UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

----------X

BRENDA LEUZZI and GEORGE LEUZZI,

Plaintiffs,

-against-

ETHICON ENDO SURGERY, INC., d/b/a ETHICON WOMEN'S HEALTH AND UROLOGY and ABC CORPORATIONS 1-10 and JOHN DOES 1-10 and JANE DOES 1-10,

Defendants.

----------X

DOCKET NO:

VERIFIED COMPLAINT

Plaintiffs, BRENDA LEUZZI and GEORGE LEUZZI, by their attorneys, ALONSO KRANGLE LLP, complaining of the defendants, respectfully alleges, upon information and belief, as follows

I. INTRODUCTION

1. This action is a products liability action against Ethicon Endo Surgery, Inc., d/b/a Ethicon Women's Health and Urology ("ETHICON") as well as ABC Corporations, 1-10, John Does, 1-10, and/or Jane Does, 1-10, resulting from the use of said defendants' morcellator surgical products.

2. Plaintiff BRENDA LEUZZI, had a surgical procedure performed on her known as a Robot-assisted hysterectomy with uterine morcellation in September 2012 at The Strong Memorial Hospital of the University of Rochester Medical Center.

II. JURISDICTION AND VENUE

3. This Court has original jurisdiction pursuant to 28 U.S.C. §1332, as the matter in controversy exceeds the sum or value of $75,000, exclusive of interest and costs, and is between citizens of different states as plaintiffs BRENDA LEUZZI and GEORGE

LEUZZI, are residents of the state of New York and defendants are residents of the State of New Jersey.

4. Venue in the Western District of New York is proper under 28 U.S.C. §1391(b)(2) as a substantial part of the events or omissions giving rise to the claim occurred in this District.

III. PARTIES

5. Plaintiffs BRENDA LEUZZI and GEORGE LEUZZI are adult individuals residing in Fairport, New York.

6. Defendant ETHICON, is a corporation, or other entity, organized and/or existing under the laws of the New Jersey, and who at all times material and relevant hereto was engaged in the business of manufacturing and/or selling and/or supplying and/or marketing and/or and/or designing and/or distributing minimally invasive gynecological surgical products, with a principal place of business at Route 22 West, Somerville, New Jersey.

7. Defendants ABC Corporations, 1-10, are fictitious names, corporations, or other similar entities who were engaged in the business of manufacturing and/or selling and/or supplying and/or marketing and/or designing and/or distributing minimally invasive gynecological surgical products, specifically, the product/s used upon Plaintiff.

8. John Does, 1-10, who were engaged in the business manufacturing and/or selling and/or supplying and/or marketing and/or distributing minimally invasive gynecological surgical products, specifically, the product/s used upon Plaintiff.

9. Jane Does, 1-10, who were engaged in the business manufacturing and/or selling and/or supplying and/or marketing and/or distributing minimally invasive gynecological surgical products, specifically, the product/s used upon Plaintiff.

10. In September 2012 plaintiff BRENDA LEUZZI underwent a surgical procedure known as a Robot-assisted hysterectomy with uterine morcellation at the Strong Memorial Hospital of the University of Rochester Medical Center.

11. Prior to the Plaintiff's surgery in September 2012 there was no evidence of disseminated and/or metastatic cancer/disease.

12. Following this procedure, in September 2012 Plaintiff was informed that she had cancer.

13. Plaintiff has been undergoing aggressive treatment and therapy since learning of her cancer diagnosis.

14. It is alleged that each and every defendant herein failed to warn about the possibility of dissemination of an occult uterine leiomyosarcoma throughout the peritoneal cavity.

15. Defendants were each aware of the risks, complications, and/or adverse events associated with their products used for uterine morcellation.

COUNT I – NEGLIGENCE
ON BEHALF OF PLAINTIFF BRENDA LEUZZI

16. The paragraphs above are incorporated by reference hereto as if set forth at length.

17. Defendants ETHICON, ABC Corporations, 1-10, John Does, 1-10, and/or Jane Does, 1-10, (hereafter collectively referred to as "Defendants"), owed a duty to manufacture, compound, label, market, distribute, and supply and/or sell products, including minimally invasive gynecologic products, including products used for uterine morcellation, specifically the MORCELEX product manufactured by defendant ETHICON in such a way as to avoid harm to persons upon whom they are used, such as Plaintiff herein, or to refrain from such activities

following knowledge and/or constructive knowledge that such product is harmful to persons upon whom it is used.

