

02-168-CD
DAVID A. SELZLER et ux -vs- ERIC C. LUNDGREN, M.D. et al

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DAVID A. SELZLER and NANCY J.
SELZLER, husband and wife,

Plaintiffs,

CIVIL DIVISION

CASE NO.: 02-1608-CD

vs.

ERIC C. LUNDGREEN, M.D. and DUBOIS
REGIONAL MEDICAL CENTER,

Defendants.

Code:

COMPLAINT IN CIVIL ACTION

Filed on behalf of Plaintiffs:

David A. and Nancy J. Selzler

Counsel of record for this party:

MARK NEFF, ESQUIRE
E-mail address: mneff@edgarsnyder.com
PA I.D. No.: 42137

FILED

FEB 04 2002

William A. Shaw
Prothonotary

Firm No.: 1605

EDGAR SNYDER & ASSOCIATES, LLC
Gulf Tower, Sixteenth Floor
707 Grant Street
Pittsburgh, PA 15219-1925
(412) 394-1000

JURY TRIAL DEMANDED

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DAVID A. SELZLER and NANCY J.
SELZLER, husband and wife,

CIVIL DIVISION

Plaintiffs,
vs.

CASE NO.:

ERIC C. LUNDGREN, M.D. and DUBOIS
REGIONAL MEDICAL CENTER,

Defendants.

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 claim or relief requested by the plaintiff. You may lose money or property or other rights important to you.

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

LAWYER REFERRAL SERVICE - Court Administrator's Office
1 North Second Street
Clearfield, PA 16830

Telephone (814) 765-2641, Ext: 50

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DAVID A. SELZLER and NANCY J.
SELZLER, husband and wife,

CIVIL DIVISION

vs.

ERIC C. LUNDGREEN, M.D. and DUBOIS
REGIONAL MEDICAL CENTER,

Defendants.

COMPLAINT IN CIVIL ACTION

AND NOW, come the Plaintiffs, DAVID A. SELZLER and NANCY J. SELZLER, husband and wife, by and through their attorneys EDGAR SNYDER & ASSOCIATES, LLC, and MARK NEFF, ESQUIRE, and set forth the following Complaint in Civil Action:

1. The Plaintiffs David A. Selzler and Nancy J. Selzler, are adult individuals whom reside at 508 S. Main Street, Dubois, Pennsylvania, 15801. The Plaintiffs are husband and wife.
2. The Defendant, Eric C. Lundgren, M.D., is an adult individual who at all times material hereto was a duly licensed and practicing physician in the Commonwealth of Pennsylvania, with a business address of 605 South Main Street, Dubois, Pennsylvania, 15801.
3. The Defendant, Dubois Regional Medical Center, is a corporation, functioning as a health care facility duly organized and existing under the laws of the Commonwealth of Pennsylvania and is located in Dubois, Pennsylvania.
4. Defendant, Dr. Lundgren, was at all times material hereto, an agent, ostensible agent, employee and/or servant of Dubois Medical Center, and was acting within the course and scope of his employment, duties, and authority as such.

5. The Defendant Dubois Regional Medical Center is vicariously liable for negligence of its agents, ostensible agents, servants, and/or employees, who acted within the course and scope of their employment, duty, and authority.

6. On or about June 1, 2001, the Defendant Lundgren attempted to perform a laparoscopic cholecystectomy on the Plaintiff, David A. Selzler. During the course of the aforementioned procedure, it became apparent that Mr. Selzler had no gall bladder.

7. During the course of the aforementioned procedure, Dr. Lundgren injured the Plaintiff's common bile duct causing the damages more particularly hereinafter described.

8. The Defendants were negligent as follows:

- a. In attempting to perform a laparoscopic cholecystectomy without first ascertaining the presence of a gall bladder;
- b. In attempting to perform a laparoscopic cholecystectomy without ordering or performing indicated diagnostic tests, including but not limited to an ERCP;
- c. In failing to confirm the presence of gallstones;
- d. In failing to order a gastroenterology consult;
- e. In failing to properly evaluate the Plaintiff prior to surgery;
- f. In failing to identify and protect the common bile duct;
- g. In making a transverse incision in the common bile duct;
- h. In failing to identify the common bile duct before cutting into it;
- i. In failing to employ fine needle aspiration to identify the common bile duct prior to making an incision into it; and
- j. In failing to properly perform an intraoperative cholangiogram.

9. As a result of the negligence of the Defendant aforesaid, the Plaintiff suffered an injury to his common bile duct resulting in the formation of stenosis of the common bile duct necessitating further treatment.

10. As a result of negligence of the Defendants, the Plaintiff has experienced pain and suffering, has been forced to undergo multiple operative procedures, has or may experience liver damage, will or may require a liver transplant, has incurred medical bills for medical treatment, has had his earning capacity impaired, has sustained a loss of wages, and has had his ability to enjoy the ordinary pleasures of life diminished.

WHEREFORE, the Plaintiffs demand judgment of the Defendants in an amount in excess of the jurisdictional limits of arbitration.

JURY TRIAL DEMANDED.

COUNT II

11. The Plaintiffs hereby incorporate by reference all prior paragraphs.

12. The Plaintiff, Nancy J. Selzler, has been deprived of the aid, society, comfort, and companionship of her husband due to the negligence of the Defendants.

WHEREFORE, the Plaintiffs demand judgment of the Defendants in an amount in excess of the jurisdictional limits of arbitration.

JURY TRIAL DEMANDED.

Respectfully submitted,

EDGAR SNYDER & ASSOCIATES, LLC

By:



Mark Neff, Esquire
Counsel for Plaintiffs, David A. & Nancy
J. Selzler.

VERIFICATION

We, David Selzler and Nancy Selzler, husband and wife, hereby verify that the foregoing averments of fact are true and correct, and based upon our personal knowledge, information or belief. We understand that these averments of fact are made subject to the penalties of 18 Purdons Consolidated Statutes Section 4904, relating to unsworn falsification to authorities.

1-28-02
Date

David A. Selzler
DAVID SELZLER

1-28-02
Date

Nancy J. Selzler
NANCY SELZLER

FILED

Att'd. \$0.00

3/10/2002
FEB 04 2002

ICC Sheriff

RECEIVED
William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DAVID A. SELZLER and NANCY J.
SELZLER, husband and wife,

Plaintiff,

vs.

ERIC C. LUNDGREN, M.D., and DUBOIS
REGIONAL MEDICAL CENTER,

Defendants.

CIVIL DIVISION

No. 02-168-CD

PRAECIPE FOR APPEARANCE

Code:

Filed on behalf of DuBois Regional Medical
Center, one of the defendants

Counsel of Record for this Party:

David R. Johnson, Esquire
PA I.D. #26409

Thomson, Rhodes & Cowie, P.C.
Firm #720
1010 Two Chatham Center
Pittsburgh, PA 15219

(412) 232-3400

FILED

FEB 13 2002

William A. Shaw
Prothonotary

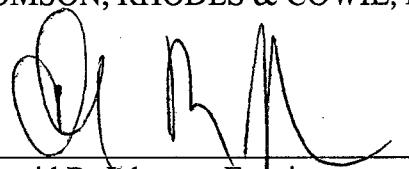
PRAECIPE FOR APPEARANCE

TO: WILLIAM A. SHAW, PROTHONOTARY

Kindly enter our appearance on behalf of DuBois Regional Medical Center, one of the defendants.

JURY TRIAL DEMANDED.

THOMSON, RHODES & COWIE, P.C.

By 

David R. Johnson, Esquire
Attorneys for DuBois Regional Medical
Center, one of the defendants

CERTIFICATION OF SERVICE

I hereby certify that a true and correct copy of the within PRAECIPE FOR APPEARANCE has been served upon the following counsel of record and same placed in the U.S. Mails on this

11th day of February, 2002:

Mark Neff, Esquire
Edgar Snyder & Associates, LLC
Gulf Tower, 16th Floor
707 Grant Street
Pittsburgh, PA 15219-1915

THOMSON, RHODES & COWIE, P.C.

By 

David R. Johnson, Esquire
Attorneys for DuBois Regional Medical
Center, one of the defendants

FILED

m 11:30 AM
FEB 13 2002

William A. Shaw
Prothonotary

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

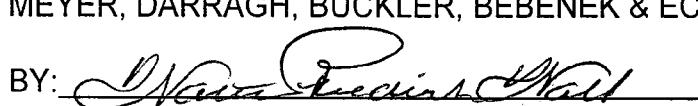
DAVID A. SELZLER and NANCY J. : NO. 02-168-CD
SELZLER, husband and wife, :
Plaintiffs :
vs. :
ERIC C. LUNDGREN, M.D. and :
DUBOIS REGIONAL MEDICAL :
CENTER, :
Defendants :
S

PRAECIPE FOR ENTRY OF APPEARANCE

TO THE PROTHONOTARY:

Please enter the appearance of WALTER FREDRICK WALL, ESQUIRE, of MEYER, DARRAGH, BUCKLER, BEBENEK & ECK, PLLC as Counsel of Record on behalf of Defendant, ERIC C. LUNDGREN, M.D. in the above-captioned matter.

MEYER, DARRAGH, BUCKLER, BEBENEK & ECK

BY: 
WALTER FREDRICK WALL, ESQUIRE, I.D. #23657
Counsel for Defendant, Eric C. Lundgren, M.D.
120 Lakemont Park Boulevard
Altoona, PA 16602
(814) 941-4600

DATE: February 13, 2002

FILED

FEB 15 2002

1/10/2002
William A. Shaw
Prothonotary

No 11 044

100-1874
FEB 15 2002
FILED

William A. Shaw
Prothonotary

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

DAVID A. SELZLER and NANCY J.	:	NO. 02-168-CD
SELZLER, husband and wife,	:	
Plaintiffs	:	
	:	
vs.	:	
	:	
ERIC C. LUNDGREN, M.D. and	:	
DUBOIS REGIONAL MEDICAL	:	
CENTER,	:	
Defendants	:	

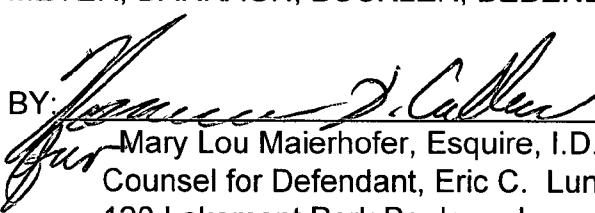
CERTIFICATE OF SERVICE

I, Mary Lou Maierhofer, Esquire of the law firm MEYER, DARRAGH, BUCKLER, BEBENEK & ECK, PLLC certify that on the **13th day of March, 2002**, a true and correct copy of the Expert Interrogatories Directed to Plaintiff, David A. Selzler, on behalf of the Defendant, Eric C. Lundgren, M.D. was served upon Counsel of record by first class U.S. mail, postage prepaid as follows:

Mark Neff, Esquire Edgar Snyder & Associates, LLC 707 Grant Street Gulf tower, Sixteenth Floor Pittsburgh PA 15219-1925 (Plaintiffs' Counsel)	David R. Johnson, Esquire Thomson, Rhodes & Cowie, P.C. 1010 Two Chatham Center Pittsburgh PA 15219 (Counsel for DuBois Regional Med Ctr.)
--	--

MEYER, DARRAGH, BUCKLER, BEBENEK & ECK

BY:


Mary Lou Maierhofer, Esquire, I.D. # 62175
Counsel for Defendant, Eric C. Lundgren, M.D.
120 Lakemont Park Boulevard
Altoona, PA 16602
(814) 941-4600

FILED

3/14/2002

William A. Shaw
Prothonotary

FILED

MAR 14 2002

MILLER INNOC

William A. Shaw
Prothonotary

2002-1-14
2002-1-14

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

DAVID A. SELZLER and NANCY J.	:	NO. 02-168-CD
SELZLER, husband and wife,	:	
Plaintiffs	:	
	:	
vs.	:	
	:	
ERIC C. LUNDGREN, M.D. and	:	
DUBOIS REGIONAL MEDICAL	:	
CENTER,	:	
Defendants	:	

