

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NASSAU

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JOHN LANGAN, as Executor of the Estate of  
NEAL CONRAD SPICEHANDLER a/k/a  
NEAL SPICEHANDLER, Deceased, and  
JOHN LANGAN, Individually,

Plaintiffs,

Index No: 11618/2002  
Justice John Dunne

- against -

ST. VINCENT'S HOSPITAL OF NEW YORK,

Defendant.

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State of New York    )  
                              : ss.  
County of New York    )

AFFIDAVIT OF JOHN LANGAN

John Langan, being duly sworn, deposes and says:

1. I am the plaintiff in this action and the surviving life partner of Neal Conrad Spicehandler, whom I always called "Conrad," the way he first introduced himself to me. The family members and friends Conrad grew up with as well as most of his professional colleagues always knew him as "Neal." I submit this affidavit in opposition to the partial motion to dismiss of defendant St. Vincent's Hospital of New York.

2. For over 15 years, Conrad and I were mates and spouses in a loving, stable, and committed life partnership. We loved each other as deeply as any two people can love, and we did everything that we could to formalize, legalize, and protect our relationship and our commitment to each other. Attached hereto as Exhibit A are true and correct copies of photographs of Conrad and me together.

3. Conrad and I met on November 1, 1986, when he was 26 and I was 25. Eight months after we first met, we moved in together, and we lived together as a couple in a committed life partnership for the rest of Conrad's life.

### Our Civil Union As Spouses

4. In August 2000, when Conrad and I had been together as a couple for almost fourteen years, but only weeks after Vermont's civil union law went into effect, Conrad asked me whether I would enter into a civil union with him. I enthusiastically agreed to do so.

5. As a lawyer, Conrad understood the legal implications of entering into a civil union, and once he explained them to me, we were both eager finally to obtain legal recognition of our relationship as spouses, with all the same benefits and protections, and with all the same responsibilities, as spouses in a marriage.

6. On September 22, 2000, Conrad flew up to Vermont to begin searching for a place for our wedding, and a Justice of the Peace to perform the ceremony.

7. Several weeks later, the two of us flew up together and decided on the Sheraton Hotel in Burlington, Vermont. Having already waited for almost fourteen years, we were eager to have the ceremony and become legal spouses as soon as possible. We reserved the Presidential Suite for our ceremony and began making other arrangements for our wedding on November 11, 2000.

8. In less than two months, we arranged a small but formal wedding, with hors d'oeuvres and a catered dinner, attended by approximately forty family members and close friends.

9. We agreed to ask Alan Matzkin, our friend and Conrad's lifelong pal, to be Best Man for both of us at our wedding. Years before, Conrad had been Alan's Best Man at Alan's wedding. See Affidavit of Alan Matzkin in Opposition to Defendant's Partial Motion to Dismiss, dated January 2, 2003.

10. On November 11, 2000, only four months after civil unions became legal, Conrad and I had our wedding in Burlington, Vermont. Attached hereto as Exhibit B is a true and correct copy of our Vermont License and Certificate of Civil Union, signed and dated by the Justice of the Peace on November 11, 2000.

11. At the wedding ceremony, which was videotaped by my cousin's spouse Michael Merritt and witnessed by the Justice of the Peace and our family and friends, each of us took identical vows to the other, stating:

*I [Neal Conrad/John Robert]  
Take you [John Robert/Neal Conrad]  
To be my spouse in our civil union,  
To have and to hold from this day on,  
For better, for worse,  
For richer, for poorer,  
To love and to cherish forever.*

12. After we exchanged vows, we exchanged wedding bands, the physical symbol of our joining as spouses. With the exchange of rings, we said: "With this ring, I join you in this civil union." Attached hereto as Exhibit C are wedding cards that we received from family members and friends.

13. It was always our understanding that in entering into a civil union, each of us had taken on the same legal responsibilities, and likewise we had the same legal protections and benefits, as spouses in a marriage. For us, it was legal recognition of the loving and committed life partnership that we already had been sharing for over a decade.

## The History Of My Committed Life Partnership With Conrad

14. When we first met in late 1986, Conrad was a young lawyer, a 1985 graduate of Albany Law School, still living at home with his parents in Eastchester, New York, and commuting every day to work at Penn & Fabian, a small Manhattan law firm. I was just getting started as an insurance claims representative, living in Prospect Park, New Jersey. Conrad and I saw each other at least every weekend, usually in Manhattan.

15. Less than two months after we met, in December 1986, Conrad spent Christmas with me in Prospect Park. For the next six months, he came and visited me every weekend, making the trip from Eastchester, New York, to Prospect Park, New Jersey.

