

03-1084-CD
CATHY TIMKO, ADMX, etal. vs. STORNE MEDICAL ASSOCIATES, INC.
etal.

William A. Shaw
Prothonotary

JURY TRIAL DEMANDED

FILED

0 9:48 4 *pl 85-000*
want to file

JUL 25 2003

William A. Shaw
Prothonotary

CC-17

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

SUMMONS

**Cathy Timko, Administratrix of
the Estate of Steve Timko, Jr.,
Deceased**

Vs.

NO.: 2003-01084-CD

**Tyrone Medical Associates, Inc.;
Albert Tuano M.D. P.C.;
Albert Tuano, D.O.; and
Anthony Shedlock M. D.**

TO: TYRONE MEDICAL ASSOCIATES, INC.
ALBERT TUANO M. D. P. C.
ALBERT TUANO, D.O.; AND
ANTHONY SHEDLOCK, M.D.

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

Date: 07/25/2003

William A. Shaw
Prothonotary

Issuing Attorney:
Craig E. Frischman, Esq.
Raizman & Frischman, P.C.
7300 Penn Ave.
Pittsburgh, PA 15208
(412) 247-7300

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CATHY TIMKO, Administratrix of the
Estate of Steve Timko, Jr., Deceased,

Plaintiff,

vs.

TYRONE MEDICAL ASSOCIATES,
INC., ALBERT TUANO M.D. P.C.,
ALBERT TUANO, D.O. and
ANTHONY SHEDLOCK, M.D.,

Defendants.

CIVIL DIVISION

No. 2003-01084-CD

Code:

Issue No:

PRAECIPE FOR APPEARANCE

Filed on behalf of Anthony Shedlock,
M.D., Defendant

Counsel of Record for This Party:

Bernard R. Rizza, Esquire
PA I.D. 41006

GACA MATIS BAUM & RIZZA
Firm #983
300 Four PPG Place
Pittsburgh, PA 15222-5404

(412) 338-4750

JURY TRIAL DEMANDED

FILED

AUG 13 2003

William A. Shaw
Prothonotary/Clerk of Courts

No. 2003-01084-CD

VS.

Defendants.

By: BB Rizza
Bernard R. Rizza, Esquire
Attorneys for Anthony Shedlock, M.D.,
Defendant

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that I served a true and correct copy of the foregoing
PRAECIPE FOR APPEARANCE upon all counsel of record by United States, First-class mail,
postage prepaid, this 11th day of August, 2003.

Craig E. Frischman, Esquire
Raizman & Frischman
7300 Penn Avenue
Pittsburgh, PA 15208

GACA MATIS BAUM & RIZZA

BR Rizza
Bernard R. Rizza, Esquire

FILED

NO
cc

M/11/24/03
AUG 13 2003

6
KCB

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CATHY TIMKO, Administratrix of the
Estate of Steve Timko, Jr., Deceased,

Plaintiff,

vs.

TYRONE MEDICAL ASSOCIATES,
INC., ALBERT TUANO M.D. P.C.,
ALBERT TUANO, D.O. and
ANTHONY SHEDLOCK, M.D.,

Defendants.

CIVIL DIVISION

No. 2003-01084-CD

Code:

Issue No:

PRAECIPE FOR RULE FOR
COMPLAINT

Filed on behalf of Anthony Shedlock,
M.D., Defendant

Counsel of Record for This Party:

Bernard R. Rizza, Esquire
PA I.D. 41006

GACA MATIS BAUM & RIZZA
Firm #983
300 Four PPG Place
Pittsburgh, PA 15222-5404

(412) 338-4750

JURY TRIAL DEMANDED

FILED

AUG 13 2003

William A. Shaw
Prothonotary/Clerk of Courts

CATHY TIMKO, Administratrix of the
Estate of Steve Timko, Jr., Deceased,

Plaintiff,

VS.

TYRONE MEDICAL ASSOCIATES,
INC., ALBERT TUANO M.D. P.C.,
ALBERT TUANO, D.O. and
ANTHONY SHEDLOCK, M.D.,

Defendants.

CIVIL DIVISION

No. 2003-01084-CD

PRAECIPE FOR RULE FOR COMPLAINT

To: William A. Shaw, Prothonotary and Clerk of Courts

Kindly issue a Rule on plaintiff to file her Complaint within twenty (20) days.

JURY TRIAL DEMANDED

GACA MATIS BAUM & RIZZA

By:

Bernard R. Rizza, Esquire
Attorneys for Anthony Shedlock, M.D.,
Defendant

FILED *NOCC*

7/11:24 *St* *1 Rule to Atty Rizza*
AUG 13 2003

W
William A. Shaw
Prothonotary/Clerk of Courts

COPY

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

Cathy L. Timko, Administratrix of the
Estate of Steve Timko Jr., Deceased

Vs.

Case No. 2003-01084-CD

Tyrone Medical Associates, Inc.
Albert Tuano MD, P.C.
Albert Tuano, D.O. and
Anthony Shedlock, M.D.

RULE TO FILE COMPLAINT

TO: Cathy Timko, Administratrix of the Estate of Steve Timko, Jr., Deceased

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

William A. Shaw, Prothonotary

Dated: August 13, 2003

FILED

SEP 02 2003

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CATHY TIMKO, Administratrix of the
Estate of Steve Timko, Jr., Deceased,

Plaintiff,

vs.

TYRONE MEDICAL ASSOCIATES,
INC., ALBERT TUANO M.D. P.C.,
ALBERT TUANO, D.O. and
ANTHONY SHEDLOCK, M.D.,

Defendants.

CIVIL DIVISION

No. 2003-01084-CD

Code:

Issue No:

**NOTICE OF SERVICE OF RULE
TO FILE COMPLAINT**

Filed on behalf of Anthony Shedlock,
M.D., Defendant

Counsel of Record for This Party:

Bernard R. Rizza, Esquire
PA I.D. 41006

GACA MATIS BAUM & RIZZA
Firm #983
300 Four PPG Place
Pittsburgh, PA 15222-5404

(412) 338-4750

JURY TRIAL DEMANDED

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CATHY TIMKO, Administratrix of the
Estate of Steve Timko, Jr., Deceased,

Plaintiff,

vs.

TYRONE MEDICAL ASSOCIATES,
INC., ALBERT TUANO M.D. P.C.,
ALBERT TUANO, D.O. and
ANTHONY SHEDLOCK, M.D.,

Defendants.

CIVIL DIVISION

No. 2003-01084-CD

NOTICE OF SERVICE OF RULE TO FILE COMPLAINT

PLEASE TAKE NOTICE that Rule to File Complaint was served upon plaintiff's counsel of record on August 25, 2003, via Certified Mail, Return Receipt Requested. The completed Rule is attached hereto as Exhibit "A" and a true and correct copy of the mailing receipts is attached as Exhibit "B."

GACA MATIS BAUM & RIZZA

By: 

Bernard R. Rizza, Esquire

PA ID 41006

Attorneys for Anthony Shedlock, M.D.,
Defendant

Gaca Matis Baum & Rizza
300 Four PPG Place
Pittsburgh, PA 15222-5404
(412) 338-4750

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

Cathy L. Timko, Administratrix of the
Estate of Steve Timko Jr., Deceased

Vs.

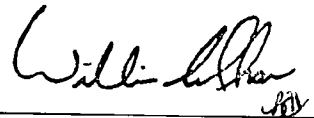
Case No. 2003-01084-CD

Tyrone Medical Associates, Inc.
Albert Tuano MD, P.C.
Albert Tuano, D.O. and
Anthony Shedlock, M.D.

RULE TO FILE COMPLAINT

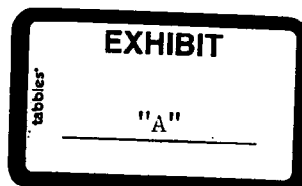
TO: Cathy Timko, Administratrix of the Estate of Steve Timko, Jr., Deceased

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



William A. Shaw, Prothonotary

Dated: August 13, 2003



7002 2410 0005 8302 5586

U.S. Postal Service™	
CERTIFIED MAIL™ RECEIPT	
<i>(Domestic Mail Only; No Insurance Coverage Provided)</i>	
For delivery information visit our website at www.usps.com	
Postage	\$ 83
Certified Fee	2.30
Return Receipt Fee (Endorsement Required)	1.75
Restricted Delivery Fee (Endorsement Required)	4.88
Total Postage & Fees	\$ 4.88

Postmark Here

PA 15208

BRR

Sent to: Craig E. Frischman, Esq.
7300 Penn Avenue
Pittsburgh, PA 15208

PS Form 3800, June 2002 See Reverse for Instructions

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Craig E. Frischman, Esq.
 Raizman & Frischman
 7300 Penn Avenue
 Pittsburgh, PA 15208

2. Article Number
(Transfer from service label)

7002 2410 0005 8302 5586

PS Form 3811, August 2001

Domestic Return Receipt

102595-02-M-1540

COMPLETE THIS SECTION ON DELIVERY

- A. Signature**
 X [Signature] ☐ Agent ☐ Addressee
- B. Received by (Printed Name)** TRIZEN
- C. Date of Delivery** 8/25/03
- D. Is delivery address different from item 1?** ☐ Yes ☐ No
 If YES, enter delivery address below:

- 3. Service Type**
- ☒ Certified Mail ☐ Express Mail
☐ Registered ☒ Return Receipt for Merchandise
☐ Insured Mail ☐ C.O.D.
- 4. Restricted Delivery? (Extra Fee)** ☐ Yes

EXHIBIT

"B"

tabbles

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that I served a true and correct copy of the foregoing
NOTICE OF SERVICE OF RULE TO FILE COMPLAINT upon all counsel of record by
United States, First-class mail, postage prepaid, this 26th day of August, 2003.

Craig E. Frischman, Esquire
Raizman & Frischman
7300 Penn Avenue
Pittsburgh, PA 15208

GACA MATIS BAUM & RIZZA


Bernard R. Rizza

William A. Shaw
Prothonotary/Clerk of Courts

FILED
NO
SEP 02 2003
cc
pts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CATHY TIMKO, Administratrix of the
Estate of Steve Timko, Jr., Deceased,

Plaintiff,

vs.

TYRONE MEDICAL ASSOCIATES,
INC., ALBERT TUANO, D.O., P.C.;
ALBERT TUANO, D.O.; and
ANTHONY SHEDLOCK, M.D.,

Defendants

CIVIL DIVISION

No. 2003-01084-CD

Issue No.

PRAECIPE FOR APPEARANCE

Code:

Filed on behalf of defendants Albert Tuano,
D.O. and Albert Tuano, D.O., P.C.

Counsel of Record for this Party:

James R. Hartline, Esquire
PA I.D. #21299

Thomson, Rhodes & Cowie, P.C.
Firm #720
1010 Two Chatham Center
Pittsburgh, PA 15219

(412) 232-3400

FILED

SEP 02 2003

William A. Shaw
Prothonotary/Clerk of Courts

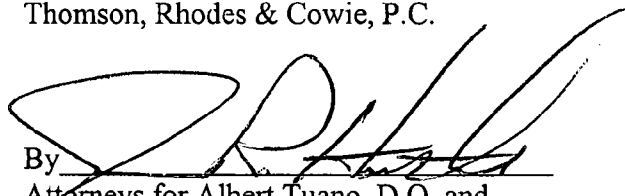
PRAECIPE FOR APPEARANCE

TO: WILLIAM SHAW, PROTHONOTARY

Kindly enter our appearance on behalf of Albert Tuano, D.O. and Albert Tuano, D.O., P.C., one of the defendants.

JURY TRIAL DEMANDED.

James R. Hartline, Esquire
Thomson, Rhodes & Cowie, P.C.

By 
Attorneys for Albert Tuano, D.O. and
Albert Tuano, D.O., P.C., two of the defendants

FILED
M/1:56-244
SEP 02 2003
cc
William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CATHY TIMKO, Administratrix of the
Estate of Steve Timko, Jr., Deceased,

Plaintiff,

vs.

TYRONE MEDICAL ASSOCIATES,
INC., ALBERT TUANO, D.O., P.C.;
ALBERT TUANO, D.O.; and
ANTHONY SHEDLOCK, M.D.,

Defendants

CIVIL DIVISION

No. 2003-01084-CD

Issue No.

**PRAECIPE FOR RULE FOR
COMPLAINT**

Code:

Filed on behalf of defendants Albert Tuano,
D.O. and Albert Tuano, D.O., P.C.

Counsel of Record for this Party:

James R. Hartline, Esquire
PA I.D. #21299

Thomson, Rhodes & Cowie, P.C.
Firm #720
1010 Two Chatham Center
Pittsburgh, PA 15219

(412) 232-3400

FILED

SEP 02 2003

William A. Shaw
Prothonotary/Clerk of Courts

PRAECIPE FOR RULE FOR COMPLAINT

TO: WILLIAM SHAW, PROTHONOTARY

Kindly issue a rule on plaintiff to file her complaint within twenty (20) days.

James R. Hartline, Esquire
THOMSON, RHODES & COWIE, P.C.

By 

Attorneys for defendants
Albert Tuano, D.O. and Albert
Tuano, D.O., P.C.

FILED No. 2

SEP 11 5 24 AM '03 Rule to Any Hostline

William A. Shaw
Prothonotary/Clerk of Courts

[Signature]

COPY

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

Cathy L. Timko, Administratrix of the
Estate of Steve Timko Jr., Deceased

Vs.

Case No. 2003-01084-CD

Tyrone Medical Associates, Inc.,
Albert Tuano D.O., P.C.;
Albert Tuano, D.O., and
Anthony Shedlock, M.D.

RULE TO FILE COMPLAINT

TO: Cathy Timko, Administratrix of the Estate of Steve Timko, Jr., Deceased

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

William A. Shaw, Prothonotary

Dated: September 2, 2003

In The Court of Common Pleas of Clearfield County, Pennsylvania

TIMKO, CATHY, ADMX. OF ESTATE OF STEVE TIMKO JR., DEC.

Sheriff Docket # 14365

VS.

03-1084-CD

TYRONE MEDICAL ASSOCIATES INC. AI

SUMMONS

SHERIFF RETURNS

NOW JULY 28, 2003 AT 9:54 AM SERVED THE WITHIN SUMMONS ON ANTHONY SHEDLOCK, M.D., DEFENDANT AT EMPLOYMENT, 612 CLARA ST., HOUTZDALE, CLEARFIELD COUNTY, PENNSYLVANIA BY HANDING TO ANTHONY SHEDLOCK, M.D. A TRUE AND ATTESTED COPY OF THE ORIGINAL SUMMONS AND MADE KNOWN TO HIM THE CONTENTS THEREOF.

SERVED BY: DAVIS/MORGILLO

NOW JULY 25, 2003, LARRY FIELD, SHERIFF OF BLAIR COUNTY WAS DEPUTIZED BY CHESTER A. HAWKINS, SHERIFF OF CLEARFIELD COUNTY TO SERVE THE WITHIN SUMMONS ON ALBERT TUANO, M.D.P.C.; ALBERT TUANE, D.O.; and TYRONE MEDICAL ASSOCIATES, DEFENDANTS.

NOW JULY 30, 2003 SERVED THE WITHIN SUMMONS ON ALBERT TUANO, M.D.P.C.; ALBERT TUANO, D.O.; TYRONE MEDICAL ASSOCIATES, DEFENDANTS BY DEPUTIZING THE SHERIFF OF BLAIR COUNTY. THE RETURN OF SHERIFF FIELD IS HERETO ATTACHED AND MADE A PART OF THIS RETURN STATING THAT HE SERVED THREE COPIES ON ANITA DUEY, OFFICE MGR.

Return Costs

Cost	Description
58.70	SHERIFF HAWKINS PAID BY: ATTY CK# 11344
40.00	SURCHARGE PAID BY: ATTY CK# 11358
54.00	BLAIR CO. SHFF. PAID BY: ATTY

Sworn to Before Me This

18 Day Of Sept 2003
William A. Shaw

So Answers,

Chester A. Hawkins
Ty Maudy
Chester A. Hawkins
Sheriff

FILED

o 3:17 PM
SEP 18 2003

William A. Shaw
Prothonotary

DATE RECEIVED

DATE PROCESSED

SHERIFF'S DEPARTMENT

BLAIR COUNTY, PENNSYLVANIA
COURTHOUSE, HOLLIDAYSBURG, PA. 16648

SHERIFF SERVICE PROCESS RECEIPT, and AFFIDAVIT OF RETURN

INSTRUCTIONS:

Print legibly, insuring readability of all copies.

Do not detach any copies. BCSD ENV.#

1. PLAINTIFF / S / <u>Cathy Timko</u>		2. COURT NUMBER <u>2003-01084-CP/60678T</u>	
3. DEFENDANT / S / <u>Tyrone Medical Associates etal</u>		4. TYPE OF WRIT OR COMPLAINT <u>Writ of Summons</u>	
SERVE AT	5. NAME OF INDIVIDUAL, COMPANY, CORPORATION, ETC., TO SERVICE OR DESCRIPTION OF PROPERTY TO BE LEVIED, ATTACHED OR SOLD. <u>Albert Cuano MD PC</u>		
	6. ADDRESS (Street or RFD, Apartment No., City, Boro, Twp., State and ZIP Code) <u>3 Hospital Drive Tyrone PA 16686</u>		
7. INDICATE UNUSUAL SERVICE: <input checked="" type="checkbox"/> PERSONAL <input checked="" type="checkbox"/> PERSON IN CHARGE <input type="checkbox"/> DEPUTIZE <input type="checkbox"/> CERT. MAIL <input type="checkbox"/> REGISTERED MAIL <input type="checkbox"/> POSTED <input type="checkbox"/> OTHER			

NOW, I, SHERIFF OF BLAIR COUNTY, PA., do hereby deputize the Sheriff of County to execute this Writ and make return thereof according to law. This deputation being made at the request and risk of the plaintiff.

SHERIFF OF BLAIR COUNTY

8. SPECIAL INSTRUCTIONS OR OTHER INFORMATION THAT WILL ASSIST IN EXPEDITING SERVICE:

NOTE ONLY APPLICABLE ON WRIT OF EXECUTION, N.B. WAIVER OF WATCHMAN — Any deputy sheriff levying upon or attaching any property under within writ may leave same without a watchman, in custody of whomever is found in possession, after notifying person of levy or attachment, without liability on the part of such deputy or the sheriff to any plaintiff herein for any loss, destruction or removal of any such property before sheriff's sale thereof.

9. SIGNATURE of ATTORNEY or other ORIGINATOR requesting service on behalf of: <u>Sheriff of Clearfield County</u>		10. TELEPHONE NUMBER <u>814 765-2641 x</u>	11. DATE <u>5986</u>
<input checked="" type="checkbox"/> PLAINTIFF <input type="checkbox"/> DEFENDANT			

SPACE BELOW FOR USE OF SHERIFF ONLY — DO NOT WRITE BELOW THIS LINE

12. I acknowledge receipt of the writ or complaint as indicated above.	SIGNATURE of Authorized BCSD Deputy or Clerk and Title <u>B. Schuler</u>	13. Date Received <u>7-28-03</u>	14. Expiration/Hearing date <u>8-22-03</u>
15. I hereby CERTIFY and RETURN that I <input type="checkbox"/> have personally served, <input checked="" type="checkbox"/> have served person in charge, <input type="checkbox"/> have legal evidence of service as shown in "Remarks" (on reverse) <input type="checkbox"/> have posted the above described property with the writ or complaint described on the individual, company, corporation, etc., at the address shown above or on the individual, company, corporation, etc., at the address inserted below by handing/or Posting a TRUE and ATTESTED COPY thereof.			

15. <input type="checkbox"/> I hereby certify and return a NOT FOUND because I am unable to locate the individual, company, corporation, etc., named above. (See remarks below)		18. A person of suitable age and discretion then residing in the defendant's usual place of abode. <input type="checkbox"/>		Read Order <input type="checkbox"/>
17. Name and title of individual served <u>Alister Dyer</u> <u>Office Mgr</u>		20. Date of Service <u>7-30-03</u>		21. Time <u>09:50</u>
19. Address of where served (complete only if different than shown above) (Street or RFD, Apartment No., City, Boro, Twp., State and ZIP Code) <u>Same</u>				

22. ATTEMPTS	Date	Miles	Dep. Int.	Date	Miles	Dep. Int.	Date	Miles	Dep. Int.	Date	Miles	Dep. Int.	Date	Miles	Dep. Int.
23. Advance Costs <u>150.00 Rec # 108047</u>		24. <u>516</u>		25. <u>048.00</u>		26. <u>600.00</u>		27. Total Costs <u>54.00</u>		28. COST OF OR REFUND <u>9600</u>					

30. REMARKS

SO ANSWER.

AFFIRMED and subscribed to before me this <u>31st</u> day of <u>July</u> , <u>2003</u> <u>Cathy Timko</u> Notary Public Hollidaysburg Boro, Blair County My Commission Expires Apr. 3, 2007		By (Sheriff/Dep. Sheriff) (Please Print or Type) <u>SAT 12P</u> Signature of Sheriff <u>[Signature]</u> SHERIFF OF BLAIR COUNTY		Date <u>7-30-03</u> Date
I ACKNOWLEDGE RECEIPT OF THE SHERIFF'S RETURN SIGNATURE OF AUTHORIZED ISSUING AUTHORITY AND TITLE.		39. Date Received		

DATE RECEIVED

DATE PROCESSED

SHERIFF'S DEPARTMENT

BLAIR COUNTY, PENNSYLVANIA
COURTHOUSE, HOLLIDAYSBURG, PA. 16648

2-2

SHERIFF SERVICE PROCESS RECEIPT, and AFFIDAVIT OF RETURN

INSTRUCTIONS:

Print legibly, insuring readability of all copies.

Do not detach any copies. BCSD ENV.#

1. PLAINTIFF / S /	Cathy Timko	2. COURT NUMBER	2003-01084-CD
3. DEFENDANT / S /	Tyrone Medical Associates et al	4. TYPE OF WRIT OR COMPLAINT	Writ of Summons
SERVE AT	5. NAME OF INDIVIDUAL, COMPANY, CORPORATION, ETC., TO SERVICE OR DESCRIPTION OF PROPERTY TO BE LEVIED, ATTACHED OR SOLD.	Albert Tuano DO	
	6. ADDRESS (Street or RFD, Apartment No., City, Boro, Twp., State and ZIP Code)	3 Hospital Drive Tyrone Pa 16686	
7. INDICATE UNUSUAL SERVICE:	<input checked="" type="checkbox"/> PERSONAL <input checked="" type="checkbox"/> PERSON IN CHARGE <input type="checkbox"/> DEPUTIZE <input type="checkbox"/> CERT. MAIL <input type="checkbox"/> REGISTERED MAIL <input type="checkbox"/> POSTED <input type="checkbox"/> OTHER		

NOW, _____, I, SHERIFF OF BLAIR COUNTY, PA., do hereby deputize the Sheriff of County to execute this Writ and make return thereof according to law. This deputation being made at the request and risk of the plaintiff.

SHERIFF OF BLAIR COUNTY

8. SPECIAL INSTRUCTIONS OR OTHER INFORMATION THAT WILL ASSIST IN EXPEDITING SERVICE:

NOTE ONLY APPLICABLE ON WRIT OF EXECUTION: N.B. WAIVER OF WATCHMAN — Any deputy sheriff levying upon or attaching any property under within writ may leave same without a watchman, in custody of whomever is found in possession, after notifying person of levy or attachment, without liability on the part of such deputy or the sheriff to any plaintiff herein for any loss, destruction or removal of any such property before sheriffs' sale thereof.

9. SIGNATURE of ATTORNEY or other ORIGINATOR requesting service on behalf of:	10. TELEPHONE NUMBER	11. DATE
<input type="checkbox"/> PLAINTIFF <input type="checkbox"/> DEFENDANT		

SPACE BELOW FOR USE OF SHERIFF ONLY — DO NOT WRITE BELOW THIS LINE

12. I acknowledge receipt of the writ or complaint as indicated above.	SIGNATURE of Authorized BCSD Deputy or Clerk and Title	13. Date Received	14. Expiration/Hearing date
	B Scherben	7-28-03	8-22-03
15. I hereby CERTIFY and RETURN that I <input type="checkbox"/> have personally served, <input type="checkbox"/> have served person in charge, <input type="checkbox"/> have legal evidence of service as shown in "Remarks" (on reverse) <input type="checkbox"/> have posted the above described property with the writ or complaint described on the individual, company, corporation, etc., at the address shown above or on the individual, company, corporation, etc., at the address inserted below by hand ing/or Posting a TRUE and ATTESTED COPY thereof.			

16. <input type="checkbox"/> I hereby certify and return a NOT FOUND because I am unable to locate the individual, company, corporation, etc., named above. (See remarks below)	17. Name and title of individual served	18. A person of suitable age and discretion then residing in the defendant's usual place of abode. <input type="checkbox"/>	Read Order <input type="checkbox"/>
	ANITA DUEY OFFICE MGR		

19. Address of where served (complete only if different than shown above) (Street or RFD, Apartment No., City, Boro, Twp., State and ZIP Code)	20. Date of Service	21. Time
OFFICE MGR SAME	7/30/03	0950

22. ATTEMPTS	Date	Miles	Dep. Int.	Date	Miles	Dep. Int.	Date	Miles	Dep. Int.	Date	Miles	Dep. Int.	Date	Miles	Dep. Int.
23. Advance Costs	24.	25.	26.	27. Total Costs	28. COST DUE OR REFUND										

30. REMARKS

SO ANSWER.

AFFIRMED and subscribed to before me this

31st

day of

July, 2003

By (Sheriff/Dep. Sheriff) (Please Print or Type)

SAT / HAP

Date

7/30/03

Signature of Sheriff

SHERIFF OF BLAIR COUNTY

MY COMMISSION EXPIRES

My Commission Expires Apr. 3 2007

I ACKNOWLEDGE RECEIPT OF SERVICE AND SIGNATURE OF AUTHORIZED ISSUING AUTHORITY AND TITLE.

39. Date Received

DATE RECEIVED

DATE PROCESSED

SHERIFF'S DEPARTMENT

BLAIR COUNTY, PENNSYLVANIA
COURTHOUSE, HOLLIDAYSBURG, PA. 16648

3-3

SHERIFF SERVICE PROCESS RECEIPT, and AFFIDAVIT OF RETURN

INSTRUCTIONS:

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1. PLAINTIFF / S /	Cathy Timko	2. COURT NUMBER	2003-01084-CD
3. DEFENDANT / S /	Tyrone Medical Associates etal	4. TYPE OF WRIT OR COMPLAINT	Writ of Summons
SERVE	5. NAME OF INDIVIDUAL, COMPANY, CORPORATION, ETC., TO SERVICE OR DESCRIPTION OF PROPERTY TO BE LEVIED, ATTACHED OR SOLD.		
AT	Tyrone Medical Associates		
	6. ADDRESS (Street or RFD, Apartment No., City, Boro, Twp., State and ZIP Code)		
	3 Hospital Drive Tyrone PA 16686		
7. INDICATE UNUSUAL SERVICE:	<input checked="" type="checkbox"/> PERSONAL <input type="checkbox"/> PERSON IN CHARGE <input type="checkbox"/> DEPUTIZE <input type="checkbox"/> CERT. MAIL <input type="checkbox"/> REGISTERED MAIL <input type="checkbox"/> POSTED <input type="checkbox"/> OTHER		

NOW, _____, I, SHERIFF OF BLAIR COUNTY, PA., do hereby deputize the Sheriff of County to execute this Writ and make return thereof according to law. This deputation being made at the request and risk of the plaintiff.

