

NEW YORK SUPREME COURT - COUNTY OF BRONX

PART 11

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF BRONX:

Case Disposed	<input type="checkbox"/>
Settle Order	<input type="checkbox"/>
Schedule Appearance	<input type="checkbox"/>

Johnson, Corinne

-against-

Parkmed Eastern

Index No. 17354-2005

Hon. Betty Owen Stinson

Justice.

The following papers numbered 1 to _____ Read on this motion,
Noticed on _____ and duly submitted as No. _____ on the Motion Calendar of _____

	PAPERS NUMBERED	
Notice of Motion - Order to Show Cause - Exhibits and Affidavits Annexed		
Answering Affidavit and Exhibits		
Replying Affidavit and Exhibits		
_____ Affidavits and Exhibits		
Floodings - Exhibit		
Stipulation(s) - Referee's Report - Minutes		
Filed Papers		
Memoranda of Law		

Upon the foregoing papers this motion, brought by OSC, is denied
as the parties, at conference, agree that
the material requested was actually provided
on March 16.

RECEIVED
BRONX COUNTY CLERK'S OFFICE

MAR 24 2009

NO

NO FEE

Motion is Respectfully Referred to:

Justice:

Dated:

Dated: 3/17/09

Hon. _____

J.S.C.

BETTY OWEN STINSON

Jul

(212) 949-7054
PRESENT ATTN: ISKAGE EAK # ICEEN

Honorable ALISON Y. TUJTT
J.S.C.

At IAS Part 11 for the
Supreme Court of the State of
New York, held in and for the
County of Bronx at the
Courthouse located at 851
Grand Concourse, Bronx, NY,
on the 11 day of March, 2009

URGENT
217

55-79191
SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF BRONX

CORINNE JOHNSON,

Plaintiff,

ORDER TO SHOW CAUSE

-against-

Index No.: 17354/05

PARKMED EASTERN WOMEN'S CENTER, PARKMED
SERVICES, INC., PARKMED, L.L.C., JAY BASSELL,
M.D., P.C. and JAY ALAN BASSELL, M.D.,

Defendants.

PAC
3/16
7:14 PM

Upon the annexed Affirmation of Brace Kern, Esq. dated March 13, 2009. and the exhibits annexed thereto, upon the pleadings and proceedings heretofore had herein, and upon due consideration it is hereby:

ORDERED that plaintiff show cause at IAS Part 11 of the Courthouse located at 851 Grand Concourse, Bronx, New York on the 29 day of March, 2009, at 9:30 o'clock in the forenoon of that day or as soon thereafter as counsel can be heard, why an Order should not be granted by this Court:

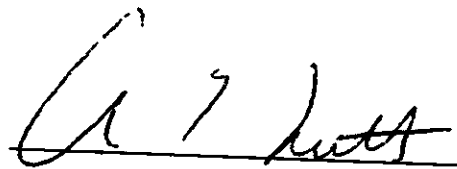
- a. Pursuant to CPLR § 3126, dismissing plaintiff's Complaint with prejudice due to plaintiff's repeated and ongoing refusal to comply with any Court Orders; and
- b. For such other and further relief as this Court deems just and proper.

No previous application has been made for the relief requested herein.

SUFFICIENT CAUSE THEREFORE APPEARING, let service of a copy of this Order to Show Cause, together with the papers upon which it is made,

By overnight mail upon plaintiff's counsel, LAW OFFICES OF JOHN J. GUADAGNO, P.C., 136 East Main Street, East Islip, New York 11730, and co-defendants' counsel, MURPHY & HIGGINS, LLP, One Radisson Plaza, 9th Floor, New Rochelle, New York 10801, on or before March 20, 2009, be deemed good and sufficient service.

ENTER:


ALISON Y. TUITT J.S.C.

55-79191

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF BRONX

-----X

CORINNE JOHNSON,

Plaintiff,

-against-

PARKMED EASTERN WOMEN'S CENTER, PARKMED
SERVICES, INC., PARKMED, L.L.C., JAY BASSELL,
M.D., P.C. and JAY ALAN BASSELL, M D .

Defendants.

NOTICE OF MOTION

Index No.: 17354/05

-----X

COUNSELORS:

PLEASE TAKE NOTICE, that upon the attached Affirmation of LOURDES M. BAEZ, dated November 10, 2008, the annexed exhibits, and upon all the pleadings and proceedings had herein, the undersigned will move this Court, at the Courthouse located at 851 Grand Concourse, Bronx, New York 10451 on the 10th day of December, 2008 at 9:30 o'clock in the forenoon of that day or as soon thereafter as counsel can be heard, for an Order:

- A. Pursuant to 22 N.Y.C.R.R. §202.21(e), striking Plaintiff's Note of Issue and vacating the Certificate of Readiness, on the grounds that all-pretrial discovery is not complete; and
- B. Pursuant to CPLR §3124, compelling Plaintiff to provide all outstanding discovery demands addressed herein, and
- C. Granting such further and different relief which this Court deems just and proper.

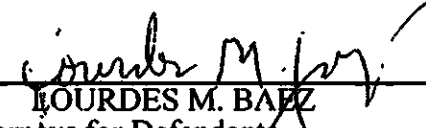
PLEASE TAKE FURTHER NOTICE, that responding papers, if any, are to be served within seven (7) days before the return date of this motion.

Dated: New York, New York
November 10, 2008

Yours, etc.

MARTIN CLEARWATER & BELL LLP

By


LOURDES M. BAEZ
Attorneys for Defendants
JAY BASSELL, M.D., P.C. and
JAY ALAN BASSELL, M.D.
220 East 42nd Street
New York, NY 10017
212-697-3122

TO:

LAW OFFICES OF JOHN J. GUADAGNO, P.C.
Attorney for Plaintiff
136 East Main Street
East Islip, New York 11730
(631) 224-2796

MURPHY & HIGGINS, LLP
Attorneys for Defendants
PARKMED, LLC d/b/a
PARKMED EASTERN WOMEN'S CENTER,
PARKMED SERVICES, INC.
One Radisson Plaza, 9th Floor
New Rochelle, New York 10801
(914) 712-1100

55-79191

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF BRONX

-----X
CORINNE JOHNSON,

Plaintiff,

AFFIRMATION

-against-

Index No.: 17354/05

PARKMED EASTERN WOMEN'S CENTER, PARKMED
SERVICES, INC., PARKMED, L.L.C., JAY BASSELL,
M.D., P.C. and JAY ALAN BASSELL, M.D.,

Defendants.
-----X

BRACE KERN, an attorney duly admitted to practice law before the Courts of this State and associated with the firm of **MARTIN CLEARWATER & BELL LLP**, attorneys of record for defendants **JAY ALAN BASSELL, M.D.** and **JAY BASSELL, M.D., P.C.** (hereinafter "defendants"), hereby affirms the following to be true under penalty of perjury:

1. I am familiar with the facts and circumstances of this case by virtue of a review of the file maintained by your Affirmant's office.
2. This Affirmation is submitted in support of the instant motion for an Order:
 - a. Pursuant to CPLR § 3126 dismissing plaintiff's Complaint with prejudice due to plaintiff's repeated and ongoing refusal to comply with any of this Court's Orders; and
 - b. For such other and further relief as this Court deems just and proper.

PROCEDURAL HISTORY

3. A detailed procedural history is outlined in paragraphs 4 – 12 of the Affirmation in Support of Defendants' Motion to Vacate Plaintiff's Note of Issue [Exhibit 1].

SUMMARY

4. Plaintiff has been obstinately non-compliant throughout the prosecution of this matter. This is defendants' 3rd motion to compel plaintiff's compliance with this Court's Orders. Defendants' first motion to compel was withdrawn in January 2008 after plaintiff provided the materials demanded therein. Since providing those materials in response to defendants' motion, plaintiff has not provided any discovery despite defendants' numerous demands. Without responding to any of defendants' demands throughout 2008, plaintiff filed a note of issue. Defendants were forced to move to vacate plaintiff's note of issue. On January 27, 2009, this Court ordered plaintiff to provide all outstanding discovery within 45 days. Plaintiff's time to comply with said Order has expired and yet plaintiff still has not provided any discovery since January 2008. Consequently, plaintiff's repeated disregard for this Court's Orders should result in dismissal of plaintiff's Complaint.

I. PLAINTIFF'S COMPLAINT SHOULD BE DISMISSED AS PLAINTIFF REFUSES TO PROVIDE ANY DISCOVERY UNTIL DISMISSAL IS PENDING

5. If any party refuses to obey an order for disclosure, the court may dismiss the action (CPLR § 3126). "[W]hen a party fails to comply with a court order and frustrates the disclosure scheme set forth in the CPLR, it is well within the Trial Judge's discretion to dismiss the complaint" (*Kihl v Pfeffer*, 94 NY2d 118, 122, 722 NE2d 55, 700 NYS2d 87, 90 [Ct App 1999]). "If the credibility of court orders and the integrity of our judicial system are to be maintained, a litigant cannot ignore court orders with impunity" (*Id.* at 123). It is well established in New York, that willful and contumacious behavior is inferred by a party's "repeated failures to comply with the court's orders, [along with] the absence of any explanation offered to excuse his failures to comply" (*Sowerby v Camarda*, 20 AD3d 411, 798 NYS2d 125, 126 [2005]). In the case at hand, plaintiff has time and time again ignored this Court's Orders

with impunity. Plaintiff failed to comply with both the Preliminary Conference Order and the Compliance Conference Order. Then, on January 27, 2009, this Court issued an Order directing plaintiff provide the outstanding discovery outlined in defendants' motion to vacate plaintiff's note of issue [Exhibit 2]. Again, plaintiff ignored this Court's Order.

6. Plaintiff's repeated failure to provide the requested discovery has demonstrated an intentional delay in prosecuting this action. Plaintiff's actions demonstrate an unwillingness to cooperate with defendants and intent to engage in unnecessary and costly judicial intervention. Furthermore, the outstanding discovery is necessary and crucial to the defense of this action. Therefore, plaintiff's Complaint should be dismissed with prejudice for willfully refusing to provide information that ought to be disclosed and repeatedly ignoring this Court's Orders to do

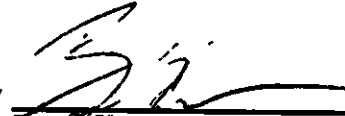
so. *No FURTHER APPLICATION HAS BEEN MADE (DL)*

WHEREFORE, it is respectfully requested that this Court issue an Order pursuant to CPLR § 3126(3) dismissing the above-entitled action with prejudice due to plaintiff's repeated failure to comply with this Court's Orders and defendants' discovery demands, and for such other and further relief as this Court deems just and proper.

Dated: New York, New York
March 13, 2009

Yours, etc.

MARTIN CLEARWATER & BEIL LLP

By 
Brad Kern

Attorneys for Defendants
JAY ALAN BASSELL, M.D. and
JAY BASSELL, M.D., P.C.
220 East 42nd Street
New York, NY 10017
(212) 697-3122

TO:

LAW OFFICES OF JOHN J. GUADAGNO, P.C.

Attorneys for Plaintiff

136 East Main Street

East Islip, New York 11730

(631) 224-2796

MURPHY & HIGGINS, LLP

Attorneys for Defendants

PARKMED, LLC d/b/a

PARKMED EASTERN WOMEN'S CENTER,

PARKMED SERVICES, INC.

One Radisson Plaza, 9th Floor

New Rochelle, New York 10801

(914) 712-1100

55-79191

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF BRONX

-----X
CORINNE JOHNSON,

Plaintiff,

**AFFIRMATION
OF GOOD FAITH**

-against-

PARKMED EASTERN WOMEN'S CENTER,
PARKMED SERVICES, INC., PARKMED, L.L.C., JAY
BASSELL, M.D., P.C. and JAY ALAN BASSELL, M.D.,

Index No.. 17354/05

Defendants.

-----X

LOURDES M. BAEZ, an attorney duly admitted to practice before the Courts of this State and an associate of the firm of **MARTIN CLEARWATER & BELL LLP**, attorneys of record for defendants **JAY BASSELL, M.D., P.C.** and **JAY ALAN BASSELL, M.D.**, affirms the following under penalty of perjury.

1 I am fully familiar with the facts and circumstances set forth herein and with all the prior proceedings in this matter by virtue of a review of the file maintained by the office of your affirmant.

2. As detailed in the annexed Affirmation in Support dated November 10, 2008, good faith attempts have been made to resolve the outstanding discovery in this matter. Such attempts have been unsuccessful without judicial intervention.

3. This Affirmation is submitted in compliance with 22 NYCRR §202.07 (a)(2), and demonstrates that a "good faith" effort has been made to resolve the instant discovery dispute prior to resorting to motion practice.

4. On October 28, 2008, a good faith letter was sent to plaintiff's counsel for the outstanding discovery. (Exhibit "J")

5. On or about November 4, 2008, a telephone conference was held with plaintiff counsel regarding the outstanding discovery.

6. To date, plaintiff's counsel has not provided a response to our demands for the outstanding discovery or the prior court orders.

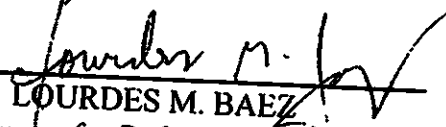
WHEREFORE, it is respectfully submitted that this motion to strike the Note of Issue and compel production of outstanding discovery, is made in good faith.

Dated: New York, New York
November 10, 2008

Yours, etc.

MARTIN CLEARWATER & BELL LLP

By:


LOURDES M. BAEZ

Attorneys for Defendants
JAY BASSELL, M.D., P.C. and
JAY ALAN BASSELL, M.D.
220 East 42nd Street
New York, New York 10017-5842
(212) 697-3122

TO:

LAW OFFICES OF JOHN J. GUADAGNO, P.C.
Attorney for Plaintiff
136 East Main Street
East Islip, New York 11730
(631) 224-2796

MURPHY & HIGGINS, LLP
Attorneys for Defendants
PARKMED, LLC d/b/a
PARKMED EASTERN WOMEN'S CENTER,
PARKMED SERVICES, INC.
One Radisson Plaza, 9th Floor
New Rochelle, New York 10801
(914) 712-1100

55-79191

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF BRONX

-----X
CORINNE JOHNSON,

Plaintiff,

AFFIRMATION IN SUPPORT

-against-

Index No.: 17354/05

PARKMED EASTERN WOMEN'S CENTER,
PARKMED SERVICES, INC., PARKMED, L.L.C., JAY
BASSELL, M.D., P.C. and JAY ALAN BASSELL, M.D.,

Defendants.
-----X

LOURDES M. BAFZ, an attorney duly admitted to practice law before the Courts of the State of New York, hereby affirms the following to be true under the penalties of perjury:

1. I am an associate with the law firm of MARTIN CLEARWATER & BELL LLP, attorneys for defendants JAY BASSELL, M.D., P.C. and JAY ALAN BASSELL, M.D. (hereinafter "Defendants")

2. I am fully familiar with the facts and circumstances of this matter by virtue of a review of the file maintained by the office of your affirmant.

