

SUPERIOR COURT OF NEW JERSEY

LAW DIVISION

BERGEN COUNTY

Miriam E. Zakarin Esq.
Treuhaft & Zakarin, LLP
1011 Avenue of the Americas
4th Floor
New York, NY 10018
(212) 725-6418
Attorney for Plaintiff

Docket Number _____

CIVIL ACTION

LEE KENWORTHY, Plaintiff,

V.

BERGEN REGIONAL MEDICAL CENTER,
AIJAZ NANJIANI MD, MARLENE MCLEOD, RN,
ANNE CARDONE MSW, MICHAEL J. KENNY, MSW,
BETTY BORENZO, RN, DEBORAH COX, RN,
JOY MARIAMMA, RN, SANDRA LONGO, RN,
JEFFREY PECK, RN, KATHRYN OTIS, RN,
EUNICE RAMOS, VERONICA BENITEZ, RN, Defendants.

COMPLAINT

Plaintiff, Lee Kenworthy, residing at 233 Roosevelt Avenue,
Apartment G, Borough of Lodi, County of Bergen by his attorneys,
TREUHAFT & ZAKARIN, LLP, as and for a Complaint herein, respectfully
sets forth and alleges:

AS AND FOR A FIRST CAUSE OF ACTION:

1. That at all times herein mentioned, Defendants AIJAZ NANJIANI MD,
MARLENE MCLEOD, RN, ANNE CARDONE MSW, MICHAEL J. KENNY, MSW,
BETTY BORENZO, RN, DEBORAH COX, RN, JOY MARIAMMA, RN, SANDRA
LONGO, RN, JEFFREY PECK, RN, KATHRYN OTIS, RN, EUNICE

RAMOS,VERONICA BENITEZ, RN, was or represented themselves to be a physician , nurse, or social workers, duly licensed or authorized to practice in the State of New Jersey.

2. That at all times hereinafter mentioned, the defendants, AIJAZ NANJIANI MD, MARLENE MCLEOD, RN, ANNE CARDONE MSW, MICHAEL J. KENNY, MSW, BETTY BORENZO, RN, DEBORAH COX, RN, JOY MARIAMMA, RN, SANDRA LONGO, RN, JEFFREY PECK, RN, KATHRYN OTIS, RN, EUNICE RAMOS, VERONICA BENITEZ, RN, held themselves out to be a physician, nurse, or social workers possessing the skill and ability of members of the medical profession, and represented that they were was capable of diagnosing, treating, advising, referring, recommending and caring for such medical conditions for which he would undertake to treat.

3. That at all of the times herein mentioned, defendants AIJAZ NANJIANI MD, MARLENE MCLEOD, RN, ANNE CARDONE MSW, MICHAEL J. KENNY, MSW, BETTY BORENZO, RN, DEBORAH COX, RN, JOY MARIAMMA, RN, SANDRA LONGO, RN, JEFFREY PECK, RN, KATHRYN OTIS, RN, EUNICE RAMOS, VERONICA BENITEZ, RN, were employees of Bergen Regional Medical Center.

4. That at all of the times herein mentioned, defendants AIJAZ NANJIANI MD, MARLENE MCLEOD, RN, ANNE CARDONE MSW, MICHAEL J. KENNY, MSW, BETTY BORENZO, RN, DEBORAH COX, RN, JOY MARIAMMA, RN, SANDRA LONGO, RN, JEFFREY PECK, RN, KATHRYN OTIS, RN, EUNICE RAMOS, VERONICA BENITEZ, RN, were physicians, nurses, or social workers, in a professional corporation, Bergen Regional Medical Center.

5. That at all times hereinafter mentioned, the defendants, AIJAZ NANJIANI MD, MARLENE MCLEOD, RN, ANNE CARDONE MSW, MICHAEL J. KENNY, MSW, BETTY BORENZO, RN, DEBORAH COX, RN, JOY MARIAMMA, RN, SANDRA LONGO, RN, JEFFREY PECK, RN, KATHRYN OTIS, RN, EUNICE RAMOS, VERONICA BENITEZ, RN, were agents, servants and/or

employees of and/or affiliated with the defendant Bergen Regional Medical Center.

6. That at all times hereinafter mentioned, the defendant, Bergen Regional Medical Center, was and still is a corporation doing business in the State of New Jersey.

