

DMD/mg 33-118

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF QUEENS-----
LUIGI NAPOLITANO,-----X
Index No. 700321/2022

Plaintiff,

VERIFIED ANSWER

-against-

ROBERT L. WIGHTON, M.D., SULMAN
MAHMOOD, D.O., JOSEPH DEMONTE, PCA,
MADELINE FILS-ALME, R.N., CAROL CURRY,
R.N., KARYN CARLSON, R.N. and NORTH SHORE
UNIVERSITY HOSPITAL-NORTHWELL HEALTH,

Defendants.

-----X

Defendant, MADELINE FILS-AIME, R.N. s/h/a MADELINE FILS-ALME, by her attorneys, WAGNER, DOMAN, LETO & DI LEO, P.C. answering the complaint of the plaintiff herein, upon information and belief:

1. Denies each and every allegation contained in paragraph designated "1" in the form alleged but admits ROBERT WIGHTON, M.D. was a physician duly licensed to practice medicine in the State of New York.
2. Denies each and every allegation contained in paragraph designated "10" in the form alleged but admits SULMAN MAHOOD, M.D. was a physician duly licensed to practice medicine in the State of New York.
3. Denies any knowledge or information thereof sufficient to form a belief as to the allegations contained in paragraphs designated "2", "3", "4", "5", "6", "7", "8", "11", "12", "13", "14", "15", "16", "17", "19", "20", "21", "22", "23", "24", "25", "26", "28", "29", "30", "31", "32", "33", "34", "35", "38", "39", "40", "41", "42", "43", "44", "47", "48", "49", "50", "51",

"52", "53", "55", "56", "57", "58", "59", "60", "61", "62", "63", "64", "65", "66", "67", "68", "69", "70", "71", "72", "73", "74", "75", "76", "77", "78", "79", "80", "81", "82", "83", "84", "85", "86", "87", "88", "89", "90", "91", "92", "93", "108", "109", "110", "111", "118", "119", "120", "121", "122", "123", "124", "125" and "126" in the form alleged.

4. Denies each and every allegation contained in paragraphs designated "9", "18", "27", "36", "45", "54", "94", "95", "96", "97", "98", "99", "100", "101", "102", "103", "104", "105", "106", "112", "113", "114", "115", "116", "127", "129", "130", "140", "142", "143", "144" and "145".

5. Answering paragraph "107", defendant repeats, reiterates, and realleges above denials for paragraphs designated "1" through "106".

6. Answering paragraph "117", defendant repeats, reiterates, and realleges above denials for paragraphs designated "1" through "116".

7. Answering paragraph "128", defendant repeats, reiterates, and realleges above denials for paragraphs designated "1" through "127".

8. Answering paragraph "141", defendant repeats, reiterates, and realleges above denials for paragraphs designated "1" through "140".

9. Defendant, MADELINE FILS-AIME, R.N. s/h/a MADELINE FILS-ALME, demands that the liability, if any, be apportioned.

AS AND FOR A FIRST, SEPARATE AND COMPLETE
AFFIRMATIVE DEFENSE TO THE CAUSES OF ACTION IN THE
COMPLAINT, ANSWERING DEFENDANT ALLEGES UPON
INFORMATION AND BELIEF:

10. The alleged cause of action sounding in medical malpractice is barred by the statute of limitations in that the plaintiff failed to bring this action within two and one-half (2-1/2) years as set forth in Section 214-a of the CPLR.

AS AND FOR A SECOND, SEPARATE AND COMPLETE AFFIRMATIVE DEFENSE TO THE CAUSES OF ACTION IN THE COMPLAINT, ANSWERING DEFENDANT ALLEGES UPON INFORMATION AND BELIEF:

11. The cause of action in informed consent alleging a negligent failure to obtain same is barred in that the plaintiff has failed to bring the action within the two and one-half (2-1/2) years set forth in Section 214-a of the CPLR, and the decision of Murriello v. Crappotta, 51 A.D. 2nd 381.

AS AND FOR A THIRD, SEPARATE AND COMPLETE AFFIRMATIVE DEFENSE TO THE CAUSES OF ACTION IN THE COMPLAINT, ANSWERING DEFENDANT ALLEGES UPON INFORMATION AND BELIEF:

12. It is alleged upon information and belief that the cause of action asserted by the plaintiff concerning the receipt by the defendant of an informed consent falls within the scope of Section 2805(d) of the Public Health Law, such law having been fully complied with by the defendant, thus barring the assertion of this cause of action.

AS AND FOR A FOURTH, SEPARATE AND COMPLETE AFFIRMATIVE DEFENSE TO THE CAUSES OF ACTION IN THE COMPLAINT, ANSWERING DEFENDANT ALLEGES UPON INFORMATION AND BELIEF:

13. The alleged cause of action asserted by the plaintiff in paragraphs "1" through "145" fails to state a cause of action in that they do not contain any allegations of injury to the plaintiff for which the answering defendant can be held liable.

AS AND FOR A FIFTH, SEPARATE AND COMPLETE AFFIRMATIVE DEFENSE TO THE CAUSES OF ACTION IN THE COMPLAINT, ANSWERING DEFENDANT ALLEGES UPON INFORMATION AND BELIEF:

14. Upon information and belief, any damages sustained by the plaintiff was/were caused in whole or in part by the culpable conduct of the plaintiff and/or damages were aggravated by the culpable conduct of the plaintiff.

