

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

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In re:

ST. VINCENTS CATHOLIC MEDICAL
CENTERS OF NEW YORK, d/b/a
SAINT VINCENT CATHOLIC MEDICAL CENTERS,
et al.

Debtors.
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Hearing Date: October 13, 2017 at
12:00 p.m.

Objections: October 6, 2017 at
4:00 p.m.

Chapter 11

Case No.: 05-14945 (CGM)

**NOTICE OF MOTION OF CREDITOR PAOLA ROJAS TO EXTEND THE TIME TO
FILE PROOF OF CLAIM AGAINST DEBTORS (the "Motion")**

PLEASE TAKE NOTICE, that on October 13, 2017, at 12:00 p.m., or as soon thereafter as
counsel can be heard, creditor **PAOLA ROJAS** shall move before Honorable Cecelia G.
Morris of the United States Bankruptcy Court for the Southern District of New York at One
Bowling Green, New York, New York 10004-1408 for an order granting the following relief:

A. Pursuant to the Bankruptcy Court Rules 3002(c)(2), 3003(c)(1) and 9006(b)(1),
enlarging the time for the filing a Proof of Claim in the form annexed hereto as Exhibit "A"
against the Debtors; or

B. Treating Proof of Claim filed *nunc pro tunc* on or prior to March 30, 2006;

C. Upon accepting Proof of Claim as timely filed, allowing entitlement to the distribution
formula set out in the Debtors' First Amended Plan of organization dated June 5, 2007,
as confirmed by this Court on July 27, 2007; and,

D. Together with such other and further relief deemed just, proper and equitable.

PLEASE TAKE FURTHER NOTICE that objections, if any, to the relief sought by the
Motion must be in writing, conform to the requirements of the Bankruptcy Code, the Bankruptcy
Rules and the Local Rules of the United States Bankruptcy Court for the Southern District of
New York, and must be filed and served as to be received no later than October 6, 2017 by 4:00
p.m.

PLEASE TAKE FURTHER NOTICE, that only these objections that have been timely filed
may be considered by the Court.

Dated: Garden City, New York
September 8, 2017

Respectfully submitted,


Harry Organek, Esq.
Attorney for Paola Rojas

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

-----X

In re:

ST. VINCENTS CATHOLIC MEDICAL
CENTERS OF NEW YORK, d/b/a
SAINT VINCENT CATHOLIC MEDICAL CENTERS,
et al.

Debtors.

AFFIRMATION OF
CREDITOR'S ATTORNEY
Chapter 11
Case No.: 05-14945 (CGM)

-----X

Harry Organek, an attorney duly admitted to practice law before the State and Federal
Courts of New York, states the following under the penalties of perjury:

1. I represent PAOLA ROJAS in the above matter. I have personal knowledge of the facts
stated herein the sources of which are the files and records maintained by this office. The Exhibits
attached hereto are true and accurate copies of the originals.

2. I submit this affirmation in support of the motion by Paola Rojas pursuant to Bankruptcy
Court Rules 3002(c)(2), 3003(c)(1) and 9006(b)(1), enlarging the time for her to file her Proof of
Claim in the form annexed hereto as Exhibit "A" against the debtor and/or treating Proof of Claim
filed nunc pro tunc on or prior to the Bar Date of March 30, 2006.

3. Your affiant also files this affirmation asserting entitlement to the distribution under the
Debtor's First Amended Plan of Reorganization dated June 5, 2007, as confirmed on July 27, 2007.

4. Your affiant asserts the following facts establish excusable neglect and permit to file
the Proof of Claim out of time. I represent PAOLA ROJAS in an action that is pending in the
Supreme Court, Kings County under Index Number 6241/09 . A copy of the complaint is
attached as Exhibit B.

5. In the underlying action, the plaintiff seeks compensatory damages for injuries
incurred as a result of negligence and medical malpractice. The injuries were sustained
immediately after the infant plaintiff was delivered on March 15, 1999. The essential fact of the

case is that in the moments after the infant plaintiff was delivered the infant was dropped by a resident doctor and fell to the floor. This incident occurred when the resident doctor was in the process of transferring the infant to a resident pediatrician. The incident occurred at St. Mary's Hospital of Brooklyn, which is an affiliate of the debtor herein.

6. As a result of the incident, the infant sustained brain injury, including left parietal hematoma and seizure disorder. The infant is now 18 years of age and remains permanently and partially disabled, with cognitive and learning deficits. She remains (and will remain) under the active care of a neurologist.

