

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK-----X
SHARA DEJESUS,

Index No.: 150347/11

Plaintiff,

**VERIFIED BILL OF
PARTICULARS**

- against -

PLANNED PARENTHOOD HUDSON PECONIC,
INC., "JOHN DOE", M.D., QUEENS LONG ISLAND
MEDICAL GROUP, P.C., MICHAEL ALAN LEE, M.D.,
BHANUMATHY VINAYAGASUNDARAM, M.D.,
JOHN T. MATHER MEMORIAL HOSPITAL, THE
MOUNT SINAI HOSPITAL and MIRIAM CREMER,
M.D.,Defendants.
-----X

Plaintiff, SHARA DEJESUS, by her attorney, the LAW OFFICE OF ROBERT F. DANZI, as and for her Response to Demand for a Verified Bill of Particulars of defendant, PLANNED PARENTHOOD HUDSON PECONIC, INC., sets forth as follows:

1.
 - a) Plaintiff, SHARA DEJESUS, date of birth is January 15, 1967.
 - b) 338 Boyle Road, Selden, New York 11784.
 - c) 338 Boyle Road, Selden, New York 11784.
 - d) Not applicable. There is no loss of consortium claim.
 - e) Johanna DeJesus whose date of birth is December 13, 1990 and Jenise DeJesus whose date of birth is May 7, 1989.

2. This demand is palpably improper pursuant to *Dellaglio v. Paul*, 250 A.D.2d 806, 673 N.Y.S.2d 212 (2d Dept. 1998) and *Patterson v. Jewish Hospital & Medical Center of Brooklyn*, 94 Misc.2d 680, 405 N.Y.S.2d 194, *aff'd*, 65 A.D.2d 553, 409 N.Y.S.2d 124 (2d Dept. 1978). Not foregoing this objection, see paragraph "7" below.

3. This demand is palpably improper pursuant to *Dellaglio v. Paul*, 250 A.D.2d 806, 673 N.Y.S.2d 212 (2d Dept. 1998) and *Patterson v. Jewish Hospital & Medical Center of Brooklyn*, 94 Misc.2d 680, 405 N.Y.S.2d 194, *aff'd*, 65 A.D.2d 553, 409 N.Y.S.2d 124 (2d Dept. 1978). Not foregoing this objection, see paragraph "7" below.

4. This demand is palpably improper pursuant to *Dellaglio v. Paul*, 250 A.D.2d 806, 673 N.Y.S.2d 212 (2d Dept. 1998) and *Patterson v. Jewish Hospital & Medical Center of Brooklyn*, 94 Misc.2d 680, 405 N.Y.S.2d 194, *aff'd*, 65 A.D.2d 553, 409 N.Y.S.2d 124 (2d Dept. 1978). Not foregoing this objection, see paragraph "7" below.

5. This demand is palpably improper pursuant to *Dellaglio v. Paul*, 250 A.D.2d 806, 673 N.Y.S.2d 212 (2d Dept. 1998) and *Patterson v. Jewish Hospital & Medical Center of Brooklyn*, 94 Misc.2d 680, 405 N.Y.S.2d 194, *aff'd*, 65 A.D.2d 553, 409 N.Y.S.2d 124 (2d Dept. 1978). Not foregoing this objection, see paragraph "7" below.

6. This demand is palpably improper pursuant to *Dellaglio v. Paul*, 250 A.D.2d 806, 673 N.Y.S.2d 212 (2d Dept. 1998) and *Patterson v. Jewish Hospital & Medical Center of Brooklyn*, 94 Misc.2d 680, 405 N.Y.S.2d 194, *aff'd*, 65 A.D.2d 553, 409 N.Y.S.2d 124 (2d Dept. 1978). Not foregoing this objection, see paragraph "7" below.

