

92-1228-CD  
TAMMY. L. KAWA -vs- PRAXIDIO H. TAGALA, M.D. et al.

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

TAMMY L. KAWA

-vs-

PRAXIDIO H. TAGALA, M.D.  
615 Thompson Street  
Clearfield, PA 16830 and  
CLEARFIELD HOSPITAL  
809 Turnpike Avenue  
Clearfield, PA 16830

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No. 2002 - 1228 - CD

Type of Pleading:

Praecipe for Writ of Summons

Filed on Behalf of:

Tammy Kawa

Counsel of Record for this  
Party:

SAMUEL COHEN, ESQUIRE  
Supreme Court I.D. 27544

Katz, Cohen & Price, P.C.  
117 South 17th Street  
Suite 2010  
Philadelphia, PA 19103  
(215) 636-0400

FILED

AUG 07 2002

0/3:00/10  
William A. Shaw (fwd)  
Prothonotary PD  
3 warrants issued for --  
TO ATTORNEY

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

TAMMY L. KAWA

-vs-

PRAXIDIO H. TAGALA, M.D.  
615 Thompson Street  
Clearfield, PA 16830 and  
CLEARFIELD HOSPITAL  
809 Turnpike Avenue  
Clearfield, PA 16830

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No. 02-1228-CD

PRAECIPE FOR WRIT OF SUMMONS

TO THE PROTHONOTARY:

Please issue a Writ of Summons upon the above-captioned  
Defendants, Praxidio H. Tagala, M.D. and Clearfield Hospital. A jury  
trial is demanded.

KATZ, COHEN & PRICE, P.C.

  
SAMUEL COHEN

Dated: 8/7/02

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

**SUMMONS**

**Tammy L. Kawa**

**Vs.**

**NO.: 2002-01228-CD**

**Praxidio H. Tagala, M.D.  
Clearfield Hospital**

**TO: PRAXIDIO H. TAGALA, M.D.  
CLEARFIELD HOSPITAL**

To the above named Defendant(s) you are hereby notified that the above named Plaintiff(s) has/have commenced a Civil Action against you.

Date: 08/07/2002

---

William A. Shaw  
Prothonotary

Issuing Attorney: Samuel Cohen, Esq.  
Katz, Cohen & Price, P.C.  
117 South 17th Street  
Suite 2010  
Philadelphia, PA 19103  
215-636-0400

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

TAMMY L. KAWA,

Plaintiff

vs.

PRAXIDIO H. TAGALA M.D. and  
CLEARFIELD HOSPITAL,

Defendants

No. 2002 – 1228 CD

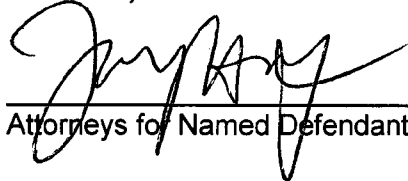
**ISSUE:**  
PRAECIPE FOR APPEARANCE

Filed on behalf of Defendant,  
CLEARFIELD HOSPITAL

Counsel of Record:

Frank J. Hartye, Esquire  
PA I.D. #25568  
McINTYRE, DUGAS, HARTYE &  
& SCHMITT  
P.O. Box 533  
Hollidaysburg, PA 16648  
(814) 696-3581

I HEREBY CERTIFY THAT A TRUE  
AND CORRECT COPY OF THE WITHIN  
WAS MAILED TO ALL COUNSEL OF  
RECORD THIS 16<sup>th</sup> DAY OF  
**AUGUST, 2002.**

  
Attorneys for Named Defendant

**FILED**

AUG 19 2002

m19:291 nocc  
William A. Shaw  
Prothonotary

Copy GA

EO  
(K2)

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

TAMMY L. KAWA,

Plaintiff

vs.

PRAXIDIO H. TAGALA M.D. and  
CLEARFIELD HOSPITAL,

Defendants

: No. 2002 – 1228 CD  
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:

: JURY TRIAL DEMANDED

**PRAECIPE FOR APPEARANCE**

TO: PROTHONOTARY

Kindly enter my appearance as counsel of record for the Defendant,  
CLEARFIELD HOSPITAL, in the above-captioned action.

**McINTYRE, DUGAS, HARTYE & SCHMITT**

  
\_\_\_\_\_  
Attorneys for Defendant,  
CLEARFIELD HOSPITAL

Frank J. Hartye, Esquire  
PA I.D. #25568  
P.O. Box 533  
Hollidaysburg, PA 16648-0533  
PH: (814) 696-3581  
FAX: (814) 696-9399

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

TAMMY L. KAWA,

Plaintiff

vs.

PRAXIDIO H. TAGALA M.D. and  
CLEARFIELD HOSPITAL,

Defendants

No. 2002 – 1228 CD

**ISSUE:**

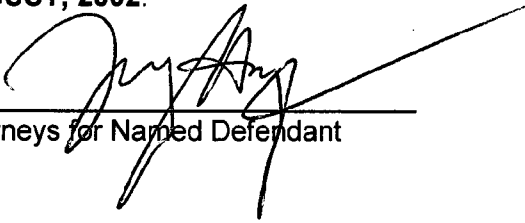
PRAECIPE FOR RULE TO FILE  
COMPLAINT

Filed on behalf of Defendant,  
CLEARFIELD HOSPITAL

Counsel of Record:


Frank J. Hartye, Esquire  
PA I.D. #25568  
McINTYRE, DUGAS, HARTYE &  
& SCHMITT  
P.O. Box 533  
Hollidaysburg, PA 16648  
(814) 696-3581

I HEREBY CERTIFY THAT A TRUE  
AND CORRECT COPY OF THE WITHIN  
WAS MAILED TO ALL COUNSEL OF  
RECORD THIS 16<sup>TH</sup> DAY OF  
AUGUST, 2002.

  
Attorneys for Named Defendant

**FILED**

AUG 19 2002  
m/9.461 mcc rule  
William A. Shaw  
Prothonotary

to atty.  


Frank J. Hartye, Esquire  
PA I.D. #25568  
P.O. Box 533  
Hollidaysburg, PA 16648  
(814) 696-3581



COPY

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

Tammy L. Kawa

Vs.  
Praxidio H. Tagala, M.D. and  
Clearfield Hospital

Case No. #2002-01228-CD

RULE TO FILE COMPLAINT

TO: Tammy L. Kawa

YOU ARE HEREBY RULED to file a Complaint in the above-captioned matter within twenty (20) days from service hereof, or a judgment of non pros may be entered against you.



William A. Shaw, Prothonotary

Dated: August 19, 2002

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

TAMMY L. KAWA,

Plaintiff

vs.

PRAXIDIO H. TAGALA M.D. and  
CLEARFIELD HOSPITAL,

Defendants

No. 2002 – 1228 CD

**ISSUE:**

CERTIFICATE OF SERVICE OF RULE  
TO FILE COMPLAINT

Filed on behalf of Defendant,  
CLEARFIELD HOSPITAL

Counsel of Record:

Frank J. Hartye, Esquire  
PA I.D. #25568  
McINTYRE, DUGAS, HARTYE &  
& SCHMITT  
P.O. Box 533  
Hollidaysburg, PA 16648  
(814) 696-3581

I HEREBY CERTIFY THAT A TRUE  
AND CORRECT COPY OF THE WITHIN  
WAS MAILED TO ALL COUNSEL OF  
RECORD THIS 20<sup>th</sup> DAY OF  
AUGUST, 2002.

  
Attorneys for Named Defendant

**FILED**

AUG 21 2002

m 11:00/10/02  
William A. Shaw  
Prothonotary



Frank J. Hartye, Esquire  
PA I.D. #28015  
P.O. Box 533  
Hollidaysburg, PA 16648-0533  
(814) 696-3581

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

TAMMY L. KAWA

Plaintiff,

vs.

PRAXIDIO H. TAGALA, M.D.  
CLEARFIELD HOSPITAL,

Defendants.

No: 2002-01228 CD

Type of Case: Civil Action

JURY TRIAL DEMANDED

Type of Pleading:  
PRAECIPE FOR ENTRY OF APPEARANCE

Filed on Behalf of Defendant:  
PRAXIDIO H. TAGALA, M.D.

Counsel of Record for this  
Party: JOHN W. BLASKO  
Court I.D. No.: 6787

McQUAIDE, BLASKO, SCHWARTZ,  
FLEMING & FAULKNER, INC.

811 University Drive  
State College, PA 16801  
(814) 238-4926

Counsel of Record for  
Adverse Party:  
Samuel Cohen, Esquire

Dated: 8/27/02

FILED

AUG 28 2002

W/2:10/02

William A. Shaw  
Prothonotary

(EWS)

Dated:

By: \_\_\_\_\_  
JOHN W. BLASKO  
Attorneys for Defendant  
Praxidio H. Tagala, M.D.

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

TAMMY L. KAWA

Plaintiff,

vs.

PRAXIDIO H. TAGALA, M.D.  
CLEARFIELD HOSPITAL,

Defendants.

No: 2002-01228 CD

Type of Case: Civil Action

JURY TRIAL DEMANDED

Type of Pleading:  
PRAECIPE FOR RULE TO FILE A  
COMPLAINT

Filed on Behalf of Defendant:  
PRAXIDIO H. TAGALA, M.D.

Counsel of Record for this  
Party: JOHN W. BLASKO  
Court I.D. No.: 6787

McQUAIDE, BLASKO, SCHWARTZ,  
FLEMING & FAULKNER, INC.

811 University Drive  
State College, PA 16801  
(814) 238-4926

Counsel of Record for  
Adverse Party:  
Samuel Cohen, Esquire

Dated: 8/27/02

**FILED**

AUG 28 2002

W / 2:10 PM  
William A. Shaw  
Prothonotary

Rule to Array

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

TAMMY L KAWA,

Plaintiff,

vs.

PRAXIDIO H. TAGALA, M.D.  
and CLEARFIELD HOSPITAL,

Defendants.

No. 2002-01228

JURY TRIAL DEMANDED

RULE

TO: Tammy L. Kawa, Plaintiff  
c/o Samuel Cohen, Esquire  
Katz, Cohen & Price, P.C.  
117 South 17<sup>th</sup> Street  
Suite 2010  
Philadelphia, PA 19103

YOU ARE HEREBY RULED to file a Complaint in the above-captioned matter within  
twenty (20) days from service hereof, or a judgment of non pros may be entered against you.

  
\_\_\_\_\_  
PROTHONOTARY

Dated: August 29, 2002



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

TAMMY L. KAWA,

Plaintiff,

vs.

PRAXIDIO H. TAGALA, M.D.  
and CLEARFIELD HOSPITAL,

Defendants.

No. 2002-01228

JURY TRIAL DEMANDED

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of Defendant Tagala's Interrogatories and Request for Production (Set One), in the above-referenced matter was mailed by regular mail, first class, at the Post Office, State College, Pennsylvania, postage prepaid, this 30<sup>th</sup> day of August, 2002, to:

Samuel Cohen, Esquire  
Katz, Cohen Price, P.C.  
117 South 17<sup>th</sup> Street  
Suite 2010  
Philadelphia, PA 19103

Frank J. Hartye, Esquire  
P.O. Box 533  
Hollidaysburg, PA 16648

McQUAIDE, BLASKO, SCHWARTZ,  
FLEMING & FAULKNER, INC.

