

02-1594-CD
FREDERICK CLOUSER vs. DUBOIS REGIONAL MEDICAL CENTER

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

FILED

UGT 142002

William A. Shaw
Prothonotary

JURY TRIAL DEMANDED

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

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 claim 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
PENNSYLVANIA BAR ASSOCIATION
HARRISBURG, PA 17219
(800) 692-7375

By: 
Bruce H. Gelman, Esq.
Attorney for Plaintiff

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

COMPLAINT IN CIVIL ACTION

AND NOW, comes the Plaintiffs, Frederick and Myrna Clouser , by and through his counsel of record, BRUCE H. GELMAN, ESQUIRE, and file the following COMPLAINT IN CIVIL ACTION, and in support thereof aver as follows:

1. The Plaintiffs, Frederick and Myrna Clouser, are husband and wife and are adult individuals who resides at Five East DuBois Avenue, Dubois, PA, Clearfield County, Pennsylvania.
2. The Defendant is Dubois Regional Medical Center, Inc, incorporated in the state of Pennsylvania and is a hospital located at 100 Hospital Avenue, DuBois, Clearfield County, Pennsylvania and hereinafter will be referred to as "Hospital".
3. On or about November 12, 2001, Plaintiff Frederick Clouser was a patient at Defendant, Hospital for the surgical repair of his right hip.
4. Dr. Robert Armstrong performed a total right hip arthroplasty at Defendant Hospital on or about November 12, 2001. After the surgery, Plaintiff developed a "drop foot" that caused Plaintiff the inability to lift his leg.

5. On or about November 14, 2001, Plaintiff Frederic Clouser was transferred from the Post Operative Unit and was admitted to the Rehabilitation Unit at Defendant Hospital.
6. Plaintiff Frederick Clouser began receiving rehabilitation therapy at Defendant Hospital on or about November 14, 2001.
7. Plaintiff, Frederick Clouser continued to make slow and steady progress during the rehabilitation from November 14, 2001 until November 23, 2001.
8. On or about November 23, 2001, at approximately 6:30 AM, a nurse or a nurse's aid was attempting to transport Mr. Clouser from his bed to the bathroom
9. The nurse or nurse's aid was an employee of Defendant DuBois Regional Medical Center, Inc and will hereinafter be referred to as "nurse".
10. While the nurse was transporting Mr. Clouser to the bathroom in a wheelchair, she did not place his right foot into the footrest attached to the wheelchair. Plaintiff was unable to lift his foot due to the drop foot that developed after the hip replacement surgery.
11. As the nurse began to move Mr. Clouser, his right foot became lodged between the floor and the left wheel of the wheelchair.
12. The nurse continued to push the wheelchair forward despite Mr. Clouser's foot becoming lodged.
13. As a direct and proximate result of having his right foot being lodged between the wheelchair and the floor, Plaintiff Frederick Clouser suffered the following:
 - a. Fracture of the lesser and greater trochanter of the right femur
 - b. Extreme pain and discomfort
 - c. Strain and Sprain to numerous parts of his body
 - d. Spend and or owe significant sums of money for medical treatments
 - e. Required to take numerous medications
 - f. Loss of life's pleasures
 - g. Embarrassment / humiliation
14. As a direct and proximate result of having Plaintiff Frederick Clouser right foot being lodged between the wheelchair and the floor, Plaintiff Myrna Clouser suffered the following:
 - a. Spend and or owe significant sums of money for medical treatments
 - b. Loss of the society aid and comfort of her husband
 - c. Loss of life's pleasures
 - d. Embarrassment / humiliation

COUNT I – NEGLIGENCE v. DEFENDANT DUBOIS REGIONAL MEDICAL CENTER, INC. ON BEHALF OF PLAINTIFF FREDERICK CLOUSER

15. Paragraphs 1-14 are hereby incorporated as if set forth fully herein.
16. At all times relevant to the matter set forth in this Complaint, all those physicians, nursing personnel and other medical personnel who had contact with Plaintiff while a patient at the Defendant Hospital were the agents, servants and / or employees of defendant Hospital and were at all times working within the course and scope of their employment by Defendant and within the supervision and control of said Defendant.
17. Defendant DuBois Regional Medical Center, Inc. by and through their agents, servants and / or employees were negligent and or careless in some or all of the following particulars:
 - a. Failure to properly supervise the nurse or nurses aid who injured the Plaintiff with the wheelchair
 - b. Failure to properly train the nurse or nurses aid who injured the Plaintiff with the wheelchair
 - c. Failure to safeguard Plaintiff when they knew or should have known of his inability to lift his leg and keep it clear from the path of the wheel chair.
18. As a direct and proximate result of the negligence of Defendant DuBois Regional Medical Center, Inc. Plaintiff Frederick Clouser suffered the injuries enumerated, but not limited to those described in the previous paragraphs.

WHEREFORE, Plaintiffs demand that judgment be entered in their favor and against the Defendant in an amount in excess of the jurisdictional arbitration limit, plus interest and costs.

COUNT II – NEGLIGENCE v. DEFENDANT DUBOIS REGIONAL MEDICAL CENTER, INC. ON BEHALF OF PLAINTIFF MYRNA CLOUSER

19. Paragraphs 1-18 are hereby incorporated as if set forth fully herein.

20. At all times relevant to the matter set forth in this Complaint, all those physicians, nursing personnel and other medical personnel who had contact with Plaintiff while a patient at the Defendant Hospital were the agents, servants and / or employees of defendant Hospital and were at all times working within the course and scope of their employment by Defendant and within the supervision and control of said Defendant.
21. Defendant DuBois Regional Medical Center, Inc. by and through their agents, servants and / or employees were negligent and or careless in some or all of the following particulars:
 - a. Failure to properly supervise the nurse or nurses aid who injured the Plaintiff with the wheelchair
 - b. Failure to properly train the nurse or nurses aid who injured the Plaintiff with the wheelchair
 - c. Failure to safeguard Plaintiff when they knew or should have known of his inability to lift his leg and keep it clear from the path of the wheel chair.
22. As a direct and proximate result of the negligence of Defendant DuBois Regional Medical Center, Inc. Plaintiff Myrna Clouser suffered the injuries enumerated, but not limited to those described in the previous paragraphs

WHEREFORE, Plaintiffs demand that judgment be entered in their favor and against the Defendant in an amount in excess of the jurisdictional arbitration limit, plus interest and costs.

Respectfully submitted by:



Bruce H. Gelman, Esq.
Attorney for Plaintiff

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

VERIFICATION

We, Frederick Clouser and Myrna Clouser verify that the averments of fact made in the foregoing COMPLAINT are true and correct based upon information and belief. I understand that averments of fact in said document are made subject to the penalties of 18 Pa. C.S. Section 4904 relating to unsworn falsification to authorities.

Date: 9-20-02

Frederick E Clouser
Frederick Clouser

Date: 9-20-02

Myrna Clouser
Myrna Clouser

FILED
Amy Gelman
m 19:36 PM
OCT 14 2002
Pd. \$0.00
1 cc shf

William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY

FREDERICK CLOUSER and MYRNA
CLOUSER, as husband and wife,

CIVIL DIVISION

NO. 02-1594-CD

Plaintiffs,

vs.

DUBOIS REGIONAL MEDICAL CENTER,
INC.,

APPEARANCE

Defendant.

Filed on Behalf of Defendant:

Dubois Regional Medical Center, Inc.

Counsel of Record for this Party:

David R. Johnson, Esquire
Pa. I.D. No.: 26409

Thomson, Rhodes & Cowie, P.C.
Firm No.: 720

Two Chatham Center, 10th Floor
Pittsburgh, PA 15219

412-232-3400

FILED

OCT 23 2002

William A. Shaw
Prothonotary

PRAECIPE FOR APPEARANCE

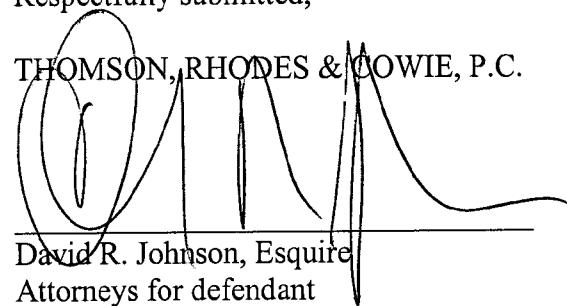
TO THE PROTHONOTARY OF CLEARFIELD COUNTY:

Kindly enter our appearance on behalf of the defendant, Dubois Regional Medical Center, Inc.

JURY TRIAL DEMANDED.

Respectfully submitted,

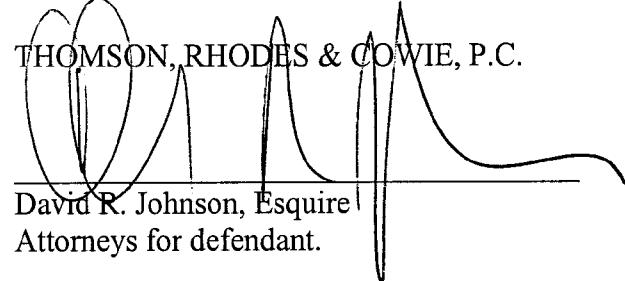
THOMSON, RHODES & COWIE, P.C.


David R. Johnson, Esquire
Attorneys for defendant

CERTIFICATION OF SERVICE

I hereby certify that a true and correct copy of the within APPEARANCE has been served upon the following counsel of record and same placed in the U.S. Mails on this 21st day of Oct, 2002:

Bruce H. Gelman, Esquire
Hal K. Waldman, Esquire
Suite 300, Dominion Tower
625 Liberty Avenue
Pittsburgh, PA 15222



FILED
160
M 11-23-04
OCT 23 2004
cc

William A. Shaw
Prothonotary

Shaw

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY

FREDERICK CLOUSER and MYRNA
CLOUSER, as husband and wife,

Plaintiffs,

vs.

DUBOIS REGIONAL MEDICAL CENTER,
INC.,

Defendant.

CIVIL DIVISION

NO. 02-1594-CD

ANSWER AND NEW MATTER

Filed on Behalf of Defendant:

Dubois Regional Medical Center, Inc.

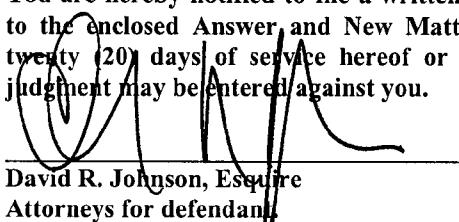
Counsel of Record for this Party:

David R. Johnson, Esquire
Pa. I.D. No.: 26409

Thomson, Rhodes & Cowie, P.C.
Firm No.: 720

Two Chatham Center, 10th Floor
Pittsburgh, PA 15219

412-232-3400


David R. Johnson, Esquire
Attorneys for defendant

FILED

NOV 18 2002

William A. Shaw
Prothonotary

ANSWER AND NEW MATTER

NOW COMES, Dubois Regional Medical Center, 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 paragraphs of the complaint are admitted: 2, 3, 5, 6 and 9.

6. The first sentence of Paragraph 4 of the complaint is admitted. The second sentence of Paragraph 4 of the complaint and Paragraphs 7, 8 and 10 of the complaint are denied for the reason that they incompletely, inaccurately and/or misleadingly describe events which occurred.

7. Paragraphs 11, 12, 13 [including subparagraphs (a) through (g)] and 14 [including subparagraphs (a) through (d)] of the complaint are denied.

8. Paragraphs 15 and 19 of the complaint solely incorporate 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 plaintiffs.

9. Paragraphs 16 and 20 of the complaint are 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.

10. Paragraphs 17 [including subparagraphs (a) through (c)], 18, 21 [including subparagraphs(a) through (c)] and 22 of the complaint constitute conclusions of law to which no further response is required. However, if any response is deemed necessary, these paragraphs and sub-paragraphs are denied.

WHEREFORE, plaintiffs' complaint should be dismissed and judgment should be entered in favor of defendant Dubois Regional Medical Center, Inc.

NEW MATTER

11. 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.

12. 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. and/or House Bill 1802 (2002).

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

14. 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.

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

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

17. 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.

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

19. 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.

20. This defendant raises all affirmative defenses set forth or available as a result of the provisions of House Bill 1802 which became Pennsylvania law in 2002.

WHEREFORE, plaintiffs' complaint should be dismissed and judgment should be entered in favor of defendant Dubois Regional Medical Center, Inc.

JURY TRIAL DEMANDED.

Respectfully submitted,

THOMSON, RHODES & COWIE, P.C.

David R. Johnson, Esquire
Attorneys for defendant.

VERIFICATION

I, Greg J. Volpe in the capacity of
Risk Manager at Dubois Regional Medical Center, Inc., 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.