7. I was retained by the mother of the infant, Micaela Lopez, in June 2004, five years after the incident. Hospital medical records were obtained immediately. However, I then made the fateful decision not to commence an action immediately, but rather to delay commencement of the action. The reason I delayed commencement of the action was because the full extent of the injuries sustained by the infant plaintiff were not then fully known and would not become fully known until further cognitive and psychological development occurred beyond infancy to early childhood. In other words, the delay in the commencement of the action was to assure that the full extent of the injuries and disabilities upon the infant's daily life became known, and in order that reliable prediction could be made of the impact that these injuries and disabilities would have over the course of the infant's lifetime. (See generally, Mangini v. McClurg, 24 N.Y. 556 (1969) for discussion regarding the settlement of an action before the full extent of the injury is known.) Accordingly, the Supreme Court action was timely commenced against the debtor hospital in March 2009, sounding in claims of medical malpractice and negligence. Significant to this application for late filing of the proof of claim is that the date the action was commenced was three years after the bar date. The fact that this case involved an infant allowed for the later

commencement of the action than would otherwise have been the case were the plaintiff not an infant, and later commencement of the action was made for the reasons stated above.

8. Shortly after the service of answers to the complaint, in April 2009, I was made aware by defendants' attorneys that defendant St. Mary's Hospital of Brooklyn was in bankruptcy; more specifically, that St. Mary's Hospital was an affiliate of St. Vincent's Hospital and that on July 5, 2005, St. Vincent's Hospital had filed a petition seeking bankruptcy protection on behalf of itself and its affiliates. I was further advised, in April 2009, that on January 25, 2006, an Order of the Bankruptcy Court established a deadline for the filing of proofs of claim based on liabilities asserted against St. Vincent's Hospital and its affiliates. The Order set March 30, 2006 as the deadline to file proofs of claim. I was not aware prior to the bar date that a bar date for the filing of claims had been established because the action was not commenced until March 2009, three years after the bar date had already expired. *Not being aware of the bar date until three years after the bar date had expired, and after the underlying action had been commenced, I did not file a timely proof of claim.*

NO ACTUAL NOTICE OF THE BAR DATE

10. I was first informed by debtor's attorney in April 2009 that notice of the bar date was provided to the public "by submission of a detailed notice in The New York Times, The Daily News, The Staten Island Advance, and the Journal News." However, as stated, regardless that notice of the bar date was provided to the public in the manner prescribed above, in fact prior to April 2009 I did not have nor did I ever receive actual notice of the hospital's pending bankruptcy nor did I have or ever receive actual notice of the March 2006 bar date. As stated, I was not aware of the hospital's bankruptcy or of the bar date until April 2009, after the action was commenced. I did not receive actual notice of the bar date because this action was commenced (for the reasons

stated above) three years after the bar date had already expired. Had the action been commenced sometime prior to the bar date, I would, presumably, have been personally and directly notified of the bankruptcy and of the bar date and would then certainly have filed a timely proof of claim in order to protect the rights of the infant. Further, neither certainly the infant plaintiff nor her mother was ever aware of the bar date.

LATE APPLICATION TO EXTEND THE DATE FOR FILING PROOF OF CLAIM

11. As a result of the bankruptcy filing, the Supreme Court action has been stayed from its inception. On July 10, 2017, debtor's attorney in the Supreme Court action moved for dismissal on the ground that a proof of claim was never filed. The motion is now scheduled to be heard on September 11, 2017. Sometime after the defendant hospital made the current motion to dismiss for failure to file a proof of claim, I spoke to the attorney representing the defendant on the motion. In the course of discussion with debtor's attorney I was informed and learned for the first time that a late proof of claim might be allowed after a bar date by making an application to the Bankruptcy Court for permission to file a late proof of claim. I had not been aware until then that the filing of a late proof of claim might have been allowed by making an application to the Bankruptcy Court for same. I understood "bar date" to mean, effectively, a statute of limitations. In 2006 and prior thereto and continuing to the present date, I have maintained a small solo law practice. I have never before practiced in Bankruptcy Court.

LEGAL DISCUSSION

12. Rule 9006(b)(1) of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules") states that:

Except as provided in paragraphs (2) and (3) of this subdivision, when an act is required or allowed to be done at or within a specified period by these rules or by a notice given thereunder or by order of court, the court for cause shown may at any time in its discretion (1) with or without motion or notice order the period enlarged if the request therefor is

made before the expiration of the period originally prescribed or as extended by a previous order or (2) on motion made after the expiration of the specified period permit the act to be done where the failure to act was the result of excusable neglect.

