



STATE OF NEW YORK DEPARTMENT OF HEALTH

433 River Street, Suite 303

Troy, New York 12180-2299

Antonia C. Novello, M.D., M.P.H.
Commissioner

Dennis P. Whalen
Executive Deputy Commissioner

September 15, 2000

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Harry Leopold Wachen, M.D.
108-48 70 Road
Forest Hills, New York 11375

Anthony Scher, ESQ.
Wood & Scher
The Harwood Building
14 Harwood Court
Scarsdale, New York 10583

Ann Gayle, ESQ.
NYS Department of Health
5 Penn Plaza- 6th Floor
New York, New York 10001

RE: In the Matter of Harry Leopold Wachen M.D.

Dear Parties:

Enclosed please find the Determination and Order (No. 00-254) of the Hearing Committee in the above referenced matter. This Determination and Order shall be deemed effective upon the receipt or seven (7) days after mailing by certified mail as per the provisions of §230, subdivision 10, paragraph (h) of the New York State Public Health Law.

As prescribed by the New York State Public Health Law §230, subdivision 10, paragraph (i), and §230-c subdivisions 1 through 5, (McKinney Supp. 1992), "the determination of a committee on professional medical conduct may be reviewed by the Administrative Review Board for professional medical conduct." Either the licensee or the Department may seek a review of a committee determination.

All notices of review must be served, by certified mail, upon the Administrative Review Board and the adverse party within fourteen (14) days of service and receipt of the enclosed Determination and Order.

The notice of review served on the Administrative Review Board should be forwarded to:

James F. Horan, Esq., Administrative Law Judge
New York State Department of Health
Bureau of Adjudication
Hedley Park Place
433 River Street, Fifth Floor
Troy, New York 12180

The parties shall have 30 days from the notice of appeal in which to file their briefs to the Administrative Review Board. Six copies of all papers must also be sent to the attention of Mr. Horan at the above address and one copy to the other party. The stipulated record in this matter shall consist of the official hearing transcript(s) and all documents in evidence.

Parties will be notified by mail of the Administrative Review Board's Determination and Order.

Sincerely,

A handwritten signature in black ink, appearing to read "Tyrone T. Butler". The signature is written in a cursive style with a large initial "T".

Tyrone T. Butler, Director
Bureau of Adjudication

TTB: mpf
Enclosure

STATE OF NEW YORK : DEPARTMENT OF HEALTH
STATE BOARD FOR PROFESSIONAL MEDICAL CONDUCT

COPY

-----X
IN THE MATTER :

DETERMINATION

OF :

AND

HARRY LEOPOLD WACHEN :
-----X

ORDER

BPMC- 00-254

Jerry Waisman, M.D. Lemuel A. Rogers, Jr. M.D., and Garry Schwall, duly designated members of the State Board for Professional Medical Conduct, appointed by the Commissioner of Health of the State of New York pursuant to Sections 230 (1) of the Public Health Law, served as the Hearing Committee in this matter pursuant to Sections 230(10)(e) and 230(12) of the Public Health Law. Jane B. Levin, Esq., Administrative Law Judge, served as Administrative Officer for the Hearing Committee.

After consideration of the entire record, the Hearing Committee submits this determination.

SUMMARY OF THE PROCEEDINGS

Notice of Hearing and Statement of Charges dated:	May 23, 2000
Answer date:	June 1, 2000
Pre-Hearing Conference:	June 16, 2000
Hearing Dates:	June 23, 2000 July 13, 2000

August 4, 2000

Deliberation date:

August 21, 2000

Place of Hearing:

NYS Department of Health
5 Penn Plaza
New York, N.Y.

Petitioner appeared by:

Henry M. Greenberg, Esq.
General Counsel
NYS Department of Health
By: Ann Gayle, Esq.
Associate Counsel

Respondent appeared by:

Wood & Scher
The Harwood Building
Scarsdale, N.Y. 10583
By: Anthony Scher, Esq.

WITNESSES

For the Petitioner:

- 1) Patient A
- 2) Patient B

For the Respondent:

- 1) Respondent
- 2) Helen Feeley

STATEMENT OF CHARGES

The Statement of Charges essentially charges the Respondent with professional misconduct in that he willfully harassed, abused or intimidated a patient, and that he evidenced moral unfitness to practice medicine. The charges are more specifically set

forth in the Statement of Charges, a copy of which is attached hereto and made a part hereof.

