

RA-938

EXHIBIT
12/1/11
EMC

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF SUFFOLK

JENNIFER LUNA and ALAN LUNA,

Plaintiff,

- against -

Index No. 1469/06

PHILIP F. SPADAFORA, M.D.,
JOHN F. ALOIA, M.D.,
LI PROF. MEDICAL SERVICES, P.C.,
WINTHROP UNIVERSITY HOSPITAL,

Defendant.

1. Did Dr. Aloia depart from good and accepted medical practice in not ordering or performing a fine needle aspiration biopsy of the solid nodules in the right lobe of Mrs. Luna's thyroid on November 20, 2003?

Yes No

Remember at least five of you must agree upon the answer to this question and those agreeing to the answer should sign in the space provided.

Rosa Wilson Francis J. Quarta
Angie Piner John M. [Signature]
[Signature] John M. [Signature]

N/A
One dissent (if any)

If your answer is "YES", PROCEED TO Question 2.

If "NO", skip question 2 and proceed to Question 3.

2. Was that departure a substantial factor in causing injury to the plaintiff?

Yes No

Remember at least five of you must agree upon the answer to this question and those agreeing to the answer should sign in the space provided.

<u>Rosa Wilson</u>	<u>Francis J. DiOrato</u>
<u>Agie Pirero</u>	<u>Jim M. King</u>
<u>Ernest B. ...</u>	<u>John M. ...</u>

N/A
One dissent (if any)

PROCEED TO Question 3.

3. Did Dr. Aloia depart from good and accepted medical practice by not having as part of a plan on November 20, 2003, the consideration to rule out cancer?

Yes No

Remember at least five of you must agree upon the answer to this question and those agreeing to the answer should sign in the space provided.

Rosa Wilson
Angie Pinero
Edward A. [unclear]

Francis J. [unclear]
[unclear] M. [unclear]
John M. [unclear]

N/A
One dissent (if any)

If your answer is "YES", PROCEED TO Question 4.

If "NO", skip question 4 and proceed to Question 5.

4. Was that departure a substantial factor in causing injury to the plaintiff?

Yes No

Remember at least five of you must agree upon the answer to this question and those agreeing to the answer should sign in the space provided.

Rosa Wilson
Angie Riner
Ernest [Signature]

Francis J. Amoretti
John M. [Signature]
John M. [Signature]

N/A
One dissent (if any)

PROCEED TO Question 5.

5. Did Dr. Aloia depart from good and accepted medical practice in telling Mrs. Luna that her enlarged thyroid was a result of her pregnancy?

Yes ✓ No

Remember at least five of you must agree upon the answer to this question and those agreeing to the answer should sign in the space provided.

<u>Rosa Wilson</u>	<u>Francis Quarta</u>
<u>Regie Pinero</u>	<u>Jim M. [Signature]</u>
<u>Edward [Signature]</u>	<u>John M. [Signature]</u>

NIA
One dissent (if any)

If your answer is "YES", PROCEED TO Question 6.

If "NO", skip question 6 and proceed to Question 7.

6. Was that departure a substantial factor in causing injury to the plaintiff?

Yes No

Remember at least five of you must agree upon the answer to this question and those agreeing to the answer should sign in the space provided.

<u>Rosa Wilson</u>	<u>Francis J. Chavira</u>
<u>Rugie Rivera</u>	<u>John M. Van</u>
<u>James A. ...</u>	<u>John M. Khan</u>

N/A
One dissent (if any)

PROCEED TO Question 7.

7. Did Dr. Aloia depart from good and accepted medical practice in not telling Mrs. Luna that she needed to have her thyroid nodules evaluated for cancer?

Yes No

Remember at least five of you must agree upon the answer to this question and those agreeing to the answer should sign in the space provided.

Rosa Wilk

Francis J. Curante

Angie Piner

Jim M. King

General Board

John M. Flynn

N/A

One dissent (if any)

If your answer is "YES", PROCEED TO Question 8.

If "NO", skip question 8 and proceed to Question 9.

8. Was that departure a substantial factor in causing injury to the plaintiff?

Yes No

Remember at least five of you must agree upon the answer to this question and those agreeing to the answer should sign in the space provided.

Rene Wilson Francis J. Puro
Algie Puro John M. Puro
Edmond Puro John M. Puro

N/A
One dissent (if any).

PROCEED TO Question 9.

9. Did Dr. Spadafora depart from good and accepted medical practice by not communicating to Dr. Aloia after he received Dr. Aloia's November 20, 2003 and December 22, 2003 consultation report?