18. Defendants owed a duty to warn of the hazards and dangers associated with the use of its products, specifically minimally invasive gynecologic products, including products used for uterine morcellation, such as the MOCRELEX product manufactured by defendant ETHICON for patients such as plaintiff herein, so as to avoid harm.

19. Defendants, acting by and through their authorized divisions, subsidiaries, agents, servants, and employees, were guilty of carelessness, recklessness, negligence, gross negligence and willful, wanton, outrageous and reckless disregard for human life and safety in manufacturing, designing, labeling, marketing, distributing, supplying and/or selling and/or placing into the stream of commerce, minimally invasive gynecologic products, including the MORCELEX morcellator, both generally, and in the following particular respects:

a. failing to conduct adequate and appropriate testing of minimally invasive gynecologic products, such as the MORCELEX morcellator, specifically including, but not limited to, products used for uterine morcellation;

b. putting products used for uterine morcellation such as the MORCELEX morcellator on the market without first conducting adequate testing to determine possible side effects;

c. putting products used for uterine morcellation such as the MORCELEX morcellator on the market without adequate testing of its dangers to humans;

d. failing to recognize the significance of their own and other testing of, and information regarding, products used for uterine morcellation, such as the MORCELEX morcellator, which testing evidenced such products potential harm to humans;

e. failing to respond promptly and appropriately to their own and other testing of, and information regarding products used for uterine morcellation, such as the MORCELEX morcellator which indicated such products potential harm to human;

f. failing to promptly and adequately warn of the potential of the products used for uterine morcellation to be harmful to humans;

g. failing to promptly and adequately warn of the potential for the metastases of cancer when using products used for uterine morcellation, such as the MORCELEX morcellator.

h. failing to promptly, adequately, and appropriately recommend testing and monitoring of patients upon whom products used for uterine morcellation in light of such products potential harm to humans;

i. failing to properly, appropriately, and adequately monitor the post-market performance of products used for uterine morcellation and such products effects on patients;

j. concealing from the FDA, National Institutes of Health, the general medical community and/or physicians, their full knowledge andexperience regarding the potential that products used for uterine morcellation, specifically the MORCELEX morcellator, are harmful to humans;

k. promoting, marketing, advertising and/or selling products used for uterine morcellation, such as the MORCELEX morcellator, for use on patients given their knowledge and experience of such products' potential harmful effects;

l. failing to withdraw products used for uterine morcellation from the market, restrict its use and/or warn of such products' potential dangers, given their knowledge of the potential for its harm to humans;

m. failing to fulfill the standard of care required of a reasonable, prudent, minimally invasive gynecological surgical products manufacturer engaged in the manufacture of said products, specifically including products used for uterine morcellation such as the MORCELEX morcellator, in among other things, failing to deploy an intraperitoneal bag with said morcellator to prevent the spread of malignancy.

n. placing and/or permitting the placement of the products used for uterine morcellation, specifically the MORCELEX morcellator into the stream of commerce without warnings of the potential for said products to be harmful to humans and/or without properly warning of said products' dangerousness;

o. failing to disclose to the medical community in an appropriate and timely manner, facts relative to the potential of the products used for uterine morcellation, including the MORCELEX morcellator to be harmful to humans;

p. failing to respond or react promptly and appropriately to reports of products used for uterine morcellation causing harm to patients, including the MORCELEX morcellator;

q. disregarding the safety of users and consumers of products used for uterine morcellation, including plaintiff herein, under the circumstances by failing adequately to warn of said products' potential harm to humans;

r. disregarding the safety of users and consumers of the products used for uterine morcellation, including plaintiff herein, and/or her physicians' and/or hospital, under the circumstances by failing to withdraw said products from the market and/or restrict their usage;

s. disregarding publicity, government and/or industry studies, information, documentation and recommendations, consumer complaints and reports and/or other information