FINDINGS OF FACT

Numbers in parentheses refer to transcript page numbers of exhibits. These citations represent evidence found persuasive by the Hearing Committee in arriving at a particular finding. Conflicting evidence, if any, was considered and rejected in favor of the cited evidence.

GENERAL FINDINGS

1. Harry Leopold Wachen, M.D., the Respondent, is a physician who was duly licensed to practice medicine in New York State on or about July 23, 1958 by the issuance of license number 080961 by the New York State Education Department (Pet. Ex. 2).

FINDINGS OF FACT AS TO PATIENT A

2. Respondent treated Patient A, d.o.b. 1/3/71, at his office located at 108-48 70th Road, Forest Hills, New York, from approximately July 28, 1997 to September 4, 1997 (Pet. Ex. 3).
3. Patient A first visited Respondent on July 28, 1997 for an annual checkup, as well as testing for a urinary tract infection ("UTI") and sexually transmitted diseases ("STDs"). Respondent recommended to Patient A

that she begin using Depo-Provera, a form of birth control given by injection shortly after the patient begins menstruating. On this day, he also gave her a lecture about the risks involved with unprotected sex with multiple partners (Pet. Ex. 3; T. 22-23; 51-52; 54; 64-66; 87; 102-102).

4. Patient A returned to Respondent's office on August 12, 1997 for the Depo-Provera shot; she did not see Respondent at that visit as she received the shot from one of the nurses (Pet. Ex. 3; T. 23-4; 55).

5. Patient A returned to Respondent's office on August 21, 1997 for a third visit because she wanted additional testing for STDs and she had complaints indicative of a UTI (Pet. Ex. 3; T. 25; 56; 58-59; 98-9; 106-7; 109).

6. At the August 21st visit, Patient A gave a urine sample to the assistant/chaperone, who then left the room. Patient A undressed from the waist down and was draped by the assistant/chaperone when she returned. Patient A testified that during the pelvic examination in response to her request for STD testing, Respondent asked how many sexual partners she had had since her last visit. She further testified that when she answered four, he said: "oh, well you really must need it then." Patient A stated she was "really taken back, really embarrassed...didn't know what to think and just stuttered" (T. 25-6; 7-75; 96-7).

7. Respondent testified that he is "not judgmental" about people's behavior (T. 234).

8. After the examination, Respondent helped Patient A off the table, as is his usual practice. Patient A testified that he gave her a "bear hug" at that time (T. 29; 85).

9. The Respondent testified that he did not "recollect doing anything of that sort" (T. 257).

10. At the time of Patient A's visit, Helen Feeley had worked for the Respondent as a medical assistant for many years. She testified that she was in the room when the Respondent helped Patient A off the table and that he did not place her in a bear hug (T. 494).

11. After the examination, Patient A went into the Respondent's consulting office. Respondent testified that he gave her a stern lecture about the dangers of unprotected sex (T. 259; 261).

12. Patient A testified that as she was leaving his office, the Respondent again embraced in a bear hug with her arms at her sides, and he kissed her on the mouth (T. 34).

13. Patient A testified that the door to the consultation room was closed at this time. Both the Respondent and Helen Feeley testified that the door to the consultation room could not be closed because of ongoing construction (T. 297; 499).

14. Ms. Feeley testified that from where she was sitting at a typing table in the corridor she could see into the consult room and that she did not observe a bear hug (T. 506).

15. The day after her visit, on August 22, 1997, Patient A called her insurance company to make a formal complaint (T. 39).

Within approximately one week of the incident, she wrote approximately half a dozen letters to different organizations including her health insurance company (having already made a telephone complaint to them) Long Island Jewish Hospital, the Board of Obstetrics and Gynecology, the Office of Professional Medical Conduct or the Department of Health, and a Queens County level disciplinary department (T. 38-41; 43-44; 48-51; 86; 93-95).

CONCLUSIONS AS TO PATIENT A

1. The Respondent failed to meet minimally acceptable standards of medical practice in his care of Patient A in that his verbal comments intimidated Patient A, although the Committee concludes that he did not engage in inappropriate physical contact.

FINDINGS OF FACT AS TO PATIENT B

16. Respondent treated Patient B, d.o.b. 6/15/57 at Respondent's office, which was located at 1575 Hillside Avenue, New Hyde Park, New York and at Long Island Jewish Medical Center, which was located at 270-05 76th Avenue, New Hyde Park, New York, from August 7, 1987 to September 16, 1987 (Pet. Exs. 4, 6).