SHERIFF OF BLAIR COUNTY

8. SPECIAL INSTRUCTIONS OR OTHER INFORMATION THAT WILL ASSIST IN EXPEDITING SERVICE:

NOTE ONLY APPLICABLE ON WRIT OF EXECUTION. N.B. WAIVER OF WATCHMAN — Any deputy sheriff levying upon or attaching any property under within writ may leave same without a watchman, in custody of whomever is found in possession, after notifying person of levy or attachment, without liability on the part of such deputy or the sheriff to any plaintiff herein for any loss, destruction or removal of any such property before sheriff's sale thereof.

9. SIGNATURE of ATTORNEY or other ORIGINATOR requesting service on behalf of:	10. TELEPHONE NUMBER	11. DATE
<input type="checkbox"/> PLAINTIFF <input type="checkbox"/> DEFENDANT		

SPACE BELOW FOR USE OF SHERIFF ONLY — DO NOT WRITE BELOW THIS LINE

12. I acknowledge receipt of the writ or complaint as indicated above.	SIGNATURE of Authorized BCSD Deputy or Clerk and Title	13. Date Received	14. Expiration/Hearing date
	B Schuchman	7-28-03	8-22-03
15. I hereby CERTIFY and RETURN that I <input type="checkbox"/> have personally served, <input type="checkbox"/> have served person in charge, <input type="checkbox"/> have legal evidence of service as shown in "Remarks" (on reverse) <input type="checkbox"/> have posted the above described property with the writ or complaint described on the individual, company, corporation, etc., at the address shown above or on the individual, company, corporation, etc., at the address inserted below by hand in/for Posting a TRUE and ATTESTED COPY thereof.			
16. <input type="checkbox"/> I hereby certify and return a NOT FOUND because I am unable to locate the individual, company, corporation, etc., named above. (See remarks below)			

17. Name and title of individual served	18. A person of suitable age and discretion then residing in the defendant's usual place of abode. <input type="checkbox"/>	Read Order <input type="checkbox"/>
Andrea Dugan, OFFICE MGR		
19. Address of where served (complete only if different than shown above) (Street or RFD, Apartment No., City, Boro, Twp., State and ZIP Code)	20. Date of Service	21. Time
OFFICE MGR SAME	7/30/03	0949

22. ATTEMPTS	Date	Miles	Dep. Int.	Date	Miles	Dep. Int.	Date	Miles	Dep. Int.	Date	Miles	Dep. Int.	Date	Miles	Dep. Int.
23. Advance Costs	24.	25.	26.	27. Total Costs	28. COST DUE OR REFUND										

30. REMARKS

SO ANSWER.

AFFIRMED and subscribed to before me this

31st

day of July 2003
 Notarial Seal
 Carol Greco, Notary Public
 Hollidaysburg Boro, Blair County
 My Commission Expires Apr 30 2007
 Member, Pennsylvania Association Of Notaries

By (Sheriff/Dep. Sheriff) (Please Print or Type)

SAT / NAB
 Signature of Sheriff

Date

7-30-03

Date

SHERIFF OF BLAIR COUNTY

MY COMMISSION EXPIRES

I ACKNOWLEDGE RECEIPT OF THE SHERIFF'S RETURN SIGNATURE
 OF AUTHORIZED ISSUING AUTHORITY AND TITLE.

39. Date Received

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

CATHY L. TIMKO,
Executrix of the
Estate of
STEVE TIMKO, JR.,
Deceased,

Plaintiff,

vs.

TYRONE MEDICAL ASSOCIATES,
INC.; ALBERT TUONO, M.D., P.C.;
ALBERT TUONO, D.O.; and
ANTHONY SHEDLOCK, M.D.,

Defendants.

CIVIL DIVISION

NO: . 2003-01084-CD

**COMPLAINT IN A CIVIL
ACTION**

Filed on behalf of Plaintiff

Counsel of Record for this Party:

Dorothy L. Raizman, Esquire
PA. I.D. #26561

Craig E. Frischman, Esquire
PA. I.D. #46603

RAIZMAN & FRISCHMAN, P.C.
7300 Penn Avenue
Pittsburgh, PA 15208
(412) 247-7300

JURY TRIAL DEMANDED

FILED

OCT 15 2003

William A. Shaw
Prothonotary/Clerk of Courts

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 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, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER.

IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.

LAWYER REFERRAL SERVICE
PENNSYLVANIA LAWYER REFERRAL SERVICE
TELEPHONE (800) 692-7375
COURT ADMINISTRATOR
ONE NORTH SECOND STREET
CLEARFIELD COUNTY COURTHOUSE
CLEARFIELD, PA 16830
TELEPHONE (814) 765-2641, EXT. 5982

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

CATHY L. TIMKO,
Executrix of the
Estate of
STEVE TIMKO, JR.,
Deceased,

Plaintiff,

vs.

TYRONE MEDICAL ASSOCIATES,
INC.; ALBERT TUONO, D.O., P.C.;
ALBERT TUONO, D.O.; and
ANTHONY SHEDLOCK, D.O.,

Defendants.

CIVIL DIVISION

No. 2003-01084-CD

COMPLAINT IN A CIVIL ACTION

FIRST COUNT

**Cathy L. Timko, Executrix of the Estate of Steve Timko, Jr., Deceased,
Plaintiff v. Tyrone Medical Associates, Inc.; Albert Tuono, D.O., P.C.;
Albert Tuono, D.O.; and Anthony Shedlock, D.O., Defendants
(Wrongful Death Cause of Action)**

1. Kathy Timko, Plaintiff herein, is a resident of Hawk Run, Clearfield County, Pennsylvania. She was duly appointed Executrix of the Estate of Steve Timko, Jr., Deceased, by the Register of Wills of Clearfield County, on or about July 25, 2003.

2. Tyrone Medical Associates, Inc., Defendant herein, hereinafter referred to as "Defendant Associates," is a corporation chartered and existing under the laws of the Commonwealth of Pennsylvania, with its principal place of business in Tyrone, Clearfield County, Pennsylvania. At all times relevant to the matters set forth in this Complaint, this Defendant owned, possessed, operated, maintained and controlled a

certain professional corporation which provided medical services to its patients through its employees and was known as "Tyrone Medical Associates, Inc."

3. Albert Tuono, D.O., P.C., Defendant herein, hereinafter referred to as "Defendant Tuono, D.O., P.C.," is a corporation chartered and existing under the laws of the Commonwealth of Pennsylvania, with its principal place of business in Tyrone, Clearfield County, Pennsylvania. At all times relevant to the matters set forth in this Complaint, this Defendant owned, possessed, operated, maintained and controlled a certain professional corporation which provided surgical services to its patients through its employees and was known as "Albert Tuono, D.O., P.C."

4. Albert Tuono, D.O., Defendant herein, hereinafter referred to as "Defendant Tuono," is a resident of Tyrone, Clearfield County, Pennsylvania. At all times relevant to the matters set forth in this Complaint, this Defendant was a duly licensed doctor of osteopathy in the Commonwealth of Pennsylvania, engaged in the practice of surgery, and in the specialty of general surgery.

5. Anthony Shedlock, D.O., Defendant herein, hereinafter referred to as "Defendant Shedlock," is a resident of Tyrone, Clearfield County, Pennsylvania. At all times relevant to the matters set forth in this Complaint, this Defendant was a duly licensed Doctor of osteopathy in the Commonwealth of Pennsylvania, engaged in the practice of medicine and in the specialty of primary care medicine.

6. Plaintiff brings this action by virtue of 41 Pa. C.S.A § 8201 and Pa. R.C.P. § 2202 to recover all damages of whatsoever nature to which Plaintiff is entitled under the laws of the Commonwealth of Pennsylvania governing Wrongful Death Actions

resulting from the death of Steve Timko, Jr., by reason of the negligence and carelessness of Defendants, and their agents, servants and or employees, as is set forth hereafter.

7. As of February 12, 2001, Plaintiff's Decedent, Steve Timko, Jr., for more than 10 years, had been under the care of Defendant Shedlock for the management of his primary medical conditions which included hypertension, which was controlled with medication, non-insulin dependant diabetes, and arthritis.

8. At that time and place, Defendant Shedlock knew or should have known that Plaintiff's Decedent had an extensive history of gastrointestinal polyps and colitis, for which he had undergone a hemicolectomy.

9. On that occasion, on February 12, 2001, Plaintiff's Decedent presented to Defendant Shedlock's office with a complaint of frequent bowel movements as well as left-sided abdominal pain and chest pain of approximately three weeks duration.

10. At that time and place, Defendant Shedlock ordered a series of laboratory tests including a hemoglobin and hematocrit to be performed on Plaintiff's Decedent.

11. Thereafter, on approximately February 13, 2001, it was communicated to Defendant Shedlock that Plaintiff's Decedent's hemoglobin and hematocrit were 8.9 and 28.8, respectively. Both values were not only significantly low with respect to the standard reference range, but also significantly low in relation to Plaintiff's Decedent's prior blood studies.

12. At that time and place, Defendant Shedlock knew or should have known that given Plaintiff's Decedent's history of colon disease that the most likely explanation for anemia in a 62 year old, such as Plaintiff's Decedent, was a bleeding gastrointestinal cancer.

13. Despite the above, no tests were performed nor studies ordered to evaluate Plaintiff's Decedent's gastrointestinal tract.

14. Thereafter, on March 5, 2001, Plaintiff's Decedent was seen, once again, by Defendant Shedlock, who, without any G.I. testing, categorized Plaintiff's Decedent's problem as cellulites of the abdomen and ordered repeat blood studies.

15. On or about March 8, 2001, Defendant Shedlock was made aware of the fact that Plaintiff's Decedent's anemia persisted.

16. In response to the above, Defendant Shedlock, once again, ordered Plaintiff's Decedent to take iron and to recheck his blood in four to six months.

17. Thereafter, on April 12, 2001, Plaintiff's Decedent presented at the offices of Defendant Shedlock with concern for leg swelling and the persistence of loose and frequent bowel movements.

18. Once again, Defendant Shedlock knew or should have known that the most likely explanation for the persistence of loose stools in the face of a persistent anemia was that of gastrointestinal bleeding.

19. Thereafter, on or about April 23, 2001, Defendant Shedlock was apprised of the fact that Plaintiff's Decedent's anemia persisted and had worsened. Plaintiff's Decedent complained of dizziness and leg weakness. In addition, his iron was overwhelmingly low with a total iron binding capacity in excess of the normal range, suggestive of blood loss anemia.

20. At that time and place, Defendant Shedlock knew or should have known that the anemia manifested by Plaintiff's Decedent was consistent with an occult bleed most likely from the gastrointestinal tract given his symptoms and history.

21. At that time and place, Defendant Shedlock performed a single occult blood smear which was negative.

22. Defendant Shedlock knew or should have known that it was necessary to perform sequential occult blood studies in order to accurately assess for the presence of occult blood in the stool.

23. Despite the above, no additional occult blood studies were performed at that time.

24. Thereafter, on May 4, 2001, 2-1/2 months since the first report of anemia, sequential occult blood smears were obtained. These smears were reported as being positive for the presence of blood in Plaintiff's Decedent's stool.

25. At that time and place, additionally, Plaintiff's Decedent's blood studies revealed a continued severe anemia which, at this point in time, had persisted and worsened for approximately 2 ½ months.

26. Thereafter, Defendant Shedlock secured an appointment for Plaintiff's Decedent to be seen by Defendant Tuono on May 16, 2001, approximately two weeks after the detection of the presence of occult blood in his stool and approximately three months following Plaintiff's Decedent's initial complaints of loose stool and the detection of his anemia.

27. Thereafter, on or about May 17, 2001, Plaintiff's Decedent was seen at the offices of Defendant Tuono for a chief complaint of hemipositive stools (times 2) accompanied by severe anemia and a change in bowel habits with symptoms of weakness, tiredness and diarrhea.

28. At that time and place, Defendant Tuono became aware of the fact that Plaintiff's Decedent had a history of gastrointestinal polyps and colitis as a result of which he had previously undergone a hemicolectomy.

29. At that time and place, Plaintiff's Decedent's hemoglobin and hematocrit had dropped even further from his prior severe anemia to 6.6 and 21.1, respectively.

30. Defendant Tuono scheduled Plaintiff's Decedent for both a gastroscopy and colonoscopy to be performed on May 31, 2001.

31. Thereafter on May 31, 2001, Defendant Tuono performed the above tests which revealed two masses, one in the duodenum and one in the rectum.

32. Biopsies taken by Defendant Tuono at the time of the gastroscopy and colonoscopy revealed subacute inflammation of the duodenum and glandular dysplasia and chronic inflammation in the rectal mass. The pathologist, Dr. Jourdain, suggested repeat biopsy of the rectal mass because of the dysplastic changes of a precancerous villous adenoma and his belief that the rectal mass was possibly a carcinoma.

33. On June 6, 2001, Plaintiff's Decedent was seen by Defendant Tuono in his office. Despite the recommendation of the pathologist for a repeat biopsy of the rectal mass, Defendant Tuono did not schedule a repeat biopsy. Rather, he planned to order a CEA level (a cancer marker), a bone scan and an MRI of the chest, abdomen and pelvis.

34. On June 28, 2001, more than 3 weeks after the report of the biopsy the MRI was performed revealing thickening in the wall of the rectum.

35. No CEA was ordered.

36. Then, on July 18, 2001, Plaintiff's Decedent having a confirmed G.I. bleed with persistent, worsening severe anemia for more than 2-1/2 months, Defendant

Shedlock admitted Plaintiff's Decedent to Tyrone Hospital for transfusion and a surgical consult.

37. At that time and place a CEA was performed which was reported as 12.2 with a normal reference range between 0 and 2.5.

38. Defendant Shedlock knew or should have known that this severely heightened number represented additional evidence of the likelihood that Plaintiff's Decedent was not only suffering from cancer of the rectum, but that this cancer was causing significant blood loss which independently risked Plaintiff's Decedent's life and well-being, jeopardizing his ability to oxygenate and causing his severe complaints of dizziness, tiredness and lowering his blood pressure.

39. At that time and place, Defendant Shedlock placed a consult to Defendant Tuono to obtain surgical consultation and interventional surgery for a bleeding rectal mass which Defendant Tuono had discovered for which the only treatment was surgical intervention.

40. At that time and place, Defendant Tuono requested both a pulmonary and cardiac evaluation of Plaintiff's Decedent to clear Plaintiff's Decedent for surgery.

41. Plaintiff's Decedent was hospitalized between July 18, 2001 and July 23, 2001, during the course of which he was seen both by a cardiologist and a pulmonary specialist both of whom cleared him for surgery and established the fact that he had no apparent other underlying disease other than the rectal carcinoma which had been causing his severe, life threatening anemia.

42. Then, on July 20, 2001, Defendant Tuono unilaterally cancelled Plaintiff's Decedent's surgical intervention so that Defendant Tuono could go on vacation without obtaining for Plaintiff's Decedent any alternative intervention.

43. Both Defendant Shedlock and Defendant Tuono knew or should have known that Plaintiff's Decedent's anemia stemming from a continuously bleeding rectal mass posed an independent risk to his life and well being.

44. Plaintiff's Decedent was discharged from Tyrone Hospital on July 23, 2001.

45. Then, on July 25, 2001, Plaintiff's Decedent was seen by Defendant Shedlock in his office.

46. At that time and place, Defendant Shedlock knew that Plaintiff's Decedent had severe progressive anemia, a likely rectal carcinoma which was causing this problem and an elevated CEA that made it most likely that the rectal mass seen was a carcinoma.

47. Defendant Shedlock also knew that Defendant Tuono had canceled Plaintiff's Decedent's surgery because Defendant Tuono was going on vacation.

48. Thereafter, Defendant Shedlock did nothing.

49. On or about July 30, 2001, Plaintiff called Defendant Shedlock worried and tearful because of her concerns for her husband, Plaintiff's Decedent, who was at that time dizzy, weak, with leg pain and extremely anxious.

50. Plaintiff conveyed to Defendant Shedlock that she could not reach Defendant Tuono.

51. Defendant Shedlock told Plaintiff and Plaintiff's Decedent to go for lab work to Tyrone Hospital.

52. Defendant Shedlock was made aware of the fact that Plaintiff's Decedent did not want to go to the Emergency Room as he could not sit and wait for blood work in his then current condition. In response, Defendant Shedlock faxed an order for a CBC and differential to the laboratory at Tyrone Hospital where Plaintiff's Decedent promptly went for blood work.

53. Plaintiff's Decedent had been receiving lasix on orders of Defendant Shedlock for hypertension. However, in conjunction with his continued blood loss, the lasix was severely lowering his blood pressure as well as falsely elevating his blood studies.

54. Plaintiff's Decedent's blood work on July 30, 2001 demonstrated the persistence of anemia despite the recent administration of four units of packed red blood cells, and the hemoconcentration caused by the lasix. Plaintiff's Decedent told Defendant Shedlock that her husband's blood pressure was extremely low when measured at the laboratory despite his ongoing diagnosis and treatment for hypertension.

55. Thereafter, Defendant Shedlock made no attempt to assess Plaintiff's Decedent nor to admit him directly to the hospital for intervention and management.

56. On or about July 31, 2001, Plaintiff's Decedent awoke and complained of difficulty breathing and suffered a cardiac arrest while on the toilet.

57. EMS personnel were contacted and arrived at Plaintiff's Decedent's home. Plaintiff's Decedent could not be resuscitated and although transported to Phillipsburg Hospital he was declared dead at 6:01 a.m. on August 1, 2001.

58. As a direct and proximate result of the negligence and carelessness of Defendants and their respective agents, servants and or employees as is set forth above

and more specifically hereafter Plaintiff's Decedent suffered the persistence and worsening of blood loss anemia caused by a known and resectable carcinoma of the rectum until, physiologically, his blood supply was inadequate to sustain his respiratory and cardiac function, as a result of which he died on August 1, 2001.

59. At all times relevant to the matter set forth in this Complaint, Defendant Tuono was the agent servant and or employee of Defendant Associates, Tuono D.O.,P.C., and Shedlock and was at all times acting while in and upon the business of said Defendants, while under the course and scope of his employment by said Defendants and under the supervision and control of said Defendants.

60. At all times relevant to the matter set forth in this Complaint Defendant Shedlock was the agent, servant and or employee of Defendants Associates, Defendant Tuono, Defendant Tuono D.O.,P.C. and was acting while in and upon the business of said Defendants, while under the course and scope of his employment by said Defendants and under the supervision and control of said Defendants.

61. At all times relevant to the matter set forth in this Complaint those individuals to whom Plaintiff's Decedent was sent for evaluation, laboratory assessment and surgical clearance by Defendants were the agents servants and or employees of Defendants and were acting while in and upon the business of said Defendants, while under the course and scope of their employment by said Defendants and under the supervision and control of said Defendants.

62. Defendant Shedlock was negligent and or careless in some or all of the following particulars:

- (a) In permitting Plaintiff's Decedent to succumb to the complications of severe blood loss anemia;

- (b) In permitting Plaintiff's Decedent to die of a diagnosable and treatable condition precipitating severe blood loss and hemorrhage;
- (c) In failing to know that the most likely explanation for Plaintiff's Decedent's severe acute onset of anemia was that of a gastrointestinal bleed for which testing was then and there necessary;
- (d) In failing to immediately evaluate Plaintiff Decedent for gastrointestinal cancer or other gastrointestinal disease;
- (e) In failing to promptly schedule Plaintiff's Decedent for a colonoscopy and biopsy;
- (f) In failing to perform repeat biopsy of Plaintiff's Decedent's identified rectal mass when it was then and there necessary to have done so;
- (g) In failing to have admitted Plaintiff's Decedent to a hospital where Plaintiff's Decedent could be evaluated and interventional surgery provided to Plaintiff's Decedent at those times when his condition demanded the same;
- (h) In failing to find alternative surgical intervention when Plaintiff's Decedent manifested severe blood loss anemia in the face of a known gastrointestinal lesion , and it was apparent that Defendant Tuono was unwilling because of his schedule to proceed with necessary surgery under the circumstances;
- (i) In persisting in treating Plaintiff's Decedent with drugs for hypertension when Plaintiff's Decedent's blood pressure manifested hypotension thereby causing Plaintiff's Decedent to become further dehydrated and unable to perfuse his tissues and vital organs under the circumstances then and there existing;
- (j) In delaying referral of Plaintiff's Decedent to those individuals who by virtue of their superior skill and training were capable of offering Plaintiff's Decedent interventional surgery at those times when it was then and there necessary to have done so if to preserve Plaintiff's Decedent's life and well being;
- (k) In continuing to care for Plaintiff's Decedent at those times when by virtue of the limitations of their skill and training they were incapable of properly diagnosing and treating Plaintiff's Decedent

for the condition of severe blood loss anemia from which he was then and there suffering;

- (l) In disregarding the significant gastrointestinal history of the Plaintiff's Decedent that included colitis and a hemicolectomy which clearly increased Plaintiff's Decedent's risk for subsequent carcinoma of the gastrointestinal tract as it then and there existed;
- (m) In disregarding the repeated evidence both pathological and radiological of the existence of a rectal carcinoma at those times when it was then and there apparent; and
- (n) In disregarding the repeated evidence of diarrhea and repeated bowel movements indicative of bleeding of the lower gastrointestinal tract as it was then described to Defendants.

63. Defendant Tuono was negligent and or careless in some or all of the following particulars:

- (a) In permitting Plaintiff's Decedent to succumb to the complications of severe blood loss anemia;
- (b) In permitting Plaintiff's Decedent to die of a diagnosable and treatable condition precipitating severe blood loss and hemorrhage;
- (c) In failing to know that the most likely explanation for Plaintiff's Decedent's severe acute onset of anemia was that of a gastrointestinal bleed for which testing was then and there necessary;
- (d) In failing to immediately evaluate Plaintiff Decedent for gastrointestinal cancer or other gastrointestinal disease;
- (e) In failing to promptly schedule Plaintiff's Decedent for a colonoscopy and biopsy;
- (f) In failing to perform repeat biopsy of Plaintiff's Decedent's identified rectal mass when it was then and there necessary to have done so;
- (g) In failing to have admitted Plaintiff's Decedent to a hospital where Plaintiff's Decedent could be evaluated and interventional surgery provided to Plaintiff's Decedent at those times when his condition demanded the same;

- (h) In failing to find alternative surgical intervention when Plaintiff's Decedent manifested severe blood loss anemia in the face of a known gastrointestinal lesion, and it was apparent that Defendant Tuono was unwilling because of his schedule to proceed with necessary surgery under the circumstances;
- (i) In persisting in treating Plaintiff's Decedent with drugs for hypertension when Plaintiff's Decedent's blood pressure manifested hypotension thereby causing Plaintiff's Decedent to become further dehydrated and unable to perfuse his tissues and vital organs under the circumstances then and there existing;
- (j) In delaying referral of Plaintiff's Decedent to those individuals who by virtue of their superior skill and training were capable of offering Plaintiff's Decedent interventional surgery at those times when it was then and there necessary to have done so if to preserve Plaintiff's Decedent's life and well being;
- (k) In continuing to care for Plaintiff's Decedent at those times when by virtue of the limitations of his skill and training he was incapable of properly diagnosing and treating Plaintiff's Decedent for the condition of severe blood loss and anemia from which he was then and there suffering;
- (l) In disregarding the significant gastrointestinal history of the Plaintiff's Decedent that included colitis and a hemicolectomy which clearly increased Plaintiff's Decedent risk for subsequent carcinoma of the gastrointestinal tract as it then and there existed;
- (m) In disregarding the repeated evidence, both pathological and radiological of the existence of a rectal carcinoma at those times when it was then and there apparent; and
- (n) In disregarding the repeated evidence of diarrhea and repeated bowel movements indicative of bleeding of the lower gastrointestinal tract as it was then described to Defendants.

64. Defendant Tyrone Medical Associates, Inc., by and through its agents, servants and or employees was negligent and or careless in some or all of the following particulars:

- (a) In permitting Plaintiff's Decedent to succumb to the complications of severe blood loss anemia;
- (b) In permitting Plaintiff's Decedent to die of a diagnosable and treatable condition precipitating severe blood loss and hemorrhage;
- (c) In failing to know that the most likely explanation for Plaintiff's Decedent's severe acute onset of anemia was that of a gastrointestinal bleed for which testing was then and there necessary;
- (d) In failing to immediately evaluate Plaintiff Decedent for gastrointestinal cancer or other gastrointestinal disease;
- (e) In failing to promptly schedule Plaintiff's Decedent for a colonoscopy and biopsy;
- (f) In failing to perform repeat biopsy of Plaintiff's Decedent's identified rectal mass when it was then and there necessary to have done so;
- (g) In failing to have admitted Plaintiff's Decedent to a hospital where Plaintiff's Decedent could be evaluated and interventional surgery provided to Plaintiff's Decedent at those times when his condition demanded the same;
- (h) In failing to find alternative surgical intervention when Plaintiff's Decedent manifested severe blood loss anemia in the face of a known gastrointestinal lesion , and it was apparent that Defendant Tuono was unwilling because of his schedule to proceed with necessary surgery under the circumstances;
- (i) In persisting in treating Plaintiff's Decedent with drugs for hypertension when Plaintiff's Decedent's blood pressure manifested hypotension thereby causing Plaintiff's Decedent to become further dehydrated and unable to perfuse his tissues and vital organs under the circumstances then and there existing;
- (j) In delaying referral of Plaintiff's Decedent to those individuals who by virtue of their superior skill and training were capable of offering Plaintiff's Decedent interventional surgery at those times when it was then and there necessary to have done so if to preserve Plaintiff's Decedent's life and well being; and
- (k) In continuing to care for Plaintiff's Decedent at those times when by virtue of the limitations of their skill and training they were

incapable of properly diagnosing and treating Plaintiff's Decedent for the condition of severe blood loss and anemia from which he was then and there suffering.

65. Defendant Albert Tuono D.O., P.C., by and through its agents, servants and or employees was negligent and or careless in some or all of the following particulars:

- (a) In permitting Plaintiff's Decedent to succumb to the complications of severe blood loss anemia;
- (b) In permitting Plaintiff's Decedent to die of a diagnosable and treatable condition precipitating severe blood loss and hemorrhage;
- (c) In failing to know that the most likely explanation for Plaintiff's Decedent's severe acute onset of anemia was that of a gastrointestinal bleed for which testing was then and there necessary;
- (d) In failing to immediately evaluate Plaintiff Decedent for gastrointestinal cancer or other gastrointestinal disease;
- (e) In failing to promptly schedule Plaintiff's Decedent for a colonoscopy and biopsy;
- (f) In failing to perform repeat biopsy of Plaintiff's Decedent's identified rectal mass when it was then and there necessary to have done so;
- (g) In failing to have admitted Plaintiff's Decedent to a hospital where Plaintiff's Decedent could be evaluated and interventional surgery provided to Plaintiff's Decedent at those times when his condition demand same;
- (h) In failing to find alternative surgical intervention when Plaintiff's Decedent manifested severe blood loss anemia in the face of a known gastrointestinal lesion , and it was apparent that Defendant Tuono was unwilling because of his schedule to proceed with necessary surgery under the circumstances;
- (i) In delaying referral of Plaintiff's Decedent to those individuals who by virtue of their superior skill and training were capable of offering Plaintiff's Decedent interventional surgery at those times

when it was then and there necessary to have done so if to preserve Plaintiff's Decedent's life and well being; and

- (j) In continuing to care for Plaintiff's Decedent at those times when by virtue of the limitations of their skill and training they were incapable of properly diagnosing and treating Plaintiff's Decedent for the condition of severe blood loss anemia from which he was then and there suffering.

