufficient evidence must be presented showing that the process server reasonably determined that the individual served held one of the positions required by CPLR § 311[a][1] for service to be valid. (*See Hossain v. Fab Cab Corp.*, 7 AD3d 484 [2d Dept 2008]; *Gleizer v. American Airlines Inc.*, 30 AD3d 376 [2d Dept 2006]). Here, the process server avers only that Michelle Perez is an employee of the corporation. There is no allegation or evidence that she was an officer, director, managing or general agent, cashier or assistant cashier, or any other agent authorized by appointment or law to receive service on behalf of defendant. Service upon this defendant has not been established.

ENGLINGTON MEDICAL, P.C.: The affidavit of service shows that service was effectuated pursuant to §306 of the Business Corporation Law on October 7, 2019. Service was completed on November 6, 2019 when the affidavit of service was filed with the Nassau County Clerk' s Office. Further, plaintiff also submits an affidavit showing that on November 6, 2019 an additional copy of the summons and verified complaint together with the required notice were served upon defendant via first class mail pursuant to CPLR §3215[g][4]. Service upon this defendant has been established.

EZ TRIBORO SERVICES, INC.: The affidavit of service shows that service was effectuated pursuant to §306 of the Business Corporation Law on October 7, 2019. Service was completed on November 6, 2019 when the affidavit of service was filed with the Nassau County Clerk' s Office. Further, plaintiff also submits an affidavit showing that on November 6, 2019 an additional copy of the summons and verified complaint together with the required notice were served upon defendant via first class mail pursuant to CPLR §3215[g][4]. Service upon this defendant has been established.

LENCO DIAGNOSTIC LABORATORIES, INC.: The affidavit of service shows that service was effectuated pursuant to §306 of the Business Corporation Law on October 7, 2019. Service was completed on November 6, 2019 when the affidavit of service was filed with the

Nassau County Clerk' s Office. Further, plaintiff also submits an affidavit showing that on November 6, 2019 an additional copy of the summons and verified complaint together with the required notice were served upon defendant via first class mail pursuant to CPLR §3215[g][4]. Service upon this defendant has been established.

LPM PHARMACY, INC.: The affidavit of service shows that service was effectuated pursuant to §306 of the Business Corporation Law on October 7, 2019. Service was completed on November 6, 2019 when the affidavit of service was filed with the Nassau County Clerk' s Office. Further, plaintiff also submits an affidavit showing that on November 6, 2019 an additional copy of the summons and verified complaint together with the required notice were served upon defendant via first class mail pursuant to CPLR §3215[g][4]. Service upon this defendant has been established.

M & M SUPPLIES GROUP, INC.: The affidavit of service shows that service was effectuated pursuant to §306 of the Business Corporation Law on October 7, 2019. Service was completed on November 6, 2019 when the affidavit of service was filed with the Nassau County Clerk' s Office. Further, plaintiff also submits an affidavit showing that on November 6, 2019 an additional copy of the summons and verified complaint together with the required notice were served upon defendant via first class mail pursuant to CPLR §3215[g][4]. Service upon this defendant has been established.

MODERN RX, INC.: The affidavit of service shows that service was effectuated pursuant to §306 of the Business Corporation Law on October 7, 2019. Service was completed on November 6, 2019 when the affidavit of service was filed with the Nassau County Clerk' s Office. Further, plaintiff also submits an affidavit showing that on November 6, 2019 an additional copy of the summons and verified complaint together with the required notice were served upon defendant via first class mail pursuant to CPLR §3215[g][4]. Service upon this defendant has been established.

MOLNAR MEDICAL SERVICES P.C.: The affidavit of service shows that that defendant was served on December 16, 2019, at 3 Dakota Drive, Suite 300, Lake Success, New York 11042, by delivering the papers thereat to Esther G. at Abrams, Fensterman, Fensterman, Eisman, Formato, Wolf & Carone LLP. The process server avers that “deponent knew the person so served to be the an [sic] employee of said Law Firm which represents the defendant.”