AS AND FOR A SIXTH, SEPARATE AND COMPLETE AFFIRMATIVE DEFENSE TO THE CAUSES OF ACTION IN THE COMPLAINT, ANSWERING DEFENDANT ALLEGES UPON INFORMATION AND BELIEF:

15. Defendant will rely upon the provision of Article 16 of the CPLR with regard to the limitation of joint and several liability.

AS AND FOR A SEVENTH, SEPARATE AND COMPLETE AFFIRMATIVE DEFENSE TO THE CAUSES OF ACTION IN THE COMPLAINT, ANSWERING DEFENDANT ALLEGES UPON INFORMATION AND BELIEF:

16. Any award to plaintiff for the cost of medical care, custodial care or rehabilitation services, loss of earnings or other economic loss should be reduced by the amount such expense has been or will be replaced or indemnified in whole or in part from any collateral source in accordance with the provisions and limitations set forth in CPLR § 4545.

AS AND FOR AN EIGHTH, SEPARATE AND COMPLETE AFFIRMATIVE DEFENSE TO THE CAUSES OF ACTION IN THE COMPLAINT, ANSWERING DEFENDANT ALLEGES UPON INFORMATION AND BELIEF:

17. Answering defendant will rely upon the New York General Obligations Law § 15-108, and is thereby entitled to a set-off of damages based on any prior settlements regarding the injuries alleged in this lawsuit.

AS AND FOR A NINTH, SEPARATE AND COMPLETE AFFIRMATIVE DEFENSE TO THE CAUSES OF ACTION IN THE COMPLAINT, ANSWERING DEFENDANT ALLEGES UPON INFORMATION AND BELIEF:

18. Upon information and belief, the plaintiff failed to mitigate his or her damages.

AS AND FOR A TENTH, SEPARATE AND COMPLETE AFFIRMATIVE DEFENSE TO THE CAUSES OF ACTION IN THE COMPLAINT, ANSWERING DEFENDANT ALLEGES UPON INFORMATION AND BELIEF:

19. Answering defendant exercised all care reasonably necessary to prevent and limit the deprivation and injury for which liability is alleged herein by plaintiff.

AS AND FOR AN ELEVENTH, SEPARATE AND COMPLETE AFFIRMATIVE DEFENSE TO THE CAUSES OF ACTION IN THE COMPLAINT, ANSWERING DEFENDANT ALLEGES UPON INFORMATION AND BELIEF:

20. That pursuant to the "Coronavirus Aid, Relief, and Economic Security Act" signed into law on March 27, 2020, MADELINE FILS-AIME, R.N. s/h/a MADELINE FILS-ALME is immune from any cause of action arising under the Federal or State law for any harm caused by an act or omission of the professional in the provision of health care services during the COVID-19 public health emergency.

AS AND FOR A TWELFTH, SEPARATE AND COMPLETE AFFIRMATIVE DEFENSE TO THE CAUSES OF ACTION IN THE COMPLAINT, ANSWERING DEFENDANT ALLEGES UPON INFORMATION AND BELIEF:

21. That this matter is barred pursuant to the applicable provisions of New York Emergency or Disaster Treatment Act, Art. 30-D, N.Y. Public Health Law, §§3080-82, as enacted on April 3, 2020, New York Executive Order 202.10, and any and all related Executive Orders issued by the Governor of the State of New York.

AS AND FOR A THIRTEENTH, SEPARATE AND COMPLETE AFFIRMATIVE DEFENSE TO THE CAUSES OF ACTION IN THE COMPLAINT, ANSWERING DEFENDANT ALLEGES UPON INFORMATION AND BELIEF:

22. That this matter is barred pursuant to the applicable provisions of the Public Readiness and Emergency Preparedness Act.

AS AND FOR A FOURTEENTH, SEPARATE AND COMPLETE AFFIRMATIVE DEFENSE TO THE CAUSES OF ACTION IN THE COMPLAINT, ANSWERING DEFENDANT ALLEGES UPON INFORMATION AND BELIEF:

23. That at all times, MADELINE FILS-AIME, R.N. s/h/a MADELINE FILS-ALME acted within the scope of the crisis standards of care, as well as the standards of care in place in the locality in question at the time of the COVID-19 emergency.

WHEREFORE, defendant, MADELINE FILS-AIME, R.N. s/h/a MADELINE FILS-ALME, demands judgment dismissing the complaint herein together with interest, costs, disbursements, or judgment over, as may be required by law.

Dated: January 27, 2022
Mineola, New York

Yours, etc.,

WAGNER, DOMAN, LETO & DI LEO, P.C.