Pioneer Investment Services Co. v. Brunswick Associates Limited Partnership, 507 U.S. 380, 113 S.Ct. 1489, 123 L.Ed. 2d 74 (1993) is the seminal case regarding what constitutes excusable neglect for Rule 9006(b)(1) purposes. The United States Supreme Court held therein that a court may permit a creditor to file a proof of claim after the bar date if the court has considered all of the relevant circumstances, including: (1) the danger of prejudice to the debtor, (2) the length of the delay and its potential impact on judicial proceedings (3) the reason for the delay, including whether it was within the reasonable control of the movant, and (4) whether the movant acted in good faith. 507 U.S. 380, 394-95, 113 S.Ct. 1489, 1498, 123 L.Ed.2d 74, 89-90 (1993). Inadvertence... [does] not usually constitute excusable neglect” *Pioneer*, 507 U.S. at 392. New York bankruptcy courts have disallowed late proof of claims where “it was simple carelessness which caused the bar date to lapse, not a reasonable unawareness of the deadline set forth by the bankruptcy court. Accordingly, it [i]s within the bankruptcy court’s discretion to disallow the late proof of claim.” *In re Au Coton, Inc.* 171 B.R. 16, 17 (Bankr. S.D.N.Y. 1994).

“Chapter 11 provides for reorganization with the aim of rehabilitating the debtor and avoiding forfeitures by creditors. See United States v. Whiting Pools, Inc., 462 U. S. 198, 203 (1983). In overseeing this latter process, the bankruptcy courts are necessarily entrusted with broad equitable powers to balance the interests of the affected parties, guided by the overriding goal of ensuring the success of the reorganization. See NLRB v. Bildisco & Bildisco, 465 U. S. 513, 527-528 (1984). This context suggests that Rule 9006’s allowance for late filings due to “excusable neglect” entails a correspondingly equitable inquiry.” Pioneer Investment Services Co, *supra*, at p. 389.

13. It is respectfully submitted that there is a deep equitable concern based on the simple and tragic circumstances of this case that should excuse the procedural lapse herein as excusable neglect. As stated, were it not for the fact that the action was commenced after the bar date, the

proof of claim would have been timely filed. The fact that no other insurance is available to compensate the infant plaintiff for her injuries, and the fact that this case does in fact involve an infant, will, I pray, allow this court to find that equitable principles of fairness and justice, as realized through compassion for the infant herein, will allow the late filing of this claim

14. Based on the foregoing, it is respectfully requested that the Court grant the within motion pursuant to the Bankruptcy Court Rules 3002(c)(2), 3003(c)(1) and 9006(b)(1), and

A. allow for the late filing of the Proof of Claim in the form annexed as Exhibit "A"; or

B. treating the Proof of Claim as filed *nunc pro tunc* on or prior to March 30, 2006;

C. upon accepting Proof of Claim as timely filed, allowing entitlement to the distribution formula set out in the Debtors' First Amended Plan of organization dated June 5, 2007, as confirmed by this Court on July 27, 2007; and

D. that the Court grant such other and further relief as deemed just and equitable.

Dated: September 8, 2017
Garden City, NY 11530



Harry Organek, Esq.

EXHIBIT A

Fill in this information to identify the case:

Debtor 1 St. Vincent's Catholic Medical Centers of New York

Debtor 2
(Spouse, if filing)

United States Bankruptcy Court for the: Southern District of New York

Case number 05-14945 (CGM)

Official Form 410

Proof of Claim

12/15

Read the instructions before filling out this form. This form is for making a claim for payment in a bankruptcy case. Do not use this form to make a request for payment of an administrative expense. Make such a request according to 11 U.S.C. § 503.

Filers must leave out or redact information that is entitled to privacy on this form or on any attached documents. Attach redacted copies of any documents that support the claim, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, judgments, mortgages, and security agreements. **Do not send original documents;** they may be destroyed after scanning. If the documents are not available, explain in an attachment.

A person who files a fraudulent claim could be fined up to \$500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157, and 3571.

Fill in all the information about the claim as of the date the case was filed. That date is on the notice of bankruptcy (Form 309) that you received.

Part 1: Identify the Claim

1. **Who is the current creditor?**

Paola Rojas, an infant, by her mother and natural guardian, Micaela Lopez,

Name of the current creditor (the person or entity to be paid for this claim)

Other names the creditor used with the debtor

2. **Has this claim been acquired from someone else?**

☒ No

☐ Yes. From whom?

