

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NASSAU

-----X  
LISA M. D'AVANZO,

Plaintiff,

Index No.: 613549/2017

**VERIFIED ANSWER**

-against-

PLANNED PARENTHOOD FEDERATION OF  
AMERICA, INC., PLANNED PARENTHOOD OF  
NASSAU COUNTY, INC., BRONWYN FITZ, M.D.,  
NASSAU HEALTH CARE CORPORATION, d/b/a  
NASSAU UNIVERSITY MEDICAL CENTER, IRWIN  
GOLDSTEIN, M.D., and LONG ISLAND OB GYN  
ASSOCIATES,

Defendants.  
-----X

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

**AS AND TO THE FIRST CAUSE OF ACTION**

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

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

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

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

**AS AND TO THE SECOND CAUSE OF ACTION**

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

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

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

**FOR A FIRST DEFENSE**

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

**FOR A SECOND DEFENSE**

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

**FOR A THIRD DEFENSE**

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

**FOR A FOURTH DEFENSE**

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

**FOR A FIFTH DEFENSE**

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

**FOR A SIXTH DEFENSE**

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

**FOR A SEVENTH DEFENSE**

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

**FOR A EIGHTH DEFENSE**

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

**FOR A NINTH DEFENSE**

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

**FOR A TENTH DEFENSE**

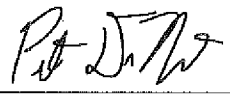
SIXTEENTH: The amount of alleged damages claimed by plaintiff should be reduced pursuant to CPLR § 4545 to the extent of any collateral source benefits, remuneration or compensation received.

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

Dated: Garden City, New York  
February 6, 2018

Yours, etc.,

HEIDELL, PITTONI, MURPHY & BACH, LLP

By:   
\_\_\_\_\_  
PETER DeNOTO  
Attorneys for Defendant  
IRWIN GOLDSTEIN, M.D.  
Office & P.O. Address  
1050 Franklin Avenue  
Garden City, New York 11530  
(516) 408-1600

TO: Thomas P. Valet, Esq.  
Rappaport, Glass, Levine & Zullo, LLP  
Attorneys for Plaintiff  
1355 Motor Parkway  
Islandia, New York 11749  
(631) 293-2300

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NASSAU

-----X

LISA M. D'AVANZO,

Plaintiff,

Index No.: 613549/2017

**VERIFIED ANSWER**

-against-

PLANNED PARENTHOOD FEDERATION OF  
AMERICA, INC., PLANNED PARENTHOOD OF  
NASSAU COUNTY, INC., BRONWYN FITZ, M.D.,  
NASSAU HEALTH CARE CORPORATION, d/b/a  
NASSAU UNIVERSITY MEDICAL CENTER, IRWIN  
GOLDSTEIN, M.D. and LONG ISLAND OB GYN  
ASSOCIATES,

Defendants.

-----X

Defendant LONG ISLAND OB/GYN ASSOCIATES s/h/a "LONG ISLAND OB  
GYN ASSOCIATES", by its attorneys, HEIDELL, PITTONI, MURPHY & BACH, LLP, upon  
information and belief, answers the Verified Complaint herein as follows:

**AS AND TO THE FIRST CAUSE OF ACTION**

FIRST: Denies knowledge or information sufficient to form a belief as to the  
allegations contained in the paragraphs of the Complaint designated "1" through "22," except  
admits that IRWIN GOLDSTEIN, M.D. was and is a physician duly licensed to practice  
medicine in the State of New York who provided and provides medical care and treatment to and  
for patients at LONG ISLAND OB/GYN ASSOCIATES in accordance with good and accepted  
standards of medical care and practice and LONG ISLAND OB/GYN ASSOCIATES was and is  
a professional corporation duly existing under the laws of the State of New York, located at 79  
Grand Avenue, Massapequa, New York which operated and operates pursuant to the laws of the  
State of New York with that degree of medical care, skill and diligence used and provided by

facilities generally in the same or similar communities, and otherwise begs leave to refer all questions of law to the court and all questions of fact to the trier thereof.

SECOND: Denies the allegations contained in the paragraphs of the Complaint designated “23” through “28,” excerpt admits that IRWIN GOLDSTEIN, M.D. was and is a the owner of LONG ISLAND OB/GYN ASSOCIATES where he provided medical care and treatment to and for patients in accordance with good and accepted standards of medical care and practice, and otherwise denies knowledge or information sufficient to form a belief as to the allegations within these paragraphs and begs leave to refer all questions of law to the court and all questions of fact to the trier thereof.