66. Plaintiff's Decedent who was 62 years of age at the time of his death, left surviving his wife Cathy Timko, his sons, Brian B. Timko, Kevin M. Timko and his daughters, Tracy A. Timko and Diana M. Timko, all of Clearfield County, Pennsylvania.

67. By reason of the death of the Plaintiff's Decedent, the said heirs have suffered great pecuniary loss by reason of the expenses occurred from medical and hospital bills, funeral bills and other items connected with Decedent's injuries and death.

68. By reason of the death of Plaintiff's Decedent, said heirs have been deprived of the services, earnings, companionship, society and comfort of Decedent.

WHEREFORE, Plaintiff claims compensatory damages in the sum in excess of \$20,000 and demand a trial by jury.

SECOND COUNT

Cathy L. Timko, Administratrix of the Estate of Steve Timko, Jr., Deceased,
Plaintiff v. Tyrone Medical Associates, Inc.; Albert Tuono, D.O., P.C.,;
Albert Tuono, D.O.; and Anthony Shedlock, D.O., Defendants
((Survival Cause of Action))

69. Plaintiff incorporates by reference and makes a part of this count all the paragraphs of the First Count of this Complaint.

70. Plaintiff brings this action on behalf of the Estate of Steven Timko, Jr., Deceased, by virtue of 42 Pa. C.S.A. § 8302 and other applicable laws of the Commonwealth of

Pennsylvania to recover all damages of whatsoever nature to which said Estate is entitled under the laws governing Survival Actions.

71. Plaintiff claims on behalf of the said Estate, the damages suffered by the Estate by reason of the death of Plaintiff's Decedent. Said claim includes the destruction of Decedent's earning capacity and the pain and suffering of Decedent prior to his death.

WHEREFORE, Plaintiff claims compensatory damages in a sum in excess of \$20,000 and demand a trial by jury.

RAIZMAN & FRISCHMAN, P.C.

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

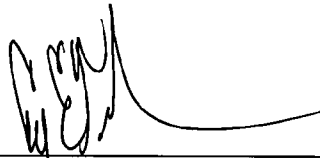
Dorothy L. Raizman, Esquire
Craig E. Frischman, Esquire
7300 Penn Avenue
Pittsburgh, Pennsylvania 15208
(412) 247-7300

Attorneys for Plaintiff

JURY TRIAL DEMANDED

VERIFICATION

I, **Craig E. Frischman, Esquire** , who, being duly sworn according to law, deposes and says that she is counsel for the Plaintiff, and that due to the Plaintiff's unavailability, was unable to obtain her signature for this Verification, and that the averments contained in the foregoing are based on their best information and belief.



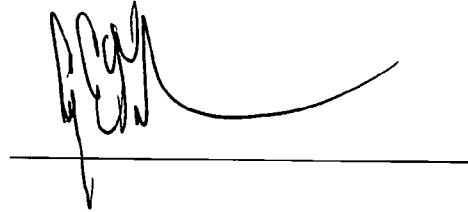
A handwritten signature, appearing to be "Craig E. Frischman", is written over a horizontal line. The signature is in black ink and is somewhat stylized, with a long horizontal stroke extending to the right.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing has been served by mailing a copy, United States Mail, first class, postage prepaid, this 14th day of October, 2003, to the following:

Bernard R. Rizza, Esquire
GACA MATIS BAUM & RIZZA
300 Four PPG Place
Pittsburgh, PA 15222-5404

James R. Hartline, Esquire
THOMSON, RHODES & COWIE, P.C.
Two Chatham Center, 10th Floor
Pittsburgh, PA 15219

A handwritten signature, likely of James R. Hartline, is written in black ink over a horizontal line. The signature is stylized and cursive.

FILED

No
CC

10/5/2003

9/10/03

William A. Shaw

Prothonotary/Clerk of Courts

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

CATHY L. TIMKO,
Executrix of the
Estate of
STEVE TIMKO, JR.,
Deceased,

Plaintiff,

vs.

TYRONE MEDICAL ASSOCIATES,
INC.; ALBERT TUONO, D.O., P.C.;
ALBERT TUONO, D.O.; and
ANTHONY SHEDLOCK, D.O.,

Defendants.

JURY TRIAL DEMANDED

) CIVIL DIVISION

) NO: 2003-01084-CD

) **CERTIFICATE OF MERIT**
) **AS TO TYRONE MEDICAL**
) **ASSOCIATES, INC.**

) Filed on behalf of Plaintiff

) Counsel of Record for this Party:

) Dorothy L. Raizman, Esquire
) PA. I.D. #26561

) Craig E. Frischman, Esquire
) PA. I.D. #46603

) **RAIZMAN & FRISCHMAN, P.C.**
) 7300 Penn Avenue
) Pittsburgh, PA 15208
) (412) 247-7300

FILED

OCT 15 2003

William A. Shaw
Prothonotary/Clerk of Courts

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

CATHY L. TIMKO,
Executrix of the
Estate of
STEVE TIMKO, JR.,
Deceased,

Plaintiff,

vs.

TYRONE MEDICAL ASSOCIATES,
INC.; ALBERT TUONO, D.O., P.C.;
ALBERT TUONO, D.O.; and
ANTHONY SHEDLOCK, D.O.,

Defendants.

) CIVIL DIVISION

) NO: 2003-01084-CD

) **CERTIFICATE OF MERIT**
) **AS TO TYRONE MEDICAL**
) **ASSOCIATES, INC.**

CERTIFICATE OF MERIT
AS TO TYRONE MEDICAL ASSOICATES, INC.

I, Dorothy L. Raizman, Esquire, certify that:

the claim that this defendant deviated from an acceptable professional standard is based solely on allegations that other licensed professionals for whom this defendant is responsible deviated from an acceptable professional standard and 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 the other licensed professionals 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 specified therein

Date: 10/19/03

RAIZMAN & FRISCHMAN, P.C.

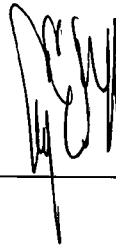
Dorothy L. Raizman /CEF
Dorothy L. Raizman, Esquire
7300 Penn Avenue
Pittsburgh, Pennsylvania 15208
(412) 247-7300

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing has been served by mailing a copy, United States Mail, first class, postage prepaid, this 14th day of October, 2003, to the following:

Bernard R. Rizza, Esquire
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300 Four PPG Place
Pittsburgh, PA 15222-5404

James R. Hartline, Esquire
THOMSON, RHODES & COWIE, P.C.
Two Chatham Center, 10th Floor
Pittsburgh, PA 15219


A handwritten signature in black ink, appearing to read 'JRH', is written over a horizontal line. The signature is stylized and cursive.

FILED

10/15/2003

cc
10/15/2003
10/15/2003

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

CATHY L. TIMKO,
Administratrix of the
Estate of
STEVE TIMKO, JR.,
Deceased,

Plaintiff,

vs.

TYRONE MEDICAL ASSOCIATES,
INC.; ALBERT TUONO, D.O., P.C.;
ALBERT TUONO, D.O.; and
ANTHONY SHEDLOCK, D.O.,

Defendants.

) CIVIL DIVISION

) NO: 2003-01084-CD

) **CERTIFICATE OF MERIT**
) **AS TO ALBERT TUONO, D.O.**

) Filed on behalf of Plaintiff

) Counsel of Record for this Party:

) Dorothy L. Raizman, Esquire
) PA. I.D. #26561

) Craig E. Frischman, Esquire
) PA. I.D. #46603

) **RAIZMAN & FRISCHMAN, P.C.**
) 7300 Penn Avenue
) Pittsburgh, PA 15208
) (412) 247-7300

JURY TRIAL DEMANDED

FILED

OCT 15 2003

William A. Shaw
Prothonotary/Clerk of Courts

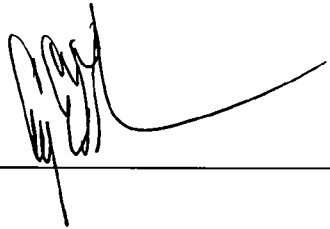
Dorothy L. Raizman, Esquire
7300 Penn Avenue
Pittsburgh, Pennsylvania 15208
(412) 247-7300

CERTIFICATE OF SERVICE

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Pittsburgh, PA 15222-5404

James R. Hartline, Esquire
THOMSON, RHODES & COWIE, P.C.
Two Chatham Center, 10th Floor
Pittsburgh, PA 15219



IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

CATHY L. TIMKO,
Executrix of the
Estate of
STEVE TIMKO, JR.,
Deceased,

Plaintiff,

vs.

TYRONE MEDICAL ASSOCIATES,
INC.; ALBERT TUONO, D.O., P.C.;
ALBERT TUONO, D.O.; and
ANTHONY SHEDLOCK, D.O.,

Defendants.

JURY TRIAL DEMANDED

) CIVIL DIVISION

) NO: 2003-01084-CD

) **CERTIFICATE OF MERIT**
) **AS TO ALBERT TUONO,**
) **D.O., P.C.**

) Filed on behalf of Plaintiff

) Counsel of Record for this Party:

) Dorothy L. Raizman, Esquire
) PA. I.D. #26561

) Craig E. Frischman, Esquire
) PA. I.D. #46603

) **RAIZMAN & FRISCHMAN, P.C.**
) 7300 Penn Avenue
) Pittsburgh, PA 15208
) (412) 247-7300

FILED

OCT 15 2003

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,

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

CATHY L. TIMKO,
Executrix of the
Estate of
STEVE TIMKO, JR.,
Deceased,

Plaintiff,

vs.

TYRONE MEDICAL ASSOCIATES,
INC.; ALBERT TUONO, D.O., P.C.;
ALBERT TUONO, D.O.; and
ANTHONY SHEDLOCK, D.O.,

Defendants.

) CIVIL DIVISION

) NO: 2003-01084-CD

) **CERTIFICATE OF MERIT**
) **AS TO ALBERT TUONO**
) **D.O.,P.C.**

CERTIFICATE OF MERIT
AS TO ALBERT TUONO D.O., P.C.

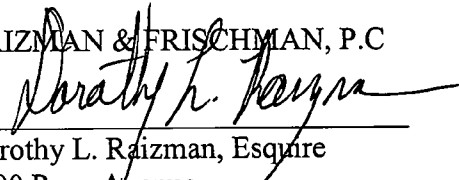
I, Dorothy L. Raizman, Esquire, certify that:

the claim that this defendant deviated from an acceptable professional standard is based solely on allegations that other licensed professionals for whom this defendant is responsible deviated from an acceptable professional standard and 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 the other licensed professionals 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 specified therein.

Date: _____

10/14/03

RAIZMAN & FRISCHMAN, P.C.

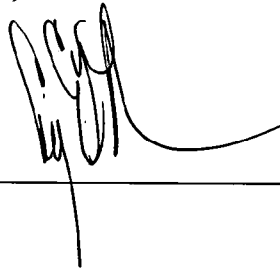

Dorothy L. Raizman, Esquire
7300 Penn Avenue
Pittsburgh, Pennsylvania 15208
(412) 247-7300

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing has been served by mailing a copy, United States Mail, first class, postage prepaid, this 14th day of October, 2003, to the following:

Bernard R. Rizza, Esquire
GACA MATIS BAUM & RIZZA
300 Four PPG Place
Pittsburgh, PA 15222-5404

James R. Hartline, Esquire
THOMSON, RHODES & COWIE, P.C.
Two Chatham Center, 10th Floor
Pittsburgh, PA 15219



FILED No
cc
m/10:51:01 @
OCT 15 2003

William A. Shaw
Prothonotary/Clerk of Courts

William A. Shaw
Prothonotary/Clerk of Courts

CATHY L. TIMKO,
Executrix of the
Estate of
STEVE TIMKO, JR.,
Deceased,

VS.

TYRONE MEDICAL ASSOCIATES,
INC.; ALBERT TUONO, D.O., P.C.;
ALBERT TUONO, D.O.; and
ANTHONY SHEDLOCK, D.O.,

**CERTIFICATE OF MERIT
AS TO ANTHONY SHEDLOCK,
D.O.**


Dorothy L. Raizman, Esquire
7300 Penn Avenue
Pittsburgh, Pennsylvania 15208
(412) 247-7300

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing has been served by mailing a copy, United States Mail, first class, postage prepaid, this 14th day of October, 2003, to the following:

Bernard R. Rizza, Esquire
GACA MATIS BAUM & RIZZA
300 Four PPG Place
Pittsburgh, PA 15222-5404

James R. Hartline, Esquire
THOMSON, RHODES & COWIE, P.C.
Two Chatham Center, 10th Floor
Pittsburgh, PA 15219



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

CATHY L. TIMKO, Executrix of the
Estate of STEVE TIMKO, JR.,
Deceased,

Plaintiff,

vs.

TYRONE MEDICAL ASSOCIATES,
INC.; ALBERT TUONO, D.O., P.C.;
ALBERT TUONO, D.O.; and
ANTHONY SHEDLOCK, D.O.,

Defendants.

CIVIL DIVISION

No.: 2003-01084-CD

**VERIFICATION TO THE
COMPLAINT**

Filed on behalf of Plaintiff

Counsel of Record for this Party:

Dorothy L. Raizman, Esquire
PA. I.D. No. 26561

Craig E. Frischman, Esquire
PA. I.D. No. 46603

RAIZMAN & FRISCHMAN, P.C.
7300 Penn Avenue
Pittsburgh, PA 15208
(412) 247-7300

JURY TRIAL DEMANDED

FILED


OCT 23 2003

William A. Shaw
Prothonotary/Clerk of Courts

VERIFICATION

I, CATHY L. TIMKO, have read the foregoing Complaint. The averments contained therein are, insofar as they are derived from my own knowledge, true and correct to the best of my knowledge, information and belief, and insofar as they are derived from others, such facts are believed to be true and correct.

This statement and verification is made subject to the penalties of 18 Pa.C.S.A. Section 4904, relating to unsworn falsification to authorities, which statute provides that false statements are subject to criminal penalties.



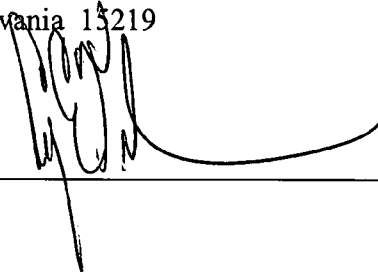
CATHY L. TIMKO
Administratrix of the Estate of
STEVE TIMKO, JR., Deceased

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served by first class, United States mail, postage prepaid, this 20th day of October, 2003, upon the following:

Bernard R. Rizza, Esquire
GACA MATIS BAUM & RIZZA
300 Four PPG Place
Pittsburgh, Pennsylvania 15222-5404

James R. Hartline, Esquire
THOMSON, RHODES & COWIE, P.C.
Two Chatham Center, 10th Floor
Pittsburgh, Pennsylvania 15219



FILED No cc
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OCT 23 2003

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CATHY TIMKO, Administratrix of the
Estate of Steve Timko, Jr., Deceased,

Plaintiff,

vs.

TYRONE MEDICAL ASSOCIATES,
INC., ALBERT TUONO, D.O., P.C.;
ALBERT TUONO, D.O.; and
ANTHONY SHEDLOCK, M.D.,

Defendants

CIVIL DIVISION

No. 2003-01084-CD

Issue No.

**ANSWER OF DEFENDANTS,
ALBERT TUONO, D.O., P.C. AND
ALBERT TUONO, D.O.**

Code:

Filed on behalf of defendants Albert Tuono,
D.O. and Albert Tuono, D.O., P.C.

Counsel of Record for this Party:

James R. Hartline, Esquire
PA I.D. #21299

Thomson, Rhodes & Cowie, P.C.
Firm #720
1010 Two Chatham Center
Pittsburgh, PA 15219

(412) 232-3400

FILED

FEB 18 2004

William A. Shaw
Prothonotary/Clerk of Courts

ANSWER OF DEFENDANTS,
ALBERT TUONO, D.O., P.C. AND ALBERT TUONO, D.O

NOW COME defendants, Albert Tuono, D.O., P.C. and Albert Tuono, D.O., by their attorneys, Thomson, Rhodes & Cowie, P.C., and file the following answer to plaintiff's complaint:

1. After reasonable investigation, defendants are without sufficient information or knowledge to form a belief as to the truth of the averments contained in paragraph 1 of the complaint, for which reason said averments are denied and strict proof thereof is demanded at time of trial.

2. Paragraph 2 of the complaint is not directed to these defendants and requires no response.

3. Paragraph 3 of the complaint is denied to the extent that it is stated or implied that Albert Tuono, D.O., P.C., provided any medical services or treatment to the decedent. To the contrary, the professional corporation did not come into existence until February of 2002.

4. Paragraph 4 of the complaint is admitted.

5. Paragraph 5 of the complaint is not directed to these defendants and requires no response.

6. Paragraph 6 of the complaint represents a conclusion of law to which no response is required.

7. through 26. Paragraphs 7 through 26 of the complaint are not directed to these defendants and require no response. To the extent that responses may be required, these defendants aver that after reasonable investigation, they are without sufficient information or knowledge to

form a belief as to the truth of the averments set forth in paragraphs 7 through 26 of the complaint, for which reason said averments are denied and strict proof is demanded at time of trial.

27. Paragraph 27 of the complaint is admitted in part and denied in part. It is admitted that decedent was seen at the offices of Dr. Tuono on May 17, 2001. The remaining averments of paragraph 27 are denied as stated. To the contrary, decedent's chief complaints were as more fully and accurately set forth in the medical records.

28. Paragraph 28 of the complaint is denied as stated. To the contrary, the past medical and surgical histories provided by the decedent are as more fully and accurately set forth in the medical records.

29. After reasonable investigation, these defendants are without sufficient information or knowledge to form a belief as to the truth of the averments contained in paragraph 29 of the complaint, for which reasons said averments are denied and strict proof thereof is demanded at time of trial.

30. Paragraph 30 of the complaint is admitted.

31. Paragraph 31 of the complaint is admitted in part and denied in part. It is admitted that on May 31, 2001, Dr. Tuono performed a colonoscopy with biopsy and EGD with biopsy upon the decedent. The remaining averments of paragraph 31 of the complaint are denied as stated. To the contrary, the finding of those two procedures are as more fully and accurately set forth in the medical records.

32. Paragraph 32 of the complaint is denied as stated. To the contrary, biopsy results and pathology recommendations are as more fully and accurately set forth in the medical records.

33. Paragraph 33 of the complaint is admitted to the extent that it is alleged that decedent was seen by Dr. Tuono on June 6, 2001, and that Dr. Tuono's plan at that time was to obtain an

MRI of the chest, abdomen and pelvis, HIDA scan, CMP and CEA levels. The remainder of the averments of paragraph 33 of the complaint are denied as stated.

34. Paragraph 34 is admitted to the extent that it is averred that an MRI of the abdomen and pelvis was performed upon the decedent on June 28, 2001. The remaining averments of paragraph 34 of the complaint are denied as stated. To the contrary, MRI findings were as more fully and accurately set forth in the medical records.

35. Paragraph 35 of the complaint is denied. To the contrary, tumor markers were ordered by Dr. Tuono on July 20, 2001.

36. Paragraph 36 of the complaint is admitted to the extent that it is averred that decedent was admitted to Tyrone Hospital on July 18, 2001. The remaining averments of paragraph 36 are denied.

37. Paragraph 37 of the complaint is admitted.

38. Paragraph 38 of the complaint is not directed to these defendants and requires no response.

39. Paragraph 39 of the complaint is admitted to the extent that it is averred that Dr. Shedlock placed a consult to defendant Tuono during the decedent's hospitalization at Tyrone Hospital. The remaining averments of paragraph 39 of the complaint are denied as stated.

40. Paragraph 40 of the complaint is denied as stated. To the contrary, Dr. Tuono ordered preoperative pulmonary and cardiac consultations at the request of decedent's attending physicians.

41. Paragraph 41 of the complaint is admitted in part and denied part. It is admitted that decedent was hospitalized between July 18 and July 23, 2001, was seen by a cardiologist and a pulmonary specialist and was eventually cleared for surgery. The remaining averments of paragraph 41 of the complaint are denied as stated.

42. Paragraph 42 of the complaint is denied. To the contrary, decedent's surgery was originally scheduled by Dr. Tuono for July 23, 2001. Surgery was cancelled due to the fact that decedent's attending physicians initially requested that decedent undergo a cardiac stress test preoperatively.

43. Paragraph 43 of the complaint represents a conclusion of law to which no response is required. To the extent that a response may required, paragraph 43 is denied.

44. Paragraph 44 of the complaint is admitted.

45. through 55. Paragraphs 45 through 55 of the complaint are not directed to these defendants and require no response. To the extent that responses may be required, after reasonable investigation, defendants are without sufficient information or knowledge to form a belief as to the truth of the averments contained in paragraphs 45 through 55, for which reasons said averments are denied and strict proof thereof is demanded at time of trial.

56. and 57. After reasonable investigation, these defendants are without sufficient information or knowledge to form a belief as to the truth of the averments contained in paragraphs 56 and 57 of the complaint, for which reasons said averments are denied and strict proof is demanded at time of trial.

58. Paragraph 58 of the complaint represents a conclusion of law to which no response is required. To the extent that a response may be required, paragraph 58 is denied.

59. Paragraph 59 of the complaint is denied to the extent that it is averred that Dr. Tuono was the agent, servant or employee of Albert Tuono, D.O., P.C. To the contrary, Dr. Tuono was, at all times relevant to this lawsuit, an employee of Tyrone Medical Associates, Inc.

60. Paragraph 60 of the complaint is denied to the extent that it is averred that Dr. Shedlock was the agent, servant or employee of Albert Tuono, D.O., P.C. or Albert Tuono, D.O. To the

contrary, Dr. Shedlock was, at all times pertinent to this lawsuit, an employee of Tyrone Medical Associates, Inc.

61. Paragraph 61 of the complaint is denied. To the contrary, none of the individuals to whom decedent was sent for evaluation, laboratory assessment, or surgical clearance were the agents, servants or employees of these defendants.

62. Paragraph 62 of the complaint is not directed to these defendants and requires no response.

63. Paragraph 63 and subparagraphs (a) through (n) of the complaint represent conclusions of law to which no response is required. To the extent that responses may be required, paragraph 63 and subparagraphs (a) through (n) are denied.

64. Paragraph 64 of the complaint is not directed to these defendants and requires no response.

65. Paragraph 65 of the complaint and subparagraphs (a) through (j) represent conclusions of law to which no response is required. To the extent that a response may be required, paragraph 65 and subparagraphs (a) through (j) are denied.

66. through 68. After reasonable investigation, these defendants are without sufficient information or knowledge to form a belief as to the truth of the averments contained in paragraphs 66 through 68 of the complaint, for which reasons said averments are denied and strict proof thereof is demanded at time of trial.

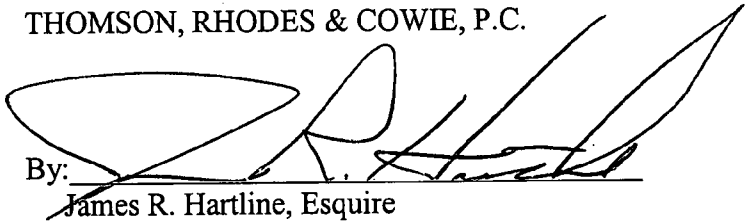
69. By way of answer to paragraph 69 of the complaint, these defendants incorporate by reference paragraphs 1 through 68 of their answers if hereinafter set forth in full.

70. and 71. Paragraph 70 and 71 of the complaint represent conclusions of law to which no response is required.

WHEREFORE, defendants, Albert Tuono, D.O., P.C. and Albert Tuono, D.O. request that plaintiff's complaint be dismissed and judgment be entered in their favor.

Respectfully submitted,

THOMSON, RHODES & COWIE, P.C.

By: 

James R. Hartline, Esquire
Attorneys for Albert Tuono, D.O., P.C. and
Albert Tuono, D.O., two of the defendants

VERIFICATION

I, Albert Tuono, D.O., have read the foregoing ANSWER OF DEFENDANTS, ALBERT TUONO, D.O., P.C. AND ALBERT TUONO, D.O. The statements therein are true and correct to the best of my personal knowledge or information and belief.

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

I am authorized to make this verification on behalf of Albert Tuono, D.O., P.C. because of my position as _____.

Albert J Tuono DO

Date: 1/20/04

VERIFICATION

I, Albert Tuono, D.O., have read the foregoing ANSWER OF DEFENDANTS, ALBERT TUONO, D.O., P.C. AND ALBERT TUONO, D.O. 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 fabrication to authorities, which provides that if I make knowingly false averments I may be subject to criminal penalties.

By Albert V Tuono

Date 1/20/04

CERTIFICATION OF SERVICE

I hereby certify that a true and correct copy of the within ANSWER OF DEFENDANTS,
ALBERT TUONO, D.O., P.C. AND ALBERT TUONO, D.O. has been served upon the
following counsel of record on this 13 day of February, 2004:

Craig E. Frischman, Esquire
Raizman & Frischman, P.C.
7300 Penn Avenue
Pittsburgh, PA 15208
Attorneys for Plaintiff

Bernard R. Rizza, Esquire
Gaca, Matis, Baum & Rizza
300 Four PPG Place
Pittsburgh, PA 15222
(Attorneys for defendant Anthony Shedlock, M.D.)

THOMSON, RHODES & COWIE, P.C.

By James R. Hartline / Dums
James R. Hartline, Esquire
Attorneys for defendant
Albert Tuono, D.O., P.C. and
Albert Tuono, D.O.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CATHY TIMKO, Administratrix of the
Estate of Steve Timko, Jr., Deceased,

Plaintiff,

vs.

TYRONE MEDICAL ASSOCIATES,
INC., ALBERT TUANO M.D. P.C.,
ALBERT TUANO, D.O. and
ANTHONY SHEDLOCK, M.D.,

Defendants.

CIVIL DIVISION

No. 2003-01084-CD

Code:

Issue No:

**ANSWER TO COMPLAINT IN
CIVIL ACTION**

Filed on behalf of Anthony Shedlock,
M.D., Defendant

Counsel of Record for This Party:

Bernard R. Rizza, Esquire
PA I.D. 41006

GACA MATIS BAUM & RIZZA
Firm #983
Four Gateway Center
444 Liberty Avenue, Suite 300
Pittsburgh, PA 15222

(412) 338-4750

JURY TRIAL DEMANDED

FILED

MAR 15 2004

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CATHY TIMKO, Administratrix of the
Estate of Steve Timko, Jr., Deceased,

Plaintiff,

vs.

TYRONE MEDICAL ASSOCIATES,
INC., ALBERT TUANO M.D. P.C.,
ALBERT TUANO, D.O. and
ANTHONY SHEDLOCK, D.O.,

Defendants.

) CIVIL DIVISION

) No. 2003-01084-CD

ANSWER

Anthony Shedlock, D.O., defendant, by his attorneys, Gaca Matis Baum & Rizza, in response to plaintiff's Complaint, sets forth the following:

1. If any factual allegations in the Complaint are not responded to in the following paragraphs, after reasonable investigation, defendant is without knowledge or information sufficient to form a belief as to the truth of the said allegations.

2. Each paragraph of this Answer incorporates by reference all of the other paragraphs of the Answer.

3. After reasonable investigation, defendant is without knowledge or information sufficient to form a belief as to the truth of the averments contained within paragraphs 1, 42 and 66.

4. Paragraphs 2, 3, 4, 27, 28, 29, 30, 31, 32, 33 and 63 pertain to other defendants and no response is required of this defendant.

5. Paragraph 5 is admitted.

6. Paragraph 6 is a mere conclusion of law to which no response is required. To the extent that this paragraph can be construed to allege negligence on the part of this defendant, it is denied.