By:

John W. Blasko / CTJ  
JOHN W. BLASKO

Attorneys for Defendant  
Praxidio H. Tagala, M.D.

FILED

SEP 03 2002

William A. Shaw  
Prothonotary

FILED <sup>MO</sup>CC  
m 12:44 ~~PM~~  
SEP 03 2002

William A. Shaw  
Prothonotary

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

TAMMY L. KAWA,

Plaintiff,

vs.

PRAXIDIO H. TAGALA, M.D.  
and CLEARFIELD HOSPITAL,

Defendants.

No. 2002-01228

JURY TRIAL DEMANDED

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of Defendant Tagala's Request for Production  
(Set Two), in the above-referenced matter was mailed by regular mail, first class, at the Post  
Office, State College, Pennsylvania, postage prepaid, this 30<sup>th</sup> day of August,  
2002, to:

Samuel Cohen, Esquire  
Katz, Cohen Price, P.C.  
117 South 17<sup>th</sup> Street  
Suite 2010  
Philadelphia, PA 19103

Frank J. Hartye, Esquire  
P.O. Box 533  
Hollidaysburg, PA 16648

McQUAIDE, BLASKO, SCHWARTZ,  
FLEMING & FAULKNER, INC.

By: John W. Blasko/cj

JOHN W. BLASKO

Attorneys for Defendant  
Praxidio H. Tagala, M.D.

**FILED**

SEP 03 2002

William A. Shaw  
Prothonotary

FILED <sup>noce</sup>  
09/24/02  
SEP 03 2002

William A. Shaw  
Prothonotary

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

TAMMY L. KAWA,

Plaintiff,

vs.

PRAXIDIO H. TAGALA, M.D.  
and CLEARFIELD HOSPITAL,

Defendants.

No. 2002-01228

JURY TRIAL DEMANDED

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of Defendant Tagala's Expert Interrogatories,  
in the above-referenced matter was mailed by regular mail, first class, at the Post Office, State  
College, Pennsylvania, postage prepaid, this 30<sup>th</sup> day of August, 2002, to:

Samuel Cohen, Esquire  
Katz, Cohen Price, P.C.  
117 South 17<sup>th</sup> Street  
Suite 2010  
Philadelphia, PA 19103

Frank J. Hartye, Esquire  
P.O. Box 533  
Hollidaysburg, PA 16648

McQUAIDE, BLASKO, SCHWARTZ,  
FLEMING & FAULKNER, INC.

By: John W. Blasko  
JOHN W. BLASKO  
Attorneys for Defendant  
Praxidio H. Tagala, M.D.

FILED

SEP 03 2002

William A. Shaw  
Prothonotary

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

TAMMY L. KAWA

Plaintiff,

vs.

PRAXIDIO H. TAGALA, M.D.  
CLEARFIELD HOSPITAL,

Defendants.

No: 2002-01228 CD

Type of Case: Civil Action

JURY TRIAL DEMANDED

Type of Pleading:  
RULE TO FILE A COMPLAINT  
AND CERTIFICATE OF SERVICE

Filed on Behalf of Defendant:  
PRAXIDIO H. TAGALA, M.D.

Counsel of Record for this  
Party: JOHN W. BLASKO  
Court I.D. No.: 6787

ALLEN P. NEELY  
Court I.D. No.: 65302  
McQUAIDE, BLASKO, SCHWARTZ,  
FLEMING & FAULKNER, INC.

811 University Drive  
State College, PA 16801  
(814) 238-4926

Counsel of Record for  
Adverse Party:  
Samuel Cohen, Esquire

Dated: 8-30-02

**FILED**

SEP 03 2002

William A. Shaw  
Prothonotary

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

TAMMY L KAWA,

Plaintiff,

vs.

PRAXIDIO H. TAGALA, M.D.  
and CLEARFIELD HOSPITAL,

Defendants.

No. 2002-01228

JURY TRIAL DEMANDED

RULE

TO: Tammy L. Kawa, Plaintiff  
c/o Samuel Cohen, Esquire  
Katz, Cohen & Price, P.C.  
117 South 17<sup>th</sup> Street  
Suite 2010  
Philadelphia, PA 19103

YOU ARE HEREBY RULED to file a Complaint in the above-captioned matter within  
twenty (20) days from service hereof, or a judgment of non pros may be entered against you.

  
PROTHONOTARY

Dated: AUGUST 28, 2002

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**

Sheriff Docket # 12904

KAWA, TAMMY L.

02-1228-CD

VS.

TAGALA, PRAXIDIO H., MD. & CLEARFIELD HOSPITAL

SUMMONS

**SHERIFF RETURNS**

NOW AUGUST 14, 2002 AT 12:51 PM DST SERVED THE WITHIN SUMMONS  
ON CLEARFIELD HOSPITAL, DEFENDANT AT EMPLOYMENT, 809 TURNPIKE  
AVE., CLEARFIELD, CLEARFIELD COUNTY, PENNSYLVANIA BY HANDING TO  
KENT C. HESS, C.E.O. A TRUE AND ATTESTED COPY OF THE ORIGINAL  
SUMMONS AND MADE KNOWN TO HIM THE CONTENTS THEREOF.  
SERVED BY: NEVLING.

NOW AUGUST 14, 2002 AT 1:05 PM DST SERVED THE WITHIN SUMMONS  
ON PRAXIDIO H. TAGALA, M.D., DEFENDANT AT EMPLOYMENT, 615 THOMPSON  
ST., CLEARFIELD, CLEARFIELD COUNTY, PENNSYLVANIA BY HANDING TO  
FRAZIDIO H. TAGALA, M.D. DEFENDANT AND MADE KNOWN TO HIM THE  
CONTENTS THEREOF.  
SERVED BY: NEVLING.

**Return Costs**

Cost	Description
26.37	SHFF. HAWKINS PAID BY: ATTY.
20.00	SURCHARGE PAID BY; ATTY.

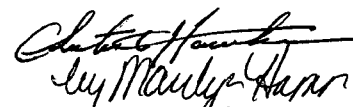
Sworn to Before Me This

20 Day Of Sept 2002  


**FILED**

SEP 20 2002  
2:40  
William A. Shaw  
Prothonotary

So Answers,

  
Chester A. Hawkins  
Sheriff



THIS IS NOT AN ARBITRATION MATTER.  
JURY TRIAL DEMANDED ASSESSMENT OF  
DAMAGES HEARING WILL BE NECESSARY.  
RULE 238 DELAY DAMAGES REQUIRED

**KATZ, COHEN & PRICE, P.C.**  
**By: SAMUEL COHEN**  
**ATTORNEY I.D. NO.: 27544**  
**117 SOUTH 17th STREET**  
**SUITE 2010**  
**PHILADELPHIA, PA 19103**  
**(215) 636-0400**

**ATTORNEY FOR PLAINTIFF**

TAMMY L. KAWA

vs.

PRAXIDIO H. TAGALA, M.D.  
and CLEARFIELD HOSPITAL

COURT OF COMMON PLEAS  
CLEARFIELD COUNTY

NO.: 2002-01228-CD

**CIVIL ACTION COMPLAINT**

COMES NOW, Plaintiff Tammy L. Kawa, by her Counsel, Katz, Cohen & Price, P.C., by Samuel Cohen, Esquire and desiring to recover compensation for the injuries, losses and damages sustained by her as the result of the conduct of Defendants avers in support thereof the following:

1. Plaintiff Tammy L Kawa is an adult individual who is a citizen and resident of the Commonwealth of Pennsylvania residing therein at 615 Thompson Street, Clearfield, PA 16830.

**FILED**

OCT 08 2002

William A. Shaw  
Prothonotary

2. Defendant Praxidio Tagala, M.D. at the time of the occurrence was a licensed practitioner providing medical care and purporting to specialize in the field of obstetrics and gynecology and in Clearfield County Pennsylvania.

3. Upon information and belief, Defendant Tagala was an agent, servant or employee Defendant Clearfield Hospital or, in the alternative, was a practitioner utilizing the facilities of said hospital. In the latter case, Defendant Tagala was an apparent agent of Defendant Clearfield Hospital, held out as agent, servant or employee to the public, such as Plaintiff, therefore creating vicarious liability.

4. Defendant Clearfield Hospital is a corporation organized and existing under the laws of the Commonwealth of Pennsylvania and is engaged in the business of providing health care and services to the general public, maintaining its place of business at 809 Turnpike Avenue Clearfield, PA 16830, in Clearfield County, Pennsylvania.

5. On August 16, 2000 Plaintiff Tammy L. Kawa was taken to the operating room on the premises of Defendant of Clearfield Hospital where Defendant Tagala, upon information and belief, performed a laparoscopy with lysis of adhesions and aspiration of ovarian cyst with biopsy.

6. On or about August 17, 2000, Plaintiff Tammy L. Kawa returned to the premises of Clearfield Hospital through the emergency room complaining of abdominal pain.

7. After being seen in the emergency room, Plaintiff was re-admitted to the Clearfield Hospital.

8. At the time of her admission to Defendant Clearfield Hospital on August 18, 2000. Plaintiff was suffering from acute abdominal pain and dehydration secondary to persistent nausea and vomiting.

9. After her admission to the Clearfield Hospital on August 18, 2000 Plaintiff again came under the care of Defendant Tagala.

10. Plaintiff Tammy L. Kawa remained a patient at the Clearfield Hospital under the care of Defendant Tagala from August 18, 2000 through August 23, 2000.

11. At the time of her discharge from Defendant Clearfield Hospital on August 23, 2000 her diagnoses were post-operative ileus, post-operative atelectasis, pre-renal azotemia secondary to severe dehydration, and status post laparoscopy and adhesiolysis.

12. On or about August 24, 2000, Plaintiff Tammy L. Kawa returned to the Clearfield Hospital suffering from repeated episodes of nausea, vomiting, and abdominal pain.

13. Upon re-admission of Plaintiff Tammy L. Kawa on August 24, 2000. she came under the care of Douglas B. Yingling, M.D..

14. On August 26, 2000, Plaintiff Tammy L. Kawa had a CT Scan of the abdomen which suggested a large pelvic abscess, right subhepatic versus hepatic abscess, right plural effusion and atelectasis and also free air.

15. On or about August 26, 2000, Plaintiff Tammy L. Kawa was returned to the operating room at the Clearfield Hospital by Dr. Yingling at which time an exploratory laparotomy was performed and a perforative sigmoid colon with pelvic abscess, intrabdominal abscess, subhepatic and perihepatic abscesses were found.

16. During the operation of August 26, 2000, Dr. Yingling performed an exploratory laparotomy , sigmoid resection, Hartmann's pouch, end-sigmoid colostomy, drainage of pelvic and subhepatic abscesses and the placement of a central line.

17. On September 8, 2000, Plaintiff Tammy L. Kawa was discharged from the Clearfield Hospital.

**COUNT I- PLAINTIFF TAMMY L. KAWA VS. PRAXIDIO TAGALA, M.D.**

**NEGLIGENCE**

18. Plaintiff, Tammy L. Kawa incorporates herein by reference each and every averment contained in paragraphs 1 through 17 as though same were fully set forth herein at length.

