01-87-CD
CLEARFIELD PROFESSIONAL GROUP, LTD -vs- PAUL B. ROEMER, MD

3:0 P.M.

Appeal Docket Sheet **Superior Court of Pennsylvania**

Docket Number: 1420 WDA 2005

August 16, 2005

Paul Brian Roemer, M.D., Appellant 01-74-CD
V.
Clearfield Professional Group, LTD. 01-87-CD

1420 WDA 2005

Initiating Document: Notice of Appeal

Case Status: Active

Case Processing Status: August 16, 2005 Awaiting Original Record

Journal Number:

Case Category: Civil CaseType: Assumpsit

Consolidated Docket Nos.: **Related Docket Nos.:**

3 parts - 1 transcript - 1 sep exhibit

SCHEDULED EVENT

Next Event Type: Receive Docketing Statement Next Event Due Date: August 30, 2005
Next Event Type: Original Record Received Next Event Due Date: September 26, 2005

COUNSEL INFORMATION

Appellant Roemer, Paul Brian
Pro Se: Appoint Counsel Status:
IFP Status: No

Appellant Attorney Information:
Attorney: Mettley, Jason
Bar No.: 81966 Law Firm: Jubelirer, Pass & Intrieri, P.C.
Address: 219 Ft Pitt Boulevard
Pittsburgh, PA 15222-1570
Phone No.: (412)281-3850 Fax No.: (412)281-1985
Receive Mail: Yes
E-Mail Address:
Receive E-Mail: No

FILED No cc
m/12:54/01
AUG 18 2005
William A. Shaw
Prothonotary/Clerk of Courts

Appellee Clearfield Professional Group, LTD.
Pro Se: Appoint Counsel Status:
IFP Status:

Appellee Attorney Information:
Attorney: Rychcik, Carl Joseph
Bar No.: 73754 Law Firm: Fox Rothschild, LLP
Address: 625 Liberty Ave 29th Fl
Pittsburgh, PA 15222
Phone No.: (412)394-5549 Fax No.: (412)391-6984
Receive Mail: Yes
E-Mail Address:
Receive E-Mail: No

RECORD
SEP 23 2005
PITTSBURGH OFFICE OF SUPERIOR COURT

#39

Appeal Docket Sheet

Docket Number: 1420 WDA 2005

August 16, 2005

Superior Court of Pennsylvania

FEE INFORMATION

Fee Date	Fee Name	Fee Amt	Paid Amount	Receipt Number
8/16/05	Notice of Appeal	60.00	60.00	2005SPRWD001016

TRIAL COURT/AGENCY INFORMATION

Court Below: Clearfield County Court of Common Pleas

County: Clearfield
Division: Civil
Date of Order Appealed From: July 8, 2005
Judicial District: 46
Date Documents Received: August 16, 2005
Date Notice of Appeal Filed: August 5, 2005
Order Type: Order Entered
OTN:

Judge: Reilly, Jr., John K.
Senior Judge

Lower Court Docket No.: No. 01-74-CD No. 01-87-CD

ORIGINAL RECORD CONTENTS

Original Record Item	Filed Date	Content/Description

Date of Remand of Record:

BRIEFS

DOCKET ENTRIES

Filed Date	Docket Entry/Document Name	Party Type	Filed By
August 16, 2005	Notice of Appeal Filed	Appellant	Roemer, Paul Brian
August 16, 2005	Docketing Statement Exited (Civil)		Western District Filing Office

CERTIFICATE AND TRANSMITTAL OF RECORD UNDER PENNSYLVANIA RULE OF APPELLATE PROCEDURE 1931(C)

To the Prothonotary of the Appellate Court to which the within matter has been appealed:

THE UNDERSIGNED, Clerk (or Prothonotary) of the court of Common Pleas of Clearfield County, the said Court being a court of record, does hereby certify that annexed hereto is a true and correct copy of the whole and entire record, including an opinion of the Court as required by Pa. R.A.P. 1925, the original papers and exhibits, if any, on file, the transcript of the proceeding, if any, and the docket entries in the following matter:

01-87-CD

Paul Brian Roemer, M.D.
VS.
Clearfield Professional Group, LTD.

In compliance with Pa. R.A.P. 1931 (c).

The documents compromising the record have been numbered from **No. 1 to No.** 40, and attached hereto as Exhibit A is a list of the documents correspondingly numbered and identified with reasonable definiteness, including with respect to each document, the number of pages compromising the document.

The date on which the record had been transmitted to the Appellate Court is Sept. 21, 2005.

Prothonotary/Clerk of Courts

(seal)

Clearfield County Court of Common Pleas

ROA Report

Case: 2001-00087-CD

Current Judge: John K. Reilly Jr.

Clearfield Professional Group, LTD vs. Paul B Roemer MD

Civil Other

Date		Judge
01/17/2001	Filing: Civil Complaint Paid by: Edward Kabala, Esq. Receipt number: 1816853 Dated: 01/17/2001 Amount: $80.00 (Check) Two Certified Copies to Sheriff Two Certified Copies to Attorney	No Judge
01/29/2001	Sheriff Return, Papers served on Defendant(s). So Answers, Chester A. Hawkins, Sheriff by s/Marilyn Hamm	No Judge
02/22/2001	Answer and New Matter of Paul B. Roemer, M.D. Filed by s/Jason Mettley, Esq. Verification, s/LPaul Brian Roemer, M.D. Certificate of Service no cc	No Judge
03/12/2001	Reply to New Matter filed on behalf of Plff. No cc.	John K. Reilly Jr.
10/11/2001	Stipulated Motion to Consolidate (Original filed to 01-74-CD), filed. s/Jason Mettley, Esq. s/Susan Brahm Gunn, Esq.	John K. Reilly Jr.
10/15/2001	ORDER, filed. (Original filed to case # 2001-74-CD) 2 Cert. to Atty. Gunn AND NOW, this 15th day of October, 2001, the parties having filed a Stipulated Motion to Consolidate, IT IS ORDERED, that the motion be and the same hereby is, GRANTED. Case Consolidated with 01-74-CD	John K. Reilly Jr.
08/01/2003	Motion For Summary Judgment In Part And In Whole Of Paul B. Roemer, M.D. filed by s/Jason Mettley, Esquire Certificate of Service (Original Filed to 01-74-CD)	John K. Reilly Jr.
10/02/2003	Appendix to Plaintiff's Motions for Summary Judgment, filed by Atty. Mettley (copy of cover sheet in file, Original with case 2001-74-CD)	John K. Reilly Jr.
12/16/2003	OPINION AND ORDER, AND NOW, this 16th day of December, 2003, re: Motions shall be and are hereby GRANTED in part and DISMISSED in part in accordance with the foregoing Opinion. by the Court, s/JKR,JR.,P.J.	John K. Reilly Jr.
01/02/2004	Defendant's Motion For Continuance Of Trial To Spring Term. filed by, s/Sue Gunn, Esq. Stipulation of Counsel s/Jason Mettley, Esq. Certificate of Service no cc	John K. Reilly Jr.
01/09/2004	ORDER, NOW, this 7th day of January, 2004, it is hereby Ordered that Defendant's Motion for Continuance of Trial to Spring Term is DENIED. by the Court, s/FJA,P.J. 1 cc Atty Gunn	John K. Reilly Jr.
01/15/2004	ORDER, NOW, this 15th day of January, 2004, re: Above-captioned matter shall be removed from the current list for jury trials and scheduled by the CA for trial w/o jury at the convenience of the parties. Pretrial conference scheduled for January 15, 2004, shall be and is hereby CANCELLED. by the Court, s/JKR,JR., Senior Judge, Specially Presiding. copies mailed to: Jason Mettley, Esq., Wm. Stang, Esq., and Carl Rychcik, Esq.	John K. Reilly Jr.
02/11/2004	Praecipe For Entry Of Appearance On Behalf Of Clearfield Professional Group, Ltd. filed by, s/Carl J. Rychcik, Esq. Certificate of Service	John K. Reilly Jr.
02/19/2004	Petition For Permisssion To File Amendment To Complaint and Request For Rule To Show Cause. filed by, s/William L. Stang, Esq.	John K. Reilly Jr.
	ORDER, AND NOW, to wit: this 19th day of February, 2004, Rule issued upon PAUL BRIAN ROEMER, M.D. Rule Returnable on the 8th day of March, 2004, for filing Written Response. by the Court, s/FJA, P.J. 1 cc to Atty	John K. Reilly Jr.
02/20/2004	Affidavit of Service, Order/Rule to Show Cause dated 19th day of February, 2004 and Petition/Motion for Permission to Amend Complaint filed 19th day of February, 2004, to be served on Plaintiff/Defendant Paul Brian Poemer, M.D. through Jason Mettley, Esq. filed by, s/John Sughrue, Esquire Certificate of Service 3 cc to Atty	John K. Reilly Jr.

Civil Other

Date		Judge
03/08/2004	Answer To Petition For Permission To File Amendment To Complaint. filed by, s/Jason Mettley, Esquiare Verification s/Paul Brian Roemer, M.D. Certificate of Service 1 cc to Attys	John K. Reilly Jr.
03/11/2004	ORDER filed. AND NOW, this 10th day of March, 2004 it is the Order of the Court that argument on Atty. Stang's Petition has been scheduled for March 24, 2004 before Judge Reilly. s/FJA 1 CC to Atty. Stang. 1 CC to Atty. Mettley.	John K. Reilly Jr.
03/16/2004	Praecipe For Appearance, on behalf of Clearfield Professional Group, LTD, Plaintiff. filed by s/John Sughrue, Esq. 3 cc Atty Sughrue 3 cc Atty Sughrue	John K. Reilly Jr.
03/24/2004	Order, NOW, this 24th day of March, 2004, upon consideration of Petition for Permission to File Amendment to Complaint filed on behalf of Clearfield Professional Group, Ltd., and argument thereon, it is the Order of this Court that said Petition be and is hereby granted and Clearfield Professional Group, Ltd., directed to file said amended complaint forthwith. BY THE COURT: /s/John K. Reilly, Jr., Senior Judge, Specially Presiding CC to Attys Mettley, Stang, and Sughrue	John K. Reilly Jr.
03/26/2004	Amendment To Complaint. filed by, s/Carl J. Rychcik, Esq. 1 cc to Atty	John K. Reilly Jr.
04/27/2004	ORDER, AND NOW, this 26th day of April, 2004, re: Civil Non-Jury Trial scheduled for Wed., July 14, 2004 and Thur., July 15, 2004, at 9:00 a.m. each day, before Senior Judge Reilly. by the Court, s/FJA, P.J. 1 cc Atty Mettley, Rychick and Sughrue	John K. Reilly Jr.
05/17/2004	Answer To Amendment To Complaint. filed by, s/Jason Mettley, Esquire Certificate of Service Verification s/Paul B. Roemer, M.D. no cc	John K. Reilly Jr.
06/24/2004	Notice to Attend, filed by Atty. Stang Original filed to 01-74-CD.	John K. Reilly Jr.
07/15/2004	ORDER, filed. cert to Atty'sMettley, Starg, Rychick & Sughrue NOW, this 14th day of July, 2004, RE: Finding of fact and conclusions of law	John K. Reilly Jr.
09/16/2004	Transcript of Proceedings with Exhibits, Civil Non-Jury Trail held before Honorable John K. Reilly, Jr., Senior Judge, Specially Presiding, July 14, 2004, filed.	John K. Reilly Jr.
09/29/2004	Certificate of Service Proposed Findings of Fact, Conclusions of Law and Legal Memorandum of Paul B. Roemer, M.D. was served upon counsel for defendant. s/Jason Metley, Esq.	John K. Reilly Jr.
	Certificate of Service Defendant's Proposed Findings of fact and Conclusions of Law was served upon Jason Mettley, Esq. s/Carl J. Rychcik	John K. Reilly Jr.
	Certificate of Service Defendant's Trial Brief was served upon Jason Mettley, Esq. s/Carl J. Rychcik	John K. Reilly Jr.
12/09/2004	Finding of Fact, filed. cert. to Stang & Rychick, Mattley & Sughrue Order, Now, this 9th day of December, 2004, Order of this Court that partial judgments shall be entered in favor of both parties in accordanace with the foregoing Opinion.	John K. Reilly Jr.
12/20/2004	Plaintiff's Motion for Post-Trial Relief, filed by Atty. Mettley 1 Cert. to Atty. (Original filed to 01-74-CD)	John K. Reilly Jr.
12/30/2004	Clearfield Professional Group's Response To Roemer's Motion For Post-Trial Relief, filed by s/ William L. Stang, Esquire. No CC. Original filed to 01-74-CD	John K. Reilly Jr.

Clearfield County Court of Common Pleas
ROA Report
Case: 2001-00087-CD
Current Judge: John K. Reilly Jr.
Clearfield Professional Group, LTD vs. Paul B Roemer MD

Civil Other

Date		Judge
02/03/2005	Order, AND NOW, this 3rd day of February, 2005, Order that argument on Plaintiff's Motion for Post-Trial Relief has been scheduled for March 31, 2005, at 10:00 a.m. before the Honorable John K. Reilly, Jr., Senior Judge, Specially Presiding BY THE COURT: /s/John K. Reilly, Jr., S.J., Sp. Pres. One CC Attys: Mettley, Stang, Sughrue	John K. Reilly Jr.
03/22/2005	Order, AND NOW, this 22nd day of March, 2005, it is the ORDER of the Court that argument on Plaintiff's Motion for Post-Trial Relief currently scheduled for March 31, 2005 at 10:00 a.m. is Continued. BY THE COURT: /s/ Fredric J. Ammerman, President Judge. 1CC Atty: Rycheck, Mettley. Original to 01-74-CD	John K. Reilly Jr.
05/20/2005	Order, AND NOW, this 20th day of May, 2005, it is the ORDER of the Court that argument on plaintiff's Motion for Post-Trial Relief has been scheduled for Thursday, May 26, 2005 at 9:00 a.m. in Courtroom No. 521, Allegheny County Courthouse, 436 Grant Street, Pittsburgh PA, before the Honorable Judge John K. Reilly. BY THE COURT: /s/ Fredric J. Ammerman, President Judge. 3CC to C/A for Service	Fredric Joseph Ammerman
07/08/2005	Order, this 8th day of July, 2005, Plaintiff's Motion for Post Trial Relief is hereby dismissed in accordance with the Findings of Fact, Conclusions of Law and Opinion filed by this Court on December 9, 2004. By The Court, /s/ John K. Reilly, Jr., Senior Judge. CC to Atty J. Mettley, W. Stang, Rychick, Sughrue	John K. Reilly Jr.
07/14/2005	Filing: Praecipe For Entry of Judgment On Decision in Non Jury Trial Paid by: Rychcik, Carl J. (attorney for Clearfield Professional Group, LTD) Receipt number: 1904791 Dated: 07/14/2005 Amount: $20.00 (Check) Judgment in favor of Clearfield Professional Group, Ltd. and against Paul Brian Roemer in the amount of $75,580.25. Filed by s/ Carl J. Rychcik, Esquire. 1CC & Notice to Atty. Mettley, statement to Atty Rychcik	John K. Reilly Jr.
08/05/2005	Filing: Appeal to High Court Paid by: Mettley, Jason (attorney for Roemer, Paul B MD) Receipt number: 1906114 Dated: 8/5/2005 Amount: $45.00 (Check) 1 Cert. to Superior Court with $60.00 Check. 1 Cert. to Atty.	John K. Reilly Jr.
08/08/2005	Filing: Poundage Paid by: Roemer, Paul B MD (defendant) Receipt number: 1906274 Dated: 8/8/2005 Amount: $770.00 (Check)	John K. Reilly Jr.
	Praecipe for Deposit of Security to Stay Execution, filed by Atty. Mettley 1 cert. to Atty. with receipts of $75,580.25 and $770.00 Escrow Account # 81151946 at CB & T	John K. Reilly Jr.
08/18/2005	Superior Court Appeal Docket Sheet, Docket Number 1420 WDA 2005, filed.	John K. Reilly Jr.
09/09/2005	Praecipe for Deposit of Security to Stay Execution, filed by atty. Mettley 1 Cert. to Atty. with receipt of $15,116.05 for Deposit in Escrow Account # 81151946	John K. Reilly Jr.

I hereby certify this to be a true and attested copy of the original statement filed in this case.

SEP 19 2005

Attest.

Prothonotary/
Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

No. 01-87-CD
CLEARFIELD PROFESSIONAL GROUP, LTD
VS.
PAUL B. ROEMER, MD

ITEM NO.	*DATE OF FILING*	*NAME OF DOCUMENT*	*NO. OF PAGES*
		Many of the documents listed below are copies of the originals, filed to 01-74-CD, transmitted simultaneously	
01	01/17/01	Civil Complaint	15
02	01/29/01	Sheriff Return, Papers served on Defendant	16
03	02/22/01	Answer and New Matter of Paul B. Roemer, MD	16
04	03/12/01	Reply to New Matter filed on behalf of Plaintiff	05
05	10/11/01	Stipulated Motion to Consolidate	04
06	10/15/01	Order, re: Stipulated Motion to Consolidate Granted, cases consolidated with 01-74-CD	01
07	08/01/03	Motion for Summary Judgment in Part and in Whole of Paul B. Roemer, MD	06
08	10/02/03	Appendix to Plaintiff's Motions for Summary Judgment	01
09	12/16/03	Opinion and Order, Motions granted in part and denied in part	03
10	01/02/04	Defendant's Motion for Continuance of Trial to Spring Term with Order, Denied	06
11	01/15/04	Order, Re: removed from trial by jury list and scheduled for trial without jury	01
12	02/11/04	Praecipe for Entry of Appearance on behalf of Clearfield Professional Group, LTD	03
13	02/19/04	Petition for Permission to File Amendment to Complaint and Request for Rule to Show Cause	21
14	02/19/04	Order, Re: Rule issued upon Paul B. Roemer, MD	01
15	02/20/04	Affidavit of Service, Order/Rule to Show Cause and Petition/Motion for Permission to Amend Complaint upon Paul B. Roemer	01
16	03/08/04	Answer to Petition for Permission to File Amendment to Complaint	01
17	03/11/04	Order, Re: argument on Petition	01
18	03/16/04	Praecipe for Appearance on behalf of Clearfield Professional Group, LTD	02
19	03/24/04	Order, Re: upon consideration of Petition for Permission to File Amendment to Complaint granted	01
20	03/26/04	Amendment to Complaint	18
21	04/27/04	Order, Re: Civil Non-Jury Trial scheduled	01
22	05/17/04	Answer to Amendment to Complaint	03
23	06/24/04	Notice to Attend	04
24	07/15/04	Order, Re: Finding of fact and conclusions of law	01
25	09/16/04	Transcript of Proceedings with Exhibits, Civil Non-Jury Trial held July 14, 2004	Separate Cover
26	09/29/04	Certificate of Service, Proposed Findings of Fact, Conclusions of Law and Legal Memorandum of Paul B. Roemer, MD	02
27	09/29/04	Certificate of Service, Defendant's Proposed Findings of Fact and Conclusions of Law upon Jason Mettley, Esq.	02
28	09/29/04	Certificate of Service, Defendant's Trial Brief served upon Jason Mettley, Esq.	02
29	12/09/04	Order, Findings of Fact, partial judgment shall be entered in favor of both parties in accordance with the foregoing opinion	17
30	12/20/04	Plaintiff's Motion for Post-Trial Relief	07
31	12/30/04	Clearfield Professional Group's Response to Roemer's Motion for Post-Trial Relief	07
32	02/03/05	Order, Re: argument on Plaintiff's Motion for Post-Trial Relief scheduled	01
33	03/22/05	Order, Re: argument on Plaintiff's Motion for Post-Trial Relief continued	01
34	05/20/05	Order, Re: argument on Plaintiff's Motion for Post-Trial Relief has been scheduled	01
35	07/08/05	Order, Re: Plaintiff's Motion for Post Trial Relief is hereby dismissed in accordance with the Findings of Fact, Conclusions of Law and Opinion filed December 9, 2004	01
36	07/14/05	Praecipe for Entry of Judgment on Decision in Non-Jury Trial	24
37	08/05/05	Appeal to High Court	06

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

No. 01-87-CD
CLEARFIELD PROFESSIONAL GROUP, LTD
VS.
PAUL B. ROEMER, MD

ITEM NO.	*DATE OF FILING*	*NAME OF DOCUMENT*	*NO. OF PAGES*
38	08/08/05	Praecipe for Deposit of Security to Stay Execution	07
39	08/18/05	Superior Court Docket Sheet, Docket Number 1420 WDA 2005	02
40	09/09/05	Praecipe for Deposit of Security to Stay Execution	04

COMMONWEALTH OF PENNSYLVANIA
COUNTY OF CLEARFIELD

I, **William A. Shaw**, Prothonotary/Clerk of Courts of Common Pleas in and for said County, do hereby certify that the foregoing is a full, true and correct copy of the whole record of the case therein stated, wherein

Paul Brian Roemer, M.D.
VS.
Clearfield Professional Group, LTD.
01-87-CD

So full and entire as the same remains of record before the said Court, at **No. 01-87-CD**

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seal of said Court, this 19 Day of Sept., 2005.

Prothonotary/Clerk of Courts

I, **John K. Reilly, Jr.**, Senior Judge, Specially Presiding, in the Forty-sixth Judicial District, do certify that **William A. Shaw** by whom the annexed record, certificate and attestation were made and given, and who, in his own proper handwriting, thereunto subscribed his name and affixed the seal of the Court of Common Pleas of said county, was at the time of so doing and now is Prothonotary/Clerk of Courts in and for said County of Clearfield, the Commonwealth of Pennsylvania, duly commissioned and qualified; to all of whose acts as such, full faith and credit are and ought to be given, as well in Courts of Judicature, as elsewhere, and that the said record, certificate and attestation are in due form of law and made by the proper officer.

Senior Judge, Specially Presiding

I, **William A. Shaw**, Prothonotary/Clerk of Courts of the Court of Common Pleas in and for said county, do certify that the Honorable **John K. Reilly, Jr.**, Senior Judge, Specially Presiding, by whom the foregoing attestation was made and who has thereunto subscribed his name was at the time of making thereof and still is Senior Judge, Specially Presiding, in and for said county, duly commissioned and qualified; to all whose acts, as such, full faith and credit are and ought to be given, as well in Courts of Judicature as elsewhere.

In Testimony Whereof, I have hereunto set my hand and affixed the seal of said Court, this 21st day of Sept., 2005

Prothonotary/Clerk of Courts

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

PAUL BRIAN ROEMER, M.D.,	) CIVIL DIVISION
	)
Plaintiff	) No. 01-74-CD
	) (No. 01-87-CD)
vs.	)
	) PRAECIPE FOR DEPOSIT OF SECURITY
CLEARFIELD PROFESSIONAL GROUP, LTD.	) TO STAY EXECUTION
	)
	) Code:
Defendant	)

Filed on behalf of Plaintiff

Counsel of Record:
Jason Mettley, Esquire
Pa. I.D. #81966

Jubelirer, Pass & Intrieri, P.C.
Firm #141
219 Fort Pitt Boulevard
Pittsburgh, Pennsylvania 15222

412-281-3850

#40

FILED

SEP 09 2005

William A. Shaw
Prothonotary

Date: 9/9/2005
Time: 03:50 PM

Clearfield County Court of Common Pleas
Receipt

NO. 1908162
Page 1 of 1

Received of: Roemer, Paul B MD $ 15,116.05

1015 Daisy Street
Clearfield, PA 16830

Fifteen Thousand One Hundred Sixteen and 05/100 Dollars

Defendant: Clearfield Professional Group, LTD vs. Paul B Roemer MD

Case	Litigant type	Amount
2001-00087-CD	Defendant	
Trust account		15,116.05
	Total:	15,116.05
	Balance due:	0.00

Check: 858

Payment Method: Check
Amount Tendered: 15,116.05
Change Returned: 0.00
Clerk: BILLSHAW

William A. Shaw, Prothonotary/Clerk of Cou

By: _____
Deputy Clerk

Appeal Docket Sheet

Docket Number: 1420 WDA 2005

August 16, 2005

Superior Court of Pennsylvania

Paul Brian Roemer, M.D., Appellant 01-74-CD
V.
Clearfield Professional Group, LTD. 01-87-CD

Initiating Document: Notice of Appeal

Case Status: Active

Case Processing Status: August 16, 2005 Awaiting Original Record

Journal Number:

Case Category: Civil CaseType: Assumpsit

Consolidated Docket Nos.:

Related Docket Nos.:

SCHEDULED EVENT

Next Event Type: Receive Docketing Statement Next Event Due Date: August 30, 2005
Next Event Type: Original Record Received Next Event Due Date: September 26, 2005

COUNSEL INFORMATION

Appellant Roemer, Paul Brian
Pro Se: Appoint Counsel Status:
IFP Status: No

Appellant Attorney Information:
Attorney: Mettley, Jason
Bar No.: 81966 Law Firm: Jubelirer, Pass & Intrieri, P.C.
Address: 219 Ft Pitt Boulevard
Pittsburgh, PA 15222-1570
Phone No.: (412)281-3850 Fax No.: (412)281-1985
Receive Mail: Yes
E-Mail Address:
Receive E-Mail: No

COPY
FILED No cc
m/12:54/01
AUG 18 2005
William A. Shaw
Prothonotary/Clerk of Courts

Appellee Clearfield Professional Group, LTD.
Pro Se: Appoint Counsel Status:
IFP Status:

Appellee Attorney Information:
Attorney: Rychcik, Carl Joseph
Bar No.: 73754 Law Firm: Fox Rothschild, LLP
Address: 625 Liberty Ave 29th Fl
Pittsburgh, PA 15222
Phone No.: (412)394-5549 Fax No.: (412)391-6984
Receive Mail: Yes
E-Mail Address:
Receive E-Mail: No

#39

Appeal Docket Sheet

Docket Number: 1420 WDA 2005

August 16, 2005

Superior Court of Pennsylvania

FEE INFORMATION

Fee Date	Fee Name	Fee Amt	Paid Amount	Receipt Number
8/16/05	Notice of Appeal	60.00	60.00	2005SPRWD001016

TRIAL COURT/AGENCY INFORMATION

Court Below: Clearfield County Court of Common Pleas

County: Clearfield
Division: Civil
Date of Order Appealed From: July 8, 2005
Judicial District: 46
Date Documents Received: August 16, 2005
Date Notice of Appeal Filed: August 5, 2005
Order Type: Order Entered
OTN:

Judge: Reilly, Jr., John K.
Senior Judge

Lower Court Docket No.: No. 01-74-CD No. 01-87-CD

ORIGINAL RECORD CONTENTS

Original Record Item	Filed Date	Content/Description

Date of Remand of Record:

BRIEFS

DOCKET ENTRIES

Filed Date	Docket Entry/Document Name	Party Type	Filed By
August 16, 2005	Notice of Appeal Filed	Appellant	Roemer, Paul Brian
August 16, 2005	Docketing Statement Exited (Civil)		Western District Filing Office

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

PAUL BRIAN ROEMER, M.D.,	) CIVIL DIVISION
	)
Plaintiff	) No. 01-74-CD
	) No. 01-87-CD
vs.	)
	) PRAECIPE FOR DEPOSIT OF SECURITY
CLEARFIELD PROFESSIONAL GROUP, LTD.	) TO STAY EXECUTION
	)
	) Code:
Defendant	)

Filed on behalf of Plaintiff

Counsel of Record:
Jason Mettley, Esquire
Pa. I.D. #81966

Jubelirer, Pass & Intrieri, P.C.
Firm #141
219 Fort Pitt Boulevard
Pittsburgh, Pennsylvania 15222

412-281-3850

#38

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

PAUL BRIAN ROEMER, M.D.,	)	
	)	
Plaintiff	)	
	)	
vs.	)	No. 01-74-CD
	)	No. 01-87-CD
CLEARFIELD PROFESSIONAL GROUP, LTD.	)	
	)	
	)	
Defendant	)	

PRAECIPE FOR DEPOSIT OF SECURITY TO STAY EXECUTION

TO: William Shaw, Prothonotary

Please deposit the accompanying check in the amount of $75,580.25 into the Court Escrow Account as appropriate security to stay the execution of the judgment in the above-captioned matter against plaintiff, Paul B. Roemer, M.D., pending appeal.

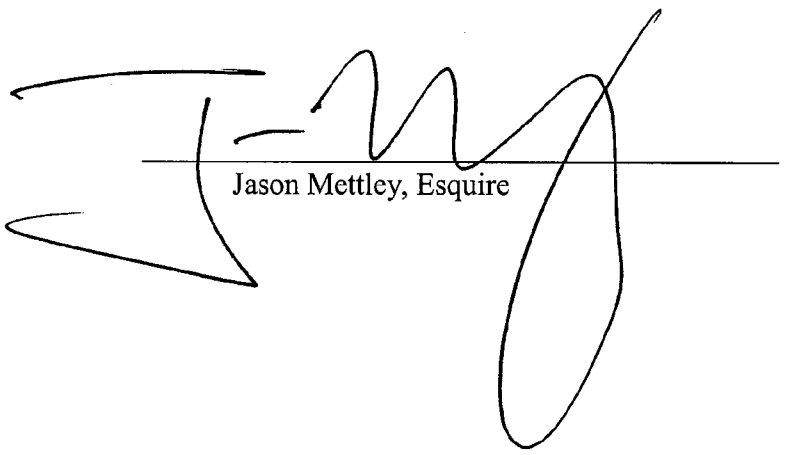
JUBELIRER, PASS & INTRIERI, P.C.

BY: _____
Jason Mettley, Esquire
Attorney Plaintiff

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the within Praecipe for Deposit of Security to Stay Execution was served this 5th day of August, 2005, upon the following by First Class Mail, postage prepaid, addressed as follows:

Carl J. Rychcik, Esquire
Fox, Rothschild, O'Brien & Frankel, LLP
625 Liberty Avenue, 29th Floor
Pittsburgh, Pennsylvania 15222



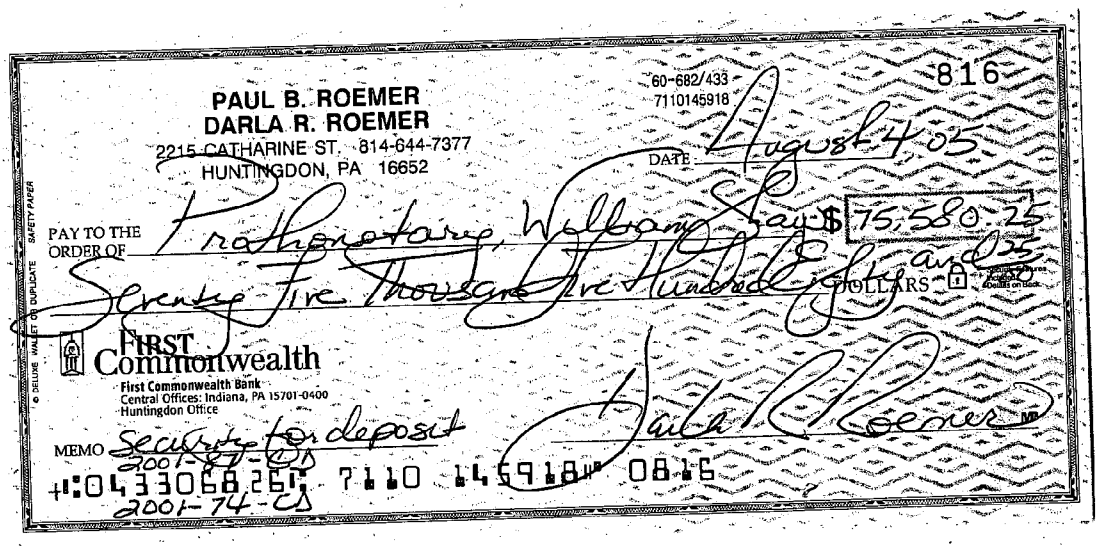
Jason Mettley, Esquire

DATED: August 5, 2005

FILED

AUG 0 8 2005

William A. Shaw
Prothonotary



PAUL B. ROEMER
DARLA R. ROEMER
2215 CATHARINE ST. 814-644-7377
HUNTINGDON, PA 16652

60-682/433
7110145918

816

DATE August 4 05

PAY TO THE ORDER OF Prothonotary, Wilburn Day $ 15,580.25

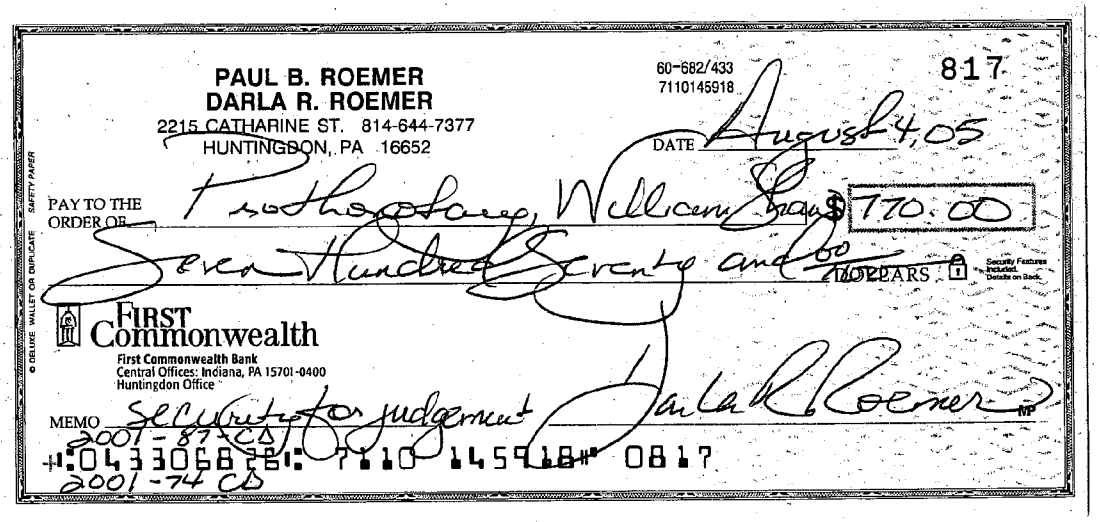
Seventy Five Thousand Five Hundred Eighty and 25/100 DOLLARS

FIRST Commonwealth
First Commonwealth Bank
Central Offices: Indiana, PA 15701-0400
Huntingdon Office

MEMO Security for deposit
2001-87-CD

⑆043306826⑆ 7110 145918 0816
2001-74-CD

DELUXE WALLET OR DUPLICATE SAFETY PAPER



PAUL B. ROEMER
DARLA R. ROEMER
2215 CATHARINE ST. 814-644-7377
HUNTINGDON, PA 16652

60-682/433
7110145918

817

DATE August 4, 05

PAY TO THE ORDER OF Prothonotary, William Shaw $ 170.00

Seven Hundred Seventy and 00/100 DOLLARS

Security Features Included. Details on Back.

FIRST Commonwealth
First Commonwealth Bank
Central Offices: Indiana, PA 15701-0400
Huntingdon Office

MEMO Security for judgment 2001-87-CD 2001-74 CD

Darla R. Roemer

⑈043306828⑆ 7110 145918⑈ 0817

SAFETY PAPER
© DELUXE WALLET OR DUPLICATE

2215 Catharine Street
Huntingdon, PA 16652
August 4, 2005

VIA OVERNIGHT DELIVERY

William Shaw, Prothonotary
Clearfield County Court of Common Pleas
230 E. Market Street
Clearfield, PA 16830

Re: Paul Brian Roemer, M.D. vs. Clearfield Professional Group, Ltd.
Civil Action No. 01-74-CD and No. 01-87-CD

Dear Mr. Shaw:

Enclosed please find two (2) separate checks, both of which are made payable to "Prothonotary, William Shaw". The first check is in the amount of $75,580.25. This check represents security for the judgment entered against me in the above-referenced matters on July 14, 2005. I am providing this security in order to effect a stay of execution of that judgment while I pursue an appeal with the Superior Court of Pennsylvania. The second check, in the amount of $770.00, represents full payment of the penalty charge assessed for holding the security in escrow.

Kindly file the appropriate security and the penalty charge, and then note in the docket, and in any separate judgment index, "appeal perfected; lien discharged", as required by Pennsylvania Rule of Appellate Procedure No. 1735. Kindly direct any questions or concerns you may have regarding this matter to my attorney, Jason Mettley, who can be reached at 412-281-3850.

Sincerely,

Paul B. Roemer

Paul B. Roemer, M.D.

Enclos.

LAW OFFICES
JUBELIRER, PASS & INTRIERI, P.C.
219 FORT PITT BOULEVARD
PITTSBURGH, PENNSYLVANIA 15222-1576

JOSEPH J. PASS
NEAL R. CRAMER
ERNEST B. ORSATTI
EDWARD H. WALTER
ROBERT A. EBERLE
JAMES A. WELKER
JASON METTLEY
JOSEPH SANTINO PASS

412-281-3850
412-261-0147

BEN PAUL JUBELIRER (1904-1983)
FRANK P.G. INTRIERI (1942-1976)

FAX: 412-281-1985
www.jpilaw.com

August 5, 2005

VIA UPS OVERNIGHT EXPRESS MAIL

William Shaw, Prothonotary
Clearfield County Court of Common Pleas
230 E. Market Street
Clearfield, PA 16830

Re: Paul Brian Roemer, M.D. vs. Clearfield Professional Group, Ltd.
Civil Action No. 01-74-CD and No. 01-87-CD

Dear Mr. Shaw:

Enclosed please find a Praecipe for Deposit of Security to Stay Execution with regard to the above-referenced matter.

Sincerely,

Jason Mettley

JM:dmc
Enclos.

cc: Carl J. Rychcik, Esquire (w/enclos.)
Paul B. Roemer, M.D. (w/enclos.)

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

PAUL BRIAN ROEMER, M.D.,	)	CIVIL DIVISION
	)	
Plaintiff/Defendant	)	No. 01-74-CD
	)	No. 01-87-CD
vs.	)	
	)	
CLEARFIELD PROFESSIONAL GROUP, LTD.	)	
	)	
Defendant/Plaintiff	)	

NOTICE OF APPEAL

Notice is hereby given that Paul Brian Roemer, M.D., plaintiff in civil action number 01-74-CD, and defendant in civil action number 01-87-CD, hereby appeals to the Superior Court of Pennsylvania from the order entered in this matter on the 8th day of July, 2005. This order has been reduced to judgment and entered in the docket as evidenced by the attached copy of the docket entry.

JUBELIRER, PASS & INTRIERI, P.C.

BY: _____
Jason Mettley, Esquire
Pa. I.D. #81966

219 Fort Pitt Boulevard
Pittsburgh, Pennsylvania 15222
(412) 281-3850

Attorney for Plaintiff/Defendant,
Paul B. Roemer, M.D

FILED
AUG 05 2005
M 11:00 (w
William A. Shaw
Prothonotary/Clerk of Courts
1 cert to S/C w/bo.-
1 cert to Atty.

#37

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

PAUL BRIAN ROEMER, M.D.,	)	CIVIL DIVISION
	)	
Plaintiff/Defendant	)	No. 01-74-CD
	)	No. 01-87-CD
vs.	)	
	)	
CLEARFIELD PROFESSIONAL GROUP, LTD.	)	
	)	
Defendant/Plaintiff	)	

REQUEST FOR TRANSCRIPT

A Notice of Appeal having been filed in this matter, the official court reporter is hereby ordered to produce, certify, and file the transcript in this matter in conformity with Rule 1922 of the Pennsylvania Rules of Appellate Procedure.

JUBELIRER, PASS & INTRIERI, P.C.

BY: _____

Jason Mettley, Esquire
Pa. I.D. #81966

219 Fort Pitt Boulevard
Pittsburgh, Pennsylvania 15222
(412) 281-3850

Attorney for Plaintiff/Defendant,
Paul B. Roemer, M.D

ROA Report
Case: 2001-00087-CD
Current Judge: John K. Reilly Jr.

Clearfield Professional Group, LTD vs. Paul B Roemer MD

Civil Other

Date		Judge
2/20/2004	Affidavit of Service, Order/Rule to Show Cause dated 19th day of February, 2004 and Petition/Motion for Permission to Amend Compmlaint filed 19th day of February, 2004, to be served on Plaintiff/Defendant Paul Brian Poemer, M.D. through Jason Mettley, Esq. filed by, s/John Sughrue, Esquire Certificate of Service 3 cc to Atty	John K. Reilly Jr.
3/8/2004	Answer To Petition For Permission To File Amendment To Complaint. filed by, s/Jason Mettley, Esquiare Verification s/Paul Brian Roemer, M.D. Certificate of Service 1 cc to Attys	John K. Reilly Jr.
3/11/2004	ORDER filed. AND NOW, this 10th day of March, 2004 it is the Order of the Court that argument on Atty. Stang's Petition has been scheduled for March 24, 2004 before Judge Reilly. s/FJA 1 CC to Atty. Stang. 1 CC to Atty. Mettley.	John K. Reilly Jr.
3/16/2004	Praecipe For Appearance, on behalf of Clearfield Professional Group, LTD, Plaintiff. filed by s/John Sughrue, Esq. 3 cc Atty Sughrue 3 cc Atty Sughrue	John K. Reilly Jr.
3/26/2004	Amendment To Complaint. filed by, s/Carl J. Rychcik, Esq. 1 cc to Atty	John K. Reilly Jr.
4/27/2004	ORDER, AND NOW, this 26th day of April, 2004, re: Civil Non-Jury Trial scheduled for Wed., July 14, 2004 and Thur., July 15, 2004, at 9:00 a.m. each day, before Senior Judge Reilly. by the Court, s/FJA, P.J. 1 cc Atty Mettley, Rychick and Sughrue	John K. Reilly Jr.
5/17/2004	Answer To Amendment To Complaint. filed by, s/Jason Mettley, Esquire Certificate of Service Verification s/Paul B. Roemer, M.D. no cc	John K. Reilly Jr.
6/24/2004	Notice to Attend, filed by Atty. Stang Original filed to 01-74-CD.	John K. Reilly Jr.
7/15/2004	ORDER, filed. cert to Atty'sMettley, Starg, Rychick & Sughrue NOW, this 14th day of July, 2004, RE: Finding of fact and conclusions of law	John K. Reilly Jr.
9/16/2004	Transcript of Proceedings with Exhibits, Civil Non-Jury Trail held before Honorable John K. Reilly, Jr., Senior Judge, Specially Presiding, July 14, 2004, filed.	John K. Reilly Jr.
9/30/2004	Certificate of Service Proposed Findings of Fact, Conclusions of Law and Legal Memorandum of Paul B. Roemer, M.D. was served upon counsel for defendant. s/Jason Metley, Esq.	John K. Reilly Jr.
	Certificate of Service Defendant's Proposed Findings of fact and Conclusions of Law was served upon Jason Mettley, Esq. s/Carl J. Rychcik	John K. Reilly Jr.
	Certificate of Service Defendant's Trial Brief was served upon Jason Mettley, Esq. s/Carl J. Rychcik	John K. Reilly Jr.
12/9/2004	Finding of Fact, filed. cert. to Stang & Rychick, Mattley & Sughrue Order, Now, this 9th day of December, 2004, Order of this Court that partial judgments shall be entered in favor of both parties in accordanace with the foregoing Opinion.	John K. Reilly Jr.
12/20/2004	Plaintiff's Motion for Post-Trial Relief, filed by Atty. Mettley 1 Cert. to Atty. (Original filed to 01-74-CD)	John K. Reilly Jr.
12/30/2004	Clearfield Professional Group's Response To Roemer's Motion For Post-Trial Relief, filed by s/ William L. Stang, Esquire. No CC. Original filed to 01-74-CD	John K. Reilly Jr.