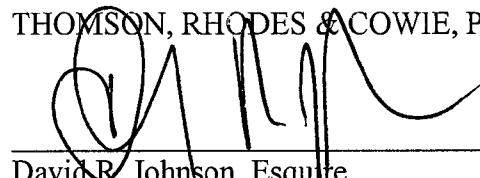
Date: 11-08-02

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 15th day of Nov., 2002:

Bruce H. Gelman, Esquire
Hal K. Waldman, Esquire
Suite 300, Dominion Tower
625 Liberty Avenue
Pittsburgh, PA 15222

THOMSON, RHODES & COWIE, P.C.



David R. Johnson, Esquire
Attorneys for defendant.

In The Court of Common Pleas of Clearfield County, Pennsylvania

Sheriff Docket # 13162

CLOUSER, FREDERICK & MYRNA

02-1594-CD

VS.

DUBOIS REGIONAL MEDICAL CENTER, INC.

COMPLAINT

SHERIFF RETURNS

**NOW OCTOBER 15, 2002 AT 12:20 PM DST SERVED THE WITHIN COMPLAINT ON
DUBOIS REGIONAL MEDICAL CENTER INC., DEFENDANT AT EMPLOYMENT,
ADM. OFFICE, 2ND. FLOOR N. WING, DUBOIS HOSPITAL, DUBOIS, CLEARFIELD
COUNTY, PENNSYLVANIA BY HANDING TO GREG VOLPE, RISK MANAGEMENT
DIRECTOR A TRUE AND ATTESTED COPY OF THE ORIGINAL COMPLAINT AND
MADE KNOWN TO HIM THE CONTENTS THEREOF.**

SERVED BY: MCCLEARY

Return Costs

Cost	Description
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30.72	SHFF. HAWKINS PD. BY: ATTY.
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10.00	SURCHARGE PAID BY: ATTY.
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Sworn to Before Me This

22nd Day Of January 2003


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

So Answers,


Chester A. Hawkins
Sheriff

FILED

JAN 22 2003

9:00
William A. Shaw
Prothonotary, Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

FREDERICK CLOUSER and MYRNA
CLOUSER as husband and wife

Plaintiffs,

vs.

**DUBOIS REGIONAL MEDICAL
CENTER, INC.**

Defendant

NO: 1594 - 2002

Filed on Behalf of Plaintiffs:

**NOTICE OF SERVICE OF
PLAINTIFF'S FIRST SET OF
INTERROGATORIES
DIRECTED
TO DEFENDANT**

Filed on Behalf of Plaintiff:

Counsel of Record for this Party:

Bruce H. Gelman, Esq.
PA ID #: 66048

Hal K. Waldman & Associates
Dominion Tower, Suite 300
625 Liberty Avenue
Pittsburgh, PA 15222
(412) 338-1000

EE 1433

JURY TRIAL DEMANDED

Wm. A. Shaw
Protectorate

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

**NOTICE OF SERVICE OF PLAINTIFF'S FIRST SET OF INTERROGATORIES
DIRECTED TO DEFENDANT**

TO: PROTHONOTARY

PLEASE TAKE NOTICE that Plaintiff's First Set of Interrogatories to Defendant was served upon the respective Defendants by First Class Mail, postage prepaid, this 12th day of February, 2003.

By: Bruce H. Gelman
Bruce H. Gelman, Esq.
Attorney for Plaintiffs

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

CERTIFICATE OF SERVICE

The undersigned hereby certifies that the forgoing Interrogatories were served upon counsel for Defendant by United States Mail, first class, postage prepaid, this 12th day of February, 2003 to the following address:

David Johnson, Esq.
Thompson Rhodes & Cowie
Two Chatham Center, 10th Floor
Pittsburgh, PA 15219

Respectfully Submitted:

By: Bruce H. Gelman
Bruce H. Gelman, Esq.
Attorney For Plaintiff

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

FREDERICK CLOUSER and MYRNA
CLOUSER, as husband and wife,

Plaintiffs,

vs.

DUBOIS REGIONAL MEDICAL CENTER,
INC.,

Defendant.

CIVIL DIVISION

NO. 02-1594-CD

**MOTION TO COMPEL PLAINTIFFS TO
ANSWER EXPERT INTERROGATORIES
AND/OR TO PRODUCE EXPERT
REPORTS**

Filed on behalf of defendant.

Counsel of Record for this Party:

David R. Johnson, Esquire
Pa. I.D. No.: 26409

Thomson, Rhodes & Cowie, P.C.
Firm No.: 720

Two Chatham Center, 10th Floor
Pittsburgh, PA 15219

412-232-3400

FILED

MAY 21 2004

William A. Shaw
Prothonotary/Clerk of Courts

MOTION TO COMPEL
PLAINTIFFS TO ANSWER EXPERT INTERROGATORIES
AND/OR TO PRODUCE EXPERT REPORTS

NOW COMES DuBois Regional Medical Center, defendant, by its attorneys, Thomson, Rhodes & Cowie, P.C., and files the following motion to compel plaintiffs to answer expert interrogatories and/or produce expert reports, averring as follows:

1. This is a professional liability action which was initiated by the plaintiffs in 2002.
2. On November 1, 2002, defendant directed a first set of interrogatories on the plaintiff and within the context of those interrogatories, directed questions to the plaintiff regarding plaintiffs' expert witnesses.
3. Plaintiffs responded to the expert interrogatories on January 6, 2003. A copy of plaintiffs' responses (pages 20 - 22 of plaintiffs' answers to first set of interrogatories) is attached hereto as Exhibit "A". At that time, it was apparent from the plaintiffs' answers that no one other than members of the hospital staff had been identified as a witness and that plaintiffs did not have any expert reports.
4. Plaintiffs have not supplemented their answers to interrogatories nor provided any expert reports to the defendants.
5. Depositions have been held of hospital personnel and their testimony has not provided any support for any claim by the plaintiffs that there were deviations from the standard of care. In fact, the defendant's witnesses have explained that Mr. Clouser's injuries occurred as a result of his own conduct in failing to follow instructions as he was transferring from his bed to his wheelchair.
6. On December 29, 2003, defendant served a second set of interrogatories on the plaintiffs, which plaintiffs have not yet answered.

7. On February 11, 2004, defendant served a third request for production on plaintiffs, a copy of which is attached hereto as Exhibit "B." Plaintiffs have not answered the third request for production. Among those requests set forth therein is a request for any reports by any expert witness.

8. Since this is a professional liability case, it is essential for the plaintiffs to have expert testimony that there was a deviation from the standard of care. At this point, there is no indication that the plaintiffs have or will be able to present a qualified expert to opine that the hospital deviated from the standard of care so as to cause Mr. Clouser's alleged injuries and damages.

9. All of the underlying factual depositions have been taken and there is no reason to justify a delay on the part of plaintiffs in furnishing to defendant any expert testimony which they might have.

10. Plaintiffs' failure to provide full and complete responses to defendants' outstanding expert interrogatories places plaintiffs in direct violation of Pa. R.C.P. 4003.5 and 4007.4.

11. The general rule relating to the discovery of experts and their testimony, and more specifically the discovery of the facts and opinions underlying such testimony, is contained at Pa. R.C.P. 4003.5, which provides, in pertinent part, as follows:

- (a) Discovery of facts known and opinions held by an expert, otherwise discoverable under the provisions of Rule 4003.1 and acquired or developed in anticipation of litigation or for trial, may be obtained as follows:
 - (1) A party may through interrogatories require

(a) Any other party to identify each person whom the other party expects to call as an expert witness at trial **and to state the subject matter on which the expert is expected to testify and**

(b) The other party to have each expert so identified by him state **the substance of the facts and opinions to which the expert is expected to testify and a summary of the grounds for each opinion.** The party answering the interrogatories may file as his answer **a report of the expert or have the interrogatories answered by his expert.** The answer or separate report shall be signed by the expert.

...

(b) **If the identity of an expert witness is not disclosed in compliance with subdivision (a)(1) of this rule, he shall not be permitted to testify on behalf of the defaulting party at the trial of the action.** However, if the failure to disclose the identity of the witness is the result of extenuating circumstances beyond the control of the defaulting party, the court may grant a continuance or other appropriate relief.

See Pa. R.C.P. 4003.5 (emphasis added).

12. Pa. R.C.P. 4007.4 places an **affirmative and automatic obligation** on plaintiffs to seasonably supplement all responses to discovery requests seeking expert information and/or reports such as that at issue herein.

13. In Sindler v. Goldman, 309 Pa. Super. 7, 454 A.2d 1054 (1982), the Superior Court discussed the policy notions underlying the rules relating to the discovery of expert information as follows:

"The purpose of the discovery rules is to prevent surprise and unfairness and to allow a trial on the merits. When expert testimony is involved, it is **even more crucial** that surprise be prevented, since the attorneys will not have the requisite knowledge of the subject on which to effectively rebut unexpected testimony. By allowing for early identity of expert witnesses and their conclusions, the opposing side can prepare to respond, appropriately instead of trying to match years of expertise on the spot. **Thus, the rule serves as more than a procedural technicality; it**

provides a shield to prevent the unfair advantage of having a surprise witness testify."

See Sindler, supra, 454 A.2d at 1056 (emphasis added).

14. Because of plaintiffs' failure to provide responses to the expert interrogatories, defendant is unduly prejudiced in the preparation of its defense to plaintiffs' claims and defendant has, therefore, been precluded from properly preparing a defense in this case.

15. Pursuant to Pennsylvania Rule of Civil Procedure 4019(a)(1), the court may make an appropriate order if: "(i) a party fails to serve answer, sufficient answers or objections to written interrogatories under Rule 4005", or "(vii) a party fails to respond to a request for production made under Rule 4009."

16. When acting under Pa. R.C.P. 4019(a), the court may make "an order refusing to allow the disobedient party to support or oppose designated claims or defenses, or **prohibiting him from introducing into evidence designated documents, things or testimony**, or from introducing testimony of physical or mental condition." See Pa. R.C.P. 4019(c)(2) (emphasis added).

17. Moving defendant respectfully requests this Honorable Court issue an order requiring plaintiffs to provide full and complete supplemental responses to the outstanding discovery requests and/or produce any and all expert report(s) (medical and non-medical) that plaintiffs intend to utilize at the trial of this matter within 30 days, or be precluded from producing, utilizing and/or mentioning any expert reports (or other information) against moving defendants at the trial of this matter.

18. Further, defendant respectfully requests that the court order the plaintiffs to file full and complete answers to defendant's second set of interrogatories and third request for production of documents within 30 days of the court's order.

WHEREFORE, moving defendants respectfully request this Honorable Court to enter an order attached to this motion.

Respectfully submitted,

THOMSON RHODES & COWIE, P.C.

David R. Johnson, Esquire
Attorneys for the defendant.

- (c) The interviewer's name and present address;
- (d) Summarize the information given to the interviewer;
- (e) State whether the interviewer has notes from the interview;
- (f) State whether the interviewer made any report or issued any summary or letter concerning the interview, questioning or contact;
- (g) State why no statement was taken from the person being interviewed in the event that one was not taken.

ANSWER:

None

52. Identify by name and present address any witnesses, or any persons who possess facts or knowledge, or who are believed by you to have information relevant to the occurrence of the matter which forms the basis for the complaint in this case.

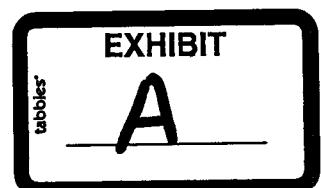
ANSWER:

Hospital Staff including Dr. Myers, Dr. Armstrong, Dr. Schramm and the unidentified Nurse or nurses aid.

53. Provide a summary of the information believed to be known by each person listed in the preceding interrogatory.

ANSWER:

Condition of Plaintiff prior to and subsequent to fall – nurse or nurses aid – facts about fall



54. State the name and present address of any person who you or your attorneys expect to call as an expert, opinion or custom witness at time of trial on any subject.

ANSWER:

Hospital staff – condition and events of fall

55. For each person named in response to the preceding interrogatory, supply the following information:

- (a) State the subject matter on which the person is expected to testify;
- (b) State the substance of facts and opinions to which the person is expected to testify;
- (c) State a summary of the grounds for each opinion, which the person is expected to express.

Note: Answers to this interrogatory should be signed by each named person or answered in a report signed by the named person in accordance with the Pennsylvania Rules of Civil Procedure.

ANSWER:

Condition prior to and after the incident

56. For each person identified in responding to the preceding two interrogatories, supply the following information:

- (a) Describe with particularity all information and documents submitted to the named person for the purpose of preparing that person to express opinions concerning the subject matter of this litigation;
- (b) Describe with particularity all information and documents relied upon by the named person in

forming his opinion concerning the subject matter of this litigation which have not been identified in response to the preceding sub-interrogatory;

- (c) Furnish a curriculum vitae or equivalent statement of the educational background, professional activities and employment, if any, of each such person,
- (d) If the person is a medical practitioner, provide the following information:

State the individual's medical specialty, if any;

- 2. If the following information has not been provided in response to the preceding sub-interrogatories, state whether the individual has been certified for practice in any medical specialty and, if he has, identify each board or other organization which has certified the individual;

If the following information has not been provided in response to the preceding sub-interrogatories, identify each hospital staff affiliation of the individual and describe the character of the affiliation (e.g., courtesy, active, emeritus, etc.). Also, supply the address of each hospital;

- (e) List all publication by the named person upon subjects pertinent to the subject matter of this litigation and his expected testimony.

