

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NASSAU

Index No.:
Date Purchased:

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WILLIAM FREELY,

Plaintiff,

Plaintiff designates Nassau County as the place of venue. The basis of venue is defendants' address.

-against-

SUMMONS

ERIC D. DONNENFELD, M.D., and OPHTHALMIC
CONSULTANTS OF LONG ISLAND,

Defendants' office is located at 2000 North Avenue, Suite 402, Rockville Centre, New York.


Defendants.

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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 20 days after the service of 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 against you by default for relief demanded in the complaint.

Dated: Chappaqua, New York
July 12, 2013

LAW OFFICE OF TODD J. KROUNER


By: TODD J. KROUNER
Attorneys for Plaintiff
93 North Greeley Avenue
Chappaqua, New York 10514
(914) 238-5800

Defendants' Address:

To: Eric D. Donnenfeld, M.D.
Ryan Medical Arts Building
2000 North Village Avenue, Suite 402
Rockville Centre, NY 11570

Ophthalmic Consultants of Long Island
Ryan Medical Arts Building
2000 North Village Avenue, Suite 402
Rockville Centre, NY 11570

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NASSAU

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WILLIAM FREELY,

Plaintiff,

-against-

ERIC D. DONNENFELD, M.D., and OPHTHALMIC
CONSULTANTS OF LONG ISLAND,

Defendants.

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Index No. _____

**VERIFIED
COMPLAINT**

Plaintiff, as and for his Verified Complaint, by his attorneys, LAW OFFICE OF TODD J.
KROUNER, respectfully alleges, upon information and belief, as follows:

**AS AND FOR A FIRST CAUSE OF ACTION
ON BEHALF OF PLAINTIFF WILLIAM
FREELY FOR MEDICAL MALPRACTICE**

1. Plaintiff WILLIAM FREELY, resides at 161 Liberty Street, Deer Park, New York 11729.
2. Defendant ERIC D. DONNENFELD, M.D. ("DR. DONNENFELD"), was and is a physician, duly licensed to practice medicine in the State of New York, and represented himself to the public as a skilled and trained physician duly qualified to render medical services.
3. DR. DONNENFELD was or represented himself to be a physician specializing in the field of ophthalmology, and corneal or refractive surgery in particular.
4. DR. DONNENFELD held himself out to the public, and more particularly to the plaintiff herein, as possessing the proper degree of learning and skill, and he undertook to use reasonable care and diligence in the treatment of the plaintiff.
5. DR. DONNENFELD currently maintains an office for the practice of medicine at 2000 North Village Avenue, Suite 402, Rockville Centre, New York 11570.

6. DR. DONNENFELD maintained an office for the practice of medicine at defendant OPHTHALMIC CONSULTANTS OF LONG ISLAND (“OPHTHALMIC CONSULTANTS”), located at 2000 North Village Avenue, Suite 402, Rockville Centre, New York, 11570.

7. Upon information and belief, at the times relevant to this action, DR. DONNENFELD was an employee of OPHTHALMIC CONSULTANTS.

8. Upon information and belief, at the times relevant to this action, DR. DONNENFELD was an independent contractor of OPHTHALMIC CONSULTANTS.

9. Upon information and belief, at the times relevant to this action, DR. DONNENFELD was an agent of OPHTHALMIC CONSULTANTS.

10. At all times hereinafter mentioned, plaintiff WILLIAM FREELY was a patient, and under the care and treatment, of defendant DR. DONNENFELD, on a continuous basis, from in or around January 25, 2000, through and including August 22, 2012.

11. At all times hereinafter mentioned, plaintiff WILLIAM FREELY was a patient at, and under the care and treatment of defendant OPHTHALMIC CONSULTANTS, on a continuous basis, from in or around January 25, 2000, through and including August 22, 2012.

12. At all times hereinafter mentioned, while plaintiff WILLIAM FREELY was a patient at, and under the care and treatment of defendants OPHTHALMIC CONSULTANTS on or about March 13, 2001, as afore stated, he came under the care and treatment of defendant DR. DONNENFELD for the purpose of undergoing refractive surgery on his right eye, known as LASIK surgery.