7. That at all times hereinafter mentioned, the defendant, Bergen Regional Medical Center owned a hospital located at 230 East Ridgewood Avenue, Paramus, New Jersey, in the County of Bergen and State of New Jersey.

8. That at all times hereinafter mentioned, the defendant, Bergen Regional Medical Center, its servants, agents and/or employees operated said hospital located at 230 East Ridgewood Avenue, Paramus, New Jersey, in the County of Bergen and State of New Jersey.

9. That at all times hereinafter mentioned, the defendant, Bergen Regional Medical Center, its servants, agents and/or employees maintained said hospital located at 230 East Ridgewood Avenue, Paramus, in the County of Bergen and State of New Jersey.

10. That at all times hereinafter mentioned, the defendant, BERGEN REGIONAL MEDICAL CENTER, its servants, agents and/or employees managed said clinic located at 230 East Ridgewood Avenue, Paramus, New Jersey, in the County of Bergen and State of New Jersey.

11. That at all times hereinafter mentioned, the defendant, BERGEN REGIONAL MEDICAL CENTER, its servants, agents and/or employees controlled said clinic located at 230 East Ridgewood Avenue, Paramus, New Jersey, in the County of Bergen and State of New Jersey.

12. That at all times hereinafter mentioned, the defendant, BERGEN REGIONAL MEDICAL CENTER held itself out as a hospital

duly qualified and capable of rendering competent medical, surgical and emergency care, treatment and surgery to the general public, including the Plaintiff herein.

13. That at all times hereinafter mentioned, the defendant, BERGEN REGIONAL MEDICAL CENTER, furnished and/or provided doctors, nurses and other hospital personnel at said hospital to afford medical, surgical and emergency hospital care, advice, referral, recommendations, management and treatment to the general public, including the Plaintiff herein.

14. That at all times hereinafter mentioned, the defendant, BERGEN REGIONAL MEDICAL CENTER, did agree to and did hold itself out as maintaining at said hospital, an adequate and competent staff, including doctors, nurses and other medical and surgical personnel, and further warranted that the members of its said staff were qualified and trained for the purpose of providing such medical, surgical and clinical care, advice, referral, recommendation, management, treatment and attention as they would be required to provide in accordance with the accepted standards of medical practice to persons seeking and requiring surgical and medical care and attention, including the Plaintiff herein, and said defendant further held itself out as being equipped in sufficient manner to render such care, advice, referral, recommendation management and treatment at its said clinic.

15. That at all times hereinafter mentioned, the defendant, BERGEN REGIONAL MEDICAL CENTER, furnished, provided, used and employed at said hospital physicians, surgeons, nurses, aides, staff members, and others, who were authorized, retained, or permitted by defendant to order, recommend, request, advise, perform, render or provide medical

and/or surgical examinations, evaluations, care, diagnoses, treatments, procedures, tests, studies, services, or advice of, for and to patients at the said clinic.

16. That the defendant BERGEN REGIONAL MEDICAL CENTER, was responsible for the negligent acts and omissions of its agents, servants, affiliated physicians and/or employees at the said clinic under the theory of *respondeat superior*.

17. That at all of the times herein mentioned, defendant BERGEN REGIONAL MEDICAL CENTER, represented that its servants, agents, affiliated physicians, surgeons, residents, interns, nurses, aides, employees and/or medical personnel at the said clinic were capable, competent and qualified to properly and adequately order, recommend, request, advise, perform, render, or provide all of the professional and emergency examinations, evaluations, consultations, care, treatments, procedures, tests, studies, services and advice ordered, recommended, requested, required and advised for, performed upon, rendered and/or provided to the Plaintiff LEE KENWORTHY.

18. That at all of the times herein mentioned, defendant BERGEN REGIONAL MEDICAL CENTER, represented that defendants AIJAZ NANJIANI MD, MARLENE MCLEOD, RN, ANNE CARDONE MSW, MICHAEL J. KENNY, MSW, BETTY BORENZO, RN, DEBORAH COX, RN, JOY MARIAMMA, RN, SANDRA LONGO, RN, JEFFREY PECK, RN, KATHRYN OTIS, RN, EUNICE RAMOS, VERONICA BENITEZ, RN, were capable, competent and qualified to properly and adequately order, recommend, request, advise, perform, render, or provide all of the necessary and required medical and/or emergency examinations, evaluations, consultations, care, treatments, procedures, tests, studies, services and advice ordered, recommended,

requested, required and advised for, performed upon, rendered and/or provided to the Plaintiff LEE KENWORTHY at said Medical Center.

