

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF ORANGE

-----X
KADISHA SAMPSON,

Plaintiff,

-against-

PLANNED PARENTHOOD OF THE MID-HUDSON,
VALLEY, INC. d/b/a NEWBURGH HEALTH CENTER,
ST. LUKE'S CORNWALL HOSPITAL, STEPHEN
CESTARI, M.D., CRYSTAL RUN HEALTHCARE, LLP
KIMBERLY HELLER, M.D. and VASSAR BROTHERS
MEDICAL CENTER,

Defendants:
-----X

Index No.: _____/18E

Plaintiff designates ORANGE
COUNTY as the place of trial.

The basis of venue is:
Principal Office of Defendant

SUMMONS

Plaintiff's Address:
94 Tompkins Terrace
Beacon, NY 12508

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 attorney 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: New York, New York
February 12, 2018

Respectfully submitted:

DAMON J. VELARDI, ESQ.
SILVER & KELMACHER, LLP
Attorneys for Plaintiff
11 Park Place, Suite 1214
New York, New York 10007
(212) 661-8400

DEFENDANTS' ADDRESSES:

PLANNED PARENTHOOD OF THE
MID-HUDSON VALLEY, INC.
d/b/a NEWBURGH HEALTH CENTER
136 Lake Street, Suite 11
Newburgh, NY 12550

ST. LUKE'S CORNWALL HOSPITAL
70 Dubois Street
Newburgh, NY 12550

STEPHEN CESTARI, M.D.
155 Crystal Run Road
Middletown, NY 10941

CRYSTAL RUN HEALTHCARE, LLP
155 Crystal Run Road
Middletown, NY 10941

KIMBERLY HELLER, M.D.
45 Reade Place
Poughkeepsie, NY 12601

VASSAR BROTHERS MEDICAL CENTER
45 Reade Place
Poughkeepsie, NY 12601

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF ORANGE

-----X
KADISHA SAMPSON,

Index No. _____/18

Plaintiff,

- against -

VERIFIED COMPLAINT

PLANNED PARENTHOOD OF THE MID-HUDSON,
VALLEY, INC. d/b/a NEWBURGH HEALTH CENTER,
ST. LUKE'S CORNWALL HOSPITAL, STEPHEN
CESTARI, M.D., CRYSTAL RUN HEALTHCARE, LLP
KIMBERLY HELLER, M.D. and VASSAR BROTHERS
MEDICAL CENTER,

Defendants.
-----X

The plaintiff, by her attorneys, Silver & Kelmachter, LLP, as and for a verified complaint against the defendants, does allege as follows upon information and belief:

1. That at all times hereinafter mentioned, the plaintiff was a resident of the State of New York.

2. That at all times hereinafter mentioned, the defendant PLANNED PARENTHOOD OF THE MID-HUDSON VALLEY, INC. d/b/a NEWBURGH HEALTH CENTER was and still is a domestic corporation which was duly organized and existing under the laws of the State of New York.

3. That at all times hereinafter mentioned, the defendant PLANNED PARENTHOOD OF THE MID-HUDSON VALLEY, INC. d/b/a NEWBURGH HEALTH CENTER did maintain its principal office for the transaction of business in Orange County, New York.

4. That at all times hereinafter mentioned, the defendant ST. LUKE'S CORNWALL HOSPITAL was and still is a domestic corporation which was duly organized and existing under

the laws of the State of New York.

5. That at all times hereinafter mentioned, the defendant ST. LUKE'S CORNWALL HOSPITAL did maintain its principal office for the transaction of business in Orange County, New York.

6. That at all times relevant hereto, the defendant STEPHEN CESTARI, M.D. was a resident of the State of New York and did maintain an office for the transaction of business in Orange County, New York.

7. That at all times relevant hereto, the defendant STEPHEN CESTARI, M.D. was a physician who was licensed to practice medicine in the State of New York.

8. That at all times hereinafter mentioned, the defendant CRYSTAL RUN HEALTHCARE, LLP was and still is a domestic limited liability partnership which was duly organized and existing under the laws of the State of New York.

9. That at all times hereinafter mentioned, the defendant CRYSTAL RUN HEALTHCARE, LLP did maintain its principal office for the transaction of business in Orange County, New York.

10. That at all times relevant hereto, the defendant KIMBERLY HELLER, M.D. was a resident of the State of New York and did maintain an office for the transaction of business in Dutchess County, New York.

11. That at all times relevant hereto, the defendant KIMBERLY HELLER, M.D. was a physician who was licensed to practice medicine in the State of New York.

