

03-616-CD
JUDY PLYER, ETAL. VS. SHIRISH N. SHAH, ETAL

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PA

JUDY PLYLER and DARREL PLYLER,
her husband,

Plaintiffs,

vs.

SHIRISH N. SHAH, M.D., individually;
MANJULA S. SHAH, M.D., individually;
and DUBOIS REGIONAL MEDICAL
CENTER, a non-profit corporation,

Defendants.

CIVIL DIVISION

NO.: 03-616-CD

COMPLAINT IN CIVIL ACTION

Filed on behalf of the:
PLAINTIFFS

Counsel of Record for this Party:

FRANK E. REILLY, ESQUIRE
PA. I.D. #17378

JOHN K. LEWIS, JR., ESQUIRE
PA. I.D. #83722

LEWIS, LEWIS & REILLY
1040 Fifth Avenue
Pittsburgh, PA 15219
(412) 391-0818

JURY TRIAL DEMANDED

FILED

APR 24 2003

William A. Shaw
Prothonotary

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

**JUDY PLYLER and DARREL PLYLER,
her husband,**

Plaintiffs,

vs.

**SHIRISH N. SHAH, M.D., individually;
MANJULA S. SHAH, M.D., individually;
and DUBOIS REGIONAL MEDICAL
CENTER, a non-profit corporation,**

Defendants.

NO.:

Jury Trial Demanded

COMPLAINT IN CIVIL ACTION

NOTICE TO DEFEND

You have been sued in court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this complaint and notice are served, by entering a written appearance personally or by an attorney and filing in writing with the court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you by the court without further notice for any money claimed in the complaint or for any other claim or relief requested by the plaintiff. You may lose money or property or other rights important to you.

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

**DAVID S. MEHOLICK, COURT ADMINISTRATOR
CLEARFIELD COUNTY COURTHOUSE
230 E. MARKET STREET
CLEARFIELD, PA 16830**

TELEPHONE NO.: (814) 765-2641, EXT. 5982

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

JUDY PLYLER and DARREL PLYLER,)	
her husband,)	
)	
Plaintiffs,)	
)	
vs.)	NO.:
)	
SHIRISH N. SHAH, M.D., individually;)	
MANJULA S. SHAH, M.D., individually;)	
and DUBOIS REGIONAL MEDICAL)	
CENTER, a non-profit corporation,)	
)	
Defendants.)	

COMPLAINT IN CIVIL ACTION

AND NOW, come the Plaintiffs, Judy Plyler and Darrel Plyler, her husband, by and through their counsel, Frank E. Reilly, Esquire, John K. Lewis, Jr., Esquire and the law firm of Lewis, Lewis & Reilly, and file the within Complaint in Civil Action, and in support thereof, aver as follows:

1. Plaintiff, Judy Plyler, is an adult individual residing at Box 78, R.D. 2, Hiawatha Street, Brookville, Jefferson County, Pennsylvania 15825.
2. Plaintiff, Darrel Plyler, is an adult individual residing at Box 78, R.D. 2, Hiawatha Street, Brookville, Jefferson County, Pennsylvania 15825, and is the husband of Plaintiff Judy Plyler.
3. Defendant Shirish N. Shah, M.D., hereinafter referred to as "S. Shah", is an adult individual and at all times material hereto, a duly licensed and practicing physician, practicing at 629 S. Main Street, Dubois, Clearfield County, Pennsylvania 15801. Plaintiff is asserting a professional liability claim against this Defendant.

4. Defendant Manjula S. Shah, M.D., hereinafter referred to as "M. Shah", is an adult individual and at all times material hereto, a duly licensed and practicing physician, practicing at 629 S. Main Street, Dubois, Clearfield County, Pennsylvania 15801. Plaintiff is asserting a professional liability claim against this Defendant.
5. Defendant Dubois Regional Medical Center, hereinafter referred to as "Hospital," is a corporation, licensed and functioning as a health care facility at 100 Hospital Avenue, Clearfield County, Pennsylvania 15801.
6. At all times material hereto, Plaintiff Judy Plyler was under the treatment, care and attendance of the Defendants individually, jointly, and/or severally, through their agents, servants and employees, who were acting within the course and scope of their agency or employment, and under control or right of control of Defendants.
7. At all times relevant hereto, Defendants S. Shah and M. Shah were the actual or apparent agents of Defendant Hospital.
8. In the Spring of 2002, Plaintiff Judy Plyler was experiencing right upper quadrant pain, discomfort, distress, gas, heartburn and nausea. As a result of these problems, Plaintiff Judy Plyler was provided medical treatment by the Defendants.
9. In late May of 2002, Defendant S. Shah diagnosed Plaintiff Judy Plyler as having chronic cholecystitis with cystic duct syndrome and advised surgery.
10. On or about June 11, 2002, Defendants S. Shah and M. Shah proceeded with a laparoscopic cholecystectomy to remove the Plaintiff Judy Plyler's gallbladder. This surgery was performed at Defendant Hospital.

11. At all times pertinent hereto the Defendant Hospital acted through its servants, employees, agent and workmen who were acting within the scope of their employment, servanthship and agency.
12. On or about June 12, 2002 Plaintiff Judy Plyler was discharged from Defendant Hospital.
13. Shortly after returning home, Plaintiff Judy Plyler became very sick and did not believe she was healing properly, so on or about June 17, 2002 she returned to see Defendant S. Shah.
14. On June 17, 2002 Defendant S. Shah requested that Plaintiff Judy Plyler be transferred to Allegheny General Hospital. Defendant S. Shah and/or Defendant M. Shah were concerned he/or she might have accidentally put a clamp on Plaintiff Judy Plyler's common bile duct or torn the common bile duct causing a bile leakage.
15. At Allegheny General Hospital a CT scan of the abdomen demonstrated a large biloma, which was subsequently drained per cutaneously. A percutaneous transhepatic biliary (PTC) catheter was then placed into the right hepatic duct. Cholangiography via PTC catheter demonstrated injury to the common hepatic duct.
16. On June 19, 2002 operative intervention was performed. The operative repair consisted of roux-en-y hepaticojejunostomy performed to Plaintiff Judy Plyler's left hepatic duct, right hepatic duct and right sectoral duct.
17. On June 28, 2002, Plaintiff Judy Plyler was discharged from Allegheny General Hospital and she began the long and painful process of recuperation.

18. At all times relevant to this Complaint, the Defendants S. Shah and M. Shah professed to the Plaintiff Judy Plyler and the general public that they possessed such high skill, training and judgment as was sufficient for pure certification in the practice of surgery and did maintain privileges in the Department of Medicine at Defendant Hospital for the purpose of practicing surgery within its certified speciality.

COUNT I
JUDY PLYLER V. DEFENDANT S. SHAH, M.D.

19. Paragraphs one through eighteen (1 - 18) are incorporated herein as though the same were set forth at length.
20. Defendant S. Shah holds himself to be a health care provider who possesses knowledge and skill in his specialty, and holds himself out to the public as being so qualified.
21. Defendant S. Shah failed to exercise the judgment of a reasonable health care provider under the circumstances as follows:
- a. Failure to possess the degree of care and skill ordinarily exercised in similar cases by other physicians;
 - b. Failure to utilize the proper operative technique, more specifically, a misplaced reliance on laparoscopic technique;
 - c. Injuring Plaintiff Judy Plyler's common hepatic duct during surgery;
 - d. Failure to take any surgical corrective action under the circumstances.
22. As a direct and proximate cause result of the conduct set forth, Plaintiff Judy Plyler suffered as follows:

- a. Plaintiff Judy Plyler experienced a long period of pain and suffering;
 - b. Additional surgeries.
23. As a direct and proximate cause result of the conduct set forth, Plaintiff Judy Plyler suffered as follows:
- a. Pain, suffering and inconvenience;
 - b. Emotional upheaval;
 - c. Medical expenses;
 - d. Loss of enjoyment of life;
 - e. Permanent disfigurement;
 - f. Embarrassment and humiliation;
 - g. Permanent loss of vitality.

WHEREFORE, Plaintiff demands judgment against Defendant S. Shah in an amount in excess of the Arbitration limits of the Court of Common Pleas of Clearfield County, Pennsylvania

COUNT II
JUDY PLYLER V. DEFENDANT M. SHAH, M.D.

24. Paragraphs one through twenty-three (1 - 23) are incorporated herein as though the same were set forth at length.
25. Defendant M. Shah holds herself to be a health care provider who possesses knowledge and skill in her specialty, and holds herself out to the public as being so qualified.

26. Defendant M. Shah failed to exercise the judgement of a reasonable health care provider under the circumstances as follows:
- a. Failure to possess the degree of care and skill ordinarily exercised in similar cases by other physicians;
 - b. Failure to utilize the proper operative technique, more specifically, a misplaced reliance on laparoscopic technique;
 - c. Injuring Plaintiff Judy Plyler's common hepatic duct during surgery;
 - d. Failure to take any surgical corrective action under the circumstances.
27. As a direct and proximate cause result of the conduct set forth, Plaintiff Judy Plyler suffered as follows:
- a. Plaintiff Judy Plyler experienced a long period of pain and suffering;
 - b. Additional surgeries.
28. As a direct and proximate cause result of the conduct set forth, Plaintiff Judy Plyler suffered as follows:
- a. Pain, suffering and inconvenience;
 - b. Emotional upheaval;
 - c. Medical expenses;
 - d. Loss of enjoyment of life;
 - e. Permanent disfigurement;
 - f. Embarrassment and humiliation;
 - g. Permanent loss of vitality.

WHEREFORE, Plaintiff demands judgment against Defendant M. Shah in an amount in excess of the Arbitration limits of the Court of Common Pleas of Clearfield County, Pennsylvania.

COUNT III
JUDY PLYLER V. DEFENDANT DUBOIS MEDICAL CENTER
NEGLIGENCE

29. Paragraphs one through twenty-eight (1 - 28) are incorporated herein as though the same were set forth at length.
30. Defendant Hospital failed or refused to act with reasonable care in the following manner:
- a. The Hospital failed to maintain a safe and adequate facility and equipment;
 - b. The Hospital failed to select and retain competent physicians and instead permitted Defendant S. Shah and/or Defendant M. Shah to perform surgery in its operating room;
 - c. The Hospital failed to oversee Defendant S. Shah and/or Defendant M. Shah who were practicing surgery or other specialties in this specific instance;
 - d. The Hospital failed to provide adequate staff during the treatment and care of Plaintiff Judy Plyler;
 - e. The Hospital failed to formulate, adopt and/or enforce adequate rules and policies to ensure the quality care for Plaintiff Judy Plyler;
 - f. The Hospital failed to properly credential and/or otherwise oversee the use of surgical techniques;
 - g. The Hospital failed to provide adequate procedures and/or protocols to ensure the information regarding Plaintiff Judy Plyler was properly communicated and/or documented;
 - h. The Hospital failed to properly safeguard Plaintiff Judy Plyler from injury during her care.
31. As a direct and proximate cause result of the conduct set forth, Plaintiff has suffered the following:

- a. Plaintiff Judy Plyler was the victim of a long period of pain and suffering;
- b. Additional surgeries.

WHEREFORE, Plaintiff demands damages against Defendant Hospital in an amount in excess of the Arbitration limits of the Court of Common Pleas of Clearfield County, Pennsylvania.

COUNT IV
JUDY PLYLER V. DEFENDANT DUBOIS MEDICAL CENTER
VICARIOUS LIABILITY AND CORPORATE LIABILITY

32. Paragraphs one through thirty-one (1 - 31) are incorporated herein as though the same were set forth at length.
33. Defendants S. Shah and/or Defendant M. Shah and/or others provided care and treatment to Plaintiff Judy Plyler are agents, employees, servants, officers or directors of the Defendant Hospital, or apparent agents held out as such.
34. At all times relevant hereto, Defendant physicians and/or others were acting in the scope of their employment as agents, servants, or employees of said Defendant Hospital.
35. Defendant Hospital is vicariously liable for the acts, commissions, or omissions of Defendant S. Shah and/or Defendant M. Shah fully as though the aforementioned physician performed the acts or omissions themselves. In the alternative, Defendant Hospital is responsible for the negligent acts or omissions of other physicians who are agents, employees, or servants of Defendant Hospital.
36. Defendant Hospital is liable to the acts as aforesaid as a matter of corporate liability.
37. As a direct and proximate result of the conduct set forth, Plaintiff has suffered as follows:

- a. Plaintiff Judy Plyler was the victim of a long period of pain and suffering;
- b. Additional surgeries.

WHEREFORE, Plaintiff demands damages against all Defendants, jointly, severally, in an amount in excess of the Arbitration limits of the Court of Common Pleas of Clearfield County, Pennsylvania.

COUNT V
DARREL PLYLER V. DEFENDANTS

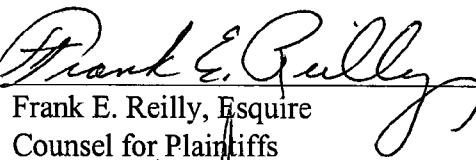
- 38. Paragraph one through thirty-seven (1 - 37) are incorporated herein as though the same were set forth at length.
- 39. By reason of the aforesaid conduct of the Defendants, Plaintiff-husband Darrel Plyler has sustained damages to his marital relationship, including but not limited to the loss of his wife's society, comfort and attention, all of which has caused him to suffer great loss and emotional distress.

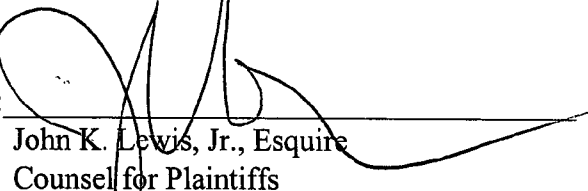
WHEREFORE, Plaintiff demands damages against all Defendants, jointly, severally, in an amount in excess of the Arbitration limits of the Court of Common Pleas of Clearfield County, Pennsylvania.

JURY TRIAL DEMANDED.

Respectfully submitted,

LEWIS, LEWIS & REILLY

By: 
Frank E. Reilly, Esquire
Counsel for Plaintiffs

By: 
John K. Lewis, Jr., Esquire
Counsel for Plaintiffs

VERIFICATION

I verify that the statements and averments made in the foregoing **Complaint In Civil Action** are true and correct. I understand that false statements herein are made subject to the penalties of 18 PA C.S. §4904 relating to unsworn falsification to authorities.

x Judy Plyler
JUDY PLYLER

Dated: 2-2-03

CERTIFICATE OF MERIT

The undersigned does hereby certify that an appropriate licensed professional has supplied him with a written statement that there exists a reasonable probability that the care, skill or knowledge exercised or exhibited by Manjula S. Shah, M.D. in the treatment of Judy Plyler, that is the subject of this Complaint, fell outside acceptable professional standards and that such conduct was a cause in bringing about the harm to her.

LEWIS, LEWIS & REILLY

By: _____

J. Kerrington Lewis, Esquire
Counsel for Plaintiffs

CERTIFICATE OF MERIT

The undersigned does hereby certify that an appropriate licensed professional has supplied him with a written statement that there exists a reasonable probability that the care, skill or knowledge exercised or exhibited by Shirish N. Shah, M.D. in the treatment of Judy Plyler, that is the subject of this Complaint, fell outside acceptable professional standards and that such conduct was a cause in bringing about the harm to her.

LEWIS, LEWIS & REILLY

By: _____

J. Kerrington Lewis, Esquire
Counsel for Plaintiffs

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

JUDY PLYLER and DARREL PLYLER,
her husband,

Plaintiffs,

Vs.

SHIRISH N. SHAH, M.D., individually;
MANJULA S. SHAH, M.D., individually;
and DUBOIS REGIONAL MEDICAL
CENTER, a non-profit corporation,

Defendants.

CIVIL DIVISION

No. 03-616-CD

Issue No.

PRAECIPE FOR APPEARANCE

Code: 007

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

Counsel of Record for This Party:

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

THOMSON, RHODES & COWIE, P.C.
Firm #720
1010 Two Chatham Center
Pittsburgh, PA 15219

(412) 232-3400

FILED

MAY 14 2003

12:30 / u
William A. Shaw
Prothonotary

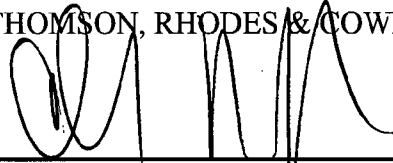
No. Clerk
Copy to CA

CERTIFICATION OF SERVICE

I hereby certify that a true and correct copy of the within PRAECIPE FOR
APPEARANCE has been served upon the following counsel of record and same placed
in the U.S. Mails on this 12th day of May, 2003:

John K. Lewis, Jr., Esquire
Lewis, Lewis & Reilly
1040 Fifth Avenue
Pittsburgh, PA 15219

THOMSON, RHODES & COWIE, P.C.



