

★ OCT 17 2011 ★

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

MARGARET ZOTTA,

Plaintiff,

-against-

HILL-ROM, INC., HILL-ROM HOLDINGS, INC.  
HILL-ROM SERVICES, INC. and  
HILL-ROM COMPANY, INC.,

Defendants.

BROOKLYN OFFICE

0011

5038

NOTICE OF REMOVAL TO  
UNITED STATES DISTRICT  
COURT FROM NEW YORK STATE  
SUPREME COURT, KINGS  
COUNTY, INDEX NO. 20695/11

Handwritten signature/initials

2011 OCT 17 11 11 AM

**TO: THE HONORABLE JUDGES OF THE UNITED STATES DISTRICT COURT,  
EASTERN DISTRICT OF NEW YORK,**

Pursuant to 28 U.S.C. §§ 1332, 1441 and 1446, Defendants, HILL-ROM, INC., HILL-ROM HOLDINGS, INC., HILL-ROM SERVICES, INC. and HILL-ROM COMPANY, INC., by and through their undersigned counsel, give notice of removal of this action to the United States District Court for the Eastern District of New York and, in support thereof, state as follows:

1. Upon information and belief, plaintiff MARGARET ZOTTA filed a Verified Complaint against defendants in the Supreme Court of the State of New York, County of Kings, Index No. 20695/11 (the "State Court Action") on September 14, 2011. Plaintiff seeks relief for alleged injuries arising from an accident involving a hospital bed. See copy of Summons and Verified Complaint attached hereto as **Exhibit A**. Pursuant to 28 U.S.C. § 1446(a), these documents constitute all of the process, pleadings, and orders that have been served upon defendants in this matter.

2. This Court has original jurisdiction under 28 U.S.C. § 1332 (Diversity Jurisdiction) as follows:

(a) Plaintiff MARGARET ZOTTA is a citizen of the State of New York, residing at 477 Vandervoort Avenue, Brooklyn, New York 11222. *See* Summons.

(b) Defendant HILL-ROM, INC. is an Indiana corporation with its principal place of business in Indiana. HILL-ROM, INC. is not and has not been a citizen of the State of New York.

(c) Defendant HILL-ROM HOLDINGS, INC. is an Indiana corporation with its principal place of business in Indiana. HILL-ROM HOLDINGS, INC. is not and has not been a citizen of the State of New York.

(d) Defendant HILL-ROM SERVICES, INC. is an Indiana corporation with its principal place of business in Indiana. HILL-ROM SERVICES, INC. is not and has not been a citizen of the State of New York.

(e) Defendant HILL-ROM COMPANY, INC. is an Indiana corporation with its principal place of business in Indiana. HILL-ROM COMPANY, INC. is not and has not been a citizen of the State of New York.

(f) Upon information and belief, and based upon a recent communication with plaintiff's counsel about plaintiff's alleged injuries, plaintiff seeks damages in excess of \$75,000, exclusive of interest and costs.

3. The United States District Court for the Eastern District of New York is the Federal District Court having jurisdiction over this matter. The State Court Action was filed in a venue located within the Eastern District of New York.

4. The defendants have not yet served an answer, as their time to do so has not yet expired.

5. This Notice of Removal is timely as the 30-day time period set forth in 28 U.S.C. § 1446(b) has not yet begun to run.

6. Pursuant to 28 U.S.C. § 1446(d), promptly after the filing of this Notice of Removal, a true and correct copy of same will be filed with the Clerk of the New York State Supreme Court, Kings County and served upon plaintiff's counsel.

**WHEREFORE**, based on the foregoing, defendants give notice of removal of the State Court Action to the United States District Court for the Eastern District of New York, and request that all further proceedings be held in this Court.

Dated: New York, New York  
October 17, 2011

PORZIO, BROMBERG & NEWMAN P.C.

By: 

Joshua H. Abramson (JH-9762)

156 West 56<sup>th</sup> Street, Suite 803

New York, NY 10019

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E-mail: [jhabramson@pbnlaw.com](mailto:jhabramson@pbnlaw.com)

*Attorneys for Defendants,*

*HILL-ROM, INC., HILL-ROM HOLDINGS, INC.,*

*HILL-ROM SERVICES, INC. and*

*HILL-ROM COMPANY, INC.*

Of counsel to Porzio, Bromberg & Newman, P.C.  
for defendants, Hill-Rom Company, Inc., Hill-Rom Holdings, Inc.,  
Hill-Rom Services, Inc. and Hill-Rom Company, Inc.:

Christopher R. Cashen, Esq.  
Dinsmore & Shohl LLP  
Lexington Financial Center  
250 West Main Street, Suite 1400  
Lexington, KY 40507  
Telephone: 859-425-1000  
Facsimile: 859-425-1099  
E-mail: [chris.cashen@dinsmore.com](mailto:chris.cashen@dinsmore.com)

To: John Dalli, Esq.  
Dalli & Marino, LLP  
*Attorneys for Plaintiff*  
231 Mineola Boulevard  
Mineola, NY 11501  
Tel: 516-292-4700

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF KINGS

-----X  
MARGARET ZOTTA,

Plaintiff(s),

-against-

HILL-ROM, INC., HILL-ROM HOLDINGS, INC.,  
HILL-ROM SERVICES, INC. and  
HILL-ROM COMPANY, INC.

Defendant(s).  
-----X

Index No. 20695//

SUMMONS

Date filed: SEP 13 2011

To the above named Defendant(s):


**YOU ARE HEREBY SUMMONED** to answer the 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 20 days after the service of this summons, exclusive of the day of service (or within 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 herein.

Plaintiff designates Kings County as the place of trial.  
The basis of venue is Plaintiff's Residence  
The relief sought is monetary damages.

**PLAINTIFF RESIDES AT:** 477 Vandervoort Avenue, Brooklyn, NY 11222  
**DEFENDANT'S ADDRESS:** SEE ATTACHED RIDER

Dated: Mineola, New York  
September 8, 2011

DALLI & MARINO, L.L.P.

