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NEW YORK

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

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SHEVERNE BRATHWAITE,

Plaintiff

-against-

A.H. FAHMY, M.D., M. GARCIA-MASON, MARGARET
SANGER CENTER, PLANNED PARENTHOOD OF NEW
YORK CITY, INC., CHANCHAL MALHOTRA, M.D., and
QUEST DIAGNOSTICS, INC.,

Defendants.
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Index No.:
Date Filed:

VERIFIED COMPLAINT

Plaintiff, by her attorneys, RONEMUS & VILENSKY, as and for her Verified
Complaint, respectfully sets forth and alleges as follows, upon information and belief:

AS AND FOR A FIRST CAUSE OF ACTION AGAINST
DEFENDANTS DR. A.H. FAHMY, M. GARCIA-MASON, MARGARET
SANGER CENTER, PLANNED PARENTHOOD OF NEW
YORK CITY, INC.,

1. That at all times herein mentioned, defendant, MARGARET SANGER CENTER
(hereinafter referred to as SANGER) was a medical facility rendering medical services to the sick
and disabled.

2. That at all times herein mentioned, defendant, PLANNED PARENTHOOD OF
NEW YORK CITY INC., (hereinafter referred to as PLANNED PARENTHOOD) was a medical
facility rendering medical services to the sick and disabled.

3. That at all times herein mentioned, defendant, A.H. FAHMY, M.D., was a
physician duly licensed to practice medicine in the State of New York.

4. That at all times herein mentioned, defendant, M. GARCIA-MASON was a

sonography and/or ultrasound technician duly licensed to administer and interpret sonograms and/or ultrasounds in the State of New York.

4. That at all times herein mentioned, defendant QUEST DIAGNOSTICS INC. (hereinafter referred to as "QUEST") was a corporation duly organized and existing under and by virtue of the laws of the State of New York.

5. That at all times herein mentioned, defendant QUEST was a foreign business entity doing business in the State of New York.

6. That at all times herein mentioned, defendant CHANCHAL MALHOTRA, M.D., was a physician duly licensed to practice medicine in the State of New York.

7. That at all times herein mentioned, defendant CHANCHAL MALHOTRA, M.D., was a physician duly licensed to practice medicine in the State of New Jersey.

8. That at all times herein mentioned, defendant A.H. FAHMY, was an employee of defendant SANGER.

9. That at all times herein mentioned defendant A. H. FAHMY was an agent of defendant SANGER.

10. That at all times herein mentioned defendant A.H. FAHMY was an employee of defendant PLANNED PARENTHOOD.

11. That at all times herein mentioned defendant A.H. FAHMY was an agent of defendant PLANNED PARENTHOOD.

12. That at all times herein mentioned defendant M. GARCIA-MASON was an employee of defendant SANGER.

13. That at all times herein mentioned defendant M. GARCIA-MASON was an agent of defendant SANGER.

14. That at all times herein mentioned defendant M. GARCIA-MASON was an employee of defendant PLANNED PARENTHOOD.

15. That at all times herein mentioned defendant M. GARCIA-MASON was an agent of defendant PLANNED PARENTHOOD.

16. That at all times herein mentioned defendant CHANCHAL MALHOTRA, M.D., was an employee of defendant QUEST.

17. That at all times herein mentioned defendant CHANCHAL MALHOTRA, M.D., was an agent of defendant QUEST.

18. That in February 2002 defendants undertook to treat the plaintiff for a pregnancy condition.

19. That on from on or about February 12, 2002 through on or about February 15, 2002 defendants performed an abortion procedure upon the plaintiff at SANGER, which is located at 26 Bleeker Street, New York, New York.

20. That the medical treatment rendered by the defendants, their agents, servants and employees were negligently rendered and constituted medical malpractice in that the defendants failed to properly treat the plaintiff for her pregnancy condition; failed to properly perform an abortion procedure upon her; failed to properly perform sonograms; failed to diagnose an ectopic pregnancy; in failing to provide the plaintiff with the proper informed consent; and was otherwise negligent in the rendering of medical care and treatment to the plaintiff.

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

13. That as a result, plaintiff, SHEVERNE BRATHWAITE, was severely injured, both physically and mentally.

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AS AND FOR A SECOND CAUSE OF ACTION
AS AGAINST DEFENDANTS CHANCHAL MALHOTRA AND QUEST

14. Plaintiff begs to repeat, reallege and reiterate each and every allegation heretofore set forth in the first cause of action with the same force and effect as if set forth herein at length.

15. That following plaintiff's abortion procedure, on or about February 12, 2002, a tissue specimen was obtained.

16. That defendant QUEST was to perform a pathology study on said specimen.

16. That said specimen was received by defendant QUEST on February 12, 2002.

17. That QUEST did not perform the pathology study until on or about February 15, 2002 or February 16, 2002.

18. That the results of QUEST's study revealed that there were no chorionic villi in the specimen.

19. That defendant CHANCHAL MALHOTRA, M.D., was to perform a pathology study on said specimen.

16. That said specimen was received by defendant CHANCHAL MALHOTRA, M.D. on February 12, 2002.

17. That CHANCHAL MALHOTRA, M.D. did not perform the pathology study until on or about February 15, 2002 or February 16, 2002.

18. That the results of CHANCHAL MALHOTRA, M.D.'s study revealed that there were no chorionic villi in the specimen.

19. That these results were not communicated to defendants SANGER, PLANNED PARENTHOOD, or A.H. FAHMY, M.D., A1, their agents, servants and/or employees until on or about February 15, 2002 or February 16, 2002.

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20. That services provided by the defendants, their agents, servants and employees were negligently rendered in that they failed to timely do a pathology study; failed to timely communicate the results of the pathology study; and was otherwise negligent in the rendering of services on behalf of the plaintiff.

21. That as a result, plaintiff, SHEVERNE BRATHWAITE, was severely injured, both physically and mentally.

AS AND FOR A THIRD CAUSE OF ACTION
FOR LACK OF INFORMED CONSENT

22. Plaintiff begs to repeat, reallege and reiterate each and every allegation heretofore set forth in the first and second causes of action with the same force and effect as if set forth herein at length.

23. A reasonably prudent person in the plaintiff's position would not have undergone the diagnosis or treatment if she had been fully informed of the risks, hazards and complications of the diagnosis and treatment rendered by the defendant and the alternatives thereto.

24. The lack of informed consent is a proximate cause of the injury or condition for which recovery is sought herein.

WHEREFORE, plaintiff demands judgement on the first cause of action and on the second cause of action, all in the amount of excess jurisdictional limits of any and all courts which otherwise have jurisdiction over the subject matter, together with interest costs and disbursements of this action.

Dated: New York, New York
July 1, 2002

Yours, etc.,


ARLENE E. COSTANZO

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