

03-1194-CD
GEORGE EVAN SAY, et al. vs. DUBOIS REGIONAL MEDICAL CENTER, et al.

Date: 12/05/2003

Clearfield County Court of Common Pleas

User: BANDERSON

Time: 09:15 AM

ROA Report

Page 1 of 1

Case: 2003-01194-CD

Current Judge: J. Michael Williamson

George Evan Say, Elizabeth Say vs. DuBois Regional Medical Center, Robert Cherry

Civil Other

Date	Judge
08/13/2003	Filing: Writ of Summons Paid by: Harrington Schweers Dattilo Receipt number: 1864593 Dated: 08/13/2003 Amount: \$85.00 (Check) 2 CC to Shff. for service. No Judge ✓
08/29/2003	Praecipe For Entry of Appearance on Behalf of Defendant, ROBERT CHERRY, M.D. filed by s/John W. Blasko, Esquire Certificate of Service no cc Certificate of Service of Defendant Cherry's Interrogatories and Request for Production (Set One) directed to Plaintiffs upon: William S. Schweers, Esq. filed by s/John W. Blasko, Esq. no cc Certificate of Service of Defendant Cherry's Request for Production (Set Two) directed to Plaintiffs upon: William S. Schweers, Esquire. filed by s/John W. Blasko, Esq. no cc Certificate of Service of Defendant Cherry's Expert Interrogatories directed to Plaintiffs upon: William S. Schweers, Esq. filed by s/John W. Blasko, Esquire no cc No Judge ✓
09/05/2003	Praecipe For Rule To File A Complaint. filed by s/John W. Blasko, Esquire Certificate of Service no cc 1 Rule to Atty Blasko Rule To File A Complaint And Certificate of Service. filed by s/John E. Blasko, Esquire no cc No Judge ✓
09/08/2003	Praecipe For Appearance On Behalf Of Defendant, DuBois Regional Medical Center. filed by s/David R. Johnson, Esq.. Certificate of Service no cc No Judge ✓
09/15/2003	Praecipe For Rule For Complaint. filed by s/David R. Johnson, Esq. Certificate of Service no cc 2 Rules to Atty Johnson Affidavit of Service of Rule For Complaint upon WILLIAM S. SCHWEERS, JR., ESQ. filed by s/David R. Johnson, Esquire Certificate of Service no cc No Judge ✓
09/24/2003	Sheriff Return, Papers served on Defendant(s). So Answers, Chester A. Hawkins, Sheriff by s/Marilyn Hamm No Judge ✓
09/26/2003	Affidavit of Service, Notice of Intent to file Default Judgment upon: Defendants, Say c/o William S. Schweers, Esquire no cc No Judge ✓
10/02/2003	Complaint filed by Atty. for Plaintiff Schweers, No cc. Notice of Service of Plaintiffs' First Set of Interrogatories and Request for Production of Documents filed by Atty. Schweers. No cc. Notice of Service of Plaintiffs' First Set of Interrogatories and Request for Production of Documents filed by Atty. Schweers. No cc. No Judge ✓
10/23/2003	Preliminary Objection to Plaintiffs' Complaint filed by Atty. Blasko. No cc. No Judge ✓
11/14/2003	Certificate of Service, Answers, Responses and Objections of Defendant Robert Cherry, M.D. to Plaintiff's First Set of Interrogatories and Request for Production of Documents upon: (Original) William S. Schweers, Esq. (Copy) David R. Johnson, Esq. filed by, s/John W. Blasko, Esquire no cc No Judge ✓
11/26/2003	ORDER, NOW, this 25th day of November, 2003, re; CA of Clearfield County to refer the above-captioned civil matter to Administrative Regional Unit II for assignment of a specially presideing judicial authority. by the Court, s/JKR, JR., P.J. 1 cc C/A, 1 cc Atty Schweeres, 1 cc Atty Johnson, and 1 cc Atty Blasko No Judge ✓

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

GEORGE EVAN SAY and) CIVIL DIVISION
ELIZABETH SAY, his wife,)
) No. 03-1194-CD
Plaintiffs,)
)
vs.)
)
DUBOIS REGIONAL MEDICAL CENTER,) **PRAECIPE FOR WRIT OF SUMMONS**
and ROBERT CHERRY, M.D.,) **-IN CIVIL ACTION-**
)
Defendants.)
)
) Filed on behalf of GEORGE EVAN
) SAY and ELIZABETH SAY, his
) wife, **PLAINTIFFS**
)
)
)
)
) Counsel of Record for this Party:
)
)
) **WILLIAM S. SCHWEERS, JR., ESQUIRE**
) PA I.D. #27625
)
)
) **HARRINGTON SCHWEERS DATTILO**
) & McCLELLAND, P.C.
) Firm #949
) 100 Ross Street
) Pittsburgh, PA 15219
)
) Telephone: (412) 391-3477
) Facsimile: (412) 391-7397

FILED

AUG 13 2003

William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

GEORGE EVAN SAY and) CIVIL DIVISION
ELIZABETH SAY, his wife,)
Plaintiffs,) No.
vs.)
DUBOIS REGIONAL MEDICAL CENTER,)
and ROBERT CHERRY, M.D.,)
Defendants.)

**PRAECIPE FOR WRIT OF SUMMONS
-IN CIVIL ACTION-**

TO: WILLIAM SHAW, PROTHONOTARY

Dear Sir:

Kindly issue writ of summons in Civil Action in the within-captioned action returnable
sec. leg. et sec. reg.

**Amount in controversy exceeds \$20,000.00
exclusive of interest and costs.**

A JURY TRIAL IS DEMANDED.