16. In June 1987, Conrad proposed that we move in together. He found us a small apartment that he could afford at 2287 Johnson Avenue, in Riverdale, Bronx, New York, and we moved in together July 4<sup>th</sup> weekend, 1987. Thereafter, until Conrad's untimely death on February 15, 2002, we lived together and moved together to six different addresses in New York and New Jersey.

17. Because Conrad was a lawyer with a Manhattan law firm, his income was substantially greater than mine, and he paid almost all of our bills, including our rent, for the first several years.

18. In September 1988, Conrad took a new job as a commercial litigation associate with the Manhattan office of Graham & James, a San Francisco-based law firm, where he continued to work until the fall of 1995.

19. During Conrad's seven years working at Graham & James, I was introduced to many of his colleagues as his life partner, and we became friends with several of them.

20. Gradually, each of our families became more accepting of our relationship, and eventually came to embrace us as spouses and members of the respective other's family. Conrad first met my parents, who live in Buffalo, New York, in the summer of 1987, and saw them about once a year after that. I had met Conrad's parents within the first few months of our relationship, and spent Thanksgiving with them in November 1987. Attached hereto as Exhibit D are true and correct copies of photographs of Conrad and me together with our two families.

21. In the fall of 1991, Conrad and I decided to move from Riverdale, Bronx to Harrison, New York, in Westchester County, the same county where Conrad grew up and where to this day his mother and much of his family live. After this move, as a couple living together in a loving and committed life partnership, we saw Conrad's family, including his parents, at least once a week.

22. Beginning in 1991 when we moved to Harrison until Conrad's death, Conrad and I often invited his family over for dinner, and we spent many major holidays together. Although I was raised Catholic, I always enjoyed spending the Jewish holidays with Conrad's family, and was glad that they welcomed me for these and many other occasions. Conrad and I got together with his family for almost every Passover Seder, Rosh Hashanah, Yom Kippur, Sukkoth, and Hanukah. Attached hereto as Exhibit E are true and correct copies of photographs of Conrad and me spending the Jewish holidays with his family.

23. Conrad and I both became very fond of our niece Sarah and nephew Daniel, the children of Conrad's brother Elliot and his wife Laura. We had often talked about the possibility of having children of our own. We even discussed the possibility of my

converting to Judaism if we did have children, and raising our children as Jewish, which was important to Conrad and his family and therefore to me. Although we never had the opportunity to have children, we were grateful to have become close to our niece and nephew and to spend so much time with them. Attached hereto as Exhibit F are true and correct copies of photographs of Conrad and me with our niece and nephew.

24. In January 1994, Conrad and I moved to Westfield, New Jersey, so that I could accept a new position as an insurance underwriter in New Jersey. Conrad continued to commute to Graham & James in Manhattan. Although we were living much farther away from his family than we had been, we continued to see them at least several times a month. Over the years, as I was increasingly accepted as a member of his family, I also embraced Conrad's family as my own.

25. In October 1995, I was offered a management position in Nassau County with my insurance company that I hoped might lead to becoming a full-fledged independent agent. Conrad and I both saw this as an important opportunity. We therefore moved from New Jersey to Massapequa Park in Nassau County, New York.

26. Around the time of that move, Conrad left Graham & James and began working as a sole practitioner. Over the next 6-1/2 years, until his death, as he continued his litigation practice, he also spent an increasing amount of time helping me succeed in my insurance business, using his skills in law, business and marketing. His contributions were enormously valuable, and working together, we became a family business.

27. From October 1996 through June 1998, I went through intense training programs, taking classes and tests; visiting and assisting numerous independent agents; and undergoing company evaluations to eventually become an independent insurance

agent. During this time, I was also working full time as an agency consultant for my company, assisting independent and trainee agents throughout Nassau County in retaining and expanding their client base and handling the related agency documentation.

28. This 20-month period was grueling and difficult for me, and Conrad was a supportive spouse in every possible way – emotionally, personally and professionally. He helped me with my writing assignments, and he advised me how to position myself strategically to improve my chances of becoming an independent agent. He was also there to provide love and emotional support whenever I needed it.

29. After I became a trainee agent in July 1998, Conrad was instrumental in helping us obtain enough business as an insurance agency and build what we considered our family business.

30. Indeed, within my one year “trial period” as a trainee agent from July 1998 to July 1999, Conrad and I had to meet certain quotas set by the parent company in order to become an independent contractor insurance agency. During this period, almost all members of Conrad's family purchased insurance from us to help us meet our quotas, and I remain extremely grateful to them for coming to our assistance in a way that we could only expect of family.