17. Patient B first visited the Respondent on August 7, 1987 for pre-natal care. She testified that because of the multiple prescription medications she was taking, she was nervous about the pregnancy and felt she had a "high risk" pregnancy (Pet. Ex. 4; T. 118-19).

18. Patient B testified that Respondent asked if he could hug her because she was upset and "I said o.k." Later, she testified that he asked if he could kiss her, and she turned her cheek but he kissed her on the lips (T. 141-44; 150-54; 163-64).

19. Respondent testified that he did not recall hugging and kissing Patient B, but that if he had, he "absolutely" did not do anything sexual or otherwise improper to Patient B, and that while he might offer a patient a comforting hug, he would never kiss a patient on the lips (T. 4-5; 407-10; 423).

20. On September 9, 1987, Patient B, who had severe nausea, became dehydrated, and Respondent admitted her to Long Island Jewish Hospital (Pet. Ex. 4; 6; T.119-121; 169-70; 191-92).

21. Patient B remained hospitalized for hyperemesis for eight days. Patient B was in a semi-private room, which she shared with another female patient whose bed was closer to the door. Patient B had an IV inserted in her left arm. Patient B testified that on the second or third day of her hospitalization, while she was sitting in bed, Respondent entered the room, closed the curtain between the two patient beds, sat on her bed and placed his hands on her breasts, over her nightgown, and he leaned on her pinning her to the bed, with his face very close to hers (Pet. Ex. 6; T. 121-24; 170-76; 180-81; 206; 212-13).

22. Patient B testified that she promptly reported the incident and was seen by a psychiatrist in the hospital on September 11, 1987. A hospital investigation ensued, which found "no breach of medical or ethical conduct" by the Respondent, but that he had rather acted in a paternalistic manner (Pet. Exs. 6, 7; Resp. Ex. G; T. 125-27; 181-88; 206-08).

23. After Patient B was discharged, she became the patient of another obstetrician. She subsequently reported the incident to OPMC, which conducted an investigation and closed the case in 1990 with the issuance of an Administrative Warning to the Respondent (Pet. Ex. 5; T. 127-130; 158-164; 208-11).

CONCLUSIONS AS TO PATIENT B

1. The Respondent failed to meet minimally acceptable standards of medical practice in his care of Patient B in that he inappropriately engaged in physical contact with her, by hugging and kissing her on her first visit to his office, albeit in a non-sexual way, which made the patient feel uncomfortable.

2. The Respondent did not engage in inappropriate physical contact with Patient B during her hospitalization.

VOTE OF THE HEARING COMMITTEE

(All votes were unanimous, unless specified.)

FIRST AND SECOND SPECIFICATIONS:

(Willfully harassing, abusing or intimidating a patient)

- A. SUSTAINED
- A1a. NOT SUSTAINED (2-1)
- A1b. SUSTAINED
- B. SUSTAINED
- B1. SUSTAINED
- B2a(i). NOT SUSTAINED (2-1)
- B2a (ii). WITHDRAWN
- B2b. WITHDRAWN

THIRD AND FOURTH SPECIFICATIONS:

(Moral unfitness)

- A. NOT SUSTAINED
- A1a. NOT SUSTAINED
- A1b. NOT SUSTAINED
- B. NOT SUSTAINED
- B1. NOT SUSTAINED
- B2a(i). NOT SUSTAINED
- B2a(ii). WITHDRAWN
- B2b. WITHDRAWN

CREDITABILITY OF WITNESSES

The Committee felt that Patient A testified credibly to most facts. However, she was so clearly angry at the Respondent's paternalistic and judgmental attitude toward her that she perhaps exaggerated some factual statements, which were contradicted by the testimony of both Ms. Feeley and the Respondent. Her body language and severe style of dress at the hearing seemed phony to the members of the Committee.

In contrast, Patient B presented overall as a more credible witness. While the Committee felt she testified truthfully about her office encounter with the Respondent, the

hospital incident was difficult to believe given the circumstances. Additionally, an investigation closer in time to this incident, which allegedly occurred 13 years ago, found no merit to her accusations.

Ms. Feeley, a long time employee of the Respondent was not totally credible, because she testified too specifically about the specific details of remote events - the Committee did not find it believable that she would remember every detail of one particular patient's visit in the context of a busy office practice. In particular, it was not believable, based on the office diagram, that she could see into the Respondent's consult room, or that she would leave the room with the patient on the examination table and leave that door open.

The Committee did not feel the Respondent was a particularly convincing witness on his own behalf. At times, this older physician seemed almost disinterested in the proceedings, or perhaps he was just embarrassed.