7. The allegations in paragraphs 7, 8, 10, 14, 15, 16, 17, 19, 24, 25, 26, 34, 35, 36, 37, 39, 40, 41, 46, 47, 49, 54, 56 and 57 are admitted to the extent that said allegations are consistent with the recordations contained within the office records of Dr. Shedlock and the hospital records including those from Tyrone Hospital and Philipsburg Hospital which are incorporated by reference; to the extent that said allegations are inconsistent with, contrary to, or not recorded in the relevant medical records, after reasonable investigation defendant is without knowledge or information sufficient to form a belief as to the truth of said allegations.

8. Paragraph 9 is denied as stated. Mr. Timko's chief complaint was left-sided pain and also an episode of chest pain three weeks ago. He also complained of frequent bowel movements.

9. The first sentence of paragraph 11 is admitted. The second sentence is denied as stated. These laboratory values were low.

10. Paragraph 12 is denied. It was not clear that the most likely explanation for Mr. Timko's anemia at that time was a bleeding gastrointestinal cancer.

11. Paragraph 13 is denied as stated. Mr. Timko was ordered to begin iron supplementation and to have further blood work done.

12. Paragraph 18 is denied.

13. Paragraph 20 is denied.
14. Paragraph 21 is denied.
15. Paragraph 22 is admitted.
16. Paragraph 23 is denied.
17. Paragraph 38 is denied. By way of further response, this defendant incorporates herein by reference the hospital records for the 7/17/01 admission to Tyrone Hospital.
18. Paragraph 33 is denied.
19. Paragraph 48 is denied. The patient was informed to schedule his follow-up appointment with Dr. Tuono.
20. Paragraph 51 is denied as stated. Mrs. Timko was informed that her husband needed to go to Tyrone Hospital for a medical evaluation. When Mr. Timko refused to do so and it seemed futile to convince him otherwise, Dr. Shedlock was able to convince him to at least have laboratory work performed on a STAT basis which could then be reviewed by Dr. Shedlock.
21. Paragraph 52 is denied as stated. Dr. Shedlock was not aware that the patient was compromised to the point where he could not proceed to the emergency room. On the contrary, Dr. Shedlock's office instructed Mrs. Timko to have her husband appear at the emergency room for an evaluation but her husband refused. As a lesser alternative, Dr. Shedlock's office was able to convince Mrs. Timko to have her husband appear at Tyrone Hospital for laboratory work.
22. The first sentence of paragraph 53 is admitted. The second sentence is denied. Dr.

Shedlock had no indication that the patient was taking Lasix which was severely lowering his blood pressure and falsely elevating his blood studies.

23. Paragraph 55 is denied as stated. Dr. Shedlock's office instructed Mr. Timko that he should be evaluated at the emergency room. His office did so on both 7/30/01 and 7/31/01.

24. Paragraphs 58, 62, 67, 68 and 71 are denied. This defendant was not negligent and his conduct did not cause, contribute to or increase the likelihood of the claimed injuries or damages.

25. Paragraphs 60, 61 and 70 are mere conclusions of law to which no response is required.

26. Paragraph 64 pertains to another defendant and no response is required of this defendant. It is admitted that this defendant was employed at Tyrone Medical Associates, Inc. at the time. It is denied that this defendant was negligent or that his conduct caused, contributed to or increased the likelihood of the claimed injuries or damages.

27. Paragraph 65 pertains to another defendant and no response is required of this defendant. To the extent that a response is required, this defendant denies that he was negligent and denies that his conduct caused, contributed to or increased the likelihood of the claimed injuries or damages. Moreover, this defendant denies that he was an agent of Albert Tuono, D.O., P.C.

28. In response to paragraph 69, this defendant incorporates herein by reference those paragraphs of this Answer which are responsive to the paragraphs incorporated within paragraph 69.

WHEREFORE, this defendant denies liability to plaintiff and all others and demands judgment in his favor.

GACA MATIS BAUM & RIZZA

By: 

Bernard R. Rizza, Esquire
Attorneys for Anthony Shedlock, M.D.,
Defendant

26.27793

VERIFICATION

DO - AFS 12/26/04
I, Anthony Shedlock, ~~MD~~, have read the foregoing Answer. The statements therein are correct to the best of my personal knowledge or information and belief.

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

AFS Shedlock MD

Anthony Shedlock, ~~MD~~ DO

Date: 12/26/04

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that I served a true and correct copy of the foregoing Answer upon all counsel of record by United States, First-class mail, postage prepaid, this 17th day of March, 2004.

Craig E. Frischman, Esquire
Raizman & Frischman
7300 Penn Avenue
Pittsburgh, PA 15208

James R. Hartline, Esquire
Thomson Rhodes & Cowie, P.C.
Two Chatham Center, 10th Floor
Pittsburgh, PA 15219

GACA MATIS BAUM & RIZZA


Bernard R. Rizza, Esquire

FILED
NO
cc
m 11:20:20
MAR 15 2004
E
E

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CATHY TIMKO, Administratrix of the
Estate of Steve Timko, Jr., Deceased,

Plaintiff,

vs.

TYRONE MEDICAL ASSOCIATES,
INC., ALBERT TUANO M.D. P.C.,
ALBERT TUANO, D.O. and
ANTHONY SHEDLOCK, M.D.,

Defendants.

CIVIL DIVISION

No. 2003-01084-CD

Code:

Issue No:

**NOTICE OF SERVICE OF
INTERROGATORIES AND
REQUEST FOR PRODUCTION OF
DOCUMENTS**

Filed on behalf of Anthony Shedlock,
M.D., Defendant

Counsel of Record for This Party:

Bernard R. Rizza, Esquire
PA I.D. 41006

GACA MATIS BAUM & RIZZA
Firm #983
Four Gateway Center
444 Liberty Avenue, Suite 300
Pittsburgh, PA 15222

(412) 338-4750

JURY TRIAL DEMANDED

FILED

MAR 15 2004

William A. Shaw
Prothonotary/Clerk of Courts

NOTICE OF SERVICE OF INTERROGATORIES

TO: PROTHONOTARY OF CLEARFIELD COUNTY

Please take notice that on the 12th day of March, 2004, we served Interrogatories and Request for Production of Documents upon plaintiff's attorney, Craig E. Frischman, Esquire, Raizman & Frischman, 7300 Penn Avenue, Pittsburgh, PA 15208.

GACA MATIS BAUM & RIZZA

By: 

Bernard R. Rizza, Esquire
Attorneys for Anthony Shedlock, M.D.,
Defendant

William A. Shaw
Prothonotary/Clerk of Courts

FILED N.C.
MAR 15 2004
MAR 15 2004

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

CATHY L. TIMKO,
Executrix of the
Estate of
STEVE TIMKO, JR.,
Deceased,

Plaintiff,

vs.

TYRONE MEDICAL ASSOCIATES,
INC.; ALBERT TUONO, M.D., P.C.;
ALBERT TUONO, D.O.; and
ANTHONY SHEDLOCK, M.D.,

Defendants.

CIVIL DIVISION

NO: 2003-01084-CD

**PROOF OF SERVICE
AS TO TYRONE MEDICAL
ASSOCIATES, INC.**

Filed on behalf of Plaintiff

Counsel of Record for this Party:

Dorothy L. Raizman, Esquire
PA. I.D. No. 26561

Craig E. Frischman, Esquire
PA. I.D. No. 46603

RAIZMAN & FRISCHMAN, P.C.
Firm I.D. No. 376
7300 Penn Avenue
Pittsburgh, PA 15208
(412) 247-7300

JURY TRIAL DEMANDED

FILED

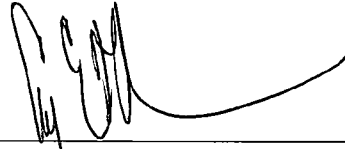
MAR 26 2004

William A. Shaw
Prothonotary/Clerk of Courts

2. By Return Receipt, it is indicated that Deb Delozier signed for and received the Complaint on March 1, 2004. A copy of said receipt is attached hereto as Exhibit "B."

Respectfully submitted,

RAIZMAN & FRISCHMAN, P.C.

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

Dorothy L. Raizman, Esquire
Craig E. Frischman, Esquire
7300 Penn Avenue
Pittsburgh, Pennsylvania 15208
(412) 247-7300

Attorneys for Plaintiff

JURY TRIAL DEMANDED

RAIZMAN & FRISCHMAN, P.C.

February 26, 2004

VIA CERTIFIED MAIL
RETURN RECEIPT REQUESTED

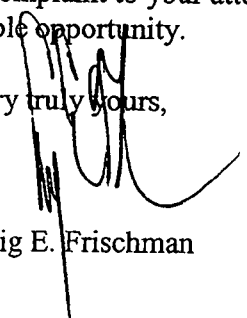
Tyrone Medical Associates, Inc.
Three Hospital Drive
Tyrone, Pennsylvania 16686

Re: Cathy Timko, Executrix of the Estate of Steve Timko, Jr.
Deceased v. Tyrone Medical Associates, Inc., et al.
No. 2003-01084-CD

To Whom It May Concern:

I am enclosing herewith a time and date stamped copy of a Complaint In A Civil Action which has been filed against you in the Court of Common Pleas of Clearfield County. Kindly forward the enclosed Complaint to your attorney and/or insurance company for handling at your first possible opportunity.

Very truly yours,


Craig E. Frischman

CEF:lk
Enclosure

<p>■ Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.</p> <p>■ Print your name and address on the reverse so that we can return the card to you.</p> <p>■ Attach this card to the back of the mailpiece, or on the front if space permits.</p>		<p>A. Signature <input checked="" type="checkbox"/> Deb Delezies <input type="checkbox"/> Agent <input type="checkbox"/> Addressee</p>	
<p>1. Article Addressed to:</p> <p>Tyrone Medical Assoc., Inc. Three Hospital Drive Tyrone, Pennsylvania 16686</p>		<p>B. Received by (Printed Name) _____</p> <p>C. Date of Delivery 3-1-64</p>	
<p>2. Article Number (Transfer from service label) 7003 0500 0004 6119 3571</p>		<p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No</p>	
<p>PS Form 3811, August 2001</p>		<p>Domestic Return Receipt</p>	
		<p>102595-02-M-1540</p>	

UNITED STATES POSTAL SERVICE



First-Class Mail
 Postage & Fees Paid
 USPS
 Permit No. G-10

• Sender: Please print your name, address, and ZIP+4 in this box •

RAIZMAN & FRISCHMAN, PC.
 7300 PENN AVENUE
 Pittsburgh, PA 15208

15208+2529



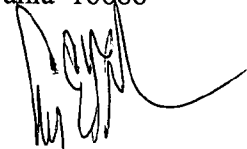
CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served by first class, United States mail, postage prepaid, this 24th day of March, 2004, upon the following:

Bernard R. Rizza, Esquire
GACA MATIS BAUM & RIZZA
Four Gateway Center
444 Liberty Avenue, Suite 300
Pittsburgh, Pennsylvania 15222

James R. Hartline, Esquire
THOMSON, RHODES & COWIE, P.C.
Two Chatham Center, 10th Floor
Pittsburgh, Pennsylvania 15219

TYRONE MEDICAL ASSOCIATES, INC.
Three Medical Drive
Tyrone, Pennsylvania 16686



FILED No
MAR 26 2004
MAR 26 2004

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

CATHY L. TIMKO,
Executrix of the
Estate of
STEVE TIMKO, JR.,
Deceased,

Plaintiff,

vs.

TYRONE MEDICAL ASSOCIATES,
INC.; ALBERT TUONO, D.O., P.C.;
ALBERT TUONO, D.O.; and
ANTHONY SHEDLOCK, D.O.,

Defendants.

JURY TRIAL DEMANDED

) CIVIL DIVISION

) NO. 2003-01084-CD

) **NOTICE OF SERVICE OF**
) **PLAINTIFF'S FIRST SET OF**
) **INTERROGATORIES AND**
) **REQUEST FOR PRODUCTION OF**
) **DOCUMENTS DIRECTED TO**
) **DEFENDANT ANTHONY**
) **SHEDLOCK, D.O.**

) Filed on behalf of Plaintiff

) Counsel of Record for this Party:

) Dorothy L. Raizman, Esquire
) PA. I.D. No. 26561

) Craig E. Frischman, Esquire
) PA. I.D. No. 46603

) **RAIZMAN & FRISCHMAN, P.C.**
) Firm No. 376
) 7300 Penn Avenue
) Pittsburgh, PA 15208
) (412) 247-7300

FILED

MAR 26 2004

William A. Shaw
Prothonotary/Clerk of Courts


NOTICE OF SERVICES OF INTERROGATORIES
AND REQUEST FOR PRODUCTION OF DOCUMENTS
DIRECTED TO DEFENDANT ANTHONY SHEDLOCK, D.O.

I hereby certify that pursuant to the Pennsylvania Rules of Civil Procedure and the applicable local rules as amended, the original of Plaintiffs' Interrogatories and Request for Production of Documents Directed to Defendant Anthony Shedlock, D.O., were delivered to counsel for Defendant by depositing same in the United States Mail, First Class, postage pre-paid on this 24th day of March, 2004, as follows:

Bernard R. Rizza, Esquire
GACA MATIS BAUM & RIZZA
Four Gateway Center
444 Liberty Avenue, Suite 300
Pittsburgh, PA 15222

James R. Hartline, Esquire
THOMSON, RHODES & COWIE, P.C.
Two Chatham Center, 10th Floor
Pittsburgh, PA 15219

TYRONE MEDICAL ASSOCIATES, INC.
Three Medical Drive
Tyrone, Pennsylvania 16686



CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing has been served by mailing a copy, United States Mail, first class, postage prepaid, this 24th of March, 2004, to the following:

Bernard R. Rizza, Esquire
GACA MATIS BAUM & RIZZA
Four Gateway Center
444 Liberty Avenue, Suite 300
Pittsburgh, PA 15222

James R. Hartline, Esquire
THOMSON, RHODES & COWIE, P.C.
Two Chatham Center, 10th Floor
Pittsburgh, PA 15219

TYRONE MEDICAL ASSOCIATES, INC.
Three Medical Drive
Tyrone, Pennsylvania 16686



A handwritten signature in black ink, appearing to be "RJR", is written above a horizontal line. A vertical line extends downwards from the center of the horizontal line.

FILED NO
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MAR 26 2004

William A. Snay,
Prothonotary/Clerk of Courts



IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

CATHY L. TIMKO,
Executrix of the
Estate of
STEVE TIMKO, JR.,
Deceased,

Plaintiff,

vs.

TYRONE MEDICAL ASSOCIATES,
INC.; ALBERT TUONO, D.O., P.C.;
ALBERT TUONO, D.O.; and
ANTHONY SHEDLOCK, D.O.,

Defendants.

JURY TRIAL DEMANDED

) CIVIL DIVISION

) NO. 2003-01084-CD

) NOTICE OF SERVICE OF
) PLAINTIFF'S FIRST SET OF
) INTERROGATORIES AND
) REQUEST FOR PRODUCTION OF
) DOCUMENTS DIRECTED TO
) DEFENDANT ALBERT
) TUONO, D.O., P.C.

) Filed on behalf of Plaintiff

) Counsel of Record for this Party:

) Dorothy L. Raizman, Esquire
) PA. I.D. No. 26561

) Craig E. Frischman, Esquire
) PA. I.D. No. 46603

) RAIZMAN & FRISCHMAN, P.C.
) Firm No. 376
) 7300 Penn Avenue
) Pittsburgh, PA 15208
) (412) 247-7300

FILED

MAR 26 2004

William A. Shaw
Prothonotary/Clerk of Courts

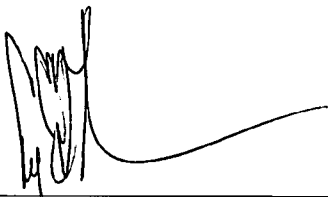
NOTICE OF SERVICES OF INTERROGATORIES
AND REQUEST FOR PRODUCTION OF DOCUMENTS
DIRECTED TO DEFENDANT ALBERT TUONO, D.O., P.C.

I hereby certify that pursuant to the Pennsylvania Rules of Civil Procedure and the applicable local rules as amended, the original of Plaintiffs' Interrogatories and Request for Production of Documents Directed to Defendant Albert Tuono, D.O., P.C., were delivered to counsel for Defendant by depositing same in the United States Mail, First Class, postage pre-paid on this 24th day of March, 2004, as follows:

Bernard R. Rizza, Esquire
GACA MATIS BAUM & RIZZA
300 Four PPG Place
Pittsburgh, PA 15222-5404

James R. Hartline, Esquire
THOMSON, RHODES & COWIE, P.C.
Two Chatham Center, 10th Floor
Pittsburgh, PA 15219

TYRONE MEDICAL ASSOCIATES, INC.
Three Medical Drive
Tyrone, Pennsylvania 16686




CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing has been served by mailing a copy, United States Mail, first class, postage prepaid, this 24th day of March, 2004, to the following:

Bernard R. Rizza, Esquire
GACA MATIS BAUM & RIZZA
300 Four PPG Place
Pittsburgh, PA 15222-5404

James R. Hartline, Esquire
THOMSON, RHODES & COWIE, P.C.
Two Chatham Center, 10th Floor
Pittsburgh, PA 15219

TYRONE MEDICAL ASSOCIATES, INC.
Three Medical Drive
Tyrone, Pennsylvania 16686



FILED

MAR 26 2004

William A. Shaw

Prothonotary/Clerk of Courts

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

CATHY L. TIMKO,
Executrix of the
Estate of
STEVE TIMKO, JR.,
Deceased,

Plaintiff,

vs.

TYRONE MEDICAL ASSOCIATES,
INC.; ALBERT TUONO, D.O., P.C.;
ALBERT TUONO, D.O.; and
ANTHONY SHEDLOCK, D.O.,

Defendants.

JURY TRIAL DEMANDED

) CIVIL DIVISION

) NO. 2003-01084-CD

) **NOTICE OF SERVICE OF**
) **PLAINTIFF'S FIRST SET OF**
) **INTERROGATORIES AND**
) **REQUEST FOR PRODUCTION OF**
) **DOCUMENTS DIRECTED TO**
) **DEFENDANT ALBERT**
) **TUONO, D.O.**

) Filed on behalf of Plaintiff

) Counsel of Record for this Party:

) Dorothy L. Raizman, Esquire
) PA. I.D. No. 26561

) Craig E. Frischman, Esquire
) PA. I.D. No. 46603

) **RAIZMAN & FRISCHMAN, P.C.**
) Firm No. 376
) 7300 Penn Avenue
) Pittsburgh, PA 15208
) (412) 247-7300

FILED

MAR 26 2004

William A. Shaw
Prothonotary/Clerk of Courts

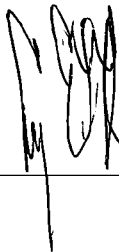
NOTICE OF SERVICES OF INTERROGATORIES
AND REQUEST FOR PRODUCTION OF DOCUMENTS
DIRECTED TO DEFENDANT ALBERT TUONO, D.O.

I hereby certify that pursuant to the Pennsylvania Rules of Civil Procedure and the applicable local rules as amended, the original of Plaintiffs' Interrogatories and Request for Production of Documents Directed to Defendant Albert Tuono, D.O., were delivered to counsel for Defendant by depositing same in the United States Mail, First Class, postage pre-paid on this 24th day of March, 2004, as follows:

Bernard R. Rizza, Esquire
GACA MATIS BAUM & RIZZA
Four Gateway Center
444 Liberty Avenue, Suite 300
Pittsburgh, PA 15222

James R. Hartline, Esquire
THOMSON, RHODES & COWIE, P.C.
Two Chatham Center, 10th Floor
Pittsburgh, PA 15219

TYRONE MEDICAL ASSOCIATES, INC.
Three Medical Drive
Tyrone, Pennsylvania 16686


A handwritten signature in black ink, appearing to be "BR Rizza", is written over a horizontal line.

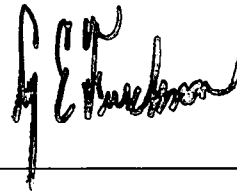
CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing has been served by mailing a copy, United States Mail, first class, postage prepaid, this 24th day of March, 2004, to the following:

Bernard R. Rizza, Esquire
GACA MATIS BAUM & RIZZA
Four Gateway Center
444 Liberty Avenue, Suite 300
Pittsburgh, PA 15222

James R. Hartline, Esquire
THOMSON, RHODES & COWIE, P.C.
Two Chatham Center, 10th Floor
Pittsburgh, PA 15219

TYRONE MEDICAL ASSOCIATES, INC.
Three Medical Drive
Tyrone, Pennsylvania 16686



I hereby certify that I have served
a copy of this paper upon all other
parties or their attorneys by:

☒ regular mail
☐ certified mail
☐ other

By: 

Attorney for Defendant,
Tyrone Medical Associates,
Inc.

MARGOLIS EDELSTEIN
BY: Paul F. Weisbein, Esquire
Identification No.: 72341
The Curtis Center, Fourth Floor
Independence Square West
Philadelphia, PA 19106-3304
(215) 922-1100

CATHY L. TIMKO, EXECUTRIX OF THE
ESTATE OF STEVE TIMKO, JR.,
DECEASED,

COURT OF COMMON PLEAS
CLEARFIELD COUNTY

PLAINTIFFS

NO. 2003-01084-CD

VS.

TYRONE MEDICAL ASSOCIATES, INC.;
ALBERT TUONO, D.O., P.C.; ALBERT
TUONO, D.O.; AND ANTHONY SHEDLOCK,
D.O.

DEFENDANTS

ENTRY OF APPEARANCE
AND JURY TRIAL DEMAND

TO THE PROTHONOTARY

Please enter our appearance on behalf of the Defendant,
Tyrone Medical Associates, Inc., in the above captioned case.

Defendant, Tyrone Medical Associates, Inc., demands a
jury trial in the above case. Jury of twelve, with alternates
demanded.

MARGOLIS EDELSTEIN

FILED

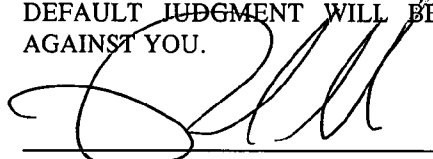
APR 05 2004

William A. Shaw
Prothonotary/Clerk of Courts

BY: 

PAUL F. WEISBEIN, ESQUIRE
Attorney for Defendant, Tyrone
Medical Associates, Inc.

TO PLAINTIFF: YOU ARE HEREBY NOTIFIED
TO PLEAD TO THE ENCLOSED NEW MATTER
WITHIN 20 DAYS OF SERVICE HEREOF, OR A
DEFAULT JUDGMENT WILL BE ENTERED
AGAINST YOU.



Attorneys for Defendant
Tyrone Medical Associates, Inc.

MARGOLIS EDELSTEIN
By: Paul F. Weisbein, Esquire
Identification No. 72341
The Curtis Center - Fourth Floor
Independence Square West
Philadelphia, PA 19106-3304
Telephone: (215) 922-1100

FILED

MAY 19 2004

William A. Shaw
Prothonotary/Clerk of Courts

CATHY L. TIMKO, Executrix of the	:	COURT OF COMMON PLEAS
Estate of Steve Timko, Jr., Deceased	:	CLEARFIELD COUNTY
	:	
v.	:	CIVIL DIVISION
	:	
TYRONE MEDICAL ASSOCIATES, INC.,	:	
ALBERT TUONO, M.D., P.C., ALBERT	:	NO. 2003-01084-CD
TUONO, D.O. and ANTHONY	:	
SHEDLOCK, M.D.	:	

**ANSWER OF DEFENDANT TYRONE MEDICAL ASSOCIATES, INC.
TO PLAINTIFF'S COMPLAINT WITH NEW MATTER**

Tyrone Medical Associates, P.C., incorrectly identified as Tyrone Medical Associates, Inc., through their undersigned attorneys, hereby responds to Plaintiff's Complaint as follows:

1. Denied. After reasonable investigation, Answering Defendant is without knowledge or information sufficient to form a belief as to the truth of the averments in this paragraph and therefore they are denied.

2. Admitted in part, denied in part. It is admitted that Answering Defendant Tyrone Medical Associates, P.C. is a corporation existing under the laws of the Commonwealth of Pennsylvania with its principal place of business in Tyrone, Clearfield County, Pennsylvania. By

way of further response, all allegations regarding treatment of patients through its employees are denied as no specific patient or employee of Answering Defendant has been identified.

3. The averments in this paragraph are directed to another party and therefore Answering Defendant need not respond.

4. The averments in this paragraph are directed to another party and therefore Answering Defendant need not respond.

5. The averments in this paragraph are directed to another party and therefore Answering Defendant need not respond.

6. Denied. The averments in this paragraph are conclusions of law to which no response is required. By way of further response, Answering Defendant denies all allegations of negligence and carelessness. By way of further response, Answering Defendant denies all allegations of agency, servitude and employment as no specific agent, servant or employee of Answering Defendant has been identified.

7. Denied. The averments in this paragraph are directed to another party and therefore Answering Defendant need not respond.

8. Denied. The averments in this paragraph are directed to another party and therefore Answering Defendant need not respond.

9. Denied. The averments in this paragraph are directed to another party and therefore Answering Defendant need not respond.

10. Denied. The averments in this paragraph are directed to another party and therefore Answering Defendant need not respond.

11. Denied. The averments in this paragraph are directed to another party and therefore Answering Defendant need not respond. To the extent that a response is required, after reasonable investigation, Answering Defendant is without knowledge or information sufficient to form a belief as to the truth of the averments in this paragraph and therefore they are denied.

12. Denied. The averments in this paragraph are directed to another party and therefore Answering Defendant need not respond.

13. Denied. After reasonable investigation, Answering Defendant is without knowledge or information sufficient to form a belief as to the truth of the averments in this paragraph and therefore they are denied.

14. Denied. The averments in this paragraph are directed to another party and therefore Answering Defendant need not respond.

15. Denied. The averments in this paragraph are directed to another party and therefore Answering Defendant need not respond. To the extent that a response is required, after reasonable investigation, Answering Defendant is without knowledge or information sufficient to form a belief as to the truth of the averments in this paragraph and therefore they are denied.

16. Denied. The averments in this paragraph are directed to another party and therefore Answering Defendant need not respond.

17. Denied. The averments in this paragraph are directed to another party and therefore Answering Defendant need not respond.

18. Denied. The averments in this paragraph are directed to another party and therefore Answering Defendant need not respond.

19. Denied. The averments in this paragraph are directed to another party and therefore Answering Defendant need not respond. To the extent that a response is required, after reasonable investigation, Answering Defendant is without knowledge or information sufficient to form a belief as to the truth of the averments in this paragraph and therefore they are denied.

20. Denied. The averments in this paragraph are directed to another party and therefore Answering Defendant need not respond.

21. Denied. The averments in this paragraph are directed to another party and therefore Answering Defendant need not respond.

22. Denied. The averments in this paragraph are directed to another party and therefore Answering Defendant need not respond.

23. Denied. After reasonable investigation, Answering Defendant is without knowledge or information sufficient to form a belief as to the truth of the averments in this paragraph and therefore they are denied.

24. Denied. After reasonable investigation, Answering Defendant is without knowledge or information sufficient to form a belief as to the truth of the averments in this paragraph and therefore they are denied.

25. Denied. After reasonable investigation, Answering Defendant is without knowledge or information sufficient to form a belief as to the truth of the averments in this paragraph and therefore they are denied.

26. Denied. The averments in this paragraph are directed to another party and therefore Answering Defendant need not respond.

27. Denied. The averments in this paragraph are directed to another party and therefore Answering Defendant need not respond.

