03-68- CD
SANDRA CONKLIN, etal. vs. CLEARFIELD HOSPITAL, etal

CERTIFICATE OF SERVICE

I, Rolf Louis Patberg, Esquire, hereby certify that a true and correct copy of the foregoing Statement of Matters Complained of on Appeal was forwarded this 2 day of May, 2008 via Federal Express to the following:

John L. McIntyre, Esquire
McIntyre, Dugas, Hartye & Schmitt
P.O. Box 533
Holidaysburg, PA 16648

The Honorable Judge John K. Reilly
Clearfield County Courthouse
230 E. Market Street
Clearfield, PA 16830

Rolf Louis Patberg, Esquire

ppeal Docket Sheet **Superior Court of Pennsylvania**

)ocket Number: 700 WDA 2008

pril 29, 2008

Sandra Conklin, as parent and natural guardian of Justin Kline, Appellant

v.

Clearfield Hospital and George F. Palmer 03-608-CD

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William A. Shaw
Prothonotary/Clerk of Courts

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FEE INFORMATION

Fee Date	Fee Name	Fee Amt	Paid Amount	Receipt Number
4/16/08	Notice of Appeal	60.00	60.00	2008SPRWD000420

TRIAL COURT/AGENCY INFORMATION

Court Below: Clearfield County Court of Common Pleas
County: Clearfield Division: Civil
Date of Order Appealed From: March 26, 2008 Judicial District: 46
Date Documents Received: April 22, 2008 Date Notice of Appeal Filed: April 16, 2008
Order Type: Order OTN:
Judge: Reilly, Jr., John K.
Senior Judge Lower Court Docket No.: 2003-68-CD

ORIGINAL RECORD CONTENTS

Original Record Item	Filed Date	Content/Description

Date of Remand of Record:

BRIEFS

DOCKET ENTRIES

Filed Date	Docket Entry/Document Name	Party Type	Filed By
April 22, 2008	Notice of Appeal Filed	Appellant	Conklin, Sandra
April 29, 2008	Docketing Statement Exited (Civil)		Western District Filing Office

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IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

SANDRA CONKLIN, as parent and :
natural guardian of JUSTINE KLINE:
VS. : NO. 03-68-CD
CLEARFIELD HOSPITAL and :
GEORGE PALMER :

O R D E R

AND NOW, this 18th day of April, 2008, it is the ORDER of this Court that Appellant shall, within fourteen (14) days from date hereof, file a concise statement of matters complained of on appeal in accordance with Pennsylvania Rule of Appellate Procedures 1925(b).

BY THE COURT,

John K. Reilly, Jr.
Senior Judge
Specially Presiding

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William A. Shaw
Prothonotary/Clerk of Courts

2 CC Attys: Patberg McIntyre

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FILED

APR 21 2008

William A. Shaw
Prothonotary/Clerk of Courts

DATE: 4/21/08

____You are responsible for serving all appropriate parties.

__X__The Prothonotary's office has provided service to the following parties:

____Plaintiff(s) __X__ Plaintiff(s) Attorney ____Other

____Defendant(s) __X__ Defendant(s) Attorney

____Special Instructions:

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

SANDRA CONKLIN, as parent and natural guardian of JUSTINE KLINE,

Plaintiffs,

v.

CLEARFIELD HOSPITAL and GEORGE F. PALMER,

Defendants

CIVIL DIVISION

NO.: 2003-68 CD

TYPE OF PLEADING:

NOTICE OF APPEAL

FILED ON BEHALF OF PLAINTIFFS

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JURY TRIAL DEMANDED

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Atty pd. $50.00
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to Superior Court

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

SANDRA CONKLIN, as parent and natural guardian of JUSTINE KLINE,	)	CIVIL DIVISION
	)	NO.: 2003-68 CD
Plaintiffs,	)	
v.	)	
CLEARFIELD HOSPITAL and GEORGE F. PALMER,	)	
Defendants.	)	**JURY TRIAL DEMANDED**

NOTICE OF APPEAL

Notice is hereby given that the Plaintiffs above named hereby appeal to the Superior Court of Pennsylvania from the Order entered in this matter on the 26th day of March, 2008. The Order has been entered on the docket as evidenced by the attached copy of the docket entry and a copy of the Order.

CERTIFICATION OF TRIAL TRANSCRIPT

Pursuant to Pa. R.A.P. 904, the undersigned counsel certifies the Trial Transcript has been lodged of record.

RESPECTFULLY SUBMITTED:

DATE: 4-15-08

PATBERG, CARMODY & GING

by _____
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Attorney for Plaintiffs

JURY TRIAL DEMANDED

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

SANDRA CONKLIN, as parent and natural guardian of JUSTINE KLINE, Plaintiffs,	:	
v.	:	No. 2003-68-CD
CLEARFIELD HOSPITAL and GEORGE F. PALMER, Defendants	:	

OPINION

Sandra Conklin, as parent and natural guardian of Justine Kline (hereafter Plaintiff), filed ten post-trial motions following a medical negligence jury trial held December 4, 2006 through December 12, 2006. On December 12, 2006, the jury awarded a verdict in favor of the Clearfield Hospital and George F. Palmer, finding no negligence on the part of Dr. Palmer.

This action is a medical negligence action which focused on the care that Justine Kline (hereafter Justine) received in the Emergency Room of Clearfield Hospital (hereafter E.R.) on February 23, 2002 commencing at approximately 1:00 a.m. George F. Palmer (hereafter Defendant) rendered treatment to Justine while she was in the E.R. suffering from urosepsis, bacteremia, and pylenephritis. While in the E.R., a urine analysis was performed on Justine's urine and blood cultures were taken. Justine was given Rocephen and then discharged from the E.R. at 5:45 a.m. that same day. Justine returned home where her condition worsened through the morning. On February 23, 2002 the Plaintiff returned to the Clearfield Hospital with Justine. Justine was transferred to Children's Hospital where she was met by an intensive care team. Upon admission to Children's Hospital, it was determined that she was suffering from septic shock, pulmonary edema and disseminated intravascular coagulation. Justine remained in the Children's Hospital from February 23, 2002 through March 13, 2002. On March 13, 2002,

Justine was transferred to rehabilitation therapy. Justine had to have four fingers amputated. Additionally, she has numerous physical scars and has had multiple corrective surgeries as a result of this illness.

DISCUSSION

The Plaintiff raises ten issues in her Post-Trial Motions, this Court addresses each issue in turn below.

1. The first issue the Plaintiff raises is that infectious disease expert, John Dossett, should not have been permitted to testify as to the standard of care of emergency room physician George Palmer or the staff at Clearfield Hospital.

Preliminarily, this Court will note that the Superior Court has stated "[d]ecisions regarding admission of expert testimony, like other evidentiary decisions, are within the sound discretion of the trial court." *Smith v. Paoli Memorial Hosp.,* 885 A.2d 1012, 1016 (Pa.Super. 2005) citations omitted. However, the *Smith* Court went on to say "the issue regarding the experts' qualifications under the MCARE Act is, however, in essence a question of statutory interpretation." *Id.* Finally, the "goal in interpreting any statute is 'to ascertain and effectuate the intention of the General Assembly." *Id.*

Here, the relevant portions of the MCARE Act are:

§ 1303.512. Expert qualifications

> (a) General rule.-No person shall be competent to offer an expert medical opinion in a medical professional liability action against a physician unless that person possesses sufficient education, training, knowledge and experience to provide credible, competent testimony and fulfills the additional qualifications set forth in this section as applicable.
>
> (b) Medical testimony.-An expert testifying on a medical matter, including the standard of care, risks and alternatives, causation and the nature and extent of the injury, must meet the following qualifications:

(1) Possess an unrestricted physician's license to practice medicine in any state or the District of Columbia.

(2) Be engaged in or retired within the previous five years from active clinical practice or teaching.

Provided, however, the court may waive the requirements of this subsection for an expert on a matter other than the standard of care if the court determines that the expert is otherwise competent to testify about medical or scientific issues by virtue of education, training or experience.

(c) Standard of care.-In addition to the requirements set forth in subsections (a) and (b), an expert testifying as to a physician's standard of care also must meet the following qualifications:

(1) Be substantially familiar with the applicable standard of care for the specific care at issue as of the time of the alleged breach of the standard of care.

(2) Practice in the same subspecialty as the defendant physician or in a subspecialty which has a substantially similar standard of care for the specific care at issue, except as provided in subsection (d) or (e).

(3) In the event the defendant physician is certified by an approved board, be board certified by the same or a similar approved board, except as provided in subsection (e).

(e) Otherwise adequate training, experience and knowledge.-A court may waive the same specialty and board certification requirements for an expert testifying as to a standard of care if the court determines that the expert possesses sufficient training, experience and knowledge to provide the testimony as a result of active involvement in or full-time teaching of medicine in the applicable subspecialty or a related field of medicine within the previous five-year time period.
40 P.S. § 1303.512(a), (b), (c), and (e).

Here, Dr. Dossett testified that he is licensed to practice medicine in Pennsylvania, that he currently is a Professor at the Milton Hershey Medical Center (the college of medicine of the Pennsylvania State University) and that his specialty is in pediatric infectious diseases. Further, he is one of only 350 pediatric infectious disease specialists in the country and he has in excess of 35 years of experience in treating and providing care to patients. He testified as a pediatric infectious disease specialist to the treatment and care given to Justine for her urinary tract

infection. He has experience treating the condition that Justine presented to the E.R. Additionally, he has in the past worked as an admitting physician and has had to decide whether to admit a patient presenting with the same symptoms as Justine. Although he is not specifically an E.R. physician, this Court found that he is an admitting physician at the Milton Hershey Medical Center and that his area of specialization covers Justine's condition. Dr. Dossett was examined at length in regard to his qualifications by both the attorney for the Plaintiff and the attorney for the Defendant. The Court was satisfied that Dr. Dossett met the standard required of expert witnesses under the MCARE Act.

2. The next issue the Plaintiff raises is that neither infectious disease expert John Dossett nor emergency room expert Christopher King should have been permitted to testify as to the speculated ultimate outcome of Justine Kline had she been timely treated.

Plaintiff argues that John Dossett and Christopher King were erroneously allowed to speculate at Trial regarding Justine's ultimate outcome. Plaintiff relies on *Hamil v. Bashline,* 392 A.2d 1280 (1978) in supporting her argument. Plaintiff claims that Dr. Dossett's testimony regarding the window of opportunity available to treat Justine was speculative and therefore, should have been excluded. Vol. VI, p. 64-65. Plaintiff claims that Dr. King's testimony was speculative because he was not qualified to provide infectious disease opinions and because he also identified a window of opportunity.

Hamil is not applicable in the present case. In *Hamil,* the Supreme Court considered a case where the trial court initially directed a verdict in favor of the defendant because the plaintiff's expert failed to testify with the required degree of medical certainty. *Hamil v. Bashline,* 392 A.2d 1280, 1283 (Pa. 1978). In considering the initial appeal, the Superior Court granted a new trial on the basis of §323(a) of the Restatement Second of Torts. *Id.* At the

second trial the case was submitted to a jury and a verdict was returned in favor of the defendant. *Id.* at 1283-1284. A second appeal was taken based on alleged deficiencies in the trial court's charge to the jury. *Id.* The Superior Court affirmed the entry of judgment for the defendant without addressing the issues raised by the plaintiff on the basis that it had erred in ordering a new trial at the time of the first appeal. *Id.* The Supreme Court therefore considered both the issue of whether the plaintiff's expert's testimony was sufficient to establish a prima facie case of negligence and the issue of whether the trial court erred in charging the jury on proximate cause. The Supreme Court in *Hamil* does not deal with whether certain testimony from a defense expert is permissible. Rather, it deals with the degree of certainty with which a plaintiff's expert must testify in order for a prima facie case to be made and the content of a proper charge on proximate cause if a prima facie case has been made. The Supreme Court does not discuss the propriety of estimates or speculation as to the likelihood of the plaintiff's recovery by defense experts.

"Admission and rejection of expert evidence is assigned to the sound discretion of the trial judge, whose conclusions, as to this sort of evidence as well as others, are tested by an abuse of discretion standard." *Burton-Lister v. Siegel, Sivitz and Lebed Associates,* 798 A.2d 231, 240 (Pa.Super. 2002) citations omitted. Both John Dossett and Christopher King were called to offer testimony as to the standard of care and that Justine's treatment by Defendant was appropriate. The testimony that is cited as objectionable in the Plaintiff's Brief in Support of Post-Trial Motions was elicited on cross-examination by the attorney for the Plaintiff. The Pennsylvania Rules of Appellate Procedure state "[i]ssues not raised in the lower court are waived and cannot be raised for the first time on appeal." Pa.R.A.P., Rule 302(a). Here, the Plaintiff's attorney elicited the testimony that he now contends is objectionable. At trial, the Plaintiff did not object

to the cross-examining of the witness, indeed, it was the Plaintiff that was in control of what Dr. King and Dr. Dossett were testifying to at the time they were being cross-examined. Therefore, because the testimony the Plaintiff objects to was elicited by the Plaintiff on cross-examination, and, hence, the Plaintiff did not object to it at Trial, the issue is waived as it is raised for the first time on appeal. Finally, the jury never reached the question of causation because they found that the defendants were not negligent.

3. The third issue the Plaintiff raises is that this Court should have instructed the jury that all funds were to be placed in a trust pursuant to Pennsylvania Rule of Civil Procedure 2039.

The Plaintiff alleges that the Court should have instructed the jury "Pennsylvania law requires that when a judgment ha been entered upon a verdict, the balance of the fund shall be paid to a guardian to be placed in a trust, which is subject to Court supervision." Plaintiff's Point for Charge No. 45. Plaintiff believed this charge to be necessary because when the Plaintiff testified she stated "they had suggested to me to go to Shriners because I wouldn't have had the money to pay for it and they do it for nothing. So they told me to go there." Vol. III, p. 124, lns. 4-7.

"In deciding whether a trial court erred in refusing to give a jury instruction, we must determine whether the court abused its discretion or committed an error of law." *Commonwealth v. Demarco,* 809 A.2d 256, 260-61 (Pa. 2002). In *Young v. Washington Hospital,* the Court stated "[t]here is little, in our view, more prejudicial or inflammatory than suggesting that plaintiff-parents have sued on behalf of their injured child for their own financial gain. This is the most offensive kind of insinuation." *Young v. Washington Hosp.,* 761 A.2d 559, 562 (Pa.Super. 2000). The *Washington* Court held that where the defense counsel had made inflammatory statements regarding a parent's financial situation it was error for a court not to

instruct the jury on Pennsylvania Rule of Civil Procedure 2039. Here, this Court determined that it was unnecessary to give this instruction to the jury. Unlike *Young,* where the Defense made statements during its opening remarks that strongly insinuated that the parents had instituted the action for mercenary reasons, here the Defendant did not make any remarks regarding the Plaintiff's financial state. The Plaintiff did mention during direct examination that she had taken Justine to Shriners but the point was not belabored, nor was it objected to. The jury heard six days of testimony, one remark by the Plaintiff regarding the hospital she took Justine to that did not have any attention called to it, was not prejudicial. Therefore, this Court acted within its sound discretion in determining that it was not necessary to give Plaintiff's Point for Charge No. 45.

4. The fourth issue the Plaintiff raises is that this Court should have permitted the playing of videotaped depositions during the closing argument.

The Plaintiff argues that she should have been permitted to play portions of videotaped depositions during the closing argument to counter Dr. Dossett's testimony that there was no window of opportunity to treat Justine. The Plaintiff cites *Contractors Lumber & Supply Company v. Quinette* which states:

> While counsel are required to stay within reasonable bounds in making their partisan pleas to a jury, this does not mean that their speeches may not be spirited, stirring, and accusatory, if the material of the trial supplies them with relevant oratorical ammunition. There is nothing in the law, and certainly nothing in the history of American forensic appeal, which remotely suggests that a lawyer's summation must be a prosaic and dull affair, devoid of metaphor, empty of simile, and stranger to dramatic, poetical, or sentimental allusion. So long as no liberties are taken with the evidence, a lawyer is free to draw such inferences as he wishes from the testimony and to present his case in the light most suited to advance his cause and win a verdict in the jury box.
> *Contractors Lumber & Supply Company v. Quinette,* 126 A.2d 442, 444 (1956).

Clearly, *Contractors Lumber* was decided in a time before there was the technology sufficient to allow for videotaping and does not deal with the issue of videotaped depositions at all. The proposition *Contractors Lumber* stands for, that an attorney is free to use the evidence and give a closing argument that is spirited, stirring and accusatory, was not disturbed here. Additionally, the Plaintiff was permitted by the Court to read the relevant portions of the depositions during his closing argument. However, the Plaintiff chose not to read the testimony from the depositions during his closing remarks. Allowing the Plaintiff to play the videotaped depositions would have resulted in the impermissible presentation of cumulative evidence during closing argument. Therefore, the Court was correct in denying the Plaintiff's request to play the portions of the videotaped depositions as part of his closing argument.

5. The fifth point the Plaintiff raises is that the Court should not have permitted George Palmer to testify that he completed his "note" after receiving a "memo" from medical records.

Dr. Palmer testified to a hand written addendum that he wrote in Justine's chart during his next shift following when he saw her on February 23, 2002. The Plaintiff did not object to the testimony Dr. Palmer gave regarding this handwritten addendum. Vol. II, pp. 104-107. In fact, the Plaintiff's next objection did not come until some time later when Dr. Palmer had moved on to testify about other matters. See Vol. II, p. 134, ln. 23. The Pennsylvania Rules of Appellate Procedure state "[i]ssues not raised in the lower court are waived and cannot be raised for the first time on appeal." Pa.R.A.P., Rule 302(a). Therefore, because the Plaintiff did not object to the testimony at trial she has waived her objection to this testimony.

6. The sixth issue the Plaintiff raises in her Post-Trial Motion is that cross-examination of Dr. Tilelli with a published legal opinion was improper.

The Plaintiff's expert, Dr. Tilelli, was cross-examined by the Defendant using a legal opinion from a past case in which Dr. Tilelli was offered as an expert witness. The Defendant questioned Dr. Tilelli regarding his involvement in *Wade-Greaux v. Whitehall Laboratories, Inc.*, 874 F.Supp. 1441 (D.C.V.I. 1994) during cross-examination on his qualifications as an expert. Specifically, the Defendant was pursuing the line of questioning with regards to *Wade-Greaux* to determine if Dr. Tilelli had been disqualified as an expert witness or if he had had his expert opinion disqualified in the past. The legal opinion was used to refresh Dr. Tilelli's recollection, it was not entered into evidence nor did the Defendant read any portion of the legal opinion to the jury. Dr. Tilelli had testified on direct examination that none of his opinions had been disqualified. The Defendant used the *Wade-Greaux* opinion to question Dr. Tilelli's qualifications and impeach his credibility. Dr. Tilelli responses to the questions on cross-examination established that he had not been disqualified as an expert. Dr. Tilelli distinguished the situation as having the underlying study to which he was prepared to testify about declared irrelevant.

The Plaintiff contends that this line of questioning was improper under Pennsylvania Rule of Evidence 608(b)(1). This Rule states that "the character of a witness for truthfulness may not be attacked or supported by cross-examination or extrinsic evidence concerning specific instances of the witness' conduct." Pa.R.E. 608(b)(1). The questions the Defendant posed on cross-examination did not concern a specific instance of the witness's conduct. Rather, the questions were posed to rebut the statement that Dr. Tilelli made that to the best of his knowledge none of his opinions had been disqualified by a court of law. The Pennsylvania Rules of Evidence also provide "[t]he credibility of a witness may be impeached by any evidence relevant to that issue, except as otherwise provided by statute or these Rules." Pa.R.E. Rule

607(b). This is precisely what the Defendant used the *Wade-Greaux* opinion to do, impeach Dr. Tilelli. However, as noted, Dr. Tilelli distinguished the situation in *Wade-Greaux* from having an opinion disqualified. This Court weighed the probative value of the evidence against the dangers of unfair prejudice, confusion of the issues, and waste of time as required by Pa.R.E. 403 and determined the importance of the issue surrounding an expert's qualifications outweighed the risk of prejudice.

7. The next issue the Plaintiff raises is that Dr. King should not have been permitted to repeatedly reference the Hoberman Article to bolster his testimony.

At trial, the Defendant's expert witness, Dr. King, referred to an article written by Dr. Alejandro Hoberman during his testimony. The Plaintiff argues that this Court's Order of November 20, 2006 prohibited Dr. King from referencing the Hoberman Article during his testimony. The Order referenced prohibits Dr. King from quoting the Hoberman Article verbatim and it prohibits the Defendant from entering the opinion or argument of Hoberman into evidence.

The Plaintiff relies on *Aldridge v. Edmunds* 750 A.2d 292 (2000) to support their argument. In *Aldridge,* the Pennsylvania Supreme Court held "that if published material is authoritative and relied upon by experts in the field, although it is hearsay, an expert may rely upon it in forming his opinion; indeed, it would be unreasonable to suppose that an expert's opinion would not in some way depend upon the body of works preceding it." *Aldridge v. Edmunds* 750 A.2d 292, 297 (2000). However, the *Aldridge* Court cautioned that since "the purpose for which treatises may be referenced on direct examination is generally limited to explaining the reasons underlying the opinion, the trial court should exercise careful control over their use to prevent them from being made the focus of the examination." *Id.*

Here, Dr. King testified that the appropriate antibiotic was given to Justine under the current standard and that the standard was based on research and expert opinion. Vol. V, p. 30, lns. 3-24. Dr. King further testified generally to what the Hoberman Article found and how it changed the standard of care. Vol. V, p. 32, lns. 16-25, p. 33, lns. 1-12, p. 34 lns. 3-25, p. 35 lns. 1-8. Plaintiff's attorney did not specifically object to any portion of Dr. King's testimony and in fact, agreed that Dr. King could talk about what the study involved generally. Vol. V, p. 32, lns. 3-4. The manner in which Dr. King testified did not impermissibly focus the jury's attention on the article. Further, this Court exercised control over Dr. King's testimony by ordering that he would not be permitted to quote the Hoberman Article verbatim, nor would Dr. Hoberman's opinion be entered into evidence.

8. The next issue the Plaintiff raises in her Post-Trial Motions is that this Court should have instructed the jury on points for charge numbers 33 and 34 pursuant to 40 P.S. §1303.512.

The Plaintiff asserts that this Court erred in not instructing the jury on points for charge numbers 33 and 34, however, in her brief Plaintiff references points for charge 34 and 35. Point for charge 35 was actually given as an instruction minus one explanation for the alteration of medical records that was not applicable to this case. Therefore, this Court will focus its attention on point for charge 34.

Point for charge 34 contained an instruction that essentially stated that state law prohibits the alteration of medical records with the intent to deceive or mislead and that the alteration of medical records. The instruction went on to say that the alteration of medical records is admissible as evidence of a defendant's own belief that the actual records do not support his defense. Further, the instruction stated that a negative inference arises if it is found that the defendant doctor altered the medical records with the intent to deceive or mislead anyone.

Plaintiff argues that by not giving this instruction the jury may have believed that such handwritten entries were normal under these circumstances.

The jury instructions this Court gave were appropriate under Pennsylvania law. The applicable statute provides that "[i]n any medical professional liability action in which the claimant proves by a preponderance of the evidence that there has been an intentional alteration or destruction of medical records, the court in its discretion may instruct the jury to consider whether such intentional alteration or destruction constitutes an adverse inference." 40 P.S. §1303.511(c). Here, this Court did instruct the jury that if there had been an intentional alteration of medical records that the jury could draw an adverse inference. It is also important to note that the statute is permissive, even if the claimant proves by a preponderance of the evidence that there has been an alteration of medical records a court does not have to instruct the jury to consider whether such alteration constitutes an adverse inference. Point for charge 34 and point for charge 35 were similar in instructing the jury when it could draw an adverse inference. However, point for charge 35 more clearly stated the law. Therefore, this Court did not err in giving only point for charge 35.

9. The ninth issue the Plaintiff raises in her Post-Trial Motions is that this Court should have given a specific instruction that there was no evidence of any contributory negligence by Plaintiff, as requested in Plaintiff's point for charge number 46.

The Plaintiff asserts that this Court should have specifically instructed the jury that the Plaintiff was not negligent in her care of Justine following Justine's discharge from the E.R. Plaintiff argues that Defendant asked Dr. King about the discharge instructions. Further, Plaintiff was asked about Justine's condition after discharge and immediately prior to returning with her to the E.R. The Defendant did not offer any testimony or evidence that lack of care or

detrimental treatment by the Plaintiff caused any detrimental effects in Justine. The questions to Dr. King were limited to whether the discharge instructions were appropriate. The questions to Plaintiff were regarding the discharge instructions and what precipitated the return to the E.R.

"In deciding whether a trial court erred in refusing to give a jury instruction, we must determine whether the court abused its discretion or committed an error of law." *Commonwealth v. Demarco,* 809 A.2d 256, 260-61 (Pa. 2002). Further a "charge is considered adequate unless the jury was palpably misled by what the trial judge said or there is an omission which is tantamount to fundamental error. Consequently, the trial court has wide discretion in fashioning jury instructions." *Angelo v. Diamontoni*, 871 A.2d 1276, 1279 (Pa. Super. 2005). Additionally, "[a] trial judge is bound to charge the jury only on the law applicable to the factual parameters of a particular case and it may not instruct the jury on inapplicable legal issues." *Cruz v. Northeastern Hosp.,* 801 A.2d 602, 611 (Pa.Super. 2002). Finally, "where the record includes no evidence to satisfy the elements of a particular legal doctrine, the court may not discuss that doctrine in its charge." *Angelo v. Diamontoni*, 871 A.2d 1276, 1279 (Pa. Super. 2005). Here, the Defense presented no evidence at Trial that the Plaintiff had been negligent in any way that impacted Justine. Therefore, this Court acted appropriately in not giving the instruction that there was no evidence of contributory negligence. The issue of contributory negligence was never discussed.

10. The final issue the Plaintiff raises is that the totality of the errors in this case demand that the Plaintiff receives a new trial.

In determining whether the grant of a new trial is appropriate, the trial court trial "must follow a two-step process in responding to a request for a new trial. The trial court must determine whether a factual, legal or discretionary mistake was made at trial. If the trial court

determines that one or more mistakes were made, it must then evaluate whether the mistake provided a sufficient basis for granting a new trial." *MacNutt v. Temple University Hosp., Inc.*, 932 A.2d 980, 985 (Pa.Super. 2007) citations omitted. Further, the *MacNutt* Court stated "[a] new trial is not warranted merely because some irregularity occurred during the trial or another trial judge would have ruled differently; the moving party must demonstrate to the trial court that he or she has suffered prejudice from the mistake." *Id.* citations omitted. Here, this Court asserts that no factual, legal, or discretionary mistake was made at trial. However, even if there were irregularities at Trial, the Plaintiff has not demonstrated that she suffered prejudice from the mistake. Therefore, this Court denies the Plaintiff's Post-Trial Motion for a new trial.

ORDER

NOW, this 26th day of March, 2008, following argument and review of the parties' briefs, it is the Order of this Court that the Plaintiff's Post-Trial Motions be and are HEREBY DENIED for the reasons set forth in the foregoing Opinion.

BY THE COURT:

/s/JOHN K. REILLY, JR.

JOHN K. REILLY, JR., SENIOR JUDGE
46th Judicial District
Specially Presiding

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

MAR 27 2008

Attest. William L. Ohm
Prothonotary/
Clerk of Courts

Clearfield County Court of Common Pleas
ROA Report
Case: 2003-00068-CD
Current Judge: Fredric Joseph Ammerman
Sandra Conklin, Justine Kline vs. Clearfield Hospital, George F. Palmer, James P. DeSantis, Ernest P. Jones

Civil Other

Date		Judge
1/16/2003	Filing: Writ of Summons Paid by: Patberg, Rolf Louis Receipt number: 1854076 Dated: 01/16/2003 Amount: $85.00 (Check) 1 CC & 4 Writs to Shff.	No Judge
1/23/2003	Praecipe For Entry of Appearance, filed by Atty. McIntrye No Cert. Copies Please enter my appearance for Defendants, Clearfield Hospital and George F. Palmer	No Judge
	Praecipe ot Enter Rule to File Complaint within 20 days after date of service issued. Rule Dated: January 23, 2003, filed by Atty. McIntyre Rule issued to Atty.	No Judge
1/29/2003	Praecipe For Entry of Appearance on Behalf of Defendant, JAMES P. DeSANTIS. s/Mary Lou Maierhofer, Esquire Certificate of Service no cc	No Judge
2/5/2003	Praecipe For Appearance on behalf of Defendant, ERNEST P. JONES. filed by s/John L. McIntyre, Esquire no cc	No Judge
2/6/2003	Certificate of Service, Rule to File Complalint upon ROLF LOUIS PATBERG, ESQ. filed by s/John L. McIntyre, Esquire no cc	No Judge
2/11/2003	Sheriff Return, Papers served on Defendant(s). So Answers, Chester A. Hawkins, Sheriff by s/Marilyn Hamm	No Judge
3/3/2003	Complaint In Civil Action. filed by s/Rolf Louis Patberg, Esq. Certificate of Service no cc	No Judge
3/10/2003	Verification to Complaint, s/ Sandra Conklin, filed by s/Rolf Louis Patberg, Esq. No CC	No Judge
3/11/2003	Preliminary Objections to Plaintiffs' Complaint, filed by s/Mary Lou Maierhofer, Esq. No CC	No Judge
3/14/2003	Preliminary Objections to Plaintiff's Complaint. filed by s/John L. McIntyre, Esq. no cc	No Judge
3/18/2003	Joint Motion For Protective Order. filed by, s/Mary Lou Maierhofer, Esq. Certificate of Service no cc	No Judge
3/21/2003	Certificate of Service, Objections to Plaintiffs' First Set of Interrogatories and Request for Production of Documents Directed to Defendant, James P. DeSantis upon: ROLF LOUIS PATBERG, ESQ. s/JOHN McINTYRE, ESQ. filed by s/Mary Lou Maierhofer, Esq. no cc	John K. Reilly Jr.
4/7/2003	Plaintiffs Reply to Defendants Joint Motion For Protective Order. filed by s/Sean P. Duff, Esquire Certificate of Service 1 cc to Atty.	John K. Reilly Jr.
4/29/2003	Plaintiffs Reply To Preliminary Objections Of Defendants Palmer, Jones and Clearfield Hospital. Filed by s/Rolf Louis Patberg, Esquire Certificate of Service no cc	John K. Reilly Jr.
	Plaintiffs Reply To Defendant, James P. Desantis', Preliminary Objections. filed by s/Rolf Louis Patberg, Esquire Certificate of Service no cc	John K. Reilly Jr.
5/19/2003	ORDER, NOW, this 16th day of May, 2003, re: Joint Motion For Protective Order filed on behalf of Defendants, Motion is DISMISSED w/o prejudice in Defendants to raise the same should they become relevant at a later date. It is the further ORDER of this Court that said Defendants shall respond to Plaintiff's discovery request within 30 days from date hereof. by the Court, s/JKR,JR.,P.J. 2 cc Atty Patberg, McIntyre	John K. Reilly Jr.

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

APR 11 2008

Attest. Prothonotary/ Clerk of Courts

Civil Other

Date		Judge
5/19/2003	ORDER, NOW, this 16th day of May, 2003, re: P.O.'s filed on behalf of Defendant, Objections shall be and are hereby CONTINUED and Plaintiff directed to file with the Court, with copies to counsel for Defendants, the factual basis surrounding the various counts in her Complaint within 20 days from completion of discovery. by the Court, s/JKR,JR.,P.J. 2 cc Atty Patberg, McIntyre	John K. Reilly Jr.
5/21/2003	Certificate Of Service, Request for Production of Documents Directed to Plaintiff, Sandra Conklin, as Parent and Natural Guardian of Justine Kline and Sandra Conklin upon: ROLF LOUIS PATBERG, ESQ. and JOHN McINTYRE, ESQ. filed by s/Mary Lou Maierhofer, Esquire no cc	John K. Reilly Jr.
	Certificate of Service, First Set of Interrogatories Directed to Sandra Conklin, as parent and natural guardian of Justice Kline and Sandra Conkin, ind. upon: ROLF LOUIS PATBERG, ESQ. and JOHN McINTYRE, ESQ. filed by s/MARY LOU MAIERHOFER, ESQ. no cc	John K. Reilly Jr.
6/5/2003	Notice Of Service Of Interrogatories And Request For Production Of Documents Directed To Plaintiffs - Dated: 6/24/03, upon: ROLF LOUIS PATBERG, ESQ. filed by s/John L. McIntyre, Esquire no cc	John K. Reilly Jr.
6/10/2003	Certificate of Service, Answers/Responses to First Set of Interrogatories and Request for Production of Documents Directed to Defendant, James P. DeSantis upon: ROLF LOUIS PATBERG, ESQ and JOHN McINTYRE, ESQ. filed by s/Mary Lou Maierhofer, Esq. no cc	John K. Reilly Jr.
7/9/2003	Notice of Service of Answers to First Set of Interrogatories and Request For Production of Documents upon ROLF LOUIS PATBERG, ESQ. filed by s/John L. McIntyre, Esquire no cc	John K. Reilly Jr.
7/11/2003	Motion To Compel. filed by s/Mary Lou Maierhofer, Esquire Certificate of Service no cc	John K. Reilly Jr.
7/14/2003	ORDER OF COURT, NOW, this 14th day of July, 2003, upon consideration of the Motion To Compel of Defendant, James P. DeSantis, and after Hearing upon the same, the Court does hereby Order, Direct and Decree that Plaintiffs produce their outstanding discovery within 10 days from the date of this Order. by the Court, s/JKR,JR.,P.J. 2 cc Atty Maierhofer	John K. Reilly Jr.
7/16/2003	STIPULATION, AND NOW, this 11th day of July, 2003, re: Removal of Ernest P. Jones, M.D. as a party Defendant. s/Mary Lou Maierhofter, Esq., s/John L. McIntyre, Esq., and s/Rolf Louis Patberg, Esq. 1 cc Atty McIntyre	John K. Reilly Jr.
7/17/2003	Order of Court: AND NOW, this 16th day of 2003, pursuant to Stipulation of counsel, it is Ordered that Ernest P. Jones M. D. is dismissed from the above lawsuit pursuant to the Affidavit of Non-Involvement signed in accordance with 40 Pa. C. S. 1301.827-A. Prothonotary is directed to remove the name of Ernest P. Jones M.D. from the within lawsuit. s/JKR 1 CC to Atty. McIntyre	John K. Reilly Jr.
	Certificat of Service, filed by Atty. Maierhofer No. c/c Served copy of Order via fax & 1st class mail to Atty. Patberg & Atty. McIntyre.	John K. Reilly Jr.
7/30/2003	Notice Of Service Of Plaintiffs' Second Set Of Interrogatories And Request For Production Of Documents Directed To All Defendants. filed by s/Rolf Louis Patberg, Esquire no cc	John K. Reilly Jr.
8/20/2003	Motion to Compel Discovey, filed by s/Rolf Louis Patberg, Esq. No CC	John K. Reilly Jr.

Clearfield County Court of Common Pleas
ROA Report
Case: 2003-00068-CD

Current Judge: Fredric Joseph Ammerman
Sandra Conklin, Justine Kline vs. Clearfield Hospital, George F. Palmer, James P. DeSantis, Ernest P. Jones

Civil Other

Date		Judge
8/22/2003	ORDER OF COURT, AND NOW, to-wit, this 22nd day of August, 2003, upon consideration of Plaintiffs' Motion To Compel Discovery, it is hereby ORDERED, ADJUDGED, and DECREED that Defendant Clearfield Hospital shall serve full and complete Answers to Interrogatories Numbers 5,7,10,11,12,15,25,26,30,31,32,33,34,35,38,39, 40, 43, 44, and 47, This information sahll be provided within 20 days of the date of this Order. by the Court, s/JKR,JR.,P.J. 1 cc Atty Patberg.	John K. Reilly Jr.
9/3/2003	Certificate of Service, Answers/Responses to Plaintiffs' Second Set of Interrogatories and Requests for Production of Documents Directed to all Defendant upon: Rolf Louis Patberg, Esq. and John McIntyre, Esq. filed by s/Mary Lou Maierhofter, Esquire no cc	John K. Reilly Jr.
9/17/2003	Notice Of Intent To Serve Subpoenas to Produce Documents and Things For Discovery Pursuant to Rule 4009.21. upon Children's Hospital of Pittsburgh and STAT Med Evac. filed by s/Mary Lou Maierhofer, Esq. no cc	John K. Reilly Jr.
9/25/2003	Waiver Of Objection To Subpoena, filed by s/Rolf Louis Patberg, Esquire Certificate of Service no cc	John K. Reilly Jr.
9/29/2003	Certificate Prerequisite To Service of Subpoenas Pursuant to Rule 4009.22. Subpoenas to Produce Documents and Things upon: Children's Hospital of Pittsburgh and STAT Med Evac. filed by s/Mary Lou Maierhofer, Esq. no cc	John K. Reilly Jr.
10/8/2003	Notice of Service of Supplemental Answers to Interrogatories on behalf of Clearfield Hospital filed by Atty. McIntyre. No cc.	John K. Reilly Jr.
10/9/2003	Notice of Deposition of Plaintiff, Sandra Conklin. filed by s/Mary Lou Maierhofer, Esquire Cert of Svc no cc	John K. Reilly Jr.
11/4/2003	Revised Notice of Deposition of Plaintiff filed by Atty. Maierhofer. No cc.	John K. Reilly Jr.
11/6/2003	Notice of Service of Amended Notice of Deposition of Defendant George F. Palmer	John K. Reilly Jr.
12/5/2003	Certificate Prerequisite To Service Of a Subpoena Pursuant to Rule 4009.22. filed by, s/Mary Lou Maierhofer, Esq. no cc	John K. Reilly Jr.
	Notice Of Intent To Serve A Subpoena To Produce Docuemnts And Things For Discovery Pursuant To Rule 4009.21. filed by, s/Mary Lou Maierhofer, Esquire no cc	John K. Reilly Jr.
1/21/2004	ORDER, AND NOW, this 21st day of January, 2004, re: Status Conference scheduled for Friday, Feb. 22, 2004, at 9:45 a.m., in Courtroom No. 1. by the Court, s/FJA,P.J. 1 cc Attys Patberg, McIntyre, and Maierhofer	John K. Reilly Jr.
1/23/2004	AMENDED ORDER, AND NOW, this 22nd day of January, 2004, re: Status Conference scheduled for Friday, Feb. 6, 2004, at 9:45 a.m., in Courtroom No. 1. by the Court, s/FJA,P.J. 1 cc Atty Patberg, McIntyre, and Maierhofer	John K. Reilly Jr.
2/6/2004	Revised Notice Of Deposition Of Plaintiff, Sandra Conklin. filed by, s/Mary Lou Maierhofer, Esquire no cc	John K. Reilly Jr.
	ORDER, NOW, this 5th day of Feb., 2004, re; Status Conference is CANCELLED. Counsel for the parties shall have no more than 20 days from the date of this Order to present the Court with a letter detailing the status of the above captioned action. by the Court, s/FJA,P.J. 2 cc Atty Patberg, McIntyre, Maierhofer, 1 copy President Judge Ammerman and CA	John K. Reilly Jr.

Civil Other

Date		Judge
2/19/2004	Notice of Deposition of Plaintiff, Justine Kline. filed by, s/John L. McIntyre, Esquire no cc	John K. Reilly Jr.
	Notice of Service Of Supplemenetal Interrogatories Directed To Plaintiff. filed by, s/John L. McIntyre, Esquire no cc	John K. Reilly Jr.
2/26/2004	Amended Notice of Deposition. filed by, s/John L. McIntyre, Esquire no cc	John K. Reilly Jr.
6/4/2004	Notice of Service of Request For Production Of Documents Directed To Plaintiffs Dated 06/03/04. filed by, s/John L. McIntyre, Esquire bi cc	John K. Reilly Jr.
7/29/2004	Notice of Service of Answers to First Set of Interrogatories and Requests for Production of Documents Directed to Defendant, George F. Palmer, M.D., upon Rolf Louis Patberg, Esq., filed by s/John L. McIntyre, Esq. No CC	John K. Reilly Jr.
9/1/2004	Motion to Compel Expert Report, filed by s/Mary Lou Maierhofer, Esq. No CC	John K. Reilly Jr.
9/9/2004	ORDER filed. NOW this 7th day of September, 2004, upon consideration of the Motion to Compel Expert Report of Def. James P. DeSantis, and after hearing upon the same, the Court does hereby Order, Direct and Decree Plaintiffs produce an expert report as against Def. DeSantis within 30 days from the Court's Order. S/FJA 1 CC to Atty.	John K. Reilly Jr.
9/13/2004	Certificate of Service,Order of Court dated September 7, 2004 on Motion to Compel Expert Report, was served the 10th day of September, 2004, first class United States Mail upon: Rolf Louis Patberg, Esquire. Filed by s/Mary Lou Maierhofer, Esquire. No CC.	John K. Reilly Jr.
9/27/2004	Motion for Extension of Time to File Expert Report, filed by s/Rolf Louis Patberg, Esq. No CC	John K. Reilly Jr.
9/28/2004	ORDER filed. 2 cert. to Atty. NOW, this 27th day of September, 2004, Plaintiff Motion Granted, Plaintiff shall have until Nov. 7, 2004 to produce an expert report.	John K. Reilly Jr.
9/30/2004	Reply To Plaintiffs' Motion for Extension of Time to File an Expert Report, filed by s/Mary Lou Maierhofer, Esquire. Certificate of Service, 29th of Sept. 2004 by first class U.S. Mail, to Rolf Louis Patberg, Esquire, and John McIntyre, Esquire. No CC	John K. Reilly Jr.
11/1/2004	Motion to Voluntarily Discontinue All Claims Against Defendant James P. DeSantis and Amend Caption, filed by s/Rolf Louis Patberg, Esq. No CC	John K. Reilly Jr.
11/2/2004	Order, AND NOW, to-wit, this 2nd day of Nov. 2004, it is hereby ORDERED that Plaintiff's Motion to Voluntarily Dismiss All Claims Against Dr. James P. Desantis is GRANTED. The caption is hereby amended to state as follows: CLEARFIELD HOSPITAL AND GEORGE F. PALMER, Defendants. BY THE COURT:/s/ Fredric J. Ammerman, President Judge. 1CC Atty Patberg	Fredric Joseph Ammerman
11/4/2004	Reply to the Motion to Voluntarily Discontinue All Claims Against Defendant, James P. DeSantis and Amend Caption, filed by s/Mary Lou Maierhofer, Esq. No CC	Fredric Joseph Ammerman
12/22/2004	Motion to Amend the Court's Order of Nov. 2, 2004 in Dismissing Def. James P. Desantis filed by Atty. Maierhofer. No CC.	Fredric Joseph Ammerman
12/23/2004	Amended Order of Court, filed 1 Cert. to Atty. NOW, this 23rd day of Dec., 2004 RE: Plaintiff's Moiton to Voluntarily Discontinue, James P. DeSantis is dismissed with prejudice.	Fredric Joseph Ammerman

Civil Other

Date		Judge
1/21/2005	Notice of Deposition, on behalf of Defendants Clfd. Hospital and George F. Palmer, Deposition of Kristin McBride will be taken at offices of Sargent's Court Reporting Service, 106 N. Second St. 1st Floor, Clfd. PA on Feb. 3, 2005 at 11:00 a.m. filed by s/ John L. McIntyre, Esquire. No CC	Fredric Joseph Ammerman
1/25/2005	Notice of Depositions, of Plantiff Justine Kline, Shirley Morrison (Grandmother), and Ronald Kline (Grandfather) at Sargent's Court Reporting Service on Feb. 3, 2005 commencing at 12:30 p.m. Filed by s/ John L. McIntyre, Esquire. No CC	Fredric Joseph Ammerman
2/4/2005	Notice of Service of Notice of Deposition of Kathleen Plansinis, filed by s/Rolf Louis Patberg, Esq. No CC	Fredric Joseph Ammerman
	Notice of Service of Notice of Deposition of Keith Paras, filed by s/Rolf Louis Patberg, Esq. No CC	Fredric Joseph Ammerman
2/7/2005	Notice of Service of Expert Interrogatories Directed to Defendant George F. Palmer and Clearfield Hospital, filed by s/Rolf Louis Patberg, Esq. No CC	Fredric Joseph Ammerman
	Notice of Service Of Second Request For Production of Documents, directed to Plaintiff Dated: 2/4/05, filed by s/ John L. Mcintyre, Esquire. No CC	Fredric Joseph Ammerman
3/9/2005	Supplemental Report of John A. Tilelli, filed by Atty. Patberg no cert. copies.	Fredric Joseph Ammerman
8/2/2005	Notice of Deposition of Shirley Morrison, filed by s/ John I. McIntyre, Esquire. No CC	Fredric Joseph Ammerman
	Notice of Deposition of Ronald Kline, filed by John L. McIntyre Esq. No CC.	Fredric Joseph Ammerman
8/24/2005	Sheriff Return, August 19, 2005, served the within Subpoena to Attend & Testify; Notice of Deposition on Shirley Morrison August 11, 2005, served the within Subpoena to Attend & Testify; Notice of Seposition on Ronald Kline. So Answers, Chester A. Hawkins, Sheriff by s/Marilyn Hamm. Shff Hawkins costs pd by atty. $69.49	Fredric Joseph Ammerman
3/23/2006	Praecipe for Trial, filed by Atty. Patberg. no cert. copies.	Fredric Joseph Ammerman
8/10/2006	Answer and New Matter to Plaintiff's Complaint, filed by s/ John L. McIntyre Esq. 2CC Atty McIntyre.	Fredric Joseph Ammerman
8/11/2006	Order, Now, this 10th day of August, 2006, following Pre-Trial Conference, it is the Order of this Court as follows: Ordered that the caption be amended to reflect that the only remaining Defendants are Clearfield Hospital and George F. Palmer, D.O. Jury Selection will be held on August 29, 2006 commencing at 9:00 a.m. in Courtroom No. 1. Jury Trial is scheduled for Dec. 4, 5, 6, 7, 8, 11, 12, and 13, 2006 commencing at 9:00 a.m. each day in Courtroom No. 1. (see original). oral argument and hearing on any outstanding motions or petitions shall be held on Nov. 20, 2006 at 9:30 a.m. in Courtroom No. 3. By the Court, /s/ Fredric J. Ammerman, Pres. Judge. 1CC Attys: Patberg, McIntyre	Fredric Joseph Ammerman
	Order, NOW, this 10th day of August, 2006, it is the Order of the Court that argument on Def.'s Preliminary Objection has been scheduled for Monday, Oct. 2, 2006 at 9:30 a.m. in Courtroom No. 1. 1/2 hour has been allotted for purpose of this hearing. It is the responsibility of Defs. Counsel to serve certified copies of said Petition and scheduling Order on the Plaintiff. By The Court, /s/ Fredric J. Ammerman, Pres. Judge. 4CC Atty. McIntyre	Fredric Joseph Ammerman

Civil Other

Date		Judge
8/25/2006	Reply to New Matter, filed by s/ Rolf Louis Patberg Esq. No CC.	Fredric Joseph Ammerman
9/21/2006	Motion For Partial Summary Judgment And/Or in Support of Preliminary Objections, filed by s/ John L. McIntyre, Esquire. No CC	Fredric Joseph Ammerman
9/25/2006	Motion For Costs And Counsel Fees Pursuant to PA.R.C.P. 4008, filed by s/ John L. McIntyre, Esquire. 1CC Atty.	Fredric Joseph Ammerman
10/2/2006	Notice of Service of Notice of Videotaped Deposition of Michael Moritz MD, filed by s/ Rolf Louis Patberg Esq. No CC.	Fredric Joseph Ammerman
	Notice of Service of Notice of Videotaped Deposition of Steven Docimo MD, filed by s/ Rolf Louis Patberg Esq. No CC.	Fredric Joseph Ammerman
10/3/2006	Stipulation, and Now, come the parties by and through their attorneys and agree to and stipulate to the following: 1. Plaintiff filed a Complaint and in the Complaint sets forth a claim for punitive damages. 2. Plaintiff has agreed to withdraw the claim for punitive damages. 3. It is requested that this Court sign an Order dismissing the claim for punitive damages as a result of the above agreement. Signed by Rolf L. Patberg, Esquire, and John L. McIntyre, Esquire. Filed per Judge Ammerman's instructions. No CC	Fredric Joseph Ammerman
	Order, NOW, this 2nd day of October, 2006, pursuant to the attached Stipulation, it is Ordered that the plaintiff's claim for punitive damages is withdrawn and dismissed with prejudice. By The Court, /s/ Fredric J. Ammerman, Pres. Judge. 1CC Attys. Patberg, McIntyre	Fredric Joseph Ammerman
10/10/2006	Notice of Address Change, filed by Atty. Patberg, 1 Cert. to Atty. copy to C/A Change of Plaintiff's counsel, Folf Louis Patberg, Esquire has changed to:Deutschtown Center, 801 Vinial Street, 3rd Floor, Pittsiburgh, 15212	Fredric Joseph Ammerman
10/24/2006	Order, NOW, this 23rd day of Oct., 2006, Ordered that Defendants' motion for Partial Summary Judgment and Defendants' Preliminary Objections as to Plaintiffs' Claim for Negligent Infliction of Emotional Distress be and are hereby Dismissed. By the Court, /s/ Fredric J. Ammerman, Pres. Judge. 1CC Attys: Patberg, McIntyre	Fredric Joseph Ammerman
10/30/2006	Notice of Service of Notice of Videotaped Deposition of C. Raymond Schaney, P.T., filed by s/ Rolf Louis Patberg Esq. No CC.	Fredric Joseph Ammerman
11/3/2006	Plaintiffs' First Motions in Limine, filed by Atty. Patberg no cert. copies.	Fredric Joseph Ammerman
11/6/2006	Notice of Service of Notice of Videotaped Deposition of K.P. Yakuboff, M.D., filed by s/ Rolf Louis Patberg Esq. No CC.	Fredric Joseph Ammerman
11/7/2006	Notice of Service of Notice of Videotaped Deposition of Daniel Friedberg, M.D., filed by s/ Rolf Louis Patberg Esq. No CC.	Fredric Joseph Ammerman
	Order, filed Cert. to Atty's Patberg, McIntyre and Maierhofer NOW, this 6th day of November, 2006, Argument on Ithe Plaintiffs' First Motions in Limine be scheduled for the 20th day of November, 2006 at 9:30 AM.	Fredric Joseph Ammerman
11/13/2006	Notice to Attend Directed to Records Custodian-Clearfield Hopsital, filed by s/ Rolf Louis Patberg Esq. NO CC.	Fredric Joseph Ammerman
	Notice to Attend Directed to Gwendolyn R. Thomas, filed by s/ Rolf Louis Patberg Esq. No CC.	Fredric Joseph Ammerman
	Notice to Attend Directed to James P. Desantis D.O., filed by s/ Rolf Louis Patberg Esq. No CC.	Fredric Joseph Ammerman

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Civil Other

Date		Judge
11/13/2006	Notice to Attend Directed to Patricia Neeper, filed by s/ Rolf Louis Patberg Esq. NO CC.	Fredric Joseph Ammerman
	Notice to Attend Directed to Kelly Espenshade, filed by s/ Rolf Louis Patberg Esq. NO CC.	Fredric Joseph Ammerman
	Notice to Attend Directed to Stacey Gerg, filed by s/ Rolf Louis Patberg Esq. No CC.	Fredric Joseph Ammerman
	Notice to Attend Directed to Donna Unch, filed by s/ Rolf Louis Patberg Esq. No CC.	Fredric Joseph Ammerman
	Notice of Service of Amended Notice of Videotaped Deposition of C. Raymond Schaney, P.T., filed by s/ Rolf Louis Patberg Esq. No CC.	Fredric Joseph Ammerman
11/14/2006	Response To Plaintiffs' First Motions In Limine and Defendants' Motion in Limine, filed by s/ John L. McIntyre, Esquire. No CC	Fredric Joseph Ammerman
	Second Supplemental Report of John A. Tilelli Dated 11/13/06. Filed by s/ Rolf Louis Patberg, Esquire. No CC	Fredric Joseph Ammerman
11/15/2006	Reply to Defendants' Motions in Limine, filed by Atty. Patberg, no cert. copies.	Fredric Joseph Ammerman
	Plaintiff's Second Motion in Limine, filed by Atty. Patberg no cert. copies.	Fredric Joseph Ammerman
11/16/2006	Defendants' Motion to Strike Late Expert Report, filed by Atty. McIntyre no cert. copies.	Fredric Joseph Ammerman
11/17/2006	Plaintiff's Reply to Defendants' Motion to Strike Late Expert Report, filed by s/ Rolf Louis Patberg Esq. No CC.	Fredric Joseph Ammerman
11/21/2006	Order, NOW, this 20th day of Nov., 2006, upon consideration of Defendants' Motion to Strike Late Expert's Report, it is the Order of this Court that said motion shall be granted to the extent that (see original). By The Court, /s/ John K. Reilly, Jr., Senior Judge. 1CC Attys: Patberg, McIntyre	John K. Reilly Jr.
	Order, NOW, this 20th day of Nov., 2006, consideration Defendants' Second Motion in Limine to Preclude Testimony Concerning Examination and Treatment of the Plaintiff Justine Kline on Nov. 22, 2002, it is ordered that said motion shall be granted to the extent that Plaintiff shall be precluded from entering such testimony during its case in chief. Plaintiff may, however, introduce such testimony in rebuttal if it then becomes relevant. By The Court, /s/ John K. Reilly, Jr., Senior Judge. 1CC Attys: Patberg, McIntyre	John K. Reilly Jr.
	Order, NOW, this 20th day of Nov., 2006, upon consideration of Plaintiffs' First Motion in Limine, with regard to the faxed transmissions from Clfd. Hospital to UPMC Children's Hospital, it is Ordered that said motion shall be granted to the extent that Plaintiffs shall be restricted in any examinations thereof to the existence of the handwritten notice concering the Feb. 23, 2002 examination. By The Court, /s/ John K. Reilly, Jr., Senior Judge. 1CC Attys: Patberg, McIntyre	John K. Reilly Jr.
	Order, NOW, this 20th day of Nov., 2006, upon consideration of Plaintiffs' Second Motion in Limine, Ordered that Defendants shall be precluded from offering any evidence or arguing any purported negligence by Sandra Conklin, Plaintiff. By The Court, /s/ John K. Reilly, Jr., Senior Judge. 1CC Attys: Patberg, McIntyre	John K. Reilly Jr.

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Civil Other

Date		Judge
11/21/2006	Order, NOW, this 20th day of Nov., 2006, upon consideration of Plaintiffs' Motion in Limine, Issue 3, it is the Order of this Court that Def. Dr. Palmer shall be precluded from testifying as to a possibility that the information he entered concerning his treatment of Feb. 23, 2002, may have been entered into the wrong patient's chart. By The Court, /s/ John K. Reilly, Jr., Senior Judge. 1CC Attys: Patberg, McIntyre	John K. Reilly Jr.
	Order, NOW, this 20th day of Nov., 2006, upon consideration of Plaintiffs' First Motion in Limine, second issue, it is the Order of this Court that Plaintiffs' Expert, Dr. King, may testify as to his general experience in treating situations of this nature in the past, but shall be precluded from identifying specific patients and the treatments provided therefor unless their redacted files are supplied to Plaintiff prior to trial. By The Court, /s/ John K. Reilly, Jr., Senior Judge. 1CC Attys: Patberg, McIntyre	John K. Reilly Jr.
	Order, NOW, this 20th day of Nov., 2006, upon consideration of Plaintiffs' First Motion in limine, Item 1, it is the Order of this Court that said motion shall be granted to the extent that Defense expert withness, Christopher King, M.D., shall be precluded from quoting verbatim from the opinion of one Alejandro Hoberman, nor shall said opinion or argument by Hoberman, be admitted into evidence. By The Court, /s/ John K. Reilly, Jr., Senior Judge. 1CC Attys: Patberg, McIntyre	John K. Reilly Jr.
12/1/2006	Notice to Attend Dircted to Wilhelmina P. Crus-Vetrano, filed by s/ Rolf Louis Patberg, Esquire. No CC	Fredric Joseph Ammerman
12/4/2006	Application and Notice Pursuant to Rule 4020(a)(3)(e), filed by s/Rolf Louis Patberg, Esq. No CC	Fredric Joseph Ammerman
12/11/2006	Motion to Limit Testimony of John Dossett, filed by s/Rolf Louis Patberg, Esq. No CC	Fredric Joseph Ammerman
	Order, filed. Cert. to atty. Patberg & McIntyre NOW, this 8th day of December, 2006, RE: Motion to Limit Testimony of John Dossett, Motion denied.	John K. Reilly Jr.
12/12/2006	Verdict and Members of the Jury, filed NOW, this 12th day of December, 2006, Verdict in favor of Defendant. s/David P. Small. Foreperson.	Fredric Joseph Ammerman
12/21/2006	Motion For Briefing Schedule, filed by s/ Rolf Louis Patberg, Esquire. No CC	Fredric Joseph Ammerman
	Plaintiff's Post-Trial Motions, filed by s/ Rolf Louis Patberg, Esquire. No CC	Fredric Joseph Ammerman
12/26/2006	Order NOW, this 22nd day of December 2006, upon consideration of Post Trial Motion filed on behalf of Plaintiffs above-named and Motion for Briefing Schedule, it is the ORDER of this Court that Plaintiffs shall file their brief within no more than twenty (20) days from receipt of transcript of testimony. Defendants shall file their reply brief within twenty (20) days from receipt of Plaintiffs' Argument to be scheduled thereon at the request of wither party. BY THE COURT: /s/ John K. Reilly Jr. SJSP. 2CC Atty R. Patberg and J. McIntyre.	John K. Reilly Jr.
12/29/2006	Answer to Plaintiff's Post-Trial Motions, filed by Atty. McIntyre no cert. copies.	Fredric Joseph Ammerman
5/29/2007	Motion For Extension of Time of Briefing Schedule, filed by s/ Rolf Louis Patberg, Esquire. No CC	Fredric Joseph Ammerman

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Case: 2003-00068-CD
Current Judge: Fredric Joseph Ammerman
Sandra Conklin, Justine Kline vs. Clearfield Hospital, George F. Palmer, James P. DeSantis, Ernest P. Jones

Civil Other

Date		Judge
5/30/2007	Order, NOW, this 29th day of May, 2007, it is Ordered that the Plaintiff's Motion for Extension of Time is Granted. Plaintiff shall have an additional 20 days from the date of this Order in which time to file their Brief. The Defendants shall have 20 days from the date of filing of the Plaintiff's Brief to file their reply. By The Court, /s/ John K. Reilly, Jr., Judge. 3CC Atty. Patberg	John K. Reilly Jr.
6/6/2007	Transcript of Proceedings, filed. In Camera Testimony of Bridgett H. Sidorick, Held Before The Honorable John K. Reilly, Senior Judge on Monday, December 4, 2006.	Fredric Joseph Ammerman
	Transcript of Proceedings, filed. Civil Jury Trial, Day I of VII, Held Before The Honorable John K. Reilly, Senior Judge on Monday, December 4, 2006.	Fredric Joseph Ammerman
	Transcript of Proceedings, filed. Civil Jury Trial, Day II of VII, Held Before The Honorable John K. Reilly, Senior Judge, on Tuesday, December 5, 2006.	Fredric Joseph Ammerman
	Transcript of Proceedings, filed.Civil Jury Trial Day III of VII, Held Before The Honorable John K. Reilly, Senior Judge on Wednesday, December 6, 2006.	Fredric Joseph Ammerman
	Transcript of Proceedings, filed. Civil Jury Trial Day IV of VII, Held Before The Honorable John K. Reilly, Senior Judge on Thursday, December 7, 2006.	Fredric Joseph Ammerman
	Transcript of Proceedings, filed. Civil jury Trial Day V of VII, Held Before The Honorable John K. Reilly, Senior Judge, on Friday, December 8, 2006	Fredric Joseph Ammerman
	Transcript of Proceedings, filed. Civil Jury Trial, Day VI of VII, Held Before The Honorable John K. Reilly, Senior Judge on Monday, December 11, 2006.	Fredric Joseph Ammerman
	Transcript of Proceedings, filed. Civil Jury Trial Day VII of VII, Held Before The Honorable John K. Reilly, Senior Judge, on Tuesday, December 12, 2006.	Fredric Joseph Ammerman
6/14/2007	Order, NOW, this 8th day of June, 2007, the Court noting that counsel for the Defendants has no objections to the Plaintiff's Motion to Extend Time to File a Responsive Brief and that in addition, Plaintiff's counsel has agreed that the Defendants will have 35 days after receipt of the Plaintiff's Brief, in which to file a brief on behalf of Dr. Palmer and Clearfield Hospital. By The Court, /s/ Fredric J. Ammerman, Pres. Judge. 2CC Attys: Patberg, McIntyre	Fredric Joseph Ammerman
11/16/2007	Filing: Praecipe for entry of Judgment upon Jury Verdict of December 12, 2006. Paid by: McIntyre, Hartye & Schmitt Receipt number: 1921483 Dated: 11/16/2007 Amount: $20.00 (Check) Judgment entered upon Verdict of the Juryt of December 12, 2006 in favor of the the Defendants, Clearfield hospital and George F. Palmer, D.O. no cert. copies.	Fredric Joseph Ammerman
1/15/2008	Order, this 15th day of Jan., 2008, , argument on Post-Trial Motions is scheduled for the 20th day of Feb., 2008 at 10:30 A.M in Hearing Room 3. By The Court, /s/ Fredric J. Ammerman, pres. Judge. 2CC Attys; Patberg, McIntyre	Fredric Joseph Ammerman

Clearfield County Court of Common Pleas
ROA Report
Case: 2003-00068-CD
Current Judge: Fredric Joseph Ammerman
Sandra Conklin, Justine Kline vs. Clearfield Hospital, George F. Palmer, James P. DeSantis, Ernest P. Jones

Civil Other

Date		Judge
3/27/2008	Opinion And Order, Order: Now, this 26th day of March, 2008, following argument and review of the parties' briefs, it is the Order of this Court that the Plaintiff's Post-Trial Motions are hereby Denied for the reasons set forth in the foregoing Opinion. By The Court, /s/ John K. Reilly, Jr., Senior Judge, Specially Presiding. 2CC Attys: Patberg, McIntyre; 1CC to: D. Mikesell, Law Library (without memo)	Fredric Joseph Ammerman

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

APR 11 2008

Attest.

Prothonotary/
Clerk of Courts

CERTIFICATE OF SERVICE

I, Rolf Louis Patberg, Esquire, hereby certify that a true and correct copy of the foregoing Notice of Appeal was forwarded this 15 day of April, 2008 via postage prepaid United States Mail to the following:

John L. McIntyre, Esquire
McIntyre, Dugas, Hartye & Schmitt
1816 Old Route 220 North
Duncansville, PA 16448

Cathy Warrick Provost, RMR
Clearfield County Courthouse
230 E. Market Street, Suite 228
Clearfield, PA 16830

The Honorable Judge John K. Reilly
Clearfield County Courthouse
230 E. Market Street
Clearfield, PA 16830

Rolf Louis Patberg, Esquire

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

SANDRA CONKLIN, as parent and natural guardian of JUSTINE KLINE, Plaintiffs,	:	
v.	:	No. 2003-68-CD
CLEARFIELD HOSPITAL and GEORGE F. PALMER, Defendants	:	

FILED
03:05 p.m GK
MAR 27 2008
William A. Shaw
Prothonotary/Clerk of Courts

2cc Attys: Rolf Patberg, John McIntyre
1cc to: D. McKesell, Law Library (without memo)
GK

OPINION

Sandra Conklin, as parent and natural guardian of Justine Kline (hereafter Plaintiff), filed ten post-trial motions following a medical negligence jury trial held December 4, 2006 through December 12, 2006. On December 12, 2006, the jury awarded a verdict in favor of the Clearfield Hospital and George F. Palmer, finding no negligence on the part of Dr. Palmer.

This action is a medical negligence action which focused on the care that Justine Kline (hereafter Justine) received in the Emergency Room of Clearfield Hospital (hereafter E.R.) on February 23, 2002 commencing at approximately 1:00 a.m. George F. Palmer (hereafter Defendant) rendered treatment to Justine while she was in the E.R. suffering from urosepsis, bacteremia, and pylenephritis. While in the E.R., a urine analysis was performed on Justine's urine and blood cultures were taken. Justine was given Rocephen and then discharged from the E.R. at 5:45 a.m. that same day. Justine returned home where her condition worsened through the morning. On February 23, 2002 the Plaintiff returned to the Clearfield Hospital with Justine. Justine was transferred to Children's Hospital where she was met by an intensive care team. Upon admission to Children's Hospital, it was determined that she was suffering from septic shock, pulmonary edema and disseminated intravascular coagulation. Justine remained in the Children's Hospital from February 23, 2002 through March 13, 2002. On March 13, 2002,

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Justine was transferred to rehabilitation therapy. Justine had to have four fingers amputated. Additionally, she has numerous physical scars and has had multiple corrective surgeries as a result of this illness.

DISCUSSION

The Plaintiff raises ten issues in her Post-Trial Motions, this Court addresses each issue in turn below.

1. The first issue the Plaintiff raises is that infectious disease expert, John Dossett, should not have been permitted to testify as to the standard of care of emergency room physician George Palmer or the staff at Clearfield Hospital.

Preliminarily, this Court will note that the Superior Court has stated "[d]ecisions regarding admission of expert testimony, like other evidentiary decisions, are within the sound discretion of the trial court." *Smith v. Paoli Memorial Hosp.,* 885 A.2d 1012, 1016 (Pa.Super. 2005) citations omitted. However, the *Smith* Court went on to say "the issue regarding the experts' qualifications under the MCARE Act is, however, in essence a question of statutory interpretation." *Id.* Finally, the "goal in interpreting any statute is 'to ascertain and effectuate the intention of the General Assembly." *Id.*

Here, the relevant portions of the MCARE Act are:

§ 1303.512. Expert qualifications

(a) General rule.-No person shall be competent to offer an expert medical opinion in a medical professional liability action against a physician unless that person possesses sufficient education, training, knowledge and experience to provide credible, competent testimony and fulfills the additional qualifications set forth in this section as applicable.

(b) Medical testimony.-An expert testifying on a medical matter, including the standard of care, risks and alternatives, causation and the nature and extent of the injury, must meet the following qualifications:

(1) Possess an unrestricted physician's license to practice medicine in any state or the District of Columbia.

(2) Be engaged in or retired within the previous five years from active clinical practice or teaching.

Provided, however, the court may waive the requirements of this subsection for an expert on a matter other than the standard of care if the court determines that the expert is otherwise competent to testify about medical or scientific issues by virtue of education, training or experience.

(c) Standard of care.-In addition to the requirements set forth in subsections (a) and (b), an expert testifying as to a physician's standard of care also must meet the following qualifications:

(1) Be substantially familiar with the applicable standard of care for the specific care at issue as of the time of the alleged breach of the standard of care.

(2) Practice in the same subspecialty as the defendant physician or in a subspecialty which has a substantially similar standard of care for the specific care at issue, except as provided in subsection (d) or (e).

(3) In the event the defendant physician is certified by an approved board, be board certified by the same or a similar approved board, except as provided in subsection (e).

(e) Otherwise adequate training, experience and knowledge.-A court may waive the same specialty and board certification requirements for an expert testifying as to a standard of care if the court determines that the expert possesses sufficient training, experience and knowledge to provide the testimony as a result of active involvement in or full-time teaching of medicine in the applicable subspecialty or a related field of medicine within the previous five-year time period.
40 P.S. § 1303.512(a), (b), (c), and (e).

Here, Dr. Dossett testified that he is licensed to practice medicine in Pennsylvania, that he currently is a Professor at the Milton Hershey Medical Center (the college of medicine of the Pennsylvania State University) and that his specialty is in pediatric infectious diseases. Further, he is one of only 350 pediatric infectious disease specialists in the country and he has in excess of 35 years of experience in treating and providing care to patients. He testified as a pediatric infectious disease specialist to the treatment and care given to Justine for her urinary tract

infection. He has experience treating the condition that Justine presented to the E.R. Additionally, he has in the past worked as an admitting physician and has had to decide whether to admit a patient presenting with the same symptoms as Justine. Although he is not specifically an E.R. physician, this Court found that he is an admitting physician at the Milton Hershey Medical Center and that his area of specialization covers Justine's condition. Dr. Dossett was examined at length in regard to his qualifications by both the attorney for the Plaintiff and the attorney for the Defendant. The Court was satisfied that Dr. Dossett met the standard required of expert witnesses under the MCARE Act.

2. The next issue the Plaintiff raises is that neither infectious disease expert John Dossett nor emergency room expert Christopher King should have been permitted to testify as to the speculated ultimate outcome of Justine Kline had she been timely treated.

Plaintiff argues that John Dossett and Christopher King were erroneously allowed to speculate at Trial regarding Justine's ultimate outcome. Plaintiff relies on *Hamil v. Bashline,* 392 A.2d 1280 (1978) in supporting her argument. Plaintiff claims that Dr. Dossett's testimony regarding the window of opportunity available to treat Justine was speculative and therefore, should have been excluded. Vol. VI, p. 64-65. Plaintiff claims that Dr. King's testimony was speculative because he was not qualified to provide infectious disease opinions and because he also identified a window of opportunity.

Hamil is not applicable in the present case. In *Hamil,* the Supreme Court considered a case where the trial court initially directed a verdict in favor of the defendant because the plaintiff's expert failed to testify with the required degree of medical certainty. *Hamil v. Bashline,* 392 A.2d 1280, 1283 (Pa. 1978). In considering the initial appeal, the Superior Court granted a new trial on the basis of §323(a) of the Restatement Second of Torts. *Id.* At the

second trial the case was submitted to a jury and a verdict was returned in favor of the defendant. *Id.* at 1283-1284. A second appeal was taken based on alleged deficiencies in the trial court's charge to the jury. *Id.* The Superior Court affirmed the entry of judgment for the defendant without addressing the issues raised by the plaintiff on the basis that it had erred in ordering a new trial at the time of the first appeal. *Id.* The Supreme Court therefore considered both the issue of whether the plaintiff's expert's testimony was sufficient to establish a prima facie case of negligence and the issue of whether the trial court erred in charging the jury on proximate cause. The Supreme Court in *Hamil* does not deal with whether certain testimony from a defense expert is permissible. Rather, it deals with the degree of certainty with which a plaintiff's expert must testify in order for a prima facie case to be made and the content of a proper charge on proximate cause if a prima facie case has been made. The Supreme Court does not discuss the propriety of estimates or speculation as to the likelihood of the plaintiff's recovery by defense experts.

"Admission and rejection of expert evidence is assigned to the sound discretion of the trial judge, whose conclusions, as to this sort of evidence as well as others, are tested by an abuse of discretion standard." *Burton-Lister v. Siegel, Sivitz and Lebed Associates,* 798 A.2d 231, 240 (Pa.Super. 2002) citations omitted. Both John Dossett and Christopher King were called to offer testimony as to the standard of care and that Justine's treatment by Defendant was appropriate. The testimony that is cited as objectionable in the Plaintiff's Brief in Support of Post-Trial Motions was elicited on cross-examination by the attorney for the Plaintiff. The Pennsylvania Rules of Appellate Procedure state "[i]ssues not raised in the lower court are waived and cannot be raised for the first time on appeal." Pa.R.A.P., Rule 302(a). Here, the Plaintiff's attorney elicited the testimony that he now contends is objectionable. At trial, the Plaintiff did not object

to the cross-examining of the witness, indeed, it was the Plaintiff that was in control of what Dr. King and Dr. Dossett were testifying to at the time they were being cross-examined. Therefore, because the testimony the Plaintiff objects to was elicited by the Plaintiff on cross-examination, and, hence, the Plaintiff did not object to it at Trial, the issue is waived as it is raised for the first time on appeal. Finally, the jury never reached the question of causation because they found that the defendants were not negligent.

3. The third issue the Plaintiff raises is that this Court should have instructed the jury that all funds were to be placed in a trust pursuant to Pennsylvania Rule of Civil Procedure 2039.

The Plaintiff alleges that the Court should have instructed the jury "Pennsylvania law requires that when a judgment ha been entered upon a verdict, the balance of the fund shall be paid to a guardian to be placed in a trust, which is subject to Court supervision." Plaintiff's Point for Charge No. 45. Plaintiff believed this charge to be necessary because when the Plaintiff testified she stated "they had suggested to me to go to Shriners because I wouldn't have had the money to pay for it and they do it for nothing. So they told me to go there." Vol. III, p. 124, lns. 4-7.

"In deciding whether a trial court erred in refusing to give a jury instruction, we must determine whether the court abused its discretion or committed an error of law." *Commonwealth v. Demarco,* 809 A.2d 256, 260-61 (Pa. 2002). In *Young v. Washington Hospital,* the Court stated "[t]here is little, in our view, more prejudicial or inflammatory than suggesting that plaintiff-parents have sued on behalf of their injured child for their own financial gain. This is the most offensive kind of insinuation." *Young v. Washington Hosp.,* 761 A.2d 559, 562 (Pa.Super. 2000). The *Washington* Court held that where the defense counsel had made inflammatory statements regarding a parent's financial situation it was error for a court not to

instruct the jury on Pennsylvania Rule of Civil Procedure 2039. Here, this Court determined that it was unnecessary to give this instruction to the jury. Unlike *Young,* where the Defense made statements during its opening remarks that strongly insinuated that the parents had instituted the action for mercenary reasons, here the Defendant did not make any remarks regarding the Plaintiff's financial state. The Plaintiff did mention during direct examination that she had taken Justine to Shriners but the point was not belabored, nor was it objected to. The jury heard six days of testimony, one remark by the Plaintiff regarding the hospital she took Justine to that did not have any attention called to it, was not prejudicial. Therefore, this Court acted within its sound discretion in determining that it was not necessary to give Plaintiff's Point for Charge No. 45.

4. The fourth issue the Plaintiff raises is that this Court should have permitted the playing of videotaped depositions during the closing argument.

The Plaintiff argues that she should have been permitted to play portions of videotaped depositions during the closing argument to counter Dr. Dossett's testimony that there was no window of opportunity to treat Justine. The Plaintiff cites *Contractors Lumber & Supply Company v. Quinette* which states:

> While counsel are required to stay within reasonable bounds in making their partisan pleas to a jury, this does not mean that their speeches may not be spirited, stirring, and accusatory, if the material of the trial supplies them with relevant oratorical ammunition. There is nothing in the law, and certainly nothing in the history of American forensic appeal, which remotely suggests that a lawyer's summation must be a prosaic and dull affair, devoid of metaphor, empty of simile, and stranger to dramatic, poetical, or sentimental allusion. So long as no liberties are taken with the evidence, a lawyer is free to draw such inferences as he wishes from the testimony and to present his case in the light most suited to advance his cause and win a verdict in the jury box.
> *Contractors Lumber & Supply Company v. Quinette,* 126 A.2d 442, 444 (1956).

Clearly, *Contractors Lumber* was decided in a time before there was the technology sufficient to allow for videotaping and does not deal with the issue of videotaped depositions at all. The proposition *Contractors Lumber* stands for, that an attorney is free to use the evidence and give a closing argument that is spirited, stirring and accusatory, was not disturbed here. Additionally, the Plaintiff was permitted by the Court to read the relevant portions of the depositions during his closing argument. However, the Plaintiff chose not to read the testimony from the depositions during his closing remarks. Allowing the Plaintiff to play the videotaped depositions would have resulted in the impermissible presentation of cumulative evidence during closing argument. Therefore, the Court was correct in denying the Plaintiff's request to play the portions of the videotaped depositions as part of his closing argument.

5. The fifth point the Plaintiff raises is that the Court should not have permitted George Palmer to testify that he completed his "note" after receiving a "memo" from medical records.

Dr. Palmer testified to a hand written addendum that he wrote in Justine's chart during his next shift following when he saw her on February 23, 2002. The Plaintiff did not object to the testimony Dr. Palmer gave regarding this handwritten addendum. Vol. II, pp. 104-107. In fact, the Plaintiff's next objection did not come until some time later when Dr. Palmer had moved on to testify about other matters. See Vol. II, p. 134, ln. 23. The Pennsylvania Rules of Appellate Procedure state "[i]ssues not raised in the lower court are waived and cannot be raised for the first time on appeal." Pa.R.A.P., Rule 302(a). Therefore, because the Plaintiff did not object to the testimony at trial she has waived her objection to this testimony.

6. The sixth issue the Plaintiff raises in her Post-Trial Motion is that cross-examination of Dr. Tilelli with a published legal opinion was improper.

The Plaintiff's expert, Dr. Tilelli, was cross-examined by the Defendant using a legal opinion from a past case in which Dr. Tilelli was offered as an expert witness. The Defendant questioned Dr. Tilelli regarding his involvement in *Wade-Greaux v. Whitehall Laboratories, Inc.*, 874 F.Supp. 1441 (D.C.V.I. 1994) during cross-examination on his qualifications as an expert. Specifically, the Defendant was pursuing the line of questioning with regards to *Wade-Greaux* to determine if Dr. Tilelli had been disqualified as an expert witness or if he had had his expert opinion disqualified in the past. The legal opinion was used to refresh Dr. Tilelli's recollection, it was not entered into evidence nor did the Defendant read any portion of the legal opinion to the jury. Dr. Tilelli had testified on direct examination that none of his opinions had been disqualified. The Defendant used the *Wade-Greaux* opinion to question Dr. Tilelli's qualifications and impeach his credibility. Dr. Tilelli responses to the questions on cross-examination established that he had not been disqualified as an expert. Dr. Tilelli distinguished the situation as having the underlying study to which he was prepared to testify about declared irrelevant.

The Plaintiff contends that this line of questioning was improper under Pennsylvania Rule of Evidence 608(b)(1). This Rule states that "the character of a witness for truthfulness may not be attacked or supported by cross-examination or extrinsic evidence concerning specific instances of the witness' conduct." Pa.R.E. 608(b)(1). The questions the Defendant posed on cross-examination did not concern a specific instance of the witness's conduct. Rather, the questions were posed to rebut the statement that Dr. Tilelli made that to the best of his knowledge none of his opinions had been disqualified by a court of law. The Pennsylvania Rules of Evidence also provide "[t]he credibility of a witness may be impeached by any evidence relevant to that issue, except as otherwise provided by statute or these Rules." Pa.R.E. Rule

607(b). This is precisely what the Defendant used the *Wade-Greaux* opinion to do, impeach Dr. Tilelli. However, as noted, Dr. Tilelli distinguished the situation in *Wade-Greaux* from having an opinion disqualified. This Court weighed the probative value of the evidence against the dangers of unfair prejudice, confusion of the issues, and waste of time as required by Pa.R.E. 403 and determined the importance of the issue surrounding an expert's qualifications outweighed the risk of prejudice.

7. The next issue the Plaintiff raises is that Dr. King should not have been permitted to repeatedly reference the Hoberman Article to bolster his testimony.

At trial, the Defendant's expert witness, Dr. King, referred to an article written by Dr. Alejandro Hoberman during his testimony. The Plaintiff argues that this Court's Order of November 20, 2006 prohibited Dr. King from referencing the Hoberman Article during his testimony. The Order referenced prohibits Dr. King from quoting the Hoberman Article verbatim and it prohibits the Defendant from entering the opinion or argument of Hoberman into evidence.

The Plaintiff relies on *Aldridge v. Edmunds* 750 A.2d 292 (2000) to support their argument. In *Aldridge,* the Pennsylvania Supreme Court held "that if published material is authoritative and relied upon by experts in the field, although it is hearsay, an expert may rely upon it in forming his opinion; indeed, it would be unreasonable to suppose that an expert's opinion would not in some way depend upon the body of works preceding it." *Aldridge v. Edmunds* 750 A.2d 292, 297 (2000). However, the *Aldridge* Court cautioned that since "the purpose for which treatises may be referenced on direct examination is generally limited to explaining the reasons underlying the opinion, the trial court should exercise careful control over their use to prevent them from being made the focus of the examination." *Id.*

Here, Dr. King testified that the appropriate antibiotic was given to Justine under the current standard and that the standard was based on research and expert opinion. Vol. V, p. 30, lns. 3-24. Dr. King further testified generally to what the Hoberman Article found and how it changed the standard of care. Vol. V, p. 32, lns. 16-25, p. 33, lns. 1-12, p. 34 lns. 3-25, p. 35 lns. 1-8. Plaintiff's attorney did not specifically object to any portion of Dr. King's testimony and in fact, agreed that Dr. King could talk about what the study involved generally. Vol. V, p. 32, lns. 3-4. The manner in which Dr. King testified did not impermissibly focus the jury's attention on the article. Further, this Court exercised control over Dr. King's testimony by ordering that he would not be permitted to quote the Hoberman Article verbatim, nor would Dr. Hoberman's opinion be entered into evidence.

8. The next issue the Plaintiff raises in her Post-Trial Motions is that this Court should have instructed the jury on points for charge numbers 33 and 34 pursuant to 40 P.S. §1303.512.

The Plaintiff asserts that this Court erred in not instructing the jury on points for charge numbers 33 and 34, however, in her brief Plaintiff references points for charge 34 and 35. Point for charge 35 was actually given as an instruction minus one explanation for the alteration of medical records that was not applicable to this case. Therefore, this Court will focus its attention on point for charge 34.

Point for charge 34 contained an instruction that essentially stated that state law prohibits the alteration of medical records with the intent to deceive or mislead and that the alteration of medical records. The instruction went on to say that the alteration of medical records is admissible as evidence of a defendant's own belief that the actual records do not support his defense. Further, the instruction stated that a negative inference arises if it is found that the defendant doctor altered the medical records with the intent to deceive or mislead anyone.

Plaintiff argues that by not giving this instruction the jury may have believed that such handwritten entries were normal under these circumstances.

The jury instructions this Court gave were appropriate under Pennsylvania law. The applicable statute provides that "[i]n any medical professional liability action in which the claimant proves by a preponderance of the evidence that there has been an intentional alteration or destruction of medical records, the court in its discretion may instruct the jury to consider whether such intentional alteration or destruction constitutes an adverse inference." 40 P.S. §1303.511(c). Here, this Court did instruct the jury that if there had been an intentional alteration of medical records that the jury could draw an adverse inference. It is also important to note that the statute is permissive, even if the claimant proves by a preponderance of the evidence that there has been an alteration of medical records a court does not have to instruct the jury to consider whether such alteration constitutes an adverse inference. Point for charge 34 and point for charge 35 were similar in instructing the jury when it could draw an adverse inference. However, point for charge 35 more clearly stated the law. Therefore, this Court did not err in giving only point for charge 35.

9. The ninth issue the Plaintiff raises in her Post-Trial Motions is that this Court should have given a specific instruction that there was no evidence of any contributory negligence by Plaintiff, as requested in Plaintiff's point for charge number 46.

The Plaintiff asserts that this Court should have specifically instructed the jury that the Plaintiff was not negligent in her care of Justine following Justine's discharge from the E.R. Plaintiff argues that Defendant asked Dr. King about the discharge instructions. Further, Plaintiff was asked about Justine's condition after discharge and immediately prior to returning with her to the E.R. The Defendant did not offer any testimony or evidence that lack of care or

detrimental treatment by the Plaintiff caused any detrimental effects in Justine. The questions to Dr. King were limited to whether the discharge instructions were appropriate. The questions to Plaintiff were regarding the discharge instructions and what precipitated the return to the E.R.

"In deciding whether a trial court erred in refusing to give a jury instruction, we must determine whether the court abused its discretion or committed an error of law." *Commonwealth v. Demarco,* 809 A.2d 256, 260-61 (Pa. 2002). Further a "charge is considered adequate unless the jury was palpably misled by what the trial judge said or there is an omission which is tantamount to fundamental error. Consequently, the trial court has wide discretion in fashioning jury instructions." *Angelo v. Diamontoni*, 871 A.2d 1276, 1279 (Pa. Super. 2005). Additionally, "[a] trial judge is bound to charge the jury only on the law applicable to the factual parameters of a particular case and it may not instruct the jury on inapplicable legal issues." *Cruz v. Northeastern Hosp.,* 801 A.2d 602, 611 (Pa.Super. 2002). Finally, "where the record includes no evidence to satisfy the elements of a particular legal doctrine, the court may not discuss that doctrine in its charge." *Angelo v. Diamontoni*, 871 A.2d 1276, 1279 (Pa. Super. 2005). Here, the Defense presented no evidence at Trial that the Plaintiff had been negligent in any way that impacted Justine. Therefore, this Court acted appropriately in not giving the instruction that there was no evidence of contributory negligence. The issue of contributory negligence was never discussed.

10. The final issue the Plaintiff raises is that the totality of the errors in this case demand that the Plaintiff receives a new trial.

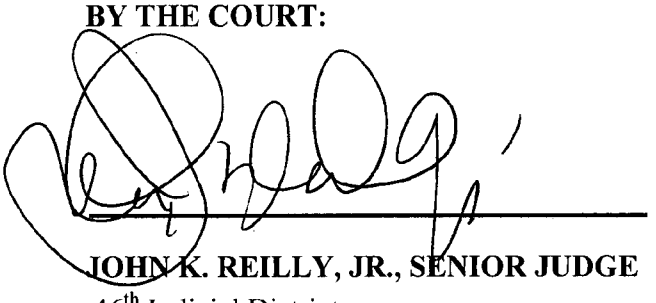
In determining whether the grant of a new trial is appropriate, the trial court trial "must follow a two-step process in responding to a request for a new trial. The trial court must determine whether a factual, legal or discretionary mistake was made at trial. If the trial court

determines that one or more mistakes were made, it must then evaluate whether the mistake provided a sufficient basis for granting a new trial." *MacNutt v. Temple University Hosp., Inc.*, 932 A.2d 980, 985 (Pa.Super. 2007) citations omitted. Further, the *MacNutt* Court stated "[a] new trial is not warranted merely because some irregularity occurred during the trial or another trial judge would have ruled differently; the moving party must demonstrate to the trial court that he or she has suffered prejudice from the mistake." *Id.* citations omitted. Here, this Court asserts that no factual, legal, or discretionary mistake was made at trial. However, even if there were irregularities at Trial, the Plaintiff has not demonstrated that she suffered prejudice from the mistake. Therefore, this Court denies the Plaintiff's Post-Trial Motion for a new trial.

ORDER

NOW, this 26th day of March, 2008, following argument and review of the parties' briefs, it is the Order of this Court that the Plaintiff's Post-Trial Motions be and are HEREBY DENIED for the reasons set forth in the foregoing Opinion.

BY THE COURT:



JOHN K. REILLY, JR., SENIOR JUDGE
46th Judicial District
Specially Presiding

DATE: 3-27-08

____ You are responsible for serving all appropriate parties.

____ The Prothonotary's office has provided service to the following parties:

____ Plaintiff(s) X Plaintiff(s) Attorney ____ Other

____ Defendant(s) X Defendant(s) Attorney

____ Special Instructions:

UA

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

SANDRA CONKLIN, as parent and natural Guardian of JUSTIN KLINE, and SANDRA CONKLIN, individually	:	NO. 03-68-C.D.
Plaintiff,	:	
vs.	:	
CLEARFIELD HOSPITAL and GEORGE PALMER	:	
Defendant.	:	

SCHEDULING ORDER

AND NOW, this 15TH day of January 2008, upon consideration of Defendant's request for argument on Post-Trial Motions in the above captioned matter, it is hereby ORDERED that argument is scheduled for the **20th day of February 2008 at 10:30 o'clock A.M. in Hearing Room #3** of the Clearfield County Courthouse, Clearfield, Pennsylvania, before the Honorable John K. Reilly, Senior Judge, presiding.

BY THE COURT:

FILED 2cc Attys:
014:00/BN Patberg
JAN 15 2008 McIntyre
William A. Shaw
Prothonotary/Clerk of Courts GK

#125

FILED

JAN 15 2008

William A. Shaw
Prothonotary/Clerk of Courts

DATE: 1/15/08

____ You are responsible for serving all appropriate parties.

__X__ The Prothonotary's office has provided service to the following parties:

____ Plaintiff(s) __X__ Plaintiff(s) Attorney ____ Other

____ Defendant(s) __X__ Defendant(s) Attorney

____ Special Instructions:

FILED
NOV 16 2007
William A. Shaw
Prothonotary/Clerk of Courts

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

SANDRA CONKLIN, as parent and natural guardian of JUSTINE KLINE, and SANDRA CONKLIN, individually,	No. 2003 – 68 CD **ISSUE:** PRAECIPE FOR ENTRY OF JUDGMENT UPON JURY VERDICT OF DECEMBER 12, 2006
Plaintiff	
vs.	
	Filed on behalf of Defendants, CLEARFIELD HOSPITAL and GEORGE F. PALMER
CLEARFIELD HOSPITAL and GEORGE F. PALMER, D.O.,	Counsel of Record: John L. McIntyre, Esquire PA I.D. #28015 McINTYRE, HARTYE & & SCHMITT P.O. Box 533 Hollidaysburg, PA 16648 (814) 696-3581
Defendants	JURY TRIAL DEMANDED

I HEREBY CERTIFY THAT A TRUE AND CORRECT COPY OF THE WITHIN WAS MAILED TO ALL COUNSEL OF RECORD THIS 13TH DAY OF **NOVEMBER, 2007**.

Attorneys for Named Defendants

#124

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

SANDRA CONKLIN, as parent and natural guardian of JUSTINE KLINE, and SANDRA CONKLIN, individually,	:	No. 2003 – 68 CD
Plaintiff	:	
vs.	:	
CLEARFIELD HOSPITAL and GEORGE F. PALMER, D.O.,	:	
Defendants	:	JURY TRIAL DEMANDED

PRAECIPE FOR ENTRY OF JUDGMENT UPON JURY VERDICT

TO: PROTHONOTARY

Please enter Judgment upon the Verdict of the Jury of December 12, 2006 in favor of the Defendants, Clearfield Hospital and George F. Palmer, D.O.

Respectfully submitted,

McINTYRE, HARTYE & SCHMITT

Attorneys for Defendants

John L. McIntyre, Esquire
PA I.D. #28015
P.O. Box 533
Hollidaysburg, PA 16648-0533
(814) 696-3581

FILED
NOV 16 2007
William A. Shaw
Prothonotary/Clerk of Courts

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

SANDRA CONKLIN, as parent and natural guardian of JUSTINE KLINE and SANDRA CONKLIN, individually, Plaintiff	:	
vs.	:	NO. 03-68-CD
CLEARFIELD HOSPITAL and GEORGE F. PALMER, D.O.	:	

ORDER

NOW, this 8th day of June, 2007, the Court noting that counsel for the Defendants has no objections to the Plaintiff's Motion to Extend Time to File a Responsive Brief and that in addition, Plaintiff's counsel has agreed that the Defendants will have thirty-five (35) days after receipt of the Plaintiff's Brief, in which to file a brief on behalf of Dr. Palmer and Clearfield Hospital.

BY THE COURT,

FREDRIC J. AMMERMAN
President Judge

FILED
9:35 cm
JUN 14 2007

William A. Shaw
Prothonotary/Clerk of Courts

2cc Attys:
Patberg
McIntyre
GK

#123

DATE 6-14-07

____ You are responsible for serving all appropriate parties.

__X__ The Prothonotay's office has provided service to the following parties:

____ Plaintiff(s) __X__ Plaintiff(s)'Attorney ____ Other

____ Defendant(s) __X__ Defendant(s) Attorney

____ Special Instructions:

FILED

JUN 14 2007

William A. Shaw
Prothonotary/Clerk of Courts

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

SANDRA CONKLIN, as parent and natural guardian of JUSTINE KLINE,	)	CIVIL DIVISION
	)	NO.: 2003-68 CD
Plaintiffs,	)	
v.	)	
CLEARFIELD HOSPITAL and GEORGE F. PALMER,	)	
Defendants.	)	**JURY TRIAL DEMANDED**

ORDER OF COURT

AND NOW, to-wit, this 24 day of May, 2007, it is hereby ORDERED, DECREED and ADJUDGED that the Plaintiff's Motion for Extension of Time is **GRANTED**. Plaintiff shall have an additional twenty (20) days from the date of this Order in which time to file their Brief. The Defendants shall have twenty (20) days from the date of filing of the Plaintiff's Brief to file their reply.

BY THE COURT:

_____ J.

FILED 3cc Atty Rothberg
MAY 30 2007
William A. Shaw
Prothonotary/Clerk of Courts

#114

FILED

MAY 30 2007

William A. Shaw
Prothonotary/Clerk of Courts

DATE: 5/30/07

X You are responsible for serving all appropriate parties.

___ The Prothonotary's office has provided service to the following parties:

___ Plaintiff(s) ___ Plaintiff(s) Attorney ___ Other

___ Defendant(s) ___ Defendant(s) Attorney

___ Special Instructions:

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

SANDRA CONKLIN, as parent and natural guardian of JUSTINE KLINE,

Plaintiffs,

v.

CLEARFIELD HOSPITAL and GEORGE F. PALMER,

Defendants

CIVIL DIVISION

NO.: 2003-68 CD

TYPE OF PLEADING:

MOTION FOR EXTENSION OF TIME OF BRIEFING SCHEDULE

FILED ON BEHALF OF PLAINTIFFS

COUNSEL OF RECORD FOR THIS PARTY:

ROLF LOUIS PATBERG, ESQUIRE
PA I.D. NO.: 65185

PATBERG, CARMODY & GING
DEUTSCHTOWN CENTER
801 VINIAL STREET - THIRD FLOOR
PITTSBURGH, PA 15219
412-232-3500

JURY TRIAL DEMANDED

FILED NO CC
m/11:02/01
MAY 29 2007
GK

William A. Shaw
Prothonotary/Clerk of Courts

#113

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

SANDRA CONKLIN, as parent and natural guardian of JUSTINE KLINE,	)	CIVIL DIVISION
	)	NO.: 2003-68 CD
Plaintiffs,	)	
v.	)	
CLEARFIELD HOSPITAL and GEORGE F. PALMER,	)	
Defendants.	)	**JURY TRIAL DEMANDED**

MOTION FOR EXTENSION OF TIME OF BRIEFING SCHEDULE

AND NOW, comes the Plaintiff, Justine Kline, by and through her attorneys, Patberg, Carmody & Ging, and Rolf Louis Patberg, Esquire, and files the foregoing Motion for Extension of Time of Briefing Schedule and in support thereof aver as follows:

1. The above-captioned case is a medical negligence action that was tried before the Honorable John K. Reilly from December 4, 2006 through December 12, 2006.

2. The case primarily surrounded the care and treatment rendered by Defendant George Palmer, while in the course and scope of his employment at Clearfield Hospital on February 23, 2002, at which point in time, minor-Plaintiff Justine Kline presented to the Clearfield Hospital Emergency Room at the early hours of the morning of February 23, 2002.

3. Justine was subsequently discharged at approximately 5:45 a.m. on February 23, 2002 and the Plaintiffs asserted a claim that such discharge was negligent, eventually resulting in the amputation of four (4) of her fingers, numerous physical scars, multiple corrective surgeries, as well as extensive pain and suffering.

4. Plaintiffs have filed Post-Trial Motions surrounding a variety of issues that have arisen in the case.

5. On December 20, 2006, Plaintiffs filed a Motion for Briefing Schedule. On December 22, 2006, the Honorable Judge John K. Reilly, Jr. issued a Court Order indicating that the Plaintiffs were to file their Brief no more than twenty (20) days after receipt of the trial transcript.

6. The trial transcript was certified on May 8, 2007.

7. The trial transcript is 982 pages long and there are a variety of complex issues involved in the case.

8. As such, Plaintiffs respectfully request this Honorable Court grant the Plaintiff an additional twenty (20) days to complete and submit their Brief In Support of the Post-Trial motions.

9. Plaintiff's counsel has contacted defense counsel, John McIntyre, and Mr. McIntyre is not available until Tuesday, May 29, 2007.

WHEREFORE, Plaintiff respectfully requests an additional twenty (20) days in which time to prepare and file the Brief in the herein matter.

RESPECTFULLY SUBMITTED:

PATBERG, CARMODY & GING

DATE: 5-25-07

By _____
Rolf Louis Patberg, Esquire
PA I.D. No.: 65185

Attorney for Plaintiffs

JURY TRIAL DEMANDED

CERTIFICATE OF SERVICE

I, Rolf Louis Patberg, Esquire, hereby certify that a true and correct copy of the foregoing Motion for Extension of Time of Briefing Schedule was forwarded this 25 day of May, 2007 via facsimile and U.S. Mail to the following:

John L. McIntyre, Esquire
McIntyre, Dugas, Hartye & Schmitt
P.O. Box 533
Holidaysburg, PA 16648
814-696-9399

The Honorable Judge John K. Reilly
Clearfield County Courthouse
230 E. Market Street
Clearfield, PA 16830
814-765-7649

David S. Meholick, Court Administrator
Court of Common Pleas of Clearfield County
230 E. Market Street
Clearfield, PA 16830
814-765-7649

Rolf Louis Patberg, Esquire

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

SANDRA CONKLIN, as parent and natural guardian of JUSTINE KLINE, and SANDRA CONKLIN, individually,	No. 2003 – 68 CD
	ISSUE: ANSWER TO PLAINTIFF'S POST-TRIAL MOTIONS
Plaintiff	
vs.	
	Filed on behalf of Defendants, CLEARFIELD HOSPITAL and GEORGE F. PALMER
CLEARFIELD HOSPITAL and GEORGE F. PALMER, D.O.,	Counsel of Record: John L. McIntyre, Esquire PA I.D. #28015 McINTYRE, HARTYE & & SCHMITT P.O. Box 533 Hollidaysburg, PA 16648 (814) 696-3581
Defendants	JURY TRIAL DEMANDED

I HEREBY CERTIFY THAT A TRUE AND CORRECT COPY OF THE WITHIN WAS MAILED TO ALL COUNSEL OF RECORD THIS 28TH DAY OF **DECEMBER, 2006**.

Attorneys for Named Defendants

FILED
DEC 29 2006
m/12:50/w
William A. Shaw
Prothonotary/Clerk of Courts

#112

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

SANDRA CONKLIN, as parent and natural guardian of JUSTINE KLINE, and SANDRA CONKLIN, individually,	:	No. 2003 – 68 CD
Plaintiff	:	
vs.	:	
CLEARFIELD HOSPITAL and GEORGE F. PALMER, D.O.,	:	
Defendants	:	JURY TRIAL DEMANDED

ANSWER TO PLAINTIFF'S POST-TRIAL MOTIONS

AND NOW, come the Defendants, GEORGE F. PALMER, D.O. and CLEARFIELD HOSPITAL, and file the following Answer to Plaintiff's Post-Trial Motions:

1. Admitted.

2. Admitted.

3. Admitted that that was plaintiff's claim.

4-6. Admitted.

7. It is admitted that Dr. Tilelli testified and further, admitted under cross-examination, that in fact his opinion in the **Wade-Greaux** case was disqualified, as a result of faulty data. It is also believed that plaintiff's counsel did not object to all of the questions and that said objections were waived. Further, Dr. Tilelli did not disagree that his opinion was not accepted. The cross-examination was proper.

8. Dr. King testified in accordance with the Court's pre-trial ruling and his testimony was not objected to regarding the Hoberman article.

9. It is admitted that Dr. Dossett, who was properly qualified, was permitted to rebut the testimony of Dr. Tilelli as to causation and further, was able to give his expert opinion that the discharge of Justine Kline was within the standard of care regarding the infectious process. This testimony was properly admitted.

10. Denied.

11. It is denied that defense counsel objected to, but rather indicated that it was very unusual and further, the Court in denying the playing of the videotape depositions, did inform plaintiff's counsel that he could read the portions of the testimony to the jury. Plaintiff's counsel refused or failed to read the portion of the depositions to the jury.

12. It is admitted that the jury found Dr. Palmer was not negligent.

13. In response to paragraph 13 and subparagraphs a. through h., all of the same are denied and further, at all times, plaintiff was given every opportunity to cross-examine and try his case in accordance with the Rules of Evidence. It is denied that subparagraphs a. – h. are valid reasons for the granting of a new trial. Strict proof is demanded with regard to all of the above issues. The defendants reserve the right to supplement their response after the trial transcript is received.

14. It is believed that some or all of the above issues may have been waived by way of objection.

15. Admitted.

16. It is denied that any of the above issues should result in a new trial, and further, if any of the above issues did occur, then the same would constitute harmless errors.

17. Admitted.

POST-TRIAL MOTIONS NO. 1

18-23. In response to paragraphs 18 – 23, Dr. Dossett was appropriately qualified and at all times Dr. Dossett testified he did possess a physician's license, had been engaged in practice of medicine both clinically and in teaching for five years and further, was adequately trained, had adequate experience and knowledge and in fact trained residents with regard to the infectious process. The defendants incorporate by reference the testimony of Dr. Dossett in support of his qualifications so as to be permitted to testify in accordance with Section (e).

POST-TRIAL MOTION NO. 2

24-29. As to Dr. King, plaintiff's counsel elicited the testimony in question regarding his opinion. This was not brought out during direct examination.

As to Dr. Dossett, he was adequately qualified and his opinion, as noted by the Honorable Judge Reilly, was rebutting the opinion of plaintiff's expert.

The opinions were not speculative and in fact were based upon facts of record and based upon the underlying facts in this case. Post-Trial Motion No.2 should be denied and these defendants incorporate by reference the testimony of the witnesses regarding their opinions.

POST-TRIAL MOTION NO. 3

30-37. This Post-Trial Motion is purely speculative and further, even if it were error for the Court not to have charged as requested, then the same would be harmless, insofar as the jury never reached damages.

POST-TRIAL MOTION NO. 4

38-43. In response to Post-Trial Motion No. 4, paragraphs 38 – 43, it is admitted that the Court did not permit plaintiff's counsel to play certain portions of the videotapes which had already been shown to the jury. Judge Reilly did offer to allow plaintiff's counsel to read to the jury those portions of the deposition testimony which he believed might be helpful. Plaintiff's counsel refused and/or failed to read those portions of the depositions to the jury. Hence, plaintiff's counsel waived this argument. Further, if this is considered to be an error, the same would be harmless, insofar as the jury never got to damages. The only videotapes that would have been played pertain to the issue of damages.

POST-TRIAL MOTION NO. 5

44-47. Dr. Palmer does not believe that any objection was ever placed on the record regarding his request by medical records to complete the chart. Further, the jury heard all of the evidence, and it was up to them to determine the credibility and weight to be afforded to Dr. Palmer's testimony. Clearly this was not an error and the Court appropriately allowed Dr. Palmer to testify as to how he was requested to complete the medical record, which background formed the basis for his completing the addendum which was discussed at length during the course of the trial.

POST-TRIAL MOTION NO. 6

48-57. The questioning of Dr. Tilelli with his prior testimony in a U.S. District Court case was appropriate. Dr. Tilelli held himself out to be an expert and in his initial report, set forth that to the best of his knowledge, his opinions and qualifications had never been challenged or disqualified. Dr. Tilelli was either wrong or forgot that his opinion was not accepted in the case of **Wade-Greaux**.

In any event, Dr. Tilelli placed his credibility solely at issue for the jury to consider by agreeing to serve as an expert in this case. Further, Dr. Tilelli placed his background as an expert and his qualifications at issue with the jury. Dr. Tilelli admitted that his opinion was not accepted and the reasons for same. This was solely within the duty of the jury to decide his credibility. Further, it is believed that all of the questions were not objected to by plaintiff's counsel in the above matter. This does not serve as a basis for the grant of a new trial. The cross-examination was proper.

POST-TRIAL MOTION NO. 7

58-67. Dr. Chris King testified in accordance with this Court's Pre-Trial Order of November 2006. The Court did permit Dr. King to reference the Hoberman article, without getting into the specifics and publishing of the article to the jury. Dr. King at all times followed the Court's Pre-Trial Order and his testimony was appropriate as forming a portion of the basis for his opinions. In the Post-Trial Motions, plaintiff's counsel talks about Dr. King's reports; however Dr. King did not go into all of the specifics of the Hoberman article, but rather testified in a general manner that this was an authoritative work upon which he relied. Interestingly enough, plaintiff's counsel never questioned Dr. King about the Hoberman article. This does not form the basis for a new trial.

POST-TRIAL MOTION NO. 8

68-73. It is admitted that Clearfield Hospital implemented a new computer system in January 2002. Plaintiff's counsel sought and obtained a Point for Charge on alteration of medical records directly from the proposed Jury Instructions. In fact, plaintiff's Point for Charge No. 35 was given to the jury, over objection from the defendants. As to the MCARE Act, the same was not in effect at the time of the incident in question. Dr. Palmer will further incorporate his testimony and provide a supplemental response after the trial transcript is received.

POST-TRIAL MOTION NO. 9

74-82. The defendants did not ever contend that Sandra Conklin was contributorily negligent or that her actions in anyway caused or contributed to her daughter's injuries. Further, even if this were error not to charge as requested, it would be harmless, insofar as the jury did not find Dr. Palmer negligent. As such, they would never have reached an issue of contributory negligence.

POST-TRIAL MOTION NO. 10

83. This request is purely speculative and does not serve as an appropriate basis for the award of a new trial.

The Defendants, George F. Palmer, D.O. and Clearfield Hospital, respectfully request the opportunity to file a more complete response upon receipt of the relevant portions of the trial transcript and after having had an opportunity to review the Brief in support of plaintiff's position regarding Post-Trial Motions.

WHEREFORE, Defendants, George F. Palmer, D.O. and Clearfield Hospital, respectfully request this Honorable Court issue an Order denying the plaintiff's Post-Trial Motions and affirming the jury's verdict.

McINTYRE, HARTYE & SCHMITT

By_____
Attorneys for Defendants

John L. McIntyre, Esquire
PA I.D. #28015
P.O. Box 533
Hollidaysburg, PA 16648
(814) 696-3581

IN THE COURT OF COMMON PLEAS

OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

SANDRA CONKLIN, as parent and natural guardian of JUSTIN KLINE	:	
-vs-	:	No. 03-68-CD
CLEARFIELD HOSPITAL, GEORGE F. PALMER, ERNEST P. JONES, and JAMES P. DESANTIS	:	

O R D E R

NOW, this 22nd day of December, 2006, upon consideration of Post Trial Motions filed on behalf of Plaintiffs above-named and Motion for Briefing Schedule, it is the ORDER of this Court that Plaintiffs shall file their brief within no more than twenty (20) days from receipt of transcript of testimony. Defendants shall file their reply brief within twenty (20) days from receipt of Plaintiffs'. Argument to be scheduled thereon at the request of either party.

BY THE COURT,

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

FILED 2cc Attys:
013:35 R. Patberg
DEC 26 2006 J. McIntyre
William A. Shaw
Prothonotary/Clerk of Courts

#111

FILED

DEC 26 2006

William A. Shaw
Prothonotary/Clerk of Courts

DATE: 12/26/06

____ You are responsible for serving all appropriate parties.

X The Prothonotary's office has provided service to the following parties:

____ Plaintiff(s) X Plaintiff(s) Attorney ____ Other

____ Defendant(s) X Defendant(s) Attorney

____ Special Instructions:

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

SANDRA CONKLIN, as parent and natural guardian of JUSTINE KLINE,

Plaintiffs,

v.

CLEARFIELD HOSPITAL, GEORGE F. PALMER, ERNEST P. JONES, and JAMES P. DeSANTIS,

Defendants

JURY TRIAL DEMANDED

CIVIL DIVISION

NO.: 2003-68 CD

TYPE OF PLEADING:

PLAINTIFF'S POST-TRIAL MOTIONS

FILED ON BEHALF OF PLAINTIFFS

COUNSEL OF RECORD FOR THIS PARTY:

ROLF LOUIS PATBERG, ESQUIRE
PA I.D. NO.: 65185

PATBERG, CARMODY & GING
DEUTSCHTOWN CENTER
801 VINIAL STREET
THIRD FLOOR
PITTSBURGH, PA 15219
412-232-3500

FILED NO CC
DEC 21 2006
William A. Shaw
Prothonotary/Clerk of Courts

#110

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

SANDRA CONKLIN, as parent and natural guardian of JUSTINE KLINE,	)	CIVIL DIVISION
	)	NO.: 2003-68 CD
Plaintiffs,	)	
v.	)	
CLEARFIELD HOSPITAL, GEORGE F. PALMER, ERNEST P. JONES, and JAMES P. DeSANTIS,	)	
Defendants.	)	
	)	**JURY TRIAL DEMANDED**

PLAINTIFF'S POST-TRIAL MOTIONS

AND NOW, comes the Plaintiff, Justine Kline, by and through her attorneys, Patberg, Carmody & Ging, and Rolf Louis Patberg, Esquire, and files the foregoing Post-Trial Motions and in support thereof aver as follows:

1. The above-captioned case is a medical negligence action that was tried before the Honorable John K. Reilly from December 4, 2006 through December 12, 2006.

2. The case primarily surrounded the care and treatment rendered by Defendant George Palmer, while in the course and scope of his employment at Clearfield Hospital, on February 23, 2002, at which point in time, minor-Plaintiff Justine Kline presented to the Clearfield Hospital Emergency Room at the early hours of the morning of February 23, 2002.

3. Justine was subsequently discharged at approximately 5:45 a.m. on February 23, 2002 and the Plaintiffs asserted a claim that such discharge was negligent, eventually resulting in the

amputation of four (4) of her fingers, numerous physical scars, multiple corrective surgeries, as well as extensive pain and suffering.

4. The Plaintiffs presented testimony in the case from Justine Kline (via video), Sandra Conklin, Expert John Tilelli, Kristin McBride, Shirley Morrison, Ronald Kline, Sheri Sorter-Thompson, Keith Paris, Kathleen Kennedy Plansinis, James DeSantis, Raymond Schaney (via video), Steven Docimo (via video), Daniel Friedburg (via video), and Kevin P. Yakuboff (via video).

5. In addition, the Plaintiffs called Defendant George Palmer as for cross-examination.

6. In turn, the Defendants called Donna Unch, Gwendolyn Thomas, Expert Christopher King, and Expert John Dossett.

7. Dr. John Tilelli, Board Certified in Emergency Medicine, Pediatric Emergency Medicine, Critical Care Medicine, Pediatric Critical Care Medicine and Medical Toxicology, testified regarding the deviation in the standard of care by Dr. George Palmer. On cross-examination, over the objection of counsel, Defendant repeatedly attempted to cross-examine Dr. John Tilelli, for purposes of impeachment apparently, regarding a legal opinion issued in the matter of Wade-Greaux v. Whitehall Laboratories, Inc., a federal case from the Virgin Islands that occurred in 1994. Defense counsel did not present Dr. Tilelli with his actual testimony or prior statement. Nonetheless, again over the objections of Plaintiff's counsel, the Honorable John K. Reilly permitted the cross-examination of John Tilelli with the legal opinion.

8. Essentially, Dr. Christopher King testified that Dr. Palmer complied with the standard of care. King was also permitted, over objection, to utilize a certain medical article relating to pediatric urosepsis written by his colleague at the University of Pittsburgh, Dr. Alejandro Hoberman. Despite issuing an Order limiting such testimony and over the objection of counsel, the Honorable

Judge John K. Reilly permitted Dr. King to so testify. In addition, Dr. King was permitted to testify that there was little or no chance to treat Justine Kline's condition.

9. Over objection, both by Motion and on the record, Expert Witness John Dossett was permitted to testify as to the standard of care and as to the chances of Justine's full recovery, had she been admitted to the hospital.

10. Prior to the closings, the Honorable John K. Reilly held a closing conference in which the Plaintiff sought a variety of points for charge that the Court refused to give, including Plaintiff's Proposed Points for Charge Numbers, 8, 12, 13, 16, 26, 33, 34, portions of 35, 36, 45, and 46. Appropriate objections were placed in the record in accordance with the Pennsylvania Rules of Civil Procedure.

11. During closing arguments, at a critical time in the closing argument, defense counsel objected to the playing of very specific portions of video deposition testimony that had been admitted as evidence in the case. This testimony was critical to the Plaintiff's analysis and the Court disallowed the playing of said videotaped deposition, which is entirely permissible under the Pennsylvania Rules of Civil Procedure.

12. On December 12, 2006, the jury awarded a verdict in favor of the Defendants, finding no negligence on behalf of Dr. Palmer.

13. In connection with the herein matter, Plaintiffs raise the following issues:

a. Infectious disease expert, John Dossett, should not have been permitted to testify as to the standard of care of George Palmer or the staff at Clearfield Hospital;

b. Neither Emergency Room Expert Christopher King or Infectious Disease Expert John Dossett should have been permitted to testify as to the speculated ultimate outcome of Justine Kline, had she been timely treated;

c. This Honorable Court should have instructed the jury that all funds were to be placed in a trust pursuant to Pennsylvania Rule of Civil Procedure 2039;

d. This Honorable Court should have permitted the playing of videotaped depositions during the closing argument;

e. This Honorable Court should not have permitted George Palmer to testify that he completed his "note" after receiving a "memo" from medical records;

f. Dr. Tilelli should not have been impeached utilizing a legal opinion from prior testimony;

g. Dr. King should not have been permitted to utilize the "Hoberman" article to bolster his testimony; and

h. The Court should have given requested jury instructions 8, 12, 13, 16, 26, 33, 34, portions of 35, 36, 45 and 46.

14. Each and all of the above issues were either raised via motions in limine, in-trial motions or by objections on the record.

15. The Plaintiffs have ordered the trial transcript in question.

16. The granting of any one of the Post-Trial Motions below should result in a new trial and, accordingly, the Plaintiffs are, in fact, seeking a new trial in this matter.

17. Plaintiff has filed a Motion for Briefing Schedule contemporaneous with the herein Motion requesting that the Briefing Schedule occur after receipt of the Trial Transcript.

POST-TRIAL MOTION NO. 1

INFECTIOUS DISEASE EXPERT, JOHN DOSSETT, SHOULD NOT HAVE BEEN PERMITTED TO TESTIFY AS TO THE STANDARD OF CARE OF EMERGENCY ROOM PHYSICIAN GEORGE PALMER OR THE STAFF AT CLEARFIELD HOSPITAL

18. This Honorable Court, over the objection of Plaintiff's counsel, permitted defense counsel to call John Dossett, M.D. as a standard of care expert.

19. Dr. Dossett is not an Emergency Room Physician and has no training, according to his Curriculum Vitae or trial testimony, as an Emergency Room Physician.

20. In fact, during cross-examination and Voir Dire, Dr. Dossett conceded that he had never worked in an emergency room, never seen training in an emergency room, and had never diagnosed a non-HIV patient with bacteremia or septicemia as an emergency room physician.

21. Subject to the filed transcript, Dr. Dossett testified that he had been previously associated and employed by an HIV-inpatient care clinic, at which point in time, he treated patients with bacteremia. This is entirely different from such an experience in an emergency room.

22. The Medical Care Availability and Reduction of Error (MCARE Act) specifically addresses the issue of expert qualifications at 40 P.S. §1303.52, the pertinent portions of which state as follows:

> **(b) Medical testimony.** – An expert testifying on a medical matter, including the standard of care, risks and alternatives, causation and the nature and extent of the injury, must meet the following qualifications:
>
> > (1) Possess an unrestricted physician's license to practice medicine in any state or the District of Columbia.
> >
> > (2) Be engaged in or retired within the previous five years from active clinical practice or teaching.

Provided, however, the court may waive the requirements of this subsection for an expert on a matter other than the standard of care if the court determines that the expert is otherwise competent to testify about medical or scientific issues by virtue of education, training or experience.

(c) Standard of care. – In addition to the requirements set forth in subsections (a) and (b), and expert testifying as to a physician's standard of care also must meet the following qualifications:

(1) Be substantially familiar with the applicable standard of care for the specific care at issue as of the time of the alleged breach of the standard of care.

(2) Practice in the same subspecialty as the defendant physician or in a subspecialty which has a substantially similar standard of care for the specific care at issue, except as provided in subsection (d) or (e).

(3) In the event the defendant physician is certified by an approved board, be board certified by the same or a similar approved board, except as provided in subsection (e).

(d) Care outside speciality. – A court may waive the same subspecialty requirement for an expert testifying on the standard of care for the diagnosis or treatment of a condition if the court determines that:

(1) the expert is trained in the diagnosis or treatment of the condition, as applicable; and

(2) the defendant physician provided care for that condition and such care was not within the physician's speciality or competence.

(e) Otherwise adequate training, experience and knowledge. – A court may waive the same specialty and board certification requirements for an expert testifying as to a standard of care if the court determines that the expert possesses sufficient training, experience and knowledge to provide the testimony as a result of active involvement in or full-time teaching of medicine in the applicable subspecialty or a related field of medicine within the

previous five-year time period." 2002, March 20, P.L. 154, No. 13, §512, effective in 60 days.

23. Therefore, Dr. Dossett was not qualified to testify as to the standard of care of Defendant Palmer.

POST-TRIAL MOTION NO. 2

NEITHER INFECTIOUS DISEASE EXPERT JOHN DOSSETT OR EMERGENCY ROOM EXPERT CHRISTOPHER KING SHOULD HAVE BEEN PERMITTED TO TESTIFY AS TO THE SPECULATED ULTIMATE OUTCOME OF JUSTINE KLINE, HAD SHE BEEN TIMELY TREATED.

24. Emergency Room Expert Christopher King, who was not qualified to provide infectious disease opinions, testified that the likelihood of Justine's recovery was remote, although he conceded that there was, in fact, a window of opportunity. As a matter of record, the Plaintiffs also contend that Christopher King, if permitted to give such an opinion, was not qualified to do so and raises that issue herein as well.

25. Similarly so, Dr. Dossett rendered the following opinions in his reports at trial:

a. In the case of Justine, there was no window of opportunity to intervene in a way that would prevent or reverse the tissue injury. Moreover, this process would have proceeded on its fulminate course, even if she had been in the hospital on the morning of February 23, 2003; and

b. If the patient had been admitted to the hospital, she would have had a thorough history and physical examination, a CBC, a blood culture, a urine culture, a urine analysis, fever control, and parenteral antibiotics. All of this was done in the emergency room. This is clearly the standard of care today and it was the standard in 2002.

26. Both of these opinions are speculative, as they are not based upon facts of record and speculate as to potential mechanisms.

27. The Defendant shall not be permitted to speculate about the magnitude of choices he or she put beyond the possibility of realization by his/her negligent conduct. Hamil v. Bashline, 481 Pa. 256, 392 A.2d 1280 (1978).

28. Dr. Dossett and Dr. King are proffering the exact type of speculation prohibited by Hamil v. Bashline and its line of cases.

29. Therefore, their testimony regarding potential outcomes must be stricken.

POST-TRIAL MOTION NO. 3

THIS HONORABLE COURT SHOULD HAVE INSTRUCTED THE JURY THAT ALL FUNDS WERE TO BE PLACED IN A TRUST PURSUANT TO PENNSYLVANIA RULE OF CIVIL PROCEDURE 2039.

30. In the current case, Sandra Conklin testified that she was lacking in economic resources.

31. In addition, the Defendants repeatedly questioned follow up treatment and discharge instructions of its witnesses.

32. During the charging conferences prior to trial, as well as the submitted Plaintiff's Points for Charge, Plaintiff requested that this Honorable charge the jury regarding the law, as contained in Pennsylvania Rule of Civil Procedure 2039.

33. Pennsylvania Rule of Civil Procedure 2039 states as follows:

> "(b) When a compromise or settlement has been so approved by the court, or when a judgment has been entered upon a verdict or by agreement, the court, upon petition by the guardian or any party to the action, shall make an order approving or disapproving any agreement entered into by the guardian for the payment of counsel fees and other expenses out of the fund created by the compromise, settlement or judgment; or the court may make such order as it deems proper fixing counsel fees and other proper expenses. The balance of the fund shall be paid to a guardian of the estate of the minor qualified to receive the fund, if the minor has one or one is to be appointed. The balance of the fund payable to the guardian of the estate may include a structured settlement underwritten by a financially responsible entity that assumes responsibility for future payments or a trust as described in subdivision (b)(4) of this rule."

34. Counsel for the Plaintiff sought the following instruction:

> **"Plaintiff's Point for Charge No. 45.** Pennsylvania law requires that when a judgment has been entered upon a verdict, the balance of the fund shall be paid to a guardian to be placed in a trust, which is subject to Court supervision."

35. The Court refused to provide such a charge.

36. Jurors were left to speculate whether the funds in question would go for the benefit of the child or whether to the mother for living expenses.

37. Had the instruction been given, the jury would not have been left to speculate as to any award that was given.

POST-TRIAL MOTION NO. 4

THIS HONORABLE COURT SHOULD HAVE PERMITTED THE PLAYING OF VIDEOTAPED DEPOSITIONS DURING THE CLOSING ARGUMENT.

38. It has long been the law in Pennsylvania that, so long as no liberties are taken with the evidence, a lawyer is free to draw such inferences as he wishes from the testimony and to present his case in the light most suited to advance his cause and win a verdict in the jury box. Contractors Lumber & Supply Company v. Quinette, 386 Pa. 517, 522, 126 A.2d 442, 444 (1956).

39. In fact, the Pennsylvania Supreme Court stated as follows:

> "While counsel are required to stay within reasonable bounds in making their partisan pleas to a jury, this does not mean that their speeches may not be spirited, stirring, and accusatory, [*8] if the material of the trial supplied them with relevant oratorical ammunition. There is nothing in the law, and certainly nothing in the history of American forensic appeal, which remotely suggests that a lawyer's summation must be a prosaic and dull affair, devoid of metaphor, empty of simile, and stranger of dramatic, poetical, or sentimental allusion." Id, 126 A.2d at 444; See also Newman v. Consolidated Coal Company, 438 Pa. Super. 703, 652 A.2d 416 (1994).

40. Counsel is afforded a great deal of latitude and argument to the jury. Id.

41. In the current case, counsel presented an extensive presentation and closing argument as to the evidence that supported the Plaintiff's theory of the case.

42. In mid-closing argument, defense counsel objected as to the playing of certain videotaped portions that had been pre-marked and were admitted into evidence in the present matter.

43. Nonetheless, contrary to Pennsylvania law, the Honorable Judge John K. Reilly refused the playing of said videotaped deposition, severely prejudicing the Plaintiff's presentation and closing.

POST-TRIAL MOTION NO. 5

THIS HONORABLE COURT SHOULD NOT HAVE PERMITTED GEORGE PALMER TO TESTIFY THAT HE COMPLETED HIS "NOTE" AFTER RECEIVING A "MEMO" FROM MEDICAL RECORDS.

44. During the course of trial, Defendant George Palmer was confronted with the handwritten note in the medical records which was clearly written at least eight (8) days after treatment of Justine Kline.

45. George Palmer was not permitted to speculate that he had possibly entered the information in the computer that simply did not appear in the record.

46. Instead, Palmer was able to quote from an unproduced, unknown memorandum stating that as the basis of reasoning for the issuing of the handwritten note in the records, contrary to his deposition testimony. Counsel for the Plaintiff objected.

47. Such testimony is hearsay and extremely prejudicial to Defendant and, at best, speculative.

POST-TRIAL MOTION NO. 6

CROSS-EXAMINATION OF DR. TILELLI WITH A PUBLISHED LEGAL OPINION WAS IMPROPER.

48. During the voir dire portion of Dr. Tilelli's qualifications, defense counsel cross-examined Dr. John Tilelli on a certain legal opinion written in 1994 in the matter of Wade-Greaux v. Whitehall Laboratories, Inc., 874 F.Supp. 1441 (D.C.V.I., 1994).

49. Upon information and belief, defense counsel did not mark the opinion as an exhibit during the course of the trial.

50. Apparently, defense counsel introduced said opinion for the purposes of establishing that Dr. Tilelli's opinion was excluded purportedly based upon Dr. Tilelli's qualifications.

51. Such impeachment was totally improper as, in fact, the Court determined that Dr. Tilelli's opinion was inadmissible because Federal Rule of Evidence 703 required exclusion of their opinions because it was based upon flawed human data and that experts in the field apparently did not reach such conclusions. Id, 874 F.Supp. at 1483.

52. Plaintiff's counsel repeatedly objected to such cross-examination and the Court overruled those objections.

53. Such impeachment was totally improper. Unlike Federal Rule of Evidence 608(b), the Pennsylvania Rules of Evidence do not permit an attack on the witness's care with specific instances of conduct.

54. Evidence of a witness's specific act are generally not admissible to show his or her character for untruthfulness, the apparent purpose of the attack by defense counsel.

55. Pennsylvania Rule of Evidence 608(b) precludes the utilization of specific incidences of conduct. Furthermore, a witness may also be cross-examined concerning specific instances of

conduct that are closely related to the transaction in which the case focuses. See Packel, Poulan, Pennsylvania Evidence, (1999) p. 562-566 for discussion.

56. Such testimony was highly prejudicial, as it seriously called into question the credibility of John Tilelli.

57. Furthermore, Wade Greaux was a teratology case which primarily concerned the utilization of vaccines. There is absolutely no relevance or sufficiently similar fact patterns to allow defense counsel to cross-examine a quintuple Board Certified physician regarding a total irrelevant issue.

POST-TRIAL MOTION NO. 7

DR. KING SHOULD NOT HAVE BEEN PERMITTED TO REPEATEDLY REFERENCE THE HOBERMAN ARTICLE TO BOLSTER HIS TESTIMONY

58. The Defendants called Christopher King, M.D., F.A.C.E.P., Associate Professor of Emergency Medicine in Pediatrics, University of Pittsburgh School of Medicine, as an expert in this case.

59. Dr. King had issued two (2) reports in this matter. First, he issued a report on December 16, 2004. He issued a second report on July 11, 2005.

60. Each of these respective reports heavily relies upon a certain article written by Dr. Alejandro Hoberman, a fellow colleague of Dr. King's at the University of Pittsburgh.

61. Dr. King quoted the Hoberman article throughout both reports. For example, in his initial report of December 16, 2004, Dr. King issued the following references and opinions regarding the Hoberman report:

> "Regarding the issue of standard of care, I would like to respond to a specific criticism made by Dr. Tilelli in his review, i.e., "Inpatient management for the patient with newly diagnosed pyelonephritis is the standard of care." Apparently, Dr. Tilelli is unaware of important recent research that has changed the standard of care for this

> condition, because his statement is untrue and outdated. As I discuss in my lectures on this topic, a ground-breaking study by Hoberman, et al. ("Oral vs. initial intravenous therapy for urinary tract infections in young febrile children." *Pediatrics* 1999; 104: 79-86) demonstrated quite convincingly that children between the ages of two months and two years with presumed pyelonephritis can be managed safely and effectively on an outpatient basis. Hospital admission is no longer the standard of care for these patients. This study has been widely quoted in the medical literal and, to my knowledge, has changed practice at most, if not all, major institutions. Logically, we can assume that if it is not the standard of care for children as young as two months of age, it is certainly not the standard of care for a three-year-old child like Justine Kline. That Dr. Tilelli would hold himself out as an expert on this subject and yet be unaware of this important recent change in the standard of care is surprising."

62. There is no question that, if published material is authoritative and relied upon by experts in the field, although it is hearsay, an expert may rely upon it in forming his opinion. Aldridge v. Edmunds, 561 Pa. 323, 750 A.2d 292, 297 (2000).

63. However, it is equally clear that the utilization of such information is limited. Where a trial court fails to impose appropriate constraints, it is an abuse of discretion. Id, 750 A.2d at 298.

64. A review of each of Dr. King's reports seemingly indicate that Dr. King intended to utilize the Hoberman articles as substantive evidence to "bolster" his own position and, in fact, he did so during his trial testimony.

65. Such a utilization of a purported learned treatise is improper and this Court imposed restrictions upon Dr. King's ability to reference this material, to wit, issuing an Order and limited the use of the Hoberman article.

66. Nonetheless, Dr. King was permitted to testify extensively regarding the Hoberman article.

67. Such testimony was extremely prejudicial, as Plaintiffs were deprived of their right of cross-examination.

POST-TRIAL MOTION NO. 8

THIS HONORABLE COURT SHOULD HAVE INSTRUCTED THE JURY ON POINT FOR CHARGE NOS. 33 AND 34 PURSUANT TO 40 P.S. §1303.512.

68. Apparently, Clearfield Hospital implemented computerized charting in January 2002.

69. In the produced medical record with regard to this case, Clearfield Hospital produced a fourteen (14) page Emergency Room Report that contained a certain handwritten addendum on the fourteenth page. The Defendant conceded that a certain handwritten entry, undated and untimed, was entered on March 1st or later. The addendum was clearly not entered in the computer operated version. The originally produced medical chart was apparently printed by Donna R. Unch on Wednesday, February 23, 2002 at 3:36 p.m.

70. Dr. Palmer testified in trial that the handwritten physical examination was not, in fact, entered into the records on February 23, 2002, the date of treatment. Further, he testified that he did not document it within the same shift and he could not recall whether he had documented the physical examination within days.

71. As such, Plaintiff has sought the following instructions:

> **PLAINTIFF'S POINT FOR CHARGE NO. 34**
>
> **Alteration to Medical Records.**
>
> Physicians have a duty to ensure that all treatment records accurately reflect the treatment or services rendered. Corrections or changes to entries may be made only where the change is clearly identified as such, dated and initialed by the person making the change. In fact, it is against the law in this State to alter medical records with the intent to deceive or mislead anyone.
>
> In this case, you have heard evidence that Dr. George Palmer altered his records in the correction, supplementation, and amendment of the physical exam of Justine Kline on February 23, 2002.
>
> The alteration of medical records is admissible as evidence of a defendant's own belief that the actual records do not support his

defense. If you find that Dr. Palmer altered the medical records with the intent to deceive or mislead anyone, you may infer that the alteration of the records in this case occurred because Dr. Palmer believed that the original record would have been unfavorable in the trial of this matter.

PLAINTIFF'S POINT FOR CHARGE NO. 35

If you find that there was an intentional alteration or destruction of medical records by the defendant(s) in this case, and that there has been no satisfactory explanation for that alteration or destruction, you may infer that the records or portions of records so altered or destroyed would have been unfavorable to the defendant(s).

The following are satisfactory explanations for alteration or destruction of medical records: (1) a health-care provider may correct information on a patient's chart, where information has been entered erroneously, or where it is necessary to clarify entries made on the chart, provided that such corrections or additions are clearly identified as later additions by a date and time; (2) a health-care provider may add information to a patient's chart where it was not available at the time the record was first created, provided that such additions are clearly dated as later entries, and that they are made within a reasonable time; and (3) a health-care provider may routinely dispose of medical records, after certain time limits fixed by the law have passed; in this respect, the law requires that medical records be kept for a minimum of seven years following the discharge of a patient (or, if the patient is a minor, until his or her majority, and then for seven years or as long as the records of adults are maintained).

Therefore, if you find that any of these three explanations applies to an intentional alteration or destruction of medical records in this case, you may not draw an inference unfavorable to the defendant(s) for that alteration or destruction. If, however, you find that none of these explanations apply, you may draw such an inference.

72. The M-Care Act specifically addresses this issue in Section 1303.511.

Section 1303.511 states as follows:

"**§1303.511. Preservation and accuracy of medical records.**

(a) Timing. – Entries in patient charts concerning care rendered shall be made contemporaneously or as soon as practicable. Except as otherwise provided for in this section, it shall be considered

unprofessional conduct and a violation of the applicable licensing statute to make alterations to a patient's chart.

(B) Corrections and disposal of records. – It shall not be considered unprofessional conduct or a violation of the applicable licensing statute for a health care provider to:

> (1) Correct information on a patient's chart where information has been entered erroneously or where it is necessary to clarify entries made on the chart, provided that such corrections or additions shall be clearly identified as subsequent entries by a date and time.
>
> (2) Add information to a patient's chart where it was not available at the time the record was first created, provided that:
>
> > (i) Such additions shall be clearly dated as subsequent entries.
> >
> > (ii) A health care provider may add supplemental information within a reasonable time.
>
> (3) Routinely dispose of medical records as permitted by law.

(c) Alteration of records. – In any medical professional liability action in which the claimant proves by a preponderance of the evidence that there has been an intentional alteration or destruction of medical records, the court in its discretion may instruct the jury to consider whether such intentional alteration or destruction constitutes an adverse inference.

(d) Licensure sanction. – Alteration or destruction of medical records for the purpose of eliminating information that would give rise to a medical professional liability action on the part of a health care provider shall constitute a ground for suspension. A healthcare provider who is aware of alteration or destruction in violation of this section shall report any party suspected of such conduct to the appropriate licensure board. 2002, March 20, P.L. 154, No. 13, §511, effective in 60 days."

73. Despite these facts, this Honorable Court refused to charge Defendant Palmer regarding his unprofessional conduct.

POST-TRIAL MOTION NO. 9

THIS HONORABLE COURT SHOULD HAVE GIVEN AN SPECIFIC INSTRUCTION THAT THERE WAS NO EVIDENCE OF ANY CONTRIBUTORY NEGLIGENCE BY SANDRA CONKLIN, AS REQUESTED IN PLAINTIFF'S POINT FOR CHARGE NO. 46.

74. Upon discharge, Clearfield Hospital representatives instructed Sandra Conklin to administer certain antibiotics on the morning of February 23, 2002.

75. Defendants repeatedly made inferences and questions as to the conduct of Sandra Conklin during the trial.

76. The Defendants implied that Sandra Conklin, in some manner, was negligent in the care and treatment of Justine Kline.

77. The Defendants proffered no expert testimony on the issue of causation by and between the lack of care or treatment administered to Justine Kline on the early morning of February 23, 2002.

78. Any negligence by Sandra Conklin is completely irrelevant without any expert testimony. It is further statement that the claim of Justine Kline is completely separate and she is a separate person from Sandra Conklin. See Young v. Washington Hospital, 761 A.2d 558, 563-564 (Pa. Super. 2000).

79. The Plaintiffs requested this Honorable Court preclude Defendants or their counsel from arguing, inferring, implying or introducing any evidence of any purported negligence by Sandra Conklin. The Honorable Judge John K. Reilly issued such an order.

80. Nonetheless, counsel continuously implied that Conklin failed to comply with discharge instructions.

81. As such, an instruction by the Court would have put the matter to rest.

82. Instead, the jury was left to conjecture as to whether Conklin's conduct was, at all, a factor in Justine Kline's injury.

POST-TRIAL MOTION NO. 10

THE TOTALITY OF THE ERRORS IN THIS CASE DEMAND THAT THE PLAINTIFFS RECEIVE A NEW TRIAL

83. In the event that this Honorable Court is unwilling to grant a new trial based upon any of the aforementioned Post-Trial Motions Numbers 1 through 9, Plaintiffs assert that the totality of the errors in fact deprived them of a fair trial and entitle them to a new trial.

WHEREFORE, Plaintiffs respectfully request this Honorable Court issue an Order granting the Plaintiff a new trial in the above-captioned matter.

RESPECTFULLY SUBMITTED:

PATBERG, CARMODY & GING

DATE: 12-20-06

By _____
Rolf Louis Patberg, Esquire
PA I.D. No.: 65185

PATBERG, CARMODY & GING
Deutschtown Center
801 Vinial Street - Third Floor
Pittsburgh, PA 15212
(412) 232-3500

Attorney for Plaintiffs

JURY TRIAL DEMANDED

CERTIFICATE OF SERVICE

I, Rolf Louis Patberg, Esquire, hereby certify that a true and correct copy of the foregoing Plaintiffs' Post-Trial Motions was forwarded this 20 day of December, 2006 via Federal Express to the following:

John L. McIntyre, Esquire
McIntyre, Dugas, Hartye & Schmitt
P.O. Box 533
Holidaysburg, PA 16648

The Honorable Judge John K. Reilly
Clearfield County Courthouse
230 E. Market Street
Clearfield, PA 16830

Rolf Louis Patberg, Esquire

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

SANDRA CONKLIN, as parent and natural guardian of JUSTINE KLINE,

Plaintiffs,

v.

CLEARFIELD HOSPITAL, GEORGE F. PALMER, ERNEST P. JONES, and JAMES P. DeSANTIS,

Defendants

JURY TRIAL DEMANDED

CIVIL DIVISION

NO.: 2003-68 CD

TYPE OF PLEADING:

MOTION FOR BRIEFING SCHEDULE

FILED ON BEHALF OF PLAINTIFFS

COUNSEL OF RECORD FOR THIS PARTY:

ROLF LOUIS PATBERG, ESQUIRE
PA I.D. NO.: 65185

PATBERG, CARMODY & GING
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801 VINIAL STREET
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PITTSBURGH, PA 15219
412-232-3500

FILED
m/11:36 NO CC
DEC 21 2006
William A. Shaw
Prothonotary/Clerk of Courts

#109

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

SANDRA CONKLIN, as parent and natural guardian of JUSTINE KLINE,	CIVIL DIVISION
Plaintiffs,	NO.: 2003-68 CD
v.	
CLEARFIELD HOSPITAL, GEORGE F. PALMER, ERNEST P. JONES, and JAMES P. DeSANTIS,	
Defendants.	**JURY TRIAL DEMANDED**

MOTION FOR BRIEFING SCHEDULE

AND NOW, comes the Plaintiff, Justine Kline, by and through her attorneys, Patberg, Carmody & Ging, and Rolf Louis Patberg, Esquire, and files the foregoing Motion for Briefing Schedule and in support thereof aver as follows:

1. The above-captioned case is a medical negligence action that was tried before the Honorable John K. Reilly from December 4, 2006 through December 12, 2006.

2. The case primarily surrounded the care and treatment rendered by Defendant George Palmer, while in the course and scope of his employment at Clearfield Hospital on February 23, 2002, at which point in time, minor-Plaintiff Justine Kline presented to the Clearfield Hospital Emergency Room at the early hours of the morning of February 23, 2002.

3. Justine was subsequently discharged at approximately 5:45 a.m. on February 23, 2002 and the Plaintiffs asserted a claim that such discharge was negligent, eventually resulting in the amputation of four (4) of her fingers, numerous physical scars, multiple corrective surgeries, as well

as extensive pain and suffering.

4. Plaintiffs have filed Post-Trial Motions surrounding a variety of issues that have arisen in the case.

5. The case in question involved a seven (7) day trial in which there are at least hundreds of pages of trial testimony.

6. The Plaintiff has requested the transcription of the entire trial transcript for the purposes of the Post-Trial Motions and possibly appeal.

7. It is the understanding of Plaintiff that the trial testimony in question will not be available within ten (10) days of the date of the verdict.

8. Counsel for the Plaintiff requests an opportunity to appropriately brief the issues involved after receipt of the trial transcript so appropriate recitations could be made to the record to support the Plaintiff's position.

WHEREFORE, Plaintiff respectfully requests this Honorable Court issue an Order setting forth the briefing schedule for the filing of Post-Trial Motions.

RESPECTFULLY SUBMITTED:

PATBERG, CARMODY & GING

DATE: 12-20-06

By _____
Rolf Louis Patberg, Esquire
PA I.D. No.: 65185

PATBERG, CARMODY & GING
Deutschtown Center
801 Vinial Street - Third Floor
Pittsburgh, PA 15212
(412) 232-3500

Attorney for Plaintiff

JURY TRIAL DEMANDED

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

SANDRA CONKLIN, as parent and natural guardian of JUSTINE KLINE,	CIVIL DIVISION
Plaintiffs,	NO.: 2003-68 CD
v.	
CLEARFIELD HOSPITAL, GEORGE F. PALMER, ERNEST P. JONES, and JAMES P. DeSANTIS,	
Defendants.	**JURY TRIAL DEMANDED**

ORDER OF COURT

AND NOW, to-wit, this _____ day of _____, 2006, it is hereby ORDERED, DECREED and ADJUDGED that the Plaintiff's Briefing Schedule is **GRANTED**. Plaintiff shall file their Brief in Support of Post-Trial Motions within thirty (30) days after the official filing of the Trial Transcript in the herein matter. Defense counsel shall then file their Brief fifteen (15) days after the filing of Plaintiff's Brief. Plaintiff shall then have fifteen (15) days thereafter to file a Reply Brief. The Court will schedule an argument date at some point thereafter.

BY THE COURT:

_____J.

CERTIFICATE OF SERVICE

I, Rolf Louis Patberg, Esquire, hereby certify that a true and correct copy of the foregoing Motion for Briefing Schedule was forwarded this 20 day of December, 2006 via Federal Express to the following:

John L. McIntyre, Esquire
McIntyre, Dugas, Hartye & Schmitt
P.O. Box 533
Holidaysburg, PA 16648

The Honorable Judge John K. Reilly
Clearfield County Courthouse
230 E. Market Street
Clearfield, PA 16830

Rolf Louis Patberg, Esquire

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

SANDRA CONKLIN, as parent and natural guardian of JUSTINE KLINE	:	
VS.	:	NO. 03-68-CD
CLEARFIELD HOSPITAL and GEORGE F. PALMER, D.O.	:	

VERDICT

NOW this 12th day of December, 2006, we, the jury, impaneled in the above-captioned case find as follows:

1. Do you find that the Defendant, George F. Palmer, D.O., was negligent in his treatment of Justine Kline on February 23, 2002?

Yes _____ No X

2. Was Defendant's negligence a factual cause of Justine Kline's injuries?

Yes _____ No _____

3. What amount do you award Justine Kline as full, fair and adequate compensation for her injuries?

$_____

David R Small
FOREPERSON
DAVID R. SMALL

FILED
DEC 12 2006
0/11:20/cm
William A. Shaw
Prothonotary/Clerk of Courts

#108

COURT OF COMMON PLEAS, CLEARFIELD COUNTY
PENNSYLVANIA

CASE NO. 2003-68-CD

Date of Jury Selection: August 29, 2006

Presiding Judge: John K. Reilly Jr., SJSP

Sandra Conklin and Justine Kline

Court Reporter: Kathy Provost

VS

Date of Trial: December 4, 2006 to December 13,

Clearfield Hospital and George F. Palmer

Date Trial Ended: 12-12-06.

MEMBERS OF THE JURY

1. Hope Martin
2. Dwayne Waring
3. Gary Dotts
4. Susanne Collins
5. Melvin Wood
6. Louise Miller

ALT #1 Sylvester Johnson

7. Betty Doverspike
8. John Wachob
9. Cathie Wiggins
10. David Small
11. Nancy Defazio
12. Grover Beightol

ALT #2 Al Starr

PLAINTIFF'S WITNESSES:

1. Bridget Sidorick
2. James P. DeSantis, Dr.
3. Karen Gillingham.
4. Dr. Geo. Palmer
5. Shirley Morrison
6. Dr. Sherri Sorta-Thompson.
7. Keith Paris ++ *

DEFENDANT'S WITNESSES:

1. Dr. Charles C. King
2. Donna Upch.
3. Gwen Thomas.
4. Dr John H. Dossett
5.
6.

PLAINTIFF'S ATTY: Rolf Louis Patberg Esq. 12-11-06

DEFENDANT'S ATTY: John L. McIntyre Esq. 12-11-06

ADDRESS TO JURY: 3:00 P.M. 12-12-06.

ADDRESS TO JURY: 1:40 P.M.

JUDGE'S ADDRESS TO JURY: 9:37 AM

JURY OUT: 10:18 AM **JURY IN:** 11:10 AM

VERDICT: Favor Deft

FOREPERSON: David Small

* See Back

Plaintiff's Witness.

8. Kathy Plansanis
9. Ronald Klein
10. Kristine M. Brude
11. Sandra Conklin
12. Dr. John A. Lilelli

FILED
DEC 12 2006
William A. Shaw
Prothonotary/Clerk of Courts

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IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

SANDRA CONKLIN, as parent and natural guardian of JUSTINE KLINE, and SANDRA CONKLIN, ind.	:	
VS.	:	NO. 03-68-CD
CLEARFIELD HOSPITAL and GEORGE F. PALMER, D.O.	:	

O R D E R

AND NOW, this 8th day of December, 2006, the Court having, this date, been supplied with a Motion in Limine to limit testimony of Defendants' expert, Doctor John Dossett; the Court noting that the doctor's report is dated July 5, 2005, and being cognizant of prior Order of Court entered by Judge Ammerman setting time limits for the presentation of Motions in Limine, it is the ORDER of this Court that said motion be and is hereby denied.

BY THE COURT,

John K. Reilly, Jr.
Senior Judge
Specially Presiding

Em

FILED 2cc Attys: Patberg McIntyre
01:50 cm
DEC 11 2006

William A. Shaw
Prothonotary/Clerk of Courts

#107

DATE: 12-11-2006

_____ You are responsible for serving all appropriate parties.

__X__ The Prothonotay's office has provided service to the following parties:

_____ Plaintiff(s) __X__ Plaintiff(s) Attorney _____ Other

_____ Defendant(s) __X__ Defendant(s) Attorney

_____ Special Instructions:

FILED

DEC 11 2006

William A. Shaw
Prothonotary/Clerk of Courts

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

SANDRA CONKLIN, as parent and natural guardian of JUSTINE KLINE, and SANDRA CONKLIN, individually,	CIVIL DIVISION NO.: 2003-68 CD
Plaintiffs,	TYPE OF PLEADING:
v.	**MOTION TO LIMIT TESTIMONY OF JOHN DOSSETT**
CLEARFIELD HOSPITAL, and GEORGE F. PALMER,	FILED ON BEHALF OF PLAINTIFF
Defendants.	COUNSEL OF RECORD FOR THIS PARTY: ROLF LOUIS PATBERG, ESQUIRE PA I.D. NO.: 65185 PATBERG, CARMODY, GING & FILIPPI DEUTSCHTOWN CENTER 801 VINIAL STREET - THIRD FLOOR PITTSBURGH, PA 15212 (412) 232-3500
JURY TRIAL DEMANDED	

FILED NO CC
m/12:50/BK
DEC 11 2006
William A. Shaw
Prothonotary/Clerk of Courts

#106

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

SANDRA CONKLIN, as parent and natural guardian of JUSTINE KLINE, and SANDRA CONKLIN, individually,	)	CIVIL DIVISION
	)	NO.: 2003-68 CD
Plaintiffs,	)	
v.	)	
CLEARFIELD HOSPITAL, and GEORGE F. PALMER,	)	
Defendants.	)	**JURY TRIAL DEMANDED**

MOTION TO LIMIT TESTIMONY OF JOHN DOSSETT

AND NOW, comes the Plaintiffs, by and through their counsel, Patberg, Carmody, Ging & Filippi, and files the herein Motion to Limit Testimony of John Dossett and in support thereof avers as follows.

1. The above-captioned case is a medical negligence case arising from the care of Justine Kline at Clearfield Hospital's Emergency Room on February 23, 2002.

2. Defense counsel has indicated that he intends to call John Dossett as a standard of care expert and as to the issue of causation.

3. Dr. Dossett is not an Emergency Room Physician and has no training, according to his Curriculum Vitae, as an Emergency Room Physician.