Yes No

Remember at least five of you must agree upon the answer to this question and those agreeing to the answer should sign in the space provided.

Rosa Wilk Francis J. Coyato
Regie Rivera Jim M. King
James R. [unclear] John M. [unclear]

N/A
One dissent (if any)

If your answer is "YES", PROCEED TO Question 10.
If "NO", skip question 10 and proceed to Question 11.

10. Was that departure a substantial factor in causing injury to the plaintiff?

Yes No

Remember at least five of you must agree upon the answer to this question and those agreeing to the answer should sign in the space provided.

Rose Wilie Francis A. ...
Aggie Penner John M. ...
... John M. ...

N/A
One dissent (if any)

PROCEED TO Question 11.

11. Did Dr. Spadafora depart from good and accepted medical practice in not treating or monitoring Mrs. Luna's thyroid condition after November 25, 2003?

Yes _____ No ✓

Remember at least five of you must agree upon the answer to this question and those agreeing to the answer should sign in the space provided.

Rosa Wilk

Francis K. ...

Regie Pines

Jim M. ...

James A. ...

John M. ...

N/A
One dissent (if any)

If your answer is "YES", PROCEED TO Question 12.

If "NO", skip question 12 and proceed to Question 13.

12. Was that departure a substantial factor in causing injury to the plaintiff?

Yes _____ No

Remember at least five of you must agree upon the answer to this question and those agreeing to the answer should sign in the space provided.

<u>Anna Wilson</u>	<u>Francis J. Conant</u>
<u>Aggie Rivers</u>	<u>J. M. [Signature]</u>
<u>[Signature]</u>	<u>John M. [Signature]</u>

N/A
One dissent (if any)

PROCEED TO Question 13.

13. Did Dr. Spadafora depart from good and accepted medical practice in not obtaining a plan from Dr. Aloia after the November 20, 2003 consultation by Dr. Aloia?

Yes _____ No ✓

Remember at least five of you must agree upon the answer to this question and those agreeing to the answer should sign in the space provided.

<u>Rosa Wilco</u>	<u>Francis J. Choate</u>
<u>Agne Pineso</u>	<u>Jim M. [unclear]</u>
<u>[unclear]</u>	<u>John M. [unclear]</u>

N/A
One dissent (if any)

If your answer is "YES", PROCEED TO Question 14.

If "NO", skip question 14 and proceed to Question 15.

14. Was that departure a substantial factor in causing injury to the plaintiff?

Yes _____ No

Remember at least five of you must agree upon the answer to this question and those agreeing to the answer should sign in the space provided.

<u> Alex Wilson </u>	<u> Francis J. Edwards </u>
<u> Angela Pizarro </u>	<u> Jim M. King </u>
<u> Gerald A. Smith </u>	<u> John M. L. Hays </u>

 N/A
One dissent (if any)

PROCEED TO Question 15.

15. Did Dr. Spadafora depart from good and accepted medical practice by not following through on his plan to have a biopsy performed to evaluate Mrs. Luna's thyroid nodules?

Yes No

Remember at least five of you must agree upon the answer to this question and those agreeing to the answer should sign in the space provided.

<u>Rosa Wilton</u>	<u>Francis J. Curate</u>
<u>Regie. Pineso</u>	<u>John M. King</u>
<u>[Signature]</u>	<u>John M. King</u>

N/A
One dissent (if any)

If your answer is "YES", PROCEED TO Question 16.

If "NO", skip question 16 and proceed to Question 17.

16. Was that departure a substantial factor in causing injury to the plaintiff?

Yes No

Remember at least five of you must agree upon the answer to this question and those agreeing to the answer should sign in the space provided.

<u>Asa Wila</u>	<u>Francis J. Lurato</u>
<u>Regie Pierso</u>	<u>Jim M. King</u>
<u>Edward A. Burt</u>	<u>John M. P. Ryan</u>

N/A
One dissent (if any)

PROCEED TO Question 17.

17. Was Mrs. Luna negligent?

Yes No

Remember at least five of you must agree upon the answer to this question and those agreeing to the answer should sign in the space provided.

Rosa Wilson

Francis Edwards

Regie Rivers

Charles B. Paul

John M. Egan

Jim M. [Signature]
One dissent (if any)

If your answer is "YES", PROCEED TO Question 18.

If "NO", skip question 18 and proceed to Question 19.

18. Was Mrs. Luna's negligence a substantial factor in causing injury to her?

Yes _____ No

Remember at least five of you must agree upon the answer to this question and those agreeing to the answer should sign in the space provided.