By: _____

DIANA M. D'ALESSIO DI LEO
Attorneys for Defendant
MADELINE FILS-AIME, R.N. s/h/a
MADELINE FILS-ALME
227 Mineola Boulevard
Mineola, NY 11501
(516) 742-1444

TO:

BURNS & HARRIS
Attorneys for Plaintiff
233 Broadway, Suite 900
New York, NY 10279
(212) 393-1000
File No. 207081

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF QUEENS

-----X
LUIGI NAPOLITANO,

Index No. 700321/2022

Plaintiff,

DEMAND FOR VERIFIED
BILL OF PARTICULARS

-against-

ROBERT L. WIGHTON, M.D., SULMAN
MAHMOOD, D.O., JOSEPH DEMONTE, PCA,
MADELINE FILS-ALME, R.N., CAROL CURRY,
R.N., KARYN CARLSON, R.N. and NORTH SHORE
UNIVERSITY HOSPITAL-NORTHWELL HEALTH,

Defendants.

-----X

COUNSELORS:

PLEASE TAKE NOTICE that pursuant to Section 3041, Rules 3042 and 3043, and Section 3044 of the Civil Practice Law and Rules, you are hereby required to serve a verified bill of particulars upon the undersigned within twenty (20) days after the receipt of this demand.

In the event of your failure to comply with this demand for a verified bill of particulars within that time, motion will be made for an order precluding you from offering any evidence on the causes of action alleged in the complaint concerning the following items:

1. The dates and times of day of the alleged negligent acts and/or omissions which will be alleged and claimed against the answering defendant herein.
2. The exact location of the alleged negligent acts and/or omissions charged against the answering defendant herein.

3. A statement of each and every act of negligence or omission, which constituted the alleged malpractice complained of with the date of each if different from the dates in Paragraph 1.

4. State the names of each and every person who performed such acts or failed to act; if the names are not known, describe the physical appearances with sufficient clarity for ready identification.

5. State the occupation of each such person.

6. A statement of the accepted medical practices, customs and medical standards, which it is claimed were violated in each of the above acts or omissions.

7. State whether or not any claim is made as to improper, unavailable or defective equipment, and if so, identify the equipment and state the defective conditions.

8. State what laws of the State of New York were allegedly violated by the answering defendant herein as to:

(a) The performance of the operation;

(b) The parts of the body operated upon; and

(c) Any other procedure or treatment performed by the answering

defendants herein.

9. List any operation, procedure or therapy which is claimed to be improper.

10. Describe the manner of the alleged impropriety referred to in Item 9.

11. State:

(a) The injuries the plaintiff suffered as the result of the alleged negligence and/or malpractice of each defendant responsible. State which injuries are claimed to be permanent.

12. State the dates the plaintiff was confined to each of the following:

- (a) bed;
- (b) house;
- (c) hospital, with names and addresses.

13. State separately the total amounts claimed by the plaintiff as special damages for each of the following:

- (a) physicians' services;
- (b) nurses' services,
- (c) medical expenses;
- (d) hospital expenses, with the names and address of all hospitals;
- (e) loss of earnings;
- (f) any other expenses.

14. State the

- (a) occupation of the plaintiff
- (b) name and address of plaintiff's employer; if self-employed, state the address of plaintiff's place of employment and the type of business or occupation in which plaintiff was engaged immediately prior to the occurrence;
- (c) The length of time plaintiff was unable to attend to plaintiff's employment, with dates;
- (d) The amount of money plaintiff was alleged to have earned during the year prior to the occurrence;
- (e) The amount of earnings the plaintiff was alleged to have lost as a result of the occurrence.;

15. State the date of plaintiff's birth.

16. State residence address of plaintiff.

17. A. If wrongful death is claimed:

(a) State the date of birth and date of death of the decedent.

(b) State the decedent's domicile at death;

(c) State cause of death of the decedent;

B. If wrongful death is claimed with respect to pecuniary loss sustained by the next of kin as a result of the death of decedent, state:

(a) The names and addresses of the next of kin who received financial support from the deceased at the time of plaintiff's death.

(b) The specific amount received by each of the next of kin from the deceased during the five-year period immediately prior to plaintiff's death.

18. If a claim is made regarding lack of information or disclosure, set forth:

(a) A summary of the information given to the plaintiff;

(b) A summary of the information which should have been given to the plaintiff;

(c) A summary of all the information in possession of plaintiff from whatever source obtained;

(d) A description of any alternative treatment which plaintiff would have chosen, with the basis therefor;

(e) Whether plaintiff consented to any treatment whatsoever and describe extent of consent and any restrictions or limitations.

19. List the names and addresses of all hospitals and physicians that treated plaintiff during plaintiff's entire life.

20. Set forth any statutory violations that will be claimed, with proper citations thereof.

21. Set forth all amounts which have been received from collateral sources and identify the source thereof.

Dated: January 27, 2022
Mineola, New York

Yours, etc.,

WAGNER, DOMAN, LETO & DI LEO, P.C.



By: _____

DIANA M. D'ALESSIO DI LEO
Attorneys for Defendant
MADELINE FILS-AIME, R.N. s/h/a
MADELINE FILS-ALME
227 Mineola Boulevard
Mineola, NY 11501
(516) 742-1444

TO:

BURNS & HARRIS
Attorneys for Plaintiff
233 Broadway, Suite 900
New York, NY 10279
(212) 393-1000
File No. 207081

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF QUEENS

-----X
LUIGI NAPOLITANO,

Index No. 700321/2022

Plaintiff,

-against-

ROBERT L. WIGHTON, M.D., SULMAN
MAHMOOD, D.O., JOSEPH DEMONTE, PCA,
MADELINE FILS-ALME, R.N., CAROL CURRY,
R.N., KARYN CARLSON, R.N. and NORTH SHORE
UNIVERSITY HOSPITAL-NORTHWELL HEALTH,

Defendants.