19. That on/or about March 31, 2007 to April 6, 2007, the Plaintiff LEE KENWORTHY came under the care of the defendants in connection with certain medical care, advice, referral, testing, management and treatment to be rendered to the said Plaintiff by the said defendants.

20. That on/or about March 31, 2007 to April 6, 2007, the Plaintiff LEE KENWORTHY came under the care of the defendants, in connection with certain medical and/or emergency care, advice, referral, testing, management and treatment to be rendered to the said Plaintiff by the said defendant at the said clinic and/or emergency room facility located at 230 East Ridgewood Avenue, Paramus, New Jersey, in the County of Bergen and State of New Jersey.

21. That on/or about March 31, 2007 to April 6, 2007, the defendants, did undertake the treatment of the Plaintiff LEE KENWORTHY, providing the Plaintiff with medical care, management, treatment and attention, and accepted the Plaintiff as a patient at the said hospital.

22. That on/or about March 31, 2007 to April 6, 2007, the defendants, undertook to and/or did order, recommend, request, advise, perform, render, or provide medical, emergency and/or nursing examinations, evaluations, consultations, care, treatments, procedures, tests, studies, services, or advice for and to the Plaintiff LEE KENWORTHY. Plaintiff LEE KENWORTHY clearly informed Defendants upon his entry to the hospital that he was allergic to HALDOL.

23. That on/or about March 31, 2007 to April 6, 2007, the defendant BERGEN REGIONAL MEDICAL CENTER, its servants, agents, affiliated physicians, surgeons, residents, interns, nurses, aides, employees and/or

medical personnel at the said clinic undertook to and/or did order, recommend, request, advise, perform, render, or provide medical, emergency and/or nursing examinations, evaluations, consultations, care, treatments, procedures, tests, studies, services, or advice for and to the Plaintiff LEE KENWORTHY.

24. That the foregoing treatment and management of the Plaintiff, LEE KENWORTHY, by the defendants, their servants, agents, affiliated physicians, surgeons, residents, interns, nurses, aides, employees, medical and/or emergency room personnel at the said clinic was performed in such a careless, negligent, and improper manner as to manifest and evidence a disregard for the safety and well-being of others, including the Plaintiff herein, and not in accordance with the good and accepted standards of medical and clinic care and practice, thereby causing the Plaintiff, LEE KENWORTHY, to sustain severe injuries and damages.

25. That the medical and hospital procedures, examinations, evaluations, care, treatments, tests, studies, services, or advice ordered, requested, recommended, advised, performed, rendered, or provided to Plaintiff by the defendants herein, were ordered, requested, recommended, advised, performed, rendered, or provided by persons who were incompetent or unqualified to order, recommend, request, advise, perform, render or provide examinations, evaluations, care, treatments, procedures, tests, studies, services or advice to and/or for the Plaintiff.

26. That the defendants, and those persons who ordered, requested, recommended, advised, performed, rendered, or provided examinations, evaluations, care, treatments, procedures, tests, studies, services, or advice to and/or for the Plaintiff at said clinic were incompetent and/or unqualified to order, recommend, request, advise, perform, render or

provide such professional examinations, evaluations, care, treatments, procedures, tests, studies, services or advice of, for, and to Plaintiff.

27. That the defendants failed to promulgate, enforce, abide by, or follow appropriate rules, regulations, guidelines, procedures, policies, or protocols with respect to the performing, rendering or providing of medical, surgical, emergency and/or nursing procedures, examinations, evaluations, care, treatments, tests, studies, services, or advice to and/or for the patients at said clinic including the Plaintiff herein.

28. That the foregoing injuries and damages to the Plaintiff, LEE KENWORTHY, were caused solely by virtue of the carelessness, negligence, malpractice, and disregard on the part of the defendants, their servants, agents, affiliated physicians, interns, residents, aides, nurses and/or employees, and without any negligence on the part of the Plaintiff contributing thereto.

