

03-834-CD
LINDA K. HUTTON, et al. vs. MARY C. KRUSZEWSKI, ET AL.

Civil Other

Date		Judge
06/06/2003	✓ Filing: Civil Complaint Paid by: Schenck & Long Receipt number: 1861306 Dated: 06/06/2003 Amount: \$85.00 (Check) 3 CC and Cert of Merit to Shff.	No Judge
06/12/2003	✓ Sheriff Return, Papers served on Defendant(s). So Answers, Chester A. Hawkins, Sheriff by s/Marilyn Hamm	No Judge
06/16/2003	✓ Praecipe For Appearance On Behalf of DU BOIS REGIONAL MEDICAL CENTER. s/DAVID R. JOHNSON, ESQUIRE. Certificate of Service no cc	No Judge
07/02/2003	✓ Answer and New Matter. filed by s/David R. Johnson, Esquire Verification s/Greg Volpe Certificate of Service no cc	No Judge
07/14/2003	✓ Praecipe for Appearance on behalf of Mary C. Kruszewski, D. O. filed by John w. Blasko, Esq.	No Judge
	✓ Praecipe For Appearance On Behalf of Defendant, Larry G. Schachter, M.D. filed by s/Peter J. Taylor, Esquire Certificate of Service no cc	No Judge
07/15/2003	✓ Certificate of Service, Defendant Kruszewski's Interrogatories and Request for Production (Set One) upon: William J. Schenck, Esq., David Johnson, Esq., and Larry C. Schachter, M.D. no cc	No Judge
	✓ Certificate of Service, Defendant Kruszewski's Request for Production (Set Two) upon: William J. Schenck, Esq., David Johnson, Esquire, and Larry C. Schachter, M.D. filed by s/John W. Blasko, Esquire no cc	No Judge
	✓ Certificate of Service, Defendant Kruszewski's Expert Interrogatories upon: William J. Schenck, Esq., David Johnson, Esq., and Larry G. Schachter, M.D. filed by s/John W. Blasko, Esquire no cc	No Judge
07/25/2003	✓ Answer With New Matter To Plaintiffs' Complaint Filed by Mary C. Kruszewski, D.O. Filed. Verification s/Mary C. Kruszewski, D.O. Certificate of Service no cc	No Judge
08/04/2003	✓ Plaintiffs' Response To New Matter Asserted By Defendant DuBois Regional Medical Center. filed by s/William J. Schenck, Esq. s/Sheryle L. Long, Esq. Verification s/William J. Schenck, Esq. no cc	No Judge
	✓ Plaintiffs' Response To New Matter Asserted By Defendant Mary C. Kruszewski, D.O. filed by s/William J. Schenck, Esq. s/Sheryle L. Long, Esq. Verification s/William J. Schenck no cc	No Judge
08/07/2003	✓ Stipulation Of Counsel, re: Paragraph 34 of the Complaint is stricken. s/William J. Schenck, Esquire s/Peter J. Taylor, Esquire no cc	No Judge
	✓ Certificate of Service, Plaintiffs' Response to New Matter Asserted by Defendant Mary C. Kruszewski, D. O. upon: Atty Blasko, Johnson and Taylor filed by s/Norka G. Stewart, Paralegal no cc	No Judge
	✓ Certificate of Service, Plaintiffs' Response to New Matter Asserted by Defendant DuBois Regional Medical Center upon: Atty Blasko, Johnson and Taylor. filed by s/Norka G. Stewart, Paralegal no cc	No Judge
09/08/2003	✓ Answer And New Matter. filed by s/Peter J. Taylor, Esquire Verification s/Larry G. Schachter, M.D. Certificate of Service no cc	No Judge
09/18/2003	✓ Plaintiffs' Response To New Matter Asserted By Defendant Larry G. Schachter, M.D. s/William J. Schenck, Esq. Verification s/William J. Schenck Certificate of Service 1 cc to Atty	No Judge
09/19/2003	✓ Certificate of Service of Notice of Intent to Subpeona filed by Atty. Blasko. No cc.	No Judge

Civil Other

Date		Judge
10/01/2003	✓ Certificate Prerequisite to Service of a Subpoena filed by Atty. Blasko. No cc.	No Judge
10/21/2003	✓ Certificate of Service, Defendant Kruszewski's Notice of Intent to Subpoena Dr. dela Torre and Allegheny General Hospital upon: William J. Schenck, Esquire, David Johnson, Esquire and Peter J. Taylor, Esquire filed by s/John W. Blasko, Esquire no cc	No Judge
11/05/2003	✓ Certificate Prerequisite to Service of a Subpoena Pursuant to Rule 4009.22, filed by s/John W. Blasko No CC	No Judge
02/20/2004	✓ Certificate of Service, Defendant's Notice of Taking Oral Depositions of Plaintiffs upon William Schenck, Esq., David R. Johnson, Esquire, and Peter J. Taylor, Esquire no cc	No Judge
03/01/2004	✓ Certificate of Service, Plaintiffs' Notices of Oral Deposition of Mary C. Kruszewski, D.O. and Larry G. Schachter, M.D. upon John W. Blasko, Esquire, David R. Johnson, Esq., and Peter J. Taylor, Esq. filed by, s/William J. Schenck, Esquire no cc	No Judge
04/26/2004	✓ Request To Plaintiffs For Production Of Expert Reports. filed by, s/David R. Johnson, Esquire Certificate of Service no cc	No Judge
12/01/2004	✓ Certificate of Service, Answers and Objections to Plaintiffs' First Set of Interrogatories directed to Defendant, Mary C. Kruszewski, D.O. by 1st class mail the 30th day of Nov. 2004, to William J. Schenck, Esquire, and Sheryle L. Long, Esquire (Original); Copies to Peter J. Taylor, Esquire, and David Johnson, Esquire. Filed by s/ John W. Blasko, Esquire. No CC	No Judge
	✓ Certificate of Service, Responses and Objections to Plaintiffs' First Request for Production of Documents directed to Defendant, Mary C. Kruszewski, D.O. by 1st class mail the 30th day of Nov. 2004, to William J. Schenck, Esquire, and Sheryle L. Long, Esquire (Original); Copies to Peter J. Taylor, Esquire, and David Johnson, Esquire. Filed by s/ John W. Blasko, Esquire. No CC	No Judge
01/31/2005	✓ Motion to Compel Expert Reports filed by Atty. Johnson. 2 CC to Atty.	No Judge
02/02/2005	✓ Order of Court, AND NOW, this 1 day of February, 2005, Ordered that oral argument on defendant's motion to compel production of expert reports is scheduled for the 1st day of March, 2005, at 2:30 p.m. in Courtroom No. 1. BY THE COURT: /s/Fredric J. Ammerman, P.J. Two CC Attorney Johnson	Fredric Joseph Ammerman
02/07/2005	✓ Notice of Filing of Expert Reports, filed by s/William J. Schenck No CC	Fredric Joseph Ammerman
03/07/2005	✓ Praeipce For Trial, filed by s/ William J. Schenck, Esquire. 1CC Atty Schenck	Fredric Joseph Ammerman
03/09/2005	✓ Objections To Plaintiffs' Praeipce To List For Trial, Filed by s/ John W. Blasko, Esquire. No CC	Fredric Joseph Ammerman
	✓ Order, filed 1 cert. to Atty. Schenck NOW, this 9th day of March, 2005, RE: Plaintiffs filing a Praeipce for Trial, it is hereby Ordered that the matter shall be schelduled trial during the Spring 2005 trial term.	Fredric Joseph Ammerman
03/10/2005	✓ Rule to Show Cause, filed 2 Cert. to Atty. Blasko NOW, this 10th day of March, 2005, Rule returnable the 5th day of April, 2005 Re: Objectiions to Plaintiffs' Praeipce t List for Trial.	Fredric Joseph Ammerman

Civil Other

Date		Judge
03/23/2005	✓ Certificate of Service, Answers and Objections to Plaintiffs' First Set of Expert Interrogatories, mailed on the 22nd day of March,, 2005 to: William J. Schenck, Esquire; Sheryle L. Long, Esquire; David Johnson, Esquire; and Peter J. Taylor, Esquire. Filed by s/ John W. Blasko, Esquire. No CC	Fredric Joseph Ammerman
04/04/2005	✓ Praecept to Withdraw Objections, filed by s/John W. Blasko No CC	Fredric Joseph Ammerman
04/05/2005	✓ Stipulations To Dismiss Fewer Than All Defendants, by all parties of record that DuBois Regional Medical Center may be voluntarily dismissed as a defendant in this case. Filed by s/ David R. Johnson, Esquire. 1CC Atty Johnson	Fredric Joseph Ammerman
	✓ Stipulations To Dismiss As to Less Than All Defendants, by parties that Larry G. Schachter, M.D. may be dismissed from this case with prejudice. Filed by s/ David R. Johnson, Esquire. 1CC Atty Johnson	Fredric Joseph Ammerman
04/14/2005	✓ Certificate of Service, Defendant Mary C. Kruszewski, D.O.'s Pre-Trial Memorandum, upon William J. Schenck, Esquire, and Sheryle L. Long, Esquire, on the 13th of April, 2005. Filed by s/ John W. Blasko, Esquire. No CC	Fredric Joseph Ammerman
	✓ Certificate of Service, Defendant Mary C. Kruszewski, D.O.'s Proposed Points For Charge, upon William J. Schenck, Esquire, and Sheryle L. Long, Esquire, on the 13th of April, 2005. Filed by s/ John W. Blasko, Esquire. No CC	Fredric Joseph Ammerman
04/18/2005	✓ Certificate of Service, copy of the Pretrial Statement served on April 14, 2005, upon John W. Blasko, Esquire. Filed by s/ Daniele Lee Hall, Paralegal. No CC	Fredric Joseph Ammerman
04/22/2005	✓ Order, NOW, this 22nd day of April, 2005, following pre-trial conference with counsel for the parties, it is the ORDER of this Court as follows: Jury selection will be held on May 3, 2005 at 9:00 a.m. in Courtroom No. 1. Jury Trial is scheduled for June 27,28,29,30, and July 1, 2005 commencing at 9:00 a.m. each day in Courtroom No. 1. (see original for further details of Order). By the Court: /s/ Fredric J. Ammerman, President Judge. 1CC Attys: Schenck, Long, Blasko.	Fredric Joseph Ammerman
04/29/2005	✓ Amended Order: Now, this 22nd day of April, 2005, following Pre-Trial Conference with counsel for the parties as set forth above it is the ORDER of this Court as follows: Jury selection will be held on May 3, 2005 at 9:00 a.m. in Courtroom No. 1. Jury Trial is scheduled for June 27, 28, 29, 30, and July 1, 2005 commencing at 9:00 a.m. each day in Courtroom No. 1. (see original for further details of Order). BY THE COURT: /s/ Fredric J. Ammerman, President Judge. 1CC & fax to Atty Schenck (per Atty request). 1CC Atty Blasko	Fredric Joseph Ammerman
05/18/2005	✓ Certificate of Service, Defendant's Notice of Taking Video Tape Deposition of Larry G. Schachter, M.D. served upon William Schenck, Esq. Filed By John W. Blasko, Esq. No CC	Fredric Joseph Ammerman
05/19/2005	✓ Defendant Mary C. Kruszewski's D.O.'s Motions In Limine, filed by s/ John W. Blasko, Esquire. No CC	Fredric Joseph Ammerman
	✓ Certification As To Motions: On May 18, 2005, Plaintiffs' counsel, William Schenck, Esquire was contacted and did not concur to the Defendant's requests contained in the Motions In Limine. Filed by s/ John W. Blasko, Esquire. No CC	Fredric Joseph Ammerman

Civil Other

Date		Judge
05/19/2005	✓ Certificate of Service, copy of Defendant Mary C. Kruszewski, D.O.'s Brief In Support Of Motions In Limine, to William J. Schenck, Esquire, and Sheryle L. Long, Esquire, on May 18, 2005. Filed by s/ John W. Blasko, Esquire. No CC	Fredric Joseph Ammerman
05/26/2005	✓ Order, NOW, this 26th day of May, 2005, upon consideration of the foregoing motions, 1. rule is issued upon Plaintiffs 2. Plaintiffs shall file an answer and brief to the motions no later than 15 days prior to the trial 3. Argument shall be held on June 8, 2005 in Courtroom No. 1 at 2:30 p.m. 4. Notice of entry of this order shall be provided to the Plaintiffs' counsel by the moving party. BY THE COURT: /s/ Fredric J. Ammerman, Pres. Judge. 1CC Atty. Blasko	Fredric Joseph Ammerman
06/02/2005	✓ Objections to the Desposition of Larry G. Schachter, M.D., filed by Atty. Blasko. (Proposed Order Attached) No cert. copies.	Fredric Joseph Ammerman
06/03/2005	✓ Order, NOW, this 3rd day of June, 2005, upon consideration of Defendant's Objections to the Deposition of Larry G. Schachter, M.D. Filed in the above matter, it is the Order of the Court that argument has been scheduled for the 8th day of June, 2005, at 2:30 p.m. in Courtroom No. 1, BY THE COURT: /s/ Fredric J. Ammerman, Pres. Judge. 2CC to Atty	Fredric Joseph Ammerman
	✓ Affidavit of Service filed. copy of May 26, 2005 Order, served upon William Schenck, Esquire and Sheryl L. Long, Esquire on June 2, 2005	Fredric Joseph Ammerman
06/07/2005	✓ Affidavit of Service, Copy of Judge Ammerman's June 3, 2005 Order served upon William Schenck, Esq. and Sheryl L. Long, Esq. Filed By Allen P. Neely, Esq. No CC.	Fredric Joseph Ammerman
	✓ Certificate of Service, Plaintiff's Response to Objections by Defendant served upon John W. Blasko, Esq. Filed By Kelly L. Blauser, Paralegal. No CC.	Fredric Joseph Ammerman
06/09/2005	✓ Order, NOW, this 8th day of June, 2005, following argument on the Def.'s Motion in Limine, it is the Order of the Court: (see original). 2CC W. Schenck, 1CC J. Blasko	Fredric Joseph Ammerman
06/15/2005	✓ Order, NOW, this 8th day of June, 2005, following discusstion and argument relative the Defendant's Objections to the Deposition of Larry G. Schachter, M.D.; (see original). BY THE COURT: /s/ Fredric J. Ammerman, Pres. Judge. 1CC Attys: W. Schenck, S. Long, and J. Blasko	Fredric Joseph Ammerman

Original

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY
COMMONWEALTH OF PENNSYLVANIA

Linda K. Hutton and Gerald W. Hutton,
Wife and Husband,

Plaintiffs,

vs.

Mary C. Kruszewski, D.O.,
Larry G. Schachter, M.D., and
DuBois Regional Medical Center,

Defendants.

CIVIL DIVISION

No. 03-834-CD

Complaint in Civil Action

FILED ON BEHALF OF:
Plaintiffs

COUNSEL OF RECORD:

William J. Schenck
PA I.D. # 42156

Sheryle L. Long
PA I.D. # 52030

Schenck & Long
610 North Main Street
Butler, PA 16001

(724) 283-7359

Trial by Jury Demanded

FILED

JUN 06 2003

William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY
COMMONWEALTH OF PENNSYLVANIA

Linda K. Hutton and Gerald W. Hutton,
Wife and Husband,

CIVIL DIVISION

No.

Plaintiffs,

vs.

JURY TRIAL DEMANDED

Mary C. Kruszewski, D.O.,
Larry G. Schachter, M.D., and
DuBois Regional Medical Center,

Defendants.

NOTICE TO DEFEND

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

**Clearfield County Court Administrator
Clearfield County Courthouse
Second & Market Streets
Clearfield, PA 16830
(814) 765-2641 Ext. 50-51**

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY
COMMONWEALTH OF PENNSYLVANIA

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Larry G. Schachter, M.D., and
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Defendants.

COMPLAINT IN CIVIL ACTION

And now come Plaintiffs, Linda K. Hutton and Gerald W. Hutton, wife and husband, by and through their attorneys, Schenck and Long, per William J. Schenck and Sheryle L. Long, and file the following Complaint in Civil Action:

1. Plaintiffs, Linda K. Hutton and Gerald W. Hutton, are adult individuals, residing together at all times material herein as husband and wife with an address of 1478 Oak Ridge Road, Madera, Pennsylvania 16661.
2. Defendant Mary C. Kruszewski, D.O., at all times material herein, was a Doctor of Osteopathy with a specialty in obstetrics and gynecology, and maintained offices at 90 Beaver Drive, DuBois, Clearfield County, Pennsylvania 15801. Plaintiffs are asserting a professional liability claim against this defendant.
3. Defendant Larry G. Schachter, M.D., at all times material herein, was a medical doctor with a specialty in general surgery, who maintained an office at 145 Hospital Avenue, Suite 112,

DuBois, Clearfield County, Pennsylvania 15801. Plaintiffs are asserting a professional liability claim against this defendant.

4. Defendant DuBois Regional Medical Center, at all times material herein, was a Pennsylvania corporation engaged in the business of providing healthcare and services to the general public, maintaining its place of business at 100 Hospital Avenue, DuBois, Clearfield County, Pennsylvania 15801. Plaintiffs are asserting a professional liability claim against this defendant.

5. Defendant Mary C. Kruszewski, D.O., was an agent, servant and employee or apparent agent, servant and employee of Defendant DuBois Regional Medical Center, having right and privilege to the use of facilities and services of Defendant DuBois Regional Medical Center.

6. Defendant Larry G. Schachter, M.D., was an agent, servant and employee or apparent agent, servant and employee of Defendant DuBois Regional Medical Center, having right and privilege to the use of facilities and services of Defendant DuBois Regional Medical Center.

7. On or about July 2, 2001, Plaintiff Linda K. Hutton consulted with Defendant Mary C. Kruszewski, D.O. Defendant Mary C. Kruszewski, D.O., identified a large left pelvic mass which, after diagnostic tests, was identified as a large benign septated cyst of the left ovary.

8. Upon the advice and recommendation of Defendant Mary C. Kruszewski, Plaintiff Linda K. Hutton agreed to submit to surgical removal of the cyst.

9. The surgery was performed on Plaintiff Linda K. Hutton on or about August 16, 2001, at Defendant DuBois Regional Medical Center. The surgery, a laparotomy with left oophorectomy, was performed by Defendant Mary C. Kruszewski, D.O., and Defendant Larry G. Schachter, M.D.

10. During the surgical procedure, Defendants Mary C. Kruszewski, D.O., and Larry G. Schachter, M.D., and the other agents, servants and employees of Defendant DuBois Regional Medical Center, realized that Plaintiff Linda K. Hutton's left ureter had been transected.

11. During the surgical procedure, Defendants Mary C. Kruszewski, D.O., and Larry G. Schachter, M.D., and the other agents, servants and employees of Defendant DuBois Regional Medical Center were unable to successfully find and identify the distal portion of the left ureter. Therefore, the ureter was not repaired.

12. Defendants Mary C. Kruszewski, D.O., and Larry G. Schachter, M.D., and the other agents, servants and employees of Defendant DuBois Regional Medical Center, closed the surgical wound, ended the surgical procedure, and transferred Plaintiff Linda K. Hutton to the post-anesthesia care unit of Defendant DuBois Regional Medical Center.

13. The surgery was completed at approximately 9:45 a.m. on August 16, 2001.

14. Neither Defendants, nor their agents, servants, or employees, consulted with a urologist concerning Plaintiff Linda K. Hutton's transected ureter until sometime late in the afternoon of August 16, 2001.

15. Following the consultation with a urologist late in the afternoon of August 16, 2001, Plaintiff Linda K. Hutton has been treated by various specialists, who have employed various means to attempt to repair the transected ureter and to save her kidney. All such efforts have been unsuccessful.

16. At all times relevant, Plaintiff Linda K. Hutton, has exercised care for her own safety and well being, following preoperative, interoperative and postoperative instructions, and has been free from contributory negligence.

COUNT I
Linda K. Hutton v. Mary C. Kruszewski, D.O.

17. Plaintiffs incorporate by reference averments 1 through 16 as if they were fully set forth herein.

18. At all times relevant, Defendant Mary C. Kruszewski, D.O., in her capacity as a physician, did accept for treatment and have under her care, and did attend and treat Plaintiff Linda K. Hutton.

19. Defendant Mary C. Kruszewski, D.O., failed to provide reasonable medical and surgical care to Plaintiff Linda K. Hutton as follows:

- (a) By failing to identify Plaintiff Linda K. Hutton's left ureter prior to transecting it during the surgical procedure of August 16, 2001;
- (b) By failing to protect Plaintiff Linda K. Hutton's left ureter during the surgical procedure of August 16, 2001;
- (c) By transecting and/or otherwise damaging Plaintiff Linda K. Hutton's left ureter during the surgical procedure of August 16, 2001;
- (d) In failing to immediately consult with a urologist or other appropriate specialists intraoperatively when the fact that Plaintiff Linda K. Hutton's left ureter had been transected became known;
- (e) In closing Plaintiff Linda K. Hutton's surgical wound after the transection of the left ureter was known without first consulting with a urologist or other appropriate specialist;
- (f) In causing edema and trauma in the area around the transected ureter by searching for the ureter without consulting with a urologist;

(g) In failing to consult with a urologist for many hours after the surgery was completed and after it was known that the left ureter of Plaintiff Linda K. Hutton had been transected; and

(h) In failing to insure that a urologist was available to consult and to intervene in the event that a problem, such as the transection of Plaintiff Linda K. Hutton's ureter, occurred during the surgical procedure.

WHEREFORE, Plaintiff Linda K. Hutton demands judgment against Defendant Mary C. Kruszewski, D.O., jointly and severally, in an amount in excess of arbitration limits exclusive of cost and interest.

COUNT II

Linda K. Hutton v. Larry G. Schachter, M.D.

20. Plaintiffs incorporate by reference averments 1 through 19 as if they were fully set forth herein.

21. As a direct and proximate result of the conduct of Defendant Larry G. Schachter, M.D., acting jointly and severally with the other defendants, Plaintiff Linda K. Hutton has sustained damages set forth herein.

22. Defendant Larry G. Schachter, M.D., failed to provide reasonable medical and surgical care to Plaintiff Linda K. Hutton as follows:

(a) By failing to identify Plaintiff Linda K. Hutton's left ureter prior to transecting it during the surgical procedure of August 16, 2001;

(b) By failing to protect Plaintiff Linda K. Hutton's left ureter during the surgical procedure of August 16, 2001;

- (c) By transecting and/or otherwise damaging Plaintiff Linda K. Hutton's left ureter during the surgical procedure of August 16, 2001;
- (d) In failing to immediately consult with a urologist or other appropriate specialists intraoperatively when the fact that Plaintiff Linda K. Hutton's left ureter had been transected became known;
- (e) In closing Plaintiff Linda K. Hutton's surgical wound after the transection of the left ureter was known without first consulting with a urologist or other appropriate specialist;
- (f) In causing edema and trauma in the area around the transected ureter by searching for the ureter without consulting with a urologist;
- (g) In failing to consult with a urologist for many hours after the surgery was completed and after it was known that the left ureter of Plaintiff Linda K. Hutton had been transected; and
- (h) In failing to insure that a urologist was available to consult and to intervene in the event that a problem, such as the transection of Plaintiff Linda K. Hutton's ureter, occurred during the surgical procedure.

WHEREFORE, Plaintiff Linda K. Hutton demands judgment against Defendant Larry G. Schachter, M.D., jointly and severally, in an amount in excess of arbitration limits exclusive of cost and interest.

COUNT III
Linda K. Hutton v. DuBois Regional Medical Center

23. Plaintiffs incorporate by reference averments 1 through 22 as if they were fully set forth herein.

24. Defendant Mary C. Kruszewski, D.O., and Defendant Larry G. Schachter, M.D., were agents, employees, servants, officers, or directors of Defendant DuBois Regional Medical Center, or at all times relevant, were apparent agents held out as such.

25. At all times relevant, Defendant Mary C. Kruszewski, D.O., and Defendant Larry G. Schachter, M.D., were acting in the scope of their employment as agents, servants, or employees of Defendant DuBois Regional Medical Center.

26. Plaintiff Linda K. Hutton did not choose or look specifically to Defendant Larry G. Schachter, M.D., for her care and treatment, but rather looked generally to Defendant DuBois Regional Medical Center to provide a competent general surgeon and competent healthcare professionals to assist in the surgery that was performed on her on August 16, 2001.

27. Defendant DuBois Regional Medical Center is directly and vicariously liable for the acts and commissions or omissions of Defendant Larry G. Schachter, M.D., as fully as though Defendant DuBois Regional Medical Center performed the acts and commissions or omissions itself.

28. Defendant DuBois Regional Medical Center is vicariously liable for the acts and commissions or omissions of Defendant Mary C. Kruszewski, D.O., as fully as though Defendant DuBois Regional Medical Center performed the acts and commissions or omissions itself.

WHEREFORE, Plaintiff Linda K. Hutton demands judgment against Defendant DuBois Regional Medical Center jointly and severally, in the amount in excess of arbitration limits exclusive of cost and interest.

Count IV
Linda K. Hutton v. Mary C. Kruszewski, D.O., Larry G. Schachter, M.D., and DuBois
Regional Medical Center

29. Plaintiffs incorporate by reference averments 1 through 28 as if they were fully set forth herein.

30. As a direct and proximate result of the negligence of Defendants, acting jointly and severally as set forth herein, Plaintiff, Linda K. Hutton, has suffered as follows:

- (a) Loss of her left ureter;
- (b) Damage to her left kidney as a result of the loss of her left ureter;
- (c) The necessity of submitting to prolonged medical, surgical and diagnostic procedures, including invasive procedures, in attempt to repair the transected ureter;
- (d) Loss of the ability for a successful re-anastomosis of the transected ureter;
- (e) Incisional hernia due to multiple surgeries requiring midline incisions that were necessitated by the negligence;
- (f) Extended and ongoing pain, suffering and inconvenience;
- (g) Being subject to kidney damage, hypertension, infection, fluid and electrolyte imbalances, and loss of a kidney;
- (h) Loss of her good health;
- (i) In incurring medical bills that would not have been necessary but for the negligence set forth in this complaint;
- (j) Mental anguish and emotional and psychological stress;
- (k) Humiliation;

- (l) Embarrassment;
- (m) A diminution in the enjoyment of the ordinary pleasures of life;
- (n) Scarring; and
- (o) Increased risk of needing dialysis and/or kidney transplant and/or death in the future resulting from renal failure.

WHEREFORE, Plaintiff Linda K. Hutton demands judgment against Mary C. Kruszewski, D.O., Larry G. Schachter, M.D., and Defendant DuBois Regional Medical Center jointly and severally, in the amount in excess of arbitration limits exclusive of cost and interest.

COUNT V
Loss of Consortium Claim
Gerald W. Hutton v. Mary C. Kruszewski, D.O., Larry G. Schachter, M.D., and Defendant
DuBois Regional Medical Center

31. Plaintiff Gerald W. Hutton incorporates by reference averments 1 through 30 as if they were fully set forth herein.


32. As a result of Defendants' conduct, jointly and severally, Plaintiff Gerald W. Hutton has been deprived of the society, companionship, contributions, and consortium of his wife, Linda K. Hutton, to his great detriment and loss.

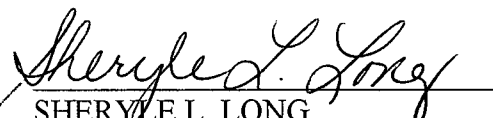
33. As a result of Defendants' conduct, jointly and severally, Plaintiff Gerald W. Hutton has incurred and will incur large medical bills and expenses to treat his wife's injuries.

34. As a result of Defendants' conduct, jointly and severally, Plaintiff Gerald W. Hutton has suffered a disruption in his daily habits and pursuits and a loss of enjoyment of life.

WHEREFORE, Plaintiff Gerald W. Hutton demands judgment against Mary C. Kruszewski, D.O., Larry G. Schachter, M.D., and Defendant DuBois Regional Medical Center, jointly and severally, in the amount in excess of arbitration limits exclusive of cost and interest.

Respectively Submitted,


WILLIAM J. SCHENCK


SHERYLE L. LONG,

Schenck & Long
Attorneys at Law
610 N. Main Street
Butler, PA 16001
(724) 283-7359

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY
COMMONWEALTH OF PENNSYLVANIA

Linda K. Hutton and Gerald W. Hutton,
Wife and Husband,

CIVIL DIVISION

No.

Plaintiffs,

vs.

JURY TRIAL DEMANDED

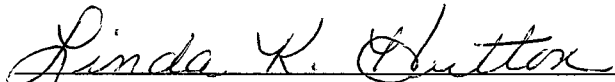
Mary C. Kruszewski, D.O.,
Larry G. Schachter, M.D., and
DuBois Regional Medical Center,

Defendants.

VERIFICATION

I, Linda K. Hutton, verify that the attached Complaint in Civil Action is based upon information, which has been gathered by counsel in the preparation of this lawsuit. The language of the Complaint is that of counsel and not mine. I have read the Complaint and it is true and correct to the best of my knowledge, information and belief. To the extent the contents of the Complaint are that of counsel, I have relied upon counsel in making this verification.

I understand that I am subject to the penalties of 18 Pa.C.S. Section 4904 relating to unsworn falsification to authorities for any false statements that I have made in the foregoing Complaint.


LINDA K. HUTTON

DATED: 3-28-03

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY
COMMONWEALTH OF PENNSYLVANIA

Linda K. Hutton and Gerald W. Hutton,
Wife and Husband,

CIVIL DIVISION

No.

Plaintiffs,

vs.

JURY TRIAL DEMANDED

Mary C. Kruszewski, D.O.,
Larry G. Schachter, M.D., and
DuBois Regional Medical Center,

Defendants.

