

**FILED: SUFFOLK COUNTY CLERK 03/20/2018 11:35 AM**

NYSCEF DOC. NO. 16  
SHORT FORM ORDER

RECEIVED NYSCEF: 03/20/2018  
INDEX No: 601502/15

**Supreme Court of the State of New York  
IAS Part 43 - County of Suffolk**

**PRESENT: Hon. ARTHUR G. PITTS**

**DAVID J. FITZGIBBON,**

**Plaintiff,**

**- against-**

**JOPAL ST. JAMES, LLC d/b/a MILLS  
POND NURSING AND  
REHABILITATION CENTER,**

**Defendant(s).**

**ORIG. RETURN DATE: 12/21/17  
ADJOURNED DATE: 12/21/17  
MOTION SEQ. NO.: 001 - MotD**

**PLTF'S/PET'S ATTY:  
DAVID GROSSMAN & ASSOCIATES, PLLC  
143 Main Street  
Huntington, NY 11743**

**DEFT'S/RESP'S ATTY:  
WILSON, ELSER, MOSKOWITZ, LLP  
1133 Westchester Avenue  
White Plains, NY 10604**

Upon the following papers numbered 1 to 6 read on this motion to remove stay Notice of Motion and supporting papers 1-6 Notice of Cross-Motion and supporting papers    Affirmation/affidavit in opposition and supporting papers    Affirmation/affidavit in reply and supporting papers    Other   ; (and after hearing counsel in support of and opposed to the motion) it is,

ORDERED that the motion of Jo Ann Clerkin, as Executrix of the Estate of David J. Fitzgibbon for an order permitting her to be the substituted as plaintiff in the above captioned matter in the stead of plaintiff David J. Fitzgibbon, Deceased, is granted under the circumstances presented herein. (CPLR 1015 (a); 1021 ) It is further

ORDERED that the caption of the above entitled action is directed to be amended to reflect such substitution. It is further

ORDERED that the plaintiff shall serve and file its supplemental summons and amended verified complaint within twenty (20) days from service of a copy of this order with notice of entry. It is further

ORDERED that a preliminary conference is directed to be held on May 24, 2018.

This shall constitute the decision and order of the Court.

So ordered.

**Dated: Riverhead, New York  
March 12, 2018**

  
**ARTHUR G. PITTS, J.S.C.**