19. Defendant Praxidio Tagala holds himself out to be a health care provider who possesses skill and knowledge in a specialty,obstetrics and gynecology and holds himself out to the public as so qualified.

20. Defendant Praxidio Tagala failed to provide reasonable health care under these circumstances as follows:

- a) Failure to adequately evaluate Plaintiff's condition and problem;
- b) In perforating Plaintiff's sigmoid colon during the initial hospitalization;
- c) In failing to discover that he had perforated Plaintiff's sigmoid colon;
- d) In failing to obtain a second opinion;

e) In delaying the Plaintiff's treatment for the perforation of her sigmoid colon by failing to discover same;

f) In failing to recognize the perforated sigmoid colon and immediately taking corrective measures;

g) In failing to timely diagnose the perforated sigmoid colon;

h) In discharging the Plaintiff when it was improper to do so;

i) In discharging the patient on two (2) occasions without discovering the perforated sigmoid colon

j) In failing to exercise reasonable care and diligence in the application of knowledge and skill to the Plaintiff's case

h) By holding out expertise which induced Plaintiff that adequate and proper care would be provided when, in fact, adequate, proper and reasonable care were not provided;

i) By failing to possess the degree of professional learning, skill and ability which others similarly situated ordinarily possessed.

21. As a direct and proximate result of the conducts set forth, Plaintiff has suffered as follows:

a) Extended pain and suffering due to the failure to diagnose and treat Plaintiff's condition;

b) Additional surgery;

c) More extensive surgery than would have been necessary had the perforation of the sigmoid colon been promptly discovered;

d) Additional medical expenses;

e) Mental anguish and upset;

f) Loss of wages and future lost wages;

g) Humiliation, embarrassment and such other damages as permitted by law.

WHEREFORE, Plaintiff claims damages of Defendant Tagala in excess of the limits of arbitration.

**COUNT II-PLAINTIFF VS CLEARFIELD HOSPITAL**

22. Plaintiff, Tammy L. Kawa incorporates herein by reference each and every averment contained in paragraphs 1 through 21 as though same were fully set forth herein at length.

23. Defendant physician is an agent, employee, servant, officer or director of Clearfield Hospital, or is in an apparent agent held out as such.

24. At all relevant times, Defendant physician was acting in the scope of his employment as an agent, servant, or employee of the said Defendant hospital.

25. Defendant hospital is vicariously liable for the actions and commissions or omissions of Defendant physician fully as though the afore mentioned hospital performs the acts or omissions itself.

26. As a direct and proximate result of the conduct set forth, Plaintiff has suffered as follows:

- a) Extended pain and suffering due to the failure to diagnose and treat Plaintiff's condition;
- b) Additional surgery;
- c) More extensive surgery than would have been necessary had the perforation of the sigmoid colon been promptly discovered;
- d) Additional medical expenses;
- e) Mental anguish and upset;
- f) Loss of wages and future lost wages;
- g) Humiliation, embarrassment and such other damages as permitted by law.

WHEREFORE, Plaintiff claims damages of Defendant Clearfield Hospital in excess of the limits of arbitration.

**COUNT III- PLAINTIFF VS CLEARFIELD HOSPITAL CORPORATE LIABILITY**

27. Plaintiff, Tammy L. Kawa incorporates herein by reference each and every averment contained in paragraphs 1 through 26 as though same were fully set forth herein at length.

28. Defendant has a duty and responsibility to its patients and to the public to furnish appropriate and competent medical care.

29. As part of its duties and responsibilities, Defendant has an obligation to establish policies and procedures and have competent medical people who will provide the appropriate quality of medical care as conducted within the institution

30. Acting through its administrators, various boards, committees, and individuals, Defendant is responsible of professional practice by members of its staff in the manner set forth.

31. Defendant has an obligation to establish proper treatment on individuals having problems such as those presented by Plaintiff as previously set forth herein.

32. Defendant failed to exercise the judgement of a reasonable health care provider under the circumstances as follows:

a) Failing to comply with the needs of Plaintiff with regard to necessary intervention by qualified medical care practioners and physicians;

b) By having in its employee, individuals inadequate to deal with the signs and symptoms exhibited by Plaintiff and to act upon them in a manner calculated to preserve the health and safety of the Plaintiff.



c) Failure to establish proper protocols to provide proper care, treatment and safety of individuals such as Plaintiff,

d) Failure to identify Plaintiff's problem, respond to it in a timely fashion, and competently to medically care for Plaintiff in providing critical care.

33. As a direct and proximate result of the conduct set forth, Plaintiff has suffered as follows:

a) Extended pain and suffering due to the failure to diagnose and treat Plaintiff's condition;

b) Additional surgery;

c) More extensive surgery than would have been necessary had the perforation of the sigmoid colon been promptly discovered;

d) Additional medical expenses;

e) Mental anguish and upset;

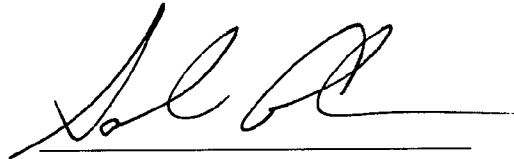
f) Loss of wages and future lost wages;

g) Humiliation, embarrassment and such other damages as permitted by law.

WHEREFORE, Plaintiff claims damages of Defendant Clearfield Hospital in excess of the limits

of arbitration.

KATZ, COHEN & PRICE, P.C.

A handwritten signature in black ink, appearing to read 'S. Cohen', written over a horizontal line.

BY: SAMUEL COHEN, ESQUIRE

DATED: 10/7/02

**VERIFICATION**

I, Tammy L. Kawa, verify that I am the Plaintiff in this matter and that the averments of fact set forth in the foregoing Civil Action Complaint is true and correct to the best of my personal knowledge, information and belief. I understand that this Verification is made subject to the penalties of 18 Pa. C.S. Section 4904, relating to unsworn falsification to authorities.

  
TAMMY L. KAWA

Dated: 10-3-02

FILED 1ce  
M 11:24 AM  
OCT 08 2002

William A. Shaw  
Prothonotary

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

TAMMY L. KAWA,

Plaintiff

vs.

PRAXIDIO H. TAGALA M.D. and  
CLEARFIELD HOSPITAL,

Defendants

No. 2002 – 1228 CD

ISSUE:  
NOTICE OF SERVICE OF  
INTERROGATORIES AND REQUEST FOR  
PRODUCTION OF DOCUMENTS DIRECTED  
TO PLAINTIFF DATED 11/1/02

Filed on behalf of Defendant,  
CLEARFIELD HOSPITAL

Counsel of Record:

Frank J. Hartye, Esquire  
PA I.D. #25568  
McINTYRE, DUGAS, HARTYE &  
& SCHMITT  
P.O. Box 533  
Hollidaysburg, PA 16648  
(814) 696-3581

I HEREBY CERTIFY THAT A TRUE  
AND CORRECT COPY OF THE WITHIN  
WAS MAILED TO ALL COUNSEL OF  
RECORD THIS 1<sup>st</sup> DAY OF NOVEMBER, 2002.

  
Attorneys for Named Defendant

FILED

NOV 05 2002

William A. Shaw  
Prothonotary

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

TAMMY L. KAWA,

Plaintiff

vs.

PRAXIDIO H. TAGALA M.D. and  
CLEARFIELD HOSPITAL,

Defendants

No. 2002 – 1228 CD

JURY TRIAL DEMANDED

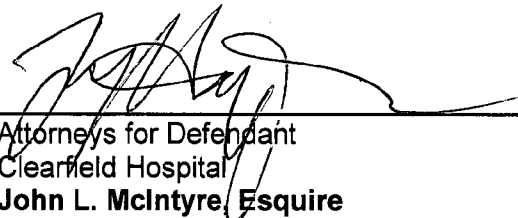
**NOTICE OF SERVICE OF INTERROGATORIES  
AND REQUEST FOR PRODUCTION OF DOCUMENTS  
DIRECTED TO PLAINTIFF DATED 11/1/02**

TO: PROTHONOTARY

You are hereby notified that on the **1st** day of **NOVEMBER, 2002**, Defendant, Clearfield Hospital served Interrogatories and Request for Production of Documents Directed to Plaintiff Dated 11/1/2002 by mailing the original of same via First Class U.S. Mail, postage prepaid, addressed to the following:

Samuel Cohen, Esquire  
Suite 2010  
117 S. 17<sup>th</sup> Street  
Philadelphia, PA 19103

McINTYRE, DUGAS, HARTYE & SCHMITT



Attorneys for Defendant  
Clearfield Hospital  
**John L. McIntyre, Esquire**

**PA I.D. #: 25568**

P.O. Box 533  
Hollidaysburg, PA 16648  
(814) 696-3581  
(814) 696-9399 - Fax

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

TAMMY L. KAWA,

Plaintiff

vs.

PRAXIDIO H. TAGALA M.D. and  
CLEARFIELD HOSPITAL,

Defendants

: No. 2002 – 1228 CD

: **ISSUE:**

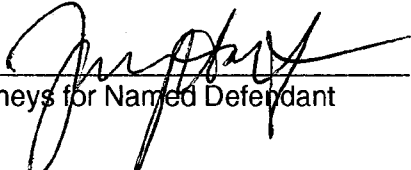
: **ANSWER AND NEW MATTER TO**  
: **PLAINTIFF'S COMPLAINT**

:  
: Filed on behalf of Defendant,  
: CLEARFIELD HOSPITAL

:  
: Counsel of Record:

:  
: Frank J. Hartye, Esquire  
: PA I.D. #25568  
: McINTYRE, DUGAS, HARTYE &  
: & SCHMITT  
: P.O. Box 533  
: Hollidaysburg, PA 16648  
: (814) 696-3581

I HEREBY CERTIFY THAT A TRUE  
AND CORRECT COPY OF THE WITHIN  
WAS MAILED TO ALL COUNSEL OF  
RECORD THIS 12th DAY OF  
NOVEMBER, 2002.

  
Attorneys for Named Defendant

**FILED**

NOV 13 2002

William A. Shaw  
Prothonotary

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

TAMMY L. KAWA,

Plaintiff

vs.

PRAXIDIO H. TAGALA M.D. and  
CLEARFIELD HOSPITAL,

Defendants

: No. 2002 – 1228 CD  
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: JURY TRIAL DEMANDED

**ANSWER AND NEW MATTER TO PLAINTIFF'S COMPLAINT**

AND NOW, comes the defendant, CLEARFIELD HOSPITAL, by and through its attorneys, McINTYRE, DUGAS, HARTYE & SCHMITT, and files the following Answer and New Matter to Plaintiff's Complaint.

1. It is admitted that Tammy Kawa is an individual residing in the Commonwealth of Pennsylvania. Her current address is unknown to this defendant.

2. The allegations contained in Paragraph 2 are true to the best of defendant's knowledge.

3. Denied. It is denied that Dr. Tagala was an actual or apparent agent, servant employee of Clearfield Hospital and therefore all of the allegations contained in Paragraph 3 are denied.