Date: 8/4/2005
Time: 02:09 PM
Page 1 of 3

ROA Report
Case: 2001-00087-CD
Current Judge: John K. Reilly Jr.

Clearfield Professional Group, LTD vs. Paul B Roemer MD

Civil Other

Date		Judge
1/17/2001	Filing: Civil Complaint Paid by: Edward Kabala, Esq. Receipt number: 1816853 Dated: 01/17/2001 Amount: $80.00 (Check) Two Certified Copies to Sheriff Two Certified Copies to Attorney	No Judge
1/29/2001	Sheriff Return, Papers served on Defendant(s). So Answers, Chester A. Hawkins, Sheriff by s/Marilyn Hamm	No Judge
2/22/2001	Answer and New Matter of Paul B. Roemer, M.D. Filed by s/Jason Mettley, Esq. Verification, s/LPaul Brian Roemer, M.D. Certificate of Service no cc	No Judge
3/12/2001	Reply to New Matter filed on behalf of Plff. No cc.	John K. Reilly Jr.
10/11/2001	Stipulated Motion to Consolidate (Original filed to 01-74-CD), filed. s/Jason Mettley, Esq. s/Susan Brahm Gunn, Esq.	John K. Reilly Jr.
10/15/2001	ORDER, filed. (Original filed to case # 2001-74-CD) 2 Cert. to Atty. Gunn AND NOW, this 15th day of October, 2001, the parties having filed a Stipulated Motion to Consolidate, IT IS ORDERED, that the motion be and the same hereby is, GRANTED. Case Consolidated with 01-74-CD	John K. Reilly Jr.
8/1/2003	Motion For Summary Judgment In Part And In Whole Of Paul B. Roemer, M.D. filed by s/Jason Mettley, Esquire Certificate of Service (Original Filed to 01-74-CD)	John K. Reilly Jr.
10/2/2003	Appendix to Plaintiff's Motions for Summary Judgment, filed by Atty. Mettley (copy of cover sheet in file, Original with case 2001-74-CD)	John K. Reilly Jr.
12/16/2003	OPINION AND ORDER, AND NOW, this 16th day of December, 2003, re: Motions shall be and are hereby GRANTED in part and DISMISSED in part in accordance with the foregoing Opinion. by the Court, s/JKR,JR.,P.J.	John K. Reilly Jr.
1/2/2004	Defendant's Motion For Continuance Of Trial To Spring Term. filed by, s/Sue Gunn, Esq. Stipulation of Counsel s/Jason Mettley, Esq. Certificate of Service no cc	John K. Reilly Jr.
1/9/2004	ORDER, NOW, this 7th day of January, 2004, it is hereby Ordered that Defendant's Motion for Continuance of Trial to Spring Term is DENIED. by the Court, s/FJA,P.J. 1 cc Atty Gunn	John K. Reilly Jr.
1/15/2004	ORDER, NOW, this 15th day of January, 2004, re: Above-captioned matter shall be removed from the current list for jury trials and scheduled by the CA for trial w/o jury at the convenience of the parties. Pretrial conference scheduled for January 15, 2004, shall be and is hereby CANCELLED. by the Court, s/JKR,JR., Senior Judge, Specially Presiding. copies mailed to: Jason Mettley, Esq., Wm. Stang, Esq., and Carl Rychcik, Esq.	John K. Reilly Jr.
2/11/2004	Praecipe For Entry Of Appearance On Behalf Of Clearfield Professional Group, Ltd. filed by, s/Carl J. Rychcik, Esq. Certificate of Service	John K. Reilly Jr.
2/19/2004	Petition For Permisssion To File Amendment To Complaint and Request For Rule To Show Cause. filed by, s/William L. Stang, Esq.	John K. Reilly Jr.
	ORDER, AND NOW, to wit: this 19th day of February, 2004, Rule issued upon PAUL BRIAN ROEMER, M.D. Rule Returnable on the 8th day of March, 2004, for filing Written Response. by the Court, s/FJA, P.J. 1 cc to Atty	John K. Reilly Jr.

Civil Other

Date		Judge
2/3/2005	Order, AND NOW, this 3rd day of February, 2005, Order that argument on Plaintiff's Motion for Post-Trial Relief has been scheduled for March 31, 2005, at 10:00 a.m. before the Honorable John K. Reilly, Jr., Senior Judge, Specially Presiding BY THE COURT: /s/John K. Reilly, Jr., S.J., Sp. Pres. One CC Attys: Mettley, Stang, Sughrue	John K. Reilly Jr.
3/22/2005	Order, AND NOW, this 22nd day of March, 2005, it is the ORDER of the Court that argument on Plaintiff's Motion for Post-Trial Relief currently scheduled for March 31, 2005 at 10:00 a.m. is Continued. BY THE COURT: /s/ Fredric J. Ammerman, President Judge. 1CC Atty: Rycheck, Mettley. Original to 01-74-CD	John K. Reilly Jr.
5/20/2005	Order, AND NOW, this 20th day of May, 2005, it is the ORDER of the Court that argument on plaintiff's Motion for Post-Trial Relief has been scheduled for Thursday, May 26, 2005 at 9:00 a.m. in Courtroom No. 521, Allegheny County Courthouse, 436 Grant Street, Pittsburgh PA, before the Honorable Judge John K. Reilly. BY THE COURT: /s/ Fredric J. Ammerman, President Judge. 3CC to C/A for Service	Fredric Joseph Ammerman
7/8/2005	Order, this 8th day of July, 2005, Plaintiff's Motion for Post Trial Relief is hereby dismissed in accordance with the Findings of Fact, Conclusions of Law and Opinion filed by this Court on December 9, 2004. By The Court, /s/ John K. Reilly, Jr., Senior Judge. CC to Atty J. Mettley, W. Stang, Rychick, Sughrue	John K. Reilly Jr.
7/14/2005	Filing: Praecipe For Entry of Judgment On Decision in Non Jury Trial Paid by: Rychcik, Carl J. (attorney for Clearfield Professional Group, LTD) Receipt number: 1904791 Dated: 07/14/2005 Amount: $20.00 (Check) Judgment in favor of Clearfield Professional Group, Ltd. and against Paul Brian Roemer in the amount of $75,580.25. Filed by s/ Carl J. Rychcik, Esquire. 1CC & Notice to Atty. Mettley, statement to Atty Rychcik	John K. Reilly Jr.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the within Notice of Appeal and Request for Transcript was served this 4th day of August, 2005, upon the following by first class mail, postage prepaid, addressed as follows:

John K. Reilly, Jr., Senior Judge
Clearfield County Courthouse
Clearfield County Judge's Chambers
230 East Market Street
Clearfield, PA 16830

Thomas D. Snyder, RPR
Official Court Reporter
Clearfield County Courthouse
230 East Market Street
Clearfield, PA 16830

Carl J. Rychcik, Esquire
Fox, Rothschild, O'Brien & Frankel, LLP
625 Liberty Avenue; 29th Floor
Pittsburgh, PA 15222

Jason Mettley, Esquire

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

PAUL BRIAN ROEMER, M.D.

Plaintiff/Defendant,

vs.

CLEARFIELD PROFESSIONAL, GROUP, LTD.,

Defendant/Plaintiff.

CIVIL DIVISION

NO. 01-74-CD
NO. 01-87-CD

PRAECIPE FOR ENTRY OF JUDGMENT ON DECISION IN NON JURY TRIAL

Filed on behalf of
Clearfield Professional Group, Ltd.,
Defendant/Plaintiff

Counsel of Record for this Party:

William L. Stang
PA ID # 33221
Carl J. Rychcik
PA ID #73754

FOX ROTHSCHILD LLP
625 Liberty Avenue, 29th Floor
Pittsburgh, PA 15222-3115
(412) 391-1334

FILED
m/11:23 BL
JUL 14 2005
William A. Shaw
Prothonotary/Clerk of Courts

1 CC & Notice to Atty Merry
Atty Rychcik
pd 20.00
Statement to Atty Rychcik

(39)

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

PAUL BRIAN ROEMER, M.D. — CIVIL DIVISION

Plaintiff/Defendant, — NO. 01-74-CD
NO. 01-87-CD

vs.

CLEARFIELD PROFESSIONAL GROUP, LTD.,

Defendant/Plaintiff.

PRAECIPE FOR ENTRY OF JUDGMENT ON DECISION IN NON JURY TRIAL

To the Prothonotary:

Please enter judgment in favor of Clearfield Professional Group, Ltd. and against Paul Brian Roemer in the amount of $75,580.25 in the above consolidated matters. This Praecipe for Entry of Judgment is presented in accordance with the terms of the Findings of Fact, Conclusions of Law, Opinion and Order entered by the Honorable John K. Reilly, Jr., a copy of which is attached hereto as Exhibit "A," and the above judgment amount is broken down as follows:

a.	Copy Charges (See Reilly Opinion, sixth paragraph)	$1,686.00
b.	Liquidated Damages Amount (See Reilly Opinion, eighth paragraph)	$9,000.00
c.	Telephone Line Termination (See Reilly Opinion, twelfth paragraph)	$992.47
d.	Clearfield Hospital Guarantee Payments (See Reilly Opinion, tenth paragraph)	$48,918.08
e.	Interest on Clearfield Hospital Guarantee Payments at 7.75% from August 1, 2001 (See Reilly Opinion, tenth paragraph and Reilly Findings of Fact #36)	$14,983.70
	TOTAL	**$75,580.25**

Respectfully submitted,

DATED: July 13, 2005

William L. Stang
PA I.D. # 33221
Carl J. Rychcik
PA I.D. # 73754
FOX ROTHSCHILD LLP
625 Liberty Avenue, 29th Floor
Pittsburgh, PA 15222-3115
(412) 391-1334
Counsel for Defendant, Clearfield Professional Group

A

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

PAUL BRIAN ROEMER, M.D., Plaintiff/Defendant	:	
VS.	:	NO. 01-74 and 01-87-CD
CLEARFIELD PROFESSIONAL GROUP, LTD., Defendant/Plaintiff	:	

FINDINGS OF FACT

1. On or about October 26, 1999, Clearfield Hospital and CPG entered into a Group Recruitment Agreement (the "Group Recruitment Agreement") regarding the recruitment of Dr. Paul Brian Roemer ("Dr. Roemer") to the Clearfield area. [N.T. P 106-107, L 22-13]

2. This agreement was an incentive for CPG to hire Dr. Roemer into its medical practice by providing a guarantee from Clearfield Hospital to cover Dr. Roemer's income for the first 12 months of his employment. [N.T. P 150, L 16-22; P 37, L 17-22]

3. Under the Group Recruitment Agreement, Clearfield Hospital specifically agreed to supplement the income generated by Dr. Roemer during the first year of his employment, if necessary, to meet his monthly salary requirements. [N.T. P 91, L 1-5]

4. On or about October 26, 1999, Dr. Roemer entered

into an employment agreement ("the Employment Agreement") with CPG. [N.T. P 27, L 12-18]

5. Under the Employment Agreement, Dr. Roemer was free to terminate his employment and leave CPG at any time following an initial 12-month period, subject to certain payback provisions of the Group Recruitment Agreement, as long as Dr. Roemer provided written notice to CPG 60 days prior to leaving. [N.T. P 126, L 2-8]

6. Under the Employment Agreement, if Dr. Roemer left the Clearfield Hospital service area prior to October 31, 2005, Dr. Roemer was solely responsible to repay all amounts owed to Clearfield Hospital under the Group Recruitment Agreement. [N.T. P 91, L 6-10]

7. The Employment Agreement provided that if Dr. Roemer left CPG at any time, for any reason, and set up a practice within the Clearfield Hospital service area, within three years of the end of his employment, he was to pay CPG $1,000 a month for 24 months. [N.T. P 80, L 12-15]

8. Unde the Employment Agreement, if Dr. Roemer left CPG at any time, for any reason, and practiced within the Clearfield Hospital service area, CPG would provide him with copies of the files for the patients who went with him and Dr. Roemer was required to pay CPG for clerical costs for copying these files. [N.T. P 82, L 7-13]

9. Dr. Roemer decided to leave CPG. On July 13,

2000, Dr. Roemer provided CPG with his written notice of resignation, indicating that, due to differences in professional practices he was resigning, effective November 1, 2000. [N.T. P 43, L 12-25]

10. The date Dr. Roemer chose, November 1, 2000, was the earliest date that Dr. Roemer could leave CPG voluntarily under the Employment Agreement. [N.T. P 126-127, L 24-1]

11. When he decided in July of 2000 to leave CPG, Dr. Roemer realized that, pursuant to the Employment Agreement, if he set up a practice within the Clearfield Hospital service area he would be required to pay CPG $24,000. [N.T. P 62-63, L 25-7]

12. Dr. Roemer knew when he decided in July of 2000 to leave CPG, under the Employment Agreement, if he set up a practice within the Clearfield Hospital service area, he would be required to reimburse CPG for charges CPG incurred for copying patient files to be forwarded to him. [N.T. P 63, L 8-14]

13. Dr. Roemer knew that, when he decided in July of 2000 to leave CPG, if he left the Clearfield Hospital service area, he would be required to repay Clearfield Hospital the amount it had paid on his behalf under the Group Recruitment Agreement. [N.T. P 64, L 15-19]

14. After tendering his resignation in July of

2000, Dr. Roemer made plans to open his own practice within Clearfield, Pennsylvania. [N.T. P 71, L 10-15]

15. Dr. Roemer admitted that it was his plan that when he set up his new practice, he would take with him the patients which CPG had provided to him during his employment. [N.T. P 61, L 19-22]

16. On October 7, 2000, after discovering several hundred patient files in Dr. Roemer's office, Dr. Johnson relieved Dr. Roemer of his clinical duties, asked for Dr. Roemer's key to the building and asked him to leave the building. [N.T. P 132-133, L 12-15; P 135, L 6-12; P 80, L 4-7]

17. Following the events of October 7, 2000, Dr. Roemer decided that he was going to immediately open up his new practice three weeks early and start seeing patients, rather than waiting until November 1, 2000, which he did. [N.T. P 51, L 13-18; P 83, L 5-9]

18. On October 10, 2000, Dr. Johnson wrote to Dr. Roemer indicating to him that he had been relieved of his medical duties for the balance of his employment at CPG and indicated that he remained on CPG's payroll. [N.T. P 144-145, L 1-10]

19. Dr. Roemer received the October 10, 2000, letter from Dr. Johnson [N.T. P 84-85, L 9-8; P 145, L 11-13]

20. CPG was not willing to pay Dr. Roemer through the end of October 2000 and keep him on the CPG payroll while

Dr. Roemer was operating a competing medical practice just blocks down the street from CPG, and diverting CPG patients. [N.T. P 146, L 12-15]

21. Dr. Roemer's employment at CPG effectively ended on October 7, 2000. [N.T. P 175, L 13-15]

22. The decision to effectively end Dr. Roemer's employment three weeks early was made after Dr. Roemer failed to respond to Dr. Johnson's letter of October 10, 2000, and Dr. Roemer continued to operate a competing medical practice down the street from CPG. [N.T. P 175-176, L 21-3]

23. Following October 7, 2000, Dr. Roemer opened up a medical practice in Clearfield, Pennsylvania. [N.T. P 80, L 8-11]

24. Dr. Roemer continued to practice in the Clearfield area until mid-June of 2001. [N.T. P 52, L 2-4]

25. CPG incurred charges in the amount of $1,686 for copying patients' charts to be sent to Dr. Roemer. [N.T. P 190-191, L 12-15]

26. CPG provided Dr. Roemer with a statement of charges incurred by CPG for copying patients' files. Dr. Roemer did not pay CPG for the charges listed. [N.T. P 81-82, L 16-6]

27. Under the Employment Agreement, if Dr. Roemer left CPG and set up a practice within 36 months of separation, Dr. Roemer became obligated to pay CPG liquidated damages of $1,000 per month for 24 months. [N.T. P 148-149, L 18-2]

28. Dr. Roemer agreed that, prior to October 7, 2000, he realized his obligation to pay $24,000 to CPG and fully intended to pay CPG this amount. [N.t> P 80, L 16-20]

29. After October 7, 2000, Dr. Roemer did not pay CPG this amount. [N.T. P 80, L 16-20]

30. CPG's estimate of $1,000 per month was a conservative estimate of what CPG's costs would be from a former employee becoming a competitor in the community. [N.T. P 179-180, L 24-20]

31. Under the Employment Agreement, Dr. Roemer was solely responsible for any repayment owed to Clearfield Hospital under the Group Recruitment Agreement if he left CPG before October 31, 2005. [N.T. P 152, L 2-5]

32. Clearfield Hospital presently considers amounts owed under the Group Recruitment Agreement to be due and owing to Clearfield Hospital. [N.T. P 107-108, L 22-1]

33. From November 1999 to September 2000, CPG received guarantee payments from Clearfield Hospital totaling $48,918.08, pursuant to the Group Recruitment Agreement. [N.T. P 188, L 12-15; P 109, L 4-17]

34. Under the Group Recruitment Agreement, collection figures from CPG were to be provided on a cash basis, not an accrual basis. [N.T. P 116-117, L 25-3]

35. The Group Recruitment Agreement permits Clearfield Hospital to calculate interest on the amounts that

are outstanding. [N.T. P 109, L 21-24]

36. Clearfield Hospital has applied an interest rate at prime plus 1 percent which, at the time calculated, was 7.75 percent, accruing from the date of August 1, 2001. [N.T. P 109-110, L 25-4; P 113, L 11-22]

37. Clearfield Hospital sent Dr. Roemer a letter informing Dr. Roemer of the amount that was owed, the interest rate that had been established, and the repayment terms that were expected as part of the Group Recruitment Agreement. [N.T. P 108, L 2-18]

38. Dr. Roemer has not paid Clearfield Hospital the amount demanded of him. [N.T. P 110, L 5-7; P 92, L 18-20]

39. Clearfield Hospital has made a demand on CPG, as well, for the amount that is outstanding under the Guarantee Agreement for Dr. Roemer. [N.T. P 110, L 8-20]

40. CPG has an agreement with Clearfield Hospital that Clearfield Hospital would not require reimbursement from CPG of funds owed under the Group Recruitment Agreement until the conclusion of the present litigation. [N.T. P 152, L 10-20]

41. Shortly after October 7, 2000, Dr. Roemer contacted CPG's telephone company, Verizon, and instructed them to turn off three telephone numbers which were being used by CPG, but were in Dr. Roemer's name. [N.T. P 86-87, L 21-24]

42. The three telephone numbers that Dr. Roemer had shut off were never paid for by Dr. Roemer, but rather were paid

for by CPG. [N.T. P 193, L 4-7]

43. CPG contacted Dr. Roemer and asked him to release these three telephone numbers, but Dr. Roemer refused. [N.T. P 88, L 12-16]

44. CPG incurred damages in the amount of $231.66 for charges from Verizon to replace the telephone lines that Dr. Roemer had shut off. [N.T. P 195-196, L 19-10]

45. CPG incurred damages in the amount of $545.49 for charges from Companion Technologies for reprinting patients' statements with new telephone numbers on them. [N.T. P 196, L 12-19]

46. CPG incurred damages in the amount of $215.32 for charges from Morefield Communications for the installation of new telephone lines as a result of Dr. Roemer having three of CPG's telephone lines shut off. [N.T. P 197-198, L 10-4]

47. CPG's total damages incurred as a result of Dr. Roemer having three of its telephone numbers shut off by Dr. Roemer was $992.47. [N.T. P 198, L 5-8]

48. Dr. Roemer worked at CPG for approximately 49 weeks out of an initial 52-week contract term. [N.T. P 57-58, L 23-1]

49. By the time Dr. Roemer's employment ended in October of 2000, CPG had already conferred substantial benefits on Dr. Roemer under the Employment Agreement. [N.T. P 154-155, L 15-25]

50. Pursuant to the Employment Agreement, from November of 1999 through October of 2000, CPG provided Dr. Roemer with (i) a salary of approximately $114,000; (ii) billing services; (iii) office space; (iv) nursing personnel; (v) secretarial personnel; (vi) those supplies necessary to practice medicine; (vii) three weeks of paid time off (two weeks vacation, plus one week for continuing medical education); and (viii) health insurance coverage. [N.T. P 58-59, L 9-23; P 189-190, L 18-11]

CONCLUSIONS OF LAW

1. CPG did not materially breach the Employment Agreement.

2. Dr. Roemer received CPG's substantial performance of the Employment Agreement and had an adequate remedy of law available to him for any alleged breach of the Employment Agreement.

3. Dr. Roemer is not entitled to rescission of the Employment Agreement or a finding that he is relieved of his post-employment obligations under the Employment Agreement.

4. CPG did not breach the Employment Agreement.

5. Dr. Roemer breached the Employment Agreement.

6. Dr. Roemer breached the Employment Agreement by setting up a competing medical practice in Clearfield, Pennsylvania, within three years of the end of his employment at

CPG and not paying CPG $1,000 a month.

7. The contractual provision in the Employment Agreement requiring Dr. Roemer to pay CPG $1,000 a month for 24 months if Dr. Roemer opened a competing practice within the Clearfield Hospital service area within three years of the end of his employment with CPG is enforceable under Pennsylvania law.

8. Dr. Roemer breached the Employment Agreement by not paying CPG the charges of $1,686 incurred by CPG for copying records of patients who requested to have their records transferred to Dr. Roemer.

9. Dr. Roemer breached the Employment Agreement by not paying Clearfield Hospital the amounts of the guarantee payments made by Clearfield Hospital to CPG under the Group Recruitment Agreement, plus interest.

10. Dr. Roemer wrongfully misappropriated three telephone lines belonging to CPG.

11. CPG is entitled to an award in its favor and against Dr. Roemer in the amount of $992.47, plus interest, for coss incurred by CPG to replace CPG's telephone lines and billing stationary, as a result of Dr. Roemer's misappropriation of CPG's telephone lines and related breaches.

O P I N I O N

The above two lawsuits arise out of the employment

of Paul B. Roemer, M.D. ("Dr. Roemer") as a physician with Clearfield Professional Group, Ltd. ("CPG"). Dr. Roemer came to Clearfield in the fall of 1999 after being recruited by the Clearfield Hospital. At that time, the hospital and CPG entered into a Group Recruitment Agreement under which the hospital agreed to subsidize Dr. Roemer's monthly salary for the first year of his employment to ensure that, in the event Dr. Roemer did not generate sufficient income in any given month to cover his salary, the hospital would make up the difference. Based on this, CPG entered into an employment agreement with Dr. Roemer commencing at the beginning of November 1999 and to be in effect for one full year. During the latter part of the contract between Dr. Roemer and CPG, problems arose and Dr. Roemer notified CPG that he would be leaving their employ on November 1, 2000. On October 7, 2000, the month before Dr. Roemer was to voluntarily leave CPG's employ, Dr. Richard Johnson, President of CPG, relieved Dr. Roemer of his clinical duties and early the following week Dr. Johnson wrote to Dr. Roemer informing him that, while his medical duties had been suspended, he remained on the CPG payroll. Dr. Roemer elected not to accept this situation but immediately opened a new competing practice in the Clearfield area.

CPG has now commenced suit against Dr. Roemer to 01-87-CD and Dr. Roemer instituted a like suit against CPG to 01-74-CD, each of whom seek to recover alleged damages.

The initial question in each of these lawsuits is whether CPG committed a material breach of the employment agreement on October 7, 2000, when Dr. Roemer was relieved of his clinical duties. This Court is of the opinion that it did not. Initially this Court is of the opinion that, in terminating Dr. Roemer's clinical duties, CPG did not violate the terms and conditions of the employment agreement, in that he was immediately thereafter notified that he would remain on the payroll of CPG even though not performing any medical functions. Nevertheless, even if CPG's conduct constituted a breach of the agreement, said breach could not rise to the level of a material breach.

Nothing in the present situation rises to the level of permitting Dr. Roemer to consider the contract rescinded. The Court notes that he got substantially everything he bargained for under his employment agreement except or three weeks of salary, and he would have received that had he not unilaterally decided to leave CPG and open his own practice. Further, if CPG had indeed breached the contract, Dr. Roemer had an adequate remedy at law in the form of a breach of contract action. To grant a recission of the contract at this point would result in CPG not receiving the benefit of any of Dr. Roemer's contracted-for post-employment obligations and, finally, whether correct or incorrect, CPG reasonably believed it acted in good faith in relieving Dr. Roemer of his duties.

Dr. Roemer was leaving CPG's employ on November 1, 2000, in any event, by his own choice, and the occurrences on October 7, 2000, when Dr. Roemer left CPG three weeks early initially cannot be attributed to the actions of CPG as set forth above and, in any event, does not arise to the level of a material failure of performance by CPG but, at best, would constitute only an immaterial failure and, as such, does not require recission of the agreement. See Sgarlat v. Griffith, 36 A.2d 330 (Pa. 1944).

With this in mind, the Court now turns to the claims of CPG in its complaint against Dr. Roemer. CPG first claims that having supplied Dr. Roemer with copies of the medical records which he requested, he should reimburse CPG for the costs of providing said copies. This issue is specifically addressed in the agreement between the parties wherein CPG was obligated to provide the copies and Dr. Roemer obligated to pay the costs of same (see employment agreement at page 1) and this Court therefore holds in favor of CPG on this issue and awards the sum of $1,686 for copies made.

CPG next claims the sum of $24,000 from Dr. Roemer under the employment agreement wherein Dr. Roemer agreed to pay CPG $1,000 a month for 24 months should he open a competing practice within the service area of the Clearfield Hospital within 36 months of leaving CPG. Dr. Roemer did, indeed, open a competing practice within that time period, but remained in said

practice for only nine months. Dr. Roemer opposes this claim, alleging first that he is released from any of the post employment obligations because CPG materially breached the contract. As discussed above, this Court disagrees and must rule against Dr. Roemer on this issue.

Dr. Roemer next claims that the sum of $1,000 a month does not represent liquidated damages but is, in fact, a penalty and, therefore, unenforceable. The Court notes that a liquidated damages provision is enforceable provided that the sum agreed upon constitutes a reasonable approximation of the expected loss rather than a prohibited penalty. (See Carlos R. Leffler, Inc. v. Hutter, 696 A.2d 157 (Pa.Super. 1997). The Court must consider whether the sum stipulated is reasonably related to the potential harm and the ease or difficulty of measuring a breach in damages. (See Hanrahan v. Audubon Builders, Inc., 614 A.2d 748 (Pa.Super 1992). The record supports the difficulty of determining damages in situations such as this (NT, P 150, L 5-9; P 181, L 9-13) and also that the liquidated damages herein is a reasonable estimate of damages expected (N.T. P 150, L 5-11; P 179-180, L 24-20). Moreover, Dr. Roemer testified that he fully intended to pay CPG the agreed-upon liquidated damages when he opened his new practice (N.T. P 80, L 16-20) and the reason that he has not done so is because he believes CPG materially breached the agreement, thereby releasing him from this

obligation. He does not claim that the amount assessed in any way was a penalty levied against him. Nevertheless, this Court is further of the opinion that the $1,000 a month liquidated damages should only be assessed for that period of time during which Dr. Roemer was, in fact, practicing in competition with CPG in the Clearfield area, which amounted to nine months. The Court is of the opinion that to impose this sum against Dr. Roemer beyond the time during which he was in active competition with CPG would indeed amount to a penalty and therefore will award to CPG, on this claim, the sum of $9,000.

CPG next claims that Dr. Roemer is responsible to reimburse Clearfield Hospital for the guaranteed payments it made to CPG to secure Dr. Roemer's employment, specifically that paragraph on page 1 of the employment agreement which states:

> "Should Dr. Roemer leave before the end of the 'Repayment/Forgiveness period' (10-31-05) it is understood that any payments required to the Hospital will be Dr. Roemer's sole responsibility."

In lieu of this Court's ruling that CPG did not commit a material breach of the employment agreement, Dr. Roemer has no defense to this claim and, therefore, must pay to Clearfield Hospital or reimburse CPG for any payments made to said hospital in the amount of $48,918.08, together with interest at agreed-upon rate.

CPG next claims damages for an alleged breach of loyalty committed by Dr. Roemer. This Court has examined the

transcript in detail and can find no support for this claim and, therefore, will rule in Dr. Roemer's favor thereon.

Finally, CPG claims the sum of $992.47 resulting from Dr. Roemer's improper termination of three telephone lines which CPG had long been using. This Court can find no justification for Dr. Roemer's actions in this regard and does award to CPG the sum of $992.47.

Dr. Roemer, as Plaintiff to 01-74-CD, in Count I, seeks declaratory relief from his obligations under the employment agreement alleging that CPG materially breached the contract. As discussed above, this Court has found no material breach by CPG and, therefore, will rule against Dr. Roemer on this issue.

In Count II, Dr. Roemer seeks compensation for the portion of October 2000 that he did, in fact, work for CPG, specifically the first week thereof. This Court agrees and will award to the doctor a one week's proportionate share of his monthly income in the specific amount of $2,332, plus legal interest thereon.

Wherefore, the Court enters the following

O R D E R

NOW, this 9th day of December, 2004, following hearing and briefs into the above-captioned actions, it is the

ORDER of this Court that partial judgments shall be entered in favor of both parties in accordance with the foregoing Opinion.

BY THE COURT:

/s/ JOHN K. REILLY, JR.

John K. Reilly, Jr.
Senior Judge
Specially Presiding

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Praecipe for Entry of Judgment on Decision in Non Jury Trial was served upon the following individual(s) by first class U.S. Mail this 13th day of July, 2005:

Jason Mettley, Esq.
Jubelirer, Pass & Intrieri, P.C.
219 Fort Pitt Boulevard
Pittsburgh, PA 15222

Carl J. Rychcik

NOTICE OF JUDGMENT

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

Clearfield Professional Group, LTD

Vs. No. 2001-00087-CD

Paul B Roemer MD

To: DEFENDANT(S)

NOTICE is given that a JUDGMENT in the above captioned matter has been entered against you in the amount of $75,580.25 on July 14, 2005.

William A. Shaw
Prothonotary

_____
William A. Shaw

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY ,
PENNSYLVANIA
STATEMENT OF JUDGMENT

Clearfield Professional Group, LTD
Plaintiff(s)

No.: 2001-00087-CD

Real Debt: $75,580.25

Atty's Comm: $

Vs.

Costs: $

Int. From: $

Paul B Roemer MD
Defendant(s)

Entry: $20.00

Instrument: Judgment on Decision in
Non Jury Trial

Date of Entry: July 14, 2005

Expires: July 14, 2010

Certified from the record this 14th day of July, 2005.

_____
William A. Shaw, Prothonotary

****

SIGN BELOW FOR SATISFACTION

Received on _____, _____, of defendant full satisfaction of this Judgment, Debt, Interest and Costs and Prothonotary is authorized to enter Satisfaction on the same.

_____
Plaintiff/Attorney

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

PAUL BRIAN ROEMER, M.D.	:	
VS.	:	NO. 01-74 and 01-87-CD,
CLEARFIELD PROFESSIONAL	:	
GROUP, LTD.	:	

O R D E R

AND NOW this 8th day of July, 2005, upon consideration of Plaintiff's Motion for Post Trial Relief and argument thereon, it is the ORDER of this Court that said motion be and is hereby dismissed in accordance with the Findings of Fact, Conclusions of Law and Opinion filed by this Court on December 9, 2004.

BY THE COURT,

John K. Reilly, Jr.
Senior Judge
Specially Presiding

CERT TO ATTY J. METTLEY
W. STAUB
RYCHCICK
SUGARMAN

(35)

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

PAUL BRIAN ROEMER, M.D.	:	
	:	No. 01-74-CD
vs.	:	
	:	
CLEARFIELD PROFESSIONAL GROUP, LTD.	:	No. 01-87-CD

ORDER

AND NOW, this 20th day of May, 2005, it is the ORDER of the Court that argument on Plaintiff's Motion for Post-Trial Relief in the above matter has been scheduled for **Thursday, May 26, 2005 at 9:00 A.M**, in Courtroom No. 521, Allegheny County Courthouse, 436 Grant Street, Pittsburgh, PA, before the Honorable Judge John K. Reilly, specially presiding in Allegheny County.

BY THE COURT:

FREDRIC J. AMMERMAN
President Judge

FILED

MAY 20 2005
0/12:15/
William A. Shaw
Prothonotary/Clerk of Courts

3 CERT TO C/A FOR SERV

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

PAUL BRIAN ROEMER, M.D.	:	
	:	No. 01-74-CD
vs.	:	
	:	
CLEARFIELD PROFESSIONAL GROUP, LTD.	:	No. 01-87-CD
	:	

COPY

ORDER

AND NOW, this 22nd day of March, 2005, it is the ORDER of the Court that argument on Plaintiff's Motion for Post-Trial Relief in the above matter currently scheduled for **Thursday, March 31, 2005 at 10:00 A.M**, is hereby Continued. The Court Administrator's Office is directed to co-ordinate a new date and time for argument to be scheduled when Judge Reilly is specially presiding in Allegheny County.

BY THE COURT:

/s/ Fredric J. Ammerman
FREDRIC J. AMMERMAN
President Judge

FILED
02:30 BL
MAR 22 2005
William A. Shaw
Prothonotary/Clerk of Courts

GK
1 CC Attys:
Rycheck
Mettley
(cl A envelopes)

Orig. to 01-74-CD

33

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

PAUL BRIAN ROEMER, M.D.	:	
	:	No. 01-74-CD
vs.	:	
	:	
CLEARFIELD PROFESSIONAL GROUP, LTD.	:	(No. 01-87-CD)

ORDER

AND NOW, this 3rd day of February, 2005, it is the ORDER of the Court that argument on Plaintiff's Motion for Post-Trial Relief in the above matter has been scheduled for **Thursday, March 31, 2005 at 10:00 A.M**, before the Honorable John K. Reilly, Jr., Senior Judge, Specially Presiding. Please report to the Court Administrator's Office. You will be directed from there where this argument will take place.

BY THE COURT:

JOHN K. REILLY, JR.
Senior Judge

FILED 1cc
01/12:56/01 Attys:
FEB 03 2005 Mettley
Stang
William A. Shaw Sughrue
Prothonotary/Clerk of Courts (CIA env.)

#32

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

PAUL BRIAN ROEMER, M.D.

Plaintiff/Defendant,

vs.

CLEARFIELD PROFESSIONAL, GROUP, LTD.,

Defendant/Plaintiff.

CIVIL DIVISION

NO. 01-74-CD
NO. 01-87-CD

CLEARFIELD PROFESSIONAL GROUP'S RESPONSE TO ROEMER'S MOTION FOR POST-TRIAL RELIEF

Filed on behalf of
Clearfield Professional Group, Ltd.,
Defendant/Plaintiff

Counsel of Record for this Party:

William L. Stang
PA ID # 33221
Carl J. Rychcik
Pa. ID #73754

FOX ROTHSCHILD LLP
625 Liberty Avenue, 29th Floor
Pittsburgh, PA 15222-3115
(412) 391-1334

Original filed to 01-74-CD

#31

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

PAUL BRIAN ROEMER, M.D. — CIVIL DIVISION

Plaintiff/Defendant, — NO. 01-74-CD
NO. 01-87-CD

vs.

CLEARFIELD PROFESSIONAL GROUP, LTD.,

Defendant/Plaintiff.

CLEARFIELD PROFESSIONAL GROUP'S
RESPONSE TO ROEMER'S MOTION FOR POST-TRIAL RELIEF

And now comes Clearfield Professional Group, Ltd. ("CPG"), by and through its attorneys, Fox Rothschild LLP, and files the within Response to Roemer's Motion for Post-Trial Relief, and in support thereof avers as follows:

I. REQUEST FOR RELIEF

CPG requests that this Honorable Court deny Paul B. Roemer's ("Roemer") Motion for Post-Trial Relief in its entirety and enter a final judgment pursuant to this Court's Findings Of Fact, Conclusions Of Law, Opinion And Order dated December 9, 2004. This final judgment in CPG's favor should include, but is not limited to, the following: (i) a judgment in favor of CPG and against Roemer in the amount of $48,918.08, which represents the amount of the income guarantee payments made by Clearfield Hospital to CPG under the Group Recruitment Agreement, plus interest at the agreed upon rate; (ii) a judgment in favor of CPG and against Roemer in the amount of $9,000, pursuant to the parties' Employment Agreement; and (iii) a judgment in favor of CPG and against Roemer in the amount of $1,686, for copying costs pursuant to the parties' Employment Agreement.[1]

[1] Although not at issue in Roemer's Motion For Post-Trial Relief, CPG also ultimately seeks a judgment in favor of CPG and against Roemer for $992.47 for Roemer's improper termination of three telephone lines which CPG had long been using, in accordance with the Court's December 9, 2004 ruling.

II. THE COURT CORRECTLY HELD THAT ROEMER BREACHED THE EMPLOYMENT AGREEMENT BY NOT PAYING THE AMOUNTS OF THE GUARANTEE PAYMENTS MADE BY CLEARFIELD HOSPITAL TO CPG UNDER THE GROUP RECRUITMENT AGREEMENT, PLUS INTEREST.

1. The Court's determination that Roemer is liable to CPG for the income guarantee payments made by Clearfield Hospital is correct as a matter of law and supported by the evidence. *See* Findings of Fact Nos. 1-3; 6; 13; and 31-39.

2. The evidence at trial supported the finding that Roemer breached the Employment Agreement, separate and apart from the finding that CPG did **not** materially breach the Employment Agreement. *Id.*

3. Contrary to Roemer's baseless allegations, the evidence at trial supported that Roemer did decide to leave CPG, and therefore is liable to CPG for the income guarantee payments made by Clearfield Hospital. *See* Findings of Fact Nos. 9-10.

4. Contrary to Roemer's continued attempts to twist the facts, the evidence at trial supported the Court's finding that Roemer was **not** unconditionally discharged by CPG. *See* Findings of Fact Nos. 16-22.

III. THE COURT CORRECTLY HELD THAT ROEMER BREACHED THE EMPLOYMENT AGREEMENT BY NOT PAYING CPG THE $1,000 PER MONTH LIQUIDATED DAMAGES.

5. Although CPG continues to believe that it was entitled to the full $24,000 damages amount set forth in the liquidated damages provision contained in the Employment Agreement, rather than the $9,000 awarded by the Court, CPG agrees that the Court's determination that Dr. Roemer is liable to pay CPG $1,000 per month under the liquidated

damages provision is correct as a matter of law and is supported by the competent evidence. *See* Findings of Fact Nos. 7; 11; 23; 24; 27-29.

6. Contrary to Dr. Roemer's baseless allegations, the evidence at trial supported that Roemer did decide to leave CPG, and therefore is liable to CPG for the $1,000 per month payments contained in the liquidated damages provision. *See* Findings of Fact Nos. 9-10.

7. Contrary to Roemer's continued attempts to twist the facts, the evidence at trial supported the Court's finding that Roemer was **not** unconditionally discharged by CPG. *See* Findings of Fact Nos. 16-22.

8. The evidence also supported that the $1,000 per month liquidated damages provision in the Employment Agreement was an enforceable liquidated damages clause as opposed to an unenforceable penalty. *See* Findings of Fact No. 30.

9. The evidence further demonstrated that the liquidated damages provision was a reasonable and conservative estimate of CPG's damages from a former employee leaving and becoming a competitor in the community. *Id.*

IV. THE COURT CORRECTLY FOUND THAT DR. ROEMER BREACHED THE EMPLOYMENT AGREEMENT BY NOT REIMBURSING CPG FOR COPYING COSTS.

10. The Court's determination that Roemer is liable to pay CPG for copying costs is correct as a matter of law and supported by the evidence. *See* Findings of Fact Nos. 8; 12; and 23-26.

11. Contrary to Roemer's baseless allegations, the evidence supported that Roemer did decide to leave CPG, and therefore is liable to CPG for copying costs. *See* Findings of Fact Nos. 9-10.

12. Contrary to Roemer's continued attempts to twist the facts, the evidence at trial supported the Court's finding that Roemer was **not** unconditionally discharged by CPG. *See* Findings of Fact Nos. 16-22.

13. CPG also further intends to reference the trial testimony with argument in support of each basis for its opposition to Roemer's Motion for Post-Trial Relief.

WHEREFORE, Clearfield Professional Group Ltd. respectfully requests that the Court deny Roemer's Motion for Post-Trial Relief in its entirety and enter a final judgment pursuant to the Court's Findings of Fact, Conclusions of Law, Opinion and Order dated December 9, 2004. This final judgment in CPG's favor should include, but is not limited to, the following: (i) a judgment in favor of CPG and against Roemer in the amount of $48,918.08, which represents the amount of the income guarantee payments made by Clearfield Hospital to CPG under the Group Recruitment Agreement, plus interest at the agreed upon rate; (ii) a judgment in favor of CPG and against Roemer in the amount of $9,000, pursuant to the parties' Employment Agreement; and (iii) a judgment in favor of CPG and against Roemer in the amount of $1,686, for copying costs pursuant to the parties' Employment Agreement.

Respectfully submitted,

DATED: December 29, 2004

William L. Stang
PA I.D. # 33221
Carl J. Rychcik
PA I.D. # 73754
FOX ROTHSCHILD LLP
625 Liberty Avenue, 29th Floor
Pittsburgh, PA 15222-3115
(412) 391-1334
Counsel for Defendant,
Clearfield Professional Group

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

PAUL BRIAN ROEMER, M.D.

Plaintiff/Defendant,

vs.

