

00-188-CD  
RONALD GRESS Administrator of -vs- DUBOIS NURSING HOME  
ASSOCIATION

IN THE COURT OF COMMON PLEAS OF  
CLEARFIELD COUNTY, PENNSYLVANIA

84  
RONALD GRESS, Administrator of  
the ESTATE OF ELIZABETH GRESS,  
Deceased,

Plaintiff

v.

116  
DUBOIS NURSING HOME  
ASSOCIATION, a corporation,

Defendant.

CIVIL DIVISION

Case No. 00-188-00

COMPLAINT

Filed on behalf of plaintiff

Counsel of Record:

Judd F. Crosby  
PA ID 16373  
1450 Two Chatham Center  
Pittsburgh, PA 15219-3427

(412) 471-3530

FILED

FEB 14 2000

William A. Shaw  
Prothonotary

## **NOTICE TO DEFEND**

You have been sued in court. If you wish to defend against the claims set forth in the following pages, you must take action within TWENTY (20) days after this complaint and Notice are served, by entering a written appearance personally or by an attorney and filing in writing with the Court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so, the case may proceed without you and a judgment may be entered against you by the court without further notice for any money claimed in the complaint or for any claim or relief requested by the plaintiff. You may lose money or property or other rights important to you. YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE OR KNOW A LAWYER, THEN YOU SHOULD GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP:

**Mr. David Meholick  
Court Administrator  
1 North 2nd Street  
Clearfield, PA 16830  
814-765-2641 ext. 32**

## COMPLAINT

Ronald Gress, Administrator of the Estate of Elizabeth Gress, Deceased, brings this civil action against DuBois Nursing Home Association, a corporation, defendant, to recover damages upon causes of action whereof the following are statements:

1. Plaintiff, Ronald Gress, was on November 10, 1999, duly appointed by the Register of Wills of Clearfield County, Pennsylvania, at No. 99-629 Administrator of the Estate of Elizabeth Gress, who died on July 25, 1999.

2. Said decedent having brought no action against the defendant herein for damages for the injuries causing her death, and no other action for the wrongful death of said decedent having been brought against said defendant, plaintiff brings this action on behalf of the estate of said decedent, and for expenses incident to the last illness and death of said decedent, and on behalf of the following persons who are the only other persons entitled to recover in this suit:

Ronald Gress, who resides in DuBois, Pennsylvania, son, and  
Robert Gress, who resides in Bonita Springs, Florida, son.

3. Defendant, DuBois Nursing Home Association, is a corporation organized under the laws of the Commonwealth of Pennsylvania and actively engages in business in Clearfield

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County, Pennsylvania, and maintains a principal business office at 200 South Eighth Street, DuBois, Pennsylvania.

4. The events hereinafter complained of occurred on or about July 4, 1999, at or about 12:00 o'clock Noon in DuBois, Clearfield County, Pennsylvania.

5. At said time, there existed in said locality real estate known as 200 South Eighth Street, which was owned by defendant and from which defendant operated a nursing home known as DuBois Nursing Home.

6. At said time, plaintiff was a patron of said nursing home.

7. At said time, defendant was the owner of said nursing home and was in possession and control thereof and was operating said nursing home through its agents, servants and employees, acting within the course, scope and authority of their said employment including one John Potts.

8. At said time, decedent was in a wheelchair on said premises and being pushed by and supervised by defendant's above referenced employee when she was caused and allowed to fall from said wheelchair.

9. The fatal injuries and damage hereinafter set forth were caused by and were the direct and proximate result of the negligence and wantonness of defendant, as aforesaid, generally, and in the following particulars:

- a. In causing and allowing decedent to fall from said wheelchair.
- b. In failing to restrain decedent and otherwise prevent her fall.
- c. In using improper and inadequate equipment.
- d. In failing to properly and adequately use the wheelchair.
- e. In failing to follow customary practices and procedures when transporting one by wheelchair.
- f. In failing to pay attention to the transportation of decedent.
- g. In failing to possess and employ that degree of skill and care in the transportation of patients as required of defendant under the circumstances.
- h. In violating defendant's own policies and procedures with regard to transport of patients by wheelchair.
- i. In moving too quickly.

10. Decedent sustained the following serious and severe fatal injuries:

- a. Laceration of the forehead.
- b. Blunt force trauma of the head.
- c. Fracture and misalignment of the cervical spine.
- d. Subarachnoid hematoma.
- e. Acute head injury.

- f. Blunt force trauma.
- g. Internal injuries.
- h. Other serious and severe injuries.

12. By reason of the said wrongful acts of the defendant resulting in fatal injuries to and the death of Elizabeth Gress, plaintiff claims damages of defendant for and on behalf of the Estate of Elizabeth Gress, deceased, as follows:

- a. For pain and suffering endured by the deceased.
- b. For the loss of the established earning and earning power of the deceased for a period of time beginning July 25, 1999, and continuing to the termination of her natural life.
- c. For medical, surgical, hospital and nursing expenses.
- d. For other expenses caused by the injury.

13. By reason of the said wrongful acts of the defendant resulting in fatal injuries to and the death of Elizabeth Gress, plaintiff claims damages of the defendant for and on behalf of the children of decedent as follows:

- a. For support and maintenance which she had regularly provided for them and for contributions which she had regularly made to them prior to July 25, 1999, and which she would have continued to provide and make for a period of time from July 25, 1999, until the expiration of her natural life.
- b. For loss to the children of her society, comfort, companionship and direction.

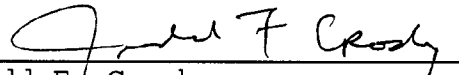
- c. For funeral and burial expenses including a cemetery lot and grave monument.
- d. For expenses incident to the administration of the estate of the deceased.

WHEREFORE, plaintiff claims damages of defendant for and on behalf of the Estate of Elizabeth Gress, deceased, in an amount in excess of \$25,000.00.

WHEREFORE, plaintiff claims damages of the defendant for and on behalf of the children of the decedent in an amount in excess of \$25,000.00.

A JURY TRIAL IS DEMANDED.

Respectfully submitted,

  
Judd F. Crosby  
Attorney for Plaintiff


1450 Two Chatham Center  
Pittsburgh, PA 15219-3427  
(412) 471-3530



VERIFICATION

I, Ronald Gress, plaintiff herein, state that the averments of fact set forth in the foregoing **Complaint** are true and correct to the best of my knowledge, information and belief.

I understand that false statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

  
\_\_\_\_\_  
Ronald Gress

Dated: 2-8-2000

FILED

FEB 14 2003

William A. Shaw  
Prothonotary

City Crosby, Pa \$80.00

no cc

**IN THE COURT OF COMMON PLEAS OF  
CLEARFIELD COUNTY, PENNSYLVANIA**

RONALD GRESS, administrator of the  
estate of ELIZABETH GRESS, deceased,

Plaintiff

vs.

DUBOIS NURSING HOME  
ASSOCIATION, a corporation,

Defendant

) Civil Division  
)  
) No. 00 – 188 – 00  
)  
) APPEARANCE  
)  
) Filed on behalf of Defendant, DuBois Nursing  
) Home Association  
)  
) Counsel of record:  
) Mark E. Mioduszewski  
) PA ID #30301  
)  
) KNOX MCLAUGHLIN GORNALL &  
) SENNETT, P.C.  
) 120 West Tenth Street  
) Erie, PA 16501-1461  
) (814) 459-2800

**FILED**

**FEB 28 2000**

William A. Shaw  
Prothonotary

RONALD GRESS, administrator of the  
estate of ELIZABETH GRESS, deceased,

Plaintiff

vs.