DETERMINATION OF THE HEARING COMMITTEE AS TO PENALTY

The Hearing Committee has carefully considered all of the evidence in this matter and the full range of penalties available, and determined by unanimous vote to censure and reprimand the Respondent, as well as impose a requirement that he take a course in sexual harassment avoidance.

The Respondent is an older physician, with many years of experience in an office

practice. Unfortunately, he had a paternalistic judgmental attitude which appears out of touch with modern sexual mores, which in at least one case, that of Patient A, led to a patient feeling intimidated and uncomfortable. The Committee finds that his pattern of offering a comforting hug to patients is inappropriate in today's climate and despite an earlier warning from OPMC, he does not seem to comprehend this problem and has persisted in this practice.

The Hearing Committee does not find that the Respondent presents any threat to public safety, or his level of misconduct to be egregious, and therefore rejected the imposition of a harsher penalty. The Respondent does, however, need to modify his attitude and his conduct toward patients, and the Committee feels that the penalty imposed will be sufficient to achieve this goal.

ORDER

Based upon the foregoing IT IS HEREBY ORDERED THAT

1. Respondent shall be censured and reprimanded.
2. Respondent shall enroll in and complete a continuing medical education program(s) in the area of avoidance of sexual harassment to be equivalent to at least 3 credit hours of Continuing Medical Education. Said continuing education program shall be subject to the prior written approval of the Director of OPMC and be completed within six months of the date of this Order.
3. This Order shall be effective upon service on the Respondent or the Respondent's attorney by personal service or by certified or registered mail.

Dated: New York, New York
September 15, 2000


JERRY WAISMAN, M.D.
Chairperson

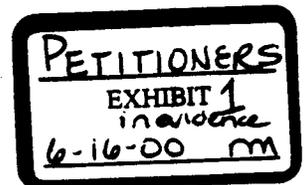
LEMUEL A. ROGERS, M.D.
GARRY SCHWALL

NEW YORK STATE DEPARTMENT OF HEALTH
STATE BOARD FOR PROFESSIONAL MEDICAL CONDUCT

IN THE MATTER
OF
HARRY LEOPOLD WACHEN, M.D.

NOTICE
OF
HEARING

TO: Harry Leopold Wachen, M.D.
108-48 70th Road
Forest Hills, New York 11375



PLEASE TAKE NOTICE:

A hearing will be held pursuant to the provisions of N.Y. Pub. Health Law §230 (McKinney 1990 and Supp. 2000) and N.Y. State Admin. Proc. Act §§301-307 and 401 (McKinney 1984 and Supp. 2000). The hearing will be conducted before a committee on professional conduct of the State Board for Professional Medical Conduct on June 23, 2000, at 10:00 a.m., at the Offices of the New York State Department of Health, 5 Penn Plaza, Sixth Floor, New York, New York, and at such other adjourned dates, times and places as the committee may direct.

At the hearing, evidence will be received concerning the allegations set forth in the Statement of Charges, which is attached. A stenographic record of the hearing will be made and the witnesses at the hearing will be sworn and examined. You shall appear in person at the hearing and may be represented by counsel. You have the right to produce witnesses and evidence on your behalf, to issue or have subpoenas issued on your behalf in order to require the production of witnesses and documents, and you may cross-examine witnesses and examine evidence produced against you. A summary of the Department of Health Hearing Rules is enclosed.

The hearing will proceed whether or not you appear at the hearing. Please note that requests for adjournments must be made in writing and by telephone to the New York State Department of Health, Division of Legal Affairs, Bureau of Adjudication, Hedley Park Place, 433 River Street, Fifth Floor South, Troy, NY 12180, ATTENTION: HON. TYRONE BUTLER, DIRECTOR, BUREAU OF

ADJUDICATION, (henceforth "Bureau of Adjudication"), (Telephone: (518-402-0748), upon notice to the attorney for the Department of Health whose name appears below, and at least five days prior to the scheduled hearing date.

Adjournment requests are not routinely granted as scheduled dates are considered dates certain. Claims of court engagement will require detailed Affidavits of Actual Engagement. Claims of illness will require medical documentation.

