

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK

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THE PEOPLE OF THE STATE OF NEW YORK,  
by LETITIA JAMES, Attorney General of the  
State of New York,

Plaintiff,

-against-

**NOTICE OF SETTLEMENT**

Index No.450389/2019

IAS Part 53

Hon. Andrew Borrok

IMAGE PLASTIC SURGERY, LLC d/b/a  
PARK AVENUE STEM CELL and JOEL B. SINGER, M.D.,  
individually and as principal of IMAGE PLASTIC SURGERY, LLC,

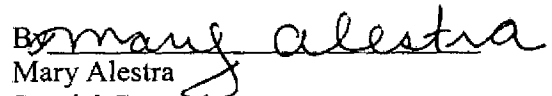
Defendants.  
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PLEASE TAKE NOTICE that an Order and Judgment of which the within is a true copy  
will be presented for settlement to the HON. ANDREW BORROK, of the within named court at  
IAS Part 53, held in and for the County of New York, at 60 Centre Street, Room 659, New York,  
New York 10007 on November 15, 2021 at 9:30 a.m.

Dated: New York, New York  
October 28, 2021

Respectfully submitted,

LETITIA JAMES  
Attorney General of the State of New York  
28 Liberty Street, 20<sup>th</sup> Floor  
New York, NY 10271

  
Mary Alestra  
Special Counsel  
Bureau of Consumer Frauds and Protection  
(212) 416-6698

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK

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THE PEOPLE OF THE STATE OF NEW YORK,  
by LETITIA JAMES, Attorney General of the  
State of New York,

~~(PROPOSED)~~  
ORDER AND JUDGMENT

Plaintiff,

Index No. 450389/2019

-against-

IAS Part 53

Hon. Andrew Borrok

IMAGE PLASTIC SURGERY, LLC d/b/a  
PARK AVENUE STEM CELL and JOEL B. SINGER, M.D.,  
individually and as principal of IMAGE PLASTIC SURGERY, LLC,

Defendants.

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Plaintiff the People of the State of New York, by Letitia James, the Attorney General of the State of New York (the "OAG"), having commenced this action pursuant to Executive Law § 63(12) and General Business Law Article 22-A, §§ 349 and 350 for, *inter alia*, injunctive relief, restitution, penalties, and costs against Defendants arising out of their fraudulent and illegal conduct;

NOW, upon all pleadings heretofore had, including the Summons and Complaint filed on April 3, 2019, the Answer with Counterclaims filed on April 22, 2019, the Reply to Counterclaims filed on May 13, 2019, Plaintiff's Motion for Summary Judgment and supporting documents filed on December 18, 2020, the Joint Rule 19-a Statement of Undisputed Material Facts filed on December 18, 2020, Defendants' Opposition to Plaintiff's Motion for Summary Judgment and supporting documents filed on January 26, 2021, Plaintiff's Reply Memorandum of Law in Further Support of Plaintiff's Motion for Summary Judgment and supporting documents filed on February 18 and 26, 2021, and upon all proceedings, including the hearing

held on October 4, 2021 on Plaintiff's Motion for Summary Judgment;

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AND the Hon. Andrew Borrok of the Supreme Court of the State of New York, New York County, Commercial Division, having rendered a Decision and Order on October 4, 2021 granting Plaintiff's Motion for Summary Judgment on October 4, 2021 (the "October 4, 2021 Decision and Order") and ordering the parties to settle judgment and order on notice;

NOW upon motion of LETITIA JAMES, Attorney General of the State of New York, it is hereby **ORDERED, ADJUDGED AND DECREED** as follows:

**I. DEFINITIONS**

1. For purposes of this Order and Judgment, the following terms have the following meanings:

- a. "Advertising" shall include advertising through websites, on social media sites of any type, including but not limited to Twitter, Facebook, YouTube and GoFundMe, any promotional or marketing materials or any representations made at promotional or marketing events.
- b. "Clearly and Conspicuously" shall mean that the statement, representation, or term being disclosed is of such size, color, contrast, and/or audibility and is so presented so that the ordinary consumer can readily notice or hear and understand it. If such statement is necessary as a modification, explanation, or clarification to other information with which it is presented, it must be presented in close proximity to the information it modifies, in a manner so as to be readily noticed or heard and understood. In addition to the foregoing, in interactive media, the disclosure shall also be unavoidable (i.e., no click-

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through required to access it), and shall be presented prior to the consumer incurring any financial obligation.