DUBOIS NURSING HOME  
ASSOCIATION, a corporation,

Defendant

) IN THE COURT OF COMMON PLEAS OF  
) CLEARFIELD COUNTY, PENNSYLVANIA  
)

) Civil Division  
)

) No. 00 – 188 – 00  
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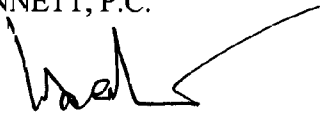
**APPEARANCE**

We appear on behalf of the Defendant, DuBois Nursing Home Association, in the  
above-captioned matter.

Respectfully submitted,

KNCX McLAUGHLIN GORNALL &  
SENNETT, P.C.

By

  
\_\_\_\_\_  
Mark E. Mioduszeewski  
120 West Tenth Street  
Erie, PA 16501-1461  
(814) 459-2800

Attorneys for Defendant,  
DuBois Nursing Home Association

RONALD GRESS, administrator of the  
estate of ELIZABETH GRESS, deceased,

Plaintiff

vs.

DUBOIS NURSING HOME  
ASSOCIATION, a corporation,

Defendant

) IN THE COURT OF COMMON PLEAS OF  
) CLEARFIELD COUNTY, PENNSYLVANIA  
)  
)  
) Civil Division  
)  
) No. 00 – 188 – 00  
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)  
)

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on the 25th day of February, 2000, a copy of the within document was served on all counsel of record and unrepresented parties in accordance with the applicable rules of court.



\_\_\_\_\_  
Mark E. Mioduszewski

FILED

FEB 28 2000

M/2:30/10cc

William A. Shaw

Prothonotary

JUDD F. CROSBY

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

GRESS, RONALD, ADM. OF ESTATE

00-188-CD

VS

DUBOIS NURSING HOME ASSOC.

COMPLAINT

SHERIFF RETURNS

NOW FEBRUARY 24, 2000 AT 10:48 AM EST SERVED THE WITHIN COMPLAINT ON DUBOIS NURSING HOME ASSOCIATION, DEFENDANT AT EMPLOYMENT, 200 SOUTH EIGHTH ST., DUBOIS, CLEARFIELD COUNTY, PENNSYLVANIA BY HANDING TO GARY PETERS, ADM. P.I.C. A TRUE AND ATTESTED COPY OF THE ORIGINAL COMPLAINT AND MADE KNOWN TO HIM THE CONTENTS THEREOF.  
SERVED BY: SNYDER.

28.21 SHFF. HAWKINS PAID BY: ATTY.  
10.00 SURCHARGE PAID BY: ATTY.

SWORN TO BEFORE ME THIS

2nd DAY OF March 2000

William A. Shaw

WILLIAM A. SHAW  
Prothonotary  
My Commission Expires  
1st Monday in Jan. 2002  
Clearfield Co., Clearfield, PA.

SO ANSWERS,

Chester A. Hawkins  
by Marilyn Hamr

CHESTER A. HAWKINS  
SHERIFF

FILED

MAR 02 2000  
01:03pm  
William A. Shaw  
Prothonotary  
WAS

④  
CP

RONALD GRESS, administrator of the  
estate of ELIZABETH GRESS, deceased,

Plaintiff

v.

DuBOIS NURSING HOME  
ASSOCIATION, a corporation,

Defendant

) IN THE COURT OF COMMON PLEAS OF  
)  
) CLEARFIELD COUNTY, PENNSYLVANIA  
)  
)  
) No. 00-188-CD  
)  
) PRELIMINARY OBJECTIONS  
)  
) CODE:  
)  
) Filed on behalf of defendant  
) DuBois Nursing Home Association  
)  
) Counsel of record:  
) Mark E. Mioduszewski  
) Pa. I.D. No. 30301  
)  
)  
) KNOX McLAUGHLIN GORNALL &  
) SENNETT, P.C.  
) 120 West Tenth Street  
) Erie, PA 16501  
) (814) 459-2800

**FILED**

APR 14 2000

William A. Shaw  
Prothonotary



RONALD GRESS, administrator of the	)	IN THE COURT OF COMMON PLEAS OF
estate of ELIZABETH GRESS, deceased,	)	
	)	CLEARFIELD COUNTY, PENNSYLVANIA
Plaintiff	)	
	)	
v.	)	Civil Division
	)	
DuBOIS NURSING HOME	)	No. 00-188-CD
ASSOCIATION, a corporation,	)	
	)	
Defendant	)	

### **PRELIMINARY OBJECTIONS**

AND NOW, comes the defendant, DuBois Nursing Home Association, by its counsel, Knox McLaughlin Gornall & Sennett, P.C., and files these preliminary objections to the plaintiff's complaint, setting forth in support thereof the following:

1. This case arises out of an accident which occurred on July 4, 1999 on the premises of the DuBois Nursing Home Association, located at 200 South 8<sup>th</sup> Street, DuBois, Pennsylvania. The accident occurred when the plaintiff's decedent, Elizabeth Gress, who was a resident of the defendant's nursing home facility, fell from a wheelchair while it was being pushed by John Potts, a nurses' assistant employed at the nursing home.

2. This case, which is in the nature of a wrongful death and survival action, was brought by Ronald Gress, as the administrator of the estate of Elizabeth Gress, on behalf of the estate and on behalf of himself and Robert Gress, who are sons of the decedent.

3. The plaintiff alleges that Mrs. Gress fell from the wheelchair as the result of the negligence of the defendant which, at paragraph 9 of the complaint, he describes as consisting of the following:

9. The fatal injuries and damage hereinafter set forth were caused by and were the direct and proximate result of the negligence and wantonness of defendant, as aforesaid, *generally, and in the following particulars:*
- (a) in causing and allowing decedent to fall from said wheelchair.
  - (b) in failing to restrain decedent and otherwise preventing her fall.
  - (c) in using improper and inadequate equipment.
  - (d) in failing to properly and adequately use the wheelchair.
  - (e) *in failing to follow customary practices and procedures when transporting one by wheelchair.*
  - (f) in failing to pay attention to the transportation of decedent.
  - (g) *in failing to possess and employ that degree of skill and care in the transportation of patients as required of defendant under the circumstances.*
  - (h) *in violating defendant's own policies and procedures with regard to transport of patients by wheelchair.*
  - (i) in moving too quickly.

(Complaint, paragraph 9; emphasis added)

4. The plaintiff alleges that as a result of the accident, Mrs. Gress sustained various injuries to her head and cervical spine which resulted in her subsequent death. At paragraph 12, the plaintiff claims damages for Mrs. Gress' pain and suffering; for her loss of earnings and earning power; for medical, surgical, hospital and nursing expenses; and for other expenses caused by the injury. At paragraph 13(a) of the complaint, the plaintiff makes claim for damages suffered by Mrs. Gress' children, consisting of the support and maintenance Mrs. Gress

had regularly provided for them and for contributions which she had regularly made to them which she would have continued to provide until the expiration of her natural life. In addition, at paragraph 13(b) of his complaint, the plaintiff makes the following claim:

13. By reason of the said wrongful acts of the defendant resulting in fatal injuries to and the death of Elizabeth Gress, plaintiff claims damages of the defendant for and on behalf of the children of decedent as follows:

\* \* \*

- (b) for loss to the children of her society, comfort, companionship and direction.