28. Denied. The averments in this paragraph are directed to another party and therefore Answering Defendant need not respond.

29. Denied. After reasonable investigation, Answering Defendant is without knowledge or information sufficient to form a belief as to the truth of the averments in this paragraph and therefore they are denied.

30. Denied. The averments in this paragraph are directed to another party and therefore Answering Defendant need not respond.

31. Denied. The averments in this paragraph are directed to another party and therefore Answering Defendant need not respond.

32. Denied. After reasonable investigation, Answering Defendant is without knowledge or information sufficient to form a belief as to the truth of the averments in this paragraph and therefore they are denied.

33. Denied. The averments in this paragraph are directed to another party and therefore Answering Defendant need not respond.

34. Denied. After reasonable investigation, Answering Defendant is without knowledge or information sufficient to form a belief as to the truth of the averments in this paragraph and therefore they are denied.

35. Denied. After reasonable investigation, Answering Defendant is without knowledge or information sufficient to form a belief as to the truth of the averments in this paragraph and therefore they are denied.

36. Denied. The averments in this paragraph are directed to another party and therefore Answering Defendant need not respond.

37. Denied. After reasonable investigation, Answering Defendant is without knowledge or information sufficient to form a belief as to the truth of the averments in this paragraph and therefore they are denied.

38. Denied. The averments in this paragraph are directed to another party and therefore Answering Defendant need not respond.

39. Denied. The averments in this paragraph are directed to another party and therefore Answering Defendant need not respond.

40. Denied. The averments in this paragraph are directed to another party and therefore Answering Defendant need not respond.

41. Denied. After reasonable investigation, Answering Defendant is without knowledge or information sufficient to form a belief as to the truth of the averments in this paragraph and therefore they are denied.

42. Denied. The averments in this paragraph are directed to another party and therefore Answering Defendant need not respond.

43. Denied. The averments in this paragraph are directed to another party and therefore Answering Defendant need not respond.

44. Admitted in part, denied in part. It is admitted that Answering Defendant Tyrone Medical Associates, P.C. is a corporation existing under the laws of the Commonwealth of Pennsylvania with its principal place of business in Tyrone, Clearfield County, Pennsylvania. By

way of further response, all allegations regarding treatment of patients through its employees are denied as no specific patient or employee of Answering Defendant has been identified.

45. The averments in this paragraph are directed to another party and therefore Answering Defendant need not respond.

46. The averments in this paragraph are directed to another party and therefore Answering Defendant need not respond.

47. The averments in this paragraph are directed to another party and therefore Answering Defendant need not respond.

48. The averments in this paragraph are directed to another party and therefore Answering Defendant need not respond.

49. The averments in this paragraph are directed to another party and therefore Answering Defendant need not respond.

50. The averments in this paragraph are directed to another party and therefore Answering Defendant need not respond.

51. The averments in this paragraph are directed to another party and therefore Answering Defendant need not respond.

52. The averments in this paragraph are directed to another party and therefore Answering Defendant need not respond.

53. The averments in this paragraph are directed to another party and therefore Answering Defendant need not respond.

54. The averments in this paragraph are directed to another party and therefore Answering Defendant need not respond.

55. The averments in this paragraph are directed to another party and therefore Answering Defendant need not respond.

56. Denied. After reasonable investigation, Answering Defendant is without knowledge or information sufficient to form a belief as to the truth of the averments in this paragraph and therefore they are denied.

57. Denied. After reasonable investigation, Answering Defendant is without knowledge or information sufficient to form a belief as to the truth of the averments in this paragraph and therefore they are denied.

58. Denied. Answering Defendant denies all allegations of negligence and carelessness. By way of further response, Answering Defendant denies all allegations of agency, servitude and employment as no specific agent, servant or employee of Answering Defendant has been identified. As to the remaining averments of this paragraph, after reasonable investigation, Answering Defendant is without knowledge or information sufficient to form a belief as to the truth of the averments in this paragraph and therefore they are denied.

59. Admitted in part, denied in part. It is admitted that Defendant Tuono was an employee of Answering Defendant as of February 2002. As to the remaining averments of this paragraph, they are conclusions of law to which no response is required.

60. Admitted in part, denied in part. It is admitted that Defendant Shedlock was an employee of Answering Defendant as of December 2002. As to the remaining averments of this paragraph, they are conclusions of law to which no response is required.

61. Denied. All allegations of agency, servitude or employment are denied as no specific agent, servant or employee of Answering Defendant has been identified. As to the

remaining averments of this paragraph, they are conclusions of law to which no response is required.

62. Denied. The averments in this paragraph are directed to another party and therefore Answering Defendant need not respond.

63. Denied. The averments in this paragraph are directed to another party and therefore Answering Defendant need not respond.

64. Denied.

65. Denied. The averments in this paragraph are directed to another party and therefore Answering Defendant need not respond.

66. Denied. After reasonable investigation, Answering Defendant is without knowledge or information sufficient to form a belief as to the truth of the averments in this paragraph and therefore they are denied.

67. Denied. After reasonable investigation, Answering Defendant is without knowledge or information sufficient to form a belief as to the truth of the averments in this paragraph and therefore they are denied.

68. Denied. After reasonable investigation, Answering Defendant is without knowledge or information sufficient to form a belief as to the truth of the averments in this paragraph and therefore they are denied.

WHEREFORE, Answering Defendant demands that Plaintiff's Complaint be dismissed with prejudice and judgment entered in its favor together with interest and the costs of defending this action and whatever further relief this Court deems just.

SECOND COUNT

69. Answering Defendant hereby incorporates by reference its answers to ¶¶ 1-68 of Plaintiffs' Complaint as if fully set forth herein at length.

70. Denied. The averments in this paragraph are conclusions of law to which no response is required.

71. Denied. The averments in this paragraph are conclusions of law to which no response is required.

WHEREFORE, Answering Defendant demands that Plaintiff's Complaint be dismissed with prejudice and judgment entered in its favor together with interest and the costs of defending this action and whatever further relief this Court deems just.

NEW MATTER

72. Answering Defendant hereby incorporates by reference its answers to ¶¶ 1-71 of Plaintiffs' Complaint as if fully set forth herein at length.

73. Plaintiff's Complaint against Answering Defendant is barred in whole or in part by the applicable statute of limitations and the doctrine of laches.

74. The defenses of assumption of the risk, comparative negligence and contributory negligence are raised and preserved under and pursuant to Pa. R.C.P. 1030(b).

75. The Plaintiff has failed to state a cause of action upon which relief can be granted.

76. Answering Defendant was not negligent and acted within the appropriate standard of care.

77. Any acts or omissions of Answering Defendant alleged to constitute negligence were not substantial factors in the injuries and losses alleged.

78. The acts or omissions of other individuals constituted actual, intervening or superseding causes of the injuries and losses alleged.

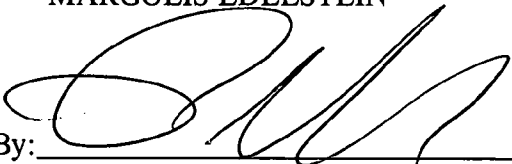
79. Plaintiff may have already entered into a release with other entities which has the effect of discharging or reducing the liability of Answering Defendant.

80. Any award given to Plaintiff shall be offset by any public collateral source of compensation or benefits pursuant to Section 602 of the Health Care Services Malpractice Act.

81. Section 606 of the Health Care Services Malpractice Act provides that, in the absence of a special contract in writing, a health care provider is neither a warrantor nor a guarantor of a cure, and such provision bars the claims of Plaintiff in this case.

WHEREFORE, Answering Defendant demands that Plaintiff's Complaint be dismissed with prejudice and judgment entered in its favor together with interest and the costs of defending this action and whatever further relief this Court deems just.


MARGOLIS EDELSTEIN

By: 

PAUL F. WEISBEIN, ESQUIRE
Attorney for Defendant
Tyrone Medical Associates, Inc.

VERIFICATION

I, Michael Halter, D.O., on behalf of Defendant Tyrone Medical Associates, P.C., hereby state that I am authorized to make this Verification on its behalf, and verify that the statements made in the foregoing Answer to Plaintiff's Complaint with New Matter are true and correct to the best of my knowledge, information and belief. This statement is made subject to the penalties of 18 Pa. C.S. §4904 relating to unsworn falsification to authorities.



MICHAEL HALTER, D.O.
on behalf of Defendant Tyrone
Medical Associates, P.C.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on May 14, 2004, a true and correct copy of the foregoing Answer of Defendant Tyrone Medical Associates, Inc. to Plaintiff's Complaint With New Matter was served via U.S. First Class mail, postage pre-paid, upon the following:

Craig E. Frischman, Esquire
RAIZMAN & FRISCHMAN, P.C.
7300 Penn Avenue
Pittsburgh, PA 15208

Bernard R. Rizza, Esquire
GACE, MATIS, BAUM & RIZZA, P.C.
444 Liberty Avenue #300
Pittsburgh, PA 15222-1220

James R. Hartline, Esquire
THOMSON, RHODES & COWIE, P.C.
Two Chatham Center, 10th Floor
Pittsburgh, PA 15219

MARGOLIS EDELSTEIN

By: 

PAUL F. WEISBEIN, ESQUIRE
Attorney for Defendant
Tyrone Medical Associates, Inc.

FILED ^{1cc}
m/3:04 ~~at~~ ^{cc} Atty Weisbein
MAY 19 2004 ^{cc}
William A. Shaw
Prothonotary/Clerk of Courts

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

CATHY L. TIMKO,
Executrix of the
Estate of
STEVE TIMKO, JR.,
Deceased,

Plaintiff,

vs.

TYRONE MEDICAL ASSOCIATES,
INC.; ALBERT TUONO, D.O., P.C.;
ALBERT TUONO, D.O.; and
ANTHONY SHEDLOCK, D.O.,

Defendants.

CIVIL DIVISION

NO. 2003-01084-CD

**NOTICE OF SERVICE OF
PLAINTIFF'S FIRST SET OF
INTERROGATORIES AND
REQUEST FOR PRODUCTION
OF DOCUMENTS DIRECTED TO
DEFENDANT TYRONE MEDICAL
ASSOCIATES, INC.**

Filed on behalf of: Plaintiff

Counsel of Record for this Party:

Dorothy L. Raizman, Esquire
PA. I.D. No. 26561

Craig E. Frischman, Esquire
PA. I.D. No. 46603

RAIZMAN & FRISCHMAN, P.C.
Firm No. 376
7300 Penn Avenue
Pittsburgh, PA 15208
(412) 247-7300

JURY TRIAL DEMANDED

FILED

MAY 19 2004

William A. Shaw
Prothonotary/Clerk of Courts

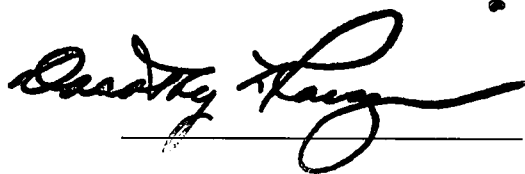
NOTICE OF SERVICE OF INTERROGATORIES
AND REQUEST FOR PRODUCTION OF DOCUMENTS
DIRECTED TO DEFENDANT TYRONE MEDICAL ASSOCIATES, INC.

I hereby certify that pursuant to the Pennsylvania Rules of Civil Procedure and the applicable local rules as amended, the original of Plaintiffs' Interrogatories and Request for Production of Documents Directed to Defendant Tyrone Medical Associates, Inc., were delivered to counsel for Defendant by depositing same in the United States Mail, First Class, postage pre-paid on this 18th day of May, 2004, as follows:

Bernard R. Rizza, Esquire
GACA MATIS BAUM & RIZZA
300 Four PPG Place
Pittsburgh, PA 15222-5404

James R. Hartline, Esquire
THOMSON, RHODES & COWIE, P.C.
Two Chatham Center, 10th Floor
Pittsburgh, PA 15219

Paul Weisbein, Esquire
MARGOLIS EDELSTEIN
Curtis Center
601 Walnut Street
Philadelphia, Pennsylvania 19106



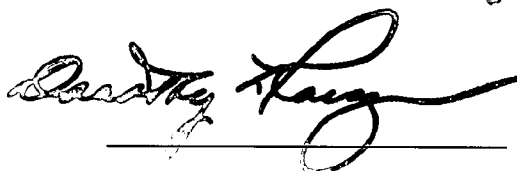
CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing has been served by mailing a copy, United States Mail, first class, postage prepaid, this 18th day of May, 2004, to the following:

Bernard R. Rizza, Esquire
GACA MATIS BAUM & RIZZA
Four Gateway Center
444 Liberty Avenue
Pittsburgh, PA 15222

James R. Hartline, Esquire
THOMSON, RHODES & COWIE, P.C.
Two Chatham Center, 10th Floor
Pittsburgh, PA 15219

Paul Weisbein, Esquire
MARGOLIS EDELSTEIN
Curtis Center
601 Walnut Street
Philadelphia, PA 19106



A handwritten signature in cursive script, appearing to read "Dorothy Hargis", is written over a horizontal line.

FILED
MAY 19 2004
William A. Shaw
Prothonotary/Clerk of Courts

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

CATHY L. TIMKO,
Executrix of the
Estate of
STEVE TIMKO, JR.,
Deceased,

Plaintiff,

vs.

TYRONE MEDICAL ASSOCIATES,
INC.; ALBERT TUONO, D.O., P.C.;
ALBERT TUONO, D.O.; and
ANTHONY SHEDLOCK, D.O.,

Defendants.

CIVIL DIVISION

NO. 2003-01084-CD

**PLAINTIFF'S ANSWER
TO DEFENDANT TYRONE
MEDICAL ASSOCIATES, INC.'S
NEW MATTER**

Filed on behalf of Plaintiff

Counsel of Record for this Party

Dorothy L. Raizman, Esquire
PA. I.D. No. 26561

Craig E. Frischman, Esquire
PA. I.D. No. 46603

RAIZMAN & FRISCHMAN, P.C.
Firm No. 376
7300 Penn Avenue
Pittsburgh, PA 15208
(412) 247-7300

JURY TRIAL DEMANDED

FILED

MAY 26 2004

William A. Shaw
Prothonotary/Clerk of Courts

CATHY L. TIMKO,
Executrix of the
Estate of
STEVE TIMKO, JR.,
Deceased,

Plaintiff,

vs.

TYRONE MEDICAL ASSOCIATES,
INC.; ALBERT TUONO, D.O., P.C.;
ALBERT TUONO, D.O.; and
ANTHONY SHEDLOCK, D.O.,

Defendants.

73. Plaintiff has been advised and is of the belief that this paragraph states a conclusion of law to which no responsive pleading is required.

74. Plaintiff has been advised and is of the belief that this paragraph states a conclusion of law to which no responsive pleading is required.

75. Plaintiff has been advised and is of the belief that this paragraph states a conclusion of law to which no responsive pleading is required.

76. Plaintiff has been advised and is of the belief that this paragraph states a conclusion of law to which no responsive pleading is required.

77. Plaintiff has been advised and is of the belief that this paragraph states a conclusion of law to which no responsive pleading is required.

78. Plaintiff has been advised and is of the belief that this paragraph states a conclusion of law to which no responsive pleading is required.

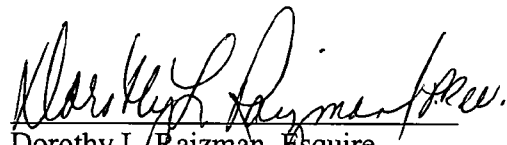
79. Plaintiff has been advised and is of the belief that this paragraph states a conclusion of law to which no responsive pleading is required.

80. Plaintiff has been advised and is of the belief that this paragraph states a conclusion of law to which no responsive pleading is required.

81. Plaintiff has been advised and is of the belief that this paragraph states a conclusion of law to which no responsive pleading is required.

WHEREFORE, Plaintiff respectfully requests that Defendant's New Matter be stricken and judgment entered on behalf of Plaintiff.

RAIZMAN & FRISCHMAN, P.C.



Dorothy L. Raizman, Esquire
Craig E. Frischman, Esquire
7300 Penn Avenue
Pittsburgh, Pennsylvania 15208
(412) 247-7300

JURY TRIAL DEMANDED

Attorneys for Plaintiff

VERIFICATION

I, Cathy L. Timko, Executrix of the Estate of Steve Timko, Jr., Deceased, have read the foregoing. The averments contained therein are, insofar as they are derived from my own knowledge, true and correct to the best of my knowledge, information and belief, and insofar as they are derived from others, such facts are believed to be true and correct.

This statement and verification is made subject to the penalties of 18 Pa.C.S.A. Section 4904, relating to unsworn falsification to authorities, which statute provides that false statements are subject to criminal penalties.

Cathy L. Timko
Cathy L. Timko, Executrix of the Estate of
Steve Timko, Jr., Deceased

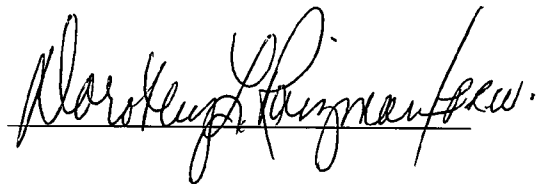
CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing has been served by mailing a copy, United States Mail, first class, postage prepaid, this 25th day of May, 2004, to the following:

Bernard R. Rizza, Esquire
GACA MATIS BAUM & RIZZA
Four Gateway Center
444 Liberty Avenue, Suite 300
Pittsburgh, PA 15222

James R. Hartline, Esquire
THOMSON, RHODES & COWIE, P.C.
Two Chatham Center, 10th Floor
Pittsburgh, PA 15219

Paul Weisbein, Esquire
MARGOLIS EDELSTEIN
The Curtis Center – Fourth Floor
Independence Square West
Philadelphia, Pennsylvania 19106-3304

A handwritten signature in black ink, appearing to read "Mark R. Rizza", is written over a horizontal line.

FILED

MAY 11 2004

MAY 26 2004

William A. Shaw

Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CATHY TIMKO, Administratrix of the
Estate of Steve Timko, Jr., Deceased,

Plaintiff,

vs.

TYRONE MEDICAL ASSOCIATES,
INC., ALBERT TUANO M.D. P.C.,
ALBERT TUANO, D.O. and
ANTHONY SHEDLOCK, M.D.,

Defendants.

CIVIL DIVISION

No. 2003-01084-CD

Code:

Issue No:

NOTICE OF SERVICE OF ANSWERS
TO INTERROGATORIES

Filed on behalf of Anthony Shedlock,
D.O., Defendant

Counsel of Record for This Party:

Bernard R. Rizza, Esquire
PA I.D. 41006

Shannon Domeier Sumerlin, Esquire
PA I.D. #90879

GACA MATIS BAUM & RIZZA
Firm #983
Four Gateway Center
444 Liberty Avenue, Suite 300
Pittsburgh, PA 15222

(412) 338-4750

JURY TRIAL DEMANDED

FILED No
m 11:09 AM cc
AUG 12 2004
William A. Shaw
Prothonotary/Clerk of Courts

Bernard R. Rizza, Esquire
Shannon D. Sumerlin, Esquire
Attorneys for Anthony Shedlock, D.O.,
Defendant

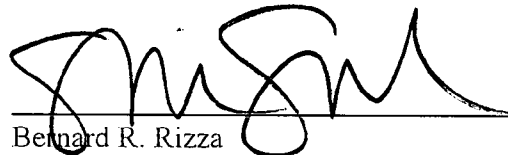
CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that I served a true and correct copy of the foregoing Notice of Service of Answers to Interrogatories upon all counsel of record by United States, First-class mail, postage prepaid, this 10th day of August, 2004.

Craig E. Frischman, Esquire
Raizman & Frischman
7300 Penn Avenue
Pittsburgh, PA 15208

James R. Hartline, Esquire
Thomson Rhodes & Cowie, P.C.
Two Chatham Center, 10th Floor
Pittsburgh, PA 15219

GACA MATIS BAUM & RIZZA

A handwritten signature in black ink, appearing to read "Bernard R. Rizza", is written over a horizontal line.

Bernard R. Rizza
Shannon D. Sumerlin

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

CATHY L. TIMKO, Executrix of the
Estate of STEVE TIMKO, JR.,
Deceased,

Plaintiff,

vs.

TYRONE MEDICAL ASSOCIATES,
INC.; ALBERT TUONO, D.O., P.C.;
ALBERT TUONO, D.O.; and
ANTHONY SHEDLOCK, D.O.,

Defendants.

CIVIL DIVISION

No. 2003-01084-CD

**CERTIFICATE OF
READINESS**

Filed on behalf of Plaintiff

Counsel of Record for
this Party

Dorothy L. Raizman, Esquire
Pa. I.D. No. 26561

Craig E. Frischman, Esquire
Pa. I.D. No. 46603

RAIZMAN & FRISCHMAN, P.C.
Firm I.D. No. 376
7300 Penn Avenue
Pittsburgh, Pennsylvania 15208
(412) 247-7300

JURY TRIAL DEMANDED

FILED ^{NO}CC
m/2:378/ (60)
JAN 05 2006

William A. Shaw
Prothonotary/Clerk of Courts

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

CATHY L. TIMKO, Executrix of the
Estate of STEVE TIMKO, JR.,
Deceased,

Plaintiff,

vs.

TYRONE MEDICAL ASSOCIATES,
INC.; ALBERT TUONO, D.O., P.C.;
ALBERT TUONO, D.O.; and
ANTHONY SHEDLOCK, D.O.,

Defendants.

CIVIL DIVISION

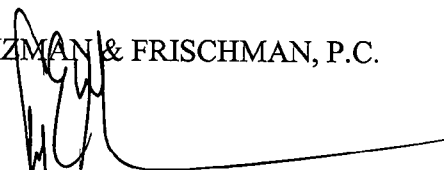
No. 2003-01084-CD

CERTIFICATE OF READINESS

We the undersigned, counsel for the specified parties in the above-captioned case,
hereby certify that:

1. The above-captioned action is ready for trial;
2. There are no outstanding motions;
3. All discovery has been completed;
4. A Jury Trial is requested; and
5. Notice of the Certificate of Readiness has been provided to all counsel of record.

RAIZMAN & FRISCHMAN, P.C.



Dorothy L. Raizman, Esquire
Craig E. Frischman, Esquire
7300 Penn Avenue
Pittsburgh, Pennsylvania 15208
(412) 247-7300

JURY TRIAL DEMANDED

Attorneys for Plaintiff


CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served by first class, United States mail, postage prepaid, this 4th day of January, 2006, upon the following:

Bernard R. Rizza, Esquire
GACA MATIS BAUM & RIZZA
Four Gateway Center
444 Liberty Avenue, Suite 300
Pittsburgh, PA 15222

James R. Hartline, Esquire
THOMSON, RHODES & COWIE, P.C.
Two Chatham Center, 10th Floor
Pittsburgh, PA 15219

Paul Weisbein, Esquire
MARGOLIS EDELSTEIN
The Curtis Center – Fourth Floor
Independence Square West
Philadelphia, Pennsylvania 19106-3304



FILED

JAN 05 2006

William A. Shaw
Prothonotary/Clerk of Courts

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) 316-8652

E-mail: apk@trc-law.com

Adam P. Knor

April 13, 2006

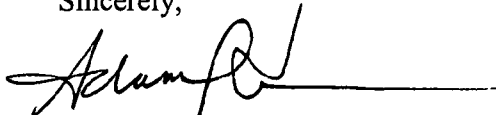
Cathy Timko, Administratrix of the Estate of Steve Timko, Jr., Deceased vs. Tyrone Medical Associates, Inc., Albert Tuano, D.O., P.C.; Albert Tuano, D.O. and Anthony Shedlock, M.D. In the Court of Common Pleas of Clearfield County, Pennsylvania, Civil Action. No. 2003-01084-CD. Our File No. 13360.

David S. Meholick, Court Administrator
Clearfield County Courthouse
230 E. Market Street
Clearfield, PA 16830

Dear Mr. Meholick:

Enclosed please find the original Pretrial Memorandum in the above-referenced matter, copies of which have been served on all counsel of record.

Sincerely,



Adam P. Knor

APK:tmb
Enclosure

cc: Craig E. Frischman, Esquire
Bernard R. Rizza, Esquire
Paul F. Weisbein, Esquire

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RECEIVED

APR 17 2006

CLEARFIELD COUNTY
COURT ADMINISTRATOR'S
OFFICE

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

CATHY TIMKO, Administratrix of the
Estate of Steve Timko, Jr., Deceased,

Plaintiff,

vs.

TYRONE MEDICAL ASSOCIATES,
INC., ALBERT TUONO, D.O., P.C.;
ALBERT TUONO, D.O.; and
ANTHONY SHEDLOCK, M.D.,

Defendants

CIVIL DIVISION

No. 2003-01084-CD

Issue No.

PRETRIAL MEMORANDUM

Code:

Filed on behalf of defendants Albert Tuono,
D.O. and Albert Tuono, D.O., P.C.

Counsel of Record for this Party:

James R. Hartline, Esquire
PA I.D. #21299

Thomson, Rhodes & Cowie, P.C.
Firm #720
1010 Two Chatham Center
Pittsburgh, PA 15219

(412) 232-3400

RECEIVED

APR 17 2006

**CLERK ADMINISTRATOR'S
OFFICE**

PRETRIAL MEMORANDUM

NOW COME Albert Tuono, D.O. and Albert Tuono, D.O., P.C., two of the defendants, by their attorneys, Thomson, Rhodes & Cowie, P.C., and file the following pretrial memorandum, averring as follows:

I. FACTUAL STATEMENT & THEORY OF DEFENSE

Decedent, Steven Timko, Jr., age 63, was referred to Dr. Albert Tuono by his primary care physician, Dr. Anthony Shedlock, on May 17, 2001, with symptoms of anemia and positive occult blood stool. Decedent's significant medical history included ulcerated colitis and colon polyps for which he had undergone a near total colectomy in 1985. At the time of Dr. Tuono's initial examination, decedent's hemoglobin and hematocrit were 6.6 and 21.1, respectively. Dr. Tuono immediately scheduled decedent for a colonoscopy and ERGD with biopsies, procedures that were performed at Tyrone Hospital on May 31, 2001. The studies revealed the presence of peptic ulcer disease, a large rectal mass occluding 40% of the rectal lumen, and a mass in the duodenum. Biopsies of the rectal mass led to the conclusion that it was a tubulo villous adenoma. A CT scan of the abdomen and pelvis also revealed mural thickening of the sigmoid colon and rectum. Decedent was next examined by Dr. Tuono on June 6, 2001. Dr. Tuono planned to obtain an MRI of decedent's chest, abdomen and pelvis, as well as HIDA scan and tumor markers. The MRI was obtained on June 28, 2001. This study indicated thickening of the left lateral wall of the rectum. It also indicated that the rectal mass could not be excluded.

On July 18, 2001, decedent was hospitalized at Tyrone Hospital by Dr. Shedlock for extreme anemia. Dr. Tuono was consulted on July 19, 2001, and he again noted the presence of a large rectal mass and severe anemia. Dr. Tuono recommended a transfusion, tumor markers, and HIDA scan. He also noted that surgery would be performed on the rectal mass after full cardiac and pulmonary evaluations had cleared the decedent for surgery. Decedent was examined by both a cardiologist and

a pulmonologist and was cleared for surgery. However, Dr. Zufair Afaneh, who was covering for the vacationing Dr. Shedlock, requested a cardiac stress test prior to surgery and the procedure was postponed. Later, it was decided that the cardiac stress test was unnecessary, and decedent was discharged on 7/23/01. Surgery was rescheduled for July 30, 2001.