  
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John Dalli, Esq.  
*Attorneys for Plaintiff*  
Office and P.O. Address  
231 Mineola Boulevard  
Mineola, New York 11501  
Telephone No. (516) 292-4700

**Summons Rider**

Defendant's addresses:

HILL-ROM, INC.

c/o

Secretary of State

Albany, New York

HILL-ROM HOLDINGS, INC.

c/o

Secretary of State

Albany, New York

HILL-ROM SERVICES, INC.

c/o

Secretary of State

Albany, New York

Hill-Rom Company, Inc.

c/o

Secretary of State

Albany, New York

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF KINGS

-----X  
MARGARET ZOTTA,

Plaintiff,

-against-

VERIFIED COMPLAINT

HILL-ROM, INC., HILL-ROM HOLDINGS, INC.,  
HILL-ROM SERVICES, INC. and  
HILL-ROM COMPANY, INC.

20695//

Defendants

SEP 13 2011

-----X  
Plaintiff, by her attorneys, Dalli & Marino, LLP as and for a Verified Complaint herein,  
respectfully set forth and alleges:

AS AND FOR A FIRST CAUSE OF ACTION

1. That at all times hereinafter mentioned, the defendant HILL-ROM, INC. was a domestic corporation duly organized and existing under and by virtue of the laws of the State of New York.
2. That at all times hereinafter mentioned, the defendant HILL-ROM, INC., was a foreign corporation duly authorized to conduct business in the State of New York.
3. That at all times hereinafter mentioned, the defendant HILL-ROM, INC., was a corporation doing business in the State of New York with a principal place of business located at 1069 State Road 46E, Batesville, Indiana.
4. That at all times hereinafter mentioned, the defendant HILL-ROM, INC., was a non-domiciliary of the State of New York, and has transacted business within the State of New York.
5. That at all times hereinafter mentioned, the defendant HILL-ROM, INC., was a non-domiciliary of the State of New York and has committed a tortious act without the State of New York, causing injury to a person within the State of New York and said defendant solicited business or engaged in any other persistent course of conduct, or derived a substantial revenue from goods used or services rendered in the State of New York.
6. That at all times hereinafter mentioned, the defendant HILL-ROM, INC., was a non-domiciliary of the State of New York, and has committed a tortious act within the State of New

York, causing injury to a person within the State of New York, and said defendant expects or should reasonably expect to have consequences in the State of New York.

7. That at all times hereinafter mentioned, the defendant HILL-ROM, INC., was the manufacturer of a certain hospital bed with bedrails attached to the bed.

8. That at all times hereinafter mentioned, the defendant HILL-ROM, INC., was the manufacturer of a certain hospital bed with bedrails which was, on the 10<sup>th</sup> day of September, 2010, present upon the premises of Flushing Hospital Medical Center, located at 45-00 Parsons Blvd, Flushing, New York 11355, specifically in patient Room 227, Bed 1.

9. That at all times hereinafter mentioned, the defendant HILL-ROM, INC., its servants, agents and/or employees designed said hospital bed with bedrails.

10. That at all times hereinafter mentioned, the defendant HILL-ROM, INC., its servants, agents and/or employees constructed said hospital bed with bedrails.

11. That at all times hereinafter mentioned, the defendant HILL-ROM, INC., its servants, agents and/or employees produced said hospital bed with bedrails.

12. That at all times hereinafter mentioned, the defendant HILL-ROM, INC., its servants, agents and/or employees assembled said hospital bed with bedrails.

13. That at all times hereinafter mentioned, the defendant HILL-ROM, INC., its servants, agents and/or employees tested said hospital bed with bedrails.

14. That at all times hereinafter mentioned, the defendant HILL-ROM, INC., its servants, agents and/or employees inspected said hospital bed with bedrails.

15. That at all times hereinafter mentioned, the defendant HILL-ROM, INC., its servants, agents and/or employees distributed said hospital bed with bedrails.

16. That at all times hereinafter mentioned, the defendant HILL-ROM, INC., its servants, agents and/or employees distributed said hospital bed with bedrails to the Flushing Hospital Medical Center, located at 45-00 Parsons Blvd, Flushing, New York 11355.

17. That at all times hereinafter mentioned, the defendant HILL-ROM, INC., its servants, agents and/or employees sold said hospital bed with bedrails to the Flushing Hospital Medical Center, located at 45-00 Parsons Blvd, Flushing, New York 11355.

18. That at all times hereinafter mentioned, the defendant HILL-ROM, INC., its servants, agents and/or employees leased said hospital bed with bedrails to the Flushing Hospital Medical Center, located at 45-00 Parsons Blvd, Flushing, New York 11355.



19. That at all times hereinafter mentioned, the defendant HILL-ROM, INC., its servants, agents and/or employees delivered said hospital bed with bedrails to the Flushing Hospital Medical Center, located at 45-00 Parsons Blvd, Flushing, New York 11355.
20. That at all times hereinafter mentioned, the defendant HILL-ROM, INC., its servants, agents and/or employees placed said hospital bed with bedrails into the chains of commerce.
21. That at all times hereinafter mentioned, the defendant HILL-ROM, INC., engaged in the business of service, repair and/or maintenance of said hospital bed with bedrails.
22. That at all times hereinafter mentioned, the defendant HILL-ROM, INC., had entered into an agreement relative to the service, maintenance and/or repair of said hospital bed with bedrails.
23. That at all times hereinafter mentioned, the defendant HILL-ROM, INC., had entered into an agreement with the Flushing Hospital Medical Center, relative to the service, maintenance and/or repair of said hospital bed with bedrails.
24. That at all times hereinafter mentioned, and on/or prior to the 10<sup>th</sup> day of September, 2010, the defendant, HILL-ROM, INC., its servants, agents and/or employees performed certain work, labor and/or services relative to said hospital bed with bedrails.
25. That at all times hereinafter mentioned, and on/or prior to the 10<sup>th</sup> day of September, 2010, the defendant, HILL-ROM, INC., its servants, agents and/or employees performed certain work, labor and/or services relative to said hospital bed with bedrails, which was present upon the premises of said Flushing Hospital Medical Center.
26. That at all times hereinafter mentioned, and on/or prior to the 10<sup>th</sup> day of September, 2010, the defendant, HILL-ROM, INC., its servants, agents and/or employees serviced said hospital bed with bedrails, which was present upon the premises of said Flushing Hospital Medical Center.
27. That at all times hereinafter mentioned, and on/or prior to the 10<sup>th</sup> day of September, 2010, the defendant, HILL-ROM, INC., its servants, agents and/or employees repaired said hospital bed with bedrails, which was present upon the premises of said Flushing Hospital Medical Center.
28. That at all times hereinafter mentioned, and on/or prior to the 10<sup>th</sup> day of September, 2010, the defendant, HILL-ROM, INC., its servants, agents and/or employees tested said hospital bed with bedrails, which was present upon the premises of said Flushing Hospital Medical Center.