HARRINGTON SCHWEERS DATTILO &
McCLELLAND, P.C.
Firm #949
100 Ross Street
Pittsburgh, PA 15219
(412) 391-3477

BY: 

William S. Schweers, Jr., Esquire
PA I.D. #27625

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

SUMMONS

**George Evan Say
Elizabeth Say**

Vs.

NO.: 2003-01194-CD

**DuBois Regional Medical Center
Robert Cherry M. D.**

**TO: DUBOIS REGIONAL MEDICAL CENTER
ROBERT CHERRY 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: 08/13/2003

William A. Shaw
Prothonotary

Issuing Attorney:
William S. Schweers, Jr. Esq.
100 Ross Street
Pittsburgh, PA 15219-2071

Bloom, Paul E. Petition for Payment of Fees and Expenses, Jan. 30, 1995 11 445

Board of Arbitrators Order of Board of Arbitrators Jul. 23, 2002 Oct. 25, 2002 11 575

Board of Arbitrators Order of Board of Arbitrators Jul. 23, 2002 Sept. 20, 2002 11 575

Board of Arbitrators Order of Board of Arbitrators Jul 23, 2002 Oct. 4, 2002 11 575

Board of Arbitrators Order of Board of Arbitrators Oct. 30, 2002 Jan. 10, 2003 11 576

Board of Arbitrators Order, John A. Sobel, IV, Esq., appointed to hear the cases in which Ronald L. Collins, Esq., had been appointed arbitrator June 5, 1992 11 554

Board of Arbitrators Order of Board of Arbitrators Oct. 30, 2002 Jan. 9, 2003 11 576

Board of Arbitrators Order of Board of Arbitrators Nov. 2, 1998 Jan. 21, 1999 11 567

Board of Arbitrators Order of Board of Arbitrators Mar. 2, 1999 May 13, 1999 11 568

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

GEORGE EVAN SAY and)
ELIZABETH SAY, his wife,)
Plaintiffs,)
vs.)
DUBOIS REGIONAL MEDICAL)
CENTER and ROBERT CHERRY, M.D.)
Defendants.)
JURY TRIAL DEMANDED)
Type of Pleading:)
PRAECIPE FOR ENTRY OF APPEARANCE)
Filed on Behalf of Defendant:)
ROBERT CHERRY, M.D.)
Counsel of Record for this)
Party: JOHN W. BLASKO)
Court I.D. No.: 06787)
McQUAIDE, BLASKO, SCHWARTZ,)
FLEMING & FAULKNER, INC.)
811 University Drive)
State College, PA 16801)
(814) 238-4926)
Counsel of Record for)
Adverse Party:)
William S. Schweers)

Dated: 8-28-03

FILED

AUG 29 2003

William A. Shaw
Prothonotary/Clerk of Courts

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

GEORGE EVAN SAY and)
ELIZABETH SAY, his wife,)
Plaintiffs,)
vs.) No. 03-1194 CD
DUBOIS REGIONAL MEDICAL)
CENTER and ROBERT CHERRY, M.D.,)
Defendants.) JURY TRIAL DEMANDED

PRAECIPE FOR ENTRY OF APPEARANCE

TO THE PROTHONOTARY:

Please enter our appearance on behalf of the Defendant, Robert Cherry, M.D., in the
above-captioned matter.

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

By: 
JOHN W. BLASKO
Attorneys for Defendant
Robert Cherry, M.D.
811 University Drive
State College, PA 16801
(814) 238-4926

Dated: 8-28-03

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

GEORGE EVAN SAY and)
ELIZABETH SAY, his wife,)
)
 Plaintiffs,)
)
 vs.)
)
 DUBOIS REGIONAL MEDICAL)
 CENTER and ROBERT CHERRY, M.D.,)
)
 Defendants.)
)

No. 03-1194 CD

JURY TRIAL DEMANDED

CERTIFICATE OF SERVICE

I hereby certify that the Praecipe for Entry of Appearance, in the above-referenced matter
was mailed by regular mail, first class, at the Post Office, State College, Pennsylvania, postage
prepaid, this 28th day of August, 2003 to:

Williams S. Schweers, Esquire
100 Ross Street
Pittsburgh, PA 15219

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

By: 

JOHN W. BLASKO
Attorneys for Defendant
Robert Cherry, M.D.

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

GEORGE EVAN SAY and)
ELIZABETH SAY, his wife,)
Plaintiffs,)
vs.)
DUBOIS REGIONAL MEDICAL)
CENTER and ROBERT CHERRY, M.D.,)
Defendants.)
No. 03-1194 CD
JURY TRIAL DEMANDED

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of Defendant Cherry's Interrogatories and Request for Production (Set One) directed to Plaintiffs, in the above-referenced matter was mailed by regular mail, first class, at the Post Office, State College, Pennsylvania, postage prepaid, this 28th day of August, 2003, to:

William S. Schweers, Esquire
100 Ross Street
Pittsburgh, PA 15219

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

By:

JOHN W. BLASKO
Attorneys for Defendant
Robert Cherry, M.D.

FILED

112:40861
AUG 29 2003 11:22C

William A. Shaw
Prothonotary/Clerk of Courts

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

GEORGE EVAN SAY and)
ELIZABETH SAY, his wife,)
Plaintiffs,)
vs.) No. 03-1194 CD
DUBOIS REGIONAL MEDICAL)
CENTER and ROBERT CHERRY, M.D.,)
Defendants.) JURY TRIAL DEMANDED

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of Defendant Cherry's Request for Production (Set Two) directed to Plaintiffs, in the above-referenced matter was mailed by regular mail, first class, at the Post Office, State College, Pennsylvania, postage prepaid, this 28th day of August, 2003, to:

William S. Schweers, Esquire
100 Ross Street
Pittsburgh, PA 15219

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

By: John W. Blasko/cf

JOHN W. BLASKO
Attorneys for Defendant
Robert Cherry, M.D.