NOTICE TO
TAKE DEPOSITION
UPON ORAL
EXAMINATION

COUNSELORS:

PLEASE TAKE NOTICE that pursuant to Article 31 of the Civil Practice Law and Rules that the testimony upon oral examination of plaintiff, as an adverse party, will be taken before a notary public who is not an attorney, or employee of an attorney for any party or prospective party herein and is not a person who would be disqualified to act as a juror because of interest or because of consanguinity or affinity to any party herein, at the office of the undersigned on the 28th day of March, 2022 at 10:00 in the forenoon of that day with respect to evidence material and necessary in the prosecution/defense of this action.

Said person to be examined is required to produce at such examination any and all books, papers, records, photographs, documents, etc., relating to the within action.

Dated: January 27, 2022
Mineola, New York

Yours, etc.,

WAGNER, DOMAN, LETO & DI LEO, P.C.



By: _____

DIANA M. D'ALESSIO DI LEO

Attorneys for Defendant
MADELINE FILS-AIME, R.N. s/h/a
MADELINE FILS-ALME
227 Mineola Boulevard
Mineola, NY 11501
(516) 742-1444

TO:

BURNS & HARRIS
Attorneys for Plaintiff
233 Broadway, Suite 900
New York, NY 10279
(212) 393-1000
File No. 207081

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF QUEENS

-----X
LUIGI NAPOLITANO,

Index No. 700321/2022

Plaintiff,

NOTICE TO PRODUCE
EXPERT WITNESS
INFORMATION

-against-

ROBERT L. WIGHTON, M.D., SULMAN
MAHMOOD, D.O., JOSEPH DEMONTE, PCA,
MADELINE FILS-ALME, R.N., CAROL CURRY,
R.N., KARYN CARLSON, R.N. and NORTH SHORE
UNIVERSITY HOSPITAL-NORTHWELL HEALTH,

Defendants.

-----X

COUNSELORS:

PLEASE TAKE NOTICE, that pursuant to CPLR 3101(d), the plaintiff is hereby required to produce the following at the office of the undersigned:

1. State the name and address of every expert retained or employed by you in anticipation of this litigation or preparation for trial whom you expect to call as a witness at the trial.
2. Disclose in reasonable detail the qualifications of each expert witness. In a medical malpractice case include the following:
 - a. in the case of a board-certified expert, the name of the certifying board and the year of certification;
 - b. the states in which the expert is licensed;
 - c. the title of any text authored, contributed to, or edited by, the expert, together with an appropriate citation (by name of publication, volume number, date, or other appropriate identifying matter);
 - d. the undergraduate school attended by such expert, with year of graduation;

e. the medical school attended by such expert, with the year of graduation; and

f. the institutions attended by the expert in connection with any internship, residency, fellowship, or other specialized training, and the dates of such attendance.

3. Disclose in reasonable detail the subject matter on which each expert is expected to testify.

4. Disclose in reasonable detail the substance of the facts and opinions on which each expert is expected to testify.

5. Disclose in reasonable detail a summary of the grounds for each expert's opinion.

PLEASE TAKE FURTHER NOTICE, that this demand is a continuing demand for information regarding experts retained by you for trial. Failure to comply with this notice in a timely manner shall be grounds for an order precluding you from offering the testimony at trial of any expert witness whose name and expected testimony is not disclosed, striking the complaint, dismissing the action and/or such other and further relief as the Court deems just under the circumstances.

Dated: January 27, 2022
Mineola, New York

Yours, etc.,

WAGNER, DOMAN, LETO & DI LEO, P.C.



By: _____

DIANA M. D'ALESSIO DI LEO

Attorneys for Defendant

MADELINE FILS-AIME, R.N. s/h/a

MADELINE FILS-ALME

227 Mineola Boulevard

Mineola, NY 11501

(516) 742-1444

TO:

BURNS & HARRIS
Attorneys for Plaintiff
233 Broadway, Suite 900
New York, NY 10279
(212) 393-1000
File No. 207081

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF QUEENS

-----X
LUIGI NAPOLITANO,

Index No. 700321/2022

Plaintiff,

DEMAND FOR SOCIAL
MEDIA INFORMATION

-against-

ROBERT L. WIGHTON, M.D., SULMAN
MAHMOOD, D.O., JOSEPH DEMONTE, PCA,
MADELIN FILS-ALME, R.N., CAROL CURRY,
R.N., KARYN CARLSON, R.N. and NORTH SHORE
UNIVERSITY HOSPITAL-NORTHWELL HEALTH,

Defendants.