12. That at all times hereinafter mentioned, the defendant VASSAR BROTHERS MEDICAL CENTER was and still is a domestic corporation which was duly organized and existing under the laws of the State of New York.

13. That at all times hereinafter mentioned, the defendant VASSAR BROTHERS MEDICAL CENTER did maintain its principal office for the transaction of business in Dutchess County, New York.

14. That at all times hereinafter mentioned, the defendant PLANNED PARENTHOOD OF THE MID-HUDSON VALLEY, INC. d/b/a NEWBURGH HEALTH CENTER did own, maintain, operate, manage and control the medical facility located at 136 Lake Street, Suite 11, Newburgh, NY 12550.

15. That at all times hereinafter mentioned, the defendant PLANNED PARENTHOOD OF THE MID-HUDSON VALLEY, INC. d/b/a NEWBURGH HEALTH CENTER did employ and supervise the activities of the doctors, nurses, administrators and other medical staff at its medical facility located at 136 Lake Street, Suite 11, Newburgh, NY 12550.

16. That at all times hereinafter mentioned, the defendant ST. LUKE'S CORNWALL HOSPITAL was and still is a facility which was licensed to operate as a hospital in the State of New York at 70 Dubois Street, Newburgh, NY 12550.

17. That at all times hereinafter mentioned, the defendant ST. LUKE'S CORNWALL HOSPITAL did own, maintain, operate, manage and control the hospital facility located at 70 Dubois Street, Newburgh, NY 12550.

18. That at all times hereinafter mentioned, the defendant ST. LUKE'S CORNWALL HOSPITAL did employ and supervise the activities of the doctors, nurses, administrators and other medical staff at its hospital facility located at 70 Dubois Street, Newburgh, NY 12550.

19. That at all times hereinafter mentioned, the defendant CRYSTAL RUN HEALTHCARE, LLP did own, maintain, operate, manage and control the medical facility located at 155 Crystal Run Road, Middletown, NY 10941.

20. That at all times hereinafter mentioned, the defendant CRYSTAL RUN HEALTHCARE, LLP did employ and supervise the activities of the doctors, nurses, administrators and other medical staff at its medical facility located at 155 Crystal Run Road, Middletown, NY 10941.

21. That at all times hereinafter mentioned, the defendant STEPHEN CESTARI, M.D. was an employee of the defendant CRYSTAL RUN HEALTHCARE, LLP.

22. That at all times hereinafter mentioned, the defendant STEPHEN CESTARI, M.D. was acting within the scope of his employment by the defendant CRYSTAL RUN HEALTHCARE to provide medical and prenatal services to the plaintiff.

23. That at all times hereinafter mentioned, the defendant VASSAR BROTHERS MEDICAL CENTER was and still is a facility which was licensed to operate as a hospital in the State of New York at 45 Reade Place, Poughkeepsie, NY 12601.

24. That at all times hereinafter mentioned, the defendant VASSAR BROTHERS MEDICAL CENTER did own, maintain, operate, manage and control the hospital facility located at 45 Reade Place, Poughkeepsie, NY 12601.

25. That at all times hereinafter mentioned, the defendant VASSAR BROTHERS MEDICAL CENTER did employ and supervise the activities of the doctors, nurses, administrators and other medical staff at its hospital facility located at 45 Reade Place, Poughkeepsie, NY 12601.

26. That at all times hereinafter mentioned, the defendant KIMBERLY HELLER, M.D. was an employee of the defendant VASSAR BROTHERS MEDICAL CENTER.

27. That at all times hereinafter mentioned, the defendant KIMBERLY HELLER, M.D. was acting within the scope of her employment by the defendant VASSAR BROTHERS

MEDICAL CENTER to provide medical, prenatal and labor & delivery services to the plaintiff.

AS AND FOR A FIRST CAUSE OF ACTION
AGAINST DEFENDANT, PLANNED PARENTHOOD
OF THE MID-HUDSON VALLEY, INC.
D/B/A NEWBURGH HEALTH CENTER

28. That the plaintiff repeats and realleges all of the contents of the foregoing paragraphs as if they were more fully set forth herein at length.

29. That on or about January 14, 2016 and March 24, 2016, and including various prior dates, the plaintiff was a patient at the medical facility of the defendant PLANNED PARENTHOOD OF THE MID-HUDSON VALLEY, INC. d/b/a NEWBURGH HEALTH CENTER.