4. Therefore, Dr. Dossett is not qualified to testify as to the standard of care of Defendant Palmer.

5. Furthermore, Dr. Dossett renders the following opinions:

a. In the case of Justine, there was no window of opportunity to intervene in a way that would prevent or reverse the tissue injury. Moreover, this process would have proceeded on its fulminant course, even if she had been in the hospital on the morning of February 23, 2003; and

b. If the patient had been admitted to the hospital, she would have had a thorough history and physical examination, a CBC, a blood culture, a urine culture, a urine analysis, fever control, and parenteral antibiotics. All of this was done in the emergency room. This is clearly the standard of care today and it was the standard in 2002. Exhibit 1.

6. Both of these opinions are speculative, as they are not based upon facts of record and speculate as to potential mechanisms.

7. The Defendant shall not be permitted to speculate about the magnitude of choices he or she put beyond the possibility of realization by his/her negligent conduct. Hamil v. Bashline, 481 Pa. 256, 392 A.2d 1280 (1978).

8. Dr. Dossett is proffering the exact type of speculation prohibited by Hamil v. Bashline.

9. Therefore, his testimony regarding potential outcomes must be stricken.

WHEREFORE, Plaintiffs request that this Honorable Court limit Dr. Dossett's testimony.

RESPECTFULLY SUBMITTED:

PATBERG, CARMODY, GING & FILIPPI

DATE: 12/07/06

By _____
Rolf Louis Patberg, Esquire
PA I.D. No.: 65185

Attorney for Plaintiffs

JURY TRIAL DEMANDED

PENNSTATE
Milton S. Hershey Medical Center
College of Medicine

Division of Infectious Diseases
Penn State Milton S. Hershey Medical Center
Penn State College of Medicine
Department of Pediatrics, H085
500 University Drive, P.O. Box 850
Hershey, PA 17033

Tel: (717) 531-8349
Fax: (717) 531-0869
jdossett@psu.edu
pennstatechildrens.com

July 5, 2005

John L. McIntyre
P.O. Box 533
Hollidaysburg, PA 16648-0533

RE: Justine Kline

Dear Mr. McIntyre:

At your request, I have reviewed the records of Justine Kline. My review includes the following:

1. Two medical records from Clearfield Hospital, February 23, 2002
2. Depositions from Patricia Neeper, RN, Monica Smith, Gwen Thomas, Stacy Greg, PA, George Palmer, D.O., James DeSantis, D.O., Donna Urich, and Sandra Conklin.
3. Expert report – Dr. John A. Tilelli, January 11, 2003
4. Expert report – Dr. Chris King, December 15, 2004
5. Expert report - Dr. John A. Tilelli, February 24, 2005

The story is as follows. On February 23, 2002, Justine Kline (age 3) was brought to the Clearfield Hospital Emergency Room by her mother for evaluation of fever, vomiting, twitching, confusion, and visual hallucinations. She was promptly seen and found to have fever to 40.1° C, pulse 177, respiratory of 32 and BP 85/57 (normal). Physical examination by Dr. Palmer revealed her to be hydrated and alert. Her neck was supple, her deep tendon reflexes were intact, her extra ocular muscles were intact and her ears were normal. The lungs were clear and the heart was normal except for tachycardia. The abdomen was normal and there was no rash.

Laboratory evaluation revealed the white blood count to be 7,000. Blood and urine cultures were promptly collected. Her fever was treated with Tylenol and Motrin and the child took oral liquids. She was given a correct dose of a potent and appropriate antibiotic (ceftriaxone). The urine analysis revealed white blood cells suggesting that she had urinary tract infection. Blood chemistries were normal and the CBC was normal. Specifically, the platelet count was 328,000.



The child improved nicely with treatment in that her fever came down to 37.8° C and her pulse came down to 120. At the time of discharge from the hospital ER, she was ambulatory, drinking liquids and the fever was down. Her mother was given instructions to follow-up with Dr. Jennifer Graham (her primary physician) or to return to the ER if not improved in one day. When she left the ER four hours after arrival, she had received prompt and exemplary care which included history and physical examination, thorough laboratory evaluation, preliminary diagnosis of UTI, appropriate treatment for same, and careful monitoring to establish that she was medically stable and improving.

Having been up all night, mother and child lay down for a nap after returning home. When the mother was awakened midday, she observed that Justine had developed a reddish-purple rash and was more lethargic. Her mother very appropriately returned Justine to the emergency room where the staff immediately recognized that she was developing septic shock and treated her appropriately. Moreover, they arranged for prompt transfer to the Children's Hospital of Pittsburgh.

At the time Justine was first seen in the emergency room, there were no clues that she might develop the rare and fulminant condition of purpura fulminans. This fulminant and devastating illness is also known as Disseminated Intravascular Coagulation Syndrome (DIC) and is usually accompanied by septic shock syndrome. The hallmark of this condition is sudden and fulminant intravascular coagulation which is precipitated by bacterial endotoxins and exotoxins in persons who are genetically vulnerable. Fortunately, this condition is rare, however, it has been associated with many different types of bacteria including Neisseria, Staphylococci, Streptococci, Pseudomonas, Klebsiella, Enterococci, Typhus and others. Fortunately, the great majority of persons who are infected with these bacteria do not develop this devastating illness. In the rare person who develops purpura fulminans (DIC), the intravascular coagulation is sudden and fulminant. Moreover, the tissue injury caused by clotting in small vessels is so severe that the tissue dies.

In the case of Justine, there was no window of opportunity to intervene in a way that would prevent or reverse the tissue injury. Moreover, this process would have proceeded on its fulminant course, even if she had been in the hospital on the morning of February 23, 2003. By the following day, the blood and urine cultures collected at the first ER visit were growing Enterobacter cloacae which was sensitive to ceftriaxone. Justine was treated with an appropriate dose of ceftriaxone while she was in the emergency room (4:35 a.m.). This is exactly the same treatment she would have received had she been hospitalized. Ceftriaxone is a potent, long-acting parenteral antibiotic which is used extensively in both inpatients and outpatients.

If the patient had been admitted to the hospital, she would have had a thorough history and physical examination, a CBC, a blood culture, a urine culture, a urine analysis, fever control, and parenteral antibiotics. All of this was done in the emergency room. This is clearly the standard of care today and it was the standard in 2002.

This rare and devasting response to common bacteria is unpredictable and not preventable. It is tragic that Justine lost some digits, however, this was the result of a rare and fulminant illness and not the result of suboptimal care. In such cases the interval from onset of

non-specific symptoms to irreversible injury or death is commonly just 4 to 12 hours. Her mother and Clearfield Hospital caregivers were prompt and appropriate.

Justine received exemplary care in the Clearfield Hospital Emergency Room. It is my hope that all children with fever will receive care which is so prompt and thorough.

Sincerely yours,

John H. Dossett, M.D.
Professor of Pediatrics
Chief, Pediatric Infectious Diseases
Chair, Medical Ethics Committee

JD/mg

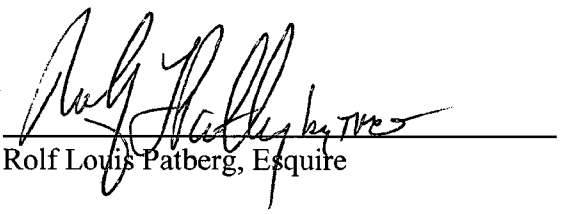
CERTIFICATE OF SERVICE

I, Rolf Louis Patberg, Esquire, hereby certify that a true and correct copy of the foregoing Motion to Limit Testimony of John Dossett was forwarded this 7 day of December, 2006 via facsimile to the following:

John L. McIntyre, Esquire
McIntyre, Dugas, Hartye & Schmitt
P.O. Box 533
Holidaysburg, PA 16648

The Honorable Judge John K. Reilly, Jr.
Clearfield County Courthouse
230 E. Market Street
Clearfield, PA 16830

Dan Payne
dpayne@clearfieldco.org



Rolf Louis Patberg, Esquire

PATBERG, CARMODY, GING & FILIPPI

ATTORNEYS AT LAW

PITTSBURGH OFFICE:

DEUTSCHTOWN CENTER
801 VINIAL STREET
THIRD FLOOR
PITTSBURGH, PA 15212
(412) 232-3500
FAX: (412) 281-8656

ROLF LOUIS PATBERG
TERRENCE M. GING
SEAN J. CARMODY
RICHARD E. FILIPPI
SEAN P. DUFF

OF COUNSEL:
JOSEPH MANION LUDWIG
WILLIAM B. DIXON

OFFICES IN:

ERIE
MURRYSVILLE
WARRENDALE

December 7, 2006

VIA FACSIMILE
The Honorable Judge John K. Reilly, Jr.
Clearfield County Courthouse
230 E. Market Street
Clearfield, PA 16830

Re.: Sandra Conklin, et al v. Clearfield Hospital, et al.
No.: 2003-68 CD
Our File No.: 02-201

Dear Judge Reilly:

Please find enclosed a true and correct copy of Plaintiff's Motion to Limit Testimony of John Dossett in connection with the above-captioned matter. Thank you for your consideration in this regard.

Respectfully submitted,

Rolf Louis Patberg

RLP/cag

Enclosure

cc: John McIntyre, Esquire (w/enc.) (via facsimile)

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

SANDRA CONKLIN, as parent and natural guardian of JUSTINE KLINE, and SANDRA CONKLIN, individually,	CIVIL DIVISION NO.: 2003-68 CD
Plaintiffs,	TYPE OF PLEADING:
v.	**APPLICATION AND NOTICE PURSUANT TO RULE 4020(a)(3)(e)**
CLEARFIELD HOSPITAL, and GEORGE F. PALMER,	FILED ON BEHALF OF PLAINTIFF
Defendants.	COUNSEL OF RECORD FOR THIS PARTY: ROLF LOUIS PATBERG, ESQUIRE PA I.D. NO.: 65185 PATBERG, CARMODY, GING & FILIPPI DEUTSCHTOWN CENTER 801 VINIAL STREET - THIRD FLOOR PITTSBURGH, PA 15212 (412) 232-3500
JURY TRIAL DEMANDED	

FILED no cc
01:08:64
DEC 04 2006
William A. Shaw
Prothonotary/Clerk of Courts

#105

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

SANDRA CONKLIN, as parent and natural guardian of JUSTINE KLINE, and SANDRA CONKLIN, individually,	)	CIVIL DIVISION
	)	NO.: 2003-68 CD
Plaintiffs,	)	
v.	)	
CLEARFIELD HOSPITAL, and GEORGE F. PALMER,	)	
Defendants.	)	**JURY TRIAL DEMANDED**

APPLICATION AND NOTICE PURSUANT TO RULE 4020(a)(3)(e)

AND NOW, comes the Plaintiff, Justine Kline, by and through her counsel, Rolf Louis Patberg, and the law firm of Patberg, Carmody, Ging & Filippi, and files the foregoing Application and Notice Pursuant to Rule 4020(a)(3)(e) and in support thereof avers as follows.

1. The above-captioned matter is a medical negligence action currently scheduled to be tried before the Honorable John K. Reilly in the Court of Common Pleas of Clearfield County, Pennsylvania.

2. The case primarily surrounds the care and treatment rendered to a three (3) year old child on February 23, 2002 at Clearfield Hospital's Emergency Room.

3. The case primarily surrounds the disfigurement of Justine Kline as a result of the failure to diagnose bacteremia while at the Clearfield Hospital Emergency Room on February 23, 2002.

4. On or about February 3, 2005, defense attorney, John McIntyre, took the deposition of then six (6) year old Justine Kline. The deposition was videotaped and demonstrates Justine's

utilization of her hand.

5. Attorney McIntyre was granted the opportunity to conduct extensive questioning of Justine Kline regarding her perceptions, lifestyle and activities surrounding her hand.

6. The video demonstrates the functionality by Justine Kline in the utilization of the right hand.

7. At the current time, Justine is 8 years old (d.o.b. 9/26/98).

8. It is likely that Justine will be highly intimidated by the Courtroom atmosphere and the general circumstances surrounding the trial of her case.

9. In light of the fact that John McIntyre, defense counsel for Clearfield Hospital and George Palmer, conducted the examination, he was granted ample opportunity to conduct an examination of Justine Kline. The questions were not objected to and were completely proper under the Pennsylvania Rules of Evidence.

10. Plaintiff's counsel agrees to make Justine available for any additional questioning that Mr. McIntyre would like to undertake during the course of the trial, with appropriate notice.

11. It is Plaintiff's counsel's intention to have Justine attend the initial date of trial and closing arguments. She is currently a student at Bellefonte Elementary School. It would be inappropriate and improper for her to miss, possibly, a week of school, for the purposes of this case.

12. Pennsylvania Rule of Civil Procedure 4020(a)(3) (Use of Depositions as Trial) provides that the deposition of a witness, whether or not a party, may be used by any party for any purpose of the Court finds:

> "(e) Upon application and notice that such exceptional circumstances exist as to make it desirable, in the interest of justice and with due

regard to the importance of presenting the testimony of witnesses orally in open court, to allow the deposition to be used." Pa. R.C.P. 4020(a)(3)(e), effective January 2, 2001.

13. Plaintiffs are permitted to play Justine's deposition pursuant to Pa. R.C.P. 4020(a)(2) and 4020(a)(3)(c). Nonetheless, in the interest of caution, the Plaintiff file the herein Application and Notice Pursuant to Pa. R.C.P. 4020(a)(3)(3), as such exceptional circumstances exist so as to make it desirable, in the interest of justice, and with due regard to the importance of presenting the testimony of Justine Kline to allow the videotape of Justine Kline to be utilized.

14. The Defendants will not be prejudiced in light of the fact that Plaintiff's counsel will make her available for examination, if defense counsel if so desiring.

WHEREFORE, Plaintiffs respectfully request this Honorable Court grant the application to play the videotape of Justine Kline pursuant to Pennsylvania Rule of Civil Procedure 4020(a)(3)(e).

RESPECTFULLY SUBMITTED:

PATBERG, CARMODY, GING & FILIPPI

DATE: 12-1-06

By _____
Rolf Louis Patberg, Esquire
PA I.D. No.: 65185

Patberg, Carmody, Ging & Filippi
Deutschtown Center
801 Vinial Street - Third Floor
Pittsburgh, PA 15212
412-232-3500

Attorney for Justine Kline.

JURY TRIAL DEMANDED

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

SANDRA CONKLIN, as parent and natural guardian of JUSTINE KLINE, and SANDRA CONKLIN, individually,	)	CIVIL DIVISION
	)	NO.: 2003-68 CD
Plaintiffs,	)	
v.	)	
CLEARFIELD HOSPITAL, and GEORGE F. PALMER,	)	
Defendants.	)	**JURY TRIAL DEMANDED**

ORDER OF COURT

AND NOW, to-wit, this _____ day of _____, 2006, it is hereby ORDERED, DECREED and ADJUDGED that the Plaintiffs' Application to Utilize the Deposition of Justine Kline is hereby **GRANTED**. The herein Court determines that exceptional circumstances exist as to Justine Kline's current age as to make it desirable, in the interest of justice, to allowing the playing of the videotape. Defense counsel shall be permitted to call Justine Kline upon 48 hours notice to Plaintiff's counsel for her production.

BY THE COURT:

_____ J.

CERTIFICATE OF SERVICE

I, Rolf Louis Patberg, Esquire, hereby certify that a true and correct copy of the foregoing Application and Notice Pursuant to Rule 4020(a)(3)(e) was forwarded this 1 day of December, 2006 via facsimile to the following:

John L. McIntyre, Esquire
McIntyre, Dugas, Hartye & Schmitt
P.O. Box 533
Holidaysburg, PA 16648
814-696-9399 - facsimile

The Honorable Judge John K. Reilly
c/o Court Administrator's Office
Court of Common Pleas of Clearfield County
230 E. Market Street
Clearfield, PA 16830
814-765-7649 - facsimile

Rolf Louis Patberg, Esquire

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

SANDRA CONKLIN, as parent and natural guardian of JUSTINE KLINE, and SANDRA CONKLIN, individually,	CIVIL DIVISION NO.: 2003-68 CD
Plaintiffs,	TYPE OF PLEADING:
v.	**NOTICE TO ATTEND DIRECTED TO WILHELMINA P. CRUS-VETRANO**
CLEARFIELD HOSPITAL, and GEORGE F. PALMER,	FILED ON BEHALF OF PLAINTIFF
Defendants.	COUNSEL OF RECORD FOR THIS PARTY:
	ROLF LOUIS PATBERG, ESQUIRE PA I.D. NO.: 65185
JURY TRIAL DEMANDED	PATBERG, CARMODY, GING & FILIPPI DEUTSCHTOWN CENTER 801 VINIAL STREET - THIRD FLOOR PITTSBURGH, PA 15212 (412) 232-3500

FILED NO CC
m/10:51a/BK
DEC 01 2006
(GK)
William A. Shaw
Prothonotary/Clerk of Courts

(#104)

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

SANDRA CONKLIN, as parent and natural guardian of JUSTINE KLINE, and SANDRA CONKLIN, individually,	)	CIVIL DIVISION
	)	NO.: 2003-68 CD
Plaintiffs,	)	
v.	)	
CLEARFIELD HOSPITAL, and GEORGE F. PALMER,	)	
Defendants.	)	
	)	**JURY TRIAL DEMANDED**

NOTICE TO ATTEND DIRECTED TO WILHELMINA P. CRUS-VETRANO

TO: Wilhelmina P. Crus-Vetrano
c/o John McIntyre, Esquire
McIntyre, Dugas, Hartye & Schmitt
P.O. Box 533
Holidaysburg, PA 16648

You are directed to come to the courtroom of the Honorable Judge John K. Reilly, Court of Common Pleas of Clearfield County, Pennsylvania, Clearfield County Courthouse, 230 E. Market Street, Courtroom #1, Clearfield, PA 16830, or as indicated by the undersigned counsel on Monday, December 11, 2006 at 9:00 a.m. or soon thereafter as indicated by the undersigned counsel to testify on behalf of the Plaintiffs in the above case and to remain until excused.

If you fail to attend as required by this Notice, you may be subject to the sanctions authorized by Rule 234.5 of the Pennsylvania Rules of Civil Procedure.

RESPECTFULLY SUBMITTED:

PATBERG, CARMODY, GING & FILIPPI

DATE: 11-30-06

By _____
Roll Louis Patberg, Esquire
PA I.D. No.: 65185
Attorney for Plaintiffs

JURY TRIAL DEMANDED

CERTIFICATE OF SERVICE

I, Rolf Louis Patberg, Esquire, hereby certify that a true and correct copy of the foregoing Notice to Attend was forwarded this 30 day of November, 2006 via postage prepaid United States Mail and facsimile to the following:

John L. McIntyre, Esquire
McIntyre, Dugas, Hartye & Schmitt
P.O. Box 533
Holidaysburg, PA 16648

Rolf Louis Patberg, Esquire

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

SANDRA CONKLIN, as parent and natural guardian of JUSTINE KLINE, and SANDRA CONKLIN, ind.	:	
VS.	:	NO. 03-68-CD
CLEARFIELD HOSPITAL and GEORGE F. PALMER, D.O.	:	

O R D E R

AND NOW, this 20th day of November, 2006, upon consideration of Plaintiffs' First Motion in Limine, Item 1, it is the ORDER of this Court that said motion shall be and is hereby granted to the extent that Defense expert witness, Christopher King, M.D., shall be precluded from quoting verbatim from the opinion of one Alejandro Hoberman, nor shall said opinion or argument by Hoberman be admitted into evidence.

BY THE COURT,

John K. Reilly, Jr.
Senior Judge
Specially Presiding

FILED
03:22 BN
NOV 21 2006

William A. Shaw
Prothonotary/Clerk of Courts

1CC Attys: Patterson
McIntyre

#103

FILED

NOV 21 2006

William A. Shaw
Prothonotary/Clerk of Courts

DATE: 11/21/06

____ You are responsible for serving all appropriate parties.

X The Prothonotary's office has provided service to the following parties:

____ Plaintiff(s) X Plaintiff(s) Attorney ____ Other

____ Defendant(s) X Defendant(s) Attorney

____ Special Instructions:

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

SANDRA CONKLIN, as parent and natural guardian of JUSTINE KLINE, and SANDRA CONKLIN, ind.	:	
VS.	:	NO. 03-68-CD
CLEARFIELD HOSPITAL and GEORGE F. PALMER, D.O.	:	

O R D E R

AND NOW, this 20th day of November, 2006, upon consideration of Plaintiffs' First Motion in Limine, second issue, it is the ORDER of this Court that Plaintiffs' expert, Dr. King, may testify as to his general experience in treating situations of this nature in the past, but shall be precluded from identifying specific patients and the treatments provided therefor unless their redacted files are supplied to Plaintiff prior to trial.

BY THE COURT,

John K. Reilly, Jr.
Senior Judge
Specially Presiding

FILED
NOV 21 2006
William A. Shaw
Prothonotary/Clerk of Courts

1CC Attys: Patbesg McIntyre

#102

FILED

NOV 21 2006

William A. Shaw
Prothonotary/Clerk of Courts

DATE: 11/21/06

____ You are responsible for serving all appropriate parties.

__X__ The Prothonotary's office has provided service to the following parties:

____ Plaintiff(s) __X__ Plaintiff(s) Attorney ____ Other

____ Defendant(s) __X__ Defendant(s) Attorney

____ Special Instructions:

CA

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

SANDRA CONKLIN, as parent and natural guardian of JUSTINE KLINE, and SANDRA CONKLIN, ind.	:	
VS.	:	NO. 03-68-CD
CLEARFIELD HOSPITAL and GEORGE F. PALMER, D.O.	:	

O R D E R

AND NOW, this 20th day of November, 2006, upon consideration of Plaintiffs' Motion in Limine, Issue 3, it is the ORDER of this Court that Defendant Dr. Palmer shall be precluded from testifying as to a possibility that the information he entered concerning his treatment of February 23, 2002, may have been entered into the wrong patient's chart.

BY THE COURT,

John K. Reilly, Jr.
Senior Judge
Specially Presiding

FILED
NOV 21 2006
William A. Shaw
Prothonotary/Clerk of Courts

1CC Attys: Patberg McIntyre (GK)

#101

FILED

NOV 21 2006

William A. Shaw
Prothonotary/Clerk of Courts

DATE: 11/21/06

____ You are responsible for serving all appropriate parties.

X The Prothonotary's office has provided service to the following parties:

____ Plaintiff(s) X Plaintiff(s) Attorney ____ Other

____ Defendant(s) X Defendant(s) Attorney

____ Special Instructions:

CA

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

SANDRA CONKLIN, as parent and natural guardian of JUSTINE KLINE, and SANDRA CONKLIN, ind.	:	
VS.	:	NO. 03-68-CD
CLEARFIELD HOSPITAL and GEORGE F. PALMER, D.O.	:	

O R D E R

AND NOW, this 20th day of November, 2006, upon consideration of Plaintiffs' Second Motion in Limine, it is the ORDER of this Court that Defendants shall be precluded from offering any evidence or arguing any purported negligence by Sandra Conklin, Plaintiff.

BY THE COURT,

John K. Reilly, Jr.
Senior Judge
Specially Presiding

FILED 1CC Atty: Patberg McIntyre
01:22 BH
NOV 21 2006
William A. Shaw
Prothonotary/Clerk of Courts
GK

#100

FILED

NOV 21 2006

William A. Shaw
Prothonotary/Clerk of Courts

DATE: 11/21/06

____ You are responsible for serving all appropriate parties.

__X__ The Prothonotary's office has provided service to the following parties:

____ Plaintiff(s) __X__ Plaintiff(s) Attorney ____ Other

____ Defendant(s) __X__ Defendant(s) Attorney

____ Special Instructions:

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

SANDRA CONKLIN, as parent and natural guardian of JUSTINE KLINE, and SANDRA CONKLIN, ind.	:	
VS.	:	NO. 03-68-CD
CLEARFIELD HOSPITAL and GEORGE F. PALMER, D.O.	:	

O R D E R

AND NOW, this 20th day of November, 2006, upon consideration of Plaintiffs' First Motion in Limine, with regard to the faxed transmissions from Clearfield Hospital to UPMC Children's Hospital, it is the ORDER of this Court that said motion shall be and is hereby granted to the extent that Plaintiffs shall be restricted in any examinations thereof to the existence of the handwritten notice concerning the February 23, 2002, examination.

BY THE COURT,

John K. Reilly, Jr.
Senior Judge
Specially Presiding

FILED
NOV 21 2006
William A. Shaw
Prothonotary/Clerk of Courts

FILED

NOV 21 2006

William A. Shaw
Prothonotary/Clerk of Courts

DATE: 11/21/06

____ You are responsible for serving all appropriate parties.

__X__ The Prothonotary's office has provided service to the following parties:

____ Plaintiff(s) __X__ Plaintiff(s) Attorney ____ Other

____ Defendant(s) __X__ Defendant(s) Attorney

____ Special Instructions:

CA

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

SANDRA CONKLIN, as parent and natural guardian of JUSTINE KLINE, and SANDRA CONKLIN, ind.	:	
VS.	:	NO. 03-68-CD
CLEARFIELD HOSPITAL and GEORGE F. PALMER, D.O.	:	

O R D E R

AND NOW, this 20th day of November, 2006, considering Defendants' Second Motion in Limine to Preclude Testimony Concerning Examination and Treatment of the Plaintiff Justine Kline on November 22, 2002, it is the ORDER of this Court that said motion shall be and is hereby granted to the extent that Plaintiff shall be and is hereby precluded from entering such testimony during its case in chief. Plaintiff may, however, introduce such testimony in rebuttal if it then becomes relevant.

BY THE COURT,

John K. Reilly, Jr.
Senior Judge
Specially Presiding

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NOV 21 2006
Atty's: Patberg
McIntyre

William A. Shaw
Prothonotary/Clerk of Courts

#98

FILED

NOV 21 2006

William A. Shaw
Prothonotary/Clerk of Courts

DATE: 11/21/06

____ You are responsible for serving all appropriate parties.

__X__ The Prothonotary's office has provided service to the following parties:

____ Plaintiff(s) __X__ Plaintiff(s) Attorney ____ Other

____ Defendant(s) __X__ Defendant(s) Attorney

____ Special Instructions:

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

SANDRA CONKLIN, as parent and natural guardian of JUSTINE KLINE, and SANDRA CONKLIN, ind.	:	
VS.	:	NO. 03-68-CD
CLEARFIELD HOSPITAL and GEORGE F. PALMER, D.O.	:	

O R D E R

AND NOW, this 20th day of November, 2006, upon consideration of Defendants' Motion to Strike Late Expert's Report, it is the ORDER of this Court that said motion shall be and is hereby granted to the extent that Plaintiffs' Dr. Tilleli shall be permitted to testify that Plaintiff/child should have been admitted to the Clearfield Hospital following presentation to the emergency room and that, had she been so admitted, certain treatments would have been available to alleviate her situation. However, said doctor shall not be permitted to testify as to what those specific treatments would or should have been.

BY THE COURT,

John K. Reilly, Jr.
Senior Judge
Specially Presiding

FILED
NOV 21 2006
William A. Shaw
Prothonotary/Clerk of Courts

3:22 BW
1CC Attys: Pasbesg McIlhyre

#97

FILED

NOV 21 2006

William A. Shaw
Prothonotary/Clerk of Courts

DATE: 11/21/06

____You are responsible for serving all appropriate parties.

__X__The Prothonotary's office has provided service to the following parties:

____Plaintiff(s) __X__ Plaintiff(s) Attorney ____ Other

____ Defendant(s) __X__ Defendant(s) Attorney

____Special Instructions:

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

SANDRA CONKLIN, as parent and natural guardian of JUSTINE KLINE, and SANDRA CONKLIN, individually,	CIVIL DIVISION NO.: 2003-68 CD
Plaintiffs,	TYPE OF PLEADING:
v.	**PLAINTIFFS' REPLY TO DEFENDANTS' MOTION TO STRIKE LATE EXPERT REPORT**
CLEARFIELD HOSPITAL and GEORGE F. PALMER,	FILED ON BEHALF OF PLAINTIFFS
Defendants.	COUNSEL OF RECORD FOR THIS PARTY:
	ROLF LOUIS PATBERG, ESQUIRE PA I.D. NO.: 65185
JURY TRIAL DEMANDED	PATBERG, CARMODY, GING & FILIPPI DEUTSCHTOWN CENTER 801 VINIAL STREET - THIRD FLOOR PITTSBURGH, PA 15212 (412) 232-3500

FILED no
m/11:45 bl
NOV 17 2006
William A. Shaw
Prothonotary/Clerk of Courts

#96

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

SANDRA CONKLIN, as parent and natural guardian of JUSTINE KLINE, and SANDRA CONKLIN, individually,	)	CIVIL DIVISION
	)	NO.: 2003-68 CD
Plaintiffs,	)	
v.	)	
CLEARFIELD HOSPITAL and GEORGE F. PALMER,	)	
Defendants.	)	**JURY TRIAL DEMANDED**

PLAINTIFFS' REPLY TO DEFENDANTS' MOTION TO STRIKE LATE EXPERT REPORT

AND NOW, comes the Plaintiffs, by and through their attorneys, Rolf Louis Patberg, Esquire, and the law firm of Patberg, Carmody, Ging & Filippi, and file the following Reply to Defendants' Motion to Strike Late Expert Report and in support thereof aver as follows:

1. Admitted.

2. Admitted.

3. Admitted.

4. Admitted.

5. Admitted in part. It is admitted that Plaintiffs have submitted a supplemental report from Dr. Tilleli dated November 13, 2006. It is also admitted that Exhibit 2 attached to Defendants' Motion to Strike Late Expert Report is a true and correct copy of Dr. Tilleli's report of November 13, 2006. It is specifically denied that the November 13, 2006 report was in any way "late."

6. Denied. It is specifically denied that Dr. Tilleli's report of November 13, 2006 exceeds the scope and discussion of his reports dated January 11, 2003 and February 24, 2005. To the contrary, Dr. Tilleli concluded on January 11, 2003 "with inpatient observation, appropriate (intravenous) antibiotic therapy and early intervention at the first signs of sepsis, it is my opinion that the entire sequence of events the following day would have been averted and she would not have died." The doctor then went on to conclude that the Defendants breached the standard of care in discharging Justine Kline on February 23, 2002 and that, as a consequence of this deviation, Justine suffered an episode of severe septic shock, causing her present disabilities. Tilleli Report 1/11/2003.

On February 24, 2005, Dr. Tilleli opined, again, "it is my opinion that the average prudent physician would, therefore, under similar circumstances, admit children with urinary tract infections, who had evidence of ascending disease, as manifested by vomiting, high fever, flank tenderness, abnormal ultrasound, renal insufficiency, dehydration, or an active urinary sediment (pyuria or casts). Tilleli Report 2/24/2005.

Finally, in his most recent report, Dr. Tilleli has opined, again, that the Defendant's deviation from the standard of care caused Justine Kline's severe illness and disabilities. Tilleli Report 11/13/2006. The doctor then goes on to amplify a conclusion previously reached when he states, "it is my opinion that, had Justine been so treated during her first emergency room visit, then she would not have required a high dose of vasopressor therapy, intubation and mechanical ventilation for pulmonary edema, nor develop severe and disseminating intravascular coagulation." Id.

All three reports consistently opine that the Defendants' failure to admit Justine caused her septic shock and current disabilities. The third simply states the treatments she could have received had she been admitted.

7. Admitted.

8. Denied. It is specifically denied that Dr. Tilleli's November 13, 2006 report exceeds the scope of Plaintiffs' Complaint. Plaintiffs' Complaint in Civil Action states that the Defendant, Dr. Palmer, deviated from the standard of care in eight (8) different respects. Complaint, ¶35(a)-(h). Among these are that he failed to "timely appreciate the signs and symptoms of Justine Kline," that he failed to "timely appreciate the seriousness of her condition," he failed to "admit Justine Kline as an inpatient," that he failed to "appreciate the significance or diagnosis of bacteremia or sepsis," and that he failed to "timely initiate sufficient antibiotic therapy." Complaint, ¶35(a),(c),(e),(f) and (g). The most recent report filed by Dr. Tilleli suggests, as have all previous reports, and the Complaint, that if Justine Kline had been admitted, she could have been provided care that would have prevented the subsequent severe illness and disabilities.

9. Admitted in part. It is admitted that expert reports were attached to Plaintiff's Pretrial Statements which were submitted in advance of the pretrial conference on August 10, 2006. To the extent that paragraph 9 suggests that the Pennsylvania Rules of Civil Procedure or Local Rules of Court prohibit supplementation of expert reports, paragraph 9 is specifically denied. Pennsylvania Rule of Civil Procedure 1042.32 states "until a deadline set by the Court for the production of expert reports has passed, or unless the Court has precluded such production, a party may serve additional and supplemental expert reports without leave of Court. These reports may introduce new theories of liability or causation, or new defenses, and may be prepared by other experts." Pa. R.C.P. 1042.32. The Court in this matter has been silent with respect to the production or service of supplemental reports.

10. Admitted.

11. Denied. It is specifically denied that the Defendants have suffered any prejudice as a result of the filing of the November 13, 2006 report. Plaintiff has alleged no new theories of liability and has been consistent in its allegations that the Defendants were negligent in failing to admit Justine Kline on February 23, 2002. The November 13, 2006 report is an amplification that contains no new information or theories of liability. Further, the report was authored by the same expert. The Defendants have been aware Dr. Tilleli would be serving as Plaintiffs' expert for an extended period of time. As such, no investigation or consultation with defense experts as to Dr. Tilleli or his opinions should be necessary.

12. Denied.

13. Denied.

14. Denied. The November 13, 2006 report of Dr. Tilleli contains no new allegations or theories of liability. Where a supplemental expert report expands on a theory of liability, includes citations for such explanations and does not alter his initial opinion or introduce new negligence theories, there is no prejudice to the opposing party. Smith v. Grab, 705 A.2d 894, 903 (Pa. Super. 1997). The causal link provided by Dr. Tilleli between Justine Kline's illness, disabilities and injuries was first presented in the report of January 11, 2003 and repeated in the reports of February 24, 2005 and November 13, 2006. The Defendant will suffer no prejudice as a result of amplification of Dr. Tilleli's report.

WHEREFORE, Plaintiff respectfully requests this Honorable Court deny the Defendant's Motion to Strike Plaintiff's Late Expert Report and further, that the Court deny any request for continuance of this matter.

RESPECTFULLY SUBMITTED:

PATBERG, CARMODY, GING & FILIPPI

DATE: 11-16-06

By _____
Rolf Louis Patberg, Esquire
PA I.D. No.: 65185
Deutschtown Center
801 Vinial Street - Third Floor
Pittsburgh, PA 15212
412-232-3500

Attorney for Plaintiffs.

JURY TRIAL DEMANDED

CERTIFICATE OF SERVICE

I, Rolf Louis Patberg, Esquire, hereby certify that a true and correct copy of the foregoing Reply to Defendants' Motion to Strike Late Expert Report was forwarded this 16 day of November, 2006 facsimile to the following counsel of record:

John L. McIntyre, Esquire
McIntyre, Dugas, Hartye & Schmitt
P.O. Box 533
Holidaysburg, PA 16648

Rolf Louis Patberg, Esquire

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

SANDRA CONKLIN, as parent and natural guardian of JUSTINE KLINE, and SANDRA CONKLIN, individually,

Plaintiff

vs.

CLEARFIELD HOSPITAL and GEORGE F. PALMER, D.O.,

Defendants

No. 2003 – 68 CD

ISSUE:
DEFENDANTS' MOTION TO STRIKE LATE EXPERT REPORT

Filed on behalf of Defendants, CLEARFIELD HOSPITAL and GEORGE F. PALMER

Counsel of Record:
John L. McIntyre, Esquire
PA I.D. #28015
McINTYRE, HARTYE & & SCHMITT
P.O. Box 533
Hollidaysburg, PA 16648
(814) 696-3581

JURY TRIAL DEMANDED

I HEREBY CERTIFY THAT A TRUE AND CORRECT COPY OF THE WITHIN WAS MAILED TO ALL COUNSEL OF RECORD THIS 13TH DAY OF **NOVEMBER, 2006**.

Attorneys for Named Defendants

FILED
NOV 16 2006
m/1:15/w
William A. Shaw
Prothonotary/Clerk of Courts
No C/C copies

#95

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

SANDRA CONKLIN, as parent and natural guardian of JUSTINE KLINE, and SANDRA CONKLIN, individually,	:	No. 2003 – 68 CD
Plaintiff	:	
vs.	:	
CLEARFIELD HOSPITAL and GEORGE F. PALMER, D.O.,	:	
Defendants	:	JURY TRIAL DEMANDED

ORDER OF COURT

AND NOW, this _____ day of November, 2006, pursuant to the Motion to Strike the November 13, 2006, late expert report supplied by Dr. Tilelli, the same is hereby granted. Dr. Tilelli will be precluded from making any comments or offering any opinions beyond the scope of his reports of January 11, 2003 and/or February 24, 2005.

BY THE COURT:

_____
J.

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

SANDRA CONKLIN, as parent and natural guardian of JUSTINE KLINE, and SANDRA CONKLIN, individually,	:	No. 2003 – 68 CD
Plaintiff	:	
vs.	:	
CLEARFIELD HOSPITAL and GEORGE F. PALMER, D.O.,	:	
Defendants	:	JURY TRIAL DEMANDED

DEFENDANTS' MOTION TO STRIKE LATE EXPERT REPORT

AND NOW, come the Defendants, GEORGE F. PALMER, D.O. and CLEARFIELD HOSPITAL, and file the following Motion to Strike Late Expert Report and in support set forth:

1. This medical malpractice action is currently set for jury trial on December 4 – December 13, 2006. The jury has already been selected.

2. Plaintiffs' counsel, on March 20, 2006, filed a Praecipe for Trial certifying that all discovery had been completed, the above matter was ready for trial and requesting that the Court list same. Attached hereto and made a part hereof is a true and correct copy of said Praecipe for Trial and marked Exhibit "1".

3. This Honorable Court held a Pre-Trial Conference on August 10, 2006. At that time, the Court was advised that all experts had been secured, that the case was ready for trial and all discovery was completed.

4. The Court entered an Order setting jury selection for August 29, 2006 and a trial scheduled for December 4 – 13, 2006.

5. On November 14, 2006, plaintiffs' counsel submitted a late report from Dr. Tilelli dated November 13, 2006. Attached hereto and made a part hereof is a true and correct copy of Dr. Tilelli's second supplemental report of November 13, 2006, which was received on November 14, 2006, and marked Exhibit "2".

6. Dr. Tilelli, in his second supplemental report, goes beyond the scope of his initial reports suggesting additional treatment and offering a causation opinion that, had this additional treatment been provided by Dr. Palmer, it would have prevented the outcome and treatment which was provided to Justine Kline.

7. Dr. Tilelli specifically states:

> "A patient treated before the development of low-output state (evidenced by poor perfusion, altered mental status or severe hypotension) may respond to antibiotic administration and modest volume expansion alone, obviating the need for vasopressors or mechanical ventilation. It is my opinion that had Justine Kline been so treated during her first emergency room visit, that she would not have required high-dose vasopressor therapy, intubation and mechanical ventilation for pulmonary edema, nor developed severe disseminated intravascular coagulation."

8. In addition to being late, Dr. Tilelli's opinions exceed the fair scope of the plaintiffs' Complaint. A review of Count II of the plaintiffs' Complaint, paragraph 35, reveals that the plaintiffs' Complaint does not contain any allegations that Dr. Palmer should have initiated volume expansion when he treated Justine Kline. Attached hereto and made a part hereof is a true and correct copy of Count II and the allegations directed to Dr. Palmer and marked Exhibit "3".

9. Expert reports were attached to the Pre-Trial Statements submitted in advance of the Pre-Trial Conference as required by the PA Rules of Civil Procedure and the Clearfield County Rules of Court. Plaintiffs' only expert reports were reports from Dr. Tilelli dated January 11, 2003 and February 24, 2005. See plaintiffs' Pre-Trial Narrative.

10. Plaintiffs' counsel never obtained, or even sought, permission to file or submit a supplemental or late expert report by Dr. Tilelli.

11. The defendants are prejudiced by this proposed late change because the time it takes to prepare for such significant expert, including investigation, consultation with defense experts, and the preparation of subsequent expert reports, exceeds the time which is available prior to commencement of trial. Defense experts have responded to Dr. Tilelli's earlier reports and ample time existed, if Dr. Tilelli had any additional comments or opinions to offer.

12. Dr. Palmer will be extremely prejudiced in having to attempt to respond to eleventh-hour opinions/allegations by Dr. Tilelli, with just over two weeks prior to the commencement of trial.

13. In addition, the opinions of Dr. Tilelli exceed the allegations in the plaintiffs' Complaint as to the care provided by Dr. Palmer.

14. For the above reasons, in light of the above, plaintiffs' second supplemental expert report submitted by Dr. Tilelli should be stricken and Dr. Tilelli precluded from offering any testimony in accordance with this late report. In the alternative, this trial should be continued to allow for Dr. Palmer to adequately prepare his defense, including obtaining responses from defense experts, so as to be able to fairly and adequately respond to the new and additional opinions offered by Dr. Tilelli. In

addition, plaintiffs' counsel should be assessed whatever costs and expenses are incurred in rescheduling the case to a later date. This would include an award of costs and counsel fees for the time and effort made in preparing for trial to date on behalf of the defendants.

WHEREFORE, the Defendants, George F. Palmer, D.O. and Clearfield Hospital, respectfully request that Dr. Tilelli's late expert report of November 13, 2006, be stricken or in the alternative, that this Court continue the case to allow Dr. Palmer to have a full and adequate opportunity to prepare and respond to the new opinions an allegations set forth by Dr. Tilelli.

Respectfully submitted,

McINTYRE, HARTYE & SCHMITT

By_____
Attorneys for Defendants

John L. McIntyre, Esquire
PA I.D. #28015
P.O. Box 533
Hollidaysburg, PA 16648
(814) 696-3581

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

SANDRA CONKLIN, as parent and natural guardian of JUSTINE KLINE, and SANDRA CONKLIN, individually,	)	CIVIL DIVISION
	)	NO.: 2003-68 CD
Plaintiffs,	)	
v.	)	
CLEARFIELD HOSPITAL and GEORGE F. PALMER,	)	
Defendants.	)	**JURY TRIAL DEMANDED**

PRAECIPE FOR TRIAL

AND NOW, comes the Plaintiff, by and through her counsel, Patberg, Carmody, Ging & Filippi and Rolf Louis Patberg, Esquire, and files the following Praecipe for Trial, stating as follows:

1. There are currently no outstanding motions;

2. Discovery in the matter has been completed;

3. The above referenced matter is ready for trial;

4. The herein matter is to be heard as a Jury Trial;

5. Pursuant to the Certificate of Service attached hereto, this Praecipe has been given to all other counsel of record on this date.

RESPECTFULLY SUBMITTED:

PATBERG, CARMODY, GING & FILIPPI

DATE: 3/20/06

By _____
Rolf Louis Patberg, Esquire
PA I.D. No.: 65185

Attorney for Plaintiffs

JURY TRIAL DEMANDED

DEFENDANT'S EXHIBIT NO. 1

PENGAD Bayonne, N.J.

JOHN A. TILELLI, MD
MEDICAL CONSULTING
2228 PALM VIEW DR., APOPKA, FL 32712
(407) 880-8713, EMAIL TILELLI@PEGASUS.CC.UCF.EDU

November 13, 2006

Mr. Rolf Louis Patberg
Patberg, Carmody, Ging & Filippi
Attorneys at Law
527 Court Place
Pittsburgh, PA 15219

Re: Justine Kline

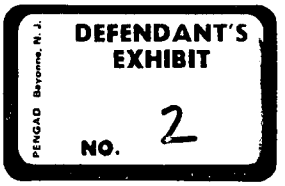
Dear Mr. Patberg;

At your request I have reexamined the records of Justine Kline, attempting to outline a therapeutic approach that would have substantially altered the outcome of her care. I offer the following as an outline only, acknowledging that there are many "right" approaches that would comply with the standard of care. The treatment given to her on her return, February 23, in fact, is a good thumbnail of the approach to a child with septic shock.

Justine presented on February 22, 2002 with high fever, tachycardia and modest hypotension, secondary to *E. cloacae* pyelonephritis. On February 23 she returned with an exacerbation of the same symptoms. The approach to her hemodynamic state at that time consisted of intravenous volume expansion, vasopressor agents, positive-pressure assisted ventilation, antibiotic therapy and neuromuscular relaxing agents. Corticosteroids are given in the context of glucocorticoid deficiency.

The general approach to the septic patient consists of: directed antibiotic therapy given presumptively and after appropriate cultures, volume expansion (preload), improving cardiac contractility (inotropy), and manipulating peripheral resistance to improve the perfusion of critical endorgans (afterload) with vasopressor agents. Coagulopathies are managed with the administration of fresh frozen plasma, cryoprecipitate and platelet concentrate and anticoagulants as indicated. Respiratory insufficiency is managed with positive pressure ventilation or high-frequency ventilation. Occasionally, extracorporeal techniques may be of assistance. This brief outline does not do justice to the principles of management of the patient with septic shock. Literally, whole textbooks have been written on the subject, and it is the concern of a major portion of the training of intensive care physicians.

The key element, however, is the institution of timely therapy, most importantly antibiotics. All clinicians, in my opinion, would acknowledge that early and most



Nov. 14. 2006 5:51AM No. 0161 P. 5

importantly, appropriate antibiotic therapy is key in the prevention of mortality and morbidity secondary to sepsis. The Society of Critical Care Medicine has recently initiated a campaign directed at improving the mortality due to sepsis, and has emphasized the importance of the timely initiation of therapy, especially intravenous antibiotic therapy, in the improvement of outcomes[1]. It is my opinion that the signs and symptoms demonstrated by Justine Kline on February 22, to wit, high fever, tachycardia and hypotension sufficiently warrant the diagnosis of sepsis and justify the aggressive approach recommended by the Surviving Sepsis Campaign.

I must emphasize that earl therapy often obviates the need for more invasive and higher-morbidity therapies required later, in the face of severe and unresponsive shock. A patient treated before the development of a low-output state (evidenced by poor perfusion, altered mental status or severe hypotension) may respond to antibiotic administration and modest volume expansion alone, obviating the need for vasopressors or mechanical ventilation. It is my opinion that had Justine Kline been so treated during her first emergency room visit, that she would not have required high-dose vasopressor therapy, intubation and mechanical ventilation for pulmonary edema, nor developed severe disseminated intravascular coagulation. Pulmonary artery catheterization, cardiac tamponade, gangrene of the extremities, pancreatitis, and respiratory insufficiency are all complications of the management of the severely septic patient, and in my opinion, none would have occurred had therapy been initiated on February 22.

I must express that the above is merely a thumbnail sketch of the management of Justine Kline. The management of sepsis is in large measure goal-directed and that early, modest therapy is far more effective than aggressive therapy administered after the manifestations of severe shock. It is therefore my opinion to a reasonable degree of medical probability that Justine Kline would have suffered none of the complications elaborated above had she been treated on February 22 with intravenous antibiotic therapy, volume expansion and perhaps low-dose inotropic support.

I hope that the above satisfactorily conveys my opinions.

Sincerely,

John A. Tilelli, MD
(Electronically signed to save time)

---

[1] See Dellinger RP, *et al.* Surviving Sepsis Campaign guidelines for management of severe sepsis and septic shock. Crit Care Med (2004) 32:858-871. Note recommendation C.1: "Intravenous antibiotic therapy should be started within the first hour of recognition of severe sepsis, after appropriate cultures have been obtained." See further recommendation A.1, indicating that goal-directed therapy initiated in the emergency department and within the first 6 hours of presentation significantly improves survival.

c. Lost future earnings;

d. Severe pain and discomfort;

e. Permanent scarring and disfigurement;

f. Past and future pain and suffering; and

g. Loss of enjoyment of life.

WHEREFORE, Plaintiff respectfully requests this Honorable Court enter judgment in her favor in an amount in excess of Twenty-Five Thousand Dollars ($25,000.00) and the arbitration limits of Clearfield County, including the imposition of punitive damages.

COUNT II

PLAINTIFF JUSTINE KLINE V. DEFENDANT DR. GEORGE F. PALMER

33. Plaintiffs incorporate paragraphs one through thirty-two of the herein Complaint as if fully set forth here at length.

34. All Defendant physicians named herein were jointly and contemporaneously negligent in the care of Justine Kline, as outlined below. As such, each such Defendant is jointly and severally responsible for the deviations set forth below in varying capacities, including Defendant Palmer.

35. Defendant Palmer deviated from the standard of care in the following manners:

a. In failing to timely appreciate the signs and symptoms of Justine Kline;

b. In failing to timely diagnose her with pyelonephritis;

c. In failing to timely appreciate the seriousness of her condition;

d. In failing to timely appreciate the presence of hypertension and tachycardia;

e. In failing to admit Justine Kline as an inpatient;

f. In failing to appreciate the significance or diagnosis of bacteremia or sepsis;

DEFENDANT'S EXHIBIT NO. 3
PENGAD Bayonne, N.J.

g. In failing to timely initiate sufficient antibiotic therapy; and

h. In failing to timely properly diagnose her with severe septic shock.

36. As a direct and proximate result of the aforementioned deviations in the standard of care, Justine Kline will be permanently scarred and disabled for the remainder of her life.

37. As a direct and proximate legal result of the aforementioned deviations in the standard care, Plaintiff Justine Kline claims the following damages:

a. Past medical expenses in excess of $100,000.00;

b. Future medical expenses in an amount to be determined;

c. Past and future pain and suffering;

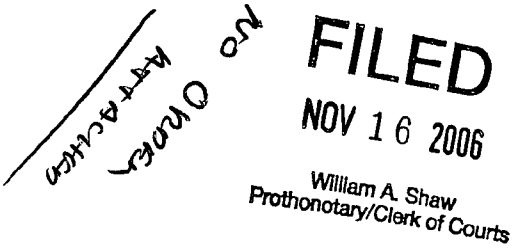
d. Past and future emotional distress;

e. Past and future life opportunities;

f. Diminution in earning capacity in the future; and

g. Reimbursement for equipment expenses and alterations to the family residence.

WHEREFORE, Plaintiffs respectfully request this Honorable Court enter judgment in an amount in excess of Twenty Five Thousand Dollars ($25,000.00) and in excess of the Clearfield County Arbitration limits.


FILED
NOV 16 2006
William A. Shaw
Prothonotary/Clerk of Courts

FILED
NOV 15 2006
William A. Shaw
Prothonotary/Clerk of Courts
No C Bnt Copies

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

SANDRA CONKLIN, as parent and natural guardian of JUSTINE KLINE, and SANDRA CONKLIN, individually,	CIVIL DIVISION NO.: 2003-68 CD
Plaintiffs,	TYPE OF PLEADING:
v.	**PLAINTIFF'S SECOND MOTION IN LIMINE**
CLEARFIELD HOSPITAL and GEORGE F. PALMER,	FILED ON BEHALF OF PLAINTIFFS
Defendants.	COUNSEL OF RECORD FOR THIS PARTY:
	ROLF LOUIS PATBERG, ESQUIRE PA I.D. NO.: 65185
	PATBERG, CARMODY, GING & FILIPPI DEUTSCHTOWN CENTER 801 VINIAL STREET - THIRD FLOOR PITTSBURGH, PA 15212 (412) 232-3500
JURY TRIAL DEMANDED	

(#94)

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

SANDRA CONKLIN, as parent and natural guardian of JUSTINE KLINE, and SANDRA CONKLIN, individually,	)	CIVIL DIVISION
	)	NO.: 2003-68 CD
Plaintiffs,	)	
v.	)	
CLEARFIELD HOSPITAL and GEORGE F. PALMER,	)	
Defendants.	)	**JURY TRIAL DEMANDED**

PLAINTIFF'S SECOND MOTION IN LIMINE

AND NOW, comes the Plaintiffs, by and through their attorneys, Rolf Louis Patberg, Esquire, and the law firm of Patberg, Carmody, Ging & Filippi, and file the foregoing Plaintiff'S Second Motion in Limine and in support thereof aver as follows:

1. The above-captioned matter is a medical negligence action currently scheduled for trial commencing on December 4, 2006.

2. The case principally surrounds the care and treatment rendered to Justine Kline in the early morning of February 23, 2002.

3. Upon discharge, Clearfield Hospital representatives instructed Sandra Conklin to administer certain antibiotics on the morning of February 23, 2002.

4. Defendants have repeatedly made inferences and questions as to the conduct of Sandra Conklin and its causal relationship to the ultimate physical maladies suffered by Justine Kline.

5. It is believed and therefore averred that the Defendants either intend to argue and/or present evidence that Sandra Conklin, in some manner, was negligent in the care and treatment of Justine Kline.

6. The Defendants have proffered no expert testimony on the issue of causation by and between the lack of care or treatment administered to Justine Kline on the early morning of February 23, 2002.

7. Any negligence by Sandra Conklin is completely irrelevant without any expert testimony. It is further statement that the claim of Justine Kline is completely separate and she is a separate person from Sandra Conklin. Creating such an inference would be a reversible error. See Young v. Washington Hospital, 761 A.2d 558, 563-564 (Pa. Super. 2000). Exhibit 1.

8. Therefore, Plaintiffs respectfully request this Honorable Court preclude Defendants or their counsel from arguing, inferring, implying or introducing any evidence of any purported negligence by Sandra Conklin.

WHEREFORE, Plaintiffs respectfully request this Honorable Court grant the Plaintiff's Motion in Limine regarding any conduct by Sandra Conklin as it pertains to the injuries suffered by Justine Kline.

RESPECTFULLY SUBMITTED:

PATBERG, CARMODY, GING & FILIPPI

DATE: 11-14-06

By _____
Rolf Louis Patberg, Esquire
PA I.D. No.: 65185
Attorney for Plaintiffs.

JURY TRIAL DEMANDED

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

SANDRA CONKLIN, as parent and natural guardian of JUSTINE KLINE, and SANDRA CONKLIN, individually,	)	CIVIL DIVISION
	)	NO.: 2003-68 CD
Plaintiffs,	)	
v.	)	
CLEARFIELD HOSPITAL and GEORGE F. PALMER,	)	
Defendants.	)	**JURY TRIAL DEMANDED**

ORDER OF COURT

AND NOW, to-wit, this _____ day of _____, 2006, it is hereby ORDERED, DECREED and ADJUDGED that Plaintiff's Motion in Limine regarding the conduct of Sandra Conklin is hereby **GRANTED**. The Defendants and their counsel shall be precluded from arguing, inferring, or introducing any evidence as to any purported contributor negligence by Sandra Conklin.

BY THE COURT:

_____J.

5 of 11 DOCUMENTS

LINDA YOUNG and STEVE FATTMAN, as Co-Guardians of CHRISTINA YOUNG, and LINDA A. YOUNG, in her own right, Appellants v. WASHINGTON HOSPITAL, MALAY C. SHETH, M.D., and KEVIN SNYDERSMITH, M.D., Appellees

No. 1055 WDA 1999

SUPERIOR COURT OF PENNSYLVANIA

2000 PA Super 277; 761 A.2d 559; 2000 Pa. Super. LEXIS 2594

February 2, 2000, Argued
September 19, 2000, Filed

SUBSEQUENT HISTORY: [***1] Application for Reargument/Reconsideration Denied November 20, 2000. Petition for Allowance of Appeal Denied July 26, 2001, Reported at: *2001 Pa. LEXIS 1631.*

PRIOR HISTORY: Appeal from the Judgments Entered June 22 and 23, 1999, In the Court of Common Pleas, Civil Division, Washington County, No. 95-6327. Before GILMORE, J.

DISPOSITION: Judgment reversed and matter remanded for a new trial consistent with this Opinion; jurisdiction relinquished.

CASE SUMMARY:

PROCEDURAL POSTURE: Appellants challenged the ruling of the Court of Common Pleas, Civil Division, Washington County (Pennsylvania), which entered a verdict in favor of appellees in a medical malpractice case and denied appellants' motions seeking a new trial, or alternatively, a judgment notwithstanding the verdict.

OVERVIEW: Appellant claimants brought a medical malpractice negligence case against appellee physicians stemming from a birth injury. Appellants alleged appellees negligently failed to perform a cesarean section during a birth that resulted in shoulder dystocia. Also, once appellees recognized the shoulder dystocia, they negligently failed to remedy the condition, specifically through the improper application of fundal pressure resulting in a permanent brachial plexus injury that limited the full use of arm. The jury returned a verdict in favor of appellees and judgment was duly entered. The appellate court reversed the order and remanded the matter for a new trial because of the highly prejudicial comments made by appellees' counsel insinuating that appellants brought suit for financial gain and the erroneous introduction of evidence improperly suggesting contributory negligence of appellants.

OUTCOME: The appellate court reversed the trial court's verdict for appellees in a medical malpractice case and remanded the matter for a new trial since comments made by appellees' counsel were so offensive or egregious that no curative jury instructions could adequately obliterate the prejudicial taint.

CORE TERMS: new trial, surgery, prejudicial, contributory negligence, highly prejudicial, mitigate, defense counsel, offensive, corrective, baby, curative instruction, misleading, motivations, unjustified, alleviated, scheduled, prejudicial effect, closing arguments, jury to disregard, obliterate, resolving, incapable, egregious, complain, passion, jurors, taint, introduction of evidence, improperly admitted, medical malpractice

LexisNexis(R) Headnotes

Civil Procedure > Judgments > Relief From Judgment > Motions for New Trials
Civil Procedure > Appeals > Standards of Review > Abuse of Discretion
Torts > Negligence > Standards of Care > Special Care > Highly Skilled Professionals
[HN1] An appellate court's review of a trial court's decision to grant or deny a new trial is deferential. The power to grant or deny a new trial lies inherently with a trial court, and an appellate court will not reverse its decision absent a clear abuse of discretion or error of law that controlled the outcome of the case.

ALL-STATE LEGAL®
PLAINTIFF'S EXHIBIT
1

Civil Procedure > Counsel > General Overview
Civil Procedure > Trials > Opening Statements > General Overview
Criminal Law & Procedure > Trials > Closing Arguments > Inflammatory Statements
[HN2] It is improper for counsel to present facts to the jury, which are not in evidence and which are prejudicial to the opposing party; counsel may not comment on evidence to the effect that it removes an issue of credibility from the jury. Further, whether remarks by counsel warrant a new trial requires a determination based upon an assessment of the circumstances under which the statements were made and the precaution taken by the court and counsel to prevent such remarks from having a prejudicial effect. It is the duty of the trial judge to take affirmative steps to attempt to cure harm, once an offensive remark has been objected to. However, there are certain instances where the comments of counsel are so offensive or egregious that no curative instruction can adequately obliterate the taint.

Civil Procedure > Trials > Jury Trials > Jury Instructions > General Overview
Civil Procedure > Remedies > Deposits in Court
[HN3] *Pa. R. Civ. P. 2039* requires that any award to a minor be held in trust until the child attains majority and, therefore, is not readily accessible to the parents.

Civil Procedure > Counsel > General Overview
[HN4] It is well established that any statements by counsel, not based on evidence, that tend to influence the jury in resolving the issues before them solely by an appeal to passion and prejudice is improper and will not be countenanced. A verdict obtained by incorrect statements or unfair argument or by an appeal to passion or prejudice stands on but little higher ground than one obtained by false testimony.

Civil Procedure > Trials > Jury Trials > Jury Instructions > General Overview
[HN5] The effect of prejudicial argument and evidence may be alleviated by corrective instructions to the jury.

Civil Procedure > Counsel > General Overview
Civil Procedure > Trials > General Overview
Workers' Compensation & SSDI > Administrative Proceedings > Evidence > General Overview
[HN6] Improperly admitted evidence may be so prejudicial that a new trial is required. While great deference is given to a jury's verdict, the trust the legal system places in the jury's wisdom is not unchecked. The rules of evidence have been arduously developed over hundreds of years in order to provide such a check. These rules prevent jurors from considering facts that might inflame their prejudices but are irrelevant to the actual case before them. A skillful and zealous advocate is often able to sidestep the technical letter of the rules and enter some evidence that should have been excluded. When such maneuvering threatens the overall fairness of the proceeding, the trial judge should order a new trial.

COUNSEL: Rolf L. Patberg, Pittsburgh, for appellants.

William D. Phillips, Washington, for Sheth, appellee.

Mary D. Korsmeyer, Washington, for **Washington Hospital,** appellee.

JUDGES: BEFORE: DEL SOLE, EAKIN and TODD, JJ. OPINION BY TODD, J. Eakin, J. files a Dissenting Opinion.

OPINION BY: TODD

OPINION: [560]**

OPINION BY TODD, J.:
[*P1] In this medical malpractice action, Linda **Young** and Steve Fattman (as co-guardians of Christina **Young,** and Linda **Young** in her own right) appeal from the judgments entered in favor of **Washington Hospital,** Malay C. Sheth, M.D., and Kevin Snydersmith, M.D. Because of the highly prejudicial comments made by defense counsel in his opening statement and the erroneous introduction of evidence improperly suggesting contributory negligence of the Appellants as parents of a minor plaintiff, we reverse and remand for a new trial.

[*P2] The jury trial of this matter took place in December 1998 before the Honorable David L. Gilmore.

[*P3] The trial court concisely stated the factual background of this case:

This medical negligence case arises from the birth of Christina **Young at [***2] The Washington Hospital,** February 12, 1995. At trial, the Plaintiffs alleged the Defendant-physicians negligently failed to perform a Caesarean section during Christina's birth, resulting in shoulder dystocia. Additionally, the Plaintiffs averred that once the Defendant-physicians recognized the occurrence of shoulder dystocia, they negligently failed to remedy the condition, specifically through the improper application of fundal pressure. As a result of the Defendants['] alleged negligence, Christina suffered a perma-

nent brachial plexus injury, which limits her ability to have full use of her arm.

(Trial Court Opinion, 6/11/99, at 1-2 (footnote omitted).)

[*P4] The jury returned a verdict in favor of the physicians and the hospital. The trial court denied post-trial motions seeking a new trial and, alternatively, a judgment notwithstanding the verdict on a **[**561]** number of grounds. Judgment was duly entered on the docket and this timely appeal followed.

[*P5] Appellants raise the following issues: n1

> n1 We have paraphrased Appellants' Statement of Issues.

[*3]**

Whether the improper introduction of alleged contributory negligence by the parents of a minor Plaintiff was prejudicial when accompanied by inaccurate and highly prejudicial statements by defense counsel concerning said negligence.

Whether a minor is entitled to a new trial based upon the Court's refusal to instruct the jury that any funds recovered would be placed in trust when the parents' desire for monetary gain is in question.

Whether the plaintiffs are entitled to a new trial based upon the continual reference to a non-testifying expert.

Whether the plaintiffs are entitled to a new trial because the verdict was against the weight of the evidence where all evidence, with the exception of the Defendant-Physicians' testimony, was that there was a deviation in the standard of care.

Whether the plaintiffs are entitled to a new trial based upon error in the permitted standard of care testimony by a defendant physician where the Defendant-Physician failed to file an expert report.

[HN1]

[*P6] Our review of a trial court's decision to grant or deny a new trial is deferential: "the power to grant or deny a new trial lies inherently with the trial court, and we will not reverse **[***4]** its decision absent a clear abuse of discretion or error of law which controlled the outcome of the case." ***Tudor Ins. Co. v. Township of Stowe***, *697 A.2d 1010, 1012 (Pa. Super. 1997).*

[*P7] Appellants first contend they were prejudiced by improper argument and improperly admitted evidence alleging that they failed to follow up with appropriate medical care of the child - specifically, surgery to correct Christina's condition. Appellants filed a motion *in limine* seeking to bar attempts to characterize them as being at fault for the child's continued injured status, based on allegations of missed doctors' appointments and their decision that the child not undergo subsequent surgery, and generally seeking to bar evidence asserting their contributory negligence. Although the trial court later reversed itself, it initially ruled that evidence in this regard was "generally relevant." n2 (N.T., 12/7/98, at 16.)

> n2 As we discuss below, the court, in its charge to the jury, ultimately instructed the jury that any alleged negligence of the parents could not be imputed to the child and that the jury should not consider the parents' actions in determining damages.

[*5]**

[*P8] We first review comments made by defense counsel in his opening statements which Appellants assert were highly prejudicial. n3 [HN2] It is improper for counsel to present facts to the jury which are not in evidence and which are prejudicial to the opposing party; counsel may not comment on evidence to the effect that it removes an issue of credibility from the jury. ***Derry Township School Dist. v. Suburban Roofing Co.***, *102 Pa. Commw. 54, 517 A.2d 225, 229 (Pa. Commw. 1986).* Further,

> n3 In their brief, Appellants complain of other purportedly prejudicial statements made during trial and closing arguments, but fail to elaborate or develop their argument regarding these statements. They fail to specifically identify them by reference to the record, and fail to cite any authority to support their contention that such statements are improper. As such, we will not consider the merits of this argument. ***See Borough of Mifflinburg v. Heim***, *705 A.2d 456, 467-68 (Pa. Super. 1997).* The trial court also found these statements waived for lack of a timely objection. (Trial Court Opinion, 6/11/99, at 7-8.)

[*6]**

[562]** whether remarks by counsel warrant a new trial requires a determination based upon an assessment of the circumstances under which the statements were made and the precaution taken by the court and counsel to prevent such remarks from having a prejudicial effect. It is the duty of the trial judge to take affirmative steps to attempt to cure harm, once an offensive remark has been objected to. However, there are certain instances where

the comments of counsel are so offensive or egregious that no curative instruction can adequately obliterate the taint.

***Siegal v. Stefanyszyn**, 718 A.2d 1274, 1277 (Pa. Super. 1998)* (citations omitted), *appeal denied, 559 Pa. 693, 739 A.2d 1059, 1999 Pa. LEXIS 1851 (1999).*

[*P9] In his opening, trial counsel for Dr. Sheth, emphasized Appellants' failure to allow corrective surgery for the child as an illustration of their alleged contributory negligence and emphasized that the parents wished to consult with their lawyer before making a decision about the surgery:

And the surgery was scheduled and then canceled because she had a fever. Then it was scheduled another time, they set it up and the mother canceled it. *And* **[***7]** *in [Dr. Adelson's] records it says that the people told him that among other things they wanted to talk to their lawyer. Now, you think about that. What's going on here? What's important here, this baby or a lawsuit? What do they seem to see this baby as, truly a person, or maybe a source of some money?* I don't know, but that's in this record. Now, I might get criticized for that before we're done, but I think you want to know that because we're all going to get into position here before this is over of everybody standing up for their own responsibility. If you find out, if you conclude that this baby would have been, according to her treating physician, that the things they're going to complain about would have been alleviated had they followed his advice, and they didn't do it and they consulted their lawyer, what do you think about that? . . . They're coming in here asking you for money, yet you're going to find out that much of the stuff that they're asking you money for could have been alleviated, but they didn't do it. *And you're going to say, they talk to their lawyer?*

(N.T., 12/7/98 at 36-37 (emphasis added).) n4

n4 Appellants' counsel next gave his opening statement, after which he renewed his motion *in limine* with respect to allegations Appellants were contributorily negligent.

[*8]**

[*P10] The implication of defense counsel's comments was unmistakable and, we find, highly prejudicial. The comments implied that the parents brought this lawsuit for financial gain, rather than to benefit the welfare of their child. There is little, in our view, more prejudicial or inflammatory than suggesting that plaintiff-parents have sued on behalf of their injured child for their own financial gain. This is the most offensive kind of insinuation.

[*P11] Also, these statements were seriously misleading, as [HN3] *Rule 2039 of the Pennsylvania Rules of Civil Procedure* requires that any award to a minor be held in trust until the child attains majority and, therefore, is not readily accessible to the parents. That the jury was never instructed as to the requirements of Rule 2039 only served to highlight a picture of parents motivated first by financial considerations. Appellants' proposed jury charge along these lines was rejected by the trial court. While we agree with the trial court that Appellants' proposed charge technically was inaccurate and therefore properly was rejected as stated n5, **[**563]** the void only exacerbated the prejudice resulting from the improper statements. **[***9]**

n5 In their second issue on appeal, Appellants assert that they are entitled to a new trial based upon the trial court's refusal of their proposed charge. The proposed charge stated:

The present action is being brought by Linda **Young** and Steve Fattman in their capacity as parents and legal guardians of Christina Fattman, their child. Any damages awarded under this action will be placed in trust for use by Christina Fattman only when she turns eighteen (18) years of age.

(Plaintiffs' Points For Charge, 12/4/98, Point For Charge No. 1.) Appellants sought this instruction in light of counsel's statement that the parents' treatment decisions were driven by financial motivations. We agree with Appellants that the instruction was important to make the jury understand that the parents would not have free access to funds recovered by the child. However, the trial court refused the point for charge because it did not accurately state the applicable law - specifically, that "the Point for Charge fails to contemplate the fact that, upon a showing of necessity by Christina's parents acting as legal guardians, a trustee would be authorized to distribute funds for the child's health, maintenance, necessities, etc." (Trial Court Opinion, 6/11/99, at 9.) This is a correct assessment of the proposed point's inadequacies: it is incomplete and, as drawn, could be misleading to the jury. As a result, we conclude that the trial court properly refused the charge as proffered. ***See Schneider v. Lindenmuth-Cline Agency, Inc.**, 423 Pa. Super. 73, 620 A.2d 505, 508-09 (Pa. Super. 1993)* (trial

court may properly refuse a point for charge which necessitates qualification or modification).

[*10]**

[*P12] We find these statements highly prejudicial and in this regard note the longstanding admonition of our Supreme Court:

[HN4] It is well established that any statements by counsel, not based on evidence, which tend to influence the jury in resolving the issues before them solely by an appeal to passion and prejudice is improper and will not be countenanced. As we have stated on many occasions: ". . . a verdict obtained by incorrect statements or unfair argument or by an appeal to passion or prejudice stands on but little higher ground than one obtained by false testimony."

Narciso v. Mauch Chunk Twp., 369 Pa. 549, 551, 87 A.2d 233, 234 (1952) (quoting ***Saxton v. Pittsburg Railways Co.***, *219 Pa. 492, 495-96, 68 A. 1022, 1023 (1908)).*

[*P13] Appellants also challenge as prejudicial the introduction of evidence asserting their contributory negligence. Dr. David Adelson, a pediatric neurosurgeon who specializes in brachial plexus and peripheral nerve injuries, was one of the child's treating physicians. At trial, he testified that he recommended surgery for the child because he had become concerned about her lack of functional **[***11]** improvement. He stated that he had discussed the surgery with Appellants, including his expectation that surgery would return some function to her arm. Dr. Adelson further testified that he told them that in his opinion the expected benefits of the surgery outweighed its risks. He also testified that he had discussed the surgery with Appellants' attorney, at their request, and stated that although surgery had been scheduled, Appellants ultimately cancelled the surgery.

[*P14] Linda Young, the child's mother, testified on cross-examination that when they were discussing the surgery with Dr. Adelson, they told him that they wanted to talk to their lawyer, in addition to consulting with therapists at United Cerebral Palsy. Young testified that the lawyer did not tell them not to have the surgery, and that she and the baby's father made that decision themselves. Appellants' counsel did not object to this line of questioning and indicated they would waive privilege for the limited purpose of refuting counsel's earlier comments. For their part, Appellants also presented evidence suggesting they chose a conservative approach to the child's treatment and indeed, kept most of the **[***12]** child's doctor and therapist appointments.

[*P15] Appellants argue that the allegations of contributory negligence are unsupported by the record and that their conduct, subsequent to Appellees' negligence, was not a proximate or superseding cause of the child's injury. Appellants emphasize that the parents and the child are separate and distinct persons in the eyes of the law. We agree that this latter point **[**564]** is dispositive. n6 As this action was brought by the parents on behalf of the child, the actions of the parents - their asserted contributory negligence or failure to mitigate damages - is irrelevant. Therefore, this evidence improperly was admitted for the purpose of showing the parents' negligence or failure to mitigate. The introduction of this evidence, combined with the prior statements, resulted in severe prejudice to Appellants.

n6 Minors under the age of seven conclusively are presumed to be incapable of negligence. ***Kuhns v. Brugger, 390 Pa. 331, 135 A.2d 395 (1957).*** This presumption persists whether the minor is a plaintiff or defendant. ***Berman by Berman v. Philadelphia Bd. of Educ.***, *310 Pa. Super. 153, 456 A.2d 545, 549 (Pa. Super. 1983).*

[*13]**

[*P16] While the trial court ultimately agreed that the evidence of the parents' actions improperly was admitted, as shown below in its corrective instruction, Appellants contend that the court's instruction was inadequate to remedy the highly prejudicial nature of the allegations. We agree.

[*P17] The trial court gave the following instruction:

I'm going to give you one word of caution when considering damages. You will recall that there was some testimony and some argument by the attorneys in the case about the failure to follow up some care by the parents after this and whether or not they should have had further surgical procedures. At the beginning of the case--first, let me explain that in any case the law requires that a Plaintiff use reasonable efforts to mitigate damages. In other words, if you've been injured, you can't do things then that will increase your injuries or increase the amount of medical bills or lost earnings. The law requires you to mitigate; that is, to keep your damages reasonable. However, after further considerations, I've determined in this case that since the minor Plaintiff was incapable of making any of those decisions, that any **[***14]** actions by the parents cannot be attributable to her. So I don't want you to consider any actions taken by the parents following this delivery as to whether or not they properly saw to her medical treatment or that they

should have taken further surgical procedures as any diminution of any damages you think are properly awardable in the case.

(N.T., 12/15/98, at 876-77.)

[HN5]

[*P18] The effect of prejudicial argument and evidence may be alleviated by corrective instructions to the jury. However, the instruction here was directed solely to the issue of mitigation of damages and said nothing about the prejudicial comments. Thus, in that regard, the instruction "was not directed toward [the] damage done." ***Siegal v. Stefanyszyn***, *718 A.2d 1274, 1277 (Pa. Super. 1998).* Further, while it directed the jury to disregard the evidence of the parents' conduct, we agree with Appellants that "the issue of the inappropriate conduct of the parents and the outrageous conduct of counsel are inextricably intertwined." (Appellants' Brief at 24.)

[*P19] This case has similarities to ***Siegal,*** wherein this Court ordered a new trial in a medical malpractice **[***15]** case after defense counsel implied in closing arguments that the plaintiffs failed to call an expert witness because his testimony would be unfavorable when, in fact, the opposite was true, and jury instructions failed to correct the misimpression. ***Id.*** Indeed, we believe this case presents one of those instances "where the comments of counsel are so offensive or egregious that no curative instruction can adequately obliterate the taint." ***Id.***

[*P20] Likewise, in ***Boscia v. Massaro,*** *365 Pa. Super. 271, 529 A.2d 504 (Pa. Super. 1987),* this Court concluded that a new trial was warranted in a negligence action where the defendant's counsel repeatedly elicited testimony that the plaintiff had workmen's compensation coverage. There, we noted that "[HN6] improperly admitted evidence may be so prejudicial that a new trial is required." **[**565]** *529 A.2d at 507.* While great deference is given to a jury's verdict, we further noted that:

> the trust our system places in the jury's wisdom is not unchecked. The rules of evidence have been arduously developed over hundreds of years in order to provide such a check. These rules prevent jurors from considering **[***16]** facts which might inflame their prejudices but which are irrelevant to the actual case before them. A skillful and zealous advocate is often able to sidestep the technical letter of the rules and enter some evidence which should have been excluded. When such maneuvering threatens the overall fairness of the proceeding, the trial judge should order a new trial.

529 A.2d at 508.

[*P21] The trial court acknowledged that counsel's comments regarding financial motivations "may be considered unjustified and **[**566]** improper," but also commented that, in its opinion, such statements "were not so inflammable and prejudicial to the jury so as to malign the fairness of the proceedings." (Trial Court Opinion, 6/11/99, at 7.) Given the highly prejudicial nature of the comments, together with the erroneously admitted evidence concerning the parents' alleged negligence or failure to mitigate, we cannot accept the learned trial court's assessment and find that it was an abuse of discretion not to grant a new trial under these circumstances.

[*P22] In addition, we are not persuaded by the trial court's conclusion that because the jury concluded that the defendants were not negligent, **[***17]** and therefore did not deliberate on damages, the argument and evidence which ostensibly concerned Appellants' failure to mitigate damages was not prejudicial. (Trial Court Opinion, 6/11/99, at 5.) This ignores the possibility that a jury's conclusions regarding damages may be entangled with its conclusions on negligence. ***See, e.g., Trump v. Capek,*** *267 Pa. Super. 355, 406 A.2d 1079, 1081 (Pa. Super. 1979)* (noting that jury may have "felt comfortable in resolving the question of negligence against" plaintiff where fact that plaintiff's damages may have been partially compensated for by a government pension plan was erroneously introduced into evidence).

[*P23] One final observation regarding the comments of defense counsel highlighted here and their misleading nature is in order. Counsel insinuated that the parents' contact with their attorney in the course of deciding about corrective medical treatment for their child indicated improper motives and misplaced priorities on their part. However, most experienced attorneys, yet probably few jurors, realize that clients at times consult their attorneys for more than legal advice. Indeed, it is not **[***18]** uncommon for clients to look to their attorney for advice in much broader areas of life, be it financial, emotional, or otherwise, and may view their attorney, rightly or wrongly, as the most experienced or knowledgeable advisor they know. That they contact their lawyer when making important decisions does not necessarily mean that they are motivated by improper considerations, and to suggest so before a jury is, in our view, improper.

[*P24] For the reasons stated above, we find that the trial court abused its discretion in failing to grant Appellants a new trial. n7

n7 Given our resolution of this issue, we need not examine Appellants' remaining contentions on appeal.

[*P25] Judgment reversed and matter remanded for a new trial consistent with this Opinion. Jurisdiction relinquished.

[*P26] Eakin, J. files a Dissenting Opinion.

DISSENT BY: EAKIN

DISSENT: DISSENTING OPINION BY EAKIN, J.:

[*P27] The trial court acknowledged counsel's comments regarding financial motivations "may **[***19]** be considered unjustified and improper," but also commented that, in its opinion, such statements "were not so inflammable and prejudicial to the jury so as to malign the fairness of the proceedings." Trial Court Opinion, 6/11/99, at 7. I cannot find enough of record to overturn this first-hand determination. While the remarks and evidence concerning the parents' conduct could be deemed unjustified and improper, and certainly should not be imputed to the child, I have considered carefully the trial court's curative instruction and conclude it was adequate to remove any prejudicial effect on the jury. The instruction specifically and emphatically directed the jury to disregard such evidence, and I would therefore affirm the learned trial court.

CERTIFICATE OF SERVICE

I, Rolf Louis Patberg, Esquire, hereby certify that a true and correct copy of the foregoing Plaintiff'S Second Motion in Limine was forwarded this 14 day of November, 2006 via e-mail and facsimile to the following counsel of record:

John L. McIntyre, Esquire
McIntyre, Dugas, Hartye & Schmitt
P.O. Box 533
Holidaysburg, PA 16648

Rolf Louis Patberg, Esquire

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

SANDRA CONKLIN, as parent and natural guardian of JUSTINE KLINE, and SANDRA CONKLIN, individually,	CIVIL DIVISION NO.: 2003-68 CD
Plaintiffs,	TYPE OF PLEADING:
v.	**REPLY TO DEFENDANTS' MOTIONS IN LIMINE**
CLEARFIELD HOSPITAL and GEORGE F. PALMER,	FILED ON BEHALF OF PLAINTIFFS
Defendants.	COUNSEL OF RECORD FOR THIS PARTY: ROLF LOUIS PATBERG, ESQUIRE PA I.D. NO.: 65185 PATBERG, CARMODY, GING & FILIPPI DEUTSCHTOWN CENTER 801 VINIAL STREET - THIRD FLOOR PITTSBURGH, PA 15212 (412) 232-3500
JURY TRIAL DEMANDED	

FILED
NOV 15 2006
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William A. Shaw
Prothonotary/Clerk of Courts
No C/C

(#93)

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

SANDRA CONKLIN, as parent and natural guardian of JUSTINE KLINE, and SANDRA CONKLIN, individually,	)	CIVIL DIVISION
	)	NO.: 2003-68 CD
Plaintiffs,	)	
v.	)	
CLEARFIELD HOSPITAL and GEORGE F. PALMER,	)	
Defendants.	)	**JURY TRIAL DEMANDED**

REPLY TO DEFENDANTS' MOTIONS IN LIMINE

AND NOW, comes the Plaintiffs, by and through their attorneys, Rolf Louis Patberg, Esquire, and the law firm of Patberg, Carmody, Ging & Filippi, and file the foregoing Reply to Motions in Limine and in support thereof aver as follows:

1. The averments of paragraph 1 are admitted.

2. Plaintiffs do in fact intend to introduce portions of the original Clearfield chart that was faxed to Children's Hospital on February 23, 2002 at approximately 6:42 p.m. This issue is directly relevant and is directly addressed in the off-cited M-Care act. Section 1303.511 states as follows:

> "**§1303.511. Preservation and accuracy of medical records.**
>
> (a) Timing. – Entries in patient charts concerning care rendered shall be made contemporaneously or as soon as practicable. Except as otherwise provided for in this section, it shall be considered unprofessional conduct and a violation of the applicable licensing statute to make alterations to a patient's chart.

(B) Corrections and disposal of records. – It shall not be considered unprofessional conduct or a violation of the applicable licensing statute for a health care provider to:

> (1) Correct information on a patient's chart where information has been entered erroneously or where it is necessary to clarify entries made on the chart, provided that such corrections or additions shall be clearly identified as subsequent entries by a date and time.
>
> (2) Add information to a patient's chart where it was not available at the time the record was first created, provided that:
>
> > (i) Such additions shall be clearly dated as subsequent entries.
> >
> > (ii) A health care provider may add supplemental information within a reasonable time.
>
> (3) Routinely dispose of medical records as permitted by law.

(c) Alteration of records. – In any medical professional liability action in which the claimant proves by a preponderance of the evidence that there has been an intentional alteration or destruction of medical records, the court in its discretion may instruct the jury to consider whether such intentional alteration or destruction constitutes an adverse inference.

(d) Licensure sanction. – Alteration or destruction of medical records for the purpose of eliminating information that would give rise to a medical professional liability action on the part of a health care provider shall constitute a ground for suspension. A healthcare provider who is aware of alteration or destruction in violation of this section shall report any party suspected of such conduct to the appropriate licensure board. 2002, March 20, P.L. 154, No. 13, §511, effective in 60 days." Exhibit 1.

It is clear from the records in question that Dr. Palmer did not make contemporaneous entries for the physical exam and did not make them as soon as practicable. Presumptively, it was only after medical records were requested that such an exam was documented. At the very least, based upon a review of Dr. Sorter-Thompson's records, the entries were made days, weeks or perhaps months later. It is further stated that Defendant Palmer failed to list the day the addendum was entered, directly contrary to applicable licensing statutes.

3. The averments of paragraph 3 are admitted.

4. Plaintiffs should not be precluded from using the records. On April 3, 2002, counsel for the Plaintiffs made the original request for the medical records from Clearfield Hospital. A copy of the request is attached hereto as Exhibit 2. Plaintiff's counsel then reviewed the records. On May 29, 2002, Plaintiffs specifically indicated to Clearfield Hospital that there was no documented physical exam. Exhibit 3. Circumstantial evidence would indicate, in light of Dr. Palmer's testimony, that it was only after Plaintiff's counsel requested medical records, that he was asked to place the addendum in the chart.

5. The averments of paragraph 5 are admitted.

6. The averments of paragraph 6 are denied. Defendant George Palmer, at all times relevant to the care and treatment of Justine Kline, had access to the medical records and certainly should have placed a documented physical exam as required by statute and applicable licensing statutes. He did not. The late, undated, and untimely recording of the physician exam significantly affects Dr. Palmer's credibility at trial.

7. The averments of paragraph 7 are neither admitted or denied.

8. The averments of paragraph 8 are admitted.

9. The averments of paragraph 9 are admitted.

10. Plaintiffs can neither admit or deny the averments of paragraph 10. This matter is subject to proof at the time of trial. It is admitted that there is a reference to the date the records were printed as February 24, 2002.

11. The averments of paragraph 11 are admitted.

12. The averments of paragraph 12 are admitted.

13. The averments of paragraph 13 are denied. It is clear that Dr. Palmer altered the chart long after the care and treatment of Justine Kline. As specifically stated by §1303.511(a) within the M-Care Act, such conduct is to be considered unprofessional conduct. Plaintiff will seek an instruction, as contemplated by 1303.511(c). Furthermore, Clearfield Hospital is under an obligation under Section 1303.511(d) to report Dr. Palmer for such conduct to the appropriate licensure board.

14. The averments of paragraph 14 are denied. The introduction of such items is clearly proper under the M-Care Act and related statute.

15. The averments of paragraph 15 are denied. The introduction of such items is clearly proper under the M-Care Act and related statute.

16. Paragraph 16 is a legal conclusion to which no responsive pleading is required. To the extent a responsive pleading is required, the averments therein are denied.

REPLY TO DEFENDANTS' MOTION TO PRECLUDE TESTIMONY OF PLAINTIFFS REGARDING NOVEMBER 22, 2002 VISIT

17. The averments of paragraph 17 are admitted.

18. The averments of paragraph 18 are admitted.

19. The averments of paragraph 19 are admitted.

20. As to whether or not Plaintiff's counsel intends to question Dr. Desantis or Mrs. Kline regarding the November 22, 2002 pyelonephritis and subsequent treatment depends principally upon the testimony of Dr. Palmer. Dr. Palmer and his defense expert repeatedly seemingly indicate that no child with pyelonephritis and/or urinary tract infections are admitted to the hospital. If, in fact, the Defendant and/or his experts testify to the same, it would be entirely permissible to address the November 22, 2002 pyelonephritis, as it evidences the admission of a patient with pyelonephritis.

21. The averments of paragraph 21 are denied. Plaintiffs incorporate the averments of paragraph 20.

22. The averments of paragraph 22 are denied. Plaintiff's expert reports speak for themselves and are incorporated herein. As to whether or not he is permitted to discuss the November 22, 2002 ER visit depends upon the testimony of Dr. Palmer at trial.

23. The averments of paragraph 23 are denied. If, in fact, Dr. Palmer testifies and his experts testify that no pediatric patients with pyelonephritis are admitted to Clearfield Hospital, the November 22, 2002 admission has probative value.

24. The issue as to whether or not the Plaintiffs will admit the statement of November 22, 2002 again depends upon the testimony of Dr. Palmer. If, in fact, Dr. Palmer, as aforementioned, testifies that no such patients are admitted, the November 22, 2002 admission is relevant.

WHEREFORE, Plaintiffs respectfully request this Honorable Court deny the Defendants' Motions only.

RESPECTFULLY SUBMITTED:

PATBERG, CARMODY, GING & FILIPPI

DATE: 11-14-06

By _____
Rolf Louis Patberg, Esquire
PA I.D. No.: 65185
Attorney for Plaintiffs.

JURY TRIAL DEMANDED

§ 1303.510. Reduction to present value

Future damages for loss of earnings or earning capacity in a medical professional liability action shall be reduced to present value based upon the return that the claimant can earn on a reasonably secure fixed income investment. These damages shall be presented with competent evidence of the effect of productivity and inflation over time. The trier of fact shall determine the applicable discount rate based upon competent evidence.

2002, March 20, P.L. 154, No. 13, § 510, imd. effective.

Historical and Statutory Notes

Act 2002-13 legislation

Section 5105(b) of 2002, March 20, P.L. 154, No. 13, imd. effective, provides that 40 P.S. §§ 1303.504(d)(2), 1303.505(e), 1303.508, 1303.509, 1303.510, 1303.513 and 1303.516 shall apply to causes of action which arise on or after the effective date of this section.

Research References

Encyclopedias

Summ PA Jur. 2d Torts § 37:59, Generally.

§ 1303.511. Preservation and accuracy of medical records

(a) **Timing.**—Entries in patient charts concerning care rendered shall be made contemporaneously or as soon as practicable. Except as otherwise provided for in this section, it shall be considered unprofessional conduct and a violation of the applicable licensing statute to make alterations to a patient's chart.

(b) **Corrections and disposal of records.**—It shall not be considered unprofessional conduct or a violation of the applicable licensing statute for a health care provider to:

(1) Correct information on a patient's chart where information has been entered erroneously or where it is necessary to clarify entries made on the chart, provided that such corrections or additions shall be clearly identified as subsequent entries by a date and time.

(2) Add information to a patient's chart where it was not available at the time the record was first created, provided that:

(i) Such additions shall be clearly dated as subsequent entries.

(ii) A health care provider may add supplemental information within a reasonable time.

(3) Routinely dispose of medical records as permitted by law.

(c) **Alteration of records.**—In any medical professional liability action in which the claimant proves by a preponderance of the evidence that there has been an intentional alteration or destruction of medical records, the court in its discretion may instruct the jury to consider whether such intentional alteration or destruction constitutes an adverse inference.

(d) **Licensure sanction.**—Alteration or destruction of medical records for the purpose of eliminating information that would give rise to a medical professional liability action on the part of a health care provider shall constitute a ground for suspension. A health care provider who is aware of alteration or destruction in violation of this section shall report any party suspected of such conduct to the appropriate licensure board.

2002, March 20, P.L. 154, No. 13, § 511, effective in 60 days.

§ 1303.512. Expert qualifications

(a) **General rule.**—No person shall be competent to offer an expert medical opinion in a medical professional liability action against a physician unless that person possesses sufficient education, training, knowledge and experience to provide credible, competent testimony and fulfills the additional qualifications set forth in this section as applicable.

ALL-STATE LEGAL® PLAINTIFF'S EXHIBIT 1

PATBERG, CARMODY, GING & FILIPPI

ATTORNEYS AT LAW

PITTSBURGH OFFICE:

527 COURT PLACE
PITTSBURGH, PA 15219
(412) 232-3500
FAX: (412) 281-8656

ROLF LOUIS PATBERG
TERRENCE M. GING
SEAN J. CARMODY
RICHARD E. FILIPPI

OFFICES IN:

ERIE
MURRYSVILLE
WARRENDALE

OF COUNSEL:
JOSEPH MANION LUDWIG
WILLIAM B. DIXON

April 3, 2002

Clearfield Hospital
809 Turnpike Avenue
P.O. Box 992
Clearfield, PA 16830
Attention: Medical Records

Re.: Justine Kline
D.O.B.:09-26-98
Our File No.: 02-201

Dear Ladies and Gentlemen:

Please be advised that this law firm represents Justine Kline. As such, I am writing to request a full and complete copy of any and all medical records in your care, custody and control, including nurses' notes, physicians' orders, physicians' notes, radiographic studies, all diagnostic testing, all consults, and any and all such other information that is in your care, custody and control. I enclose a Medical Authorization, signed by her mother Sandra Conklin for your reference.

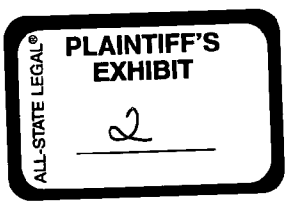
Please kindly issue an invoice with regard to the same. Thank you for your attention in this regard.

Very truly yours,

Rolf Louis Patberg

Rolf Louis Patberg

RLP/emm
Enclosure



MEDICAL AUTHORIZATION

TO: Clearfield Hospital

The undersigned person(s) hereby consent(s) to, and by this Authorization, or any photocopy hereof, authorizes the release of all records maintained by any hospital, medical, clinic, surgeon, physician, pharmacist, or any other provider of medical services, treatment or supplies, to Joseph Manion Ludwig, Esquire, of any and all medical reports, histories; findings, prognosis, bills, information and other documents relating to any medical treatment, hospitalization, prescription drugs, or other medical services or supplies, including psychiatric treatment or treatment for alcoholism or drug abuse, of such patient.

The undersigned person(s) understands and hereby acknowledges that the information above, or certain portions thereof, may be protected from disclosure without this signed Authorization by Federal and State privacy and confidentiality laws.

This Authorization shall automatically expire without express revocation with respect to all or any particular records at any time by the undersigned person(s), in writing, delivered to the holder of such records except to the extent that action has already been taken in reliance upon this Authorization.

April 3, 2002
Date

Sandra Conkle

PATBERG, CARMODY, GING & FILIPPI

ATTORNEYS AT LAW

PITTSBURGH OFFICE:

527 COURT PLACE
PITTSBURGH, PA 15219
(412) 232-3500
FAX: (412) 281-8656

ROLF LOUIS PATBERG
TERRENCE M. GING
SEAN J. CARMODY
RICHARD E. FILIPPI

OFFICES IN:

ERIE
MURRYSVILLE
WARRENDALE

OF COUNSEL:
JOSEPH MANION LUDWIG
WILLIAM B. DIXON

May 29, 2002

Clearfield Hospital
809 Turnpike Avenue
P.O. Box 992
Clearfield, PA 16830
Attention: Medical Records

Re.: Justine Marie Kline
D.O.B.:09-26-98
Medical Record No.: 159993
Our File No.: 02-201

Dear Ladies and Gentlemen:

Please be advised that this law firm represents Justine Marie Kline. I am in receipt of the records for her February 27, 2002 visit to Clearfield Hospital. However, unfortunately, the records I received for said date do not include the records of physical exam.

I would greatly appreciate it if you would forward all records concerning her physical exam. Please contact me with any questions or comments.

Very truly yours,

Rolf Louis Patberg

RLP/cag

Enclosure

ALL-STATE LEGAL®
PLAINTIFF'S EXHIBIT
3

CERTIFICATE OF SERVICE

I, Rolf Louis Patberg, Esquire, hereby certify that a true and correct copy of the foregoing Reply to Defendants' Motions in Limine was forwarded this 14 day of November, 2006 via postage prepaid United States Mail and facsimile to the following counsel of record:

John L. McIntyre, Esquire
McIntyre, Dugas, Hartye & Schmitt
P.O. Box 533
Holidaysburg, PA 16648

Rolf Louis Patberg, Esquire

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

SANDRA CONKLIN, as parent and natural guardian of JUSTINE KLINE, and SANDRA CONKLIN, individually,	CIVIL DIVISION NO.: 2003-68 CD
Plaintiffs,	TYPE OF PLEADING:
v.	**SECOND SUPPLEMENTAL REPORT OF JOHN A. TILELLI DATED 11/13/06**
CLEARFIELD HOSPITAL and GEORGE F. PALMER,	FILED ON BEHALF OF PLAINTIFF
Defendants.	COUNSEL OF RECORD FOR THIS PARTY: ROLF LOUIS PATBERG, ESQUIRE PA I.D. NO.: 65185 PATBERG, CARMODY, GING & FILIPPI DEUTSCHTOWN CENTER 801 VINIAL STREET - THIRD FLOOR PITTSBURGH, PA 15212 (412) 232-3500

JURY TRIAL DEMANDED

FILED NO CC
NOV 14 2006
William A. Shaw
Prothonotary/Clerk of Courts

#92

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

SANDRA CONKLIN, as parent and natural guardian of JUSTINE KLINE, and SANDRA CONKLIN, individually,	)	CIVIL DIVISION
	)	NO.: 2003-68 CD
Plaintiffs,	)	
v.	)	
CLEARFIELD HOSPITAL and GEORGE F. PALMER,	)	
Defendants.	)	**JURY TRIAL DEMANDED**

SECOND SUPPLEMENTAL REPORT OF JOHN A. TILELLI DATED 11/13/06

AND NOW, comes the Plaintiffs, and files the attached Second Supplemental Expert Report of John A. Tilelli, M.D. Dated 11/13/06.

RESPECTFULLY SUBMITTED:

PATBERG, CARMODY, GING & FILIPPI

DATE: 11-13-06

By _____
Rolf Louis Patberg, Esquire
PA I.D. No.: 65185

PATBERG, CARMODY, GING & FILIPPI
Deutschtown Center
801 Vinial Street - Third Floor
Pittsburgh, PA 15212
(412) 232-3500

Attorney for Plaintiffs

JURY TRIAL DEMANDED

JOHN A. TILELLI, MD
MEDICAL CONSULTING
2228 PALM VIEW DR., APOPKA, FL 32712
(407) 880-8713, EMAIL TILELLI@PEGASUS.CC.UCF.EDU

November 13, 2006

Mr. Rolf Louis Patberg
Patberg, Carmody, Ging & Filippi
Attorneys at Law
527 Court Place
Pittsburgh, PA 15219

Re: Justine Kline

Dear Mr. Patberg;

At your request I have reexamined the records of Justine Kline, attempting to outline a therapeutic approach that would have substantially altered the outcome of her care. I offer the following as an outline only, acknowledging that there are many "right" approaches that would comply with the standard of care. The treatment given to her on her return, February 23, in fact, is a good thumbnail of the approach to a child with septic shock.

Justine presented on February 22, 2002 with high fever, tachycardia and modest hypotension, secondary to *E. cloacae* pyelonephritis. On February 23 she returned with an exacerbation of the same symptoms. The approach to her hemodynamic state at that time consisted of intravenous volume expansion, vasopressor agents, positive-pressure assisted ventilation, antibiotic therapy and neuromuscular relaxing agents. Corticosteroids are given in the context of glucocorticoid deficiency.

The general approach to the septic patient consists of: directed antibiotic therapy given presumptively and after appropriate cultures, volume expansion (preload), improving cardiac contractility (inotropy), and manipulating peripheral resistance to improve the perfusion of critical endorgans (afterload) with vasopressor agents. Coagulopathies are managed with the administration of fresh frozen plasma, cryoprecipitate and platelet concentrate and anticoagulants as indicated. Respiratory insufficiency is managed with positive pressure ventilation or high-frequency ventilation. Occasionally, extracorporeal techniques may be of assistance. This brief outline does not do justice to the principles of management of the patient with septic shock. Literally, whole textbooks have been written on the subject, and it is the concern of a major portion of the training of intensive care physicians.

The key element, however, is the institution of timely therapy, most importantly antibiotics. All clinicians, in my opinion, would acknowledge that early and most

importantly, appropriate antibiotic therapy is key in the prevention of mortality and morbidity secondary to sepsis. The Society of Critical Care Medicine has recently initiated a campaign directed at improving the mortality due to sepsis, and has emphasized the importance of the timely initiation of therapy, especially intravenous antibiotic therapy, in the improvement of outcomes[1]. It is my opinion that the signs and symptoms demonstrated by Justine Kline on February 22, to wit, high fever, tachycardia and hypotension sufficiently warrant the diagnosis of sepsis and justify the aggressive approach recommended by the Surviving Sepsis Campaign.

I must emphasize that earl therapy often obviates the need for more invasive and higher-morbidity therapies required later, in the face of severe and unresponsive shock. A patient treated before the development of a low-output state (evidenced by poor perfusion, altered mental status or severe hypotension) may respond to antibiotic administration and modest volume expansion alone, obviating the need for vasopressors or mechanical ventilation. It is my opinion that had Justine Kline been so treated during her first emergency room visit, that she would not have required high-dose vasopressor therapy, intubation and mechanical ventilation for pulmonary edema, nor developed severe disseminated intravascular coagulation. Pulmonary artery catheterization, cardiac tamponade, gangrene of the extremities, pancreatitis, and respiratory insufficiency are all complications of the management of the severely septic patient, and in my opinion, none would have occurred had therapy been initiated on February 22.

I must express that the above is merely a thumbnail sketch of the management of Justine Kline. The management of sepsis is in large measure goal-directed and that early, modest therapy is far more effective than aggressive therapy administered after the manifestations of severe shock. It is therefore my opinion to a reasonable degree of medical probability that Justine Kline would have suffered none of the complications elaborated above had she been treated on February 22 with intravenous antibiotic therapy, volume expansion and perhaps low-dose inotropic support.

I hope that the above satisfactorily conveys my opinions.

Sincerely,

John A. Tilelli, MD
(Electronically signed to save time)

---

[1] See Dellinger RP, *et al.* Surviving Sepsis Campaign guidelines for management of severe sepsis and septic shock. Crit Care Med (2004) 32:858-871. Note recommendation C.1: "Intravenous antibiotic therapy should be started within the first hour of recognition of severe sepsis, after appropriate cultures have been obtained." See further recommendation A.1, indicating that goal-directed therapy initiated in the emergency department and within the first 6 hours of presentation significantly improves survival.

CERTIFICATE OF SERVICE

I, Rolf Louis Patberg, Esquire, hereby certify that a true and correct copy of the foregoing Second Supplemental Expert Report of John A. Tilelli, M.D. Dated 11/13/06 was forwarded this 13 day of November, via postage prepaid United States Mail and facsimile to the following:

John L. McIntyre, Esquire
McIntyre, Dugas, Hartye & Schmitt
P.O. Box 533
Holidaysburg, PA 16648
Facsimile: 814-696-9399

Rolf Louis Patberg, Esquire

700 Won 2006

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

SANDRA CONKLIN, as parent and natural guardian of JUSTINE KLINE, and SANDRA CONKLIN, individually,	No. 2003 – 68 CD
	ISSUE: RESPONSE TO PLAINTIFFS' FIRST MOTIONS IN LIMINE AND DEFENDANTS' MOTION IN LIMINE
Plaintiff	
vs.	Filed on behalf of Defendants, CLEARFIELD HOSPITAL and GEORGE F. PALMER
CLEARFIELD HOSPITAL and GEORGE F. PALMER, D.O.,	Counsel of Record: John L. McIntyre, Esquire PA I.D. #28015 McINTYRE, HARTYE & & SCHMITT P.O. Box 533 Hollidaysburg, PA 16648 (814) 696-3581
Defendants	JURY TRIAL DEMANDED

RECORD
MAY 27 2008
PITTSBURGH OFFICE OF SUPERIOR COURT

I HEREBY CERTIFY THAT A TRUE AND CORRECT COPY OF THE WITHIN WAS MAILED TO ALL COUNSEL OF RECORD THIS 13TH DAY OF **NOVEMBER, 2006**.

Attorneys for Named Defendants

FILED NO CC
m/11:05/61
NOV 14 2006 GK
William A. Shaw
Prothonotary/Clerk of Courts

#91

3006 NW 60T



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

SANDRA CONKLIN, as parent and natural guardian of JUSTINE KLINE, and SANDRA CONKLIN, individually,	:	No. 2003 – 68 CD
Plaintiff	:	
vs.	:	
CLEARFIELD HOSPITAL and GEORGE F. PALMER, D.O.,	:	
Defendants	:	JURY TRIAL DEMANDED

RESPONSE TO PLAINTIFFS' FIRST MOTIONS IN LIMINE
AND DEFENDANTS' MOTION IN LIMINE

AND NOW, come the Defendants, CLEARFIELD HOSPITAL and GEORGE F. PALMER, D.O., and file the following Response to Plaintiffs' First Motions in Limine and a Motion in Limine:

1-3. Admitted.

4. It is denied there are two issues in the case. The only issue is whether Dr. Palmer should have discharged Justine Kline. Plaintiffs' expert, Dr. John A. Tilelli has authored two reports and in his reports, the only criticism he has of Dr. Palmer was that he discharged Justine Kline, stating that she should have been admitted. There is no issue as to proper physical examination by Dr. Palmer. Attached to this Response/Motion are true and correct copies of Dr. Tilelli's reports of January 11, 2003, marked Exhibit "A" and February 24, 2005, marked Exhibit "B".

I. **Motion in Limine: Testimony of Christopher King Regarding the Hoberman Article**

5-6. Admitted.

7. It is admitted that Dr. King cites the study of Dr. Hoberman. It is denied that Dr. King relies heavily on the study and to the contrary, references this article with regard to the fact that as early as 1999, there was medical literature confirming that the standard of care was not hospitalization for the infection in question.

8. It is admitted that Dr. King references the Hoberman article. Plaintiffs cite one paragraph from a 5-page report of December 16, 2004.

9. It is admitted that Dr. King is entitled to rely upon medical literature and experts in the field. PA Rule of Evidence 703 specifically permits experts to give their opinions based in part, upon records, facts and data of others, which are not in evidence but upon which the experts customarily rely on in the practice of their profession. **Bougher vs. Pennsylvania Hospital**, 831 A.2d 623 (Pa. Super. 2003). **The rule permits the expert to have the ability to evaluate the trustworthiness of the data upon which he or she relies, both because the expert has demonstrated expert qualifications and because the expert regularly relies on and uses similar data in the practice of his or her specialty.** Dr. King may rely upon medical studies and literature in forming his opinions, based on his experience and practice.

10. It is denied that the utilization of such information should be limited and to the contrary, the **Aldridge** case clearly permits an expert witness to discuss the study and explain that it is part of the basis for his opinion. Further, the Supreme Court did not overrule the Superior Court regarding the use of the text.

11-12. It is denied that Dr. King is utilizing the Hoberman articles to bolster his opinion or that it is improper. To the contrary, Dr. King will reference the Hoberman study as one basis for his opinion, that is, that there is medical literature to support, along with his own personal care, treatment and experiences, the fact that hospitalization in this case was not mandatory.

13. This request is premature as the testimony has not yet occurred and as in all trial matters, it will be with the discretion of the Court to determine whether or not a limiting instruction is necessary.

WHEREFORE, the Defendants respectfully request that the Court deny Plaintiffs' Motion in Limine, I.

II. Motion in Limine: Dr. Christopher King's Testimony in Reference to Individual Patients and Past Experience

14-15. In response to paragraphs 14 and 15, it is admitted that Dr. King will testify regarding his treatment and experience with patients who have had urinary tract infections or pyelonephritis. Dr. King will also testify regarding his qualifications, the volume of patients he has treated, and the reasons he has treated them, as well as the outcomes.

16-17. In response to paragraphs 16 and 17, Dr. King can testify from his personal observations, experiences with regard to patients he has treated, either specifically or generally with regard to pyelonephritis, how they were treated and their outcomes, all as contained in his reports.

Dr. King cannot be required to produce the individual medical charts of the patients in question, as they can cross-examine Dr. King with any sources including

literature, case studies or other matters, which are deemed to be authoritative. Dr. King can establish a sufficient foundation to establish that he has treated other patients similar to Justine Kline, what his treatment consisted of, what the diagnoses were and how he treated such patients. This is all relevant and proper information for the jury to consider with regard to Dr. King's opinions.

18. This Honorable should deny Plaintiffs' Motion in Limine, II, as plaintiffs cite no case law in support of this position.

WHEREFORE, the Defendants respectfully request that the Plaintiffs' Motion in Limine, II, be dismissed and any such rulings be deferred to the time of trial.

III. <u>Motion in Limine: Defendant Palmer's Speculative Testimony Regarding a Recording of a Purported Physical Examination</u>

19. Admitted.

20. It is admitted that the chart was printed from the computer system at Clearfield Hospital, as requested by counsel for both parties.

21. It is admitted that on page 14 of the Clearfield Hospital chart, Dr. Palmer wrote an addendum with his physical examination and history. There is no criticism by plaintiffs' expert that Dr. Palmer did not perform a physical examination or obtain a history, or that it had any relevance to the plaintiffs' expert. A careful review of plaintiffs' expert reports will demonstrate that Dr. Tilelli does not claim that Dr. Palmer did not obtain a history or perform a physical examination.

22-24. It is admitted that in his deposition, pages 83-85, Dr. Palmer explained that he hand wrote an addendum regarding physical examination and history. Dr. Palmer explained that he was unsure when he wrote the note, but that he wrote it at the

request of medical records. He explained that he believed he had entered the physical examination the computer. In fact, plaintiffs' counsel questioned Dr. Palmer extensively through page 95 about his handwritten note. Dr. Palmer admitted that the note was made at a later date.

Dr. Palmer was deposed on March 3, 2004. Presumably, this deposition transcript would have been available to Dr. Tilelli prior to his issuing a report on February 24, 2005. Dr. Tilelli does not mention that he read the deposition, nor does he offer an opinion that this medical charting was in anyway deficient or a causal factor with regard to the injuries in question. He does not state that Dr. Palmer deviated from the standard of care with regard to his medical charting.

25. It is admitted that the handwritten note, as explained by Dr. Palmer, was made at a later time. Dr. Palmer explained that he was asked by medical records to complete a physical and history on the chart. **He properly noted that he was making an addendum, in accordance with medical charting guidelines. The information in the chart, including Dr. Palmer's entry is appropriate for reliance by experts, including plaintiffs, although he has not commented on any deficiencies.**

26. Dr. Palmer testified that he believed he had entered the physical examination into the computer at the time of the examination.

27. The request that Dr. Palmer cannot testify as to entering the information into the computer system, and where it went, should have been a subject of discovery and Dr. Palmer does not have the ability to obtain all of the emergency room charts for

the date in question and the same would be burdensome and onerous for the hospital to perform at this date.

WHEREFORE, the Defendants respectfully request that Plaintiffs' Motion in Limine, III, be denied.

IV. Defendants' Motion in Limine

1. A copy of the hospital chart from Clearfield was sent to Children's Hospital on February 23 at approximately 6:41 p.m. The chart was printed by Donna R. Unch on February 23, 2002.

2. It is believed that plaintiffs will attempt to introduce some or all portions of the Clearfield chart which was faxed to Children's Hospital on February 23 at approximately 6:42 p.m. This would prove to be prejudicial and not related to any of the substantive issues before the jury. Plaintiffs' counsel has attached as Exhibit "4", a copy of the Clearfield Hospital emergency chart for the admission of Justine Kline at approximately 2:00 a.m. Exhibit "4", for the admission in question, contains 14 pages, many of which of the pages pertain to urine and blood cultures, which were not processed and available until a later date. Exhibit "4" was printed on February 27, 2002 at approximately 2:59 p.m. This chart has been Bates stamped by plaintiffs' counsel, Nos. 882 – 896. Attached hereto and made a part hereof is a true and correct copy of the Clearfield Hospital records that were sent to Children's Hospital, being pages 1 – 7. A careful review of Exhibit "C" reveals that the information in Exhibit "C" is identical to the information contained in pages 1 – 14, and marked Exhibit "4" to Plaintiffs' Motion.

3. There is no claim that inadequate information was sent to Children's Hospital, or why the records were printed on February 23, 2002, and appear in a different format, than the records printed February 27, 2002.

4. Plaintiffs should be precluded from using the records or making any arguments that the information contained therein is different, inappropriate or in anyway modified.

5. There is no claim against Clearfield Hospital, other than for vicarious responsibility for Dr. Palmer.

6. Dr. Palmer is not in charge of the medical records, nor was he involved in processing or sending them to Children's Hospital. In fact, Dr. Palmer went off duty in the early morning of February 23 and was not in the hospital at the time Justine Kline returned in the afternoon, or at the time the records were sent to Children's Hospital.

7. All of the medical records, their printing and production, being sent to Children's Hospital, was at all times under the total control and direction of Clearfield Hospital.

8. In support of the proposition that the records are irrelevant and any reference to differences would be prejudicial to Dr. Palmer, Clearfield Hospital attaches a copy of the records which were produced by the hospital and pertain to the second admission of February 23, 2002, at 13:37. Attached hereto and made a part hereof is a true and correct copy of said records and marked Exhibit "D".

9. Exhibit "D" contains seven pages, Bates stamped numbered 906 – 912.

10. The records were printed February 24, 2002, at 12:34.

11. Records for the afternoon admission were also sent to Children's Hospital and a true and correct copy is attached and marked Exhibit "E". Exhibit "E" contains six pages for the care and treatment provided by Dr. DeSantis.

12. Dr. DeSantis was a named defendant and was subsequently dismissed with prejudice. There is no claim regarding the care and treatment in the afternoon of February 23, 2002.

13. Exhibits "D" and "E" are attached merely to point out that there were differences in the chart which was printed on February 24 and the chart which was printed and sent to Children's Hospital.

14. To allow any reference to, or any argument regarding the difference in the medical charts, would be prejudicial to Dr. George Palmer, who was in no way involved in the care, custody or control of the medical records system at Clearfield Hospital.

15. To allow any argument or use of said records, the prejudice would outweigh any probative value of the use of said records. Further, the use of said records would only serve to confuse and prejudice the jury.

WHEREFORE, Dr. George F. Palmer respectfully requests that the plaintiffs be precluded from making any reference to the records sent to Children's Hospital by Clearfield Hospital on February 23, 2002.

16. Pennsylvania Rules of Evidence 401 and 403 deal with evidence which should be excluded if it is probative value is outweighed by the unfair prejudice, confusion of the issues, misleading of the jury or needless presentation of cumulative evidence. **Henery vs. Shadle**, 661 A.2d 439 (Pa. Super 1995).

V. Defendants' Motion to Preclude any Testimony from the Plaintiffs or Dr. DeSantis regarding Justine Kline's Suffering from a Urinary Tract Infection/Pyelonephritis and Treatment on November 22, 2002

17. On November 22, 2002, Justine Kline suffered another bout of a urinary tract infection/pyelonephritis.

18. On November 10, 2006, counsel for Dr. Palmer received notice that plaintiffs' counsel served a notice for James DeSantis, M.D. to appear and attend the trial.

19. Dr. DeSantis was the Emergency Department physician who treated Justine Kline on November 22, 2002.

20. It is unknown whether plaintiffs' counsel intended to question Dr. DeSantis or Mrs. Kline about the November 22, 2002, pyelonephritis and subsequent treatment.

21. The condition which existed on November 22, 2002, would have been completely different, insofar as Justine Kline had already been extensively hospitalized following her February 2002 treatment. She had been treated for numerous complications from the purpura fulminans, including having lost digits on her hand and a portion of the digits of her toes.

22. Plaintiffs' expert has not discussed, nor will he be permitted to discuss the November 22, 2002 hospitalization.

23. To allow any discussion by Mrs. Conklin, Dr. DeSantis or anyone else, regarding the November 22, 2002 admission for pyelonephritis, would be extremely prejudicial and could cause the jury to enter an award or verdict based on improper evidence.

24. The subsequent admission could be considered an effort to suggest to the jury, that because Justine Kline was admitted on that date, with pyelonephritis, she should have been admitted to the hospital in February of 2002.

25. The subsequent pyelonephritis and related treatment is irrelevant to the issue of liability which will be before the jury. The issue of liability is whether or not Dr. Palmer, at the time he saw and treated Justine Kline, should have admitted her to the hospital, as suggested by plaintiffs' expert. Dr. Palmer never saw or cared for Justine Kline at any time after she was discharged at approximately 6:00 a.m. on February 23, 2002.

WHEREFORE, the Defendants respectfully request that the plaintiffs be precluded from discussing the fact that Justine Kline suffered from pyelonephritis in November of 2002, and that she was hospitalized as a result of the pyelonephritis. This evidence would only serve to be unduly prejudicial and have serious potential to mislead and confuse the jury on the issue of liability in February of 2002.

Respectfully submitted,

McINTYRE, HARTYE & SCHMITT

By_____
Attorneys for Defendants

John L. McIntyre, Esquire
PA I.D. #28015
P.O. Box 533
Hollidaysburg, PA 16648
(814) 696-3581

JOHN A. TILELLI, MD
PEDIATRIC INTENSIVE CARE AND EMERGENCY MEDICINE
2228 PALM VIEW DR., APOPKA, FL32712.
(407) 880-8713, FAX (407) 880-4318, EMAIL tilelli@pegasus.cc.ucf.edu

Saturday, January 11, 2003

Mr. Rolf Patberg
Patberg, Carmody, Ging and Filippi
527 Court Place,
Pittsburgh, PA 15219

Re: Justine Kline

Dear Mr. Patberg;

At your request, I have reviewed the medical records of Justine Kline for the purpose of determining whether or not any deviation from the standard of medical care had occurred which caused or contributed to disabilities currently suffered by her. It is my purpose to summarize my findings with this communication.

By way of introduction, I am a physician practicing medicine in Orlando, Florida at the Arnold Palmer Hospital for Children and Women where I am engaged in the full-time practice of Critical Care Medicine. I am board-certified in the fields of Pediatrics, Pediatric Critical Care, Emergency Medicine, Pediatric Emergency Medicine, and Medical Toxicology. I am licensed to practice in the states of Florida and Minnesota, although the latter is inactive, not having practiced in that state for many years. A summary of my career is attached in the form of a curriculum vitae. I have not been the subject of disciplinary action by any medical board or body, nor have I had my license to practice medicine curtailed, restricted or suspended in any manner. I have not, to the best of my knowledge had any opinion held by me disqualified by a court of law.

In preparation for this report, I have reviewed the following medical records:

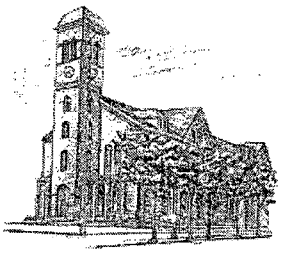
- The medical records of Justine Kline from Clearfield Emergency Room on February 23,2002
- The records from Children's Hospital of Pittsburgh, for her admission on that date
- The records from Shriner's Hospital for her rehabilitative care

Parenthetically, I have not relied upon any text or treatise in the formulation of my opinions. I do not regard any as completely authoritative on the matters discussed herein, but I do believe that my opinions reflect those of the majority of pediatricians and critical care physicians.

Allow me to briefly summarize Justine's medical history.



Ex "A"



COPY

Clearfield County Office of the Prothonotary and Clerk of Courts

William A. Shaw Prothonotary/Clerk of Courts
Jacki Kendrick Deputy Prothonotary/Clerk of Courts
Bonnie Hudson Administrative Assistant
David S. Ammerman Solicitor

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May 23, 2008

Superior Court of Pennsylvania
Office of the Prothonotary
600 Grant Building
Pittsburgh, PA 15219

RE: Sandra Conklin and Justine Kline
vs
Clearfield Hospital and George F. Palmer
No. 03-68-CD
Superior Court No. 700 WDA 2008

Dear Prothonotary:

Enclosed you will find the above referenced complete record appealed to your office. Please also find enclosed nine separate cover items.

Sincerely,

William A. Shaw
Prothonotary

FILED
09:31 BOL
MAY 23 2008

William A. Shaw
Prothonotary/Clerk of Courts

COPY

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

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

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

Sandra Conklin, as parent and natural guardian of Justine Kline
VS.
Clearfield Hospital and George F. Palmer
03-68-CD

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

The documents compromising the record have been numbered from **No. 1 to** 131, and attached hereto as Exhibit A is a list of the documents correspondingly numbered and identified with reasonable definiteness, including with respect to each document, the number of pages comprising the document.

The date on which the record had been transmitted to the Appellate Court is May 23, 2008.

William A. Shaw
Prothonotary/Clerk of Courts

(seal)

Sandra Conklin, Justine Kline vs. Clearfield Hospital, George F. Palmer, James P. DeSantis, Ernest P. Jones

Civil Other

Date		Judge
1/16/2003	Filing: Writ of Summons Paid by: Patberg, Rolf Louis Receipt number: 1854076 Dated: 01/16/2003 Amount: $85.00 (Check) 1 CC & 4 Writs to Shff.	No Judge
1/23/2003	Praecipe For Entry of Appearance, filed by Atty. McIntrye No Cert. Copies Please enter my appearance for Defendants, Clearfield Hospital and George F. Palmer	No Judge
	Praecipe to Enter Rule to File Complaint within 20 days after date of service issued. Rule Dated: January 23, 2003, filed by Atty. McIntyre Rule issued to Atty.	No Judge
1/29/2003	Praecipe For Entry of Appearance on Behalf of Defendant, JAMES P. DeSANTIS. s/Mary Lou Maierhofer, Esquire Certificate of Service no cc	No Judge
2/5/2003	Praecipe For Appearance on behalf of Defendant, ERNEST P. JONES. filed by s/John L. McIntyre, Esquire no cc	No Judge
2/6/2003	Certificate of Service, Rule to File Complalint upon ROLF LOUIS PATBERG, ESQ. filed by s/John L. McIntyre, Esquire no cc	No Judge
2/11/2003	Sheriff Return, Papers served on Defendant(s). So Answers, Chester A. Hawkins, Sheriff by s/Marilyn Hamm	No Judge
3/3/2003	Complaint In Civil Action. filed by s/Rolf Louis Patberg, Esq. Certificate of Service no cc	No Judge
3/10/2003	Verification to Complaint, s/ Sandra Conklin, filed by s/Rolf Louis Patberg, Esq. No CC	No Judge
3/11/2003	Preliminary Objections to Plaintiffs' Complaint, filed by s/Mary Lou Maierhofer, Esq. No CC	No Judge
3/14/2003	Preliminary Objections to Plaintiff's Complaint. filed by s/John L. McIntyre, Esq. no cc	No Judge
3/18/2003	Joint Motion For Protective Order. filed by, s/Mary Lou Maierhofer, Esq. Certificate of Service no cc	No Judge
3/21/2003	Certificate of Service, Objections to Plaintiffs' First Set of Interrogatories and Request for Production of Documents Directed to Defendant, James P. DeSantis upon: ROLF LOUIS PATBERG, ESQ. s/JOHN McINTYRE, ESQ. filed by s/Mary Lou Maierhofer, Esq. no cc	John K. Reilly Jr.
4/7/2003	Plaintiffs Reply to Defendants Joint Motion For Protective Order. filed by s/Sean P. Duff, Esquire Certificate of Service 1 cc to Atty.	John K. Reilly Jr.
4/29/2003	Plaintiffs Reply To Preliminary Objections Of Defendants Palmer, Jones and Clearfield Hospital. Filed by s/Rolf Louis Patberg, Esquire Certificate of Service no cc	John K. Reilly Jr.
	Plaintiffs Reply To Defendant, James P. Desantis', Preliminary Objections. filed by s/Rolf Louis Patberg, Esquire Certificate of Service no cc	John K. Reilly Jr.
5/19/2003	ORDER, NOW, this 16th day of May, 2003, re: Joint Motion For Protective Order filed on behalf of Defendants, Motion is DISMISSED w/o prejudice in Defendants to raise the same should they become relevant at a later date. It is the further ORDER of this Court that said Defendants shall respond to Plaintiff's discovery request within 30 days from date hereof. by the Court, s/JKR,JR.,P.J. 2 cc Atty Patberg, McIntyre	John K. Reilly Jr.

Civil Other

Date		Judge
5/19/2003	ORDER, NOW, this 16th day of May, 2003, re: P.O.'s filed on behalf of Defendant, Objections shall be and are hereby CONTINUED and Plaintiff directed to file with the Court, with copies to counsel for Defendants, the factual basis surrounding the various counts in her Complaint within 20 days from completion of discovery. by the Court, s/JKR,JR.,P.J. 2 cc Atty Patberg, McIntyre	John K. Reilly Jr.
5/21/2003	Certificate Of Service, Request for Production of Documents Directed to Plaintiff, Sandra Conklin, as Parent and Natural Guardian of Justine Kline and Sandra Conklin upon: ROLF LOUIS PATBERG, ESQ. and JOHN McINTYRE, ESQ. filed by s/Mary Lou Maierhofer, Esquire no cc	John K. Reilly Jr.
	Certificate of Service, First Set of Interrogatories Directed to Sandra Conklin, as parent and natural guardian of Justice Kline and Sandra Conkin, ind. upon: ROLF LOUIS PATBERG, ESQ. and JOHN McINTYRE, ESQ. filed by s/MARY LOU MAIERHOFER, ESQ. no cc	John K. Reilly Jr.
6/5/2003	Notice Of Service Of Interrogatories And Request For Production Of Documents Directed To Plaintiffs - Dated: 6/24/03, upon: ROLF LOUIS PATBERG, ESQ. filed by s/John L. McIntyre, Esquire no cc	John K. Reilly Jr.
6/10/2003	Certificate of Service, Answers/Responses to First Set of Interrogatories and Request for Production of Documents Directed to Defendant, James P. DeSantis upon: ROLF LOUIS PATBERG, ESQ and JOHN McINTYRE, ESQ. filed by s/Mary Lou Maierhofer, Esq. no cc	John K. Reilly Jr.
7/9/2003	Notice of Service of Answers to First Set of Interrogatories and Request For Production of Documents upon ROLF LOUIS PATBERG, ESQ. filed by s/John L. McIntyre, Esquire no cc	John K. Reilly Jr.
7/11/2003	Motion To Compel. filed by s/Mary Lou Maierhofer, Esquire Certificate of Service no cc	John K. Reilly Jr.
7/14/2003	ORDER OF COURT, NOW, this 14th day of July, 2003, upon consideration of the Motion To Compel of Defendant, James P. DeSantis, and after Hearing upon the same, the Court does hereby Order, Direct and Decree that Plaintiffs produce their outstanding discovery within 10 days from the date of this Order. by the Court, s/JKR,JR.,P.J. 2 cc Atty Maierhofer	John K. Reilly Jr.
7/16/2003	STIPULATION, AND NOW, this 11th day of July, 2003, re: Removal of Ernest P. Jones, M.D. as a party Defendant. s/Mary Lou Maierhofter, Esq., s/John L. McIntyre, Esq., and s/Rolf Louis Patberg, Esq. 1 cc Atty McIntyre	John K. Reilly Jr.
7/17/2003	Order of Court: AND NOW, this 16th day of 2003, pursuant to Stipulation of counsel, it is Ordered that Ernest P. Jones M. D. is dismissed from the above lawsuit pursuant to the Affidavit of Non-Involvement signed in accordance with 40 Pa. C. S. 1301.827-A. Prothonotary is directed to remove the name of Ernest P. Jones M.D. from the within lawsuit. s/JKR 1 CC to Atty. McIntyre	John K. Reilly Jr.
	Certificat of Service, filed by Atty. Maierhofer No. c/c Served copy of Order via fax & 1st class mail to Atty. Patberg & Atty. McIntyre.	John K. Reilly Jr.
7/30/2003	Notice Of Service Of Plaintiffs' Second Set Of Interrogatories And Request For Production Of Documents Directed To All Defendants. filed by s/Rolf Louis Patberg, Esquire no cc	John K. Reilly Jr.
8/20/2003	Motion to Compel Discovey, filed by s/Rolf Louis Patberg, Esq. No CC	John K. Reilly Jr.

Civil Other

Date		Judge
8/22/2003	ORDER OF COURT, AND NOW, to-wit, this 22nd day of August, 2003, upon consideration of Plaintiffs' Motion To Compel Discovery, it is hereby ORDERED, ADJUDGED, and DECREED that Defendant Clearfield Hospital shall serve full and complete Answers to Interrogatories Numbers 5,7,10,11,12,15,25,26,30,31,32,33,34,35,38,39, 40, 43, 44, and 47, This information sahll be provided within 20 days of the date of this Order. by the Court, s/JKR,JR.,P.J. 1 cc Atty Patberg.	John K. Reilly Jr.
9/3/2003	Certificate of Service, Answers/Responses to Plaintiffs' Second Set of Interrogatories and Requests for Production of Documents Directed to all Defendant upon: Rolf Louis Patberg, Esq. and John McIntyre, Esq. filed by s/Mary Lou Maierhofter, Esquire no cc	John K. Reilly Jr.
9/17/2003	Notice Of Intent To Serve Subpoenas to Produce Documents and Things For Discovery Pursuant to Rule 4009.21. upon Children's Hospital of Pittsburgh and STAT Med Evac. filed by s/Mary Lou Maierhofer, Esq. no cc	John K. Reilly Jr.
9/25/2003	Waiver Of Objection To Subpoena, filed by s/Rolf Louis Patberg, Esquire Certificate of Service no cc	John K. Reilly Jr.
9/29/2003	Certificate Prerequisite To Service of Subpoenas Pursuant to Rule 4009.22. Subpoenas to Produce Documents and Things upon: Children's Hospital of Pittsburgh and STAT Med Evac. filed by s/Mary Lou Maierhofer, Esq. no cc	John K. Reilly Jr.
10/8/2003	Notice of Service of Supplemental Answers to Interrogatories on behalf of Clearfield Hospital filed by Atty. McIntyre. No cc.	John K. Reilly Jr.
10/9/2003	Notice of Deposition of Plaintiff, Sandra Conklin. filed by s/Mary Lou Maierhofer, Esquire Cert of Svc no cc	John K. Reilly Jr.
11/4/2003	Revised Notice of Deposition of Plaintiff filed by Atty. Maierhofer. No cc.	John K. Reilly Jr.
11/6/2003	Notice of Service of Amended Notice of Deposition of Defendant George F. Palmer	John K. Reilly Jr.
12/5/2003	Certificate Prerequisite To Service Of a Subpoena Pursuant to Rule 4009.22. filed by, s/Mary Lou Maierhofer, Esq. no cc	John K. Reilly Jr.
	Notice Of Intent To Serve A Subpoena To Produce Documents And Things For Discovery Pursuant To Rule 4009.21. filed by, s/Mary Lou Maierhofer, Esquire no cc	John K. Reilly Jr.
1/21/2004	ORDER, AND NOW, this 21st day of January, 2004, re: Status Conference scheduled for Friday, Feb. 22, 2004, at 9:45 a.m., in Courtroom No. 1. by the Court, s/FJA,P.J. 1 cc Attys Patberg, McIntyre, and Maierhofer	John K. Reilly Jr.
1/23/2004	AMENDED ORDER, AND NOW, this 22nd day of January, 2004, re: Status Conference scheduled for Friday, Feb. 6, 2004, at 9:45 a.m., in Courtroom No. 1. by the Court, s/FJA,P.J. 1 cc Atty Patberg, McIntyre, and Maierhofer	John K. Reilly Jr.
2/6/2004	Revised Notice Of Deposition Of Plaintiff, Sandra Conklin. filed by, s/Mary Lou Maierhofer, Esquire no cc	John K. Reilly Jr.
	ORDER, NOW, this 5th day of Feb., 2004, re; Status Conference is CANCELLED. Counsel for the parties shall have no more than 20 days from the date of this Order to present the Court with a letter detailing the status of the above captioned action. by the Court, s/FJA,P.J. 2 cc Atty Patberg, McIntyre, Maierhofer, 1 copy President Judge Ammerman and CA	John K. Reilly Jr.

Civil Other

Date		Judge
2/19/2004	Notice of Deposition of Plaintiff, Justine Kline. filed by, s/John L. McIntyre, Esquire no cc	John K. Reilly Jr.
	Notice of Service Of Supplemenetal Interrogatories Directed To Plaintiff. filed by, s/John L. McIntyre, Esquire no cc	John K. Reilly Jr.
2/26/2004	Amended Notice of Deposition. filed by, s/John L. McIntyre, Esquire no cc	John K. Reilly Jr.
6/4/2004	Notice of Service of Request For Production Of Documents Directed To Plaintiffs Dated 06/03/04. filed by, s/John L. McIntyre, Esquire bi cc	John K. Reilly Jr.
7/29/2004	Notice of Service of Answers to First Set of Interrogatories and Requests for Production of Documents Directed to Defendant, George F. Palmer, M.D., upon Rolf Louis Patberg, Esq., filed by s/John L. McIntyre, Esq. No CC	John K. Reilly Jr.
9/1/2004	Motion to Compel Expert Report, filed by s/Mary Lou Maierhofer, Esq. No CC	John K. Reilly Jr.
9/9/2004	ORDER filed. NOW this 7th day of September, 2004, upon consideration of the Motion to Compel Expert Report of Def. James P. DeSantis, and after hearing upon the same, the Court does hereby Order, Direct and Decree Plaintiffs produce an expert report as against Def. DeSantis within 30 days from the Court's Order. S/FJA 1 CC to Atty.	John K. Reilly Jr.
9/13/2004	Certificate of Service,Order of Court dated September 7, 2004 on Motion to Compel Expert Report, was served the 10th day of September, 2004, first class United States Mail upon: Rolf Louis Patberg, Esquire. Filed by s/Mary Lou Maierhofer, Esquire. No CC.	John K. Reilly Jr.
9/27/2004	Motion for Extension of Time to File Expert Report, filed by s/Rolf Louis Patberg, Esq. No CC	John K. Reilly Jr.
9/28/2004	ORDER filed. 2 cert. to Atty. NOW, this 27th day of September, 2004, Plaintiff Motion Granted, Plaintiff shall have until Nov. 7, 2004 to produce an expert report.	John K. Reilly Jr.
9/30/2004	Reply To Plaintiffs' Motion for Extension of Time to File an Expert Report, filed by s/Mary Lou Maierhofer, Esquire. Certificate of Service, 29th of Sept. 2004 by first class U.S. Mail, to Rolf Louis Patberg, Esquire, and John McIntyre, Esquire. No CC	John K. Reilly Jr.
11/1/2004	Motion to Voluntarily Discontinue All Claims Against Defendant James P. DeSantis and Amend Caption, filed by s/Rolf Louis Patberg, Esq. No CC	John K. Reilly Jr.
11/2/2004	Order, AND NOW, to-wit, this 2nd day of Nov. 2004, it is hereby ORDERED that Plaintiff's Motion to Voluntarily Dismiss All Claims Against Dr. James P. Desantis is GRANTED. The caption is hereby amended to state as follows: CLEARFIELD HOSPITAL AND GEORGE F. PALMER, Defendants. BY THE COURT:/s/ Fredric J. Ammerman, President Judge. 1CC Atty Patberg	Fredric Joseph Ammerman
11/4/2004	Reply to the Motion to Voluntarily Discontinue All Claims Against Defendant, James P. DeSantis and Amend Caption, filed by s/Mary Lou Maierhofer, Esq. No CC	Fredric Joseph Ammerman
12/22/2004	Motion to Amend the Court's Order of Nov. 2, 2004 in Dismissing Def. James P. Desantis filed by Atty. Maierhofer. No CC.	Fredric Joseph Ammerman
12/23/2004	Amended Order of Court, filed 1 Cert. to Atty. NOW, this 23rd day of Dec., 2004 RE: Plaintiff's Moiton to Voluntarily Discontinue, James P. DeSantis is dismissed with prejudice.	Fredric Joseph Ammerman

Civil Other

Date		Judge
1/21/2005	Notice of Deposition, on behalf of Defendants Clfd. Hospital and George F. Palmer, Deposition of Kristin McBride will be taken at offices of Sargent's Court Reporting Service, 106 N. Second St. 1st Floor, Clfd. PA on Feb. 3, 2005 at 11:00 a.m. filed by s/ John L. McIntyre, Esquire. No CC	Fredric Joseph Ammerman
1/25/2005	Notice of Depositions, of Plantiff Justine Kline, Shirley Morrison (Grandmother), and Ronald Kline (Grandfather) at Sargent's Court Reporting Service on Feb. 3, 2005 commencing at 12:30 p.m. Filed by s/ John L. McIntyre, Esquire. No CC	Fredric Joseph Ammerman
2/4/2005	Notice of Service of Notice of Deposition of Kathleen Plansinis, filed by s/Rolf Louis Patberg, Esq. No CC	Fredric Joseph Ammerman
	Notice of Service of Notice of Deposition of Keith Paras, filed by s/Rolf Louis Patberg, Esq. No CC	Fredric Joseph Ammerman
2/7/2005	Notice of Service of Expert Interrogatories Directed to Defendant George F. Palmer and Clearfield Hospital, filed by s/Rolf Louis Patberg, Esq. No CC	Fredric Joseph Ammerman
	Notice of Service Of Second Request For Production of Documents, directed to Plaintiff Dated: 2/4/05, filed by s/ John L. Mcintyre, Esquire. No CC	Fredric Joseph Ammerman
3/9/2005	Supplemental Report of John A. Tilelli, filed by Atty. Patberg no cert. copies.	Fredric Joseph Ammerman
8/2/2005	Notice of Deposition of Shirley Morrison, filed by s/ John I. McIntyre, Esquire. No CC	Fredric Joseph Ammerman
	Notice of Deposition of Ronald Kline, filed by John L. McIntyre Esq. No CC.	Fredric Joseph Ammerman
8/24/2005	Sheriff Return, August 19, 2005, served the within Subpoena to Attend & Testify; Notice of Deposition on Shirley Morrison August 11, 2005, served the within Subpoena to Attend & Testify; Notice of Seposition on Ronald Kline. So Answers, Chester A. Hawkins, Sheriff by s/Marilyn Hamm. Shff Hawkins costs pd by atty. $69.49	Fredric Joseph Ammerman
3/23/2006	Praecipe for Trial, filed by Atty. Patberg. no cert. copies.	Fredric Joseph Ammerman
8/10/2006	Answer and New Matter to Plaintiff's Complaint, filed by s/ John L. McIntyre Esq. 2CC Atty McIntyre.	Fredric Joseph Ammerman
8/11/2006	Order, Now, this 10th day of August, 2006, following Pre-Trial Conference, it is the Order of this Court as follows: Ordered that the caption be amended to reflect that the only remaining Defendants are Clearfield Hospital and George F. Palmer, D.O. Jury Selection will be held on August 29, 2006 commencing at 9:00 a.m. in Courtroom No. 1. Jury Trial is scheduled for Dec. 4, 5, 6, 7, 8, 11, 12, and 13, 2006 commencing at 9:00 a.m. each day in Courtroom No. 1. (see original). oral argument and hearing on any outstanding motions or petitions shall be held on Nov. 20, 2006 at 9:30 a.m. in Courtroom No. 3. By the Court, /s/ Fredric J. Ammerman, Pres. Judge. 1CC Attys: Patberg, McIntyre	Fredric Joseph Ammerman
	Order, NOW, this 10th day of August, 2006, it is the Order of the Court that argument on Def.'s Preliminary Objection has been scheduled for Monday, Oct. 2, 2006 at 9:30 a.m. in Courtroom No. 1. 1/2 hour has been allotted for purpose of this hearing. It is the responsibility of Defs. Counsel to serve certified copies of said Petition and scheduling Order on the Plaintiff. By The Court, /s/ Fredric J. Ammerman, Pres. Judge. 4CC Atty. McIntyre	Fredric Joseph Ammerman

Civil Other

Date		Judge
8/25/2006	Reply to New Matter, filed by s/ Rolf Louis Patberg Esq. No CC.	Fredric Joseph Ammerman
9/21/2006	Motion For Partial Summary Judgment And/Or in Support of Preliminary Objections, filed by s/ John L. McIntyre, Esquire. No CC	Fredric Joseph Ammerman
9/25/2006	Motion For Costs And Counsel Fees Pursuant to PA.R.C.P. 4008, filed by s/ John L. McIntyre, Esquire. 1CC Atty.	Fredric Joseph Ammerman
10/2/2006	Notice of Service of Notice of Videotaped Deposition of Michael Moritz, MD, filed by s/ Rolf Louis Patberg Esq. Nc CC.	Fredric Joseph Ammerman
	Notice of Service of Notice of Videotaped Deposition of Steven Docimo, MD, filed by s/ Rolf Louis Patberg Esq. No CC.	Fredric Joseph Ammerman
10/3/2006	Stipulation, and Now, come the parties by and through their attorneys and agree to and stipulate to the following: 1. Plaintiff filed a Complaint and in the Complaint sets forth a claim for punitive damages. 2. Plaintiff has agreed to withdraw the claim for punitive damages. 3. It is requested that this Court sign an Order dismissing the claim for punitive damages as a result of the above agreement. Signed by Rolf L. Patberg, Esquire, and John L. McIntyre, Esquire. Filed per Judge Ammerman's instructions. No CC	Fredric Joseph Ammerman
	Order, NOW, this 2nd day of October, 2006, pursuant to the attached Stipulation, it is Ordered that the plaintiff's claim for punitive damages is withdrawn and dismissed with prejudice. By The Court, /s/ Fredric J. Ammerman, Pres. Judge. 1CC Attys. Patberg, McIntyre	Fredric Joseph Ammerman
10/10/2006	Notice of Address Change, filed by Atty. Patberg, 1 Cert. to Atty. copy to C/A Change of Plaintiff's counsel, Folf Louis Patberg, Esquire has changed to:Deutschtown Center, 801 Vinial Street, 3rd Floor, Pittsiburgh, 15212	Fredric Joseph Ammerman
10/24/2006	Order, NOW, this 23rd day of Oct., 2006, Ordered that Defendants' Motion for Partial Summary Judgment and Defendants' Preliminary Objections as to Plaintiffs' Claim for Negligent Infliction of Emotional Distress be and are hereby Dismissed. By the Court, /s/ Fredric J. Ammerman, Pres. Judge. 1CC Attys: Patberg, McIntyre	Fredric Joseph Ammerman
10/30/2006	Notice of Service of Notice of Videotaped Deposition of C. Raymond Schaney, P.T., filed by s/ Rolf Louis Patberg Esq. No CC.	Fredric Joseph Ammerman
11/3/2006	Plaintiffs' First Motions in Limine, filed by Atty. Patberg no cert. copies.	Fredric Joseph Ammerman
11/6/2006	Notice of Service of Notice of Videotaped Deposition of K.P. Yakuboff, M.D., filed by s/ Rolf Louis Patberg Esq. No CC.	Fredric Joseph Ammerman
11/7/2006	Notice of Service of Notice of Videotaped Deposition of Daniel Friedberg, M.D., filed by s/ Rolf Louis Patberg Esq. No CC.	Fredric Joseph Ammerman
	Order, filed Cert. to Atty's Patberg, McIntyre and Maierhofer NOW, this 6th day of November, 2006, Argument on Ithe Plaintiffs' First Motions in Limine be scheduled for the 20th day of November, 2006 at 9:30 AM.	Fredric Joseph Ammerman
11/13/2006	Notice to Attend Directed to Records Custodian-Clearfield Hopsital, filed by s/ Rolf Louis Patberg Esq. NO CC.	Fredric Joseph Ammerman
	Notice to Attend Directed to Gwendolyn R. Thomas, filed by s/ Rolf Louis Patberg Esq. No CC.	Fredric Joseph Ammerman
	Notice to Attend Directed to James P. DeSantis, D.O., filed by s/ Rolf Louis Patberg Esq. No CC.	Fredric Joseph Ammerman

Civil Other

Date		Judge
11/13/2006	Notice to Attend Directed to Patricia Neeper, filed by s/ Rolf Louis Patberg Esq. NO CC.	Fredric Joseph Ammerman
	Notice to Attend Directed to Kelly Espenshade, filed by s/ Rolf Louis Patberg Esq. NO CC.	Fredric Joseph Ammerman
	Notice to Attend Directed to Stacey Gerg, filed by s/ Rolf Louis Patberg Esq. No CC.	Fredric Joseph Ammerman
	Notice to Attend Directed to Donna Unch, filed by s/ Rolf Louis Patberg Esq. No CC.	Fredric Joseph Ammerman
	Notice of Service of Amended Notice of Videotaped Deposition of C. Raymond Schaney, P.T., filed by s/ Rolf Louis Patberg Esq. No CC.	Fredric Joseph Ammerman
11/14/2006	Response To Plaintiffs' First Motions In Limine and Defendants' Motion in Limine, filed by s/ John L. McIntyre, Esquire. No CC	Fredric Joseph Ammerman
	Second Supplemental Report of John A. Tilelli Dated 11/13/06. Filed by s/ Rolf Louis Patberg, Esquire. No CC	Fredric Joseph Ammerman
11/15/2006	Reply to Defendants' Motions in Limine, filed by Atty. Patberg, no cert. copies.	Fredric Joseph Ammerman
	Plaintiff's Second Motion in Limine, filed by Atty. Patberg no cert. copies.	Fredric Joseph Ammerman
11/16/2006	Defendants' Motion to Strike Late Expert Report, filed by Atty. McIntyre no cert. copies.	Fredric Joseph Ammerman
11/17/2006	Plaintiff's Reply to Defendants' Motion to Strike Late Expert Report, filed by s/ Rolf Louis Patberg Esq. No CC.	Fredric Joseph Ammerman
11/21/2006	Order, NOW, this 20th day of Nov., 2006, upon consideration of Defendants' Motion to Strike Late Expert's Report, it is the Order of this Court that said motion shall be granted to the extent that (see original). By The Court, /s/ John K. Reilly, Jr., Senior Judge. 1CC Attys: Patberg, McIntyre	John K. Reilly Jr.
	Order, NOW, this 20th day of Nov., 2006, consideration Defendants' Second Motion in Limine to Preclude Testimony Concerning Examination and Treatment of the Plaintiff Justine Kline on Nov. 22, 2002, it is ordered that said motion shall be granted to the extent that Plaintiff shall be precluded from entering such testimony during its case in chief. Plaintiff may, however, introduce such testimony in rebuttal if it then becomes relevant. By The Court, /s/ John K. Reilly, Jr., Senior Judge. 1CC Attys: Patberg, McIntyre	John K. Reilly Jr.
	Order, NOW, this 20th day of Nov., 2006, upon consideration of Plaintiffs' First Motion in Limine, with regard to the faxed transmissions from Clfd. Hospital to UPMC Children's Hospital, it is Ordered that said motion shall be granted to the extent that Plaintiffs shall be restricted in any examinations thereof to the existence of the handwritten notice concering the Feb. 23, 2002 examination. By The Court, /s/ John K. Reilly, Jr., Senior Judge. 1CC Attys: Patberg, McIntyre	John K. Reilly Jr.
	Order, NOW, this 20th day of Nov., 2006, upon consideration of Plaintiffs' Second Motion in Limine, Ordered that Defendants shall be precluded from offering any evidence or arguing any purported negligence by Sandra Conklin, Plaintiff. By The Court, /s/ John K. Reilly, Jr., Senior Judge. 1CC Attys: Patberg, McIntyre	John K. Reilly Jr.