-----X

COUNSELORS:

PLEASE TAKE NOTICE, that pursuant to CPLR Section 3120, you are hereby required to forward to WAGNER, DOMAN, LETO & DI LEO, P.C., 227 Mineola Boulevard, Mineola, New York 11501, attorneys for defendant, MADELINE FILS-AIME, R.N. s/h/a MADELINE FILS-ALME within twenty (20) days, duly executed and acknowledged written authorizations to obtain full access to and copies of all of plaintiff's current and historical Facebook, Twitter, MySpace, Instagram and Linkedin accounts for the period of one (1) year prior to the day of loss, in this matter to the present. (See *Romano v. Steelcase, Inc.*, 30 Misc.3d 426 [Sup. Ct Suffolk County 2010]; *Servilli v. Westchester*, Index No. 19051/2007, Decision 12/21/2010 [Sup. Ct. Westchester County 2010]).

1. Authorizations shall permit the release and complete copies of said accounts including but not limited to: all records, information, photographs, videos, comments, messages and posting on Facebook, Twitter, MySpace, Instagram and Linkedin accounts.

2. Authorizations shall include the name, username, screen name and e-mail account used in creating each and every Facebook, Twitter, MySpace, Instagram and LinkedIn accounts.

3. The authorizations shall allow access to the requested records and shall be directed to the following:

LinkedIn Corporation, Attention: Legal Department, 2029 Stierlin Court, Mountain View, CA 94040;

Facebook, Attention: Security Department, 1601 South California Avenue, Palo Alto, CA 94304;

Twitter, Inc. c/o Trust & Safety, 795 Folsom Street, Suite 600, San Francisco, CA 94107;

MySpace, 2021 Avenue of the Start, Suite 700, Los Angeles, CA 90067;

Instagram LLC, 1601 Willow Road, Menlo Park, CA 94025.

(Authorizations must specify the user ID for the account, the password associated with the account, the user's zip code, and the date of birth.)

In lieu of producing said items at the office of the undersigned, said authorizations may be submitted by mail to the undersigned before the return date of the within Notice.

If plaintiff was not a registered user of Facebook, Twitter, MySpace, Instagram and LinkedIn during the requested time period, defendants demand a statement from plaintiff(s), under oath, to that effect.

PLEASE TAKE FURTHER NOTICE, that your failure to comply with this demand within a reasonable amount of time or to move on a timely basis for a protective order will result in a motion being made to compel your compliance.

Dated: January 27, 2022
Mineola, New York

Yours, etc.,

WAGNER, DOMAN, LETO & DI LEO, P.C.



By: _____

DIANA M. D'ALESSIO DI LEO

Attorneys for Defendant

MADELINE FILS-AIME, R.N. s/h/a

MADELINE FILS-ALME

227 Mineola Boulevard

Mineola, NY 11501

(516) 742-1444

TO:

BURNS & HARRIS
Attorneys for Plaintiff
233 Broadway, Suite 900
New York, NY 10279
(212) 393-1000
File No. 207081

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF QUEENS

-----X
LUIGI NAPOLITANO,

Index No. 700321/2022

Plaintiff,

DEMAND FOR
COLLATERAL SOURCE
INFORMATION
PURSUANT TO
CPLR 4545(a)

-against-

ROBERT L. WIGHTON, M.D., SULMAN
MAHMOOD, D.O., JOSEPH DEMONTE, PCA,
MADELINE FILS-ALME, R.N., CAROL CURRY,
R.N., KARYN CARLSON, R.N. and NORTH SHORE
UNIVERSITY HOSPITAL-NORTHWELL HEALTH,

Defendants.

-----X
COUNSELORS:

PLEASE TAKE NOTICE, that pursuant to CPLR 4545(a) the defendant demands within twenty (20) days from the date hereof plaintiff serve a verified statement setting forth:

1. Whether plaintiff has been reimbursed or indemnified for economic loss claimed in this action from any collateral source:
 - a. If the answer to the foregoing is in the affirmative, state for which of such claims plaintiff has received payment, the amount thereof, and the name and address of the person, firm, or organization who made such payment;
 - b. If such payment was made by an insurance company, state the number of the policy under which it was paid.
2. Whether plaintiff has made a claim for payment for economic loss which has not as yet been paid:

a. If the answer to the foregoing is in the affirmative, state the name of the person, firm or organization to whom such claim was presented, or the date of presentation, and the amount claimed.

b. If such claim was presented to an insurance company, state the number of the policy under which same was made.

FAILURE TO COMPLY with the within demand will be the basis for a motion seeking appropriate relief.

Dated: January 27, 2022
Mineola, New York

Yours, etc.,

WAGNER, DOMAN, LETO & DI LEO, P.C.



By: _____
DIANA M. D'ALESSIO DI LEO
Attorneys for Defendant
MADELINE FILS-AIME, R.N. s/h/a
MADELINE FILS-ALME
227 Mineola Boulevard
Mineola, NY 11501
(516) 742-1444

TO:

BURNS & HARRIS
Attorneys for Plaintiff
233 Broadway, Suite 900
New York, NY 10279
(212) 393-1000
File No. 207081

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF QUEENS

-----X
LUIGI NAPOLITANO,

Index No. 700321/2022

Plaintiff,

NOTICE FOR DISCOVERY
AND INSPECTION OF
DOCUMENTS

-against-

ROBERT L. WIGHTON, M.D., SULMAN
MAHMOOD, D.O., JOSEPH DEMONTE, PCA,
MADELINE FILS-ALME, R.N., CAROL CURRY,
R.N., KARYN CARLSON, R.N. and NORTH SHORE
UNIVERSITY HOSPITAL-NORTHWELL HEALTH,

Defendants.