29. That by reason of the foregoing, the Plaintiff sustained serious personal injuries and other medical conditions which resulted in severe and excruciating conscious pain and suffering, from the time of the commencement of the medical malpractice herein, up to this day which resulted from the injuries sustained by reason of the negligence and malpractice of the defendants.

30. That the foregoing personal injuries and the severe conscious pain and suffering up to this day, were caused solely by reason of the negligence, malpractice, and disregard on the part of the defendants, and without any negligence on the part of the Plaintiff contributing thereto.

31. That by reason of the foregoing, the plaintiff, LEE KENWORTHY, has sustained severe damages in an amount sought which is in excess of the monetary jurisdictional limits of any and all lower Courts

which would otherwise have jurisdiction, in an amount to be determined upon the trial of this action.

AS AND FOR A SECOND CAUSE OF ACTION:

32. Plaintiff LEE KENWORTHY, repeats, reiterates and realleges each and every allegation as contained in the First Cause of Action of the within Complaint with the same force and effect as though each were more fully set forth at length herein.

33. That as a result of the injuries sustained by the Plaintiff as a result of the negligence and malpractice of the defendants, the Plaintiff was caused to suffer loss of employment for over two years, pain and suffering, loss of consortium with his spouse, and Plaintiff became homeless for over a year .

34. That by reason of the foregoing, the plaintiff, LEE KENWORTHY, has suffered severe damages in an amount which is in excess of the monetary jurisdictional limits of any and all lower Courts which would otherwise have jurisdiction, in an amount to be determined upon the trial of this action.

AS AND FOR A THIRD CAUSE OF ACTION:

35. Plaintiff LEE KENWORTHY, repeats, reiterates and realleges each and every allegation as contained in the First and Second Causes of Action of the within Complaint with the same force and effect as though each were more fully set forth at length herein.

36. At all of the times herein mentioned, defendants, their agents, servants, employees, or those persons who ordered, requested, recommended, advised, performed, rendered, or provided examinations, evaluations, consultations, care, treatments, procedures, tests, studies, services, or advice of, for, and to Plaintiff LEE KENWORTHY, on behalf,

jointly with, or under the supervision of defendants herein, failed to inform and/or failed to fully inform Plaintiff, or Plaintiff's lawful representative, or to warn and/or to fully warn Plaintiff, of the nature, purposes, known perils, recognized hazards, risks, or possible complications of the examinations, evaluations, diagnoses, consultations, care, treatments, procedures, tests, studies, services, or advice ordered for, requested for, recommended for, advised for, performed upon, rendered to, or provided to Plaintiff; nor did defendants nor did said persons inform Plaintiff, or Plaintiff's lawful representative, of any alternative methods of treatment; nor did defendants, nor did said persons, obtain an informed consent by or on behalf of Plaintiff regarding the outcome or possible consequences of the examinations, evaluations, diagnoses, consultations, care, treatments, procedures, tests, studies, services, or advice ordered, requested, recommended, advised, performed, rendered, or provided, or omitted to be ordered, requested, recommended, advised, performed, rendered, or provided, of, for, and to Plaintiff.

37. At all of the times herein mentioned, defendants, their agents, servants, employees, or those persons who ordered, requested, recommended, advised, performed, rendered, or provided examinations, evaluations, diagnoses, consultations, care, treatments, procedures, tests, studies, services, or advice of, for, and to Plaintiff on behalf of, jointly with, or under the supervision of defendants herein, failed to inform and/or to fully inform Plaintiff, or Plaintiff's lawful representative, or to warn and/or to fully warn Plaintiff, of the nature, purposes, known perils, recognized hazards, risks, or possible complications of the examinations, evaluations, diagnoses, consultations, care, treatments, procedures, tests, studies, services, or advice ordered for, requested for, recommended for, advised for,

performed upon, rendered to, or provided to Plaintiff; nor did defendants nor did said persons inform Plaintiff, or Plaintiff's lawful representative, of any alternative methods of treatment; nor did defendants, nor did said persons, obtain an informed consent by or on behalf of Plaintiff regarding the outcome or possible consequences of the examinations, evaluations, diagnoses, consultations, care, treatments, procedures, tests, studies, services, or advice ordered, requested, recommended, advised, performed, rendered, or provided, or omitted to be ordered, requested, recommended, advised, performed, rendered, or provided, of, for, and to Plaintiff, which failures individually and/or together constituted deceptive acts and/or practices by the defendants in the conduct of their business and/or trade, and/or the furnishing of services by the defendants.

