SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF SUFFOLK
----------X

BERNICE YOUNGBLOOD,
AND FRANKLIN YOUNGBLOOD,

Plaintiffs,

-against-

EAST NECK NURSING CENTER, INC.,
d/b/a EAST NECK NURSING AND
REHABILITATION CENTER,

Defendant.

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Index No.: 14 - 5383
Date Summons filed:
Plaintiff designates Suffolk County as the place of trial.
The basis of venue is:
Plaintiff's place of residence.

SUMMONS

Plaintiff resides at:

75 Main Avenue
Centereach, NY 11720

FILED
MAR 13 2014
COUNTY CLERK
JUDITH A. PASCALE

To the above-named Defendant:

YOU ARE HEREBY SUMMONED to answer the verified 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 Plaintiffs' Attorneys within twenty (20) days after the service of this summons, exclusive of the day of service (or within thirty (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 the relief demanded in the complaint.

Dated: March 12, 2014

Vesselin Mitev, Esq.
Ray, Mitev & Associates
Attorney(s) for
122 North Country Road
P. O. Box 5440
Miller Place, N.Y. 11764–1117
(631) 473–1000

Defendant's address:

134 Great East Neck Road
West Babylon, New York 11704

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF SUFFOLK

----------X

BERNICE YOUNGBLOOD,
AND FRANKLIN YOUNGBLOOD,

INDEX NO.

Plaintiffs,

-against-

VERIFIED COMPLAINT

EAST NECK NURSING CENTER, INC.,
d/b/a EAST NECK NURSING AND REHABILITATION CENTER,

Defendant.

FILED
MAR 13 2014
COUNTY CLERK
JUDITH A. PASCALE

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Plaintiffs, appearing by their attorneys, Ray, Mitev & Associates, hereby complain as follows, that:

AS AND FOR A FIRST CAUSE OF ACTION

1. At all relevant times, Plaintiffs are residents of Suffolk County and are over the age of 18.
2. At all relevant times, Plaintiff Bernice Youngblood, has been a resident in the East Neck Nursing and Rehabilitation Center.
3. Bernice Youngblood is an 85-year-old woman, d.o.b., 2/18/1928.
4. Bernice Youngblood suffers from various debilities, including but not limited to severe cognitive impairment as a result of Alzheimer's, advanced dementia, immobility of the lower extremities confining her to a wheelchair, and is a three-time stroke survivor.
5. Bernice Youngblood, while sometimes lucid, lacks the mental and physical capacity to competently, intelligently, knowingly, and voluntarily care for and protect herself.
6. When she is not lucid, Bernice Youngblood cannot give informed consent or otherwise make any decisions about her personal state.

7. Plaintiff Bernice Youngblood has designated her son, Plaintiff Franklin Youngblood, as her agent and attorney-in-fact, pursuant to a power of attorney.

8. Upon information and belief, the Defendant East Neck Nursing & Rehabilitation Center has offices at 134 Great East Neck Road, West Babylon, NY 11704, and is a for-profit center providing long-term nursing care for elderly adults suffering from various ailments and debilities.

9. On its website, Defendant lists the following information on its "About Us" page: "**Respect and Reverence**: East Neck is more than just a place to our long-term residents, it is their home. Our mission is to respect, honor and preserve the privacy and dignity of our long-term resident community whose health and happiness is our primary responsibility and privilege."

10. Upon information and belief, the Defendant, East Neck Nursing & Rehabilitation Center, at all times herein mentioned, was and still is a corporation organized and existing under the laws of the State of New York, with their principal place of business situated in the County of Suffolk, and the State of New York.

11. Upon information and belief, the Defendant, East Neck Nursing & Rehabilitation Center, at all times herein mentioned was and still is a foreign corporation duly licensed and authorized to do business in the State of New York.

12. Upon information and belief, the Defendant, East Neck Nursing & Rehabilitation Center, at all times herein mentioned conducted and carried on business in the County of Suffolk and the State of New York.

13. Upon information and belief, the Defendant, East Neck Nursing & Rehabilitation Center, at all times herein mentioned, was and still is a partnership doing business in the County of Suffolk and the State of New York.