ANSWER:

All witnesses are hospital staff – information unknown at this time

57. Identify by date and author any reports issued to you, your attorney or representatives by any person identified in response to the preceding three interrogatories.

ANSWER:

none

on 2/11/04 - dlb

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

FREDERICK CLOUSER and MYRNA
CLOUSER, as husband and wife,

Plaintiffs,

vs.

DUBOIS REGIONAL MEDICAL CENTER,
INC.,

Defendant.

CIVIL DIVISION

NO. 02-1594-CD

THIRD REQUEST FOR PRODUCTION OF
DOCUMENTS DIRECTED TO PLAINTIFFS

Filed on behalf of defendant.

Counsel of Record for this Party:

David R. Johnson, Esquire
Pa. I.D. No.: 26409

Thomson, Rhodes & Cowie, P.C.
Firm No.: 720

Two Chatham Center, 10th Floor
Pittsburgh, PA 15219

412-232-3400



THIRD REQUEST FOR PRODUCTION OF DOCUMENTS DIRECTED TO PLAINTIFFS

NOW COMES the defendant, DuBois Regional Medical Center, by its attorneys, Thomson, Rhodes & Cowie, P.C., and directs the following third request for production of documents to plaintiffs in accordance with the Pennsylvania Rules of Civil Procedure.

In accordance with the Pennsylvania Rules of Civil Procedure, you are required to respond to this request for production by one of the three alternative methods stated below:

- (a) By mailing each of the requested items to Thomson, Rhodes & Cowie, P.C., Suite 1010, Two Chatham Center, Pittsburgh, PA 15219, on March 11, 2004;
- (b) By delivering each of the requested items to Thomson, Rhodes & Cowie, P.C., for inspection, photographing and/or copying, before March 11, 2004;
- (c) By making arrangements for production of each of the items specified with attorneys for the defendant, before March 11, 2004.

In accordance with the Pennsylvania Rules of Civil Procedure and the preceding, you are requested to produce the following items:

1. Please produce any reports by any expert identified in responding to the interrogatories.
2. Please produce a curriculum vitae for each person identified as an expert to be called at time of trial.
3. Please produce copies of any medical bills which are being claimed and damages in this case.
4. Please produce any medical records or reports pertaining to Mr. Clouser which have not previously been produced.

THOMSON, RHODES & COWIE, P.C.
By _____
David R. Johnson, Esquire
Attorneys for defendant

CERTIFICATION OF SERVICE

I hereby certify that a true and correct copy of the within THIRD REQUEST FOR PRODUCTION DIRECTED TO PLAINTIFFS has been served upon the following counsel of record and same placed in the U.S. Mails on this 11th day of February, 2004:

David Bloom, Esquire
Suite 300, Dominion Tower
625 Liberty Avenue
Pittsburgh, PA 15222

THOMSON, RHODES & COWIE, P.C.

By

David R. Johnson, Esquire
Attorneys for defendant

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the document has been served by United States, postage pre-paid mail, this 19th day of May, 2004,
upon the following:

Bruce H. Gelman, Esquire
Hal K. Waldman, Esquire
Suite 300, Dominion Tower
625 Liberty Avenue
Pittsburgh, PA 15222

THOMSON, RHODES & COWIE, P.C.

David R. Johnson, Esquire
Attorneys for the defendants.

FILED 2cc
m
MAY 21 2004
Aly Johnson

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA

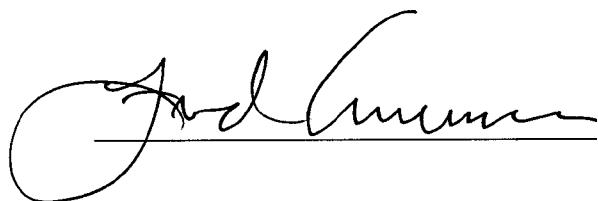
FREDERICK CLOUSER and MYRNA	)	CIVIL DIVISION
CLOUSER, as husband and wife,)	
	)	NO. 02-1594-CD
Plaintiffs,)	
)	
vs.)	
)	
DUBOIS REGIONAL MEDICAL CENTER,)	
INC.,)	
)	
Defendant.)	

ORDER OF COURT

AND NOW, this 26 day of May, 2004, upon consideration of defendants' motion to compel, it is hereby ORDERED that plaintiffs shall produce and serve on 60 FJA the defendant, within 30 days from the date hereof, full and complete answers or expert reports to defendant's expert interrogatories or be barred from introducing expert testimony at the time of trial.

Further, it is ORDERED that plaintiffs shall file full and complete answers to defendant's second set of interrogatories and, further, shall fully respond to defendant's third request for 60 FJA production within 30 days of the court's order.

BY THE COURT:



*Order
Change*

FILED

MAY 26 2004

FILED
OCT 20 2004
MAY 26 2004
SAC

William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD, COUNTY
PENNSYLVANIA

FREDERICK CLOUSER and MYRNA CLOUSER, as husband and wife,) CIVIL DIVISION
Plaintiffs,) No.: 02-1594-CD
vs.) **MOTION TO COMPEL
DISCOVERY**
DUBOIS REGIONAL MEDICAL)
CENTER, INC.,) Filed on Behalf of Plaintiffs
Defendant.) Counsel of Record for this Party
Howard F. Murphy, Esquire)
PA I.D.#: 82271
Hal K. Waldman & Associates)
Suite 300, Dominion Tower)
625 Liberty Avenue)
Pittsburgh, PA 15222)
(412) 338-1000)
JURY TRIAL DEMANDED)

FILED 2cc
m 11.5061 Atty Murphy
DEC 20 2004
B6
William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD, COUNTY
PENNSYLVANIA

FREDERICK CLOUSER and MYRNA) CIVIL DIVISION
CLOUSER, as husband and wife,)
Plaintiffs,) No.: 02-1594-CD
vs.)
DUBOIS REGIONAL MEDICAL)
CENTER, INC.,)
Defendant.)

MOTION TO COMPEL DISCOVERY

AND NOW, come the Plaintiffs, Fredrick Clouser and Myrna Clouser, by and through their attorneys, Hal K. Waldman & Associates, and Howard F. Murphy, Esquire, and move this Honorable Court to enter an Order pursuant to Pa.R.C.P. 4019 compelling the Defendant to provide Answers to the Plaintiff's Second Set of Interrogatories and Request for Production of Documents.

1. On or about June 8, 2004, Plaintiffs served upon Defendant the Plaintiffs' Second Set of Interrogatories and Request for Production of Documents. A true and correct copy of said discovery request is attached hereto, made a part hereof and marked as Exhibit "A".

2. By letters dated June 8, 2004, July 16, 2004, August 31, 2004 and November 23, 2004, Plaintiffs' counsel requested, that said Defendant respond to Plaintiffs' Second Set of Interrogatories and Request for Production of Documents. A

true and correct copies of said letters are attached hereto, made a part hereof and marked as Exhibit "B".

3. By letter dated September 20, 2004 counsel for the Defendant provided the only response ever sent to any of these inquiries in which he stated that he "hope[d] to be in a position to respond to [the] discovery requests in the next couple of weeks." A true and correct copy of said letter is attached hereto, made a part hereof and marked as Exhibit "C".

4. To date, the Plaintiffs have not received any answers to the said Interrogatories or any documents responsive to the Request for Production of Documents or any objections thereto.

5. Moreover, the Defendant has failed to provide any information regarding the identity of its expert. Nor has it provided the Plaintiffs with a copy of its expert's report.

6. All other discovery has been completed in this matter and the Defendant has had copies of the Plaintiffs' experts' reports since July 16, 2004.

7. Upon receipt of the answers to this discovery, the Plaintiffs will be ready for trial and intend to file a Praecept For Trial at that time.

8. Accordingly, the Plaintiffs respectfully request that this Court enter an Order pursuant to Pa.R.C.P. 4019 compelling the Defendant to respond to said discovery requests within twenty (20) days or be barred from introducing any expert testimony at the time of trial.

WHEREFORE, it is respectfully requested that Plaintiffs' Motion to Compel Discovery be granted and said Defendant be required to respond to said discovery requests within twenty (20) days or be barred from introducing any expert testimony at the time of trial.

Respectfully Submitted,

Hal K. Waldman & Associates

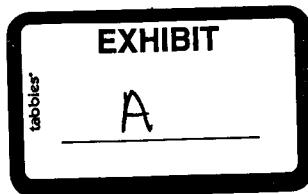
By:



Howard F. Murphy, Esquire
Counsel for Plaintiff

IN THE COURT OF COMMON PLEAS OF CLEARFIELD, COUNTY PENNSYLVANIA

FREDERICK CLOUSER and MYRNA CLOUSER, as husband and wife,) CIVIL DIVISION
Plaintiffs,) No.: 02-1594-CD
vs.)
DUBOIS REGIONAL MEDICAL CENTER, INC.,)
Defendant.)
) PLAINTIFF'S SECOND SET OF INTERROGATORIES and REQUEST FOR PRODUCTION OF DOCUMENTS
) Filed on Behalf of Plaintiffs Counsel of Record for this Party
)
) HAL K. WALDMAN, ESQUIRE PA I.D.#: 26514
)
) Hal K. Waldman & Associates Suite 300, Dominion Tower
) 625 Liberty Avenue
) Pittsburgh, PA 15222
) (412) 338-1000
)
) JURY TRIAL DEMANDED



IN THE COURT OF COMMON PLEAS OF CLEARFIELD, COUNTY PENNSYLVANIA

FREDERICK CLOUSER and MYRNA	)	CIVIL DIVISION
CLOUSER, as husband and wife,)	
	)	No.: 02-1594-CD
Plaintiffs,)	
)	
vs.)	
)	
DUBOIS REGIONAL MEDICAL)	
CENTER, INC.,)	
)	
Defendant.)	

**PLAINTIFF'S SECOND SET OF INTERROGATORIES and REQUEST FOR
PRODUCTION OF DOCUMENTS**

AND NOW, comes the Plaintiffs, by and through their counsel, Howard F. Murphy, Esquire, and Hal K. Waldman and Associates, and pursuant to the Pennsylvania Rules of Civil Procedure, requests that the Defendant, Dubois Regional Medical Center, Inc., serve written and sworn answers to the following Interrogatories and produce legible copies of documents requested herein. Such copies should be mailed to Plaintiffs' counsel at Hal K. Waldman and Associates, 625 Liberty Avenue, Pittsburgh, Pennsylvania, 15222. As used herein, the following definitions and instructions shall apply:

Instructions and Definitions

The following Interrogatories and Request For Production Of Documents shall be deemed to be continuing in nature so as to require further and supplemental response if Defendant discovers, receives, or generates additional documents and/or information responsive

to the requests made herein between the time of the Defendant's initial response and the time of trial.

For purposes of this Request, the following words and phrases shall have the meanings indicated:

"Defendant" - shall mean DUBOIS REGIONAL MEDICAL CENTER, INC.

"Plaintiff" - shall mean Frederick and Myrna Clouser

"Communication" - any transmission of information, the information transmitted, and any process by which information is transmitted, and shall include written communication and oral communication.

"Concerning" - constituting, referring to, alluding to, responding to, relating to, connected with, commenting upon, in respect to, about, regarding, discussing, showing, describing, reflecting or analyzing.

"Document" - any written, printed, recorded, graphic or photographic matter or sound reproduction, including, without limitation, books, papers, letters, memoranda, telegrams, cablegrams, diaries, records, minutes, notes, schedules, tabulations, vouchers, accounts, statements, affidavits, reports, abstracts, agreements, contracts, calendars, drafts, drawings, motion pictures, slides, photographs, sketches, labels, advertisements, charts, graphs, computer data calculations, blue prints, specifications, statistics, speeches, tapes, tape recordings, work

schedules, progress schedules, reports, change orders, work orders, logs, and other writings and any transcript, transcription or recording of any conversation, oral statement or presentation. "Document" includes any draft, partial or complete, whether subsequently modified, amended or disregarded or any of the foregoing.

"Information" - any fact known to Defendant and/or its appointed agent

"Person" - any individual, partnership, joint venture, firm, association, corporation, business or any governmental or legal entity.

"Relating To" (or a form thereof) - constituting, reflecting, respecting, supporting, contradicting, referring to, stating, describing, recording, noting, embodying, containing, mentioning, studying, analyzing, discussing, evaluating or relevant to.