3. This Affirmation is submitted in further support of the Defendants' motion for the following relief:

- A. Pursuant to 22 N.Y.C.R.R. §202 21(e), striking Plaintiff's Note of Issue and vacating the Certificate of Readiness, on the grounds that all-pretrial discovery is not complete; and
- B. Pursuant to CPLR §3124, compelling Plaintiff to provide all outstanding discovery demands addressed herein, and
- C. Granting such further and different relief which this Court deems just and proper.

PROCEDURAL HISTORY

4. Plaintiff commenced this medical malpractice action by the filing of a Summons and Verified Complaint on or about June 28, 2005 (Exhibit "A").

5. Issue was joined by the defendants JAY BASSELL, M.D., P.C. and JAY ALAN BASSELL, M.D. on August 23, 2005. (Exhibit "B") Served contemporaneously with the defendants' Answers was a Demand for Verified Bill of Particulars. (Exhibit "C")

6. On or about November 2, 2005, plaintiff's counsel served Bills of Particulars as to Defendants. (Exhibit "D") The plaintiff makes allegations of negligent performance of a termination of pregnancy procedure performed by Dr. Jay Bassell at the facility of co-defendant, Parkmed Eastern Women's Center. It is claimed that as a result of the alleged negligence, plaintiff suffered a septic abortion and endometritis. (Exhibit "D")

7. A Preliminary Conference was held on November 4, 2005, which resulted in an Order, attached as Exhibit "E". The Preliminary Conference Order directed plaintiff's counsel, *inter alia*, to provide a Supplemental Bill of Particulars as to the Defendants with respect to special damages within 45 days of the date of the Preliminary Conference. (Exhibit "E")

8. On February 26, 2008, defendants served a Demand for Authorizations pursuant to the providers referenced in plaintiff's Medicaid records. (Exhibit "F")

9. On March 26, 2008, all parties appeared for a Compliance Conference. Pursuant to the resulting Court Order, plaintiff's counsel was to provide numerous outstanding authorizations, including authorizations as per Defendants' February 26, 2008 demand. (Exhibit "G")

10 On September 24, 2008, defendants served a Demand for Authorizations pursuant to the providers referenced in plaintiff's HealthPlus records (Exhibit "H")

11. On or about October 17, 2008, plaintiff's counsel filed the Note of Issue and Certificate of Readiness for Trial. (Exhibit "I")

12. A detailed correspondence was forwarded to plaintiff's counsel on October 28, 2008 delineating the outstanding discovery. Defendants allotted an additional seven days for the plaintiff's attorney to provide the discovery. (Exhibit "J"). On or about November 4, 2008, a telephone conference was held with plaintiff's counsel regarding the outstanding discovery. To date, plaintiff's counsel has not provided a response to our demands for the outstanding discovery or the prior court orders.

ARGUMENT

I. **PLAINTIFF'S NOTE OF ISSUE AND CERTIFICATE OF READINESS SHOULD BE VACATED AS THE CASE IS NOT READY FOR TRIAL AND MATERIAL FACTS IN PLAINTIFF'S CERTIFICATE OF READINESS ARE INCORRECT**

13. Under 22 N.Y.C.R.R. § 202.21(e), "the Court may vacate a Note of Issue upon a showing that the case is not ready for trial... if it appears that a material fact in the Certificate of Readiness is incorrect." In Friedman & Kaplan v. Hoffman, 166 A.D.2d 188, 560 N.Y.S.2d 430 (1st Dept. 1990), the Court held that the lower court abused its discretion in permitting a plaintiff to file a Note of Issue when the defendant had discovery demands outstanding. The First Department, in Arroyo v. City of New York, 86 A.D.2d 521, 445 N.Y.S.2d 753 (1st Dept. 1982), held that an incorrect statement in plaintiffs' Certificate of Readiness regarding whether outstanding discovery was pending warranted the striking of the case from the trial calendar. See also, Cromer v. Yellen, 268 A.D.2d 381, 702 N.Y.S.2d 277 (1st Dept. 2000) (holding that a Note of Issue should be vacated when it is based upon a Certificate of Readiness that contains erroneous facts).

14. In the case at bar, plaintiff's counsel incorrectly states in his Certificate of Readiness that there are no outstanding requests for discovery and that there has been

compliance with court orders issued. In fact, there are numerous outstanding authorizations as well as additional discovery, as delineated in our October 28, 2008 correspondence and pursuant to prior court orders, as follows:

I. Authorizations:

- A. Bliss Pharmacy, Inc.
- B. Bronxdale Pharmacy, Inc.
- C. Choices Women's Medical Center
- D. Dr. Cristina Fi Chi Ho
- E. Dr. David A. Gluck
- F. Dr. Gary L. Mucciolo
- G. Dr. Joan M. Fleischman
- H. Dr. Pedro Cabrera
- I. Dr. Richard J. Scardino
- J. Dr. Tarulata K. Dattani
- K. Dr. Yelena Karasina
- L. Hunts Point Multi-Service Center, Inc.
- M. Lincoln Medical/Mental Health
- N. Madison Avenue Pharmacy, Inc.
- O. Noble Drugs Inc.
- P. NTD Laboratories, Inc.
- Q. Park Madison Professional Lab
- R. Quest Diagnostics, Inc.
- S. Universal Diagnostic Labs
- T. Dr. Renuka Pillai
- U. Dr. Olive Cameron
- V. Dr. Darren Friedman
- W. Don Mark L. Mendoza
- X. Doshi Diagnostics
- Y. Enzolabs, Inc.
- Z. Third Avenue Radiology & Imaging, P C.

II. Additional Discovery:

A. Supplemental Bill of Particulars

Therefore, the Note of Issue should be stricken because plaintiff's attorney has incorrectly stated in the Certificate of Readiness that all discovery has been completed.

II. AN ORDER SHOULD BE ISSUED COMPELLING PLAINTIFF TO COMPLY WITH DEFENDANTS' OUTSTANDING DISCOVERY DEMANDS.

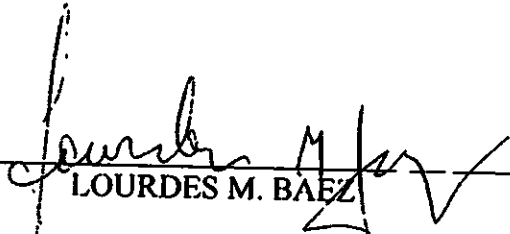
15. It is well-settled law in New York that “[p]arties to an action are entitled to reasonable discovery of any facts bearing on the controversy which will assist in preparation for trial by sharpening the issues and reducing delay and prolixity.” Fell v. Presbyterian Hospital in the City of New York, 98 A.D.2d 624, 469 N.Y.S.2d 37 (1st Dept. 1983); see also, Allen v. Crowell-Collier Publishing Co., 21 N.Y.2d 403, 288 N.Y.S.2d 449 (1968). The purpose of pretrial disclosure is to ensure that parties and witnesses fully disclose all facts bearing on the controversy before trial so as to avoid surprise and prevent litigation from becoming a game. See Siegel, New York Practice 2d, section 345.

16. When a party fails to respond to or comply with pretrial discovery demands, “the party seeking disclosure may move to compel compliance or a response.” CPLR § 3124. The medical records from the healthcare providers for which authorizations have not been provided and the Supplemental Bill of Particulars are necessary and critical in evaluating the claims and ascertaining damages. Therefore, the discovery outstanding in this action is substantial and essential.

17. For the above-mentioned reasons, plaintiff’s Note of Issue should be vacated and the case stricken from the trial calendar. In addition, plaintiff should be compelled to comply with defendants’ outstanding discovery demands pursuant to CPLR §3124.

WHEREFORE, it is respectfully requested that the Court grant defendants’ motion in its entirety, together with such other and further relief as this Court deems just and proper.

Dated: New York, New York
November 10, 2008



LOURDES M. BAEZ

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF BRONX

Index No.: 17354-~~0~~
Date Purchased:

CORRINE JOHNSON,-----X

Plaintiff,

SUMMONS

-against-

Plaintiff designates Bronx
County as the place of trial.

PARKMED EASTERN WOMEN'S CENTER, PARKMED
SERVICES, INC., PARKMED, LLC, JAY BASSELL, M.D.,
P.C. and JAY ALAN BASSELL, M.D.,

The basis of venue is:
Plaintiff's residence

Defendants.-----X

Plaintiff resides at:
1815 Bruckner Blvd, Apt.2 E
Bronx, New York 10472

To the above named Defendant(s):

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 the summons, to serve a notice
of appearance, on the Plaintiffs' 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: East Islip, New York
June 23, 2005

Yours, etc.


JOHN J. GUADAGNO

LAW OFFICES OF
JOHN J. GUADAGNO, P.C.
Attorneys for Plaintiff
136 East Main Street
East Islip, New York 11730
(631) 224-2796

TO: PARKMED EASTERN WOMEN'S CENTER
44 East 30th Street
New York, New York 10016

PARKMED SERVICES, INC.
38-44 East 30th Street
New York, New York 10016

PARKMED, LLC
38 East 30th Street
New York, New York 10016

2005 JUN 28 PM 1:25
COUNTY CLERK
BRONX COUNTY

RECEIVED

JAY BASSELL, M.D., P.C.
825 West End Avenue
New York, New York 10025-5349

JAY ALAN BASSELL, M.D.
421 West 114th Street
New York, New York 10025

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF BRONX

CORRINE JOHNSON,-----X

Plaintiff,

-against-

PARKMED EASTERN WOMEN'S CENTER,
PARKMED SERVICES, INC., PARKMED, LLC, JAY
BASSELL, M.D., P.C. and JAY ALAN BASSELL, M.D.,

Defendants.-----X

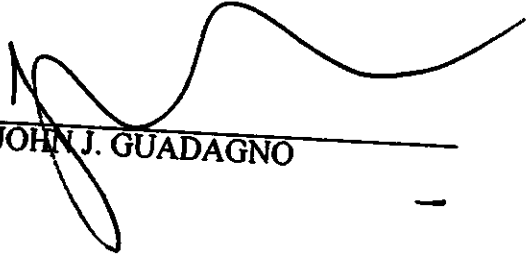
Index No.:

**CERTIFICATE
OF MERIT**

JOHN J. GUADAGNO, an attorney duly admitted to practice law before the Courts
of the State of New York, hereby affirms, pursuant to Section 3012-a of the Civil Practice Law and
Rules, under penalties of perjury and says:

1. I have reviewed the facts of this case and have consulted with at least one
doctor who is licensed to practice in this State and with whom I reasonably believe is knowledgeable
in the relevant issues involved in this particular action and have concluded on the basis of such
review and consultation that there is a reasonable basis for the commencement of this action.

Dated: East Islip, New York
June 23, 2005



JOHN J. GUADAGNO

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF BRONX

CORRINE JOHNSON,-----X

Plaintiff,

Index No.

- against -

VERIFIED COMPLAINT

PARKMED EASTERN WOMEN'S CENTER, PARKMED SERVICES, INC., PARKMED, LLC, JAY BASSELL, M.D., P.C. and JAY ALAN BASSELL, M.D.,

Defendants.-----X

Plaintiff, by her attorneys, LAW OFFICES OF JOHN J. GUADAGNO, P.C., complaining of the defendant herein, respectfully alleges, upon information and belief:

1. At all times hereinafter mentioned the plaintiff, CORRINE JOHNSON, was a resident of the State of New York.
2. At all times hereinafter mentioned, the defendant, PARKMED EASTERN WOMEN'S CENTER, was and still is a domestic corporation duly organized and existing under and by virtue of the laws of the State of New York.
3. At all times hereinafter mentioned, the defendant, PARKMED EASTERN WOMEN'S CENTER, was and still is a domestic not-for-profit corporation having a regional office and medical center located at 44 East 30th Street, New York, New York 10016.
4. At all times hereinafter mentioned, the defendant, PARKMED EASTERN WOMEN'S CENTER, was and still is a domestic not-for-profit corporation licensed and/or authorized to do business within the State of New York, County of New York.
5. At all times hereinafter mentioned, the defendant, PARKMED EASTERN WOMEN'S CENTER, was and still is an association organized and existing under and by virtue of the laws of the State of New York.

6. At all times hereinafter mentioned, the defendant, PARKMED EASTERN WOMEN'S CENTER, was and still is a joint venture organized and existing under and by virtue of the laws of the State of New York.

7. At all times hereinafter mentioned, the defendant, PARKMED EASTERN WOMEN'S CENTER, was and still is a group of individuals doing business under an assumed name and organized and existing under and by virtue of the laws of the State of New York.

8. At all times hereinafter mentioned, the defendant, PARKMED EASTERN WOMEN'S CENTER, was and still is a partnership organized and existing under and by virtue of the laws of the State of New York.

9. At all times hereinafter mentioned, the defendant, PARKMED SERVICES, INC., was and still is a domestic corporation duly organized and existing under and by virtue of the laws of the State of New York.

10. At all times hereinafter mentioned, the defendant, PARKMED SERVICES, INC., was and still is a domestic not-for-profit corporation having a regional office and medical center located at 44 East 30th Street, New York, New York 10016.

11. At all times hereinafter mentioned, the defendant, PARKMED SERVICES, INC., was and still is a domestic not-for-profit corporation licensed and/or authorized to do business within the State of New York, County of New York.

12. At all times hereinafter mentioned, the defendant, PARKMED SERVICES, INC., was and still is an association organized and existing under and by virtue of the laws of the State of New York.

13. At all times hereinafter mentioned, the defendant, PARKMED SERVICES, INC., was and still is a joint venture organized and existing under and by virtue of the laws of the State of New York.

14. At all times hereinafter mentioned, the defendant, PARKMED SERVICES INC., was and still is a group of individuals doing business under an assumed name and organized and existing under and by virtue of the laws of the State of New York.

15. At all times hereinafter mentioned, the defendant, PARKMED SERVICES, INC., was and still is a partnership organized and existing under and by virtue of the laws of the State of New York.

16. At all times hereinafter mentioned, the defendant, PARKMED, LLC, was and still is a domestic corporation duly organized and existing under and by virtue of the laws of the State of New York.

17. At all times hereinafter mentioned, the defendant, PARKMED, LLC, was and still is a domestic not-for-profit corporation having a regional office and medical center located at 44 East 30th Street, New York, New York 10016.