Pursuant to the provisions of N.Y. Pub. Health Law §230(10)(c), you shall file a written answer to each of the charges and allegations in the Statement of Charges not less than ten days prior to the date of the hearing. Any charge or allegation not so answered shall be deemed admitted. You may wish to seek the advice of counsel prior to filing such answer. The answer shall be filed with the Bureau of Adjudication at the address indicated above, and a copy shall be forwarded to the attorney for the Department of Health whose name appears below. Pursuant to §301(5) of the State Administrative Procedure Act, the Department, upon reasonable notice, will provide at no charge a qualified interpreter of the deaf to interpret the proceedings to, and the testimony of, any deaf person. Pursuant to the terms of N.Y. State Admin. Proc. Act §401 (McKinney Supp. 2000) and 10 N.Y.C.R.R. §51.8(b), the Petitioner hereby demands disclosure of the evidence that the Respondent intends to introduce at the hearing, including the names of witnesses, a list of and copies of documentary evidence and a description of physical or other evidence which cannot be photocopied.

At the conclusion of the hearing, the committee shall make findings of fact, conclusions concerning the charges sustained or dismissed, and in the event any of the charges are sustained, a determination of the penalty to be imposed or appropriate action to be taken. Such determination may be reviewed by the Administrative Review Board for Professional Medical Conduct.

THESE PROCEEDINGS MAY RESULT IN A

14
DETERMINATION THAT YOUR LICENSE TO PRACTICE
MEDICINE IN NEW YORK STATE BE REVOKED OR
SUSPENDED, AND/OR THAT YOU BE FINED OR
SUBJECT TO OTHER SANCTIONS SET OUT IN NEW
YORK PUBLIC HEALTH LAW §§230-a (McKinney Supp.
2000). YOU ARE URGED TO OBTAIN AN ATTORNEY TO
REPRESENT YOU IN THIS MATTER.

DATED: New York, New York
May 23, 2000



ROY NEMERSON
Deputy Counsel
Bureau of Professional
Medical Conduct

Inquiries should be directed to: Ann Gayle
Associate Counsel
Bureau of Professional
Medical Conduct
5 Penn Plaza, Suite 601
New York, New York 10001
(212) 613-2615

SECURITY NOTICE TO THE LICENSEE

The proceeding will be held in a secure building with restricted access. Only individuals whose names are on a list of authorized visitors for the day will be admitted to the building

No individual's name will be placed on the list of authorized visitors unless written notice of that individual's name is provided by the licensee or the licensee's attorney to one of the Department offices listed below.

The written notice may be sent via facsimile transmission, or any form of mail, but must be received by the Department **no less than two days prior to the date** of the proceeding. The notice must be on the letterhead of the licensee or the licensee's attorney, must be signed by the licensee or the licensee's attorney, and must include the following information:

Licensee's Name _____ Date of Proceeding _____

Name of person to be admitted _____

Status of person to be admitted _____
(Licensee, Attorney, Member of Law Firm, Witness, etc.)

Signature (of licensee or licensee's attorney)

This written notice must be sent to either:

New York State Health Department
Bureau of Adjudication
Hedley Park Place
433 River Street, Fifth Floor South
Troy, NY 12180
Fax: 518-402-0751

New York State Health Department
Bureau of Professional Medical Conduct
5 Penn Plaza
New York, NY 10001
Fax: 212-268-6735

IN THE MATTER
OF
HARRY LEOPOLD WACHEN, M.D.

STATEMENT
OF
CHARGES

HARRY LEOPOLD WACHEN, M.D., the Respondent, was authorized to practice medicine in New York State on or about July 23, 1958, by the issuance of license number 080961, by the New York State Education Department.

FACTUAL ALLEGATIONS

- A. Respondent treated Patient A, d.o.b. 1/3/71, at Respondent's office which was located at 108-48 70th Road, Forest Hills, New York, from approximately July 28, 1997 to September 4, 1997.
1. On or about August 21, 1997, during the course of performing a medical examination upon, and consultation with Patient A, Respondent:
 - a. engaged, without her consent, in inappropriate physical contact with her which consisted of hugging and kissing her.
 - b. verbally made inappropriate comments.
- B. Respondent treated Patient B, d.o.b. 6/19/57, at Respondent's office, which was located at 108-48 70th Road, Forest Hills, New York, and at Long Island Jewish Medical Center, which was located at 270-05 76th Avenue, New Hyde Park, New York, from at least August 7, 1987 to September 16, 1987.
1. On or about August 7, 1987, during the course of performing a medical examination upon, and consultation with Patient B, Respondent engaged, without her consent, in inappropriate

physical contact with her which consisted of hugging and kissing her.