7. Defendant, PLANNED PARENTHOOD HUDSON PECONIC, INC., its agents, servants and/or employees were negligent and careless in the care and treatment of plaintiff, SHARA DEJESUS: in negligently failing to perform a termination of pregnancy in February 2010; in failing to completely evacuate the uterus of products of conception in February 2010; in improperly performing ultrasound; in improperly interpreting ultrasound; in failing to use sonography during the procedure to guide the procedure or to determine that the uterus was properly evacuated; in failing to use sonography to confirm complete evacuation of the uterus at

the conclusion of the procedure; in negligent assessment of gestational age; in failing to note the topographical condition of plaintiff's uterus, specifically the pre-existent fibroids; in negligent selection of portions from the ultrasound to be made part of the chart and to be available for review; in negligent supervision and training of the ultrasound technician in the performance of the procedure, the identification of fibroids within the uterus and the selection of samples from the ultrasound study to be made part of the chart; in failing to adequately dilate plaintiff's cervix; in negligent selection of instrumentation; in inappropriate choice of a 6 mm cannula to empty the uterus; in failing to use proper and adequate suction for purposes of evacuation; in negligent surgical technique in the performance of the procedure; in failing to take into account the pre-existent topography of plaintiff's uterus, specifically fibroids, in performing and planning for the procedure pre, intra and post operatively; in failing to perform a proper and adequate pathological evaluation of the products of conception removed from plaintiff's uterus during the process of evacuation; in failing to appreciate the absence of placental or pre-placental products or cellular structures consistent with products of conception; in negligent evaluation of specimen for gestational age; in negligent evaluation of specimen for completeness; in negligent identification of villi and sac being present at the time of pathological evaluation; in failing to report to the surgeon the absence of placenta, fetal parts, villi or gestational sac; in failing to reorder sonogram; in failing to resuction; in failing to send products of conception specimen for further evaluation; in inadequate discharge instructions; in negligent discharge follow up; in negligently failing to timely inform plaintiff of results of blood draw to establish Rh factor; in failing to maintain an adequate index of suspicion; in failing and neglecting to timely, adequately, and properly perform, request, obtain, use, utilize, administer and/or evaluate necessary diagnostic examinations, tests and/or consultations; in failing and neglecting to keep

adequate, complete, accurate, thorough and relevant records and notes upon which to rely, or to otherwise adequately memorialize and/or record relevant information, history, complaints, signs, symptoms and findings; in failing to inform plaintiff and/or her representative of the risks, hazards and/or alternatives to treatment rendered; in failing to properly correlate and/or evaluate the findings and history obtained; in failing to obtain necessary, timely and/or adequate consultation with other medical professionals; in failing to use and employ the best medical judgment; in failing to properly interpret diagnostic and laboratory tests and studies; in failing to fully appreciate the significance of plaintiff's presenting condition; in failing and/or neglecting to expect, anticipate and/or foresee the danger, risk, harm and injury; in failing to take all necessary steps to timely and/or properly correct and/or repair plaintiff's condition; in failing and/or neglecting to use reasonable care and/or diligence in safeguarding and/or protecting plaintiff; in failing to administer, recommend and/or ensure administration and recommendation of proper course of medical treatment for plaintiff's condition; in failing to keep abreast of current medical customs and practice; in failing to perform necessary and/or further diagnostic work-up and/or treatment in a timely and/or diligent fashion and/or ensure performance of same; in failing to possess the degree of medical skill and knowledge necessary under the circumstances; in allowing the plaintiff to languish without appropriate medical care; in failing to arrange for follow-up care; in negligently allowing plaintiff's condition to deteriorate; in failing to timely and properly formulate a differential diagnosis; in failing to timely and properly recognize the significance of, determine the etiology of and act upon plaintiff's presenting condition; in lack of informed consent; and in failing to disclose to the plaintiff alternatives to treatment rendered and the reasonably foreseeable risks and benefits involved as a reasonable medical practitioner under

similar circumstances would have disclosed in a manner permitting the plaintiff to make a knowledgeable evaluation.

8. The 6 mm cannula was not the proper tool to evacuate plaintiff's uterus of products of conception given the topography of her uterus. Plaintiff reserves her right to amend pending completion of discovery.

9. Plaintiff has no knowledge of the names, addresses, physical appearances and/or occupations of each and every person who performed such acts and/or omissions other than the named defendants herein. It will be claimed that the named defendants are vicariously liable for the acts and/or omissions of their partners, agents, servants and/or employees, including the named individuals who treated plaintiff, and whose names, identities and descriptions are not known to plaintiff, but whose names appear on the medical and hospital records and are known more readily to the answering defendant.

10. Defendants, their agents, servants and/or employees were negligent in failing to properly inform plaintiff of the risks, hazards, complications and potential complications arising from the performance of the treatment rendered herein; failing to disclose to the plaintiff alternatives to the treatment rendered and the reasonably foreseeable risks, benefits and alternatives involved as a reasonable medical practitioner under similar circumstances would have disclosed, in a manner permitting the plaintiff to make a knowledgeable evaluation. Had such risk been disclosed, plaintiff would not have undergone the treatment rendered. This demand is rejected in all other aspects as inappropriate for bill of particulars and objected to as evidentiary in nature.

11. Upon information and belief, the negligent acts and/or omissions charged against defendant, PLANNED PARENTHOOD HUDSON PECONIC, INC., occurred from February 22, 2010 up to and including May 15, 2010.

12. a) See paragraph "11" above.

b) The negligent acts and/or omissions charged against defendant, PLANNED PARENTHOOD HUDSON PECONIC, INC. took place at PLANNED PARENTHOOD HUDSON PECONIC, INC., located at 4 Skyline Drive, Hawthorne, New York 10532.

13. Termination of pregnancy.

14. As a result of the carelessness, negligence and malpractice of defendant, PLANNED PARENTHOOD HUDSON PECONIC, INC., its agents, servants and/or employees, plaintiff, SHARA DEJESUS, sustained the following serious and permanent personal injuries:

- failed termination of pregnancy;
- endometritis;
- anemia;
- blood loss;
- severe sepsis;
- fever and chills;
- temperature of 106;
- need for cooling blanket and ice packs;
- profound hypovolemia;
- hydronephrosis and hydroureter;
- enlarged uterus;

- total abdominal hysterectomy*;
- hormonal changes as a consequence of hysterectomy*;
- hemodynamic instability;
- infection;
- need for transfusions;
- need for antibiotics;
- sterility*;
- vaginal bleeding;
- pain;
- vaginal discharge;
- palpitations
- emotional pain;
- sexual avoidance;
- protracted hospitalization;
- disorientation;
- abdominal swelling;
- need to undergo repeat abortion;
- need for unnecessary surgeries;
- economic loss;
- loss of income.

15. Dr. Elizabeth Jeremias located at 640 Hawkins Ave., Ronkonkoma, New York;
 Dr. Michael A. Lee located at 640 Hawkins Ave., Ronkonkoma, New York; Dr. Palivan located
 at 640 Hawkins Ave., Ronkonkoma, New York; Dr. Richard Rose located at 5400 Nesconset

Highway, Port Jefferson Station, New York 11776; Dr. Stanley Ostrow located at 235 N. Belle Mead Road, East Setauket, New York 11733; and Dr. Phillibert located at 6 Technology Drive, East Setauket, New York 11733.

16. Plaintiff, SHARA DEJESUS, was confined to John T. Mather Memorial Hospital located at 75 North Country Road, Port Jefferson, New York 11777, on April 13, 2010 and from June 8, 2010 up to and including June 25, 2010; The Mount Sinai Hospital located at 1 Gustave L Levy Place, New York, New York 10029 from June 1, 2010 up to and including June 5, 2010; and Stony Brook University Hospital located at Nicolls Road, Stony Brook, New York from November 27, 2010 up to and including December 6, 2010.

17. Not applicable.

18. a) Plaintiff, SHARA DEJESUS, was confined to her home for approximately six months.

b) Plaintiff, SHARA DEJESUS, was confined to her bed for approximately two months.

19. a) Stony Brook University Hospital located at 101 Nicolls Road, Stony Brook, New York 11790.

b) Nurses Station Clerk.

c) Upon information and belief, \$28,649.00.

d) Plaintiff, SHARA DEJESUS's last date of work was April 12, 2010.

e) See "19a" above.

f) To be provided.

20. Special damages are currently unknown but would be the amounts of bills

incurred by plaintiff from the defendants herein, any hospitals and doctors she has or will treat with in relation to the malpractice. Plaintiff is currently not in possession of same. However, once received, the amounts will be included in a Supplemental Bill of Particulars.

21. This demand is palpably improper pursuant to *Dellaglio v. Paul*, 250 A.D.2d 806, 673 N.Y.S.2d 212 (2d Dept. 1998) and *Patterson v. Jewish Hospital & Medical Center of Brooklyn*, 94 Misc.2d 680, 405 N.Y.S.2d 194, *aff'd*, 65 A.D.2d 553, 409 N.Y.S.2d 124 (2d Dept. 1978). Not foregoing this objection, see paragraph "26" below.