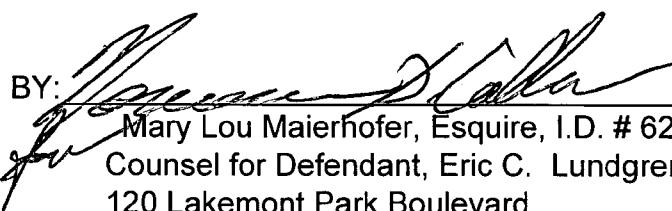
CERTIFICATE OF SERVICE

I, Mary Lou Maierhofer, Esquire of the law firm MEYER, DARRAGH, BUCKLER, BEBENEK & ECK, PLLC certify that on the **13th day of March, 2002**, a true and correct copy of the Request for Production of Documents Directed to Plaintiff, David A. Selzler, on behalf of the Defendant, Eric C. Lundgren, M.D. was served upon Counsel of record by first class U.S. mail, postage prepaid as follows:

Mark Neff, Esquire Edgar Snyder & Associates, LLC 707 Grant Street Gulf tower, Sixteenth Floor Pittsburgh PA 15219-1925 (Plaintiffs' Counsel)	David R. Johnson, Esquire Thomson, Rhodes & Cowie, P.C. 1010 Two Chatham Center Pittsburgh PA 15219 (Counsel for DuBois Regional Med Ctr.)
--	--

MEYER, DARRAGH, BUCKLER, BEBENEK & ECK

BY:


Mary Lou Maierhofer, Esquire, I.D. # 62175
Counsel for Defendant, Eric C. Lundgren, M.D.
120 Lakemont Park Boulevard
Altoona, PA 16602
(814) 941-4600

FILED

3/14/2002

William A. Shaw
Prothonotary

FILED

MAR 14 2002

3/11/02
William A. Shaw
Prothonotary

100-12-A PREM
100-12-A PREM

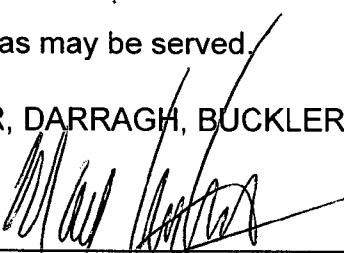
IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION - LAW

DAVID A. SELZLER and NANCY J. : NO. 02-168-CD
SELZLER, husband and wife, :
Plaintiffs :
vs. :
ERIC C. LUNDGREN, M.D. and :
DUBOIS REGIONAL MEDICAL :
CENTER, :
Defendants :
vs.

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

Defendant, Eric C. Lundgren, M.D., intends to serve subpoenas identical to the ones that are attached to this Notice. You have twenty (20) days from the date listed below in which to file of record and serve upon the undersigned an objection to the subpoenas. If no objection is made, the subpoenas may be served.

MEYER, DARRAGH, BUCKLER, BEBENEK & ECK

BY: 

Mary Lou Maierhofer, Esquire, I.D. # 62175
Counsel for Defendant, Eric C. Lundgren, M.D.
120 Lakemont Park Boulevard
Altoona, PA 16602
(814) 941-4600

Date: March 15, 2002

FILED

MAR 18 2002

m1923/ncc

W^{MA} William A. Shaw
Prothonotary

COMMONWEALTH OF PENNSYLVANIA
COUNTY OF CLEARFIELD

DAVID A. SELZLER and NANCY J. SELZLER,
husband and wife,

Plaintiff (s)

*

ERIC C. LUNDGREN, M.D. and DUBOIS REGIONAL
MEDICAL CENTER, ^{Vs}

*

*

No. 02-168-CD

Defendant (s)

*

*

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

TO: Howard Fugate, III, 633 Maple Avenue, DuBois, PA 15601
(Name of Person or Entity)

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

Any and all records pertaining to David A. Selzler.

(Address)

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

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

THIS SUBPOENA WAS ISSUED AT THE REQUEST OF THE FOLLOWING PERSON:

NAME: Mary Lou Maierhofer, Esquire
ADDRESS: 120 Lakemont Park Boulevard
Altoona, PA 16602
TELEPHONE: (814) 941-4600
SUPREME COURT ID # 62175
ATTORNEY FOR: Eric C. Lundgren, M.D.

BY THE COURT:

William A. Shaw
Prothonotary/Clerk, Civil Division

DATE:

Seal of the Court

Deputy


WILLIAM A. SHAW
Prothonotary
My Commission Expires
1st Monday in Jan. 2006
Clearfield Co., Clearfield, PA

COMMONWEALTH OF PENNSYLVANIA
COUNTY OF CLEARFIELD

DAVID A. SELZLER and NANCY J. SELZLER,
husband and wife,

Plaintiff(s)

Vs.

ERIC C. LUNDGREN, M.D. and DUBOIS REGIONAL
MEDICAL CENTER,

Defendant(s)

*

*

*

*

*

No. 02-168-CD

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

TO: Rajat P. Malik, M.D., 621 South Main Street, DuBois, PA 15801

(Name of Person or Entity)

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

Any and all documents/records pertaining to David A. Selzler.

(Address)

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

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

THIS SUBPOENA WAS ISSUED AT THE REQUEST OF THE FOLLOWING PERSON:

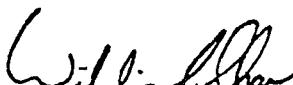
NAME: Mary Lou Maierhofer, Esquire
ADDRESS: 120 Lakemont Park Boulevard
Altoona, PA 16602
TELEPHONE: (814) 941-4600
SUPREME COURT ID # 62175
ATTORNEY FOR: Eric C. Lundgren, M.D.

BY THE COURT:

William A. Shaw
Prothonotary/Clerk, Civil Division

DATE:

Seal of the Court



Deputy

WILLIAM A. SHAW
Prothonotary
My Commission Expires
1st Monday in Jan. 2006
Clearfield Co., Clearfield, PA

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DAVID A. SELZLER and NANCY J.
SELZLER, husband and wife,

Plaintiffs,

vs.

ERIC C. LUNDGREN, M.D. and DUBOIS
REGIONAL MEDICAL CENTER,

Defendants.

CIVIL DIVISION

No. 02-168-CD

Code No.

**ANSWER AND NEW MATTER TO
PLAINTIFFS' COMPLAINT**

Filed on Behalf of Defendant, Eric C.
Lundgren, M.D.

Counsel of Record for this Party:

WALTER FREDRICK WALL, ESQUIRE
PA. I.D. #23657

MARY LOU MAIERHOFER, ESQUIRE
PA. I.D. #62175

MEYER, DARRAGH, BUCKLER,
BEBENEK & ECK, P.L.L.C.
Firm No. 198
120 Lakemont Park Blvd.
Altoona, PA 16602

Telephone No.: (814) 941-4600
Fax No.: (814) 941-4605

JURY TRIAL DEMANDED

FILED

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fm/10:35/NOCC
William A. Shaw
Prothonotary

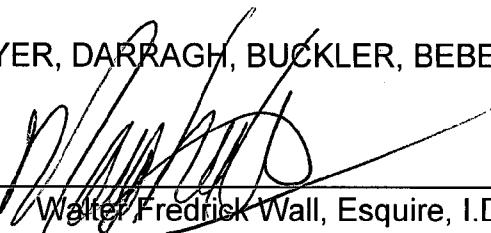
IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION - LAW

DAVID A. SELZLER and NANCY J. : NO. 02-168-CD
SELZLER, husband and wife, :
Plaintiffs :
: :
vs. :
: :
ERIC C. LUNDGREN, M.D. and :
DUBOIS REGIONAL MEDICAL :
CENTER, :
Defendants :
:

NOTICE TO PLEAD

In accordance with Rules 1026 and 1361 of the Pennsylvania Rules of Civil Procedure, you are hereby notified to plead to the within ANSWER and NEW MATTER within twenty (20) days from service hereof or a default judgment may be entered against you.

MEYER, DARRAGH, BUCKLER, BEBENEK & ECK

BY: 

Walter Fredrick Wall, Esquire, I.D. #23657
Mary Lou Maierhofer, Esquire, I.D. # 62175
Counsel for Defendant, Eric C. Lundgren, M.D.
120 Lakemont Park Boulevard
Altoona, PA 16602
(814) 941-4600

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

DAVID A. SELZLER and NANCY J. : NO. 02-168-CD
SELZLER, husband and wife, :
Plaintiffs :
:

vs. :
:

ERIC C. LUNDGREN, M.D. and :
DUBOIS REGIONAL MEDICAL :
CENTER, :
Defendants :
:

ANSWER AND NEW MATTER TO PLAINTIFFS' COMPLAINT

NOW COMES, the Defendant, Eric C. Lundgren, M.D., by and through his counsel Mary Lou Maierhofer, Esquire of the law firm Meyer, Darragh, Buckler, Bebenek & Eck, PLLC, and files the within Answer and New Matter to Plaintiffs' Complaint of which the following is a statement:

1. The identity of the Plaintiff is admitted. The remaining allegations are denied in that after reasonable investigation this Defendant lacks information sufficient upon which to form an opinion in regard to the truth of the same. Strict proof of same is demanded at the time of trial.
2. Admitted.
3. Neither admitted nor denied in that said allegations are directed to a party other than this answering Defendant.
4. Denied as conclusions of law. It is specifically denied this Defendant was an agent, ostensible agent, employee and/or servant of Defendant, DuBois Medical Center

and on the contrary, it is averred at all times relevant this Defendant was an independent professional contractor.

5. Denied as conclusions of law. Strict proof of same is demanded at the time of trial.

6. Admitted. By way of further response, to the best of this Defendant's knowledge Plaintiff-husband has no gallbladder.

7. Denied as stated. It is admitted that this Defendant placed an incision into the common bile duct, however, this Defendant did not breach any standard of care under the facts and circumstances of Plaintiffs' Complaint. All allegations of injuries and/or damages are denied in that after reasonable investigation this Defendant lacks information sufficient upon which to form an opinion in regard to the truth of the same. Strict proof of same is demanded at the time of trial.

8. Denied as conclusions of law. Strict proof of same is demanded at the time of trial.

a.-j. Denied specifically and generally and on the contrary, it is averred at all times in which this Defendant provided medical treatment to the Plaintiff, David A. Selzler, such was proper, professional medical care in accordance with the applicable standard of care under the facts and circumstances then and there existing.

9.-10. Denied as conclusions of law. By way of further response, all allegations of injury and/or damage are denied in that after reasonable investigation this Defendant lacks information sufficient upon which to form an opinion in regard to the truth of the same. Strict proof of same is demanded at the time of trial.

WHEREFORE, Defendant, Eric Lundgren, M.D., prays that Plaintiffs' Complaint be dismissed with prejudice.

COUNT II

11. Admitted or denied for reasons set forth above all of which are incorporated herein by reference thereto as if the same were set forth at length.

12. Denied as conclusions of law. By way of further response, all allegations of injuries and/or damages are denied in that after reasonable investigation this Defendant lacks information sufficient upon which to form an opinion in regard to the truth of the same. Strict proof of same is demanded at the time of trial.

WHEREFORE, Defendant, Eric Lundgren, M.D., prays that Plaintiffs' Complaint be dismissed with prejudice.

NEW MATTER

13. Plaintiffs' claims are barred in whole or in part by the applicable Statute of Limitations.

14. All bars, limitations and protections afforded under the Health Care Services Malpractice Act and 40 P.S. § 1301.811-A are hereby incorporated herein by reference thereto as if the same were set forth at length.

15. To the extent Plaintiffs prove a right to recover, such is the direct, sole and proximate result of actions and/or inactions by others over whom this Defendant neither had the ability nor attempted to exercise the right of control.