CLEARFIELD PROFESSIONAL GROUP, LTD.,

Defendant/Plaintiff.

CIVIL DIVISION

NO. 01-74-CD
NO. 01-87-CD

ORDER OF COURT

AND NOW, to-wit, this _____ day of _____, 2005, it is hereby ORDERED ADJUDGED AND DECREED that Roemer's Motion for Post-Trial Relief is denied in its entirety and a final judgment pursuant to this Court's Findings of Fact, Conclusions of Law, Opinion and Order dated December 9, 2004 shall be entered. This final judgment in CPG's favor will include, but is not limited to, the following: (i) a judgment in favor of CPG and against Roemer in the amount of $48,918.08, which represents the amount of the income guarantee payments made by Clearfield Hospital to CPG under the Group Recruitment Agreement, plus interest at the agreed upon rate; (ii) a judgment in favor of CPG and against Roemer in the amount of $9,000, pursuant to the parties' Employment Agreement; and (iii) a judgment in favor of CPG and against Roemer in the amount of $1,686, for copying costs pursuant to the parties' Employment Agreement.

BY THE COURT:

_____J.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Clearfield Professional Group's Response To Roemer's Motion For Post-Trial Relief was served upon the following individual(s) by first class U.S. Mail this 29 day of December, 2004:

Jason Mettley, Esq.
Jubelirer, Pass & Intrieri, P.C.
219 Fort Pitt Boulevard
Pittsburgh, PA 15222

Judge John K. Reilly, Jr.
230 East Market Street
Clearfield, PA 16830

Carl J. Rychcik

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

PAUL BRIAN ROEMER, M.D.,	)	
	)	
Plaintiff	)	Nos. 01-74-CD
	)	01-87-CD
vs.	)	
	)	
CLEARFIELD PROFESSIONAL GROUP, LTD.	)	
	)	
	)	
Defendant	)	JURY TRIAL DEMANDED

PLAINTIFF'S MOTION FOR POST-TRIAL RELIEF
PURSUANT TO Pa R.C.P. No. 227.1

AND NOW COMES Paul B. Roemer, M.D., by and through his attorneys, Jubelirer, Pass & Intrieri, P.C. and Jason Mettley, Esquire, and files the within Motion for Post-Trial Relief Pursuant to Pa. R.C.P. No. 227.1, and in support thereof avers as follows:

I. REQUEST FOR RELIEF

Plaintiff, Paul B. Roemer, M.D. (hereinafter referred to as "Dr. Roemer"), requests the Court to reverse its order granting partial judgment to defendant, Clearfield Professional Group, Ltd. (the "CPG"), to the extent that it: 1) requires Dr. Roemer pay the CPG the amounts of the income guarantee payments made by Clearfield Hospital to the CPG under the Group Recruitment Agreement, plus interest; 2) requires Dr. Roemer to make any payments to the CPG under the $1,000 per month provision of the parties' Employment Contract; and, 3) requires Dr. Roemer to repay the

CPG for copying costs. Dr. Roemer further requests that judgment be entered in his favor accordingly.

II. THE COURT ERRED AS A MATTER OF LAW BY FINDING THAT DR. ROEMER BREACHED THE EMPLOYMENT AGREEMENT BY NOT PAYING CLEARFIELD HOSPITAL THE AMOUNTS OF THE GUARANTEE PAYMENTS MADE BY CLEARFIELD HOSPITAL TO CPG UNDER THE GROUP RECRUITMENT AGREEMENT, PLUS INTEREST.

1. The Court's determination that Dr. Roemer is liable to the CPG for the income guarantee payments made by the Clearfield Hospital is erroneous as a matter of law and is not supported by the competent evidence.

2. The Court found Dr. Roemer to be in breach of the Employment Contract and held him liable to the CPG for the income guarantee payments because Dr. Roemer had not persuaded the Court that the CPG committed "a material breach of the employment agreement".

3. While the Court's finding that the CPG had not committed a material breach means that Dr. Roemer is not entitled to a rescission of the Employment Contract, the Court erred when it used that same finding as a basis to find Dr. Roemer in breach and require him to compensate the CPG for the income guarantee payments it owes the Clearfield Hospital.

4. The Court erred by ruling in favor of the CPG without requiring it to satisfy its burden of proving that Dr. Roemer engaged in conduct that breached the Employment Contract. It was an error for the Court to find that because Dr. Roemer failed to prove his case the CPG automatically prevailed on theirs.

5. The Court erred by failing to find that that because the CPG discharged Dr. Roemer, he did not "leave" employment and therefore was not liable to the CPG for the income guarantee payments made by the Clearfield Hospital.

6. The competent evidence demonstrated that Dr. Roemer was clearly, permanently and unconditionally discharged from his duties by the CPG on October 7, 2000.

7. These grounds were previously asserted by Dr. Roemer as part of his motion for summary judgment and in his Proposed Findings of Fact, Conclusions of Law and Post-Trial Memorandum of Law.

III. THE COURT ERRED AS A MATTER OF LAW BY FINDING THAT DR. ROEMER BREACHED THE EMPLOYMENT AGREEMENT BY NOT PAYING THE CPG $1,000 PER MONTH.

8. The Court's determination that Dr. Roemer is liable to pay the CPG $1,000 per month is erroneous as a matter of law and is not supported by the competent evidence.

9. The Court erred by failing to find that because the CPG discharged Dr. Roemer, he did not "leave" employment and therefore was not liable to the CPG for the $1,000 per month payments, even assuming that provision to be an enforceable liquidated damages clause.

10. The competent evidence demonstrated that Dr. Roemer was clearly, permanently and unconditionally discharged from his duties by the CPG on October 7, 2000.

11. The Court further erred by finding that the $1,000 per month provision of the Employment Contract was an enforceable liquidated damages clause instead of an unenforceable penalty provision.

12. The competent evidence demonstrated that the $1,000 per month was a speculative figure set by the CPG bearing no reasonable relationship to foreseeable damages.

13. These grounds were previously asserted by Dr. Roemer as part of his motion for summary judgment and in his Proposed Findings of Fact, Conclusions of Law and Post-Trial Memorandum of Law.

IV. THE COURT ERRED AS A MATTER OF LAW BY FINDING THAT DR. ROEMER BREACHED THE EMPLOYMENT AGREEMENT BY NOT REIMBURSING THE CPG FOR COPYING COSTS.

14. The Court's determination that Dr. Roemer is liable to pay the CPG for copying costs is erroneous as a matter of law and is not supported by the competent evidence.

15. The Court erred by failing to find that because the CPG discharged Dr. Roemer, he did not "leave" employment and therefore was not liable to the CPG for copying costs.

16. The competent evidence demonstrated that Dr. Roemer was clearly, permanently and unconditionally discharged from his duties by the CPG on October 7, 2000.

17. These grounds were previously asserted by Dr. Roemer as part of his motion for summary judgment and in his Proposed Findings of Fact, Conclusions of Law and Post-Trial Memorandum of Law.

18. Dr. Roemer intends to reference the trial testimony with argument in support of each basis for post-trial relief asserted herein. Dr. Roemer therefore requests that a transcript of the testimony be prepared for the Court's consideration in deciding this Motion.

WHEREFORE, plaintiff, Paul B. Roemer, M.D. (hereinafter referred to as "Dr. Roemer"), respectfully requests the Court to reverse its order granting partial judgment to defendant, Clearfield Professional Group, Ltd. (the "CPG"), to the extent that it: 1) requires Dr. Roemer pay the CPG the amounts of the income guarantee payments made by Clearfield Hospital to the CPG under the Group Recruitment Agreement, plus interest; 2) requires Dr. Roemer to make any payments to the CPG under the $1,000 per month provision of the parties' Employment Contract; and, 3) requires Dr. Roemer to repay the CPG for copying costs. Dr. Roemer further requests that judgment be entered in his favor accordingly.

Respectfully submitted,

JUBELIRER, PASS & INTRIERI, P.C.

BY: _____
Jason Mettley, Esquire

Attorney for Paul B. Roemer, M.D.

DATE: 17 December 2004

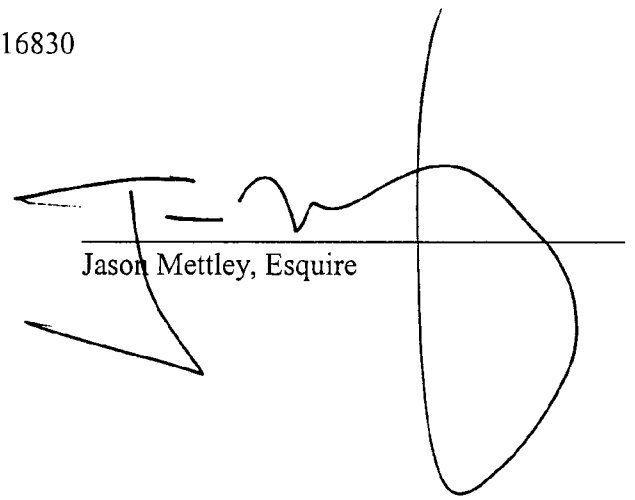
CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the within Motion for Post-Trial Relief Pursuant to Pa. R.C.P. No. 227.1 was served upon counsel for all parties this 17th day of December, 2004, by First Class U.S. Mail, postage prepaid, addressed as follows:

Honorable John K. Reilly, Jr.
Clearfield County
Court of Common Pleas
Clearfield County Courthouse
Clearfield, PA 16830

Carl J. Rychcik, Esquire
Fox, Rothschild, O'Brien & Frankel, LLP
625 Liberty Avenue; 29th Floor
Pittsburgh, PA 15222

John Sughrue, Esquire
23 N. 2nd Street
Clearfield, PA 16830



Jason Mettley, Esquire

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

PAUL BRIAN ROEMER, M.D.,	)	
	)	
Plaintiff	)	Nos. 01-74-CD
	)	01-87-CD
vs.	)	
	)	
CLEARFIELD PROFESSIONAL GROUP, LTD.	)	
	)	
	)	
Defendant	)	JURY TRIAL DEMANDED

ORDER OF COURT

AND NOW, to-wit, this _____ day of _____, 2005, it is hereby ADJUDGED, ORDERED AND DECREED that Plaintiff's Motion for Post-Trial Relief Pursuant to Pa. R.C.P. No. 227.1 is GRANTED, and the Order of December 9, 2004 in this case granting partial judgment to defendant, Clearfield Professional Group, Ltd. (the "CPG"), is REVERSED to the extent that it: 1) requires Dr. Roemer pay the CPG the amounts of the income guarantee payments made by Clearfield Hospital to the CPG under the Group Recruitment Agreement, plus interest; 2) requires Dr. Roemer to make any payments to the CPG under the $1,000 per month provision of the parties' Employment Contract; and, 3) requires Dr. Roemer to repay the CPG for copying costs. Judgment is hereby ENTERED accordingly in Plaintiff's favor.

BY THE COURT:

_____J.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

PAUL BRIAN ROEMER, M.D., Plaintiff/Defendant	:	
VS.	:	NO. 01-74 and 01-87-CD
CLEARFIELD PROFESSIONAL GROUP, LTD., Defendant/Plaintiff	:	

FILED

DEC 09 2004

William A. Shaw
Prothonotary/Clerk of Courts

cert to Atty Stanko & Rychcik Shoemaker Mattern

FINDINGS OF FACT

1. On or about October 26, 1999, Clearfield Hospital and CPG entered into a Group Recruitment Agreement (the "Group Recruitment Agreement") regarding the recruitment of Dr. Paul Brian Roemer ("Dr. Roemer") to the Clearfield area. [N.T. P 106-107, L 22-13]

2. This agreement was an incentive for CPG to hire Dr. Roemer into its medical practice by providing a guarantee from Clearfield Hospital to cover Dr. Roemer's income for the first 12 months of his employment. [N.T. P 150, L 16-22; P 37, L 17-22]

3. Under the Group Recruitment Agreement, Clearfield Hospital specifically agreed to supplement the income generated by Dr. Roemer during the first year of his employment, if necessary, to meet his monthly salary requirements. [N.T. P 91, L 1-5]

4. On or about October 26, 1999, Dr. Roemer entered

#29

into an employment agreement ("the Employment Agreement") with CPG. [N.T. P 27, L 12-18]

5. Under the Employment Agreement, Dr. Roemer was free to terminate his employment and leave CPG at any time following an initial 12-month period, subject to certain payback provisions of the Group Recruitment Agreement, as long as Dr. Roemer provided written notice to CPG 60 days prior to leaving. [N.T. P 126, L 2-8]

6. Under the Employment Agreement, if Dr. Roemer left the Clearfield Hospital service area prior to October 31, 2005, Dr. Roemer was solely responsible to repay all amounts owed to Clearfield Hospital under the Group Recruitment Agreement. [N.T. P 91, L 6-10]

7. The Employment Agreement provided that if Dr. Roemer left CPG at any time, for any reason, and set up a practice within the Clearfield Hospital service area, within three years of the end of his employment, he was to pay CPG $1,000 a month for 24 months. [N.T. P 80, L 12-15]

8. Unde the Employment Agreement, if Dr. Roemer left CPG at any time, for any reason, and practiced within the Clearfield Hospital service area, CPG would provide him with copies of the files for the patients who went with him and Dr. Roemer was required to pay CPG for clerical costs for copying these files. [N.T. P 82, L 7-13]

9. Dr. Roemer decided to leave CPG. On July 13,

2000, Dr. Roemer provided CPG with his written notice of resignation, indicating that, due to differences in professional practices he was resigning, effective November 1, 2000. [N.T. P 43, L 12-25]

10. The date Dr. Roemer chose, November 1, 2000, was the earliest date that Dr. Roemer could leave CPG voluntarily under the Employment Agreement. [N.T. P 126-127, L 24-1]

11. When he decided in July of 2000 to leave CPG, Dr. Roemer realized that, pursuant to the Employment Agreement, if he set up a practice within the Clearfield Hospital service area he would be required to pay CPG $24,000. [N.T. P 62-63, L 25-7]

12. Dr. Roemer knew when he decided in July of 2000 to leave CPG, under the Employment Agreement, if he set up a practice within the Clearfield Hospital service area, he would be required to reimburse CPG for charges CPG incurred for copying patient files to be forwarded to him. [N.T. P 63, L 8-14]

13. Dr. Roemer knew that, when he decided in July of 2000 to leave CPG, if he left the Clearfield Hospital service area, he would be required to repay Clearfield Hospital the amount it had paid on his behalf under the Group Recruitment Agreement. [N.T. P 64, L 15-19]

14. After tendering his resignation in July of

2000, Dr. Roemer made plans to open his own practice within Clearfield, Pennsylvania. [N.T. P 71, L 10-15]

15. Dr. Roemer admitted that it was his plan that when he set up his new practice, he would take with him the patients which CPG had provided to him during his employment. [N.T. P 61, L 19-22]

16. On October 7, 2000, after discovering several hundred patient files in Dr. Roemer's office, Dr. Johnson relieved Dr. Roemer of his clinical duties, asked for Dr. Roemer's key to the building and asked him to leave the building. [N.T. P 132-133, L 12-15; P 135, L 6-12; P 80, L 4-7]

17. Following the events of October 7, 2000, Dr. Roemer decided that he was going to immediately open up his new practice three weeks early and start seeing patients, rather than waiting until November 1, 2000, which he did. [N.T. P 51, L 13-18; P 83, L 5-9]

18. On October 10, 2000, Dr. Johnson wrote to Dr. Roemer indicating to him that he had been relieved of his medical duties for the balance of his employment at CPG and indicated that he remained on CPG's payroll. [N.T. P 144-145, L 1-10]

19. Dr. Roemer received the October 10, 2000, letter from Dr. Johnson [N.T. P 84-85, L 9-8; P 145, L 11-13]

20. CPG was not willing to pay Dr. Roemer through the end of October 2000 and keep him on the CPG payroll while

Dr. Roemer was operating a competing medical practice just blocks down the street from CPG, and diverting CPG patients. [N.T. P 146, L 12-15]

21. Dr. Roemer's employment at CPG effectively ended on October 7, 2000. [N.T. P 175, L 13-15]

22. The decision to effectively end Dr. Roemer's employment three weeks early was made after Dr. Roemer failed to respond to Dr. Johnson's letter of October 10, 2000, and Dr. Roemer continued to operate a competing medical practice down the street from CPG. [N.T. P 175-176, L 21-3]

23. Following October 7, 2000, Dr. Roemer opened up a medical practice in Clearfield, Pennsylvania. [N.T. P 80, L 8-11]

24. Dr. Roemer continued to practice in the Clearfield area until mid-June of 2001. [N.T. P 52, L 2-4]

25. CPG incurred charges in the amount of $1,686 for copying patients' charts to be sent to Dr. Roemer. [N.T. P 190-191, L 12-15]

26. CPG provided Dr. Roemer with a statement of charges incurred by CPG for copying patients' files. Dr. Roemer did not pay CPG for the charges listed. [N.T. P 81-82, L 16-6]

27. Under the Employment Agreement, if Dr. Roemer left CPG and set up a practice within 36 months of separation, Dr. Roemer became obligated to pay CPG liquidated damages of $1,000 per month for 24 months. [N.T. P 148-149, L 18-2]

28. Dr. Roemer agreed that, prior to October 7, 2000, he realized his obligation to pay $24,000 to CPG and fully intended to pay CPG this amount. [N.t> P 80, L 16-20]

29. After October 7, 2000, Dr. Roemer did not pay CPG this amount. [N.T. P 80, L 16-20]

30. CPG's estimate of $1,000 per month was a conservative estimate of what CPG's costs would be from a former employee becoming a competitor in the community. [N.T. P 179-180, L 24-20]

31. Under the Employment Agreement, Dr. Roemer was solely responsible for any repayment owed to Clearfield Hospital under the Group Recruitment Agreement if he left CPG before October 31, 2005. [N.T. P 152, L 2-5]

32. Clearfield Hospital presently considers amounts owed under the Group Recruitment Agreement to be due and owing to Clearfield Hospital. [N.T. P 107-108, L 22-1]

33. From November 1999 to September 2000, CPG received guarantee payments from Clearfield Hospital totaling $48,918.08, pursuant to the Group Recruitment Agreement. [N.T. P 188, L 12-15; P 109, L 4-17]

34. Under the Group Recruitment Agreement, collection figures from CPG were to be provided on a cash basis, not an accrual basis. [N.T. P 116-117, L 25-3]

35. The Group Recruitment Agreement permits Clearfield Hospital to calculate interest on the amounts that

are outstanding. [N.T. P 109, L 21-24]

36. Clearfield Hospital has applied an interest rate at prime plus 1 percent which, at the time calculated, was 7.75 percent, accruing from the date of August 1, 2001. [N.T. P 109-110, L 25-4; P 113, L 11-22]

37. Clearfield Hospital sent Dr. Roemer a letter informing Dr. Roemer of the amount that was owed, the interest rate that had been established, and the repayment terms that were expected as part of the Group Recruitment Agreement. [N.T. P 108, L 2-18]

38. Dr. Roemer has not paid Clearfield Hospital the amount demanded of him. [N.T. P 110, L 5-7; P 92, L 18-20]

39. Clearfield Hospital has made a demand on CPG, as well, for the amount that is outstanding under the Guarantee Agreement for Dr. Roemer. [N.T. P 110, L 8-20]

40. CPG has an agreement with Clearfield Hospital that Clearfield Hospital would not require reimbursement from CPG of funds owed under the Group Recruitment Agreement until the conclusion of the present litigation. [N.T. P 152, L 10-20]

41. Shortly after October 7, 2000, Dr. Roemer contacted CPG's telephone company, Verizon, and instructed them to turn off three telephone numbers which were being used by CPG, but were in Dr. Roemer's name. [N.T. P 86-87, L 21-24]

42. The three telephone numbers that Dr. Roemer had shut off were never paid for by Dr. Roemer, but rather were paid

for by CPG. [N.T. P 193, L 4-7]

43. CPG contacted Dr. Roemer and asked him to release these three telephone numbers, but Dr. Roemer refused. [N.T. P 88, L 12-16]

44. CPG incurred damages in the amount of $231.66 for charges from Verizon to replace the telephone lines that Dr. Roemer had shut off. [N.T. P 195-196, L 19-10]

45. CPG incurred damages in the amount of $545.49 for charges from Companion Technologies for reprinting patients' statements with new telephone numbers on them. [N.T. P 196, L 12-19]

46. CPG incurred damages in the amount of $215.32 for charges from Morefield Communications for the installation of new telephone lines as a result of Dr. Roemer having three of CPG's telephone lines shut off. [N.T. P 197-198, L 10-4]

47. CPG's total damages incurred as a result of Dr. Roemer having three of its telephone numbers shut off by Dr. Roemer was $992.47. [N.T. P 198, L 5-8]

48. Dr. Roemer worked at CPG for approximately 49 weeks out of an initial 52-week contract term. [N.T. P 57-58, L 23-1]

49. By the time Dr. Roemer's employment ended in October of 2000, CPG had already conferred substantial benefits on Dr. Roemer under the Employment Agreement. [N.T. P 154-155, L 15-25]

50. Pursuant to the Employment Agreement, from November of 1999 through October of 2000, CPG provided Dr. Roemer with (i) a salary of approximately $114,000; (ii) billing services; (iii) office space; (iv) nursing personnel; (v) secretarial personnel; (vi) those supplies necessary to practice medicine; (vii) three weeks of paid time off (two weeks vacation, plus one week for continuing medical education); and (viii) health insurance coverage. [N.T. P 58-59, L 9-23; P 189-190, L 18-11]

CONCLUSIONS OF LAW

1. CPG did not materially breach the Employment Agreement.

2. Dr. Roemer received CPG's substantial performance of the Employment Agreement and had an adequate remedy of law available to him for any alleged breach of the Employment Agreement.

3. Dr. Roemer is not entitled to rescission of the Employment Agreement or a finding that he is relieved of his post-employment obligations under the Employment Agreement.

4. CPG did not breach the Employment Agreement.

5. Dr. Roemer breached the Employment Agreement.

6. Dr. Roemer breached the Employment Agreement by setting up a competing medical practice in Clearfield, Pennsylvania, within three years of the end of his employment at

CPG and not paying CPG $1,000 a month.

7. The contractual provision in the Employment Agreement requiring Dr. Roemer to pay CPG $1,000 a month for 24 months if Dr. Roemer opened a competing practice within the Clearfield Hospital service area within three years of the end of his employment with CPG is enforceable under Pennsylvania law.

8. Dr. Roemer breached the Employment Agreement by not paying CPG the charges of $1,686 incurred by CPG for copying records of patients who requested to have their records transferred to Dr. Roemer.

9. Dr. Roemer breached the Employment Agreement by not paying Clearfield Hospital the amounts of the guarantee payments made by Clearfield Hospital to CPG under the Group Recruitment Agreement, plus interest.

10. Dr. Roemer wrongfully misappropriated three telephone lines belonging to CPG.

11. CPG is entitled to an award in its favor and against Dr. Roemer in the amount of $992.47, plus interest, for coss incurred by CPG to replace CPG's telephone lines and billing stationary, as a result of Dr. Roemer's misappropriation of CPG's telephone lines and related breaches.

O P I N I O N

The above two lawsuits arise out of the employment

of Paul B. Roemer, M.D. ("Dr. Roemer") as a physician with Clearfield Professional Group, Ltd. ("CPG"). Dr. Roemer came to Clearfield in the fall of 1999 after being recruited by the Clearfield Hospital. At that time, the hospital and CPG entered into a Group Recruitment Agreement under which the hospital agreed to subsidize Dr. Roemer's monthly salary for the first year of his employment to ensure that, in the event Dr. Roemer did not generate sufficient income in any given month to cover his salary, the hospital would make up the difference. Based on this, CPG entered into an employment agreement with Dr. Roemer commencing at the beginning of November 1999 and to be in effect for one full year. During the latter part of the contract between Dr. Roemer and CPG, problems arose and Dr. Roemer notified CPG that he would be leaving their employ on November 1, 2000. On October 7, 2000, the month before Dr. Roemer was to voluntarily leave CPG's employ, Dr. Richard Johnson, President of CPG, relieved Dr. Roemer of his clinical duties and early the following week Dr. Johnson wrote to Dr. Roemer informing him that, while his medical duties had been suspended, he remained on the CPG payroll. Dr. Roemer elected not to accept this situation but immediately opened a new competing practice in the Clearfield area.

CPG has now commenced suit against Dr. Roemer to 01-87-CD and Dr. Roemer instituted a like suit against CPG to 01-74-CD, each of whom seek to recover alleged damages.

The initial question in each of these lawsuits is whether CPG committed a material breach of the employment agreement on October 7, 2000, when Dr. Roemer was relieved of his clinical duties. This Court is of the opinion that it did not. Initially this Court is of the opinion that, in terminating Dr. Roemer's clinical duties, CPG did not violate the terms and conditions of the employment agreement, in that he was immediately thereafter notified that he would remain on the payroll of CPG even though not performing any medical functions. Nevertheless, even if CPG's conduct constituted a breach of the agreement, said breach could not rise to the level of a material breach.

Nothing in the present situation rises to the level of permitting Dr. Roemer to consider the contract rescinded. The Court notes that he got substantially everything he bargained for under his employment agreement except or three weeks of salary, and he would have received that had he not unilaterally decided to leave CPG and open his own practice. Further, if CPG had indeed breached the contract, Dr. Roemer had an adequate remedy at law in the form of a breach of contract action. To grant a recission of the contract at this point would result in CPG not receiving the benefit of any of Dr. Roemer's contracted-for post-employment obligations and, finally, whether correct or incorrect, CPG reasonably believed it acted in good faith in relieving Dr. Roemer of his duties.

Dr. Roemer was leaving CPG's employ on November 1, 2000, in any event, by his own choice, and the occurrences on October 7, 2000, when Dr. Roemer left CPG three weeks early initially cannot be attributed to the actions of CPG as set forth above and, in any event, does not arise to the level of a material failure of performance by CPG but, at best, would constitute only an immaterial failure and, as such, does not require recission of the agreement. See Sgarlat v. Griffith, 36 A.2d 330 (Pa. 1944).

With this in mind, the Court now turns to the claims of CPG in its complaint against Dr. Roemer. CPG first claims that having supplied Dr. Roemer with copies of the medical records which he requested, he should reimburse CPG for the costs of providing said copies. This issue is specifically addressed in the agreement between the parties wherein CPG was obligated to provide the copies and Dr. Roemer obligated to pay the costs of same (see employment agreement at page 1) and this Court therefore holds in favor of CPG on this issue and awards the sum of $1,686 for copies made.

CPG next claims the sum of $24,000 from Dr. Roemer under the employment agreement wherein Dr. Roemer agreed to pay CPG $1,000 a month for 24 months should he open a competing practice within the service area of the Clearfield Hospital within 36 months of leaving CPG. Dr. Roemer did, indeed, open a competing practice within that time period, but remained in said

practice for only nine months. Dr. Roemer opposes this claim, alleging first that he is released from any of the post employment obligations because CPG materially breached the contract. As discussed above, this Court disagrees and must rule against Dr. Roemer on this issue.

Dr. Roemer next claims that the sum of $1,000 a month does not represent liquidated damages but is, in fact, a penalty and, therefore, unenforceable. The Court notes that a liquidated damages provision is enforceable provided that the sum agreed upon constitutes a reasonable approximation of the expected loss rather than a prohibited penalty. (See Carlos R. Leffler, Inc. v. Hutter, 696 A.2d 157 (Pa.Super. 1997). The Court must consider whether the sum stipulated is reasonably related to the potential harm and the ease or difficulty of measuring a breach in damages. (See Hanrahan v. Audubon Builders, Inc., 614 A.2d 748 (Pa.Super 1992). The record supports the difficulty of determining damages in situations such as this (NT, P 150, L 5-9; P 181, L 9-13) and also that the liquidated damages herein is a reasonable estimate of damages expected (N.T. P 150, L 5-11; P 179-180, L 24-20). Moreover, Dr. Roemer testified that he fully intended to pay CPG the agreed-upon liquidated damages when he opened his new practice (N.T. P 80, L 16-20) and the reason that he has not done so is because he believes CPG materially breached the agreement, thereby releasing him from this

obligation. He does not claim that the amount assessed in any way was a penalty levied against him. Nevertheless, this Court is further of the opinion that the $1,000 a month liquidated damages should only be assessed for that period of time during which Dr. Roemer was, in fact, practicing in competition with CPG in the Clearfield area, which amounted to nine months. The Court is of the opinion that to impose this sum against Dr. Roemer beyond the time during which he was in active competition with CPG would indeed amount to a penalty and therefore will award to CPG, on this claim, the sum of $9,000.

CPG next claims that Dr. Roemer is responsible to reimburse Clearfield Hospital for the guaranteed payments it made to CPG to secure Dr. Roemer's employment, specifically that paragraph on page 1 of the employment agreement which states:

> "Should Dr. Roemer leave before the end of the 'Repayment/Forgiveness period' (10-31-05) it is understood that any payments required to the Hospital will be Dr. Roemer's sole responsibility."

In lieu of this Court's ruling that CPG did not commit a material breach of the employment agreement, Dr. Roemer has no defense to this claim and, therefore, must pay to Clearfield Hospital or reimburse CPG for any payments made to said hospital in the amount of $48,918.08, together with interest at agreed-upon rate.

CPG next claims damages for an alleged breach of loyalty committed by Dr. Roemer. This Court has examined the

transcript in detail and can find no support for this claim and, therefore, will rule in Dr. Roemer's favor thereon.

Finally, CPG claims the sum of $992.47 resulting from Dr. Roemer's improper termination of three telephone lines which CPG had long been using. This Court can find no justification for Dr. Roemer's actions in this regard and does award to CPG the sum of $992.47.

Dr. Roemer, as Plaintiff to 01-74-CD, in Count I, seeks declaratory relief from his obligations under the employment agreement alleging that CPG materially breached the contract. As discussed above, this Court has found no material breach by CPG and, therefore, will rule against Dr. Roemer on this issue.

In Count II, Dr. Roemer seeks compensation for the portion of October 2000 that he did, in fact, work for CPG, specifically the first week thereof. This Court agrees and will award to the doctor a one week's proportionate share of his monthly income in the specific amount of $2,332, plus legal interest thereon.

Wherefore, the Court enters the following

O R D E R

NOW, this 9th day of December, 2004, following hearing and briefs into the above-captioned actions, it is the

ORDER of this Court that partial judgments shall be entered in favor of both parties in accordance with the foregoing Opinion.

BY THE COURT:

John K. Reilly, Jr.
Senior Judge
Specially Presiding

01-74-CD
01-87-CD

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Defendant's Trial Brief was served upon the following individual(s) by first class U.S. Mail this 28 day of September, 2004:

Jason Mettley, Esq.
Jubelirer, Pass & Intrieri, P.C.
219 Fort Pitt Boulevard
Pittsburgh, PA 15222

Carl J. Rychcik

#28

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

PAUL BRIAN ROEMER, M.D.

Plaintiff/Defendant,

vs.

CLEARFIELD PROFESSIONAL, GROUP, LTD.,

Defendant/Plaintiff.

CIVIL DIVISION

NO. 01-74-CD
NO. 01-87-CD

DEFENDANT'S TRIAL BRIEF

Filed on behalf of:
Clearfield Professional Group, Ltd.,
Defendant/Plaintiff

Counsel of Record for this Party:

William L. Stang
PA ID # 33221
Carl J. Rychcik
Pa. ID #73754

FOX ROTHSCHILD LLP
625 Liberty Avenue, 29th Floor
Pittsburgh, PA 15222-3115
(412) 391-1334

01-74-CD
01-87-CD

CA

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Defendant's Proposed Findings of Fact and Conclusions of Law was served upon the following individual(s) by first class U.S. Mail this 28 day of September, 2004:

Jason Mettley, Esq.
Jubelirer, Pass & Intrieri, P.C.
219 Fort Pitt Boulevard
Pittsburgh, PA 15222

Carl J. Rychcik

FILED Orig. to
01:42 BH 01-74-CD
SEP 29 2004

William A. Shaw
Prothonotary/Clerk of Courts

PT1 130669v2 09/27/04

#27

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

PAUL BRIAN ROEMER, M.D.

Plaintiff/Defendant,

vs.

CLEARFIELD PROFESSIONAL, GROUP, LTD.,

Defendant/Plaintiff.

CIVIL DIVISION

NO. 01-74-CD
NO. 01-87-CD

DEFENDANT'S PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW

Filed on behalf of:
Clearfield Professional Group, Ltd.,
Defendant/Plaintiff

Counsel of Record for this Party:

William L. Stang
PA ID # 33221
Carl J. Rychcik
Pa. ID #73754

FOX ROTHSCHILD LLP
625 Liberty Avenue, 29th Floor
Pittsburgh, PA 15222-3115
(412) 391-1334

01-74-CD
01-87-CD

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the within Proposed Findings of Fact, Conclusions of Law and Legal Memorandum of Paul B. Roemer, M.D., was served upon counsel for defendant this 28th day of September, 2004, by first class mail, postage prepaid, addressed as follows:

William L. Stang, Esquire
Carl J. Rychcik, Esquire
Fox, Rothschild, O'Brien & Frankel, LLP
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Jason Mettley, Esquire

FILED Orig. to
03:42 BA 01-74-CS
SEP 29 2004

William A. Shaw
Prothonotary/Clerk of Courts

#26

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

PAUL BRIAN ROEMER, M.D.,	)	
	)	
Plaintiff	)	Nos. 01-74-CD
	)	01-87-CD
vs.	)	
	)	
CLEARFIELD PROFESSIONAL GROUP, LTD.	)	
	)	
	)	
Defendant	)	

PROPOSED FINDINGS OF FACT, CONCLUSIONS OF LAW AND POST-TRIAL MEMORANDUM OF PAUL B. ROEMER, M.D.

Plaintiff, Paul B. Roemer, M.D., (hereinafter "Dr. Roemer"), respectfully submits these Proposed Findings of Fact, Conclusions of Law, and Post Trial Memorandum:

I. PROPOSED FINDINGS OF FACT

1. Paul B. Roemer, M.D. ("Dr. Roemer") obtained a medical degree in 1996 and completed a three-year residency program in 1999. Trial Transcript ("TT"), p. 25.

2. The Clearfield Professional Group ("CPG") is a group medical practice located at 820 Turnpike Avenue in Clearfield, Pennsylvania. TT, p. 28.

3. The CPG services residents of Clearfield County and is primarily associated with the Clearfield Hospital (the "Hospital"). TT, p.28.

4. At all relevant times, Dr. Richard A. Johnson was employed by the CPG and served as the CPG's President, in which capacity Dr. Johnson was responsible for overseeing the business aspects of the group practice including employment issues. TT, p. 123.

IN THE COURT OF COMMON PLEAS

OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

PAUL BRIAN ROEMER, M.D.	:	
-vs-	:	No. 01-74-CD
CLEARFIELD PROFESSIONAL GROUP, LTD.	:	

and

CLEARFIELD PROFESSIONAL GROUP, LTD.	:	
-vs-	:	No. 01-87-CD
PAUL B. ROEMER, M.D.	:	

O R D E R

NOW, this 14th day of July, 2004, following the completion of Civil Non-Jury Trial, it is the ORDER of this Court that counsel for both parties have no more one (1) week following receipt of the transcript in which to supply the Court with findings of fact and conclusions of law. Counsel shall have no more than three (3) days from receipt thereof to supply the Court with reply brief.

BY THE COURT,

/s/ JOHN K. REILLY, JR.

THE HONORABLE JOHN K. REILLY, JR.
Senior Judge, Specially Presiding

824

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01/3:26/04
JUL 15 2004
William A. Shaw
Prothonotary/Clerk of Courts

Attys: Motley, Starg, Rychcik, Sughrue

Orig. signed to 01-74-CD

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

PAUL BRIAN ROEMER, M.D.,	CIVIL DIVISION
Plaintiff/Defendant,	NO. 01-74-CD NO. 01-87-CD
vs.	
CLEARFIELD PROFESSIONAL GROUP, LTD.,	**NOTICE TO ATTEND**
Defendant/Plaintiff.	Filed on behalf of Clearfield Professional Group, Ltd., Defendant/Plaintiff

Counsel of Record for this Party:

William L. Stang
Pa. ID # 33221
Carl J. Rychcik
Pa. ID # 73754

FOX ROTHSCHILD LLP
625 Liberty Avenue, 29th Floor
Pittsburgh, PA 15222-3115
(412) 391-1334

#23

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

PAUL BRIAN ROEMER, M.D.,

Plaintiff/Defendant,

vs.

CLEARFIELD PROFESSIONAL GROUP, LTD.,

Defendant/Plaintiff.

CIVIL DIVISION

NO. 01-74-CD
NO. 01-87-CD

NOTICE TO ATTEND

TO: Paul Brian Roemer, M.D.
c/o Jason Mettley, Esq.
Jubelirer, Pass & Intrieri, P.C.
219 Fort Pitt Boulevard
Pittsburgh, PA 15222

1. You are directed to come to Courtroom No. 2 at the Clearfield County Courthouse, Clearfield, Pennsylvania on Wednesday, July 14, 2004 and Thursday, July 15, 2004 starting at 9:00 a.m. each day to testify on behalf of Defendant/Plaintiff Clearfield Professional Group, Ltd. in the above case, and to remain until excused.

2. You are also directed to bring with you the following: (i) complete copies of all lease agreements for professional office space executed by you subsequent to your notice of resignation from Clearfield Professional Group, Ltd. on or about July 13, 2000; (ii) complete copies of all documents relating to any telephone system and/or telephone services for your private medical practice for the period from July 1, 2000 through December 31, 2000; and (iii) copies of all documents relating to any advertisements of your private medical practice for the period from July 1, 2000 through December 31, 2000.

If you fail to attend or to produce the documents or things required by this notice to attend, you may be subject to the sanctions authorized by Rule 234.5 of the Pennsylvania Rules of Civil Procedure.

Respectfully submitted,

By: _____

William L. Stang
Pa. ID # 33221
Carl J. Rychcik
Pa. ID # 73754
FOX ROTHSCHILD LLP
625 Liberty Avenue, 29th Floor
Pittsburgh, PA 15222
412-391-1334

Counsel for Defendant/Plaintiff
Clearfield Professional Group, Ltd.,

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Notice to Attend was served upon the following individual(s) by facsimile and first class U.S. Mail this 23 day of June 2004:

Jason Mettley, Esq.
Jubelirer, Pass & Intrieri, P.C.
219 Fort Pitt Boulevard
Pittsburgh, PA 15222

Carl J. Rychcik

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

PAUL BRIAN ROEMER, M.D.,	)	CIVIL DIVISION
	)	
Plaintiff/Defendant	)	No. 01-74-CD
	)	No. 01-87-CD
vs.	)	
	)	
CLEARFIELD PROFESSIONAL GROUP, LTD.	)	
	)	
Defendant/Plaintiff	)	

ANSWER TO AMENDMENT TO COMPLAINT

AND NOW COMES the defendant, Paul B. Roemer, M.D., ("Dr. Roemer") by and through his attorneys, Jason Mettley, Esquire, and Jubelirer, Pass & Intrieri, P.C., for answer to the Amendment to Complaint filed by the Clearfield Professional Group, Ltd. herein, and says:

COUNT V

BREACH OF CONTRACT

49. Denied. The allegation in Paragraph 49 is a statement of incorporation to which no response is required.

50. Admitted in part, denied in part. Dr. Roemer admits there is a Group Recruitment Agreement between the Clearfield Hospital and the Clearfield Professional Group, Ltd. containing provisions relating to Dr. Roemer's salary while employed by the Clearfield Professional Group, Ltd. The remaining allegations in Paragraph 50 refer to the terms of the Group Recruitment Agreement, a written document that speaks for itself. These allegations are thus denied and strict proof is demanded. Dr. Roemer further denies that the document attached

to the Amendment to Complaint as Exhibit 3 is a true and correct copy of the Group Recruitment Agreement.

51. Denied. The allegations in Paragraph 51 refer to the terms of the Group Recruitment Agreement, a written document that speaks for itself. These allegations are thus denied and strict proof is demanded.

52. Denied. The allegations in Paragraph 52 refer to the terms of the Group Recruitment Agreement, a written document that speaks for itself. These allegations are thus denied and strict proof is demanded.

53. Denied. The allegations in Paragraph 53 refer to the terms of the parties' Employment Contract, a written document that speaks for itself. These allegations are thus denied and strict proof is demanded.

54. Denied. Dr. Roemer denies having sufficient knowledge or information to form a belief as to the allegations contained in Paragraph 54. Strict proof is demanded.

55. Admitted in part, denied in part. Dr. Roemer denies having sufficient knowledge or information to form a belief as to the allegations contained in Paragraph 55, except it is admitted that Dr. Roemer has not paid any amount to indemnify the Clearfield Professional Group, Ltd. for income guarantee payments allegedly made by the Clearfield Hospital. Strict proof is demanded.

56. Denied. The allegations in Paragraph 56 are conclusions of law to which no response is required and, therefore, for purposes of pleading, said allegations are denied.

WHEREFORE, defendant, Paul B. Roemer, M.D., hereby demands judgment in his favor and against plaintiff with costs and attorney's fees to be awarded to defendant.

Respectfully submitted,

JUBELIRER, PASS & INTRIERI, P.C.

BY: _____
Jason Mettley, Esquire
Pa I.D. #81966

219 Fort Pitt Boulevard
Pittsburgh, Pennsylvania 15222
(412) 281-3850

Attorney for Defendant,
Paul B. Roemer, M.D.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the within Answer to Amendment to Complaint was served upon counsel for defendant this 12th day of May, 2004, by first class mail, postage prepaid, addressed as follows:

William L. Stang, Esquire
Carl J. Rychcik, Esquire
Fox, Rothschild, O'Brien & Frankel, LLP
625 Liberty Avenue; 29th Floor
Pittsburgh, PA 15222

John Sughrue, Esquire
23 N. 2nd Street
Clearfield, PA 16830

_____
Jason Mettley, Esquire

VERIFICATION

I, Paul Brian Roemer, M.D., state that I am the Plaintiff in the aforementioned action, and that the facts set forth in the foregoing Answer to Amendment to Complaint are true and correct based upon my personal knowledge or upon my information and belief; and I make this statement subject to the penalties of 18 Pa.C.S.A. § 4904, relating to unsworn falsification to authorities.