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

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

**AS AND TO THE SECOND CAUSE OF ACTION**

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

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SIXTH: Denies the allegations contained in the paragraphs of the Complaint designated "40" through "44" insofar as these allegations pertain to this answering defendant, and otherwise denies knowledge or information sufficient to form a belief as to these allegations and begs leave to refer all questions of law to the court and all questions of fact to the trier thereof.

**FOR A FIRST DEFENSE**

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

**FOR A SECOND DEFENSE**

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

**FOR A THIRD DEFENSE**

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

**FOR A FOURTH DEFENSE**

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



**FOR A FIFTH DEFENSE**

ELEVENTH: That the equitable share of liability, if any, of defendant LONG ISLAND OB/GYN ASSOCIATES, shall be determined pursuant to the provisions of Article 16 of the CPLR.

**FOR A SIXTH DEFENSE**

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

**FOR A SEVENTH DEFENSE**

THIRTEENTH: That this defendant reserves the right to amend its answers and/or affirmative defenses that may be determined applicable in the future by discovery in this matter.

**FOR A EIGHTH DEFENSE**

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

**FOR A NINTH DEFENSE**

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

**FOR A TENTH DEFENSE**

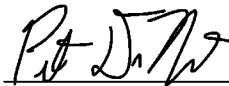
SIXTEENTH: The amount of alleged damages claimed by plaintiff should be reduced pursuant to CPLR § 4545 to the extent of any collateral source benefits, remuneration or compensation received.

WHEREFORE, defendant LONG ISLAND OB/GYN ASSOCIATES demands judgment dismissing the Complaint herein, together with the costs and disbursements of this action.

Dated: Garden City, New York  
June 11, 2018

Yours, etc.,

HEIDELL, PITTONI, MURPHY & BACH, LLP

By:   
\_\_\_\_\_  
PETER DeNOTO  
Attorneys for Defendant  
LONG ISLAND OB/GYN ASSOCIATES  
s/h/a "LONG ISLAND OB GYN  
ASSOCIATES"  
Office & P.O. Address  
1050 Franklin Avenue  
Garden City, New York 11530  
(516) 408-1600

TO: Thomas P. Valet, Esq.  
Rappaport, Glass, Levine & Zullo, LLP  
Attorneys for Plaintiff  
1355 Motor Parkway  
Islandia, New York 11749  
(631) 293-2300

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NASSAU

LISA M. D'AVANZO,

Index No.: 613549/17

Plaintiff,

**VERIFIED ANSWER**

-against-

PLANNED PARENTHOOD FEDERATION OF AMERICA, INC., PLANNED PARENTHOOD OF NASSAU COUNTY, INC., BRONWYN FITZ, M.D., NASSAU HEALTH CARE CORPORATION, d/b/a NASSAU UNIVERSITY MEDICAL CENTER, IRWIN GOLDSTEIN, M.D., and LONG ISLAND OB GYN ASSOCIATES,

Defendants.

Defendant, PLANNED PARENTHOOD OF NASSAU COUNTY, INC., by its attorneys, McALOON & FRIEDMAN, P.C., answering the plaintiff's complaint, respectfully alleges, upon information and belief, as follows:

**FIRST CAUSE OF ACTION**

1. Denies any knowledge or information sufficient to form a belief as to each and every allegation set forth in paragraphs "1", "2", "3", "18", "19", "20", "21", "22", "23", "24", "25", "26", "27", "28", "31", "32", "33", "35", and "36" of the complaint.

2. Denies any knowledge or information sufficient to form a belief as to each and every allegation set forth in paragraphs "4", "5", and "6", except admits that Planned Parenthood Federation of America, Inc. is no longer a defendant in this action.

3. Denies any knowledge or information sufficient to form a belief as to each and every allegation set forth in paragraph "8" of the complaint, except admits that the defendant, PLANNED PARENTHOOD OF NASSAU COUNTY, INC., operates a reproductive

health care clinic located at 540 Fulton Avenue, Hempstead, New York with that degree of care, skill, and diligence used and provided by such clinics generally in the same or similar communities, and otherwise begs leave to refer all questions of law to the Court.