When used in reference to an individual person, "identify" or "identity" means to state his or her full name and present or last known address and telephone number, and contemporaneous or last known position and business affiliation at the time in question. When used in reference to a business organization or entity other than an individual, "identify" or "identity" means to state its full name, its principal business address, and the nature of the organization (e.g., corporation, partnership). When used in reference to a document, "identify" or "identity" means to set forth its date, author, designated and actual recipient(s), type of document, number of pages and identity (as defined above) of its present or last known custodian.

As used herein, the singular shall always include the plural, and the present tense shall always include the past tense.

As used herein, "and" as well as "or" shall be construed both disjunctively and conjunctively in order to bring within the scope of these Interrogatories all responses which might otherwise be construed to be outside their scope.

As used herein, "you" and "your" shall mean Defendant, its agents, servants and/or employees.

INTERROGATORIES

1. Please identify the person answering these Interrogatories and identify any and all persons who assisted in gathering the information for same.

ANSWER:

2. Please identify any and all documents regarding the policies, rules, by-laws, regulations, procedures, guidelines, protocols, or other oral or written instructions which the Defendant had in effect in November of 2001 governing or in any way relating to the transportation of the Defendants' patients in wheel chairs:

ANSWER:

3. Specifically, please state whether the Defendant had any policies, rules, by-laws, regulations, procedures, guidelines, protocols, or other oral or written instructions regarding and/or relating to the use of the leg/foot brace to either secure and/or support a patient's leg and/or foot while transporting him or her in a wheelchair and, if so, identify each and every document which reflects or related to the information requested in this interrogatory:

ANSWER:

4. Please identify every person who you know or believe to have knowledge of or information relating to any facts, circumstances, relationships, or issues relating to this lawsuit and indicate the knowledge or information you believe each such person has and identify each and every document which reflects or related to the information requested in this interrogatory.

ANSWER:

5. Please identify each person you expect to call as a witness at trial, and for each person, state the following:

- (a) The subject matter or area on which each such person is expected to testify;
- (b) The substance of the facts or opinions to which each person is expected to testify; and
- (c) Identify each and every document which reflects or related to the information requested in this interrogatory.

ANSWER:

6. Please identify any person you expect to call as an expert witness at trial, and for each such person, state the following:

- (a) The subject matter or area on which each such person is expected to testify;
- (b) The substance of the facts or opinions to which each person is expected to testify;
- (c) A summary of the grounds for the opinion of each such person;
- (d) Each such persons background, training, experience, and other qualifications; and
- (e) Identify each and every document which reflects or related to the information requested in this interrogatory.

ANSWER:

7. Have you, your attorneys, agents or representatives or anyone acting in your behalf obtained from any person or persons any type of written or recorded statement, whether signed or unsigned, adopted or approved by such person or persons and concerning this lawsuit or any possible causes of the matter that is the basis of this lawsuit? If the answer to this Interrogatory is in the affirmative, state the following:

- (a) Whether the statement is in question and answer or negative form;
- (b) Whether the person giving it received a copy of the statement;
- (c) Whether the statement was signed;
- (d) If the statement was not signed, the method by which it was adopted or, approved;
- (e) The name and present address of the person by whom the statement was taken;
- (f) When the statement was taken;
- (g) Where the statement was taken;
- (h) Please attach a copy of such statement or of a transcript of such recorded statement to the answers to these interrogatories.

ANSWER:

8. Please provide all information and identify all documents in support of the Defendant's allegation that the Plaintiff's injuries were caused and/or contributed to by the Plaintiff's own actions or inactions.

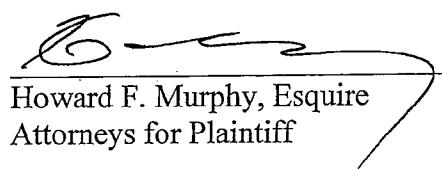
ANSWER:

REQUEST FOR PRODUCTION OF DOCUMENTS

1. Please produce all documents identified in response to the foregoing Interrogatories.
2. Please produce a copy of CharlieGaffney's employment file and/or any other documents which relate to Ms. Gaffney's employment by the Defendant.
3. Please produce all documents, including but not limited to, photographs, notes, reports, diagrams, illustrations, statements, videotapes, audiotapes, diaries, calendars, day planners, computer records, and correspondence concerning and/or otherwise relating to the allegations contained in the Plaintiff's Complaints, the claims arising therefrom, and any defenses or New Matter claimed by the Defendant.

Respectfully submitted,

HAL K. WALDMAN & ASSOCIATES

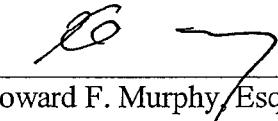

Howard F. Murphy, Esquire
Attorneys for Plaintiff

CERTIFICATION OF SERVICE

I hereby certify that the original of PLAINTIFFS' SECOND SET OF INTERROGATORIES and REQUEST FOR PRODUCTION OF DOCUMENTS has been served upon the following counsel of record and same placed in the U.S. Mails on this 8th day of June, 2004:

**David R. Johnson, Esquire
Thompson, Rhodes & Cowie
Two Chatham Center, Tenth Floor
Pittsburgh, PA 15219**

HAL K. WALDMAN &
ASSOCIATES

By 
Howard F. Murphy, Esquire

Hal K. Waldman and Associates

Attorneys At Law

DOMINION TOWER

Suite 300 • 625 Liberty Avenue

Pittsburgh, Pennsylvania 15222

1-800-350-4259

(412) 338-1000 • Fax: (412) 281-8055

BUTLER, PA
(724) 282-4696

KITTANNING, PA
(724) 548-7377

SAXONBURG, PA
(724) 352-9666

Howard E. Murphy, Esquire
E-mail: howardmurphy@waldmaninc.com

June 8, 2004

David R. Johnson, Esquire
Thompson, Rhodes & Cowie
Two Chatham Center, Tenth Floor
Pittsburgh, PA 15219

**RE: Clouser v. DuBois Regional Medical Center
No. 02-1594
In the Court of Common Pleas of Clearfield County, Pennsylvania**

Dear Mr. Johnson:

Enclosed please find an original and two copies of the Plaintiffs' Second Set of Interrogatories and Request For Production of Documents which I request you respond to within the next thirty (30) days. Be advised that I am in the process of gathering all of the information which you requested in your second and third discovery requests and will be providing you with our responses soon.

In the mean time I request that you call me to discuss this matter. I am specifically interested in determining whether this matter can be resolved amicably or if a trial will be necessary to bring it to conclusion.

Thank you for your anticipated cooperation. I look forward to speaking with you soon

Very truly yours,



Howard F. Murphy

HFM/

Cc: Fred Clouser

EXHIBIT

B

Hal K. Waldman and Associates

Attorneys At Law

DOMINION TOWER

Suite 300 • 625 Liberty Avenue

Pittsburgh, Pennsylvania 15222

1-800-350-4259

(412) 338-1000 • Fax: (412) 281-8055

BUTLER, PA
(724) 282-4696

KITTANNING, PA
(724) 548-7377

SAXONBURG, PA
(724) 352-9666

Howard F. Murphy, Esquire
E-mail: howardmurphy@waldmaninc.com

July 16, 2004

David R. Johnson, Esquire
Thompson, Rhodes & Cowie
Two Chatham Center, Tenth Floor
Pittsburgh, PA 15219

***RE: Clouser v. DuBois Regional Medical Center
No. 02-1594
In the Court of Common Pleas of Clearfield County, Pennsylvania***

Dear Mr. Johnson:

Enclosed please the Plaintiff's Reply to the Defendant's second and third set of interrogatories and the Defendant's second and third request for production of documents, along with all documents responsive to said requests.

Upon receipt of this letter please advise me of the status of the Defendant's response to the Plaintiffs' Second Set of Interrogatories and Request For Production of Documents which was served on you on or about June 8, 2004.

Thank you for your anticipated cooperation. I look forward to speaking with you soon

Very truly yours,



Howard F. Murphy

/hm

Cc: Fred Clouser

Hal K. Waldman and Associates

Attorneys At Law

DOMINION TOWER

Suite 300 • 625 Liberty Avenue

Pittsburgh, Pennsylvania 15222

1-800-350-4259

(412) 338-1000 • Fax: (412) 281-8055

BUTLER, PA
(724) 282-4696

KITTANNING, PA
(724) 548-7377

SAXONBURG, PA
(724) 352-9666

Howard F. Murphy, Esquire
E-mail: howardmurphy@waldmaninc.com

August 31, 2004

David R. Johnson, Esquire
Thompson, Rhodes & Cowie
Two Chatham Center, Tenth Floor
Pittsburgh, PA 15219

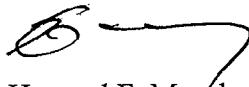
*RE: Clouser v. DuBois Regional Medical Center
No. 02-1594
In the Court of Common Pleas of Clearfield County, Pennsylvania*

Dear Mr. Johnson:

You will recall that the Plaintiffs' Second Set of Interrogatories and Request For Production of Documents was served on you on or about June 8, 2004. On July 16, 2004 I sent you a letter requesting that you provide me with an update on that discovery. To date, I have not heard from you nor have I received your client's discovery responses. Upon receipt of this letter please advise me of the status of your client's responses. If I do not hear from you in 10 days, I will be left with no choice but to present a motion to compel discovery.

Thank you for your anticipated cooperation. I look forward to speaking with you soon

Very truly yours,



Howard F. Murphy

/hm

Cc: Fred Clouser

Hal K. Waldman and Associates

Attorneys At Law

DOMINION TOWER

Suite 300 • 625 Liberty Avenue
Pittsburgh, Pennsylvania 15222

1-800-350-4259

(412) 338-1000 • Fax: (412) 281-8055

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(724) 282-4696

KITTANNING, PA
(724) 548-7377

SAXONBURG, PA
(724) 352-9666

Howard F. Murphy, Esquire
E-mail: howardmurphy@waldmaninc.com

November 23, 2004

David R. Johnson, Esquire
Thompson, Rhodes & Cowie
Two Chatham Center, Tenth Floor
Pittsburgh, PA 15219

RE: *Clouser v. DuBois Regional Medical Center*
No. 02-1594
In the Court of Common Pleas of Clearfield County, Pennsylvania

Dear Mr. Johnson:

On September 20, 2004 you sent me a correspondence indicating that you would be responding to the discovery which was served on you on June 8, 2004 within a couple of weeks. To date I have not received any such responses. Upon receipt of this letter I request that you advise me whether you will be able to produce your responses voluntarily within the next 15 days or if you will require that I obtain an order of court before doing so.

Naturally, if you have any questions or would like to discuss this matter further, you should not hesitate to contact me.

Very truly yours,



Howard F. Murphy

/hm

Cc: Fred Clouser

THOMSON, RHODES & COWIE, P.C.

Attorneys At Law

TWO CHATHAM CENTER, TENTH FLOOR
PITTSBURGH, PENNSYLVANIA 15219-3499

David R. Johnson

Email: drj@trc-law.com
www.trc-law.com
Facsimile (412) 232-3498Writer's Direct Dial
(412) 316-8662

Facsimile to Howard F. Murphy at 412 281 8055

1 page

Re: Clouser v. DRMC

September 20, 2004

Dear Mr. Murphy:

I hope to be in a position to respond to your discovery requests in the next couple of weeks.

In reviewing the file, I note that you make reference to a letter dated September 30, 2003, which I do not appear to have. Would you please send a copy to me by facsimile.

With regard to Dr. Armstrong's deposition, I am not available on October 8, 2004, so it will have to occur on a different date. Since Dr. Armstrong was a treating physician, I want to be sure that we have your permission to contact him with regard to the deposition before we do so. If you wish we will coordinate a mutually convenient date with his office. Please advise if this is what you wish for us to do.

Thank you.



Dave Johnson

EXHIBIT

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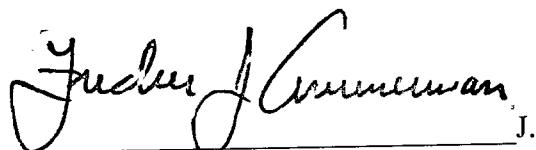


IN THE COURT OF COMMON PLEAS OF CLEARFIELD, COUNTY
PENNSYLVANIA

FREDERICK CLOUSER and MYRNA) CIVIL DIVISION
CLOUSER, as husband and wife,)
Plaintiffs,) No.: 02-1594-CD
vs.)
DUBOIS REGIONAL MEDICAL)
CENTER, INC.,)
Defendant.)

ORDER OF COURT

AND NOW, this 22ND day of December, 2004, it is
hereby ORDERED, ADJUDGED AND DECREED that the Plaintiffs' Motion to Compel
Discovery is granted and the Defendant is required to respond to Plaintiff's Second Set of
Interrogatories and Request for Production of Documents within ~~twenty~~ ^{thirty (30) FJA} (20) days hereof
or be barred from introducing any expert testimony at the time of trial.



