

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF QUEENS

**SUMMONS**

-----X  
VENETIA WALKER and PATRICK COWAN,

Index No.: \_\_\_\_\_/14  
Date Filed: \_\_\_\_\_/14

Plaintiffs,

Plaintiffs designate Queens  
County as the place of trial.

-against-

GEORGE A. MCMILLAN and CHOICES WOMEN'S  
MEDICAL CENTER,

The basis of venue is  
plaintiffs' residence and  
defendants' place of business

Defendants.

-----X

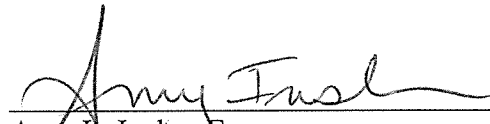
Plaintiffs reside at:  
140-19 174 Street  
Jamaica, NY 11434

County of Queens

**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 plaintiffs' attorneys, within twenty days after the service of this summons exclusive of the day of service, where service is made by delivery upon you personally within the state, or within 30 days after completion of service where service is made in any other manner. 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: Brooklyn, New York  
July 24, 2014



Amy D. Insler, Esq.  
Bonina & Bonina, P.C.  
Attorneys for Plaintiffs  
16 Court Street, Suite 1800  
Brooklyn, NY 11241  
(718) 522-1786

TO: George A. McMillan  
147-32 Jamaica Avenue  
Jamaica, NY 11435

Choices Women's Medical Center  
147-32 Jamaica Avenue  
Jamaica, NY 11435

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF QUEENS

-----X  
VENETIA WALKER and PATRICK COWAN,

Plaintiffs,

**VERIFIED COMPLAINT**

-against-

GEORGE A. MCMILLAN and CHOICES WOMEN'S  
MEDICAL CENTER,

**INDEX NO.:            /14**

Defendants.

-----X

Plaintiffs, by and through their attorneys, Bonina & Bonina, P.C., complaining of defendants herein, as and for a Verified Complaint in the above entitled action, respectfully show to this Court, and alleges upon information and belief, as follows:

**AS AND FOR A FIRST CAUSE OF ACTION TO RECOVER  
MONETARY DAMAGES FROM THE DEFENDANTS UNDER  
A THEORY OF DEPARTURE FROM ACCEPTED MEDICAL  
PRACTICE ON BEHALF OF THE PLAINTIFF, VENETIA WALKER**

**FIRST:**

That prior to the service of this Summons and Complaint, plaintiffs have purchased Index Number \_\_\_\_\_/14 from the Supreme Court of the State of New York, County of Queens, in accordance with the requirements of the CPLR.

**SECOND:**

That this case falls within one or more of the exceptions of CPLR 1602.

**THIRD:**

That at all times mentioned herein, the plaintiff, VENETIA WALKER is, was, and has been a resident of the County of Queens, State of New York.

**FOURTH:**

That at all times mentioned herein, the defendant, GEORGE A MCMILLAN, M.D., hereinafter referred to as “MCMILLAN”, maintained offices for the practice of medicine and/or did engage in the practice of medicine within the County of Queens and State of New York.

**FIFTH:**

That at all times mentioned herein, the defendant “MCMILLAN” held himself out to the general public, and more particularly, the plaintiffs herein as a duly qualified and/or licensed physician and/or surgeon capable of practicing medicine and/or surgery within the State of New York.

**SIXTH:**

That at all times mentioned herein, said defendant “MCMILLAN” for a consideration, offered to render proper, adequate, and competent medical services, surgical services, including pre and post surgical services, examination services, diagnostic services, prescription services, radiology services, laboratory services, treatment services, and in general all necessary services to give proper, adequate, and competent medical care and attention to members of the general public, and more particularly the plaintiff herein, and further held himself out to such individuals as having the necessary and requisite skill, expertise, training, education, and/or support personnel, equipment, supplies, diagnostic, laboratory, radiological, and/or hospital facilities to perform the same up to the standards of such care prevailing within the local, state, and national community.

**SEVENTH:**

That at all times mentioned herein, the defendant, CHOICES WOMEN’S MEDICAL CENTER, hereinafter referred to as “CHOICES”, was and still is a corporation, duly existing

pursuant to the laws of the State of New York, and doing business within the County of Queens, State of New York.

**EIGHTH:**

That at all times mentioned herein, the defendant “CHOICES”, owned, operated, supervised, maintained, and/or controlled certain premises within the County of Kings and State of New York, for the care of sick and ailing persons, and for other individuals requiring medical care and attention, including the plaintiff herein.