29. That at all times hereinafter mentioned, and on/or prior to the 10th day of September, 2010, the defendant, HILL-ROM, INC., its servants, agents and/or employees modified said hospital bed with bedrails, which was present upon the premises of said Flushing Hospital Medical Center.
30. That at all times hereinafter mentioned, and on/or prior to the 10th day of September, 2010, the defendant, HILL-ROM, INC., its servants, agents and/or employees represented that said hospital bed with bedrails was in reasonably safe, suitable and adequate condition and repair.
31. That at all times hereinafter mentioned, and on/or prior to the 10th day of September, 2010, the defendant, HILL-ROM, INC., its servants, agents and/or employees represented that said hospital bed with bedrails was properly and adequately operating, functioning and safe for use as intended.
32. That at all times hereinafter mentioned, and on/or prior to the 10th day of September, 2010, the defendant, HILL-ROM, INC., its servants, agents and/or employees represented that the bedrails of said hospital bed was properly and adequately operating, functioning and safe for use as intended.
33. That at all times hereinafter mentioned, it was the duty of the defendant, HILL-ROM, INC., its servants, agents and/or employees to ensure that said hospital bed with bedrails was properly and adequately serviced, repaired, tested, inspected and maintained, free from any hazards or defects and safe for the purpose intended.
34. That at all times hereinafter mentioned, it was the duty of the defendant, HILL-ROM, INC., its servants, agents and/or employees to ensure that said hospital bed with bedrails was properly and adequately manufactured, designed, constructed, safeguarded, protected, produced, tested, inspected, distributed and free from any hazards or defects and safe for the purpose intended.
35. That at all times hereinafter mentioned, the defendant HILL-ROM HOLDINGS, INC., was a domestic corporation duly organized and existing under and by virtue of the laws of the State of New York.
36. That at all times hereinafter mentioned, the defendant HILL-ROM HOLDINGS, INC., was a foreign corporation duly authorized to conduct business in the State of New York.
37. That at all times hereinafter mentioned, the defendant HILL-ROM HOLDINGS, INC.,

was a corporation doing business in the State of New York with a principal place of business located at 1069 State Road 46E, Batesville, Indiana.

38. That at all times hereinafter mentioned, the defendant HILL-ROM HOLDINGS, INC., was a non-domiciliary of the State of New York, and has transacted business within the State of New York.

39. That at all times hereinafter mentioned, the defendant HILL-ROM HOLDINGS, INC., was a non-domiciliary of the State of New York and has committed a tortious act without the State of New York, causing injury to a person within the State of New York and said defendant solicited business or engaged in any other persistent course of conduct, or derived a substantial revenue from goods used or services rendered in the State of New York.

40. That at all times hereinafter mentioned, the defendant HILL-ROM HOLDINGS, INC., was a non-domiciliary of the State of New York, and has committed a tortious act within the State of New York, causing injury to a person within the State of New York, and said defendant expects or should reasonably expect to have consequences in the State of New York.

41. That at all times hereinafter mentioned, the defendant HILL-ROM HOLDINGS, INC., was the manufacturer of a certain hospital bed with bedrails.

42. That at all times hereinafter mentioned, the defendant HILL-ROM HOLDINGS, INC., was the manufacturer of a certain hospital bed with bedrails which was, on the 10th day of September, 2010, present upon the premises of Flushing Hospital Medical Center, located at 45-00 Parsons Blvd, Flushing, New York 11355.

43. That at all times hereinafter mentioned, the defendant HILL-ROM HOLDINGS, INC., its servants, agents and/or employees designed said hospital bed with bedrails.

44. That at all times hereinafter mentioned, the defendant HILL-ROM HOLDINGS, INC., its servants, agents and/or employees constructed said hospital bed with bedrails.

45. That at all times hereinafter mentioned, the defendant HILL-ROM HOLDINGS, INC., its servants, agents and/or employees produced said hospital bed with bedrails.

46. That at all times hereinafter mentioned, the defendant HILL-ROM HOLDINGS, INC., its servants, agents and/or employees assembled said hospital bed with bedrails.

47. That at all times hereinafter mentioned, the defendant HILL-ROM HOLDINGS, INC., its servants, agents and/or employees tested said hospital bed with bedrails.

48. That at all times hereinafter mentioned, the defendant HILL-ROM HOLDINGS, INC.,

its servants, agents and/or employees inspected said hospital bed with bedrails.

49. That at all times hereinafter mentioned, the defendant HILL-ROM HOLDINGS, INC., its servants, agents and/or employees distributed said hospital bed with bedrails.

50. That at all times hereinafter mentioned, the defendant HILL-ROM HOLDINGS, INC., its servants, agents and/or employees distributed said hospital bed with bedrails to the Flushing Hospital Medical Center, located at 45-00 Parsons Blvd, Flushing, New York 11355.

51. That at all times hereinafter mentioned, the defendant HILL-ROM HOLDINGS, INC., its servants, agents and/or employees sold said hospital bed with bedrails to the Flushing Hospital Medical Center, located at 45-00 Parsons Blvd, Flushing, New York 11355.

