

CRIMINAL COURT OF THE CITY OF NEW YORK  
COUNTY OF BRONX

-----X  
THE PEOPLE OF THE STATE OF NEW YORK :  
 :  
 :  
 -against- :  
 : FELONY COMPLAINT  
BRIAN LEW, :  
 :  
 Defendant. :  
-----X  
State of New York)  
County of Bronx ) ss.:

Special Investigator James Cummings, Shield No.1107, of the Office of the New York State Attorney General, Medicaid Fraud Control Unit, 120 Broadway, New York, New York, being duly sworn, deposes and says that from on or about April 1, 2003, to on or about February 15, 2005, at Jacobi Medical Center, 1400 Pelham Parkway South, located in the County of Bronx, State of New York, the defendant committed the offense of:

PENAL LAW §155.40 - GRAND LARCENY IN THE SECOND DEGREE

in that, the defendant, Brian Lew, employed as a surgical implant salesperson for the company Spinal Dimensions, Inc., a distributor for Depuy Spine at the above-mentioned times and place, with intent to deprive another of property and to appropriate the same to himself and a third person, wrongfully took, obtained and withheld property, valued in excess of fifty thousand dollars, from an owner thereof, to wit:

The defendant, Brian Lew, knowingly submitted forms to Jacobi Medical Center, which falsely represented that defendant had supplied Jacobi Medical Center with certain surgical implants that were, in fact, never delivered by defendant. In reliance on these false representations, Jacobi Medical Center paid Depuy Spine more than \$50,000 to which neither Depuy Spine nor defendant were entitled.

This complaint is based on information and belief, the sources of which are as follows:

Deponent is informed by the defendant, Brian Lew, that he was employed as a surgical implant salesperson, and that while so employed, he knowingly submitted false forms to Jacobi Medical Center that represented that defendant had supplied Jacobi Medical Center with hundreds of surgical implants including, screws, cages, and bolts, when he had in fact not supplied these implants. He further stated that in many cases where he did so the report of surgical operation would reveal that the surgical implant he billed for was not utilized. Deponent is further informed by defendant that, depending on the implant, defendant received between five and eight percent commission for the implants he was credited with supplying to Jacobi Medical Center.

Deponent is informed by Christopher Fugazy, Associate Executive Director for Patient Care Services at Jacobi Medical Center that Jacobi Medical Center relied on these false representations and paid Depuy Spine for the implants allegedly delivered by defendant.

Deponent is informed by Lisa Close, a Special Auditor Investigator with the Office of the Attorney General, Medicaid Fraud Control Unit, that she has reviewed the forms submitted by defendant and compared them to records kept by Jacobi Medical Center. She further informs me that she has found hundreds of cases where the forms contain surgical implant items that do not appear in the Jacobi Medical Center records as having been supplied by anyone or which the records show had been supplied by another company. Deponent is informed by Lisa Close that defendant's actions caused Jacobi Medical Center to pay Depuy Spine in excess of \$750,000 to which it was not entitled.

False statements in this document are punishable as a Class A Misdemeanor pursuant to Section 210.45 of the Penal Law.

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Special Investigator James Cummings  
Shield Number 1107

**Sworn to before me on the**  
**\_\_\_\_\_ day of September, 2005**

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