**NINTH:**

That at all times mentioned herein, the defendant “CHOICES”, for a consideration, offered to render competent and adequate medical services, nursing services, emergency room services, ambulance services, patient transportation services, operating room services, recovery room services, radiology services, laboratory services, pharmacy services, diagnostic and treatment services, surgical services including pre-operative and post-operative services, anesthesia services, and in general all necessary services to give proper, adequate, and competent medical care to members of the general public, and more particularly, the plaintiff herein, and further held itself out to such individuals as having the necessary personnel, equipment, supplies and facilities to perform the same.

**TENTH:**

That in reliance upon the foregoing, the plaintiff, VENETIA WALKER, during a continuous course of treatment beginning on or about February 25, 2014 and ending on or about March 14, 2014 came under and/or submitted to the care and attention of defendants “MCMILLAN” and “CHOICES”.

**ELEVENTH:**

That at all times mentioned herein the plaintiff related a history, various complaints, signs, symptoms, pains, sensations, and other physical and/or mental occurrences to the defendants and/or each of them, separately, jointly, individually, and/or concurrently, and/or their agents, servants, associates, partners, and/or employees.

**TWELFTH:**

That at all times mentioned herein the plaintiff, VENETIA WALKER, submitted to various tests, examinations, procedures, treatments and techniques, both oral and physical, performed by or at the special instance and request of the defendants and/or each of them, their agents, servants, associates, employees, and/or partners.

**THIRTEENTH:**

That at all times mentioned herein the defendants, their agents, servants, associates, partners, and/or employees, were aware or should have been aware of the results, import, findings and/or consequences of this history, complaints, signs, symptoms, pains, sensations and occurrences being experienced by the plaintiff, as well as the results, import, findings and/or consequences of the tests, examinations, procedure, treatments and/or techniques performed on the plaintiff, by the said defendants, their agents, servants, employees, associates and/or partners.

**FOURTEENTH:**

That in view of the foregoing, the course of treatment, advice, diagnosis, medical care and attention, prescriptions, tests, examinations, studies, surgery, pre and post surgical care, procedures and/or techniques given to and/or performed on the plaintiff by the defendants, their agents, servants, associates, partners and/or employees was not in accord with the accepted

standards of the proper practice of medicine, which are generally recognized within the local, state, or national community.

**FIFTEENTH:**

That the defendants and/or each of them, individually, jointly and/or concurrently, their agents, servants, associates, partners, and/or employees, by acts of commission and omission were negligent, careless and reckless and departed from accepted medical practices in the following areas:

- a) failed and omitted to properly perform termination of pregnancy on February 26, 2014;
- b) negligently, carelessly and recklessly caused a burn on plaintiff's buttocks during the February 26, 2014 termination of pregnancy;
- c) failed and omitted to use caution when using and/or positioning the weighted speculum during performance of the termination of pregnancy on February 26, 2014;
- d) failed and omitted to properly monitor the placement of the weighted speculum during performance of February 26, 2014 termination of pregnancy;
- e) negligently, carelessly and recklessly failed to use a cooled instrument during the February 26, 2014 termination of pregnancy;
- f) negligently, carelessly and recklessly failed to prevent weighted speculum from burning the plaintiff's buttocks;
- g) failed and omitted to prevent the instrumentation utilized during the February 26, 2014 termination of pregnancy from burning the plaintiff's buttocks;

- h) failed and omitted to inspect and check placement of the speculum during performance of the February 26, 2014 termination of pregnancy;
- i) failed and omitted to timely remove the speculum from the plaintiff's buttocks on February 26, 2014;
- j) failed and omitted to realize that the speculum was too hot to be used during the February 26, 2014 termination of pregnancy;
- k) failed and omitted to realize that the speculum was too hot to be placed on plaintiff's body;
- l) negligently, carelessly and recklessly placed and/or rested a heated speculum and/or other instrument on plaintiff's buttocks for an unacceptable and improper amount of time;
- m) negligently, carelessly and recklessly caused pain and swelling to occur to plaintiff's buttocks;
- n) failed and omitted to use a cooled speculum and/or other instrumentation during the February 26, 2014 termination of pregnancy;
- o) failed and omitted to allow the instruments for the February 26, 2014 termination of pregnancy to cool prior to using them on the plaintiff;
- p) negligently, carelessly and recklessly applied, placed and/or utilized the heated or uncooled speculum on or near plaintiff's buttocks;
- q) failed and omitted to prevent buttock burns from occurring on February 26, 2014;
- r) failed and omitted to use their best judgment and reasonable care in their medical care, attention, services, treatment, diagnosis and other medical services rendered on behalf of the plaintiff;

