

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NASSAU

Index No.
Date Filed

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LISA M. D'AVANZO,

Plaintiff,

-against-

Plaintiff designates
NASSAU
County as the place of trial
Basis of Venue:
Plaintiff's Residence

PLANNED PARENTHOOD FEDERATION OF AMERICA,
INC., PLANNED PARENTHOOD OF NASSAU COUNTY,
INC., BRONWYN FITZ, M.D., NASSAU HEALTH CARE
CORPORATION, d/b/a NASSAU UNIVERSITY MEDICAL
CENTER, IRWIN GOLDSTEIN, M.D., and
LONG ISLAND OB GYN ASSOCIATES,

Defendants
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SUMMONS

Plaintiff's Address:
933 Grant Place
Bellmore, NY 11710

To the above named Defendants

YOU ARE HEREBY SUMMONED to answer the complaint in this action and to serve a copy of your answer, or, if the complaint is not served with this summons, to serve a notice of appearance, on the Plaintiff's Attorneys within 20 days after the service of this summons, exclusive of the day of service (or within 30 days after the service is complete if this summons is not personally delivered to you within the State of New York); and in case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the complaint.

Dated: Islandia, New York
December 13, 2017

Yours, etc.

RAPPAPORT, GLASS, LEVINE & ZULLO, LLP

BY: 
THOMAS P. VALET
Attorneys for Plaintiff
1355 Motor Parkway
Islandia, New York 11749
(631) 293-2300

Defendant's address:

PLANNED PARENTHOOD FEDERATION OF AMERICA, INC.
123 William St., New York, NY 10038

PLANNED PARENTHOOD OF NASSAU COUNTY, INC.,
540 Fulton Avenue, Hempstead, NY 11550

BRONWYN FITZ, M.D.
Blum Center for Health, 34 Rye Brook Plaza, Rye Brook, NY 10573

NASSAU HEALTH CARE CORPORATION
2201 Hempstead Turnpike, East Meadow, NY 11554

IRWIN GOLDSTEIN, M.D.
79 Grand Avenue, Massapequa, NY 11758

LONG ISLAND OB GYN ASSOCIATES
79 Grand Avenue, Massapequa, NY 11758

SUPREME COURT OF THE STATE OF NEW YORK
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LISA M. D'AVANZO,

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PLANNED PARENTHOOD FEDERATION OF AMERICA,
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CORPORATION, d/b/a NASSAU UNIVERSITY MEDICAL
CENTER, IRWIN GOLDSTEIN, M.D., and
LONG ISLAND OB GYN ASSOCIATES,

Defendants.

VERIFIED COMPLAINT

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Plaintiff, complaining of the defendants, by her attorneys, RAPPAPORT, GLASS, LEVINE
& ZULLO, LLP, respectfully sets forth and alleges as follows:

**AS AND FOR A FIRST CAUSE OF ACTION
FOR MEDICAL MALPRACTICE**

1. That at all times hereinafter mentioned, the plaintiff resided in the County of Nassau, State of New York.
2. Prior to the commencement of this action, plaintiff filed and served a Notice of Claim against NASSAU HEALTH CARE CORPORATION, d/b/a, NASSAU UNIVERSITY MEDICAL CENTER, as required by law.
3. More than 30 days have elapsed since said claim was served and adjustment has been neglected or refused.
4. Upon information and belief, at all times herein mentioned, the defendant, PLANNED PARENTHOOD FEDERATION OF AMERICA, INC., is a not-for-profit corporation with headquarters located in the State of New York, located at 123 Williams St., New York, NY 10038.

5. Upon information and belief, at all times herein mentioned, the defendant, PLANNED PARENTHOOD FEDERATION OF AMERICA, INC., owned, operated and managed medical clinics and facilities located throughout the United States, including facilities in the County of Nassau, State of New York.

6. Upon information and belief, at all times herein mentioned, the defendant, PLANNED PARENTHOOD FEDERATION OF AMERICA, INC., owned, operated and managed the Planned Parenthood medical clinic and facility located at 540 Fulton Avenue, Hempstead NY 11550, in the County of Nassau, State of New York.