18. At all times hereinafter mentioned, the defendant, PARKMED, LLC, was and still is a domestic not-for-profit corporation licensed and/or authorized to do business within the State of New York, County of New York.

19. At all times hereinafter mentioned, the defendant, PARKMED, LLC, was and still is an association organized and existing under and by virtue of the laws of the State of New York.

20. At all times hereinafter mentioned, the defendant, PARKMED, LLC, was and still is a joint venture organized and existing under and by virtue of the laws of the State of New York.

21. At all times hereinafter mentioned, the defendant, PARKMED, LLC, was and still is a group of individuals doing business under an assumed name and organized and existing under and by virtue of the laws of the State of New York.

22. At all times hereinafter mentioned, the defendant, PARKMED, LLC, was and still is a partnership organized and existing under and by virtue of the laws of the State of New York.

23. At all times hereinafter mentioned, the defendant, JAY BASSELL, M.D., P.C., was and still is a domestic professional corporation having its principal place of business at 82 West End Avenue, New York, New York 10025-5349.

24. At all times hereinafter mentioned, the defendant, JAY BASSELL, M.D., P.C., was and still is a domestic professional corporation licensed and/or authorized to do business within the State of New York.

25. At all times hereinafter mentioned, the defendant, JAY BASSELL, M.D., P.C., was and still is an association organized and existing under and by virtue of the laws of the State of New York.

26. At all times hereinafter mentioned, the defendant, JAY BASSELL, M.D., P.C., was and still is a joint venture organized and existing under and by virtue of the laws of the State of New York.

27. At all times hereinafter mentioned, the defendant, JAY BASSELL, M.D., P.C., was and still is a group of individuals doing business under an assumed name and organized and existing under and by virtue of the laws of the State of New York.

28. At all times hereinafter mentioned, the defendant, JAY BASSELL, M.D., P.C., was and still is a partnership organized and existing under and by virtue of the laws of the State of New York.

29. At all times hereinafter mentioned, the defendant, JAY ALLAN BASSELL, M.D., was and still is a resident of the State of New York.

30. At all times hereinafter mentioned, the defendant, JAY ALLAN BASSELL, M.D., was an officer of PARKMED EASTERN WOMEN'S CENTER.

31. At all times hereinafter mentioned, the defendant, JAY ALLAN BASSELL, M.D., was an officer of PARKMED SERVICES, INC.

32. At all times hereinafter mentioned, the defendant, JAY ALLAN BASSELL, M.D., was an officer of PARKMED, LLC.

33. At all times hereinafter mentioned, the defendant, JAY ALLAN BASSELL, M.D., was an officer of JAY BASSELL, M.D., P.C.

34. At all times hereinafter mentioned, the defendant, JAY ALLAN BASSELL, M.D., was an employee of PARKMED EASTERN WOMEN'S CENTER.

35. At all times hereinafter mentioned, the defendant, JAY ALLAN BASSELL, M.D., was an employee of PARKMED SERVICES, INC.

36. At all times hereinafter mentioned, the defendant, JAY ALLAN BASSELL, M.D., was an employee of PARKMED, LLC.

37. At all times hereinafter mentioned, the defendant, JAY ALLAN BASSELL, M.D., was an employee of JAY BASSELL, M.D., P.C.

38. At all times hereinafter mentioned, the defendant, JAY ALLAN BASSELL, M.D., was a member of PARKMED EASTERN WOMEN'S CENTER.

39. At all times hereinafter mentioned, the defendant, JAY ALLAN BASSELL, M.D., was a member of PARKMED SERVICES, INC.

40. At all times hereinafter mentioned, the defendant, JAY ALLAN BASSELL, M.D., was a member of PARKMED, LLC.

41. At all times hereinafter mentioned, the defendant, JAY ALLAN BASSELL, M.D., was a member of JAY BASSELL, M.D., P.C.

42. At all times hereinafter mentioned, the defendant, JAY ALLAN BASSELL, M.D., was a partner of PARKMED EASTERN WOMEN'S CENTER.

43. At all times hereinafter mentioned, the defendant, JAY ALLAN BASSELL, M.D., was a partner of PARKMED SERVICES, INC.

44. At all times hereinafter mentioned, the defendant, JAY ALLAN BASSELL, M.D., was a partner of PARKMED, INC.

45. At all times hereinafter mentioned, the defendant, JAY ALLAN BASSELL, M.D., was a partner of JAY BASSELL, M.D., P.C.

46. At all times hereinafter mentioned, the defendant, JAY ALLAN BASSELL, M.D., was and still is duly licensed to practice medicine in the State of New York.

47. At all times hereinafter mentioned, the defendant, JAY ALLAN BASSELL, M.D., was affiliated with the defendant, PARKMED EASTERN WOMEN'S CENTER.

48. At all times hereinafter mentioned, the defendant, JAY ALLAN BASSELL, M.D., was affiliated with the defendant, PARKMED SERVICES, INC.

49. At all times hereinafter mentioned, the defendant, JAY ALLAN BASSELL, M.D., was affiliated with the defendant, PARKMED, LLC.

50. At all times hereinafter mentioned, the defendant, JAY ALLAN BASSELL, M.D., was affiliated with the defendant, JAY BASSELL, M.D., P.C.

51. At all times hereinafter mentioned, the defendant, PARKMED EASTERN WOMEN'S CENTER held itself out as being duly qualified to render proper and adequate medical care to members of the general public, including the plaintiff, CORRINE JOHNSON.

52. At all times hereinafter mentioned, the defendant, PARKMED SERVICES, INC. held itself out as being duly qualified to render proper and adequate medical care to members of the general public, including the plaintiff, CORRINE JOHNSON.

53. At all times hereinafter mentioned, the defendant, PARKMED, LLC held itself out as being duly qualified to render proper and adequate medical care to members of the general public, including the plaintiff, CORRINE JOHNSON.

54. At all times hereinafter mentioned, the defendant, JAY BASSELL, M.D., P.C., held itself out as being duly qualified to render proper and adequate medical care to members of the general public, including the plaintiff, CORRINE JOHNSON.

55. At all times hereinafter mentioned, the defendant, JAY ALLAN BASSELL, M.D., held himself out as being duly qualified to render proper and adequate medical care to members of the general public, including the plaintiff, CORRINE JOHNSON.

56. On or about August 24, 2004, the plaintiff, CORRINE JOHNSON, received medical care and treatment from the defendant, PARKMED EASTERN WOMEN'S CENTER, their agents, servants and/or employees.

57. On or about August 24, 2004, the plaintiff, CORRINE JOHNSON, received medical care and treatment from the defendant, PARKMED SERVICES, INC., their agents, servants and/or employees.

58. On or about August 24, 2004, the plaintiff, CORRINE JOHNSON, received medical care and treatment from the defendant, PARKMED, LLC, their agents, servants and/or employees.

59. On or about August 24, 2004, the plaintiff, CORRINE JOHNSON, received medical care and treatment from the defendant, JAY BASSELL, M.D., P.C., their agents, servants and/or employees.

60. On or about August 24, 2004, the plaintiff, CORRINE JOHNSON, received medical care and treatment from the defendant, JAY ALLAN BASSELL, M.D., his agents, servants and/or employees.

61. That the aforesaid medical care and treatment rendered by the defendants, their agents, servants and/or employees was rendered for compensation which the plaintiff agreed to and did pay the defendants therefor.

62. That the defendants, their agents, servants and/or employees were careless, negligent, unfaithful, unskillful and unprofessional in rendering the aforesaid medical care and treatment to the plaintiff, CORRINE JOHNSON.

63. That the defendants, PARKMED EASTERN WOMEN'S CENTER, PARKMED SERVICES, INC., PARKMED, LLC, JAY BASSELL, M.D., P.C. and JAY ALLAN BASSELL, M.D. individually and by their agents, servants and/or employees were negligent, careless, reckless and grossly negligent and guilty of malpractice in rendering services for and on behalf of the plaintiff, CORRINE JOHNSON; in failing and neglecting to use reasonable care in rendering medical services for and on behalf of said plaintiff; in failing and neglecting to heed plaintiff's condition; in departing from good and accepted medical practice; in performing contra-indicated procedures; in failing to perform indicated procedures; in failing to follow good medical practice; in negligently hiring, training, supervising and instructing their agents, servants and/or employees in the proper care and treatment of said plaintiff; in failing to refer said plaintiff to the appropriate specialists for requisite care and treatment; and in otherwise being careless, reckless, negligent and grossly negligent and guilty of malpractice under the circumstances then and there existing.

64. That solely by reason of the carelessness, negligence, unfaithfulness, unskillfulness, and professional malpractice of the defendants, their agents, servants and employees, the plaintiff, CORRINE JOHNSON, has suffered serious medical complications and sustained serious and severe permanent personal injuries, all without any fault on her part contributing thereto.

65. That solely by reason of the careless, recklessness, negligence and medical malpractice of the defendants, their agents, servants and/or employees, the plaintiff, CORRINE JOHNSON, has endured great and protracted pain and suffering; will continue to endure such pain and suffering for an indeterminate period; and, will be permanently disfigured and marred, all of which has caused her severe mental anguish and emotional shock.

66. That as a result of the foregoing, plaintiff, CORRINE JOHNSON, has been rendered sick, sore, lame and disabled; has suffered severe and permanent internal and external injuries; was confined to her bed and home and incapacitated from attending her usual activities; and was caused and continues to be required to expend large sums of money for medical expenses on her behalf.

67. The amount of damages sought herein exceeds the monetary jurisdiction of all lower Courts which would otherwise have jurisdiction.

AS AND FOR A SECOND CAUSE OF ACTION

68. Plaintiff, repeats, reiterates and realleges each and every allegation contained in paragraphs "1" through "67" of this complaint as if more fully set forth at this point.

69. That the defendants, his agents, servants and/or employees failed to inform the plaintiff of the risks, hazards and alternatives connected with the medical, surgical and invasive procedures performed upon said plaintiff.

70. That a reasonable prudent person in plaintiff's position would not have undergone the medical, surgical and invasive procedures performed upon said plaintiff if she had been fully informed of the risks, hazards and alternatives.

71. That as a result of the foregoing, the plaintiff was prevented from making a knowledgeable evaluation with regard thereto, as a consequence of which there was not informed


consent given to the medical treatment and multiple invasive procedures performed by the defendants.

72. That the amount of damages sought herein exceed the monetary jurisdiction of all lower Courts which would otherwise have jurisdiction.

WHEREFORE, plaintiff demands judgment against the defendants on all causes of action for a substantial amount of money in such sum as a jury determines at trial to be fair, adequate and just, together with the costs and disbursements of this action.

Dated: East Islip, New York
June 23, 2005

Yours, etc.,



JOHN J. GUADAGNO

LAW OFFICES OF
JOHN J. GUADAGNO, P.C.
Attorneys for Plaintiff
136 East Main Street
East Islip, New York 11730
(631) 224-2796

ATTORNEY VERIFICATION

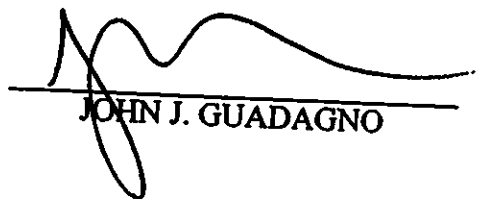
The undersigned, an attorney admitted to practice in the State of New York, affirms: That the undersigned is a member of the LAW OFFICES OF JOHN J. GUADAGNO, attorneys for the plaintiff, *Corrine Johnson*, in the within action; that the undersigned has read the foregoing **SUMMONS & VERIFIED COMPLAINT** and knows the contents thereof; that the same are true to affirmant's own knowledge, except as to the matters therein stated to be alleged on information and belief; and as to those matters affirmant believes them to be true.

The undersigned further states that the reason this verification is made by the undersigned and not by said plaintiff is that the plaintiff resides outside the county where the undersigned maintains his offices.

The grounds of affirmant's belief as to all matters not stated to be upon affirmant's knowledge are as follows: books, records, correspondence, investigation and other documentation in the possession of the undersigned.

The undersigned affirms that the foregoing statements are true, under penalties of perjury.

Dated: East Islip, New York
June 23, 2005



JOHN J. GUADAGNO

55-79191

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF BRONX

-----X
CORRINE JOHNSON,

Plaintiff,

-against-

VERIFIED ANSWER

Index No.: 17354/05

PARKMED EASTERN WOMEN'S CENTER, PARKMED
SERVICES, INC., PARKMED, L.L.C, JAY BASSELL,
M.D., P.C. and JAY ALAN BASSELL, M.D.,

Defendants.
-----X

Defendant JAY ALAN BASSELL, M.D. by his attorneys, MARTIN CLEARWATER &
BELL LLP, answers the plaintiff's complaint as follows, upon information and belief:

AS TO THE FIRST CAUSE OF ACTION

1. Denies knowledge or information sufficient to form a belief as to each and every allegation contained in the paragraphs of the complaint designated "1", "2", "3", "4", "5", "6", "7", "8", "9", "10", "11", "12", "13", "14", "15", "16", "17", "18", "19", "20", "21", "22", "51", "52", "53", "57" and "58".
2. Denies each and every allegation contained in the paragraph(s) of the complaint designated "25", "37", "47", "50", "54" and "55" except begs leave to refer all questions of fact to the trier of fact and all questions of law to the Court.
3. Denies each and every allegation contained in the paragraph(s) of the complaint designated "26", "27", "28", "30", "31", "32", "34", "35", "36", "38", "39", "40", "42", "43", "44", "45", "48", "49", "62", "63", "64", "65", "66", and "67".

4. Denies each and every allegation contained in the paragraph(s) of the complaint designated "61" except begs leave to refer all questions of fact to the trier of fact and all questions of law to the Court.

AS TO THE SECOND CAUSE OF ACTION

5. Repeats and reiterates each and every denial and denial of knowledge or information sufficient to form a belief as to each of the allegations of the complaint reiterated and realleged by the plaintiff in the paragraph of the complaint designated "68".

6. Denies each and every allegation contained in the paragraph(s) of the complaint designated "69", "70", "71" and "72".

AS A FIRST AFFIRMATIVE DEFENSE

7. Defendant JAY ALAN BASSELL, M.D. denies liability, but if liability is found against this defendant and the liability is found to be 50% or less of the total liability assigned to all persons liable, then this defendant invokes the limits on liability for noneconomic loss set forth in CPLR §1601.

AS A SECOND AFFIRMATIVE DEFENSE

8. That defendant asserts the terms, provisions, limitations and rights contained in §4545 of the CPLR.

AS A THIRD AFFIRMATIVE DEFENSE

9. Whatever injuries plaintiff(s) may have sustained at the time and place alleged in the complaint were caused in whole or in part or were contributed to by the culpable conduct and want of care on the part of the plaintiff.