Civil Other

Date		Judge
11/21/2006	Order, NOW, this 20th day of Nov., 2006, upon consideration of Plaintiffs' Motion in Limine, Issue 3, it is the Order of this Court that Def. Dr. Palmer shall be precluded from testifying as to a possibility that the information he entered concerning his treatment of Feb. 23, 2002, may have been entered into the wrong patient's chart. By The Court, /s/ John K. Reilly, Jr., Senior Judge. 1CC Attys: Patberg, McIntyre	John K. Reilly Jr.
	Order, NOW, this 20th day of Nov., 2006, upon consideration of Plaintiffs' First Motion in Limine, second issue, it is the Order of this Court that Plaintiffs' Expert, Dr. King, may testify as to his general experience in treating situations of this nature in the past, but shall be precluded from identifying specific patients and the treatments provided therefor unless their redacted files are supplied to Plaintiff prior to trial. By The Court, /s/ John K. Reilly, Jr., Senior Judge. 1CC Attys: Patberg, McIntyre	John K. Reilly Jr.
	Order, NOW, this 20th day of Nov., 2006, upon consideration of Plaintiffs' First Motion in limine, Item 1, it is the Order of this Court that said motion shall be granted to the extent that Defense expert withness, Christopher King, M.D., shall be precluded from quoting verbatim from the opinion of one Alejandro Hoberman, nor shall said opinion or argument by Hoberman, be admitted into evidence. By The Court, /s/ John K. Reilly, Jr., Senior Judge. 1CC Attys: Patberg, McIntyre	John K. Reilly Jr.
12/1/2006	Notice to Attend Dircted to Wilhelmina P. Crus-Vetrano, filed by s/ Rolf Louis Patberg, Esquire. No CC	Fredric Joseph Ammerman
12/4/2006	Application and Notice Pursuant to Rule 4020(a)(3)(e), filed by s/Rolf Louis Patberg, Esq. No CC	Fredric Joseph Ammerman
12/11/2006	Motion to Limit Testimony of John Dossett, filed by s/Rolf Louis Patberg, Esq. No CC	Fredric Joseph Ammerman
	Order, filed. Cert. to atty. Patberg & McIntyre NOW, this 8th day of December, 2006, RE: Motion to Limit Testimony of John Dossett, Motion denied.	John K. Reilly Jr.
12/12/2006	Verdict and Members of the Jury, filed NOW, this 12th day of December, 2006, Verdict in favor of Defendant. s/David P. Small, Foreperson.	Fredric Joseph Ammerman
12/21/2006	Motion For Briefing Schedule, filed by s/ Rolf Louis Patberg, Esquire. No CC	Fredric Joseph Ammerman
	Plaintiff's Post-Trial Motions, filed by s/ Rolf Louis Patberg, Esquire. No CC	Fredric Joseph Ammerman
12/26/2006	Order NOW, this 22nd day of December 2006, upon consideration of Post Trial Motion filed on behalf of Plaintiffs above-named and Motion for Briefing Schedule, it is the ORDER of this Court that Plaintiffs shall file their brief within no more than twenty (20) days from receipt of transcript of testimony. Defendants shall file their reply brief within twenty (20) days from receipt of Plaintiffs' Argument to be scheduled thereon at the request of wither party. BY THE COURT: /s/ John K. Reilly Jr. SJSP. 2CC Atty R. Patberg and J. McIntyre.	John K. Reilly Jr.
12/29/2006	Answer to Plaintiff's Post-Trial Motions, filed by Atty. McIntyre no cert. copies.	Fredric Joseph Ammerman
5/29/2007	Motion For Extension of Time of Briefing Schedule, filed by s/ Rolf Louis Patberg, Esquire. No CC	Fredric Joseph Ammerman

Civil Other

Date		Judge
5/30/2007	Order, NOW, this 29th day of May, 2007, it is Ordered that the Plaintiff's Motion for Extension of Time is Granted. Plaintiff shall have an additional 20 days from the date of this Order in which time to file their Brief. The Defendants shall have 20 days from the date of filing of the Plaintiff's Brief to file their reply. By The Court, /s/ John K. Reilly, Jr., Judge. 3CC Atty. Patberg	John K. Reilly Jr.
6/6/2007	Transcript of Proceedings, filed. In Camera Testimony of Bridgett H. Sidorick, Held Before The Honorable John K. Reilly, Senior Judge on Monday, December 4, 2006.	Fredric Joseph Ammerman
	Transcript of Proceedings, filed. Civil Jury Trial, Day I of VII, Held Before The Honorable John K. Reilly, Senior Judge on Monday, December 4, 2006.	Fredric Joseph Ammerman
	Transcript of Proceedings, filed. Civil Jury Trial, Day II of VII, Held Before The Honorable John K. Reilly, Senior Judge, on Tuesday, December 5, 2006.	Fredric Joseph Ammerman
	Transcript of Proceedings, filed.Civil Jury Trial Day III of VII, Held Before The Honorable John K. Reilly, Senior Judge on Wednesday, December 6, 2006.	Fredric Joseph Ammerman
	Transcript of Proceedings, filed. Civil Jury Trial Day IV of VII, Held Before The Honorable John K. Reilly, Senior Judge on Thursday, December 7, 2006.	Fredric Joseph Ammerman
	Transcript of Proceedings, filed. Civil jury Trial Day V of VII, Held Before The Honorable John K. Reilly, Senior Judge, on Friday, December 8, 2006	Fredric Joseph Ammerman
	Transcript of Proceedings, filed. Civil Jury Trial, Day VI of VII, Held Before The Honorable John K. Reilly, Senior Judge on Monday, December 11, 2006.	Fredric Joseph Ammerman
	Transcript of Proceedings, filed. Civil Jury Trial Day VII of VII, Held Before The Honorable John K. Reilly, Senior Judge, on Tuesday, December 12, 2006.	Fredric Joseph Ammerman
6/14/2007	Order, NOW, this 8th day of June, 2007, the Court noting that counsel for the Defendants has no objections to the Plaintiff's Motion to Extend Time to File a Responsive Brief and that in addition, Plaintiff's counsel has agreed that the Defendants will have 35 days after receipt of the Plaintiff's Brief, in which to file a brief on behalf of Dr. Palmer and Clearfield Hospital. By The Court, /s/ Fredric J. Ammerman, Pres. Judge. 2CC Attys: Patberg, McIntyre	Fredric Joseph Ammerman
11/16/2007	Filing: Praecipe for Entry of Judgment upon Jury Verdict of December 12, 2006. Paid by: McIntyre, Hartye & Schmitt Receipt number: 1921483 Dated: 11/16/2007 Amount: $20.00 (Check) Judgment entered upon Verdict of the Jury of December 12, 2006 in favor of the the Defendants, Clearfield Hospital and George F. Palmer, D.O. no cert. copies.	Fredric Joseph Ammerman
1/15/2008	Order, this 15th day of Jan., 2008, , argument on Post-Trial Motions is scheduled for the 20th day of Feb., 2008 at 10:30 A.M in Hearing Room 3. By The Court, /s/ Fredric J. Ammerman, pres. Judge. 2CC Attys; Patberg, McIntyre	Fredric Joseph Ammerman

Civil Other

Date		Judge
3/27/2008	Opinion And Order, Order: Now, this 26th day of March, 2008, following argument and review of the parties' briefs, it is the Order of this Court that the Plaintiff's Post-Trial Motions are hereby Denied for the reasons set forth in the foregoing Opinion. By The Court, /s/ John K. Reilly, Jr., Senior Judge, Specially Presiding. 2CC Attys: Patberg, McIntyre; 1CC to: D. Mikesell, Law Library (without memo)	Fredric Joseph Ammerman
4/16/2008	Filing: Appeal to High Court Paid by: Patberg, Rolf Louis (attorney for Conklin, Sandra) Receipt number: 1923634 Dated: 4/16/2008 Amount: $50.00 (Check) Filed by s/Rolf Louis Patberg, Esquire. 1CC & Check for $60.00 to Superior Court	Fredric Joseph Ammerman
4/21/2008	Order, this 18th day of April, 2008, it is Ordered that Appellant shall, within 14 days from date hereof, file a concise statement of matters complained of on appeal. By The Court, /s/John K. Reilly, Jr., Senior Judge. 2CC Attys; Patberg, McIntyre	John K. Reilly Jr.
5/1/2008	Appeal Docket Sheet, filed. No CC 700 WDA 2008	Fredric Joseph Ammerman
5/5/2008	Concise Statement of Matters Complained of on Appeal, filed by s/ Rolf Louis Patberg, Esquire. No CC	Fredric Joseph Ammerman
5/23/2008	May 23, 2008, Mailed Appeal to Superior Court. May 23, 2008, Letters, Re: Notification of mailing appeal mailed to Rolf Louis Patberg, Esq. and John L. McIntyre, Esq. with certified copies of docket sheet and Document listing required by Pa.R.A.P. 1931(c).	Fredric Joseph Ammerman

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

No. 03-68-CD
Sandra Conklin and Justine Kline
Vs.
Clearfield Hospital and George F. Palmer

ITEM NO.	*DATE OF FILING*	*NAME OF DOCUMENT*	*NO. OF PAGES*
01	01/16/03	Praecipe for Writ of Summons	03
02	01/23/03	Praecipe for Entry of Appearance	02
03	01/23/03	Praecipe to Enter Rule to File Complaint	03
04	01/29/08	Praecipe for Entry of Appearance on behalf of Defendant, James P. DeSantis	03
05	02/05/03	Praecipe for Appearance on behalf of Defendant, Ernest P. Jones	02
06	02/06/03	Certificate of Service, Rule to File Complaint upon Rolf Louis Patberg, Esq.	03
07	02/11/03	Sheriff Return	02
08	03/03/03	Complaint in Civil Action	16
09	03/10/03	Verification to Complaint	04
10	03/11/03	Preliminary Objections to Plaintiffs' Complaint	06
11	03/14/03	Preliminary Objections to Plaintiff's Complaint	04
12	03/18/03	Joint Motion for Protective Order	08
13	03/21/03	Certificate of Service, Objections to Plaintiffs' First Set of Interrogatories and Request for Production of Documents	01
14	04/07/03	Plaintiffs' Reply to Defendants' Joint Motion for Protective Order	06
15	04/29/03	Plaintiffs' Reply to Preliminary Objections of Defendants Palmer, Jones, and Clearfield Hospital	06
16	04/29/03	Plaintiffs' Reply to Defendant, James P. DeSantis' Preliminary Objections	07
17	05/19/03	Order, Re: Joint Motion for Protective Order filed on behalf of Defendants is Dismissed	01
18	05/19/03	Order, Re: Preliminary Objections filed on behalf of Defendant are continued	01
19	05/21/03	Certificate of Service, Request for Production of Documents directed to Plaintiff	01
20	05/21/03	Certificate of Service, First Set of Interrogatories	01
21	06/05/03	Notice of Service of Interrogatories and Request for Production of Documents directed to Plaintiffs	03
22	06/10/03	Certificate of Service, Answers/Responses to First Set of Interrogatories and Request for Production of Documents Directed to Defendant, James P. DeSantis	01
23	07/09/03	Notice of Service of Answers to First Set of Interrogatories and Request for Production of Documents	02
24	07/11/03	Motion to Compel with Order filed July 14, 2003	06
25	07/16/03	Stipulation, Re: Removal of Ernest P. Jones, M.D. and Order of Court filed July 17, 2003	05
26	07/17/03	Certificate of Service	02
27	07/30/03	Notice of Service of Plaintiffs' Second Set of Interrogatories and Request for Production of Documents Directed to all Defendants	03
28	08/20/03	Motion to Compel Discovery with Order filed August 22, 2003	Separate Cover
29	09/03/03	Certificate of Service, Answers/Responses to Plaintiffs' Second Set of Interrogatories and Requests for Production of Documents Directed to all Defendants	01
30	09/17/03	Notice of Intent to Serve Subpoenas to Produce Documents and Things for Discovery Pursuant to Rule 4009.21	04
31	09/25/03	Waiver of Objection to Subpoena	03
32	09/29/03	Certificate Prerequisite to Service of Subpoenas Pursuant to Rule 4009.22	05
33	10/08/03	Notice of Service of Supplemental Answers to Interrogatories	02
34	10/09/03	Notice of Deposition of Plaintiff	02
35	11/04/03	Revised Notice of Deposition of Plaintiff	02
36	11/06/03	Notice of Service of Amended Notice of Deposition of Defendant George F. Palmer	03
37	12/05/03	Certificate Prerequisite to Service of a Subpoena Pursuant to Rule 4009.22	09

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

No. 03-68-CD
Sandra Conklin and Justine Kline
Vs.
Clearfield Hospital and George F. Palmer

ITEM NO.	*DATE OF FILING*	*NAME OF DOCUMENT*	*NO. OF PAGES*
38	12/05/03	Notice of Intent to Serve a Subpoena to Produce Documents and Things for Discovery Pursuant to Rule 4009.21	08
39	01/21/04	Order, Re: Status conference scheduled	01
40	01/23/04	Amended Order, Re: Status conference scheduled	01
41	02/06/04	Revised Notice of Deposition of Plaintiff (Original not in file)	---
42	02/06/04	Order, Re: Status conference cancelled	01
43	02/19/04	Notice of Deposition of Plaintiff	03
44	02/19/04	Notice of Service of Supplemental Interrogatories Directed to Plaintiff	02
45	02/26/04	Amended Notice of Deposition	03
46	06/04/04	Notice of Service of Request for Production of Documents Directed to Plaintiffs Dated June 3, 2004	02
47	07/29/04	Notice of Service of Answers to First Set of Interrogatories and Requests for Production of Documents Directed to Defendant, George F. Palmer, M.D.	02
48	09/01/04	Motion to Compel Expert Report with Order filed September 9, 2004	10
49	09/13/04	Certificate of Service, Order of Court dated September 7, 2004	01
50	09/27/04	Motion for Extension of Time to File Expert Report with Order filed September 28, 2004	08
51	09/30/04	Reply to Plaintiffs' Motion for Extension of Time to File an Expert Report	05
52	11/01/04	Motion to Voluntarily Discontinue All Claims Against Defendant James P. DeSantis and Amend Caption with Order filed November 2, 2004, Caption amended to state as follows: Clearfield Hospital and George F. Palmer, Defendants	05
53	11/04/04	Reply to Motion to Voluntarily Discontinue All Claims Against Defendant James P. DeSantis and Amend Caption	05
54	12/22/04	Motion to Amend the Court's Order of November 2, 2004, in Dismissing Defendant James P. DeSantis with Amended Order field December 23, 2004, Re: James P. DeSantis is dismissed with prejudice	07
55	01/21/05	Notice of Deposition	03
56	01/25/05	Notice of Depositions	03
57	02/04/05	Notice of Service of Notice of Deposition of Kathleen Plansinis	03
58	02/04/05	Notice of Service of Notice of Deposition of Keith Paras	03
59	02/07/05	Notice of Service of Expert Interrogatories Directed to Defendant George F. Palmer and Clearfield Hospital	03
60	02/07/05	Notice of Service of Second Request for Production of Documents Directed to Plaintiff	02
61	03/09/05	Supplemental Report of John A. Tilelli	06
62	08/02/05	Notice of Deposition of Shirley Morrison	03
63	08/02/05	Notice of Deposition of Ronald Kline	04
64	08/24/05	Sheriff Return	03
65	03/23/06	Praecipe for Trial	03
66	08/10/06	Answer and New Matter to Plaintiffs' Complaint	12
67	08/11/06	Order, Re: Pre-Trial Conference	02
68	08/11/06	Order, Re: argument on Defendant's Preliminary Objection	01
69	08/25/06	Reply to New Matter	05
70	09/21/06	Motion for Partial Summary Judgment and/or in Support of Preliminary Objections	07
71	09/25/06	Motion for Costs and Counsel Fees Pursuant to Pa.R.C.P. 4008	08
72	10/02/06	Notice of Service of Notice of Videotaped Deposition of Michael Moritz, MD	03
73	10/02/06	Notice of Service of Notice of Videotaped Deposition of Steven Docimo, MD	03
74	10/03/06	Stipulation, Re: claim for punitive damages	01

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

No. 03-68-CD
Sandra Conklin and Justine Kline
Vs.
Clearfield Hospital and George F. Palmer

ITEM NO.	*DATE OF FILING*	*NAME OF DOCUMENT*	*NO. OF PAGES*
75	10/03/06	Order, Re: Plaintiffs' claim for punitive damages is withdrawn and dismissed with prejudice	01
76	10/10/06	Notice of Address Change, Re: Attorney Rolf L. Patberg, Esq.	03
77	10/24/06	Order, Re: Defendants' Motion for Partial Summary Judgment and Defendants' Preliminary Objections as to Plaintiffs' Claim for Negligent Infliction of Emotional Distress	01
78	10/30/06	Notice of Service of Notice of Videotaped Deposition of C. Raymond Schaney, P.T.	04
79	11/03/06	Plaintiffs' First Motions in Limine	49
80	11/06/06	Notice of Service of Notice of Videotaped Deposition of K.P. Yakuboff, MD	03
81	11/07/06	Notice of Service of Notice of Videotaped Deposition of Daniel Friedberg, MD	02
82	11/07/06	Order, Re: Argument on the Plaintiffs' First Motions in Limine be scheduled	01
83	11/13/06	Notice to Attend Directed to Records Custodian-Clearfield Hospital	04
84	11/13/06	Notice to Attend Directed to Gwendolyn R. Thomas	06
85	11/13/06	Notice to Attend Directed to James P. DeSantis, D.O.	03
86	11/13/06	Notice to Attend Directed to Patricia Neeper	03
87	11/13/06	Notice to Attend Directed to Kelly Espenshade	03
88	11/13/06	Notice to Attend Directed to Stacey Gerg	03
89	11/13/06	Notice to Attend Directed to Donna Unch	03
90	11/13/06	Notice of Service of Amended Notice of Videotaped Deposition of C. Raymond Schaney, P.T.	04
91	11/14/06	Response to Plaintiffs' First Motions in Limine and Defendants' Motion in Limine	38
92	11/14/06	Second Supplemental Report of John A. Tilelli Dated November 13, 2006	05
93	11/15/06	Reply to Defendants' Motions in Limine	11
94	11/15/06	Plaintiffs' Second Motion in Limine	12
95	11/16/06	Defendants' Motion to Strike Late Expert Report	10
96	11/17/06	Plaintiffs' Reply to Defendants' Motion to Strike Late Expert Report	07
97	11/21/06	Order, Re: Defendants' Motion to Strike Late Expert's Report	01
98	11/21/06	Order, Re: Defendants' Second Motion in Limine to Preclude Testimony Concerning Examination and Treatment of the Plaintiff Justine Kline	01
99	11/21/06	Order, Re: Plaintiffs' First Motion in Limine	01
100	11/21/06	Order, Re: Plaintiffs' Second Motion in Limine	01
101	11/21/06	Order, Re: Plaintiffs' Motion in Limine, Issue 3	01
102	11/21/06	Order, Re: Plaintiffs' First Motion in Limine, Second Issue	01
103	11/21/06	Order, Re: Plaintiffs' First Motion in Limine, Item 1	01
104	12/01/06	Notice to Attend Directed to Wilhelmina P. Crus-Vetrano	03
105	12/04/06	Application and Notice Pursuant to Rule 4020(a)(3)(e)	06
106	12/11/06	Motion to Limit Testimony of John Dossett	08
107	12/11/06	Order, Re: Motion to Limit Testimony of John Dossett Denied	01
108	12/12/06	Verdict and Members of the Jury, Verdict in favor of Defendant	02
109	12/21/06	Motion for Briefing Schedule	05
110	12/21/06	Plaintiffs' Post-Trial Motions	20
111	12/26/06	Order, Re: briefs to be submitted	01
112	12/29/06	Answer to Plaintiffs' Post-Trial Motions	08
113	05/29/07	Motion for Extension of Time of Briefing Schedule	04
114	05/30/07	Order, Re: Motion for Extension of Time is Granted	01
115	06/06/07	Transcript of Proceedings, In Camera Testimony of Bridgett H. Sidorick, held before the Honorable John K. Reilly, Senior Judge, on December 4, 2006	Separate Cover

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

No. 03-68-CD
Sandra Conklin and Justine Kline
Vs.
Clearfield Hospital and George F. Palmer

ITEM NO.	*DATE OF FILING*	*NAME OF DOCUMENT*	*NO. OF PAGES*
116	06/06/07	Transcript of Proceedings, Civil Jury Trial, Day I of VII, held before the Honorable John K. Reilly, Senior Judge, on December 4, 2006	Separate Cover
117	06/06/07	Transcript of Proceedings, Civil Jury Trial, Day II of VII, held before the Honorable John K. Reilly, Senior Judge, on December 5, 2006	Separate Cover
118	06/06/07	Transcript of Proceedings, Civil Jury Trial, Day III of VII, held before the Honorable John K. Reilly, Senior Judge, on December 6, 2006	Separate Cover
119	06/06/07	Transcript of Proceedings, Civil Jury Trial, Day IV of VII, held before the Honorable John K. Reilly, Senior Judge, on December 7, 2006	Separate Cover
120	06/06/07	Transcript of Proceedings, Civil Jury Trial, Day V of VII, held before the Honorable John K. Reilly, Senior Judge, on December 8, 2006	Separate Cover
121	06/06/07	Transcript of Proceedings, Civil Jury Trial, Day VI of VII, held before the Honorable John K. Reilly, Senior Judge, on December 11, 2006	Separate Cover
122	06/06/07	Transcript of Proceedings, Civil Jury Trial, Day VII of VII, held before the Honorable John K. Reilly, Senior Judge, on December 12, 2006	Separate Cover
123	06/14/07	Order, Re: Plaintiffs' Motion to Extend Time to file a Responsive Brief	01
124	11/16/07	Praecipe for Entry of Judgment upon Jury Verdict of December 12, 2006	02
125	01/15/08	Order, Re: argument on Post-Trial Motions scheduled	01
126	03/27/08	Opinion and Order	14
127	04/16/08	Appeal to High Court	27
128	04/21/08	Order, Re: Concise statement to be filed	01
129	05/01/08	Appeal Docket Sheet, 700 WDA 2008	04
130	05/05/08	Concise Statement of Matters Complained of on Appeal	10
131	05/23/08	Letters, Re: Notification of mailing appeal mailed to Rolf Louis Patberg, Esq. and John L. McIntyre, Esq. with certified copies of docket sheet and Document listing required by Pa.R.A.P. 1931(c)	15

COPY

IN THE COURT OF COMMON PLEAS
CLEARFIELD COUNTY, PENNSYLVANIA

Sandra Conklin, as parent and natural
guardian of Justine Kline

Vs.

Case No. 2003-00068-CD

Clearfield Hospital and
George F. Palmer

FILED
m/10:22 BA
MAY 29 2008
GK
William A. Shaw
Prothonotary/Clerk of Courts

CERTIFICATE OF CONTENTS

NOW, this 23rd day of May, 2008, the undersigned, Prothonotary or Deputy Prothonotary of the Court of Common Pleas of Clearfield County, Pennsylvania, the said Court of record, does hereby certify that attached is the original record of the case currently on Appeal.

An additional copy of this Certificate is enclosed with the original hereof and the Clerk or Prothonotary of the Superior Court is hereby directed to acknowledge receipt of the Appeal Record by executing such copy at the place indicated by forthwith returning the same to this Court.

By: _____
William A. Shaw, Prothonotary

Record, Etc. Received:

Date: _____

_____
(Signature & Title)

RECEIVED
MAY 27
PITTSB
SUP

Appeal Docket Sheet **Superior Court of Pennsylvania**

Docket Number: 700 WDA 2008

April 29, 2008

Sandra Conklin, as parent and natural guardian of Justin Kline, Appellant

v.

Clearfield Hospital and George F. Palmer 03-68-CD

Initiating Document: Notice of Appeal

Case Status: Active

Case Processing Status: April 22, 2008 Awaiting Original Record

Journal Number:

Case Category: Civil CaseType: Trespass

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

SCHEDULED EVENT

Next Event Type: Receive Docketing Statement Next Event Due Date: May 13, 2008

Next Event Type: Original Record Received Next Event Due Date: June 16, 2008

FILED NO CC
MAY 01 2008
11:28 BY
GK

William A. Shaw
Prothonotary/Clerk of Courts

Record 3 parts
& transcripts

RECORD
MAY 27 2008
PITTSBURGH OFFICE OF
SUPERIOR COURT

#129

MAY 2 7 2008

COUNSEL INFORMATION

Appellant Conklin, Sandra
Pro Se: Appoint Counsel Status:
IFP Status: No

Appellant Attorney Information:
Attorney: Patberg, Rolf Louis
Bar No.: 65185 Law Firm: Patberg, Carmody & Ging, P.C.
Address: Deutschtown Center
801 Vinial Street
Pittsburgh, PA 15212
Phone No.: (412)232-3500 Fax No.: (412)281-8656
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Receive E-Mail: No

Appellant Kline, Justine
Pro Se: Appoint Counsel Status:
IFP Status: No

Appellant Attorney Information:
Attorney: Patberg, Rolf Louis
Bar No.: 65185 Law Firm: Patberg, Carmody & Ging, P.C.
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801 Vinial Street
Pittsburgh, PA 15212
Phone No.: (412)232-3500 Fax No.: (412)281-8656
Receive Mail: No
E-Mail Address: rpatberg@patbergcarmodyging.com
Receive E-Mail: No

Appellee Clearfield Hospital
Pro Se: Appoint Counsel Status:
IFP Status: No

Appellee Attorney Information:
Attorney: McIntyre, John I.
Bar No.: 28015 Law Firm: McIntyre, Hartye & Schmitt
Address: 1816 Old Rt 220 N Business
Duncansville, PA 16635
Phone No.: (814)696-3581 Fax No.: (814)696-9399
Receive Mail: Yes
E-Mail Address:
Receive E-Mail: No

Appellee Palmer, George
Pro Se: Appoint Counsel Status:
IFP Status: No

Appellee Attorney Information:

Attorney: McIntyre, John I.

Bar No.: 28015 Law Firm: McIntyre, Hartye & Schmitt

Address: 1816 Old Rt 220 N Business
Duncansville, PA 16635

Phone No.: (814)696-3581 Fax No.: (814)696-9399

Receive Mail: No

E-Mail Address:

Receive E-Mail: No

FEE INFORMATION

Fee Date	Fee Name	Fee Amt	Paid Amount	Receipt Number
4/16/08	Notice of Appeal	60.00	60.00	2008SPRWD000420

TRIAL COURT/AGENCY INFORMATION

Court Below: Clearfield County Court of Common Pleas

County: Clearfield Division: Civil

Date of Order Appealed From: March 26, 2008 Judicial District: 46

Date Documents Received: April 22, 2008 Date Notice of Appeal Filed: April 16, 2008

Order Type: Order OTN:

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

Lower Court Docket No.: 2003-68-CD

ORIGINAL RECORD CONTENTS

Original Record Item	Filed Date	Content/Description

Date of Remand of Record:

BRIEFS

DOCKET ENTRIES

Filed Date	Docket Entry/Document Name	Party Type	Filed By
April 22, 2008	Notice of Appeal Filed	Appellant	Conklin, Sandra
April 29, 2008	Docketing Statement Exited (Civil)		Western District Filing Office

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

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

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

Sandra Conklin, as parent and natural guardian of Justine Kline
VS.
Clearfield Hospital and George F. Palmer
03-68-CD

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

The documents compromising the record have been numbered from **No. 1 to** 131, and attached hereto as Exhibit A is a list of the documents correspondingly numbered and identified with reasonable definiteness, including with respect to each document, the number of pages comprising the document.

The date on which the record had been transmitted to the Appellate Court is May 23, 2008.

William A. Shaw
Prothonotary/Clerk of Courts

(seal)

Clearfield County Court of Common Pleas
ROA Report
Case: 2003-00068-CD
Current Judge: Fredric Joseph Ammerman
Sandra Conklin, Justine Kline vs. Clearfield Hospital, George F. Palmer, James P. DeSantis, Ernest P. Jones

Civil Other

Date		Judge
1/16/2003	Filing: Writ of Summons Paid by: Patberg, Rolf Louis Receipt number: 1854076 Dated: 01/16/2003 Amount: $85.00 (Check) 1 CC & 4 Writs to Shff.	No Judge
1/23/2003	Praecipe For Entry of Appearance, filed by Atty. McIntrye No Cert. Copies Please enter my appearance for Defendants, Clearfield Hospital and George F. Palmer	No Judge
	Praecipe to Enter Rule to File Complaint within 20 days after date of service issued. Rule Dated: January 23, 2003, filed by Atty. McIntyre Rule issued to Atty.	No Judge
1/29/2003	Praecipe For Entry of Appearance on Behalf of Defendant, JAMES P. DeSANTIS. s/Mary Lou Maierhofer, Esquire Certificate of Service no cc	No Judge
2/5/2003	Praecipe For Appearance on behalf of Defendant, ERNEST P. JONES. filed by s/John L. McIntyre, Esquire no cc	No Judge
2/6/2003	Certificate of Service, Rule to File Complalint upon ROLF LOUIS PATBERG, ESQ. filed by s/John L. McIntyre, Esquire no cc	No Judge
2/11/2003	Sheriff Return, Papers served on Defendant(s). So Answers, Chester A. Hawkins, Sheriff by s/Marilyn Hamm	No Judge
3/3/2003	Complaint In Civil Action. filed by s/Rolf Louis Patberg, Esq. Certificate of Service no cc	No Judge
3/10/2003	Verification to Complaint, s/ Sandra Conklin, filed by s/Rolf Louis Patberg, Esq. No CC	No Judge
3/11/2003	Preliminary Objections to Plaintiffs' Complaint, filed by s/Mary Lou Maierhofer, Esq. No CC	No Judge
3/14/2003	Preliminary Objections to Plaintiff's Complaint. filed by s/John L. McIntyre, Esq. no cc	No Judge
3/18/2003	Joint Motion For Protective Order. filed by, s/Mary Lou Maierhofer, Esq. Certificate of Service no cc	No Judge
3/21/2003	Certificate of Service, Objections to Plaintiffs' First Set of Interrogatories and Request for Production of Documents Directed to Defendant, James P. DeSantis upon: ROLF LOUIS PATBERG, ESQ. s/JOHN McINTYRE, ESQ. filed by s/Mary Lou Maierhofer, Esq. no cc	John K. Reilly Jr.
4/7/2003	Plaintiffs Reply to Defendants Joint Motion For Protective Order. filed by s/Sean P. Duff, Esquire Certificate of Service 1 cc to Atty.	John K. Reilly Jr.
4/29/2003	Plaintiffs Reply To Preliminary Objections Of Defendants Palmer, Jones and Clearfield Hospital. Filed by s/Rolf Louis Patberg, Esquire Certificate of Service no cc	John K. Reilly Jr.
	Plaintiffs Reply To Defendant, James P. Desantis', Preliminary Objections. filed by s/Rolf Louis Patberg, Esquire Certificate of Service no cc	John K. Reilly Jr.
5/19/2003	ORDER, NOW, this 16th day of May, 2003, re: Joint Motion For Protective Order filed on behalf of Defendants, Motion is DISMISSED w/o prejudice in Defendants to raise the same should they become relevant at a later date. It is the further ORDER of this Court that said Defendants shall respond to Plaintiff's discovery request within 30 days from date hereof. by the Court, s/JKR,JR.,P.J. 2 cc Atty Patberg, McIntyre	John K. Reilly Jr.

Civil Other

Date		Judge
5/19/2003	ORDER, NOW, this 16th day of May, 2003, re: P.O.'s filed on behalf of Defendant, Objections shall be and are hereby CONTINUED and Plaintiff directed to file with the Court, with copies to counsel for Defendants, the factual basis surrounding the various counts in her Complaint within 20 days from completion of discovery. by the Court, s/JKR,JR.,P.J. 2 cc Atty Patberg, McIntyre	John K. Reilly Jr.
5/21/2003	Certificate Of Service, Request for Production of Documents Directed to Plaintiff, Sandra Conklin, as Parent and Natural Guardian of Justine Kline and Sandra Conklin upon: ROLF LOUIS PATBERG, ESQ. and JOHN McINTYRE, ESQ. filed by s/Mary Lou Maierhofer, Esquire no cc	John K. Reilly Jr.
	Certificate of Service, First Set of Interrogatories Directed to Sandra Conklin, as parent and natural guardian of Justice Kline and Sandra Conkin, ind. upon: ROLF LOUIS PATBERG, ESQ. and JOHN McINTYRE, ESQ. filed by s/MARY LOU MAIERHOFER, ESQ. no cc	John K. Reilly Jr.
6/5/2003	Notice Of Service Of Interrogatories And Request For Production Of Documents Directed To Plaintiffs - Dated: 6/24/03, upon: ROLF LOUIS PATBERG, ESQ. filed by s/John L. McIntyre, Esquire no cc	John K. Reilly Jr.
6/10/2003	Certificate of Service, Answers/Responses to First Set of Interrogatories and Request for Production of Documents Directed to Defendant, James P. DeSantis upon: ROLF LOUIS PATBERG, ESQ and JOHN McINTYRE, ESQ. filed by s/Mary Lou Maierhofer, Esq. no cc	John K. Reilly Jr.
7/9/2003	Notice of Service of Answers to First Set of Interrogatories and Request For Production of Documents upon ROLF LOUIS PATBERG, ESQ. filed by s/John L. McIntyre, Esquire no cc	John K. Reilly Jr.
7/11/2003	Motion To Compel. filed by s/Mary Lou Maierhofer, Esquire Certificate of Service no cc	John K. Reilly Jr.
7/14/2003	ORDER OF COURT, NOW, this 14th day of July, 2003, upon consideration of the Motion To Compel of Defendant, James P. DeSantis, and after Hearing upon the same, the Court does hereby Order, Direct and Decree that Plaintiffs produce their outstanding discovery within 10 days from the date of this Order. by the Court, s/JKR,JR.,P.J. 2 cc Atty Maierhofer	John K. Reilly Jr.
7/16/2003	STIPULATION, AND NOW, this 11th day of July, 2003, re: Removal of Ernest P. Jones, M.D. as a party Defendant. s/Mary Lou Maierhofter, Esq., s/John L. McIntyre, Esq., and s/Rolf Louis Patberg, Esq. 1 cc Atty McIntyre	John K. Reilly Jr.
7/17/2003	Order of Court: AND NOW, this 16th day of 2003, pursuant to Stipulation of counsel, it is Ordered that Ernest P. Jones M. D. is dismissed from the above lawsuit pursuant to the Affidavit of Non-Involvement signed in accordance with 40 Pa. C. S. 1301.827-A. Prothonotary is directed to remove the name of Ernest P. Jones M.D. from the within lawsuit. s/JKR 1 CC to Atty. McIntyre	John K. Reilly Jr.
	Certificat of Service, filed by Atty. Maierhofer No. c/c Served copy of Order via fax & 1st class mail to Atty. Patberg & Atty. McIntyre.	John K. Reilly Jr.
7/30/2003	Notice Of Service Of Plaintiffs' Second Set Of Interrogatories And Request For Production Of Documents Directed To All Defendants. filed by s/Rolf Louis Patberg, Esquire no cc	John K. Reilly Jr.
8/20/2003	Motion to Compel Discovey, filed by s/Rolf Louis Patberg, Esq. No CC	John K. Reilly Jr.

Clearfield County Court of Common Pleas
ROA Report
Case: 2003-00068-CD

Current Judge: Fredric Joseph Ammerman
Sandra Conklin, Justine Kline vs. Clearfield Hospital, George F. Palmer, James P. DeSantis, Ernest P. Jones

Civil Other

Date		Judge
8/22/2003	ORDER OF COURT, AND NOW, to-wit, this 22nd day of August, 2003, upon consideration of Plaintiffs' Motion To Compel Discovery, it is hereby ORDERED, ADJUDGED, and DECREED that Defendant Clearfield Hospital shall serve full and complete Answers to Interrogatories Numbers 5,7,10,11,12,15,25,26,30,31,32,33,34,35,38,39, 40, 43, 44, and 47, This information sahll be provided within 20 days of the date of this Order. by the Court, s/JKR,JR.,P.J. 1 cc Atty Patberg.	John K. Reilly Jr.
9/3/2003	Certificate of Service, Answers/Responses to Plaintiffs' Second Set of Interrogatories and Requests for Production of Documents Directed to all Defendant upon: Rolf Louis Patberg, Esq. and John McIntyre, Esq. filed by s/Mary Lou Maierhofter, Esquire no cc	John K. Reilly Jr.
9/17/2003	Notice Of Intent To Serve Subpoenas to Produce Documents and Things For Discovery Pursuant to Rule 4009.21. upon Children's Hospital of Pittsburgh and STAT Med Evac. filed by s/Mary Lou Maierhofer, Esq. no cc	John K. Reilly Jr.
9/25/2003	Waiver Of Objection To Subpoena, filed by s/Rolf Louis Patberg, Esquire Certificate of Service no cc	John K. Reilly Jr.
9/29/2003	Certificate Prerequisite To Service of Subpoenas Pursuant to Rule 4009.22. Subpoenas to Produce Documents and Things upon: Children's Hospital of Pittsburgh and STAT Med Evac. filed by s/Mary Lou Maierhofer, Esq. no cc	John K. Reilly Jr.
10/8/2003	Notice of Service of Supplemental Answers to Interrogatories on behalf of Clearfield Hospital filed by Atty. McIntyre. No cc.	John K. Reilly Jr.
10/9/2003	Notice of Deposition of Plaintiff, Sandra Conklin. filed by s/Mary Lou Maierhofer, Esquire Cert of Svc no cc	John K. Reilly Jr.
11/4/2003	Revised Notice of Deposition of Plaintiff filed by Atty. Maierhofer. No cc.	John K. Reilly Jr.
11/6/2003	Notice of Service of Amended Notice of Deposition of Defendant George F. Palmer	John K. Reilly Jr.
12/5/2003	Certificate Prerequisite To Service Of a Subpoena Pursuant to Rule 4009.22. filed by, s/Mary Lou Maierhofer, Esq. no cc	John K. Reilly Jr.
	Notice Of Intent To Serve A Subpoena To Produce Documents And Things For Discovery Pursuant To Rule 4009.21. filed by, s/Mary Lou Maierhofer, Esquire no cc	John K. Reilly Jr.
1/21/2004	ORDER, AND NOW, this 21st day of January, 2004, re: Status Conference scheduled for Friday, Feb. 22, 2004, at 9:45 a.m., in Courtroom No. 1. by the Court, s/FJA,P.J. 1 cc Attys Patberg, McIntyre, and Maierhofer	John K. Reilly Jr.
1/23/2004	AMENDED ORDER, AND NOW, this 22nd day of January, 2004, re: Status Conference scheduled for Friday, Feb. 6, 2004, at 9:45 a.m., in Courtroom No. 1. by the Court, s/FJA,P.J. 1 cc Atty Patberg, McIntyre, and Maierhofer	John K. Reilly Jr.
2/6/2004	Revised Notice Of Deposition Of Plaintiff, Sandra Conklin. filed by, s/Mary Lou Maierhofer, Esquire no cc	John K. Reilly Jr.
	ORDER, NOW, this 5th day of Feb., 2004, re; Status Conference is CANCELLED. Counsel for the parties shall have no more than 20 days from the date of this Order to present the Court with a letter detailing the status of the above captioned action. by the Court, s/FJA,P.J. 2 cc Atty Patberg, McIntyre, Maierhofer, 1 copy President Judge Ammerman and CA	John K. Reilly Jr.

Civil Other

Date		Judge
2/19/2004	Notice of Deposition of Plaintiff, Justine Kline. filed by, s/John L. McIntyre, Esquire no cc	John K. Reilly Jr.
	Notice of Service Of Supplemenetal Interrogatories Directed To Plaintiff. filed by, s/John L. McIntyre, Esquire no cc	John K. Reilly Jr.
2/26/2004	Amended Notice of Deposition. filed by, s/John L. McIntyre, Esquire no cc	John K. Reilly Jr.
6/4/2004	Notice of Service of Request For Production Of Documents Directed To Plaintiffs Dated 06/03/04. filed by, s/John L. McIntyre, Esquire bi cc	John K. Reilly Jr.
7/29/2004	Notice of Service of Answers to First Set of Interrogatories and Requests for Production of Documents Directed to Defendant, George F. Palmer, M.D., upon Rolf Louis Patberg, Esq., filed by s/John L. McIntyre, Esq. No CC	John K. Reilly Jr.
9/1/2004	Motion to Compel Expert Report, filed by s/Mary Lou Maierhofer, Esq. No CC	John K. Reilly Jr.
9/9/2004	ORDER filed. NOW this 7th day of September, 2004, upon consideration of the Motion to Compel Expert Report of Def. James P. DeSantis, and after hearing upon the same, the Court does hereby Order, Direct and Decree Plaintiffs produce an expert report as against Def. DeSantis within 30 days from the Court's Order. S/FJA 1 CC to Atty.	John K. Reilly Jr.
9/13/2004	Certificate of Service,Order of Court dated September 7, 2004 on Motion to Compel Expert Report, was served the 10th day of September, 2004, first class United States Mail upon: Rolf Louis Patberg, Esquire. Filed by s/Mary Lou Maierhofer, Esquire. No CC.	John K. Reilly Jr.
9/27/2004	Motion for Extension of Time to File Expert Report, filed by s/Rolf Louis Patberg, Esq. No CC	John K. Reilly Jr.
9/28/2004	ORDER filed. 2 cert. to Atty. NOW, this 27th day of September, 2004, Plaintiff Motion Granted, Plaintiff shall have until Nov. 7, 2004 to produce an expert report.	John K. Reilly Jr.
9/30/2004	Reply To Plaintiffs' Motion for Extension of Time to File an Expert Report, filed by s/Mary Lou Maierhofer, Esquire. Certificate of Service, 29th of Sept. 2004 by first class U.S. Mail, to Rolf Louis Patberg, Esquire, and John McIntyre, Esquire. No CC	John K. Reilly Jr.
11/1/2004	Motion to Voluntarily Discontinue All Claims Against Defendant James P. DeSantis and Amend Caption, filed by s/Rolf Louis Patberg, Esq. No CC	John K. Reilly Jr.
11/2/2004	Order, AND NOW, to-wit, this 2nd day of Nov. 2004, it is hereby ORDERED that Plaintiff's Motion to Voluntarily Dismiss All Claims Against Dr. James P. Desantis is GRANTED. The caption is hereby amended to state as follows: CLEARFIELD HOSPITAL AND GEORGE F. PALMER, Defendants. BY THE COURT:/s/ Fredric J. Ammerman, President Judge. 1CC Atty Patberg	Fredric Joseph Ammerman
11/4/2004	Reply to the Motion to Voluntarily Discontinue All Claims Against Defendant, James P. DeSantis and Amend Caption, filed by s/Mary Lou Maierhofer, Esq. No CC	Fredric Joseph Ammerman
12/22/2004	Motion to Amend the Court's Order of Nov. 2, 2004 in Dismissing Def. James P. Desantis filed by Atty. Maierhofer. No CC.	Fredric Joseph Ammerman
12/23/2004	Amended Order of Court, filed 1 Cert. to Atty. NOW, this 23rd day of Dec., 2004 RE: Plaintiff's Moiton to Voluntarily Discontinue, James P. DeSantis is dismissed with prejudice.	Fredric Joseph Ammerman

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Civil Other

Date		Judge
1/21/2005	Notice of Deposition, on behalf of Defendants Clfd. Hospital and George F. Palmer, Deposition of Kristin McBride will be taken at offices of Sargent's Court Reporting Service, 106 N. Second St. 1st Floor, Clfd. PA on Feb. 3, 2005 at 11:00 a.m. filed by s/ John L. McIntyre, Esquire. No CC	Fredric Joseph Ammerman
1/25/2005	Notice of Depositions, of Plantiff Justine Kline, Shirley Morrison (Grandmother), and Ronald Kline (Grandfather) at Sargent's Court Reporting Service on Feb. 3, 2005 commencing at 12:30 p.m. Filed by s/ John L. McIntyre, Esquire. No CC	Fredric Joseph Ammerman
2/4/2005	Notice of Service of Notice of Deposition of Kathleen Plansinis, filed by s/Rolf Louis Patberg, Esq. No CC	Fredric Joseph Ammerman
	Notice of Service of Notice of Deposition of Keith Paras, filed by s/Rolf Louis Patberg, Esq. No CC	Fredric Joseph Ammerman
2/7/2005	Notice of Service of Expert Interrogatories Directed to Defendant George F. Palmer and Clearfield Hospital, filed by s/Rolf Louis Patberg, Esq. No CC	Fredric Joseph Ammerman
	Notice of Service Of Second Request For Production of Documents, directed to Plaintiff Dated: 2/4/05, filed by s/ John L. Mcintyre, Esquire. No CC	Fredric Joseph Ammerman
3/9/2005	Supplemental Report of John A. Tilelli, filed by Atty. Patberg no cert. copies.	Fredric Joseph Ammerman
8/2/2005	Notice of Deposition of Shirley Morrison, filed by s/ John I. McIntyre, Esquire. No CC	Fredric Joseph Ammerman
	Notice of Deposition of Ronald Kline, filed by John L. McIntyre Esq. No CC.	Fredric Joseph Ammerman
8/24/2005	Sheriff Return, August 19, 2005, served the within Subpoena to Attend & Testify; Notice of Deposition on Shirley Morrison August 11, 2005, served the within Subpoena to Attend & Testify; Notice of Seposition on Ronald Kline. So Answers, Chester A. Hawkins, Sheriff by s/Marilyn Hamm. Shff Hawkins costs pd by atty. $69.49	Fredric Joseph Ammerman
3/23/2006	Praecipe for Trial, filed by Atty. Patberg. no cert. copies.	Fredric Joseph Ammerman
8/10/2006	Answer and New Matter to Plaintiff's Complaint, filed by s/ John L. McIntyre Esq. 2CC Atty McIntyre.	Fredric Joseph Ammerman
8/11/2006	Order, Now, this 10th day of August, 2006, following Pre-Trial Conference, it is the Order of this Court as follows: Ordered that the caption be amended to reflect that the only remaining Defendants are Clearfield Hospital and George F. Palmer, D.O. Jury Selection will be held on August 29, 2006 commencing at 9:00 a.m. in Courtroom No. 1. Jury Trial is scheduled for Dec. 4, 5, 6, 7, 8, 11, 12, and 13, 2006 commencing at 9:00 a.m. each day in Courtroom No. 1. (see original). oral argument and hearing on any outstanding motions or petitions shall be held on Nov. 20, 2006 at 9:30 a.m. in Courtroom No. 3. By the Court, /s/ Fredric J. Ammerman, Pres. Judge. 1CC Attys: Patberg, McIntyre	Fredric Joseph Ammerman
	Order, NOW, this 10th day of August, 2006, it is the Order of the Court that argument on Def.'s Preliminary Objection has been scheduled for Monday, Oct. 2, 2006 at 9:30 a.m. in Courtroom No. 1. 1/2 hour has been allotted for purpose of this hearing. It is the responsibility of Defs. Counsel to serve certified copies of said Petition and scheduling Order on the Plaintiff. By The Court, /s/ Fredric J. Ammerman, Pres. Judge. 4CC Atty. McIntyre	Fredric Joseph Ammerman

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Civil Other

Date		Judge
8/25/2006	Reply to New Matter, filed by s/ Rolf Louis Patberg Esq. No CC.	Fredric Joseph Ammerman
9/21/2006	Motion For Partial Summary Judgment And/Or in Support of Preliminary Objections, filed by s/ John L. McIntyre, Esquire. No CC	Fredric Joseph Ammerman
9/25/2006	Motion For Costs And Counsel Fees Pursuant to PA.R.C.P. 4008, filed by s/ John L. McIntyre, Esquire. 1CC Atty.	Fredric Joseph Ammerman
10/2/2006	Notice of Service of Notice of Videotaped Deposition of Michael Moritz, MD, filed by s/ Rolf Louis Patberg Esq. No CC.	Fredric Joseph Ammerman
	Notice of Service of Notice of Videotaped Deposition of Steven Docimo, MD, filed by s/ Rolf Louis Patberg Esq. No CC.	Fredric Joseph Ammerman
10/3/2006	Stipulation, and Now, come the parties by and through their attorneys and agree to and stipulate to the following: 1. Plaintiff filed a Complaint and in the Complaint sets forth a claim for punitive damages. 2. Plaintiff has agreed to withdraw the claim for punitive damages. 3. It is requested that this Court sign an Order dismissing the claim for punitive damages as a result of the above agreement. Signed by Rolf L. Patberg, Esquire, and John L. McIntyre, Esquire. Filed per Judge Ammerman's instructions. No CC	Fredric Joseph Ammerman
	Order, NOW, this 2nd day of October, 2006, pursuant to the attached Stipulation, it is Ordered that the plaintiff's claim for punitive damages is withdrawn and dismissed with prejudice. By The Court, /s/ Fredric J. Ammerman, Pres. Judge. 1CC Attys. Patberg, McIntyre	Fredric Joseph Ammerman
10/10/2006	Notice of Address Change, filed by Atty. Patberg, 1 Cert. to Atty. copy to C/A Change of Plaintiff's counsel, Folf Louis Patberg, Esquire has changed to:Deutschtown Center, 801 Vinial Street, 3rd Floor, Pittsiburgh, 15212	Fredric Joseph Ammerman
10/24/2006	Order, NOW, this 23rd day of Oct., 2006, Ordered that Defendants' Motion for Partial Summary Judgment and Defendants' Preliminary Objections as to Plaintiffs' Claim for Negligent Infliction of Emotional Distress be and are hereby Dismissed. By the Court, /s/ Fredric J. Ammerman, Pres. Judge. 1CC Attys: Patberg, McIntyre	Fredric Joseph Ammerman
10/30/2006	Notice of Service of Notice of Videotaped Deposition of C. Raymond Schaney, P.T., filed by s/ Rolf Louis Patberg Esq. No CC.	Fredric Joseph Ammerman
11/3/2006	Plaintiffs' First Motions in Limine, filed by Atty. Patberg no cert. copies.	Fredric Joseph Ammerman
11/6/2006	Notice of Service of Notice of Videotaped Deposition of K.P. Yakuboff, M.D., filed by s/ Rolf Louis Patberg Esq. No CC.	Fredric Joseph Ammerman
11/7/2006	Notice of Service of Notice of Videotaped Deposition of Daniel Friedberg, M.D., filed by s/ Rolf Louis Patberg Esq. No CC.	Fredric Joseph Ammerman
	Order, filed Cert. to Atty's Patberg, McIntyre and Maierhofer NOW, this 6th day of November, 2006, Argument on Ithe Plaintiffs' First Motions in Limine be scheduled for the 20th day of November, 2006 at 9:30 AM.	Fredric Joseph Ammerman
11/13/2006	Notice to Attend Directed to Records Custodian-Clearfield Hopsital, filed by s/ Rolf Louis Patberg Esq. NO CC.	Fredric Joseph Ammerman
	Notice to Attend Directed to Gwendolyn R. Thomas, filed by s/ Rolf Louis Patberg Esq. No CC.	Fredric Joseph Ammerman
	Notice to Attend Directed to James P. DeSantis, D.O., filed by s/ Rolf Louis Patberg Esq. No CC.	Fredric Joseph Ammerman

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Civil Other

Date		Judge
11/13/2006	Notice to Attend Directed to Patricia Neeper, filed by s/ Rolf Louis Patberg Esq. NO CC.	Fredric Joseph Ammerman
	Notice to Attend Directed to Kelly Espenshade, filed by s/ Rolf Louis Patberg Esq. NO CC.	Fredric Joseph Ammerman
	Notice to Attend Directed to Stacey Gerg, filed by s/ Rolf Louis Patberg Esq. No CC.	Fredric Joseph Ammerman
	Notice to Attend Directed to Donna Unch, filed by s/ Rolf Louis Patberg Esq. No CC.	Fredric Joseph Ammerman
	Notice of Service of Amended Notice of Videotaped Deposition of C. Raymond Schaney, P.T., filed by s/ Rolf Louis Patberg Esq. No CC.	Fredric Joseph Ammerman
11/14/2006	Response To Plaintiffs' First Motions In Limine and Defendants' Motion in Limine, filed by s/ John L. McIntyre, Esquire. No CC	Fredric Joseph Ammerman
	Second Supplemental Report of John A. Tilelli Dated 11/13/06. Filed by s/ Rolf Louis Patberg, Esquire. No CC	Fredric Joseph Ammerman
11/15/2006	Reply to Defendants' Motions in Limine, filed by Atty. Patberg, no cert. copies.	Fredric Joseph Ammerman
	Plaintiff's Second Motion in Limine, filed by Atty. Patberg no cert. copies.	Fredric Joseph Ammerman
11/16/2006	Defendants' Motion to Strike Late Expert Report, filed by Atty. McIntyre no cert. copies.	Fredric Joseph Ammerman
11/17/2006	Plaintiff's Reply to Defendants' Motion to Strike Late Expert Report, filed by s/ Rolf Louis Patberg Esq. No CC.	Fredric Joseph Ammerman
11/21/2006	Order, NOW, this 20th day of Nov., 2006, upon consideration of Defendants' Motion to Strike Late Expert's Report, it is the Order of this Court that said motion shall be granted to the extent that (see original). By The Court, /s/ John K. Reilly, Jr., Senior Judge. 1CC Attys: Patberg, McIntyre	John K. Reilly Jr.
	Order, NOW, this 20th day of Nov., 2006, consideration Defendants' Second Motion in Limine to Preclude Testimony Concerning Examination and Treatment of the Plaintiff Justine Kline on Nov. 22, 2002, it is ordered that said motion shall be granted to the extent that Plaintiff shall be precluded from entering such testimony during its case in chief. Plaintiff may, however, introduce such testimony in rebuttal if it then becomes relevant. By The Court, /s/ John K. Reilly, Jr., Senior Judge. 1CC Attys: Patberg, McIntyre	John K. Reilly Jr.
	Order, NOW, this 20th day of Nov., 2006, upon consideration of Plaintiffs' First Motion in Limine, with regard to the faxed transmissions from Clfd. Hospital to UPMC Children's Hospital, it is Ordered that said motion shall be granted to the extent that Plaintiffs shall be restricted in any examinations thereof to the existence of the handwritten notice concering the Feb. 23, 2002 examination. By The Court, /s/ John K. Reilly, Jr., Senior Judge. 1CC Attys: Patberg, McIntyre	John K. Reilly Jr.
	Order, NOW, this 20th day of Nov., 2006, upon consideration of Plaintiffs' Second Motion in Limine, Ordered that Defendants shall be precluded from offering any evidence or arguing any purported negligence by Sandra Conklin, Plaintiff. By The Court, /s/ John K. Reilly, Jr., Senior Judge. 1CC Attys: Patberg, McIntyre	John K. Reilly Jr.

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Civil Other

Date		Judge
11/21/2006	Order, NOW, this 20th day of Nov., 2006, upon consideration of Plaintiffs' Motion in Limine, Issue 3, it is the Order of this Court that Def. Dr. Palmer shall be precluded from testifying as to a possibility that the information he entered concerning his treatment of Feb. 23, 2002, may have been entered into the wrong patient's chart. By The Court, /s/ John K. Reilly, Jr., Senior Judge. 1CC Attys: Patberg, McIntyre	John K. Reilly Jr.
	Order, NOW, this 20th day of Nov., 2006, upon consideration of Plaintiffs' First Motion in Limine, second issue, it is the Order of this Court that Plaintiffs' Expert, Dr. King, may testify as to his general experience in treating situations of this nature in the past, but shall be precluded from identifying specific patients and the treatments provided therefor unless their redacted files are supplied to Plaintiff prior to trial. By The Court, /s/ John K. Reilly, Jr., Senior Judge. 1CC Attys: Patberg, McIntyre	John K. Reilly Jr.
	Order, NOW, this 20th day of Nov., 2006, upon consideration of Plaintiffs' First Motion in limine, Item 1, it is the Order of this Court that said motion shall be granted to the extent that Defense expert withness, Christopher King, M.D., shall be precluded from quoting verbatim from the opinion of one Alejandro Hoberman, nor shall said opinion or argument by Hoberman, be admitted into evidence. By The Court, /s/ John K. Reilly, Jr., Senior Judge. 1CC Attys: Patberg, McIntyre	John K. Reilly Jr.
12/1/2006	Notice to Attend Dircted to Wilhelmina P. Crus-Vetrano, filed by s/ Rolf Louis Patberg, Esquire. No CC	Fredric Joseph Ammerman
12/4/2006	Application and Notice Pursuant to Rule 4020(a)(3)(e), filed by s/Rolf Louis Patberg, Esq. No CC	Fredric Joseph Ammerman
12/11/2006	Motion to Limit Testimony of John Dossett, filed by s/Rolf Louis Patberg, Esq. No CC	Fredric Joseph Ammerman
	Order, filed. Cert. to atty. Patberg & McIntyre NOW, this 8th day of December, 2006, RE: Motion to Limit Testimony of John Dossett, Motion denied.	John K. Reilly Jr.
12/12/2006	Verdict and Members of the Jury, filed NOW, this 12th day of December, 2006, Verdict in favor of Defendant. s/David P. Small, Foreperson.	Fredric Joseph Ammerman
12/21/2006	Motion For Briefing Schedule, filed by s/ Rolf Louis Patberg, Esquire. No CC	Fredric Joseph Ammerman
	Plaintiff's Post-Trial Motions, filed by s/ Rolf Louis Patberg, Esquire. No CC	Fredric Joseph Ammerman
12/26/2006	Order NOW, this 22nd day of December 2006, upon consideration of Post Trial Motion filed on behalf of Plaintiffs above-named and Motion for Briefing Schedule, it is the ORDER of this Court that Plaintiffs shall file their brief within no more than twenty (20) days from receipt of transcript of testimony. Defendants shall file their reply brief within twenty (20) days from receipt of Plaintiffs' Argument to be scheduled thereon at the request of wither party. BY THE COURT: /s/ John K. Reilly Jr. SJSP. 2CC Atty R. Patberg and J. McIntyre.	John K. Reilly Jr.
12/29/2006	Answer to Plaintiff's Post-Trial Motions, filed by Atty. McIntyre no cert. copies.	Fredric Joseph Ammerman
5/29/2007	Motion For Extension of Time of Briefing Schedule, filed by s/ Rolf Louis Patberg, Esquire. No CC	Fredric Joseph Ammerman

Civil Other

Date		Judge
5/30/2007	Order, NOW, this 29th day of May, 2007, it is Ordered that the Plaintiff's Motion for Extension of Time is Granted. Plaintiff shall have an additional 20 days from the date of this Order in which time to file their Brief. The Defendants shall have 20 days from the date of filing of the Plaintiff's Brief to file their reply. By The Court, /s/ John K. Reilly, Jr., Judge. 3CC Atty. Patberg	John K. Reilly Jr.
6/6/2007	Transcript of Proceedings, filed. In Camera Testimony of Bridgett H. Sidorick, Held Before The Honorable John K. Reilly, Senior Judge on Monday, December 4, 2006.	Fredric Joseph Ammerman
	Transcript of Proceedings, filed. Civil Jury Trial, Day I of VII, Held Before The Honorable John K. Reilly, Senior Judge on Monday, December 4, 2006.	Fredric Joseph Ammerman
	Transcript of Proceedings, filed. Civil Jury Trial, Day II of VII, Held Before The Honorable John K. Reilly, Senior Judge, on Tuesday, December 5, 2006.	Fredric Joseph Ammerman
	Transcript of Proceedings, filed.Civil Jury Trial Day III of VII, Held Before The Honorable John K. Reilly, Senior Judge on Wednesday, December 6, 2006.	Fredric Joseph Ammerman
	Transcript of Proceedings, filed. Civil Jury Trial Day IV of VII, Held Before The Honorable John K. Reilly, Senior Judge on Thursday, December 7, 2006.	Fredric Joseph Ammerman
	Transcript of Proceedings, filed. Civil jury Trial Day V of VII, Held Before The Honorable John K. Reilly, Senior Judge, on Friday, December 8, 2006	Fredric Joseph Ammerman
	Transcript of Proceedings, filed. Civil Jury Trial, Day VI of VII, Held Before The Honorable John K. Reilly, Senior Judge on Monday, December 11, 2006.	Fredric Joseph Ammerman
	Transcript of Proceedings, filed. Civil Jury Trial Day VII of VII, Held Before The Honorable John K. Reilly, Senior Judge, on Tuesday, December 12, 2006.	Fredric Joseph Ammerman
6/14/2007	Order, NOW, this 8th day of June, 2007, the Court noting that counsel for the Defendants has no objections to the Plaintiff's Motion to Extend Time to File a Responsive Brief and that in addition, Plaintiff's counsel has agreed that the Defendants will have 35 days after receipt of the Plaintiff's Brief, in which to file a brief on behalf of Dr. Palmer and Clearfield Hospital. By The Court, /s/ Fredric J. Ammerman, Pres. Judge. 2CC Attys: Patberg, McIntyre	Fredric Joseph Ammerman
11/16/2007	Filing: Praecipe for Entry of Judgment upon Jury Verdict of December 12, 2006. Paid by: McIntyre, Hartye & Schmitt Receipt number: 1921483 Dated: 11/16/2007 Amount: $20.00 (Check) Judgment entered upon Verdict of the Jury of December 12, 2006 in favor of the the Defendants, Clearfield Hospital and George F. Palmer, D.O. no cert. copies.	Fredric Joseph Ammerman
1/15/2008	Order, this 15th day of Jan., 2008, , argument on Post-Trial Motions is scheduled for the 20th day of Feb., 2008 at 10:30 A.M in Hearing Room 3. By The Court, /s/ Fredric J. Ammerman, pres. Judge. 2CC Attys; Patberg, McIntyre	Fredric Joseph Ammerman

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Civil Other

Date		Judge
3/27/2008	Opinion And Order, Order: Now, this 26th day of March, 2008, following argument and review of the parties' briefs, it is the Order of this Court that the Plaintiff's Post-Trial Motions are hereby Denied for the reasons set forth in the foregoing Opinion. By The Court, /s/ John K. Reilly, Jr., Senior Judge, Specially Presiding. 2CC Attys: Patberg, McIntyre; 1CC to: D. Mikesell, Law Library (without memo)	Fredric Joseph Ammerman
4/16/2008	Filing: Appeal to High Court Paid by: Patberg, Rolf Louis (attorney for Conklin, Sandra) Receipt number: 1923634 Dated: 4/16/2008 Amount: $50.00 (Check) Filed by s/Rolf Louis Patberg, Esquire. 1CC & Check for $60.00 to Superior Court	Fredric Joseph Ammerman
4/21/2008	Order, this 18th day of April, 2008, it is Ordered that Appellant shall, within 14 days from date hereof, file a concise statement of matters complained of on appeal. By The Court, /s/John K. Reilly, Jr., Senior Judge. 2CC Attys; Patberg, McIntyre	John K. Reilly Jr.
5/1/2008	Appeal Docket Sheet, filed. No CC 700 WDA 2008	Fredric Joseph Ammerman
5/5/2008	Concise Statement of Matters Complained of on Appeal, filed by s/ Rolf Louis Patberg, Esquire. No CC	Fredric Joseph Ammerman
5/23/2008	May 23, 2008, Mailed Appeal to Superior Court. May 23, 2008, Letters, Re: Notification of mailing appeal mailed to Rolf Louis Patberg, Esq. and John L. McIntyre, Esq. with certified copies of docket sheet and Document listing required by Pa.R.A.P. 1931(c).	Fredric Joseph Ammerman

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

MAY 23 2008

Attest. William L. Ober
Prothonotary/
Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

No. 03-68-CD
Sandra Conklin and Justine Kline
Vs.
Clearfield Hospital and George F. Palmer

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40	01/23/04	Amended Order, Re: Status conference scheduled	01
41	02/06/04	Revised Notice of Deposition of Plaintiff (Original not in file)	---
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IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

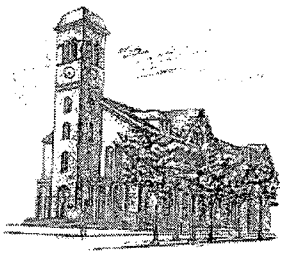
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101	11/21/06	Order, Re: Plaintiffs' Motion in Limine, Issue 3	01
102	11/21/06	Order, Re: Plaintiffs' First Motion in Limine, Second Issue	01
103	11/21/06	Order, Re: Plaintiffs' First Motion in Limine, Item 1	01
104	12/01/06	Notice to Attend Directed to Wilhelmina P. Crus-Vetrano	03
105	12/04/06	Application and Notice Pursuant to Rule 4020(a)(3)(e)	06
106	12/11/06	Motion to Limit Testimony of John Dossett	08
107	12/11/06	Order, Re: Motion to Limit Testimony of John Dossett Denied	01
108	12/12/06	Verdict and Members of the Jury, Verdict in favor of Defendant	02
109	12/21/06	Motion for Briefing Schedule	05
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114	05/30/07	Order, Re: Motion for Extension of Time is Granted	01
115	06/06/07	Transcript of Proceedings, In Camera Testimony of Bridgett H. Sidorick, held before the Honorable John K. Reilly, Senior Judge, on December 4, 2006	Separate Cover

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117	06/06/07	Transcript of Proceedings, Civil Jury Trial, Day II of VII, held before the Honorable John K. Reilly, Senior Judge, on December 5, 2006	Separate Cover
118	06/06/07	Transcript of Proceedings, Civil Jury Trial, Day III of VII, held before the Honorable John K. Reilly, Senior Judge, on December 6, 2006	Separate Cover
119	06/06/07	Transcript of Proceedings, Civil Jury Trial, Day IV of VII, held before the Honorable John K. Reilly, Senior Judge, on December 7, 2006	Separate Cover
120	06/06/07	Transcript of Proceedings, Civil Jury Trial, Day V of VII, held before the Honorable John K. Reilly, Senior Judge, on December 8, 2006	Separate Cover
121	06/06/07	Transcript of Proceedings, Civil Jury Trial, Day VI of VII, held before the Honorable John K. Reilly, Senior Judge, on December 11, 2006	Separate Cover
122	06/06/07	Transcript of Proceedings, Civil Jury Trial, Day VII of VII, held before the Honorable John K. Reilly, Senior Judge, on December 12, 2006	Separate Cover
123	06/14/07	Order, Re: Plaintiffs' Motion to Extend Time to file a Responsive Brief	01
124	11/16/07	Praecipe for Entry of Judgment upon Jury Verdict of December 12, 2006	02
125	01/15/08	Order, Re: argument on Post-Trial Motions scheduled	01
126	03/27/08	Opinion and Order	14
127	04/16/08	Appeal to High Court	27
128	04/21/08	Order, Re: Concise statement to be filed	01
129	05/01/08	Appeal Docket Sheet, 700 WDA 2008	04
130	05/05/08	Concise Statement of Matters Complained of on Appeal	10
131	05/23/08	Letters, Re: Notification of mailing appeal mailed to Rolf Louis Patberg, Esq. and John L. McIntyre, Esq. with certified copies of docket sheet and Document listing required by Pa.R.A.P. 1931(c)	15



COPY

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William A. Shaw Prothonotary/Clerk of Courts | **Jacki Kendrick** Deputy Prothonotary/Clerk of Courts | **Bonnie Hudson** Administrative Assistant | **David S. Ammerman** Solicitor

PO Box 549, Clearfield, PA 16830 ▪ Phone: (814) 765-2641 Ext. 1330 ▪ Fax: (814) 765-7659 ▪ www.clearfieldco.org

John K. Reilly, Jr., Senior Judge, Sp. Presiding
Court of Common Pleas
230 E. Market Street
Clearfield, PA 16830

Rolf Louis Patberg, Esq.
801 Vinial Street--Third Floor
Deutschtown Center
Pittsburgh, PA 15212

John L. McIntyre, Esq.
PO Box 533
Hollidaysburg, PA 16648

Sandra Conklin and Justine Kline
Vs.
Clearfield Hospital and George F. Palmer

Court No. 03-68-CD; Superior Court No. 700 WDA 2008

Dear Counsel:

Please be advised that the above referenced record was forwarded to the Superior Court of Pennsylvania on May 23, 2008.

Sincerely,

William A. Shaw
Prothonotary/Clerk of Courts

FILED
0/9:11 BOX
MAY 23 2008

William A. Shaw
Prothonotary/Clerk of Courts

#131

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

No. 03-68-CD
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113	05/29/07	Motion for Extension of Time of Briefing Schedule	04
114	05/30/07	Order, Re: Motion for Extension of Time is Granted	01
115	06/06/07	Transcript of Proceedings, In Camera Testimony of Bridgett H. Sidorick, held before the Honorable John K. Reilly, Senior Judge, on December 4, 2006	Separate Cover

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

No. 03-68-CD
Sandra Conklin and Justine Kline
Vs.
Clearfield Hospital and George F. Palmer

ITEM NO.	*DATE OF FILING*	*NAME OF DOCUMENT*	*NO. OF PAGES*
116	06/06/07	Transcript of Proceedings, Civil Jury Trial, Day I of VII, held before the Honorable John K. Reilly, Senior Judge, on December 4, 2006	Separate Cover
117	06/06/07	Transcript of Proceedings, Civil Jury Trial, Day II of VII, held before the Honorable John K. Reilly, Senior Judge, on December 5, 2006	Separate Cover
118	06/06/07	Transcript of Proceedings, Civil Jury Trial, Day III of VII, held before the Honorable John K. Reilly, Senior Judge, on December 6, 2006	Separate Cover
119	06/06/07	Transcript of Proceedings, Civil Jury Trial, Day IV of VII, held before the Honorable John K. Reilly, Senior Judge, on December 7, 2006	Separate Cover
120	06/06/07	Transcript of Proceedings, Civil Jury Trial, Day V of VII, held before the Honorable John K. Reilly, Senior Judge, on December 8, 2006	Separate Cover
121	06/06/07	Transcript of Proceedings, Civil Jury Trial, Day VI of VII, held before the Honorable John K. Reilly, Senior Judge, on December 11, 2006	Separate Cover
122	06/06/07	Transcript of Proceedings, Civil Jury Trial, Day VII of VII, held before the Honorable John K. Reilly, Senior Judge, on December 12, 2006	Separate Cover
123	06/14/07	Order, Re: Plaintiffs' Motion to Extend Time to file a Responsive Brief	01
124	11/16/07	Praecipe for Entry of Judgment upon Jury Verdict of December 12, 2006	02
125	01/15/08	Order, Re: argument on Post-Trial Motions scheduled	01
126	03/27/08	Opinion and Order	14
127	04/16/08	Appeal to High Court	27
128	04/21/08	Order, Re: Concise statement to be filed	01
129	05/01/08	Appeal Docket Sheet, 700 WDA 2008	04
130	05/05/08	Concise Statement of Matters Complained of on Appeal	10

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Civil Other

Date		Judge
1/16/2003	Filing: Writ of Summons Paid by: Patberg, Rolf Louis Receipt number: 1854076 Dated: 01/16/2003 Amount: $85.00 (Check) 1 CC & 4 Writs to Shff.	No Judge
1/23/2003	Praecipe For Entry of Appearance, filed by Atty. McIntrye No Cert. Copies Please enter my appearance for Defendants, Clearfield Hospital and George F. Palmer	No Judge
	Praecipe to Enter Rule to File Complaint within 20 days after date of service issued. Rule Dated: January 23, 2003, filed by Atty. McIntyre Rule issued to Atty.	No Judge
1/29/2003	Praecipe For Entry of Appearance on Behalf of Defendant, JAMES P. DeSANTIS. s/Mary Lou Maierhofer, Esquire Certificate of Service no cc	No Judge
2/5/2003	Praecipe For Appearance on behalf of Defendant, ERNEST P. JONES. filed by s/John L. McIntyre, Esquire no cc	No Judge
2/6/2003	Certificate of Service, Rule to File Complalint upon ROLF LOUIS PATBERG, ESQ. filed by s/John L. McIntyre, Esquire no cc	No Judge
2/11/2003	Sheriff Return, Papers served on Defendant(s). So Answers, Chester A. Hawkins, Sheriff by s/Marilyn Hamm	No Judge
3/3/2003	Complaint In Civil Action. filed by s/Rolf Louis Patberg, Esq. Certificate of Service no cc	No Judge
3/10/2003	Verification to Complaint, s/ Sandra Conklin, filed by s/Rolf Louis Patberg, Esq. No CC	No Judge
3/11/2003	Preliminary Objections to Plaintiffs' Complaint, filed by s/Mary Lou Maierhofer, Esq. No CC	No Judge
3/14/2003	Preliminary Objections to Plaintiff's Complaint. filed by s/John L. McIntyre, Esq. no cc	No Judge
3/18/2003	Joint Motion For Protective Order. filed by, s/Mary Lou Maierhofer, Esq. Certificate of Service no cc	No Judge
3/21/2003	Certificate of Service, Objections to Plaintiffs' First Set of Interrogatories and Request for Production of Documents Directed to Defendant, James P. DeSantis upon: ROLF LOUIS PATBERG, ESQ. s/JOHN McINTYRE, ESQ. filed by s/Mary Lou Maierhofer, Esq. no cc	John K. Reilly Jr.
4/7/2003	Plaintiffs Reply to Defendants Joint Motion For Protective Order. filed by s/Sean P. Duff, Esquire Certificate of Service 1 cc to Atty.	John K. Reilly Jr.
4/29/2003	Plaintiffs Reply To Preliminary Objections Of Defendants Palmer, Jones and Clearfield Hospital. Filed by s/Rolf Louis Patberg, Esquire Certificate of Service no cc	John K. Reilly Jr.
	Plaintiffs Reply To Defendant, James P. Desantis', Preliminary Objections. filed by s/Rolf Louis Patberg, Esquire Certificate of Service no cc	John K. Reilly Jr.
5/19/2003	ORDER, NOW, this 16th day of May, 2003, re: Joint Motion For Protective Order filed on behalf of Defendants, Motion is DISMISSED w/o prejudice in Defendants to raise the same should they become relevant at a later date. It is the further ORDER of this Court that said Defendants shall respond to Plaintiff's discovery request within 30 days from date hereof. by the Court, s/JKR,JR.,P.J. 2 cc Atty Patberg, McIntyre	John K. Reilly Jr.

Clearfield County Court of Common Pleas
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Civil Other

Date		Judge
5/19/2003	ORDER, NOW, this 16th day of May, 2003, re: P.O.'s filed on behalf of Defendant, Objections shall be and are hereby CONTINUED and Plaintiff directed to file with the Court, with copies to counsel for Defendants, the factual basis surrounding the various counts in her Complaint within 20 days from completion of discovery. by the Court, s/JKR,JR.,P.J. 2 cc Atty Patberg, McIntyre	John K. Reilly Jr.
5/21/2003	Certificate Of Service, Request for Production of Documents Directed to Plaintiff, Sandra Conklin, as Parent and Natural Guardian of Justine Kline and Sandra Conklin upon: ROLF LOUIS PATBERG, ESQ. and JOHN McINTYRE, ESQ. filed by s/Mary Lou Maierhofer, Esquire no cc	John K. Reilly Jr.
	Certificate of Service, First Set of Interrogatories Directed to Sandra Conklin, as parent and natural guardian of Justice Kline and Sandra Conkin, ind. upon: ROLF LOUIS PATBERG, ESQ. and JOHN McINTYRE, ESQ. filed by s/MARY LOU MAIERHOFER, ESQ. no cc	John K. Reilly Jr.
6/5/2003	Notice Of Service Of Interrogatories And Request For Production Of Documents Directed To Plaintiffs - Dated: 6/24/03, upon: ROLF LOUIS PATBERG, ESQ. filed by s/John L. McIntyre, Esquire no cc	John K. Reilly Jr.
6/10/2003	Certificate of Service, Answers/Responses to First Set of Interrogatories and Request for Production of Documents Directed to Defendant, James P. DeSantis upon: ROLF LOUIS PATBERG, ESQ and JOHN McINTYRE, ESQ. filed by s/Mary Lou Maierhofer, Esq. no cc	John K. Reilly Jr.
7/9/2003	Notice of Service of Answers to First Set of Interrogatories and Request For Production of Documents upon ROLF LOUIS PATBERG, ESQ. filed by s/John L. McIntyre, Esquire no cc	John K. Reilly Jr.
7/11/2003	Motion To Compel. filed by s/Mary Lou Maierhofer, Esquire Certificate of Service no cc	John K. Reilly Jr.
7/14/2003	ORDER OF COURT, NOW, this 14th day of July, 2003, upon consideration of the Motion To Compel of Defendant, James P. DeSantis, and after Hearing upon the same, the Court does hereby Order, Direct and Decree that Plaintiffs produce their outstanding discovery within 10 days from the date of this Order. by the Court, s/JKR,JR.,P.J. 2 cc Atty Maierhofer	John K. Reilly Jr.
7/16/2003	STIPULATION, AND NOW, this 11th day of July, 2003, re: Removal of Ernest P. Jones, M.D. as a party Defendant. s/Mary Lou Maierhofter, Esq., s/John L. McIntyre, Esq., and s/Rolf Louis Patberg, Esq. 1 cc Atty McIntyre	John K. Reilly Jr.
7/17/2003	Order of Court: AND NOW, this 16th day of 2003, pursuant to Stipulation of counsel, it is Ordered that Ernest P. Jones M. D. is dismissed from the above lawsuit pursuant to the Affidavit of Non-Involvement signed in accordance with 40 Pa. C. S. 1301.827-A. Prothonotary is directed to remove the name of Ernest P. Jones M.D. from the within lawsuit. s/JKR 1 CC to Atty. McIntyre	John K. Reilly Jr.
	Certificat of Service, filed by Atty. Maierhofer No. c/c Served copy of Order via fax & 1st class mail to Atty. Patberg & Atty. McIntyre.	John K. Reilly Jr.
7/30/2003	Notice Of Service Of Plaintiffs' Second Set Of Interrogatories And Request For Production Of Documents Directed To All Defendants. filed by s/Rolf Louis Patberg, Esquire no cc	John K. Reilly Jr.
8/20/2003	Motion to Compel Discovey, filed by s/Rolf Louis Patberg, Esq. No CC	John K. Reilly Jr.

Civil Other

Date		Judge
8/22/2003	ORDER OF COURT, AND NOW, to-wit, this 22nd day of August, 2003, upon consideration of Plaintiffs' Motion To Compel Discovery, it is hereby ORDERED, ADJUDGED, and DECREED that Defendant Clearfield Hospital shall serve full and complete Answers to Interrogatories Numbers 5,7,10,11,12,15,25,26,30,31,32,33,34,35,38,39, 40, 43, 44, and 47, This information sahll be provided within 20 days of the date of this Order. by the Court, s/JKR,JR.,P.J. 1 cc Atty Patberg.	John K. Reilly Jr.
9/3/2003	Certificate of Service, Answers/Responses to Plaintiffs' Second Set of Interrogatories and Requests for Production of Documents Directed to all Defendant upon: Rolf Louis Patberg, Esq. and John McIntyre, Esq. filed by s/Mary Lou Maierhofter, Esquire no cc	John K. Reilly Jr.
9/17/2003	Notice Of Intent To Serve Subpoenas to Produce Documents and Things For Discovery Pursuant to Rule 4009.21. upon Children's Hospital of Pittsburgh and STAT Med Evac. filed by s/Mary Lou Maierhofer, Esq. no cc	John K. Reilly Jr.
9/25/2003	Waiver Of Objection To Subpoena, filed by s/Rolf Louis Patberg, Esquire Certificate of Service no cc	John K. Reilly Jr.
9/29/2003	Certificate Prerequisite To Service of Subpoenas Pursuant to Rule 4009.22. Subpoenas to Produce Documents and Things upon: Children's Hospital of Pittsburgh and STAT Med Evac. filed by s/Mary Lou Maierhofer, Esq. no cc	John K. Reilly Jr.
10/8/2003	Notice of Service of Supplemental Answers to Interrogatories on behalf of Clearfield Hospital filed by Atty. McIntyre. No cc.	John K. Reilly Jr.
10/9/2003	Notice of Deposition of Plaintiff, Sandra Conklin. filed by s/Mary Lou Maierhofer, Esquire Cert of Svc no cc	John K. Reilly Jr.
11/4/2003	Revised Notice of Deposition of Plaintiff filed by Atty. Maierhofer. No cc.	John K. Reilly Jr.
11/6/2003	Notice of Service of Amended Notice of Deposition of Defendant George F. Palmer	John K. Reilly Jr.
12/5/2003	Certificate Prerequisite To Service Of a Subpoena Pursuant to Rule 4009.22. filed by, s/Mary Lou Maierhofer, Esq. no cc	John K. Reilly Jr.
	Notice Of Intent To Serve A Subpoena To Produce Documents And Things For Discovery Pursuant To Rule 4009.21. filed by, s/Mary Lou Maierhofer, Esquire no cc	John K. Reilly Jr.
1/21/2004	ORDER, AND NOW, this 21st day of January, 2004, re: Status Conference scheduled for Friday, Feb. 22, 2004, at 9:45 a.m., in Courtroom No. 1. by the Court, s/FJA,P.J. 1 cc Attys Patberg, McIntyre, and Maierhofer	John K. Reilly Jr.
1/23/2004	AMENDED ORDER, AND NOW, this 22nd day of January, 2004, re: Status Conference scheduled for Friday, Feb. 6, 2004, at 9:45 a.m., in Courtroom No. 1. by the Court, s/FJA,P.J. 1 cc Atty Patberg, McIntyre, and Maierhofer	John K. Reilly Jr.
2/6/2004	Revised Notice Of Deposition Of Plaintiff, Sandra Conklin. filed by, s/Mary Lou Maierhofer, Esquire no cc	John K. Reilly Jr.
	ORDER, NOW, this 5th day of Feb., 2004, re; Status Conference is CANCELLED. Counsel for the parties shall have no more than 20 days from the date of this Order to present the Court with a letter detailing the status of the above captioned action. by the Court, s/FJA,P.J. 2 cc Atty Patberg, McIntyre, Maierhofer, 1 copy President Judge Ammerman and CA	John K. Reilly Jr.

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ROA Report
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Civil Other

Date		Judge
2/19/2004	Notice of Deposition of Plaintiff, Justine Kline. filed by, s/John L. McIntyre, Esquire no cc	John K. Reilly Jr.
	Notice of Service Of Supplemenetal Interrogatories Directed To Plaintiff. filed by, s/John L. McIntyre, Esquire no cc	John K. Reilly Jr.
2/26/2004	Amended Notice of Deposition. filed by, s/John L. McIntyre, Esquire no cc	John K. Reilly Jr.
5/4/2004	Notice of Service of Request For Production Of Documents Directed To Plaintiffs Dated 06/03/04. filed by, s/John L. McIntyre, Esquire bi cc	John K. Reilly Jr.
7/29/2004	Notice of Service of Answers to First Set of Interrogatories and Requests for Production of Documents Directed to Defendant, George F. Palmer, M.D., upon Rolf Louis Patberg, Esq., filed by s/John L. McIntyre, Esq. No CC	John K. Reilly Jr.
9/1/2004	Motion to Compel Expert Report, filed by s/Mary Lou Maierhofer, Esq. No CC	John K. Reilly Jr.
9/9/2004	ORDER filed. NOW this 7th day of September, 2004, upon consideration of the Motion to Compel Expert Report of Def. James P. DeSantis, and after hearing upon the same, the Court does hereby Order, Direct and Decree Plaintiffs produce an expert report as against Def. DeSantis within 30 days from the Court's Order. S/FJA 1 CC to Atty.	John K. Reilly Jr.
9/13/2004	Certificate of Service,Order of Court dated September 7, 2004 on Motion to Compel Expert Report, was served the 10th day of September, 2004, first class United States Mail upon: Rolf Louis Patberg, Esquire. Filed by s/Mary Lou Maierhofer, Esquire. No CC.	John K. Reilly Jr.
9/27/2004	Motion for Extension of Time to File Expert Report, filed by s/Rolf Louis Patberg, Esq. No CC	John K. Reilly Jr.
9/28/2004	ORDER filed. 2 cert. to Atty. NOW, this 27th day of September, 2004, Plaintiff Motion Granted, Plaintiff shall have until Nov. 7, 2004 to produce an expert report.	John K. Reilly Jr.
9/30/2004	Reply To Plaintiffs' Motion for Extension of Time to File an Expert Report, filed by s/Mary Lou Maierhofer, Esquire. Certificate of Service, 29th of Sept. 2004 by first class U.S. Mail, to Rolf Louis Patberg, Esquire, and John McIntyre, Esquire. No CC	John K. Reilly Jr.
11/1/2004	Motion to Voluntarily Discontinue All Claims Against Defendant James P. DeSantis and Amend Caption, filed by s/Rolf Louis Patberg, Esq. No CC	John K. Reilly Jr.
11/2/2004	Order, AND NOW, to-wit, this 2nd day of Nov. 2004, it is hereby ORDERED that Plaintiff's Motion to Voluntarily Dismiss All Claims Against Dr. James P. Desantis is GRANTED. The caption is hereby amended to state as follows: CLEARFIELD HOSPITAL AND GEORGE F. PALMER, Defendants. BY THE COURT:/s/ Fredric J. Ammerman, President Judge. 1CC Atty Patberg	Fredric Joseph Ammerman
11/4/2004	Reply to the Motion to Voluntarily Discontinue All Claims Against Defendant, James P. DeSantis and Amend Caption, filed by s/Mary Lou Maierhofer, Esq. No CC	Fredric Joseph Ammerman
12/22/2004	Motion to Amend the Court's Order of Nov. 2, 2004 in Dismissing Def. James P. Desantis filed by Atty. Maierhofer. No CC.	Fredric Joseph Ammerman
12/23/2004	Amended Order of Court, filed 1 Cert. to Atty. NOW, this 23rd day of Dec., 2004 RE: Plaintiff's Moiton to Voluntarily Discontinue, James P. DeSantis is dismissed with prejudice.	Fredric Joseph Ammerman

Civil Other

Date		Judge
1/21/2005	Notice of Deposition, on behalf of Defendants Clfd. Hospital and George F. Palmer, Deposition of Kristin McBride will be taken at offices of Sargent's Court Reporting Service, 106 N. Second St. 1st Floor, Clfd. PA on Feb. 3, 2005 at 11:00 a.m. filed by s/ John L. McIntyre, Esquire. No CC	Fredric Joseph Ammerman
1/25/2005	Notice of Depositions, of Plantiff Justine Kline, Shirley Morrison (Grandmother), and Ronald Kline (Grandfather) at Sargent's Court Reporting Service on Feb. 3, 2005 commencing at 12:30 p.m. Filed by s/ John L. McIntyre, Esquire. No CC	Fredric Joseph Ammerman
2/4/2005	Notice of Service of Notice of Deposition of Kathleen Plansinis, filed by s/Rolf Louis Patberg, Esq. No CC	Fredric Joseph Ammerman
	Notice of Service of Notice of Deposition of Keith Paras, filed by s/Rolf Louis Patberg, Esq. No CC	Fredric Joseph Ammerman
2/7/2005	Notice of Service of Expert Interrogatories Directed to Defendant George F. Palmer and Clearfield Hospital, filed by s/Rolf Louis Patberg, Esq. No CC	Fredric Joseph Ammerman
	Notice of Service Of Second Request For Production of Documents, directed to Plaintiff Dated: 2/4/05, filed by s/ John L. Mcintyre, Esquire. No CC	Fredric Joseph Ammerman
3/9/2005	Supplemental Report of John A. Tilelli, filed by Atty. Patberg no cert. copies.	Fredric Joseph Ammerman
3/2/2005	Notice of Deposition of Shirley Morrison, filed by s/ John I. McIntyre, Esquire. No CC	Fredric Joseph Ammerman
	Notice of Deposition of Ronald Kline, filed by John L. McIntyre Esq. No CC.	Fredric Joseph Ammerman
3/24/2005	Sheriff Return, August 19, 2005, served the within Subpoena to Attend & Testify; Notice of Deposition on Shirley Morrison August 11, 2005, served the within Subpoena to Attend & Testify; Notice of Seposition on Ronald Kline. So Answers, Chester A. Hawkins, Sheriff by s/Marilyn Hamm. Shff Hawkins costs pd by atty. $69.49	Fredric Joseph Ammerman
3/23/2006	Praecipe for Trial, filed by Atty. Patberg. no cert. copies.	Fredric Joseph Ammerman
3/10/2006	Answer and New Matter to Plaintiff's Complaint, filed by s/ John L. McIntyre Esq. 2CC Atty McIntyre.	Fredric Joseph Ammerman
3/11/2006	Order, Now, this 10th day of August, 2006, following Pre-Trial Conference, it is the Order of this Court as follows: Ordered that the caption be amended to reflect that the only remaining Defendants are Clearfield Hospital and George F. Palmer, D.O. Jury Selection will be held on August 29, 2006 commencing at 9:00 a.m. in Courtroom No. 1. Jury Trial is scheduled for Dec. 4, 5, 6, 7, 8, 11, 12, and 13, 2006 commencing at 9:00 a.m. each day in Courtroom No. 1. (see original). oral argument and hearing on any outstanding motions or petitions shall be held on Nov. 20, 2006 at 9:30 a.m. in Courtroom No. 3. By the Court, /s/ Fredric J. Ammerman, Pres. Judge. 1CC Attys: Patberg, McIntyre	Fredric Joseph Ammerman
	Order, NOW, this 10th day of August, 2006, it is the Order of the Court that argument on Def.'s Preliminary Objection has been scheduled for Monday, Oct. 2, 2006 at 9:30 a.m. in Courtroom No. 1. 1/2 hour has been allotted for purpose of this hearing. It is the responsibility of Defs. Counsel to serve certified copies of said Petition and scheduling Order on the Plaintiff. By The Court, /s/ Fredric J. Ammerman, Pres. Judge. 4CC Atty. McIntyre	Fredric Joseph Ammerman

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Civil Other

Date		Judge
8/25/2006	Reply to New Matter, filed by s/ Rolf Louis Patberg Esq. No CC.	Fredric Joseph Ammerman
9/21/2006	Motion For Partial Summary Judgment And/Or in Support of Preliminary Objections, filed by s/ John L. McIntyre, Esquire. No CC	Fredric Joseph Ammerman
9/25/2006	Motion For Costs And Counsel Fees Pursuant to PA.R.C.P. 4008, filed by s/ John L. McIntyre, Esquire. 1CC Atty.	Fredric Joseph Ammerman
10/2/2006	Notice of Service of Notice of Videotaped Deposition of Michael Moritz, MD, filed by s/ Rolf Louis Patberg Esq. No CC.	Fredric Joseph Ammerman
	Notice of Service of Notice of Videotaped Deposition of Steven Docimo, MD, filed by s/ Rolf Louis Patberg Esq. No CC.	Fredric Joseph Ammerman
10/3/2006	Stipulation, and Now, come the parties by and through their attorneys and agree to and stipulate to the following: 1. Plaintiff filed a Complaint and in the Complaint sets forth a claim for punitive damages. 2. Plaintiff has agreed to withdraw the claim for punitive damages. 3. It is requested that this Court sign an Order dismissing the claim for punitive damages as a result of the above agreement. Signed by Rolf L. Patberg, Esquire, and John L. McIntyre, Esquire. Filed per Judge Ammerman's instructions. No CC	Fredric Joseph Ammerman
	Order, NOW, this 2nd day of October, 2006, pursuant to the attached Stipulation, it is Ordered that the plaintiff's claim for punitive damages is withdrawn and dismissed with prejudice. By The Court, /s/ Fredric J. Ammerman, Pres. Judge. 1CC Attys. Patberg, McIntyre	Fredric Joseph Ammerman
10/10/2006	Notice of Address Change, filed by Atty. Patberg, 1 Cert. to Atty. copy to C/A Change of Plaintiff's counsel, Folf Louis Patberg, Esquire has changed to:Deutschtown Center, 801 Vinial Street, 3rd Floor, Pittsiburgh, 15212	Fredric Joseph Ammerman
10/24/2006	Order, NOW, this 23rd day of Oct., 2006, Ordered that Defendants' Motion for Partial Summary Judgment and Defendants' Preliminary Objections as to Plaintiffs' Claim for Negligent Infliction of Emotional Distress be and are hereby Dismissed. By the Court, /s/ Fredric J. Ammerman, Pres. Judge. 1CC Attys: Patberg, McIntyre	Fredric Joseph Ammerman
10/30/2006	Notice of Service of Notice of Videotaped Deposition of C. Raymond Schaney, P.T., filed by s/ Rolf Louis Patberg Esq. No CC.	Fredric Joseph Ammerman
11/3/2006	Plaintiffs' First Motions in Limine, filed by Atty. Patberg no cert. copies.	Fredric Joseph Ammerman
11/6/2006	Notice of Service of Notice of Videotaped Deposition of K.P. Yakuboff, M.D., filed by s/ Rolf Louis Patberg Esq. No CC.	Fredric Joseph Ammerman
11/7/2006	Notice of Service of Notice of Videotaped Deposition of Daniel Friedberg, M.D., filed by s/ Rolf Louis Patberg Esq. No CC.	Fredric Joseph Ammerman
	Order, filed Cert. to Atty's Patberg, McIntyre and Maierhofer NOW, this 6th day of November, 2006, Argument on Ithe Plaintiffs' First Motions in Limine be scheduled for the 20th day of November, 2006 at 9:30 AM.	Fredric Joseph Ammerman
11/13/2006	Notice to Attend Directed to Records Custodian-Clearfield Hopsital, filed by s/ Rolf Louis Patberg Esq. NO CC.	Fredric Joseph Ammerman
	Notice to Attend Directed to Gwendolyn R. Thomas, filed by s/ Rolf Louis Patberg Esq. No CC.	Fredric Joseph Ammerman
	Notice to Attend Directed to James P. DeSantis, D.O., filed by s/ Rolf Louis Patberg Esq. No CC.	Fredric Joseph Ammerman

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Civil Other

Date		Judge
11/13/2006	Notice to Attend Directed to Patricia Neeper, filed by s/ Rolf Louis Patberg Esq. NO CC.	Fredric Joseph Ammerman
	Notice to Attend Directed to Kelly Espenshade, filed by s/ Rolf Louis Patberg Esq. NO CC.	Fredric Joseph Ammerman
	Notice to Attend Directed to Stacey Gerg, filed by s/ Rolf Louis Patberg Esq. No CC.	Fredric Joseph Ammerman
	Notice to Attend Directed to Donna Unch, filed by s/ Rolf Louis Patberg Esq. No CC.	Fredric Joseph Ammerman
	Notice of Service of Amended Notice of Videotaped Deposition of C. Raymond Schaney, P.T., filed by s/ Rolf Louis Patberg Esq. No CC.	Fredric Joseph Ammerman
11/14/2006	Response To Plaintiffs' First Motions In Limine and Defendants' Motion in Limine, filed by s/ John L. McIntyre, Esquire. No CC	Fredric Joseph Ammerman
	Second Supplemental Report of John A. Tilelli Dated 11/13/06. Filed by s/ Rolf Louis Patberg, Esquire. No CC	Fredric Joseph Ammerman
11/15/2006	Reply to Defendants' Motions in Limine, filed by Atty. Patberg, no cert. copies.	Fredric Joseph Ammerman
	Plaintiff's Second Motion in Limine, filed by Atty. Patberg no cert. copies.	Fredric Joseph Ammerman
11/16/2006	Defendants' Motion to Strike Late Expert Report, filed by Atty. McIntyre no cert. copies.	Fredric Joseph Ammerman
11/17/2006	Plaintiff's Reply to Defendants' Motion to Strike Late Expert Report, filed by s/ Rolf Louis Patberg Esq. No CC.	Fredric Joseph Ammerman
11/21/2006	Order, NOW, this 20th day of Nov., 2006, upon consideration of Defendants' Motion to Strike Late Expert's Report, it is the Order of this Court that said motion shall be granted to the extent that (see original). By The Court, /s/ John K. Reilly, Jr., Senior Judge. 1CC Attys: Patberg, McIntyre	John K. Reilly Jr.
	Order, NOW, this 20th day of Nov., 2006, consideration Defendants' Second Motion in Limine to Preclude Testimony Concerning Examination and Treatment of the Plaintiff Justine Kline on Nov. 22, 2002, it is ordered that said motion shall be granted to the extent that Plaintiff shall be precluded from entering such testimony during its case in chief. Plaintiff may, however, introduce such testimony in rebuttal if it then becomes relevant. By The Court, /s/ John K. Reilly, Jr., Senior Judge. 1CC Attys: Patberg, McIntyre	John K. Reilly Jr.
	Order, NOW, this 20th day of Nov., 2006, upon consideration of Plaintiffs' First Motion in Limine, with regard to the faxed transmissions from Clfd. Hospital to UPMC Children's Hospital, it is Ordered that said motion shall be granted to the extent that Plaintiffs shall be restricted in any examinations thereof to the existence of the handwritten notice concering the Feb. 23, 2002 examination. By The Court, /s/ John K. Reilly, Jr., Senior Judge. 1CC Attys: Patberg, McIntyre	John K. Reilly Jr.
	Order, NOW, this 20th day of Nov., 2006, upon consideration of Plaintiffs' Second Motion in Limine, Ordered that Defendants shall be precluded from offering any evidence or arguing any purported negligence by Sandra Conklin, Plaintiff. By The Court, /s/ John K. Reilly, Jr., Senior Judge. 1CC Attys: Patberg, McIntyre	John K. Reilly Jr.

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Civil Other

Date		Judge
11/21/2006	Order, NOW, this 20th day of Nov., 2006, upon consideration of Plaintiffs' Motion in Limine, Issue 3, it is the Order of this Court that Def. Dr. Palmer shall be precluded from testifying as to a possibility that the information he entered concerning his treatment of Feb. 23, 2002, may have been entered into the wrong patient's chart. By The Court, /s/ John K. Reilly, Jr., Senior Judge. 1CC Attys: Patberg, McIntyre	John K. Reilly Jr.
	Order, NOW, this 20th day of Nov., 2006, upon consideration of Plaintiffs' First Motion in Limine, second issue, it is the Order of this Court that Plaintiffs' Expert, Dr. King, may testify as to his general experience in treating situations of this nature in the past, but shall be precluded from identifying specific patients and the treatments provided therefor unless their redacted files are supplied to Plaintiff prior to trial. By The Court, /s/ John K. Reilly, Jr., Senior Judge. 1CC Attys: Patberg, McIntyre	John K. Reilly Jr.
	Order, NOW, this 20th day of Nov., 2006, upon consideration of Plaintiffs' First Motion in limine, Item 1, it is the Order of this Court that said motion shall be granted to the extent that Defense expert withness, Christopher King, M.D., shall be precluded from quoting verbatim from the opinion of one Alejandro Hoberman, nor shall said opinion or argument by Hoberman, be admitted into evidence. By The Court, /s/ John K. Reilly, Jr., Senior Judge. 1CC Attys: Patberg, McIntyre	John K. Reilly Jr.
12/1/2006	Notice to Attend Dircted to Wilhelmina P. Crus-Vetrano, filed by s/ Rolf Louis Patberg, Esquire. No CC	Fredric Joseph Ammerman
12/4/2006	Application and Notice Pursuant to Rule 4020(a)(3)(e), filed by s/Rolf Louis Patberg, Esq. No CC	Fredric Joseph Ammerman
12/11/2006	Motion to Limit Testimony of John Dossett, filed by s/Rolf Louis Patberg, Esq. No CC	Fredric Joseph Ammerman
	Order, filed. Cert. to atty. Patberg & McIntyre NOW, this 8th day of December, 2006, RE: Motion to Limit Testimony of John Dossett, Motion denied.	John K. Reilly Jr.
12/12/2006	Verdict and Members of the Jury, filed NOW, this 12th day of December, 2006, Verdict in favor of Defendant. s/David P. Small, Foreperson.	Fredric Joseph Ammerman
12/21/2006	Motion For Briefing Schedule, filed by s/ Rolf Louis Patberg, Esquire. No CC	Fredric Joseph Ammerman
	Plaintiff's Post-Trial Motions, filed by s/ Rolf Louis Patberg, Esquire. No CC	Fredric Joseph Ammerman
12/26/2006	Order NOW, this 22nd day of December 2006, upon consideration of Post Trial Motion filed on behalf of Plaintiffs above-named and Motion for Briefing Schedule, it is the ORDER of this Court that Plaintiffs shall file their brief within no more than twenty (20) days from receipt of transcript of testimony. Defendants shall file their reply brief within twenty (20) days from receipt of Plaintiffs' Argument to be scheduled thereon at the request of wither party. BY THE COURT: /s/ John K. Reilly Jr. SJSP. 2CC Atty R. Patberg and J. McIntyre.	John K. Reilly Jr.
12/29/2006	Answer to Plaintiff's Post-Trial Motions, filed by Atty. McIntyre no cert. copies.	Fredric Joseph Ammerman
5/29/2007	Motion For Extension of Time of Briefing Schedule, filed by s/ Rolf Louis Patberg, Esquire. No CC	Fredric Joseph Ammerman

Clearfield County Court of Common Pleas
ROA Report
Case: 2003-00068-CD

Current Judge: Fredric Joseph Ammerman
Sandra Conklin, Justine Kline vs. Clearfield Hospital, George F. Palmer, James P. DeSantis, Ernest P. Jones

Civil Other

Date		Judge
5/30/2007	Order, NOW, this 29th day of May, 2007, it is Ordered that the Plaintiff's Motion for Extension of Time is Granted. Plaintiff shall have an additional 20 days from the date of this Order in which time to file their Brief. The Defendants shall have 20 days from the date of filing of the Plaintiff's Brief to file their reply. By The Court, /s/ John K. Reilly, Jr., Judge. 3CC Atty. Patberg	John K. Reilly Jr.
6/6/2007	Transcript of Proceedings, filed. In Camera Testimony of Bridgett H. Sidorick, Held Before The Honorable John K. Reilly, Senior Judge on Monday, December 4, 2006.	Fredric Joseph Ammerman
	Transcript of Proceedings, filed. Civil Jury Trial, Day I of VII, Held Before The Honorable John K. Reilly, Senior Judge on Monday, December 4, 2006.	Fredric Joseph Ammerman
	Transcript of Proceedings, filed. Civil Jury Trial, Day II of VII, Held Before The Honorable John K. Reilly, Senior Judge, on Tuesday, December 5, 2006.	Fredric Joseph Ammerman
	Transcript of Proceedings, filed.Civil Jury Trial Day III of VII, Held Before The Honorable John K. Reilly, Senior Judge on Wednesday, December 6, 2006.	Fredric Joseph Ammerman
	Transcript of Proceedings, filed. Civil Jury Trial Day IV of VII, Held Before The Honorable John K. Reilly, Senior Judge on Thursday, December 7, 2006.	Fredric Joseph Ammerman
	Transcript of Proceedings, filed. Civil jury Trial Day V of VII, Held Before The Honorable John K. Reilly, Senior Judge, on Friday, December 8, 2006	Fredric Joseph Ammerman
	Transcript of Proceedings, filed. Civil Jury Trial, Day VI of VII, Held Before The Honorable John K. Reilly, Senior Judge on Monday, December 11, 2006.	Fredric Joseph Ammerman
	Transcript of Proceedings, filed. Civil Jury Trial Day VII of VII, Held Before The Honorable John K. Reilly, Senior Judge, on Tuesday, December 12, 2006.	Fredric Joseph Ammerman
6/14/2007	Order, NOW, this 8th day of June, 2007, the Court noting that counsel for the Defendants has no objections to the Plaintiff's Motion to Extend Time to File a Responsive Brief and that in addition, Plaintiff's counsel has agreed that the Defendants will have 35 days after receipt of the Plaintiff's Brief, in which to file a brief on behalf of Dr. Palmer and Clearfield Hospital. By The Court, /s/ Fredric J. Ammerman, Pres. Judge. 2CC Attys: Patberg, McIntyre	Fredric Joseph Ammerman
11/16/2007	Filing: Praecipe for Entry of Judgment upon Jury Verdict of December 12, 2006. Paid by: McIntyre, Hartye & Schmitt Receipt number: 1921483 Dated: 11/16/2007 Amount: $20.00 (Check) Judgment entered upon Verdict of the Jury of December 12, 2006 in favor of the the Defendants, Clearfield Hospital and George F. Palmer, D.O. no cert. copies.	Fredric Joseph Ammerman
1/15/2008	Order, this 15th day of Jan., 2008, , argument on Post-Trial Motions is scheduled for the 20th day of Feb., 2008 at 10:30 A.M in Hearing Room 3. By The Court, /s/ Fredric J. Ammerman, pres. Judge. 2CC Attys; Patberg, McIntyre	Fredric Joseph Ammerman

Clearfield County Court of Common Pleas
ROA Report
Case: 2003-00068-CD

Current Judge: Fredric Joseph Ammerman
Sandra Conklin, Justine Kline vs. Clearfield Hospital, George F. Palmer, James P. DeSantis, Ernest P. Jones

Civil Other

Date		Judge
3/27/2008	Opinion And Order, Order: Now, this 26th day of March, 2008, following argument and review of the parties' briefs, it is the Order of this Court that the Plaintiff's Post-Trial Motions are hereby Denied for the reasons set forth in the foregoing Opinion. By The Court, /s/ John K. Reilly, Jr., Senior Judge, Specially Presiding. 2CC Attys: Patberg, McIntyre; 1CC to: D. Mikesell, Law Library (without memo)	Fredric Joseph Ammerman
4/16/2008	Filing: Appeal to High Court Paid by: Patberg, Rolf Louis (attorney for Conklin, Sandra) Receipt number: 1923634 Dated: 4/16/2008 Amount: $50.00 (Check) Filed by s/Rolf Louis Patberg, Esquire. 1CC & Check for $60.00 to Superior Court	Fredric Joseph Ammerman
4/21/2008	Order, this 18th day of April, 2008, it is Ordered that Appellant shall, within 14 days from date hereof, file a concise statement of matters complained of on appeal. By The Court, /s/John K. Reilly, Jr., Senior Judge. 2CC Attys; Patberg, McIntyre	John K. Reilly Jr.
5/1/2008	Appeal Docket Sheet, filed. No CC 700 WDA 2008	Fredric Joseph Ammerman
5/5/2008	Concise Statement of Matters Complained of on Appeal, filed by s/ Rolf Louis Patberg, Esquire. No CC	Fredric Joseph Ammerman

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

MAY 23 2008

Attest. William L. Ober
Prothonotary/
Clerk of Courts

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

SANDRA CONKLIN, as parent and natural guardian of JUSTINE KLINE,

Plaintiffs,

v.

CLEARFIELD HOSPITAL, GEORGE F. PALMER, ERNEST P. JONES, and JAMES P. DeSANTIS,

Defendants

JURY TRIAL DEMANDED

CIVIL DIVISION

NO.: 2003-68 CD

TYPE OF PLEADING:

CONCISE STATEMENT OF MATTERS COMPLAINED OF ON APPEAL

FILED ON BEHALF OF PLAINTIFFS

COUNSEL OF RECORD FOR THIS PARTY:

ROLF LOUIS PATBERG, ESQUIRE
PA I.D. NO.: 65185

PATBERG, CARMODY & GING
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412-232-3500

FILED NO CC
MAY 05 2008
William A. Shaw
Prothonotary/Clerk of Courts

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

SANDRA CONKLIN, as parent and natural guardian of JUSTINE KLINE,	)	CIVIL DIVISION
	)	NO.: 2003-68 CD
Plaintiffs,	)	
v.	)	
CLEARFIELD HOSPITAL, GEORGE F. PALMER, ERNEST P. JONES, and JAMES P. DeSANTIS,	)	
Defendants.	)	
	)	**JURY TRIAL DEMANDED**

STATEMENT OF MATTERS COMPLAINED OF ON APPEAL

AND NOW, comes the Plaintiff, Justine Kline, by and through her attorneys, Patberg, Carmody & Ging, and Rolf Louis Patberg, Esquire, and files the foregoing Statement of Matters Complained of on Appeal and in support thereof aver as follows:

1. The above-captioned case is a medical negligence action that was tried before the Honorable John K. Reilly from December 4, 2006 through December 12, 2006.

2. The case primarily surrounded the care and treatment rendered by Defendant George Palmer, while in the course and scope of his employment at Clearfield Hospital, on February 23, 2002, at which point in time, minor-Plaintiff Justine Kline presented to the Clearfield Hospital Emergency Room at the early hours of the morning of February 23, 2002.

3. In connection with the herein matter, Plaintiffs raise the following issues:

   a. Infectious disease expert, John Dossett, should not have been permitted to testify as to the standard of care of George Palmer or the staff at Clearfield Hospital;

b. Neither Emergency Room Expert Christopher King or Infectious Disease Expert John Dossett should have been permitted to testify as to the speculated ultimate outcome of Justine Kline, had she been timely treated;

c. This Honorable Court should have instructed the jury that all funds were to be placed in a trust pursuant to Pennsylvania Rule of Civil Procedure 2039;

d. This Honorable Court should have permitted the playing of videotaped depositions during the closing argument;

e. This Honorable Court should not have permitted George Palmer to testify that he completed his "note" after receiving a "memo" from medical records;

f. Dr. Tilelli should not have been impeached utilizing a legal opinion from prior testimony;

g. Dr. King should not have been permitted to utilize the "Hoberman" article to bolster his testimony; and

h. The Court should have given requested jury instructions 8, 12, 13, 16, 26, 33, 34, portions of 35, 36, 45 and 46.

4. Each and all of the above issues were either raised via motions in limine, in-trial motions or by objections on the record.

MATTER NO. 1

INFECTIOUS DISEASE EXPERT, JOHN DOSSETT, SHOULD NOT HAVE BEEN PERMITTED TO TESTIFY AS TO THE STANDARD OF CARE OF EMERGENCY ROOM PHYSICIAN GEORGE PALMER OR THE STAFF AT CLEARFIELD HOSPITAL

5. This Honorable Court, over the objection of Plaintiff's counsel, permitted defense counsel to call John Dossett, M.D. as a standard of care expert.

6. Dr. Dossett is not an Emergency Room Physician and has no training, according to his Curriculum Vitae or trial testimony, as an Emergency Room Physician.

7. In fact, during cross-examination and Voir Dire, Dr. Dossett conceded that he had never worked in an emergency room, never seen training in an emergency room, and had never diagnosed a non-HIV patient with bacteremia or septicemia as an emergency room physician.

8. Dr. Dossett testified that he had been previously associated and employed by an HIV-inpatient care clinic, at which point in time, he treated patients with bacteremia. This is entirely different from such an experience in an emergency room.

9. The Medical Care Availability and Reduction of Error (MCARE Act) specifically addresses the issue of expert qualifications at 40 P.S. §1303.52.

10. Based upon the M-Care Act, Dr. Dossett was not qualified to testify as to the standard of care of Defendant Palmer.

MATTER NO. 2

NEITHER INFECTIOUS DISEASE EXPERT JOHN DOSSETT OR EMERGENCY ROOM EXPERT CHRISTOPHER KING SHOULD HAVE BEEN PERMITTED TO TESTIFY AS TO THE SPECULATED ULTIMATE OUTCOME OF JUSTINE KLINE, HAD SHE BEEN TIMELY TREATED.

11. Emergency Room Expert Christopher King, who was not qualified to provide infectious disease opinions, testified that the likelihood of Justine's recovery was remote, although he conceded that there was, in fact, a window of opportunity for cure. Furthermore Christopher King, if permitted to give such an opinion, was not qualified to do so and raises that issue herein as well.

12. Similarly so, Dr. Dossett rendered the following opinions in his reports at trial:

a. In the case of Justine, there was no window of opportunity to intervene in a way that would prevent or reverse the tissue injury. Moreover, this process would have proceeded on its fulminate course, even if she had been in the hospital on the morning of February 23, 2003; and

b. If the patient had been admitted to the hospital, she would have had a thorough history and physical examination, a CBC, a blood culture, a urine culture, a urine analysis, fever control, and parenteral antibiotics. All of this was done in the emergency room. This is clearly the standard of care today and it was the standard in 2002.

13. Both of these opinions are speculative, as they are not based upon facts of record and speculate as to potential mechanisms.

14. Dr. Dossett and Dr. King are proffering the exact type of speculation prohibited by Hamil v. Bashline and its line of cases.

15. Therefore, their testimony regarding potential outcomes must be stricken.

MATTER NO. 3

CROSS-EXAMINATION OF DR. TILELLI WITH A PUBLISHED LEGAL OPINION WAS IMPROPER.

16. During the voir dire portion of Dr. Tilelli's qualifications, defense counsel cross-examined Dr. John Tilelli on a certain legal opinion written in 1994 in the matter of Wade-Greaux v. Whitehall Laboratories, Inc., 874 F.Supp. 1441 (D.C.V.I., 1994).

17. The impeachment in question was totally improper as, in fact, the Court determined that Dr. Tilelli's opinion was inadmissible because Federal Rule of Evidence 703 required exclusion of his opinions because it was based upon flawed human data and that experts in the field apparently did not reach such conclusions. Id, 874 F.Supp. at 1483.

18. Unlike Federal Rule of Evidence 608(b), the Pennsylvania Rules of Evidence do not permit an attack on the witness's care with specific instances of conduct.

19. Evidence of a witness's specific act are generally not admissible to show his or her character for untruthfulness, the apparent purpose of the attack by defense counsel.

20. Pennsylvania Rule of Evidence 608(b) precludes the utilization of specific incidences of conduct. Furthermore, a witness may also be cross-examined concerning specific instances of conduct that are closely related to the transaction in which the case focuses. See Packel, Poulan, Pennsylvania Evidence, (1999) p. 562-566 for discussion.

21. Such testimony was highly prejudicial, as it seriously called into question the credibility of John Tilelli.

22. Furthermore, Wade Greaux was a teratology case which primarily concerned the utilization of vaccines. There is absolutely no relevance or sufficiently similar fact patterns to allow defense counsel to cross-examine a quintuple Board Certified physician regarding a total irrelevant issue.

MATTER NO. 4

DR. KING SHOULD NOT HAVE BEEN PERMITTED TO REPEATEDLY REFERENCE THE HOBERMAN ARTICLE TO BOLSTER HIS TESTIMONY

23. The Defendants called Christopher King, M.D., F.A.C.E.P., Associate Professor of Emergency Medicine in Pediatrics, University of Pittsburgh School of Medicine, as an expert in this case.

24. Dr. King quoted a certain article known as the "Hoberman article" throughout both of his reports and trial testimony. For example, in his initial report of December 16, 2004, Dr. King issued the following references and opinions regarding the Hoberman report:

> "Regarding the issue of standard of care, I would like to respond to a specific criticism made by Dr. Tilelli in his review, i.e., "Inpatient management for the patient with newly diagnosed pyelonephritis is the standard of care." Apparently, Dr. Tilelli is unaware of important recent research that has changed the standard of care for this condition, because his statement is untrue and outdated. As I discuss in my lectures on this topic, a ground-breaking study by Hoberman, et al. ("Oral vs. initial intravenous therapy for urinary tract infections in young febrile children." *Pediatrics* 1999; 104: 79-86) demonstrated quite convincingly that children between the ages of two months and two years with presumed pyelonephritis can be managed safely and effectively on an outpatient basis. Hospital admission is no longer the standard of care for these patients. This study has been widely quoted in the medical literal and, to my knowledge, has changed practice at most, if not all, major institutions. Logically, we can assume that if it is not the standard of care for children as young as two months of age, it is certainly not the standard of care for a three-year-old child like Justine Kline. That Dr. Tilelli would hold himself out as an expert on this subject and yet be

unaware of this important recent change in the standard of care is surprising."

25. The utilization of a purported learned treatise way improper and this Court imposed restrictions upon Dr. King's ability to reference this material, to wit, issuing an Order and limited the use of the Hoberman article. Nonetheless, there was insufficient constraints of such testimony allowing King to "boot strap" his opinion.

26. Such testimony was extremely prejudicial, as Plaintiffs were deprived of their right of cross-examination.

MATTER NO. 5

THIS HONORABLE COURT SHOULD HAVE INSTRUCTED THE JURY ON POINT FOR CHARGE NOS. 33 AND 34 PURSUANT TO 40 P.S. §1303.512.

27. Clearfield Hospital implemented computerized charting in January 2002.

28. In the produced medical record with regard to this case, Clearfield Hospital produced a fourteen (14) page Emergency Room Report that contained a certain handwritten addendum on the fourteenth page. The Defendant conceded that a certain handwritten entry, undated and untimed, was entered on March 1st or later. The addendum was clearly not entered in the computer operated version. The originally produced medical chart was apparently printed by Donna R. Unch on Wednesday, February 23, 2002 at 3:36 p.m.

29. Dr. Palmer testified in trial that the handwritten physical examination was not, in fact, entered into the records on February 23, 2002, the date of treatment. Further, he testified that he did not document it within the same shift and he could not recall whether he had documented the physical examination within days.

30. As such, Plaintiff has sought on instructions regarding alteration of medical records in Plaintiff's Point for Charge No. 34.

31. The M-Care Act specifically addresses Preservation and accuracy of medical records in Section 1303.511.

32. Despite these facts, this Honorable Court refused to charge Defendant Palmer regarding his unprofessional conduct.

WHEREFORE, Plaintiffs respectfully request this Honorable Court issue an Order granting the Plaintiff a new trial in the above-captioned matter.

RESPECTFULLY SUBMITTED:

PATBERG, CARMODY & GING

DATE: 5/2/08

By _____
Rolf Louis Patberg, Esquire
PA I.D. No.: 65185

PATBERG, CARMODY & GING
Deutschtown Center
801 Vinial Street - Third Floor
Pittsburgh, PA 15212
(412) 232-3500

Attorney for Plaintiffs

JURY TRIAL DEMANDED

Justine Kline was 3 years old on February 22, 2002 when she presented to the Clearfield Hospital Emergency room with fever, lethargy and hallucinations. She had a temperature of 40.1 a pulse of 177 beats per minute and blood pressure of 85/57. She had taken Tyenol 2 hours previously. A urinalysis demonstrated 25 WBC/hpf (normal 0-3) and 3+ bacteria. Parenthetically, this specimen later grew *E. cloacae*, a urinary tract pathogen. It additionally was recovered from the blood. She was diagnosed as having pyelonephritis and was discharged after the administration of a dose of Rocefin. She was additionally given a prescription for Augmentin.

The following day she returned poorly perfused, hypotensive and lethargic. She was intubated with the assistance of thiopental, atropine, succinyl choline and vecuronium, and the transport team from Children's Hospital of Pittsburgh was called. On their arrival, she was described as being mottled and poorly perfused, with poor capillary refill and faint pulses. Blood pressure was unobtainable. Vancomycin, sodium bicarbonate, hydrocortisone, dopamine and epinephrine were administered. Pink, frothy secretions were noted from the endotrancheal tube. She was transported to Children's Hospital with fixed and dilated pupils, in critical condition.

On arrival at the helipad, she was met by the intensive care team. Pulmonary edema was noted in the endotracheal tube. The tube was dislodged as a consequence of the copious oral secretions and bag-valve-mask respirations were begun. She became bradycardic to the 50's and chest compressions were given. A prolonged resuscitation ensued,during which multiple doses of bicarbonate, epinephrine, calcium, atropine, vasopressin and dextrose were given. A pericardial tap was attempted which was nonproductive.

The admission assessment was that she had septic shock, pulmonary edema and disseminated intravascular coagulation. A pulmonary artery catheter was placed. Her extremities were poorly perfused, and tissue plasminogen activator was initiated in an attempt to salvage the extremities. Later that evening she developed cardiac tamponade which was verified echocardiographically, and pericardial drains were placed. Plastic surgery was consulted.

Justine had a stormy hospital course, characterized by renal failure, pancreatitis and acute respiratory distress syndrome. Her septic shock slowly improved on dopamine, epinephrine and milrinone. Her cultures grew Enterobacter cloacae, and her course was attributed to urosepsis. At discharge she opened her eyes spontaneously and tracked but was still nonverbal.. She was transferred on March 13, 2002 to rehabilitative therapy.

Justine Kline presented initially to the emergency room with a high fever, hallucinations and lethargy. These symptoms, along with a positive urinalysis, make the diagnosis of pyelonephritis likely. This presentation, as well as the presence of hypotension and trachycardia on arrival would be consistent with a description of her as being ill-appearing. Impatient management for the patient with newly diagnosed pyelonephritis is the standard of care; This is especially true in these circumstances, as the occurrence of bacteremia or sepsis is likely. With inpatient observation, appropriate (intravenous) antibiotic therapy, and early intervention at the first signs of sepsis, it is my opinion that

the entire sequence of events the following day would have been averted and she would not have died.

Allow me then to state my opinions:

- It was a breach of the standard of care for the Clearfield emergency room to discharge Justine Kline into the care of her parents.
- As a consequence of this deviation from the standard of care, Justine suffered an episode of severe septic shock, causing her present disabilities.

I hope that the above satisfactorily expresses my opinions. If you have any questions, please feel free to contact me.

Sincerely,

John Tilelli

John A. Tilelli

Encl (1)

"Plant Toxicology". Emergency Medicine Update. Melbourne, Florida, September, 2001

"Pulmonary Toxicology." Before the Florida meeting of the National Association of Respiratory Therapists, September, 2000.

"Antazole, a new antidote." Grand Rounds, Arnold Palmer Hospital, June 2000.

"Environmental Toxicology." Pediatric Grand Rounds, Arnold Palmer Hospital, Orlando, Florida. January, 1997.

"Reptile and Arthropod Envenomations". Before the 13th Annual Care of the Sick Child Conference, Orlando, Florida. August, 1995.

"Plant Toxicology". Before the 13th Annual Care of the Sick Child Conference, Orlando, Florida. August, 1995.

"Recently Recognized Teratogens". Before the 1995 Annual Meeting of ATLA. New York

"Radiology of Aeromedical Transport". Before the first Annual Aeromedical Transport Course, Orlando, Florida. January, 1995.

"Child Abuse in the Critical Care Unit". Before the 3rd Annual Update in Critical Care, Orlando, Florida. November, 1994.

"NSAID Toxicity". Grand Rounds, Arnold Palmer Hospital, Orlando, Florida. June, 1994.

"Poisonings in the Intensive Care Unit". Before the 1994 Critical Care Nursing Update, Orlando, Florida. April 1992.

JOHN A. TILELLI, MD
PEDIATRIC CRITICAL CARE AND EMERGENCY MEDICINE
2228 PALM VIEW DR., APOPKA, FL 32712
(407) 880-8713, mailto:tilelli@pegasus.cc.ucf.edu

Thursday, February 24, 2005

Rolf Patberg
Patberg, Carmody, Ging and Filippi
527 Court Place
Pittsburgh, PA 15219

Re: Justine Kline

Dear Mr. Patberg;

I read with interest a report concerning the above captioned matter authored by Dr. Christopher King on behalf of the defendants, specifically Dr. Palmer.

I write to comment on Dr. King's interpretation of the standard of care for a child who presents with a urinary tract infection. The issue at hand is whether or not a child with an upper urinary tract infection, or pyelonephritis, should be admitted to the hospital to initiate early management. He states that "groundbreaking" work of Hoberman changes the standard of care, presumably from inpatient management to outpatient treatment with oral antibiotics. Dr. King's statement that I must not have been aware of this work is presumptuous. I had read the study and felt that it is neither applicable to Justine Kline's case, nor represents a standard of care.

The study in question (1) looks at the outcome of 305 children with urinary tract infections with respect to the incidence of renal scarring and other chronic complications, finding that in this cohort, the incidence of renal injury was similar among those who were treated orally as opposed to intravenously. This study ignores three important issues concerning management that favor hospitalization over outpatient managemnt, to wit:

1. The initiation of oral antibiotic therapy presumes that the child will be given the medication by his parents, and that the child will be able to keep them in his or her stomach without vomiting. As children with pyelonephritis often have severe emesis, it is cavalier to discharge a child with potential pyelonephritis, presuming that prescribed antibiotics will be tolerated. Irrespective of whether or not oral therapy is effective, it puts the burden of treatment of this serious disease on the child and parent. The consequence of unsatisfactory therapy may be renal failure. It seems that inpatient therapy, at least until it can be demonstrated that oral antibiotics are tolerated by the child, is a more prudent treatment option.
2. The study addresses only the incidence of chronic renal injury in this cohort, but does not assuage concerns that attend the early management of children with severe urinary tract infections.. As Dr. King is aware, every now and then a child with pyelonephritis develops urosepsis or severe dehydration. Such was the case

Ex "B"

with Justine Kline. The short-term goal of monitoring hemodynamic status, assuring satisfactory fluid and electrolyte balance and satisfactory antipyresis are better served with inpatient care than in the outpatient setting. An observation of stable vital signs in the emergency suite does not dismiss the possibility of a child developing hemodynamic instability before bacteriologic control is obtained.

3. The incidence of urologic anomalies among children with ascending urinary tract infections is high. Children with pyelonephritis should at the very least have a renal ultrasound prior to discharge to rule out the presence of hydronephrosis that might require urologic attention prior to discharge. Not all children with vesico-ureteral reflux have renal insufficiency. As a result, a normal BUN and creatinine are not sufficient to dismiss the need for an assessment of renal size. Certainly, an intravenous pyelogram and voiding cystourethrogram are indicated after recovery, but an early ultrasound may preserve renal function in the occasional child with obstructive uropathy who evidences his or her need for decompression with a urinary tract infection as the manifesting symptom. This examination is better performed during a short inpatient stay while treatment is initiated and the child as assured of bacteriologic control.

The Hoberman study makes no attempt to discriminate children with simple cystitis from those with pyelonephritis, nor those with hydronephrosis from those without. Furthermore, bacteremia was present in 3.4% of the orally treated group and 5.4% of the intravenously treated group. The higher percentage of bacteremia in children treated intravenously may represent a selection bias suggesting that children so managed "appeared sicker" to caregivers. Comparable outcomes might reflect the preselection of some children to more intensive care. Notwithstanding, a significant number of children in the cohort were discharged with oral therapy for an undetected bacteremia. The possibility of urosepsis in patients with severe urinary tract infections mandates caution in their early management.

Finally, I must emphasize that the Hoberman study is only of 305 patients, hardly qualifying it as a reason to change the standard of care. Dr. King's report asserts that hitherto inpatient management was the standard of care. I do not believe that one study of a small cohort assuages the concerns voiced above. I am not alone. A comment on the Hoberman article published in Pediatrics voices concern over the findings (2). Hopp suggests that ultrasonographic findings are more important than acknowledged by Hoberman, and indicates that he is "uncomfortable" about the recommendation for oral therapy, and states that " it (the Hoberman study) should not be considered as the final word on this controversial subject."

Clearly, the issue is more complex than stated by Dr. King. My concern regarding the strategy proposed by him is that it specifically fails to address the complication of urinary tract infection experienced by Justine Kline. It is my opinion that the average prudent emergency physician would therefore, under similar circumstances admit children with urinary tract infections who have evidence of ascending disease, as manifested by vomiting, high fever, flank tenderness, abnormal ultrasound, renal infuffieency,

dehydration or an active urinary sediment (pyuria or casts). I stand by my assertion that Dr. Palmer deviated from the standard of care.

Sincerely,

John Tilelli, MD

References

1. Hoberman A, Wald ER, Hickey RW et al.; Oral versus initial intravenous therapy for urinary tract infections in young febrile children. Pediatrics 1999; 104: 79-86.
2. Hopp L; Intravenous versus oral antibiotics for urinary tract infections. Pediatrics 2000; 106: 865.

Clearfield Hospital - Clearfield , PA 16830

Patient: KLINE , JUSTINE MARIE **DOB/Gender:** 9/26/1998 Female
MR#: 159993 **Acct#:** 000000963854
DOS: 2/23/2002
Private Phys: **ED Phys:**

CHIEF COMPLAINT:

Fever

Physicians caring for patient:

George F. Palmer, DO

VITAL SIGNS

Time	Temp(C)	Rt.	Pulse	Resp	Syst	Diast	Pos.	O2 Sat	FSBS	Pain Scale
02:01	40.1	O	177	32	85	57				
04:04	37.9	R	120	28						
05:15	38.9	R	150	28						
05:43	37.8	R	122	24						

Weight : 32 lbs. (14.5 kg.)
Notes:
<GRT 02-23-02 05:17>dr. palmer notified of fever -orders recieved.

TRIAGE

Arrival: Patient arrived by being carried via private auto from Private Home accompanied by parent(s)
Chief complaint/quote: child hallucinating. twitching, fever , vomiting.
Mental status: The patient is confused. The patient is experiencing visual hallucinations
PCP/private physician: Sherri L. Sortor-Thompson, MD
Medication allergies: No known allergies.
Allergies/food/environmental/animal: No known allergies.
Latex Allergy (-)
Current meds: none
Medications were taken prior to arrival to the ED.
Vaccinations are up to date
Consent to treat obtained.
Growth and Developement: Appropriate for age.

PAST HISTORY

No pertinent PMH
No pertinent past surgical history.
Vaccinations are up to date.

NURSING SYSTEMS REVIEW

Printed by Donna R.Unch, UC on Saturday, February 23, 2002 3:22:13 PM **Triage and disposition documentation.**

KLINE ,JUSTINE M
MR 159993 3y
DOB 09/26/1998 F 1
FIN 000000963854

Ex "C"

Clearfield Hospital - Clearfield , PA 16830

Patient: KLINE , JUSTINE MARIE **DOB/Gender:** 9/26/1998 Female
MR#: 159993 **Acct#:** 000000963854
DOS: 2/23/2002
Private Phys: **ED Phys:**

Orientation/safety: The patient was brought to room carried by parent/guardian. Patient was placed on stretcher. Bed placed in low/locked position and siderails x 2. Call light is not needed because the patient is visible to nursing staff. Explanation of care provided to mother. Plan of care: position of comfort and observe/reassure
Notes:
<GRT 02-23-02 03:39>fluids given instructed mom to give 5cc at a time.

Patient states they are feeling much better.
Notes:
<GRT 02-23-02 04:07>child con't to take fluids no vomiting noted. is more alert than before. no further hallucinations noted.

FLOWSHEETS

Input

Time	IV	Blood	PO	Total
05:44			90 cc	90 cc

Output

Time	Urine	Stool	Vomitus	Blood	Gast.	Drain	Total
05:44	20 cc		0 cc				20 cc

MEDICATION ADMINISTRATION RECORD

Tylenol 240 mg ; per rectum ; (V. O.) George F Palmer

Medication given as ordered.
2/23/2002 02:43

Rocephin 700 mg ; IM Now

Medication given as ordered.. Location: thigh Left Right
2/23/2002 04:48

Clearfield Hospital - Clearfield , PA 16830

Patient: KLINE , JUSTINE MARIE **DOB/Gender:** 9/26/1998 Female
MR#: 159993 **Acct#:** 000000963854
DOS: 2/23/2002
Private Phys: **ED Phys:**

Notes:
<GRT 02-23-02 04:51>im med given left vast.lat. by brenda english rn. given in right by g. thomas rn.

Motrin 100mg/5ml susp 7.5 cc(s) ; PO Now ; Transcribed order George F Palmer

Medication given as ordered.
2/23/2002 05:24

Nursing Data electronically signed by: Gwen R.Thomas, RN

HISTORY OF PRESENT ILLNESS

Patient seen by Physician/PA.

PROCEDURES

Specimen taken during urine cath.: A specimen was sent to lab. Patient tolerated procedure well.
Notes:
<GRT 02-23-02 03:07>5 french used to fem. cath child. clear yellow urine obtained sent to lab.

Lab: notified of orders. KAE 02/23/02 02:37

Urine: urine collected/sent to lab KAE 02/23/02 02:38

ORDERS

MEDICATIONS

Tylenol 240 mg ; per rectum ; (V. O.) George F Palmer
Rocephin 700 mg ; IM Now
Motrin 100mg/5ml susp 7.5 cc(s) ; PO Now ; Transcribed order George F Palmer

LAB

BASIC METABOLIC PANEL; Ordering physician: Transcribed order George F Palmer
CBC; Ordering physician: Transcribed order George F Palmer
URINALYSIS WITH MICROSCOPIC; Specimen type: URINE CATHETER; Specimen site: URINE; Ordering physician: Transcribed order George F Palmer

Clearfield Hospital - Clearfield , PA 16830

Patient: KLINE , JUSTINE MARIE DOB/Gender: 9/26/1998 Female
MR#: 159993 Acct#: 000000963854
DOS: 2/23/2002
Private Phys: ED Phys:

CULTURE BLOOD AERO/ANER; Specimen type: BLOOD; Specimen site: BLOOD; None;
Ordering physician: Transcribed order George F Palmer
CULTURE URINE (CATHETER); Specimen type: URINE CATHETER; Specimen site:
URINE; None

RESULTS

LAB

BASIC METABOLIC PANEL; Ordering physician: Transcribed order George F Palmer
Result 1

BASIC METABOLIC PANEL; Ordering physician: Transcribed order George F Palmer

Test	Flag	Value	Units	Ref Range	Status
GLUCOSE	H	116	MGDL	60-105	F
BUN		19	MGDL	5-25	F
SODIUM	L	137	MMOLL	138-145	F
POTASSIUM		4.1	MMOLL	3.6-5.2	F
CHLORIDE		98	MMOLL	98-107	F
TOTAL CO2	L	20.8	MMOLL	22-35	F
CREATININE		.9	MGDL	0.3-1.0	F
CALCIUM		9.3	MGDL	8.8-10.8	F
ANION GAP		18.2			F
OSMO (CALC)		277			F
BUN/CRE RATIO		21			F

CBC; Ordering physician: Transcribed order George F Palmer

CBC; Ordering physician: Transcribed order George F Palmer

Test	Flag	Value	Units	Ref Range	Status
WBC		7.71	E3UL	4.80-10.80	F
RBC		4.50	E6UL	3.80-5.50	F
HGB		12.8	GDL	11.0-15.0	F
HCT		37.7	PCT	30.0-43.0	F

Clearfield Hospital - Clearfield , PA 16830

Patient: KLINE , JUSTINE MARIE DOB/Gender: 9/26/1998 Female
MR#: 159993 Acct#: 000000963854
DOS: 2/23/2002
Private Phys: ED Phys:

CBC; Ordering physician: Transcribed order George F Palmer

Test	Flag	Value	Units	Ref.Range	Status
MCV		83.9	FL	81.0-99.0	F
MCH		28.5	PG	27.0-31.0	F
MCHC		34.0	PCT	33.0-37.0	F
RDW		14.2	PCT	11.5-14.5	F
PLATELETS		328	E3UL	130-400	F

URINALYSIS WITH MICROSCOPIC; Specimen type: URINE CATHETER; Specimen site: URINE; Ordering physician: Transcribed order George F Palmer

URINALYSIS WITH MICROSCOPIC; Specimen type: URINE CATHETER; Specimen site: URINE; Ordering physician: Transcribed order George F Palmer

Test	Flag	Value	Units	Ref. Range	Status
SPECIMEN TYPE		URINE			F
COLOR		YELLOW			F
APPEARANCE		SL CLOUDY			F
GLUCOSE		NEGATIVE	GDL	NEGATIVE	F
BILIRUBIN		NEGATIVE		NEGATIVE	F
KETONE		NEGATIVE	MGDL	NEGATIVE	F
SPEC. GRAVITY		1.013		1.003-35	F
BLOOD	AB	TRACE		NEGATIVE	F
pH		7.0		5.0-8.5	F
PROTEIN	AB	100		NEGATIVE	F

Printed by Donna R.Unch, UC on Saturday, February 23, 2002 3:22:13 PM Triage and disposition documentation.

KLINE ,JUSTINE M
MR 159993 3y
DOB 09/26/1998 F 1
FIN 000000963854

Clearfield Hospital - Clearfield , PA 16830

Patient: KLINE , JUSTINE MARIE DOB/Gender: 9/26/1998 Female
MR#: 159993 Acct#: 000000963854
DOS: 2/23/2002
Private Phys: ED Phys:

URINALYSIS WITH MICROSCOPIC; Specimen type: URINE CATHETER; Specimen site: URINE; Ordering physician: Transcribed order George F Palmer

Test	Flag	Value	Units	Ref. Range	Status
UROBILINOGEN		.2	EUDL	0.2-1.0	F
NITRITE		NEGATIVE		NEGATIVE	F
LEUKOCYTES		NEGATIVE		NEGATIVE	F

Result 1

URINALYSIS WITH MICROSCOPIC; Specimen type: URINE CATHETER; Specimen site: URINE; Ordering physician: Transcribed order George F Palmer

Test	Flag	Value	Units	Ref. Range	Status
EPITH CELLS		RARE	PLPF		F
MUCOUS		RARE	PLPF		F
AMORPHOUS		2+	PLPF		F
WBC'S	AB	25+	PHPF	0 - 3	F
RBC'S	AB	1 - 5	PHPF	0 - 3	F
BACTERIA	AB	3+	PHPF	NONE SEEN	F

DIAGNOSIS

Acute cystitis
Fever

DISPOSITION

Disposition - Discharged: The patient was discharged to home in stable condition ambulatory accompanied by parent/guardian. The patient's diagnosis, condition, and treatment were explained to patient or parent/guardian. The patient/responsible party expressed understanding. A discharge plan has been developed. Aftercare instructions were given to the patient.

Disposition - Discharge from ED: The patient is discharged to clinic. Patient's condition is satisfactory. The patient is to follow-up with their/the PCP. The patient is to follow-up with Jennifer L. Graham, DO Return to the

Clearfield Hospital - Clearfield , PA 16830

Patient: KLINE , JUSTINE MARIE **DOB/Gender:** 9/26/1998 Female
MR#: 159993 **Acct#:** 000000963854
DOS: 2/23/2002
Private Phys: **ED Phys:**

emergency department if no improvement in 1 day(s)
c:\program files\currentcare\aftcare\eng\dischg,edinst.rtf

PRESCRIPTIONS

AUGMENTIN (400MG/5CC) Take 1 tsp(s) PO twice per day

AFTERCARE INSTRUCTIONS

c:\program files\currentcare\aftcare\eng\bladderinf,uti.rtf

Clearfield Hospital - Clearfield , PA 16830

Patient: KLINE , JUSTINE MARIE DOB: 9/26/1998 Age/Gender: 3 F
2/23/2002 13:37 See chief complaint quote
MR#: 159993 Acct#: 000000963965 ED Phys.: Stacy Gerg, PA

CHIEF COMPLAINT: See chief complaint quote **Enc. Type:** Unscheduled Return < 12 **ACUITY:** Level II

Physicians caring for patient:
Stacy Gerg, PA

VITAL SIGNS

Initials/Date/Time	Temp(C)	Rt.	Pulse	Resp	Syst	Diast	Pos.	O2 Sat	FSBS	Pain Scale
KLA 2/23/2002 13:42	37.7	R		16						
MAS 2/23/2002 14:00			141	16	64	38	S		93	
MAS 2/23/2002 14:40			142							
MAS 2/23/2002 14:45			140		101	59	L	83		
MAS 2/23/2002 14:57			136		43	32	L	93		
MAS 2/23/2002 14:58			134							
~~MAS 2/23/2002 14:58~~			~~134~~							
MAS 2/23/2002 15:12			134							

Weight : 32 lbs. (14.5 kg.)
Notes:
<MAS 02-23-02 15:19>IV Vancomycin given IVPB
<MAS 02-23-02 15:20>Atropine 0.3 given IV
<MAS 02-23-02 15:21>Epi 0.3 given IV
<MAS 02-23-02 15:25>Dopamine gtt initiated at 2.5mcg/kg/min
<MAS 02-23-02 15:28>Dopamine gtt up to 5 mcg/kg/min. Difficulty obtaining BP. Pt intubated by Dr D. Airway maintained by resp tech.
<MAS 02-23-02 15:32>Dopamine up to 10 mcg/kg/min. Attempting to initiate another IV. Ptt's color mottled ,very pale , cool to touch.
<MAS 02-23-02 15:33>Epi 0.1 mg given IV
<MAS 02-23-02 15:33>Epi 0.1mg given IV
<MAS 02-23-02 15:35>Life Flight crew present and getting pt report from Dr. DeSantis.

TRIAGE

Arrival: Patient arrived by being carried via private auto from Private Home accompanied by parent(s)
Chief complaint/quote: seen here this am at 0600 with vomiting and diarrhea and hallucinations from fever mother states no better cont to vomit and have diarrhea fever persists but she doen't know what as didn't take temp. taking small amts of liquids
Mental status: The patient is drowsy and responds to verbal stimuli
History of illness: Mother states the child has been/is lethargic (decreased awareness). There have been today. Nausea, vomiting. and vomiting & diarrhea
Notes:

KLINE ,JUSTINE M
MR 159993 3y
DOB 09/26/1998 F 1
FIN 000000963965

Ex "D"

Clearfield Hospital - Clearfield , PA 16830

Patient: KLINE , JUSTINE MARIE **DOB:** 9/26/1998 **Age/Gender:** 3 F
2/23/2002 13:37 See chief complaint quote
MR#: 159993 **Acct#:** 000000963965 **ED Phys.:** Stacy Gerg, PA

<PMN 02-23-02 15:45>Pt seen in ER this AM at 2:30 . DX with UTI. medicated with antibiotics and meds for vomiting. Pt discharged home.

PCP/private physician: Sherri L. Sortor-Thompson, MD
Physician to see patient
ED physician to see patient
Medication allergies: No known allergies.
Allergies/food/environmental/animal: No known allergies.
Latex Allergy (-)
Current meds: none
Notes:
<KLA 02-23-02 13:41> mother was given an rx this am but hasn't been given yet. motrin given at 1230

Medications were taken prior to arrival to the ED.
motrin at 1230
Vaccinations are up to date
Consent to treat obtained.
Growth and Developement: Appropriate for age.
Registration needed.KLA:Karen L.Abbott, RN 02/23/02 13:37
PMN:Patricia M.Neeper, RN 02/23/02 15:45

NURSING SYSTEMS REVIEW

ASSESSMENT

Orientation/safety: The patient was brought to room carried by parent/guardian. Patient was placed on stretcher. Bed placed in siderails x 2 and low/locked position. Call light is within reach of family member. Explanation of care provided to mother. Alarms set and turned on for: and Alarms set and turned on for:. Plan of care: family to bedside, hydration, and position of comfort. Comfort measures include warm blanket
Ready for Physician/PA.PMN:Patricia M.Neeper, RN 02/23/02 14:21

FLOWSHEETS

MEDICATION ADMINISTRATION RECORD

NSS 500ML 300 cc(s) ; Now ; Transcribed order James P. DeSantis, DO Stacy Gerg, PA 2/23/2002 14:08

IV fluids started as ordered.
MAS 2/23/2002 15:07
Inadequate time frame to determine response.
MAS 2/23/2002 15:07

Vancomycin 225 mg ; IV ; Transcribed order James P. DeSantis, DO Stacy Gerg, PA 2/23/2002 14:12

Clearfield Hospital - Clearfield , PA 16830

Patient: KLINE , JUSTINE MARIE **DOB:** 9/26/1998 **Age/Gender:** 3 F
2/23/2002 13:37 See chief complaint quote
MR#: 159993 **Acct#:** 000000963965 **ED Phys.:** Stacy Gerg, PA

Medication given as ordered.. Location: IVPB. IV site number 1. Diluted in 100 cc's. Infused over 1 hour
MAS 2/23/2002 14:41
Inadequate time frame to determine response.
MAS 2/23/2002 15:06

NSS 500ML 300 cc(s) ; Now James P. DeSantis, DO Stacy Gerg, PA 2/23/2002 14:38

Medication given as ordered.
PMN 2/23/2002 14:50
Inadequate time frame to determine response.
PMN 2/23/2002 14:50

NSS 1000ML Stacy Gerg PA. Stacy Gerg, PA 2/23/2002 15:19

At the time of this signature, I have reviewed and agree with the Chief Complaint, Triage and Past History. Stacy Gerg, PA 2/23/2002 14:07

HISTORY OF PRESENT ILLNESS

HPI Text

Patient seen by Physician/PA.
HPI text: 3 yof who presents to the ED with the CC of lethargy. Mother states the child has been ill since last night. Child began running a temperature of 104 last night. Patient was evaluated in the emergency department at that time. Septic work up was preformed which revealed a UTI. Child was given Rocephin 700 mgs IM for treatment initally due vomiting and diarrhea. Child was discharged to home with a prescription for Augmentin 1 tsp bid which the child has not begun. Mother reports the child has been lethargic today and "limp like a rag doll" Mother states she has also noticed a rash to the lower extremities and buttox.
SG:Stacy Gerg, PA 02/23/02 14:21

REVIEW OF SYSTEMS

All Other Systems

As documented in HPI, all other systems are negative.SG:Stacy Gerg, PA 02/23/02 14:35

EXAM

Clearfield Hospital - Clearfield , PA 16830

Patient: KLINE , JUSTINE MARIE DOB: 9/26/1998 Age/Gender: 3 F
2/23/2002 13:37 See chief complaint quote
MR#: 159993 Acct#: 000000963965 ED Phys.: Stacy Gerg, PA

GEN: ill appearing child in moderate distress
SKIN: Warm and dry, mottling noted to the lower extremities.
HEENT: Normocephalic, . Oral mucosa moist, pharynx clear; TM's right was erythematous and retracted. left revealed cerumen impaction which was not removed.
NECK: Supple.
HEART: AP regular S1 and S2 without murmur.
LUNGS: Clear.
ABD: Normoactive bowel sounds. Soft, nontender. No organomegaly.
Neuro: negative menningal signs.SG:Stacy Gerg, PA 02/23/02 14:37

PROCEDURES

PROCEDURES - EMERGENT

Rapid sequence induction: without complications. The patient tolerated the procedure well. CPT-4 Code: Rapid sequence induction - 99999 SG 02/23/02 15:18

PROCEDURES - NURSING

IV placement: IV site # 1: a 24 gauge jelco was inserted in the right hand x 2 attempts and attached to 500 cc(s) NS via extension infusing at 300 cc/hr PMN 02/23/02 14:18

Saline lock placed: Saline lock site #2: a/an 20 gauge jelco was inserted in the left hand x on 1 attempt(s) MAS 02/23/02 14:40

Rhythm: with sinus tachycardia PMN 02/23/02 14:55

Monitoring: The patient is being monitored with cardiac monitor, automatic BP cuff, and O2 sat monitor MAS 02/23/02 15:08

Foley catheter placement: foley catheter was placed using sterile technique without complications MAS 02/23/02 15:08

Notes:
<MAS 02-23-02 15:11>#8 french peds foley inserted without difficulty. Balloon inflated with 3cc sterile water. Foley draining straw colored urine.

Accu-check: 93 Physician notified. MAS 02/23/02 15:11

Consult

Clearfield Hospital - Clearfield , PA 16830

Patient: KLINE , JUSTINE MARIE DOB: 9/26/1998 Age/Gender: 3 F
2/23/2002 13:37 See chief complaint quote
MR#: 159993 Acct#: 000000963965 ED Phys.: Stacy Gerg, PA

Lab: notified of orders. DRU 02/23/02 14:35

Radiology notified of order: Patient in X-ray department. DRU 02/23/02 15:19

Patient back from X-ray department. DRU 02/23/02 15:38

ORDERS

MEDICATIONS

NSS 500ML 300 cc(s) ; Now ; Transcribed order James P. DeSantis, DO Stacy Gerg, PA 2/23/2002 14:08
Vancomycin 225 mg ; IV ; Transcribed order James P. DeSantis, DO Stacy Gerg, PA 2/23/2002 14:12
NSS 500ML 300 cc(s) ; Now James P. DeSantis, DO Stacy Gerg, PA 2/23/2002 14:38
NSS 1000ML Stacy Gerg PA. Stacy Gerg, PA 2/23/2002 15:19

LAB

CBC W/DIFF; Ordering physician: Transcribed order James P. DeSantis, DO Stacy Gerg, PA 2/23/2002 14:06

RADIOLOGY

CHEST SINGLE FRONTAL Tube Placement James P. DeSantis, DO Donna R. Unch, UC 2/23/2002 15:19

TREATMENTS

Insert large bore IV X 2 James P. DeSantis, DO Stacy Gerg, PA 2/23/2002 14:37

RESULTS

LAB

CBC W/DIFF; Ordering physician: Transcribed order James P. DeSantis, DO
Result 1 User N. Interface 2/23/2002 14:16

CBC W/DIFF; Ordering physician: Transcribed order James P. DeSantis, DO

Test	Flag	Value	Units	Ref. Range	Status
WBC	H	14.4	E3UL	4.80-10.80	F
RBC	L	3.30	E6UL	3.80-5.50	F

Clearfield Hospital - Clearfield , PA 16830

Patient: KLINE , JUSTINE MARIE DOB: 9/26/1998 Age/Gender: 3 F
2/23/2002 13:37 See chief complaint quote
MR#: 159993 Acct#: 000000963965 ED Phys.: Stacy Gerg, PA

CBC W/DIFF; Ordering physician: Transcribed order James P. DeSantis, DO

Test	Flag	Value	Units	Ref. Range	Status
HGB	L	9.45	GDL	11.0-15.0	F
HCT	L	27.3	PCT	30.0-43.0	F
MCV		82.8	FL	81.0-99.0	F
MCH		28.6	PG	27.0-31.0	F
MCHC		34.5	PCT	33.0-37.0	F
RDW		13.4	PCT	11.5-14.5	F
PLATELETS		204	E3UL	130-400	F

Reviewed By: Stacy Gerg, PA 2/23/2002 15:27

Result 2 User N. Interface 2/23/2002 14:16

CBC W/DIFF; Ordering physician: Transcribed order James P. DeSantis, DO

Test	Flag	Value	Units	Ref. Range	Status
SEG NEUTROPHILS	H	50	PCT	23-45	F
BANDS	H	26	PCT	5-11	F
LYMPHOCYTES	L	5	PCT	35-65	F
MONOCYTES	H	10	PCT	3-9	F
EOSINOPHILS		1	PCT	0-7	F
METAMYELOCYTES	H	8	PCT	0-0	F

Reviewed By: Stacy Gerg, PA 2/23/2002 15:27

Notes:
<SG 02-23-02 15:26>While in the ED awaiting transport patient has recieved 1360 cc of NS. Patient had rapid sequence intubation preformed using pent, succ, van, and atropine. Dopamine was also hung at 2.5 mcq/kg/minute at 1.4cc dopamine was icrease to 5 mcg at 2.8cc.