14. Upon information and belief, the Defendant, East Neck Nursing & Rehabilitation Center, at all times herein mentioned was and still is a limited liability partnership doing business in the County of Suffolk and the State of New York.

15. Upon information and belief, the Defendant, East Neck Nursing & Rehabilitation Center, at all times herein mentioned was and still is a limited liability company doing business in the County of Suffolk and the State of New York.

16. Upon information and belief, the Defendant, East Neck Nursing & Rehabilitation Center, at all times herein mentioned was and still is a sole proprietorship doing business in the County of Suffolk and the State of New York.

17. Upon information and belief, the Defendant, East Neck Nursing & Rehabilitation Center, at all times herein mentioned was and still is a corporation doing business in the County of Suffolk and the State of New York.

18. Upon information and belief, the Defendant, East Neck Nursing & Rehabilitation Center transacted business within Suffolk County, State of New York.

19. Upon information and belief, the Defendant, East Neck Nursing & Rehabilitation Center, at all times herein mentioned, derived substantial revenue from goods used or consumed or services rendered in the State of New York.

20. Upon information and belief, Defendant, East Neck Nursing & Rehabilitation Center, at all times herein mentioned, expected or should reasonably have expected its acts to have consequences in the State of New York.

21. Upon information and belief, the Defendant, East Neck Nursing & Rehabilitation Center, at all times herein mentioned, derived substantial revenue from interstate commerce.

22. Upon information and belief, at all times herein mentioned, the Defendant, East Neck Nursing & Rehabilitation Center, owned the premises located at 134 Great East Neck Road, West Babylon, NY 11704.

23. Upon information and belief, at all times herein mentioned, the Defendant, East Neck Nursing & Rehabilitation Center, was a lessee of the premises located at 134 Great East Neck Road, West Babylon, NY 11704

24. Upon information and belief, at all times herein mentioned, Defendant, East Neck Nursing & Rehabilitation Center, its servants, agents and/or employees operated the premises located at 134 Great East Neck Road, West Babylon, NY 11704.

25. Upon information and belief, at all times herein mentioned Defendant, East Neck Nursing & Rehabilitation Center, its servants, agents, and/or employees maintained the premises located at 134 Great East Neck Road, West Babylon, NY 11704.

26. Upon information and belief, at all times herein mentioned, the Defendant, East Neck Nursing & Rehabilitation Center, its servants, agents and/or employees managed the premises located at 134 Great East Neck Road, West Babylon, NY 11704.

27. Upon information and belief, at all times herein mentioned, the Defendant East Neck Nursing & Rehabilitation Center, its servants, agents and/or employees controlled the premises known as 134 Great East Neck Road, West Babylon, NY 11704.

28. Upon information and belief, at all times herein mentioned, the Defendant East Neck Nursing & Rehabilitation Center, its servants, agents and/or employees supervised the premises known as 134 Great East Neck Road, West Babylon, NY 11704.

29. Upon information and belief, at all times herein mentioned, the Defendant East Neck Nursing & Rehabilitation Center, its servants, agents, and/or employees owned, operated, controlled, managed, supervised and/or administered an adult care facility providing, among other things, supervised nursing care, rehabilitation, housekeeping, personal care and supervision services to impaired adults at the premises known as 134 Great East Neck Road, West Babylon, NY 11704.

30. Upon information and belief, at all times herein mentioned, the Defendant, Defendant East Neck Nursing & Rehabilitation Center, its servants, agents, and/or employees, operated, controlled, managed, supervised and/or administered the adult health program from the premises at 134 Great East Neck Road, West Babylon, NY 11704 (hereinafter the "Premises").

31. Upon information and belief, the Defendant, Defendant East Neck Nursing & Rehabilitation Center, or its servants, agents, and/or employees and located at the Premises, operated, controlled, managed, supervised and/or administered, at all times herein mentioned, an adult care facility which is licensed by and is required to comply at all times with the requirements, regulations and/or principles of, the New York State Department of Health, and with the New York State Health Law in general, the Americans with Disabilities Act, and the Laws of New York, including Kathy's Law, Laws of New York, 1998 CHAPTER 381, prohibiting any person from endangering the welfare of an incompetent or physically disabled person when he or she knowingly acts in a manner likely to be injurious to the physical, mental or moral welfare of a person who is unable to care for himself or herself because of physical disability, mental disease or defect.