regarding the hazards of the products used for uterine morcellation and their potential harm to humans;

t. failing to exercise reasonable care in informing physicians and/or hospitals using the products used for uterine morcellation about their own knowledge regarding said products' potential harm to humans;

u. failing to remove products used for uterine morcellation from the stream of commerce;

v. failing to test products used for uterine morcellation properly and/or adequately so as to determine its safety for use;

w. promoting the products used for uterine morcellation as safe and/or safer than other comparative methods of lesion removal;

x. promoting the products used for uterine morcellation on websites aimed at creating user and consumer demand;

y. failing to conduct and/or respond to post-marketing surveillance of complications and injuries.

z. failing to use due care under the circumstances; and,

aa. such other acts or omissions constituting negligence and carelessness as may appear during the course of discovery or at the trial of this matter

20. As a direct and proximate result of the negligent and/or reckless and/or wanton acts and/or omissions of Defendants, Plaintiff suffered serious injuries, and/or financial losses and harm.

WHEREFORE, Plaintiff, BRENDA LEUZZI respectfully requests that this Honorable Court enter judgment in her favor and against ETHICON, and/or ABC Corporations, 1-10;

and/or John Does, 1-10, and/or Jane Does, 1-10, jointly and/or severally, in an amount in excess of $75,000.00 plus interest, costs, punitive damages, and attorney's fees.

COUNT II – STRICT PRODUCTS LIABILITY
ON BEHALF OF BRENDA LEUZZI

21. The paragraphs above are incorporated by reference hereto as if set forth at length.

22. As a result of the unreasonably dangerous and defective condition of the products used for uterine morcellation, specifically the MORCELEX morcellator, which defendants manufactured, designed, labeled, marketed, distributed, supplied and/or sold, and/or placed into the stream of commerce, they are strictly liable to the Plaintiffs for their injuries which they directly and proximately caused, based on the following:

a. failing to properly and adequately design the products used for uterine morcellation, specifically the MORCECLEX morcellator, in order to prevent the potential spread of malignancy, by among other things, failing to deploy an intraperitoneal bag with said morcellartor.

23. In addition, the aforesaid incident and Plaintiff's injuries and losses were the direct and proximate result of Defendants' manufacturing, designing, labeling, marketing, distributing, supplying and/or selling and/or placing into the stream of commerce the products used for uterine morcellation, specifically the MORCELEX morcellator without proper and adequate warnings regarding the potential for said products' harm to humans and as otherwise set forth supra, when said defendants knew or should have known of the need for such warnings and/or recommendations.

WHEREFORE, Plaintiff, BRENDA LEUZZI, respectfully requests that this Honorable Court enter judgment in her favor against ETHICON and/or ABC Corporations, 1-10; and/or

John Does, 1-10, and/or Jane Does, 1-10, jointly and/or severally, in an amount in excess of $75,000.00 plus interest, costs, punitive damages, and attorney's fees.

COUNT III - BREACH OF EXPRESS WARRANTY
ON BEHALF OF BRENDA LEUZZI

24. The paragraphs above are incorporated by reference hereto as if set forth at length.

25. In the advertising and marketing of the products used for uterine morcellation, which was directed to both physicians and hospitals and consumers, Defendants warranted that said product or products, including the MORCELEX morcellator, were safe for the use, which had the natural tendency to induce physicians and hospitals to use the same for patients and for patients to want to be treated with the same.

26. The aforesaid warranties were breached by defendants in that the MORCELEX morcellator products used for uterine morcellation constituted a serious danger to the user.

27. As a direct and proximate result of defendants' breach of express warranty, Plaintiff suffered serious injuries, financial losses and harm.

WHEREFORE, Plaintiff, BRENDA LEUZZI respectfully requests that this Honorable Court enter judgment in her favor and against ETHICON, and/or ABC Corporations, 1-10; and/or John Does, 1-10, and/or Jane Does, 1-10, jointly and/or severally, in an amount in excess of $75,000.00 plus interest, costs, punitive damages, and attorney's fees.