- c. "Competent and reliable scientific evidence" means tests, analyses, research, studies or other evidence based on the expertise of professionals in the relevant area, that has been conducted and evaluated in an objective manner by persons qualified to do so, using procedures generally accepted in the profession to yield accurate and reliable results and taking into account all of the available evidence, including evidence against the safety or efficacy of a treatment. For claims that represent, directly or by implication, that a product or treatment can treat, cure or mitigate a disease or condition, competent and reliable scientific evidence shall consist of at least one controlled human clinical trial in which the cell therapy is compared either to placebo control or to standard-of-care and in which enough patients are treated to demonstrate that the therapy is both safe and significantly more effective than placebo or standard-of-care for the designated indication.

## II. PERMANENT INJUNCTION

2. Defendants are permanently enjoined from violating Executive Law § 63(12) and General Business Law, Article 22-A, §§ 349 and 350 and from engaging in fraudulent, deceptive and illegal acts and practices in connection with marketing stem cell treatments, including but not limited to the following conduct:

- a. Representing, directly or by implication, in their advertising that stem cells, other cell therapies, stem cell derivatives (i.e. exosomes or other stem cell products), or umbilical cord or placenta extracts or derivatives, can treat, cure,

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or mitigate any specific medical conditions or diseases, including but not limited to urologic, sexual, cardiac, pulmonary, neurologic, autoimmune, and orthopedic conditions/diseases, until such time as there exists competent and reliable scientific evidence to support the safety and efficacy of such therapies.

- b. Representing, directly or by implication, that they are participating in an Institutional Review Board (IRB) or Food and Drug Administration (FDA) approved study or investigating or studying the use of stem cells, other cell therapies, stem cell derivatives, or umbilical cord or placenta extracts or derivatives to treat a particular condition, unless they are in fact conducting a study in accordance with independent IRB oversight and protocol approval, with systemic collection of data on outcomes, and they disclose clearly and conspicuously that there is not yet sufficient competent and reliable scientific evidence to demonstrate that the tested intervention can effectively treat the condition being studied.
- c. Representing, directly or by implication, that patients are participating in patient-funded research studies.
- d. Representing, directly or by implication, that they have the approval of the FDA or any other governmental entity to administer treatments involving stem cells, other cell therapies, stem cell derivatives, or umbilical cord or placenta extracts or derivatives, or that the FDA or any other governmental entity or IRB has reviewed or approved their procedures, when that is not the case.

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- e. Representing, directly or by implication, in their advertising, that they are endorsed by any medical or scientific society or organization, unless that is the case and they specify which claim the society or organization is endorsing.
- f. Using disclaimers in their advertising that contradict the principal message of such advertisements. Disclaimers that contain qualifying information that is necessary to prevent a claim from being deceptive shall be presented clearly and conspicuously, and shall be at least as large as the claims to which they relate.
- g. Relying on any testimonials that do not comply with the Federal Trade Commission's "Guidelines on the Use of Endorsements and Testimonials in Advertising," available at <https://www.ftc.gov/sites/default/files/attachments/press-releases/ftc-publishes-final-guides-governing-endorsements-testimonials/091005revisedendorsementguides.pdf>, and any revisions or amendments to such guidelines that may be made in the future. In particular, Defendants shall not use endorsements or testimonials regarding the effectiveness of treatments involving stem cells, other cell therapies, stem cell derivatives, or umbilical cord or placenta extracts or derivatives unless they possess competent and reliable scientific evidence to support the claims made through such endorsements or testimonials. Defendants shall also fully disclose any connection with the endorser "that might materially affect the weight or credibility of the endorsement." 16 C.F.R. § 255.5.

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**III. RESTITUTION**

3. Defendants are jointly and severally liable for monetary restitution in the amount of \$1,193,150.00, to be distributed by the OAG in a fair and equitable manner. This sum provides for restitution of \$3,995.00 (Defendants' minimum advertised treatment amount) for each of Defendants' 114 patients who received adipose stromal vascular fraction stem cell treatments, unless a different payment amount was indicated in the patients' medical records as listed in NYSCEF Doc. No. 77.

4. Within thirty days of this Order and Judgment, Defendants shall provide Plaintiff with the names, addresses, and email addresses, if available, of each patient listed in NYSCEF Doc. No. 77 to enable Plaintiff to distribute restitution.

5. Plaintiff may seek, and the court will grant, such supplemental money judgments as necessary to provide restitution to any patients who received adipose stromal vascular fraction stem cell treatments from Defendants who were not previously identified by Defendants, but who complain to the OAG after the date of this judgment.

**IV. PENALTIES**

6. Defendants are liable for civil penalties pursuant to GBL § 350-d in the amount of \$2,962,500.00, representing a penalty of \$2,500.00 per day for the approximately 1185 days that Defendants' website [www.parkavenuestemcell.com](http://www.parkavenuestemcell.com) was operational.