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

In The Court of Common Pleas of Clearfield County, Pennsylvania

PLYLER, JUDY & DARREL

Sheriff Docket #

13992

VS.

03-616-CD

SHAH, SHIRISH N. MD Ind al

COMPLAINT

SHERIFF RETURNS

NOW MAY 2, 2003 AT 10:50 AM SERVED THE WITHIN COMPLAINT ON DUBOIS REGIONAL MEDICAL CENTER, DEFENDANT AT EMPLOYMENT, ADM. OFFICE, 2ND. FLOOR N. WING, DUBOIS HOSPITAL, 100 HOSPITAL AVE., DUBOIS, CLEARFIELD COUNTY, PENNSYLVANIA BY HANDING TO GREG VOLPE, RISK MANAGEMENT, A TRUE AND ATTESTED COPY OF THE ORIGINAL COMPLAINT AND MADE KNOWN TO HIM THE CONTENTS THEREOF.

SERVED BY: COUDRIET/RYEN

NOW MAY 2, 2003 AT 11:00 AM SERVED THE WITHIN COMPLAINT ON SHIRISH N. SHAH, M.D., IND., DEFENDANT AT EMPLOYMENT, 629 S. MAIN ST., DUBOIS, CLEARFIELD COUNTY, PENNSYLVANIA BY HANDING TO SUSAN MANNING, SEC., A TRUE AND ATTESTED COPY OF THE ORIGINAL COMPLAINT AND MADE KNOWN TO HER THE CONTENTS THEREOF.

SERVED BY: COUDRIET/RYEN

NOW MAY 2, 2003 AT 11:00 AM SERVED THE WITHIN COMPLAINT ON MANJULA S. SHAH, M.D., IND., DEFENDANT AT EMPLOYMENT, 629 S. MAIN ST., DUBOIS, CLEARFIELD COUNTY, PENNSYLVANIA BY HANDING TO SUSAN MANNING, SEC., A TRUE AND ATTESTED COPY OF THE ORIGINAL COMPLAINT AND MADE KNOWN TO HER THE CONTENTS THEREOF.

SERVED BY: COUDRIET/RYEN

FILED

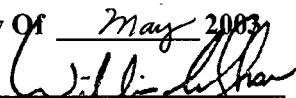
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MAY 28 2003

William A. Shaw
Prothonotary


Return Costs

Cost	Description
44.05	SHERIFF HAWKINS PAID BY: ATTY CK# 4723
30.00	SURCHARGE PAID BY: ATTY CK# 4745

Sworn to Before Me This

28 Day Of May 2003


So Answers,


Chester A. Hawkins
Sheriff

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

JUDY PLYLER and DARREL PLYLER,
her husband,

Plaintiffs

vs.

SHIRISH N. SHAH, M.D., individually;
MANJULA S. SHAH, M.D., individually;
and DUBOIS REGIONAL MEDICAL
CENTER, a non-profit corporation,

Defendants

No. 2003 – 616 CD

ISSUE:
PRAECIPE FOR APPEARANCE

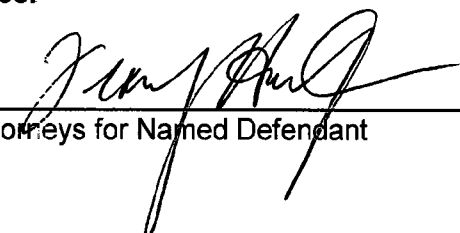
Filed on behalf of Defendant,
SHIRISH N. SHAH, M.D.

Counsel of Record for This Party:
Frank J. Hartye, Esquire
PA I.D. 25568

McINTYRE, DUGAS, HARTYE &
SCHMITT
P.O. Box 533
Hollicaysburg, 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 23RD DAY OF MAY,
2003.


Attorneys for Named Defendant

FILED

MAY 27 2003

William A. Shaw
Prothonotary

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

JUDY PLYLER and DARREL PLYLER,
her husband,

Plaintiffs

vs.

SHIRISH N. SHAH, M.D., individually;
MANJULA S. SHAH, M.D., individually;
and DUBOIS REGIONAL MEDICAL
CENTER, a non-profit corporation,

Defendants

No. 2003 – 616 CD

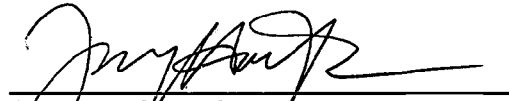
JURY TRIAL DEMANDED

PRAECIPE FOR APPEARANCE

TO: PROTHONOTARY

Kindly enter my appearance as counsel of record for Defendant, SHIRISH N.
SHAH, M.D., in the above-captioned action.

McINTYRE, DUGAS, HARTYE & SCHMITT



Attorneys for Defendant,
SHIRISH N. SHAH, M.D.

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

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

JUDY PLYLER and DARREL
PLYLER, her husband,

Plaintiff(s)

vs.

SHIRISH N. SHAH, MD, individually,
MANJULA S. SHAH, MD,
individually, and DUBOIS
REGIONAL MEDICAL CENTER, a
non-profit corporation,

Defendant(s)

Civil Action No. 03-6169- CD

PRAECIPE FOR APPEARANCE

To: Mary Jane McCall, Clerk of Courts

Kindly enter our appearance on behalf of Manjula S. Shah, MD, one of the
Defendants in the above captioned case.

Francis Garger, Esquire, PA ID #16387, will be handling this case.

JURY TRIAL DEMANDED.

Davies, McFarland & Carroll, P. C.

By: 

Francis Garger, Esquire
PA ID #16387

Attorneys for Manjula S. Shah, MD,
one of the Defendants

Davies, McFarland & Carroll
Firm #281
One Gateway Center, 10th Floor
Pittsburgh, PA 15222

412-281-0737

FILED

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JUN 09 2003 CC

William A. Shaw
Prothonetary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

JUDY PLYLER and DARREL PLYLER,
her husband,

Plaintiffs,

Vs.

SHIRISH N. SHAH, M.D., individually;
MANJULA S. SHAH, M.D., individually;
and DUBOIS REGIONAL MEDICAL
CENTER, a non-profit corporation,

Defendants.

Counsel for Plaintiffs:

John K. Lewis, Jr., Esquire
Lewis, Lewis & Reilly
1040 Fifth Avenue
Pittsburgh, PA 15219

CIVIL DIVISION

No. 03-616-CD

Issue No.

**NOTICE OF SERVICE OF
PRELIMINARY OBJECTIONS**

Code: 007

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

Counsel of Record for This Party:

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

Thomas B. Anderson, Esquire
PA. I.D. #79990

THOMSON, RHODES & COWIE, P.C.
Firm #720
1010 Two Chatham Center
Pittsburgh, PA 15219

(412) 232-3400

FILED

JUN 13 2003

William A. Shaw
Prothonotary

NOTICE OF SERVICE OF PRELIMINARY OBJECTIONS

TO THE PROTHONOTARY:

Kindly take notice that a true and correct copy of the Preliminary Objections, Brief In Support and Order of Court have been served upon John K. Lewis, Jr., Esquire, Lewis, Lewis & Reilly, 1040 Fifth Avenue, Pittsburgh, Pennsylvania, 15219, counsel of record for plaintiff, being served by first-class, U.S. mail, postage pre-paid, on this 11th day of June, 2003.

THOMSON, RHODES & COWIE, P.C.

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

CERTIFICATE OF SERVICE

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

11th day of June, 2003:

John K. Lewis, Jr., Esquire
Lewis, Lewis & Reilly
1040 Fifth Avenue
Pittsburgh, PA 15219

THOMSON, RHODES & COWIE, P.C.

A handwritten signature in cursive script, appearing to read "Thomas B. Anderson", written over a horizontal line.

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

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

JUDY PLYLER and DARREL PLYLER,
her husband,

Plaintiffs

vs.

SHIRISH N. SHAH, M.D., individually;
MANJULA S. SHAH, M.D., individually;
and DUBOIS REGIONAL MEDICAL
CENTER, a non-profit corporation,

Defendants

No. 2003 – 616 CD

ISSUE:

ANSWER AND NEW MATTER
TO PLAINTIFFS' COMPLAINT

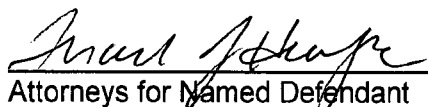
Filed on behalf of Defendant,
SHIRISH N. SHAH, M.D.

Counsel of Record for This Party:
Frank J. Hartye, Esquire
PA I.D. 25568

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 20th DAY OF
JUNE, 2003.


Attorneys for Named Defendant

FILED

JUN 23 2003

William A. Shaw
Prothonotary

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

JUDY PLYLER and DARREL PLYLER,
her husband,

Plaintiffs

vs.

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MANJULA S. SHAH, M.D., individually;
and DUBOIS REGIONAL MEDICAL
CENTER, a non-profit corporation,

Defendants

No. 2003 – 616 CD

JURY TRIAL DEMANDED

ANSWER AND NEW MATTER TO PLAINTIFFS' COMPLAINT

AND NOW, comes the Defendant, SHIRISH N. SHAH, M.D., by and through his attorneys, McINTYRE, DUGAS, HARTYE & SCHMITT, and files the following Answer and New Matter to Plaintiffs' Complaint.

1-2. The allegations contained in paragraphs 1 and 2 are true to the best of defendant's knowledge.

3. Admitted.

4. Admitted.

5. This allegation is not directed to answering defendant.

6. It is admitted that Judy Plyler was under the care, treatment and attendance of Dr. Shirish Shah. The remaining allegations are denied.

7. It is denied that in 1992, Dr. Shirish Shah was an actual or apparent agent of defendant hospital.

8. It is admitted that Dr. Shirish Shah provided medical treatment for Judy Plyler's complaints of right upper quadrant pain, discomfort and other symptoms.

9. It is admitted that Dr. Shirish Shah made the diagnosis and that the benefits, risks and alternatives of surgery were discussed with the patient and that the patient chose to have surgery.

10. It is admitted that on June 11, 2002, that Dr. Shirish Shah performed a laparoscopic cholecystectomy to remove the plaintiff's gall bladder and that the surgery was performed at defendant hospital. Dr. M. Shah only assisted in the surgery and her assistance was in no way related to the outcome in this case.

11. These allegations are not directed to this defendant and no response is required.

12. The allegations contained in paragraph 12 are true to the best of defendant's knowledge.

13. Admitted in part and denied in part. It is admitted that on June 17, 2002, that the plaintiff returned to see Dr. Shirish Shah. The allegations are denied in that they are incomplete. Prior to that visit, Dr. Shah had spoken with the plaintiff and had made arrangements for testing at the hospital. When the doctor received the results, he called the plaintiff to make arrangements for her to see him.

14. Admitted in part and denied in part. It is admitted that on June 17, 2002, Dr. Shirish Shah requested that the plaintiff be transferred to Allegheny General Hospital. It is denied that Dr. M. Shah was involved with the transfer. It is admitted that Dr. Shirish Shah indicated to the patient that because of the test results he suspected the possibility of damage in the area of the common bile duct. It is denied that Dr. M.

Shah was involved with either this possible complication or with the conversation with the patient and therefore all of the remaining allegations are denied as stated.

15-17. After reasonable investigation answering defendant is without sufficient knowledge or information as to the truth of these averments and therefore they are denied as stated and strict proof thereof is demanded.

18. Admitted in part and denied in part. It is admitted that at all times relevant hereto that Dr. Shirish Shah held out to the plaintiff that he was a qualified, board certified general surgeon who maintained privileges in medicine and surgery at defendant hospital. The remaining allegations are denied as stated.

COUNT ONE

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

20. It is admitted that Shirish Shah, M.D. holds himself out as a qualified general surgeon who possesses the knowledge and skill of such a specialist.

21. Denied. It is denied that Shirish Shah, M.D. failed to exercise the judgment of a reasonable health care provider under the circumstances and therefore all of the allegations contained in paragraph 21 and the subparagraphs thereof are specifically denied and strict proof thereof is demanded.

22-23. It is denied that Dr. Shah failed to exercise the judgment of a reasonable health care provider under the circumstances and therefore all of the allegations contained in paragraphs 22 and 23 and the subparagraphs thereof are denied and strict proof thereof is demanded at time of trial.

WHEREFORE, Defendant, Shirish Shah, M.D., demands judgment in his favor with costs of suit awarded to the defendant.

COUNT TWO

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

25-28. The allegations contained in paragraphs 25 through 28 are not directed to answering defendant and no further response is required. Insofar as a response may be deemed to be necessary, it is denied that Dr. M. Shah failed to exercise the judgment of a reasonable health care provider under the circumstances and therefore all of the allegations contained in the above paragraphs are denied.

COUNT THREE

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

30-31. The allegations contained in paragraphs 30 and 31 are not directed to answering defendant and no further response is required.

COUNT FOUR

32. In response to the allegations contained in this paragraph, defendant incorporates by reference the previous paragraphs of the within Answer and New Matter as though the same were set forth herein at length.

33-37. The allegations contained in paragraphs 33 through 37 are not directed to answering defendant and no further response is required.

COUNT FIVE

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

39. Denied. It is denied that Shirish Shah, M.D. failed to exercise the judgment of a reasonable health care provider under the circumstances and therefore all of the allegations contained in paragraph 39 are denied.

WHEREFORE, Defendant, Shirish Shah, M.D., demands judgment in his favor with costs of suit awarded to defendant.

NEW MATTER

By way of further and more complete answer, Defendant, Shirish Shah, M.D., avers the following New Matter:

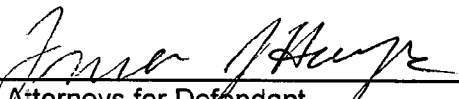
40. Defendant hereby affirmatively pleads all bars, rights and limitations pursuant to the Health Care Services Malpractice Act, 40 P.S. §1301.103, et seq.

41. Defendant hereby affirmatively pleads all bars, rights and limitations under the Medical Care Availability and Reduction of Error Act (MCARE), 40 P.S. §1300, et seq.

WHEREFORE, Defendant, Shirish Shah, M.D., demands judgment in his favor
with costs of suit awarded to defendant.

Respectfully submitted,

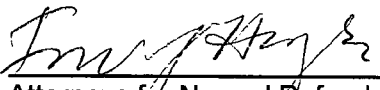
McINTYRE, DUGAS, HARTYE & SCHMITT

By 
Attorneys for Defendant,
SHIRISH N. SHAH, M.D.

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

TO: PLAINTIFFS

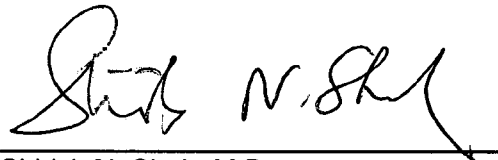
YOU ARE HEREBY NOTIFIED TO FILE
A WRITTEN RESPONSE TO THE
ENCLOSED **NEW MATTER** WITHIN
TWENTY (20) DAYS FROM SERVICE
HEREOF OR A JUDGMENT MAY BE
ENTERED AGAINST YOU.


Attorneys for Named Defendant

VERIFICATION

I, **SHIRISH N. SHAH, M.D.**, do hereby verify that I have read the foregoing **ANSWER AND NEW MATTER TO PLAINTIFFS' COMPLAINT**. The statements therein are correct to the best of my personal knowledge or information and belief.

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

A handwritten signature in black ink, appearing to read "Shirish N. Shah", written over a horizontal line.

Shirish N. Shah, M.D.

Date: _____

6-17-03

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PA

JUDY PLYLER and DARREL PLYLER,
her husband,

Plaintiffs,

vs.

SHIRISH N. SHAH, M.D., individually;
MANJULA S. SHAH, M.D., individually;
DUBOIS REGIONAL MEDICAL
CENTER, a non-profit corporation; and
the MEDICAL DIRECTOR and the
HOSPITAL ADMINISTRATOR of the
DUBOIS REGIONAL MEDICAL
CENTER,

Defendants.

CIVIL DIVISION

NO.: 03-616-CD

**AMENDED COMPLAINT
IN CIVIL ACTION**

Filed on behalf of the:
PLAINTIFFS

Counsel of Record for this Party:

FRANK E. REILLY, ESQUIRE
PA. I.D. #17378

JOHN K. LEWIS, JR., ESQUIRE
PA. I.D. #83722

LEWIS, LEWIS & REILLY
1040 Fifth Avenue
Pittsburgh, PA 15219
(412) 391-0818

JURY TRIAL DEMANDED

FILED

AUG 04 2003

William A. Shaw
Prothonotary/Clerk of Courts

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

JUDY PLYLER and DARREL PLYLER,
her husband,

Plaintiffs,

vs.

SHIRISH N. SHAH, M.D., individually;
MANJULA S. SHAH, M.D., individually;
and DUBOIS REGIONAL MEDICAL
CENTER, a non-profit corporation,

Defendants.

NO.: 03-616-CD

Jury Trial Demanded

AMENDED COMPLAINT IN CIVIL ACTION

NOTICE TO DEFEND

You have been sued in court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this complaint and notice are served, by entering a written appearance personally or by an attorney and filing in writing with the court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you by the court without further notice for any money claimed in the complaint or for any other claim or relief requested by the plaintiff. You may lose money or property or other rights important to you.

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

DAVID S. MEHOLICK, COURT ADMINISTRATOR
CLEARFIELD COUNTY COURTHOUSE
230 E. MARKET STREET
CLEARFIELD, PA 16830

TELEPHONE NO.: (814) 765-2641, EXT. 5982

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

JUDY PLYLER and DARREL PLYLER,)	
her husband,)	
)	
Plaintiffs,)	
)	
vs.)	NO.: 03-616-CD
)	
SHIRISH N. SHAH, M.D., individually;)	
MANJULA S. SHAH, M.D., individually;)	
and DUBOIS REGIONAL MEDICAL)	
CENTER, a non-profit corporation,)	
)	
Defendants.)	

AMENDED COMPLAINT IN CIVIL ACTION

AND NOW, come the Plaintiffs, Judy Plyler and Darrel Plyler, her husband, by and through their counsel, Frank E. Reilly, Esquire, John K. Lewis, Jr., Esquire and the law firm of Lewis, Lewis & Reilly, and file the within Amended Complaint in Civil Action, and in support thereof, aver as follows:

1. Plaintiff, Judy Plyler, is an adult individual residing at Box 78, R.D. 2, Hiawatha Street, Brookville, Jefferson County, Pennsylvania 15825.
2. Plaintiff, Darrel Plyler, is an adult individual residing at Box 78, R.D. 2, Hiawatha Street, Brookville, Jefferson County, Pennsylvania 15825, and is the husband of Plaintiff Judy Plyler.

3. Defendant Shirish N. Shah, M.D., hereinafter referred to as “S. Shah”, is an adult individual and at all times material hereto, a duly licensed and practicing physician, practicing at 629 S. Main Street, Dubois, Clearfield County, Pennsylvania 15801. Plaintiff is asserting a professional liability claim against this Defendant.
4. Defendant Manjula S. Shah, M.D., hereinafter referred to as “M. Shah”, is an adult individual and at all times material hereto, a duly licensed and practicing physician, practicing at 629 S. Main Street, Dubois, Clearfield County, Pennsylvania 15801. Plaintiff is asserting a professional liability claim against this Defendant.
5. Defendant Dubois Regional Medical Center, hereinafter referred to as “Hospital,” is a corporation, licensed and functioning as a health care facility at 100 Hospital Avenue, Clearfield County, Pennsylvania 15801.
6. The Defendant Medical Director of the Hospital is an adult individual employed by the Hospital to assist in its operation as a health care facility.
7. The Defendant Hospital Administrator of the Hospital is an adult individual employed by the Hospital to direct its operation as a health care provider.
8. Plaintiff is asserting a professional liability claim against Defendant Hospital.
9. At all times material hereto, Plaintiff Judy Plyler was under the treatment, care and attendance of the Defendants individually, jointly, and/or severally, through their agents, servants and employees, who were acting within the course and scope of their agency or employment, and under control or right of control of Defendants.
10. At all times relevant hereto, Defendants S. Shah and M. Shah were the actual or apparent agents of Defendant Hospital.

11. In the Spring of 2002, Plaintiff Judy Plyler was experiencing right upper quadrant pain, discomfort, distress, gas, heartburn and nausea. As a result of these problems, Plaintiff Judy Plyler was provided medical treatment by the Defendants.
12. In late May of 2002, Defendant S. Shah diagnosed Plaintiff Judy Plyler as having chronic cholecystitis with cystic duct syndrome and advised surgery.
13. On or about June 11, 2002, Defendants S. Shah and M. Shah proceeded with a laparoscopic cholecystectomy to remove the Plaintiff Judy Plyler's gallbladder. This surgery was performed at Defendant Hospital.
14. At all times pertinent hereto the Defendant Hospital acted through its servants, employees, agent and workmen who were acting within the scope of their employment, servanthship and agency.
15. On or about June 12, 2002 Plaintiff Judy Plyler was discharged from Defendant Hospital.
16. Shortly after returning home, Plaintiff Judy Plyler became very sick and did not believe she was healing properly, so on or about June 17, 2002 she returned to see Defendant S. Shah.
17. On June 17, 2002 Defendant S. Shah requested that Plaintiff Judy Plyler be transferred to Allegheny General Hospital. Defendant S. Shah and/or Defendant M. Shah were concerned he/or she might have accidentally put a clamp on Plaintiff Judy Plyler's common bile duct or torn the common bile duct causing a bile leakage.

18. At Allegheny General Hospital a CT scan of the abdomen demonstrated a large biloma, which was subsequently drained per cutaneously. A percutaneous transhepatic biliary (PTC) catheter was then placed into the right hepatic duct. Cholangiography via PTC catheter demonstrated injury to the common hepatic duct.
19. On June 19, 2002 operative intervention was performed. The operative repair consisted of roux-en-y hepaticojejunostomy performed to Plaintiff Judy Plyler's left hepatic duct, right hepatic duct and right sectoral duct.
20. On June 28, 2002, Plaintiff Judy Plyler was discharged from Allegheny General Hospital and she began the long and painful process of recuperation.
21. At all times relevant to this Complaint, the Defendants S. Shah and M. Shah professed to the Plaintiff Judy Plyler and the general public that they possessed such high skill, training and judgment as was sufficient for pure certification in the practice of surgery and did maintain privileges in the Department of Medicine at Defendant Hospital for the purpose of practicing surgery within its certified speciality.

COUNT I
JUDY PLYLER V. DEFENDANT S. SHAH, M.D.

22. Paragraphs one through twenty-one (1 - 21) are incorporated herein as though the same were set forth at length.
23. Defendant S. Shah holds himself to be a health care provider who possesses knowledge and skill in his specialty, and holds himself out to the public as being so qualified.

24. Defendant S. Shah failed to exercise the judgment of a reasonable health care provider under the circumstances as follows:
- a. Failure to possess the degree of care and skill ordinarily exercised in similar cases by other physicians;
 - b. Failure to utilize the proper operative technique, more specifically, a misplaced reliance on laparoscopic technique;
 - c. Injuring Plaintiff Judy Plyler's common hepatic duct during surgery;
 - d. Failure to take any surgical corrective action under the circumstances.
25. As a direct and proximate cause result of the conduct set forth, Plaintiff Judy Plyler suffered as follows:
- a. Plaintiff Judy Plyler experienced a long period of pain and suffering;
 - b. Additional surgeries.
26. As a direct and proximate cause result of the conduct set forth, Plaintiff Judy Plyler suffered as follows:
- a. Pain, suffering and inconvenience;
 - b. Emotional upheaval;
 - c. Medical expenses;
 - d. Loss of enjoyment of life;
 - e. Permanent disfigurement;
 - f. Embarrassment and humiliation;
 - g. Permanent loss of vitality.

WHEREFORE, Plaintiff demands judgment against Defendant S. Shah in an amount in excess of the Arbitration limits of the Court of Common Pleas of Clearfield County, Pennsylvania.

COUNT II
JUDY PLYLER V. DEFENDANT M. SHAH, M.D.

27. Paragraphs one through twenty-six (1 - 26) are incorporated herein as though the same were set forth at length.
28. Defendant M. Shah holds herself to be a health care provider who possesses knowledge and skill in her specialty, and holds herself out to the public as being so qualified.
29. Defendant M. Shah failed to exercise the judgement of a reasonable health care provider under the circumstances as follows:
 - a. Failure to possess the degree of care and skill ordinarily exercised in similar cases by other physicians;
 - b. Failure to utilize the proper operative technique, more specifically, a misplaced reliance on laparoscopic technique;
 - c. Injuring Plaintiff Judy Plyler's common hepatic duct during surgery;
 - d. Failure to take any surgical corrective action under the circumstances.
30. As a direct and proximate cause result of the conduct set forth, Plaintiff Judy Plyler suffered as follows:
 - a. Plaintiff Judy Plyler experienced a long period of pain and suffering;
 - b. Additional surgeries.
31. As a direct and proximate cause result of the conduct set forth, Plaintiff Judy Plyler suffered as follows:

- a. Pain, suffering and inconvenience;
- b. Emotional upheaval;
- c. Medical expenses;
- d. Loss of enjoyment of life;
- e. Permanent disfigurement;
- f. Embarrassment and humiliation;
- g. Permanent loss of vitality.

WHEREFORE, Plaintiff demands judgment against Defendant M. Shah in an amount in excess of the Arbitration limits of the Court of Common Pleas of Clearfield County, Pennsylvania.

COUNT III
JUDY PLYLER V. DEFENDANT DUBOIS MEDICAL CENTER
NEGLIGENCE

- 32. Paragraphs one through thirty-one (1 - 31) are incorporated herein as though the same were set forth at length.
- 33. Defendant Hospital failed or refused to act with reasonable care in the following manner:
 - a. The Hospital failed to maintain a safe and adequate facility and equipment;
 - b. The Hospital failed to select and retain competent physicians and instead permitted Defendant S. Shah and/or Defendant M. Shah to perform surgery in its operating room;
 - c. The Hospital failed to oversee Defendant S. Shah and/or Defendant M. Shah who were practicing surgery or other specialties in this specific instance;
 - d. The Hospital failed to provide adequate staff during the treatment and care of Plaintiff Judy Plyler;

- e. The Hospital failed to formulate, adopt and/or enforce adequate rules and policies to ensure the quality care for Plaintiff Judy Plyler;
 - f. The Hospital failed to properly credential and/or otherwise oversee the use of surgical techniques;
 - g. The Hospital failed to provide adequate procedures and/or protocols to ensure the information regarding Plaintiff Judy Plyler was properly communicated and/or documented.
34. As a direct and proximate cause result of the conduct set forth, Plaintiff has suffered the following:
- a. Plaintiff Judy Plyler was the victim of a long period of pain and suffering;
 - b. Additional surgeries.

WHEREFORE, Plaintiff demands damages against Defendant Hospital in an amount in excess of the Arbitration limits of the Court of Common Pleas of Clearfield County, Pennsylvania.

COUNT IV
JUDY PLYLER V. DEFENDANT DUBOIS MEDICAL CENTER
VICARIOUS LIABILITY AND CORPORATE LIABILITY

35. Paragraphs one through thirty-four (1 - 34) are incorporated herein as though the same were set forth at length.
36. Defendants S. Shah and/or Defendant M. Shah and/or the Medical Director and/or the Hospital Administrator provided care and treatment to Plaintiff Judy Plyler and are agents, employees, servants, officers or directors of the Defendant Hospital, or apparent agents held out as such.
37. At all times relevant hereto, Defendant physicians and the Medical Director and the Hospital Administrator were acting in the scope of their employment as agents, servants, or employees of said Defendant Hospital.

38. Defendant Hospital is vicariously liable for the acts, commissions or omissions of Defendant S. Shah and/or Defendant M. Shah fully as though the aforementioned physician performed the acts or omissions themselves. In the alternative, Defendant Hospital is responsible for the negligent acts or omissions of the Medical Director and the Hospital Administrator who are agents, employees, or servants of Defendant Hospital.
39. Defendant Hospital is liable to the acts as aforesaid as a matter of corporate liability.
40. As a direct and proximate result of the conduct set forth, Plaintiff has suffered as follows:
- a. Plaintiff Judy Plyler was the victim of a long period of pain and suffering;
 - b. Additional surgeries.

WHEREFORE, Plaintiff demands damages against all Defendants, jointly, severally, in an amount in excess of the Arbitration limits of the Court of Common Pleas of Clearfield County, Pennsylvania.

COUNT V
DARREL PLYLER V. DEFENDANTS

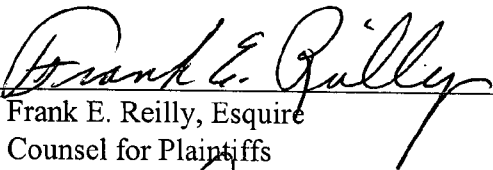
41. Paragraph one through forty (1 - 40) are incorporated herein as though the same were set forth at length.
42. By reason of the aforesaid conduct of the Defendants, Plaintiff-husband Darrel Plyler has sustained damages to his marital relationship, including but not limited to the loss of his wife's society, comfort and attention, all of which has caused him to suffer great loss and emotional distress.

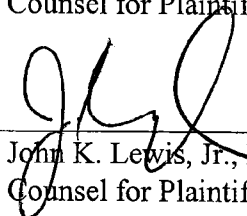
WHEREFORE, Plaintiff demands damages against all Defendants, jointly, severally, in an amount in excess of the Arbitration limits of the Court of Common Pleas of Clearfield County, Pennsylvania.

JURY TRIAL DEMANDED.

Respectfully submitted,

LEWIS, LEWIS & REILLY

By: 
Frank E. Reilly, Esquire
Counsel for Plaintiffs

By: 
John K. Lewis, Jr., Esquire
Counsel for Plaintiffs

VERIFICATION

I verify that the statements and averments made in the foregoing **Pleadings** are true and correct. I understand that false statements herein are made subject to the penalties of 18 PA §4904 relating to unsworn falsification to authorities.

x Judy Plyler
JUDY PLYLER

Dated: ~~7/30/03~~ 7/30/03

CERTIFICATE OF MERIT

The undersigned does hereby certify that an appropriate licensed professional has supplied him with a written statement that there exists a reasonable probability that the care, skill or knowledge exercised or exhibited by Manjula S. Shah, M.D. in the treatment of Judy Plyler, that is the subject of this Complaint, fell outside acceptable professional standards and that such conduct was a cause in bringing about the harm to her.

LEWIS, LEWIS & REILLY

By: 

J. Kerrington Lewis, Esquire
Counsel for Plaintiffs

CERTIFICATE OF MERIT

The undersigned does hereby certify that an appropriate licensed professional has supplied him with a written statement that there exists a reasonable probability that the care, skill or knowledge exercised or exhibited by Shirish N. Shah, M.D. in the treatment of Judy Plyler, that is the subject of this Complaint, fell outside acceptable professional standards and that such conduct was a cause in bringing about the harm to her.

LEWIS, LEWIS & REILLY

By: _____

J. Kerrington Lewis, Esquire
Counsel for Plaintiffs

CERTIFICATE OF MERIT

The undersigned does hereby certify that an appropriate licensed professional has supplied him with a written statement that there exists a reasonable probability that the care, skill or knowledge exercised or exhibited by DuBois Regional Medical Center in the treatment of Judy Plyler, that is the subject of this Complaint, fell outside acceptable professional standards and that such conduct was a cause in bringing about the harm to her.

LEWIS, LEWIS & REILLY

By: 

J. Kerrington Lewis, Esquire
Counsel for Plaintiffs

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the within **Amended Complaint In Civil Action** has been served on this 31st day of July, 2003, upon all parties, either individually or through counsel, by:

_____ Hand-Delivery
___X___ First-Class Mail, Postage Pre-Paid
_____ Certified Mail-Return Receipt Requested
_____ Facsimile Transmission

at the following address:

DAVID R. JOHNSON, ESQUIRE
THOMSON, RHODES & COWIE, P.C.
1010 TWO CHATHAM CENTER
PITTSBURGH, PA 15219
(Counsel for Defendant DuBois Regional Medical Center)

FRANK J. HARTYE, ESQUIRE
McINTYRE, DUGAS, HARTYE & SCHMITT
P.O. BOX 533
HOLLIDAYSBURG, PA 16648-0533
(Counsel for Defendant Shirish N. Shah, M.D.)

LEWIS, LEWIS & REILLY

By:


Frank E. Reilly, Esquire
Counsel for Plaintiffs

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

JUDY PLYLER and DARREL PLYLER,
her husband,

Plaintiffs

vs.

SHIRISH N. SHAH, M.D., individually;
MANJULA S. SHAH, M.D., individually;
and DUBOIS REGIONAL MEDICAL
CENTER, a non-profit corporation,

Defendants

No. 2003 – 616 CD

ISSUE:

**Notice of Service of Interrogatories
Directed to Plaintiffs Dated August
7, 2003 and Request for Production
of Documents Directed to Plaintiffs
Dated August 7, 2003**

Filed on behalf of Defendant,
SHIRISH N. SHAH, M.D.

Counsel of Record for This Party:
Frank J. Hartye, Esquire
FA I.D. 25568

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 7th DAY OF AUGUST,
2003.


Attorneys for Named Defendant

FILED

AUG 13 2003

William A. Shaw
Prothonotary/Clerk of Courts

FRANK J. HARTYE, ESQUIRE
PA I.D.#: 25568
P. O. Box 533
Hollidaysburg, PA 16648-0533
(814) 696-3581

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

JUDY PLYLER and DARREL PLYLER,
her husband,

Plaintiffs,

Vs.

SHIRISH N. SHAH, M.D., individually;
MANJULA S. SHAH, M.D., individually;
and DUBOIS REGIONAL MEDICAL
CENTER, a non-profit corporation,

Defendants.


Counsel for Plaintiffs:

John K. Lewis, Jr., Esquire
Lewis, Lewis & Reilly
1040 Fifth Avenue
Pittsburgh, PA 15219

NOTICE TO PLEAD

TO THE PLAINTIFFS:

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


Attorneys for DuBois Regional Medical
Center, one of the defendants.

CIVIL DIVISION

No. 03-616-CD

Issue No.

**PRELIMINARY OBJECTIONS, BRIEF IN
SUPPORT AND ORDER OF COURT**

Code: 007

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

Counsel of Record for This Party:

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

Thomas B. Anderson, Esquire
PA. I.D. #79990

THOMSON, RHODES & COWIE, P.C.
Firm #720
1010 Two Chatham Center
Pittsburgh, PA 15219

(412) 232-3400

FILED

JUN 13 2003

William A. Shaw
Prothonotary

POS

PRELIMINARY OBJECTIONS

NOW COMES DuBois Regional Medical Center, one of the defendants, by its attorneys, Thomson, Rhodes & Cowie, P.C. and files the following preliminary objections averring as follows:

1. This is a medical malpractice action initiated through the filing of a complaint on April 24, 2003. In their complaint, plaintiffs describe a course of treatment at DuBois Regional Medical Center by the co-defendant doctors and "others" in June of 2002 related to gallbladder surgery. Count III of the complaint alleges negligence on the part of DuBois Regional Medical Center. Count IV of the complaint alleges vicarious liability and corporate liability on the part of DuBois Regional Medical Center.

2. The allegations of negligence on the part of the hospital are as follows:

"30. Defendant Hospital failed or refused to act with reasonable care in the following manner:

- a. The Hospital failed to maintain a safe and adequate facility and equipment;
- b. The Hospital failed to select and retain competent physicians and instead permitted Defendant S. Shah and/or Defendant M. Shah to perform surgery in its operating room;
- c. The Hospital failed to oversee Defendant S. Shah and/or Defendant M. Shah who were practicing surgery or other specialties in this specific instance;
- d. The Hospital failed to provide adequate staff during the treatment and care of Plaintiff Judy Plyler;
- e. The Hospital failed to formulate, adopt and/or enforce adequate rules and policies to ensure the quality care for Plaintiff Judy Plyler;
- f. The Hospital failed to properly credential and/or otherwise oversee the use of surgical techniques;

- g. The Hospital failed to provide adequate procedures ad/or protocols to ensure the information regarding Plaintiff Judy Plyler was properly communicated and/or documented;
- h. The Hospital failed to properly safeguard Plaintiff Judy Plyler from injury during her care.

3. Plaintiffs' complaint does not specifically state that plaintiff is asserting a professional liability claim against this defendant.

4. Pennsylvania Rule of Civil Procedure 1042.2(a) provides that "a complaint shall identify each defendant against whom the plaintiff is asserting a professional liability claim." Rule 1042.2(b) provides that "a defendant may raise by preliminary objections the failure of the complaint to comply with subdivision (a) of this Rule." The note to this section indicates that "the filing of preliminary objections raising the failure of the pleading to conform to the Rule of court is the procedure for bringing before the court the issue of whether the complaint is asserting a professional liability claim."

5. Defendant DuBois Regional Medical Center believes that plaintiffs are asserting a professional liability claim against it. The assertion of a professional liability claim by the plaintiff would trigger other obligations on the part of the plaintiffs under the Pennsylvania Rules of Civil Procedure.

WHEREFORE, defendant seeks an order by the court stating that plaintiffs are asserting a professional liability claim against this defendant and directing plaintiffs to file an amended complaint which complies with the Pennsylvania Rules of Civil Procedure.

A. Motion for more specific pleading.

6. In Count IV of the complaint entitled "*Vicarious Liability and Corporate Liability*," the plaintiff states as follows:

"33. Defendant S. Shah and/or Defendant M. Shah and/or others provided care and treatment to Plaintiff Judy Plyler are agents, employees, servants, offices or directors of the Defendant Hospital, or apparent agents held out as such.

34. At all time relevant hereto, Defendant physicians and/or others were acting in the scope of their employment as agents, servants, or employees of said Defendant Hospital.

35. Defendant Hospital is vicariously liable for the acts, commissions, or omissions of Defendant S. Shah and/or Defendant M. Shah fully as though the aforementioned physician performed the acts or omissions themselves. In the alternative, Defendant Hospital is responsible for the negligent acts or omissions of other physicians who are agents, employees, or servants of Defendant Hospital. [emphasis added]."

7. Nowhere in the complaint do plaintiffs allege the identity of the "others" acting in the course and scope of their employment with the hospital.

8. This defendant is unable to ascertain who the "others" are who were allegedly negligent in the treatment of the plaintiff.

WHEREFORE, defendant respectfully requests this Honorable Court issue an order directing plaintiff to identify all persons believed to be agents, employees, servants, officers or directors of the hospital who plaintiffs claim to have been negligent in the care and treatment of plaintiff Judy Plyler.

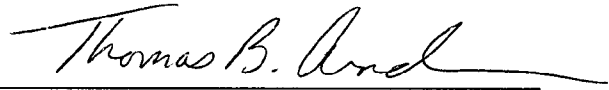
B. Motion to strike.

9. In Paragraph 30(h), it is alleged that the hospital failed to properly safeguard plaintiff July Plyler from injury during her care.

10. This allegation is overly broad and fails to comply with the pleading requirements of Pennsylvania Rule of Civil Procedure 1019(a).

WHEREFORE, defendant respectfully requests that this Honorable Court strike Paragraph 30(h) for failing to comply with Pennsylvania Rule of Civil Procedure 1019(a).

Respectfully submitted,
THOMSON, RHODES & COWIE, P.C.

A handwritten signature in cursive script, reading "Thomas B. Anderson", written in dark ink. The signature is fluid and extends to the right, ending in a long horizontal stroke.

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

Brief

BRIEF IN SUPPORT OF PRELIMINARY OBJECTIONS

I. FACTUAL BACKGROUND

This is a medical malpractice action initiated on behalf of plaintiffs, July Plyler and Darrel Plyler, through the filing of a complaint on April 24, 2003. It is alleged that the defendant physicians, as well as the hospital, were negligent in the treatment of the plaintiff in June of 2002 with respect to a gallbladder surgery. The complaint alleges negligence, vicarious liability and corporate liability on the part of DuBois Regional Medical Center. A copy of the complaint is attached hereto as Exhibit "A" and incorporated herein by referenced. The allegations of negligence against DuBois Regional Medical Center are set forth in Paragraph 30 of the complaint. These allegations provide as follows:

"30. Defendant Hospital failed or refused to act with reasonable care in the following manner:

- a. The Hospital failed to maintain a safe and adequate facility and equipment;
- b. The Hospital failed to select and retain competent physicians and instead permitted Defendant S. Shah and/or Defendant M. Shah to perform surgery in its operating room;
- c. The Hospital failed to oversee Defendant S. Shah and/or Defendant M. Shah who were practicing surgery or other specialties in this specific instance;
- d. The Hospital failed to provide adequate staff during the treatment and care of Plaintiff Judy Plyler;
- e. The Hospital failed to formulate, adopt and/or enforce adequate rules and policies to ensure the quality care for Plaintiff Judy Plyler;
- f. The Hospital failed to properly credential and/or otherwise oversee the use of surgical techniques;

- g. The Hospital failed to provide adequate procedures ad/or protocols to ensure the information regarding Plaintiff Judy Plyler was properly communicated and/or documented;
- h. The Hospital failed to properly safeguard Plaintiff Judy Plyler from injury during her care.

II. ARGUMENT

Plaintiffs do not identify or indicate in their complaint whether this is a professional liability claim against this defendant. The plaintiffs have filed certificates of merit, as are required under the recently adopted Pennsylvania Rules of Civil Procedure, with respect to the defendant physicians. However, no certificate of merit was filed with respect to the defendant hospital.

Pennsylvania Rule of Civil Procedure 1042.2(a) provides that “a complaint shall identify each defendant against whom the plaintiff is asserting a professional liability claim.” Rule 1042.2(b) provides that “a defendant may raise by preliminary objections the failure of the complaint to comply with subdivision (a) of this Rule.” The note to this section indicates that “the filing of preliminary objections raising the failure of the pleading to conform to the Rule of court is the procedure for bringing before the court the issue of whether the complaint is asserting a professional liability claim.”

Defendant DuBois Regional Medical Center is seeking an order of court clarifying that plaintiffs are asserting a professional liability claim against it.

A. Motion for more specific pleading.

In Count IV of the complaint entitled “*Vicarious Liability and Corporate Liability*,” the plaintiff states as follows:

“33. Defendant S. Shah and/or Defendant M. Shah and/or others provided care and treatment to Plaintiff Judy Plyler are agents, employees, servants, offices or directors of the Defendant Hospital, or apparent agents held out as such.

34. At all time relevant hereto, Defendant physicians and/or others were acting in the scope of their employment as agents, servants, or employees of said Defendant Hospital.

35. Defendant Hospital is vicariously liable for the acts, commissions, or omissions of Defendant S. Shah and/or Defendant M. Shah fully as though the aforementioned physician performed the acts or omissions themselves. In the alternative, Defendant Hospital is responsible for the negligent acts or omissions of other physicians who are agents, employees, or servants of Defendant Hospital. [emphasis added].”

Nowhere in the complaint do plaintiffs allege the identity of the “others” acting in the course and scope of their employment with the hospital. This defendant is unable to ascertain who the “others” are who were allegedly negligent in the treatment of the plaintiff.

Pursuant to Pennsylvania Rule of Civil Procedure 1019(a), “the material facts upon which a cause of action or defense is based shall be stated in a concise and summary form.”

Plaintiffs do not identify any of the “others” who were allegedly negligent during the treatment of Judy Plyler while in the course and scope of the employment with DuBois Regional Medical Center. Without the identify of these other individuals, DuBois Regional Medical Center is unable to respond to the allegations set forth in Paragraphs 33 through 35. Accordingly, DuBois Regional Medical Center requests this Honorable Court issue an order directing plaintiff to file an amended complaint specifically identifying all individuals who are alleged to have acted negligently in the treatment of July Plyler.

B. Motion to strike.

In Paragraph 30(h), plaintiff alleges negligence on the part of the hospital in that “the hospital failed to properly safeguard plaintiff July Plyler from injury during her care.”

Pennsylvania Rule of Civil Procedure 1019(a) requires that “material facts on which a cause of action or defense is based shall be stated in concise and summary form.” The averments of a complaint must be sufficient to place the defendant on notice of the exact acts or omissions which are alleged to constitute negligence. The allegations set forth in Paragraph 30(h) of the complaint is conclusory in nature and fail to satisfy plaintiff’s duty to plead all material facts upon which her cause of action is based.

The potential prejudice to a defendant in a medical malpractice action where plaintiff had pleaded in such vague and general terms has been illustrated by the Supreme Court in Connor v. Allegheny General Hospital, 501 Pa. 306, 461 A.2d 600 (1983). In Connor, plaintiffs sought to amend their complaint at time of trial to introduce a theory of negligence not specifically pleaded in their complaint. The issue considered by the court was whether plaintiff’s proposed amended complaint constituted the assertion of a new cause of action which would be barred by the statute of limitations. The court allowed the amendment finding that the new theory of negligence merely constituted an amplification of plaintiffs’ allegation that defendants “otherwise failed (sic) to use due care and caution under the circumstances.” In a footnote to the opinion, it was noted that this general allegation of negligence could have been stricken by the defendants through the filing of preliminary objections, but that having failed to do so, defendants had waived their right to preclude new theories of proof at time of trial:

If appellee did not know how it otherwise fail[ed] to use due care and caution under the circumstances, it could have filed preliminary objections in the nature of a request for a more specific pleading or it could have moved to strike that portion of appellant's complaint. Compare Arner v. Sokol, 373 Pa. 587, 592-93, 967 A.2d 854, 856 (1953), citing King v. Brillhart, 271 Pa. 301, 114 A. 515, 516 (1921). ("[T]he [plaintiff's statement] may not be a statement in a concise and summary form of the material facts upon which the plaintiff relies...; but, if not, it was waived by defendant's affidavit to, and going to trial upon the merits...a defendant may move to strike off an insufficient statement, or, if it is too indefinite, may obtain a rule for one more specific. Failing to do either, he will not be entitled to a compulsory non-suit because of the general character of [plaintiff's] statement.). In this case, however, appellee apparently understood this allegation of appellants' complaint well enough to simply deny it in its answer thus appellee cannot now claim that it was prejudiced by the late amplification of this allegation in appellants' complaint.

Conner, 461 A.2d at 602, FN 3.

The Supreme Court's decision in Connor graphically illustrates that in the presence of such "boiler plate" pleading, a defendant is virtually powerless to restrict a plaintiff's proof at time of trial. The potential prejudice to a defendant is obvious. It is the purpose of Pennsylvania Rule of Civil Procedure 1019(a) to avoid such evidentiary excursions by requiring the plaintiff to specifically plead material facts thereby confining plaintiff's proof at time of trial to the material facts pleaded in the complaint. Absent such specific pleading, it is impossible for a defendant to prepare to meet the plaintiff's proof at time of trial.

For these reasons, it is requested that this Honorable Court strike the allegations set forth in Paragraph 30(h) of the complaint.

III. CONCLUSION

For the reasons set forth above, this defendant respectfully requests that this Honorable Court issue an Order stating that plaintiffs are to file an amended complaint specifically stating that they are asserting a professional liability claim against DuBois Regional Medical Center and shall comply with the Pennsylvania Rules of Civil Procedure with respect to certificates of merit. Plaintiffs should be required to identify all individuals who were allegedly negligent in the treatment of Judy Plyler during her admission to DuBois Regional Medical Center. Furthermore, Paragraph 30(h) of the complaint should be stricken.

Respectfully submitted,
THOMSON, RHODES & COWIE, P.C.



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

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PA

JUDY PLYLER and DARREL PLYLER,
her husband,

Plaintiffs,

vs.

SHIRISH N. SHAH, M.D., individually;
MANJULA S. SHAH, M.D., individually;
and DUBOIS REGIONAL MEDICAL
CENTER, a non-profit corporation,

Defendants.

CIVIL DIVISION

NO.: 03-616-49

COMPLAINT IN CIVIL ACTION

Filed on behalf of the:
PLAINTIFFS

Counsel of Record for this Party:

FRANK E. REILLY, ESQUIRE
PA. I.D. #17378

JOHN K. LEWIS, JR., ESQUIRE
PA. I.D. #83722

LEWIS, LEWIS & REILLY
1040 Fifth Avenue
Pittsburgh, PA 15219
(412) 391-0818

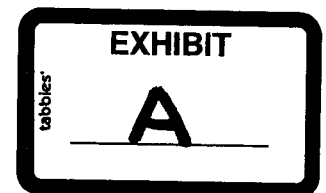
JURY TRIAL DEMANDED

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

APR 24 2003

Attest.

William E. Shaw
Prothonotary/
Clerk of Courts



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

JUDY PLYLER and DARREL PLYLER,
her husband,

Plaintiffs,

vs.

SHIRISH N. SHAH, M.D., individually;
MANJULA S. SHAH, M.D., individually;
and DUBOIS REGIONAL MEDICAL
CENTER, a non-profit corporation,

Defendants.

NO.:

Jury Trial Demanded

COMPLAINT IN CIVIL ACTION

NOTICE TO DEFEND

You have been sued in court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this complaint and notice are served, by entering a written appearance personally or by an attorney and filing in writing with the court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you by the court without further notice for any money claimed in the complaint or for any other claim or relief requested by the plaintiff. You may lose money or property or other rights important to you.

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

DAVID S. MEHOLICK, COURT ADMINISTRATOR
CLEARFIELD COUNTY COURTHOUSE
230 E. MARKET STREET
CLEARFIELD, PA 16830

TELEPHONE NO.: (814) 765-2641, EXT. 5982

JUDY PLYLER and DARREL PLYLER,)
her husband,)

vs.

NO.:

SHIRISH N. SHAH, M.D., individually;
MANJULA S. SHAH, M.D., individually;
and DUBOIS REGIONAL MEDICAL
CENTER, a non-profit corporation,

Defendants.

AND NOW, come the Plaintiffs, Judy Plyler and Darrel Plyler, her husband, by and through their counsel, Frank E. Reilly, Esquire, John K. Lewis, Jr., Esquire and the law firm of Lewis, Lewis & Reilly, and file the within Complaint in Civil Action, and in support thereof, aver as follows:

- 1

4. Defendant Manjula S. Shah, M.D., hereinafter referred to as "M. Shah", is an adult individual and at all times material hereto, a duly licensed and practicing physician, practicing at 629 S. Main Street, Dubois, Clearfield County, Pennsylvania 15801. Plaintiff is asserting a professional liability claim against this Defendant.
5. Defendant Dubois Regional Medical Center, hereinafter referred to as "Hospital," is a corporation, licensed and functioning as a health care facility at 100 Hospital Avenue, Clearfield County, Pennsylvania 15801.
6. At all times material hereto, Plaintiff Judy Plyler was under the treatment, care and attendance of the Defendants individually, jointly, and/or severally, through their agents, servants and employees, who were acting within the course and scope of their agency or employment, and under control or right of control of Defendants.
7. At all times relevant hereto, Defendants S. Shah and M. Shah were the actual or apparent agents of Defendant Hospital.
8. In the Spring of 2002, Plaintiff Judy Plyler was experiencing right upper quadrant pain, discomfort, distress, gas, heartburn and nausea. As a result of these problems, Plaintiff Judy Plyler was provided medical treatment by the Defendants.
9. In late May of 2002, Defendant S. Shah diagnosed Plaintiff Judy Plyler as having chronic cholecystitis with cystic duct syndrome and advised surgery.
10. On or about June 11, 2002, Defendants S. Shah and M. Shah proceeded with a laparoscopic cholecystectomy to remove the Plaintiff Judy Plyler's gallbladder. This surgery was performed at Defendant Hospital.

11. At all times pertinent hereto the Defendant Hospital acted through its servants, employees, agent and workmen who were acting within the scope of their employment, servanthship and agency.
12. On or about June 12, 2002 Plaintiff Judy Plyler was discharged from Defendant Hospital.
13. Shortly after returning home, Plaintiff Judy Plyler became very sick and did not believe she was healing properly, so on or about June 17, 2002 she returned to see Defendant S. Shah.
14. On June 17, 2002 Defendant S. Shah requested that Plaintiff Judy Plyler be transferred to Allegheny General Hospital. Defendant S. Shah and/or Defendant M. Shah were concerned he/or she might have accidentally put a clamp on Plaintiff Judy Plyler's common bile duct or torn the common bile duct causing a bile leakage.
15. At Allegheny General Hospital a CT scan of the abdomen demonstrated a large biloma, which was subsequently drained per cutaneously. A percutaneous transhepatic biliary (PTC) catheter was then placed into the right hepatic duct. Cholangiography via PTC catheter demonstrated injury to the common hepatic duct.
16. On June 19, 2002 operative intervention was performed. The operative repair consisted of roux-en-y hepaticojejunostomy performed to Plaintiff Judy Plyler's left hepatic duct, right hepatic duct and right sectoral duct.
17. On June 28, 2002, Plaintiff Judy Plyler was discharged from Allegheny General Hospital and she began the long and painful process of recuperation.

18. At all times relevant to this Complaint, the Defendants S. Shah and M. Shah professed to the Plaintiff Judy Plyler and the general public that they possessed such high skill, training and judgment as was sufficient for pure certification in the practice of surgery and did maintain privileges in the Department of Medicine at Defendant Hospital for the purpose of practicing surgery within its certified speciality.

COUNT I
JUDY PLYLER V. DEFENDANT S. SHAH, M.D.

19. Paragraphs one through eighteen (1 - 18) are incorporated herein as though the same were set forth at length.
20. Defendant S. Shah holds himself to be a health care provider who possesses knowledge and skill in his specialty, and holds himself out to the public as being so qualified.
21. Defendant S. Shah failed to exercise the judgment of a reasonable health care provider under the circumstances as follows:
- a. Failure to possess the degree of care and skill ordinarily exercised in similar cases by other physicians;
 - b. Failure to utilize the proper operative technique, more specifically, a misplaced reliance on laparoscopic technique;
 - c. Injuring Plaintiff Judy Plyler's common hepatic duct during surgery;
 - d. Failure to take any surgical corrective action under the circumstances.
22. As a direct and proximate cause result of the conduct set forth, Plaintiff Judy Plyler suffered as follows:

- a. Plaintiff Judy Plyler experienced a long period of pain and suffering;
 - b. Additional surgeries.
23. As a direct and proximate cause result of the conduct set forth, Plaintiff Judy Plyler suffered as follows:
- a. Pain, suffering and inconvenience;
 - b. Emotional upheaval;
 - c. Medical expenses;
 - d. Loss of enjoyment of life;
 - e. Permanent disfigurement;
 - f. Embarrassment and humiliation;
 - g. Permanent loss of vitality.

WHEREFORE, Plaintiff demands judgment against Defendant S. Shah in an amount in excess of the Arbitration limits of the Court of Common Pleas of Clearfield County, Pennsylvania

COUNT II
JUDY PLYLER V. DEFENDANT M. SHAH, M.D.

24. Paragraphs one through twenty-three (1 - 23) are incorporated herein as though the same were set forth at length.
25. Defendant M. Shah holds herself to be a health care provider who possesses knowledge and skill in her specialty, and holds herself out to the public as being so qualified.

26. Defendant M. Shah failed to exercise the judgement of a reasonable health care provider under the circumstances as follows:
- a. Failure to possess the degree of care and skill ordinarily exercised in similar cases by other physicians;
 - b. Failure to utilize the proper operative technique, more specifically, a misplaced reliance on laparoscopic technique;
 - c. Injuring Plaintiff Judy Plyler's common hepatic duct during surgery;
 - d. Failure to take any surgical corrective action under the circumstances.
27. As a direct and proximate cause result of the conduct set forth, Plaintiff Judy Plyler suffered as follows:
- a. Plaintiff Judy Plyler experienced a long period of pain and suffering;
 - b. Additional surgeries.
28. As a direct and proximate cause result of the conduct set forth, Plaintiff Judy Plyler suffered as follows:
- a. Pain, suffering and inconvenience;
 - b. Emotional upheaval;
 - c. Medical expenses;
 - d. Loss of enjoyment of life;
 - e. Permanent disfigurement;
 - f. Embarrassment and humiliation;
 - g. Permanent loss of vitality.

WHEREFORE, Plaintiff demands judgment against Defendant M. Shah in an amount in excess of the Arbitration limits of the Court of Common Pleas of Clearfield County, Pennsylvania.

COUNT III
JUDY PLYLER V. DEFENDANT DUBOIS MEDICAL CENTER
NEGLIGENCE

29. Paragraphs one through twenty-eight (1 - 28) are incorporated herein as though the same were set forth at length.
30. Defendant Hospital failed or refused to act with reasonable care in the following manner:
- a. The Hospital failed to maintain a safe and adequate facility and equipment;
 - b. The Hospital failed to select and retain competent physicians and instead permitted Defendant S. Shah and/or Defendant M. Shah to perform surgery in its operating room;
 - c. The Hospital failed to oversee Defendant S. Shah and/or Defendant M. Shah who were practicing surgery or other specialties in this specific instance;
 - d. The Hospital failed to provide adequate staff during the treatment and care of Plaintiff Judy Plyler;
 - e. The Hospital failed to formulate, adopt and/or enforce adequate rules and policies to ensure the quality care for Plaintiff Judy Plyler;
 - f. The Hospital failed to properly credential and/or otherwise oversee the use of surgical techniques;
 - g. The Hospital failed to provide adequate procedures and/or protocols to ensure the information regarding Plaintiff Judy Plyler was properly communicated and/or documented;
 - h. The Hospital failed to properly safeguard Plaintiff Judy Plyler from injury during her care.
31. As a direct and proximate cause result of the conduct set forth, Plaintiff has suffered the following:

- a. Plaintiff Judy Plyler was the victim of a long period of pain and suffering;
- b. Additional surgeries.

WHEREFORE, Plaintiff demands damages against Defendant Hospital in an amount in excess of the Arbitration limits of the Court of Common Pleas of Clearfield County, Pennsylvania.

COUNT IV
JUDY PLYLER V. DEFENDANT DUBOIS MEDICAL CENTER
VICARIOUS LIABILITY AND CORPORATE LIABILITY

- 32. Paragraphs one through thirty-one (1 - 31) are incorporated herein as though the same were set forth at length.
- 33. Defendants S. Shah and/or Defendant M. Shah and/or others provided care and treatment to Plaintiff Judy Plyler are agents, employees, servants, officers or directors of the Defendant Hospital, or apparent agents held out as such.
- 34. At all times relevant hereto, Defendant physicians and/or others were acting in the scope of their employment as agents, servants, or employees of said Defendant Hospital.
- 35. Defendant Hospital is vicariously liable for the acts, commissions, or omissions of Defendant S. Shah and/or Defendant M. Shah fully as though the aforementioned physician performed the acts or omissions themselves. In the alternative, Defendant Hospital is responsible for the negligent acts or omissions of other physicians who are agents, employees, or servants of Defendant Hospital.
- 36. Defendant Hospital is liable to the acts as aforesaid as a matter of corporate liability.
- 37. As a direct and proximate result of the conduct set forth, Plaintiff has suffered as follows:

- a. Plaintiff Judy Plyler was the victim of a long period of pain and suffering;
- b. Additional surgeries.

WHEREFORE, Plaintiff demands damages against all Defendants, jointly, severally, in an amount in excess of the Arbitration limits of the Court of Common Pleas of Clearfield County, Pennsylvania.

COUNT V
DARREL PLYLER V. DEFENDANTS

- 38. Paragraph one through thirty-seven (1 - 37) are incorporated herein as though the same were set forth at length.
- 39. By reason of the aforesaid conduct of the Defendants, Plaintiff-husband Darrel Plyler has sustained damages to his marital relationship, including but not limited to the loss of his wife's society, comfort and attention, all of which has caused him to suffer great loss and emotional distress.

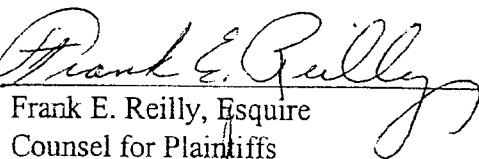
WHEREFORE, Plaintiff demands damages against all Defendants, jointly, severally, in an amount in excess of the Arbitration limits of the Court of Common Pleas of Clearfield County, Pennsylvania.

JURY TRIAL DEMANDED.

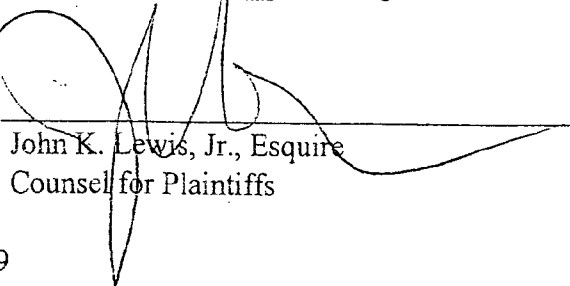
Respectfully submitted,

LEWIS, LEWIS & REILLY

By:


Frank E. Reilly, Esquire
Counsel for Plaintiffs

By:


John K. Lewis, Jr., Esquire
Counsel for Plaintiffs

VERIFICATION

I verify that the statements and averments made in the foregoing **Complaint In Civil Action** are true and correct. I understand that false statements herein are made subject to the penalties of 18 PA C.S. §4904 relating to unsworn falsification to authorities.

x Judy Plyler
JUDY PLYLER

Dated: 2-21-03

CERTIFICATE OF MERIT

The undersigned does hereby certify that an appropriate licensed professional has supplied him with a written statement that there exists a reasonable probability that the care, skill or knowledge exercised or exhibited by Manjula S. Shah, M.D. in the treatment of Judy Plyler, that is the subject of this Complaint, fell outside acceptable professional standards and that such conduct was a cause in bringing about the harm to her.

LEWIS, LEWIS & REILLY

By: 

J. Kerrington Lewis, Esquire
Counsel for Plaintiffs

CERTIFICATE OF MERIT

The undersigned does hereby certify that an appropriate licensed professional has supplied him with a written statement that there exists a reasonable probability that the care, skill or knowledge exercised or exhibited by Shirish N. Shah, M.D. in the treatment of Judy Plyler, that is the subject of this Complaint, fell outside acceptable professional standards and that such conduct was a cause in bringing about the harm to her.

LEWIS, LEWIS & REILLY

By: _____

J. Kerrington Lewis, Esquire
Counsel for Plaintiffs

Order

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

JUDY PLYLER and DARREL PLYLER,)	CIVIL DIVISION
her husband,)	
)	No. 03-616-CD
Plaintiffs,)	
)	Issue No.
Vs.)	
)	Code: 007
SHIRISH N. SHAH, M.D., individually;)	
MANJULA S. SHAH, M.D., individually;)	
and DUBOIS REGIONAL MEDICAL)	
CENTER, a non-profit corporation,)	
)	
Defendants.)	

ORDER OF COURT

AND NOW on this _____ day of _____, 2003, it is hereby ORDERED, ADJUDGED and DECREED defendant DuBois Regional Medical Center's preliminary objections are SUSTAINED. Plaintiffs are to file an amended complaint specifically stating that they are asserting a professional liability claim against DuBois Regional Medical Center and shall comply with the Pennsylvania Rules of Civil Procedure with respect to certificates of merit. Plaintiffs shall also identify all individuals who were allegedly negligent in the treatment of Judy Plyler during her admission to DuBois Regional Medical Center. Furthermore, Paragraph 30(h) of the complaint is stricken.

BY THE COURT:

J.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

JUDY PLYLER and DARREL PLYLER,
her husband,

Plaintiffs,

Vs.

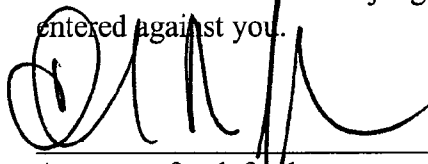
SHIRISH N. SHAH, M.D., individually;
MANJULA S. SHAH, M.D., individually;
and DUBOIS REGIONAL MEDICAL
CENTER, a non-profit corporation,

Defendants.

NOTICE TO PLEAD:

To: Plaintiffs

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


Attorneys for defendant.

CIVIL DIVISION

No. 03-616-CD

Issue No.

ANSWER AND NEW MATTER

Code: 007

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

Counsel of Record for This Party:

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

Thomas B. Anderson, Esquire
PA. I.D. #79990

THOMSON, RHODES & COWIE, P.C.
Firm #720
1010 Two Chatham Center
Pittsburgh, PA 15219

(412) 232-3400

FILED

SEP 17 2003

m/12:20/MS
William A. Shaw

Prothonotary/Clerk of Courts

NO CERT COPIES



ANSWER AND NEW MATTER

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

ANSWER

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

knowledge to form a belief as to the truth of the averments therein: 1, 2, 11 through 13, 16 through 21 of the amended complaint.

5. The following paragraphs of the amended complaint refer solely to other defendants for which reason no response is required: 3, 4, 23, 28.

6. Paragraph 5 of the amended complaint is denied as stated. To the contrary, defendant is a non-profit healthcare institution located at the address specified in the amended complaint.

7. Paragraphs 6 and 7 of the amended complaint are denied because, as written, they are incomprehensible. Neither any medical director nor any hospital administrator are named as defendants in the amended complaint for which reason defendant does not understand the allegations. Further, the allegations of Paragraphs 6 and 7 of the amended complaint do not describe with any degree of accuracy the duties of the persons referenced therein.

8. Paragraph 8 of the amended complaint is admitted insofar as it claims that plaintiff is asserting a professional liability claim against defendant hospital. Paragraph 8 of the amended complaint is denied to the extent that it states, suggests or implies that any claim being asserted against the hospital has any merit whatsoever.

9. Paragraphs 9 and 14 of the amended complaint are denied for the reason that, after a reasonable investigation, this defendant has insufficient information or knowledge to form a belief as to the truth of the averments therein, because the identify of the alleged agents, servants and/or employees of this defendant is not specified or disclosed.

10. Defendants S. Shah and M. Shah were neither actual nor apparent agents, servants or employees of the hospital, for which reason the allegations of agency set forth in Paragraph 10 of the amended complaint is denied.

11. Paragraph 15 of the amended complaint is admitted.

12. Paragraphs 22, 27, 32, 35 and 41 of the amended complaint solely incorporate by reference other paragraphs, for which no separate response is required. However, to the extent that any additional response is deemed necessary, defendant incorporates by reference its answers to those paragraphs which have been incorporated by the plaintiffs.