38. As a result of all of the foregoing, Plaintiff LEE KENWORTHY was denied the opportunity to make an informed decision as to the examinations, evaluations, diagnoses, consultations, care, treatments, procedures, tests, studies, services, or advice ordered, requested, recommended, advised, performed, rendered, or provided to him.

39. As a result of all of the foregoing, Plaintiff was denied the opportunity to seek alternative examinations, evaluations, diagnoses, consultations, care, treatments, procedures, tests, studies, services, or advice which care, treatments, procedures, tests, studies, services, or advice he/she/would have chosen or elected had he been fully informed as to the nature, purposes, known perils, recognized hazards, risks, and possible complications of the examinations, evaluations, diagnoses, consultations, care, treatments, procedures, tests, studies, services, or advice ordered for, requested for, recommended for, advised for, performed upon, rendered to, or provided to Plaintiff.

40. Had a reasonably prudent person in the condition of Plaintiff been fully informed as to the nature, purposes, known perils, recognized hazards, risks, and possible complications of the examinations, evaluations, diagnoses, consultations, care, treatments, procedures, tests, studies, services, or advice which were ordered, requested, recommended, advised, performed, rendered, or provided for, upon, or to Plaintiff, a reasonably prudent person in the condition of Plaintiff would have refused said examinations, evaluations, diagnoses, consultations, care, treatments, procedures, tests, studies, services, or advice, or would have sought and/or obtained alternative examinations, evaluations, diagnoses, consultations, care, treatments, procedures, tests, studies, services, and/or advice.

41. Plaintiff had fully informed Defendant on numerous occasions during his hospitalization that Plaintiff was allergic to Haldol. Defendant is fully aware of the nature, purposes, known perils, recognized hazards, risks, and possible complications of the examinations, evaluations, diagnoses, consultations, care, treatments, procedures, tests, studies, services, or advice ordered, requested, recommended, advised, performed, rendered, or provided for, when forcing a patient to ingest or be injected with a medication to which Plaintiff is allergic. Plaintiff refused the Haldol, but Defendants forcibly injected Plaintiff with Haldol on several occasions.

42. As a result of all of the foregoing, Plaintiff was caused to and did suffer and sustain severe and serious personal injuries.

43. As a result of all of the foregoing, Plaintiff was caused to and did suffer and sustain severe and serious conscious pain and suffering.

44. As a result of all of the foregoing, Plaintiff was caused to and did suffer and sustain severe and serious mental anguish.

45. The aforesaid severe and serious personal injuries, severe and serious conscious pain, suffering, anguish, agony, and torment sustained by Plaintiff were occasioned by reason of the negligence, carelessness, and/or malpractice of defendants herein, their agents, servants, employees, or those persons who ordered, requested, recommended, advised, performed, rendered, or provided examinations, evaluations, diagnoses, consultations, care, treatments, procedures, studies, tests, services, or advice of, for, and to Plaintiff on behalf of, jointly with, or under the supervision of defendants herein, and said injuries were in no way contributed to by Plaintiff.

46. The aforesaid severe and serious personal injuries, severe and serious conscious pain and suffering, severe and serious mental anguish, and severe and serious economic losses suffered and sustained by Plaintiffs were occasioned by the deceptive acts and/or practices of the defendants in the conduct of their business and/or trade, and/or the furnishing of services by the defendants.

47. As a result of all of the foregoing, plaintiff, LEE KENWORTHY, has been injured and damaged in a sum which exceeds the jurisdictional limitations of all lower Courts which would otherwise have jurisdiction over this action.

Wherefore, plaintiff requests judgment against defendant for damages, together with attorney's fees, if applicable, costs of suit, and any other relief as the court may deem proper.

Dated: New York, NY
 April 3, 2009,

Yours, etc.,

MIRIAM E. ZAKARIN
TREUHAFT & ZAKARIN, LLP,
Attorneys for Plaintiff
1011 Avenue of the Americas
4th Floor
NEW YORK, NEW YORK 10018
(212)725-6418

CERTIFICATION OF NO OTHER ACTIONS

I certify that the dispute about which I am suing is not the subject of any other action pending in any other court or a pending arbitration proceeding to the best of my knowledge and belief. Also, to the best of my knowledge and belief no other action or arbitration proceeding is contemplated. Further, other than the parties set forth in this complaint, I know of no other parties that should be made a part of this lawsuit. In addition, I recognize my continuing obligation to file and serve on all parties and the court an amended certification if there is a change in the facts stated in this original certification.