Clearfield Hospital - Clearfield , PA 16830

Patient: KLINE , JUSTINE MARIE DOB: 9/26/1998 Age/Gender: 3 F
2/23/2002 13:37 See chief complaint quote
MR#: 159993 Acct#: 000000963965 ED Phys.: Stacy Gerg, PA

<SG 02-23-02 15:29>Additional epi at0.1 was given. Dopamine was increased to 10 mcq at 5.6 cc
<SG 02-23-02 15:33>Additional .1 of epi was given

DIAGNOSIS

Other shock without mention of trauma 785.59
SG:Stacy Gerg, PA 02/23/02 14:39

DISPOSITION

Physician

PA's attending supervisor: James P. DeSantis, DO
Disposition - transfer: Transfer patient to Childrens Hospital Pittsburgh. Patient's condition is critical. Transfer occurred after evaluation and treatment.
Notes:
<SG 02-23-02 14:41>Case was discussed with Children's Hospital accepting doctor by Dr. DesSantis. Patient was seen and examined by Dr. DEsantis
SG:Stacy Gerg, PA 02/23/02 14:39

Bed Assignments:
WAIT2 <KLA 2/23/2002 13:37>
TRAUMA4 <KLA 2/23/2002 13:48>
TRAUMA1 <PMN 2/23/2002 14:49>

Chart electronically signed by: Stacy Gerg, PA 2/23/2002 17:51

Clearfield Hospital - Clearfield , PA 16830

Patient: KLINE , JUSTINE MARIE **DOB/Gender:** 9/26/1998 Female
MR#: 159993 **Acct#:** 000000963965
DOS: 2/23/2002
Private Phys: **ED Phys:** Stacy Gerg, PA

CHIEF COMPLAINT:

See chief complaint quote

Physicians caring for patient:

Stacy Gerg, PA

VITAL SIGNS

Time	Temp(C)	Rt.	Pulse	Resp	Syst	Diast	Pos.	O2 Sat	FSBS	Pain Scale
13:42	37.7	R		16						
14:00			141	16	64	38	S		93	
14:40			142							
14:45			140		101	59	L	83		
14:57			136		43	32	L	93		
14:58			134							
15:12			134							

Weight : 32 lbs. (14.5 kg.)

Notes:

<MAS 02-23-02 15:19>IV Vancomycin given IVPB
<MAS 02-23-02 15:20>Atropine 0.3 given IV
<MAS 02-23-02 15:21>Epi 0.3 given IV
<MAS 02-23-02 15:25>Dopamine gtt initiated at 2.5mcg/kg/min
<MAS 02-23-02 15:28>Dopamine gtt up to 5 mcg/kg/min. Difficulty obtaining BP. Pt intubated by Dr D. Airway maintained by resp tech.
<MAS 02-23-02 15:32>Dopamine up to 10 mcg/kg/min. Attempting to initiate another IV. Ptt's color mottled ,very pale , cool to touch.
<MAS 02-23-02 15:33>Epi 0.1 mg given IV
<MAS 02-23-02 15:33>Epi 0.1mg given IV

TRIAGE

Arrival: Patient arrived by being carried via private auto from Private Home accompanied by parent(s)
Chief complaint/quote: seen here this am at 0600 with vomiting and diarrhea and hallucinations from fever mother states no better cont to vomit and have diarrhea fever persists but she doen't know what as didn't take temp. taking small amts of liquids
Mental status: The patient is drowsy and responds to verbal stimuli
PCP/private physician: Sherri L. Sortor-Thompson, MD
Physician to see patient
ED physician to see patient

Printed by Donna R.Unch, UC on Saturday, February 23, 2002 3:34:21 PM **Triage and disposition documentation.**

KLINE ,JUSTINE M
MR 159993 3y
DOB 09/26/1998 F 1
FIN 000000963965

Ex "E"

Clearfield Hospital - Clearfield , PA 16830

Patient: KLINE , JUSTINE MARIE DOB/Gender: 9/26/1998 Female
MR#: 159993 Acct#: 000000963965
DOS: 2/23/2002
Private Phys: ED Phys: Stacy Gerg, PA

Medication allergies: No known allergies.
Allergies/food/environmental/animal: No known allergies.
Latex Allergy (-)
Current meds: none
Notes:
<KLA 02-23-02 13:41> mother was given an rx this am but hasn't been given yet. motrin given at 1230

Medications were taken prior to arrival to the ED.
Vaccinations are up to date
Consent to treat obtained.
Growth and Developement: Appropriate for age.

NURSING SYSTEMS REVIEW

Orientation/safety: The patient was brought to room carried by parent/guardian. Patient was placed on stretcher. Bed placed in siderails x 2 and low/locked position. Call light is within reach of family member. Explanation of care provided to mother. Alarms set and turned on for: and Alarms set and turned on for:. Plan of care: family to bedside, hydration, and position of comfort. Comfort measures include warm blanket
Ready for Physician/PA.

FLOWSHEETS

MEDICATION ADMINISTRATION RECORD

NSS 500ML 300 cc(s) ; Now ; Transcribed order James P. DeSantis, DO

IV fluids started as ordered.
2/23/2002 15:07
Inadequate time frame to determine response.
2/23/2002 15:07

Vancomycin 225 mg ; IV ; Transcribed order James P. DeSantis, DO

Medication given as ordered.. Location: IVPB. IV site number 1. Diluted in 100 cc's. Infused over 1 hour
2/23/2002 14:41
Inadequate time frame to determine response.
2/23/2002 15:06

NSS 500ML 300 cc(s) ; Now James P. DeSantis, DO

Clearfield Hospital - Clearfield , PA 16830

Patient: KLINE , JUSTINE MARIE **DOB/Gender:** 9/26/1998 Female
MR#: 159993 **Acct#:** 000000963965
DOS: 2/23/2002
Private Phys: **ED Phys:** Stacy Gerg, PA

Medication given as ordered.
2/23/2002 14:50
Inadequate time frame to determine response.
2/23/2002 14:50

NSS 1000ML Stacy Gerg PA.

HISTORY OF PRESENT ILLNESS

Patient seen by Physician/PA.
HPI text: 3 yof who presents to the ED with the CC of lethargy. Mother states the child has been ill since last night. Child began running a temperature of 104 last night. Patient was evaluated in the emergency department at that time. Septic work up was preformed which revealed a UTI. Child was given Rocephin 700 mgs IM for treatment initally due vomiting and diarrhea. Child was discharged to home with a prescription for Augmentin 1 tsp bid which the child has not begun. Mother reports the child has been lethargic today and "limp like a rag doll" Mother states she has also noticed a rash to the lower extremities and buttox.

REVIEW OF SYSTEMS

As documented in HPI, all other systems are negative.

EXAM

GEN: ill appearing child in moderate distress SKIN: Warm and dry, mottling noted to the lower extremities. HEENT: Normocephalic, . Oral mucosa moist, pharynx clear; TM's right was erythematous and retracted. left revealed cerumen impaction which was not removed. NECK: Supple. HEART: AP regular S1 and S2 without murmur. LUNGS: Clear. ABD: Normoactive bowel sounds. Soft, nontender. No organomegaly. Neuro: negative menningal signs.

PROCEDURES

Rapid sequence induction: without complications. The patient tolerated the procedure well. CPT-4 Code: Rapid sequence induction - 99999
IV placement: IV site # 1: a 24 gauge jelco was inserted in the right hand x 2 attempts and attached to 500 cc(s) NS via extension infusing at 300 cc/hr PMN 02/23/02 14:18

Saline lock placed: Saline lock site #2: a/an 20 gauge jelco was inserted in the left hand x on 1 attempt(s) MAS 02/23/02 14:40

Clearfield Hospital - Clearfield , PA 16830

Patient: KLINE , JUSTINE MARIE DOB/Gender: 9/26/1998 Female
MR#: 159993 Acct#: 000000963965
DOS: 2/23/2002
Private Phys: ED Phys: Stacy Gerg, PA

Rhythm: with sinus tachycardia PMN 02/23/02 14:55

Foley catheter placement: foley catheter was placed using sterile technique without complications MAS 02/23/02 15:08

Notes:
<MAS 02-23-02 15:11>#8 french peds foley inserted without difficulty. Balloon inflated with 3cc sterile water. Foley draining straw colored urine.

Accu-check: 93 Physician notified. MAS 02/23/02 15:11

Lab: notified of orders.

ORDERS

MEDICATIONS

NSS 500ML 300 cc(s) ; Now ; Transcribed order James P. DeSantis, DO
Vancomycin 225 mg ; IV ; Transcribed order James P. DeSantis, DO
NSS 500ML 300 cc(s) ; Now James P. DeSantis, DO
NSS 1000ML Stacy Gerg PA.

LAB

CBC W/DIFF; Ordering physician: Transcribed order James P. DeSantis, DO

RADIOLOGY

CHEST SINGLE FRONTAL Tube Placement James P. DeSantis, DO

TREATMENTS

Insert large bore IV X 2 James P. DeSantis, DO

RESULTS

LAB

CBC W/DIFF; Ordering physician: Transcribed order James P. DeSantis, DO
Result 1

CBC W/DIFF; Ordering physician: Transcribed order James P. DeSantis, DO

Test	Flag	Value	Units	Ref. Range	Status
WBC	H	14.4	E3UL	4.80-10.80	F

Printed by Donna R.Unch, UC on Saturday, February 23, 2002 3:34:21 PM **Triage and disposition documentation.**

KLINE ,JUSTINE M
MR 159993 3y
DOB 09/26/1998 F 1
FIN 000000963965

Clearfield Hospital - Clearfield , PA 16830

Patient: KLINE , JUSTINE MARIE
DOB/Gender: 9/26/1998 Female
MR#: 159993
Acct#: 000000963965
DOS: 2/23/2002
Private Phys:
ED Phys: Stacy Gerg, PA

CBC W/DIFF; Ordering physician: Transcribed order James P. DeSantis, DO

Test	Flag	Value	Units	Ref. Range	Status
RBC	L	3.30	E6UL	3.80-5.50	F
HGB	L	9.45	GDL	11.0-15.0	F
HCT	L	27.3	PCT	30.0-43.0	F
MCV		82.8	FL	81.0-99.0	F
MCH		28.6	PG	27.0-31.0	F
MCHC		34.5	PCT	33.0-37.0	F
RDW		13.4	PCT	11.5-14.5	F
PLATELETS		204	E3UL	130-400	F

Result 2

CBC W/DIFF; Ordering physician: Transcribed order James P. DeSantis, DO

Test	Flag	Value	Units	Ref. Range	Status
SEG NEUTROPHILS	H	50	PCT	23-45	F
BANDS	H	26	PCT	5-11	F
LYMPHOCYTES	L	5	PCT	35-65	F
MONOCYTES	H	10	PCT	3-9	F
EOSINOPHILS		1	PCT	0-7	F
METAMYELOCYTES	H	8	PCT	0-0	F

Notes:
<SG 02-23-02 15:26>While in the ED awaiting transport patient has recieved 1360 cc of NS. Patient had rapid sequence intubation preformed using pent, succ, van, and atropine. Dopamine was also hung at 2.5 mcq/kg/minute at 1.4cc dopamine was icrease to 5 mcg at 2.8cc.

Printed by Donna R.Unch, UC on Saturday, February 23, 2002 3:34:21 PM **Triage and disposition documentation.**

KLINE ,JUSTINE M
MR 159993 3y
DOB 09/26/1998 F 1
FIN 000000963965

Clearfield Hospital - Clearfield , PA 16830

Patient: KLINE , JUSTINE MARIE DOB/Gender: 9/26/1998 Female
MR#: 159993 Acct#: 000000963965
DOS: 2/23/2002
Private Phys: ED Phys: Stacy Gerg, PA

<SG 02-23-02 15:29>Additional epi at0.1 was given. Dopamine was increased to 10 mcq at 5.6 cc
<SG 02-23-02 15:33>Additional .1 of epi was given

DIAGNOSIS

Other shock without mention of trauma

DISPOSITION

PA's attending supervisor: James P. DeSantis, DO
Disposition - transfer: Transfer patient to Childrens Hospital Pittsburgh. Patient's condition is critical. Transfer occurred after evaluation and treatment.
Notes:
<SG 02-23-02 14:41>Case was discussed with Children's Hospital accepting doctor by Dr. DesSantis. Patient was seen and examined by Dr. DEsantis

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

SANDRA CONKLIN, as parent and natural guardian of JUSTINE KLINE, and SANDRA CONKLIN, individually,	CIVIL DIVISION NO.: 2003-68 CD
Plaintiffs,	TYPE OF PLEADING:
v.	**NOTICE OF SERVICE OF AMENDED NOTICE OF VIDEOTAPED DEPOSITION OF C. RAYMOND SCHANEY, P.T.**
CLEARFIELD HOSPITAL, GEORGE F. PALMER, ERNEST P. JONES, and JAMES P. DeSANTIS,	FILED ON BEHALF OF PLAINTIFF
Defendants.	COUNSEL OF RECORD FOR THIS PARTY: ROLF LOUIS PATBERG, ESQUIRE PA I.D. NO.: 65185 PATBERG, CARMODY, GING & FILIPPI DEUTSCHTOWN CENTER 801 VINIAL STREET - THIRD FLOOR PITTSBURGH, PA 15212 (412) 232-3500
JURY TRIAL DEMANDED	

FILED No cc.
M/11:00 um
NOV 13 2006
William A. Shaw
Prothonotary/Clerk of Courts

#90

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

SANDRA CONKLIN, as parent and natural guardian of JUSTINE KLINE, and SANDRA CONKLIN, individually,	)	CIVIL DIVISION
	)	NO.: 2003-68 CD
Plaintiffs,	)	
v.	)	
CLEARFIELD HOSPITAL, GEORGE F. PALMER, ERNEST P. JONES, and JAMES P. DeSANTIS,	)	
Defendants.	)	**JURY TRIAL DEMANDED**

NOTICE OF SERVICE OF AMENDED NOTICE OF VIDEOTAPED DEPOSITION OF C. RAYMOND SCHANEY, P.T.

TO: PROTHONOTARY

Please take notice that the foregoing Notice of Service of Notice of Videotaped Deposition of C. Raymond Schaney, P.T. has been served upon all counsel of record this 15 day of November, 2006 via postage prepaid United States Mail and facsimile.

RESPECTFULLY SUBMITTED:

PATBERG, CARMODY, GING & FILIPPI

DATE: 11-10-06

By _____
Rolf Louis Patberg, Esquire
PA I.D. No.: 65185

PATBERG, CARMODY, GING & FILIPPI
Deutschtown Center
801 Vinial Street - Third Floor
Pittsburgh, PA 15212
(412) 232-3500

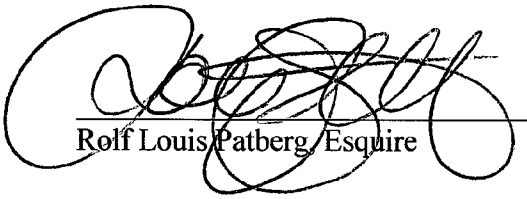
Attorney for Plaintiffs

JURY TRIAL DEMANDED

CERTIFICATE OF SERVICE

I, Rolf Louis Patberg, Esquire, hereby certify that a true and correct copy of the foregoing Notice of Service of Amended Notice of Videotaped Deposition of C. Raymond Schaney, P.T. was forwarded this 10 day of November, 2006 via postage prepaid United States Mail to the following:

John L. McIntyre, Esquire
McIntyre, Dugas, Hartye & Schmitt
P.O. Box 533
Holidaysburg, PA 16648
Facsimile: 814-696-9399



Rolf Louis Patberg, Esquire

PATBERG, CARMODY, GING & FILIPPI

ATTORNEYS AT LAW

PITTSBURGH OFFICE:

DEUTSCHTOWN CENTER
801 VINIAL STREET
THIRD FLOOR
PITTSBURGH, PA 15212
(412) 232-3500
FAX: (412) 281-8656

ROLF LOUIS PATBERG
TERRENCE M. GING
SEAN J. CARMODY
RICHARD E. FILIPPI
SEAN P. DUFF

OF COUNSEL:
JOSEPH MANION LUDWIG
WILLIAM B. DIXON

OFFICES IN:

ERIE
MURRYSVILLE
WARRENDALE

November 10, 2006

Clearfield County Prothonotary
Clearfield County Courthouse
230 E. Market Street
Clearfield, PA 16830

Re.: Sandra Conklin, et al v. Clearfield Hospital, et al.
No.: 2003-68 CD
Our File No.: 02-201

Dear Ladies and Gentlemen:

Please file the enclosed Notice of Service of Amended Notice of Videotaped Deposition of C. Raymond Schaney, P.T. Kindly date-stamp the additional cover page and return it in the enclosed self-addressed, stamped envelope.

Thank you for your attention in this regard and please feel free to contact me with any questions or concerns.

Very truly yours,

Rolf Louis Patberg

RLP/cag

Enclosures

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

SANDRA CONKLIN, as parent and natural guardian of JUSTINE KLINE, and SANDRA CONKLIN, individually,	CIVIL DIVISION NO.: 2003-68 CD
Plaintiffs,	TYPE OF PLEADING:
v.	**NOTICE TO ATTEND DIRECTED TO DONNA UNCH**
CLEARFIELD HOSPITAL, and GEORGE F. PALMER,	FILED ON BEHALF OF PLAINTIFF
Defendants.	COUNSEL OF RECORD FOR THIS PARTY: ROLF LOUIS PATBERG, ESQUIRE PA I.D. NO.: 65185
JURY TRIAL DEMANDED	PATBERG, CARMODY, GING & FILIPPI DEUTSCHTOWN CENTER 801 VINIAL STREET - THIRD FLOOR PITTSBURGH, PA 15212 (412) 232-3500

FILED No cc.
M/12:00 cm
NOV 13 2006

William A. Shaw
Prothonotary/Clerk of Courts

#89

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

SANDRA CONKLIN, as parent and natural guardian of JUSTINE KLINE, and SANDRA CONKLIN, individually,	)	CIVIL DIVISION
	)	NO.: 2003-68 CD
Plaintiffs,	)	
v.	)	
CLEARFIELD HOSPITAL, and GEORGE F. PALMER,	)	
Defendants.	)	
	)	**JURY TRIAL DEMANDED**

NOTICE TO ATTEND DIRECTED TO DONNA UNCH

TO: Donna Unch
c/o John McIntyre, Esquire
McIntyre, Dugas, Hartye & Schmitt
P.O. Box 533
Holidaysburg, PA 16648

You are directed to come to the courtroom of the Honorable Judge Fredric J. Ammerman, Court of Common Pleas of Clearfield County, Pennsylvania, Clearfield County Courthouse, 230 E. Market Street, Clearfield, PA 16830, or as indicated by the undersigned counsel on Monday, December 4, 2006 at 9:00 a.m. or soon thereafter as indicated by the undersigned counsel to testify on behalf of the Plaintiffs in the above case and to remain until excused.

If you fail to attend as required by this Notice, you may be subject to the sanctions authorized by Rule 234.5 of the Pennsylvania Rules of Civil Procedure.

RESPECTFULLY SUBMITTED:

PATBERG, CARMODY, GING & FILIPPI

DATE: 11-9-06

By _____
Rolf Louis Patberg, Esquire
PA I.D. No.: 65185

Attorney for Plaintiffs

JURY TRIAL DEMANDED

CERTIFICATE OF SERVICE

I, Rolf Louis Patberg, Esquire, hereby certify that a true and correct copy of the foregoing Notice to Attend was forwarded this 9 day of November, 2006 via postage prepaid United States Mail to the following:

John L. McIntyre, Esquire
McIntyre, Dugas, Hartye & Schmitt
P.O. Box 533
Holidaysburg, PA 16648

Rolf Louis Patberg, Esquire

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

SANDRA CONKLIN, as parent and natural guardian of JUSTINE KLINE, and SANDRA CONKLIN, individually,	CIVIL DIVISION NO.: 2003-68 CD
Plaintiffs,	TYPE OF PLEADING:
v.	**NOTICE TO ATTEND DIRECTED TO STACEY GERG**
CLEARFIELD HOSPITAL, and GEORGE F. PALMER,	FILED ON BEHALF OF PLAINTIFF
Defendants.	COUNSEL OF RECORD FOR THIS PARTY: ROLF LOUIS PATBERG, ESQUIRE PA I.D. NO.: 65185
JURY TRIAL DEMANDED	PATBERG, CARMODY, GING & FILIPPI DEUTSCHTOWN CENTER 801 VINIAL STREET - THIRD FLOOR PITTSBURGH, PA 15212 (412) 232-3500

FILED No CC.
M/12:00LM
NOV 13 2006
William A. Shaw
Prothonotary/Clerk of Courts

#83

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

SANDRA CONKLIN, as parent and natural guardian of JUSTINE KLINE, and SANDRA CONKLIN, individually,	)	CIVIL DIVISION
	)	NO.: 2003-68 CD
Plaintiffs,	)	
v.	)	
CLEARFIELD HOSPITAL, and GEORGE F. PALMER,	)	
Defendants.	)	
	)	**JURY TRIAL DEMANDED**

NOTICE TO ATTEND DIRECTED TO STACEY GERG

TO: Stacey Gerg
c/o John McIntyre, Esquire
McIntyre, Dugas, Hartye & Schmitt
P.O. Box 533
Holidaysburg, PA 16648

You are directed to come to the courtroom of the Honorable Judge Fredric J. Ammerman, Court of Common Pleas of Clearfield County, Pennsylvania, Clearfield County Courthouse, 230 E. Market Street, Clearfield, PA 16830, or as indicated by the undersigned counsel on Monday, December 4, 2006 at 9:00 a.m. or soon thereafter as indicated by the undersigned counsel to testify on behalf of the Plaintiffs in the above case and to remain until excused.

If you fail to attend as required by this Notice, you may be subject to the sanctions authorized by Rule 234.5 of the Pennsylvania Rules of Civil Procedure.

RESPECTFULLY SUBMITTED:

PATBERG, CARMODY, GING & FILIPPI

DATE: 11-9-06

By _____
Rolf Louis Patberg, Esquire
PA I.D. No.: 65185

Attorney for Plaintiffs

JURY TRIAL DEMANDED

CERTIFICATE OF SERVICE

I, Rolf Louis Patberg, Esquire, hereby certify that a true and correct copy of the foregoing Notice to Attend was forwarded this 9 day of November, 2006 via postage prepaid United States Mail to the following:

John L. McIntyre, Esquire
McIntyre, Dugas, Hartye & Schmitt
P.O. Box 533
Holidaysburg, PA 16648

Rolf Louis Patberg, Esquire

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

SANDRA CONKLIN, as parent and natural guardian of JUSTINE KLINE, and SANDRA CONKLIN, individually,	CIVIL DIVISION NO.: 2003-68 CD
Plaintiffs,	TYPE OF PLEADING:
v.	**NOTICE TO ATTEND DIRECTED TO KELLY ESPENSHADE**
CLEARFIELD HOSPITAL, and GEORGE F. PALMER,	FILED ON BEHALF OF PLAINTIFF
Defendants.	COUNSEL OF RECORD FOR THIS PARTY: ROLF LOUIS PATBERG, ESQUIRE PA I.D. NO.: 65185
JURY TRIAL DEMANDED	PATBERG, CARMODY, GING & FILIPPI DEUTSCHTOWN CENTER 801 VINIAL STREET - THIRD FLOOR PITTSBURGH, PA 15212 (412) 232-3500

FILED No cc.
M/12:00 cm
NOV 13 2006
William A. Shaw
Prothonotary/Clerk of Courts

(#87)

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

SANDRA CONKLIN, as parent and natural guardian of JUSTINE KLINE, and SANDRA CONKLIN, individually,	)	CIVIL DIVISION
	)	NO.: 2003-68 CD
Plaintiffs,	)	
v.	)	
CLEARFIELD HOSPITAL, and GEORGE F. PALMER,	)	
Defendants.	)	
	)	**JURY TRIAL DEMANDED**

NOTICE TO ATTEND DIRECTED TO KELLY ESPENSHADE

TO: Kelly Espenshade
c/o John McIntyre, Esquire
McIntyre, Dugas, Hartye & Schmitt
P.O. Box 533
Holidaysburg, PA 16648

You are directed to come to the courtroom of the Honorable Judge Fredric J. Ammerman, Court of Common Pleas of Clearfield County, Pennsylvania, Clearfield County Courthouse, 230 E. Market Street, Clearfield, PA 16830, or as indicated by the undersigned counsel on Monday, December 4, 2006 at 9:00 a.m. or soon thereafter as indicated by the undersigned counsel to testify on behalf of the Plaintiffs in the above case and to remain until excused.

If you fail to attend as required by this Notice, you may be subject to the sanctions authorized by Rule 234.5 of the Pennsylvania Rules of Civil Procedure.

RESPECTFULLY SUBMITTED:

PATBERG, CARMODY, GING & FILIPPI

DATE: 11-9-06

By _____
Rolf Louis Patberg, Esquire
PA I.D. No.: 65185

Attorney for Plaintiffs

JURY TRIAL DEMANDED

CERTIFICATE OF SERVICE

I, Rolf Louis Patberg, Esquire, hereby certify that a true and correct copy of the foregoing Notice to Attend was forwarded this 9 day of November, 2006 via postage prepaid United States Mail to the following:

John L. McIntyre, Esquire
McIntyre, Dugas, Hartye & Schmitt
P.O. Box 533
Holidaysburg, PA 16648

Rolf Louis Patberg, Esquire

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

SANDRA CONKLIN, as parent and natural guardian of JUSTINE KLINE, and SANDRA CONKLIN, individually,	CIVIL DIVISION NO.: 2003-68 CD
Plaintiffs,	TYPE OF PLEADING:
v.	**NOTICE TO ATTEND DIRECTED TO PATRICIA NEEPER**
CLEARFIELD HOSPITAL, and GEORGE F. PALMER,	FILED ON BEHALF OF PLAINTIFF
Defendants.	COUNSEL OF RECORD FOR THIS PARTY: ROLF LOUIS PATBERG, ESQUIRE PA I.D. NO.: 65185
JURY TRIAL DEMANDED	PATBERG, CARMODY, GING & FILIPPI DEUTSCHTOWN CENTER 801 VINIAL STREET - THIRD FLOOR PITTSBURGH, PA 15212 (412) 232-3500

FILED No cc.
M/12:00 LM
NOV 13 2006

William A. Shaw
Prothonotary/Clerk of Courts

#86

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

SANDRA CONKLIN, as parent and natural guardian of JUSTINE KLINE, and SANDRA CONKLIN, individually,	)	CIVIL DIVISION
	)	NO.: 2003-68 CD
Plaintiffs,	)	
v.	)	
CLEARFIELD HOSPITAL, and GEORGE F. PALMER,	)	
Defendants.	)	
	)	**JURY TRIAL DEMANDED**

NOTICE TO ATTEND DIRECTED TO PATRICIA NEEPER

TO: Patricia Neeper
c/o John McIntyre, Esquire
McIntyre, Dugas, Hartye & Schmitt
P.O. Box 533
Holidaysburg, PA 16648

You are directed to come to the courtroom of the Honorable Judge Fredric J. Ammerman, Court of Common Pleas of Clearfield County, Pennsylvania, Clearfield County Courthouse, 230 E. Market Street, Clearfield, PA 16830, or as indicated by the undersigned counsel on Monday, December 4, 2006 at 9:00 a.m. or soon thereafter as indicated by the undersigned counsel to testify on behalf of the Plaintiffs in the above case and to remain until excused.

If you fail to attend as required by this Notice, you may be subject to the sanctions authorized by Rule 234.5 of the Pennsylvania Rules of Civil Procedure.

RESPECTFULLY SUBMITTED:

PATBERG, CARMODY, GING & FILIPPI

DATE: 11-9-06

By _____
Rolf Louis Patberg, Esquire
PA I.D. No.: 65185

Attorney for Plaintiffs

JURY TRIAL DEMANDED

CERTIFICATE OF SERVICE

I, Rolf Louis Patberg, Esquire, hereby certify that a true and correct copy of the foregoing Notice to Attend was forwarded this 9 day of November, 2006 via postage prepaid United States Mail to the following:

John L. McIntyre, Esquire
McIntyre, Dugas, Hartye & Schmitt
P.O. Box 533
Holidaysburg, PA 16648

Rolf Louis Patberg, Esquire

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

SANDRA CONKLIN, as parent and natural guardian of JUSTINE KLINE, and SANDRA CONKLIN, individually,	CIVIL DIVISION NO.: 2003-68 CD
Plaintiffs,	TYPE OF PLEADING:
v.	**NOTICE TO ATTEND DIRECTED TO JAMES P. DESANTIS, D.O.**
CLEARFIELD HOSPITAL, and GEORGE F. PALMER,	FILED ON BEHALF OF PLAINTIFF
Defendants.	COUNSEL OF RECORD FOR THIS PARTY:
	ROLF LOUIS PATBERG, ESQUIRE PA I.D. NO.: 65185
JURY TRIAL DEMANDED	PATBERG, CARMODY, GING & FILIPPI DEUTSCHTOWN CENTER 801 VINIAL STREET - THIRD FLOOR PITTSBURGH, PA 15212 (412) 232-3500

FILED NoCC.
M/12:00 cm
NOV 13 2006

William A. Shaw
Prothonotary/Clerk of Courts

#85

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

SANDRA CONKLIN, as parent and natural guardian of JUSTINE KLINE, and SANDRA CONKLIN, individually,	)	CIVIL DIVISION
	)	NO.: 2003-68 CD
Plaintiffs,	)	
v.	)	
CLEARFIELD HOSPITAL, and GEORGE F. PALMER,	)	
Defendants.	)	
	)	**JURY TRIAL DEMANDED**

NOTICE TO ATTEND DIRECTED TO JAMES DESANTIS

TO: James P. DeSantis, D.O.
c/o John McIntyre, Esquire
McIntyre, Dugas, Hartye & Schmitt
P.O. Box 533
Holidaysburg, PA 16648

You are directed to come to the courtroom of the Honorable Judge Fredric J. Ammerman, Court of Common Pleas of Clearfield County, Pennsylvania, Clearfield County Courthouse, 230 E. Market Street, Clearfield, PA 16830, or as indicated by the undersigned counsel on Monday, December 4, 2006 at 9:00 a.m. or soon thereafter as indicated by the undersigned counsel to testify on behalf of the Plaintiffs in the above case and to remain until excused.

If you fail to attend as required by this Notice, you may be subject to the sanctions authorized by Rule 234.5 of the Pennsylvania Rules of Civil Procedure.

RESPECTFULLY SUBMITTED:

PATBERG, CARMODY, GING & FILIPPI

DATE: 11-9-06

By _____
Rolf Louis Patberg, Esquire
PA I.D. No.: 65185

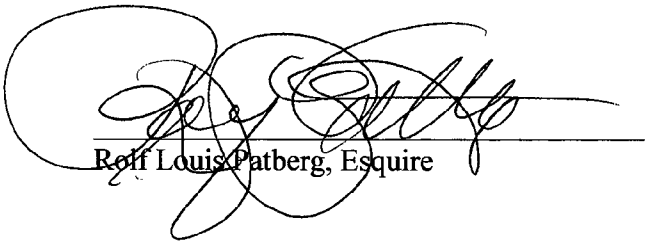
Attorney for Plaintiffs

JURY TRIAL DEMANDED

CERTIFICATE OF SERVICE

I, Rolf Louis Patberg, Esquire, hereby certify that a true and correct copy of the foregoing Notice to Attend was forwarded this 9 day of November, 2006 via postage prepaid United States Mail to the following:

John L. McIntyre, Esquire
McIntyre, Dugas, Hartye & Schmitt
P.O. Box 533
Holidaysburg, PA 16648



Rolf Louis Patberg, Esquire

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

SANDRA CONKLIN, as parent and natural guardian of JUSTINE KLINE, and SANDRA CONKLIN, individually,	CIVIL DIVISION NO.: 2003-68 CD
Plaintiffs,	TYPE OF PLEADING:
v.	**NOTICE TO ATTEND DIRECTED TO GWENDOLYN R. THOMAS**
CLEARFIELD HOSPITAL, and GEORGE F. PALMER,	FILED ON BEHALF OF PLAINTIFF
Defendants.	COUNSEL OF RECORD FOR THIS PARTY: ROLF LOUIS PATBERG, ESQUIRE PA I.D. NO.: 65185
JURY TRIAL DEMANDED	PATBERG, CARMODY, GING & FILIPPI DEUTSCHTOWN CENTER 801 VINIAL STREET - THIRD FLOOR PITTSBURGH, PA 15212 (412) 232-3500

FILED Noce
M/12:00 cm
NOV 13 2006
William A. Shaw
Prothonotary/Clerk of Courts

(#84)

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

SANDRA CONKLIN, as parent and natural guardian of JUSTINE KLINE, and SANDRA CONKLIN, individually,	)	CIVIL DIVISION
	)	NO.: 2003-68 CD
Plaintiffs,	)	
v.	)	
CLEARFIELD HOSPITAL, and GEORGE F. PALMER,	)	
Defendants.	)	
	)	**JURY TRIAL DEMANDED**

NOTICE TO ATTEND DIRECTED TO GWENDOLYN R. THOMAS

TO: Gwendolyn R. Thomas
c/o John McIntyre, Esquire
McIntyre, Dugas, Hartye & Schmitt
P.O. Box 533
Holidaysburg, PA 16648

You are directed to come to the courtroom of the Honorable Judge Fredric J. Ammerman, Court of Common Pleas of Clearfield County, Pennsylvania, Clearfield County Courthouse, 230 E. Market Street, Clearfield, PA 16830, or as indicated by the undersigned counsel on Monday, December 4, 2006 at 9:00 a.m. or soon thereafter as indicated by the undersigned counsel to testify on behalf of the Plaintiffs in the above case and to remain until excused.

If you fail to attend as required by this Notice, you may be subject to the sanctions authorized by Rule 234.5 of the Pennsylvania Rules of Civil Procedure.

RESPECTFULLY SUBMITTED:

PATBERG, CARMODY, GING & FILIPPI

DATE: 11-9-06

By _____
Rolf Louis Patberg, Esquire
PA I.D. No.: 65185

Attorney for Plaintiffs

JURY TRIAL DEMANDED

CERTIFICATE OF SERVICE

I, Rolf Louis Patberg, Esquire, hereby certify that a true and correct copy of the foregoing Notice to Attend was forwarded this 9 day of November, 2006 via postage prepaid United States Mail to the following:

John L. McIntyre, Esquire
McIntyre, Dugas, Hartye & Schmitt
P.O. Box 533
Holidaysburg, PA 16648

Rolf Louis Patberg, Esquire

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

SANDRA CONKLIN, as parent and natural guardian of JUSTINE KLINE, and SANDRA CONKLIN, individually,	CIVIL DIVISION NO.: 2003-68 CD
Plaintiffs,	TYPE OF PLEADING:
v.	**NOTICE TO ATTEND DIRECTED TO RECORDS CUSTODIAN - CLEARFIELD HOSPITAL**
CLEARFIELD HOSPITAL, and GEORGE F. PALMER,	FILED ON BEHALF OF PLAINTIFF
Defendants.	COUNSEL OF RECORD FOR THIS PARTY:
	ROLF LOUIS PATBERG, ESQUIRE PA I.D. NO.: 65185
JURY TRIAL DEMANDED	PATBERG, CARMODY, GING & FILIPPI DEUTSCHTOWN CENTER 801 VINIAL STREET - THIRD FLOOR PITTSBURGH, PA 15212 (412) 232-3500

FILED No cc
M/12:00 cm
NOV 13 2006

William A. Shaw
Prothonotary/Clerk of Courts

#83

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

SANDRA CONKLIN, as parent and natural guardian of JUSTINE KLINE, and SANDRA CONKLIN, individually,	)	CIVIL DIVISION
	)	NO.: 2003-68 CD
Plaintiffs,	)	
v.	)	
CLEARFIELD HOSPITAL, and GEORGE F. PALMER,	)	
Defendants.	)	**JURY TRIAL DEMANDED**

NOTICE TO ATTEND DIRECTED TO
RECORDS CUSTODIAN - CLEARFIELD HOSPITAL

TO: Records Custodian - Clearfield Hospital
c/o John McIntyre, Esquire
McIntyre, Dugas, Hartye & Schmitt
P.O. Box 533
Holidaysburg, PA 16648

You are directed to come to the courtroom of the Honorable Judge Fredric J. Ammerman, Court of Common Pleas of Clearfield County, Pennsylvania, Clearfield County Courthouse, 230 E. Market Street, Clearfield, PA 16830, or as indicated by the undersigned counsel on Monday, December 4, 2006 at 9:00 a.m. or soon thereafter as indicated by the undersigned counsel to testify on behalf of the Plaintiffs in the above case and to remain until excused.

If you fail to attend as required by this Notice, you may be subject to the sanctions authorized by Rule 234.5 of the Pennsylvania Rules of Civil Procedure.

Please bring with you the full and complete original medical records of Justine Kline.

RESPECTFULLY SUBMITTED:

PATBERG, CARMODY, GING & FILIPPI

DATE: 11-9-06

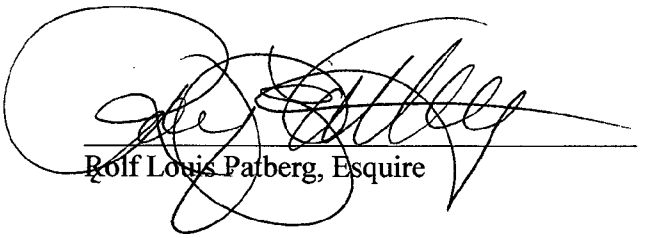
By _____
Rolf Louis Patberg, Esquire
PA I.D. No.: 65185
Attorney for Plaintiffs

JURY TRIAL DEMANDED

CERTIFICATE OF SERVICE

I, Rolf Louis Patberg, Esquire, hereby certify that a true and correct copy of the foregoing Notice to Attend was forwarded this 9 day of November, 2006 via postage prepaid United States Mail to the following:

John L. McIntyre, Esquire
McIntyre, Dugas, Hartye & Schmitt
P.O. Box 533
Holidaysburg, PA 16648



Rolf Louis Patberg, Esquire

PATBERG, CARMODY, GING & FILIPPI
ATTORNEYS AT LAW

PITTSBURGH OFFICE:

DEUTSCHTOWN CENTER
801 VINIAL STREET
THIRD FLOOR
PITTSBURGH, PA 15212
(412) 232-3500
FAX: (412) 281-8656

ROLF LOUIS PATBERG
TERRENCE M. GING
SEAN J. CARMODY
RICHARD E. FILIPPI
SEAN P. DUFF

OF COUNSEL:
JOSEPH MANION LUDWIG
WILLIAM B. DIXON

OFFICES IN:

ERIE
MURRYSVILLE
WARRENDALE

November 9, 2006

Clearfield County Prothonotary
Clearfield County Courthouse
230 E. Market Street
Clearfield, PA 16830

Re.: Sandra Conklin, et al v. Clearfield Hospital, et al.
No.: 2003-68 CD
Our File No.: 02-201

Dear Ladies and Gentlemen:

Please file the following documents in connection with the above referenced matter which are enclosed herewith:

1. Notice to Attend Directed to Records Custodian-Clearfield Hospital;
2. Notice to Attend Directed to Gwendolyn R. Thomas;
3. Notice to Attend Directed to James P. DeSantis, D.O.;
4. Notice to Attend Directed to Patricia Neeper;
5. Notice to Attend Directed to Kelly Espenshade;
6. Notice to Attend Directed to Stacey Gerg; and
7. Notice to Attend Directed to Donna Unch.

Kindly date-stamp the additional cover pages provided and return them in the enclosed self-addressed, stamped envelope. Thank you for your attention in this regard and please feel free to contact me with any questions or concerns.

Very truly yours,

Rolf Louis Patberg/cag

Rolf Louis Patberg

RLP/cag

Enclosures

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

SANDRA CONKLIN, as parent and natural guardian of JUSTINE KLINE, and SANDRA CONKLIN, individually, Plaintiffs	*	
vs.	*	No. 03-68-CD
CLEARFIELD HOSPITAL and GEORGE F. PALMER, Defendants	*	

ORDER

NOW, this 6th day of November, 2006, it is the ORDER of this Court that argument on the Plaintiffs' First Motions in Limine be and is hereby scheduled for the 20th day of November, 2006 at 9:30 a.m. in Hearing Room No. 3 of the Clearfield County Courthouse, Clearfield, Pennsylvania.

BY THE COURT,

FREDRIC J. AMMERMAN
President Judge

FILED
NOV 07 2006
01:20/cm
William A. Shaw
Prothonotary/Clerk of Courts
CERT TO ATTY
PATBERG
J. McINTYRE
MAIERHOFER

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

SANDRA CONKLIN, as parent and natural guardian of JUSTINE KLINE, and SANDRA CONKLIN, individually,	CIVIL DIVISION NO.: 2003-68 CD
Plaintiffs,	TYPE OF PLEADING:
v.	**NOTICE OF SERVICE OF NOTICE OF VIDEOTAPED DEPOSITION OF DANIEL FRIEDBERG, M.D.**
CLEARFIELD HOSPITAL, and GEORGE F. PALMER,	FILED ON BEHALF OF PLAINTIFF
Defendants.	COUNSEL OF RECORD FOR THIS PARTY:
	ROLF LOUIS PATBERG, ESQUIRE PA I.D. NO.: 65185
JURY TRIAL DEMANDED	PATBERG, CARMODY, GING & FILIPPI DEUTSCHTOWN CENTER 801 VINIAL STREET - THIRD FLOOR PITTSBURGH, PA 15212 (412) 232-3500

FILED No cc.
11/9:00 cm
NOV -7 2006
William A. Shaw
Prothonotary/Clerk of Courts

(#81)

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

SANDRA CONKLIN, as parent and natural guardian of JUSTINE KLINE, and SANDRA CONKLIN, individually,	)	CIVIL DIVISION
	)	NO.: 2003-68 CD
Plaintiffs,	)	
v.	)	
CLEARFIELD HOSPITAL, and GEORGE F. PALMER,	)	
Defendants.	)	
	)	**JURY TRIAL DEMANDED**

NOTICE OF SERVICE OF NOTICE OF VIDEOTAPED DEPOSITION OF DANIEL FRIEDBERG, M.D.

TO: PROTHONOTARY

Please take notice that the foregoing Notice of Service of Notice of Videotaped Deposition of Daniel Friedberg, M.D. has been served upon all counsel of record this 2 day of November, 2006 via postage prepaid United States Mail.

RESPECTFULLY SUBMITTED:

PATBERG, CARMODY, GING & FILIPPI

DATE: 11-2-06

By _____
Rolf Louis Patberg, Esquire
PA I.D. No.: 65185

PATBERG, CARMODY, GING & FILIPPI
Deutschtown Center
801 Vinial Street - Third Floor
Pittsburgh, PA 15212
(412) 232-3500

Attorney for Plaintiffs

JURY TRIAL DEMANDED

CERTIFICATE OF SERVICE

I, Rolf Louis Patberg, Esquire, hereby certify that a true and correct copy of the foregoing Notice of Service of Notice of Videotaped Deposition of Daniel Friedberg, M.D. was forwarded this 2 day of November, 2006 via postage prepaid United States Mail to the following:

John L. McIntyre, Esquire
McIntyre, Dugas, Hartye & Schmitt
P.O. Box 533
Holidaysburg, PA 16648

Rolf Louis Patberg, Esquire



FILED

NOV - 7 2006

William A. Shaw
Prothonotary/Clerk of Courts

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

SANDRA CONKLIN, as parent and natural guardian of JUSTINE KLINE, and SANDRA CONKLIN, individually,	CIVIL DIVISION NO.: 2003-68 CD
Plaintiffs,	TYPE OF PLEADING:
v.	**NOTICE OF SERVICE OF NOTICE OF VIDEOTAPED DEPOSITION OF K.P. YAKUBOFF, M.D.**
CLEARFIELD HOSPITAL, and GEORGE F. PALMER,	FILED ON BEHALF OF PLAINTIFF
Defendants.	COUNSEL OF RECORD FOR THIS PARTY:
	ROLF LOUIS PATBERG, ESQUIRE PA I.D. NO.: 65185
JURY TRIAL DEMANDED	PATBERG, CARMODY, GING & FILIPPI DEUTSCHTOWN CENTER 801 VINIAL STREET - THIRD FLOOR PITTSBURGH, PA 15212 (412) 232-3500

FILED
NOV 06 2006
m/ 1:20/c
William A. Shaw
Prothonotary/Clerk of Courts
No C/C.

(#80)

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

SANDRA CONKLIN, as parent and natural guardian of JUSTINE KLINE, and SANDRA CONKLIN, individually,	)	CIVIL DIVISION
	)	NO.: 2003-68 CD
Plaintiffs,	)	
v.	)	
CLEARFIELD HOSPITAL, and GEORGE F. PALMER,	)	
Defendants.	)	
	)	**JURY TRIAL DEMANDED**

NOTICE OF SERVICE OF NOTICE OF VIDEOTAPED DEPOSITION OF K.P. YAKUBOFF, M.D.

TO: PROTHONOTARY

Please take notice that the foregoing Notice of Service of Notice of Videotaped Deposition of K.P. Yakuboff, M.D., has been served upon all counsel of record this 2 day of November, 2006 via postage prepaid United States Mail.

RESPECTFULLY SUBMITTED:

PATBERG, CARMODY, GING & FILIPPI

DATE: 11-2-06

By _____
Rolf Louis Patberg, Esquire
PA I.D. No.: 65185

PATBERG, CARMODY, GING & FILIPPI
Deutschtown Center
801 Vinial Street - Third Floor
Pittsburgh, PA 15212
(412) 232-3500

Attorney for Plaintiffs

JURY TRIAL DEMANDED

CERTIFICATE OF SERVICE

I, Rolf Louis Patberg, Esquire, hereby certify that a true and correct copy of the foregoing Notice of Service of Notice of Videotaped Deposition of K.P. Yakuboff, M.D. was forwarded this 2 day of November, 2006 via postage prepaid United States Mail to the following:

John L. McIntyre, Esquire
McIntyre, Dugas, Hartye & Schmitt
P.O. Box 533
Holidaysburg, PA 16648

Rolf Louis Patberg, Esquire

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

SANDRA CONKLIN, as parent and natural guardian of JUSTINE KLINE, and SANDRA CONKLIN, individually,	CIVIL DIVISION NO.: 2003-68 CD
Plaintiffs,	TYPE OF PLEADING:
v.	**PLAINTIFFS' FIRST MOTIONS IN LIMINE**
CLEARFIELD HOSPITAL and GEORGE F. PALMER,	FILED ON BEHALF OF PLAINTIFFS
Defendants.	COUNSEL OF RECORD FOR THIS PARTY: ROLF LOUIS PATBERG, ESQUIRE PA I.D. NO.: 65185 PATBERG, CARMODY, GING & FILIPPI DEUTSCHTOWN CENTER 801 VINIAL STREET - THIRD FLOOR PITTSBURGH, PA 15212 (412) 232-3500
JURY TRIAL DEMANDED	

FILED
NOV 03 2006
William A. Shaw
Prothonotary/Clerk of Courts
No CERT COPIES

#79

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

SANDRA CONKLIN, as parent and natural guardian of JUSTINE KLINE, and SANDRA CONKLIN, individually,	)	CIVIL DIVISION
	)	NO.: 2003-68 CD
Plaintiffs,	)	
v.	)	
CLEARFIELD HOSPITAL and GEORGE F. PALMER,	)	
Defendants.	)	**JURY TRIAL DEMANDED**

PLAINTIFFS' FIRST MOTIONS IN LIMINE

AND NOW, comes the Plaintiffs, by and through their attorneys, Rolf Louis Patberg, Esquire, and the law firm of Patberg, Carmody, Ging & Filippi, and file the foregoing Plaintiffs' First Motions in Limine and in support thereof aver as follows:

1. The above-captioned matter is a medical negligence action arising from the care and treatment of a minor, Justine Kline, at Clearfield Hospital on February 23, 2002.

2. Justine Kline visited the Clearfield Hospital Emergency Room on two (2) occasions on February 23, 2002.

3. Defendant Emergency Room physician, George Palmer, treated Justine Kline upon her initial visit to the Emergency Room and discharged her under her mother's care, without admitting her.

4. There are two (2) principal issues in the case. The first issue is whether or not Dr. Palmer documented and did a proper physical examination of Justine Kline. The second issue is whether or not Justine Kline should have been admitted as an inpatient.

I. ***Motion in Limine: Testimony of Christopher King Regarding the Hoberman Article***

5. The Defendants have identified Christopher King, M.D., F.A.C.E.P., Associate Professor of Emergency Medicine in Pediatrics, University of Pittsburgh School of Medicine, as an expert in this case.

6. Dr. King has issued two (2) reports in this matter. First, he issued a report on December 16, 2004 (Exhibit 1). He issued a second report on July 11, 2005 (Exhibit 2).

7. Each of these respective reports heavily relies upon a certain article written by Dr. Alejandro Hoberman, a fellow colleague of Dr. King's at the University of Pittsburgh, a copy of which is attached as Exhibit 3.

8. Dr. King quotes the Hoberman article throughout both reports. For example, in his initial report of December 16, 2004, Dr. King issued the following references and opinions regarding the Hoberman report:

> "Regarding the issue of standard of care, I would like to respond to a specific criticism made by Dr. Tilelli in his review, i.e., "Inpatient management for the patient with newly diagnosed pyelonephritis is the standard of care." Apparently, Dr. Tilelli is unaware of important recent research that has changed the standard of care for this condition, because his statement is untrue and outdated. As I discuss in my lectures on this topic, a ground-breaking study by Hoberman, et al. ("Oral vs. initial intravenous therapy for urinary tract infections in young febrile children." *Pediatrics* 1999; 104: 79-86) demonstrated quite convincingly that children between the ages of two months and two years with presumed pyelonephritis can be managed safely and effectively on an outpatient basis. Hospital admission is no longer the standard of care for these patients. This study has been widely quoted in the medical literal and, to my knowledge, has changed practice at most, if not all, major institutions. Logically, we can assume that if it is not the standard of care for children as young as two months of age, it is certainly not the standard of care for a three-year-old child like Justine Kline. That Dr. Tilelli would hold himself out as an expert on this subject and yet be

unaware of this important recent change in the standard of care is surprising."

9. There is no question that, if published material is authoritative and relied upon by experts in the field, although it is hearsay, an expert may rely upon it in forming his opinion. Aldridge v. Edmunds, 561 Pa. 323, 750 A.2d 292, 297 (2000).

10. However, it is equally clear that the utilization of such information is limited. Where a trial court fails to impose appropriate constraints, it is an abuse of discretion. Id, 750 A.2d at 298.

11. A review of each of Dr. King's reports seemingly indicate that Dr. King intends to utilize the Hoberman articles as substantive evidence to "bolster" his own position.

12. Such a utilization of a purported learned treatise is improper and this Court must impose restrictions upon Dr. King's ability to reference this material.

13. Therefore, Plaintiffs ask that this Court, first, instruct defense counsel and their expert witness, Dr. King, not to read from the article in question and attempt to admit it as substantive evidence. Second, this Court should give a limiting instruction informing the jury that the article in question is non-admissible evidence that was introduced solely for the purpose to manifest Dr. King's preparation of his opinion and review of this matter.

WHEREFORE, Plaintiff respectfully requests that this Court issue an Order substantially in the form hereto regarding Dr. King's testimony.

II. ***Motion in Limine: Dr. Christopher King's Testimony in Reference to Individual Patients and Past Experience***

14. Throughout his reports, Dr. King repetitively references, apparently, prior individual treatments and experiences of his own within the emergency department.

15. Plaintiffs concede that Dr. King can testify, regarding his qualifications, about the number of patients he has treated, the conditions he has treated them for, and some of the outcomes.

16. However, it is apparent from his reports that he intends to testify regarding specific instances of pylenephritis and/or urinary tract infections.

17. Such testimony is objectionable for at least two (2) reasons. First, unless Dr. King is willing to produce the individual medical charts of the patients in question, Plaintiffs are deprived of the right of cross-examination regarding out of court statements. Second, the Defendants cannot lay a sufficient foundation to establish that such patients were sufficiently similar to Justine Kline to make the testimony in question relevant.

18. Therefore, this Honorable Court should preclude Dr. King from testifying regarding specific individual patients that he treated in the past for any other purpose but qualification of him as an expert. Plaintiffs will not contest Dr. King's qualifications.

WHEREFORE, Plaintiff respectfully requests that this Honorable Court preclude Dr. King from testifying regarding any other patient he treated for pylenephritis and/or a urinary tract infection unless Dr. King produces the redacted medical records of these individuals for the Plaintiffs' review.

III. ***Motion in Limine: Defendant Palmer's Speculative Testimony Regarding a Recording of a Purported Physical Examination***

19. On October 6, 2003, defense counsel produced the now existing medical chart of Justine Kline for her initial emergency room visit on February 23, 2002, a copy of which is attached hereto as Exhibit 4.

20. The majority of the chart is from a certain computer input system then and there existent at Clearfield Hospital.

21. However, on page 14 of the hospital chart, there is a handwritten physical examination entered by Dr. Palmer purportedly documenting an alleged physical examination that occurred on said date.

22. Dr. Palmer testified in his deposition that the handwritten physical examination was not, in fact, entered into the records on February 27, 2002. Palmer Depo., p. 85.[1]

23. Further, he testified that he did not document it within the same shift and he could not recall whether he had documented the physical examination within days. Palmer Depo., p. 85.

24. However, he claims to have entered the physical examination into the computer at the time of the examination. Palmer Depo., p. 85.

25. It is readily apparent that the physical examination that is entered into the chart and relied upon by defense counsel and their expert is not, in fact, a contemporaneous recording and raises serious questions whether the defense experts may rely on the handwritten note.

26. It is the belief of counsel that Dr. Palmer may try to testify that he entered the information into the computer but, possibly, in the wrong chart.

---

[1]An excerpt of Dr. Palmer's deposition is attached hereto as Exhibit 5.

27. Therefore, either the Defendant should produce the emergency room charts of all patients treated on February 23, 2002, with names redacted, or Dr. Palmer should not be permitted to testify that he possibly entered the information in the wrong patient's chart.

WHEREFORE, Plaintiff respectfully requests this Honorable Court issue an Order limiting Dr. Palmer's testimony to his recollection only and not permit him to speculate regarding entries into another patient's chart on the evening in question.

RESPECTFULLY SUBMITTED:

PATBERG, CARMODY, GING & FILIPPI

DATE: 11-2-06

By _____
Rolf Louis Patberg, Esquire
PA I.D. No.: 65185

PATBERG, CARMODY, GING & FILIPPI
801 Vinial Street - Third Floor
Pittsburgh, PA 15212
412-232-3500

Attorney for Plaintiffs.

JURY TRIAL DEMANDED

University of Pittsburgh

School of Medicine
Department of Emergency Medicine

230 McKee Place
Suite 500
Pittsburgh, PA 15213
412-647-8285
Fax: 412-578-3241

December 16, 2004

John L. McIntyre
McIntyre, Dugas, Hartye & Schmitt
P.O. Box 533
Hollidaysburg, PA 16648-0533

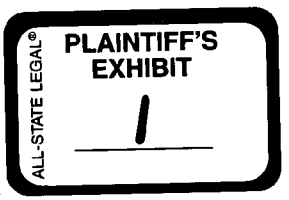
Dear Mr. McIntyre,

As requested, I have reviewed information relevant to the case of Kline v. Palmer, et al. and have reached opinions as outlined below. All my opinions are to a reasonable degree of medical certainty and are based on my education, training, and experience.

I am currently a member of the emergency medicine faculty at both UPMC-Presbyterian Hospital and the Children's Hospital of Pittsburgh, dividing my clinical time equally between those two emergency departments. I have just finished a two-year term as Chair of the Subboard of Pediatric Emergency Medicine, the main governing body for the subspecialty. I have also lectured for both national and international audiences on the subject of pediatric urinary tract infections over the last few years, as indicated in my curriculum vitae.

In rendering my opinions, I have reviewed the medical records for the two emergency department (ED) visits at Clearfield Hospital on 2/23/02, records from the Stat-medivac transport, and medical records from the initial part of the hospital course at Children's Hospital of Pittsburgh. Of note, to my knowledge I was not involved in the medical care of Justine Kline at any time. I reviewed the opinion of Dr. John A. Tilelli. I reviewed the initial plaintiff's complaint and plaintiff's response to interrogatories. Finally, I reviewed depositions for the following individuals:

Donna Unch
Gwendolyn Thomas
Patricia Neeper
Stacy Gerg
Monica Smith
Sandra Conklin
George Palmer
James DeSantis



Having reviewed all these materials, I can say without hesitation that I believe Dr. Palmer did not breach the standard of care during his evaluation and management of Justine Kline on 2/23/04 in any way that contributed to her adverse outcome. In fact, he exceeded the current standard of care in at least two instances, as I will describe. It was entirely appropriate for Dr. Palmer to discharge Justine Kline from the emergency department based on the information available to him at the time in question. It was also appropriate to see if the patient could tolerate oral liquids, and if so, to forego intravenous fluid administration, as there were no signs of significant dehydration. If faced with the same situation, I would discharge such a patient without intravenous fluids just as Dr. Palmer did (as, in fact, I have done with hundreds of such patients in my career), since there was no piece of clinical information that portended the sudden, dramatic deterioration and adverse outcome that Justine Kline experienced.

I believe that it was impossible to know that Justine Kline would worsen as she did subsequently. She had none of the recognized criteria for admission and inpatient treatment with intravenous antibiotics. She was able to tolerate an oral antibiotic, and by all accounts, she did not have a "septic" appearance of profound, intractable lethargy or irritability. Furthermore, her clinical course was in no way typical of a patient who fails outpatient therapy for pyelonephritis. On the contrary, it was extraordinarily unusual – I have never seen, heard of, or read about such a case previously. Any patients I have managed who failed outpatient therapy for pyelonephritis (and there have been relatively few since this is not a common occurrence) have at worst returned to the emergency department with persistent fever, increasing lethargy and/or vomiting of the oral antibiotic. Not one has ever developed virulent septic shock that resisted appropriate antibiotic therapy and aggressive life-support interventions – as occurred with Justine Kline – and, most assuredly, not one has ever developed purpura fulminans. These are complications we see with severe septicemia caused by meningococcus (which does not cause urinary tract infections) and which we never see with pyelonephritis. This is an exceptionally rare and completely unexpected outcome. I was able to confirm this by performing a search on the comprehensive medical database Ovid (see attached page) to find any articles that mentioned both "pyelonephritis" and "purpura fulminans" during the 38-year period from 1966 to the present. There was not one single prospective study, review, case series or case report that met these criteria.

Regarding the issue of standard of care, I would like to respond to a specific criticism made by Dr. Tilelli in his review, i.e., "Inpatient management for the patient with newly diagnosed pyelonephritis is the standard of care." Apparently, Dr. Tilelli is unaware of important recent research that has changed the standard of care for this condition, because his statement is untrue and outdated. As I discuss in my lectures on this topic, a ground-breaking study by Hoberman, et al. ("Oral vs. initial intravenous therapy for urinary tract infections in young febrile children." *Pediatrics* 1999;104:79-86) demonstrated quite convincingly that children between the ages of two months and two years with presumed pyelonephritis can be managed safely and effectively on an outpatient basis. Hospital admission is no longer the standard of care for these patients. This study has been widely quoted in the medical literal and, to my knowledge, has changed practice at most, if not all, major institutions. Logically, we can assume that if it is not the standard of care for

children as young as two months of age, it is certainly not the standard of care for a three-year-old child like Justine Kline. That Dr. Tillelli would hold himself out as an expert on this subject and yet be unaware of this important recent change in the standard of care is surprising.

Using intramuscular ceftriaxone is the first way that Dr. Palmer exceeded the standard of care – the Hoberman paper recommended simply using an oral agent (which would have a slower onset of effect) from the very first dose. Moreover, the effect of intramuscular ceftriaxone lasts for a full 24 hours after administration (it is a once daily drug). The other way that Dr. Palmer exceeded the standard of care was by ordering a basic metabolic panel, a complete blood count, and blood cultures. In a child over the age of 24 months without clinical evidence of significant dehydration, the standard of care does not dictate that these tests are necessary, and in fact, I rarely order them when I am managing a clinically euvolemic three-year-old child with presumed pyelonephritis. But Dr. Palmer did obtain these tests, and they showed a normal peripheral white blood cell count and electrolytes that did not suggest any significant degree of dehydration, which were two more pieces of evidence that it was safe to discharge Justine Kline to home. Blood culture results are never available until 24 to 48 hours after they are sent to the lab, so despite the fact that these later proved to be positive, it would be impossible for Dr. Palmer to have these results at the time when he was managing the patient. Blood cultures are often obtained routinely in highly febrile children under 24 months of age who are discharged from the ED, and positive results are used as information to identify children who require closer outpatient follow-up.

Next I would like to discuss the significance of visual hallucinations in a child with a high fever. This a well-recognized phenomenon called "febrile delirium." When the fever is high, a young child may have florid visual hallucinations which then disappear once the fever comes down. This entity is similar to simple febrile seizures insofar as it is unique to children and completely benign. We see febrile delirium relatively commonly and, assuming the hallucinations subside when the fever resolves, it in no way suggests that the child has sepsis, meningitis, or any other type of serious bacterial illness. The normal course of events for this presentation is that the child is given an appropriate dose of acetaminophen and/or ibuprofen, is observed until the hallucinations stop, and then is discharged to home with no further testing performed to work up the hallucinations. Using the occurrence of febrile delirium as an indication for performing a lumbar puncture, administering intravenous antibiotics or admitting a child to the hospital, without other evidence of sepsis or meningitis, would be inappropriate medical care and is by no means the standard of care. This is something that pediatrics residents generally learn during their first year of training.

I would also like to discuss the issue of hypotension in children, since this seems to be a question in this case. Let me say emphatically that a blood pressure of 85/57 mm/Hg in a three-year-old child does not represent hypotension and most assuredly does not indicate shock. The formula for determining the lower limit of normal (5th percentile) for systolic blood pressure in a child is as follows:

Systolic blood pressure = 70 mm/Hg + (2 × the age in years) mm/Hg

For Justine Kline, this would mean that a normal systolic blood pressure could be as low as 76 mm/Hg – well below her actual blood pressure that was obtained during the first ED visit on 2/23/02. To say that this blood pressure should have been interpreted as being consistent with septic shock is simply wrong. Furthermore, a diastolic pressure that is only 28 mm/Hg below the systolic pressure does not represent a "widened pulse pressure," which is also sometimes used as an indication of septic shock.

More importantly – since blood pressure is a relatively crude indicator of early shock in a child – there were none of the indirect signs of evolving septic shock documented in the record or described in deposition testimony. These would include mottling (which Ms. Conklin described in her deposition with regard to the second ED visit), a progressively worsening degree of lethargy, and an increasing heart rate. It is important to note that simply giving a child with impending septic shock acetaminophen or ibuprofen does not reverse these indirect signs – without aggressive intravenous fluid administration and intravenous antibiotics, the child will rapidly worsen with each hour that passes. Yet Justine Kline actually *improved* while in the ED after receiving nothing more that antipyretics. Her hallucinations stopped, her heart rate came down, she became more alert and she started taking oral fluids without vomiting. To my reading of the available documents, these facts are not disputed by anyone.

Such improvement over time is in no way consistent with impending septic shock, and in fact provided strong evidence that this patient did not require admission to the hospital but instead could be appropriately discharged to home. The fact that she subsequently deteriorated in an entirely unexpected manner does not constitute evidence that she should have been admitted to the hospital or that the decision to treat her on an outpatient basis was negligent.

To summarize, the management that Dr. Palmer provided to Justine Kline on 2/23/02 did not breach, and in certain respects exceeded, the standard of care. Unfortunately, there are some patients who develop devastating complications that could not possibly have been anticipated. This has happened to me; it happens to all physicians. But it does not represent negligence. The human body is infinitely complex and occasionally will do things that are completely unexpected. Sometimes, even with the best, most appropriate care that can be provided, when everything is done correctly using the most up-to-date information that medical science can provide, patients will still have adverse outcomes. If something cannot be foreseen, it cannot be prevented. Even with a technologically advanced system of medical care, that limitation still exists.

If you have further questions about this case, or you need me to provide deposition or trial testimony, please feel free to contact me.

Sincerely,

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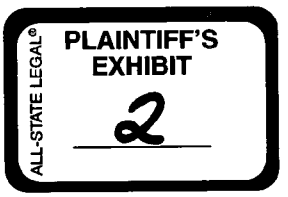
John L. McIntyre
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Dear Mr. McIntyre,

I read with interest the amendment to his first opinion that was recently rendered by Dr. Tilelli in the Justine Kline case. As you might imagine, I have several responses to that document.

First, let me reiterate that I have more than a passing interest in urinary tract infections in children – I have lectured many times to emergency medicine residents on this subject, and I have given invited lectures at large national (Key West) and international (Aruba) conferences on this subject. I also recorded an audio CME program on this subject that was distributed to physicians in all 50 states of the U.S. This has required me to carefully scrutinize, on an ongoing basis, all the literature regarding this changing aspect of pediatric emergency medicine practice.

Regarding Dr. Tilelli's comments, in his criticisms of the Hoberman[1] study that I referenced in my own opinion, he seems to be at odds with some fairly knowledgeable individuals, not least the editor of the highly prestigious journal (*Pediatrics*) in which the Hoberman article was published. Dr. Tilelli lists some aspects of the study he perceives as weak and adds that the study does not change the standard of care, which as he stated in his original opinion, he believes to be that all children with febrile urinary tract infections must be admitted to the hospital without exception. Yet to quote from the editorial[2] in *Pediatrics* regarding the Hoberman article, "This study has done us a great service by proving that most children with pyelonephritis can be managed as outpatients...Oral antibiotics are a safe and effective therapy for pyelonephritis." Dr. Tilelli apparently disagrees with that statement, but his only reference in supporting his disagreement is a letter to the editor by a Dr. Hopp, which he references. I would say that when one side of the scale has an original research article in a highly prestigious journal accompanied by a very supportive editorial, and the other side of the scale has a letter to the editor and Dr. Tilelli, it would seem that the scale tips rather decisively toward *Pediatrics* and the Hoberman article. More specifically, I would be interested to see any actual publications (e.g., formal studies, practice guidelines, etc.), as opposed to letters to the editor, which support Dr. Tilelli's statement that the standard of care remains unchanged after the Hoberman article. I have been unable to find any such publications.



I would also like to address Dr. Tilelli's specific criticisms of the Hoberman article one by one. Astonishingly, Dr. Tilelli begins by saying that the Hoberman study is "neither applicable to Justine Kline's case, nor represents the standard of care." Whether it represents the standard of care is addressed in the previous paragraph, but to say that this article is not applicable to Justine Kline's case is simply untrue. Justine Kline initially presented to the emergency department with a febrile urinary tract infection. As discussed at length, the Hoberman article is about the management of children who develop a febrile urinary tract infection. It is unclear to me how anyone could deny the applicability of the article to this case. In fact, it could not be more applicable.

If Dr. Tilelli is suggesting that the fact that the study dealt with children under the age of two years, and that Justine Kline was older than this at the time, then that is being just a bit disingenuous. If a study is performed with infants and younger children – who are always presumed to be at *greater* risk of infectious complications than older children – and the study shows that a more liberal approach to a given infectious illness is indicated, then the finding can be generalized to older children by saying that the approach can be at least as liberal as that found appropriate for younger children. In other words, if it is acceptable to manage children under two years of age with a febrile urinary tract infection with oral antibiotics on an outpatient basis, then it is certainly acceptable to apply the same standard to older children, for whom it would be *even safer*.

If on the other hand Dr. Tilelli is suggesting that the Hoberman article is not applicable to Justine Kline because she developed the extraordinarily unusual complication (i.e., not previously reported in the world literature from 1966 to the present, as stated in my previous opinion) of purpura fulminans, then that would require the physician to have an ability to foretell the future, since medicine must be practiced on a prospective basis, without having the benefit of hindsight. Trying to prospectively identify the one-in-a-million (or, more likely, one-in-ten-million) child presenting with a febrile urinary tract infection who will develop such a complication is obviously impossible and is an unfair expectation. If Dr. Tilelli has some other reason that this study is not applicable to Justine Kline which I have missed, I would be happy to address it at a later time.

Next we have the concern, also raised in the letter to the editor by Dr. Hopp cited by Dr. Tilelli in his opinion, that parents may be non-compliant with the oral medication, usually as a result of being very young, uneducated, etc. Clearly, the physician must make a judgment about each family as to whether a child is likely to receive a prescribed oral antibiotic as instructed, because as Dr. Tilelli notes, "The initiation of oral antibiotic therapy presumes that the child will be given the medication by his parents..." If the parent is judged as likely to be non-compliant with the outpatient regimen, then I think all physicians would agree that inpatient management should be considered.

Yet I do not believe anyone else has made the suggestion that Justine Kline was unlikely to receive her medication for this reason. If there is evidence to this effect, then I have not seen it. In fact, all the information I have received would suggest that Dr. Palmer did

indeed make just such an assessment and that in his judgment, the family situation of Justine Kline did not indicate any significant risk that she would not receive her antibiotics appropriately. I therefore fail to see the relevance of this comment.

Dr. Tilelli also contends that oral antibiotics should only be given if a child "will be able to keep them in his or her stomach without vomiting." I agree with that statement, and based on the records, it appears that Dr. Palmer also agrees with that statement, since he kept the patient in the emergency department until she took oral fluids without vomiting. Dr. Tilelli seems to be making the common mistake of confusing theoretical concerns for what *might* happen with an imagined patient versus what was actually the case for Justine Kline. In other words, how his concern about the issue of a patient vomiting an orally administered antibiotic relates to this specific case is not at all clear to me.

Dr. Tilelli next asserts that the Hoberman study "does not assuage concerns that attend the early management of children with severe urinary tract infections." This statement is incorrect. In the randomization for the study, three children were excluded because they were judged by the attending physician as too ill-appearing for outpatient management, a standard judgment that must be made about all children treated in the emergency department. Although Dr. Tilelli does not define what he means by "severe," this would certainly suggest that the researchers were cognizant of this concern and addressed it accordingly. Dr. Palmer made a similar judgment about Justine Kline – i.e., that she was not in the category of "too ill-appearing" to be treated at home – and based on the information I have reviewed about this case, I think his judgment regarding her condition at the time of discharge was correct.

Dr. Tilelli also chides me about knowing that "every now and then" a child will get sicker and develop urosepsis and dehydration and that "such was the case with Justine Kline." Yet the same can be said of *every child with a fever* we ever see in the emergency department – they *all* are at risk for developing sepsis and dehydration subsequently, as well as meningitis, pneumonia and other serious bacterial illnesses. That is why physicians must use their clinical judgment in making the crucial decisions about the level of risk for each patient (which will obviously never be perfect as long as doctors are selected from among human beings) and why parents are given explicit discharge instructions so that they will return to the hospital if they see signs suggestive of complications such as sepsis and dehydration. Using Dr. Tilelli's flawed analysis, we must either admit all children with fever to the hospital without using our judgment because they might later get worse, needlessly exposing countless children to the risks of hospitalization (medication errors, nosocomial infections, etc.) or we must once again develop an ability to foretell the future and perfectly identify which patients are the "every now and then" children who will go on to develop complications. Neither of these options is – or ever could be – the way medicine is practiced.

The next point that Dr. Tilelli takes issue with is the question of an inpatient renal ultrasound prior to discharging a child with a febrile urinary tract infection from the hospital. This statement is unreferenced, so it is unclear where Tilelli derived this information. Practice guidelines from the American Academy of Pediatrics published in 1999 are as follows:

> Infants and young children 2 months to 2 years of age with UTI who do not demonstrate the expected clinical response within 2 days of antimicrobial therapy should undergo ultrasonography promptly, and either voiding cystourethrography (VCUG) or radionuclide cystography (RNC) should be performed at the earliest convenient time. Infants and young children who have the expected response to antimicrobials should have a sonogram and either VCUG or RNC performed at the earliest convenient time (strength of evidence: fair). Usually the timing of the ultrasound is not crucial, but when the rate of clinical improvement is slower than anticipated during treatment, ultrasonography should be performed promptly to look for a cause such as obstruction or abscess.[3]

Even in 1999, there was no published standard mandating a "stat" renal ultrasound. If it could be performed after two days of therapy, it could certainly be performed on an outpatient basis. But more recently, the utility of obtaining a renal ultrasound for a child with the first episode of urinary tract infection *at all* has been questioned. Again, the evidence comes from Dr. Hoberman's group, this time published in 2003 in the most prestigious of all medical journals, *The New England Journal of Medicine*. The fact that this article was published in such a prominent journal would suggest that, while Dr. Tilelli does not take the work of Hoberman, et al. as being authoritative, others do. Based on their investigation, the authors of this study conclude the following:

> In recent years, the clinical value of routine renal ultrasonography for young children in whom a first urinary tract infection is diagnosed has been questioned because of the limited effect of findings on clinical management. This lack of effect is probably attributable to the widespread and repetitive use of maternal-fetal ultrasonography, which frequently identifies children with obstructive lesions of the urinary tract in utero. Because ultrasonographic findings in the 309 children in our study who had a first febrile urinary tract infection (in a primary care setting) did not identify obstruction of the urinary tract in any instance, we can be 95 percent confident that the true proportion of children with clinically important findings that would modify management is less than 1 percent. Therefore, we do not recommend the routine performance of renal ultrasonography after the diagnosis of a first febrile urinary tract infection in children who have undergone prenatal ultrasonography in an experienced center after 30 to 32 weeks of gestation.[4]

Dr. Tilelli next states in his report that the Hoberman study from 1999 "makes no attempt to discriminate children with simple cystitis from those with pyelonephritis..." yet this is also a false statement. All children underwent DMSA scans – which is the "gold standard" radionuclide scan used to identify upper urinary tract disease (pyelonephritis) – upon entry into the study. In fact, although not statistically significant, the rate of acute pyelonephritis on DMSA scan results was "slightly higher among children treated orally compared with those treated intravenously,"[1] suggesting that, by random chance, the outpatient treatment group was slightly more ill than the inpatient treatment group. This

would have made the study even more likely to identify a superior outcome among patients treated with intravenous antibiotics, yet no such difference was found.

Dr. Tilelli notes a non-statistically significant difference in the rate of bacteremia – 3.4% in the outpatient treatment group versus 5.4% in the inpatient treatment group – and theorizes that this may have resulted from "selection bias" by caregivers in administering intravenous antibiotics to patients who "appeared sicker." However, once a child was deemed well enough to participate in the study, there was no other point at which clinical appearance could be used to "fudge" the type of treatment administered so that the investigators might increase the likelihood of achieving the study results they desired. Such an imagined "selection bias" would represent a violation of the randomization protocol not reported in the study. This is a serious charge – i.e., research malfeasance – which could cost an academic physician his or her career. I would suggest that if Dr. Tilelli is going to make such an accusation in a written document that will become part of the public record, he should provide some form of evidence to support his claim. If he has no such evidence, and this is pure unfounded supposition on the part of a non-participant, then Dr. Tilelli has made an extremely unfortunate accusation that he should retract on the record. Just as random chance resulted in a slightly higher rate of pyelonephritis in the oral treatment group, I am confident in stating that, without clear evidence to the contrary, random chance was also the cause of the slightly higher rate of bacteremia in the inpatient treatment group.

Please feel free to contact me with any questions. I would welcome the opportunity to have this debate in the presence of a jury.

Sincerely,

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Associate Professor of Emergency Medicine and Pediatrics
University of Pittsburgh School of Medicine

References

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Oral Versus Initial Intravenous Therapy for Urinary Tract Infections in Young Febrile Children

Alejandro Hoberman, MD*; Ellen R. Wald, MD*; Robert W. Hickey, MD*‡; Marc Baskin, MD§; Martin Charron, MD‖; Massoud Majd, MD¶; Diana H. Kearney, RN*; Ellen A. Reynolds, RN, MS*; Jerry Ruley, MD#; and Janine E. Janosky, PhD**

ABSTRACT. *Background.* **The standard recommendation for treatment of young, febrile children with urinary tract infection has been hospitalization for intravenous antimicrobials. The availability of potent, oral, third-generation cephalosporins as well as interest in cost containment and avoidance of nosocomial risks prompted evaluation of the safety and efficacy of outpatient therapy.**

Methods. **In a multicenter, randomized clinical trial, we evaluated the efficacy of oral versus initial intravenous therapy in 306 children 1 to 24 months old with fever and urinary tract infection, in terms of short-term clinical outcomes (sterilization of the urine and defervescence) and long-term morbidity (incidence of reinfection and incidence and extent of renal scarring documented at 6 months by ^{99m}Tc-dimercaptosuccinic acid renal scans). Children received either oral cefixime for 14 days (double dose on day 1) or initial intravenous cefotaxime for 3 days followed by oral cefixime for 11 days.**

Results. **Treatment groups were comparable regarding demographic, clinical, and laboratory characteristics. Bacteremia was present in 3.4% of children treated orally and 5.3% of children treated intravenously. Of the short-term outcomes, 1) repeat urine cultures were sterile within 24 hours in all children, and 2) mean time to defervescence was 25 and 24 hours for children treated orally and intravenously, respectively. Of the long-term outcomes, 1) symptomatic reinfections occurred in 4.6% of children treated orally and 7.2% of children treated intravenously, 2) renal scarring at 6 months was noted in 9.8% children treated orally versus 7.2% of children treated intravenously, and 3) mean extent of scarring was ~8% in both treatment groups. Mean costs were at least twofold higher for children treated intravenously ($3577 vs $1473) compared with those treated orally.**

Conclusions. **Oral cefixime can be recommended as a safe and effective treatment for children with fever and urinary tract infection. Use of cefixime will result in substantial reductions of health care expenditures.**

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Pediatrics 1999;104:79–86; *urinary tract infection, acute pyelonephritis, therapy.*

ABBREVIATIONS. UTI, urinary tract infection; APN, acute pyelonephritis; IV, intravenous; VCUG, voiding cystourethrogram; DMSA, dimercaptosuccinic acid; VUR, vesicoureteral reflux.

Management of urinary tract infection (UTI) requires early diagnosis and prompt antimicrobial treatment to minimize renal scarring that results from acute pyelonephritis (APN).[1,2] Most pediatric textbooks and review articles recommend that young children be hospitalized, at least initially, to receive intravenous (IV) antibiotics.[3–6] However, oral therapy, if effective in treating the acute infection and preventing the development of scars, would preclude both the costs and risks associated with hospitalization. We therefore undertook a multicenter, randomized clinical trial to compare the efficacy of oral antibiotic alone versus initial treatment with IV antibiotic followed by oral antibiotic, in young children with fever and UTI.

METHODS

Enrollment and Eligibility Criteria

The study was conducted at Children's Hospital of Pittsburgh, Columbus Children's Hospital, Fairfax Hospital for Children, and Children's Hospital, Boston, after approval by the Institutional Review Board at each of these participating institutions. Children aged 1 to 24 months were considered eligible if they 1) had a rectal temperature of ≥38.3°C at presentation or within 24 hours, and 2) were suspected to have a UTI because of the presence of pyuria (≥10 white blood cells per cubic millimeter in an uncentrifuged urine sample) and bacteriuria (≥1 Gram-negative rod per 10 oil immersion fields in a Gram-stained smear of uncentrifuged urine).[7] Final eligibility required that there be a positive urine culture (≥50 000 colony-forming units[CFU]/mL, single pathogen) from a specimen obtained by catheter. Children were excluded if they had 1) a negative urine culture, 2) hypersensitivity to cephalosporins, 3) Gram-positive cocci on the stained urine, 4) an unequivocal alternative source for fever (eg, meningitis), 5) a history of UTI or abnormalities of the urinary tract, 6) received a systemic antimicrobial within 48 hours, or 7) an underlying chronic disease. Eligible children who were judged by the examining physician to be severely ill (eg, systolic blood pressure <60 mm Hg, or capillary refill >3 seconds) were excluded from randomization. However, such children received the same evaluation and monitoring of health status as the remainder of the study children.

Entry Laboratory Observations

The enhanced urinalysis was performed according to a standardized protocol. Uncentrifuged urine was drawn into a

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Neubauer hemocytometer by capillary action. White blood cells were counted on one [illegible] of the chamber and multiplied by 1.1 to obtain a total cell co[illegible]er cubic millimeter. Smears were prepared by using 2 drops of uncentrifuged urine on a sterile slide within a standardized marked area of 1.5-cm diameter, air-dried, and Gram-stained.[7,8] Blood was sent for white blood cell count, Wintrobe erythrocyte sedimentation rate, and nephelometric C-reactive protein and aerobic and anaerobic blood culture in Bactec vials. Quantitative urine cultures and antimicrobial susceptibility testing were performed following standardized procedures.

Assignment to Treatment

Subjects were randomized at each site within strata based on age (1–12 or 13–24 months) and duration of fever (<48 or ≥48 hours).

Initial IV Treatment

Children assigned to IV treatment were hospitalized and treated with cefotaxime (Claforan; 200 mg/kg/d, in four divided doses) for 3 days or until the child had been afebrile (rectal temperature, <38°C) for 24 hours, whichever was longer. Subsequently, children received oral cefixime (Suprax; 8 mg/kg, once daily) to complete a 14-day course, followed by prophylaxis with cefixime (4 mg/kg, once daily) for 2 weeks until a voiding cystourethrogram (VCUG) was performed.

Oral Treatment

Children assigned to oral treatment received cefixime for 14 days. On day 1, 16 mg/kg cefixime was given in the emergency department. Subsequently, a daily dose of 8 mg/kg was given for 13 days with two exceptions. First, children between 4 and 8 weeks of age assigned to oral treatment were admitted to the hospital initially to monitor their progress; they received cefixime in the same dosages and were discharged to complete 14 days of cefixime when clinically improved and afebrile. Second, children assigned to oral treatment whose vomiting precluded administration of cefixime were observed for up to 4 hours; oral or IV fluids were given in addition to a trial dose of cefixime. Thereafter, children were either discharged to complete 14 days of cefixime or admitted for fluid therapy (IV or oral) and continued treatment with cefixime until adequate hydration was achieved. After treatment, children were placed on prophylaxis with cefixime as described above.

Evaluation of the Index Episode

A repeat physical examination and urine culture were performed at ~24 hours (18–30 hours). Subsequent evaluation of inpatients was made both on daily rounds and by contacting parents 48 hours after discharge and at 10 days after study entry. Parents of children treated orally were contacted by telephone at 48 hours and 10 days after study entry. All telephone contacts followed a standard protocol. A follow-up outpatient visit was conducted at ~14 days for all children.

Imaging Studies

^{99m}Tc-Dimercaptosuccinic acid (^{99m}Tc-DMSA) renal scans were performed at entry and again 6 months later, using an IV dose of 5 mCi ^{99m}Tc-DMSA per 1.73 m^2 body surface area. APN was defined as focal or diffuse areas of decreased uptake without evidence of cortical loss. Scarring was defined as decreased uptake associated with loss of the contours of the kidney or cortical thinning with decreased volume. If the initial scan showed scarring, outcome scans were classified as changed (more scarring) or not changed. The degree of scarring was assessed quantitatively by outlining the scarred area and calculating its ratio to the total area of the kidney. Scans were interpreted independently by two physician investigators (M.C., M.M.) who were unaware of the child's treatment assignment.[9] Discrepancies were resolved by discussion between the evaluators.

A renal ultrasonogram was performed on the same day as the DMSA scan, and a VCUG at ~4 to 5 weeks. Vesicoureteral reflux (VUR) was graded according to the International Reflux Study Committee.[10] Children with VUR of at least grade 2 were maintained on prophylaxis with either trimethoprim-sulfamethoxazole (5 mg/kg) or nitrofurantoin (2 mg/kg) once daily for 11 months or until th[illegible]flux was ≤ grade 1.

Assessment of Compliance

A urine sample obtained at the 2-week visit or at the time of the VCUG was tested by using a bioassay for cefixime. Any detectable cefixime was regarded as evidence of compliance.

Long-Term Follow-Up

All children were followed for 6 months. A history of fever or other signs or symptoms compatible with UTI were elicited during standardized monthly phone calls and interim visits. Specimens for routine urine culture were obtained at 3 and 6 months after entry and at the time of any febrile illness. Children experiencing reinfections were treated, using the same route of administration (oral or IV) to which they had been randomized initially. After a second episode of UTI, children were maintained on prophylaxis, as described above, for 6 months.

Cost of Therapy

The cost of therapy (IV versus oral) was compared on a sample of 40 children enrolled at Pittsburgh by selecting every fifth child per treatment group. Cost included the initial emergency department visit, radiographic studies, repeat urine cultures, and outpatient and inpatient hospital care, and was calculated by multiplying hospital charges for each service by the variable cost to charges. Total cost-to-charge ratios were obtained from the hospital's Medicare Cost Report.

Statistical Analysis

It was estimated that ~30% of children with UTI treated with IV antimicrobials would have renal scarring of some degree at 6 months.[11] To detect an absolute difference of 15% in the incidence of renal scarring between children treated orally (45%) compared with those treated intravenously, at an α value of .05 (one-tailed) and with a power of .80, 128 children per treatment group were needed. An intention-to-treat analysis was used to assess the effectiveness of treatment. For categorical variables, χ^2 or Fisher's exact test were used; for continuous variables, an independent t test was used. To explore for differences in outcome between treatment groups, multiple independent predictor variables (eg degree of VUR and extent of APN at entry) and their interaction were evaluated in logistic regression models. All statistical assumptions were met for each of the inferential tests used. An α value of .05 was considered to be statistically significant.

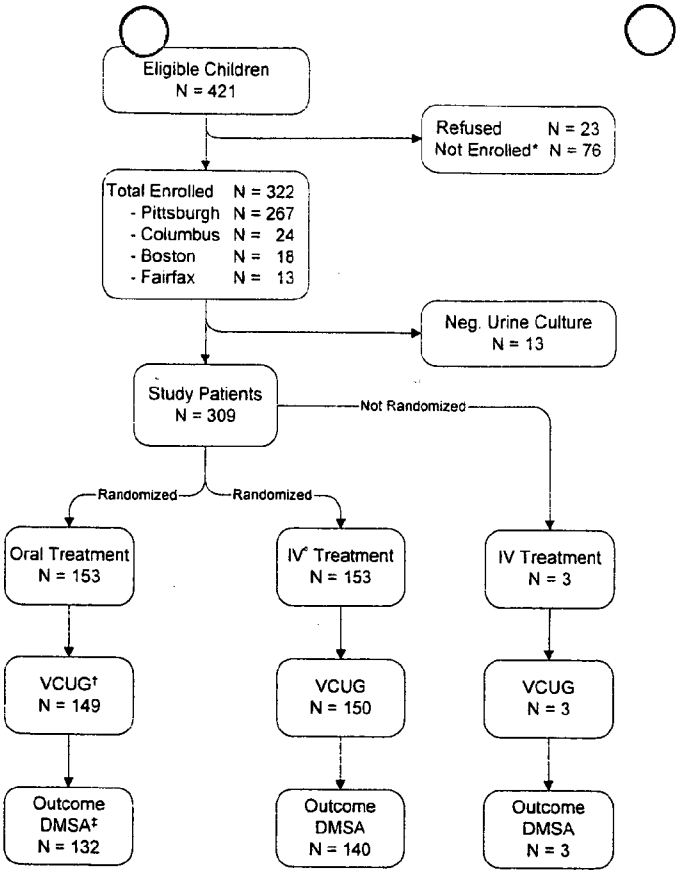
RESULTS

Enrollment and Subject Characteristics

A total of 421 children were eligible for enrollmen between January 1992 and July 1997. Enrollment con tinued throughout the entire study period only a Pittsburgh. Figure 1 describes enrollment and adher ence to protocol of all patients eligible for the trial Demographic and clinical characteristics of childre who were randomized are described in Table 1. N significant differences were found between treat ment groups.

Imaging Studies

Results of the renal ultrasonogram performe within 48 hours (to be reported elsewhere) did no modify management and were similar in both treat ment groups. Table 2 shows results of the initia DMSA renal scan and the VCUG. Although no sta tistically significant differences between treatmen groups were found, a slightly higher incidence c APN at entry was noted among children treate orally compared with those treated intravenously Only 1 child was noted to have renal scarring a entry. Four of 5 children with grade 4 VUR receive



* Not enrolled: investigator unavailable or not notified, prior antibiotics, language barrier, primary care provider refused or out-of-state residence
† IV: intravenous
‡ VCUG: voiding cystourethrogram
§ DMSA: Tc^{99}mDimercaptosuccinic acid renal scan

Fig 1. Enrollment and follow-up of children eligible for study.

oral therapy (see Table 2). Children with evidence of APN on initial DMSA renal scan had significantly higher acute-phase reactants (white blood cell count, erythrocyte sedimentation rate, and C-reactive protein) than children with normal initial scans and presumed cystitis (Table 3).

Bacterial Pathogens

Escherichia coli was isolated from the urine of 298 children, *Klebsiella pneumoniae* from 3 children, *Proteus mirabilis* from 3 children, and *K oxytoca* and *Pseudomonas aeruginosa* from 1 child each. Approximately 40% of urinary pathogens were resistant to ampicillin/amoxicillin, 5% were resistant to trimethoprim-sulfamethoxazole, 17% were resistant to cephalexin, two pathogens were resistant to gentamicin, one pathogen was resistant to cefuroxime, and one pathogen was resistant to cefixime.

Short-Term Outcomes

The urine was sterile in all children (291) who had urine cultures obtained within 24 hours of initiating antimicrobial therapy. Defervescence occurred at almost identical times in both treatment groups (Table 4). Only 1 child was unable to tolerate cefixime because of persistent vomiting, and treatment was changed to IV therapy. Bacteremia was documented in 13 children; 5 received oral therapy and 8 received IV therapy. *E coli* was isolated in 12 children and *Streptococcus pneumoniae* from 1 child. Data regarding clinical and laboratory characteristics of children with and without bacteremia are presented in Table 5. Although the clinical appearance of children with and without bacteremia was indistinguishable, children with bacteremia tended to be younger, had a longer duration of fever before administration of antimicrobials and had relatively higher acute-phase reactants than children with negative blood cultures. All children with bacteremia had a repeat blood culture performed within 24 hours that was sterile.

Long-Term Outcomes

The incidence of reinfection was not significantly different in children treated orally compared with

TABLE 1. Distribution of Demographic, Clinical, and Laboratory Characteristics According to Mode of Therapy

Characteristic	Oral Therapy (n = 153)	Intravenous Therapy (n = 153)	P
Age, mo			
Mean (SD)	8.8 (5.9)	8.3 (5.6)	.36
4–7 wk, n (%)	4 (2.6)	9 (5.9)	
8 wk to 11 mo, n (%)	108 (70.6)	100 (65.4)	.31
12–24 mo, n (%)	41 (26.8)	44 (28.8)	
Sex			
Female, n (%)	136 (88.9)	137 (89.6)	1.0
Race			
White, n (%)	114 (74.5)	110 (71.9)	
Black, n (%)	26 (17.0)	34 (22.2)	.39
Other, n %	13 (8.5)	9 (5.9)	
Males circumcised, n (%)	3 (17.6)	7 (43.7)	.14
Temperature at presentation, °C			
Mean (SD)	39.3 (1.0)	39.3 (1.0)	.64
Highest temperature within 24 h, °C			
Mean (SD)	39.7 (0.8)	39.7 (0.8)	.91
Duration of fever, h			
Mean (SD)	48.4 (48.4)	46.5 (45.4)	.39
Peripheral white blood cell count, × $10^3/mm^3$			
Mean (SD)	19.7 (7.4)	21.0 (8.6)	.68
Erythrocyte sedimentation rate, mm/h			
Mean (SD)	38.8 (18.1)	40.7 (17.8)	.14
C-reactive protein, μg/mL			
Mean (SD)	9.0 (7.8)	8.6 (10.0)	.96
Positive blood culture, n (%)	5 (3.4)	8 (5.3)	.62

TABLE 2. Results of DMSA Renal Scan (Performed Within 48 Hours of Study Entry) and of VCUG (Performed at 4 Weeks) According to Mode of Therapy

Imaging Results	Number (%) of Subjects		P
	Oral Therapy (n = 153)	Intravenous Therapy (n = 153)	
Initial DMSA renal scan			
Normal	51 (33.3)	64 (41.8)	.16
Acute pyelonephritis	100 (65.3)	87 (56.9)	
Renal scars	0 (0)	1 (0.7)	
Not interpretable	2 (1.3)	1 (0.7)	
Extent (% renal parenchyma, mean)	31.8	29.9	.47
VCUG			
Normal	88 (59.1)	96 (64.0)	
Grade 1 VUR	15 (10.1)	10 (6.7)	
Grade 2 VUR	21 (14.1)	20 (13.3)	
Grade 3 VUR	21 (14.1)	23 (15.3)	.52
Grade 4 VUR	4 (2.7)	1 (0.7)	
Grade 5 VUR	0 (0)	0 (0)	
Not obtained	4	3	

Abbreviations: DMSA, ^{99m}Tc–dimercaptosuccinic acid; VCUG, voiding cystourethrogram; VUR, vesicoureteral reflux.

TABLE 3. Mean Acute-Phase Reactants According to Results of Initial DMSA Renal Scan

Initial DMSA Results	n	PWBC (× $10^3/mm^3$)	ESR (mm/h)	CRP (μg/mL)
Acute pyelonephritis	186	22.2	47.5	11.9
Cystitis	111	17.3	28	3.8

Abbreviations: PWBC, peripheral white blood cells; ESR, erythrocyte sedimentation rate; CRP, C-reactive protein.
All comparisons, $P < .05$; Wilcoxon rank sum test.

children treated intravenously (5.3% vs 8.5%; P = .28). Symptomatic reinfections (fever, pyuria, and positive urine culture) occurred in 7 children treated orally and in 11 children treated intravenously during the 6-month follow-up period. Episodes of asymptomatic bacteriuria (positive urine culture in the absence of fever and pyuria) occurred in 1 child treated orally and in 2 children treated intravenously (see Table 4).

There was no significant difference between treatment groups in the incidence of new renal scarring, when we included all children, only those who completed the study, or only those with documented APN at entry. In a similar manner, there was no significant difference between treatment groups in extent (severity) of scarring (see Table 4). All children whose initial scan was normal had normal scans at follow-up. Three children were deemed too sick to be

TABLE 4. Clinical Course, Incidence, and Extent of Renal Scarring at 6 Months According to Mode of Therapy and Degree of VUR

Outcomes	Oral Therapy (n = 153)	Intravenous Therapy (n = 153)	P
Defervescence, h			
Mean (SD)	24.7 (23.2)	23.9 (23.3)	.76
Reinfection, n (%)			
None	132 (86.3)	134 (87.6)	
Symptomatic (UTI)	7 (4.6)	11 (7.2)	.28
Asymptomatic (ABU)	1 (0.7)	2 (1.3)	
Lost to follow-up	13 (8.5)	6 (3.9)	
Outcome DMSA renal scan			
Time performance, mo			
Mean (SD)	6.8 (1.5)	6.9 (1.9)	.70
Normal, n (%)	117 (76.5)	129 (84.3)	
Renal scarring, n (%)	15 (9.8)	11 (7.2)	.21
Not obtained, n (%)	21 (13.7)	13 (8.5)	
Incidence of renal scarring in children with APN, % (CI)	16.9 (9.1–24.6)	13.6 (6.1–21)	.18
Extent, % renal parenchyma			
Mean (SD)	7.9 (2.7)	8.6 (5.6)	.41
Scarring according to degree of VUR, n (%)			
No VUR	4/75 (5.3)	6/90 (6.7)	
Grade 1 VUR	2/14 (14.3)	2/8 (25)	
Grade 2 VUR	1/19 (5.3)	2/20 (10)	
Grade 3 VUR	5/20 (25)	1/21 (4.8)	.37
Grade 4 VUR	3/4 (75)	0/1 (0)	
Grade 5 VUR	0 (0)	0 (0)	

Abbreviations: VUR, vesicoureteral reflux; UTI, urinary tract infection; APN, acute pyelonephritis; CI, 95% confidence interval; DMSA, ^{99m}Tc–dimercaptosuccinic acid; ABU, asymptomatic bacteriuria.

TABLE 5. Distribution of Demographic, Clinical, and Laboratory Characteristics According to Results of Blood Culture

Characteristic	Blood Culture Negative (n = 288)	Blood Culture Positive (n = 13)	P
Age, mo			
Mean (SD)	8.5 (5.7)	5.4 (4.4)	.025
4 wk to 6 mo, n (%)	134 (46.5)	10 (76.9)	
7–11 mo, n (%)	74 (25.7)	2 (15.4)	.12
12–24 mo, n (%)	80 (27.8)	1 (7.7)	
Sex			
Female, n (%)	256 (88.9)	12 (92.3)	.89
Race			
White, n (%)	212 (73.6)	8 (61.5)	
Black, n (%)	55 (19.1)	4 (30.8)	.47
Other, n (%)	21 (7.3)	1 (7.7)	
Highest temperature within 24 h, °C			
Mean (SD)	39.7 (0.8)	39.6 (0.9)	.72
Duration of fever before antibiotics, h			
Mean (SD)	47.2 (46.7)	65.8 (52.7)	.18
Duration of fever after antibiotics, h			
Mean (SD)	24 (23)	25.7 (23.7)	.79
Peripheral white blood cell count, $\times 10^3/mm^3$			
Mean (SD)	20.3 (7.8)	24.9 (10.1)	.04
Erythrocyte sedimentation rate, mm/h			
Mean (SD)	40.1 (17.8)	46.1 (17.9)	.38
C-reactive protein, μg/mL			
Mean (SD)	8.8 (8.9)	12.4 (10.4)	.19
APN on initial DMSA scan, n (%)	178 (62.2)	10 (83.3)	.22
VCUG			
No VUR, Grade 1–2 VUR, n (%)	234 (81)	11 (85)	.76
Grade 3–5 VUR, n (%)	54 (19)	2 (15)	
Scarring on outcome DMSA scan, n (%)	26 (10.2)	0 (0)	.61
Symptomatic reinfections, n (%)	16 (6)	3 (23.1)	.05

Abbreviations: APN, acute pyelonephritis; VCUG, voiding cystourethrogram; DMSA, ^{99m}Tc–dimercaptosuccinic acid.

randomized and were removed from study analyses; all had normal outcome scans. The incidence of scarring was identical in children aged <1 year and those aged 1 to 2 years (19 of 198 vs 8 of 74; P = .84), but the duration of fever before initiating treatment was shorter in younger children compared with older children (43 ± 40 vs 57 ± 60 hours, respectively; t test for unequal variances, P = .07). Slightly higher, but not significantly different, incidences of scarring were noted among children who presented for care after at least 24 hours of fever compared with those who presented sooner (19 of 159 vs 9 of 99; P = .29), and among children who defervesced beyond 36 hours of initiating treatment compared with those

who defervesced more promptly (8 of 57 vs 76 of 190; $P = .32$). Renal scarring was significantly more likely to occur in children with VUR than in those without VUR (16 of 107 vs 70 of 165; $P < .03$). When independent predictor variables and their interaction were evaluated by using logistic regression models to determine their influence on scarring, only the degree of VUR was associated significantly with a higher incidence of scarring irrespective of the mode of treatment ($P = .007$).

Compliance

Cefixime was detectable in 159 (85%) of 186 children for whom a urine specimen was available; there was no difference between groups.

Cost of Therapy

Charges and costs of therapy according to treatment modality are presented in Table 6. In the context of our study, charges and costs for inpatient therapy were at least twofold higher than those for outpatient therapy.

DISCUSSION

Our study showed equivalent efficacy of oral cefixime and IV cefotaxime for treatment of young children with fever and UTI. At present in the United States, UTI in young children is treated by one of three regimens, ie, oral therapy for the entire treatment period, parenteral (IV or intramuscular) therapy for the entire period, or a combination of oral and parenteral therapy.[6,12] Previous studies have assessed the treatment of adults and children with fever and UTI with oral antimicrobials. However, these studies have been limited by their lack of evaluation of long-term outcomes,[13–15] lack of comparisons with standard IV therapy,[14–16] and use of relatively insensitive imaging methods, ie, intravenous pyelogram, to detect renal scars.[16]

If we had followed existing guidelines for the evaluation of febrile children, which recommend screening boys for UTI only when aged <6 months,[17] 18 (55%) of 33 boys would not have been identified. Most boys in this study were uncircumcised (23 of 33, 70%), which contrasts with the rate of circumcision in our population (~85%). The small number of male subjects precluded statistical analysis of the association of circumcision status and response to treatment.

Only 3 children were deemed too sick to be randomized and only 1 child was unable to tolerate oral antibiotics because of vomiting. Children with UTI and bacteremia were clinically indistinguishable from children with UTI and negative blood cultures. The low incidence of bacteremia associated with UTI (13 of 298, 4%), and its clearance within 24 hours of initiating oral or IV therapy, prompts us to question the necessity for obtaining routine blood cultures in children with fever who are found to have pyuria on the enhanced urinalysis. In addition, all urine cultures obtained after 24 hours of therapy were sterile, and all but one bacterial isolate recovered from the urine was susceptible to a third-generation cephalosporin. Thus, routine performance of a repeat urine culture when adequate susceptibilities are documented may also be unnecessary. If children are treated with oral therapy, it may be prudent to administer the initial double dose in the outpatient setting to ensure compliance and tolerability, and to maintain close contact with families during the initial phase of therapy. Unfortunately, the unique resistance pattern of Gram-negative organisms in different geographic areas, together with our administration of a double dose of cefixime on day 1, may preclude generalization of study findings to other antimicrobials. With regard to duration of therapy, the recommended standard at the time we initiated our study (1992) consisted of a 14-day course of antimicrobials. Duration of therapy was, therefore, not extended for study purposes. However, in 1999, within the context of a nearly universal desire to limit the use of antimicrobials, we believe a 10-day course of antibiotics is adequate therapy for APN.

Previous studies have identified infants aged <1 year as a group at particularly high risk for renal scarring.[16,18] A more recent report did not confirm this view,[19] but its findings were limited by performance of outcome scans only 2 months after the index infection.[20] Our results also indicate that children aged <1 year were not at higher risk for scarring than those aged between 1 and 2 years. Younger children may have benefited more from earlier diagnosis than older children, as demonstrated by a relatively shorter duration of fever before initiating therapy. Our findings are consistent with the prevailing opinion that scarring is more common when there is either a delay in initiating treatment or when there is a sluggish response to therapy. However none of these findings achieved statistical significance.

We examined our results to determine if the apparent differences between treatment groups, in incidence of scarring among children with grades and 4 VUR (see Table 4), were statistically significant. It was unfortunate that the randomization scheme allocated 4 of the 5 children with grade 4 VUR (3 of whom developed scarring) to oral treatment. Although 8 of 24 children treated orally and only 1 of 22 children treated intravenously developed renal scarring, there was no significant difference in an

TABLE 6. Charges and Costs of Therapy and Follow-Up Imaging Studies According to Treatment Modality

	Charges (Costs, $)	
	Oral Therapy ($n = 20$)	Intravenous Therapy ($n = 20$)
Clinic visit	56 (56)	0 (0)
Emergency department	106 (80)	281 (213)
Laboratory	803 (284)	1,073 (380)
Hospital room	0 (0)	1,747 (1034)
Nursing	0 (0)	1,071 (634)
Medications	70 (66)	570 (374)
Miscellaneous	37 (26)	82 (57)
Renal ultrasound	477 (177)	477 (177)
Voiding cystourethrogram	391 (145)	391 (145)
2 DMSA renal scans	1,690 (629)	1,690 (629)
Total	3,630 (1463)	7382 (3577)

Abbreviation: DMSA, ^{99m}Tc–dimercaptosuccinic acid.

other outcome, specifically, defervescence, incidence of reinfection and extent of scarring. However, 1) our study was not designed and had no power to compare the incidence of renal scarring between small subgroups of children, 2) logistic regression analysis of the entire trial's results excluded treatment as a variable associated with scarring, and 3) the scars identified were relatively small and their long-term implications are unknown. Accordingly, the apparent difference in outcome between treatment groups observed in children with grade 3 and grade 4 VUR was almost certainly caused by chance alone. Furthermore, although the presence and degree of VUR significantly increased the likelihood of renal scarring, documented VUR was not a requisite for scarring.

The incidence of renal scarring reported here is lower (26 of 272, 9.6%) than the 30% previously reported in studies that used DMSA scans to determine outcome.[21–23] The relatively low incidence and small extent of scars in our study may have resulted from the active surveillance for and treatment of UTI in young children with fever that is the practice at participating institutions.[24] The fact that only 1 child had a scar demonstrated on the initial scan, rather than the 11% reported in previous studies,[21] validates the appropriateness of the inclusion and exclusion criteria used to select a group of children with bona fide first-time UTI. The independent, blinded, and contemporaneous interpretation of scans at the end of the study by physicians who 1) are experts in nuclear medicine, 2) used stringent definitions, and 3) were later asked to reach a consensual diagnosis gives us confidence in the final interpretation of the study's primary outcome. The requirement for agreement between interpretations also contributed to the lower rate of scarring because the ultimate rate of positive scans was lower than that reported by a single physician in the context of clinical care.[25]

The long-term implications of small scars identified with renal scintigraphy are unknown. Investigators with studies that reported the association of scarring early in life with the development of hypertension, preeclampsia, renal insufficiency, and end-stage renal disease decades later used intravenous pyelograms, a method substantially less sensitive than DMSA scanning, and almost certainly observed children with extensive rather than minimal parenchymal damage.[26,27] A recent report of women with scarring confirmed that renal function was reasonably well preserved and that the incidence of hypertension was lower than has been reported previously.[28]

Our cost analysis for initial IV therapy of UTI compared with oral therapy was consistent with a 1996 report from the National Association of Children's Hospitals and Related Institutions (average length of hospitalization, 3.65 days; average adjusted charges, $5692). Although cefixime is more expensive than trimethoprim-sulfamethoxazole, its effectiveness against almost all common urinary pathogens may reduce treatment failure and costs associated with repeat treatment. Because follow-up imaging studies accounted for approximately one-half the costs of outpatient therapy, further refinement of the appropriateness of the various imaging techniques will render additional savings. Although this study did not measure other outcomes, it seems plausible to us that outpatient management may have been less traumatic psychologically to the child, less disruptive to the family, and less likely to be associated with nosocomial infection.

As we study the long-term effects (if any) of small renal scars, outpatient management of young children with fever and UTI with oral cefixime can be recommended as a safe and effective treatment that will result in substantial reductions of health care expenditures. Aggressive surveillance for infection of the urinary tract in young febrile children leads to early diagnosis and excellent outcome with either oral or IV therapy with third-generation cephalosporins.

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CHILD SOLDIERS

Virtually unnoticed in the catalog of horrors emanating from Sierra Leone's brutal civil war is the forcible conscription of children, some as young as 7 years old. Kidnapped by rebel forces or drawn into the government's army, they are forced to become soldiers, human shields, spies, porters, and sex slaves.

By some estimates, children now make up between 40% and 50% of the insurgents' total force strength of around 15 000. On the government side, officials admit, children compose one fifth of the 25 000-strong Civil Defense Forces. In Africa, child soldiers have fought or are fighting in Angola, Liberia, Mozambique, Rwanda, the Sudan, Congo and Uganda, as well as Sierra Leone. There are now an estimated 300 000 child soldiers worldwide, a figure that has increased by one sixth during the last 3 years.

Goodwin J. *The New York Times*, February 14, 1999

Noted by JFL, MD

MEDICAL RECORD/CHAF

NAME AND ADDRESS

KLINE , JUSTINE MAIDEN

[illegible] LEAVY AVE

CLEARFIELD PA 16830

RES. CODE 033065 S.S. NO. 178-78-0687 TWP CLEARFIELD BORO CLFD C

PAT.PH.NO. 814-762-8689

REGISTRATION DATE/TIME 02/23/2002 02:04

REGISTRATION NUMBER 4921996

AGE 3 BIRTHDATE 09/26/1998 F.C. A RACE 1 SEX F MAR S REG. LL

REGISTERING DOCTOR NAME PALMER GEORGE F NO. 021501

FAMILY DOCTOR NAME SORTOR-THOMPSON SHERR NO. 013011

MED. REC. NO. 159993

CIRCLE REQUEST TESTS

TIME SEEN: O/A After X-ray C.C. RECORD DICTATED: ☐ YES ☐ NO

MODE ARR: EMS Auto | Additional Hx. from: FAMILY EMS NURSING HOME PRIOR RECORD OF

HPI:

PMH: NONE ASTHMA COPD CAD MI CHF ↑ BP, LAST STRESS TEST DIABETES 1 2 CVA / TIA CANCER

PSH: NONE APP. CHOLY. TUBAL LIG. HYST CABG PTCA CATARACTS

MEDS: ☐ None Allergy: ☐ None Immunizations Current: Y N

SOCIAL /OCCUP. Hx: FAMILY Hx:

ROS:

PHY. EX.:

LABS PENDING

ABG O_2 Sat PF Td Foley Ng BP ↑→ NPO MDI/PF Instr. Home Hlth R

ALBUTEROL mg X 1 2 3 4 CONT: mg./hr. ATRV 250 / 500 ug x 1 2 3

PROTOCOLS: ☐ NTG ☐ TPA MI ☐ RETAVASE ☐ GI BLEED ☐ RAPID TRANSFUSION ☐ STROKE TRANSFER ☐ TPA STROKE

1. 4:

2. 5:

3. 6:

RESULTS

RESPONSE

EVENTS &

PROCEDURES

SERVICES: Crit Care Med Command Independent visualization of ☐ x-rays ☐ EKG ☐ Discussion of imaging tests with Radiologist

DIAGNOSIS

Admit Dr. ☐ reg. ☐ 23 hr.

TIME: Room #: ☐ ICU ☐ Telm

Discharge Cond: ☐ Improved ☐ Stable ☐ Eloped

Transfer to: ☐ AMA

☐ DOA: ☐ Exp ED ☐ LWBS

Referred to: Discussed with Dr. at

ORDER TAKEN

	Card. PRT.		EKG
	Amylase		PT, PTT
	CBC DIF		TR 1 2
	Chem 7,12+CO2		UA Mic
	Hepatic Panel		U C&
	CK MB		Cath UA
	Troponin I		Gc-Chl Probe
	Digoxin		Blood C
	Theo		1 2
	Dilantin		Strep
	HCG Qual		Sputum
	HCG Quan		
	Urine Tox		
	Abd. Ser/Kub		Hand
	Chest P. C.		Wrist
	Ribs		4 Arm
	Face / Nose		Elbow
	Orbit/mand.		Humeru
	C. Sp. P. C.		Shoulde
	Clavicle		Scapula
			Th. sp.
			LS sp.
			Pelvis
	SPECIAL		Hip
	CT Head		Femur
	CT Neck		Knee
	CT Chest		Tib-Fib
	CT Abd		Ankle
	CT Pelvis		Heel
	IVP		Foot
	V/Q		
	US Abdomen		
	US Arterial		
	US Cardiac		
	US Pelvic OB		US Scro
	US Retrop Renal		US Ver

Instruction sheets: Temp Lacerations V & D URI Head Inj. Concussion Flu Mononucleosis Croup Nosebleed Eye Injury

Conjunctivitis Kidney Stone Tick Bite Back Pain Cast Sprain/Fracture Ectopic Threatened AB

☐ If your symptoms progress, worsen, or if you develop new symptoms, return to the emergency department.

☐ Follow instruction sheet[s] given.

☐ New Medication list:

☐ Follow up with ☐ your Doctor ☐ Other:

☐ Special instructions:

UH 780.60
DF 595.0
780.60
3

PLAINTIFF'S EXHIBIT 4 ALL-STATE LEGAL®

☐ OFF WORK / SCHOOL / GYM FOR ☐ WORK RESTRICTIONS GIVEN

I HEREBY ACKNOWLEDGE THAT I HAVE READ AND UNDERSTAND THESE DISCHARGE INSTRUCTI

NURSE SIGNATURE TIME PHYSICIAN ASSISTANT SIGNATURE PATIENT SIGNATURE

☐ NON-EMERGENCY KLINE , JUSTINE 02/23/02 02:04

Clearfield Hospital - Clearfield , PA 16830

Patient: KLINE , JUSTINE MARIE **DOB:** 9/26/1998 **Age/Gender:** 3 F
2/23/2002 01:58 Fever
MR#: 159993 **Acct#:** 000000963854 **ED Phys.:**

CHIEF COMPLAINT: Fever **Enc. Type:** Initial **ACUITY:** Level I

Physicians caring for patient:
George F. Palmer, DO

VITAL SIGNS

Initials/Date/Time	Temp(C)	Rt.	Pulse	Resp	Syst	Diast	Pos.	O2 Sat	FSBS	Pain Scale
GRT 2/23/2002 02:01	40.1	O	177	32	85	57				
GRT 2/23/2002 04:04	37.9	R	120	28						
GRT 2/23/2002 05:15	38.9	R	150	28						
GRT 2/23/2002 05:43	37.8	R	122	24						

Weight : 32 lbs. (14.5 kg.)
Notes:
<GRT 02-23-02 05:17>dr. palmer notified of fever -orders recieved.

TRIAGE

Arrival: Patient arrived by being carried via private auto from Private Home accompanied by parent(s)
Chief complaint/quote: child hallucinating. twitching, fever , vomiting.
Mental status: The patient is confused. The patient is experiencing visual hallucinations
PCP/private physician: Sherri L. Sortor-Thompson, MD
Medication allergies: No known allergies.
Allergies/food/environmental/animal: No known allergies.
Latex Allergy (-)
Current meds: none
Medications were taken prior to arrival to the ED.
tylenol at 2300
Vaccinations are up to date
Consent to treat obtained.
Growth and Developement: Appropriate for age.
Registration needed.GRT:Gwen R.Thomas, RN 02/23/02 01:58
GRT:Gwen R.Thomas, RN 02/23/02 02:07

PAST HISTORY

PAST MEDICAL, SURGICAL HISTORY

No pertinent PMH
No pertinent past surgical history.
Vaccinations are up to date.GRT:Gwen R.Thomas, RN 02/23/02 02:07

Clearfield Hospital - Clearfield , PA 16830

Patient: KLINE , JUSTINE MARIE **DOB:** 9/26/1998 **Age/Gender:** 3 F
2/23/2002 01:58 Fever
MR#: 159993 **Acct#:** 000000963854 **ED Phys.:**

NURSING SYSTEMS REVIEW

ASSESSMENT

Orientation/safety: The patient was brought to room carried by parent/guardian. Patient was placed on stretcher. Bed placed in low/locked position and siderails x 2. Call light is not needed because the patient is visible to nursing staff. Explanation of care provided to mother. Plan of care: position of comfort and observe/reassure
Reassessment:
Notes:
<GRT 02-23-02 03:39>fluids given instructed mom to give 5cc at a time.

Patient states they are feeling much better.
Notes:
<GRT 02-23-02 04:07>child con't to take fluids no vomiting noted. is more alert than before. no further hallucinations noted.
GRT:Gwen R.Thomas, RN 02/23/02 02:06
GRT:Gwen R.Thomas, RN 02/23/02 03:38
GRT:Gwen R.Thomas, RN 02/23/02 04:05
GRT:Gwen R.Thomas, RN 02/23/02 05:43

FLOWSHEETS

Input

Initials	Time	IV	Blood	PO	Total	
GRT	2/23/2002 05:44			90 cc		90 cc

Output

Initials	Time	Urine	Stool	Vomitus	Blood	Gast.	Drain	Total	
GRT	2/23/2002 05:44	20 cc		0 cc					20 cc

MEDICATION ADMINISTRATION RECORD

Tylenol 240 mg ; per rectum ; (V. O.) George F Palmer Gwen R. Thomas, RN 2/23/2002 02:42

Medication given as ordered.
GRT 2/23/2002 02:43

Clearfield Hospital - Clearfield , PA 16830

Patient: KLINE , JUSTINE MARIE DOB: 9/26/1998 Age/Gender: 3 F
2/23/2002 01:58 Fever
MR#: 159993 Acct#: 000000963854 ED Phys.:

Rocephin 700 mg ; IM Now George F. Palmer, DO 2/23/2002 04:35

Medication given as ordered.. Location: thigh Left Right
GRT 2/23/2002 04:48

Notes:
<GRT 02-23-02 04:51>im med given left vast.lat. by brenda english rn. given in right by g. thomas rn.

Motrin 100mg/5ml susp 7.5 cc(s) ; PO Now ; Transcribed order George F Palmer George F. Palmer, DO 2/23/2002 05:24

Medication given as ordered.
GRT 2/23/2002 05:24

Nursing Data electronically signed by: Gwen R.Thomas, RN 2/23/2002 05:45

HISTORY OF PRESENT ILLNESS

HPI Text

Patient seen by Physician/PA.
GFP:George F.Palmer, DO 02/23/02 02:20

PROCEDURES

PROCEDURES - NURSING

Specimen taken during urine cath.: A specimen was sent to lab. Patient tolerated procedure well. GRT 02/23/02 03:04

Clearfield Hospital - Clearfield , PA 16830

Patient: KLINE , JUSTINE MARIE **DOB:** 9/26/1998 **Age/Gender:** 3 F
2/23/2002 01:58 Fever
MR#: 159993 **Acct#:** 000000963854 **ED Phys.:**

Notes:
<GRT 02-23-02 03:07>5 french used to fem. cath child. clear yellow urine obtained sent to lab.

Consult

Lab: notified of orders. KAE 02/23/02 02:37

Urine: urine collected/sent to lab KAE 02/23/02 02:38

~~Urine: urine collected/sent to lab~~ <GRT:02/23/2002 04:20> GRT 02/23/02 04:19

ORDERS

MEDICATIONS

Tylenol 240 mg ; per rectum ; (V. O.) George F Palmer Gwen R. Thomas, RN 2/23/2002 02:42
Rocephin 700 mg ; IM Now George F. Palmer, DO 2/23/2002 04:35
Motrin 100mg/5ml susp 7.5 cc(s) ; PO Now ; Transcribed order George F Palmer George F. Palmer, DO 2/23/2002 05:24

LAB

URINALYSIS WITH MICROSCOPIC; Specimen type: URINE CATHETER; Specimen site: URINE; Ordering physician: (V. O.) Ernest P. Jones, Jr, MD George F. Palmer, DO 2/23/2002 02:24
Cancelled by Kelly A. Espenshade, UNIT on 2/23/2002 02:53
BASIC METABOLIC PANEL George F. Palmer, DO 2/23/2002 02:24
Cancelled by Kelly A. Espenshade, UNIT on 2/23/2002 02:53
CBC W/DIFF George F. Palmer, DO 2/23/2002 02:24
Cancelled by Kelly A. Espenshade, UNIT on 2/23/2002 02:53
Blood Culture #2; Specimen Type: Blood; Specimen site: BLOOD; None George F. Palmer, DO 2/23/2002 02:27
Cancelled by Kelly A. Espenshade, UNIT on 2/23/2002 02:53
BASIC METABOLIC PANEL; Ordering physician: Transcribed order George F Palmer Kelly A. Espenshade, UNIT 2/23/2002 02:55
CBC; Ordering physician: Transcribed order George F Palmer Kelly A. Espenshade, UNIT 2/23/2002 02:55
URINALYSIS WITH MICROSCOPIC; Specimen type: URINE CATHETER; Specimen site: URINE; Ordering physician: Transcribed order George F Palmer Kelly A. Espenshade, UNIT 2/23/2002 02:55
CULTURE BLOOD AERO/ANER; Specimen type: BLOOD; Specimen site: BLOOD; None; Ordering physician: Transcribed order George F Palmer Kelly A. Espenshade, UNIT 2/23/2002 02:55
CULTURE URINE (CATHETER); Specimen type: URINE CATHETER; Specimen site: URINE; None George F. Palmer, DO 2/23/2002 04:12

RESULTS

Clearfield Hospital - Clearfield , PA 16830

Patient: KLINE , JUSTINE MARIE **DOB:** 9/26/1998 **Age/Gender:** 3 F
2/23/2002 01:58 Fever
MR#: 159993 **Acct#:** 000000963854 **ED Phys.:**

LAB

BASIC METABOLIC PANEL; Ordering physician: Transcribed order George F Palmer
Result 1 User N. Interface 2/23/2002 03:04

BASIC METABOLIC PANEL; Ordering physician: Transcribed order George F Palmer

Test	Flag	Value	Units	Ref. Range	Status
GLUCOSE	H	116	MGDL	60-105	F
BUN		19	MGDL	5-25	F
SODIUM	L	137	MMOLL	138-145	F
POTASSIUM		4.1	MMOLL	3.6-5.2	F
CHLORIDE		98	MMOLL	98-107	F
TOTAL CO2	L	20.8	MMOLL	22-35	F
CREATININE		.9	MGDL	0.3-1.0	F
CALCIUM		9.3	MGDL	8.8-10.8	F
ANION GAP		18.2			F
OSMO (CALC)		277			F
BUN/CRE RATIO		21			F

CBC; Ordering physician: Transcribed order George F Palmer

CBC; Ordering physician: Transcribed order George F Palmer

Test	Flag	Value	Units	Ref.Range	Status
WBC		7.71	E3UL	4.80-10.80	F
RBC		4.50	E6UL	3.80-5.50	F
HGB		12.8	GDL	11.0-15.0	F
HCT		37.7	PCT	30.0-43.0	F
MCV		83.9	FL	81.0-99.0	F
MCH		28.5	PG	27.0-31.0	F
MCHC		34.0	PCT	33.0-37.0	F
RDW		14.2	PCT	11.5-14.5	F
PLATELETS		328	E3UL	130-400	F

Clearfield Hospital - Clearfield , PA 16830

Patient: KLINE , JUSTINE MARIE DOB: 9/26/1998 Age/Gender: 3 F
2/23/2002 01:58 Fever
MR#: 159993 Acct#: 000000963854 ED Phys.:

URINALYSIS WITH MICROSCOPIC; Specimen type: URINE CATHETER; Specimen site: URINE; Ordering physician: Transcribed order George F Palmer

URINALYSIS WITH MICROSCOPIC; Specimen type: URINE CATHETER; Specimen site: URINE; Ordering physician: Transcribed order George F Palmer

Test	Flag	Value	Units	Ref. Range	Status
SPECIMEN TYPE		URINE			F
COLOR		YELLOW			F
APPEARANCE		SL CLOUDY			F
GLUCOSE		NEGATIVE	GDL	NEGATIVE	F
BILIRUBIN		NEGATIVE		NEGATIVE	F
KETONE		NEGATIVE	MGDL	NEGATIVE	F
SPEC. GRAVITY		1.013		1.003-35	F
BLOOD	AB	TRACE		NEGATIVE	F
pH		7.0		5.0-8.5	F
PROTEIN	AB	100		NEGATIVE	F
UROBILINOGEN		.2	EUDL	0.2-1.0	F
NITRITE		NEGATIVE		NEGATIVE	F
LEUKOCYTES		NEGATIVE		NEGATIVE	F

Result 1 User N. Interface 2/23/2002 03:04

URINALYSIS WITH MICROSCOPIC; Specimen type: URINE CATHETER; Specimen site: URINE; Ordering physician: Transcribed order George F Palmer

Test	Flag	Value	Units	Ref. Range	Status

Printed by Donna R.Unch, UC on Wednesday, February 27, 2002 2:59:54 PM **Triage and disposition documentation.**

KLINE ,JUSTINE M
MR 159993 3y
DOB 09/26/1998 F 1
FIN 000000963854

Clearfield Hospital - Clearfield , PA 16830

Patient: KLINE , JUSTINE MARIE DOB: 9/26/1998 Age/Gender: 3 F
2/23/2002 01:58 Fever
MR#: 159993 Acct#: 000000963854 ED Phys.:

URINALYSIS WITH MICROSCOPIC; Specimen type: URINE CATHETER; Specimen site: URINE; Ordering physician: Transcribed order George F Palmer

Test	Flag	Value	Units	Ref. Range	Status
EPITH CELLS		RARE	PLPF		F
MUCOUS		RARE	PLPF		F
AMORPHOUS		2+	PLPF		F
WBC'S	AB	25+	PHPF	0 - 3	F
RBC'S	AB	1 - 5	PHPF	0 - 3	F
BACTERIA	AB	3+	PHPF	NONE SEEN	F

CULTURE BLOOD AERO/ANER; Specimen type: BLOOD; Specimen site: BLOOD; None; Ordering physician: Transcribed order George F Palmer
Result 1 User N. Interface 2/23/2002 02:55

CULTURE BLOOD AERO/ANER; Specimen type: BLOOD; Specimen site: BLOOD; None; Ordering physician: Transcribed order George F Palmer

Test	Flag	Value	Units	Ref. Range	Status
CULTURE STATUS		**PRELIMINARY**			**F**
COLLECTION DATE/TIME		**02/23/02 02:55**			**F**
SPECIMEN NUMBER		**054.0098**			**F**
SOURCE		**BLD^BLOOD^L**			**F**
PLATED		**02/23/02 02:55**			**F**
TEST		**BLOOD**			**F**
GRAM STAIN		**GRAM NEGATIVE RODS**			**F**

Result 2 User N. Interface 2/23/2002 02:55

CULTURE BLOOD AERO/ANER; Specimen type: BLOOD; Specimen site: BLOOD; None; Ordering physician: Transcribed order George F Palmer

Printed by Donna R.Unch, UC on Wednesday, February 27, 2002 2:59:54 PM **Triage and disposition documentation.**

KLINE ,JUSTINE M
MR 159993 3y
DOB 09/26/1998 F 1
FIN 000000963854

Clearfield Hospital - Clearfield , PA 16830

Patient: KLINE , JUSTINE MARIE DOB: 9/26/1998 Age/Gender: 3 F
2/23/2002 01:58 Fever
MR#: 159993 Acct#: 000000963854 ED Phys.:

Test	Flag	Value	Units	Ref. Range	Status
CULTURE STATUS		PRELIMINARY			C
COLLECTION DATE/TIME		02/23/02 02:55			C
SPECIMEN NUMBER		054.0098			C
SOURCE		BLD^BLOOD^L			C
PLATED		02/23/02 02:55			C
TEST		BLOOD			C
ORGANISM ID		GRAM NEGATIVE ORGANISM			F

Result 3 User N. Interface 2/23/2002 02:55

CULTURE BLOOD AERO/ANER; Specimen type: BLOOD; Specimen site: BLOOD; None; Ordering physician: Transcribed order George F Palmer

Test	Flag	Value	Units	Ref. Range	Status
CULTURE STATUS		PRELIMINARY			C
COLLECTION DATE/TIME		02/23/02 02:55			C
SPECIMEN NUMBER		054.0098			C
SOURCE		BLD^BLOOD^L			C
PLATED		02/23/02 02:55			C
TEST		BLOOD			C
ORGANISM ID		GRAM NEGATIVE ORGANISM			C
ORGANISM ID		ENTEROBACTER CLOACAE			C

Printed by Donna R.Unch, UC on Wednesday, February 27, 2002 2:59:54 PM **Triage and disposition documentation.**

KLINE ,JUSTINE M
MR 159993 3y
DOB 09/26/1998 F 1
FIN 000000963854

Clearfield Hospital - Clearfield , PA 16830

Patient: KLINE , JUSTINE MARIE DOB: 9/26/1998 Age/Gender: 3 F
2/23/2002 01:58 Fever
MR#: 159993 Acct#: 000000963854 ED Phys.:

CULTURE BLOOD AERO/ANER; Specimen type: BLOOD; Specimen site: BLOOD; None; Ordering physician: Transcribed order George F Palmer

Test	Flag	Value	Units	Ref. Range	Status
AMIKACIN	S	<16			F
AMIKACIN		IM/IV 7.5 mg/Kg Q12h			F
AMPICILLIN	R	>16			F
AMPICILLIN		PO 250-500 mg Q6h			F
AMPICILLIN		IV 1.0-2.0 gm Q4h			F
CEFAZOLIN	R	>16			F
CEFAZOLIN		IM 0.5-1.0 gm Q8h			F
CEFAZOLIN		IV 1.0-2.0 gm Q8h			F
CEFUROXIME	S	8			F
CEFUROXIME		PO 250-500 mg Q12h			F
CEFUROXIME		IM/IV 0.75-1.5 gm Q8h			F
CEPHALOTHIN	R	>16			F
CEPHALOTHIN		PO 250-500 mg Q6h			F
CEPHALOTHIN		IV 0.5-2.0 gm Q4-6h			F
CIPROFLOXACIN	S	<0.5			F
CIPROFLOXACIN		PO 250-750 mg Q12h			F
CIPROFLOXACIN		IV 200-400 mg Q12h			F

Printed by Donna R.Unch, UC on Wednesday, February 27, 2002 2:59:54 PM Triage and disposition documentation.

KLINE ,JUSTINE M
MR 159993 3y
DOB 09/26/1998 F 1
FIN 000000963854

Clearfield Hospital - Clearfield , PA 16830

Patient: KLINE , JUSTINE MARIE DOB: 9/26/1998 Age/Gender: 3 F
2/23/2002 01:58 Fever
MR#: 159993 Acct#: 000000963854 ED Phys.:

CULTURE BLOOD AERO/ANER; Specimen type: BLOOD; Specimen site: BLOOD; None; Ordering physician: Transcribed order George F Palmer

Test	Flag	Value	Units	Ref. Range	Status
GENTAMICIN	S	<1			F
GENTAMICIN		IM/IV 1.0-1.7 mg/Kg Q8h			F
PIPERACILLIN	R	>64			F
PIPERACILLIN		IV 2.0-3.0 gm Q4-6h			F
TOBRAMYCIN	S	<4			F
TOBRAMYCIN		IM/IV 1.0-1.7 mg/Kg Q8h			F
BACTRIM	R	>2/38			F
BACTRIM		PO 1-2 tablets Q12h			F
BACTRIM		IV 3.3-6.6 mg/Kg Tmp Q8h			F

Result 4 User N. Interface 2/23/2002 02:55

CULTURE BLOOD AERO/ANER; Specimen type: BLOOD; Specimen site: BLOOD; None; Ordering physician: Transcribed order George F Palmer

Test	Flag	Value	Units	Ref. Range	Status
CULTURE STATUS		PRELIMINARY			C
COLLECTION DATE/TIME		02/23/02 02:55			C
SPECIMEN NUMBER		054.0098			C

Printed by Donna R.Unch, UC on Wednesday, February 27, 2002 2:59:54 PM Triage and disposition documentation.

KLINE ,JUSTINE M
MR 159993 3y
DOB 09/26/1998 F 1
FIN 000000963854

Clearfield Hospital - Clearfield , PA 16830

Patient: KLINE , JUSTINE MARIE DOB: 9/26/1998 Age/Gender: 3 F
2/23/2002 01:58 Fever
MR#: 159993 Acct#: 000000963854 ED Phys.:

CULTURE BLOOD AERO/ANER; Specimen type: BLOOD; Specimen site: BLOOD; None; Ordering physician: Transcribed order George F Palmer

Test	Flag	Value	Units	Ref. Range	Status
SOURCE		BLD^BLOOD^L			C
PLATED		02/23/02 02:55			C
TEST		BLOOD			C
ORGANISM ID		GRAM NEGATIVE ORGANISM			C
ORGANISM ID		ENTEROBACTER CLOACAE			C
ORGANISM ID		ENTEROBACTER CLOACAE			C
ORGANISM ID		CALLED TO BONNIE IN ED BY TK 02-25-02 0715			C

Result 5 User N. Interface 2/23/2002 02:55

CULTURE BLOOD AERO/ANER; Specimen type: BLOOD; Specimen site: BLOOD; None; Ordering physician: Transcribed order George F Palmer

Test	Flag	Value	Units	Ref. Range	Status
CULTURE STATUS		FINAL			C
COLLECTION DATE/TIME		02/23/02 02:55			C
SPECIMEN NUMBER		054.0098			C
SOURCE		BLD^BLOOD^L			C
PLATED		02/23/02 02:55			C

Clearfield Hospital - Clearfield , PA 16830

Patient: KLINE , JUSTINE MARIE DOB: 9/26/1998 Age/Gender: 3 F
2/23/2002 01:58 Fever
MR#: 159993 Acct#: 000000963854 ED Phys.:

CULTURE BLOOD AERO/ANER; Specimen type: BLOOD; Specimen site: BLOOD; None; Ordering physician: Transcribed order George F Palmer

Test	Flag	Value	Units	Ref. Range	Status
TEST		BLOOD			C
CEFTRIAXONE	S	<8			F

Result 6 User N. Interface 2/23/2002 02:55

CULTURE BLOOD AERO/ANER; Specimen type: BLOOD; Specimen site: BLOOD; None; Ordering physician: Transcribed order George F Palmer

Test	Flag	Value	Units	Ref. Range	Status
CULTURE STATUS		FINAL			C
COLLECTION DATE/TIME		02/23/02 02:55			C
SPECIMEN NUMBER		054.0098			C
SOURCE		BLD^BLOOD^L			C
PLATED		02/23/02 02:55			C
TEST		BLOOD			C

Result 7 User N. Interface 2/23/2002 02:55

CULTURE BLOOD AERO/ANER; Specimen type: BLOOD; Specimen site: BLOOD; None; Ordering physician: Transcribed order George F Palmer

Test	Flag	Value	Units	Ref. Range	Status
CULTURE STATUS		FINAL			C
COLLECTION DATE/TIME		02/23/02 02:55			C

Printed by Donna R.Unch, UC on Wednesday, February 27, 2002 2:59:54 PM **Triage and disposition documentation.**

KLINE ,JUSTINE M
MR 159993 3y
DOB 09/26/1998 F 1
FIN 000000963854

Clearfield Hospital - Clearfield , PA 16830

Patient: KLINE , JUSTINE MARIE DOB: 9/26/1998 Age/Gender: 3 F
2/23/2002 01:58 Fever
MR#: 159993 Acct#: 000000963854 ED Phys.:

CULTURE BLOOD AERO/ANER; Specimen type: BLOOD; Specimen site: BLOOD; None; Ordering physician: Transcribed order George F Palmer

Test	Flag	Value	Units	Ref. Range	Status
SPECIMEN NUMBER		054.0098			C
SOURCE		BLD^BLOOD^L			C
PLATED		02/23/02 02:55			C
TEST		BLOOD			C
ORGANISM ID		GRAM NEGATIVE ORGANISM			C
ORGANISM ID		ENTEROBACTER CLOACAE			C
ORGANISM ID		ENTEROBACTER CLOACAE			C
ORGANISM ID		CALLED TO BONNIE IN ED BY TK 02-25-02 0715			C

DIAGNOSIS

Acute cystitis 595.0
Fever 780.6
GFP:George F.Palmer, DO 02/23/02 04:22

DISPOSITION

Nursing

Delayed lab results: Patient currently on antibiotic.
Notes:
<KLA 02-27-02 14:33>pt. transfered to children's hospital in pittsburgh info via phone to pitts. drs.

Disposition - Discharged: The patient was discharged to home in stable condition ambulatory accompanied by parent/guardian. The patient's diagnosis, condition, and treatment were explained to patient or parent/guardian. The patient/responsible party expressed understanding. A discharge plan has been developed. Aftercare instructions were given to the patient.
GRT:Gwen R.Thomas, RN 02/23/02 05:45
KLA:Karen L.Abbott, RN 02/27/02 14:33

Physician

Clearfield Hospital - Clearfield , PA 16830

Patient: KLINE , JUSTINE MARIE **DOB:** 9/26/1998 **Age/Gender:** 3 F
2/23/2002 01:58 Fever
MR#: 159993 **Acct#:** 000000963854 **ED Phys.:**

Rx
Disposition - Discharge from ED: The patient is discharged to clinic. Patient's condition is satisfactory. The patient is to follow-up with their/the PCP. The patient is to follow-up with Jennifer L. Graham, DO Return to the emergency department if no improvement in 1 day(s)
General discharge instructions given to patient in English.
AfterCare Instructions
GFP:George F.Palmer, DO 02/23/02 04:23
GFP:George F.Palmer, DO 02/23/2002 04:42

PRESCRIPTIONS

AUGMENTIN (400MG/5CC)Take 1 tsp(s) PO twice per day George F. Palmer, DO 2/23/2002 04:26

AFTERCARE INSTRUCTIONS

GENITOURINARY

Urinary tract infection/pyelonephritis - English
GFP:George F.Palmer, DO 02/23/02 04:27

Bed Assignments:
CLINIC3 <GRT 2/23/2002 01:58>

Printed by Donna R.Unch, UC on Wednesday, February 27, 2002 2:59:54 PM **Triage and disposition documentation.**

KLINE ,JUSTINE M
MR 159993 3y
DOB 09/26/1998 F 1
FIN 000000963854

IN THE COURT OF COMMON PLEAS

OF CLEARFIELD COUNTY, PA

CIVIL DIVISION

* * * * * * * * * *

SANDRA CONKLIN, as parent and natural guardian of JUSTINE KLINE, and SANDRA CONKLIN, individually, Plaintiff	*	Case No. 2003-00068-CD
vs.	*	
CLEARFIELD HOSPITAL, GEORGE F. PALMER, ERNEST P. JONES and JAMES P. DESANTIS, Defendants	*	

* * * * * * * * *

COPY

DEPOSITION OF

GEORGE F. PALMER, D.O.

March 3, 2004

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ALL-STATE LEGAL®
PLAINTIFF'S EXHIBIT
5

Q. I understood you earlier to say that you did diagnose her with pyelonephritis?
A. That is correct.
Q. Can you point in the record where that is documented; if you can? If it helps, there is one spot on 896 but I think that's the only one place I could find. Is that your diagnosis of a urinary tract infection, pyelonephritis that you made on February 23rd, 2004 at 4:27 a.m.?
A. That is correct.
Q. There is a handwritten note under bed assignments. Do you see that?
A. Yes, sir
Q. Do you whose handwriting that is?
A. That is mine, sir.
Q. Would you be kind enough to read that into the record for us?
A. Addendum physical exam, child well hydrated, alert-PERLA-EOMI-TMI=neck supple, negative nodes,

negative rigidity. Lung, clear. Negative rhonchi, negative wheezing. Heart rapid at 177 a minute, no murmur. Abdomen soft, non-dissented, bowel sounds positive, no masses. Extremities deep tendon reflexes grossly intact. Negative rash.

Q. Do you know when you wrote that in there?

A. No, I don't, sir.

Q. Would you have to --- would you agree with me that it would have to have been February 27th, 2002 or after?

A. I cannot recall the exact date when I wrote this.

Q. The only reason I ask you that is if you look at the bottom on page 896, it says printed by Donna R. Unch UC on Wednesday, February 27th, 2002. Do you see that?

A. Yes, I do.

Q. In looking at that wouldn't you agree with me that this had to have been written on February 27th or after?

ATTORNEY MCINTYRE:

Objection to form.

A. No, it was not.

BY ATTORNEY PATBERG:

Q. Okay. Why is it that you say that it was not?

A. I can't remember exactly when I wrote this addendum.

Q. Was it during her treatment or was it at some point afterwards?

A. It was some point afterwards.

Q. Was it during the same shift or was it within days?

A. It was not during the shift, but I can't remember if it was within days.

Q. Do you know why you wrote that in there?

A. I was asked by medical records to do this.

Q. Do you know why?

A. I believe I had entered the physical examination into the computer at the time of the examination.

Q. But it wasn't documented; is that true?

A. It was not entered into the

Q. The history and physical that normally would be recorded on page 885, was it --- is that where the records were lacking on page 885 as indicated by the medical records department?
A. No.
Q. Is it your testimony that you entered items in the medical record and then they didn't make it onto the chart or that you didn't enter anything and then they had to do the addendum later?
A. I entered --- I believe I entered the material, the information, into the computer.
Q. And did you subsequently learn that it didn't make it onto the chart?
A. That is correct.
Q. Was an investigation ever taken indicating that that information may have been placed on someone else's chart?
A. I'm not sure.
Q. Is that a possibility?
A. I don't know.
Q. Were there other people being

treated at the Emergency Room that evening?

A. I can't recall.

Q. When you actually went to put an entry into the computer back in 2002, tell me how that's done. For example, let me be more specific, it is your testimony that you typed in the history and physical but it didn't make it on to the chart; is that what I understand you to say?

A. That's correct.

Q. Tell me how you did that. Starting first from as soon as you walk up to the keyboard.

A. I can't explain that.

Q. Let me ask you a series of questions about that. At some point you have to approach the keyboard to put this information in; is that true?

A. That's correct.

Q. And is there a list of the patients that are in the ER, do you have to select a specific patient?

A. That is correct.

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

SANDRA CONKLIN, as parent and natural guardian of JUSTINE KLINE, and SANDRA CONKLIN, individually,	)	CIVIL DIVISION
	)	NO.: 2003-68 CD
Plaintiffs,	)	
v.	)	
CLEARFIELD HOSPITAL and GEORGE F. PALMER,	)	
Defendants.	)	**JURY TRIAL DEMANDED**

ORDER OF COURT

AND NOW, to-wit, this ____ day of _____, 2006, it is hereby ORDERED, DECREED and ADJUDGED that the Plaintiffs' Motions in Limine are **GRANTED** in their entirety. It is hereby ORDERED that neither defense counsel or any of their experts shall attempt to admit a certain article titled "Oral v. Initial Intravenous Therapy for Urinary Infections In Young Febrile Children" written by Alejandro Hoberman as substantive evidence or any other articles as substantive evidence.

IT IS FURTHER ORDERED that Dr. King shall be precluded from utilizing examples of his own treatment of patients during his normal practice for the purposes of bolstering his testimony.

IT IS FURTHER ORDERED that Defendant Palmer shall be precluded from testifying that he mistakenly placed Justine Kline's documented physical examination in the incorrect patient chart.

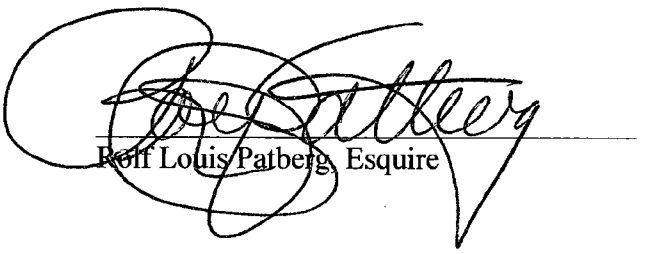
BY THE COURT:

_____J.

CERTIFICATE OF SERVICE

I, Rolf Louis Patberg, Esquire, hereby certify that a true and correct copy of the foregoing Plaintiffs' First Motions in Limine was forwarded this 7 day of November, 2006 via postage prepaid United States Mail to the following counsel of record:

John L. McIntyre, Esquire
McIntyre, Dugas, Hartye & Schmitt
P.O. Box 533
Holidaysburg, PA 16648



Rolf Louis Patberg, Esquire

FILED
NOV 03 2006
William A. Shaw
Prothonotary/Clerk of Courts

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

SANDRA CONKLIN, as parent and natural guardian of JUSTINE KLINE, and SANDRA CONKLIN, individually,	CIVIL DIVISION NO.: 2003-68 CD
Plaintiffs,	TYPE OF PLEADING:
v.	**NOTICE OF SERVICE OF NOTICE OF VIDEOTAPED DEPOSITION OF C. RAYMOND SCHANEY, P.T.**
CLEARFIELD HOSPITAL, GEORGE F. PALMER, ERNEST P. JONES, and JAMES P. DeSANTIS,	FILED ON BEHALF OF PLAINTIFF
Defendants.	COUNSEL OF RECORD FOR THIS PARTY:
	ROLF LOUIS PATBERG, ESQUIRE PA I.D. NO.: 65185
JURY TRIAL DEMANDED	PATBERG, CARMODY, GING & FILIPPI 801 VINIAL STREET THIRD FLOOR PITTSBURGH, PA 15212 (412) 232-3500

FILED Noa.
M/11:55cm
OCT 30 2006
William A. Shaw
Prothonotary/Clerk of Courts

(#79)

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

SANDRA CONKLIN, as parent and natural guardian of JUSTINE KLINE, and SANDRA CONKLIN, individually,	)	CIVIL DIVISION
	)	NO.: 2003-68 CD
Plaintiffs,	)	
v.	)	
CLEARFIELD HOSPITAL, GEORGE F. PALMER, ERNEST P. JONES, and JAMES P. DeSANTIS,	)	
Defendants.	)	**JURY TRIAL DEMANDED**

NOTICE OF SERVICE OF NOTICE OF VIDEOTAPED DEPOSITION OF C. RAYMOND SCHANEY, P.T.

TO: PROTHONOTARY

Please take notice that the foregoing Notice of Service of Notice of Videotaped Deposition of C. Raymond Schaney, P.T.. has been served upon all counsel of record this 25 day of October, 2006 via postage prepaid United States Mail.