4. Admitted.

5. Admitted.

6. Admitted.

7. Admitted.



8. Admitted to the extent that the same is reflected in the discharge summary dictated by Dr. Tagala.

9. Admitted.

10. Admitted.

11. Admitted to the extent that the same is reflected in the discharge summary dictated by Dr. Tagala.

12. It is admitted that on August 24, 2000 that Tammy Kawa was readmitted to Clearfield Hospital by Dr. Tagala.

13. It is admitted that during her admission Ms. Kawa came under the care of Douglas B. Yingling, M.D.

14. Admitted to the extent that the same is reflected in the patient's hospital chart.

15. Admitted to the extent that the same is reflected in the operative report of Dr. Yingling.

16. Admitted to the extent that the same is recorded in the operative report of Dr. Yingling.

17. Admitted.

**COUNT I – PLAINTIFF TAMMY L. KAWA VS. PRAXIDIO TAGALA, M.D.**

**NEGLIGENCE**

18. – 21. The allegations contained in Paragraphs 18 through 21 are not directed to answering defendant and no further response is required. Insofar as a response may be deemed to be necessary it is denied that Clearfield Hospital or any of its actual or ostensible agents, servants or employees were negligent or careless in any manner and therefore all of the allegations contained in Paragraphs 18 through 21 are denied.

## **COUNT II – PLAINTIFF VS. CLEARFIELD HOSPITAL**

22. Defendant incorporates by reference the previous the paragraphs of the within Answer and New Matter as though the same were set forth herein and at length.

23. Denied. It is denied that Dr. Tagala was an actual or ostensible agent, servant, officer or director of Clearfield Hospital and therefore all of the allegations in this paragraph are denied.

24. It is denied that Dr. Tagala was an actual or ostensible, agent, servant or employee and therefore it is denied that he was acting in the course or scope of such employment.

25. The allegations contained in Paragraph 25 are conclusions of law and no further response is required. Insofar as a response may be deemed to be necessary it is denied that Dr. Tagala was an agent of Clearfield Hospital and therefore vicarious liability is denied.

26. It is denied that Clearfield Hospital or any of its actual or ostensible agents, servants or employees were negligent or careless in any manner. It is denied that any action or inaction on the part of Clearfield Hospital or any of its actual or ostensible agents, servants or employees either caused or contributed to the alleged injuries and damages set forth and therefore all of the allegations contained in Paragraph 26 and the subparagraphs thereof are denied.

WHEREFORE, Clearfield Hospital demands judgment in its favor with cost of suit awarded to defendant.

## **COUNT III – PLAINTIFF VS. CLEARFIELD HOSPITAL CORPORATE LIABILITY**

27. Defendant incorporates by reference the previous the paragraphs of the within Answer and New Matter as though the same were set forth herein and at length.

28. – 31. The allegations contained in Paragraphs 28 through 31 are conclusions of law and no further response is required.

32. Denied. It is denied that Clearfield Hospital failed to exercise the judgment of a reasonable healthcare provider. To the contrary Clearfield Hospital, its actual and ostensible agents, servants or employees exercise reasonable judgment and met the standard of care applicable to them and therefore all the allegations contained in Paragraph 32 and the subparagraphs thereof are denied.

33. It is denied that Clearfield Hospital or any of its actual or ostensible agents, servants or employees were negligent or careless in any manner. It is further denied that any action or inaction on the part of Clearfield Hospital or any of its actual or ostensible agents, servants or employees either caused or contributed to the alleged injuries and damages set forth and therefore all of the allegations contained in Paragraph 33 and the subparagraphs thereof are denied and strict proof thereof is demanded.

WHEREFORE, Clearfield Hospital demands judgment in its favor with cost of suit awarded to defendant.

#### **NEW MATTER**

By way of further and more complete Answer defendant avers the following New Matter.

34. Plaintiff's Complaint fails to allege a cause of action against Clearfield Hospital and therefore plaintiff's Complaint against Clearfield Hospital should be dismissed with prejudice.

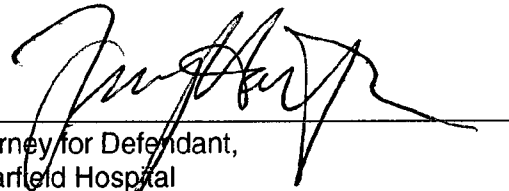
35. If the plaintiff's suffered injuries and damages as a result of actions or inaction of individuals, as alleged in plaintiff's Complaint, such actions or inactions were of individuals or entities other than Clearfield Hospital, its agents servants or employees, and over whom

Clearfield Hospital neither exercised nor had the right or duty to exercise control, and for whose actions or inactions Clearfield Hospital is not responsible or otherwise legally liable.

WHEREFORE, Clearfield Hospital demands judgment in its favor with cost of suit awarded to defendant.

Respectfully submitted,

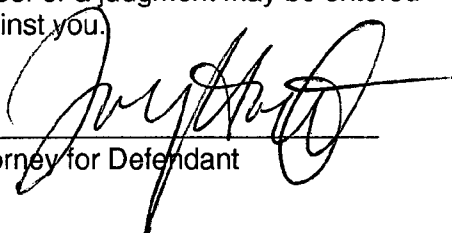
McINTYRE, DUGAS, HARTYE & SCHMITT



Attorney for Defendant,  
Clearfield Hospital  
**Frank J. Hartye, Esquire**  
**PA I.D. #25568**  
P.O. Box 533  
Hollidaysburg, PA 16648  
(814) 696-3581  
(814) 696-9399 – Fax

To: Tammy L. Kawa, Plaintiff

You are hereby notified to file a written response to the enclosed **New Matter** within **twenty (20) days** from service hereof or a judgment may be entered against you.



Attorney for Defendant

P 227 MH

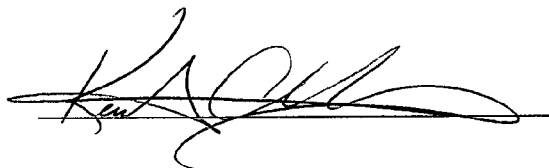
**VERIFICATION**

I, Kent C. Hess, of **CLEARFIELD HOSPITAL**

do hereby verify that I have read the foregoing **ANSWER AND NEW MATTER TO PLAINTIFF'S COMPLAINT**. The statements therein are correct to the best of my personal knowledge or information and belief.

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

**CLEARFIELD HOSPITAL**

A handwritten signature in black ink, appearing to read "Kent C. Hess", is written over a horizontal line.

Date: 11/1/02

FILED

NOV 19 2002

William A. Shaw  
Prethenotary

THIS IS NOT AN ARBITRATION MATTER.  
JURY TRIAL DEMANDED ASSESSMENT OF  
DAMAGES HEARING WILL BE NECESSARY.  
RULE 238 DELAY DAMAGES REQUIRED

**KATZ, COHEN & PRICE, P.C.**  
**By: SAMUEL COHEN**  
**ATTORNEY I.D. NO.: 27544**  
**117 SOUTH 17th STREET**  
**SUITE 2010**  
**PHILADELPHIA, PA 19103**  
**(215) 636-0400**

**ATTORNEY FOR PLAINTIFF**

TAMMY L. KAWA

vs.

PRAXIDIO H. TAGALA, M.D.  
and CLEARFIELD HOSPITAL

COURT OF COMMON PLEAS  
CLEARFIELD COUNTY

NO.: 2002-01228-CD

**AMENDED CIVIL ACTION COMPLAINT**

COMES NOW, Plaintiff Tammy L. Kawa, by her Counsel, Katz, Cohen & Price, P.C., by Samuel Cohen, Esquire and desiring to recover compensation for the injuries, losses and damages sustained by her as the result of the conduct of Defendants avers in support thereof the following:

1. Plaintiff Tammy L. Kawa is an adult individual who is a citizen and resident of the Commonwealth of Pennsylvania residing therein at 615 Thompson Street, Clearfield, PA 16830.

2. Defendant Praxidio Tagala, M.D. at the time of the occurrence was a licensed practitioner providing medical care and purporting to specialize in the field of obstetrics and gynecology and in Clearfield County Pennsylvania.

3. Upon information and belief, Defendant Tagala was an agent, servant or employee Defendant Clearfield Hospital or, in the alternative, was a practitioner utilizing the facilities of said hospital. In the latter case, Defendant Tagala was an apparent agent of Defendant Clearfield Hospital, held out as agent, servant or employee to the public, such as Plaintiff, therefore creating vicarious liability.

4. Defendant Clearfield Hospital is a corporation organized and existing under the laws of the Commonwealth of Pennsylvania and is engaged in the business of providing health care and services to the general public, maintaining its place of business at 809 Turnpike Avenue Clearfield, PA 16830, in Clearfield County, Pennsylvania.

5. On August 16, 2000 Plaintiff Tammy L. Kawa was taken to the operating room on the premises of Defendant of Clearfield Hospital where Defendant Tagala, upon information and belief, performed a laparoscopy with lysis of adhesions and aspiration of ovarian cyst with biopsy.

6. On or about August 17, 2000, Plaintiff Tammy L. Kawa returned to the premises of Clearfield Hospital through the emergency room complaining of abdominal pain.

7. After being seen in the emergency room, Plaintiff was re-admitted to the Clearfield Hospital.

8. At the time of her admission to Defendant Clearfield Hospital on August 18, 2000. Plaintiff was suffering from acute abdominal pain and dehydration secondary to persistent nausea and vomiting.

9. After her admission to the Clearfield Hospital on August 18, 2000 Plaintiff again came under the care of Defendant Tagala.

10. Plaintiff Tammy L. Kawa remained a patient at the Clearfield Hospital under the care of Defendant Tagala from August 18, 2000 through August 23, 2000.

11. At the time of her discharge from Defendant Clearfield Hospital on August 23, 2000 her diagnoses were post-operative ileus, post-operative atelectasis, pre-renal azotemia secondary to severe dehydration, and status post laparoscopy and adhesiolysis.

12. On or about August 24, 2000, Plaintiff Tammy L. Kawa returned to the Clearfield Hospital suffering from repeated episodes of nausea, vomiting, and abdominal pain.

13. Upon re-admission of Plaintiff Tammy L. Kawa on August 24, 2000. she came under the care of Douglas B. Yingling, M.D..

14. On August 26, 2000, Plaintiff Tammy L. Kawa had a CT Scan of the abdomen which suggested a large pelvic abscess, right subhepatic versus hepatic abscess, right plural effusion and atelectasis and also free air.

15. On or about August 26, 2000, Plaintiff Tammy L. Kawa was returned to the operating room at the Clearfield Hospital by Dr. Yingling at which time an exploratory laparotomy was performed and a perforative sigmoid colon with pelvic abscess, intrabdominal abscess, subhepatic and perihepatic abscesses were found.



16. During the operation of August 26, 2000, Dr. Yingling performed an exploratory laparotomy , sigmoid resection, Hartmann's pouch, end-sigmoid colostomy, drainage of pelvic and subhepatic abscesses and the placement of a central line.

17. On September 8, 2000, Plaintiff Tammy L. Kawa was discharged from the Clearfield Hospital.

**COUNT I- PLAINTIFF TAMMY L. KAWA VS. PRAXIDIO TAGALA, M.D.**

**NEGLIGENCE**

18. Plaintiff, Tammy L. Kawa incorporates herein by reference each and every averment contained in paragraphs 1 through 17 as though same were fully set forth herein at length.