FILED

12:40 PM
AUG 29 2003
No CC
QPS

William A. Shaw
Prothonotary/Clerk of Courts

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

GEORGE EVAN SAY and)
ELIZABETH SAY, his wife,)
Plaintiffs,)
vs.)
DUBOIS REGIONAL MEDICAL)
CENTER and ROBERT CHERRY, M.D.,)
Defendants.)
No. 03-1194 CD
JURY TRIAL DEMANDED

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of Defendant Cherry's Expert Interrogatories directed to Plaintiffs, in the above-referenced matter was mailed by regular mail, first class, at the Post Office, State College, Pennsylvania, postage prepaid, this 28th day of August, 2003, to:

William S. Schweers, Esquire
100 Ross Street
Pittsburgh, PA 15219

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

By:

JOHN W. BLASKO
Attorneys for Defendant
Robert Cherry, M.D.

FILED

ml12408H
AUG 29 2003

William A. Shaw
Prothonotary/Clerk of Courts

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

GEORGE EVAN SAY and)
ELIZABETH SAY, his wife,)
Plaintiffs,)
vs.)
DUBOIS REGIONAL MEDICAL)
CENTER and ROBERT CHERRY, M.D.)
Defendants.)
JURY TRIAL DEMANDED)
Type of Pleading:)
PRAECIPE FOR RULE TO FILE A)
COMPLAINT)
Filed on Behalf of Defendant:)
ROBERT CHERRY, M.D.)
Counsel of Record for this)
Party: JOHN W. BLASKO)
Court I.D. No.: 06787)
McQUAIDE, BLASKO, SCHWARTZ,)
FLEMING & FAULKNER, INC.)
811 University Drive)
State College, PA 16801)
(814) 238-4926)
Counsel of Record for)
Adverse Party:)
William S. Schweers)

Dated: 8-28-03

FILED

AUG 29 2003

William A. Shaw
Prothonotary/Clerk of Courts

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

GEORGE EVAN SAY and)
ELIZABETH SAY, his wife,)
Plaintiffs,)
vs.)
DUBOIS REGIONAL MEDICAL)
CENTER and ROBERT CHERRY, M.D.,)
Defendants.)
No. 03-1194 CD
JURY TRIAL DEMANDED

PRAEICE FOR RULE TO FILE A COMPLAINT

TO THE PROTHONOTARY:

Please issue a Rule on Plaintiff to file their Complaint within twenty (20) days from service thereof or suffer a judgment of non pros against him.

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

By: JOHN W. BLASKO
Attorneys for Defendant
Robert Cherry, M.D.
811 University Drive
State College, PA 16801
(814) 238-4926

Dated: 8-28-03

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

GEORGE EVAN SAY and)
ELIZABETH SAY, his wife,)
)
Plaintiffs,)
)
vs.)
)
DUBOIS REGIONAL MEDICAL)
CENTER and ROBERT CHERRY, M.D.,)
)
Defendants.)
)
No. 03-1194 CD
JURY TRIAL DEMANDED

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the Praeclipe for Rule to File a Complaint on behalf of the Defendant, Robert Cherry, M.D., in the above-referenced matter was mailed by regular mail, first class, at the Post Office, State College, Pennsylvania, postage prepaid, this

28th day of August, 2003, to:

William S. Schweers, Esquire
100 Ross Street
Pittsburgh, PA 15219

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

By:

JOHN W. BLASKO
Attorneys for Defendant
Robert Cherry, M.D.

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

GEORGE EVAN SAY and)
ELIZABETH SAY, his wife,)
Plaintiffs,)
vs.) No. 03-1194 CD
DUBOIS REGIONAL MEDICAL)
CENTER and ROBERT CHERRY, M.D.,)
Defendants.) JURY TRIAL DEMANDED

RULE

TO: George Evan Say and Elizabeth Say
c/o William S. Schweers, Esquire
100 Ross Street
Pittsburgh, PA 15219

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.

PROTHONOTARY

Dated: August 29, 2003

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

GEORGE EVAN SAY and)
ELIZABETH SAY, his wife,)
)
Plaintiffs,)
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vs.)
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DUBOIS REGIONAL MEDICAL)
CENTER and ROBERT CHERRY, M.D.)
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Defendants.)
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JURY TRIAL DEMANDED
Type of Pleading:
RULE TO FILE A COMPLAINT AND
CERTIFICATE OF SERVICE
Filed on Behalf of Defendant:
ROBERT CHERRY, M.D.
Counsel of Record for this
Party: JOHN W. BLASKO
Court I.D. No.: 06787
McQUAIDE, BLASKO, SCHWARTZ,
FLEMING & FAULKNER, INC.
811 University Drive
State College, PA 16801
(814) 238-4926
Counsel of Record for
Adverse Party:
William S. Schweers

Dated: Sept 4, 2003

FILED

SEP 05 2003

11230100C

William A. Shaw

Prothonotary/Clerk of Courts

1
EAS

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

GEORGE EVAN SAY and)
ELIZABETH SAY, his wife,)
Plaintiffs,)
vs.)
DUBOIS REGIONAL MEDICAL)
CENTER and ROBERT CHERRY, M.D.,)
Defendants.)
No. 03-1194 CD
JURY TRIAL DEMANDED

CERTIFICATE OF SERVICE

I hereby certify that the original Rule to File a Complaint, in the above-referenced matter was mailed by regular mail, first class, at the Post Office, State College, Pennsylvania, postage prepaid, this 4th day of Sept., 2003 to:

William S. Schweers, Esquire
100 Ross Street
Pittsburgh, PA 15219

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

By: John W. Blasko
JOHN W. BLASKO
Attorneys for Defendant
Robert Cherry, M.D.

