SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF QUEENS

NAYIT BENAVIDES, Plaintiff, -against- SEBASTIAN LATTUGA, M.D. and NEW YORK SPINE SPECIALISTS, LLP, Defendants.	Index No.: Date Purchased: **SUMMONS**

Plaintiff designates QUEENS COUNTY as the place for trial. The basis for venue is plaintiff's residence.

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, to serve a Notice of Appearance, on the Plaintiff's attorney within twenty (20) days after the service of this Summons, 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); 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
June 16, 2015

William Pagan, Esq.
THE PAGAN LAW FIRM, P.C.
Attorneys for Plaintiffs
805 Third Avenue, Suite 1205
New York, New York 10022
Phone: (212) 967-8202

To:

Sebastian Lattuga, M.D.
2001 Marcus Avenue, Suite 170 West
Lake Success, New York 11042

New York Spine Specialist, LLP
2001 Marcus Avenue, Suite 170 West
Lake Success, New York 11042

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF QUEENS

NAYIT BENAVIDES, Plaintiff, -against- SEBASTIAN LATTUGA, M.D. and NEW YORK SPINE SPECIALISTS, LLP, Defendants.	Index No.: Date Purchased: **VERIFIED COMPLAINT**

Plaintiff, by her attorneys, THE PAGAN LAW FIRM, P.C., complaining of the defendants herein, respectfully alleges upon information and belief as follows:

AS AND FOR A FIRST CAUSE OF ACTION

1. That at all times mentioned herein, plaintiff, NAYIT BENAVIDES, was and still is a resident of the County of Queens, City and State of New York, residing at 120-07 85th Avenue, Apt. 6I, Kew Gardens, New York 11415.

2. That at all times mentioned herein, upon information and belief, defendant, SEBASTIAN LATTUGA, M.D., was and is a physician licensed to practice medicine in the State of New York, represented himself to be so licensed, and engaged in the practice of his profession in the State of New York.

3. That at all times mentioned herein, upon information and belief, defendant NEW YORK SPINE SPECIALISTS, LLP, was and now is a partnership duly organized and existing under the laws of the State of New York and held itself out to be a medical care provider with an owner, chief executive officer and/or principal physician, SEBASTIAN LATTUGA, M.D., who represented himself at all times as licensed to practice medicine in the State of New York, represented himself to be so licensed, and engaged in the practice of his profession in the State of New York at his place of business in New York located at at 2001 Marcus Avenue, Suite 170 West Lake Success, New York.

4. That at all times mentioned, herein, upon information and belief, defendant SEBASTIAN LATTUGA, M.D., is a physician, agent, servant, employee and/or independent contractor of defendant, NEW YORK SPINE SPECIALISTS, LLP.

5. That at all times mentioned, herein, upon information and belief, defendant SEBASTIAN LATTUGA, M.D., was employed, authorized, retained and permitted by defendant, NEW YORK SPINE SPECIALISTS, LLP, to render emergency services, surgical services and/or all other medical services and treatments and perform all necessary functions pertaining to and regularly followed in the care and treatment of patients of said defendant NEW YORK SPINE SPECIALISTS, LLP.

6. That at all times mentioned herein defendants, their physicians, agents, servants, residents, surgeons, employees and/or independent contractor(s) represented themselves to be competent to perform and render all medical services, surgery, services, treatments, medications, examinations and tests that were to be rendered to plaintiff, NAYIT BENAVIDES.

7. That at all times mentioned herein defendants for consideration held themselves capable to render competent and adequate medical care, surgical services, medical services and treatments by physicians, emergency medical units and departments, medical services, nursing services, and in general all necessary services and treatments to give proper, adequate and competent medical care, treatment, advice, consent, and attention to members of the general public, and more particularly, the plaintiff, NAYIT BENAVIDES, and further held themselves out to such individuals as having necessary personnel, equipment, supplies and facilities to perform the same.

8. That at all times mentioned herein, from on or about June 7, 2011 through December 20, 2014, upon information and belief, plaintiff, NAYIT BENAVIDES, presented herself to defendants and provided a medical history and information regarding her signs and

symptoms and complaints, to the physicians, agents, residents, servants, surgeons, associates, partners, employees and/or independent contractors.

9. That plaintiff was seen, examined, treated, diagnosed, surgically treated and prescribed medication, diagnostic tests, and therapies by all defendants from on or about June 7, 2011 through December 20, 2014 and for a period therebefore and thereafter at defendant, NEW YORK SPINE SPECIALISTS, LLP, and their offices.

10. That from on or about June 7, 2011 through December 20, 2014 and for a period therebefore and thereafter defendants, their physicians, agents, nurses, residents, surgeons, employees and/or independent contractors were negligent in failing to follow good and accepted medical practices and procedures including; in failing to follow standard and accepted medical and surgical practices and procedures; in failing to render proper and adequate surgical care and treatment in accordance with standard and accepted medical and surgical practices and procedures; in failing to properly obtain informed consent; in failing to adequately provide plaintiff with sufficient information as to the available alternatives; in failing to make an understandable disclosure to plaintiff of the risks associated with her lumbar spine surgery and lack thereof; in failing to properly perform lumbar spine surgery; in failing to timely and properly perform surgical procedures; in failing to take intra-operative and post-operative measurements and/or failing to measure correctly; in failing to use pre-operative, intra-operative templates and/or in improperly using templates; in failing to timely and properly diagnose plaintiff's condition; in causing nerve damage and sequelae thereof; in failing to timely and properly diagnose plaintiff's condition; in failing to timely and properly order and/or perform and/or interpret diagnostic tests; in failing to properly document the medical chart; in failing to timely and properly treat plaintiff's condition; in failing to timely and properly obtain consultations; in failing to timely and properly diagnose plaintiff's post-operative complaints; in failing to timely and properly treat plaintiff's post-operative complaints; in failing to follow and

adhere to the rules, regulations, protocols, guidelines and/or procedures which were in existence at the time of the subject admission and the standard of care in the medical community; in failing to prepare and keep proper, adequate and accurate hospital records; and was otherwise negligent and committed malpractice.

