

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS

THURMAN T. OWENS as Administrator
of the Estate of ROSELLE OWENS, Deceased, and
as Personal Representative of the Distributees of
Said Decedent

Plaintiffs,

-against-

PLANNED PARENTHOOD OF NEW YORK CITY, INC.,
GERALD ZUPNICK, M.D., SOMNIA, INC.,
ERIC SARPONG, C.R.N.A., JOHN LORY, M.D.,
VALCY ETIENNE, M.D., and JOHN DOES
1-10, names being fictitious, real names unknown,

Defendants.

Index No. 18364/11

SUMMONS

SIRS/MADAMS:

YOU ARE HEREBY SUMMONED to answer this Summons and Complaint and to
serve a copy of your answer on the undersigned attorneys for Plaintiffs, Sanford Wittels &
Heisler, LLP at 1350 Avenue of the Americas, 31st Floor, New York, NY 10019 within twenty
(20) days after the service of this summons and complaint, exclusive of the day of service, or
within thirty (30) days after the service is complete, if this summons is not personally delivered
to you within the State of New York. In the case of your failure to answer, judgment will be
taken against you by default by relief demanded in the complaint, together with the costs of this
action.

Dated: August 10, 2011
New York, New York

Yours, etc.,



STEVEN L. WITTELS

SANFORD WITTELS & HEISLER, LLP
1350 Avenue of the Americas, 31st Floor
New York, NY 10019
(646) 723-2947
swittels@swhlegal.com
*Attorneys for Plaintiff Thurman T. Owens,
Individually and as Administrator for the Estate of
Roselle Owens*

TO: Planned Parenthood of New York City, Inc.
26 Bleecker Street
New York, NY 10012

Gerald Zupnick, MD
15 Hampton Rd
Port Washington, NY 11050

Somnia, Inc.
10 Commerce Drive, Second Floor
New Rochelle, NY 10801

Eric Sarpong, C.R.N.A.,
Somnia, Inc.
10 Commerce Dr.
New Rochelle, NY 10801

John Lory, M.D.,
Somnia, Inc.
10 Commerce Dr.
New Rochelle, NY 10801

Valcy Etienne, M.D.
Somnia, Inc.
10 Commerce Dr.
New Rochelle, NY 10801

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS

THURMAN T. OWENS, Individually and as Administrator of
the Estate of ROSELLE OWENS, Deceased, and as
Personal Representative of the Distributees of Said Decedent,

Index No.

Plaintiff,

**VERIFIED
COMPLAINT**

-against-

PLANNED PARENTHOOD OF NEW YORK CITY, INC.
GERALD ZUPNICK, M.D., SOMNIA, INC.,
ERIC SARPONG, C.R.N.A., JOHN LORY, M.D.,
VALCY ETIENNE, M.D., and JOHN DOES 1-10,
names being fictitious, real names unknown,

Defendants.

Plaintiff Thurman T. Owens, individually and as Administrator of the Estate of Roselle Owens, the Deceased, and as Personal Representative of the distributees of Roselle Owens, by his attorneys, alleges upon information and belief:

1. This action arises from the wrongful death of a healthy 17 year-old girl, Roselle Owens ("Roselle" or "Deceased"), which occurred after her termination of pregnancy at Planned Parenthood in New York City on April 11, 2009. Her injuries and death occurred as a result of the medical malpractice of the Defendant Planned Parenthood of New York City, Inc. ("Planned Parenthood"), the attending obstetrician, Defendant Doctor Gerald Zupnick, M.D., Defendant Somnia, Inc.,

Defendant Somnia's anesthesiologists, John Lory, M.D., and Valcy Etienne, MD., and Defendant Somnia's nurse anesthesiologist Eric Sarpong, C.R.N.A.

PARTIES

2. At all times alleged herein, the Decedent, Roselle Owens, was a resident of the County of Kings. She died on September 8, 2009, leaving her father, Barry Owens, her twin brother, Barry Bobby Owens, and her half-brother, Plaintiff Thurman T. Owens ("Owens"), as distributees.