2. On or about September 11, 1987, during the course of a consultation with Patient B, Respondent:
 - a. engaged, without her consent, in inappropriate physical contact with her which consisted of:
 - i. touching her breasts;
 - ii. ~~kissing or attempting to kiss her.~~
 - b. ~~made inappropriate verbal comments.~~

SPECIFICATION OF CHARGES

FIRST AND SECOND SPECIFICATIONS

WILLFULLY HARASSING, ABUSING OR INTIMIDATING A PATIENT

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law §6530(31)(McKinney Supp. 2000) by willfully harassing, abusing or intimidating Patients A, as alleged in the facts of:

1. Paragraphs A, A1, A1a-b.
2. Paragraphs B, B1, B2, B2a, B2ai-ii, B2b.

THIRD AND FOURTH SPECIFICATIONS

MORAL UNFITNESS

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law §6530(20)(McKinney Supp. 2000) by engaging in conduct in the practice of the profession of medicine that evidences moral unfitness to practice as alleged in the facts of the following:

3. Paragraphs A, A1, A1a-b.

4. Paragraphs B, B1, B2, B2a, B2ai-ii, B2b.

DATED: May 23, 2000
New York, New York



ROY NEMERSON
Deputy Counsel / BPMC

COUNTY OF

GLOBAL PROCESS SERVICE CO., I.
291 BROADWAY, SUITE 1504
NEW YORK, NY 10007
LIC. # 887-054

IN THE MATTER OF HARRY LEOPOLD WACHEN M. D.

- against -

Plaintiff(s)

Defendant(s)

Index No.

COURT DATE 06/23/00

AFFIDAVIT OF SERVICE

NOTICE OF HEARING,
STATEMENT OF CHARGES

STATE OF NEW YORK COUNTY OF NEW YORK
ROBERT RAMSEY

ss:

BEING DULY SWORN DEPOSES AND SAYS DEPONENT IS NOT A PART
TO THIS ACTION AND IS OVER THE AGE OF EIGHTEEN YEARS AND RESIDES IN THE STATE OF NEW YORK.

That on 05/25/00 at 0458PM Hours at 100-48 70TH ROAD FOREST HILLS, NEW YORK
deponent served the within NOTICE OF HEARING, STATEMENT OF CHARGES
HARRY LEOPOLD WACHEN M. D.

therein named,

INDIVIDUAL

A

by delivering a true copy of each to said personally; deponent knew the person so served to be the person described as said person therein. (S) He identified (her) himself as such.

CORPORATION

B

a (domestic) (foreign) corporation by delivering thereof a true copy of each to personally, deponent knew said corporation so served to be the corporation described in legal papers and knew said individual to be thereof

SUITABLE
AGE PERSON

C

by delivering thereof a true copy of each to a person of suitable age and discretion. Said premises is recipient's (actual place of business) (dwelling house) (usual place of abode) within the state. (S) He identified (her) himself as of recipient

AFFIXING TO
DOOR, ETC.

D

by affixing a true copy of each to the door of said premises, which is recipient's (actual place of business) (dwelling house) (usual place of abode) within the state. Deponent was unable, with due diligence to find recipient or a person of suitable age and discretion, thereof, having called there on the dates below:

MAILING
USE WITH
C or D

Deponent also enclosed a copy of same in a postpaid sealed wrapper properly addressed to the above recipient and deposited said wrapper in (a post office) official depository under exclusive care and custody of the United States Postal Service within New York State.

Deponent further states that he describes the person actually served as follows

Sex	Skin Color	Hair Color	Age (Approx.)	Height (Approx.)	Weight (Approx.)
MALE	WHITE	GRAY	65	5' 90"	220

MILITARY
SERVICE

Above person has asked, whether the recipient (s) was (were) in the military service of the State of New York or the United States and received a negative reply. Upon information and belief based upon the conversation and observation as aforesaid deponent avers that the recipient (s) is (are) not in the military service of the State of New York or the United States as that term is defined in the statutes of the State of New York or the Federal Soldiers and Sailors Civil Relief Act.

That at the time of such service deponent knew the person (s) so served as aforesaid to be the same person (s) mentioned and described as the defendant(s) in this action.

USE IN
NYC CIVIL CT.

The language required by NYCRR 2000.2(a), (f) & (h) was set forth on the face of said summons (ss).

Sworn to before
me on the
05/26/00

SANDRA PARRON
Notary Public, State of New York
No. 01754784281
Qualified in Nassau County
Commission Expires 06/30/04

ROBERT RAMSEY

LIC. # 887-054
871 312

53625