19. Defendant Praxidio Tagala holds himself out to be a health care provider who possesses skill and knowledge in a specialty,obstetrics and gynecology and holds himself out to the public as so qualified.

20. Defendant Praxidio Tagala failed to provide reasonable health care under these circumstances as follows:

- a) Failure to adequately evaluate Plaintiff's condition and problem;
- b) In perforating Plaintiff's sigmoid colon during the initial hospitalization;
- c) In failing to discover that he had perforated Plaintiff's sigmoid colon;
- d) In failing to obtain a second opinion;

e) In delaying the Plaintiff's treatment for the perforation of her sigmoid colon by failing to discover same;

f) In failing to recognize the perforated sigmoid colon and immediately taking corrective measures;

g) In failing to timely diagnose the perforated sigmoid colon;

h) In discharging the Plaintiff when it was improper to do so;

i) In discharging the patient on two (2) occasions without discovering the perforated sigmoid colon

21. As a direct and proximate result of the conducts set forth, Plaintiff has suffered as follows:

a) Extended pain and suffering due to the failure to diagnose and treat Plaintiff's condition;

b) Additional surgery;

c) More extensive surgery than would have been necessary had the perforation of the sigmoid colon been promptly discovered;

d) Additional medical expenses;

e) Mental anguish and upset;

f) Loss of wages and future lost wages;

g) Humiliation, embarrassment and such other damages as permitted by law.

WHEREFORE, Plaintiff claims damages of Defendant Tagala in excess of the limits of arbitration.

**COUNT II-PLAINTIFF VS CLEARFIELD HOSPITAL**

22. Plaintiff, Tammy L. Kawa incorporates herein by reference each and every averment contained in paragraphs 1 through 21 as though same were fully set forth herein at length.

23. Defendant physician is an agent, employee, servant, officer or director of Clearfield Hospital, or is in an apparent agent held out as such.

24. At all relevant times, Defendant physician was acting in the scope of his employment as an agent, servant, or employee of the said Defendant hospital.

25. Defendant hospital is vicariously liable for the actions and commissions or omissions of Defendant physician fully as though the afore mentioned hospital performs the acts or omissions itself.

26. As a direct and proximate result of the conduct set forth, Plaintiff has suffered as follows:

a) Extended pain and suffering due to the failure to diagnose and treat Plaintiff's condition;

b) Additional surgery;

c) More extensive surgery than would have been necessary had the perforation of the sigmoid colon been promptly discovered;

d) Additional medical expenses;

e) Mental anguish and upset;

f) Loss of wages and future lost wages;

g) Humiliation, embarrassment and such other damages as permitted by law.

WHEREFORE, Plaintiff claims damages of Defendant Clearfield Hospital in excess of the limits of arbitration.

**COUNT III- PLAINTIFF VS CLEARFIELD HOSPITAL CORPORATE LIABILITY**

27. Plaintiff, Tammy L. Kawa incorporates herein by reference each and every averment contained in paragraphs 1 through 26 as though same were fully set forth herein at length.

28. Defendant has a duty and responsibility to its patients and to the public to furnish appropriate and competent medical care.

29. As part of its duties and responsibilities, Defendant has an obligation to establish policies and procedures and have competent medical people who will provide the appropriate quality of medical care as conducted within the institution

30. Acting through its administrators, various boards, committees, and individuals, Defendant is responsible of professional practice by members of its staff in the manner set forth.

31. Defendant has an obligation to establish proper treatment on individuals having problems such as those presented by Plaintiff as previously set forth herein.

32. Defendant failed to exercise the judgement of a reasonable health care provider under the circumstances as follows:

a) Failing to comply with the needs of Plaintiff with regard to necessary intervention by qualified medical care practioners and physicians;

b) By having in its employee, individuals inadequate to deal with the signs and symptoms exhibited by Plaintiff and to act upon them in a manner calculated to preserve the health and safety of the Plaintiff.

c) Failure to establish proper protocols to provide proper care, treatment and safety of individuals such as Plaintiff,

d) Failure to identify Plaintiff's problem, respond to it in a timely fashion, and competently to medically care for Plaintiff in providing critical care.

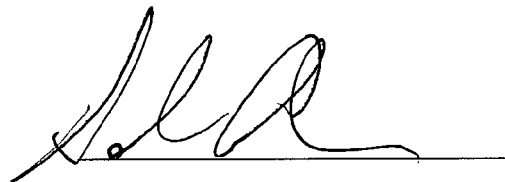
33. As a direct and proximate result of the conduct set forth, Plaintiff has suffered as follows:

- a) Extended pain and suffering due to the failure to diagnose and treat Plaintiff's condition;
- b) Additional surgery;
- c) More extensive surgery than would have been necessary had the perforation of the sigmoid colon been promptly discovered;
- d) Additional medical expenses;
- e) Mental anguish and upset;
- f) Loss of wages and future lost wages;
- g) Humiliation, embarrassment and such other damages as permitted by law.

WHEREFORE, Plaintiff claims damages of Defendant Clearfield Hospital in excess of the limits

of arbitration.

KATZ, COHEN & PRICE, P.C.

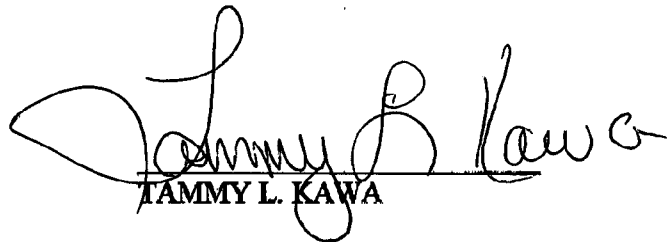
A handwritten signature in black ink, appearing to be 'SC', written over a horizontal line.

BY: SAMUEL COHEN, ESQUIRE

DATED: 11/13/02

**VERIFICATION**

I, Tammy L. Kawa, verify that I am the Plaintiff in this matter and that the averments of fact set forth in the foregoing Amended Civil Action Complaint are true and correct to the best of my personal knowledge, information and belief. I understand that this Verification is made subject to the penalties of 18 Pa. C.S. Section 4904, relating to unsworn falsification to authorities.

  
TAMMY L. KAWA

Dated: 11/13/02



**KATZ, COHEN & PRICE, P.C.**  
**By: SAMUEL COHEN**  
**ATTORNEY I.D. NO.: 27544**  
**117 SOUTH 17th STREET**  
**SUITE 2010**  
**PHILADELPHIA, PA 19103**  
**(215) 636-0400**

**ATTORNEY FOR PLAINTIFF**

TAMMY L. KAWA

vs.

PRAXIDIO H. TAGALA, M.D.  
and CLEARFIELD HOSPITAL

COURT OF COMMON PLEAS  
CLEARFIELD COUNTY

NO.: 2002-01228-CD

**CERTIFICATION OF SERVICE**

I, Samuel Cohen, certify that a true and correct copy of the within Plaintiff's Amended Civil Action Complaint, was forwarded via regular mail through the United States Postal Service on November 15, 2002 to:

Allen P. Neely, Esquire  
McQuaide Blasko  
811 University Drive  
State College, Pennsylvania 16801-6699

Frank J. Hartyre, Esquire  
McIntyre, Dugas, Hartyre & Schmitt  
P. O. Box 533  
Hollidaysburg, PA 16648-0533

KATZ, COHEN & PRICE, P.C.



SAMUEL COHEN

Dated: 11/13/02

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

TAMMY L. KAWA,

Plaintiff

vs.

PRAXIDIO H. TAGALA M.D. and  
CLEARFIELD HOSPITAL,

Defendants

: No. 2002 – 1228 CD

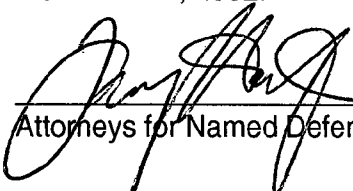
: **ISSUE:**  
: **ANSWER AND NEW MATTER TO**  
: **PLAINTIFF'S AMENDED COMPLAINT**

:  
: Filed on behalf of Defendant,  
: CLEARFIELD HOSPITAL

:  
: Counsel of Record:

:  
: Frank J. Hartye, Esquire  
: PA I.D. #25568  
: McINTYRE, DUGAS, HARTYE &  
: & SCHMITT  
: P.O. Box 533  
: Hollidaysburg, PA 16648  
: (814) 696-3581

I HEREBY CERTIFY THAT A TRUE  
AND CORRECT COPY OF THE WITHIN  
WAS MAILED TO ALL COUNSEL OF  
RECORD THIS 21<sup>st</sup> DAY OF  
NOVEMBER, 2002.

  
Attorneys for Named Defendant

FILED

NOV 20 2002

William A. Shaw  
Prothonotary

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

TAMMY L. KAWA,

Plaintiff

vs.

PRAXIDIO H. TAGALA M.D. and  
CLEARFIELD HOSPITAL,

Defendants

: No. 2002 – 1228 CD

: JURY TRIAL DEMANDED

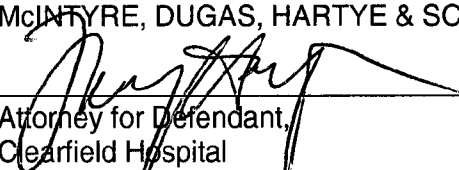
**ANSWER AND NEW MATTER TO PLAINTIFF'S AMENDED COMPLAINT**

AND NOW, comes the defendant, CLEARFIELD HOSPITAL, by and through its attorneys, McINTYRE, DUGAS, HARTYE & SCHMITT, and files the following Answer and New Matter to Plaintiff's Amended Complaint. Defendant incorporates by reference in its entirety the Answer and New Matter previously filed to Plaintiff's Complaint as though the same were set forth herein at length.

WHEREFORE, Clearfield Hospital demands judgment in its favor with cost of suit awarded to defendant.

Respectfully submitted,

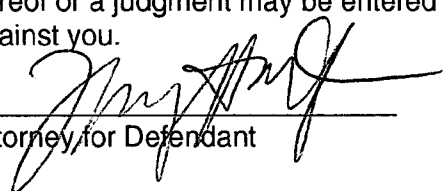
McINTYRE, DUGAS, HARTYE & SCHMITT

  
Attorney for Defendant,  
Clearfield Hospital  
**Frank J. Hartye, Esquire**

**PA I.D. #25568**  
P.O. Box 533  
Hollidaysburg, PA 16648  
(814) 696-3581  
(814) 696-9399 – Fax

To: Tammy L. Kawa, Plaintiff

You are hereby notified to file a written response to the enclosed **New Matter** within **twenty (20) days** from service hereof or a judgment may be entered against you.

  
Attorney for Defendant

**VERIFICATION**

I, **FRANK J. HARTYE, ESQUIRE**, being the attorney of record for **Defendants, PRAXIDIO H. TAGALA, M.D. and CLEARFIELD HOSPITAL**, verify that I am authorized to make this verification on behalf of Defendants in the within action, and that the statements made in the foregoing **ANSWER AND NEW MATTER TO PLAINTIFF'S AMENDED COMPLAINT** are true and correct to the best of my knowledge, information, and belief.