(Complaint, paragraph 13(b))

#### I.

#### **PRELIMINARY OBJECTIONS IN THE NATURE OF A DEMURRER**

5. To the extent that the claim asserted on behalf of Mrs. Gress' children at paragraph 13(b) of the complaint includes or consists of one for loss of parental consortium, it should be dismissed. The appellate courts of Pennsylvania do not permit recovery of damages for loss of consortium allegedly suffered by the child of a decedent or by the parent of a decedent. Rather, claims for loss of consortium are reserved only to spouses of injured persons.

WHEREFORE, the defendant, DuBois Nursing Home Association, respectfully requests Your Honorable Court to enter judgment in its favor and against the plaintiff, dismissing all claims for loss of parental consortium to the extent claimed at paragraph 13(b) of the complaint.

## II.

### **PRELIMINARY OBJECTIONS IN THE NATURE OF A MOTION TO STRIKE**

6. The allegations set forth at paragraph 9(g) of the complaint that the defendant was negligent "in failing to possess and employ that degree of skill and care in the transportation of patients as required of defendant under the circumstances" is unduly broad, vague and ambiguous; sets forth no additional factual basis for the imposition of liability for negligence; and represents "boilerplate" or "catch all" allegations of negligence which might be utilized by the plaintiff to introduce new theories of liability even beyond the expiration of the statute of limitations under the guise of "amplifying" allegations of negligence in the complaint, and thereby deprive the defendant of the opportunity to know the claims asserted against it and to adequately prepare its defenses.

7. Similarly, the phrase "generally, and in the following particulars" found in the prefatory sentence of paragraph 9 of the complaint permits the plaintiff to avoid committing to factual bases for theories of liability and present the defendant with the specter of having to defend against additional claims and theories of negligence without receiving due notice thereof.

8. Accordingly, the allegations set forth at paragraph 9(g) and in the phrase "generally, and in the following particulars" found in the prefatory sentence of paragraph 9 of the complaint should be stricken.

WHEREFORE, the defendant, DuBois Nursing Home Association, respectfully requests Your Honorable Court to enter an order striking the allegations set forth at paragraph 9(g) and the phrase "generally, and in the following particulars" found in the prefatory sentence of paragraph 9 of the complaint.

### III.

#### **PRELIMINARY OBJECTIONS IN THE NATURE OF A MOTION TO STRIKE OR, IN THE ALTERNATIVE, MOTION FOR MORE SPECIFIC COMPLAINT**

9. At paragraph 9(e) of the complaint, the plaintiff alleges that DuBois Nursing Home failed to follow "customary practices and procedures when transporting one by wheelchair", without identifying or describing the "customary practices and procedures" which DuBois Nursing Home allegedly failed to follow.

10. At paragraph 9(h) of the complaint, the plaintiff alleges that DuBois Nursing Home violated its "own policies and procedures with regard to transport of patients by wheelchair", without identifying or describing the "policies and procedures" which DuBois Nursing Home allegedly violated.

11. By failing to identify the "customary practices and procedures" and the "policies and procedures" which DuBois Nursing Home allegedly failed to follow, the plaintiff avoids providing the defendant with notice of the theories of negligence which will be employed against it. Having alleged that DuBois Nursing Home violated customary practices, policies and procedures with regard to the transport of patients by wheelchair, in order to make those allegations meaningful and to serve fair notice to defendant of the charges against which it will be required to defend, the plaintiff should identify and describe the practices, procedures and policies which were allegedly violated.

WHEREFORE, the defendant, DuBois Nursing Home Association, respectfully requests Your Honorable Court to enter an order striking the allegations set forth at

paragraph 9(e) and (h) of the complaint or, in the alternative, requiring the plaintiff to more specifically plead the matters set forth therein.

Respectfully submitted,

KNOX McLAUGHLIN GORNALL &  
SENNETT, P.C.

BY: 

Mark E. Mioduszewski  
120 West Tenth Street  
Erie, PA 16501  
(814) 459-2800

Attorneys for Defendant  
DuBois Nursing Home Association

# 317621afk

RONALD GRESS, administrator of the  
estate of ELIZABETH GRESS, deceased,  
Plaintiff

v.

DuBOIS NURSING HOME  
ASSOCIATION, a corporation,  
Defendant

) IN THE COURT OF COMMON PLEAS OF  
)  
) CLEARFIELD COUNTY, PENNSYLVANIA  
)  
)  
) Civil Division  
)  
) No. 00-188-CD  
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**ORDER**

AND NOW, to wit this \_\_\_\_\_ day of \_\_\_\_\_, 2000, upon  
consideration of the foregoing preliminary objections, it is hereby ORDERED, ADJUDGED AND  
DECREED as follows:

1. All claims for loss of parental consortium set forth at paragraph 13(b) of the  
complaint are dismissed, with prejudice.

2. The averments set forth at subparagraph (g) as well as the phrase "generally,  
and in the following particulars" set forth in the prefatory sentence of paragraph 9 of the complaint  
are stricken.

3(a) The allegations set forth at paragraphs 9(e) and (h) of the complaint are  
stricken.

or

(b) The plaintiff is directed to amend the allegations set forth at paragraphs 9(e)  
and (j) of the complaint to more specifically identify and describe the customary practices,  
procedures and policies with regard to the transportation of patients by wheelchair which the plaintiff  
alleges were violated by the defendant. The amended complaint shall be filed within 20 days from  
the date of this order.

BY THE COURT:

RONALD GRESS, administrator of the  
estate of ELIZABETH GRESS, deceased,

Plaintiff

v.

DuBOIS NURSING HOME  
ASSOCIATION, a corporation,

Defendant

) IN THE COURT OF COMMON PLEAS OF  
)  
) CLEARFIELD COUNTY, PENNSYLVANIA  
)

) Civil Division  
)

) No. 00-188-CD  
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)

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on the on the 12 day of April, 2000, a copy  
of the within document was served on all counsel of record and unrepresented parties in  
accordance with the applicable rules of court.



\_\_\_\_\_  
Mark E. Mioduszewski



FILED

APR 14 2000  
11:29 PM  
William A. Shaw  
Prothonotary

1cc  
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RONALD GRESS, administrator of the  
estate of ELIZABETH GRESS, deceased,

Plaintiff

v.

DuBOIS NURSING HOME  
ASSOCIATION, a corporation,

Defendant

) IN THE COURT OF COMMON PLEAS OF  
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) CLEARFIELD COUNTY, PENNSYLVANIA  
)

) Civil Division  
)

) No. 00-188-CD  
)  
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)

**PRAECIPE FOR ARGUMENT LIST**

TO THE PROTHONOTARY:

Please list the preliminary objections of the defendant, DuBois Nursing Home Association, for argument at a time which is convenient for the Court and notify counsel for all parties of the scheduling of argument. A brief in support of the preliminary objections was filed this day.

Counsel for the parties are as follows:

Judd F. Crosby  
1450 Two Chatham Center  
Pittsburgh, PA 15219-3427  
412/471-3530  
Counsel for Plaintiff

Mark E. Mioduszewski  
Knox McLaughlin Gornall & Sennett, P.C.  
120 West 10<sup>th</sup> Street  
Erie, PA 16501  
814/459-2800  
Counsel for Defendant

Respectfully submitted,

KNOX McLAUGHLIN GORNALL &  
SENNETT, P.C.