VERIFICATION

I, Gerald W. Hutton, verify that the attached Complaint in Civil Action is based upon information, which has been gathered by counsel in the preparation of this lawsuit. The language of the Complaint is that of counsel and not mine. I have read the Complaint and it is true and correct to the best of my knowledge, information and belief. To the extent the contents of the Complaint are that of counsel, I have relied upon counsel in making this verification.

I understand that I am subject to the penalties of 18 Pa.C.S. Section 4904 relating to unsworn falsification to authorities for any false statements that I have made in the foregoing Complaint.

Gerald W. Hutton
GERALD W. HUTTON

DATED: 3/28/03

FILED

m

1:29 PM

JUN 06 2003

William A. Shaw
Prothonotary

3 cc of cert of merit to Shiff.
1 time stamped to Tracy

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY
COMMONWEALTH OF PENNSYLVANIA

Linda K. Hutton and Gerald W.
Hutton, Wife and Husband,

CIVIL ACTION

No. 03-834-00

Plaintiffs,

vs.

Mary C. Kruszewski, D.O., Larry G.
Schachter, M.D. and DuBois Regional
Medical Center,

Defendants.

COPY

Certificate of Merit as to Larry G. Schachter, M.D.

I, William J. Schenck, certify that:

an appropriate licensed professional has supplied a written statement to the undersigned
that there is a basis to conclude that the care, skill or knowledge exercised or exhibited by
this defendant in the treatment, practice or work that is the subject of the complaint,
fell outside acceptable professional standards and that such conduct was a cause in
bringing about the harm.

Date:

June 2, 2003



William J. Schenck

PA I.D. 42156

610 North Main Street

Butler, PA 16001

(724) 283-7359

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

JUN 06 2003

Attest.

William L. Hester
Prothonotary/
Clerk of Courts

In The Court of Common Pleas of Clearfield County, Pennsylvania

HUTTON, LINDA K. & GERALD W.

Sheriff Docket # 14165

VS.

03-834-CD

KRUSZEWSKI, MARY C., D.O. al

COMPLAINT & CERTIFICATE OF MERIT

SHERIFF RETURNS

NOW JUNE 9, 2003 AT 9:20 AM SERVED THE WITHIN COMPLAINT & CERTIFICATE OF MERIT ON DUBOIS REGIONAL MEDICAL CENTER, DEFENDANT AT EMPLOYMENT, 100 HOSPITAL AVE., DUBOIS, CLEARFIELD COUNTY, PENNSYLVANIA BY HANDING TO LISA BATSON, PERSONAL SECRETARY OF GREG VOLPE, RISK MANAGEMENT, A TRUE AND ATTESTED COPY OF THE ORIGINAL COMPLAINT & CERTIFICATE OF MERIT AND MADE KNOWN TO HER THE CONTENTS THEREOF.

SERVED BY: NEVLING

NO JUNE 9, 2003 AT 9:45 AM SERVED THE WITHIN COMPLAINT & CERTIFICATE OF MERIT ON LARRY G. SCHACHTER, M.D., DEFENDANT AT EMPLOYMENT, 145 HOSPITAL A VE SUITE 112, DUBOIS, CLEARFIELD COUNTY, PENNSYLVANIA BY HANDING TO SHERRIE YOUNG, ADMIN. OFFICE MANAGER, A TRUE AND ATTESTED COPY OF THE ORIGINAL COMPLAINT & CERTIFICATE OF MERIT AND MADE KNOWN TO HER THE CONTENTS THEREOF.

SERVED BY: NEVLING

NOW JUNE 9, 2003 AT 10:15 AM SERVED THE WITHIN COMPLAINT & CERTIFICATE OF MERIT ON MARY C. KRUSZEWSKI, D.O., DEFENDANT AT EMPLOYMENT, 190 W. PARK AVE., DUBOIS, CLEARFIELD COUNTY, PENNSYLVANIA BY HANDING TO PAMELA WILSON, OFFICE MANAGER, A TRUE AND ATTESTED COPY OF THE ORIGINAL COMPLAINT & CERTIFICATE OF MERIT AND MADE KNOWN TO HER THE CONTENTS THEREOF.

SERVED BY: NEVLING

Return Costs

Cost	Description
43.68	SHERIFF HAWKINS PAID BY: ATTY CK# 13325
30.00	SURCHARGE PAID BY: ATTY CK# 13324

Sworn to Before Me This

12th Day Of June 2003

William A. Shaw

FILED

JUN 12 2003

William A. Shaw
Prothonotary

So Answers,

Chester A. Hawkins
by Marilyn Hannon

Chester A. Hawkins
Sheriff

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

LINDA K. HUTTON and GERALD W.
HUTTON, wife and husband,

Plaintiffs,

Vs.

MARY C. KRUSZEWSKI, D.O., LARRY
G. SCHACHTER, M.D., and DUBOIS
REGIONAL MEDICAL CENTER,

Defendants.

CIVIL DIVISION

No. 03-834-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

JUN 16 2003

William A. Shaw
Prothonotary

PRAECIPE FOR APPEARANCE

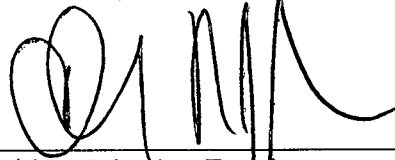
TO: PROTHONOTARY

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

JURY TRIAL DEMANDED.

Respectfully submitted,

THOMSON, RHODES & COWIE, P.C.

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

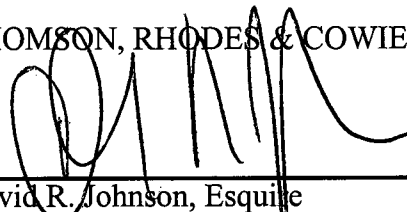
David R. Johnson, Esquire
Attorneys for DuBois Regional Medical
Center, one of the defendants.

CERTIFICATION OF SERVICE

I hereby certify that a true and correct copy of the within PRAECIPE FOR
APPEARANCE has been served upon the following counsel of record and same placed
in the U.S. Mails on this 13th day of June, 2003:

William J. Schenck, Esquire
Schenck & Long
610 N. Main Street
Butler, PA 16001

THOMSON, RHODES & COWIE, P.C.

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

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

FILED

M 11:55 AM
JUN 16 2003

NO
cc
[Signature]

William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

LINDA K. HUTTON and GERALD W.
HUTTON, wife and husband,

Plaintiffs,

Vs.

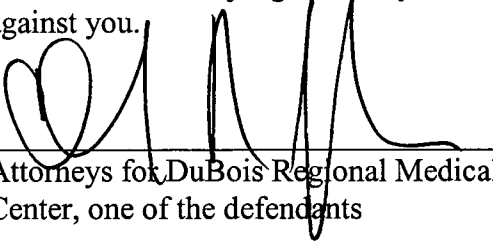
MARY C. KRUSZEWSKI, D.O., LARRY
G. SCHACHTER, M.D., and DUBOIS
REGIONAL MEDICAL CENTER,

Defendants.

NOTICE TO PLEAD

TO ALL COUNSEL OF RECORD:

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 DuBois Regional Medical
Center, one of the defendants

CIVIL DIVISION

No. 03-834-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

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

(412) 232-3400

FILED

JUL 02 2003

William A. Shaw
Prothonotary

ANSWER AND NEW MATTER

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

ANSWER

1. Defendant is advised and therefore believes and avers that the Pennsylvania Rules of Civil Procedure do not require it to set forth its answers and defenses except as stated below.
2. If and to the extent that any factual averment in the complaint is not responded to in the paragraphs which follow, said allegation is denied for the reason that, after a reasonable investigation, this defendant lacks sufficient information or knowledge upon which to form a belief as to the truth of the averments therein.
3. Each of the paragraphs of this answer should be read so as to incorporate by reference each of the other paragraphs of this answer.
4. The following paragraphs of the complaint are denied for the reason that, after a reasonable investigation, this defendant has insufficient information or knowledge to form a belief as to the truth of the averments therein: 1, 7, 8, 14, 15 and 18.

5. The following paragraphs of the complaint refer solely to other defendants for which reason no response is required: 2 and 3.

6. Paragraph 4 of the complaint is admitted in part and denied in part. The defendant was at all times material a not-for-profit healthcare provider at the address specified in the complaint. Although it is admitted that plaintiffs are asserting a professional liability claim, any statement, suggestion or implication that the claim has any merit is denied.

7. Paragraphs 5, 6, 24 and 25 of the complaint are denied. In further response to the allegations in these paragraphs, neither Dr. Kruszewski nor Dr. Schachter were at any time agents, servants, employees, officers, directors, or apparent agents, servants, employees, officers or directors of DuBois Regional Medical Center. To the contrary, they were each, at all times material, independently practicing physicians.

8. The following paragraphs of the complaint are admitted: 9 and 13.

9. Paragraphs 10, 11 and 12 of the complaint are denied. The allegations regarding the agency of Drs. Kruszewski and Schachter are denied because of the reasons set forth above. Neither Dr. Kruszewski nor Dr. Schachter were at any time agents, servants or employees of DuBois Regional Medical Center; rather, they were independently practicing physicians. The other agency allegations in these paragraphs are denied because the individuals being referenced are not identified for which reason,

after reasonable investigation, this defendant has insufficient information or knowledge to form a belief as to the truth of the allegations regarding the alleged agency of whoever plaintiffs may be intending to reference. The non-agency allegations in these paragraphs are also denied for the reason that they incompletely, inaccurately and/or misleadingly describe events which occurred. While these paragraphs to some extent extract or reference words or phrases from the hospital chart, they do not reflect the context in which the notes were made and/or they ignore other words and phrases necessary to give fair meaning to the reference language.

10. Paragraph 16 of the complaint pertains to other defendants for which no further response is required. However, if any response is deemed necessary, this paragraph 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.

11. Paragraphs 17, 20, 23, 29 and 31 of the complaint solely incorporate by reference other paragraphs, for which no separate response is required. However, to the extent that any additional response is deemed necessary, defendant incorporates by reference its answers to those paragraphs which have been incorporated by the plaintiffs.

12. Paragraphs 19, including subparagraphs (a) through (h), 21 and 22, including subparagraphs (a) through (h), of the complaint refer solely to other defendants for which reason no response is required. These paragraphs also constitute conclusions

of law, for which additional reason no response is required. If, nonetheless, a response is deemed necessary, these paragraphs are denied.

13. Paragraph 26 of the complaint is denied.

14. Paragraphs 27, 28, 30, including subparagraphs (a) through (o), 32, 33 and 34 of the complaint constitute conclusions of law to which no further response is required. However, if any response is deemed necessary, these paragraphs and subparagraphs are denied.

WHEREFORE, plaintiffs' complaint should be dismissed and judgment should be entered in favor of DuBois Regional Medical Center, one of the defendants.

NEW MATTER

15. 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.

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

17. 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.

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

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

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

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

22. 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.

23. 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.

24. 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.

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

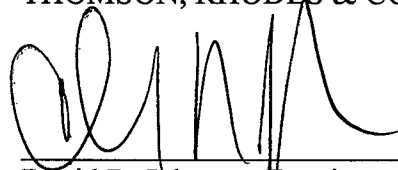
26. If and to the extent that plaintiffs' claims were not filed within the time limitations imposed by law, said lawsuit is barred by the applicable statutes of limitations.

WHEREFORE, plaintiffs' complaint should be dismissed and judgment should be entered in favor of DuBois Regional Medical Center, one of the defendants.

JURY TRIAL DEMANDED.

Respectfully submitted,

THOMSON, RHODES & COWIE, P.C.

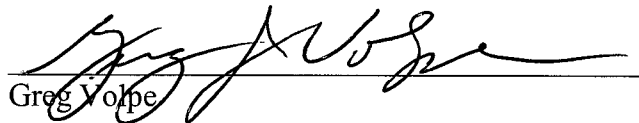
A handwritten signature in black ink, appearing to read 'DJ', is written over a horizontal line.

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

VERIFICATION

I, Greg Volpe, in the capacity of Risk Manager 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.


Greg Volpe

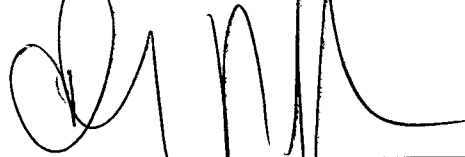
Date: 6.18.03

CERTIFICATE 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 30th day of June, 2003:

William J. Schenck, Esquire
Schenck & Long
610 N. Main Street
Butler, PA 16001

THOMSON, RHODES & COWIE, P.C.

A handwritten signature in black ink, appearing to read 'D. Johnson', 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, PENNSYLVANIA
CIVIL ACTION - LAW

LINDA K. HUTTON and GERALD W.
HUTTON, husband and wife,

Plaintiffs,

vs.

MARY C. KRUSZEWSKI, D.O.,
LARRY G. SCHACHTER, M.D.,
and DUBOIS REGIONAL MEDICAL
CENTER,

Defendants.

834

No.: 03-~~384~~ CD

Type of Case: Civil Action

JURY TRIAL DEMANDED

Type of Pleading:
PRAECIPE FOR ENTRY OF
APPEARANCE

Filed on Behalf of Defendant
MARY C. KRUSZEWSKI, D.O.

Counsel of Record for this
Party: JOHN W. BLASKO

Court I.D. No.: 06787

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

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

Counsel of Record for
Adverse Party:
WILLIAM J. SCHENCK

Dated: 7-11-03

FILED

JUL 14 2003

William A. Shaw
Prothonotary

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

LINDA K. HUTTON and GERALD W.
HUTTON, husband and wife,

Plaintiffs,

vs.

MARY C. KRUSZEWSKI, D.O.,
LARRY G. SCHACHTER, M.D.
and DUBOIS REGIONAL MEDICAL
CENTER,

Defendants.

NO. 03-834 CD

JURY TRIAL DEMANDED

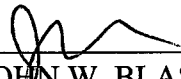
PRAECIPE FOR ENTRY OF APPEARANCE

TO THE PROTHONOTARY:

Please enter our appearance on behalf of the Defendant, Mary C. Kruszewski, D.O., in the
above-captioned matter.

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

By:


JOHN W. BLASKO
Attorneys for Defendant
Mary C. Kruszewski, D.O.
811 University Drive
State College, PA 16801
(814) 238-4926

Dated: 7-11-03

FILED

M 1:25 PM NDC

JUL 14 2003

William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY
PENNSYLVANIA

LINDA K. HUTTON and GERALD
W. HUTTON, Wife and Husband,

Civil Division

Plaintiffs,

No. 03-834-CD

v.

MARY C. KRUSZEWSKI, D.O.,
LARRY G. SCHACHTER, M.D.,
and DUBOIS REGIONAL MEDIAL
CENTER,

PRAECIPE FOR APPEARANCE

Defendants.

Filed on behalf of:
Defendant Larry G. Schachter,
M.D., only

Counsel of Record for this Party:

Peter J. Taylor, Esquire
PA I.D. No. 26506

Murphy Taylor, L.L.C.
Firm I.D. No. 625

326 Third Avenue
Pittsburgh, PA 15222
(412) 255-0200

JURY TRIAL DEMANDED

FILED

JUL 14 2003

William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY
PENNSYLVANIA

LINDA K. HUTTON and GERALD
W. HUTTON, Wife and Husband,

Plaintiffs,

v.

MARY C. KRUSZEWSKI, D.O.,
LARRY G. SCHACHTER, M.D.,
and DUBOIS REGIONAL MEDIAL
CENTER,

Defendants.

PRAECIPE FOR APPEARANCE

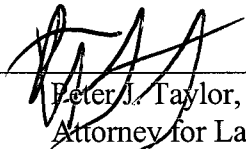
TO: PROTHONOTARY

Kindly enter my Appearance on behalf of Defendant, LARRY G. SCHACHTER,
M.D. only, in the within litigation.

Respectfully submitted,

MURPHY TAYLOR, P.C.

By

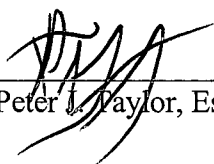

Peter J. Taylor, Esquire
Attorney for Larry G. Schachter, MD

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the within PRAECIPE FOR APPEARANCE has been forwarded to the counsel of record as follows by hand delivery, by messenger, or by First Class United States Mail on this 10 day of July, 2003.

William J. Schenck, Esquire
SCHENCK & LONG
610 North Main Street
Butler, PA 16001
(Attorney for Plaintiff)

John K. Heisey, Esquire
THOMSON, RHODES & COWIE, P.C.
Two Chatham Center
Suite 1010
Pittsburgh, PA 15219



Peter J. Taylor, Esquire

FILED

NO
CC

JUL 14 2003

William A. Shaw
Prothonotary

APR

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

LINDA K. HUTTON and GERALD W.
HUTTON, husband and wife,

Plaintiffs,

vs.

MARY C. KRUSZEWSKI, D.O.,
LARRY G. SCHACHTER, M.D.
and DUBOIS REGIONAL MEDICAL
CENTER,

Defendants.

NO. 03-834 CD

JURY TRIAL DEMANDED

FILED

JUL 15 2003

William A. Shaw
Prothonotary

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of Defendant Kruszewski's Interrogatories and Request for Production (Set One), in the above-referenced matter was mailed by regular mail, first class, at the Post Office, State College, Pennsylvania, postage prepaid, this 14th

day of July, 2003, to:

William J. Schenck, Esquire
Schenck & Long
610 North Main Street
Butler, PA 16001

Larry G. Schachter, M.D.
145 Hospital Avenue, Suite 112
DuBois, PA 15801

David Johnson, Esquire
Two Chatham Center, 10th Floor
Pittsburgh, PA 15219-3499

McQUAIDE, BLASKO, SCHWARTZ,
FLEMING & FAULKNER, P.C.

By: John W. Blasko

JOHN W. BLASKO

Attorneys for Defendant

Mary C. Kruszewski, D.O.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

LINDA K. HUTTON and GERALD W.
HUTTON, husband and wife,

Plaintiffs,

vs.

MARY C. KRUSZEWSKI, D.O.,
LARRY G. SCHACHTER, M.D.
and DUBOIS REGIONAL MEDICAL
CENTER,

Defendants.

NO. 03-834 CD

JURY TRIAL DEMANDED

FILED

JUL 15 2003

CERTIFICATE OF SERVICE

William A. Shaw
Prothonotary

I hereby certify that a true and correct copy of Defendant Kruszewski's Request for
Production (Set Two), in the above-referenced matter was mailed by regular mail, first class, at
the Post Office, State College, Pennsylvania, postage prepaid, this 14th day of

July, 2003, to:

William J. Schenck, Esquire
Schenck & Long
610 North Main Street
Butler, PA 16001

Larry G. Schachter, M.D.
145 Hospital Avenue, Suite 112
DuBois, PA 15801

David Johnson, Esquire
Two Chatham Center, 10th Floor
Pittsburgh, PA 15219-3499

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

By: John W. Blasko

JOHN W. BLASKO

Attorneys for Defendant

Mary C. Kruszewski, D.O.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

LINDA K. HUTTON and GERALD W.
HUTTON, husband and wife,

Plaintiffs,

vs.

MARY C. KRUSZEWSKI, D.O.,
LARRY G. SCHACHTER, M.D.
and DUBOIS REGIONAL MEDICAL
CENTER,

Defendants.

NO. 03-834 CD

JURY TRIAL DEMANDED

FILED

JUL 15 2003

CERTIFICATE OF SERVICE

William A. Shaw
Prothonotary

I hereby certify that a true and correct copy of Defendant Kruszewski's Expert Interrogatories, in the above-referenced matter was mailed by regular mail, first class, at the Post Office, State College, Pennsylvania, postage prepaid, this 14th day of July, 2003, to:

William J. Schenck, Esquire
Schenck & Long
610 North Main Street
Butler, PA 16001

Larry G. Schachter, M.D.
145 Hospital Avenue, Suite 112
DuBois, PA 15801

David Johnson, Esquire
Two Chatham Center, 10th Floor
Pittsburgh, PA 15219-3499

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

By: John W. Blasko

JOHN W. BLASKO

Attorneys for Defendant

Mary C. Kruszewski, D.O.

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

LINDA K. HUTTON and GERALD W.
HUTTON, husband and wife,

Plaintiffs,

vs.

MARY C. KRUSZEWSKI, D.O.,
LARRY G. SCHACHTER, M.D.,
and DUBOIS REGIONAL MEDICAL
CENTER,

Defendants.

FILED

JUL 25 2003

William A. Shaw
Prothonotary/Clerk of Courts

Dated: 7-24-03

834

No.: 03-~~384~~ CD

Type of Case: Civil Action

JURY TRIAL DEMANDED

Type of Pleading:
ANSWER WITH NEW MATTER TO
PLAINTIFFS' COMPLAINT

Filed on Behalf of Defendant
MARY C. KRUSZEWSKI, D.O.

Counsel of Record for this
Party: JOHN W. BLASKO

Court I.D. No.: 06787

RICHARD K. LAWS
Court I.D. No. 82369

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

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

Counsel of Record for
Adverse Party:
WILLIAM J. SCHENCK
SHERYLE L. LONG

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

LINDA K. HUTTON and GERALD W.
HUTTON, husband and wife,

Plaintiffs,

vs.

MARY C. KRUSZEWSKI, D.O.,
LARRY G. SCHACHTER, M.D.
and DUBOIS REGIONAL MEDICAL
CENTER,

Defendants.

NO. 03-834 CD

JURY TRIAL DEMANDED

NOTICE TO PLEAD

TO: Plaintiffs

YOU ARE HEREBY notified to plead to the within Answer with New Matter within
twenty (20) days from the date of service hereof or a default judgment may be entered against
you.

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

By: 

JOHN W. BLASKO
RICHARD K. LAWS
Attorney for Defendant
Mary C. Kruszewski, D.O.
811 University Drive
State College, PA 16801
(814) 238-4926

Dated: 7-24-03

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

LINDA K. HUTTON and GERALD W.)	
HUTTON, husband and wife,)	
)	
Plaintiffs,	)	NO. 03-834 CD
)	
vs.)	
	)	JURY TRIAL DEMANDED
MARY C. KRUSZEWSKI, D.O.,)	
LARRY G. SCHACHTER, M.D.)	
and DUBOIS REGIONAL MEDICAL)	
CENTER,)	
)	
Defendants.)	

ANSWER WITH NEW MATTER TO PLAINTIFFS' COMPLAINT
FILED BY MARY C. KRUSZEWSKI, D.O.

AND NOW comes Defendant, MARY C. KRUSZEWSKI, D.O., by and through her attorneys, McQuaide, Blasko, Schwartz, Fleming & Faulkner, Inc., and files the within Answer with New Matter to Plaintiffs' Complaint:

1. Answering Defendant is without sufficient knowledge or information to form a belief as to the truth of the averments of Paragraph 1, and, therefore, they are denied.

2. The averments of Paragraph 2 set forth conclusions of law or statements as to Plaintiffs' legal position and thus no response is necessary. To the extent that a response is necessary, it is averred that at the time of the treatment at issue, Defendant Dr. Kruszewski was a licensed physician with specialty and business address as so identified. The remaining averments of Paragraph 2 are denied as stated and/or denied per Pa.R.C.P. 1029(e).

3-4. The averments of Paragraphs 3 and 4 are directed toward other Defendants, and therefore no response is necessary.

5. Admitted only that at the time of the treatment at issue, Defendant Dr. Kruszewski maintained the right and privileges to use the facilities and services of Defendant Dubois Regional Medical Center. The remaining averments of Paragraph 5 are denied as stated and/or denied per Pa.R.C.P. 1029(e).

6. The averments of Paragraph 6 are directed toward other Defendants, and therefore no response is necessary.

7-9. The averments of Paragraphs 7 through 9 are directed toward another Defendant and thus no response is necessary. To the extent that a response is necessary, Answering Defendant hereby incorporates Plaintiff's medical records which document the care and treatment rendered to Plaintiff throughout the time period referenced. To the extent that the averments of Paragraphs 7 through 9 differ from that set forth herein and/or that reflected within the relevant medical records, said averments are denied as stated and/or denied per Pa.R.C.P. 1029(e).

10-12. The averments of Paragraphs 10 through 12 contain statements of Plaintiffs' legal position and/or conclusions of law to which no response is necessary. To the extent that a response is necessary, Answering Defendant is without sufficient knowledge or information to form a belief as to the truth of the averments of Paragraphs 10 through 12, to the extent same refer to unnamed agents, servants and employees, and, therefore, they are denied. The remaining averments of Paragraphs 10 through 12 are further denied as stated and/or denied in accordance with Pa.R.C.P. 1029(e).

13. In response to the averments of Paragraph 13, Answering Defendant hereby incorporates Plaintiff's medical records which document the care and treatment rendered to Plaintiff throughout the time period referenced. To the extent that the averments of Paragraph 13

differ from that set forth herein and/or that reflected within the relevant medical records, said averments are denied as stated and/or denied per Pa.R.C.P. 1029(e).

14-16. The averments of Paragraphs 14 through 16 contain statements of Plaintiffs' legal position and/or conclusions of law to which no response is necessary. To the extent that a response is necessary, Answering Defendant is without sufficient knowledge or information to form a belief as to the truth of the averments of Paragraphs 14 through 16, to the extent same refer to unnamed agents, servants, employees and/or specialists, and, therefore, they are denied. The remaining averments of Paragraphs 14 through 16 are further denied as stated and/or denied in accordance with Pa.R.C.P. 1029(e).

WHEREFORE, Defendant respectfully requests that this Honorable Court enter judgment in her favor and against Plaintiffs, and that the Complaint be dismissed, with prejudice.

COUNT I

Linda K. Hutton v. Mary C. Kruszewski, D.O.

17. Defendant hereby incorporates Paragraphs 1 through 16 of this Answer and New Matter as if the same were set forth at length herein.

18-19. The averments of Paragraphs 18 and 19 (including all subsections) contain statements as to Plaintiffs' legal position and/or conclusions of law to which no response is necessary. To the extent that a response is deemed necessary, the averments of Paragraphs 18 and 19 (including all subsections) are denied per Pa.R.C.P. 1029(e).

WHEREFORE, Defendant respectfully requests that this Honorable Court enter judgment in her favor and against Plaintiffs, and that the Complaint be dismissed, with prejudice.

COUNT II
Linda K. Hutton v. Larry G. Schachter, M.D.

20. Defendant hereby incorporates Paragraphs 1 through 19 of this Answer and New Matter as if the same were set forth at length herein.

21-22. The averments of Paragraphs 21 and 22 are directed toward another Defendant and/or contain statements as to Plaintiffs' legal position and/or conclusions of law to which no response is necessary. To the extent that a response is deemed necessary, the averments of Paragraphs 21 and 22 are denied per Pa.R.C.P. 1029(e).

WHEREFORE, Defendant respectfully requests that this Honorable Court enter judgment in her favor and against Plaintiffs, and that the Complaint be dismissed, with prejudice.

COUNT III
Linda K. Hutton v. Dubois Regional Medical Center

23. Defendant hereby incorporates Paragraphs 1 through 22 of this Answer and New Matter as if the same were set forth at length herein.

24-28. The averments of Paragraphs 24 through 28 are directed toward another Defendant and/or contain statements as to Plaintiffs' legal position and/or conclusions of law to which no response is necessary. To the extent that a response is deemed necessary, the averments of Paragraphs 24 through 28 are denied per Pa.R.C.P. 1029(e). Any and all agency allegations between Answering Defendant and Defendant Dubois Regional Medical Center are further denied in accordance with the remaining averments of the within Answer with New Matter.

WHEREFORE, Defendant respectfully requests that this Honorable Court enter judgment in her favor and against Plaintiffs, and that the Complaint be dismissed, with prejudice.

COUNT IV
Linda K. Hutton v. Mary C. Kruszewski, D.O., Larry G. Schachter, M.D. and Dubois
Regional Medical Center

29. Defendant hereby incorporates Paragraphs 1 through 28 of this Answer and New Matter as if the same were set forth at length herein.

30. The averments of Paragraph 30 are directed toward another Defendant and/or contain statements as to Plaintiffs' legal position and/or conclusions of law to which no response is necessary. To the extent that a response is deemed necessary, the averments of Paragraph 30 are denied per Pa.R.C.P. 1029(e).

WHEREFORE, Defendant respectfully requests that this Honorable Court enter judgment in her favor and against Plaintiffs, and that the Complaint be dismissed, with prejudice.

COUNT V
Loss of Consortium Claim
Gerald W. Hutton v. v. Mary C. Kruszewski, D.O., Larry G. Schachter, M.D. and
Defendant Dubois Regional Medical Center

31. Defendant hereby incorporates Paragraphs 1 through 30 of this Answer and New Matter as if the same were set forth at length herein.

32-34. The averments of Paragraphs 32 through 34 are directed toward another Defendant and/or contain statements as to Plaintiffs' legal position and/or conclusions of law to which no response is necessary. To the extent that a response is deemed necessary, the averments of Paragraphs 32 through 34 are denied per Pa.R.C.P. 1029(e).

WHEREFORE, Defendant respectfully requests that this Honorable Court enter judgment in her favor and against Plaintiffs, and that the Complaint be dismissed, with prejudice.

NEW MATTER

35. Defendant hereby incorporates Paragraphs 1 through 34 of this Answer and New Matter as if the same were set forth at length herein.

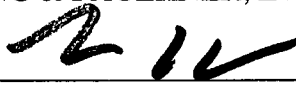
36. Defendant raises all affirmative defenses of the Health Care Services Malpractice Act, 40 PS §1301.101 et. seq., as amended.

37. Answering Defendant raises and asserts the affirmative defenses involving the statute of limitations as a bar to some or all of Plaintiffs' claims and release as a bar to the claims presently being asserted.

WHEREFORE, Defendant respectfully requests that this Honorable Court enter judgment in her favor and against Plaintiffs, and that the Complaint be dismissed, with prejudice.

Respectfully Submitted,

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

By: 
JOHN W. BLASKO
RICHARD K. LAWS
Attorneys for Answering Defendant
811 University Drive
State College, PA 16801
(814) 238-4926

Dated: 7/24/03

Hutton vs. Kruszevski

VERIFICATION

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


MARY C. KRUSZEWSKI, D.O.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY
COMMONWEALTH OF PENNSYLVANIA

Linda K. Hutton and Gerald W. Hutton,
Wife and Husband,

Plaintiffs,

vs.

Mary C. Kruszewski, D.O.,
Larry G. Schachter, M.D., and
DuBois Regional Medical Center,

Defendants.

CIVIL DIVISION

No. 2003-00834-CD

**PLAINTIFFS' RESPONSE TO NEW
MATTER ASSERTED BY
DEFENDANT DUBOIS REGIONAL
MEDICAL CENTER**

Filed on behalf of Plaintiffs

COUNSEL FOR PLAINTIFFS:

William J. Schenck
PA I.D. # 42156

Sheryle L. Long
PA I.D. # 52030

SCHENCK & LONG
610 North Main Street
Butler, PA 16001

(724) 283-7359

Trial by Jury Demanded

FILED

AUG 04 2003

William A. Shaw
Prothonotary/Clerk of Courts

**PLAINTIFFS' RESPONSE TO NEW MATTER ASSERTED BY
DEFENDANT DUBOIS REGIONAL MEDICAL CENTER**

Now, comes Plaintiffs, Linda K. Hutton and Gerald W. Hutton, Wife and Husband, by and through their attorneys, Schenck & Long, per William J. Schenck, and set forth the following as their statement:

1. The allegations set forth in paragraphs 15, 20 and 23 of Defendant's New Matter contain conclusions of law to which no affirmative answer is required. To the extent that an answer is deemed to be required, the allegations set forth in the said paragraphs are denied.

2. The allegations set forth in paragraphs 16 and 17 of Defendant's New Matter are denied pursuant to Pennsylvania Rule of Civil Procedure 1030(b).

3. The allegations set forth in paragraph 18 are denied. Plaintiffs incorporate herein by reference the Complaint in Civil Action which sets forth the cause of action against this Defendant.

4. The allegations set forth in paragraph 19 of Defendant's New Matter are conclusions of law to which no affirmative answer is required. Furthermore, paragraph 19 sets forth no material facts upon which the stated defense is based and, therefore, Plaintiffs are unable to respond to the asserted affirmative defense. To the extent an answer is deemed to be required, it is denied that the doctrines of intervening and superseding causes is applicable in this matter.

5. To the extent that paragraph 21 of Defendant's New Matter alleges that Plaintiff Linda Hutton had pre-existing medical conditions which caused her injuries and damages, the same is denied. Furthermore, paragraph 21 sets forth no material facts upon which the alleged defense is based. Therefore, the same is denied.

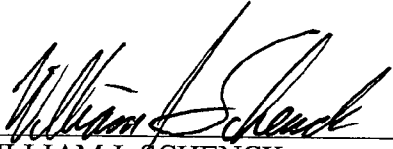
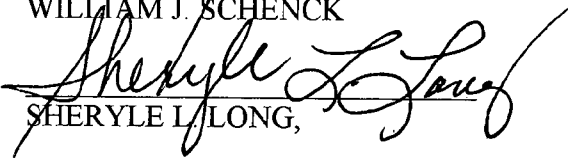
6. The allegations set forth paragraph 22 contain conclusions of law to which no affirmative answer is required. Furthermore, paragraph 22 sets forth no material facts upon

which the defense is based. It is specifically denied that the two schools of thought doctrine has any applicability to the negligence of the Defendants in this matter.

7. The allegations set forth in paragraphs 24, 25 and 26 are denied. It is specifically denied that any claim set forth in Plaintiffs' Complaint in Civil Action is barred, in whole or in part, by the statute of limitations. Furthermore, Defendants set forth no material facts on which the defense of the statute of limitations is based. Therefore, the same is denied.

WHEREFORE, Plaintiffs Linda K. Hutton and Gerald W. Hutton, Wife and Husband, demand judgment against Mary C. Kruszewski, D.O., Larry G. Schachter, M.D., and Defendant DuBois Regional Medical Center, jointly and severally, in the amount in excess of arbitration limits exclusive of cost and interest.

Respectively Submitted,


WILLIAM J. SCHENCK

SHERYLE L. LONG,

Schenck & Long
Attorneys at Law
610 N. Main Street
Butler, PA 16001
(724) 283-7359

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY
COMMONWEALTH OF PENNSYLVANIA

Linda K. Hutton and Gerald W. Hutton,
Wife and Husband,

Plaintiffs,

CIVIL DIVISION

No. 03-834-CD

vs.

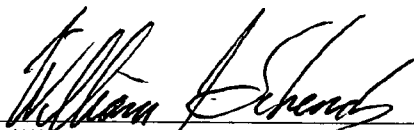
Mary C. Kruszewski, D.O.,
Larry G. Schachter, M.D., and
DuBois Regional Medical Center,

Defendants.

Trial by Jury Demanded

VERIFICATION

William J. Schenck, of SCHENCK & LONG, being duly sworn according to law, deposes and says that he is the attorney for Plaintiffs, Linda K. Hutton and Gerald W. Hutton, Wife and Husband, and is authorized to make this affidavit on behalf of the said Plaintiffs; that the facts set forth in the foregoing Plaintiffs' Response to New Matter Asserted by Defendant DuBois Regional Medical Center are true and correct, not of his own knowledge, but from information supplied to him by the Plaintiffs; that the purpose of this affidavit is to expedite the litigation and that an affidavit of the Plaintiffs will be supplied if demanded; and that this verification is made subject to the penalties of 18 PA C.S. 4904 relating to unsworn falsifications to authorities.



William J. Schenck
Attorney for Plaintiffs

610 North Main Street
Butler, PA 16001
(724) 283-7359

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY
COMMONWEALTH OF PENNSYLVANIA

Linda K. Hutton and Gerald W. Hutton,
Wife and Husband,

Plaintiffs,

vs.

Mary C. Kruszewski, D.O.,
Larry G. Schachter, M.D., and
DuBois Regional Medical Center,

Defendants.

CIVIL DIVISION

No. 2003-00834-CD

**PLAINTIFFS' RESPONSE TO NEW
MATTER ASSERTED BY
DEFENDANT MARY C.
KRUSZEWSKI, D.O.**

Filed on behalf of Plaintiffs

COUNSEL FOR PLAINTIFFS:

William J. Schenck
PA I.D. # 42156

Sheryle L. Long
PA I.D. # 52030

SCHENCK & LONG
610 North Main Street
Butler, PA 16001

(724) 283-7359

Trial by Jury Demanded

FILED

AUG 04 2003

William A. Shaw
Prothonotary/Clerk of Courts

**PLAINTIFFS' RESPONSE TO NEW MATTER ASSERTED BY
DEFENDANT MARY C. KRUSZEWSKI, D.O.**

Now, comes Plaintiffs, Linda K. Hutton and Gerald W. Hutton, Wife and Husband, by and through their attorneys, Schenck & Long, per William J. Schenck, and set forth the following as their statement:

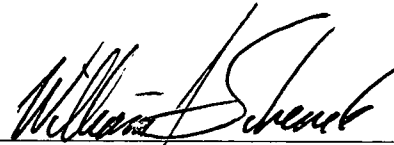
1. In response to paragraph 35 of Defendant's New Matter, Plaintiffs incorporate herein the Complaint in Civil Action as if set forth at length.

2. The allegations set forth in paragraph 36 of Defendant's New Matter contain conclusions of law to which no answer is required. To the extent an answer is deemed to be required, it is denied that the Health Care Services Malpractice Act in any way precludes the cause of action herein.

3. The allegations set forth in paragraph 37 of Defendant's New Matter are denied. The paragraph sets forth no material facts on which the defense of the statute of limitations is based, as required by Pennsylvania Rules of Civil Procedure 1019(a). Therefore, Plaintiffs are unable to address specific allegations concerning the allegation that this cause of action is barred by the statute of limitations.

WHEREFORE, Plaintiffs Linda K. Hutton and Gerald W. Hutton, Wife and Husband, demand judgment against Mary C. Kruszewski, D.O., Larry G. Schachter, M.D., and Defendant DuBois Regional Medical Center, jointly and severally, in the amount in excess of arbitration limits exclusive of cost and interest.

Respectively Submitted,


WILLIAM J. SCHENCK


SHERYLE L. LONG,

Schenck & Long
Attorneys at Law
610 N. Main Street
Butler, PA 16001
(724) 283-7359

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY
COMMONWEALTH OF PENNSYLVANIA

Linda K. Hutton and Gerald W. Hutton,
Wife and Husband,

Plaintiffs,

CIVIL DIVISION

No. 03-834-CD

vs.

Mary C. Kruszewski, D.O.,
Larry G. Schachter, M.D., and
DuBois Regional Medical Center,

Defendants.

Trial by Jury Demanded

VERIFICATION

William J. Schenck, of SCHENCK & LONG, being duly sworn according to law, deposes and says that he is the attorney for Plaintiffs, Linda K. Hutton and Gerald W. Hutton, Wife and Husband, and is authorized to make this affidavit on behalf of the said Plaintiffs; that the facts set forth in the foregoing Plaintiffs' Response to New Matter Asserted by Defendant Mary C. Kruszewski, D.O., are true and correct, not of his own knowledge, but from information supplied to him by the Plaintiffs; that the purpose of this affidavit is to expedite the litigation and that an affidavit of the Plaintiffs will be supplied if demanded; and that this verification is made subject to the penalties of 18 PA C.S. 4904 relating to unsworn falsifications to authorities.



William J. Schenck
Attorney for Plaintiffs

610 North Main Street
Butler, PA 16001
(724) 283-7359

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY
PENNSYLVANIA

LINDA K. HUTTON and GERALD
W. HUTTON, Wife and Husband,

Civil Division

Plaintiffs,

No. 03-834-CD

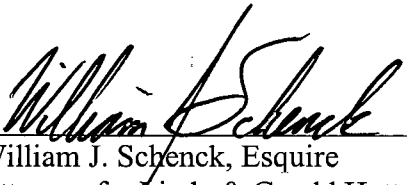
v.

MARY C. KRUSZEWSKI, D.O.,
LARRY G. SCHACHTER, M.D.,
and DUBOIS REGIONAL MEDIAL
CENTER,

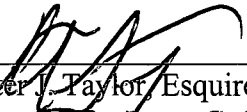
Defendants.

STIPULATION OF COUNSEL

It is hereby stipulated and agreed by and between counsel for the Plaintiffs and counsel for
Larry G. Schachter, M.D., Defendant that Paragraph 34 of the Complaint is stricken.



William J. Schenck, Esquire
Attorney for Linda & Gerald Hutton



Peter J. Taylor, Esquire
Attorney for Larry G. Schachter, MD

FILED ^{no} cc
m11:116/51
AUG 06 2003
William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY
COMMONWEALTH OF PENNSYLVANIA

Linda K. Hutton and Gerald W. Hutton,
Wife and Husband,

CIVIL DIVISION

No. 2003-00834-CD

Plaintiffs,

vs.

Trial by Jury Demanded

Mary C. Kruszewski, D.O.,
Larry G. Schachter, M.D., and
DuBois Regional Medical Center,

Defendants.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Plaintiffs' Response to New Matter Asserted by Defendant Mary C. Kruszewski, D.O., were served, by and through postage prepaid U.S. Mail, on this 30th day of July 2003, upon the following individual(s):

John W. Blasko, Esquire
McQuaide, Blasko, Schwartz, Fleming & Faulkner, Inc.
811 University Drive
State College, PA 16801-6699
Attorney for Mary C. Kruszewski, D.O.

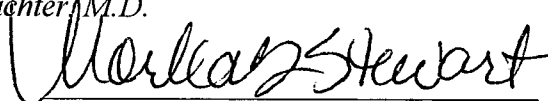
David R. Johnson, Esquire
Thomson, Rhodes & Cowie, P.C.
Two Chatham Center, Tenth Floor
Pittsburgh, PA 15219-3499
Attorney for Dubois Regional Medical Center

Peter J. Taylor, Esquire
Murphy Taylor, L.L.C.
326 Third Avenue
Pittsburgh, PA 15222
Attorney for Larry G. Schachter, M.D.

FILED

AUG 07 2003

William A. Shaw
Prothonotary/Clerk of Courts



Norka G. Stewart
Paralegal

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY
COMMONWEALTH OF PENNSYLVANIA

Linda K. Hutton and Gerald W. Hutton,
Wife and Husband,

CIVIL DIVISION

No. 2003-00834-CD

Plaintiffs,

vs.

Trial by Jury Demanded

Mary C. Kruszewski, D.O.,
Larry G. Schachter, M.D., and
DuBois Regional Medical Center,

Defendants.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Plaintiffs' Response to New Matter Asserted by Defendant DuBois Regional Medical Center were served, by and through postage prepaid U.S. Mail, on this 30th day of July 2003, upon the following individual(s):

John W. Blasko, Esquire
McQuaide, Blasko, Schwartz, Fleming & Faulkner, Inc.
811 University Drive
State College, PA 16801-6699
Attorney for Mary C. Kruszewski, D.O.

David R. Johnson, Esquire
Thomson, Rhodes & Cowie, P.C.
Two Chatham Center, Tenth Floor
Pittsburgh, PA 15219-3499
Attorney for Dubois Regional Medical Center

Peter J. Taylor, Esquire
Murphy Taylor, L.L.C.
326 Third Avenue
Pittsburgh, PA 15222
Attorney for Larry G. Schachter, M.D.

FILED

AUG 07 2003

William A. Shaw
Prothonotary/Clerk of Courts



Norka G. Stewart
Paralegal

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY
PENNSYLVANIA

FILED

SEP 08 2003

William A. Shaw
Prothonotary/Clerk of Courts

LINDA K. HUTTON and GERALD
W. HUTTON, Wife and Husband,

Civil Division

Plaintiffs,

No. 03-834-CD

v.

MARY C. KRUSZEWSKI, D.O.,
LARRY G. SCHACHTER, M.D.,
and DUBOIS REGIONAL
MEDIAL CENTER,

ANSWER AND NEW MATTER

Defendants.

Filed on behalf of:
Defendant Larry G. Schachter,
M.D., only

Counsel of Record for this Party:

Peter J. Taylor, Esquire
PA I.D. No. 26506

Murphy Taylor, L.L.C.
Firm I.D. No. 625

326 Third Avenue
Pittsburgh, PA 15222
(412) 255-0200

JURY TRIAL DEMANDED

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY
PENNSYLVANIA

LINDA K. HUTTON and GERALD
W. HUTTON, Wife and Husband,

Civil Division

Plaintiffs,

No. 03-834-CD

v.

MARY C. KRUSZEWSKI, D.O.,
LARRY G. SCHACHTER, M.D.,
and DUBOIS REGIONAL MEDIAL
CENTER,

Defendants.

ANSWER AND NEW MATTER

AND NOW comes Defendant Larry G. Schachter, M.D., by and through his attorneys, MURPHY TAYLOR, L.L.C. and presents this Answer and New Matter to Plaintiff's Complaint, as follows:

1. This Defendant is without knowledge or information sufficient to form a belief as to the truth of the averments of Paragraph 1 of the Complaint because the means of proof thereof are within the exclusive control of the Plaintiffs. Strict proof is demanded.

2. The allegations of Paragraph 2 of the Complaint are directed towards another defendant, and require no responsive pleading from this defendant.

3. Not denied.

4-5. The allegations of Paragraphs 4 and 5 of the Complaint are directed towards other defendants, and require no responsive pleading from this Defendant.

6. Denied. It is specifically denied that this Defendant was at any time an agent, servant, or employee of Dubois Regional Medical Center. It is not denied that this Defendant had staff privileges at Dubois Regional Medical Center.

7-8. This Defendant is without knowledge or information sufficient to form a belief as to the truth of the averments of Paragraphs 7 and 8 of the Complaint, because the means of proof thereof are within the exclusive control of other persons, firms, and entities. Strict proof is demanded.

9. In response to Paragraph 9 of the Complaint, it is not denied that this Defendant was the assistant for the surgery on the date stated. At all times, this Defendant conducted operations and activities in a lawful, proper, reasonable and prudent fashion, and in full accord with prevailing standards of care. Liability on behalf of Dr. Schachter is denied and strict proof is demanded.

10. To the extent that Paragraph 10 of the Complaint attempts to summarize or characterize the medical records of the surgical procedure, said allegations are denied for the reason that the records speak for themselves. It is not denied that during the surgical procedure the patient's left ureter was transected. This Defendant Dr. Schachter denies all allegations of liability, causation, and damages set forth in the Complaint. Strict proof is demanded.

11. To the extent that Paragraph 11 of the Complaint attempts to summarize or characterize the medical records of the surgical procedure, said

allegations are denied for the reason that the records speak for themselves. It is not denied that this Defendant, Dr. Schachter was the assistant during the surgery on the date stated. Other particulars of the surgery are set forth in the medical records and operative report. This Defendant Dr. Schachter at all times conducted operations and activities in a lawful, proper, reasonable and prudent fashion, and in full accord with prevailing standards of care. It is denied that any of the injuries or damages complained of by Plaintiff were caused either directly, indirectly, or proximately by any actions or conduct of this Defendant. Liability is denied and strict proof is demanded.

12. To the extent that Paragraph 12 of the Complaint attempts to summarize or characterize the medical records of the surgical procedure, said allegations are denied for the reason that the records speak for themselves. It is not denied that this Defendant, Dr. Schachter was the assistant during the surgery on the date stated. Other particulars of the surgery are set forth in the medical records and operative report. This Defendant Dr. Schachter at all times conducted operations and activities in a lawful, proper, reasonable and prudent fashion, and in full accord with prevailing standards of care. It is denied that any of the injuries or damages complained of by Plaintiff were caused either directly, indirectly, or proximately by any actions or conduct of this Defendant. Liability is denied and strict proof is demanded.

13. In response to Paragraph 13 of the Complaint, the perioperative notes indicate that the surgery ended at 9:28 a.m. on the date stated.

14. Denied. On the contrary, during the surgery, upon realizing that the ureter had been transected, the Defendant directed that a urologist be called at that time.

15-16. This Defendant is without knowledge or information sufficient to form a belief as to the truth of the averments of Paragraphs 15 and 16 of the Complaint, because the means of proof thereof are within the exclusive control of other persons, firms, and entities. Said allegations are therefore denied and strict proof is demanded. It is denied that any of the injuries or damages complained of by Plaintiff were caused either directly, indirectly, or proximately by any action or conduct of this Defendant. Liability on behalf of Dr. Schachter is specifically and categorically denied and strict proof is demanded.

17-19. The allegations of Paragraph 17 through 19 of the Complaint are directed towards another Defendant and require no responsive pleading from this Defendant.

20. To the extent that Paragraph 20 of the Complaint incorporates prior paragraphs, this Defendant incorporates his responses thereto set forth above.

21-22. Denied pursuant to Pa.R.C.P. 1029(e).

23-28. The allegations of Paragraphs 23 through 28 of the complaint are directed towards another Defendant, and require no responsive pleading from this Defendant. To the extent that a responsive pleading is deemed required, it is specifically denied that this Defendant Dr. Schachter was at any time an agent, servant, or employee of Dubois Regional Medical Center.

29. To the extent that Paragraph 29 of the Complaint incorporates prior paragraphs, this Defendant incorporates his responses thereto set forth above.

30-34. Denied pursuant to Pa.R.C.P. 1029(e). In addition, Paragraph 34 of the Complaint has been stricken by agreement of counsel, as to Dr. Schachter.

NEW MATTER

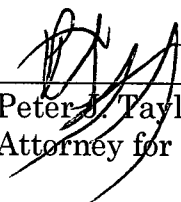
35. If, and to the extent it can be proven at any time prior to Trial, that the Plaintiff's injuries and damages were caused by her own failure to exercise due care and caution for her own safety and protection, then this Defendant pleads and claims the defense of comparative negligence as a complete or partial bar to the Plaintiff's claims.

36. This Defendant pleads and claims all defenses available pursuant to the Healthcare Services Malpractice Act, 40 P.S. §1301.101 *et seq.*, as amended.

WHEREFORE, Defendant Larry G. Schachter, M.D. demands that Plaintiff's Complaint be dismissed with costs.

Respectfully submitted,

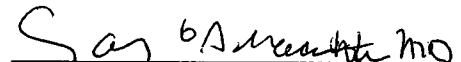
MURPHY TAYLOR, P.C.

By  _____
Peter J. Taylor, Esquire
Attorney for Larry G. Schachter, MD

VERIFICATION

I, LARRY G. SCHACHTER, M.D. state that the averments in the foregoing **ANSWER AND NEW MATTER** are true and correct to the best of my knowledge, information and belief.

These Statements and Verification are 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.


LARRY G. SCHACHTER, M.D.

DATED: 27 Aug 03

CERTIFICATE OF SERVICE

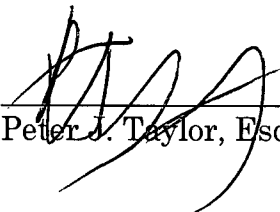
The undersigned hereby certifies that a true and correct copy of the within ANSWER AND NEW MATTER has been forwarded to the counsel of record as follows by hand delivery, by messenger, or by First Class United States Mail on this

4 day of September, 2003.

William J. Schenck, Esquire
SCHENCK & LONG
610 North Main Street
Butler, PA 16001
(Attorney for Plaintiff)

David Johnson, Esquire
THOMSON, RHODES & COWIE, P.C.
Two Chatham Center
Suite 1010
Pittsburgh, PA 15219
(Attorney for Dubois Regional Medical Center)

John W. Blasko, Esquire
McQUAIDE, BLASKO, SCHWARTZ,
FLEMING & FAULKNER, INC.
811 University Drive
State College, PA 16801-6699
(Attorney for Mary C. Kruszewski, D.O.)



Peter J. Taylor, Esquire

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY
COMMONWEALTH OF PENNSYLVANIA

Linda K. Hutton and Gerald W. Hutton,
Wife and Husband,

Plaintiffs,

vs.

Mary C. Kruszewski, D.O.,
Larry G. Schachter, M.D., and
DuBois Regional Medical Center,

Defendants.

CIVIL DIVISION

No. 2003-00834-CD

**PLAINTIFFS' RESPONSE TO NEW
MATTER ASSERTED BY
DEFENDANT LARRY G.
SCHACHTER, M.D.**

Filed on behalf of Plaintiffs

COUNSEL FOR PLAINTIFFS:

William J. Schenck
PA I.D. # 42156

Sheryle L. Long
PA I.D. # 52030

SCHENCK & LONG
610 North Main Street
Butler, PA 16001

(724) 283-7359

Trial by Jury Demanded

FILED

SEP 17 2003

m/12:20 PM

William A. Shaw

Prothonotary/Clerk of Courts

1 CENT TO ATT

12/1

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY
COMMONWEALTH OF PENNSYLVANIA

Linda K. Hutton and Gerald W. Hutton,
Wife and Husband,

Plaintiffs,

CIVIL DIVISION

No. 03-834-CD

vs.

Mary C. Kruszewski, D.O.,
Larry G. Schachter, M.D., and
DuBois Regional Medical Center,

Defendants.

Trial by Jury Demanded

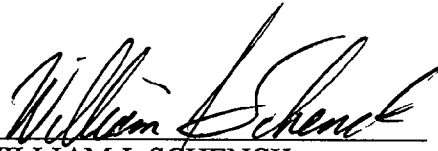
**PLAINTIFFS' RESPONSE TO NEW MATTER ASSERTED BY
DEFENDANT LARRY G. SCHACHTER, M.D.**

Now, come Plaintiffs, Linda K. Hutton and Gerald W. Hutton, Wife and Husband, by and through their attorneys, Schenck & Long, per William J. Schenck, and set forth the following as their statement:

1. To the extent that the allegations contained in paragraph 35 of Defendant's New Matter imply that Plaintiff's injuries and damages were caused by her own failure to exercise due care and caution for her own safety and protection, the allegations set forth in paragraph 35 are denied.
2. The allegations set forth in paragraph 36 of Defendant's New Matter contain conclusions of law to which no affirmative answer is required.

WHEREFORE, Plaintiffs Linda K. Hutton and Gerald W. Hutton, Wife and Husband, demand judgment against Mary C. Kruszewski, D.O., Larry G. Schachter, M.D., and Defendant DuBois Regional Medical Center, jointly and severally, in the amount in excess of arbitration limits exclusive of cost and interest.

Respectively Submitted,


WILLIAM J. SCHENCK

SHERYLE L. LONG,

Schenck & Long
Attorneys at Law
610 N. Main Street
Butler, PA 16001
(724) 283-7359

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY
COMMONWEALTH OF PENNSYLVANIA

Linda K. Hutton and Gerald W. Hutton,
Wife and Husband,

CIVIL DIVISION

No. 03-834-CD

Plaintiffs,

vs.

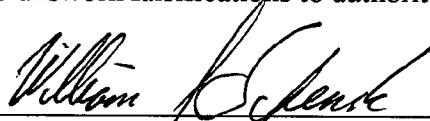
Mary C. Kruszewski, D.O.,
Larry G. Schachter, M.D., and
DuBois Regional Medical Center,

Trial by Jury Demanded

Defendants.

VERIFICATION

William J. Schenck, of SCHENCK & LONG, being duly sworn according to law, deposes and says that he is the attorney for Plaintiffs, Linda K. Hutton and Gerald W. Hutton, Wife and Husband, and is authorized to make this affidavit on behalf of the said Plaintiffs; that the facts set forth in the foregoing Plaintiffs' Response to New Matter Asserted by Defendant Larry G. Schachter, M.D. are true and correct, not of his own knowledge, but from information supplied to him by the Plaintiffs; that the purpose of this affidavit is to expedite the litigation and that an affidavit of the Plaintiffs will be supplied if demanded; and that this verification is made subject to the penalties of 18 PA C.S. 4904 relating to unsworn falsifications to authorities.



William J. Schenck
Attorney for Plaintiffs

610 North Main Street
Butler, PA 16001
(724) 283-7359

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY
COMMONWEALTH OF PENNSYLVANIA

Linda K. Hutton and Gerald W. Hutton,
Wife and Husband,

CIVIL DIVISION

No. 2003-00834-CD

Plaintiffs,

vs.

Trial by Jury Demanded

Mary C. Kruszewski, D.O.,
Larry G. Schachter, M.D., and
DuBois Regional Medical Center,

Defendants.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Plaintiffs' Response to New Matter Asserted by Defendant Larry G. Schachter, M.D. were served, by and through postage prepaid U.S. Mail, on this 15th day of September 2003, upon the following individual(s):

John W. Blasko, Esquire
McQuaide, Blasko, Schwartz, Fleming & Faulkner, Inc.
811 University Drive
State College, PA 16801-6699
Attorney for Mary C. Kruszewski, D.O.

David R. Johnson, Esquire
Thomson, Rhodes & Cowie, P.C.
Two Chatham Center, Tenth Floor
Pittsburgh, PA 15219-3499
Attorney for Dubois Regional Medical Center

Peter J. Taylor, Esquire
Murphy Taylor, L.L.C.
326 Third Avenue
Pittsburgh, PA 15222
Attorney for Larry G. Schachter, M.D.


Daniele Lee Hall
Paralegal

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

LINDA K. HUTTON and GERALD W.
HUTTON, husband and wife,

Plaintiffs,

vs.

MARY C. KRUSZEWSKI, D.O.,
LARRY G. SCHACHTER, M.D.
and DUBOIS REGIONAL MEDICAL
CENTER,

Defendants.

NO. 03-834 CD

JURY TRIAL DEMANDED

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of Defendant Kruszewski's Notice of Intent to Subpoena, in the above-referenced matter was mailed by regular mail, first class, at the Post Office, State College, Pennsylvania, postage prepaid, this 18th day of Sept., 2003, to:

William J. Schenck, Esquire
Schenck & Long
610 North Main Street
Butler, PA 16001

Peter J. Taylor, Esquire
326 Third Avenue
Pittsburgh, PA 15222

David Johnson, Esquire
Two Chatham Center, 10th Floor
Pittsburgh, PA 15219-3499

FILED
MA M 1:15 PM NO CC
SEP 19 2003

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

By: John W. Blasko

JOHN W. BLASKO

Attorneys for Defendant
Mary C. Kruszewski, D.O.

William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

LINDA K. HUTTON and GERALD W.
HUTTON, husband and wife,

Plaintiffs,

vs.

MARY C. KRUSZEWSKI, D.O.,
LARRY G. SCHACHTER, M.D.
and DUBOIS REGIONAL MEDICAL
CENTER,

Defendants.

NO. 03-834 CD

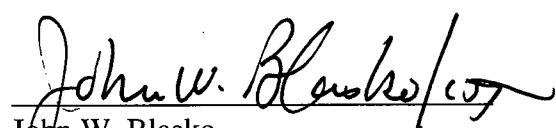
JURY TRIAL DEMANDED

**CERTIFICATE
PREREQUISITE TO SERVICE OF A SUBPOENA
PURSUANT TO RULE 4009.22**

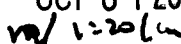
As a prerequisite to service of a subpoena for documents and things pursuant to Rule 4009.22,
Defendant certifies that:

- (1) a notice of intent to serve the subpoenas with a copy of the subpoenas attached thereto were mailed or delivered to each party at least 20 days prior to the date on which the subpoenas are sought to be served,
- (2) a copy of the notice of intent, including the proposed subpoenas, are attached to this certificate,
- (3) plaintiff's counsel has waived the 20-day waiting period to object, and
- (4) the subpoenas which will be served are identical to the subpoenas which are attached to the notice of intent to serve the subpoenas.