52. That at all times hereinafter mentioned, the defendant HILL-ROM HOLDINGS, INC., its servants, agents and/or employees leased said hospital bed with bedrails to the Flushing Hospital Medical Center, located at 45-00 Parsons Blvd, Flushing, New York 11355.

53. That at all times hereinafter mentioned, the defendant HILL-ROM HOLDINGS, INC., its servants, agents and/or employees delivered said hospital bed with bedrails to the Flushing Hospital Medical Center, located at 45-00 Parsons Blvd, Flushing, New York 11355.

54. That at all times hereinafter mentioned, the defendant HILL-ROM HOLDINGS, INC., its servants, agents and/or employees placed said hospital bed with bedrails into the chains of commerce.

55. That at all times hereinafter mentioned, the defendant HILL-ROM HOLDINGS, INC., engaged in the business of service, repair and/or maintenance of said hospital bed with bedrails.

56. That at all times hereinafter mentioned, the defendant HILL-ROM HOLDINGS, INC., had entered into an agreement relative to the service, maintenance and/or repair of said hospital bed with bedrails.

57. That at all times hereinafter mentioned, the defendant HILL-ROM HOLDINGS, INC., had entered into an agreement with the Flushing Hospital Medical Center relative to the service, maintenance and/or repair of said hospital bed with bedrails.

58. That at all times hereinafter mentioned, and on/or prior to the 10th day of September, 2010, the defendant, HILL-ROM HOLDINGS, INC., its servants, agents and/or employees performed certain work, labor and/or services relative to said hospital bed with bedrails.

59. That at all times hereinafter mentioned, and on/or prior to the 10th day of September, 2010, the defendant, HILL-ROM HOLDINGS, INC., its servants, agents and/or employees

performed certain work, labor and/or services relative to said hospital bed with bedrails, which was present upon the premises of said Flushing Hospital Medical Center.

60. That at all times hereinafter mentioned, and on/or prior to the 10th day of September, 2010, the defendant, HILL-ROM HOLDINGS, INC., its servants, agents and/or employees serviced said hospital bed with bedrails, which was present upon the premises of said Flushing Hospital Medical Center.

61. That at all times hereinafter mentioned, and on/or prior to the 10th day of September, 2010, the defendant, HILL-ROM HOLDINGS, INC., its servants, agents and/or employees repaired said hospital bed with bedrails, which was present upon the premises of said Flushing Hospital Medical Center.

62. That at all times hereinafter mentioned, and on/or prior to the 10th day of September, 2010, the defendant, HILL-ROM HOLDINGS, INC., its servants, agents and/or employees tested said hospital bed with bedrails, which was present upon the premises of said Flushing Hospital Medical Center.

63. That at all times hereinafter mentioned, and on/or prior to the 10th day of September, 2010, the defendant, HILL-ROM HOLDINGS, INC., its servants, agents and/or employees modified said hospital bed with bedrails, which was present upon the premises of said Flushing Hospital Medical Center.

64. That at all times hereinafter mentioned, and on/or prior to the 10th day of September, 2010, the defendant, HILL-ROM HOLDINGS, INC., its servants, agents and/or employees represented that said hospital bed with bedrails was in reasonably safe, suitable and adequate condition and repair.

65. That at all times hereinafter mentioned, and on/or prior to the 10th day of September, 2010, the defendant, HILL-ROM HOLDINGS, INC., its servants, agents and/or employees represented that said hospital bed with bedrails was properly and adequately operating, functioning and safe for use as intended.

66. That at all times hereinafter mentioned, and on/or prior to the 10th day of September, 2010, the defendant, HILL-ROM HOLDINGS, INC., its servants, agents and/or employees represented that the bedrails of said hospital bed were properly and adequately operating, functioning and safe for use as intended.

67. That at all times hereinafter mentioned, it was the duty of the defendant,

HILL-ROM HOLDINGS, INC., its servants, agents and/or employees to ensure that said hospital bed with bedrails was properly and adequately serviced, repaired, tested, inspected and maintained, free from any hazards or defects and safe for the purpose intended.

68. That at all times hereinafter mentioned, it was the duty of the defendant, HILL-ROM HOLDINGS, INC., its servants, agents and/or employees to ensure that said hospital bed with bedrails was properly and adequately manufactured, designed, constructed, safeguarded, protected, produced, tested, inspected, distributed and free from any hazards or defects and safe for the purpose intended.

69. That at all times hereinafter mentioned, the defendant HILL-ROM SERVICES, INC., was a domestic corporation duly organized and existing under and by virtue of the laws of the State of New York.

70. That at all times hereinafter mentioned, the defendant HILL-ROM SERVICES, INC., was a foreign corporation duly authorized to conduct business in the State of New York.

71. That at all times hereinafter mentioned, the defendant HILL-ROM SERVICES, INC., was a corporation doing business in the State of New York with a principal place of business located at 1069 State Road 46E, Batesville, Indiana.

72. That at all times hereinafter mentioned, the defendant HILL-ROM SERVICES, INC., was a non-domiciliary of the State of New York, and has transacted business within the State of New York.

73. That at all times hereinafter mentioned, the defendant HILL-ROM SERVICES, INC., was a non-domiciliary of the State of New York and has committed a tortious act without the State of New York, causing injury to a person within the State of New York and said defendant solicited business or engaged in any other persistent course of conduct, or derived substantial revenue from goods used or services rendered in the State of New York.

74. That at all times hereinafter mentioned, the defendant HILL-ROM SERVICES, INC., was a non-domiciliary of the State of New York, and has committed a tortious act within the State of New York, causing injury to a person within the State of New York, and said defendant expects or should reasonably expect to have consequences in the State of New York.

75. That at all times hereinafter mentioned, the defendant HILL-ROM SERVICES, INC., was the manufacturer of a certain hospital bed with bedrails.

76. That at all times hereinafter mentioned, the defendant HILL-ROM SERVICES, INC.,

was the manufacturer of a certain hospital bed with bedrails which was, on the 10th day of September, 2010, present upon the premises of Flushing Hospital Medical Center, located at 45-00 Parsons Blvd, Flushing, New York 11355.