On the day of the rescheduled surgery, July 30, 2001, decedent's wife called Dr. Shedlock's office and reported that decedent was suffering from dizziness, weakness, and leg pain. Decedent was instructed to go to the Tyrone Hospital Emergency Room for evaluation and blood work. He refused. Alternatively, an order was faxed for a CBC and diff, and Tyrone Hospital lab reports indicate decedent's H&H was 9.9/30.1. At 1:00 a.m. on August 1, 2001, decedent awoke in acute respiratory distress. At 4:45 a.m., he asked his wife to call for an ambulance. Before paramedics arrived, decedent went into cardiac arrest. CPR was initiated by the paramedics and was continued at the hospital until 6:01 a.m., when decedent expired. No autopsy was performed.

In order to establish a *prima facie* case of medical malpractice, the plaintiff must prove that 1) the medical practitioner owed a duty to the plaintiff; 2) the practitioner breached that duty; 3) the breach was the proximate cause of, or a substantial factor in, bringing about the harm the plaintiff suffered; and 4) the damages suffered were the direct result of the harm. *Greenbaum v. Carrozza* 866 A.2d 369 (Pa. Super. 2004) citing *Montgomery v. South Philadelphia Medical Group*, 656 A.2d 1385, 1390 (Pa. Super. 1995) (citing *Mitzelfelt v. Kamrin*, 584 A.2d 888, 891 (Pa. 1990)). If the circumstances surrounding a claim of malpractice are beyond the knowledge of the average lay person, the plaintiff must present an expert to testify that the conduct of the practitioner deviated from "good and acceptable medical standards, and that such deviation was a substantial factor in causing the harm suffered." *Id.*

Plaintiffs allege that Dr. Tuono negligently failed to properly evaluate the decedent and perform surgery for gastrointestinal bleeding. It is also alleged that Dr. Tuono unilaterally cancelled the surgery scheduled for 7/23/01 and failed to properly address the decedent's severe anemia. On the contrary, Dr. Tuono will prove that his care of decedent was well within the accepted standards of medical care. Consequently, defendants are not liable for decedent's death. *Id.* See also 40 P.S. § 1301.101 *et seq.* Dr. Tuono appropriately diagnosed decedent's affliction and initiated the appropriate workup. He ordered appropriate preoperative evaluations. When decedent started to develop problems on July 30, 2001, he refused to go to the hospital for evaluation.

Dr. Tuono will also show that the medical records fail to support allegations that decedent died as a result of "severe blood loss and hemorrhage," and that his blood supply was inadequate to sustain his respiratory and cardiac function. Dr. Tuono will show that there is no evidence of any bleeding during decedent's last three days. In fact, Dr. Tuono will show that the H&H taken on July 30, 2001 recorded the highest blood count decedent had registered in over a year. Dr. Tuono will further show that allegations that decedent needed immediate surgery are also unfounded. There is no evidence that decedent had massive bleeding or hypovolemia, nor is there any evidence that decedent's death was secondary to anemia or active bleeding. Decedent's symptoms and sudden onset of PEA are more consistent with a diagnosis of pulmonary embolism than with myocardial hypoperfusion. If decedent had gone to the hospital as instructed, he could have been appropriately treated, and more likely than not, he would have survived.

II. WITNESSES

These defendants may call any of the following witnesses at time of trial, as well as any witnesses identified as damage or liability witnesses in any pretrial statement filed by any party:

A. Liability

1. All parties to this lawsuit.
2. Kevin Timko
103 West Main St.
Lock Haven, PA
3. Crystal Hubbard
103 West Main St.
Lock Haven, PA
4. Betty Vavreck
P.O. Box 74
Hawk Run, PA 16840
5. Benedict Vavreck
P.O. Box 74
Hawk Run, PA 16840
6. Helen Timko
629 Pardee Rd.
Philipsburg, PA
7. Alfred Timko
Morrisdale, PA
8. Margaret Timko
9. Diana Timko
Lanse, PA
10. Brian Timko
Grassflat, PA
11. Tracey Timko
Clearfield, PA
12. Andrew Vavreck
Stormstown, PA

13. Dr. Zuhair Afaneh
15. Dr. Rodolfo S. Polinton
c/o Clearfield Hospital
16. Dr. Joseph Basile
c/o Tyrone Medical Associates
17. Dr. V. Janakiraman
c/o Tyrone Hospital
18. Dr. Victor Santillan
c/o Tyrone Hospital
19. Dr. Stephen Schmidt
c/o Tyrone Hospital
20. Dr. Mukul Bhatnagar
c/o Tyrone Hospital
21. Nurse Chris Bowman
c/o Tyrone Hospital
22. Diane Gray
c/o Tyrone Medical Associates
23. Melissa Hand
c/o Office of Dr. Tuono
24. Paul E. Collier, M.D.,
Curriculum Vitae and expert report attached
25. Medical Records Custodian of Clearfield Hospital
26. Medical Records Custodian of Tyrone Hospital
27. Medical Records Custodian of Altoona Hospital
28. Medical Records Custodian of Phillipsburg Area Hospital
29. Medical Records Custodian of Tyrone Medical Associates
30. Records Custodian of Moshannon Valley EMS

B. Damage

These defendants may call any or all of the above listed liability witnesses as damage witnesses in this case.

C. Medical

These defendants may call any or all of the above listed liability witnesses as medical witnesses in this case.

III. EXHIBITS

1. Office records of Dr. N.D. Yingling
2. All medical records from Clearfield Hospital for decedent Steve Timko
3. All medical records of Tyrone Hospital for decedent Steve Timko
4. All medical records of Altoona Hospital for decedent Steve Timko
5. All medical records of Phillipsburg Area Hospital for decedent Steve Timko
6. All medical records of Tyrone Medical Associates for decedent Steve Timko
7. All medical records of Anthony Shedlock, D.O., for decedent Steve Timko
8. All medical records of Albert Tuono, D.O., for decedent Steve Timko
9. Records of Moshannon Valley EMS for decedent Steve Timko
10. Medical records of Dr. A. Hipolito for decedent Steve Timko
11. All medical records of Anthony Shedlock, D.O. for Plaintiff Cathy Timko
12. All medical records of Anthony Shedlock, D.O. for Kevin Timko
13. All medical bills of decedent Steve Timko
14. All medical bills of plaintiff Cathy Timko
15. All medical bills of Kevin Timko

16. Any and all imaging studies, films and reports of decedent Steve Timko
17. Photographs of decedent Steve Timko.
18. Models, illustrations, diagrams, sketches and related demonstrative exhibits used to depict areas of the human anatomy.
19. Enlargements of any of the above-listed exhibits.

IV. STIPULATIONS

These defendants stipulate to the authenticity of medical records, but reserve the right to object to their admissibility.

V. PROPOSED POINTS FOR CHARGE

1. Based upon the evidence in this case and the law applicable thereto, your verdict must be in favor of defendants Dr. Tuano and Albert Tuano, D.O., P.C.

Granted _____ Denied _____ Covered _____

2. In the absence of a special contract, a physician or surgeon is neither a warrantor of a cure nor a guarantor of a result of his treatment. Donaldson v. Maffucci, 156 A.2d 835 (Pa. 1959).

Granted _____ Denied _____ Covered _____

3. The fact that medical treatment results in an unsuccessful outcome or death does not imply that the physician was negligent. You may not presume or infer negligence merely because medical treatment terminated in an unsuccessful result which may have occurred despite the exercise of reasonable care. Collins v. Hand, 246 A.2d 308 (Pa. 1968).

Granted _____ Denied _____ Covered _____

4. A physician may rightfully choose to practice his profession in accordance with a school of thought which differs in its concepts and procedures from another school of thought. Even though the school that he follows is a minority one, he will not be deemed to be negligent or practicing improperly, so long as it is advocated by a considerable number of reasonable medical experts. Pennsylvania Suggested Standard Civil Jury Instruction 10.04 (Civ.).

Granted _____ Denied _____ Covered _____

5. Sympathy for the plaintiff cannot justify your finding the defendants liable where no liability-producing conduct has been proven. Gift v. Palmer, 141 A.2d 408 (1958).

Granted _____ Denied _____ Covered _____

6. If you find that the death of the decedent would have occurred even if the defendants had not been negligent, then the negligent conduct of the defendants would not be a legal factor in causing the death, and hence the defendants would not be liable. Whitner v. Von-Hintz, 263 A.2d 889 (1970).

Granted _____ Denied _____ Covered _____

7. If a physician has used his or her best judgment and has exercised reasonable care, and has a requisite knowledge or ability, even though complications or death result, then the physician is not responsible. The rule requiring a physician to use his or her best judgment does not make the physician liable for a mere error in judgment provided he or she does what he or she thinks best after careful examination. The rule of reasonable care does not require the exercise of the highest possible degree of care. It requires only that the doctor exercises that

degree of care that a reasonably prudent physician would exercise under the same circumstances.

Fragale v. Brigham, 741 A.2d 788 (Pa. Super. 1999).

Granted _____ Denied _____ Covered _____

8. Pennsylvania Suggested Standard Civil Jury Instruction 3.0 (Civ.) – Issues in the Case and Factual Cause.

Granted _____ Denied _____ Covered _____

9. Pennsylvania Suggested Standard Civil Jury Instruction 3.25 (Civ.) – Factual Cause.

Granted _____ Denied _____ Covered _____

10. Pennsylvania Suggested Standard Civil Jury Instruction 5.50 (Civ.) – Burden of Proof.

Granted _____ Denied _____ Covered _____

11. Pennsylvania Suggested Standard Civil Jury Instruction 5.30 (Civ.) – Expert Testimony – Credibility Generally.

Granted _____ Denied _____ Covered _____

12. Pennsylvania Suggested Standard Civil Jury Instruction 5.31 (Civ.) – Expert Opinion – Basis for Opinion Generally.

Granted _____ Denied _____ Covered _____

13. Pennsylvania Suggested Standard Civil Jury Instruction 5.33 (Civ.) – Weighing Conflicting Expert Testimony.

Granted _____ Denied _____ Covered _____

14. The fact that the court has permitted the plaintiff to introduce damage testimony and has instructed you concerning damages does not mean that the plaintiff is entitled to damages or that the court favors a verdict for the plaintiff. Before you consider any of the damage testimony in this case, you must find the defendants liable. If the liability issues are resolved by you in favor of the defendants, you should disregard all of the damage testimony in this case and all of my instructions concerning damages.

Granted _____ Denied _____ Covered _____

VI. ESTIMATED TIME OF TRIAL

These defendants estimate a 4-5 day trial.

VII. RESERVATIONS

These defendants reserve the right to amend or supplement their pretrial statement prior to trial.

THOMSON, RHODES & COWIE, P.C.

By 

James R. Hartline, Esquire
Adam P. Knor, Esquire
Attorneys for Albert Tuono, D.O.,
and Albert Tuono, D.O., P.C.,
two of the defendants.

CURRICULUM VITAE
Paul E. Collier, M.D.
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 Sewickley, Pennsylvania 15143

Home Phone: 412-741-0115
 Email: vascsurg@comcast.net

Office Phone: 412-749-9868
 Office Fax: 412-749-9729

Date of Birth: December 24, 1953

Education:

St. Joseph Regional High School Montvale, New Jersey	1967-1971
University of Pennsylvania Philadelphia, Pennsylvania (B.S. Biology)	1971-1975
Yale University School of Medicine New Haven, Connecticut	1975-1979

Training and Research Experiences:

Resident in General Surgery Allegheny General Hospital Pittsburgh, Pennsylvania	1979-1982
Chief Resident in General Surgery Allegheny General Hospital Pittsburgh, Pennsylvania	1982-1984
Fellow in Vascular Surgery Montefiore Medical Center Bronx, New York	1984-1986

Current Status:

Board Certified in General Surgery	1985-ReCertified 2004
Added Qualifications in Vascular Surgery	1987
Fellow American College of Surgeons	1987
Staff Surgeon-Sewickley Valley Hospital	1986-Present
Medical Director, Non-invasive Vascular Laboratory, Sewickley Valley Hospital	1988-Present
Recertified, General Surgery	1995
Chief of Surgery, Sewickley Valley Hospital	1997-2001
Recertified Vascular Surgery	1996
Staff Surgeon-Eliwood City Hospital	1998-Present
Staff Surgeon-UPMC-Passavant	2003-Present
Staff Surgeon-UPMC-Cranberry	2003-Present

Licensed:

Pennsylvania

Organizations:

Allegheny Vascular Society
 Peripheral Vascular Surgical Society
 Society for Clinical Vascular Surgery
 Eastern Vascular Surgery Society
 American College of Surgeons
 Society for Vascular Surgery

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Page I

Boards:

Pittsburgh Zoological Society, Board of Directors	1996-2003
American Board of Surgery, Exam Consultant	1997-2003
Chairman, Department of Surgery, Sewickley Valley Hospital	1997-2001

Offices:

Secretary - Allegheny Vascular Society	1991-1994
President - Allegheny Vascular Society	1994-1996

Committees: (Sewickley Valley Hospital)

Utilization Review, Chairman	1990-2000
Critical Care Committee	1986-1996
Value Analysis	1993-Present
Surgical Committee	1992-Present
Distinguished Service Award Committee, Chairman	1992-1995
CME Committee	1993-Present
Clinical Management	1992-1998

Committees:

Membership Committee, Society for Vascular Surgery	1997-2001
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Editorial Reviewer:

1. Journal of Vascular Surgery
2. Pediatrics
3. American Journal of Kidney Diseases

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Awards:

- 1971 - High School Salutatorian
- 1974 - Alpha Epsilon Delta (Premedical Honor Society)
- 1975 - Phi Beta Kappa, University of Pennsylvania
- 1975 - Summa Cum Laude, University of Pennsylvania
- 1979 - Merck Award for Clinical Excellence, Yale University School of Medicine
- 1983 - First Place, Resident's Presentation, Southwestern, Pennsylvania Chapter of the American College of Surgeons, "Axillary Vein Thrombosis."
- 1984 - First Place, Original Paper by a Resident, Contemporary Surgery, "Streptokinase and Percutaneous Angioplasty for Salvage of Hemodialysis Fistula."

Presentations and Exhibits:

1. "Streptokinase and Percutaneous Transluminal Angioplasty for Reclamation of Subcutaneous Hemodialysis Fistulas." Presented to the National Kidney Foundation's Interdisciplinary Stragies in Renal Care, September, 1983.
2. "Axillary Vein Thrombosis" Presented to the Southwestern Pennsylvania Chapter of the American College of Surgeons, November, 1983.
3. "Is Percutaneous Insertion of the Intra-aortic Balloon Pump Via the Femoral Artery the Safest Technique." Presented to the Pennsylvania Association for Thoracic Surgery, September, 1984.
4. "Re-operations on Failed Anatomic and Extra-anatomic Prosthetic Reconstructions," Presented to the Joint Annual Meeting of The New York Society for Cardiovascular Surgery and The New York Reginal Vascular Society, May, 1985.
5. "Re-operations on Failed Infrainguinal Prosthetic Reconstructions: Factors Influencing Long-Term Graft Patency," Presented to the Peripheral Vascular Surgery Society, Baltimore, Maryland, June 1985.
6. Gupta, S.C., Veith, F.J., Samson, R.h., Scher, L.a., Acer, E., White-Flores, S.A., Collier, P.E., and Nunez, A.: Application of Microcomputers in Surgical Education and Research. Scientific Exhibit, American College of Surgeons, 71st. Annual Clinical Congress, Chicago, Illinois. October 14-17, 1985.
7. Ascer, E., Collier, P.E., and Veith, F.J.: The Influence of Dextran 40 and Graft Diameter on Low Flow Bypass Graft Patency. Scientific Exhibit, Society for Clinical Vascular Surgery, 14th. Annual Symposium on Vascular Surgery, Orlando, Florida April 9-13, 1986.

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8. Collier, P.E., Ascer, E., Gupta, S.K. and Veith, F.J.:
Re-operation on Failed PTFE Bypasses: The Importance of Proper
Technique and Outflow Site. Scientific Exhibit, Society for
Clinical Vascular Surgery, 14th. Annual Symposium on Vascular
Surgery, Orlando, Florida, April 9-13, 1986.
9. Gupta, S.K., Veith, F.J., Ascer, E., Scher, L.A., White Flores, S.A.,
Collier, P.E., Nunez, A., Wengerter, K., and Samson, R.H.:
Use of Microcomputers in Peripheral Vascular Laboratory Research
Presented to the Symposium on Noninvasive Diagnosis of Vascular
Disorders: Review and Update, Orlando, Florida, April 7-10, 1986.
10. Collier, P.E.: Role of Duplex Scanning in Distal Bypass
Evaluation: Detection of "Failed Grafts." Presented to the
Second Annual Vascular Fellows Abstract Presentation
New York, New York, May 7, 1986.
11. Collier, P.E., Ascer, E., Gupta, S.K. and Veith, F.J.: "Reoperation
for PTFE Bypass Failure,: "The Importance of Distal Outflow Site
and Operative Technique in Determining Outcome." Presented to
the 34th. Annual Meeting of the North American Chapter of the
International Society for Cardiovascular Surgery, New Orleans,
Louisiana, June 10-11, 1986.
12. Nunez, A., Collier, P.E., Veith, F.J.,: "Duplex Scanning of Bypass
Grafts and Anastomoses Related to Infrapopliteal Arterial Recon-
structions.: Presented to Peripheral Vascular Surgery Society,
New Orleans, June, 1986.
13. Nunez, A., Collier, P.E., Ascer, E., Veith, F.J.: "Use of Middle
and Distal Thirds of the Deep Femoral Artery for Origin or Insertion
of Limb Salvage Bypasses." Presented to The 2nd. International
Vascular Symposium, London, England, September 8-12-1986.
14. Collier, P.E., Ascer, A., Veith, F.J.: "Reoperations on Failed
Anatomic and Extra-anatomic Prosthetic Bypasses." Presented to
The 2nd. International Vascular Symposium, London, England,
September 8-12, 1986.
15. Collier, P.E., Laffey, S., Dalton, T., Wilcox, G. and Brooks, D.H.:
"Angioplasty for Claudication: Improved Patient Selection with Color
Doppler Imaging." Presented to the Society for Clinical Vascular
Surgery, Palm Desert, California, March, 1990.
16. Collier, P.E., Laffey, S., Dalton, T., Wilcox, G., and Brooks, D.H.:
"Limb Salvage Surgery Without Arteriography, Is it Possible?"
Presented to the Eastern Vascular Society, Boston, Mass., May, 1990.
17. Collier, P.E., "Use of the Non-invasive Vascular Laboratory"
Presented at Update on Vascular Disorders of Lower Extremities,
Pittsburgh, PA., Feb, 1991.
18. Collier, P.E., "Atraumatic Vascular Anastomoses Using a Tourniquet,"
Presented to Peripheral Vascular Surgery Society, Boston, MA, June 1991.
19. Collier, P.E., "Surgery for Chronic Venous Disease," Presented at
the Allegheny General Hospital Second Annual Vascular Symposium:
Venous Duplex Imaging and Treatment of Venous Disease, Pittsburgh, PA
June, 1991.

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Presentations and Exhibits Cont'd:

20. Collier, P.E. "Non-invasive Evaluation of the Carotid Artery." Presented at Advances in Diagnosis & Treatment of Carotid Artery Disease, Pittsburgh, PA., Feb., 19, 1992.
21. Collier, P.E. "Carotid Endarterectomy" A Safe, Cost-Efficient Approach, Presented at Eastern Vascular Society, May 3, 1992, New York City.
22. Collier, P.E. "Improving Efficiency for Carotid Endarterectomy." Presented at the Southwest Pennsylvania Chapter of American College of Surgeons, May 6, 1992, Pittsburgh, PA
23. Collier, P.E. "Surgery for Chronic Venous Insufficiency" Presented at Symposium on Advances in Diagnosis and Treatment of Venous Diseases. Pittsburgh, PA., March 3, 1993.
24. Collier, P.E. "Follow-up Examination of Lower Extremity Bypasses." Presented at Symposium on New Modalities in Vascular Technology. Pittsburgh, PA., March 9, 1994.
25. Collier, P.E. "Are One Day Admissions for Carotid Endarterectomy Feasible?" Presented at Society of Clinical Vascular Surgery, March, 1995. Ft. Lauderdale, FL.
26. Mantia, A. and Collier, P.E. "Does Cervical Plexus Block for Carotid Endarterectomy Affect Hospital Length of Stay?" Presented at Society of Cardiovascular Anesthesiologists, May, 1995, Philadelphia, PA
27. Collier, P.E. "How The Non-invasive Vascular Laboratory Can Help in the Diagnosis of Peripheral Vascular Disease." Presented at Advances in Diagnosis and Treatment of Arterial Disease, April 1995, Pittsburgh, PA.
28. Collier, P.E. "One-Day Admission for Carotid Endarterectomy." Presented at S.W. PA Chapter American College of Surgeons, April, 1995. Pittsburgh, PA.
29. Collier, P.E. "Surgical Options for Lower Limb Salvage." Presented at Second Annual Symposium on Peripheral Vascular Disease: New Horizons in Patient Management, December 1995, Pittsburgh, PA.
30. Collier, P.E. "Changing Trends in the Use of Preoperative Carotid Arteriography: The Community Experience." Presented at S.W. PA Chapter American College of Surgeons, April 1996, Pittsburgh, PA.
31. Collier, P.E. "Cost Efficient Carotid Surgery: A Clinical Pathway." Presented at Symposium on Advances and Treatment of Carotid Artery Disease, April 17, 1996, Pittsburgh, PA.
32. Collier, P.E. "Carotid Angioplasty or Endarterectomy: A Cost Analysis." Presented at the 10th Annual Eastern Vascular Society, May 3, 1996, Washington, D.C.

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Presentations and Exhibits Cont'd:

33. Collier, P.E. "Changing Trends in the Use of Preoperative Carotid Arteriography: The Community Experience: Presented at 1996 Joint Annual Meeting of the N.A. Chapter of the ISCVS and the Society for Vascular Surgery, June, 1996, Chicago, IL.
34. Mantia, A.M., Collier, P.E., O'Day, T.L. "Does Anesthetic Choice Following a Defined Clinical Pathway for Carotid Endarterectomy Affect Length of Stay?" Presented at American Society of Anesthesiologists Meeting, October, 1996, New Orleans, LA.
35. Carotid Endarterectomy: "What's New in 1996?" Columbus, OH. July, 1996.
36. "The Nursing Aspects of Carotid Endarterectomy" Western Pennsylvania Perioperative Nurses Society, Pittsburgh, PA. Feb., 1997.
37. "How Essential is the Intensive Care Unit After Carotid Endarterectomy?" Presented at Symposium on Vascular Surgery, Naples, FL., March, 1997.
38. "Do Clinical Pathways for Major Vascular Surgery Improve Outcomes and Reduce Cost?" Presented at Symposium on Vascular Surgery, Naples, FL. March, 1997.
39. "Office Removal of Silastic Catheteres and Ports is Safe and Cost Effective" Presented at Symposium on Vascular Surgery, Naples, FL., March, 1997.
40. "Are Preoperative Antibiotics Administered Preoperatively?" Presented at Symposium on Vascular Surgery, Naples, FL., March, 1997.
41. "Do Clinical Pathways for Major Vascular Surgery Improve Outcome and Reduce Cost?" Presented at American College of Surgeons 43rd. Annual Meeting, Pittsburgh, PA. April, 1997.
42. "Venous Complications of Central Venous Catheters and Their Treatment" 7th. Annual Vascular Conference, Sewickley Valley Hospital, Pittsburgh, PA. April, 1997.
43. "Current Results for Aortic Surgery - The Results of a Clinical Pathway." Presented at the Eighth Annual Vascular Conference, Pittsburgh, PA. April 22, 1998.
44. "Cardiac Tamponade From Central Venous Catheters: A Totally Preventable Complication." Presented at the Society for Clinical Vascular Surgery, San Diego, CA. March, 1998.
45. "Efficiency in the OR: Developing Critical Pathways for Vascular Surgery." Presented at the Symposium for Controlling Costs in Surgery. Strategies for Cost Reduction and Outcomes Improvement, Washington, D.C. September 14-15, 1998.

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Presentations and Exhibits Cont'd:

46. "Update on Carotid Artery Surgery Presented to the 14th. Annual P.O.M.A. Seminar, Hidden Valley, PA. January 21, 2001
47. "To Drain or Not to Drain?" Presented to the 29th. Annual Symposium on Vascular Surgery of the SCVS, Boca Raton, Fl. April, 2001.
48. "Peripheral Vascular Disease," Presented at P.O.M.A. January 24-27, 2002. Hidden Valley, PA
49. "Counter Incisions Improve Primary Healing of Inframalleolar Bypass Wounds," Presented to the Eastern Vascular Society's 16th. Meeting Boston, MA., May 4, 2002.
50. "Current Results of Carotid Endarterectomy," Presented to Vascular Surgery in the 21st. Century, Pittsburgh, PA. May 10, 2002
51. "Carotid Endarterectomy Under Siege," Presented to the Second Annual Pittsburgh Vascular Symposium, Pittsburgh, PA. Sept. 19, 2003
52. "Bypass Strategies in the Absence of Saphenous Vein" 3rd. Annual Pittsburgh Vascular Symposium, Pittsburgh, PA Sept. 24, 2004

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Page III

Program Director:

1. Program Director and Organizer: "Update on Vascular Disorders of the Lower Extremities." Pittsburgh, PA Feb. 1991.
2. Program Director and Organizer: "Advances in Diagnosis & Treatment of Carotid Artery Disease." Pittsburgh, PA. February 19, 1992.
3. Program Director and Organizer: "Advances in Diagnosis & Treatment of Venous Diseases." Pittsburgh, PA. March 3, 1993.
4. Program Director and Organizer: "Advances in Diagnosis & Treatment of Renal, Aortic & Mesenteric Vascular Disorders." Pittsburgh, PA March, 1994.
5. Program Co-Director and Organizer: "Symposium on New Modalities in Vascular Technology." Pittsburgh, PA. March, 1994.
6. Program Director and Organizer: "Advances in Diagnosis and Treatment of Arterial Disease." Pittsburgh, PA. April, 1995.
7. Program Director and Organizer: "Symposium on Advances and Treatment of Carotid Artery Disease." Pittsburgh, PA. April 17, 1996.
8. Program Director and Organizer: "Symposium on Advances in Diagnosis and Treatment of Venous Disease." Pittsburgh, PA. April 16, 1997.
9. Program Director and Organizer: "New Approaches to Intraabdominal Vascular Problems." Pittsburgh, PA. April, 1998.
10. Program Director and Organizer: "Advances in Diagnosis and Treatment of Lower Extremity Arterial Disease." Pittsburgh, PA. October, 1999.
11. Program Director and Organizer: "Advances in Diagnosis and Treatment of Cerebrovascular Diseases." Pittsburgh, PA. April, 2001.
12. Program Director and Organizer: "Vascular Surgery in the 21st. Century." Pittsburgh, PA. May, 2002.
13. Program Director: "Second Annual Pittsburgh Vascular Symposium" Pittsburgh, PA. Sept., 2003.
14. Program Director: "Third Annual Pittsburgh Vascular Symposium" Pittsburgh, PA, Sept., 2004.