Dated: 9/30/03


John W. Blasko
Attorneys for the Defendant

FILED

OCT 01 2003

William A. Shaw
Prothonotary/Clerk of Courts
no cert.

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

= LINDA K. HUTTON and GERALD W.
HUTTON, husband and wife,

Plaintiffs,

vs.

MARY C. KRUSZEWSKI, D.O.,
LARRY G. SCHACHTER, M.D.
and DUBOIS REGIONAL MEDICAL
CENTER,

Defendants.

NO. 03-834 CD


JURY TRIAL DEMANDED

**NOTICE OF INTENT TO SERVE A SUBPOENA TO PRODUCE
DOCUMENTS AND THINGS FOR DISCOVERY**

Defendant intends to serve subpoenas identical to the ones attached to this notice. You have twenty (20) days from the date listed below in which to file of record and serve upon the undersigned an objection to the subpoenas. If no objection is made the subpoenas may be served.

DATED:

9/18/03


John W. Blasko
Attorneys for Defendant

COMMONWEALTH OF PENNSYLVANIA
COUNTY OF CLEARFIELD

Linda K. Hutton
Gerald W. Hutton
Plaintiff(s)

*

Vs.

*

No. 2003-00834-CD

Mary C. Kruszewski
Larry G. Schachter
DuBois Regional Medical Center
Defendant(s)

*

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

TO: Ralph J. Miller, Jr., M. D.

(Name of Person or Entity)

Within twenty (20) days after service of this subpoena, you are ordered by the Court to produce the following documents or things: any and all medical records and billings regarding Linda K. Hutton (DOB:4/22/47 & SSN:207-38-2934) for all time.

to: McQuaide Blasko, 811 University Drive, State College, PA 16801
(Address)

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

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

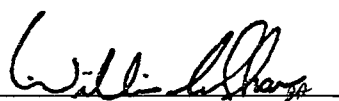
THIS SUBPOENA WAS ISSUED AT THE REQUEST OF THE FOLLOWING PERSON:

NAME: John W. Blasko
ADDRESS: 811 University Drive
State College, PA 16801
TELEPHONE: 814-238-4926
SUPREME COURT ID # 6787
ATTORNEY FOR: Defendant

BY THE COURT:

William A. Shaw
Prothonotary/Clerk, Civil Division

DATE: Monday, September 15, 2003
Seal of the Court


Deputy

COMMONWEALTH OF PENNSYLVANIA
COUNTY OF CLEARFIELD

Linda K. Hutton
Gerald W. Hutton
Plaintiff(s)

Vs.

Mary C. Kruszewski
Larry G. Schachter
DuBois Regional Medical Center
Defendant(s)

No. 2003-00834-CD

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

TO: Robert J. Cherry, M. D.

(Name of Person or Entity)

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

any & all medical records & billings regarding Linda K. Hutton (DOB: 4/22/47 &
SSN: 207-38-2934) for all time.

(Address)

to: McQuiade Blasko, 811 University Drive, State College, PA 16801

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

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

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

NAME: John W. Blasko
ADDRESS: 811 University Drive
State College, PA 16801
TELEPHONE: 814-238-4926
SUPREME COURT ID # 6787
ATTORNEY FOR: Defendant

BY THE COURT:

William A. Shaw
Prothonotary/Clerk, Civil Division



Deputy

DATE: Monday, September 15, 2003
Seal of the Court

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

LINDA K. HUTTON and GERALD W.)
HUTTON, husband and wife,)

Plaintiffs,)

vs.)

MARY C. KRUSZEWSKI, D.O.,)
LARRY G. SCHACHTER, M.D.)
and DUBOIS REGIONAL MEDICAL)
CENTER,)

Defendants.)

NO. 03-834 CD

JURY TRIAL DEMANDED

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of Defendant Kruszewski's Notice of Intent to Subpoena Dr. delaTorre and Allegheny General Hospital, in the above-referenced matter was mailed by regular mail, first class, at the Post Office, State College, Pennsylvania, postage prepaid, this 20th day of October, 2003, to:

William J. Schenck, Esquire
Schenck & Long
610 North Main Street
Butler, PA 16001

Peter J. Taylor, Esquire
326 Third Avenue
Pittsburgh, PA 15222

David Johnson, Esquire
Two Chatham Center, 10th Floor
Pittsburgh, PA 15219-3499

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

By: John W. Blasko

JOHN W. BLASKO

Attorneys for Defendant

Mary C. Kruszewski, D.O.

FILED

OCT 21 2003

m/1:00pm

William A. Shaw

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

LINDA K. HUTTON and GERALD W.)
HUTTON, husband and wife,)

Plaintiffs,)

vs.)

MARY C. KRUSZEWSKI, D.O.,)
LARRY G. SCHACHTER, M.D.)
and DUBOIS REGIONAL MEDICAL)
CENTER,)

Defendants.)

NO. 03-834 CD

JURY TRIAL DEMANDED

FILED

NOV 05 2003

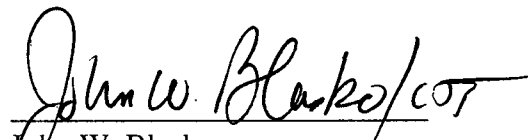
William A. Shaw
Prothonotary/Clerk of Courts

**CERTIFICATE
PREREQUISITE TO SERVICE OF A SUBPOENA
PURSUANT TO RULE 4009.22**

As a prerequisite to service of a subpoena for documents and things pursuant to Rule 4009.22, Defendant certifies that:

- (1) a notice of intent to serve the subpoenas with a copy of the subpoenas attached thereto were mailed or delivered to each party at least 20 days prior to the date on which the subpoenas are sought to be served,
- (2) a copy of the notice of intent, including the proposed subpoenas, are attached to this certificate,
- (3) plaintiff's counsel has waived the 20-day waiting period to object, and
- (4) the subpoenas which will be served are identical to the subpoenas which are attached to the notice of intent to serve the subpoenas.

Dated: 11/4/03


John W. Blasko
Attorneys for the Defendant

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

LINDA K. HUTTON and GERALD W.
HUTTON, husband and wife,

Plaintiffs,

vs.

MARY C. KRUSZEWSKI, D.O.,
LARRY G. SCHACHTER, M.D.
and DUBOIS REGIONAL MEDICAL
CENTER,

Defendants.

NO. 03-834 CD

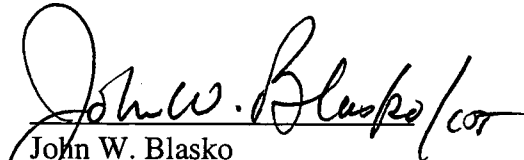
JURY TRIAL DEMANDED

**NOTICE OF INTENT TO SERVE A SUBPOENA TO PRODUCE
DOCUMENTS AND THINGS FOR DISCOVERY**

Defendant intends to serve subpoenas identical to the ones attached to this notice. You have twenty (20) days from the date listed below in which to file of record and serve upon the undersigned an objection to the subpoenas. If no objection is made the subpoenas may be served.

DATED:

10/20/03


John W. Blasko
Attorneys for Defendant

COMMONWEALTH OF PENNSYLVANIA
COUNTY OF CLEARFIELD

Linda K. Hutton
Gerald W. Hutton
Plaintiff(s)

Vs.

Mary C. Kruszewski
Larry G. Schachter
DuBois Regional Medical Center
Defendant(s)

No. 2003-00834-CD

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

TO: Henry G. delaTorre, M.D.

(Name of Person or Entity)

Within twenty (20) days after service of this subpoena, you are ordered by the Court to produce the following documents or things: any & all medical records for all time in your custody and/or the custody of the health center; and all billings from August 2001 to the present regarding Linda Hutton (DOB:4/22/47) & SSN:207-38-2934.

(Address)

TO: McQuaide Blasko, 811 University Drive, State College, PA 16801

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

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

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

NAME: John W. Blasko
ADDRESS: 811 University Drive
State College, PA 16801
TELEPHONE: 814-238-4926
SUPREME COURT ID # 6787
ATTORNEY FOR: Defendant

BY THE COURT:

William A. Shaw
Prothonotary/Clerk, Civil Division

DATE: Thursday, October 16, 2003
Seal of the Court


Deputy

COMMONWEALTH OF PENNSYLVANIA
COUNTY OF CLEARFIELD

Linda K. Hutton
Gerald W. Hutton
Plaintiff(s)

Vs.

Mary C. Kruszewski
Larry G. Schachter
DuBois Regional Medical Center
Defendant(s)

No. 2003-00834-CD

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

TO: Allegheny General Hospital

(Name of Person or Entity)

Within twenty (20) days after service of this subpoena, you are ordered by the Court to produce the following documents or things: any & all medical records for all time in your custody; and all billings from August 2001 to present regarding Linda Hutton (DOB:4/22/47 and SSN:207-38-2934).

(Address)

TO: McQuaide Blasko, 811 University Drive, State College, PA 16801

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

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

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

NAME: John W. Blasko
ADDRESS: 811 University Drive
State College, PA 16801
TELEPHONE: 814-238-4926
SUPREME COURT ID # 6787
ATTORNEY FOR: Defendant

BY THE COURT:

William A. Shaw
Prothonotary/Clerk, Civil Division

DATE: Thursday, October 16, 2003
Seal of the Court

William A. Shaw
Deputy

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

LINDA K. HUTTON and GERALD W.)
HUTTON, husband and wife,)

Plaintiffs,)

vs.)

MARY C. KRUSZEWSKI, D.O.,)
LARRY G. SCHACHTER, M.D.)
and DUBOIS REGIONAL MEDICAL)
CENTER,)

Defendants.)

NO. 03-834 CD

JURY TRIAL DEMANDED

CERTIFICATE OF SERVICE

I hereby certify that Defendant's **Notice of Taking Oral Depositions of Plaintiffs** in the above-referenced matter was mailed by first class, postage prepaid, at the Post Office, State College, Pennsylvania, this 19th day of February, 2004, to William Schenck, Esquire, 610 North Main Street, Butler, PA 16001; David R. Johnson, Esquire, 1010 Two Chatham Center, Pittsburgh, PA 15219; and Peter J. Taylor, Esquire, 326 Third Avenue, Pittsburgh, PA 15222.

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

By: John W. Blasko

John W. Blasko, Esquire
Attorneys for Defendant

FILED

FEB 20 2004

m/1:05/w
William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY
COMMONWEALTH OF PENNSYLVANIA

Linda K. Hutton and Gerald W. Hutton,
Wife and Husband,

Plaintiffs,

vs.

Mary C. Kruszewski, D.O.,
Larry G. Schachter, M.D., and
DuBois Regional Medical Center,

Defendants.

CIVIL DIVISION

No. 2003-00834-CD

JURY TRIAL DEMANDED

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of Plaintiffs' Notices of Oral Deposition of Mary C. Kruszewski, D.O. and Larry G. Schachter, M.D., were served, by and through postage prepaid U.S.

Mail on the 23rd day of February 2003, upon the following individual(s):

John W. Blasko, Esquire
McQuaide, Blasko, Schwartz, Fleming & Faulkner, Inc.
811 University Drive
State College, PA 16801-6699
(Attorney for Mary C. Kruszewski, D.O.)

David R. Johnson, Esquire
Thomson, Rhodes & Cowie, P.C.
Two Chatham Center, Tenth Floor
Pittsburgh, PA 15219-3499
(Attorney for Dubois Regional Medical Center)

Peter J. Taylor, Esquire
Murphy Taylor, L.L.C.
326 Third Avenue
Pittsburgh, PA 15222
(Attorney for Larry G. Schachter, M.D.)

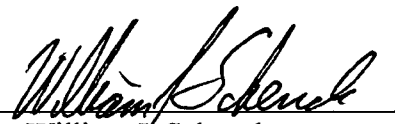
FILED

MAR 01 2004

William A. Shaw
Prothonotary/Clerk of Courts

SCHENCK & LONG

By:


William J. Schenck
Attorney for Plaintiffs

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

LINDA K. HUTTON and GERALD W.
HUTTON, wife and husband,

Plaintiffs,

Vs.

MARY C. KRUSZEWSKI, D.O., LARRY
G. SCHACHTER, M.D., and DUBOIS
REGIONAL MEDICAL CENTER,

Defendants.

CIVIL DIVISION

No. 03-834-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

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

(412) 232-3400

FILED

APR 26 2004

M/1:00/ush
William A. Shaw
Prothonotary
no c/c *[Signature]*

REQUEST TO PLAINTIFFS FOR PRODUCTION OF EXPERT REPORTS

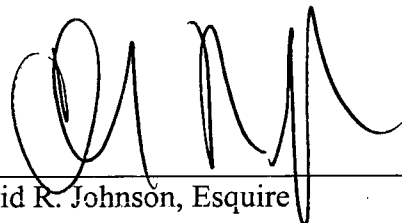
NOW COMES DuBois Regional Medical Center, one of the defendants, by its attorneys, Thomson, Rhodes & Cowie, P.C., and file the following requests to plaintiffs for production of expert reports required by Rule 1042.28(a)(1) of the Pennsylvania Rules of Civil Procedure.

TO: LINDA K. HUTTON and GERALD W. HUTTON, wife and husband
FROM: DUBOIS REGIONAL MEDICAL CENTER

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 defendant 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: _____

4/23/04



David R. Johnson, Esquire

CERTIFICATION OF SERVICE

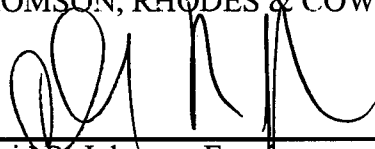
I hereby certify that a true and correct copy of the within REQUEST TO
PLAINTIFF FOR PRODUCTION OF EXPERT REPORTS has been served upon the
following counsel of record and same placed in the U.S. Mails on this 23rd day of
April, 2004:

William J. Schenck, Esquire
Schenck & Long
610 N. Main Street
Butler, PA 16001

Peter J. Taylor, Esquire
Murphy Taylor, LLC
326 Third Avenue
Pittsburgh, PA 15222

John W. Blasko, Esquire
McQuaide Blasko
811 University Drive
State College, PA 16801-6699

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

CIVIL DIVISION

FILED

10/12:59 PM
DEC 01 2004

William A. Shaw
Prothonotary/Clerk of Courts

LINDA K. HUTTON and GERALD W.
HUTTON, husband and wife,

Plaintiffs,

vs.

MARY C. KRUSZEWSKI, D.O.,
LARRY G. SCHACHTER, M.D.
and DUBOIS REGIONAL MEDICAL
CENTER,

Defendants.

NO. 03-834 CD

JURY TRIAL DEMANDED

CERTIFICATE OF SERVICE

I hereby certify that the Answers and Objections to Plaintiffs' First Set of Interrogatories directed to Defendant, Mary C. Kruszewski, D.O., in the above-referenced matter were mailed by regular mail, first class, at the Post Office, State College, Pennsylvania, postage prepaid, this 30th day of November, 2004, to:

Original:

William J. Schenck, Esquire
Sheryle L. Long, Esquire
Schenck & Long
610 North Main Street
Butler, PA 16001

Copy:

Peter J. Taylor, Esquire
326 Third Avenue
Pittsburgh, PA 15222

Copy:

David Johnson, Esquire
Two Chatham Center, 10th Floor
Pittsburgh, PA 15219-3499

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

By: 

JOHN W. BLASKO
Attorneys for Defendant
Mary C. Kruszewski, D.O.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

FILED *Wp*
01/25/04 *cc*
DEC 01 2004 *ELC*

William A. Shaw
Prothonotary/Clerk of Courts

LINDA K. HUTTON and GERALD W.)
HUTTON, husband and wife,)

Plaintiffs,)

NO. 03-834 CD

vs.)

JURY TRIAL DEMANDED

MARY C. KRUSZEWSKI, D.O.,)
LARRY G. SCHACHTER, M.D.)
and DUBOIS REGIONAL MEDICAL)
CENTER,)

Defendants.)

CERTIFICATE OF SERVICE

I hereby certify that the Responses and Objections to Plaintiffs' First Request for Production of Documents directed to Defendant, Mary C. Kruszewski, D.O., in the above-referenced matter were mailed by regular mail, first class, at the Post Office, State College, Pennsylvania, postage prepaid, this 30th day of November, 2004, to:

Original:

William J. Schenck, Esquire
Sheryle L. Long, Esquire
Schenck & Long
610 North Main Street
Butler, PA 16001


Copy:

Peter J. Taylor, Esquire
326 Third Avenue
Pittsburgh, PA 15222

Copy:

David Johnson, Esquire
Two Chatham Center, 10th Floor
Pittsburgh, PA 15219-3499

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

By: 
JOHN W. BLASKO
Attorneys for Defendant
Mary C. Kruszewski, D.O.

CA

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

LINDA K. HUTTON and GERALD W.
HUTTON, wife and husband,

Plaintiffs,

Vs.

MARY C. KRUSZEWSKI, D.O., LARRY
G. SCHACHTER, M.D., and DUBOIS
REGIONAL MEDICAL CENTER,

Defendants.

CIVIL DIVISION

No. 03-834-CD

Issue No.

MOTION TO COMPEL 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

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

(412) 232-3400

FILED

M 12:25 PM ec to atty

JAN 31 2005

William A. Shaw
Prothonotary

MOTION TO COMPEL EXPERT REPORTS

NOW COMES DuBois Regional Medical Center, by its attorneys, Thomson, Rhodes & Cowie, P.C., and files the following motion to compel expert reports for the reasons set forth below.

1. This is a medical malpractice case in which there was a complication during the surgery performed by the defendant physicians on wife-plaintiff. There is no apparent viable theory of liability against the hospital.

2. DuBois Regional Medical Center has directed a request for production of expert reports to the plaintiffs. Attached as Exhibit "A" is a copy of the request for expert reports. Attached as Exhibit "B" is the letter filing same and serving the request on plaintiffs' attorney. Service occurred on April 23, 2004.

3. To date, plaintiffs have not furnished any expert reports.

4. This is clearly a matter in which plaintiff is required to have expert testimony in which to pursue any claim of liability against DuBois Regional Medical Center.

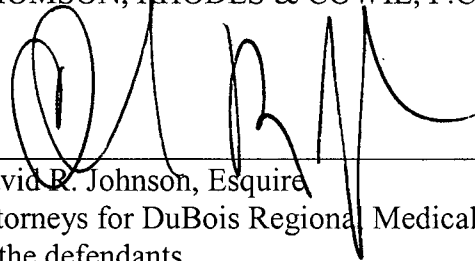
5. In order to prepare a defense to this case, or, in the alternative, to seek dismissal of the claims against it, DuBois Regional Medical Center needs to acquire the expert reports of plaintiffs and, pursuant to the Pennsylvania Rules of Civil Procedure, plaintiffs are now obligated to provide same.

6. Defendant DuBois Regional Medical Center requests entry of an order of court providing that plaintiffs shall be required to furnish defendant with expert reports within 30 days and that, upon failure to do so, plaintiffs will be precluded from introducing any expert testimony against DuBois Regional Medical Center.

WHEREFORE, defendant respectfully requests this Honorable Court to enter an order requiring plaintiffs to provide defendant with expert reports within 30 days of the date of entry of this order.

Respectfully submitted,

THOMSON, RHODES & COWIE, P.C.

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

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

*filed + served
by mail
4-23-04*

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

LINDA K. HUTTON and GERALD W.
HUTTON, wife and husband,

Plaintiffs,

Vs.

MARY C. KRUSZEWSKI, D.O., LARRY
G. SCHACHTER, M.D., and DUBOIS
REGIONAL MEDICAL CENTER,

Defendants.

CIVIL DIVISION

No. 03-834-CD

Issue No.

REQUEST TO PLAINTIFFS FOR
PRODUCTION OF EXPERT REPORTS

Code: 007

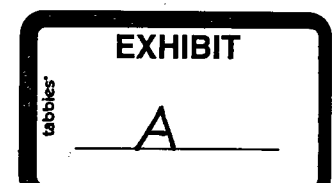
Filed on behalf of DuBois Regional Medical
Center, one of the defendants.

Counsel of Record for This Party:

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

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

(412) 232-3400



REQUEST TO PLAINTIFFS FOR PRODUCTION OF EXPERT REPORTS

NOW COMES DuBois Regional Medical Center, one of the defendants, by its 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.

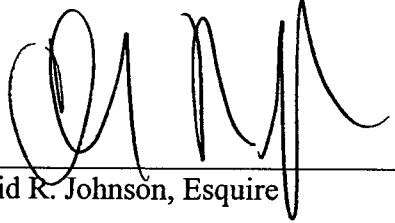
TO: LINDA K. HUTTON and GERALD W. HUTTON, wife and husband

FROM: DUBOIS REGIONAL MEDICAL CENTER

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 defendant 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: _____

7/23/04



David R. Johnson, Esquire

CERTIFICATION OF SERVICE

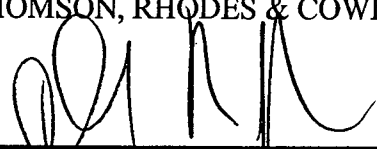
I hereby certify that a true and correct copy of the within REQUEST TO
PLAINTIFF FOR PRODUCTION OF EXPERT REPORTS has been served upon the
following counsel of record and same placed in the U.S. Mails on this 23rd day of
April, 2004:

William J. Schenck, Esquire
Schenck & Long
610 N. Main Street
Butler, PA 16001

Peter J. Taylor, Esquire
Murphy Taylor, LLC
326 Third Avenue
Pittsburgh, PA 15222

John W. Blasko, Esquire
McQuaide Blasko
811 University Drive
State College, PA 16801-6699

THOMSON, RHODES & COWIE, P.C.



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

THOMSON, RHODES & COWIE, P.C.

Attorneys At Law

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

Facsimile (412) 232-3498
www.trc-law.com

Writer's Direct Dial
(412) 316-8662

E-mail: drj@trc-law.com

David R. Johnson

April 23, 2004

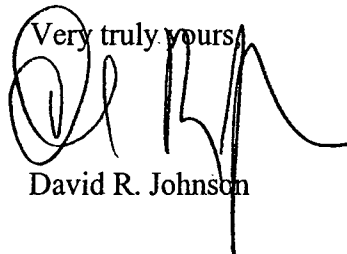
Linda K. Hutton and Gerald W. Hutton, wife and husband vs. Mary C. Kruszewski, D.O., Larry G. Schachter, M.D. and DuBois Regional Medical Center. In the Court of Common Pleas of Clearfield County, Pennsylvania. Civil Division No. 03-834-CD. Our File No. 13262.

William Shaw, Prothonotary
Clearfield County Courthouse
230 E. Market Street
Clearfield, PA 16830

Dear Mr. Shaw:

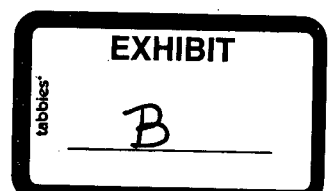
Enclosed for filing is request to plaintiffs for production of expert reports on behalf of DuBois Regional Medical Center.

Thank you.

Very truly yours,

David R. Johnson

DRJ/pko
Enclosure

cc: William Schenck, Esquire
Peter J. Taylor, Esquire
John W. Blasko, Esquire
(all w/enclosure)



CERTIFICATION OF SERVICE

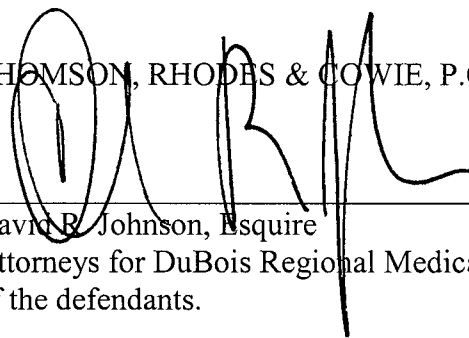
I hereby certify that a true and correct copy of the within MOTION TO COMPEL
EXPERT REPORTS has been served upon the following counsel of record and same placed in
the U.S. Mails on this 27th day of January, 2005:

William J. Schenck, Esquire
Schenck & Long
610 N. Main Street
Butler, PA 16001

Peter J. Taylor, Esquire
Murphy Taylor, LLC
326 Third Avenue
Pittsburgh, PA 15222

John W. Blasko, Esquire
McQuaide Blasko
811 University Drive
State College, PA 16801-6699

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

LINDA K. HUTTON and GERALD W.	)	CIVIL DIVISION
HUTTON, wife and husband,)	
	)	No. 03-834-CD
Plaintiffs,)	
)	
Vs.)	
)	
MARY C. KRUSZEWSKI, D.O., LARRY)	
G. SCHACHTER, M.D., and DUBOIS)	
REGIONAL MEDICAL CENTER,)	
)	
Defendants.)	

ORDER OF COURT

AND NOW, this _____ day of _____, 2005, the motion to compel expert reports filed on behalf of DuBois Regional Medical Center is GRANTED. Plaintiffs are required to serve DuBois Regional Medical Center with any expert reports against it within 30 days. Upon failure to do so, plaintiffs shall be precluded from introducing expert testimony at time of trial against DuBois Regional Medical Center.

BY THE COURT:

_____. J.

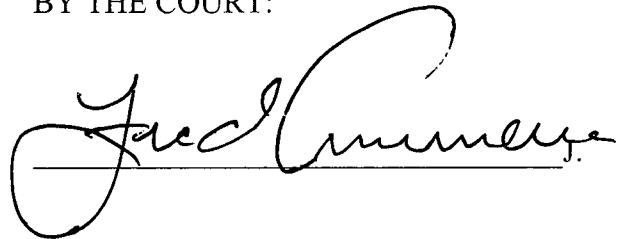
IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

LINDA K. HUTTON and GERALD W.	)	CIVIL DIVISION
HUTTON, wife and husband,)	
	)	No. 03-834-CD
Plaintiffs,)	
)	
Vs.)	
)	
MARY C. KRUSZEWSKI, D.O., LARRY)	
G. SCHACHTER, M.D., and DUBOIS)	
REGIONAL MEDICAL CENTER,)	
)	
Defendants.)	

ORDER OF COURT

AND NOW on this 1 day of Feb., 2005, it is hereby ORDERED, ADJUGED and DECREED that oral argument on defendants' motion to compel production of expert reports is scheduled for the 15th day of March, 2005, at 2:30 ~~am~~ p.m. before Judge Ammerman in Courtroom No. 1 of the Clearfield County Courthouse.

BY THE COURT:



FILED

9:18 AM 200 to 1000

FEB 02 2005

William A. Shaw
Prothonotary

CA

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY
COMMONWEALTH OF PENNSYLVANIA

Linda K. Hutton and Gerald W. Hutton,
Wife and Husband,

Plaintiffs,

vs.

Mary C. Kruszewski, D.O.,
Larry G. Schachter, M.D., and
DuBois Regional Medical Center,

Defendants.

CIVIL DIVISION

No. 2003-00834-CD

TYPE OF PLEADING:
Notice of Filing of Expert Reports

FILED ON BEHALF OF:
Plaintiffs

COUNSEL OF RECORD:

William J. Schenck
PA I.D. # 42156

Sheryle L. Long
PA I.D. # 52030

Schenck & Long
610 North Main Street
Butler, PA 16001

(724) 283-7359

Trial by Jury Demanded

FILED ^{NO} CC
m/12:50 PM
FEB 07 2005
William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY
COMMONWEALTH OF PENNSYLVANIA

Linda K. Hutton and Gerald W. Hutton,
Wife and Husband,

Plaintiffs,

vs.

Mary C. Kruszewski, D.O.,
Larry G. Schachter, M.D., and
DuBois Regional Medical Center,

Defendants.

CIVIL DIVISION

No. 2003-00834-CD

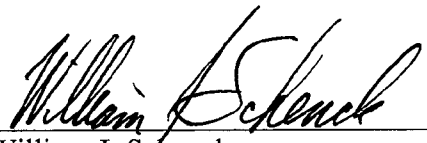
JURY TRIAL DEMANDED

NOTICE OF FILING OF EXPERT REPORTS

AND NOW, come the Plaintiffs, Linda K. Hutton and Gerald W. Hutton, by and through their attorneys, Schenck & Long, per William J. Schenck, and file the following expert reports, copies of which are attached hereto:

1. Robert W. Lobel, M.D., FACOG
2. Robert J. Weiss, M.D., P.C., F.A.C.S.

RESPECTFULLY SUBMITTED,



William J. Schenck

SCHENCK & LONG
610 North Main Street
Butler, PA 16001

Attorneys for Plaintiffs



NORTHEAST
Urogynecology
Pelvic Medicine & Reconstructive Surgery

Robert W. Lobel, MD, FACOG
Jeanne Ann Dahl, RNC, NP
Fellow
Ahseen R. Chaudhry, MD

January 27, 2005

Sheryle L. Long, JD
610 North Main St
Butler, PA 16001-5982

RE: Linda K. Hutton vs. Mary Kruszewski, DO

Dear Ms. Long,

At your request, I have prepared the following report to review the medical history, diagnosis, treatment, and clinical course of Linda K. Hutton while under and after the care of Mary Kruszewski, DO. To this date, I have reviewed the following records:

Office records	Mary C. Kruszewski, DO	04/28/99 – 09/28/01
Office records	Robert J. Cherry, MD	08/20/01 – 05/06/04
Office records	Ralph J. Miller, MD	09/28/01 – 03/12/04
Hospital records	Dubois Regional Med Ctr	08/16/01 – 08/19/01
Consent form	for the surgery	08/16/01
Operative report	Robert J. Cherry, MD	09/24/01
Operative report	Robert J. Cherry, MD	01/08/02
Operative report	Robert J. Cherry, MD	05/01/03
Operative report	Robert J. Cherry, MD	08/06/03
Operative report	Robert J. Cherry, MD	11/10/03
Operative report	Robert J. Cherry, MD	02/18/04
Operative report	Ralph J. Miller, MD	11/15/01
Operative report	Ralph J. Miller, MD	03/13/02
Operative report	Ralph J. Miller, MD	06/18/02
Operative report	Charles Cobb, MD	06/18/02
Operative report	Ralph J. Miller, MD	04/26/04
Deposition of	Mary C. Kruszewski, DO	04/23/04
Deposition of	Larry G. Schachter, MD	04/23/04

I will also provide my medical opinions detailing Dr. Kruszewski's deviations from accepted standards of medical care and how these deviations have caused Mrs. Hutton's damages, within a reasonable degree of medical certainty.

Please understand that this report does not necessarily embody the details of all my opinions. In addition, I reserve the right to amend and add to my opinions upon further review of records.

Medical and clinical history of Linda Hutton

Introduction. Linda Hutton was a 54-year-old female when she presented to Dr. Kruszewski's office on July 2, 2001 with abdominal pain, pressure, and swelling of four months duration. The mother of four children, she had previously had a total hysterectomy. On examination, this 5'3" woman was found to have a left lower quadrant mass estimated to be 10 x 15 cm. Vaginal ultrasound confirmed the presence of the mass and revealed its cystic nature. Mrs. Hutton reportedly had a CA-125 and pelvic ultrasound done, but these are not in the above records. On July 9, 2001 she was scheduled for surgery on August 16. The preop note does say that the CA-125 was "normal at 11." Dr. Kruszewski says that she signed the consent form before the patient did, maybe even a few days before, that she did not personally go over the form or complications with Mrs. Hutton, and that she did not review the meaning of what she wrote down with Mrs. Hutton.

The operation. On August 16, 2001, Mrs. Hutton underwent a left oophorectomy via a midline skin incision. The surgery was performed by Dr. Kruszewski assisted by Dr. Larry Schachter, MD, and lasted 1 hour, 33 minutes, ending at 9:28 AM. This represents a reasonable duration for this type of surgery. Frozen section and subsequent pathology revealed a 17 x 15 x 11 cm cyst weighing 1337 gm. Particular note is made that no ureteral tissue was present. Final diagnosis was a serous cystadenoma. The surgery was complicated by transection of the left ureter. No attempt was made to identify the ureter prior to blind clamping and dissection of the cyst. Drs. Kruszewski and Schachter disagree on who did what: Dr. Kruszewski says that Dr. Schachter clamped the ovarian pedicle and possibly did the dissection, whereas Dr. Schachter says that Dr. Kruszewski transected the ureter and that he did no cutting. Dr. Kruszewski noted that the proximal end of the ureter was adhered to the cyst and peeled it off but neither she nor Dr. Schachter, her assistant, were able to find the distal end. She was informed that the urine was noted to be red-tinged, but at that time Dr. Kruszewski already knew about the ureteral transection and thus this information would be of little meaning to her. Drs. Kruszewski and Schachter seem to agree that they discussed calling a urologist but Dr. Kruszewski felt comfortable with Dr. Schachter attempting to reattach the ureter, despite his acknowledged lack of expertise in ureteral surgery (he has operated on ureters less than a dozen times, including repair, anastomosis, and transaction). The search for the distal end lasted less than five minutes and did not cause trauma or bleeding. Dr. Kruszewski categorically states that they never even tried to call a urologist whereas Dr. Schachter claims that they tried to get hold of Dr. Robert Cherry but he was unavailable. They agree that they discussed transferring Mrs. Hutton to Pittsburgh. They decided to close the proximal end of the ureter with a 6-0 Prolene suture (which Dr. Kruszewski says that Dr. Schachter did, and Dr. Schachter doesn't deny), placed a drain in the pelvis, closed the patient's abdomen, and ended the surgery. Dr. Kruszewski dictated the operative note on the day of surgery, albeit some hours after the operation since she alludes to consulting Dr. Robert Cherry, which she did not do until six to seven hours after finishing the operation.

Postoperative care. Dr. Kruszewski says that she promptly called Dr. Sagan, a "urogynecologist" at Magee-Women's Hospital, but that she was unavailable. Dr. Sagan, by the way, is a urologist not a urogynecologist. She did not actually discuss the case with Dr. Sagan until mid-afternoon and Dr. Sagan "declined to accept the patient in transfer" because "she was

going to be away'. When she then contacted Dr. Cherry in his office, he promptly evaluated the patient at about 4:30 PM and arranged for the radiologist to place a percutaneous nephrostomy tube, which was done at about 7:30 that evening. Mrs. Hutton thus went for over ten hours with the left kidney knowingly completely obstructed. The radiologist did not mention how long the proximal ureter was.

She was seen by Dr. Cherry on 08/20/01 for a nephrostomy check. He apparently spoke with Dr. Ralph Miller on 08/23/01. Dr. Cherry performed cystoscopy with bilateral retrograde pyelograms and cystogram on 09/24/01, finding a bladder with a 300 mL capacity, a normal right ureter, and the distal left ureter only extending about 1.5 cm up from the bladder. In his dictated letter dated 09/28/01 to Dr. Miller, Dr. Cherry noted that the antegrade nephrostogram "demonstrated that the ureter ended well above the pelvic brim." However, there is no other documentation that corroborates this and, as will be noted later, there was actually a good portion of proximal ureter available. For example, Dr. Kruszewski knew that there was a good amount of ureter in the pelvis but failed to communicate this to Dr. Cherry.

Correction of injury. Mrs. Hutton was seen by Dr. Miller on 09/28/01. Incidentally, both Drs. Cherry and Miller appeared to think that Mrs. Hutton underwent a hysterectomy at the time of the surgery. In any case, Dr. Miller performed a left ureteroneocystostomy on 11/15/01 at Allegheny General Hospital. He found that the proximal ureter extended 4-5 cm below the pelvic brim and then performed the ureteroneocystostomy. She reportedly had an uneventful postoperative course. Dr. Cherry removed the stent on 01/08/02. On 02/26/02, Mrs. Hutton called with kidney pain and was treated for a urinary infection. A couple of weeks later, she went to the emergency room. An intravenous pyelogram showed left hydronephrosis and obstruction. On 03/13/02, Dr. Miller performed cystoscopy and ureteroscopy, balloon-dilated a ureteral stricture 3 cm up from the bladder, and found a very tortuous ureter just below the kidney. A stent was placed, which was removed by Dr. Cherry the first week of May, 2002. She presented to Dr. Cherry on 05/20/02 with recurrent left flank pain. Subsequent IVP showed poor drainage and early hydronephrosis. On 06/18/02, Dr. Miller performed left ureterolysis after he found significant periureteral adhesions just below the ureteropelvic junction. Because he noted an incisional hernia at the umbilicus, he consulted Dr. Cobb, a general surgeon, who repaired this and two other hernias, one below and one above the umbilicus. Dr. Cherry removed the stent in mid-October and Mrs. Hutton developed recurrent left flank pain a couple of weeks later. A stent was replaced, with resolution of her pain. She consulted Dr. Miller on 11/22/02 and they decided to do stent changes every 3 months for a while to see if this would solve the recurrent kinking. Dr. Cherry did these stent changes on at least 05/01/03, 08/06/03, 11/10/03, and 02/18/04. During this time, she periodically required treatment with antibiotics, anticholinergics, and prescription pain medications. Mrs. Hutton saw Dr. Miller on 03/12/04. He offered her options of a nephrectomy or an autotransplant. She opted for the former, which Dr. Miller performed on 04/26/04. She saw Dr. Cherry postoperatively on 05/06/04 and was without complications.

Other notes. Dr. Kruszewski erroneously states that ABOG recertification is not necessary and that she was licensed in Ohio. She doesn't know how often she operates. She doesn't know how she or the assistant is paid for surgery. She doesn't know the difference between the surgeon and

the assistant. She says that she doesn't recall asking Dr. Schachter to do anything during the surgery. She is lefthanded and always stands on the left.

Conclusions and expert medical opinions

Dr. Kruszewski deviated from accepted standards of gynecologic and surgical care in at least, but not limited to, the following ways:

1. Failure to provide Linda Hutton with adequate information regarding operative risk to her urinary tract,
2. Failure to identify the left ureter prior to transecting it,
3. Failure to protect the left ureter from transaction,
4. Failure to treat the transection of the left ureter prior to the conclusion of the surgery, and
5. Failure to treat the transection of the left ureter in a timely manner after the conclusion of the surgery.

Ureteral injury is a wellknown although uncommon complication of benign gynecologic surgery. Transection of the ureter during such surgery is, in and of itself, not below the standard of care. Dr. Kruszewski deviated from the standard of care in not doing anything before or during the surgery to identify and protect the left ureter. Mrs. Hutton's previous pelvic surgery would not factor into the decision-making. Dr. Kruszewski knew that the mass was arising from the left ovary and hence proximal to the ureter. She knew that the mass was filling the pelvis and thus was likely to limit visualization of the pelvic sidewall. Knowing these things, she should have had a urologist place a left ureteral catheter preoperatively. Having failed to arrange for this, she should have identified the ureter intraoperatively by dissecting retroperitoneally and identifying the ureter at the level of the ovary under direct visualization. If the cyst obstructed her view, it would have been a simple matter of draining the cyst, which would have allowed her to have unimpeded access to the pelvic sidewall. The most common reason for not wanting to drain the cyst is concern about spillage into the abdomen of potentially cancerous cells, but in this case the risk of cancer was so low that it would be overwhelmingly outweighed by the risk of ureteral injury.

Once the ureteral injury was discovered, Dr. Kruszewski deviated from the standard of care by not calling for a urologist to come and evaluate the injury. Even if the urologist was not immediately available, the standard of care would dictate that Dr. Kruszewski keep the abdomen open until the urologist could scrub in, which certainly would not be more than a couple of hours at most. Dr. Kruszewski certainly knew how to find out how long it would take the urologist to get there, but she did not do so. Since this was a simple transection of the ureter, the urologist could have immediately performed a simple end-to-end reanastomosis and almost certainly prevented most if not all of the sequelae suffered by Mrs. Hutton. These significant sequelae include ten trips to the operating room, three of which were major abdominal procedures, eventually costing Mrs. Hutton a kidney.

Dr. Kruszewski deviated from the standard of care by ligating the ureter and closing the abdomen with no postoperative provision for drainage of the left kidney. A percutaneous nephrostomy tube could have been placed immediately by the radiologist but Dr. Kruszewski did

not arrange for this. Inexplicably she did not take any definitive measures to get help for Mrs. Hutton for six hours.

The delay by Dr. Kruszewski in seeking evaluation and treatment of the injury she caused Mrs. Hutton overwhelmingly attributed to the inability of performing a simple end-to-end anastomosis, which would have almost certainly prevented most if not all of the sequelae suffered by Mrs. Hutton.

To a reasonable degree of medical certainty, Dr. Kruszewski's deviations caused Mrs. Hutton's ureteral injury and her subsequent pain, discomfort, and medical treatment eventually resulting in the loss of a vital organ. In my professional opinion, Mrs. Hutton's ureteral injury would not have occurred if Dr. Kruszewski had met accepted standards of care. Her deviations from accepted standards of care directly led to this woman's ureteral injury and her subsequent pain, discomfort, medical care, hospital admissions required to treat this injury, and loss of a vital organ.

If you have any further questions for me, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read 'R. Lobel', with a stylized flourish extending to the right.

Robert W. Lobel, MD

Robert J. Weiss, M.D., P.C., F.A.C.S.
General and Laparoscopic Surgery

Community General Hospital
Office Building South, Suite 1-K
Syracuse, NY 13215

Telephone: 315.492.5970
Fax: 315.492.5734

October 20, 2004

Schenck and Long
Attorneys at Law
610 North Main St.
Butler, PA 16001-5982

RE: Linda Hutton

Dear Mr. Schenck and Ms. Long,

Thank you for asking me to review the medical records of Ms. Linda Hutton. You have asked my opinion as to whether Dr. Larry Schachter, a general surgeon, performed up to the standard of care in this case.

By way of review, Ms. Hutton was diagnosed with a large ovarian mass by Dr. Mary Kruszewski, a gynecologist, in July 2001. She scheduled Ms. Hutton for surgery to remove this tumor. Dr. Schachter was on a list of individuals available as surgical assistants. He was scheduled to act as assistant to Dr. Kruszewski on Ms. Hutton's case. As far as I can tell, Dr. Kruszewski did not specifically request him. Dr. Schachter had no significant role in the pre-operative work-up of this patient.

On August 16, 2001, Dr. Kruszewski and Dr. Schachter operated on Ms. Hutton. Upon opening the abdomen, the large tumor was obvious. Mobilization of the mass began. Dr. Kruszewski, in her deposition, said both doctors were operating. Dr. Schachter, in his deposition, says Dr. Kruszewski was operating. In any event, Dr. Kruszewski noted that the left ureter had been transected. Dr. Schachter made a brief attempt, with Dr. Kruszewski's permission, to repair the ureter, but could not locate the distal end. An attempt may have been made to consult a local urologist, Dr. Robert Cherry. It appears that he either could not be reached, or could not be available within a reasonable period of time. At this point, the decision was made to ligate the proximal end of the ureter and close the patient.

There was some discussion about transferring the patient to Pittsburgh for treatment of the ureteral injury. However, Dr. Cherry saw the patient postoperatively and he later did refer her to a tertiary care center. She then underwent multiple procedures to her urinary tract in an attempt to save her left kidney, but ultimately had a nephrectomy in April 2004. Dr. Schachter had no role in the care of Ms. Hutton beyond his involvement in her operation of 8/16/01.

In my opinion, Dr. Schachter's conduct did not deviate from the accepted standard of care in this case. As far as the patient's pre-operative work-up, he was not expected to play any role. In the operating room, he did what would be expected of a first assistant as far as providing exposure, cutting sutures, etc. He says he was not doing any cutting at the time of the ureteral injury. Dr. Kruszewski is not sure, but says they may both have been cutting. In fact, it would be practically impossible for two doctors to be cutting in the same field at one time.

The overriding consideration, however, is that the primary surgeon is the "captain of the ship". He, or she, is ultimately responsible for the actions of the assistant. The assistant is not expected to be operating independently or formulating plans without the surgeon's approval.

The only exception to this I can think of would be in a case where the assistant had special knowledge and training over and above that of the surgeon. For example, if Ms. Hutton had sustained a bowel injury, instead of a ureteral injury, then Dr. Schachter's opinion would have carried special weight, because general surgeons are experts in surgery of the intestine. But Dr. Schachter, as a general surgeon, would be expected to have the same level of knowledge regarding injuries of the ureter and how to avoid and treat them, as Dr. Kruszewski.

I will now address two more issues at your request.

- 1) Strategies for avoiding injury to the ureter include pre-operative and intra-operative maneuvers. In the pre-operative time frame, one may image the ureter (IVP, CT scan) in an attempt to discern its course. Catheters can be placed in the ureters and left there to serve as guides during surgery. If a difficult case is expected, one may want to have a urologist as an assistant or on call if needed. In the OR, the guiding principle is to avoid any blind cutting or manipulation where a vital structure is at risk. These structures should be recognized and protected as the first order of business, or as soon as is possible.
- 2) If the ureter is damaged by a non-urologist who has limited experience dealing with ureteral injuries, then the services of a urologist are required. I feel that every reasonable attempt should be made to get a urologist into the operating room. If this is impossible, then the case should at least be discussed by phone with an experienced physician, while the patient is in the OR. In the odd case where no local urologist can be reached, then the case should be discussed with a physician at a regional facility. Usually, the earlier a specialist is given a chance to intervene, the better the ultimate outcome will be.

The above two numbered paragraphs set forth standards of care that apply to all surgeons, regardless whether the surgeon is an OB/GYN or a general surgeon. Dr. Kruszewski, within a reasonable degree of medical certainty, deviated from the standard of care required of any type of surgeon in not identifying the ureter pre-operatively and/or intra-operatively, as discussed above. Dr. Kruszewski further breached the standard of care required of any type of surgeon by not consulting with a urologist intra-operatively as discussed above. These breaches of the standard of care resulted in a significant increase of harm to Ms. Linda Hutton, including the nephrectomy that she eventually had to undergo.

All of the opinions stated above are stated within a reasonable degree of medical certainty.

Thank you for allowing me to review this case. Let me know if I may be of further assistance.

Sincerely,



Robert J. Weiss, M.D., P.C., F.A.C.S.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY
COMMONWEALTH OF PENNSYLVANIA

Linda K. Hutton and Gerald W. Hutton,
Wife and Husband,

Plaintiffs,

CIVIL DIVISION

No. 2003-00834-CD

vs.

JURY TRIAL DEMANDED

Mary C. Kruszewski, D.O.,
Larry G. Schachter, M.D., and
DuBois Regional Medical Center,

Defendants.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the within Notice of Filing of
Expert Reports was served, by and through postage prepaid U.S. Mail on this 4th
day of February 2005, upon the following individual(s):

John W. Blasko, Esquire
McQuaide, Blasko, Schwartz, Fleming & Faulkner, Inc.
811 University Drive
State College, PA 16801-6699
(Attorney for Mary C. Kruszewski, D.O.)

David R. Johnson, Esquire
Thomson, Rhodes & Cowie, P.C.
Two Chatham Center, Tenth Floor
Pittsburgh, PA 15219-3499
(Attorney for Dubois Regional Medical Center)

Peter J. Taylor, Esquire
Murphy Taylor, L.L.C.
326 Third Avenue
Pittsburgh, PA 15222
(Attorney for Larry G. Schachter, M.D.)


Daniele Lee Hall
Paralegal

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY
COMMONWEALTH OF PENNSYLVANIA

Linda K. Hutton and Gerald W. Hutton,
Wife and Husband,

Plaintiffs,

vs.

Mary C. Kruszewski, D.O.,
Larry G. Schachter, M.D., and
DuBois Regional Medical Center,

Defendants.

CIVIL DIVISION

No. 2003-00834-CD

TYPE OF PLEADING:
Praeceptum for Trial

FILED ON BEHALF OF:
Plaintiffs

COUNSEL OF RECORD:

William J. Schenck
PA I.D. # 42156

Sheryle L. Long
PA I.D. # 52030

Schenck & Long
610 North Main Street
Butler, PA 16001

(724) 283-7359

Trial by Jury Demanded

FILED *icc*
m/12:34/164 *Att*
MAR 07 2005 *Schenck*

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY
COMMONWEALTH OF PENNSYLVANIA

Linda K. Hutton and Gerald W. Hutton,
Wife and Husband,

Plaintiffs,

CIVIL DIVISION

No. 2003-00834-CD

vs.

JURY TRIAL DEMANDED

Mary C. Kruszewski, D.O.,
Larry G. Schachter, M.D., and
DuBois Regional Medical Center,

Defendants.

PRAECIPE FOR TRIAL

COME the Plaintiffs, Linda K. Hutton and Gerald W. Hutton, wife and husband, Plaintiffs, by and through their attorneys, Schenck & Long, per William J. Schenck and Sheryle L. Long, and certify as follows:

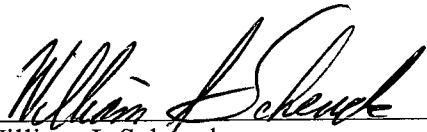
1. There are no motions outstanding in this matter except for the following:
 - a. Defendant Larry G. Schachter, M.D., circulated a Stipulation to Dismiss as to Less Than All Defendants with respect to Defendant Larry G. Schachter, M.D., only, to which Plaintiffs have consented but Defendants Mary C. Kruszewski, D.O., and Dubois Regional Medical Center have not consented.
 - b. Defendant Dubois Regional Medical Center has circulated a Praecipe to Discontinue as to Dubois Regional Medical Center only, which also has not yet been consented to by all of the parties.
2. Discovery has been completed in this matter with the exception that Plaintiffs have not yet received Defendant's answer to Plaintiffs' First Set of Expert

Interrogatories Directed to Defendant Mary C. Kruszewski, D.O., which include Plaintiffs' request for Defendant's expert reports. Plaintiffs filed their expert reports on February 7, 2005.

3. Plaintiffs request that this case be heard by a jury.
4. Notice of this Praecipe has been given to the following counsel of record:
 - a. John W. Blasko, Esquire, at McQuaide, Blasko, Schwartz, Fleming & Faulkner, Inc., Attorney for Mary C. Kruszewski, D.O.
 - b. David R. Johnson, Esquire, at Thomson, Rhodes & Cowie, P.C., Attorney for Dubois Regional Medical Center
 - c. Peter J. Taylor, Esquire, at Murphy Taylor, L.L.C., Attorney for Larry G. Schachter, M.D.

WHEREFORE, pursuant to Clearfield County Local Rules 212.2 and 212.3, Plaintiffs pray that this case be placed on the next available trial list.

RESPECTFULLY SUBMITTED,



William J. Schenck

SCHENCK & LONG
610 North Main Street
Butler, PA 16001

Attorneys for Plaintiffs

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY
COMMONWEALTH OF PENNSYLVANIA

Linda K. Hutton and Gerald W. Hutton,
Wife and Husband,

Plaintiffs,

vs.

Mary C. Kruszewski, D.O.,
Larry G. Schachter, M.D., and
DuBois Regional Medical Center,

Defendants.

CIVIL DIVISION

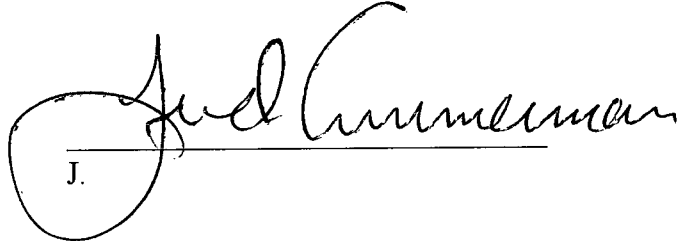
No. 2003-00834-CD

JURY TRIAL DEMANDED

ORDER OF COURT

AND NOW, this 9 day of March, 2005, upon Plaintiffs filing a
Praecipe For Trial, it is hereby ordered that this matter shall be scheduled for trial during
the Spring 2005 trial term.

BY THE COURT:


J.

FILED
013:18601
MAR 09 2005

100
Ang Schenck

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY
COMMONWEALTH OF PENNSYLVANIA

Linda K. Hutton and Gerald W. Hutton,
Wife and Husband,

Plaintiffs,

vs.

Mary C. Kruszewski, D.O.,
Larry G. Schachter, M.D., and
DuBois Regional Medical Center,

Defendants.

CIVIL DIVISION

No. 2003-00834-CD

JURY TRIAL DEMANDED

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the within Praeceptum for Trial was served, by and through postage prepaid U.S. Mail on this 4th day of March 2005, upon the following individual(s):

John W. Blasko, Esquire
McQuaide, Blasko, Schwartz, Fleming & Faulkner, Inc.
811 University Drive
State College, PA 16801-6699
(Attorney for Mary C. Kruszewski, D.O.)

David R. Johnson, Esquire
Thomson, Rhodes & Cowie, P.C.
Two Chatham Center, Tenth Floor
Pittsburgh, PA 15219-3499
(Attorney for DuBois Regional Medical Center)

Peter J. Taylor, Esquire
Murphy Taylor, L.L.C.
326 Third Avenue
Pittsburgh, PA 15222
(Attorney for Larry G. Schachter, M.D.)


Daniele Lee Hall
Paralegal

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

LINDA K. HUTTON and GERALD W.
HUTTON, husband and wife,

Plaintiffs,

vs.

MARY C. KRUSZEWSKI, D.O.,
LARRY G. SCHACHTER, M.D.,
and DUBOIS REGIONAL MEDICAL
CENTER,

Defendants.

⁸³⁴
No.: 03-~~354~~ CD

Type of Case: Civil Action

JURY TRIAL DEMANDED

Type of Pleading:
OBJECTIONS TO PLAINTIFFS' PRAECIPE
TO LIST FOR TRIAL

Filed on Behalf of Defendant
MARY C. KRUSZEWSKI, D.O.

Counsel of Record for this
Party: JOHN W. BLASKO

Court I.D. No.: 06787

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

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

Counsel of Record for
Adverse Party:
WILLIAM J. SCHENCK
SHERYLE L. LONG

Dated: 3/8/05

FILED ^{NO}
m/1:24/05
MAR 09 2005 ^{cc} _(u)

William A. Shary
Prothonotary, Clerk of Courts

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

LINDA K. HUTTON and GERALD W.)
HUTTON, husband and wife,)
)
Plaintiffs,) NO. 03-834 CD
)
vs.)
) JURY TRIAL DEMANDED
MARY C. KRUSZEWSKI, D.O.,)
LARRY G. SCHACHTER, M.D.)
and DUBOIS REGIONAL MEDICAL)
CENTER,)
)
Defendants.)

DEFENDANT MARY C. KRUSZEWSKI, D.O.'S OBJECTIONS TO
PLAINTIFFS' PRAECIPE TO LIST THE ABOVE-CAPTIONED
CASE FOR TRIAL

1. The above action was filed on June 6, 2003.
2. On July 14, 2003, Defendant Kruszewski filed Expert Interrogatories on the Plaintiffs to which Plaintiffs responded on October 31, 2003 stating that identity of an expert had not been determined.
3. On February 7, 2005, the Plaintiffs filed in the Prothonotary's office a "Notice of Filing Expert Reports" which included a report dated October 20, 2004 from Dr. Robert J. Weiss and a report dated January 27, 2005 from Dr. Robert W. Lobel.
4. Although the Plaintiffs had Dr. Weiss' report since on or about October 20, 2004, they delayed over four months in serving the same on the Defendant.
5. Discovery is not complete, in that, Plaintiffs filed the First Set of Expert Interrogatories directed to Defendant Mary C. Kruszewski on or about March 2, 2005, which Interrogatories need not be answered until 30 days.

6. Contrary to L.R. 212.2, the Plaintiffs failed to certify that a Court Order has been entered limiting the discovery to a period ending more than 30 days prior to filing the Praeceptum for Trial.

7. The Plaintiffs have filed the Praeceptum to List for Trial within a month of filing their expert reports even though the case has been pending for over two years.

8. The Call of the List is scheduled for April 5, 2005 with Pre-Trials to be held on April 21-22, 2005 which would only extend the Defendant a relative short period of time to have an expert review Plaintiffs' expert reports, and, rebuttal reports prepared.

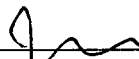
9. The Plaintiffs are attempting to gain a tactical advantage by filing expert reports on February 7, 2004, filing Expert Interrogatories directed to Defendant on March 2, 2005, and the listing the case for trial on March 7, 2005.

10. In the interest of fairness, the Praeceptum to List for Trial should be stricken, and, the Defendant Dr. Kruszewski should be extended the courtesy of at least sixty (60) days to file an expert report. This is not unreasonable in view of the fact that Plaintiffs took almost two years to file their expert reports.

WHEREFORE, it is requested that the Praeceptum to List for Trial be stricken.

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

BY



JOHN W. BLASKO

Counsel for Defendant

Mary C. Kruszewski, D.O.

811 University Drive

State College, PA 16801

(814) 238-4926

Dated: 3/8/05

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

LINDA K. HUTTON and GERALD W.
HUTTON, husband and wife,

Plaintiffs,

vs.

MARY C. KRUSZEWSKI, D.O.,
LARRY G. SCHACHTER, M.D.
and DUBOIS REGIONAL MEDICAL
CENTER,

Defendants.

NO. 03-834 CD

JURY TRIAL DEMANDED

CERTIFICATE OF SERVICE

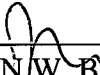
I hereby certify that a true and correct copy of DEFENDANT MARY C. KRUSZEWSKI, D.O.'S OBJECTIONS TO PLAINTIFFS' PRAECIPE TO LIST THE ABOVE-CAPTIONED CASE FOR TRIAL, in the above-referenced matter were mailed by regular mail, first class, at the Post Office, State College, Pennsylvania, postage prepaid, this 8th day of March, 2005, to:

William J. Schenck, Esquire
Sheryle L. Long, Esquire
Schenck & Long
610 North Main Street
Butler, PA 16001

Peter J. Taylor, Esquire
326 Third Avenue
Pittsburgh, PA 15222

David Johnson, Esquire
Two Chatham Center, 10th Floor
Pittsburgh, PA 15219-3499

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

By: 
JOHN W. BLASKO
Attorneys for Defendant
Mary C. Kruszewski, D.O.

CA

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

LINDA K. HUTTON and GERALD W.)
HUTTON, husband and wife,)

Plaintiffs,)

vs.)

MARY C. KRUSZEWSKI, D.O.,)
LARRY G. SCHACHTER, M.D.)
and DUBOIS REGIONAL MEDICAL)
CENTER,)

Defendants.)

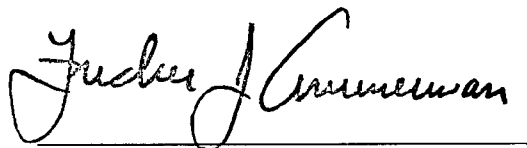
NO. 03-834 CD


JURY TRIAL DEMANDED

RULE TO SHOW CAUSE

AND NOW, this 10th day of March, 2005, a Rule is hereby issued to
show cause why the Defendant Mary C. Kruszewski, D.O.'s Objections to Plaintiffs' Praeceptum to
List for Trial should not be granted.

Rule returnable the 5 day of April, 2005, in Clearfield County Courthouse,
Courtroom 1 at 10:30 o'clock.




FILED 200
01:04 PM
MAR 10 2005
Amy Blasko

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

LINDA K. HUTTON and GERALD W.
HUTTON, husband and wife,

Plaintiffs,

vs.

MARY C. KRUSZEWSKI, D.O.,
LARRY G. SCHACHTER, M.D.
and DUBOIS REGIONAL MEDICAL
CENTER,

Defendants.

NO. 03-834 CD

JURY TRIAL DEMANDED

FILED

MAR 23 2005

William A. Shaw
Prothonotary/Clerk of Courts

CERTIFICATE OF SERVICE

I hereby certify that the Answers and Objections to Plaintiffs' First Set of Expert Interrogatories directed to Defendant, Mary C. Kruszewski, D.O., in the above-referenced matter were mailed by regular mail, first class, at the Post Office, State College, Pennsylvania, postage prepaid, this 22nd day of March, 2005, to:

Original:

William J. Schenck, Esquire
Sheryle L. Long, Esquire
Schenck & Long
610 North Main Street
Butler, PA 16001

Copy:

Peter J. Taylor, Esquire
326 Third Avenue
Pittsburgh, PA 15222

Copy:

David Johnson, Esquire
Two Chatham Center, 10th Floor
Pittsburgh, PA 15219-3499

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

By: _____

JOHN W. BLASKO

Attorneys for Defendant
Mary C. Kruszewski, D.O.

CA

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

LINDA K. HUTTON and GERALD W.
HUTTON, husband and wife,

Plaintiffs,

vs.

MARY C. KRUSZEWSKI, D.O.,
LARRY G. SCHACHTER, M.D.,
and DUBOIS REGIONAL MEDICAL
CENTER,

Defendants.

⁸³⁴
No.: 03-384 CD

Type of Case: Civil Action
Medical Professional Liability Action

JURY TRIAL DEMANDED

Type of Pleading:
PRAECIPE TO WITHDRAW OBJECTIONS

Filed on Behalf of Defendant
MARY C. KRUSZEWSKI, D.O.

Counsel of Record for this
Party: JOHN W. BLASKO

Court I.D. No.: 06787

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

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

Counsel of Record for
Adverse Party:
WILLIAM J. SCHENCK
SHERYLE L. LONG

Dated: April 1, 2005

FILED ^{no cc}
^{m110-384}
APR 04 2005
William A. Shaw
Prothonotary/Clerk of Courts

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

LINDA K. HUTTON and GERALD W.
HUTTON, husband and wife,

Plaintiffs,

vs.

MARY C. KRUSZEWSKI, D.O.,
LARRY G. SCHACHTER, M.D.
and DUBOIS REGIONAL MEDICAL
CENTER,

Defendants.

NO. 03-834 CD


JURY TRIAL DEMANDED

DEFENDANT MARY C. KRUSZEWSKI, D.O.'S
PRAECIPE TO WITHDRAW OBJECTIONS

Please withdraw Objections of Defendant Mary C. Kruszewski's D.O. to the listing of the
above case.

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

BY


JOHN W. BLASKO
Counsel for Defendant
Mary C. Kruszewski, D.O.
811 University Drive
State College, PA 16801
(814) 238-4926

Dated: 4/1/05

CIVIL DIVISION

CA

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY
PENNSYLVANIA

LINDA K. HUTTON and GERALD
W. HUTTON, Wife and Husband,

Plaintiffs,

v.

MARY C. KRUSZEWSKI, D.O.,
LARRY G. SCHACHTER, M.D.,
and DUBOIS REGIONAL MEDIAL
CENTER,

Defendants.

CIVIL DIVISION

No. 03-834-CD

**STIPULATION TO DISMISS AS
TO LESS THAN ALL
DEFENDANTS**

Filed on behalf of:
Defendant Larry G. Schachter,
M.D., only

Counsel of Record for this Party:

Peter J. Taylor, Esquire
PA I.D. No. 26506

Murphy Taylor, L.L.C.
Firm I.D. No. 625

326 Third Avenue
Pittsburgh, PA 15222
(412) 255-0200

JURY TRIAL DEMANDED

FILED

APR 05 2005

100

Atty Taylor

GP

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY
PENNSYLVANIA

LINDA K. HUTTON and GERALD
W. HUTTON, Wife and Husband,

Civil Division

Plaintiffs,

No. 03-834-CD

v.

MARY C. KRUSZEWSKI, D.O.,
LARRY G. SCHACHTER, M.D.,
and DUBOIS REGIONAL MEDIAL
CENTER,

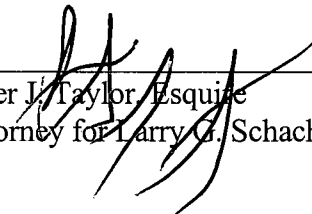
Defendants.

STIPULATION TO DISMISS AS TO LESS THAN ALL DEFENDANTS

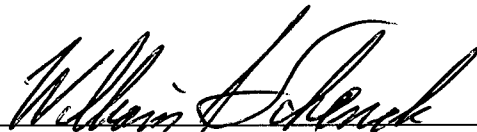
THE PARTIES, through their duly authorized and undersigned counsel, hereby stipulate to the following:

1. Larry G. Schachter, M.D. is dismissed from this case with prejudice.
2. The Caption of this case is hereby amended to remove Larry G. Schachter, M.D.

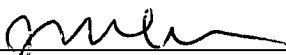
BY THE PARTIES:



Peter J. Taylor, Esquire
Attorney for Larry G. Schachter, MD



William J. Schenck, Esquire
Attorney for Plaintiffs



John W. Blasko, Esquire
Attorney for Mary C. Kruszewski

David R. Johnson / TBA
David Johnson, Esquire
Attorney for Dubois Regional Medical Center

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY
PENNSYLVANIA

LINDA K. HUTTON and GERALD
W. HUTTON, Wife and Husband,

Civil Division

Plaintiffs,

No. 03-834-CD

v.

MARY C. KRUSZEWSKI, D.O.,
LARRY G. SCHACHTER, M.D.,
and DUBOIS REGIONAL MEDIAL
CENTER,

Defendants.

ORDER OF COURT

AND NOW, to wit, this 5th day of April, 2005, upon
presentation of the within Stipulation to Dismiss with respect to Larry G. Schachter, M.D., it is
hereby ORDERED and ADJUDGED that the Stipulation is approved. Larry G. Schachter, M.D.
is hereby dismissed from this case with prejudice and the caption of this case is amended to
remove Larry G. Schachter, M.D.

BY THE COURT


_____, J.

FILED icc

01/11:28 PM Amy Taylor
APR 05 2005

William A. Shaw
Prothonotary/Clerk of Courts

CA

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

LINDA K. HUTTON and GERALD W.
HUTTON, wife and husband,

Plaintiffs,

vs.

MARY C. KRUSZEWSKI, D.O., LARRY
G. SCHACHTER, M.D., and DUBOIS
REGIONAL MEDICAL CENTER,

Defendants.

CIVIL DIVISION

No. 03-834-CD

Issue No.

STIPULATION TO DISMISS FEWER THAN
ALL DEFENDANTS

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

APR 05 2005

William A. Shaw
Prothonotary/Clerk of Courts

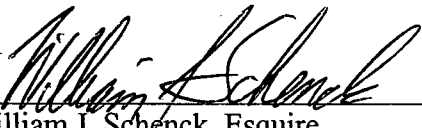
ice
Atty Johnson

(64)

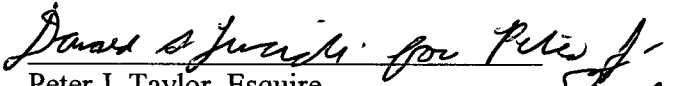
STIPULATION TO DISMISS FEWER THAN ALL DEFENDANTS

It is hereby stipulated by all parties of record that DuBois Regional Medical Center may be voluntarily dismissed as a defendant in this case and that the court may enter the order attached hereto.

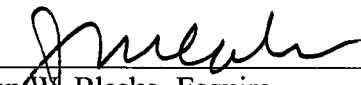
Respectfully submitted,



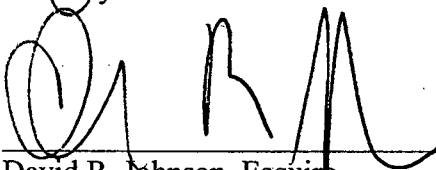
William J. Schenck, Esquire
Attorney for plaintiffs



Peter J. Taylor, Esquire
Attorney for Dr. Schachter



John W. Blasko, Esquire
Attorney for Dr. Kruszewski



David R. Johnson, Esquire
Attorney for DuBois Regional Medical Center

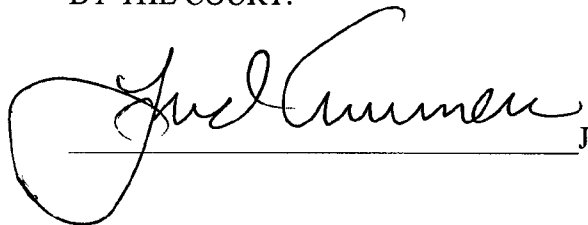
IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

LINDA K. HUTTON and GERALD W.	)	CIVIL DIVISION
HUTTON, wife and husband,)	
	)	No. 03-834-CD
Plaintiffs,)	
)	
vs.)	
)	
MARY C. KRUSZEWSKI, D.O., LARRY)	
G. SCHACHTER, M.D., and DUBOIS)	
REGIONAL MEDICAL CENTER,)	
)	
Defendants.)	

ORDER OF COURT

AND NOW, this 5th day of April, 2005, pursuant to the
stipulation of all parties, DuBois Regional Medical Center is dismissed as a defendant
and judgment is entered in its favor.

BY THE COURT:

 J.

FILED rec
01/11/28/01 Amy Johnson
APR 05 2005
William A. Shaw
Prothonotary/Clerk of Courts

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

FILED @ no cc
01:02/04
APR 14 2005

William A. Shaw
Prothonotary/Clerk of Courts

LINDA K. HUTTON and GERALD W.)
HUTTON, husband and wife,)

Plaintiffs,)

vs.)

MARY C. KRUSZEWSKI, D.O.,)

Defendants.)

NO. 03-834 CD

JURY TRIAL DEMANDED

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of DEFENDANT MARY C. KRUSZEWSKI, D.O.'S PRE-TRIAL MEMORANDUM, in the above-referenced matter were mailed by regular mail, first class, at the Post Office, State College, Pennsylvania, postage prepaid, this 13th day of April, 2005, to:

William J. Schenck, Esquire
Sheryle L. Long, Esquire
Schenck & Long
610 North Main Street
Butler, PA 16001

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

By: _____

JOHN W. BLASKO
Attorneys for Defendant
Mary C. Kruszewski, D.O.

CP

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

LINDA K. HUTTON and GERALD W.
HUTTON, husband and wife,

Plaintiffs,

vs.

MARY C. KRUSZEWSKI, D.O.,

Defendants.

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NO. 03-834 CD

JURY TRIAL DEMANDED

GK

FILED

APR 14 2005

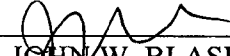
William A. Shaw
Prothonotary/Clerk of Courts

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of **DEFENDANT MARY C. KRUSZEWSKI,**
D.O.'S PROPOSED POINTS FOR CHARGE, in the above-referenced matter were mailed by
regular mail, first class, at the Post Office, State College, Pennsylvania, postage prepaid, this
13th day of April, 2005, to:

William J. Schenck, Esquire
Sheryle L. Long, Esquire
Schenck & Long
610 North Main Street
Butler, PA 16001

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

By: 
JOHN W. BLASKO
Attorneys for Defendant
Mary C. Kruszewski, D.O.

CA

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY
COMMONWEALTH OF PENNSYLVANIA

Linda K. Hutton and Gerald W. Hutton,
Wife and Husband,

Plaintiffs,

vs.

Mary C. Kruszewski, D.O.,

Defendants.

CIVIL DIVISION

No. 2003-00834-CD

JURY TRIAL DEMANDED

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the within Pretrial Statement was served, by and through postage prepaid U.S. Mail on this 14th day of April 2005, upon the following individual(s):

John W. Blasko, Esquire
McQuaide, Blasko, Schwartz, Fleming & Faulkner, Inc.
811 University Drive
State College, PA 16801-6699
(Attorney for Mary C. Kruszewski, D.O.)


Daniele Lee Hall
Paralegal

FILED ⁶²NO CC
013:2005
APR 18 2005

William A. Shaw
Prothonotary/Clerk of Courts

FILED

APR 22 2005

William A. Shaw
Prothonotary/Clerk of Courts

ICC
Any: Schenck
Long
Blasko

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

LINDA K. HUTTON and GERALD HUTTON, :
husband and wife, :
Plaintiffs :
vs. : NO. 03-834-CD
MARY C. KRUSZEWSKI, D.O., :
Defendant :

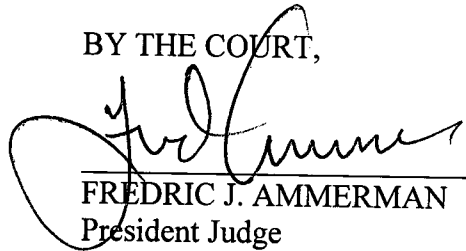
ORDER

NOW, this 22nd day of April, 2005, following Pre-Trial Conference with counsel for the parties as set forth above, it is the ORDER of this Court as follows:

1. Jury Selection will be held on May 3, 2005 commencing at 9:00 a.m. in Courtroom No. 1 of the Clearfield County Courthouse, Clearfield, Pennsylvania.
2. Jury Trial is hereby scheduled for June 27, 28, 29, 30 and July 1, 2005 commencing at 9:00 a.m. each day in Courtroom No. 1 of the Clearfield County Courthouse, Clearfield, Pennsylvania.
3. The parties have stipulated to the authenticity of all medical records exchanged during the discovery process. No party shall be required to produce a medical record's witness for purposes of authentication.
4. Any party making objections relative the testimony to be provided by any witness in the form of a deposition at the time of trial shall submit said objections to the Court, in writing, no later than thirty (30) days prior to the commencement of trial. All objections shall reference specific page and line numbers within the deposition(s) in question along with that party's brief relative same. The opposing shall submit its brief in opposition to said objection no later than fifteen (15) days prior to the commencement of trial.

file the same no more than thirty (30) days prior to the trial date. The party's Petition or Motion shall be accompanied by an appropriate brief. The responding party thereto shall file its Answer and submit appropriate response brief no later than fifteen (15) days prior to trial.

BY THE COURT,



FREDRIC J. AMMERMAN
President Judge

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

LINDA K. HUTTON and GERALD HUTTON, :
husband and wife, :
Plaintiffs :
vs. : NO. 03-834-CD
MARY C. KRUSZEWSKI, D.O., :
Defendant :

FILED

APR 29 2005

William A. Shaw
Prothonotary/Clerk of Courts

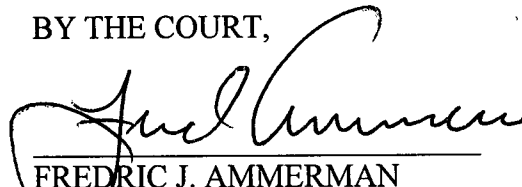
AMENDED ORDER

NOW, this 22nd day of April, 2005, following Pre-Trial Conference with counsel for the parties as set forth above, it is the ORDER of this Court as follows:

1. Jury Selection will be held on May 3, 2005 commencing at 9:00 a.m. in Courtroom No. 1 of the Clearfield County Courthouse, Clearfield, Pennsylvania.
2. Jury Trial is hereby scheduled for June 27, 28, 29, 30 and July 1, 2005 commencing at 9:00 a.m. each day in Courtroom No. 1 of the Clearfield County Courthouse, Clearfield, Pennsylvania.
3. The parties have stipulated to the authenticity of all medical records exchanged during the discovery process. No party shall be required to produce a medical record's witness for purposes of authentication.
4. Any party making objections relative the testimony to be provided by any witness in the form of a deposition at the time of trial shall submit said objections to the Court, in writing, no later than thirty (30) days prior to the commencement of trial. All objections shall reference specific page and line numbers within the deposition(s) in question along with that party's brief relative same. The opposing shall submit its brief in opposition to said objection no later than fifteen (15) days prior to the commencement of trial.

5. Any party filing any Motion of Petition regarding limitation or exclusion of evidence or testimony to be presented at time of trial, including but not limited to Motions in Limine, shall file the same no more than thirty (30) days prior to the trial date. The party's Petition or Motion shall be accompanied by an appropriate brief. The responding party thereto shall file its Answer and submit appropriate response brief no later than fifteen (15) days prior to trial.

BY THE COURT,



FREDRIC J. AMMERMAN
President Judge

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

LINDA K. HUTTON and GERALD W. HUTTON, husband and wife,	)	Civil Action-Medical Professional Liability Action
)	
Plaintiffs,	)	NO. 03-834 CD
)	
vs.)	
	)	JURY TRIAL DEMANDED
MARY C. KRUSZEWSKI, D.O.,)	
)	
Defendant.)	

CERTIFICATE OF SERVICE

I hereby certify that Defendant's **Notice of Taking Video Tape Deposition of Larry G. Schachter, M. D.** in the above-referenced matter was mailed by first class, postage prepaid, at the Post Office, State College, Pennsylvania, this 17th day of May, 2005, to William Schenck, Esquire, 610 North Main Street, Butler, PA 16001 and Peter J. Taylor, Esquire, 326 Third Avenue, Pittsburgh, PA 15222.

McQUAIDE, BLASKO

By: _____

John W. Blasko
John W. Blasko, Esquire
Attorneys for Defendant

FILED
MAY 18 2005
10:40 AM
cc

William A. Shaw
Prothonotary/Clerk of Courts

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

LINDA K. HUTTON and GERALD W.
HUTTON, husband and wife,

No.: 03-~~384~~ CD

Type of Case: Civil Action
Medical Professional Liability Action

Plaintiffs,

JURY TRIAL DEMANDED

VS.

Type of Pleading:
MOTIONS IN LIMINE

MARY C. KRUSZEWSKI, D.O.,

Defendant.

Filed on Behalf of Defendant
MARY C. KRUSZEWSKI, D.O.

Counsel of Record for this
Party: JOHN W. BLASKO

Court I.D. No.: 06787

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

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

Counsel of Record for
Adverse Party:
WILLIAM J. SCHENCK
SHERYLE L. LONG

Dated: May 18, 2005

FILED ^(CR) NO CC
MAY 19 2005

William A. Shaw
Prothonotary/Clerk of Courts

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

LINDA K. HUTTON and GERALD W.	)	Civil Action-Medical Professional
HUTTON, husband and wife,	)	Liability Action
)	
Plaintiffs,	)	NO. 03-834 CD
)	
vs.)	
	)	JURY TRIAL DEMANDED
MARY C. KRUSZEWSKI, D.O.,)	
)	
Defendant.)	

DEFENDANT MARY C. KRUSZEWSKI'S D.O.'S MOTIONS IN LIMINE

**I. MOTION IN LIMINE TO PRECLUDE ANY EVIDENCE OR TESTIMONY
AT TRIAL AS TO THE SUBJECT OF INFORMED CONSENT**

1. This is a medical malpractice action. Briefly stated, Plaintiffs' Complaint alleges Dr. Kruszewski acted negligently and committed medical malpractice on Plaintiff, Linda K. Hutton, that occurred during the surgical procedure of August 16, 2001, wherein a complication arose such that Mrs. Hutton's ureter was transected. This Motion in Limine is being filed pursuant to the Court's Order of April 22, 2005.

2. The Complaint does not allege a Count of failure of Dr. Kruszewski to provide informed consent to Plaintiff/wife.

3. Because Plaintiffs have not included informed consent-based language in any of the Counts, informed consent is not an element of this case.

4. Plaintiffs have not set forth a proper action for breach of informed consent cognizable within the laws of the Commonwealth of Pennsylvania. (See Pa.R.C.P. 1020) and Plaintiffs cannot amend the Complaint to provide for such a Count, in that, approximately three

years and nine months have passed since the surgical procedure issue and the applicable statute of limitations has therefore expired.

5. The Plaintiffs have submitted the expert report of Dr. Robert W. Lobel, M.D., an OB/GYN, who states: “Dr. Kruszewski says that she signed the consent form before the patient did, maybe even a few days before, that she did not personally go over the form or complications with Mrs. Hutton, and that she did not review the meaning of what she wrote down with Mrs. Hutton. . . .” He goes on to conclude that Dr. Kruszewski failed “to provide Linda Hutton with adequate information regarding operative risk to her urinary tract[.]” (*See* report of Dr. Lobel, dated January 27, 2005, at pp. 2 and 4, attached hereto as Exhibit “A.”)

6. Any testimony by Dr. Lobel, Plaintiffs’ expert, relative to lack of informed consent would be improper and excludable since Plaintiffs have not alleged a Count in informed consent.

7. The Plaintiffs have only alleged negligence by Dr. Kruszewski in the care of Plaintiff/wife, (Counts I & IV of the Complaint), and, any testimony by Dr. Lobel, Plaintiffs’ expert would be improper and inadmissible, in that, Pennsylvania does not recognize a cause of action based on negligence in providing informed consent. An action for informed consent must be based on a battery, not negligence.

8. In the alternative, if Dr. Lobel is permitted to testify, his report would be deficient as a matter of law on the issue of informed consent, in that, Dr. Lobel would be limited to his report in testifying and it fails to set forth the appropriate elements required for testimony on a theory of informed consent.

9. Based upon the foregoing, it is requested that this Court grant Defendant Motion in Limine and thereby preclude Plaintiffs from making any reference or presenting any testimony at trial on the subject of informed consent.

WHEREFORE, Defendant, Mary C. Kruszewski, D.O., respectfully requests this Court to grant the instant Motion in Limine and enter an Order to preclude Plaintiffs from arguing in the opening or closing statements, presenting evidence or questioning any witness, expert or non-expert, regarding any issue relative to informed consent.

II. MOTION IN LIMINE TO PRECLUDE ANY EVIDENCE AND/OR TESTIMONY AT TRIAL AS TO DR. KRUSZEWSKI'S PRIOR MEDICAL MALPRACTICE CLAIMS

10. Dr. Kruszewski anticipates that Plaintiffs may also attempt to introduce into evidence or otherwise reference at trial the existence of prior, albeit unrelated, medical malpractice actions or claims against her.

11. Any evidence concerning any prior lawsuits or claims against Dr. Kruszewski is not relevant to the instant action.

12. It is well settled Pennsylvania law that evidence of past carelessness cannot be used to prove negligence on the particular occasion in question.

13. The inadmissibility of prior malpractice suits and/or actions against Dr. Kruszewski is further mandated by virtue of Pennsylvania Rule of Evidence ("Pa.R.E.") 403 because any asserted probative value would not substantially outweigh the resulting prejudicial effect.

14. Evidence and/or mention of prior unrelated medical malpractice lawsuits, which in and of themselves contain complex issues of both a legal and medical nature, presents a substantial likelihood of "confusion of the issues" and/or "misleading the jury." Said evidence

must be excluded for the issues in prior action are dissimilar, it would require proof of a case within the present case, and, the Plaintiffs have no expert evidence or other evidence that the prior actions are similar to the present case.

WHEREFORE, Defendant, Mary C. Kruszewski, D.O., respectfully requests this Honorable Court to preclude Plaintiffs from introducing into evidence or referencing at trial any prior lawsuits and/or actions filed against her, or testimony therein, pursuant to Pa.R.E. 401-403, Pa.R.C.P. 4020 and the case law discussed in the accompanying Brief.

**III. MOTION IN LIMINE TO PRECLUDE PLAINTIFFS FROM
PRESENTING ANY TESTIMONY AT TRIAL AND FROM OTHERWISE
PURSUING ANY CLAIMS REGARDING THE FEAR OF DIABETES
OR OTHER DISEASE PROCESSES RELATED THERETO**

15. Within Plaintiffs' counsel's correspondence dated February 25, 2005, Plaintiffs assert, *inter alia*, the following claim for damages:

Linda Hutton is extremely concerned because everyone in her family **except Linda** and a brother has diabetes. She is concerned that **if** she should become diabetic, she would have serious problems with only one kidney.

(See Plaintiffs' correspondence dated February 25, 2005, p. 5, attached here to as Exhibit "B".)

(Emphasis supplied.)

16. The alleged fear that Mrs. Hutton may develop diabetes or other disease related thereto is not a cognizable claim under Pennsylvania law, and thus no damages may be awarded for the same, because Mrs. Hutton has not developed diabetes or other related disease processes nor has she experienced any clinical symptoms of the same.

17. By her own admission, as of the date of this Motion, more than three years and nine months after the surgical procedure of August 16, 2001, Mrs. Hutton has not developed

diabetes or other related disease processes. Indeed, neither she nor her brother has diabetes.

Plaintiffs have not even alleged that she experienced any such symptoms or injuries.

18. Plaintiffs' claims of fear of diabetes are barred, and thus any evidence concerning the same is inadmissible, by virtue of the "two disease rule."

19. The Pennsylvania Appellate Courts have held that fear of disease is not a compensable injury and, thus, not a cognizable claim under Pennsylvania law.

20. Based on the foregoing, said evidence is not admissible and Plaintiffs should be precluded at the trial in this matter from offering any testimony or other evidence concerning the alleged fear of Mrs. Hutton developing diabetes or other disease processes related thereto.

WHEREFORE, Defendant, Mary C. Kruszewski, D.O., respectfully requests that this Honorable Court preclude Plaintiffs from offering any testimony or other evidence at the trial of this matter concerning the alleged fear of Mrs. Hutton developing diabetes or other disease processes related thereto.

**IV. MOTION IN LIMINE TO PRECLUDE PRESENTATION OF
CUMULATIVE EXPERT TESTIMONY AT TRIAL**

21. The Plaintiffs' Complaint sets forth a cause of action sounding in negligence against Dr. Kruszewski. (See Complaint, Counts I and IV.)

22. The specific manner in which Dr. Kruszewski was allegedly negligent is described in Paragraph 19 of the Complaint, inclusive of the subparagraphs thereunder.

23. These subparagraphs allege negligent acts and omissions related to Dr. Kruszewski purported failure to properly identify and protect Mrs. Hutton's left ureter prior to transecting the same; failing to properly consult with a urologist; and delaying Mrs. Hutton's opportunity to receive appropriate treatment.

24. Plaintiffs have identified Robert W. Lobel, M.D., an OB/GYN, and Robert J. Weiss, M.D., a general surgeon, as their sole medical liability experts and provided Defendant Dr. Kruszewski with expert reports dated January 27, 2005 and October 20, 2004 respectively. (See Exhibit "A" and a copy of Dr. Weiss' report of October 20, 2004, attached hereto as Exhibit "C.")

25. Dr. Lobel, an OB/GYN is in the same specialty as Dr. Kruszewski, whereas Dr. Weiss is a general surgeon, and, it is believed was retained by Plaintiffs for a report against Dr. Schachter, who was a Defendant in this case but dropped.

26. Defendant anticipates that Plaintiffs will utilize the expert testimony of both their experts at trial.

27. In Dr. Lobel's report, he opines that Dr. Kruszewski deviated from the standard of care in the following respects: failing to "identify" and "protect the left ureter prior to transecting it;" failing "to treat the transection of the left ureter prior to the conclusion of the surgery," as well as after the conclusion of the procedure; and failing to have a urologist consult both pre and post-operatively. (See Exhibit "A" at p. 4.)

28. Similarly, Dr. Weiss' report sets forth the following aspects of Mrs. Hutton's care and treatment provided by Dr. Kruszewski which Dr. Weiss alleges fell below the standard of care: failing to adequately protect and "identify the ureter pre-operatively and/or intra-operatively"; and in "not consulting with a urologist intra-operatively." (See Exhibit "C" at p. 2.)

29. Both Dr. Lobel's report and Dr. Weiss' report identify Dr. Kruszewski as the physician who they consider to have been negligent with respect to the care and treatment of Mrs. Hutton.

30. Additionally, Dr. Lobel and Dr. Weiss are critical of identical aspects of the care and treatment rendered by Dr. Kruszewski which they opine fell below the standard of care.

31. As a result of the foregoing, the expert testimony of Dr. Lobel and Dr. Weiss is cumulative, in that, both doctors offer the same opinions as to the standard of care and causation with respect to Dr. Kruszewski.


32. Under Pa.R.E. 403, even relevant “evidence may be excluded if its probative value is outweighed by the danger of unfair prejudice, confusion the issues, or misleading the jury, or by considerations of undue delay, waste of time, or needless presentation of cumulative evidence.”

33. In this regard, Plaintiffs should be precluded from offering testimony at trial, live or otherwise, from both Dr. Lobel and Dr. Weiss in the interest of judicial economy.

34. Moreover, Plaintiffs will not be prejudiced by being limited to eliciting testimony or otherwise referencing at trial opinions from only one of their experts of their choosing concerning the standard of care and causation.

WHEREFORE, Defendant, Mary C. Kruszewski, D.O., respectfully requests that this Honorable Court preclude Plaintiffs from eliciting testimony or otherwise referencing at trial opinions from both Dr. Lobel and Dr. Weiss concerning the standard of care and causation, and that Plaintiffs be limited to presenting expert testimony at trial, live or otherwise, from only one of their experts, either Dr. Lobel or Dr. Weiss.

McQUAIDE, BLASKO, FLEMING &
FAULKNER, INC.

BY 
JOHN W. BLASKO
FREDERICK R. BATTAGLIA
811 University Drive
State College, PA 16801
(814) 238-4926

Dated: May 18, 2005



Robert W. Lobel, MD, FACOG
Jeanne Ann Dahl, RNC, NP
Fellow
Ahseen R. Chaudhry, MD

January 27, 2005

Sheryle L. Long, JD
610 North Main St
Butler, PA 16001-5982

RE: Linda K. Hutton vs. Mary Kruszewski, DO

Dear Ms. Long,

At your request, I have prepared the following report to review the medical history, diagnosis, treatment, and clinical course of Linda K. Hutton while under and after the care of Mary Kruszewski, DO. To this date, I have reviewed the following records:

Office records	Mary C. Kruszewski, DO	04/28/99 – 09/28/01
Office records	Robert J. Cherry, MD	08/20/01 – 05/06/04
Office records	Ralph J. Miller, MD	09/28/01 – 03/12/04
Hospital records	Dubois Regional Med Ctr	08/16/01 – 08/19/01
Consent form	for the surgery	08/16/01
Operative report	Robert J. Cherry, MD	09/24/01
Operative report	Robert J. Cherry, MD	01/08/02
Operative report	Robert J. Cherry, MD	05/01/03
Operative report	Robert J. Cherry, MD	08/06/03
Operative report	Robert J. Cherry, MD	11/10/03
Operative report	Robert J. Cherry, MD	02/18/04
Operative report	Ralph J. Miller, MD	11/15/01
Operative report	Ralph J. Miller, MD	03/13/02
Operative report	Ralph J. Miller, MD	06/18/02
Operative report	Charles Cobb, MD	06/18/02
Operative report	Ralph J. Miller, MD	04/26/04
Deposition of	Mary C. Kruszewski, DO	04/23/04
Deposition of	Larry G. Schachter, MD	04/23/04

I will also provide my medical opinions detailing Dr. Kruszewski's deviations from accepted standards of medical care and how these deviations have caused Mrs. Hutton's damages, within a reasonable degree of medical certainty.

Please understand that this report does not necessarily embody the details of all my opinions. In addition, I reserve the right to amend and add to my opinions upon further review of records.

Medical and clinical history of Linda Hutton

Introduction. Linda Hutton was a 54-year-old female when she presented to Dr. Kruszewski's office on July 2, 2001 with abdominal pain, pressure, and swelling of four months duration. The mother of four children, she had previously had a total hysterectomy. On examination, this 5'3" woman was found to have a left lower quadrant mass estimated to be 10 x 15 cm. Vaginal ultrasound confirmed the presence of the mass and revealed its cystic nature. Mrs. Hutton reportedly had a CA-125 and pelvic ultrasound done, but these are not in the above records. On July 9, 2001 she was scheduled for surgery on August 16. The preop note does say that the CA-125 was "normal at 11." Dr. Kruszewski says that she signed the consent form before the patient did, maybe even a few days before, that she did not personally go over the form or complications with Mrs. Hutton, and that she did not review the meaning of what she wrote down with Mrs. Hutton.

The operation. On August 16, 2001, Mrs. Hutton underwent a left oophorectomy via a midline skin incision. The surgery was performed by Dr. Kruszewski assisted by Dr. Larry Schachter, MD, and lasted 1 hour, 33 minutes, ending at 9:28 AM. This represents a reasonable duration for this type of surgery. Frozen section and subsequent pathology revealed a 17 x 15 x 11 cm cyst weighing 1337 gm. Particular note is made that no ureteral tissue was present. Final diagnosis was a serous cystadenoma. The surgery was complicated by transection of the left ureter. No attempt was made to identify the ureter prior to blind clamping and dissection of the cyst. Drs. Kruszewski and Schachter disagree on who did what: Dr. Kruszewski says that Dr. Schachter clamped the ovarian pedicle and possibly did the dissection, whereas Dr. Schachter says that Dr. Kruszewski transected the ureter and that he did no cutting. Dr. Kruszewski noted that the proximal end of the ureter was adhered to the cyst and peeled it off but neither she nor Dr. Schachter, her assistant, were able to find the distal end. She was informed that the urine was noted to be red-tinged, but at that time Dr. Kruszewski already knew about the ureteral transection and thus this information would be of little meaning to her. Drs. Kruszewski and Schachter seem to agree that they discussed calling a urologist but Dr. Kruszewski felt comfortable with Dr. Schachter attempting to reattach the ureter, despite his acknowledged lack of expertise in ureteral surgery (he has operated on ureters less than a dozen times, including repair, anastomosis, and transaction). The search for the distal end lasted less than five minutes and did not cause trauma or bleeding. Dr. Kruszewski categorically states that they never even tried to call a urologist whereas Dr. Schachter claims that they tried to get hold of Dr. Robert Cherry but he was unavailable. They agree that they discussed transferring Mrs. Hutton to Pittsburgh. They decided to close the proximal end of the ureter with a 6-0 Prolene suture (which Dr. Kruszewski says that Dr. Schachter did, and Dr. Schachter doesn't deny), placed a drain in the pelvis, closed the patient's abdomen, and ended the surgery. Dr. Kruszewski dictated the operative note on the day of surgery, albeit some hours after the operation since she alludes to consulting Dr. Robert Cherry, which she did not do until six to seven hours after finishing the operation.

Postoperative care. Dr. Kruszewski says that she promptly called Dr. Sagan, a "urogynecologist" at Magee-Women's Hospital, but that she was unavailable. Dr. Sagan, by the way, is a urologist not a urogynecologist. She did not actually discuss the case with Dr. Sagan until mid-afternoon and Dr. Sagan "declined to accept the patient in transfer" because "she was

going to be away". When she then contacted Dr. Cherry in his office, he promptly evaluated the patient at about 4:30 PM and arranged for the radiologist to place a percutaneous nephrostomy tube, which was done at about 7:30 that evening. Mrs. Hutton thus went for over ten hours with the left kidney knowingly completely obstructed. The radiologist did not mention how long the proximal ureter was.

She was seen by Dr. Cherry on 08/20/01 for a nephrostomy check. He apparently spoke with Dr. Ralph Miller on 08/23/01. Dr. Cherry performed cystoscopy with bilateral retrograde pyelograms and cystogram on 09/24/01, finding a bladder with a 300 mL capacity, a normal right ureter, and the distal left ureter only extending about 1.5 cm up from the bladder. In his dictated letter dated 09/28/01 to Dr. Miller, Dr. Cherry noted that the antegrade nephrostogram "demonstrated that the ureter ended well above the pelvic brim." However, there is no other documentation that corroborates this and, as will be noted later, there was actually a good portion of proximal ureter available. For example, Dr. Kruszewski knew that there was a good amount of ureter in the pelvis but failed to communicate this to Dr. Cherry.

Correction of injury. Mrs. Hutton was seen by Dr. Miller on 09/28/01. Incidentally, both Drs. Cherry and Miller appeared to think that Mrs. Hutton underwent a hysterectomy at the time of the surgery. In any case, Dr. Miller performed a left ureteroneocystotomy on 11/15/01 at Allegheny General Hospital. He found that the proximal ureter extended 4-5 cm below the pelvic brim and then performed the ureteroneocystotomy. She reportedly had an uneventful postoperative course. Dr. Cherry removed the stent on 01/08/02. On 02/26/02, Mrs. Hutton called with kidney pain and was treated for a urinary infection. A couple of weeks later, she went to the emergency room. An intravenous pyelogram showed left hydronephrosis and obstruction. On 03/13/02, Dr. Miller performed cystoscopy and ureteroscopy, balloon-dilated a ureteral stricture 3 cm up from the bladder, and found a very tortuous ureter just below the kidney. A stent was placed, which was removed by Dr. Cherry the first week of May, 2002. She presented to Dr. Cherry on 05/20/02 with recurrent left flank pain. Subsequent IVP showed poor drainage and early hydronephrosis. On 06/18/02, Dr. Miller performed left ureterolysis after he found significant periureteral adhesions just below the ureteropelvic junction. Because he noted an incisional hernia at the umbilicus, he consulted Dr. Cobb, a general surgeon, who repaired this and two other hernias, one below and one above the umbilicus. Dr. Cherry removed the stent in mid-October and Mrs. Hutton developed recurrent left flank pain a couple of weeks later. A stent was replaced, with resolution of her pain. She consulted Dr. Miller on 11/22/02 and they decided to do stent changes every 3 months for a while to see if this would solve the recurrent kinking. Dr. Cherry did these stent changes on at least 05/01/03, 08/06/03, 11/10/03, and 02/18/04. During this time, she periodically required treatment with antibiotics, anticholinergics, and prescription pain medications. Mrs. Hutton saw Dr. Miller on 03/12/04. He offered her options of a nephrectomy or an autotransplant. She opted for the former, which Dr. Miller performed on 04/26/04. She saw Dr. Cherry postoperatively on 05/06/04 and was without complications.

Other notes. Dr. Kruszewski erroneously states that ABOG recertification is not necessary and that she was licensed in Ohio. She doesn't know how often she operates. She doesn't know how she or the assistant is paid for surgery. She doesn't know the difference between the surgeon and

the assistant. She says that she doesn't recall asking Dr. Schachter to do anything during the surgery. She is lefthanded and always stands on the left.

Conclusions and expert medical opinions

Dr. Kruszewski deviated from accepted standards of gynecologic and surgical care in at least, but not limited to, the following ways:

1. Failure to provide Linda Hutton with adequate information regarding operative risk to her urinary tract,
2. Failure to identify the left ureter prior to transecting it,
3. Failure to protect the left ureter from transaction,
4. Failure to treat the transection of the left ureter prior to the conclusion of the surgery, and
5. Failure to treat the transection of the left ureter in a timely manner after the conclusion of the surgery.

Ureteral injury is a wellknown although uncommon complication of benign gynecologic surgery. Transection of the ureter during such surgery is, in and of itself, not below the standard of care. Dr. Kruszewski deviated from the standard of care in not doing anything before or during the surgery to identify and protect the left ureter. Mrs. Hutton's previous pelvic surgery would not factor into the decision-making. Dr. Kruszewski knew that the mass was arising from the left ovary and hence proximal to the ureter. She knew that the mass was filling the pelvis and thus was likely to limit visualization of the pelvic sidewall. Knowing these things, she should have had a urologist place a left ureteral catheter preoperatively. Having failed to arrange for this, she should have identified the ureter intraoperatively by dissecting retroperitoneally and identifying the ureter at the level of the ovary under direct visualization. If the cyst obstructed her view, it would have been a simple matter of draining the cyst, which would have allowed her to have unimpeded access to the pelvic sidewall. The most common reason for not wanting to drain the cyst is concern about spillage into the abdomen of potentially cancerous cells, but in this case the risk of cancer was so low that it would be overwhelmingly outweighed by the risk of ureteral injury.

Once the ureteral injury was discovered, Dr. Kruszewski deviated from the standard of care by not calling for a urologist to come and evaluate the injury. Even if the urologist was not immediately available, the standard of care would dictate that Dr. Kruszewski keep the abdomen open until the urologist could scrub in, which certainly would not be more than a couple of hours at most. Dr. Kruszewski certainly knew how to find out how long it would take the urologist to get there, but she did not do so. Since this was a simple transection of the ureter, the urologist could have immediately performed a simple end-to-end reanastomosis and almost certainly prevented most if not all of the sequelae suffered by Mrs. Hutton. These significant sequelae include ten trips to the operating room, three of which were major abdominal procedures, eventually costing Mrs. Hutton a kidney.

Dr. Kruszewski deviated from the standard of care by ligating the ureter and closing the abdomen with no postoperative provision for drainage of the left kidney. A percutaneous nephrostomy tube could have been placed immediately by the radiologist but Dr. Kruszewski did

not arrange for this. Inexplicably she did not take any definitive measures to get help for Mrs. Hutton for six hours.

The delay by Dr. Kruszewski in seeking evaluation and treatment of the injury she caused Mrs. Hutton overwhelmingly attributed to the inability of performing a simple end-to-end anastomosis, which would have almost certainly prevented most if not all of the sequelae suffered by Mrs. Hutton.

To a reasonable degree of medical certainty, Dr. Kruszewski's deviations caused Mrs. Hutton's ureteral injury and her subsequent pain, discomfort, and medical treatment eventually resulting in the loss of a vital organ. In my professional opinion, Mrs. Hutton's ureteral injury would not have occurred if Dr. Kruszewski had met accepted standards of care. Her deviations from accepted standards of care directly led to this woman's ureteral injury and her subsequent pain, discomfort, medical care, hospital admissions required to treat this injury, and loss of a vital organ.

If you have any further questions for me, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read 'R. Lobel', with a stylized flourish extending to the right.

Robert W. Lobel, MD

SCHENCK & LONG
ATTORNEYS AT LAW
610 North Main Street
Butler, PA 16001-5982

William J. Schenck
Sheryle L. Long*
Frank Krizner (Of Counsel)

Butler 724-283-7359
Toll Free 866-283-7359
Facsimile 724-283-7515

*Also admitted in Florida

February 25, 2005

John W. Blasko, Esquire
McQuaide, Blasko, Schwartz, Fleming & Faulkner, Inc.
811 University Drive
State College, PA 16801-6699

**RE: Hutton vs. Mary C. Kruszewski, D.O., Larry G. Schachter, M.D., and Dubois
Regional Medical Center
Clearfield County No. 03-834-CD**

Dear Mr. Blasko:

Linda Hutton was a patient at Dubois Regional Medical Center on August 16, 2001. Mary C. Kruszewski, D.O., a gynecological surgeon, performed a laparotomy with left oophorectomy on Ms. Hutton. She was assisted by general surgeon, Larry G. Schachter, M.D. During the course of the surgical procedure, Linda Hutton's left ureter was transected. Dr. Kruszewski, in her deposition on April 23, 2004, was asked whether she, in a surgery of the type she was performing on Ms. Hutton, normally identified the ureter before cutting and manipulating. Dr. Kruszewski states that if it is possible, she does identify the ureter by looking at it (Deposition of Mary C. Kruszewski, D.O., April 23, 2004, p. 57). When she was asked specifically concerning Ms. Hutton's procedure, whether or not she made any attempt to identify the ureters, she stated an unequivocal "no" (Kruszewski deposition, p. 58).

Both Robert W. Lobel, M.D., a urogynecologist, and Robert J. Weiss, M.D., a general surgeon, are emphatic in their expert reports that the standard of care requires identifying and protecting the ureter from injury during a surgical procedure. In addition, once the ureteral transection was identified by Dr. Kruszewski, it was incumbent upon her to provide for evaluation and repair by a specialist, and in this case, a urologist (Expert Report, Robert W. Lobel, M.D., dated January 27, 2005, and Expert Report Robert J. Weiss, M.D., dated October 20, 2004).

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There is no dispute that the ureter was transected. There is no dispute the ureter was not identified or protected prior to beginning dissection. There is no dispute that Ms. Hutton was not seen by a urologist until the surgery was long over. However, there is a discrepancy about whether there was an attempt to even consult with a urologist immediately upon discovering the ureter was transected. Both Dr. Kruszewski and the assistant, Dr. Schachter, will testify that Dr. Schachter tried to find the distal end of the ureter in order to try to reanastomose the ureter but was unable to locate it. Dr. Schachter believes an attempt to contact Dr. Robert Cherry, a urologist, was made intraoperatively. It is Dr. Schachter's testimony that the request for Dr. Cherry was relayed to the front desk of the surgery department and information was brought back to Dr. Kruszewski and Dr. Schachter that Dr. Cherry was not available at the time. He was in surgery at Dubois Regional Medical Center East (Deposition of Larry G. Schachter, M.D., April 23, 2004, p. 48). Dr. Kruszewski was asked in her deposition whether or not a call was made to a urologist while Ms. Hutton was still in the operating room. Dr. Kruszewski's answer was no (Kruszewski deposition, p. 70). When asked if she had given an order to request another surgeon be brought into surgery to care for Ms. Hutton, would that order or directive be in the operative report or charted by her, Dr. Kruszewski stated, yes it would (Kruszewski deposition, p. 71). No such order or directive is in the chart. However, both Dr. Kruszewski and Dr. Schachter agree that Dr. Kruszewski was the primary surgeon (Kruszewski deposition, p. 38 and Schachter deposition, p. 18, 24). And both agree that as an assistant surgeon, Dr. Schachter did not have the authority to direct OR staff to perform certain duties and would not override the primary surgeon relative to direction in the OR (Schachter deposition, p. 22). Dr. Kruszewski states unequivocally, "It was my patient. So I was the primary surgeon." (Kruszewski deposition, p. 38).

Robert J. Weiss, M.D., in his expert report of October 20, 2004, emphasizes that the primary surgeon is the captain of the ship and is ultimately responsible for the actions of the assistant. Dr. Kruszewski testifies plainly in her deposition that no attempt was made to reach a urologist while Ms. Hutton was still in the operating room. The only attempt to correct the problem was when Dr. Kruszewski permitted Dr. Schachter to attempt to find the distal end of the ureter.

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There was a phone in the OR. There were people in and out of the OR. There was a desk out front where calls could easily be made. Dr. Cherry was in Dubois Regional Medical Center East at the same time Ms. Hutton was in the surgical suite in Dubois Regional Medical Center West. Her procedure ended at 9:28 a.m. Dr. Cherry's procedure ended at 9:30 a.m. He was captive. A phone call, a simple intra-hospital phone call, would have summoned a specialist needed to care for Ms. Hutton's transected ureter. The two facilities are just a couple of miles apart. Dr. Schachter, in his deposition, speaks in terms of finding a urologist and keeping the patient on the operating room table, under anesthesia, with the abdomen open for a reasonable time. Dr. Schachter gives a wide range of acceptability, perhaps up to five hours, 59 minutes, for holding a patient for a specialist to appear (Schachter deposition, p. 70). The procedure was finalized at 9:28 a.m.

Dr. Cherry, in his own consult of August 16, 2001 states: "The surgery was performed this morning and completed at 9:45 a.m." and he was contacted "this afternoon" for advice as to how to manage the transaction "at this point in time". Dr. Cherry thought the need to treat Ms. Hutton was important as his note was dictated at 4:26 p.m. He evidently visited Ms. Hutton upon receiving the request. He states in his plan: "Unfortunately at this time the patient's wound has been closed and there is no clear way of knowing how much ureter has been removed. Further, I am uncertain as to how much edema and trauma there is in the distal end of the ureter after attempts were made to search for it." (Cherry Consult, August 16, 2001).

Dr. Kruszewski states that she called Dr. Sagan, who she believes is a urogynecologist at Magee-Womens Hospital, around 10:00 a.m. or so, just after the surgery (Kruszewski deposition, p. 61). She was unable to speak with Dr. Sagan but did not contact any other urologist or specialist. She tried again late in the afternoon and was told Dr. Sagan was not available for the referral. It was not until late in the afternoon that she even tried to reach Dr. Cherry, whose office is located in the Dubois Regional Medical Center Medical Arts Building.

Urogynecologist Robert W. Lobel, M.D., in his expert report of January 27, 2005, states that once the ureteral injury was discovered, it is the standard of care to call for a urologist to evaluate the injury. If a urologist is not immediately available, the standard of care requires the abdomen be kept open until the urologist could scrub in. Furthermore, Dr. Kruszewski deviated from the standard of care by ligating the ureter and closing the abdomen with no post-operative provision for drainage of the left kidney.

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The percutaneous nephrostomy tube could have been placed immediately. Dr. Cherry, upon his consultation, felt that the safest alternative at this late time was to percutaneously drain the left kidney. He also performed an antigrade nephrostogram so that he could better evaluate the potential for repair.

Linda Hutton was discharged on August 19, 2001, with plans for an evaluation two weeks post discharge.

On September 24, 2001, Linda Hutton again returned to Dubois Regional Medical Center for a cystoscopy and bilateral retrograde pyelogram and cystogram under IV sedation performed by Dr. Cherry. Results revealed there was a gap of approximately 5-6 cm from the proximal ureter to bladder. Dr. Cherry felt the ureter could not be reapproximated by simple reanastomosis. Therefore, he referred her to Ralph J. Miller, Jr., M.D., at Triangle Urological Group for surgery to repair the transected ureter.

She was admitted on November 15, 2001, to Allegheny General Hospital under the direction of Ralph Miller, M.D., for an exploratory laparotomy, lysis of adhesions, and a left ureteroneocystostomy. She was discharged on November 19, 2001, with a nephrostomy tube still in place. She also had a left sided double J stent in place. The stent was to stay approximately one month post operatively.

On January 8, 2002, she underwent a cystoscopy and a stent removal by Dr. Cherry at Dubois Regional Medical Center. Ms. Hutton continued to suffer from infections and pain in the kidney area with burning upon urination. She was continuously prescribed antibiotics.

She presented at the Dubois Regional Medical Center Emergency Department on March 9, 2002, with an obstruction relative to the left ureter. She was referred to Dr. Miller in Pittsburgh at Allegheny General Hospital, who performed a cystoscopy, a left retrograde pyelography, left ureteroscopy, a balloon dilation of the left ureteral stricture and stent placement.

She returned on April 8, 2002, to see Dr. Cherry with continuous back pain and problems when she urinated. On May 10, 2002, she had a stent removed at Dubois Regional Medical Center. On May 20, 2002, she again returned to Dr. Miller with pain in her left flank and kidney area. An IVP renal scan and blood work were performed at Dubois Regional Medical Center on May 22, 2002. On June 6, 2002, the stent was again placed

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by Dr. Cherry. Ms. Hutton continued to experience problems, including hydronephrosis, pain and an incisional hernia.

She was admitted to Allegheny General Hospital on June 18, 2002, and discharged on June 20, 2002. She was there as Dr. Miller's patient to address her left ureteral obstruction. The operative procedure performed was a left ureterolysis with omental onlay and repair of her ventral hernia. This also included a stent being placed. The stent was removed on September 27, 2002, by Dr. Cherry.

Ms. Hutton continued to experience hydronephrosis, pain and obstruction type problems. On November 4, 2002, an IVP was performed at Dubois Regional Medical Center and a stent was placed on November 11, 2002.

On November 22, 2002, she again was seen by Dr. Cherry. He discussed with Ms. Hutton the possibility of a left nephrectomy. However, it was decided to try to preserve her kidney. He noted that removal of the kidney would eliminate the flank pain. He discussed with her the idea of an autotransplant on the left side but felt it was less feasible. He discussed with her that the periureteral scarring could heal spontaneously after prolonged periods of stenting or nephrostomy tube drainage. He suggested she continue with the stent before proceeding to the nephrectomy and leaving her with only one kidney, especially since there is diabetes in her family.

Linda Hutton is extremely concerned because everyone in her family except Linda and a brother has diabetes. She is concerned that if she should become diabetic, she would have serious problems with only one kidney. Therefore, she was adamant about continuing with the stents to try to mitigate the need for a nephrectomy.

On December 12, 2003, she required another stent replacement, as she did on May 1, 2003, also. Throughout this period, Ms. Hutton experienced spasm pain, flank pain, problems with urination and continued use of antibiotics.

As of December 2003, Ms. Hutton was experiencing such severe back pain that she required Percocet for relief.

On July 21, 2003, she presented to Dr. Cherry, complaining of increased pain in her left side. He noted that she was due for a stent change, which was done on August 6, 2003.

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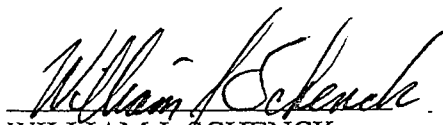
On February 18, 2004, she had another stent replacement. On March 12, 2004, Ms. Hutton followed up with Dr. Miller. Since her initial repair by Dr. Miller in November of 2001, Ms. Hutton had been dependent on a left ureteral stent, which required changing approximately every three months. The hope of spontaneous remission of the ureteral obstruction was not happening. She complained that she suffered with kidney related pain for approximately a month prior to each stent change. She continued to suffer from infections. At this examination, Dr. Miller told her the nephrectomy would provide the highest chance of ridding her of her urinary tract problems. However, it would leave her with just one kidney, which continued to be a family concern due to the history of diabetes. The risk of autotransplantation was discussed with Dr. Vivas, a transplantation surgeon, who felt the major vascular complications and risk of ureteral complications was higher than with the major complications of a straight nephrectomy.

On April 26, 2004, Linda Hutton was admitted to Allegheny General Hospital where she underwent major surgery. A left nephrectomy was performed as the result of an obstructed left ureter and the multiple surgeries that had been required to this point relative to the obstructed ureter and hydronephrosis and the resultant pain and infections she has endured. She was discharged on April 29, 2004.

In addition to the extensive pain and suffering that Ms. Hutton has endured, Highmark Blue Shield is asserting a lien of \$33,366.78 and Fortis is asserting a lien of \$20,396.52.

Linda Hutton has suffered through multiple medical procedures and major surgeries. She has literally been in pain since the procedure performed by Dr. Kruszewski on August 16, 2001. Her quality of life has been altered. And it is for the pain; the multiple diagnostic procedures, medical procedures and surgeries; the loss of her kidney; the infections; the scarring; and the liens, that Linda K. Hutton, in an effort to resolve this matter without further litigation, will accept four hundred fifty thousand (\$450,000.00) dollars.

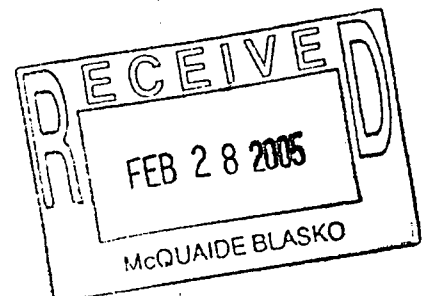
Sincerely,


WILLIAM J. SCHENCK

dlh

enclosures

cc: Mr. and Mrs. Gerald W. Hutton (w/o enc)



Robert J. Weiss, M.D., P.C., F.A.C.S.
General and Laparoscopic Surgery

Community General Hospital
Office Building South, Suite 1-K
Syracuse, NY 13215

Telephone: 315.492.5970

Fax: 315.492.5734

October 20, 2004

Schenck and Long
Attorneys at Law
610 North Main St.
Butler, PA 16001-5982

RE: Linda Hutton

Dear Mr. Schenck and Ms. Long,

Thank you for asking me to review the medical records of Ms. Linda Hutton. You have asked my opinion as to whether Dr. Larry Schachter, a general surgeon, performed up to the standard of care in this case.

By way of review, Ms. Hutton was diagnosed with a large ovarian mass by Dr. Mary Kruszewski, a gynecologist, in July 2001. She scheduled Ms. Hutton for surgery to remove this tumor. Dr. Schachter was on a list of individuals available as surgical assistants. He was scheduled to act as assistant to Dr. Kruszewski on Ms. Hutton's case. As far as I can tell, Dr. Kruszewski did not specifically request him. Dr. Schachter had no significant role in the pre-operative work-up of this patient.

On August 16, 2001, Dr. Kruszewski and Dr. Schachter operated on Ms. Hutton. Upon opening the abdomen, the large tumor was obvious. Mobilization of the mass began. Dr. Kruszewski, in her deposition, said both doctors were operating. Dr. Schachter, in his deposition, says Dr. Kruszewski was operating. In any event, Dr. Kruszewski noted that the left ureter had been transected. Dr. Schachter made a brief attempt, with Dr. Kruszewski's permission, to repair the ureter, but could not locate the distal end. An attempt may have been made to consult a local urologist, Dr. Robert Cherry. It appears that he either could not be reached, or could not be available within a reasonable period of time. At this point, the decision was made to ligate the proximal end of the ureter and close the patient.

There was some discussion about transferring the patient to Pittsburgh for treatment of the ureteral injury. However, Dr. Cherry saw the patient postoperatively and he later did refer her to a tertiary care center. She then underwent multiple procedures to her urinary tract in an attempt to save her left kidney, but ultimately had a nephrectomy in April 2004. Dr. Schachter had no role in the care of Ms. Hutton beyond his involvement in her operation of 8/16/01.

In my opinion, Dr. Schachter's conduct did not deviate from the accepted standard of care in this case. As far as the patient's pre-operative work-up, he was not expected to play any role. In the operating room, he did what would be expected of a first assistant as far as providing exposure, cutting sutures, etc. He says he was not doing any cutting at the time of the ureteral injury. Dr. Kruszewski is not sure, but says they may both have been cutting. In fact, it would be practically impossible for two doctors to be cutting in the same field at one time.

The overriding consideration, however, is that the primary surgeon is the "captain of the ship". He, or she, is ultimately responsible for the actions of the assistant. The assistant is not expected to be operating independently or formulating plans without the surgeon's approval.

The only exception to this I can think of would be in a case where the assistant had special knowledge and training over and above that of the surgeon. For example, if Ms. Hutton had sustained a bowel injury, instead of a ureteral injury, then Dr. Schachter's opinion would have carried special weight, because general surgeons are experts in surgery of the intestine. But Dr. Schachter, as a general surgeon, would be expected to have the same level of knowledge regarding injuries of the ureter and how to avoid and treat them, as Dr. Kruszewski.

I will now address two more issues at your request.

- 1) Strategies for avoiding injury to the ureter include pre-operative and intra-operative maneuvers. In the pre-operative time frame, one may image the ureter (IVP, CT scan) in an attempt to discern its course. Catheters can be placed in the ureters and left there to serve as guides during surgery. If a difficult case is expected, one may want to have a urologist as an assistant or on call if needed. In the OR, the guiding principle is to avoid any blind cutting or manipulation where a vital structure is at risk. These structures should be recognized and protected as the first order of business, or as soon as is possible.
- 2) If the ureter is damaged by a non-urologist who has limited experience dealing with ureteral injuries, then the services of a urologist are required. I feel that every reasonable attempt should be made to get a urologist into the operating room. If this is impossible, then the case should at least be discussed by phone with an experienced physician, while the patient is in the OR. In the odd case where no local urologist can be reached, then the case should be discussed with a physician at a regional facility. Usually, the earlier a specialist is given a chance to intervene, the better the ultimate outcome will be.