As stated above, proper service upon a corporation is made by delivering the summons and complaint “to an officer, director, managing or general agent, or cashier or assistant cashier or to any other agent authorized by appointment or law to receive service.” (CPLR § 311[a][1]). Here, there is no allegation or evidence that Esther G. was an officer, director, managing or general agent, cashier or assistant cashier, or any other agent authorized by appointment or law to receive service on behalf of defendant. Service upon this defendant has not been established.

MOUNT SINAI BETH ISRAEL: Plaintiff submits an affidavit of service showing that defendant, a domestic corporation, was personally served on September 26, 2019 at 120 East 16<sup>th</sup> Street, 12<sup>th</sup> Floor, New York, New York 10004, by delivery of the papers thereat to Catalina Linzey, described as an “employee of the Risk Management Department thereat”. Plaintiff submits another affidavit of service showing that defendant, a domestic corporation, was also personally served on September 30, 2019 at 160 Water Street, 22<sup>nd</sup> Floor, New York, New York 10004 by

delivery of the papers thereat to “Roger R”, described as an “employee of the Finance Department thereat”.

As stated above, proper service upon a corporation is made by delivering the summons and complaint “to an officer, director, managing or general agent, or cashier or assistant cashier or to any other agent authorized by appointment or law to receive service.” (CPLR § 311[a][1]). Here, there is no allegation or evidence that either Catalina Linzey or “Roger R” was an officer, director, managing or general agent, cashier or assistant cashier, or any other agent authorized by appointment or law to receive service on behalf of defendant. Service upon this defendant has not been established.

**QIXIA ACUPUNCTURE P.C.:** The affidavit of service shows that service was effectuated pursuant to §306 of the Business Corporation Law on October 7, 2019. Service was completed on November 6, 2019 when the affidavit of service was filed with the Nassau County Clerk's Office. Further, plaintiff also submits an affidavit showing that on November 6, 2019 an additional copy of the summons and verified complaint together with the required notice were served upon defendant via first class mail pursuant to CPLR §3215[g][4]. Service upon this defendant has been established.

**SHERMAN-ABRAMS LABORATORY, P.C.:** The affidavit of service shows that service was effectuated pursuant to §306 of the Business Corporation Law on October 7, 2019. Service was completed on November 6, 2019 when the affidavit of service was filed with the Nassau County Clerk's Office. Further, plaintiff also submits an affidavit showing that on November 6, 2019 an additional copy of the summons and verified complaint together with the required notice were served upon defendant via first class mail pursuant to CPLR §3215[g][4]. Service upon this defendant has been established.

**SP ONE SERVICES, INC.:** The affidavit of service shows that service was effectuated pursuant to §306 of the Business Corporation Law on October 7, 2019. Service was completed on November 6, 2019 when the affidavit of service was filed with the Nassau County Clerk's Office. Further, plaintiff also submits an affidavit showing that on November 6, 2019 an additional copy of the summons and verified complaint together with the required notice were served upon defendant via first class mail pursuant to CPLR §3215[g][4]. Service upon this defendant has been established.

**SPEEDY RECOVERY EQUIPMENT AND SUPPLIES INC.:** The affidavit of service shows that service was effectuated pursuant to §306 of the Business Corporation Law on October 7, 2019. Service was completed on November 6, 2019 when the affidavit of service was filed with the Nassau County Clerk's Office. Further, plaintiff also submits an affidavit showing that on November 6, 2019 an additional copy of the summons and verified complaint together with the required notice were served upon defendant via first class mail pursuant to CPLR §3215[g][4]. Service upon this defendant has been established.

**SPRUCE MEDICAL & DIAGNOSTIC, P.C.:** The affidavit of service shows that service was effectuated pursuant to §306 of the Business Corporation Law on October 7, 2019. Service was completed on November 6, 2019 when the affidavit of service was filed with the Nassau County Clerk's Office. Further, plaintiff also submits an affidavit showing that on November 6, 2019 an additional copy of the summons and verified complaint together with the required notice

were served upon defendant via first class mail pursuant to CPLR §3215[g][4]. Service upon this defendant has been established.