FILED
6K 03-4688-2008-Betty Murphy
DEC 22 2004

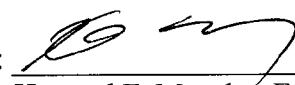
William A. Shaw
Prothonotary

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the within Motion to Compel Discovery has been served upon the following parties, via First Class Mail, Postage Pre-paid, this 15th day of December, 2004:

**David R. Johnson, Esquire
Thompson, Rhodes & Cowie
Two Chatham Center, Tenth Floor
Pittsburgh, PA 15219**

Hal K. Waldman & Associates,

By: 
Howard F. Murphy, Esquire
Attorney for Plaintiffs

Suite 300, Dominion Tower
625 Liberty Avenue
Pittsburgh, PA 15222
(412) 338-1000

IN THE COURT OF COMMON PLEAS OF CLEARFIELD, COUNTY
PENNSYLVANIA

FREDERICK CLOUSER and MYRNA CLOUSER, as husband and wife,) CIVIL DIVISION
Plaintiffs,) No.: 02-1594-CD
vs.) **MOTION FOR SANCTIONS**
DUBOIS REGIONAL MEDICAL CENTER, INC.,) Filed on Behalf of Plaintiffs
Defendant.) Counsel of Record for this Party
) Howard F. Murphy, Esquire
) PA I.D.#: 82271
) Hal K. Waldman & Associates
) Suite 300, Dominion Tower
) 625 Liberty Avenue
) Pittsburgh, PA 15222
) (412) 338-1000
) **JURY TRIAL DEMANDED**

111-177-200
m11:10/1 Atty Murphy
JAN 25 2005

William A. Shaw
Prothonotary, Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD, COUNTY
PENNSYLVANIA

FREDERICK CLOUSER and MYRNA	)	CIVIL DIVISION
CLOUSER, as husband and wife,)	
	)	No.: 02-1594-CD
Plaintiffs,)	
)	
vs.)	
)	
DUBOIS REGIONAL MEDICAL)	
CENTER, INC.,)	
)	
Defendant.)	

MOTION FOR SANCTIONS

AND NOW, come the Plaintiffs, Fredrick Clouser and Myrna Clouser, by and through their attorneys, Hal K. Waldman & Associates, and Howard F. Murphy, Esquire, and move this Honorable Court to enter an Order barring the Defendant from introducing any expert testimony at the time of trial.

1. On or about June 8, 2004, Plaintiffs served upon Defendant the Plaintiffs' Second Set of Interrogatories and Request for Production of Documents.
2. By letters dated June 8, 2004, July 16, 2004, August 31, 2004 and November 23, 2004, Plaintiffs' counsel requested, that said Defendant respond to Plaintiffs' Second Set of Interrogatories and Request for Production of Documents.

3. By letter dated September 20, 2004 counsel for the Defendant stated that he “hope[d] to be in a position to respond to [the] discovery requests in the next couple of weeks.”

4. By December 15, 2004, the Plaintiffs had not received any answers to the said Interrogatories or any documents responsive to the Request for Production of Documents or any objections thereto and filed a Motion to Compel responses to the discovery requests. A true and correct copy of said Motion and exhibits thereto is attached hereto, made a part hereof and marked as Exhibit “A”.

5. In that Motion, the Plaintiffs stated that “the Defendant has failed to provide any information regarding the identity of its expert. Nor has it provided the Plaintiffs with a copy of its expert’s report” and requested that the Defendant be barred from introducing any expert testimony at the time of trial if it did not respond to the discovery requests. See Motion at ¶ 5.

6. On December 22, 2004 this Honorable Court entered an order granting the Plaintiffs’ Motion and compelling the Defendant to respond to the discovery requests within 30 days or be barred from introducing ant expert testimony at the time of trial. A true and correct copy of said Order is attached hereto, made a part hereof and marked as Exhibit “B”.

7. On January 3, 2005, the Defendant mailed its Objections and Responses to said discovery requests to the Plaintiffs' counsel. A true and correct copy of said Objections and Responses is attached hereto, made a part hereof and marked as Exhibit "C".

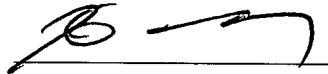
8. In its Objections and Responses, the Defendant has failed to provide any information regarding the identity of its expert. Nor has it provided the Plaintiffs with a copy of its expert's report. See Defendant's Objections and Responses at ¶ 6.

9. All other discovery has been completed in this matter and the Defendant has had copies of the Plaintiffs' experts' reports since July 16, 2004.

10. Accordingly, the Plaintiffs respectfully request that this Court enter an Order as a follow up to its Order of December 22, 2004 barring the Defendant from introducing any expert testimony at the time of trial.

WHEREFORE, it is respectfully requested that Plaintiffs' Motion For Sanctions be granted and that the Defendant be barred from introducing any expert testimony at the time of trial.

Respectfully Submitted,
Hal K. Waldman & Associates

By: 
Howard F. Murphy, Esquire
Counsel for Plaintiffs

IN THE COURT OF COMMON PLEAS OF CLEARFIELD, COUNTY
PENNSYLVANIA

FREDERICK CLOUSER and MYRNA) CIVIL DIVISION
CLOUSER, as husband and wife,)
) No.: 02-1594-CD
Plaintiffs,)
)
vs.)
)
DUBOIS REGIONAL MEDICAL)
CENTER, INC.,)
)
Defendant.)

ORDER OF COURT

AND NOW, this _____ day of _____, 2004, it is
hereby ORDERED, ADJUDGED AND DECREED that the Plaintiffs' Motion For
Sanctions is granted and the Defendant is barred from introducing any expert testimony
at the time of trial.

J.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the within Motion For Sanctions has been served upon the following counsel, via First Class Mail, Postage Pre-paid, this 24th day of January, 2005:

**David R. Johnson, Esquire
Thompson, Rhodes & Cowie
Two Chatham Center, Tenth Floor
Pittsburgh, PA 15219**

Hal K. Waldman & Associates,

By: 
Howard F. Murphy, Esquire
Attorney for Plaintiffs

Suite 300, Dominion Tower
625 Liberty Avenue
Pittsburgh, PA 15222
(412) 338-1000

IN THE COURT OF COMMON PLEAS OF CLEARFIELD, COUNTY
PENNSYLVANIA

FREDERICK CLOUSER and MYRNA CLOUSER, as husband and wife,) CIVIL DIVISION
Plaintiffs,) No.: 02-1594-CD
vs.) **MOTION TO COMPEL
DISCOVERY**
DUBOIS REGIONAL MEDICAL CENTER, INC.,) Filed on Behalf of Plaintiffs
Defendant.) Counsel of Record for this Party
) Howard F. Murphy, Esquire
) PA I.D.#: 82271
) Hal K. Waldman & Associates
) Suite 300, Dominion Tower
) 625 Liberty Avenue
) Pittsburgh, PA 15222
) (412) 338-1000
) **JURY TRIAL DEMANDED**

EXHIBIT

A

tabbed

IN THE COURT OF COMMON PLEAS OF CLEARFIELD, COUNTY
PENNSYLVANIA

FREDERICK CLOUSER and MYRNA) CIVIL DIVISION
CLOUSER, as husband and wife,)
Plaintiffs,) No.: 02-1594-CD
vs.)
DUBOIS REGIONAL MEDICAL)
CENTER, INC.,)
Defendant.)

MOTION TO COMPEL DISCOVERY

AND NOW, come the Plaintiffs, Fredrick Clouser and Myrna Clouser, by and through their attorneys, Hal K. Waldman & Associates, and Howard F. Murphy, Esquire, and move this Honorable Court to enter an Order pursuant to Pa.R.C.P. 4019 compelling the Defendant to provide Answers to the Plaintiff's Second Set of Interrogatories and Request for Production of Documents.

1. On or about June 8, 2004, Plaintiffs served upon Defendant the Plaintiffs' Second Set of Interrogatories and Request for Production of Documents. A true and correct copy of said discovery request is attached hereto, made a part hereof and marked as Exhibit "A".

2. By letters dated June 8, 2004, July 16, 2004, August 31, 2004 and November 23, 2004, Plaintiffs' counsel requested, that said Defendant respond to Plaintiffs' Second Set of Interrogatories and Request for Production of Documents. A

true and correct copies of said letters are attached hereto, made a part hereof and marked as Exhibit "B".

3. By letter dated September 20, 2004 counsel for the Defendant provided the only response ever sent to any of these inquiries in which he stated that he "hope[d] to be in a position to respond to [the] discovery requests in the next couple of weeks." A true and correct copy of said letter is attached hereto, made a part hereof and marked as Exhibit "C".

4. To date, the Plaintiffs have not received any answers to the said Interrogatories or any documents responsive to the Request for Production of Documents or any objections thereto.

5. Moreover, the Defendant has failed to provide any information regarding the identity of its expert. Nor has it provided the Plaintiffs with a copy of its expert's report.

6. All other discovery has been completed in this matter and the Defendant has had copies of the Plaintiffs' experts' reports since July 16, 2004.

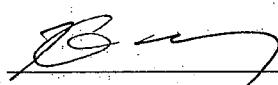
7. Upon receipt of the answers to this discovery, the Plaintiffs will be ready for trial and intend to file a Praecept For Trial at that time.

8. Accordingly, the Plaintiffs respectfully request that this Court enter an Order pursuant to Pa.R.C.P. 4019 compelling the Defendant to respond to said discovery requests within twenty (20) days or be barred from introducing any expert testimony at the time of trial.

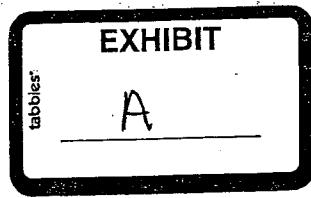
WHEREFORE, it is respectfully requested that Plaintiffs' Motion to Compel Discovery be granted and said Defendant be required to respond to said discovery requests within twenty (20) days or be barred from introducing any expert testimony at the time of trial.

Respectfully Submitted,

Hal K. Waldman & Associates

By: 
Howard F. Murphy, Esquire
Counsel for Plaintiff

IN THE COURT OF COMMON PLEAS OF CLEARFIELD, COUNTY PENNSYLVANIA



IN THE COURT OF COMMON PLEAS OF CLEARFIELD, COUNTY PENNSYLVANIA

FREDERICK CLOUSER and MYRNA) CIVIL DIVISION
CLOUSER, as husband and wife,)
Plaintiffs,) No.: 02-1594-CD
vs.)
DUBOIS REGIONAL MEDICAL)
CENTER, INC.,)
Defendant.)

**PLAINTIFF'S SECOND SET OF INTERROGATORIES and REQUEST FOR
PRODUCTION OF DOCUMENTS**

AND NOW, comes the Plaintiffs, by and through their counsel, Howard F. Murphy, Esquire, and Hal K. Waldman and Associates, and pursuant to the Pennsylvania Rules of Civil Procedure, requests that the Defendant, Dubois Regional Medical Center, Inc., serve written and sworn answers to the following Interrogatories and produce legible copies of documents requested herein. Such copies should be mailed to Plaintiffs' counsel at Hal K. Waldman and Associates, 625 Liberty Avenue, Pittsburgh, Pennsylvania, 15222. As used herein, the following definitions and instructions shall apply:

Instructions and Definitions

The following Interrogatories and Request For Production Of Documents shall be deemed to be continuing in nature so as to require further and supplemental response if Defendant discovers, receives, or generates additional documents and/or information responsive

to the requests made herein between the time of the Defendant's initial response and the time of trial.

For purposes of this Request, the following words and phrases shall have the meanings indicated:

"Defendant" - shall mean DUBOIS REGIONAL MEDICAL CENTER, INC.

"Plaintiff" - shall mean Frederick and Myrna Clouser

"Communication" - any transmission of information, the information transmitted, and any process by which information is transmitted, and shall include written communication and oral communication.

"Concerning" - constituting, referring to, alluding to, responding to, relating to, connected with, commenting upon, in respect to, about, regarding, discussing, showing, describing, reflecting or analyzing.

"Document" - any written, printed, recorded, graphic or photographic matter or sound reproduction, including, without limitation, books, papers, letters, memoranda, telegrams, cablegrams, diaries, records, minutes, notes, schedules, tabulations, vouchers, accounts, statements, affidavits, reports, abstracts, agreements, contracts, calendars, drafts, drawings, motion pictures, slides, photographs, sketches, labels, advertisements, charts, graphs, computer data calculations, blue prints, specifications, statistics, speeches, tapes, tape recordings, work

schedules, progress schedules, reports, change orders, work orders, logs, and other writings and any transcript, transcription or recording of any conversation, oral statement or presentation. "Document" includes any draft, partial or complete, whether subsequently modified, amended or disregarded or any of the foregoing.

"Information" - any fact known to Defendant and/or its appointed agent

"Person" - any individual, partnership, joint venture, firm, association, corporation, business or any governmental or legal entity.