3. **Where should notices and payments to the creditor be sent?**

Federal Rule of Bankruptcy Procedure (FRBP) 2002(g)

Where should notices to the creditor be sent?

Harry Organeke, Esq.

Name

1225 Franklin Avenue, Suite 325

Number Street

Garden City

NY

11530

City

State

ZIP Code

Contact phone 516.869.8200

Contact email harry.organeke@gmail.com

Where should payments to the creditor be sent? (if different)

Name

Number Street

City

State

ZIP Code

Contact phone

Contact email

Uniform claim identifier for electronic payments in chapter 13 (if you use one):

4. **Does this claim amend one already filed?**

☒ No

☐ Yes. Claim number on court claims registry (if known)

Filed on MM / DD / YYYY

5. **Do you know if anyone else has filed a proof of claim for this claim?**

☒ No

☐ Yes. Who made the earlier filing?

Part 2: Give Information About the Claim as of the Date the Case Was Filed

6. Do you have any number you use to identify the debtor? ☒ No
☐ Yes. Last 4 digits of the debtor's account or any number you use to identify the debtor: _____

7. How much is the claim? \$ undetermined Does this amount include interest or other charges? ☒ No
This claim arises from an action in the Supreme Court, Kings County, Under Number 6241/09.
☐ Yes. Attach statement itemizing interest, fees, expenses, or other charges required by Bankruptcy Rule 3001(c)(2)(A).

8. What is the basis of the claim? Examples: Goods sold, money loaned, lease, services performed, personal injury or wrongful death, or credit card.
Attach redacted copies of any documents supporting the claim required by Bankruptcy Rule 3001(c).
Limit disclosing information that is entitled to privacy, such as health care information.
personal injury, medical malpractice

9. Is all or part of the claim secured? ☒ No
☐ Yes. The claim is secured by a lien on property.
Nature of property:
☐ Real estate. If the claim is secured by the debtor's principal residence, file a *Mortgage Proof of Claim Attachment* (Official Form 410-A) with this *Proof of Claim*.
☐ Motor vehicle
☐ Other. Describe: _____
Basis for perfection: _____
Attach redacted copies of documents, if any, that show evidence of perfection of a security interest (for example, a mortgage, lien, certificate of title, financing statement, or other document that shows the lien has been filed or recorded.)
Value of property: \$ _____
Amount of the claim that is secured: \$ _____
Amount of the claim that is unsecured: \$ _____ (The sum of the secured and unsecured amounts should match the amount in line 7.)
Amount necessary to cure any default as of the date of the petition: \$ _____
Annual Interest Rate (when case was filed) _____ %
☐ Fixed
☐ Variable

10. Is this claim based on a lease? ☒ No
☐ Yes. Amount necessary to cure any default as of the date of the petition. \$ _____

11. Is this claim subject to a right of setoff? ☒ No
☐ Yes. Identify the property: _____

12. Is all or part of the claim entitled to priority under 11 U.S.C. § 507(a)?

☒ No

☐ Yes. Check one:

☐ Domestic support obligations (including alimony and child support) under 11 U.S.C. § 507(a)(1)(A) or (a)(1)(B).

☐ Up to \$2,775* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use. 11 U.S.C. § 507(a)(7).

☐ Wages, salaries, or commissions (up to \$12,475*) earned within 180 days before the bankruptcy petition is filed or the debtor's business ends, whichever is earlier. 11 U.S.C. § 507(a)(4).

☐ Taxes or penalties owed to governmental units. 11 U.S.C. § 507(a)(8).

☐ Contributions to an employee benefit plan. 11 U.S.C. § 507(a)(5).

☐ Other. Specify subsection of 11 U.S.C. § 507(a)() that applies.

Amount entitled to priority

\$ _____

\$ _____

\$ _____

\$ _____

\$ _____

\$ _____

* Amounts are subject to adjustment on 4/01/16 and every 3 years after that for cases begun on or after the date of adjustment.

Part 3: Sign Below

The person completing this proof of claim must sign and date it. FRBP 9011(b).

If you file this claim electronically, FRBP 5005(a)(2) authorizes courts to establish local rules specifying what a signature is.

A person who files a fraudulent claim could be fined up to \$500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157, and 3571.

Check the appropriate box:

☐ I am the creditor.

☒ I am the creditor's attorney or authorized agent.

☐ I am the trustee, or the debtor, or their authorized agent. Bankruptcy Rule 3004.