4. Denies any knowledge or information sufficient to form a belief as to each and every allegation set forth in paragraphs "9", "10", "11", "12", "13", "14", "15", "16", and "17" of the complaint, except admits that Bronwyn Fitz, M.D. is no longer a defendant in this action.

5. Denies any knowledge or information sufficient to form a belief as to each and every allegation set forth in paragraph "29" of the complaint in the form alleged, and otherwise begs leave to refer all questions of law to the Court.

6. Denies any knowledge or information sufficient to form a belief as to each and every allegation set forth in paragraph "30" of the complaint, except admits that medical treatment was rendered to one Lisa Davanzo on September 21, 2016 and October 1, 2016.

7. Denies each and every allegation set forth in paragraphs "34", "37", and "38" of the complaint.

#### SECOND CAUSE OF ACTION

8. The defendant, PLANNED PARENTHOOD OF NASSAU COUNTY, INC., repeats and reiterates each and every denial or denial of knowledge or information sufficient to form a belief as to each of the allegations of the complaint repeated and realleged by plaintiff in paragraph "39" of the complaint.

9. Denies each and every allegation set forth in paragraphs "40", "41", "42", "43", and "44" of the complaint.

**AS AND FOR A FIRST, SEPARATE  
AND DISTINCT AFFIRMATIVE DEFENSE:**

8. The defendants' liability, if any, is limited pursuant to CPLR 1600, et seq.

**AS AND FOR A SECOND, SEPARATE  
AND DISTINCT AFFIRMATIVE DEFENSE:**

9. Plaintiff's causes of action, if any, are barred pursuant to §2805-d of the Public Health Law.

**AS AND FOR A THIRD, SEPARATE  
AND DISTINCT AFFIRMATIVE DEFENSE:**

10. Any verdict or judgment should be reduced by the amounts of past or future collateral source reimbursements of alleged special damage pursuant to CPLR 4545(c).

**AS AND FOR A FOURTH, SEPARATE  
AND DISTINCT AFFIRMATIVE DEFENSE:**

11. The injuries of the plaintiff, for which these causes of action have been instituted, were caused wholly or in part through the culpable conduct and contributory negligence on the part of the plaintiff and therefore the amount of damages, if any, shall be diminished in the proportion which said conduct attributable to plaintiff bears to the defendants' conduct, if any, which caused the damages.

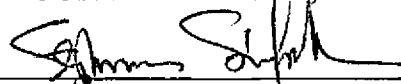
**AS AND FOR A FOURTH, SEPARATE  
AND DISTINCT AFFIRMATIVE DEFENSE:**

12. Plaintiff's causes of action, if any, are barred by the doctrine of Assumption of the Risk.

WHEREFORE, the defendant PLANNED PARENTHOOD OF NASSAU COUNTY, INC. demands judgment dismissing plaintiff's complaint together with the costs and disbursements of this action.

Yours, etc.

McALOON & FRIEDMAN, P.C.

By:   
STEPHEN S. YORK, ESQ.

Attorneys for Defendants  
PLANNED PARENTHOOD OF NASSAU  
COUNTY, INC.

Office and P.O. Address  
123 William Street - 25<sup>th</sup> Floor  
New York, NY 10038-3804  
Tel. No. (212) 732-8700



SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NASSAU

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LISA M. D'AVANZO,

Index No.: 613549/17

Plaintiff,

**DEMAND FOR  
BILL OF PARTICULARS**

-against-

PLANNED PARENTHOOD FEDERATION OF  
AMERICA, INC., PLANNED PARENTHOOD OF  
NASSAU COUNTY, INC., BRONWYN FITZ, M.D.,  
NASSAU HEALTH CARE CORPORATION, d/b/a  
NASSAU UNIVERSITY MEDICAL CENTER, IRWIN  
GOLDSTEIN, M.D., and LONG ISLAND OB GYN  
ASSOCIATES,

Defendants.

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PLEASE TAKE NOTICE, that the defendant PLANNED PARENTHOOD OF NASSAU COUNTY, INC., hereby demands that plaintiff serve on the undersigned within twenty (20) days from the date of service hereof, a verified bill of particulars with respect to the following matters concerning the allegations in the complaint against the above named defendant:

1. State the (a) date and place of plaintiff's birth; (b) residence address of plaintiff at the time this action was commenced; (c) residence address of plaintiff at the time of the alleged negligence; (d) date[s], place[s] and name[s] of each person to whom plaintiff has ever been married; and (e) full names and dates of birth of all children born to plaintiff.