AS A FOURTH AFFIRMATIVE DEFENSE


10. Defendant JAY ALAN BASSELL, M.D. invokes the protection of Public Health Law 2805-d(4) with respect to the alleged cause of action for informed consent and reserves all [its] rights pursuant thereto.

WHEREFORE, defendant JAY ALAN BASSELL, M.D. demands judgment dismissing the complaint herein, together with the costs and disbursements of this action.

Dated: New York, New York
August 24, 2005

Yours, etc.,

MARTIN CLEARWATER & BELL LLP

By: 
GREGORY J. RADOMISLI

Attorneys for Defendant
JAY ALAN BASSELL, M.D.
220 East 42nd Street
New York, New York 10017-5842
(212) 697-3122

TO:
LAW OFFICES OF JOHN J. GUADAGNO, P.C.
Attorney for Plaintiff
136 East Main Street
East Islip, New York 11736
(631) 224-2796

AFFIDAVIT OF SERVICE BY MAIL

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

DIANA ALVAREZ, being duly sworn, deposes and says that [he or she] is not a party to this action, is over 18 years of age and is an employee in the office of MARTIN CLEARWATER & BELL LLP, attorneys for the defendant JAY ALAN BASSELL, M.D..

That on August 23, 2005 she served the within Verified Answer, Demand for a Bill of Particulars, Notice to Take Deposition Upon Oral Examination, Demand for Authorizations, Notice of Discovery and Inspection of Documents, Notice of Discovery and Inspection of Statements, Demand for CPLR §4545 Information, Demand for CPLR §2103(e) Information, Demand for Discovery of Expert Witness, Demand for Names of Witnesses, Notice Pursuant to CPLR §2103(b)(5), and Demand for Notice and Inspection of Photographic Evidence and Demand for a Change of Venue upon the following attorney: depositing a true copy of the same securely enclosed in a post-paid wrapper in the Official Depository maintained and exclusively controlled by the United States at 220 East 42nd Street, New York, New York 10017 directed to said attorneys at:

LAW OFFICES OF JOHN J. GUADAGNO, P.C.
Attorney for Plaintiff
136 East Main Street
East Islip, New York 11736
(631) 224-2796

that being the address within the State designated by them for the purpose of service upon them of the preceding papers in this action, or the place where they then kept an office for regular communication by mail

Diana Alvarez

DIANA ALVAREZ

Sworn to before me on this
23rd day of August, 2005

Jessica Mendizabal

Notary Public

JESSICA MENDIZABAL
Notary Public, State of New York
No. 01ME0084967
Qualified in New York County
Commission Expires December 16, 2010

Plaintiff,

-against-

PARKMED EASTERN WOMEN'S CENTER, PARKMED SERVICES, INC., PARKMED, L.L.C, JAY BASSELL, M.D., P.C. and JAY ALAN BASSELL, M.D.,

Defendants.

VERIFIED ANSWER, DEMAND FOR A BILL OF PARTICULARS, NOTICE TO TAKE DEPOSITION UPON ORAL EXAMINATION, DEMAND FOR AUTHORIZATIONS, NOTICE OF DISCOVERY AND INSPECTION OF DOCUMENTS, NOTICE OF DISCOVERY AND INSPECTION OF STATEMENTS, DEMAND FOR CPLR §4545 INFORMATION, DEMAND FOR DISCOVERY OF EXPERT WITNESS, DEMAND FOR NAMES OF WITNESSES, NOTICE PURSUANT TO CPLR §2103(B)(5), AND DEMAND FOR NOTICE AND INSPECTION OF PHOTOGRAPHIC EVIDENCE AND DEMAND FOR A CHANGE OF VENUE

MARTIN CLEARWATER & BELL LLP
Attorneys for Defendant

JAY ALAN BASSELL, M.D.
Office and Post Office Address

220 East 42nd Street
Borough of Manhattan New York, New York 10017-5842
Telephone (212) 697-3122

55-79191

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF BRONX

-----X
CORRINE JOHNSON,

Plaintiff,

-against-

VERIFIED ANSWER

Index No.: 17354/05

PARKMED EASTERN WOMEN'S CENTER, PARKMED
SERVICES, INC., PARKMED, L.L.C, JAY BASSELL,
M.D., P.C. and JAY ALAN BASSELL, M.D.,

Defendants.
-----X

Defendant JAY BASSELL, M.D., P.C., by his attorneys, MARTIN CLEARWATER &
BELL LLP, answers the plaintiff's complaint as follows, upon information and belief:

AS TO THE FIRST CAUSE OF ACTION

1. Denies knowledge or information sufficient to form a belief as to each and every allegation contained in the paragraphs of the complaint designated "1", "2", "3", "4", "5", "6", "7", "8", "9", "10", "11", "12", "13", "14", "15", "16", "17", "18", "19", "20", "21", "22", "51", "52", "53", "57" and "58".
2. Denies each and every allegation contained in the paragraph(s) of the complaint designated "25", "37", "47", "50", "54" and "55" except begs leave to refer all questions of fact to the trier of fact and all questions of law to the Court.
3. Denies each and every allegation contained in the paragraph(s) of the complaint designated "26", "27", "28", "30", "31", "32", "34", "35", "36", "38", "39", "40", "42", "43", "44", "45", "48", "49", "62", "63", "64", "65", "66", and "67".

4. Denies each and every allegation contained in the paragraph(s) of the complaint designated "61" except begs leave to refer all questions of fact to the trier of fact and all questions of law to the Court.

AS TO THE SECOND CAUSE OF ACTION

5. Repeats and reiterates each and every denial and denial of knowledge or information sufficient to form a belief as to each of the allegations of the complaint reiterated and realleged by the plaintiff in the paragraph of the complaint designated "68".

6. Denies each and every allegation contained in the paragraph(s) of the complaint designated "69", "70", "71" and "72".

AS A FIRST AFFIRMATIVE DEFENSE

7. Defendant JAY BASSELL, M.D., P.C. denies liability, but if liability is found against this defendant and the liability is found to be 50% or less of the total liability assigned to all persons liable, then this defendant invokes the limits on liability for noneconomic loss set forth in CPLR §1601.

AS A SECOND AFFIRMATIVE DEFENSE

8. That defendant asserts the terms, provisions, limitations and rights contained in §4545 of the CPLR.

AS A THIRD AFFIRMATIVE DEFENSE

9. Whatever injuries plaintiff(s) may have sustained at the time and place alleged in the complaint were caused in whole or in part or were contributed to by the culpable conduct and want of care on the part of the plaintiff.

AS A FOURTH AFFIRMATIVE DEFENSE


10. Defendant JAY BASSELL, M.D., P.C. invokes the protection of Public Health Law 2805-d(4) with respect to the alleged cause of action for informed consent and reserves all [its] rights pursuant thereto.

WHEREFORE, defendant JAY BASSELL, M.D., P.C. demands judgment dismissing the complaint herein, together with the costs and disbursements of this action.

Dated: New York, New York
August 24, 2005

Yours, etc.,

MARTIN CLEARWATER & BELL LLP

By: 
GREGORY J. RADOMISLI

Attorneys for Defendant
JAY BASSELL, M.D., P.C.
220 East 42nd Street
New York, New York 10017-5842
(212) 697-3122

TO:
LAW OFFICES OF JOHN J. GUADAGNO, P.C.
Attorney for Plaintiff
136 East Main Street
East Islip, New York 11736
(631) 224-2796

AFFIDAVIT OF SERVICE BY MAIL

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

DIANA ALVAREZ, being duly sworn, deposes and says that [he or she] is not a party this action, is over 18 years of age and is an employee in the office of MARTIN CLEARWATER & BELL LLP, attorneys for the defendant JAY BASSELL, M.D., P.C..

That on August 23, 2005 she served the within Verified Answer, Demand for a Bill of Particulars, Notice to Take Deposition Upon Oral Examination, Demand for Authorization of Notice of Discovery and Inspection of Documents, Notice of Discovery and Inspection of Statements, Demand for CPLR §4545 Information, Demand for CPLR §2103(e) Information, Demand for Discovery of Expert Witness, Demand for Names of Witnesses, Notice Pursuant to CPLR §2103(b)(5), and Demand for Notice and Inspection of Photographic Evidence and Demand for a Change of Venue upon the following attorneys by depositing a true copy of the same securely enclosed in a post-paid wrapper in the Official Depository maintained and exclusively controlled by the United States at 220 East 42nd Street, New York, New York 10017 directed to said attorneys at:

LAW OFFICES OF JOHN J. GUADAGNO, P.C.
Attorney for Plaintiff
136 East Main Street
East Islip, New York 11736
(631) 224-2796

that being the address within the State designated by them for the purpose of service upon them of the preceding papers in this action, or the place where they then kept an office for regular communication by mail.

Diana Alvarez
DIANA ALVAREZ

Sworn to before me on this 23rd day of August, 2005

Jessica Mendizabal
Notary Public

JESSICA MENDIZABAL
Notary Public, State of New York
No. 01ME8084987
Qualified in New York County
Commission Expires December 16, 2011

SUPREME COURT
COUNTY OF BRONX
CORRINE JOHNSON

THE STATE OF NEW YORK

Year 2005

Plaintiff,

-against-

PARKMED EASTERN WOMEN'S CENTER, PARKMED SERVICES, INC., PARKMED,
L.L.C, JAY BASSELL, M.D., P.C. and JAY ALAN BASSELL, M.D.,

Defendants.

VERIFIED ANSWER, DEMAND FOR A BILL OF PARTICULARS, NOTICE TO
TAKE DEPOSITION UPON ORAL EXAMINATION, DEMAND FOR
AUTHORIZATIONS, NOTICE OF DISCOVERY AND INSPECTION OF
DOCUMENTS, NOTICE OF DISCOVERY AND INSPECTION OF STATEMENTS,
DEMAND FOR CPLR §4545 INFORMATION, DEMAND FOR DISCOVERY OF
EXPERT WITNESS, DEMAND FOR NAMES OF WITNESSES, NOTICE PURSUANT
TO CPLR §2103(B)(5), AND DEMAND FOR NOTICE AND INSPECTION OF
PHOTOGRAPHIC EVIDENCE AND DEMAND FOR A CHANGE OF VENUE

MARTIN CLEARWATER & BELL LLP
Attorneys for Defendant
JAY BASSELL, M.D., P.C.
Office and Post Office Address
220 East 42nd Street
Borough of Manhattan New York, New York 10017-5842
Telephone (212) 697-3122

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF BRONX

-----X
CORRINE JOHNSON,

Plaintiff,

-against-

PARKMED EASTERN WOMEN'S CENTER, PARKMED
SERVICES, INC., PARKMED, L.L.C, JAY BASSELL,
M.D., P.C. and JAY ALAN BASSELL, M.D.,

Defendants.
-----X

**DEMAND FOR A BILL
OF PARTICULARS**

Index No.:17354/05

COUNSELORS:

PLEASE TAKE NOTICE, that pursuant to Rule 3041 et seq. of the Civil Practice Law and Rules, you are hereby required to serve upon MARTIN CLEARWATER & BELL LLP, attorneys for defendant JAY ALAN BASSELL, M.D., within twenty (20) days after the service of a copy of this Demand, a Verified Bill of Particulars of the Complaint, setting forth in detail the following:

1. The manner and respect in which it is claimed defendant JAY ALAN BASSELL, M.D. (hereinafter referred to as "defendant"), was negligent, careless and unskillful, including but not limited to the following:

- (a) State each test or procedure which it will be claimed should not have been performed by the defendant.
- (b) State each test or procedure which it will be claimed was performed improperly by the defendant and in what respect.
- (c) State each additional test or procedure which it will be claimed should have been performed by the defendant.

- (d) State each drug or medication which it will be claimed should not have been administered by the defendant.
- (e) State each drug or medication which it will be claimed was administered in an improper dosage or manner, or both, by the defendant and in what respect
- (f) State each additional drug which it will be claimed should have been administered by the defendant.
- (g) If it will be claimed that a misdiagnosis was made by the defendant, state what the misdiagnosis was and state what the proper diagnosis should have been.
- (h) If it will be claimed that there was a lack of adequate consultation by the defendant, state each specialist who should have been consulted, and at what point in the treatment.
- (i) If it will be claimed that improper preoperative procedures were performed by the defendant, state which procedures were improper and what the proper preoperative procedures are claimed to be
- (j) If it will be claimed that improper postoperative procedures were performed by the defendant, state which procedures were improper and what the proper postoperative procedures are claimed to be.
- (k) If it will be claimed that improper operative procedures were performed by the defendant, state which procedures were improper and what the proper operative procedures are claimed to be
- (l) If it will be claimed that defendant ignored any signs, symptoms, complaints or past history, identify the signs, symptoms, complaints or past history which were ignored.

(m) If it will be claimed that there was improper treatment in any other respect, state what the proper treatment should have been.

2 If it will be claimed that the defendant performed or undertook any part of the treatment without the patient's informed consent, set forth the following:

(A) The procedure(s) and/or treatment(s) performed or undertaken without the patient's informed consent.

(B) For each procedure(s) and/or treatment(s) performed or undertaken without the patient's informed consent, set forth the following:

- (1) the risks of the procedure and/or treatment known to the patient before it was performed;
- (2) the information concerning the risks imparted to the patient by the defendant;
- (3) the information concerning the risks imparted to the patient by other physicians;
- (4) any assurances provided to the defendant or others by the patient by other physicians;
- (5) the circumstances making it reasonably possible for the defendant to obtain consent by or on behalf of the patient;
- (6) the additional information, if any, which the defendant should have provided the patient concerning the procedure and/or treatment

3 Did the defendant's alleged malpractice occur in the course of an emergency treatment, procedure or surgery?

4. If it will be claimed that any of the acts or omissions particularized in items 1 and 2 above were performed by another for whose acts or omissions the defendant has legal responsibility, state as to each such act or omission the name of the person who performed it, and that person's legal relationship to the defendant.

5. If it is claimed that any equipment or other medical instruments were defective or otherwise improper, identify the equipment or instruments, the manufacturer, set forth in what respects they were defective or improper, and identify the person(s) who used, owned and controlled the equipment or instruments at the time of the patient's treatment.

6. Set forth the following.

- (a) The date of each treatment claimed to have been rendered by defendant.
- (b) The date of each act of negligence claimed to have been committed by defendant.
- (c) The place of each treatment claimed to have been rendered by defendant.

7. Set forth the following:

- (a) The nature, location and extent of each injury which it will be claimed was caused by the negligence of defendant.
- (b) If any injuries are claimed to be permanent, so state
- (c) State how it will be claimed each of said injuries was caused by the alleged negligence.