UNICAST, INC.: The affidavit of service shows that service was effectuated pursuant to §306 of the Business Corporation Law on October 7, 2019. Service was completed on November 6, 2019 when the affidavit of service was filed with the Nassau County Clerk's Office. Further, plaintiff also submits an affidavit showing that on November 6, 2019 an additional copy of the summons and verified complaint together with the required notice were served upon defendant via first class mail pursuant to CPLR §3215[g][4]. Service upon this defendant has been established.

WELLNESS PHYSICAL THERAPY REHABILITATION P.L.L.C.: The affidavit of service shows that service was effectuated pursuant to §303 of the Limited Liability Company Law on October 7, 2019. Service was completed on November 6, 2019 when the affidavit of service was filed with the Nassau County Clerk's Office. Service upon this defendant has been established.

Plaintiff's counsel avers that these defendants have failed to answer or appear in the action, or to request an extension of time to do so. The Court record reflects that no answer was filed by the foregoing defendants. It also appears from the affidavit of service annexed to plaintiff's motion papers that all parties were served with notice of this application.

Based on the foregoing, plaintiff's motion for default judgment pursuant CPLR §3215 is **GRANTED** as to the following defendants:

**MITHERLINE PERICLES,  
ATLAS PT, P.C.,  
BEST HANDS-ON PHYSICAL THERAPY, P.C.,  
COMPREHENSIVE PSYCHOLOGICAL EVALUATION, P.C.,  
CVS RX, INC. d/b/a EXPRESS PHARMACY,  
DAMADIAN MRI IN CANARSIE, P.C.,  
DIANA BEYNIN, D.C.,  
DOS MANOS CHIROPRACTIC P.C.,  
ENGLINTON MEDICAL, P.C.,  
EZ TRIBORO SERVICES, INC.,  
LENCO DIAGNOSTIC LABORATORIES, INC.,  
LPM PHARMACY INC.,  
M & M SUPPLIES GROUP INC.,  
MODERN RX INC.,  
QIXIA ACUPUNCTURE P.C.,  
SHERMAN-ABRAMS LABORATORY, INC.,  
SP ONE SERVICES, INC.,  
SPEEDY RECOVERY EQUIPMENT AND SUPPLIES INC.,  
SPRUCE MEDICAL & DIAGNOSTIC, P.C.,  
UNICAST, INC., and  
WELLNESS PHYSICAL THERAPY REHABILITATION P.L.L.C.**

**It is hereby ORDERED**, that plaintiff's counsel shall serve a copy of this Order, by regular



mail and certified mail, return receipt requested, upon defendant Mitherline Pericles, at her place of residence, and upon all other above listed defendants at their last known addresses, respectively, within twenty (20) days of the date of this Order. **PROOF OF SERVICE MUST BE FILED WITH THE COURT.**

Plaintiff's motion pursuant CPLR §3125 is **DENIED** as to the following defendants:

**TONY BEAUVIS,  
SHIQING LIAN,  
AMBULATORY SURGICAL CENTER OF ENGLEWOOD, LLC,  
ASCE ANESTHESIA P.C.,  
ENGLEWOOD ORHTOPEDICS GROUP PC,  
MOLNAR MEDICAL SERVICES P.C., and  
MOUNT SINAI BETH ISRAEL.**

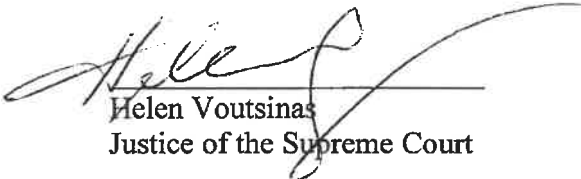
Inasmuch as the 120-day time period prescribed by CPLR §306-b has expired, the Court *sua sponte* extends plaintiff's time to serve the foregoing defendants "in the interests of justice" (CPLR § 306-b). Plaintiff's time to do so is extended for a period of sixty (60) days from the date of this order.

Plaintiff shall submit a proposed order on notice.

All requests for relief not specifically addressed herein are **DENIED**.

This constitutes the decision and Order of this Court.

Dated: September 21, 2020  
Mineola, NY

  
Helen Voutsinas  
Justice of the Supreme Court

**ENTERED**

**Sep 23 2020**

NASSAU COUNTY  
COUNTY CLERK'S OFFICE