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Page IV

Publications:

1. Curtis, A.M., Ravin, C.E., Collier, P.E., Putman, C.E., McCloud, T., and Greenspan, R.H.: Detection of Metastatic Disease from Carcinoma of the Breast: Limited Value of Full Lung Tomography. *Am. J. Radiology*, 134:253-255, 1980
2. Collier, P.E., Diamond, D.L., and Young, J.C.: Nontraumatic Clostridium Septicum Gangrenous Myonecrosis. *Dis. Colon Rectum*, 26:703-704, 1983.
3. Collier, P.E., Diamond, D.L., and Young, J.C.: Axillary Vein Thrombosis. *Vasc. Surg.*, 18:174-178, 1984.
4. Collier, P.E., Saracco, G.M., and Diamond, D.L.: Streptokinase and Transluminal Angioplasty in Reclamation of AV Fistula. *Cont. Surg.*, 24:69-71, 1984.
5. Collier, P.E., Ryan, J.J., and Diamond, D.L.: Cardiac Tamponade from Central Venous Catheters: Report of a Case and Review of the English Literature. *Angiology*, 35:595-600, 1984.
6. Collier, P.E., Fazi, B., Turowski, P. and Diamond, D.L.: Small Intestinal Adenocarcinoma Complicating Regional Enteritis. *Cancer*, 55:516-521, 1985.
7. Collier, P.E., Saracco, G.M., Young, J.C., Fragola, J.A., Contractor, F.M., and Diamond, D.L.: Non-operative Salvage of Subcutaneous Hemodialysis Fistulae. *Am. J. Nephrol.*, 5:333-337, 1985.
8. Collier, P.E., Liebler, G.A., Park, S.B., Burkholder, J.A., Maker, T.D., and Magovern, G.J.: Is Percutaneous Insertion of the Femoral Artery the Safest Technique? *J. Vasc. Surg.*, 3:629-634, 1986.
9. Collier, P.E.: Small Bowel Lymphoma Associated with AIDS. *J. Surg. Oncol., J. Surg. Oncology* 32:131-133, 1986.
10. Collier, P.E., Fazi, B., Ryan, J.J., and Diamond, D.L.: Can Aortography Precipitate Mesenteric Infarction in Patients with Chronic Intestinal Ischemia? *Vasc. Surg.*, 1986.
11. Ascer, E., Collier, P.E., Gupta, S.K. and Veith, F.J.: Reoperation for PTFE Bypass Failure: The Importance of Distal Outflow Site and Operative Technique in Determining Outcome. *J. Vasc. Surg.*, 5:298-310, 1987.
12. Nunez, A.A., Veith, F.J., Collier, P.E.: Direct Approaches to Distal Portions of the Deep Femoral Artery for Limb Salvage Bypasses. *J. Vas. Surg.*, 8: 576-581-1988.
13. Collier, P.E., Laffey, S., Dalton, T., Wilcox, G., and Brooks, D.H.: Improved Patient Selection for Angioplasty Utilizing Color Doppler Imaging. *Am. J. Surgery* 160: 171-174 1990.

Paul E. Collier, M.D.

Page V

Publications cont'd:

14. Collier, P.E.: Atraumatic Vascular Anastomoses Using a Tourniquet, *Annals. Vasc. Surgery* 6: 34-37, 1992.
15. Collier, P.E.: Carotid Endarterectomy: A Safe Cost-Effective Approach, *J. Vasc. Surg.* 16: 926-933, 1992.
16. Collier, P.E., Friend, S., Gentile, C., Ruckert, D. Vescio, L. and Collier, N.A.: Carotid Endarterectomy Clinical Pathway: An Innovative Approach. *Am. Journal of Quality in Medicine.* 10: 18-27, 1995.
17. Collier, P.E., "Are One Day Admissions for Carotid Endarterectomy Feasible?" *American Journal of Surgery.* 170: 140-143, 1995.
18. Collier, P.E., Goodman, G.E.: Cardiac Tamponade Caused by Central Venous Catheter Perforation of the Heart: A Preventable Complication. *J. American College of Surgeons.* 191: 459-463, 1995
19. Mantia, A.M., Collier, P.E., O'Day, T.L.: "Does Anesthetic Choice Following a Defined Clinical Pathway for Carotid Endarterectomy Affect Hospital Length of Stay?" *Anesthesia and Analgesia,* 1996.
20. Collier, P.E., "Do Clinical Pathways for Major Vascular Surgery Improve Outcomes and Reduce Cost?" *Journal of Vascular Surgery,* 1997. (26: 179-85)
21. Collier, P.E., "How Essential is the Intensive Care Unit After Carotid Endarterectomy?" *Vascular Surgery* 31: 563-566, 1997.
22. Collier, P.E., "Office Removal of Silastic Catheters and Ports is Safe and Cost Effective" *Vascular Surgery* 31: 567-569, 1997.
23. Collier, P.E., Rudolph, M., Osella, T., Collier, N.A., Ferrero, M. "Are Preoperative Antibiotics Administered Preoperatively?" *Amer. J. Med Qual,* Vol 13 Summer 1998, 94-97.
24. Collier, P.E., "Fast Tracking Carotid Endarterectomy" *Practical Considerations: Seminars in Vasc. Surg.,* Vol. 11: 41-45, 1998.
25. Collier, P.E., "Changing Trends in the Use of Preoperative Carotid Arteriography, The Community Experience" *Cardiovascular Surg.,* 6:485-489, 1998.
26. Collier, P.E., Blocker, S.H. Graff, D.M., Doyle, P.: "Cardiac Tamponade From Central Venous Catheters." *American Journal of Surgery,* 1998. Vol 176: 212-214.
27. Scott W., Collier, P.E., "The Vessel Dilator for Central Venous Catheter Placement - Forerunner for Success or Vascular Misadventure?" *Journal of Intensive Care Medicine.* Vol 16 Nov/Dec 2001 pp. 263-269

Paul E. Collier, M.D.

Page VI

Chapters in Books:

1. Veith, F.J., Gupta, S.K., Ascer, E., Sprayregen, S. and Collier, P.E.: Reoperations and Other Reintervention for Thrombosed and Failing Polytetrafluoroethylene Grafts. In: Reoperative Arterial Surgery, J.J. Bergan and J.S.T. Yao, Editors, Grune & Stratton, New York, 1986, pp. 377-392.
2. Collier, P.E., Ascer, E., Veith, F.J., Gupta, S.K. and Nunez, A.: Acute Thrombosis of Arterial Grafts. In: Vascular Surgery Emergencies, J.J. Bergan and J.S.T. Yao, Editors, Grune & Stratton, New York, 1987, pp. 517-528.
3. Collier, P.E., Ascer, E., Nunez, A., Gupta, S.K. and Veith, F.J.: Arterial Reconstruction After Previous Femorotibial Bypass. In: Reoperative Vascular Surgery, H.H. Trout, Editor, Marcel Dekker, Inc., New York, 1987, pp. 211-224.
4. Collier, P.E.: How Can I Balance Patient Safety and Cost-effectiveness in Planning Early Postoperative Care and Hospital Discharge? In: Carotid Artery Surgery, A Problem Based Approach, A.R. Naylor and W. C. Mackey. Editors: W.B. Saunders, London 2000 pp. 354-357.

Abstracts:

1. Veith, F.J., Samson, R.H., Ascer, E., Gupta, S.K., White-Flores, S., Sprayregen, S., Collier, P.E., and Scher, L.A.: Tibiotibial Vein Bypass Grafts: A New Operation for Limb Salvage. J. Cardiovas. Surg., 26:29, 1985.
2. Mantia, A.M., Collier, P.E., and O'Day, T.L. "Does Anesthetic Choice Following a Defined Clinical Pathway for Carotid Endarterectomy Affect Length of Stay?" Anesthesiology 85: A938, 1996.

Paul E. Collier M.D., F.A.C.S.

Scaife Road
Sewickley, PA
15143

Phone 412-741-0115
Fax 412-749-8912

December 07, 2005

James R. Hartline, Esq.
Two Chatham Center, Tenth Floor
Pittsburgh, PA 15219-3499

RE: Timko v Tuano

Dear Ms. Linn,

I have reviewed the following:

1. Plaintiff's Complaint
2. Office Records of Dr. Albert Tuano
3. Office Records of Dr. Anthony Shedlock
4. Office Records of Dr. ND Yingilng
5. Clearfield Hospital Records, 3/15/85
6. Clearfield Hospital Records, 3/25/85-4/4/85
7. Clearfield Hospital Records, 11/25/85
8. Clearfield Hospital Records, 7/23/86
9. Tyrone Hospital Records, 5/31/01
10. Tyrone Hospital Records, 7/18/01-7/23/01
11. Altoona Hospital Records, 6/28/01
12. Philipsburg Hospital Records, 7/31/01-8/1/01
13. Deposition of Cathy Timko
14. Deposition of Kevin Timko
15. Deposition of Betty Vavreck
16. Deposition of Helen Timko
17. Deposition of Dr. Albert Tuono
18. Deposition of Dr. Anthony Shedlock
20. Expert report of Dr. Michael S. Hickey
21. Expert report of Dr. Mark D. Laufe

Mr. Steve Timko underwent a subtotal colectomy with ileosigmoid anastomosis on March 25, 1985 for ulcerative colitis at the Clearfield Hospital. Pathology demonstrated multiple polyps and no cancer.

Mr. Timko was followed by his family physician, Dr. Anthony Shedlock. On June 26, 2000 his hemoglobin and Hematocrit (H&H) were 11.7 grams% and 36.1%. He was noted to have a slight microcytic anemia and a platelet count of 358,000 (nl to 390,000). On February 12, 2001 Mr. Timko was evaluated for left sided pain and frequent, non-bloody bowel movements. He also complained of an episode of chest pain 3 weeks previously and increasing leg discomfort with ambulation. He was noted to have a marked microcytic anemia with an H&H of 8.9 grams% and 28.8% and a platelet count of 406,000. Vioxx 25 mg./day was prescribed. On March 8, 2001 his H&H were 9.4 grams% and 30.5%, respectively, 33 with a platelet count of 476,000. Dr. Shedlock again evaluated Mr. Timko on April 12, 2001 for leg swelling. Dr. Shedlock noted that he would "check stools if symptoms persisted". Mr. Timko was started on lasix 20 mg./day, p.r.n. On April 23, 2001 Mr. Timko saw Dr. Shedlock for insomnia. He was also complaining of dizziness and leg weakness. An appointment was scheduled with Dr. Tuano. On April 24, 2001 Mr. Timko was noted to have a marked microcytic anemia with an H&H of 8.3 grams% and 26.8%

with a platelet count of 421,000. His iron level was 18 (normal 40-160) and his stool was negative for occult blood. On May 4, 2001 the H&H and platelet levels remained stable and occult blood was documented in Mr. Timko's stool.

On May 16, 2001 Dr. Tuano evaluated Mr. Timko. He noted that Mr. Timko had undergone a partial colectomy for ulcerative colitis in 1985 and had recently had change in bowel habits with frequent non-bloody diarrhea and positive stool for occult blood. Dr. Tuano discontinued the Vioxx and scheduled Mr. Timko for an EGD and colonoscopy on May 31, 2001. A multilobular mass was found in the duodenum which was felt to be inflammatory by the pathologist. A large rectal mass throughout the remaining rectum was seen on colonoscopy. It was covering 40% of the circumference of the rectum. Dr. Tuano felt that this may be a rectal carcinoma but pathology demonstrated a tubulovillous adenoma with mild to moderate glandular dysplasia. CT scanning showed possible mural thickening of the colon and irregularity of the external borders which suggested either tumor or inflammation. No metastases were noted. Dr. Tuano initiated a metastatic workup because of his suspicion that this might be a cancer. In light of the non-malignant pathology and the fact that Mr. Timko's blood loss was occult, rapid intervention was not mandatory. On June 28, 2001 MRI scanning of the chest, abdomen and pelvis was performed. These MRIs were normal except for slight asymmetric thickening of the lateral wall of the rectum.

Mr. Timko saw Dr. Shedlock on July 16, 2001 for evaluation of right ankle swelling. Dr. Shedlock instructed Mr. Timko to use lasix p.r.n. Mr. Timko was admitted to Tyrone Hospital by Dr. Shedlock on July 18, 2001 because his H&H were 6.6 grams% and 21.1%. During that admission he received 4 units of packed red blood cells. He was seen by Dr. Tuano in consultation. Dr. Tuano felt that Mr. Timko would need a proctectomy and permanent ileostomy to treat the extensive rectal adenoma, a sizable undertaking. Dr. Tuano ordered tumor markers and asked for both cardiology and pulmonary consultations and tentatively scheduled Mr. Timko for surgery on July 23, 2001. Mr. Timko was evaluated by Dr. Janakiraman on July 21. He noted that there was no prior history of cardiac disease and no symptoms of angina pectoris or CHF. He ordered an echocardiogram and stated that if there were no wall motion abnormalities then a stress test or cardiac catheterization would not be necessary. The echocardiogram was performed on July 23. It was reported as showing an enlarged left atrium, concentric left ventricular hypertrophy and a normal ejection fraction of 50-55% on July 24, 2001. Pulmonary function tests performed on July 23 were essentially normal. The CEA level, 12.2 (nl to 2.5), and a normal AFP were reported late on July 23. At no time during this hospitalization did the nurses report blood in Mr. Timko's stool although they did report that they turned red after he ate beets. Mr. Timko was discharged by Dr. Afaneh on July 23, 2001. He was rescheduled for surgery on July 30, 2001 pending the results of his tests.

On July 30, 2001 Mr. Timko contacted Dr. Tuano and advised him of new symptoms. Mr. Timko was advised to come to the hospital and be reevaluated. He refused. Later, Ms. Timko called Dr. Shedlock because she was worried about her husband. She said he did not feel well, was dizzy and weak. She also said he was having leg pain and did not report any rectal bleeding. Dr. Shedlock instructed Ms. Timko to take her husband to Tyrone Hospital. The patient refused to go to the hospital, but did go for lab work. His H&H were 9.9 grams% and 30.1% and his platelet count was 482,000. On July 31, 2001 The patient called Dr. Shedlock because he felt his dizziness and weakness were secondary to his blood pressure medications because he noted a drop in his blood pressure when he stood up. Dr. Shedlock held his medications and encouraged Mr. Timko to go to the ER if his symptoms continued or worsened.

According to the Philipsburg Hospital records Mr. Timko awakened in respiratory distress at 1AM on August 1, 2001. His condition continued to worsen at 2AM and at 4:45AM he asked his wife to call an ambulance. He was found sitting on the commode and when he was assisted off the commode at 5:07AM he developed full cardiac arrest with pulseless electrical activity. He was taken to Philipsburg Hospital where he was pronounced dead at 6:01AM.

When Dr. Tuano saw Mr. Timko on May 16, 2001 for evaluation of a change in bowel habits, heme positive stools and a Hgb. of 9 grams% he immediately stopped Mr. Timko's Vioxx and scheduled both an upper and lower GI endoscopy to evaluate Mr. Timko for the source of the slow GI blood loss. He understood that Dr. Shedlock, as Mr. Timko's PCP, had been following Mr. Timko's H&H levels. When on colonoscopy Dr. Tuano thought that he saw a rectal carcinoma he immediately began a staging workup. The urgency of this workup was lessened when the biopsy returned showing a dysplastic adenoma. If Mr. Timko had decided to forego operation then periodic repeat biopsies would have been necessary, as suggested by the pathologist, to monitor the dysplastic adenoma for malignant change. After the pathology was known Mr. Timko was faced with a difficult decision; wait and see or undergo a huge operation for a benign lesion that would leave him with a permanent ileostomy and impotent. In the meantime Dr. Tuano continued to workup Mr. Timko for the metastases from what he still felt was a potentially malignant rectal lesion.

When Mr. Timko was admitted to Tyrone Hospital on July 18, 2001 for blood transfusion, Dr. Tuano discussed operation with Mr. Timko and actually tentatively placed him on the OR schedule for July 23. Dr. Tuano appropriately scheduled Mr. Timko for both a cardiac and pulmonary evaluation because of his underlying risk factors and ordered the tumor markers that had never been done. Unfortunately, these evaluations were not completed on time and Dr. Tuano appropriately postponed Mr. Timko's operation.

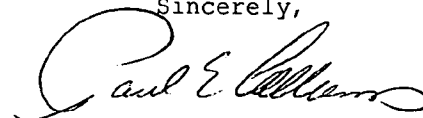
It is my opinion, based upon a reasonable degree of medical certainty, that Dr. Tuano's care of Mr. Timko was well within the accepted standards of medical care. He appropriately diagnosed Mr. Timko's problem and initiated the appropriate workup. He ordered appropriate preoperative evaluations. When Mr. Timko started developing problems on July 30, 2001 he refused to come to the hospital for evaluation. Dr. Tuano was not caring for Mr. Timko on either July 30 or 31, 2001, Dr. Shedlock was. Again on July 31 Dr. Shedlock encouraged Mr. Timko to go to the emergency department if his symptoms continued or worsened. Mr. Timko again chose to ignore this advice. When Mr. Timko awakened in respiratory distress with no chest pain or rectal bleeding at 1 AM on August 1, 2001 and again at 2 AM when his condition worsened he did not report to the emergency room where appropriate and potentially life saving care could have been rendered. Instead he waited until 4:45 AM to finally have his wife call an ambulance. When the ambulance arrived he reported no chest pain or chest tightness and no bleeding was noted. He promptly developed pulseless electrical activity and could not be resuscitated. Dr. Tuano was not actively involved in Mr. Timko's care during these last two to three days of Mr. Timko's life. Mr. Timko was being cared for by his PCP for a non-surgical problem.

It has been alleged that Mr. Timko died as a result of "severe blood loss and hemorrhage" and that his blood supply was inadequate to sustain his respiratory and cardiac function. The medical records do not support these contentions. There was no evidence of any bleeding during the last three days of Mr. Timko's life, in fact, the H&H on July 30, 2001 was the highest blood count that Mr. Timko had had for over a year. Mr. Timko's symptoms and sudden onset of PEA are more consistent with the diagnosis of pulmonary embolism than they are with myocardial hypoperfusion. Had Mr. Timko come to the hospital as instructed he could have been appropriately treated and, more likely than not, survived.

I have reviewed the reports of Dr. Michael Hickey and Dr. Mark Laufe. Contrary to their reports, there is nothing in the records to indicate that Mr. Timko needed immediate surgery. There is no evidence that Mr. Timko had evidence of massive bleeding or hypovolemia. There is no evidence in the records that Mr. Timko's death was secondary to either acute or chronic anemia, nor to active bleeding. In all likelihood Mr. Timko died of a pulmonary embolism.

It is my opinion, based upon a reasonable degree of medical certainty, that Dr. Tuano's care of Mr. Timko was well within the accepted standards of medical care. I reserve the right to amend these opinions if further discovery becomes available.

Sincerely,

A handwritten signature in cursive script, reading "Paul E. Collier". The signature is fluid and elegant, with a large initial "P" and a long, sweeping underline.

Paul E. Collier M.D.

CERTIFICATION OF SERVICE

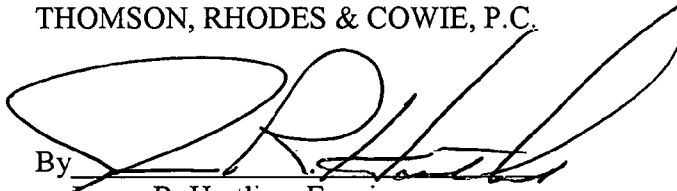
I hereby certify that a true and correct copy of the within PRETRIAL MEMORANDUM has been served upon the following counsel of record on this 13th day of April, 2006:

Craig E. Frischman, Esquire
Raizman & Frischman, P.C.
7300 Penn Avenue
Pittsburgh, PA 15208
(Attorneys for Plaintiff)

Bernard R. Rizza, Esquire
Gaca, Matis, Baum & Rizza
300 Four PPG Place
Pittsburgh, PA 15222
(Attorneys for defendant Anthony Shedlock, M.D.)

Paul F. Weisbein, Esquire
Margolis Edelstein
The Curtis Center, 4th Floor
Independence Square West
Philadelphia, PA 19106-3304
(Attorneys for defendant Tyrone Medical Associates, Inc.)

THOMSON, RHODES & COWIE, P.C.

By 
James R. Hartline, Esquire
Adam P. Knor, Esquire
Attorneys for defendant
Albert Tuono, D.O., P.C. and
Albert Tuono, D.O.

MARGOLIS EDELSTEIN
By: Paul F. Weisbein, Esquire
Identification No. 72341
The Curtis Center - Fourth Floor
Independence Square West
Philadelphia, PA 19106-3304
Telephone: (215) 922-1100

Attorneys for Defendant
Tyrone Medical Associates, Inc.

FILED ⁽⁶⁰⁾
APR 21 2006
11:00 AM
Weisbein
will serve

William A. Shaw
Prothonotary/Clerk of Courts

CATHY L. TIMKO, Executrix of the
Estate of Steve Timko, Jr., Deceased

v.

TYRONE MEDICAL ASSOCIATES, INC.,
ALBERT TUONO, M.D., P.C., ALBERT
TUONO, D.O. and ANTHONY
SHEDLOCK, M.D.

COURT OF COMMON PLEAS
CLEARFIELD COUNTY

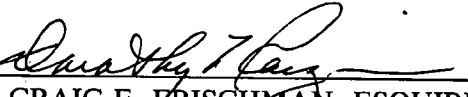
CIVIL DIVISION

NO. 2003-01084-CD


STIPULATION TO DISMISS

It is hereby STIPULATED and AGREED by and between the undersigned counsel that Defendant Tyrone Medical Associates, Inc. is hereby dismissed from the above action, with prejudice.

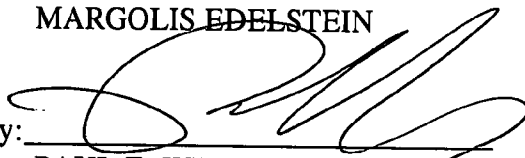
RAIZMAN & FRISCHMAN, P.C.

By: 
CRAIG E. FRISCHMAN, ESQUIRE
DOROTHY L. RAIZMAN, ESQUIRE
Attorneys for Plaintiff

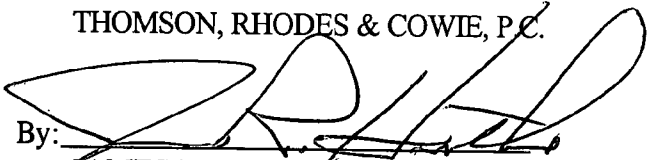
GACE, MATIS, BAUM & RIZZA, P.C.

By: 
BERNARD R. RIZZA, ESQUIRE
Attorney for Anthony Shedlock, M.D.

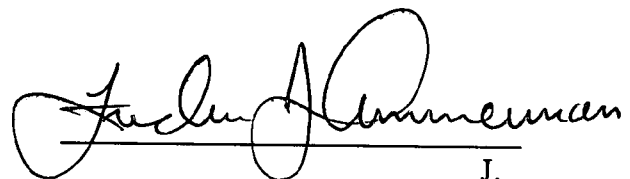
MARGOLIS EDELSTEIN

By: 
PAUL F. WEISBEIN, ESQUIRE
Attorney for Defendant
Tyrone Medical Associates, Inc.

THOMSON, RHODES & COWIE, P.C.

By: 
JAMES R. HARTLINE, ESQUIRE
Attorney for Albert Tuono, M.D. and
Albert Tuono, M.D., P.C.

BY THE COURT:


J.

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

CATHY L. TIMKO, Executrix of the Estate
of STEVE TIMKO, JR., Deceased,
Plaintiff

vs.

TYRONE MEDICAL ASSOCIATES, INC.,
ALBERT TUONO, D.O., P.C.,
ALBERT TUONO, D.O. and
ANTHONY SEDLOCK, D.O.,
Defendants

NO. 03-1084-OD
FILED ice to
0/9:42am (5) Atty C. Frischman
APR 24 2006 Atty P. Weisbein
Atty B. Rizza
Atty J. Hartline

ORDER

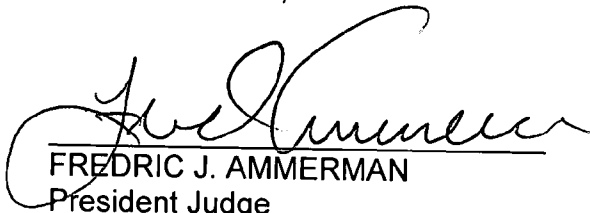
William A. Shaw
Prothonotary

NOW, this 21st day of April, 2006, following Pre-Trial Conference with counsel
for the parties as set forth above, it is the ORDER of this Court as follows:

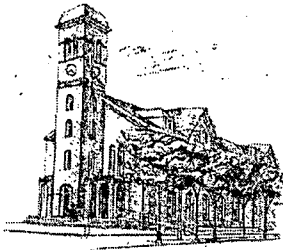
1. Jury Selection will be held on **May 2, 2006** commencing at **9:00 a.m.** in Courtroom No. 1 of the Clearfield County Courthouse, Clearfield, Pennsylvania.
2. Jury Trial is hereby scheduled for **July 17, 18, 19, 20, 21, 2006** commencing at 9:00 a.m. in Courtroom No. 1 of the Clearfield County Courthouse, Clearfield, Pennsylvania.
3. 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 party shall submit its brief in opposition to said objections no later than fifteen (15) days prior to the commencement of Trial.
4. Any party filing any Motion or Petition regarding limitation or exclusion of evidence or testimony to be presented at time of trial, including but not limited to

Motions in Limine, shall file the same no more than thirty (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



Clearfield County Office of the Prothonotary and Clerk of Courts

William A. Shaw
Prothonotary/Clerk of Courts

David S. Ammerman
Solicitor

Jacki Kendrick
Deputy Prothonotary


Bonnie Hudson
Administrative Assistant

To: All Concerned Parties

From: William A. Shaw, Prothonotary

It has come to my attention that there is some confusion on court orders over the issue of service. To attempt to clear up this question, from this date forward until further notice, this or a similar memo will be attached to each order, indicating responsibility for service on each order or rule. If you have any questions, please contact me at (814) 765-2641, ext. 1331. Thank you.

Sincerely,


William A. Shaw
Prothonotary

DATE: 4-24-06

☐ You are responsible for serving all appropriate parties.

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

☒ Plaintiff(s)/Attorney(s)

☒ Defendant(s)/Attorney(s)

☐ Other

☐ Special Instructions:

CP

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

CATHY L. TIMKO,
Executrix of the Estate of
STEVE TIMKO, JR., Deceased,

Plaintiff,

vs.

TYRONE MEDICAL ASSOCIATES,
INC.; ALBERT TUONO, D.O., P.C.;
ALBERT TUONO, D.O.; and
ANTHONY SHEDLOCK, D.O.,

Defendants.

CIVIL DIVISION

No. 2003-01084-CD

FILED

MAY 26 2006

0/8:45/ *W*
William A. Shaw

Prothonotary/Clerk of Courts

1 Cmt to Atty

ORDER OF COURT

AND NOW, to-wit, this 25th day of May, 2006, upon consideration of the

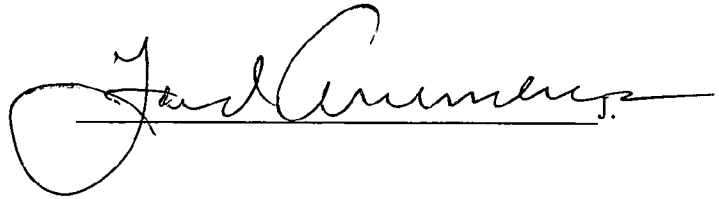
foregoing Petition for Leave to Settle a Death Claim, it is hereby ORDERED:

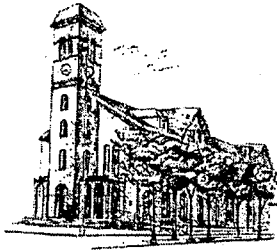
1. Petitioner is authorized to settle the above-referenced case for the sum of \$200,000;
2. In consideration of the \$200,000 being paid in settlement of the above-captioned case, the Petitioner is authorized to execute the Full and Final Release attached hereto as Exhibit "B" to the Petition for Leave to Settle a Death Claim;
3. The proceeds derived from the settlement of the above-captioned case shall be distributed as follows:
 - (a) Cathy L. Timko, the Decedent's sole Wrongful Death Beneficiary (Wrongful Death Claim) \$ 91,375.66
 - (b) Cathy L. Timko, Executrix of the Estate of Steve Timko, Jr., Deceased (Survival Claim) \$ 39,161.00
 - (c) Raizman & Frischman, P.C. (Attorneys' Fees) \$ 58,646.75

(d) Raizman & Frischman, P.C. \$ 10,816.59
(Reimbursement of Costs)

4. The settlement proceeds paid pursuant to paragraph 3(a)-(b) above, shall be allocated 70% to the Petitioner's Wrongful Death Claim and 30% to the Petitioner's Survival Claim.