3. Plaintiff Thurman T. Owens is the duly appointed Administrator of the Decedent's estate ("Estate") and a resident of the State of California.

4. At all times relevant herein, Defendant Planned Parenthood of New York City, Inc. ("Planned Parenthood") was a healthcare provider with an office at 26 Bleecker Street, New York, New York 10012. Planned Parenthood provided medical services to Roselle at its Manhattan office in April 2009, and thereafter.

5. At all times relevant herein, Defendant Gerald Zupnick, M.D. ("Zupnick") was a physician specializing in obstetrics and gynecology licensed to practice medicine in the State of New York. Defendant Zupnick rendered medical services to Roselle at Planned Parenthood's Manhattan office in April 2009, and thereafter. Upon information and belief, Defendant Zupnick primarily practices at 15 Hampton Rd, Port Washington, New York 11050.

6. At all times relevant herein, Defendant Zupnick held himself out as a physician who practiced in compliance with the known and accepted standards of the medical community. At all times relevant herein, Defendant Zupnick was employed by Defendant Planned Parenthood and/or had privileges to practice at

Defendant Planned Parenthood's Manhattan office.

7. At all times relevant herein, Defendant Somnia, Inc., d/b/a Outpatient Anesthesia Services ("Somnia"), was a healthcare provider with an office on 10 Commerce Drive, Second Floor, New Rochelle, New York 10801. Defendant Somnia rendered medical services to Roselle in April 2009, and thereafter.

8. At all times relevant herein, Defendant Eric Sarpong C.R.N.A. ("Sarpong") was a Certified Registered Nurse Anesthesiologist (CRNA) licensed to practice in the State of New York. Defendant Sarpong rendered medical services to Roselle at Planned Parenthood's Manhattan office in April 2009, and thereafter.

9. At all times relevant herein, Defendant Sarpong held himself out as a CRNA who practiced in compliance with the known and accepted standards of the medical community. At all times relevant herein, Defendant Sarpong was employed by Defendant Somnia, Inc.

10. At all times relevant herein, Defendant John Lory, M.D. ("Lory") was a physician specializing in anesthesiology licensed to practice medicine in the State of New York. Defendant Lory rendered medical services to Roselle at Planned Parenthood's Manhattan office in April 2009, and thereafter.

11. At all times relevant herein, Defendant Lory held himself out as a physician who practiced medicine in compliance with the known and accepted standards of the medical community. At all times relevant herein, Defendant Lory was employed by Defendant Somnia.

12. At all times relevant herein, Defendant Valcy Etienne, M.D. ("Etienne") was a physician specializing in anesthesiology licensed to practice medicine in the

State of New York. Defendant Etienne rendered medical services to Roselle at Planned Parenthood's Manhattan office in April 2009, and thereafter.

13. At all times relevant herein, Defendant Etienne held himself out as an anesthesiologist who practiced medicine in compliance with the known and accepted standards of the medical community. At all times relevant herein, Defendant Etienne was employed by Defendant Somnia.

14. At all times hereinafter mentioned, Defendant "JOHN DOES 1-5" were employees of Planned Parenthood and/or Somnia who rendered medical services to the Decedent Ms. Owens within the scope of their employment in April 2009, and thereafter.

15. At all times hereinafter mentioned, Defendants "JOHN DOES 6-10" were in private medical practice. Defendant John Does 6-10 rendered medical services to the Decedent within the scope of their private medical practice in April 2009, and thereafter.

**BACKGROUND REGARDING DEFENDANT MEDICAL PROVIDERS'
NEGLIGENT MEDICAL TREATMENT OF ROSELLE OWENS**

16. In April 2009, 17-year old Roselle Owens was a senior in high school in excellent health, looking forward to graduating and attending college in the fall.