30. That at all times hereinafter mentioned, including on or about January 14, 2016 and March 24, 2016, and prior and subsequent thereto, the defendant PLANNED PARENTHOOD OF THE MID-HUDSON VALLEY, INC. d/b/a NEWBURGH HEALTH CENTER, by and through its duly authorized doctor(s), nurse(s), staff, agents, employees and/or independent contractors, was/were negligent, careless, unskillful and committed acts and omissions which constituted medical negligence and medical malpractice in connection with the medical, gynecological and obstetrical care rendered to plaintiff, in the following manner: in deviating from good and accepted medical practices which were prevailing in the community; in failing to undertake and administer proper gynecological and obstetrical care; in failing to properly and adequately diagnose pregnancy; in failing to properly and adequately perform a pregnancy test and in failing to timely act upon same; in failing to timely recognize, heed, appreciate and act upon the plaintiff's complaints, signs and symptoms; in failing to timely recognize, heed, appreciate and act upon signs of pregnancy; in failing to timely refer the plaintiff for prenatal care and diagnostic testing; in failing to undertake and administer proper prenatal

care and diagnostic testing and practice; in negligently administering contraindicated medications and/or chemical agents; in administering medications and/or chemical agents in excessive and/or contraindicated dosages; in negligently administering Depo Provera birth control without testing the plaintiff for pregnancy and while plaintiff was pregnant; in failing to obtain and/or arrange for the necessary and indicated specialist consultations; in failing to timely undertake and administer proper examinations and testing; in failing to assign and provide competent medical staff or to supervise its medical staff; and by other negligent acts and/or omissions; and by all of the foregoing did thereby proximately cause the severe injuries and conditions and associated direct complications and pain and suffering sustained and suffered by the plaintiff.

31. That as a direct and proximate result of the medical negligence, medical malpractice and substandard medical treatment of the defendant, PLANNED PARENTHOOD OF THE MID-HUDSON VALLEY, INC. d/b/a NEWBURGH HEALTH CENTER and those acting on its/their behalf, the plaintiff was caused to sustain severe personal injuries and complications and to have permanent pain and suffering and medical problems and issues on a lifelong basis, with associated medical and diagnostic expenses and fees.

32. That as a consequence, the plaintiff has sustained damages in an amount exceeding the jurisdictional limitations of all lower courts which would otherwise have jurisdiction over this case.

AS AND FOR A SECOND CAUSE OF ACTION
AGAINST DEFENDANT; ST. LUKE'S CORNWALL HOSPITAL

33. That the plaintiff repeats and realleges all of the contents of the foregoing paragraphs as if they were more fully set forth herein at length.

34. That on or about March 24, 2016, the plaintiff was a patient at the hospital facility

of the defendant ST. LUKE'S CORNWALL HOSPITAL.

35. That at all times hereinafter mentioned, including on or about March 24, 2016, and subsequent thereto, the defendant ST. LUKE'S CORNWALL HOSPITAL, by and through its duly authorized doctor(s), nurse(s), staff, agents, employees and/or independent contractors, was/were negligent, careless, unskillful and committed acts and omissions which constituted medical negligence and medical malpractice in connection with the medical, radiological, gynecological and obstetrical care rendered to plaintiff, in the following manner: in deviating from good and accepted medical and radiological practices which were prevailing in the community; in failing to undertake and administer proper gynecological and obstetrical care; in failing to properly and adequately diagnose various serious anomalies with respect to plaintiff's pregnancy and fetus; in failing to properly and adequately perform a fetal ultrasound; in failing to timely recognize, heed, appreciate and act upon the plaintiff's complaints, signs and symptoms; in failing to timely recognize, heed, appreciate and act upon signs of various serious anomalies with respect to plaintiff's pregnancy and fetus; in failing to refer the plaintiff for prenatal care and for further diagnostic testing; in failing to obtain and/or arrange for the necessary and indicated specialist consultations; in failing to timely undertake and administer proper examinations and testing; in failing to assign and provide competent medical staff or to supervise its medical staff; and by other negligent acts and/or omissions; and by all of the foregoing did thereby proximately cause the severe injuries and conditions and associated direct complications and pain and suffering sustained and suffered by the plaintiff.

36. That as a direct and proximate result of the medical negligence, medical malpractice and substandard medical treatment of the defendant, ST. LUKE'S CORNWALL HOSPITAL and those acting on its/their behalf, the plaintiff was caused to sustain severe

personal injuries and complications and to have permanent pain and suffering and medical problems and issues on a lifelong basis, with associated medical and diagnostic expenses and fees.

37. That as a consequence, the plaintiff has sustained damages in an amount exceeding the jurisdictional limitations of all lower courts which would otherwise have jurisdiction over this case.

AS AND FOR A THIRD CAUSE OF ACTION
AGAINST DEFENDANTS, STEPHEN CESTARI, M.D.
AND CRYSTAL RUN HEALTHCARE, LLP

38. That the plaintiff repeats and realleges all of the contents of the foregoing paragraphs as if they were more fully set forth herein at length.