77. That at all times hereinafter mentioned, the defendant HILL-ROM SERVICES, INC., its servants, agents and/or employees designed said hospital bed with bedrails.

78. That at all times hereinafter mentioned, the defendant HILL-ROM SERVICES, INC., its servants, agents and/or employees constructed said hospital bed with bedrails.

79. That at all times hereinafter mentioned, the defendant HILL-ROM SERVICES, INC., its servants, agents and/or employees produced said hospital bed with bedrails.

80. That at all times hereinafter mentioned, the defendant HILL-ROM SERVICES, INC., its servants, agents and/or employees assembled said hospital bed with bedrails.

81. That at all times hereinafter mentioned, the defendant HILL-ROM SERVICES, INC., its servants, agents and/or employees tested said hospital bed with bedrails.

82. That at all times hereinafter mentioned, the defendant HILL-ROM SERVICES, INC., its servants, agents and/or employees inspected said hospital bed with bedrails.

83. That at all times hereinafter mentioned, the defendant HILL-ROM SERVICES, INC., its servants, agents and/or employees distributed said hospital bed with bedrails.

84. That at all times hereinafter mentioned, the defendant HILL-ROM SERVICES, INC., its servants, agents and/or employees distributed said hospital bed with bedrails to the Flushing Hospital Medical Center, located at 45-00 Parsons Blvd, Flushing, New York 11355.

85. That at all times hereinafter mentioned, the defendant HILL-ROM SERVICES, INC., its servants, agents and/or employees sold said hospital bed with bedrails to the Flushing Hospital Medical Center, located at 45-00 Parsons Blvd, Flushing, New York 11355.

86. That at all times hereinafter mentioned, the defendant HILL-ROM SERVICES, INC., its servants, agents and/or employees leased said hospital bed with bedrails to the Flushing Hospital Medical Center, located at 45-00 Parsons Blvd, Flushing, New York 11355.

87. That at all times hereinafter mentioned, the defendant HILL-ROM SERVICES, INC., its servants, agents and/or employees delivered said hospital bed with bedrails to the Flushing Hospital Medical Center, located at 45-00 Parsons Blvd, Flushing, New York 11355.

88. That at all times hereinafter mentioned, the defendant HILL-ROM SERVICES, INC., its servants, agents and/or employees placed said hospital bed with bedrails into the chains of

commerce.

89. That at all times hereinafter mentioned, the defendant HILL-ROM SERVICES, INC., engaged in the business of service, repair and/or maintenance of said hospital bed with bedrails.

90. That at all times hereinafter mentioned, the defendant HILL-ROM SERVICES, INC. had entered into an agreement relative to the service, maintenance and/or repair of said hospital bed with bedrails.

91. That at all times hereinafter mentioned, the defendant HILL-ROM SERVICES, INC. had entered into an agreement with the Flushing Hospital Medical Center relative to the service, maintenance and/or repair of said hospital bed with bedrails.

92. That at all times hereinafter mentioned, and on/or prior to the 10th day of September, 2010, the defendant, HILL-ROM SERVICES, INC., its servants, agents and/or employees performed certain work, labor and/or services relative to said hospital bed with bedrails.

93. That at all times hereinafter mentioned, and on/or prior to the 10th day of September, 2010, the defendant, HILL-ROM SERVICES, INC., its servants, agents and/or employees performed certain work, labor and/or services relative to said hospital bed with bedrails, which was present upon the premises of said Flushing Hospital Medical Center.

94. That at all times hereinafter mentioned, and on/or prior to the 10th day of September, 2010, the defendant, HILL-ROM SERVICES, INC., its servants, agents and/or employees serviced said hospital bed with bedrails, which was present upon the premises of said Flushing Hospital Medical Center.

95. That at all times hereinafter mentioned, and on/or prior to the 10th day of September, 2010, the defendant, HILL-ROM SERVICES, INC., its servants, agents and/or employees repaired said hospital bed with bedrails, which was present upon the premises of said Flushing Hospital Medical Center.

96. That at all times hereinafter mentioned, and on/or prior to the 10th day of September, 2010, the defendant, HILL-ROM SERVICES, INC., its servants, agents and/or employees tested said hospital bed with bedrails, which was present upon the premises of said Flushing Hospital Medical Center.

97. That at all times hereinafter mentioned, and on/or prior to the 10th day of September, 2010, the defendant, HILL-ROM SERVICES, INC., its servants, agents and/or employees modified said hospital bed with bedrails, which was present upon the premises of said Flushing



Hospital Medical Center.

98. That at all times hereinafter mentioned, and on/or prior to the 10th day of September, 2010, the defendant, HILL-ROM SERVICES, INC., its servants, agents and/or employees represented that said hospital bed with bedrails was in reasonably safe, suitable and adequate condition and repair.

99. That at all times hereinafter mentioned, and on/or prior to the 10th day of September, 2010, the defendant, HILL-ROM SERVICES, INC., its servants, agents and/or employees represented that said hospital bed with bedrails was properly and adequately operating, functioning and safe for use as intended.

100. That at all times hereinafter mentioned, and on/or prior to the 10th day of September, 2010, the defendant, HILL-ROM SERVICES, INC., its servants, agents and/or employees represented that bedrails of said hospital bed were properly and adequately operating, functioning and safe for use as intended.

101. That at all times hereinafter mentioned, it was the duty of the defendant, HILL-ROM SERVICES, INC., its servants, agents and/or employees to ensure that said hospital bed with bedrails was properly and adequately serviced, repaired, tested, inspected and maintained, free from any hazards or defects and safe for the purpose intended.

102. That at all times hereinafter mentioned, it was the duty of the defendant, HILL-ROM SERVICES, INC., its servants, agents and/or employees to ensure that said hospital bed with bedrails was properly and adequately manufactured, designed, constructed, safeguarded, protected, produced, tested, inspected, distributed and free from any hazards or defects and safe for the purpose intended.

