EXHIBIT D

STATE OF NEW YORK
COUNTY OF NASSAU

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CARLA KARLEN,

Plaintiff,

-against-

ALEXANDRE DE MOURA, MD. AND
NEW YORK SPINE INSTITUTE,

Defendants.

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Index No. 000342/2021

AMENDED COMPLAINT

Plaintiff Carla Karlen ("Plaintiff"), as and for her Complaint, alleges as follows:

1. Plaintiff resides in Connecticut and New York.
2. Defendant Alexandre De Moura ("De Moura") is a physician licensed to practice medicine in New York State.
3. De Moura represents himself as a Board Certified Spinal Surgeon.
4. Upon information and belief, De Moura is a Board Certified Spinal Surgeon.
5. Defendant New York Spine Institute ("Spine") is, upon information and belief, either a Corporation or partnership created under New York State law or the name under which De Moura conducts his medical practice.
6. Spine conducts business in several locations in New York.
7. Upon information and belief, De Moura is employed by Spine.
8. Upon information and belief, De Moura is Spine's principal shareholder.
9. Through its website and marketing materials and personal interviews, Spine and De Moura advertise themselves to the general public as experts in spine care and treatment.
10. Plaintiff had suffered injuries in an automobile accident prior to meeting DeMoura.

11. Prior to meeting De Moura, Plaintiff had researched De Moura and Spine.

12. Based upon the representations contained in Spine's website and marketing materials, Plaintiff made an appointment to see De Moura at Spine's Manhattan office on Park Avenue.

13. On the day of the appointment, Plaintiff went to Defendants' Manhattan office, where she waited to see De Moura for approximately one hour, after which De Moura walked by her in his waiting room and left the office.

14. Thereafter, Plaintiff's husband called Spine's office in Westbury and explained what had occurred.

15. Plaintiff and her husband then drove to Spine's Westbury office to meet with De Moura.

16. When she arrived, Plaintiff received an MRI and x-rays of her neck and spine.

17. De Moura then examined Plaintiff, reviewed those images and informed her that:

    a. The images revealed spinal damage in the areas of C4/C5 vertebrae;

    b. The spinal damage was significant and would only be corrected via spinal fusion surgery;

    c. Without the surgery, Plaintiff would continue to experience pain and suffering arising from the spinal damage;

    d. The proposed surgery would relieve and remediate the pain resulting from the spinal damage.

18. De Moura informed Plaintiff that he regularly performed spinal fusion surgery with excellent results for his patients, and this was his area of medical expertise.

19. He also stated that the spinal fusion would cause minimal loss of motion in the neck, approximately 7% of the back and forth range of motion, and that she would notice no discernable difference in her normal every day activities after the surgery.

20. During the examination and consultation, Plaintiff stated to De Moura that she experienced a condition known as Keloid whereby her skin formed severely thick scarring when cut or incised during surgery.

21. Plaintiff also stated that she needed to employ a plastic surgeon knowledgeable in black skin and keloid avoidance techniques to minimize and prevent scarring.

22. De Moura stated that he had trained in special plastic surgery and keloid avoidance techniques that he regularly performed such techniques when dealing with black skin and that a plastic surgeon would not be required.

23. Thereafter, Plaintiff agreed to the surgery.

24. Prior to July 28, 2017, Plaintiff was examined again by De Moura, and had x-rays, MRI's, scans, etc. performed by Spine.

AS AND FOR A FIRST CAUSE OF ACTION

25. Plaintiff repeats and reaffirms all allegations contained in paragraphs 1-24 above.

26. Defendants De Moura and Spine failed to follow all required steps and duty of care attendant to spinal fusion surgery by a Board Certified spinal surgeon.

27. On July 28, 2019, Defendants scheduled numerous spinal surgeries on a back to back basis, and Plaintiff was De Moura's final surgical patient of the day.

28. De Moura rushed through Plaintiff's spinal fusion surgery, taking 44 minutes rather than a medically normal amount of time for the surgery.

29. De Moura failed to remove all or parts of the disk between C4 and C5, and proceeded to attempt spinal fusion despite such failure.

