

1 SUPREME COURT OF THE STATE OF NEW YORK
2 COUNTY OF KINGS

ORIGINAL

3 LAUREN BUNTE,

4 Plaintiff,

SUMMONS

5 -against-

Index No: 36030/06

6 PLANNED PARENTHOOD OF THE
7 MID-HUDSON VALLEY, INC. and
8 DOWNSTATE CLINICAL LABORATORIES, INC.,

9 Defendants.

10 TO THE ABOVE NAMED DEFENDANTS:

11 YOU ARE HEREBY SUMMONED to answer the complaint in this
12 action and to serve a copy of your answer, or, if the
13 complaint is not served with this summons, to serve a notice
14 of appearance, on plaintiffs' attorney within twenty (20)
15 days after the service of this summons, exclusive of the day
16 of service (or within thirty (30) days after the service is
17 complete if this summons is not personally delivered to you
18 within the State of New York); and in case of your failure
19 to answer or appear, judgment will be taken against you by
20 default for the relief demanded in the notice set forth
21 below and in the complaint.

22 The basis of the venue designated is that (1) The
23 defendant PLANNED PARENTHOOD OF THE MID HUDSON VALLEY, INC.,
24 was incorporated in the County of Kings, City and State of
25 New York.

26 DATED: New York, New York
27 November 22nd, 2006

28 HOWARD E. SHAFRAN
SHAFRAN & BOSLEY, P.C.
THE EMPIRE STATE BUILDING
350 Fifth Avenue, Suite 2310
New York, New York 10118
Tel. (212) 631-7000
Attorneys for Plaintiffs

TO:
29 Planned Parenthood Mid Hudson Valley
30 26 West Street
31 Newburgh, New York 12550

32 Downstate Clinical Laboratory
33 2209 Hillside Avenue
34 New Hyde Park, New York 11040

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CLERK OF COURT

1 SUPREME COURT OF THE STATE OF NEW YORK
2 COUNTY OF KINGS

3 LAUREN BUNTE,

4 Plaintiff,

COMPLAINT

5 -against-

Index No:

6 PLANNED PARENTHOOD OF THE
7 MID-HUDSON VALLEY, INC. and
8 DOWNSTATE CLINICAL LABORATORIES, INC.,

9 Defendants.

10 Plaintiff, by her attorneys, SHAFRAN, MOSLEY, P.C., 350
11 Fifth Avenue, Suite 2310, New York, N.Y. 10118, as and for their
12 complaint, complaining of the defendants herein, upon information
13 and belief, respectfully alleges at follows:
14

15 AS AND FOR A FIRST
16 CAUSE OF ACTION

17
18 1. That at all the times hereinafter mentioned,
19 defendant DOWNSTATE CLINICAL LABORATORIES, INC., was a domestic
20 business corporation organized on or about March 1st, 1991 in the
21 County of Kings, City and State of New York.

22 2. That at all times hereinafter mentioned,
23 defendant PLANNED PARENTHOOD OF THE MID-HUDSON VALLEY, INC.
24 (hereinafter referred to as "PLANNED PARENTHOOD OF THE MID-HUDSON
25 VALLEY, INC.") was a domestic business corporation organized on or
26 about January 18th, 1971, in the County of Dutchess, State of New
27 York.
28

1 3. That at all times hereinafter mentioned PLANNED
2 PARENTHOOD OF THE MID-HUDSON VALLEY, INC. was and is an agent of a
3 defendant DOWNSTATE CLINICAL LABORATORIES, INC..

4 4. That at all the times hereinafter mentioned,
5 defendant PLANNED PARENTHOOD OF THE MID-HUDSON VALLEY, INC. was in
6 the business of providing services to persons seeking, inter alia,
7 testing for sexually transmitted diseases.

8 5. That at all times hereinafter mentioned,
9 defendant PLANNED PARENTHOOD OF THE MID-HUDSON VALLEY, INC., was
10 and is a facility licensed to test or cause such testing to be
11 performed at their location or locations in the State of New York.

12 6. That at all times hereinafter mentioned
13 defendant PLANNED PARENTHOOD OF THE MID-HUDSON VALLEY, INC. held
14 itself out as a facility capable and competent in providing
15 services to those seeking, inter alia, accurate and reliable
16 testing for the presence or absence of sexually transmitted or
17 communicable diseases.