RESPECTFULLY SUBMITTED:

PATBERG, CARMODY, GING & FILIPPI

DATE: 10-25-06

By _____
Rolf Louis Patberg, Esquire
PA I.D. No.: 65185

PATBERG, CARMODY, GING & FILIPPI
801 Vinial Street, Third Floor
Pittsburgh, PA 15213
(412) 232-3500

Attorney for Plaintiffs

JURY TRIAL DEMANDED

CERTIFICATE OF SERVICE

I, Rolf Louis Patberg, Esquire, hereby certify that a true and correct copy of the foregoing Notice of Service of Notice of Videotaped Deposition of C. Raymond Schaney, P.T. was forwarded this 25th day of October, 2006 via postage prepaid United States Mail to the following:

John L. McIntyre, Esquire
McIntyre, Dugas, Hartye & Schmitt
P.O. Box 533
Holidaysburg, PA 16648

Rolf Louis Patberg, Esquire

PATBERG, CARMODY, GING & FILIPPI

ATTORNEYS AT LAW

PITTSBURGH OFFICE:

DEUTSCHTOWN CENTER
801 VINIAL STREET
THIRD FLOOR
PITTSBURGH, PA 15212
(412) 232-3500
FAX: (412) 281-8656

ROLF LOUIS PATBERG
TERRENCE M. GING
SEAN J. CARMODY
RICHARD E. FILIPPI
SEAN P. DUFF

OF COUNSEL:
JOSEPH MANION LUDWIG
WILLIAM B. DIXON

OFFICES IN:

ERIE
MURRYSVILLE
WARRENDALE

October 25, 2006

Clearfield County Prothonotary
Clearfield County Courthouse
230 E. Market Street
Clearfield, PA 16830

Re.: Sandra Conklin, et al v. Clearfield Hospital, et al.
No.: 2003-68 CD
Our File No.: 02-201

Dear Ladies and Gentlemen:

Please file the enclosed Notice of Service of Notice of Videotaped Deposition of C. Raymond Schaney, P.T. in connection with the above-captioned matter. Kindly date-stamp the additional cover page and return it in the enclosed self-addressed, stamped envelope.

Thank you for your attention in this regard and please feel free to contact me with any questions or concerns.

Very truly yours,

Rolf Louis Patberg

RLP/jlc

Enclosures

CA

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

SANDRA CONKLIN, as parent and natural guardian of JUSTINE KLINE, and SANDRA CONKLIN, individually, Plaintiffs	*	
vs.	*	No. 03-68-CD
CLEARFIELD HOSPITAL and GEORGE F. PALMER, Defendants	*	

ORDER

NOW, this 23rd day of October, 2006 upon review of the pleadings and the parties briefs, it is the ORDER of this Court that the Defendants' Motion for Partial Summary Judgment and Defendants' Preliminary Objections as to Plaintiffs' Claim for Negligent Infliction of Emotional Distress be and are hereby DISMISSED.

BY THE COURT,

FREDRIC J. AMMERMAN
President Judge

FILED
01 10:03 BN
OCT 24 2006
William A. Shaw
Prothonotary/Clerk of Courts

1CC Attys: Patberg McIntyre

(#77)

DATE: 10/24/06

___ You are responsible for serving all appropriate parties.

X The Prothonotary's office has provided service to the following parties:

___ Plaintiff(s) X Plaintiff(s) Attorney ___ Other

___ Defendant(s) X Defendant(s) Attorney

___ Special Instructions:

FILED

OCT 24 2006

William A. Shaw
Prothonotary/Clerk of Courts

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

SANDRA CONKLIN, as parent and natural guardian of JUSTINE KLINE, and SANDRA CONKLIN, individually,	CIVIL DIVISION NO.: 2003-68 CD
Plaintiffs,	TYPE OF PLEADING:
v.	**NOTICE OF ADDRESS CHANGE**
CLEARFIELD HOSPITAL and GEORGE F. PALMER,	FILED ON BEHALF OF PLAINTIFFS
Defendants.	COUNSEL OF RECORD FOR THIS PARTY:
	ROLF LOUIS PATBERG, ESQUIRE PA I.D. NO.: 65185
	PATBERG, CARMODY, GING & FILIPPI DEUTSCHTOWN CENTER 801 VINIAL STREET - THIRD FLOOR PITTSBURGH, PA 15212
JURY TRIAL DEMANDED	(412) 232-3500

FILED
OCT 10 2006
m/12:15/
William A. Shaw
Prothonotary/Clerk of Courts
NO CERT TO ATTY
COPY TO PA

#76

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

SANDRA CONKLIN, as parent and natural guardian of JUSTINE KLINE, and SANDRA CONKLIN, individually,	)	CIVIL DIVISION
	)	NO.: 2003-68 CD
Plaintiffs,	)	
v.	)	
CLEARFIELD HOSPITAL and GEORGE F. PALMER,	)	
Defendants.	)	**JURY TRIAL DEMANDED**

NOTICE OF ADDRESS CHANGE

TO: PROTHONOTARY

Please kindly take notice that the address of Plaintiffs' counsel, Rolf Louis Patberg, Esquire, has changed as follows:

Deutschtown Center
801 Vinial Street - Third Floor
Pittsburgh, PA 15212

RESPECTFULLY SUBMITTED:

PATBERG, CARMODY, GING & FILIPPI

DATE: 10-6-06

By _____
Rolf Louis Patberg, Esquire
PA I.D. No.: 65185

Patberg, Carmody, Ging & Filippi
Deutschtown Center
801 Vinial Street - Third Floor
Pittsburgh, PA 15212
412-232-3500

Attorney for Plaintiffs.

JURY TRIAL DEMANDED

CERTIFICATE OF SERVICE

I, Rolf Louis Patberg, Esquire, hereby certify that a true and correct copy of the foregoing Notice of Address Change was forwarded this 6 day of October, 2006 via postage prepaid United States Mail to the following counsel of record:

John L. McIntyre, Esquire
McIntyre, Dugas, Hartye & Schmitt
P.O. Box 533
Holidaysburg, PA 16648

Rolf Louis Patberg, Esquire

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

SANDRA CONKLIN, as parent and natural guardian of JUSTINE KLINE, and SANDRA CONKLIN, individually,	:	No. 2003 – 68 CD
Plaintiff	:	
vs.	:	
CLEARFIELD HOSPITAL and GEORGE F. PALMER, D.O.,	:	
Defendants	:	JURY TRIAL DEMANDED

ORDER OF COURT

AND NOW, this 2nd day of October, 2006, pursuant to the attached Stipulation, it is hereby ordered, adjudged and decreed that the plaintiff's claim for punitive damages is withdrawn and dismissed with prejudice.

BY THE COURT:

J.

FILED 1CC Atty's
01:57 01
OCT 03 2006 Patberg
McIntyre
William A. Shaw
Prothonotary/Clerk of Courts

(GK)

#75

DATE: 10/3/06

____You are responsible for serving all appropriate parties.

__X__The Prothonotary's office has provided service to the following parties:

____Plaintiff(s) __X__Plaintiff(s) Attorney ____Other

____Defendant(s) __X__Defendant(s) Attorney

____Special Instructions:

FILED

OCT 03 2006

William A. Shaw
Prothonotary/Clerk of Courts

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

SANDRA CONKLIN, as parent and natural guardian of JUSTINE KLINE, and SANDRA CONKLIN, individually,	:	No. 2003 – 68 CD
Plaintiff	:	
vs.	:	
CLEARFIELD HOSPITAL and GEORGE F. PALMER, D.O.,	:	
Defendants	:	JURY TRIAL DEMANDED

STIPULATION

AND NOW, come the parties by and through their attorneys and agree to and stipulate to the following:

1. Plaintiff filed a Complaint and in the Complaint sets forth a claim for punitive damages.

2. Plaintiff has agreed to withdraw the claim for punitive damages.

3. It is requested that this Court sign an Order dismissing the claim for punitive damages as a result of the above agreement.

Respectfully submitted,

Rolf L. Patberg, Esquire
Counsel for Plaintiff

John L. McIntyre, Esquire
Counsel for Defendants

FILED
01:53 PM
OCT 03 2006

William A. Shaw
Prothonotary/Clerk of Courts

Filed per Judge Ammerman's instructions

No CC

GK

(#74)

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

SANDRA CONKLIN, as parent and natural guardian of JUSTINE KLINE, and SANDRA CONKLIN, individually,	CIVIL DIVISION NO.: 2003-68 CD
Plaintiffs,	TYPE OF PLEADING:
v.	**NOTICE OF SERVICE OF NOTICE OF VIDEOTAPED DEPOSITION OF STEVEN DOCIMO, M.D.**
CLEARFIELD HOSPITAL, GEORGE F. PALMER, ERNEST P. JONES, and JAMES P. DeSANTIS,	FILED ON BEHALF OF PLAINTIFF
Defendants.	COUNSEL OF RECORD FOR THIS PARTY: ROLF LOUIS PATBERG, ESQUIRE PA I.D. NO.: 65185
JURY TRIAL DEMANDED	PATBERG, CARMODY, GING & FILIPPI 527 COURT PLACE PITTSBURGH, PA 15219 (412) 232-3500

FILED no cc
OCT 02 2006
William A. Shaw
Prothonotary/Clerk of Courts

(#73)

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

SANDRA CONKLIN, as parent and natural guardian of JUSTINE KLINE, and SANDRA CONKLIN, individually,	)	CIVIL DIVISION
	)	NO.: 2003-68 CD
Plaintiffs,	)	
v.	)	
CLEARFIELD HOSPITAL, GEORGE F. PALMER, ERNEST P. JONES, and JAMES P. DeSANTIS,	)	
Defendants.	)	**JURY TRIAL DEMANDED**

NOTICE OF SERVICE OF NOTICE OF VIDEOTAPED DEPOSITION OF STEVEN DOCIMO, M.D.

TO: PROTHONOTARY

Please take notice that the foregoing Notice of Service of Notice of Videotaped Deposition of Steven Docimo, M.D. has been served upon all counsel of record this 27 day of September, 2006 via postage prepaid United States Mail.

RESPECTFULLY SUBMITTED:

PATBERG, CARMODY, GING & FILIPPI

DATE: 9-27-06

By _____
Rolf Louis Patberg, Esquire
PA I.D. No.: 65185

PATBERG, CARMODY, GING & FILIPPI
801 Vinial Street, Third Floor
Pittsburgh, PA 15213
(412) 232-3500

Attorney for Plaintiffs

JURY TRIAL DEMANDED

CERTIFICATE OF SERVICE

I, Rolf Louis Patberg, Esquire, hereby certify that a true and correct copy of the foregoing Notice of Service of Notice of Videotaped Deposition of Steven Docimo, M.D. was forwarded this 27 day of September, 2006 via postage prepaid United States Mail to the following:

John L. McIntyre, Esquire
McIntyre, Dugas, Hartye & Schmitt
P.O. Box 533
Holidaysburg, PA 16648

Rolf Louis Patberg, Esquire

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

SANDRA CONKLIN, as parent and natural guardian of JUSTINE KLINE, and SANDRA CONKLIN, individually,

Plaintiffs,

v.

CLEARFIELD HOSPITAL, GEORGE F. PALMER, ERNEST P. JONES, and JAMES P. DeSANTIS,

Defendants.

JURY TRIAL DEMANDED

CIVIL DIVISION

NO.: 2003-68 CD

TYPE OF PLEADING:

NOTICE OF SERVICE OF NOTICE OF VIDEOTAPED DEPOSITION OF MICHAEL MORITZ, M.D.

FILED ON BEHALF OF PLAINTIFF

COUNSEL OF RECORD FOR THIS PARTY:

ROLF LOUIS PATBERG, ESQUIRE
PA I.D. NO.: 65185

PATBERG, CARMODY, GING & FILIPPI
527 COURT PLACE
PITTSBURGH, PA 15219
(412) 232-3500

FILED NO CC
m 11:22 cl
OCT 02 2006
William A. Shaw
Prothonotary/Clerk of Courts

#72

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

SANDRA CONKLIN, as parent and natural guardian of JUSTINE KLINE, and SANDRA CONKLIN, individually,	)	CIVIL DIVISION
	)	NO.: 2003-68 CD
Plaintiffs,	)	
v.	)	
CLEARFIELD HOSPITAL, GEORGE F. PALMER, ERNEST P. JONES, and JAMES P. DeSANTIS,	)	
Defendants.	)	**JURY TRIAL DEMANDED**

NOTICE OF SERVICE OF NOTICE OF VIDEOTAPED DEPOSITION OF MICHAEL MORITZ, M.D.

TO: PROTHONOTARY

Please take notice that the foregoing Notice of Service of Notice of Videotaped Deposition of Michael Moritz, M.D. has been served upon all counsel of record this 27th day of September, 2006 via postage prepaid United States Mail.

RESPECTFULLY SUBMITTED:

PATBERG, CARMODY, GING & FILIPPI

DATE: 9-27-06

By _____
Rolf Louis Patberg, Esquire
PA I.D. No.: 65185

PATBERG, CARMODY, GING & FILIPPI
801 Vinial Street, Third Floor
Pittsburgh, PA 15213
(412) 232-3500

Attorney for Plaintiffs

JURY TRIAL DEMANDED

CERTIFICATE OF SERVICE

I, Rolf Louis Patberg, Esquire, hereby certify that a true and correct copy of the foregoing Notice of Service of Notice of Videotaped Deposition of Michael Moritz, M.D. was forwarded this 27 day of September, 2006 via postage prepaid United States Mail to the following:

John L. McIntyre, Esquire
McIntyre, Dugas, Hartye & Schmitt
P.O. Box 533
Holidaysburg, PA 16648

Rolf Louis Patberg, Esquire

UP

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

SANDRA CONKLIN, as parent and natural guardian of JUSTINE KLINE, and SANDRA CONKLIN, individually,	No. 2003 – 68 CD
	ISSUE: **MOTION FOR COSTS AND COUNSEL FEES PURSUANT TO PA. R.C.P. 4008**
Plaintiff	
vs.	
	Filed on behalf of Defendants, CLEARFIELD HOSPITAL and GEORGE F. PALMER
CLEARFIELD HOSPITAL and GEORGE F. PALMER, D.O.,	
	Counsel of Record: John L. McIntyre, Esquire PA I.D. #28015 McINTYRE, HARTYE & & SCHMITT P.O. Box 533 Hollidaysburg, PA 16648 (814) 696-3581
Defendants	
	JURY TRIAL DEMANDED

I HEREBY CERTIFY THAT A TRUE AND CORRECT COPY OF THE WITHIN WAS MAILED TO ALL COUNSEL OF RECORD THIS 22nd DAY OF **SEPTEMBER, 2006.**

Attorneys for Named Defendants

FILED 1cc
m 11:43 Atty
SEP 25 2006
GP

William A. Shaw
Prothonotary/Clerk of Courts

(#71)

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

SANDRA CONKLIN, as parent and natural guardian of JUSTINE KLINE, and SANDRA CONKLIN, individually,	:	No. 2003 – 68 CD
Plaintiff	:	
vs.	:	
CLEARFIELD HOSPITAL and GEORGE F. PALMER, D.O.,	:	
Defendants	:	JURY TRIAL DEMANDED

ORDER

AND NOW, this _____ day of _____, 2006, after consideration of the defendants' Motion for Costs and Counsel Fees pursuant to Pa. R.C.P. 4008, it is hereby ORDERED, DIRECTED AND DECREED that said Motion is granted. Plaintiff shall reimburse the defendants for travel (counsel time and expenses) for any depositions conducted in Pittsburgh, Cincinnati or Erie.

BY THE COURT:

_____
J.

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

SANDRA CONKLIN, as parent and natural guardian of JUSTINE KLINE, and SANDRA CONKLIN, individually,	:	No. 2003 – 68 CD
Plaintiff	:	
vs.	:	
CLEARFIELD HOSPITAL and GEORGE F. PALMER, D.O.,	:	
Defendants	:	JURY TRIAL DEMANDED

MOTION FOR COSTS AND COUNSEL FEES

AND NOW, come the Defendants, CLEARFIELD HOSPITAL and GEORGE F. PALMER, D.O., by and through their counsel, McINTYRE, HARTYE & SCHMITT, and file the within Motion for Costs and Counsel Fees pursuant to Pa. R.C.P. 4008, as follows:

1. This medical malpractice action is set for trial to begin on Monday, December 4, 2006.

2. In anticipation of the trial, counsel for plaintiff has proposed obtaining depositions of various physicians or treatment providers in Pittsburgh, Erie and Cincinnati.

3. In fact, the first depositions are scheduled for October 20th to occur in Pittsburgh. Pittsburgh, Erie and Cincinnati are all more than 100 miles from the Clearfield County Courthouse.

4. Attached as Exhibit "A" are calculations for the distances from the Clearfield County Courthouse to the addresses provided in plaintiff's Pre-Trial Statement for the treatment providers whose depositions are anticipated in Pittsburgh, Erie and Cincinnati. These distance calculations are not meant to be exact, but to illustrate the fact that the locations of the proposed depositions would clearly be beyond 100 miles from the courthouse.

5. Pennsylvania Rule of Civil Procedure 4008 states:

> "If a deposition is to be taken by oral examination more than 100 miles from the courthouse, the Court upon motion may make an Order requiring the payment of reasonable expenses, including attorney's fees, as the Court shall deem proper."

6. Unfortunately, very few cases on this rule have been published. However, it has been cited as authority to award costs and counsel fees to defense counsel for depositions taken by plaintiffs of physicians in places located more than 100 miles from the courthouse. **Metz vs. Long**, 29 D.&C.2d 697 (1962).

7. By correspondence, counsel has requested reimbursement for counsel fees for travel time and travel costs. Counsel does not seek reimbursement for preparation time or the actual deposition.

WHEREFORE, the defendants respectfully request that this Honorable Court grant their Motion and direct that plaintiff must reimburse the defendant for counsel fees

and costs for travel to attend depositions in Pittsburgh, Erie and Cincinnati, pursuant to Rule 4008.

Respectfully submitted,

McINTYRE, HARTYE & SCHMITT

By _____
Attorneys for Defendants

John L. McIntyre, Esquire
PA I.D. #28015
Heather A. Harrington, Esquire
PA I.D. #62977
P.O. Box 533
Hollidaysburg, PA 16648
(814) 696-3581

RAND McNALLY

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Pittsburgh, PA 15213-2584

PRINT **Save** **Email** **Get Return Directions**

STEPS: 26 **EST. DRIVE TIME:** 2 hours, 25 minutes **EST. DISTANCE:** 121 miles

Step	Directions	Distance
1	You are at 230 E Market St,Clearfield,PA.	
2	Go W on Market St for 160 feet	< 0.1 miles
3	Turn right onto PA-153 N (2nd St)	0.3 miles
4	Turn left onto US-322 (PA-153, Bridge St)	0.1 miles
5	Continue onto US-322 (PA-153, Front St)	0.2 miles
6	Continue onto US-322 (PA-153, Twenty-Eighth Division Hwy)	5.9 miles
7	Continue onto PA-153 N	2.6 miles
8	Bear right on ramp to I-80 W	0.5 miles
9	Continue on I-80 W	31.6 miles
10	Bear right onto off-ramp at exit 78 to PA-36 (Allegheny Blvd)	0.2 miles
11	Turn left onto PA-36 (Allegheny Blvd)	0.5 miles
12	Continue onto PA-28 (Allegheny Blvd)	0.6 miles
13	Continue onto PA-28	37 miles
14	Continue onto US-422 W (PA-28 S, PA-66 S, Benjamin Franklin Hwy)	3.7 miles
15	Bear right on ramp to PA-28 S (Allegheny Valley Expwy)	0.7 miles
16	Continue on PA-28 S (Allegheny Valley Expwy)	31 miles
17	Bear left onto off-ramp at exit 6 to Blue Beltway (Highland Park Br)	0.2 miles
18	Take Blue Beltway (Highland Park Br) Ramp	< 0.1 miles
19	Continue onto Blue Beltway (Highland Park Br)	0.6 miles
20	Enter on ramp to PA-8 (Blue Beltway, Green Beltway, Washington Blvd)	0.2 miles

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EXHIBIT tabbies A

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Clearfield, PA 16830-2448

TO: **3229 Burnet Ave**
Cincinnati, OH 45229-3018

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STEPS: 29 **EST. DRIVE TIME:** 6 hours, 35 minutes **EST. DISTANCE:** 412 miles

Step	Directions	Distance
1	You are at 230 E Market St,Clearfield,PA.	
2	Go W on Market St for 160 feet	< 0.1 miles
3	Turn right onto PA-153 N (2nd St)	0.3 miles
4	Turn left onto US-322 (PA-153, Bridge St)	0.1 miles
5	Continue onto US-322 (PA-153, Front St)	0.2 miles
6	Continue onto US-322 (PA-153, Twenty-Eighth Division Hwy)	5.9 miles
7	Continue onto PA-153 N	2.6 miles
8	Bear right on ramp to I-80 W	0.5 miles
9	Continue on I-80 W	127.5 miles
10	Continue onto I-76 W	39.6 miles
11	Bear right on ramp to I-76 W	0.6 miles
12	Continue on I-76 W	1.4 miles
13	Bear right on ramp to I-76 W (US-224 W)	0.3 miles
14	Continue on I-76 W (US-224 W)	17.5 miles
15	Exit onto off-ramp at exit 1 to I-71 S	0.5 miles
16	Take I-71 S Ramp	0.3 miles
17	Continue on I-71 S	89.5 miles
18	Bear right onto off-ramp at exit 119B to I-270 W	0.5 miles
19	Take I-270 W Ramp	0.4 miles
20	Continue on I-270 W	8.2 miles

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Clearfield, PA 16830-2448

TO: **300 State St**
Erie, PA 16507-1427

PRINT **Save** **Email** **Get Return Directions**

STEPS: 19 **EST. DRIVE TIME:** 2 hours, 50 minutes **EST. DISTANCE:** 170 miles

Step	Directions	Distance
1	You are at 230 E Market St,Clearfield,PA.	
2	Go W on Market St for 160 feet	< 0.1 miles
3	Turn right onto PA-153 N (2nd St)	0.3 miles
4	Turn left onto US-322 (PA-153, Bridge St)	0.1 miles
5	Continue onto US-322 (PA-153, Front St)	0.2 miles
6	Continue onto US-322 (PA-153, Twenty-Eighth Division Hwy)	5.9 miles
7	Continue onto PA-153 N	2.6 miles
8	Bear right on ramp to I-80 W	0.5 miles
9	Continue on I-80 W	90.5 miles
10	Bear right on ramp at exit 19B to I-79 N (Raymond P Shafer Hwy)	0.6 miles
11	Continue on I-79 N (Raymond P Shafer Hwy)	66.3 miles
12	Bear left onto Lincoln Av	0.2 miles
13	Turn right onto ALT PA-5 (8th St, Seaway Tr)	0.1 miles
14	Turn left onto ALT PA-5 E (Seminole Dr)	0.1 miles
15	Continue onto ALT PA-5 E	2.1 miles
16	Turn left onto ALT PA-5 W (Peach St)	< 0.1 miles
17	Continue onto Peach St	0.2 miles
18	Turn right onto 3rd St	0.1 miles
19	You are at 300 State St,Erie,PA	

Solutions for You
- Erie Hotels
- Schools in Erie
- Erie Real Estate

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

SANDRA CONKLIN, as parent and natural guardian of JUSTINE KLINE, and SANDRA CONKLIN, individually,	No. 2003 – 68 CD
	ISSUE: **MOTION FOR PARTIAL SUMMARY JUDGMENT AND/OR IN SUPPORT OF PRELIMINARY OBJECTIONS**
Plaintiff	
vs.	
	Filed on behalf of Defendants, CLEARFIELD HOSPITAL and GEORGE F. PALMER
CLEARFIELD HOSPITAL and GEORGE F. PALMER, D.O.,	
	Counsel of Record: John L. McIntyre, Esquire PA I.D. #28015 McINTYRE, HARTYE & & SCHMITT P.O. Box 533 Hollidaysburg, PA 16648 (814) 696-3581
Defendants	
	JURY TRIAL DEMANDED

I HEREBY CERTIFY THAT A TRUE AND CORRECT COPY OF THE WITHIN WAS MAILED TO ALL COUNSEL OF RECORD THIS 19th DAY OF **SEPTEMBER, 2006**.

Attorneys for Named Defendants

FILED NO
SEP 21 2006 CC

William A. Shaw
Prothonotary/Clerk of Courts

#70

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

SANDRA CONKLIN, as parent and natural guardian of JUSTINE KLINE, and SANDRA CONKLIN, individually,	:	No. 2003 – 68 CD
Plaintiff	:	
vs.	:	
CLEARFIELD HOSPITAL and GEORGE F. PALMER, D.O.,	:	
Defendants	:	JURY TRIAL DEMANDED

MOTION FOR PARTIAL SUMMARY JUDGMENT AND/OR IN SUPPORT OF PRELIMINARY OBJECTIONS ON BEHALF OF GEORGE F. PALMER, D.O. AND CLEARFIELD HOSPITAL

AND NOW, come defendants, GEORGE F. PALMER, D.O. and CLEARFIELD HOSPITAL, by and through their attorneys, MCINTYRE, HARTYE & SCHMITT, and file the within Motion for Partial Summary Judgment and/or in Support of Preliminary Objections.

1. Plaintiff has brought this medical malpractice action asserting claims on behalf of Justine Kline and on behalf of Sandra Conklin.

2. The allegations of negligence brought against defendant Clearfield Hospital are vicarious in nature. It is alleged that Dr. Palmer was the agent of the hospital. There are no independent claims against Clearfield Hospital.

3. The allegations of negligence brought against George F. Palmer, D.O. relative to the care of the minor child involved two principle issues:

a) Whether Dr. Palmer was negligent in failing to recognize and appropriately treat Justine Kline;

b) Whether George Palmer, D.O. was negligent in discharging Justine Kline and not admitting her to the hospital.

4. Count VI of the plaintiff's Complaint contains a claim for negligent infliction of emotional distress on behalf of Sandra Conklin.

5. The allegations in Count VI are:

52. At all times relevant herein, Sandra Conklin was physically present for the treatment and events described in the herein Complaint.

53. During the course of treatment outlined herein, Sandra Conklin witnessed her child become severely ill, go into cardiac arrest and nearly die in her presence.

55. As a direct and proximate legal result of the aforementioned events, Sandra Conklin claims the following damages:

(a) Severe emotional distress;

(b) Severe mental suffering;

(c) Past and future medical bills for therapy and consultation; and

(d) Lost wages.

6. Discovery has been completed and this matter is presently ready for trial in December 2006.

7. All material facts necessary to resolve the claims regarding the claim for negligent infliction of emotional distress are a matter of record. Based on all the material facts, there is no genuine issue and partial summary judgment and/or Preliminary

Objections should be granted in favor of defendants as to Sandra Conklin's claim for negligent infliction of emotional distress.

8. The following material facts are of record and/or are not in dispute:

a) In the early morning hours of February 23, 2002 at approximately 2:00 a.m. Justine Kline was brought to Clearfield Hospital;

b) Justine Kline was monitored and treated by the hospital nurses and Dr. Palmer;

c) At approximately 5:45 a.m., Dr. George Palmer decided that the child's condition had improved and discharged her home;

d) At 5:45 a.m. Sandra Conklin was given discharge instructions and a prescription for additional antibiotics;

e) Mrs. Conklin was told that if her daughter's condition worsened, she should call the pediatrician or bring the child back to the emergency department;

f) Sandra Conklin and Justine Kline went home and laid down and went to sleep and woke up at approximately 1:00 p.m.;

g) At approximately 1:37 p.m., as a result of Justine Kline's condition, Sandra Conklin returned her to the Clearfield Hospital emergency department;

h) Dr. George Palmer did not see or treat Justine Kline after her discharge at approximately 5:45 a.m.;

i) Upon returning to the emergency department at Clearfield Hospital, in the afternoon, Justine Kline was treated by Dr. James P. DeSantis;

j) Justine Kline's condition was serious and she was life-flighted to Children's Hospital in Pittsburgh;

k) Sandra Conklin consented to the discharge of Justine Kline from the hospital, at approximately 5:45 a.m.;

l) Justine Kline's condition was not serious and warrant transfer, until approximately 2:30 p.m., when she was being cared for by Dr. James P. DeSantis.

9. In the plaintiff's Complaint, paragraphs 7 – 13, it is set forth that at approximately 1:58 a.m. Justine Kline arrived at Clearfield Hospital with complaints of fever and at the time there was hallucinations, twitching, continued fever and vomiting. She was discharged at 5:45 a.m.

10. It is alleged in paragraph 14 of the Complaint that subsequently she became increasingly ill. This was after the discharge by Dr. Palmer.

11. In paragraphs 15 – 17 of the plaintiff's Complaint, it is averred that at 1:37 p.m., more than 7 ½ hours after her discharge by Dr. Palmer, she was brought back to Clearfield Hospital and was drowsy and lethargic. She was treated by Dr. James DeSantis. Dr. DeSantis has been dismissed as a defendant.

12. In paragraph 18 of the Complaint, it is alleged that she was going to be transferred to another facility.

13. In paragraphs 19 and 20, it is alleged that during the time she was being treated by Dr. DeSantis, she developed pulmonary edema, became bradycardic and chest compressions were given. It is alleged she was resuscitated at this time.

14. In paragraph 21 of the plaintiff's Complaint, it is averred that upon her arrival to Children's Hospital, she was determined to be suffering from septic shock, pulmonary edema and D.I.C.

15. The plaintiff's Complaint does not contain any allegations that from 1:58 a.m. through 5:45 a.m., when Justine Kline was treated by Dr. Palmer, that any serious complications occurred or that Sandra Conklin recognized and believed that the treatment was negligent.

16. The plaintiff's Complaint fails to contain any allegations that Sandra Conklin was aware that Dr. Palmer acted in a negligent or otherwise inappropriate manner with regard to the treatment of Justine Kline.

SANDRA CONKLIN v. DEFENDANTS
NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS

17. With respect to the plaintiff's claim (on her own behalf), for negligent infliction of emotional distress, Sandra Conklin must establish with competent evidence the following elements:

a) She was near the scene of the accident or event;

b) The shock or distress from direct emotional impact caused by sensory or contemporaneous observance of the accident or negligence; and

c) She was related to the victim.

18. With respect to the evidence in this record, it fails to establish that Sandra Conklin was aware of any negligence or inappropriate actions by Dr. George Palmer, during his treatment of Justine Kline.

19. Partial summary judgment is appropriate where there is no dispute as to material facts against which it is applied to the law. Summary judgment is also proper when the record fails to establish material facts necessary to support an element of the cause of action or claim.

20. Being present to contemporaneously observe the traumatic accident, event, or negligence, constitutes an essential element of plaintiff's claim for negligent infliction of emotional distress.

21. Plaintiffs cannot establish this important element as it pertains to Dr. George Palmer, insofar as Ms. Conklin did not have any problems, as a result of the treatment rendered by Dr. Palmer and did not contemporaneously believe that he had acted negligently or that any traumatic accident or event had occurred during the treatment in the early morning hours up through discharge at 5:45 a.m.

22. Accordingly, George Palmer, D.O. is entitled to judgment as a matter of law regarding a claim for negligent infliction of emotional distress brought by Sandra Conklin.

23. Clearfield Hospital is entitled to judgment as a matter of law regarding a claim for negligent infliction of emotional distress, insofar as there is no direct claim against the hospital.

CLAIM FOR PUNITIVE DAMAGES

24. Plaintiff's counsel has agreed to withdraw the claim for punitive damages and will do so either by Stipulation or at the time of argument.

Respectfully submitted,

McINTYRE, HARTYE & SCHMITT

Attorney for Defendants
George F. Palmer, D.O. and
Clearfield Hospital

JOHN L. McINTYRE, ESQUIRE
PA. I.D. No. 28015
P.O. Box 533
Hollidaysburg, PA 16648
814/696-3581

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

SANDRA CONKLIN, as parent and natural guardian of JUSTINE KLINE, and SANDRA CONKLIN, individually,	CIVIL DIVISION NO.: 2003-68 CD
Plaintiffs,	TYPE OF PLEADING:
v.	**REPLY TO NEW MATTER**
CLEARFIELD HOSPITAL and GEORGE F. PALMER,	FILED ON BEHALF OF PLAINTIFFS
Defendants.	COUNSEL OF RECORD FOR THIS PARTY:
	ROLF LOUIS PATBERG, ESQUIRE PA I.D. NO.: 65185
	PATBERG, CARMODY, GING & FILIPPI DEUTSCHTOWN CENTER 801 VINIAL STREET - THIRD FLOOR PITTSBURGH, PA 15212 (412) 232-3500
JURY TRIAL DEMANDED	

FILED NO CC
m/1:36/01
AUG 25 2003
William A. Shaw
Prothonotary/Clerk of Courts

#69

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

SANDRA CONKLIN, as parent and natural guardian of JUSTINE KLINE, and SANDRA CONKLIN, individually,	)	CIVIL DIVISION
	)	NO.: 2003-68 CD
Plaintiffs,	)	
v.	)	
CLEARFIELD HOSPITAL and GEORGE F. PALMER,	)	
Defendants.	)	**JURY TRIAL DEMANDED**

REPLY TO NEW MATTER

AND NOW, come the Plaintiffs, by and through their attorneys, Patberg, Carmody, Ging & Filippi and Rolf Louis Patberg, Esquire, and file the following Reply to New Matter and in support thereof avers as follows:

1-55. Plaintiff incorporates paragraphs 1 through 55 as if the same were set forth here at length.

56. Paragraph 56 is a legal conclusion to which no responsive pleading is required. To the extent a responsive pleading is required, the averments therein are denied.

57. The averments of paragraph 57 are specifically denied. As pled and stated in the medical records, Sandra Conklin did suffer distress as a result of witnessing the treatment provided by Dr. George Palmer and others at Clearfield Hospital. Strict proof thereof is demanded at the time of trial.

58. Paragraph 58 is a legal conclusion to which no responsive pleading is required. To the extent a responsive pleading is required, the averments therein are denied.

59. Paragraph 59 is a legal conclusion to which no responsive pleading is required. To the extent a responsive pleading is required, the averments therein are denied.

60. Paragraph 60 is a legal conclusion to which no responsive pleading is required. To the extent a responsive pleading is required, the averments therein are denied.

61. Paragraph 61 is a legal conclusion to which no responsive pleading is required. To the extent a responsive pleading is required, the averments therein are denied.

62. Paragraph 62 is a legal conclusion to which no responsive pleading is required. To the extent a responsive pleading is required, the averments therein are denied.

63. Paragraph 63 is a legal conclusion to which no responsive pleading is required. To the extent a responsive pleading is required, the averments therein are denied.

64. Paragraph 64 is a legal conclusion to which no responsive pleading is required. To the extent a responsive pleading is required, the averments therein are denied.

65. Paragraph 65 is a legal conclusion to which no responsive pleading is required. To the extent a responsive pleading is required, the averments therein are denied.

66. Paragraph 66 is a legal conclusion to which no responsive pleading is required. To the extent a responsive pleading is required, the averments therein are denied.

67. Paragraph 67 is a legal conclusion to which no responsive pleading is required. To the extent a responsive pleading is required, the averments therein are denied.

68. Paragraph 68 is a legal conclusion to which no responsive pleading is required. To the extent a responsive pleading is required, the averments therein are denied.

69. It is further stated that the Defendants, themselves, have failed to comply with the prior order regarding the same.

70. Paragraph 70 is a legal conclusion to which no responsive pleading is required. To the extent a responsive pleading is required, the averments therein are denied.

71. Paragraph 71 is a legal conclusion to which no responsive pleading is required. To the extent a responsive pleading is required, the averments therein are denied.

72. Paragraph 72 is a legal conclusion to which no responsive pleading is required. To the extent a responsive pleading is required, the averments therein are denied.

73. Paragraph 73 is a legal conclusion to which no responsive pleading is required. To the extent a responsive pleading is required, the averments therein are denied.

WHEREFORE, Plaintiffs respectfully request that judgment be entered in their favor and against the Defendants, jointly and severally.

RESPECTFULLY SUBMITTED:

PATBERG, CARMODY, GING & FILIPPI

DATE: 8/22/08

By _____
Rolf Louis Patberg, Esquire
PA I.D. No.: 65185

PATBERG, CARMODY, GING & FILIPPI
Deutschtown Center
801 Vinial Street - Third Floor
Pittsburgh, PA 15212
(412) 232-3500

Attorney for Plaintiffs.

JURY TRIAL DEMANDED

CERTIFICATE OF SERVICE

I, Rolf Louis Patberg, Esquire, hereby certify that a true and correct copy of the foregoing Reply to New Matter was forwarded this 22 ~~day of~~ August, 2006 via postage prepaid United States Mail to the following:

John L. McIntyre, Esquire
McIntyre, Dugas, Hartye & Schmitt
P.O. Box 533
Holidaysburg, PA 16648

Rolf Louis Patberg, Esquire

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

SANDRA CONKLIN, as parent and natural guardian of JUSTINE KLINE, and SANDRA CONKLIN, individually	:	
vs.	:	No. 03-68-CD
CLEARFIELD HOSPITAL AND GEORGE F. PALMER	:	

ORDER

AND NOW, this 10th day of August, 2006, it is the ORDER of the Court that argument on Defendant's Preliminary Objections in the above-captioned matter has been scheduled for **Monday, October 2, 2006 at 9:30 A.M.**, in Courtroom No. 1, Clearfield County Courthouse, Clearfield, PA. One half (1/2) hour has been allotted for purpose of this hearing.

It is the responsibility of Defendants Counsel to serve certified copies of said Petition and scheduling Order on the Plaintiff.

FILED 4cc
01/10:54 Atty McIntyre
AUG 11 2006
(GK)
William A. Shaw
Prothonotary/Clerk of Courts

BY THE COURT:

FREDRIC J. AMMERMAN
President Judge

#68

CA

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

SANDRA CONKLIN, as parent and natural guardian of JUSTINE KLINE, and SANDRA CONKLIN, individually, Plaintiff	*	FILED 1 cc Attys 01 12:39 PM Partberg AUG 11 2006 McIntyre William A. Shaw Prothonotary/Clerk of Courts
vs	*	NO. 03-68-CD
CLEARFIELD HOSPITAL and GEORGE F. PALMER, D.O., Defendants	*	

ORDER

AND NOW, this 10th day of August, 2006, following Pre-Trial Conference with counsel for the parties as set forth above, it is the ORDER of this Court as follows:

1. The Court hereby ORDERS that the caption be amended to reflect that the only remaining Defendants are Clearfield Hospital and George F. Palmer, D.O.
2. Jury Selection will be held on August 29, 2006 commencing at 9:00 a.m. in Courtroom No. 1 of the Clearfield County Courthouse, Clearfield, Pennsylvania.
3. Jury Trial is hereby scheduled for December 4, 5, 6, 7, 8, and 11, 12 and 13, 2006 commencing at 9:00 a.m. each day in Courtroom No. 1 of the Clearfield County Courthouse, Clearfield, Pennsylvania before Specially Presiding Senior Judge John K. Reilly, Jr.
4. Any party filing any Motion or Petition regarding limitation or exclusion of evidence or testimony to be presented at time of trial, including but not limited to Motions in Limine, shall file the same no more than thirty

#67

(30) days prior to the trial date. The party's Petition or Motion shall be accompanied by an appropriate brief. The responding party thereto shall file its Answer and submit appropriate response brief no later than fifteen (15) days prior to trial.

5. The parties hereby agree to the authenticity of any and all medical records and bills which were previously provided through the discovery process. No party shall be required to produce a medical records witness for purposes of authentication.

6. Oral argument and hearing on any outstanding motions or petitions filed by the parties pursuant to the provisions of this Pre-Trial Order shall be held before Senior Judge Reilly on November 20, 2006 at 9:30 a.m. in Courtroom No. 3 of the Clearfield County Courthouse, Clearfield, Pennsylvania.

BY THE COURT,

Fredric J. Ammerman
PRESIDENT JUDGE

FILED

AUG 11 2006

William A. Shaw
Prothonotary/Clerk of Courts

DATE: 8/11/06

____You are responsible for serving all appropriate parties.

__X__The Prothonotary's office has provided service to the following parties:

____Plaintiff(s) __X__ Plaintiff(s) Attorney ____Other

____Defendant(s) __X__ Defendant(s) Attorney

____Special Instructions:

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

SANDRA CONKLIN, as parent and natural guardian of JUSTINE KLINE, and SANDRA CONKLIN, individually,	No. 2003 – 68 CD
	ISSUE: **ANSWER AND NEW MATTER TO PLAINTIFF'S COMPLAINT**
Plaintiff	
vs.	
	Filed on behalf of Defendants, CLEARFIELD HOSPITAL and GEORGE F. PALMER
CLEARFIELD HOSPITAL, GEORGE F. PALMER, ERNEST P. JONES and JAMES P. DESANTIS,	Counsel of Record: John L. McIntyre, Esquire PA I.D. #28015 McINTYRE, HARTYE & & SCHMITT P.O. Box 533 Hollidaysburg, PA 16648 (814) 696-3581
Defendants	
	JURY TRIAL DEMANDED

I HEREBY CERTIFY THAT A TRUE AND CORRECT COPY OF THE WITHIN WAS DELIVERED TO ALL COUNSEL OF RECORD THIS 10TH DAY OF **AUGUST, 2006**

Attorneys for Named Defendants

FILED
0/9:00 cm
AUG 10 2006
acc Atty McIntyre

William A. Shaw
Prothonotary

#66

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

SANDRA CONKLIN, as parent and natural guardian of JUSTINE KLINE, and SANDRA CONKLIN, individually,	:	No. 2003 – 68 CD
Plaintiff	:	
vs.	:	
CLEARFIELD HOSPITAL, GEORGE F. PALMER, ERNEST P. JONES and JAMES P. DESANTIS,	:	
Defendants	:	JURY TRIAL DEMANDED

ANSWER AND NEW MATTER TO PLAINTIFF'S COMPLAINT

AND NOW, come the Defendants, CLEARFIELD HOSPITAL and GEORGE F. PALMER, and file the following response to the plaintiff's Complaint and in support set forth the following:

1. Admitted.

2. Admitted.

3. It is admitted that George F. Palmer is a physician who practices emergency medicine at Clearfield Hospital.

4. Ernest P. Jones has been dismissed by Stipulation, hence no response is required.

5. James P. DeSantis is an individual who has been dismissed by Stipulation and no further response is required.

6. In response to paragraph 6, said allegations are denied in accordance with Pa. R.C.P. 1029(e) and further, this information is within the exclusive control of Plaintiff, Sandra Conklin and strict proof is demanded at the time of trial.

7-13. In response to paragraphs 7 – 13 of the plaintiff's Complaint, said allegations are denied in accordance with Pa. R.C.P. 1029(e) and strict proof is demanded at the time of trial. By way of further answer, to the extent that the allegations are consistent with the information in the medical records, they are admitted and to the extent the information is not confirmed by the medical records, they are denied and strict proof is demanded at the time of trial. By way of further answer, plaintiff is aware that Ernest P. Jones was not involved in the care and treatment of Justine Kline and the allegations in paragraph 10 are denied.

14. In response to paragraph 14 of the plaintiff's Complaint, said allegations are denied in accordance with Pa. R.C.P. 1029(e) and strict proof is demanded at trial.

15-20. In response to paragraphs 15 – 20 of the plaintiff's Complaint, said averments are denied in accordance with Pa. R.C.P. 1029(e) and further, Dr. Palmer did not have any information regarding the subsequent events as outlined in paragraphs 15 – 20 and demands strict proof at the time of trial.

21-24. In response to paragraphs 21 – 24 of the plaintiff's Complaint, said averments are denied in accordance with Pa. R.C.P. 1029(e). Further, after reasonable investigation, these answering defendants are without sufficient knowledge or information so as to form a belief as to the truth or falsity of said averments and strict proof is demanded at trial.

COUNT ONE

25. In response to paragraph 25 of the plaintiff's Complaint, these answering defendants hereby incorporate their prior responses contained in paragraphs 1 through 24, as though the same were set forth at length.

26. In response to paragraph 26 of the plaintiff's Complaint, said averments constitute a legal conclusion and no further response is required. To the extent that a duty existed, strict proof of said duty and breach of same is demanded at trial.

27. In response to paragraph 27, Drs. Jones and DeSantis have been dismissed by Stipulation, hence no response is required. Insofar as Dr. Palmer is concerned, it is admitted that he would have been an agent or employee of the hospital. Further, no additional claims exist against currently unknown employees, as the same was the subject of this Court's Order and no further facts have been added identifying any unknown employees who may have contributed or caused harm to Justine Kline. Strict proof of the allegations in paragraph 27 is demanded at trial.

28. In response to paragraph 28 of the plaintiff's Complaint, said allegations are denied in accordance with Pa. R.C.P. 1029(e) and in accordance with this Court's Order regarding additional factual averments, none of which have been filed. Strict proof of all allegations in paragraph 28, subparagraphs (a) through (f) is demanded at the time of trial.

29. In response to paragraph 29 of the plaintiff's Complaint, said averments are denied in accordance with Pa. R.C.P. 1029(e) and strict proof of all claims for injuries and damages, as well as causation, is demanded at trial.

30. In response to paragraph 30 of the plaintiff's Complaint, Preliminary Objections were filed seeking to dismiss the claim for punitive damages. This Court entered an Order on May 16, 2003, requiring the plaintiff to file all specific facts regarding the various counts and the same has not been complied with. There is no basis for the imposition of punitive damages. There was no reckless indifference or conduct which rose to the level to support a claim for punitive damages, hence the same should be dismissed.

31-32. In response to paragraphs 31 and 32 of the plaintiff's Complaint, after reasonable investigation, this defendant is without sufficient knowledge or information so as to form a belief as to the truth or falsity of all claims for injuries and damages and strict proof of same is demanded at trial. Further, all bills are limited in accordance with **Moorhead** to those which were paid and received and accepted by the medical care providers.

WHEREFORE, the Defendant, CLEARFIELD HOSPITAL, respectfully requests that Count One of the plaintiff's Complaint be dismissed with prejudice and judgment entered in its favor.

COUNT TWO

33. In response to paragraph 33 of the plaintiff's Complaint, Dr. George F. Palmer incorporates by reference his prior responses to paragraphs 1 through 32, as though they were set forth at length.

34. In response to paragraph 34 of the plaintiff's Complaint, said allegations regarding joint and several liability and negligence constitute legal conclusions. Insofar as a response is required, Dr. Palmer denies that he was negligent or that his actions or inactions caused or contributed to any injuries and damages sustained by Justine Kline and strict proof is demanded at trial.

35. In response to paragraph 35 and all subparagraphs, the same are denied in accordance with Pa. R.C.P. 1029(e) and strict proof of all allegations of negligence and causation as to Dr. Palmer is demanded at the time of trial. By way of further answer, Preliminary Objections have been filed and no further factual averments were ever set forth. Strict proof of all claims of negligence as set forth in subparagraphs (a) – (h) is demanded at the time of trial. At all times Dr. Palmer met the appropriate standard of care in treating, diagnosing and discharging Justine Kline.

36-37. In response to paragraphs 36 and 37 of the plaintiff's Complaint, all claims for injuries and damages are denied in accordance with Pa. R.C.P. 1029(e). Strict proof of all claims for injuries and damages is demanded at trial.

WHEREFORE, the Defendant, Dr. George F. Palmer, respectfully requests that Count Two of the plaintiff's Complaint be dismissed with prejudice.

COUNT THREE

38-42. In response to Count Three, paragraphs 38 – 42 of the plaintiff's Complaint, Dr. Jones has been dismissed by Stipulation and Count Three should be dismissed from the plaintiff's Complaint.

COUNT FOUR

43-47. In response to Count Four, paragraphs 43 – 47 of the plaintiff's Complaint, Dr. DeSantis has been dismissed by Stipulation with prejudice and Count Four should be dismissed from the plaintiff's Complaint.

COUNT FIVE

48. In response to paragraph 48 of the plaintiff's Complaint, these answering defendants hereby incorporate by reference their prior responses to paragraphs 1 through 47, as though the same were set forth at length.

49. In response to paragraph 49 of the plaintiff's Complaint, all claims for reimbursement of all expenses, medical expenses and any other financial outlays are denied in accordance with Pa. R.C.P. 1029(e). Further, after reasonable investigation, these answering defendants are without sufficient knowledge or information so as to form a belief as to all of the financial outlays, expenses and medical expenses and strict proof of same is demanded at trial.

WHEREFORE, the Defendants, Dr. George F. Palmer and Clearfield Hospital, respectfully request that Count Five of the plaintiff's Complaint be dismissed with prejudice.

COUNT SIX

50. In response to Count Six, paragraph 50 of the plaintiff's Complaint, these answering defendants hereby incorporate by reference their prior responses to paragraphs 1 through 49, as though the same were set forth at length.

51. In response to paragraph 51 of the plaintiff's Complaint, it is denied that any of the defendants owed a duty directly to Plaintiff, Sandra Conklin, who was not at the time a patient or in need of any medical care.

52. In response to paragraph 52 of the plaintiff's Complaint, it is denied that Sandra Conklin was physically present for all of the treatment and events described in the Complaint and to the contrary, it is believed and averred that Sandra Conklin was not present for all of the treatment and events. Strict proof of said allegations is demanded at trial.

53. In response to paragraph 53 of the plaintiff's Complaint, after reasonable investigation, these answering defendants are without sufficient knowledge or information so as to form a belief as to the truth or falsity of what Sandra Conklin witnessed and strict proof is demanded at trial. By way of further response, the asserted actions did not occur during the Emergency Department visit with Dr. George Palmer.

54-55. In response to paragraphs 54 and 55 of the plaintiff's Complaint, said allegations are denied in accordance with Pa. R.C.P. 1029(e) and further, these defendants incorporate by reference their prior responses to Counts One through Five as though the same were set forth at length. Further, strict proof of all claims for injuries and damages as set forth in paragraph 55 is demanded at trial.

WHEREFORE, the Defendants, Dr. George F. Palmer and Clearfield Hospital, respectfully request that Count Six of the plaintiff's Complaint be dismissed with prejudice.

NEW MATTER

By way of further Answer, Clearfield Hospital and Dr. George Palmer set forth the following:

56. The plaintiff's Complaint fails to set forth a recognized and valid cause of action for negligent and/or intentional infliction of emotional distress on behalf of Sandra Conklin.

57. Sandra Conklin did not suffer any injuries or distress as a result of witnessing the treatment provided by Dr. George Palmer and others at Clearfield Hospital, at the time Justine Kline was treated.

58. At all times, all of the care and treatment rendered by Clearfield Hospital through its agents, servants and employees was reasonable, appropriate and within the applicable standards of emergency medicine.

59. At all times, all of the care and treatment rendered by Dr. George Palmer was reasonable, appropriate and within the applicable standards of emergency medicine.

60. Plaintiff's Complaint fails to set forth facts to support a corporate negligence claim against Clearfield Hospital.

61. The plaintiff's claims are subject to and limited by any or all relevant portions of the Pennsylvania Health Care Service Malpractice Act, as amended.

62. The plaintiff's claims are subject to and limited by the relevant portions of the Pennsylvania Medical Care Availability and Reduction of Error (MCARE) Act.

63. Drs. Ernest Jones and James DeSantis have been dismissed by prejudice, pursuant to Stipulations and there can be no claims against Clearfield Hospital as a result of their conduct.

64. The plaintiff's Complaint fails to set forth a recognized caused of action for punitive damages.

65. Sandra Conklin failed to set forth any facts regarding any contemporaneous observance of the alleged negligence as to Dr. Palmer.

66. Plaintiff's Complaint fails to set forth any factual information as to bodily injuries which resulted in emotional distress, hence her claims for negligent infliction of emotional distress should be dismissed.

67. Plaintiff's Complaint fails to set forth any facts in support of the imposition of punitive damages as to Clearfield Hospital.

68. Clearfield Hospital cannot be responsible vicariously for punitive damages with regard to the acts of its agents, servants or employees.

69. Plaintiff has failed to comply with the Order of Court regarding amendment and pleading of specific facts to sustain claims of negligent infliction of emotional distress and punitive damages.

70. The claim for punitive damages against Clearfield Hospital is in violation of the Pennsylvania and U.S. Constitutions.

71. The claim for punitive damages is a direct violation of and fails to provide due process to Clearfield Hospital.

72. There are no specific facts to permit a claim for punitive damages in the plaintiff's Complaint, which rise to the level necessary as to malicious and outrageous conduct, in support of plaintiff's claim for punitive damages.

73. Under 40 P.S. §1303.505(c), Clearfield Hospital cannot be vicariously liable for the award of punitive damages as a result of the conduct of any actions of the physicians who may have been acting as agents of the hospital.

Respectfully submitted,

McINTYRE, HARTYE & SCHMITT

By_____
Attorneys for Defendants,
CLEARFIELD HOSPITAL and
GEORGE F. PALMER

John L. McIntyre, Esquire
PA I.D. #28015
P.O. Box 533
Hollidaysburg, PA 16648
(814) 696-3581

TO: PLAINTIFF

YOU ARE HEREBY NOTIFIED TO FILE
A WRITTEN RESPONSE TO THE ENCLOSED
NEW MATTER WITHIN TWENTY (20) DAYS
FROM SERVICE HEREOF OR A JUDGMENT
MAY BE ENTERED AGAINST YOU.

_____
Attorneys for Named Defendants

VERIFICATION

I, **JOHN L. McINTYRE, ESQUIRE** being the attorney of record for **Defendants, CLEARFIELD HOSPITAL and GEORGE F. PALMER** verify that I am authorized to make this verification on behalf of said Defendant in the within action, and that the statements made in the foregoing **ANSWER AND NEW MATTER TO PLAINTIFF'S COMPLAINT** are true and correct to the best of my knowledge, information, and belief.

John L. McIntyre, Esquire

Date: August 8, 2006

FILED

AUG 10 2006

William A. Shaw
Prothonotary

CA

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

SANDRA CONKLIN, as parent and natural guardian of JUSTINE KLINE, and SANDRA CONKLIN, individually,	CIVIL DIVISION NO.: 2003-68 CD
Plaintiffs,	TYPE OF PLEADING:
v.	**PRAECIPE FOR TRIAL**
CLEARFIELD HOSPITAL and GEORGE F. PALMER,	FILED ON BEHALF OF PLAINTIFF
Defendants.	COUNSEL OF RECORD FOR THIS PARTY: ROLF LOUIS PATBERG, ESQUIRE PA I.D. NO.: 65185 SEAN P. DUFF, ESQUIRE PA I.D. NO.: 88853
JURY TRIAL DEMANDED	PATBERG, CARMODY, GING & FILIPPI 801 VINIAL STREET THIRD FLOOR PITTSBURGH, PA 15212 (412) 232-3500

FILED

MAR 23 2006
m/ 12:50 lw
William A. Shaw
Prothonotary/Clerk of Courts
no c/c

#65

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

SANDRA CONKLIN, as parent and natural guardian of JUSTINE KLINE, and SANDRA CONKLIN, individually,	)	CIVIL DIVISION
	)	NO.: 2003-68 CD
Plaintiffs,	)	
v.	)	
CLEARFIELD HOSPITAL and GEORGE F. PALMER,	)	
Defendants.	)	**JURY TRIAL DEMANDED**

PRAECIPE FOR TRIAL

AND NOW, comes the Plaintiff, by and through her counsel, Patberg, Carmody, Ging & Filippi and Rolf Louis Patberg, Esquire, and files the following Praecipe for Trial, stating as follows:

1. There are currently no outstanding motions;

2. Discovery in the matter has been completed;

3. The above referenced matter is ready for trial;

4. The herein matter is to be heard as a Jury Trial;

5. Pursuant to the Certificate of Service attached hereto, this Praecipe has been given to all other counsel of record on this date.

RESPECTFULLY SUBMITTED:

PATBERG, CARMODY, GING & FILIPPI

DATE: 3/20/06

By _____
Rolf Louis Patberg, Esquire
PA I.D. No.: 65185

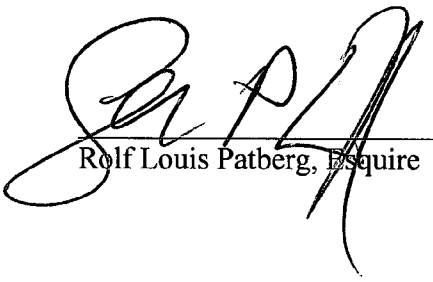
Attorney for Plaintiffs

JURY TRIAL DEMANDED

CERTIFICATE OF SERVICE

I, Rolf Louis Patberg, Esquire, hereby certify that a true and correct copy of the foregoing Praecipe for Trial was forwarded this 30 day of March, 2006 via postage prepaid United States Mail to the following:

John L. McIntyre, Esquire
McIntyre, Dugas, Hartye & Schmitt
P.O. Box 533
Holidaysburg, PA 16648



Rolf Louis Patberg, Esquire

FILED

MAR 23 2006

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET # 100699
NO: 03-68-CD
SERVICE # 1 OF 2
SUBPOENA TO ATTEND & TESTIFY; NOTICE OF DEPOSITION

PLAINTIFF: SANDRA CONKLIN, JUSTINE KLINE
vs.
DEFENDANT: CLEARFIELD HOSPITAL al
TO: SHIRLEY MORRISON and RONALD KLINE

SHERIFF RETURN

NOW, August 19, 2005 AT 3:25 PM SERVED THE WITHIN SUBPOENA TO ATTEND & TESTIFY; NOTICE OF DEPOSITION ON SHIRLEY MORRISON DEFENDANT AT SHERIFF'S OFFICE, 1 N. 2ND ST., SUITE 116, CLEARFIELD, CLEARFIELD COUNTY, PENNSYLVANIA, BY HANDING TO SHIRLEY MORRISON, DEFENDANT A TRUE AND ATTESTED COPY OF THE ORIGINAL SUBPOENA TO ATTEND & TESTIFY; NOTICE OF DEPOSITION AND MADE KNOWN THE CONTENTS THEREOF.

SERVED BY: HAWKINS /

FILED
019:41, 601
AUG 24 2005 m

William A. Shaw
Prothonotary/Clerk of Courts

#64

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET # 100699
NO: 03-68-CD
SERVICE # 2 OF 2
SUBPOENA TO ATTEND & TESTIFY; NOTICE OF DEPOSITION

PLAINTIFF: SANDRA CONKLIN, JUSTINE KLINE
vs.
DEFENDANT: CLEARFIELD HOSPITAL al
TO: SHIRLEY MORRISON and RONALD KLINE

SHERIFF RETURN

NOW, August 11, 2005 AT 8:45 AM SERVED THE WITHIN SUBPOENA TO ATTEND & TESTIFY; NOTICE OF DEPOSITION ON RONALD KLINE DEFENDANT AT 509 LEAVY AVE., CLEARFIELD, CLEARFIELD COUNTY, PENNSYLVANIA, BY HANDING TO RONALD KLINE, DEFENDANT A TRUE AND ATTESTED COPY OF THE ORIGINAL SUBPOENA TO ATTEND & TESTIFY; NOTICE OF DEPOSITION AND MADE KNOWN THE CONTENTS THEREOF.

SERVED BY: HUNTER / NEVLING

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET # 100699
NO: 03-68-CD
SERVICES 2
SUBPOENA TO ATTEND & TESTIFY; NOTICE OF DEPOSITION

PLAINTIFF: SANDRA CONKLIN, JUSTINE KLINE
vs.
DEFENDANT: CLEARFIELD HOSPITAL al
TO: SHIRLEY MORRISON and RONALD KLINE

SHERIFF RETURN

RETURN COSTS

Description	Paid By	CHECK #	AMOUNT
SHERIFF HAWKINS	MCINTYRE	7264	69.49

Sworn to Before Me This

_____ Day of _____ 2005

_____

So Answers,

Chester A. Hawkins
by Marilyn Hakes
Sheriff

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

SANDRA CONKLIN, as parent and natural guardian of JUSTINE KLINE, and SANDRA CONKLIN, individually,	No. 2003 – 68 CD
	ISSUE: NOTICE OF DEPOSITION
Plaintiff	
vs.	
	Filed on behalf of Defendants, CLEARFIELD HOSPITAL and GEORGE F. PALMER
CLEARFIELD HOSPITAL, GEORGE F. PALMER, and JAMES P. DESANTIS	Counsel of Record: John L. McIntyre, Esquire PA I.D. #28015 McINTYRE, DUGAS, HARTYE & & SCHMITT P.O. Box 533 Hollidaysburg, PA 16648 (814) 696-3581
Defendants	JURY TRIAL DEMANDED

I HEREBY CERTIFY THAT A TRUE AND CORRECT COPY OF THE WITHIN WAS MAILED TO ALL COUNSEL OF RECORD THIS 1st DAY OF **AUGUST, 2005.**

John L. McIntyre /mas
Attorneys for Named Defendants

FILED no cc
m/1:40/BH
AUG 02 2005

William A. Shaw
Prothonotary/Clerk of Courts

(#63)

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

SANDRA CONKLIN, as parent and natural guardian of JUSTINE KLINE, and SANDRA CONKLIN, individually, Plaintiff vs. CLEARFIELD HOSPITAL, GEORGE F. PALMER, and JAMES P. DESANTIS, Defendants	No. 2003 – 68 CD JURY TRIAL DEMANDED

NOTICE OF DEPOSITION

TO: Ronald Kline
509 Leavy Avenue
Clearfield, PA 16830

Please take notice that the deposition of **RONALD KLINE (Grandfather)** shall be taken upon oral examination by an official Court Reporter at the offices of **Sargent's Court Reporting Service, 106 N. Second Street, First Floor, Clearfield, PA** on the **25th** day of **AUGUST, 2005**, commencing at **10:00 a.m.**

The scope of said deposition testimony will include inquiry into all facts concerning the happening of the incident complained of and all other matters relevant to the issues raised in the case.

You are invited to attend and participate.

McINTYRE, DUGAS, HARTYE & SCHMITT

John L. McIntyre/mas

Attorney for Defendants,
CLEARFIELD HOSPITAL and
GEORGE F. PALMER

John L. McIntyre, Esquire
PA I.D. #28015
P.O. Box 533
Hollidaysburg, PA 16648-0533
(814) 696-3581

COMMONWEALTH OF PENNSYLVANIA
CLEARFIELD COUNTY

Sandra Conklin
Justine Kline
Plaintiff(s)
Vs.
Clearfield Hospital
George F. Palmer
James P. DeSantis
Ernest P. Jones
Defendant(s)

No. 2003-00068-CD

SUBPOENA TO ATTEND AND TESTIFY

TO: Ronald Kline
509 Leavy Avenue
Clearfield, PA 16830

1. You are ordered by the Court to come to Sargent's Court Reporting Service
106 N. Second Street, First Floor, Clearfield, PA
(Specify Courtroom or other place)
at Clearfield County, Pennsylvania, on August 25, 2005 at 10:00 a.m.
o'clock, AM., to testify on behalf of Clearfield Hospital and Dr.George Palmer.
in the
above case, and to remain until excused.

2. And bring with you the following: _____

If you fail to attend or to produce the documents or things required by this subpoena, you may be subject to the sanctions authorized by Rule 234.5 of the Pennsylvania Rules of Civil Procedure, including but not limited to costs, attorney fees and imprisonment.

ISSUED BY A PARTY/COUNSEL IN COMPLIANCE WITH PA.R.C.P. No. 234.2(a)

NAME: John L. McIntyre, Esquire
ADDRESS: P.O. Box 533
Hollidaysburg, PA 16648
TELEPHONE: (814) 696-3581
SUPREME COURT ID # 28015

BY THE COURT:

William A. Shaw
Prothonotary/Clerk, Civil Division

Deputy

DATE: Thursday, July 28, 2005
Seal of the Court

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

OFFICIAL NOTE: This form of subpoena shall be used whenever a subpoena is issuable, including hearings in connection with depositions and before arbitrators, masters, commissioners, etc. in compliance with PA.R.C.P. No. 234.1 . If a subpoena for production of documents, records or things is desired, complete Paragraph 2.

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

SANDRA CONKLIN, as parent and natural guardian of JUSTINE KLINE, and SANDRA CONKLIN, individually,	No. 2003 – 68 CD **ISSUE:** NOTICE OF DEPOSITION
Plaintiff	
vs.	
	Filed on behalf of Defendants, CLEARFIELD HOSPITAL and GEORGE F. PALMER
CLEARFIELD HOSPITAL, GEORGE F. PALMER, and JAMES P. DESANTIS	Counsel of Record: John L. McIntyre, Esquire PA I.D. #28015 McINTYRE, DUGAS, HARTYE & & SCHMITT P.O. Box 533 Hollidaysburg, PA 16648 (814) 696-3581
Defendants	JURY TRIAL DEMANDED

I HEREBY CERTIFY THAT A TRUE AND CORRECT COPY OF THE WITHIN WAS MAILED TO ALL COUNSEL OF RECORD THIS 1st DAY OF **AUGUST, 2005**.

John L. McIntyre/mas
Attorneys for Named Defendants

FILED NO CC
m/11:40/01
AUG 02 2005

William A. Shaw
Prothonotary/Clerk of Courts

#62

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

SANDRA CONKLIN, as parent and natural guardian of JUSTINE KLINE, and SANDRA CONKLIN, individually,	:	No. 2003 – 68 CD
Plaintiff	:	
vs.	:	
CLEARFIELD HOSPITAL, GEORGE F. PALMER, and JAMES P. DESANTIS,	:	
Defendants	:	JURY TRIAL DEMANDED

NOTICE OF DEPOSITION

TO: Shirley Morrison
7756 Kylertown Drifting Highway
Morrisdale, PA 16858

Please take notice that the deposition of **SHIRLEY MORRISON (Grandmother)** shall be taken upon oral examination by an official Court Reporter at the offices of **Sargent's Court Reporting Service, 106 N. Second Street, First Floor, Clearfield, PA** on the **25th** day of **AUGUST, 2005**, commencing at **10:00 a.m.**

The scope of said deposition testimony will include inquiry into all facts concerning the happening of the incident complained of and all other matters relevant to the issues raised in the case.

You are invited to attend and participate.

McINTYRE, DUGAS, HARTYE & SCHMITT

John L. McIntyre /ma

Attorney for Defendants,
CLEARFIELD HOSPITAL and
GEORGE F. PALMER

John L. McIntyre, Esquire
PA I.D. #28015
P.O. Box 533
Hollidaysburg, PA 16648-0533
(814) 696-3581

COMMONWEALTH OF PENNSYLVANIA
CLEARFIELD COUNTY

Sandra Conklin
Justine Kline
Plaintiff(s)
Vs.
Clearfield Hospital
George F. Palmer
James P. DeSantis
Ernest P. Jones
Defendant(s)

No. 2003-00068-CD

SUBPOENA TO ATTEND AND TESTIFY

TO: Shirley Morrison
7756 Kylertown Drifting Highway
Morrisdale, PA 16858

1. You are ordered by the Court to come to Sargent's Court Reporting Service
106 N. Second Street, First Floor, Clearfield, PA
(Specify Courtroom or other place)
at Clearfield County, Pennsylvania, on August 25, 2005 at 10:00 a.m.
o'clock, A M., to testify on behalf of Clearfield Hospital and Dr. George Palmer in the
above case, and to remain until excused.

2. And bring with you the following: _____

If you fail to attend or to produce the documents or things required by this subpoena, you may be subject to the sanctions authorized by Rule 234.5 of the Pennsylvania Rules of Civil Procedure, including but not limited to costs, attorney fees and imprisonment.

ISSUED BY A PARTY/COUNSEL IN COMPLIANCE WITH PA.R.C.P. No. 234.2(a)

NAME: John L. McIntyre, Esquire
ADDRESS: P.O. Box 533
Hollidaysburg, PA 16648
TELEPHONE: (814) 696-3581
SUPREME COURT ID # 28015

BY THE COURT:

William A. Shaw
Prothonotary/Clerk, Civil Division

Deputy

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

DATE: Thursday, July 28, 2005
Seal of the Court

OFFICIAL NOTE: This form of subpoena shall be used whenever a subpoena is issuable, including hearings in connection with depositions and before arbitrators, masters, commissioners, etc. in compliance with PA.R.C.P. No. 234.1 . If a subpoena for production of documents, records or things is desired, complete Paragraph 2.

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

SANDRA CONKLIN, as parent and natural guardian of JUSTINE KLINE, and SANDRA CONKLIN, individually,	CIVIL DIVISION NO.: 2003-68 CD
Plaintiffs,	TYPE OF PLEADING:
v.	**SUPPLEMENTAL REPORT OF JOHN A. TILELLI**
CLEARFIELD HOSPITAL and GEORGE F. PALMER,	FILED ON BEHALF OF PLAINTIFF
Defendants.	COUNSEL OF RECORD FOR THIS PARTY: ROLF LOUIS PATBERG, ESQUIRE PA I.D. NO.: 65185 PATBERG, CARMODY, GING & FILIPPI 527 COURT PLACE PITTSBURGH, PA 15219 (412) 232-3500
JURY TRIAL DEMANDED	

FILED NO
m/1:22861 cc
MAR 09 2005
William A. Shaw
Prothonotary/Clerk of Courts

(#61)

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

SANDRA CONKLIN, as parent and natural guardian of JUSTINE KLINE, and SANDRA CONKLIN, individually,	)	CIVIL DIVISION
	)	NO.: 2003-68 CD
Plaintiffs,	)	
v.	)	
CLEARFIELD HOSPITAL and GEORGE F. PALMER,	)	
Defendants.	)	**JURY TRIAL DEMANDED**

SUPPLEMENTAL EXPERT REPORT OF JOHN A. TILELLI, M.D.

AND NOW, comes the Plaintiffs, and files the attached Supplemental Expert Report of John A. Tilelli, M.D.

RESPECTFULLY SUBMITTED:

PATBERG, CARMODY, GING & FILIPPI

DATE: 3-7-05

By _____
Rolf Louis Patberg, Esquire
PA I.D. No.: 65185

PATBERG, CARMODY, GING & FILIPPI
527 Court Place
Pittsburgh, PA 15219
(412) 232-3500

Attorney for Plaintiffs

JURY TRIAL DEMANDED

JOHN A. TILELLI, MD
PEDIATRIC CRITICAL CARE AND EMERGENCY MEDICINE
2228 PALM VIEW DR., APOPKA, FL 32712
(407) 880-8713, mailto:tilelli@pegasus.cc.ucf.edu

Thursday, February 24, 2005

Rolf Patberg
Patberg, Carmody, Ging and Filippi
527 Court Place
Pittsburgh, PA 15219

Re: Justine Kline

Dear Mr. Patberg;

I read with interest a report concerning the above captioned matter authored by Dr. Christopher King on behalf of the defendants, specifically Dr. Palmer.

I write to comment on Dr. King's interpretation of the standard of care for a child who presents with a urinary tract infection. The issue at hand is whether or not a child with an upper urinary tract infection, or pyelonephritis, should be admitted to the hospital to initiate early management. He states that "groundbreaking" work of Hoberman changes the standard of care, presumably from inpatient management to outpatient treatment with oral antibiotics. Dr. King's statement that I must not have been aware of this work is presumptuous. I had read the study and felt that it is neither applicable to Justine Kline's case, nor represents a standard of care.

The study in question (1) looks at the outcome of 305 children with urinary tract infections with respect to the incidence of renal scarring and other chronic complications, finding that in this cohort, the incidence of renal injury was similar among those who were treated orally as opposed to intravenously. This study ignores three important issues concerning management that favor hospitalization over outpatient managemnt, to wit:

1. The initiation of oral antibiotic therapy presumes that the child will be given the medication by his parents, and that the child will be able to keep them in his or her stomach without vomiting. As children with pyelonephritis often have severe emesis, it is cavalier to discharge a child with potential pyelonephritis, presuming that prescribed antibiotics will be tolerated. Irrespective of whether or not oral therapy is effective, it puts the burden of treatment of this serious disease on the child and parent. The consequence of unsatisfactory therapy may be renal failure. It seems that inpatient therapy, at least until it can be demonstrated that oral antibiotics are tolerated by the child, is a more prudent treatment option.
2. The study addresses only the incidence of chronic renal injury in this cohort, but does not assuage concerns that attend the early management of children with severe urinary tract infections.. As Dr. King is aware, every now and then a child with pyelonephritis develops urosepsis or severe dehydration. Such was the case

with Justine Kline. The short-term goal of monitoring hemodynamic status, assuring satisfactory fluid and electrolyte balance and satisfactory antipyresis are better served with inpatient care than in the outpatient setting. An observation of stable vital signs in the emergency suite does not dismiss the possibility of a child developing hemodynamic instability before bacteriologic control is obtained.

3. The incidence of urologic anomalies among children with ascending urinary tract infections is high. Children with pyelonephritis should at the very least have a renal ultrasound prior to discharge to rule out the presence of hydronephrosis that might require urologic attention prior to discharge. Not all children with vesico-ureteral reflux have renal insufficiency. As a result, a normal BUN and creatinine are not sufficient to dismiss the need for an assessment of renal size. Certainly, an intravenous pyelogram and voiding cystourethrogram are indicated after recovery, but an early ultrasound may preserve renal function in the occasional child with obstructive uropathy who evidences his or her need for decompression with a urinary tract infection as the manifesting symptom. This examination is better performed during a short inpatient stay while treatment is initiated and the child as assured of bacteriologic control.

The Hoberman study makes no attempt to discriminate children with simple cystitis from those with pyelonephritis, nor those with hydronephrosis from those without. Furthermore, bacteremia was present in 3.4% of the orally treated group and 5.4% of the intravenously treated group. The higher percentage of bacteremia in children treated intravenously may represent a selection bias suggesting that children so managed "appeared sicker" to caregivers. Comparable outcomes might reflect the preselection of some children to more intensive care. Notwithstanding, a significant number of children in the cohort were discharged with oral therapy for an undetected bacteremia. The possibility of urosepsis in patients with severe urinary tract infections mandates caution in their early management.

Finally, I must emphasize that the Hoberman study is only of 305 patients, hardly qualifying it as a reason to change the standard of care. Dr. King's report asserts that hitherto inpatient management was the standard of care. I do not believe that one study of a small cohort assuages the concerns voiced above. I am not alone. A comment on the Hoberman article published in Pediatrics voices concern over the findings (2). Hopp suggests that ultrasonographic findings are more important than acknowledged by Hoberman, and indicates that he is "uncomfortable" about the recommendation for oral therapy, and states that " it (the Hoberman study) should not be considered as the final word on this controversial subject."

Clearly, the issue is more complex than stated by Dr. King. My concern regarding the strategy proposed by him is that it specifically fails to address the complication of urinary tract infection experienced by Justine Kline. It is my opinion that the average prudent emergency physician would therefore, under similar circumstances admit children with urinary tract infections who have evidence of ascending disease, as manifested by vomiting, high fever, flank tenderness, abnormal ultrasound, renal infuffieency,

dehydration or an active urinary sediment (pyuria or casts). I stand by my assertion that Dr. Palmer deviated from the standard of care.

Sincerely,

John Tilelli, MD

References

1. Hoberman A, Wald ER, Hickey RW et al.; Oral versus initial intravenous therapy for urinary tract infections in young febrile children. Pediatrics 1999; 104: 79-86.
2. Hopp L; Intravenous versus oral antibiotics for urinary tract infections. Pediatrics 2000; 106: 865.

CERTIFICATE OF SERVICE

I, Rolf Louis Patberg, Esquire, hereby certify that a true and correct copy of the foregoing Supplemental Expert Report of John A. Tilelli, M.D. was forwarded this 7 day of March, 2005 via postage prepaid United States Mail to the following:

John L. McIntyre, Esquire
McIntyre, Dugas, Hartye & Schmitt
P.O. Box 533
Holidaysburg, PA 16648

Rolf Louis Patberg, Esquire

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

SANDRA CONKLIN, as parent and natural guardian of JUSTINE KLINE, and SANDRA CONKLIN, individually,	No. 2003 – 68 CD **ISSUE:**
Plaintiff	NOTICE OF SERVICE OF SECOND REQUEST FOR PRODUCTION OF DOCUMENTS DIRECTED TO PLAINTIFF DATED: 02/04/05
vs.	
	Filed on behalf of Defendants
CLEARFIELD HOSPITAL, GEORGE F. PALMER and JAMES P. DESANTIS	Counsel of Record
Defendants	John L. McIntyre, Esquire PA I.D. #28015 McINTYRE, DUGAS, HARTYE & & SCHMITT P.O. Box 533 Hollidaysburg, PA 16648 (814) 696-3581
	JURY TRIAL DEMANDED

I HEREBY CERTIFY THAT A TRUE AND CORRECT COPY OF THE WITHIN WAS MAILED TO ALL COUNSEL OF RECORD THIS **4th DAY OF FEBRUARY, 2005**

Attorneys for Named Defendants

FILED GK NO CC
m/12:31 BLK
FEB 07 2005
William A. Shaw
Prothonotary/Clerk of Courts

#60

A.

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

SANDRA CONKLIN, as parent and natural guardian of JUSTINE KLINE, and SANDRA CONKLIN, individually,	:	No. 2003 – 68 CD
Plaintiff	:	
vs.	:	
CLEARFIELD HOSPITAL, GEORGE F. PALMER and JAMES P. DESANTIS,	:	
Defendants	:	JURY TRIAL DEMANDED

NOTICE OF SERVICE OF SECOND REQUEST FOR PRODUCTION OF DOCUMENTS DIRECTED TO PLAINTIFF, DATED: 02/04/05

TO: PROTHONOTARY

You are hereby notified that on the **4th day** of **FEBRUARY, 2005**, Defendant, Clearfield Hospital and George F. Palmer, M.D., by their Attorneys, McIntyre, Dugas, Hartye & Schmitt, served a Second Request for Production of Documents Directed to Plaintiff, Dated: 02/04/05, by mailing the original of same via First Class U.S. Mail, postage prepaid, addressed to the following:

Rolf Louis Patberg, Esquire
Patberg, Carmody, Ging & Filippi
527 Court Place
Pittsburgh, PA 15219

McINTYRE, DUGAS, HARTYE & SCHMITT

Attorneys for Defendants

JOHN L. MCINTYRE, ESQUIRE
PA I.D #: 28015
P.O. Box 533
Hollidaysburg, PA 16648
(814) 696-3581

FILED

FEB 07 2005

William A. Shaw
Prothonotary/Clerk of Courts

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

SANDRA CONKLIN, as parent and natural guardian of JUSTINE KLINE, and SANDRA CONKLIN, individually,	CIVIL DIVISION NO.: 2003-68 CD
Plaintiffs,	TYPE OF PLEADING:
v. CLEARFIELD HOSPITAL and GEORGE F. PALMER,	**NOTICE OF SERVICE OF EXPERT INTERROGATORIES DIRECTED TO DEFENDANT GEORGE F. PALMER AND CLEARFIELD HOSPITAL**
Defendants.	FILED ON BEHALF OF PLAINTIFF COUNSEL OF RECORD FOR THIS PARTY: ROLF LOUIS PATBERG, ESQUIRE PA I.D. NO.: 65185 PATBERG, CARMODY, GING & FILIPPI 527 COURT PLACE PITTSBURGH, PA 15219 (412) 232-3500
JURY TRIAL DEMANDED	

FILED no cc
m/12:44BH
FEB 07 2005
William A. Shaw
Prothonotary/Clerk of Courts

#59

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

SANDRA CONKLIN, as parent and natural guardian of JUSTINE KLINE, and SANDRA CONKLIN, individually,	)	CIVIL DIVISION
	)	NO.: 2003-68 CD
Plaintiffs,	)	
v.	)	
CLEARFIELD HOSPITAL and GEORGE F. PALMER,	)	
Defendants.	)	**JURY TRIAL DEMANDED**

NOTICE OF SERVICE OF EXPERT INTERROGATORIES DIRECTED TO DEFENDANTS GEORGE F. PALMER AND CLEARFIELD HOSPITAL

TO: PROTHONOTARY

PLEASE TAKE NOTICE that the foregoing Expert Interrogatories Directed to Defendants George F. Palmer and Clearfield Hospital were forwarded this 3 day of February, 2005 via postage prepaid United States Mail to all counsel of record.

RESPECTFULLY SUBMITTED:

PATBERG, CARMODY, GING & FILIPPI

DATE: 2-3-05 By _____

Rolf Louis Patberg, Esquire
PA I.D. No.: 65185

PATBERG, CARMODY, GING & FILIPPI
527 Court Place
Pittsburgh, PA 15219
(412) 232-3500

Attorney for Plaintiffs

JURY TRIAL DEMANDED

CERTIFICATE OF SERVICE

I, Rolf Louis Patberg, Esquire, hereby certify that a true and correct copy of the foregoing Notice of Service of Expert Interrogatories Directed to Defendants Palmer and Clearfield Hospital was forwarded this 3 day of February, 2005 via postage prepaid United States Mail to the following:

John L. McIntyre, Esquire
McIntyre, Dugas, Hartye & Schmitt
P.O. Box 533
Holidaysburg, PA 16648

Rolf Louis Patberg, Esquire

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

SANDRA CONKLIN, as parent and natural guardian of JUSTINE KLINE, and SANDRA CONKLIN, individually,

Plaintiffs,

v.

CLEARFIELD HOSPITAL, GEORGE F. PALMER, ERNEST P. JONES, and JAMES P. DeSANTIS,

Defendants.

JURY TRIAL DEMANDED

CIVIL DIVISION

NO.: 2003-68 CD

TYPE OF PLEADING:

NOTICE OF SERVICE OF NOTICE OF DEPOSITION OF KEITH PARAS

FILED ON BEHALF OF PLAINTIFF

COUNSEL OF RECORD FOR THIS PARTY:

ROLF LOUIS PATBERG, ESQUIRE
PA I.D. NO.: 65185

PATBERG, CARMODY, GING & FILIPPI
527 COURT PLACE
PITTSBURGH, PA 15219
(412) 232-3500

FILED no cc
m/1:48
FEB 04 2005
William A. Shaw
Prothonotary/Clerk of Courts

#58

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

SANDRA CONKLIN, as parent and natural guardian of JUSTINE KLINE, and SANDRA CONKLIN, individually,	)	CIVIL DIVISION
	)	NO.: 2003-68 CD
Plaintiffs,	)	
v.	)	
CLEARFIELD HOSPITAL, GEORGE F. PALMER, ERNEST P. JONES, and JAMES P. DeSANTIS,	)	
Defendants.	)	**JURY TRIAL DEMANDED**

NOTICE OF SERVICE OF NOTICE OF DEPOSITION OF KEITH PARAS

TO: PROTHONOTARY

Please take notice that the foregoing Notice of Deposition of Keith Paras has been served upon all counsel of record this 2 day of February, 2005 via postage prepaid United States Mail.

RESPECTFULLY SUBMITTED:

PATBERG, CARMODY, GING & FILIPPI

DATE: 2-2-05

By _____
Rolf Louis Patberg, Esquire
PA I.D. No.: 65185

PATBERG, CARMODY, GING & FILIPPI
527 Court Place
Pittsburgh, PA 15219
(412) 232-3500

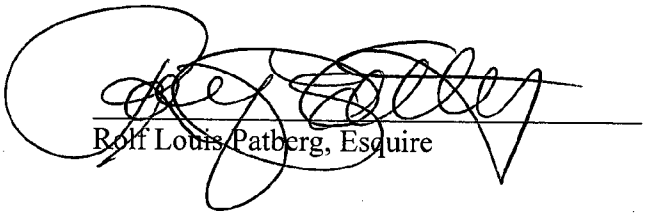
Attorney for Plaintiffs

JURY TRIAL DEMANDED

CERTIFICATE OF SERVICE

I, Rolf Louis Patberg, Esquire, hereby certify that a true and correct copy of the foregoing Notice of Service of Notice of Deposition of Keith Paras was forwarded this 2 day of February, 2005 via postage prepaid United States Mail to the following:

John L. McIntyre, Esquire
McIntyre, Dugas, Hartye & Schmitt
P.O. Box 533
Holidaysburg, PA 16648



Rolf Louis Patberg, Esquire

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

SANDRA CONKLIN, as parent and natural guardian of JUSTINE KLINE, and SANDRA CONKLIN, individually,

Plaintiffs,

v.

CLEARFIELD HOSPITAL, GEORGE F. PALMER, ERNEST P. JONES, and JAMES P. DeSANTIS,

Defendants.

JURY TRIAL DEMANDED

CIVIL DIVISION

NO.: 2003-68 CD

TYPE OF PLEADING:

NOTICE OF SERVICE OF NOTICE OF DEPOSITION OF KATHLEEN PLANSINIS

FILED ON BEHALF OF PLAINTIFF

COUNSEL OF RECORD FOR THIS PARTY:

ROLF LOUIS PATBERG, ESQUIRE
PA I.D. NO.: 65185

PATBERG, CARMODY, GING & FILIPPI
527 COURT PLACE
PITTSBURGH, PA 15219
(412) 232-3500

FILED NO
m/1:19621 CC
FEB 04 2005
William A. Shaw
Prothonotary/Clerk of Courts

#57

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

SANDRA CONKLIN, as parent and natural guardian of JUSTINE KLINE, and SANDRA CONKLIN, individually,	)	CIVIL DIVISION
	)	NO.: 2003-68 CD
Plaintiffs,	)	
v.	)	
CLEARFIELD HOSPITAL, GEORGE F. PALMER, ERNEST P. JONES, and JAMES P. DeSANTIS,	)	
Defendants.	)	**JURY TRIAL DEMANDED**

NOTICE OF SERVICE OF NOTICE OF DEPOSITION OF KATHLEEN PLANSINIS

TO: PROTHONOTARY

Please take notice that the foregoing Notice of Deposition of Kathleeen Plansinis has been served upon all counsel of record this 2 day of February, 2005 via postage prepaid United States Mail.

RESPECTFULLY SUBMITTED:

PATBERG, CARMODY, GING & FILIPPI

DATE: 2-2-05

By _____
Rolf Louis Patberg, Esquire
PA I.D. No.: 65185

PATBERG, CARMODY, GING & FILIPPI
527 Court Place
Pittsburgh, PA 15219
(412) 232-3500

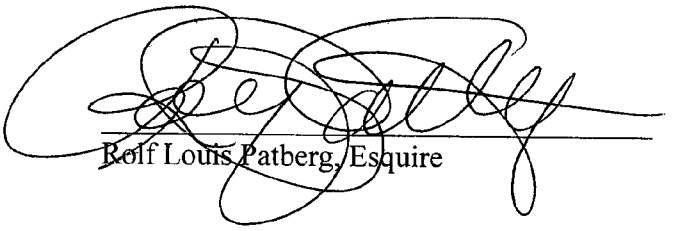
Attorney for Plaintiffs

JURY TRIAL DEMANDED

CERTIFICATE OF SERVICE

I, Rolf Louis Patberg, Esquire, hereby certify that a true and correct copy of the foregoing Notice of Service of Notice of Deposition of Kathleen Plansinis was forwarded this 2 day of February, 2005 via postage prepaid United States Mail to the following:

John L. McIntyre, Esquire
McIntyre, Dugas, Hartye & Schmitt
P.O. Box 533
Holidaysburg, PA 16648



Rolf Louis Patberg, Esquire

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

SANDRA CONKLIN, as parent and natural guardian of JUSTINE KLINE, and SANDRA CONKLIN, individually,	No. 2003 – 68 CD
	ISSUE: NOTICE OF DEPOSITIONS
Plaintiff	
vs.	
	Filed on behalf of Defendants, CLEARFIELD HOSPITAL and GEORGE F. PALMER
CLEARFIELD HOSPITAL, GEORGE F. PALMER, and JAMES P. DESANTIS	Counsel of Record: John L. McIntyre, Esquire PA I.D. #28015 McINTYRE, DUGAS, HARTYE & & SCHMITT P.O. Box 533 Hollidaysburg, PA 16648 (814) 696-3581
Defendants	JURY TRIAL DEMANDED

I HEREBY CERTIFY THAT A TRUE AND CORRECT COPY OF THE WITHIN WAS MAILED TO ALL COUNSEL OF RECORD THIS **21st** DAY OF **JANUARY, 2005.**

Attorneys for Named Defendants

FILED 6K NO CC
m/11:10 cl
JAN 25 2005
William A. Shaw
Prothonotary/Clerk of Courts

#56

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

SANDRA CONKLIN, as parent and natural guardian of JUSTINE KLINE, and SANDRA CONKLIN, individually,	:	No. 2003 – 68 CD
Plaintiff	:	
vs.	:	
CLEARFIELD HOSPITAL, GEORGE F. PALMER, and JAMES P. DESANTIS,	:	
Defendants	:	JURY TRIAL DEMANDED

NOTICE OF DEPOSITIONS

TO: Justine Kline,
Shirley Morrison (Grandmother) , and
Ronald Kline (Grandfather)
c/o Rolf Patberg, Esquire
Patberg, Carmody, Ging & Filippi
527 Court Place
Pittsburgh, PA 15219

Please take notice that the depositions of **JUSTINE KLINE (Plaintiff), SHIRLEY MORRISON (Grandmother), and RONALD KLINE (Grandfather)** shall be taken upon oral examination by an official Court Reporter at the offices of **Sargent's Court Reporting Service,106 N. Second Street, First Floor, Clearfield, PA** on the **3rd** day of **FEBRUARY, 2005**, commencing at **12:30 p.m.**

The scope of said deposition testimony will include inquiry into all facts concerning the happening of the incident complained of and all other matters relevant to the issues raised in the case.

You are invited to attend and participate.

McINTYRE, DUGAS, HARTYE & SCHMITT

Attorney for Defendants,
CLEARFIELD HOSPITAL and
GEORGE F. PALMER

John L. McIntyre, Esquire
PA I.D. #28015
P.O. Box 533
Hollidaysburg, PA 16648-0533
(814) 696-3581

FILED

JAN 25 2005

William A. Shaw
Prothonotary/Clerk of Courts

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

SANDRA CONKLIN, as parent and natural guardian of JUSTINE KLINE, and SANDRA CONKLIN, individually,	No. 2003 – 68 CD **ISSUE:** NOTICE OF DEPOSITION
Plaintiff	
vs.	
	Filed on behalf of Defendants, CLEARFIELD HOSPITAL and GEORGE F. PALMER
CLEARFIELD HOSPITAL, GEORGE F. PALMER, and JAMES P. DESANTIS	Counsel of Record: John L. McIntyre, Esquire PA I.D. #28015 McINTYRE, DUGAS, HARTYE & & SCHMITT P.O. Box 533 Hollidaysburg, PA 16648 (814) 696-3581
Defendants	JURY TRIAL DEMANDED

I HEREBY CERTIFY THAT A TRUE AND CORRECT COPY OF THE WITHIN WAS MAILED TO ALL COUNSEL OF RECORD THIS 20TH DAY OF **JANUARY, 2005**.

Attorneys for Named Defendants

FILED NO CC
m/1:25 BK
JAN 21 2005 GK

William A. Shaw
Prothonotary/Clerk of Courts

#55

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

SANDRA CONKLIN, as parent and natural guardian of JUSTINE KLINE, and SANDRA CONKLIN, individually,	:	No. 2003 – 68 CD
Plaintiff	:	
vs.	:	
CLEARFIELD HOSPITAL, GEORGE F. PALMER, and JAMES P. DESANTIS,	:	
Defendants	:	JURY TRIAL DEMANDED

NOTICE OF DEPOSITION

TO: Kristine McBride
c/o Rolf Patberg, Esquire
Patberg, Carmody, Ging & Filippi
527 Court Place
Pittsburgh, PA 15219

Please take notice that the deposition of **KRISTIN McBRIDE** shall be taken upon oral examination by an official Court Reporter at the offices of **Sargent's Court Reporting Service,106 N. Second Street, First Floor, Clearfield, PA** on the 3rd day of **FEBRUARY, 2005**, commencing at **11:00 a.m.**

The scope of said deposition testimony will include inquiry into all facts concerning the happening of the incident complained of and all other matters relevant to the issues raised in the case.

You are invited to attend and participate.

McINTYRE, DUGAS, HARTYE & SCHMITT

Attorney for Defendants,
CLEARFIELD HOSPITAL and
GEORGE F. PALMER

John L. McIntyre, Esquire
PA I.D. #28015
P.O. Box 533
Hollidaysburg, PA 16648-0533
(814) 696-3581

FILED

JAN 2 1 2005

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

SANDRA CONKLIN, as parent and natural guardian of Justine Kline, and SANDARA CONKLIN, individually,

Plaintiffs,

vs.

CLEARFIELD HOSPITAL, GEORGE F. PALMER, ERNEST P. JONES and JAMES P. DESANTIS,

Defendants.

CIVIL DIVISION

No. 2003-00068-CD

Code No.

MOTION TO AMEND THE COURT'S ORDER OF NOVEMBER 2, 2004 IN DISMISSING DEFENDANT, JAMES P. DESANTIS

Filed on Behalf of Defendant, James P. DeSantis

Counsel of Record for this Party:

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

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

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

FILED
m 12:56 BA NOCC
DEC 22 2004

William A. Shaw
Prothonotary

#54

MLM/ten/PRINCE-105665

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

SANDRA CONKLIN, as parent and natural guardian of Justine Kline, and SANDARA CONKLIN, individually, Plaintiffs, vs. CLEARFIELD HOSPITAL, GEORGE F. PALMER, ERNEST P. JONES and JAMES P. DESANTIS, Defendants.	CIVIL DIVISION No. 2003-00068-CD

AMENDED ORDER OF COURT

NOW this 23rd day of December, 2004, it is hereby Ordered, Directed and Decreed that Plaintiffs' Motion to Voluntarily Discontinue all Claims Against Defendant, James P. DeSantis is GRANTED and Defendant, James P. DeSantis is dismissed with prejudice.

BY THE COURT:

Fredric J. Ammerman

J.

FILED

DEC 23 2004

o/11:30

William A. Shaw
Prothonotary

I cert to Atty.

#54

MLM/ten/PRINCE-105665

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

SANDRA CONKLIN, as parent and natural guardian of Justine Kline, and SANDARA CONKLIN, individually, Plaintiffs, vs. CLEARFIELD HOSPITAL, GEORGE F. PALMER, ERNEST P. JONES and JAMES P. DESANTIS, Defendants.	CIVIL DIVISION No. 2003-00068-CD

MOTION TO AMEND THE COURT'S ORDER OF NOVEMBER 2, 2004 IN DISMISSING DEFENDANT, JAMES P. DESANTIS

NOW COMES the Defendant, James P. DeSantis, by and through his counsel Mary Lou Maierhofer, Esquire of the law firm, MEYER, DARRAGH, BUCKLER, BEBENEK & ECK, PLLC, and files this Motion to Amend the Court's Order of November 2, 2004 in Dismissing Defendant, James P. DeSantis of which the following is a statement:

1. Plaintiffs filed a Motion to Voluntarily Discontinue all Claims Against Defendant, James P. DeSantis.

2. On or about November 3, 2004, this Defendant filed a Reply to the Motion requesting that the dismissal be with "prejudice".

3. At no time did this Defendant receive the Order of Court until it was faxed on December 15, 2004.

4. This case involves a minor, Justine Kline and it is requested that this Court sign the Proposed Order dismissing Defendant, James P. DeSantis "with prejudice".

Courthouse

Fax

To: Meyer - Darragh From: William A. Shaw

Fax: 941-4605 Date: 12-15-04

Phone: 941-4600 Pages: 1 + cover

Re: 03-68-CD CC:

☐ Urgent ☐ For Review ☐ Please Comment ☐ Please Reply ☐ Please Recycle

•Comments:

Conklin v Cefd. Hospital
11/2/04 Order

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

SANDRA CONKLIN, as parent and natural guardian of JUSTINE KLINE, and SANDRA CONKLIN, individually,	CIVIL DIVISION
	NO.: 2003-68 CD
Plaintiffs,	
v.	
CLEARFIELD HOSPITAL, GEORGE F. PALMER, ERNEST P. JONES, and JAMES P. DeSANTIS,	
Defendants.	**JURY TRIAL DEMANDED**

ORDER OF COURT

AND NOW, to-wit, this 2nd day of November, 2004, it is hereby ORDERED, DECREED and ADJUDGED that Plaintiff's Motion to Voluntarily Dismiss All Claims Against Dr. James P. DeSantis is **GRANTED.** The caption is hereby amended to state as follows:

SANDRA CONKLIN, as parent and natural guardian of JUSTINE KLINE, and SANDRA CONKLIN, individually,	CIVIL DIVISION
	NO.: 2003-68 CD
Plaintiffs,	
v.	
CLEARFIELD HOSPITAL AND GEORGE F. PALMER,	
Defendants.	**JURY TRIAL DEMANDED**

BY THE COURT:

J.

MLM/ten/PRINCE-105665

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

SANDRA CONKLIN, as parent and natural guardian of Justine Kline, and SANDARA CONKLIN, individually, Plaintiffs, vs. CLEARFIELD HOSPITAL, GEORGE F. PALMER, ERNEST P. JONES and JAMES P. DESANTIS, Defendants.	CIVIL DIVISION No. 2003-00068-CD

CERTIFICATE OF SERVICE

I, Mary Lou Maierhofer, Esquire, of the law firm of MEYER, DARRAGH, BUCKLER, BEBENEK & ECK, PLLC, on behalf of Defendant, James P. DeSantis, hereby certify that Motion to Amend the Court's Order of November 2, 2004 in Dismissing Defendant, James P. DeSantis was served this **21st day of December, 2004**, by mailing same first class United States mail, postage prepaid, addressed to Counsel as follows:

Rolf Louis Patberg, Esquire
Patberg, Carmody, Ging & Filippi
527 Court Place
Pittsburgh, PA 15219
(Plaintiffs' Counsel)

John McIntyre, Esquire
McIntyre, Dugas, Hartye & Schmitt
P.O. Box 533
Hollidaysburg, PA 16648
(Counsel for Clearfield Hospital, George F. Palmer and Ernest P. Jones)

MEYER, DARRAGH, BUCKLER, BEBENEK & ECK, PLLC

BY: _____
MARY LOU MAIERHOFER, ESQUIRE
Counsel for Defendant, James P. DeSantis
120 Lakemont Park Boulevard
Altoona, PA 16602
(814) 941-4600
I.D. #62175

CA

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

SANDRA CONKLIN, as parent and natural guardian of Justine Kline, and SANDARA CONKLIN, individually,

Plaintiffs,

vs.

CLEARFIELD HOSPITAL, GEORGE F. PALMER, ERNEST P. JONES and JAMES P. DESANTIS,

Defendants.

CIVIL DIVISION

No. 2003-00068-CD

Code No.

REPLY TO THE MOTION TO VOLUNTARILY DISCONTINUE ALL CLAIMS AGAINST DEFENDANT, JAMES P. DESANTIS AND AMEND CAPTION

Filed on Behalf of Defendant, James P. DeSantis

Counsel of Record for this Party:

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

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

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

FILED NO CC
m/12:58 BL
NOV 04 2004
William A. Shaw
Prothonotary/Clerk of Courts

#53

MLM/ten/PRINCE-105665

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

SANDRA CONKLIN, as parent and natural guardian of Justine Kline, and SANDARA CONKLIN, individually, Plaintiffs, vs. CLEARFIELD HOSPITAL, GEORGE F. PALMER, ERNEST P. JONES and JAMES P. DESANTIS, Defendants.	CIVIL DIVISION No. 2003-00068-CD

ORDER OF COURT

NOW this _____ day of _____, 2004, it is hereby Ordered, Directed and Decreed that Plaintiffs' Motion to Voluntarily Discontinue All Claims Against Defendant James P. DeSantis is dismissed with prejudice. The caption is hereby amended to state as follows:

SANDRA CONKLIN, as parent and natural guardian of Justine Kline, and SANDARA CONKLIN, individually, Plaintiffs, vs. CLEARFIELD HOSPITAL and GEORGE F. PALMER, Defendants.	CIVIL DIVISION No. 2003-00068-CD **JURY TRIAL DEMANDED**

BY THE COURT:

_____

J.

MLM/ten/PRINCE-105665

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

SANDRA CONKLIN, as parent and natural guardian of Justine Kline, and SANDARA CONKLIN, individually, Plaintiffs, vs. CLEARFIELD HOSPITAL, GEORGE F. PALMER, ERNEST P. JONES and JAMES P. DESANTIS, Defendants.	CIVIL DIVISION No. 2003-00068-CD

REPLY TO THE MOTION TO VOLUNTARILY DISCONTINUE ALL CLAIMS AGAINST DEFENDANT, JAMES P. DESANTIS AND AMEND CAPTION

NOW COMES the Defendant, James P. DeSantis, by and through his counsel Mary Lou Maierhofer, Esquire of the law firm, MEYER, DARRAGH, BUCKLER, BEBENEK & ECK, PLLC, and files this Reply to the Motion to Voluntarily Discontinue All Claims Against Defendant, James P. DeSantis and Amend Caption, of which the following is a statement:

1.-3. This Defendant does not object to him being dismissed from this litigation. This Defendant is requesting that the dismissal be "with prejudice", as this matter deals with a minor, Defendant wants it to be perfectly clear that he is being dismissed "with prejudice" so no further actions can be taken against him for any allegations made by Justine Kline when she reaches the age of majority.

WHEREFORE, Defendant, James P. DeSantis, prays this Honorable Court execute the attached Order dismissing Defendant, James P. DeSantis with prejudice.

MEYER, DARRAGH, BUCKLER, BEBENEK & ECK, PLLC

BY:_____

MARY LOU MAIERHOFER, ESQUIRE
Counsel for Defendant, James P. DeSantis
120 Lakemont Park Boulevard
Altoona, PA 16602
(814) 941-4600
I.D. #62175

DATE: November 3, 2004

MLM/ten/PRINCE-105665

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

SANDRA CONKLIN, as parent and natural guardian of Justine Kline, and SANDARA CONKLIN, individually, Plaintiffs, vs. CLEARFIELD HOSPITAL, GEORGE F. PALMER, ERNEST P. JONES and JAMES P. DESANTIS, Defendants.	CIVIL DIVISION No. 2003-00068-CD

CERTIFICATE OF SERVICE

I, Mary Lou Maierhofer, Esquire, of the law firm of MEYER, DARRAGH, BUCKLER, BEBENEK & ECK, PLLC, on behalf of Defendant, James P. DeSantis, hereby certify that Reply to the Motion to Voluntarily Discontinue All Claims Against Defendant, James P. DeSantis and Amend Caption was served this **3rd day of November, 2004**, by mailing same first class United States mail, postage prepaid, addressed to Counsel as follows:

Rolf Louis Patberg, Esquire
Patberg, Carmody, Ging & Filippi
527 Court Place
Pittsburgh, PA 15219
(Plaintiffs' Counsel)

John McIntyre, Esquire
McIntyre, Dugas, Hartye & Schmitt
P.O. Box 533
Hollidaysburg, PA 16648
(Counsel for Clearfield Hospital, George F. Palmer and Ernest P. Jones)

MEYER, DARRAGH, BUCKLER, BEBENEK & ECK, PLLC

BY: _____

MARY LOU MAIERHOFER, ESQUIRE
Counsel for Defendant, James P. DeSantis
120 Lakemont Park Boulevard
Altoona, PA 16602
(814) 941-4600
I.D. #62175

CP

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

SANDRA CONKLIN, as parent and natural guardian of JUSTINE KLINE, and SANDRA CONKLIN, individually,

Plaintiffs,

v.

CLEARFIELD HOSPITAL, GEORGE F. PALMER, ERNEST P. JONES, and JAMES P. DeSANTIS,

Defendants.

CIVIL DIVISION

NO.: 2003-68 CD

TYPE OF PLEADING:

MOTION TO VOLUNTARILY DISCONTINUE ALL CLAIMS AGAINST DEFENDANT JAMES P. DESANTIS AND AMEND CAPTION

FILED ON BEHALF OF PLAINTIFF

COUNSEL OF RECORD FOR THIS PARTY:

ROLF LOUIS PATBERG, ESQUIRE
PA I.D. NO.: 65185

PATBERG, CARMODY, GING & FILIPPI
527 COURT PLACE
PITTSBURGH, PA 15219
(412) 232-3500

JURY TRIAL DEMANDED

E6K
NO CC
m/1:39 Bcd
NOV 01 2004
Prothonotary/Clerk of Courts

#52

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

SANDRA CONKLIN, as parent and natural guardian of JUSTINE KLINE, and SANDRA CONKLIN, individually,	)	CIVIL DIVISION
	)	NO.: 2003-68 CD
Plaintiffs,	)	
v.	)	
CLEARFIELD HOSPITAL, GEORGE F. PALMER, ERNEST P. JONES, and JAMES P. DeSANTIS,	)	
Defendants.	)	**JURY TRIAL DEMANDED**

MOTION TO VOLUNTARILY DISCONTINUE ALL CLAIMS AGAINST DEFENDANT JAMES P. DESANTIS AND AMEND CAPTION

AND NOW, come the Plaintiffs, by and through their attorneys, Patberg, Carmody, Ging & Filippi, and Rolf Louis Patberg, Esquire, and file the foregoing Motion to Discontinue all Claims Against Defendant James P. DeSantis and Amend Caption and in support thereof avers as follows:

1. Plaintiff initiated the above-captioned medical negligence action naming Dr. James P. DeSantis as a Defendant.

2. As discovery has developed, the Plaintiff has decided to withdraw all claims against Defendant DeSantis.

3. Therefore, Plaintiff respectfully requests that this Honorable Court issue an Order dismissing Dr. DeSantis from the matter and amending the caption accordingly.

WHEREFORE, Plaintiff respectfully requests this Honorable Court issue an Order in substantially the form hereto.

RESPECTFULLY SUBMITTED:

PATBERG, CARMODY, GING & FILIPPI

DATE: 10-28-04

By _____
Rolf Louis Patberg, Esquire
PA I.D. No.: 63185

PATBERG, CARMODY, GING & FILIPPI
527 Court Place
Pittsburgh, PA 15219
(412) 232-3500

Attorney for Plaintiffs

CERTIFICATE OF SERVICE

I, Rolf Louis Patberg, Esquire, hereby certify that a true and correct copy of the foregoing Motion to Voluntarily Dismiss All Claims Against James P. DeSantis and Amend Caption was forwarded this 28th day of October, 2004 via postage prepaid United States Mail to the following:

John L. McIntyre, Esquire
McIntyre, Dugas, Hartye & Schmitt
P.O. Box 533
Holidaysburg, PA 16648

Mary Lou Maierhofer, Esquire
Meyer, Darragh, Buckler, Bebenek & Eck, P.L.L.C.
120 Lakemont Park Boulevard
Altoona, PA 16602

Rolf Louis Patberg, Esquire

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

SANDRA CONKLIN, as parent and natural guardian of JUSTINE KLINE, and SANDRA CONKLIN, individually,	)	CIVIL DIVISION
	)	NO.: 2003-68 CD
Plaintiffs,	)	
v.	)	
CLEARFIELD HOSPITAL, GEORGE F. PALMER, ERNEST P. JONES, and JAMES P. DeSANTIS,	)	
Defendants.	)	**JURY TRIAL DEMANDED**

FILED 1cc
01 11:34 Atty Patbesg
NOV 02 2004
William A. Shaw
Prothonotary/Clerk of Courts

ORDER OF COURT

AND NOW, to-wit, this 2nd day of November, 2004, it is hereby ORDERED, DECREED and ADJUDGED that Plaintiff's Motion to Voluntarily Dismiss All Claims Against Dr. James P. DeSantis is **GRANTED.** The caption is hereby amended to state as follows:

SANDRA CONKLIN, as parent and natural guardian of JUSTINE KLINE, and SANDRA CONKLIN, individually,	)	CIVIL DIVISION
	)	NO.: 2003-68 CD
Plaintiffs,	)	
v.	)	
CLEARFIELD HOSPITAL AND GEORGE F. PALMER,	)	
Defendants.	)	**JURY TRIAL DEMANDED**

BY THE COURT:

J.

#52

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

SANDRA CONKLIN, as parent and natural guardian of Justine Kline, and SANDARA CONKLIN, individually,

Plaintiffs,

vs.

CLEARFIELD HOSPITAL, GEORGE F. PALMER, ERNEST P. JONES and JAMES P. DESANTIS,

Defendants.

CIVIL DIVISION

No. 2003-00068-CD

Code No.

REPLY TO PLAINTIFFS' MOTION FOR EXTENSION OF TIME TO FILE AN EXPERT REPORT

Filed on Behalf of Defendant, James P. DeSantis

Counsel of Record for this Party:

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

MEYER, DARRAGH, BUCKLER, BEBENEK & ECK, P.L.L.C.
Firm No. 198
120 Lakemont Park Blvd.
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Telephone No.: (814) 941-4600
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FILED ECK
m 1:27 PM NO CC

SEP 30 2004

William A. Shaw
Prothonotary

#51

MLM/ten/PRINCE-105665

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

SANDRA CONKLIN, as parent and natural guardian of Justine Kline, and SANDARA CONKLIN, individually, Plaintiffs, vs. CLEARFIELD HOSPITAL, GEORGE F. PALMER, ERNEST P. JONES and JAMES P. DESANTIS, Defendants.	CIVIL DIVISION No. 2003-00068-CD

ORDER OF COURT

AND NOW, to-wit, this _____ day of _____, 2004, it is hereby ORDERED, DECREED and ADJUDGED that Plaintiff's Motion is **GRANTED**. Plaintiff shall have until November 7, 2004 in which time to produce an expert report critical of the conduct of Dr. James P. DeSantis or in the alternative, dismiss with prejudice this matter as to Defendant, Dr. DeSantis solely.

BY THE COURT:

_____

J.

MLM/ten/PRINCE-105665

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

SANDRA CONKLIN, as parent and natural guardian of Justine Kline, and SANDARA CONKLIN, individually, Plaintiffs, vs. CLEARFIELD HOSPITAL, GEORGE F. PALMER, ERNEST P. JONES and JAMES P. DESANTIS, Defendants.	CIVIL DIVISION No. 2003-00068-CD

REPLY TO PLAINTIFFS' MOTION FOR EXTENSION OF TIME TO FILE AN EXPERT REPORT

NOW COMES the Defendant, James P. DeSantis, by and through his counsel Mary Lou Maierhofer, Esquire of the law firm, MEYER, DARRAGH, BUCKLER, BEBENEK & ECK, PLLC, and files this Reply to Plaintiffs' Motion for Extension of Time to File an Expert Report of which the following is a statement:

1.-5. Defendant, James P. DeSantis, does not object to the Plaintiffs obtaining an additional thirty (30) day extension until November 7, 2004, to respond to an expert report as against this Defendant. However, this Defendant is requesting that the Court modify the proposed Order to indicate the following:

> Plaintiffs shall have until November 7, 2004, in which time to produce an expert report critical of the conduct of Dr. James P. DeSantis or in the alternative, dismiss with prejudice this matter as to Defendant, Dr. DeSantis solely.

WHEREFORE, Defendant, James P. DeSantis, prays this Honorable Court enter the proposed Order as presented by Defendant, DeSantis.

MEYER, DARRAGH, BUCKLER, BEBENEK & ECK, PLLC

BY:_____

MARY LOU MAIERHOFER, ESQUIRE
Counsel for Defendant, James P. DeSantis
120 Lakemont Park Boulevard
Altoona, PA 16602
(814) 941-4600
I.D. #62175

DATE: _September 29, 2004

MLM/ten/PRINCE-105665

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

SANDRA CONKLIN, as parent and natural guardian of Justine Kline, and SANDARA CONKLIN, individually, Plaintiffs, vs. CLEARFIELD HOSPITAL, GEORGE F. PALMER, ERNEST P. JONES and JAMES P. DESANTIS, Defendants.	CIVIL DIVISION No. 2003-00068-CD

CERTIFICATE OF SERVICE

I, Mary Lou Maierhofer, Esquire, of the law firm of MEYER, DARRAGH, BUCKLER, BEBENEK & ECK, PLLC, on behalf of Defendant, James P. DeSantis, hereby certify that Reply to Plaintiffs' Motion for Extension of Time to File an Expert Report was served this **29th day of September, 2004**, by mailing same first class United States mail, postage prepaid, addressed to Counsel as follows:

Rolf Louis Patberg, Esquire
Patberg, Carmody, Ging & Filippi
527 Court Place
Pittsburgh, PA 15219
(Plaintiffs' Counsel)

John McIntyre, Esquire
McIntyre, Dugas, Hartye & Schmitt
P.O. Box 533
Hollidaysburg, PA 16648
(Counsel for Clearfield Hospital, George F. Palmer and Ernest P. Jones)

MEYER, DARRAGH, BUCKLER, BEBENEK & ECK, PLLC

BY: _____

MARY LOU MAIERHOFER, ESQUIRE
Counsel for Defendant, James P. DeSantis
120 Lakemont Park Boulevard
Altoona, PA 16602
(814) 941-4600
I.D. #62175

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

SANDRA CONKLIN, as parent and natural guardian of JUSTINE KLINE, and SANDRA CONKLIN, individually,

Plaintiffs,

v.

CLEARFIELD HOSPITAL, GEORGE F. PALMER, ERNEST P. JONES, and JAMES P. DeSANTIS,

Defendants.

JURY TRIAL DEMANDED

CIVIL DIVISION

NO.: 2003-68 CD

TYPE OF PLEADING:

MOTION FOR EXTENSION OF TIME TO FILE EXPERT REPORT

FILED ON BEHALF OF PLAINTIFF

COUNSEL OF RECORD FOR THIS PARTY:

ROLF LOUIS PATBERG, ESQUIRE
PA I.D. NO.: 65185

PATBERG, CARMODY, GING & FILIPPI
527 COURT PLACE
PITTSBURGH, PA 15219
(412) 232-3500

FILED NO CC
m/ 11:33 BH
SEP 27 2004
William A. Shaw
Prothonotary/Clerk of Courts

$50

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

SANDRA CONKLIN, as parent and natural guardian of JUSTINE KLINE, and SANDRA CONKLIN, individually,	)	CIVIL DIVISION
	)	NO.: 2003-68 CD
Plaintiffs,	)	
v.	)	
CLEARFIELD HOSPITAL, GEORGE F. PALMER, ERNEST P. JONES, and JAMES P. DeSANTIS,	)	
Defendants.	)	**JURY TRIAL DEMANDED**

MOTION FOR EXTENSION OF TIME TO FILE EXPERT REPORT

AND NOW, come the Plaintiffs, by and through their attorneys, Patberg, Carmody, Ging & Filippi, and Rolf Louis Patberg, Esquire, and file the foregoing Motion for Extension of Time and in support thereof aver as follows:

1. The above-captioned matter is a medical negligence case.

2. The Plaintiff has produced the expert report of Dr. John Tilelli, a copy of which is attached hereto as Exhibit 1.

3. On September 7, 2004, an Order was entered instructing production of an additional report against Dr. DeSantis on or by October 7, 2004.

4. Counsel has contacted Dr. Tilelli and has requested an additional report. However, Plaintiff requires additional time to produce the same.

5. Therefore, Plaintiff requests an additional thirty (30) days in which time to obtain such a report or, alternatively, dismiss the matter as to Dr. DeSantis only.

WHEREFORE, Plaintiff respectfully requests this Honorable Court enter an Order substantially in the form hereto.

RESPECTFULLY SUBMITTED:

PATBERG, CARMODY, GING & FILIPPI

DATE: 9-24-04

By: _____
Rolf Louis Patberg, Esquire
PA I.D. No. 65185

PATBERG, CARMODY, GING & FILIPPI
527 Court Place
Pittsburgh, PA 15219
(412) 232-3500

Attorney for Plaintiffs

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

SANDRA CONKLIN, as parent and natural guardian of JUSTINE KLINE, and SANDRA CONKLIN, individually,	)	CIVIL DIVISION
	)	NO.: 2003-68 CD
Plaintiffs,	)	
v.	)	
CLEARFIELD HOSPITAL, GEORGE F. PALMER, ERNEST P. JONES, and JAMES P. DeSANTIS,	)	
Defendants.	)	**JURY TRIAL DEMANDED**

ORDER OF COURT

AND NOW, to-wit, this 27th day of September, 2004, it is hereby ORDERED, DECREED and ADJUDGED that Plaintiff's Motion is **GRANTED.** Plaintiff shall have until November 7, 2004 in which time to produce an expert report critical of the conduct of Dr. James P. DeSantis.

BY THE COURT:

Judge J. Cummerman J.

FILED
0 2:54 BA 2cc atty Patterson
SEP 28 2004

William A. Shaw
Prothonotary

#50

JOHN A. TILELLI, MD
PEDIATRIC INTENSIVE CARE AND EMERGENCY MEDICINE
2228 PALM VIEW DR., APOPKA, FL32712.
(407) 880-8713. FAX (407) 880-4318. EMAIL tilelli@pegasus.cc.ucf.edu

Saturday, January 11, 2003

Mr. Rolf Patberg
Patberg, Carmody, Ging and Filippi
527 Court Place,
Pittsburgh, PA 15219

Re: Justine Kline

Dear Mr. Patberg;

At your request, I have reviewed the medical records of Justine Kline for the purpose of determining whether or not any deviation from the standard of medical care had occurred which caused or contributed to disabilities currently suffered by her. It is my purpose to summarize my findings with this communication.

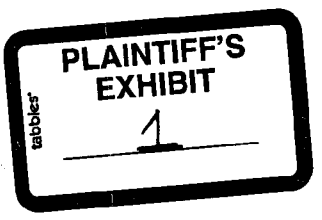
By way of introduction, I am a physician practicing medicine in Orlando, Florida at the Arnold Palmer Hospital for Children and Women where I am engaged in the full-time practice of Critical Care Medicine. I am board-certified in the fields of Pediatrics, Pediatric Critical Care, Emergency Medicine, Pediatric Emergency Medicine, and Medical Toxicology. I am licensed to practice in the states of Florida and Minnesota, although the latter is inactive, not having practiced in that state for many years. A summary of my career is attached in the form of a curriculum vitae. I have not been the subject of disciplinary action by any medical board or body, nor have I had my license to practice medicine curtailed, restricted or suspended in any manner. I have not, to the best of my knowledge had any opinion held by me disqualified by a court of law.

In preparation for this report, I have reviewed the following medical records:

- The medical records of Justine Kline from Clearfield Emergency Room on February 23,2002
- The records from Children's Hospital of Pittsburgh, for her admission on that date
- The records from Shriner's Hospital for her rehabilitative care

Parenthetically, I have not relied upon any text or treatise in the formulation of my opinions. I do not regard any as completely authoritative on the matters discussed herein, but I do believe that my opinions reflect those of the majority of pediatricians and critical care physicians.

Allow me to briefly summarize Justine's medical history.



Justine Kline was 3 years old on February 22, 2002 when she presented to the Clearfield Hospital Emergency room with fever, lethargy and hallucinations. She had a temperature of 40.1 a pulse of 177 beats per minute and blood pressure of 85/57. She had taken Tyenol 2 hours previously. A urinalysis demonstrated 25 WBC/hpf (normal 0-3) and 3+ bacteria. Parenthetically, this specimen later grew *E. cloacae*, a urinary tract pathogen. It additionally was recovered from the blood. She was diagnosed as having pyelonephritis and was discharged after the administration of a dose of Rocefin. She was additionally given a prescription for Augmentin.

The following day she returned poorly perfused, hypotensive and lethargic. She was intubated with the assistance of thiopental, atropine, succinyl choline and vecuronium, and the transport team from Children's Hospital of Pittsburgh was called. On their arrival, she was described as being mottled and poorly perfused, with poor capillary refill and faint pulses. Blood pressure was unobtainable. Vancomycin, sodium bicarbonate, hydrocortisone, dopamine and epinephrine were administered. Pink, frothy secretions were noted from the endotrancheal tube. She was transported to Children's Hospital with fixed and dilated pupils, in critical condition.

On arrival at the helipad, she was met by the intensive care team. Pulmonary edema was noted in the endotracheal tube. The tube was dislodged as a consequence of the copious oral secretions and bag-valve-mask respirations were begun. She became bradycardic to the 50's and chest compressions were given. A prolonged resuscitation ensued,during which multiple doses of bicarbonate, epinephrine, calcium, atropine, vasopressin and dextrose were given. A pericardial tap was attempted which was nonproductive.

The admission assessment was that she had septic shock, pulmonary edema and disseminated intravascular coagulation. A pulmonary artery catheter was placed. Her extremities were poorly perfused, and tissue plasminogen activator was initiated in an attempt to salvage the extremities. Later that evening she developed cardiac tamponade which was verified echocardiographically, and pericardial drains were placed. Plastic surgery was consulted.

Justine had a stormy hospital course, characterized by renal failure, pancreatitis and acute respiratory distress syndrome. Her septic shock slowly improved on dopamine, epinephrine and milrinone. Her cultures grew Enterobacter cloacae, and her course was attributed to urosepsis. At discharge she opened her eyes spontaneously and tracked but was still nonverbal.. She was transferred on March 13, 2002 to rehabilitative therapy.

Justine Kline presented initially to the emergency room with a high fever, hallucinations and lethargy. These symptoms, along with a positive urinalysis, make the diagnosis of pyelonephritis likely. This presentation, as well as the presence of hypotension and trachycardia on arrival would be consistent with a description of her as being ill-appearing. Impatient management for the patient with newly diagnosed pyelonephritis is the standard of care; This is especially true in these circumstances, as the occurrence of bacteremia or sepsis is likely. With inpatient observation, appropriate (intravenous) antibiotic therapy, and early intervention at the first signs of sepsis, it is my opinion that

the entire sequence of events the following day would have been averted and she would not have died.

Allow me then to state my opinions:

- It was a breach of the standard of care for the Clearfield emergency room to discharge Justine Kline into the care of her parents.
- As a consequence of this deviation from the standard of care, Justine suffered an episode of severe septic shock, causing her present disabilities.

I hope that the above satisfactorily expresses my opinions. If you have any questions, please feel free to contact me.

Sincerely,

John Tilelli

John A. Tilelli

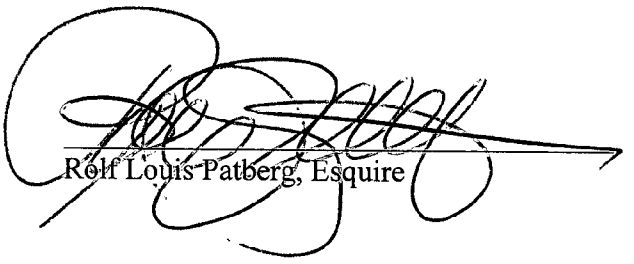
Encl (1)

CERTIFICATE OF SERVICE

I, Rolf Louis Patberg, Esquire, hereby certify that a true and correct copy of the foregoing Motion for Extension of Time was forwarded this 24 day of September, 2004 via postage prepaid United States Mail to the following:

John L. McIntyre, Esquire
McIntyre, Dugas, Hartye & Schmitt
P.O. Box 533
Holidaysburg, PA 16648

Mary Lou Maierhofer, Esquire
Meyer, Darragh, Buckler, Bebenek & Eck, P.L.L.C.
120 Lakemont Park Boulevard
Altoona, PA 16602



Rolf Louis Patberg, Esquire

MLM/ten/PRINCE-105665

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

SANDRA CONKLIN, as parent and natural guardian of Justine Kline, and SANDARA CONKLIN, individually, Plaintiffs, vs. CLEARFIELD HOSPITAL, GEORGE F. PALMER, ERNEST P. JONES and JAMES P. DESANTIS, Defendants.	CIVIL DIVISION No. 2003-00068-CD

FILED EGK
m/11:08 NO CC
SEP 13 2004
William A. Shaw
Prothonotary/Clerk of Courts

CERTIFICATE OF SERVICE

I, Mary Lou Maierhofer, Esquire, of the law firm of MEYER, DARRAGH, BUCKLER, BEBENEK & ECK, PLLC, on behalf of Defendant, James P. DeSantis, hereby certify that Order of Court dated September 7, 2004 on Motion to Compel Expert Report, was served this **10th day of September, 2004**, first class United States mail to Plaintiff's Counsel and by mailing same first class United States mail, postage prepaid, addressed to Counsel as follows:

Rolf Louis Patberg, Esquire
Patberg, Carmody, Ging & Filippi
527 Court Place
Pittsburgh, PA 15219
(Plaintiff's Counsel)

John McIntyre, Esquire
McIntyre, Dugas, Hartye & Schmitt
P.O. Box 533
Hollidaysburg, PA 16648
(Counsel for Clearfield Hospital, George F. Palmer and Ernest P. Jones)

MEYER, DARRAGH, BUCKLER, BEBENEK & ECK, PLLC

BY: _____

MARY LOU MAIERHOFER, ESQUIRE
Counsel for Defendant, James P. DeSantis
120 Lakemont Park Boulevard
Altoona, PA 16602
(814) 941-4600
I.D. #62175

#49

CA

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

SANDRA CONKLIN, as parent and natural guardian of Justine Kline, and SANDARA CONKLIN, individually,

Plaintiffs,

vs.

CLEARFIELD HOSPITAL, GEORGE F. PALMER, ERNEST P. JONES and JAMES P. DESANTIS,

Defendants.

CIVIL DIVISION

No. 2003-00068-CD

Code No.

MOTION TO COMPEL EXPERT REPORT

Filed on Behalf of Defendant, James P. DeSantis

Counsel of Record for this Party:

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

MEYER, DARRAGH, BUCKLER, BEBENEK & ECK, P.L.L.C.
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Fax No.: (814) 941-4605

FILED No cc
m/2:41 BK
SEP 0 1 2004
William A. Shaw
Prothonotary/Clerk of Courts

448

MLM/ten/PRINCE-105665

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

SANDRA CONKLIN, as parent and natural guardian of Justine Kline, and SANDARA CONKLIN, individually, Plaintiffs, vs. CLEARFIELD HOSPITAL, GEORGE F. PALMER, ERNEST P. JONES and JAMES P. DESANTIS, Defendants.	CIVIL DIVISION No. 2003-00068-CD

ORDER OF COURT

NOW this 7 day of Sept., 2004, upon consideration of the Motion to Compel Expert Report of Defendant, James P. DeSantis, and after hearing upon the same, the Court does hereby Order, Direct and Decree Plaintiffs produce an expert report as against Defendant - DeSantis within thirty (30) days from the Court's Order.

BY THE COURT:

J.

FILED
0 2:15 BA 1 cc to atty.
SEP 09 2004

William A. Shaw
Prothonotary

#48

MLM/ten/PRINCE-105665

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

SANDRA CONKLIN, as parent and natural guardian of Justine Kline, and SANDARA CONKLIN, individually, Plaintiffs, vs. CLEARFIELD HOSPITAL, GEORGE F. PALMER, ERNEST P. JONES and JAMES P. DESANTIS, Defendants.	CIVIL DIVISION No. 2003-00068-CD

MOTION TO COMPEL EXPERT REPORT

NOW COMES the Defendant, James P. DeSantis, by and through his counsel Mary Lou Maierhofer, Esquire of the law firm, MEYER, DARRAGH, BUCKLER, BEBENEK & ECK, PLLC, and files this Motion to Compel Expert Report of which the following is a statement:

1. Plaintiffs commenced this litigation by filing a Writ of Summons on or about January 16, 2003 and thereafter filed a Complaint on or about March 3, 2003.

2. On or about May 20, 2003, this Defendant served a Request for Production of Documents and Interrogatories to both Plaintiffs.

3. Plaintiffs subsequently produced the discovery, but there was no information on experts or expert reports.

4. The deposition of Defendant - DeSantis was taken on July 23, 2003 and the deposition of Defendant - Palmer was taken on March 3, 2004.

5. The deposition of various Hospital employees occurred in June of 2004.

6. On or about March 26, 2004, Plaintiffs' counsel produced an expert report attached hereto as Exhibit "A" and incorporated as if fully set forth at length.

7. Exhibit "A" identifies an expert who has reviewed this matter and has certain criticisms of the treatment rendered in this case. Specifically found on the last page where he indicates the following:

> - It was a breach of the standard of the care for the Clearfield Emergency Room to discharge Justine Kline into the care of her parents.
>
> - As a consequence of this deviation for the standard of care, Justine suffered an episode of severe septic shock, causing her present disabilities.

8. This case involves the treatment of a minor in which she initially saw Defendant - Palmer during the early morning of February 23, 2002 in the Clearfield Hospital Emergency Room and was subsequently discharged by Defendant - Palmer.

9. In the early afternoon of February 23, 2003, she presented once again to the Clearfield Hospital Emergency Room where she came under the care and treatment of Defendant - DeSantis who after reviewing her medical condition, immediately had her transferred to Children's Hospital in Pittsburgh.

10. It is clear in reviewing Plaintiffs' expert report, there is no criticism whatsoever regarding the care and/or treatment during the second admission or more specifically the care and/or treatment by Defendant - DeSantis.

11. Counsel for Defendant - DeSantis has requested an expert report from Plaintiffs' counsel beginning on April 1, 2004. (See Exhibit "B" attached hereto and incorporated as if fully set forth at length.)

12. Additionally, there have been various telephone messages left regarding the status of obtaining an expert report against Defendant - DeSantis or having him released from this litigation.

13. As of the date of the filing of this Motion, Plaintiffs have not produced any expert testimony against Defendant - DeSantis.

14. It appears that most of the discovery is complete, except possibly for some minor depositions, however, Plaintiffs' counsel has not indicated doing any further discovery at this juncture.

15. Due to the allegations in Plaintiffs' Complaint, it is requested that the Plaintiffs produce an expert report in order to allow this Defendant to understand what specifically is being alleged against him in order to obtain an expert to review this matter.

16. In order for this Defendant to move this litigation along and to investigate fully what possible breaches of standard of care may be alleged as against this Defendant, an expert report is necessary.

17. Substantial time and discovery has passed so that it is appropriate at this juncture for the Plaintiffs to produce an expert report against Defendant - DeSantis.

WHEREFORE, Defendant, James P. DeSantis, prays this Honorable Court enter an Order requiring the Plaintiffs to produce an expert report as against this Defendant within thirty (30) days from the Court's Order.

MEYER, DARRAGH, BUCKLER, BEBENEK & ECK, PLLC

BY:_____

MARY LOU MAIERHOFER, ESQUIRE
Counsel for Defendant, James P. DeSantis
120 Lakemont Park Boulevard
Altoona, PA 16602
(814) 941-4600
I.D. #62175

DATE: August 31, 2004

JOHN A. TILELLI, MD
PEDIATRIC INTENSIVE CARE AND EMERGENCY MEDICINE
2228 PALM VIEW DR., APOPKA, FL 32712,
(407) 880-8713, FAX (407) 880-4318, EMAIL tilelli@pegasus.cc.ucf.edu

Saturday, January 11, 2003

Mr. Rolf Patberg
Patberg, Carmody, Ging and Filippi
527 Court Place,
Pittsburgh, PA 15219

Re: Justine Kline

Dear Mr. Patberg;

At your request, I have reviewed the medical records of Justine Kline for the purpose of determining whether or not any deviation from the standard of medical care had occurred which caused or contributed to disabilities currently suffered by her. It is my purpose to summarize my findings with this communication.

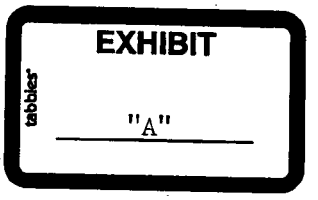
By way of introduction, I am a physician practicing medicine in Orlando, Florida at the Arnold Palmer Hospital for Children and Women where I am engaged in the full-time practice of Critical Care Medicine. I am board-certified in the fields of Pediatrics, Pediatric Critical Care, Emergency Medicine, Pediatric Emergency Medicine, and Medical Toxicology. I am licensed to practice in the states of Florida and Minnesota, although the latter is inactive, not having practiced in that state for many years. A summary of my career is attached in the form of a curriculum vitae. I have not been the subject of disciplinary action by any medical board or body, nor have I had my license to practice medicine curtailed, restricted or suspended in any manner. I have not, to the best of my knowledge had any opinion held by me disqualified by a court of law.

In preparation for this report, I have reviewed the following medical records:

- The medical records of Justine Kline from Clearfield Emergency Room on February 23,2002
- The records from Children's Hospital of Pittsburgh, for her admission on that date
- The records from Shriner's Hospital for her rehabilitative care

Parenthetically, I have not relied upon any text or treatise in the formulation of my opinions. I do not regard any as completely authoritative on the matters discussed herein, but I do believe that my opinions reflect those of the majority of pediatricians and critical care physicians.

Allow me to briefly summarize Justine's medical history.



Justine Kline was 3 years old on February 22, 2002 when she presented to the Clearfield Hospital Emergency room with fever, lethargy and hallucinations. She had a temperature of 40.1 a pulse of 177 beats per minute and blood pressure of 85/57. She had taken Tyenol 2 hours previously. A urinalysis demonstrated 25 WBC/hpf (normal 0-3) and 3+ bacteria. Parenthetically, this specimen later grew *E. cloacae*, a urinary tract pathogen. It additionally was recovered from the blood. She was diagnosed as having pyelonephritis and was discharged after the administration of a dose of Rocefin. She was additionally given a prescription for Augmentin.

The following day she returned poorly perfused, hypotensive and lethargic. She was intubated with the assistance of thiopental, atropine, succinyl choline and vecuronium, and the transport team from Children's Hospital of Pittsburgh was called. On their arrival, she was described as being mottled and poorly perfused, with poor capillary refill and faint pulses. Blood pressure was unobtainable. Vancomycin, sodium bicarbonate, hydrocortisone, dopamine and epinephrine were administered. Pink, frothy secretions were noted from the endotrancheal tube. She was transported to Children's Hospital with fixed and dilated pupils, in critical condition.

On arrival at the helipad, she was met by the intensive care team. Pulmonary edema was noted in the endotracheal tube. The tube was dislodged as a consequence of the copious oral secretions and bag-valve-mask respirations were begun. She became bradycardic to the 50's and chest compressions were given. A prolonged resuscitation ensued,during which multiple doses of bicarbonate, epinephrine, calcium, atropine, vasopressin and dextrose were given. A pericardial tap was attempted which was nonproductive.

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Justine had a stormy hospital course, characterized by renal failure, pancreatitis and acute respiratory distress syndrome. Her septic shock slowly improved on dopamine, epinephrine and milrinone. Her cultures grew Enterobacter cloacae, and her course was attributed to urosepsis. At discharge she opened her eyes spontaneously and tracked but was still nonverbal.. She was transferred on March 13, 2002 to rehabilitative therapy.

Justine Kline presented initially to the emergency room with a high fever, hallucinations and lethargy. These symptoms, along with a positive urinalysis, make the diagnosis of pyelonephritis likely. This presentation, as well as the presence of hypotension and trachycardia on arrival would be consistent with a description of her as being ill-appearing. Impatient management for the patient with newly diagnosed pyelonephritis is the standard of care; This is especially true in these circumstances, as the occurrence of bacteremia or sepsis is likely. With inpatient observation, appropriate (intravenous) antibiotic therapy, and early intervention at the first signs of sepsis, it is my opinion that

the entire sequence of events the following day would have been averted and she would not have died.

Allow me then to state my opinions:

- It was a breach of the standard of care for the Clearfield emergency room to discharge Justine Kline into the care of her parents.
- As a consequence of this deviation from the standard of care, Justine suffered an episode of severe septic shock, causing her present disabilities.

I hope that the above satisfactorily expresses my opinions. If you have any questions, please feel free to contact me.

Sincerely,

John Tilelli

John A. Tilelli

Encl (1)

MEYER • DARRAGH
BUCKLER BEBENEK & ECK, P.L.L.C.
Attorneys-at-Law
120 Lakemont Park Boulevard • Altoona, PA 16602 • (814) 941-4600 • Fax: (814) 941-4605

April 1, 2004

Rolf Louis Patberg, Esquire
Patberg, Carmody, Ging & Filippi
527 Court Place
Pittsburgh, PA 15219

RE: Our File: PRINCE-105665
Conklin v. DeSantis, et al
Clearfield County, 2003-00068 CD

Dear Attorney Patberg:

I am in receipt of your March 29, 2004 letter and box of records. I have enclosed a copy of my March 9, 2004 letter where I only requested the Clearfield Hospital's first and second admission numbered pages. I did not request all the other numbered pages for this case. Thereby, I took out the records that I requested and I am returning to you the remaining copies. I have enclosed a check in the amount of $12.00 for those copies I did take which were 60 pages at $.20 per page.

I have received your expert report from Dr. John A. Tilelli MD. It is clear that the Doctor does not address any criticisms against the treatment received during the second admission and/or specifically Dr. DeSantis. Please advise if you are willing to release Dr. DeSantis at this time from the litigation. If not, please immediately forward an expert report addressing criticisms against him.

Very truly yours,

Mary Lou Maierhofer

MLM/jls/ten
Enclosure

cc: John McIntyre, Esquire (w/o encl)

EXHIBIT
tabbies
"B"

MLM/ten/PRINCE-105665

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

SANDRA CONKLIN, as parent and natural guardian of Justine Kline, and SANDARA CONKLIN, individually, Plaintiffs, vs. CLEARFIELD HOSPITAL, GEORGE F. PALMER, ERNEST P. JONES and JAMES P. DESANTIS, Defendants.	CIVIL DIVISION No. 2003-00068-CD

CERTIFICATE OF SERVICE

I, Mary Lou Maierhofer, Esquire, of the law firm of MEYER, DARRAGH, BUCKLER, BEBENEK & ECK, PLLC, on behalf of Defendant, James P. DeSantis, hereby certify that Motion to Compel Expert Report was served this **31st day of August, 2004**, by mailing same first class United States mail, postage prepaid, addressed to Counsel as follows:

Rolf Louis Patberg, Esquire
Patberg, Carmody, Ging & Filippi
527 Court Place
Pittsburgh, PA 15219
(Plaintiffs' Counsel)

John McIntyre, Esquire
McIntyre, Dugas, Hartye & Schmitt
P.O. Box 533
Hollidaysburg, PA 16648
(Counsel for Clearfield Hospital, George F. Palmer and Ernest P. Jones)

MEYER, DARRAGH, BUCKLER, BEBENEK & ECK, PLLC

BY: _____

MARY LOU MAIERHOFER, ESQUIRE
Counsel for Defendant, James P. DeSantis
120 Lakemont Park Boulevard
Altoona, PA 16602
(814) 941-4600
I.D. #62175

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

SANDRA CONKLIN, as parent and natural guardian of JUSTINE KLINE, and SANDRA CONKLIN, individually,	No. 2003 – 68 CD
	ISSUE: NOTICE OF SERVICE OF ANSWERS TO FIRST SET OF INTERROGATORIES AND REQUEST FOR PRODUCTION OF DOCUMENTS DIRECTED TO DEFENDANT, GEORGE F. PALMER, M.D.
Plaintiff	
vs.	
	Filed on behalf of Defendant, GEORGE F. PALMER, M.D.
CLEARFIELD HOSPITAL, GEORGE F. PALMER and JAMES P. DESANTIS	Counsel of Record
	John L. McIntyre, Esquire PA I.D. #28015 McINTYRE, DUGAS, HARTYE & & SCHMITT P.O. Box 533 Hollidaysburg, PA 16648 (814) 696-3581
Defendants	
	JURY TRIAL DEMANDED

I HEREBY CERTIFY THAT A TRUE AND CORRECT COPY OF THE WITHIN WAS MAILED TO ALL COUNSEL OF RECORD THIS 28th DAY OF JULY, 2004

Attorneys for Named Defendants

FILED

JUL 29 2004

William A. Shaw
Prothonotary/Clerk of Courts

#47

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

SANDRA CONKLIN, as parent and natural guardian of JUSTINE KLINE, and SANDRA CONKLIN, individually,	:	No. 2003 – 68 CD
Plaintiff	:	
vs.	:	
CLEARFIELD HOSPITAL, GEORGE F. PALMER and JAMES P. DESANTIS,	:	
Defendants	:	JURY TRIAL DEMANDED

NOTICE OF SERVICE OF ANSWERS TO FIRST SET OF INTERROGATORIES AND REQUESTS FOR PRODUCTION OF DOCUMENTS DIRECTED TO DEFENDANT, GEORGE F. PALMER, M.D.

TO: PROTHONOTARY

You are hereby notified that on the **28th day** of **JULY, 2004**, Defendant, George F. Palmer, M.D., served Answers to First Set of Interrogatories and Requests for Production of Documents Directed to Defendant, George F. Palmer, M.D. Dated: 07/28/04, by mailing the original of same via First Class U.S. Mail, postage prepaid, addressed to the following:

Rolf Louis Patberg, Esquire
Patberg, Carmody, Ging & Filippi
527 Court Place
Pittsburgh, PA 15219

McINTYRE, DUGAS, HARTYE & SCHMITT

Attorneys for Defendant,
GEORGE F. PALMER, M.D.

JOHN L. MCINTYRE, ESQUIRE
PA I.D #: 28015
P.O. Box 533
Hollidaysburg, PA 16648
(814) 696-3581

FILED No
m/a 0080 cc
JUL 29 2004
William A. Shaw
Prothonotary/Clerk of Courts

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

SANDRA CONKLIN, as parent and natural guardian of JUSTINE KLINE, and SANDRA CONKLIN, individually,	No. 2003 – 68 CD
	ISSUE: NOTICE OF SERVICE OF REQUEST FOR PRODUCTION OF DOCUMENTS DIRECTED TO PLAINTIFFS DATED: 06/03/04
Plaintiff	
vs.	
	Filed on behalf of Defendants, CLEARFIELD HOSPITAL and GEORGE F. PALMER, M.D.
CLEARFIELD HOSPITAL, GEORGE F. PALMER, ERNEST P. JONES and JAMES P. DESANTIS,	Counsel of Record: John L. McIntyre, Esquire PA I.D. #28015 McINTYRE, DUGAS, HARTYE & & SCHMITT P.O. Box 533 Hollidaysburg, PA 16648 (814) 696-3581
Defendants	JURY TRIAL DEMANDED

I HEREBY CERTIFY THAT A TRUE AND CORRECT COPY OF THE WITHIN WAS MAILED TO ALL COUNSEL OF RECORD THIS 3rd DAY OF JUNE, 2004

Attorneys for Named Defendants

FILED

JUN 04 2004

m/ 1:30/ms

William A. Shaw
Prothonotary

no c/c

#46

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

SANDRA CONKLIN, as parent and natural guardian of JUSTINE KLINE, and SANDRA CONKLIN, individually,	:	No. 2003 – 68 CD
Plaintiff	:	
vs.	:	
CLEARFIELD HOSPITAL, GEORGE F. PALMER, ERNEST P. JONES and JAMES P. DESANTIS,	:	
Defendants	:	JURY TRIAL DEMANDED

NOTICE OF SERVICE OF REQUEST FOR PRODUCTION OF DOCUMENTS
DATED: 06/03/04

TO: PROTHONOTARY

You are hereby notified that on the **3rd** day of **JUNE, 2004**, Defendants, Clearfield Hospital and George F. Palmer, M.D., served Request for Production of Documents Directed to Plaintiffs, Dated: 06/03/04, by mailing the original of same via First Class U.S. Mail, postage prepaid, addressed to the following:

Rolf Louis Patberg, Esquire
Patberg, Carmody, Ging & Filippi
527 Court Place
Pittsburgh, PA 15219

McINTYRE, DUGAS, HARTYE & SCHMITT

Attorneys for Defendants,
CLEARFIELD HOSPITAL and
GEORGE F. PALMER, M.D.

JOHN L. MCINTYRE, ESQUIRE
PA I.D #: 28015
P.O. Box 533
Hollidaysburg, PA 16648
(814) 696-3581

FILED

JUN 04 2004

William A. Shaw
Prothonotary

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

SANDRA CONKLIN, as parent and natural guardian of JUSTINE KLINE, and SANDRA CONKLIN, individually,

Plaintiff

vs.

CLEARFIELD HOSPITAL, GEORGE F. PALMER, and JAMES P. DESANTIS

Defendants

No. 2003 – 68 CD

ISSUE:
AMENDED NOTICE OF DEPOSITION

FILED

FEB 26 2004

William A. Shaw
Prothonotary/Clerk of Courts

Filed on behalf of Defendants, CLEARFIELD HOSPITAL and GEORGE F. PALMER

Counsel of Record:
John L. McIntyre, Esquire
PA I.D. #28015
McINTYRE, DUGAS, HARTYE &
& SCHMITT
P.O. Box 533
Hollidaysburg, PA 16648
(814) 696-3581

JURY TRIAL DEMANDED

I HEREBY CERTIFY THAT A TRUE AND CORRECT COPY OF THE WITHIN WAS MAILED TO ALL COUNSEL OF RECORD THIS **25TH** DAY OF **FEBRUARY, 2004**.

Attorneys for Named Defendants

#45

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

SANDRA CONKLIN, as parent and natural guardian of JUSTINE KLINE, and SANDRA CONKLIN, individually,	:	No. 2003 – 68 CD
Plaintiff	:	
vs.	:	
CLEARFIELD HOSPITAL, GEORGE F. PALMER, and JAMES P. DESANTIS,	:	
Defendants	:	JURY TRIAL DEMANDED

AMENDED NOTICE OF DEPOSITION

TO: Plaintiff, Justine Kline
c/o Rolf Patberg, Esquire
Patberg, Carmody, Ging & Filippi
527 Court Place
Pittsburgh, PA 15219

Please take notice that the deposition of **Plaintiff, JUSTINE KLINE (following the deposition of Sandra Conklin)** shall be taken upon oral examination by an official Court Reporter at the offices of **Sargent's Court Reporting Service,106 N. Second Street, Clearfield, PA** on the 3rd day of **MARCH, 2004**, commencing at **12:00 p.m.**

The scope of said deposition testimony will include inquiry into all facts concerning the happening of the incident complained of and all other matters relevant to the issues raised in the case.

You are invited to attend and participate.

McINTYRE, DUGAS, HARTYE & SCHMITT

Attorney for Defendants,
CLEARFIELD HOSPITAL and
GEORGE F. PALMER

John L. McIntyre, Esquire
PA I.D. #28015
P.O. Box 533
Hollidaysburg, PA 16648-0533
(814) 696-3581

FILED NO CC
11:13761
FEB 26 2004

William A. Shaw
Prothonotary/Clerk of Courts

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

SANDRA CONKLIN, as parent and natural guardian of JUSTINE KLINE, and SANDRA CONKLIN, individually,	No. 2003 – 68 CD
	ISSUE:
	NOTICE OF SERVICE OF SUPPLEMENTAL INTERROGATORIES DIRECTED TO PLAINTIFF
Plaintiff	
vs.	
	Filed on behalf of Defendants, CLEARFIELD HOSPITAL and GEORGE F. PALMER
CLEARFIELD HOSPITAL, GEORGE F. PALMER, and JAMES P. DESANTIS	Counsel of Record: John L. McIntyre, Esquire PA I.D. #28015 McINTYRE, DUGAS, HARTYE & & SCHMITT P.O. Box 533 Hollidaysburg, PA 16648 (814) 696-3581
Defendants	
	JURY TRIAL DEMANDED

I HEREBY CERTIFY THAT A TRUE AND CORRECT COPY OF THE WITHIN WAS MAILED TO ALL COUNSEL OF RECORD THIS 18TH DAY OF **FEBRUARY, 2004**.