DATED: 5/11/04

Paul B. Roemer

Paul Brian Roemer, M.D.
Plaintiff

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

CLEARFIELD PROFESSIONAL GROUP, LTD.	:	
vs.	:	No. 01 – 87 – C.D.
PAUL B. ROEMER, M.D.	:	

ORDER

AND NOW, this 26 day of April, 2004, it is the ORDER of the Court that Civil Non-Jury Trial in the above matter has been scheduled for **Wednesday, July 14, 2004 and Thursday, July 15, 2004 at 9:00 A.M**, each day, before the Honorable John K. Reilly, Jr., Senior Judge, Specially Presiding, in Courtroom No. 2, Clearfield County Courthouse, Clearfield, PA.

BY THE COURT:

FREDRIC J. AMMERMAN
President Judge

FILED

APR 27 2004

William A. Shaw
Prothonotary/Clerk of Courts

FILED
01:50BH
APR 27 2004

William A. Shaw
Prothonotary/Clerk of Courts

1 CC Attys: Mettley, Rychcik, Saghrae

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

PAUL BRIAN ROEMER, M.D. :

VS. : NO. 01-87-CD

CLEARFIELD PROFESSIONAL :

GROUP, LTD. :

O R D E R

NOW, this 24th day of March, 2004, upon consideration of Petition for Permission to File Amendment to Complaint filed on behalf of Clearfield Professional Group, Ltd., and argument thereon, it is the ORDER of this Court that said Petition be and is hereby granted and Clearfield Professional Group, Ltd., directed to file said amended complaint forthwith.

BY THE COURT,

John K. Reilly, Jr.
Senior Judge
Specially Presiding

FILED

MAR 24 2004

William A. Shaw
Prothonotary/Clerk of Courts

#19

FILED

MAR 24 2004
03:30 pc
William A. Shaw
Prothonotary/Clerk of Courts

Copy to Atty's
Mentzer
Stang
&
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IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION-LAW

PAUL BRIAN ROEMER, M.D., Plaintiff/Defendant	)	
	)	NO. 01-74-CD
vs.	)	
	)	NO. 01-87-CD
CLEARFIELD PROFESSIONAL GROUP, LTD., Defendant/Plaintiff	)	

PRAECIPE FOR APPEARANCE

TO WILLIAM A. SHAW, PROTHONOTARY.

Kindly enter my appearance on behalf of Clearfield Profession Group, LTD, Plaintiff, as **Co-Counsel** with William L. Stang, Esq., and Cark J. Rychcik, Esq., of Fox – Rothschild whose appearance was previously entered in the above-captioned matter. Please include the undersigned in the service of all orders, pleadings and matters concerning the foregoing.

Date: March 16, 2004

John Sughrue, Esquire
Attorney for Defendant/Plaintiff
Attorney I. D. #01037
23 North Second Street
Clearfield, PA 16830
Phone:(814) 765-1704
Fax: (814) 765-6959

#18

CERTIFICATE OF SERVICE

AND NOW, I do hereby certify that on March 16, 2004, I caused a true and correct copy of Affidavit of Service to be served on the following and in the manner indicated below:

By United States Mail, First Class, Postage Prepaid
Addressed as Follows:

Mr. Jason Mettley, Esq.
JUBELIRER, PASS & INTRIERI, P.C.
219 Fort Pitt Boulevard
Pittsburgh, PA 15222

Mr. William L. Stang, Esq.
Mr. Carl Rychcik, Esq.
FOX,ROTHSCHILD
625 Liberty Blvd., 29th Floor
Pittsburgh, PA 15222

By Personal Service/Hand Delivery

Dave Meholick, Court Administrator
CLEARFIELD COUNTY COURTHOUSE
1 N. 2nd Street
Clearfield, PA 16830

Honorable John K. Reilly, Judge
CLEARFIELD COUNTY COURTHOUSE
1 N. 2nd Street
Clearfield, PA 16830

Date: March 16, 2004

John Sughrue, Esquire
Attorney for Defendant/Plaintiff
Clearfield Professional Group, LTD

FILED 3cc
01 3:00 Atty Sughrue
MAR 16 2004

William A. Shaw
Prothonotary/Clerk of Courts

CA

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

PAUL BRIAN ROEMER, M.D.	:	
	:	
vs.	:	No. 01-74-CD
	:	No. 01-87-CD
CLEARFIELD PROFESSIONAL GROUP, LTD.	:	

ORDER

AND NOW, this 10th day of March, 2004, it is the ORDER of the Court that argument on Attorney Stang's Petition for Permission to File Amendment to Complaint in the above matter has been scheduled for **Wednesday, March 24, 2004 at 10:00 A.M.**, before the Honorable John K. Reilly, Jr., Senior Judge, Specially Presiding, in Courtroom No. 2, Clearfield County Courthouse, Clearfield, PA.

BY THE COURT:

Judge J Ammerman

FREDRIC J. AMMERMAN
President Judge

#17

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CLEARFIELD PROFESSIONAL GROUP, LTD.,

Plaintiff,

vs.

PAUL BRIAN ROEMER, M.D.

Defendant.

CIVIL DIVISION

NO. 01-74-CD
NO. 01-87-CD

AMENDMENT TO COMPLAINT

Filed on behalf of
Clearfield Professional Group, Ltd.

Counsel of Record for this Party:

William L. Stang
PA ID # 33221

Carl J. Rychcik
PA ID # 73754

FOX ROTHSCHILD LLP
625 Liberty Avenue, 29th Floor
Pittsburgh, PA 15222-3115
(412) 391-1334

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IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CLEARFIELD PROFESSIONAL GROUP, LTD.,	CIVIL DIVISION
Plaintiff,	NO. 01-74-CD NO. 01-87-CD
vs.	
PAUL BRIAN ROEMER, M.D.	
Defendant.	

AMENDMENT TO COMPLAINT

Plaintiff, Clearfield Professional Group, Ltd., by its attorneys, Fox Rothschild LLP, files the following Amendment to Complaint against Defendant, Paul B. Roemer, M.D. pursuant to Rule 1033 of the Pennsylvania Rules of Civil Procedure.

COUNT V
BREACH OF CONTRACT

49. Paragraphs 1 through 48 of Clearfield Professional Group's Complaint against Paul B. Roemer, M.D. at Case No. 01-87-CD, are incorporated herein as though set forth at length.

50. Clearfield Hospital and Clearfield Professional Group entered into a Group Recruitment Agreement wherein Clearfield Hospital guaranteed that, for the first twelve months of Dr. Roemer's employment with Clearfield Professional Group, Clearfield Hospital would subsidize Dr. Roemer's annual salary of $125,000.00 (A copy of the Group Recruitment Agreement is attached hereto as Exhibit 3).

51. Under the Group Recruitment Agreement, Clearfield Professional Group is responsible to repay Clearfield Hospital for the guaranteed payments made to Clearfield Professional Group during Dr. Roemer's initial twelve-month period of employment.

52. In the event Dr. Roemer remained with Clearfield Professional Group for a five-year period through October 30, 2005, Clearfield Professional Group's repayment obligation under the Group Recruitment Agreement would be forgiven.

53. Pursuant to the terms of the Employment Contract, Dr. Roemer agreed to indemnify Clearfield Professional Group for the repayment obligation to Clearfield Hospital in the event Dr. Roemer left Clearfield Professional Group before the end of the five-year period.

54. On September 19, 2003, Clearfield Hospital requested that Clearfield Professional Group repay the income guarantee provided by Clearfield Hospital in the amount of $55,844.11 for principal and interest owed. (A copy of the September 19, 2003 letter from Richard D. Stockley to Dr. Richard A. Johnson is attached hereto as Exhibit 4).

55. Clearfield Professional Group has demanded payment of the $55,844.11 from Dr. Roemer, in accordance with the terms of the Employment Contract, but Dr. Roemer has refused, without justification, to pay any sums to Clearfield Professional Group.

56. Dr. Roemer's failure to indemnify Clearfield Professional Group for the $55,844.11 owed to Clearfield Hospital is a material breach of the terms of his Employment Contract.

WHEREFORE, Clearfield Professional Group demands judgment against Paul B. Roemer in an amount in excess of $20,000.00 plus costs and interest.

Respectfully submitted,

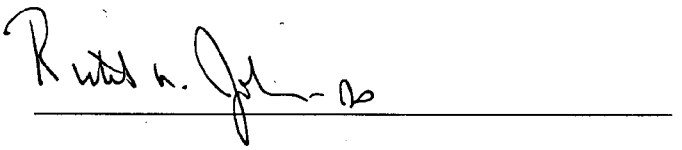
DATED: March 25, 2004

William L. Stang
PA I.D. # 33221
Carl J. Rychcik
PA I.D. # 73754
FOX ROTHSCHILD LLP
625 Liberty Avenue, 29th Floor
Pittsburgh, PA 15222-3115
(412) 391-1334
Counsel for Defendant,
Clearfield Professional Group, Ltd.

VERIFICATION

I verify that the statements made herein are true and correct to the best of my knowledge, information and belief. I understand that the statements made herein are made subject to the penalties of 18 Pa. C.S. Section 4904, relating to unsworn falsification to authorities.

CLEARFIELD PROFESSIONAL GROUP, LTD.



GROUP RECRUITMENT AGREEMENT

BY AND BETWEEN

CLEARFIELD HOSPITAL, a nonprofit corporation, organized under the laws of Pennsylvania (hereinafter called "the Hospital")

A

N

D

CLEARFIELD PROFESSIONAL GROUP, LTD., a professional corporation organized under the laws of the Commonwealth of Pennsylvania (hereinafter called "the Group")

WITNESSETH:

WHEREAS, the Hospital is organized for the charitable purpose of the promotion of health; and

WHEREAS, in furtherance of this purpose, the Hospital desires to encourage physicians in needed specialties to establish their practices in the community primarily served by it ("the Service Area"); and

WHEREAS, the Hospital has determined that there is a need for the services of certain medical specialties in the Service Area including Internal Medicine; and

WHEREAS, **PAUL B. ROEMER, MD** is licensed to practice medicine in the Commonwealth of Pennsylvania and has not previously practiced in the Service Area or been affiliated with another hospital in the Service Area; and

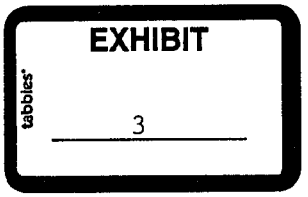
WHEREAS, Dr. Roemer desires to specialize in the practice of Internal Medicine in the Service Area; and

WHEREAS, the Hospital has determined that it is in the best interests of the people in said Service Area to provide an income guarantee and other financial incentives sufficient to induce the Dr. Roemer to relocate to the Service Area and permit Dr. Roemer to establish a full-time practice of Internal Medicine in the Service Area; and

WHEREAS, Dr. Roemer intends to practice as an employee of the Group; and

WHEREAS, the Hospital has also determined that if Dr. Roemer chooses to practice with the Group, as opposed to practicing on a solo basis, the Hospital will be better able to achieve its goal of promoting the health of the people in the Service Area by virtue of the cross-coverage and internal peer review that are inherent in group practice.

NOW THEREFORE, in consideration of the mutual covenants and conditions hereinafter contained, and intending to be legally bound hereby, the parties hereto agree as follows:



Section 1. Definitions

For purposes of this Agreement:

(a) "Net Practice Income" shall mean all fees collected by the Group on a cash basis for all medical services rendered by Dr. Roemer in the course of his practice during the Guarantee Period, whether billed under the Dr. Roemer's name or not, less Office Expenses of forty percent (40%) of gross cash receipts.

(b) "Starting Date" shall mean on or about November 1, 1999, provided that the following has occurred: (i) Dr. Roemer has been appointed to the Hospital's active medical staff; (ii) Dr. Roemer has submitted an application for provider numbers and the Group's office has been staffed, equipped and open to see patients; and (iii) at least one advertisement has been run in the local newspaper announcing that Dr. Roemer's office is open and he is accepting patients.

(c) "Guarantee Period" shall mean the 12 month period commencing on the Starting Date and continuing for a period of 12 months until October 31, 2000.

(d) "Repayment/Forgiveness Period" shall mean the period commencing on November 1, 2000 and continuing for a period of five years until October 31, 2005.

(e) "Equipment" shall mean (i) standard equipment needed in the office such as files, typewriters, duplicating equipment, desks, chairs, etc., and (ii) medical equipment reasonably sufficient for the practice of Dr. Roemer's specialty.

(f) The "Equipment", both medical and office, required for Dr. Roemer to practice medicine is already owned by the Group. It is anticipated that no new equipment will be needed.

(g) "Office Expenses" shall be accepted as forty percent (40%) of gross cash receipts and shall cover all of the usual expenses of practicing medicine during the guarantee period except malpractice insurance and the cost of books, journals, and continuing medical education.

(h) "Service Area" shall mean primary and secondary areas of patients serviced by the Hospital as determined in maps.

Section 2. Financial Guarantee

The Hospital guarantees to the Group that the Group will, during each month of the one-year Guarantee Period, receive Net Practice Income for Dr. Roemer of Ten Thousand Four Hundred, Sixteen Dollars and Sixty-Seven Cents ($10,416.67) [$125,000.00 annually] (the "Guarantee"). For each calendar month, beginning with the month in which the Starting Date occurs, that Net Practice Income for such month is less than the Guarantee, the Hospital shall advance to the Group the difference between the Guarantee and the amount of Net Practice Income received by the Group for Dr. Roemer during that month. The Group and Dr. Roemer shall make all the financial information deemed necessary by the Hospital to make such calculation available to the Hospital as soon as possible after the end of each month

during the Guarantee Period. The Hospital agrees to make any required advance within 15 days of receipt of such information.

Section 3. Signing Bonus

In addition to the Guarantee, the Hospital shall directly award Dr. Roemer a sign-on bonus of Six Thousand and Two Hundred Dollars ($6,200.00) due and payable immediately upon signing of this Agreement.

Section 4. Educational Loan Forgiveness

The Hospital shall directly award Dr. Roemer with educational loan forgiveness in the amount of Ten Thousand Dollars ($10,000.00) per year for ten (10) years. Payment will be awarded at the end of each one-year of service to the Clearfield area providing the Dr. Roemer produces receipt for same. Payment will be made within thirty (30) days after the end of each one-year period of practice within the Clearfield Service Area. Dr. Roemer shall not use these funds for any purpose other than to retire his educational loan obligations. If Dr. Roemer were to join with a competing healthcare facility or group during this ten-year period, then the Hospital has the right to repayment of all monies paid under this Section and all other features of this Agreement automatically terminate. If Dr. Roemer ceases to be an active member of Clearfield Hospital's Medical Staff for any reason, then all future payments are terminated.

Section 5. Financial Obligation of the Physician

(a) If, in any month during the Guarantee Period, Net Practice Income exceeds the Guarantee, the Hospital will make no payment to the Group.

(b) During the Guarantee Period, the Group and Dr. Roemer will make a good faith effort to collect all accounts receivable, and hereby grants to the Hospital a security interest in said accounts receivable in an amount equal to the unrepaid balance of the amounts advanced to the Group under the Guarantee. Dr. Roemer shall execute such documents as the Hospital determines may be necessary to perfect that security interest.

(c) The Group shall execute a Promissory Note at the end of the Guarantee Period evidencing the obligation to repay any amounts advanced under the Guarantee that have not been repaid as of the expiration or termination of the Guarantee Period. Provided, however, that for each month during the Repayment/Forgiveness Period that Dr. Roemer maintains a full-time practice in the Service Area and continues to fulfill the Community Service Obligations set forth in the Agreement, the Hospital shall forgive the amount owed to it in the next monthly installment due under the Promissory Note and each month release Dr. Roemer and the Group from any repayment obligation for that installment. If Dr. Roemer ceases to comply with any provision of this Agreement prior to the end of the Repayment/Forgiveness Period, the remaining payments still due and owing to the Hospital shall not be forgiven and shall be repaid in accordance with Section 5(d).

(d) The terms of the Promissory Note shall include language as follows:
For value received, and intending to be legally bound, the Group promises to pay to the order of the Hospital the principal sum equal to the total amount advanced to the Group by the Hospital but not repaid to the Hospital pursuant to the Agreement between the Group and the Hospital, the Starting Day of which is November 1, 2000, plus all interest due thereon, as said amount is reflected on the books of the Hospital. The Hospital shall give written notice to the Group of the amount so owed as of the date of expiration or termination of the Guarantee Period. Terms used in the Note shall have the same meanings as set forth in this Agreement. Principal and interest shall be paid in sixty (60) equal monthly installments beginning on the first day of the Repayment/Forgiveness Period and on the first day of each subsequent month thereafter, subject to forgiveness provisions contained in this Agreement. Interest shall begin to accrue on November 1, 2000. The rate of said interest shall be the prime interest rate plus one percentage point (1%) as reported in the last edition of the Wall Street Journal published and shall remain at said rate for the term of the Promissory Note. Said interest shall be due and payable along with the principal. A schedule of installment payments actually due shall be prepared by the Hospital and transmitted to the Group on or before the date that the first payment is due. After maturity, interest shall accrue at the interest rate specified above until all sums due hereunder are paid. So long as the Hospital is the holder hereof, the Hospital's book and records shall evidence at all times all amounts outstanding under the Note and the date and amount of each advance and payment made pursuant hereto. This prompt and faithful performance of all of the Group's obligations hereunder, including, without limitation, time of payment, shall be of the essence of the Promissory Note.

(e) The Group hereby warrants that neither the Group nor Dr. Roemer has ever declared bankruptcy. Dr. Roemer and the Group shall not use this Agreement or the amounts due hereunder as collateral for any other debt, loan or obligation without the prior written consent of the Hospital. Creditors of Dr. Roemer and the Group shall not have recourse against the Hospital with respect to any debt, loan or obligation of Dr. Roemer or the Group.

(f) The financial terms of this Agreement, including the amounts of any and all advances and reimbursements to the Group, shall be strictly confidential. The Group and Dr. Roemer shall not discuss the financial terms of this Agreement with or otherwise disclose or communicate its contents to any person or entity other than their attorneys, financial advisors or accountants without the express written consent of the Hospital, unless compelled by subpoena or other legal process.

Section 6. Relocation Expenses

Dr. Roemer shall be responsible for his own relocation expenses.

Section 7. Professional Liability Insurance

During the guarantee period, the Hospital shall provide Dr. Roemer with professional liability insurance with tail coverage with basic limits in the amounts of $900,000/$300,000 with excess coverage in at least the limits available through the Pennsylvania Catastrophe Fund, but otherwise as required of all members of the Hospital's Medical Staff. The Group or Dr. Roemer shall be responsible for insurance after the guarantee period.

Section 8. Reporting of Payments

The Hospital shall report to the Internal Revenue Service and to such state and local taxing authorities as may be applicable, any income realized by the Physician pursuant to this Agreement as required by law, pursuant to IRS Form 1099 or similar forms used for such purposes.

Section 9. No Requirement to Make Referrals

(a) There is no requirement that Dr. Roemer or the Group make referrals to, be in a position to make referrals to, or otherwise generate business for the Hospital as a condition of receiving the benefits hereunder.

(b) The Group shall not restrict or prohibit from establishing staff privileges at, referring any service to, or otherwise generating any business for any entity besides the Hospital of Dr. Roemer's choosing.

(c) The amount or value of the recruitment benefits provided by the Hospital hereunder shall not vary (or be adjusted or renegotiated) based on the volume or value of any expected referrals to, or business otherwise generated for, the Hospital or its affiliates.

Section 10. Community Service Obligations of the Physician

In order to carry out the purpose of this Agreement, which is to make needed medical services more readily available to the people within the Service Area, the Group shall require Dr. Roemer to comply with the following Community Service Obligations:

(a) Dr. Roemer shall:

(i) Meet and continue to meet the criteria for active medical staff appointment as set forth in the Hospital's Medical Staff Bylaws;

(ii) Apply for and maintain clinical privileges to practice Internal Medicine commensurate with the procedures that he shall be performing at the Hospital

(iii) Comply with the Bylaws, Rules and Regulations, Policies and Procedures of the Hospital and its medical staff;

(iv) Exercise that standard of skill, diligence, and regularity as generally applicable to the practice of Internal Medicine in the Service Area;

(v) Obtain and/or maintain a license to practice medicine in Pennsylvania and current unrestricted narcotics registration from the DEA; and

(vi) Obtain and/or maintain board certification in Internal Medicine.

In the event that Dr. Roemer fails to meet any of the above requirements, this Agreement shall automatically terminate.

(b) The Group is an independent contractor and shall conduct its independent practice of Internal Medicine in the Service Area. However, in order to fulfill the community need for which Dr. Roemer was recruited to the Service Area, during the Term of this Agreement the Group shall require Dr. Roemer to provide patient services within the Service Area of the Hospital on a full-time (40 hour-per-week) basis. The Group will also limit Dr. Roemer's vacation and educational leave time to two weeks of vacation time annually and one week of continuing medical education time.

(c) In order to assure adequate access to care by patients in the Hospital's Service Area, Dr. Roemer shall execute such agreements as may be necessary to become, and shall remain, a participating provider in the federal Medicare program, the Pennsylvania Medicaid program. Dr. Roemer shall also participate in the Hospital's call roster and shall treat any patients referred or assigned pursuant to the Hospital's Emergency Department or service on-call rosters, regardless of the insurance status of such patients or their ability to pay. In the event that Dr. Roemer's participation in Medicare or Medicaid terminates for any reason or he is otherwise excluded or precluded from participation in either of those programs, this Agreement shall automatically terminate.

Section 11. Independent Contractor

In the performance of all obligations hereunder, the Group and Dr. Roemer shall be deemed to be independent contractors and not employees of the Hospital and the Hospital shall not withhold, or in any way be responsible for, the payment of any federal, state or any local income or wage taxes, F.I.C.A. taxes, unemployment compensation, or workers' compensation contributions, vacation pay, sick leave, retirement benefits, or any other payments for or on their behalf. The Group shall indemnify and hold the Hospital harmless from any and all loss or liability arising with respect to such payments, withholdings, and benefits.

Section 12. Billing for Professional Services

(a) Billing for professional services rendered by Dr. Roemer shall be the responsibility of the Group.

(b) During the Guarantee Period and period of forgiveness thereafter, the Hospital reserves the right to retain its own accountant to verify the billings, receipts, revenues and expenses attributable to Dr. Roemer's practice and such other information necessary to effectuate the terms of this Agreement, and Dr. Roemer and the Group shall permit the Hospital and its designated accountant to have access to this information.

Section 13. Termination

(a) This Agreement shall expire at the end of the Term of this Agreement, provided, however, Dr. Roemer's obligations described in Section 5 of this Agreement shall not be affected by the termination or expiration of this Agreement.

(b) The Hospital and the Group shall each have the right to terminate this Agreement by giving written notice to the other party of material breach of any term(s) of this Agreement (effective on the date stated in the notice which must be at least 45 days after its receipt by the party in material breach) if the party in material breach fails to cure the material breach(es) prior to the termination date stated in said notice.

(c) In the event that (I) the Hospital terminates this Agreement due to material breach by the Group or Dr. Roemer, (ii) the Group or Dr. Roemer terminates this Agreement for a reason other than those specified in Section 10(a), 10(b), or 10(c) the Agreement automatically terminates, then the entire amount advanced pursuant to Section 2 of this Agreement, plus all applicable interest, less any repayments made by the Group, less any forgiveness prior to the effective date of said termination, shall be repaid to the Hospital by the Group in accordance with Section 5 (c) and (d).

(d) In the event of Dr. Roemer's death, disability, or any other circumstance that prevents Dr. Roemer from practicing medicine full-time, the Agreement shall automatically terminate.

(e) In the event:

(i) of the termination of this Agreement pursuant to this Section;
(ii) of the termination of this Agreement due to the Hospital's material breach of this Agreement; or
(iii) the Group or Dr. Roemer cannot perform the covenants of this Agreement due to unforeseen circumstances beyond the Group's or Dr. Roemer's control, as judged solely by the Hospital,

The Group shall repay the entire amount advanced pursuant to Section 2 of this Agreement, plus all applicable interest, less any repayments made by the Group, less any forgiveness prior to the effective date of said termination pursuant to Section 5 (c).

(f) This Agreement and all of its terms and conditions shall terminate automatically in the event the Group repays all of the advances made by the Hospital pursuant to Section 2 of this Agreement, plus any applicable interest.

Section 14. Compliance with Law

(a) The parties shall comply with all applicable statutes, rules, regulations and standards of any and all governmental authorities and regulatory and accreditation bodies.

(b) The forgiveness provisions and other benefits provided hereunder shall only be effective to the extent not prohibited by law and to the extent they do not adversely affect the Hospital's tax-exempt status

(c) In the event the Hospital determines that this Agreement is illegal or inconsistent with the Hospital's tax-exempt status, the forgiveness provision shall have no force and effect and the full amount of the outstanding balance shall be repaid to the Hospital in accordance with Section 5 (c).

Section 15. Jurisdiction

This Agreement shall be construed and enforced under, and in accordance with, the laws of Pennsylvania.

Section 16. Assignment

This Agreement may not be assigned by either party, without the express written consent of the other.

Section 17. Amendments

This Agreement may be amended at any time by mutual agreement of the parties, provided that before any amendment shall be operative or valid it shall have been reduced to writing and signed by both parties.

Section 18. Medicare Access to Books and Records

In the event, and only in the event, that Section 952 of P.L. 96-499 (42 U.S.C. Section 1395x(v)(1)(1)) is applicable to this Agreement, the Group agrees as follows:

(a) Until the expiration of four years after the furnishing of such services pursuant to this Agreement, the Group shall make available, upon written request from the Secretary of the federal Department of Health and Human Services or upon request from the Comptroller General of the United States, or any of their duly authorized representatives, this Agreement, any of the Group's books, documents and records that are necessary to certify the nature and extent of the cost of services provided pursuant to this Agreement; and

(b) If the Group carries out any of the duties of this Agreement through a subcontract, with a value or cost of $10,000 or more over a twelve-month period, with a related organization, such subcontract shall contain a clause to the effect that until the expiration of four years after the furnishing of such services pursuant to such subcontract, the related organization shall make available, upon written request of the Secretary of the federal Department of Health and Human Services or upon request of the Comptroller General of the United States, or any of their duly authorized representatives, the subcontract, any books, documents and records of such organization that are necessary to verify the nature and extent of the cost of services provided pursuant to said subcontract.

Section 19. Medical Record Documentation

Every practitioner on the Medical Staff of Clearfield Hospital is responsible for completion of all of his/her medical record documentation prior to leaving the Medical Staff with the exclusion of an emergency situation. Failure to do so is considered a direct violation of the Medical Staff Bylaws of Clearfield Hospital, which is reportable to the National Practitioners Data Bank.

Section 20. Strict Performance

No failure by either party to insist upon the strict performance of any covenant, agreement, term or condition of this Agreement or to exercise a right or remedy shall constitute a waiver. No waiver of any breach shall affect or alter this Agreement, but each and every covenant, condition, agreement and Term of this Agreement shall continue in full force and effect with respect to any other existing or subsequent breach.

Section 21. Entire Agreement

There are no other agreements or understandings, either oral or written, between the parties affecting this Agreement, except as otherwise specifically provided for or referred to herein. This Agreement cancels and supersedes all previous agreements between the parties relating to the subject matter covered by this Agreement.

Clearfield Hospital

September 19, 2003

Dr. Richard A. Johnson, D.O.
Clearfield Professional Group, Ltd.
820 Turnpike Avenue
Clearfield, PA 16830

Re: Dr. Paul Roemer's Income Guarantee

Dear Dr. Johnson:

Clearfield Hospital entered into a Group Recruitment Agreement with the Clearfield Professional Group, Ltd. dated October 26, 1999. We provided assistance to your group, through an income guarantee, in the recruitment of Dr. Paul Roemer. The amount of the income guarantee to Dr. Roemer was $48,918.08. As stated in Section 5(c), if Dr. Roemer ceases to comply with any provision of the Agreement prior to the end of the Repayment/Forgiveness Period, the remaining payments still due and owing to the Hospital shall not be forgiven and shall be repaid in accordance with Section 5(d). Since Dr. Roemer did not maintain his practice in the Clearfield area after the end of the Guarantee Period, the amount of the income guarantee is to be repaid to Clearfield Hospital. To date we have not received any payments on this outstanding balance.

The total amount of principal and interest outstanding as of October 1, 2003 is $55,844.11. Please contact me to arrange repayment of this outstanding obligation.

Sincerely,

Richard D. Stockley
Chief Financial Officer

CC: Kent C. Hess, President and CEO

EXHIBIT
tabbies
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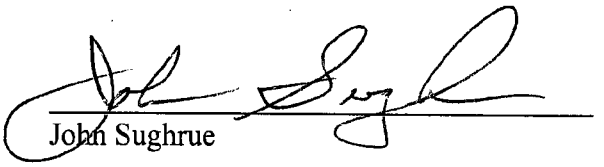
CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Amendment to Complaint was served upon the following by first class Mail this 26 day of March, 2004:

Jason Mettley, Esquire
Jubelirer, Pass & Intrieri, P.C.
219 Fort Pitt Boulevard
Pittsburgh, PA 15222



John Sughrue

FILED
o 11:49BA /cc to atty
MAR 26 2004

William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

PAUL BRIAN ROEMER, M.D.,	)	CIVIL DIVISION
	)	
Plaintiff/Defendant	)	No. 01-74-CD
	)	No. 01-87-CD
vs.	)	
	)	
CLEARFIELD PROFESSIONAL GROUP, LTD.	)	
	)	
	)	
Defendant/Plaintiff	)	

ANSWER TO PETITION FOR
PERMISSION TO FILE AMENDMENT TO COMPLAINT

AND NOW COMES Paul B. Roemer, M.D., ("Dr. Roemer") by and through his attorneys, Jason Mettley, Esquire, and Jubelirer, Pass & Intrieri, P.C., to file this Answer to Petition for Permission to File Amendment to Complaint and Request for Rule to Show Cause, and says:

1. Admitted.

2. Admitted.

3. Admitted.

4. Denied. Dr. Roemer denies having sufficient knowledge or information to form a belief as to the allegations contained in Paragraph 4.

5. Denied. The allegations in Paragraph 5 refer to the terms of the Employment Contract, a written document that speaks for itself.

6. Dr. Roemer admits having been served on or about October 16, 2003, with a copy of what appears to be a letter dated September 19, 2003, from the Clearfield Hospital. Dr.

#110

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

PAUL BRIAN ROEMER, M.D.,
Plaintiff/Defendant

NO. 01-74-CD

vs.

NO: 01-87-CD

CLEARFIELD PROFESSIONAL
GROUP, LTD.,
Defendant/Plaintiff

AFFIDAVIT OF SERVICE

COMMONWEALTH OF PENNSYLVANIA :
: SS.
COUNTY OF CLEARFIELD :

The undersigned, John Sughrue, Attorney, Agent for William L. Stang, Esq., and Clearfield Professional Group, Ltd., in the above-captioned matter, being duly sworn according to law, deposes and says that he caused a true and correct copy of **Order/Rule to Show Cause** dated 19th day of February, 2004 and **Petition/Motion for Permission to Amend Complaint** filed 19th day of February, 2004, to be served on **Plaintiff/Defendant Paul Brian Roemer, M.D.** through Jason Mettley, Esq., his attorney of record, by sending the same on the 20th day of February, 2004, first class mail, postage prepaid to him at 219 Fort Pitt Boulevard, Pittsburgh, PA 15222.

John Sughrue, Esquire
Agent for William L. Stang, Esq.
Attorney for Plaintiff,
Clearfield Professional Group, LTD

Sworn to and subscribed before me this 20TH day of February, 2004.

Notary Public

My Commission Expires:

NOTARIAL SEAL
KIM C. KESNER, Notary Public
Lawrence Twp., Clearfield County, Pa.
My Commission Expires Aug. 29, 2006

FILED
COPY
FEB 20 2004
William A. Shaw
Prothonotary

$15

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

PAUL BRIAN ROEMER, M.D.,
Plaintiff/Defendant

NO. 01-74-CD

vs.

NO. 01-87-CD

CLEARFIELD PROFESSIONAL
GROUP, LTD.,
Defendant/Plaintiff

ORDER

AND NOW, to wit: this 19 day of February, 2004, upon consideration of the attached **Petition for Permission to file Amended Complaint**, a Rule is hereby issued upon PAUL BRIAN ROEMER, M.D., to show cause, if any, why the prayer of the Petition should not be granted.

RULE RETURNABLE on the 8 day of March, 2004, for filing written response.

NOTICE

A petition or motion has been filed against you in Court. If you wish to defend against the claims set forth in the following petition, you must do so by entering a written appearance personally or by attorney and filing in writing with the Court your defenses or objections to the matter set forth against you. You are warned that if you fail to do so, the case may proceed without you and an order for relief requested by the Petitioner or Movant. You may lose rights important to you.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

Court Administrator's Office
Clearfield County Courthouse
1 North Second Street
Clearfield, PA 16830
(814) 765-2641, Ext. 32

BY THE COURT:

Judge

FILED

FEB 19 2004

01:00 lm

William A. Shaw
Prothonotary

1 cert to Atty

Sue

$14

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

PAUL BRIAN ROEMER, M.D.,

Plaintiff/Defendant,

vs.

CLEARFIELD PROFESSIONAL GROUP, LTD.,

Defendant/Plaintiff.

CIVIL DIVISION

NO. 01-74-CD
NO. 01-87-CD

PETITION FOR PERMISSION TO FILE AMENDMENT TO COMPLAINT AND REQUEST FOR RULE TO SHOW CAUSE

Filed on behalf of
Clearfield Professional Group, Ltd.,
Defendant/Plaintiff

Counsel of Record for this Party:

William L. Stang
Pa. ID # 33221
Carl J. Rychcik
Pa. ID # 73754

FOX ROTHSCHILD LLP
625 Liberty Avenue, 29th Floor
Pittsburgh, PA 15222-3115
(412) 391-1334

FILED

FEB 19 2004

01:40/cc
William A. Shaw
Prothonotary

ORIGINAL TO 01-74-CD

#13

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

PAUL BRIAN ROEMER, M.D.,

Plaintiff/Defendant,

vs.

CLEARFIELD PROFESSIONAL GROUP, LTD.,

Defendant/Plaintiff.

CIVIL DIVISION

NO. 01-74-CD
NO. 01-87-CD

PETITION FOR PERMISSION TO FILE AMENDMENT TO COMPLAINT AND REQUEST FOR RULE TO SHOW CAUSE

Pursuant to Rule 1033 of the Pennsylvania Rules of Civil Procedure, Clearfield Professional Group, Ltd. ("CPG"), Defendant at Civil Action Number 01-74-CD/Plaintiff at Civil Action Number 01-87-CD, through its counsel, Fox Rothschild LLP, files the following Petition for Permission to File Amendment to Complaint and Request for Rule to Show Cause:

1. On January 16, 2001, Paul Brian Roemer ("Roemer") filed an action against CPG asserting claims for: (i) declaratory relief relating to Roemer's Employment Contract with CPG; (ii) quantum meruit for services allegedly provided by Roemer to CPG in October 2000; (iii) tortious interference with prospective contractual relations; and (iv) punitive damages.

2. On January 17, 2001, CPG filed its own Complaint asserting claims against Roemer for: (i) breach of Roemer's Employment Contract with CPG; (ii) breach of Roemer's duty of loyalty owed to his employer; (iii) misappropriation of CPG's property; and (iv) punitive damages.

3. The two actions have been consolidated.

4. On September 19, 2003, Clearfield Hospital made a written demand for CPG to repay subsidized income guarantee payments for Roemer, which had been provided by Clearfield Hospital to CPG, in the amount of $55,844.11, for principal and interest owed. This was the first time that such a demand was made by Clearfield Hospital.

5. Pursuant to the terms of his Employment Contract, Roemer agreed to indemnify CPG for the repayment obligation to Clearfield Hospital in the event Roemer left CPG before the end of an initial five-year period.

6. Within a month of receiving the demand from Clearfield Hospital, CPG informed Roemer that this demand had been made, and provided to Roemer's counsel a copy of Clearfield Hospital's letter. This matter and the damages alleged were also raised in CPG's Motion for Summary Judgment filed on October 28, 2003.

7. The parties' cross motions for summary judgment have only recently been ruled upon, with the only dispositive result being the dismissal of both parties' claims for punitive damages.

8. Despite the terms of the Employment Contract, Roemer has refused to pay CPG the amount demanded by Clearfield Hospital. Roemer's failure to indemnify CPG for the $55,844.11 owed to Clearfield Hospital is a material breach of the terms of his Employment Contract.

9. The present case has not yet been set for trial.

10. Roemer and his counsel have been on notice since the filing of CPG's Complaint that CPG views Roemer to be in breach of his Employment Contract and that he would be responsible for all resulting damages from the termination of his employment.

11. Roemer and his counsel have long been familiar with the provisions of his Employment Contract and the possibility that Clearfield Hospital would seek recovery of the income guarantee amounts paid to CPG, as well as the fact that CPG would then in turn seek indemnification from Roemer. In fact, this was clearly an area of inquiry from Roemer's counsel during the discovery in this case. Therefore, Roemer would not be prejudiced by CPG amending its Complaint at this time.

12. Furthermore, the statute of limitations on CPG's claims against Roemer for indemnification for the amounts owed to Clearfield Hospital has not expired and CPG could bring a separate action against Roemer to recover these amounts. However, given the relation to the matters at issue in this case, and as a matter of judicial economy, CPG would prefer to resolve all of these issues at the same time.

13. Despite all of the above factors, Roemer and his counsel have refused to consent to CPG's proposed Amendment to Complaint.

14. Therefore, CPG respectfully requests leave of Court to file its Amendment to Complaint, in the form attached hereto as Exhibit "A."

WHEREFORE, CPG respectfully requests that this Court issue a rule to show cause why the relief requested herein should not be granted and thereafter to grant CPG leave to file its Amendment to Complaint.

Respectfully submitted,

DATED: February 18, 2004

William L. Stang
Pa. ID # 33221
Carl J. Rychcik
Pa. ID # 73754
625 Liberty Avenue, 29th Floor
Pittsburgh, PA 15222
412-391-1334

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CLEARFIELD PROFESSIONAL GROUP, LTD.,

Plaintiff,

vs.

PAUL BRIAN ROEMER, M.D.

Defendant.

CIVIL DIVISION

NO. 01-74-CD
NO. 01-87-CD

AMENDMENT TO COMPLAINT

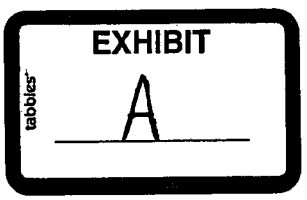
Filed on behalf of
Clearfield Professional Group, Ltd.

Counsel of Record for this Party:

William L. Stang
PA ID # 33221

Carl J. Rychcik
PA ID # 73754

FOX ROTHSCHILD LLP
625 Liberty Avenue, 29th Floor
Pittsburgh, PA 15222-3115
(412) 391-1334



IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CLEARFIELD PROFESSIONAL GROUP, LTD.,	CIVIL DIVISION
Plaintiff,	NO. 01-74-CD NO. 01-87-CD
vs.	
PAUL BRIAN ROEMER, M.D.	
Defendant.	

AMENDMENT TO COMPLAINT

Plaintiff, Clearfield Professional Group, Ltd., by its attorneys, Fox Rothschild LLP, files the following Amendment to Complaint against Defendant, Paul B. Roemer, M.D. pursuant to Rule 1033 of the Pennsylvania Rules of Civil Procedure.

COUNT V
BREACH OF CONTRACT

49. Paragraphs 1 through 48 of Clearfield Professional Group's Complaint against Paul B. Roemer, M.D. at Case No. 01-87-CD, are incorporated herein as though set forth at length.

50. Clearfield Hospital and Clearfield Professional Group entered into a Group Recruitment Agreement wherein Clearfield Hospital guaranteed that, for the first twelve months of Dr. Roemer's employment with Clearfield Professional Group, Clearfield Hospital would subsidize Dr. Roemer's annual salary of $125,000.00 (A copy of the Group Recruitment Agreement is attached hereto as Exhibit 3).

51. Under the Group Recruitment Agreement, Clearfield Professional Group is responsible to repay Clearfield Hospital for the guaranteed payments made to Clearfield Professional Group during Dr. Roemer's initial twelve-month period of employment.

52. In the event Dr. Roemer remained with Clearfield Professional Group for a five-year period through October 30, 2005, Clearfield Professional Group's repayment obligation under the Group Recruitment Agreement would be forgiven.

53. Pursuant to the terms of the Employment Contract, Dr. Roemer agreed to indemnify Clearfield Professional Group for the repayment obligation to Clearfield Hospital in the event Dr. Roemer left Clearfield Professional Group before the end of the five-year period.

54. On September 19, 2003, Clearfield Hospital requested that Clearfield Professional Group repay the income guarantee provided by Clearfield Hospital in the amount of $55,844.11 for principal and interest owed. (A copy of the September 19, 2003 letter from Richard D. Stockley to Dr. Richard A. Johnson is attached hereto as Exhibit 4).

55. Clearfield Professional Group has demanded payment of the $55,844.11 from Dr. Roemer, in accordance with the terms of the Employment Contract, but Dr. Roemer has refused, without justification, to pay any sums to Clearfield Professional Group.

56. Dr. Roemer's failure to indemnify Clearfield Professional Group for the $55,844.11 owed to Clearfield Hospital is a material breach of the terms of his Employment Contract.

WHEREFORE, Clearfield Professional Group demands judgment against Paul B. Roemer in an amount in excess of $20,000.00 plus costs and interest.

Respectfully submitted,

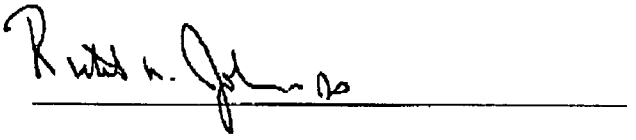
DATED: _____, 2004

William L. Stang
PA I.D. # 33221
Carl J. Rychcik
PA I.D. # 73754
FOX ROTHSCHILD LLP
625 Liberty Avenue, 29th Floor
Pittsburgh, PA 15222-3115
(412) 391-1334
Counsel for Defendant,
Clearfield Professional Group, Ltd.

VERIFICATION

I verify that the statements made herein are true and correct to the best of my knowledge, information and belief. I understand that the statements made herein are made subject to the penalties of 18 Pa. C.S. Section 4904, relating to unsworn falsification to authorities.

CLEARFIELD PROFESSIONAL GROUP, LTD.



GROUP RECRUITMENT AGREEMENT

BY AND BETWEEN

CLEARFIELD HOSPITAL, a nonprofit corporation, organized under the laws of Pennsylvania (hereinafter called "the Hospital")

A

N

D

CLEARFIELD PROFESSIONAL GROUP, LTD., a professional corporation organized under the laws of the Commonwealth of Pennsylvania (hereinafter called "the Group")

WITNESSETH:

WHEREAS, the Hospital is organized for the charitable purpose of the promotion of health; and

WHEREAS, in furtherance of this purpose, the Hospital desires to encourage physicians in needed specialties to establish their practices in the community primarily served by it ("the Service Area"); and

WHEREAS, the Hospital has determined that there is a need for the services of certain medical specialties in the Service Area including Internal Medicine; and

WHEREAS, **PAUL B. ROEMER, MD** is licensed to practice medicine in the Commonwealth of Pennsylvania and has not previously practiced in the Service Area or been affiliated with another hospital in the Service Area; and

WHEREAS, Dr. Roemer desires to specialize in the practice of Internal Medicine in the Service Area; and

WHEREAS, the Hospital has determined that it is in the best interests of the people in said Service Area to provide an income guarantee and other financial incentives sufficient to induce the Dr. Roemer to relocate to the Service Area and permit Dr. Roemer to establish a full-time practice of Internal Medicine in the Service Area; and

WHEREAS, Dr. Roemer intends to practice as an employee of the Group; and

WHEREAS, the Hospital has also determined that if Dr. Roemer chooses to practice with the Group, as opposed to practicing on a solo basis, the Hospital will be better able to achieve its goal of promoting the health of the people in the Service Area by virtue of the cross-coverage and internal peer review that are inherent in group practice.

NOW THEREFORE, in consideration of the mutual covenants and conditions hereinafter contained, and intending to be legally bound hereby, the parties hereto agree as follows:

EXHIBIT

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Section 1. Definitions

For purposes of this Agreement:

(a) "Net Practice Income" shall mean all fees collected by the Group on a cash basis for all medical services rendered by Dr. Roemer in the course of his practice during the Guarantee Period, whether billed under the Dr. Roemer's name or not, less Office Expenses of forty percent (40%) of gross cash receipts.

(b) "Starting Date" shall mean on or about November 1, 1999, provided that the following has occurred: (i) Dr. Roemer has been appointed to the Hospital's active medical staff; (ii) Dr. Roemer has submitted an application for provider numbers and the Group's office has been staffed, equipped and open to see patients; and (iii) at least one advertisement has been run in the local newspaper announcing that Dr. Roemer's office is open and he is accepting patients.

(c) "Guarantee Period" shall mean the 12 month period commencing on the Starting Date and continuing for a period of 12 months until October 31, 2000.

(d) "Repayment/Forgiveness Period" shall mean the period commencing on November 1, 2000 and continuing for a period of five years until October 31, 2005.

(e) "Equipment" shall mean (i) standard equipment needed in the office such as files, typewriters, duplicating equipment, desks, chairs, etc., and (ii) medical equipment reasonably sufficient for the practice of Dr. Roemer's specialty.

(f) The "Equipment", both medical and office, required for Dr. Roemer to practice medicine is already owned by the Group. It is anticipated that no new equipment will be needed.

(g) "Office Expenses" shall be accepted as forty percent (40%) of gross cash receipts and shall cover all of the usual expenses of practicing medicine during the guarantee period except malpractice insurance and the cost of books, journals, and continuing medical education.

(h) "Service Area" shall mean primary and secondary areas of patients serviced by the Hospital as determined in maps.

Section 2. Financial Guarantee

The Hospital guarantees to the Group that the Group will, during each month of the one-year Guarantee Period, receive Net Practice Income for Dr. Roemer of Ten Thousand Four Hundred, Sixteen Dollars and Sixty-Seven Cents ($10,416.67) [$125,000.00 annually] (the "Guarantee"). For each calendar month, beginning with the month in which the Starting Date occurs, that Net Practice Income for such month is less than the Guarantee, the Hospital shall advance to the Group the difference between the Guarantee and the amount of Net Practice Income received by the Group for Dr. Roemer during that month. The Group and Dr. Roemer shall make all the financial information deemed necessary by the Hospital to make such calculation available to the Hospital as soon as possible after the end of each month

during the Guarantee Period. The Hospital agrees to make any required advance within 15 days of receipt of such information.

Section 3. Signing Bonus

In addition to the Guarantee, the Hospital shall directly award Dr. Roemer a sign-on bonus of Six Thousand and Two Hundred Dollars ($6,200.00) due and payable immediately upon signing of this Agreement.

Section 4. Educational Loan Forgiveness

The Hospital shall directly award Dr. Roemer with educational loan forgiveness in the amount of Ten Thousand Dollars ($10,000.00) per year for ten (10) years. Payment will be awarded at the end of each one-year of service to the Clearfield area providing the Dr. Roemer produces receipt for same. Payment will be made within thirty (30) days after the end of each one-year period of practice within the Clearfield Service Area. Dr. Roemer shall not use these funds for any purpose other than to retire his educational loan obligations. If Dr. Roemer were to join with a competing healthcare facility or group during this ten-year period, then the Hospital has the right to repayment of all monies paid under this Section and all other features of this Agreement automatically terminate. If Dr. Roemer ceases to be an active member of Clearfield Hospital's Medical Staff for any reason, then all future payments are terminated.

Section 5. Financial Obligation of the Physician

(a) If, in any month during the Guarantee Period, Net Practice Income exceeds the Guarantee, the Hospital will make no payment to the Group.

(b) During the Guarantee Period, the Group and Dr. Roemer will make a good faith effort to collect all accounts receivable, and hereby grants to the Hospital a security interest in said accounts receivable in an amount equal to the unrepaid balance of the amounts advanced to the Group under the Guarantee. Dr. Roemer shall execute such documents as the Hospital determines may be necessary to perfect that security interest.

(c) The Group shall execute a Promissory Note at the end of the Guarantee Period evidencing the obligation to repay any amounts advanced under the Guarantee that have not been repaid as of the expiration or termination of the Guarantee Period. Provided, however, that for each month during the Repayment/Forgiveness Period that Dr. Roemer maintains a full-time practice in the Service Area and continues to fulfill the Community Service Obligations set forth in the Agreement, the Hospital shall forgive the amount owed to it in the next monthly installment due under the Promissory Note and each month release Dr. Roemer and the Group from any repayment obligation for that installment. If Dr. Roemer ceases to comply with any provision of this Agreement prior to the end of the Repayment/Forgiveness Period, the remaining payments still due and owing to the Hospital shall not be forgiven and shall be repaid in accordance with Section 5(d).

(d) The terms of the Promissory Note shall include language as follows:
For value received, and intending to be legally bound, the Group promises to pay to the order of the Hospital the principal sum equal to the total amount advanced to the Group by the Hospital but not repaid to the Hospital pursuant to the Agreement between the Group and the Hospital, the Starting Day of which is November 1, 2000, plus all interest due thereon, as said amount is reflected on the books of the Hospital. The Hospital shall give written notice to the Group of the amount so owed as of the date of expiration or termination of the Guarantee Period. Terms used in the Note shall have the same meanings as set forth in this Agreement. Principal and interest shall be paid in sixty (60) equal monthly installments beginning on the first day of the Repayment/Forgiveness Period and on the first day of each subsequent month thereafter, subject to forgiveness provisions contained in this Agreement. Interest shall begin to accrue on November 1, 2000. The rate of said interest shall be the prime interest rate plus one percentage point (1%) as reported in the last edition of the Wall Street Journal published and shall remain at said rate for the term of the Promissory Note. Said interest shall be due and payable along with the principal. A schedule of installment payments actually due shall be prepared by the Hospital and transmitted to the Group on or before the date that the first payment is due. After maturity, interest shall accrue at the interest rate specified above until all sums due hereunder are paid. So long as the Hospital is the holder hereof, the Hospital's book and records shall evidence at all times all amounts outstanding under the Note and the date and amount of each advance and payment made pursuant hereto. This prompt and faithful performance of all of the Group's obligations hereunder, including, without limitation, time of payment, shall be of the essence of the Promissory Note.

(e) The Group hereby warrants that neither the Group nor Dr. Roemer has ever declared bankruptcy. Dr. Roemer and the Group shall not use this Agreement or the amounts due hereunder as collateral for any other debt, loan or obligation without the prior written consent of the Hospital. Creditors of Dr. Roemer and the Group shall not have recourse against the Hospital with respect to any debt, loan or obligation of Dr. Roemer or the Group.

(f) The financial terms of this Agreement, including the amounts of any and all advances and reimbursements to the Group, shall be strictly confidential. The Group and Dr. Roemer shall not discuss the financial terms of this Agreement with or otherwise disclose or communicate its contents to any person or entity other than their attorneys, financial advisors or accountants without the express written consent of the Hospital, unless compelled by subpoena or other legal process.

Section 6. Relocation Expenses

Dr. Roemer shall be responsible for his own relocation expenses.

Section 7. Professional Liability Insurance

During the guarantee period, the Hospital shall provide Dr. Roemer with professional liability insurance with tail coverage with basic limits in the amounts of $900,000/$300,000 with excess coverage in at least the limits available through the Pennsylvania Catastrophe Fund, but otherwise as required of all members of the Hospital's Medical Staff. The Group or Dr. Roemer shall be responsible for insurance after the guarantee period.

Section 8. Reporting of Payments

The Hospital shall report to the Internal Revenue Service and to such state and local taxing authorities as may be applicable, any income realized by the Physician pursuant to this Agreement as required by law, pursuant to IRS Form 1099 or similar forms used for such purposes.

Section 9. No Requirement to Make Referrals

(a) There is no requirement that Dr. Roemer or the Group make referrals to, be in a position to make referrals to, or otherwise generate business for the Hospital as a condition of receiving the benefits hereunder.

(b) The Group shall not restrict or prohibit from establishing staff privileges at, referring any service to, or otherwise generating any business for any entity besides the Hospital of Dr. Roemer's choosing.

(c) The amount or value of the recruitment benefits provided by the Hospital hereunder shall not vary (or be adjusted or renegotiated) based on the volume or value of any expected referrals to, or business otherwise generated for, the Hospital or its affiliates.

Section 10. Community Service Obligations of the Physician

In order to carry out the purpose of this Agreement, which is to make needed medical services more readily available to the people within the Service Area, the Group shall require Dr. Roemer to comply with the following Community Service Obligations:

(a) Dr. Roemer shall:

(i) Meet and continue to meet the criteria for active medical staff appointment as set forth in the Hospital's Medical Staff Bylaws;

(ii) Apply for and maintain clinical privileges to practice Internal Medicine commensurate with the procedures that he shall be performing at the Hospital

(iii) Comply with the Bylaws, Rules and Regulations, Policies and Procedures of the Hospital and its medical staff;

(iv) Exercise that standard of skill, diligence, and regularity as generally applicable to the practice of Internal Medicine in the Service Area;

(v) Obtain and/or maintain a license to practice medicine in Pennsylvania and current unrestricted narcotics registration from the DEA; and

(vi) Obtain and/or maintain board certification in Internal Medicine.

In the event that Dr. Roemer fails to meet any of the above requirements, this Agreement shall automatically terminate.

(b) The Group is an independent contractor and shall conduct its independent practice of Internal Medicine in the Service Area. However, in order to fulfill the community need for which Dr. Roemer was recruited to the Service Area, during the Term of this Agreement the Group shall require Dr. Roemer to provide patient services within the Service Area of the Hospital on a full-time (40 hour-per-week) basis. The Group will also limit Dr. Roemer's vacation and educational leave time to two weeks of vacation time annually and one week of continuing medical education time.

(c) In order to assure adequate access to care by patients in the Hospital's Service Area, Dr. Roemer shall execute such agreements as may be necessary to become, and shall remain, a participating provider in the federal Medicare program, the Pennsylvania Medicaid program. Dr. Roemer shall also participate in the Hospital's call roster and shall treat any patients referred or assigned pursuant to the Hospital's Emergency Department or service on-call rosters, regardless of the insurance status of such patients or their ability to pay. In the event that Dr. Roemer's participation in Medicare or Medicaid terminates for any reason or he is otherwise excluded or precluded from participation in either of those programs, this Agreement shall automatically terminate.

Section 11. Independent Contractor

In the performance of all obligations hereunder, the Group and Dr. Roemer shall be deemed to be independent contractors and not employees of the Hospital and the Hospital shall not withhold, or in any way be responsible for, the payment of any federal, state or any local income or wage taxes, F.I.C.A. taxes, unemployment compensation, or workers' compensation contributions, vacation pay, sick leave, retirement benefits, or any other payments for or on their behalf. The Group shall indemnify and hold the Hospital harmless from any and all loss or liability arising with respect to such payments, withholdings, and benefits.

Section 12. Billing for Professional Services

(a) Billing for professional services rendered by Dr. Roemer shall be the responsibility of the Group.

(b) During the Guarantee Period and period of forgiveness thereafter, the Hospital reserves the right to retain its own accountant to verify the billings, receipts, revenues and expenses attributable to Dr. Roemer's practice and such other information necessary to effectuate the terms of this Agreement, and Dr. Roemer and the Group shall permit the Hospital and its designated accountant to have access to this information.

Section 13. Termination

(a) This Agreement shall expire at the end of the Term of this Agreement, provided, however, Dr. Roemer's obligations described in Section 5 of this Agreement shall not be affected by the termination or expiration of this Agreement.

(b) The Hospital and the Group shall each have the right to terminate this Agreement by giving written notice to the other party of material breach of any term(s) of this Agreement (effective on the date stated in the notice which must be at least 45 days after its receipt by the party in material breach) if the party in material breach fails to cure the material breach(es) prior to the termination date stated in said notice.

(c) In the event that (I) the Hospital terminates this Agreement due to material breach by the Group or Dr. Roemer, (ii) the Group or Dr. Roemer terminates this Agreement for a reason other than those specified in Section 10(a), 10(b), or 10(c) the Agreement automatically terminates, then the entire amount advanced pursuant to Section 2 of this Agreement, plus all applicable interest, less any repayments made by the Group, less any forgiveness prior to the effective date of said termination, shall be repaid to the Hospital by the Group in accordance with Section 5 (c) and (d).

(d) In the event of Dr. Roemer's death, disability, or any other circumstance that prevents Dr. Roemer from practicing medicine full-time, the Agreement shall automatically terminate.

(e) In the event:

(i) of the termination of this Agreement pursuant to this Section;
(ii) of the termination of this Agreement due to the Hospital's material breach of this Agreement; or
(iii) the Group or Dr. Roemer cannot perform the covenants of this Agreement due to unforeseen circumstances beyond the Group's or Dr. Roemer's control, as judged solely by the Hospital,

The Group shall repay the entire amount advanced pursuant to Section 2 of this Agreement, plus all applicable interest, less any repayments made by the Group, less any forgiveness prior to the effective date of said termination pursuant to Section 5 (c).

(f) This Agreement and all of its terms and conditions shall terminate automatically in the event the Group repays all of the advances made by the Hospital pursuant to Section 2 of this Agreement, plus any applicable interest.

Section 14. Compliance with Law

(a) The parties shall comply with all applicable statutes, rules, regulations and standards of any and all governmental authorities and regulatory and accreditation bodies.

(b) The forgiveness provisions and other benefits provided hereunder shall only be effective to the extent not prohibited by law and to the extent they do not adversely affect the Hospital's tax-exempt status

(c) In the event the Hospital determines that this Agreement is illegal or inconsistent with the Hospital's tax-exempt status, the forgiveness provision shall have no force and effect and the full amount of the outstanding balance shall be repaid to the Hospital in accordance with Section 5 (c).

Section 15. Jurisdiction

This Agreement shall be construed and enforced under, and in accordance with, the laws of Pennsylvania.

Section 16. Assignment

This Agreement may not be assigned by either party, without the express written consent of the other.

Section 17. Amendments

This Agreement may be amended at any time by mutual agreement of the parties, provided that before any amendment shall be operative or valid it shall have been reduced to writing and signed by both parties.

Section 18. Medicare Access to Books and Records

In the event, and only in the event, that Section 952 of P.L. 96-499 (42 U.S.C. Section 1395x(v)(1)(1)) is applicable to this Agreement, the Group agrees as follows:

(a) Until the expiration of four years after the furnishing of such services pursuant to this Agreement, the Group shall make available, upon written request from the Secretary of the federal Department of Health and Human Services or upon request from the Comptroller General of the United States, or any of their duly authorized representatives, this Agreement, any of the Group's books, documents and records that are necessary to certify the nature and extent of the cost of services provided pursuant to this Agreement; and

(b) If the Group carries out any of the duties of this Agreement through a subcontract, with a value or cost of $10,000 or more over a twelve-month period, with a related organization, such subcontract shall contain a clause to the effect that until the expiration of four years after the furnishing of such services pursuant to such subcontract, the related organization shall make available, upon written request of the Secretary of the federal Department of Health and Human Services or upon request of the Comptroller General of the United States, or any of their duly authorized representatives, the subcontract, any books, documents and records of such organization that are necessary to verify the nature and extent of the cost of services provided pursuant to said subcontract.

Section 19. Medical Record Documentation

Every practitioner on the Medical Staff of Clearfield Hospital is responsible for completion of all of his/her medical record documentation prior to leaving the Medical Staff with the exclusion of an emergency situation. Failure to do so is considered a direct violation of the Medical Staff Bylaws of Clearfield Hospital, which is reportable to the National Practitioners Data Bank.

Section 20. Strict Performance

No failure by either party to insist upon the strict performance of any covenant, agreement, term or condition of this Agreement or to exercise a right or remedy shall constitute a waiver. No waiver of any breach shall affect or alter this Agreement, but each and every covenant, condition, agreement and Term of this Agreement shall continue in full force and effect with respect to any other existing or subsequent breach.

Section 21. Entire Agreement

There are no other agreements or understandings, either oral or written, between the parties affecting this Agreement, except as otherwise specifically provided for or referred to herein. This Agreement cancels and supersedes all previous agreements between the parties relating to the subject matter covered by this Agreement.

Section 22. Invalidity or Unenforceabilfty of Particular Provisions

The invalidity or unenforceability of any particular provision of this Agreement shall not affect the other provisions hereof, and this Agreement shall be construed in all respects as if such invalid or unenforceable provisions were omitted.

Section 23. Compliance Programs

The Group and Dr. Roemer shall cooperate with any and all corporate compliance programs now or hereafter instituted by the Hospital.

Section 24. Relationship of Parties

Nothing contained in this Agreement shall be deemed or construed by the parties or by any third person to create the relationship of principal and agent, partnership, joint venture, or any association between the parties.

IN WITNESS WHEREOF, the parties have caused this Agreement to become effective the day and year first written above.

SIGNED

CLEARFIELD HOSPITAL

Kent C. Hess, President and CEO

Witness: Scott A Anderson

Date: 26 OCT 99

CLEARFIELD PROFESSIONAL GROUP, LTD.

Robert J. Roemer, M.D. FACOG CMD

Witness: Diane B. Whitmore

Date: October 26, 1999

Clearfield Hospital

September 19, 2003

Dr. Richard A. Johnson, D.O.
Clearfield Professional Group, Ltd.
820 Turnpike Avenue
Clearfield, PA 16830

Re: Dr. Paul Roemer's Income Guarantee

Dear Dr. Johnson:

Clearfield Hospital entered into a Group Recruitment Agreement with the Clearfield Professional Group, Ltd. dated October 26, 1999. We provided assistance to your group, through an income guarantee, in the recruitment of Dr. Paul Roemer. The amount of the income guarantee to Dr. Roemer was $48,918.08. As stated in Section 5(c), if Dr. Roemer ceases to comply with any provision of the Agreement prior to the end of the Repayment/Forgiveness Period, the remaining payments still due and owing to the Hospital shall not be forgiven and shall be repaid in accordance with Section 5(d). Since Dr. Roemer did not maintain his practice in the Clearfield area after the end of the Guarantee Period, the amount of the income guarantee is to be repaid to Clearfield Hospital. To date we have not received any payments on this outstanding balance.

The total amount of principal and interest outstanding as of October 1, 2003 is $55,844.11. Please contact me to arrange repayment of this outstanding obligation.

Sincerely,

Richard D. Stockley
Chief Financial Officer

CC: Kent C. Hess, President and CEO

EXHIBIT
4
tabbies

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

PAUL BRIAN ROEMER, M.D.,

Plaintiff/Defendant,

vs.

CLEARFIELD PROFESSIONAL GROUP, LTD.,

Defendant/Plaintiff.

CIVIL DIVISION

NO. 01-74-CD
NO. 01-87-CD

ORDER

AND NOW, TO WIT, this ____ day of _____, 2004, upon consideration of Clearfield Professional Group, Ltd.'s Petition for Permission to File Amendment to Complaint and Request for Rule to Show Cause, said Petition is GRANTED and it is hereby ORDERED that Clearfield Professional Group, Ltd. is given leave to file its Amendment to Complaint.

BY THE COURT:

_____J.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

PAUL BRIAN ROEMER, M.D.,

Plaintiff/Defendant,

vs.

CLEARFIELD PROFESSIONAL GROUP, LTD.,

Defendant/Plaintiff.

CIVIL DIVISION

NO. 01-74-CD
NO. 01-87-CD

PRAECIPE FOR ENTRY OF APPEARANCE

Filed on behalf of
Clearfield Professional Group, Ltd.,
Defendant/Plaintiff

Counsel of Record for this Party:

William L. Stang
Pa. ID # 33221
Carl J. Rychcik
Pa. ID # 73754

FOX ROTHSCHILD LLP
625 Liberty Avenue, 29th Floor
Pittsburgh, PA 15222-3115
(412) 391-1334

#12

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

PAUL BRIAN ROEMER, M.D.,	CIVIL DIVISION
Plaintiff/Defendant,	NO. 01-74-CD NO. 01-87-CD
vs.	
CLEARFIELD PROFESSIONAL GROUP, LTD.,	
Defendant/Plaintiff.	

PRAECIPE FOR ENTRY OF APPEARANCE

TO THE PROTHONOTARY:

Kindly enter the appearance of William L. Stang, Esquire and Carl J. Rychcik, Esquire of Fox Rothschild LLP, 625 Liberty Avenue, 29th Floor, Pittsburgh, Pennsylvania 15222 on behalf of Clearfield Professional Group, Ltd., Defendant at 01-74-CD/Plaintiff at 01-87-CD, in the above-referenced matter.

FOX ROTHSCHILD LLP

By: _____

William L. Stang
Pa. ID # 33221
Carl J. Rychcik
Pa. ID # 73754
625 Liberty Avenue, 29th Floor
Pittsburgh, PA 15222
412-391-1334

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Praecipe for Entry of Appearance was served upon the following individual by first class U.S. Mail this 9th day of February 2004:

Jason Mettley, Esq.
Jubelirer, Pass & Intrieri, P.C.
219 Fort Pitt Boulevard
Pittsburgh, PA 15222

Carl J. Rychcik

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

PAUL BRIAN ROEMER, M.D. :

VS. : NO. 01-74 & 01-87-CD

CLEARFIELD PROFESSIONAL GROUP :

O R D E R

NOW, this 15th day of January, 2004, upon agreement of counsel, it is the ORDER of this Court that the above-captioned matter shall be removed from the current list for jury trials and scheduled by the Court Administrator for trial without jury at the convenience of the parties. Pretrial conference schedule for January 15, 2004, shall be and is hereby cancelled.

BY THE COURT,

John K. Reilly, Jr.
Senior Judge
Specially Presiding

#11

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

PAUL BRIAN ROEMER, M.D.:

Plaintiff,

vs.

CLEARFIELD PROFESSIONAL GROUP, INC.

Defendant.

CIVIL DIVISION

NO. 01-74-CD
NO. 01-87-CD

DEFENDANT'S MOTION FOR CONTINUANCE OF TRIAL TO SPRING TERM

Filed on behalf of
Clearfield Professional Group, Ltd., Defendant

Counsel of Record for this Party:

Sue Gunn
Pa. ID. #44755

FOX ROTHSCHILD LLP
625 Liberty Avenue, 29th Floor
Pittsburgh, PA 15222-3115

(412) 391-1334

#10

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

PAUL BRIAN ROEMER, M.D.: CIVIL DIVISION

Plaintiff, NO. 01-74-CD
NO. 01-87-CD

vs.

CLEARFIELD PROFESSIONAL GROUP, INC.

Defendant.

DEFENDANT'S MOTION FOR CONTINUANCE OF TRIAL TO SPRING TERM

Defendant, Clearfield Professional Group, Ltd. ("CPG"), by and through its undersigned counsel, moves for a continuance of trial to Spring Term, averring as follows:

1. By letter dated December 26, 2003, this Court notified counsel for the parties of a pre-trial conference scheduled for January 15, 2004.

2. The undersigned counsel for CPG will soon be leaving the Fox Rothschild law firm, requiring reasonable time for replacement counsel to become familiar with this case to prepare adequately for trial.

3. Counsel for Plaintiff, attorney Jason Mettley, conferred with his client, Plaintiff Paul Brian Roemer, M.D., and does not object to a trial continuance under these circumstances requiring substitute counsel. (A Stipulation of Counsel is attached hereto as Exhibit A.)

4. Neither party requested previously a trial continuance.

5. Neither party will be prejudiced by this Court's granting of a trial continuance.

WHEREFORE, Defendant Clearfield Professional Group, Ltd., respectfully requests this Court to grant its Motion for Continuance of Trial to Spring Term.

Respectfully submitted,

FOX ROTHSCHILD LLP

By: _____
Sue Gunn
Counsel for Defendant,
Clearfield Professional Group, Ltd.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

PAUL BRIAN ROEMER, M.D.: CIVIL DIVISION

Plaintiff, NO. 01-74-CD
NO. 01-87-CD

vs.

CLEARFIELD PROFESSIONAL GROUP, INC.

Defendant.

STIPULATION OF COUNSEL

1. I, Jason Mettley, counsel for Plaintiff Paul Brian Roemer, M.D., was contacted by attorney Sue Gunn, counsel for Defendant Clearfield Professional Group, Ltd., on December 29, 2003.

2. Attorney Gunn informed me that she is leaving the employ of the Fox Rothschild law firm, and that replacement counsel will require a reasonable amount of time to prepare for trial.

3. Given these circumstances, I do not object to Defendant's Motion for Continuance of Trial to Spring Term.

Jason Mettley
Counsel for Plaintiff,
Paul Brian Roemer, M.D.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Defendant's Motion for Continuance of Trial to Spring Term was served upon the following individual(s) by first class U.S. Mail this 31st day of December 2003:

Jason Mettley, Esq.
Jubelirer, Pass & Intrieri, P.C.
219 Fort Pitt Boulevard
Pittsburgh, PA 15222

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

PAUL BRIAN ROEMER, M.D.: CIVIL DIVISION

Plaintiff, NO. 01-74-CD
NO. 01-87-CD

vs.

CLEARFIELD PROFESSIONAL GROUP, INC.

Defendant.

ORDER

Now, this 7 day of January 2004, it is hereby Ordered that Defendant's Motion for Continuance of Trial to Spring Term is ~~GRANTED and that this case be placed on this Court's April 1, 2004, Spring Term trial list.~~ denied. FJA FJA

Frederic J. Ammaerman, Judge

FILED COPY
JAN 09 2004
William A. Shaw
Prothonotary/Clerk of Courts

PT1 112879v1 12/30/03

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

PAUL BRIAN ROEMER, M.D.	:	
	:	
-vs-	:	No. 01 – 74 – CD
	:	No. 01 – 87 – CD
CLEARFIELD PROFESSIONAL GROUP, LTD.	:	

OPINION AND ORDER

The above-captioned actions were commenced separately by each party filing a complaint seeking money damages resulting from the dissolution of the association of Paul Brian Roemer, M.D. with Clearfield Professional Group, Ltd. Following consolidation of the actions, each party has filed Motions for Summary Judgment and following briefs and argument thereon, the Court determines the issues as follows.

First with regards to Motion for Summary Judgment in Part and in Whole filed on behalf of Paul Brian Roemer, M.D. seeking summary judgment in his favor on his claims against Clearfield Professional Group, Ltd. as follows. Count I claiming no material dispute that Clearfield Professional Group, Ltd. terminated the employment contract and Count II requesting compensation for services performed from October 1 through October 7 of the year 2000. And further, Roemer claims summary judgment with regards to the following counts in Clearfield Professional Group, Ltd.'s claim against him. Count I alleging no material dispute that Clearfield Professional Group, Ltd. terminated the employment contract; Count II that Roemer did not breach any duty of loyalty to Clearfield Professional Group, Ltd.; Count III that Roemer's conduct regarding the telephones did not amount to misappropriation; and Count IV that Roemer did not act outrageously or with malicious intent and that Clearfield Professional Group, Ltd.'s request for punitive damages must fail.

#9

The Court agrees that Clearfield Professional Group Ltd. has no claim for punitive damages and does herein grant Summary Judgment in favor of Roemer and against Clearfield Professional Group, Ltd. on that issue. In all other respects the Court will dismiss his Motion for Summary Judgment.

With regards to Motion for Summary Judgment filed on behalf of Clearfield Professional Group, Ltd., this Court notes that Clearfield Professional Group, Ltd. seeks summary judgment on Count I of its Complaint alleging that its termination of Roemer's employment was consistent with the employment contract; Count II that there is no material dispute that Roemer breached common law duties owed to Clearfield Professional Group, Ltd.; Count III that Roemer misappropriated property belonging to Clearfield Professional Group, Ltd. and Count IV seeking punitive damages. This Court holds that Roemer is not entitled to punitive damages under the circumstances of this action and therefore will grant Summary Judgment in favor of Clearfield Professional Group, Ltd. on that issue. In all other respects Clearfield Professional Group, Ltd.'s Motion for Summary Judgment with regards to its Complaint against Roemer is dismissed.

Clearfield Professional Group, Ltd. seeks Summary Judgment on Roemer's claims as follows. Count I that there is no material dispute that Clearfield Professional Group, Ltd. terminated Roemer's employment in a lawful manner; Count II that there is no material dispute that Clearfield Professional Group, Ltd. compensated Roemer fully consistent with its obligations; Count III that there is no material dispute that Roemer's action constituted tortuous interference; Count IV that there is no material dispute that Clearfield Professional Group, Ltd. has not converted wrongfully any personal property of Roemer; and Count V that Roemer is not entitled to punitive damages. Consistent with it ruling above, the Court will grant

Clearfield Professional Group, Ltd.'s Motion for Summary Judgment with regards to Roemer's claim for punitive damages and in all other regards dismiss said Motion.

WHEREFORE, the Court enters the following:

ORDER

NOW, this 16th day of December, 2003, following argument and briefs into Motions for Summary Judgment filed on behalf of each of the parties above-named, it is the ORDER of this Court that said Motions shall be and are hereby granted in part and dismissed in part in accordance with the foregoing Opinion.

By the Court.

/s/ JOHN K. REILLY, JR.

President Judge

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

PAUL BRIAN ROEMER, M.D.,	)	
	)	
Plaintiff	)	Nos. 01-74-CD
	)	01-87-CD
vs.	)	
	)	
CLEARFIELD PROFESSIONAL GROUP, LTD.	)	
	)	
Defendant	)	JURY TRIAL DEMANDED

APPENDIX TO PLAINTIFF'S MOTIONS FOR SUMMARY JUDGMENT

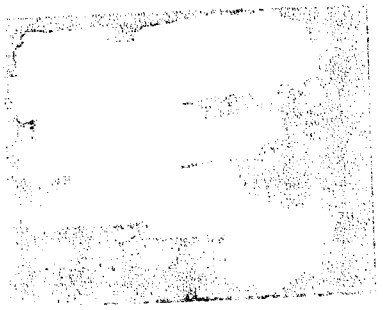
1. Employment Contract and Group Recruitment Agreement
2. Excerpts from Deposition Transcript of Paul Brian Roemer, M.D.
3. Excerpts from Deposition Transcript of Richard Johnson, D.O.
4. Deposition Transcript of Brian B. Witherow
5. Deposition Transcript of Jeffrey L. Rhone
6. Deposition Transcript of Vincent McGinnis

Respectfully submitted,

JUBELIRER, PASS & INTRIERI, P.C.

BY: _____
Jason Mettley, Esquire
Attorney for Plaintiff
Paul Brian Roemer, M.D.

DATE: October 1, 2003



(#8)

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

PAUL BRIAN ROEMER, M.D.,	)	CIVIL DIVISION
	)	
Plaintiff	)	No. 01-74-CD
	)	
vs.	)	
	)	
CLEARFIELD PROFESSIONAL GROUP, LTD.	)	Code:
	)	
	)	
Defendant	)	JURY TRIAL DEMANDED

- AND -

CLEARFIELD PROFESSIONAL GROUP, LTD.	)	CIVIL DIVISION
	)	
Plaintiff	)	No. 01-87-CD
	)	
vs.	)	
	)	
	)	Code:
PAUL B. ROEMER, M.D.	)	
	)	
Defendant	)	JURY TRIAL DEMANDED

MOTION FOR SUMMARY JUDGMENT IN PART AND IN WHOLE OF PAUL B. ROEMER, M.D.

Counsel for Paul B. Roemer, M.D.

Attorney of Record:

Jason Mettley, Esquire
Pa. I.D. #81966

Jubelirer, Pass & Intrieri, P.C.
Firm #141
219 Fort Pitt Boulevard
Pittsburgh, Pennsylvania 15222
(412) 281-3850

(#1)

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

PAUL BRIAN ROEMER, M.D.,	)	CIVIL DIVISION
	)	
Plaintiff	)	No. 01-74-CD
	)	
vs.	)	
	)	
CLEARFIELD PROFESSIONAL GROUP, LTD.	)	Code:
	)	
	)	
Defendant	)	JURY TRIAL DEMANDED

- AND -

CLEARFIELD PROFESSIONAL GROUP, LTD.	)	CIVIL DIVISION
	)	
Plaintiff	)	No. 01-87-CD
	)	
vs.	)	
	)	
	)	Code:
PAUL B. ROEMER, M.D.	)	
	)	
Defendant	)	JURY TRIAL DEMANDED

MOTION FOR SUMMARY JUDGMENT IN PART AND IN WHOLE OF PAUL B. ROEMER, M.D.

AND NOW COMES Paul B. Roemer, M.D., by and through his attorneys, Jubelirer, Pass & Intrieri, P.C. and Jason Mettley, Esquire, and respectfully moves this Honorable Court pursuant to Pennsylvania Rule of Civil Procedure 1035.2 and 1501 to grant summary judgment in part on his claims in civil action number 01-74-CD, and to grant summary judgment in whole on all claims against him in civil action number 01-87-CD.

The grounds for this motion are as follows:

1. Paul B. Roemer, M.D. (hereinafter referred to as "Dr. Roemer") initiated Civil Action No. 01-74-CD against the Clearfield Professional Group, Ltd. (hereinafter the "CPG") on January 16, 2001.

2. In his lawsuit, Dr. Roemer asserts five (5) legal and equitable claims against the CPG:

a. *Count I.* An action for declaratory relief, requesting the Court declare that: (i) the CPG wrongfully repudiated the parties' employment contract on October 7, 2000; (ii) the employment contract be rescinded in totality as of that date; and, (iii) the CPG has no right to enforce any post-employment duties or obligations imposed against Dr. Roemer under the employment contract after October 7, 2000.

b. *Count II.* An action on *quantum meruit*, requesting a judgment in his favor in the amount of $2,322 plus legal interest, representing the reasonable value of services Dr. Roemer actually performed on behalf of the CPG in October 2000.

c. *Count III.* An action for tortious interference with prospective contractual relations.

d. *Count IV.* An action for conversion.

e. *Count V.* An action for punitive damages.

3. On January 17, 2001, a day after Dr. Roemer filed his lawsuit, the CPG initiated Civil Action No. 01-87-CD against Dr. Roemer.

4. The CPG's lawsuit asserts four legal claims against Dr. Roemer:

a. *Count I.* An action for breach of contract, alleging Dr. Roemer breached the parties' employment contract and requesting judgment in an amount in excess of $20,000.

b. *Count II.* An action for breach of duty of loyalty, alleging Dr. Roemer breached common law duties he owed the CPG during the employment relationship, and requesting judgment in an amount in excess of $20,000.

c. *Count III.* An action for misappropriation, alleging Dr. Roemer misappropriated property belonging to the CPG and requesting judgment in an amount in excess of $20,000.

d. *Count IV.* An action for punitive damages.

5. The claims in both lawsuits pertain to the termination of an employment contract between the parties and the events shortly following the termination of that employment contract.

6. The relevant pleadings in both actions are closed and the parties have completed discovery.

7. The filing of the instant motion will not unreasonably delay trial because no trial date has been set.

8. Dr. Roemer is entitled to summary judgment in part on the claims in his lawsuit as follows:

a. *Count I.* There is no material dispute that the CPG terminated the employment contract with Dr. Roemer without notice on October 7, 2000; therefore, Dr. Roemer is entitled to the requested relief as a matter of equity.

b. *Count II.* There is no material dispute that Dr. Roemer was employed by the CPG until October 7, 2000 and that the CPG failed to give any compensation to Dr. Roemer for services he actually performed from October 1, 2000 to October 7, 2000; therefore, Dr. Roemer is entitled to the requested relief as a matter of law.

9. Dr. Roemer is entitled to summary judgment in whole on the claims asserted in the CPG's lawsuit as follows:

a. *Count I.* There is no material dispute that the CPG terminated the employment contract with Dr. Roemer without notice on October 7, 2000; therefore, the CPG cannot prevail on its claims as a matter of law.

b. *Count II.* Dr. Roemer's conduct while employed by the CPG, to which there is no material dispute, does not amount to a breach of any duty of loyalty he owed the CPG, as a matter of law.

c. *Count III.* Dr. Roemer's conduct regarding the telephone numbers, to which there is no material dispute, does not amount to actionable misappropriation as a matter of law.

d. *Count IV.* The CPG has failed to demonstrate that Dr. Roemer is liable for any actual damages; moreover, the record does not substantiate a finding that Dr. Roemer acted outrageously or with malicious intent. Accordingly, the CPG's request for punitive damages must fail as a matter of law.

10. Further support for the instant Motion shall be set forth in full in a Memorandum of Law to be filed subsequently consistent with the briefing schedule to be issued by the Court.

For these reasons, Paul B. Roemer, M.D. respectfully requests this Honorable Court to grant him summary judgment in part on his claims in Civil Action number 01-74-CD, and to grant summary judgment in whole on all claims asserted against him by the Clearfield Professional Group, Ltd. in Civil Action number 01-87-CD.

Respectfully submitted,

JUBELIRER, PASS & INTRIERI, P.C.

BY: _____
Jason Mettley, Esquire

Attorney for Paul B. Roemer, M.D.

DATE: 7-30-03

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the within Motion for Summary Judgment in Part and in Whole was served upon counsel for all parties this 30th day of July, 2003, by First Class U.S. Mail, postage prepaid, addressed as follows:

Susan Gunn, Esquire
Fox, Rothschild, O'Brien & Frankel, LLP
625 Liberty Avenue; 29th Floor
Pittsburgh, PA 15222

_____
Jason Mettley, Esquire

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

PAUL BRIAN ROEMER, M.D., Plaintiff/Defendant	)	
vs.	)	Nos. 01-74-CD 01-87-CD
CLEARFIELD PROFESSIONAL GROUP, LTD. Defendant/Plaintiff	)	JURY TRIAL DEMANDED

ORDER

AND NOW, this 15th day of October, 2001, the parties having filed a Stipulated Motion Consolidate, and the Court having given the matter due consideration, **IT IS ORDERED**, that the motion be, and the same hereby is, **GRANTED**, and that any documents filed by either of the parties shall bear the caption above, and that these cases shall be heard together, at the same time, at a joint hearing or trial, and that Dr. Roemer, having filed the first action, shall be permitted to present evidence first.

BY THE COURT,

/s/JOHN K. REILLY, JR.

President Judge

cc: Jason Mettley, Esquire
JUBELIRER, PASS & INTRIERI, P.C.
219 Fort Pitt Boulevard
Pittsburgh, PA 15222-15765

Susan Brahm Gunn, Esquire
KABALA & GEESEMAN, P.C.
Dominion Tower, 29th Floor
625 Liberty Avenue
Pittsburgh, Pa 15222

FILED
OCT 15 2001
William A. Shaw
Prothonotary

cc Atty Gunn

#19

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

PAUL BRIAN ROEMER, M.D.,	)	CIVIL DIVISION
	)	
Plaintiff	)	No. 01-74-CD
	)	
vs.	)	
	)	
CLEARFIELD PROFESSIONAL GROUP, LTD.	)	Code:
	)	
	)	
Defendant	)	JURY TRIAL DEMANDED

- AND -

CLEARFIELD PROFESSIONAL GROUP, LTD.	)	CIVIL DIVISION
	)	
Plaintiff	)	No. 01-87-CD
	)	
vs.	)	
	)	
	)	Code:
PAUL B. ROEMER, M.D.	)	
	)	
Defendant	)	JURY TRIAL DEMANDED

Stipulated Motion to Consolidate

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

PAUL BRIAN ROEMER, M.D.,	)	
	)	
Plaintiff	)	
	)	
vs.	)	No. 01-74-CD
	)	
CLEARFIELD PROFESSIONAL GROUP, LTD.	)	
	)	
Defendant	)	JURY TRIAL DEMANDED

- AND -

CLEARFIELD PROFESSIONAL GROUP, LTD.	)	
	)	
Plaintiff	)	No. 01-87-CD
	)	
vs.	)	
	)	
	)	Code:
PAUL B. ROEMER, M.D.	)	
	)	
Defendant	)	JURY TRIAL DEMANDED

STIPULATED MOTION TO CONSOLIDATE

AND NOW COME the parties in the above-captioned matters, Paul Brian Roemer, M.D., by and through his attorneys, Jason Mettley, Esquire, and Jubelirer, Pass & Intrieri, P.C., and the Clearfield Professional Group, by and through its attorneys, Susan Brahm Gunn, Esquire, and Kabala & Geeseman, P.C. and, pursuant to Pa.R.Civ.P. 213(a), hereby file this Stipulated Motion to Consolidate, and in support thereof, aver:

1. On January 16, 2001, Paul Brian Roemer, M.D., ("Dr. Roemer") filed a Complaint against the Clearfield Professional Group, Ltd., ("CPG") which the Prothonotary subsequently designated as docket number 01-74-CD.

2. On January 17, 2001, the Clearfield Professional Group, Ltd. filed a Complaint against Paul Brian Roemer, M.D., which the Prothonotary subsequently designated as docket number 01-87-CD.