BY: 

Mark E. Mioduszewski  
120 West Tenth Street  
Erie, PA 16501  
(814) 459-2800

Attorneys for Defendant  
DuBois Nursing Home Association

**FILED**

APR 14 2000

William A. Shaw  
Prothonotary

RONALD GRESS, administrator of the  
estate of ELIZABETH GRESS, deceased,

Plaintiff

v.

DuBOIS NURSING HOME  
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) IN THE COURT OF COMMON PLEAS OF  
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) Civil Division  
)

) No. 00-188-CD  
)  
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)

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on the 12 day of April, 2000, a copy of  
the within document was served on all counsel of record and unrepresented parties in accordance  
with the applicable rules of court.



\_\_\_\_\_  
Mark E. Mioduszeewski

FILED

APR 14 2000

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William A. Shaw

Prothonotary

*WAS*

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

RONALD GRESS, Administrator  
of ESTATE OF ELIZABETH  
GRESS, Deceased,

Plaintiff,

vs.

DUBOIS NURSING HOME  
ASSOCIATION, a corporation,

Defendant.

CIVIL DIVISION

Case No. 00-188-00

Issue No.

NOTICE OF DISCOVERY OF  
PLAINTIFF'S ANSWERS TO  
DEFENDANT'S INTERROGATORIES  
AND REQUESTS FOR PRODUCTION  
OF DOCUMENTS

Code: 004

Filed on Behalf of  
Plaintiff

Counsel of Record:

Judd F. Crosby  
PA I.D. 16373

1450 Two Chatham Center  
Pittsburgh, PA 15219  
(412) 471-3530

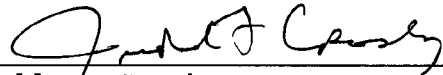
FILED

APR 27 2000

William A. Shaw  
Prothonotary

NOTICE OF DISCOVERY

The undersigned, counsel for plaintiff, hereby certifies that Plaintiff's Answers to Defendant's Interrogatories and Requests for Production of Documents, were forwarded to counsel of record on the 21<sup>st</sup> day of April, 2000.

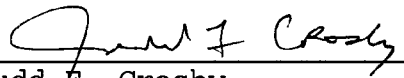
  
Judd F. Crosby  
Attorney for Plaintiff

1450 Two Chatham Center  
Pittsburgh, PA 15219  
(412) 471-3530

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that copies of the foregoing Notice of Discovery of Plaintiff's Answers to Defendant's Interrogatories and Requests for Production of Documents were served this 24<sup>th</sup> day of April, 2000, by regular mail, postage prepaid, on the following counsel of record:

Mark E. Mioduszewski  
Knox McLaughlin Gornall & Sennett, P.C.  
120 West Tenth St.  
Erie, PA 16501-1461

  
Judd F. Crosby

FILED

APR 27 2000

M/135/NOCC

William A. Shaw  
Prothonotary

WAS



IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL ACTION

RONALD GRESS, administrator of the :  
Estate of ELIZABETH GRESS, deceased :

-vs-

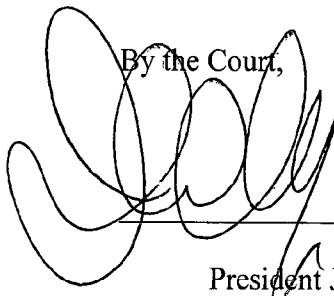
No. 00 - 188 - CD

DUBOIS NURSING HOME :  
ASSOCIATION, a corporation :

**ORDER**

NOW, this 3<sup>rd</sup> day of July, 2000, following argument and briefs into Preliminary Objections filed on behalf of Defendant above-named, it is the ORDER of this Court that said Objections be and are hereby sustained to the extent that Plaintiff shall amend his Complaint removing the word "generally" from the prolog to paragraph 9. It is the further ORDER of this Court that Plaintiff's claim for loss of parental consortium shall be and is hereby dismissed reserving in Plaintiff the right to refile the same should a Pennsylvania Appellate Court decision permitting such a claim be rendered prior to trial, and that Plaintiff shall, within nine months from date hereof, answer Defendant's interrogatories to specifically state the factual basis for its allegations of negligence contained in Original Complaint paragraphs 9(e), (g) and (h). No further factual bases for said paragraphs shall be filed thereafter without leave of Court.

By the Court,



President Judge

**FILED**

JUL 03 2000  
013:00 (w)  
William A. Shaw  
Prothonotary

SENT TO ATTYS

221

**IN THE COURT OF COMMON PLEAS OF  
CLEARFIELD COUNTY, PENNSYLVANIA**

RONALD GRESS, administrator of the  
estate of ELIZABETH GRESS, deceased,

Plaintiff

vs.

DUBOIS NURSING HOME  
ASSOCIATION, a corporation,

Defendant

) Civil Division  
)  
) No. 00 – 188 – CD  
)  
) ANSWER  
)  
) Filed on behalf of Defendant, DuBois Nursing  
) Home Association  
)  
) Counsel of record:  
) Mark E. Mioduszeewski  
) PA ID #30301  
)  
) KNOX MCLAUGHLIN GORNALL &  
) SENNETT, P.C.  
) 120 West Tenth Street  
) Erie, PA 16501-1461  
) (814) 459-2800

**FILED**

JUL 21 2000

William A. Shaw  
Prothonotary

RONALD GRESS, administrator of the	)	IN THE COURT OF COMMON PLEAS OF
estate of ELIZABETH GRESS, deceased,	)	CLEARFIELD COUNTY, PENNSYLVANIA
	)	
Plaintiff	)	
	)	Civil Division
vs.	)	
	)	No. 00 – 188 – CD
DUBOIS NURSING HOME	)	
ASSOCIATION, a corporation,	)	
	)	
Defendant	)	

**ANSWER**

AND NOW, comes the defendant, DuBois Nursing Home Association, by its counsel, Knox McLaughlin Gornall & Sennett, P.C., and, pursuant to Pennsylvania Rules of Civil Procedure 1029 and 1030 as amended effective September 1, 1994, files this answer to the plaintiff's complaint, setting forth in support thereof the following:

1. It is admitted that Elizabeth Gress died on July 25, 1999. After reasonable investigation, the defendant is without knowledge or information sufficient to form a belief as to the truth of the remainder of the averments set forth at paragraph 1 of the complaint.
2. After reasonable investigation, the defendant is without knowledge or information sufficient to form a belief as to the truth of the averments set forth at paragraph 2 of the complaint.
3. The averments set forth at paragraph 3 of the complaint are admitted.
4. The averments set forth at paragraph 4 of the complaint are admitted.
5. The averments set forth at paragraph 5 of the complaint are admitted.
6. The averments set forth at paragraph 6 of the complaint are denied.

Assuming, however, that the plaintiff is referring to the decedent, Elizabeth Gress, then it is admitted that Mrs. Gress was a resident of the DuBois Nursing Home.

7. The averments set forth at paragraph 7 of the complaint are admitted.

8. It is admitted that Mrs. Gress fell from a wheelchair while it was being pushed by the defendant's employee; however, it is denied that Mrs. Gress was "caused and allowed to fall from said wheelchair" as would imply Mrs. Gress' fall was caused by any conduct on the part of the defendant or its employee or that any conduct on the part of the defendant or its employee was in any way negligent.

9. Pursuant to the provisions of Pennsylvania Rule of Civil Procedure 1029(e), the averments set forth at paragraph 9 of the complaint are generally denied. Accordingly, it is denied that the defendant was negligent or wanton or that the conduct of the defendant caused or contributed to the accident giving rise to this lawsuit or to any injuries, losses or damages allegedly sustained by the plaintiff or his decedent as a result thereof. After reasonable investigation, the defendant is without knowledge or information sufficient to form a belief as to the truth of the averments purporting to describe the nature or extent of any injuries, losses or damages resulting from the accident.