7. Upon information and belief, at all times herein mentioned, the defendant, PLANNED PARENTHOOD OF NASSAU COUNTY, INC., is a not-for-profit corporation organized and existing under the laws of the State of New York, with its principle place of business and headquarters located at 540 Fulton Avenue, Hempstead NY 11550, in the County of Nassau, State of New York.

8. Upon information and belief, at all times herein mentioned, the defendant, PLANNED PARENTHOOD OF NASSAU COUNTY, INC., owned, operated and managed the Planned Parenthood medical clinic and facility located at 540 Fulton Avenue, Hempstead NY 11550, in the County of Nassau, State of New York.

9. Upon information and belief, at all times hereinafter referenced, the defendant, BRONWYN FITZ, M.D., was and is a doctor duly licensed to practice medicine in the State of New York with offices for the conduct of that practice in Rye Brook, New York, among other locations.

10. Upon information and belief, at all times herein mentioned, the defendant, BRONWYN FITZ, M.D., was an employee of the defendant, PLANNED PARENTHOOD FEDERATION OF AMERICA, INC.

11. Upon information and belief, at all times herein mentioned, the defendant, BRONWYN FITZ, M.D., was an agent of the defendant, PLANNED PARENTHOOD FEDERATION OF AMERICA, INC.

12. Upon information and belief, at all times herein mentioned, the defendant, BRONWYN FITZ, M.D., was a servant of the defendant, PLANNED PARENTHOOD FEDERATION OF AMERICA, INC.

13 Upon information and belief, at all times herein mentioned, the defendant, BRONWYN FITZ, M.D., was an independent contractor who provided medical services and treatment at facilities owned, operated and/or managed by the defendant, PLANNED PARENTHOOD FEDERATION OF AMERICA, INC.

14. Upon information and belief, at all times herein mentioned, the defendant, BRONWYN FITZ, M.D., was an employee of the defendant, PLANNED PARENTHOOD FEDERATION OF NASSAU COUNTY, INC.

15. Upon information and belief, at all times herein mentioned, the defendant, BRONWYN FITZ, M.D., was an agent of the defendant, PLANNED PARENTHOOD FEDERATION OF NASSAU COUNTY, INC.

16. Upon information and belief, at all times herein mentioned, the defendant, BRONWYN FITZ, M.D., was a servant of the defendant, PLANNED PARENTHOOD FEDERATION OF NASSAU COUNTY, INC.

17. Upon information and belief, at all times herein mentioned, the defendant, BRONWYN FITZ, M.D., was an independent contractor who provided medical services and treatment at facilities owned, operated and/or managed by the defendant, PLANNED PARENTHOOD FEDERATION OF NASSAU COUNTY, INC.

18. Upon information and belief, at all times relevant herein, the defendant NASSAU HEALTH CARE CORPORATION, d/b/a, NASSAU UNIVERSITY MEDICAL CENTER, was a public benefit corporation, organized and existing under the laws of the State of New York, with offices located at 2201 Hempstead Turnpike, East Meadow, County of Nassau, State of New York.

19. Upon information and belief, at all times relevant herein, the defendant NASSAU

HEALTH CARE CORPORATION, d/b/a, NASSAU UNIVERSITY MEDICAL CENTER, owned, operated, controlled and/or managed the hospital facility known as Nassau University Medical Center, located at 2201 Hempstead Turnpike, East Meadow, County of Nassau, State of New York, including the emergency room therein.

20. Upon information and belief, at all times relevant herein, the defendant NASSAU HEALTH CARE CORPORATION, d/b/a, NASSAU UNIVERSITY MEDICAL CENTER, employed, managed and/or controlled the health care providers working within the hospital facility known as Nassau University Medical Center, located at 2201 Hempstead Turnpike, East Meadow, County of Nassau, State of New York, including the emergency room therein.