-----X

COUNSELORS:

PLEASE TAKE NOTICE, that pursuant to CPLR 3101(e), you are required to produce at the office of the undersigned attorneys within twenty (20) days from the date hereof the following documents for discovery and inspection:

1. All writings and/or documents made by this defendant, including but not limited to bills, records, reports, correspondence, notes, insurance forms, prescriptions, and any other memoranda in possession or control of plaintiff or plaintiff's representative and/or attorney.
2. Any and all written statements made by this defendant, and any and all transcripts, notes or other recordings of any and all oral statements made by this defendant.

PLEASE TAKE FURTHER NOTICE that this defendant will object to the introduction of any mentioned documents in evidence at trial if the plaintiff fails to comply with this notice.

Dated: January 27, 2022
Mineola, New York

Yours, etc.,

WAGNER, DOMAN, LETO & DI LEO, P.C.



By: _____

DIANA M. D'ALESSIO DI LEO

Attorneys for Defendant
MADELINE FILS-AIME, R.N. s/h/a
MADELINE FILS-ALME
227 Mineola Boulevard
Mineola, NY 11501
(516) 742-1444

TO:

BURNS & HARRIS
Attorneys for Plaintiff
233 Broadway, Suite 900
New York, NY 10279
(212) 393-1000
File No. 207081

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF QUEENS

-----X
LUIGI NAPOLITANO,

Index No. 700321/2022

Plaintiff,

NOTICE FOR DISCOVERY
AND INSPECTION

-against-

ROBERT L. WIGHTON, M.D., SULMAN
MAHMOOD, D.O., JOSEPH DEMONTE, PCA,
MADELINE FILS-ALME, R.N., CAROL CURRY,
R.N., KARYN CARLSON, R.N. and NORTH SHORE
UNIVERSITY HOSPITAL-NORTHWELL HEALTH,

Defendants.

-----X

COUNSELORS:

PLEASE TAKE NOTICE, that the undersigned attorneys demand that you furnish the following items within twenty (20) days of the service of this demand:

1. Pursuant to CPLR 3120 and the rules of this court governing the exchange of medical reports, you are required to serve upon and deliver to the undersigned, copies of all medical reports of those physicians who have treated or examined the party seeking recovery, including a detailed recital of the injuries and conditions complained of.

Further, you are to include duly executed and acknowledged written authorizations permitting the undersigned to obtain and make copies of all hospital and physician's records for those institutions and physicians that have treated the plaintiff. The authorizations must include:

- a. Full name and address of physician and/or hospital;
- b. Specialty of said physician;
- c. Dates of treatment;
- d. Plaintiff's full name and address;
- e. Identifying information necessary to acquire records;
 - i. hospital identification number;
- ii. Blue Cross/Blue Shield identifying number if different from Social Security number;
- iii. Social Security number;
- iv. date of birth;

- f. Full name and address of employer;
- g. Dates of employment;
- h. Full name and address of pharmacy;
- i. Prescription numbers.

j. **PLEASE NOTE:** If authorizations for both records and radiographic studies are demanded, separate authorizations are requested.

2. Pursuant to Rule 2103(e) of the CPLR, the names and addresses of each party appearing in this action for the purpose of service of papers.

3. Pursuant to Section 3101(e) of the CPLR, a copy of any statement given by or on behalf of any answering defendant serving this demand.

4. Name and address of any witness known to the plaintiff or plaintiff's attorney, including witnesses to admissions, notice, conversations or alleged damages. Specify the name and address of any witness to each of the following, including but not limited thereto:

- a. The occurrence alleged in the complaint;
- b. Any acts, omissions or conditions which allegedly caused the occurrence alleged in the complaint;
- c. Any actual notice allegedly given to the defendants answering herein of any condition which allegedly caused the occurrence alleged in the complaint;
- d. The nature and duration of any alleged condition which allegedly caused the occurrence alleged in the complaint;
- e. Any statement or admission made by defendant or defendant's agents, servants, or employees.
- f. The nature and duration of any alleged damage which allegedly arose from the occurrence alleged in the complaint.

5. The full caption of each and every lawsuit brought on plaintiff's behalf to recover damages for any connected or aggravated injuries allegedly caused and sustained by reason of the acts of one or more preceding joint, concurrent and/or succeeding tort feasors, including:

- a. Court;
- b. Index Number;
- c. Calendar Number;
- d. Names and addresses of all litigants;
- e. Names and addresses of all attorneys appearing for the litigants;
- f. Status of lawsuit--
 - i. if noticed for trial, please specify the date;
 - ii. if settled, annex a copy of each release delivered indicating the amounts contributed by each defendant;