**V. COSTS**

7. Defendants are jointly and severally liable for costs pursuant to CPLR § 8303(a)(6) in the amount of \$2,000.00 against each Defendant for a total of \$4,000.00.

**VI. MONEY JUDGMENT**

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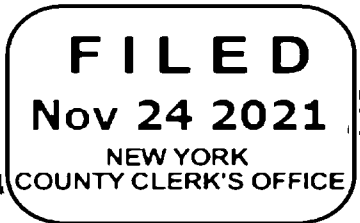
8. A money judgment shall be entered in favor of Plaintiff the People of the State of New York, by Letitia James, Attorney General of the State of New York, at the Consumer Frauds and Protection Bureau, 28 Liberty Street, 20<sup>th</sup> Floor, New York, New York 10005, against Defendants Image Plastic Surgery, LLC d/b/a Park Avenue Stem Cell, its last known address being 346 East 51<sup>st</sup> Street, New York, New York 10022, and Joel B. Singer, M.D., his last known address being 3205 154<sup>th</sup> Street, Flushing, New York 11354, jointly and severally in the amount of \$4,159,650.00, plus nine percent (9%) interest per annum from April 3, 2019, the date of the Summons and Complaint commencing this action, to October 4, 2021, the date of the October 4, 2021 Decision and Order, in the sum of \$938,487.00; plus nine percent (9%) interest from October 5, 2021 to the return date of this Notice of Settlement in the sum of \$52,796.94, for **X** a total sum of \$5,150,933.94, and Plaintiff, the People of the State of New York, by Letitia James, Attorney General of the State of New York, shall have execution thereof.

**VII. GENERAL PROVISIONS**

9. This Court shall retain jurisdiction over the matter for all purposes after entry of the judgment.

10. Plaintiff shall serve a copy of this Order and Judgment with notice of entry by overnight mail to 3205 154<sup>th</sup> Street, Flushing, New York 11354, the last known address of Joel B. Singer, M.D. and to 9 Old Hill Road, Westport, Connecticut 06880, the address of Richard Jaffe, Esq., attorney for Defendants, which shall be deemed good and sufficient service of this Order and Judgment.

Dated: November 9, 2021  
*Multon Adair Tondong*  
 clerk



24 th Nov. 2021  
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*[Signature]*  
 HON. ANDREW BORROK  
 JSC



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SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK

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THE PEOPLE OF THE STATE OF NEW YORK,  
by LETITIA JAMES, Attorney General of the  
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-against-

**AFFIRMATION OF SERVICE**

Index No. 450389/2019

IAS Part 53

Hon. Andrew Borrok

IMAGE PLASTIC SURGERY, LLC d/b/a  
PARK AVENUE STEM CELL and JOEL B. SINGER, M.D.,  
individually and as principal of IMAGE PLASTIC SURGERY, LLC,

Defendants.

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STATE OF NEW YORK )  
  )ss  
COUNTY OF NEW YORK )

Mary Alestra, an attorney admitted to practice before the Courts of the State of New York, makes the following affirmation under penalty of perjury:

1. I am Special Counsel in the office of Letitia James, Attorney General of the State of New York, assigned to the Bureau of Consumer Frauds and Protection, located at 28 Liberty Street, New York, NY 10005.
2. On the 28<sup>th</sup> day of October 2021, I caused to be served via electronic filing, electronic mail and overnight UPS mail the Notice of Settlement dated October 28, 2021 and Proposed Order and Judgment to Richard Jaffe, Esq., Counsel for Defendants, 9 Old Hill Road, Westport, Connecticut 06880, [rickjaffeesquire@gmail.com](mailto:rickjaffeesquire@gmail.com).

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Dated: October 28, 2021  
New York, New York

*Mary Alestra*

Mary Alestra  
Special Counsel  
Bureau of Consumer Frauds and  
Protection  
28 Liberty Street, 20<sup>th</sup> Floor  
New York, NY 10005  
(212) 416-6698

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SUPREME COURT OF THE STATE OF NEW YORK  
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THE PEOPLE OF THE STATE OF NEW YORK,  
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IMAGE PLASTIC SURGERY, LLC d/b/a  
PARK AVENUE STEM CELL and JOEL B. SINGER, M.D.,  
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Defendants.

**JUDGMENT**

**LETITIA JAMES**  
Attorney General  
Attorney for Plaintiff  
Office and Post Office Address  
28 Liberty Street, 20<sup>th</sup> Floor  
New York, N.Y. 10005  
By: Mary Alestra  
Tel: (212) 416-6698

Personal Service of a Copy of  
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**FILED AND  
DOCKETED**  
**Nov 24 2021**