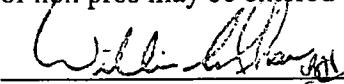
IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

GEORGE EVAN SAY and)
ELIZABETH SAY, his wife,)
Plaintiffs,)
vs.) No. 03-1194 CD
DUBOIS REGIONAL MEDICAL)
CENTER and ROBERT CHERRY, M.D.,)
Defendants.) JURY TRIAL DEMANDED

RULE

TO: George Evan Say and Elizabeth Say
c/o William S. Schweers, Esquire
100 Ross Street
Pittsburgh, PA 15219

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.



PROTHONOTARY

Dated: August 29, 2003

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

GEORGE EVAN SAY and ELIZABETH
SAY, his wife,

Plaintiffs,

Vs.

DUBOIS REGIONAL MEDICAL
CENTER and ROBERT CHERRY, M.D.,

Defendants.

CIVIL DIVISION

No. 03-1194 CD

Issue No.

PRAECIPE FOR APPEARANCE

Code: 007

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

Counsel of Record for This Party:

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

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

(412) 232-3400

FILED

SEP 08 2003

William A. Shaw
Prothonotary/Clerk of Courts

PRAECIPE FOR APPEARANCE

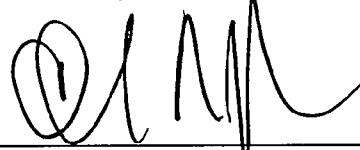
TO: PROTHONOTARY

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

JURY TRIAL DEMANDED.

Respectfully submitted,

THOMSON, RHODES & COWIE, P.C.



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

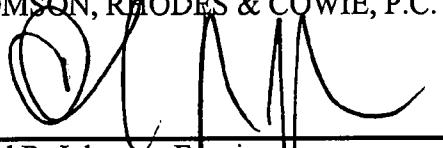
CERTIFICATION OF SERVICE

I hereby certify that a true and correct copy of the within PRAECIPE FOR APPEARANCE has been served upon the following counsel of record and same placed in the U.S. Mails on this 5th day of Sept, 2003:

William S. Schweers, Jr., Esquire
Harrington, Schweers, Dattilo & McClelland, P.C.
100 Ross Street
Pittsburgh, PA 15219

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

THOMSON, RHODES & COWIE, P.C.


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

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

GEORGE EVAN SAY and ELIZABETH
SAY, his wife,

Plaintiffs,

Vs.

DUBOIS REGIONAL MEDICAL
CENTER and ROBERT CHERRY, M.D.,

Defendants.

CIVIL DIVISION

No. 03-1194 CD

Issue No.

PRAECIPE FOR RULE FOR COMPLAINT

Code: 007

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

Counsel of Record for This Party:

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

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

(412) 232-3400

FILED

SEP 08 2003

William A. Shaw
Prothonotary/Clerk of Courts

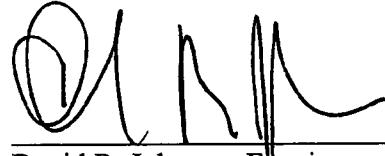
PRAECIPE FOR RULE FOR COMPLAINT

TO: PROTHONOTARY

Kindly issue a rule on plaintiffs to file their complaint within twenty days.

Respectfully submitted,

THOMSON, RHODES & COWIE, P.C.



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

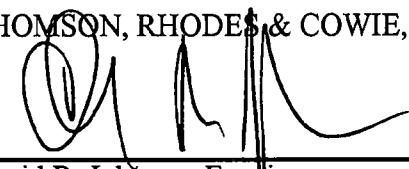
CERTIFICATION OF SERVICE

I hereby certify that a true and correct copy of the within PRAECIPE FOR RULE
FOR COMPLAINT has been served upon the following counsel of record and same
placed in the U.S. Mails on this 5th day of Sept., 2003:

William S. Schweers, Jr., Esquire
Harrington, Schweers, Dattilo & McClelland, P.C.
100 Ross Street
Pittsburgh, PA 15219

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

THOMSON, RHODES & COWIE, P.C.


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

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

COPY

George Evan Say and
Elizabeth Say, his wife

Vs.
DuBois Regional Medical Center and
Robert Cherry, M.D.

Case No. 2003-01194-CD

RULE TO FILE COMPLAINT

TO: George Evan Say and Elizabeth Say, his wife

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 8, 2003

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

GEORGE EVAN SAY and ELIZABETH
SAY, his wife,

Plaintiffs,

Vs.

DUBOIS REGIONAL MEDICAL
CENTER and ROBERT CHERRY, M.D.,

Defendants.

CIVIL DIVISION

No. 03-1194 CD

Issue No.

AFFIDAVIT OF SERVICE OF RULE FOR
COMPLAINT

Code: 007

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

Counsel of Record for This Party:

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

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

(412) 232-3400

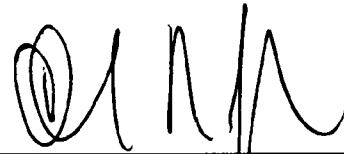
FILED
SEP 15 2003

William A. Shaw
Prothonotary

AFFIDAVIT OF SERVICE

Before me, the undersigned authority, personally appeared David R. Johnson, Esquire, who, being duly sworn, deposes and says that a true and correct copy of the Rule to File a Complaint in the above-captioned case was served upon plaintiff's counsel, William S. Schweers, Jr., Esquire, Harrington, Schweers, Dattilo & McClelland, P.C., 100 Ross Street, Pittsburgh, PA 15219, by certified mail, return receipt requested, and that the same was received on his behalf on 9/10/03 as shown by the return receipt attached hereto.

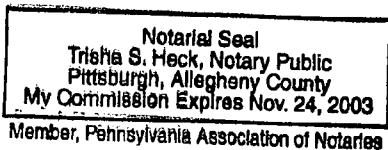
Respectfully submitted,



David R. Johnson, Esquire

Sworn to and subscribed before me
this 12th day of September, 2003.