22. This demand is palpably improper pursuant to *Dellaglio v. Paul*, 250 A.D.2d 806, 673 N.Y.S.2d 212 (2d Dept. 1998) and *Patterson v. Jewish Hospital & Medical Center of Brooklyn*, 94 Misc.2d 680, 405 N.Y.S.2d 194, *aff'd*, 65 A.D.2d 553, 409 N.Y.S.2d 124 (2d Dept. 1978). Not foregoing this objection, see paragraph "26" below.

23. This demand is palpably improper pursuant to *Dellaglio v. Paul*, 250 A.D.2d 806, 673 N.Y.S.2d 212 (2d Dept. 1998) and *Patterson v. Jewish Hospital & Medical Center of Brooklyn*, 94 Misc.2d 680, 405 N.Y.S.2d 194, *aff'd*, 65 A.D.2d 553, 409 N.Y.S.2d 124 (2d Dept. 1978). Not foregoing this objection, see paragraph "26" below.

24. This demand is palpably improper pursuant to *Dellaglio v. Paul*, 250 A.D.2d 806, 673 N.Y.S.2d 212 (2d Dept. 1998) and *Patterson v. Jewish Hospital & Medical Center of Brooklyn*, 94 Misc.2d 680, 405 N.Y.S.2d 194, *aff'd*, 65 A.D.2d 553, 409 N.Y.S.2d 124 (2d Dept. 1978). Not foregoing this objection, see paragraph "26" below.

25. This demand is palpably improper pursuant to *Dellaglio v. Paul*, 250 A.D.2d 806, 673 N.Y.S.2d 212 (2d Dept. 1998) and *Patterson v. Jewish Hospital & Medical Center of Brooklyn*, 94 Misc.2d 680, 405 N.Y.S.2d 194, *aff'd*, 65 A.D.2d 553, 409 N.Y.S.2d 124 (2d Dept. 1978). Not foregoing this objection, see paragraph "26" below.

26. Defendant, PLANNED PARENTHOOD HUDSON PECONIC, INC., its agents, servants and/or employees were negligent and careless in the care and treatment of plaintiff, SHARA DEJESUS: in negligently failing to perform termination of pregnancy in May 2010; in failing to treat plaintiff on May 15, 2010; in abandoning plaintiff; in failing to take a proper history; in failing to appreciate the significance of the history received; in failing to timely perform a proper and complete physical; in failing to appreciate results of tests performed; in failing and neglecting to timely, adequately, and properly perform, request, obtain, use, utilize, administer and/or evaluate necessary diagnostic examinations, tests and/or consultations; in failing and neglecting to keep adequate, complete, accurate, thorough and relevant records and notes upon which to rely, or to otherwise adequately memorialize and/or record relevant information, history, complaints, signs, symptoms and findings; in failing to properly correlate and/or evaluate the findings and history obtained; in failing to obtain necessary, timely and/or adequate consultation with other medical professionals; in failing to use and employ the best medical judgment; in failing to maintain a suitable index of suspicion; in failing to properly interpret diagnostic and laboratory tests and studies; in failing to fully appreciate the significance of plaintiff's presenting condition; in failing and/or neglecting to expect, anticipate and/or foresee the danger, risk, harm and injury; in failing to take all necessary steps to timely and/or properly correct and/or repair plaintiff's presenting condition; in failing and/or neglecting to use reasonable care and/or diligence in safeguarding and/or protecting plaintiff; in failing to administer, recommend and/or ensure administration and recommendation of proper course of medical and/or surgical care and treatment for plaintiff's presenting condition; in failing to keep abreast of current medical customs and practice; in failing to perform necessary and/or further diagnostic work-up and/or treatment in a timely and/or diligent fashion and/or ensure

performance of same; in failing to possess the degree of medical skill and knowledge necessary under the circumstances; in allowing the patient to languish without appropriate medical care; in failing to form proper differential diagnoses and treatment; in failing to arrange for follow-up care; in negligently allowing plaintiff's condition to deteriorate; in failing to timely and properly formulate a differential diagnosis; in failing to timely and properly recognize the significance of, determine the etiology of and act upon the plaintiff's presenting condition; in lack of informed consent; and in failing to disclose to the plaintiff alternatives to treatment rendered and the reasonably foreseeable risks and benefits involved as a reasonable medical practitioner under similar circumstances would have disclosed in a manner permitting the plaintiff to make a knowledgeable evaluation.