8. If it will be claimed that the aforesaid injuries necessitated treatment at any institutions, set forth

- (a) The name of each institution
- (b) The dates of confinement or outpatient treatment at each institution.

9. If it will be claimed that the aforesaid injuries necessitated confinement to bed or home, set forth the following:

- (a) The dates of confinement to home
- (b) The dates of confinement to bed.

10. If it is reasonably anticipated that the claimed aforesaid injuries will necessitate future confinement to bed or home, set forth the following:

- (a) Anticipated period of time of confinement to home.
- (b) Anticipated period of time of confinement to bed.

11. If it will be claimed that the aforesaid injuries necessitated treatment by any physicians, psychologists or other therapists, set forth:

- (a) The name of each such person.
- (b) That person's address
- (c) The dates of the patient's treatment

12. If loss of earnings will be claimed to have resulted from the alleged negligence, set forth the following.

- (a) The loss of earnings that will be claimed
- (b) The name and address of the employer at the time of the alleged negligence
- (c) The claimant's occupation at the time of the alleged negligence
- (d) The claimant's gross earnings for the last calendar year prior to the alleged negligence.
- (e) The claimant's gross earnings for any calendar year(s) during which it will be claimed the claimant was incapacitated from work.

(f) If the claimant was employed by another immediately prior to the alleged incapacitation, state:

(1) The name and address of the employer.

(2) The claimant's weekly gross salary at that time.

(g) If the claimant was in whole or in part self-employed, state the claimant's earnings from such self-employment for each of the three (3) years prior to the alleged incapacitation.

(h) The last date the claimant worked prior to the alleged incapacitation

(i) The dates the claimant worked prior to the alleged incapacitation.

(j) The amount and source of any reimbursement to the claimant or others for the alleged loss of earnings

(k) The name and address of the claimant's present employer.

13. If it is reasonably anticipated that further loss of earnings will be incurred in the future as a result of the alleged negligence, set forth:

(a) Anticipated future loss of earnings, stating the reason for said further loss of earnings

(b) Anticipated period of time that future loss of earnings will be incurred.

14. If any special damages are claimed as a result of the alleged malpractice, set forth the following

(a) The charges for the above-named hospitals, separately listing each hospital's bill.

(b) Physicians' charges

(c) Charges for medicine, itemizing the medicines charged for.

(d) Other (specify).

15 If anyone other than the patient has paid or has incurred the expenses claimed in the preceding paragraph, state the amount or extent of such reimbursement and that person's address and relationship, if any, to the patient.

16. If anyone has, or can reasonably be expected to reimburse the patient or others for the expenses claimed above in Paragraph 14, state the amount or extent of such reimbursement and the name and address of the reimbursor.

17 If it is reasonably anticipated that further expenses will be incurred in the future as a result of the alleged negligence, set forth such expenses, stating the reason for said expenses and the anticipated period of time that said expenses will be incurred, including but not limited to:

- (a) Anticipated physicians' charges.
- (b) Anticipated hospitals' charges.
- (c) Anticipated charges for medicine.
- (d) Anticipated nursing charges.
- (e) Other (specify).

18. If anyone can be reasonably expected to pay or provide reimbursement for any anticipated expenses detailed in the foregoing paragraph, state that reimbursor's name, address and the amount and extent of such payment or reimbursement.

19 State the residence of the plaintiff(s) at the time this action was commenced.

20. State the date of birth of the plaintiff(s).

21 State the Social Security number of the plaintiff(s)

22. If it will be claimed that the limitations on liability set forth in CPLR Article 16 do not apply, state specifically each and every exception to Article 16 set forth in CPLR § 1602 which applies to the cause or causes of action herein and the basis for invoking such exemptions.

Dated: New York, New York
August 24, 2005

Yours, etc.,

MARTIN CLEARWATER & BELL LLP

By: 

GREGORY J. RADOMISLI

Attorneys for Defendant
JAY ALAN BASSELL, M.D.
220 East 42nd Street
New York, New York 10017-5842
(212) 697-3122

TO:
LAW OFFICES OF JOHN J. GUADAGNO, P.C.
Attorney for Plaintiff
136 East Main Street
East Islip, New York 11736
(631) 224-2796

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF BRONX

-----X
CORRINE JOHNSON,

Plaintiff,

-against-

PARKMED EASTERN WOMEN'S CENTER, PARKMED
SERVICES, INC., PARKMED, L.L.C, JAY BASSELL,
M.D., P.C. and JAY ALAN BASSELL, M.D.,

Defendants.
-----X

**DEMAND FOR A BILL
OF PARTICULARS**

Index No.:17354/05

C O U N S E L O R S :

PLEASE TAKE NOTICE, that pursuant to Rule 3041 et seq. of the Civil Practice Law and Rules, you are hereby required to serve upon MARTIN CLEARWATER & BELL LLP, attorneys for defendant JAY BASSELL, M.D., P.C., within twenty (20) days after the service of a copy of this Demand, a Verified Bill of Particulars of the Complaint, setting forth in detail the following:

1. The manner and respect in which it is claimed defendant JAY BASSELL, M.D., P.C. (hereinafter referred to as "defendant"), was negligent, careless and unskillful, including but not limited to the following:

- (a) State each test or procedure which it will be claimed should not have been performed by the defendant.
- (b) State each test or procedure which it will be claimed was performed improperly by the defendant and in what respect.
- (c) State each additional test or procedure which it will be claimed should have been performed by the defendant.
- (d) State each drug or medication which it will be claimed should not have been administered by the defendant.

- (e) State each drug or medication which it will be claimed was administered in an improper dosage or manner, or both, by the defendant and in what respect.
- (f) State each additional drug which it will be claimed should have been administered by the defendant.
- (g) If it will be claimed that a misdiagnosis was made by the defendant, state what the misdiagnosis was and state what the proper diagnosis should have been.
- (h) If it will be claimed that there was a lack of adequate consultation by the defendant, state each specialist who should have been consulted, and at what point in the treatment.
- (i) If it will be claimed that improper preoperative procedures were performed by the defendant, state which procedures were improper and what the proper preoperative procedures are claimed to be.
- (j) If it will be claimed that improper postoperative procedures were performed by the defendant, state which procedures were improper and what the proper postoperative procedures are claimed to be.
- (k) If it will be claimed that improper operative procedures were performed by the defendant, state which procedures were improper and what the proper operative procedures are claimed to be.
- (l) If it will be claimed that defendant ignored any signs, symptoms, complaints or past history, identify the signs, symptoms, complaints or past history which were ignored.
- (m) If it will be claimed that there was improper treatment in any other respect, state what the proper treatment should have been.

2. If it will be claimed that the defendant performed or undertook any part of the treatment without the patient's informed consent, set forth the following:

(A) The procedure(s) and/or treatment(s) performed or undertaken without the patient's informed consent.

(B) For each procedure(s) and/or treatment(s) performed or undertaken without the patient's informed consent, set forth the following:

- (1) the risks of the procedure and/or treatment known to the patient before it was performed;
- (2) the information concerning the risks imparted to the patient by the defendant;
- (3) the information concerning the risks imparted to the patient by other physicians;
- (4) any assurances provided to the defendant or others by the patient by other physicians;
- (5) the circumstances making it reasonably possible for the defendant to obtain consent by or on behalf of the patient;
- (6) the additional information, if any, which the defendant should have provided the patient concerning the procedure and/or treatment.

3. Did the defendant's alleged malpractice occur in the course of an emergency treatment, procedure or surgery?

4. If it will be claimed that any of the acts or omissions particularized in items 1 and 2 above were performed by another for whose acts or omissions the defendant has legal responsibility,

state as to each such act or omission the name of the person who performed it, and that person's legal relationship to the defendant.

5. If it is claimed that any equipment or other medical instruments were defective or otherwise improper, identify the equipment or instruments, the manufacturer, set forth in what respects they were defective or improper, and identify the person(s) who used, owned and controlled the equipment or instruments at the time of the patient's treatment.

6. Set forth the following:

- (a) The date of each treatment claimed to have been rendered by defendant.
- (b) The date of each act of negligence claimed to have been committed by defendant.
- (c) The place of each treatment claimed to have been rendered by defendant.

7. Set forth the following:

- (a) The nature, location and extent of each injury which it will be claimed was caused by the negligence of defendant.
- (b) If any injuries are claimed to be permanent, so state.
- (c) State how it will be claimed each of said injuries was caused by the alleged negligence.

8. If it will be claimed that the aforesaid injuries necessitated treatment at any institutions, set forth:

- (a) The name of each institution.
- (b) The dates of confinement or outpatient treatment at each institution.

9. If it will be claimed that the aforesaid injuries necessitated confinement to bed or home, set forth the following:

- (a) The dates of confinement to home.

(b) The dates of confinement to bed.

10. If it is reasonably anticipated that the claimed aforesaid injuries will necessitate future confinement to bed or home, set forth the following:

(a) Anticipated period of time of confinement to home.

(b) Anticipated period of time of confinement to bed.

11. If it will be claimed that the aforesaid injuries necessitated treatment by any physicians, psychologists or other therapists, set forth:

(a) The name of each such person.

(b) That person's address.

(c) The dates of the patient's treatment.

12. If loss of earnings will be claimed to have resulted from the alleged negligence, set forth the following:

(a) The loss of earnings that will be claimed.

(b) The name and address of the employer at the time of the alleged negligence.

(c) The claimant's occupation at the time of the alleged negligence.

(d) The claimant's gross earnings for the last calendar year prior to the alleged negligence.

(e) The claimant's gross earnings for any calendar year(s) during which it will be claimed the claimant was incapacitated from work.

(f) If the claimant was employed by another immediately prior to the alleged incapacitation, state:

(1) The name and address of the employer.

(2) The claimant's weekly gross salary at that time.

- (g) If the claimant was in whole or in part self-employed, state the claimant's earnings from such self-employment for each of the three (3) years prior to the alleged incapacitation.
- (h) The last date the claimant worked prior to the alleged incapacitation.
- (i) The dates the claimant worked prior to the alleged incapacitation.
- (j) The amount and source of any reimbursement to the claimant or others for the alleged loss of earnings.
- (k) The name and address of the claimant's present employer.

13. If it is reasonably anticipated that further loss of earnings will be incurred in the future as a result of the alleged negligence, set forth:

- (a) Anticipated future loss of earnings, stating the reason for said further loss of earnings.
- (b) Anticipated period of time that future loss of earnings will be incurred.

14. If any special damages are claimed as a result of the alleged malpractice, set forth the following:

- (a) The charges for the above-named hospitals, separately listing each hospital's bill.
- (b) Physicians' charges.
- (c) Charges for medicine, itemizing the medicines charged for.
- (d) Other (specify).

15. If anyone other than the patient has paid or has incurred the expenses claimed in the preceding paragraph, state the amount or extent of such reimbursement and that person's address and relationship, if any, to the patient.

16. If anyone has, or can reasonably be expected to reimburse the patient or others for the expenses claimed above in Paragraph 14, state the amount or extent of such reimbursement and the name and address of the reimbursor.

17. If it is reasonably anticipated that further expenses will be incurred in the future as a result of the alleged negligence, set forth such expenses, stating the reason for said expenses and the anticipated period of time that said expenses will be incurred, including but not limited to:

- (a) Anticipated physicians' charges.
- (b) Anticipated hospitals' charges.
- (c) Anticipated charges for medicine.
- (d) Anticipated nursing charges.
- (e) Other (specify).

18. If anyone can be reasonably expected to pay or provide reimbursement for any anticipated expenses detailed in the foregoing paragraph, state that reimbursor's name, address and the amount and extent of such payment or reimbursement.

19. State the residence of the plaintiff(s) at the time this action was commenced.

20. State the date of birth of the plaintiff(s).

21. State the Social Security number of the plaintiff(s).


22. If it will be claimed that the limitations on liability set forth in CPLR Article 16 do not apply, state specifically each and every exception to Article 16 set forth in CPLR § 1602 which

applies to the cause or causes of action herein and the basis for invoking such exemptions.

Dated: New York, New York
August 24, 2005

Yours, etc.,

MARTIN CLEARWATER & BELL LLP

By: 
GREGORY J. RADOMISLI

Attorneys for Defendant
JAY BASSELL, M.D., P.C.
220 East 42nd Street
New York, New York 10017-5842
(212) 697-3122

TO:
LAW OFFICES OF JOHN J. GUADAGNO, P.C.
Attorney for Plaintiff
136 East Main Street
East Islip, New York 11736
(631) 224-2796

55-79191

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF BRONX

CORRINE JOHNSON,

Plaintiff,

-against-

PARKMED EASTERN WOMEN'S CENTER,
PARKMED SERVICES, INC., PARKMED, LLC,
JAY BASSELL, M.D., P.C. and JAY ALAN
BASSELL, M.D.,

Defendants.

Index No.: 17354/05

**VERIFIED BILL OF
PARTICULARS TO
DEFENDANT
JAY BASSELL, M.D., P.C.**

COUNSELORS:

Plaintiff, by her attorneys, The Law Offices of John J. Guadagno, P.C., in response to the demand for a Verified Bill of Particulars of the defendant, *Jay Bassell, M.D. P.C.*, alleges as follows:

1. That the defendant, Jay Alan Bassell, M.D., P.C., individually and by his agents, servants and/or employces was negligent, careless, reckless and grossly negligent in rendering services for and on behalf of the plaintiff, Corrine Johnson; in failing and neglecting to use reasonable care in rendering medical services for and on behalf of said plaintiff; in failing and neglecting to heed plaintiff's condition; in departing from good and accepted medical practice; in performing contra-indicated procedures; in failing to perform indicated procedures; in failing to follow good medical practice; in holding himself out as having the requisite knowledge and skill to properly perform the subject procedure and in failing to possess same; in failing to refer said plaintiff to the appropriate specialists for requisite care and treatment; in failing to hospitalize the plaintiff so as to cause the plaintiff to suffer a septic abortion with endometritis and retained products of conception thereby requiring the plaintiff to undergo emergency operative procedures; in failing to obtain proper diagnostic testing; in undertaking to perform an abortion and in failing to complete same; in failing to properly perform the aforesaid abortion; in failing to ascertain that the aforesaid

abortion was incomplete; in representing that the defendants were qualified to successfully perform the subject abortion wherein fact, they lacked the requisite skill to properly do so; and in otherwise being careless, reckless, negligent and grossly negligent and guilty of malpractice under the circumstances then and there existing.

2. The plaintiff charges the defendant with lack of informed consent in that the defendant represented to the plaintiff that the subject procedure was routine and uncomplicated and failed to disclose the risks associated therewith so as to afford the plaintiff the opportunity to make an informed decision regarding the procedure or to explore the alternatives with respect thereto.