16. Plaintiffs' claims and/or damages are barred under the Comparative Negligence Doctrine.

17. Plaintiffs' cause of action is barred under the Assumption of the Risk Doctrine.

18. Plaintiffs' cause of action is barred in that any injury suffered by the minor is the direct, sole and proximate result of pre-existing conditions and/or genetic conditions over which this Defendant had neither the ability nor attempted to exercise control.

WHEREFORE, Defendant, Eric C. Lundgren, M.D., prays that Plaintiffs' Complaint be dismissed with prejudice.

MEYER, DARRAGH, BUCKLER, BEBENEK & ECK

BY: _____

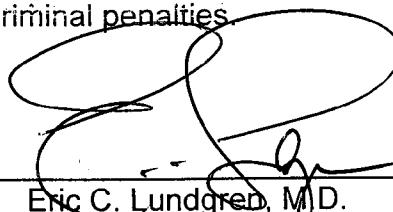
Walter Frederick Wall, Esquire, I.D. #23657
Mary Lou Maierhofer, Esquire, I.D. # 62175
Counsel for Defendant, Eric C. Lundgren, M.D.
120 Lakemont Park Boulevard
Altoona, PA 16602
(814) 941-4600

Date: March 18, 2002

VERIFICATION

I, Eric C. Lundgren, M.D., do hereby verify that I have read the foregoing Answer and New Matter to Plaintiffs' Complaint. The statements therein are true and correct to the best of my knowledge, information and belief.

This statement is made subject to the penalties of 18 Pa.C.S.A. Section 4904, relating to unsworn falsification to authorities, which provides that if I knowingly make statements I may be subject to criminal penalties.


Eric C. Lundgren, M.D.

DATE: 3/14/02

UNITED STATES POSTAL SERVICE

Dear Postal Customer:

The enclosed has been damaged in handling by the Postal Service.

We are fully aware that the mail you receive is important to you. Realizing this, each employee in the Postal Service is making every effort to expeditiously handle, without damage, each piece of mail with which he is entrusted. Nevertheless, an occasional mishap will occur.

The Postal Service handles approximately (154) billion pieces of mail each year. It is necessary, therefore, that highly sophisticated mechanical/electrical systems be utilized by the Postal Service to insure our customers prompt delivery of their mail. At times a malfunction will occur, the result of which is a damaged piece of mail.

We are constantly working to improve our processing methods so that these incidences will be eliminated. You can help us greatly in our efforts if you will continue to properly prepare and address each letter or parcel that you enter into the mail stream.

We appreciate your cooperation and understanding and sincerely regret any inconvenience you have experienced.

Your Postmaster

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

DAVID A. SELZLER and NANCY J. : NO. 02-168-CD
SELZLER, husband and wife, :
Plaintiffs :
vs. :
ERIC C. LUNDGREN, M.D. and :
DUBOIS REGIONAL MEDICAL :
CENTER, :
Defendants :
:

CERTIFICATE OF SERVICE

I, Mary Lou Maierhofer, Esquire of the law firm MEYER, DARRAGH, BUCKLER, BEBENEK & ECK, PLLC certify that on the **18th day of March, 2002**, a true and correct copy of the Answer and New Matter to Plaintiffs' Complaint, on behalf of the Defendant, Eric C. Lundgren, M.D. was served upon Counsel of record by first class U.S. mail, postage prepaid as follows:

Mark Neff, Esquire Edgar Snyder & Associates, LLC 707 Grant Street Gulf tower, Sixteenth Floor Pittsburgh PA 15219-1925 (Plaintiffs' Counsel)	David R. Johnson, Esquire Thomson, Rhodes & Cowie, P.C. 1010 Two Chatham Center Pittsburgh PA 15219 (Counsel for DuBois Regional Med Ctr.)
--	--

MEYER, DARRAGH, BUCKLER, BEBENEK & ECK

BY: _____

Walter Fredrick Wall, Esquire, I.D. #23657
Mary Lou Maierhofer, Esquire, I.D. # 62175
Counsel for Defendant, Eric C. Lundgren, M.D.
120 Lakemont Park Boulevard
Altoona, PA 16602
(814) 941-4600

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DAVID A. SELZLER and NANCY J.
SELZLER, husband and wife,

Plaintiff,

vs.

ERIC C. LUNDGREN, M.D., and
DUBOIS REGIONAL MEDICAL
CENTER,

Defendants.

CIVIL DIVISION

No. 02-168-CD

**NOTICE OF SERVICE OF PLAINTIFFS'
RESPONSES TO DEFENDANT DUBOIS
REGIONAL MEDICAL CENTER'S
INTERROGATORIES AND REQUEST FOR
PRODUCTION OF DOCUMENTS**

Code:

Filed on behalf of:

David A. Selzler and Nancy J. Selzler, husband
and wife, Plaintiff

Counsel of record for this party:

MARK NEFF, ESQUIRE
PA I.D. No. 42137

Firm No. 1605

EDGAR SNYDER & ASSOCIATES, LLC
Gulf Tower, Sixteenth Floor
707 Grant Street
Pittsburgh, PA 15219-1925

(412) 394-1000

JURY TRIAL DEMANDED

FILED
APR 08 2002
milla noce
William A. Shaw
Prothonotary *ES*
JES000113V001.wpd

DAVID A. SELZLER and NANCY J.
SELZLER, husband and wife,

CIVIL DIVISION

Plaintiff,

vs.

No. 02-168-CD

ERIC C. LUNDGREN, M.D., and DUBOIS
REGIONAL MEDICAL CENTER,

Defendants.

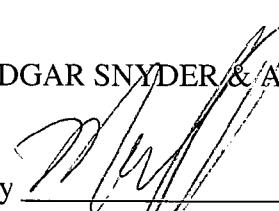
**NOTICE OF SERVICE OF PLAINTIFFS' RESPONSES TO DEFENDANT
DUBOIS REGIONAL MEDICAL CENTER'S INTERROGATORIES
AND REQUEST FOR PRODUCTION OF DOCUMENTS**

I hereby certify that on this 1st day of April, 2002, the original of Plaintiffs' Answers to Interrogatories and Request for Production of Documents and one (1) copy of the Notice of Service of same were mailed by First Class Mail, postage prepaid to counsel for Defendants at the following address:

David R. Johnson, Esquire
THOMSON, RHODES & COWIE, P.C.
1010 Two Chatham Center
Pittsburgh, PA 15219

Mary Lou Maierhofer, Esquire
MEYER DARRAGH BUCKLER BEBENEK & ECK, P.L.L.C.
120 Lakemont Park Boulevard
Altoona, PA 16602

EDGAR SNYDER & ASSOCIATES, LLC

By 

Mark Neff, Esquire
Attorney for Plaintiffs

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

DAVID A. SELZLER and NANCY J. : NO. 02-168-CD
SELZLER, husband and wife, :
Plaintiffs :
: vs. :
ERIC C. LUNDGREN, M.D. and :
DUBOIS REGIONAL MEDICAL :
CENTER, :
Defendants :
:

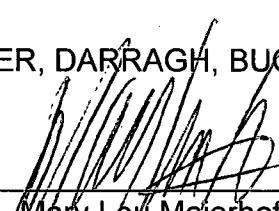
CERTIFICATE OF SERVICE

I, Mary Lou Maierhofer, Esquire of the law firm MEYER, DARRAGH, BUCKLER, BEBENEK & ECK, PLLC certify that on the **5th day of April, 2002**, a true and correct copy of the Second Request for Production of Documents Directed to Plaintiff, David A. Selzler, on behalf of the Defendant, Eric C. Lundgren, M.D. was served upon Counsel of record by first class U.S. mail, postage prepaid as follows:

Mark Neff, Esquire
Edgar Snyder & Associates, LLC
707 Grant Street
Gulf tower, Sixteenth Floor
Pittsburgh PA 15219-1925
(Plaintiffs' Counsel)

David R. Johnson, Esquire
Thomson, Rhodes & Cowie, P.C.
1010 Two Chatham Center
Pittsburgh PA 15219
(Counsel for DuBois Regional Med Ctr.)

MEYER, DARRAGH, BUCKLER, BEBENEK & ECK

BY: 

Mary Lou Maierhofer, Esquire,
Counsel for Defendant, Eric C. Lundgren, M.D.
120 Lakemont Park Boulevard
Altoona, PA 16602
(814) 941-4600
I.D. # 62175

FILED

APR 08 2002
M 11:25:00 AM
William A. Shaw
Prothonotary


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

DAVID A. SELZLER and NANCY J. : NO. 02-168-CD
SELZLER, husband and wife, :
Plaintiffs :
vs. :
ERIC C. LUNDGREN, M.D. and :
DUBOIS REGIONAL MEDICAL :
CENTER, :
Defendants :
.

CERTIFICATE PREREQUISITE TO SERVICE OF A SUBPOENA
PURSUANT TO RULE 4009.22

As a prerequisite to service of a subpoena for documents and things pursuant to
Rule 4009.22, Defendant, Eric C. Lundgren, M.D., certify that:

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

FILED

MEYER, DARRAGH, BUCKLER, BEBENEK & ECK

BY:

APR 10 2002
m1035/nsc
William A. Shaw
Prothonotary

Mary Lou Maierhofer, Esquire, I.D. # 62175
Counsel for Defendant, Eric C. Lundgren, M.D.
120 Lakemont Park Boulevard
Altoona, PA 16602
(814) 941-4600

Date: April 8, 2002

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

DAVID A. SELZLER and NANCY J. : NO. 02-168-CD
SELZLER, husband and wife,
Plaintiffs

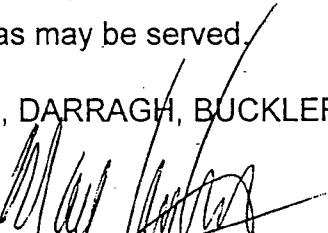
vs.

ERIC C. LUNDGREN, M.D. and
DUBOIS REGIONAL MEDICAL
CENTER,
Defendants

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

Defendant, Eric C. Lundgren, M.D., intends to serve subpoenas identical to the ones that are attached to this Notice. You have twenty (20) days from the date listed below in which to file of record and serve upon the undersigned an objection to the subpoenas. If no objection is made, the subpoenas may be served.

MEYER, DARRAGH, BUCKLER, BEBENEK & ECK

BY: 

Mary Lou Maierhofer, Esquire, I.D. # 62175
Counsel for Defendant, Eric C. Lundgren, M.D.
120 Lakemont Park Boulevard
Altoona, PA 16602
(814) 941-4600

Date: March 15, 2002

COMMONWEALTH OF PENNSYLVANIA
COUNTY OF CLEARFIELD

DAVID A. SELZLER and NANCY J. SELZLER,
husband and wife,

Plaintiff(s)

*

*

*

ERIC C. LUNDGREN, M.D. and ^{Vs} DUBOIS REGIONAL
MEDICAL CENTER,

Defendant(s)

*

*

No. 02-168-CD

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

TO: Howard Fugate, III, 633 Maple Avenue, DuBois, PA 15601
(Name of Person or Entity)

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

Any and all records pertaining to David A. Selzler

(Address)

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

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

THIS SUBPOENA WAS ISSUED AT THE REQUEST OF THE FOLLOWING PERSON:

NAME: Mary Lou Maierhofer, Esquire
ADDRESS: 120 Lakemont Park Boulevard

Altoona, PA 16602

TELEPHONE: (814) 941-4600

SUPREME COURT ID #: 62175

ATTORNEY FOR: Eric C. Lundgren, M.D.

BY THE COURT:

William A. Shaw
Prothonotary/Clerk, Civil Division

DATE:

Seal of the Court

Deputy

William A. Shaw
Prothonotary
My Commission Expires
1st Monday in Jan. 2006

COMMONWEALTH OF PENNSYLVANIA
COUNTY OF CLEARFIELD

DAVID A. SELZLER and NANCY J. SELZLER,
husband and wife,

Plaintiff(s)

Vs.