17. On the morning of April 11, 2009, Roselle went to Defendant Planned Parenthood for a scheduled termination of pregnancy ("Termination"). According to Planned Parenthood's website, this procedure is "very common" and "safe."

18. Defendant Gerald Zupnick, M.D., performed the Termination under general anesthetic. Defendant Zupnick noted in his operative report that the

procedure was "uneventful" and that there were no complications.

19. According to Defendant Planned Parenthood's own records, however, Roselle was observed experiencing labored breathing immediately after the procedure ended at 9:20 A.M. Her oxygen saturation levels were also reported to have dropped.

20. Despite Roselle's apparent deteriorating condition, the Doctor and Nurse Anesthetist Defendants and Planned Parenthood failed to properly monitor her or to administer the proper treatment, and failed to make timely contact with EMS until 9:43 a.m. In fact, due to the delay in recognizing and treating Roselle's condition, Roselle was not transported to St. Vincent's Medical Center ("St. Vincent's") until 10:05 a.m.

21. Although St. Vincent's was able to stabilize Roselle, Defendants' delay and the resultant hypoxia caused Roselle to suffer severe irreversible injury. She required a respirator thereafter and was unable to leave the hospital. Roselle died at St. Vincent's five months later on September 8, 2009.

22. As a result of Defendants' negligence, Roselle was caused severe pain and suffering. Plaintiff Thurman T. Owens, on behalf of Roselle Owens' Estate, the Distributees and himself individually, therefore sues for loss of quality and enjoyment of life, emotional and psychological injuries, lost future income, and other damages.

FIRST CAUSE OF ACTION**Medical Malpractice****(By Plaintiff Thurman T. Owens, as Administrator of the Estate)**

23. Plaintiff Thurman T. Owens repeats and realleges all prior paragraphs of the complaint as if fully alleged herein.

24. At all times hereinafter mentioned, Defendants Planned Parenthood, Somnia, Inc., Gerald Zupnick, M.D., Eric Sarpong, C.R.N.A., John Lory, M.D., Valcy Etienne, M.D., and John Does 1-10, (collectively "Defendants") and their agents, servants, partners, and/or employees agreed to render medical care to the Decedent Roselle Owens in conformity with good, known, and accepted medical care.

25. Decedent Roselle Owens received a continuous course of medical care, treatment, diagnosis and surveillance from Defendants and their agents, servants, partners and/or employees from the date of the termination of her pregnancy on or about April 11, 2009 until her death on September 8, 2009 (hereafter, "services").

26. Defendants and their agents, servants, and/or employees were negligent in that Defendants failed to use reasonable care in the services rendered to Roselle and failed to fully inform Roselle and/or her family of the risks attendant to termination of pregnancy prior to conducting the procedure.

27. The services rendered to the Decedent by Defendants were not in conformity with good, known, and accepted medical care.

28. It was foreseeable that, as a result of Defendants' conduct, Roselle would suffer harm.

29. As a direct and proximate result of Defendant's conduct, Roselle experienced severe pain, physical injury and trauma and mental anguish, which

ultimately resulted in her painful and premature death.

30. The aforementioned negligence of Defendants gave rise to a potential cause of action, which could have been maintained by Roselle had she not died.

31. As a result of the foregoing, Plaintiff Owens, as Administrator of the Estate of Roselle Owens, was damaged in a sum in excess of the jurisdictional limits of all lower Courts which might otherwise have jurisdiction.

32. The limitations of liability set forth in N.Y. C.P.L.R. § 1600 *et seq.* do not apply, in that the care rendered was provided with reckless disregard for Roselle's safety.

SECOND CAUSE OF ACTION
Wrongful Death
(By Plaintiff Thurman T. Owens, Individually
and on behalf of Other Distributees)

33. Plaintiff Thurman T. Owens repeats and realleges all prior paragraphs of the complaint as if fully alleged herein.

34. The aforementioned acts of negligence and malpractice committed by Defendants and their agents, servants, partners, and/or employees caused the death of Plaintiff's Decedent, Roselle Owens.