"Relating To" (or a form thereof) - constituting, reflecting, respecting, supporting, contradicting, referring to, stating, describing, recording, noting, embodying, containing, mentioning, studying, analyzing, discussing, evaluating or relevant to.

When used in reference to an individual person, "identify" or "identity" means to state his or her full name and present or last known address and telephone number, and contemporaneous or last known position and business affiliation at the time in question. When used in reference to a business organization or entity other than an individual, "identify" or "identity" means to state its full name, its principal business address, and the nature of the organization (e.g., corporation, partnership). When used in reference to a document, "identify" or "identity" means to set forth its date, author, designated and actual recipient(s), type of document, number of pages and identity (as defined above) of its present or last known custodian.

As used herein, the singular shall always include the plural, and the present tense shall always include the past tense.

As used herein, "and" as well as "or" shall be construed both disjunctively and conjunctively in order to bring within the scope of these Interrogatories all responses which might otherwise be construed to be outside their scope.

As used herein, "you" and "your" shall mean Defendant, its agents, servants and/or employees.

INTERROGATORIES

1. Please identify the person answering these Interrogatories and identify any and all persons who assisted in gathering the information for same.

ANSWER:

2. Please identify any and all documents regarding the policies, rules, by-laws, regulations, procedures, guidelines, protocols, or other oral or written instructions which the Defendant had in effect in November of 2001 governing or in any way relating to the transportation of the Defendants' patients in wheel chairs:

ANSWER:

3. Specifically, please state whether the Defendant had any policies, rules, by-laws, regulations, procedures, guidelines, protocols, or other oral or written instructions regarding and/or relating to the use of the leg/foot brace to either secure and/or support a patient's leg and/or foot while transporting him or her in a wheelchair and, if so, identify each and every document which reflects or related to the information requested in this interrogatory:

ANSWER:

4. Please identify every person who you know or believe to have knowledge of or information relating to any facts, circumstances, relationships, or issues relating to this lawsuit and indicate the knowledge or information you believe each such person has and identify each and every document which reflects or related to the information requested in this interrogatory.

ANSWER:

5. Please identify each person you expect to call as a witness at trial, and for each person, state the following:

- (a) The subject matter or area on which each such person is expected to testify;
- (b) The substance of the facts or opinions to which each person is expected to testify; and
- (c) Identify each and every document which reflects or related to the information requested in this interrogatory.

ANSWER:

6. Please identify any person you expect to call as an expert witness at trial, and for each such person, state the following:

- (a) The subject matter or area on which each such person is expected to testify;
- (b) The substance of the facts or opinions to which each person is expected to testify;
- (c) A summary of the grounds for the opinion of each such person;
- (d) Each such persons background, training, experience, and other qualifications; and
- (e) Identify each and every document which reflects or related to the information requested in this interrogatory.

ANSWER:

7. Have you, your attorneys, agents or representatives or anyone acting in your behalf obtained from any person or persons any type of written or recorded statement, whether signed or unsigned, adopted or approved by such person or persons and concerning this lawsuit or any possible causes of the matter that is the basis of this lawsuit? If the answer to this Interrogatory is in the affirmative, state the following:

- (a) Whether the statement is in question and answer or negative form;
- (b) Whether the person giving it received a copy of the statement;
- (c) Whether the statement was signed;
- (d) If the statement was not signed, the method by which it was adopted or, approved;
- (e) The name and present address of the person by whom the statement was taken;
- (f) When the statement was taken;
- (g) Where the statement was taken;
- (h) Please attach a copy of such statement or of a transcript of such recorded statement to the answers to these interrogatories.

ANSWER:

8. Please provide all information and identify all documents in support of the Defendant's allegation that the Plaintiff's injuries were caused and/or contributed to by the Plaintiff's own actions or inactions.

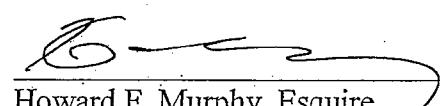
ANSWER:

REQUEST FOR PRODUCTION OF DOCUMENTS

1. Please produce all documents identified in response to the foregoing Interrogatories.
2. Please produce a copy of CharlieGaffney's employment file and/or any other documents which relate to Ms. Gaffney's employment by the Defendant.
3. Please produce all documents, including but not limited to, photographs, notes, reports, diagrams, illustrations, statements, videotapes, audiotapes, diaries, calendars, day planners, computer records, and correspondence concerning and/or otherwise relating to the allegations contained in the Plaintiff's Complaints, the claims arising therefrom, and any defenses or New Matter claimed by the Defendant.

Respectfully submitted,

HAL K. WALDMAN & ASSOCIATES

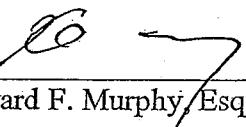

Howard F. Murphy, Esquire
Attorneys for Plaintiff

CERTIFICATION OF SERVICE

I hereby certify that the original of PLAINTIFFS' SECOND SET OF
INTERROGATORIES and REQUEST FOR PRODUCTION OF DOCUMENTS has
been served upon the following counsel of record and same placed in the U.S. Mails on
this 8th day of June, 2004:

**David R. Johnson, Esquire
Thompson, Rhodes & Cowie
Two Chatham Center, Tenth Floor
Pittsburgh, PA 15219**

**HAL K. WALDMAN &
ASSOCIATES**

By 
Howard F. Murphy, Esquire

Hal K. Waldman and Associates

Attorneys At Law

DOMINION TOWER

Suite 300 • 625 Liberty Avenue

Pittsburgh, Pennsylvania 15222

1-800-350-4259

(412) 338-1000 • Fax: (412) 281-8055

BUTLER, PA
(724) 282-4696

KITTANNING, PA
(724) 548-7377

SAXONBURG, PA
(724) 352-9666

Howard F. Murphy, Esquire
E-mail: howardmurphy@waldmaninc.com

June 8, 2004

David R. Johnson, Esquire
Thompson, Rhodes & Cowie
Two Chatham Center, Tenth Floor
Pittsburgh, PA 15219

***RE: Clouser v. DuBois Regional Medical Center
No. 02-1594
In the Court of Common Pleas of Clearfield County, Pennsylvania***

Dear Mr. Johnson:

Enclosed please find an original and two copies of the Plaintiffs' Second Set of Interrogatories and Request For Production of Documents which I request you respond to within the next thirty (30) days. Be advised that I am in the process of gathering all of the information which you requested in your second and third discovery requests and will be providing you with our responses soon.

In the mean time I request that you call me to discuss this matter. I am specifically interested in determining whether this matter can be resolved amicably or if a trial will be necessary to bring it to conclusion.

Thank you for your anticipated cooperation. I look forward to speaking with you soon

Very truly yours,



Howard F. Murphy

HFM/

Cc: Fred Clouser

EXHIBIT

tabbies®

B

Hal K. Waldman and Associates

Attorneys At Law

DOMINION TOWER
Suite 300 • 625 Liberty Avenue
Pittsburgh, Pennsylvania 15222
1-800-350-4259
(412) 388-1000 • Fax: (412) 281-8055

BUTLER, PA
(724) 282-4696

KITTANNING, PA
(724) 548-7377

SAXONBURG, PA
(724) 352-9666

Howard F. Murphy, Esquire
E-mail: howardmurphy@waldmaninc.com

July 16, 2004

David R. Johnson, Esquire
Thompson, Rhodes & Cowie
Two Chatham Center, Tenth Floor
Pittsburgh, PA 15219

**RE: Clouser v. DuBois Regional Medical Center
No. 02-1594
In the Court of Common Pleas of Clearfield County, Pennsylvania**

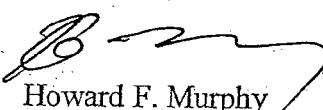
Dear Mr. Johnson:

Enclosed please the Plaintiff's Reply to the Defendant's second and third set of interrogatories and the Defendant's second and third request for production of documents, along with all documents responsive to said requests.

Upon receipt of this letter please advise me of the status of the Defendant's response to the Plaintiffs' Second Set of Interrogatories and Request For Production of Documents which was served on you on or about June 8, 2004.

Thank you for your anticipated cooperation. I look forward to speaking with you soon

Very truly yours,



Howard F. Murphy

/hm

Cc: Fred Clouser

Hal K. Waldman and Associates

Attorneys At Law

DOMINION TOWER

Suite 300 • 625 Liberty Avenue

Pittsburgh, Pennsylvania 15222

1-800-350-4259

(412) 338-1000 • Fax: (412) 281-8055

BUTLER, PA
(724) 282-4696

KITTANNING, PA
(724) 548-7377

SAXONBURG, PA
(724) 352-9666

Howard F. Murphy, Esquire
E-mail: howardmurphy@waldmaninc.com

August 31, 2004

David R. Johnson, Esquire
Thompson, Rhodes & Cowie
Two Chatham Center, Tenth Floor
Pittsburgh, PA 15219

*RE: Clouser v. DuBois Regional Medical Center
No. 02-1594
In the Court of Common Pleas of Clearfield County, Pennsylvania*

Dear Mr. Johnson:

You will recall that the Plaintiffs' Second Set of Interrogatories and Request For Production of Documents was served on you on or about June 8, 2004. On July 16, 2004 I sent you a letter requesting that you provide me with an update on that discovery. To date, I have not heard from you nor have I received your client's discovery responses. Upon receipt of this letter please advise me of the status of your client's responses. If I do not hear from you in 10 days, I will be left with no choice but to present a motion to compel discovery.

Thank you for your anticipated cooperation. I look forward to speaking with you soon

Very truly yours,



Howard F. Murphy

/hm

Cc: Fred Clouser

Hal K. Waldman and Associates

Attorneys At Law

DOMINION TOWER
Suite 300 • 625 Liberty Avenue
Pittsburgh, Pennsylvania 15222
1-800-350-4259
(412) 338-1000 • Fax: (412) 281-8055

BUTLER, PA
(724) 282-4696

KITTANNING, PA
(724) 548-7377

SAXONBURG, PA
(724) 352-9666

Howard F. Murphy, Esquire
E-mail: howardmurphy@waldmaninc.com

November 23, 2004

David R. Johnson, Esquire
Thompson, Rhodes & Cowie
Two Chatham Center, Tenth Floor
Pittsburgh, PA 15219

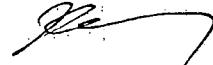
*RE: Clouser v. DuBois Regional Medical Center
No. 02-1594
In the Court of Common Pleas of Clearfield County, Pennsylvania*

Dear Mr. Johnson:

On September 20, 2004 you sent me a correspondence indicating that you would be responding to the discovery which was served on you on June 8, 2004 within a couple of weeks. To date I have not received any such responses. Upon receipt of this letter I request that you advise me whether you will be able to produce your responses voluntarily within the next 15 days or if you will require that I obtain an order of court before doing so.

Naturally, if you have any questions or would like to discuss this matter further, you should not hesitate to contact me.

Very truly yours,


Howard F. Murphy

/hm

Cc: Fred Clouser

THOMSON, RHODES & COWIE, P.C.

Attorneys At Law

TWO CHATHAM CENTER, TENTH FLOOR
PITTSBURGH, PENNSYLVANIA 15219-3499

David R. Johnson

Email: drj@trc-law.com
www.trc-law.com
Facsimile (412) 232-3498Writer's Direct Dial
(412) 316-8662

Facsimile to Howard F. Murphy at 412 281 8055

1 page

Re: Clouser v. DRMC

September 20, 2004

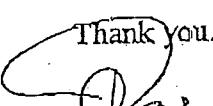
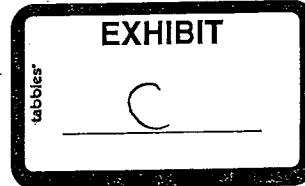
Dear Mr. Murphy:

I hope to be in a position to respond to your discovery requests in the next couple of weeks.

In reviewing the file, I note that you make reference to a letter dated September 30, 2003, which I do not appear to have. Would you please send a copy to me by facsimile.

With regard to Dr. Armstrong's deposition, I am not available on October 8, 2004, so it will have to occur on a different date. Since Dr. Armstrong was a treating physician, I want to be sure that we have your permission to contact him with regard to the deposition before we do so. If you wish we will coordinate a mutually convenient date with his office. Please advise if this is what you wish for us to do.

Thank you.


Dave Johnson

IN THE COURT OF COMMON PLEAS OF CLEARFIELD, COUNTY
PENNSYLVANIA

FREDERICK CLOUSER and MYRNA	)	CIVIL DIVISION
CLOUSER, as husband and wife,)	
	)	No.: 02-1594-CD
Plaintiffs,)	
)	
vs.)	
)	
DUBOIS REGIONAL MEDICAL)	
CENTER, INC.,)	
)	
Defendant.)	

ORDER OF COURT

AND NOW, this _____ day of _____, 2004, it is
hereby ORDERED, ADJUDGED AND DECREED that the Plaintiffs' Motion to Compel
Discovery is granted and the Defendant is required to respond to Plaintiff's Second Set of
Interrogatories and Request for Production of Documents within twenty (20) days hereof
or be barred from introducing any expert testimony at the time of trial.