ERIC C. LUNDGREN, M.D. and DUBOIS REGIONAL
MEDICAL CENTER,

Defendant(s)

*

*

*

*

*

*

No. 02-168-CD

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

TO: Rajat P. Malik, M.D., 621 South Main Street, DuBois, PA 15801
(Name of Person or Entity)

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

Any and all documents/records pertaining to David A. Selzler.

(Address)

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

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

THIS SUBPOENA WAS ISSUED AT THE REQUEST OF THE FOLLOWING PERSON:

NAME: Mary Lou Maierhofer, Esquire
ADDRESS: 120 Lakemont Park Boulevard
Altoona, PA 16602
TELEPHONE: (814) 941-4600
SUPREME COURT ID#: 62175
ATTORNEY FOR: Eric C. Lundgren, M.D.

BY THE COURT:

William A. Shaw
Prothonotary/Clerk, Civil Division

DATE:

Seal of the Court

Deputy


WILLIAM A. SHAW
Prothonotary
My Commission Expires
1st Monday in Jan. 2006

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DAVID A. SELZLER and NANCY J.
SELZLER, husband and wife,

Plaintiffs,

vs.

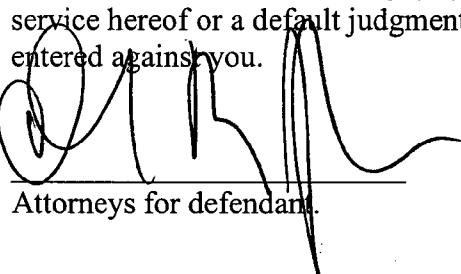
ERIC C. LUNDGREN, M.D., and DUBOIS
REGIONAL MEDICAL CENTER,

Defendants.

NOTICE TO PLEAD:

To: Plaintiffs

You are hereby notified to file a written response to the enclosed ANSWER AND NEW MATTER within twenty (20) days of service hereof or a default judgment may be entered against you.


Attorneys for defendant.

CIVIL DIVISION

No. 02-168-CD

ANSWER AND NEW MATTER

Code:

Filed on behalf of DuBois Regional Medical Center, one of the defendants

Counsel of Record for this Party:

David R. Johnson, Esquire
PA I.D. #26409

Thomson, Rhodes & Cowie, P.C.
Firm #720
1010 Two Chatham Center
Pittsburgh, PA 15219

(412) 232-3400

FILED

APR 12 2002
m11101ndcc
William A. Shaw
Prothonotary



ANSWER AND NEW MATTER

NOW COMES, DuBois Regional Medical Center, one of the defendants, by its attorneys, Thomson, Rhodes & Cowie, P.C., and files the following answer and new matter in response to plaintiffs' complaint.

ANSWER

1. Defendant is advised and therefore believes and avers that the Pennsylvania Rules of Civil Procedure do not require it to set forth its answers and defenses except as stated below.
2. If and to the extent that any factual averment in the complaint is not responded to in the paragraphs which follow, said allegation is denied for the reason that, after a reasonable investigation, this defendant lacks sufficient information or knowledge upon which to form a belief as to the truth of the averments therein.
3. Each of the paragraphs of this answer should be read so as to incorporate by reference each of the other paragraphs of this answer.
4. The following paragraph of the complaint is denied for the reason that, after a reasonable investigation, this defendant has insufficient information or knowledge to form a belief as to the truth of the averments therein: 1.

5. The following paragraph of the complaint refers solely to other defendants for which reason no response is required: 2.

6. Paragraph 3 of the complaint is denied as stated. To the contrary, defendant is a non-profit healthcare institution located at the address specified in the complaint.

7. Paragraph 4 of the complaint is denied. Eric C. Lundgren, M.D. was not at any time relevant to the issues addressed in the complaint, an agent, servant and/or employee of the hospital.

8. Paragraph 5 of the complaint is denied for the reason that, after a reasonable investigation, this defendant has insufficient information or knowledge to form a belief as to the truth of the averments therein, because the identify of the alleged agents, servants and/or employees of this defendant is not specified or disclosed.

9. Paragraphs 6 and 7 of the complaint are denied for the reason that they incompletely, inaccurately and/or misleadingly describe events which occurred. While these paragraphs to some extent extract or reference words or phrases from the hospital chart, they do not reflect the context in which the notes were made and they ignore other words and phrases necessary to give fair meaning to the referenced language.

10. Paragraphs 8, 9, 10 and 12 of the complaint refer solely to other defendants for which reason no response is required. These paragraphs also constitute conclusions of law, for which additional reason no response is required. If, nonetheless, a response is deemed necessary, these paragraphs are denied.

11. Paragraph 11 of the complaint solely incorporates by reference other paragraphs, for which no separate response is required. However, to the extent that any additional response is deemed necessary, defendant incorporates by reference its answers to those paragraphs which have been incorporated by the plaintiff.

WHEREFORE, plaintiffs' complaint should be dismissed and judgment should be entered in favor of this defendant.

NEW MATTER

12. Section 606 of the Healthcare Services Malpractice Act of Pennsylvania, 40 P.S. §1301.606 provides that in "the absence of a special contract in writing, a healthcare provider is neither a warrantor nor a guarantor of a cure." This provision is pleaded as an affirmative defense insofar as there was no special contract in writing in this case.

13. This defendant raises all affirmative defenses set forth or available as a result of the provisions in the Healthcare Services Malpractice Act of Pennsylvania, 40 P.S. §1301 et seq.

14. This defendant pleads the applicability of the Pennsylvania Comparative Negligence Statute as an affirmative defense.

15. While denying all negligence and all liability, this defendant avers that if it is found to have been negligent in any respect, any liability resulting therefrom would be diminished or barred by operation of the Pennsylvania Comparative Negligence Statute.

16. Plaintiffs' complaint fails to state any cause of action against this defendant.

17. Defendant pleads the doctrines of intervening and superseding causes as affirmative defenses.

18. Defendant pleads "payment" as an affirmative defense to the extent that any amount less than the amount billed for medical services to the plaintiff after the alleged incident was accepted as payment in full.

9. Defendant is not liable for any pre-existing medical conditions which caused the claimed injuries and/or damages.

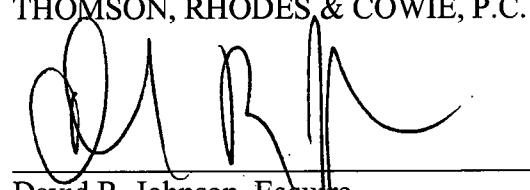
20. To the extent that evidence develops during discovery to demonstrate the application of the two schools of thought doctrine, defendant pleads that doctrine as providing a complete defense for any alleged negligence and/or malpractice.

WHEREFORE, plaintiffs' complaint should be dismissed and judgment should be entered in favor of this defendant.

JURY TRIAL DEMANDED.

Respectfully submitted,

THOMSON, RHODES & COWIE, P.C.



David R. Johnson, Esquire
Attorneys for DuBois Regional Medical
Center, one of the defendants.

VERIFICATION

I, Gregory J. Bole in the capacity of
Director of Risk Management at DuBois Regional Medical Center, have read the foregoing ANSWER AND NEW MATTER. The statements therein are correct to the best of my personal knowledge or information and belief.

This statement and verification is made subject to the penalties of 18 Pa. C.S. §4904 relating to unsworn falsification to authorities, which provides that if I make knowingly false averments I may be subject to criminal penalties.


Date: April 8, 2002

CERTIFICATION OF SERVICE

I hereby certify that a true and correct copy of the within ANSWER AND NEW MATTER has been served upon the following counsel of record and same placed in the U.S. Mails on this 10th day of April, 2002:

Mark Neff, Esquire
Edgar Snyder & Associates, LLC
Gulf Tower, 16th Floor
707 Grant Street
Pittsburgh, PA 15219-1925

Walter Frederick Wall, Esquire
Meyer, Darragh, Buckler, Bebenek & Eck, PLLC
120 Lakemont Park Boulevard
Altoona, PA 16602

THOMSON, RHODES & COWIE, P.C.

David R. Johnson, Esquire
Attorneys for DuBois Regional medical
Center, one of the defendants.

In The Court of Common Pleas of Clearfield County, Pennsylvania

Sheriff Docket # 12055

SELZLER, DAVID A. & NANCY J.

02-168-CD

VS.

LUNDGREN, ERIC C., M.D. and DUBOIS REGIONAL MEDICAL CENTER

COMPLAINT

SHERIFF RETURNS

**NOW FEBRUARY 6, 2002 AT 9:50 AM EST SERVED THE WITHIN COMPLAINT
ON ERIC C. LUNDGREN, M.D., DEFENDANT AT EMPLOYMENT, 605 SOUTH MAIN
ST, DUBOIS, CLEARFIELD COUNTY, PENNSYLVANIA BY HANDING TO LORI
HEATH, SEC. A TRUE AND ATTESTED COPY OF THE ORIGINAL COMPLAINT AND
MADE KNOWN TO HER THE CONTENTS THEREOF.**

SERVED BY: COUDRIET

**NOW FEBRUARY 6, 2002 AT 9:45 AM EST SERVED THE WITHIN COMPLAINT
ON DUBOIS REGIONAL MEDICAL CENTER, DEFENDANT AT EMPLOYMENT,
100 HOSPITAL AVE., DUBOIS, CLEARFIELD COUNTY, PENNSYLVANIA BY
HANDING TO JUDITH J. STOTTISH, EX. SEC. A TRUE AND ATTESTED COPY OF
THE ORIGINAL COMPLAINT AND MADE KNOWN TO HER THE CONTENTS THEREOF.
SERVED BY: COUDRIET**

Return Costs

Cost	Description
36.35	SHFF. HAWKINS PAID BY: ATTY.
20.00	SURCHARGE PAID BY: ATTY.

FILED

*APR 15 2002
01/15
William A. Shaw
Prothonotary*

Sworn to Before Me This

15th Day Of April 2002
William A. Shaw

**WILLIAM A. SHAW
Prothonotary
My Commission Expires
1st Monday in Jan. 2006
Clearfield Co., Clearfield, PA**

So Answers,

*Chester A. Hawkins
by Marilyn Harris
Chester A. Hawkins
Sheriff*

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DAVID A. SELZLER and NANCY J.
SELZLER, husband and wife,

Plaintiffs,

vs.

ERIC C. LUNDGREN, M.D., and
DUBOIS REGIONAL MEDICAL
CENTER,

Defendants.

CIVIL DIVISION

No. 02-168-CD

**NOTICE OF SERVICE OF PLAINTIFF'S
RESPONSES TO DEFENDANT ERIC C.
LUNDGREN, M.D.'S FIRST REQUEST FOR
PRODUCTION OF DOCUMENTS AND
SECOND REQUEST FOR PRODUCTION OF
DOCUMENTS**

Code:

Filed on behalf of:

David A. Selzler and Nancy J. Selzler, husband
and wife, Plaintiff

Counsel of record for this party:

MARK NEFF, ESQUIRE
PA I.D. No. 42137

Firm No. 1605

EDGAR SNYDER & ASSOCIATES, LLC
Gulf Tower, Sixteenth Floor
707 Grant Street
Pittsburgh, PA 15219-1925

(412) 394-1000

JURY TRIAL DEMANDED

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DAVID A. SELZLER and NANCY J.
SELZLER, husband and wife,

CIVIL DIVISION

Plaintiffs,

vs.

No. 02-168-CD

ERIC C. LUNDGREN, M.D., and DUBOIS
REGIONAL MEDICAL CENTER,

Defendants.