The above two numbered paragraphs set forth standards of care that apply to all surgeons, regardless whether the surgeon is an OB/GYN or a general surgeon. Dr. Kruszewski, within a reasonable degree of medical certainty, deviated from the standard of care required of any type of surgeon in not identifying the ureter pre-operatively and/or intra-operatively, as discussed above. Dr. Kruszewski further breached the standard of care required of any type of surgeon by not consulting with a urologist intra-operatively as discussed above. These breaches of the standard of care resulted in a significant increase of harm to Ms. Linda Hutton, including the nephrectomy that she eventually had to undergo.

All of the opinions stated above are stated within a reasonable degree of medical certainty.

Thank you for allowing me to review this case. Let me know if I may be of further assistance.

Sincerely,



Robert J. Weiss, M.D., P.C., F.A.C.S.

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


LINDA K. HUTTON and GERALD W.	)	Civil Action-Medical Professional
HUTTON, husband and wife,	)	Liability Action
)	
Plaintiffs,	)	NO. 03-834 CD
)	
vs.)	
	)	JURY TRIAL DEMANDED
MARY C. KRUSZEWSKI, D.O.,)	
)	
Defendants.)	

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of **DEFENDANT MARY C. KRUSZEWSKI,**
D.O.'S MOTIONS IN LIMINE, in the above-referenced matter were mailed by regular mail,
first class, at the Post Office, State College, Pennsylvania, postage prepaid, this 18th day of
May, 2005, to:

William J. Schenck, Esquire
Sheryle L. Long, Esquire
Schenck & Long
610 North Main Street
Butler, PA 16001

McQUAIDE, BLASKO, FLEMING &
FAULKNER, INC.

By: 
JOHN W. BLASKO
Attorneys for Defendant
Mary C. Kruszewski, D.O.

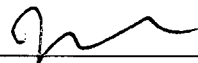
CA

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

LINDA K. HUTTON and GERALD W.	)	Civil Action-Medical Professional
HUTTON, husband and wife,	)	Liability Action
)	
Plaintiffs,	)	NO. 03-834 CD
)	
vs.)	
	)	JURY TRIAL DEMANDED
MARY C. KRUSZEWSKI, D.O.,)	
)	
Defendants.)	

CERTIFICATION AS TO MOTIONS

On May 18, 2005, Plaintiffs' counsel, William Schenck, Esquire was contacted and did not concur to the Defendant's requests contained in the Motions In Limine.



JOHN W. BLASKO
Attorneys for Defendant
Mary C. Kruszewski, D.O.

FILED[®]
m 11:24 AM
MAY 19 2005

William A. Shaw
Prothonotary/Clerk of Courts

CA

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

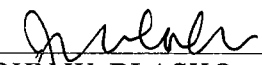
LINDA K. HUTTON and GERALD W.	)	Civil Action-Medical Professional
HUTTON, husband and wife,	)	Liability Action
)	
Plaintiffs,	)	NO. 03-834 CD
)	
vs.)	
	)	JURY TRIAL DEMANDED
MARY C. KRUSZEWSKI, D.O.,)	
)	
Defendants.)	

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of **DEFENDANT MARY C. KRUSZEWSKI, D.O.'S BRIEF IN SUPPORT OF MOTIONS IN LIMINE**, in the above-referenced matter were mailed by regular mail, first class, at the Post Office, State College, Pennsylvania, postage prepaid, this 18th day of May, 2005, to:

William J. Schenck, Esquire
Sheryle L. Long, Esquire
Schenck & Long
610 North Main Street
Butler, PA 16001

McQUAIDE, BLASKO, FLEMING &
FAULKNER, INC.

By: 
JOHN W. BLASKO
FREDERICK R. BATTAGLIA
Attorneys for Defendant
Mary C. Kruszewski, D.O.

FILED

MAY 19 2005
11:50 AM
William A. Shaw
Prothonotary
No C/C

CA

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

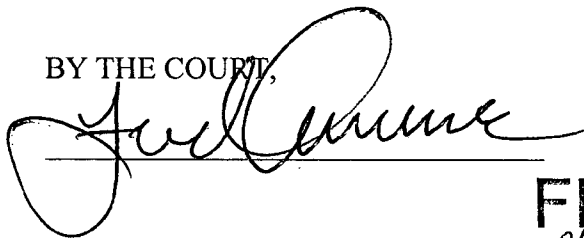
LINDA K. HUTTON and GERALD W. HUTTON, husband and wife,	)	Civil Action-Medical Professional Liability Action
)	
Plaintiffs,	)	NO. 03-834 CD
)	
vs.)	
	)	JURY TRIAL DEMANDED
MARY C. KRUSZEWSKI, D.O.,)	
)	
Defendant.)	

ORDER

AND NOW, this 26 day of May, 2005, upon consideration of the foregoing motions, it is hereby ordered that:

- (1) A rule is issued upon the Plaintiffs to show cause why the moving party, Defendant Mary C. Kruszewski, D.O. is not entitled to the relief requested;
- (2) Pursuant to the Court's Order of April 22, 2005, Paragraph 5, the Plaintiffs shall file an answer and brief to the motions no later than 15 days prior to trial;
- (3) Argument shall be held on June 8, 2005, in Courtroom No. 1 of the Clearfield County Courthouse; and at 2:30 p.m.
- (4) Notice of entry of this order shall be provided to the Plaintiffs' counsel by the moving party.

BY THE COURT,



FILED ¹⁰
012:01/01
MAY 26 2005
Blasko

William A. Shaw
Prothonotary/Clerk of Courts

CA

No.: 03-⁹³⁴~~384~~ CD

Type of Case: Civil Action
Medical Professional Liability Action

JURY TRIAL DEMANDED

Type of Pleading:
OBJECTIONS TO THE DEPOSITION OF
LARRY G. SCHACHTER, M.D.

Filed on Behalf of Defendant
MARY C. KRUSZEWSKI, D.O.

Counsel of Record for this
Party: JOHN W. BLASKO

Court I.D. No.: 06787

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

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

Counsel of Record for
Adverse Party:
WILLIAM J. SCHENCK
SHERYLE L. LONG

Dated: June 1, 2005

FILED

JUN 02 2005

m/11.05/12
William A. Shaw
Prothonotary
no C/C

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

LINDA K. HUTTON and GERALD W.	)	Civil Action-Medical Professional
HUTTON, husband and wife,	)	Liability Action
)	
Plaintiffs,	)	NO. 03-834 CD
)	
vs.)	
	)	JURY TRIAL DEMANDED
MARY C. KRUSZEWSKI, D.O.,)	
)	
Defendant.)	

OBJECTIONS BY DEFENDANT MARY C. KRUSZEWSKI, D.O.
TO THE DEPOSITION OF LARRY G. SCHACHTER, M.D.

1. On May 27, 2005, the videotaped deposition of Larry G. Schachter, M.D. was scheduled by Defendant's counsel for trial.

2. Dr. Schachter was originally a party to this action but has since been dismissed on Stipulation of the parties.

3. Dr. Schachter assisted Dr. Kruszewski during the procedure in question.

4. The Defendant made the following objections to Plaintiffs' counsel's questioning at the deposition.

- [a] Plaintiffs asked inappropriate leading questions of Dr. Schachter as to his legal duties as an assistant. The questions were beyond medical facts of the case, and, were not relevant to the issues in this case.
- [b] The Plaintiffs improperly examined Dr. Schachter as to whether Mrs. Hutton could have been kept under anesthesia for a period of time until an urologist could have been consulted. This questioning was speculative, and, not part of the medical facts which established that a urologist was consulted, but unavailable. The questioning was based on facts developed in hindsight, which as a matter of law is improper. Further, the questioning was beyond the


allegations of paragraph 19 of the Complaint which sets forth the alleged negligence of Dr. Kruszewski as follows:

- 19(a) "By failing to identify Plaintiff, Linda K. Hutton's left ureter prior to transecting it during the surgical procedure of August 16, 2001;
- (b) By failing to protect Plaintiff Linda K. Hutton's left ureter during the surgical procedure of August 16, 2001;
- (c) By transecting and/or otherwise damaging Plaintiff Linda K. Hutton's left ureter during the surgical procedure of August 16, 2001;
- (d) In failing to immediately consult with a urologist or other appropriate specialists intraoperatively when the fact that Plaintiff Linda K. Hutton's left ureter had been transected became known;
- (e) In closing Plaintiff Linda K. Hutton's surgical wound after the transection of the left ureter was known without first consulting with a urologist or other appropriate specialist;
- (f) In causing edema and trauma in the area around the transected ureter by searching without consulting with a urologist;
- (g) In failing to consult with a urologist for many hours after the surgery was completed and after it was known that the left ureter of Plaintiff Linda K. Hutton had been transected; and,
- (h) In failing to insure that urologist was available to consult and to intervene in the event that a problem, such as the transection of Plaintiff Linda K. Hutton's ureter, occurred during the surgical procedure."

5. The Defendant reserves the right to assert other objections made during the course of the deposition upon receipt of the written transcript.

WHEREFORE, it is requested the Court sustain the Defendant's Objections to the videotaped deposition.

McQUAIDE, BLASKO, FLEMING
& FAULKNER, INC.

BY 
JOHN W. BLASKO
Counsel for Defendant
Mary C. Kruszewski, D.O.
811 University Drive
State College, PA
(814) 238-4926

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

LINDA K. HUTTON and GERALD W.	)	Civil Action-Medical Professional
HUTTON, husband and wife,	)	Liability Action
)	
Plaintiffs,	)	NO. 03-834 CD
)	
vs.)	
	)	JURY TRIAL DEMANDED
MARY C. KRUSZEWSKI, D.O.,)	
)	
Defendant.)	

CERTIFICATE OF SERVICE

I hereby certify that the **OBJECTIONS BY DEFENDANT MARY C. KRUSZEWSKI, D.O. TO THE DEPOSITION OF LARRY G. SCHACHTER, M.D.**, in the above-referenced matter were mailed by regular mail, first class, at the Post Office, State College, Pennsylvania, postage prepaid, this 1st day of June, 2005, to:

William J. Schenck, Esquire
Sheryle L. Long, Esquire
Schenck & Long
610 North Main Street
Butler, PA 16001

McQUAIDE, BLASKO,
FLEMING & FAULKNER, INC.

By: _____

JOHN W. BLASKO
Attorneys for Defendant
Mary C. Kruszewski, D.O.

CA


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

LINDA K. HUTTON and GERALD :
W. HUTTON, husband and wife :
 :
 :
vs. : No. 03-⁸³⁴384-CD
 :
 :
MARY C. KRUSZEWSKI, D.O. :

ORDER

AND NOW, this 3rd day of June, 2005, upon consideration of Defendant's Objections to the Deposition of Larry G. Schachter, M.D. filed in the above matter, it is the Order of the Court that argument has been scheduled for the 8 day of June, 2005, at 2:30 P.M, in Courtroom No. 1, Clearfield County Courthouse, Clearfield, PA.

BY THE COURT:


FREDRIC J. AMMERMAN
President Judge

FILED

JUN 03 2005
6/10/05
William A. Shaw
Prothonotary/Clerk of Courts
2 CENT TO ATT

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

LINDA K. HUTTON and GERALD W.
HUTTON, husband and wife,

Plaintiffs,

vs.

MARY C. KRUSZEWSKI, D.O.,

Defendant.

No.: 03-⁸³⁴~~384~~ CD

Type of Case: Civil Action
Medical Professional Liability Action

JURY TRIAL DEMANDED

Type of Pleading:
AFFIDAVIT OF SERVICE OF THE
ORDER OF MAY 26, 2005 OF
JUDGE AMMERMAN

Filed on Behalf of Defendant
MARY C. KRUSZEWSKI, D.O.

Counsel of Record for this
Party: JOHN W. BLASKO

Court I.D. No.: 06787

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

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

Counsel of Record for
Adverse Party:
WILLIAM J. SCHENCK
SHERYLE L. LONG

Dated: June 2, 2005

FILED

JUN 03 2005
11:30 AM
William A. Shaw
Prothonotary/Clerk of Courts
WAS C/C

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


LINDA K. HUTTON and GERALD W.	)	Civil Action-Medical Professional
HUTTON, husband and wife,	)	Liability Action
)	
Plaintiffs,	)	NO. 03-834 CD
)	
vs.)	
	)	JURY TRIAL DEMANDED
MARY C. KRUSZEWSKI, D.O.,)	
)	
Defendant.)	

AFFIDAVIT OF SERVICE

Before me, the undersigned authority, personally appeared John W. Blasko, Esquire, who, being duly sworn, deposes and says that a true and correct copy of Judge Ammerman's May 26, 2005, Order, in the above-captioned case was served upon counsel of record by via facsimile and 1st Class Mail to: William Schenck, Esquire and Sheryl L. Long, Esquire, 610 North Main Street, Butler, PA 16001 on June 2, 2005.

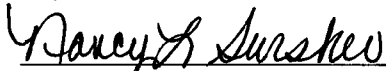
McQUAIDE, BLASKO, FLEMING
& FAULKNER, INC.

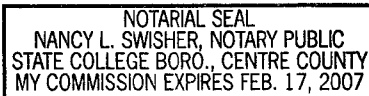
BY


JOHN W. BLASKO
Counsel for Defendant

Sworn to and subscribed before me

this 2nd day of June, 2005.


Notary Public



CA

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

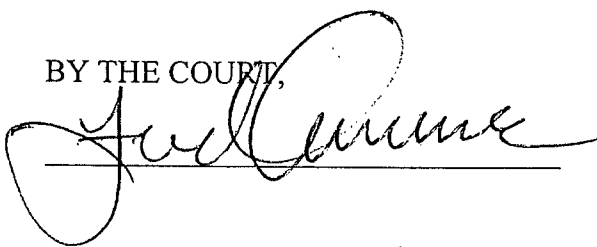
LINDA K. HUTTON and GERALD W. HUTTON, husband and wife,	)	Civil Action-Medical Professional Liability Action
)	
Plaintiffs,	)	NO. 03-834 CD
)	
vs.)	
	)	JURY TRIAL DEMANDED
MARY C. KRUSZEWSKI, D.O.,)	
)	
Defendant.)	

ORDER

AND NOW, this 26 day of May, 2005, upon consideration of the foregoing motions, it is hereby ordered that:

- (1) A rule is issued upon the Plaintiffs to show cause why the moving party, Defendant Mary C. Kruszewski, D.O. is not entitled to the relief requested;
- (2) Pursuant to the Court's Order of April 22, 2005, Paragraph 5, the Plaintiffs shall file an answer and brief to the motions no later than 15 days prior to trial;
- (3) Argument shall be held on June 8, 2005, in Courtroom No. 1 of the Clearfield County Courthouse; and at 2:30 p.m.
- (4) Notice of entry of this order shall be provided to the Plaintiffs' counsel by the moving party.

BY THE COURT,



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

MAY 26 2005

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

LINDA K. HUTTON and GERALD W.
HUTTON, husband and wife,

Plaintiffs,

vs.

MARY C. KRUSZEWSKI, D.O.,

Defendant.

⁸³⁴
No.: 03-~~384~~ CD

Type of Case: Civil Action
Medical Professional Liability Action

JURY TRIAL DEMANDED

Type of Pleading:
AFFIDAVIT OF SERVICE OF THE
ORDER OF JUNE 3, 2005 OF
JUDGE AMMERMAN

Filed on Behalf of Defendant
MARY C. KRUSZEWSKI, D.O.

Counsel of Record for this
Party: JOHN W. BLASKO

Court I.D. No.: 06787

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

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

Counsel of Record for
Adverse Party:
WILLIAM J. SCHENCK
SHERYLE L. LONG

Dated: June 6, 2005

OK FILED 10 cc
m/11/3005
JUN 07 2005

William A. Shaw
Prothonotary/Clerk of Courts

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

LINDA K. HUTTON and GERALD W.	)	Civil Action-Medical Professional
HUTTON, husband and wife,	)	Liability Action
)	
Plaintiffs,	)	NO. 03-834 CD
)	
vs.)	
	)	JURY TRIAL DEMANDED
MARY C. KRUSZEWSKI, D.O.,)	
)	
Defendant.)	

AFFIDAVIT OF SERVICE

Before me, the undersigned authority, personally appeared Allen P. Neely, Esquire, who, being duly sworn, deposes and says that a true and correct copy of Judge Ammerman's June 3, 2005, Order, in the above-captioned case was served upon counsel of record by via facsimile and 1st Class Mail to: William Schenck, Esquire and Sheryl L. Long, Esquire, 610 North Main Street, Butler, PA 16001 on June 6, 2005.

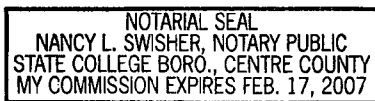
McQUAIDE, BLASKO, FLEMING
& FAULKNER, INC.

BY Allen P. Neely
JOHN W. BLASKO
ALLEN P. NEELY
Counsel for Defendant

Sworn to and subscribed before me

this 6th day of June, 2005.

Nancy L. Swisher
Notary Public



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

LINDA K. HUTTON and GERALD :
W. HUTTON, husband and wife :
 :
vs. : No. 03-384-CD
 :
MARY C. KRUSZEWSKI, D.O. :

ORDER

AND NOW, this 3rd day of June, 2005, upon consideration of Defendant's Objections to the Deposition of Larry G. Schachter, M.D. filed in the above matter, it is the Order of the Court that argument has been scheduled for the 8 day of June, 2005, at 2:30 P.M, in Courtroom No. 1, Clearfield County Courthouse, Clearfield, PA.

BY THE COURT:

/s/ Fredric J. Ammerman

FREDRIC J. AMMERMAN
President Judge

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

JUN 03 2005

Attest

[Signature]
Notary Public/
Clerk of Courts

CA

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY
COMMONWEALTH OF PENNSYLVANIA

Linda K. Hutton and Gerald W. Hutton,
Wife and Husband,

CIVIL DIVISION

No. 2003-00834-CD

Plaintiffs,

vs.

JURY TRIAL DEMANDED

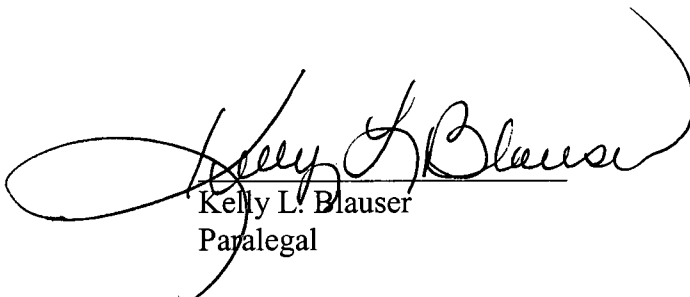
Mary C. Kruszewski, D.O.,

Defendants.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the within Plaintiffs' Response to
Objections by Defendant to the Deposition of Larry G. Schachter, M.D. was served, by
and facsimile on this 6th day of June 2005, upon the following individual(s):

John W. Blasko, Esquire
McQuaide, Blasko, Schwartz, Fleming & Faulkner, Inc.
811 University Drive
State College, PA 16801-6699
Fax 814/234-5620
(Attorney for Mary C. Kruszewski, D.O.)


Kelly L. Blauser
Paralegal

ck FILED no cc
6/12/2005
JUN 07 2005

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

LINDA K. HUTTON and GERALD :
W. HUTTON :

-VS-

No. 03-834-CD

MARY C. KRUSZEWSKI, D.O. :

FILED

03/16/05
JUN 09 2005

William A. Shaw
Prothonotary/Clerk of Courts

W. Schenck
and S. Long
rec. J. Blasko

O R D E R

NOW, this 8th day of June, 2005, following argument on the Defendant's Motion in Limine, with the Court noting that counsel for both parties have agreed to certain items, as will appear of record, it is the ORDER of this Court as follows:

1. Plaintiffs have agreed that the tort of informed consent has not been pled, is not an issue in the case and will not be argued in any regard at time of trial. The parties further agree that the "consent for operation, anesthetic and special procedures" form ("consent form") and evidence relevant to the content of the form may be introduced at time of trial for purposes other than proving the tort of informed consent;

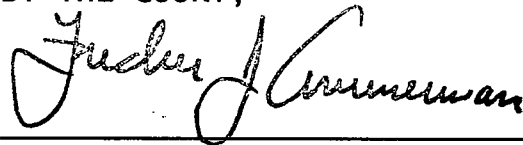
2. Plaintiff agrees that the Plaintiff is precluded from arguing or introducing any evidence or testimony at time of trial as to any prior medical malpractice claims or actions made against the Defendant,

Dr. Mary C. Kruszewski;

3. Defendant's Motion in Limine which requests that the Plaintiff should be precluded from presenting testimony concerning her personal reasons for treatment choices is hereby denied;

4. The parties have agreed to the following stipulation, which resolves the fourth issue contained within the Motion in Limine, which is as follows: Dr. Schachter's conduct did not deviate from the standard of care in this case. He performed as would be expected of an assistant. Dr. Schachter had no pre-operative or post-operative duties to Mrs. Hutton.

BY THE COURT,

A handwritten signature in cursive script, reading "Frederick J. Grossman", written over a horizontal line.

President Judge

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

LINDA K. HUTTON and GERALD :
W. HUTTON :

-VS-

MARY C. KRUSZEWSKI, D.O. :

No. 03-834-CD

FILED
0/10:36
JUN 15 2005

William A. Shaw
Prothonotary/Clerk of Courts
ICC Atty: W. Schenck
S. Long
J. Blasko
CR

O R D E R

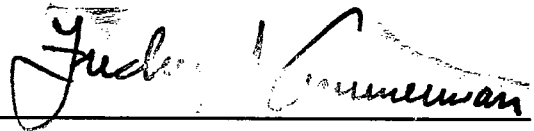
NOW, this 8th day of June, 2005, following discussion and argument relative the Defendant's Objections to the Deposition of Larry G. Schachter, M.D.; the Plaintiffs and the Defendant agreeing that due to the stipulation into which the parties have entered relative Dr. Schachter's conduct (said stipulation being memorialized in the Court Order issued this date, Paragraph 4) that the Defense has agreed to withdraw its objections to the following portions of Dr. Schachter's deposition testimony:

- A. Page 5, lines 20 to 22;
- B. Page 28, lines 20 to 25;
- C. Page 29, lines 1 to 13;
- D. Page 32, lines 20 to 25;
- E. Page 33 through page 41.

The Defendant's objections to pages 36, 37 and 38 are dismissed due to the Court's ruling as set forth in

Paragraph 3 of the Court's Order of June 8, 2005.

BY THE COURT,

A handwritten signature in cursive script, appearing to read "Judge Connerman", is written over a horizontal line.

President Judge

COURT OF COMMON PLEAS, CLEARFIELD COUNTY
PENNSYLVANIA

CASE NO. 2003-835-CD

Date of Jury Selection: May 3, 2005

Presiding Judge: John K. Reilly, Jr., S. J. Specially Presiding

LINDA K. HUTTON and GERALD
HUTTON, husband and wife

Court Reporter: Cathy Provost

Date of Trial: June 27, 2005

VS

Date Trial Ended: June 29, 2005

MARY C. KRUSZEWSKI, D.O.

MEMBERS OF THE JURY

FILED

1. TIMOTHY RICHMOND
2. ROBIN MILLER
3. PEGGY ALLEN
4. SHELIA GUELICH
5. TIMOTHY HARTMAN
6. MARYBETH DEMCHAK
- ALT #1 ROBERT SHAFFER

7. MICHELLE SPAID
8. LAURA GROVES
9. KENNETH ROUSH
10. DOROTHY KELLY
11. ALICE SHIPP
12. SHERYL BLOOM
- ALT #2 WILLIAM KENDALL

JUN 29 2005

0181306

William A. Shaw
Prothonotary

PLAINTIFF'S WITNESSES:

1. Dr. Larry Schachter
2. Robert Kobel, Dr.
3. Gregory Volpe
4. Linda Hutton
5. Wendy McCracken
6. Patricia McNeel
7. Gerald Hutton

PLAINTIFF'S ATTY: William J. Schenck, Esq.

+ Cheryl Long, Esq.

ADDRESS TO JURY: 11:55 A.M. (Long)

JUDGE'S ADDRESS TO JURY: 2:00 P.M.

DEFENDANT'S WITNESSES:

1. Dr. Larry Schachter
2. Dr. Mary C. Kruszewski, D.O.
3. Dr. Matthew Davis
4. _____
5. _____
6. _____

DEFENDANT'S ATTY: John W. Blasko, Esq.

+ Fred Battaglia, Esq.

ADDRESS TO JURY: 11:11 A.M. (Blasko)

JURY OUT: 2:35 PM JURY IN: 8:15 PM

VERDICT: Favor - Defendant

FOREPERSON: Michelle Spaid

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

LINDA K. HUTTON and GERALD W. :
HUTTON, Husband and Wife, :
Plaintiffs :

VS. :

NO. 2003-834-CD

MARY C. KRUSZEWSKI, D.O., :
Defendant :

FILED

VERDICT SLIP

JUN 29 2005

6/8/2005

William A. Shaw
Prothonotary

QUESTION 1: Do you find the conduct of Defendant,
Dr. Kruszewski, during her operating on Linda K. Hutton, was
negligent?

Yes _____

No ✓

If you answer Question 1 "No", the Plaintiffs cannot recover and
you must find in favor of the Defendant and return to the
courtroom.

If you answer Question 1 "Yes", proceed to Question 2.

QUESTION 2: was the negligence of Dr. Kruszewski a legal or proximate cause of any harm to Linda K. Hutton?

Yes _____

No _____

If your answer to Question 2 is "No", the Plaintiffs cannot recover and you must find in favor of the Defendant and return to the courtroom.

If your answer to Question 2 is "Yes", proceed to Question 3.

QUESTION 3: State the amount of damages sustained by the Plaintiffs as a result of the causal negligence of the Defendant.

Linda Hutton \$ _____

Gerald Hutton \$ 0

Signed:

Michael Moore

Jury Foreperson

Dated:

June 29, 2005

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

LINDA K. HUTTON and GERALD W.
HUTTON, husband and wife,

Plaintiffs,

vs.

MARY C. KRUSZEWSKI, D.O.,

Defendant.

⁸³⁴
No.: 03-~~384~~ CD

Type of Case: Civil Action
Medical Professional Liability Action

JURY TRIAL DEMANDED

Type of Pleading:
PRAECIPE FOR ENTRY OF JUDGMENT
ON THE JURY'S VERDICT

Filed on Behalf of Defendant
MARY C. KRUSZEWSKI, D.O.

Counsel of Record for this
Party: JOHN W. BLASKO

Court I.D. No.: 06787

McQUAIDE, BLASKO,
FLEMING & FAULKNER, INC.

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

Counsel of Record for
Adverse Party:
WILLIAM J. SCHENCK
SHERYLE L. LONG

Dated: July 13, 2005

FILED ⁶⁰ Any pd. 20.00
m 14:00 6/14/2005 Notice to
JUL 14 2005 Any ~~20.00~~
William A. Shaw
Prothonotary/Clerk of Courts
W. Schenck &
S. Long

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

LINDA K. HUTTON and GERALD W. HUTTON, husband and wife,	)	Civil Action-Medical Professional Liability Action
)	
Plaintiffs,	)	NO. 03-834 CD
)	
vs.)	
	)	JURY TRIAL DEMANDED
MARY C. KRUSZEWSKI, D.O.,)	
)	
Defendant.)	

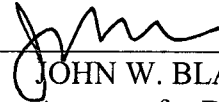
PRAECIPE FOR ENTRY OF JUDGMENT ON THE JURY'S VERDICT

TO THE PROTHONOTARY:

Please enter judgment on the jury verdict entered on June 29, 2005, in favor of Defendant, Mary C. Kruszewski, D.O., given that Post-Trial Motions have not been filed within 10 days, as required by Pa.R.C.P. 227.1(c).

McQUAIDE, BLASKO,
FLEMING & FAULKNER, INC.

BY



JOHN W. BLASKO
Attorney for Defendant,
Mary C. Kruszewski, D.O.
811 University Drive
State College, PA 16801
(814) 238-4926

Dated:

July 13, 2005

JUDGMENT ENTERED ON THE JURY VERDICT OF JUNE 29, 2005 IN FAVOR OF DEFENDANT, MARY C. KRUSZEWSKI, D.O.. AND AGAINST PLAINTIFFS, LINDA K. HUTTON AND GERALD W. HUTTON, HUSBAND AND WIFE.

Dated:

July 14, 2005


PROTHONOTARY

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


LINDA K. HUTTON and GERALD W.	)	Civil Action-Medical Professional
HUTTON, husband and wife,	)	Liability Action
)	
Plaintiffs,	)	NO. 03-834 CD
)	
vs.)	
	)	JURY TRIAL DEMANDED
MARY C. KRUSZEWSKI, D.O.,)	
)	
Defendants.)	


CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of Praecept for Entry of Judgment on Jury's Verdict, in the above-referenced matter were mailed by regular mail, first class, at the Post Office, State College, Pennsylvania, postage prepaid, this 13th day of July, 2005, to:

William J. Schenck, Esquire
Sheryle L. Long, Esquire
Schenck & Long
610 North Main Street
Butler, PA 16001

McQUAIDE, BLASKO, FLEMING &
FAULKNER, INC.

By: 
JOHN W. BLASKO
Attorneys for Defendant
Mary C. Kruszewski, D.O.

 COPY

NOTICE OF JUDGMENT

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

CIVIL DIVISION

Linda K. Hutton and
Gerald W. Hutton, husband and wife

Vs.

No. 2003-00834-CD

Mary C. Kruszewski
Larry G. Schachter
DuBois Regional Medical Center

To: Plaintiff(s)

NOTICE is given that a JUDGMENT in the above captioned matter has been entered against you on July 14, 2005 .

William A. Shaw
Prothonotary

William A. Shaw