21. Upon information and belief, at all times hereinafter referenced, the defendant, IRWIN GOLDSTEIN, M.D., was and is a doctor duly licensed to practice medicine in the State of New York with offices for the conduct of that practice at the defendant, LONG ISLAND OB GYN ASSOCIATES, 79 Grand Avenue, Massapequa, New York.

22. Upon information and belief, at all times herein mentioned, the defendant, LONG ISLAND OB GYN ASSOCIATES, is a corporation organized and existing under the laws of the State of New York, with its principle place of business and headquarters located at 79 Grand Ave., Massapequa, in the County of Nassau, State of New York.

23. Upon information and belief, at all times herein mentioned, the defendant, LONG ISLAND OB GYN ASSOCIATES, is a partnership organized and existing under the laws of the State of New York, with its principle place of business and headquarters located at 79 Grand Ave., Massapequa, in the County of Nassau, State of New York.

24. Upon information and belief, at all times herein mentioned, the defendant, IRWIN GOLDSTEIN, M.D., was an employee of the defendant, LONG ISLAND OB GYN ASSOCIATES.

25. Upon information and belief, at all times herein mentioned, the defendant, IRWIN GOLDSTEIN, M.D., was an agent of the defendant, LONG ISLAND OB GYN ASSOCIATES.

26. Upon information and belief, at all times herein mentioned, the defendant, IRWIN

GOLDSTEIN, M.D., was a servant of the defendant, LONG ISLAND OB GYN ASSOCIATES.

27. Upon information and belief, at all times herein mentioned, the defendant, IRWIN GOLDSTEIN, M.D., was an owner of the defendant, LONG ISLAND OB GYN ASSOCIATES.

28. Upon information and belief, at all times herein mentioned, the defendant, IRWIN GOLDSTEIN, M.D., was a Partner in the defendant, LONG ISLAND OB GYN ASSOCIATES.

29. Upon information and belief, that at all times hereinafter mentioned, the defendants agreed and undertook to faithfully, skillfully, carefully, and in accordance with the approved and proper medical practices, procedures and standards, care for and administer to the plaintiff LISA D'AVANZO.

30. That between on or about September 1, 2016 and on or about November 1, 2016, defendants PLANNED PARENTHOOD FEDERATION OF AMERICA, INC., PLANNED PARENTHOOD OF NASSAU COUNTY, INC., and BRONWYN FITZ, M.D., their employees, agents and servants, provided medical care and treatment to the plaintiff LISA M. D'AVANZO at the Planned Parenthood facility located at 540 Fulton St., Hempstead, New York, for the purpose, among other things, of performing a termination of pregnancy.

31. That between on or about October 5, 2016, and on or about October 7, 2016, defendant NASSAU HEALTH CARE CORPORATION, d/b/a, NASSAU UNIVERSITY MEDICAL CENTER, its employees, agents and servants, provided medical care and treatment to the plaintiff LISA M. D'AVANZO in the emergency room and other locations of the Nassau University Medical Center facility located at 2201 Hempstead Turnpike, East Meadow, New York, for complaints of severe pelvic pain, nausea and vomiting.

32. That on or about October 7, 2016, defendants IRWIN GOLDSTEIN, M.D., and LONG ISLAND OB GYN ASSOCIATES, their employees, agents and servants, provided medical care and treatment to the plaintiff LISA M. D'AVANZO at their offices located at 79 Grand Avenue, Massapequa, New York, for complaints of severe pelvic pain, nausea and vomiting.

33. That on or about October 15, 2016, Plaintiff LISA M. D'AVANZO, underwent surgery

for treatment of a ruptured ectopic pregnancy.