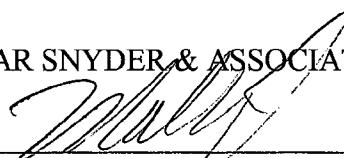
**NOTICE OF SERVICE OF PLAINTIFF'S RESPONSES TO DEFENDANT
ERIC C. LUNDGREN, M.D.'S FIRST REQUEST FOR PRODUCTION OF
DOCUMENTS AND SECOND REQUEST FOR PRODUCTION OF DOCUMENTS**

I hereby certify that on this 15th day of April, 2002, the original of Plaintiffs' Responses to Defendant Eric C. Lundgren, M.D.'s First Request for Production of Documents, Plaintiffs' Responses to Defendant Eric C. Lundgren, M.D.'s Second Request for Production of Documents and one (1) copy of the Notice of Service of same were mailed by First Class Mail, postage prepaid to counsel of Defendants at the following address:

Mary Lou Maierhofer, Esquire
MEYER DARRAGH BUCKLER BEBENEK & ECK, P.L.L.C.
120 Lakemont Park Boulevard
Altoona, PA 16602

David R. Johnson, Esquire
THOMSON, RHODES & COWIE, P.C.
1010 Two Chatham Center
Pittsburgh, PA 15219

EDGAR SNYDER & ASSOCIATES, LLC

By: 

MARK NEFF, ESQUIRE
Attorney for Plaintiffs

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DAVID A. SELZLER and NANCY J.
SELZLER, husband and wife,

Plaintiffs,

CIVIL DIVISION

CASE NO.: 02-168-CD

vs.

ERIC C. LUNDGREN, M.D., and
DUBOIS REGIONAL MEDICAL
CENTER,

Defendants.

**PLAINTIFF'S REPLY TO THE
DEFENDANT, DUBOIS REGIONAL
MEDICAL CENTER'S NEW MATTER**

Filed on behalf of Plaintiffs:
David A. Selzler and Nancy J. Selzler

Counsel of record for this party:

MARK NEFF, ESQUIRE
PA I.D. No. 42137

Firm No. 1605

EDGAR SNYDER & ASSOCIATES, LLC
Gulf Tower, Sixteenth Floor
707 Grant Street
Pittsburgh, PA 15219-1925

(412) 394-1000

JURY TRIAL DEMANDED

FILED
MAY 08 2002
M 19:17:10cc
William A. Shaw
Prothonotary
GAS

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DAVID A. SELZLER and NANCY J.
SELZLER, husband and wife,

CIVIL DIVISION

vs.

ERIC C. LUNDGREN, M.D., and
DUBOIS REGIONAL MEDICAL
CENTER,

CASE NO.: 02-168-CD

Plaintiffs,

Defendants.

**PLAINTIFF'S REPLY TO THE DEFENDANT,
DUBOIS REGIONAL MEDICAL CENTER'S NEW MATTER**

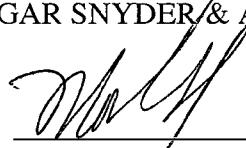
AND NOW, come Plaintiffs, DAVID A. SELZLER and NANCY J. SELZLER, husband and wife, by and through their Attorneys, MARK NEFF, ESQUIRE, and EDGAR SNYDER & ASSOCIATES, LLC, and file the following REPLY TO THE DEFENDANT DUBOIS REGIONAL MEDICAL CENTER'S NEW MATTER, with the following statement:

1. The averments contained in the Defendant Dubois Regional Medical Center's New Matter state legal conclusions to which no response is required.

WHEREFORE, the Plaintiffs' demand judgment of the Defendant in an amount in excess of the applicable arbitration limits.

Respectfully submitted,

EDGAR SNYDER & ASSOCIATES, LLC

By: 

Mark Neff, Esquire
Attorney for Plaintiffs

VERIFICATION

We, David A. Selzler and Nancy J. Selzler, husband and wife, hereby verify that the foregoing averments of fact are true and correct, and based upon our personal knowledge, information or belief. We understand that these averments of fact are made subject to the penalties of 18 Purdons Consolidated Statutes Section 4904, relating to unsworn falsification to authorities.

4-30-02

Date

David A. Selzler
DAVID A. SELZLER

4-30-02

Date

Nancy J. Selzler
NANCY J. SELZLER

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the within **PLAINTIFF'S REPLY TO THE DEFENDANT, DUBOIS REGIONAL MEDICAL CENTER'S NEW MATTER** was served on all Counsel listed below, by First Class U.S. Mail, postage prepaid, on this 30th day of April, 2002:

Mary Lou Maierhofer, Esquire
MEYER DARRAGH BUCKLER BEBENEK & ECK, P.L.L.C.
120 Lakemont Park Boulevard
Altoona, PA 16602

David R. Johnson, Esquire
THOMSON, RHODES & COWIE, P.C.
1010 Two Chatham Center
Pittsburgh, PA 15219



MARK NEFF, ESQUIRE
Attorney for Plaintiffs.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DAVID A. SELZLER and NANCY J.
SELZLER, husband and wife,

CIVIL DIVISION

No. 02-168-CD

Plaintiffs,

vs.

ERIC C. LUNDGREN, M.D., and
DUBOIS REGIONAL MEDICAL
CENTER,

**PLAINTIFF'S VERIFICATION TO
RESPONSES TO DEFENDANT ERIC C.
LUNDGREN, M.D.'S SECOND REQUEST
FOR PRODUCTION OF DOCUMENTS**

Defendants.

Filed on behalf of Plaintiffs:

David A. Selzler and Nancy J. Selzler

Counsel of record for this party:

MARK NEFF, ESQUIRE
PA I.D. No. 42137

Firm No. 1605

EDGAR SNYDER & ASSOCIATES, LLC
Gulf Tower, Sixteenth Floor
707 Grant Street
Pittsburgh, PA 15219-1925

(412) 394-1000

JURY TRIAL DEMANDED

FILED

MAY 24 2002

**William A. Shaw
Prothonotary**

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DAVID A. SELZLER and NANCY J.
SELZLER, husband and wife,

CIVIL DIVISION

No. 02-168-CD

Plaintiffs,

vs.

ERIC C. LUNDGREN, M.D., and
DUBOIS REGIONAL MEDICAL
CENTER,

Defendants.

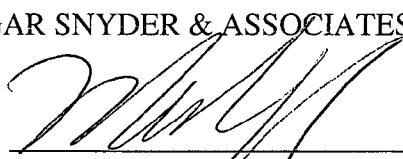
**PLAINTIFF'S VERIFICATION TO DEFENDANT ERIC C. LUNDGREN, M.D.'S
SECOND REQUEST FOR PRODUCTION OF DOCUMENTS**

AND NOW, come the Plaintiffs, DAVID A. SELZLER and NANCY J. SELZLER, husband and wife, by and through their Attorneys, MARK NEFF, ESQUIRE, and EDGAR SNYDER & ASSOCIATES, LLC, and file the following VERIFICATION TO PLAINTIFFS' RESPONSES TO REQUEST FOR PRODUCTION OF DOCUMENTS.

Respectfully submitted,

EDGAR SNYDER & ASSOCIATES, LLC

By:



Mark Neff, Esquire
Attorney for Plaintiffs

VERIFICATION

We, David A. Selzler and Nancy J. Selzler, Plaintiffs herein, hereby verify that the averments of fact contained in the foregoing Response to Defendant Lundgrens' Second Request for Production of Documents are true and correct and based upon our personal knowledge, information or belief. We understand that these averments of fact are made subject to the penalties of 18 Purdons Consolidated Statutes Section 4904, relating to unsworn falsification to authorities.



David A. Selzler



Nancy J. Selzler

Date:

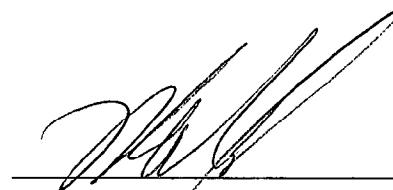
5-10-02

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the within **PLAINTIFF'S**
VERIFICATION TO RESPONSES TO DEFENDANT ERIC C. LUNDGREN, M.D.'S
SECOND REQUEST FOR PRODUCTION OF DOCUMENTS was served on all Counsel
listed below, by First Class Mail, postage prepaid, on this 21st day of May , 2002:

Mary Lou Maierhofer, Esquire
MEYER DARRAGH BUCKLER BEBENEK & ECK, P.L.L.C.
120 Lakemont Park Boulevard
Altoona, PA 16602

David R. Johnson, Esquire
THOMSON, RHODES & COWIE, P.C.
1010 Two Chatham Center
Pittsburgh, PA 15219



Mark Neff, Esquire
Attorney for Plaintiffs.

to C

FILED

MO 2002
MAY 24 2002
WAS

William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DAVID A. SELZLER and NANCY J.
SELZLER, husband and wife,

CIVIL DIVISION

Plaintiffs,
vs.

CASE NO.: 02-168-CD

ERIC C. LUNDGREN, M.D., and
DUBOIS REGIONAL MEDICAL
CENTER,

**NOTICE OF SERVICE OF PLAINTIFFS'
RESPONSE TO DEFENDANT DUBOIS
REGIONAL MEDICAL CENTERS
SECOND SET OF INTERROGATORIES**

Defendants.

Filed on behalf of Plaintiffs:

David A. Selzler and Nancy J. Selzler

Counsel of record for this party:

MARK NEFF, ESQUIRE
PA I.D. No. 42137

Firm No. 1605

EDGAR SNYDER & ASSOCIATES, LLC
Gulf Tower, Sixteenth Floor
707 Grant Street
Pittsburgh, PA 15219-1925

(412) 394-1000

FILED

JURY TRIAL DEMANDED

JUN 03 2002

10:44Inoc

William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DAVID A. SELZLER and NANCY J.
SELZLER, husband and wife,

CIVIL DIVISION

CASE NO.: 02-168-CD

vs.

ERIC C. LUNDGREN, M.D., and
DUBOIS REGIONAL MEDICAL
CENTER,

Defendants.

**NOTICE OF SERVICE OF PLAINTIFFS' RESPONSE TO DEFENDANT DUBOIS
REGIONAL MEDICAL CENTERS SECOND SET OF INTERROGATORIES**

I hereby certify that on this 29th day of May, 2002, the original of Plaintiffs' Response to Defendant DuBois Regional Medical Center's Second Set of Interrogatories and one (1) copy of the Notice of Service of same were mailed by First-Class U.S. Mail, postage prepaid to all counsel of record.

David R. Johnson, Esquire
THOMSON, RHODES & COWIE, P.C.
1010 Two Chatham Center
Pittsburgh, PA 15219

Mary Lou Maierhofer, Esquire
MEYER DARRAGH BUCKLER BEBENEK & ECK, P.L.L.C.
120 Lakemont Park Boulevard
Altoona, PA 16602

Respectfully submitted,

By:


Mark Neff, Esquire
Attorney for Plaintiffs.

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

DAVID A. SELZLER and NANCY J. : NO. 02-168-CD

SELZLER, husband and wife,
Plaintiffs

vs.

ERIC C. LUNDGREN, M.D. and
DUBOIS REGIONAL MEDICAL
CENTER,

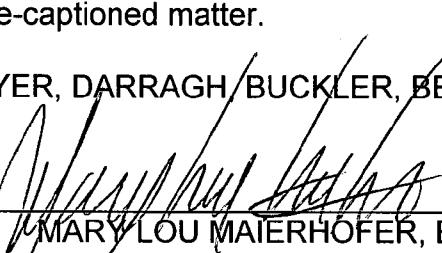
Defendants

PRAECIPE TO WITHDRAW/ENTER APPEARANCE

TO THE PROTHONOTARY:

Please withdraw the appearance of the undersigned as counsel for Defendant, Eric C. Lundgren, M.D., in the above-captioned matter.

MEYER, DARRAGH/BUCKLER, BEBENEK & ECK, PLLC

BY: 

MARY LOU MAIERHÖFER, ESQUIRE
Counsel for Defendant, Eric C. Lundgren, M.D.
120 Lakemont Park Boulevard
Altoona, PA 16602
(814) 941-4600
I.D. #62175

TO THE PROTHONOTARY:

Please enter my appearance as counsel for Defendant, Eric C. Lundgren, M.D., in the above-captioned matter.