3. Improper demand - evidentiary in nature.

4. See response to item #3.

5. See response to item #3. Also this information is more particularly within the knowledge of the defendants and plaintiff reserves the right to supplement this response upon completion of depositions.

6. The malpractice occurred on August 24, 2004 at Parkmed Eastern Women's Center located at 38-44 East 30th Street, New York, New York.

7. Plaintiff has sustained the following injuries:

Incomplete abortion with retained products of conception; septic abortion and endometritis; severe abdominal cramping and bleeding; severe emotional distress; mental anguish and depression.

Upon information and belief, all of the injuries sustained by the plaintiff as described above and all residual effects therefrom except those of a superficial nature are permanent and progressive

8. Plaintiff was admitted to Jacobi Hospital from August 27, 2004 through August 30, 2004.

9. Plaintiff was confined as follows:

(a) ~~to home: for a period of approximately two (2) months intermittently to date~~

(b) to bed: for a period of approximately one (1) week.

10. See response to item #3.

11. Plaintiff received treatment by physicians at Jacobi Hospital whose identities are currently unknown but contained within the hospital record - an authorization to obtain the Jacob Hospital record has been supplied:

12. Not applicable.

13. See response to item #12.

14. Plaintiff has sustained the following special damages:

(a) hospitals:

- Jacobi Hospital: to be supplied

(b) physician's charges:

- Parkmed Eastern Women's Center: to be supplied
- Jay Alan Bassell, M.D.: to be supplied

(c) medicine: included above and below

(d) other: none at this time

15. Plaintiff has received partial collateral source reimbursement from Medicaid.

16. See response to item #15.

17. Unknown at this time. Plaintiff reserves the right to supplement this response in accordance with the CPLR and Court rules.

18. Unknown at this time

19. Plaintiff resides at 1815 Bruckner Boulevard, Apt. 2E, Bronx, New York 10472.

20. Plaintiff's date of birth is April 30, 1980.

21. Plaintiff's social security number is [REDACTED]

22. Improper demand.

Dated: East Islip, New York
November 2, 2005

Yours, etc.,

LAW OFFICES OF
JOHN J. GUADAGNO, P.C.
Attorneys for Plaintiff
136 East Main Street
East Islip, New York 11730
(631) 224-2796

TO: MARTIN, CLEARWATER & BELL, LLP
Attorneys for Defendants
Jay Allan Bassell, M.D. & Jay Bassell, M.D., P.C.
220 East 42nd Street
New York, New York 10017
(212) 697-3122

cc: MURPHY & HIGGINS
Attorneys for Defendants
Parkmed Eastern Women's Center, Parkmed Services, Inc. & Parkmed, LLC
One Radisson Plaza
New Rochelle, New York 10801
(914) 712-1100

55-79191

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF BRONX

CORRINE JOHNSON, -----X

Plaintiff,

-against-

PARKMED EASTERN WOMEN'S CENTER,
PARKMED SERVICES, INC., PARKMED, LLC,
JAY BASSELL, M.D., P.C. and JAY ALAN
BASSELL, M.D.,

Defendants. -----X

Index No.: 17354/05

**VERIFIED BILL OF
PARTICULARS TO
DEFENDANT JAY
ALAN BASSELL, M.D.**

COUNSELORS:

Plaintiff, by her attorneys, The Law Offices of John J. Guadagno, P.C., in response to the demand for a Verified Bill of Particulars of the defendant, *Jay Alan Bassell, M.D.*, alleges as follows:

1. That the defendant, Jay Alan Bassell, M.D., individually and by his agents, servants and/or employees was negligent, careless, reckless and grossly negligent in rendering services for and on behalf of the plaintiff, Corrine Johnson; in failing and neglecting to use reasonable care in rendering medical services for and on behalf of said plaintiff; in failing and neglecting to heed plaintiff's condition; in departing from good and accepted medical practice; in performing contra-indicated procedures; in failing to perform indicated procedures; in failing to follow good medical practice; in holding himself out as having the requisite knowledge and skill to properly perform the subject procedure and in failing to possess same; in failing to refer said plaintiff to the appropriate specialists for requisite care and treatment; in failing to hospitalize the plaintiff for the subject procedure; in failing to properly perform the subject procedure; in failing to advise the plaintiff to suffer a septic abortion with endometritis and retained products of conception thereby requiring the plaintiff to undergo emergency operative procedures; in failing to obtain proper diagnostic testing; in undertaking to perform an abortion and in failing to complete same; in failing to properly perform the aforesaid abortion; in failing to ascertain that the aforesaid abortion was

incomplete; in representing that the defendants were qualified to successfully perform the subject abortion wherein fact, they lacked the requisite skill to properly do so; and in otherwise being careless, reckless, negligent and grossly negligent and guilty of malpractice under the circumstances then and there existing.

2. The plaintiff charges the defendant with lack of informed consent in that the defendant represented to the plaintiff that the subject procedure was routine and uncomplicated and failed to disclose the risks associated therewith so as to afford the plaintiff the opportunity to make an informed decision regarding the procedure or to explore the alternatives with respect thereto.

3. Improper demand - evidentiary in nature.

4. See response to item #3.

5. See response to item #3. Also this information is more particularly within the knowledge of the defendants and plaintiff reserves the right to supplement this response upon completion of depositions.

6. The malpractice occurred on August 24, 2004 at Parkmed Eastern Women's Center located at 38-44 East 30th Street, New York, New York.

7. Plaintiff has sustained the following injuries:

Incomplete abortion with retained products of conception; septic abortion and endometritis; severe abdominal cramping and bleeding; severe emotional distress; mental anguish and depression.

Upon information and belief, all of the injuries sustained by the plaintiff as described above and all residual effects therefrom except those of a superficial nature are permanent and

8. Plaintiff was admitted to Jacobi Hospital from August 27, 2004 through August 30, 2004.

9. Plaintiff was confined as follows:

(a) to home: for a period of approximately two (2) months intermittently to date

(b) to bed: for a period of approximately one (1) week.

10. See response to item #3.

11. Plaintiff received treatment by physicians at Jacobi Hospital whose identities are currently unknown but contained within the hospital record - an authorization to obtain the Jacobi Hospital record has been supplied:

12. Not applicable.

13. See response to item #12.

14. Plaintiff has sustained the following special damages:

(a) hospitals:

- Jacobi Hospital: to be supplied

(b) physician's charges:

- Parkmed Eastern Women's Center: to be supplied
- Jay Alan Bassell, M.D.: to be supplied

(c) medicine: included above and below

(d) other: none at this time

15. Plaintiff has received partial collateral source reimbursement from Medicaid.

16. See response to item #15.

17. Unknown at this time. Plaintiff reserves the right to supplement this response in accordance with the CPLR and Court rules.

18. Unknown at this time.

19. Plaintiff resides at 1815 Bruckner Boulevard, Apt. 2E, Bronx, New York 10472.

20. Plaintiff's date of birth is April 30, 1980.

21. Plaintiff's social security number is [REDACTED]

22. Improper demand.

Dated: East Islip, New York
November 2, 2005

Yours, etc.,

LAW OFFICES OF
JOHN J. GUADAGNO, P.C.
Attorneys for Plaintiff
136 East Main Street
East Islip, New York 11730
(631) 224-2796

TO: MARTIN, CLEARWATER & BELL, LLP
Attorneys for Defendants
Jay Allan Bassell, M.D. & Jay Bassell, M.D., P.C.
220 East 42nd Street
New York, New York 10017
(212) 697-3122

cc: MURPHY & HIGGINS
Attorneys for Defendants
Parkmed Eastern Women's Center, Parkmed Services, Inc. & Parkmed, LLC
One Radisson Plaza
New Rochelle, New York 10801
(914) 712-1100

CORRINE JOHNSON,

Plaintiff,

-against-

PARKMED EASTERN WOMEN'S CENTER,
PARKMED SERVICES, INC., PARMED. LLC,
JAY BASSELL, M.D., P.C. and JAY ALAN
BASSELL, M.D.,

Defendants.

VERIFIED BILL OF PARTICULARS

Law Offices of John J. Guadagno, P.C.
Attorneys for Plaintiff
136 East Main Street
East Islip, New York 11730
(631) 224-2796

TO: ALL PARTIES

Johnson

Plaintiff(s),

- against -

Park Med

Defendant(s),

PRELIMINARY CONFERENCE ORDER

Pursuant to Part 202 of the Uniform Civil Rules for the Supreme Court

HON. _____
Preliminary Conference Part
Index Number 17354/05
Conference Date 11/4/05

APPEARANCES:

Plaintiff:

Firm: _____
By Attorney: John Guardagno

Carrier: _____ Phone: _____ Coverage Amount: _____

Defendant 1: ParkMed

Firm: Murphy & Higgins
By Attorney: Robert A Schapiro

Carrier: _____ Phone: (914) 912-1102 Coverage Amount: _____

Defendant 2: Jay M Bassell, M.D. and Jay Bassell, M.D., P.C.

Firm: MARTIN CLEARWATER & BELL
By Attorney: Philip Lamb

Carrier: _____ Phone: _____ Coverage Amount: _____

Defendant 3:

Firm: _____
By Attorney: _____
Carrier: _____ Phone: _____ Coverage Amount: _____

I INSURANCE COVERAGE:

To be furnished within 30 days.

II BILL OF PARTICULARS:

1. Not submitted: Bill of Particulars to be served by _____

2. Served: 2(a). Satisfactory 2(b). Unsatisfactory

3. Supplemental bill of particulars to be served by Tan & Parkmed

4. Bill of particulars for affirmative defenses to be served by 12/20/05

and 16-20 within 45 days and as to Bassell with regard to special damages within 45 days. As may be required. The BIPs as to items not covered above.

III MEDICAL REPORTS AND HOSPITAL AUTHORIZATIONS:

1. Furnished (Except: _____)

2. Medical reports or authorizations for records to be served

3. Hospital authorizations to be served within 30 days

on all as without restriction from the objector

IV PHYSICAL EXAMINATION:

1(a). Held 1(b). Waived

1(c). Examination of the Defendant to be held within 30 days of 11/5 EBT Defendant to designate physician(s) within 21 days of plaintiff's EBT

2(a). Physician's report furnished

2(b). Copy of physician's report to be furnished to plaintiff within 30 days of examination.

V EXAMINATION BEFORE TRIAL:

- 1. Plaintiff Defendants All parties
- 2. To be held at on on before 3/31/06, as stipulated TT
Date: _____ Time: designated witness for fact
- 3. Held (Except: _____) by Waived by 3/31/06

VI OTHER DISCLOSURE:

- 1. None
- 2. All parties to exchange names and addresses of all witnesses, opposing parties' statements, and photographs. If none, an affirmation to that effect shall be exchanged.
- 3. Authorizations for plaintiff's employment records (IRS) including W-2 for period _____
- 4. Collateral source authorizations as to medical care and 1/6th disability payments within 30 days
- 5. To be completed within _____

VII IMPLADER ACTIONS:

- 1(a). None
- 1(b). To be commenced 60 days after all EBT's.

VIII DESIGNATED FOR TRANSFER:

- 1(a). CPLR 325 (c)
- 1(b). CPLR 325 (d)

IX ADDITIONAL DIRECTIVES:

See attached page for additional directives

X ALL PARTIES:

Are directed to complete discovery on or before 7/21/06 and appear for a compliance conference on 8/21/06.

Any statutory stays of disclosure due the pendency of motions pursuant to CPLR 3211, 3212 and 3213 are vacated.

Counsel will be required to justify, at the Compliance Conference, failure to adhere to the discovery schedule set forth herein.

In the event of non-compliance, costs or other sanctions may be imposed.

This constitutes the decision and order of this court.

Dated: 11/4/05

Enter: [Signature]

J.S.C.

Parties must adhere to all dates contained herein relating to the completion of items in this order. Counsel may not enter into any adjournments without further order of this court.

DISCOVERY ORDER

343

X. ADDITIONAL DIRECTIVES: To respond to Δ Parknell's discovery demands dated 8/11/05 and to Δ Bassett's previously served discovery demands within 30 days

A25 (over Plaintiff's objections)

Pharmacy records

Prior abortions + Subsequent abortions
Prior + Subsequent Gynecological/ob physicians records

Psychological Psychiatric records from therapists + mental health \rightarrow prior + subsequent treat

all A25 to be provided w/in: 30 days

X. ADDITIONAL DIRECTIVES

RRC/ka
55-79191

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF BRONX

-----X
CORRINE JOHNSON,

Plaintiff,

-against-

PARKMED EASTERN WOMEN'S CENTER,
PARKMED SERVICES, INC., PARKMED, L.L.C., JAY
BASSELL, M.D., P.C. and JAY ALAN BASSELL, M.D,

Defendants.
-----X

**DEMAND FOR
AUTHORIZATIONS**

Index No.: 17354/05

COUNSELORS:

PLEASE TAKE NOTICE, that pursuant to CPLR §3121, you are hereby required to forward to MARTIN CLEARWATER & BELL LLP, 220 East 42nd Street, 13th Floor, New York, New York, 10017, attorneys for defendant JAY BASSELL, M.D., P.C. and JAY ALAN BASSELL, M.D., within twenty (20) days of receipt hereof, duly executed and acknowledged written authorizations which comply with the requirements imposed by the Health Insurance Portability and Accountability Act of 1996 (HIPAA) permitting MARTIN CLEARWATER & BELL LLP to obtain photostatic copies and have full disclosure of all records comprised of medical treatment for the following providers:

1. 835 Soundview Ave. Pharmacy, Inc.
2. ADL Incorporated
3. Basics Inc.
4. Bliss Pharmacy Inc.
5. Bronx Lebanon Hospital Center
6. Bronxdale Pharmacy, Inc.
7. Bruckner Plaza Pharmacy Inc.