3. Both lawsuits generally pertain to the termination of Dr. Roemer's employment contract with the CPG, and events following the termination of his employment contract.

4. As such, both Dr. Roemer's Complaint and the CPG's Complaint involve common questions of law and/or fact arising from the same transaction or occurrence.

5. Consolidation of these cases would avoid unnecessary costs and delay.

6. Pursuant to Pa.R.Civ.P. 213(a), Dr. Roemer and the CPG request that this Honorable Court order these cases be consolidated, and that documents filed with the court bear the following caption:

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

PAUL BRIAN ROEMER, M.D.,	)	
	)	
Plaintiff/Defendant	)	
	)	
vs.	)	Nos. 01-74-CD
	)	01-87-CD
CLEARFIELD PROFESSIONAL	)	
GROUP, LTD.	)	
	)	
Defendant/Plaintiff	)	JURY TRIAL DEMANDED

7. Furthermore, Dr. Roemer and the CPG request this Honorable Court order these cases be heard together, at the same time, at a joint hearing or trial, and that Dr. Roemer, having filed the first action, be permitted to present evidence first. *See*: Schieber v. Schieber, 11 D&C 314 (Montgomery County, 1956).

WHEREFORE, the parties, Paul Brian Roemer, M.D. and the Clearfield Professional Group, Ltd., hereby request that this Honorable Court grant the instant Stipulated Motion to Consolidate, and enter the attached Order.

RESPECTFULLY SUBMITTED,

JUBELIRER, PASS & INTRIERI, P.C.

BY: _____
Jason Mettley, Esquire
Pa. I.D. # 81966

Attorneys for Paul Brian Roemer, M.D.

KABALA & GEESEMAN, P.C.

BY: _____
Susan Brahm Gunn, Esquire
Pa. I.D. # 44755

Attorneys for the Clearfield Professional Group

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

CLEARFIELD PROFESSIONAL GROUP, LTD.,

Plaintiff,

vs.

PAUL B. ROEMER, M.D.,

Defendant.

Case No. 01-87-CD

REPLY TO NEW MATTER

Code:

Filed on Behalf of Plaintiff,
Clearfield Professional Group, Ltd.

Counsel of Record for this Party:

William L. Stang, Esq.
Pa. I.D. #33221

Susan Brahm Gunn, Esq.
Pa. I.D. #44755

KABALA & GEESEMAN
Firm No. 172
Dominion Tower, 29th Floor
625 Liberty Avenue
Pittsburgh, PA 15222
(412) 391-1334

#4

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

CLEARFIELD PROFESSIONAL GROUP, LTD.,	)	
	)	Case No. 01-87-CD
Plaintiff,	)	
	)	
vs.	)	
	)	
PAUL B. ROEMER, M.D.,	)	
	)	
Defendant.	)	

REPLY TO NEW MATTER

Plaintiff, Clearfield Professional Group, Ltd., by its attorneys, Kabala & Geeseman, files the following Reply to New Matter:

49. Paragraph 49 contains a statement of incorporation to which no response is required.

50. Paragraph 50 of Defendant's New Matter contains conclusions of law to which no response is required. To the extent a response may be required, Defendant denies same.

51. Paragraph 51 of Defendant's New Matter contains conclusions of law to which no response is required. To the extent a response may be required, Defendant denies same. By way of further response, Defendant's Notice of Termination dated July 13, 2000, served to terminate the parties' employment relationship effective November 1, 2000 and, therefore, Plaintiff's action of relieving Defendant of his duties from October 7, 2000 through the effective date of his employment was not a material breach of contract.

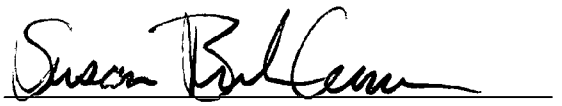
52. Paragraph 52 of Defendant's New Matter contains conclusions of law to which no response is required. To the extent a response may be required, Defendant denies same. By way of further response, Defendant's Notice of Termination dated July 13, 2000 served to terminate the parties' employment relationship effective November 1, 2000 and, therefore, Plaintiff's action of relieving Defendant of his duties from October 7, 2000 through the effective date of his employment was not a material breach of contract.

53. Paragraph 53 of Defendant's New Matter contains conclusions of law to which no response is required. To the extent a response may be required, Defendant denies same. By way of further response, Defendant's Notice of Termination dated July 13, 2000 served to terminate the parties' employment relationship effective November 1, 2000 and, therefore, Plaintiff's action of relieving Defendant of his duties from October 7, 2000 through the effective date of his employment was not a material breach of contract.

54. Paragraph 54 of Defendant's New Matter contains conclusions of law to which no response is required. To the extent a response may be required, Defendant denies same. By way of written response, as an employee of Plaintiff, Defendant had no legal duty to notify patients of Plaintiff when he had treated of his new address.

Respectfully submitted,

KABALA & GEESEMAN

By: 

Susan Brahm Gunn

Dominion Tower, 29th Floor
625 Liberty Avenue
Pittsburgh, PA 15222
(412) 391-1334

VERIFICATION

I verify that the statements made herein are true and correct to the best of my knowledge, information and belief. I understand that the statements made herein are made subject to the penalties of 18 Pa.C.S. Section 4904, relating to unsworn falsification to authorities.

Richard J. [illegible], D.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Reply to New Matter of Paul B. Roemer, M.D. was forwarded to the individual(s) listed below by regular first class mail, postage prepaid, on this 8th day of March 2001.

Jason Mettley, Esq.
Jubelirer, Pass & Intrieri, P.C.
219 Fort Pitt Boulevard
Pittsburgh, PA 15222

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CLEARFIELD PROFESSIONAL GROUP, LTD.	)	CIVIL DIVISION
Plaintiff	)	No. 01.87.CD
vs.	)	ANSWER AND NEW MATTER OF PAUL B. ROEMER, M.D.
PAUL B. ROEMER, M.D.,	)	
Defendant	)	Filed on behalf of Defendant

Counsel of Record:

Jason Mettley, Esquire
Pa. I.D. #81966

Jubelirer, Pass & Intrieri, P.C.
Firm #141
219 Fort Pitt Boulevard
Pittsburgh, Pennsylvania 15222

(412) 281-3850

JURY TRIAL DEMANDED

(#3)

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

CLEARFIELD PROFESSIONAL GROUP, LTD.	)	
Plaintiff	)	
vs.	)	No. 01.87.CD
PAUL B. ROEMER, M.D.,	)	
Defendant	)	

NOTICE TO PLEAD

TO: Clearfield Professional Group, Ltd.
820 Turnpike Avenue
Clearfield, Pennsylvania 16830

YOU ARE HEREBY NOTIFIED to file a written response to the enclosed Answer and New Matter within twenty (20) days from service hereof or a judgment may be entered against you.

JUBELIRER, PASS & INTRIERI, P.C.

BY: _____
Jason Mettley, Esquire
Pa. I.D. #81966

219 Fort Pitt Boulevard
Pittsburgh, Pennsylvania 15222
(412) 281-3850

Attorney for Defendant,
Paul B. Roemer, M.D.

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

CLEARFIELD PROFESSIONAL GROUP, LTD.	)	
Plaintiff	)	
vs.	)	No. 01.87.CD
PAUL B. ROEMER, M.D.,	)	
Defendant	)	

ANSWER AND NEW MATTER OF PAUL B. ROEMER, M.D.

AND NOW COMES the defendant, Paul B. Roemer, M.D., by and through his attorneys, Jason Mettley, Esquire, and Jubelirer, Pass & Intrieri, P.C., for answer to the civil action herein, and says:

1. Admitted.

2. Admitted.

3. Admitted.

4. Admitted.

5. Admitted in part and denied in part. It is admitted that plaintiff and defendant, Paul B. Roemer, M.D. ("Dr. Roemer") executed a written employment contract (the "Contract"), attached to plaintiff's Complaint as Exhibit 1. It is further admitted that the Contract was executed on or about October 26, 1999, with an effective date of November 1, 1999. The

remaining allegations in Paragraph 5 refer to the terms of the Contract, a written document which speaks for itself. These allegations are thus denied and strict proof is demanded.

6. Denied. The allegations in Paragraph 6 refer to the terms of the Contract, a written document which speaks for itself. These allegations are thus denied and strict proof is demanded.

7. Admitted in part and denied in part. It is admitted that Dr. Roemer drafted, signed and submitted to plaintiff the July 13, 2000 letter attached to plaintiff's Complaint as Exhibit 2. The remaining allegations of Paragraph 7 refer to the content of the letter, a written document which speaks for itself. These allegations are thus denied and strict proof is demanded.

8. Admitted.

9. Denied. Dr. Roemer denies having sufficient knowledge or information to form a belief as to the allegations contained in Paragraph 9, except it is denied that Dr. Roemer ever collected or moved any files belonging to plaintiff to his office with Clearfield Adult Medicine Associates, Inc. at 500 Turnpike Avenue, in Clearfield, Pennsylvania. Strict proof is demanded.

10. Admitted in part and denied in part. Dr. Roemer admits that on and prior to October 7, 2000, he gathered a number of patient files belonging to plaintiff. Dr. Roemer further admits that in May and again in July 2000, he learned that several of plaintiff's billing procedures were improper and/or unlawful, and that the main purpose he gathered plaintiff's files of his patients was to conduct an audit to ensure that the services he previously rendered these patients had been properly billed by plaintiff. Dr. Roemer denies ever removing any of the patient files from plaintiff's office, other than when he needed to perform his duties as a physician-employee of plaintiff.

11. Denied. To the contrary, Dr. Roemer denies ever assembling or collecting any of plaintiff's trade secrets for the purpose of engaging in improper competition with plaintiff. By way of further answer, Dr. Roemer made it a point to review files maintained by plaintiff of his patients to ensure that proper billing practices had been employed, but did so entirely at plaintiff's office.

12. Admitted in part and denied in part. Dr. Roemer admits that he spoke with Dr. Johnson on October 7, 2000. Dr. Roemer denies the remaining allegations in Paragraph 12; to the contrary, Dr. Johnson angrily confronted Dr. Roemer on October 7, 2000, in front of several police officers, and told Dr. Roemer that he was fired, demanded Dr. Roemer's keys to plaintiff's offices, and ordered Dr. Roemer to leave the premises. By way of further answer, Dr. Johnson terminated Dr. Roemer's employment with actual or apparent authority of plaintiff, and in material breach of the Contract.

13. Admitted in part and denied in part. Dr. Roemer admits opening his own medical practice in Clearfield, Pennsylvania, subsequent to his termination on October 7, 2000. Dr. Roemer admits that he had the alleged telephone numbers disconnected after being told by a Verizon employee that the telephone numbers were in his name and that he was the only one authorized to disconnect them. Dr. Roemer further admits that plaintiff paid for the alleged telephone numbers because they were obligated to do so under the Contract. The allegation that plaintiff "owned" the telephone numbers is a conclusion of law to which no response is required and, therefore, for purposes of pleading, said allegations are denied. Strict proof is demanded.

14. Admitted in part and denied in part. Dr. Roemer admits that he requested that Verizon disconnect the telephone numbers, and that plaintiff paid for those numbers in accordance with the Contract. The allegation that plaintiff "owned" the alleged telephone

numbers is a conclusion of law to which no response is required and, therefore, for purposes of pleading, said allegations are denied. Strict proof is demanded.

15. Admitted in part and denied in part. It is admitted that one of the telephone numbers that was disconnected was 814-765-2883. Dr. Roemer is without sufficient knowledge or information to form a belief as to the remaining allegations in Paragraph 15.

16. Admitted in part and denied in part. Dr. Roemer admits that plaintiff paid for the telephone numbers in accordance with the Contract. Dr. Roemer further admits that plaintiff has asked him to "acknowledge to Verizon that the telephone numbers belong to" plaintiff, and that he has not done so. The allegation that plaintiff "owned" the telephone numbers is a conclusion of law to which no response is required and, therefore, for purposes of pleading, said allegations are denied. Strict proof is demanded.

17. Denied. The allegations in Paragraph 17 are conclusions of law to which no response is required and, therefore, for purposes of pleading, said allegations are denied. To the extent that Paragraph 17 contains factual allegations, Dr. Roemer denies having sufficient knowledge or information to form a belief as to these allegations. Said allegations are thus denied and strict proof is demanded.

18. Denied. The allegations in Paragraph 18 are either conclusions of law to which no response is required, or references to the terms of the Contract, a written document which speaks for itself. The allegations are thus denied and strict proof is demanded.

19. Admitted. By way of further answer, Dr. Roemer had patient appointments scheduled on October 7, 2000, and did not cancel them because plaintiff suddenly terminated his employment.

20. Admitted in part and denied in part. It is admitted that plaintiff has demanded that Dr. Roemer pay it $24,000.00, among other things. The remaining allegations in Paragraph 20 are denied because they are either conclusions of law to which no response is required, or references to the terms of the Contract, a written document which speaks for itself. By way of further answer, Dr. Roemer has no legal obligation to perform any of the post employment obligations provided in the Contract because plaintiff committed a material breach by terminating his employment prior to the expiration of the mandatory twelve-month term, and without the requisite written notice.

21. Denied. The allegations in Paragraph 21 refer to the Contract, a written document which speaks for itself. The allegations are denied and strict proof is demanded. By way of further answer, Dr. Roemer has no legal obligation to perform any of the post employment obligations provided in the Contract because plaintiff committed a material breach by terminating his employment prior to the expiration of the mandatory twelve-month term, and without the requisite written notice.

22. Admitted. By way of further answer, Dr. Roemer requested patient records from plaintiff when asked to do so by a patient, and the broad majority of requests were accompanied by an appropriate Release signed by the patient.

23. Admitted in part and denied in part. It is admitted that Dr. Roemer has requested plaintiff to copy certain patient files. Dr. Roemer denies having sufficient knowledge or information to form a belief as to the remaining allegations in Paragraph 23, and said allegations are denied. Strict proof is demanded.

24. Admitted in part and denied in part. It is admitted that plaintiff has demanded that Dr. Roemer pay costs for copying records of patients who have left plaintiff's practice to

continue under the care of Dr. Roemer. It is further admitted that Dr. Roemer has not paid these costs. The remaining allegations in Paragraph 24 are either conclusions of law to which no response is required, or, references to the terms of the Contract, a written document that speaks for itself. By way of further answer, Dr. Roemer has no legal obligation to perform any of the post employment obligations provided in the Contract because plaintiff committed a material breach by terminating his employment prior to the expiration of the mandatory twelve-month term, and without the requisite written notice.

COUNT I

BREACH OF CONTRACT

25. Denied. The allegations in Paragraph 25 are conclusions of law to which no response is required and, therefore, for purposes of pleading, said allegations are denied. To the extent Paragraph 25 contains factual allegations, Dr. Roemer denies each and every allegation, and strict proof is demanded.

26. Denied. The allegations in Paragraph 26 are conclusions of law to which no response is required and, therefore, for purposes of pleading, said allegations are denied. To the extent Paragraph 26 contains factual allegations, Dr. Roemer denies each and every allegation, and strict proof is demanded.

27. Denied. The allegations in Paragraph 27 are conclusions of law to which no response is required and, therefore, for purposes of pleading, said allegations are denied. To the extent Paragraph 27 contains factual allegations, Dr. Roemer denies each and every allegation, and strict proof is demanded.

WHEREFORE, defendant, Paul B. Roemer, M.D., hereby demands judgment in his favor and against plaintiff with costs and attorney's fees to be awarded to defendant.

COUNT II

BREACH OF DUTY OF LOYALTY

28. The allegation in Paragraph 28 is a statement of incorporation to which no response is required.

29. The allegations contained in Paragraph 29 are conclusions of law to which no response is required and, therefore, for purposes of pleading, said allegations are denied. To the extent Paragraph 29 contains factual allegations, Dr. Roemer denies each and every allegation, and strict proof is demanded.

30. The allegations contained in Paragraph 30 are conclusions of law to which no response is required and, therefore, for purposes of pleading, said allegations are denied. To the extent Paragraph 30 contains factual allegations, Dr. Roemer denies each and every allegation, and strict proof is demanded.

31. The allegations contained in Paragraph 31 are conclusions of law to which no response is required and, therefore, for purposes of pleading, said allegations are denied. To the extent Paragraph 31 contains factual allegations, Dr. Roemer denies each and every allegation, and strict proof is demanded.

32. Denied. To the contrary, Dr. Roemer has not obtained or used any of plaintiff's trade secrets to improperly compete with plaintiff.

33. The allegations in Paragraph 33 are conclusions of law to which no response is required and, therefore, for purposes of pleading, said allegations are denied.

34. Denied. To the contrary, Dr. Roemer did not ask any of plaintiff's employees to terminate their employment with plaintiff to work for him.

35. Denied. To the contrary, these employees terminated their employment with plaintiff because of dissatisfaction with their employment at plaintiff's practice.

36. The allegations in Paragraph 36 are conclusions of law to which no response is required and, therefore, for purposes of pleading, said allegations are denied. To the extent Paragraph 36 contains factual allegations, Dr. Roemer denies each and every allegation, and strict proof is demanded.

37. The allegations contained in Paragraph 37 are conclusions of law to which no response is required and, therefore, for purposes of pleading, said allegations are denied. To the extent Paragraph 37 contains factual allegations, Dr. Roemer denies each and every allegation, and strict proof is demanded.

WHEREFORE, defendant, Paul B. Roemer, M.D., hereby demands judgment in his favor and against plaintiff with costs and attorney's fees to be awarded to defendant.

COUNT III

MISAPPROPRIATION

38. The allegation in Paragraph 38 is a statement of incorporation to which no response is required.

39. Admitted in part and denied in part. It is admitted that plaintiff paid the telephone bills associated with the telephone numbers. By way of further answer, plaintiff paid those bills pursuant to the Contract. The allegation that plaintiff "owned" the telephone numbers is a

conclusion of law to which no response is required, and for purposes of pleadings, said allegation is denied.

40. Admitted in part and denied in part. Dr. Roemer knew that plaintiff paid the telephone bills associated with these telephone numbers. By way of further answer, plaintiff paid these bills pursuant to the Contract. The allegation that plaintiff "owned" the "rights" to these telephone numbers is a conclusion of law to which no response is required, and for purposes of pleading, said allegation is denied.

41. The allegations contained in Paragraph 41 are conclusions of law to which no response is required and, therefore, for purposes of pleading, said allegations are denied. To the extent Paragraph 41 contains factual allegations, Dr. Roemer denies each and every allegation, and strict proof is demanded.

42. Admitted.

43. The allegations contained in Paragraph 43 are conclusions of law to which no response is required and, therefore, for purposes of pleading, said allegations are denied. To the extent Paragraph 43 contains factual allegations, Dr. Roemer denies each and every allegation, and strict proof is demanded. By way of further answer, these telephone numbers are not trade secrets that can be misappropriated.

44. The allegations contained in Paragraph 44 are conclusions of law to which no response is required and, therefore, for purposes of pleading, said allegations are denied. To the extent Paragraph 44 contains factual allegations, Dr. Roemer denies each and every allegation, and strict proof is demanded. By way of further answer, these telephone numbers are not trade secrets that can be misappropriated.

45. The allegations contained in Paragraph 45 are conclusions of law to which no response is required and, therefore, for purposes of pleading, said allegations are denied. To the extent Paragraph 45 contains factual allegations, Dr. Roemer denies each and every allegation, and strict proof is demanded.

WHEREFORE, defendant, Paul B. Roemer, M.D., hereby demands judgment in his favor and against plaintiff with costs and attorney's fees to be awarded to defendant.

COUNT IV

PUNITIVE DAMAGES

46. The allegation in Paragraph 46 is a statement of incorporation to which no response is required.

47. The allegations in Paragraph 47 are conclusions of law to which no response is required and, therefore, for purposes of pleading, said allegations are denied. To the extent Paragraph 47 contains factual allegations, Dr. Roemer denies each and every allegation, and strict proof is demanded.

48. The allegations contained in Paragraph 48 are conclusions of law to which no response is required and, therefore, for purposes of pleading, said allegations are denied. To the extent Paragraph 48 contains factual allegations, Dr. Roemer denies each and every allegation, and strict proof is demanded.

WHEREFORE, defendant, Paul B. Roemer, M.D., hereby demands judgment in his favor and against plaintiff with costs and attorney's fees to be awarded to defendant.

NEW MATTER

IN FURTHER ANSWER to plaintiff's Complaint, Dr. Roemer avers the following new matter:

49. Paragraphs 1 through 48 above are incorporated herein by reference as though set forth in full.

50. Dr. Roemer avers that plaintiff has failed to state any claims upon which relief can be granted.

51. Dr. Roemer avers that the Contract was rescinded on October 7, 2000, because plaintiff committed a material breach of the Contract by terminating him without notice, in bad faith, and prior to the expiration of the twelve-month term of employment.

52. Dr. Roemer avers that plaintiff is estopped from asserting the validity of any post-employment obligation created by the Contract because plaintiff committed a material breach of the Contract by terminating him without notice, in bad faith, and prior to the expiration of the twelve-month term of employment.

53. Dr. Roemer avers that his refusal to perform any of the post-employment obligations created by the Contract is justified because plaintiff committed a material breach of the Contract by terminating him without notice, in bad faith, and prior to the expiration of the twelve-month term of employment.

54. Dr. Roemer, although specifically denying any allegation that he misappropriated any of plaintiff's trade secrets or breached any duty of loyalty owed plaintiff, avers that any contact or effort to contact any patients was justified because he had a legal duty to notify patients of his new address upon leaving plaintiff's practice.

WHEREFORE, defendant, Paul B. Roemer, M.D., hereby demands judgment in his favor and against plaintiff, with costs and attorney's fees to be awarded to defendant.

Respectfully submitted,

JUBELIRER, PASS & INTRIERI, P.C.

BY: _____

Jason Mettley, Esquire
Pa. I.D. #81966

219 Fort Pitt Boulevard
Pittsburgh, Pennsylvania 15222
(412) 281-3850

Attorney for Defendant,
Paul B. Roemer, M.D.

VERIFICATION

I, Paul Brian Roemer, M.D., state that I am the Plaintiff in the aforementioned action, and that the facts set forth in the foregoing ANSWER AND NEW MATTER OF PAUL B. ROEMER, M.D. are true and correct based upon my personal knowledge or upon my information and belief; and I make this statement subject to the penalties of 18 Pa.C.S.A. § 4904, relating to unsworn falsification to authorities.

DATED: 2/21/01

Paul B. Roemer

Paul Brian Roemer, M.D.
Plaintiff

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the within Answer and New Matter of Paul B. Roemer, M.D. was served upon counsel for plaintiff this 21st day of February, 2001, by First Class U.S. Mail, postage prepaid, addressed as follows:

Edward J. Kabala, Esq.
Kabala & Geeseman, P.C.
625 Liberty Avenue; 29th Floor
Pittsburgh, PA 15222-3115

Jason Mettley, Esquire

FILED

FEB 22 2001

m/11:53/nocc

William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

CLEARFIELD PROFESSIONAL GROUP, LTD.,

Plaintiff,

vs.

PAUL B. ROEMER, M.D.,

Defendant.

Case No. 01-87-CD

COMPLAINT IN CIVIL ACTION

Code:

Filed on Behalf of Plaintiff,
Clearfield Professional Group, Ltd.

Counsel of Record for this Party:

Edward J. Kabala, Esq.
Pa. I.D. #00291

Susan Brahm Gunn, Esq.
Pa. I.D. #44755

KABALA & GEESEMAN
Firm No. 172
Dominion Tower, 29th Floor
625 Liberty Avenue
Pittsburgh, PA 15222
(412) 391-1334

JURY TRIAL DEMANDED

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

CLEARFIELD PROFESSIONAL GROUP, LTD.,	)	
	)	Case No.
Plaintiff,	)	
	)	
vs.	)	
	)	
PAUL B. ROEMER, M.D.,	)	
	)	
Defendant.	)	

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 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 other 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 A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

OFFICE OF THE COURT ADMINISTRATOR
Court of Common Pleas of Clearfield County
Clearfield County Courthouse
One North 2nd Street
Clearfield, PA 16830
(814) 765-2641

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

CLEARFIELD PROFESSIONAL GROUP, LTD.,	)	
	)	Case No.
Plaintiff,	)	
	)	
vs.	)	
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PAUL B. ROEMER, M.D.,	)	
	)	
Defendant.	)	

COMPLAINT IN CIVIL ACTION

Plaintiff, Clearfield Professional Group, Ltd., by its attorneys, Kabala & Geeseman, files the following Complaint against Defendant, Paul B. Roemer, M.D. on grounds of which the following is a statement:

1. Plaintiff, Clearfield Professional Group, Ltd. ("Plaintiff"), is a corporation organized and existing under the laws of the Commonwealth of Pennsylvania with a principal place of business located at 820 Turnpike Avenue, Clearfield, Clearfield County, Pennsylvania 16830.

2. Defendant, Paul B. Roemer, M.D. ("Defendant"), is an adult individual who resides at 1015 Daisy Street, Clearfield, Clearfield County, Pennsylvania 16830.

3. At all times relevant hereto Plaintiff has been engaged in the practice of medicine in and around the area of Clearfield, Pennsylvania by and through its physician employees.

4. At all times relevant hereto Defendant has been a physician licensed to practice medicine in the Commonwealth of Pennsylvania.

5. On or about October 26, 1999, Plaintiff and Defendant entered into a written Employment Contract, to be effective November 1, 1999 ("Employment Contract"), whereby Defendant agreed to work for Plaintiff as a physician-employee until such Employment Contract was terminated pursuant to the terms set forth therein. (A copy of the Employment Contract is attached hereto as Exhibit 1).

6. Pursuant to the terms of the Employment Contract, Defendant was required to provide written notice to Plaintiff at least sixty (60) days prior to terminating if he chose to leave Clearfield after his initial twelve months of employment.

7. By letter dated July 13, 2000, Defendant provided written notice to Plaintiff that his employment with Plaintiff would terminate effective November 1, 2000. (A copy of Defendant's letter of July 13, 2000 is attached hereto as Exhibit 2).

8. Subsequent to July 13, 2000 Defendant continued to work actively for Plaintiff through October 7, 2000.

9. On or about October 7, 2000, Dr. Richard A. Johnson, an officer and employee of Plaintiff, learned that Defendant had collected and moved to Defendant's office, for no apparent purpose, an unusually large number of patient files.

10. At all times relevant hereto, the patient files which Defendant had collected were the property of Plaintiff.

11. Plaintiff believes and therefore avers that Defendant had collected the patient files for the purpose of obtaining patient information, such as names and addresses, insurance

carriers, appointment schedules, and other confidential medical and proprietary information, for use in the medical practice the Defendant intended to operate after November 1, 2000.

12. Upon learning that Defendant had collected the files in question, Dr. Johnson met with Defendant and informed Defendant that as of October 7, 2000 he was relieved of his duties for the remainder of his term of employment, *i.e.*, through November 1, 2000.

13. Immediately after being relieved of his duties on October 7, 2000, Defendant announced the opening of his own medical practice in Clearfield, Pennsylvania and Defendant directed the telephone company, Verizon (formerly Bell Atlantic), to disconnect certain telephone numbers that were "owned" and paid for by Plaintiff, but listed in Defendant's name, *i.e.*, 814-765-2883, 814-765-5524 and 814-765-6412 (the "Telephone Numbers").

14. At the Defendant's request, which was made without advance notice to Plaintiff, Verizon disconnected the Telephone Numbers that Plaintiff had owned and paid for, but which were listed in Defendant's name.

15. Among the telephone numbers which were disconnected at the request of Defendant was the number 814-765-2883 which was used by Plaintiff for patient billing inquiries and electronic transmittal of billing information.

16. Despite request by Plaintiff, Defendant has refused to acknowledge to Verizon that the Telephone Numbers belonged to and were paid for by Plaintiff.

17. As a result of the Telephone Numbers being disconnected, Plaintiff has suffered substantial harm, including but not limited to a loss of good will, and Plaintiff has been caused to incur substantial costs relating to obtaining new telephone numbers for billing inquiries and transmittal of billing information, and communicating the new telephone numbers to patients and others.

18. Pursuant to the terms of the Employment Contract, if Defendant terminated his employment with Plaintiff and practiced medicine within the service area of Clearfield Hospital within thirty-six (36) months of the termination of employment, the Defendant was required to pay to Plaintiff the sum of $24,000.00 at rate of $1,000.00 per month beginning 30 days after the termination of employment.

19. Defendant is practicing in the service area of Clearfield Hospital and has been practicing in that area since termination of his employment.

20. Plaintiff has demanded payment of the $24,000.00 in accordance with the terms of the Employment Contract, but Defendant has refused, without justification, to pay any sums to Plaintiff.

21. Pursuant to the terms of his Employment Contract, it was agreed that in the event Defendant's employment terminated, Defendant would pay Plaintiff for clerical time required to copy patient records requested by Defendant.

22. Defendant has submitted requests for patient records and in certain circumstances, an appropriate release signed by the patient.

23. At the request of Defendant, Plaintiff copied a substantial number of patient records.

24. Plaintiff has demanded payment for copying costs in accordance with the terms of the Employment Contract and Pennsylvania Department of Health regulations governing permissible charges, but Defendant has refused, without justification, to pay any sums to Plaintiff.

COUNT I

BREACH OF CONTRACT

25. Defendant's failure to pay the $24,000.00 in installments of $1,000.00 per month beginning thirty (30) days after termination of employment is a material breach of the terms of the Employment Contract.

26. Defendant's failure to compensate Plaintiff for patient records which were copied at Defendant's request is a violation of the terms of his Employment Contract.

27. By reason of Defendant's breach of the Employment Contract Plaintiff has been damaged in an amount in excess of $20,000.00.

WHEREFORE, Plaintiff demands judgment against Defendant in an amount in excess of $20,000.00 plus costs and interest.

COUNT II

BREACH OF DUTY OF LOYALTY

28. Paragraphs 1 through 27 are incorporated herein as though set forth at length.

29. As a physician-employee of Plaintiff, Defendant owed a duty of loyalty to Plaintiff.

30. The duty of loyalty owed to Plaintiff required Defendant to act exclusively for the benefit of Plaintiff.

31. Defendant breached the duty of loyalty that he owed to Plaintiff by making a record of confidential medical and proprietary information pertaining to Plaintiff's patients for use in Defendant's medical practice. These actions were taken while Defendant was an employee of Plaintiff.

32. Plaintiff believes and therefore avers that Defendant has used and continues to use confidential medical and proprietary information pertaining to Plaintiff's patients which Defendant obtained while employed by Plaintiff without having first obtained authority or approval from Plaintiff or its patients.

33. Defendant's actions in disconnecting Plaintiff's Telephone Numbers dedicated for billing inquiries and transmittal of data, and his refusal to direct Verizon to reconnect the Telephone Numbers, were in breach of his duty of loyalty owed to Plaintiff.

34. Prior to October 7, 2000, while Defendant was still an employee of Plaintiff, Defendant improperly solicited and induced other employees to terminate their employment with Plaintiff.

35. As the result of Defendant's improper solicitations and inducements, two of Plaintiff's employees terminated their employment with Plaintiff.

36. Defendant's actions in soliciting other employees to terminate their employment with Plaintiff, such actions being taken while Defendant remained and employee of Plaintiff, constitute a breach of the duty of loyalty owed to Plaintiff by Defendant at the time.

37. Defendant's actions in breach of his duty of loyalty owed to Plaintiff caused Plaintiff to incur substantial costs, to suffer a substantial loss of good will and to suffer substantial harm.

WHEREFORE, Plaintiff demands judgment in its favor and against Defendant in an amount in excess of $20,000.00, plus costs and interest.

COUNT III

MISAPPROPRIATION

38. Paragraphs 1 through 37 are incorporated herein as though set forth at length.

39. At all times relevant hereto Plaintiff owned and paid for the rights to use the Telephone Numbers.

40. At all times relevant hereto Defendant knew or should have known that Plaintiff owned and paid for the rights to use the Telephone Numbers.

41. Defendant has never had any right to ownership and/or right to use of the aforementioned Telephone Numbers, except as an employee of Plaintiff, and as specifically authorized by Plaintiff.

42. Plaintiff believes and therefore avers that Defendant has advised Verizon to terminate Plaintiff's use of the Telephone Numbers and install a recording advising callers that future calls should be directed to Defendant's new office at 814-762-2222.

43. By advising Verizon to terminate Plaintiff's use of the Telephone Numbers and direct calls to his new business telephone number Defendant has exercised unlawful control over and wrongfully appropriated Plaintiff's right to ownership and/or use of the Telephone Numbers.

44. By advising Verizon to terminate Plaintiff's use of the Telephone Numbers Defendant has committed a misappropriation of Plaintiff's property and/or rights to property.

45. By reason of the foregoing Plaintiff has suffered and will continue to suffer damages, including but not limited to a loss of good will, deprivation of Plaintiff's right to use the Telephone Numbers and other damages related to replacement of the Telephone Numbers.

WHEREFORE, Plaintiff respectfully requests that this Court enter judgment in its favor and against Defendant in an amount in excess of $20,000.00 plus costs and interest.

COUNT IV

PUNITIVE DAMAGES

46. The averments of paragraphs 1 through 45 above are incorporated herein by reference as though set forth in full.

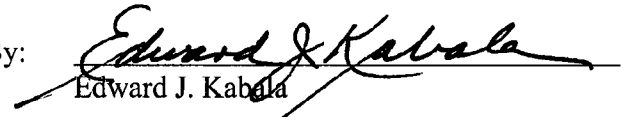
47. At all times relevant hereto, Defendant has acted in bad faith and with the deliberate intent to (a) exercise unlawful control over and/or wrongfully appropriate Defendants property and/or rights to use property, (b) convert Plaintiff's Telephone Numbers and other property for the benefit of Defendant, (c) deprive Plaintiff of the value of the good will associated with Plaintiff's Telephone Numbers and patient records and (d) solicit other employees to terminate employment with Plaintiff while Defendant himself was employed by Plaintiff.

48. Defendant's conduct in this matter has been willful, wanton and outrageous.

WHEREFORE, Plaintiff respectfully requests that this Court enter judgment in its favor and against Defendant in an amount in excess of $20,000.00 for punitive damages and costs.

Respectfully submitted,

KABALA & GEESEMAN

By: 
Edward J. Kabala

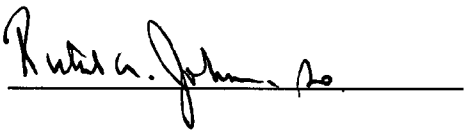
By: 
Susan Brahm Gunn

Dominion Tower, 29th Floor
625 Liberty Avenue
Pittsburgh, PA 15222
(412) 391-1334

VERIFICATION

I verify that the statements made herein are true and correct to the best of my knowledge, information and belief. I understand that the statements made herein are made subject to the penalties of 18 Pa. C.S. Section 4904, relating to unsworn falsification to authorities.

CLEARFIELD PROFESSIONAL
GROUP, LTD.

By: 

Employment Contract

This contract, to be effective the 1st day of NOV., '99, by and between **Clearfield Professional Group, Ltd. (C.P.G.)**, a Pennsylvania corporation, having its principal office at 820 Turnpike Avenue, Clearfield, PA, 16830 and **Paul B. Roemer, M.D.**, presently of 115 West Market Street, Clearfield, PA 16830. The attached "Group Recruitment Agreement" between the Clearfield Hospital and C.P.G. is made a part of this employment contract.

C.P.G. agrees to employ Dr. Roemer under the following terms and conditions:

Dr. Roemer will be paid $125,000 or 60% of his actual gross receipts received by C.P.G., (whichever is greater) for the first 12 month period of employment, less applicable taxes, and, when eligible, retirement funding. Following the first 12 month period, Dr. Roemer will be paid by the same mechanism as the shareholder physician members of C.P.G.

It is understood that Dr. Roemer will practice medicine full time, with full time being defined as being available on a schedule similar to the other physicians of C.P.G.

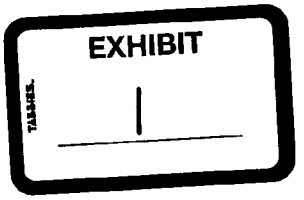
All income generated by the professional activities of Dr. Roemer shall be collected by C.P.G.

Dr. Roemer is free to leave C.P.G. at any time following the initial 12 month period as long as he provides written notice to C.P.G. 60 days prior to leaving, subject to the pay-back provisions of the attached Group Recruitment Agreement. Should Dr. Roemer leave before the end of the "Repayment/Forgiveness Period" (10-31-2005) it is understood that any payments required to the hospital will be Dr. Roemer's sole responsibility.

C.P.G. may discharge Dr. Roemer only at the end of the first 12 month period, or each succeeding 6 month period, only by written notice, given 60 days prior to discharge.

Should Dr. Roemer leave C.P.G. at any time for any reason, and practice within the service area of the Clearfield Hospital within 36 months of separation, C.P.G. will supply him with copies of medical records of any patient who signs a request for record transfer at a cost to reflect only the clerical time to reproduce the records, and, Dr. Roemer will pay C.P.G. $1,000.00 per month for 24 months, starting 30 days after being separated from C.P.G.

Should Dr. Roemer leave C.P.G. before 36 months of employment, C.P.G. will own his receivables.



Paul B. Roemer, MD
1015 Daisy Street
Clearfield, PA 16830

July13, 2000

Clearfield Professional Group
820 Turnpike Ave.
Clearfield, PA 16830

Dear Brian Witherow:

It is with deepest regrets that I am writing to inform you that I will be resigning my position as physician with the Clearfield Professional Group effective 11/1/00. While I have enjoyed my patients, my practice and the opportunity to work with the "Professional Group", I feel that it is time for me to pursue other opportunities in view of differences of professional practices.

Thank you for this opportunity.

Respectfully submitted.

Roemer

Paul B. Roemer, MD

EXHIBIT
2

FILED

JAN 17 2001

01:38 atty

William A. Shaw
Prothonotary

Gunn pd $80.00

2cc Sheriff

2cc atty

In The Court of Common Pleas of Clearfield County, Pennsylvania

Sheriff Docket # 10608

CLEARFIELD PROFESSIONAL GROUP, LTD. 01-87-CD

VS.

ROEMER, PAUL B. M.D.

COMPLAINT

SHERIFF RETURNS

NOW JANUARY 22, 2001 AT 2:26 PM EST SERVED THE WITHIN COMPLAINT ON PAUL B. ROEMER, M.D., DEFENDANT AT EMPLOYMENT, 500 TURNPIKE AVE., CLEARFIELD, CLEARFIELD COUNTY, PENNSYLVANIA BY HANDING TO JACKIE HARMIC, SEC. (P.I.C.) A TRUE AND ATTESTED COPY OF THE ORIGINAL COMPLAINT AND MADE KNOWN TO HER THE CONTENTS THEREOF.

SERVED BY: DAVIS/MORGILLO

Return Costs

Cost	Description
19.34	SHFF. HAWKINS PAID BY: ATTY.
10.00	SURCHARGE PAID BY: ATTY.

FILED

JAN 29 2001
0/10:53 am
William A. Shaw
Prothonotary

Sworn to Before Me This

29th Day Of January 2001

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 Hamer

Chester A. Hawkins
Sheriff

COPY

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

CLEARFIELD PROFESSIONAL GROUP, LTD.,

Plaintiff,

vs.

PAUL B. ROEMER, M.D.,

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Counsel of Record for this Party:

Edward J. Kabala, Esq.
Pa. I.D. #00291

Susan Brahm Gunn, Esq.
Pa. I.D. #44755

KABALA & GEESEMAN
Firm No. 172
Dominion Tower, 29th Floor
625 Liberty Avenue
Pittsburgh, PA 15222
(412) 391-1334

I hereby certify this to be a true and attested copy of the original statement filed in this case.

JAN 17 2001

Attest. Prothonotary

JURY TRIAL DEMANDED

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

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	)	Case No.
Plaintiff,	)	
	)	
vs.	)	
	)	
PAUL B. ROEMER, M.D.,	)	
	)	
Defendant.	)	

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Plaintiff,	)	
	)	
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PAUL B. ROEMER, M.D.,	)	
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COUNT I

BREACH OF CONTRACT

25. Defendant's failure to pay the $24,000.00 in installments of $1,000.00 per month beginning thirty (30) days after termination of employment is a material breach of the terms of the Employment Contract.

26. Defendant's failure to compensate Plaintiff for patient records which were copied at Defendant's request is a violation of the terms of his Employment Contract.

27. By reason of Defendant's breach of the Employment Contract Plaintiff has been damaged in an amount in excess of $20,000.00.

WHEREFORE, Plaintiff demands judgment against Defendant in an amount in excess of $20,000.00 plus costs and interest.

COUNT II

BREACH OF DUTY OF LOYALTY

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30. The duty of loyalty owed to Plaintiff required Defendant to act exclusively for the benefit of Plaintiff.

31. Defendant breached the duty of loyalty that he owed to Plaintiff by making a record of confidential medical and proprietary information pertaining to Plaintiff's patients for use in Defendant's medical practice. These actions were taken while Defendant was an employee of Plaintiff.

32. Plaintiff believes and therefore avers that Defendant has used and continues to use confidential medical and proprietary information pertaining to Plaintiff's patients which Defendant obtained while employed by Plaintiff without having first obtained authority or approval from Plaintiff or its patients.

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36. Defendant's actions in soliciting other employees to terminate their employment with Plaintiff, such actions being taken while Defendant remained and employee of Plaintiff, constitute a breach of the duty of loyalty owed to Plaintiff by Defendant at the time.

37. Defendant's actions in breach of his duty of loyalty owed to Plaintiff caused Plaintiff to incur substantial costs, to suffer a substantial loss of good will and to suffer substantial harm.

WHEREFORE, Plaintiff demands judgment in its favor and against Defendant in an amount in excess of $20,000.00, plus costs and interest.

COUNT III

MISAPPROPRIATION

38. Paragraphs 1 through 37 are incorporated herein as though set forth at length.

39. At all times relevant hereto Plaintiff owned and paid for the rights to use the Telephone Numbers.

40. At all times relevant hereto Defendant knew or should have known that Plaintiff owned and paid for the rights to use the Telephone Numbers.

41. Defendant has never had any right to ownership and/or right to use of the aforementioned Telephone Numbers, except as an employee of Plaintiff, and as specifically authorized by Plaintiff.

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45. By reason of the foregoing Plaintiff has suffered and will continue to suffer damages, including but not limited to a loss of good will, deprivation of Plaintiff's right to use the Telephone Numbers and other damages related to replacement of the Telephone Numbers.