FILED

JUN 03 2002

6/11/02/nocc

William A. Shaw *copy CA*
Prothonotary *JKS*

DAVIES, MCFARLAND AND CARROLL

BY: 

Frances Garger, Esquire
Counsel for Defendant, Eric C. Lundgren, M.D.
10th Floor, One Gateway Center
Pittsburgh, PA 15222-1416
(412) 281-0737
I.D. # 16387

DATE: May 29, 2002

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DAVID A. SELZLER and NANCY J.
SELZLER, husband and wife,

Plaintiffs,

vs.

ERIC C. LUNDGREN, M.D., and
DUBOIS REGIONAL MEDICAL
CENTER,

Defendants.

CIVIL DIVISION

No. 02-168-CD

PRAECIPE FOR APPEARANCE

Filed on behalf of the Plaintiffs.

Counsel of Record for this Party:

THOMAS E. CRENNEY, ESQUIRE
PA I.D. #40986

THOMAS E. CRENNEY & ASSOCIATES
One Gateway Center
18th Floor – West
Pittsburgh, PA 15222
412-644-5545

FILED

FEB 24 2003

**William A. Shaw
Prothonotary**

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DAVID A. SELZLER and NANCY J.
SELZLER, husband and wife,

CIVIL DIVISION

Plaintiffs,

No. 02-168-CD

vs.

ERIC C. LUNDGREN, M.D., and
DUBOIS REGIONAL MEDICAL
CENTER,

Defendants.

PRAECIPE FOR APPEARANCE OF COUNSEL

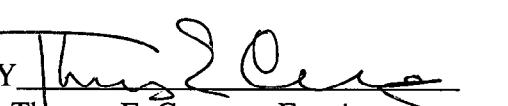
TO THE PROTHONOTARY:

Kindly enter the appearance of Thomas E. Crenney & Associates, P.C. and Thomas E. Crenney, Esquire as counsel for Plaintiffs in the above-captioned matter.

Respectfully submitted,

THOMAS E. CRENNEY & ASSOCIATES, P.C.

BY


Thomas E. Crenney, Esquire
Attorney for Plaintiff

One Gateway Center
18th Floor West
Pittsburgh, PA 15222
(412) 644-5545

DATE: 2-19-2003

FILED

No
ce

1170-004
FEB 24 2003

WAS

William A. Shaw
Prothonotary

(X)

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

DAVID A. SELZLER and NANCY J.
SELZLER, husband and wife,

CIVIL DIVISION

Plaintiffs,

No. 02-168-CD

vs.

ERIC C. LUNDGREN, M.D., and
DUBOIS REGIONAL MEDICAL
CENTER,

Defendants.

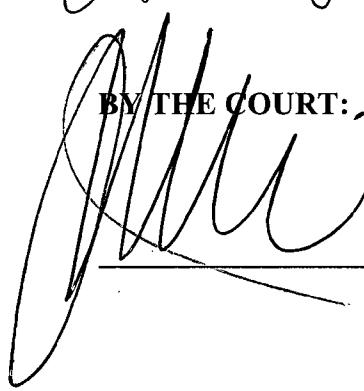
SCHEDULING ORDER FOR ARGUMENT ON
MOTION TO COMPEL DEPOSITIONS

AND NOW, to-wit, this 31st day of March, 2003, it is
hereby:

ORDERED, ADJUDGED AND DECREED

That the argument on this Motion to Compel Depositions is scheduled for the 20 day
of May, 2003 at 9:30 a.m./p.m. in Courtroom 1 of the Clearfield
County Courthouse before the Honorable Judge Billy for argument and
disposition of this Motion.

BY THE COURT:



J.

FILED

MAR 31 2003

William A. Shaw
Prothonotary

FILED

013:00 PM
MAR 31 2003

cc
Amy Neff
EAS
REC

William A. Shaw
Prothonotary

1008 11:34

1008 11:34
Via Internet!

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DAVID A. SELZLER and NANCY J.
SELZLER, husband and wife,

Plaintiffs,

vs.

ERIC C. LUNDGREN, M.D., and
DUBOIS REGIONAL MEDICAL
CENTER,

Defendants.

CIVIL DIVISION

No. 02-168-CD

**MOTION TO COMPEL
DEPOSITIONS**

Filed on behalf of the Plaintiffs.

Counsel of Record for this Party:

THOMAS E. CRENNEY, ESQUIRE
PA I.D. #40986

MARK NEFF, ESQUIRE
PA. I.D. #42137

THOMAS E. CRENNEY & ASSOCIATES
One Gateway Center
18th Floor – West
Pittsburgh, PA 15222
412-644-5545

FILED

MAR 19 2003

11:30 AM
William A. Shaw
Prothonotary

Two Court Copies

E
KRS

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

DAVID A. SELZLER and NANCY J.
SELZLER, husband and wife,

CIVIL DIVISION

Plaintiffs,

No. 02-168-CD

vs.

ERIC C. LUNDGREN, M.D., and
DUBOIS REGIONAL MEDICAL
CENTER,

Defendants.

MOTION TO COMPEL DEPOSITION

AND NOW, come the Plaintiffs, David A. Selzler and Nancy J. Selzler, his wife, by and through their attorneys, Thomas E. Crenney, Esquire, Mark Neff, Esquire and the law firm of Thomas E. Crenney & Associates, P.C. to file this Motion to Compel Deposition and in support thereof avers as follows:

1. Counsel for Plaintiff has been attempting to schedule the depositions of the Defendant Doctor and his physician's assistant for several months. It is anticipated that the depositions of the Plaintiffs will be taken at the same time as those of the Defendant Doctor and his physician's assistant.

2. The depositions were originally scheduled in mid-December, 2002. However Senior Judge Rowley of Beaver County rescheduled, *sua sponte*, a non-jury trial which necessitated the cancellation of the depositions.

3. Since January of 2003, counsel for Plaintiffs has been attempting to get deposition dates for the scheduling of Dr. Lundgren's deposition. A date in late March 2003 was proposed, however, this was inconvenient for counsel for the Hospital.

4. After a period of several weeks, Plaintiffs' counsel was informed that the earliest available date for the depositions was some time in June, 2003. This was due to each defense counsel's trial/deposition schedule between March 2003 and June 2003.

5. Plaintiffs' counsel has been informed by counsel for the Hospital that his carrier is insisting that he personally attend the deposition of Defendant Lundgren and his physician's assistant. Counsel for the Plaintiffs believes that this is the major impediment to scheduling these depositions. It is unreasonable to have Defendant Hospital's carrier insist that a particular lawyer attend the depositions of parties who are not insureds of the Defendant Hospital.

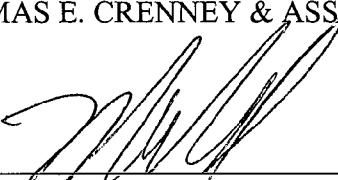
6. Even if the Defendant Hospital's carrier is not insisting that a particular lawyer attend the depositions, it is unreasonable that defense counsel have not a single date for three (3) months in which to complete these depositions.

WHEREFORE, the Plaintiffs respectfully request this Honorable Court to enter an Order compelling the scheduling of the Defendants depositions within thirty (30) days.

Respectfully submitted,

THOMAS E. CRENNEY & ASSOCIATES

By _____


Mark Neff, Esquire
Attorney for Plaintiffs

FILED

MAR 19 2003

William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

DAVID A. SELZLER and NANCY J.
SELZLER, husband and wife,

CIVIL DIVISION

Plaintiffs,

No. 02-168-CD

vs.

ERIC C. LUNDGREN, M.D., and
DUBOIS REGIONAL MEDICAL
CENTER,

Defendants.

ORDER OF COURT

AND NOW, to-wit, this _____ day of _____, 2003, upon
consideration of the Plaintiffs, it is hereby:

ORDERED, ADJUDGED AND DECREED

that the depositions of the Defendants will take place within thirty (30) days of the date of
this Order.

BY THE COURT:

J.

~~FILED~~

~~MAR 19 2003~~

William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DAVID A. SELZLER and NANCY J.
SELZLER, husband and wife,

Plaintiffs,

vs.

ERIC C. LUNDGREN, M.D., and
DUBOIS REGIONAL MEDICAL
CENTER,

Defendants.

CIVIL DIVISION

No. 02-168-CD

**PLAINTIFFS' PRAECIPE
REQUESTING THAT CASE BE
PLACED ON NEXT AVAILABLE
TRIAL LIST**

Filed on behalf of the Plaintiffs.

Counsel of Record for this Party:

THOMAS E. CRENNEY, ESQUIRE
PA I.D. #40986

MARK NEFF, ESQUIRE
PA. I.D. #42137

THOMAS E. CRENNEY & ASSOCIATES
One Gateway Center
18th Floor – West
Pittsburgh, PA 15222
412-644-5545

FILED

JUN 30 2003

William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DAVID A. SELZLER and NANCY J.
SELZLER, husband and wife,

CIVIL DIVISION

Plaintiffs, No. 02-168-CD

vs.

ERIC C. LUNDGREN, M.D., and
DUBOIS REGIONAL MEDICAL
CENTER,

Defendants.

PLAINTIFFS' PRAECIPE REQUESTING THAT THE CASE
BE PLACED ON THE NEXT AVAILABLE TRIAL LIST

Kindly place the above captioned matter on the next available trial list. Attached hereto and marked as Exhibit "A" is a Certificate of Readiness. Defense counsel has been served with a true and correct copy of this Praecipe and Exhibit "A" on the 26th day of June, 2003.

Respectfully submitted,

THOMAS E. CRENNY, & ASSOCIATES

BY 

Thomas E. Crenney, Esquire
Mark Neff, Esquire
Attorneys for Plaintiffs

Three Gateway Center
25th Floor
Pittsburgh, PA 15222
(412) 644-5545

DATE 6-26-03

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

DAVID A. SELZLER and NANCY J.
SELZLER, husband and wife,

CIVIL DIVISION

Plaintiffs,

No. 02-168-CD

vs.

ERIC C. LUNDGREN, M.D., and
DUBOIS REGIONAL MEDICAL
CENTER,

Defendants.

CERTIFICATE OF READINESS

Filed on behalf of: Plaintiffs, David A. Selzler and Nancy J. Selzler, husband and wife

1. Type of Case: Simple Complex Companion Case

2. Type of Trial: Jury Non-Jury Arbitration

3. Estimated Trial Time: 3 day(s)

Estimated Arbitration Time ____ day(s) ____ hour(s) ____ minute(s)

4. Trial Counsel: (List name, address and telephone number for each party and
name, address and telephone number of person responsible for each unrepresentative
party).

Mark Neff, Esquire
Thomas E. Crenney & Associates
One Gateway Center
18th Floor – West
Pittsburgh, PA 15222
412-644-5545
Attorneys for Plaintiffs

David R. Johnson, Esquire
Thomson, Rhodes & Cowie
Two Chatham Center, 10th Floor
Pittsburgh, PA 15219
412-316-8662
Attorneys for Defendant, DuBois
Regional Medical Center

Francis Garger, Esquire
Davies, McFarland & Carroll
One Gateway Center, 10th Floor
Pittsburgh, PA 15222
412-281-0737
**Attorneys for Defendant, Eric
C. Lundgren, M.D.**

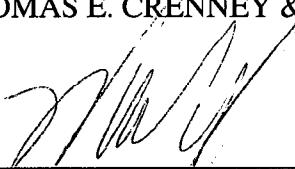
I certify on behalf of Plaintiffs **David Selzler and Nancy Selzler** that the pleadings are complete, that all preliminary motions have been resolved, that all discovery has been completed, and that the case is in all aspects ready for trial except:

(a) Motions in Limine X; (b) Expert Depositions X

Respectfully submitted,

THOMAS E. CRENNEY & ASSOCIATES

By


Thomas E. Crenney, Esquire
Mark Neff, Esquire
Attorneys for Plaintiffs

One Gateway Center
18th Floor – West
Pittsburgh, PA 15222
412-644-5545

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing **PLAINTIFFS' PRAECIPE REQUESTING THAT CASE BE PLACED ON NEXT AVAILABLE TRIAL LIST**, was served, via United States Mail, first class, postage prepaid, upon the following counsel of record this 26th day of June, 2003:

Francis Garger, Esquire
Davies, McFarland & Carroll
One Gateway Center
10th Floor
Pittsburgh, PA 15222
(counsel for Eric C. Lundgren, M.D.)