COUNT IV – BREACH OF IMPLIED WARRANTY
ON BEHALF OF BRENDA LEUZZI

28. The paragraphs above are incorporated by reference hereto as if set forth at length.

29. At all relevant and material times, Defendants manufactured, distributed, advertised, promoted, and sold the MORCELEX morcellator used for uterine morcellation.

30. At all relevant times, defendants intended that the products used for uterine morcellation, including the MORCELEX morcellator, be used in the manner that the Plaintiff's surgeons in fact used it and Defendants impliedly warranted the product to be of merchantable quality, safe and fit for such use, and was adequately tested.

31. Defendants breached various implied warranties with respect to the products used for uterine morcellation, including:

a. Defendants represented through their labeling, advertising, marketing materials, detail persons, seminar presentations, publications, notice letters, and regulatory submissions that the products used for uterine morcellation, including the MORCELEX morcellator, were safe, and withheld and concealed information about the substantial risks of serious injury and/or death associated with using the products used for uterine morcellation;

b. Defendant represented that the products used for uterine morcellation, including, the MORCELEX morcellator, were as safe and/or safer than other alternative surgical approaches that did not include the use of the said products, and concealed information, which demonstrated that said products were not safer than alternatives available on the market; and,

c. Defendants represented that the products used for uterine morcellation, including the MORCELEX morcellator, were more efficacious than other alternative surgical approaches and techniques and concealed information, regarding the true efficacy of said products.

32. In reliance upon Defendants' implied warranty, Plaintiff's surgeons used said MORCELEX morcellator as prescribed and in the foreseeable manner normally intended, recommended, promoted, instructed, and marketed by Defendant.

33. Defendants breached their implied warranty to Plaintiff in that said MORCELEX morcellator used for uterine morcellation was not of merchantable quality, safe and fit for their intended use, or adequately tested.

34. As a direct and proximate consequence of Defendants' breach of implied warranty and/or intentional acts, omissions, misrepresentations and/or otherwise culpable acts described herein, the Plaintiff sustained injuries and damages alleged herein including pain and suffering.

WHEREFORE, Plaintiff, BRENDA LEUZZI, respectfully requests that this Honorable Court enter judgment in his favor and against ETHICON and/or ABC Corporations, 1-10; and/or John Does, 1-10, and/or Jane Does, 1-10, jointly and/or severally, in an amount in excess of $75,000.00 plus interest, costs, punitive damages, and attorney's fees.

COUNT V
FRAUDULENT MISREPRESENTATION AND OMISSION

35. Plaintiffs incorporate by reference, as if fully set forth herein, each and every allegation set forth in the preceding paragraphs and further allege as follows.

36. Defendant, having undertaken design, formulation, testing, manufacture, marketing, sale, and distribution of devices used for uterine morcellation, including the MORCELEX morcellator owed a duty to provide accurate and complete information regarding said devices.

37. Prior to Plaintiff BRENDA LEUZZI undergoing her surgery defendants fraudulently misrepresented, that the use of their MORCELEX morcellator for uterine morcellation was safe and effective.

38. Defendant had a duty to provide Plaintiff BRENDA LEUZZI, physicians, and other consumers with true and accurate information regarding the devices for uterine morcellation it manufactured, marketed, distributed and sold.

39. Defendant made representations and failed to disclose material facts with the intent to induce consumers, including Plaintiff, BRENDA LEUZZI and the medical community to act in reliance by purchasing and using the MORCELEX uterine morcellator sold by defendant.

40. Plaintiff BRENDA LEUZZI and the medical community justifiably relied on Defendant's representations and omissions by purchasing and using the uterine morcellator during Plaintiff's surgery.

41. Defendant's representations and omissions regarding use of its uterine morcellation devices were a direct and proximate cause of Plaintiff BRENDA LEUZZI's injuries.

WHEREFORE, Plaintiff, BRENDA LEUZZI, respectfully requests that this Honorable Court enter judgment in his favor and against ETHICON and/or ABC Corporations, 1-10; and/or John Does, 1-10, and/or Jane Does, 1-10, jointly and/or severally, in an amount in excess of $75,000.00 plus interest, costs, punitive damages, and attorney's fees

COUNT VI
LOSS OF SERVICES

42. That plaintiff, GEORGE LEUZZI., repeats, reiterates and realleges each and every allegation contained hereinabove in paragraphs with the same force and effect as if hereinafter fully set forth and further alleges as follows.

