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DOC #: _____
DATE FILED: <u>2/06/2024</u>

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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BERVIN NELSON BRUAL,

Plaintiffs

against

RICHARD G. HARVEY, HARVEY FAMILY  
CHIROPRACTIC, PHYSICAL THERAPY &  
ACUPUNCTURE, PLLC and NORTH  
BROADWAY CHIROPRACTIC & PHYSICAL  
THERAPY, PLLC

Defendants.  
-----X

Index #: 7:23-cv-8706

**NOTICE OF MOTION TO  
DISMISS PLAINTIFF'S  
COMPLAINT PURSUANT  
TO FED. R. CIV. P.  
12(b)(1)**

MEMO ENDORSED

PLEASE TAKE NOTICE that, upon the accompanying Memorandum of Law and Declaration of Richard G Harvey, all Defendants will move this Court before the Honorable Nelson S. Roman, U. S. D. J. at the United States Courthouse, 300 Quarropas Street, White Plains, New York, at a date and time to be set by the court, for an order pursuant to Rule 12(b)(1) of the Federal Rules of Civil Procedure dismissing Plaintiff's complaint in its entirety for lack of subject matter jurisdiction and for such other relief as this Court may deem just and proper.

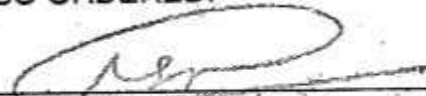
Dated: Jericho, New York  
February 1, 2024

**Defs.' motion is DENIED without prejudice to renew as premature. Defs. are directed to file all of their papers on the reply date, March 21, 2024, in accordance with this Court's order located at ECF No. 29. The Clerk of Court is respectfully directed to terminate the motion at ECF No. 31.**

**Dated: February 6, 2024  
White Plains, NY**

Respectfully submitted,

/s/ Peter M. Birzon  
Peter Birzon & Associates, P. C.  
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Jericho, New York 11743  
Tel: (516) 942-9100  
Email: [pbirzon@pbalaw.net](mailto:pbirzon@pbalaw.net)  
*Attorneys for the Defendants*

SO ORDERED:  
  
\_\_\_\_\_  
HON. NELSON S. ROMAN  
UNITED STATES DISTRICT JUDGE