David R. Johnson, Esquire
Thomson, Rhodes & Cowie
Two Chatham Center
10th Floor
Pittsburgh, PA 15219
(counsel for Du Bois Regional Medical Center)

THOMAS E. CRENNEY & ASSOCIATES

By 

Mark Neff, Esquire
Attorneys for Plaintiff

FILED

NO
m 11:31 AM
JUN 3 0 2003
cc
SAC

William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DAVID A. SELZLER and NANCY J.
SELZLER, husband and wife,
Plaintiffs,

vs.

ERIC C. LUNDGREN, M.D., and DUBOIS
REGIONAL MEDICAL CENTER,

Defendants.

COUNSEL FOR PLAINTIFFS:

Mark Neff, Esquire
Thomas Crenney & Associates, P.C.
One Gateway Center
18th Floor – West
Pittsburgh, PA 15222

COUNSEL FOR CO-DEFENDANT:

Francis Garger, Esquire
Davies, McFarland and Carroll
10th Floor, One Gateway Center
Pittsburgh, PA 15222-1416

CIVIL DIVISION

No. 02-168-CD

OBJECTION TO CERTIFICATE OF
READINESS

Code:

Filed on behalf of DuBois Regional Medical
Center, one of the defendants

Counsel of Record for this Party:

David R. Johnson, Esquire
PA I.D. #26409

Thomson, Rhodes & Cowie, P.C.
Firm #720
1010 Two Chatham Center
Pittsburgh, PA 15219

(412) 232-3400

FILED

JUL 09 2003

William A. Shaw
Prothonotary

OBJECTION TO CERTIFICATE OF READINESS

NOW COMES DuBois Regional Medical Center, one of the defendants, by its attorneys, Thomson, Rhodes & Cowie, P.C., and objects to the case being placed on the next available trial list for the following reasons:

1. In February 2002 interrogatories and requests for production were directed to plaintiff requesting that plaintiff provide expert reports. Plaintiff responded to those interrogatories by stating:

"Discovery is ongoing. Plaintiff has not yet designated expert witnesses expected to be called to testify at time of trial. When experts are designated, their expert reports and curriculum vitae will be provided to defense counsel in a timely manner pursuant to the local rules and Rules of Civil Procedure."

To date, plaintiff has not amended or supplemented the answer set forth above.

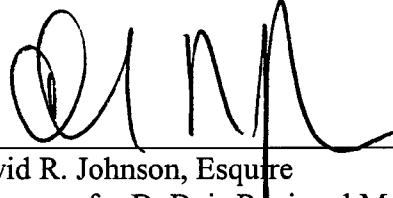
2. Defendant would be prejudiced if the case were now listed for trial without plaintiff designating an expert and producing an expert report. This is particularly true where, as here, there is no obvious indication as to the basis for any liability on the part of the hospital. In fact, plaintiff's attorney has indicated that he would give serious consideration to dismissal of the hospital. Given this circumstance, plaintiff should be required to produce an expert report before having the case listed for trial. Only in this manner will the defendant have an opportunity to evaluate the case

within the context of plaintiff's expert report and, if appropriate, obtain an opposing opinion.

WHEREFORE, defendant objects to the case being placed on the trial list, and, in the alternative, requests an order of court requiring plaintiff to provide an expert report within 30 days and specifying, further, that the case may not be praeciped for the trial list until 60 days after plaintiff produces an expert report.

Respectfully submitted,

THOMSON, RHODES & COWIE, P.C.



David R. Johnson, Esquire
Attorneys for DuBois Regional Medical
Center, one of the defendants.

CERTIFICATION OF SERVICE

I hereby certify that a true and correct copy of the within OBJECTION TO CERTIFICATE OF READINESS has been served upon the following counsel of record and same placed in the U.S. Mails on this 7th day of July, 2003:

Mark Neff, Esquire
Thomas Crenney & Associates, P.C.
One Gateway Center
18th Floor – West
Pittsburgh, PA 15222

Francis Garger, Esquire
Davies, McFarland and Carroll
10th Floor, One Gateway Center
Pittsburgh, PA 15222-1416

THOMSON, RHODES & COWIE, P.C.

David R. Johnson, Esquire
Attorneys for DuBois Regional Medical
Center, one of the defendants.

FILED NO CC

3141464
JUL 9 2003

William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

DAVID A. SELZLER and NANCY J.) CIVIL DIVISION
SELZLER, husband and wife,)
Plaintiffs,) No. 02-168-CD
vs.)
ERIC C. LUNDGREN, M.D., and DUBOIS)
REGIONAL MEDICAL CENTER,)
Defendants.)

ORDER OF COURT

AND NOW, this _____ day of _____, 2003, it is hereby
ordered that defendant's motion is granted. Plaintiff is required to serve defendant with
an expert's report within 30 days. The case shall not be listed for the trial list until 60
days after plaintiff has served its expert report on the defendant.

BY THE COURT:

_____.J.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DAVID A. SELZLER and NANCY J.
SELZLER, husband and wife,

Plaintiffs,

vs.

ERIC C. LUNDGREN, M.D., and
DUBOIS REGIONAL MEDICAL
CENTER,

Defendants.

CIVIL DIVISION

No. 02-168-CD

**NOTICE OF SERVICE OF
PLAINTIFFS' PRE-TRIAL
STATEMENT**

Filed on behalf of the Plaintiffs.

Counsel of Record for this Party:

THOMAS E. CRENNEY, ESQUIRE
PA I.D. #40986

MARK NEFF, ESQUIRE
PA. I.D. #42137

THOMAS E. CRENNEY & ASSOCIATES
One Gateway Center
18th Floor – West
Pittsburgh, PA 15222
412-644-5545

FILED

AUG 06 2003

William A. Shaw
Prothonotary/Clerk of Courts

NOTICE OF SERVICE OF
PLAINTIFFS' PRE-TRIAL STATEMENT

I hereby certify that a true and correct copy of the foregoing **NOTICE OF SERVICE OF PLAINTIFFS' PRE-TRIAL STATEMENT**, was served, via United States Mail, first class, postage prepaid, upon the following counsel of record this 5th day of August, 2003:

Office of the Court Administrator
Clearfield County Courthouse
230 East Market Street
Suite 228
Clearfield, PA 16830
(original)

Francis Garger, Esquire
Davies, McFarland & Carroll
One Gateway Center
10th Floor
Pittsburgh, PA 15222
(counsel for Eric C. Lundgren, M.D.)
(true and correct copy)

David R. Johnson, Esquire
Thomson, Rhodes & Cowie
Two Chatham Center
10th Floor
Pittsburgh, PA 15219
(counsel for Du Bois Regional Medical Center)
(true and correct copy)

THOMAS E. CRENNEY & ASSOCIATES

By 

Mark Neff, Esquire
Attorneys for Plaintiff

D

FILED NO
M 140288 C.C.
AUG 06 2003
SAC

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL ACTION

DAVID A. SELZLER and NANCY J. :

SELZLER, husband and wife :

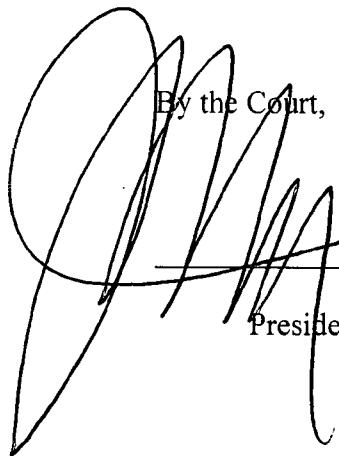
-vs- : No. 02 - 168 - CD

ERIC C. LUNDGREN, M.D., and DUBOIS :

REGIONAL MEDICAL CENTER :

PRE-TRIAL ORDER

NOW, this 13th day of August, 2003, following pre-trial conference in the above-captioned matter, and upon agreement of the parties, it is the ORDER of this Court that DuBois Regional Medical Center shall be and is hereby discharged as a party Defendant. It is the further ORDER of this Court that jury selection shall be had on Friday, August 22, 2003, at 9:00 a.m. with trial commencing Tuesday, December 16, 2003, at 9:00 a.m. and concluding Friday, December 19, 2003.


By the Court,

President Judge

FILED

AUG 13 2003

William A. Shaw
Prothonotary/Clerk of Courts

FILED

01/12/37/671
AUG 13 2003

William A. Shaw
Prothonotary/Clerk of Courts

1 CC Atty Mark Neff
1 CC Atty Francis Garger
1 CC Atty David Johnson

6/10/03

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DAVID A. SELZLER and NANCY J.
SELZLER, husband and wife,

Plaintiffs,

vs.

ERIC C. LUNDGREN, M.D., and
DUBOIS REGIONAL MEDICAL
CENTER,

Defendants.

CIVIL DIVISION

No. 02-168-CD

**PRAECIPE TO SETTLE AND
DISCONTINUE**

Filed on behalf of the Plaintiffs.

Counsel of Record for this Party:

THOMAS E. CRENNEY, ESQUIRE
PA I.D. #40986

MARK NEFF, ESQUIRE
PA. I.D. #42137

THOMAS E. CRENNEY & ASSOCIATES
One Gateway Center
18th Floor – West
Pittsburgh, PA 15222
412-644-5545

FILED

SEP 10 2003

William A. Shaw
Prothonotary/Clerk of Courts

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing **PRAECIPE TO SETTLE AND DISCONTINUE** was served, via United States Mail, first class, postage prepaid, upon the following counsel of record this 8th day of September 2003:

Francis Garger, Esquire
Davies, McFarland & Carroll
One Gateway Center
10th Floor
Pittsburgh, PA 15222
(counsel for Eric C. Lundgren, M.D.)

David R. Johnson, Esquire
Thomson, Rhodes & Cowie
Two Chatham Center
10th Floor
Pittsburgh, PA 15219
(counsel for Du Bois Regional Medical Center)

THOMAS E. CRENNEY & ASSOCIATES

By 

Mark Neff, Esquire
Attorneys for Plaintiff

FILED NoC

SEP 10 2003

copy of Disc. to CIA

William A. Shaw
Prothonotary/Clerk of Courts

copy of Disc. to AIA

copy of Disc. to AIA

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA

COPY

CIVIL DIVISION

**David A. Selzler and
Nancy J. Selzler, husband and wife**

Vs. **No. 2002-00168-CD**
**Eric C. Lundgren MD,
and DuBois Regional Medical Center**

CERTIFICATE OF DISCONTINUATION

Commonwealth of PA
County of Clearfield

I, William A. Shaw, Prothonotary of the Court of Common Pleas in and for the County and Commonwealth aforesaid do hereby certify that the above case was on September 10, 2003, marked:

Settled and Discontinued

Record costs in the sum of \$80.00 have been paid in full by Mark Neff, Esq.

IN WITNESS WHEREOF, I have hereunto affixed my hand and seal of this Court at Clearfield, Clearfield County, Pennsylvania this 10th day of September A.D. 2003.

William A. Shaw, Prothonotary

Date: 09/12/2003
Time: 10:20 AM
Page 1 of 2

Clearfield County Court of Common Pleas

User: DGREGG

ROA Report

Case: 2002-00168-CD

Current Judge: John K. Reilly Jr.