☐ I am a guarantor, surety, endorser, or other codebtor. Bankruptcy Rule 3005.

I understand that an authorized signature on this *Proof of Claim* serves as an acknowledgment that when calculating the amount of the claim, the creditor gave the debtor credit for any payments received toward the debt.

I have examined the information in this *Proof of Claim* and have a reasonable belief that the information is true and correct.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on date 09 05 2017
MM / DD / YYYY

Signature

Print the name of the person who is completing and signing this claim:

Name Harry Organek, Esq.
First name Middle name Last name

Title attorney for creditor

Company Law Office of Harry Organek
Identify the corporate servicer as the company if the authorized agent is a servicer.

Address 1225 Franklin Avenue, Suite 325
Number Street
Garden City NY 11530
City State ZIP Code

Contact phone 516.869.8200 Email harry.organek@gmail.com

EXHIBIT B

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS

PAOLA ROJAS, an infant, by her mother and natural
guardian, MICAELA LOPEZ,

Plaintiffs designate Kings
County as the place for trial.

Plaintiff,

-against-

SUMMONS

ST. MARY'S HOSPITAL OF BROOKLYN, a division of
CATHOLIC MEDICAL CENTER OF BROOKLYN &
QUEENS, INC., DR. ROBERT HOSTY, DR. VERLAINE
BRUNOT, DR. EMMANUEL BRUNOT,
DR. EUSTACE GEORGATOS, DR. ADORA ESPINA,
DR. "J" NWAJIDA and DR. 'J' TANDOR

INDEX #: 6241/09

The basis of venue is
defendant's principal
place of business.

Defendants.

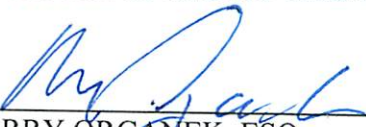
-
To the above named defendants:

YOU ARE HEREBY SUMMONED to answer the complaint in this action and to serve a
copy of your answer or, if the complaint is not served with 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 case of your failure to appear or answer, judgment will be
taken for the relief demanded herein.

A COPY OF THIS SUMMONS WAS FILED WITH THE CLERK OF THE COURT, KINGS
COUNTY ON MARCH 16, 2009 IN COMPLIANCE WITH CPLR SECTION 305(a) AND 306(a).

Dated: Garden City, New York
March 14, 2009

LAW OFFICE OF HARRY ORGANEK

By: 
HARRY ORGANEK, ESQ.
Attorney for Plaintiff
1225 Franklin Avenue
Suite 325
Garden City, NY 11530
(516) 869-8200

Defendants= Addresses:

ST. MARY'S HOSPITAL OF BROOKLYN, a division of CATHOLIC MEDICAL CENTER OF
BROOKLYN & QUEENS, INC. 170 Buffalo Avenue, Brooklyn, NY 11213

DR. ROBERT HOSTY, 1452 Flatbush Avenue, Brooklyn, NY 11210

DR. VERLAINE BRUNOT, 3009 Glenwood Road Brooklyn NY 11210

DR. EMMANUEL BRUNOT, 5520 Glenwood Rd, Suite 3 B, Brooklyn, NY 11234

DR. EUSTACE GEORGATOS, 25922 149th Road, Rosedale, NY 11422

DR. ADORA ESPINA, 455 Franklin Avenue, Brooklyn New York

DR. "J" NWAJIDA, c/o ST. MARY'S HOSPITAL OF BROOKLYN, 170 Buffalo Avenue,
Brooklyn, NY 11213

DR. 'J' TANDOR c/o ST. MARY'S HOSPITAL OF BROOKLYN, 170 Buffalo Avenue, Brooklyn,
NY 11213

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS

PAOLA ROJAS, an infant, by her mother and natural
guardian, MICAELA LOPEZ,

INDEX #: 6241/09

Plaintiff,

-against-

VERIFIED COMPLAINT

ST. MARY'S HOSPITAL OF BROOKLYN, a division of
CATHOLIC MEDICAL CENTER OF BROOKLYN &
QUEENS, INC., DR. ROBERT HOSTY, DR. VERLAINE
BRUNOT, DR. EMMANUEL BRUNOT, DR. EUSTACE
GEORGATOS, DR. ADORA ESPINA,
DR. "J" NWAJIDA and DR. 'J' TANDOR

Defendants.