Trisha S. Heck
Notary Public



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

George Evan Say and
Elizabeth Say, his wife

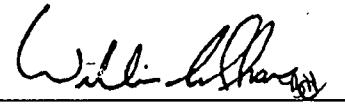
Vs.
DuBois Regional Medical Center and
Robert Cherry, M.D.

Case No. 2003-01194-CD

RULE TO FILE COMPLAINT

TO: George Evan Say and Elizabeth Say, his wife

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

William A. Shaw, Prothonotary

Dated: September 8, 2003

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:

William S. Schueers, Jr.
Harrington Schueers
Dattilo + McClelland
100 Ross St.
Pittsburgh, PA 15219

2. Article Number
(Transfer from service)

7001 1940 0002 3753 4518

COMPLETE THIS SECTION ON DELIVERY

A. Signature

 Agent Addressee

B. Received by (Printed Name)

PATRICIA K. deConcini  7/10/03

C. Date of Delivery

D. Is delivery address different from item 1? YesIf YES, enter delivery address below: No

3. Service Type

<input checked="" type="checkbox"/> Certified Mail	<input type="checkbox"/> Express Mail
<input type="checkbox"/> Registered	<input type="checkbox"/> Return Receipt for Merchandise
<input type="checkbox"/> Insured Mail	<input type="checkbox"/> C.O.D.

4. Restricted Delivery? (Extra Fee)

 Yes

CERTIFICATION OF SERVICE

I hereby certify that a true and correct copy of the within AFFIDAVIT OF SERVICE OF RULE FOR COMPLAINT has been served upon the following counsel of record and same placed in the U.S. mails on this 12th day of

Sept., 2003:

William S. Schweers, Jr., Esquire
Harrington, Schweers, Dattilo & McClelland, P.C.
100 Ross Street
Pittsburgh, PA 15219

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

Respectfully submitted,

THOMSON, RHODES & COWIE, P.C.



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

In The Court of Common Pleas of Clearfield County, Pennsylvania

SAY, GEORGE EVAN & ELIZABETH

VS.

DUBOIS REGIONAL MEDICAL CENTER and ROBERT CHERRY, M.D.

Sheriff Docket # 14418

03-1194-CD

PRAECIPE & SUMMONS

SHERIFF RETURNS

NOW AUGUST 19, 2003 AT 12:20 PM SERVED THE WITHIN PRAECIPE & SUMMONS ON ROBERT CHERRY, M.D., DEFENDANT AT EMPLOYMENT, MEDICAL ARTS BLDG., 145 HOSIPTAL AVE., SUITE 206, DUBOIS, CLEARFIELD COUNTY, PENNSYLVANIA BY HANDING TO MICHELLE SMITH, RECEPT. A TRUE AND ATTESTED COPY OF THE ORIGINAL PRAECIPE & SUMMONS AND MADE KNOWN TO HER THE CONTENTS THEREOF.

SERVED BY: COUDRIET

NOW AUGUST 19, 2003 AT 12:30 PM SERVED THE WITHIN PRAECIPE & SUMMONS ON DUBOIS REGIONAL MEDICAL CENTER, DEFENDANT AT EMPLOYMENT, 100 HOSPITAL AVE., DUBOIS, CLEARFIELD COUNTY, PENNSYLVANIA BY HANDING TO GREG VOLPE, RISK MANAGEMENT A TRUE AND ATTESTED COPY OF THE ORIGINAL PRAECIPE & SUMMONS AND MADE KNOWN TO HIM THE CONTENTS THEREOF.

SERVED BY: COUDRIET

Return Costs

Cost	Description
37.68	SHERIFF HAWKINS PAID BY: ATTY CK# 28661
20.00	SURCHARGE PAID BY: ATT CK# 28662

Sworn to Before Me This

24th Day Of Sept. 2003 C.W.
William A. Shaw

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

So Answers,


Chester A. Hawkins
Sheriff

FILED

SEP 24 2003

William A. Shaw
Prothonotary/Clerk of Courts

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

AFFIDAVIT OF SERVICE

COMMONWEALTH OF PENNSYLVANIA :
: SS:
COUNTY OF CENTRE :
:

John W. Blasko, attorney for the Defendant, Robert Cherry, M.D., in the above-captioned matter, being duly sworn according to law, doth depose and say that a Notice of Intent to file Default Judgment was mailed by U.S. First Class Mail, at the Post Office in State College, Pennsylvania 16801, on the 25th day of September, 2003, to the Plaintiffs as follows:

George Evan Say and Elizabeth Say, his wife (Plaintiffs)
c/o William S. Schweers, Esquire
Harrington, Schweers, Dattilo & McClelland, P.C.
100 Ross Street
Pittsburgh, PA 15219

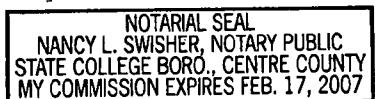
A copy of said Notice is attached hereto.

McQUAIDE BLASKO SCHWARTZ,
FLEMING & FAULKNER, INC.

BY _____
JOHN W. BLASKO
I.D. No. 6787
811 University Drive
State College, PA 16801
(814) 238-4926
Attorneys for Defendant
Robert Cherry, M.D.

Sworn to and subscribed before
me this 25th day of Sept., 2003.