8. Choices Women's Medical Center
9. Dinesh Pharmacy Inc.
10. Dr. Amritbhai G. Patel
11. Dr. Antonio Pierre
12. Dr. Ashok Ghooi
13. Dr. Clifford Justin Schwartz
14. Dr. Cristina Fi Chi Ho
15. Dr. David A. Gluck
16. Dr. David H. Frager
17. Dr. Elliot Wayne Scher
18. Dr. Elliott L. Wein
19. Dr. Eva Yan
20. Dr. Gary L. Mucciolo
21. Dr. Javier Beltran
22. Dr. Jay Philips
23. Dr. Joan M. Fleischman
24. Dr. Juan C. Orozco
25. Dr. Kashmira M. Sutaria
26. Dr. Khela Ransier
27. Dr. Krishan Kumar
28. Dr. Merwin Geffen
29. Dr. Nolan J. Kagetsu
30. Dr. Pedro Cabrera
31. Dr. Richard J. Scardino
32. Dr. Richard L. Berkowitz
33. Dr. Stephen Harris Ashinoff
34. Dr. Tarulata K. Dattani
35. Dr. Theresa M. Vergara

36. Dr. Yelena Karasina
37. Dr. Youssef Mahmoud
38. Hospital for Joint Diseases Orthopaedic Institute
39. Hunts Point Multi-Service Center, Inc.
40. Lincoln Medical/Mental Health
41. Madison Avenue Pharmacy Inc.
42. Metpath Inc.
43. Metro Optics Eyewear
44. Noble Drugs Inc.
45. NTD Laboratories Inc.
46. Our Lady of Mercy Medical Center
47. Park Madison Professional Lab
48. Quest Diagnostics, Inc.
49. Soundview Drugs Inc.
50. St. Lukes Roosevelt Hospital Center
51. Universal Diagnostic Labs
52. Value Healthcare Pharmacy Inc.
53. Wellcare of New York, Inc.
54. Westchester Square Hospital
55. White Plains Rd. Pharmacy, Inc.

PLEASE TAKE FURTHER NOTICE, that all authorizations are to be HIPAA compliant and include complete and proper addresses and all identification necessary for processing.

PLEASE TAKE FURTHER NOTICE, that your failure to comply with the demand will serve as the basis of motion practice seeking appropriate relief.

Dated: New York, New York
February 26, 2008

Yours, etc.

MARTIN CLEARWATER & BELL LLP

By Rebecca R. Cunningham
Rebecca R. Cunningham
Attorneys for Defendants
JAY BASSELL, M.D., P.C. and
JAY ALAN BASSELL, M.D.
220 East 42nd Street
New York, NY 10017
212-697-3122

TO:

LAW OFFICES OF JOHN J. GUADAGNO, P.C.
Attorney for Plaintiff
136 East Main Street
East Islip, New York 11730
(631) 224-2796

MURPHY & HIGGINS, LLP
Attorneys for Defendants
PARKMED, LLC d/b/a
PARKMED EASTERN WOMEN'S CENTER,
PARKMED SERVICES, INC.
One Radisson Plaza, 9th Floor
New Rochelle, New York 10801
(914) 712-1100

AFFIDAVIT OF SERVICE BY MAIL

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

KAROLINA AMADOR, being duly sworn, deposes and says that she is not a party to this action, is over 18 years of age and is an employee in the office of **MARTIN CLEARWATER & BELL LLP**, attorneys for the defendants **JAY BASSELL, M.D., P.C.** and **JAY ALAN BASSELL, M.D.**

That on February 26, 2008 he served the within **DEMAND FOR AUTHORIZATION**, upon the following attorneys by depositing a true copy of the same securely enclosed in a post-paid wrapper in the Official Depository maintained and exclusively controlled by the United States at 220 East 42nd Street, New York, New York 10017 directed to said attorneys at:

LAW OFFICES OF JOHN J. GUADAGNO, P.C.
Attorney for Plaintiff
136 East Main Street
East Islip, New York 11730
(631) 224-2796

MURPHY & HIGGINS, LLP
Attorneys for Defendants
PARKMED, LLC d/b/a
PARKMED EASTERN WOMEN'S CENTER,
PARKMED SERVICES, INC.
One Radisson Plaza, 9th Floor
New Rochelle, New York 10801
(914) 712-1100

That being the address within the State designated by them for the purpose of service upon them of the preceding papers in this action, or the place where they then kept an office for regular communication by mail.



KAROLINA AMADOR

Sworn to before me on this
26th day of February, 2008


Notary Public

SANDRA A. BOGDAN
Notary Public, State of New York
No 4994062
Qualified in New York County
Commission Expires March 30, 2010

Index No.: 17354

2005

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF BRONX

CORRINE JOHNSON,

Plaintiff,

-against-

PARKMED EASTERN WOMEN'S CENTER, PARKMED SERVICES, INC., PARKMED, L.L.C., JAY
BASSELL, M.D., P.C. and JAY ALAN BASSELL, M.D,

Defendants.

DEMAND FOR AUTHORIZATIONS

MARTIN CLEARWATER & BELL LLP
JAY BASSELL, M.D., P.C. and
JAY ALAN BASSELL, M.D.
Office and Post Office Address
220 East 42nd Street
Borough of Manhattan New York, New York 10017-5842
Telephone (212) 697-3122

1 A

**Bronx County Supreme Court
COMPLIANCE CONFERENCE ORDER
Part IA-11**

Present:

_____X

Johnson

Plaintiff(s),

- against -

Parkmed Womens Center, Parkmed Services, Inc.
Parkmed LLC, Jay Russell, MD, PE
Jay Ann Russell, MS
_____X

Defendant(s).

Index No. 17354 105

Date RJI filed: _____

UPON the Preliminary Conference Order dated _____, and following a Compliance Conference held on 3/26/08, and it appearing that disclosure was previously ordered herein and has not been completed, or that additional disclosure is warranted, it is hereby

ORDERED that disclosure shall proceed and be completed in accordance herewith; and it is further

ORDERED that proceedings directed herein shall be completed on or before the dates set forth. No adjournments, postponements or alterations of this order are permitted without the court's written approval, and none may be had upon the stipulation of the parties alone; and it is further

ORDERED that disclosure demands now known to be necessary which are not raised at this conference are deemed to be waived, unless otherwise ordered by the Court; and it is further

ORDERED that any statutory stays of disclosure due to the pendency of motions pursuant to CPLR §§ 3211, 3212 and 3213 are vacated; and it is further

ORDERED that any parties failing to appear at this conference shall be bound by the terms of this order; and it is further

COMPLIANCE CONFERENCE ORDER

ORDERED that the outstanding discovery shall be provided as follows:

1. INSURANCE COVERAGE: To be provided by _____

2. BILL OF PARTICULARS: A. Response to be provided by _____
Dated: _____ B. Supplemental Bill of Particulars as to items: _____

To be served by _____

C. D & I by _____ to be served by _____

D. Responses to _____'s D & I dated _____ to be served by _____

3. AUTHORIZATIONS:

- Dr. Renuka Pillai: Branford Pharmacy
- Dr. Dawn Nawal: Brooklyn Plaza Pharmacy
- Dr. Kevin Xue: Charles Womans Med Ctr
- Dr. Cheryl Maliga: Direct Pharmacy
- Dr. Elliot Cohen: Dr. Anil Bhai Patel
- Dr. Thomas Leach: Dr. Antoine Turrie
- 35 San Jovis Ave Pharmacy: Dr. Ashok Ghai
- ADL Inc.:
- Basics Inc.:
- B Plus Pharmacy, Inc.:
- Stork Lebarin Hospital Ctr: Dr. Cliff Schwartz
- Dr. Christina Ho
- Dr. David Gluck

X A. For Medical Records (specifically for Dr. David Frager, Dr. E. S. Dr. E. Weir, Dr. Eva Yan, Dr. Gary Muc. to Dr. Taylor B) to be served by 30 days from today

B. Authorizations for Plaintiff's: _____
Employment Records; _____
W-2 Records for Period _____
Other (Specify) _____

To be served by: _____
C. For all updated authorizations for current medical to be served by _____; providers, pharmacies, insurance records with 30 days

Plaintiff Defendant All Parties

4. EXAMINATION BEFORE TRIAL:

A. To Be Held On or before 4/18/08 at 10:00 A.m. At Martha (Casswater + Bell) or unless otherwise agreed, the Bronx Supreme Court Building, Room 118. Any EBT's not completed on said date will be continued on _____

B. Limitations: _____

C. Post EBT demands to be served by _____ and must be responded to by _____

NOTE:
NO POSTPONEMENTS ARE PERMITTED WITHOUT COURT APPROVAL.

FAILURE TO COMPLY WITH THIS SCHEDULE WILL RESULT IN THE PRECLUSION OF THE OFFENDING PARTY OR WAIVER OF EBT BY NON-APPEARING PARTY, UNLESS OTHERWISE ORDERED BY THE COURT.

COMPLIANCE CONFERENCE ORDER

5. PHYSICAL EXAMINATION:

- A. Defendant to designate physician(s) in writing by 4/30/08;
- B. Examination to be held by ~~with 30 days of conclusion of~~ 5/30/08;
- C. Copy of physician's report to be furnished within 30 days of examination. EDF

- FAILURE TO TIMELY DESIGNATE WILL RESULT IN A WAIVER OF SUCH EXAMINATION, UNLESS OTHERWISE ORDERED BY THE COURT.
- FAILURE TO COMPLY WILL RESULT IN PLAINTIFF'S PRECLUSION FROM OFFERING ANY EVIDENCE AT TRIAL REGARDING THEIR PHYSICAL CONDITION, UNLESS OTHERWISE ORDERED BY THE COURT.

6. OTHER DISCLOSURE:

- A. None.
 - B. All parties to exchange names and addresses of all witnesses, opposing parties statements and photographs. If none, an affirmation to that effect shall be exchanged by _____.
 - C. Other: _____

- To be served by _____;

and it is further

ORDERED that plaintiff _____ shall serve and file a Note of Issue and Certificate of Readiness on or before 6-30-08. The failure to file a Note of Issue as required by this order may subject the plaintiff to fines. Plaintiff may not file a Note of Issue unless all discovery due by plaintiff has been completed pursuant to this order. A party that files a Note of Issue where that party has not complied with this order may be subject to costs and/or sanctions; and it is further

ORDERED that failure to comply with the directives and schedule outlined herein will result in either a *waiver of the item requested* or *the preclusion of items or testimony of the offending party's evidence at the time of trial*, and/or *the imposition of costs and sanctions*, unless otherwise ordered by the Court.

DATED: 5/26/08

ENTER: _____
J.S.C.

DISCOVERY ORDER

X. ADDITIONAL DIRECTIVES: All following authorizations to be served within 30 days (continued from page 2 of order)

Dr. Jo Philips	Our Lady of Mercy Med Center	Dr. Backlund
Dr. J. Fleischman	Park Madison Professional Lab	Dr. Saxena
Dr. J. Orszco	Quest Diagnostics	Dr. Kiyici
Dr. K. Sutaria	Smethman Drugs	Dr. M. Lederer
Dr. K. Ransier	St Lukes Roosevelt Hospital	Dr. D. Friedman
Dr. K. Kumar	Universal Diagnostics Lab	
Dr. M. Geffen	Value Healthcare Pharmacy	
Dr. N. Kagetsu	Wellcare of NY, Inc.	
Dr. P. Cabrera	Westchester Square Hospital	
Dr. R. Scardino	White Plains Rd. Pharmacy, Inc.	
Dr. R. Berkowitz	Dr. R. Berkowitz	
Dr. S. Ashioff	Bronxdale Medical Center	
Dr. T. Dattani	Dr. O. Cameron	
Dr. T. Vergara	Dr. R. Sperling	
Dr. V. Karasna	Dr. D. Burstein	
Dr. Y. Mahmood		
Hospital for Joint Diseases	Orthopaedic Institute	
Hunts Point Multi-Service Center Inc.		
Linda Medical/Mental Health		
Madison Ave. Pharmacy		
McCarthy Inc.		
Miro Opt & Eyewear		
Noble Drugs Inc.		
NIA Laboratories Inc.		

X. ADDITIONAL DIRECTIVES

RRC
55-79191
SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF BRONX

-----X
CORRINE JOHNSON,

Plaintiff,

-against-

PARKMED EASTERN WOMEN'S CENTER,
PARKMED SERVICES, INC., PARKMED, L.L.C., JAY
BASSELL, M.D., P.C. and JAY ALAN BASSELL, M.D,

Defendants.
-----X

**DEMAND FOR
AUTHORIZATIONS**

Index No.: 17354/05

COUNSELORS:

PLEASE TAKE NOTICE, that pursuant to CPLR §3121, you are hereby required to forward to MARTIN CLEARWATER & BELL LLP, 220 East 42nd Street, 13th Floor, New York, New York, 10017, attorneys for defendant JAY BASSELL, M.D., P.C. and JAY ALAN BASSELL, M.D., within twenty (20) days of receipt hereof, duly executed and acknowledged written authorizations which comply with the requirements imposed by the Health Insurance Portability and Accountability Act of 1996 (HIPAA) permitting MARTIN CLEARWATER & BELL LLP to obtain photostatic copies and have full disclosure of all records comprised of medical treatment for the following providers:

1. Don Mark L. Mendoza (plaintiff received physical therapy from this provider in 2007)
2. Doshi Diagnostic Imaging Services, P.C.
3. Enzolabs, Inc.
4. Third Avenue Radiology & Imaging, P.C.

PLEASE TAKE FURTHER NOTICE, that all authorizations are to be HIPAA compliant and include complete and proper addresses and all identification necessary for processing.

PLEASE TAKE FURTHER NOTICE, that your failure to comply with the demand will serve as the basis of motion practice seeking appropriate relief.

Dated: New York, New York
September 24, 2008

Yours, etc.

MARTIN CLEARWATER & BELL LLP

By Rebecca R. Cunningham
Rebecca R. Cunningham
Attorneys for Defendants
JAY BASSELL, M.D., P.C. and
JAY ALAN BASSELL, M.D.
220 East 42nd Street
New York, NY 10017
212-697-3122

TO:

LAW OFFICES OF JOHN J. GUADAGNO, P.C.
Attorney for Plaintiff
136 East Main Street
East Islip, New York 11730
(631) 224-2796

MURPHY & HIGGINS, LLP
Attorneys for Defendants
PARKMED, LLC d/b/a
PARKMED EASTERN WOMEN'S CENTER,
PARKMED SERVICES, INC.
One Radisson Plaza, 9th Floor
New Rochelle, New York 10801
(914) 712-1100

55-79191

STATE OF NEW YORK

AFFIDAVIT OF SERVICE BY MAIL

COUNTY OF NEW YORK

)
) ss.:
)

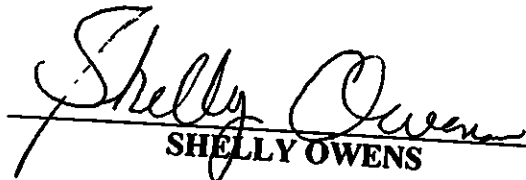
SHELLY OWENS, being duly sworn, deposes and says that she is not a party to the action, is over 18 years of age and is an employee in the office of **MARTIN CLEARWATER BELL LLP**, attorneys for the Defendants **JAY BASSELL, M.D., P.C.** and **JAY ALAN BASSELL M.D.**

That on the 24th day of September, 2008, she served the within **DEMAND FOR AUTHORIZATION** upon the following attorneys by depositing a true copy of the same securely enclosed in a post-paid wrapper in the Official Depository maintained and exclusively controlled by the United States at 220 East 42nd Street, 13th Floor; New York, New York 10017 directed to said attorneys at:

LAW OFFICES OF JOHN J. GUADAGNO, P.C.
Attorney for Plaintiff
136 East Main Street
East Islip, New York 11730
(631) 224-2796

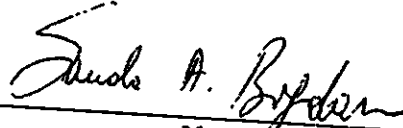
MURPHY & HIGGINS, LLP
Attorneys for Defendants
PARKMED, LLC d/b/a
PARKMED EASTERN WOMEN'S CENTER,
PARKMED SERVICES, INC.
One Radisson Plaza, 9th Floor
New Rochelle, New York 10801
(914) 712-1100

That being the address within the State designated by them for the purpose of service upon them of the preceding papers in this action, or the place where they then kept an office for regular communication by mail.