Dated: New York, NY
 April 3, 2009,

Yours, etc.,

MIRIAM E. ZAKARIN
TREUHAFT & ZAKARIN, LLP,
Attorneys for Plaintiff
1011 Avenue of the Americas
4th Floor
NEW YORK, NEW YORK 10018
(212)725-6418

JURY DEMAND

The plaintiff demands trial by a jury on all of the triable issues of this complaint, pursuant to New Jersey Court *Rules* 1:8-2(b) and 4:35-1(a).

Dated: New York, NY
 April 3, 2009,

Yours, etc.,

MIRIAM E. ZAKARIN
TREUHAFT & ZAKARIN, LLP,
Attorneys for Plaintiff
1011 Avenue of the Americas
4th Floor
NEW YORK, NEW YORK 10018
(212)725-6418

SUPERIOR COURT OF NEW JERSEY

LAW DIVISION

BERGEN COUNTY

Miriam Zakarin Esq.
Treuhaft & Zakarin, LLP
1011 Avenue of the Americas
New York, NY 10018
4th Floor
(212) 725-6418
Attorney for Plaintiff

Docket Number _____

**CIVIL ACTION
SUMMONS**

LEE KENWORTHY, Plaintiff,

V.

**BERGEN REGIONAL MEDICAL CENTER,
AIJAZ NANJIANI MD, MARLENE MCLEOD, RN,
ANNE CARDONE MSW, MICHAEL J. KENNY, MSW,
BETTY BORENZO, RN, DEBORAH COX, RN,
JOY MARIAMMA, RN, SANDRA LONGO, RN,
JEFFREY PECK, RN, KATHRYN OTIS, RN,
EUNICE RAMOS, VERONICA BENITEZ, RN, Defendants.**

From The State of New Jersey To The Defendant(s) Named Above: The plaintiff, named above, has filed a lawsuit against you in the Superior Court of New Jersey . The complaint attached to this summons states the basis for this lawsuit. If you dispute this complaint, you or your attorney must file a written answer or motion and proof of service with the deputy clerk of the Superior Court in the county listed above within 35 days from the date you received this summons, not counting the date you received it. (The address of each deputy clerk of the Superior Court is provided.) If the complaint is one in foreclosure, then you must file your written answer or motion and proof of service with the Clerk of the Superior Court, Hughes Justice Complex, P.O. Box 971, Trenton, NJ 08625-0971. A filing fee payable to the Treasurer, State of New Jersey and a completed Case Information Statement (available from the deputy clerk of the Superior Court) must accompany your answer or motion when it is filed. You must also send a copy of your

answer or motion to plaintiff's attorney whose name and address appear above, or to plaintiff, if no attorney is named above. A telephone call will not protect your rights; you must file and serve a written answer or motion (with fee of \$135 and completed Case Information Statement) if you want the court to hear your defense.

If you do not file and serve a written answer or motion within 35 days, the court may enter a judgment against you for the relief plaintiff demands, plus interest and costs of suit. If judgment is entered against you, the Sheriff may seize your money, wages or property to pay all or part of the judgment.

If you cannot afford an attorney, you may call the Legal Services office in the county where you live. A list of these offices is provided. If you do not have an attorney and are not eligible for free legal assistance, you may obtain a referral to an attorney by calling one of the Lawyer Referral Services. A list of these numbers is also provided.

Dated: April 3, 2009

Clerk of the Superior Court

Name of Defendant to Be Served: BERGEN REGIONAL MEDICAL CENTER,
AIJAZ NANJIANI MD, MARLENE MCLEOD, RN,
ANNE CARDONE MSW, MICHAEL J. KENNY, MSW,
BETTY BORENZO, RN, DEBORAH COX, RN,
JOY MARIAMMA, RN, SANDRA LONGO, RN,
JEFFREY PECK, RN, KATHRYN OTIS, RN,
EUNICE RAMOS, VERONICA BENITEZ, RN,

Address of Defendant to Be Served: 230 East Ridgewood Avenue, Paramus, New Jersey