103. That at all times hereinafter mentioned, the defendant HILL-ROM COMPANY, INC., was a domestic corporation duly organized and existing under and by virtue of the laws of the State of New York.

104. That at all times hereinafter mentioned, the defendant HILL-ROM COMPANY, INC., was a foreign corporation duly authorized to conduct business in the State of New York.

105. That at all times hereinafter mentioned, the defendant HILL-ROM COMPANY, INC., was a corporation doing business in the State of New York with a principal place of business located at 1069 State Road 46E, Batesville, Indiana.

106. That at all times hereinafter mentioned, the defendant HILL-ROM COMPANY, INC.,

was a non-domiciliary of the State of New York, and has transacted business within the State of New York.

107. That at all times hereinafter mentioned, the defendant HILL-ROM COMPANY, INC., was a non-domiciliary of the State of New York and has committed a tortious act without the State of New York, causing injury to a person within the State of New York and said defendant solicited business or engaged in any other persistent course of conduct, or derived a substantial revenue from goods used or services rendered in the State of New York.

108. That at all times hereinafter mentioned, the defendant HILL-ROM COMPANY, INC., was a non-domiciliary of the State of New York, and has committed a tortious act within the State of New York, causing injury to a person within the State of New York, and said defendant expects or should reasonably expect to have consequences in the State of New York.

109. That at all times hereinafter mentioned, the defendant HILL-ROM COMPANY, INC., was the manufacturer of a certain hospital bed with bedrails.

110. That at all times hereinafter mentioned, the defendant HILL-ROM COMPANY, INC., was the manufacturer of a certain hospital bed with bedrails which was, on the 10th day of September, 2010, present upon the premises of Flushing Hospital Medical Center, located at 45-00 Parsons Blvd, Flushing, New York 11355.

111. That at all times hereinafter mentioned, the defendant HILL-ROM COMPANY, INC., its servants, agents and/or employees designed said hospital bed with bedrails.

112. That at all times hereinafter mentioned, the defendant HILL-ROM COMPANY, INC., its servants, agents and/or employees constructed said hospital bed with bedrails.

113. That at all times hereinafter mentioned, the defendant HILL-ROM COMPANY, INC., its servants, agents and/or employees produced said hospital bed with bedrails.

114. That at all times hereinafter mentioned, the defendant HILL-ROM COMPANY, INC., its servants, agents and/or employees assembled said hospital bed with bedrails.

115. That at all times hereinafter mentioned, the defendant HILL-ROM COMPANY, INC., its servants, agents and/or employees tested said hospital bed with bedrails.

116. That at all times hereinafter mentioned, the defendant HILL-ROM COMPANY, INC., its servants, agents and/or employees inspected said hospital bed with bedrails.

117. That at all times hereinafter mentioned, the defendant HILL-ROM COMPANY, INC., its servants, agents and/or employees distributed said hospital bed with bedrails.

118. That at all times hereinafter mentioned, the defendant HILL-ROM COMPANY, INC., its servants, agents and/or employees distributed said hospital bed with bedrails to the Flushing Hospital Medical Center, located at 45-00 Parsons Blvd, Flushing, New York 11355.

119. That at all times hereinafter mentioned, the defendant HILL-ROM COMPANY, INC., its servants, agents and/or employees sold said hospital bed with bedrails to the Flushing Hospital Medical Center, located at 45-00 Parsons Blvd, Flushing, New York 11355.

120. That at all times hereinafter mentioned, the defendant HILL-ROM COMPANY, INC., its servants, agents and/or employees leased said hospital bed with bedrails to the Flushing Hospital Medical Center, located at 45-00 Parsons Blvd, Flushing, New York 11355.

121. That at all times hereinafter mentioned, the defendant HILL-ROM COMPANY, INC., its servants, agents and/or employees delivered said hospital bed with bedrails to the Flushing Hospital Medical Center, located at 45-00 Parsons Blvd, Flushing, New York 11355.

122. That at all times hereinafter mentioned, the defendant HILL-ROM COMPANY, INC., its servants, agents and/or employees placed said hospital bed with bedrails into the chains of commerce.

123. That at all times hereinafter mentioned, the defendant HILL-ROM COMPANY, INC., engaged in the business of service, repair and/or maintenance of said Hospital bed with bedrails.

124. That at all times hereinafter mentioned, the defendant HILL-ROM COMPANY, INC., had entered into an agreement relative to the service, maintenance and/or repair of said hospital bed with bedrails.

125. That at all times hereinafter mentioned, the defendant HILL-ROM COMPANY, INC., had entered into an agreement with the Flushing Hospital Medical Center relative to the service, maintenance and/or repair of said hospital bed with bedrails.

126. That at all times hereinafter mentioned, and on/or prior to the 10th day of September, 2010, the defendant, HILL-ROM COMPANY, INC., its servants, agents and/or employees performed certain work, labor and/or services relative to said hospital bed with bedrails.

127. That at all times hereinafter mentioned, and on/or prior to the 10th day of September, 2010, the defendant, HILL-ROM COMPANY, INC., its servants, agents and/or employees performed certain work, labor and/or services relative to said hospital bed with bedrails, which was present upon the premises of said Flushing Hospital Medical Center.

128. That at all times hereinafter mentioned, and on/or prior to the 10th day of September,

2010, the defendant, HILL-ROM COMPANY, INC., its servants, agents and/or employees serviced said hospital bed with bedrails, which was present upon the premises of said Flushing Hospital Medical Center.

129. That at all times hereinafter mentioned, and on/or prior to the 10th day of September, 2010, the defendant, HILL-ROM COMPANY, INC., its servants, agents and/or employees repaired said hospital bed with bedrails, which was present upon the premises of said Flushing Hospital Medical Center.

130. That at all times hereinafter mentioned, and on/or prior to the 10th day of September, 2010, the defendant, HILL-ROM COMPANY, INC., its servants, agents and/or employees tested said hospital bed with bedrails, which was present upon the premises of said Flushing Hospital Medical Center.