- s) failed and omitted to perform proper and timely tests, examinations, procedures, studies, surgery, pre and post surgical care, and in general in giving medical care, attention, treatment and/or care to the plaintiff;
- t) failed and omitted to understand the clinical analysis, laboratory analysis, history, physical examination, complaints, pains, signs, and/or symptoms so that a proper diagnosis could be made and/or a proper course of treatment given;
- u) failed and omitted to inform the plaintiff of the dangers and risks as well as alternatives;
- v) failed and omitted to conform to the accepted standards of care and skill in giving advice, treatment, prescriptions, examinations, information, services, surgery, pre and post surgical care, attention, studies, laboratory and/or radiological examinations and/or facts to the plaintiff herein.
- w) failed and omitted to timely recognize the plaintiff's condition.

**SIXTEENTH:**

That solely as a result of the negligence and/or medical malpractice of the defendants, and/or each of them, their agents, servants, associates, partner and/or employees, and without any negligence or culpable conduct on the part of the plaintiff contributing thereto, the plaintiff was caused to sustain the injuries which are hereinafter referred to.

**SEVENTEENTH:**

That as a result of the negligence and/or medical malpractice, as aforesaid, the plaintiff, VENETIA WALKER became, still is and for a long time to come will be sick, sore, lame, bruised, injured, and wounded in and about the various parts of her body, both internally and externally, such as her buttocks, functions of her body and including surrounding muscles,



tissues, arteries, veins, blood vessels, cells, and other parts of plaintiff's body and that plaintiff also sustained psychic injuries and/or mental anguish and agony and was otherwise injured and upon information and belief said injuries are permanent; that by reason of the foregoing the plaintiff, VENETIA WALKER, is obliged to and did necessarily employ medical aid, medicinals, hospital aid and other treatment in an attempt to cure herself of said injuries and has been prevented from performing her duties and will be so prevented for a long time to come.

**EIGHTEENTH:**

That by reason of the foregoing departures from accepted medical practice, plaintiff VENETIA WALKER, has been damaged by the defendants herein and seeks a monetary award and damages which exceed the jurisdictional limits of all lower Courts which would otherwise have jurisdiction over the defendants herein.

**AS AND FOR A SECOND CAUSE OF ACTION TO RECOVER  
MONETARY DAMAGES FROM THE DEFENDANTS  
UNDER A THEORY OF LACK OF INFORMED CONSENT  
ON BEHALF OF THE PLAINTIFF, VENETIA WALKER**

**NINETEENTH:**

Plaintiff repeats, reiterates and realleges each and every allegation contained in paragraphs "FIRST" through "EIGHTEENTH" all inclusive, with the same force and effect as though said allegations were herein fully set forth at length.

**TWENTIETH:**

At all of the times aforementioned, defendants, their partners, agents, servants, employees and licensees who rendered medical diagnosis, care, treatment, services and advice to plaintiff VENETIA WALKER, failed to adequately inform her or her representatives, and failed to warn them of the nature, purposes, known perils, recognized hazards, risks and possible complications

of the medical diagnosis, treatment, services and advice rendered to the plaintiff; defendants, their partners, agents, servants, employees and licensees failed to inform plaintiff regarding the outcome or possible consequences of the medical diagnosis, treatment, services and advice which they rendered; defendants, their partners, agents, servants, employees and licensees failed to inform plaintiff or her representatives of any alternative methods of treatment; defendants, their partners, agents, servants, employees and licensees failed to obtain an informed consent by or on behalf of the plaintiff VENETIA WALKER.

**TWENTY-FIRST:**

A reasonable person in plaintiff's position would not have undergone the treatment if she had been fully informed, and the lack of said informed consent is a proximate cause of the injuries for which recovery is sought.

**TWENTY-SECOND:**

As a result of the foregoing, plaintiff VENETIA WALKER was caused to sustain severe and permanent personal injuries, was caused to suffer severe pain and mental anguish, was caused to expend and become obligated to expend sums of money for medical services and related expenses which continue into the future, and has been damaged in a sum which exceeds the jurisdictional limitations of all lower courts which would otherwise have jurisdiction.