David A. Selzler, Nancy J. Selzler vs. Eric C. Lundgren MD

Civil Other

Date	Judge
02/04/2002 ✓ Filing: Civil Complaint Paid by: Neff, Mark Esq (attorney for Selzler, Nancy J.) Receipt number: 1837648 Dated: 02/04/2002 Amount: \$80.00 (Check) One CC Sheriff	No Judge
02/13/2002 ✓ Praeclipe for Appearance on behalf DuBois Regional Medical Center. Filed by s/David R. Johnson, Esq. Certificate of Service no cc	No Judge
02/15/2002 ✗ Praeclipe For Entry Of Appearance on behalf of Defendant ERIC C. LUNDGREN, M.D. Filed by s/Walter Fredrick Wall, Esq. no cc	No Judge
03/14/2002 ✗ Certificate of Service, Expert Interrogatories Directed to Plaintiff, David A. Selzler upon Atty Neff and Atty Johnson Filed by s/Mary Lou Maierhofer, Esq. no cc	No Judge
03/14/2002 ✗ Certificate of Service, Request for Production of Documents Directed to Plaintiff, David A. Selzler, upon Atty Neff and Atty Johnson Filed by s/Mary Lou Maierhofer, Esquire no cc	No Judge
03/18/2002 ✗ Notice of Intent to Serve Subpoenas to Produce Documents and Things for Discovery Pursuant to Rule 4009.21, filed by s/Mary Lou Maierhofer, Esq. No CC	No Judge
03/19/2002 ✗ Answer and New Matter to Plaintiffs' Complaint, filed by s/Mary Lou Maierhofer, Esq. No CC	No Judge
04/08/2002 ✗ Notice of Service of Plaintiffs' Responses to Defendant DuBois Regional Medical Center's Interrogatories and Request For Production of Documents. Filed by s/Mark Neff, Esq. no cc	No Judge
04/08/2002 ✗ Certificate of Service, Second Request for Production of Documents Directed to Plaintiff, David A. Selzler, on behalf of the Defendant, Eric C. Lundgren, M.D. and served upon Mark Neff, Esq. and David R. Johnson, Esq. Filed by s/Mary Lou Maierhofer, Esq. no cc	No Judge
04/10/2002 ✗ Certificate Prerequisite to Service of a Subpoena Pursuant to Rule 4009.22. Filed by s/Mary Lou Maierhofer, Esq. no cc	No Judge
04/12/2002 ✗ Answer and New Matter. Filed by s/David R. Johnson, Esq. Verification s/Gregory J. Volpe Certificate of Service no cc	No Judge
04/15/2002 ✗ Sheriff Return, Papers served on Defendant(s). So Answers, Chester A. Hawkins, Sheriff by s/Marilyn Hamm	No Judge
04/18/2002 ✗ Notice of Service of Plaintiff's Responses to Defendant Eric C. Lundgren, M.D.'s First Request For Production of Documents and Second Request For Production of Documents. Filed by s/Mark Neff, Esquire no cc	No Judge
05/06/2002 ✗ Plaintiff's Reply To The Defendant, DuBois Regional Medical Center's New Matter. Filed by s/Mark Neff, Esq. Verification. s/David A. Selzler s/Nancy J. Selzler Certificate of Service no cc	No Judge
05/24/2002 ✗ Plaintiff's Verification To Responses To Defendant Eric C. Lundgren, M.D.'S Second Request For Production of Documents. Filed by s/Mark Neff, Esquire Verification. s/David A. Selzler s/Nancy J. Selzler Certificate of Service no cc	No Judge
06/03/2002 ✗ Notice of Service of Plaintiffs' Response To Defendant Du Bois Regional Medical Centers Second Set of Interrogatories upon David R. Johnson, Esq. and Mary Lou Maierhofer, Esq. Filed by s/Mark Neff, Esq. no cc	No Judge
06/03/2002 ✗ Praeclipe to Withdraw/Enter Appearance. Withdrawal-- s/Mary Lou Maierhofer, Esq. Entry--s/Francis Garger, Esq. no cc Copy to CA	No Judge
08/23/2002 Filing: Subpoena Paid by: Litigation Solutions Inc. Receipt number: 1847386 Dated: 08/23/2002 Amount: \$6.00 (Check)	No Judge
02/25/2003 ✓ Praeclipe For Appearance On Behalf Of Plaintiffs. filed by s/Thomas E. Crenney, Esq. no cc	No Judge

Date: 09/12/2003
Time: 10:20 AM
Page 2 of 2

Clearfield County Court of Common Pleas

User: DGREGG

ROA Report

Case: 2002-00168-CD

Current Judge: John K. Reilly Jr.

David A. Selzler, Nancy J. Selzler vs. Eric C. Lundgren MD

Civil Other

Date	Judge
03/19/2003	Motion to Compel Depositions. filed by s/Mark Neff, Esquire Verification No Judge s/Mark Neff, Esquire no cc
03/31/2003	Scheduling Order For Argument On Motion To Compel Depositions, And John K. Reilly Jr. Now, to-wit, this 31st day of March, 2003, re: Argument on Motion To Compel Depositions scheduled for 20th day of May, 2003, at 9:30 a.m. by the Court, s/JKR,JR.,P.J. 1 cc Atty Neff
06/30/2003	Plaintiffs' Praeclipe Requesting That Case Be Placed On Next Available John K. Reilly Jr. Trial List. filed by s/Thomas E. Crenney, Esquire Certificate of Service no cc
07/09/2003	Objection To Certificate Of Readiness. filed by s/David R. Johnson, Esq. John K. Reilly Jr. Certificate of Service no cc
08/06/2003	Notice Of Service Of Plaintiffs' Pre-Trial Statement upon: Office of CA, John K. Reilly Jr. Clfd County, Francis Garger, Esq., and David R. Johnson, Esquire filed by s/Mark Neff, Esquire no cc
08/13/2003	PRE-TRIAL ORDER, NOW, this 13th day of August, 2003, DRMC shall be John K. Reilly Jr. and is hereby DISCHARGED as a party Defendant. Jury selection shall be had on Friday, August 22, 2003 at 9:00 a.m. w/Trial commencing Tuesday, December 16, 2003, at 9:00 a.m. and concluding Friday, December 19, 2003. by the Court, s/JKR,JR.,P.J. 1 cc Atty Mark Neff, Francis Gasger, and David Johnson
09/10/2003	Praeclipe To Settle And Discontinue. filed by s/Mark Neff, Esquire John K. Reilly Jr. Certificate of Service no cc Copy of Disc. to C/A Cert. of Disc. to Atty SETTLED AND DISCONTINUED John K. Reilly Jr.

ROA Report

Case: 2002-00168-CD

Current Judge: John K. Reilly Jr.

David A. Selzler, Nancy J. Selzler vs. Eric C. Lundgren MD, DuBois Regional Medical Center

Civil Other

Date	Judge	
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02/15/2002	Praeclipe For Entry Of Appearance on behalf of Defendant ERIC C. LUNDGREN, M.D. Filed by s/Walter Fredrick Wall, Esq. no cc	No Judge ✓
03/14/2002	Certificate of Service, Expert Interrogatories Directed to Plaintiff, David A. Selzler upon Atty Neff and Atty Johnson Filed by s/Mary Lou Maierhofer, Esq. no cc	No Judge ✓
	Certificate of Service, Request for Production of Documents Directed to Plaintiff, David A. Selzler, upon Atty Neff and Atty Johnson Filed by s/Mary Lou Maierhofer, Esquire no cc	No Judge ✓
03/18/2002	Notice of Intent to Serve Subpoenas to Produce Documents and Things for Discovery Pursuant to Rule 4009.21, filed by s/Mary Lou Maierhofer, Esq. No CC	No Judge ✓
03/19/2002	Answer and New Matter to Plaintiffs' Complaint, filed by s/Mary Lou Maierhofer, Esq. No CC	No Judge ✓
04/08/2002	Notice of Service of Plaintiffs' Responses to Defendant DuBois Regional Medical Center's Interrogatories and Request For Production of Documents. Filed by s/Mark Neff, Esq. no cc	No Judge ✓
	Certificate of Service, Second Request for Production of Documents Directed to Plaintiff, David A. Selzler, on behalf of the Defendant, Eric C. Lundgren, M.D. and served upon Mark Neff, Esq. and David R. Johnson, Esq. Filed by s/Mary Lou Maierhofer, Esq. no cc	No Judge ✓
04/10/2002	Certificate Prerequisite to Service of a Subpoena Pursuant to Rule 4009.22. Filed by s/Mary Lou Maierhofer, Esq. no cc	No Judge ✓
04/12/2002	Answer and New Matter. Filed by s/David R. Johnson, Esq. Verification s/Gregory J. Volpe Certificate of Service no cc	No Judge ✓
04/15/2002	Sheriff Return, Papers served on Defendant(s). So Answers, Chester A. Hawkins, Sheriff by s/Marilyn Hamm	No Judge ✓
04/18/2002	Notice of Service of Plaintiff's Responses to Defendant Eric C. Lundgren, M.D.'s First Request For Production of Documents and Second Request For Production of Documents. Filed by s/Mark Neff, Esquire no cc	No Judge ✓
05/06/2002	Plaintiff's Reply To The Defendant, DuBois Regional Medical Center's New Matter. Filed by s/Mark Neff, Esq. Verification. s/David A. Selzler s/Nancy J. Selzler Certificate of Service no cc	No Judge ✓
05/24/2002	Plaintiff's Verification To Responses To Defendant Eric C. Lundgren, M.D.'S Second Request For Production of Documents. Filed by s/Mark Neff, Esquire Verification. s/David A. Selzler s/Nancy J. Selzler Certificate of Service no cc	No Judge ✓
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	Praeclipe to Withdraw/Enter Appearance. Withdrawal- s/Mary Lou Maierhofer, Esq. Entry--s/Francis Garger, Esq. no cc Copy to CA	No Judge ✓
08/23/2002	Filing: Subpoena Paid by: Litigation Solutions Inc. Receipt number: 1847386 Dated: 08/23/2002 Amount: \$6.00 (Check)	No Judge

PLEASE REMIT:

Bill for service -

July 28, 2003 2 copies faxed..Buynak vs. Dept. of Trans. 00-501-CD

Cost: \$5.00

Remit to: Clearfield County Prothonotary, PO Box 549, Clearfield, PA 16830

Dept. of Trans, Commonwealth of Pennsylvania:

Please remit \$5.00 for 2 copies faxed in the above listed case at your earliest convenience. If you have any questions, please contact my office at (814) 765-2641, ext. 1330. Thank you.

Sincerely,

William A. Shaw
Prothonotary

Enclosures

Date: 08/01/2003

Clearfield County Court of Common Pleas

User: BANDERSON

Time: 10:45 AM

ROA Report

Page 2 of 2

Case: 2002-00168-CD

Current Judge: John K. Reilly Jr.

David A. Selzler, Nancy J. Selzler vs. Eric C. Lundgren MD, DuBois Regional Medical Center

Civil Other

Date		Judge
02/25/2003	Praeclipe For Appearance On Behalf Of Plaintiffs. filed by s/Thomas E. Crenney, Esq. no cc	No Judge ✓
03/19/2003	Motion to Compel Depositions. filed by s/Mark Neff, Esquire Verification s/Mark Neff, Esquire no cc	No Judge ✓
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07/09/2003	Objection To Certificate Of Readiness. filed by s/David R. Johnson, Esq. John K. Reilly Jr. Certificate of Service no cc	

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

CIVIL DIVISION

**Joseph M Nebroskie
Nebroskie Trucking**

**Vs.
Marc I Rothstein**

No. 2000-01501-CD

CERTIFICATE OF DISCONTINUATION

Commonwealth of PA
County of Clearfield

I, William A. Shaw, Prothonotary of the Court of Common Pleas in and for the County and Commonwealth aforesaid do hereby certify that the above case was on July 28, 2003, marked:

Settled, Discontinued and Ended

Record costs in the sum of \$\$87.00 have been paid in full by Attorney.

IN WITNESS WHEREOF, I have hereunto affixed my hand and seal of this Court at Clearfield, Clearfield County, Pennsylvania this 28th day of July A.D. 2003.

William A. Shaw, Prothonotary