131. That at all times hereinafter mentioned, and on/or prior to the 10th day of September, 2010, the defendant, HILL-ROM COMPANY, INC., its servants, agents and/or employees modified said hospital bed with bedrails, which was present upon the premises of said Flushing Hospital Medical Center.

132. That at all times hereinafter mentioned, and on/or prior to the 10th day of September, 2010, the defendant, HILL-ROM COMPANY, INC., its servants, agents and/or employees represented that said hospital bed with bedrails was in reasonably safe, suitable and adequate condition and repair.

133. That at all times hereinafter mentioned, and on/or prior to the 10th day of September, 2010, the defendant, HILL-ROM COMPANY, INC., its servants, agents and/or employees represented that said hospital bed with bedrails was properly and adequately operating, functioning and safe for use as intended.

134. That at all times hereinafter mentioned, and on/or prior to the 10th day of September, 2010, the defendant, HILL-ROM COMPANY, INC., its servants, agents and/or employees represented that bedrails of said hospital bed were properly and adequately operating, functioning and safe for use as intended.

135. That at all times hereinafter mentioned, it was the duty of the defendant, HILL-ROM COMPANY, INC., its servants, agents and/or employees to ensure that said hospital bed with bedrails was properly and adequately serviced, repaired, tested, inspected and maintained, free from any hazards or defects and safe for the purpose intended.

136. That at all times hereinafter mentioned, it was the duty of the defendant, HILL-ROM COMPANY, INC., its servants, agents and/or employees to ensure that said hospital bed with bedrails was properly and adequately manufactured, designed, constructed, safeguarded, protected, produced, tested, inspected, distributed and free from any hazards or defects and safe for the purpose intended.

137. That at all times hereinafter mentioned, it was the duty of the defendants, their servants, agents and/or employees to ensure that said hospital bed with bedrails contained and/or properly displayed the necessary, required and appropriate warning, labels, directions and/or instructions for use and handling.

138. That at all times hereinafter mentioned, it was the duty of the defendants, their servants, agents and/or employees to ensure that said hospital bed with bedrails contained the necessary, required and appropriate safeguards, safety equipment, devices and/or apparatus.

139. That on the 10th day of September, 2010, the plaintiff was lawfully present upon the said premises and/or place of business of Flushing Hospital Medical Center located at 45-00 Parsons Blvd, Flushing, New York 11355.

140. That on the 10th day of September, 2010, the plaintiff was lawfully present upon the said premises and/or place of business of Flushing Hospital Medical Center located at 45-00 Parsons Blvd, Flushing, New York 11355, in the course and scope of her employment.

141. That on the 10th day of September, 2010, the plaintiff was lawfully operating and/or handling said hospital bed with bedrails upon the premises and/or place of business at Flushing Hospital Medical Center, located at 45-00 Parsons Blvd, Flushing, New York 11355, in the course and scope of her employment.

142. That on the 10th day of September, 2010, the plaintiff was caused to be injured while operating and/or handling said hospital bed with bedrails.

143. That the said hospital bed with bedrails was inherently dangerous, defective, unsafe and unfit for use and handling as intended.

144. That said hospital bed with bedrails did not contain the necessary and required safeguards, safety and protective devices, apparatus and/or equipment.

145. That the said hospital bed with bedrails did not contain and/or properly display the necessary, required and appropriate warnings, labels, directions and/or instructions for use and handling.

146. That the said Hospital bed with bedrails was carelessly, negligently and defectively designed, manufactured, produced, constructed, safeguarded, protected, assembled, tested, inspected, placed into the chains of commerce, distributed, delivered, sold, serviced, repaired, maintained and represented to be safe for use as intended by the defendants.

147. That at all times hereinafter mentioned, it was the duty of the defendants, their servants, agents and/or employees failed to ensure that said hospital bed with bedrails contained the necessary, required and appropriate safeguards, safety equipment, devices and/or apparatus.

148. That at all times hereinafter mentioned, it was the duty of the defendants, their servants, agents and/or employees failed to ensure that said hospital bed with bedrails contained and/or properly displayed the necessary, required and appropriate warnings, labels, directions and/or instructions for use and handling.

149. That at all times hereinafter mentioned, it was the duty of the defendants, their servants, agents and/or employees knew or could and should have known that said hospital bed with bedrails failed to contain the necessary, required and appropriate safeguards, safety equipment, devices and/or apparatus so as to prevent injuries to persons carefully and diligently operating and/or handling same.

150. That at all times hereinafter mentioned, it was the duty of the defendants, their servants, agents and/or employees distributed, sold and delivered said hospital bed with bedrails when they knew or could and should have known that said hospital bed with bedrails failed to contain the necessary, required and appropriate safeguards, safety equipment, devices and/or apparatus so as to prevent injuries to persons carefully and diligently operating and/or handling same.

151. That at all times hereinafter mentioned, it was the duty of the defendants, their servants, agents and/or employees failed to recall said hospital bed with bedrails when they knew or could and should have known that said hospital bed with brakes or braking system failed to contain the necessary, required and appropriate safeguards, safety equipment, devices and/or apparatus so as to prevent injuries to persons carefully and diligently operating and/or handling same.

152. That at all times hereinafter mentioned, it was the duty of the defendants, their servants, agents and/or employees failed to issue any notices, warnings and/or instructions to warn persons operating said hospital bed with bedrails as to the known hazards, dangers and defects thereof.

153. That by reason of the foregoing, the plaintiff MARGARET ZOTTA was caused to sustain personal injuries.

154. That the foregoing occurrence and the injuries to the plaintiff were caused solely by reason of the carelessness and negligence of the defendants and without any negligence on the part of the plaintiff contributing thereto.

155. That this action falls within one or more of the exceptions set forth in CPLR 1602.

156. Pursuant to CPLR Section 1602(2)(iv), defendants are jointly and severally liable for all of the plaintiff's damages, including but not limited to plaintiff's non-economic loss, irrespective of the provisions of the CPLR Section 1601, by reason of the fact that defendants owed the plaintiff a non-delegable duty of care.