Plaintiff, above named, complaining of the above named defendants, by her attorney,
HARRY ORGANEK, ESQ., respectfully alleges:

AS AND FOR A FIRST CAUSE OF ACTION
BASED ON NEGLIGENCE

1. At the time of the commencement of this action, plaintiff, MICAELA LOPEZ, is
a resident of the County of Kings, State of New York and resides within the County of Kings
with her infant daughter, PAOLA ROJAS.

2. At all times herein mentioned, defendant ST. MARY'S HOSPITAL OF BROOKLYN,
a division of CATHOLIC MEDICAL CENTER OF BROOKLYN & QUEENS, INC., was the
owner of a hospital known as ST. MARY'S HOSPITAL OF BROOKLYN located at 170 Buffalo
Avenue, Brooklyn, New York 11213.

3. On March 15, 1999, the infant plaintiff, PAOLA ROJAS, was born at defendant ST.
MARY'S HOSPITAL OF BROOKLYN.

4. At all times herein mentioned, defendant DR. ROBERT HOSTY was a physician duly
licensed to practice medicine in the State of New York.

5. On March 15, 1999, following the delivery of the infant plaintiff, the infant plaintiff

was a patient of defendant DR. ROBERT HOSTY.

6. At all times herein mentioned, defendant DR. VERLAINE BRUNOT was a physician duly licensed to practice medicine in the State of New York.

7. On March 15, 1999, following the delivery of the infant plaintiff, the infant plaintiff was a patient of defendant DR. VERLAINE BRUNOT.

8. At all times herein mentioned, defendant DR. EMMANUEL BRUNOT was a physician duly licensed to practice medicine in the State of New York.

9. On March 15, 1999, following the delivery of the infant plaintiff, the infant plaintiff was a patient of defendant DR. EMMANUEL BRUNOT.

10. At all times herein mentioned, defendant DR. EUSTACE GEORGATOS was a physician duly licensed to practice medicine in the State of New York.

11. On March 15, 1999, following the delivery of the infant plaintiff, the infant plaintiff was a patient of defendant DR. EUSTACE GEORGATOS.

12. At all times herein mentioned, defendant DR. ADORA ESPINA was a physician duly licensed to practice medicine in the State of New York.

13. On March 15, 1999, following the delivery of the infant plaintiff, the infant plaintiff was a patient of defendant DR. ADORA ESPINA.

14. At all times herein mentioned, defendant DR. "J" NWAJIDA was a physician duly licensed to practice medicine in the State of New York.

15. On March 15, 1999, following the delivery of the infant plaintiff, the infant plaintiff was a patient of defendant DR. "J" NWAJIDA.

16. At all times herein mentioned, defendant DR. 'J' TANDOR was a resident physician employed by defendant ST. MARY'S HOSPITAL OF BROOKLYN.

15. On March 15, 1999, following the delivery of the infant plaintiff, the infant plaintiff was a patient of defendant DR. 'J' TANDOR.

16. On March 15, 1999, during the process of transfer of the infant plaintiff from the Delivery Room, DR. ROBERT HOSTY came into contact with the infant plaintiff.

17. On March 15, 1999, during the process of transfer of the infant plaintiff from the Delivery Room, DR. VERLAINE BRUNOT came into contact with the infant plaintiff.

18. On March 15, 1999, during the process of transfer of the infant plaintiff from the Delivery Room, DR. EMMANUEL BRUNOT came into contact with the infant plaintiff.

19. On March 15, 1999, during the process of transfer of the infant plaintiff from the Delivery Room, DR. EUSTACE GEORGATOS came into contact with the infant plaintiff.

20. On March 15, 1999, during the process of transfer of the infant plaintiff from the Delivery Room, DR. ADORA ESPINA came into contact with the infant plaintiff.

21. On March 15, 1999, during the process of transfer of the infant plaintiff from the Delivery Room, DR. "J" NWAJIDA came into contact with the infant plaintiff.

22. On March 15, 1999, during the process of transfer of the infant plaintiff from the Delivery Room, DR. 'J' TANDOR came into contact with the infant plaintiff.

23. At all times herein mentioned, defendant ST. MARY'S HOSPITAL OF BROOKLYN, a division of CATHOLIC MEDICAL CENTER OF BROOKLYN & QUEENS, INC. operated, managed and controlled the aforesaid hospital.

24. At all times herein mentioned, all of the physicians, nurses and other personnel involved in the diagnosis, care and treatment of the infant plaintiff at defendant ST. MARY'S HOSPITAL OF BROOKLYN were agents, servants and/or employees of defendant ST. MARY'S HOSPITAL OF BROOKLYN.