2. If plaintiff charges this defendant with a misdiagnosis, identify the alleged misdiagnosis and set forth the diagnosis claimed to be the proper one.

3. If plaintiff charges this defendant with having failed to administer a diagnostic test, state the test or diagnostic procedure claimed to have been required and the dates, times and places when and where each test or diagnostic procedure should have been performed.

4. If plaintiff charges this defendant with having failed to administer a particular course of therapy, state the medicines, treatments and surgical procedures claimed to have been required and the dates, times and places when and where each should have been administered or performed.

5. If plaintiff charges this defendant with having administered contra-



indicated medicines, treatments, test and surgical procedures, identify each and the conditions existing which, it is claimed, contra-indicated the medicine, treatment test and/or surgical procedure.

6. If plaintiff charges this defendant with negligently having administered a medicine, treatment, test or surgical procedure, identify each so claimed and set forth the manner in which the technique employed by this defendant departed from such standards.

7. If plaintiff charges this defendant with any other negligence, identify the said negligence.

8. If plaintiff claims that the injuries alleged herein were caused, in whole or in part, by the use of a defective, inappropriate, or insufficient piece of equipment or instrument, identify each and every item so claimed and set forth those facts that support said allegation.

9. Identify the name of each and every person the plaintiff will claim committed malpractice in treating plaintiff in the defendant facility and describe each identified individual's position at the defendant facility.

10. If plaintiff charges this defendant with lack of informed consent, set forth and describe:

- (a) Describe that aspect of defendant's treatment which it will be claimed exposed plaintiff to material risks sufficient to require disclosure.
- (b) Identify each risk or danger of defendant's treatment which, it will be claimed, should have been, but was not, disclosed by defendant.
- (c) In what respect will plaintiff claim defendant's disclosure was unreasonably inadequate?
- (d) What course of treatment would plaintiff have chosen if defendant reasonably disclosed the material risks of the treatment administered?
- (e) Will plaintiff claim that there were available alternative choices of treatment that could have been administered but were not disclosed, and, if so, describe each alternative.
- (f) Identify by name or position with the defendant facility each and every employee of said facility whom plaintiff charges with having failed to obtain an informed consent.
- (g) Set forth the date on which plaintiff claims this defendant should have obtained an informed consent.

11. Set forth the full names and addresses of each and every physician from whom the plaintiff has ever received medical treatment with respect to any obstetrical, gynecological, surgical or related condition for the fifteen (15) years prior to the alleged malpractice with dates of treatment.

12. Set forth the full names and addresses of each and every hospital, institution, facility, or clinic in which plaintiff has ever received medical treatment with respect to any obstetrical, gynecological, surgical or related condition for the fifteen (15) years prior to the alleged malpractice with dates of confinement or outpatient treatment.

13. Set forth the date of this defendant's alleged negligence.

14. Set forth:

- (a) The dates of first and last services rendered by the defendant.
- (b) The place or places where the services were rendered by the defendant.

15. Set forth the nature of the condition for which the plaintiff sought and accepted the medical treatment rendered by this defendant.

16. The nature, location, extent and duration of each injury which, it will be claimed, was caused by the negligence of this defendant. If any injuries are claimed to be permanent, specify each so claim.

17. Set forth the full name and address of each and every privately retained physician from whom medical treatment or consultation was sought by reason of the injuries allegedly sustained.

18. If it will be claimed that the aforesaid injuries necessitated any hospitalizations, set forth the name and address of each hospital with dates of confinement or outpatient treatment.

19. If it will be claimed that the aforesaid injuries necessitated treatment at any other institutions, set forth the name and address of each institution with dates of confinement.

20. 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.

21. If loss of earnings is claimed as a result of the alleged negligence, set forth the following:

- (a) The name and address of claimant's employer at the time of the alleged negligence.
- (b) The capacity in which claimant was employed.
- (c) Claimant's earnings for the year prior to the alleged negligence.
- (d) The last date claimant worked prior to the alleged negligence.

- (e) The name and address of claimant's present employer.
- (f) Loss of earnings claimed.