10. Although it is admitted that Mrs. Gress sustained some injuries as the result of her fall from the wheelchair, after reasonable investigation, the defendant is without knowledge or information sufficient to form a belief as to the nature or extent of any and all injuries which may have resulted from the accident.

11. The complaint contains no paragraph 11.

12. Pursuant to the provisions of Pennsylvania Rule of Civil Procedure 1029(e), it is denied that the defendant acted wrongfully or that its conduct caused or

contributed to the accident giving rise to this lawsuit or to any injuries, losses or damages allegedly sustained by the plaintiff, his decedent, her estate or any beneficiary thereof. After reasonable investigation, the defendant is without knowledge or information sufficient to form a belief as to the truth of the averments purporting to describe the nature or extent of the damages which are being pursued by the plaintiff in this lawsuit.

13. Pursuant to the provisions of Pennsylvania Rule of Civil Procedure 1029(e), it is denied that the defendant acted wrongfully or that its conducted caused or contributed to the accident giving rise to this lawsuit or to any injuries, losses or damages allegedly sustained by the plaintiff, his decedent, her estate or any beneficiary thereof. After reasonable investigation, the defendant is without knowledge or information sufficient to form a belief as to the truth of the averments purporting to describe the nature or extent of the damages which are being pursued by the plaintiff in this lawsuit. Further averring, by order, dated July 3, 2000, of the Honorable John K. Reilly Jr., P.J., all claims of the plaintiff for loss of parental consortium have been dismissed.

WHEREFORE, the defendant, DuBois Nursing Home Association, respectfully requests Your Honorable Court to enter judgment in its favor and against the plaintiff, thereby dismissing the complaint and therefore this action.

Respectfully submitted,

KNOX McLAUGHLIN GORNALL &  
SENNETT, P.C.

By 

Mark E. Mioduszewski  
120 West Tenth Street  
Erie, PA 16501-1461  
(814) 459-2800

Attorneys for Defendant,  
DuBois Nursing Home Association

# 330645

RONALD GRESS, administrator of the  
estate of ELIZABETH GRESS, deceased,

Plaintiff

vs.

DUBOIS NURSING HOME  
ASSOCIATION, a corporation,

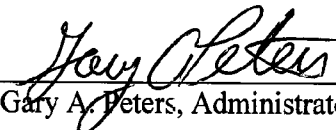
Defendant

) IN THE COURT OF COMMON PLEAS OF  
) CLEARFIELD COUNTY, PENNSYLVANIA  
)  
)  
) Civil Division  
)  
) No. 00 – 188 – CD  
)  
)  
)  
)

**VERIFICATION**

On this, the 14 day of July, 2000, Gary A. Peters, the undersigned, deposes and states that he is the administrator of the defendant, DuBois Nursing Home Association, that as such he is authorized to execute this verification on behalf of the defendant, and that the facts set forth in the foregoing answer are true and correct to the best of his knowledge, information and belief, subject to the penalties of 18 Pa.C.S. §4904 relating to the unsworn falsification to authorities.

DuBOIS NURSING HOME ASSOCIATION

  
\_\_\_\_\_  
Gary A. Peters, Administrator

RONALD GRESS, administrator of the  
estate of ELIZABETH GRESS, deceased,

Plaintiff

vs.

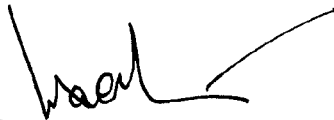
DUBOIS NURSING HOME  
ASSOCIATION, a corporation,

Defendant

) IN THE COURT OF COMMON PLEAS OF  
) CLEARFIELD COUNTY, PENNSYLVANIA  
)  
)  
) Civil Division  
)  
) No. 00 – 188 – CD  
)  
)  
)  
)

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on the on the 18th day of July, 2000, a copy of the within document was served on all counsel of record and unrepresented parties in accordance with the applicable rules of court.



\_\_\_\_\_  
Mark E. Mioduszewski



FILED

JUL 21 2000

013039/12000  
William A. Shaw  
Prothonotary

RONALD GRESS, administrator of the ) IN THE COURT OF COMMON PLEAS OF  
estate of ELIZABETH GRESS, deceased, ) CLEARFIELD COUNTY, PENNSYLVANIA  
)  
Plaintiff )  
) Civil Division  
vs. )  
) No. 00 – 188 – CD  
DUBOIS NURSING HOME )  
ASSOCIATION, a corporation, )  
)  
Defendant )

**CERTIFICATE PREREQUISITE TO SERVICE  
OF A SUBPOENA PURSUANT TO RULE 4009.22**

As a prerequisite to service of a subpoena for documents and things pursuant to Rule 4009.22, defendant, DuBois Nursing Home Association, certifies that:

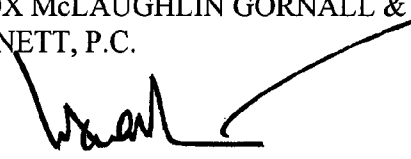
- (1) a notice of intent to serve the subpoena with a copy of the subpoena attached thereto was mailed or delivered to each party at least 20 days prior to the date in which the subpoena is sought to be served;
- (2) a copy of the notice of intent, including the proposed subpoena, is attached to this certificate;
- (3) no objection to the subpoena has been received; and
- (4) the subpoena which will be served is identical to the subpoena which is attached to the notice of intent to serve the subpoena.

Dated: October 19, 2000

Respectfully submitted,

KNOX McLAUGHLIN GORNALL &  
SENNETT, P.C.

By

  
Mark E. Mioduszewski  
120 West Tenth Street  
Erie, PA 16501-1461  
(814) 459-2800

**FILED**

OCT 23 2000

William A. Shaw  
Prothonotary

Attorneys for Defendant,  
DuBois Nursing Home Association, Inc.

RONALD GRESS, administrator of the  
estate of ELIZABETH GRESS, deceased,

Plaintiff

vs.

DUBOIS NURSING HOME  
ASSOCIATION, a corporation,

Defendant

) IN THE COURT OF COMMON PLEAS OF  
) CLEARFIELD COUNTY, PENNSYLVANIA  
)  
)  
) Civil Division  
)  
) No. 00 - 188 - CD  
)  
)  
)  
)

**NOTICE OF INTENT TO SERVE A SUBPOENA TO PRODUCE  
DOCUMENTS AND THINGS FOR DISCOVERY PURSUANT TO RULE 4009.21**

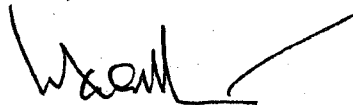
The defendant, DuBois Nursing Home Association, intends to serve a subpoena identical to the one that is attached to this notice. You have twenty (20) days from the date listed below in which to file of record and serve upon the undersigned an objection to the subpoena. If no objection is made the subpoena may be served.

Dated August 16, 2000

Respectfully submitted,

KNOX McLAUGHLIN GORNALL &  
SENNETT, P.C.

By



Mark E. Mioduszewski  
120 West Tenth Street  
Erie, PA 16501-1461  
(814) 459-2800

Attorneys for Defendant,  
DuBois Nursing Home Association

RONALD GRESS, administrator of the  
estate of ELIZABETH GRESS, deceased,

Plaintiff

vs.