- iii. if discontinued without payment, annex a copy of each stipulation so delivered to each defendant;
- iv. if tried, annex a copy of the judgment with notice of entry;
- v. if judgment was satisfied, set forth date and amount of payment and annex a copy of satisfaction and judgment.
6. Photographic prints of photographs, slides, moving pictures, videotapes or any other visual statements under the control of plaintiff, its agents or attorneys, still or moving which depict:
- a. the scene of the occurrence alleged in plaintiff's complaint;
 - b. the scene of the occurrence alleged in plaintiff's complaint immediately prior thereto;
 - c. the occurrence alleged in plaintiff's complaint;
 - d. the scene of the occurrence alleged in the plaintiff's complaint immediately thereafter.
 - e. any condition which allegedly caused or contributed to the occurrence alleged in plaintiff's complaint which plaintiff intends to use and introduce into evidence at the trial of this action.
7. Copies of any photographs, slides or other still picture of the plaintiff or plaintiff's physical condition that were taken and which plaintiff intends to introduce into evidence at the trial of this action. If photographs to be exchanged were taken by a regular camera or by digital means, then identify who took the photographs the plaintiff is relying on; where the photographs are digitally saved; when the photographs were taken; and whether all photographs were exchanged that were taken for the purpose of disclosure, if any photographs were deleted, re-cut, re-sized, enhanced, cropped, edited, filtered or digitally revised in any manner.
8. Copies of any films or videotapes taken which show plaintiff's condition which plaintiff intends to produce and enter into evidence at trial of this action. All films or videotapes taken or made shall be produced without any editing in addition to any edited version thereof.
9. The defendant demands to be notified at least 20 days in advance of any filming or videotaping or photographing of the plaintiff or plaintiff's condition taken by plaintiff or at plaintiff's direction or for plaintiff by others which is done to provide the jury in this action with a "Day in the Life" of the plaintiff or similar production depicting plaintiff's abilities. The defendant will object under the rules of this Court to any offer of such films, videotapes or photographs at the trial for the action if this demand is not met within the time period provided.

10. Copies of any scripts, including drafts thereof, and complete copies of only "voice-overs" without editing, for the inclusion in the above as audio enhancement.

11. The defendant demands to be present during any pre-production meeting, editing session, filming, videotaping or photographing, or post-production meeting or session involved in the preparation of any films, videotapes or still photographs taken in this matter.

12. The defendant demands the right to film, photograph or videotape the actual occurrences cited in numbers "7" and "11" above.

PLEASE TAKE FURTHER NOTICE that the within demand is a continuing demand. In the event any of the above items are obtained after service of this demand, they are to be furnished to this office.

FAILURE TO COMPLY with this demand will be the basis of a motion seeking appropriate relief.

Dated: January 27, 2022
Mineola, New York

Yours, etc.,

WAGNER, DOMAN, LETO & DI LEO, P.C.



By: _____

DIANA M. D'ALESSIO DI LEO
Attorneys for Defendant
MADELINE FILS-AIME, R.N. s/h/a
MADELINE FILS-ALME
227 Mineola Boulevard
Mineola, NY 11501
(516) 742-1444

TO:

BURNS & HARRIS
Attorneys for Plaintiff
233 Broadway, Suite 900
New York, NY 10279
(212) 393-1000
File No. 207081

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF QUEENS

-----x
LUIGI NAPOLITANO,

Index No. 700321/2022

Plaintiff,

NOTICE PURSUANT
TO CPLR §2103

-against-

ROBERT L. WIGHTON, M.D., SULMAN
MAHMOOD, D.O., JOSEPH DEMONTE, PCA,
MADELINE FILS-ALME, R.N., CAROL CURRY,
R.N., KARYN CARLSON, R.N. and NORTH SHORE
UNIVERSITY HOSPITAL-NORTHWELL HEALTH,

Defendants.

-----x

COUNSELORS:

PLEASE TAKE NOTICE that pursuant to CPLR §2103 the defendant herein declares that defendant will not accept the transmission by electronic means of any paper or document required to be served upon this firm without the specific permission of this firm for each and every document or paper so served.

Dated: January 27, 2022
Mineola, New York

Yours, etc.,

WAGNER, DOMAN, LETO & DI LEO, P.C.



By: _____

DIANA M. D'ALESSIO DI LEO
Attorneys for Defendant
MADELINE FILS-AIME, R.N. s/h/a
MADELINE FILS-ALME
227 Mineola Boulevard
Mineola, NY 11501
(516) 742-1444

TO:

BURNS & HARRIS
Attorneys for Plaintiff
233 Broadway, Suite 900
New York, NY 10279
(212) 393-1000
File No. 207081

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF QUEENS

-----X
LUIGI NAPOLITANO,

Index No. 700321/2022

Plaintiff,

DEMAND FOR
DISCLOSURE AS TO
MEDICAID/MEDICARE
LIEN

-against-

ROBERT L. WIGHTON, M.D., SULMAN
MAHMOOD, D.O., JOSEPH DEMONTE, PCA,
MADELINE FILS-ALME, R.N., CAROL CURRY,
R.N., KARYN CARLSON, R.N. and NORTH SHORE
UNIVERSITY HOSPITAL-NORTHWELL HEALTH,

Defendants.

-----X

C O U N S E L O R S:

PLEASE TAKE NOTICE, that pursuant to Article 31 of the Civil Practice law and Rules, the undersigned attorneys for defendant, hereby demand that you furnish to us within thirty (30) days of the service of this Notice the following:

1. A statement as to whether the plaintiff has received benefits from either Medicare or Medicaid at any time, for any reason, not limited to the injuries alleged in the instant action. If so, please state:

- a. plaintiff(s)' date of birth;
- b. the Medicare/Medicaid file number;
- c. the address of the office handling the plaintiff(s)' Medicare/Medicaid file;
- d. copies of all documents, records, memoranda, notes, etc., in plaintiff(s)' possession pertaining to plaintiff(s)' receipt of Medicare/Medicaid benefits; and
- e. a duly executed authorization bearing plaintiff(s)' date of birth permitting this firm and other representatives of defendant(s) to obtain copies of plaintiff(s)' Medicare/Medicaid records.