SHELLY OWENS

Sworn to before me, this
24th day of September, 2008



Notary Public

SANDA A. BOGDAN
Notary Public, State of New York
No 4994062
Qualified in New York County
Commission Expires March 30, 2010

Index No.: 17354

Year: 2005

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF BRONX
CORRINE JOHNSON

Plaintiff,

-against-

PARKMED EASTERN WOMEN'S CENTER, PARKMED SERVICES, INC., PARKMED,
LLC, JAY BASSELL, M.D., P.C. and JAY ALAN BASSELL, M.D.,

Defendants.

DEMAND FOR AUTHORIZATIONS

MARTIN CLEARWATER & BELL LLP
Attorneys for Defendants

JAY ALAN BASSELL, M.D.

JAY BASSELL, M.D., P.C.

Office and Post Office Address

220 East 42nd Street

Borough of Manhattan New York, New York 10017-5842

Telephone (212) 697-3122

Calendar No.:
Index No.: 17354/05

SUPREME COURT OF THE STATE OF NEW YORK
HON. ALISON Y. TUYTT
Name of Judge Assigned

NOTE OF ISSUE

Bronx

For use of clerk

CORRINE JOHNSON,

Plaintiff,

-against-

PARKMED EASTERN WOMEN'S CENTER,
PARKMED SERVICES, INC, PARKEMED, L.L.C,
JAY BASSELL, M.D , P.C., and JAY BASSELL, M.D.

Defendants.

Special preference claimed under _____
on the ground that _____

NOTICE FOR TRIAL

X Trial by jury demanded.....

X Of all issues.. ..
Of issues specified below.
Or attached hereto.....

Trial without jury.....

Filed by attorney for plaintiff
Date summons served 6/23/05
Date service completed 7/12/07
Date issue joined 8/11/05

NATURE OF ACTION OR SPECIAL PROCEEDING

Tort.

X Motor vehicle negligence
Medical malpractice.....
Other tort.....

Contract.....

Contested matrimonial.....

Uncontested matrimonial.....

Tax certiorari

Condemnation.....

Other (not itemized above).....
(specify).....

Indicate if this action is brought as a class action
Amount demanded - the amount of damages sought herein
exceed the monetary jurisdiction of all lower Courts which
would otherwise have jurisdiction

Other relief

Insurance carriers, if known: unknown

Law Offices of John J. Guadagno, P.C.

Attorneys for Plaintiff

Corrine Johnson

136 East Main Street

East Islip, New York 11730

(631) 224-2796

MURPHY & HIGGINS

Attorneys for Defendants

Parkmed Eastern Women's Center, Parkmed Services, Inc. & Parkmed, LLC

One Radisson Plaza

New Rochelle, New York 10801

(914) 712-1100

MARTIN, CLEARWATER & BELL, LLP

Attorneys for Defendants

Jay Allan Bassell, M.D. & Jay Bassell, M.D., P.C.

220 East 42nd Street

New York, New York 10017

(212) 697-3122

NOTE: Clerk will not accept this note of issue unless accompanied by a certificate of
readiness.

1. All pleadings served
2. Bill of Particulars served
3. Physical examinations completed
4. Medical reports exchanged
5. Appraisal reports exchanged
6. Compliance with section 202.16 of the Rules of the Chief Administrator (22NYCRR 202.16) in matrimonial actions
7. Discovery proceedings known to be necessary completed

Completed	Waived	Not required
X		
X		
X		
X		
		X
		X
X		

8. There are no outstanding requests for discovery.
9. There has been a reasonable opportunity to complete the foregoing proceedings.
10. There has been compliance with any order issued pursuant to section 202.12 of the Rules of the Chief Administrator (22NYCRR 202.12)
11. If a medical malpractice action, there has been compliance with any order issued pursuant to section 202.56 of the Rules of the Chief Administrator. (22 NYCRR 202.56)
12. The case is ready for trial.

Dated: East Islip, New York
October 17, 2008



JOHN J. GUADAGNO

Law Offices of John J. Guadagno, P.C.
Attorneys for Plaintiff
136 East Main Street
East Islip, New York 11730
(631) 224-2796

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF BRONX

CORRINE JOHNSON,-----X

Plaintiff,

-against-

Index No.: 17354/05

**AFFIRMATION OF
CONFERENCE**

PARKMED EASTERN WOMEN'S CENTER,
PARKMED SERVICES, INC., PARKMED, LLC,
JAY BASSELL, M.D., P.C. and JAY ALAN
BASSELL, M.D.,


Defendants.-----X

JOHN J. GUADAGNO, an attorney admitted to practice before the Courts of this State affirms the truth of the following under the penalty of perjury:

1. I am fully familiar with the facts and circumstances of this action based upon a review of the case file and the investigation materials contained therein.
2. This affirmation is submitted in connection with the filing of a Note of Issue.
3. All directives of the Preliminary Conference Order of Honorable Alison Y. Tuytt dated November 04, 2005 and Compliance Conference Order of Honorable Alison Y. Tuytt dated March 26, 2008 have been complied with.
4. Depositions of all parties have been conducted. Physical examinations of plaintiff have been held on October 13, 2008 by Dr. Michael Nimaroff.
5. All relevant witness information, party statements and medical records, reports and/or authorizations have been exchanged.

WHEREFORE, plaintiffs respectfully request that the instant matter be promptly placed on the trial calendar.

Dated: East Islip, New York
October 17, 2008


JOHN J. GUADAGNO

MARTIN CLEARWATER & BELL LLP

COUNSELORS AT LAW

220 EAST 42ND STREET, NEW YORK, NY 10017-5842
TELEPHONE (212) 697-3122 FACSIMILE (212) 949-7054
www.mcblaw.com

REBECCA R. CUNNINGHAM
ASSOCIATE

DIRECT DIAL: (212) 916-0962
E-MAIL: cunarr@mcblaw.com

October 28, 2008

**VIA REGULAR MAIL AND
FACSIMILE (631) 224-1643**

Law Offices of John J. Guadagno
136 East Main Street
East Islip, New York 11730

Re: **JOHNSON v. DR. BASSELL, et al.**
MCB File No.: 55-79191

Dear Mr. Guadagno:

We are in receipt of the Note of Issue in the above-referenced matter. However, please be advised that a review of our file indicates that discovery is not yet complete. Please allow this letter to serve as our good faith attempt to procure the outstanding items of discovery without court intervention.

Importantly, our office has received no response to our demand for authorizations dated February 26, 2008. These authorizations were also to be provided pursuant to the compliance conference order dated March 26, 2008. All providers in this demand were identified in the records received from Medicaid pertaining to the plaintiff. Of the authorizations demanded, it is imperative that we obtain authorizations for the following providers:

1. Bliss Pharmacy, Inc.
2. Bronxdale Pharmacy, Inc.
3. Choices Women's Medical Center
4. Dr. Cristina Fi Chi Ho
5. Dr. David A. Gluck
6. Dr. Gary L. Mucciolo
7. Dr. Joan M. Fleischman
8. Dr. Pedro Cabrera
9. Dr. Richard J. Scardino
10. Dr. Tarulata K. Dattani
11. Dr. Yelena Karasina
12. Hunts Point Multi-Service Center, Inc.

RRC No
1193641
WESTCHESTER COUNTY OFFICE
245 MAIN STREET
WHITE PLAINS NY 10601
TELEPHONE (914) 328-2969
FACSIMILE (914) 328-4056

NASSAU COUNTY OFFICE
90 MERRICK AVENUE
EAST MEADOW, NY 11554-1576
TELEPHONE (516) 222 8500
FACSIMILE (516) 222-8513

NEW JERSEY OFFICE
744 BROAD STREET
NEWARK NJ 07102
TELEPHONE (973) 735-0578
FACSIMILE (973) 735-0584

13. Lincoln Medical/Mental Health
14. Madison Avenue Pharmacy, Inc.
15. Noble Drugs Inc.
16. NTD Laboratories, Inc.
17. Park Madison Professional Lab
18. Quest Diagnostics, Inc.
19. Universal Diagnostic Labs

Additionally, we have not received any authorizations responsive to our demand dated September 24, 2008 for providers identified in plaintiff's HealthPlus records. We are also awaiting the following authorizations:

1. Dr. Renuka Pillai – identified in Pathmark pharmacy records and demanded February 20, 2008
2. Dr. Olive Cameron – identified in pharmacy records and demanded March 13, 2008
3. Dr. Darren Friedman – identified in pharmacy records and demanded March 13, 2008

Lastly, pursuant to the preliminary conference order dated November 4, 2005, a supplemental Bill of Particulars as to special damages was to be provided.

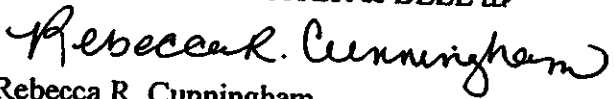
Kindly provide all outstanding authorizations and the supplemental Bill of Particulars no later than November 4, 2008, or we will move to strike the Note of Issue.

Furthermore, enclosed please find an additional demand for authorizations.

Thank you for your anticipated cooperation. Should you have any questions or concerns, please feel free to contact the undersigned.

Very truly yours,

MARTIN CLEARWATER & BELL LLP


Rebecca R. Cunningham

Enclosure

cc: VIA REGULAR MAIL AND
FACSIMILE (914) 633-0512
Murphy & Higgins (with enclosures)
1 Radisson Plaza, 9th Floor
New Rochelle, New York 10801

55-79191 // "1200744"

AFFIDAVIT OF SERVICE BY MAIL

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

JUDSON CHAMBERS, being duly sworn, deposes and says that he is not a party to this action, is over 18 years of age and is an employee in the office of **MARTIN CLEARWATER & BELL LLP**, attorneys for the defendants **JAY ALAN BASSELL, M.D.** and **JAY BASSELL, M.D., P.C.**

That on November 10, 2008 he served the within **NOTICE OF MOTION, AFFIRMATION OF GOOD FAITH** and **AFFIRMATION IN SUPPORT**, upon the following attorneys by depositing a true copy of the same securely enclosed in a post-paid wrapper in the Official Depository maintained and exclusively controlled by the United States at 220 East 42nd Street, New York, New York 10017 directed to said attorneys at:

Law Offices of John J. Guadagno, P.C.
Attorneys for Plaintiff
136 East Main Street
East Islip, New York 11730
(631) 224-2796

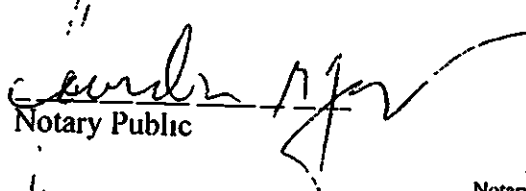
Murphy & Higgins, LLP
Attorneys for Defendants
PARKMED, LLC d/b/a PARKMED EASTERN
WOMEN'S CENTER, PARKMED SERVICES, INC
One Radisson Plaza, 9th Floor
New Rochelle, New York 10801
(212) 697-3122

these being the addresses within the State designated by them for the purpose of service upon them of the preceding papers in this action, or the place where they then kept an office for regular communication by mail.



JUDSON CHAMBERS

Sworn to before me on this
10th day of November, 2008



Notary Public

LOURDES M BAEZ
Notary Public, State of New York
No 02BA6101288
Qualified in Kings County
Commission Expires November 10, 2011

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF BRONX

INDIVIDUAL ASSIGNMENT PART

CORRIE JOHNSON X

Order
STIPULATION

Index No. 17354/05

ALTERED EASTERN WOMEN'S CENTER
JAY BASSELL, MD, PC, FAW X

cc Mot. Cal. No 11

Date 4/27/09

made
3/27/09

IT IS HEREBY STIPULATED AND AGREED by and between the below named attorney(s) as follows:

DEFENDANTS' MOTIONS TO VACATE THE NOTE OF ISSUE AND FOR RELATED
RELIEF ARE RESOLVED AS FOLLOWS:

1. IT SHALL, WITHIN 45 DAYS, PROVIDE TO BOTH S, ALL OUTSTANDING AUTHORIZATIONS,
INCLUDING AUTHORIZATIONS FOR RECORDS + FILMS OF: Bliss Pharmacy, Spontane Pharmacy,
CHIVERS WOMEN'S MED CENTER, DRS. CRISTINA F. NIHO, DAVID A. GLOCK, GARY L. MUCIARO, DAN M.
FLECKMAN, PASCAL DEBORA, RICHARD J. SCARDINO, TACULATA K. DUFFENT, YULIANA KACONDA,
ROBERT M. MATH, SERGIO CENTER, LINDA MEDON/MENTAL HEALTH, MEDICAL A/E. ALVARO, NISLE DEUS,
MTS LABS, INC, PAC MEDICAL PROFESSIONAL LABORATORY, PATH. SLIDES, QUEST DIAGNOSTICS, INC,
DRS. ROBERT P. HAY, OLIVE CAMERON, DARWIN FERRELLAN, MARK MENDOZA, DENT DIAGNOSTICS,
ENTROLOGS CORP, THIRDA A/E. RANALDO J. JIMENEZ, PC (ALL AS IN AS MOTIONS)

2. IT SHALL, WITHIN 45 DAYS PROVIDE SUPP B/PS, ACCORDING TO APPLICABLE
DEMANDS AS FOLLOWS:

(A) AS TO J. BASSELL - SPECIAL DAMAGES

(B) AS TO 8 PARAGRAPHS: 12 (A) (Special Dam), 16 (General Dam), 19 (Not 16 exceptions)

~~20 (OTHER DAMAGES) IF ANY~~

Date: 4/27/09

mol. 3/27/09

So Ordered.

Attorney for Plaintiff
Andrew M. Murphy (Murphy + Higgins LLP)
Attorney for Defendant Baswell, MD

ENTER: _____

J.S.C.
Ary Baswell

Attorney for Defendant Baswell, MD

SC. NO. 86 Rev. 3/86