13. Paragraphs 24 (including sub-paragraphs (a) through (d)), 25 (including sub-paragraphs (a) through (b)), 26 (including sub-paragraphs (a) through (g)), 29 (including sub-paragraphs (a) through (d)), 30 (including sub-paragraphs (a) through (b)), and 31 (including sub-paragraphs (a) through (g)) all set forth conclusions of law to which no further response is required. However, to the extent that any response is

deemed necessary, each of these paragraphs and sub-paragraphs is denied for the reason that, after a reasonable investigation, defendant has insufficient information or knowledge to form a belief as to the truth of the averments therein.

14. Paragraphs 33 (including sub-paragraphs (a) through (g)), 34 (including sub-paragraphs (a) through (b)), 38, 39, 40 (including sub-paragraphs (a) through (b)), and 42 of the amended complaint constitute conclusions of law to which no further response is required. However, if any response is deemed necessary, these paragraphs and sub-paragraphs are denied.

15. Paragraph 36 of the amended complaint is denied. It is denied that either the medical director or the hospital administrator provided any care or treatment to the plaintiff. The allegations regarding agents, employees, servants, officers and directors are denied for the reason that no such individuals are identified by name and, after reasonable investigation, defendant has insufficient information or knowledge to form a belief as to the truth of the averments therein. The agency of co-defendants is denied because they were not agents, servants, employees of the hospital.

16. Paragraph 37 of the amended complaint is denied. The agency of co-defendants is denied because they were not agents of the hospital. Allegations to the effect that the administrator and the medical director were acting within the scope of their employment are denied because after a reasonable investigation, defendant has

insufficient information or knowledge to form a belief as to the truth of this averment, given the vagueness of the allegations in the amended complaint.

17. Paragraph 38 of the amended complaint sets forth a conclusion of law to which no further response is required. However, to the extent that any response is deemed necessary, Paragraph 38 of the complaint is denied. Neither S. Shah nor M. Shah were agents, servants or employees of this defendant and this defendant cannot be liable for either S. Shah or M. Shah on the basis of vicarious liability. With regard to any allegations regarding the medical administrator and hospital administrator, any claims set forth in the complaint are so non-specific that defendant has insufficient information or knowledge to form a belief as to the truth of the claims and, therefore, denies same in their entirety.

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

NEW MATTER

18. In the absence of a special contract in writing, a healthcare provider is neither a warrantor nor a guarantor of a cure. This provision is pleaded as an affirmative defense insofar as there was no special contract in writing in this case.

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

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

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

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

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

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

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

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

27. To the extent plaintiffs base their claim in whole or in part on any act occurring more than two years prior to the filing of the lawsuit, the claims are barred by the applicable statute of limitations, which is pleaded as an affirmative defense.

28. Defendant pleads all applicable statutes of limitations as affirmative defenses.

29. If and to the extent that plaintiffs' claims were not filed within the time limitations imposed by law, said lawsuit is barred by the applicable statutes of limitations.

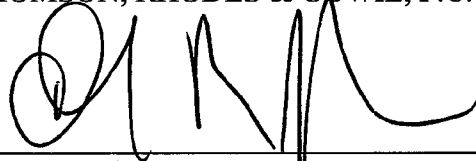
30. Any claims of corporate liability have not been supported by a certificate of merit and should be dismissed.

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

JURY TRIAL DEMANDED.

Respectfully submitted,

THOMSON, RHODES & COWIE, P.C.

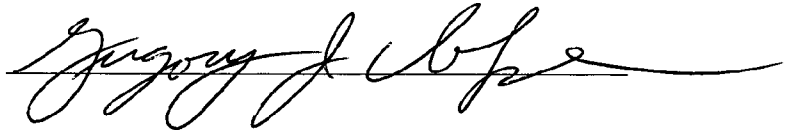
A handwritten signature in black ink, appearing to read 'DRJ', written over a horizontal line.

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

VERIFICATION

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

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



Date: 9-11-03

CERTIFICATION OF SERVICE

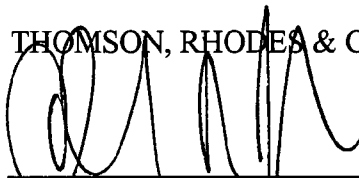
I hereby certify that a true and correct copy of the within ANSWER AND NEW
MATTER has been served upon the following counsel of record and same placed in the
U.S. Mails on this 15th day of Sept., 2003:

Frank E. Reilly, Esquire
Lewis, Lewis & Reilly
1040 Fifth Avenue
Pittsburgh, PA 15219

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

Francis Garger, Esquire
Davies, McFarland & Carroll, P.C.
One Gateway Center, 10th Floor
Pittsburgh, PA 15222-1416

THOMSON, RHODES & COWIE, P.C.



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

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

JUDY PLYLER and DARREL PLYLER,) CIVIL DIVISION
her husband,)
)
Plaintiffs,)
) NO.: 2003-616 CD
vs.)
)
SHIRISH N. SHAH, M.D., individually;)
MANJULA S. SHAH, M.D., individually;)
And DUBOIS REGIONAL MEDICAL)
CENTER, a non-profit corporation,)
)
Defendants.)
)

FILED

SEP 24 2003
m 12:05 PM
William A. Shaw
Prothonotary/Clerk of Courts
no c/c
KJH

ANSWER AND NEW MATTER

AND NOW comes the Defendant, MANJULA S. SHAH, M.D., by her attorneys, Davies
McFarland & Carroll, P.C., and files the following Answer and New Matter to Plaintiffs'

Complaint:

1-2. The averments of Paragraphs 1 and 2 are denied because this Defendant, after
reasonable investigation is without sufficient knowledge or information to form a belief as the
current residence of the Plaintiffs.

3. This Defendant declines to plead to the averments contained in Paragraph 3 as
they pertain to another defendant.

4. The averments of Paragraph 4 are admitted.

5. This Defendant declines to plead to the averments contained in Paragraph 5 as
they pertain to another defendant.

6. The averments of Paragraph 6 are denied to the extent that they may tend to
suggest or imply that Defendant, Manjula S. Shah, M.D., functioned as wife-Plaintiff's surgeon

or that she performed surgery upon wife-Plaintiff and, on the contrary, it is averred this Defendant did not perform surgery, but only provided assistance under the direction of Defendant S. Shah, M.D., by passing and/or holding instruments and providing retraction of the gall bladder. The remaining averments of Paragraph 6 which refer to unspecified agents, servants and/or employees is denied because this Defendant, after reasonable investigation, is without sufficient knowledge or information to form a belief as to the identity of these unspecified agents, servants and/or employees and therefore cannot form a belief as to their alleged agency, servitude and/or employment.

7. The averments of Paragraph 7 are conclusions of law to which no response is required.

8-9. The averments of Paragraphs 8 and 9 are denied to the extent that any of the averments are not consistent with or do not otherwise conform to the medical records of Plaintiff, Judy Plyler, in which case they are generally denied in accordance with the provisions of Pa.R.C.P. 1029(e).

10. The averments of Paragraph 10 are denied to the extent they may tend to suggest or imply that Defendant Manjula S. Shah functioned as a surgeon in this matter performing a laparoscopic cholecystectomy and, on the contrary, it is averred this Defendant is not a surgeon and was not involved in performing the surgery, but only provided assistance under the direction of the Defendant S. Shah, M.D. by passing and/or holding instruments and providing retraction of the gall bladder.

11. This Defendant declines to plead to the averments contained in Paragraph 11 as they pertain to another Defendant.

12-13. The averments of Paragraphs 12 and 13 are denied to the extent that those averments do not conform to or are otherwise corroborated by the medical records of Plaintiff,

Judy Plyler, in which case they are generally denied in accordance with the provisions of Pa.R.C.P. 1029(e).

14. The averments of Paragraph 14 are denied to the extent that they may tend to suggest or imply that Defendant Manjula Shah, M.D. at any time placed clamps during the course of wife-Plaintiff's surgery or that anything she did caused or contributed to a tear of the common bowel duct resulting in bowel leakage and, on the contrary, it is averred that this Defendant is not a surgeon and was not involved in performing the surgery, but only provided assistance under the direction of Defendant S. Shah, M.D., by passing and/or holding instruments and providing retraction of the gall bladder.

15-17. The averments contained in Paragraphs 15, 16 and 17 are denied to the extent that they do not otherwise conform to or are corroborated by the medical records of Plaintiff, Judy Plyler, in which case they are generally denied in accordance with the provisions of Pa.R.C.Pa. 1029(e).

18. The averments of Paragraph 18 are denied and they are specifically denied to the extent that they may tend to suggest or imply that Defendant Manjula Shah, M.D., ever professed to be skilled in the performance of surgery, or that she ever practiced surgery and, on the contrary, it is averred that Defendant Manjula Shah, M.D., did not perform surgery upon wife-Plaintiff, but only provided assistance under the direction of Defendant S. Shah, M.D., by passing and/or holding instruments and providing retraction of the gall bladder.

COUNT I

19. In response to Paragraph 19, this Defendant incorporates her responses to Paragraphs 1 through 18 above as though same were set forth at length herein.

20-23. This Defendant This Defendant declines to plead the averments contained in Paragraphs 20, 21, 22, and 23, as they pertain to another Defendant.

WHEREFORE, the Defendant, Manjula Shah, M.D., M.D., denies she is indebted to Plaintiffs for any sum whatsoever and demands judgment on her behalf.

JURY TRIAL DEMANDED.

COUNT II

24. In response to Paragraph 24, this Defendant incorporates her responses to Paragraphs 1 through 23 above as though same were set forth at length herein.

25. The averments of Paragraph 25 are denied to the extent that they may tend to suggest or imply that this Defendant had ever held herself out to be a health care provider who possesses knowledge and skill in the field of surgery and, on the contrary, Defendant Manjula Shah, M.D., is a general practitioner who at the time of wife-Plaintiff's surgery merely provided assistance under the direction of Defendant S. Shah, M.D., by passing and/or holding instruments and providing retraction of the gall bladder.

26. The averments of Paragraph 26 and the subparagraphs therein are denied to the extent that they may tend to suggest or imply that this Defendant performed surgery upon wife-Plaintiff or that she was called upon to make any judgments regarding wife-Plaintiff surgery and, on the contrary, it is averred that this Defendant did not perform the surgery upon wife-Plaintiff, but merely provided assistance under the direction of Defendant S. Shah, M.D., by passing and/or holding instruments and providing retraction of the gall bladder. It is further specifically denied this Defendant injured Judy Plyler's hepatic duct during surgery or that it was her duty or role to perform surgical corrective action under any circumstance and, on the contrary, it is averred that this Defendant merely acted as an assistant to Defendant S. Shah, M.D., who performed surgery in this instance.

27-28. The averments of Paragraphs 27 and 28 contain conclusions of law to which no response is required. To the extent that any of the averments contained in Paragraphs 27 and 28

of Plaintiffs' Complaint are factual in nature, then they are generally denied in accordance with the provisions of Pa.R.C.P. 1029(e).

WHEREFORE, the Defendant, Manjula Shah, M.D., denies she is indebted to Plaintiffs for any sum whatsoever and demands judgment on her behalf.

JURY TRIAL DEMANDED.

COUNT III

29. In response to Paragraph 29, this Defendant incorporates her responses to Paragraphs 1 through 28 above as though same were set forth at length herein.

30-31. This Defendant declines to plead to the averments contained in Paragraphs 30 and 31 as they pertain to another Defendant.

WHEREFORE, the Defendant, Manjula Shah, M.D., denies she is indebted to Plaintiffs for any sum whatsoever and demands judgment on her behalf.

JURY TRIAL DEMANDED.

COUNT IV

32. In response to Paragraph 32, this Defendant incorporates her responses to Paragraphs 1 through 31 above as though same were set forth at length herein.

33-37. This Defendant declines to plead to the averments contained in Paragraphs 33, 34, 35, 36 and 37 as they pertain to another Defendant.

WHEREFORE, the Defendant, Manjula Shah, M.D., denies she is indebted to Plaintiffs for any sum whatsoever and demands judgment on her behalf.

JURY TRIAL DEMANDED.

COUNT V

38. In response to Paragraph 38, this Defendant incorporates her responses to Paragraphs 1 through 37 above as though same were set forth at length herein.

39. The averments of Paragraph 39 are generally denied in accordance with the provisions of Pa.R.C.P. 1029(e).

WHEREFORE, the Defendant, Manjula Shah, M.D., denies she is indebted to Plaintiffs for any sum whatsoever and demands judgment on her behalf.

JURY TRIAL DEMANDED.

NEW MATTER

1. Paragraphs 1 through 39 of Defendant, Manjula Shah, M.D., 's Answer to Plaintiffs' Complaint are incorporated herein by reference as if same were set forth at length.

2. Plaintiffs' Complaint fails to state a claim upon which relief may be granted this Defendant, Manjula Shah, M.D.

3. As discovery continues, this Defendant reserves the right to claim wife-Plaintiff's comparative negligence and/or contributory negligence as a complete and/or partial defense to the entirety of Plaintiffs' Complaint.

4. Plaintiffs' claims are barred, in whole or in part, by the applicable statute of limitations.

5. The damages and injuries allegedly sustained by the Plaintiffs were not proximately caused by Defendant, Manjula Shah, M.D.

6. If wife-Plaintiff sustained any injuries and damages, said injuries and damages were solely and exclusively caused by circumstances over which this Defendant did not have any control and/or responsibility and/or by supervening and intervening independent causes over which this Defendant did not have any control.

7. Defendant is entitled to assert all defenses and limitation on damages which are available to her under the Pennsylvania Health Care Services Malpractice Act, 40 P.S. §1301-101, *et seq.*

8. This Defendant pleads any and all applicable sections and defenses set forth in House Bill No. 1802 known as the Medical Care Availability and Reduction of Error Act.

9. In the event it is determined that wife Plaintiff failed to obtain a required Certificate of Merit, this Defendant requests dismissal of this Complaint.

10. This Defendant pleads the Health Care Services Malpractice Act and certifies that she was not involved in the specific aspect and/or activity which forms the basis of Plaintiffs' Complaint, to wit: the performance of surgery, and should therefore be dismissed in accordance with the provisions of this Act.

11. This Defendant hereby gives notice that she intends to rely upon such other and further affirmative defenses as may become available and apparent in discovery in this matter.

WHEREFORE, Defendant, Manjula Shah, M.D., denies that she is indebted to Plaintiffs for any sum whatsoever and demands judgment in her behalf.

JURY TRIAL DEMANDED.

DAVIES, McFARLAND & CARROLL, P.C.

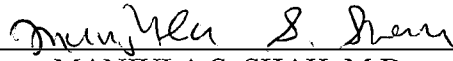
By: 

Francis Garger, Esquire
Attorneys for Defendants, Manjula
Shah, M.D.

VERIFICATION

I, MANJULA S. SHAH, M.D, have read the foregoing *ANSWER AND NEW MATTER TO PLAINTIFF'S COMPLAINT*. The statements therein are correct to the best of my personal knowledge or information and belief.

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



MANJULA S. SHAH, M.D

DATE: Sept. 12-2003

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that I served the foregoing document to all counsel of record in the following manner on the 22 day of September, 2003:

Via Facsimile	_____
Via Hand Delivery	_____
Via First Class U.S. Mail	<u>X</u>
Via Certified Mail/	_____
Return Receipt Requested	_____
Via Overnight Mail	_____

Frank E. Reilly, Esquire
Lewis, Lewis & Reilly
1040 Fifth Avenue
Pittsburgh, PA 15219

Attorney for Plaintiffs

412-391-0818
412-391-8144 Fax

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

Attorneys for Shirish N. Shah, M.D.

814-696-3581
814-696-9399 Fax

David R. Johnson, Esquire
Thomson, Rhodes & Cowie, P.C.
Two Chatham Center, 10th Floor
Pittsburgh, PA 15219-3499

Attorneys for Dubois Regional Medical
Center

DAVIES, McFARLAND & CARROLL, P.C.

By: _____

Francis Garger, Esquire
Attorneys for Defendant, Manjula S.
Shah, M.D.

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

JUDY PLYLER and DARREL PLYLER,
her husband,

Plaintiffs

vs.

SHIRISH N. SHAH, M.D., individually;
MANJULA S. SHAH, M.D., individually;
and DUBOIS REGIONAL MEDICAL
CENTER, a non-profit corporation,

Defendants

No. 2003 – 616 CD

ISSUE:

NOTICE OF SERVICE OF ANSWERS
TO INTERROGATORIES DIRECTED
TO DEFENDANT SHIRISH N. SHAH,
M.D.

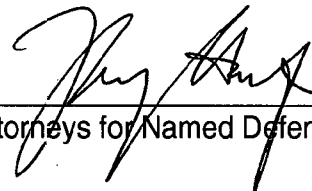
Filed on behalf of Defendant,
SHIRISH N. SHAH, M.D.