43. Plaintiff, GEORGE LEUZZI is the spouse of plaintiff BRENDA LEUZZI and as such is entitled to the services, society, companionship, consortium and support of the plaintiff, BRENDA LEUZZI.

44. That by reason of the foregoing acts and omissions by the defendants, plaintiff GEORGE LEUZZI., was deprived of the services, society, companionship, consortium and support of plaintiff, BRENDA LEUZZI.

WHEREFORE, Plaintiff, GEORGE LEUZZI, respectfully requests that this Honorable Court enter judgment in his favor and against ETHICON and/or ABC Corporations, 1-10; and/or John Does, 1-10, and/or Jane Does, 1-10, jointly and/or severally, in an amount in excess of $75,000.00 plus interest, costs, punitive damages, and attorney's fees

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs pray for relief as follows:

1. Compensatory damages in excess of the jurisdictional amount, including, but not limited to pain, suffering, emotional distress, loss of enjoyment of life, loss of services, consortium, society and other non-economic damages in an amount to be determined at trial of this action;

2. Medical expenses and other economic damages in an amount to be determined at trial of this action;

3. Double or triple damages as allowed by law;

4. Restitution and disgorgement of profits;

5. Reasonable attorneys' fees;

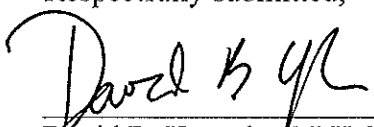
6. Punitive damages;

7. The costs of these proceedings; and

8. Such other and further relief as this Court deems just and proper.

Dated: Melville, New York
May 1, 2014

Respectfully submitted,



David B. Krangle (DBK 8085)
Andres F. Alonso (AFA 8307)
ALONSO KRANGLE LLP
445 Broad Hollow Road, Suite 205
Melville, NY 11747
Telephone: (516) 350-5555
Facsimile: (516) 350-5554
Email: DKrangle@alonsokrangle.com
AAlonso@alonsokrangle.com

Pending Pro Hac Vice status
Francois Blaudeau MD
ASB# 7722-D32F
Francois@southernmedlaw.com
(205) 547-5525 office
(205) 515-6166 cell
Southern Institute for Medical & Legal Affairs
Heninger Garrison Davis LLC
2224 1st Avenue North
Birmingham, Alabama 35203

ATTORNEYS VERIFICATION

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

David B. Krangle, an attorney and counselor at law, duly admitted to practice in the Courts of the State of New York, affirms the following to be true under penalties of perjury:

I am a member/associate of the firm **ALONSO KRANGLE LLP** attorneys for the plaintiff(s) herein.

I have read the foregoing COMPLAINT and know the contents thereof. Upon information and belief, I believe the matters alleged therein to be true.

The source of your deponent's information and the grounds of my belief are communications, papers, reports and investigations contained in my file.

The reason this verification is made by deponent and not by plaintiff(s) is that plaintiff(s) reside in a county other than the one in which your deponent's office is maintained.

Dated: Melville, New York
May 1, 2014

David B. Krangle

JS 44 (Rev. 12/12)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. *(SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)*

I. (a) PLAINTIFFS
BRENDA LEUZZI and GEORGE LEUZZI

(b) County of Residence of First Listed Plaintiff Monroe County, New York
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys *(Firm Name, Address, and Telephone Number)*
Alonso Krangle LLP (516-350-5555)
445 Broad Hollow Road, Suite 205
Melville, NY 11747

DEFENDANTS
ETHICON ENDO SURGERY, INC., d/b/a
ETHICON WOMEN'S HEALTH AND UROLOGY, et al

County of Residence of First Listed Defendant Somerset County, NJ
(IN U.S. PLAINTIFF CASES ONLY)
NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys *(If Known)*