34. Contrary to accepted standards of medical treatment, the defendants, PLANNED PARENTHOOD FEDERATION OF AMERICA, INC., PLANNED PARENTHOOD OF NASSAU COUNTY, INC., and BRONWYN FITZ, M.D., their employees, agents and servants, rendered care to the plaintiff in a negligent and careless manner in that the defendants, PLANNED PARENTHOOD FEDERATION OF AMERICA, INC., PLANNED PARENTHOOD OF NASSAU COUNTY, INC., and BRONWYN FITZ, M.D., their employees, agents and servants, negligently and improperly performed a procedure for the termination of pregnancy; negligently and improperly performed a dilation and curettage; failed to properly remove the products of conception during the termination of pregnancy procedure; failed to take steps to ensure that the products of conception had been removed during the termination procedure; failed to send the biologic material removed during the termination procedure for analysis and pathological examination to ensure that the products of conception had been removed; failed to properly examine plaintiff; failed to properly perform appropriate repeat examinations; failed to properly perform sonograms on plaintiff; failed to determine that plaintiff had an ectopic pregnancy at the time of the termination procedure; failed to properly schedule follow-up visits for plaintiff; failed to order and perform appropriate diagnostic and laboratory tests for plaintiff; and were otherwise negligent in the manner in which they provided medical care and treatment to the plaintiff.

35. Contrary to accepted standards of medical treatment, the defendant, NASSAU HEALTH CARE CORPORATION, d/b/a, NASSAU UNIVERSITY MEDICAL CENTER, its employees, agents and servants, rendered care to the plaintiff in a negligent and careless manner in that the defendant, NASSAU HEALTH CARE CORPORATION, d/b/a, NASSAU UNIVERSITY MEDICAL CENTER, its employees, agents and servants, negligently and improperly treated plaintiff for an ectopic pregnancy; failed to properly examine plaintiff; failed to properly perform diagnostic and laboratory tests on plaintiff, including sonograms and blood work; failed to properly interpret the results of tests that were performed; failed to diagnose that plaintiff was suffering

from an ectopic pregnancy; misdiagnosed plaintiff's condition; failed to admit plaintiff to the hospital for additional testing and/or surgery for the treatment of ectopic pregnancy after examination and testing indicated that potential diagnosis; failed to appreciate the significance of plaintiff's history, signs and symptoms and the results of tests that were performed; improperly discharged plaintiff from the emergency room; failed to keep follow-up appointments that were scheduled for plaintiff; failed to order and schedule appropriate follow-up tests and examinations; and was otherwise negligent in the manner in which it provided medical care and treatment to the plaintiff.

36. Contrary to accepted standards of medical treatment, the defendants, IRWIN GOLDSTEIN, M.D., and LONG ISLAND OB GYN ASSOCIATES, their employees, agents and servants, rendered care to the plaintiff in a negligent and careless manner in that the defendants, IRWIN GOLDSTEIN, M.D., and LONG ISLAND OB GYN ASSOCIATES, their employees, agents and servants, negligently and improperly treated plaintiff for an ectopic pregnancy; failed to properly examine plaintiff; failed to properly perform diagnostic and laboratory tests on plaintiff, including sonograms and blood work; failed to properly interpret the results of tests that were performed; failed to diagnose that plaintiff was suffering from an ectopic pregnancy; misdiagnosed plaintiff's condition; failed to admit plaintiff to the hospital for additional testing and/or surgery for the treatment of ectopic pregnancy after examination and testing indicated that potential diagnosis; failed to appreciate the significance of plaintiff's history, signs and symptoms and the results of tests that were performed; improperly discharged plaintiff from the emergency room; failed to keep follow-up appointments that were scheduled for plaintiff; failed to order and schedule appropriate follow-up tests and examinations; and was otherwise negligent in the manner in which it provided medical care and treatment to the plaintiff.

37. As a result of the foregoing, plaintiff was grievously and seriously injured and suffered physical pain and mental anguish.

38. That by reason of the foregoing, plaintiff has been damaged in an amount which

exceeds the jurisdictional limits of all lower courts.

**AS AND FOR A SECOND CAUSE OF ACTION
IN LACK OF INFORMED CONSENT**

39. That at all the times hereinafter mentioned, plaintiff repeats and realleges each and every allegation set forth in paragraphs herein before set forth inclusive of this complaint, with the same force and effect as though herein set forth at length.