13. Defendants, their agents, servants and/or employees, were negligent in rendering

medical care and treatment to plaintiff, and owed him the duty to use a reasonable degree of learning and skill, the duty to use reasonable care and diligence in the exercising of that learning and skill, the duty to employ approved methods in general use and the duty to use their best judgment in the care and treatment of the plaintiff.

14. Defendant DR. DONNENFELD, including without limitation his agents, servants and/or employees, was negligent in the services rendered for and on behalf of plaintiff; in failing to use reasonable care; in failing to heed plaintiff's condition; in departing from accepted standards in the procedures and treatment performed; in failing to follow appropriate practice; in failing to properly examine plaintiff; in failing to properly treat plaintiff's eyes; in failing to determine that plaintiff was not a suitable candidate for LASIK eye surgery; in performing LASIK eye surgery on plaintiff when said procedure was contraindicated; in failing to diagnose, disclose and/or treat plaintiff's post-LASIK ectasia; and was otherwise negligent in his treatment of plaintiff.

15. The defendant OPHTHALMIC CONSULTANTS, its agents, servants and/or employees were negligent and careless by failing, neglecting and omitting to take, use and employ reasonable and proper steps and procedures and practices for the health, safety and welfare of the plaintiff thereby causing and contributing to the condition suffered by plaintiff; failing to supervise the activities of agents, servants, and/or employees; failing to employ agents, servants and/or employees who possess the requisite knowledge and experience to treat and care for conditions demonstrated by plaintiff; in violating the applicable laws, rules, regulations, guidelines, policies and protocols; in deviating and departing from the usual and accepted standards of medical, hospital and surgical care and treatment; in failing to comply with proper procedures and/or written protocols and/or guideline in effect at OPHTHALMIC

CONSULTANTS; in failing and neglecting to adhere to and comply with the accepted and approved standards of practices, procedures and techniques prevailing in the locality and community; in failing to timely and properly monitor, supervise and/or oversee the activities of its agents, servants, medical staff, employees and/or independent contractors with respect to the care and treatment rendered to the plaintiff herein during his presentations to OPTHALMIC CONSULTANTS; in failing to disclose to the plaintiff all of the facts that a reasonable facility, under similar circumstances, would explain or disclose to a patient including a failure to disclose the risks and benefits of the treatment and procedures performed, the alternatives thereto and the risks and benefits relating to the alternatives; in failing, neglecting and omitting to timely, properly and/or adequately counsel their physicians and other employees with respect to the proper and appropriate standard of care and treatment to be rendered to patients presenting with complaints similar to those that plaintiff presented with; in failing to have efficient and/or sufficient personnel; in failing to fulfill its duty to properly investigate the skill, qualifications, character and/or background of the physicians applying for staff privileges as well as other staff members, personnel and/or employees, practicing at the defendant facilities; in improperly granting the defendant privileges at OPTHALMIC CONSULTANTS; in failing to conduct continuous assessments of the competence of the defendant physician, personnel and/or independent contractor; in failing to employ qualified, trained and supervised physicians and non-physicians staff; in failing to properly train and/or supervise their personnel and/or independent contractors, including interns, residents, registered nurses, licensed practical nurses, nurses' aides and physicians; in failing to have adequate institutional policies; in failing to maintain adequate facilities; in deviating and departing from the accepted standards of hospital

and medical care and treatment; and in negligently hiring, training, retaining and supervising defendant DR. DONNENFELD. Plaintiff relies upon the theories of vicarious liability and *respondeat superior*.

16. As a direct and proximate result of the foregoing, plaintiff WILLIAM FREELY sustained severe, serious and permanent personal injuries and was and still is caused to suffer pain, discomfort, permanent disabilities, and mental and emotional shock, and was and still is permanently damaged thereby.

17. The said occurrence and resulting injuries and disabilities to the plaintiff were caused wholly and solely by reason of the carelessness, negligence and malpractice of the defendants, their agents, servants and/or employees as set forth above with no fault or lack of care on the part of the plaintiff herein contributing thereto.