31. Moreover, in June 1998, Conrad's uncle, Arthur Penn, whom I think of as my own uncle as well, loaned what was to Conrad and me a substantial sum to help us set up our insurance agency. To me, this was yet another example of Conrad's family treating me like a member of their own family.

32. Conrad was a quick study, and by December 1998, he became licensed as a “sub-agent” to sell all lines of insurance coverage – automobile, fire, life, and health.

33. By 1999, Conrad had become a full-time contracted employee agent with our family business, and something of an expert in insurance. He was our “marketing guru,” helping us obtain business that I never would have been able to obtain on my own. He used his legal knowledge in helping me draft letters to policyholders and people in the parent company, in helping me negotiate and then close on a lease for my office, in helping set up an independent insurance agency, and in helping set up and train our agency staff.

34. In addition, Conrad arranged for us to have tables at various town events and shows promoting our business. He arranged all newspaper and magazine advertisements and drafted letters to our parent company explaining our advertising strategy. He attended all seminars sponsored by the parent company, which saw Conrad as a key player in the success of our family agency. He ordered all marketing material for the promotion of the agency, and was instrumental in helping me become an active Chamber of Commerce member, because he knew that it would benefit our family business.

35. Right up until the time of his death, Conrad was continuing to assist the development of our family insurance business in these and many other valuable ways.

#### Steps We Took To Formalize, Legalize And Protect Our Relationship And Each Other

36. As a lawyer, Conrad was concerned about the lack of legal protections that we had in the absence of being legal spouses. Beginning in the early 1990s, both of us would read in The Advocate, the national newsmagazine for the lesbian and gay community, about extended families excluding same-sex life partners from decision making regarding the healthcare of a physically or mentally incapacitated individuals.



We also read and were concerned about stories regarding extended families of deceased persons disrespecting same-sex surviving partners, legally evicting them from their longtime homes, excluding them from decisions about funeral arrangements, and denying them access to the couples' joint possessions and property registered under the deceased partners' names.

37. In 1993, Conrad and I decided to take legal steps to protect our life commitment. One of his fellow associates at Graham & James prepared health care proxies for us without charge, and we had them fully executed to ensure that we would be able to make healthcare decisions for each other in case of any emergency. Attached hereto as Exhibits G and H are true and correct copies of Conrad's and my 1993 Health Care Proxies, respectively, designating the respective other as the sole "health care agent to make any and all health care decisions for me . . . in the event I become unable to make my own health care decisions." As of 1993, we still had almost no assets, so we decided the expense of obtaining wills was not justified.

38. Beginning in 1991 when each of us purchased life insurance for the first time in our lives, and continuing through our last beneficiary designation forms completed in 1999, Conrad and I consistently designated each other as "primary" and "direct" beneficiaries of each other's life insurance policies. Attached hereto as Exhibit I are true and correct copies of Conrad's and my life insurance beneficiary designation forms, respectively.

39. Our homeowners' insurance policy, in listing us jointly, evidenced that we were joint owners of all our property. Attached hereto as Exhibit J are true and correct copies of our homeowners' declaration pages from our residences in Harrison, New York

(Aug. 1993 to Aug. 1994); Hartsdale New York (Oct. 1993 to Oct. 1994); Westfield, New Jersey (Jan. 1994 to Jan. 1995); and Massapequa Park, New York (Nov. 1997 to Nov. 1998).

40. Likewise, we are jointly named in our Personal Liability Umbrella Policy, evidencing joint and intermingled financial obligations. Attached hereto as Exhibit K are true and correct copies of our Personal Umbrella declaration.

41. In December 1999, just before leaving on a trip for Iceland, and prompted by "Y2K"-related concerns about flying at that time, Conrad and I finally did something that we had been talking about doing for at least six years: we made out wills, naming each other sole Beneficiaries and Executors of each other's estates. Attached hereto as Exhibits L and M are a true and correct copies of Conrad's and my wills, respectively.

42. At the same time, we updated our health care proxy designations. Attached hereto as Exhibit N is a true and correct copy of my 1999 Health Care Proxy, designating Conrad as sole health care agent.

43. After Conrad's death, as Executor of his Estate, I had to deal with a mountain of papers at the most difficult and grief-stricken time in my life, including one attached as Exhibit D to St. Vincent's lawyer's affirmation in support of its partial motion to dismiss. I have no memory of seeing the small-type notation on page 2, paragraph 5 of the five-page petition regarding spousal status.