40. That if defendants claim the risk of ruptured ectopic pregnancy is an ordinary risk of the aforesaid procedure, the defendants failed to disclose that risk with respect to their treatment of plaintiff.

41. That defendants, in doing so, failed to act as reasonable practitioners under similar circumstances and prohibited plaintiff from making a knowledgeable evaluation of her condition.

42. Had defendants properly informed plaintiff of the alternatives and reasonably foreseeable risks, as well as alternative methods of treatment available to treat her condition, a reasonably prudent person in the plaintiff's position would have elected to undergo different treatment, or would not have undergone the treatment provided by defendants.

43. As a consequence thereof, defendants failed to obtain the informed consent of plaintiff in violation of the common law and the Public Health Law of the State of New York.

44. As a consequence thereof, plaintiff suffered general and special damages in a sum in excess of the jurisdictional limits of all lower courts.

WHEREFORE, plaintiff demands judgment against defendants on the First and Second causes of action in a sum in excess of the jurisdiction of all lower Courts, plus interest thereon,

and the costs and disbursements of this action.

Dated: Islandia, New York
December 13, 2017

Yours, etc.

RAPPAPORT, GLASS, LEVINE & ZULLO, LLP

BY: _____



THOMAS P. VALET

Attorneys for Plaintiff
1355 Motor Parkway
Islandia, New York 11749
(631) 293-2300

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NASSAU

-----X
LISA M. D'AVANZO,

Plaintiff,

Index No.

-against-

**Certificate of Merit of
Medical or Dental
Malpractice Action**

PLANNED PARENTHOOD FEDERATION OF AMERICA,
INC., PLANNED PARENTHOOD OF NASSAU COUNTY,
INC., BRONWYN FITZ, M.D., NASSAU HEALTH CARE
CORPORATION, d/b/a NASSAU UNIVERSITY MEDICAL
CENTER, IRWIN GOLDSTEIN, M.D., and
LONG ISLAND OB GYN ASSOCIATES,

Defendants
-----X

The undersigned, attorney for Plaintiff, declares that,

I have reviewed the facts of the case and have consulted with at least one physician or dentist who is licensed to practice in this state or any other state and who I reasonably believe is knowledgeable in the relevant issues involved in this action, and I have concluded on the basis of such review and consultation that there is a reasonable basis for the commencement of this action.

I was unable to obtain the consultation required by CPLR Section 3012-a(a)(1) because a limitation of time established by CPLR Article 2 would bar the action and the certificate required by CPLR Section 3012-a(a)(1) could not reasonably be obtained before such time period. The certificate required shall be filed within ninety days after service of the complaint.

I was unable to obtain the consultation required by CPLR 3012-a(a)(1) because I have made three separate good faith attempts with three separate physicians or dentists to obtain such consultation and none of those contacted would agree to such a consultation.

I intend to rely solely on the doctrine of *res ipsa loquitur* and for that reason am not filing the certificate required by CPLR Section 3012-a(a).

Dated: Islandia, New York
December 13, 2017

Yours, etc.

RAPPAPORT, GLASS, LEVINE & ZULLO, LLP

BY: _____

THOMAS P. VALET

Attorneys for Plaintiff
1355 Motor Parkway
Islandia, New York 11749
(631) 293-2300

ATTORNEY'S VERIFICATION

The undersigned, an attorney admitted to practice before the Courts of the State of New York, hereby affirms, under the penalty of perjury, as follows:

That I am the attorney of record for the plaintiff herein.

That I have read the foregoing VERIFIED COMPLAINT and know the contents thereof; that the same is true to my own knowledge, except as to the matters therein stated to be alleged upon information and belief; and as to those matters I believe them to be true.

The grounds for Affirmant's knowledge and belief as to all matters therein stated are documents in the possession of plaintiff's attorneys and reports of investigations made in this case.

The reason this affirmation is made by the undersigned and not by the plaintiff is that plaintiff resides outside the County wherein Rappaport, Glass, Levine & Zullo, LLP, maintains its office..

Dated: New York, New York
September 12, 2017



THOMAS P. VALET, ESQ.