

SUPREME COURT - STATE OF NEW YORK

Present:

HON. JOSEPH A. DE MARO

Justice

----- TRIAL/IAS, PART 10
NASSAU COUNTY

FRANCESCO AGOSTINO, on behalf of and as the Administrator of the Estate of ELIZABETH AGOSTINO, Deceased, and on behalf of and as the Father and Natural Guardian of Plaintiff-Infants, GINA MARIE AGOSTINO and VINCENT ANTHONY AGOSTINO, both being under the age of 18 years old and on his own behalf, FRANCESCO AGOSTINO, individually,

Plaintiffs,

-against-

INDEX No. 30621/99

CORRECTED ORDER

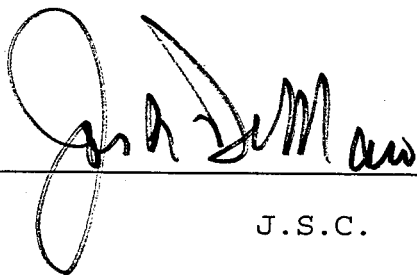
NORTH SHORE UNIVERSITY HOSPITAL, NORTH SHORE LONG ISLAND JEWISH HEALTH SYSTEM CORP., NORTH SHORE HEALTH SYSTEM, NORTH SHORE UNIVERSITY HEALTH SYSTEM, NORTH SHORE UNIVERSITY HOSPITAL AT MANHASSET, NORTH SHORE UNIVERSITY HOSPITAL-CORNELL MEDICAL COLLEGE, JOHN PROCACCINO, M.D., LEVIN, STRAUSS, PROCACCINO & GARBER, P.C., GARY S. WEISSMAN, M.D., PROHEALTH CARE ASSOCIATES, LLP, JONATHAN ZAGER, M.D., MICHAEL MOFFA, M.D., J. BRADY, M.D., PETER C. CHARIN, M.D., ALAN D. ROSENTHAL, M.D., LONG ISLAND NEUROSURGICAL ASSOCIATES, P.C., DR. RODRIGUEZ, HEIDI PETRIE, R.N., D. PACELLA, C.R.N.A., OLLIE MAE COAN, CHRISTINE JORDON, R.N., KERI LUSTRAN, R.N., I. WILLIAMS, R.N., THERESA DINIS, R.N., A.K.A. THERESA DINIS, L.P.N., THERESA DENNIS, R.N., A.K.A. THERESA DENNIS, L.P.N., A.K.A., the exact spelling of the Defendant THERESA DENIS' name being uncertain, but intended to represent the nurse assigned to provide nursing care and treatment to DECEDENT ELIZABETH AGOSTINO, after transfer from recovery room to Room 204 (Monti Pavilion) on November 10, 1997, PATRICIA DUPONT, PCA, "THE NORTH SHORE UNIVERSITY CARDIAC CODE TEAM", "NORTH SHORE UNIVERSITY HOSPITAL-CORNELL UNIVERSITY MEDICAL COLLEGE ACUTE PAIN SERVICE "this name being an approximation, and intended to represent the true and actual name of the legal entity or sub-contractor providing personnel and other services for this unit, W. HOCHETT, W. HOCHITTLIN,

S. H. HOWELL, JOHN SMITH, Pain Service Technician, JANE SMITH, R.N., JOHN SMITH, M.D., these names being fictitious approximations of persons who signed the "Acute Pain Service Epidural Analgesia Progress Notes" Form dated November 10, 1997, for Pump Serial No. 76656 and CDAR No. 1170882, which was used to treat DECEDENT on November 10, 1997 and/or intended to represent all individuals who administered pain medication or pain services to Decedent on November 10, 1997; The names JOHN SMITH, being fictitious are intended to represent the true and accurate identity of all persons or entities who placed medication within or made adjustments to Epidural Analgesia Regimen Pump Serial Number 76656 on November 10, 1997 prior to or during the times Decedent was receiving pain medication; The names JANE SMITH, R.N., being fictitious are intended to represent the true and accurate identity of all persons who made additions, changes, deletions or alterations to aforesaid Epidural Analgesia Progress Notes Form after the events contained therein had been initially recorded, JOHN DOE, M.D., JOHN DOE, M.D.P.C., JOSEPH DOE, M.D., JOSEPH DOE, M.D.P.C. THOMAS DOE, R.P.H. MARY DOE, R.N., SUSAN DOE, L.P.N., MARIE DOE, C.R.N.A., THE JOHN DOE PRACTICE PROCUREMENT SERVICES COMPANY, THE JOHN DOE NURSING CORPORATION, THE JANE DOE HEALTH CARE NURSING AGENCY, the aforesaid names being fictitious names and designations intended to represent Physicians, Pharmacists, Professional Corporations, Anesthesiologists, Nurses Anesthesiologists, Registered Nurses, Licensed Practical Nurses, Patient Care Aides, and other Licensed Medical Professionals, Sub-Contractors or Sub-Contracting Procurement Companies, whose identities are presently unknown but who were affiliated with and rendered care to the Decedent at North Shore Long Island Jewish Health System and/or North Shore University Hospital at Manhasset, its affiliates, subdivisions or clinics between November 6th, 1997 and December 13th, 1997,

Defendants.

This Court rendered an Order dated April 16, 2001 concerning a jurisdiction issue related to the defendant John Brady. The Order is in error and is herewith recalled sua sponte.

A traverse hearing before a Court Attorney/Referee led to a report dated April 6, 2001 which recommended that this Court find that service on Dr. John Brady (Brady) was defective (the place of service was not his actual place of business). The Court is in accord with the Referee's findings and finds service defective. The cause is subject to dismissal unless the Court grants plaintiff's application to extend time for such service. (The error in the Court's prior Order purported to dismiss the action against Brady while delaying a decision on issues raised in plaintiff's cross-motion.) Sottile v. Islandia Home for Adults, 278 AD2d 482. Plaintiff's cross-motion to extend time for service on Brady will appear on this Court's motion calendar on June 27, 2001. Any documents which counsel wish to be considered shall be in the Court's hands on that date; the Court requests a "fresh copy" of previous relevant documents as all prior papers are in the County Clerk's file.



J.S.C.

ENTERED

Dated: May 22, 2001

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