II. BASIS OF JURISDICTION *(Place an "X" In One Box Only)*

- ☐ 1 U.S. Government Plaintiff
- ☐ 3 Federal Question *(U.S. Government Not a Party)*
- ☐ 2 U.S. Government Defendant
- ☒ 4 Diversity *(Indicate Citizenship of Parties in Item III)*

III. CITIZENSHIP OF PRINCIPAL PARTIES *(Place an "X" in One Box for Plaintiff and One Box for Defendant)*
(For Diversity Cases Only)

	PTF	DEF		PTF	DEF
Citizen of This State	☒ 1	☐ 1	Incorporated *or* Principal Place of Business In This State	☐ 4	☐ 4
Citizen of Another State	☐ 2	☐ 2	Incorporated *and* Principal Place of Business In Another State	☐ 5	☒ 5
Citizen or Subject of a Foreign Country	☐ 3	☐ 3	Foreign Nation	☐ 6	☐ 6

IV. NATURE OF SUIT *(Place an "X" In One Box Only)*

CONTRACT
- ☐ 110 Insurance
- ☐ 120 Marine
- ☐ 130 Miller Act
- ☐ 140 Negotiable Instrument
- ☐ 150 Recovery of Overpayment & Enforcement of Judgment
- ☐ 151 Medicare Act
- ☐ 152 Recovery of Defaulted Student Loans (Excludes Veterans)
- ☐ 153 Recovery of Overpayment of Veteran's Benefits
- ☐ 160 Stockholders' Suits
- ☐ 190 Other Contract
- ☐ 195 Contract Product Liability
- ☐ 196 Franchise

REAL PROPERTY
- ☐ 210 Land Condemnation
- ☐ 220 Foreclosure
- ☐ 230 Rent Lease & Ejectment
- ☐ 240 Torts to Land
- ☐ 245 Tort Product Liability
- ☐ 290 All Other Real Property

TORTS

PERSONAL INJURY
- ☐ 310 Airplane
- ☐ 315 Airplane Product Liability
- ☐ 320 Assault, Libel & Slander
- ☐ 330 Federal Employers' Liability
- ☐ 340 Marine
- ☐ 345 Marine Product Liability
- ☐ 350 Motor Vehicle
- ☐ 355 Motor Vehicle Product Liability
- ☐ 360 Other Personal Injury
- ☐ 362 Personal Injury - Medical Malpractice

PERSONAL INJURY
- ☒ 365 Personal Injury - Product Liability
- ☐ 367 Health Care/ Pharmaceutical Personal Injury Product Liability
- ☐ 368 Asbestos Personal Injury Product Liability

PERSONAL PROPERTY
- ☐ 370 Other Fraud
- ☐ 371 Truth in Lending
- ☐ 380 Other Personal Property Damage
- ☐ 385 Property Damage Product Liability

CIVIL RIGHTS
- ☐ 440 Other Civil Rights
- ☐ 441 Voting
- ☐ 442 Employment
- ☐ 443 Housing/ Accommodations
- ☐ 445 Amer. w/Disabilities - Employment
- ☐ 446 Amer. w/Disabilities - Other
- ☐ 448 Education

PRISONER PETITIONS

Habeas Corpus:
- ☐ 463 Alien Detainee
- ☐ 510 Motions to Vacate Sentence
- ☐ 530 General
- ☐ 535 Death Penalty

Other:
- ☐ 540 Mandamus & Other
- ☐ 550 Civil Rights
- ☐ 555 Prison Condition
- ☐ 560 Civil Detainee - Conditions of Confinement

FORFEITURE/PENALTY
- ☐ 625 Drug Related Seizure of Property 21 USC 881
- ☐ 690 Other

LABOR
- ☐ 710 Fair Labor Standards Act
- ☐ 720 Labor/Management Relations
- ☐ 740 Railway Labor Act
- ☐ 751 Family and Medical Leave Act
- ☐ 790 Other Labor Litigation
- ☐ 791 Employee Retirement Income Security Act