39. That on or about March 30, 2016, the plaintiff was a patient of the defendant, STEPHEN CESTARI, M.D. at the medical facility of the defendant CRYSTAL RUN HEALTHCARE, LLP.

40. That at all times hereinafter mentioned, including on or about March 30, 2016, and subsequent thereto, including on or about April 1, 2016, April 4, 2016, April 5, 2016 and April 6, 2016, the defendant, STEPHEN CESTARI, M.D., individually, and the defendant CRYSTAL RUN HEALTHCARE, LLP, by and through its duly authorized doctor(s), nurse(s), staff, agents and employees, including the defendant STEPHEN CESTARI, M.D., was/were negligent, careless, unskillful and committed acts and omissions which constituted medical negligence and medical malpractice in connection with the medical, prenatal, gynecological and obstetrical care rendered to plaintiff, in the following manner: in deviating from good and accepted medical practices which were prevailing in the community; in failing to undertake and administer proper prenatal care; in failing to properly and adequately diagnose and treat severe

anomalies of the plaintiff's pregnancy and fetus; in failing to properly and adequately perform diagnostic testing and in failing to timely act upon same; in failing to timely recognize, heed, appreciate and act upon the plaintiff's complaints, signs and symptoms; in failing to undertake and administer proper prenatal care and diagnostic testing and practice; in failing to obtain and/or arrange for the necessary and indicated specialist consultations; in failing to timely undertake and administer proper examinations and testing; in failing to assign and provide competent medical staff or to supervise its medical staff; and by other negligent acts and/or omissions; and by all of the foregoing did thereby proximately cause the severe injuries, conditions, associated direct complications and pain and suffering sustained and suffered by the plaintiff.

41. That as a direct and proximate result of the medical negligence, medical malpractice and substandard medical treatment of the defendants, STEPHEN CESTARI, M.D. and CRYSTAL RUN HEALTHCARE, LLP, and those acting on his/its/their behalf, the plaintiff was caused to sustain severe personal injuries and complications and to have permanent pain and suffering and medical problems and issues on a lifelong basis, with associated medical and diagnostic expenses and fees.

42. That as a consequence, the plaintiff has sustained damages in an amount exceeding the jurisdictional limitations of all lower courts which would otherwise have jurisdiction over this case.

AS AND FOR A FOURTH CAUSE OF ACTION
AGAINST DEFENDANTS, KIMBERLY HELLER, M.D.
AND VASSAR BROTHERS MEDICAL CENTER

43. That on or about April 6, 2016 through on or about April 19, 2016, the plaintiff was a patient of the defendant, KIMBERLY HELLER, M.D. at the hospital facility of the defendant VASSAR BROTHERS MEDICAL CENTER.

44. That at all times hereinafter mentioned, including from on or about April 6, 2016 through on or about April 19, 2016, the defendant, KIMBERLY HELLER, M.D., individually, and the defendant VASSAR BROTHERS MEDICAL CENTER, by and through its duly authorized doctor(s), nurse(s), staff, agents and employees, including the defendant KIMBERLY HELLER, M.D., was/were negligent, careless, unskillful and committed acts and omissions which constituted medical negligence and medical malpractice in connection with the medical, surgical, prenatal, gynecological, obstetrical, labor and delivery and diagnostic care rendered to plaintiff, in the following manner: in deviating from good and accepted medical practices which were prevailing in the community; in failing to undertake and administer proper prenatal care; in failing to timely recognize, heed, appreciate and act upon the plaintiff's complaints, signs and symptoms; in failing to undertake and administer proper obstetrical care and diagnostic testing and practice; in failing to timely and properly undertake and administer a Cesarean section delivery; in improperly and negligently failing to immediately perform a Cesarean section delivery, but instead in negligently augmenting plaintiff's labor with Cytotec, which was contraindicated under the circumstances; in negligently causing the plaintiff's uterus to rupture; in negligently administering contraindicated medications and/or chemical agents; in administering medications and/or chemical agents in excessive and/or contraindicated dosages; in failing to obtain and/or arrange for the necessary and indicated specialist consultations; in failing to obtain and/or arrange for the necessary and indicated diagnostic testing; in failing to timely undertake and administer proper examinations and testing; in failing to assign and provide competent medical staff or to supervise its medical staff; and by other negligent acts and/or omissions; and by all of the foregoing did thereby proximately cause the severe injuries, conditions, associated direct complications and pain and suffering sustained and suffered by the

plaintiff.