Notary Public
[SEAL]



FILED

SEP 26 2003

William A. Shaw
Prothonotary/Clerk of Courts

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

GEORGE EVAN SAY and)
ELIZABETH SAY, his wife,)
Plaintiffs,)
vs.)
DUBOIS REGIONAL MEDICAL)
CENTER and ROBERT CHERRY, M.D.,)
Defendants.)
No. 03-1194 CD
JURY TRIAL DEMANDED

NOTICE OF INTENT TO TAKE DEFAULT JUDGMENT

To: George Evan Say and Elizabeth Say, his wife (Plaintiffs)
c/o William S. Schweers, Esquire
Harrington, Schweers, Dattilo & McClelland, P.C.
100 Ross Street
Pittsburgh, PA 15219
Date of Notice: September 25, 2003

IMPORTANT NOTICE

YOU ARE IN DEFAULT BECAUSE YOU HAVE FAILED TO TAKE ACTION REQUIRED
OF YOU IN THIS CASE. UNLESS YOU ACT WITHIN TEN [10] DAYS FROM THE DATE OF THIS
NOTICE, A JUDGMENT MAY BE ENTERED AGAINST YOU WITHOUT A HEARING AND YOU
MAY LOSE YOUR PROPERTY OR OTHER IMPORTANT RIGHTS. YOU SHOULD TAKE THIS
NOTICE TO A LAWYER AT ONCE IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD
ONE, GO TO OR TELEPHONE THE FOLLOWING OFFICE TO FIND OUT WHERE YOU CAN GET
LEGAL HELP.

David S. Meholic, Court Administrator
Clearfield County Courthouse, Clearfield, PA 16830
(814) 765-2641

McQUAIDE BLASKO SCHWARTZ,
FLEMING & FAULKNER, INC.

BY 
JOHN W. BLASKO
I.D. No. 6787
811 University Drive
State College, PA 16801
(814) 238-4926
Attorneys for Defendant,
Robert Cherry, M.D.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

GEORGE EVAN SAY and) CIVIL DIVISION
ELIZABETH SAY, his wife,)
Plaintiffs,) No. 03-1194-CD
vs.)
DUBOIS REGIONAL MEDICAL CENTER,) **COMPLAINT**
and ROBERT CHERRY, M.D.,)
Defendants.)
Filed on behalf of GEORGE EVAN
SAY and ELIZABETH SAY, his
wife, **PLAINTIFFS**
Counsel of Record for this Party:
WILLIAM S. SCHWEERS, JR., ESQUIRE
PA I.D. #27625
HARRINGTON SCHWEERS DATTILO
& McCLELLAND, P.C.
Firm #949
100 Ross Street
Pittsburgh, PA 15219
Telephone: (412) 391-3477
Facsimile: (412) 391-7397

FILED

10.55 AM NOCL

OCT 02 2003

William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

GEORGE EVAN SAY and)	CIVIL DIVISION
ELIZABETH SAY, his wife,)	
)	No. 03-1194-CD
Plaintiffs,)	
)	
vs.)	
)	
DUBOIS REGIONAL MEDICAL CENTER,)	
and ROBERT CHERRY, M.D.,)	
)	
Defendants.)	

NOTICE TO DEFEND

YOU have been sued in Court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this Complaint and Notice are served, by entering a written appearance personally or by attorney and filing in writing with the Court your defenses or objections to the claims set forth against you by the Court without further Notice for any money claimed in the Complaint or for any claim or relief requested by the Plaintiff. You may lose money or property or other rights important to you.

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

**DAVID S. MEHOLICK, COURT ADMINISTRATOR
CLEARFIELD COUNTY COURTHOUSE
230 E. MARKET STREET
CLEARFIELD, PA 16830
(814) 765-2641 Ext. 5982**

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

GEORGE EVAN SAY and)	CIVIL DIVISION
ELIZABETH SAY, his wife,)	
)	No. 03-1194-CD
Plaintiffs,)	
)	
vs.)	
)	
DUBOIS REGIONAL MEDICAL CENTER,)	
and ROBERT CHERRY, M.D.,)	
)	
Defendants.)	

COMPLAINT

AND NOW COME the Plaintiffs, by and through their Attorneys, WILLIAM S. SCHWEERS, JR., ESQUIRE and HARRINGTON SCHWEERS DATTILO & McCLELLAND, P.C., and file this **Complaint** upon a cause of action whereof the following is a statement:

1. Plaintiffs, George Evan Say and Elizabeth Say, are individuals, husband and wife, and at all times material to this cause of action reside at RR 1, Sigel, Jefferson County, Pennsylvania 15860.
2. Defendant, DuBois Regional Medical Center (hereinafter referred to as Defendant DRMC), at all times material to this Complaint was a corporation or other entity, chartered and existing under the laws of the Commonwealth of Pennsylvania, with a principal place of business in DuBois, Clearfield County, Pennsylvania. At all times relevant to the matters set forth in this Complaint, this Defendant owned, operated and controlled a certain general hospital located at 100 Hospital Avenue, DuBois, Clearfield County, Pennsylvania 15801.
3. Defendant, Robert Cherry, M.D. (hereinafter referred to as Defendant Cherry), is a medical doctor licensed to practice medicine in the State of Pennsylvania. At all times material to

Plaintiffs' cause of action, Defendant Cherry held himself out to the husband Plaintiff, George Evan Say, and the public, in general, as a specialist in the field of urology. Defendant Cherry maintains an office for the practice of his specialty located at the Medical Arts Building, 145 Hospital Avenue, Suite 206, DuBois, Clearfield County, Pennsylvania 15801.

4. It is further averred that at all times material to Plaintiffs cause of action, Defendant Cherry was an ostensible, agent, servant, and/or employee of DuBois Regional Medical Center, 100 Hospital Avenue, DuBois, Clearfield County, Pennsylvania 15801.

5. On August 15, 2001, husband Plaintiff, George Evan Say, was admitted to Defendant DRMC for purposes of undergoing a right total hip arthroplasty. The orthopedic portion of the procedure was performed without difficulty; however, near the completion of surgery, operating room personnel attempted to pass a Foley catheter. Difficulty was encountered and multiple attempts to pass the catheter failed. For this reason, an intraoperative urologic consult was requested. Defendant Cherry responded to the request and passed a #18 French catheter.