18 7. That at all times hereinafter mentioned,
19 defendant PLANNED PARENTHOOD OF THE MID-HUDSON VALLEY, INC. Did
20 have a written contract to perform laboratory testing of tissue,
21 blood, fluid or other bodily fluid samples harvested or taken from
22 clients or customers with defendant DOWNSTATE CLINICAL
23 LABORATORIES, INC..

24 8. That at all times hereinafter mentioned
25 defendant PLANNED PARENTHOOD OF THE MID-HUDSON VALLEY, INC. had and
26 assumed an affirmative duty to exercise the requisite learning
27 skill, knowledge and judgment ordinarily exercises and possessed by
28

1 facilities providing services to those seeking accurate and
2 reliable testing of tissue, blood, fluid or other bodily fluid
3 samples with regard to the services rendered to plaintiff as
4 described, infra.

5 9. That at all the times hereinafter mentioned,
6 defendant DOWNSTATE CLINICAL LABORATORIES, INC. is vicariously
7 liable for the acts and/or omissions of defendant PLANNED
8 PARENTHOOD OF THE MID-HUDSON VALLEY, INC., their servants licensees
9 or employees.

10 10. That at all times hereinafter mentioned,
11 defendant PLANNED PARENTHOOD OF THE MID-HUDSON VALLEY, INC. is
12 vicariously liable for the acts and/or omissions of defendant
13 DOWNSTATE CLINICAL LABORATORIES, INC., their servants licensees or
14 employees.

15 11. That at all times hereinafter mentioned
16 defendant PLANNED PARENTHOOD OF THE MID-HUDSON VALLEY, INC.
17 undertook an affirmative duty to handle all such blood and bodily
18 fluid or tissue samples in an uncontaminated and sterile manner.

19 12. That at all times hereinafter mentioned
20 defendant PLANNED PARENTHOOD OF THE MID-HUDSON VALLEY, INC.
21 Represented themselves and held themselves out as a facility
22 skilled in handling all such blood and bodily fluid or tissue
23 samples in an uncontaminated and sterile manner.

24 13. That at all times hereinafter mentioned
25 defendants DOWNSTATE CLINICAL LABORATORIES, INC., and PLANNED
26 PARENTHOOD OF THE MID-HUDSON VALLEY, INC., and each of them
27 undertook to render certain services to the plaintiff LAUREN BUNTE.

1 services to those seeking accurate and reliable testing of tissue,
2 blood, fluid or other bodily fluid samples with regard to the
3 services rendered to plaintiff as described, infra.

4 19. That at all times hereinafter mentioned
5 defendants PLANNED PARENTHOOD OF THE MID-HUDSON VALLEY, INC.,
6 DOWNSTATE CLINICAL LABORATORIES, INC., and each of them undertook
7 to render certain services and testing to plaintiff LAUREN BUNTE,
8 including, but not limited to the testing for sexually transmitted
9 diseases.

10 20. That between June 27th, 2006 and September 7th,
11 2006, while plaintiff LAUREN BUNTE was a client or customer of
12 defendant PLANNED PARENTHOOD OF THE MID-HUDSON VALLEY, INC. and
13 after undergoing a series of testing for sexually transmitted and
14 communicable diseases which were interpreted and/or reported by
15 defendant DOWNSTATE CLINICAL LABORATORIES, INC. She was caused to
16 be notified that her testing for gonorrhea and chlamydia, which
17 were reported to her on July 19th, 2006 as being positive, were
18 actually false and inaccurate.

19 21. That the occurrence as described herein and the
20 results and consequences thereon, were caused by the carelessness,
21 recklessness, negligence of defendants PLANNED PARENTHOOD OF THE
22 MID-HUDSON VALLEY, INC. and DOWNSTATE CLINICAL LABORATORIES, INC.,
23 and each of them, their agents, servants, licensees and employees
24 in the ownership, operations, maintenance, management and control
25 of the afore described medical institution or facility of
26 defendants DOWNSTATE CLINICAL LABORATORIES, INC., and in the
27 ownership, operation, maintenance, management and control of the