Attorneys for Named Defendants

FILED

FEB 19 2004

William A. Shaw
Prothonotary/Clerk of Courts

#44

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

SANDRA CONKLIN, as parent and natural guardian of JUSTINE KLINE, and SANDRA CONKLIN, individually,	:	No. 2003 – 68 CD
Plaintiff	:	
vs.	:	
CLEARFIELD HOSPITAL, GEORGE F. PALMER, and JAMES P. DESANTIS,	:	
Defendants	:	JURY TRIAL DEMANDED

NOTICE OF SERVICE OF SUPPLEMENTAL
INTERROGATORIES DIRECTED TO PLAINTIFF

TO: PROTHONOTARY

You are hereby notified that on the **18th** day of **FEBRUARY, 2004**, Defendants, Clearfield Hospital and George F. Palmer, served **Supplemental Interrogatories Directed to Plaintiff**, by mailing the original of same via First Class U.S. Mail, postage prepaid, addressed to the following:

Rolf Louis Patberg, Esquire
Patberg, Carmody, Ging & Filippi
527 Court Place
Pittsburgh, PA 15219

Respectfully submitted,

McINTYRE, DUGAS, HARTYE & SCHMITT

By _____
Attorneys for Defendants,
Clearfield Hospital and George F. Palmer

John L. McIntyre, Esquire
PA I.D. 28015
P.O. Box 533
Hollidaysburg, PA 16648
(814) 696-3581

FILED NO CC
m/11:17 BOX
FEB 19 2004

William A. Shaw
Prothonotary/Clerk of Courts

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

SANDRA CONKLIN, as parent and natural guardian of JUSTINE KLINE, and SANDRA CONKLIN, individually,	No. 2003 – 68 CD **ISSUE:** NOTICE OF DEPOSITION
Plaintiff	
vs.	
	Filed on behalf of Defendants, CLEARFIELD HOSPITAL and GEORGE F. PALMER
CLEARFIELD HOSPITAL, GEORGE F. PALMER, and JAMES P. DESANTIS	Counsel of Record: John L. McIntyre, Esquire PA I.D. #28015 McINTYRE, DUGAS, HARTYE & & SCHMITT P.O. Box 533 Hollidaysburg, PA 16648 (814) 696-3581
Defendants	JURY TRIAL DEMANDED

I HEREBY CERTIFY THAT A TRUE AND CORRECT COPY OF THE WITHIN WAS MAILED TO ALL COUNSEL OF RECORD THIS **18TH** DAY OF **FEBRUARY, 2004**.

Attorneys for Named Defendants

FILED

FEB 19 2004

William A. Shaw
Prothonotary/Clerk of Courts

#43

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

SANDRA CONKLIN, as parent and natural guardian of JUSTINE KLINE, and SANDRA CONKLIN, individually,	:	No. 2003 – 68 CD
Plaintiff	:	
vs.	:	
CLEARFIELD HOSPITAL, GEORGE F. PALMER, and JAMES P. DESANTIS,	:	
Defendants	:	JURY TRIAL DEMANDED

NOTICE OF DEPOSITION

TO: Plaintiff, Justine Kline
c/o Rolf Patberg, Esquire
Patberg, Carmody, Ging & Filippi
527 Court Place
Pittsburgh, PA 15219

Please take notice that the deposition of **Plaintiff, JUSTINE KLINE** shall be taken upon oral examination by an official Court Reporter at the offices of **Sargent's Court Reporting Service, 210 Main Street, Johnstown, PA** on the **3rd** day of **MARCH, 2004**, commencing at **12:00 p.m.**

The scope of said deposition testimony will include inquiry into all facts concerning the happening of the incident complained of and all other matters relevant to the issues raised in the case.

You are invited to attend and participate.

McINTYRE, DUGAS, HARTYE & SCHMITT

Attorney for Defendants,
CLEARFIELD HOSPITAL and
GEORGE F. PALMER

John L. McIntyre, Esquire
PA I.D. #28015
P.O. Box 533
Hollidaysburg, PA 16648-0533
(814) 696-3581

FILED no cc
m/ 1:21 BL
FEB 19 2004

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

SANDRA CONKLIN, parent and natural guardian of Justine Kline, and SANDRA CONKLIN, individually, Plaintiff	*	
vs.	*	NO. 2003-68-C.D.
CLEARFIELD HOSPITAL, GEORGE F. PALMER and JAMES P. DESANTIS, Defendants	*	

ORDER

NOW, this 5th day of February, 2004, the Court noting that a Status Conference is scheduled for Friday, February 6, 2004; due to the forecasted inclement weather conditions which are to arrive in Clearfield County and surrounding areas sometime tonight, it is the ORDER of this Court that said Status Conference be and is hereby cancelled. Counsel for the parties shall have no more than twenty (20) days from the date of this Order to present the Court with a letter detailing the status of the above captioned action.

By the Court,

Judge J Ammerman

FREDRIC J. AMMERMAN
PRESIDENT JUDGE

FILED

FEB 06 2004

William A. Shaw
Prothonotary/Clerk of Courts

#42

FILED
01 11:00 BL
FEB 06 2004

William A. Shaw
Prothonotary/Clerk of Courts

2 certified copies Rolf Louis Patberg, Esquire
2 certified copies to John L. McIntyre, Esquire
2 certified copies to Mary Lou Maierhofer, Esquire
1 copy to Judge Ammerman
1 copy to Court Administrator

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

SANDRA CONKLIN, a parent and natural guardian of Justine Kline, and SANDRA CONKLIN, individually	:	
vs.	:	No. 03-68-CD
CLEARFIELD HOSPITAL, GEORGE F. PALMER and JAMES P. DESANTIS	:	

AMENDED ORDER

AND NOW, this 22nd day of January, 2004, it is the ORDER of the Court that a status conference in the above matter has been scheduled for **Friday, February 6, 2004 at 9:45 A.M**, in Courtroom No. 1, Clearfield County Courthouse, Clearfield, PA.

FILED

JAN 22 2004

William A. Shaw
Prothonotary/Clerk of Courts

BY THE COURT:

Judge J. Ammerman

FREDRIC J. AMMERMAN
President Judge

#40

FILED
01 3:45 BA
JAN 22 2004

William A. Shaw
Prothonotary/Clerk of Courts

1 cc Atty Patberg
1 cc Atty McIntyre
1 cc Atty Maierhofer

CA

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

SANDRA CONKLIN, a parent and natural guardian of Justine Kline, and SANDRA CONKLIN, individually	:	
vs.	:	No. 03-68-CD
CLEARFIELD HOSPITAL, GEORGE F. PALMER and JAMES P. DESANTIS	:	

FILED

JAN 21 2004

William A. Shaw
Prothonotary/Clerk of Courts

ORDER

AND NOW, this 21st day of January, 2004, it is the ORDER of the Court that a status conference in the above matter has been scheduled for **Friday, February 22, 2004 at 9:45 A.M**, in Courtroom No. 1, Clearfield County Courthouse, Clearfield, PA.

BY THE COURT:

Fredric J Ammerman

FREDRIC J. AMMERMAN
President Judge

#39

FILED
10:33 BCL
JAN 21 2004

William A. Shaw
Prothonotary/Clerk of Courts

1 cc Attys Patberg, McIntyre, Maiershofer

MLM/ten/PRINCE-105665

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

SANDRA CONKLIN, as parent and natural guardian of Justine Kline, and SANDARA CONKLIN, individually, Plaintiffs, vs. CLEARFIELD HOSPITAL, GEORGE F. PALMER, ERNEST P. JONES and JAMES P. DESANTIS, Defendants.	CIVIL DIVISION No. 2003-00068-CD

FILED No CC
m/ 10:30 BL
DEC 05 2003
William A. Shaw
Prothonotary/Clerk of Courts

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

Defendant, James P. DeSantis, intends to serve a subpoena identical to that which is attached to this notice upon Children's Hospital. Counsel and all available parties have consented to service of this subpoena. No objection has been made and the subpoena may be served.

MEYER, DARRAGH, BUCKLER, BEBENEK & ECK, PLLC

BY: _____

MARY LOU MALERHOFER, ESQUIRE
Counsel for Defendant, James P. DeSantis
120 Lakemont Park Boulevard
Altoona, PA 16602
Phone No.: (814) 941-4600
ID # 62175

Date: December 4, 2003

#38

COMMONWEALTH OF PENNSYLVANIA
COUNTY OF CLEARFIELD

Sandra Conklin
Justine Kline
Plaintiff(s)

Vs.

Clearfield Hospital
George F. Palmer
James P. DeSantis
Defendant(s)

* No. 2003-00068-CD

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

TO: Children's Hospital, 3705 Fifth Avenue, Pittsburgh, PA 15213
(Name of Person or Entity)

Within twenty (20) days after service of this subpoena, you are ordered by the Court to produce the following documents or things: Please see attached sheet.
Meyer, Darragh, 120 Lakemont Park Boulevard, Altoona, PA 16602

(Address)

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

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

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

NAME: Mary Lou Maierhofer, Esquire
ADDRESS: 120 Lakemont Park Boulevard
Altoona, PA 16602
TELEPHONE: (814) 941-4600
SUPREME COURT ID # 62175
ATTORNEY FOR: Defendant, James P. DeSantis

BY THE COURT:

William A. Shaw
Prothonotary/Clerk, Civil Division

DATE: Wednesday, December 03, 2003
Seal of the Court

Deputy

MLM/tenPRINCE-105665

ATTACHED SHEET

1. Original Tapes and/or transcribed conversations between any and all personnel or independent contractors of Children's Hospital of Pittsburgh that occurred on or about February 23, 2002 involving the care and/or treatment of Justine Kline;

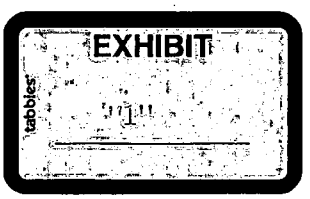
2. Copies of any and all machine recorded information on any of the Children's Hospital equipment related to the transport team's treatment involving Justine Kline on February 23, 2002;

3. Copies of any and all transport policies involving physician's and/or transport team's authority, responsibility and scope of duty - when sending a transport team to requesting transport hospital; when treating a patient at the requesting transport hospital; during transport; and upon arrival at Children's Hospital.

4. Any and all policies and/or procedures for any transport team involving physician and/or nurses and/or respiratory therapists traveling to an outside facility to pick up and transport a patient back to Children's Hospital in Pittsburgh;

5. Any and all ICU critical care physicians and nurse team policies and standard operating procedures that define the job of the physician, nurse and transport team.

6. Copies of the Curriculum Vitae and/or identification with the full name, address and telephone number of the transport team for Justine Kline as shown on Exhibit "1" attached hereto, including the signature of the transport physicians and admitting physician.


EXHIBIT
tabbies
1

Children's Hospital of Pittsburgh

TRANSPORT RECORD

FORM NO. 341A (REV. 2/00)

UNIT NO.

NURSING UNIT: PICU

PATIENT NAME: LAST Kline FIRST Justine SEX M F

DATE 2/23/02 TIME OF CALL ☐ AM ☐ PM

BIRTHDATE 9/26/98 AGE 3y WEIGHT 15 Kg

REFERRING PHYSICIAN DeSantis

PARENT/GUARDIAN NAME(S) Sandra Conklin PHONE NO. (814) 762-8689 STATE RESIDE PA

REFERRING INSTITUTION Clearfield

MODE OF TRANSPORTATION: SPECIFY
☐ AMBULANCE ☐ FIXED WING
☒ HELICOPTER ☐ OTHER

REASON FOR TRANSPORT Sepsis

TRANSP. R.N. PAGED	ARRIVE BEDSIDE 1536	ARR. LZ/AIRPORT/E.R. 1725
DEPART CHP 1452	DEPART BEDSIDE 1638	ARR. CHP BEDSIDE 1729
ARR. LZ/AIRPORT/E.R. 1533	DEPART LZ/AIRPORT 1641	

☒ CRITICAL CARE TRANSPORT SERVICE 1950100 X _____ ¼ HR.

☐ TRANSPORT SERVICE RETURN TRIP 1950200 X _____ ¼ HR.

☒ CRITICAL CARE TRANSPORT COUNT 1950300

NEONATAL HISTORY

MOTHER	PARA	GRAVIDA	BLOOD TYPE	TYPE OF DELIVERY	COMPLICATIONS OF PREGNANCY / DELIVERY

INFANT	TIME OF BIRTH	GESTATIONAL AGE	BIRTH WT.	APGARS	TIME OF LAST FEEDING	PATIENT GIVEN: EYE CARE	VIT. K	PATIENT PASSED: URINE	MECONIUM
	☐ AM ☐ PM				☐ AM ☐ PM	☐	☐	☐	☐

REFERRING HOSPITAL'S TREATMENT

MEDICATIONS: Vancomycin 225mg IV, Atr, thio, Succ, Vec

OTHER: Epi .3ml 1:10,000 Tml, FIO2 1.0 RSI 3/5

INITIAL VITAL SIGNS

TEMP.	PULSE	RESP.	BP	GLUCOSE	POX	ETT SIZE	ALLERGIES	PUPILS R / L	OTHER
34.9	132	24	99/45	94	not able to sense	4.5 oral	NKDA	5-6 mm	NO exp.

HISTORY: PERTINENT PRE-ARRIVAL EVENTS

3yo seen last night at 2am for fever, confusion, twitching, vomiting, visual hallucinations. Pt Dx'd Om, sent home w/ IM Rocephin, returned today for lethargy, hypotonia, rash on lower left + buttocks. Initially HR normal → then 160. BP appt 90 → 60, To give NSS bolus and intubate if needed. Recommended Vancomycin IV

NURSING ASSESSMENT

Received pt orally intubated w/ 4.5 ETT being bagged by hand Breath sounds bilateral w/ L weak heard. Extremely mottled w/ cold extremities Cap refill >5 sec. Faint brachial pulses w/ pt Better femoral pulses. Unable to initially get blood pressure + pex by dinamap. Received atropine, thiopental succinycholine + vecuronium prior to our arrival for intubation. Dx 94 by their labs.

Had @ hand IBV w/ NSS at 1 liter/hr (already given 1.3 L or 80cc/kg) and infusing Dopamine at 10 mcg/kg/min. Referring staff gave 3 doses also of Epi for poor perfusion. PIV in (L) hand also.

Pupils 5-6 mm and barely reacting. No movement noted. Began Epi infusion at .1 mcg/kg/min via (L) hand w/ dopamine and PICU fellow called for consult. Advised by Dr Helmet to ↑ Epi to .5 mcg/kg/min to raise BP which was 99/45.

SIGNATURE: RESPIRATORY THERAPIST	DATE	TIME	SIGNATURE: TRANSPORT PHYSICIAN	DATE	TIME
Keith Evans RRT	2/23/02	☐ AM ☐ PM		2/23/02	☐ AM ☐ PM
SIGNATURE: TRANSPORT RN	DATE	TIME	SIGNATURE: ADMITTING RN	DATE	TIME
Kathleen Plamondon	2/23/02	6 ☐ AM ☐ PM			☐ AM ☐ PM

COPY DISTRIBUTION: Part 1 (White) CHART COPY, Part 2 (Yellow) TRANSPORT NURSE COPY, Part 3 (Pink) TRANSPORTATION RECORD

Children's Hospital of Pittsburgh

TRANSPORT RECORD

FORM NO. 918 (REV. 7/99)

PATIENT: Kline Justine | UNIT NO. | BIRTHDATE: 9/26/98

LAB WORK

LYTES: Na 137 K 4.1 Cl 98 | CBC: WBC 7.2 H+H 12/38 Plt 328/204

BLOOD GAS | pH | PO_2 | PCO_2 | HCO_3 14.4 | BE -9/27 | SITE

OTHER: Gluc 116 Bun 19 CO2 21 | CULTURE PENDING: ☒ YES ☐ NO

TRANSPORT VS FOLW SHEET

TIME	NTE TEMP.	BED TEMP.	PT TEMP.	HR	R	BP/MAP	GLUCOSE	FIO_2	R	PIP/PEEP	POX	PUPILS	MISC.
								1.0	24	~~30~~/5		5-6	
								1.0	24	30/10		Fixed dilated	Speep at RH

See narrative

MEDICATIONS

DRUG	TIME	DOSE	RTE	GIVEN BY
NaHCO3	1600	45meq	IV	Jocelyn
Hydrocortisone	1610	750mg	IV	Jocelyn
NaHCO3	1700	45meq	IV	Jocelyn PN

VASCULAR ACCESS

SITE	SOLUTION	RATE CC/HR.	TOTAL INFUSED
IV (L) hand	Epi + Dopamine		76.2
ART/UA			
OTHER (R) hand	D5.2NS	60	30

CONTINUOUS INFUSIONS: WT.

TIME	DRUG	STRENGTH MIXED	DOSE INFUSING	RATE CC/HR	AMOUNT INFUSED
1545	Epinephrine	60mcg/ml	.1 mcg/kg/m	1.5cc/hr	
			.2	3 cc/hr	
			.5	7.5cc/hr ≈	
			1	15 cc/hr	60 ml
			2	20cc/hr	
			3	30hr	
1730			5	75hr	

DEPARTURE LIST

	YES	NO
PERMISSION FORM	✓	
ID BAND	—	
MEDICAL CHART	faxed	
X-RAYS		✓
PARENTS SEEN	✓	
PARENTS GIVEN INFO	✓	

COMMENTS: Mom seen pt prior to depart

STABILIZATION / INTERVENTIONS / OTHER

NG placed nasally and asp ø. Abd distended. Epi ↑ to .5 c subsequent BP 42/9. Given 1 finger breath above umbilicus. Advised to hold NS bolus and continue to ↑ epi infusion to 1-2 mcg/kg/m for BP. Also advised to give NaHCO3 3meq/kg - gave 45meq ina pIV and shock dose of steroids Hydrocortisone 50mg/kg given over ½ hr. PH 6.1. Began D5.2NS at 60cc/hr. BP remains low 30/19 m22 Advised to ↑ epi to 5 mcg/kg/min and repeat NaHCO3 dose enroute of 3meq/kg. Pink frothy secretions noted from ETT and nose. Mouth

SIGNATURE: RESPIRATORY THERAPIST:	DATE	TIME ☐ AM ☐ PM	SIGNATURE: TRANSPORT PHYSICIAN:	DATE	TIME ☐ AM ☐ PM
Scott Davis RT	2/23/02			2/23/02	
SIGNATURE: TRANSPORT RN:	DATE	TIME ☐ AM	SIGNATURE: ADMITTING RN:	DATE	TIME ☐ AM

COPY DISTRIBUTION: Part 1 (White) CHART COPY, Part 2 (Yellow) TRANSPORT NURSE COPY, Part 3 (Pink) TRANSPORTATION RECORD

Children's Hospital of Pittsburgh

TRANSPORT RECORD

FORM NO. 918 (REV. 7/99)

PATIENT	UNIT NO.	BIRTHDATE
Kline Justine		9/26/98

LABWORK

LYTES	CBC

BLOOD GAS	pH	PO_2	PCO_2	HCO_3	BE	SITE

OTHER:

CULTURE PENDING ☐ YES ☐ NO

TRANSPORT VS FOLW SHEET

TIME	NTE TEMP.	BED TEMP.	PT TEMP.	HR	R	BP/MAP	GLUCOSE	FIO_2	R	PIP/ PEEP	POX	PUPILS	MISC.

MEDICATIONS

DRUG	TIME	DOSE	RTE	GIVEN BY

VASCULAR ACCESS

SITE	SOLUTION	RATE CC/HR.	TOTAL INFUSED
IV -			
ART/UA			
OTHER			

CONTINUOUS INFUSIONS: WT.

TIME	DRUG	STRENGTH MIXED	DOSE INFUSING	RATE CC/HR	AMOUNT INFUSED
1536	Dopamine	400mcg/ml	10mcg/kg/m	5.6	16.2
1700	Dopamine	" "	"	11.2	

DEPARTURE LIST	YES	NO
PERMISSION FORM		
ID BAND		
MEDICAL CHART		
X-RAYS		
PARENTS SEEN		
PARENTS GIVEN INFO		

COMMENTS:

STABILIZATION / INTERVENTIONS / OTHER

increased. Peep ↑ 10. Unable to move chest c ventilator due to lg leak but able to bag. Advised not to squeeze ETT and hand ventilate back. BP remains 42/21. Perfusion unchanged. Pulses are stronger in radial + femoral sites. Pox still not picking up Pt extremely cold T 34° rectally. Warm blankets applied. Spoke c mom at referring hospital and informed her how grave + critically ill Justine is. Consent obtained. Mom saw pt prior to depart

SIGNATURE: RESPIRATORY THERAPIST:	DATE	TIME ☐ AM ☐ PM	SIGNATURE: TRANSPORT PHYSICIAN:	DATE	TIME ☐ AM ☐ PM
Keith Parsons RRT	2/23/02			2/23/02	
SIGNATURE: TRANSPORT RN:	DATE	TIME	SIGNATURE: ADMITTING RN:	DATE	TIME

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Children's Hospital of Pittsburgh

TRANSPORT RECORD

FORM NO. 918 (REV. 7/99)

PATIENT	UNIT NO.	BIRTHDATE
Kline Justine		9/26/98

LABWORK

LYTES	CBC

BLOOD GAS	pH	PO_2	PCO_2	HCO_3	BE	SITE

OTHER	CULTURE PENDING ☐ YES ☐ NO

TRANSPORT VS FOLW SHEET

TIME	NTE TEMP.	BED TEMP.	PT TEMP.	HR	R	BP/MAP	GLUCOSE	FIO_2	R	PIP/ PEEP	POX	PUPILS	MISC.

MEDICATIONS

DRUG	TIME	DOSE	RTE	GIVEN BY

VASCULAR ACCESS

SITE	SOLUTION	RATE CC/HR.	TOTAL INFUSED
IV -			
ART/UA			
OTHER			

CONTINUOUS INFUSIONS: WT.

TIME	DRUG	STRENGTH MIXED	DOSE INFUSING	RATE CC/HR	AMOUNT INFUSED

DEPARTURE LIST	YES	NO
PERMISSION FORM		
ID BAND		
MEDICAL CHART		
X-RAYS		
PARENTS SEEN		
PARENTS GIVEN INFO		

COMMENTS:

STABILIZATION / INTERVENTIONS / OTHER

Repeated dose of NaHCO3 in route. BP 98/54 c poor perfusion + mottling. Copious pink fluid up from ETT, mouth + nose, TO ME 3. Given 2nd dose NaHCO3 en route + Dopamine ↑ to 20 mcg/kg/min. Pupils fixed + dilated. Cold. To rad. To elevator and pt extubated due to copious secretions. Bagged and HR ↑ 60. Chest compressions started in elevator while being bagged. Arrived to PCU. HR 30's. Chest compressions + bagging continued. Abd distended. To PCU bed. Dr Gelmet to intubate. Care turned over to PCU staff.

SIGNATURE: RESPIRATORY THERAPIST:	DATE	TIME ☐ AM ☐ PM	SIGNATURE: TRANSPORT PHYSICIAN:	DATE	TIME ☐ AM ☐ PM
Sarita Tarisatt	2/23/02			2/23/02	
SIGNATURE: TRANSPORT RN:	DATE	TIME ☐ AM	SIGNATURE: ADMITTING RN:	DATE	TIME ☐ AM

COPY DISTRIBUTION: Part 1 (White) CHART COPY, Part 2 (Yellow) TRANSPORT NURSE COPY, Part 3 (Pink) TRANSPORTATION RECORD

MLM/ten/PRINCE-105665

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

SANDRA CONKLIN, as parent and natural guardian of Justine Kline, and SANDARA CONKLIN, individually, Plaintiffs, vs. CLEARFIELD HOSPITAL, GEORGE F. PALMER, ERNEST P. JONES and JAMES P. DESANTIS, Defendants.	CIVIL DIVISION No. 2003-00068-CD

FILED No cc
m/10:30 bl
DEC 05 2003
William A. Shaw
Prothonotary/Clerk of Courts

CERTIFICATE PREREQUISITE TO SERVICE OF A SUBPOENA PURSUANT TO RULE 4009.22

As a prerequisite to service of a subpoena for documents and things pursuant to Rule 4009.22, Defendant, James P. DeSantis, certifies that:

(1) a Notice of Intent to serve a subpoena with a copy of the subpoena attached thereto was mailed or delivered to each party at least twenty (20) days prior to the date on which the subpoenas are sought to be served,

(2) a copy of the Notice of Intent, including the proposed subpoena, is attached to this certificate,

(3) counsel to all parties have consented to waive the twenty (20) day objection period, and

(4) the subpoena which will be served are identical to the subpoena which is attached to the Notice of Intent to serve the subpoena.

MEYER, DARRAGH, BUCKLER, BEBENEK & ECK, PLLC

BY: _____
MARY LOU MAIERHOFER, ESQUIRE
Counsel for Defendant, James P. DeSantis
120 Lakemont Park Boulevard
Altoona, PA 16602
Phone No.: (814) 941-4600
ID # 62175

Date: December 4, 2003

#37

MLM/ten/PRINCE-105665

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

SANDRA CONKLIN, as parent and natural guardian of Justine Kline, and SANDARA CONKLIN, individually, Plaintiffs, vs. CLEARFIELD HOSPITAL, GEORGE F. PALMER, ERNEST P. JONES and JAMES P. DESANTIS, Defendants.	CIVIL DIVISION No. 2003-00068-CD

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

Defendant, James P. DeSantis, intends to serve a subpoena identical to that which is attached to this notice upon Children's Hospital. Counsel and all available parties have consented to service of this subpoena. No objection has been made and the subpoena may be served.

MEYER, DARRAGH, BUCKLER, BEBENEK & ECK, PLLC

BY: _____

MARY LOU MAIERHOFER, ESQUIRE
Counsel for Defendant, James P. DeSantis
120 Lakemont Park Boulevard
Altoona, PA 16602
Phone No.: (814) 941-4600
ID # 62175

Date: December 4, 2003

COMMONWEALTH OF PENNSYLVANIA
COUNTY OF CLEARFIELD

Sandra Conklin
Justine Kline
Plaintiff(s)

Vs. * No. 2003-00068-CD

Clearfield Hospital
George F. Palmer
James P. DeSantis
Defendant(s)

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

TO: Children's Hospital, 3705 Fifth Avenue, Pittsburgh, PA 15213
(Name of Person or Entity)

Within twenty (20) days after service of this subpoena, you are ordered by the Court to produce the following documents or things: Please see attached sheet.
Meyer, Darragh, 120 Lakemont Park Boulevard, Altoona, PA 16602

(Address)

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

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

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

NAME: Mary Lou Maierhofer, Esquire
ADDRESS: 120 Lakemont Park Boulevard
Altoona, PA 16602
TELEPHONE: (814) 941-4600
SUPREME COURT ID # 62175
ATTORNEY FOR: Defendant, James P. DeSantis

BY THE COURT:

William A. Shaw
Prothonotary/Clerk, Civil Division

DATE: Wednesday, December 03, 2003
Seal of the Court

Deputy

MLM/tenPRINCE-105665

ATTACHED SHEET

1. Original Tapes and/or transcribed conversations between any and all personnel or independent contractors of Children's Hospital of Pittsburgh that occurred on or about February 23, 2002 involving the care and/or treatment of Justine Kline;

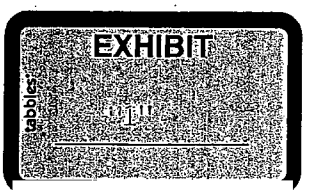
2. Copies of any and all machine recorded information on any of the Children's Hospital equipment related to the transport team's treatment involving Justine Kline on February 23, 2002;

3. Copies of any and all transport policies involving physician's and/or transport team's authority, responsibility and scope of duty - when sending a transport team to requesting transport hospital; when treating a patient at the requesting transport hospital; during transport; and upon arrival at Children's Hospital.

4. Any and all policies and/or procedures for any transport team involving physician and/or nurses and/or respiratory therapists traveling to an outside facility to pick up and transport a patient back to Children's Hospital in Pittsburgh;

5. Any and all ICU critical care physicians and nurse team policies and standard operating procedures that define the job of the physician, nurse and transport team.

6. Copies of the Curriculum Vitae and/or identification with the full name, address and telephone number of the transport team for Justine Kline as shown on Exhibit "1" attached hereto, including the signature of the transport physicians and admitting physician.


EXHIBIT

Children's Hospital of Pittsburgh

TRANSPORT RECORD

FORM NO. 341A (REV. 2/00)

UNIT NO.

NURSING UNIT: PICU

PATIENT NAME: LAST: Kline FIRST: Justine SEX: M F ☐☐

DATE: 2/23/02 TIME OF CALL: ☐ AM ☐ PM

BIRTHDATE: 9/26/98 AGE: 3y WEIGHT: 15 Kg

REFERRING PHYSICIAN: DeSantis

PARENT/GUARDIAN NAME(S): Sandra Conklin PHONE NO.: (814) 762-8689 STATE RESIDE: PA

REFERRING INSTITUTION: Clearfield

MODE OF TRANSPORTATION: SPECIFY

☐ AMBULANCE ☐ FIXED WING

☒ HELICOPTER ☐ OTHER

REASON FOR TRANSPORT: Sepsis

TRANSP. R.N. PAGED	ARRIVE BEDSIDE	ARR. LZ/AIRPORT/E.R.
	1536	1725
DEPART CHP	DEPART BEDSIDE	ARR. CHP BEDSIDE
1452	1638	1729
ARR. LZ/AIRPORT/E.R.	DEPART LZ/AIRPORT	
1533	1641	

☒ CRITICAL CARE TRANSPORT SERVICE 1950100 X _____ ¼ HR.

☐ TRANSPORT SERVICE RETURN TRIP 1950200 X _____ ¼ HR.

☒ CRITICAL CARE TRANSPORT COUNT 1950300

NEONATAL HISTORY

MOTHER

PARA	GRAVIDA	BLOOD TYPE	TYPE OF DELIVERY	COMPLICATIONS OF PREGNANCY/DELIVERY

INFANT

TIME OF BIRTH	GESTATIONAL AGE	BIRTH WT.	APGARS	TIME OF LAST FEEDING	PATIENT GIVEN: EYE CARE	PATIENT GIVEN: VIT. K	PATIENT PASSED: URINE	PATIENT PASSED: MECONIUM
☐ AM ☐ PM				☐ AM ☐ PM	☐	☐	☐	☐

REFERRING HOSPITAL'S TREATMENT

MEDICATIONS: Vancomycin 225mg IV Atr, thio, Succ, Vec

OTHER: Epi .3ml .1mg/ml FIO2 1.0 RSI 3:45

INITIAL VITAL SIGNS

TEMP.	PULSE	RESP.	BP	GLUCOSE	POX	ETT SIZE	ALLERGIES	PUPILS R / L	OTHER
34.9	132	24	99/45	94	not able to sense	4.5 oral	NKDA	5-6 mm	KO eyp.

HISTORY: PERTINENT PRE-ARRIVAL EVENTS

3 yo seen last night at 2am for fever, confusion, twitching, vomiting & visual hallucinations. Dx c OM, sent home c AM Rocephin returned today for lethargy, hypotonia, rash on lower left + buttocks. Initially HR normal → then 160. BP appt 90 → 60, To give NSS bolus and intubate if needed. Recommended Vancomycin IV

NURSING ASSESSMENT

Received pt orally intubated c 4.5 ETT being bagged by hand. Breath sounds bilateral c equal heart. Extremely mottled c cold extremities. Cap refill >5 sec. Faint brachial pulses c pt better femoral pulses. Unable to obtain BP get blood pressure + pox by dinamap. Received atropine. Propofol Succinycholine + Vecuronium prior to our arrival for intubation. Dx 94 by their labs.

Had @ hand PIV c NSS at 1 liter/hr (already given 1.3 L or 80cc/kg) and infusing Dopamine at 10mcg/kg/min. Referring staff gave 3 doses also of Epi for poor perfusion. PIV in (L) hand also.

Pupils 5-6 mm and barely reacting to movement noted. Began Epi infusion at .1 mcg/kg/min via @ hand c dopamine and PICU fellow called for consult. Advised by Dr Helmet to Titrate Epi to .5 mcg/kg/min to raise BP which was 99/45.

SIGNATURE: RESPIRATORY THERAPIST	DATE	TIME	SIGNATURE: TRANSPORT PHYSICIAN	DATE	TIME
Ruth Ann Evans RRT	2/23/02	☐ AM ☐ PM		2/23/02	☐ AM ☐ PM
SIGNATURE: TRANSPORT RN	DATE	TIME	SIGNATURE: ADMITTING RN	DATE	TIME
	2/23/02	☐ AM			☐ AM

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Children's Hospital of Pittsburgh

TRANSPORT RECORD

FORM NO. 918 (REV. 7/99)

PATIENT: Kline Justine | UNIT NO. | BIRTHDATE: 9/26/98

LAB WORK

LYTES: Na 137 K 4.1 Cl 98 | CBC: WBC 7.7 H+H 12/38 Plt 328/204

BLOOD GAS: pH | PO_2 | PCO_2 | HCO_3 14.4 | BE -9/21 | SITE

OTHER: Gluc 116 Bun 19 CO_2 21 | CULTURE PENDING: ☒ YES ☐ NO

TRANSPORT VS FOLW SHEET

TIME	NTE TEMP.	BED TEMP.	PT TEMP.	HR	R	BP/MAP	GLUCOSE	FIO_2	R	PIP/PEEP	POX	PUPILS	MISC.
								1.0	24	~~30~~/5		5-6	
								1.0	24	30/10		Fix + dilated	Peep at RH

See narrative

MEDICATIONS

DRUG	TIME	DOSE	RTE	GIVEN BY
NaHCO3	1600	45meq	IV	Kathleen
Hydrocortisone	1610	150mg	IV	Diana RN
NaHCO3	1700	45meq	IV	"

VASCULAR ACCESS

SITE	SOLUTION	RATE CC/HR.	TOTAL INFUSED
IV (L) hand	Epi + Dopamine		76.2
ART/UA			
OTHER (R) hand	D5.2NS	60	30

CONTINUOUS INFUSIONS: WT.

TIME	DRUG	STRENGTH MIXED	DOSE INFUSING	RATE CC/HR	AMOUNT INFUSED
1545	Epinephrine	60mcg/ml	.1 mcg/kg/m	1.5cc/hr	
			.2	3 cc/hr	
			.5	7.5cc/hr ≈	
			1	15 cc/hr	60 ml
			2	20cc/hr	
			3	30hr	
1730			5	75hr	

DEPARTURE LIST

	YES	NO
PERMISSION FORM	✓	
ID BAND	—	
MEDICAL CHART	faxed	
X-RAYS		✓
PARENTS SEEN	✓	
PARENTS GIVEN INFO	✓	

COMMENTS: Mom seen pt prior to depart

STABILIZATION / INTERVENTIONS / OTHER

NG placed nasally and asp ø. Abd distended. Epi ↑ to .5 c subsequent BP 42/A. Lines 1 fingerstick above umbilicus. Advised to hold NS bolus and continue to ↑ epi infusion to 1-2 mcg/kg/m for BP. Also advised to give NaHCO3 3meq/kg - gave 45meq ina pIV and shock dose of steroids Hydrocortisone 50mg/kg given over ½ hr. Pt 61. Began D5.2NS at 60cc/hr. BP remains low 30/19 m22 Advised to ↑ epi to 5 mcg/kg/min and repeat NaHCO3 dose 1 minute of 3meq/kg. Pink frothy secretions noted from ETT and nose which

SIGNATURE: RESPIRATORY THERAPIST:	DATE	TIME	SIGNATURE: TRANSPORT PHYSICIAN:	DATE	TIME
Beth Davis RRT	2/23/02	☐ AM ☐ PM		2/23/02	☐ AM ☐ PM

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Children's Hospital of Pittsburgh

TRANSPORT RECORD

FORM NO. 918 (REV. 7/99)

PATIENT	UNIT NO.	BIRTHDATE
Kline Justine		9/26/98

LABWORK

LYTES	CBC

BLOOD GAS	pH	PO_2	PCO_2	HCO_3	BE	SITE

OTHER

CULTURE PENDING ☐ YES ☐ NO

TRANSPORT VS FOLW SHEET

TIME	NTE TEMP.	BED TEMP.	PT TEMP.	HR	R	BP/MAP	GLUCOSE	FIO_2	R	PIP/PEEP	POX	PUPILS	MISC.

MEDICATIONS

DRUG	TIME	DOSE	RTE	GIVEN BY

VASCULAR ACCESS

SITE	SOLUTION	RATE CC/HR	TOTAL INFUSED
IV -			
ART/UA			
OTHER			

CONTINUOUS INFUSIONS: WT.

TIME	DRUG	STRENGTH MIXED	DOSE INFUSING	RATE CC/HR	AMOUNT INFUSED
1536	Dopamine	400mcg/ml	10mcg/kg/m	5.6	16.2
1700	Dopamine	" "	" "	11.2	

DEPARTURE LIST	YES	NO
PERMISSION FORM		
ID BAND		
MEDICAL CHART		
X-RAYS		
PARENTS SEEN		
PARENTS GIVEN INFO		

COMMENTS:

STABILIZATION / INTERVENTIONS / OTHER

increased. Resp ↑ 10. Unable to move chest c ventilator due to lg leak but able to bag. Advised not to squeeze ETT and hand ventilate back. BP remains 42/21. Perfusion unchanged. Pulses are stronger in radial + femoral sites. Pat still not picking up Pt extremely cold T 34.9 rectally. Warm blankets applied. Spoke c mom at referring hospital and informed her how gravely + critically ill Justine is. Consent obtained. Mom saw pt prior to depart

SIGNATURE: RESPIRATORY THERAPIST:	DATE	TIME	SIGNATURE: TRANSPORT PHYSICIAN:	DATE	TIME
Beth Parrish RRT	2/23/02	☐ AM ☐ PM		2/23/02	☐ AM ☐ PM

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Children's Hospital of Pittsburgh

TRANSPORT RECORD

FORM NO. 918 (REV. 7/99)

PATIENT	UNIT NO.	BIRTHDATE
Kline Justine		9/26/98

LABWORK

LYTES	CBC

BLOOD GAS	pH	PO_2	PCO_2	HCO_3	BE	SITE

OTHER	CULTURE PENDING ☐ YES ☐ NO

TRANSPORT VS FOLW SHEET

TIME	NTE TEMP.	BED TEMP.	PT TEMP.	HR	R	BP/MAP	GLUCOSE	FIO_2	R	PIP/ PEEP	POX	PUPILS	MISC.

MEDICATIONS

DRUG	TIME	DOSE	RTE	GIVEN BY

VASCULAR ACCESS

SITE	SOLUTION	RATE CC/HR.	TOTAL INFUSED
IV -			
ART/UA			
OTHER			

CONTINUOUS INFUSIONS: WT.

TIME	DRUG	STRENGTH MIXED	DOSE INFUSING	RATE CC/HR	AMOUNT INFUSED

DEPARTURE LIST	YES	NO
PERMISSION FORM		
ID BAND		
MEDICAL CHART		
X-RAYS		
PARENTS SEEN		
PARENTS GIVEN INFO		

COMMENTS:

STABILIZATION / INTERVENTIONS / OTHER

Repeated dose of NaHCO3 in route. BP 98/54 c poor perfusion + mottling. Copious amt fluid from ETT, mouth + nose, TO in ED. Given 2nd dose NaHCO3 in route + Dopamine ↑ to 20 mcg/kg/min. Pupils fixed + dilated. Cold. To rad. To elevator and pt extubated due to total secretions. Bagged and HR ↑ 60. Chest compressions started in elevator while being bagged. Arrived to PCU. HR 30's. Chest compressions + bagging continued. Abd distended. To PCU bed. Dr Telmet to intubate. Care turned over to PCU staff.

SIGNATURE: RESPIRATORY THERAPIST:	DATE	TIME ☐ AM ☐ PM	SIGNATURE: TRANSPORT PHYSICIAN:	DATE	TIME ☐ AM ☐ PM
Sonia Parisi RT	2/23/02			2/23/02	
SIGNATURE: TRANSPORT RN:	DATE	TIME	SIGNATURE: ADMITTING RN:	DATE	TIME

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

SANDRA CONKLIN, as parent and natural guardian of JUSTINE KLINE, and SANDRA CONKLIN, individually,	CIVIL DIVISION NO.: 2003-68 CD
Plaintiffs,	TYPE OF PLEADING:
v.	**NOTICE OF SERVICE OF AMENDED NOTICE OF DEPOSITION OF DEFENDANT GEORGE F. PALMER**
CLEARFIELD HOSPITAL, GEORGE F. PALMER, ERNEST P. JONES, and JAMES P. DeSANTIS,	FILED ON BEHALF OF PLAINTIFF
Defendants.	COUNSEL OF RECORD FOR THIS PARTY: ROLF LOUIS PATBERG, ESQUIRE PA I.D. NO.: 65185 PATBERG, CARMODY, GING & FILIPPI 527 COURT PLACE PITTSBURGH, PA 15219 (412) 232-3500
JURY TRIAL DEMANDED	

FILED

NOV 06 2003

William A. Shaw
Prothonotary/Clerk of Courts

#36

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

SANDRA CONKLIN, as parent and natural guardian of JUSTINE KLINE, and SANDRA CONKLIN, individually,	)	CIVIL DIVISION
	)	NO.: 2003-68 CD
Plaintiffs,	)	
v.	)	
CLEARFIELD HOSPITAL, GEORGE F. PALMER, ERNEST P. JONES, and JAMES P. DeSANTIS,	)	
Defendants.	)	**JURY TRIAL DEMANDED**

NOTICE OF SERVICE OF AMENDED NOTICE OF DEPOSITION OF DEFENDANT GEORGE F. PALMER

TO: PROTHONOTARY

Please take notice that the foregoing Amended Notice of Deposition of Defendant George F. Palmer has been served upon all counsel of record this 4 day of November, 2003 via postage prepaid United States Mail.

RESPECTFULLY SUBMITTED:

PATBERG, CARMODY, GING & FILIPPI

DATE: 11-4-03

By _____
Rolf Louis Patberg, Esquire
PA I.D. No.: 65185

PATBERG, CARMODY, GING & FILIPPI
527 Court Place
Pittsburgh, PA 15219
(412) 232-3500

Attorney for Plaintiffs

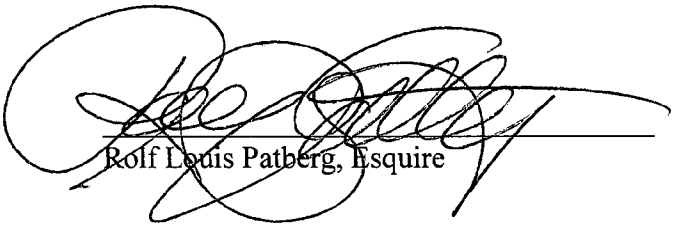
JURY TRIAL DEMANDED

CERTIFICATE OF SERVICE

I, Rolf Louis Patberg, Esquire, hereby certify that a true and correct copy of the foregoing Notice of Service of Amended Notice of Deposition of Defendant George F. Palmer was forwarded this 4 day of October, 2003 via postage prepaid United States Mail to the following:

John L. McIntyre, Esquire
McIntyre, Dugas, Hartye & Schmitt
P.O. Box 533
Holidaysburg, PA 16648

Mary Lou Maierhofer, Esquire
Meyer, Darragh, Buckler, Bebenek & Eck, P.L.L.C.
120 Lakemont Park Boulevard
Altoona, PA 16602



Rolf Louis Patberg, Esquire

FILED NO CC
m/11:29 BH
NOV 06 2003

William A. Shaw
Prothonotary/Clerk of Courts

MLM/ten/PRINCE-105665

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

SANDRA CONKLIN, as parent and natural guardian of Justine Kline, and SANDARA CONKLIN, individually, Plaintiffs, vs. CLEARFIELD HOSPITAL, GEORGE F. PALMER, ERNEST P. JONES and JAMES P. DESANTIS, Defendants.	CIVIL DIVISION No. 2003-00068-CD FILED NOV 0 4 2003 William A. Shaw Prothonotary/Clerk of Courts

REVISED NOTICE OF DEPOSITION OF PLAINTIFF, SANDRA CONKLIN

TO: Sandra Conklin
c/o Rolf Louis Patberg, Esquire
Patberg, Carmody, Ging & Filippi
527 Court Place
Pittsburgh, PA 15219

PLEASE TAKE NOTICE that the deposition of Sandra Conklin, will be taken for the purpose of discovery and for use at trial, pursuant to Rule 4007.1 et seq, of the PA Rules of Civil Procedure, as amended, before an Official Court Reporter on **Thursday, November 13, 2003,** at **12:00 p.m.** at Sargent's Court Reporting Service, Inc., located at 106 North Second Street, First Floor (first suite on the left), Clearfield, PA 16830, at which time and place you are invited to appear and take such part as shall be fitting and proper.

MEYER, DARRAGH, BUCKLER, BEBENEK & ECK

BY: _____

MARY LOU MAIERHOFER, ESQUIRE
Counsel for Defendant, James DeSantis, M.D.
120 Lakemont Park Boulevard
Altoona, PA 16602
(814) 941-4600
I.D. #62175

Date: November 3, 2003

cc: Sargent's Court Reporting Service, Inc.

#35

MLM/ten/PRINCE-105665

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

SANDRA CONKLIN, as parent and natural guardian of Justine Kline, and SANDARA CONKLIN, individually, Plaintiffs, vs. CLEARFIELD HOSPITAL, GEORGE F. PALMER, ERNEST P. JONES and JAMES P. DESANTIS, Defendants.	CIVIL DIVISION No. 2003-00068-CD

CERTIFICATE OF SERVICE

I, Mary Lou Maierhofer, Esquire, of the law firm of MEYER, DARRAGH, BUCKLER, BEBENEK & ECK, PLLC, on behalf of Defendant, James P. DeSantis, hereby certify that this Revised Notice of Deposition of Plaintiff, Sandra Conklin was served this **3rd day of November, 2003**, by mailing same first class United States mail, postage prepaid, addressed to Counsel as follows:

Rolf Louis Patberg, Esquire
Patberg, Carmody, Ging & Filippi
527 Court Place
Pittsburgh, PA 15219
(Plaintiff's Counsel)

John McIntyre, Esquire
McIntyre, Dugas, Hartye & Schmitt
P.O. Box 533
Hollidaysburg, PA 16648
(Counsel for Clearfield Hospital, George F. Palmer and Ernest P. Jones)

MEYER, DARRAGH, BUCKLER, BEBENEK & ECK, PLLC

BY: _____

MARY LOU MAIERHOFER, ESQUIRE
Counsel for Defendant, James P. DeSantis
120 Lakemont Park Boulevard
Altoona, PA 16602
(814) 941-4600
I.D. #62175

FILED NO CC
m/1:10/cert
NOV 04 2003

William A. Shaw
Prothonotary/Clerk of Courts

MLM/ten/PRINCE-105665

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

SANDRA CONKLIN, as parent and natural guardian of Justine Kline, and SANDARA CONKLIN, individually, Plaintiffs, vs. CLEARFIELD HOSPITAL, GEORGE F. PALMER, ERNEST P. JONES and JAMES P. DESANTIS, Defendants.	CIVIL DIVISION No. 2003-00068-CD

NOTICE OF DEPOSITION OF PLAINTIFF, SANDRA CONKLIN

TO: Sandra Conklin
c/o Rolf Louis Patberg, Esquire
Patberg, Carmody, Ging & Filippi
527 Court Place
Pittsburgh, PA 15219

PLEASE TAKE NOTICE that the deposition of Sandra Conklin, will be taken for the purpose of discovery and for use at trial, pursuant to Rule 4007.1 et seq, of the PA Rules of Civil Procedure, as amended, before an Official Court Reporter on **Tuesday, November 11, 2003,** at **10:00 a.m.** at Sargent's Court Reporting Service, Inc., located at 106 North Second Street, First Floor (first suite on the left), Clearfield, PA 16830, at which time and place you are invited to appear and take such part as shall be fitting and proper.

MEYER, DARRAGH, BUCKLER, BEBENEK & ECK

BY: _____
MARY LOU MAIERHOFER, ESQUIRE
Counsel for Defendant, James DeSantis, M.D.
120 Lakemont Park Boulevard
Altoona, PA 16602
(814) 941-4600
I.D. #62175

FILED

OCT 09 2003
William A. Shaw
Prothonotary/Clerk of Courts

cc: Sargent's Court Reporting Service, Inc.

#34

MLM/ten/PRINCE-105665

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

SANDRA CONKLIN, as parent and natural guardian of Justine Kline, and SANDARA CONKLIN, individually, Plaintiffs, vs. CLEARFIELD HOSPITAL, GEORGE F. PALMER, ERNEST P. JONES and JAMES P. DESANTIS, Defendants.	CIVIL DIVISION No. 2003-00068-CD

CERTIFICATE OF SERVICE

I, Mary Lou Maierhofer, Esquire, of the law firm of MEYER, DARRAGH, BUCKLER, BEBENEK & ECK, PLLC, on behalf of Defendant, James P. DeSantis, hereby certify that this Notice of Deposition of Plaintiff, Sandra Conklin was served this **8th day of October, 2003**, by mailing same first class United States mail, postage prepaid, addressed to Counsel as follows:

Rolf Louis Patberg, Esquire
Patberg, Carmody, Ging & Filippi
527 Court Place
Pittsburgh, PA 15219
(Plaintiff's Counsel)

John McIntyre, Esquire
McIntyre, Dugas, Hartye & Schmitt
P.O. Box 533
Hollidaysburg, PA 16648
(Counsel for Clearfield Hospital, George F. Palmer and Ernest P. Jones)

MEYER, DARRAGH, BUCKLER, BEBENEK & ECK, PLLC

BY: _____

MARY LOU MAIERHOFER, ESQUIRE
Counsel for Defendant, James P. DeSantis
120 Lakemont Park Boulevard
Altoona, PA 16602
(814) 941-4600
I.D. #62175

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

SANDRA CONKLIN, as parent and natural guardian of JUSTINE KLINE, and SANDRA CONKLIN, individually,	No. 2003 – 68 CD
	ISSUE: **Notice of Service of Supplemental Answers to Interrogatories on Behalf of Clearfield Hospital**
Plaintiff	
vs.	
	Filed on behalf of Defendants, CLEARFIELD HOSPITAL and GEORGE F. PALMER
CLEARFIELD HOSPITAL, GEORGE F. PALMER, ERNEST P. JONES and JAMES P. DESANTIS,	Counsel of Record: John L. McIntyre, Esquire PA I.D. #28015 McINTYRE, DUGAS, HARTYE & & SCHMITT P.O. Box 533 Hollidaysburg, PA 16648 (814) 696-3581
Defendants	
	JURY TRIAL DEMANDED

I HEREBY CERTIFY THAT A TRUE AND CORRECT COPY OF THE WITHIN WAS MAILED TO ALL COUNSEL OF RECORD THIS 6th DAY OF **OCTOBER, 2003**.

Attorneys for Named Defendants

FILED
OCT 08 2003
11:05 cm
William A. Shaw
Prothonotary/Clerk of Courts
NO CERT COPIES

#33

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

SANDRA CONKLIN, as parent and natural guardian of JUSTINE KLINE, and SANDRA CONKLIN, individually,	:	No. 2003 – 68 CD
Plaintiff	:	
vs.	:	
CLEARFIELD HOSPITAL, GEORGE F. PALMER, ERNEST P. JONES and JAMES P. DESANTIS,	:	
Defendants	:	JURY TRIAL DEMANDED

SUPPLEMENTAL ANSWERS TO INTERROGATORIES
ON BEHALF OF CLEARFIELD HOSPITAL

TO: PROTHONOTARY

You are hereby notified that on the **6th** day of **OCTOBER, 2003**, Defendants, Clearfield Hospital served Supplemental Answers to Interrogatories on Behalf of Clearfield Hospital, by mailing the original of same via First Class U.S. Mail, postage prepaid, addressed to the following:

Rolf Louis Patberg, Esquire
Patberg, Carmody, Ging & Filippi
527 Court Place
Pittsburgh, PA 15219

Respectfully submitted,

McINTYRE, DUGAS, HARTYE & SCHMITT

By _____
Attorneys for Defendants,
Clearfield Hospital and George Palmer

John L. McIntyre, Esquire
PA I.D. 28015
P.O. Box 533
Hollidaysburg, PA 16648
(814) 696-3581

FILED

OCT 08 2003

William A. Shaw
Prothonotary/Clerk of Courts

MLM/ten/PRINCE-105665

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

SANDRA CONKLIN, as parent and natural guardian of Justine Kline, and SANDARA CONKLIN, individually, Plaintiffs, vs. CLEARFIELD HOSPITAL, GEORGE F. PALMER, ERNEST P. JONES and JAMES P. DESANTIS, Defendants.	CIVIL DIVISION No. 2003-00068-CD

CERTIFICATE PREREQUISITE TO SERVICE OF SUBPOENAS PURSUANT TO RULE 4009.22

As a prerequisite to service of subpoenas for documents and things pursuant to Rule 4009.22, Defendant, James P. DeSantis, certify that:

(1) a notice of intent to serve the subpoena with a copy of the subpoena attached thereto was mailed or delivered to each party at least twenty days prior to the date on which the subpoena is sought to be served,

(2) a copy of the notice of intent, including the proposed subpoena, is attached to this certificate,

(3) no objection to the subpoena has been received, and

(4) the subpoena which will be served is identical to the subpoena which is attached to the notice of intent to serve the subpoena.

FILED

SEP 29 2003

William A. Shaw
Prothonotary

MEYER, DARRAGH, BUCKLER, BEBENEK & ECK, PLLC

BY: _____

MARY LOU MALERHOFER, ESQUIRE
Counsel for Defendant, James P. DeSantis
120 Lakemont Park Boulevard
Altoona, PA 16602
Phone No.: (814) 941-4600
ID # 62175

Date: September 25, 2003

#32

MLM/ten/PRINCE-105665

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

SANDRA CONKLIN, as parent and natural guardian of Justine Kline, and SANDARA CONKLIN, individually, Plaintiffs, vs. CLEARFIELD HOSPITAL, GEORGE F. PALMER, ERNEST P. JONES and JAMES P. DESANTIS, Defendants.	CIVIL DIVISION No. 2003-00068-CD

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

Defendant, James P. DeSantis, intends to serve subpoenas identical to the ones that are attached to this notice upon Children's Hospital of Pittsburgh and STAT Med Evac. You have twenty (20) days from the date listed below in which to file of record and serve upon the undersigned an objection to the subpoenas. If no objection is made the subpoenas may be served.

MEYER, DARRAGH, BUCKLER, BEBENEK & ECK, PLLC

BY: _____

MARY LOU MAIERHOFER, ESQUIRE
Counsel for Defendant, James P. DeSantis
120 Lakemont Park Boulevard
Altoona, PA 16602
Phone No.: (814) 941-4600
ID # 62175

Date: September 16, 2003

COMMONWEALTH OF PENNSYLVANIA
COUNTY OF CLEARFIELD

SANDRA CONKLIN, as parent and natural guardian of Justine Kline, and SANDRA CONKLIN, individually, *

Plaintiff (s) *

Vs. * No. 2003-00068-CD

CLEARFIELD HOSPITAL, GEORGE F. PALMER, ERNEST P. JONES and JAMES P. DESANTIS, *

Defendant (s) *

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

TO: Children's Hospital of Pittsburgh, 3705 Fifth Avenue, Pittsburgh, PA 15213
(Name of Person or Entity)

Within twenty (20) days after service of this subpoena, you are ordered by the Court to produce the following documents or things: 1. Cardiac monitor strip with hemodynamic perimete from the transport team and 2. Original tapes and/or transcribed conversation between the pediatric intesive care physician and James P. DeSantis, M.D. (from Clearfield Hospital) on February 23, 2002 at or about 1400.
(Address)

120 Lakemont Park Boulevard, Altoona, PA 16602

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

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

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

NAME: Mary Lou Maierhofer, Esquire
ADDRESS: 120 Lakemont Park Boulevard
Altoona, PA 16602
TELEPHONE: (814) 941-4600
SUPREME COURT ID # 62175
ATTORNEY FOR: James P. DeSantis

BY THE COURT:

William A. Shaw
Prothonotary/Clerk, Civil Division

DATE: September 16, 2003
Seal of the Court

Deputy

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

COMMONWEALTH OF PENNSYLVANIA
COUNTY OF CLEARFIELD

SANDRA CONKLIN, as parent and natural guardian of Justine Kline, and SANDRA CONKLIN, individually,

Plaintiff (s)
Vs.
CLEARFIELD HOSPITAL, GEORGE F. PALMER, ERNEST P. JONES and JAMES P. DESANTIS,
Defendant (s)

No. 2003-00068-CD

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

TO: STAT Med Evac, Center for Emergency Medicine, 10 Allegheny County Airport, West Mifflin, PA 15122
(Name of Person or Entity)

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

Please see attached sheet.

Meyer, Darragh, 120 Lakemont Park Boulevard, Altoona, PA 16602
(Address)

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

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

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

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

BY THE COURT:

William A. Shaw
Prothonotary/Clerk, Civil Division

DATE: September 16, 2003
Seal of the Court

Deputy

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

ATTACHED SHEET FOR SUBPOENA TO: STAT Med Evac, Center for Emergency Medicine, 10 Allegheny County Airport, West Mifflin, PA 15122.

1. Copy of the tape and/or transcribed conversation between Personnel at Clearfield Hospital, Clearfield, PA and STAT MedEvac that occurred on 02/23/02 at approximately 1400.

2. Original tapes and/or transcribed conversation between the pediatric intensive care physician and James P. DeSantis, M.D. (from Clearfield Hospital) on February 23, 2002 at or about approximately 1400.

3. Copies of any and all documentation and/or information related to a transfer that occurred or was requested on 02/23/02 by Clearfield Hospital for Children's Hospital - Pittbsurgh - this includes any tapes, computer documentation and/or any handwritten documentation.

FILED
M 1:19 BA no cc
SEP 29 2003
William A. Shaw
Prothonotary

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

SANDRA CONKLIN, as parent and natural guardian of JUSTINE KLINE, and SANDRA CONKLIN, individually,

Plaintiffs,

v.

CLEARFIELD HOSPITAL, GEORGE F. PALMER, ERNEST P. JONES, and JAMES P. DeSANTIS,

Defendants.

JURY TRIAL DEMANDED

CIVIL DIVISION

NO.: 2003-00068 CD

TYPE OF PLEADING:

WAIVER OF OBJECTION TO SUBPOENA

FILED ON BEHALF OF PLAINTIFF

COUNSEL OF RECORD FOR THIS PARTY:

ROLF LOUIS PATBERG, ESQUIRE
PA I.D. NO.: 65185

PATBERG, CARMODY, GING & FILIPPI
527 COURT PLACE
PITTSBURGH, PA 15219
(412) 232-3500

FILED

SEP 25 2003

William A. Shaw
Prothonotary/Clerk of Courts

#31

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

SANDRA CONKLIN, as parent and natural guardian of JUSTINE KLINE, and SANDRA CONKLIN, individually,	)	CIVIL DIVISION
	)	NO.: 2003-68 CD
Plaintiffs,	)	
v.	)	
CLEARFIELD HOSPITAL, GEORGE F. PALMER, ERNEST P. JONES, and JAMES P. DeSANTIS,	)	
Defendants.	)	**JURY TRIAL DEMANDED**

WAIVER OF OBJECTION TO SUBPOENA

I, Rolf Louis Patberg, Esquire, counsel for the Plaintiff, hereby waive any objection to the certain subpoena to be served upon STAT MedEvac pursuant to the Notice of Intent served on or about September 16, 2003.

RESPECTFULLY SUBMITTED:

PATBERG, CARMODY, GING & FILIPPI

DATE: 9-23-03

By _____
Rolf Louis Patberg, Esquire
PA I.D. No.: 65185

PATBERG, CARMODY, GING & FILIPPI
527 Court Place
Pittsburgh, PA 15219
(412) 232-3500

Attorney for Plaintiffs

CERTIFICATE OF SERVICE

I, Rolf Louis Patberg, Esquire, hereby certify that a true and correct copy of the foregoing Waiver of Objection to Subpoena was forwarded this 23 day of September, 2003 via postage prepaid United States Mail to the following:

John L. McIntyre, Esquire
McIntyre, Dugas, Hartye & Schmitt
P.O. Box 533
Holidaysburg, PA 16648

Mary Lou Maierhofer, Esquire
Meyer, Darragh, Buckler, Bebenek & Eck, P.L.L.C.
120 Lakemont Park Boulevard
Altoona, PA 16602

Rolf Louis Patberg, Esquire

FILED NO CC
m/ 1:53 SEP 25 2003 E

William A. Shaw
Prothonotary/Clerk of Courts

MLM/ten/PRINCE-105665

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

SANDRA CONKLIN, as parent and natural guardian of Justine Kline, and SANDARA CONKLIN, individually, Plaintiffs, vs. CLEARFIELD HOSPITAL, GEORGE F. PALMER, ERNEST P. JONES and JAMES P. DESANTIS, Defendants.	CIVIL DIVISION No. 2003-00068-CD

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

Defendant, James P. DeSantis, intends to serve subpoenas identical to the ones that are attached to this notice upon Children's Hospital of Pittsburgh and STAT Med Evac. You have twenty (20) days from the date listed below in which to file of record and serve upon the undersigned an objection to the subpoenas. If no objection is made the subpoenas may be served.

MEYER, DARRAGH, BUCKLER, BEBENEK & ECK, PLLC

BY: _____

MARY LOU MAIERHOFER, ESQUIRE
Counsel for Defendant, James P. DeSantis
120 Lakemont Park Boulevard
Altoona, PA 16602
Phone No.: (814) 941-4600
ID # 62175

FILED

SEP 17 2003
m/ 12:20 (w
William A. Shaw
Prothonotary/Clerk of Courts
NO CERT COPIES

Date: September 16, 2003

#30

COMMONWEALTH OF PENNSYLVANIA
COUNTY OF CLEARFIELD

SANDRA CONKLIN, as parent and natural guardian of Justine Kline, and SANDRA CONKLIN, individually, *

Plaintiff (s) *
Vs. * No. 2003-00068-CD
CLEARFIELD HOSPITAL, GEORGE F. PALMER, ERNEST P. JONES and JAMES P. DESANTIS, *

Defendant (s) *

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

TO: Children's Hospital of Pittsburgh, 3705 Fifth Avenue, Pittsburgh, PA 15213
(Name of Person or Entity)

Within twenty (20) days after service of this subpoena, you are ordered by the Court to produce the following documents or things: 1. Cardiac monitor strip with hemodynamic perimete from the transport team and 2. Original tapes and/or transcribed conversation between the pediatric intesive care physician and James P. DeSantis, M.D. (from Clearfield Hospital) on February 23, 2002 at or about 1400.
(Address)

120 Lakemont Park Boulevard, Altoona, PA 16602

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

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

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

NAME: Mary Lou Maierhofer, Esquire
ADDRESS: 120 Lakemont Park Boulevard
Altoona, PA 16602
TELEPHONE: (814) 941-4600
SUPREME COURT ID # 62175
ATTORNEY FOR: James P. DeSantis

BY THE COURT:

William A. Shaw
Prothonotary/Clerk, Civil Division

DATE: September 16, 2003
Seal of the Court

Deputy

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

COMMONWEALTH OF PENNSYLVANIA
COUNTY OF CLEARFIELD

SANDRA CONKLIN, as parent and natural guardian of Justine Kline, and SANDRA CONKLIN, individually,

Plaintiff (s)

Vs.

CLEARFIELD HOSPITAL, GEORGE F. PALMER, ERNEST P. JONES and JAMES P. DESANTIS,

Defendant (s)

No. 2003-00068-CD

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

TO: STAT Med Evac, Center for Emergency Medicine, 10 Allegheny County Airport, West Mifflin, PA 15122
(Name of Person or Entity)

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

Please see attached sheet.

Meyer, Darragh, 120 Lakemont Park Boulevard, Altoona, PA 16602
(Address)

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

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

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

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

BY THE COURT:

William A. Shaw
Prothonotary/Clerk, Civil Division

DATE: September 16, 2003
Seal of the Court

~~Deputy~~

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

ATTACHED SHEET FOR SUBPOENA TO: STAT Med Evac, Center for Emergency Medicine, 10 Allegheny County Airport, West Mifflin, PA 15122.

1. Copy of the tape and/or transcribed conversation between Personnel at Clearfield Hospital, Clearfield, PA and STAT MedEvac that occurred on 02/23/02 at approximately 1400.

2. Original tapes and/or transcribed conversation between the pediatric intensive care physician and James P. DeSantis, M.D. (from Clearfield Hospital) on February 23, 2002 at or about approximately 1400.

3. Copies of any and all documentation and/or information related to a transfer that occurred or was requested on 02/23/02 by Clearfield Hospital for Children's Hospital - Pittbsurgh - this includes any tapes, computer documentation and/or any handwritten documentation.

MLM/ten/PRINCE-105665

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

SANDRA CONKLIN, as parent and natural guardian of Justine Kline, and SANDARA CONKLIN, individually, Plaintiffs, vs. CLEARFIELD HOSPITAL, GEORGE F. PALMER, ERNEST P. JONES and JAMES P. DESANTIS, Defendants.	CIVIL DIVISION No. 2003-00068-CD

FILED NO CC
m/11:35 BL
SEP 03 2003 E
William A. Shaw
Prothonotary/Clerk of Courts

CERTIFICATE OF SERVICE

I, Mary Lou Maierhofer, Esquire, of the law firm of MEYER, DARRAGH, BUCKLER, BEBENEK & ECK, PLLC, on behalf of Defendant, James P. DeSantis, hereby certify that Answers/Responses to Plaintiffs' Second Set of Interrogatories and Requests for Production of Documents Directed to all Defendants, was served this **2nd day of September, 2003**, by mailing same first class United States mail, postage prepaid, addressed to Counsel as follows:

Rolf Louis Patberg, Esquire
Patberg, Carmody, Ging & Filippi
527 Court Place
Pittsburgh, PA 15219
(Plaintiff's Counsel)

John McIntyre, Esquire
McIntyre, Dugas, Hartye & Schmitt
P.O. Box 533
Hollidaysburg, PA 16648
(Counsel for Clearfield Hospital, George F. Palmer and Ernest P. Jones)

MEYER, DARRAGH, BUCKLER, BEBENEK & ECK, PLLC

BY: _____

MARY LOU MAIERHOFER, ESQUIRE
Counsel for Defendant, James P. DeSantis
120 Lakemont Park Boulevard
Altoona, PA 16602
(814) 941-4600
I.D. #62175

#29

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

SANDRA CONKLIN, as parent and natural guardian of JUSTINE KLINE, and SANDRA CONKLIN, individually,	CIVIL DIVISION NO.: 2003-68 CD
Plaintiffs,	TYPE OF PLEADING:
v.	**NOTICE OF SERVICE OF PLAINTIFFS' SECOND SET OF INTERROGATORIES AND REQUESTS FOR PRODUCTION OF DOCUMENTS DIRECTED TO ALL DEFENDANTS**
CLEARFIELD HOSPITAL, GEORGE F. PALMER, ERNEST P. JONES, and JAMES P. DeSANTIS,	
Defendants.	FILED ON BEHALF OF PLAINTIFF
	COUNSEL OF RECORD FOR THIS PARTY:
	ROLF LOUIS PATBERG, ESQUIRE PA I.D. NO.: 65185
JURY TRIAL DEMANDED	PATBERG, CARMODY, GING & FILIPPI 527 COURT PLACE PITTSBURGH, PA 15219 (412) 232-3500

FILED

JUL 30 2003

William A. Shaw
Prothonotary/Clerk of Courts

#27

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

SANDRA CONKLIN, as parent and natural guardian of JUSTINE KLINE, and SANDRA CONKLIN, individually,	)	CIVIL DIVISION
	)	NO.: 2003-68 CD
Plaintiffs,	)	
v.	)	
CLEARFIELD HOSPITAL, GEORGE F. PALMER, ERNEST P. JONES, and JAMES P. DeSANTIS,	)	
Defendants.	)	**JURY TRIAL DEMANDED**

NOTICE OF SERVICE OF PLAINTIFFS' SECOND SET OF INTERROGATORIES AND REQUESTS FOR PRODUCTION OF DOCUMENTS DIRECTED TO ALL DEFENDANTS

TO: PROTHONOTARY

Please take notice that the foregoing Plaintiffs' Second Set of Interrogatories and Requests for Production of Documents Directed to All Defendants has been served upon all counsel of record this 28 day of July, 2003 via postage prepaid United States Mail.

RESPECTFULLY SUBMITTED:

PATBERG, CARMODY, GING & FILIPPI

DATE: 7-28-03

By _____
Rolf Louis Patberg, Esquire
PA I.D. No.: 65185

PATBERG, CARMODY, GING & FILIPPI
527 Court Place
Pittsburgh, PA 15219
(412) 232-3500

Attorney for Plaintiffs

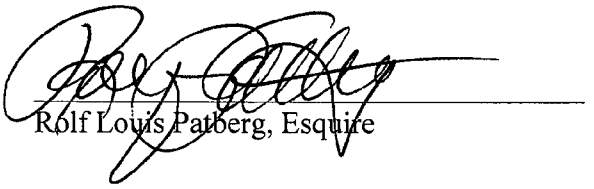
JURY TRIAL DEMANDED

CERTIFICATE OF SERVICE

I, Rolf Louis Patberg, Esquire, hereby certify that a true and correct copy of the foregoing Plaintiffs' Second Set of Interrogatories and Requests for Production of Documents Directed to All Defendants was forwarded this 23 day of July, 2003 via postage prepaid United States Mail to the following:

John L. McIntyre, Esquire
McIntyre, Dugas, Hartye & Schmitt
P.O. Box 533
Holidaysburg, PA 16648

Mary Lou Maierhofer, Esquire
Meyer, Darragh, Buckler, Bebenek & Eck, P.L.L.C.
120 Lakemont Park Boulevard
Altoona, PA 16602



Rolf Louis Patberg, Esquire

FILED NO CC
m/ 11:00 BK
JUL 30 2003
William A. Shaw
Prothonotary/Clerk of Courts

MLM/ten/PRINCE-105665

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

SANDRA CONKLIN, as parent and natural guardian of Justine Kline, and SANDARA CONKLIN, individually, Plaintiffs, vs. CLEARFIELD HOSPITAL, GEORGE F. PALMER, ERNEST P. JONES and JAMES P. DESANTIS, Defendants.	CIVIL DIVISION No. 2003-00068-CD

FILED

JUL 17 2003

William A. Shaw
Prothonotary

CERTIFICATE OF SERVICE

I, Mary Lou Maierhofer, Esquire, of the law firm of MEYER, DARRAGH, BUCKLER, BEBENEK & ECK, PLLC, on behalf of Defendant, James P. DeSantis, hereby certify that Order of Court dated July 14, 2003 was served this **15th day of July, 2003**, via facsimile and first class United States mail to Plaintiff's Counsel and by mailing same first class United States mail, postage prepaid, addressed to Counsel as follows:

Rolf Louis Patberg, Esquire
Patberg, Carmody, Ging & Filippi
527 Court Place
Pittsburgh, PA 15219
(Plaintiff's Counsel)

John McIntyre, Esquire
McIntyre, Dugas, Hartye & Schmitt
P.O. Box 533
Hollidaysburg, PA 16648
(Counsel for Clearfield Hospital, George F. Palmer and Ernest P. Jones)

MEYER, DARRAGH, BUCKLER, BEBENEK & ECK, PLLC

BY: _____
MARY LOU MAIERHOFER, ESQUIRE
Counsel for Defendant, James P. DeSantis
120 Lakemont Park Boulevard
Altoona, PA 16602
(814) 941-4600
I.D. #62175

#20

MLM/ten/PRINCE-105665

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

SANDRA CONKLIN, as parent and natural guardian of Justine Kline, and SANDARA CONKLIN, individually, Plaintiffs, vs. CLEARFIELD HOSPITAL, GEORGE F. PALMER, ERNEST P. JONES and JAMES P. DESANTIS, Defendants.	CIVIL DIVISION No. 2003-00068-CD

ORDER OF COURT

NOW this 14th day of July, 2003, upon consideration of the Motion to Compel of Defendant, James P. DeSantis, and after hearing upon the same, the Court does hereby Order, Direct and Decree that Plaintiffs produce their outstanding discovery within ten (10) days from the date of this Order.

BY THE COURT,

/s/JOHN K. REILLY, JR.

President Judge

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

JUL 14 2003

Attest.

Prothonotary/
Clerk of Courts

FILED
m/ 1:20 (BA)
JUL 17 2003
NO CC

William A. Shaw
Prothonotary

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

SANDRA CONKLIN, as parent and natural guardian of JUSTINE KLINE, and SANDRA CONKLIN, individually,	No. 2003 – 68 CD **ISSUE:** STIPULATION
Plaintiff	
vs.	
CLEARFIELD HOSPITAL, GEORGE F. PALMER, ERNEST P. JONES and JAMES P. DESANTIS,	Filed on behalf of Defendants, CLEARFIELD HOSPITAL, GEORGE F. PALMER and ERNEST P. JONES Counsel of Record: John L. McIntyre, Esquire PA I.D. #28015 McINTYRE, DUGAS, HARTYE & & SCHMITT P.O. Box 533 Hollidaysburg, PA 16648 (814) 696-3581
Defendants	JURY TRIAL DEMANDED

I HEREBY CERTIFY THAT A TRUE AND CORRECT COPY OF THE WITHIN WAS MAILED TO ALL COUNSEL OF RECORD THIS 14TH DAY OF **JULY, 2003**

Attorneys for Named Defendants

FILED

JUL 16 2003

William A. Shaw
Prothonotary

#25

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

SANDRA CONKLIN, as parent and natural guardian of JUSTINE KLINE, and SANDRA CONKLIN, individually,	:	No. 2003 – 68 CD
Plaintiff	:	
vs.	:	
CLEARFIELD HOSPITAL, GEORGE F. PALMER, ERNEST P. JONES and JAMES P. DESANTIS,	:	
Defendants	:	JURY TRIAL DEMANDED

ORDER OF COURT

AND NOW, on this 16th day of July, 2003, pursuant to the Stipulation of counsel, it is hereby ORDERED, ADJUDGED and DECREED that Ernest P. Jones, M.D. is dismissed from the above lawsuit pursuant to the Affidavit of Non-Involvement signed in accordance with 40 Pa. C.S. §1301.827-A.

The Prothonotary is directed to remove the name of Ernest P. Jones M.D. from the within lawsuit.

BY THE COURT:

J. Riley

FILED

JUL 17 2003

William A. Shaw
Prothonotary

FILED icc Atty McIntyre
01 10:15 BH
JUL 17 2003

William A. Shaw
Prothonotary

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

SANDRA CONKLIN, as parent and natural guardian of JUSTINE KLINE, and SANDRA CONKLIN, individually,	:	No. 2003 – 68 CD
Plaintiff	:	
vs.	:	
CLEARFIELD HOSPITAL, GEORGE F. PALMER, ERNEST P. JONES and JAMES P. DESANTIS,	:	
Defendants	:	JURY TRIAL DEMANDED

STIPULATION

AND NOW, this 11th day of ~~June~~ July 2003, it is hereby agreed by and amongst all parties, and their counsel, as follows:

1. Ernest P. Jones, M.D. executed an Affidavit of Non-Involvement pursuant to 40 P.S. §1301.827-A. Attached hereto and made part hereof is a true and correct copy of said Stipulation and marked "Exhibit A".

Pursuant to the above Stipulation, all counsel agree that Dr. Jones should be dismissed as a party Defendant pursuant to said Statute.

All counsel agree to the dismissal of Dr. Jones pursuant to the above and further, agree that the Prothonotary is directed to remove the name of Ernest P. Jones, M.D. from the within caption.

Mary Lou Malernofer, Esquire

Rolf Louis Patberg, Esquire

John L. McIntyre, Esquire

CERTIFIED MAIL: #7099 3220 0001 0978 3183

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

SANDRA CONKLIN, as parent and natural guardian of JUSTINE KLINE, and SANDRA CONKLIN, individually,	:	No. 2003 – 68 CD
Plaintiff	:	
vs.	:	
CLEARFIELD HOSPITAL, GEORGE F. PALMER, ERNEST P. JONES and JAMES P. DESANTIS,	:	
Defendants	:	JURY TRIAL DEMANDED

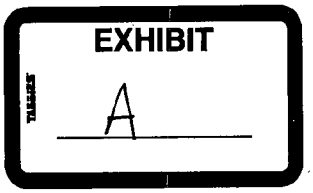
AFFIDAVIT OF NON-INVOLVEMENT OF DEFENDANT ERNEST P. JONES, M.D. PURSUANT TO 40 P.S. §1301.827-A

Ernest P. Jones, M.D., is authorized to make this Affidavit on his own behalf in the above-captioned matter, having been duly sworn according to law, deposes and says as follows:

1. The lawsuit involves claims of medical malpractice made on behalf of Sandra Conklin, as parent and natural guardian of Justine Kline and Sandra Conklin, individually pertaining to medical care and treatment rendered at the Clearfield Hospital to Justine Kline on February 23, 2002.

2. The plaintiff contends that Justine Kline was in the emergency department on two different occasions on the above date.

3. The plaintiff contends that the emergency department physicians were negligent in treating Justine Kline on February 23, 2002. Ernest P. Jones has been named as a defendant, with the plaintiff asserting that he provided medical care and treatment on February 23, 2002.



4. Ernest P. Jones, M.D., did not provide any medical care, treatment or otherwise have any involvement with Justine Kline on February 23, 2002, while she was a patient in the emergency department of the Clearfield Hospital.

5. Ernest P. Jones, M.D., was not on duty at all on February 23, 2002, at the Clearfield Hospital.

6. Ernest P. Jones, M.D., should be dismissed form the within lawsuit, insofar as he was not in any way involved with the care and treatment rendered to Justine Kline in the emergency department at the Clearfield Hospital on February 23, 2002.

7. Ernest P. Jones M.D., respectfully submits that the above facts give rise to the basis for his dismissal pursuant to 40 P.S. §1301.827-A, and files the instant Affidavit in support of his position.

Date: 5/21/03

Ernest P. Jones, M.D.

STATE OF PENNSYLVANIA)
) ss:
COUNTY OF Clearfield)

On this 21st day of May, 2003, before me personally appeared Ernest P. Jones MD to me known, and known to me to be the same persons described in and who executed the above instrument and they severally acknowledged to me that they executed the same.

Notary Public

My Commission Expires:

Notarial Seal
Karen L. Rubbe, Notary Public
Clearfield Boro, Clearfield County
My Commission Expires Mar. 26, 2006
Member, Pennsylvania Association of Notaries

FILED 1 cc
01:55 BH Atty McIntyre
JUL 16 2003
KB

William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

SANDRA CONKLIN, as parent and natural guardian of Justine Kline, and SANDARA CONKLIN, individually,

Plaintiffs,

vs.

CLEARFIELD HOSPITAL, GEORGE F. PALMER, ERNEST P. JONES and JAMES P. DESANTIS,

Defendants.

CIVIL DIVISION

No. 2003-00068-CD

Code No.

MOTION TO COMPEL

Filed on Behalf of Defendant, James P. DeSantis

Counsel of Record for this Party:

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

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

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

FILED

JUL 11 2003

William A. Shaw
Prothonotary

MLM/ten/PRINCE-105665

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

SANDRA CONKLIN, as parent and natural guardian of Justine Kline, and SANDARA CONKLIN, individually, Plaintiffs, vs. CLEARFIELD HOSPITAL, GEORGE F. PALMER, ERNEST P. JONES and JAMES P. DESANTIS, Defendants.	CIVIL DIVISION No. 2003-00068-CD

ORDER OF COURT

NOW this 14th day of July, 2003, upon consideration of the Motion to Compel of Defendant, James P. DeSantis, and after hearing upon the same, the Court does hereby Order, Direct and Decree that Plaintiffs produce their outstanding discovery within ten (10) days from the date of this Order.

BY THE COURT:

_____ J.

FILED

JUL 14 2003

William A. Shaw
Prothonotary

FILED 2 cc
01:38 BM Atty in waiting
JUL 14 2003 (mailed 7/14/03)

William A. Shaw
Prothonotary

MLM/ten/PRINCE-105665

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

SANDRA CONKLIN, as parent and natural guardian of Justine Kline, and SANDARA CONKLIN, individually, Plaintiffs, vs. CLEARFIELD HOSPITAL, GEORGE F. PALMER, ERNEST P. JONES and JAMES P. DESANTIS, Defendants.	CIVIL DIVISION No. 2003-00068-CD

MOTION TO COMPEL

NOW COMES the Defendant, James P. DeSantis, by and through his counsel Mary Lou Maierhofer, Esquire of the law firm, MEYER, DARRAGH, BUCKLER, BEBENEK & ECK, PLLC, and files this Motion to Compel of which the following is a statement:

1. Plaintiffs commenced this litigation by filing a Writ of Summons on or about January 16, 2003.

2. Plaintiffs filed on or about March 3, 2003, a Complaint.

3. On or about May 20, 2003, this Defendant served a Request for Production of Documents Directed to Sandra Conklin as Parent and Natural Guardian of Justine Kline and Sandra Conklin, individually and a First Set of Interrogatories Directed to Sandra Conklin as Parent and Natural Guardian of Justine Kline by mailing the same First Class, United States Mail, Postage Pre-Paid, to the following:

SANDRA CONKLIN, as parent and natural guardian
of JUSTINE KLINE and SANDRA CONKLIN, individually
c/o Rolf Louis Patberg, Esquire
Patberg, Carmody, Ging & Filippi
527 Court Place
Pittsburgh, PA 15219

4. As of July 3, 2003, this Defendant had not received a response to the outstanding discovery, thereby, forwarded correspondence reminding Plaintiffs' counsel of the same and requesting a status regarding the outstanding discovery. (See Exhibit "1" attached hereto and incorporated as if fully set forth at length.)

5. As of the date of the filing of this Motion, this Defendant has not received any response whatsoever from Plaintiffs' counsel regarding the outstanding discovery. It should be noted that the Plaintiffs did respond partially to Defendant, Hospital's outstanding discovery.

6. It is prejudicial to permit the Plaintiffs to not comply with the Pennsylvania Rules of Civil Procedure fully by providing the proper discovery served upon them.

WHEREFORE, Defendant, James P. DeSantis, prays this Honorable Court Order the Plaintiffs to produce the outstanding discovery within ten (10) days from the date of the Court's Order.

MEYER, DARRAGH, BUCKLER, BEBENEK & ECK, PLLC

BY:_____

MARY LOU MAIERHOFER, ESQUIRE
Counsel for Defendant, James P. DeSantis
120 Lakemont Park Boulevard
Altoona, PA 16602
(814) 941-4600
I.D. #62175

DATE:_July 10, 2003

MEYER • DARRAGH
BUCKLER BEBENEK & ECK, P.L.L.C.
Attorneys-at-Law
120 Lakemont Park Boulevard • Altoona, PA 16602 • (814) 941-4600 • Fax: (814) 941-4605

July 3, 2003

Rolf Louis Patberg, Esquire
Patberg, Carmody, Ging & Filippi
527 Court Place
Pittsburgh, PA 15219

RE: Our File: PRINCE-105665
Conklin v. DeSantis, et al
Clearfield County, 2003-00068 CD

Dear Attorney Patberg:

This matter comes out of diary in that this office served discovery on or about May 20, 2003 against your client. As of the date of this letter, we have yet to receive a response.

I would ask you to provide a status regarding the discovery within five (5) days from the date of this letter.

Very truly yours,

Mary Lou Maierhofer

MLM/ten

EXHIBIT
tabbies
"1"

MLM/ten/PRINCE-105665

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

SANDRA CONKLIN, as parent and natural guardian of Justine Kline, and SANDARA CONKLIN, individually, Plaintiffs, vs. CLEARFIELD HOSPITAL, GEORGE F. PALMER, ERNEST P. JONES and JAMES P. DESANTIS, Defendants.	CIVIL DIVISION No. 2003-00068-CD

CERTIFICATE OF SERVICE

I, Mary Lou Maierhofer, Esquire, of the law firm of MEYER, DARRAGH, BUCKLER, BEBENEK & ECK, PLLC, on behalf of Defendant, James P. DeSantis, hereby certify that Motion to Compel was served this **10th day of July, 2003**, by mailing same first class United States mail, postage prepaid, addressed to Counsel as follows:

Rolf Louis Patberg, Esquire
Patberg, Carmody, Ging & Filippi
527 Court Place
Pittsburgh, PA 15219
(Plaintiffs' Counsel)

John McIntyre, Esquire
McIntyre, Dugas, Hartye & Schmitt
P.O. Box 533
Hollidaysburg, PA 16648
(Counsel for Clearfield Hospital, George F. Palmer and Ernest P. Jones)

MEYER, DARRAGH, BUCKLER, BEBENEK & ECK, PLLC

BY: _____

MARY LOU MAIERHOFER, ESQUIRE
Counsel for Defendant, James P. DeSantis
120 Lakemont Park Boulevard
Altoona, PA 16602
(814) 941-4600
I.D. #62175

FILED NO CC
m/ 11:30 BA
JUL 11 2003
William A. Shaw
Prothonotary

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

SANDRA CONKLIN, as parent and natural guardian of JUSTINE KLINE, and SANDRA CONKLIN, individually,	No. 2003 – 68 CD
	ISSUE: NOTICE OF SERVICE OF ANSWERS TO FIRST SET OF INTERROGATORIES AND REQUEST FOR PRODUCTION OF DOCUMENTS
Plaintiff	
vs.	
	Filed on behalf of Defendants, CLEARFIELD HOSPITAL, GEORGE F. PALMER and ERNEST P. JONES
CLEARFIELD HOSPITAL, GEORGE F. PALMER, ERNEST P. JONES and JAMES P. DESANTIS,	Counsel of Record: John L. McIntyre, Esquire PA I.D. #28015 McINTYRE, DUGAS, HARTYE & & SCHMITT P.O. Box 533 Hollidaysburg, PA 16648 (814) 696-3581
Defendants	JURY TRIAL DEMANDED

I HEREBY CERTIFY THAT A TRUE AND CORRECT COPY OF THE WITHIN WAS MAILED TO ALL COUNSEL OF RECORD THIS 7th DAY OF **JULY, 2003**.

Attorneys for Named Defendants

FILED

JUL 09 2003

William A. Shaw
Prothonotary

#23

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

SANDRA CONKLIN, as parent and natural guardian of JUSTINE KLINE, and SANDRA CONKLIN, individually,	:	No. 2003 – 68 CD
Plaintiff	:	
vs.	:	
CLEARFIELD HOSPITAL, GEORGE F. PALMER, ERNEST P. JONES and JAMES P. DESANTIS,	:	
Defendants	:	JURY TRIAL DEMANDED

NOTICE OF SERVICE OF ANSWERS TO FIRST SET OF INTERROGATORIES AND REQUEST FOR PRODUCTION OF DOCUMENTS

TO: PROTHONOTARY

You are hereby notified that on the **7th** day of **JULY, 2003**, Defendants, Dubois Regional Medical Center, George F. Palmer and Ernest P. Jones served Answers to First Set of Interrogatories and Request for Production of Documents, by mailing the original of same via First Class U.S. Mail, postage prepaid, addressed to the following:

Rolf Louis Patberg, Esquire
Patberg, Carmody, Ging & Filippi
527 Court Place
Pittsburgh, PA 15219

McINTYRE, DUGAS, HARTYE & SCHMITT

Attorneys for Defendants,
CLEARFIELD HOSPITAL,
GEORGE F. PALMER and
ERNEST P. JONES

JOHN L. MCINTYRE, ESQUIRE
PA I.D #: 28015
P.O. Box 533
Hollidaysburg, PA 16648
(814) 696-3581

FILED
m 11:36 BY
JUL 09 2003

William A. Shaw
Prothonotary

MLM/ten/PRINCE-105665

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

SANDRA CONKLIN, as parent and natural guardian of Justine Kline, and SANDARA CONKLIN, individually, Plaintiffs, vs. CLEARFIELD HOSPITAL, GEORGE F. PALMER, ERNEST P. JONES and JAMES P. DESANTIS, Defendants.	CIVIL DIVISION No. 2003-00068-CD

FILED

JUN 10 2003

m/1:15/

William A. Shaw
Prothonotary

w/ CERT

CERTIFICATE OF SERVICE

I, Mary Lou Maierhofer, Esquire, of the law firm of MEYER, DARRAGH, BUCKLER, BEBENEK & ECK, PLLC, on behalf of Defendant, James P. DeSantis, hereby certify that Answers/Responses to First Set of Interrogatories and Request for Production of Documents Directed to Defendant, James P. DeSantis, was served this **9th day of June, 2003**, by mailing same first class United States mail, postage prepaid, addressed to Counsel as follows:

Rolf Louis Patberg, Esquire
Patberg, Carmody, Ging & Filippi
527 Court Place
Pittsburgh, PA 15219
(Plaintiff's Counsel)

John McIntyre, Esquire
McIntyre, Dugas, Hartye & Schmitt
P.O. Box 533
Hollidaysburg, PA 16648
(Counsel for Clearfield Hospital, George F. Palmer and Ernest P. Jones)

MEYER, DARRAGH, BUCKLER, BEBENEK & ECK, PLLC

BY: _____

MARY LOU MAIERHOFER, ESQUIRE
Counsel for Defendant, James P. DeSantis
120 Lakemont Park Boulevard
Altoona, PA 16602
(814) 941-4600
I.D. #62175

#22

FILED

JUN 10 2003

William A. Shaw
Prothonotary

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

SANDRA CONKLIN, as parent and natural guardian of JUSTINE KLINE, and SANDRA CONKLIN, individually,	No. 2003 – 68 CD
	ISSUE: NOTICE OF SERVICE OF INTERROGATORIES AND REQUEST FOR PRODUCTION OF DOCUMENTS DIRECTED TO PLAINTIFFS
Plaintiff	DATED: 6/4/03
vs.	
	Filed on behalf of Defendants, CLEARFIELD HOSPITAL, GEORGE F. PALMER and ERNEST P. JONES
CLEARFIELD HOSPITAL, GEORGE F. PALMER, ERNEST P. JONES and JAMES P. DESANTIS,	Counsel of Record: John L. McIntyre, Esquire PA I.D. #28015 McINTYRE, DUGAS, HARTYE & & SCHMITT P.O. Box 533 Hollidaysburg, PA 16648 (814) 696-3581
Defendants	JURY TRIAL DEMANDED

I HEREBY CERTIFY THAT A TRUE AND CORRECT COPY OF THE WITHIN WAS MAILED TO ALL COUNSEL OF RECORD THIS 4TH DAY OF **JUNE, 2003**.

Attorneys for Named Defendants

FILED

JUN 05 2003

William A. Shaw
Prothonotary

#21

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

SANDRA CONKLIN, as parent and natural guardian of JUSTINE KLINE, and SANDRA CONKLIN, individually,	:	No. 2003 – 68 CD
Plaintiff	:	
vs.	:	
CLEARFIELD HOSPITAL, GEORGE F. PALMER, ERNEST P. JONES and JAMES P. DESANTIS,	:	
Defendants	:	JURY TRIAL DEMANDED

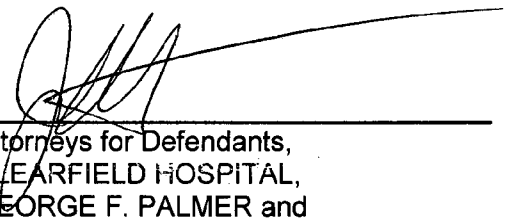
NOTICE OF SERVICE OF INTERROGATORIES
AND REQUEST FOR PRODUCTION OF DOCUMENTS
DIRECTED TO PLAINTIFFS – DATED: 6/4/03

TO: PROTHONOTARY

You are hereby notified that on the **4TH** day of **JUNE, 2003**, Defendants, Dubois Regional Medical Center, George F. Palmer and Ernest P. Jones served Interrogatories and Request for Production of Documents Directed to Plaintiffs Dated: 6/4/03 by mailing the original of same via First Class U.S. Mail, postage prepaid, addressed to the following:

Rolf Louis Patberg, Esquire
Patberg, Carmody, Ging & Filippi
527 Court Place
Pittsburgh, PA 15219

McINTYRE, DUGAS, HARTYE & SCHMITT



Attorneys for Defendants,
CLEARFIELD HOSPITAL,
GEORGE F. PALMER and
ERNEST P. JONES

JOHN L. MCINTYRE, ESQUIRE
PA I.D #: 28015
P.O. Box 533
Hollidaysburg, PA 16648
(814) 696-3581

FILED NO CC
m/11:23 BOX
JUN 05 2003

William A. Shaw
Prothonotary

MLM/RW/ten/PRINCE-105665

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

SANDRA CONKLIN, as parent and natural guardian of Justine Kline, and SANDARA CONKLIN, individually, Plaintiffs, vs. CLEARFIELD HOSPITAL, GEORGE F. PALMER, ERNEST P. JONES and JAMES P. DESANTIS, Defendants.	CIVIL DIVISION No. 2003-00068-CD

FILED

MAY 21 2003

m/11:45/nc

William A. Shaw

Prothonotary

no cert.

CERTIFICATE OF SERVICE

I, Mary Lou Maierhofer, Esquire, of the law firm of MEYER, DARRAGH, BUCKLER, BEBENEK & ECK, PLLC, on behalf of Defendant, James P. DeSantis, hereby certify that First Set of Interrogatories Directed to Sandra Conklin, as parent and natural guardian of Justine Kline and Sandra Conkin, Individually, was served this **20th day of May, 2003**, by mailing same first class United States mail, postage prepaid, addressed to Counsel as follows:

Rolf Louis Patberg, Esquire
Patberg, Carmody, Ging & Filippi
527 Court Place
Pittsburgh, PA 15219
(Plaintiff's Counsel)

John McIntyre, Esquire
McIntyre, Dugas, Hartye & Schmitt
P.O. Box 533
Hollidaysburg, PA 16648
(Counsel for Clearfield Hospital, George F. Palmer and Ernest P. Jones)

MEYER, DARRAGH, BUCKLER, BEBENEK & ECK, PLLC

BY: _____

MARY LOU MAIERHOFER, ESQUIRE
Counsel for Defendant, James P. DeSantis
120 Lakemont Park Boulevard
Altoona, PA 16602
(814) 941-4600
I.D. #62175

#20

FILED

MAY 21 2003

William A. Shaw
Prothonotary

MLM/ten/PRINCE-105665

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

SANDRA CONKLIN, as parent and natural guardian of Justine Kline, and SANDARA CONKLIN, individually, Plaintiffs, vs. CLEARFIELD HOSPITAL, GEORGE F. PALMER, ERNEST P. JONES and JAMES P. DESANTIS, Defendants.	CIVIL DIVISION No. 2003-00068-CD

FILED

MAY 21 2003

m/11:45 lw

William A. Shaw
Prothonotary
no cert

CERTIFICATE OF SERVICE

I, Mary Lou Maierhofer, Esquire, of the law firm of MEYER, DARRAGH, BUCKLER, BEBENEK & ECK, PLLC, on behalf of Defendant, James P. DeSantis, hereby certify that Request for Production of Documents Directed to Plaintiff, Sandra Conklin, as Parent and Natural Guardian of Justine Kline and Sandra Conklin, Individually, was served this **20th day of May, 2003**, by mailing same first class United States mail, postage prepaid, addressed to Counsel as follows:

Rolf Louis Patberg, Esquire
Patberg, Carmody, Ging & Filippi
527 Court Place
Pittsburgh, PA 15219
(Plaintiff's Counsel)

John McIntyre, Esquire
McIntyre, Dugas, Hartye & Schmitt
P.O. Box 533
Hollidaysburg, PA 16648
(Counsel for Clearfield Hospital, George F. Palmer and Ernest P. Jones)

MEYER, DARRAGH, BUCKLER, BEBENEK & ECK, PLLC

BY: _____
MARY LOU MAIERHOFER, ESQUIRE
Counsel for Defendant, James P. DeSantis
120 Lakemont Park Boulevard
Altoona, PA 16602
(814) 941-4600
I.D. #62175

#19

FILED

MAY 21 2003

William A. Shaw
Prothonotary

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

SANDRA CONKLIN, a parent and natural guardian of Justine Kline, and SANDRA CONKLIN, individually	:	
-vs-	:	No. 03 – 68 – CD
CLEARFIELD HOSPITAL, GEORGE F. PALMER, ERNEST P. JONES and JAMES P. DESANTIS	:	

ORDER

NOW, this 16th day of May, 2003, following argument and briefs into Preliminary Objections filed on behalf of Defendants, it is the ORDER of this Court that said Objections shall be and are hereby continued and Plaintiff directed to file with the Court, with copies to counsel for Defendants, the factual basis surrounding the various counts in her Complaint within twenty (20) days from completion of discovery.

By the Court,

President Judge

FILED

MAY 19 2003

William A. Shaw
Prothonotary

#18

FILED
0 3:50 BA 2 cc to Atty Pothering
MAY 19 2003 2 cc to Atty - Mendelsohn
William A. Shaw
Prothonotary

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

SANDRA CONKLIN, a parent and natural guardian of Justine Kline, and SANDRA CONKLIN, individually	:	
-vs-	:	No. 03 – 68 – CD
CLEARFIELD HOSPITAL, GEORGE F. PALMER, ERNEST P. JONES and JAMES P. DESANTIS	:	

ORDER

NOW, this 16th day of May, 2003, following argument and briefs into Joint Motion for Protective Order filed on behalf of Defendants above-named, it is the ORDER of this court that said Motion shall be and is hereby dismissed without prejudice in Defendants to raise the same should they become relevant at a later date. It is the further ORDER of this Court that said Defendants shall respond to Plaintiff's discovery request within thirty (30) days from date hereof.

By the Court,

President Judge

FILED

MAY 19 2003

William A. Shaw
Prothonotary

#17

FILED
o 3:42 BA 2 cc to atty Peters
2 cc to atty McIntyre
MAY 19 2003

William A. Shaw
Prothonotary

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

SANDRA CONKLIN, as parent and natural guardian of JUSTINE KLINE, and SANDRA CONKLIN, individually,	CIVIL DIVISION NO.: 2003-00068-CD
Plaintiffs,	TYPE OF PLEADING:
v.	**PLAINTIFFS REPLY TO DEFENDANT, JAMES P. DESANTIS', PRELIMINARY OBJECTIONS**
CLEARFIELD HOSPITAL, GEORGE F. PALMER, ERNEST P. JONES and JAMES P. DESANTIS,	FILED ON BEHALF OF PLAINTIFFS
Defendants.	COUNSEL OF RECORD FOR THIS PARTY: ROLF LOUIS PATBERG, ESQUIRE PA I.D. NO.: 65185 PATBERG, CARMODY, GING & FILIPPI 527 COURT PLACE PITTSBURGH, PA. 15219 (412) 232-3500
JURY TRIAL DEMANDED	

FILED

APR 29 2003

William A. Shaw
Prothonotary

#16

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

SANDRA CONKLIN, as parent and natural guardian of JUSTINE KLINE, and SANDRA CONKLIN, individually,	CIVIL DIVISION NO.: 2003-00068-CD
Plaintiffs,	
v.	
CLEARFIELD HOSPITAL, GEORGE F. PALMER, ERNEST P. JONES and JAMES P. DESANTIS,	
Defendants.	**JURY TRIAL DEMANDED**

PLAINTIFFS REPLY TO DEFENDANT, JAMES P. DESANTIS' PRELIMINARY OBJECTIONS

AND NOW, comes Plaintiffs, by and through their Counsel, Patberg, Carmody, Ging & Filippi and Rolf Louis Patberg, Esquire, and files the following Reply to Defendant DeSantis' Preliminary Objections, and in support thereof avers as follows:

ISSUE I. - MOTION TO STRIKE

1. Admitted.

2. Admitted.

3. Admitted.

4. Plaintiff states that their Complaint in Civil Action speaks for itself. Said Complaint is incorporated as if set forth more fully at length.

5. Denied. To the contrary, the allegations as set forth in Paragraph 45 Subsections (a) and (c) are sufficiently specific and are in compliance with requirements of Pennsylvania Rule of

Civil Procedure 1019(a). Further, the allegations properly place the Defendant on notice of claims being brought against Defendant.

WHEREFORE, Plaintiffs respectfully request this Honorable Court deny Defendants Preliminary Objections in there entirety.

ISSUE II. - MOTION TO STRIKE

6. Plaintiffs incorporates Paragraphs 1 through 5 of their Reply to Defendants Preliminary Objections as if set forth more fully at length herein.

7. Denied. It is specifically denied that Plaintiff mother "appears" to be doing anything. It is specifically set forth in Plaintiffs Complaint at Count VI that Plaintiff is making a claim for negligent infliction of emotional distress. By way of further answer Plaintiff incorporates their Complaint in Civil Action as if set forth more fully at length herein.

8. Denied. It is specifically denied that Plaintiffs have failed to set forth factual averments to support a claim for negligent infliction of emotional distress as to the mother. Plaintiff has alleged facts in their Complaint that tend to establish the three (3) element test for a claim of negligent infliction of emotional distress set forth in Sinn v. Bird, 486 Pa. 146, 404 A.2d 672 (1979).

9. Denied. It is specifically denied that Plaintiffs "only" alleged Paragraphs 52 and 53. Further, Plaintiff has alleged sufficient facts of their Complaint in Civil Action to establish the three (3) elements necessary to state a claim for negligent infliction of emotional distress as set forth in Sinn. By way of further answer, Plaintiff incorporates their Complaint in Civil Action as if set forth more fully at length herein.

10. Denied. It is specifically denied that Plaintiff alleges in their Complaint that the happenings set forth in Paragraph 53 did not incur until she was out of Defendants care. It is obvious

through the averments of Plaintiffs Complaint that Justine Kline became increasingly ill from the time she was under the care of the Defendants originally with her first emergency department visit through the time where she remained at home and until the time where she returned to the hospital and was transferred out.

11. Denied. Plaintiff has alleged sufficient facts to support a finding that due to Justine Kline's rapidly deteriorating health over the course of two (2) hospital visits that Sandra Conklin, was quite aware that the treatment being provided her daughter, or lack thereof, was worsening the situation. As such, Plaintiff has fully set forth the necessary elements for a claim for negligent infliction of emotional distress on behalf of Plaintiff mother Sandra Conklin.

WHEREFORE, Plaintiff respectfully request this Honorable Court deny Defendant DeSantis' Preliminary Objections in their entirety.

ISSUE III. - MOTION TO STRIKE

12. Plaintiff incorporates Paragraphs 1 through 11 of their Reply to Defendant DeSantis' Preliminary Objections as if set forth more fully at length herein.

13. Admitted in part. It is admitted that Plaintiff have incorporated portions of their Complaint within specific Counts of their Complaint this practice is specifically provided for under Pennsylvania Rule of Civil Procedure 1019(g). It is denied that Plaintiffs Complaint is "confusing."

14. Admitted. By way of further answer Plaintiff incorporates their Complaint in Civil Action and states that such Complaint speaks for itself.

15. Denied. The practice of incorporating portions of Plaintiffs Complaint within that same Complaint under a specific Count is specifically provided for under the Pennsylvania Rules of Civil Procedure and as such it is clearly proper. In fact, Defendant DeSantis has done so at

Paragraph 6 and 12 of their Preliminary Objections to Plaintiffs Complaint.

16. Admitted. By way of further answer Plaintiff incorporates their Complaint in Civil Action and states that such Complaint speaks for itself.

17. Denied. Plaintiffs Complaint clearly provides the Defendant notice as to what he claims he must defend against and separates the allegations against each Defendant into separate counts number 1 through 6. Further, this practice is specifically provided for under Pennsylvania Rule of Civil Procedure 1019(g) and pursuant to Pennsylvania Rule of Civil Procedure 148, regarding assumptions to be made interpreting the rules, these rules are meant to be read as allowing each other to be fully effective. As such, this a practice is not violative of Pa. R.C.P. Section 1020(a).

18. Admitted in part. It is admitted that Pa. R.C.P. 1020 requires each cause of action against the Defendant to be separate into separate Counts. It is denied that Plaintiff failed to do this, in fact, Plaintiff has set forth six (6) separate Counts against the various Defendants separating causes of actions under them and at no point has Plaintiff included two (2) causes of action against any one (1) Defendant under any one (1) Count.

19. Denied. Pennsylvania Rule of Civil Procedure 1019(g) and Pennsylvania Rule of Civil Procedure 148 specifically provides for this practice incorporating previous portions of Plaintiffs Complaint within certain Counts under that Complaint as such, Preliminary Objections should be denied.

WHEREFORE, Plaintiff respectfully request this Honorable Court deny Defendant DeSantis' Preliminary Objections in their entirety.

RESPECTFULLY SUBMITTED,

PATBERG, CARMODY, GING & FILIPPI

DATE: 4/28/03

By: _____

Rolf Louis Patberg, Esquire
PA. I.D. No.: 65185

PATBERG, CARMODY, GING & FILIPPI
527 Court Place
Pittsburgh, Pa. 15219
(412) 232-3500

Attorney for Plaintiffs.

CERTIFICATE OF SERVICE

I, Rolf Louis Patberg, Esquire, hereby certify that a true and correct copy of the within Plaintiffs Reply to Defendant DeSantis' Preliminary Objections was served upon the following parties this 28 day of April, 2003, by U.S. Mail as follows:

John McIntyre, Esquire
McIntyre, Dugas, Hartye & Schmitt
P.O. Box 533
Hollidaysburg, Pa. 16648

Mary Lou Maierhofer, Esquire
Meyer, Darragh, Buckler, Bebenek & Eck, PLLC
120 Lakemont Park Boulevard
Altoona, Pa. 16602

Rolf Louis Patberg, Esquire

FILED NO CC
m/11:19 BH
APR 29 2003 EKS

William A. Shaw
Prothonotary

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

SANDRA CONKLIN, as parent and natural guardian of JUSTINE KLINE, and SANDRA CONKLIN, individually,

Plaintiffs,

v.

CLEARFIELD HOSPITAL, GEORGE F. PALMER, ERNEST P. JONES and JAMES P. DESANTIS,

Defendants.

JURY TRIAL DEMANDED

CIVIL DIVISION

NO.: 2003-00068-CD

TYPE OF PLEADING:

PLAINTIFFS REPLY TO PRELIMINARY OBJECTIONS OF DEFENDANTS PALMER, JONES AND CLEARFIELD HOSPITAL

FILED ON BEHALF OF PLAINTIFFS

COUNSEL OF RECORD FOR THIS PARTY:

ROLF LOUIS PATBERG, ESQUIRE
PA I.D. NO.: 65185

PATBERG, CARMODY, GING & FILIPPI
527 COURT PLACE
PITTSBURGH, PA. 15219

(412) 232-3500

FILED

APR 29 2003

William A. Shaw
Prothonotary

(#15)

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

SANDRA CONKLIN, as parent and natural guardian of JUSTINE KLINE, and SANDRA CONKLIN, individually,	CIVIL DIVISION NO.: 2003-00068-CD
Plaintiffs,	
v.	
CLEARFIELD HOSPITAL, GEORGE F. PALMER, ERNEST P. JONES and JAMES P. DESANTIS,	
Defendants.	**JURY TRIAL DEMANDED**

PLAINTIFFS REPLY TO PRELIMINARY OBJECTIONS OF DEFENDANTS PALMER, JONES AND CLEARFIELD HOSPITAL

AND NOW, comes Plaintiffs, by and through their Counsel, Patberg, Carmody, Ging & Filippi, and Rolf Louis Patberg, Esquire, and files the following Reply to Preliminary Objections of Defendants Palmer, Jones and Clearfield Hospital, and in support thereof avers as follows:

1. Plaintiff incorporates their Complaint in Civil Action as if set forth more fully at length. Plaintiff states that such Complaint speaks for itself.

2. After reasonable investigation Plaintiff is without sufficient knowledge to either admit nor or deny this allegation. As such, the allegations are specifically denied and strict proof thereof is demanded.

WHEREFORE, Plaintiffs respectfully request that Defendants Preliminary Objections be denied in there entirety.

3. Admitted in part. Admitted that Paragraph 27 of Plaintiffs Complaint contains the quoted phrase at Paragraph 3 in Defendants Preliminary Objection. By way of further answer Plaintiff incorporates their Complaint in Civil Action and states that such Complaint speaks for itself. It is specifically denied that Paragraph 27 of Plaintiffs Complaint is in derivation of any of the rules of Civil Procedure.

4. Denied.

5. Admitted. By way of further answer Plaintiff incorporates their Complaint in Civil Action and states that such Complaint speaks for itself.

6. Denied.

7. Admitted. By way of further answer Plaintiff incorporates their Complaint in Civil Action and states that such Complaint speaks for itself.

8. Admitted. By way of further answer Plaintiff incorporates their Complaint in Civil Action and states that such Complaint speaks for itself.

9. Admitted.

10. Denied. It is specifically plead that this conduct was recklessly indifferent to the health and well being of Justine Kline and as such, Plaintiffs have alleged acts sufficient to support a imposition of punitive damages.

WHEREFORE, Plaintiffs respectfully request that the Preliminary Objections of the Defendants be denied in there entirety.

11. Admitted. Plaintiff incorporates their Complaint in Civil Action and states that such Complaint speaks for itself.

12. Denied. It is specifically denied that the above subparagraphs are overly broad or,

incapable of response or contrary to the Pennsylvania Rules of Civil Procedure or Pennsylvania Case Law. The contrary, the referenced allegations are sufficiently specific under the Rules of Civil Procedure to provide the Defendants with proper notice as to what claims are being brought against that specific Defendant.

WHEREFORE, Plaintiffs respectfully request this Honorable Court deny Defendants Preliminary Objections in there entirety.

13. Denied. It is specifically denied that the above subparagraphs are overly broad, incapable of response or contrary to the Pennsylvania Rules of Civil Procedure or the Pennsylvania Case Law. The contrary, the referenced allegations are sufficiently specific under the Rules of Civil Procedure to provide the Defendants with proper notice as to what claims are being brought against that specific Defendant.

14. Denied. It is specifically denied that the above subparagraphs are overly broad, incapable of response or contrary to the Pennsylvania Rules of Civil Procedure or the Pennsylvania Case Law. The contrary, the referenced allegations are sufficiently specific under the Rules of Civil Procedure to provide the Defendants with proper notice as to what claims are being brought against that specific Defendant.

WHEREFORE, Plaintiffs respectfully request this Honorable Court deny Defendants Preliminary Objections in there entirety.

15. Admitted in part. It is admitted that Count IV of Plaintiffs Complaint against all Defendants sets forth a claim on behalf of Sandra Conklin for negligent infliction of emotional distress. It is specifically denied that Count IV "attempts," or "purports" to do anything.

16. Denied. It is also set forth in the Complaint that Plaintiff mother has undergone

consultations and as a result of the emotional distress inflicted by the negligence of the Defendants. Sandra was near and witnessed her child to become increasing and violently ill while in the care and treatment of the Defendants as a result of the Defendants failure to provide proper care. Sandra Conklin would have realized that Justine was not provided effective care by the Defendants if her hospital course deteriorated so rapidly.

WHEREFORE, Plaintiffs respectfully request that Defendants Preliminary Objections to Plaintiffs Complaint be denied in there entirety.

RESPECTFULLY SUBMITTED,

PATBERG, CARMODY, GING & FILIPPI

DATE: 4/28/03 By: _____

Rolf Louis Patberg, Esquire
PA. I.D. No.: 65185

PATBERG, CARMODY, GING & FILIPPI
527 Court Place
Pittsburgh, Pa. 15219
(412) 232-3500

Attorney for Plaintiffs.

CERTIFICATE OF SERVICE

I, Rolf Louis Patberg, Esquire, hereby certify that a true and correct copy of the within Plaintiffs Reply to Preliminary Objections of Defendants Palmer, Jones and Clearfield Hospital was served upon the following parties this 28 day of April, 2003, by U.S. Mail as follows:

John McIntyre, Esquire
McIntyre, Dugas, Hartye & Schmitt
P.O. Box 533
Hollidaysburg, Pa. 16648

Mary Lou Maierhofer, Esquire
Meyer, Darragh, Buckler, Bebenek & Eck, PLLC
120 Lakemont Park Boulevard
Altoona, Pa. 16602

Rolf Louis Patberg, Esquire

FILED No cc
m/11:19 BN
APR 29 2003
William A. Shaw
Prothonotary

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

SANDRA CONKLIN, as parent and natural guardian of JUSTINE KLINE, and SANDRA CONKLIN, individually,	CIVIL DIVISION NO.: 2003-00068-CD
Plaintiffs,	TYPE OF PLEADING:
v.	**PLAINTIFFS REPLY TO DEFENDANTS JOINT MOTION FOR PROTECTIVE ORDER**
CLEARFIELD HOSPITAL, GEORGE F. PALMER, ERNEST P. JONES and JAMES P. DESANTIS,	FILED ON BEHALF OF PLAINTIFFS
Defendants.	COUNSEL OF RECORD FOR THIS PARTY: ROLF LOUIS PATBERG, ESQUIRE PA I.D. NO.: 65185 SEAN P. DUFF, ESQUIRE PA. I.D. NO.: 88853 PATBERG, CARMODY, GING & FILIPPI 504 STATE STREET, SUITE 200 ERIE, PA. 16501 (814) 874-0558 **JURY TRIAL DEMANDED**

Def. J-1. No. for Prot.
O Sch. 5-16-03 -
1:30 - I'm not doing anything w/ this right now.
M —

FILED

APR 07 2003
m/10:20/ns
William A. Shaw
Prothonotary
1 CERT TO ATTY

#14

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

SANDRA CONKLIN, as parent and natural guardian of JUSTINE KLINE, and SANDRA CONKLIN, individually,	CIVIL DIVISION NO.: 2003-00068-CD
Plaintiffs,	
v.	
CLEARFIELD HOSPITAL, GEORGE F. PALMER, ERNEST P. JONES and JAMES P. DESANTIS,	
Defendants.	**JURY TRIAL DEMANDED**

PLAINTIFFS REPLY TO DEFENDANTS JOINT MOTION FOR PROTECTIVE ORDER

AND NOW, comes Plaintiffs, Sandra Conklin, as parent and natural guardians of Justine Kline, a minor, by and through their counsel, Rolf Louis Patberg, Esquire, Sean P. Duff, Esquire, and the law firm of Patberg, Carmody, Ging & Filippi, and files the following Reply to Defendants Joint Motion for Protective Order, and in support thereof avers as follows:

1. Plaintiffs commenced this litigation with the filing of a Writ of Summons on January 20, 2003.

2. On March 3, 2003 Plaintiffs filed a Complaint in Civil Action alleging professional liability negligence claims against the Defendants.

3. At or about the same time as filing the Complaint in this matter Plaintiffs also served on the Defendants Plaintiffs First Set of Interrogatories and Request for Production of Documents.

4. After, on March 10, 2003 Plaintiffs received a correspondence from Mary Lou Maierhofer, Esquire, Counsel for Defendant James P. DeSantis. In this letter Ms. Maierhofer stated her position that Plaintiffs are not entitled to serve Interrogatories until after a Certificate of Merit is filed pursuant to Pennsylvania Rule of Procedure1042.5. Ms. Maierhofer also requested the Plaintiff withdrawal discovery request, which Plaintiff refused to do.

5. On or about March 17, 2003 Defendant, by and through their Counsel filed a Joint Motion for Protective Order asserting, essentially the position that Ms. Maierhofer had set forth in her March 10, 2003 letter.

6. The new Professional Liability Rules explicitly state "new and amended rules shall be applicable to actions commenced on or after the effective date of this order."

7. In fact, at Paragraph 7 of their Joint Motion the Defendants acknowledge that Plaintiffs filed a Writ of Summons prior to the effective date of the new rules which was on January 27, 2003.

8. It is a fundamental principle of statutory interpretation in this Commonwealth that a statute must not be construed to be retroactive in its application unless such an intent is clear and manifestly apparent from the language of that provision. 1 Pa. C.S.A. § 1926.

9. There is no language in the rules tending to even suggest retroactivity.

10. It can not be seriously disputed that a Writ of Summons "commences an action."

11. It is hornbook law that specific and clear statutory language can not be ignored under the guise of liberal construction or public policy considerations. Toner v. Nationwide Insurance Company, 610 A.2d 53 (Pa. Super. 1992).

12. The language in the statue at issue is clear and unambiguous that it does not apply to

actions commenced prior to the effective date of the statute.

13. As such, the Defendants public policy considerations set forth in their Motion are misplaced.

14. As the rules raised as grounds for the Protective Order in the Joint Motion do not apply to this cause of action Plaintiff is not required to file a Certificate of Merit and is entitled to seek both Request for Production of Documents and Answers to Interrogatories at any time subsequent to the filing of their Complaint.

WHEREFORE, Plaintiff respectfully request this Honorable Court deny Defendants Joint Motion for Protective Order and enter an Order substantially in the form attached hereto.

RESPECTFULLY SUBMITTED,

PATBERG, CARMODY, GING & FILIPPI

DATE: 4/4/03

By: _____
Rolf Louis Patberg, Esquire, Esquire
PA. I.D. No.: 65185

Sean P. Duff, Esquire
PA. I.D. No.: 88853

PATBERG, CARMODY, GING & FILIPPI
504 State Street, Suite 200
Erie, Pa. 16501
(814) 874-0558

Attorney for Plaintiffs.

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

SANDRA CONKLIN, as parent and natural guardian of JUSTINE KLINE, and SANDRA CONKLIN, individually,	CIVIL DIVISION NO.: 2003-00068-CD
Plaintiffs,	
v.	
CLEARFIELD HOSPITAL, GEORGE F. PALMER, ERNEST P. JONES and JAMES P. DESANTIS,	
Defendants.	**JURY TRIAL DEMANDED**

ORDER OF COURT

AND NOW, to-wit, this _____ day of April, 2003, having considered Defend Motion for Protective Order and Plaintiffs Reply thereto it is hereby ORDERED, ADJUD DECREED that said Motion is DENIED. Defendants shall file a responsive pleading to Complaint within seven (7) days and shall file full responses to Plaintiffs First Set of Inter and Request for Production of Documents within thirty (30) days from the date of this O

BY THE COURT,

_____
J.

CERTIFICATE OF SERVICE

I, Rolf Louis Patberg, Esquire, hereby certify that a true and correct copy of the within Reply to Defendants Joint Motion for Protective Order was served upon the following parties this 4 day of April, 2003, by U.S. Mail as follows:

John McIntyre, Esquire
McIntyre, Dugas, Hartye & Schmitt
P.O. Box 533
Hollidaysburg, Pa. 16648

Mary Lou Maierhofer, Esquire
Meyer, Darragh, Buckler, Bebenek & Eck, PLLC
120 Lakemont Park Boulevard
Altoona, Pa. 16602

Rolf Louis Patberg, Esquire

FILED

APR 0 7 2003

William A. Shaw
Prothonotary

MLM/ten/PRINCE-105665

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

SANDRA CONKLIN, as parent and natural guardian of Justine Kline, and SANDARA CONKLIN, individually, Plaintiffs, vs. CLEARFIELD HOSPITAL, GEORGE F. PALMER, ERNEST P. JONES and JAMES P. DESANTIS, Defendants.	CIVIL DIVISION No. 2003-00068-CD

FILED

MAR 21 2003

William A. Shaw
Prothonotary

CERTIFICATE OF SERVICE

I, Mary Lou Maierhofer, Esquire, of the law firm of MEYER, DARRAGH, BUCKLER, BEBENEK & ECK, PLLC, on behalf of Defendant, James P. DeSantis, hereby certify that Objections to Plaintiffs' First Set of Interrogatories and Request for Production of Documents Directed to Defendant, James P. DeSantis was served this **20th day of March, 2003**, by mailing same first class United States mail, postage prepaid, addressed to Counsel as follows:

Rolf Louis Patberg, Esquire
Patberg, Carmody, Ging & Filippi
527 Court Place
Pittsburgh, PA 15219
(Plaintiff's Counsel)

John McIntyre, Esquire
McIntyre, Dugas, Hartye & Schmitt
P.O. Box 533
Hollidaysburg, PA 16648
(Counsel for Clearfield Hospital, George F. Palmer and Ernest P. Jones)

MEYER, DARRAGH, BUCKLER, BEBENEK & ECK, PLLC

BY: _____

MARY LOU MAIERHOFER, ESQUIRE
Counsel for Defendant, James P. DeSantis
120 Lakemont Park Boulevard
Altoona, PA 16602
(814) 941-4600
I.D. #62175

#13

FILED
MAR 21 2003
William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

SANDRA CONKLIN, as parent and natural guardian of Justine Kline, and SANDARA CONKLIN, individually,

Plaintiffs,

vs.

CLEARFIELD HOSPITAL, GEORGE F. PALMER, ERNEST P. JONES and JAMES P. DESANTIS,

Defendants.

CIVIL DIVISION

No. 2003-00068-CD

Code No.

JOINT MOTION FOR PROTECTIVE ORDER

Filed on Behalf of Defendant, James P. DeSantis

Counsel of Record for this Party:

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

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

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

FILED

MAR 18 2003

William A. Shaw
Prothonotary

#12

MLM/ten/PRINCE-105665

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

SANDRA CONKLIN, as parent and natural guardian of Justine Kline, and SANDARA CONKLIN, individually, Plaintiffs, vs. CLEARFIELD HOSPITAL, GEORGE F. PALMER, ERNEST P. JONES and JAMES P. DESANTIS, Defendants.	CIVIL DIVISION No. 2003-00068-CD

JOINT MOTION FOR PROTECTIVE ORDER

NOW COMES the Defendants, Clearfield Hospital, George F. Palmer and Ernest P. Jones, by and through their counsel John McIntyre, Esquire of the law firm, McIntyre, Dugas, Hartye & Schmitt, and Defendant, James P. DeSantis, by and through his counsel Mary Lou Maierhofer, Esquire of the law firm, MEYER, DARRAGH, BUCKLER, BEBENEK & ECK, PLLC, and file this Joint Motion for Protective Order of which the following is a statement:

1. Plaintiffs commenced this litigation by filing a Writ of Summons on January 16, 2003, and serving these Defendants on or about January 20, 2003.

2. Plaintiffs filed a Complaint on or about March 3, 2003 in response to a Praecipe to file the same.

3. Plaintiffs have filed a professional liability claims against these Defendants. (See Paragraphs 3 - 5 of Plaintiffs' Complaint)

4. Plaintiffs have yet to file a Certificate of Merit which is required pursuant to Pennsylvania Rule of Civil Procedure Rule 1042.3, as to Complaints filed after January 27, 2003.

5. Plaintiffs served on or about March 6, 2003 discovery against these Defendants.

6. Plaintiffs are in violation of Pa.R.C.P. Rule 1042.5 which states:

> Except for the production of documents and things or the entry upon property for inspection and other purposes, a plaintiff who has asserted a professional liability claim may not, without leave of court, seek any discovery with respect to that claim prior to the filing of a certificate of merit.
>
> NOTE: Upon motion seeking leave of court, the court shall allow any discovery which is required for a licensed professional to make a determination as to whether a defendant deviated from accepted professional standards.
>
> This rule does not preclude a defendant from seeking a protective order under Rule 4012 in response to request for production of documents and things or the entry upon property for inspection and other purposes.

7. It is the positions of the Defendants that even though the Plaintiffs filed the Writ of Summons prior to the effective date of the Amended Rules, January 27, 2003, the Amended Rules clearly indicate that a Complaint has to set forth a Certificate of Merit.

8. Further, as a matter of public policy and the reason for the amendment to the Pennsylvania Rules of Civil Procedure is to stop the lawsuits that are later determined to be unmeritorious.

9. Counsel for Defendant, DeSantis requested that the Plaintiffs withdraw the discovery until such time as the Certificate of Merit was filed. (See Exhibit "1" attached hereto).

10. In response to that letter, Plaintiffs' counsel refused to do so. (See Exhibit "2" attached hereto).

11. Plaintiffs' counsel has indicated that because the Writ was filed and the Rules indicate the "New and Amended Rules shall be applicable to actions commenced on or after the effective date of this Order," that Plaintiffs do not need to comply with the subject requirements pursuant to Rule 1042.5.

12. Plaintiffs counsel also indicated that he had this matter reviewed and had a preliminary report regarding the meritorious position taken.

13. If Plaintiffs have such a document, then Plaintiffs' counsel should be able to comply with the regulations by filing a Certificate of Merit.

WHEREFORE, Defendants, Clearfield Hospital, George F. Palmer, Ernest P. Jones and James P. DeSantis, pray this Honorable Court Grant this Protective Order and require that the Plaintiffs file a Certificate of Merit before Defendants respond to the outstanding discovery served on or about March 6, 2003.

McINTYRE, DUGAS, HARTYE & SCHMITT, PLLC

BY: _____

JOHN McINTYRE, ESQUIRE
Counsel for Defendants, Clearfield Hospital, George F. Palmer and Ernest P. Jones
P.O. Box 533
Hollidaysburg, PA 16648
(814) 696-3581
I.D. #

MEYER, DARRAGH, BUCKLER, BEBENEK & ECK, PLLC

BY: _____

MARY LOU MAIERHOFER, ESQUIRE
Counsel for ~~Defendant,~~ James P. DeSantis
120 Lakemont Park Boulevard
Altoona, PA 16602
(814) 941-4600
I.D. #62175

DATE: March 17, 2003

MEYER • DARRAGH
BUCKLER BEBENEK & ECK, P.L.L.C.
Attorneys-at-Law
120 Lakemont Park Boulevard • Altoona, PA 16602 • (814) 941-4600 • Fax: (814) 941-4605

March 10, 2003

Rolf Louis Patberg, Esquire
Patberg, Carmody, Ging & Filippi
527 Court Place
Pittsburgh, PA 15219

RE: Our File: PRINCE-105665
Conklin v. DeSantis, et al
Clearfield County, 2003-00068 CD

Dear Attorney Patberg:

I am in receipt of your discovery on March 6, 2003. I have yet to receive any Certification of Merit regarding this case as required by Pennsylvania Rule of Civil Procedure 1042.3. As you know, prior to conducting discovery, you must produce this Certification of Merit before you can embark on massive discoveries pursuant to Rule 1042.5. While I acknowledge that you can request documents, the way you have served us discovery, which includes Interrogatories, such is not applicable until such time as you produce your Certificate of Merit.

Until the Certificate of Merit is provided, this office will not be responding to your discovery. If I do not hear from you within ten (10) days from the date of letter withdrawing the discovery, I will make the appropriate filings with the Court.

Very truly yours,

Mary Lou Maierhofer

MLM/ten

cc: John McIntyre, Esquire

EXHIBIT
"1"

MEYER • DARRAGH
BUCKLER BEBENEK & ECK, P.L.L.C.
Attorneys-at-Law
120 Lakemont Park Boulevard • Altoona, PA 16602 • (814) 941-4600 • Fax: (814) 941-4605

March 13, 2003

VIA FACSIMILE AND US REGULAR MAIL

Rolf Louis Patberg, Esquire
Patberg, Carmody, Ging & Filippi
527 Court Place
Pittsburgh, PA 15219

RE: Our File: PRINCE-105665
Conklin v. DeSantis, et al
Clearfield County, 2003-00068 CD

Dear Attorney Patberg:

This is just to confirm our conversation of March 10, 2003, where you indicated to me you will not be filing a Certificate of Merit as you do not believe the new Pennsylvania Rules of Civil Procedure govern this case. You further informed me that you have had this case reviewed and received a preliminary report justifying the filing of this lawsuit.

Considering that I believe that the Rules do in fact apply to this case and rather than having to argue the same in front of the Court, I would ask that you reconsider and file a Certificate of Merit so that we can proceed to deal with the litigation rather than the procedure.

Please advise.

Very truly yours,

Mary Lou Maierhofer

MLM/ten

cc: John McIntyre, Esquire - VIA FACSIMILE AND US REGULAR MAIL

EXHIBIT
"2"

MLM/ten/PRINCE-105665

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

SANDRA CONKLIN, as parent and natural guardian of Justine Kline, and SANDARA CONKLIN, individually, Plaintiffs, vs. CLEARFIELD HOSPITAL, GEORGE F. PALMER, ERNEST P. JONES and JAMES P. DESANTIS, Defendants.	CIVIL DIVISION No. 2003-00068-CD

CERTIFICATE OF SERVICE

I, Mary Lou Maierhofer, Esquire, of the law firm of MEYER, DARRAGH, BUCKLER, BEBENEK & ECK, PLLC, on behalf of Defendant, James P. DeSantis, hereby certify that this Joint Motion for Protective Order was served this **17TH day of March, 2003**, by mailing same first class United States mail, postage prepaid, addressed to Counsel as follows:

Rolf Louis Patberg, Esquire
Patberg, Carmody, Ging & Filippi
527 Court Place
Pittsburgh, PA 15219
(Plaintiffs' Counsel)

John McIntyre, Esquire
McIntyre, Dugas, Hartye & Schmitt
P.O. Box 533
Hollidaysburg, PA 16648
(Counsel for Clearfield Hospital, George F. Palmer and Ernest P. Jones)

MEYER, DARRAGH, BUCKLER, BEBENEK & ECK, PLLC

BY: _____

MARY LOU MAIERHOFER, ESQUIRE
Counsel for Defendant, James P. DeSantis
120 Lakemont Park Boulevard
Altoona, PA 16602
(814) 941-4600
I.D. #62175

FILED NO CC
m/1:08 BOH
MAR 18 2003

William A. Shaw
Prothonotary

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

SANDRA CONKLIN, as parent and natural guardian of JUSTINE KLINE, and SANDRA CONKLIN, individually,	No. 2003 – 68 CD
	ISSUE:
	Preliminary Objections to Plaintiff's Complaint
Plaintiff	
vs.	
	Filed on behalf of Defendants, CLEARFIELD HOSPITAL, GEORGE F. PALMER and ERNEST P. JONES
CLEARFIELD HOSPITAL, GEORGE F. PALMER, ERNEST P. JONES and JAMES P. DESANTIS,	Counsel of Record: John L. McIntyre, Esquire PA I.D. #28015 McINTYRE, DUGAS, HARTYE & & SCHMITT P.O. Box 533 Hollidaysburg, PA 16648 (814) 696-3581
Defendants	
	JURY TRIAL DEMANDED

I HEREBY CERTIFY THAT A TRUE AND CORRECT COPY OF THE WITHIN WAS MAILED TO ALL COUNSEL OF RECORD THIS 14th DAY OF **MARCH, 2003.**

Attorneys for Named Defendants

FILED

MAR 14 2003

William A. Shaw
Prothonotary

#11

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

SANDRA CONKLIN, as parent and natural guardian of JUSTINE KLINE, and SANDRA CONKLIN, individually,	:	No. 2003 – 68 CD
Plaintiff	:	
vs.	:	
CLEARFIELD HOSPITAL, GEORGE F. PALMER, ERNEST P. JONES and JAMES P. DESANTIS,	:	
Defendants	:	JURY TRIAL DEMANDED

PRELIMINARY OBJECTIONS
TO PLAINTIFF'S COMPLAINT

AND NOW, come the Defendants, GEORGE F. PALMER, D.O., ERNEST P. JONES, M.D., AND CLEARFIELD HOSPITAL, and file the following Preliminary Objections to the plaintiff's Complaint and in support set forth the following:

DEMURRER

1. The defendant, Dr. Ernest P. Jones, did not at any time, render any care or treatment to Justine Kline or Sandra Conklin.

2. Dr. Ernest P. Jones will be filing an Affidavit of Non-Involvement in support of his defense that he did not at any time see Justine Kline or her mother, Sandra Conklin, on February 23, 2002, as suggested in the plaintiff's Complaint.

WHEREFORE, the defendant, Ernest P. Jones, M.D., respectfully requests that the plaintiff's Complaint be dismissed with prejudice and judgment entered in his favor.

MOTION TO STRIKE

Clearfield Hospital

3. In Paragraph 27 of the plaintiff's Complaint, it is suggested that "other currently unknown employees" of Clearfield Hospital may have contributed and/or caused harm to Justine Kline. The Pennsylvania Rules of Civil Procedure are clear, that

plaintiff is required to identify by name, position or title, any person who is alleged to have been an agent, servant or employee and further, caused or contributed to the plaintiff's harm.

4. The above should be stricken or in the alternative, plaintiff required to file more specific Complaint as to those persons who allegedly were agents, servants and employees of the hospital and who caused or contributed to the injuries complained of in the plaintiff's Complaint.

5. In Paragraph 28 f., plaintiff's Complaint sets forth the following:

> "In its agents' failure, including the Emergency Room nurses, to report inappropriate and negligent treatment rendered by the physicians identified in the herein Complaint to supervising authorities."

6. The above paragraph is irrelevant, overly broad and constitutes scandalous or impertinent matters and the same should be stricken from the plaintiff's Complaint.

7. Paragraph 30 alleges that "such conduct constitutes reckless indifference to the fundamental rights of procreation of Justine Kline and her mother. Such conduct warrants the imposition of punitive damages."

8. It is alleged that the above conduct occurred upon information and belief, that such treatment was not rendered to the minor plaintiff due to the economic and insurance status.

9. Plaintiff claims that it is seeking punitive damages in Count I against Clearfield Hospital.

10. There are no facts contained in the plaintiff's Complaint to warrant the imposition of punitive damages, insofar as there is no factual basis to set forth a reckless, willful and wanton conduct on behalf of Clearfield Hospital.

WHEREFORE, the defendant, Clearfield Hospital, respectfully requests that the above matters be stricken from the plaintiff's Complaint, as well as any claims for punitive damages for the reasons set forth above.

George F. Palmer, D.O.

11. As to George F. Palmer, D.O., the plaintiff's Complaint, in Paragraph 35, contains the following subparagraphs:

a. In failing to timely appreciate the signs and symptoms of Justine Kline;

c. In failing to timely appreciate the seriousness of her condition;

12. The above subparagraphs are overly broad, incapable of response, vague and contrary to the Pennsylvania Rules of Civil Procedure and the applicable case law, as set forth in the *Conner Decision.*

WHEREFORE, the defendant George F. Palmer, D.O., respectfully requests that the Subparagraphs 35 a. and c. be dismissed with prejudice.

Ernest P. Jones, M.D.

13. As to Earnest P. Jones, M.D., the plaintiff's Complaint, in Paragraph 40, contains the following subparagraphs:

a. In failing to timely appreciate the signs and symptoms of Justine Kline;

c. In failing to timely appreciate the seriousness of her condition;

14. The above subparagraphs are overly broad, incapable of response, vague and contrary to the Pennsylvania Rules of Civil Procedure and the applicable case law, as set forth in the *Conner Decision.*

WHEREFORE, the defendant Ernest P. Jones, M.D., respectfully requests that the Subparagraphs 40 a. and c. be dismissed with prejudice.

Clearfield Hospital, George F. Palmer, D.O., and Ernest P. Jones, M.D.

15. Count VI of the plaintiff's Complaint against all defendants, purports and attempts to set forth a claim on behalf of Sandra Conklin for negligent infliction of emotional distress.

16. The claim should be dismissed and stricken for the following reasons:

a. Sandra Conklin fails to identify any physical injuries or physical manifestation of any emotional distress as required under the applicable case law;

b. Sandra Conklin was not in the zone of danger;

c. Sandra Conklin did not realize that her daughter was being treated in a negligent fashion, nor was she in any danger herself, during the time medical care and treatment was rendered to Justine Kline.

WHEREFORE, the defendants, Clearfield Hospital, George F. Palmer, D.O., and Ernest P. Jones, M.D., respectfully requests that Count VI of the plaintiff's Complaint be dismissed with prejudice and judgment entered in their favor.

Respectfully submitted,

McINTYRE, DUGAS, HARTYE & SCHMITT

Attorneys for Defendant,
Clearfield Hospital, George F. Palmer, D.O
and Ernest P. Jones

John L. McIntyre, Esquire
PA I.D. #28015
P.O. Box 533
Hollidaysburg, PA 16648
(814) 696-3581

TO: PLAINTIFF

YOU ARE HEREBY NOTIFIED TO FILE
A WRITTEN RESPONSE TO THE ENCLOSED
PRELIMINARY OBJECTIONS WITHIN
TWENTY (20) DAYS FROM SERVICE HEREOF
OR A JUDGMENT MAY BE ENTERED AGAINST
YOU.

Attorney for Named Defendants

FILED NO
m/1:19-BH CC
MAR 14 2003

William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

SANDRA CONKLIN, as parent and natural guardian of Justine Kline, and SANDARA CONKLIN, individually,

Plaintiffs,

vs.

CLEARFIELD HOSPITAL, GEORGE F. PALMER, ERNEST P. JONES and JAMES P. DESANTIS,

Defendants.

CIVIL DIVISION

No. 2003-00068-CD

Code No.

PRELIMINARY OBJECTIONS TO PLAINTIFFS' COPMPLAINT

Filed on Behalf of Defendant, James P. DeSantis

Counsel of Record for this Party:

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

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

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

FILED

MAR 11 2003

William A. Shaw
Prothonotary

#10

MLM/ten/PRINCE-105665

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

SANDRA CONKLIN, as parent and natural guardian of Justine Kline, and SANDARA CONKLIN, individually, Plaintiffs, vs. CLEARFIELD HOSPITAL, GEORGE F. PALMER, ERNEST P. JONES and JAMES P. DESANTIS, Defendants.	CIVIL DIVISION No. 2003-00068-CD

PRELIMINARY OBJECTIONS TO PLAINTIFFS' COMPLAINT

NOW COMES the Defendant, James P. DeSantis, by and through his counsel Mary Lou Maierhofer, Esquire of the law firm, MEYER, DARRAGH, BUCKLER, BEBENEK & ECK, PLLC, and file these Preliminary Objections to Plaintiffs' Complaint of which the following is a statement:

1. Plaintiffs commenced this litigation by filing a Writ of Summons on or about January 16, 2003 and thereafter filing a Complaint on or about March 3, 2003 pursuant to Praecipe filed by the parties.

2. Plaintiffs are making a claim for personal injuries as a result of allegations of medical malpractice against the various Defendants.

ISSUE I - MOTION TO STRIKE

(Violation of Pa.R.C.P. 1019(a))

3. Plaintiffs allege as a result of actions and/or inactions that occurred on February 23, 2002 as against Defendant, James P. DeSantis, Plaintiffs suffered damages.

4. Plaintiffs set forth in Paragraph 45 that this Defendant "deviated from the standard of care in the following manners:"

> a. In failing to timely appreciate the signs and symptoms of Justine Kline;
>
> c. In failing to timely appreciate the seriousness of her condition.

5. Plaintiffs' allegations in Paragraph 45, Subsections a. and c. are vague, overly broad and boiler-plate type which violate Pa.R.C.P. Section 1019(a) as they do not place this Defendant on notice as to what he will have to defend against.

WHEREFORE, Defendant, James P. DeSantis, prays that this Honorable Court strike Subparagraphs a. and c. from Paragraph 45 of Plaintiffs' Complaint.

ISSUE II - MOTION TO STRIKE

(Negligent Infliction of Emotional Distress)

6. The allegations set forth above are incorporated herein by reference thereto as if the same were set forth at length.

7. The Plaintiff-mother appears to be making a claim for "negligent infliction of emotional distress" in Count VI.

8. Plaintiffs have failed to set forth factual averments to support a claim for "negligent infliction of emotional distress" as to the mother.

9. The Plaintiffs only allege the following:

> 52. At all times relevant herein, Sandra Cochran was physically present for the treatment and events described in the herein Complaint.
>
> 53. During the course of the treatment outlined herein, Sandra Cochran witnessed her child become gravely ill, go into cardiac arrest, and nearly die in her presence.

10. Based upon Plaintiffs' allegations earlier in the Complaint, events as set forth in Paragraph 53 did not occur until after this Defendant had transferred the minor to another medical facility.

11. Plaintiffs have not plead sufficient facts to establish that the Plaintiff-mother was aware of any problem with any of the treatment rendered by this Defendant, at the time of rendering the treatment, thus has failed to set forth a cause of action for emotional distress.

WHEREFORE, Defendant, James P. DeSantis, prays that Count VI of Plaintiffs' Complaint be dismissed with prejudice.

ISSUE III - MOTION TO STRIKE

(Violation of Pa.R.C.P. 1020)

12. The allegations set forth above are incorporated herein by reference thereto as if the same were set forth at length.

13. Plaintiffs have filed a Complaint against various medical providers.

14. Plaintiffs' Complaint is extremely confusing as the Plaintiffs have incorporated allegations against other Defendants as against this Defendant.

15. Plaintiffs set forth in Count IV which is specifically against Dr. DeSantis the following:

> 43. Plaintiffs incorporate 1 through 42 of the Complaint herein as if fully set forth at length.

16. As a result of the Plaintiffs incorporating all of the allegations against Defendants, Clearfield Hospital, Dr. George F. Palmer and Dr. Ernest P. Jones as against this Defendant, such is clearly improper under the Pennsylvania Rules of Civil Procedure.

17. Further, Paragraph 50 states:

> 50. Plaintiffs incorporate paragraphs one through forty-nine of the herein Complaint as if fully set forth at length.

18. This Complaint as drafted, does not provide this Defendant notice as to what he is to defend against and separate the allegations for the other Defendants' actions and/or inactions which is clearly improper under the Pennsylvania Rules of Civil Procedure, specifically Pa.R.C.P. Section 1020(a).

19. Pa.R.C.P. Section 1020(a) requires each cause of action against each Defendant to be separate and any special damages related thereto must be set forth in a separate Count containing a separate demand for relief.

20. Clearly the allegations against each Defendant must be separated and other Defendants' allegations of negligence cannot be incorporated as against this Defendant.

WHEREFORE, Defendant, James P. DeSantis, prays that Paragraph 43 and 50 of Plaintiffs' Complaint be stricken.

MEYER, DARRAGH, BUCKLER, BEBENEK & ECK, PLLC

BY: _____

MARY LOU MAIERHOFER, ESQUIRE
Counsel for Defendant, James P. DeSantis
120 Lakemont Park Boulevard
Altoona, PA 16602
(814) 941-4600
I.D. #62175

DATE: March 10, 2003

MLM/ten/PRINCE-105665

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

SANDRA CONKLIN, as parent and natural guardian of Justine Kline, and SANDARA CONKLIN, individually, Plaintiffs, vs. CLEARFIELD HOSPITAL, GEORGE F. PALMER, ERNEST P. JONES and JAMES P. DESANTIS, Defendants.	CIVIL DIVISION No. 2003-00068-CD

CERTIFICATE OF SERVICE

I, Mary Lou Maierhofer, Esquire, of the law firm of MEYER, DARRAGH, BUCKLER, BEBENEK & ECK, PLLC, on behalf of Defendant, James P. DeSantis, hereby certify that Preliminary Objections to Plaintiffs' Complaint was served this **10th day of March, 2003**, by mailing same first class United States mail, postage prepaid, addressed to Counsel as follows:

Rolf Louis Patberg, Esquire
Patberg, Carmody, Ging & Filippi
527 Court Place
Pittsburgh, PA 15219
(Plaintiffs' Counsel)

John McIntyre, Esquire
McIntyre, Dugas, Hartye & Schmitt
P.O. Box 533
Hollidaysburg, PA 16648
(Counsel for Clearfield Hospital, George F. Palmer and Ernest P. Jones)

MEYER, DARRAGH, BUCKLER, BEBENEK & ECK, PLLC

BY: _____
MARY LOU MAIERHOFER, ESQUIRE
Counsel for Defendant, James P. DeSantis
120 Lakemont Park Boulevard
Altoona, PA 16602
(814) 941-4600
I.D. #62175

FILED NO CC
10:57 BK
MAR 11 2003

William A. Shaw
Prothonotary

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

SANDRA CONKLIN, as parent and natural guardian of JUSTINE KLINE, and SANDRA CONKLIN, individually,

Plaintiffs,

v.

CLEARFIELD HOSPITAL, GEORGE F. PALMER, ERNEST P. JONES, and JAMES P. DeSANTIS,

Defendants.

JURY TRIAL DEMANDED

CIVIL DIVISION

NO.: 2003-68 CD

TYPE OF PLEADING:

VERIFICATION TO COMPLAINT

FILED ON BEHALF OF PLAINTIFF

COUNSEL OF RECORD FOR THIS PARTY:

ROLF LOUIS PATBERG, ESQUIRE
PA I.D. NO.: 65185

PATBERG, CARMODY, GING & FILIPPI
527 COURT PLACE
PITTSBURGH, PA 15219
(412) 232-3500

FILED

MAR 10 2003

William A. Shaw
Prothonotary

#9

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

SANDRA CONKLIN, as parent and natural guardian of JUSTINE KLINE, and SANDRA CONKLIN, individually,	)	CIVIL DIVISION
	)	NO.: 2003-68 CD
Plaintiffs,	)	
v.	)	
CLEARFIELD HOSPITAL, GEORGE F. PALMER, ERNEST P. JONES, and JAMES P. DeSANTIS,	)	
Defendants.	)	**JURY TRIAL DEMANDED**

VERIFICATION TO COMPLAINT

AND NOW, come the Plaintiffs, by and through their attorneys, Patberg, Carmody, Ging & Filippi, and Rolf Louis Patberg, Esquire, and file the attached Verification to Complaint

RESPECTFULLY SUBMITTED:

PATBERG, CARMODY, GING & FILIPPI

DATE: 3-5-03

By _____
Rolf Louis Patberg, Esquire
PA I.D. No.: 65185

PATBERG, CARMODY, GING & FILIPPI
527 Court Place
Pittsburgh, PA 15219
(412) 232-3500

Attorney for Plaintiffs

JURY TRIAL DEMANDED

VERIFICATION AFFIDAVIT

I verify that the statements made herein are true and correct to the best of my knowledge, information, and belief.

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

Sandra Conklin

Sandra Conklin

CERTIFICATE OF SERVICE

I, Rolf Louis Patberg, Esquire, hereby certify that a true and correct copy of the foregoing Verification to Complaint was forwarded this 5 day of March, 2003 via postage prepaid United States Mail to the following:

John L. McIntyre, Esquire
McIntyre, Dugas, Hartye & Schmitt
P.O. Box 533
Holidaysburg, PA 16648

Mary Lou Maierhofer, Esquire
Meyer, Darragh, Buckler, Bebenek & Eck, P.L.L.C.
120 Lakemont Park Boulevard
Altoona, PA 16602

Rolf Louis Patberg, Esquire

FILED NO CC
m/2:05 BH
MAR 10 2003

William A. Shaw
Prothonotary

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

SANDRA CONKLIN, as parent and natural guardian of JUSTINE KLINE, and SANDRA CONKLIN, individually,	CIVIL DIVISION NO.: 2003-68 CD
Plaintiffs,	TYPE OF PLEADING:
v.	**COMPLAINT IN CIVIL ACTION**
CLEARFIELD HOSPITAL, GEORGE F. PALMER, ERNEST P. JONES, and JAMES P. DeSANTIS,	FILED ON BEHALF OF PLAINTIFF COUNSEL OF RECORD FOR THIS PARTY:
Defendants.	ROLF LOUIS PATBERG, ESQUIRE PA I.D. NO.: 65185 PATBERG, CARMODY, GING & FILIPPI 527 COURT PLACE PITTSBURGH, PA 15219 (412) 232-3500
JURY TRIAL DEMANDED	

FILED

MAR 0 3 2003

William A. Shaw
Prothonotary

#8

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

SANDRA CONKLIN, as parent and natural guardian of JUSTINE KLINE, and SANDRA CONKLIN, individually,	)	CIVIL DIVISION
	)	NO.: 2003-68 CD
Plaintiffs,	)	
v.	)	
CLEARFIELD HOSPITAL, GEORGE F. PALMER, ERNEST P. JONES, and JAMES P. DeSANTIS,	)	
Defendants.	)	**JURY TRIAL DEMANDED**

NOTICE TO PLEAD

You have been sued in Court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this Complaint and Notice are served, by entering a written appearance personally or by attorney and filing in writing with the Court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you by the Court without further notice for any money claimed in the Complaint or for any claim or relief requested by the Plaintiff.