BY THE COURT:

A handwritten signature in black ink, appearing to read "Judge Cummings", is written over a horizontal line. The signature is stylized with a large, looping initial "C".



Clearfield County Office of the Prothonotary and Clerk of Courts

William A. Shaw
Prothonotary/Clerk of Courts

David S. Ammerman
Solicitor

Jacki Kendrick
Deputy Prothonotary

Bonnie Hudson
Administrative Assistant

To: All Concerned Parties

From: William A. Shaw, Prothonotary

It has come to my attention that there is some confusion on court orders over the issue of service. To attempt to clear up this question, from this date forward until further notice, this or a similar memo will be attached to each order, indicating responsibility for service on each order or rule. If you have any questions, please contact me at (814) 765-2641, ext. 1331. Thank you.

Sincerely,

William A. Shaw
Prothonotary

DATE: 5-26-92

 X You are responsible for serving all appropriate parties.

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

 Plaintiff(s)/Attorney(s)

 Defendant(s)/Attorney(s)

 Other

 Special Instructions:

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

CATHY L. TIMKO,
Executrix of the Estate of
STEVE TIMKO, JR., Deceased,

Plaintiff,

vs.

TYRONE MEDICAL ASSOCIATES,
INC.; ALBERT TUONO, D.O., P.C.;
ALBERT TUONO, D.O.; and
ANTHONY SHEDLOCK, D.O.,

Defendants.

CIVIL DIVISION

NO. 2003-01084-CD

**PETITION FOR LEAVE
TO SETTLE A DEATH CLAIM**

Filed on behalf of Plaintiff

Counsel of Record for this
Party:

Dorothy L. Raizman, Esquire
Pa. I.D. No. 26561

Craig E. Frischman, Esquire
Pa. I.D. No. 46603

RAIZMAN & FRISCHMAN, P.C.
Firm No. 376
7300 Penn Avenue
Pittsburgh, Pennsylvania 15208
(412) 247-7300

JURY TRIAL DEMANDED

FILED
MAY 25 2006

ICC
Atty Frischman
(CR)

William A. Shaw
Prothonotary/Clerk of Courts

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

CATHY L. TIMKO,
Executrix of the Estate of
STEVE TIMKO, JR., Deceased,

Plaintiff,

vs.

TYRONE MEDICAL ASSOCIATES,
INC.; ALBERT TUONO, D.O., P.C.;
ALBERT TUONO, D.O.; and
ANTHONY SHEDLOCK, D.O.,

Defendants.

CIVIL DIVISION

No. 2003-01084-CD

**PETITION FOR LEAVE
TO SETTLE A DEATH CLAIM**

Petitioner, Cathy L. Timko, by and through her undersigned counsel, hereby files the following Petition for Leave to Settle a Death Claim:

1. Petitioner, Cathy L. Timko, is the Executrix of the Estate of her late husband, Steve Timko, Jr., Deceased, having been appointed Executrix of his Estate by the Register of Wills of Clearfield County on July 25, 2003 at No. 2003-396. A copy of the Certificate of Grant of Letters is attached hereto as Exhibit "A."

2. This action is a wrongful death and survival action seeking damages as a result of the Decedent's August 1, 2001 death from persistent anemia which was caused by a large rectal mass which went untreated for a number of months after it was first diagnosed.

3. At time of his death, the Decedent, then 63 years of age, resided with his wife, Cathy L. Timko, the Petitioner herein, and their son, Kevin Timko, who was 18 years old, at the family home located in Hawk Run, Clearfield County, Pennsylvania.

4. The Decedent was survived by his wife, Cathy L. Timko, the Petitioner herein, and their adult son, Kevin Timko. In addition, the Petitioner is also survived by three adult children from a prior marriage, namely; Diana Timko, Brian Timko and Tracey Timko.

5. Following the Decedent's death, the Petitioner retained the services of the undersigned counsel to investigate the circumstances surrounding her husband's death.

6. Thereafter, the undersigned counsel conducted a medical/legal investigation and concluded that the Decedent's death was the result of professional negligence in failing to promptly treat the Decedent's rectal mass, thereby subjecting him to the consequences of persistent and, at times, overwhelming anemia.

7. Following the initiation of suit by the filing of a detailed Complaint, extensive discovery was conducted in this case both in written form and by deposition.

8. Thereafter, the undersigned counsel obtained expert reports which supported the Petitioner's contentions that the Decedent's death was the result of professional malpractice.

9. Prior to the commencement of trial, which was scheduled to begin on July 21, 2006, settlement negotiations resulted in an offer of \$200,000 to resolve this case in consideration of the Petitioner executing the Full and Final Release attached hereto as Exhibit "B" and obtaining the required Court approval.

10. Defendant Albert Tuono will be contributing the sum of \$150,000 and Defendant Anthony Shedlock will be contributing the sum of \$50,000 towards the settlement of this case.

11. Petitioner signed a Power of Attorney authoring a contingent fee of 33 1/3% plus the reimbursement of costs in the event that this case was settled prior to the commencement of trial. In order to maximize the amount received by the Petitioner from the resolution of this suit, the undersigned counsel has agreed to reduce its fee to 31%.

12. As reflected by the attached printout, the undersigned counsel has incurred the sum of \$10,816.59 in the pursuit of this case and the closing of Steve Timko's Estate. In addition, the undersigned counsel seek reimbursement of \$10,816.59 in costs which it has advanced in the pursuit of this case. Attached hereto as Exhibit "C" is a printout of those costs advanced by the undersigned counsel.¹

13. Pursuant to the terms of its retention, Petitioner believes that the payment of a contingent fee of \$58,646.75 plus the reimbursement of those costs advanced by her counsel in the pursuit of this matter of \$10,816.59 is fair and reasonable.

14. In light of the fact that the Decedent died within several months of the diagnosis of his rectal mass, the Petitioner respectfully request that 70% of the proceeds derived from the settlement of this case be allocated pursuant to Pennsylvania's Wrongful Death Act and 30% of the proceeds be allocated pursuant to Pennsylvania's Survival Act.

15. Consistent with the preceding paragraphs of the Petition, Petitioner requests that the proceeds of this case be distributed as follows:

¹ It is anticipated that the Defendant will separately reimburse the undersigned counsel for the cost of filing and discontinuing this suit and service of the Complaint. These costs total the sum of \$366.29.


- | | | |
|-----|--|--------------|
| (a) | Cathy L. Timko, the Decedent's sole
Wrongful Death Beneficiary
(Wrongful Death Claim) | \$ 91,375.66 |
| (b) | Cathy L. Timko, Executrix of the Estate of
Steve Timko, Jr., Deceased
(Survival Claim) | \$ 39,161.00 |
| (c) | Raizman & Frischman, P.C.
(Attorneys' Fees) | \$ 58,646.75 |
| (d) | Raizman & Frischman, P.C.
(Reimbursement of Costs) | \$ 10,816.59 |

16. Petitioner consents to the terms of the settlement as specified in this
Petition.

WHEREFORE, Petitioner Cathy L. Timko respectfully requests that this
Honorable Court enter the attached Order approving the settlement of this case.

Respectfully submitted,

RAIZMAN & FRISCHMAN, P.C.



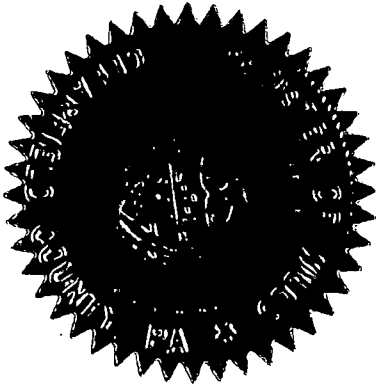
Dorothy L. Raizman, Esquire
Craig E. Frischman, Esquire
7300 Penn Avenue
Pittsburgh, Pennsylvania 15208
(412) 247-7300

Attorneys for Plaintiff

**Register of Wills
Certificate of Grant of Letters**

No. 2003-396

ESTATE OF **Steve J. Timko, Jr.**
Late of Hawk Run
Clearfield County, PA
DECEASED
Social Security No. **208-30-0880**



WHEREAS, on the 25th day of July, 2003, instrument(s) dated June 28, 1990 admitted to probate as the last will of Steve J. Timko, Jr. late of Hawk Run, Clearfield County, PA who died on the 1st day of August, 2001, and WHEREAS, a true copy of the will as probated is annexed hereto.

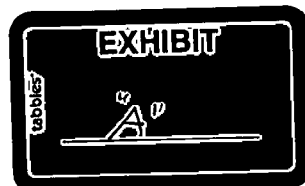
THEREFORE, I, Karen L Starck, Register of Wills in and for the County of Clearfield, in the Commonwealth of Pennsylvania, hereby certify that I have this day granted Letters Testamentary to Cathy L. Timko who has duly qualified as Executrix and has agreed to administer the estate according to law, all of which fully appears of record in my office at Clearfield, Pennsylvania.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seal of my Office the 25th day of July, 2003.

Karen L. Starck

Register of Wills

**My Commission Expires
First Monday in January, 2004**

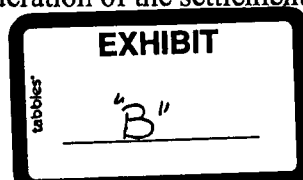


FULL AND FINAL RELEASE

Know all Men by These Presents,

That Cathy Timko, Executrix of the Estate of Steve Timko, Jr., Deceased, in consideration of the sum of Two Hundred Thousand Dollars,(\$200,000.00) lawful money to her in hand paid by Albert Tuano, D.O.. and Albert Tuano, D.O., P.C. and their insurer (in the amount of \$150,000) and Anthony Shedlock, D.O. and his insurer (the Medical Protective Company) in the amount of \$50,000.00 at the time of the sealing and delivery hereof, the receipt of which is hereby acknowledged, forever remised, released, acquitted and discharged, and by these presents forever remise, release, acquit and discharge the said Albert Tuano, D.O. and Albert Tuano, D.O., P.C. and Anthony Shedlock, D.O. and all other persons, associations and corporations, whether or not named herein, and their heirs, executors, administrators, successors and assigns, of and from any and all liability, actions, causes of action, judgments, claims and demands of whatsoever kind or nature, which she is or can or may be, or to which she claims to be entitled by reason of or arising out of personal injury, death, property damage or loss of any kind or nature sustained by Steve Timko, Jr., Deceased or by other persons, associations or corporations as a direct or indirect result of all known and unknown injuries, losses and damages past, present and future, allegedly sustained by Steve Timko, Jr., Deceased, as a result of, arising from, or in any way connected with all medical professional health care services, treatment and care which were rendered or which should have been rendered to Steve Timko, Jr. by Albert Tuano, D.O. and Albert Tuano, D.O., P.C. and Anthony Shedlock, D.O. including, but not limited to, any matters which have been alleged or which could have been alleged in the litigation filed at 2003-01084-C.D. in the Court of Common Pleas of Clearfield County, Pennsylvania.

It is further understood, agreed and made a part hereof that neither the undersigned nor my attorneys or other representatives will in any way publicize in any news or communications media including, but not limited to, newspapers, magazines, radio or television the facts or terms and conditions of this settlement. All parties to this agreement expressly agree to decline comment on any aspect of this settlement to any member of the news media. This paragraph is intended to become part of the consideration of the settlement of this claim.



This release includes all claim or actions for contribution or indemnity now existing or that may arise on account of injuries or damages sustained by third parties.

The undersigned hereby agrees, on her behalf and on behalf of my heirs, executors, successors and/or assigns, to satisfy any and all liens that have been asserted and/or which could be or may be asserted for reimbursement of any medical benefits or other benefits provided to the undersigned by a third party as a result of the injuries claimed in the Legal Action referenced herein. Additionally, the undersigned hereby agrees, on her behalf and on behalf of my heirs, executors, successors and/or assigns, to indemnify and save forever harmless the Releasees named in this document from and against any and all claims, demands or actions, known or unknown, made against the Releasees by any person or entity on account of, or in any manner related to or arising from the Legal Action noted above.

In the event court approval is required for the settlement, compromise or resolution of this claim, this settlement is condition upon Plaintiff undertaking any and all necessary action to obtain same.

If this settlement is ever determined by any court to be without effect because some necessary court approval was not obtained, or if the released parties are subjected to further legal action or claim which could not have been instituted or presented had proper court approval been obtained by Plaintiff, then Plaintiff will indemnify the released parties for any future loss, cost, or expense, including but not limited to, reasonable attorney's fees for defending, litigating and settling any such claims or action, and for any judgment resulting from any such claim or action.

It is further understood and agreed that this is a complete and full release, and that there are no written or oral understandings or agreements, directly or indirectly connected with this release and settlement that are not incorporated herein. This Agreement shall be binding upon and inure to the successors, assigns, heirs, executors, administrators and legal representatives of the respective parties hereto. And the said Albert Tuano, D.O. and Albert Tuano, D.O., P.C. and their insurer as well as Anthony Shedlock, D.O. and the Medical Protective Company in paying the said sums of money, do so in compromise of the said claim and demand above released, not admitting any liability on account of the same.

The undersigned hereby declares that the terms of this settlement have been completely read; and that they have discussed the terms of this settlement with legal counsel of their choice; and said terms are fully understood and voluntarily accepted for the purpose of making a full and final compromise adjustment and settlement of any and all claims on account of the injuries and damages above-mentioned, and for the express purpose of precluding forever any further or additional suits arising out of the aforesaid claim.

IN WITNESS WHEREOF, and with intention to be legally bound hereby, the _____
day of _____, Two Thousand Six (2006)

Address:

Social Security Number

WITNESS:

06/16/06
Accrual Basis
Transaction Detail By Account
August 1, 1997 through May 16, 2006

Type	Date	Num	Name	Memo	Class	Cl	Split	Amount	Balance
Case Costs									
Check	7/29/2003	11392	Timmo, Steve	Register of W&S			Case Account C...	-30.00	-30.00
Check	1/29/2003	11676	Timmo, Steve	income tax retu...			Case Account C...	-181.00	-181.00
General Journal	1/29/2004	3	Timmo, Steve				Case Account C...	4,401.14	4,210.14
Total Case Costs								4,210.14	4,210.14
Copying Charges									
Check	4/28/2005	13020	Timmo, Steve	copying charges			Case Account C...	-18.20	-18.20
Check	5/1/2005	13115	Timmo, Steve				Case Account C...	1,144.00	-22.60
Total Copying Charges								-22.60	-22.60
Court Costs									
Check	7/25/2006	11343	Timmo, Steve				Case Account C...	-85.00	-85.00
Check	7/25/2003	11344	Timmo, Steve				Case Account C...	-75.00	-160.00
Check	7/25/2003	11345	Timmo, Steve				Case Account C...	-150.00	-310.00
Check	7/29/2003	11358	Timmo, Steve				Case Account C...	-40.00	-350.00
Check	2/5/2004	11742	Timmo, Steve				Case Account C...	-18.29	-368.29
Total Court Costs								-368.29	-368.29
Court Reporter									
Check	5/31/2005	13128	Timmo, Steve	deposition of Al...			Case Account C...	-831.00	-831.00
Check	5/31/2005	13127	Timmo, Steve	depositions of 4...			Case Account C...	-561.25	-1,488.25
Total Court Reporter								-1,488.25	-1,488.25
Delivery									
Check	11/2/2003	11584	Timmo, Steve				Case Account C...	-28.00	-28.00
Check	8/30/2005	13452	Timmo, Steve				Case Account C...	-48.50	-48.50
Total Delivery								-48.50	-48.50
Federal Express & U.P.S.									
Check	4/15/2002	8808	Timmo, Steve				Case Account C...	-7.84	-7.84
Check	4/15/2002	8852	Timmo, Steve				Case Account C...	-17.82	-25.66
Check	4/14/2003	11065	Timmo, Steve				Case Account C...	-18.88	-44.54
Check	5/27/2003	11184	Timmo, Steve				Case Account C...	-18.87	-63.41
Check	10/28/2003	11680	Timmo, Steve				Case Account C...	-69.27	-132.68
Check	4/28/2004	11885	Timmo, Steve				Case Account C...	-8.88	-141.56
Check	5/3/2004	11874	Timmo, Steve				Case Account C...	-8.88	-150.44
Check	8/1/2004	12087	Timmo, Steve				Case Account C...	0.00	-150.44
Check	8/7/2004	12088	Timmo, Steve				Case Account C...	7.38	-143.06
Check	8/7/2004	12087	Timmo, Steve				Case Account C...	-8.25	-151.31
Check	10/28/2004	12465	Timmo, Steve				Case Account C...	-12.46	-163.77
Check	5/28/2005	13088	Timmo, Steve				Case Account C...	-12.41	-176.18
Check	5/28/2005	13089	Timmo, Steve				Case Account C...	-120.48	-296.66
Check	5/31/2005	13132	Timmo, Steve				Case Account C...	-30.34	-327.00
Check	8/6/2005	13138	Timmo, Steve				Case Account C...	-40.18	-367.18
Check	7/5/2005	13205	Timmo, Steve				Case Account C...	-282.12	-649.30
Check	7/11/2005	13218	Timmo, Steve				Case Account C...	-8.30	-657.60
Check	10/20/05	13433	Timmo, Steve				Case Account C...	-23.21	-680.81
Check	11/2/2008	13941	Timmo, Steve				Case Account C...	-9.20	-690.01
Check	1/22/2008	13984	Timmo, Steve				Case Account C...	-7.80	-697.81
Check	5/22/2008	13983	Timmo, Steve				Case Account C...	-8.27	-706.08
Total Federal Express & U.P.S.								-706.08	-706.08
Medical Expert									
Check	8/6/2002	8838	Timmo, Steve	case review			Case Account C...	-1,800.00	-1,800.00
Check	4/7/2003	11069	Timmo, Steve	case review			Case Account C...	-100.00	-1,900.00
Check	4/28/2003	11103	Timmo, Steve	case review			Case Account C...	-1,000.00	-2,900.00
Check	8/15/2003	13283	Timmo, Steve	case review			Case Account C...	-1,800.00	-4,700.00
Check	4/18/2008	13889	Timmo, Steve				Case Account C...	-6,800.00	-11,500.00
Total Medical Expert								-11,500.00	-11,500.00
Medical Records									
Check	8/10/2001	8278	Timmo, Steve				Case Account C...	-18.05	-18.05
Check	10/31/2001	8376	Timmo, Steve				Case Account C...	-77.41	-95.46
Check	11/18/2001	8444	Timmo, Steve	Philpburg Ave...			Case Account C...	-38.00	-133.46
Check	12/27/2001	8460	Timmo, Steve	slits - Steve T...			Case Account C...	-200.00	-333.46
Check	3/18/2002	8728	Timmo, Steve	copy of X-ray			Case Account C...	-128.40	-461.86
Check	4/1/2002	11047	Timmo, Steve	medical records			Case Account C...	-72.00	-533.86
Check	5/14/2003	11148	Timmo, Steve				Case Account C...	-222.88	-756.74
Total Medical Records								-756.74	-756.74
Professional Services									
Check	8/6/2005	13247	Timmo, Steve	professional se...			Case Account C...	-450.00	-450.00
Check	5/15/2006	13801	Timmo, Steve				Case Account C...	-850.00	-1,300.00
Total Professional Services								-1,300.00	-1,300.00
Reimbursed Case Costs									
Deposit	8/23/2003		Timmo, Steve	court costs			Case Account C...	19.50	19.50
Deposit	8/23/2003		Timmo, Steve	court costs			Case Account C...	88.00	107.50
Deposit	8/21/2005		Timmo, Steve	photocopies			Case Account C...	5.25	112.75
Total Reimbursed Case Costs								112.75	112.75

EXHIBIT
C

06/16/06

Accrual Basis

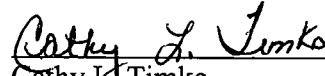
Transaction Detail By Account

August 1, 1997 through May 18, 2006

Type	Date	Num	Name	Memo	Class	Clr	Split	Amount	Balance
Travel Expenses									
Check	4/4/2005	12875	Timko, Steve	deposition			Case Account C...	-150.00	-150.00
Check	4/17/2005	12982	Timko, Steve				Case Account C...	-31.34	-181.34
Check	5/31/2005	13110	Timko, Steve				Case Account C...	-233.85	-415.19
Total Travel Expenses								-415.19	-415.19
TOTAL								-11,182.88	-11,182.88

CONSENT TO SETTLE

I, **Cathy L. Timko**, hereby certify that I am the Executrix of the Estate of Steve Timko, Jr., Deceased. I have read the foregoing Petition including the proposed distribution of the settlement proceeds and I approve of the same.

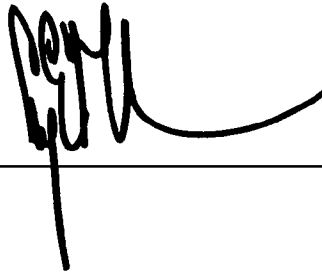

Cathy L. Timko

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served by first class, United States mail, postage prepaid, this 24th day of May, 2006, upon the following:

Bernard R. Rizza, Esquire
GACA MATIS BAUM & RIZZA
Four Gateway Center
444 Liberty Avenue, Suite 300
Pittsburgh, Pennsylvania 15222

James R. Hartline, Esquire
THOMSON, RHODES & COWIE, P.C.
Two Chatham Center, 10th Floor
Pittsburgh, Pennsylvania 15219



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

CATHY L. TIMKO, Executrix of the
Estate of STEVE TIMKO, JR.,
Deceased,

Plaintiff,

v.

TYRONE MEDICAL ASSOCIATES,
INC.; ALBERT TUONO, D.O., P.C.;
ALBERT TUONO, D.O.; and
ANTHONY SHEDLOCK, D.O.,

Defendants.

CIVIL DIVISION

No. 2003-01084-CD

**PRAECIPE TO SETTLE
AND DISCONTINUE**

Filed on behalf of Plaintiff

Counsel of Record for
this Party

Dorothy L. Raizman, Esquire
Pa. I.D. No. 26561

Craig E. Frischman, Esquire
Pa. I.D. No. 46603

RAIZMAN & FRISCHMAN, P.C.
Firm I.D. No. 376
7300 Penn Avenue
Pittsburgh, Pennsylvania 15208
(412) 247-7300

JURY TRIAL DEMANDED

FILED

0/2:11 um 1cc & 1 Cert
of disc to
JUN 01 2006 Atty Frischman
Copy to CIA

William A. Shaw
Prothonotary

PRAECIPE TO SETTLE AND DISCONTINUE

TO: PROTHONOTARY

Please mark the docket in the above-captioned case settled and discontinued, with prejudice.

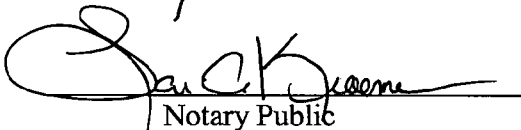

RAIZMAN & FRISCHMAN, P.C.

Craig E. Frischman, Esquire

- ☒ (x) Attorney for Plaintiff
- ☐ () Attorney for Defendant
- ☐ () Attorney for Crossclaim
- ☐ () Sheriff Due
- ☐ () Secretary of Commonwealth
- ☐ () Sheriff Mileage
- ☐ () Prothonotary S&D with Issue Costs
- ☐ () County Verdict
- ☐ () Orders
- ☐ () Awards from Arbitration
- ☐ () Certificate
- ☐ () Equity
- ☐ () Case and Counterclaim or Crossclaim
- ☐ () Plaintiff(s) Bill
- ☐ () Witness Bill
- ☐ () Judgment on Verdict
- ☐ () M.L.
- ☐ () D.S.B.
- ☐ () Execution-Sat. or S&D
- ☐ () Garnishees Fees

SWORN TO AND SUBSCRIBED

Before me this 30th day of
May, 2006.



Notary Public

COMMONWEALTH OF PENNSYLVANIA

Notarial Seal
Lori Ann Kraemer, Notary Public
City Of Pittsburgh, Allegheny County
My Commission Expires Dec. 8, 2009

Member, Pennsylvania Association of Notaries

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served by first class, United States mail, postage prepaid, this 3rd day of May, 2006, upon the following:

Bernard R. Rizza, Esquire
GACA MATIS BAUM & RIZZA
Four Gateway Center
444 Liberty Avenue, Suite 300
Pittsburgh, PA 15222

James R. Hartline, Esquire
THOMSON, RHODES & COWIE, P.C.
Two Chatham Center, 10th Floor
Pittsburgh, PA 15219



FILED

JUN 01 2008

William A. Shaw
Prothonotary

RAIZMAN & FRISCHMAN, P.C.

ATTORNEYS AT LAW

May 30, 2006

William A. Shaw, Prothonotary
Clearfield County Courthouse
230 East Market Street
Clearfield, Pennsylvania 16830

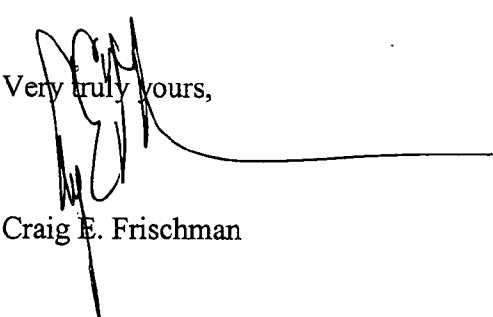
Re: Cathy Timko, Executrix of the Estate of Steve Timko, Jr.
Deceased v. Tyrone Medical Associates, Inc., et al.
No. 2003-01084-CD

Dear Mr. Shaw:

I am enclosing herewith for filing an original and one (1) copy of the Praeipie to Settle and Discontinue with regard to the above-referenced case. Kindly return to me a time and date stamped copy of the same in enclosed envelope which I have provided for your convenience.

If you have any questions or require additional information, please do not hesitate to contact me.

Very truly yours,


Craig E. Frischman

CEF:lk

Enclosure

cc: Bernard R. Rizza, Esquire (w/enclosure)
James R. Hartline, Esquire (w/enclosure)

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

COPY

Cathy L. Timko
Steve Timko Jr.

Vs.

No. 2003-01084-CD

Tyrone Medical Associates, Inc.
Anthony Shedlock MD
Albert Tuano DO
Albert Tuano PC

CERTIFICATE OF DISCONTINUATION

Commonwealth of PA
County of Clearfield

I, William A. Shaw, Prothonotary of the Court of Common Pleas in and for the County and Commonwealth aforesaid do hereby certify that the above case was on June 1, 2006, marked:

Settled and discontinued with prejudice

Record costs in the sum of \$85.00 have been paid in full by Raizman and Frischman.

IN WITNESS WHEREOF, I have hereunto affixed my hand and seal of this Court at Clearfield, Clearfield County, Pennsylvania this 1st day of June A.D. 2006.



William A. Shaw, Prothonotary