**AS AND FOR A THIRD CAUSE OF ACTION AGAINST  
THE DEFENDANTS BY THE PLAINTIFF, PATRICK COWAN,  
TO RECOVER A MONETARY AWARD FOR LOSS OF SERVICES**

**TWENTY-THIRD:**

That the plaintiff, PATRICK COWAN, repeats, reiterates, and realleges each and every allegation of the Complaint in paragraphs numbered "FIRST" through "TWENTY-SECOND"

both inclusive, with the same force and effect as though said allegations were herein fully set forth at length.

**TWENTY-FOURTH:**

That at all times mentioned herein, the plaintiff, PATRICK COWAN, is and was and has been a resident of the County of Queens, City and State of New York.

**TWENTY-FIFTH:**

That at all times mentioned herein, the plaintiff, PATRICK COWAN, was and still is the lawful spouse of the plaintiff, VENETIA WALKER, and that the plaintiff, PATRICK COWAN, is entitled to the services, society, care, comfort and consortium of his said wife and is responsible for the medical care and expenses incurred on behalf of his said wife.

**TWENTY-SIXTH:**

That as a result of the negligence of the defendants, as aforesaid, the plaintiff, PATRICK COWAN, has been deprived of the services, society, care, comfort and consortium of his wife, VENETIA WALKER, and has incurred expenses for her medical treatment, care and attention by physicians and other medical expenses as a result of the injuries sustained by his said wife, VENETIA WALKER.

**TWENTY-SEVENTH:**

That as a result of the foregoing, the plaintiff, PATRICK COWAN, has been damaged by the defendants herein, and seeks a monetary award and damages which exceed the jurisdictional limits of all lower courts which would otherwise have jurisdiction over the defendants herein.

**WHEREFORE**, the plaintiff, VENETIA WALKER demands a monetary judgment in the form of damages against the defendants and/or each of them herein on the First Cause of

Action in an amount which exceeds the jurisdictional limits of all lower Courts which would otherwise have jurisdiction of this action; and

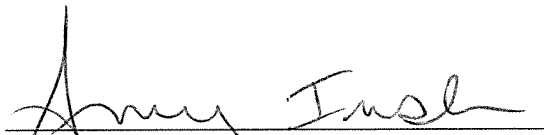
**WHEREFORE**, the plaintiff, VENETIA WALKER demands a monetary judgment in the form of damages against the defendants and/or each of them on the Second Cause of Action in an amount which exceeds the jurisdictional limits of all lower Courts which would otherwise have jurisdiction of this action; and

**WHEREFORE**, the plaintiff, PATRICK COWAN, demands a monetary judgment in the form of damages against the defendants and/or each of them on the Third Cause of Action in an amount which exceeds the jurisdictional limits of all lower Courts which would otherwise have jurisdiction of this action, together with all the costs and disbursements of this action.

Dated: Brooklyn, New York  
July 24, 2014

“I have read the foregoing and I certify that, upon information and belief, the source of which is the review of a file maintained by my office, that the foregoing Summons and Verified Complaint is not frivolous as defined in Subsection (c) of Section 130-1.1 of the Rules of the Chief Administrator.”

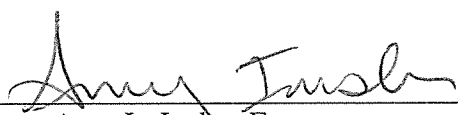
Yours, etc.,



Amy E. Insler, Esq.  
Bonina & Bonina, P.C.  
Attorneys for Plaintiffs  
16 Court Street - Suite 1800  
Brooklyn, NY 11241  
(718) 522-1786

**CERTIFICATE OF MERIT  
PURSUANT TO CPLR 3012 (a)(1)**

I am an attorney duly licensed to practice before the Courts of the State of New York. I have reviewed the facts of this case and have consulted a physician licensed to practice medicine who is knowledgeable in the relevant issues involved in this action. On the basis of such review and consultation, it is my belief that there is a reasonable basis for the commencement of this action.

  
\_\_\_\_\_  
Amy L. Insler, Esq.

STATE OF NEW YORK, COUNTY OF **KINGS**

ss.:

I, the undersigned, am an attorney admitted to practice in the courts of New York, and

Attorney's  
Certification

certify that the annexed  
has been compared by me with the original and found to be a true and complete copy thereof.

say that: I am the attorney of record, or of counsel with the attorney(s) of record, for the **plaintiffs**  
**VENETIA WALKER and PATRICK COWAN** . I have read the annexed **SUMMONS, VERIFIED COMPLAINT AND**  
**CERTIFICATE OF MERIT**

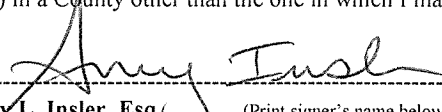
Attorney's  
Verification  
By  
Affirmation

know the contents thereof and the same are true to my knowledge, except those matters therein which are stated to be alleged on  
information and belief, and as to those matters I believe them to be true. My belief, as to those matters therein not stated upon  
knowledge, is based on the following. By a review of a file maintained in my office.