  
\_\_\_\_\_  
**FRANK J. HARTYE, ESQUIRE**

Date: NOVEMBER 21, 2002

FILED

NOV 20 2002

cc  
Ket

William A. Shaw  
Prothonotary

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

TAMMY L. KAWA

Plaintiff,

vs.

PRAXIDIO H. TAGALA, M.D.  
CLEARFIELD HOSPITAL,

Defendants.

No: 2002-01228 CD

Type of Case: Civil Action

JURY TRIAL DEMANDED

Type of Pleading:

ANSWER WITH NEW MATTER TO  
AMENDED COMPLAINT, FILED BY THE  
DEFENDANT, PRAXIDIO H. TAGALA, M.D.

Filed on Behalf of Defendant:  
PRAXIDIO H. TAGALA, M.D.

Counsel of Record for this  
Party: JOHN W. BLASKO  
Court I.D. No.: 6787

ALLEN P. NEELY  
Court I.D. No.: 65302  
McQUAIDE, BLASKO, SCHWARTZ,  
FLEMING & FAULKNER, INC.

811 University Drive  
State College, PA 16801  
(814) 238-4926

Counsel of Record for  
Adverse Party:  
Samuel Cohen, Esquire

**FILED**

DEC 05 2002

William A. Shaw  
Prothonotary

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

TAMMY L KAWA,

Plaintiff,

vs.

PRAXIDIO H. TAGALA, M.D.  
and CLEARFIELD HOSPITAL,

Defendants.

No. 2002-01228

JURY TRIAL DEMANDED

NOTICE TO PLEAD

TO: TAMMY L. KAWA  
c/o Samuel Cohen, Esquire

CLEARFIELD HOSPITAL  
c/o Frank Hartye, Esq.

YOU ARE HEREBY notified to file a written response to the enclosed Answer  
and New Matter within twenty (20) days from the date of service hereof or a judgment may be  
entered against you.

McQUAIDE, BLASKO, SCHWARTZ,  
FLEMING & FAULKNER, INC.

By: Allen P. Neely

Allen P. Neely  
Attorney for Defendant  
PRAXIDIO H. TAGALA, M.D.  
811 University Drive  
State College, PA 16801  
(814) 238-4926  
Fax: (814) 238-9624

Dated: 12-4-02



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

TAMMY L KAWA,	)	
	)	
Plaintiff,	)	
	)	No. 2002-01228
vs.	)	
	)	
PRAXIDIO H. TAGALA, M.D.	)	JURY TRIAL DEMANDED
and CLEARFIELD HOSPITAL,	)	
	)	
Defendants.	)	

**ANSWER WITH NEW MATTER TO AMENDED COMPLAINT, FILED BY  
THE DEFENDANT, PRAXIDIO H. TAGALA, M.D.**

AND NOW comes the Defendant, Plaxidio H. Tagala, M.D., by and through his attorneys, McQUAIDE, BLASKO, SCHWARTZ, FLEMING & FAULKNER, INC., and file the within Answer to Amended Complaint, with New Matter, as follows:

1. Denied. The address listed is, in fact, Dr. Tagala's office address.
2. Admitted.
3. Denied. The averments of Paragraph 3 constitute conclusions of law, to which no response is required by this Defendant. Insofar as a response would be deemed necessary, it is denied that this Defendant was an employee of Clearfield Hospital. To the contrary, it is averred that this Defendant was, during the relevant time period, a licensed physician with privileges to practice at the Clearfield Hospital.
4. The averments of Paragraph 4 are directed to another entity and/or party and therefore, no response is required of this Defendant.

5. Admitted, with clarification. The procedure performed on the date in question was identified as a laparoscopy with aspiration of right ovarian cyst, and adhesiolysis. By way of a further and more complete response, the relevant medical records are incorporated by reference.

6. Admitted. By way of a further and more complete response, the relevant medical records are incorporated by reference.

7. Admitted.

8. The averments of Paragraph 8 are responded to as follows. It is admitted that on the date in question, the Plaintiff reported abdominal, nausea and vomiting. It is further admitted that she was found to be dehydrated. By way of a further and more complete response, the relevant medical records are incorporated by reference.

9. Admitted.

10. Admitted, with clarification. The relevant medical records are incorporated by reference. Therein, other the other persons involved in the Plaintiff's care are set forth.

11. Admitted.

12. It is admitted that the relevant medical records indicate that upon re-admission to Clearfield Hospital on August 24, 2000, she reported that she was suffering from nausea, vomiting and abdominal pain.

13. Denied. To the contrary, it is averred that, according to the relevant medical records, Dr. Yingling first examined the Plaintiff on August 26, 2000.

14. Admitted.

15. The averments of Paragraph 15 are responded to as follows. The pertinent medical record, i.e. the CT report dated August 26, 2000, is hereby incorporated by reference. Therefore, the averments set forth at Paragraph 15 are admitted to the extent that said averments

are reflected in and/or by the said medical record, but only to the extent that said medical record is true and accurate. To the extent said averments differ from that set forth in and/or by the said true, accurate and pertinent medical record, the same are denied, and/or denied for after reasonable investigation, the Defendant is without knowledge or information sufficient to form a belief as to their truth.

16. The averments of Paragraph 16 are responded to as follows. The pertinent medical record, i.e. the operative report dated August 26, 2000, is hereby incorporated by reference. Therefore, the averments set forth at Paragraph 16 are admitted to the extent that said averments are reflected in and/or by the said medical record, but only to the extent that said medical record is true and accurate. To the extent said averments differ from that set forth in and/or by the said true, accurate and pertinent medical record, the same are denied, and/or denied for after reasonable investigation, the Defendant is without knowledge or information sufficient to form a belief as to their truth.

17. Admitted.

**COUNT I - PLAINTIFF TAMMY L. KAWA VS. PRAXIDIO TAGALA, M.D.**  
**NEGLIGENCE**

18. Admitted or denied as hereinbefore set forth.

19. Admitted.

20. 20 (a) - (i). The averments of Paragraph 20, and the subparagraphs thereunder, constitute conclusions of law, to which no response is required. Said averments are therefore denied and/or are denied per Pa.C.R.P. 1029(e). Insofar as a more complete response would be deemed necessary, it is specifically denied that Dr. Tagala failed to provide reasonable health

care. By way of a further response, it is specifically averred that all care and treatment rendered by Dr. Tagala was reasonable and appropriate and within applicable standards of care.

21 (a) - (g). The averments of Paragraph 21, and the subparagraphs thereunder, constitute conclusions of law, to which no response is required. Said averments are therefore denied and/or are denied per Pa.C.R.P. 1029(e). It is specifically denied that Dr. Tagala failed to provide reasonable health care. By way of a further response, it is specifically averred that all care and treatment rendered by Dr. Tagala was reasonable and appropriate and within applicable standards of care. With regard to those allegations regarding injuries and/or damages and/or medical treatment occurring after the event in question, this Answering Defendant denies same on the basis that after reasonable investigation, Answering Defendant lacks sufficient knowledge or information upon which to form a belief as to the truth of said averments.

WHEREFORE, Answering Defendant demands that Plaintiff's Amended Complaint be dismissed, with prejudice.

### **COUNT II - PLAINTIFF VS. CLEARFIELD HOSPITAL**

22 - 26. The averments of Paragraphs 22 - 26 are directed to another entity and/or party and therefore, no response is required of this Defendant.

WHEREFORE, Answering Defendant demands that Plaintiff's Amended Complaint be dismissed, with prejudice.

### **COUNT III - PLAINTIFF VS. CLEARFIELD HOSPITAL - CORPORATE LIABILITY**

27 - 33. The averments of Paragraphs 27 - 33 are directed to another entity and/or party and therefore, no response is required of this Defendant.

WHEREFORE, Answering Defendant demands that Plaintiff's Amended Complaint be dismissed, with prejudice.

**NEW MATTER**

34. Answering Defendant raises all affirmative defenses of the Healthcare Services Malpractice Act, 40 P.S. §1301 et. seq. Insofar as the Answering Defendant is considered to be a healthcare provider, he is neither a guarantor nor warrantor of care.

35. The Plaintiff fails to state a cause of action upon which relief can be granted.

36. There was no negligence or other actionable conduct committed by or on behalf of the Answering Defendant and therefore, this action should be dismissed.

37. Any alleged actions or omissions of the Answering Defendant which are alleged to constitute negligence were not a substantial cause or factor of any harm resulting to or sustained by the Plaintiff.

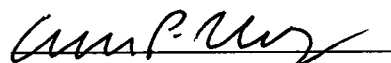
38. The investigation into this case is ongoing and discovery is continuing; therefore, in order to avoid waiver of any potentially applicable affirmative defenses, the Defendant hereby pleads the defenses of estoppel, release, res judicata, and statute of limitations, and comparative/contributory negligence, insofar as same may be applicable.

WHEREFORE, Answering Defendant demands that Plaintiff's Amended Complaint be dismissed, with prejudice.

Respectfully Submitted,

McQUAIDE, BLASKO, SCHWARTZ,  
FLEMING & FAULKNER, INC.

By:



ALLEN P. NEELY

811 University Drive  
State College, PA 16801  
(814) 238-4926

Attorneys for Defendant,  
Plaxidio H. Tagala, M.D.

Kawa vs. Tagala

VERIFICATION

The undersigned verifies that as a Defendant, he is authorized to make this verification in the within action; and that the statements made in the foregoing Answer and New Matter to Plaintiff's Amended Complaint are true and correct to the best of his knowledge, information and belief. I understand that false statements herein are subject to the penalties of 18 Pa. C.S.A. §4904, related to unsworn falsification to authority.

  
PRAXIDIO H. TAGALA, M.D.

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

TAMMY L KAWA,	)	
	)	
Plaintiff,	)	
	)	No. 2002-01228
vs.	)	
	)	
PRAXIDIO H. TAGALA, M.D.	)	JURY TRIAL DEMANDED
and CLEARFIELD HOSPITAL,	)	
	)	
Defendants.	)	

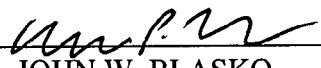
CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of Answer with New Matter to Amended Complaint filed by the Defendant, Praxidio H. Tagala, M.D., in the above-referenced matter was mailed by regular mail, first class, at the Post Office, State College, Pennsylvania, postage prepaid, this 4<sup>th</sup> day of December, 2002, to:

Samuel Cohen, Esquire  
Katz, Cohen Price, P.C.  
117 South 17<sup>th</sup> Street  
Suite 2010  
Philadelphia, PA 19103

Frank J. Hartye, Esquire  
P.O. Box 533  
Hollidaysburg, PA 16648

McQUAIDE, BLASKO, SCHWARTZ,  
FLEMING & FAULKNER, INC.

By:   
JOHN W. BLASKO  
ALLEN P. NEELY  
Attorneys for Defendant  
Praxidio H. Tagala, M.D.

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

TAMMY L. KAWA

Plaintiff,

vs.

PRAXIDIO H. TAGALA, M.D.  
CLEARFIELD HOSPITAL,

Defendants.