32. On or about January 5, 2013, Plaintiff Franklin Youngblood went to visit his mother, Plaintiff Bernice Youngblood, at the Defendant's premises.

33. On or about January 5, 2013, Plaintiff Franklin Youngblood discovered in his mother's belongings, a color photograph (attached as Exhibit A herein).

34. The color photograph depicts the following: a muscular, almost entirely nude male, wearing revealing skinny white "briefs", with his legs straddling over the lap of a seated Bernice Youngblood with his right hand leaning over the torso and head of Bernice Youngblood and resting on the back of the wheelchair of Bernice Youngblood, clutching a wad of bills.

35. Sitting in a semi-circle around Bernice Youngblood are other residents of the Defendant's facility; with an elderly woman to the left of Bernice Youngblood, appearing to be crying.

36. After discovering the photograph, on or about January 5, 2013, Plaintiff Franklin Youngblood approached the head nurse's station with the photograph and inquired as to its source.

37. The head nurse, Fran Doe, whose name is not yet known, did not answer any of Plaintiff Franklin Youngblood's questions; instead, she lunged at Plaintiff Franklin Youngblood and attempted to snatch the photograph out of his hand.

38. Plaintiff Franklin Youngblood thereafter asked to speak to the head nurse's supervisor, to inquire about how it came to be that the aforesaid male, almost fully nude dancer, was permitted to place his hands and torso, including his genital area, upon Plaintiff's mother, who is wheelchair bound and suffering from sensory and mental debilities. His request was rejected by head nurse Fran Doe.

39. Plaintiff Franklin Youngblood also inquired as to how his mother came to have dollar bills in her possession, when it is the practice of the Defendant facility that its patients are not to have any cash on them; rather, the patients' moneys, including Plaintiffs' mother, is kept in commissary accounts, under lock at the head nurse's station. Plaintiff Franklin Youngblood's questions were not answered by head nurse Fran Doe.

40. Plaintiff Franklin Youngblood thereafter left the Defendant facility with the photograph in his hand.

41. Plaintiffs' brother Darrell Youngblood called the facility that same day and spoke with another nurse, whose full name is not currently known, Fran Doe 2, about the incident. In sum and substance, Fran Doe 2 informed Plaintiffs' brother Darrell Youngblood that the scene depicted in the photograph was part of an "entertainment event" that was planned, scheduled, and executed by the Defendant facility, its agents, and employees, and that it was done in "good faith."

42. Upon information and belief, hiring male strippers to perform for the Defendant's nursing home patients was a serial occurrence and it was a custom, practice, and policy of the Defendant, its agents and employees, to orchestrate such events, willingly, and knowingly.

43. Plaintiff Bernice Youngblood was not able to make knowing, coherent, voluntary decisions while the scene depicted in the photograph occurred.

44. At all relevant times herein, the Defendant facility, and all of its agents and employees, were under an affirmative duty to care for, protect, and ensure against the endangerment of the physical, mental, emotional, and economical health and well-being of the patients under its supervision and care, including Plaintiff Bernice Youngblood.

45. This duty of care included providing safe, appropriate entertainment for its patients, rather than exposing them to the humiliation of being physically subjected to offensive bodily contacts by male strippers, all for the perverse pleasure and enjoyment of the Defendant's staff, agents and employees.

46. Defendant breached its aforesaid duty of care by purchasing the services of male strippers and directing them to perform various sexually related acts upon the facility's patients, including Plaintiff Bernice Youngblood knowing that its patients did not have the physical or mental capacity to consent to such vile acts or to defend themselves against such vile acts.

47. During the incident depicted in the photograph, Plaintiff Bernice Youngblood was placed in apprehension of imminent, offensive, physical harm, as she was confused and bewildered as to why a muscular, almost nude man, was approaching her and placing his body and limbs, over and upon Plaintiff's body, and directing that Plaintiff, who did not have the physical ability to withstand such manipulations, to place her hands about and upon his body, including his genital area, and further physically placing Plaintiff Bernice Youngblood's hands upon his body, without Plaintiff Bernice Youngblood's consent.