25. At all times herein mentioned, defendant DR. ROBERT HOSTY was an agent, servant and/or employee of defendant ST. MARY'S HOSPITAL OF BROOKLYN.

26. At all times herein mentioned, defendant DR. VERLAINE BRUNOT was an agent, servant and/or employee of defendant ST. MARY'S HOSPITAL OF BROOKLYN.

27. At all times herein mentioned, defendant DR. EMMANUEL BRUNOT was an agent, servant and/or employee of defendant ST. MARY'S HOSPITAL OF BROOKLYN.

28. At all times herein mentioned, defendant DR. EUSTACE GEORGATOS was an agent, servant and/or employee of defendant ST. MARY'S HOSPITAL OF BROOKLYN.

29. At all times herein mentioned, defendant DR. ADORA ESPINA was an agent, servant and/or employee of defendant ST. MARY'S HOSPITAL OF BROOKLYN.

30. At all times herein mentioned, defendant DR. "J" NWAJIDA was an agent, servant and/or employee of defendant ST. MARY'S HOSPITAL OF BROOKLYN.

31. At all times herein mentioned, defendant DR. 'J' TANDOR was an agent, servant and/or employee of defendant ST. MARY'S HOSPITAL OF BROOKLYN.

32. Following the birth of the infant plaintiff, PAOLA ROJAS, in the Delivery Room of defendant ST. MARY'S HOSPITAL OF BROOKLYN, the infant plaintiff was in the process of being transferred from the Delivery Room when she was dropped and caused to fall to the ground.

33. The act of dropping the newborn infant to the ground was the result of the gross negligence and reckless conduct of the defendants, their agents, servants and/or employees, and particularly those defendants involved in the act of transporting the infant plaintiff following her birth or who had the responsibility for the transport of the infant plaintiff following her birth; in failing to take all necessary precautions to avoid such an occurrence; in failing to be alert and cautious in holding the newborn infant; in negligently transferring the infant from one person to another with the physical care and protection and ultimate concern for the infant's safety which is required of any person performing this act. Defendants are liable for this occurrence under the doctrine of *res ipsa loquitur*.

34. By reason of the foregoing, the infant plaintiff sustained very severe and permanent personal injuries, including brain damage; and the infant plaintiff has been permanently and

substantially deprived of her natural capacities and of the enjoyment of her life; and the infant plaintiff will suffer severe economic loss as a result thereof; and other damages.

35. The amount of damages sought exceeds the jurisdiction of all lower courts which would otherwise have jurisdiction.

36. This action falls within the exceptions to Article 16 of the New York Civil Practice Law and Rules.

AS AND FOR A SECOND CAUSE OF ACTION
BASED ON MEDICAL MALPRACTICE

37. Plaintiff realleges each and every allegation contained in those paragraphs of the complaint marked 1 through 36 inclusive, with the same force and effect as if hereinafter set forth at length.

38. The actions of the defendants in causing the infant plaintiff to fall to the floor were due to the professional negligence, carelessness, recklessness of the defendants, their agents, servants and/or employees; in failing to provide good, accepted and proper medical treatment to the infant plaintiff following her birth.

39. The amount of damages sought exceeds the jurisdiction of all lower courts which would otherwise have jurisdiction.

AS AND FOR A THIRD CAUSE OF ACTION
AS TO DEFENDANT ST. MARY'S HOSPITAL OF BROOKLYN,
a division of CATHOLIC MEDICAL CENTER OF BROOKLYN & QUEENS, INC.

40.

Plaintiffs repeat, reiterate and reallege each and every allegation contained in those paragraphs of the complaint marked 1 through 40 inclusive, with the same force and effect as if hereinafter set forth at length.

41. Defendant ST. MARY'S HOSPITAL OF BROOKLYN prior to the granting or renewing of privileges or employment of defendants, residents, nurses and other involved in the care of the infant plaintiff failed to investigate the qualifications, competence, capacity, abilities

and capabilities of said defendants, residents, nurses and other employees, including but not limited to obtaining the following information: patient grievances, negative health care outcomes, incidents, injuries to patients, medical malpractice actions commenced against said persons, including the outcome thereof, any history of association, privilege and/or practice at other institutions, any discontinuation of said association, employment privilege and/or practice at said institution, and any pending professional misconduct proceeding in this State or another State, the substance of the allegations in such proceedings and any additional information concerning such proceedings and defendant hospital failed to make sufficient inquiry of the physician, nurse and/or employees and institutions which should and did have information relevant to the capacity capability, ability and competence of said persons rendering treatment.