30. Defendants failed to adhere to medical norms and sound medical practice in Plaintiff's spinal fusion surgery.

31. These acts constitute medical error and medical malpractice.

32. As a result,. Plaintiff's C4/C5 vertebrae failed to fuse.

33. As a result of the failure of fusion, Plaintiff suffers from chronic pain and discomfort throughout her neck, her back and in various areas of her body.

34. As a result of the surgery, Plaintiff's pain throughout her body is now worse and more incapacitating than prior thereto.

35. Plaintiff's pain is irreversible and will continue throughout her life.

36. As a result of Defendants' medical errors and medical malpractice, Plaintiff has been damaged in ways that cannot be remedied.

37. Plaintiff seeks damages in the amount of $10,000,000 arising from Defendants' medical error and malpractice and the pain and suffering caused thereby.

AS AND FOR A SECOND CAUSE OF ACTION

38. Plaintiff repeats and reaffirms all allegations contained in paragraphs 1-37 above.

39. One element of the spinal fusion surgery performed by Defendants was the insertion of a titanium plate and titanium screws into the C4 and C5 vertebrae.

40. Upon information and belief, the titanium plate is utilized in spinal fusion surgery to stabilize the vertebrae undergoing fusion.

41. In order to aid in the fusion, the titanium, plate must be set correctly, within established medical norms.

42. Defendants failed to set the titanium plate correctly in Plaintiff's spine, within those established medical norms.

43. These errors contributed to the failure of the spinal fusion, and significant levels of pain and suffering experienced by Plaintiff throughout each day and night.

44. These errors have created a permanent condition of pain and suffering that Plaintiff must endure for the rest of her life.

45. As a result of the surgery, Plaintiff's pain throughout her body is now worse and more incapacitating than pre-surgery.

46. As a result of Defendant's medical errors and medical malpractice, Plaintiff has been damaged in ways that cannot be adequately remedied.

47. Plaintiff seeks damages in the amount of $10,000,000 arising from Defendants' medical error and malpractice and the pain and suffering caused thereby.

AS AND FOR A THIRD CAUSE OF ACTION

48. Plaintiff repeats and reaffirms all allegations contained in paragraphs 1-47 above.

49. Prior to the surgery, Plaintiff had advised Defendants that her skin would keloid at the point of incision and that, in order to avoid unsightly and disfiguring scaring, her incision needed to be closed by a plastic surgeon who deals with black skin and keloids.

50. Defendants claimed that they knew special technique for closing black skin and avoiding keloids, and that no plastic surgeons would be needed.

51. Defendants proposed to use such techniques on Plaintiff upon completion of the spinal surgery.

52. Defendants failed to utilize such techniques, or any plastic surgery techniques at all.

53. Rather, Defendants applied no stitching or other medical closing procedure to the incision upon the front of Plaintiff's neck, thus allowing a disfiguring scar to form.

54. Defendants failed to adhere to medical norms and sound medical practice in their treatment of Plaintiff.

55. As a result of defendants' actions, Plaintiff is now disfigured and bears a scar on the front of her neck that is plainly visible to all who look at her.

56. As a result of the disfiguring scar, Plaintiff has suffered depression, emotional upset and loss of confidence in how she appears to others.

57. Defendants deliberately failed to seek the assistance of a plastic surgeon, or to utilize plastic surgery techniques despite the foreknowledge of Plaintiff's keloid condition.

58. Defendants acted with gross negligence and willful and wanton intent to harm Plaintiff.

59. As a result of Defendants' gross negligence and willful and wanton behavior, Plaintiff has been damaged in ways that cannot be adequately remedied.

60. Plaintiff seeks damages in the amount of $10,000,000 arising from Defendants' gross negligence and willful and wanton intent to harm Plaintiff and the pain and suffering caused thereby.

AS AND FOR A FOURTH CAUSE OF ACTION

61. Plaintiff repeats and reaffirms all allegations contained in paragraphs 1-60 above.

62. Minutes before Plaintiff was wheeled into surgery, Defendants informed her that removal of bone marrow was required.

63. Without adequate prior discussion and without providing Plaintiff with any meaningful information, Defendants extracted bone marrow from Plaintiff's right hip during surgery.