1 | afore described testing services and/or facility of defendant
2 | PLANNED PARENTHOOD OF THE MID-HUDSON VALLEY, INC., in failing to
3 | possess and exercise the requisite learning, skill, knowledge and
4 | judgment ordinarily exercised and possessed by reasonably skillful
5 | and competent testing services and/or facility, facilities and
6 | testing facilities and operators in the locale generally, in
7 | failing to take an adequate and proper sterile precautions for
8 | testing, in failing to use proper equipment and handling techniques
9 | and handle plaintiff's samples with sterile precautions for
10 | testing, in ignoring the requirements for sterile and proper
11 | handling for testing, in failing to detect the significance of the
12 | need to render accurate and reliable results for so sensitive and
13 | traumatic reporting of the presence of a sexually transmitted
14 | disease, which, in fact, was not present and reported incorrectly,
15 | in failing to possess and exercise the requisite learning, skill,
16 | knowledge and judgment ordinarily exercised and possessed by
17 | reasonably skillful and competent testing services and/or facility,
18 | facilities and testing facilities and operators in the locale
19 | generally, in negligently allowing the tissue, blood or bodily
20 | fluid samples of the plaintiff to be contaminated, mixed with other
21 | clients' samples, or otherwise misinterpreted, misread, and just
22 | plain wrongly reported, in telling the plaintiff LAUREN BUNTE that
23 | she had contracted sexually transmitted diseases which she, in
24 | fact, did not and in issuing a writing to her saying such and then
25 | attempting to apologize, which causes the negligent infliction of
26 | emotional distress to plaintiff, and caused her to seek treatment
27 | and take medications for a condition or conditions she did not

28 |

1 have, , in carelessly, recklessly and negligently performing a test
2 for gonorrhoea and chlamydia which was not positive, but told to
3 plaintiff that it was positive, and then plaintiff began a
4 medication protocol for a sexually transmitted disease she did not
5 have, which also caused her to lose her relationship with her
6 partner, and to suffer from depression and related clinical signs
7 and symptoms, and failed to properly handle said samples of
8 plaintiff and others similarly situated, resulting in the trauma
9 and stress of being told that she had a sexually transmitted
10 disease, when she did not, and in violating each and every rule,
11 regulation, statute and/or ordinance, including but not limited to
12 the Public Health Law § 225 (4) and (5) (h), § 2311, Sanitary Code
13 of the State of New York, Sanitary Code § 10 NYCRR 2.1, 23.1),
14 Public Health Law § 2102, 2103; 10 NYCRR 2.10, 2.11, 2.12, 23.3,
15 23.4, with 10 NYCRR 24-1.1, 58-1.1 [f] [2]), Public Health Law §
16 2100, 2304; 10 NYCRR 2.5, 2.6, 23.2), Public Health Law § 2781
17 [1]) et., seq., and those other rules regulations and codes of which
18 plaintiff may request the taking of judicial notice, and, further,
19 plaintiffs specifically reserve the right to rely upon the doctrine
20 of res ipsa loquitur at the time of trial.

21 22. That by reason of the foregoing plaintiff
22 LAUREN BUNTE has been caused to suffer permanent and profound
23 emotional distress, due to the negligent infliction of emotional
24 distress and caused to expend sums for unnecessary repeat testing,
25 and medications and care and treatment for conditions she did not
26 have, and caused to suffer depression and has been and will
27 continue to be caused to incur large sums of monies for medical
28

1 care and treatment, physical and psychological therapies and
2 counseling, loss of earnings and loss of future earnings, loss of
3 function and quality of life, and has otherwise been caused to be
4 damaged thereby.

5 23. That no conduct on the part of the plaintiff
6 contributed to the occurrence as described herein in any manner
7 whatsoever.

8 24. That this action falls under one or more of
9 the exceptions as contained in Section 1602 of the Civil Practice
10 Laws and Rules of the State of New York, and as such, each
11 defendant shall be answerable for all damages awarded without
12 regard to the apportionment of liability among joint tortfeasors.

13
14
15 **WHEREFORE,** plaintiff LAUREN BUNTE demands judgment
16 against defendants, and each of them, a monetary sum which exceeds
17 the jurisdictional limits of any other Court of competent
18 jurisdiction, together with the costs of this action.

19
20
21 Dated: New York, N.Y.
November 22nd, 2006

22
23 _____
HOWARD SHAFRAN, ESQ.
SHAFRAN, MOSLEY, P.C.
Attorneys for Plaintiff
Office & P.O. Address
24 THE EMPIRE STATE BUILDING
25 350 Fifth Avenue, suite 2310
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26 212 631-7000

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS

-----X
LAUREN BUNTE,

Plaintiff,

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MID-HUDSON VALLEY, INC. and
DOWNSTATE CLINICAL LABORATORIES, INC.,

Defendants.
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SUMMONS & COMPLAINT

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