Counsel of Record for This Party:
Frank J. Hartye, Esquire
PA J.D. 25568

McINTYRE, DUGAS, HARTYE &
SCHMITT
P.O. Box 533
Holidaysburg, 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 17TH DAY OF NOVEMBER,
2003.


Attorneys for Named Defendant

FILED

NOV 18 2003

William A. Shaw
Prothonotary/Clerk of Courts

JUDY PLYLER and DARREL PLYLER,
her husband,

VS.

Defendants

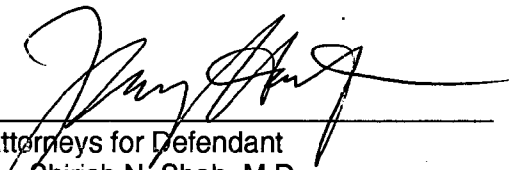
No. 2003 – 616 CD

JURY TRIAL DEMANDED

TO: PROTHONOTARY

Frank E. Reilly, Esquire
Lewis, Lewis & Reilly
1040 Fifth Avenue
Pittsburgh, PA 15219

McINTYRE, DUGAS, HARTYE & SCHMITT

By 
Attorneys for Defendant
Shirish N. Shah, M.D.

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

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

JUDY PLYLER and DARREL PLYLER,
her husband,

Plaintiffs,

vs.

SHIRISH N. SHAH, M.D., individually;
MANJULA S. SHAH, M.D., individually;
and DUBOIS REGIONAL MEDICAL
CENTER, a non-profit corporation,

Defendants.

CIVIL DIVISION

NO.: 2003-616 CD

NOTICE OF DEPOSITION OF
MANJULA S. SHAH, M.D.

Filed on Behalf of:
Plaintiffs

Counsel of Record for This Party:

J. Kerrington Lewis, Esquire
PA I.D.# 15575

Frank E. Reilly, Esquire
PA I.D.# 17378

LEWIS LEWIS & REILLY, P.C.
1040 Fifth Avenue
Pittsburgh, PA 15219

(412) 391-0818
(412) 391-8144 FAX

JURY TRIAL DEMANDED

FILED

NOV 21 2003

11:30/ma
William A. Shaw
Prothonotary

NO CERT COPY

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

**JUDY PLYLER and DARREL PLYLER,
her husband,**

Plaintiffs,

vs.

**SHIRISH N. SHAH, M.D., individually;
MANJULA S. SHAH, M.D., individually;
and DUBOIS REGIONAL MEDICAL
CENTER, a non-profit corporation,**

Defendants.

CIVIL DIVISION

NO.: 2003-616 CD

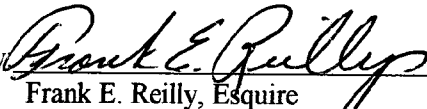
NOTICE OF DEPOSITION OF MANJULA N. SHAH, M.D.

**TO: Frank J. Hartye, Esquire
McIntyre, Dugas, Hartye & Schmitt
P.O. Box 533
Hollidaysburg, PA 16648-0533**

PLEASE TAKE NOTICE that on **Monday, December 1, 2003 at 3:30 p.m.** the oral deposition of Defendant Manjula S. Shah, M.D. will be taken at the office of **Sargent's Court Reporting Services, Inc., 106 N. 2nd Street, Clearfield, PA 16830** upon oral examination pursuant to the Pennsylvania Rules of Civil Procedure before a Notary Public or some other officer authorized by the law to administer oaths. The oral deposition will continue from day to day until completed.

Respectfully Submitted,

LEWIS LEWIS & REILLY, P.C.

By 
Frank E. Reilly, Esquire
Counsel for Plaintiffs

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the within **Notice of Deposition of Manjula N. Shah, M.D.** has been served on this 19th day of November, 2003, upon all parties, either individually or through counsel, by:

_____ Hand-Delivery

X *First-Class Mail, Postage Pre-Paid*

_____ Certified Mail-Return Receipt Requested

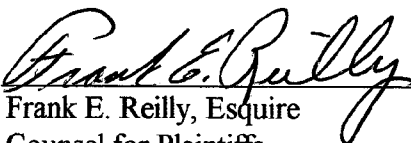
_____ Facsimile Transmission

at the following address:

**DAVID R. JOHNSON, ESQUIRE
THOMPSON, RHODES & COWIE, P.C.
TWO CHATHAM CENTER, 10TH FLOOR
PITTSBURGH, PA 15219-3499**

**FRANCIS GARGER, ESQUIRE
DAVIES, McFARLAND & CARROLL, P.C.
ONE GATEWAY CENTER, 10TH FLOOR
PITTSBURGH, PA 15222-1416**

LEWIS, LEWIS & REILLY

By: 
Frank E. Reilly, Esquire
Counsel for Plaintiffs

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

JUDY PLYLER and DARREL PLYLER,
her husband,

Plaintiffs,

vs.

SHIRISH N. SHAH, M.D., individually;
MANJULA S. SHAH, M.D., individually;
and DUBOIS REGIONAL MEDICAL
CENTER, a non-profit corporation,

Defendants.

CIVIL DIVISION

NO.: 2003-616 CD

NOTICE OF DEPOSITION OF
SHIRISH N. SHAH, M.D.

Filed on Behalf of:
Plaintiffs

Counsel of Record for This Party:

J. Kerrington Lewis, Esquire
PA I.D.# 15575

Frank E. Reilly, Esquire
PA I.D.# 17378

LEWIS LEWIS & REILLY, P.C.
1040 Fifth Avenue
Pittsburgh, PA 15219

(412) 391-0818

(412) 391-8144 FAX

JURY TRIAL DEMANDED

FILED

NOV 21 2003

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William A. Shaw
Prothonotary

No Cent Corin

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IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

JUDY PLYLER and DARREL PLYLER,
her husband,

Plaintiffs,

vs.

SHIRISH N. SHAH, M.D., individually;
MANJULA S. SHAH, M.D., individually;
and DUBOIS REGIONAL MEDICAL
CENTER, a non-profit corporation,

Defendants.

CIVIL DIVISION

NO.: 2003-616 CD

NOTICE OF DEPOSITION OF SHIRISH N. SHAH, M.D.

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

PLEASE TAKE NOTICE that on **Monday, December 1, 2003 at 12:30 p.m.** the oral deposition of Defendant Shirish N. Shah, M.D. will be taken at the office of **Sargent's Court Reporting Services, Inc., 106 N. 2nd Street, Clearfield, PA 16830** upon oral examination pursuant to the Pennsylvania Rules of Civil Procedure before a Notary Public or some other officer authorized by the law to administer oaths. The oral deposition will continue from day to day until completed.

Respectfully Submitted,

LEWIS LEWIS & REILLY, P.C.

By: 
Frank E. Reilly, Esquire
Counsel for Plaintiffs

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the within **Notice of Deposition of Shirish N. Shah, M.D.** has been served on this 19th day of November, 2003, upon all parties, either individually or through counsel, by:

_____ Hand-Delivery

X *First-Class Mail, Postage Pre-Paid*

_____ Certified Mail-Return Receipt Requested

_____ Facsimile Transmission

at the following address:

**DAVID R. JOHNSON, ESQUIRE
THOMPSON, RHODES & COWIE, P.C.
TWO CHATHAM CENTER, 10TH FLOOR
PITTSBURGH, PA 15219-3499**

**FRANCIS GARGER, ESQUIRE
DAVIES, McFARLAND & CARROLL, P.C.
ONE GATEWAY CENTER, 10TH FLOOR
PITTSBURGH, PA 15222-1416**

LEWIS, LEWIS & REILLY

By 
Frank E. Reilly, Esquire
Counsel for Plaintiffs

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

JUDY PLYLER and DARREL PLYLER,
her husband,

Plaintiffs

vs.

SHIRISH N. SHAH, M.D., individually;
MANJULA S. SHAH, M.D., individually;
and DUBOIS REGIONAL MEDICAL
CENTER, a non-profit corporation,

Defendants

No. 2003 - 616 CD

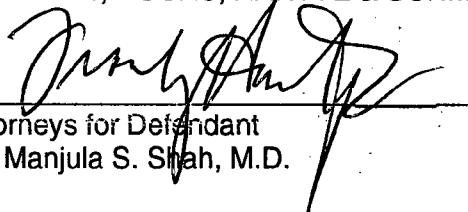
JURY TRIAL DEMANDED

PRAECIPE FOR APPEARANCE

TO: PROTHONOTARY

Kindly enter my appearance as counsel of record for Defendant, MANJULA S.
SHAH, M.D., in the above-captioned action.

McINTYRE, DUGAS, HARTYE & SCHMITT


Attorneys for Defendant
Manjula S. Shah, M.D.

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

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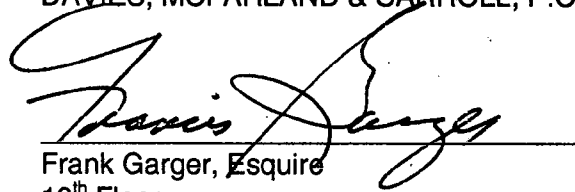
William A. Shaw
Prothonotary/Clerk of Courts

PRAECIPE FOR WITHDRAWAL OF APPEARANCE

TO THE PROTHONOTARY:

Kindly withdraw the appearance of Davies, McFarland & Carroll, P.C. previously entered on behalf of Manjula S. Shah, M.D., in the above-entitled action, based upon the appearance of Frank J. Hartye, Esquire of McIntyre, Dugas, Hartye & Schmitt, as counsel of record for Manjula S. Shah, M.D.

DAVIES, MCFARLAND & CARROLL, P.C.

A handwritten signature in cursive script, appearing to read "Frank Garger", written over a horizontal line.

Frank Garger, Esquire
10th Floor
One Gateway Center
Pittsburgh, PA 15222-1416

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

**JUDY PLYLER and DARREL PLYLER,
her husband,**

Plaintiffs,

vs.

**SHIRISH N. SHAH, M.D., individually;
MANJULA S. SHAH, M.D., individually;
and DUBOIS REGIONAL MEDICAL
CENTER, a non-profit corporation,**

Defendants.

)
)
) **CIVIL DIVISION**
)

) **NO.: 2003-616 CD**
)

) **NOTICE OF DEPOSITION OF**
) **SHIRISH N. SHAH, M.D.**
)

)
)
) **Filed on Behalf of:**
) **Plaintiffs**
)

) **Counsel of Record for This Party:**
)

) **J. Kerrington Lewis, Esquire**
) **PA I.D.# 15575**
)

) **Frank E. Reilly, Esquire**
) **PA I.D.# 17378**
)

) **LEWIS LEWIS & REILLY, P.C.**
) **1040 Fifth Avenue**
) **Pittsburgh, PA 15219**
)

) **(412) 391-0818**
)

) **(412) 391-8144 FAX**
)

JURY TRIAL DEMANDED

FILED

DEC 11 2003

**William A. Shaw
Prothonotary/Clerk of Courts**

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

**JUDY PLYLER and DARREL PLYLER,
her husband,**

Plaintiffs,

vs.

**SHIRISH N. SHAH, M.D., individually;
MANJULA S. SHAH, M.D., individually;
and DUBOIS REGIONAL MEDICAL
CENTER, a non-profit corporation,**

Defendants.

CIVIL DIVISION

NO.: 2003-616 CD

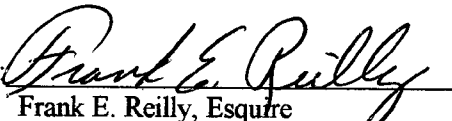
NOTICE OF DEPOSITION OF SHIRISH N. SHAH, M.D.

**TO: Frank J. Hartye, Esquire
McIntyre, Dugas, Hartye & Schmitt
P.O. Box 533
Hollidaysburg, PA 16648-0533**

PLEASE TAKE NOTICE that on **Monday, March 1, 2004 at 12:30 p.m.** the oral deposition of Defendant Manjula S. Shah, M.D. will be taken at the office of **Sargent's Court Reporting Services, Inc., 106 N. 2nd Street, Clearfield, PA 16830** upon oral examination pursuant to the Pennsylvania Rules of Civil Procedure before a Notary Public or some other officer authorized by the law to administer oaths. The oral deposition will continue from day to day until completed.

Respectfully Submitted,

LEWIS LEWIS & REILLY, P.C.

By: 
Frank E. Reilly, Esquire
Counsel for Plaintiffs

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the within Notice of Deposition of Shirish N. Shah, M.D. has been served on this 9th day of December, 2003, upon all parties, either individually or through counsel, by:

 Hand-Delivery

 X *First-Class Mail, Postage Pre-Paid*

 Certified Mail-Return Receipt Requested

 Facsimile Transmission

at the following address:

**DAVID R. JOHNSON, ESQUIRE
THOMPSON, RHODES & COWIE, P.C.
TWO CHATHAM CENTER, 10TH FLOOR
PITTSBURGH, PA 15219-3499**

**FRANK J. HARTYE, ESQUIRE
McINTYRE, DUGAS, HARTYE & SCHMITT
P.O. BOX 533
HOLLIDAYSBURG, PA 16648-0533**

LEWIS, LEWIS & REILLY

By: Frank E. Reilly
Frank E. Reilly, Esquire
Counsel for Plaintiffs

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

JUDY PLYLER and DARREL PLYLER,
her husband,

Plaintiffs,

vs.

SHIRISH N. SHAH, M.D., individually;
MANJULA S. SHAH, M.D., individually;
and DUBOIS REGIONAL MEDICAL
CENTER, a non-profit corporation,

Defendants.

)
)
) **CIVIL DIVISION**

)
) **NO.: 2003-616 CD**

)
) **NOTICE OF DEPOSITION OF**
) **MANJULA S. SHAH, M.D.**

)
)
) **Filed on Behalf of:**
) **Plaintiffs**

)
) **Counsel of Record for This Party:**

)
) **J. Kerrington Lewis, Esquire**
) **PA I.D.# 15575**

)
) **Frank E. Reilly, Esquire**
) **PA I.D.# 17378**

)
) **LEWIS LEWIS & REILLY, P.C.**
) **1040 Fifth Avenue**
) **Pittsburgh, PA 15219**

)
) **(412) 391-0818**
) **(412) 391-8144 FAX**
)

JURY TRIAL DEMANDED

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

JUDY PLYLER and DARREL PLYLER,
her husband,

Plaintiffs,

vs.

SHIRISH N. SHAH, M.D., individually;
MANJULA S. SHAH, M.D., individually;
and DUBOIS REGIONAL MEDICAL
CENTER, a non-profit corporation,

Defendants.

CIVIL DIVISION

NO.: 2003-616 CD

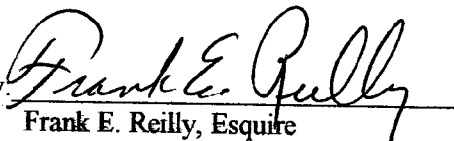
NOTICE OF DEPOSITION OF MANJULA N. SHAH, M.D.

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

PLEASE TAKE NOTICE that on Monday, March 1, 2004 at 3:30 p.m. the oral deposition of Defendant Manjula S. Shah, M.D. will be taken at the office of Sargent's Court Reporting Services, Inc., 106 N. 2nd Street, Clearfield, PA 16830 upon oral examination pursuant to the Pennsylvania Rules of Civil Procedure before a Notary Public or some other officer authorized by the law to administer oaths. The oral deposition will continue from day to day until completed.

Respectfully Submitted,

LEWIS LEWIS & REILLY, P.C.

By: 
Frank E. Reilly, Esquire
Counsel for Plaintiffs

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the within **Notice of Deposition of Manjula S. Shah, M.D.** has been served on this 9th day of December, 2003, upon all parties, either individually or through counsel, by:

_____ Hand-Delivery

X *First-Class Mail, Postage Pre-Paid*

_____ Certified Mail-Return Receipt Requested

_____ Facsimile Transmission

at the following address:

**DAVID R. JOHNSON, ESQUIRE
THOMPSON, RHODES & COWIE, P.C.
TWO CHATHAM CENTER, 10TH FLOOR
PITTSBURGH, PA 15219-3499**

**FRANK J. HARTYE, ESQUIRE
McINTYRE, DUGAS, HARTYE & SCHMITT
P.O. BOX 533
HOLLIDAYSBURG, PA 16648-0533**

LEWIS, LEWIS & REILLY

By: Frank E. Reilly
Frank E. Reilly, Esquire
Counsel for Plaintiffs

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

JUDY PLYLER and DARREL PLYLER,
her husband,

Plaintiffs

vs.

