

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NASSAU

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LISA M. D'AVANZO,

Plaintiff,

Index No.: 613549/2017

VERIFIED ANSWER

-against-

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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Defendant IRWIN GOLDSTEIN, M.D., by his attorneys, HEIDELL, PITTONI,
MURPHY & BACH, LLP, upon information and belief, answers the Verified Complaint herein
as follows:

AS AND TO THE FIRST CAUSE OF ACTION

FIRST: Denies knowledge or information sufficient to form a belief as to the
allegations contained in the paragraphs of the Complaint designated "1" through "22," except
admits that this answering defendant was and is duly licensed to practice medicine in the State of
New York who provided and provides medical care and treatment to and for patients at LONG
ISLAND OB GYN ASSOCIATES, P.C. in accordance with good and accepted standards of
medical care and practice and admits that LONG ISLAND OB GYN ASSOCIATES, P.C. was
and is a corporation duly existing under the laws of the State of New York, located at 79 Grand
Avenue, Massapequa, New York, and otherwise begs leave to refer all questions of law to the
court and all questions of fact to the trier thereof.

SECOND: Denies the allegations contained in the paragraphs of the Complaint designated “23” through “28” insofar as these allegations pertain to this answering defendant, except admits that this answering defendant was and is the owner of LONG ISLAND OB GYN ASSOCIATES, P.C., and otherwise denies knowledge or information sufficient to form a belief as to the allegations within these paragraphs and begs leave to refer all questions of law to the court and all questions of fact to the trier thereof.

THIRD: Denies knowledge or information sufficient to form a belief as to the allegations contained in the paragraphs of the Complaint designated “29” through “33,” except admits that this answering defendant provided medical care and treatment to and for plaintiff LISA D’AVANZO in accordance with good and accepted standards of medical care and practice, and otherwise begs leave to refer all questions of law to the court and all questions of fact to the trier thereof.

FOURTH: Denies the allegations contained in the paragraphs of the Complaint designated “34” through “38” insofar as these allegations pertain to this answering defendant, and otherwise denies knowledge or information sufficient to form a belief as to the allegations within these paragraphs and begs leave to refer all questions of law to the court and all questions of fact to the trier thereof.

AS AND TO THE SECOND CAUSE OF ACTION

FIFTH: Answering the paragraph of the Complaint designated “39,” defendant repeats and realleges each and every denial and admission in answer to the paragraphs of the Complaint designated “1” through “38” with the same force and effect as if herein set forth at length.

SIXTH: Denies the allegations contained in the paragraphs of the Complaint designated “40” through “44” insofar as these allegations pertain to this answering defendant,

and otherwise denies knowledge or information sufficient to form a belief as to the allegations within these paragraphs and begs leave to refer all questions of law to the court and all questions of fact to the trier thereof.

FOR A FIRST DEFENSE

SEVENTH: That this action was not commenced against defendant until after the expiration of the time period specified in the applicable statute of limitations and any recovery based on the alleged causes of action herein is barred.

FOR A SECOND DEFENSE

EIGHTH: That whatever damages may have been sustained at the time and place alleged in the Complaint by plaintiff were caused, in whole or in part, by the culpable conduct of plaintiff and without any negligence on the part of defendant. Damages, if any, are to be diminished proportionally to the culpable conduct of the plaintiff.

FOR A THIRD DEFENSE

NINTH: The court does not have jurisdiction of the person of the defendant because defendant was not properly served with a copy of the Summons & Complaint.

FOR A FOURTH DEFENSE

TENTH: That as to the cause of action set forth in the Complaint based upon alleged failure to obtain an informed consent, defendant pleads the defenses in Public Health Law § 2805-d.

FOR A FIFTH DEFENSE

ELEVENTH: That the Complaint was served in contravention of CPLR § 3012-a and therefore the action is a nullity.

FOR A SIXTH DEFENSE

TWELFTH: That the equitable share of liability, if any, of defendant IRWIN GOLDSTEIN, M.D. shall be determined pursuant to the provisions of Article 16 of the CPLR.

FOR A SEVENTH DEFENSE

THIRTEENTH: That one or more of the causes of action in the Complaint fail to state a cause of action upon which relief may be granted.

FOR A EIGHTH DEFENSE

FOURTEENTH: This action is barred or defendant is entitled to a set-off against any award herein as plaintiff has previously recovered sums for all or part of the damages claimed herein.

FOR A NINTH DEFENSE

FIFTEENTH: Plaintiff has failed to mitigate her alleged damages claimed herein.

FOR A TENTH DEFENSE

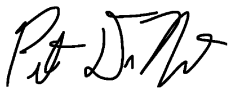
SIXTEENTH: The amount of alleged damages claimed by plaintiff should be reduced pursuant to CPLR § 4545 to the extent of any collateral source benefits, remuneration or compensation received.

WHEREFORE, defendant IRWIN GOLDSTEIN, M.D. demands judgment dismissing the Complaint herein, together with the costs and disbursements of this action.

Dated: Garden City, New York
February 6, 2018

Yours, etc.,

HEIDELL, PITTONI, MURPHY & BACH, LLP

By: 

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