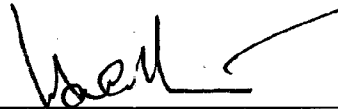
DUBOIS NURSING HOME  
ASSOCIATION, a corporation,

Defendant

) IN THE COURT OF COMMON PLEAS OF  
) CLEARFIELD COUNTY, PENNSYLVANIA  
)  
)  
) Civil Division  
)  
) No. 00 – 188 – CD  
)  
)  
)  
)

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on the on the 16 day of August, 2000, a  
copy of the within document was served on all counsel of record and unrepresented parties in  
accordance with the applicable rules of court.



\_\_\_\_\_  
Mark E. Mioduszewski

RONALD GRESS, administrator of the  
estate of ELIZABETH GRESS, deceased,

Plaintiff

vs.

DUBOIS NURSING HOME  
ASSOCIATION, a corporation,

Defendant

) IN THE COURT OF COMMON PLEAS OF  
) CLEARFIELD COUNTY, PENNSYLVANIA  
)  
)  
) Civil Division  
)  
) No. 00 – 188 – CD  
)  
)  
)  
)

**SUBPOENA TO PRODUCE DOCUMENTS OR THINGS FOR  
DISCOVERY PURSUANT TO RULE 4009.22**

**TO: ALLEGHENY GENERAL HOSPITAL**  
**Attention: Records Custodian**

Within twenty (20) days after service of this subpoena, you are ordered by the court to produce the following documents or things:

**All records, reports and other documents, including, but not limited to, face sheets, history and physical, operative reports, reports of consultations, discharge reports, physicians' orders, nurses' notes, laboratory, radiology and other diagnostic test reports, coroners' reports, autopsy reports, bills and all other records, reports and other documents which refer or relate to or were generated out of the admission of Elizabeth Gress, a patient born October 9, 1912, to, at or in Allegheny General Hospital or any unit, department or center of Allegheny General Hospital, at the offices of Knox McLaughlin Gornall & Sennett, P.C., 120 West Tenth Street, Erie, Erie County, Pennsylvania 16501.**

You may deliver or mail legible copies of the documents or produce things requested by this subpoena, together with the certificate of compliance, to the party making this request at the address listed above. You have the right to seek in advance the reasonable cost of preparing the copies of producing the things sought.

If you fail to produce the documents or things required by this subpoena within twenty (20) days after its service, the party serving this subpoena may seek a court order compelling you to comply with it.

This subpoena was issued at the request of the following person:

**Mark E. Mioduszewski**  
**Knox McLaughlin Gornall & Sennett, P.C.**  
**120 West Tenth Street**  
**Erie, PA 16501-1461**  
**(814) 459-2800**  
**PA ID #30301**  
**Attorneys for Defendant, DuBois Nursing Home Association**

Dated: \_\_\_\_\_  
SEAL OF THE COURT

BY THE COURT:

\_\_\_\_\_  
Prothonotary/Clerk, Civil Division

\_\_\_\_\_  
Deputy

RONALD GRESS, administrator of the  
estate of ELIZABETH GRESS, deceased,

Plaintiff

vs.

DUBOIS NURSING HOME  
ASSOCIATION, a corporation,

Defendant


) IN THE COURT OF COMMON PLEAS OF  
) CLEARFIELD COUNTY, PENNSYLVANIA  
)  
)

) Civil Division  
)

) No. 00 – 188 – CD  
)  
)  
)

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on the on the 19th day of October, 2000, a  
copy of the within document was served on all counsel of record and unrepresented parties in  
accordance with the applicable rules of court.



\_\_\_\_\_  
Mark E. Mioduszewski

FHDD

OCT 23 2000

171144 noon

William A. Shaw

Prothonotary





IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

RONALD GRESS, Administrator  
of ESTATE OF ELIZABETH  
GRESS, Deceased,

Plaintiff,

vs.

DUBOIS NURSING HOME  
ASSOCIATION, a corporation,

Defendant.

CIVIL DIVISION

Case No. 00-188-00

PRAECIPE FOR ARGUMENT LIST

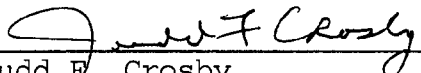
Please list the Plaintiff's Motion to Compel Discovery for argument at a time which is convenient for the Court and notify counsel for all parties of the scheduling of argument.

Counsel for the parties are as follows:

Mark E. Mioduszeewski  
Knox McLaughlin Gornall  
& Sennett, P.C.  
120 West Tenth St.  
Erie, PA 16501-1461  
814-459-2800  
Counsel for Defendant

Judd F. Crosby  
1450 Two Chatham Center  
Pittsburgh, PA 15219  
412-471-3530  
Counsel for Plaintiff

Respectfully submitted,

  
Judd F. Crosby  
Attorney for Plaintiff

FILED

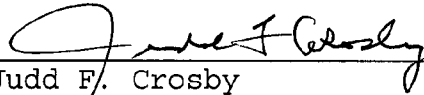
FEB 01 2001

2:12 p.m.  
William A. Shaw  
Prothonary

CERTIFICATE OF SERVICE

The undersigned hereby certifies that copy of the foregoing Praecipe for Argument List was served this 30<sup>th</sup> day of January, 2001, by regular mail, postage prepaid, on the following counsel of record:

Mark E. Mioduszeewski  
Knox McLaughlin Gornall & Sennett, P.C.  
120 West Tenth St.  
Erie, PA 16501-1461

  
Judd F. Crosby

FILED

FEB 01 2001

William A. Shaw  
Prothonotary

Copy to CA ~~Shaw~~

62

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA  
CIVIL DIVISION

RONALD GRESS, Administrator  
of ESTATE OF ELIZABETH  
GRESS, Deceased

vs.

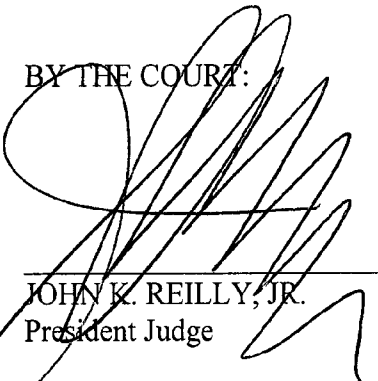
DUBOIS NURSING HOME  
ASSOCIATION, a corporation

:  
:  
:  
:  
:  
: No. 00-188-CD  
:  
:  
:

**ORDER**

NOW, this 2nd day of February, 2001, upon consideration of Plaintiff's Motion to Compel Discovery, a Rule is hereby issued upon Defendant to Show Cause why the Motion should not be granted. Rule Returnable the 13<sup>th</sup> day of March, 2001, at 3:00 P.M. in Courtroom No. 1, Clearfield County Courthouse, Clearfield, PA.

BY THE COURT:

  
\_\_\_\_\_  
JOHN K. REILLY, JR.  
President Judge

**FILED**

FEB 07 2001

William A. Shaw  
Prothonotary

CP

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

RONALD GRESS, Administrator  
of ESTATE OF ELIZABETH  
GRESS, Deceased,

Plaintiff,

vs.

DUBOIS NURSING HOME  
ASSOCIATION, a corporation,

Defendant.

CIVIL DIVISION

Case No. 00-188-00

Issue No.