22. If any special damages are claimed as a result of the alleged malpractice, set forth, including but not limited to, the following:

- (a) The charges for the above named hospitals, separately listing each hospital bill.
- (b) Physician's charges.
- (c) Charges for medicines, itemizing the medicines charged for.
- (d) Nursing.
- (e) Specify by category and amount any other special damages claimed.

23. Set forth the full caption of each and every lawsuit brought on plaintiff's behalf to recover damages for any connected or aggravated injuries allegedly caused and sustained by reason of the acts of one or more preceding, joint, concurrent and/or succeeding tortfeasors, including:

- (a) Court
- (b) Index number
- (c) Calendar number
- (d) Names and addresses of all litigants
- (e) Names and addresses of all attorneys appearing for litigants
- (f) Status of lawsuit
  - (1) if noticed for trial, specify the date
  - (2) if settled, annex a copy of each release delivered indicating the amounts contributed by each defendant
  - (3) if discontinued without payment, annex a copy of each stipulation so delivered to each defendant
  - (4) if tried, annex a copy of the judgment with notice of entry
  - (5) if judgment was satisfied, set forth date and amount of payment and annex a copy of the satisfaction of judgment.

24. If plaintiff submitted any claim or participated in any pre-action settlement for any connected or aggravated injuries allegedly caused and sustained by reason of the acts of one or more preceding, joint, concurrent and/or succeeding tortfeasors, set forth the following:

- (a) Names and addresses of all parties involved;
- (b) Names and addresses of attorneys for all parties involved;
- (c) Date and amount of settlement and annex a copy of any release executed.

25. If applicable, set forth each and every alleged warranty, agreement or contract claimed to have been entered into by plaintiff and this defendant.

26. Set forth:

- (a) Whether the alleged warranty, agreement or contract was oral or written.
- (b) If oral, the substance, place and date and who was present when made.
- (c) If written, set forth an exact copy.
- (d) Set forth the acts or omissions claimed to have constituted the breach of the warranty, agreement or contract and the dates of said breach.

27. Set forth plaintiff's social security number.

PLEASE TAKE FURTHER NOTICE, that in the event of the plaintiff's failure to comply with the foregoing demand within twenty (20) days, the defendant will move to preclude the offering of any evidence as to the matters herein demanded, and for costs of such motion.

Dated: New York, New York  
January 30, 2018

Yours, etc.

McALOON & FRIEDMAN, P.C.

By:   
STEPHEN S. YORK, ESQ.

Attorneys for Defendants  
PLANNED PARENTHOOD OF NASSAU  
COUNTY, INC.  
Office and P.O. Address  
123 William Street - 25<sup>th</sup> Floor  
New York, NY 10038-3804  
Tel. No. (212) 732-8700

TO:

RAPPAPORT, GLASS, LEVINE & ZULLO, LLP  
Attorneys for Plaintiff  
1355 Motor Parkway  
Islandia, New York 11749  
Tel. No. (631) 293-2300

**AFFIDAVIT OF SERVICE BY MAIL**

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

**JOANNE HANEIPH**, being duly sworn, deposes and says that deponent is not a party to this action, is over 18 years of age and resides in Brooklyn, New York;

That on the 31st day of January, 2018, deponent served the within **VERIFIED ANSWER and DEMAND FOR BILL OF PARTICULARS**, upon the following attorney(s) for the parties shown below at the address(es) shown below, being the address(es) designated by said attorney(s) for that purpose, by depositing a true copy of the same enclosed in a postpaid, properly addressed wrapper in an official depository under the exclusive care and custody of the United States Post Office Department within the State of New York:

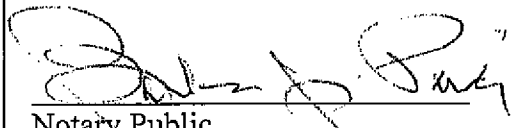
TO:

**RAPPAPORT, GLASS, LEVINE & ZULLO, LLP**  
Attorneys for Plaintiff  
1355 Motor Parkway  
Islandia, New York 11749



**JOANNE HANEIPH**

Sworn to before me this  
31st day of January, 2018



Notary Public  
BARBARA J. PARDI  
Commissioner of Deeds  
City of New York - No. 5-918  
Certificate Filed in Richmond Co.  
Commission Expires Nov. 1, 2019

613549

2017

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NASSAU

LISA M. D'AVANZO,

Plaintiff,

- against -

PLANNED PARENTHOOD FEDERATION OF AMERICA, INC., PLANNED PARENTHOOD OF NASSAU COUNTY, INC., BRONWYN FITZ, M.D., NASSAU HEALTH CARE CORPORATION, d/b/a NASSAU UNIVERSITY MEDICAL CENTER, IRWIN GOLDSTEIN, M.D., and LONG ISLAND OB GYN ASSOCIATES,

Defendants.