WHEREFORE, Plaintiff respectfully requests that this Court enter judgment in its favor and against Defendant in an amount in excess of $20,000.00 plus costs and interest.

COUNT IV

PUNITIVE DAMAGES

46. The averments of paragraphs 1 through 45 above are incorporated herein by reference as though set forth in full.

47. At all times relevant hereto, Defendant has acted in bad faith and with the deliberate intent to (a) exercise unlawful control over and/or wrongfully appropriate Defendants property and/or rights to use property, (b) convert Plaintiff's Telephone Numbers and other property for the benefit of Defendant, (c) deprive Plaintiff of the value of the good will associated with Plaintiff's Telephone Numbers and patient records and (d) solicit other employees to terminate employment with Plaintiff while Defendant himself was employed by Plaintiff.

48. Defendant's conduct in this matter has been willful, wanton and outrageous.

WHEREFORE, Plaintiff respectfully requests that this Court enter judgment in its favor and against Defendant in an amount in excess of $20,000.00 for punitive damages and costs.

Respectfully submitted,

KABALA & GEESEMAN

By: _____
Edward J. Kabala

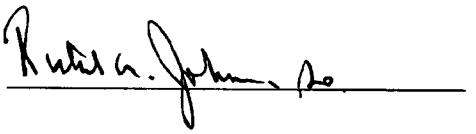
By: _____
Susan Brahm Gunn

Dominion Tower, 29th Floor
625 Liberty Avenue
Pittsburgh, PA 15222
(412) 391-1334

VERIFICATION

I verify that the statements made herein are true and correct to the best of my knowledge, information and belief. I understand that the statements made herein are made subject to the penalties of 18 Pa. C.S. Section 4904, relating to unsworn falsification to authorities.

CLEARFIELD PROFESSIONAL
GROUP, LTD.

By: 

Employment Contract

This contract, to be effective the 1st day of NOV., '99, by and between **Clearfield Professional Group, Ltd. (C.P.G.)**, a Pennsylvania corporation, having its principal office at 820 Turnpike Avenue, Clearfield, PA, 16830 and **Paul B. Roemer, M.D.**, presently of 115 West Market Street, Clearfield, PA 16830. The attached "Group Recruitment Agreement" between the Clearfield Hospital and C.P.G. is made a part of this employment contract.

C.P.G. agrees to employ Dr. Roemer under the following terms and conditions:

Dr. Roemer will be paid $125,000 or 60% of his actual gross receipts received by C.P.G., (whichever is greater) for the first 12 month period of employment, less applicable taxes, and, when eligible, retirement funding. Following the first 12 month period, Dr. Roemer will be paid by the same mechanism as the shareholder physician members of C.P.G.

It is understood that Dr. Roemer will practice medicine full time, with full time being defined as being available on a schedule similar to the other physicians of C.P.G.

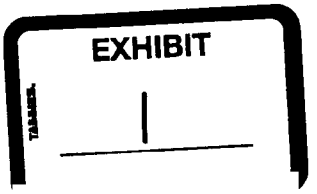
All income generated by the professional activities of Dr. Roemer shall be collected by C.P.G.

Dr. Roemer is free to leave C.P.G. at any time following the initial 12 month period as long as he provides written notice to C.P.G. 60 days prior to leaving, subject to the pay-back provisions of the attached Group Recruitment Agreement. Should Dr. Roemer leave before the end of the "Repayment/Forgiveness Period" (10-31-2005) it is understood that any payments required to the hospital will be Dr. Roemer's sole responsibility.

C.P.G. may discharge Dr. Roemer only at the end of the first 12 month period, or each succeeding 6 month period, only by written notice, given 60 days prior to discharge.

Should Dr. Roemer leave C.P.G. at any time for any reason, and practice within the service area of the Clearfield Hospital within 36 months of separation, C.P.G. will supply him with copies of medical records of any patient who signs a request for record transfer at a cost to reflect only the clerical time to reproduce the records, and, Dr. Roemer will pay C.P.G. $1,000.00 per month for 24 months, starting 30 days after being separated from C.P.G.

Should Dr. Roemer leave C.P.G. before 36 months of employment, C.P.G. will own his receivables.



Should Dr. Roemer leave C.P.G. after 36 months of employment, he will own his receivables which C.P.G. will collect and transmit to him, less a 5% billing charge.

After 12 months, Dr. Roemer will become an equal voting shareholder in C.P.G. when the following conditions have been met:

1. $10,000.00 of his gross receipts have been transferred to the shareholder physicians (as payment for his/her share of the assets of C.P.G.) at the rate of $100.00 per week starting in the 13th month of employment.

2. Acceptance by a majority vote of the C.P.G. stockholders.

3. Purchase of $3,000.00 worth of C.P.G. stock.

It is understood that the death or disability of Dr. Roemer or any circumstance that prevents him from practicing medicine full time, will immediately cancel this contract with the sole liability of C.P.G. being the payment of salary earned up to that time.

C.P.G. will provide office space, billing service, nursing and secretarial personnel, and the usual supplies required to practice medicine.

The cost of license, dues for professional organizations, continuing education, journals and other incidentals subject to the personal preferences of Dr. Roemer, shall be deducted from his salary during the first 12 months, and thereafter handled in the same fashion as similar expenses for the shareholder physicians of C.P.G.

Dr. Roemer will be entitled to 2 weeks vacation and one week off for continuing education during the first 12 months.

Clearfield Hospital will be paying malpractice insurance for the first year. C.P.G. will pay health insurance premiums for the first 12 month period. Malpractice and health insurance premiums for the period following the first 12 months will be charged to Dr. Roemer (in the same fashion as for the other physician members of C.P.G.) even if that payment must be made prior to the end of the first 12 months.

Dr. Roemer shall indemnify CPG from and against any liabilities, costs, damages or other losses caused by Dr. Roemer's performing or failing to perform any duties, including but not limited to third party

payor refund claims for fraudulent, negligent or otherwise illegal or improper billing and including claims involving professional services. Notwithstanding the above, Dr. Roemer shall not be required to indemnify CPG if such indemnification is precluded by an affected malpractice insurance carrier or interpreted or construed by such malpractice carrier to increase the malpractice liability exposure of any insurer providing coverage to CPG or Dr. Roemer. To the extent that such liabilities, costs, damages or other losses are covered or compensated by insurance purchased by CPG, Dr. Roemer shall not be obligated to CPG hereunder; but shall be subject to such subrogation rights as provided in those insurance policies.

This contract is contingent upon Dr. Roemer maintaining a Pennsylvania license, malpractice insurance and privileges at Clearfield Hospital.

Intending to be legally bound by this contract, the parties sign below.

Paul B. Roemer, M.D.

Date: 10/26/99

Witness

Date: 10/26/99

R.A. Johnson, D.O.
President
Date: 10/26/99

B.L. Corcino, Jr., M.D.
Treasurer
Date: 10/26/99

L.F. Schickling, M.D.
Secretary
Date: 10-26-99

Witness

Date: 10/26/99

Paul B. Roemer, MD
1015 Daisy Street
Clearfield, PA 16830

July13, 2000

Clearfield Professional Group
820 Turnpike Ave.
Clearfield, PA 16830

Dear Brian Witherow:

It is with deepest regrets that I am writing to inform you that I will be resigning my position as physician with the Clearfield Professional Group effective 11/1/00. While I have enjoyed my patients, my practice and the opportunity to work with the "Professional Group", I feel that it is time for me to pursue other opportunities in view of differences of professional practices.

Thank you for this opportunity.

Respectfully submitted.

Roemer

Paul B. Roemer, MD

EXHIBIT
2

September 21, 2005

Superior Court of Pennsylvania
Office of the Prothonotary
600 Grant Building
Pittsburgh, PA 15219

Re: Paul Brian Roemer, MD
Vs.
Clearfield Professional Group, LTD
No. 01-74-CD and 01-87-CD
Superior Court No. 1420 WDA 2005

Dear Prothonotary:

Enclosed you will find the above referenced complete record appealed to your office. Please also find enclosed two items under separate cover.

Sincerely,

William A. Shaw
Prothonotary/Clerk of Courts

John K. Reilly, Jr., S.J., Specially Presiding
Court of Common Pleas
230 E. Market Street
Clearfield, PA 16830

Jason Mettley
219 Fort Pitt Boulevard
Pittsburgh, PA 15222

William Stang
Dominion Tower, 29th Floor
625 Liberty Ave.
Pittsburgh, PA 15222

Carl J. Rychcik
625 Liberty Ave.
29th Floor
Pittsburgh, PA 15222

John Sughrue
23 North Second Street
Clearfield, PA 16830

Paul Brian Roemer, MD
Vs.
Clearfield Professional Group, LTD

Court No. 01-74-CD and 01-87-CD; Superior Court No. 1420 WDA 2005

Dear Counsel:

Please be advised that the above referenced record was forwarded to the Superior Court of Pennsylvania on September 21, 2005.

Sincerely,

William A. Shaw
Prothonotary/Clerk of Courts

Clearfield County Court of Common Pleas

ROA Report

Case: 2001-00074-CD

Current Judge: John K. Reilly Jr.

Paul Brian Roemer M.D vs. Clearfield Professional Group, LTD

Civil Other

Date		Judge
01/16/2001	Filing: Civil Complaint Paid by: Jason Mettley, Esquire Receipt number: 1816734 Dated: 01/16/2001 Amount: $80.00 (Check) One Certified Copy to Sheriff One Certified Copy to Attorney Mettley	No Judge
01/23/2001	Sheriff Return, Papers served on Defendant(s). So Answers, Chester A. Hawkins, Sheriff by s/Marilyn Hamm Costs: $29.00	No Judge
02/20/2001	Preliminary Objections to Complaint, Filed by s/William L. Stang, Esq. Susan Brahm Gunn, Esq. Cert of Service no cc	No Judge
05/30/2001	Defendant's Withdrawal of Preliminary Objections to Complaint, filed by s/Susan Brahm Gunn, Esq. No CC	John K. Reilly Jr.
07/02/2001	Answer and New Matter of Clearfield Professional Group, Ltd. filed by s/Susan Brahm Gunn, Esq. 1 cc to atty	John K. Reilly Jr.
07/19/2001	Reply to New Matter. Filed by s/Jason Mettley, Esq. Cert of Svc 1 cc atty Mettley	John K. Reilly Jr.
10/11/2001	Stipulated Motion to Consolidate, filed by s/Jason Mettley, Esq. s/Susan Brahm Gunn, Esq. No CC Cases to be consolidated to 01-74-CD, 01-87-CD	John K. Reilly Jr.
10/15/2001	ORDER, filed 2 Cert. to Atty Gunn AND NOW, this 15th day of October, 2001, IT IS ORDERED, that the motion be, and the same hereby is, GRANTED.	John K. Reilly Jr.
07/31/2003	Praecipe for a Trial Date, filed by Atty. Gunn copy to C/A	John K. Reilly Jr.
08/01/2003	Motion For Summary Judgment In Part And In Whole Of Paul B. Roemer, M.D. filed by s/Jason Mettley, Esquire Certificate of Service 2 cc Atty Mettley	John K. Reilly Jr.
09/26/2003	Defendant's Cross Motion for Summary Judgment filed by Atty. Gunn. 1 CC to Atty.	John K. Reilly Jr.
10/02/2003	Appendix to Plaintiff's Motions for Summary Judgment, filed by Atty. Mettley No Cert. Copies (Also filed to 2001-87-CD)	John K. Reilly Jr.
12/16/2003	OPINION AND ORDER, NOW, this 16th day of December, 2003, re; Motions shall be and are hereby GRANTED in part and DISMISSED in part in accordance w/foregoing Opinion. by the Court, s/JKR,JR.,P.J. 1 cc Attys: Kabala, Gunn, Mettley, and Stand	John K. Reilly Jr.
01/02/2004	Defendant's Motion For Continuance Of Trial To Spring Term. filed by, s/Sue Gunn, Esquire Stipulation of Counsel s/Jason Mettley, Esq. Certificate of Service no cc	John K. Reilly Jr.
01/09/2004	ORDER, NOW, this 7th day of January, 2004, re: Defendant's Motion for Continuance of Trial to Spring Term is DENIED. by the Court, s/FJA,P.J. 1 cc Atty Gunn	John K. Reilly Jr.
01/15/2004	ORDER, NOW, this 15th day of January, 2004, re: above-captioned matter shall be removed from the current list for jury trials and scheduled by the CA for trial w/o jury at the convenience of the parties. Pretrial conference scheduled for Jan. 15, 2004, shall be and is hereby CANCELLED. by the Court, s/JKR,JR., Senior Judge, Specially Presiding copies mailed to: Jason Mettley, Esq., Wm Stang, Esq and Carl Rychcik, Esq.	John K. Reilly Jr.
02/11/2004	Praecipe For Entry Of Appearance On Behalf Of Clearfield Professional Group, Ltd. filed by, s/Carl J. Rychcik, Esq. Certificate of Service no cc Copy to C/A	John K. Reilly Jr.
02/19/2004	Petition For Permission to File Amendment To Complaint and Request For Rule To Show Cause. filed by, s/ William L. Stang, Esq. 1 cc Atty	John K. Reilly Jr.

Clearfield County Court of Common Pleas

ROA Report

Case: 2001-00074-CD

Current Judge: John K. Reilly Jr.

Paul Brian Roemer M.D vs. Clearfield Professional Group, LTD

Civil Other

Date		Judge
02/19/2004	ORDER, AND NOW, to wit: this 19th day of February, 2004, Rule issued upon PAUL BRIAN ROEMER, M.D. Rule Returnable on the 8th day of March, 2004, for filing Written Response. by the Court, s/FJA, P.J. 1 cc to Atty	John K. Reilly Jr.
02/20/2004	Affidavit of Service, Order/Rule to Show Cause dated 19th day of February, 2004 and Petition/Motion for Permission to Amend Complaint filed 19th day of February, 2004 to be served on Plaintiff/Defendant Paul Brian Roemer, M.D. through JasonMettley, Esq. filed by, s/John Sughrue, Esquire Certificate of Service 3 cc to Atty	John K. Reilly Jr.
03/08/2004	Answer To Petition For Permission to File Amendment to Complaint. filed by, s/Jason Mettley, Esquire Verification s/Paul Brian Roemer, M.D. Certificate of Service 1 cc to Atty	John K. Reilly Jr.
03/11/2004	ORDER filed. AND NOW, this 10th day of March, 2004, it is the ORDER of the Court that argument on atty. Stang's Petition has been scheduled for March 24, 2004 before Judge Reilly. s/FJA 1CC to Atty. Stang, 1 CC to Atty. Mettley.	John K. Reilly Jr.
03/16/2004	Praecipe For Appearance on behalf of Clearfield Professional Group, LTD. s filed by, s/ John Sughrue, Esquire 3 cc Atty Sughrue	John K. Reilly Jr.
03/24/2004	ORDER, NOW, this 24th day of March, 2004, re: Petition for Permission to File Amendment to Complaint filed on behalf of Clearfield Professional Group, Ltd. is GRANTED. Clearfield Professional Group, Ltd. is directed to file said amended complaint forthwith. by the Court, s/JKR, JR., S.J., Specially Presiding cc to Attys, Mettley, Stang & Sughrue	John K. Reilly Jr.
03/26/2004	Amendment to Complaint. filed by, s/Carl J. Rychcik, Esquire Certificate of Service 1 cc to Atty	John K. Reilly Jr.
04/27/2004	ORDER, AND NOW, this 26th day of April, 2004, re: Civil Non-Jury Trial scheduled for Wed., July 14, 2004 and Thur., July 15, 2004 at 9:00 a.m. each day before Senior Judge Reilly. by the Court, s/FJA, P.J. 1 cc Attys Mettley, Rychick and Sughrue	John K. Reilly Jr.
05/17/2004	Answer To Amendment to Complaint. filed by, s/Jason Mettley, Esquire Certificate of Service Verification s/Paul B. Roemer, M.D. no cc	John K. Reilly Jr.
06/24/2004	Notice to Attend, filed by Atty. Stang no cert. copy filed to 01-87-CD	John K. Reilly Jr.
07/15/2004	ORDER, filed. cert. to Atty's Mettley, Starg & Rychick Now, this 14th day of July, 2004, RE: Findings of Fact and conclusions of law.	John K. Reilly Jr.
09/16/2004	Transcript of Proceedings with Exhibits, Civil Non-Jury Trial held before Honorable John K. Reilly, Jr., Senior Judge, Specially Presiding, July 14, 2004, filed.	John K. Reilly Jr.
09/29/2004	Certificate of Service of Proposed Findings of Fact, Conclusions of Law and Legal Memorandum of Paul B. Roemer, M.D. was served upon counsel for the Defendant. No cc.	John K. Reilly Jr.
	Certificate of Service Defendant's Proposed Findings of Fact and Conclusions of Law filed by Atty. Rychcik	John K. Reilly Jr.
	Certificate of Service Defendant's Trial Brief was served upon Jason Mettley, Esq. filed by Carl J. Rychcik	John K. Reilly Jr.
12/09/2004	Finding of Fact, filed. Cert. to Atty's Mettley, Stang & Rychcik Order, Now, this 9th day of December, 2004, Partial judgments shall be entered in favor of both parties in accordance with the foregoing Opinion.	John K. Reilly Jr.
12/20/2004	Plaintiff's Motion for Post-Trial Relief, filed by Atty. Mettley 1 Cert. to Atty.	John K. Reilly Jr.
12/30/2004	Clearfield Professional Group's Response To Roemer's Motion For Post-Trial Relief, filed by s/ William L. Stang, Esquire. No CC	John K. Reilly Jr.

Paul Brian Roemer M.D vs. Clearfield Professional Group, LTD

Civil Other

Date		Judge
02/03/2005	Order, AND NOW, this 3rd day of February, 2005, Order that argument on Plaintiff's Motion for Post-Trial Relief has been scheduled for March 31, 2005, at 10:00 a.m. before the Honorable John K. Reilly, Jr., Senior Judge, Specially Presiding BY THE COURT: /s/John K. Reilly, Jr., S.J., Sp. Pres. One CC Attys: Mettley, Stang, Sughrue	John K. Reilly Jr.
03/22/2005	Order, AND NOW, this 22nd day of March, 2005, it is the ORDER of the Court that argument on Plaintiff's Motion for Post-Trial Relief scheduled for March 31, 2005 at 10:00 a.m. is Continued. BY THE COURT: Fredric J. Ammerman, President Judge. 1CC Attys: Rycheck, Mettley.	John K. Reilly Jr.
05/20/2005	Order, AND NOW, this 20th day of May, 2005, it is the ORDER of the Court that argument on plaintiff's Motion for Post-Trial Relief has been scheduled for Thursday, May 26, 2005 at 9:00 a.m. in Courtroom No. 521, Allegheny County Courthouse, 436 Grant Street, Pittsburgh PA, before the Honorable Judge John K. Reilly. BY THE COURT: /s/ Fredric J. Ammerman, President Judge. 3CC to C/A for Service	Fredric Joseph Ammerman
07/08/2005	Order, this 8th day of July, 2005, Plaintiff's Motion for Post Trial Relief is hereby dismissed in accordance with the Findings of Fact, Conclusions of Law and Opinion filed by this Court on December 9, 2004. By The Court, /s/ John K. Reilly, Jr., Senior Judge. CC to Atty j. Mettley, W. Stang, Rychick, Sughrue	John K. Reilly Jr.
07/14/2005	Filing: Praecipe For Entry of Judgment on Decision in Non Jury Trial Paid by: Rychcik, Carl J. (attorney for Clearfield Professional Group, LTD) Receipt number: 1904790 Dated: 07/14/2005 Amount: $20.00 (Check) Judment in favor of Clearfield Professional Group, Ltd. and against Paul Brian Roemer in the amount of $75,580.25. filed by s/Carl J. Rychcik, Esquire. 1CC & Notice to Atty. Mettley, Statement to Atty Rychcik	John K. Reilly Jr.
08/05/2005	Notice of Appeal, filed by s/Jason Mettley, Esq. One CC to Atty, One CC Superior Court with check for $60.00	John K. Reilly Jr.
08/08/2005	Praecipe for Deposit of Security to Stay Execution, filed by s/Jason Mettley, Esq. One CC Atty	John K. Reilly Jr.
08/18/2005	Superior Court Appeal Docket Sheet, Docket Number 1420 WDA 2005, filed. No CC	John K. Reilly Jr.
09/21/2005	Case mailed to Superior Court, September 21, 2005.	John K. Reilly Jr.

Clearfield County Court of Common Pleas

ROA Report

Case: 2001-00087-CD

Current Judge: John K. Reilly Jr.

Clearfield Professional Group, LTD vs. Paul B Roemer MD

Civil Other

Date		Judge
01/17/2001	Filing: Civil Complaint Paid by: Edward Kabala, Esq. Receipt number: 1816853 Dated: 01/17/2001 Amount: $80.00 (Check) Two Certified Copies to Sheriff Two Certified Copies to Attorney	No Judge
01/29/2001	Sheriff Return, Papers served on Defendant(s). So Answers, Chester A. Hawkins, Sheriff by s/Marilyn Hamm	No Judge
02/22/2001	Answer and New Matter of Paul B. Roemer, M.D. Filed by s/Jason Mettley, Esq. Verification, s/LPaul Brian Roemer, M.D. Certificate of Service no cc	No Judge
03/12/2001	Reply to New Matter filed on behalf of Plff. No cc.	John K. Reilly Jr.
10/11/2001	Stipulated Motion to Consolidate (Original filed to 01-74-CD), filed. s/Jason Mettley, Esq. s/Susan Brahm Gunn, Esq.	John K. Reilly Jr.
10/15/2001	ORDER, filed. (Original filed to case # 2001-74-CD) 2 Cert. to Atty. Gunn AND NOW, this 15th day of October, 2001, the parties having filed a Stipulated Motion to Consolidate, IT IS ORDERED, that the motion be and the same hereby is, GRANTED. Case Consolidated with 01-74-CD	John K. Reilly Jr.
08/01/2003	Motion For Summary Judgment In Part And In Whole Of Paul B. Roemer, M.D. filed by s/Jason Mettley, Esquire Certificate of Service (Original Filed to 01-74-CD)	John K. Reilly Jr.
10/02/2003	Appendix to Plaintiff's Motions for Summary Judgment, filed by Atty. Mettley (copy of cover sheet in file, Original with case 2001-74-CD)	John K. Reilly Jr.
12/16/2003	OPINION AND ORDER, AND NOW, this 16th day of December, 2003, re: Motions shall be and are hereby GRANTED in part and DISMISSED in part in accordance with the foregoing Opinion. by the Court, s/JKR,JR.,P.J.	John K. Reilly Jr.
01/02/2004	Defendant's Motion For Continuance Of Trial To Spring Term. filed by, s/Sue Gunn, Esq. Stipulation of Counsel s/Jason Mettley, Esq. Certificate of Service no cc	John K. Reilly Jr.
01/09/2004	ORDER, NOW, this 7th day of January, 2004, it is hereby Ordered that Defendant's Motion for Continuance of Trial to Spring Term is DENIED. by the Court, s/FJA,P.J. 1 cc Atty Gunn	John K. Reilly Jr.
01/15/2004	ORDER, NOW, this 15th day of January, 2004, re: Above-captioned matter shall be removed from the current list for jury trials and scheduled by the CA for trial w/o jury at the convenience of the parties. Pretrial conference scheduled for January 15, 2004, shall be and is hereby CANCELLED. by the Court, s/JKR,JR., Senior Judge, Specially Presiding. copies mailed to: Jason Mettley, Esq., Wm. Stang, Esq., and Carl Rychcik, Esq.	John K. Reilly Jr.
02/11/2004	Praecipe For Entry Of Appearance On Behalf Of Clearfield Professional Group, Ltd. filed by, s/Carl J. Rychcik, Esq. Certificate of Service	John K. Reilly Jr.
02/19/2004	Petition For Permisssion To File Amendment To Complaint and Request For Rule To Show Cause. filed by, s/William L. Stang, Esq.	John K. Reilly Jr.
	ORDER, AND NOW, to wit: this 19th day of February, 2004, Rule issued upon PAUL BRIAN ROEMER, M.D. Rule Returnable on the 8th day of March, 2004, for filing Written Response. by the Court, s/FJA, P.J. 1 cc to Atty	John K. Reilly Jr.
02/20/2004	Affidavit of Service, Order/Rule to Show Cause dated 19th day of February, 2004 and Petition/Motion for Permission to Amend Complaint filed 19th day of February, 2004, to be served on Plaintiff/Defendant Paul Brian Poemer, M.D. through Jason Mettley, Esq. filed by, s/John Sughrue, Esquire Certificate of Service 3 cc to Atty	John K. Reilly Jr.

Civil Other

Date		Judge
03/08/2004	Answer To Petition For Permission To File Amendment To Complaint. filed by, s/Jason Mettley, Esquiare Verification s/Paul Brian Roemer, M.D. Certificate of Service 1 cc to Attys	John K. Reilly Jr.
03/11/2004	ORDER filed. AND NOW, this 10th day of March, 2004 it is the Order of the Court that argument on Atty. Stang's Petition has been scheduled for March 24, 2004 before Judge Reilly. s/FJA 1 CC to Atty. Stang. 1 CC to Atty. Mettley.	John K. Reilly Jr.
03/16/2004	Praecipe For Appearance, on behalf of Clearfield Professional Group, LTD, Plaintiff. filed by s/John Sughrue, Esq. 3 cc Atty Sughrue 3 cc Atty Sughrue	John K. Reilly Jr.
03/24/2004	Order, NOW, this 24th day of March, 2004, upon consideration of Petition for Permission to File Amendment to Complaint filed on behalf of Clearfield Professional Group, Ltd., and argument thereon, it is the Order of this Court that said Petition be and is hereby granted and Clearfield Professional Group, Ltd., directed to file said amended complaint forthwith. BY THE COURT: /s/John K. Reilly, Jr., Senior Judge, Specially Presiding CC to Attys Mettley, Stang, and Sughrue	John K. Reilly Jr.
03/26/2004	Amendment To Complaint. filed by, s/Carl J. Rychcik, Esq. 1 cc to Atty	John K. Reilly Jr.
04/27/2004	ORDER, AND NOW, this 26th day of April, 2004, re: Civil Non-Jury Trial scheduled for Wed., July 14, 2004 and Thur., July 15, 2004, at 9:00 a.m. each day, before Senior Judge Reilly. by the Court, s/FJA, P.J. 1 cc Atty Mettley, Rychick and Sughrue	John K. Reilly Jr.
05/17/2004	Answer To Amendment To Complaint. filed by, s/Jason Mettley, Esquire Certificate of Service Verification s/Paul B. Roemer, M.D. no cc	John K. Reilly Jr.
06/24/2004	Notice to Attend, filed by Atty. Stang Original filed to 01-74-CD.	John K. Reilly Jr.
07/15/2004	ORDER, filed. cert to Atty'sMettley, Starg, Rychick & Sughrue NOW, this 14th day of July, 2004, RE: Finding of fact and conclusions of law	John K. Reilly Jr.
09/16/2004	Transcript of Proceedings with Exhibits, Civil Non-Jury Trail held before Honorable John K. Reilly, Jr., Senior Judge, Specially Presiding, July 14, 2004, filed.	John K. Reilly Jr.
09/29/2004	Certificate of Service Proposed Findings of Fact, Conclusions of Law and Legal Memorandum of Paul B. Roemer, M.D. was served upon counsel for defendant. s/Jason Metley, Esq.	John K. Reilly Jr.
	Certificate of Service Defendant's Proposed Findings of fact and Conclusions of Law was served upon Jason Mettley, Esq. s/Carl J. Rychcik	John K. Reilly Jr.
	Certificate of Service Defendant's Trial Brief was served upon Jason Mettley, Esq. s/Carl J. Rychcik	John K. Reilly Jr.
12/09/2004	Finding of Fact, filed. cert. to Stang & Rychick, Mattley & Sughrue Order, Now, this 9th day of December, 2004, Order of this Court that partial judgments shall be entered in favor of both parties in accordanace with the foregoing Opinion.	John K. Reilly Jr.
12/20/2004	Plaintiff's Motion for Post-Trial Relief, filed by Atty. Mettley 1 Cert. to Atty. (Original filed to 01-74-CD)	John K. Reilly Jr.
12/30/2004	Clearfield Professional Group's Response To Roemer's Motion For Post-Trial Relief, filed by s/ William L. Stang, Esquire. No CC. Original filed to 01-74-CD	John K. Reilly Jr.

Clearfield County Court of Common Pleas

ROA Report

Case: 2001-00087-CD

Current Judge: John K. Reilly Jr.

Clearfield Professional Group, LTD vs. Paul B Roemer MD

Civil Other

Date		Judge
02/03/2005	Order, AND NOW, this 3rd day of February, 2005, Order that argument on Plaintiff's Motion for Post-Trial Relief has been scheduled for March 31, 2005, at 10:00 a.m. before the Honorable John K. Reilly, Jr., Senior Judge, Specially Presiding BY THE COURT: /s/John K. Reilly, Jr., S.J., Sp. Pres. One CC Attys: Mettley, Stang, Sughrue	John K. Reilly Jr.
03/22/2005	Order, AND NOW, this 22nd day of March, 2005, it is the ORDER of the Court that argument on Plaintiff's Motion for Post-Trial Relief currently scheduled for March 31, 2005 at 10:00 a.m. is Continued. BY THE COURT: /s/ Fredric J. Ammerman, President Judge. 1CC Atty: Rycheck, Mettley. Original to 01-74-CD	John K. Reilly Jr.
05/20/2005	Order, AND NOW, this 20th day of May, 2005, it is the ORDER of the Court that argument on plaintiff's Motion for Post-Trial Relief has been scheduled for Thursday, May 26, 2005 at 9:00 a.m. in Courtroom No. 521, Allegheny County Courthouse, 436 Grant Street, Pittsburgh PA, before the Honorable Judge John K. Reilly. BY THE COURT: /s/ Fredric J. Ammerman, President Judge. 3CC to C/A for Service	Fredric Joseph Ammerman
07/08/2005	Order, this 8th day of July, 2005, Plaintiff's Motion for Post Trial Relief is hereby dismissed in accordance with the Findings of Fact, Conclusions of Law and Opinion filed by this Court on December 9, 2004. By The Court, /s/ John K. Reilly, Jr., Senior Judge. CC to Atty J. Mettley, W. Stang, Rychick, Sughrue	John K. Reilly Jr.
07/14/2005	Filing: Praecipe For Entry of Judgment On Decision in Non Jury Trial Paid by: Rychcik, Carl J. (attorney for Clearfield Professional Group, LTD) Receipt number: 1904791 Dated: 07/14/2005 Amount: $20.00 (Check) Judgment in favor of Clearfield Professional Group, Ltd. and against Paul Brian Roemer in the amount of $75,580.25. Filed by s/ Carl J. Rychcik, Esquire. 1CC & Notice to Atty. Mettley, statement to Atty Rychcik	John K. Reilly Jr.
08/05/2005	Filing: Appeal to High Court Paid by: Mettley, Jason (attorney for Roemer, Paul B MD) Receipt number: 1906114 Dated: 8/5/2005 Amount: $45.00 (Check) 1 Cert. to Superior Court with $60.00 Check. 1 Cert. to Atty.	John K. Reilly Jr.
08/08/2005	Filing: Poundage Paid by: Roemer, Paul B MD (defendant) Receipt number: 1906274 Dated: 8/8/2005 Amount: $770.00 (Check)	John K. Reilly Jr.
	Praecipe for Deposit of Security to Stay Execution, filed by Atty. Mettley 1 cert. to Atty. with receipts of $75,580.25 and $770.00 Escrow Account # 81151946 at CB & T	John K. Reilly Jr.
08/18/2005	Superior Court Appeal Docket Sheet, Docket Number 1420 WDA 2005, filed.	John K. Reilly Jr.
09/09/2005	Praecipe for Deposit of Security to Stay Execution, filed by atty. Mettley 1 Cert. to Atty. with receipt of $15,116.05 for Deposit in Escrow Account # 81151946	John K. Reilly Jr.
09/21/2005	Case mailed to Superior Court, September 21, 2005.	John K. Reilly Jr.

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01-74-CD
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GK
William A. Shaw
Prothonotary/Clerk of Courts

J. A13031/06

NON-PRECEDENTIAL DECISION - SEE SUPERIOR COURT I.O.P. 65.37

PAUL BRIAN ROEMER, M.D., Appellant	:	IN THE SUPERIOR COURT OF PENNSYLVANIA
v.	:	
CLEARFIELD PROFESSIONAL GROUP, LTD, Appellee	:	No. 1420 WDA 2005

Appeal from the Judgment entered in the
Court of Common Pleas of Clearfield County,
Civil Division, No(s): 01-74-CD No. 01-87-CD

BEFORE: DEL SOLE, P.J.E., ORIE MELVIN and TAMILIA, JJ.

MEMORANDUM: FILED: July 6, 2006

Paul Brian Roemer, M.D., appeals from the July 14, 2005 judgment in the amount of $75,580.25 entered in favor of Clearfield Professional Group, Ltd. (CPG), on the non-jury verdict in these consolidated cases arising from an employment contract.

The trial court made the following findings of fact pertinent to this appeal:

> 1. On or about October 26, 1999, Clearfield Hospital and CPG entered into a Group Recruitment Agreement (the "Group Recruitment Agreement") regarding the recruitment of Dr. Paul Brian Roemer ("Dr. Roemer") to the Clearfield area.
>
> 2. This agreement was an incentive for CPG to hire Dr. Roemer into its medical practice by providing a guarantee from Clearfield Hospital to cover Dr. Roemer's income for the first 12 months of his employment.
>
> 3. Under the Group Recruitment Agreement, Clearfield Hospital specifically agreed to supplement

the income generated by Dr. Roemer during the first year of his employment, if necessary, to meet his monthly salary requirements.

4. On or about October 26, 1999, Dr. Roemer entered into an employment agreement ("the Employment Agreement") with CPG.

5. Under the Employment Agreement, Dr. Roemer was free to terminate his employment and leave CPG at any time following an initial 12-month period, subject to certain payback provisions of the Group Recruitment Agreement, as long as Dr. Roemer provided written notice to CPG 60 days prior to leaving.

6. Under the Employment Agreement, if Dr. Roemer left the Clearfield Hospital service area prior to October 31, 2005, Dr. Roemer was solely responsible to repay all amounts owed to Clearfield Hospital under the Group Recruitment Agreement.

7. The Employment Agreement provided that if Dr. Roemer left CPG at any time, for any reason, and set up a practice within the Clearfield Hospital service area, within three years of the end of his employment, he was to pay CPG $1,000 a month for 24 months.

8. Unde[r] the Employment Agreement, if Dr. Roemer left CPG at any time, for any reason, and practiced within the Clearfield Hospital service area, CPG would provide him with copies of the files for the patients who went with him and Dr. Roemer was required to pay CPG for clerical costs of copying these files.

9. Dr. Roemer decided to leave CPG. On July 13, 2000, Dr. Roemer provided CPG with his written notice of resignation, indicating that, due to differences in professional practices he was resigning, effective November 1, 2000.

10. The date Dr. Roemer chose, November 1, 2000, was the earliest date that Dr. Roemer could

leave CPG voluntarily under the Employment Agreement.

11. When he decided in July of 2000 to leave CPG, Dr. Roemer realized that, pursuant to the Employment Agreement, if he set up a practice within the Clearfield Hospital service area he would be required to pay CPG $24,000.

12. Dr. Roemer knew when he decided in July of 2000 to leave CPG, under the Employment Agreement, if he set up a practice within the Clearfield Hospital service area, he would be required to reimburse CPG for charges CPG incurred for copying patient files to be forwarded to him.

13. Dr. Roemer knew that, when he decided in July of 2000 to leave CPG, if he left the Clearfield Hospital service area, he would be required to repay Clearfield Hospital the amount it had paid on his behalf under the Group Recruitment Agreement.

14. After tendering his resignation in July of 2000, Dr. Roemer made plans to open his own practice within Clearfield, Pennsylvania.

15. Dr. Roemer admitted that it was his plan that when he set up his new practice, he would take with him the patients which CPG had provided to him during his employment.

16. On October 7, 2000, after discovering several hundred patient files in Dr. Roemer's offices, Dr. [Richard] Johnson [president of CPG] relieved Dr. Roemer of his clinical duties, asked for Dr. Roemer's key to the building and asked him to leave the building.

17. Following the events of October 7, 2000, Dr. Roemer decided that he was going to immediately open up his new practice three weeks early and start seeing patients, rather than waiting until November 1, 200, which he did.

18. On October 10, 2000, Dr. Johnson wrote to Dr. Roemer indicating to him that he had been relieved of his medical duties for the balance of his employment at CPG and indicated that he remained on CPG's payroll.

19. Dr. Roemer received the October 10, 2000, letter from Dr. Johnson.

20. CPG was not willing to pay Dr. Roemer through the end of October 2000 and keep him on the CPG payroll while Dr. Roemer was operating a competing medical practice just blocks down the street from CPG, and diverting CPG patients.

21. Dr. Roemer's employment at CPG effectively ended on October 7, 2000.

22. The decision to effectively end Dr. Roemer's employment three weeks early was made after Dr. Roemer failed to respond to Dr. Johnson's letter of October 10, 2000, and Dr. Roemer continued to operate a competing medical practice down the street from CPG.

23. Following October 7, 2000, Dr. Roemer opened up a medical practice in Clearfield, Pennsylvania.

24. Dr. Roemer continued to practice in the Clearfield area until mid-June of 2001.

25. CPG incurred charges in the amount of $1,686 for copying patients' charts to be sent to Dr. Roemer.

26. CPG provided Dr. Roemer with a statement of charges incurred by CPG for copying patients' files. Dr. Roemer did not pay CPG for the charges listed.

27. Under the Employment Agreement, if Dr. Roemer left CPG and set up a practice within 36 months of separation, Dr. Roemer became obligated

to pay CPG liquidated damages of $1,000 per month for 24 months.

28. Dr. Roemer agreed that, prior to October 7, 2000, he realized his obligation to pay $24,000 to CPG and fully intended to pay CPG this amount.

29. After October 7, 2000, Dr. Roemer did not pay CPG this amount.

30. CPG's estimate of $1,000 per month was a conservative estimate of what CPG's costs would be from a former employee becoming a competitor in the community.

31. Under the Employment Agreement, Dr. Roemer was solely responsible for any repayment owed to Clearfield Hospital under the Group Recruitment Agreement if he left CPG before October 31, 2005.

32. Clearfield Hospital presently considers amounts owed under the Group Recruitment Agreement to be due and owing to Clearfield Hospital.

33. From November 1999 to September 2000, CPG received guarantee payments from Clearfield Hospital totaling $48,918.08, pursuant to the Group Recruitment Agreement.

34. Under the Group Recruitment Agreement, collection figures from CPG were to be provided on a cash basis, not an accrual basis.

35. The Group Recruitment Agreement permits Clearfield Hospital to calculate interest on the amounts that are outstanding.

36. Clearfield Hospital has applied an interest rate at prime plus 1 percent which, at the time calculated, was 7.75 percent, accruing from the date of August 1, 2001.

37. Clearfield Hospital sent Dr. Roemer a letter informing Dr. Roemer of the amount that was owed, the interest rate that had been established, and the repayment terms that were expected as part of the Group Recruitment Agreement.

38. Dr. Roemer has not paid Clearfield Hospital the amount demanded of him.

39. Clearfield Hospital has made a demand on CPG, as well, for the amount that is outstanding under the Guarantee Agreement for Dr. Roemer.

40. CPG has an agreement with Clearfield Hospital that Clearfield Hospital would not require reimbursement from CPG of funds owed under the Group Recruitment Agreement until the conclusion of the present litigation.

...

48. Dr. Roemer worked at CPG for approximately 49 weeks out of an initial 52-week contract term.

49. By the time Dr. Roemer's employment ended in October of 2000, CPG had already conferred substantial benefits on Dr. Roemer under the Employment Agreement.

50. Pursuant to the Employment Agreement, from November of 1999 through October of 2000, CPG provided Dr. Roemer with (i) a salary of approximately $114,000; (ii) billing services; (iii) office space; (iv) nursing personnel; (v) secretarial personnel; (vi) those supplies necessary to practice medicine; (vii) three weeks of paid time off (two weeks vacation, plus one week for continuing medical education); and (viii) health insurance coverage.

Trial Court Opinion, Reilly, Jr., 12/9/04, at 1-9 (citations omitted).

CPG commenced suit against appellant alleging breach of contract, breach of the duty of loyalty, misappropriation, and seeking punitive

damages. Appellant filed suit against CPG seeking rescission of the contract, claiming quantum meruit, tortuous interference with contractual relations, and seeking punitive damages. The court entered partial verdicts in favor of both parties.

The court reached the following conclusions pertinent to this appeal:

> 1. CPG did not materially breach the parties' Employment Agreement.
>
> 2. Dr. Roemer received CPG's substantial performance of the Employment Agreement and had an adequate remedy of law available to him for any alleged breach of the Employment Agreement.
>
> 3. Dr. Roemer is not entitled to rescission of the Employment Agreement or a finding that he is relieved of his post-employment obligations under the Employment Agreement.
>
> 4. CPG did not breach the Employment Agreement.
>
> 5. Dr. Roemer breached the Employment Agreement.
>
> 6. Dr. Roemer breached the Employment Agreement by setting up a competing medical practice in Clearfield, Pennsylvania, within three years of the end of his employment at CPG and not paying CPG $1,000 a month.
>
> 7. The contractual provision in the Employment Agreement requiring Dr. Roemer to pay CPG $1,000 a month for 24 months if Dr. Roemer opened a competing practice within the Clearfield Hospital service area within three years of his employment with CPG is enforceable under Pennsylvania law.
>
> 8. Dr. Roemer breached the Employment Agreement by not paying CPG the charges of

> $1,686 incurred by CPG for copying records of patients who requested to have their records transferred to Dr. Roemer.
>
> 9. Dr. Roemer breached the Employment Agreement by not paying Clearfield Hospital the amounts of the guarantee payments made by Clearfield Hospital to CPG under the Group Recruitment Agreement, plus interest.

Id. at 9-10. It entered its verdicts and judgment accordingly. This timely appeal followed in which appellant raises the following questions for our review:

> A. Whether the lower court erred as a matter of law by finding that appellant breached the parties' employment contract, by not paying certain income guarantee payments, plus interest, after the termination of the employment relationship.
>
> B. Whether the lower court erred as a matter of law by finding that appellant breached the parties' employment contract by not making certain monthly payments to appellee after the termination of the employment relationship.
>
> C. Whether the lower court erred as a matter of law by finding that appellant breached the parties' employment contract by not reimbursing the appellee for certain clerical expenses after the termination of the employment relationship.