6. The catheter remained in place until the day of discharge, August 17, 2001. Following discharge, husband Plaintiff, George Evan Say, experienced burning with urination and a marked decrease in urine flow. Husband Plaintiff, George Evan Say, reported these symptoms to his PCP and was placed on Levaquin for a presumed urinary tract infection. The symptoms continued to worsen and on November 8, 2001, husband Plaintiff, George Evan Say, was referred to a urologist. Urethral stricture was diagnosed.

7. On the same day, husband Plaintiff, George Evan Say, underwent an emergency catheterization in order to empty the bladder. Husband Plaintiff, George Evan Say, was discharged with the catheter in place.

8. On November 13, 2001, husband Plaintiff, George Evan Say, underwent an urethrotomy. A significant amount of scar tissue was encountered.

9. Husband Plaintiff, George Evan Say, was discharged with the catheter in place. The catheter was removed on November 15, 2001. Thereafter, husband Plaintiff, George Evan Say, was required to follow a regimen of self-catheterization. A second urethrotomy was performed on January 8, 2002.

10. It was subsequently determined that husband Plaintiff, George Evan Say, would need, yet, another urethrotomy. For this reason, he was referred to a urologist in Pittsburgh. On February 28, 2002, a flexible cystoscopy and retrograde urethrogram were performed. At that time, it was felt that husband Plaintiff, George Evan Say, was experiencing spongiosclerosis caused by urethral manipulation. Husband Plaintiff, George Evan Say, continues to experience urinary difficulties.

Count I
George Evan Say and Elizabeth Say, his wife, Plaintiffs,
vs.
DuBois Regional Medical Center, Defendant.
(NEGLIGENCE)

11. Plaintiffs incorporate paragraphs 1 through 10 as if fully set forth herein.
12. The injuries and damages hereinafter set forth were caused solely by the negligence of Defendant DRMC, by and through their agents, servants, and/or employees, in the following respects:
 - (A) In that its agents, servants, employees, and operating personnel performed a traumatic catheterization;
 - (B) In that its agents, servants, employees, and operating personnel chose the incorrect size and type of catheter;
 - (C) In that its agents, servants, employees, and operating personnel manipulated the catheter in such a way as to result in urethral manipulation syndrome;

- (D) In that its agents, servants, employees, and operating personnel failed to remove the indwelling catheter in a timely manner;
- (E) In that its agents, servants, employees, and operating personnel failed to minimize the duration of the urinary catheter and to employ general hygienic procedures;
- (F) In that its agents, servants, employees, and operating personnel created a false urinary passage;
- (G) In that its agents, servants, employees, and operating personnel failed to consult a urologist after the initial attempt failed.

13. Directly as a result of the negligence of Defendant DRMC, by and through their agents, servants and/or employees as aforesaid, husband Plaintiff, George Evan Say, has sustained the following injuries and damages:

- (A) Urethral manipulation syndrome;
- (B) Spongiosis;
- (C) Urethral stricture;
- (D) Peyronie's disease.
- (E) He has in the past and will in the future experience great pain, suffering, inconvenience, embarrassment, and mental anguish;
- (F) He has in the past and will in the future be required to expend large sums of money for medical and surgical attention;
- (G) His health, strength, and vitality have been permanently impaired;
- (H) He has suffered a permanent injury;
- (I) He is unable to enjoy the ordinary pleasures of life.

WHEREFORE, Plaintiffs bring this suit to recover an amount in excess of TWENTY THOUSAND (\$20,000.00) DOLLARS.

A JURY TRIAL IS DEMANDED.

Count II
George Evan Say and Elizabeth Say, his wife, Plaintiffs,
vs.
Robert Cherry, M.D., Defendant.
(NEGLIGENCE)

14. Plaintiffs incorporate paragraphs 1 through 13 as if fully set forth herein.
15. The injuries and damages hereinafter set forth were caused solely by the negligence of Defendant Cherry in the following respects:
 - (A) In performing a traumatic catheterization;
 - (B) In choosing the incorrect size and type of catheter;
 - (C) In manipulating the catheter in such a way as to result in urethral manipulation syndrome;
 - (D) In failing to minimize the duration of the urinary catheter and to employ general hygienic procedures;
 - (E) In creating a false urinary passage.
16. Directly as a result of the negligence of Defendant Cherry, husband Plaintiff, George Evan Say, has sustained the following injuries and damages:
 - (A) Urethral manipulation syndrome;
 - (B) Spongiosis;
 - (C) Urethral stricture;
 - (D) Peyronie's disease.

- (E) He has in the past and will in the future experience great pain, suffering, inconvenience, embarrassment, and mental anguish;
- (F) He has in the past and will in the future be required to expend large sums of money for medical and surgical attention;
- (G) His health, strength, and vitality have been permanently impaired;
- (H) He has suffered a permanent injury;
- (I) He is unable to enjoy the ordinary pleasures of life.

WHEREFORE, Plaintiffs bring this suit to recover an amount in excess of TWENTY THOUSAND (\$20,000.00) DOLLARS.

A JURY TRIAL IS DEMANDED.

Count III
Elizabeth Say, wife Plaintiff,
vs.
DuBois Regional Medical Center and
Robert Cherry, M.D., Defendants.

- 17. Plaintiffs incorporate paragraphs 1 through 16 as if fully set forth herein.
- 18. Wife Plaintiff, Elizabeth Say, has been deprived of the services and consortium of her spouse, George Evan Say.

WHEREFORE, Plaintiffs bring this suit to recover an amount in excess of TWENTY THOUSAND (\$20,000.00) DOLLARS.

A JURY TRIAL IS DEMANDED.