45. That as a direct and proximate result of the medical negligence, medical malpractice and substandard medical treatment of the defendants, KIMBERLY HELLER, M.D. and VASSAR BROTHERS MEDICAL CENTER, and those acting on her/its/their behalf, the plaintiff was caused to sustain severe personal injuries and complications and to have permanent pain and suffering and medical problems and issues on a lifelong basis, with associated medical and diagnostic expenses and fees.

46. That as a consequence, the plaintiff has sustained damages in an amount exceeding the jurisdictional limitations of all lower courts which would otherwise have jurisdiction over this case.

**AS AND FOR A FIFTH CAUSE OF ACTION AGAINST
ALL DEFENDANTS BASED ON SECTION 2805-d OF THE
PUBLIC HEALTH LAW, THE FOLLOWING IS ALLEGED:**

47. The plaintiff repeats and realleges all of the contents of the foregoing paragraphs as if they were more fully set forth herein at length.

48. That as part of the medical treatment which was rendered to the plaintiff by the defendants on the aforesaid dates and time, and upon all prior dates that she may have received evaluation, treatment and/or testing, and during the time periods that she was a patient of the defendants and/or at the defendants' medical/hospital facilities, the plaintiff alleges a cause of action based upon a lack of informed consent, arising from defendants' acts and omissions and their failure to comply with what is required by section 2805-d of the Public Health Law of the State of New York.

49. That on the aforesaid dates and times, in connection with the medical, hospital and surgical treatment rendered to the plaintiff, the defendants and/or those acting on their behalf,

failed to adequately disclose the material risks, benefits, and alternatives to the medical and surgical care which a reasonable medical practitioner/facility under similar circumstances would have disclosed, in a manner permitting the plaintiff to make a knowledgeable evaluation, such that a reasonably prudent person in the plaintiff's position would not have undergone the treatment and/or care had she been so fully informed by the defendants or those acting on their behalf for this purpose.

50. That as a consequence of her not having been given qualitative information to permit reasonable decision making on the topic of the medical, prenatal, obstetrical, gynecological and surgical care and treatment, the plaintiff was wrongfully deprived of the ability to decide upon and reject her undergoing the care and treatment rendered, and thereby suffered damages and injuries, and the plaintiff has a cause of action against the defendants for having been deprived of the ability to render informed consent.

51. That as a direct and proximate result of her lack of informed consent, as a result of the acts and omissions of the defendants and those acting on their behalf, the plaintiff was directly and proximately caused to and did sustain severe and permanent personal injuries and direct complications and she has thereby suffered damages.

52. That as a consequence of the foregoing, the plaintiff has sustained damages in an amount exceeding the jurisdictional limitations of all lower courts which would otherwise have jurisdiction over this case.

CPLR ARTICLE 16 ALLEGATIONS:

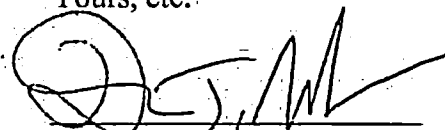
53. That the defendants may not avail themselves of the limitations of liability set forth in CPLR Article 16 as a consequence of the exclusions set forth in CPLR 1602(2)(iv).

WHEREFORE, the plaintiff does demand that judgments be entered against the

defendants, both jointly and separately, in amounts exceeding the jurisdictional limitations of all lower courts which would otherwise have jurisdiction over this case, based upon all of the causes of action set forth herein, and that the plaintiff be awarded the costs and disbursements of this action and such other and further relief as the Court determines to be just and proper under the circumstances.

Dated: New York, N.Y.
February 12, 2018

Yours, etc.



Damon J. Velardi, Esq.
Silver & Kelmachter, LLP
Attorneys for the Plaintiff
11 Park Place, Suite 1214
New York, N.Y. 10007
(212) 661-8400

VERIFICATION

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

DAMON J. VELARDI, ESQ., an attorney at law, does affirm as follows under the penalties of perjury:

That your affirmant is the attorney for the plaintiff in the within action; you're your affirmant has read the foregoing **COMPLAINT** and knows the contents thereof; that same is true to affirmant's own knowledge except as to the matters therein stated to be alleged upon information and belief, and as to those matters affirmant believes them to be true and the reason that this verification is not made by the plaintiff(s) and is made by affirmant is that the plaintiff is not presently in the county where the attorneys for the plaintiff maintains their office, such that the verification can be made by an attorney as per CPLR 3020(d)(3).

Affirmant further says that the source of affirmant's information and the grounds of affirmant's belief as to all matters not stated upon affirmant's knowledge are from medical records and from investigation made on behalf of said plaintiff.

Dated: New York, New York
February 12, 2018



DAMON J. VELARDI, ESQ.