18. The limited liability provisions of the C.P.L.R. § 1601 do not apply pursuant to one or more of the exceptions of the C.P.L.R. § 1602.

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

**AS AND FOR A SECOND CAUSE OF ACTION
ON BEHALF OF PLAINTIFF WILLIAM FREELY FOR LACK OF INFORMED
CONSENT**

20. Plaintiff WILLIAM FREELY re-alleges and incorporates paragraphs 1 through 19, above.

21. Defendants, their agents, servants and/or employees failed to disclose all of the information that reasonably prudent medical practitioners, under similar circumstances, would explain or disclose to a patient including a failure to disclose the risks and benefits of the procedures performed, the alternatives thereto and the risks and benefits relating to the

alternatives, and they otherwise failed to properly, adequately, thoroughly and fully inform the plaintiff herein.

22. A reasonably prudent person in the plaintiff's position would not have undergone the procedures performed if he had been fully informed, and that the lack of informed consent is a proximate cause of the injuries suffered herein for which recovery is sought.


23. The treatment rendered by the defendants herein was not emergent treatment, an emergency procedure or emergency surgery.

24. As a result of defendants' breach of duty of informed consent, plaintiff WILLIAM FREELY sustained damages.

WHEREFORE, plaintiff WILLIAM FREELY demands judgment against the defendants on the First and Second Causes of Action in such sums as a jury may find fair, reasonable and just, all together with interest, costs and disbursements of this action.

Dated: Chappaqua, New York
July 12, 2013

LAW OFFICE OF TODD J. KROUNER


By: TODD J. KROUNER
Attorneys for Plaintiff
93 North Greeley Avenue
Chappaqua, New York 10514
(914) 238-5800

To: Eric D. Donnenfeld, M.D.
Ryan Medical Arts Building
2000 North Village Avenue, Suite 402
Rockville Centre, NY 11570310

Ophthalmic Consultants of Long Island
Ryan Medical Arts Building
2000 North Village Avenue, Suite 402
Rockville Centre, NY 11570

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NASSAU

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WILLIAM FREELY,

Plaintiff,

-against-

CERTIFICATE OF MERIT

ERIC D. DONNENFELD, M.D., and OPHTHALMIC
CONSULTANTS OF LONG ISLAND,

Defendants.

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The undersigned, an attorney admitted to practice in the courts of New York State,
shows:

Affirmant is the attorney of record for plaintiff in the above-captioned action and states:

1. I have reviewed the facts of this case.
2. I have consulted with at least one physician, duly licensed to practice, whom I reasonably believe is knowledgeable in the relevant issues involved in this particular action.
3. I have concluded on the basis of said review and consultation that there is a reasonable basis for the commencement of this action.

Dated: Chappaqua, New York
July 12, 2013


Todd J. Krouner

ATTORNEY VERIFICATION

STATE OF NEW YORK)
) ss.:
COUNTY OF WESTCHESTER)

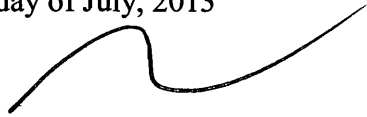
TODD J. KROUNER, being duly sworn, deposes and says:

That he is the principal of the Law Office of Todd J. Krouner with an office at 93 North Greeley Avenue, Chappaqua, New York 10514, attorney for plaintiff in the within action; that deponent has read and knows the contents of the foregoing Verified Complaint and the same is true to the knowledge of the deponent, except as to the matters therein stated to be alleged upon information and belief, and as to those matters, he believes it to be true. Deponent further says that the reason this verification is made by deponent and not by plaintiff is that the said plaintiff are not within the county wherein deponent maintains his offices.

The undersigned affirms that the foregoing statements are true, under the penalties of perjury.


TODD J. KROUNER

Sworn to before me this
12th day of July, 2013



Notary Public

SCOTT J. KOPLIK
Notary Public - State of New York
No. 02KO6233395
Qualified in New York County
My Commission Expires December 27, 2014