35. Roselle Owens is survived by her brother Plaintiff Thurman T. Owens, her twin brother, Barry Bobby Owens, and her father Barry Owens, all of whom are distributees and next of kin of the Decedent.

36. By virtue of the wrongful death of said Decedent, Plaintiff Thurman T. Owens and the Decedent's distributees have been deprived of Roselle's support, maintenance, care, services and well-being and the accumulations of her Estate.

37. Mr. Owens and the distributees have further been obligated to expend money for medical expenses and funeral and burial expenses occasioned by the final illness and death of Roselle.

38. Plaintiff Thurman T. Owens and the distributees had a reasonable expectancy of receiving future assistance or support, guidance, maintenance, care and services from Roselle, and in the accumulations of Roselle's estate.


39. As a result of the foregoing, Plaintiff Mr. Owens and the distributees were damaged in a sum in excess of the jurisdictional limits of all lower Courts which might otherwise have jurisdiction.

40. The limitations of liability set forth in CPLR Section 1600 *et. seq.* do not apply, in that the care rendered was provided with reckless disregard for Roselle's safety.

WHEREFORE, Plaintiff demands judgment against all Defendants on the causes of action herein, together with interest, costs, disbursements and attorneys' fees of this action.

Dated: August 10, 2011
New York, New York

Respectfully Submitted,

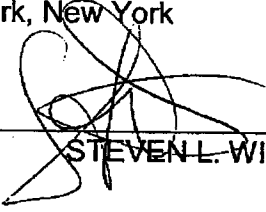


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*Attorneys for Plaintiff Thurman T. Owens,
Individually and as Administrator of the Estate
of Roselle Owens*

VERIFICATION

Steven L. Wittels, an attorney duly admitted to practice before the Supreme Court of the State of New York, affirms under the penalties of perjury pursuant to CPLR Section 2106, that he is the attorney for Plaintiff Thurman T. Owens, individually and as the Administrator of the Estate of Roselle Owens in this action, and that the foregoing Verified Complaint is true to his own knowledge, except as to matters therein stated on information and belief and as to those matters he believes them to be true; that the grounds of his belief as to all matters not stated upon his knowledge are communications with Plaintiff and review of certain documents, and that the reason why the verification is not made by Plaintiff is that said individual resides outside the county where this attorney maintains his office.

Dated: August 10, 2011
New York, New York



STEVEN L. WITTELS

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS

THURMAN T. OWENS, as Administrator
of the Estate of ROSELLE OWENS, Deceased, and
as Personal Representative of the Distributees of
Said Decedent,

Plaintiffs,

-against-

PLANNED PARENTHOOD OF NEW YORK CITY, INC.
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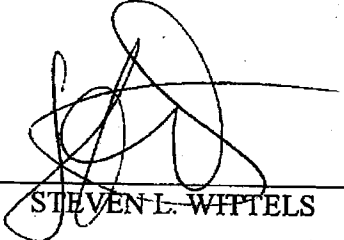
Defendants.

CERTIFICATE
OF MERIT

STEVEN L. WITTELS, an attorney admitted to practice in the Courts of this
state, affirms under the penalty of perjury and pursuant to CPLR §§2106 and 3012-and
that the following facts are true:

1. I am the attorney for plaintiff THURMAN T. OWENS as Administrator of the
Estate of ROSELLE OWENS, and am fully familiar with the facts of this case.
2. I make this Certificate of Merit pursuant to CPLR §3012-a to certify that I
have reviewed the facts of this case and have consulted with at least one physician who
is licensed to practice in this state who I reasonably believe is knowledgeable with
respect to the relevant issues involved in this action. I have concluded that on the basis
of such review and consultation, there is a reasonable basis for the commencement of
this action.

Dated: August 10, 2011
New York, New York



STEVEN L. WITTELS

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FILED
HAMS COUNTY CLERK
2011 AUG 11 AM 10:52