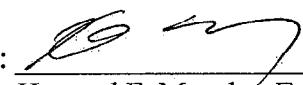
J.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the within Motion to Compel Discovery has been served upon the following parties, via First Class Mail, Postage Pre-paid, this 15th day of December, 2004:

**David R. Johnson, Esquire
Thompson, Rhodes & Cowie
Two Chatham Center, Tenth Floor
Pittsburgh, PA 15219**

Hal K. Waldman & Associates,

By: 
**Howard F. Murphy, Esquire
Attorney for Plaintiffs**

**Suite 300, Dominion Tower
625 Liberty Avenue
Pittsburgh, PA 15222
(412) 338-1000**

IN THE COURT OF COMMON PLEAS OF CLEARFIELD, COUNTY
PENNSYLVANIA

FREDERICK CLOUSER and MYRNA) CIVIL DIVISION
CLOUSER, as husband and wife,)
Plaintiffs,) No.: 02-1594-CD
vs.)
DUBOIS REGIONAL MEDICAL)
CENTER, INC.,)
Defendant.)

ORDER OF COURT

AND NOW, this 22ND day of December, 2004, it is
hereby ORDERED, ADJUDGED AND DECREED that the Plaintiffs' Motion to Compel
Discovery is granted and the Defendant is required to respond to Plaintiff's Second Set of
Interrogatories and Request for Production of Documents within ~~twenty~~^{thirty (30) FJA} (20) days hereof
or be barred from introducing any expert testimony at the time of trial.



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

DEC 22 2004

Attest.

W. C. Zimmerman
P. Clerk of Courts

EXHIBIT

B

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

FREDERICK CLOUSER and MYRNA
CLOUSER, as husband and wife,

Plaintiffs,

vs.

DUBOIS REGIONAL MEDICAL CENTER,
INC.,

Defendant.

CIVIL DIVISION

NO. 02-1594-CD

OBJECTIONS AND RESPONSES TO
PLAINTIFFS' SECOND SET OF
INTERROGATORIES AND REQUESTS
FOR PRODUCTION

Filed on behalf of defendant.

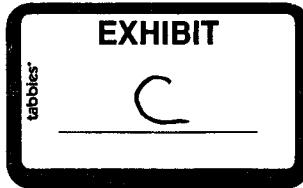
Counsel of Record for this Party:

David R. Johnson, Esquire
Pa. I.D. No.: 26409

Thomson, Rhodes & Cowie, P.C.
Firm No.: 720

Two Chatham Center, 10th Floor
Pittsburgh, PA 15219

412-232-3400



OBJECTIONS AND RESPONSES TO PLAINTIFFS' SECOND SET OF
INTERROGATORIES AND REQUESTS FOR PRODUCTION

GENERAL OBJECTION

Defendant objects to the instructions and definitions which precede the interrogatories. The instructions and definitions cause the scope of the discovery requests to exceed the permissible scope of discovery as delineated by the Pennsylvania Rules of Civil Procedure. Defendant acknowledges no obligation to respond in a manner greater than that required by the Pennsylvania Rules of Civil Procedure.

Without waiving this objection, but subject to it, defendant responds as follows:

1. Please identify the person answering these Interrogatories and identify any and all persons who assisted in gathering the information for same.

ANSWER: Greg J. Volpe, ACSW, LSW, Director of Risk Management

2. Please identify any and all documents regarding the policies, rules, by-laws, regulations, procedures, guidelines, protocols, or other oral or written instructions which the Defendant had in effect in November of 2001 governing or in any way relating to the transportation of the Defendants' patients in wheel chairs:

ANSWER: No documents were located governing or in any way relating to the transportation of a patient by an aide in the rehabilitation unit at the relevant time.

3. Specifically, please state whether the Defendant had any policies, rules, by-laws, regulations, procedures, guidelines, protocols, or other oral or written instructions regarding and/or relating to the use of the leg/foot brace to either secure and/or support a patient's leg and/or foot while transporting him or her in a wheelchair and, if so, identify each and every document which reflects or related to the information requested in this interrogatory:

ANSWER: See answer to interrogatory 2.

4. Please identify every person who you know or believe to have knowledge of or information relating to any facts, circumstances, relationships, or issues relating to this lawsuit and indicate the knowledge or information you believe each such person has and identify each and every document which reflects or related to the information requested in this interrogatory.

ANSWER: Information relevant to this case is set forth in plaintiff's medical records, medical reports pertaining to the plaintiff and the discovery responses which have been filed. Persons with information include plaintiff's attending physicians, those individuals who have been deposed, and those persons who have been identified in the depositions and exhibits identified at the depositions, including but not limited to Erin Wood.

5. Please identify each person you expect to call as a witness at trial, and for each person, state the following:

- (a) The subject matter or area on which each such person is expected to testify;
- (b) The substance of the facts or opinions to which each person is expected to testify; and

(c) Identify each and every document which reflects or related to the information requested in this interrogatory.

ANSWER: It is unknown as to the persons who defendant will call at time of trial. Presently, however, it is likely that defendant may call the following persons for factual testimony, depending upon the proof offered by the plaintiff: Holly Kessler, Kimberly Sleigh, Greg Volpe, Lynn Meyers, M.D., Charlie Gaffney, Erin Wood, Dr. Robert Armstrong. The subject matter of the witnesses' testimony will depend in part upon the proof offered in the plaintiffs' case, however, in general terms, each of the healthcare providers will testify with regard to the medical care and treatment of the plaintiff and the plaintiff's condition at relevant times. The medical care providers likely will also testify with regard to that information recorded in the medical records. Mr. Volpe will testify with regard to dealings with the plaintiff and his counsel subsequent to the alleged event upon which plaintiffs' lawsuit is based, and the basis for any action taken by the hospital.

6. Please identify any person you expect to call as an expert witness at trial,

and for each such person, state the following:

- (a) The subject matter or area on which each such person is expected to testify;
- (b) The substance of the facts or opinions to which each person is expected to testify;
- (c) A summary of the grounds for the opinion of each such person;
- (d) Each such persons background, training, experience, and other qualifications; and
- (e) Identify each and every document which reflects or related to the information requested in this interrogatory.

ANSWER: Defendant does not know as yet which expert witnesses it will call at time of trial.

7. Have you, your attorneys, agents or representatives or anyone acting in your behalf obtained from any person or persons any type of written or recorded statement, whether signed or unsigned, adopted or approved by such person or persons and concerning this lawsuit or any possible causes of the matter that is the basis of this lawsuit? If the answer to this Interrogatory is in the affirmative, state the following:

- (a) Whether the statement is in question and answer or negative form;
- (b) Whether the person giving it received a copy of the statement;
- (c) Whether the statement was signed;
- (d) If the statement was not signed, the method by which it was adopted or, approved;
- (e) The name and present address of the person by whom the statement was taken;
- (f) When the statement was taken;
- (g) Where the statement was taken;
- (h) Please attach a copy of such statement or of a transcript of such recorded statement to the answers to these interrogatories.

ANSWER: Defendant has no statements, as that term is defined by the Pennsylvania Rules of Civil Procedure, other than the statement of Charlie Gaffney, which was previously produced.

8. Please provide all information and identify all documents in support of the Defendant's allegation that the Plaintiff's injuries were caused and/or contributed to by the Plaintiff's own actions or inactions.

ANSWER: Please refer to the statement and testimony of Charlie Gaffney and the medical records pertaining to the plaintiff.

OBJECTIONS AND RESPONSES TO REQUEST FOR PRODUCTION OF
DOCUMENTS

1. Please produce all documents identified in response to the foregoing
Interrogatories.

ANSWER: Defendant objects to producing the medical records, deposition transcripts, or statements which are believed to already be in the possession of plaintiffs' attorney. If, however, plaintiffs seek an additional copy of said materials, same will be provided upon an agreement to pay copying charges.

2. Please produce a copy of Charlie Gaffney's employment file and/or any other documents which relate to Ms. Gaffney's employment by the Defendant.

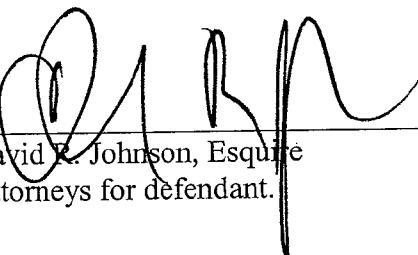
ANSWER: This requested is objected to as exceeding the permissible scope of discovery. The information sought is neither relevant nor likely to lead to admissible evidence.

3. Please produce all documents, including but not limited to, photographs, notes, reports, diagrams, illustrations, statements, videotapes, audiotapes, diaries, calendars, day planners, computer records, and correspondence concerning and/or otherwise relating to the allegations contained in the Plaintiff's Complaints, the claims arising therefrom, and any defenses or New Matter claimed by the Defendant.

ANSWER: This request is objected to because it is vague and overly broad.

OBJECTIONS BY:

THOMSON, RHODES & COWIE, P.C.



David R. Johnson, Esquire
Attorneys for defendant.

VERIFICATION

I, Greg J. Volpe in the capacity of
Director of Risk Mgt at D'Bois Regional Med Ctr have
read the foregoing OBJECTIONS AND RESPONSES TO PLAINTIFFS' SECOND SET
OF INTERROGATORIES AND REQUESTS FOR PRODUCTION. 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: October 8, 2004

CERTIFICATION OF SERVICE

I hereby certify that a true and correct copy of the within OBJECTIONS AND RESPONSES TO PLAINTIFFS' SECOND SET OF INTERROGATORIES AND REQUESTS FOR PRODUCTION has been served upon the following counsel of record and same placed in the U.S. Mails on this 3rd day of January, 2004:

Howard Murphy, Esquire
Suite 300, Dominion Tower
625 Liberty Avenue
Pittsburgh, PA 15222

THOMSON, RHODES & COWIE, P.C.

David R. Johnson, Esquire
Attorneys for defendant.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

FREDERICK CLOUSER and MYRNA
CLOUSER, as husband and wife,
Plaintiffs,

vs.

DUBOIS REGIONAL MEDICAL CENTER,
INC.,

Defendant.

CIVIL DIVISION
NO. 02-1594-CD

RESPONSE TO MOTION FOR SANCTIONS

Filed on behalf of defendant.

Counsel of Record for this Party:

David R. Johnson, Esquire
Pa. I.D. No.: 26409

Thomson, Rhodes & Cowie, P.C.
Firm No.: 720

Two Chatham Center, 10th Floor
Pittsburgh, PA 15219

412-232-3400

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NO CC
m 11:39 AM
JAN 27 2005

William J. Clegg
Prothonotary, Clerk of Courts

RESPONSE TO MOTION FOR SANCTIONS

NOW COMES defendant, by its attorneys, Thomson, Rhodes & Cowie, P.C., and files the following response to plaintiffs' motion for sanctions.

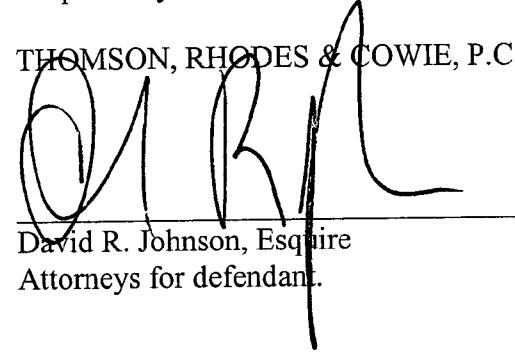
1. Plaintiffs have directed written discovery requests to the defendant which, in part, seek the identification of any experts. Defendant has responded, candidly, that at this juncture it does not know what experts it intends to call at time of trial. Pursuant to the Pennsylvania Rules of Civil Procedure this is an entirely accurate and appropriate response given the present status of this case. There is no pending order to produce expert testimony and this case is not on any trial list.

2. Plaintiffs' motion for sanctions should be denied. The defendant has complied with all applicable discovery obligations and did respond to discovery pursuant to the court order of December 22, 2004. Plaintiffs' motion overlooks the fact that no court order has ever been entered with regard to either requiring expert testimony, or submitting pretrial statements. The case has never been placed on any trial list.

WHEREFORE, for the above reasons, plaintiffs' motion for sanctions should be denied.

Respectfully submitted,

THOMSON, RHODES & COWIE, P.C.


David R. Johnson, Esquire
Attorneys for defendant.

CERTIFICATION OF SERVICE

I hereby certify that a true and correct copy of the within RESPONSE TO
MOTION FOR SANCTIONS has been served upon the following counsel of record and
same placed in the U.S. Mails on this 25th day of Jan.,
2005:

Howard Murphy, Esquire
Hal K. Waldman & Associates
Suite 300, Dominion Tower
625 Liberty Avenue
Pittsburgh, PA 15222

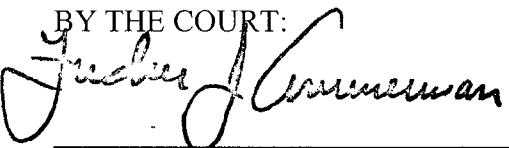
THOMSON, RHODES & COWIE, P.C.
David R. Johnson, Esquire
Attorneys for defendant.