48. During the incident depicted in the photograph, Plaintiff Bernice Youngblood was caused to suffer and did suffer, nonconsensual, offensive bodily contact, brought about willfully and intentionally by Defendant's agent, the unidentified male stripper, whose purpose at all times was to intentionally cause a harmful and/or offensive touching and/or a harmful and/or offensive force upon Plaintiff Bernice Youngblood's body, and to induce Plaintiff, without consent, to touch and caress his body, including his genital area.

49. As a result of the foregoing, Plaintiff Bernice Youngblood was caused to suffer and did suffer injuries, including but not limited to extreme emotional distress, mental anguish, humiliation, shame, a diminished sense of self-worth, exposure to public obloquy, fear of imminent harmful or offensive contact, a harmful or offensive contact about and upon her body, and exposure to public ridicule, shame, and humiliation, and loss of dignity.

50. As a result of the foregoing, Plaintiff Franklin Youngblood was caused to suffer injuries, including but not limited to extreme emotional distress, mental anguish, humiliation, public obloquy, exposure to public ridicule, shame, and fear for the well-being of his mother.

51. Plaintiffs are entitled to compensatory and treble damages, attorneys' fees, costs and disbursements, as a result of the foregoing, but more than the maximum jurisdictional threshold of all lower courts.

AS AND FOR A SECOND CAUSE OF ACTION

52. Defendant's aforesaid acts violated the mission statement and code of conduct printed on its very own website: "East Neck is more than just a place to our long-term residents, it is their home. Our mission is to respect, honor and preserve the privacy and dignity of our long-term resident community whose health and happiness is our primary responsibility and privilege."

53. Defendant's aforesaid acts caused and were intended to cause, disrespect, dishonor, embarrassment, ridicule, and humiliation, and loss of dignity of the patients in its care, including Plaintiffs' mother, Plaintiff Bernice Youngblood.

54. Defendant's aforesaid acts caused and were intended to cause the violation of the right to privacy of Defendant's patients, including Plaintiffs' mother, Plaintiff Bernice Youngblood

55. Defendant's aforesaid acts caused and were intended to cause indignity to its patients, including Plaintiffs' mother, Plaintiff Bernice Youngblood

56. Defendant's aforesaid acts were and were intended to be detrimental to Plaintiff Bernice Youngblood's mental, physical, and emotional well-being.

57. Defendant's aforesaid acts were and were intended to be detrimental to Plaintiff Bernice Youngblood's happiness and enjoyment of life.

58. Plaintiffs are therefore entitled to compensatory and treble damages, attorneys' fees, costs and disbursements, as a result of the foregoing, all in an amount to be determined, but more than the maximum jurisdictional threshold of all lower courts.

AS AND FOR A THIRD CAUSE OF ACTION

59. Upon information and belief, Defendant, acting through its agents and employees, took an unknown amount of money belonging to Plaintiff Bernice Youngblood, in order to pay for the male strippers.

60. Upon information and belief, Defendant, acting through its agents and employees, took the money from Plaintiff Bernice Youngblood that was locked at the commissary account at the head nurses' station, without Plaintiff Bernice Youngblood's knowledge, permission, or consent.

61. Upon information and belief, Defendant, acting through its agents and employees, put the money towards its own use and enjoyment, as it hired the aforesaid male strippers to perpetrate various perverse and vile acts upon its patients, including Plaintiff, without the

permission and consent of Plaintiff Bernice Youngblood, or Plaintiff Bernice Youngblood's sons.

62. Plaintiffs are therefore entitled to compensatory and treble damages, attorneys' fees, costs and disbursements, as a result of the foregoing, all in an amount to be determined, but more than the maximum jurisdictional threshold of all lower courts.

AS AND FOR A FOURTH CAUSE OF ACTION

63. Defendant knew or should have known that its aforesaid acts would endanger and did endanger the welfare of its patients, including Plaintiff Bernice Youngblood.

