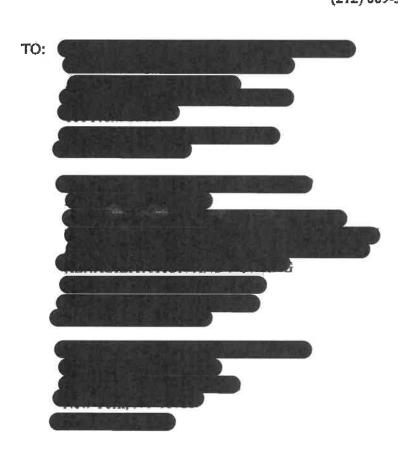
EXHIBIT 9

SUPREME COURT OF THE STATE OF NEW YORK COUNTY OF	
Attorney-in-fact of	
	Index No.:
Plaintiffs,	NOTICE OF MOTION
against	ATO HE WAS ATO A LOCAL
"JOHN/JANE DOE, R.N." (said name being fictitious but intended to represent the Registered Nurse who examined and provided medical care to Plaintiff on January 11, 2015 at "JOHN/JANE DOE, NP" (said name being fictitious but intended to represent the Nurse Practitioner who examined, provided medical care and/or order x-rays to Plaintiff on January 11, 2015 at and	
Defendants.	
PLEASE TAKE NOTICE, that upon the annexed affirm	ation of WALTER OSUNA, and
exhibits annexed hereto, plaintiff will move this Court, at the	•
Supreme Court, 1	
at 9:30 o'clock on the forenoon of that day, or as	soon thereafter as counsel can be
hears, for an Order:	
1. Pursuant to CPLR 3403(a)(4) granting this action a Tr	ial Special Profesence due to the
	ier obecier i reference tine to me
advanced age of plaintiff	
For such other and further relief as to this Court may se	em just and proper.
Dated: New York, New York	

Yours, etc.

The Jacob D. Fuchsberg Law Firm, LLP

By: Walter Osuna, Esq. Attorneys for the Plaintiffs 500 Fifth Avenue, 45th Floor New York, New York 10110 (212) 869-3500



COUNTY OF THE STATE OF NEW YORK	
Attorney-in-fact of	Indon Ma
Plaintiffs,	Index No.
against	AFFIRMATION IN SUPPORT
"JOHN/JANE DOE, R.N." (said name being fictitious but intended to represent the Registered Nurse who examined and provided medical care to Plaintiff T on January 11, 2015 at "JOHN/JANE DOE, NP" (said name being	
fictitious but intended to represent the Nurse Practitioner who examined, provided medical care and/or order x-rays to Plaintiff on January 11, 2015 at	
and Carlotte and C	
Defendants.	

WALTER OSUNA, an attorney admitted to practice before the Courts of the State of New York affirms the following under the penalty of perjury:

- 1. I am an associate with the Jacob D. Fuchsberg Law Firm, LLP, attorneys for the plaintiff Attorney-in-fact of in the above-entitled action, and, as such, I am familiar with the facts and prior proceedings had herein by virtue of a review of the litigation file maintained in this action.
- 2. This affirmation, together with the exhibits annexed hereto, is submitted in support of plaintiff's application for an Order pursuant to CPLR 3403(a)(4), granting plaintiff special preference based upon her advance age in this action that alleges medical malpractice.

3. This motion is made with filing of the Note of Issue and Certificate of Readiness in accordance with CPLR § 3403.

FACTUAL AND PROCEDURAL BACKGROUND

4. This cause of action arises out of the negligence and medical malpractice of
Defendants, which caused injuries to including a right hip fracture, pain and
suffering, a surgical hip replacement, and the need to be hospitalized, upon sustaining a fall at
defendant (1888) A second of the second of t
n or about January 11, 2015 while under their care. The allegations against
Defendants include, among others, failing to provide adequate supervision and functioning fall
safety precaution mechanisms, such as a working bed alarm, failing to properly assess and
reassess the resident, and delaying treatment.
5. Plaintiff was born on and was 82 years old at the
time of her admission to defendant acility.
resident at the nursing home
6. Plaintiff commenced the instant action with the filing of a complaint on
(see Exhibit "A"). Defendant
Answer on Defendant Defendant
served a Verified Answer on (see
Exhibit "B").
7. Plaintiff served a Bill of Particulars as to
and a Bill of Particulars as to defendant

on Copies of the Bill of Particulars are collectively enclosed herein as Exhibit "C".

- 8. The depositions of all parties were completed by A certification conference was held on and the case was certified. Plaintiff's Note of Issue was filed on see Exhibit "D").
- 9. It is respectfully submitted that this application be granted in its entirety and thus, for a trial date to promptly be scheduled.

ARGUMENT

- have been filed, CPLR 3403(a)(4) expressly provides that the Court should grant a trial preference in "in any action upon the application of a party who has reached the age of seventy years" (see Tytel v. Battery Beer Distribs., 194 A.D.2d 330 [1st Dept. 1993]). Plaintiff fits this criteria as she was born on making her eighty-four (84) years of age as of the date of application for this relief. Enclosed is a copy of Certificate of Naturalization annexed hereto as Exhibit "E".
- 11. Therefore, as CPLR 3403(a)(4) requires that a trial preference be granted, as a matter of law, for "a party who has reached the age of seventy years," and as plaintiff on behalf of her mother, has shown, through the submission of Certificate of Naturalization, that she is eighty-four years of age, which is corroborated by Defendant records this Court should grant a trial preference as set forth in CPLR 3403(a)(4). Regardless of the obligatory language of such statute, defendants will not be prejudiced if the trial preference is granted.

CONCLUSION

- 12. In light of the foregoing, this action is indisputably entitled to a trial preference set forth in CPLR 3403(a)(4).
 - 13. No previous request for the relief requested herein has been made.

WHEREFORE, it is respectfully and urgently submitted that plaintiff's application be granted in its entirety; that the special statutory preference based upon the advanced age of plaintiff be granted; and that this action therefore be placed at the forefront of the trial calendar in accordance with CPLR 3403[a][4]; together with such other and further relief as the Court deems just, proper and equitable.

Dated: New York, New York

WALTER OSUNA