Rosa Vilos
Ricardo Pineda
Edward B. [Signature]

Francis K. [Signature]
[Signature]
John M. P. [Signature]

N/A
One dissent (if any)

PROCEED TO Question 19.

19. In questions 19a, 19b and 19c you will determine the percentages of liability for each party, if any, the total must equal 100%.

19a. State the percentage of fault attributed to DR. ALOIA:

69%

19b. State the percentage of fault attributed to DR. SPADAFORA:

22%

19c. State the percentage of fault attributed to the plaintiff:

9%

Remember at least five of you must agree upon the answer to this question and those agreeing to the answer should sign in the space provided.

Rosa Wilk

Francis Horvath

Regie Pines

John M. Ryan

John M. Ryan

John M. Ryan

One dissent (if any)

PROCEED TO Question 20.

FOLLOW INSTRUCTIONS ON THIS PAGE

*****INSTRUCTIONS*****

If you have answered "YES" to Questions 1 and 2 and/or "YES" to questions 3 and 4 and/or "YES" to questions 5 and 6 and/or "YES" to questions 7 and 8 and/or "YES" to questions 9 and 10 and/or "YES" to questions 11 and 12, and/or "YES" to questions 13 and 14, and/or "YES" to questions 15 and 16 THEN PROCEED TO QUESTION 20. OTHERWISE REPORT YOUR VERDICT TO THE COURT.

- 20. State the amount awarded to plaintiff,, for past pain and suffering and loss of enjoyment of life. If you decide not to make an award as to this item. insert the word "NONE" below.

Pain and suffering and loss of enjoyment of life from the date of the incident up to date of your verdict

TOTAL \$ 1.2M

Remember at least five of you must agree upon the answer to this question and those agreeing to the answer should sign in the space provided.

Rona Wilson Francis J. ...
Regie ... John M. ...
Charles ... John M. ...

N/A
One dissent (if any)

PROCEED TO Question 21.

21. State the amount awarded to plaintiff for future pain and suffering and loss of enjoyment of life. If you decide not to make an award as to this item, insert the word "NONE" below.

TOTAL \$ 3.4M

Remember at least five of you must agree upon the answer to this question and those agreeing to the answer should sign in the space provided.

<u>Rosa Wilco</u>	<u>Francis J. Ewert</u>
<u>Regie Rivers</u>	<u>Jim M. Ryan</u>
<u>James A. [unclear]</u>	<u>John M. Ryan</u>

N/A

One dissent (if any)

PROCEED TO Question 22.

22. If you have made any award for amounts intended to compensate for the plaintiff for damages to be incurred in the future, state the period of years over which such amounts are intended to provide compensation.

15 years

If you decide not to make an award as to any item, you will insert the word "none" as to that item.

Remember at least five of you must agree upon the answer to this question and those agreeing to the answer should sign in the space provided.

<u>Rosa Wild</u>	<u>Francis J. Everett</u>
<u>Aggie Pinero</u>	<u>John M. Ryan</u>
<u>Ann A. B. L.</u>	<u>John M. Ryan</u>

N/A
One dissent (if any)

PROCEED TO Question 23.

23. State the amount, if any, for past loss of earnings from July 1, 2007 to the date of your verdict, which the plaintiff, JENNIFER LUNA, is entitled for the following item of damage:

\$ 358,875

Remember at least five of you must agree upon the answer to this question and those agreeing to the answer should sign in the space provided.

Rosa Wilb Francis J. Pimental
Luigi Pines Jim M. Ryan
Edmund C. P. John M. P.

N/A
One dissent (if any)

PROCEED TO Question 24.

24. State the amount, if any, for future loss of earnings, the plaintiff, JENNIFER LUNA, is entitled :

- i. The date of commencement of loss of earnings: 1/01/2012
- ii. The annual amount in current dollars: \$ 58,000
- iii. The growth rate applicable to the period ~~of years from the present date to the date~~ on which the loss will commence: 2.5%
- iv. The number of years the loss will continue: 28

Remember at least five of you must agree upon the answer to this question and those agreeing to the answer should sign in the space provided.

Rosa Wilson Francis J. Chimento
Reggie Pines Jim M. V...
Edward A. G... John M. L...

N/A
One dissent (if any)

PROCEED TO Question 25.

25. State the amount, if any, of loss of services sustained by MR. LUNA as a result of the injuries sustained by MRS. LUNA.

\$ 250,000

Remember at least five of you must agree upon the answer to this question and those agreeing to the answer should sign in the space provided.

Rosa Wilts

Francis Dumont

Aggie Pinciro

John M. Vignone

James J. ...

John M. ...

N/A
One dissent (if any)

You may now report your verdict to the Court