No: 2002-01228 CD

Type of Case: Civil Action

JURY TRIAL DEMANDED

Type of Pleading:

DEFENDANT'S PRELIMINARY  
OBJECTIONS TO PLAINTIFF'S  
COMPLAINT/MOTION TO STRIKE/  
MOTION FOR A MORE SPECIFIC  
PLEADING; CERTIFICATE OF  
SERVICE

Filed on Behalf of Defendant:  
PRAXIDIO H. TAGALA, M.D.

Counsel of Record for this  
Party: JOHN W. BLASKO  
Court I.D. No.: 6787

ALLEN P. NEELY  
Court I.D. No.: 65302  
McQUAIDE, BLASKO, SCHWARTZ,  
FLEMING & FAULKNER, INC.

811 University Drive  
State College, PA 16801  
(814) 238-4926

Counsel of Record for  
Adverse Party:  
Samuel Cohen, Esquire

FILED

OCT 30 2002

William A. Shaw  
Prothonotary



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

TAMMY L KAWA,

Plaintiff,

vs.

PRAXIDIO H. TAGALA, M.D.  
and CLEARFIELD HOSPITAL,

Defendants.

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No. 2002-01228

JURY TRIAL DEMANDED

**DEFENDANT'S PRELIMINARY OBJECTIONS TO PLAINTIFF'S COMPLAINT**

AND NOW comes the Defendant, by and through their attorneys, McQUAIDE, BLASKO, SCHWARTZ, FLEMING & FAULKNER, INC., and file the within Preliminary Objections to the Complaint, as follows:

1. Plaintiff commenced this action by filing a Praecipe for Writ of Summons on or about August 7, 2002. Following the filing of a Rule to File Complaint, a Complaint was filed on or about October 8, 2002.

2. This case sounds in medical malpractice. The Defendant, Dr. Tagala, is a specialist in the field of obstetrics and gynecology. This action is based upon a surgical procedure which Dr. Tagala performed on Mrs. Kawa on August 16, 2000. The object of the surgery was to aspirate an ovarian cyst and eliminate adhesions which were causing the patient pain.

3. Plaintiff avers that Dr. Tagala was negligent in the manner in which surgery was performed, and also with respect to post-operative care. Plaintiff contends that Dr. Tagala perforated the bowel and failed to detect the complication.

4. The Defendant hereby raises a Motion to Strike / Motion for a More Specific pleading based upon several vague and open-ended allegations in the Complaint.

**MOTION TO STRIKE / MOTION FOR A MORE SPECIFIC PLEADING**

5. Pennsylvania remains a fact pleading jurisdiction. Pennsylvania Rule of Civil Procedure No. 1019(a), provides that the material facts upon which a cause of action is based shall be stated in a concise and summary form. In various respects, Plaintiff's Complaint does not comply with this rule.

6. The following reproduced paragraphs are vague, open-ended and ambiguous and violate Pa.R.C.P. 1019(a) and applicable caselaw (the objectionable portions are emphasized in **bold**):

20. Defendant Praxidio Tagala failed to provide reasonable health care under these circumstances as follows:

(note: Paragraph 20 is not objected to, but is reproduced for purposes of context)

j) In failing to exercise reasonable care and diligence in the application of knowledge and skill to the Plaintiff's case

h) By holding out expertise which induced Plaintiff that adequate and proper care would be provided when, in fact, adequate, proper and reasonable care were not provided;

(note: Plaintiff's Complaint contains two paragraphs numbered "20 h)" - this objection relates to the second one)

i) By failing to possess the degree of professional learning, skill and ability which others similarly situated ordinarily possessed.

(note: Plaintiff's Complaint contains two paragraphs numbered "20 i)" - this objection relates to the second one)

7. In various respects, these allegations fail to comply with Pennsylvania rules of pleading.

8. Subparagraph (j) is the very definition of negligence. Plaintiffs aver that Dr. Tagala failed to provide reasonable health care by failing to exercise reasonable care and diligence. This is essentially the definition of negligence.

9. This allegation does nothing to limit the issues in this case. Rather, this allegation could serve as the foundation for expansion of Plaintiff's case to include nearly any imaginable theory.

10. Subparagraph (h) is nearly non-sensical, but appears to be an averment that Dr. Tagala somehow held himself out as having certain expertise, but that he did not render "adequate, proper and reasonable care."

11. Again, this subparagraph does not in any way define what Dr. Tagala allegedly should have done, nor how surgery should have been performed. This is nothing more than a bald averment that the surgery was performed negligently. This is insufficient under Pennsylvania rules of pleading.

12. Finally, subparagraph (j) is an averment that Dr. Tagala failed to possess the degree of professional learning, skill and ability which others similarly situated ordinarily possessed. The meaning of this allegation is unclear. This is apparently a broad swipe at Dr. Tagala's qualifications. The rules of pleading require more specific allegations concerning the medical facts of this case.

13. Plaintiffs in malpractice actions are required to plead precisely and specifically what a physician should have done or, what a physician did which was in some manner a breach of the standard of care. In the above-referenced respects, Plaintiff has failed to do so.

14. The objected-to allegations fail to conform to Pa.R.C.P. 1019(a), as well as the principle enunciated in Connor v. Allegheny General Hospital, 501 Pa. 306, 461 A.2d 600 (1983).

15. The Plaintiff will no doubt contend that the Complaint, when read as a whole, is sufficient to inform the defense of what this case is about. However, the Connor case and its progeny directs that the defense must look not only to the entirety of the complaint, but to the specific meaning of each allegation. One open-ended allegation may later be utilized to permit a plaintiff to materially expand upon his theories of recovery.

16. Because the challenged paragraphs fail to sufficiently apprise the Defendant of the tortious conduct with which Plaintiff asserts, the Defendants are unable to appropriately respond or adequately prepare a defense to such allegations.

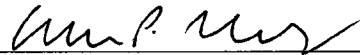
17. The foregoing factual deficiencies of the challenged allegations are prejudicial to the Defendants inasmuch as their inability to prepare a defense to these allegations may result in waiver of various defenses and objections pursuant to Pa.R.C.P. 1032.

WHEREFORE, it is respectfully requested that the following paragraphs and subparagraphs be stricken, or in the alternative, that Plaintiff be required to re-plead same in order to set forth sufficiently specific allegations: 20 (j), 20 (h), 20 (i).

Respectfully submitted,

McQUAIDE, BLASKO

BY



ALLEN P. NEELY  
811 University Drive  
State College, PA 16801  
(814) 238-4926  
Attorneys for Defendant,  
Plaxidio H. Tagala, M.D.

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

TAMMY L. KAWA,	)	
	)	
Plaintiff,	)	
	)	No. 2002-01228
vs.	)	
	)	
PRAXIDIO H. TAGALA, M.D.	)	JURY TRIAL DEMANDED
and CLEARFIELD HOSPITAL,	)	
	)	
Defendants.	)	

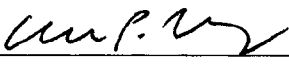
CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of Defendant's Preliminary Objections to Plaintiff's Complaint/Motion to Strike/Motion for a More Specific Pleading in the above-referenced matter was mailed by regular mail, first class, at the Post Office, State College, Pennsylvania, postage prepaid, this 29th day of October, 2002, to:

Samuel Cohen, Esquire  
Katz, Cohen Price, P.C.  
117 South 17<sup>th</sup> Street  
Suite 2010  
Philadelphia, PA 19103

Frank J. Hartye, Esquire  
P.O. Box 533  
Hollidaysburg, PA 16648

McQUAIDE, BLASKO, SCHWARTZ,  
FLEMING & FAULKNER, INC.

By:   
Allen P. Neely  
811 University Drive  
State College, PA 16801  
(814) 238-4926  
Attorneys for Defendant  
Praxidio H. Tagala, M.D.

William A. Shaw  
Prothonotary

FILED  
OCT 30 2002  
M 11:32 AM  
cc  
404

THIS IS NOT AN ARBITRATION MATTER.  
JURY TRIAL DEMANDED ASSESSMENT OF  
DAMAGES HEARING WILL BE NECESSARY.  
RULE 238 DELAY DAMAGES REQUIRED

**KATZ, COHEN & PRICE, P.C.**  
**By: SAMUEL COHEN**  
**ATTORNEY I.D. NO.: 27544**  
**117 SOUTH 17th STREET**  
**SUITE 2010**  
**PHILADELPHIA, PA 19103**  
**(215) 636-0400**

**ATTORNEY FOR PLAINTIFF**

TAMMY L. KAWA

vs.

PRAXIDIO H. TAGALA, M.D.  
and CLEARFIELD HOSPITAL

COURT OF COMMON PLEAS  
CLEARFIELD COUNTY

NO.: 2002-01228-CD

**PLAINTIFF'S REPLY TO NEW MATTER OF DEFENDANT**

**PRAXIDIO H. TAGALA, M.D.**

34 -37. Denied.      The averments contained in these paragraphs constitute conclusions of law for which no response is required under and pursuant to the Pennsylvania Rules of Civil Procedure.

**FILED**

JAN 31 2003

William A. Shaw  
Prothonotary



38. Denied. It has been agreed between counsel that presently answering Defendant does not have any evidence to substantiate the existence of any of the affirmative defenses set forth in this paragraph. In the event that evidence supporting said affirmative defenses is proven. Defendant will take appropriate steps to amend this New Matter and plead the appropriate facts.

WHEREFORE, Plaintiff prays this Honorable Court deny the New Matter of Defendant, Praxidio H. Tagala, M. D., and enter judgement in her favor and against Defendants.

KATZ, COHEN & PRICE, P.C.

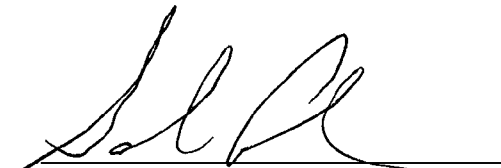
By: 

SAMUEL COHEN

DATED: 1/24/03

**VERIFICATION**

I, SAMUEL COHEN, verify that I am the attorney for Plaintiff, Tammy L. Kawa, herein, and that the averments of fact set forth in the foregoing Plaintiff's Reply to New Matter of Defendant, Praxidio H. Tagala, M.D., are true and correct to the best of my knowledge, information and belief. I understand that this Verification is made subject to the penalties of 18 Pa. C.S. section 4904, relating to unsworn falsification to authorities.

  
A handwritten signature in black ink, appearing to read 'S. Cohen', is written over a horizontal line.

SAMUEL COHEN

Dated: 7/28/03

**CERTIFICATION OF SERVICE**

I, Samuel Cohen, certify that a true and correct copy of the within Plaintiff's Reply to New Matter of Defendant, Praxidio H. Tagala, M.D., of Plaintiff Tammy L. Kawa, was forwarded via regular mail through the United States Postal Service on January 28, 2003:

To: ALLEN P. NEELY, ESQUIRE  
Mc Quaide, Blasko, Schwartz, Fleming & Faulkner, Inc.  
811 University Drive  
State College, PA 16801

FRANK J. HARTYE, ESQUIRE  
McIntyre, Dugas, Hartye & Schmitt  
P. O. Box 533  
Holidaysburg, PA 16648-0533

KATZ, COHEN & PRICE, P.C.

  
\_\_\_\_\_  
SAMUEL COHEN, ESQUIRE

DATED: 1/28/03

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

TAMMY L. KAWA,

Plaintiff

vs.

