

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF BRONX

<p>RACQUEL LIVIDINI,</p> <p style="text-align: right;">Plaintiff,</p> <p style="text-align: center;">-against-</p> <p>HAROLD L. GODLSTEIN, D.P.M. VINAI PRAKASH, D.P.M., RYE AMBULATORY SURGERY CENTER, LLC and WESTMED MEDICAL GROUP,</p> <p style="text-align: right;">Defendants.</p>
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Index No. 20675/2018E

ORDER WITH NOTICE OF ENTRY

COUNSELORS:

PLEASE TAKE NOTICE, that the within is a true copy of Decisions and Orders of Honorable Joseph E. Capella of the within Court dated July 20, 2018 of which the within is a true copy, were duly entered in the office of the Clerk of the within named Court on July 26, 2018.

Dated: New York, New York
July 27, 2018

Yours, etc.,

GARBARINI & SCHER, P.C.

By:



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TO:

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212-559-3100

Handwritten initials: *MG*

PART 23

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF BRONX:

Case Disposed
Settle Order
Schedule Appearance

LIVIDINI, RACQUEL

Index No. 0020675/2018E

-against-

Hon. JOSEPH CAPELLA,

GOLDSTEIN, D.P.M., HAROLD L.

Justice Supreme Court

The following papers numbered 1 to (3) Read on this motion, CHANGE VENUE
Noticed on May 09 2018 and duly submitted as No. _____ on the Motion Calendar of _____

	PAPERS NUMBERED	
Notice of Motion - Order to Show Cause Exhibits and Affidavits Annexed	(1)	
Answering Affidavit and Exhibits	(2)	
Replying Affidavit and Exhibits	(3)	
_____ Affidavits and Exhibits		
Pleadings - Exhibit		
Stipulation(s) - Referee's Report - Minutes		
Filed Papers		
Memoranda of Law		

Upon the foregoing papers this Motion to change venue granted. Although the summons alleges that venue is based on "defendants' principal place of business," the March 2016 affidavit by plaintiff's attorney concedes that venue is based on the principal place of business of defendant, Harold L. Goldstein, DPM, which he believes to be Bronx County. However, the affidavit by Dr. Goldstein sufficiently describes why his principal place of business is at WestMed Medical Group in Westchester County. (*DiCicco v Catani*, 5 AD3d 318 [1st Dept 2004].) In opposition, the evidence submitted by plaintiff merely demonstrates that Dr. Goldstein is affiliated with St. Barnabas Hospital in the Bronx. (*Id.*) Based on the aforementioned, the instant motion by defendants, RYE AMBULATORY SURGERY CENTER, LLC, and WESTMED MEDICAL GROUP, PC, is granted and this action is transferred to the Supreme Court in Westchester County. Upon payment of the appropriate fees, the Bronx County Clerk shall transfer this action to the Westchester County Clerk.

The defendants are directed to serve a copy of this decision/order with notice of entry by first class mail upon all sides within 30 days of receipt of copy of same. This constitutes the decision and order of this court.

Motion is Respectfully Referred to:
Justice: _____
Dated: _____

Dated: 7/20/18

Hon. 
JOSEPH CAPELLA, J.S.C.

(Handwritten flourish)

PART 23

Case Disposed
Settle Order
Schedule Appearance

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF BRONX:

LIVIDINI, RACQUEL

Index No. 0020675/2018E

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Answering Affidavit and Exhibits	(3)	
Replying Affidavit and Exhibits	(4) (5)	
<u>CROSS MOTN</u> Affidavits and Exhibits	(2)	
Pleadings - Exhibit		
Stipulation(s) - Referee's Report - Minutes		
Filed Papers		
Memoranda of Law		

Upon the foregoing papers this Motion and cross-motion to change venue granted. Although the summons alleges that venue is based on "defendants' principal place of business," the March 2016 affidavit by plaintiff's attorney concedes that venue is based on the principal place of business of defendant, Harold L. Goldstein, DPM, which he believes to be Bronx County. However, the affidavit by Dr. Goldstein sufficiently describes why his principal place of business is at WestMed Medical Group in Westchester County. (*DiCicco v Catani*, 5 AD3d 318 [1st Dept 2004].) In opposition, the evidence submitted by plaintiff merely demonstrates that Dr. Goldstein is affiliated with St. Barnabas Hospital in the Bronx. (*Id.*) Based on the aforementioned, the motion by Dr. Goldstein, and cross-motion by defendant, Vinai Prakash, DPM, are granted and this action is transferred to the Supreme Court in Westchester County. Upon payment of the appropriate fees, the Bronx County Clerk shall transfer this action to the Westchester County Clerk.

The defendants are directed to serve a copy of this decision/order with notice of entry by first class mail upon all sides within 30 days of receipt of copy of same. This constitutes the decision and order of this court.

Motion is Respectfully Referred to:
Justice: _____
Dated: _____

Dated: 7/20/18

Hon. *(Signature)*
JOSEPH CAPELLA, J.S.C.

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF BRONX

RACQUEL LIVIDINI,

Plaintiff,

Index No. 20675/2018E

-against-

HAROLD L. GODLSTEIN, D.P.M. VINAI PRAKASH,
D.P.M., RYE AMBULATORY SURGERY CENTER,
LLC and WESTMED MEDICAL GROUP,
Defendants.

NOTICE OF ENTRY WITH ORDER/DECISION

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