**VERIFIED ANSWER and DEMAND FOR BILL OF PARTICULARS**

McAloon & Friedman, P.C.  
Attorneys for Defendants  
*Office and Post Office Address, Telephone*  
123 William Street  
New York, New York 10038-3804  
(212) 732-8700 (212) 227-2903

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

Dated: January 30, 2018

Signature: Stephen S. York, Esq.

Print Signer's Name: Stephen S. York, Esq.

To

Attorney(s) for

Service of a copy of the within \_\_\_\_\_ is hereby admitted.  
Dated, \_\_\_\_\_

Attorney(s) for

Sir: - Please take notice

[ ] Notice of Entry

that the within is a (*certified*) true copy of a \_\_\_\_\_ duly entered in  
the office of the clerk of the within named court on \_\_\_\_\_ 20\_\_\_\_

[ ] Notice of Settlement

that an order \_\_\_\_\_ of which the within is a true copy will be presented  
for settlement to the HON. \_\_\_\_\_ on of the judges of the  
within named court, at \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_  
at \_\_\_\_\_

Dated,

Yours, etc.

McAloon & Friedman, P.C.  
Attorneys for PLANNED PARENTHOOD OF  
NASSAU COUNTY, INC.  
*Office and Post Office Address, Telephone*  
123 William Street  
New York, New York 10038-3804

RC/dab #15166

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NASSAU

-----x Index No.: 613549/2017

LISA M. D'AVANZO,

Plaintiff,

VERIFIED ANSWER

-against-

PLANNED PARENTHOOD FEDERATION OF  
AMERICA, INC., PLANNED PARENTHOOD OF  
NASSAU COUNTY, INC., BRONWYN FITZ, M.D.,  
NASSAU HEALTH CARE CORPORATION d/b/a  
NASSAU UNIVERSITY MEDICAL CENTER, IRWIN  
GOLDSTEIN, M.D. and LONG ISLAND OB GYN  
ASSOCIATES,

Defendants.

-----x  
**S I R S:**

Defendants, NASSAU HEALTH CARE CORPORATION d/b/a NASSAU  
UNIVERSITY MEDICAL CENTER, by their/her/his attorneys, KERLEY, WALSH, MATERA  
& CINQUEMANI, P.C., answering the Complaint of the plaintiff herein, respectfully alleges upon  
information and belief.

FIRST: Denies any knowledge or information sufficient thereof to form a belief as  
to each and every allegation contained in paragraphs designated "1", "4", "5", "6", "7", "8", "9",  
"10", "11", "12", "13", "14", "15", "16", "17", "21", "22", "23", "24", "25", "26", "27", "28", "30",  
"32", "33", "34" and "36" of the Complaint herein.

SECOND: Denies each and every allegation in paragraphs designated "35", "37",  
"38", "40", "41", "42", "43" and "44" of the Complaint herein.

THIRD: Denies each and every allegation in the form alleged contained in  
paragraphs designated "3", "20", "29" and "31" of the Complaint herein.

FOURTH: Denies each and every allegation in the form alleged contained in paragraph designated "18" of the Complaint herein, except admits that NASSAU HEALTH CARE CORPORATION d/b/a NASSAU UNIVERSITY MEDICAL CENTER was a Public Benefit Corporation organized and existing under the laws of the State of New York and is located at 2201 Hempstead Turnpike, East Meadow, County of Nassau, State of New York.

FIFTH: Denies each and every allegation in the form alleged contained in paragraph designated "19" of the Complaint herein, except admits that NASSAU HEALTH CARE CORPORATION operated the hospital facility known as NASSAU UNIVERSITY MEDICAL CENTER located at 2201 Hempstead Turnpike, East Meadow, County of Nassau, State of New York.

SIXTH: Defendant repeats and reiterates the above denials for paragraphs designated "39" of the Complaint herein.

SEVENTH: Defendant, NASSAU HEALTH CARE CORPORATION d/b/a NASSAU UNIVERSITY MEDICAL CENTER, demand that the liability, if any be apportioned.