PRAXIDIO H. TAGALA M.D. and  
CLEARFIELD HOSPITAL,

Defendants

No. 2002 – 1228 CD

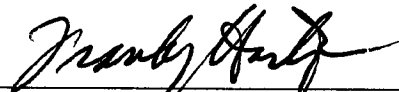
**ISSUE:**  
**NOTICE OF SERVICE OF ANSWERS TO**  
**INTERROGATORIES AND REQUEST FOR**  
**THE PRODUCTION OF DOCUMENTS**

Filed on behalf of Defendant,  
CLEARFIELD HOSPITAL

Counsel of Record:

Frank J. Hartye, Esquire  
PA I.D. #25568  
McINTYRE, DUGAS, HARTYE &  
& SCHMITT  
P.O. Box 533  
Hollidaysburg, PA 16648  
(814) 696-3581

I HEREBY CERTIFY THAT A TRUE  
AND CORRECT COPY OF THE WITHIN  
WAS MAILED TO ALL COUNSEL OF  
RECORD THIS 20<sup>TH</sup> DAY OF FEBRUARY, 2003.

  
Attorneys for Named Defendant

**FILED**

**FEB 21 2003**

**William A. Shaw**  
**Prothonotary**

(814) 696-9399 - Fax

FILED

FEB 21 2003

William A. Shaw  
Prothonotary

cc  
A  
R

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

TAMMY L KAWA,	)	
	)	
Plaintiff,	)	
	)	No. 2002-01228
vs.	)	
	)	
PRAXIDIO H. TAGALA, M.D.	)	JURY TRIAL DEMANDED
and CLEARFIELD HOSPITAL,	)	
	)	
Defendants.	)	

CERTIFICATE OF SERVICE

I hereby certify that the Answers and Objections to Plaintiff's Interrogatories and Request for Production of Documents Addressed to Defendant, Praxidio H. Tagala, in the above-referenced matter was mailed by regular mail, first class, at the Post Office, State College, Pennsylvania, postage prepaid, this 6<sup>th</sup> day of March, 2003, to:

**Original:**

Samuel Cohen, Esquire  
Katz, Cohen Price, P.C.  
117 South 17<sup>th</sup> Street  
Suite 2010  
Philadelphia, PA 19103

**Copy:**

Frank J. Hartye, Esquire  
P.O. Box 533  
Hollidaysburg, PA 16648

McQUAIDE, BLASKO, SCHWARTZ,  
FLEMING & FAULKNER, INC.

By: *Allen P. Neely*  
ALLEN P. NEELY  
Attorneys for Defendant  
Praxidio H. Tagala, M.D.

**FILED**

MAR 07 2003

*W/1:15 PM*  
William A. Shaw  
Prothonotary  
*wo c/c*

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

TAMMY L KAWA,	)	
	)	
Plaintiff,	)	
	)	No. 2002-01228 -CD
vs.	)	
	)	
PRAXIDIO H. TAGALA, M.D.	)	JURY TRIAL DEMANDED
and CLEARFIELD HOSPITAL,	)	
	)	
Defendants.	)	

CERTIFICATE OF SERVICE

I hereby certify that the Notice of Taking Oral Deposition of Plaintiff, in the above-referenced matter was mailed by regular mail, first class, at the Post Office, State College, Pennsylvania, postage prepaid, this 28<sup>th</sup> day of January, 2004, to:

**Original:**

Samuel Cohen, Esquire  
Katz, Cohen Price, P.C.  
117 South 17<sup>th</sup> Street  
Suite 2010  
Philadelphia, PA 19103

**Copy:**

Frank J. Hartye, Esquire  
P.O. Box 533  
Hollidaysburg, PA 16648

McQUAIDE, BLASKO, SCHWARTZ,  
FLEMING & FAULKNER, INC.

By: Allen P. Neely

ALLEN P. NEELY  
Attorneys for Defendant  
Praxidio H. Tagala, M.D.

FILED

JAN 29 2004

William A. Shaw  
Prothonotary/Clerk of Courts



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

TAMMY L KAWA,

Plaintiff,

vs.

PRAXIDIO H. TAGALA, M.D.  
and CLEARFIELD HOSPITAL,

Defendants.

No. 2002-01228

JURY TRIAL DEMANDED

CERTIFICATE OF SERVICE

I hereby certify that the Amended Notice of Taking Oral Deposition of Plaintiff, in the  
above-referenced matter was mailed by regular mail, first class, at the Post Office, State College,  
Pennsylvania, postage prepaid, this 3rd day of May, 2004, to:


**Original:**

Samuel Cohen, Esquire  
Katz, Cohen Price, P.C.  
117 South 17<sup>th</sup> Street  
Suite 2010  
Philadelphia, PA 19103

**Copy:**

Frank J. Hartye, Esquire  
P.O. Box 533  
Hollidaysburg, PA 16648

McQUAIDE, BLASKO, SCHWARTZ,  
FLEMING & FAULKNER, INC.

By: 

ALLEN P. NEELY

Attorneys for Defendant

Praxidio H. Tagala, M.D.

**FILED**

**MAY 04 2004**

William A. Shaw  
Prothonotary/Clerk of Courts

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

TAMMY L KAWA,

Plaintiff,

vs.

PRAXIDIO H. TAGALA, M.D.  
and CLEARFIELD HOSPITAL,

Defendants.

No. 2002-01228

JURY TRIAL DEMANDED

CERTIFICATE OF SERVICE

I hereby certify that the Second Amended Notice of Taking Oral Deposition of Plaintiff,  
in the above-referenced matter was mailed by regular mail, first class, at the Post Office, State  
College, Pennsylvania, postage prepaid, this 2nd day of September, 2004, to:

**Original:**

Samuel Cohen, Esquire  
Katz, Cohen Price, P.C.  
117 South 17<sup>th</sup> Street  
Suite 2010  
Philadelphia, PA 19103

**Copy:**

Frank J. Hartye, Esquire  
P.O. Box 533  
Hollidaysburg, PA 16648

McQUAIDE, BLASKO, SCHWARTZ,  
FLEMING & FAULKNER, INC.

By: *Allen P. Neely*  
ALLEN P. NEELY  
Attorneys for Defendant  
Praxidio H. Tagala, M.D.

**FILED** *no cc*  
*7/12:54*  
SEP 03 2004

William A. Shaw  
Prothonotary/Clerk of Courts

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

TAMMY L. KAWA,

Plaintiff

VS.

PRAXIDIO H. TAGALA M.D. and  
CLEARFIELD HOSPITAL,

Defendants

No. 2002 – 1228 CD

**ISSUE:**  
**NOTICE OF SERVICE OF REQUEST TO**  
**PLAINTIFF FOR PRODUCTION OF**  
**EXPERT REPORTS DATED 2/03/05**

Filed on behalf of Defendant,  
CLEARFIELD HOSPITAL

Counsel of Record:

Frank J. Hartye, Esquire  
PA I.D. #25568  
McINTYRE, DUGAS, HARTYE &  
& SCHMITT  
P.O. Box 533  
Hollidaysburg, PA 16648  
(814) 696-3581

I HEREBY CERTIFY THAT A TRUE  
AND CORRECT COPY OF THE WITHIN  
WAS MAILED TO ALL COUNSEL OF  
RECORD THIS 3rd DAY OF FEBRUARY, 2005.

  
Attorneys for Named Defendant

**FILED** <sup>64</sup>  
m110:5481 NO CC  
FEB 04 2005

William A. Shaw  
Prothonotary/Clerk of Courts

Frank J. Hartye, Esquire  
PA I.D. #: 25568  
P.O. Box 533  
Hollidaysburg, PA 16648  
(814) 696-3581  
(814) 696-9399 - Fax

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

TAMMY L. KAWA

Plaintiff,

vs.

PRAXIDIO H. TAGALA, M.D.  
CLEARFIELD HOSPITAL,

Defendants.

No: 2002-01228 CD

Type of Case: Civil Action

JURY TRIAL DEMANDED

Type of Pleading:

PRAECIPE FOR DISCONTINUANCE

Filed on Behalf of Defendant:  
PRAXIDIO H. TAGALA, M.D.

Counsel of Record for this  
Party: ALLEN P. NEELY  
Court I.D. No: 65302

McQUAIDE, BLASKO, SCHWARTZ,  
FLEMING & FAULKNER, INC.

811 University Drive  
State College, PA 16801  
(814) 238-4926

Counsel of Record for  
Adverse Party:  
Samuel Cohen, Esquire

FILED

APR 15 2005

W/1245/aw  
William A. Shaw  
Prothonotary

CRAS OF DISC. TO  
ATTY + C/A

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

TAMMY L KAWA,	)	
	)	
Plaintiff,	)	
	)	No. 2002-01228
vs.	)	
	)	
PRAXIDIO H. TAGALA, M.D.	)	JURY TRIAL DEMANDED
and CLEARFIELD HOSPITAL,	)	
	)	
Defendants.	)	

**PRAECIPE FOR DISCONTINUANCE**

TO THE PROTHONOTARY

Please mark all claims in the above entitled matter as WITHDRAWN, ENDED, and  
DISCONTINUED, WITH PREJUDICE, as against all party Defendants.

KATZ, COHEN & PRICE, P.C.

BY 

SAMUEL COHEN, ESQUIRE  
Counsel for Plaintiff  
117 South 17<sup>th</sup> Street  
Suite 2010  
Philadelphia, PA 19103  
(215) 636-0400

Dated: 4/22/05

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

TAMMY L KAWA,	)	
	)	
Plaintiff,	)	
	)	No. 2002-01228
vs.	)	
	)	
PRAXIDIO H. TAGALA, M.D.	)	JURY TRIAL DEMANDED
and CLEARFIELD HOSPITAL,	)	
	)	
Defendants.	)	

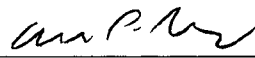
CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the Praecipe for Discontinuance , in the  
above-referenced matter was mailed by regular mail, first class, at the Post Office, State College,  
Pennsylvania, postage prepaid, this 14<sup>th</sup> day of April, 2005, to:

Samuel Cohen, Esquire  
Katz, Cohen Price, P.C.  
117 South 17<sup>th</sup> Street  
Suite 2010  
Philadelphia, PA 19103

Frank J. Hartye, Esquire  
P.O. Box 533  
Hollidaysburg, PA 16648

McQUAIDE, BLASKO, SCHWARTZ,  
FLEMING & FAULKNER, INC.

By:   
ALLEN P. NEELY  
Attorneys for Defendant  
Praxidio H. Tagala, M.D.

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

**CIVIL DIVISION**

**Tammy L. Kawa**

**Vs.**

**No. 2002-01228-CD**

**Praxidio H. Tagala, M.D.  
Clearfield Hospital**

**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 April 15, 2005, marked:

Withdrawn, Ended, and Discontinued, with Prejudice

Record costs in the sum of \$126.37 have been paid in full by Atty. Cohen.

IN WITNESS WHEREOF, I have hereunto affixed my hand and seal of this Court at Clearfield, Clearfield County, Pennsylvania this 15th day of April A.D. 2005.

---

William A. Shaw, Prothonotary