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

FREDERICK CLOUSER and MYRNA :
CLOUSER, husband and wife :
vs. : No. 02-1594-CD
DUBOIS REGIONAL MEDICAL :
CENTER :
:

O R D E R

AND NOW, this 28th day of January, 2005, it is the Order of the Court that argument on Plaintiffs' Motion for Sanctions filed in the above-captioned matter has been scheduled for the 1st day of March, 2005, at 1:30 P.M, in Courtroom No. 1, Clearfield County Courthouse, Clearfield, PA.

BY THE COURT:

FREDRIC J. AMMERMAN
President Judge

FILED
5 2:24 PM 2005
JAN 28 2005

William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD, COUNTY
PENNSYLVANIA

FREDERICK CLOUSER and MYRNA) CIVIL DIVISION
CLOUSER, as husband and wife,)
Plaintiffs,) No.: 02-1594-CD
vs.)
DUBOIS REGIONAL MEDICAL)
CENTER, INC.,) Filed on Behalf of Plaintiffs
Defendant.) Counsel of Record for this Party
) Howard F. Murphy, Esquire
) PA I.D.#: 82271
) Hal K. Waldman & Associates
) Suite 300, Dominion Tower
) 625 Liberty Avenue
) Pittsburgh, PA 15222
) (412) 338-1000
)
) JURY TRIAL DEMANDED

FILED

64 FEB 17 2005

W/ 11:20/✓
William A. Shaw
Prothonotary
w/c/c

IN THE COURT OF COMMON PLEAS OF CLEARFIELD, COUNTY
PENNSYLVANIA

FREDERICK CLOUSER and MYRNA) CIVIL DIVISION
CLOUSER, as husband and wife,)
Plaintiffs,) No.: 02-1594-CD
vs.)
DUBOIS REGIONAL MEDICAL)
CENTER, INC.,)
Defendant.)

PRAECIPE FOR TRIAL

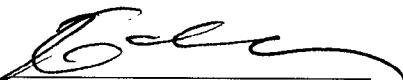
To the Prothonotary:

Please list the above captioned matter on the next available trial list. The undersigned hereby certifies that there are no dispositive motions outstanding. Judge Ammerman has scheduled oral argument on the Plaintiffs' Motion for Sanctions to occur on March 1, 2005 at 1:30 P.M. However, the disposition of this Motion will not interfere with the trial of this matter. All discovery has been completed and this matter is otherwise ready for trial. A copy of this Praecipe is being served on all other counsel.

Respectfully Submitted,

Hal K. Waldman & Associates

By:



Howard F. Murphy, Esquire

Counsel for Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the within **PRAECIPE FOR TRIAL** has been served upon the following parties, via First Class Mail, Postage Pre-paid, this 9th day of February, 2005:

**David R. Johnson, Esquire
Thompson, Rhodes & Cowie
Two Chatham Center, Tenth Floor
Pittsburgh, PA 15219**

Hal K. Waldman & Associates,

By: 

**Howard F. Murphy, Esquire
Attorney for Plaintiffs**

Suite 300, Dominion Tower
625 Liberty Avenue
Pittsburgh, PA 15222
(412) 338-1000

IN THE COURT OF COMMON PLEAS OF CLEARFIELD, COUNTY
PENNSYLVANIA

FREDERICK CLOUSER and MYRNA	)	CIVIL DIVISION
CLOUSER, as husband and wife,)	
	)	No.: 02-1594-CD
Plaintiffs,)	
	)	NOTICE OF DEATH OF
vs.	)	FRED CLOUSER
)	
DUBOIS REGIONAL MEDICAL)	
CENTER, INC.,	)	Filed on Behalf of Plaintiffs
)	
Defendant.	)	Counsel of Record for this Party
)	
	)	Howard F. Murphy, Esquire
	)	PA I.D.#: 82271
)	
	)	Hal K. Waldman & Associates
	)	Suite 300, Dominion Tower
	)	625 Liberty Avenue
	)	Pittsburgh, PA 15222
	)	(412) 338-1000
)	
	)	JURY TRIAL DEMANDED

④ FILED
M 13, 2005
FEB 28 2005

William A. Shaw
Prothonotary/Clerk of Courts

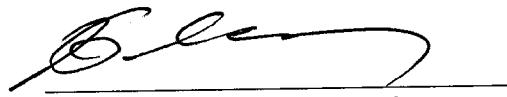
IN THE COURT OF COMMON PLEAS OF CLEARFIELD, COUNTY
PENNSYLVANIA

FREDERICK CLOUSER and MYRNA) CIVIL DIVISION
CLOUSER, as husband and wife,)
Plaintiffs,) No.: 02-1594-CD
vs.)
DUBOIS REGIONAL MEDICAL)
CENTER, INC.,)
Defendant.)

NOTICE OF DEATH OF FRED CLOUSER

TO THE PROTHONOTARY:

Pursuant to PARCP § 2355 please note upon the record that Fred Clouser, the Plaintiff in the above captioned action died on February 21, 2005. His wife, Myrna Clouser will be named the executer/administrator of his estate in the near future and she is now the real party in interest.



Howard F. Murphy, Esquire
Attorney for Plaintiff

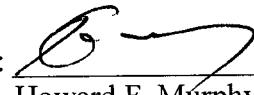
I hereby certify that the foregoing is a true and correct statement of the case.
This statement is made subject to the penalties of 18 P.A.C.S. Sec. 4904
relating to unsworn falsification to authorities.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the within Notice has been served upon the following counsel, via First Class Mail, Postage Pre-paid, this 29th day of February, 2005:

**David R. Johnson, Esquire
Thompson, Rhodes & Cowie
Two Chatham Center, Tenth Floor
Pittsburgh, PA 15219**

Hal K. Waldman & Associates,

By: 

Howard F. Murphy, Esquire
Attorney for Plaintiffs

Suite 300, Dominion Tower
625 Liberty Avenue
Pittsburgh, PA 15222
(412) 338-1000

IN THE COURT OF COMMON PLEAS OF CLEARFIELD, COUNTY
PENNSYLVANIA

FREDERICK CLOUSER and MYRNA	)	CIVIL DIVISION
CLOUSER, as husband and wife,)	
	)	No.: 02-1594-CD
Plaintiffs,)	
	)	PRAECIPE TO SUBSTITUTE
vs.	)	MYRNA CLOUSER FOR
	)	FRED CLOUSER
DUBOIS REGIONAL MEDICAL)	
CENTER, INC.,	)	Filed on Behalf of Plaintiffs
)	
Defendant.	)	Counsel of Record for this Party
)	
	)	Howard F. Murphy, Esquire
	)	PA I.D.#: 82271
)	
	)	Hal K. Waldman & Associates
	)	Suite 300, Dominion Tower
	)	625 Liberty Avenue
	)	Pittsburgh, PA 15222
	)	(412) 338-1000
)	
	)	JURY TRIAL DEMANDED

66 FEB 28 2005
m7/3/05
FEB 28 2005

William A. Sera
Prothonotary Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD, COUNTY
PENNSYLVANIA

FREDERICK CLOUSER and MYRNA CLOUSER, as husband and wife,) CIVIL DIVISION
Plaintiffs,) No.: 02-1594-CD
vs.)
DUBOIS REGIONAL MEDICAL CENTER, INC.,)
Defendant.)

PRAECIPE TO SUBSTITUTE MYRNA CLOUSER FOR FRED CLOUSER

TO THE PROTHONOTARY:

Pursuant to PARCP § 2352 please substitute Myrna Clouser for Fred Clouser in the above captioned action. Fred Clouser died on February 21, 2005. His wife, Myrna Clouser will be named the executer/administrator of his estate in the near future and she is now the real party in interest.

**Howard F. Murphy, Esquire
Attorney for Plaintiff**

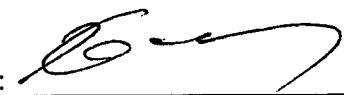
I hereby certify that the foregoing is a true and correct statement of the case. This statement is made subject to the penalties of 18 P.A.C.S. Sec. 4904 relating to unsworn falsification to authorities.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the within PRAECIPE has been served upon the following counsel, via First Class Mail, Postage Pre-paid, this 24th day of February, 2005:

**David R. Johnson, Esquire
Thompson, Rhodes & Cowie
Two Chatham Center, Tenth Floor
Pittsburgh, PA 15219**

Hal K. Waldman & Associates,

By: 
Howard F. Murphy, Esquire
Attorney for Plaintiffs

Suite 300, Dominion Tower
625 Liberty Avenue
Pittsburgh, PA 15222
(412) 338-1000

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

FREDERICK CLOUSER, et al. : :

VS. : NO. 02-1594-CD

DUBOIS REGIONAL MEDICAL CENTER : :

O R D E R

NOW, this 1st day of March, 2005, following argument on the Motion for Sanctions filed on behalf of the Plaintiff, it is the ORDER of this Court as follows:

1. The Defense shall provide the Plaintiff with the names, addresses and curriculum vitae of any expert that the Defense may call at time of trial within no more than forty-five (45) days from this date;

2. Within no more than sixty (60) days from this date, the Defense shall have supplied a copy of a report(s) of any expert(s) that the Defense may call at time of trial;

3. In the event that the Defense would fail to comply with provisions of this Order as set forth above, the Defense shall be precluded from producing any expert testimony at time of trial.

BY THE COURT:



President Judge

FILED ICC
10:00 AM
MAR 03 2005
Attn: Gelinean
Johnson

William A. Shaw
Prothonotary/Clerk of Courts


IN THE COURT OF COMMON PLEAS OF CLEARFIELD, COUNTY
PENNSYLVANIA

FREDERICK CLOUSER and MYRNA) CIVIL DIVISION
CLOUSER, as husband and wife,)
Plaintiffs,) No.: 02-1594-CD
vs.)
DUBOIS REGIONAL MEDICAL)
CENTER, INC.,) Filed on Behalf of Plaintiffs
Defendant.) Counsel of Record for this Party
) Howard F. Murphy, Esquire
) PA I.D.#: 82271
) Hal K. Waldman & Associates
) Suite 300, Dominion Tower
) 625 Liberty Avenue
) Pittsburgh, PA 15222
) (412) 338-1000
)
) **JURY TRIAL DEMANDED**

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to CIA
William A. Shaw
Prothonotary/Clerk of Court
copy to CIA

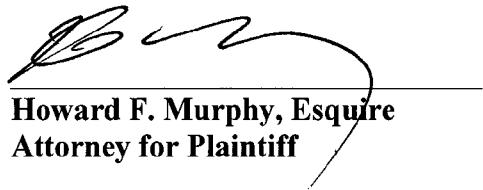
IN THE COURT OF COMMON PLEAS OF CLEARFIELD, COUNTY
PENNSYLVANIA

FREDERICK CLOUSER and MYRNA) CIVIL DIVISION
CLOUSER, as husband and wife,)
Plaintiffs,) No.: 02-1594-CD
vs.)
DUBOIS REGIONAL MEDICAL)
CENTER, INC.,)
Defendant.)

PRAECIPE TO SETTLE AND DISCONTINUE

TO THE PROTHONOTARY:

Kindly mark the docket in the above captioned matter as "settled and discontinued".


Howard F. Murphy, Esquire
Attorney for Plaintiff

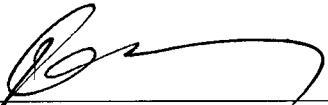
I hereby certify that the foregoing is a true and correct statement of the case.
This statement is made subject to the penalties of 18 PA.C.S. Sec. 4904
relating to unsworn falsification to authorities.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the within PRAECIPE has been served upon the following counsel, via First Class Mail, Postage Pre-paid, this 5th day of April, 2005:

**David R. Johnson, Esquire
Thompson, Rhodes & Cowie
Two Chatham Center, Tenth Floor
Pittsburgh, PA 15219**

Hal K. Waldman & Associates,

By: 
Howard F. Murphy, Esquire
Attorney for Plaintiffs

Suite 300, Dominion Tower
625 Liberty Avenue
Pittsburgh, PA 15222
(412) 338-1000

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

**Frederick Clouser
Myrna Clouser**

Vs. **No. 2002-01594-CD**
DuBois Regional Medical Center, Inc.

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 8, 2005, marked:

Settled and Discontinued

Record costs in the sum of \$80.00 have been paid in full by Bruce H. Gelman, Esq.

IN WITNESS WHEREOF, I have hereunto affixed my hand and seal of this Court at Clearfield, Clearfield County, Pennsylvania this 8th day of April A.D. 2005.

William A. Shaw, Prothonotary