PLEASE TAKE NOTICE that, pursuant to CPLR, this is a continuing Demand and that you are required to serve the demanded information by the earliest of the following:

- a. within 30 days of the date of this Demand;
- b. within 20 days of receiving the above requested information;
- c. no later than 30 days prior to the commencement of trial.

If you do not possess the above requested information, a letter or affidavit to that effect should be submitted.

IF YOU FAIL TO COMPLY, we shall rely on all sanctions provided by law.

Dated: January 27, 2022
Mineola, New York

Yours, etc.,

WAGNER, DOMAN, LETO & DI LEO, P.C.



By: _____

DIANA M. D'ALESSIO DI LEO
Attorneys for Defendant
MADELINE FILS-AIME, R.N. s/h/a
MADELINE FILS-ALME
227 Mineola Boulevard
Mineola, NY 11501
(516) 742-1444

TO:

BURNS & HARRIS
Attorneys for Plaintiff
233 Broadway, Suite 900
New York, NY 10279
(212) 393-1000
File No. 207081

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF QUEENS

-----x
LUIGI NAPOLITANO,

Index No. 700321/2022

Plaintiff,

DEMAND FOR TRIAL
AUTHORIZATIONS

-against-

ROBERT L. WIGHTON, M.D., SULMAN
MAHMOOD, D.O., JOSEPH DEMONTE, PCA,
MADELINE FILS-ALME, R.N., CAROL CURRY,
R.N., KARYN CARLSON, R.N. and NORTH SHORE
UNIVERSITY HOSPITAL-NORTHWELL HEALTH,

Defendants.

-----x

C O U N S E L O R S:

PLEASE TAKE NOTICE, that, the below named attorneys demand that the plaintiff furnish the below named defendant with the following, at the time the Note of Issue is filed:

**HIPAA COMPLIANT AUTHORIZATIONS FOR ALL PROVIDERS
IDENTIFIED DURING DISCOVERY ENABLING THE DEFENDANT
TO SERVE SUBPOENAS FOR THE TRIAL OF THIS MATTER.**

Said authorizations are to contain full and proper names and addressed, together with any necessary identifying information, such as Social Security Number, and are to be HIPAA compliant to obtain the requisite records, films and billing records.

PLEASE TAKE FURTHER NOTICE that, failure to comply with the above demand will be the basis of a motion seeking appropriate relief, including, but not limited to dismissal of the complaint.

Dated: January 27, 2022
Mineola, New York

Yours, etc.,

WAGNER, DOMAN, LETO & DI LEO, P.C.



By: _____

DIANA M. D'ALESSIO DI LEO

Attorneys for Defendant

MADELINE FILS-AIME, R.N. s/h/a

MADELINE FILS-ALME

227 Mineola Boulevard

Mineola, NY 11501

(516) 742-1444

TO:

BURNS & HARRIS
Attorneys for Plaintiff
233 Broadway, Suite 900
New York, NY 10279
(212) 393-1000
File No. 207081

Index No. 700321/2022

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF QUEENS

LUIGI NAPOLITANO,

Plaintiff,

-against-

ROBERT L. WIGHTON, M.D., SULMAN MAHMOOD, D.O., JOSEPH DEMONTE, PCA,
MADELINE FILS-ALME, R.N., CAROL CURRY, R.N., KARYN CARLSON, R.N. and
NORTH SHORE UNIVERSITY HOSPITAL-NORTHWELL HEALTH,

Defendants.

VERIFIED ANSWER, DEMAND FOR BILL OF PARTICULARS, NOTICE FOR
DISCOVERY AND INSPECTION, COLLATERAL SOURCE DEMAND, WITNESS
DEMAND, DEMAND FOR SOCIAL MEDIA INFORMATION, DOCUMENT DEMAND,
NOTICE PURSUANT TO CPLR § 2103, NOTICE FOR DEPOSITION, DEMAND FOR
DISCLOSURE AS TO MEDICAID/MEDICARE LIEN and DEMAND FOR TRIAL
AUTHORIZATIONS

WAGNER, DOMAN, LETO & Di LEO, P.C.
ATTORNEYS AT LAW
Attorneys for Defendant

MADELINE FILS-AIME, R.N. s/h/a MADELINE FILS-ALME
227 Mineola Blvd.
MINEOLA, NEW YORK 11501
Telephone No. (516) 742-1444
Facsimile No. (516) 742-1204

TO:
Attorney(s) for

Service of a copy of the within is hereby
admitted

Dated:

Attorney(s)

PLEASE TAKE NOTICE

that the within is a (certified) true copy of a
Notice of Entry entered in the office of the clerk of the within named court on

that an Order of which the within is a true copy will be presented for settlement to the Hon.
One of the judges of the within named Court, at
On _____ at _____ M.