11. That as a result of defendants', their physicians, agents, servants, residents, surgeons, employees and/or independent contractors, departures from good and accepted medical care and practice as aforesaid hereinabove, and without any negligence on the part of plaintiff contributing thereto, plaintiff was caused to sustain severe and permanent personal and emotional injuries and economic damages.

12. That by reason of the foregoing departures, plaintiff has sustained damages in excess of the jurisdictional limits of all lower Courts which would otherwise have jurisdiction over the defendants herein.

AS AND FOR A SECOND CAUSE OF ACTION

13. Plaintiff, NAYIT BENAVIDES, repeats, reiterates and realleges each and every allegation of the complaint set forth in paragraphs "1" through "12" with the same force effect as though said allegations were herein fully set forth at length.

14. That at all times mentioned herein, defendants, their physicians, agents, servants, residents, nurses, employees and/or independent contractors failed and omitted to make an understandable disclosure to plaintiff, NAYIT BENAVIDES, of the risks associated with his treatment and/or lack thereof.

15. That if the plaintiff was adequately informed of the risks, dangers, and/or alternatives, involved in her treatment, then and there existing to the knowledge of defendants, their physicians, agents, servants, residents, surgeons, employees and/or independent contractors, she would have not undergone said surgery/treatment and/or lack thereof.

16. That a reasonably prudent patient in the same position would not have undergone the treatment if he or she had been fully informed.

17. That the above described negligent commission and/or failure and omission by the defendants to obtain a proper informed consent from plaintiff lead to various unauthorized procedures and that as such, defendants, their physicians, agents, servants, residents, nurses, employees and/or independent contractors are responsible for the entire flow of damages and injuries following said procedures.

18. That as a result of the foregoing lack of informed consent, plaintiff has sustained damages in excess of the jurisdictional limits of all lower courts, which would otherwise have jurisdiction over the defendants herein.

WHEREFORE, plaintiff, demands judgment against the defendants, on the First and Second causes of action, in a monetary award and damages which exceed the jurisdictional limits of all lower Courts which would otherwise have jurisdiction over the defendants herein, together with the costs and disbursements of this action.

Dated: New York, New York
June 16, 2015

Yours etc.,

William Pagan, Esq.
Attorneys for Plaintiffs
805 Third Avenue, Suite 1205
New York, New York 10022
Phone: (212) 967-8202

VERIFICATION

I, the undersigned, am an attorney admitted to practice in the Courts of the State New York, I am a partner of The Pagan Law Firm, P.C., the attorneys of record for the plaintiff in the within action; I have read the foregoing Verified Complaint and know the contents thereof; the same is true to my knowledge, except as to the matters therein stated to be alleged on information and belief, and as to those matters, I believe to be true. The reason this verification is made by me and not by the plaintiff is that deponent maintains offices outside the Court in which the plaintiff resides.

The grounds of my belief as to all matters not stated upon my knowledge, are as follows; entire file maintained in your affirmant's office; investigations, etc.

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

Dated: New York, New York
June 16, 2015

William Pagan, Esq.

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

NAYIT BENAVIDES, Plaintiff, -against- SEBASTIAN LATTUGA, M.D. and NEW YORK SPINE SPECIALIST, LLP, Defendants.	Index No.: Date Purchased: **CERTIFICATE OF MERIT**

WILLIAM PAGAN, an attorney duly admitted to practice law in the courts of the State of New York, and a partner of the law firm of THE PAGAN LAW FIRM, P.C., attorneys for the plaintiff in this action, affirms, under the penalties of perjury, that the following statement, pursuant to CPLR 2106, is true:

Your affirmant has reviewed the facts in this action, and has consulted with a physician licensed to practice medicine in the State of New York, whom your affirmant reasonably believes is knowledgeable in the relevant issues involved in this action. Based on said review and consultation, your affirmant has concluded that there is a reasonable basis for the commencement of this action.

Affirmed on: June 16, 2015

WILLIAM PAGAN

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF QUEENS

NAYIT BENAVIDES, Plaintiff, -against- SEBASTIAN LATTUGA, M.D. and NEW YORK SPINE SPECIALIST, LLP, Defendants.	Index No.: Date Purchased:

SUMMONS AND VERIFIED COMPLAINT

THE PAGAN LAW FIRM, P.C.
Attorneys for Plaintiffs
805 Third Avenue, Suite 1205
New York, New York 10022
212-967-8202

To:

Pursuant to 22 NYCRR 130-1.1, the undersigned, an attorney admitted to practice in the courts of the State of New York, certifies that, upon information and belief and reasonable inquiry, the contentions contained in the annexed document are not frivolous.

Dated: 6.16.15

Signature: _____

Print Signer's Name: WILLIAM PAGAN