Appellant's brief at 4.[1]

Our scope and standard of review in a non-jury civil trial is

[1] We admonish appellant for violating Rule 2119 **Argument**, (a) **General rule**, of the Pennsylvania Rules of Appellate Procedure which requires "[t]he argument shall be divided into as many parts as there are questions to be argued.... Pa.R.A.P. 2119(a). Appellant lists three questions but has only two sections in his argument.

> limited to a determination of whether the findings of the trial court are supported by competent evidence and whether the trial court committed error in the application of law. Findings of the trial judge in a non-jury case must be given the same weight and effect on appeal as a verdict of a jury and will not be disturbed on appeal absent error of law or abuse of discretion. When this Court reviews the findings of the trial judge, the evidence is viewed in the light most favorable to the victorious party below and all evidence and proper inferences favorable to that party must be taken as true and all unfavorable inferences rejected.

Beckwith Mach. Co. v. Nat'l Union Fire Ins. Co., 890 A.2d 403, 405-406 (Pa.Super. 2005). In reviewing the court's application of the law, our review, as with all questions of law, is plenary. ***Id.*** at 406.

In his first issue, appellant argues he was bound by the "post-employment obligations" only if he left CPG, but he contends he did not leave but was discharged (or terminated/fired) on October 7, 2000. Accordingly, he says he did not breach the employment contract and thus is not responsible for those obligations. At the very least, he contends, the court should have made a direct ruling as to whether he left or was discharged. Appellant also argues the court erroneously concluded that because he failed to prove CPG materially breached the agreement, that he necessarily breached the agreement by disregarding the post-employment obligations. Appellant's brief at 17. It should be noted he does not dispute the trial court's ruling that he is not entitled to a rescission of the employment contract since it found CPG did not commit a material breach. ***Id.*** at 18.

The portions of the employment contract at issue are as follows:

> Dr. Roemer is free to leave C.P.G. at any time following the initial 12 month period as long as he provides written notice to C.P.G. 60 days prior to leaving, subject to the pay-back provisions of the attached Group Recruitment Agreement. Should Dr. Roemer leave before the end of the "Repayment/Forgiveness Period" (10-31-2005) it is understood that any payments required to the hospital will be Dr. Roemer's sole responsibility.
>
> C.P.G. may discharge Dr. Roemer only at the end of the first 12 month period, or each succeeding 6 month period, only by written notice, given 60 days prior to discharge.
>
> Should Dr. Roemer leave C.P.G. at any time for any reason, and practice within the service area of the Clearfield Hospital within 36 months of separation, C.P.G. will supply him with copies of medical records of any patient who signs a request for record transfer at a cost to reflect only the clerical time to reproduce the records, and, Dr. Roemer will pay C.P.G. $1,000 per month for 24 months, starting 30 days after being separated from C.P.G.

Record 01-74-CD, No. 1, Complaint, Exhibit A, Employment contract, at 1 (emphasis supplied). The parties do not dispute there are distinct implications based upon whether appellant left or was discharged from CPG, but they dispute whether he, in fact, left or was discharged. They also dispute whether the trial court made a factual determination as to this issue. We agree with appellee that the court addressed this issue and made a finding. Specifically, the court stated in its Opinion:

> During the latter part of the contract between Dr. Roemer and CPG, problems arose and Dr. Roemer notified CPG that he would be leaving their employ

> on November 1, 2000. On October 7, 2000, the month before Dr. Roemer was to voluntarily leave CPG's employ, Dr. Richard Johnson, President of CPG, relieved Dr. Roemer of his clinical duties and early the following week Dr. Johnson wrote Dr. Roemer informing him that, while his medical duties had been suspended, he remained on the CPG payroll. Dr. Roemer elected not to accept this situation but immediately opened a new competing practice in the Clearfield area.
>
> ...
>
> Initially, this court is of the opinion that, in terminating Dr. Roemer's clinical duties, CPG did not violate the terms and conditions of the employment agreement, in that he was immediately notified thereafter that he would remain on the payroll of CPG even though not performing any medical functions. Nevertheless, even if CPG's conduct constituted a breach of the agreement, said breach could not rise to the level of a material breach.
>
> ...
>
> The court notes that he got substantially everything he bargained for under his employment agreement except [for] three weeks of salary, and he would have received that had he not *unilaterally decided to leave* CPG and open his own practice.
>
> ...
>
> Dr. Roemer was leaving CPG's employ on November 1, 2000, in any event, by his own choice, and the occurrences on October 7, 2000, *when Dr. Roemer left CPG three weeks early cannot be attributed to the actions of CPG...*

Trial Court Opinion, at 11-13 (emphasis supplied).

This is a factual determination and according to the applicable standard of review as set forth above, we are called upon to determine

whether the finding is supported by competent evidence. ***Beckwith Mach. Co., supra***. Upon review, we determine this finding is supported by competent evidence of record.

Dr. Johnson testified he did not intend to fire appellant on October 7, 2000, but rather he had not worked out all of the details and intended mainly to get him out of the building. N.T., at 133. It is true that Roemer testified Johnson told him "you're fired," ***Id.*** at 49. The court apparently found Johnson to be more credible. "The court's findings are especially binding on appeal, where they are based upon the credibility of the witnesses, unless it appears that the court abused its discretion or that the court's findings lack evidentiary support or that the court capriciously disbelieved the evidence. ***Hart v. Arnold***, 884 A.2d 316, 331 (Pa.Super. 2005), *appeal denied*, ___ Pa. ___, 897 A.2d 458 (2006), *quoting* ***Fudula v. Keystone Wire & Iron Works, Inc.***, 424 A.2d 921, 927 (Pa.Super. 1981). It is also true that two police officers who were present during the October 7, 2000 incident stated in their report that "Roemer was immediately fired by Johnson." N.T., at 18. Officer Jeffrey Rhone recalled that Johnson asked Roemer for the key to the building but he did not testify that he heard Johnson explicitly fire appellant. ***Id.*** at 15. It was more of an impression that he had. ***Id.*** at 18-19. Officer Vincent McGinnis likewise testified that it was his impression Johnson fired Roemer, but he did not hear Johnson state that Roemer was fired. He further conceded that his impressions were limited based on what he could see and hear and that it was very possible

that Johnson was relieving Roemer of his medical responsibilities and not firing him. ***Id.*** at 23. In addition, it is undisputed that Roemer received the October 10th letter from Johnson, stating that Roemer was relieved of his medical duties but remained on the payroll. ***Id.*** at 83.

Relying upon the evidence set forth above, we conclude the trial court's finding that appellant left CPG's employ is supported by competent evidence. Based upon our deferential standard of review, we must affirm the court's finding on this issue.

We further reject appellant's contention the court erred by concluding that because appellant failed to prove a material breach, that he necessarily breached the employment contract by disregarding the post-employment obligations therein. Appellant's brief at 17.

CPG claimed Roemer was liable to reimburse Clearfield Hospital for the guaranteed payments it made to CPG to secure Roemer's employment. The employment contract provided

> Should Dr. Roemer leave before the end of the 'Repayment/Forgiveness Period (10-31-2005) it is understood that any payments required to the hospital will be Dr. Roemer's sole responsibility.

Record 01-74-CD, No. 1, Complaint, Exhibit A, Employment contract, at 1. The court cited this provision of the contract and then stated

> In lieu [sic] of this court's ruling that CPG did not commit a material breach of the employment agreement, Dr. Roemer has no defense to this claim and, therefore, must pay to Clearfield Hospital or reimburse CPG for any payments made to said

> hospital in the amount of $48,918.08, together with interest at agreed upon rate.

Trial Court Opinion, at 15.

The court committed no error in this regard. It concluded, and we affirm the conclusion, that appellant left CPG in October 2000. Thus, it is clear under the express wording of the contract that Roemer is solely responsible for payment of all amounts owed to Clearfield Hospital under the Group Recruitment Agreement.

If CPG had materially breached the employment agreement, appellant might have had a defense to this claim, but the court concluded it did not and appellant does not dispute that conclusion.

In his second and final issue on appeal, appellant argues that even if this Court finds he breached the employment contract and is bound by its post-employment obligations, the non-compete provision requiring that he pay CPG $1,000 per month if he established a practice within Clearfield Hospital's service area within thirty-six months of separation, is an unenforceable penalty because it is a liquidated damages provision which has no relationship to actual damages suffered or anticipated, regardless of whether the amount was a very low estimate of actual damages, as Johnson's testimony indicated.

> Under Pennsylvania law, parties to a contract may include a liquidated damages provision which ensures recovery in cases where the computation of actual damages would be speculative. Such clauses are enforceable provided that, at the time the parties enter into the contract, the sum agreed to

> constitutes a reasonable approximation of the expected loss rather th[a]n an unlawful penalty.

Brinich v. Jencka, 757 A.2d 388, 401-402 (Pa.Super. 2000), *citing* ***Carlos R. Leffler, Inc. v. Hutter***, 696 A.2d 157, 162 (Pa.Super. 1997). Also, the Court noted in ***Leffler***, this common law principle was codified in Pennsylvania's Commercial Code. ***Leffler***, at 162. While not applicable here, the relevant section of the Code provides some guidance. It specifies, *inter alia*, that "[a] term fixing *unreasonably large* liquidated damages is void as a penalty." 13 Pa.C.S.A. § 2718 (emphasis supplied).

In addition, we note

> [t]he question of whether stipulation is a penalty or a valid liquidated damages provision . . . is to be determined by the intention of the parties, drawn from the words of the whole contract, examined in the light of its subject-matter and its surroundings; and in this examination we must consider the relation which the sum stipulated bears to the extent of the injury which may be caused by the several breaches provided against, the ease or difficulty of measuring a breach in damages, and such other matters as are legally or necessarily inherent in the transaction.

Hanrahan v. Audubon Builders, Inc., 614 A.2d 748, 750 (Pa.Super. 1992).

There is no dispute that appellant, in establishing a practice within the service area of Clearfield Hospital, informed his patients of his upcoming move and his new address and phone number, and assumed that most of his patients would follow him to his new practice. In fact, a few hundred did indeed follow him. N.T., at 45, 61, 149. CPG would certainly lose income

from those patients that left the group, but also would lose referrals of friends and relatives of those patients. ***Id.*** at 180. It also stands to reason that Roemer's establishment of a new practice in the community would likely divert other new patients who might otherwise have chosen CPG for care. As Johnson explained, the losses incurred when a physician leaves the group and establishes a competing practice are difficult to calculate. ***Id.*** at 149-150, 179-180. Johnson further testified that the purpose of the provision at issue was to offset these potential losses. ***Id.*** at 149-150. The $1,000 per month figure was determined after several discussions within CPG and was an effort to quantify the damages incurred when a member establishes a competing practice in the community, as those damages are difficult to determine. ***Id.*** at 180. The amount, according to Johnson, was "an attempt at a fair amount of monies" and a "very low," "extremely conservative" estimate of the losses CPG would incur. ***Id.*** at 149-150, 180.

The record clearly supports the court's conclusion that it is difficult to calculate damages in this situation. ***See*** Trial Court Opinion, at 14. Appellant does not dispute that; rather, he asserts that the amount stipulated in the contract was not a reasonable approximation of damages but is a penalty.

Considering the intention of the parties and the subject matter of the agreement, as we are required to do, we find that it is not a penalty. ***See Hanrahan, supra***. Certainly, the creation of a competing practice in the community and the diversion of three hundred existing patients, referrals of

their friends and relatives, and countless other patients, would cause CPG to incur losses, which it legitimately sought to mitigate by this provision. The testimony reveals, and significantly, appellant does not dispute that this amount, was a low estimate of the losses CPG would incur. ***See Leffler***, at 162, *citing* 13 Pa.C.S.A. § 2718 (stating that "[a] term fixing *unreasonably large* liquidated damages is void as a penalty") (emphasis supplied). In fact, as the court noted, appellant intended to pay the amount stipulated in the contract but for CPG allegedly breaching the contract. N.T., at 80. For the above stated reasons, we affirm the court's holding on this issue. The record supports its findings and it committed no error of law.

Judgment affirmed.

Judgment Entered:

Eleanor R. Valecko

Deputy Prothonotary

DATE: July 6, 2006

The Superior Court of Pennsylvania

Sitting at Pittsburgh

6th floor Grant Building
Suite 600
Pittsburgh, Pennsylvania
15219

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AND NOTICE OF REMAND
under
PENNSYLVANIA RULES OF APPELLATE PROCEDURE 2571 AND 2572

THE UNDERSIGNED, Prothonotary (or Deputy Prothonotary) of the Superior Court of Pennsylvania, the said court of record, does hereby certify that annexed to the original hereof, is a true and correct copy of the entire record:
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William A. Shaw
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As remanded from said court in the following matter:
ROEMER V CLEARFIELD PROFESSIONAL GROUP
NO, 1420 WDA 2005

COURT OF COMMON PLEAS-CIVIL DIVISION-CLEARFIELD COUNTY
No. 01-74-CD- No. 01-87- CD

In compliance with Pennsylvania Rules of Appellate Procedure 2571.

The date of which the record is remanded August 15, 2006

An additional copy of this certificate is enclosed with the original hereof and the clerk or prothonotary of the lower court or the head, chairman, deputy, or the secretary of the other government unit is hereby directed to acknowledge receipt of the remanded record by executing such copy at the place indicated by forthwith returning the same to this court.

Eleanor R. Valecko

DEPUTY PROTHONOTARY

RECORD, ETC. RECEIVED:

DATE: August 17, 2006

(Signature & Title)

WILLIAM A. SHAW
Prothonotary
My Commission Expires
1st Monday in Jan. 2010
Clearfield Co., Clearfield, PA

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AUG 17 2006

William A. Shaw
Prothonotary/Clerk of Courts

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Prothonotary
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Clearfield Co., Clearfield, PA

01-87-CD

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IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CLEARFIELD PROFESSIONAL, GROUP, LTD.,

Plaintiff/Defendant,

vs.

PAUL BRIAN ROEMER, M.D.

Defendant/Plaintiff.

CIVIL DIVISION

NO. 01-87-CD
NO. 01-74-CD

CONSENT MOTION FOR RELEASE OF FUNDS

Filed on behalf of
Clearfield Professional Group, Ltd.,
Defendant/Plaintiff

Counsel of Record for this Party:

William L. Stang
PA ID # 33221
Carl J. Rychcik
PA ID #73754

FOX ROTHSCHILD LLP
625 Liberty Avenue, 29th Floor
Pittsburgh, PA 15222-3115
(412) 391-1334

FILED 3cc Atty Stang
m/11:04 BD
AUG 17 2006

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CLEARFIELD PROFESSIONAL GROUP, LTD., CIVIL DIVISION

Plaintiff/Defendant, NO. 01-87-CD
NO. 01-74-CD

vs.

PAUL BRIAN ROEMER, M.D.

Defendant/Plaintiff.

CONSENT MOTION FOR RELEASE OF FUNDS

Plaintiff, Clearfield Professional Group, Ltd. ("Clearfield"), by its attorneys, Fox Rothschild LLP, and with the consent of Defendant Paul Roemer, M.D. ("Dr. Roemer"), files the following Consent Motion for Release of Funds, stating as follows:

1. On or around January 16, 2001, Dr. Roemer filed a complaint against Clearfield, which included a request for declaratory relief and claims for *quantum meruit*, tortious interference with prospective contractual relations and conversion. This complaint is docketed at No. 01-74-CD.

2. Clearfield also filed a complaint against Dr. Roemer on or around January 17, 2001, which included claims for breach of contract, breach of duty of loyalty, and misappropriation. This complaint is docketed at No. 01-87-CD.

3. These actions were consolidated at No. 01-CD-74 by order dated October 15, 2001.

4. A one day trial was held on July 14, 2004, and the Honorable John K. Reilly, Jr. issued his Findings of Fact, Conclusions of Law, Opinion and Order on or about December 9, 2004.

5. In his Opinion, Judge Reilly awarded Clearfield damages in the total amount of $60,596.55, plus interest on a portion of that amount ($48,918.08) at a rate agreed upon by the parties (7.75% from 8/1/01).

6. Clearfield entered judgment against Dr. Roemer on July 14, 2005 in the amount of $75,580.25, plus costs and interest.

7. On or about August 5, 2005, Dr. Roemer filed a Praecipe for Deposit of Security to Stay Execution in the amount of $75,580.25. In order to meet the requirements of Pa.R.A.P. 1731, a second Praecipe for Deposit of Security to Stay Execution in the amount of $15,116.05 was filed by Dr. Roemer on or about September 7, 2005, for a total of $90,696.30.

8. These funds were deposited by the Prothonotary in an interest-bearing account at docket No. 01-87-CD ("the Escrow Account"). As of July 10, 2006, this account contained funds in the amount of $92,209.39.

9. On August 16, 2005, Dr. Roemer filed a Notice of Appeal with the Superior Court of Pennsylvania. After briefs were submitted and oral argument heard, the Superior Court affirmed Judge Reilly's decision on July 6, 2006.

10. The period for statutory appeal to the Supreme Court has expired, and no appeal was filed by Dr. Roemer.

11. The amount currently due and owing to Clearfield under Judge Reilly's Opinion and Order is $80,455.18, which includes interest in the amount of $4,874.93 (calculated at the rate of 6% from the date of judgment). The remaining amount in the Escrow Account is due and owing to Dr. Roemer.

12. Dr. Roemer consents to the above distribution of the funds in the Escrow Account.

WHEREFORE, Clearfield requests the Court grant its Consent Motion for Release of Funds as defined in Paragraph 11 and enter the attached Order.

Respectfully submitted,

DATED: August 16, 2006

William L. Stang
PA I.D. # 33221
Carl J. Rychcik
PA I.D. # 73754
FOX ROTHSCHILD LLP
625 Liberty Avenue, 29th Floor
Pittsburgh, PA 15222-3115
(412) 391-1334
Counsel for Clearfield Professional Group

Jason Mettley
PA I.D. #81966
JUBELIRER, PASS & INTRIERI, P.C.
219 Fort Pitt Boulevard
Pittsburgh, PA 15222
(412) 281-3850
Counsel for Paul Brian Roemer, M.D.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CLEARFIELD PROFESSIONAL GROUP, LTD., CIVIL DIVISION

Plaintiff/Defendant, NO. 01-87-CD
NO. 01-74-CD

vs.

PAUL BRIAN ROEMER, M.D.

Defendant/Plaintiff.

ORDER OF COURT

AND NOW, this 18th day of August, 2006, upon consideration of the foregoing Consent Motion for Release of Funds ("Motion"), it is hereby ORDERED, ADJUDGED and DECREED that the Motion is GRANTED and the Prothonotary shall issue two checks distributing the funds contained in the escrow account relating to docket No. 01-87-CD ("the Escrow Account"). The first check, in the amount of $80,455.18, shall be payable to Clearfield Professional Group, Ltd., and the second check, for the amount remaining in the Escrow Account after Clearfield Professional Group's check is deducted, shall be payable to Paul Brian Roemer, M.D.

BY THE COURT:

Fred Ammerman
J.

FILED 3cc
01:10:21 PM
AUG 21 2006
William A. Shaw
Prothonotary/Clerk of Courts

CHECKS MAILED TO EACH ATTY OF RECORD.

PT1 196325v1 08/10/06

DATE: 8/21/06

X You are responsible for serving all appropriate parties.

___ The Prothonotary's office has provided service to the following parties:

___ Plaintiff(s) ___ Plaintiff(s) Attorney ___ Other

___ Defendant(s) ___ Defendant(s) Attorney

___ Special Instructions:

FILED

AUG 21 2006

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CLEARFIELD PROFESSIONAL GROUP, LTD., CIVIL DIVISION

Plaintiff/Defendant, NO. 01-87-CD
NO. 01-74-CD

vs.

PAUL BRIAN ROEMER, M.D.

Defendant/Plaintiff.

ORDER OF COURT

AND NOW, this _____ day of _____, 2006, a hearing with regard to the parties' Consent Motion for Release of Funds is hereby scheduled for _____, 2006 at _____ __.m. in Courtroom No. _____, Clearfield County Courthouse, Clearfield, Pennsylvania.

BY THE COURT:

_____,
J.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Consent Motion for Release of Funds was served upon the following individual by first class U.S. Mail this 16th day of August, 2006:

Jason Mettley, Esq.
Jubelirer, Pass & Intrieri, P.C.
219 Fort Pitt Boulevard
Pittsburgh, PA 15222

Carl J. Rychcik

Carl J. Rychcik

SECURITY WARNING: THE FACE OF THIS DOCUMENT FEATURES A COLORED BACKGROUND AND MICROPRINT BORDERS. THE REVERSE SIDE FEATURES ARTIFICIAL WATERMARKS

15720

CLEARFIELD BANK & TRUST COMPANY

REMITTER: CLEARFIELD BANK & TRUST CO 8/21/06

PAY TO THE ORDER OF CLEARFIELD CO PROTHONOTARY

EXACTLY **92,481 AND 24/100 DOLLARS $ $92,481.24

CASHIER'S CHECK

THE PURCHASE OF AN INDEMNITY BOND WILL BE REQUIRED BEFORE ANY CASHIER'S CHECK OF THIS BANK WILL BE REPLACED OR REFUNDED IN THE EVENT IT IS LOST, MISPLACED OR STOLEN.

AUTHORIZED SIGNATURE

Dennis Klebon

⑈0000157208⑈ ⑆031306294⑆ 190000271⑈

1202

CLEARFIELD COUNTY PROTHONOTARY 7-83

[redacted] William A. Shaw
ESCROW ACCOUNT
P.O. BOX 549
CLEARFIELD, PA 16830

60-629/313

AUGUST 21, 19* 2006

PAY TO THE ORDER OF PAUL BRIAN ROEMER, M.D. $ 12,026.06

TWELVE THOUSAND TWENTY-SIX AND 06/100---------- DOLLARS

CLEARFIELD BANK & TRUST COMPANY
Main Office
11 North 2nd Street
Clearfield, PA 16830

IMMA

FOR 2001-87-CD PER COURT ORDER 8-18-06

⑆031306294⑆ 1 2 26577 2⑈ 1202

1201

CLEARFIELD COUNTY PROTHONOTARY 7-83

[redacted] William A Shaw
ESCROW ACCOUNT
P.O. BOX 549
CLEARFIELD, PA 16830

60-629/313

AUGUST 21, 19* 2006

PAY TO THE ORDER OF CLEARFIELD PROFESSIONAL GROUP, LTD. $ 80,455.18

EIGHTY THOUSAND FOUR HUNDRED FIFTY-FIVE AND 18/100---------- DOLLARS

CLEARFIELD BANK & TRUST COMPANY
Main Office
11 North 2nd Street
Clearfield, PA 16830

IMMA

FOR 2001-87-CD PER COURT ORDER

⑆031306294⑆ 1 2 26577 2⑈ 1201

Clearfield County Court of Common Pleas NO. 0020313

DISBURSEMENT Monday, August 21, 2006

Paid to: Clearfield Professional Group, LTD. $80455.18

Eighty Thousand Four Hundred Fifty-Five and 18/100 Dollars

Case: 2001-00087-CD eld Professional Group, LTD vs. Paul B Roemer MD

For: Trust 80455.18 William A. Shaw, Prothonotary/Clerk of Courts

By: _____

Deputy Clerk

Clerk: BILLSHAW **NOT NEGOTIABLE**

Clearfield County Court of Common Pleas

NO. 0020312

DISBURSEMENT

Monday, August 21, 2006

Paid to: Paul B Roemer MD

$12026.06

1015 Daisy Street

Clearfield PA 16830

Twelve Thousand Twenty-Six and 06/100 Dollars

Case: 2001-00087-CD eld Professional Group, LTD vs. Paul B Roemer MD

For: Trust 12026.06 William A. Shaw, Prothonotary/Clerk of Courts

By: _____

Deputy Clerk

Clerk: BILLSHAW

NOT NEGOTIABLE

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CLEARFIELD PROFESSIONAL, GROUP, LTD.,

Plaintiff/Defendant,

vs.

PAUL BRIAN ROEMER, M.D.

Defendant/Plaintiff.

CIVIL DIVISION

NO. 01-87-CD

PRAECIPE TO SATISFY JUDGMENT

Filed on behalf of
Clearfield Professional Group, Ltd.,
Defendant/Plaintiff

Counsel of Record for this Party:

William L. Stang
PA ID # 33221
Carl J. Rychcik
PA ID #73754

FOX ROTHSCHILD LLP
625 Liberty Avenue, 29th Floor
Pittsburgh, PA 15222-3115
(412) 391-1334

FILED Pd $7.00 Atty
M/11:40cm 2cc + 1 Cert of
AUG 23 2006 Sat issued to
Atty Rychcik
William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CLEARFIELD PROFESSIONAL GROUP, LTD.,	CIVIL DIVISION
Plaintiff/Defendant,	NO. 01-87-CD
vs.	
PAUL BRIAN ROEMER, M.D.	
Defendant/Plaintiff.	

PRAECIPE TO SATISFY JUDGMENT

TO THE PROTHONOTARY:

Kindly mark the judgment entered in the above-captioned matter satisfied and all costs paid, as noted in the executed Statement of Judgment, attached hereto as Exhibit 1.

Respectfully submitted,

DATED: August 22, 2006

William L. Stang
PA I.D. # 33221
Carl J. Rychcik
PA I.D. # 73754
FOX ROTHSCHILD LLP
625 Liberty Avenue, 29th Floor
Pittsburgh, PA 15222-3115
(412) 391-1334
Counsel for Clearfield Professional Group

SWORN TO AND SUBSCRIBED
BEFORE ME THIS 22 DAY OF
AUGUST, 2006

Notary Public

PT1 197452v1 08/22/06

COMMONWEALTH OF PENNSYLVANIA
Notarial Seal
Desanka W. Dugas, Notary Public
City Of Pittsburgh, Allegheny County
My Commission Expires Feb. 4, 2010
Member, Pennsylvania Association of Notaries

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY ,
PENNSYLVANIA
STATEMENT OF JUDGMENT

Clearfield Professional Group, LTD
Plaintiff(s)

No.: 2001-00087-CD

Real Debt: $75,580.25

Atty's Comm: $

Vs.

Costs: $

Int. From: $

Paul B Roemer MD
Defendant(s)

Entry: $20.00

Instrument: Judgment on Decision in
Non Jury Trial

Date of Entry: July 14, 2005

Expires: July 14, 2010

Certified from the record this 14th day of July, 2005.

William A. Shaw, Prothonotary

****

SIGN BELOW FOR SATISFACTION

Received on August 22, 2006, of defendant full satisfaction of this Judgment, Debt, Interest and Costs and Prothonotary is authorized to enter Satisfaction on the same.

Plaintiff/Attorney

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Praecipe to Satisfy Judgment was served upon the following individual by first class U.S. Mail this 22nd day of August, 2006:

Jason Mettley, Esq.
Jubelirer, Pass & Intrieri, P.C.
219 Fort Pitt Boulevard
Pittsburgh, PA 15222

Carl J. Rychcik

PT1 197452v1 08/22/06

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

CERTIFICATE OF SATISFACTION OF JUDGMENT

No.: 2001-00087-CD

Clearfield Professional Group, LTD

Debt: $75,580.25

Vs.

Atty's Comm.:

Paul B Roemer MD

Interest From:

Cost: $7.00

NOW, Wednesday, August 23, 2006 , directions for satisfaction having been received, and all costs having been paid, SATISFACTION was entered of record.

Certified from the record this 23rd day of August, A.D. 2006.

Prothonotary

FOX • ROTHSCHILD LLP

ATTORNEYS AT LAW

625 LIBERTY AVENUE • 29TH FLOOR • PITTSBURGH, PA 15222-3115
412.391.1334 • FAX 412.391.6984 • www.foxrothschild.com

Carl J. Rychcik
Direct Dial: (412) 394-5549
Internet Address: crychcik@foxrothschild.com

August 22, 2006

VIA FEDERAL EXPRESS

Prothonotary of Clearfield County
Clearfield County Court of Common Pleas
230 East Market Street, 1st Floor
Clearfield, Pennsylvania 16830

Re: Paul Brian Roemer, M.D. v. Clearfield Professional Group, Ltd.
Civil Action Nos. 01-74-CD, 01-87-CD
Our File No.: 60578-00001

Dear Sir or Madam:

Enclosed is an original and two (2) copies of a Praecipe to Satisfy Judgment for each of following docket numbers: 01-74-CD and 01-87-CD. Please file the Praecipes and return the extra copies to me in the enclosed, self-addressed stamped envelope. Also enclosed is a check in the amount of $14.00 to cover the costs for filing the Praecipes.

Thank you for your assistance, and should you have any questions, please do not hesitate to contact me.

Very truly yours,

Carl J. Rychcik

CJR/djh
Enclosures
cc: Jason Mettley, Esquire (w/enclosures)

LAW OFFICES
JUBELIRER, PASS & INTRIERI, P.C.
219 FORT PITT BOULEVARD
PITTSBURGH, PENNSYLVANIA 15222-1576

JOSEPH J. PASS
NEAL R. CRAMER
ERNEST B. ORSATTI
EDWARD H. WALTER
ROBERT A. EBERLE
JAMES A. WELKER
JASON METTLEY
JOSEPH SANTINO PASS

412-281-3850
412-261-0147

BEN PAUL JUBELIRER (1904-1983)
FRANK P.G. INTRIERI (1942-1976)

FAX: 412-281-1985
www.jpilaw.com

August 4, 2005

VIA UPS OVERNIGHT EXPRESS MAIL

William Shaw, Prothonotary
Clearfield County Court of Common Pleas
230 E. Market Street
Clearfield, PA 16830

Re: Paul Brian Roemer, M.D. vs. Clearfield Professional Group, Ltd.
Civil Action No. 01-74-CD and No. 01-87-CD

Dear Mr. Shaw:

Enclosed please find the following:

1. An original and two (2) copies of a Notice of Appeal and Request for Transcript;

2. A check in the amount of $45.00, made payable to "Prothonotary, William Shaw", in full payment of the Court of Common Pleas' docketing fee for the Appeal;

3. A check in the amount of $60.00, made payable to "Superior Court of Pennsylvania", in full payment of the Superior Court's docketing fee for the Appeal; and,

4. A self-addressed postage prepaid envelope. Kindly time-stamp a copy of the Notice of Appeal and return it to me in this envelope.

My client is separately transmitting to you two (2) checks, in the amounts of $75,580.25 and $770.00, as appropriate security to stay execution of the judgment against him pending appeal.

If you have any questions or concerns, please do not hesitate to contact me.

Thank you very kindly for your time and attention to this matter.

Sincerely,

Jason Mettley

JM:dmc
Enclos.

cc: John K. Reilly, Jr., Senior Judge (w/enclos.)
Thomas D. Snyder, RPR (w/enclos.)
Carl J. Rychcik, Esquire (w/enclos.)
Paul B. Roemer, M.D. (w/enclos.)

Clearfield Professional Group, LTD vs. Paul B Roemer MD

→ General note ← on "Copy"

Civil Other

Date			Judge
01/17/2001	(1)	Filing: Civil Complaint Paid by: Edward Kabala, Esq. Receipt number: 1816853 Dated: 01/17/2001 Amount: $80.00 (Check) 15 Two Certified Copies to Sheriff Two Certified Copies to Attorney	No Judge
01/29/2001	(2)	Sheriff Return, Papers served on Defendant(s). So Answers, Chester A. Hawkins, Sheriff by s/Marilyn Hamm 10	No Judge
02/22/2001	(3)	Answer and New Matter of Paul B. Roemer, M.D. Filed by s/Jason Mettley, Esq. Verification, s/LPaul Brian Roemer, M.D. Certificate of Service no cc 10	No Judge
03/12/2001	(4)	Reply to New Matter filed on behalf of Plff. No cc. 5	John K. Reilly Jr.
10/11/2001	(5)	Stipulated Motion to Consolidate (Original filed to 01-74-CD), filed. s/Jason Mettley, Esq. s/Susan Brahm Gunn, Esq. 4	John K. Reilly Jr.
10/15/2001	(6)	ORDER, filed. (Original filed to case # 2001-74-CD) 2 Cert. to Atty. Gunn AND NOW, this 15th day of October, 2001, the parties having filed a Stipulated Motion to Consolidate, IT IS ORDERED, that the motion be and the same hereby is, GRANTED. Case Consolidated with 01-74-CD Copy	John K. Reilly Jr.
08/01/2003	(7)	Motion For Summary Judgment In Part And In Whole Of Paul B. Roemer, M.D. filed by s/Jason Mettley, Esquire Certificate of Service (Original Filed to 01-74-CD) 6	John K. Reilly Jr.
10/02/2003	(8)	Appendix to Plaintiff's Motions for Summary Judgment, filed by Atty. Mettley (copy of cover sheet in file, Original with case 2001-74-CD) 1	John K. Reilly Jr.
12/16/2003	(9)	OPINION AND ORDER, AND NOW, this 16th day of December, 2003, re: Motions shall be and are hereby GRANTED in part and DISMISSED in part in accordance with the foregoing Opinion. by the Court, s/JKR,JR.,P.J. 3 copy	John K. Reilly Jr.
01/02/2004	(10)	Defendant's Motion For Continuance Of Trial To Spring Term. filed by, s/Sue Gunn, Esq. Stipulation of Counsel s/Jason Mettley, Esq. Certificate of Service no cc 6 Copy	John K. Reilly Jr.
01/09/2004		ORDER, NOW, this 7th day of January, 2004, it is hereby Ordered that Defendant's Motion for Continuance of Trial to Spring Term is DENIED. by the Court, s/FJA,P.J. 1 cc Atty Gunn Copy	John K. Reilly Jr.
01/15/2004	(11)	ORDER, NOW, this 15th day of January, 2004, re: Above-captioned matter shall be removed from the current list for jury trials and scheduled by the CA for trial w/o jury at the convenience of the parties. Pretrial conference scheduled for January 15, 2004, shall be and is hereby CANCELLED. by the Court, s/JKR,JR., Senior Judge, Specially Presiding. copies mailed to: Jason Mettley, Esq., Wm. Stang, Esq., and Carl Rychcik, Esq. 1 Copy	John K. Reilly Jr.
02/11/2004	(12)	Praecipe For Entry Of Appearance On Behalf Of Clearfield Professional Group, Ltd. filed by, s/Carl J. Rychcik, Esq. Certificate of Service 3	John K. Reilly Jr.
02/19/2004	(13)	Petition For Permisssion To File Amendment To Complaint and Request For Rule To Show Cause. filed by, s/William L. Stang, Esq. 21	John K. Reilly Jr.
	(14)	ORDER, AND NOW, to wit: this 19th day of February, 2004, Rule issued upon PAUL BRIAN ROEMER, M.D. Rule Returnable on the 8th day of March, 2004, for filing Written Response. by the Court, s/FJA, P.J. 1 cc to Atty 1	John K. Reilly Jr.
02/20/2004	(15)	Affidavit of Service, Order/Rule to Show Cause dated 19th day of February, 2004 and Petition/Motion for Permission to Amend Compmlaint filed 19th day of February, 2004, to be served on Plaintiff/Defendant Paul Brian Poemer, M.D. through Jason Mettley, Esq. filed by, s/John Sughrue, Esquire Certificate of Service 3 cc to Atty 1	John K. Reilly Jr.

Civil Other

Date		Judge
03/08/2004	(16) Answer To Petition For Permission To File Amendment To Complaint. filed by, s/Jason Mettley, Esquiare Verification s/Paul Brian Roemer, M.D. Certificate of Service 1 cc to Attys	John K. Reilly Jr.
03/11/2004	(17) ORDER filed. AND NOW, this 10th day of March, 2004 it is the Order of the Court that argument on Atty. Stang's Petition has been scheduled for March 24, 2004 before Judge Reilly. s/FJA 1 CC to Atty. Stang. 1 CC to Atty. Mettley.	John K. Reilly Jr.
03/16/2004	(18) Praecipe For Appearance, on behalf of Clearfield Professional Group, LTD, Plaintiff. filed by s/John Sughrue, Esq. 3 cc Atty Sughrue 3 cc Atty Sughrue	John K. Reilly Jr.
03/24/2004	(19) Order, NOW, this 24th day of March, 2004, upon consideration of Petition for Permission to File Amendment to Complaint filed on behalf of Clearfield Professional Group, Ltd., and argument thereon, it is the Order of this Court that said Petition be and is hereby granted and Clearfield Professional Group, Ltd., directed to file said amended complaint forthwith. BY THE COURT: /s/John K. Reilly, Jr., Senior Judge, Specially Presiding CC to Attys Mettley, Stang, and Sughrue	John K. Reilly Jr.
03/26/2004	(20) Amendment To Complaint. filed by, s/Carl J. Rychcik, Esq. 1 cc to Atty	John K. Reilly Jr.
04/27/2004	(21) ORDER, AND NOW, this 26th day of April, 2004, re: Civil Non-Jury Trial scheduled for Wed., July 14, 2004 and Thur., July 15, 2004, at 9:00 a.m. each day, before Senior Judge Reilly. by the Court, s/FJA, P.J. 1 cc Atty Mettley, Rychick and Sughrue	John K. Reilly Jr.
05/17/2004	(22) Answer To Amendment To Complaint. filed by, s/Jason Mettley, Esquire Certificate of Service Verification s/Paul B. Roemer, M.D. no cc	John K. Reilly Jr.
06/24/2004	(23) Notice to Attend, filed by Atty. Stang Original filed to 01-74-CD.	John K. Reilly Jr.
07/15/2004	(24) ORDER, filed. cert to Atty'sMettley, Starg, Rychick & Sughrue NOW, this 14th day of July, 2004, RE: Finding of fact and conclusions of law	John K. Reilly Jr.
09/16/2004	(25) Transcript of Proceedings with Exhibits, Civil Non-Jury Trail held before Honorable John K. Reilly, Jr., Senior Judge, Specially Presiding, July 14, 2004, filed.	John K. Reilly Jr.
09/29/2004	(26) Certificate of Service Proposed Findings of Fact, Conclusions of Law and Legal Memorandum of Paul B. Roemer, M.D. was served upon counsel for defendant. s/Jason Metley, Esq.	John K. Reilly Jr.
	(27) Certificate of Service Defendant's Proposed Findings of fact and Conclusions of Law was served upon Jason Mettley, Esq. s/Carl J. Rychcik	John K. Reilly Jr.
	(28) Certificate of Service Defendant's Trial Brief was served upon Jason Mettley, Esq. s/Carl J. Rychcik	John K. Reilly Jr.
12/09/2004	(29) Finding of Fact, filed. cert. to Stang & Rychick, Mattley & Sughrue Order, Now, this 9th day of December, 2004, Order of this Court that partial judgments shall be entered in favor of both parties in accordanace with the foregoing Opinion.	John K. Reilly Jr.
12/20/2004	(30) Plaintiff's Motion for Post-Trial Relief, filed by Atty. Mettley 1 Cert. to Atty. (Original filed to 01-74-CD)	John K. Reilly Jr.
12/30/2004	(31) Clearfield Professional Group's Response To Roemer's Motion For Post-Trial Relief, filed by s/ William L. Stang, Esquire. No CC. Original filed to 01-74-CD	John K. Reilly Jr.

Clearfield Professional Group, LTD vs. Paul B Roemer MD

Civil Other

Date		Judge
02/03/2005	Order, AND NOW, this 3rd day of February, 2005, Order that argument on Plaintiff's Motion for Post-Trial Relief has been scheduled for March 31, 2005, at 10:00 a.m. before the Honorable John K. Reilly, Jr., Senior Judge, Specially Presiding BY THE COURT: /s/John K. Reilly, Jr., S.J., Sp. Pres. One CC Attys: Mettley, Stang, Sughrue	John K. Reilly Jr.
03/22/2005	Order, AND NOW, this 22nd day of March, 2005, it is the ORDER of the Court that argument on Plaintiff's Motion for Post-Trial Relief currently scheduled for March 31, 2005 at 10:00 a.m. is Continued. BY THE COURT: /s/ Fredric J. Ammerman, President Judge. 1CC Atty: Rycheck, Mettley. Original to 01-74-CD	John K. Reilly Jr.
05/20/2005	Order, AND NOW, this 20th day of May, 2005, it is the ORDER of the Court that argument on plaintiff's Motion for Post-Trial Relief has been scheduled for Thursday, May 26, 2005 at 9:00 a.m. in Courtroom No. 521, Allegheny County Courthouse, 436 Grant Street, Pittsburgh PA, before the Honorable Judge John K. Reilly. BY THE COURT: /s/ Fredric J. Ammerman, President Judge. 3CC to C/A for Service	Fredric Joseph Ammerman
07/08/2005	Order, this 8th day of July, 2005, Plaintiff's Motion for Post Trial Relief is hereby dismissed in accordance with the Findings of Fact, Conclusions of Law and Opinion filed by this Court on December 9, 2004. By The Court, /s/ John K. Reilly, Jr., Senior Judge. CC to Atty J. Mettley, W. Stang, Rychick, Sughrue	John K. Reilly Jr.
07/14/2005	Filing: Praecipe For Entry of Judgment On Decision in Non Jury Trial Paid by: Rychcik, Carl J. (attorney for Clearfield Professional Group, LTD) Receipt number: 1904791 Dated: 07/14/2005 Amount: $20.00 (Check) Judgment in favor of Clearfield Professional Group, Ltd. and against Paul Brian Roemer in the amount of $75,580.25. Filed by s/ Carl J. Rychcik, Esquire. 1CC & Notice to Atty. Mettley, statement to Atty Rychcik	John K. Reilly Jr.
08/05/2005	Filing: Appeal to High Court Paid by: Mettley, Jason (attorney for Roemer, Paul B MD) Receipt number: 1906114 Dated: 8/5/2005 Amount: $45.00 (Check) 1 Cert. to Superior Court with $60.00 Check. 1 Cert. to Atty.	John K. Reilly Jr.
08/08/2005	Filing: Poundage Paid by: Roemer, Paul B MD (defendant) Receipt number: 1906274 Dated: 8/8/2005 Amount: $770.00 (Check)	John K. Reilly Jr.
	Praecipe for Deposit of Security to Stay Execution, filed by Atty. Mettley 1 cert. to Atty. with receipts of $75,580.25 and $770.00 Escrow Account # 81151946 at CB & T	John K. Reilly Jr.
08/18/2005	Superior Court Appeal Docket Sheet, Docket Number 1420 WDA 2005, filed.	John K. Reilly Jr.