**PLAINTIFF'S MOTION TO COMPEL  
DISCOVERY**

Code: 004

Filed on Behalf of  
Plaintiff

Counsel of Record:

Judd F. Crosby  
PA I.D. 16373

1450 Two Chatham Center  
Pittsburgh, PA 15219  
(412) 471-3530

**FILED**

FEB 01 2001

*m laia pm*  
William A. Shaw  
Prothonotary *WAS*

PLAINTIFF'S MOTION TO COMPEL DISCOVERY

AND NOW comes the plaintiff by his attorney, Judd F. Crosby, and hereby seeks an Order to compel discovery and in support thereof states as follows:

1. This is a death case resulting from fatal injuries sustained by decedent when she was being pushed in a wheelchair and was allowed to be catapulted forward and out of the chair.

2. On September 20, 2000, during the course of two depositions of defendant's employees, plaintiff on the record requested various documents from the defendant. Siple Depo. 104, 111; Jewel Depo. 57, 58.

3. At the time counsel for defendant requested that those requests be placed in a letter addressed to him.

4. Pursuant to that request, plaintiff on September 21, 2000, made the requests in letter form. Exhibit A is attached hereto.

5. Having received no response, plaintiff again on November 30, 2000, sent another letter enclosing the September 21, 2000, letter and asked defense counsel to state his intentions on the requests. Exhibit B is attached hereto.

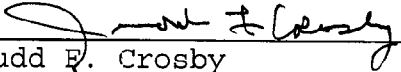
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6. To date no response of any type has been received from defendant regarding these requests.

7. These documents are necessary to the proper preparation and presentation of plaintiff's case..

WHEREFORE, plaintiff respectfully requests that this Honorable Court enter an Order compelling production of those matters set forth in the attached proposed Order.

Respectfully submitted,

  
\_\_\_\_\_  
Judd E. Crosby  
Attorney for Plaintiff

JUDD F. CROSBY  
ATTORNEY AT LAW  
1450 TWO CHATHAM CENTER  
PITTSBURGH, PENNSYLVANIA 15219  
(412) 471-3530

September 21, 2000

Mark E. Mioduszewski, Esquire  
Knox McLaughlin Gornall & Sennett, P.C.  
120 West Tenth St.  
Erie, PA 16501-1461

RE: RONALD GRESS, ADMINISTRATOR OF ESTATE OF  
ELIZABETH GRESS, DECEASED, V. DUBOIS  
NURSING HOME ASSOCIATION

Dear Mark:

In follow-up to my requests at depositions on September 20, 2000, please provide me with copies of the following data:

1. All written restraint policies in effect on July 4, 1999, including the standards used for such determinations.
2. Day sheets showing all persons who worked on July 4, 1999, what shifts they worked and the job category to which each was assigned.
3. All documents relating to the code system to assess resident risk of falling including all standards used in making the assessments and implementing responses.

Thank you for your courtesies.

Sincerely,

Judd F. Crosby

JFC/fmk



JUDD F. CROSBY  
ATTORNEY AT LAW  
1450 TWO CHATHAM CENTER  
PITTSBURGH, PENNSYLVANIA 15219  
(412) 471-3530

November 30, 2000

Mark E. Mioduszewski, Esquire  
Knox McLaughlin Gornall & Sennett, P.C.  
120 West Tenth St.  
Erie, PA 16501-1461

RE: RONALD GRESS, ADMINISTRATOR OF ESTATE OF  
ELIZABETH GRESS, DECEASED, V. DUBOIS  
NURSING HOME ASSOCIATION

Dear Mark:

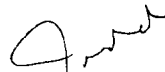
Thank you for the Allegheny General Hospital records.

Enclosed is a copy of my letter of September 21, 2000  
requesting various data.

Would you please advise me of your intentions regarding  
responses to these requests.

Thank you for your anticipated courtesies.

Sincerely,



Judd F. Crosby

JFC/fmk  
Enclosure

EXHIBIT B

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

RONALD GRESS, Administrator  
of **ESTATE OF ELIZABETH**  
GRESS, Deceased,

Plaintiff,

vs.

**DUBOIS NURSING HOME**  
**ASSOCIATION**, a corporation,

Defendant.

CIVIL DIVISION

Case No. 00-188-00

ORDER

AND NOW, to wit, this \_\_\_\_\_ day of \_\_\_\_\_, 2001,  
upon motion of plaintiff, it is hereby ORDERED that defendant,  
DuBois Nursing Home Association, shall provide counsel for  
plaintiff within fifteen (15) days hereof the following documents:

1. All written restraint policies in effect on July 4, 1999,  
including the standards used for such determinations.
2. Day sheets showing all persons who worked on July 4,  
1999, what shifts they worked and the job category to  
which each was assigned.
3. All documents relating to the code system to assess  
resident risk of falling including all standards used in  
making the assessments and implementing responses.

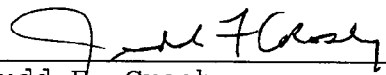
BY THE COURT:

\_\_\_\_\_  
J.

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that copies of the foregoing Plaintiff's Motion to Compel Discovery were served this 30<sup>th</sup> day of January, 2001, by regular mail, postage prepaid, on the following counsel of record:

Mark E. Mioduszeewski  
Knox McLaughlin Gornall & Sennett, P.C.  
120 West Tenth St.  
Erie, PA 16501-1461

  
Judd F. Crosby

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

RONALD GRESS, Administrator  
of ESTATE OF ELIZABETH  
GRESS, Deceased,

Plaintiff,

vs.

DUBOIS NURSING HOME  
ASSOCIATION, a corporation,

Defendant.

CIVIL DIVISION

Case No. 00-188-00

PRAECIPE FOR ARGUMENT LIST

Please list the Plaintiff's Motion to Compel Discovery for argument at a time which is convenient for the Court and notify counsel for all parties of the scheduling of argument.

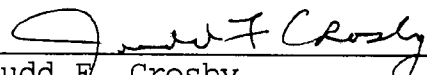
Counsel for the parties are as follows:

Mark E. Mioduszewski  
Knox McLaughlin Gornall  
& Sennett, P.C.  
120 West Tenth St.  
Erie, PA 16501-1461  
814-459-2800  
Counsel for Defendant

Judd F. Crosby  
1450 Two Chatham Center  
Pittsburgh, PA 15219  
412-471-3530  
Counsel for Plaintiff

Respectfully submitted,

COPY

  
Judd F. Crosby  
Attorney for Plaintiff

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

RONALD GRESS, Administrator  
of ESTATE OF ELIZABETH  
GRESS, Deceased,

Plaintiff,

vs.

DUBOIS NURSING HOME  
ASSOCIATION, a corporation,

Defendant.

CIVIL DIVISION

Case No. 00-188-00

Issue No.

**AFFIDAVIT OF SERVICE**

Code: 004

Filed on Behalf of  
Plaintiff

Counsel of Record:

Judd F. Crosby  
PA I.D. 16373

1450 Two Chatham Center  
Pittsburgh, PA 15219  
(412) 471-3530

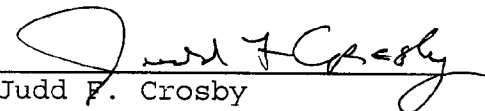
**FILED**

FEB 09 2001

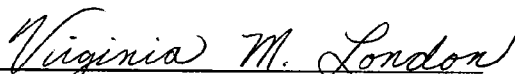
William A. Shaw  
Prothonotary

AFFIDAVIT OF SERVICE

AND NOW, comes counsel for plaintiff, Judd F. Crosby, and hereby deposes and states that he caused true and correct copies of the Order issuing a Rule to Show Cause signed on February 2, 2001, against defendant and Plaintiff's Motion to Compel Discovery upon counsel for defendant and the Court Administrator on this 6th day of February, 2001, by first class mail.