44. In any event, my probate attorney has submitted a separate affidavit testifying that he prepared the petition, that he was unfamiliar with the legal and practical significance of Vermont civil unions, that Conrad and my status as spouses was entirely immaterial to the probate proceeding because I was named sole Executor and sole

Beneficiary in Conrad's uncontested Will, and that he therefore did not flag or otherwise bring the spousal status question to my attention. He further states that based on his subsequent research regarding Vermont civil unions, Conrad and I in fact were legal spouses. See Affidavit of Richard E. Burns, Esq., dated December 26, 2002.

45. At different times in our relationship, Conrad and I each took greater or lesser responsibility for our overall expenses, depending on our respective incomes. Early in the relationship, I was almost completely financially dependent on Conrad, and over the years, we became financially interdependent. Attached hereto as Exhibit O are copies of relevant pages of our leases from Harrison, New York; Westfield, New Jersey; and Massapequa Park, New York, listing both our names and thus showing us as jointly responsible for our single biggest expense, the cost of our living space.

#### The Death Of Conrad's Father And Grandmother

46. On Christmas morning 1995, when Conrad and I were getting ready to go spend the day with my aunt in New Jersey, just as we had on Christmas in previous years, we received an unexpected call from Conrad's brother Elliot with tragic news: Conrad's father, only 61 years old, had suffered a heart attack in his sleep and had died earlier that morning.

47. Understandably shocked, Conrad sat on the living room stairs and cried. It was one of the only times I ever saw Conrad cry. I wanted to support him in every way I could.

48. We immediately headed over to his family's home in Eastchester. For the next week, we stayed there almost around the clock, in accordance with the Jewish ritual

of sitting Shiva, or mourning the death of a close family member, for seven days, as friends and relatives came to pay their respects and express sympathy. Conrad told me that, as grief-stricken as he was, he was glad I was there with him, and I was glad I could be there with him. His whole family made me feel at home, a part of the family, and I did whatever I could to support them.

49. During the Shiva mourning period, I was occasionally asked to “fill in” to help make a minyan, the quorum of ten Jewish adult males needed for certain kinds of prayer. Although I was raised Catholic, this was one way for me to support the family, and I was grateful that they were able to bend the literal rules of Jewish religious practice so I could support them in this and other ways during their mourning period.

50. I was also grateful to be able to support Conrad and the family in similar ways when Conrad’s grandmother died in the fall of 1999.

51. Every year since Conrad’s father died, on the anniversary of his death, Conrad and I would light in our home a Jewish Yartzheit candle, a ritual to honor the memory of a person. This December, I lit a Yartzheit candle on the seventh anniversary of the death of Conrad’s father. It was the first time I did so without Conrad.

52. Because Conrad and I for many years had been very close to each other as well as to each other’s families, in our minds, our civil union ceremony in November 2000 was the culmination, formal expression, and legalization of the long-existing reality of our relationship as spouses.

Conrad's Leg Injury, Hospitalization, And Sudden Death

53. On February 12, 2002, I received a call at my office from a doctor at St. Vincent's Hospital. He told me that Conrad had been struck by a car and was there in the hospital. I immediately became very upset and worried, but then I heard Conrad shout in the background: "Tell him I'm okay! I'm okay!"

54. I demanded to speak with Conrad, and the doctor put him on the phone. Conrad told me that he was okay, that a car had hit him, and his leg was broken. He asked me to bring him his wallet, which he had left at home.

55. Conrad told me that I was the only person that he had asked the hospital to call. I therefore called his brother Elliot, who works in Manhattan not far from St. Vincent's Hospital, and Elliot in turn informed Conrad's other close family members.

56. When I arrived at the hospital, Conrad was on his way into the surgery room. He had given his brother Elliot a handwritten note to give me. It reads:

*John:*

*I'm going under. I haven't had a chance to see you.  
I love you.  
I've made my life in your heart.*

*Conrad*

Attached hereto as Exhibit P is a true and correct copy of the handwritten note that Conrad wrote to me on February 12, 2002, as he was about to go into surgery.

57. When I told the staff at the hospital that I was Conrad's life partner, they let me go up to the operating room to meet the surgeon and the anesthesiologist. Indeed, throughout Conrad's remaining time alive, the St. Vincent's Hospital staff treated me as the spouse that I am.

58. In the operating room, Conrad, the surgeon, the anesthesiologist and I decided together that Conrad should have general anesthesia before the surgery. I stayed in the operating room until the doctors told me that I had to leave. I then kissed Conrad goodbye, and went to wait until after the surgery was over.

59. At approximately 1 a.m., early on February 13, 2002, Conrad came out of surgery, still groggy from the anesthesia. His brothers, Jeremy and Elliot, and I were waiting for him in the waiting area. When the nurses finally let us into his room, Conrad looked up and said to me, "Hello, my sweetheart." He then greeted his two brothers.