157. Pursuant to CPLR Section 1602(7), defendants are jointly and severally liable for all of the plaintiff's damages, including but not limited to plaintiff's non-economic loss, irrespective of the provisions of the CPLR Section 1601, by reason of the fact that defendants acted with reckless disregard of the safety of others.

158. Pursuant to CPLR Section 1602(2)(iv), defendants are jointly and severally liable for all of the plaintiff's damages, including but not limited to plaintiff's non-economic loss, irrespective of the provisions of the CPLR Section 1601, by reason of the fact that defendants are vicariously liable for the negligent acts and omissions of each other and/or others who caused or contributed to the plaintiff's damages.

159. Pursuant to CPLR Section 1602(11), defendants are jointly and severally liable for all of the plaintiff's damages, including but not limited to plaintiff's non-economic loss, irrespective of the provisions of the CPLR Section 1601, by reason of the fact that defendants acted knowingly or intentionally, and in concert, to cause the acts or failures which are a proximate cause of plaintiff's injuries.

160. Pursuant to CPLR Section 1602(4), defendants are jointly and severally liable for all of the plaintiff's damages, including in addition, the equitable share of any person or entity against whom plaintiff is barred from asserting a cause of action because of the applicability of the Workers Compensation Law.

161. Pursuant to CPLR Section 1602(8), defendants are jointly and severally liable for all of the plaintiff's damages, including but not limited to plaintiff's non-economic loss, irrespective of the provisions of the CPLR Section 1601, by reason of the fact that defendants should be held liable pursuant to Article 10 of Labor Law.

162. Pursuant to CPLR Section 1602(4), defendants are jointly and severally liable for all

of the plaintiff's damages, irrespective of the provisions of CPLR Section 1601, by reason of the fact that plaintiff has sustained "grave injury" as defined in Section 11 of the Workers Compensation Law.

163. That by reason of the foregoing, this plaintiff was severely and permanently injured and damaged.

164. That by reason of the foregoing, this plaintiff has been damaged in an amount that exceeds the jurisdiction of any and all lower courts.

AS AND FOR A SECOND CAUSE OF ACTION:

165. That plaintiff repeats, reiterates and realleges each and every allegation as contained in the First Cause of Action of the within complaint, with the same force and effect as though each were more fully set forth at length herein.

166. That at all times herein mentioned, and on/or prior to the 10th day of September, 2010, the defendants, their servants, agents and/or employees made careless, negligent, defective and improper repairs to said hospital bed with bedrails.

167. That by reason of the foregoing, this plaintiff has been damaged in an amount that exceeds the jurisdiction of any and all lower courts.

AS AND FOR A THIRD CAUSE OF ACTION:

168. That plaintiff repeats, reiterates and realleges each and every allegation as contained in the First and Second Causes of Action of the within complaint, with the same force and effect as though each were more fully set forth at length herein.

169. That at all times herein mentioned, the defendants, their servants and/or employees warranted to all persons whom they could reasonably foresee would be injured by a breach of said warranty and representations that the said hospital bed with bedrails was properly and adequately designed, manufactured, produced, constructed, assembled, protected, safeguarded, distributed, serviced, tested, inspected, maintained, repaired, delivered and restored for use and that said machinery and/or equipment was safe and fit for use as intended, and that said bed and equipment was not inherently dangerous and that normal use and operation of said bed and/or equipment would not result in personal injuries.

170. That at all times herein mentioned, this plaintiff was and is covered by and included in the aforesaid warranties and representations and relied upon same in purchasing and operating and handling said bed and equipment.



171. That as a result of the breach of the said warranty of fitness for use as intended by the defendants, their agents, servants and/or employees in causing, allowing and permitting the said hospital bed with bedrails which was not fit for use as intended to be distributed, sold, delivered and restored for use as intended, and to be operated and handled by the plaintiff, the plaintiff was severely injured and damaged.

172. That by reason of the foregoing, the plaintiff has been damaged in the amount that exceeds the jurisdiction of any and all lower courts.

AS AND FOR A FOURTH CAUSE OF ACTION:

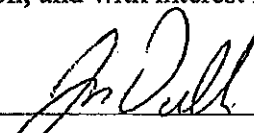
173. That plaintiff repeats, reiterates and realleges each and every allegation as contained in the First, Second and Third Causes of Action of the within complaint, with the same force and effect as though each were more fully set forth at length herein.

174. That at all times herein mentioned, the defendants assumed a strict liability to all persons whom could reasonably foresee would be injured by the said dangerous and defective condition of the said hospital bed with bedrails which was not fit for the purpose intended.

175. That at all times herein mentioned, the plaintiff was and is covered by and included in the aforesaid strict liability assumed by the defendants.

176. That by reason of the foregoing, the defendants are strictly liable to the plaintiff in tort in an amount that exceeds the jurisdiction of any and all lower courts.

WHEREFORE, plaintiff demands judgment against the defendants in an amount that is in excess of the jurisdictional limit of all lower courts which may otherwise retain jurisdiction together with the costs and disbursements of this action, and with interest from the date of the accident.

  
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By: John Dalli  
DALLI & MARINO, LLP  
231 Mineola Boulevard  
Mineola, NY 11501  
516-292-4700


**ATTORNEY'S VERIFICATION**

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

The undersigned, an attorney duly admitted to practice in the State of New York, under the penalties of perjury affirms as follows:

1. I am one of the attorneys for the Plaintiff(s) in this action.
2. I have read the foregoing Verified Complaint and know the contents thereof; the same is true to my own knowledge, except as to the matters therein stated to be alleged on information and belief and, as to those matters, I believe them to be true.
3. The reason this verification is made by me and not by Plaintiff is that Plaintiff is not presently within the county wherein Plaintiff's attorneys' offices are located.
4. The grounds of my belief as to all matters not stated upon my own knowledge are investigations made and reports of investigation received by me.

Dated: Mineola, New York  
September 8, 2011

  
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DALLI & MARINO, L.L.P.  
By: John Dalli, Esq.