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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.