**AS AND FOR A STATUTORY DEFENSE TO THE  
CAUSES OF ACTION IN THE COMPLAINT  
ANSWERING DEFENDANT, ALLEGES, UPON  
INFORMATION AND BELIEF:**

EIGHTH: It is alleged upon information and belief that the cause of action asserted by the plaintiff concerning the receipt by the defendant of an informed consent falls within the scope of Section 2805-d of the Public Health Law, such law having been fully complied with by the defendant, thus barring the assertion of this cause of action.

**AS AND FOR A STATUTORY DEFENSE TO THE  
CAUSES OF ACTION IN THE COMPLAINT  
ANSWERING DEFENDANT, ALLEGES, UPON  
INFORMATION AND BELIEF:**



NINTH: This defendant will rely upon the provisions of Article 16 of the CPLR with regard to the limitation of joint and several liability.

**AS AND FOR A FIRST SEPARATE AND COMPLETE  
AFFIRMATIVE DEFENSE TO THE CAUSES OF ACTION  
IN THE COMPLAINT, ANSWERING DEFENDANT,  
ALLEGES, UPON INFORMATION AND BELIEF:**

TENTH: Upon information and belief, the injuries sustained by the plaintiff was not as the result of any culpable conduct of the defendants herein, or, in the alternative, the amount of damages otherwise recoverable shall be diminished in the percentage proportion of the culpable conduct of the plaintiff which contributed to the culpable conduct that caused the injury.

**AS AND FOR A SECOND SEPARATE AND COMPLETE  
AFFIRMATIVE DEFENSE TO THE CAUSES OF ACTION  
IN THE COMPLAINT, ANSWERING DEFENDANT,  
ALLEGES, UPON INFORMATION AND BELIEF:**

ELEVENTH: This defendant may assert and prove, at the time of trial, that certain items of monetary recovery being sought by the plaintiff was or will, with reasonable certainty, be replaced or indemnified, in whole or in part, from collateral sources, and that the Court should reduce the amount of any such award to the plaintiff, including reduction for federal, state and local personal income taxes which the plaintiff would have been obligated by law to pay, pursuant to CPLR Sections 4545, 4546, and any other applicable provision of the law.

**AS AND FOR A THIRD SEPARATE AND COMPLETE  
AFFIRMATIVE DEFENSE TO THE CAUSES OF ACTION  
IN THE COMPLAINT, ANSWERING DEFENDANT,  
ALLEGES, UPON INFORMATION AND BELIEF:**

TWELFTH: This defendant claims entitlement under CPLR Article 14 for contribution as to all defendants or potential defendants, rights under CPLR Article 16, rights

under General Obligations Law Section 15-108, and any other applicable provision of law governing contribution amongst the defendants and/or potential defendants and/or the effect of settlement by one or more defendants or tortfeasors on the remaining defendants in this action.

**AS AND FOR A FOURTH SEPARATE AND COMPLETE  
AFFIRMATIVE DEFENSE TO THE CAUSES OF ACTION  
IN THE COMPLAINT, ANSWERING DEFENDANT,  
ALLEGES, UPON INFORMATION AND BELIEF:**

THIRTEENTH: Upon information and belief, any damages sustained by the plaintiff or caused by the plaintiff having voluntarily and unreasonably assumed a known and dangerous risk, and/or damages were caused by or aggravated by such conduct.

**AS AND FOR A FIFTH SEPARATE AND COMPLETE  
AFFIRMATIVE DEFENSE TO THE CAUSES OF ACTION  
IN THE COMPLAINT, ANSWERING DEFENDANT,  
ALLEGES, UPON INFORMATION AND BELIEF:**

FOURTEENTH: The plaintiff has failed to mitigate damages.

**WHEREFORE**, defendant/s, NASSAU HEALTH CARE CORPORATION d/b/a NASSAU UNIVERSITY MEDICAL CENTER, demands judgment dismissing the Complaint herein, together with interest, costs, and disbursements, or judgment over as may be required by law.

Dated: Seaford, New York  
January 5, 2018

Yours, etc.,

KERLEY, WALSH, MATERA  
& CINQUEMANI, P.C.  
Attorneys for Defendant  
NASSAU HEALTH CARE CORPORATION  
d/b/a NASSAU UNIVERSITY MEDICAL  
CENTER  
2174 Jackson Avenue  
Seaford, NY 11783