64. Defendant knew or should have known that hiring male strippers with the money of its own patients would be likely to be injurious to the physical, mental, and moral welfare of its patients, including Plaintiff Bernice Youngblood.

65. Defendant knew or should have known that its aforesaid acts did in fact cause physical, mental, and emotional injury to its patients, including Plaintiff Bernice Youngblood.

66. Plaintiffs are therefore entitled to compensatory and treble damages, attorneys' fees, costs and disbursements, as a result of the foregoing, all in an amount to be determined, but more than the maximum jurisdictional threshold of all lower courts.

67. Plaintiffs demand a trial by jury.

68. Plaintiffs demand expedited calendar preference due to Plaintiff Bernice Youngblood's advanced age.

WHEREFORE, the Plaintiffs demand judgment on each cause of action as follows:

On the first cause of action, Plaintiffs are entitled to recover damages in an amount to be determined by the trier of fact, which exceeds any lower court's jurisdiction, plus treble damages, plus the costs and disbursements of this action, and for any other relief the Court

deems just and proper.

On the second cause of action, Plaintiffs are entitled to recover damages in an amount to be determined by the trier of fact, which exceeds any lower court's jurisdiction, plus treble damages, plus the costs and disbursements of this action, and for any other relief the Court deems just and proper.

On the third cause of action, Plaintiffs are entitled to recover damages in an amount to be determined by the trier of fact, which exceeds any lower court's jurisdiction, plus treble damages, plus the costs and disbursements of this action, and for any other relief the Court deems just and proper.

On the fourth cause of action, Plaintiffs are entitled to recover damages in an amount to be determined by the trier of fact, which exceeds any lower court's jurisdiction, plus treble damages, plus the costs and disbursements of this action, and for any other relief the Court deems just and proper.

Dated: Miller Place, New York
January 17, 2014

Vesselin Mitev, Esq.
Ray, Mitev & Associates
Attorneys for Plaintiffs
122 North Country Road
P. O. Box 5440
Miller Place, NY 11764
(631) 473-1000

ORIGINAL

VERIFICATION

STATE OF NEW YORK)
):ss
COUNTY OF SUFFOLK)

Bernice Youngblood, being duly sworn, says that she is one of the Plaintiffs in the above-named proceeding; and that she has read the foregoing complaint and knows the contents thereof; that the same is true to her own knowledge, except as to matters therein stated to be alleged on information and belief, and as to those matters, she believes it to be true.

Bernice Youngblood

Sworn to before me on the
17th day of January, 2014

Notary Public

JOHN RAY
Notary Public, State of New York
No. 4786739
Qualified in Suffolk County
Commission Expires May 31, 20__

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF SUFFOLK

Index No. Year: 2014 Hon.

BERNICE YOUNGBLOOD,
AND FRANKLIN YOUNGBLOOD,

Plaintiffs,

-against-

EAST NECK NURSING CENTER, INC.,
d/b/a EAST NECK NURSING AND
REHABILITATION CENTER,

Defendant.

SUMMONS; VERIFIED COMPLAINT; VERIFICATION; EXHIBIT

RAY, MITEV & ASSOCIATES
Attorneys for Plaintiffs Bernice Youngblood and Franklin Youngblood
122 North Country Road
P. O. Box 5440
Miller Place, New York 11764-1117
(631) 473-1000

To: East Neck Nursing Center, Inc.,
d/b/a East Neck Nursing and Rehabilitation Center
Defendant

Signature (Rule 130-1.1-a)

Vesselin Mitev, Esq.

is hereby admitted.

Service of a copy of the within
Dated,

Attorney(s) for

Please take notice
( ) NOTICE OF ENTRY
that the within is a *(certified)* true copy of a
duly entered in the office of the clerk of the within named court on

( ) NOTICE OF SETTLEMENT
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.

Dated, Miller Place, New York
March 11, 2014

Yours, etc.,

RAY, MITEV & ASSOCIATES
Attorneys for Plaintiffs Bernice Youngblood and Franklin Youngblood,
122 NORTH COUNTRY ROAD
P.O. BOX 5440
MILLER PLACE, NEW YORK 11764-1117
(631) 473-1000

To

Attorney (s) for