You may lose money or property or other rights important to you.

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

Pennsylvania Lawyer Referral Service
Pennsylvania Bar Association
P.O. Box 186
Harrisburg, PA 17108
1-800-692-7375

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

SANDRA CONKLIN, as parent and natural guardian of JUSTINE KLINE, and SANDRA CONKLIN, individually,	)	CIVIL DIVISION
	)	NO.: 2003-68 CD
Plaintiffs,	)	
v.	)	
CLEARFIELD HOSPITAL, GEORGE F. PALMER, ERNEST P. JONES, and JAMES P. DeSANTIS,	)	
Defendants.	)	**JURY TRIAL DEMANDED**

COMPLAINT IN CIVIL ACTION

AND NOW, come the Plaintiffs, by and through their attorneys, Patberg, Carmody, Ging & Filippi, and Rolf Louis Patberg, Esquire, and file the following Complaint in Civil Action and in support thereof aver as follows:

1. The Plaintiff Sandra Conklin is an adult individual residing at 509 Leavy Avenue, Clearfield, PA 16830. She is the parent and natural mother of Justine Kline. At the time of the incident complained of herein, Justine Kline was approximately three (3) years old.

2. Defendant Clearfield Hospital is a corporation involved in the practice of medicine with a principal place of business at 809 Turnpike Avenue, P.O. Box 992, Clearfield, Clearfield County, PA 16830.

3. Defendant George F. Palmer is a physician trading and doing business at 809 Turnpike Avenue, P.O. Box 992, Clearfield, Clearfield County, PA 16830. Defendant George F. Palmer is a licensed professional with offices in Clearfield County, Pennsylvania. Plaintiff is asserting a professional liability claim against this Defendant.

4. Defendant Ernest P. Jones is an adult individual engaged in the practice of medicine at 809 Turnpike Avenue, P.O. Box 992, Clearfield, Clearfield County, PA 16830. Defendant Ernest P. Jones is a licensed professional with offices in Clearfield County, Pennsylvania. Plaintiff is asserting a professional liability claim against this Defendant. At all times to the herein action, Defendant Palmer was an agent, servant, employee or ostensible agent of Defendant Clearfield Hospital.

5. Defendant James P. Desantis is an adult individual engaged in the practice of medicine located at 809 Turnpike Avenue, P.O. Box 992, Clearfield, Clearfield County, PA 16830. Defendant James P. Desantis is a licensed professional with offices in Clearfield County, Pennsylvania. Plaintiff is asserting a professional liability claim against this Defendant. At all times to the herein action, Defendant Palmer was an agent, servant, employee or ostensible agent of Defendant Clearfield Hospital.

6. At all times relevant to the herein action, Plaintiff Sandra Conklin, on behalf of Justine Kline, looked to the institution, Clearfield Hospital, as the medical provider and not the individual physician-Defendants. Plaintiff Sandra Conklin always viewed and reasonably believed that individual Defendants Palmer, Jones and DeSantis were employees and/or agents of Clearfield Hospital.

7. On or about February 23, 2003 at approximately 1:58 a.m., Justine Kline arrived at Clearfield Hospital with complaints of fever. While at Clearfield Hospital, at the time of the visit, Justine Kline was hallucinating, twitching, febrile and is vomiting.

8. Also during the initial February 23, 2002 stay, Justine Kline was noted to be confused and experiencing visual hallucinations after being brought into the emergency room by her parents.

9. On February 23, 2002 at approximately 2:01 a.m., Gwen R. Thomas, an employee of Clearfield Hospital, took Justine Kline's temperature which was 40.1° celcius and her pulse was 177.

10. On February 23, 2002 at approximately 2:24 a.m., Ernest P. Jones ordered an urine analysis with a microscopic analysis. The urine analysis showed white blood cells, red blood cells and a 3+ value of bacteria.

11. On February 23, 2002 at approximately 2:55 a.m., blood cultures were taken which eventually revealed that Justine Kline was suffering from a gram negative organism within her blood.

12. On February 23, 2002 at 4:40 a.m., Justine Kline was given Rocephen by Gwen R. Thomas, a nurse at Clearfield Hospital.

13. On February 23, 2002 at 5:45 a.m., Justine Kline was discharged from the Clearfield Hospital Emergency Room.

14. While at home in the ensuing morning, Justine became increasingly ill.

15. On February 23, 2002 at 1:37 p.m., Justine Kline arrived at Clearfield Hospital. She arrived by being carried by her mother. It was noted that she was drowsy and lethargic.

16. On February 23, 2002 at 2:06 p.m., James P. DeSantis ordered a CBC with diff which revealed a high white blood cell count, low hemoglobin and low hematacrit.

17. On February 23, 2002 at 2:21 p.m., Justine Kline was seen by Clearfield Hospital Physicians' Assistant Stacey Gerg. It is noted that she was ill apparent and in moderate distress. The skin was noted to be warm and dry with mottling.

18. The medical providers decided that Justine Kline would be transferred to Children's Hospital, as she began to have fixed and dilated pupils and was in critical condition.

19. Upon arrival at the helipad, she was met by an intensive care team. Pulmonary edema was noted in the tracheal tube and the tube was dislodged.

20. Justine Kline then became bradycardic and chest compressions were given. A prolonged recussication ensued, during which multiple doses of bicarbonate, epinephrine, calcium, atropine, vasopressin and dextrose were given. A pericardial tap was attempted, which was not productive.

21. Upon admission to Children's Hospital, it was determined that she was suffering from septic shock, pulmonary edema and disseminated intravascular coagulation. A pulmonary artery catheter was placed. Justine's extremities were poorly perfused and tissue plasminogen activator was initiated in an attempt to salvage her extremities.

22. Later in the evening of February 23, 2002, while at Children's Hospital, she developed cardiac tamponade which was verified echocardiographically and pericardial grades were placed.

23. During her hospital course from February 23, 2002 through March 13, 2002, at Children's Hospital, Justine Kline experienced renal failure, pancreatitis and acute respiratory distress syndrome. Her septic shock slowly improved on dopamine, epinephrine and milrinone. Her cultures grew enterobacter cloacae and her septic course was attributed to the urosepsis, a condition which she was known to be suffering at Clearfield Emergency Room on February 22 and February 23, 2003.

24. On March 13, 2002, Justine Kline was transferred to rehabilitation therapy. She now suffers permanent losses of portions of her extremity, significant mental impairment, and will need long term treatment for her various conditions.

COUNT I

JUSTINE KLINE V. CLEARFIELD HOSPITAL

CORPORATE NEGLIGENCE

25. Plaintiffs incorporate paragraphs one through twenty-four of the herein Complaint as if fully set forth here at length.

26. At all times relevant to the herein action, Defendant Clearfield Hospital owed a duty of reasonable care to Plaintiffs Sandra Conklin and Justine Kline.

27. At all times relevant to the herein action, Defendant Physicians Dr. George F. Palmer, Dr. Ernest P. Jones, and James P. DeSantis, M.D. were agents, servants, representatives, employees and/or ostensible agents of Defendant Clearfield Hospital. The allegations concerning their individual actions outlined in the counts below are incorporated here by reference. In addition, other currently unknown employees of Clearfield Hospital may have contributed and/or caused harm to Justine Kline.

28. Defendant Clearfield Hospital, as an institution and employer, deviated from the standard of care in the following manner:

a. In failing to maintain a safe and adequate facility for the treatment and diagnosis of pediatric infections, and failing to have a sufficiently trained pediatric infectious disease physician available for consultation;

b. In failing to select only competent physicians and employees, including the Defendants;

c. In failing to supervise and oversee all medical personnel who treated Sandra Conklin and Justine Kline;

d. In failing to adopt, formulate and enforce adequate policies and procedures at Clearfield Hospital for the treatment of septic shock, pyelonephritis, bacteremia and urosepsis;

e. In failing to have adequate policies and procedures to ensure that any consultations required of infectious disease specialists are performed under the circumstances; and

f. In its agents' failure, including the Emergency Room nurses, to report inappropriate and negligent treatment rendered by the physicians identified in the herein Complaint to supervising authorities.

29. As a direct and proximate result of the corporate negligent deviations in the standard of care by Defendant Clearfield Hospital, Justine Kline suffered significant serious brain injuries, as well as severe permanent disfigurement.

30. Upon information and belief, Defendant Clearfield Hospital, by and through its agents and employees, knowingly failed to render appropriate medical treatment or were recklessly indifferent to appropriate treatment that could have avoided Justine Kline's injury with the knowledge that Justine Kline could be injured if such treatment was not rendered. Upon information and belief, such treatment was not rendered due to the economic and insurance status of Plaintiffs Sandra Conklin and Justine Kline. Such conduct constitutes reckless indifference to the fundamental rights of procreation of Justine Kline and her mother. Such conduct warrants the imposition of punitive damages.

31. As a direct and proximate result of the aforementioned deviations in the standard of care, Justine Kline suffered significant pain and suffering; additional infections, including osteomyelitis; incurred additional medical bills; and suffered other significant losses.

32. As a result of the same, Justine Kline claims the following damages:

a. Past medical bills of at least $100,000.00;

b. Future medical bills in a currently unknown amount;

c. Lost future earnings;

d. Severe pain and discomfort;

e. Permanent scarring and disfigurement;

f. Past and future pain and suffering; and

g. Loss of enjoyment of life.

WHEREFORE, Plaintiff respectfully requests this Honorable Court enter judgment in her favor in an amount in excess of Twenty-Five Thousand Dollars ($25,000.00) and the arbitration limits of Clearfield County, including the imposition of punitive damages.

COUNT II

PLAINTIFF JUSTINE KLINE V. DEFENDANT DR. GEORGE F. PALMER

33. Plaintiffs incorporate paragraphs one through thirty-two of the herein Complaint as if fully set forth here at length.

34. All Defendant physicians named herein were jointly and contemporaneously negligent in the care of Justine Kline, as outlined below. As such, each such Defendant is jointly and severally responsible for the deviations set forth below in varying capacities, including Defendant Palmer.

35. Defendant Palmer deviated from the standard of care in the following manners:

a. In failing to timely appreciate the signs and symptoms of Justine Kline;

b. In failing to timely diagnose her with pyelonephritis;

c. In failing to timely appreciate the seriousness of her condition;

d. In failing to timely appreciate the presence of hypertension and tachycardia;

e. In failing to admit Justine Kline as an inpatient;

f. In failing to appreciate the significance or diagnosis of bacteremia or sepsis;

g. In failing to timely initiate sufficient antibiotic therapy; and

h. In failing to timely properly diagnose her with severe septic shock.

36. As a direct and proximate result of the aforementioned deviations in the standard of care, Justine Kline will be permanently scarred and disabled for the remainder of her life.

37. As a direct and proximate legal result of the aforementioned deviations in the standard care, Plaintiff Justine Kline claims the following damages:

a. Past medical expenses in excess of $100,000.00;

b. Future medical expenses in an amount to be determined;

c. Past and future pain and suffering;

d. Past and future emotional distress;

e. Past and future life opportunities;

f. Diminution in earning capacity in the future; and

g. Reimbursement for equipment expenses and alterations to the family residence.

WHEREFORE, Plaintiffs respectfully request this Honorable Court enter judgment in an amount in excess of Twenty Five Thousand Dollars ($25,000.00) and in excess of the Clearfield County Arbitration limits.

COUNT III

PLAINTIFF JUSTINE KLINE V. DEFENDANT DR. ERNEST P. JONES

38. Plaintiffs incorporate paragraphs one through thirty-seven of the herein Complaint as if fully set forth here at length.

39. All of the above Defendant physicians named herein were jointly and contemporaneously negligent in the pre-birth and perinatal care of Justine Kline, as outlined below. As such, each such Defendant is jointly and severally responsible for the deviations set forth below in varying capacities, including Defendant Jones.

40. Defendant Jones deviated from the standard of care in the following manners:

a. In failing to timely appreciate the signs and symptoms of Justine Kline;

b. In failing to timely diagnose her with pyelonephritis;

c. In failing to timely appreciate the seriousness of her condition;

d. In failing to timely appreciate the presence of hypertension and tachycardia;

e. In failing to admit Justine Kline as an inpatient;

f. In failing to timely appreciate the significance or diagnosis of bacteremia or sepsis;

g. In failing to timely initiate sufficient antibiotic therapy; and

h. In failing to timely properly diagnose her with severe septic shock.

41. As a direct and proximate result of the aforementioned deviations in the standard of care, Justine Kline will be permanently disfigured and disabled for the remainder of her life.

42. As a direct and proximate legal result of the aforementioned deviations in the standard care, Plaintiff Justine Kline claims the following damages:

a. Past medical expenses in excess of $100,000.00;

b. Future medical expenses in an amount to be determined;

c. Past and future pain and suffering;

d. Past and future emotional distress;

e. Past and future life opportunities;

f. Diminution of earning capacity in the future; and

g. Reimbursement for equipment expenses and alterations to the family residence.

WHEREFORE, Plaintiffs respectfully request this Honorable Court enter judgment in an amount in excess of Twenty Five Thousand Dollars ($25,000.00) and in excess of the Clearfield County Arbitration limits.

COUNT IV

PLAINTIFF JUSTINE KLINE V. DEFENDANT JAMES P. DESANTIS, M.D.

43. Plaintiffs incorporate paragraphs one through forty-two of the herein Complaint as if fully set forth here at length.

44. All of the above Defendant physicians named herein were jointly and contemporaneously negligent in the care of Justine Kline, as outlined below. As such, each such Defendant is jointly and severally responsible for the deviations set forth below in varying capacities.

45. Defendant DeSantis deviated from the standard of care in the following manners:

a. In failing to timely appreciate the signs and symptoms of Justine Kline;

b. In failing to timely diagnose her with pyelonephritis;

c. In failing to timely appreciate the seriousness of her condition;

d. In failing to timely appreciate the presence of hypertension and tachycardia;

e. In failing to admit Justine Kline as an inpatient;

f. In failing to timely appreciate the significance or diagnosis of bacteremia or sepsis;

g. In failing to timely initiate sufficient antibiotic therapy; and

h. In failing to timely properly diagnose her with severe septic shock.

46. As a direct and proximate result of the aforementioned deviations in the standard of care, Justine Kline will be permanently scarred and disfigured for the remainder of her life.

47. As a direct and proximate legal result of the aforementioned deviations in the standard care, Plaintiff Justine Kline claims the following damages:

a. Past medical expenses in excess of $100,000.00;

b. Future medical expenses in an amount to be determined;

c. Past and future pain and suffering;

d. Past and future emotional distress;

e. Past and future life opportunities;

f. Diminution of future earning capacity; and

g. Reimbursement for equipment expenses and alterations to the family residence.

WHEREFORE, Plaintiffs respectfully request this Honorable Court enter judgment in an amount in excess of Twenty Five Thousand Dollars ($25,000.00) and in excess of the Clearfield County Arbitration limits.

COUNT V

PLAINTIFF SANDRA CONKLIN V. WESTERN PENNSYLVANIA HOSPITAL, DR. GEORGE F. PALMER, DR. ERNEST P. JONES, AND JAMES P. DESANTIS, M.D.

48. Plaintiffs incorporate paragraphs one through forty-seven of the herein Complaint as if fully set forth here at length.

49. As a direct and proximate result of the aforementioned negligence, the mother of Justine Kline hereby claims reimbursement for all expenses, medical expenses, and any and all financial outlays reasonably related to the care and maintenance of Justine Kline.

WHEREFORE, Plaintiffs respectfully request this Honorable Court enter judgment in an amount in excess of Twenty Five Thousand Dollars ($25,000.00) and in excess of the Clearfield County Arbitration limits.

COUNT VI

PLAINTIFF SANDRA CONKLIN V. WESTERN PENNSYLVANIA HOSPITAL, DR. GEORGE F. PALMER, DR. ERNEST P. JONES, AND JAMES P. DESANTIS, M.D.

NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS

50. Plaintiffs incorporate paragraphs one through forty-nine of the herein Complaint as if fully set forth here at length.

51. At all times relevant to the herein action, the Defendants owed a duty directly to the Plaintiff Sandra Conklin.

52. At all times relevant herein, Sandra Conklin was physically present for the treatment and events described in the herein Complaint.

53. During the course of the treatment outlined herein, Sandra Conklin witnessed her child become severely ill, go into cardiac arrest, and nearly die in her presence.

54. The Defendants breached the duty of care owed to Sandra Conklin was negligently inflicting emotional distress upon Sandra Conklin, as a parent, as outlined in Counts I through V herein.

55. As a direct and proximate legal result of the aforementioned events, Sandra Conklin claims the following damages:

a. Severe emotional distress;

b. Severe mental suffering;

c. Past and future medical bills for therapy and consultations; and

d. Lost wages.

WHEREFORE, Plaintiffs respectfully request this Honorable Court enter judgment in an amount in excess of Twenty Five Thousand Dollars ($25,000.00) and in excess of the Clearfield County Arbitration limits.

JURY TRIAL DEMANDED.

RESPECTFULLY SUBMITTED:

PATBERG, CARMODY, GING & FILIPPI

DATE: 2/20/03

By _____
Rolf Louis Patberg, Esquire
PA I.D. No.: 65185

PATBERG, CARMODY, GING & FILIPPI
527 Court Place
Pittsburgh, PA 15219
(412) 232-3500

Attorney for Plaintiffs

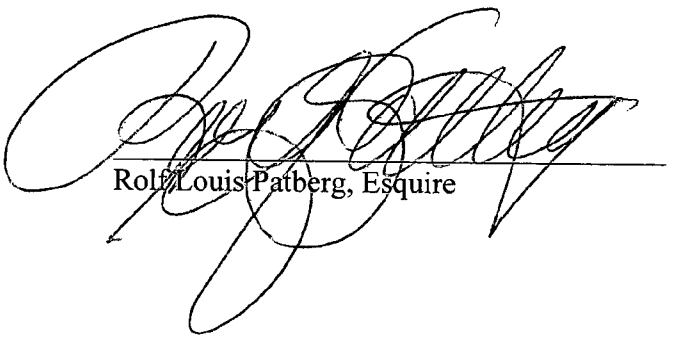
JURY TRIAL DEMANDED

CERTIFICATE OF SERVICE

I, Rolf Louis Patberg, Esquire, hereby certify that a true and correct copy of the foregoing Complaint in Civil Action was forwarded this 21 day of February, 2003 via postage prepaid United States Mail to the following:

John L. McIntyre, Esquire
McIntyre, Dugas, Hartye & Schmitt
P.O. Box 533
Holidaysburg, PA 16648

Mary Lou Maierhofer, Esquire
Meyer, Darragh, Buckler, Bebenek & Eck, P.L.L.C.
120 Lakemont Park Boulevard
Altoona, PA 16602



Rolf Louis Patberg, Esquire

FILED No CC
m 11:45 BH
MAR 03 2003
William A. Shaw
Prothonotary

In The Court of Common Pleas of Clearfield County, Pennsylvania

Sheriff Docket # 13552

CONKLIN, SANDRA as parent & nat. guard. Of Justine Kline 03-68-CD

VS.

CLEARFIELD HOSPITAL al

SUMMONS

SHERIFF RETURNS

NOW JANUARY 20, 2003 AT 9:02 AM EST SERVED THE WITHIN SUMMONS ON GEORGE F. PALMER, DEFENDANT AT EMPLOYMENT, 809 TURNPIKE AVE., CLEARFIELD, CLEARFIELD COUNTY, PENNSYLVANIA BY HANDING TO TOM CONLIN, VICE PRES., HUMAN RESOURCES, CLEARFIELD HOSPITAL, A TRUE AND ATTESTED COPY OF THE ORIGINAL SUMMONS AND MADE KNOWN TO HIM THE CONTENTS THEREOF.
SERVED BY: MORGILLO

NOW JANUARY 20, 2003 AT 9:20 AM EST SERVED THE WITHIN SUMMONS ON CLEARFIELD HOSPITAL, DEFENDANT AT EMPLOYMENT, 809 TURNPIKE AVE., CLEARFIELD, CLEARFIELD COUNTY, PENNSYLVANIA BY HANDING TO TOM CONLIN, V. PRES. HUMAN RESOURCES, A TRUE AND ATTESTED COPY OF THE ORIGINAL SUMMONS AND MADE KNOWN TO HIM THE CONTENTS THEREOF.
SERVED BY: MORGILLO

NOW JANUARY 20, 2003 AT 9:20 AM EST SERVED THE WITHIN SUMMONS ON ERNEST P. JONES, DEFENDANT AT EMPLOYMENT, CLEARFIELD HOSPITAL, 809 TURNPIKE AVE., CLEARFIELD, CLEARFIELD COUNTY, PENNSYVLANIA BY HANDING TO TOM CONLIN, V. P. HUMAN RESOURCES, A TRUE AND ATTESTED COPY OF THE ORIGINAL SUMMONS AND MADE KNOWN TO HIM THE CONTENTS THEREOF.
SERVED BY: MORGILLO

NOW JANUARY 20, 2003 AT 9:20 AM EST SERVED THE WITHIN SUMMONS ON JAMES P. DESANTIS, DEFENDANT AT EMPLOYMENT, CLEARFIELD HOSPITAL, 809 TURNPKE AVE., CLEARFIELD, CLEARFIELD COUNTY, PENNSYVLANIA BY HANDING TO TOM CONLIN, V.P. HUMAN RESOURCES, A TRUE AND ATTESTED COPY OF THE ORIGINAL SUMMONS AND MADE KNOWN TO HIM THE CONTENTS THEREOF.
SERVED BY: MORGILLO

FILED

FEB 11 2003

0/11:30 a.m.

William A. Shaw
Prothonotary

In The Court of Common Pleas of Clearfield County, Pennsylvania

Sheriff Docket # 13552

CONKLIN, SANDRA as parent & nat. guard. Of Justine Kline 03-68-CD

VS.

CLEARFIELD HOSPITAL al

SUMMONS

SHERIFF RETURNS

Return Costs

Cost	Description
38.00	SHFF. HAWKINS PD. BY: ATTY.
40.00	SURCHARGE PD. BY: ATTY.

Sworn to Before Me This

11th **Day Of** Feb **2003**

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

So Answers,

Chester A. Hawkins by Marilyn Hamm

Chester A. Hawkins
Sheriff

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

SANDRA CONKLIN, as parent and natural guardian of JUSTINE KLINE, and SANDRA CONKLIN, individually,	No. 2003 – 68 CD
	ISSUE: CERTIFICATE OF SERVICE OF RULE TO FILE COMPLAINT
Plaintiff	
vs.	
	Filed on behalf of Defendants, CLEARFIELD HOSPITAL and GEORGE F. PALMER
CLEARFIELD HOSPITAL, GEORGE F. PALMER, ERNEST P. JONES and JAMES P. DESANTIS,	Counsel of Record: John L. McIntyre, Esquire PA I.D. #28015 McINTYRE, DUGAS, HARTYE & & SCHMITT P.O. Box 533 Hollidaysburg, PA 16648 (814) 696-3581
Defendants	
	JURY TRIAL DEMANDED

I HEREBY CERTIFY THAT A TRUE AND CORRECT COPY OF THE WITHIN WAS MAILED TO ALL COUNSEL OF RECORD THIS 4th DAY OF **FEBRUARY, 2003**.

Attorneys for Named Defendants

FILED

FEB 05 2003

William A. Shaw
Prothonotary

#6

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

SANDRA CONKLIN, as parent and natural guardian of JUSTINE KLINE, and SANDRA CONKLIN, individually,	:	No. 2003 – 68 CD
Plaintiff	:	
vs.	:	
CLEARFIELD HOSPITAL, GEORGE F. PALMER, ERNEST P. JONES and JAMES P. DESANTIS,	:	
Defendants	:	JURY TRIAL DEMANDED

CERTIFICATE OF SERVICE OF RULE TO FILE COMPLAINT

TO: PROTHONOTARY

You are hereby notified that on the 4th day of **FEBRUARY, 2003**, Defendants, CLEARFIELD HOSPITAL and GEORGE F. PALMER, served a RULE upon the Plaintiff, by mailing the original of same via First Class Mail, postage prepaid, addressed to the Plaintiff's counsel:

Rolf Louis Patberg, Esquire
Patberg, Carmody, Ging & Filippi
527 Court Place
Pittsburgh, PA 15219

McINTYRE, DUGAS, HARTYE & SCHMITT

Attorneys for Defendants,
CLEARFIELD HOSPITAL and
GEORGE F. PALMER

John L. McIntyre, Esquire
PA I.D. #28015
P.O. Box 533
Hollidaysburg, PA 16648-0533
(814) 696-3581

FILED NO CC
m/1:20 BL
FEB 05 2003

William A. Shaw
Prothonotary

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

SANDRA CONKLIN, as parent and natural guardian of JUSTINE KLINE, and SANDRA CONKLIN, individually,	No. 2003 – 68 CD **ISSUE:** PRAECIPE FOR APPEARANCE
Plaintiff	
vs.	
CLEARFIELD HOSPITAL, GEORGE F. PALMER, ERNEST P. JONES and JAMES P. DESANTIS,	Filed on behalf of Defendants, CLEARFIELD HOSPITAL, GEORGE F. PALMER and ERNEST P. JONES Counsel of Record: John L. McIntyre, Esquire PA I.D. #28015 McINTYRE, DUGAS, HARTYE & & SCHMITT P.O. Box 533 Hollidaysburg, PA 16648 (814) 696-3581
Defendants	JURY TRIAL DEMANDED

I HEREBY CERTIFY THAT A TRUE AND CORRECT COPY OF THE WITHIN WAS MAILED TO ALL COUNSEL OF RECORD THIS 4TH DAY OF **FEBRUARY, 2003**.

Attorneys for Named Defendants

FILED

FEB 05 2003

William A. Shaw
Prothonotary

#5

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

SANDRA CONKLIN, as parent and natural guardian of JUSTINE KLINE, and SANDRA CONKLIN, individually,	:	No. 2003 – 68 CD
Plaintiff	:	
vs.	:	
CLEARFIELD HOSPITAL, GEORGE F. PALMER, ERNEST P. JONES and JAMES P. DESANTIS,	:	
Defendants	:	JURY TRIAL DEMANDED

PRAECIPE FOR APPEARANCE

TO: PROTHONOTARY

Kindly enter my appearance as counsel of record for the Defendant, ERNEST P. JONES, in the above-captioned action.

McINTYRE, DUGAS, HARTYE & SCHMITT

Attorneys for Defendants,
CLEARFIELD HOSPITAL , GEORGE F. PALMER and ERNEST P. JONES

John L. McIntyre, Esquire
PA I.D. #28015
P.O. Box 533
Hollidaysburg, PA 16648-0533
(814) 696-3581

FILED NO CC
03:17 BH
FEB 05 2003

William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

SANDRA CONKLIN, as parent and natural guardian of Justine Kline, and SANDARA CONKLIN, individually,

Plaintiff,

vs.

CLEARFIELD HOSPITAL, GEORGE F. PALMER, ERNEST P. JONES and JAMES P. DESANTIS,

Defendants.

CIVIL DIVISION

No. 2003-00068-CD

Code No.

PRAECIPE FOR ENTRY OF APPEARANCE

Filed on Behalf of Defendant, James P. DeSantis

Counsel of Record for this Party:

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

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

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

FILED

JAN 29 2003

William A. Shaw
Prothonotary

#4

MLM/ten/PRINCE-Conklin

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

SANDRA CONKLIN, as parent and natural guardian of Justine Kline, and SANDARA CONKLIN, individually, Plaintiff, vs. CLEARFIELD HOSPITAL, GEORGE F. PALMER, ERNEST P. JONES and JAMES P. DESANTIS, Defendants.	CIVIL DIVISION No. 2003-00068-CD

PRAECIPE FOR ENTRY OF APPEARANCE

TO THE PROTHONOTARY:

Please enter the appearance of MARY LOU MAIERHOFER, ESQUIRE, of MEYER, DARRAGH, BUCKLER, BEBENEK & ECK, PLLC, as Counsel of Record on behalf of Defendant, James P. DeSantis, in the above-captioned matter.

MEYER, DARRAGH, BUCKLER, BEBENEK & ECK, PLLC

BY: _____

MARY LOU MAIERHOFER, ESQUIRE
Counsel for Defendant, James P. DeSantis
120 Lakemont Park Boulevard
Altoona, PA 16602
(814) 941-4600
I.D. #62175

DATE: January 28, 2003

MLM/ten/PRINCE-Conklin

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

SANDRA CONKLIN, as parent and natural guardian of Justine Kline, and SANDARA CONKLIN, individually, Plaintiff, vs. CLEARFIELD HOSPITAL, GEORGE F. PALMER, ERNEST P. JONES and JAMES P. DESANTIS, Defendants.	CIVIL DIVISION No. 2003-00068-CD

CERTIFICATE OF SERVICE

I, Mary Lou Maierhofer, Esquire, of the law firm of MEYER, DARRAGH, BUCKLER, BEBENEK & ECK, PLLC, on behalf of Defendant, James P. DeSantis, hereby certify that Praecipe for Entry of Appearance was served this **28th day of January, 2003**, by mailing same first class United States mail, postage prepaid, addressed to Counsel as follows:

Rolf Louis Patberg, Esquire
Patberg, Carmody, Ging & Filippi
527 Court Place
Pittsburgh, PA 15219
(Plaintiff's Counsel)

John McIntyre, Esquire
McIntyre, Dugas, Hartye & Schmitt
P.O. Box 533
Hollidaysburg, PA 16648
(Counsel for Clearfield Hospital, George F. Palmer and Ernest P. Jones)

MEYER, DARRAGH, BUCKLER, BEBENEK & ECK, PLLC

BY: _____
MARY LOU MAIERHOFER, ESQUIRE
Counsel for Defendant, James P. DeSantis
120 Lakemont Park Boulevard
Altoona, PA 16602
(814) 941-4600
I.D. #62175

FILED
m/12:45 BH
JAN 29 2003
NO CC
E
KEM

William A. Shaw
Prothonotary

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

SANDRA CONKLIN, as parent and natural guardian of JUSTINE KLINE, and SANDRA CONKLIN, individually,	No. 2003 – 68 CD
	ISSUE: PRAECIPE FOR RULE TO FILE COMPLAINT
Plaintiff	
vs.	
	Filed on behalf of Defendants, CLEARFIELD HOSPITAL and GEORGE F. PALMER
CLEARFIELD HOSPITAL, GEORGE F. PALMER, ERNEST P. JONES and JAMES P. DESANTIS,	Counsel of Record: John L. McIntyre, Esquire PA I.D. #28015 McINTYRE, DUGAS, HARTYE & & SCHMITT P.O. Box 533 Hollidaysburg, PA 16648 (814) 696-3581
Defendants	
	JURY TRIAL DEMANDED

I HEREBY CERTIFY THAT A TRUE AND CORRECT COPY OF THE WITHIN WAS MAILED TO ALL COUNSEL OF RECORD THIS **22ND** DAY OF **JANUARY, 2003**.

Attorneys for Named Defendants

FILED

JAN 23 2003

William A. Shaw
Prothonotary

#3

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

SANDRA CONKLIN, as parent and natural guardian of JUSTINE KLINE, and SANDRA CONKLIN, individually,	:	No. 2003 – 68 CD
Plaintiff	:	
vs.	:	
CLEARFIELD HOSPITAL, GEORGE F. PALMER, ERNEST P. JONES and JAMES P. DESANTIS,	:	
Defendants	:	JURY TRIAL DEMANDED

PRAECIPE FOR RULE TO FILE COMPLAINT

TO: PROTHONOTARY

Please enter a Rule upon the Plaintiff, SANDRA CONKLIN, as parent and natural guardian of JUSTINE KLINE, and SANDRA CONKLIN, individually, to file a Complaint in the above-captioned matter within twenty (20) days from service of said Rule.

McINTYRE, DUGAS, HARTYE & SCHMITT

By_____
Attorneys for Defendants,
CLEARFIELD HOSPITAL and
GEORGE F. PALMER

John L. McIntyre, Esquire
PA I.D. #28015
P.O. Box 533
Hollidaysburg, PA 16648
(814) 696-3581

FILED
m/ 1:37 BL
JAN 23 2003

William A. Shaw
Prothonotary

1 Rule to Atty McIntyre

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

COPY

Sandra Conklin, as parent and natural guardian of Justine Kline, and Sandra Conklin, individually

Vs.

Clearfield Hospital, George F. Palmer, Ernest P. Jones, and James P. DeSantis

Case No. #2003-00068-CD

RULE TO FILE COMPLAINT

TO: Sandra Conklin, as parent and natural guardian of Justine Kline, and Sandra Conklin, individually

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

William A. Shaw, Prothonotary

Dated: January 23, 2003

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

SANDRA CONKLIN, as parent and natural guardian of JUSTINE KLINE, and SANDRA CONKLIN, individually,	No. 2003 – 68 CD
	ISSUE: PRAECIPE FOR APPEARANCE
Plaintiff	
vs.	
	Filed on behalf of Defendants, CLEARFIELD HOSPITAL and GEORGE F. PALMER
CLEARFIELD HOSPITAL, GEORGE F. PALMER, ERNEST P. JONES and JAMES P. DESANTIS,	Counsel of Record: John L. McIntyre, Esquire PA I.D. #28015 McINTYRE, DUGAS, HARTYE & & SCHMITT P.O. Box 533 Hollidaysburg, PA 16648 (814) 696-3581
Defendants	
	JURY TRIAL DEMANDED

I HEREBY CERTIFY THAT A TRUE AND CORRECT COPY OF THE WITHIN WAS MAILED TO ALL COUNSEL OF RECORD THIS 22ND DAY OF **JANUARY, 2003**.

Attorneys for Named Defendants

FILED

JAN 23 2003

William A. Shaw
Prothonotary

#2

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

SANDRA CONKLIN, as parent and natural guardian of JUSTINE KLINE, and SANDRA CONKLIN, individually,	:	No. 2003 – 68 CD
Plaintiff	:	
vs.	:	
CLEARFIELD HOSPITAL, GEORGE F. PALMER, ERNEST P. JONES and JAMES P. DESANTIS,	:	
Defendants	:	JURY TRIAL DEMANDED

PRAECIPE FOR APPEARANCE

TO: PROTHONOTARY

Kindly enter my appearance as counsel of record for the Defendants,

CLEARFIELD HOSPITAL and GEORGE F. PALMER, in the above-captioned action.

McINTYRE, DUGAS, HARTYE & SCHMITT

Attorneys for Defendants,
CLEARFIELD HOSPITAL and
GEORGE F. PALMER

John L. McIntyre, Esquire
PA I.D. #28015
P.O. Box 533
Hollidaysburg, PA 16648-0533
(814) 696-3581

FILED NO CC
m/1:37 BCK
JAN 23 2003

William A. Shaw
Prothonotary

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

SANDRA CONKLIN, as parent and natural guardian of JUSTINE KLINE, and SANDRA CONKLIN, individually,	CIVIL DIVISION NO.: 03-108-CD
Plaintiffs,	TYPE OF PLEADING:
v.	**PRAECIPE FOR WRIT OF SUMMONS**
CLEARFIELD HOSPITAL, GEORGE F. PALMER, ERNEST P. JONES, and JAMES P. DeSANTIS,	FILED ON BEHALF OF PLAINTIFF COUNSEL OF RECORD FOR THIS PARTY:
Defendants.	ROLF LOUIS PATBERG, ESQUIRE PA I.D. NO.: 65185 PATBERG, CARMODY, GING & FILIPPI 527 COURT PLACE PITTSBURGH, PA 15219 (412) 232-3500
JURY TRIAL DEMANDED	

FILED

JAN 16 2003

William A. Shaw
Prothonotary

#1

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

SANDRA CONKLIN, as parent and natural guardian of JUSTINE KLINE, and SANDRA CONKLIN, individually,	)	CIVIL DIVISION
	)	NO.:
Plaintiffs,	)	
v.	)	
CLEARFIELD HOSPITAL, GEORGE F. PALMER, ERNEST P. JONES, and JAMES P. DeSANTIS,	)	
Defendants.	)	**JURY TRIAL DEMANDED**

Defendants.

PRAECIPE FOR WRIT OF SUMMONS

TO: PROTHONOTARY

Please kindly issue a Writ of Summons in the above-captioned matter. A jury trial is demanded.

RESPECTFULLY SUBMITTED:

PATBERG, CARMODY, GING & FILIPPI

DATE: 1-14-03

By _____
Rolf Louis Patberg, Esquire
PA I.D. No.: 65185

PATBERG, CARMODY, GING & FILIPPI
527 Court Place
Pittsburgh, PA 15219
(412) 232-3500

Attorney for Plaintiffs

JURY TRIAL DEMANDED

FILED Atty pd.
m 13:02BH 85.00
JAN 16 2003 1 cc & 4 writs to Shff

William A. Shaw
Prothonotary

COPY

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

SUMMONS

Sandra Conklin, as parent and natural guardian of Justine Kline, and Sandra Conklin, individually

Vs. **NO.: 2003-00068-CD**

Clearfield Hospital, George F. Palmer, Ernest P. Jones, and James P. DeSantis

TO: CLEARFIELD HOSPITAL
GEORGE F. PALMER
ERNEST P. JONES
JAMES P. DESANTIS

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

Date: 01/16/2003

William A. Shaw
Prothonotary

Issuing Attorney: Rolf Louis Patberg, Esq.
Patberg, Carmody, Ging & Filippi
527 Court Place
Pittsburgh, PA 15219
(412) 232-3500

700 WOA 2003



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

SANDRA CONKLIN, as parent and natural guardian of JUSTINE KLINE, and SANDRA CONKLIN, individually,	CIVIL DIVISION NO.: 2003-68 CD
Plaintiffs,	TYPE OF PLEADING:
v.	**MOTION TO COMPEL DISCOVERY AND BRIEF SUPPORT OF MOTION TO COMPEL DISCOVERY**
CLEARFIELD HOSPITAL, GEORGE F. PALMER, ERNEST P. JONES, and JAMES P. DeSANTIS,	FILED ON BEHALF OF PLAINTIFF
Defendants.	COUNSEL OF RECORD FOR THIS PARTY: ROLF LOUIS PATBERG, ESQUIRE PA I.D. NO.: 65185 PATBERG, CARMODY, GING & FILIPPI 527 COURT PLACE PITTSBURGH, PA 15219 (412) 232-3500
JURY TRIAL DEMANDED	

FILED

AUG 20 2003

William A. Shaw
Prothonotary/Clerk of Courts

#28

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

SANDRA CONKLIN, as parent and natural guardian of JUSTINE KLINE, and SANDRA CONKLIN, individually,	)	CIVIL DIVISION
	)	NO.: 2003-68 CD
Plaintiffs,	)	
v.	)	
CLEARFIELD HOSPITAL, GEORGE F. PALMER, ERNEST P. JONES, and JAMES P. DeSANTIS,	)	
Defendants.	)	**JURY TRIAL DEMANDED**

MOTION TO COMPEL DISCOVERY

AND NOW, come the Plaintiffs, by and through their attorneys, Patberg, Carmody, Ging & Filippi, and Rolf Louis Patberg, Esquire, and file the following Motion to Compel Discovery and in support thereof aver as follows:

1. The above-captioned matter is a medical negligence action arising from care and treatment that the minor-Plaintiff, Justine Kline, received at Clearfield Hospital.

2. Plaintiffs Justine Kline and Sandra Conklin (as parent and individually) filed suit against Clearfield Hospital, George F. Palmer, Ernest P. Jones and James P. Desantis.

3. On or about March 4, 2003, Plaintiffs initiated discovery in this matter by serving Interrogatories and Requests for Production of Documents upon Defendant Clearfield Hospital. (See attached Exhibits 1 and 2).

Motion

4. Clearfield Hospital provided responses to the Interrogatories and Requests for Production of Documents on or about July 7, 2003. The Defendant did not provide full and complete responses to several interrogatories.

5. On July 9, 2003, Plaintiff requested complete responses to the Interrogatories. Clearfield Hospital so as to avoid the necessity of filing a Motion to Compel. Exhibit 3. The Plaintiff again requested responses on July 28, 2003. Exhibit 4. The Defendant Clearfield Hospital has not responded.

6. Plaintiffs file the herein Motion to Compel seeking full and complete responses to Interrogatory Numbers 5, 7, 10, 11, 12, 18, 25, 30, 32, 33, 34, 35, 38, 39, 40, 43, 44, and 47.

7. Interrogatory Number 5 states:

> "Does the Defendant have a record of Defendants Palmer, Jones and/or DeSantis' training in a medical specialty? If so, state:
>
> a. The name of the specialty involved;
> b. The name, address, and telephone number of each institution where they were trained;
> c. The inclusive dates of their training;
> d. A description of the training program;
> e. The length of time spent in each of the following:
> f. The diagnosis, treatment, and operative and post-operative care of problems in the specialty; and
> g. The application of the basic sciences such as anatomy, pathology, zoology, bacteriology, and biochemistry to the specialty."

8. The Defendant has provided the following answer:

> "Clearfield Hospital does have a copy of the information pertaining to the doctors, where they train and the fact that they are involved in emergency medicine. The remainder of the questions would be more appropriately directed to the physicians and a review of their Curriculum Vitaes."

9. The Defendant admits in its Answer that it possesses the information requested, does not object to the Interrogatory, yet it does not provide a full and complete response.

10. The Interrogatory is within the scope of discovery and, since the hospital admits that it already has the information, the Interrogatory would not subject the Defendant to unreasonable annoyance, embarrassment, oppression or expense.

11. Interrogatory Number 7 states:

> "Please produce any and all documents in Defendant's possession, including Plaintiff's medical records and billings, summaries or reports."

12. The Defendant provided the following answer:

> "It is believed that a copy of all medical records and billings have been provided. There are no separate summaries or reports which are responsive to this request. The remainder of the request is objected to as seeking information which is protected by the PA Peer Review Act. If Plaintiff's counsel needs an additional copy of the medical records and billings, the same will be provided."

13. It appears as though the Defendant possesses summaries or reports that it believes are protected by the PA Peer Review Act. 63 P.S. 421.1 et seq. However, the Defendant does not identify what summaries or reports it has, nor does it give a factual basis for the assertion of the privilege.

14. The PA Peer Review Act is not an absolute bar to discovery. Summaries or reports that are not the result of nor prepared for the proceedings of review committee are discoverable. Additionally, information available from original sources is discoverable.

15. The Defendant's blanket objection that all summaries or reports that it possesses are protected from discovery, without identifying the information and the reason for its protection,

jeopardizes the Plaintiffs' ability to complete discovery allowed by the Pennsylvania Rules of Civil Procedure.

16. Plaintiff is entitled to the factual basis for the assertion of the privilege under the Pennsylvania Peer Review Act.

17. Interrogatory Number 10 states:

> "To the extent you contend that a person other than the Defendant institution was responsible for plaintiff's injuries, for each such person, state:
>
> a. His name, address, telephone number, job title or capacity; and
> b. The facts on which you base your contention that he was responsible for plaintiff's injuries."

18. The Defendant provided the following answer:

> "This is objected to as requesting a legal/medical opinion."

19. The Defendant objects to Interrogatory Number 10 because it requests a legal or medical opinion. However, it is not a ground for objection that the information sought involves an opinion or contention that relates to a fact or the application of law to fact.

20. Interrogatory Number 10 clearly requests information regarding a contention and the facts upon which it is based, information which is discoverable according to the Pennsylvania Rules of Civil Procedure.

21. Interrogatory Number 11 states:

> "If any statements were obtained by Defendant or on your behalf from any person concerning any matter relating to this action, for each statement state:
>
> a. The name, address, telephone number and occupation of the person who made it;

b. The name, address, telephone number and occupation of the person who obtained it;
c. The date and time it was obtained; and
d. Whether written, sound recorded or oral, and if written or sound recorded, the name, address, and telephone number of the person who had custody of it."

22. The Defendant provided the following answer:

"N/A."

23. Interrogatory Number 12 states:

"Please attach a copy of each statement to your answers to these Interrogatories."

24. The Defendant provided the following answer:

"N/A."

25. The answer given by the Defendant does not respond to the question in a full and complete way.

26. The answer "not applicable" does not indicate whether or not there were statements obtained by the Defendant related to this cause of action.

27. The Defendant has not objected to the questions nor has it provided appropriate answers to Interrogatories Numbers 11 and 12, as required by the Pennsylvania Rules of Civil Procedure.

28. Interrogatory Number 18 states:

"What are the names and present addresses of any Clearfield Hospital employee who has knowledge of any facts, events, conditions or circumstances concerning the following:

a. The infection giving rise to the lawsuit;
b. The treatment of the infection;
c. The diagnosis of the infection;
d. The transfer of Justine Kline to the VA Medical Center;

e. Any consultations for Justine Kline's treatment; or
f. Any transfer orders, or transfer summaries communicated to the Children's Hospital of Pittsburgh."

29. The Defendant provided the following answer:

"Please see the medical records for Justine Kline's two admissions to the Emergency Department at Clearfield Hospital in February 2002."

30. The Defendant has not provided a full and complete answer to Interrogatory Number 18.

31. Though a party answering Interrogatories may refer the questioning party to records that contain the requested information, the answering party may only do so if the burden of deriving the answer from those records would be substantially the same for both parties.

32. In this Interrogatory, Plaintiff requests information beyond the scope of the medical records provided.

33. Additionally, it is fair to assume that the hospital has identified the employees involved in this case already. As such, the request for the identities of treating, diagnosing, and consulting parties is clearly less of a burden for the Defendant to provide.

34. Interrogatory Number. 25 states:

"Do you have any plans, drawings, maps, photographs, medical records, x-rays, or claim records, incident reports or films relating to the claim in this case?"

35. The Defendant provided the following answer:

"This Interrogatory is objected to as seeking information which is or may be protected by the PA Peer Review Act and the attorney-client privilege. Without waiving said objection, Clearfield Hospital does have medical records and billing records, copies of which I believe to be within the possession of counsel for the Plaintiff."

36. Interrogatory Number 26 states:

> "If the Answer to the preceding Interrogatory is "yes," as to each item please state:
>
> a. The nature and content of each item;
> b. When it was made;
> c. By whom it was made;
> d. Who has possession of it; and
> e. Please produce them at the time and place specified above."

37. The Defendant provided the following answer:

> "See the objection and response of Clearfield Hospital to Interrogatory Number 25, which is incorporated herein, as though the same were set forth at length."

38. The Defendant, in its Answers to Interrogatories Numbers 25 and 26, indicates that plans, drawings, maps, photographs, claim records, incident reports or films relating to the claim in this case exist (beyond the medical records), but that the same are protected by either the PA Peer Review Act or attorney-client privilege.

39. However, the Defendant does not indicate what items exist and fails to provide how each is covered under either privilege.

40. As such, the Plaintiffs are left with no information regarding what records exist or the veracity of the claims made by the Defendant concerning privilege.

41. Based on the Defendant's inappropriate objections to other Interrogatories based on the protection of the PA Peer Review Act, it is questionable whether the information requested by Interrogatories Numbers 25 and 26 is discoverable.

42. In order to ensure a proper opportunity for discovery, the information in the Defendant's possession must be identified and the factual basis for its exclusion from discovery presented.

43. Interrogatory Number 30 states:

> "Did any agent, servant, representative or employee of Clearfield Hospital notice or observe any signs, symptoms or indications of urosepsis, bacteremia, or septic shock?"

44. The Defendant provided the following answer:

> "This Interrogatory is objected to as seeking a legal/medical opinion. Further, this question would be more appropriately directed to the medical personnel who provided care and treatment of Justine Kline."

45. The objection by the Defendant to Interrogatory Number 30 is without merit because it is not ground for objection that the information sought involves an opinion or contention that relates to a fact or the application of the law to fact.

46. The Interrogatory seeks information regarding whether the Defendant has any knowledge of whether its employees noticed any of the signs, symptoms, or indications of the urosepsis, bacteremia, or septic shock.

47. The scope of discovery allows a party to obtain discovery regarding any matter not privileged, related to the claim or defense of either party. It is irrelevant if the Defendant believes it would be more appropriate to ask one party or another if the party who is questioned has information within the scope of discovery allowed by law.

48. Interrogatory Number 32 states:

> "Please produce a true and correct copy of Clearfield Hospital's insurance company's claims log pertaining to this claim."

49. The Defendant provided the following answer:

> "This Interrogatory is objected to as seeking information which may be protected by the attorney-client privilege and the PA Peer Review Act. Any information, which is available and not protected by privilege, will be provided."

50. To date, no information has been provided by the Defendant in response to Interrogatory Number 32.

51. The objection by the Defendant that the insurance company's claim log is protected by the PA Peer Review Act is without merit. An insurance company's claim log is not privileged under the PA Peer Review Act because it was not created for use by the review organization, is not a product of the review organization's efforts and is available from other original sources.

52. The objection by the Defendant that the insurance company's claim log is protected by the attorney-client privilege is without merit because the claim log was not created for purposes of obtaining legal advice, it was not created in confidence that it would not be disclosed and its release would not impair the honest communication between attorney and client.

53. Interrogatories Number 33 states:

> "Please produce a copy of Defendants Palmer, Jones and DeSantis' personnel and staff privileges files."

54. The Defendant provided the following answer:

> "This request is objected to as seeking information which is protected by the PA Peer Review Act."

55. The objection by the Defendant that the personnel and staff privilege files of Defendants Palmer, Jones and DeSantis are protected by the PA Peer Review Act is without merit. The personnel and staff privilege files are not privileged under the PA Peer Review Act because they

were not created for use by the review organization and are not a product of the review organization's efforts.

56. Additionally, the personnel and staff privilege files for the Defendants in this case are clearly relevant as to whether the hospital and doctors acted within the required standards of care accepted within the medical community.

57. Interrogatory Number 34 states:

> "Please produce a copy of Defendants Palmer, Jones and DeSantis' Application(s) for staff privileges and any re-applications."

58. The Defendant provided the following answer:

> "N/A."

59. The answer given by the Defendant does not respond to the question in a full and complete way.

60. The answer "not applicable" does not indicate whether or not there were Applications or Re-applications for staff privileges related to this cause of action.

61. The Defendant has not objected to the questions nor has it provided an appropriate answer to Interrogatory Number 34.

62. Interrogatory Number 35 states:

> "Please produce any and all videotapes and photographs of any medical conditions of Justine Kline."

63. The Defendant provided the following answer:

> "N/A."

64. The answer given by the Defendant does not respond to the Interrogatory in a full and complete way.

65. The answer "not applicable" does not indicate whether or not there are videotapes and photographs of any medical conditions of Justine Kline related to this cause of action.

66. The Defendant has not objected to the questions nor has it provided an appropriate answer to Interrogatory Number 35.

67. Interrogatory Number 38 states:

> "Did any agent, servant or representative of the Defendant ever consider whether Justine Kline was suffering from urosepsis, bacteremia or septic shock upon her discharge? If so, please identify the medical personnel who made such a consideration and the date and time of the same."

68. The Defendant provided the following answer:

> "This Interrogatory is objected to as seeking a legal/medical opinion/conclusion and would be more appropriately directed to the physicians who provided care and treatment to the plaintiff, particularly at the time of discharge."

69. The objection by the Defendant to Interrogatory Number 38 is without merit because it is not ground for objection that the information sought involves an opinion or contention that relates to a fact or the application of the law to fact.

70. The Interrogatory seeks information regarding whether the Defendant has any knowledge of whether its agents, servants or representatives considered if Justine Kline was suffering from urosepsis, bacteremia, or septic shock. The Interrogatory asks for the identity of the personnel and the date and time when the personnel made such a consideration.

71. The scope of discovery allows a party to obtain discovery regarding any matter not privileged, related to the claim or defense of either party. It is irrelevant if it would be more

appropriate to ask one party or another if the party who is questioned has information within the scope of discovery allowed by law.

72. Interrogatory Number 39 states:

> "Please identify by name and address all infectious disease specialists by name on staff with the Defendant during the periods of treatment of Justine Kline referenced in the Complaint."

73. The Defendant provided the following answer:

> "There was specific individual who specialized in infectious diseases on staff at Clearfield Hospital during the time Justine Kline was in the Emergency Department."

74. The Defendant has answered that an individual that specialized in infectious diseases was present, however, it has failed to provide a full and complete answer.

75. Since the Defendant has not objected, the Plaintiff is entitled to a full and complete answer to the Interrogatory because it seeks information clearly within the scope of discovery as allowed by law.

76. Interrogatory Number 40 states:

> "Please produce any incident reports pertaining to or relating to the treatment of Justine Kline."

77. The Defendant provided the following answer:

> "This Interrogatory is objected to as seeking information which is protected by the Peer Review Act."

78. The objection by the Defendant that any incident reports regarding the treatment of Justine Kline are protected by the PA Peer Review Act is without merit. The incident reports are not privileged under the PA Peer Review Act because they were not created for use by the review organization and are not a product of the review organization's efforts.

79. Interrogatory Number 43 states:

> "Please produce all operating procedures, protocols and treatment guidelines invoked in the treatment of Justine Kline."

80. The Defendant provided the following answer:

> "This Interrogatory is objected to as seeking information that is overly broad, vague and burdensome. If the Plaintiff can more appropriately limit the request, the same will be considered."

81. The objection to Interrogatory Number 43 is without merit.

82. The Interrogatory is not vague because it requests specific information regarding operation procedures, protocols and treatment guidelines used in the treatment of Justine Kline.

83. The Interrogatory is not overly broad or burdensome because it only requests operation procedures, protocols and treatment guidelines that were invoked in the treatment of Justine Kline.

84. The Plaintiff has crafted its Interrogatory to acquire only relevant information by limiting the request to information regarding the treatment of Justine Kline. The request can not be limited further without jeopardizing the ability of the Plaintiff to receive relevant information regarding the standard of care required of its employees by Clearfield Hospital and whether the standard was met by the individuals in question.

85. Interrogatory Number 44 states:

> "Does the Defendant agree that Justine Kline suffered from urosepsis while at Clearfield Hospital?"

86. The Defendant provided the following answer:

> "This Interrogatory is objected to as seeking a legal/medical conclusion and would be more appropriately directed to the physicians who provided care and treatment to Justine Kline."

87. The objection by the Defendant to Interrogatory Number 44 is without merit because it is not ground for objection that the information sought involves an opinion or contention that relates to a fact or the application of the law to fact.

88. The Interrogatory seeks information regarding whether the Defendant agrees that Justine Kline suffered from urosepsis while at Clearfield Hospital, an opinion based on the condition of Justine Kline while at Clearfield Hospital.

89. The scope of discovery allows a party to obtain discovery regarding any matter not privileged, related to the claim or defense of either party. It is irrelevant if it would be more appropriate to ask one party or another if the party who is questioned has information within the scope of discovery allowed by law.

90. Interrogatory Number 47 states:

> (Defendant responded that it had been accredited by the JCAHO on October 22, 1999, in answer to Interrogatory Number 46.)
>
> "Please produce any and all documentation in your care, custody or control relating to the JCAHO certification referenced in the preceding Interrogatory as it relates to Clearfield Hospital's Emergency Room treatments, protocols, operation and patient care."

91. The Defendant provided the following answer:

> "This Interrogatory is objected to as being overly broad, vague and burdensome. Further, said information may be protected by the PA Peer Review Act. Without waiving said objection, if Plaintiff can more narrowly define the request, the same may be considered."

92. The objections to Interrogatory Number 47 are without merit because the Interrogatory requests information not protected by the PA Peer Review Act and the request does not violate the limitations on the scope of discovery set forth in the Pennsylvania Rules of Civil Procedure.

93. The Interrogatory does not request information that is protected by the PA Peer Review Act because the information is available from JCAHO, an original source.

94. The Interrogatory is not vague because it requests specific information regarding Emergency Room treatments, protocols, operation and patient care for which the hospital received JCAHO accreditation.

95. The Interrogatory is not overly broad or burdensome because it only requests information regarding Emergency Room treatments, protocols, operation and patient care for which the hospital received JCAHO accreditation.

96. The Plaintiffs have crafted their Interrogatory to acquire only relevant information by limiting the request to information regarding the treatment of Justine Kline. The request can not be limited further without jeopardizing the ability of the Plaintiffs to receive relevant information regarding the standard of care required by Clearfield Hospital of its employees and whether the standard was met by the individuals in question.

WHEREFORE, Plaintiffs ask this Honorable Court to enter an Order compelling the Defendant to provide more complete and accurate responses to the Plaintiffs' discovery requests.

RESPECTFULLY SUBMITTED:

PATBERG, CARMODY, GING & FILIPPI

DATE: 8-18-03

By _____
Rolf Louis Patberg, Esquire
PA I.D. No.: 65185

PATBERG, CARMODY, GING & FILIPPI
527 Court Place
Pittsburgh, PA 15219
(412) 232-3500

Attorney for Plaintiffs

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

SANDRA CONKLIN, as parent and natural guardian of JUSTINE KLINE, and SANDRA CONKLIN, individually,	CIVIL DIVISION NO.: 2003-68 CD
Plaintiffs,	TYPE OF PLEADING:
v.	**PLAINTIFFS' BRIEF IN SUPPORT OF PLAINTIFFS' MOTION TO COMPEL DISCOVERY**
CLEARFIELD HOSPITAL, GEORGE F. PALMER, ERNEST P. JONES, and JAMES P. DeSANTIS,	FILED ON BEHALF OF PLAINTIFF
Defendants.	COUNSEL OF RECORD FOR THIS PARTY: ROLF LOUIS PATBERG, ESQUIRE PA I.D. NO.: 65185 PATBERG, CARMODY, GING & FILIPPI 527 COURT PLACE PITTSBURGH, PA 15219 (412) 232-3500
JURY TRIAL DEMANDED	

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

SANDRA CONKLIN, as parent and natural guardian of JUSTINE KLINE, and SANDRA CONKLIN, individually,	)	CIVIL DIVISION
	)	NO.: 2003-68 CD
Plaintiffs,	)	
v.	)	
CLEARFIELD HOSPITAL, GEORGE F. PALMER, ERNEST P. JONES, and JAMES P. DeSANTIS,	)	
Defendants.	)	**JURY TRIAL DEMANDED**

PLAINTIFFS' BRIEF IN SUPPORT OF PLAINTIFFS' MOTION TO COMPEL

AND NOW, comes the Plaintiffs, by and through their attorneys, Patberg, Carmody, Ging & Filippi, and Rolf Louis Patberg, Esquire, and file the following Brief in Support of Plaintiffs' Motion to Compel and in support thereof aver as follows:

I. STATEMENT OF FACTS

This lawsuit stems from medical care administered to the Plaintiff Justine Kline by Clearfield Hospital, its employees, agents and servants, on or about February 23, 2002. On March 3, 2003, Plaintiffs Sandra Conklin and Justine Kline ("Plaintiffs") initiated this lawsuit by the filing of a Complaint alleging corporate negligence, negligence through the act of agents, negligent infliction of emotional distress, personal injuries and damages against Defendants Clearfield Hospital, George F. Palmer, Ernest P. Jones, and James P. DeSantis in the Court of Common Pleas of Clearfield County, Pennsylvania at No. 2003 - 68 CD. Specifically, as a direct result of the care she received at Clearfield Hospital, the Plaintiff Justine Kline has suffered permanent losses of portions of her

extremities, physical pain, significant mental impairment and she will require long term treatment for her various conditions.

On March 4, 2003, Plaintiffs' First Set of Interrogatories and Request for Production of Documents was served upon Clearfield Hospital ("Defendant"). Thereafter, on July 7, 2003, the Defendant served its Answers to Plaintiffs' First Set of Interrogatories and Request for Production of Documents upon the Plaintiffs (See Defendant's Answers to Plaintiffs' First Set of Interrogatories, the relevant portions of which are attached hereto as Exhibit "2"). Within these Answers, the Defendant failed to adequately respond to the Interrogatories and requests as required by the Pennsylvania rules regarding discovery.

Plaintiffs submit that each discovery request at issue seeks evidence within the scope of Pa.R.C.P. 4003.1 that is not privileged or excluded from discovery by the Pennsylvania Peer Review Act. Accordingly, for the reasons set forth at length below, Plaintiffs respectfully request this Honorable Court to grant their Motion to Compel more adequate and complete responses to Plaintiffs' First Set of Discovery Requests.

II. LEGAL ARGUMENT

Plaintiffs are seeking discovery of certain evidence pursuant to Pa.R.C.P. 4003.1(a), which permits a party to obtain discovery regarding any matter not privileged, which is relevant to the subject matter involved in the pending action, whether it relates to a claim or defense, and Pa.R.C.P. 4003.1(c), which states information sought involving an opinion or contention that relates to a fact or the application of law to fact is discoverable. See Pa.R.C.P. 4003.1.

The Explanatory Comment to Rule 4003.1 indicates that the language of the rule was changed to mirror Fed.R.Civ.P. 26(b) with the purpose of broadening the scope of discoverable information. See Pa.R.C.P. 4003.1, Explanatory Comment - 1978.

Moreover, it is well-established that "relevance" is interpreted in a broader and more flexible manner in the discovery context as opposed to determining the admissibility of evidence for trial. Klovensky v. Moore, 57 Pa.D.&C.4th 370, 373 (2002). "Any conceivable basis on which a discovery request may be relevant supports access to that information." Schwab v. Milks, 8 Pa.D.&C.4th 557 (1990).

However, the scope of discovery is subject to the limitations of Pa.R.C.P. 4011 which provides that no discovery or deposition shall be permitted which would cause unreasonable annoyance, embarrassment, oppression, burden or expense or would require an unreasonable investigation by the answering party. See Pa.R.C.P. 4011.

Additionally, relevant evidence may not be discoverable if it was produced for or by a "review organization" for the "process of peer review." See Pennsylvania Peer Review Act, 63 P.S. 421.1, *et seq.*

The Supreme Court of Pennsylvania has adopted the theory of corporate negligence for hospitals. Thompson v. Nason Hospital, 591 A.2d 703 (PA 1991). And though the Pennsylvania Peer Review Protection Act ("PPRPA") was promulgated by the legislature to serve the purpose of maintaining high professional standards in medical practice by encouraging frank discussion and review through the protection of committee records, the Act certainly was not created to allow hospitals to protect secret information that would establish culpability for corporate negligence. Pennsylvania Courts have recognized this and limited the Act's protection accordingly.

The PPRPA does not grant an absolute privilege to health care providers. Bolton v. Holy Spirit Hospital, 40 Pa.D&C.3d 372 (1984). Information not derived from nor part of evaluation or review by a peer review committee is discoverable. Atkins v. Pottstown Memorial Medical Center, 634 A.2d 258 (Pa.Super. 1993). Information otherwise available from other original sources is discoverable. *Id;* Sanderson v. Bryan, 522 A.2d 1138 (Pa.Super. 1987). A plaintiff's own personal medical records, the business records of the hospital and anyone with first hand knowledge of the incident are not immune under the PPRPA, and, therefore, are discoverable. *Id.*

III. THE DISCOVERY RESPONSES

The discovery responses are set forth below in subsections. Many of the discovery responses in discussion overlaps. Nonetheless, due to the nature of the discovery and the responses, it is necessary for each item to be evaluated independently.

A. Interrogatory No.5:

Does the Defendant have a record of Defendants Palmer, Jones and/or DeSantis' training in a medical specialty? If so, State:

a. The name of the specialty involved;
b. The name, address, and telephone number of each institution where they were trained;
c. The inclusive dates of their training;
d. A description of the training program;
e. The length of time spent in each of the following:
f. The diagnosis, treatment, and operative and post-operative care of problems in the specialty; and
g. The application of the basic sciences such as anatomy, pathology, zoology, bacteriology, and biochemistry to the specialty.

Defendant's Answer:

Clearfield Hospital does have a copy of the information pertaining to the doctors, where they train and the fact that they are involved in emergency medicine. The remainder of the questions would be more appropriately directed to the physicians and a review of their Curriculum Vitaes.

Discussion:

The Defendant admits in its Answer that it possesses the information requested, does not object to the Interrogatory, yet does not provide a full and complete response to the interrogatory posed. The information requested is relevant to the subject matter involved in the pending action and, since the hospital admits that it already has the information, the Interrogatory would not subject the Defendant to unreasonable annoyance, embarrassment, oppression or expense.

Instead of providing the information it possesses, the Defendant answers "the questions would be more appropriately directed to the physicians and a review of their Curriculum Vitaes." Pa.R.C.P. 4003.1 allows a party to obtain discovery regarding any matter not privileged, related to the claim or defense of either party. There is no legal basis to refuse to produce information because another Defendant also has the information.

Accordingly, because the information requested by Interrogatory No. 5 of Plaintiffs' First Set of Interrogatories is within the scope of discovery pursuant to Pa.R.C.P. 4003.1, Plaintiffs request this Honorable Court to order Defendant to provide a more adequate and complete response thereto.

B. Interrogatory No. 7:

Please produce any and all documents in Defendant's possession, including Plaintiff's medical records and billings, summaries or reports.

Answer:

It is believed that a copy of all medical records and billings have been provided. There are no separate summaries or reports which are responsive to this request. The remainder of the request is objected to as seeking information which is protected by the PA Peer Review Act. If Plaintiff's counsel needs an additional copy of the medical records and billings, the same will be provided.

Discussion:

The Defendant, by its Answer, indicates that it possesses summaries or reports responsive to the Interrogatory No. 7, but contends that the same are protected from disclosure by the PA Peer Review Act. The Defendant does not identify what summaries or reports it has, nor does it give a factual basis for the assertion of the privilege.

The Pennsylvania Peer Review Protection Act does not grant an absolute privilege to health care providers regarding discovery of information that they possess. Bolton, *supra*. Information not derived from nor part of evaluation or review by a peer review committee is discoverable. Atkins, *supra.* Information otherwise available from other original sources is discoverable. *Id;* Sanderson, *supra.* A Plaintiff's own personal medical records, the business records of the hospital and the identity of anyone with firsthand knowledge of the incident are not protected from discovery by the Act. *Id.*

Additionally, "[d]ue to the broad scope afforded discovery, a party asserting a limitation on discovery has the burden of establishing that limitation." Johnson v. Wiseman, 46 Pa.D.&C.4th 532 (Pa.Com.Pl. 2000), citing Mazzucca v. Methodist Hospital, 47 D.&C.3d 55, 62-62 (1986).

The Defendant in this case has asserted a blanket objection that all summaries or reports that it possesses are protected from discovery by the PPRPA. The Plaintiffs have the right right to challenge the privilege if there is an inadequate factual or legal basis for the same.

Accordingly, Plaintiffs respectfully request this Honorable Court to order the Defendant to identify what reports and summaries the hospital has in its possession and provide a factual basis for the information's protection under the PPRPA.

C. Interrogatory No. 10:

To the extent you contend that a person other than the Defendant institution was responsible for plaintiff's injuries, for each such person, state:

a. His name, address, telephone number, job title or capacity; and
b. The facts on which you base your contention that he was responsible for plaintiff's injuries.

Answer:

This is objected to as requesting a legal/medical opinion.

Discussion:

The Defendant objects to Interrogatory No. 10 because it requests a legal or medical opinion. However, it is not grounds for objection that the information sought involves an opinion or contention that relates to a fact or the application of law to fact.

The scope of discovery regarding opinions and contentions is governed by Pa.R.C.P. 4003.1(c), which provides in relevant part:

> Rule 4003.1. Scope of Discovery Generally. Opinions and Contentions:
>
> (a) Except as otherwise provided by these rules, it is not ground for objection that the information sought involves an opinion or contention that relates to a fact or the application of law to fact.

Pa.R.C.P. 4003.1(c).

The Explanatory Comment to Rule 4003.1 states "[o]pinions are presently discoverable in Pennsylvania" and further explains that the language of the rule "make[s] it clear that opinions and contentions may be discovered by any method of discovery." See Pa.R.C.P. 4003.1, Explanatory Comment – 1989.

Accordingly, because pursuant to Rule 4003.1(c), the information sought by Interrogatory No. 10 is discoverable and the request for the information by Interrogatory is proper, Plaintiffs

request this Honorable Court to order Defendant to provide an adequate and complete response thereto.

D. Interrogatories Nos. 11 and 12:

11. If any statements were obtained by Defendant or on your behalf from any person concerning any matter relating to this action, for each statement state:

    a. The name, address, telephone number and occupation of the person who made it;
    b. The name, address, telephone number and occupation of the person who obtained it;
    c. The date and time it was obtained; and
    d. Whether written, sound recorded or oral, and if written or sound recorded, the name, address, and telephone number of the person who had custody of it.

12. Please attach a copy of each statement to your answers to these Interrogatories.

Answers:

N/A.

Discussion:

The Defendant has not objected to the questions, nor has it provided appropriate answers to Interrogatories Nos. 11 and 12.

The correct procedure for answering Interrogatories is governed by Pa.R.C.P. 4006, which provides in relevant part:

> Rule 4006. Answers to Written Interrogatories by a Party:
>
> (a)(2) Each interrogatory shall be answered fully and completely unless objected to, in which event the reasons for the objection shall be stated in lieu of an answer.

Pa.R.C.P. 4006(a)(2).

The Defendant's answers to Plaintiffs' Interrogatory Nos. 11 and 12 of "not applicable" do not indicate whether or not there were statements obtained by the Defendant related to this cause of action.

Since the Defendant has not objected, nor provided full and complete responses to Interrogatories Nos. 11 and 12 pursuant to Pa.R.C.P. 4006, Plaintiffs request this Honorable Court to order Defendant to provide a more adequate and complete response thereto.

E. Interrogatory No. 18:

What are the names and present addresses of any Clearfield Hospital employee who has knowledge of any facts, events, conditions or circumstances concerning the following:

a. The infection giving rise to the lawsuit;
b. The treatment of the infection;
c. The diagnosis of the infection;
d. The transfer of Justine Kline to the VA Medical Center;
e. Any consultations for Justine Kline's treatment; or
f. Any transfer orders, or transfer summaries communicated to the Children's Hospital of Pittsburgh.

Answer:

Please see the medical records for Justine Kline's two admissions to the Emergency Department at Clearfield Hospital in February 2002.

Discussion:

As detailed above, if an answering party does not object to an Interrogatory, the serving party is entitled to a full and complete response. Additionally, Pa.R.C.P. 4006(a)(3)(b) provides:

> Where the answer to an interrogatory may be derived or ascertained from the records of the party upon whom the interrogatory has been served or from an examination, audit or inspection of that party's records, or from a compilation, abstract or summary based thereon, and *the burden of deriving or ascertaining the answer would be substantially the same for the party serving the interrogatory as for the party served, a sufficient answer to such an interrogatory shall be to specify the records* from which the answer may be derived or ascertained and to

> afford the party serving the interrogatory reasonable opportunity to examine, audit or inspect those record and obtain copies, compilations, abstracts or summaries.

Pa.R.C.P. 4006(a)(3)(b). Emphasis added.

The Defendant has not provided a full and complete answer to Interrogatory No. 18 because its answer, "[p]lease see the medical records," does not conform with Pa.R.C.P. 4006. Though a party answering interrogatories may refer the questioning party to records that contain an appropriate answer, the answering party may only do so if the burden of deriving the answer from the records would be substantially the same for both parties.

It should be noted that the Plaintiffs' request is for information that is likely beyond the scope of the medical records provided by the Defendant. The Defendant's production of medical records does not include the identities of all individuals who have knowledge regarding the facts, events, conditions or circumstances surrounding the treatment of Justine Kline at Clearfield Hospital.

Additionally, the Defendant, since it is hospital, is in a position where it has a greater ability, because of record keeping and knowledge of its personnel, to ascertain who acted in the care of Justine Kline. This is especially true in the case at hand because Clearfield Hospital was using a new computer-generated record keeping system. As such, the request by interrogatory for the identities of treating, diagnosing and consulting parties made on the Defendant by a person injured while cared for within the hospital is clearly less of a burden for the Defendant to provide than for the Plaintiffs to recall and the counsel to determine from medical records provided to them.

Accordingly, because the information requested by Interrogatory No. 18 would be less of a burden for the Defendant to provide, pursuant to Pa.R.C.P. 4006(a)(4)(b), the Defendant's response

is inadequate. The Plaintiffs respectfully request this Honorable Court to order the Defendant to provide a more adequate and complete response thereto.

F. Interrogatories Nos. 25 and 26:

25. Do you have any plans, drawings, maps, photographs, medical records, x-rays, or claim records, incident reports or films relating to the claim in this case.

Answer:

This Interrogatory is objected to as seeking information which is or may be protected by the PA Peer Review Act and the attorney-client privilege. Without waiving said objection, Clearfield Hospital does have medical records and billing records, copies of which I believe to be within the possession of counsel for the Plaintiff.

26. If the Answer to the preceding Interrogatory is "yes," as to each item please state:

a. The nature and content of each item;
b. When it was made;
c. By whom it was made;
d. Who has possession of it; and
e. Please produce them at the time and place specified above.

Answer:

See the objection and response of Clearfield Hospital to Interrogatory No. 25, which is incorporated herein, as though the same were set forth at length.

Discussion:

The Defendant, in it Answers to Interrogatories Nos. 25 and 26, indicates that plans, drawings, maps, photographs, claim records, incident reports or films relating to the claim exist, beyond the medical records and billing records, but that the same are protected by either the PA Peer Review Act or attorney-client privilege.

The Defendant does not indicate what items exist and fails to provide how each is covered under either privilege. As such, the Plaintiffs are left with no information regarding what records exist or the veracity of the claims made by the Defendant concerning privilege.

Based on the Defendant's inappropriate objections to other Interrogatories based on the protection of the PPRPA, it is likely that the information requested by Interrogatories Nos. 25 and 26, which the Defendant claims is not discoverable because of the PPRPA, is, in fact, discoverable.

As explained in answer to earlier objections, the PPRPA does not grant an absolute privilege to health care providers. Bolton, *supra*. Information not derived from nor part of evaluation or review by a peer review committee is discoverable. Atkins, *supra*. Information otherwise available from other original sources is discoverable. *Id;* Sanderson, *supra*. A plaintiff's own personal medical records, the business records of the hospital and anyone with first hand knowledge of the incident are not immune under the PPRPA, and, therefore, are discoverable. *Id.*

The Defendant in this answer has asserted a blanket objection that all plans, drawings, maps, photographs, films, claim records and incident reports that it possesses are protected from discovery by the PPRPA or attorney-client privilege. However, Pennsylvania case law is clear that there are many types of reports and information that hospitals believe are protected by the Act which are not. If the Defendant's Answer is allowed to go unchecked, the Plaintiffs' right to an adequate discovery of relevant materials will be severely impaired.

Accordingly, Plaintiffs respectfully request this Honorable Court to order the Defendant to identify what plans, drawings, maps, photographs, x-rays, claim records and incident reports the hospital has in its possession that are responsive to this Interrogatory and provide a factual basis for the information's protection under the PPRPA and the attorney-client privilege.

G. **Interrogatory No. 30:**

Did any agent, servant, representative or employee of Clearfield hospital notice or observe any signs, symptoms or indications of urosepsis, bacteremia, or septic shock?

Answer:

This Interrogatory is objected to as seeking a legal/medical opinion. Further, this question would be more appropriately directed to the medical personnel who provided care and treatment of Justine Kline.

Discussion:

The objection by the Defendant to Interrogatory No. 30 is without merit because the requested information is within the scope of discovery. It is clear that the treatment of Justine Kline, including whether the hospital and its staff diagnosed and recognized symptoms properly, is one of the central issues in this case. The Interrogatory seeks information regarding whether the Defendant has any knowledge of whether its employees noticed any of the signs, symptoms, or indications of the urosepsis, bacteremia, or septic shock. As such, this Interrogatory is seeking information related to the claim of the Plaintiff and, since the requested information is not privileged, it is discoverable. It is irrelevant if it would be more appropriate in the Defendant's eyes to ask someone else for the information if the Defendant has the requested, relevant information in its possession.

Additionally, it is not an appropriate ground for objection that an interrogatory seeks an opinion or contention. See Pa.R.C.P. 4003.1(c).

Accordingly, because the information requested by Interrogatory No. 30 of Plaintiffs' First Set of Interrogatories is within the scope of discovery pursuant to Pa.R.C.P. 4003.1, Plaintiffs request this Honorable Court to order Defendant to provide a more adequate and complete response thereto.

H. **Interrogatory No. 32:**

Please produce a true and correct copy of Clearfield Hospital's insurance company's claims log.

Answer:

This Interrogatory is objected to as seeking information which may be protected by the attorney-client privilege and the PA Peer Review Act. Any information, which is available and not protected by privilege, will be provided.

Discussion:

It should be noted that, to date, no information has been provided by the Defendant in response to Interrogatory No. 32.

The objection by the Defendant that the insurance company's claim log is protected by the PA Peer Review Act is without merit. The confidentiality of records section of the PPRPA, in relevant part, states:

> The proceedings and records of a review committee shall be held in confidence and shall not be subject to discovery or introduction into evidence in any civil action against a professional health care provider arising out of the matters which are the subject of evaluation and review by such committee ... Provided however, that information, documents or records otherwise available from original sources are not to be construed as immune from discovery or use in any such civil action merely because they were presented during proceedings of such committee ...

63 P.S. § 425.3.

An insurance company's claim log is not privileged under the PA Peer Review Act because it was not created for use by the review organization, is not a product of the review organization's efforts and is available from original sources. See Atkins, *supra*; and Sanderson, *supra.*

The objection by the Defendant that the insurance company's claim log is protected by the attorney-client privilege is without merit because the claim log was not created for purposes of

obtaining legal advice, it was not created in confidence that it would not be disclosed and its release would not impair the honest communication between attorney and client.

Accordingly, because the information requested by Interrogatory No. 30 of Plaintiffs' First Set of Interrogatories is within the scope of discovery pursuant to Pa.R.C.P. 4003.1 and not privileged, Plaintiffs request this Honorable Court to order Defendant to provide a more adequate and complete response thereto.

I. Interrogatory No. 33:

Please produce a copy of Defendants Palmer, Jones and DeSantis' personnel and staff privileges files.

Answer:

This request is objected to as seeking information which is protected by the PA Peer Review Act.

Discussion:

The objection by the Defendant that the personnel and staff privilege files of Defendants Palmer, Jones and DeSantis are protected by the PA Peer Review Act is without merit.

The Pennsylvania Supreme Court in Thompson v. Nason Hospital, *supra*, adopted the theory of corporate negligence for hospitals, and, in doing so, announced:

> "The hospital's duties have been classified into four general areas: (1) a duty to use reasonable care in the maintenance of safe and adequate facilities and equipment; (2) a duty to select and retain only competent physicians; (3) a duty to oversee all persons who practice medicine within its walls as to patient care; and (4) a duty to formulate, adopt and enforce adequate rules and policies to ensure quality care for patients . . ."

The Court also stated "[i]t is important to note that for a hospital to be charged with negligence, it is necessary to show that the hospital had actual or constructive knowledge of the defects or procedures which created the harm."

Since the Supreme Court's holding in Thompson, lower courts have recognized that in order for a plaintiff to maintain a cause of action for corporate negligence, the PPRPA must be read restrictively to serve the purpose of providing an adequate discovery. In doing so, these courts have deemed the following information discoverable: incident reports prepared by hospital's risk manager, Atkins, *supra*; incidents of similar medical conditions (staph infections), Plappert v. Kelley, 21 D.&C.4th 313 (C.C.P. Lackawanna, 1993); business records of the hospital and hospital's knowledge of witnesses with first-hand knowledge, Sanderson, *supra*; and documentation used in peer review that is available from an original source, Johnson v. Tray, 43 Pa.D.&C.4th 127 (C.C.P. Franklin 1999).

Additionally, numerous courts have concluded that doctors' personnel files and staff privileges applications and files are discoverable. See Geiger v. Zelenkofske, 53 Pa.D.&C.4th 292 (Pa.Comm.Pl. 2001); Fowler v. Pirris, 34 D.&C. 3d 530 (Armstrong County 1981); Giles v. Chang, 12 D.&C.4th 653 (Westmoreland County 1991); Sotack v. Gnaden Huetten Memorial Hospital, 2842 Civil 1994, C.C.P. Monroe County, Opinion and Order dated February 10, 1997; and Holliday v. Klimoski, 75 D.&C.2d 408 (Washington County 1974.)

Specifically, the court in Geiger, *supra*, acknowledged in its denial of a protective order that a Doctor's recital of his own qualifications could indicate the physician's knowledge and skill in performing medical procedures, critical information in proving corporate negligence.

The Plaintiffs recognize that the case law on this issue is divergent. However, given the severity of the injury to the child while under care of the hospital and the necessity for the requested information to prove corporate negligence, Plaintiffs contend that to deny them this information would be in conflict with the purpose that guided the Pennsylvania Supreme Court in establishing a cause of action for corporate negligence of hospitals.

Accordingly, because the information requested by Interrogatory No. 33 of Plaintiffs' First Set of Interrogatories is within the scope of discovery pursuant to Pa.R.C.P. 4003.1, Plaintiffs request this Honorable Court to order Defendant to provide a more adequate and complete response thereto.

J. Interrogatory Nos. 34 and 35:

34. Please produce a copy of Defendants Palmer, Jones and DeSantis' Application(s) for staff privileges and any re-applications.

35. Please produce any and all videotapes and photographs of any medical conditions of Justine Kline.

Answers:

N/A.

Discussion:

The Defendant has not objected to the questions, nor has it provided appropriate answers to Interrogatories Nos. 34 and 35.

The correct procedure for answering Interrogatories is governed by Pa.R.C.P. 4006, which provides in relevant part:

> Rule 4006. Answers to Written Interrogatories by a Party:
>
> (a)(2) Each interrogatory shall be answered fully and completely unless objected to, in which event the reasons for the objection shall be stated in lieu of an answer.

Pa.R.C.P. 4006(a)(2).

The Defendant's answers to Plaintiffs' Interrogatory Nos. 11 and 12 of "not applicable" do not indicate whether or not there were statements obtained by the Defendant related to this cause of action.

Since the Defendant has not objected, nor provided full and complete responses to Interrogatories Nos. 34 and 35 pursuant to Pa.R.C.P. 4006, Plaintiffs request this Honorable Court to order Defendant to provide a more adequate and complete response thereto.

K. Interrogatory No. 38:

Did any agent, servant or representative of the Defendant ever consider whether Justine Kline was suffering from urosepsis, bacteremia or septic shock upon her discharge?

Answer:

This Interrogatory is objected to as seeking a legal/medical opinion/conclusion and would be more appropriately directed to the physicians who provided care and treatment to the plaintiff, particularly at the time of discharge.

Discussion:

The objection by the Defendant to Interrogatory No. 38 is without merit because it is not ground for objection that the information sought involves an opinion or contention that relates to a fact or the application of the law to fact. See this Brief, at II, G.

The scope of discovery allows a party to obtain discovery regarding any matter not privileged, related to the claim or defense of either party. This Interrogatory seeks information regarding whether the Defendant has any knowledge of whether it's agents, servants or representative considered whether Justine Kline was suffering from urosepsis, bacteremia, or septic

shock. If the Defendant has such knowledge, the Interrogatory then asks for the identity of the personnel and the date and time when the personnel made such a consideration.

The Defendant's response that the Interrogatory "would be more appropriately directed to the physicians who provided care" does not respond to the question posed. The Interrogatory is seeking whether or not the hospital has the information, not the employee.

Accordingly, because the information requested by Interrogatory No. 38 of Plaintiffs' First Set of Interrogatories is within the scope of discovery pursuant to Pa.R.C.P. 4003.1, Plaintiffs request this Honorable Court to order Defendant to provide a response thereto.

L. Interrogatory No. 39:

Please identify by name and address all infectious disease specialists by name on staff with the Defendant during the periods of treatment of Justine Kline referenced in the Complaint.

Answer:

There was specific individual who specialized in infectious diseases on staff at Clearfield Hospital during the time Justine Kline was in the Emergency Department.

Discussion:

It should be noted that it is unclear, based on the Answer, whether there is a typographical error in this response so that the question is answered in the affirmative.

If there is not a typographical error, the Defendant has answered that an individual that specialized in infectious diseases was present, however, it has failed to provide a full and complete answer by listing his/her name and address. Since the Defendant has not objected, the Plaintiff is entitled to a full and complete answer to the Interrogatory because it seeks information clearly within the scope of discovery allowed by law.

Accordingly, because the information requested by Interrogatory No. 39 of Plaintiffs' First Set of Interrogatories is within the scope of discovery pursuant to Pa.R.C.P. 4003.1, Plaintiffs request this Honorable Court to order Defendant to provide a more adequate and complete response thereto.

M. Interrogatory No. 40:

Please produce any incident reports pertaining to or relating to the treatment of Justine Kline.

Answer:

This Interrogatory is objected to as seeking information which is protected by the PA Peer Review Act.

Discussion:

The objection by the Defendant that any incident reports regarding the treatment of Justine Kline are protected by the PA Peer Review Act is without merit. As explained at length earlier in this brief, the PPRPA does not afford limitless protection from disclosure during discovery. For the information to be protected it must be created for use by the review organization or a product of the review organization's efforts. Additionally, the information may still be discoverable if it is available through other original sources.

The Pennsylvania Superior Court has held that incident reports are discoverable because the information from which the reports are created is available from original sources. Information from original sources does not require the protection of confidentiality which the PPRPA was intended to provide. Atkins, *supra.*

Additionally, "[d]ue to the broad scope afforded discovery, a party asserting a limitation on discovery has the burden of establishing that limitation." Johnson v. Wiseman, 46 Pa.D.&C.4th 532 (Pa.Com.Pl. 2000), citing Mazzucca v. Methodist Hospital, 47 D.&C.3d 55, 62-62 (1986).

Accordingly, Plaintiffs respectfully request this Honorable Court to order the Defendant to provide the incident reports or identify what reports and summaries the hospital has in its possession and provide a factual basis for the information's protection under the PPRPA.

N. **Interrogatory No. 43:**

Please produce all operating procedures, protocols and treatment guidelines invoked in the treatment of Justine Kline.

Answer:

This Interrogatory is objected to as seeking information that is overly broad, vague and burdensome. If the Plaintiff can more appropriately limit the request, the same will be considered.

Discussion:

The objection to Interrogatory No. 43 is without merit because the Interrogatory does not violate the limitations on the scope of discovery set forth by Pa.R.C.P. 4011.

The Interrogatory is not vague because it requests specific information regarding operation procedures, protocols, and treatment guidelines used in the treatment of Justine Kline. The Interrogatory is not overly broad or burdensome because it only requests operation procedures, protocols and treatment guidelines that were invoked in the treatment of Justine Kline.

The Plaintiff has crafted the Interrogatory to acquire only relevant information by limiting the request to information regarding the treatment of Justine Kline. The request can not be limited further without jeopardizing the ability of the Plaintiff to receive relevant information regarding the standard of care required of its employees by Clearfield Hospital and whether the standard was met by the individuals in question.

Accordingly, because the information requested by Interrogatory No. 43 of Plaintiffs' First Set of Interrogatories is within the scope of discovery pursuant to Pa.R.C.P. 4003.1 and not beyond

the limitation set forth in 4011, Plaintiffs request this Honorable Court to order Defendant to provide a more adequate and complete response thereto.

O. Interrogatory No. 44:

Does the Defendant agree that Justine Kline suffered from urosepsis while at Clearfield Hospital?

Answer:

This Interrogatory is objected to as seeking a legal/medical conclusion and would be more appropriately directed to the physicians who provided care and treatment to Justine Kline.

Discussion:

The objection by the Defendant to Interrogatory No. 44 is without merit. See this Brief, at II, C.

Accordingly, because the information requested by Interrogatory No. 44 of Plaintiffs' First Set of Interrogatories is within the scope of discovery pursuant to Pa.R.C.P. 4003.1, Plaintiffs request this Honorable Court to order Defendant to provide a more adequate and complete response thereto.

P. Interrogatory No. 47:

(In Answer to Interrogatory No. 46, Defendant responded that it had been accredited by the JCAHO – Joint Commission on Accreditation of Hospitals – on October 22, 1999.)

Please produce any and all documentation in your care, custody or control relating to the JCAHO certification referenced in the preceding Interrogatory as it relates to Clearfield Hospital's Emergency Room treatments, protocols, operation and patient care.

Answer:

This Interrogatory is objected to as being overly broad, vague and burdensome. Further, said information may be protected by the PA Peer Review Act. Without waving said objection, if Plaintiff can more narrowly define the request, the same may be considered.

Discussion:

The objections to Interrogatory No. 47 are without merit because the Interrogatory requests information that is not protected under the PPRPA and does not violate the limitations on the scope of discovery set forth by Pa.R.C.P. 4011.

The Interrogatory is not vague because it requests specific information regarding Emergency Room treatments, protocols, operation and patient care for which the hospital received JCAHO accreditation. The Interrogatory is not overly broad or burdensome because it only requests information regarding Emergency Room treatments, protocols, operation and patient care for which the hospital received JCAHO accreditation.

The Plaintiff has crafted its Interrogatory to acquire only relevant information by limiting the request to information regarding the treatment of Justine Kline. The request can not be limited further without jeopardizing the ability of the Plaintiff to receive relevant information regarding the standard of care required by Clearfield Hospital of its employees and whether the standard was met by the hospital and individuals in question.

The Interrogatory does not request information that is protected by the PPRPA because the information is available from JCAHO, an original source. See Fowler v. Pirris, 34 D.&C.3d 606 (Armstrong County 1986) and Plappert v. Kelley, 21 D.&C.4th 315 (Armstrong County 1993).

Accordingly, because the information requested by Interrogatory No. 47 of Plaintiffs' First Set of Interrogatories is within the scope of discovery pursuant to Pa.R.C.P. 4003.1, not beyond the limitation set forth in 4011, and not protected by the PPRPA, Plaintiffs request this Honorable Court to order Defendant to provide a more adequate and complete response thereto.

III. CONCLUSION

The Supreme Court of Pennsylvania has granted victims of corporate negligence by Hospitals a cause of action, however, due to an overly restrictive reading of the Pennsylvania Peer Review Act, plaintiffs have been denied the opportunity to gather evidence to establish such a claim. The statute explicitly states only that "the proceedings and records of a review committee shall be held in confidence." The statute further restricts its application by continuing "information, documents, or records otherwise available from original sources are not to be construed as immune from discovery or use in any such civil action merely because they were presented during proceedings of such [review] committee[.]"

The plain language of the statute is restrictive on the Act's application; it in no way indicates that the privilege is to be used as a shield for hospitals. But that is exactly how the statute has been used, as evidenced by the Defendant Hospital's Answers to the Interrogatories in this case.

The Supreme Court did not intend to grant a plaintiff a cause of action and provide no opportunity to prove the claim. Plaintiffs request this Honorable Court follow the persuasive court holdings in Pennsylvania and recognize the appropriate limitations set forth by the Pennsylvania Peer Review Protection Act.

RESPECTFULLY SUBMITTED,

PATBERG, CARMODY, GING & FILIPPI

DATE: 8-18-03

By: _____
Rolf Louis Patberg, Esquire
PA I.D. No.: 65185

Attorney for Plaintiffs

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

SANDRA CONKLIN, as parent and natural guardian of JUSTINE KLINE, and SANDRA CONKLIN, individually,	)	CIVIL DIVISION
	)	NO.: 2003-68 CD
Plaintiffs,	)	
v.	)	
CLEARFIELD HOSPITAL, GEORGE F. PALMER, ERNEST P. JONES, and JAMES P. DeSANTIS,	)	
Defendants.	)	**JURY TRIAL DEMANDED**

ORDER OF COURT

AND NOW, to-wit, this 22nd day of August, 2003, upon consideration of Plaintiffs' Motion to Compel Discovery, it is hereby ORDERED, ADJUDGED, and DECREED that Defendant Clearfield Hospital shall serve full and complete Answers to Interrogatories Numbers 5, 7, 10, 11, 12, 15, 25, 26, 30, 31, 32, 33, 34, 35, 38, 39, 40, 43, 44, and 47.

This information shall be provided within twenty (20) days of the date of this Order.

BY THE COURT:

_____ J.

FILED

AUG 22 2003

William A. Shaw
Prothonotary/Clerk of Courts

Order

#29

FILED
AUG 22 2003
William A. Shaw
Prothonotary/Clerk of Courts

12:22 cc Atty Patberg

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

SANDRA CONKLIN, as parent and natural guardian of JUSTINE KLINE, and SANDRA CONKLIN, individually,	CIVIL DIVISION NO.: 2003-68 CD
Plaintiffs,	TYPE OF PLEADING:
v.	**FIRST SET OF INTERROGATORIES AND REQUESTS FOR PRODUCTION OF DOCUMENTS DIRECTED TO DEFENDANT CLEARFIELD HOSPITAL**
CLEARFIELD HOSPITAL, GEORGE F. PALMER, ERNEST P. JONES, and JAMES P. DeSANTIS,	FILED ON BEHALF OF PLAINTIFF
Defendants.	COUNSEL OF RECORD FOR THIS PARTY:
	ROLF LOUIS PATBERG, ESQUIRE PA I.D. NO.: 65185
JURY TRIAL DEMANDED	PATBERG, CARMODY, GING & FILIPPI 527 COURT PLACE PITTSBURGH, PA 15219 (412) 232-3500



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

SANDRA CONKLIN, as parent and natural guardian of JUSTINE KLINE, and SANDRA CONKLIN, individually,	)	CIVIL DIVISION
	)	NO.: 2003-68 CD
Plaintiffs,	)	
v.	)	
CLEARFIELD HOSPITAL, GEORGE F. PALMER, ERNEST P. JONES, and JAMES P. DeSANTIS,	)	
Defendants.	)	**JURY TRIAL DEMANDED**

FIRST SET OF INTERROGATORIES AND REQUESTS FOR PRODUCTION OF DOCUMENTS DIRECTED TO DEFENDANT CLEARFIELD HOSPITAL

AND NOW, come the Plaintiffs, by and through their attorney, Rolf Louis Patberg, Esquire and the law firm of Patberg, Carmody, Ging & Filippi, and files the foregoing First Set of Interrogatories Directed to Defendant Clearfield Hospital, their attorneys, investigators, the representatives pursuant to the Pennsylvania Rules of Civil Procedure requesting that the Interrogatories be fully answered in writing and under oath, within thirty (30) days of service hereto and that the documents requested be produced at the offices of Patberg, Carmody, Ging & Filippi, 527 Court Place, Pittsburgh, PA 15219.

INSTRUCTIONS AND DEFINITIONS

1) In responding, you are to provide the answers to each document request or subsection thereof. If there is insufficient space, attach supplemental pages for the answers.

2) Each reply to Request for Production Documents and part thereof shall identify the specific document and part thereof to which it responds.

3) If you object to any Request, state the objection in the manner prescribed by the Pennsylvania Rules of Civil Procedure and the Local Rules of Court in the Court of Common Pleas of Clearfield County, Pennsylvania.

4) These Document Requests are deemed to be continuing, with supplemental responses signed and under oath required in the event you discover or come into possession any additional documents after the date of your prior response.

5) Except as otherwise specified, all defined terms, whether or not capitalized, shall be construed in accordance with the Definitions provided in these "Instructions and Definitions".

6) Time period: These Documents Requests are deemed to be construed to cover the period of January 1, 1985 to the present.

7) The term "Plaintiff" means the Plaintiff and each, any and every agent or representative of the Plaintiff.

8) The term "Defendant" means the Defendant and each, any and every agent or representative of the Defendant.

9) The term "document" means all and any kind or printed, typed, recorded, written, graphic or photographic matter (including audio and/or video tape recordings), however printed, produced, reproduced, kept or stored, of any kind or description, whether sent or received or not, including originals, copies, reproductions, facsimiles, drafts, and both sides thereof, and including

without limitation: papers; books; accounts; magazines; statements; orders; order forms; letters; photographs; drawings; sketches; blue prints; specifications; correspondence; telegraphs; cable; telex messages; memoranda; notes; notations; workpapers; routing slips; interoffice and intraoffice communication; intradepartmental and interdepartmental communication; communications to, between or among directors, officers, agents or employees; transcripts; minutes; reports; recordings of telephone or other conversations; or of interviews, conferences, committee meetings, or other meetings; affidavits; summaries; opinions; entices; studies; analysis; forecast; projections; evaluations; contracts; licenses; agreements; notebooks; entries; ledgers; journals; books of record or account; summaries of accounts; balance sheets; income statement; audited workpapers; tax records and workpapers; questionnaires; answers to questionnaires; statistical records; catalogs; advertisement; brochures; circulars; appointment books; diaries; telephone logs; expense accounts; lists; test results; tabulations; charts; graphs; mats; surveys; sound and/or video recordings; data sheets; computer tapes and disks; magnetic tapes; punch cards; computer printouts; data processing input and output; computer files; computer programming; computer program coding sheets; microfilm. microfiche; all other records kept by electronic, photographic or mechanical means; and anything similar to and any of the foregoing regardless of their author or origin, or any kind, however denominated.

10) The term "document" does not include any pleadings already served upon a Defendant it does not include any documents already sent by the Plaintiff.

11) The term "identify" with regard to a document means to set forth such information as is necessary to identify the document with particularity, including, but not limited to, a statement of the date of the document, the type of documents, the identity of the authors, addresses, and any other persons to whom the documents was shown or distributed, any filing or identifying

number, and the present or last known location and/or custodian thereof.

12) The term "identify" with regard to a person means to supply that person's full name, last known residence address, telephone number, last known business address, company affiliation, title and business telephone number.

13) All company's names appearing in this discovery request includes the company named in the Request, that company under any other name but which it is or has been known, and it predecessors and successors under any name.

INTERROGATORIES AND REQUESTS FOR PRODUCTION OF DOCUMENTS

1. State your name, address, and telephone number (both professional and residential).

2. Please state the type of entity that the Defendant is (i.e., corporation, limited liability company, etc.):

   a. The name, address, medical specialty and title of each person who serves as an officer;

   b. The number of shareholders;

   c. The date of incorporation or registration; and

   d. Whether Defendant is a for profit entity.

3. Does the Defendant have any knowledge of Drs. George Palmer, Ernes P. Jones and/or James P. DeSantis's medical license suspended, revoked or terminated in any state or county, for each such license indicate:

a. The state or authority which granted it; and

b. Whether it was suspended, revoked or terminated, and whether it was ever reinstated or renewed, and, if so, on what date.

4. Does the Defendant have a written staff privileges procedure for the granting of staff privileges to physicians? If so:

a. Produce a copy of said policy; and

b. Identify the date of implementation of said policy.

5. Does the Defendant have a record of Defendants Palmer, Jones and/or Desantis's training in a medical specialty? If so, state:

a. The name of the specialty involved;

b. The name, address, and telephone number of each institution where they were trained;

c. The inclusive dates of their training;

d. A description of the training program;

e. The length of time you spent in each of the following:

f. the diagnosis, treatment, and operative and post-operative care of problems in the specialty; and

g. The application of the basic sciences such as anatomy, pathology, zoology, bacteriology and biochemistry to the specialty.

6. Did the Plaintiff undergo any laboratory test at the Defendant's facility, such as a blood count, urinalysis, or any other test, for each test state:

a. The name and description of the test;

b. The date and time it was made;

c. The name, address, and telephone number of the place where it was made;

d. The name, address, capacity or job title, and qualifications of each person who made it;

e. The name and description of the procedure used in making it;

f. The name or description of each instrument used in making it;

g. The result;

h. The conclusion or interpretation you made from each result;

i. If a record or report was made of the test, the name of each record or report, the date each record or report was made and the name and address of the person who has custody of each record or report; and

j. If in your possession, attach a copy of any and all results of the laboratory tests taken

7. Please produce any and all documents in Defendant's possession, including Plaintiff's medical records and billings, summaries or reports.

8. If at the time of the occurrences complained of in this action, there was a policy of insurance covering the Defendant against claims arising out of malpractice, for each policy, state:

a. The name, address, and telephone number of the insurer;

b. The number of the policy;

c. The effective dates of the policy;

d. The limits of liability;

e. The name, address, and telephone number of the custodian of the policy; and

f. The named assured on said policy.

9. To the extent you have or know of the existence of any report, correspondence, or other record relating to the treatment of plaintiff, not contained in her medical records, for each such document, state:

a. Its identity and subject matter;

b. The date it was made;

c. The name, address, and telephone number of each person who made it;

d. The reason it was made; and

e. The name, address, and telephone number of the person who has custody of it.

10. To the extent you contend that a person other than the Defendant institution was responsible for plaintiffs injuries, for each such person, state:

a. His name, address, telephone number, job title or capacity; and

b. The facts on which you base your contention that he was responsible for plaintiff's injuries.

11. If any statements were obtained by Defendant or on your behalf from any person concerning any matter relating to this action, for each statement state:

a. The name, address, telephone number and occupation of the person who made it;

b. The name, address, telephone number and occupation of the person who obtained it;

c. The date and time it was obtained; and

d. Whether written, sound recorded or oral, and if written or sound recorded, the name, address, and telephone number of the person who has custody of it.

12. Please attach a copy of each statement to your answers to these interrogatories.

13. If there are any individuals who have knowledge or information concerning this case whose name and address is not listed in the preceding answers to interrogatories, for each such person, state:

a. His name, address and telephone number;

b. The address of the place where he is employed; and

c. His occupation and job title.

14. To the extent the Defendant believes that there are any errors, whether typographical or otherwise, contained within any medical records involved in the instant action, describe in detail the error which you believe exists, and what you believe the record should state.

15. Please provide information and/or copies of any transcripts, tape recordings, interviews, computer tapes - floppies or hard drives, relating to any interviews or this client's case in general.

14. To the extent the Defendant believes that there are any errors, whether typographical or otherwise, contained within any medical records involved in the instant action, describe in detail the error which you believe exists, and what you believe the record should state.

15. Please provide information and/or copies of any transcripts, tape recordings, interviews, computer tapes - floppies or hard drives, relating to any interviews or this client's case in general.

16. Please state the names and present addresses of all persons contacted and/or consulted by the Defendant in answering these Interrogatories.

17. Has the Defendant retained any of the dictation transcribed in Plaintiff's medical records at Clearfield Hospital? If so, please produce a copy of the same.

18. What are the names and present addresses of any Clearfield Hospital employee who has knowledge of any facts, events, conditions or circumstances concerning the following:

a. The infection giving rise to the lawsuit;

b. The treatment of the infection;

c. The diagnosis of the infection;

d. The transfer of Justine Kline to the VA Medical Center;

e. Any consultations for Justine Kline's treatment; or

f. Any transfer orders, or transfer summaries communicated to the Children's Hospital of Pittsburgh.

19. Please identify the names and addresses of all physicians employed by Clearfield Hospital, without incorporating the medical records, who the Defendant knows treated Justine Kline. Please also identify specialty employer and professional title.

20. As to each person named in Answer to Interrogatory number 2 or number 3, or any of its sub-parts, please state whether you have a statement in your possession given by or attributed to any such person whether signed, unsigned, adopted or approved by any of them.

21. As to each statement referred to in Answer to Interrogatory number 4, above, please state:

a. Whether the statement is in question and answer or narrative 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 and where the statement was taken; and

g. Please attach a copy or produce a copy at the time and place previously indicated in the instructions.

22. Please state the name and present address of each person the Defendant expects to call as an expert witness at the trial of this case.

23. As to each person named in Answer to Interrogatory number 8, please state:

a. The subject matter upon which each such expert will testify;

b. The substance of each fact to which he or she is expected to testify;

c. The substance of each opinion to which he or she is expected to testify;

d. The grounds for each opinion;

e. The person's background, training, experience and other qualifications;

f. The date the expert was first retained;

g. Produce a copy of all reports prepared by each such expert, at the time and place previously indicated; and

h. Provide a list of every case, (by docket number, jurisdiction and Plaintiff's attorney's name), that the expert has testified in.

24. Except for those persons identified in the preceding interrogatory, please state the name and present address of any person who has been retained, employed or consulted by the Defendant as an expert in connection with the claim of this case.

25. Do you have any plans, drawings, maps, photographs, medical records, x-rays, or claim records, incident reports or films relating to the claim in this case?

26. If the Answer to the preceding Interrogatory is "yes", as to each item, please state:

a. The nature and content of each item;

b. When it was made;

c. By whom it was made;

d. Who has possession of it; and

e. Please produce them at the time and place specified above.

27. Does the Defendant have a written policy or procedure concerning medical consultations? If so, please produce the same.

28. Has the Defendant ever been sued by a former patient for personal injuries suffered as a result of the treatment of urosepsis, bacteremia, septic shock or any other infection?

29. If the Answer to the prior Interrogatory is in the affirmative, indicate the following:

a. The name or names of any attorney who represented the Plaintiff with respect to such claim or suit;

b. The person, persons, firm, or firms against whom such claim or suit was filed and their insurance carrier or carriers; and

c. If suit was actually filed, indicate the Court in which suit was filed and the number and the term or other Court designation of the case or cases.

30. Did any agent, servant, representative or employee of Clearfield Hospital notice or observe any signs, symptoms or indications of urosepsis, bacteremia, septic shock?

31. If the Answer to the preceding Interrogatory is in the affirmative, please state:

a. The sign, symptom or indication that was observed; and

b. What efforts that were made to treat the sign, symptom or indication.

32. Please produce a true and correct copy of Clearfield Hospital's insurance company's claims log pertaining to this claim.

33. Please produce a copy of Defendants Palmer, Jones and Desantis's personnel and staff privileges files.

34. Please produce a copy of Defendants Palmer, Jones and Desantis's Application(s) for staff privileges and any re-applications.

35. Please produce any and all videotapes and photographs of any medical conditions of Justine Kline.

36. Does the Defendant have any written policies or protocols pertaining to or relation to the treatment of urosepsis, pediatric infections or infectious disease consultation? If so, please produce a copy of the same.

37. Does the Defendant have a written policy concerning patient transfer and/or patient admission from the Emergency Room? If so, please produce a copy of the same.

38. Did any agent, servant or representative of the Defendant ever consider whether Justine Kline was suffering from urosepsis, bacteremia or septic shock upon her discharge? If so, please identify the medical personnel who made such a consideration and the date and time of the same.

39. Please identify by name and address all infections disease specialists by name on staff with the Defendant during the periods of treatment of Justine Kline referenced in the Complaint.

40. Please produce any incident reports pertaining to or relating to the treatment of Justine Kline.

41. Did the Defendant have to report the infectious disease of Justine Kline to any governmental agency? If so, please:

a. Identify said agency;

b. Produce all documents pertaining to the same; and

c. Identify all witnesses who have knowledge of the same.

42. Does the Defendant have any policy referring to or referencing the referral of a patient to another institution? If so, please produce the same.

43. Please produce all operating procedures, protocols and treatment guidelines invoked in the treatment of Justine Kline.

44. Does the Defendant agree that Justine Kline suffered from urosepsis while at Clearfield Hospital?

45. Please state whether or not the Defendant possesses any excess insurance coverage for the claim in this case. If so, please state:

a. The policy limits;

b. The issuing company;

c. The date of effect;

d. If said policy will be invoked in the current case.

46. Please state whether or not the Defendant has been accredited by JCAHO. If so, please state the last date of JCAHO certification prior to February 22, 2002.

47. Please produce any and all documentation in your care, custody and control relating to the JCAHO certification referenced in the preceding Interrogatory as it relates to Clearfield Hospital's Emergency Room treatments, protocols, operation and patient care.

RESPECTFULLY SUBMITTED:

PATBERG, CARMODY, GING & FILIPPI

DATE: 3/4/03

by _____
Rolf Louis Patberg, Esquire
PA I.D. No.: 65185

PATBERG, CARMODY, GING & FILIPPI
527 Court Place
Pittsburgh, PA 15219
(412) 232-3500

Attorney for Plaintiffs

CERTIFICATE OF SERVICE

I, Rolf Louis Patberg, Esquire, hereby certify that a true and correct copy of the foregoing First Set of Interrogatories and Requests for Production of Documents Directed to Defendant Clearfield Hospital was forwarded this 4th day of March, 2003 via postage prepaid United States Mail to the following:

John L. McIntyre, Esquire
McIntyre, Dugas, Hartye & Schmitt
P.O. Box 533
Holidaysburg, PA 16648

Mary Lou Maierhofer, Esquire
Meyer, Darragh, Buckler, Bebenek & Eck, P.L.L.C.
120 Lakemont Park Boulevard
Altoona, PA 16602

Rolf Louis Patberg, Esquire

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

SANDRA CONKLIN, as parent and natural guardian of JUSTINE KLINE, and SANDRA CONKLIN, individually,	No. 2003 – 68 CD
	ISSUE: **Answers to First Set of Interrogatories and Reply to Request for Production of Documents Directed to Defendant Clearfield Hospital**
Plaintiff	
vs.	
	Filed on behalf of Defendants, CLEARFIELD HOSPITAL, GEORGE F. PALMER and ERNEST P. JONES
CLEARFIELD HOSPITAL, GEORGE F. PALMER, ERNEST P. JONES and JAMES P. DESANTIS,	Counsel of Record: John L. McIntyre, Esquire PA I.D. #28015 McINTYRE, DUGAS, HARTYE & & SCHMITT P.O. Box 533 Hollidaysburg, PA 16648 (814) 696-3581
Defendants	JURY TRIAL DEMANDED

I HEREBY CERTIFY THAT A TRUE AND CORRECT COPY OF THE WITHIN WAS MAILED TO ALL COUNSEL OF RECORD THIS 7th DAY OF **JULY, 2003.**

Attorneys for Named Defendants



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

SANDRA CONKLIN, as parent and natural guardian of JUSTINE KLINE, and SANDRA CONKLIN, individually,	:	No. 2003 – 68 CD
Plaintiff	:	
vs.	:	
CLEARFIELD HOSPITAL, GEORGE F. PALMER, ERNEST P. JONES and JAMES P. DESANTIS,	:	
Defendants	:	JURY TRIAL DEMANDED

ANSWERS TO
FIRST SET OF INTERROGATORIES AND REQUESTS FOR PRODUCTION OF DOCUMENTS DIRECTED TO DEFENDANT CLEARFIELD HOSPITAL

AND NOW, come the Plaintiffs, by and through their attorney, Rolf Louis Patberg, Esquire and the law firm of Patberg, Carmody, Ging & Filippi, and files the foregoing First Set of Interrogatories Directed to Defendant Clearfield Hospital, their attorneys, investigators, the representatives pursuant to the Pennsylvania Rules of Civil Procedure requesting that the Interrogatories be fully answered in writing and under oath, within thirty (30) days of service hereto and that the documents requested be produced at the offices of Patberg, Carmody, Ging & Filippi, 527 Court Place, Pittsburgh, PA 15219.

INSTRUCTIONS AND DEFINITIONS

1) In responding, you are to provide the answers to each document request or subsection thereof. If there is insufficient space, attach supplemental pages for the answers.

2) Each reply to Request for Production Documents and part thereof shall identify the specific document and part thereof to which it responds.

3) If you object to any Request, state the objection in the manner prescribed by

the Pennsylvania Rules of Civil Procedure and the Local Rules of Court in the Court of Common Pleas of Clearfield County, Pennsylvania.

4) These Document Requests are deemed to be continuing, with supplemental responses signed and under oath required in the event you discover or come into possession any additional documents after the date of your prior response.

5) Except as otherwise specified, all defined terms, whether or not capitalized, shall be construed in accordance with the Definitions provided in these "Instructions and Definitions".

6) Time period: These Documents Requests are deemed to be construed to cover the period of January 1, 1985 to the present.

7) The term "Plaintiff" means the Plaintiff and each, any and every agent or representative of the Plaintiff.

8) The term "Defendant" means the Defendant and each, any and every agent or representative of the Defendant.

9) The term "document" means all and any kind or printed, typed, recorded, written, graphic or photographic matter (including audio and/or video tape recordings), however printed, produced, reproduced, kept or stored, of any kind or description, whether sent or received or not, including originals, copies, reproductions, facsimiles, drafts, and both sides thereof, and including without limitation: papers; books; accounts; magazines; statements; orders; order forms; letters; photographs; drawings; sketches; blue prints; specifications; correspondence; telegraphs; cable; telex messages; memoranda; notes; notations; workpapers; routing slips; interoffice and intraoffice communication; intradepartmental and interdepartmental communication; communications to, between or among directors, officers, agents or employees; transcripts; minutes; reports; recordings of telephone or other conversations; or of interviews, conferences, committee meetings, or other meetings; affidavits; summaries; opinions; entices; studies; analysis; forecast; projections; evaluations; contracts; licenses; agreements; notebooks;

entries; ledgers; journals; books of record or account; summaries of accounts; balance sheets; income statement; audited workpapers; tax records and workpapers; questionnaires; answers to questionnaires; statistical records; catalogs; advertisement; brochures; circulars; appointment books; diaries; telephone logs; expense accounts; lists; test results; tabulations; charts; graphs; mats; surveys; sound and/or video recordings; data sheets; computer tapes and disks; magnetic tapes; punch cards; computer printouts; data processing input and output; computer files; computer programming; computer program coding sheets; microfilm. microfiche; all other records kept by electronic, photographic or mechanical means; and anything similar to and any of the foregoing regardless of their author or origin, or any kind, however denominated.

10) The term "document" does not include any pleadings already served upon a Defendant it does not include any documents already sent by the Plaintiff.

11) The term "identify" with regard to a document means to set forth such information as is necessary to identify the document with particularity, including, but not limited to, a statement of the date of the document, the type of documents, the identity of the authors, addresses, and any other persons to whom the documents was shown or distributed, any filing or identifying number, and the present or last known location and/or custodian thereof.

12) The term "identify" with regard to a person means to supply that person's full name, last known residence address, telephone number, last known business address, company affiliation, title and business telephone number.

13) All company's names appearing in this discovery request includes the company named in the Request, that company under any other name but which it is or has been known, and it predecessors and successors under any name.

INTERROGATORIES AND REQUESTS FOR PRODUCTION OF DOCUMENTS

1. State your name, address, and telephone number (both professional and residential).

ANSWER:

Clearfield Hospital, 809 Turnpike Avenue, P.O. Box 992, Clearfield, PA 16830. Telephone No. – 814-768-2490

2. Please state the type of entity that the Defendant is (i.e., corporation, limited liability company, etc.):

a. The name, address, medical specialty and title of each person who serves as an officer;

b. The number of shareholders;

c. The date of incorporation or registration; and

d. Whether Defendant is a for profit entity.

ANSWER:

Clearfield Hospital is a corporation, which is not for profit. The remainder of the subparagraphs are objected to as being overly broad, vague, harassing and not calculated to lead to the discovery of relevant or admissible evidence in the above case.

John L. McIntyre, Esquire

3. Does the Defendant have any knowledge of Drs. George Palmer, Ernest P. Jones and/or James P. DeSantis's medical license suspended, revoked or terminated in any state or county, for each such license indicate:

a. The state or authority which granted it; and

b. Whether it was suspended, revoked or terminated, and whether it was ever reinstated or renewed, and, if so, on what date.

ANSWER:

This Interrogatory is objected to in its present form as being a mischaracterization with regard to the medical license of Drs. Palmer, Jones and DeSantis. Without waiving said objection, to the best of Clearfield Hospital's knowledge, information and belief, they have never had their licenses suspended, revoked or terminated.

John L. McIntyre, Esquire

4. Does the Defendant have a written staff privileges procedure for the granting of staff privileges to physicians? If so:

a. Produce a copy of said policy; and

b. Identify the date of implementation of said policy.

ANSWER:

Yes. This documentation will be made available for inspection at a mutually convenient time at Clearfield Hospital.

5. Does the Defendant have a record of Defendants Palmer, Jones and/or DeSantis's training in a medical specialty? If so, state:

a. The name of the specialty involved;

b. The name, address, and telephone number of each institution where they were trained;

c. The inclusive dates of their training;

d. A description of the training program;

e. The length of time you spent in each of the following:

f. the diagnosis, treatment, and operative and post-operative care of problems in the specialty; and

g. The application of the basic sciences such as anatomy, pathology, zoology, bacteriology and biochemistry to the specialty.

ANSWER:

Clearfield Hospital does have a copy of the information pertaining to the doctors, where they train and the fact that they are involved in emergency medicine. The remainder of the questions would be more appropriately directed to the physicians and a review of their Curriculum Vitaes.

6. Did the Plaintiff undergo any laboratory test at the Defendant's facility, such as a blood count, urinalysis, or any other test, for each test state:

a. The name and description of the test;

b. The date and time it was made;

c. The name, address, and telephone number of the place where it was made;

d. The name, address, capacity or job title, and qualifications of each person who made it;

e. The name and description of the procedure used in making it;

f. The name or description of each instrument used in making it;

g. The result;

h. The conclusion or interpretation you made from each result;

i. If a record or report was made of the test, the name of each record or report, the date each record or report was made and the name and address of the person who has custody of each record or report; and

j. If in your possession, attach a copy of any and all results of the laboratory tests taken

ANSWER:

Yes. See the medical records, a copy of which are in the plaintiff's possession. All lab tests would have been performed at Clearfield Hospital.

7. Please produce any and all documents in Defendant's possession, including Plaintiff's medical records and billings, summaries or reports.

ANSWER:

It is believed that a copy of all medical records and billings have been provided. There are no separate summaries or reports which are responsive to this request. The remainder of the request is objected to as seeking information which is protected by the PA Peer Review Act. If plaintiff's counsel needs an additional copy of the medical records and billings, the same will be provided.

John L. McIntyre, Esquire

8. If at the time of the occurrences complained of in this action, there was a policy of insurance covering the Defendant against claims arising out of malpractice, for each policy, state:

a. The name, address, and telephone number of the insurer;

b. The number of the policy;

c. The effective dates of the policy;

d. The limits of liability;

e. The name, address, and telephone number of the custodian of the policy; and

f. The named assured on said policy.

ANSWER:

Yes.

a. Princeton Insurance Company
746 Alexander Road
Princeton, NJ 08540-6305.

b. CH3700048.

c. July 2, 2001

d.

Physician	**Hospital**
$500,000 – Each Occurrence	**$500,000 – Each Occurrence**
$1,500,000 – Aggregate	**$1,500,000 – Aggregate**

e. Thomas J. Conlin, Jr.
Vice President Human Resources/Risk Manager
809 Turnpike Avenue
Clearfield, PA 16830

f. Clearfield Hospital

9. To the extent you have or know of the existence of any report, correspondence, or other record relating to the treatment of plaintiff, not contained in her medical records, for each such document, state:

a. Its identity and subject matter;

b. The date it was made;

c. The name, address, and telephone number of each person who made it;

d. The reason it was made; and

e. The name, address, and telephone number of the person who has custody of it.

ANSWER:

We are not aware of any other reports, etc., other than what is contained in the medical records, pertaining to the care and treatment of the patient. Further, the request is vague as drafted.

10. To the extent you contend that a person other than the Defendant institution was responsible for plaintiffs injuries, for each such person, state:

a. His name, address, telephone number, job title or capacity; and

b. The facts on which you base your contention that he was responsible for plaintiff's injuries.

ANSWER:

This is objected to as requesting a legal/medical opinion.

John L. McIntyre, Esquire

11. If any statements were obtained by Defendant or on your behalf from any person concerning any matter relating to this action, for each statement state:

a. The name, address, telephone number and occupation of the person who made it;

b. The name, address, telephone number and occupation of the person who obtained it;

c. The date and time it was obtained; and

d. Whether written, sound recorded or oral, and if written or sound recorded, the name, address, and telephone number of the person who has custody of it.

ANSWER:

N/A.

12. Please attach a copy of each statement to your answers to these interrogatories.

ANSWER:

N/A.

13. If there are any individuals who have knowledge or information concerning this case whose name and address is not listed in the preceding answers to interrogatories, for each

such person, state:

a. His name, address and telephone number;

b. The address of the place where he is employed; and

c. His occupation and job title.

ANSWER:

Please see the medical records and counsel for the doctor and hospital.

14. To the extent the Defendant believes that there are any errors, whether typographical or otherwise, contained within any medical records involved in the instant action, describe in detail the error which you believe exists, and what you believe the record should state.

ANSWER:

This Interrogatory is objected to. Without waiving said objection, to the best of Clearfield Hospital's knowledge and belief and without any reason for the hospital to review the record, it is believed that the information is accurate.

John L. McIntyre, Esquire

15. Please provide information and/or copies of any transcripts, tape recordings, interviews, computer tapes - floppies or hard drives, relating to any interviews or this client's case in general.

ANSWER:

This request is overly broad, vague and burdensome. In addition, the request may be seeking information which is protected by the attorney-client privilege and/or the Peer Review Act.

John L. McIntyre, Esquire

16. Please state the names and present addresses of all persons contacted and/or consulted by the Defendant in answering these Interrogatories.

ANSWER:

Tom Conlin, Vice President Human Resources/Risk Manager – Clearfield Hospital and John L. McIntyre, Esquire, Counsel for Clearfield Hospital.

17. Has the Defendant retained any of the dictation transcribed in Plaintiff's medical records at Clearfield Hospital? If so, please produce a copy of the same.

ANSWER:

No.

18. What are the names and present addresses of any Clearfield Hospital employee who has knowledge of any facts, events, conditions or circumstances concerning the following:

a. The infection giving rise to the lawsuit;

b. The treatment of the infection;

c. The diagnosis of the infection;

d. The transfer of Justine Kline to the VA Medical Center;

e. Any consultations for Justine Kline's treatment; or

f. Any transfer orders, or transfer summaries communicated to the Children's Hospital of Pittsburgh.

ANSWER:

Please see the medical records for Justine Kline's two admissions to the Emergency Department at Clearfield Hospital in February 2002.

19. Please identify the names and addresses of all physicians employed by Clearfield Hospital, without incorporating the medical records, who the Defendant knows treated Justine Kline. Please also identify specialty employer and professional title.

ANSWER:

The two physicians who provided treatment were Dr. George Palmer and Dr. James DeSantis of Clearfield Hospital.

20. As to each person named in Answer to Interrogatory number 2 or number 3, or any of its sub-parts, please state whether you have a statement in your possession given by or attributed to any such person whether signed, unsigned, adopted or approved by any of them.

ANSWER:

N/A.

21. As to each statement referred to in Answer to Interrogatory number 4, above, please state:

a. Whether the statement is in question and answer or narrative 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 and where the statement was taken; and

g. Please attach a copy or produce a copy at the time and place previously indicated in the instructions.

ANSWER:

Interrogatory number 4 is not above, however, the answer remains N/A.

22. Please state the name and present address of each person the Defendant expects to call as an expert witness at the trial of this case.

ANSWER:

This request is premature as discovery has not yet begun. Clearfield Hospital will identify any experts that will be called to trial, in accordance with the PA Rules of Civil Procedure. Further, no expert can be identified to testify at trial, until discovery has been completed.

23. As to each person named in Answer to Interrogatory number 8, please state:

a. The subject matter upon which each such expert will testify;

b. The substance of each fact to which he or she is expected to testify;

c. The substance of each opinion to which he or she is expected to testify;

d. The grounds for each opinion;

e. The person's background, training, experience and other qualifications;

f. The date the expert was first retained;

g. Produce a copy of all reports prepared by each such expert, at the time and place previously indicated; and

h. Provide a list of every case, (by docket number, jurisdiction and Plaintiff's attorney's name), that the expert has testified in.

ANSWER:

(a-h) This Interrogatory is objected to as being premature and seeking information which is beyond the scope of the PA Rules of Civil Procedure. If and when a determination is made as to calling an expert, information will be provided in accordance with the PA Rules of Civil Procedure.

John L. McIntyre, Esquire

24. Except for those persons identified in the preceding interrogatory, please state the name and present address of any person who has been retained, employed or consulted by the Defendant as an expert in connection with the claim of this case.

ANSWER:

This Interrogatory is objected to as seeking information beyond the scope of the PA Rules of Civil Procedure and applicable case law.

John L. McIntyre, Esquire

25. Do you have any plans, drawings, maps, photographs, medical records, x-rays, or claim records, incident reports or films relating to the claim in this case?

ANSWER:

This Interrogatory is objected to as seeking information, which is or may be protected by

the PA Peer Review Act and the attorney-client privilege. Without waiving said objection, Clearfield Hospital does have medical records and billing records, copies of which I believe to be within the possession of counsel for the plaintiff.

John L. McIntyre, Esquire

26. If the Answer to the preceding Interrogatory is "yes", as to each item, please state:

a. The nature and content of each item;

b. When it was made;

c. By whom it was made;

d. Who has possession of it; and

e. Please produce them at the time and place specified above.

ANSWER:

See the objection and response of Clearfield Hospital to Interrogatory No. 25, which is incorporated herein, as though the same were set forth at length.

27. Does the Defendant have a written policy or procedure concerning medical consultations? If so, please produce the same.

ANSWER:

Yes. A copy will be produced.

28. Has the Defendant ever been sued by a former patient for personal injuries suffered as a result of the treatment of urosepsis, bacteremia, septic shock or any other infection?

ANSWER:

This Interrogatory is objected to as being overly broad, vague and burdensome. Without

waiving said objection, Clearfield Hospital has not been sued by any former patient complaining of urosepsis, bacteremia or septic shock, under facts and circumstances similar to the within action which has been instituted on behalf of Justine Kline. Without waiving said objection, the answer is that there were no similar cases where a patient sued as a result of urosepsis, bacteremia, septic shock or any other infection, similar to Justine Kline's.

John L. McIntyre, Esquire

29. If the Answer to the prior Interrogatory is in the affirmative, indicate the following:

a. The name or names of any attorney who represented the Plaintiff with respect to such claim or suit;

b. The person, persons, firm, or firms against whom such claim or suit was filed and their insurance carrier or carriers; and

c. If suit was actually filed, indicate the Court in which suit was filed and the number and the term or other Court designation of the case or cases.

ANSWER:

See Answer to Interrogatory No. 28, which is incorporated by reference, as though the same were set forth at length.

30. Did any agent, servant, representative or employee of Clearfield Hospital notice or observe any signs, symptoms or indications of urosepsis, bacteremia, septic shock?

ANSWER:

This Interrogatory is objected to as seeking a legal/medical opinion. Further, this question would be more appropriately directed to the medical personnel who provided care and treatment to Justine Kline.

John L. McIntyre, Esquire

31. If the Answer to the preceding Interrogatory is in the affirmative, please state:

a. The sign, symptom or indication that was observed; and

b. What efforts that were made to treat the sign, symptom or indication.

ANSWER:

See Answer to Interrogatory No. 30, which is incorporated by reference as though the same were set forth at length.

32. Please produce a true and correct copy of Clearfield Hospital's insurance company's claims log pertaining to this claim.

ANSWER:

This Interrogatory is objected to as seeking information, which may be protected by the attorney-client privilege and the PA Peer Review Act. Any information, which is available and not protected by privilege, will be provided.

John L. McIntyre, Esquire

33. Please produce a copy of Defendants Palmer, Jones and DeSantis's personnel and staff privileges files.

ANSWER:

This request is objected to as seeking information which is protected by the PA Peer Review Act.

John L. McIntyre, Esquire

34. Please produce a copy of Defendants Palmer, Jones and DeSantis's Application(s) for staff privileges and any re-applications.

ANSWER:

N/A.

35. Please produce any and all videotapes and photographs of any medical conditions of Justine Kline.

ANSWER:

N/A.

36. Does the Defendant have any written policies or protocols pertaining to or relation to the treatment of urosepsis, pediatric infections or infectious disease consultation? If

so, please produce a copy of the same.

ANSWER:

Yes. See attached Articles on Consultations.

37. Does the Defendant have a written policy concerning patient transfer and/or patient admission from the Emergency Room? If so, please produce a copy of the same.

ANSWER:

Yes. See attached policy.

38. Did any agent, servant or representative of the Defendant ever consider whether Justine Kline was suffering from urosepsis, bacteremia or septic shock upon her discharge? If so, please identify the medical personnel who made such a consideration and the date and time of the same.

ANSWER:

This Interrogatory is objected to as seeking a legal/medical opinion/conclusion and would be more appropriately directed to the physicians who provided care and treatment to the plaintiff, particularly at the time of discharge.

John L. McIntyre, Esquire

39. Please identify by name and address all infections disease specialists by name on staff with the Defendant during the periods of treatment of Justine Kline referenced in the Complaint.

ANSWER:

There was specific individual who specialized in infectious diseases on staff at Clearfield Hospital during the time Justine Kline was in the Emergency Department.

40. Please produce any incident reports pertaining to or relating to the treatment of

Justine Kline.

ANSWER:

This Interrogatory is objected to as seeking information, which is protected by the Peer Review Act.

John L. McIntyre, Esquire

41. Did the Defendant have to report the infectious disease of Justine Kline to any governmental agency? If so, please:

a. Identify said agency;

b. Produce all documents pertaining to the same; and

c. Identify all witnesses who have knowledge of the same.

ANSWER:

No.

42. Does the Defendant have any policy referring to or referencing the referral of a patient to another institution? If so, please produce the same.

ANSWER:

Please see the transfer policy.

43. Please produce all operating procedures, protocols and treatment guidelines invoked in the treatment of Justine Kline.

ANSWER:

This Interrogatory is objected to as seeking information and is overly broad, vague and burdensome. If the plaintiff can more appropriately limit the request, the same will be considered.

John L. McIntyre, Esquire

44. Does the Defendant agree that Justine Kline suffered from urosepsis while at Clearfield Hospital?

ANSWER:

This Interrogatory is objected to as seeking a legal/medical conclusion and would be more appropriately directed to the physicians who provided care and treatment to Justine Kline.

John L. McIntyre, Esquire

45. Please state whether or not the Defendant possesses any excess insurance coverage for the claim in this case. If so, please state:

a. The policy limits;

b. The issuing company;

c. The date of effect;

d. If said policy will be invoked in the current case.

ANSWER:

a. $10 Million – Each medical incident
$10 Million - Aggregate

b. Gulf Insurance Group

c. July 1, 2001

d. Undetermined

46. Please state whether or not the Defendant has been accredited by JCAHO. If so, please state the last date of JCAHO certification prior to February 22, 2002.

ANSWER:

Yes. October 22, 1999.

47. Please produce any and all documentation in your care, custody and control

relating to the JCAHO certification referenced in the preceding Interrogatory as it relates to Clearfield Hospital's Emergency Room treatments, protocols, operation and patient care.

ANSWER:

This Interrogatory is objected to as being overly broad, vague and burdensome. Further, said information may be protected by the PA Peer Review act. Without waiving said objection, if plaintiff can more narrowly define the request, the same may be considered.

John L. McIntyre, Esquire

RESPECTFULLY SUBMITTED:

PATBERG, CARMODY, GING & FILIPPI

by_____
Rolf Louis Patberg, Esquire
PA I.D. No.: 65185

PATBERG, CARMODY, GING & FILIPPI
527 Court Place
Pittsburgh, PA 15219
(412) 232-3500

Attorney for Plaintiffs
McINTYRE, DUGAS, HARTYE & SCHMITT

By_____
Attorneys for Defendants,
CLEARFIELD HOSPITAL,
GEORGE F. PALMER and
ERNEST P. JONES

John L. McIntyre, Esquire
PA I.D. #28015
P.O. Box 533
Hollidaysburg, PA 16648
(814) 696-3581

ARTICLE III

CONSULTATIONS

Section 1: Who May Give Consultations

Any qualified practitioner with clinical privileges in this hospital can be asked for consultation within his/her area of expertise. Consultation by physicians associated in the same office, for mandatory consultations, should be avoided insofar as possible. In circumstances of grave urgency, or where consultation is required by the rules of the hospital, the Chief Executive Officer, the President of the Medical Staff, or the appropriate department chairman shall at all times have the right to call in a consultant or consultants. Timeframe for completion of a consultation shall be in a timely fashion.

Section 2: Required Consultations

(a) Consultation shall be required in all non-emergency cases whenever requested by the patient or the patient's personal representative if the patient is incompetent. Consultations are also required in all cases in which, in the judgment of the attending physician:

(1) the diagnosis is obscure after ordinary diagnostic procedures have been completed,
(2) there is doubt as to the best therapeutic measures to be used,
(3) unusually complicated situations are present that may require specific skills of other practitioners,
(4) the patient exhibits severe symptoms or mental illness or psychosis.
(5) when services required exceed the attending physician's privileges.

(b) The attending practitioner is responsible for requesting consultation when indicated and for calling in a qualified consultant.

(c) Additional requirements for consultation may be established by the hospital as required. It shall be the responsibility of all individuals exercising clinical privileges, to obtain any required consultations, and requests for a consultation shall be entered on an appropriate form in the medical record. If the history and physical is not on the chart and the consultation form has not been completed, it shall be the responsibility of the practitioner requesting the consultation to provide this information to the consultant.

(d) If a nurse employed by the hospital has any reason to doubt or question the care provided to any patient or believes that appropriate consultation is needed and has not been obtained, he/she shall call this to the attention of the floor supervisor who, in turn, shall refer the matter to the chairman of the department in which the practitioner in question has clinical privileges. In all situations which require it, the chairman of the department may himself/herself request a consultation after appropriate discussion with the attending practitioner.

(e) It is the duty of the Credentials Committee, the department chairmen, and the Executive Committee, to make certain that appointees to the staff request consultations when needed.

(2) ELOPEMENT

When a patient is admitted to the hospital and then leaves without notifying hospital personnel, the action is defined as an elopement. In the event that you discover that a patient is missing from their room and nursing unit floor, **immediately** notify the unit charge person of the missing person. The charge person will initiate the Wandering/ Confused/ Missing Patient Policy.

(3) **SEE ADDENDUM "G" FOR CURRENT TOOLS RELATED TO AGAINST MEDICAL ADVICE (AMA) AND ELOPEMENT/WANDERING/CONFUSED/MISSING PATIENT POLICY.**

C. TRANSFER

1. IN-HOUSE TRANSFERS

a. TYPES OF IN-HOUSE TRANSFERS

In-house transfers of patients are made for reasons of safety, convenience, changes in level of care, or acuity changes and consist of:

- Non-critical care to non-critical care.
- Critical care to non-critical care.
- Non-critical care to critical care.

b. MECHANISMS GOVERNING IN-HOUSE TRANSFERS

- A physician's order is required when transferring a patient to/from ICU.
- Once the transfer order is recognized, the personnel in the area transferring the patient notifies the NOS on duty.
- The charge nurse assigns a bed, collaborating with the receiving unit charge nurse and NOS on duty.
- Depending on the physical acuity of the patient, they are transferred either by wheelchair, stretcher, or bed from the transferring unit.
- The transferring nurse gives a verbal report to the receiving nurse.
- Prior to transfer, the assigned nurse notifies the receiving nursing unit of any special needs or equipment.
- A Summation at Transfer (SAT) is completed by the assigned nurse of the transferring unit.
- The transferring unit notifies "any involved support service department" of patient's newly assigned bed number.

c. SPECIAL ISSUES OF IN-HOUSE TRANSFERS

The preceding mechanism for in-house transfer is also followed during off hours and in emergencies.

d. **SEE ADDENDUM "H" TRANSFER TOOLS.**

2. INTERAGENCY TRANSFERS

a. TYPES OF INTERAGENCY TRANSFERS

- If a patient/significant other cannot demonstrate ability for self care following hospitalization a referral for the following may be considered:
  - Personal Care Facility
  - Extended Care Facility
  - Skilled Nursing Facility
  - Hospital Care in Home
  - Rehab Hospital
- When a patient requires intensive rehabilitation not available through Clearfield Hospital, arrangements are made through the attending physician for transfer to a rehab facility agreed on by the physician and patient/significant other.
- When the hospital does not provide specific diagnostic treatment services required by a patient or a person seeking necessary medical care, the hospital or attending physician,

or both, assist the patient in making arrangements for care in an alternate facility so as not to jeopardize the health and safety of the patient.

b. MECHANISMS GOVERNING INTERAGENCY TRANSFERS

- The decision to transfer the patient to another facility is based on the patient's medical status. The order to transfer must be written by the attending physician.
- The best mode of transportation is determined and ordered by the transferring physician and documented in the medical records. Emergency transportation of cardiac patients must be in a vehicle equipped and staffed for advanced life support unless otherwise ordered.
- The primary care nurse gives a report of patient's condition prior to the transfer to the nursing area or the facility receiving the patient. Bed confirmation of the receiving facility must be obtained.
- A discharge summary is written in the nursing progress record prior to transfer.
- The physician is responsible to document in the progress record the stability of the patient prior to transfer.
- Once it is determined a patient will be transferred, the Medical Records Department is notified by the unit clerk or charge nurse and it becomes their responsibility to copy patient's record.
- Depending on the severity of the patient's condition, the physician writes an order for an RN, LPN, or Paramedic to accompany the patient. The charge nurse arranges for transportation and transfer personnel.
- It is the primary care nurses' responsibility to complete the Patient InterAgency Transfer Form.

c. **SEE ADDENDUM "H" FOR INTERAGENCY TRANSFER FORM.**

D. DISCHARGE

1. DISCHARGE CRITERIA

a. GENERAL DON PARAMETERS

Patients may be discharged from Clearfield Hospital when he/she:

- Demonstrates independence from life support equipment or demonstrates stability in his/her condition requiring no further need for acute care. When acute care is no longer required, patient may be appropriate for nursing home placement, rehabilitation transfer, or discharge to home with caregivers, demonstrating ability to provide care to and management of patient in the home setting.
- Demonstrates stable hemodynamics and lab values to meet the requirements of discharge criteria except when a patient is discharged to terminal care/hospice or a physician documents the specific abnormality and why patient will not meet discharge criteria.
- Patient/SO must demonstrate ability for self care. If patient/SO displays lack of ability, the referral for home health follow up, rehab transfer or extended care is indicated.

b. UNIT SPECIFIC DISCHARGE ISSUES

Each individual nursing area defines more specific discharge criteria for their unique patient populations and needs in their respective unit structure standards in Element VI, "Utilization of the Nursing Unit".

2. DISCHARGE PLANNING

a. PROCESS

(1) TIME FRAMES

Discharge planning is initiated on patient's admission to the hospital. The admitting nurse Is required to complete the Nursing Data Base/Nursing Admission Assessment form. Once the nurse has gathered the data and completed NDB/NAA she/he questions the patient as to needs, plans on discharge and determines the patient's initial discharge goals. If the

Clearfield Hospital
Clearfield, PA 16830

Transfer Form
Physician Certification
And Authorization

Mode of Transfer: ☐ **Helicopter** ☐ **Ambulance** ☐ **Private Vehicle**

IF HELICOPTER TRANSFER:

☐ The patient's condition is too unstable for local ground crew to transport the patient who requires the special skill of the helicopter transfer crew.

☐ The patient's condition is too critical to allow for longer transportation by ground.

☐ Weather/road conditions prohibit ground transfer.

Accepting Hospital: _____ **Accepting Physician:** _____

Notification Date: _____ **Notification Time:** _____

BENEFIT OF TRANSFER:

Physician specialist necessary for this patient's care is not available at this institution, but is at the accepting facility;

☐ Burn Specialist
☐ Cardiothoracic Surgery
☐ Intensive Care Specialist
☐ Interventional Cardiology
☐ Neonatologist
☐ Neurologist
☐ Neurosurgeon
☐ Pediatric ICU
☐ Pediatric Sub Specialty
☐ Toxicologist
☐ Trauma Surgeon
☐ Other: _____

ent may require a specialized procedure not available at this institution, but is at the accepting facility.

☐ Dialysis ☐ PTCA/CABG ☐ Emergency surgery not available here

☐ Intensive care expertise or technology required for this patient is not available at this institution, but is at the accepting facility.

☐ Other: _____

RISKS OF TRANSFER:

☐ Risks of transportation

☐ Other: _____

☐ The patient is stable for transfer and no deterioration is anticipated during the transfer process.

☐ The patient is unstable or potentially unstable at the time of transfer, however, the benefits of transfer outweigh the risks of transfer.

PHYSICIAN CERTIFICATION

I certify to the best of my ability that this patient requires transfer and that the medical benefits expected outweigh the risks of transfer and that this patient's condition warrants transfer by ☐ helicopter ☐ ambulance. I have notified the above accepting physician of the patient's condition and bed availability has been confirmed.

_____ _____ _____

(Print Physician Name) (Physician's Signature) (Date and Time)

INFORMED CONSENT TO TRANSFER

I hereby consent to transfer to _____. I understand that it is the opinion of the physician responsible for my care that the benefits of transfer outweigh the risks of transfer. I have been informed of the risks and benefits upon which this transfer is being made. I have been informed of the Hospital obligations under the law. I have considered the risks and benefits and consent to the transfer.

_____ _____

(Signature of Patient or Responsible Person/Relationship) (Signature of Witness)

INFORMED REFUSAL OF TRANSFER

I understand that the hospital has offered to provide a medically appropriate transfer to another facility. The Hospital and Physician have informed me of the benefits and risks expected from the transfer.

I understand that if I refuse the offered transfer, I am doing so against medical advice. I understand that my refusal may result in a worsening of my condition and could pose a threat to my life, health and safety.

I certify that I have been examined at Clearfield Hospital and have been informed of the Hospital obligations under the law.

I hereby refuse the offered transfer.

_____ _____

(Signature of Patient or Responsible Person) (Relationship)

_____ _____ _____

(Signature of Witness) (Date) (Time)

PATIENT INITIATED REQUEST FOR TRANSFER

This is to certify that I, _____, have been examined at the Clearfield Hospital, and that I have requested a transfer from this facility to _____. I have been fully informed of the risks involved with the transfer and hereby release the attending physician and the hospital from all responsibility for any ill effects that may result from the transfer.

☐ I am aware that my decision is against the advice of my attending physician.

_____ _____

(Signature of Patient or Responsible Person) (Relationship)

_____ _____ _____

(Signature of Witness) (Date) (Time)

P 236 MH

VERIFICATION

I, Thomas J Conlin Jr, of **CLEARFIELD HOSPITAL** do hereby verify that I have read the foregoing **ANSWERS TO PLAINTIFF'S FIRST SET OF INTERROGATORIES AND REQUESTS FOR PRODUCTION OF DOCUMENTS**. The statements therein are correct to the best of my personal knowledge or information and belief.

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

CLEARFIELD HOSPITAL

Karen L. Rubbe
Notary Public

Date: 5/27/03

Notarial Seal
Karen L. Rubbe, Notary Public
Clearfield Boro, Clearfield County
My Commission Expires Mar. 26, 2006
Member, Pennsylvania Association of Notaries

PATBERG, CARMODY, GING & FILIPPI
ATTORNEYS AT LAW

PITTSBURGH OFFICE:

527 COURT PLACE
PITTSBURGH, PA 15219
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SEAN P. DUFF

OF COUNSEL:
JOSEPH MANION LUDWIG
WILLIAM B. DIXON

OFFICES IN:

ERIE
MURRYSVILLE
WARRENDALE

July 9, 2003

John L. McIntyre, Esquire
McIntyre, Dugas, Hartye & Schmitt
P.O. Box 533
Holidaysburg, PA 16648

Re.: Sandra Conklin, et al v. Clearfield Hospital, et al.
Our File No.: 02-201

Dear Mr. McIntyre:

I am in receipt of Clearfield Hospital's recent discovery responses. Thank you for forwarding the same to my attention.

Interrogatory Number 4: Answer to Interrogatory Number 4 indicates that Clearfield will provide copies of the written staff privileges. Please immediately provide copies of the same. Interrogatory Number 5 represents information regarding training. Once again, I would ask that Clearfield produce the same. The Answer to Interrogatory Number 7 asserts the privilege under the Pennsylvania Peer Review Privilege Act. Please advise as to the factual basis of the same.

Interrogatory Number 15: Answer to Interrogatory Number 15 asserts the privilege under the Pennsylvania Peer Review Privilege Act. Please advise as to the factual basis of the same.



Interrogatory Number 18: Interrogatory Number 18 asks for the identification of specific medical personnel. We are seeking the specific names of Clearfield Hospital employees. Please provide this information, as it is clearly discoverable and appropriate. I am sure the hospital has identified all of these individuals already.

Interrogatory Number 25: Answer to Interrogatory Number 25 asserts the privilege under the Pennsylvania Peer Review Privilege Act. Please advise as to the factual basis of the same.

Interrogatory Number 26: Answer to Interrogatory Number 26 asserts the privilege under the Pennsylvania Peer Review Privilege Act. Please advise as to the factual basis of the same.

Interrogatory Number 27: Answer to Interrogatory Number 27 acknowledges the existence of a written policy or procedure concerning medical consultations. Please immediately provide the same.

Interrogatory Number 30: Interrogatory Number 30 requests the agents, servants and employees of Clearfield Hospital. Directing the Interrogatory to additional parties is not an appropriate response. Please amend your response.

Interrogatory Number 32: Answer to Interrogatory Number 32 acknowledges the existence of a claim log. Please produce a copy of the same.

Interrogatory Number 33: Answer to Interrogatory Number 33 asserts the privilege under the Pennsylvania Peer Review Privilege Act. Please advise as to the factual basis of the same.

Interrogatories 34 and 35: Answers to Interrogatories 34 and 35 answer "n/a." If no such items exist, please state so specifically.

Interrogatory Number 38 Interrogatory Number 38 is objected to on the basis of a legal/medical opnion/conclusion. This is an inappropriate response and I would ask that you please kindly review the objection.

Interrogatory Number 39: Answer to Interrogatory Number 39 states that there was a specific individual who specializes in infectious diseases on staff at Clearfield Hospital. However, Interrogatory 39 requests the name and address of the same. Please produce this clearly discoverable information.

Interrogatory Number 40: Answer to Interrogatory Number 40 asserts the privilege under the Pennsylvania Peer Review Privilege Act. Please advise as to the factual basis of the same.

Interrogatory Number 43: Interrogatory Number 43 requests treatment protocols and guidelines. I am sure your client is cognizant as to specifically what information this references. If no treatment protocols, procedures or guidelines were implemented, please state as much.

Interrogatory Number 44: Interrogatory Number 44 simply seeks to narrow the issues in discovery and I would simply ask that your client appropriately respond to the same.

Interrogatory Number 47: Answer to Interrogatory Number 47 asserts the privilege under the Pennsylvania Peer Review Privilege Act. Please advise as to the factual basis of the same.