  
Judd F. Crosby

Sworn to and subscribed to before me this 6<sup>th</sup> day of February, 2001.

  
Notary Public

My commission expires:

Notarial Seal  
Virginia M. London, Notary Public  
Pittsburgh, Allegheny County  
My Commission Expires Feb. 23, 2003  
Member, Pennsylvania Association of Notaries



FILED

FEB 09 2001  
11:30 PM  
William A. Shaw  
Prothonotary  
NCC

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

RONALD GRESS, Administrator  
of ESTATE OF ELIZABETH  
GRESS, Deceased,

Plaintiff,

vs.

DUBOIS NURSING HOME  
ASSOCIATION, a corporation,

Defendant.

CIVIL DIVISION

Case No. 00-188-00

Issue No.

SUBSTITUTION OF PARTY AND  
STATEMENT OF FACTS

Code: 004

Filed on Behalf of  
Plaintiff

Counsel of Record:

Judd F. Crosby  
PA I.D. 16373

1450 Two Chatham Center  
Pittsburgh, PA 15219  
(412) 471-3530

FILED

FEB 23 2001

William A. Shaw  
Prothonotary



**SUBSTITUTION OF PARTY AND  
STATEMENT OF FACTS**

---

AND NOW, comes the plaintiff, Robert Gress, and hereby substitutes himself in the place of Ronald Gress as plaintiff in the above action and in support thereof states as follows:

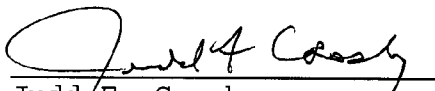
1. This is a wrongful death and survival action filed on February 14, 2000, on behalf of the estate of Elizabeth Gress, deceased.

2. Ronald Gress earlier administrator of the estate of decedent died himself on January 27, 2001.

3. On February 1, 2001, current plaintiff, Robert Gress, was duly appointed as the Administrator of the estate of his mother, Elizabeth Gress, by the Register of Wills of Clearfield County, Pennsylvania.

4. Plaintiff, Robert Gress, is therefore of the right and hereby does substitute himself as plaintiff in the above captioned action in place of his deceased brother, Ronald Gress.

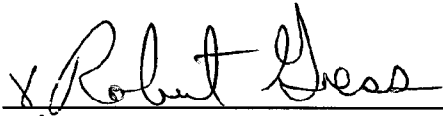
Respectfully submitted,

  
Judd F. Crosby  
Attorney for Plaintiff

VERIFICATION

I, Robert Gress, plaintiff herein, state that the averments of fact set forth in the foregoing Substitution of Party and Statement of Facts are true and correct to the best of my knowledge, information and belief.

I understand that false statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

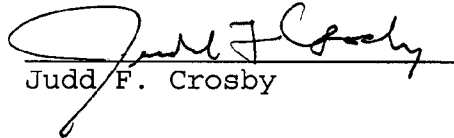
  
Robert Gress

Dated: 2-17-01

CERTIFICATE OF SERVICE

The undersigned hereby certifies that copy of the foregoing Substitution of Party and Statement of Facts was served this 21<sup>st</sup> day of February, 2001, by regular mail, postage prepaid, on the following counsel of record:

Mark E. Mioduszewski  
Knox McLaughlin Gornall & Sennett, P.C.  
120 West Tenth St.  
Erie, PA 16501-1461

  
Judd F. Crosby

FILED

FFR 23 2001

7/12/01

William A. Shaw  
Prothonotary

*[Signature]*

**IN THE COURT OF COMMON PLEAS OF  
CLEARFIELD COUNTY, PENNSYLVANIA**

ROBERT GRESS, administrator of the  
estate of ELIZABETH GRESS, deceased,

Plaintiff

vs.

DUBOIS NURSING HOME  
ASSOCIATION, a corporation,

Defendant

) Civil Division  
)  
) No. 00 – 188 – 00  
)  
) PRAECIPE FOR DISCONTINUANCE  
)  
) Filed on behalf of Defendant, DuBois Nursing  
) Home Association  
)  
) Counsel of record:  
) Mark E. Mioduszewski  
) PA ID #30301  
)  
) KNOX MCLAUGHLIN GORNALL &  
) SENNETT, P.C.  
) 120 West Tenth Street  
) Erie, PA 16501-1461  
) (814) 459-2800

**FILED**

DEC 03 2001

William A. Shaw  
Prothonotary

ROBERT GRESS, administrator of the  
estate of ELIZABETH GRESS, deceased,

Plaintiff

vs.

DUBOIS NURSING HOME  
ASSOCIATION, a corporation,

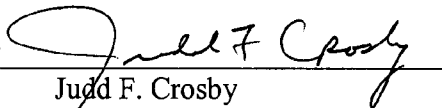
Defendant

) IN THE COURT OF COMMON PLEAS OF  
) CLEARFIELD COUNTY, PENNSYLVANIA  
)  
)  
) Civil Division  
)  
) No. 00 – 188 – 00  
)  
)  
)  
)

**PRAECIPE FOR DISCONTINUANCE**

For value received and upon payment of the costs, this case is settled and  
discontinued, with prejudice, of record.

Respectfully submitted,

By   
Judd F. Crosby  
1450 Two Chatham Center  
Pittsburgh, PA 15219-3427  
(412) 471-3530

Attorney for Plaintiff, Robert Gress,  
administrator of the estate of Elizabeth  
Gress, deceased

ROBERT GRESS, administrator of the  
estate of ELIZABETH GRESS, deceased,

Plaintiff

vs.

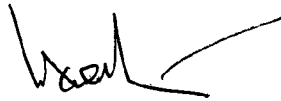
DUBOIS NURSING HOME  
ASSOCIATION, a corporation,

Defendant

) IN THE COURT OF COMMON PLEAS OF  
) CLEARFIELD COUNTY, PENNSYLVANIA  
)  
)  
) Civil Division  
)  
) No. 00 – 188 – 00  
)  
)  
)  
)

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on the on the 30 day of November, 2001, a  
copy of the within document was served on all counsel of record and unrepresented parties in  
accordance with the applicable rules of court.



---

Mark E. Mioduszewski

~~FILED~~  
~~DEC 03 2001~~

**FILED** *NO cc*

*M 12:59 PM*  
DEC 03 2001  
*Certificate to*  
*Atty 9 C14*

William A. Shaw  
Prothonotary  
*WAS*



**IN THE COURT OF COMMON PLEAS OF  
CLEARFIELD COUNTY, PENNSYLVANIA**

**CIVIL DIVISION**

**COPY**

**Robert Gress, administrator of the  
Estate of Elizabeth Gress, deceased**

**Vs.**

**No. 2000-00188-CD**

**DuBois Nursing Home Association**

**CERTIFICATE OF DISCONTINUATION**

Commonwealth of PA  
County of Clearfield

I, William A. Shaw, Prothonotary of the Court of Common Pleas in and for the County and Commonwealth aforesaid do hereby certify that the above case was on December 3, 2001 marked:

Settled, Discontinued with Prejudice

Record costs in the sum of \$118.21 have been paid in full by Judd F. Crosby, Esq..

IN WITNESS WHEREOF, I have hereunto affixed my hand and seal of this Court at Clearfield, Clearfield County, Pennsylvania this 3rd day of December A.D. 2001.

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William A. Shaw, Prothonotary