42. Had the defendant ST. MARY'S HOSPITAL OF BROOKLYN made the above stated inquiry or in the alternative had defendant hospital reviewed and analyzed the information obtained in a proper manner, privileges and/or employment would not have been granted and/or renewed.

43. By reason of the defendant=s failure to meet the aforementioned obligation, the infant plaintiff was treated by physicians, nurses and/or other employees who were lacking the requisite skills, abilities, competence and capacity, as a result of which the infant plaintiff sustained severe injuries.

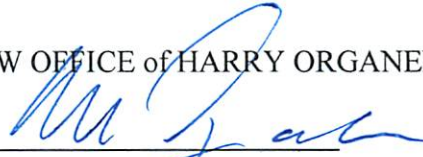
44. The amount of damages sought exceeds the jurisdiction of all lower courts which would otherwise have jurisdiction.

WHEREFORE, plaintiff demands judgment against the defendants in such sum as a jury would find fair, adequate and just.

Dated: Garden City, New York
March 14, 2009

Yours, etc.

LAW OFFICE of HARRY ORGANEK



By: Harry Organek, Esq.
Attorney for Plaintiff
1225 Franklin Avenue
Suite 325
Garden City, NY 11530

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS

PAOLA ROJAS, an Infant, By Her Mother And Natural Guardian,
MICAELA LOPEZ,

Plaintiff,

-against-

**CERTIFICATE
OF MERIT**

ST. MARY'S HOSPITAL OF BROOKLYN,
a division of CATHOLIC MEDICAL CENTER OF BROOKLYN
& QUEENS, INC., DR. ROBERT HOSTY, DR. VERLAINE BRUNOT,
DR. EMMANUEL BRUNOT, DR. EUSTACE GEORGATOS,
DR. ADORA ESPINA, DR. "J" NWAJIDA and DR. 'J' TANDOR

Defendants.

I, **HARRY ORGANEK, ESQ.**, do hereby certify that I have reviewed the facts of this case and have consulted with at least one physician who is licensed to practice in the State of New York and who I reasonably believe is knowledgeable in the relevant issues involved in this particular action and that I have concluded on the basis of that review and consultation that there is a reasonable basis for the commencement of this action.



Harry Organek, Esq.
Attorney for Plaintiff
1225 Franklin Avenue
Suite 325
Garden City, NY 11530

ATTORNEY=S VERIFICATION

HARRY ORGANEK, ESQ., an attorney duly admitted to practice law in the Courts of the State of New York hereby affirms the truth of the following statements, subject to the penalties of perjury:

I am the attorney of record for the plaintiff in the within action; I have read the foregoing COMPLAINT and know the contents thereof. The contents of this document are true to my knowledge, except as to the matters alleged to be upon information and belief, and as to those matters I believe the information which is alleged to be true. The reason that this verification is made by the undersigned and not by the plaintiff is based upon the fact that plaintiff does not reside in the County in which your affiant maintains his office and place of business.

The grounds of my belief as to the matters alleged herein are based upon conversations with the client and upon the records, documents and investigative materials maintained in your affiant=s possession.

Dated: Garden City, New York
March 14, 2009



Harry Organek, Esq.

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS

PAOLA ROJAS, an infant, by her mother and natural guardian, MICAELA LOPEZ,

Plaintiff,

-against-

ST. MARY'S HOSPITAL OF BROOKLYN, a division of CATHOLIC MEDICAL CENTER
OF BROOKLYN & QUEENS, INC., DR. ROBERT HOSTY, DR. VERLAINE BRUNOT,
DR. EMMANUEL BRUNOT, DR. EUSTACE GEORGATOS, DR. ADORA ESPINA,
DR. "J" NWAJIDA and DR. 'J' TANDOR

Defendants.

SUMMONS AND VERIFIED COMPLAINT

LAW OFFICE of HARRY ORGANEK

Attorney for Plaintiff

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Garden City, NY 11530

Telephone No.: (516) 869-8200

Telefax No.: (516) 977-1220

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

-----X

In re:

ST. VINCENTS CATHOLIC MEDICAL

CENTERS OF NEW YORK, d/b/a

SAINT VINCENT CATHOLIC MEDICAL CENTERS, *et al.*

Debtors.

-----X

**NOTICE OF MOTION
FOR LEAVE TO FILE A LATE PROOF OF CLAIM**

LAW OFFICE of HARRY ORGANEK
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