27. Plaintiff makes no claim for improper or defective equipment at this time, but reserves her right to amend pending completion of discovery.

28. Plaintiff has no knowledge of the names, addresses, physical appearances and/or occupations of each and every person who performed such acts and/or omissions other than the named defendants herein. It will be claimed that the named defendants are vicariously liable for the acts and/or omissions of their partners, agents, servants and/or employees, including the named individuals who treated plaintiff, and whose names, identities and descriptions are not known to plaintiff, but whose names appear on the medical and hospital records and are known more readily to the answering defendant.

29. Defendants, their agents, servants and/or employees were negligent in failing to properly inform plaintiff of the risks, hazards, complications and potential complications arising from the performance of the treatment rendered herein; failing to disclose to the plaintiff alternatives to the treatment rendered and the reasonably foreseeable risks, benefits and

alternatives involved as a reasonable medical practitioner under similar circumstances would have disclosed, in a manner permitting the plaintiff to make a knowledgeable evaluation. Had such risk been disclosed, plaintiff would not have undergone the treatment rendered. This demand is rejected in all other aspects as inappropriate for bill of particulars and objected to as evidentiary in nature.

30. Upon information and belief, the negligent acts and/or omissions charged against defendant, PLANNED PARENTHOOD HUDSON PECONIC, INC., occurred from February 22, 2010 up to and including May 15, 2010.

31. a) See paragraph "30" above.

b) See paragraph "12b" above.

32. Termination of pregnancy.

33. See paragraph "14" above.

34. See paragraph "15" above.

35. See paragraph "16" above.

36. Not applicable.

37. See paragraph "18" above.

38. See paragraph "19" above.

39. See paragraph "20" above.

40. Objection. The information sought is overbroad, unduly burdensome and not likely to lead to discoverable information.

41. See paragraph "40" above.

42. Not applicable.

43. Not applicable.

44. Not applicable.
45. Not applicable.
46. Plaintiff, SHARA DEJESUS' social security number is 133-66-9924.

Plaintiff reserves her right to amend and/or supplement this response upon completion of discovery up to and through the trial of this matter.

Dated: Westbury, New York
March 19, 2012



LAW OFFICE OF ROBERT F. DANZI
Attorney for Plaintiff
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(516) 228-4226

TO: McALOON & FRIEDMAN, P.C.
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(212) 980-9600

ATTORNEY'S VERIFICATION

CHRISTINE COSCIA, an attorney duly admitted to practice in the county of New York affirms under penalties of perjury:

I am an associate with the LAW OFFICE OF ROBERT F. DANZI, attorney for plaintiff.

I have read the attached BILL OF PARTICULARS and know the contents thereof; it is true to my own knowledge, except as to the matters therein alleged to be on information and belief, and as to those matters I believe them to be true. This verification is made by me because plaintiff does not reside within the county where we maintain our office.

Dated: Westbury, New York
March 19, 2012


CHRISTINE COSCIA

STATE OF NEW YORK)
) ss.:
COUNTY OF NASSAU)

Kathleen Chiddo, being sworn, says:

I am not a party to the action, am over 18 years of age and reside at Bethpage, New York.

On March 19, 2012 I served the within

VERIFIED BILL OF PARTICULARS

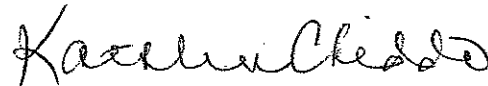
by depositing a true copy thereof enclosed in a post-paid wrapper, in an official depository under the exclusive care and custody of the U.S. Postal Service within New York State, addressed to each of the following persons at the last known address set forth herein, as follows:

FUMUSO, KELLY, DeVERNA, SNYDER, SWART & FARRELL, LLP
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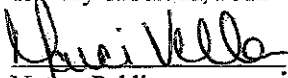
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Kathleen Chiddo

Sworn to before me this
19th day of March, 2012


Notary Public

MARC VELLA
Notary Public, State of New York
No. 01VE6066189
Qualified in Nassau County
Commission Expires November 18, 2014

11/18/14

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Plaintiff,

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Defendants.

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