IMMIGRATION
- ☐ 462 Naturalization Application
- ☐ 465 Other Immigration Actions

BANKRUPTCY
- ☐ 422 Appeal 28 USC 158
- ☐ 423 Withdrawal 28 USC 157

PROPERTY RIGHTS
- ☐ 820 Copyrights
- ☐ 830 Patent
- ☐ 840 Trademark

SOCIAL SECURITY
- ☐ 861 HIA (1395ff)
- ☐ 862 Black Lung (923)
- ☐ 863 DIWC/DIWW (405(g))
- ☐ 864 SSID Title XVI
- ☐ 865 RSI (405(g))

FEDERAL TAX SUITS
- ☐ 870 Taxes (U.S. Plaintiff or Defendant)
- ☐ 871 IRS—Third Party 26 USC 7609

OTHER STATUTES
- ☐ 375 False Claims Act
- ☐ 400 State Reapportionment
- ☐ 410 Antitrust
- ☐ 430 Banks and Banking
- ☐ 450 Commerce
- ☐ 460 Deportation
- ☐ 470 Racketeer Influenced and Corrupt Organizations
- ☐ 480 Consumer Credit
- ☐ 490 Cable/Sat TV
- ☐ 850 Securities/Commodities/ Exchange
- ☐ 890 Other Statutory Actions
- ☐ 891 Agricultural Acts
- ☐ 893 Environmental Matters
- ☐ 895 Freedom of Information Act
- ☐ 896 Arbitration
- ☐ 899 Administrative Procedure Act/Review or Appeal of Agency Decision
- ☐ 950 Constitutionality of State Statutes

V. ORIGIN *(Place an "X" In One Box Only)*

☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from Another District *(specify)* ☐ 6 Multidistrict Litigation

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing *(Do not cite jurisdictional statutes unless diversity)*:
28 U.S.C. § 1332

Brief description of cause:
Negligence

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND $

CHECK YES only if demanded in complaint:
JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions): JUDGE DOCKET NUMBER

DATE
05/01/2014

SIGNATURE OF ATTORNEY OF RECORD
David Krangle

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

I.(a) Plaintiffs-Defendants. Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.

(b) County of Residence. For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)

(c) Attorneys. Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".

II. Jurisdiction. The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.
United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.)**

III. Residence (citizenship) of Principal Parties. This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.

IV. Nature of Suit. Place an "X" in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section VI below, is sufficient to enable the deputy clerk or the statistical clerk(s) in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.

V. Origin. Place an "X" in one of the six boxes.
Original Proceedings. (1) Cases which originate in the United States district courts.
Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.
Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
Multidistrict Litigation. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407. When this box is checked, do not check (5) above.

VI. Cause of Action. Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service

VII. Requested in Complaint. Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.

VIII. Related Cases. This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.

AO 440 (Rev. 12/09) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

Western District of New York

BRENDA LEUZZI and GEORGE LEUZZI

Plaintiff

v.

ETHICON ENDO SURGERY, INC., d/b/a ETHICON WOMEN'S HEALTH AND UROLOGY, etal

Defendant

Civil Action No.

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)* ETHICON ENDO SURGERY, INC., d/b/a
ETHICON WOMEN'S HEALTH AND UROLOGY
Route 22 West
Somerville, NJ 08876

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are: ALONSO KRANGLE LLP
445 Broad Hollow Road
Suite 205
Melville, NY 11747

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date: _____

_____
Signature of Clerk or Deputy Clerk

Civil Action No.

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))

This summons for *(name of individual and title, if any)* _____ was received by me on *(date)* _____ .

❒ I personally served the summons on the individual at *(place)* _____ on *(date)* _____ ; or

❒ I left the summons at the individual's residence or usual place of abode with *(name)* _____ , a person of suitable age and discretion who resides there, on *(date)* _____ , and mailed a copy to the individual's last known address; or

❒ I served the summons on *(name of individual)* _____ , who is designated by law to accept service of process on behalf of *(name of organization)* _____ on *(date)* _____ ; or

❒ I returned the summons unexecuted because _____ ; or

❒ Other *(specify):*

.

My fees are $ _____ for travel and $ _____ for services, for a total of $ 0.00 .

I declare under penalty of perjury that this information is true.

Date: _____

_____
Server's signature

_____
Printed name and title

_____
Server's address

Additional information regarding attempted service, etc: