

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF BRONX

SHAKEENA MITCHELL

Plaintiff(s)

Index No.
Dated Filed:
Plaintiff designates
----- BRONX County as
the place of trial

The basis of venue is
Defendant's place of
business

SUMMONS

-against-

PLANNED PARENTHOOD OF NEW YORK
CITY, INC. Defendant(s)

To the above named Defendant(s)

YOU ARE HEREBY SUMMONED to answer the Verified
Complaint in this action and to serve a copy of your Answer, or,
if the Verified Complaint is not served with this Summons, to
serve a Notice of Appearance, on the Plaintiff's attorney(s)
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 the case of your failure to
appear or answer, judgment will be taken against you by default
for the relief demanded in the Complaint.


Dated: New York, New York
October 30, 2014

Defendant's address:

349 East 149th Street
Bronx, NY 10451

Secretary of State

PAUL B. WEITZ & ASSOCIATES, P.C.
Attorneys for Plaintiff(s)

By: 
STEVEN GOLD
233 Broadway
New York, New York 10279
(212) 346-0045

{00047953:}

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF BRONX

SHAKEENA MITCHELL

Plaintiff

-against-

VERIFIED COMPLAINT

PLANNED PARENTHOOD OF NEW YORK
CITY, INC.

Defendant

Plaintiff, by her attorneys, THE COCHRAN FIRM,
PAUL B. WEITZ & ASSOCIATES, P.C., as and for a Verified
Complaint herein, respectfully sets forth and alleges:

AS AND FOR A FIRST CAUSE OF ACTION:

1. That at all times hereinafter mentioned, the
defendant, PLANNED PARENTHOOD OF NEW YORK CITY, INC., was and
still is a corporation doing business in the State of New York.

2. That at all times hereinafter mentioned, the
defendant, PLANNED PARENTHOOD OF NEW YORK CITY, INC., owned a
health care facility located at 349 East 149th Street, in the
County of Bronx, City and State of New York.

{00047954:}

3. That at all times hereinafter mentioned, the defendant, PLANNED PARENTHOOD OF NEW YORK CITY, INC., its servants, agents and/or employees operated said health care facility located at 349 East 149th Street, in the County of Bronx, City and State of New York.

4. That at all times hereinafter mentioned, the defendant, PLANNED PARENTHOOD OF NEW YORK CITY, INC., its servants, agents and/or employees maintained said health care facility.

5. That at all times hereinafter mentioned, the defendant, PLANNED PARENTHOOD OF NEW YORK CITY, INC., its servants, agents and/or employees managed said health care facility.

6. That at all times hereinafter mentioned, the defendant, PLANNED PARENTHOOD OF NEW YORK CITY, INC., its servants, agents and/or employees controlled said health care facility.

7. That at all times hereinafter mentioned, the defendant, PLANNED PARENTHOOD OF NEW YORK CITY, INC. held itself out as a health care facility duly qualified and capable of rendering competent medical, gynecological and surgical care, termination of pregnancy, treatment and surgery to the general public, including the plaintiff herein.

8. That at all times hereinafter mentioned, the defendant, PLANNED PARENTHOOD OF NEW YORK CITY, INC., furnished and/or provided doctors, gynecologists, surgeons, nurses and other gynecological, surgical and reproductive health care personnel at said health care facility to afford medical, gynecological and surgical care, advice, termination of pregnancy, referral, recommendations, management and treatment to the general public, including the plaintiff herein.

9. That at all times hereinafter mentioned, the defendant, PLANNED PARENTHOOD OF NEW YORK CITY, INC., did agree to and did hold itself out as maintaining at the said health care facility, an adequate and competent staff, including doctors, nurses and other medical, gynecological, and surgical personnel, and further warranted that the members of its said staff were qualified and trained for the purpose of providing such medical,

{00047954:}

gynecological, surgical and health care advice, referral, termination of pregnancy, recommendation, management, treatment and attention as they would be required to provide in accordance with the accepted standards of medical, gynecological, surgical and health care practice to persons seeking and requiring such medical and surgical care, attention and termination of pregnancy including the plaintiff herein, and said defendant further held itself out as being equipped in sufficient manner to render such care, advice, referral, recommendation, management and treatment at its said health care facility.

10. That at all times hereinafter mentioned, the defendant, PLANNED PARENTHOOD OF NEW YORK CITY, INC., furnished, provided, used and employed at said health care facility physicians, gynecologists, surgeons, residents, interns, nurses, aides, staff members, and others, who were authorized, retained, or permitted by defendant to order, recommend, request, advise, perform, render, or provide medical, gynecological, and/or surgical examinations, evaluations, care, diagnoses, treatments, termination of pregnancy, procedures, tests, studies, services, or advice of, for and to patients at the said health care facility.

{00047954:}

11. That at all times hereinafter mentioned, the said defendant PLANNED PARENTHOOD OF NEW YORK CITY, INC. was and is fully accredited by the Joint Commission on Accreditation of Health Care Organizations and said defendant's manuals, rules, regulations, practices, procedures, techniques and functions were required to be in accordance with the standards and conditions of the said Joint Commission on Accreditation of Health Care Organizations.

12. That the defendant PLANNED PARENTHOOD OF NEW YORK CITY, INC., was responsible for the negligent acts and omissions of its agents, servants, affiliated physicians and/or employees at the said health care facility under the theory of respondeat superior.

13. That at all of the times herein mentioned, defendant PLANNED PARENTHOOD OF NEW YORK CITY, INC., represented that its servants, agents, affiliated physicians, gynecologists, surgeons, residents, interns, nurses, aides, employees and/or medical personnel at the said health care facility were capable, competent and qualified to properly and adequately order, recommend, request, advise, perform, render, or provide all of the professional examinations, evaluations, consultations, care,

{00047954:}

termination of pregnancy, treatments, procedures, tests, studies, services and advice ordered, recommended, requested, required and advised for, performed upon, rendered and/or provided to the plaintiff SHAKEENA MITCHELL.

14. That on/or about the 17th day of January, 2014, and/or prior thereto, the plaintiff SHAKEENA MITCHELL came under the care of the defendant PLANNED PARENTHOOD OF NEW YORK CITY, INC., its servants, agents, affiliated physicians, gynecologists, surgeons, residents, interns, nurses, aides, employees and/or medical personnel at the said health care facility in connection with certain medical, gynecological, and surgical care, termination of pregnancy, management and treatment to be rendered to the plaintiff SHAKEENA MITCHELL, by the said defendant, its servants, agents and/or employees at the said health care facility.

15. That on/or about the 17th day of January, 2014, and/or prior/subsequent thereto, the plaintiff SHAKEENA MITCHELL came under the care of the defendant PLANNED PARENTHOOD OF NEW YORK CITY, INC., its servants, agents, affiliated physicians, gynecologists, surgeons and/or employees at said health care facility in connection with certain pre-operative, intra-operative and post-operative medical, gynecological and surgical care, termination of pregnancy, management and treatment to be rendered to the said plaintiff by the said defendant at PLANNED PARENTHOOD OF NEW YORK CITY, INC.

16. That the defendant PLANNED PARENTHOOD OF NEW YORK CITY, INC., its servants, agents, affiliated physicians, gynecologists, surgeons and/or employees undertook to diagnose, treat, and manage the plaintiff pre-operatively, intra-operatively and post-operatively at said defendant PLANNED PARENTHOOD OF NEW YORK CITY, INC.

17. That on or about the 17th day of January, 2014, and/or prior thereto, and continuing subsequently thereafter, the defendant PLANNED PARENTHOOD OF NEW YORK CITY, INC., its servants, agents, affiliated physicians, gynecologists, surgeons and/or employees did undertake the treatment of the plaintiff SHAKEENA MITCHELL, providing the plaintiff with medical, gynecological, and surgical care, management, treatment and attention, and accepted the plaintiff as a patient.

18. That at all times herein mentioned, the defendant PLANNED PARENTHOOD OF NEW YORK CITY, INC., its servants, agents, affiliated physicians, gynecologists, surgeons and/or employees undertook to and/or did order, recommend, request, advise, perform, render, or provide medical, gynecological, surgical and/or nursing examinations, evaluations, consultations, care, treatments, procedures, tests, studies, services, or advice for and to the plaintiff SHAKEENA MITCHELL.

19. That at all times herein mentioned, the defendant PLANNED PARENTHOOD OF NEW YORK CITY, INC., its servants, agents, affiliated physicians, gynecologists, surgeons and/or employees performed, directed, participated and/or assisted in the performance of medical and surgical procedures upon the plaintiff SHAKEENA MITCHELL at the defendant PLANNED PARENTHOOD OF NEW YORK CITY, INC.

20. That the foregoing treatment and management of the plaintiff, SHAKEENA MITCHELL, by the defendant, its servants, agents, affiliated physicians, gynecologists, surgeons, residents, interns, nurses, aides, employees and/or medical personnel at the said health care facility was performed in a careless, negligent, and improper manner, and not in accordance with the good and accepted standards of medical and surgical care and practice, thereby causing the plaintiff, SHAKEENA MITCHELL, to sustain severe injuries and damages.

21. That the medical, surgical and post-surgical procedures, examinations, evaluations, care, treatments, tests, studies, services, or advice ordered, requested, recommended, advised, performed, rendered, or provided to plaintiff by the defendant herein, were ordered, requested, recommended, advised, performed, rendered, or provided by persons who were incompetent or unqualified to order, recommend, request, advise, perform, render or provide examinations, evaluations, care, treatments, procedures, tests, studies, services or advice to and/or for the plaintiff.

22. That the defendants, and those persons who ordered, requested, recommended, advised, performed, rendered, or provided examinations, evaluations, care, treatments, procedures, tests, studies, services, or advice to and/or for the plaintiff at said health care facility were incompetent and/or unqualified to order, recommend, request, advise, perform, render, or provide such professional examinations, evaluations, care, treatments, procedures, tests, studies, services, or advice of, for, and to plaintiff.

23. That the defendant failed to promulgate, enforce, abide by, or follow appropriate rules, regulations, guidelines, procedures, policies, or protocols with respect to the performing, rendering or providing of medical, surgical and/or nursing procedures, examinations, evaluations, care, treatments, tests, studies, services, or advice to and/or for the patients at said health care facility including the plaintiff herein.

24. That by reason of the foregoing, the plaintiff was caused to suffer serious injuries and damages.

25. That the foregoing injuries and damages to the plaintiff, SHAKEENA MITCHELL, were caused solely by virtue of the carelessness, negligence and malpractice on the part of the defendant, its servants, agents, affiliated physicians, gynecologists, surgeons, interns, residents, aides, nurses and/or employees, and without any negligence on the part of the plaintiff contributing thereto.

26. That by reason of the foregoing, the plaintiff, SHAKEENA MITCHELL, was severely injured and damaged, rendered sick, sore, lame and disabled, sustained severe nervous shock and mental anguish, great physical pain and emotional upset, some of which injuries are permanent in nature and duration, and plaintiff will be permanently caused to suffer pain, inconvenience and other effects of such injuries; plaintiff incurred and in the future will necessarily incur further health care facility and/or medical expenses in an effort to be cured of said injuries; and plaintiff has suffered and in the future will necessarily suffer additional loss of time and earnings from employment; and plaintiff will be unable to pursue the usual duties with the same degree of efficiency as prior to the negligence and malpractice of the defendant, all to plaintiff's great damage.

27. That this action falls within one or more of the exceptions set forth in CPLR 1602.

28. Pursuant to CPLR Section 1602(2)(iv), defendant is jointly and severally liable for all of plaintiff's damages, including but not limited to plaintiff's non-economic loss, irrespective of the provisions of CPLR Section 1601, by reason of the fact that defendant owed the plaintiff a non-delegable duty of care.

29. Pursuant to CPLR Section 1602(2)(iv), defendant is jointly and severally liable for all of plaintiff's damages, including but not limited to plaintiff's non-economic loss, irrespective of the provisions of CPLR Section 1601, by reason of the fact that said defendant is vicariously liable for the negligent acts and omissions of those servants, agents and/or employees who acted at the direction of and/or conjunction with the defendant herein.

30. That by reason of the foregoing, the plaintiff SHAKEENA MITCHELL has sustained serious injuries and damages in an amount in excess of the monetary jurisdictional limits of any and all lower Courts which would otherwise have jurisdiction, in an amount to be determined upon the trial of this action.

AS AND FOR A SECOND CAUSE OF ACTION:

31. That plaintiff repeats, reiterates and realleges each and every allegation as contained in the First Cause of Action of the within Complaint, with the same force and effect as though each were more fully set forth at length herein.

32. That at all times herein mentioned, the defendant failed to inform the plaintiff as to the exact nature and extent of plaintiff's condition and failed to inform the plaintiff as to the risks, complications, consequences and dangers of the care, treatment and procedures the defendant undertook to perform and/or failed to perform upon the plaintiff, and further failed to inform the plaintiff as to the possible alternate methods of treatment applicable to the plaintiff's condition.

33. That had the plaintiff known of the foregoing nature and extent of the conditions and the risks, complications, consequences and dangers of the care, treatment and procedures the defendant undertook to perform and/or failed to perform and had the plaintiff known the possible alternate methods of treatment applicable to the plaintiff's condition, the plaintiff would have chosen other necessary, required and alternate methods of treatment so as to have avoided serious injury and severe

{00047954:}

worsening and deterioration of the condition of the plaintiff.

34. That by reason of the failure to properly inform the plaintiff, and in failing to obtain the informed consent of the plaintiff, the plaintiff was caused to sustain serious damages and injuries.

35. That by reason of the foregoing, plaintiff has been damaged in an amount which exceeds the monetary jurisdictional limits of any and all lower Courts which would otherwise have jurisdiction herein, in an amount to be determined upon the trial of this action.

AS AND FOR A THIRD CAUSE OF ACTION:

36. That plaintiff repeats, reiterates and realleges each and every allegation as contained in the First and Second Causes of Action of the within Complaint, with the same force and effect as though each were more fully set forth at length herein.

37. That at all times herein mentioned, the defendant PLANNED PARENTHOOD OF NEW YORK CITY, INC. had the duty to properly and adequately select and screen for hiring for retention or discharge as employees those physicians who are not fit, suitable, qualified, skilled, properly trained, supervised and instructed.

{00047954:}

38. That all times herein mentioned, it was the duty of the said defendant to properly and adequately train, discipline, supervise, promulgate and put into effect appropriate rules applicable to the duties, activities and practices of its servants, agents, affiliated physicians and/or employees performing medical, nursing and/or surgical procedures at said health care facility.

39. That all times herein mentioned, it was the duty of the said defendant PLANNED PARENTHOOD OF NEW YORK CITY, INC. to supervise, promulgate, enforce, instruct, advise, abide by, require or ensure the appropriate rules, regulations, guidelines, procedures, policies or protocols with respect to the duties, activities and practices of its servants, agents, affiliated physicians, surgeons, nurses and/or employees performing medical and/or surgical procedures.

40. That all times herein mentioned, it was the duty of the said defendant PLANNED PARENTHOOD OF NEW YORK CITY, INC. to entrust the care of the plaintiff to physicians, surgeons and personnel who possessed the necessary and required skill, experience, judgment, diligence and capability perform such duties, activities and practices as were required and rendered to the plaintiff at said health care facility.

41. That at all times herein mentioned, the defendant PLANNED PARENTHOOD OF NEW YORK CITY, INC. failed, neglected and omitted to properly and adequately select and screen for hiring for retention or discharge as employees those physicians who are not fit, suitable, qualified, skilled, properly trained, supervised and instructed.

42. That all times herein mentioned, the said defendant failed, neglected and omitted to properly and adequately train, discipline, supervise, promulgate and put into effect appropriate rules applicable to the duties, activities and practices of its servants, agents, affiliated physicians and/or employees performing medical, nursing and/or surgical procedures.

43. That all times herein mentioned, the said defendant failed, neglected and omitted to supervise, promulgate, enforce, instruct, advise, abide by, require or ensure the appropriate rules, regulations, guidelines, procedures, policies or protocols with respect to the duties, activities and practices of its servants, agents, affiliated physicians, surgeons, nurses and/or employees performing medical and/or surgical procedures.

44. That all times herein mentioned, the said defendant PLANNED PARENTHOOD OF NEW YORK CITY, INC. failed, neglected and omitted to entrust the care and supervision of the plaintiff to physicians and personnel who possessed the necessary and required skill, experience, judgment, diligence and capability perform such duties, activities and practices as were required and rendered to the plaintiff at said health care facility and/or medical facilities.

45. As a result of all of the foregoing, plaintiff has been injured and damaged in a sum which exceeds the jurisdictional limitations of all lower Courts which would otherwise have jurisdiction over this action.

AS AND FOR A FOURTH CAUSE OF ACTION:

46. That plaintiff repeats, reiterates and realleges each and every allegation as contained in the First, Second and Third Causes of Action of the within Complaint, with the same force and effect as though each were more fully set forth at length herein.

47. That at all times herein mentioned, it was the duty of the defendant to promulgate, enforce, instruct, advise, abide by, require or ensure compliance with it's own and/or appropriate rules, regulations, guidelines, procedures, by-laws, policies or protocols with respect to the inquiry, investigation and certification of malpractice insurance by physicians hired, retained, certified and/or recertified for privileges as physicians or surgeons at said health care facility;

48. That at all times herein mentioned, it was the duty of the defendant to properly and adequately inspect, investigate and screen physicians and surgeons for hiring or renewal of privileges at said health care facility so as to definitively ascertain whether such physicians and surgeons are in possession of adequate, appropriate and required credentials, licenses, privileges and references prior to such hiring and/or renewal of

{00047954:}

privileges at said health care facility.

49. That at all times herein mentioned, it was the duty of the defendant to properly and adequately inspect, investigate and screen physicians and surgeons for hiring or renewal of privileges at said health care facility so as to definitively ascertain whether such physicians and surgeons are in possession of adequate, appropriate and required professional medical malpractice insurance prior to such hiring and/or renewal of privileges at said health care facility.

50. That at all times herein mentioned, it was the duty of the defendant to obtain, inspect, investigate and evaluate documentation of credentials, licenses and professional medical malpractice insurance prior to hiring or renewal of privileges of physicians and surgeons at said health care facility.

51. That at all times herein mentioned, it was the duty of the defendant to properly and adequately inspect, investigate, research and screen physicians and surgeons for hiring or renewal of privileges at said health care facility so as to definitively ascertain whether complaints, grievances and/or suspensions have been issued against such physicians and surgeons prior to such hiring and/or renewal of privileges at said health care facility.

{00047954:}

52. That at all times herein mentioned, it was the duty of the defendant to properly and adequately inspect, investigate, research and screen physicians and surgeons for hiring or renewal of privileges at said health care facility so as to definitively ascertain whether such physicians and surgeons are qualified to obtain and/or maintain such privileges at said health care facility.

53. That at all times herein mentioned, it was the duty of the defendant to promptly, properly, timely and adequately suspend the privileges of physicians and surgeons who do not possess or have suffered the suspension of the necessary, required and appropriate credentials, privileges, licenses and professional medical malpractice insurance.

54. That at all times herein mentioned, it was the duty of the defendant to prevent physicians and surgeons who do not possess or have suffered the suspension of the necessary, required and appropriate credentials, licenses and medical malpractice insurance, from performing medical or surgical procedures upon patients of said health care facility, including the plaintiff herein.

55. That at all times herein mentioned, it was the duty of the defendant to immediately terminate, suspend and/or prevent physicians and surgeons who do not possess or have suffered the suspension of the necessary, required and appropriate credentials, licenses and medical malpractice insurance, from performing medical or surgical procedures upon patients of said health care facility, including the plaintiff herein.

56. That by reason of the foregoing, this plaintiff has been damaged in an amount which exceeds the monetary jurisdictional limits of any and all lower Courts which would otherwise have jurisdiction herein, in an amount to be determined upon the trial of this action.

WHEREFORE, plaintiff demands judgment against the defendant, the amount sought on each Cause of Action exceeding the monetary jurisdictional limits of any and all lower Courts which would otherwise have jurisdiction, in amounts to be determined upon the trial of this action, together with the costs and disbursements of this action, and with interest from the date of this occurrence.

Dated: New York, New York
October 30, 2014

Yours, etc.,
THE COCHRAN FIRM,
PAUL B. WEITZ & ASSOCIATES, P.C.,
Attorneys for Plaintiff(s)



STEVEN GOLD

233 Broadway
New York, New York 10279
(212) 346-0045

ATTORNEY'S VERIFICATION

STATE OF NEW YORK)

) SS:

COUNTY OF NEW YORK)

I, STEVEN GOLD undersigned, am an attorney admitted to practice in the Courts of the State of New York, and say that:

I am an Associate in the law firm of THE COCHRAN FIRMM PAUL B. WEITZ & ASSOCIATES P.C., attorneys for the plaintiff. I have read the annexed Complaint and know the contents thereof and the same are true to my knowledge, except those matters therein which are stated to be alleged upon information and belief, and as to those matters I believe them to be true. My belief, as to those matters therein not stated upon knowledge, is based upon the following: investigation, interviews with client, records, reports, documents, correspondence, data, memoranda, etc., contained in the file.

The reason I make this verification instead of plaintiff, is that the plaintiff resides outside of the County of New York, wherein I maintain my offices.

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

Dated: New York, New York
October 30, 2014



Steven Gold

--

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF BRONX

SHAKEENA MITCHELL

Plaintiff

CERTIFICATE OF
MERIT

-against-

PLANNED PARENTHOOD OF NEW YORK
CITY, INC.

Defendant

STEVEN GOLD, an attorney duly admitted to practice before the Courts of the State of New York affirms the following to be true under the penalties of perjury:

That I am a partner with the law firm of THE COCHRAN FIRM, PAUL B. WEITZ & ASSOCIATES, P.C., attorneys for the plaintiffs herein, and as such am fully familiar with the facts and circumstances of the within action.

I have reviewed the facts of this case and have consulted with at least one physician who is licensed in this State, and who I reasonably believe is knowledgeable as to the relevant issues involved herein. I have concluded upon the basis of such review and consultation, that there is a reasonable basis for the commencement of this action. The consultation with the physician was verbal.

Dated: New York, New York
October 30, 2014



Steven Gold