64. Defendants damaged Plaintiff's hip, causing:

a. frequent pain, swelling and discomfort not only in the hip but throughout her right leg;

b. Recurring bruising and at the site of the bone marrow extraction.

65. This condition is frequently debilitating and did not exist prior to the surgery.

66. Defendants failed to adhere to medical norms and sound medical practice in their treatment of Plaintiff.

67. Defendants have committed medical error in the manner of removing bone marrow, thus causing ongoing pain and hip deterioration.

68. Defendants ignored their duty to inform Plaintiff about their intended actions regarding bone marrow extraction, thereby violating her rights to informed consent.

69. As a result of Defendants' medical errors and medical malpractice, Plaintiff has been damaged in ways that cannot be adequately remedied.

70. Plaintiff seeks damages in the amount of $10,000,000 arising from Defendant's failure to adhere to medical norms, their failure to provide Plaintiff with informed consent as to the bone marrow extraction and the long term pain and suffering caused thereby.

AS AND FOR A FIFTH CAUSE OF ACTION

71. Plaintiff repeats and reaffirms all allegations contained in paragraphs 1-70 above.

72. Due to Defendants' actions, Plaintiff has suffered emotional trauma that has severely impacted her life.

73. Since Defendants' surgical intercession, Plaintiff has been unable to engage in everyday social discourse of her daily life prior to the surgery.

74. As a result of Defendants' actions, Plaintiff is unable to travel even short distances from her home without substantial and debilitating pain.

75. As a result, Plaintiff has been limited in her ability to leave her home, further exacerbating the emotional trauma referred to above.

76. Plaintiff's family has been negatively affected by her difficulties as well.

77. Plaintiff cannot be adequately compensated for her inability to travel, the sense of being trapped at home and pain and suffering caused by her current medical condition.

78. Plaintiff seeks damages in the amount of $10,000,000 arising from Defendant's medical error and malpractice, the pain and suffering caused thereby and the sense of isolation being unable to travel.

AS AND FOR A SIXTH CAUSE OF ACTION

79. Plaintiff repeats and reaffirms all allegations contained in paragraphs 1-78 above.

80. Defendants engaged in acts, as medical professionals, upon a helpless woman who had entrusted her body and well-being to them.

81. With deliberate intent and racial animus, Defendants caused Plaintiff harm by grossly, negligently, willfully and wantonly failing to properly perform the spinal fusion surgery in a competent manner.

82. Defendants exhibited such public racial animus by referring to Plaintiff as "the slave who married the slave master and rules the plantation."

83. Not only were such statements slanderous, but they caused others in whose care Plaintiff was entrusted to view Plaintiff in a negative light, and thereby affecting the quality of her treatment and care.

84. Plaintiff seeks damages in the amount of $10,000,000 arising from Defendants' gross negligence and willful and wanton medical error and malpractice and the pain and suffering caused thereby.

AS AND FOR A SEVENTH CAUSE OF ACTION

85. Plaintiff repeats and reaffirms all allegations contained in paragraphs 1-88 above.

86. Upon information and belief, Defendants engaged in actions that were designed to harm Plaintiff after the spinal fusion surgery occurred.

87. Defendants communicated with other physicians and medical offices negative and false information about Plaintiff that obstructed her ability to receive subsequent medical care.

88. These actions prevented Plaintiff from receiving follow up orthopedic and other medical evaluations, care and treatment.

89. There is no adequate remedy for Defendants' actions and their impact upon Plaintiff's life.

90. Plaintiff seeks damages in the amount of $10,000,000 arising from Defendants' communications with other medical service providers and their efforts to prevent Plaintiff from receiving medical treatment or evaluation.

WHEREFORE, Plaintiff seeks judgment against Defendants:

a. In the amount of $10,000,000 based upon the First Cause of Action;

b. In the amount of $10,000,000 based upon the Second Cause of Action;

c. In the amount of $10,000,000 based upon the Third Cause of Action;

d. In the amount of $10,000,000 based upon the Fourth Cause of Action;

e. In the amount of $10,000,000 based upon the Fifth Cause of Action;

f. In the amount of $10,000,000 based upon the Sixth Cause of Action;