60. Jeremy, Elliot and I stayed with him in the hospital until approximately 2 a.m. that night.

61. On Wednesday, February 13, 2002, I returned at approximately 11 a.m. or noon. During the day, many family members and friends came to visit Conrad. As they came and left, I stayed the entire time.

62. Conrad's mother, Ruth Spicehandler, was in Florida. When she called to ask whether she should come up, Conrad told her that it was just a broken leg, and she should stay in Florida. Over the years, I have had the privilege of getting to know Conrad's wonderful mother quite well, and I predicted aloud that she would return from Florida to see Conrad. In fact, the next day, she did arrive in the hospital.

63. I stayed in the hospital with Conrad that day until approximately 11 p.m. When I went home, I was the last to leave him. He was scheduled for a second surgery the next day.

64. On Thursday, February 14, 2002, the day of Conrad's second surgery, I again returned to the hospital at approximately 11 a.m. or noon. Again, many of Conrad's

relatives came to visit. During the day, I went to buy him supplies, like paper cups, to make him more comfortable. Otherwise, I did not leave the hospital.

65. In the early evening of February 14, Conrad was brought in for his second surgery. Other than the medical staff, I alone initially went in with him, and again we decided on general anesthesia. When I was told I had to leave, I kissed him on the forehead and left the room to wait for the surgery to be over.

66. At approximately 8:30 p.m., hours before Conrad was returned to his hospital bedroom, a member of the medical staff told Conrad's mother, his brother Jeremy and me, all of whom were waiting in Conrad's hospital bedroom, that there had been successful closure of the wound, that the surgery was a clean success, and that Conrad would be able to return home on Monday, February 18. With this good news, at approximately 9:00 p.m., Conrad's mother and Jeremy returned home, but I remained at the hospital with Conrad.

67. Sometime near midnight, Conrad was wheeled into his hospital bedroom. I did everything I could to make Conrad comfortable, including helping him with his glasses, brushing his teeth and washing his face, as the orderly hooked up his intravenous drip.

68. I then told Conrad that I would see him the next day and kissed him goodnight. He said, "Goodnight my sweetheart." I returned home and went to sleep.

69. On Friday, February 15, at 7:15 a.m., I was awoken by a call from Dr. Steven Touliopoulos of St. Vincent's Hospital. To my complete shock, disbelief, and horror, Dr. Touliopoulos informed me that Conrad had "expired" that morning.

70. I was the first and only one that St. Vincent's Hospital called with this news. Even in Conrad's death, until this motion that they have now filed against me, St. Vincent's Hospital treated me as Conrad's spouse.

71. My world was suddenly and completely shattered by this horrifying news. I cannot begin to describe the grief that overcame me. I sat on the living room stairs and cried, just as Conrad had done when he heard his dad died.

72. When I arrived at the hospital the same morning that Dr. Touliopoulos told me that Conrad had passed away, a grievance counselor employed by St. Vincent's Hospital was waiting for me to comfort me in the absence of my spouse. She spent hours with me, until I left the hospital.

73. Attached hereto as Exhibit Q are news articles concerning Conrad's death, identifying me variously as his "longtime partner," his "companion," and his "partner."

74. Attached hereto as Exhibit R is Conrad's obituary that appeared in The New York Times, identifying me first in the list of survivors as his "partner."

75. Attached hereto as Exhibit S is the e-mail sent out by my company, identifying Conrad as my "life partner."

76. Attached hereto as Exhibit T are sympathy cards that I received from various nieces, nephews and friends' children. These sympathy cards make clear that these children understood that Conrad and I were in a relationship as spouses.

77. Conrad was the love of my life. I have never been closer to anyone. We had plans, goals and dreams that I will never be able to fulfill without him.

78. I miss everything about Conrad, every moment of my life. I miss lighting the Hanukah Menorah with him. I miss him being happy watching me put up the Christmas



tree. I miss him saying every morning “two more minutes,” after the alarm rings, and I miss seeing him still asleep in bed 30 minutes later. I miss his love, affection, and caring, and I miss giving all those things to him. Every night, I still wait for him to walk through the door, the way he would every night, hug me, and say to our dogs, “Hellozens to the Snarkies!”

[Continued on following page.]

79. I buried Conrad with my tears on his face, and the ring that I gave him at our wedding placed on his heart. As he wrote in his final note to me, Conrad and I lived in each other's hearts, and he will continue to live in mine, forever.

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John Langan

Sworn to before me this \_\_\_\_  
day of \_\_\_\_\_, 200\_\_

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Notary Public