The reason I make this affirmation instead of Plaintiff(s) is Plaintiff(s) reside(s) in a County other than the one in which I maintain my  
office.

I affirm that the foregoing statements are true under penalties of perjury.

Dated: **July 24, 2014**

  
-----  
**Amy L. Insler, Esq.** (Print signer's name below signature)

STATE OF NEW YORK, COUNTY OF **KINGS**

ss:

, being sworn says: I am the plaintiff

Individual  
Verification

in the action herein; I have read the annexed  
know the contents thereof and the same are true to my knowledge, except those matters therein which are stated to be alleged on  
information and belief, and as to those matters I believe them to be true.  
the of

Corporate  
Verification

a corporation, one of the parties to the action; I have read the annexed  
know the contents thereof and the same are true to my knowledge, except those matters therein which are stated to be alleged  
on information and belief, and as to those matters I believe them to be true.

My belief, as to those matters therein not stated upon knowledge, is based on the following:

Sworn to before me on

-----  
(Print signer's name below signature)

STATE OF NEW YORK, COUNTY OF

ss.:

, being sworn says: I am not a party to the action, am over the age of 18 years of age and reside in

On , I served a true copy of the annexed in the following manner:

Service  
by Mail

by mailing the same in a sealed envelope, with postage prepaid thereon, in a post-office or official depository of the U.S.  
Postal Service within the State of New York, addressed to the last known address of the addressee(s) as indicated below:

Personal  
Service

by delivering the same personally to the persons at the address indicated below:

Service by  
Electronic  
Means

by transmitting the same to the attorney by electronic means to the telephone number or other station or other limitation designated  
by the attorney for that purpose. In doing so I received a signal from the equipment of the attorney indicating that the transmission  
was received, and mailed a copy of same to that attorney, in a sealed envelope, with postage prepaid thereon, in a post office or  
official depository of the U.S. Postal Service within the State of New York, addressed to the last known address of the addressee(s) as  
indicated below:

Overnight  
Delivery  
Service

by depositing the same with an overnight delivery service in a wrapper properly addressed. Said delivery was made prior to the  
latest time designated by the overnight delivery service for overnight delivery. The address and delivery service are indicated below:

Sworn to before me on

Index No.:

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF QUEENS

VENETIA WALKER and PATRICK COWAN,

Plaintiffs,

-against-

GEORGE A. MCMILLAN and CHOICES WOMEN'S MEDICAL CENTER,

Defendants.

**SUMMONS, VERIFIED COMPLAINT AND CERTIFICATE OF MERIT**

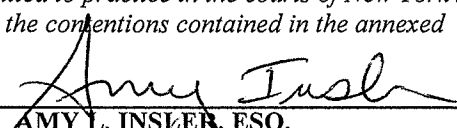
**BONINA & BONINA, P.C.**

Attorneys for *Plaintiff(s)*  
16 Court Street, Suite 1800  
Brooklyn, NY 11241  
Tele. No.: (718) 522-1786  
Fax No.: (718) 243-0414

*Pursuant to 22 NYCRR 130-1.1, the undersigned, an attorney admitted to practice in the courts of New York State, certifies that, upon information and belief and reasonable inquiry, the contentions contained in the annexed documents are not frivolous.*

Dated: **July 24, 2014**

Signature



Print Signer's Name: AMY L. INSLAR, ESQ.

*Service of a copy of the within*

*is hereby admitted.*

Dated:

\_\_\_\_\_  
*Attorney(s) for*

**PLEASE TAKE NOTICE**

*that the within is a (certified) true copy of a*  
NOTICE OF ENTRY *entered in the office of the clerk of the within named Court on*

*that an Order of which the within is a true copy will be presented for settlement to the Hon.*  
NOTICE OF SETTLEMENT *one of the judges of the within named Court,*  
*at on 20, at M.*

Dated:

**BONINA & BONINA, P.C.**  
*Attorneys for Plaintiff(s)*  
16 COURT STREET  
BROOKLYN, N.Y. 11241

To:  
*Attorney(s) for*