SHIRISH N. SHAH, M.D., individually;
MANJULA S. SHAH, M.D., individually;
and DUBOIS REGIONAL MEDICAL
CENTER, a non-profit corporation,

Defendants

No. 2003 – 616 CD

ISSUE:

Notice of Deposition

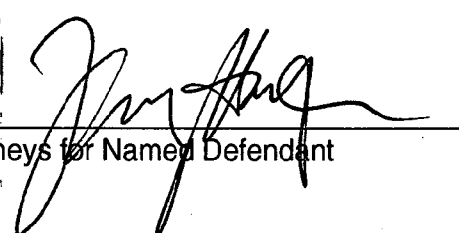
Filed on behalf of Defendant,
SHIRISH N. SHAH, M.D.

Counsel of Record for This Party:
Frank J. Hartye, Esquire
PA I.D. 25568

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 30th DAY OF JANUARY,
2004.


Attorneys for Named Defendant

FILED

FEB 02 2004
M/1:30/MS
William A. Shaw
Prothonotary/Clerk of Courts
No CFmt Com

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

JUDY PLYLER and DARREL PLYLER,
her husband,

Plaintiffs

vs.

SHIRISH N. SHAH, M.D., individually;
MANJULA S. SHAH, M.D., individually;
and DUBOIS REGIONAL MEDICAL
CENTER, a non-profit corporation,

Defendants

No. 2003 – 616 CD

JURY TRIAL DEMANDED

NOTICE OF DEPOSITION

TO:

Judy Plyler and Darrel Plyler
c/o Frank E. Reilly, Esquire
John K. Lewis, Jr., Esquire
Lewis, Lewis & Reilly
1040 Fifth Avenue
Pittsburgh, PA 15219

David R. Johnson, Esquire
Thomson, Rhodes & Cowie, P.C.
Two Chatham Center, 10th Floor
Pittsburgh, PA 15219-3499

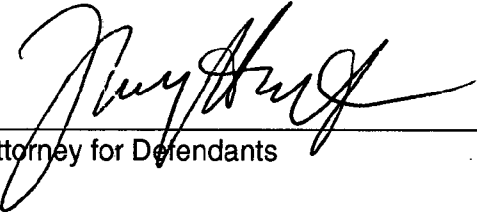
Sargent's Court Reporting Service
210 Main Street
Johnstown, PA 15901

Please take notice that the deposition of **Judy Plyler and Darrell Plyler**
shall be taken upon oral examination by an official Court Reporter at Sargent's Court
Reporting Service, 106 N. Second Street, Clearfield, PA 16830, on the **5th** day of **April**,
2004, 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

FRANK J. HARTYE, ESQUIRE
PA. I.D. NO. 25568
P.O. Box 533
Hollidaysburg, PA 16648
814/696-3581

**JUDY PLYLER and DARREL PLYLER,
her husband,**

vs.

Defendants.

(412) 391-0818
(412) 391-8144 FAX

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

JUDY PLYLER and DARREL PLYLER,
her husband,

Plaintiffs,

vs.

SHIRISH N. SHAH, M.D., individually;
MANJULA S. SHAH, M.D., individually;
and DUBOIS REGIONAL MEDICAL
CENTER, a non-profit corporation,

Defendants.

CIVIL DIVISION

NO.: 2003-616 CD

ANSWER TO NEW MATTER

AND NOW, comes the Plaintiffs, Judy Plyler and Darrel Plyler, her husband, by and through her counsel Frank E. Reilly, Esquire and the law firm of Lewis, Lewis & Reilly and file the following Answer to Defendant Manjula S. Shah, M.D.'s New Matter.

1. Paragraph 1 states an incorporation of pleaded paragraphs and no response is required.
2. Denied. It is denied that the Plaintiffs have failed to state a claim against Defendant Manjula S. Shah, M.D. upon which relief may be granted.
3. Denied. The averments of Paragraph 3 are conclusions of law to which no response is required.
4. Denied. It is denied that the Plaintiffs claims are barred by any statute of limitations.
5. Denied. It is denied that the Plaintiffs damages and injuries were not proximately caused by Defendant Manjula S. Shah, M.D..

6. Denied. It is denied that the injuries and damages sustained by Plaintiff Judy Plyler were not caused by Defendant Manjula S. Shah, M.D. who assisted in the surgery.

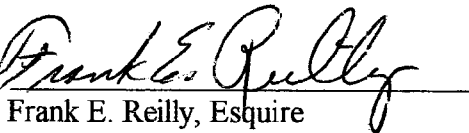
7.-11. The averments in Paragraphs 7-11 are conclusions of law to which no responses are required.

WHEREFORE, the Plaintiffs demand damages against all Defendants, jointly, severally, in an amount in excess of the Arbitration limits of the Court of Common Pleas of Clearfield County, Pennsylvania.

JURY TRIAL DEMANDED

Respectfully Submitted,

LEWIS LEWIS & REILLY

BY 
Frank E. Reilly, Esquire
Counsel for Plaintiffs

VERIFICATION

I verify that the statements and averments made in the foregoing **Pleadings** are true and correct. I understand that false statements herein are made subject to the penalties of 18 PA §4904 relating to unsworn falsification to authorities.

x _____
JUDY PLYLER

Dated: 12/29/03

CERTIFICATE OF SERVICE

This is to certify that a true, original and two correct copies of the within **Answer to New Matter** has been served on this 23rd day of January, 2004, upon all parties, either individually or through counsel, by:

☐ Hand-Delivery
☒ *First-Class Mail, Postage Pre-Paid*
☐ Certified Mail-Return Receipt Requested
☐ Facsimile Transmission

at the following address:

**FRANK J. HARTYE, ESQUIRE
McINTYRE, DUGAS, HARTYE & SCHMITT
P.O. BOX 533
HOLLIDAYSBURG, PA 16648-0533**

**DAVID R. JOHNSON, ESQUIRE
THOMPSON, RHODES & COWIE, P.C.
TWO CHATHAM CENTER, 10TH FLOOR
PITTSBURGH, PA 15219-3499**

LEWIS, LEWIS & REILLY

By: Frank E. Reilly
Frank E. Reilly, Esquire
Counsel for Plaintiffs

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

JUDY PLYLER and DARREL PLYLER,
her husband,

Plaintiffs

vs.

SHIRISH N. SHAH, M.D., individually;
MANJULA S. SHAH, M.D., individually;
and DUBOIS REGIONAL MEDICAL
CENTER, a non-profit corporation,

Defendants

No. 2003 – 616 CD

ISSUE:

NOTICE OF SERVICE OF ANSWERS
TO INTERROGATORIES DIRECTED
TO DEFENDANT MANJULA S. SHAH,
M.D.

Filed on behalf of Defendant,
SHIRISH N. SHAH, M.D. and
MANJULA S. SHAH, M.D.

Counsel of Record for This Party:
Frank J. Hartye, Esquire
PA I.D. 25568

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 HAND DELIVERED TO ALL COUNSEL OF
RECORD THIS 1st DAY OF MARCH,
2004.



Attorneys for Named Defendant

FILED

MAR 04 2004

W/1:25/12
William A. Shaw

Prothonotary/Clerk of Courts

no c/c 

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

JUDY PLYLER and DARREL PLYLER, : No. 2003 – 616 CD
her husband, :

Plaintiffs :

vs. :

SHIRISH N. SHAH, M.D., individually; :
MANJULA S. SHAH, M.D., individually; :
and DUBOIS REGIONAL MEDICAL :
CENTER, a non-profit corporation, :

Defendants :

JURY TRIAL DEMANDED

**NOTICE OF SERVICE OF ANSWERS TO PLAINTIFF'S INTERROGATORIES
DIRECTED TO DEFENDANT MANJULA S. SHAH, M.D.**

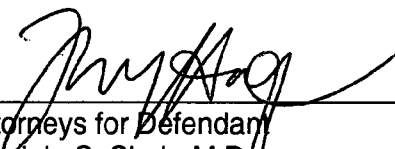
TO: PROTHONOTARY

You are hereby notified that on the 1ST day of March, 2004, Defendant,
MANJULA S. SHAH, M.D., served Answers to Plaintiff's Interrogatories Directed to
Defendant Manjula S. Shah, M.D. on the Plaintiffs by mailing the original of same via
First Class U.S. Mail, postage prepaid, addressed to the following:

Frank E. Reilly, Esquire
Lewis, Lewis & Reilly
1040 Fifth Avenue
Pittsburgh, PA 15219

McINTYRE, DUGAS, HARTYE & SCHMITT

By


Attorneys for Defendant
Manjula S. Shah, M.D.

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

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

JUDY PLYLER and DARREL PLYLER,
her husband,

Plaintiffs,

Vs.

SHIRISH N. SHAH, M.D., individually;
MANJULA S. SHAH, M.D., individually;
and DUBOIS REGIONAL MEDICAL
CENTER, a non-profit corporation,

Defendants.

CIVIL DIVISION

No. 03-616-CD

Issue No.

REQUEST TO PLAINTIFFS FOR
PRODUCTION OF EXPERT REPORTS

Code: 007

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

Counsel of Record for This Party:

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

Thomas B. Anderson, Esquire
PA. I.D. #79990

THOMSON, RHODES & COWIE, P.C.
Firm #720
1010 Two Chatham Center
Pittsburgh, PA 15219

(412) 232-3400

FILED ^{EBK}

M 1:34 PM NOV

NOV 05 2004

William A. Shaw
Prothonotary

REQUEST TO PLAINTIFFS FOR PRODUCTION OF EXPERT REPORTS

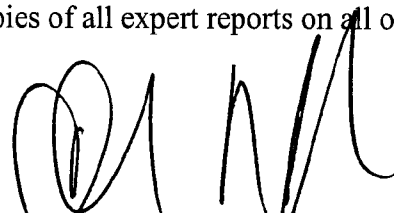
NOW COMES DuBois Regional Medical Center, one of the defendants, by their attorneys, Thomson, Rhodes & Cowie, P.C., and file the following requests to plaintiffs for production of expert reports required by Rule 1042.28(a)(1) of the Pennsylvania Rules of Civil Procedure.

TO: JUDY PLYLER and DARREL PLYLER, her husband, plaintiffs
FROM: DUBOIS REGIONAL MEDICAL CENTER, a non-profit corporation,
defendant

Pursuant to Pennsylvania Rule of Civil Procedure 1042.28(b) you are requested within 180 days of service of this request to furnish to me, attorney for the defendants above named, expert reports summarizing the expert testimony that you will offer to support the claims of professional negligence that you have made against the defendants above named. You are required to serve copies of all expert reports on all other parties.

Dated: _____

11/02/07



David R. Johnson, Esquire

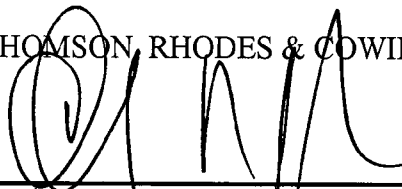
CERTIFICATION OF SERVICE

I hereby certify that a true and correct copy of the within REQUEST TO
PLAINTIFFS FOR PRODUCTION OF EXPERT REPORTS has been served upon the
following counsel of record and same placed in the U.S. Mails on this 3rd day of
Nov., 2004:

Frank E. Reilly, Esquire
Lewis, Lewis & Reilly
1040 Fifth Avenue
Pittsburgh, PA 15219

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

THOMSON RHODES & COWIE, P.C.

A handwritten signature in black ink, appearing to read 'D. R. Johnson', is written over a horizontal line.

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

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PA

JUDY PLYLER and DARREL PLYLER,
her husband,

Plaintiffs,

vs.

SHIRISH N. SHAH, M.D., individually;
MANJULA S. SHAH, M.D., individually;
and DUBOIS REGIONAL MEDICAL
CENTER, a non-profit corporation,

Defendants.

CIVIL DIVISION

NO.: 03-616-CD

**STIPULATION OF DISMISSAL
AND RELEASE**

Filed on behalf of the:
PLAINTIFFS

Counsel of Record for this Party:

FRANK E. REILLY, ESQUIRE
PA. I.D. #17378

LEWIS, LEWIS & REILLY
1040 Fifth Avenue
Pittsburgh, PA 15219

(412) 391-0818
(412) 391-8144 - Fax

JURY TRIAL DEMANDED

FILED

SEP 26 2005
11:30 AM
William A. Shaw
Prothonotary/Clerk of Courts
no c/c

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

JUDY PLYLER and DARREL PLYLER,
her husband,

Plaintiffs,

vs.

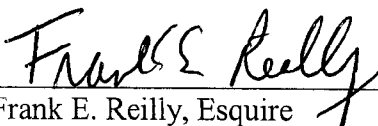
NO.: 03-616-CD

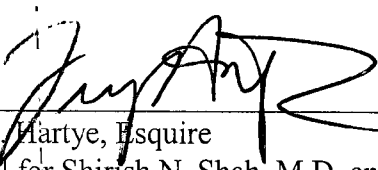
SHIRISH N. SHAH, M.D., individually;
MANJULA S. SHAH, M.D., individually;
and DUBOIS REGIONAL MEDICAL
CENTER, a non-profit corporation,


Defendants.

STIPULATION OF DISMISSAL AND RELEASE

Counsel for Darrel Plyler, Plaintiff and counsel for Shirish N. Shah, M.D. and Manjula S. Shah, M.D. and DuBois Regional Medical Center, Defendants, hereby agree and stipulate that, pursuant to the agreement of said parties, the civil action of Darrel Plyler may be dismissed with prejudice. The remaining claims of Judy Plyler, Plaintiff, are subject to a settlement and will be disposed of by the filing of a Praecipe to Settle and Discontinue.


Frank E. Reilly, Esquire
Counsel for Darrell Plyler, Plaintiff


Frank J. Hartye, Esquire
Counsel for Shirish N. Shah, M.D. and
Manjula S. Shah, M.D., Defendants


Brad R. Korinski, Esquire
Counsel for Dubois Regional Medical
Center, Defendant

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PA

JUDY PLYLER and DARREL PLYLER,
her husband,

Plaintiffs,

vs.

SHIRISH N. SHAH, M.D., individually;
MANJULA S. SHAH, M.D., individually;
and DUBOIS REGIONAL MEDICAL
CENTER, a non-profit corporation,

Defendants.

CIVIL DIVISION

NO.: 03-616-CD

**PRAECIPE TO SETTLE
AND DISCONTINUE**

Filed on behalf of the:
PLAINTIFFS

Counsel of Record for this Party:

FRANK E. REILLY, ESQUIRE
PA. I.D. #17378

LEWIS, LEWIS & REILLY
1040 Fifth Avenue
Pittsburgh, PA 15219

(412) 391-0818
(412) 391-8144 - Fax

JURY TRIAL DEMANDED

FILED 1cc & 2 Cert. of Disc.
m12:05/201 to Amy
NOV 09 2005 Copy to CIA

William A. Shaw
Prothonotary/Clerk of Courts (60)

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

PLAINTIFF JUDY PLYLER and DARREL PLYLER,
her husband

NO: 03-616-CD

VS.

DEFENDANT SHIRISH N. SHAH, M.D., individually;
MANJULA S. SHAH, M.D., individually;
and DUBOIS REGIONAL MEDICAL
CENTER, a non-profit corporation

P R A E C I P E

TO: CLEARFIELD COUNTY PROTHONOTARY

SIR:

To settle, discontinue or satisfy - Verdicts, Judgments, Executions, Awards, Decrees, Equity, Liens,
Counterclaims or Crossclaims and Plaintiff's Case or as to Garnishee only, D.S.B., M.L. Claims.

Other:

Atty. in Fact

Frank E. Reilly
Attorney for Plaintiff(s)
FRANK E. REILLY, ESQUIRE

Vol. _____ Page _____

I hereby certify that the foregoing is a true and correct statement of the above case.

Date 11/9/05
Pro. Cost \$ 85.00
Sheriff Due _____
Cert. _____

Sworn to and subscribed
before me this 7th
day of November, 2005

Caren M. Picciano

Notarial Seal
Caren M. Picciano, Notary Public
City Of Pittsburgh, Allegheny County
My Commission Expires Dec. 6, 2005

Member, Pennsylvania Association Of Notaries

CLEARFIELD CO. PROTHONOTARY

By William L. Hargis
Deputy

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

CIVIL DIVISION

 **COPY**

**Judy Plyler
Darrel Plyler**

Vs.

No. 2003-00616-CD

**Shirish N. Shah MD
Manjula S Shah
DuBois Regional Medical Center**

CERTIFICATE OF DISCONTINUATION

Commonwealth of PA
County of Clearfield

I, William A. Shaw, Prothonotary of the Court of Common Pleas in and for the County and Commonwealth aforesaid do hereby certify that the above case was on November 9, 2005, marked:

Settled and Discontinued

Record costs in the sum of \$85.00 have been paid in full by Lewis & Lewis.

IN WITNESS WHEREOF, I have hereunto affixed my hand and seal of this Court at Clearfield, Clearfield County, Pennsylvania this 9th day of November A.D. 2005.

William A. Shaw, Prothonotary