I would ask that you please kindly re-review all of the objections asserted in Clearfield Hospital's responses. Many of them are clearly inappropriate. For example, incident reports are clearly discoverable under the Pennsylvania Peer Review Protection Act and this is a baseless objection.

In any event, prior to filing a Motion to Compel, I simply wanted to give your client an opportunity to voluntarily comply with the Pennsylvania Rules of Civil Procedure. I look forward to receiving the responses.

Very truly yours,

Rolf Louis Patberg

RLP/cag

cc: Mary Lou Maierhofer, Esquire

PATBERG, CARMODY, GING & FILIPPI

ATTORNEYS AT LAW

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OF COUNSEL:
JOSEPH MANION LUDWIG
WILLIAM B. DIXON

OFFICES IN:
ERIE
MURRYSVILLE
WARRENDALE

July 28, 2003

John L. McIntyre, Esquire
McIntyre, Dugas, Hartye & Schmitt
P.O. Box 533
Hollidaysburg, PA 16648

Re.: Sandra Conklin, et al v. Clearfield Hospital, et al.
Our File No.: 02-201

Dear Mr. McIntyre:

Please find enclosed Plaintiffs' Second Set of Interrogatories and Requests for Production of Documents directed to all Defendants. Please note that I forwarded a letter to you on July 9, 2003 requesting that you review the prior discovery responses. I have not received a response to the correspondence and would greatly appreciate your review of the same. I am sure we will have disagreements regarding the application of Pennsylvania Peer Review Protection Act and I would like to resolve as many issues prior to taking the matter up with the Judge.

On a further note you requested that I provide your list of potential deponents. Please be advised that I would like to depose the following individuals who I understand to be employees of Clearfield Hospital:

1. Stacey Gerg;
2. Gwen R. Thomas;
3. Kelly A. Espenshade;
4. Patricia M. Neeper.
5. The individual responsible for the implementation of the computer system to generate the medical records for Justine Kline;



6. The respiratory therapist who intubated Justine Kline on February 23, 2002;

7. Possibly, the clerk who contacted Medistat and Children's Hospital with regard to Justine Kline;

8. Karen Abbot;

9. Monica Smith;

10. Mark Shaw; and

11. Donna R. Unch.

I would like to obtain all outstanding discovery responses prior to taking these depositions. I appreciate your attention in this regard and I look forward to hearing from you.

Very truly yours,

Rolf Louis Patberg

RLP/hjb

Enclosure

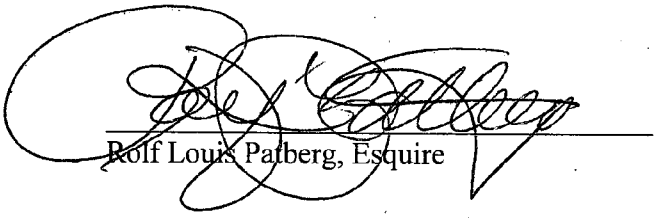
cc: Mary Lou Maierhofer, Esquire

CERTIFICATE OF SERVICE

I, Rolf Louis Patberg, Esquire, hereby certify that a true and correct copy of the foregoing Motion to Compel Discovery was forwarded this 18 day of August, 2003 via postage prepaid United States Mail to the following:

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Holidaysburg, PA 16648

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Meyer, Darragh, Buckler, Bebenek & Eck, P.L.L.C.
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Rolf Louis Patberg, Esquire

FILED NO CC
m/ia:53
AUG 20 2003
William A. Shaw
Prothonotary/Clerk of Courts

03-68-CD

The Superior Court of Pennsylvania

Sitting at Pittsburgh

6th floor Grant Building
Suite 600
Pittsburgh, Pennsylvania
15219

CERTIFICATE OF CONTENTS OF REMANDED RECORD
AND NOTICE OF REMAND
under
PENNSYLVANIA RULES OF APPELLATE PROCEDURE 2571 AND 2572

THE UNDERSIGNED, Prothonotary (or Deputy Prothonotary) of the Superior Court of Pennsylvania, the said court of record, does hereby certify that annexed to the original hereof, is a true and correct copy of the entire record:

RECORD 3 PARTS, 8 TRANSCRIPTS-SUPERIOR COURT JUDGMENT ORDER AND OPINON

As remanded from said court in the following matter:
CONKLIN ETC. V CLEARFIELD HOSPITAL ET AL.
NO. 700 WDA 2008

FILED
m/3:32BY
JUN 26 2009
William A. Shaw
Prothonotary/Clerk of Courts

COURT OF COMMON PLEAS-CIVIL DIVISION-CLEARFIELD COUNTY
NO. 2003-68-CD

In compliance with Pennsylvania Rules of Appellate Procedure 2571.

The date of which the record is remanded June 25, 2009

An additional copy of this certificate is enclosed with the original hereof and the clerk or prothonotary of the lower court or the head, chairman, deputy, or the secretary of the other government unit is hereby directed to acknowledge receipt of the remanded record by executing such copy at the place indicated by forthwith returning the same to this court.

Eleanor R. Valecko
DEPUTY PROTHONOTARY

RECORD, ETC. RECEIVED: DATE: June 26, 2009

(Signature & Title)

WILLIAM A. SHAW
Prothonotary
My Commission Expires
1st Monday in Jan. 2010
Clearfield Co., Clearfield, PA

FILED
JUN 26 2009
William A. Shaw
Prothonotary/Clerk of Courts

WILLIAM A. SHAW
Prothonotary
My Commission Expires
1st Monday in Jan. 2010
Clearfield Co., Clearfield PA

J. A38006/08

03-68-CD

NON-PRECEDENTIAL DECISION - SEE SUPERIOR COURT I.O.P. 65.37

SANDRA CONKLIN, AS PARENT AND NATURAL GUARDIAN OF JUSTINE KLINE,	:	IN THE SUPERIOR COURT OF PENNSYLVANIA
Appellant	:	
v.	:	
CLEARFIELD HOSPITAL AND GEORGE F. PALMER	:	No. 700 Western District Appeal 2008

Appeal from the Judgment Entered November 16, 2007,[1] in the Court of Common Pleas of Clearfield County Civil Division at No. 2003-68-CD

FILED
m/3:20BH
JUN 26 2009
William A. Shaw
Prothonotary/Clerk of Courts

BEFORE: FORD ELLIOTT, P.J., DONOHUE AND COLVILLE,* JJ.

MEMORANDUM: FILED: May 20, 2009

Appellant, Sandra Conklin, appeals the judgment entered in her medical malpractice action, which she brought on behalf of her minor daughter, Justine Kline ("Justine"),[2] against appellees, Clearfield Hospital

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* Retired Senior Judge assigned to the Superior Court.

[1] We note in passing that the notice of appeal purported to be taken from the order entered March 26, 2008, which denied post-trial motions. Appeal is properly taken from the entry of judgment upon the docket. ***Murphy v. Brong***, 468 A.2d 509 (Pa.Super. 1983). Instantly, judgment was entered November 16, 2007 and the notice of appeal was filed on April 16, 2008. The appeal is not untimely, however, because the clerk failed to note on the docket that notice of the entry of judgment was sent and the date of such notice. ***In re K.P.***, 872 A.2d 1227 (Pa.Super. 2005). Thus, the 30-day appeal period did not trigger and this court may exercise jurisdiction over an otherwise untimely appeal. ***Id.***

[2] Justine was three years-old at the time of her injury. (Notes of testimony, 12/6/06 at 109).

and Dr. George F. Palmer. A jury returned a verdict finding no negligence on the part of Dr. Palmer. Upon review, we affirm.

As it fairly and thoroughly presents the factual and procedural history of this case, we adopt the trial court's opinion in this regard:

> Sandra Conklin, as parent and natural guardian of Justine Kline (hereafter Plaintiff), filed ten post-trial motions following a medical negligence jury trial held December 4, 2006 through December 12, 2006. On December 12, 2006, the jury awarded a verdict in favor of the Clearfield Hospital and George F. Palmer, finding no negligence on the part of Dr. Palmer.
>
> This action is a medical negligence action which focused on the care that Justine Kline (hereafter Justine) received in the Emergency Room of Clearfield Hospital (hereafter E.R.) on February 23, 2002 commencing at approximately 1:00 a.m. George F. Palmer (hereafter Defendant) rendered treatment to Justine while she was in the E.R. suffering from urosepsis, bacteremia, and pylenephritis [essentially, a urinary tract infection]. While in the E.R., a urine analysis was performed on Justine's urine and blood cultures were taken. Justine was given Rocephen and then discharged from the E.R. at 5:45 a.m. that same day. Justine returned home where her condition worsened through the morning. On February 23, 2002 the Plaintiff returned to the Clearfield Hospital with Justine. Justine was transferred to Children's Hospital where she was met by an intensive care team. Upon admission to Children's Hospital, it was determined that she was suffering from septic shock, pulmonary edema and disseminated intravascular coagulation. Justine remained in the Children's Hospital from February 23, 2002 through March 13, 2002. On March 13, 2002, Justine was transferred to rehabilitation therapy. Justine had to have four fingers amputated. Additionally, she has numerous

physical scars and has had multiple corrective surgeries as a result of this illness.

Trial court opinion, 3/26/08 (entered 3/27/08) at 1-2.

Appellant raises the following issues on appeal:

A. WHETHER AN INFECTIOUS DISEASE PHYSICIAN CAN TESTIFY AS TO THE STANDARD OF CARE OF AN EMERGENCY ROOM PHYSICIAN UNDER THE M-CARE ACT.

B. WHETHER A MEDICAL EXPERT CAN OPINE AS TO THE ULTIMATE OUTCOME OF A FORM OF TREATMENT THAT A PLAINTIFF-PATIENT NEVER RECEIVED AND THAT PARTICULAR TREATMENT IS AT ISSUE.

C. WHETHER A JUDGE SHOULD INSTRUCT A JURY THAT A MINOR-PLAINTIFF'S RECOVERY WOULD BE PLACED IN TRUST PURSUANT TO Pa.R.C.P. 2039 WHERE THE MINOR'S PARENT IS IMPOVERISHED.

D. WHETHER A DEFENDANT CAN TESTIFY AS WHAT A LOST AND UNPRODUCED DOCUMENT STATED AS MOTIVATION FOR A LATE IN-DUAL [SIC] MEDICAL RECORD ENTRY IN PLAINTIFF'S CHART.

E. WHETHER A STANDARD OF CARE EXPERT CAN BE IMPEACHED REGARDING WHAT A PUBLISHED LEGAL OPINION STATES ABOUT HIM AND THE EXPERT DID NOT ADOPT THE OPINION.

F. WHETHER AN EXPERT MAY SUMMARIZE OR REFERENCE A PUBLICATION TO BOLSTER HIS OWN EXPERT OPINION.

Appellant's brief at 5.

As most of these issues pertain to the admission of evidence by the trial court, we note that our standard of review as to the trial court's decision to admit or exclude evidence looks to whether the court abused its discretion. ***Stumpf v. Nye***, 950 A.2d 1032 (Pa.Super. 2008), ***appeal denied***, ___ Pa. ___, 962 A.2d 1198 (2008).

Appellant first complains that one of appellees' expert medical witnesses, Dr. John Dossett, was not qualified under the Medical Care Availability and Reduction of Error Act ("MCARE"), 40 P.S. § 1303.101 ***et seq.***, to testify whether Dr. Palmer, as an emergency room physician, met the appropriate standard of care, where the witness was himself not board certified as an emergency room physician. Appellant cites to the following pertinent section of the MCARE Act:

> (c) Standard of care.--In addition to the requirements set forth in subsections (a) and (b), an expert testifying as to a physician's standard of care also must meet the following qualifications:
>
> (1) Be substantially familiar with the applicable standard of care for the specific care at issue as of the time of the alleged breach of the standard of care.
>
> (2) Practice in the same subspecialty as the defendant physician or in a subspecialty which has a substantially similar standard of care for the specific care at issue, except as provided in subsection (d) or (e).

> (3) In the event the defendant physician is certified by an approved board, be board certified by the same or a similar approved board, except as provided in subsection (e).
>
> (d) Care outside specialty.--A court may waive the same subspecialty requirement for an expert testifying on the standard of care for the diagnosis or treatment of a condition if the court determines that:
>
> (1) the expert is trained in the diagnosis or treatment of the condition, as applicable; and
>
> (2) the defendant physician provided care for that condition and such care was not within the physician's specialty or competence.
>
> (e) Otherwise adequate training, experience and knowledge.--A court may waive the same specialty and board certification requirements for an expert testifying as to a standard of care if the court determines that the expert possesses sufficient training, experience and knowledge to provide the testimony as a result of active involvement in or full-time teaching of medicine in the applicable subspecialty or a related field of medicine within the previous five-year time period.

40 P.S. § 1303.512(c), (d), and (e).

Appellant contends that Dr. Dossett, whose subspecialties are pediatrics and pediatric infectious diseases, was unqualified to testify as to standard of care because he is not familiar with the standard of care for an emergency room physician as per Subsection (c)(1), does not practice in the

same subspecialty as per Subsection (c)(2), is not board certified as an emergency room physician as per Subsection (c)(3), is not trained as an emergency room physician as per Subsection (d)(1), and has not provided emergency room care as per Subsection (d)(2).

We may quickly resolve this issue. Dr. Dossett testified that over the past five years he has been a full-time professor, training emergency room physicians as to pediatrics and infectious diseases and as to when it is appropriate to admit to the hospital a patient who presents with a primary urinary tract infection, as did Justine. (Notes of testimony, 12/11/06 at 24-25, 30-31.) The trial court committed no abuse of discretion in admitting the expert testimony of Dr. Dossett under the MCARE Act because, pursuant to 40 P.S. § 1303.512(e), the court was permitted to waive the same specialty and board certification requirements for an expert testifying as to standard of care, where the expert was a full-time teacher in the subspecialty or a related field within the previous five years. Since that was Dr. Dossett's situation, there was no error here.

Appellant next argues that neither Dr. Dossett, nor another expert witness of appellees', Dr. Charles Christopher King, should have been allowed to offer purely speculative testimony as to Justine's ultimate outcome had she been timely treated. Appellant objects to Dr. Dossett's testimony, which indicated that after receiving antibiotics, nothing further could have or would have been done for Justine, including admission to the

hospital, that would have prevented the additional injuries she received, because the condition that ultimately initiated those injuries was of a sudden, cascading nature and was completely unpredictable. (Notes of testimony, 12/11/06 at 45-48.) As for Dr. King, appellant objects to testimony which indicated that because Justine received early and appropriate antibiotic treatment, nothing more could have been done to prevent Justine's progression from bacteremia to septic shock to amputation. (Notes of testimony, 12/8/06 at 87-90.)

Appellant relies upon ***Hamil v. Bashline***, 481 Pa. 256, 392 A.2d 1280 (1978), for the proposition that in providing expert medical testimony, an expert is prohibited from speculating as to the ultimate outcome for the patient. Unfortunately for appellant's argument, we find that ***Hamil*** does not stand for that principle. Rather, ***Hamil*** holds that in order to establish negligence in a medical malpractice action, the plaintiff's expert medical witness need not speculate that the injury would not have occurred, to a reasonable degree of medical certainty, if the appropriate treatment had been given; instead, the expert need only testify that the lack of appropriate treatment increased the risk that the injury would occur.

Hamil in no way bars the testimonies of Drs. Dossett and King that, essentially, everything that could have been done was done and that Justine would have deteriorated in any event. Moreover, the testimony cannot even

be regarded as speculative as it was clearly based upon these doctors' past experiences with countless patients:

> Q. So could you explain to the jury why you hold the opinion that you do that hospitalization could not have made any difference?
>
> A. This event first, and fortunately, is extraordinarily rare. These infections are not rare. We see bacteremia in children with infection in their blood every day, many such cases. Most of the time we treat them, they are fine.
>
> Sometimes they have meningitis that causes damage and they're not fine. Sometimes they have infection in their hearts.
>
> The thing that's rare and is totally out of our control are these isolated cases where any one of a number of bacteria may precipitate this cascade of events that results in the purpura fulminans, the infarction of the skin, sometimes liver failure, kidney failure, many other organs.

Notes of testimony, 12/11/06 at 46-47 (Dr. Dossett's testimony).[3] There is no merit to appellants' contention.

Appellant next asserts that the trial court erred in failing to instruct the jury that any award to Justine would have been placed in a trust, pursuant to Pa.R.C.P. 2039, 42 Pa.C.S.A., and would not have gone to appellant herself. Appellant argues that testimony revealed that appellant was impoverished and that the instruction was necessary to avoid jury bias

[3] ***See*** notes of testimony, 12/8/06 at p.17, lines 12-25, for Dr. King's extensive experience.

based on a fear that any award would be used by appellant herself rather than inuring to the benefit of Justine.

According to our standard of review in regard to jury instructions, we must assess whether the trial court committed an abuse of discretion or error of law. ***Schmidt v. Boardman Co.***, 958 A.2d 498 (Pa.Super. 2008). We agree with the analysis of the trial court and appellees that the indicated instruction need not have been given.

First, the cases finding such an instruction to be necessary are those where defense counsel has improperly and prejudicially suggested that the plaintiff has an ulterior motive for seeking the award or that the plaintiff has already been compensated for the injury. ***See Young v. Washington Hospital***, 761 A.2d 559 (Pa.Super. 2000), ***appeal denied***, 566 Pa. 668, 782 A.2d 548 (2001) (defense counsel suggested parents were seeking award not to aid injured child but to enrich themselves); ***Boscia v. Massaro***, 529 A.2d 504 (Pa.Super. 1987), ***appeal denied***, ***Boscia v. Schindler-Haughton Elevator Co.***, 517 Pa. 620, 538 A.2d 874 (1988) (defense counsel repeatedly elicited testimony that the plaintiff had workmen's compensation coverage). That is not the situation here. The idea that appellant was "impoverished" was broached in a brief reference by appellant herself, during her testimony, that her choice of medical facility was governed by cost. Simply stated, this reference does not necessarily

indicate impoverishment nor does it suggest that appellant may have been seeking to enrich herself.

Second, because the reference was so brief, calling attention to the issue by addressing it in an instruction may have exacerbated the potential for the jury to read an improper motive into appellant's intentions in filing the lawsuit. We find no abuse of discretion by the trial court in not giving the instruction and, therefore, no error.

Appellant next suggests that the trial court should not have permitted Dr. Palmer to testify that he completed an addendum to Justine's medical record after he received a note from appellee Clearfield Hospital's medical records department on the basis that this constituted a violation of the hearsay rule. Appellant made no hearsay based objection to this testimony at the time and thereby failed to preserve the issue for appeal. ***Luszczynski v. Bradley***, 729 A.2d 83, 89 n.8 (Pa.Super. 1999), ***appeal withdrawn***, 559 Pa. 692, 739 A.2d 1058 (1999). Appellant has waived this issue.

Appellant next argues that during the qualification stage for her medical expert, Dr. John Tilelli, appellees improperly impeached the character of the witness by presenting evidence of a specific instance of untruthfulness, in violation of Pa.R.E. 608(b):

> **(b) Specific instances of conduct.** Except as provided in Rule 609 (relating to evidence of conviction of crime),

> (1) the character of a witness for truthfulness may not be attacked or supported by cross-examination or extrinsic evidence concerning specific instances of the witness' conduct;

Pa.R.E. 608(b), 42 Pa.C.S.A.

Dr. Tilelli was questioned at trial about a statement in his report that he had never had an opinion of his disqualified by a court of law. (Notes of testimony, 12/7/06 at 30.) Appellees' counsel responded by questioning Dr. Tilelli as to ***Wade-Greaux v. Whitehall Laboratories, Inc.***, 874 F.Supp. 1441 (D.C.V.I. 1994), ***affirmed***, 46 F.3d 1120 (1994), and cross-examining Dr. Tilelli as to whether his opinion had been disqualified in that case. During cross-examination, appellees' counsel apparently read directly from the opinion in ***Wade-Greaux*** and appellant's counsel objected on the basis that it was improper to impeach a witness by reading from a legal opinion and that impeachment was properly had by confronting the witness with the testimony from the trial. (Notes of testimony, 12/7/06 at 33.)

We find no merit to appellant's issue. First, at trial, appellant's counsel did not object to the impeachment on the basis that it violated Pa.R.E. 608(b); rather, counsel objected on the basis that a legal opinion was used to impeach the witness. Thus, appellant's present argument was not preserved by a relevant objection. Second, even if the issue was properly preserved, appellees' counsel was not impeaching Dr. Tilelli's

reputation for truthfulness with a specific incident in violation of Pa.R.E. 608(b); rather, counsel was responding to a direct claim in the expert's report and disputing its accuracy. Third, Dr. Tilelli went on to dispute that his opinion had been disqualified and thereby blunted the effectiveness of any impeachment. On this basis, the trial court found that the probative value of the testimony outweighed any prejudicial effect. We agree. For all of these reasons, we find no merit to appellant's claim.

Finally, appellant asserts that appellees' expert, Dr. King, should not have been permitted to repeatedly reference a learned treatise, "the Hoberman Article," during his testimony. Specifically, appellant relies upon ***Aldridge v. Edmunds***, 561 Pa. 323, 750 A.2d 292 (2000), for the principle that excessive reliance by an expert upon a learned treatise is to be avoided because when the treatise becomes the focus of the expert's testimony, that testimony essentially becomes pure hearsay.

We find that ***Aldridge*** represented a much more extreme situation than that which obtains presently. In ***Aldridge***, enlarged textual excerpts from the treatises were mounted on posterboard and were presented directly to the jury. The excerpts were not used to explain the testifying expert's opinion, but were used by counsel to convey the opinion contained in the text itself.

Instantly, appellees were prohibited by a pretrial order from entering the opinion of Hoberman, and Dr. King was prohibited from even quoting the

Hoberman Article. During his testimony, Dr. King referenced the Hoberman Article only to explain that it helped set his opinion of the appropriate standard of care because the Hoberman Article contained a study that demonstrated that children who presented with a urinary tract/kidney infection, who were then treated with an oral, third-generation cephalosporin and sent home, did equally well compared to children who were admitted to the hospital and were treated with an intravenous, third-generation cephalosporin. (Notes of testimony, 12/8/06 at 30-35.) Dr. King also explained that this study, as well as follow-up studies, essentially changed the standard of care for doctors nationwide. (***Id.***) We find that this usage of the Hoberman Article was reasonable as contemplated by ***Aldridge*** as it merely explained how Dr. King came to his opinion as to the appropriate standard of care. There is no error here.

Accordingly, having found no merit in any issue raised on appeal, we shall affirm the judgment entered below.

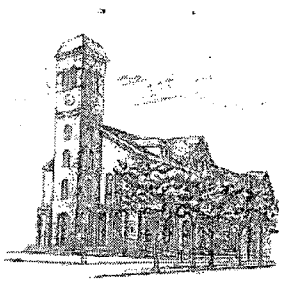
Judgment affirmed.

FILED
JUN 26 2009
William A. Shaw
Prothonotary/Clerk of Courts

Judgment Entered:

Eleanor R. Valecko
Deputy Prothonotary

DATE: May 20, 2009



COPY

Clearfield County Office of the Prothonotary and Clerk of Courts

William A. Shaw Prothonotary/Clerk of Courts | **Jacki Kendrick** Deputy Prothonotary/Clerk of Courts | **Bonnie Hudson** Administrative Assistant | **David S. Ammerman** Solicitor

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Sandra Conklin and Justine Kline
Vs.
Clearfield Hospital and George F. Palmer

Court No. 03-68-CD; Superior Court No. 700 WDA 2008

Dear Counsel:

Please be advised that the above referenced record was forwarded to the Superior Court of Pennsylvania on May 23, 2008.

Sincerely,

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

No. 03-68-CD
Sandra Conklin and Justine Kline
Vs.
Clearfield Hospital and George F. Palmer

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IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

No. 03-68-CD
Sandra Conklin and Justine Kline
Vs.
Clearfield Hospital and George F. Palmer

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IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

No. 03-68-CD
Sandra Conklin and Justine Kline
Vs.
Clearfield Hospital and George F. Palmer

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81	11/07/06	Notice of Service of Notice of Videotaped Deposition of Daniel Friedberg, MD	02
82	11/07/06	Order, Re: Argument on the Plaintiffs' First Motions in Limine be scheduled	01
83	11/13/06	Notice to Attend Directed to Records Custodian-Clearfield Hospital	04
84	11/13/06	Notice to Attend Directed to Gwendolyn R. Thomas	06
85	11/13/06	Notice to Attend Directed to James P. DeSantis, D.O.	03
86	11/13/06	Notice to Attend Directed to Patricia Neeper	03
87	11/13/06	Notice to Attend Directed to Kelly Espenshade	03
88	11/13/06	Notice to Attend Directed to Stacey Gerg	03
89	11/13/06	Notice to Attend Directed to Donna Unch	03
90	11/13/06	Notice of Service of Amended Notice of Videotaped Deposition of C. Raymond Schaney, P.T.	04
91	11/14/06	Response to Plaintiffs' First Motions in Limine and Defendants' Motion in Limine	38
92	11/14/06	Second Supplemental Report of John A. Tilelli Dated November 13, 2006	05
93	11/15/06	Reply to Defendants' Motions in Limine	11
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97	11/21/06	Order, Re: Defendants' Motion to Strike Late Expert's Report	01
98	11/21/06	Order, Re: Defendants' Second Motion in Limine to Preclude Testimony Concerning Examination and Treatment of the Plaintiff Justine Kline	01
99	11/21/06	Order, Re: Plaintiffs' First Motion in Limine	01
100	11/21/06	Order, Re: Plaintiffs' Second Motion in Limine	01
101	11/21/06	Order, Re: Plaintiffs' Motion in Limine, Issue 3	01
102	11/21/06	Order, Re: Plaintiffs' First Motion in Limine, Second Issue	01
103	11/21/06	Order, Re: Plaintiffs' First Motion in Limine, Item 1	01
104	12/01/06	Notice to Attend Directed to Wilhelmina P. Crus-Vetrano	03
105	12/04/06	Application and Notice Pursuant to Rule 4020(a)(3)(e)	06
106	12/11/06	Motion to Limit Testimony of John Dossett	08
107	12/11/06	Order, Re: Motion to Limit Testimony of John Dossett Denied	01
108	12/12/06	Verdict and Members of the Jury, Verdict in favor of Defendant	02
109	12/21/06	Motion for Briefing Schedule	05
110	12/21/06	Plaintiffs' Post-Trial Motions	20
111	12/26/06	Order, Re: briefs to be submitted	01
112	12/29/06	Answer to Plaintiffs' Post-Trial Motions	08
113	05/29/07	Motion for Extension of Time of Briefing Schedule	04
114	05/30/07	Order, Re: Motion for Extension of Time is Granted	01
115	06/06/07	Transcript of Proceedings, In Camera Testimony of Bridgett H. Sidorick, held before the Honorable John K. Reilly, Senior Judge, on December 4, 2006	Separate Cover

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

No. 03-68-CD
Sandra Conklin and Justine Kline
Vs.
Clearfield Hospital and George F. Palmer

ITEM NO.	*DATE OF FILING*	*NAME OF DOCUMENT*	*NO. OF PAGES*
116	06/06/07	Transcript of Proceedings, Civil Jury Trial, Day I of VII, held before the Honorable John K. Reilly, Senior Judge, on December 4, 2006	Separate Cover
117	06/06/07	Transcript of Proceedings, Civil Jury Trial, Day II of VII, held before the Honorable John K. Reilly, Senior Judge, on December 5, 2006	Separate Cover
118	06/06/07	Transcript of Proceedings, Civil Jury Trial, Day III of VII, held before the Honorable John K. Reilly, Senior Judge, on December 6, 2006	Separate Cover
119	06/06/07	Transcript of Proceedings, Civil Jury Trial, Day IV of VII, held before the Honorable John K. Reilly, Senior Judge, on December 7, 2006	Separate Cover
120	06/06/07	Transcript of Proceedings, Civil Jury Trial, Day V of VII, held before the Honorable John K. Reilly, Senior Judge, on December 8, 2006	Separate Cover
121	06/06/07	Transcript of Proceedings, Civil Jury Trial, Day VI of VII, held before the Honorable John K. Reilly, Senior Judge, on December 11, 2006	Separate Cover
122	06/06/07	Transcript of Proceedings, Civil Jury Trial, Day VII of VII, held before the Honorable John K. Reilly, Senior Judge, on December 12, 2006	Separate Cover
123	06/14/07	Order, Re: Plaintiffs' Motion to Extend Time to file a Responsive Brief	01
124	11/16/07	Praecipe for Entry of Judgment upon Jury Verdict of December 12, 2006	02
125	01/15/08	Order, Re: argument on Post-Trial Motions scheduled	01
126	03/27/08	Opinion and Order	14
127	04/16/08	Appeal to High Court	27
128	04/21/08	Order, Re: Concise statement to be filed	01
129	05/01/08	Appeal Docket Sheet, 700 WDA 2008	04
130	05/05/08	Concise Statement of Matters Complained of on Appeal	10

Sandra Conklin, Justine Kline vs. Clearfield Hospital, George F. Palmer, James P. DeSantis, Ernest P. Jones

Civil Other

Date		Judge
1/16/2003	Filing: Writ of Summons Paid by: Patberg, Rolf Louis Receipt number: 1854076 Dated: 01/16/2003 Amount: $85.00 (Check) 1 CC & 4 Writs to Shff.	No Judge
1/23/2003	Praecipe For Entry of Appearance, filed by Atty. McIntrye No Cert. Copies Please enter my appearance for Defendants, Clearfield Hospital and George F. Palmer	No Judge
	Praecipe to Enter Rule to File Complaint within 20 days after date of service issued. Rule Dated: January 23, 2003, filed by Atty. McIntyre Rule issued to Atty.	No Judge
1/29/2003	Praecipe For Entry of Appearance on Behalf of Defendant, JAMES P. DeSANTIS. s/Mary Lou Maierhofer, Esquire Certificate of Service no cc	No Judge
2/5/2003	Praecipe For Appearance on behalf of Defendant, ERNEST P. JONES. filed by s/John L. McIntyre, Esquire no cc	No Judge
2/6/2003	Certificate of Service, Rule to File Complalint upon ROLF LOUIS PATBERG, ESQ. filed by s/John L. McIntyre, Esquire no cc	No Judge
2/11/2003	Sheriff Return, Papers served on Defendant(s). So Answers, Chester A. Hawkins, Sheriff by s/Marilyn Hamm	No Judge
3/3/2003	Complaint In Civil Action. filed by s/Rolf Louis Patberg, Esq. Certificate of Service no cc	No Judge
3/10/2003	Verification to Complaint, s/ Sandra Conklin, filed by s/Rolf Louis Patberg, Esq. No CC	No Judge
3/11/2003	Preliminary Objections to Plaintiffs' Complaint, filed by s/Mary Lou Maierhofer, Esq. No CC	No Judge
3/14/2003	Preliminary Objections to Plaintiff's Complaint. filed by s/John L. McIntyre, Esq. no cc	No Judge
3/18/2003	Joint Motion For Protective Order. filed by, s/Mary Lou Maierhofer, Esq. Certificate of Service no cc	No Judge
3/21/2003	Certificate of Service, Objections to Plaintiffs' First Set of Interrogatories and Request for Production of Documents Directed to Defendant, James P. DeSantis upon: ROLF LOUIS PATBERG, ESQ. s/JOHN McINTYRE, ESQ. filed by s/Mary Lou Maierhofer, Esq. no cc	John K. Reilly Jr.
4/7/2003	Plaintiffs Reply to Defendants Joint Motion For Protective Order. filed by s/Sean P. Duff, Esquire Certificate of Service 1 cc to Atty.	John K. Reilly Jr.
4/29/2003	Plaintiffs Reply To Preliminary Objections Of Defendants Palmer, Jones and Clearfield Hospital. Filed by s/Rolf Louis Patberg, Esquire Certificate of Service no cc	John K. Reilly Jr.
	Plaintiffs Reply To Defendant, James P. Desantis', Preliminary Objections. filed by s/Rolf Louis Patberg, Esquire Certificate of Service no cc	John K. Reilly Jr.
5/19/2003	ORDER, NOW, this 16th day of May, 2003, re: Joint Motion For Protective Order filed on behalf of Defendants, Motion is DISMISSED w/o prejudice in Defendants to raise the same should they become relevant at a later date. It is the further ORDER of this Court that said Defendants shall respond to Plaintiff's discovery request within 30 days from date hereof. by the Court, s/JKR,JR.,P.J. 2 cc Atty Patberg, McIntyre	John K. Reilly Jr.

Civil Other

Date		Judge
5/19/2003	ORDER, NOW, this 16th day of May, 2003, re: P.O.'s filed on behalf of Defendant, Objections shall be and are hereby CONTINUED and Plaintiff directed to file with the Court, with copies to counsel for Defendants, the factual basis surrounding the various counts in her Complaint within 20 days from completion of discovery. by the Court, s/JKR,JR.,P.J. 2 cc Atty Patberg, McIntyre	John K. Reilly Jr.
5/21/2003	Certificate Of Service, Request for Production of Documents Directed to Plaintiff, Sandra Conklin, as Parent and Natural Guardian of Justine Kline and Sandra Conklin upon: ROLF LOUIS PATBERG, ESQ. and JOHN McINTYRE, ESQ. filed by s/Mary Lou Maierhofer, Esquire no cc	John K. Reilly Jr.
	Certificate of Service, First Set of Interrogatories Directed to Sandra Conklin, as parent and natural guardian of Justice Kline and Sandra Conkin, ind. upon: ROLF LOUIS PATBERG, ESQ. and JOHN McINTYRE, ESQ. filed by s/MARY LOU MAIERHOFER, ESQ. no cc	John K. Reilly Jr.
6/5/2003	Notice Of Service Of Interrogatories And Request For Production Of Documents Directed To Plaintiffs - Dated: 6/24/03, upon: ROLF LOUIS PATBERG, ESQ. filed by s/John L. McIntyre, Esquire no cc	John K. Reilly Jr.
6/10/2003	Certificate of Service, Answers/Responses to First Set of Interrogatories and Request for Production of Documents Directed to Defendant, James P. DeSantis upon: ROLF LOUIS PATBERG, ESQ and JOHN McINTYRE, ESQ. filed by s/Mary Lou Maierhofer, Esq. no cc	John K. Reilly Jr.
7/9/2003	Notice of Service of Answers to First Set of Interrogatories and Request For Production of Documents upon ROLF LOUIS PATBERG, ESQ. filed by s/John L. McIntyre, Esquire no cc	John K. Reilly Jr.
7/11/2003	Motion To Compel. filed by s/Mary Lou Maierhofer, Esquire Certificate of Service no cc	John K. Reilly Jr.
7/14/2003	ORDER OF COURT, NOW, this 14th day of July, 2003, upon consideration of the Motion To Compel of Defendant, James P. DeSantis, and after Hearing upon the same, the Court does hereby Order, Direct and Decree that Plaintiffs produce their outstanding discovery within 10 days from the date of this Order. by the Court, s/JKR,JR.,P.J. 2 cc Atty Maierhofer	John K. Reilly Jr.
7/16/2003	STIPULATION, AND NOW, this 11th day of July, 2003, re: Removal of Ernest P. Jones, M.D. as a party Defendant. s/Mary Lou Maierhofter, Esq., s/John L. McIntyre, Esq., and s/Rolf Louis Patberg, Esq. 1 cc Atty McIntyre	John K. Reilly Jr.
7/17/2003	Order of Court: AND NOW, this 16th day of 2003, pursuant to Stipulation of counsel, it is Ordered that Ernest P. Jones M. D. is dismissed from the above lawsuit pursuant to the Affidavit of Non-Involvement signed in accordance with 40 Pa. C. S. 1301.827-A. Prothonotary is directed to remove the name of Ernest P. Jones M.D. from the within lawsuit. s/JKR 1 CC to Atty. McIntyre	John K. Reilly Jr.
	Certificat of Service, filed by Atty. Maierhofer No. c/c Served copy of Order via fax & 1st class mail to Atty. Patberg & Atty. McIntyre.	John K. Reilly Jr.
7/30/2003	Notice Of Service Of Plaintiffs' Second Set Of Interrogatories And Request For Production Of Documents Directed To All Defendants. filed by s/Rolf Louis Patberg, Esquire no cc	John K. Reilly Jr.
8/20/2003	Motion to Compel Discovey, filed by s/Rolf Louis Patberg, Esq. No CC	John K. Reilly Jr.

Civil Other

Date		Judge
8/22/2003	ORDER OF COURT, AND NOW, to-wit, this 22nd day of August, 2003, upon consideration of Plaintiffs' Motion To Compel Discovery, it is hereby ORDERED, ADJUDGED, and DECREED that Defendant Clearfield Hospital shall serve full and complete Answers to Interrogatories Numbers 5,7,10,11,12,15,25,26,30,31,32,33,34,35,38,39, 40, 43, 44, and 47, This information sahll be provided within 20 days of the date of this Order. by the Court, s/JKR,JR.,P.J. 1 cc Atty Patberg.	John K. Reilly Jr.
9/3/2003	Certificate of Service, Answers/Responses to Plaintiffs' Second Set of Interrogatories and Requests for Production of Documents Directed to all Defendant upon: Rolf Louis Patberg, Esq. and John McIntyre, Esq. filed by s/Mary Lou Maierhofter, Esquire no cc	John K. Reilly Jr.
9/17/2003	Notice Of Intent To Serve Subpoenas to Produce Documents and Things For Discovery Pursuant to Rule 4009.21. upon Children's Hospital of Pittsburgh and STAT Med Evac. filed by s/Mary Lou Maierhofer, Esq. no cc	John K. Reilly Jr.
9/25/2003	Waiver Of Objection To Subpoena, filed by s/Rolf Louis Patberg, Esquire Certificate of Service no cc	John K. Reilly Jr.
9/29/2003	Certificate Prerequisite To Service of Subpoenas Pursuant to Rule 4009.22. Subpoenas to Produce Documents and Things upon: Children's Hospital of Pittsburgh and STAT Med Evac. filed by s/Mary Lou Maierhofer, Esq. no cc	John K. Reilly Jr.
10/8/2003	Notice of Service of Supplemental Answers to Interrogatories on behalf of Clearfield Hospital filed by Atty. McIntyre. No cc.	John K. Reilly Jr.
10/9/2003	Notice of Deposition of Plaintiff, Sandra Conklin. filed by s/Mary Lou Maierhofer, Esquire Cert of Svc no cc	John K. Reilly Jr.
11/4/2003	Revised Notice of Deposition of Plaintiff filed by Atty. Maierhofer. No cc.	John K. Reilly Jr.
11/6/2003	Notice of Service of Amended Notice of Deposition of Defendant George F. Palmer	John K. Reilly Jr.
12/5/2003	Certificate Prerequisite To Service Of a Subpoena Pursuant to Rule 4009.22. filed by, s/Mary Lou Maierhofer, Esq. no cc	John K. Reilly Jr.
	Notice Of Intent To Serve A Subpoena To Produce Documents And Things For Discovery Pursuant To Rule 4009.21. filed by, s/Mary Lou Maierhofer, Esquire no cc	John K. Reilly Jr.
1/21/2004	ORDER, AND NOW, this 21st day of January, 2004, re: Status Conference scheduled for Friday, Feb. 22, 2004, at 9:45 a.m., in Courtroom No. 1. by the Court, s/FJA,P.J. 1 cc Attys Patberg, McIntyre, and Maierhofer	John K. Reilly Jr.
1/23/2004	AMENDED ORDER, AND NOW, this 22nd day of January, 2004, re: Status Conference scheduled for Friday, Feb. 6, 2004, at 9:45 a.m., in Courtroom No. 1. by the Court, s/FJA,P.J. 1 cc Atty Patberg, McIntyre, and Maierhofer	John K. Reilly Jr.
2/6/2004	Revised Notice Of Deposition Of Plaintiff, Sandra Conklin. filed by, s/Mary Lou Maierhofer, Esquire no cc	John K. Reilly Jr.
	ORDER, NOW, this 5th day of Feb., 2004, re; Status Conference is CANCELLED. Counsel for the parties shall have no more than 20 days from the date of this Order to present the Court with a letter detailing the status of the above captioned action. by the Court, s/FJA,P.J. 2 cc Atty Patberg, McIntyre, Maierhofer, 1 copy President Judge Ammerman and CA	John K. Reilly Jr.

Civil Other

Date		Judge
2/19/2004	Notice of Deposition of Plaintiff, Justine Kline. filed by, s/John L. McIntyre, Esquire no cc	John K. Reilly Jr.
	Notice of Service Of Supplemenetal Interrogatories Directed To Plaintiff. filed by, s/John L. McIntyre, Esquire no cc	John K. Reilly Jr.
2/26/2004	Amended Notice of Deposition. filed by, s/John L. McIntyre, Esquire no cc	John K. Reilly Jr.
5/4/2004	Notice of Service of Request For Production Of Documents Directed To Plaintiffs Dated 06/03/04. filed by, s/John L. McIntyre, Esquire bi cc	John K. Reilly Jr.
7/29/2004	Notice of Service of Answers to First Set of Interrogatories and Requests for Production of Documents Directed to Defendant, George F. Palmer, M.D., upon Rolf Louis Patberg, Esq., filed by s/John L. McIntyre, Esq. No CC	John K. Reilly Jr.
9/1/2004	Motion to Compel Expert Report, filed by s/Mary Lou Maierhofer, Esq. No CC	John K. Reilly Jr.
9/9/2004	ORDER filed. NOW this 7th day of September, 2004, upon consideration of the Motion to Compel Expert Report of Def. James P. DeSantis, and after hearing upon the same, the Court does hereby Order, Direct and Decree Plaintiffs produce an expert report as against Def. DeSantis within 30 days from the Court's Order. S/FJA 1 CC to Atty.	John K. Reilly Jr.
9/13/2004	Certificate of Service,Order of Court dated September 7, 2004 on Motion to Compel Expert Report, was served the 10th day of September, 2004, first class United States Mail upon: Rolf Louis Patberg, Esquire. Filed by s/Mary Lou Maierhofer, Esquire. No CC.	John K. Reilly Jr.
9/27/2004	Motion for Extension of Time to File Expert Report, filed by s/Rolf Louis Patberg, Esq. No CC	John K. Reilly Jr.
9/28/2004	ORDER filed. 2 cert. to Atty. NOW, this 27th day of September, 2004, Plaintiff Motion Granted, Plaintiff shall have until Nov. 7, 2004 to produce an expert report.	John K. Reilly Jr.
9/30/2004	Reply To Plaintiffs' Motion for Extension of Time to File an Expert Report, filed by s/Mary Lou Maierhofer, Esquire. Certificate of Service, 29th of Sept. 2004 by first class U.S. Mail, to Rolf Louis Patberg, Esquire, and John McIntyre, Esquire. No CC	John K. Reilly Jr.
11/1/2004	Motion to Voluntarily Discontinue All Claims Against Defendant James P. DeSantis and Amend Caption, filed by s/Rolf Louis Patberg, Esq. No CC	John K. Reilly Jr.
11/2/2004	Order, AND NOW, to-wit, this 2nd day of Nov. 2004, it is hereby ORDERED that Plaintiff's Motion to Voluntarily Dismiss All Claims Against Dr. James P. Desantis is GRANTED. The caption is hereby amended to state as follows: CLEARFIELD HOSPITAL AND GEORGE F. PALMER, Defendants. BY THE COURT:/s/ Fredric J. Ammerman, President Judge. 1CC Atty Patberg	Fredric Joseph Ammerman
11/4/2004	Reply to the Motion to Voluntarily Discontinue All Claims Against Defendant, James P. DeSantis and Amend Caption, filed by s/Mary Lou Maierhofer, Esq. No CC	Fredric Joseph Ammerman
12/22/2004	Motion to Amend the Court's Order of Nov. 2, 2004 in Dismissing Def. James P. Desantis filed by Atty. Maierhofer. No CC.	Fredric Joseph Ammerman
12/23/2004	Amended Order of Court, filed 1 Cert. to Atty. NOW, this 23rd day of Dec., 2004 RE: Plaintiff's Moiton to Voluntarily Discontinue, James P. DeSantis is dismissed with prejudice.	Fredric Joseph Ammerman

Civil Other

Date		Judge
1/21/2005	Notice of Deposition, on behalf of Defendants Clfd. Hospital and George F. Palmer, Deposition of Kristin McBride will be taken at offices of Sargent's Court Reporting Service, 106 N. Second St. 1st Floor, Clfd. PA on Feb. 3, 2005 at 11:00 a.m. filed by s/ John L. McIntyre, Esquire. No CC	Fredric Joseph Ammerman
1/25/2005	Notice of Depositions, of Plantiff Justine Kline, Shirley Morrison (Grandmother), and Ronald Kline (Grandfather) at Sargent's Court Reporting Service on Feb. 3, 2005 commencing at 12:30 p.m. Filed by s/ John L. McIntyre, Esquire. No CC	Fredric Joseph Ammerman
2/4/2005	Notice of Service of Notice of Deposition of Kathleen Plansinis, filed by s/Rolf Louis Patberg, Esq. No CC	Fredric Joseph Ammerman
	Notice of Service of Notice of Deposition of Keith Paras, filed by s/Rolf Louis Patberg, Esq. No CC	Fredric Joseph Ammerman
2/7/2005	Notice of Service of Expert Interrogatories Directed to Defendant George F. Palmer and Clearfield Hospital, filed by s/Rolf Louis Patberg, Esq. No CC	Fredric Joseph Ammerman
	Notice of Service Of Second Request For Production of Documents, directed to Plaintiff Dated: 2/4/05, filed by s/ John L. Mcintyre, Esquire. No CC	Fredric Joseph Ammerman
3/9/2005	Supplemental Report of John A. Tilelli, filed by Atty. Patberg no cert. copies.	Fredric Joseph Ammerman
3/2/2005	Notice of Deposition of Shirley Morrison, filed by s/ John I. McIntyre, Esquire. No CC	Fredric Joseph Ammerman
	Notice of Deposition of Ronald Kline, filed by John L. McIntyre Esq. No CC.	Fredric Joseph Ammerman
3/24/2005	Sheriff Return, August 19, 2005, served the within Subpoena to Attend & Testify; Notice of Deposition on Shirley Morrison August 11, 2005, served the within Subpoena to Attend & Testify; Notice of Seposition on Ronald Kline. So Answers, Chester A. Hawkins, Sheriff by s/Marilyn Hamm. Shff Hawkins costs pd by atty. $69.49	Fredric Joseph Ammerman
3/23/2006	Praecipe for Trial, filed by Atty. Patberg. no cert. copies.	Fredric Joseph Ammerman
3/10/2006	Answer and New Matter to Plaintiff's Complaint, filed by s/ John L. McIntyre Esq. 2CC Atty McIntyre.	Fredric Joseph Ammerman
3/11/2006	Order, Now, this 10th day of August, 2006, following Pre-Trial Conference, it is the Order of this Court as follows: Ordered that the caption be amended to reflect that the only remaining Defendants are Clearfield Hospital and George F. Palmer, D.O. Jury Selection will be held on August 29, 2006 commencing at 9:00 a.m. in Courtroom No. 1. Jury Trial is scheduled for Dec. 4, 5, 6, 7, 8, 11, 12, and 13, 2006 commencing at 9:00 a.m. each day in Courtroom No. 1. (see original). oral argument and hearing on any outstanding motions or petitions shall be held on Nov. 20, 2006 at 9:30 a.m. in Courtroom No. 3. By the Court, /s/ Fredric J. Ammerman, Pres. Judge. 1CC Attys: Patberg, McIntyre	Fredric Joseph Ammerman
	Order, NOW, this 10th day of August, 2006, it is the Order of the Court that argument on Def.'s Preliminary Objection has been scheduled for Monday, Oct. 2, 2006 at 9:30 a.m. in Courtroom No. 1. 1/2 hour has been allotted for purpose of this hearing. It is the responsibility of Defs. Counsel to serve certified copies of said Petition and scheduling Order on the Plaintiff. By The Court, /s/ Fredric J. Ammerman, Pres. Judge. 4CC Atty. McIntyre	Fredric Joseph Ammerman

Civil Other

Date		Judge
8/25/2006	Reply to New Matter, filed by s/ Rolf Louis Patberg Esq. No CC.	Fredric Joseph Ammerman
9/21/2006	Motion For Partial Summary Judgment And/Or in Support of Preliminary Objections, filed by s/ John L. McIntyre, Esquire. No CC	Fredric Joseph Ammerman
9/25/2006	Motion For Costs And Counsel Fees Pursuant to PA.R.C.P. 4008, filed by s/ John L. McIntyre, Esquire. 1CC Atty.	Fredric Joseph Ammerman
10/2/2006	Notice of Service of Notice of Videotaped Deposition of Michael Moritz, MD, filed by s/ Rolf Louis Patberg Esq. No CC.	Fredric Joseph Ammerman
	Notice of Service of Notice of Videotaped Deposition of Steven Docimo, MD, filed by s/ Rolf Louis Patberg Esq. No CC.	Fredric Joseph Ammerman
10/3/2006	Stipulation, and Now, come the parties by and through their attorneys and agree to and stipulate to the following: 1. Plaintiff filed a Complaint and in the Complaint sets forth a claim for punitive damages. 2. Plaintiff has agreed to withdraw the claim for punitive damages. 3. It is requested that this Court sign an Order dismissing the claim for punitive damages as a result of the above agreement. Signed by Rolf L. Patberg, Esquire, and John L. McIntyre, Esquire. Filed per Judge Ammerman's instructions. No CC	Fredric Joseph Ammerman
	Order, NOW, this 2nd day of October, 2006, pursuant to the attached Stipulation, it is Ordered that the plaintiff's claim for punitive damages is withdrawn and dismissed with prejudice. By The Court, /s/ Fredric J. Ammerman, Pres. Judge. 1CC Attys. Patberg, McIntyre	Fredric Joseph Ammerman
10/10/2006	Notice of Address Change, filed by Atty. Patberg, 1 Cert. to Atty. copy to C/A Change of Plaintiff's counsel, Folf Louis Patberg, Esquire has changed to:Deutschtown Center, 801 Vinial Street, 3rd Floor, Pittsiburgh, 15212	Fredric Joseph Ammerman
10/24/2006	Order, NOW, this 23rd day of Oct., 2006, Ordered that Defendants' Motion for Partial Summary Judgment and Defendants' Preliminary Objections as to Plaintiffs' Claim for Negligent Infliction of Emotional Distress be and are hereby Dismissed. By the Court, /s/ Fredric J. Ammerman, Pres. Judge. 1CC Attys: Patberg, McIntyre	Fredric Joseph Ammerman
10/30/2006	Notice of Service of Notice of Videotaped Deposition of C. Raymond Schaney, P.T., filed by s/ Rolf Louis Patberg Esq. No CC.	Fredric Joseph Ammerman
11/3/2006	Plaintiffs' First Motions in Limine, filed by Atty. Patberg no cert. copies.	Fredric Joseph Ammerman
11/6/2006	Notice of Service of Notice of Videotaped Deposition of K.P. Yakuboff, M.D., filed by s/ Rolf Louis Patberg Esq. No CC.	Fredric Joseph Ammerman
11/7/2006	Notice of Service of Notice of Videotaped Deposition of Daniel Friedberg, M.D., filed by s/ Rolf Louis Patberg Esq. No CC.	Fredric Joseph Ammerman
	Order, filed Cert. to Atty's Patberg, McIntyre and Maierhofer NOW, this 6th day of November, 2006, Argument on Ithe Plaintiffs' First Motions in Limine be scheduled for the 20th day of November, 2006 at 9:30 AM.	Fredric Joseph Ammerman
11/13/2006	Notice to Attend Directed to Records Custodian-Clearfield Hopsital, filed by s/ Rolf Louis Patberg Esq. NO CC.	Fredric Joseph Ammerman
	Notice to Attend Directed to Gwendolyn R. Thomas, filed by s/ Rolf Louis Patberg Esq. No CC.	Fredric Joseph Ammerman
	Notice to Attend Directed to James P. DeSantis, D.O., filed by s/ Rolf Louis Patberg Esq. No CC.	Fredric Joseph Ammerman

Civil Other

Date		Judge
11/13/2006	Notice to Attend Directed to Patricia Neeper, filed by s/ Rolf Louis Patberg Esq. NO CC.	Fredric Joseph Ammerman
	Notice to Attend Directed to Kelly Espenshade, filed by s/ Rolf Louis Patberg Esq. NO CC.	Fredric Joseph Ammerman
	Notice to Attend Directed to Stacey Gerg, filed by s/ Rolf Louis Patberg Esq. No CC.	Fredric Joseph Ammerman
	Notice to Attend Directed to Donna Unch, filed by s/ Rolf Louis Patberg Esq. No CC.	Fredric Joseph Ammerman
	Notice of Service of Amended Notice of Videotaped Deposition of C. Raymond Schaney, P.T., filed by s/ Rolf Louis Patberg Esq. No CC.	Fredric Joseph Ammerman
11/14/2006	Response To Plaintiffs' First Motions In Limine and Defendants' Motion in Limine, filed by s/ John L. McIntyre, Esquire. No CC	Fredric Joseph Ammerman
	Second Supplemental Report of John A. Tilelli Dated 11/13/06. Filed by s/ Rolf Louis Patberg, Esquire. No CC	Fredric Joseph Ammerman
11/15/2006	Reply to Defendants' Motions in Limine, filed by Atty. Patberg, no cert. copies.	Fredric Joseph Ammerman
	Plaintiff's Second Motion in Limine, filed by Atty. Patberg no cert. copies.	Fredric Joseph Ammerman
11/16/2006	Defendants' Motion to Strike Late Expert Report, filed by Atty. McIntyre no cert. copies.	Fredric Joseph Ammerman
11/17/2006	Plaintiff's Reply to Defendants' Motion to Strike Late Expert Report, filed by s/ Rolf Louis Patberg Esq. No CC.	Fredric Joseph Ammerman
11/21/2006	Order, NOW, this 20th day of Nov., 2006, upon consideration of Defendants' Motion to Strike Late Expert's Report, it is the Order of this Court that said motion shall be granted to the extent that (see original). By The Court, /s/ John K. Reilly, Jr., Senior Judge. 1CC Attys: Patberg, McIntyre	John K. Reilly Jr.
	Order, NOW, this 20th day of Nov., 2006, consideration Defendants' Second Motion in Limine to Preclude Testimony Concerning Examination and Treatment of the Plaintiff Justine Kline on Nov. 22, 2002, it is ordered that said motion shall be granted to the extent that Plaintiff shall be precluded from entering such testimony during its case in chief. Plaintiff may, however, introduce such testimony in rebuttal if it then becomes relevant. By The Court, /s/ John K. Reilly, Jr., Senior Judge. 1CC Attys: Patberg, McIntyre	John K. Reilly Jr.
	Order, NOW, this 20th day of Nov., 2006, upon consideration of Plaintiffs' First Motion in Limine, with regard to the faxed transmissions from Clfd. Hospital to UPMC Children's Hospital, it is Ordered that said motion shall be granted to the extent that Plaintiffs shall be restricted in any examinations thereof to the existence of the handwritten notice concering the Feb. 23, 2002 examination. By The Court, /s/ John K. Reilly, Jr., Senior Judge. 1CC Attys: Patberg, McIntyre	John K. Reilly Jr.
	Order, NOW, this 20th day of Nov., 2006, upon consideration of Plaintiffs' Second Motion in Limine, Ordered that Defendants shall be precluded from offering any evidence or arguing any purported negligence by Sandra Conklin, Plaintiff. By The Court, /s/ John K. Reilly, Jr., Senior Judge. 1CC Attys: Patberg, McIntyre	John K. Reilly Jr.

Civil Other

Date		Judge
11/21/2006	Order, NOW, this 20th day of Nov., 2006, upon consideration of Plaintiffs' Motion in Limine, Issue 3, it is the Order of this Court that Def. Dr. Palmer shall be precluded from testifying as to a possibility that the information he entered concerning his treatment of Feb. 23, 2002, may have been entered into the wrong patient's chart. By The Court, /s/ John K. Reilly, Jr., Senior Judge. 1CC Attys: Patberg, McIntyre	John K. Reilly Jr.
	Order, NOW, this 20th day of Nov., 2006, upon consideration of Plaintiffs' First Motion in Limine, second issue, it is the Order of this Court that Plaintiffs' Expert, Dr. King, may testify as to his general experience in treating situations of this nature in the past, but shall be precluded from identifying specific patients and the treatments provided therefor unless their redacted files are supplied to Plaintiff prior to trial. By The Court, /s/ John K. Reilly, Jr., Senior Judge. 1CC Attys: Patberg, McIntyre	John K. Reilly Jr.
	Order, NOW, this 20th day of Nov., 2006, upon consideration of Plaintiffs' First Motion in limine, Item 1, it is the Order of this Court that said motion shall be granted to the extent that Defense expert withness, Christopher King, M.D., shall be precluded from quoting verbatim from the opinion of one Alejandro Hoberman, nor shall said opinion or argument by Hoberman, be admitted into evidence. By The Court, /s/ John K. Reilly, Jr., Senior Judge. 1CC Attys: Patberg, McIntyre	John K. Reilly Jr.
12/1/2006	Notice to Attend Dircted to Wilhelmina P. Crus-Vetrano, filed by s/ Rolf Louis Patberg, Esquire. No CC	Fredric Joseph Ammerman
12/4/2006	Application and Notice Pursuant to Rule 4020(a)(3)(e), filed by s/Rolf Louis Patberg, Esq. No CC	Fredric Joseph Ammerman
12/11/2006	Motion to Limit Testimony of John Dossett, filed by s/Rolf Louis Patberg, Esq. No CC	Fredric Joseph Ammerman
	Order, filed. Cert. to atty. Patberg & McIntyre NOW, this 8th day of December, 2006, RE: Motion to Limit Testimony of John Dossett, Motion denied.	John K. Reilly Jr.
12/12/2006	Verdict and Members of the Jury, filed NOW, this 12th day of December, 2006, Verdict in favor of Defendant. s/David P. Small, Foreperson.	Fredric Joseph Ammerman
12/21/2006	Motion For Briefing Schedule, filed by s/ Rolf Louis Patberg, Esquire. No CC	Fredric Joseph Ammerman
	Plaintiff's Post-Trial Motions, filed by s/ Rolf Louis Patberg, Esquire. No CC	Fredric Joseph Ammerman
12/26/2006	Order NOW, this 22nd day of December 2006, upon consideration of Post Trial Motion filed on behalf of Plaintiffs above-named and Motion for Briefing Schedule, it is the ORDER of this Court that Plaintiffs shall file their brief within no more than twenty (20) days from receipt of transcript of testimony. Defendants shall file their reply brief within twenty (20) days from receipt of Plaintiffs' Argument to be scheduled thereon at the request of wither party. BY THE COURT: /s/ John K. Reilly Jr. SJSP. 2CC Atty R. Patberg and J. McIntyre.	John K. Reilly Jr.
12/29/2006	Answer to Plaintiff's Post-Trial Motions, filed by Atty. McIntyre no cert. copies.	Fredric Joseph Ammerman
1/29/2007	Motion For Extension of Time of Briefing Schedule, filed by s/ Rolf Louis Patberg, Esquire. No CC	Fredric Joseph Ammerman

Civil Other

Date		Judge
5/30/2007	Order, NOW, this 29th day of May, 2007, it is Ordered that the Plaintiff's Motion for Extension of Time is Granted. Plaintiff shall have an additional 20 days from the date of this Order in which time to file their Brief. The Defendants shall have 20 days from the date of filing of the Plaintiff's Brief to file their reply. By The Court, /s/ John K. Reilly, Jr., Judge. 3CC Atty. Patberg	John K. Reilly Jr.
6/6/2007	Transcript of Proceedings, filed. In Camera Testimony of Bridgett H. Sidorick, Held Before The Honorable John K. Reilly, Senior Judge on Monday, December 4, 2006.	Fredric Joseph Ammerman
	Transcript of Proceedings, filed. Civil Jury Trial, Day I of VII, Held Before The Honorable John K. Reilly, Senior Judge on Monday, December 4, 2006.	Fredric Joseph Ammerman
	Transcript of Proceedings, filed. Civil Jury Trial, Day II of VII, Held Before The Honorable John K. Reilly, Senior Judge, on Tuesday, December 5, 2006.	Fredric Joseph Ammerman
	Transcript of Proceedings, filed.Civil Jury Trial Day III of VII, Held Before The Honorable John K. Reilly, Senior Judge on Wednesday, December 6, 2006.	Fredric Joseph Ammerman
	Transcript of Proceedings, filed. Civil Jury Trial Day IV of VII, Held Before The Honorable John K. Reilly, Senior Judge on Thursday, December 7, 2006.	Fredric Joseph Ammerman
	Transcript of Proceedings, filed. Civil jury Trial Day V of VII, Held Before The Honorable John K. Reilly, Senior Judge, on Friday, December 8, 2006	Fredric Joseph Ammerman
	Transcript of Proceedings, filed. Civil Jury Trial, Day VI of VII, Held Before The Honorable John K. Reilly, Senior Judge on Monday, December 11, 2006.	Fredric Joseph Ammerman
	Transcript of Proceedings, filed. Civil Jury Trial Day VII of VII, Held Before The Honorable John K. Reilly, Senior Judge, on Tuesday, December 12, 2006.	Fredric Joseph Ammerman
6/14/2007	Order, NOW, this 8th day of June, 2007, the Court noting that counsel for the Defendants has no objections to the Plaintiff's Motion to Extend Time to File a Responsive Brief and that in addition, Plaintiff's counsel has agreed that the Defendants will have 35 days after receipt of the Plaintiff's Brief, in which to file a brief on behalf of Dr. Palmer and Clearfield Hospital. By The Court, /s/ Fredric J. Ammerman, Pres. Judge. 2CC Attys: Patberg, McIntyre	Fredric Joseph Ammerman
11/16/2007	Filing: Praecipe for Entry of Judgment upon Jury Verdict of December 12, 2006. Paid by: McIntyre, Hartye & Schmitt Receipt number: 1921483 Dated: 11/16/2007 Amount: $20.00 (Check) Judgment entered upon Verdict of the Jury of December 12, 2006 in favor of the the Defendants, Clearfield Hospital and George F. Palmer, D.O. no cert. copies.	Fredric Joseph Ammerman
1/15/2008	Order, this 15th day of Jan., 2008, , argument on Post-Trial Motions is scheduled for the 20th day of Feb., 2008 at 10:30 A.M in Hearing Room 3. By The Court, /s/ Fredric J. Ammerman, pres. Judge. 2CC Attys; Patberg, McIntyre	Fredric Joseph Ammerman

Clearfield County Court of Common Pleas

ROA Report

Case: 2003-00068-CD

Current Judge: Fredric Joseph Ammerman

Sandra Conklin, Justine Kline vs. Clearfield Hospital, George F. Palmer, James P. DeSantis, Ernest P. Jones

Civil Other

Date		Judge
3/27/2008	Opinion And Order, Order: Now, this 26th day of March, 2008, following argument and review of the parties' briefs, it is the Order of this Court that the Plaintiff's Post-Trial Motions are hereby Denied for the reasons set forth in the foregoing Opinion. By The Court, /s/ John K. Reilly, Jr., Senior Judge, Specially Presiding. 2CC Attys: Patberg, McIntyre; 1CC to: D. Mikesell, Law Library (without memo)	Fredric Joseph Ammerman
4/16/2008	Filing: Appeal to High Court Paid by: Patberg, Rolf Louis (attorney for Conklin, Sandra) Receipt number: 1923634 Dated: 4/16/2008 Amount: $50.00 (Check) Filed by s/Rolf Louis Patberg, Esquire. 1CC & Check for $60.00 to Superior Court	Fredric Joseph Ammerman
4/21/2008	Order, this 18th day of April, 2008, it is Ordered that Appellant shall, within 14 days from date hereof, file a concise statement of matters complained of on appeal. By The Court, /s/John K. Reilly, Jr., Senior Judge. 2CC Attys; Patberg, McIntyre	John K. Reilly Jr.
5/1/2008	Appeal Docket Sheet, filed. No CC 700 WDA 2008	Fredric Joseph Ammerman
5/5/2008	Concise Statement of Matters Complained of on Appeal, filed by s/ Rolf Louis Patberg, Esquire. No CC	Fredric Joseph Ammerman

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

MAY 23 2008

Attest. William L. Ober
Prothonotary/
Clerk of Courts

Sandra Conklin, Justine Kline vs. Clearfield Hospital, George F. Palmer, James P. DeSantis, Ernest P. Jones

Civil Other

Not in file.

Date			Judge
1/16/2003	(1)	Filing: Writ of Summons Paid by: Patberg, Rolf Louis Receipt number: 1854076 Dated: 01/16/2003 Amount: $85.00 (Check) 1 CC & 4 Writs to Shff. 3	No Judge
1/23/2003	(2)	Praecipe For Entry of Appearance, filed by Atty. McIntrye No Cert. Copies Please enter my appearance for Defendants, Clearfield Hospital and George F. Palmer 2	No Judge
	(3)	Praecipe for Enter Rule to File Complaint within 20 days after date of service issued. Rule Dated: January 23, 2003, filed by Atty. McIntyre Rule issued to Atty. 3	No Judge
1/29/2003	(4)	Praecipe For Entry of Appearance on Behalf of Defendant, JAMES P. DeSANTIS. s/Mary Lou Maierhofer, Esquire Certificate of Service no cc 3	No Judge
2/5/2003	(5)	Praecipe For Appearance on behalf of Defendant, ERNEST P. JONES. filed by s/John L. McIntyre, Esquire no cc 2	No Judge
2/6/2003	(6)	Certificate of Service, Rule to File Complalint upon ROLF LOUIS PATBERG, ESQ. filed by s/John L. McIntyre, Esquire no cc 3	No Judge
2/11/2003	(7)	Sheriff Return, Papers served on Defendant(s). So Answers, Chester A. Hawkins, Sheriff by s/Marilyn Hamm 2	No Judge
3/3/2003	(8)	Complaint In Civil Action. filed by s/Rolf Louis Patberg, Esq. Certificate of Service no cc 16	No Judge
3/10/2003	(9)	Verification to Complaint, s/ Sandra Conklin, filed by s/Rolf Louis Patberg, Esq. No CC 4	No Judge
3/11/2003	(10)	Preliminary Objections to Plaintiffs' Complaint, filed by s/Mary Lou Maierhofer, Esq. No CC 6	No Judge
3/14/2003	(11)	Preliminary Objections to Plaintiff's Complaint. filed by s/John L. McIntyre, Esq. no cc 4	No Judge
3/18/2003	(12)	Joint Motion For Protective Order. filed by, s/Mary Lou Maierhofer, Esq. Certificate of Service no cc 8	No Judge
3/21/2003	(13)	Certificate of Service, Objections to Plaintiffs' First Set of Interrogatories and Request for Production of Documents Directed to Defendant, James P. DeSantis upon: ROLF LOUIS PATBERG, ESQ. s/JOHN McINTYRE, ESQ. filed by s/Mary Lou Maierhofer, Esq. no cc 1	John K. Reilly Jr.
4/7/2003	(14)	Plaintiffs Reply to Defendants Joint Motion For Protective Order. filed by s/Sean P. Duff, Esquire Certificate of Service 1 cc to Atty. 6	John K. Reilly Jr.
4/29/2003	(15)	Plaintiffs Reply To Preliminary Objections Of Defendants Palmer, Jones and Clearfield Hospital. Filed by s/Rolf Louis Patberg, Esquire Certificate of Service no cc 6	John K. Reilly Jr.
	(16)	Plaintiffs Reply To Defendant, James P. Desantis', Preliminary Objections. filed by s/Rolf Louis Patberg, Esquire Certificate of Service no cc 7	John K. Reilly Jr.
5/19/2003	(17)	ORDER, NOW, this 16th day of May, 2003, re: Joint Motion For Protective Order filed on behalf of Defendants, Motion is DISMISSED w/o prejudice in Defendants to raise the same should they become relevant at a later date. It is the further ORDER of this Court that said Defendants shall respond to Plaintiff's discovery request within 30 days from date hereof. by the Court, s/JKR,JR.,P.J. 2 cc Atty Patberg, McIntyre 1	John K. Reilly Jr.

Nicole Houdeshell, Brenda Bordas vs. Max Rice, Dorothy Anne Rice

Civil Other

Date		Judge
01/29/2004	Filing: Civil Complaint Paid by: Rosenzweig, Michael H (attorney for Houdeshell, Nicole) Receipt number: 1872751 Dated: 01/29/2004 Amount: $85.00 (Check) 2 CC to Shff.	No Judge
02/17/2004	Entry of Appearance On Behalf Of Defendants, MAX and DOROTHY ANNE RICE. filed by, s/John C. Dennison, II, Esquire Certificate of Service no cc	No Judge
	Answer. filed by, s/John C. Dennison, II, Esquire Verification. s/Max Rice no cc	No Judge
04/02/2004	Notice of Deposition of Nicole Houdeshell filed by Atty. Dennison. No CC.	No Judge
	Notice of Deposition of Brenda Bordas filed by Atty. Dennison. No cc.	No Judge
04/23/2004	Sheriff Return, Papers served on Defendant(s). So Answers, Chester A. Hawkins, Sheriff by s/Marilyn Hamm	No Judge
10/07/2004	Praecipe for Trial, filed by Atty. Dennison, II no cert. Copies. (original to C/A)	No Judge
12/22/2004	Motions in Limine, filed by s/John C. Dennison, II No CC	Paul E. Cherry
01/05/2005	ORDER, filed. Cert. to Dennison & Rosenzweig NOW this 4th day of January, 2005, Plaintiff's Motion to Strike Case from Trial List is Denied.	Paul E. Cherry
01/06/2005	Order, AND NOW, this 5th day of January, 2005, it is the Order of the Court that argument on Defendants' Motion in Limine filed in the above-captioned matter has been scheduled for the 4th day of March, 2005, at 1:30 p.m. in Courtroom No. 2, Clfd. Co. Courthouse. BY THE COURT: /s/ Paul E. Cherry, Judge. 2CC & memo Re: service to Atty Dennison	Paul E. Cherry
03/03/2005	Plaintiff's Response to Defendants' Motions In Limine, filed by s/ Michael H. Rosenzweig, Esquire. No CC	Paul E. Cherry
03/07/2005	Order, NOW, this 4th day of march, 2005, following argument on defendants Motion in Limine and upon consideration thereof, it is the ORDER of this Court that said motion be and is hereby granted to the extent that Plaintiffs are prohibited through counsel and witnesses, from introducing into evidence or otherwise mention the fact that the sliding glass door was repaired after the accident with safety glass. BY THE COURT, /s/ Paul E. Cherry, Judge. 1CC Attys Rosenzweig, Dennison.	Paul E. Cherry
04/14/2005	Certificate of Service, Plaintiff's Pre-Trial Memorandum, served on John C. Dennison, II, Esquire, on April 13, 2005. No CC	Paul E. Cherry
04/21/2005	Defendants' Second Set of Motions in Limine, filed by Atty. Dennison no cert. copies.	Paul E. Cherry
04/22/2005	Order, AND NOW, this 21st day of April, 2005, the Court having received Defendant's Second Set of Motions in Limine, it is the ORDER of this Court that counsel provide the Court with Briefs within no more than 20 days from this date. Upon receipt of said Briefs, the Court will schedule Argument on Defendant's Second Set of Motions in Limine. Counsel may participate in said Argument by telephone with the telephone call initiated by the Court. BY THE COURT, /s/ Paul E. Cherry, Judge. 2CC Attys: Rosenzweig, Dennison	Paul E. Cherry

Civil Other

Date		Judge
5/19/2003	(18) ORDER, NOW, this 16th day of May, 2003, re: P.O.'s filed on behalf of Defendant, Objections shall be and are hereby CONTINUED and Plaintiff directed to file with the Court, with copies to counsel for Defendants, the factual basis surrounding the various counts in her Complaint within 20 days from completion of discovery. by the Court, s/JKR,JR.,P.J. 2 cc Atty Patberg, McIntyre	John K. Reilly Jr.
5/21/2003	(19) Certificate Of Service, Request for Production of Documents Directed to Plaintiff, Sandra Conklin, as Parent and Natural Guardian of Justine Kline and Sandra Conklin upon: ROLF LOUIS PATBERG, ESQ. and JOHN McINTYRE, ESQ. filed by s/Mary Lou Maierhofer, Esquire no cc	John K. Reilly Jr.
	(20) Certificate of Service, First Set of Interrogatories Directed to Sandra Conklin, as parent and natural guardian of Justice Kline and Sandra Conkin, ind. upon: ROLF LOUIS PATBERG, ESQ. and JOHN McINTYRE, ESQ. filed by s/MARY LOU MAIERHOFER, ESQ. no cc	John K. Reilly Jr.
6/5/2003	(21) Notice Of Service Of Interrogatories And Request For Production Of Documents Directed To Plaintiffs - Dated: 6/24/03, upon: ROLF LOUIS PATBERG, ESQ. filed by s/John L. McIntyre, Esquire no cc	John K. Reilly Jr.
6/10/2003	(22) Certificate of Service, Answers/Responses to First Set of Interrogatories and Request for Production of Documents Directed to Defendant, James P. DeSantis upon: ROLF LOUIS PATBERG, ESQ and JOHN McINTYRE, ESQ. filed by s/Mary Lou Maierhofer, Esq. no cc	John K. Reilly Jr.
7/9/2003	(23) Notice of Service of Answers to First Set of Interrogatories and Request For Production of Documents upon ROLF LOUIS PATBERG, ESQ. filed by s/John L. McIntyre, Esquire no cc	John K. Reilly Jr.
7/11/2003	(24) Motion To Compel. filed by s/Mary Lou Maierhofer, Esquire Certificate of Service no cc	John K. Reilly Jr.
7/14/2003	(24) ORDER OF COURT, NOW, this 14th day of July, 2003, upon consideration of the Motion To Compel of Defendant, James P. DeSantis, and after Hearing upon the same, the Court does hereby Order, Direct and Decree that Plaintiffs produce their outstanding discovery within 10 days from the date of this Order. by the Court, s/JKR,JR.,P.J. 2 cc Atty Maierhofer	John K. Reilly Jr.
7/16/2003	(25) STIPULATION, AND NOW, this 11th day of July, 2003, re: Removal of Ernest P. Jones, M.D. as a party Defendant. s/Mary Lou Maierhofter, Esq., s/John L. McIntyre, Esq., and s/Rolf Louis Patberg, Esq. 1 cc Atty McIntyre	John K. Reilly Jr.
7/17/2003	(25) Order of Court: AND NOW, this 16th day of 2003, pursuant to Stipulation of counsel, it is Ordered that Ernest P. Jones M. D. is dismissed from the above lawsuit pursuant to the Affidavit of Non-Involvement signed in accordance with 40 Pa. C. S. 1301.827-A. Prothonotary is directed to remove the name of Ernest P. Jones M.D. from the within lawsuit. s/JKR 1 CC to Atty. McIntyre	John K. Reilly Jr.
	(26) Certificat of Service, filed by Atty. Maierhofer No. c/c Served copy of Order via fax & 1st class mail to Atty. Patberg & Atty. McIntyre.	John K. Reilly Jr.
7/30/2003	(27) Notice Of Service Of Plaintiffs' Second Set Of Interrogatories And Request For Production Of Documents Directed To All Defendants. filed by s/Rolf Louis Patberg, Esquire no cc	John K. Reilly Jr.
8/20/2003	(28) Motion to Compel Discovey, filed by s/Rolf Louis Patberg, Esq. No CC Separate cover	John K. Reilly Jr.

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*** FAX ACTIVITY REPORT TX/RX ***
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ST. TIME	DESTINATION ADDRESS	NO.	MODE		PGS.	RESULT	
*05/08 16:14	8142361925	5251	AUTO RX	ECM	1	OK	00'33
*05/09 14:26	8143756345	5252	AUTO RX	ECM	6	OK	01'17
*05/10 12:47	8143756345	5253	AUTO RX	ECM	5	OK	01'01
*05/10 15:29	717 763 7133	5254	AUTO RX	ECM	3	OK	02'00
*05/11 16:39 Sharon	8575497	0520	TX	ECM	4	OK	01'34
*05/14 11:35	15703275650	0521	TX	ECM	3	OK	00'46
*05/14 11:51	814 849 1816	5255	AUTO RX	ECM	2	OK	00'28
*05/14 12:09	8491816	0522	TX	ECM	1	OK	00'16
*05/14 13:31 Sharon	8575497	0523	TX	ECM	1	OK	00'29
*05/15 15:51	8143756345	5256	AUTO RX	ECM	4	OK	00'45
*05/16 16:59 UNKNOWN		5257	AUTO RX	ECM	2	OK	00'22
*05/17 15:19	3556023	0524	TX	ECM	9	OK	01'32
*05/17 15:29	17173465622	0526	TX	ECM	6	OK	00'42
*05/17 15:33	14143465622	0525	TX		0	NG	00'00
						0	#018
*05/17 16:25 cpcms	17177952177	0527	TX	ECM	1	OK	00'19
*05/17 17:46	8143534391	5258	AUTO RX	ECM	1	OK	00'20
*05/18 10:42 cpcms	17177952177	0528	TX	ECM	2	OK	00'18
*05/18 15:44 p-dot	17177838051	0529	TX	ECM	1	OK	00'16
*05/18 16:46 Sharon	8575497	0530	TX	ECM	4	OK	01'41
*05/21 10:34	57064434144	0531	TX	ECM	3	OK	00'53
*05/21 11:25 p-dot	17177838051	0532	TX	ECM	5	OK	00'41
*05/21 12:21	510 873 8656	5259	AUTO RX	ECM	2	OK	00'26
*05/22 10:30	9497989	0533	TX	ECM	3	NG	00'46
						3	
*05/22 10:34	9497989	0533	TX	ECM	8	OK	02'30
*05/22 12:05	3711974	0534	TX	ECM	1	OK	00'26
*05/23 13:33	8149380594	5260	AUTO RX	ECM	2	OK	00'32
*05/23 13:55	9380594	0535	TX	ECM	3	OK	00'45
*05/23 14:00	2389624	0536	TX	ECM	6	OK	02'13
*05/23 17:15	3713241	0537	TX	ECM	2	OK	00'35
*05/24 09:09 UNKNOWN		5261	AUTO RX	ECM	1	OK	00'19
*05/24 11:03	7689920	0538	TX	ECM	1	OK	00'14
*05/24 11:44	8143492212	5262	AUTO RX	ECM	2	OK	01'16
*05/24 12:08 cpcms	17177952177	0539	TX	ECM	8	OK	01'26
*05/24 17:03 UNKNOWN		5263	AUTO RX	ECM	2	OK	00'24
05/25 11:16 p-dot	17177838051	0540	TX	ECM	2	OK	00'20
05/25 11:31	8143756345	5264	AUTO RX	ECM	6	OK	01'12
05/25 11:42	8143756345	5265	AUTO RX	ECM	3	OK	00'38
05/25 12:38 cpcms	17177952177	0541	TX	ECM	1	OK	00'20
05/25 16:26 p-dot	17177838051	0542	TX	ECM	3	OK	00'26
05/25 16:42 Sharon	8575497	0543	TX	ECM	4	OK	02'22

Civil Other

Date			Judge
8/22/2003	28	ORDER OF COURT, AND NOW, to-wit, this 22nd day of August, 2003, upon consideration of Plaintiffs' Motion To Compel Discovery, it is hereby ORDERED, ADJUDGED, and DECREED that Defendant Clearfield Hospital shall serve full and complete Answers to Interrogatories Numbers 5,7,10,11,12,15,25,26,30,31,32,33,34,35,38,39, 40, 43, 44, and 47, This information sahll be provided within 20 days of the date of this Order. by the Court, s/JKR,JR.,P.J. 1 cc Atty Patberg.	John K. Reilly Jr.
9/3/2003	29	Certificate of Service, Answers/Responses to Plaintiffs' Second Set of Interrogatories and Requests for Production of Documents Directed to all Defendant upon: Rolf Louis Patberg, Esq. and John McIntyre, Esq. filed by s/Mary Lou Maierhofter, Esquire no cc	John K. Reilly Jr.
9/17/2003	30	Notice Of Intent To Serve Subpoenas to Produce Documents and Things For Discovery Pursuant to Rule 4009.21. upon Children's Hospital of Pittsburgh and STAT Med Evac. filed by s/Mary Lou Maierhofer, Esq. no cc	John K. Reilly Jr.
9/25/2003	31	Waiver Of Objection To Subpoena, filed by s/Rolf Louis Patberg, Esquire Certificate of Service no cc	John K. Reilly Jr.
9/29/2003	32	Certificate Prerequisite To Service of Subpoenas Pursuant to Rule 4009.22. Subpoenas to Produce Documents and Things upon: Children's Hospital of Pittsburgh and STAT Med Evac. filed by s/Mary Lou Maierhofer, Esq. no cc	John K. Reilly Jr.
10/8/2003	33	Notice of Service of Supplemental Answers to Interrogatories on behalf of Clearfield Hospital filed by Atty. McIntyre. No cc.	John K. Reilly Jr.
10/9/2003	34	Notice of Deposition of Plaintiff, Sandra Conklin. filed by s/Mary Lou Maierhofer, Esquire Cert of Svc no cc	John K. Reilly Jr.
11/4/2003	35	Revised Notice of Deposition of Plaintiff filed by Atty. Maierhofer. No cc.	John K. Reilly Jr.
11/6/2003	36	Notice of Service of Amended Notice of Deposition of Defendant George F. Palmer	John K. Reilly Jr.
12/5/2003	37	Certificate Prerequisite To Service Of a Subpoena Pursuant to Rule 4009.22. filed by, s/Mary Lou Maierhofer, Esq. no cc	John K. Reilly Jr.
	38	Notice Of Intent To Serve A Subpoena To Produce Documnts And Things For Discovery Pursuant To Rule 4009.21. filed by, s/Mary Lou Maierhofer, Esquire no cc	John K. Reilly Jr.
1/21/2004	39	ORDER, AND NOW, this 21st day of January, 2004, re: Status Conference scheduled for Friday, Feb. 22, 2004, at 9:45 a.m., in Courtroom No. 1. by the Court, s/FJA,P.J. 1 cc Attys Patberg, McIntyre, and Maierhofer	John K. Reilly Jr.
1/23/2004	40	AMENDED ORDER, AND NOW, this 22nd day of January, 2004, re: Status Conference scheduled for Friday, Feb. 6, 2004, at 9:45 a.m., in Courtroom No. 1. by the Court, s/FJA,P.J. 1 cc Atty Patberg, McIntyre, and Maierhofer	John K. Reilly Jr.
2/6/2004	41	Revised Notice Of Deposition Of Plaintiff, Sandra Conklin. filed by, s/Mary Lou Maierhofer, Esquire no cc	John K. Reilly Jr.
	42	ORDER, NOW, this 5th day of Feb., 2004, re; Status Conference is CANCELLED. Counsel for the parties shall have no more than 20 days from the date of this Order to present the Court with a letter detailing the status of the above captioned action. by the Court, s/FJA,P.J. 2 cc Atty Patberg, McIntyre, Maierhofer, 1 copy President Judge Ammerman and CA	John K. Reilly Jr.

04-1349-CD	Keith/Shirley	
~~04-1368-CD~~	~~Matia~~	
04-1388-CD	**Couteret**	**?**
04-1398-CD	Discover/McCulley	
04-1403-CD	Wells/bainbridge	
04-1406-CD	Carr/Graffius	
04-1416-CD	Beneficial/Wright	
~~04-1437-CD~~	~~Wallace~~	
04-1517-CD	Citifinancial/Shields	
04-1527-CD	**Linholm/Commonwealth**	****to be transferred-confirm or deal with**
~~04-1528-CD~~	~~McGonigal~~	
04-1538-CD	Bloom	
04-1568-CD	Kronenwetter	
04-1578-CD	Leasecomm/Swatsworth	
04-1602-CD	NBOC/Rougeux	
04-1608-CD	Wooster/Appalachian	
04-1632-CD	Beneficial/Pentz	
04-1634-CD	Petraitis/Miles	
04-1697-CD	Paris/Synergy	
04-1740-CD	Schalk/Battaglia	
04-1769-CD	Leach/Miles	
04-1815-CD	MBNA/Marker	
04-1824-CD	**McCloskey/Clearfield Co.**	**?**
04-1855-CD	Huston/Scanish	
04-1882-CD	Meredith/Grinnen	
97-1098-CD	Jones/Bungo	

331
404
135

Civil Other

Date			Judge
2/19/2004	43	Notice of Deposition of Plaintiff, Justine Kline. filed by, s/John L. McIntyre, Esquire no cc 3	John K. Reilly Jr.
	44	Notice of Service Of Supplemenetal Interrogatories Directed To Plaintiff. filed by, s/John L. McIntyre, Esquire no cc 2	John K. Reilly Jr.
2/26/2004	45	Amended Notice of Deposition. filed by, s/John L. McIntyre, Esquire no cc 3	John K. Reilly Jr.
6/4/2004	46	Notice of Service of Request For Production Of Documents Directed To Plaintiffs Dated 06/03/04. filed by, s/John L. McIntyre, Esquire bi cc 2	John K. Reilly Jr.
7/29/2004	47	Notice of Service of Answers to First Set of Interrogatories and Requests for Production of Documents Directed to Defendant, George F. Palmer, M.D., upon Rolf Louis Patberg, Esq., filed by s/John L. McIntyre, Esq. No CC 2	John K. Reilly Jr.
9/1/2004	48	Motion to Compel Expert Report, filed by s/Mary Lou Maierhofer, Esq. No CC 10	John K. Reilly Jr.
9/9/2004	48	ORDER filed. NOW this 7th day of September, 2004, upon consideration of the Motion to Compel Expert Report of Def. James P. DeSantis, and after hearing upon the same, the Court does hereby Order, Direct and Decree Plaintiffs produce an expert report as against Def. DeSantis within 30 days from the Court's Order. S/FJA 1 CC to Atty.	John K. Reilly Jr.
9/13/2004	49	Certificate of Service,Order of Court dated September 7, 2004 on Motion to Compel Expert Report, was served the 10th day of September, 2004, first class United States Mail upon: Rolf Louis Patberg, Esquire. Filed by s/Mary Lou Maierhofer, Esquire. No CC. 1	John K. Reilly Jr.
9/27/2004	50	Motion for Extension of Time to File Expert Report, filed by s/Rolf Louis Patberg, Esq. No CC 8	John K. Reilly Jr.
9/28/2004	50	ORDER filed. 2 cert. to Atty. NOW, this 27th day of September, 2004, Plaintiff Motion Granted, Plaintiff shall have until Nov. 7, 2004 to produce an expert report.	John K. Reilly Jr.
9/30/2004	51	Reply To Plaintiffs' Motion for Extension of Time to File an Expert Report, filed by s/Mary Lou Maierhofer, Esquire. Certificate of Service, 29th of Sept. 2004 by first class U.S. Mail, to Rolf Louis Patberg, Esquire, and John McIntyre, Esquire. No CC 5	John K. Reilly Jr.
11/1/2004	52	Motion to Voluntarily Discontinue All Claims Against Defendant James P. DeSantis and Amend Caption, filed by s/Rolf Louis Patberg, Esq. No CC 5	John K. Reilly Jr.
11/2/2004	52	Order, AND NOW, to-wit, this 2nd day of Nov. 2004, it is hereby ORDERED that Plaintiff's Motion to Voluntarily Dismiss All Claims Against Dr. James P. Desantis is GRANTED. The caption is hereby amended to state as follows: CLEARFIELD HOSPITAL AND GEORGE F. PALMER, Defendants. BY THE COURT:/s/ Fredric J. Ammerman, President Judge. 1CC Atty Patberg	Fredric Joseph Ammerman
11/4/2004	53	Reply to the Motion to Voluntarily Discontinue All Claims Against Defendant, James P. DeSantis and Amend Caption, filed by s/Mary Lou Maierhofer, Esq. No CC 5	Fredric Joseph Ammerman
12/22/2004	54	Motion to Amend the Court's Order of Nov. 2, 2004 in Dismissing Def. James P. Desantis filed by Atty. Maierhofer. No CC. 7	Fredric Joseph Ammerman
12/23/2004	54	Amended Order of Court, filed 1 Cert. to Atty. NOW, this 23rd day of Dec., 2004 RE: Plaintiff's Moiton to Voluntarily Discontinue, James P. DeSantis is dismissed with prejudice.	Fredric Joseph Ammerman

04-0672-CD	**Benjamin Coal**	**?**
04-0706-CD	**McCloskey/Martin**	**? QT**
04-0710-CD	Homeq/Doe	
04-0713-CD	Kepple/CARS	
04-0716-CD	Grampian/Knepp	
04-0725-CD	American Tower/Clearfield Co	
04-0726-CD	Crown Communications/Clfd. Co	
04-0727-CD	Crown Communications/Clfd. Co	
04-0728-CD	American Tower/Clearfield Co	
04-0729-CD	American Tower/Clearfield Co	
04-0758-CD	MBNA/Schoening	
04-0761-CD	Bunyak/TNT	
~~04-0771-CD~~	~~Fye~~	
04-0785-CD	Robison/Latta	
04-0794-CD	Janowiak/Janowiak	
04-0795-CD	Wachovia/Reay	
~~04-0796-CD~~	~~Bass~~	
~~04-0808-CD~~	~~Taylor~~	
~~04-0818-CD~~	~~Smith~~	
04-0820-CD	Wise	
04-0820-CD	Wise	
04-0849-CD	**Monroe/Patrick**	**?**
04-0861-CD	Kitko	
04-0861-cD	Kitko/Danver	
04-0864-CD	Westover Borough	
04-0887-CD	McGarry/Nearhood	
~~04-0944-CD~~	~~Hand~~	
04-0969-CD	National City/Shaw	
04-0973-CD	Yankevich/Reed	
04-0982-CD	Tocimak/Long	
04-0995-CD	Blakely/Harris	
04-1029-CD	Key/Kizer	
04-1040-CD	**DuBois Area School/DAEA**	**?**
04-1047-CD	Paris/Samurai	
04-1050-CD	New Vision/Sierzega	
04-1110-CD	Milchak	
~~04-1132-CD~~	~~Underwood~~	
04-1145-CD	Paris/Culver	
~~04-1149-CD~~	~~Huey~~	
04-1150-CD	**Williams/State Farm**	**?**
04-1153-CD	Holiday/Luzier	
04-1166-CD	Nelson/Warogquier	
04-1185-CD	**Citibank/Kennelly**	**?**
~~04-1193-CD~~	~~Mathews~~	
04-1198-CD	Kathy Mohnal/Penn	
~~04-1204-CD~~	~~Lumadue~~	
04-1247-CD	Allman/Grice Gun	
04-1253-CD	CSB/Gardner	
04-1286-CD	First Comm/Clinchoc	
04-1288-CD	Sinclair	
~~04-1291-CD~~	~~Steele~~	
04-1295-CD	Componation/Ramsay	
04-1300-CD	Shomo/Household	
04-1321-CD	Washington Mutual/Toner	
04-1329-CD	Bock/Commonwealth	
04-1337-CD	Henry/Bara	
04-1348-CD	Discover/Franchock	

Clearfield County Court of Common Pleas

ROA Report

Case: 2003-00068-CD

Current Judge: Fredric Joseph Ammerman

Sandra Conklin, Justine Kline vs. Clearfield Hospital, George F. Palmer, James P. DeSantis, Ernest P. Jones

Civil Other

Date		Judge
1/21/2005	(55) Notice of Deposition, on behalf of Defendants Clfd. Hospital and George F. Palmer, Deposition of Kristin McBride will be taken at offices of Sargent's Court Reporting Service, 106 N. Second St. 1st Floor, Clfd. PA on Feb. 3, 2005 at 11:00 a.m. filed by s/ John L. McIntyre, Esquire. No CC	Fredric Joseph Ammerman
1/25/2005	(56) Notice of Depositions, of Plantiff Justine Kline, Shirley Morrison (Grandmother), and Ronald Kline (Grandfather) at Sargent's Court Reporting Service on Feb. 3, 2005 commencing at 12:30 p.m. Filed by s/ John L. McIntyre, Esquire. No CC	Fredric Joseph Ammerman
2/4/2005	(57) Notice of Service of Notice of Deposition of Kathleen Plansinis, filed by s/Rolf Louis Patberg, Esq. No CC	Fredric Joseph Ammerman
	(58) Notice of Service of Notice of Deposition of Keith Paras, filed by s/Rolf Louis Patberg, Esq. No CC	Fredric Joseph Ammerman
2/7/2005	(59) Notice of Service of Expert Interrogatories Directed to Defendant George F. Palmer and Clearfield Hospital, filed by s/Rolf Louis Patberg, Esq. No CC	Fredric Joseph Ammerman
	(60) Notice of Service Of Second Request For Production of Documents, directed to Plaintiff Dated: 2/4/05, filed by s/ John L. Mcintyre, Esquire. No CC	Fredric Joseph Ammerman
3/9/2005	(61) Supplemental Report of John A. Tilelli, filed by Atty. Patberg no cert. copies.	Fredric Joseph Ammerman
8/2/2005	(62) Notice of Deposition of Shirley Morrison, filed by s/ John I. McIntyre, Esquire. No CC	Fredric Joseph Ammerman
	(63) Notice of Deposition of Ronald Kline, filed by John L. McIntyre Esq. No CC.	Fredric Joseph Ammerman
8/24/2005	(64) Sheriff Return, August 19, 2005, served the within Subpoena to Attend & Testify; Notice of Deposition on Shirley Morrison August 11, 2005, served the within Subpoena to Attend & Testify; Notice of Seposition on Ronald Kline. So Answers, Chester A. Hawkins, Sheriff by s/Marilyn Hamm. Shff Hawkins costs pd by atty. $69.49	Fredric Joseph Ammerman
3/23/2006	(65) Praecipe for Trial, filed by Atty. Patberg. no cert. copies.	Fredric Joseph Ammerman
8/10/2006	(66) Answer and New Matter to Plaintiff's Complaint, filed by s/ John L. McIntyre Esq. 2CC Atty McIntyre.	Fredric Joseph Ammerman
8/11/2006	(67) Order, Now, this 10th day of August, 2006, following Pre-Trial Conference, it is the Order of this Court as follows: Ordered that the caption be amended to reflect that the only remaining Defendants are Clearfield Hospital and George F. Palmer, D.O. Jury Selection will be held on August 29, 2006 commencing at 9:00 a.m. in Courtroom No. 1. Jury Trial is scheduled for Dec. 4, 5, 6, 7, 8, 11, 12, and 13, 2006 commencing at 9:00 a.m. each day in Courtroom No. 1. (see original). oral argument and hearing on any outstanding motions or petitions shall be held on Nov. 20, 2006 at 9:30 a.m. in Courtroom No. 3. By the Court, /s/ Fredric J. Ammerman, Pres. Judge. 1CC Attys: Patberg, McIntyre	Fredric Joseph Ammerman
	(68) Order, NOW, this 10th day of August, 2006, it is the Order of the Court that argument on Def.'s Preliminary Objection has been scheduled for Monday, Oct. 2, 2006 at 9:30 a.m. in Courtroom No. 1. 1/2 hour has been allotted for purpose of this hearing. It is the responsibility of Defs. Counsel to serve certified copies of said Petition and scheduling Order on the Plaintiff. By The Court, /s/ Fredric J. Ammerman, Pres. Judge. 4CC Atty. McIntyre	Fredric Joseph Ammerman

~~04-0045-CD Buzzanca~~
04-0051-CD Vargas/Bird
04-0073-cd Washington/Kalgren
04-0093-CD Brosky/Andres
04-0097-CD Commonwealth Financial/Weaver
04-0106-CD Houehold/Blough
04-0131-CD National City/Bressler
04-0141-CD McCoy/Delacy
04-0151-CD First National/Somerville
04-0156-CD C&G/Bihun
04-0162-CD Winters/Hawkins
04-0164-CD Moore/Stankavich
04-0167-CD Countrywide/Sidelinger
04-0170-CD Mid-East Oil/Smyers
04-0201-CD Quick/Quinn
04-0202-CD Dann/Lumadue
04-0203-CD English/Coudriet
04-0205-CD Chase Manhattan/McConnaughey
04-0216-CD EMC/Guenot **Out of Co Writ ?**
~~04-0223-CD English~~
04-0241-CD National City/Crytser
04-0254-CD Baumgarner/Parada
04-0274-CD ABF/Backus
04-0281-CD Tonski/Rodger Kephart
04-0287-CD A&DefendantErie
04-0315-CD Timchak/Mangold
~~04-0328-CD Snyder~~
04-0335-CD CNB/Novak
04-0353-CD Bank of America/Ward
04-0354-CD Stiner/McDonald
04-0355-CD Schpak/Kyler
04-0374-CD Francisco/Bierly's
04-0378-CD Royal Oil/Shumaker **?**
04-0384-CD Discover Bank/Leiden
04-0391-CD Senior/Bailor
04-0428-CD Secretary/Doe
04-0443-CD Passmore/Clinger
04-0447-CD Creek
04-0448-CD Johnson
04-0450-CD McLean/Kaufmans
04-0468-CD Jamison/McDonald
04-0527-CD Paris/Cell Block
04-0548-CD NBOC/Sheesley
04-0586-CD Murray's/Berquist
04-0588-CD MBNA/Andres
04-0592-CD Eaton/Williams
04-0602-CD Asset/Providian
04-0616-CD Claims/Bates
04-0617-CD Downer/Triangle
04-0627-CD Chase Manhattan/Bloom
04-0628-CD Coco/Kephart
04-0630-CD Walter McIlvain
~~04-0632-CD Reams~~
04-0649-CD NBOC/Marshall
04-0650-CD Deposit/Loomis
04-0656-CD Soult/C & C
04-0657-CD Chase/McConnaughey

Civil Other

Date			Judge
8/25/2006	(69)	Reply to New Matter, filed by s/ Rolf Louis Patberg Esq. No CC. 5	Fredric Joseph Ammerman
9/21/2006	(70)	Motion For Partial Summary Judgment And/Or in Support of Preliminary Objections, filed by s/ John L. McIntyre, Esquire. No CC 7	Fredric Joseph Ammerman
9/25/2006	(71)	Motion For Costs And Counsel Fees Pursuant to PA.R.C.P. 4008, filed by s/ John L. McIntyre, Esquire. 1CC Atty. 8	Fredric Joseph Ammerman
10/2/2006	(72)	Notice of Service of Notice of Videotaped Deposition of Michael Moritz MD, filed by s/ Rolf Louis Patberg Esq. No CC. 3	Fredric Joseph Ammerman
	(73)	Notice of Service of Notice of Videotaped Deposition of Steven Docimo MD, filed by s/ Rolf Louis Patberg Esq. No CC. 3	Fredric Joseph Ammerman
10/3/2006	(74)	Stipulation, and Now, come the parties by and through their attorneys and agree to and stipulate to the following: 1. Plaintiff filed a Complaint and in the Complaint sets forth a claim for punitive damages. 2. Plaintiff has agreed to withdraw the claim for punitive damages. 3. It is requested that this Court sign an Order dismissing the claim for punitive damages as a result of the above agreement. Signed by Rolf L. Patberg, Esquire, and John L. McIntyre, Esquire. Filed per Judge Ammerman's instructions. No CC 1	Fredric Joseph Ammerman
	(75)	Order, NOW, this 2nd day of October, 2006, pursuant to the attached Stipulation, it is Ordered that the plaintiff's claim for punitive damages is withdrawn and dismissed with prejudice. By The Court, /s/ Fredric J. Ammerman, Pres. Judge. 1CC Attys. Patberg, McIntyre 1	Fredric Joseph Ammerman
10/10/2006	(76)	Notice of Address Change, filed by Atty. Patberg, 1 Cert. to Atty. copy to C/A Change of Plaintiff's counsel, Folf Louis Patberg, Esquire has changed to:Deutschtown Center, 801 Vinial Street, 3rd Floor, Pittsiburgh, 15212 3	Fredric Joseph Ammerman
10/24/2006	(77)	Order, NOW, this 23rd day of Oct., 2006, Ordered that Defendants' motion for Partial Summary Judgment and Defendants' Preliminary Objections as to Plaintiffs' Claim for Negligent Infliction of Emotional Distress be and are hereby Dismissed. By the Court, /s/ Fredric J. Ammerman, Pres. Judge. 1CC Attys: Patberg, McIntyre 1	Fredric Joseph Ammerman
10/30/2006	(78)	Notice of Service of Notice of Videotaped Deposition of C. Raymond Schaney, P.T., filed by s/ Rolf Louis Patberg Esq. No CC. 4	Fredric Joseph Ammerman
11/3/2006	(79)	Plaintiffs' First Motions in Limine, filed by Atty. Patberg no cert. copies. 49	Fredric Joseph Ammerman
11/6/2006	(80)	Notice of Service of Notice of Videotaped Deposition of K.P. Yakuboff, M.D., filed by s/ Rolf Louis Patberg Esq. No CC. 3	Fredric Joseph Ammerman
11/7/2006	(81)	Notice of Service of Notice of Videotaped Deposition of Daniel Friedberg, M.D., filed by s/ Rolf Louis Patberg Esq. No CC. 2	Fredric Joseph Ammerman
	(82)	Order, filed Cert. to Atty's Patberg, McIntyre and Maierhofer NOW, this 6th day of November, 2006, Argument on Ithe Plaintiffs' First Motions in Limine be scheduled for the 20th day of November, 2006 at 9:30 AM. 1	Fredric Joseph Ammerman
11/13/2006	(83)	Notice to Attend Directed to Records Custodian-Clearfield Hopsital, filed by s/ Rolf Louis Patberg Esq. NO CC. 4	Fredric Joseph Ammerman
	(84)	Notice to Attend Directed to Gwendolyn R. Thomas, filed by s/ Rolf Louis Patberg Esq. No CC. 6	Fredric Joseph Ammerman
	(85)	Notice to Attend Directed to James P. Desantis D.O., filed by s/ Rolf Louis Patberg Esq. No CC. 3	Fredric Joseph Ammerman

03-1161-CD United/Laurel
03-1165-CD Carns/Swisher
03-1181-CD McClellan/Love
03-1182-CD Oliver/Love
03-1224-CD Beneficial/Bass
03-1238-CD Aughenbaugh/Lumadue
03-1244-CD Ricketts/Shawver
03-1267-CD Green/Venango
03-1283-CD Alanskas/Busatto
03-1295-CD Grampian/Allen
03-1330-CD Deposit/Kalgren
03-1352-CD S&T/Ross
03-1385-CD S&T/Ross
03-1445-CD Carpin/Tabone
03-1459-CD St. Route 0322
03-1479-CD Indiana Co. Municipal Services
03-1519-CD Discover Bank/Holt
03-1550-CD Deposit/Haag
03-1551-CD Deposit/Kissell
03-1555-CD Huling/Bock
03-1566-CD Ogden/Commonwealth
03-1579-CD Williams/Carns
03-1605-CD Household/Hockenberry
03-1621-CD Lakewood/Creative
03-1629-CD Nationwide/Myers
03-1648-CD Buck/Erie
03-1654-CD Beneficial/Stiner
~~03-1679-CD Clark~~
03-1693-CD Morris/Maines
03-1696-CD Clearfield Consumer/Gray
03-1698-CD Garland/SCI
03-1717-CD Murawski/Little's
03-1721-CD General Electric/Hanslovan
03-1722-CD General Electric/Hanslovan
03-1755-CD Chase/Edwards
03-1760-CD Rightenaur/Myers
03-1786-CD Comm of PA
03-1787-CD Comm of PA
03-1788-CD Comm of PA
03-1798-CD Comm/Currency ?
~~03-1814-CD Firestone~~
03-1817-CD Land/Pupczyk
03-1819-CD Remit/Harriman
03-1821-CD Muddy Run
03-1832-CD Credit One/Pentz
03-1839-CD Buck/Fischl
03-1851-CD Haney/Adams
03-1860-CD Fairman ?
03-1864-CD BMP/Bierly's
03-1888-CD Myers/Owens
03-1892-CD Treasure/Kane
03-1897-CD Rice/Kruszewski
04-0001-CD Mortgage/States
04-0003-CD West/Clearfield Co.
04-0005-CD Mellon/Ross
04-0017-CD Huey/Family Mobile
04-0019-CD Kruszewski/Rice

Civil Other

Date			Judge
11/13/2006	(86)	Notice to Attend Directed to Patricia Neeper, filed by s/ Rolf Louis Patberg Esq. NO CC. 3	Fredric Joseph Ammerman
	(87)	Notice to Attend Directed to Kelly Espenshade, filed by s/ Rolf Louis Patberg Esq. NO CC. 3	Fredric Joseph Ammerman
	(88)	Notice to Attend Directed to Stacey Gerg, filed by s/ Rolf Louis Patberg Esq. No CC. 3	Fredric Joseph Ammerman
	(89)	Notice to Attend Directed to Donna Unch, filed by s/ Rolf Louis Patberg Esq. No CC. 3	Fredric Joseph Ammerman
	(90)	Notice of Service of Amended Notice of Videotaped Deposition of C. Raymond Schaney, P.T., filed by s/ Rolf Louis Patberg Esq. No CC. 4	Fredric Joseph Ammerman
11/14/2006	(91)	Response To Plaintiffs' First Motions In Limine and Defendants' Motion in Limine, filed by s/ John L. McIntyre, Esquire. No CC 38	Fredric Joseph Ammerman
	(92)	Second Supplemental Report of John A. Tilelli Dated 11/13/06. Filed by s/ Rolf Louis Patberg, Esquire. No CC 5	Fredric Joseph Ammerman
11/15/2006	(93)	Reply to Defendants' Motions in Limine, filed by Atty. Patberg, no cert. copies. 11	Fredric Joseph Ammerman
	(94)	Plaintiff's Second Motion in Limine, filed by Atty. Patberg no cert. copies. 12	Fredric Joseph Ammerman
11/16/2006	(95)	Defendants' Motion to Strike Late Expert Report, filed by Atty. McIntyre no cert. copies. 10	Fredric Joseph Ammerman
11/17/2006	(96)	Plaintiff's Reply to Defendants' Motion to Strike Late Expert Report, filed by s/ Rolf Louis Patberg Esq. No CC. 7	Fredric Joseph Ammerman
11/21/2006	(97)	Order, NOW, this 20th day of Nov., 2006, upon consideration of Defendants' Motion to Strike Late Expert's Report, it is the Order of this Court that said motion shall be granted to the extent that (see original). By The Court, /s/ John K. Reilly, Jr., Senior Judge. 1CC Attys: Patberg, McIntyre 1	John K. Reilly Jr.
	(98)	Order, NOW, this 20th day of Nov., 2006, consideration Defendants' Second Motion in Limine to Preclude Testimony Concerning Examination and Treatment of the Plaintiff Justine Kline on Nov. 22, 2002, it is ordered that said motion shall be granted to the extent that Plaintiff shall be precluded from entering such testimony during its case in chief. Plaintiff may, however, introduce such testimony in rebuttal if it then becomes relevant. By The Court, /s/ John K. Reilly, Jr., Senior Judge. 1CC Attys: Patberg, McIntyre 1	John K. Reilly Jr.
	(99)	Order, NOW, this 20th day of Nov., 2006, upon consideration of Plaintiffs' First Motion in Limine, with regard to the faxed transmissions from Clfd. Hospital to UPMC Children's Hospital, it is Ordered that said motion shall be granted to the extent that Plaintiffs shall be restricted in any examinations thereof to the existence of the handwritten notice concering the Feb. 23, 2002 examination. By The Court, /s/ John K. Reilly, Jr., Senior Judge. 1CC Attys: Patberg, McIntyre 1	John K. Reilly Jr.
	(100)	Order, NOW, this 20th day of Nov., 2006, upon consideration of Plaintiffs' Second Motion in Limine, Ordered that Defendants shall be precluded from offering any evidence or arguing any purported negligence by Sandra Conklin, Plaintiff. By The Court, /s/ John K. Reilly, Jr., Senior Judge. 1CC Attys: Patberg, McIntyre 1	John K. Reilly Jr.

03-0436-CD	Bank of New York/Blake	
03-0453-CD	Bartlebaugh/Lee	
03-0474-CD	Sandy Twp	
03-0489-CD	Enterprise/Winters	
03-0493-CD	Moore/Sandy Twp	
03-0545-CD	Ogden/Automax	
03-0574-CD	Bennett/Dietzel	
03-0598-CD	Starn/Commonwealth	
03-0620-CD	**Agway/Earthmovers**	**?**
03-0625-CD	Beneficial/Clutter	
03-0641-CD	Cusick/White Dugan	
03-0683-CD	**Cook/DOC**	**???**
03-0696-CD	Johnston/Frasier	
03-0704-CD	Wachovia/Kessler	
03-0710-CD	Interbay/Sloppy	
03-0717-CD	FNB/Giles	
03-0719-CD	Wang/Hunsberger	
03-0724-CD	Bank One/Schillo	
~~03-0727-CD~~	~~Richner~~	
03-0732-CD	City of DuBois/Buffalo	
03-0744-CD	**Baney/Baney**	**?**
03-0770-CD	**New Holland/Tillotson**	**1 Def.**
03-0773-CD	Stinger/Erie Insurance	
03-0789-CD	Bank One/Doe	
~~03-0790-CD~~	~~Haney~~	
03-0793-CD	Gavazzi	
03-0797-CD	Parkview/Maines	
03-0804-CD	Brunner/Carson	
03-0807-CD	Adam/Sutton	
03-0810-CD	**Morris Twp**	**?**
03-0833-CD	Community/DeLarme	
03-0837-CD	MBNA/Knee	
03-0849-CD	USA/Crooks	
03-0855-CD	**Tax Parcel/Burkholder**	**?**
03-0857-CD	Beal/Straw	
03-0863-CD	Condemnation	
03-0869-CD	Ogden/Swisher	
03-0919-CD	Wells Fargo/Serafin	
03-0941-CD	Hanslovan/Cooper	
03-0956-CD	Jones/Miles	
03-0958-CD	Wilson/Seth	
03-0961-CD	Beneficial/Redmond	
03-0975-CD	Kawa/Magnetti	
03-0980-CD	Citibank/Reams	
03-0997-CD	Rinehart/Keith	
03-1025-CD	First National/Weaver	
03-1029-CD	Borst	
~~03-1030-CD~~	~~Price~~	
~~03-1032-CD~~	~~Janke~~	
03-1052-CD	Weitoish/Scott	
03-1104-CD	Kanouff	
03-1123-CD	MBNA/Knee	
03-1129-CD	Deposit/Brouse	
03-1133-CD	Plantholt	
03-1150-CD	Comm/Spingola	
03-1154-CD	**Eaton/Williams**	**?**
03-1158-CD	Wallace/Wallace	

Clearfield County Court of Common Pleas
ROA Report
Case: 2003-00068-CD
Current Judge: Fredric Joseph Ammerman
Sandra Conklin, Justine Kline vs. Clearfield Hospital, George F. Palmer, James P. DeSantis, Ernest P. Jones

Civil Other

Date			Judge
11/21/2006	(101)	Order, NOW, this 20th day of Nov., 2006, upon consideration of Plaintiffs' Motion in Limine, Issue 3, it is the Order of this Court that Def. Dr. Palmer shall be precluded from testifying as to a possibility that the information he entered concerning his treatment of Feb. 23, 2002, may have been entered into the wrong patient's chart. By The Court, /s/ John K. Reilly, Jr., Senior Judge. 1CC Attys: Patberg, McIntyre	John K. Reilly Jr.
	(102)	Order, NOW, this 20th day of Nov., 2006, upon consideration of Plaintiffs' First Motion in Limine, second issue, it is the Order of this Court that Plaintiffs' Expert, Dr. King, may testify as to his general experience in treating situations of this nature in the past, but shall be precluded from identifying specific patients and the treatments provided therefor unless their redacted files are supplied to Plaintiff prior to trial. By The Court, /s/ John K. Reilly, Jr., Senior Judge. 1CC Attys: Patberg, McIntyre	John K. Reilly Jr.
	(103)	Order, NOW, this 20th day of Nov., 2006, upon consideration of Plaintiffs' First Motion in Limine, Item 1, it is the Order of this Court that said motion shall be granted to the extent that Defense expert withness, Christopher King, M.D., shall be precluded from quoting verbatim from the opinion of one Alejandro Hoberman, nor shall said opinion or argument by Hoberman, be admitted into evidence. By The Court, /s/ John K. Reilly, Jr., Senior Judge. 1CC Attys: Patberg, McIntyre	John K. Reilly Jr.
12/1/2006	(104)	Notice to Attend Dircted to Wilhelmina P. Crus-Vetrano, filed by s/ Rolf Louis Patberg, Esquire. No CC	Fredric Joseph Ammerman
12/4/2006	(105)	Application and Notice Pursuant to Rule 4020(a)(3)(e), filed by s/Rolf Louis Patberg, Esq. No CC	Fredric Joseph Ammerman
12/11/2006	(106)	Motion to Limit Testimony of John Dossett, filed by s/Rolf Louis Patberg, Esq. No CC	Fredric Joseph Ammerman
	(107)	Order, filed. Cert. to atty. Patberg & McIntyre NOW, this 8th day of December, 2006, RE: Motion to Limit Testimony of John Dossett, Motion denied.	John K. Reilly Jr.
12/12/2006	(108)	Verdict and Members of the Jury, filed NOW, this 12th day of December, 2006, Verdict in favor of Defendant. s/David P. Small, Foreperson.	Fredric Joseph Ammerman
12/21/2006	(109)	Motion For Briefing Schedule, filed by s/ Rolf Louis Patberg, Esquire. No CC	Fredric Joseph Ammerman
	(110)	Plaintiff's Post-Trial Motions, filed by s/ Rolf Louis Patberg, Esquire. No CC	Fredric Joseph Ammerman
12/26/2006	(111)	Order NOW, this 22nd day of December 2006, upon consideration of Post Trial Motion filed on behalf of Plaintiffs above-named and Motion for Briefing Schedule, it is the ORDER of this Court that Plaintiffs shall file their brief within no more than twenty (20) days from receipt of transcript of testimony. Defendants shall file their reply brief within twenty (20) days from receipt of Plaintiffs' Argument to be scheduled thereon at the request of wither party. BY THE COURT: /s/ John K. Reilly Jr. SJSP. 2CC Atty R. Patberg and J. McIntyre.	John K. Reilly Jr.
12/29/2006	(112)	Answer to Plaintiff's Post-Trial Motions, filed by Atty. McIntyre no cert. copies.	Fredric Joseph Ammerman
5/29/2007	(113)	Motion For Extension of Time of Briefing Schedule, filed by s/ Rolf Louis Patberg, Esquire. No CC	Fredric Joseph Ammerman

02-1637-CD	Lansberry/Ayres	
02-1638-CD	**Mowrey/Clearfield Co**	**?**
02-1649-CD	Discover/Gaydos	
02-1654-CD	Mackey/Cupp	
02-1655-CD	**DADC/Huster**	**?**
02-1663-CD	**Hawk/Cataldo**	**? with Equity $**
02-1674-CD	**Moskel/Moskel**	**?**
02-1701-CD	OSSR/Spanky's	
02-1728-CD	Hand/Enercorp	
02-1755-CD	Conseco/Lansberry	
02-1759-CD	Nationwide/Bartel	
02-1767-CD	**Thomas**	**?**
02-1782-CD	Himes/S T	
02-1786-CD	Ball/Commonwealth	
02-1817-CD	**Long/Liddle**	**? QT**
02-1819-CD	County National/Regosia	
02-1830-CD	Bass/Shoulders	
02-1844-CD	Westover/Thomas	
02-1863-CD	TMP/TRS	
02-1868-CD	**Wolf Run/Clearfield Co.**	**??**
02-1872-CD	Winebold/Selvage	
02-1878-CD	Sprankle/Adam	
02-1892-CD	JJ/Robinson	
02-1919-CD	Graffius/Four Seasons	
02-1922-CD	**Irvona/Covert**	**?**
02-1952-CD	Cooper/Highland	
02-1961-CD	Lindenpitz/Magill	
02-1980-CD	Sewer Authority	
02-1988-CD	Citizens/Davis	
02-1991-CD	Beneficial/Hudson	
02-1995-CD	**Bogardus**	**?**
~~03-0001-CD~~	~~Muirhead~~	
03-0032-CD	Marshall/Kyler	
03-0037-CD	National City/Kolesar	
03-0053-CD	Swistock/Lewis	
03-0066-CD	Blair/Backus	
03-0115-CD	Grove/Novak	
~~03-0132-CD~~	~~Bracken~~	
03-0133-CD	Robertson/Chuba	
03-0137-CD	**Woods/Goss**	**as to some Def.**
03-0200-CD	Re:DuBois A.H.S.	
03-0200-CD	**DuBois Area**	**?**
03-0212-CD	Esser/Heberling	
03-0226-CD	**McGonigal**	**?**
03-0239-CD	Knepp/Buck	
03-0241-CD	Cooper Twp	
03-0274-CD	**Long**	**?**
03-0296-CD	Reed/Bunnell	
03-0300-CD	Bankers/Tormey	
~~03-0308-CD~~	~~Holden~~	
03-0316-CD	First Commonwealth/Heilbrun	
03-0325-CD	Kennedy/Elgar	
03-0337-CD	Opalisky/Curwensville	
03-0341-CD	Wallace/Royer	
03-0396-CD	Opalisky/Bloom	
03-0422-CD	Sacks/Luzier	
03-0434-CD	Jersey Shore/Irvin	

Civil Other

Date		Judge
5/30/2007	(114) Order, NOW, this 29th day of May, 2007, it is Ordered that the Plaintiff's Motion for Extension of Time is Granted. Plaintiff shall have an additional 20 days from the date of this Order in which time to file their Brief. The Defendants shall have 20 days from the date of filing of the Plaintiff's Brief to file their reply. By The Court, /s/ John K. Reilly, Jr., Judge. 3CC Atty. Patberg	John K. Reilly Jr.
6/6/2007	(115) Transcript of Proceedings, filed. In Camera Testimony of Bridgett H. Sidorick, Held Before The Honorable John K. Reilly, Senior Judge on Monday, December 4, 2006.	Fredric Joseph Ammerman
	(116) Transcript of Proceedings, filed. Civil Jury Trial, Day I of VII, Held Before The Honorable John K. Reilly, Senior Judge on Monday, December 4, 2006.	Fredric Joseph Ammerman
	(117) Transcript of Proceedings, filed. Civil Jury Trial, Day II of VII, Held Before The Honorable John K. Reilly, Senior Judge, on Tuesday, December 5, 2006.	Fredric Joseph Ammerman
	(118) Transcript of Proceedings, filed.Civil Jury Trial Day III of VII, Held Before The Honorable John K. Reilly, Senior Judge on Wednesday, December 6, 2006.	Fredric Joseph Ammerman
	(119) Transcript of Proceedings, filed. Civil Jury Trial Day IV of VII, Held Before The Honorable John K. Reilly, Senior Judge on Thursday, December 7, 2006.	Fredric Joseph Ammerman
	(120) Transcript of Proceedings, filed. Civil jury Trial Day V of VII, Held Before The Honorable John K. Reilly, Senior Judge, on Friday, December 8, 2006	Fredric Joseph Ammerman
	(121) Transcript of Proceedings, filed. Civil Jury Trial, Day VI of VII, Held Before The Honorable John K. Reilly, Senior Judge on Monday, December 11, 2006.	Fredric Joseph Ammerman
	(122) Transcript of Proceedings, filed. Civil Jury Trial Day VII of VII, Held Before The Honorable John K. Reilly, Senior Judge, on Tuesday, December 12, 2006.	Fredric Joseph Ammerman

02-0931-CD	Merial/Mackey	
02-0942-CD	**Bell/Wisor**	??
~~02-0949-CD~~	~~Johns~~	
02-0952-CD	Jones/Ramey	
02-0967-CD	Providian/Maines	
02-0979-CD	Panighetti/Bianco	
02-0997-cd	CNB/Peters	
02-1010-CD	First Commonwealth/Sierzega	
02-1011-CD	Deposit/Novario	
02-1049-CD	Ferris/Vida	
~~02-1059-CD~~	~~Meyer~~	
02-1063-CD	Kephart/Performance	
02-1097-CD	Ordonez	
02-1109-CD	Nestlerode/Bohensky	
02-1112-CD	Power/Rowles	
02-1121-CD	**McGarvey/Commonwealth**	?
02-1131-CD	Commonwealth/Bloom	
02-1144-CD	Brackbill/Cole	
~~02-1153-CD~~	~~Raddings~~	
02-1167-CD	Bank of NY/Lumadue	
02-1168-CD	Dohner/Lawrence Twp	
~~02-1181-CD~~	~~Gelfand~~	
02-1185-CD	**Campbell/Hixon**	?
02-1188-CD	Bungo/Singer	
02-1190-CD	Schall/Fernichio	
~~02-1211-CD~~	~~Samuelson~~	
~~02-1218-CD~~	~~Hendershot~~	
02-1330-CD	Hinchliffe/Beers	
02-1347-CD	Grampian Hardware/Powers	
02-1361-CD	Citifinancial/Spencer	
02-1363-CD	Arnold/Quinn	
02-1364-CD	GMAC/Mercurio	
~~02-1375-CD~~	~~Wykoff~~	
02-1381-CD	Sunny/Dixon	
02-1388-CD	Baker/K & J	
02-1393-CD	Luzier/Kelly	
02-1408-CD	Hand	
~~02-1411-CD~~	~~Houser~~	
02-1416-CD	Smith/Young	
02-1417-CD	DeCasper/Bloom	
02-1422-CD	**Clutter**	?
02-1437-CD	Lawrence Twp	
02-1439-CD	Lawrence Twp	
02-1456-CD	Jones/Trejo	
02-1471-CD	Stidfole	
02-1504-CD	Brink/Windsor	
02-1515-CD	Dime/Hugney	
02-1520-CD	Bennett/Kitchen	
02-1523-CD	Thomas/Valigorsky	
02-1531-CD	NBOC/Schwiderske	
02-1534-CD	**Bowman/Miles**	?
02-1539-CD	Alliance/Rupp	
02-1547-CD	**Lipka**	**W/D 10/20/04 ??**
02-1566-CD	Russell/palumbo	
02-1573-CD	**CIU**	?
02-1580-CD	HSBC/Moore	
~~02-1612-CD~~	~~Diery~~	

98-0312-CD	Gardner
98-0505-CD	Smith
98-0577-CD	Wallace
98-0580-CD	Bouch
98-0619-CD	Cline
98-0624-CD	Jones
98-0665-CD	Peace
98-0725-CD	Smail
98-0742-CD	Gates
98-0811-CD	Foster
98-0861-CD	Sabula
98-0953-CD	DuFour
98-1054-CD	Blake
98-1086-CD	Mient
98-1152-CD	Stokes
98-1475-CD	Lockwood
98-1534-CD	Misho
98-1561-CD	Owens
99-0041-CD	Weber
99-0085-CD	Hixon
99-0091-CD	Gibbs
99-0215-CD	Striegel
99-0231-CD	Perrine
99-0250-CD	Canterberry
99-0408-CD	Lipscomb
99-0410-CD	Knepp
99-0446-CD	Davis
99-0565-CD	O'Dell
99-0662-CD	Kester
99-0673-CD	McGraw
99-0859-CD	Kopchik
99-0871-CD	Bryan
99-1031-CD	Monoskey
99-1070-CD	Scholl
99-1077-CD	Seaburn
99-1168-CD	Demko
99-1394-CD	Sorbera
99-1402-CD	Whitmore
99-1424-CD	Merritt
99-1436-CD	McCracken

Clearfield County Court of Common Pleas

ROA Report

Case: 2003-00068-CD

Current Judge: Fredric Joseph Ammerman

Sandra Conklin, Justine Kline vs. Clearfield Hospital, George F. Palmer, James P. DeSantis, Ernest P. Jones

Civil Other

Date	Selected Items	Judge
6/14/2007 (123)	Order, NOW, this 8th day of June, 2007, the Court noting that counsel for the Defendants has no objections to the Plaintiff's Motion to Extend Time to File a Responsive Brief and that in addition, Plaintiff's counsel has agreed that the Defendants will have 35 days after receipt of the Plaintiff's Brief, in which to file a brief on behalf of Dr. Palmer and Clearfield Hospital. By The Court, /s/ Fredric J. Ammerman, Pres. Judge. 2CC Attys: Patberg, McIntyre	Fredric Joseph Ammerman
11/16/2007 (124)	Filing: Praecipe for entry of Judgment upon Jury Verdict of December 12, 2006. Paid by: McIntyre, Hartye & Schmitt Receipt number: 1921483 Dated: 11/16/2007 Amount: $20.00 (Check) Judgment entered upon Verdict of the Juryt of December 12, 2006 in favor of the the Defendants, Clearfield hospital and George F. Palmer, D.O. no cert. copies.	Fredric Joseph Ammerman
1/15/2008 (125)	Order, this 15th day of Jan., 2008, , argument on Post-Trial Motions is scheduled for the 20th day of Feb., 2008 at 10:30 A.M in Hearing Room 3. By The Court, /s/ Fredric J. Ammerman, pres. Judge. 2CC Attys; Patberg, McIntyre	Fredric Joseph Ammerman
3/27/2008 (126)	Opinion And Order, Order: Now, this 26th day of March, 2008, following argument and review of the parties' briefs, it is the Order of this Court that the Plaintiff's Post-Trial Motions are hereby Denied for the reasons set forth in the foregoing Opinion. By The Court, /s/ John K. Reilly, Jr., Senior Judge, Specially Presiding. 2CC Attys: Patberg, McIntyre; 1CC to: D. Mikesell, Law Library (without memo)	Fredric Joseph Ammerman
4/16/2008 (127)	Filing: Appeal to High Court Paid by: Patberg, Rolf Louis (attorney for Conklin, Sandra) Receipt number: 1923634 Dated: 4/16/2008 Amount: $50.00 (Check) Filed by s/Rolf Louis Patberg, Esquire. 1CC & Check for $60.00 to Superior Court	Fredric Joseph Ammerman

Clearfield County Court of Common Pleas

ROA Report

Case: 2003-00068-CD

Current Judge: Fredric Joseph Ammerman

Sandra Conklin, Justine Kline vs. Clearfield Hospital, George F. Palmer, James P. DeSantis, Ernest P. Jones

Civil Other

Date		Selected Items	Judge
4/21/2008	128	Order, this 18th day of April, 2008, it is Ordered that Appellant shall, within 14 days from date hereof, file a concise statement of matters complained of on appeal. By The Court, /s/John K. Reilly, Jr., Senior Judge. 2CC Attys; Patberg, McIntyre	John K. Reilly Jr.
5/1/2008	129	Appeal Docket Sheet, filed. No CC 700 WDA 2008	Fredric Joseph Ammerman
5/5/2008	130	Concise Statement of Matters Complained of on Appeal, filed by s/ Rolf Louis Patberg, Esquire. No CC	Fredric Joseph Ammerman

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

SANDRA CONKLIN, as parent and natural guardian of JUSTINE KLINE, and SANDRA CONKLIN, individually,	CIVIL DIVISION NO.: 2003-68 CD
Plaintiffs,	TYPE OF PLEADING:
v.	**TRIAL BRIEF IN SUPPORT OF ADVERSE INFERENCE INSTRUCTION**
CLEARFIELD HOSPITAL, and GEORGE F. PALMER,	FILED ON BEHALF OF PLAINTIFF
Defendants.	COUNSEL OF RECORD FOR THIS PARTY: ROLF LOUIS PATBERG, ESQUIRE PA I.D. NO.: 65185 PATBERG, CARMODY, GING & FILIPPI DEUTSCHTOWN CENTER 801 VINIAL STREET - THIRD FLOOR PITTSBURGH, PA 15212 (412) 232-3500
JURY TRIAL DEMANDED	

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OFFICE

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

SANDRA CONKLIN, as parent and natural guardian of JUSTINE KLINE, and SANDRA CONKLIN, individually,	)	CIVIL DIVISION
	)	NO.: 2003-68 CD
Plaintiffs,	)	
v.	)	
CLEARFIELD HOSPITAL, and GEORGE F. PALMER,	)	
Defendants.	)	**JURY TRIAL DEMANDED**

TRIAL BRIEF IN SUPPORT OF ADVERSE INFERENCE INSTRUCTION

AND NOW, comes the Plaintiffs, by and through their counsel, Patberg, Carmody, Ging & Filippi, and files the attached Trial Brief in Support of Request for Adverse Inference Instruction.

I. INTRODUCTION

This case is a medical negligence action arising from the care and treatment of Justine Kline at Clearfield Hospital on February 23, 2002 between 1:58 a.m. and 5:45 a.m. at the Clearfield Hospital Emergency Room. During the course of the care and treatment of Justine Kline, certain electronic records were recorded into Justine Kline's chart. In addition, Plaintiff's mother testified that Defendant George Palmer took certain notes that are no longer available.

Apparently, Clearfield Hospital implemented computerized charting. The electronic chart purportedly records each and every moment that a certain medical treater makes entries or reviews the medical record. In the produced medical record with regard to this case, Clearfield Hospital produced a fourteen (14) page Emergency Room Report that contained a certain handwritten addendum on the fourteenth page. The Defendant conceded that the handwritten entry, undated and

untimed, was entered on March 1st or later. The addendum was clearly not entered in the computer operated version. The originally produced medical chart was apparently printed by Donna R. Unch on Wednesday, February 23, 2002 at 3:36 p.m. The Defendant has referred to this chart as the "clinical chart." The clinical chart did not contain any record of any physical exam. Furthermore, during the course of the case, Justine Kline's pediatrician, Dr. Sherry Sorter-Thompson, testified that she received a 14 page chart for Justine Kline's Emergency Room "A.M." visit on February 28, 2002. There was no record of a physical exam in the copy received by Dr. Sorter-Thompson.

Dr. Palmer testified in trial that the handwritten physical examination was not, in fact, entered into the records on February 23, 2002, the date of treatment. Further, he testified that he did not document it within the same shift and he could not recall whether he had documented the physical examination within days. However, he claims to have entered the physical examination into the computer at the time of the examination.

It is readily apparent that the physical examination that is entered into the chart and relied upon by defense counsel and their expert is not, in fact, a contemporaneous recording and raises serious questions whether the defense experts may rely on the handwritten note. In addition, Plaintiffs have sought two (2) adverse inference instructions.

II. JURY INSTRUCTIONS

Based upon the testimony and documentation of this case, Plaintiff's counsel should be permitted to argue that the jury may draw an adverse inference for (1) the purported loss of George Palmer's original note and (2) the modification of the medical record long after Justine Kline's care and treatment. The Records Custodian testified that the entry of such addendums without the date

and time is contrary to Clearfield Hospital's policy. As such, Plaintiff has sought the following instructions:

PLAINTIFF'S POINT FOR CHARGE NO. 34

Alteration to Medical Records.

Physicians have a duty to ensure that all treatment records accurately reflect the treatment or services rendered. Corrections or changes to entries may be made only where the change is clearly identified as such, dated and initialed by the person making the change. In fact, it is against the law in this State to alter medical records with the intent to deceive or mislead anyone.

In this case, you have heard evidence that Dr. George Palmer altered his records in the correction, supplementation, and amendment of the physical exam of Justine Kline on February 23, 2002.

The alteration of medical records is admissible as evidence of a defendant's own belief that the actual records do not support his defense. If you find that Dr. Palmer altered the medical records with the intent to deceive or mislead anyone, you may infer that the alteration of the records in this case occurred because Dr. Palmer believed that the original record would have been unfavorable in the trial of this matter.

PLAINTIFF'S POINT FOR CHARGE NO. 35

If you find that there was an intentional alteration or destruction of medical records by the defendant(s) in this case, and that there has been no satisfactory explanation for that alteration or destruction, you may infer that the records or portions of records so altered or destroyed would have been unfavorable to the defendant(s).

The following are satisfactory explanations for alteration or destruction of medical records: (1) a health-care provider may correct information on a patient's chart, where information has been entered erroneously, or where it is necessary to clarify entries made on the chart, provided that such corrections or additions are clearly identified as later additions by a date and time; (2) a health-care provider may add information to a patient's chart where it was not available at the time the record was first created, provided that such additions are

> clearly dated as later entries, and that they are made within a reasonable time; and (3) a health-care provider may routinely dispose of medical records, after certain time limits fixed by the law have passed; in this respect, the law requires that medical records be kept for a minimum of seven years following the discharge of a patient (or, if the patient is a minor, until his or her majority, and then for seven years or as long as the records of adults are maintained).
>
> Therefore, if you find that any of these three explanations applies to an intentional alteration or destruction of medical records in this case, you may not draw an inference unfavorable to the defendant(s) for that alteration or destruction. If, however, you find that none of these explanations apply, you may draw such an inference.

III. PENNSYLVANIA LAW DEMANDS THAT PLAINTIFF RECEIVE AN ADVERSE INFERENCE INSTRUCTION

The decision whether to tell the jury that an unfavorable inference may be drawn from the failure of a party to produce some circumstance, witness, or document is one which lies within the sound discretion of the trial court and will not be reversed absent manifest abuse. The rule is as follows:

> "[W]here evidence which would properly be part of a case is within the control of the party whose interest it would naturally be to produce it, and, without satisfactory explanation he fails to do so, the jury may draw an inference that it would be unfavorable to him. Clark v. Philadelphia College, 693 A.2d 202, 204 (Pa. Super. 1997), alloc. denied, 1997 Pa. Lexis 2682 (12/22/97), citing Haas v. Kasnot, 371 Pa. 580, 584-85, 92 A.2d 171, 173 (1952) (citation omitted), and other cases at 204.

This case involved absent notes of a defendant. At first, the doctor defendant claimed that his files had been "thinned" out every five years. However, it was later admitted that this was irrelevant since the file was received in its entirety during discovery after suit had been initiated. No notes were to be found there.

Other adverse inference cases:

1. Paves v. Corson, 764 A.2d 1128 (Pa. Super. 2000), it was claimed that the trial judge improperly charged the jury that they could draw an adverse inference from the failure to produce certain financial documentation that would have supported a defense. Relying upon Haas v. Kasnot, 371 Pa. 580, 585, 92 A.2d 171 (1952); Pa. Suggested Jury Instructions (Civil) 5.06, the court held that in this case the charge was proper since the party in question was in control of all his mother's financial matters, and all documentation related to them.

2. Magette v. Good, M.D., 771 A.2d 775 (Pa. Super. 2001). Trial court erred by failing to charge the jury with a permissive adverse inference instruction where defendant doctor discarded an EKG strip which would have been material to the case. Hospital policy is to retain medical records for a minimum of seven years following discharge. The evidence would properly be a part of the case through the testimony of defendant doctor, who testified that he knew the plaintiff's case was a coroner's case and that her cause of death was unknown, but he still independently decided to throw away the EKG strip. The doctor did not consider the strip to show anything he considered to be significant. The rhythm strip was precisely the kind of evidence that defendant doctor would want to preserve in light of the fact that his patient had died of an unknown cause only moments earlier. The coroner determined that the doctor's patient died of cardiac arrest. The doctor's explanation of why he did not retain the strip was unsatisfactory and the requested adverse inference instruction should have been given.

3. Brown v. Albert Einstein Medical Center, PICS No. 01-1012 (C.P. Phila. May 4, 2001). Field, J. Plaintiff argued that her counsel should have been permitted to argue that a negative inference could be drawn from the absence of a doctor at trial by one of the doctors who rendered care. However, the doctor was no longer an employee of defendant hospital; he no longer resided in the Commonwealth; and he had been dismissed from the action. Thus, defense counsel had no more ability to compel his attendance than did plaintiffs. An adverse inference may only be drawn from a witness's absence when three requirements are met: (1) the potential witness must be available to only one party; (2) the potential witness must have special knowledge relevant to a material issue; and (3) such evidence must not be cumulative.

Cited and relied upon by the court as Kovach v. Solomon, 732 A.2d 1 (Pa. Super. 1999).

The issue of spoliation was properly submitted to a jury and Northeastern Hospital was not entitled to a new trial in the case of Cruz v. Northeastern Hospital, PICS No. 1289-22-00 (C.C.P.

(B) Corrections and disposal of records. – It shall not be considered unprofessional conduct or a violation of the applicable licensing statute for a health care provider to:

> (1) Correct information on a patient's chart where information has been entered erroneously or where it is necessary to clarify entries made on the chart, provided that such corrections or additions shall be clearly identified as subsequent entries by a date and time.
>
> (2) Add information to a patient's chart where it was not available at the time the record was first created, provided that:
>
> > (i) Such additions shall be clearly dated as subsequent entries.
> >
> > (ii) A health care provider may add supplemental information within a reasonable time.
>
> (3) Routinely dispose of medical records as permitted by law.

(c) Alteration of records. – In any medical professional liability action in which the claimant proves by a preponderance of the evidence that there has been an intentional alteration or destruction of medical records, the court in its discretion may instruct the jury to consider whether such intentional alteration or destruction constitutes an adverse inference.

(d) Licensure sanction. – Alteration or destruction of medical records for the purpose of eliminating information that would give rise to a medical professional liability action on the part of a health care provider shall constitute a ground for suspension. A healthcare provider who is aware of alteration or destruction in violation of this section shall report any party suspected of such conduct to the appropriate licensure board. 2002, March 20, P.L. 154, No. 13, §511, effective in 60 days."

Philadelphia Co. No. 3396, June 11, 2001) Temin, J. A party cannot benefit from its own withholding or spoliation of evidence. Schroeder v. PennDOT, 551 Pa. 243, 710 A.2d 23 (1998); Duquesne Light and Power Company v. Woodland Hills, 700 A.2d 1038 (Pa. Cmwlth. 1997). When evidence has been destroyed, referral of the spoliation issue to a jury with accompanying instructions is proper. The court is to use a three-prong test as to whether a jury should be given an instruction on the spoliation inference:

1. The degree of fault of the party who altered or destroyed the evidence;

2. The degree of prejudice suffered by the opposing party; and

3. Whether there is a lesser sanction that will avoid substantial unfairness to the opposing party, and where the offending party is seriously at fault, will serve to deter such conduct by others in the future. Id, at slip opinion 7.

In Cruz, some of the fetal monitoring strips were altered or destroyed. One could conclude that someone either altered the strips or destroyed some of the strips that monitored the baby's heartbeat. The fetal monitoring strips were material to the plaintiff because the fetal strips, for hours in question constituted crucial evidence concerning the stress caused to the baby during the mother's labor. Therefore, the issue was properly submitted.[1] The M-Care Act specifically addresses this issue in Section 1303.511.

Section 1303.511 states as follows:

> "**§1303.511. Preservation and accuracy of medical records.**
>
> (a) Timing. – Entries in patient charts concerning care rendered shall be made contemporaneously or as soon as practicable. Except as otherwise provided for in this section, it shall be considered unprofessional conduct and a violation of the applicable licensing statute to make alterations to a patient's chart.

[1]For above discussion of spoliation, see Rieders Pennsylvania Medical Malpractice (2002).

It is clear from the records in question that Dr. Palmer did not make contemporaneous entries for the physical exam and did not make them as soon as practicable. At the very least, based upon a review of Dr. Sorter-Thompson's records, the entries were made days, weeks or perhaps months later. It is further stated that Defendant Palmer failed to list the day the addendum was entered, directly contrary to applicable licensing statutes.

It is also readily apparent in Pennsylvania that the failure to give an adverse instruction is reversible error. See Magette v. Goodman, 2001 Pa. Super. 70, 771 A.2d 775, 780-781 (2001).

IV. CONCLUSION

For all of the aforementioned reasons, Plaintiff is entitled to an adverse inference charge and should be permitted to proffer this issue to the jury.

RESPECTFULLY SUBMITTED:

PATBERG, CARMODY, GING & FILIPPI

DATE: 12/7/06

By _____

Rolf Louis Patberg, Esquire
PA I.D. No.: 65185

Patberg, Carmody, Ging & Filippi
Deutschtown Center
801 Vinial Street - Third Floor
Pittsburgh, PA 15212
412-232-3500

Attorney for Plaintiffs

JURY TRIAL DEMANDED

CERTIFICATE OF SERVICE

I, Rolf Louis Patberg, Esquire, hereby certify that a true and correct copy of the foregoing Trial Brief in Support of Request for Adverse Inference Instruction was forwarded this 7 day of December, 2006 via facsimile to the following:

John L. McIntyre, Esquire
McIntyre, Dugas, Hartye & Schmitt
P.O. Box 533
Holidaysburg, PA 16648

The Honorable Judge John K. Reilly, Jr.
Clearfield County Courthouse
230 E. Market Street
Clearfield, PA 16830

Dan Payne
dpayne@clearfieldco.org

Rolf Louis Patberg, Esquire

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

SANDRA CONKLIN, as parent and natural guardian of JUSTINE KLINE,

Plaintiffs,

v.

CLEARFIELD HOSPITAL, GEORGE F. PALMER, ERNEST P. JONES, and JAMES P. DeSANTIS,

Defendants

JURY TRIAL DEMANDED

CIVIL DIVISION

NO.: 2003-68 CD

TYPE OF PLEADING:

PLAINTIFF'S SPECIAL VERDICT SLIP

FILED ON BEHALF OF PLAINTIFFS

COUNSEL OF RECORD FOR THIS PARTY:

ROLF LOUIS PATBERG, ESQUIRE
PA I.D. NO.: 65185

PATBERG, CARMODY, GING & FILIPPI
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PITTSBURGH, PA 15219
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RECEIVED
DEC 11 2006
JURY ADMINISTRATORS OFFICE

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

SANDRA CONKLIN, as parent and natural guardian of JUSTINE KLINE,

CIVIL DIVISION

NO.: 2003-68 CD

Plaintiffs,

v.

CLEARFIELD HOSPITAL, GEORGE F. PALMER, ERNEST P. JONES, and JAMES P. DeSANTIS,

Defendants.

JURY TRIAL DEMANDED

PLAINTIFF'S SPECIAL VERDICT SLIP

1.____Was Defendant George F. Palmer, M.D. negligent?

_____ Yes _____ No

2. If your answer to the preceding question is "yes," was Defendant George F. Palmer's negligence a legal cause of the injuries sustained by Justine Kline?

_____ Yes _____ No

3. If your answers to question Numbers 1 and 2 above are yes, please state the damages awarded for:

a. Past, present and future pain and suffering;

$_____

b. Past medical bills;

$_____

c. Past, present and future mental anguish;

$_____

d. Past, present and future scarring and disfigurement.

$_____

_____
Jury Foreman

IN THE COURT OF COMMON PLEAS OF CLEARFIELD, PENNSYLVANIA
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Plaintiffs,

v.

CLEARFIELD HOSPITAL, GEORGE F. PALMER, ERNEST P. JONES, and JAMES P. DeSANTIS,

Defendants

CIVIL DIVISION

NO.: 2003-68 CD

TYPE OF PLEADING:

VERDICT SLIP

FILED ON BEHALF OF PLAINTIFFS

COUNSEL OF RECORD FOR THIS PARTY:

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JURY TRIAL DEMANDED

RECEIVED
DEC 11 2006
COURT ADMINISTRATOR'S OFFICE

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

SANDRA CONKLIN, as parent and natural guardian of JUSTINE KLINE,

CIVIL DIVISION

NO.: 2003-68 CD

Plaintiffs,

v.

CLEARFIELD HOSPITAL, GEORGE F. PALMER, ERNEST P. JONES, and JAMES P. DeSANTIS,

Defendants.

JURY TRIAL DEMANDED

VERDICT SLIP

1.____Is your verdict in favor of Plaintiff or Defendant?

_____.

2. If your verdict is in favor of Plaintiff, state amount of damages.

$_____.

_____
Jury Foreman

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

SANDRA CONKLIN, as parent and natural guardian of JUSTINE KLINE,

Plaintiffs,

v.

CLEARFIELD HOSPITAL, GEORGE F. PALMER, ERNEST P. JONES, and JAMES P. DeSANTIS,

Defendants

JURY TRIAL DEMANDED

CIVIL DIVISION

NO.: 2003-68 CD

TYPE OF PLEADING:

PLAINTIFFS' THIRD SUPPLEMENTAL PROPOSED POINTS FOR CHARGE

FILED ON BEHALF OF PLAINTIFFS

COUNSEL OF RECORD FOR THIS PARTY:

ROLF LOUIS PATBERG, ESQUIRE
PA I.D. NO.: 65185

PATBERG, CARMODY, GING & FILIPPI
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RECEIVED
DEC 11 2006
COURT ADMINISTRATOR'S OFFICE

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

CIVIL DIVISION

SANDRA CONKLIN, as parent and natural guardian of JUSTINE KLINE,

NO.: 2003-68 CD

Plaintiffs,

v.

CLEARFIELD HOSPITAL, GEORGE F. PALMER, ERNEST P. JONES, and JAMES P. DeSANTIS,

Defendants.

JURY TRIAL DEMANDED

PLAINTIFF'S THIRD SUPPLEMENTAL PROPOSED POINTS FOR CHARGE

AND NOW, comes the Plaintiff, by and through her attorneys, Patberg, Carmody, Ging & Filippi and Rolf Louis Patberg, Esquire, and sets forth the following Third Supplemental Proposed Points for Charge.

PLAINTIFF'S POINT FOR CHARGE NO. 47.

If you find that the Plaintiff Justine Kline's injuries will continue beyond today, you must determine the life expectancy of the Plaintiff. According to statistics compiled by the United States Department of Health and Human Services, the average life expectancy of all persons of the Plaintiff's age at the time of accident, sex, and race was 75.8 years. This figures is offered to you only as a guide, and you are not bound to accept it if you believe that the Plaintiff would have lived longer or less than the average individual in her category. In reaching this decision, you are to consider the Plaintiff's health prior to the accident, her manner of living, her personal habits, and other factors that may have affected the duration of her life.

Granted _____

Denied_____

Modified _____

Pennsylvania Suggested Standard Civil Jury Instructions, §6.21.

RESPECTFULLY SUBMITTED:

PATBERG, CARMODY, GING & FILIPPI

DATE: _____

By_____
Rolf Louis Patberg, Esquire
PA I.D. No.: 65185

PATBERG, CARMODY, GING & FILIPPI
Deutschtown Center
801 Vinial Street
Third Floor
Pittsburgh, PA 15212
412-232-3500

Attorney for Plaintiff

JURY TRIAL DEMANDED

CERTIFICATE OF SERVICE

I, Rolf Louis Patberg, Esquire, hereby certify that a true and correct copy of the foregoing Plaintiffs' Third Supplemental Proposed Points for Charge was forwarded this 11th day of December, 2006 via facsimile to the following:

John L. McIntyre, Esquire
McIntyre, Dugas, Hartye & Schmitt
P.O. Box 533
Holidaysburg, PA 16648
Via Facsimile

The Honorable Judge John K. Reilly
Clearfield County Courthouse
230 E. Market Street
Clearfield, PA 16830
Via Facsimile

_____
Rolf Louis Patberg, Esquire