Respectfully submitted,

HARRINGTON SCHWEERS DATTILO &
McCLELLAND, P.C.

Firm #949

100 Ross Street
Pittsburgh, PA 15219
(412) 391-3477

BY: 

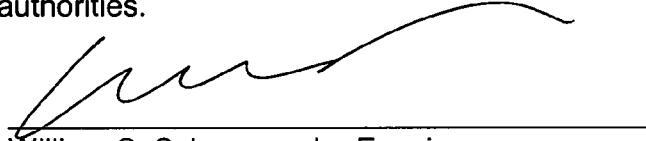
William S. Schweers, Jr., Esquire
PA I.D. #27625

Attorney for Plaintiffs.

VERIFICATION

I verify that the statements made in the foregoing writing and any attachments thereto are true and correct to the best of my knowledge and belief. I understand that false statements which are made herein are made subject to penalties of 18 Pa. C.S.A. Section 4904 relating to unsworn falsification to authorities.

Date: September 30, 2003



William S. Schweers, Jr., Esquire
Attorney for Plaintiffs

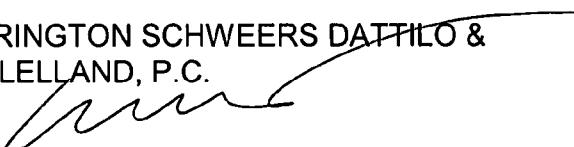
CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the within **PLAINTIFFS' COMPLAINT**, was served **via first-class U.S. Mail, postage prepaid**, this 30th day of September, 2003, on the following:

John W. Blasko, Esquire
**McQUAIDE, BLASKO, SCHWARTZ,
FLEMING & FAULKNER, INC.**
811 University Drive
State College, PA 16801

David R. Johnson, Esquire
THOMSON, RHODES & COWIE, P.C.
1010 Two Chatham Center
Pittsburgh, PA 15219

HARRINGTON SCHWEERS DATTILO &
McCLELLAND, P.C.

BY: 

William S. Schweers, Jr., Esquire
Attorney for Plaintiffs

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

GEORGE EVAN SAY and) CIVIL DIVISION
ELIZABETH SAY, his wife,)
Plaintiffs,) No. 03-1194-CD
vs.)
DUBOIS REGIONAL MEDICAL CENTER,) **NOTICE OF SERVICE OF**
and ROBERT CHERRY, M.D.,) **PLAINTIFFS' FIRST SET OF**
Defendants.) **INTERROGATORIES AND REQUEST**
) **FOR PRODUCTION OF DOCUMENTS**
) **DIRECTED TO DEFENDANT,**
) **DuBOIS REGIONAL MEDICAL CENTER**
) Filed on behalf of GEORGE EVAN
) SAY and ELIZABETH SAY, his
) wife, **PLAINTIFFS**
)
) Counsel of Record for this Party:
)
) **WILLIAM S. SCHWEERS, JR., ESQUIRE**
) PA I.D. #27625
)
) **HARRINGTON SCHWEERS DATTILO**
) & McCLELLAND, P.C.
) Firm #949
) 100 Ross Street
) Pittsburgh, PA 15219
)
) Telephone: (412) 391-3477
) Facsimile: (412) 391-7397

FILED
10:55 13A NOCL

OCT 02 2003

William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

GEORGE EVAN SAY and) CIVIL DIVISION
ELIZABETH SAY, his wife,)
Plaintiffs,) No. 03-1194-CD
vs.)
DUBOIS REGIONAL MEDICAL CENTER,)
and ROBERT CHERRY, M.D.,)
Defendants.)

NOTICE OF SERVICE

TO: WILLIAM SHAW, PROTHONOTARY

You are hereby notified that on the 30th day of September, 2003, Plaintiffs served a First Set of Interrogatories and Request for Production of Documents on Defendant, DuBois Regional Medical Center, by mailing the original of same via first-class U. S. Mail, postage prepaid, addressed to the following:

David R. Johnson, Esquire
THOMSON, RHODES & COWIE, P.C.
1010 Two Chatham Center
Pittsburgh, PA 15219

with a true and correct copy to:

John W. Blasko, Esquire
**McQUAIDE, BLASKO, SCHWARTZ,
FLEMING & FAULKNER, INC.**
811 University Drive
State College, PA 16801

HARRINGTON SCHWEERS DATTILO &
McCLELLAND, P.C.

BY: 

William S. Schweers, Jr., Esquire
Attorney for Plaintiffs

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

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OCT 02 2003

William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

GEORGE EVAN SAY and) CIVIL DIVISION
ELIZABETH SAY, his wife,)
Plaintiffs,) No. 03-1194-CD
vs.)
DUBOIS REGIONAL MEDICAL CENTER,)
and ROBERT CHERRY, M.D.,)
Defendants.)

NOTICE OF SERVICE

TO: WILLIAM SHAW, PROTHONOTARY

You are hereby notified that on the 30th day of September, 2003, Plaintiffs served a First Set of Interrogatories and Request for Production of Documents on Defendant, Robert Cherry, M.D., by mailing the original of same via first-class U. S. Mail, postage prepaid, addressed to the following:

John W. Blasko, Esquire
**McQUAIDE, BLASKO, SCHWARTZ,
FLEMING & FAULKNER, INC.**
811 University Drive
State College, PA 16801

with a true and correct copy to:

David R. Johnson, Esquire
THOMSON, RHODES & COWIE, P.C.
1010 Two Chatham Center
Pittsburgh, PA 15219

HARRINGTON SCHWEERS DATTILO &
McCLELLAND, P.C.

BY: 

William S. Schweers, Jr., Esquire
Attorney for Plaintiffs

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

GEORGE EVAN SAY and)
ELIZABETH SAY, his wife,)
Plaintiffs,)
vs.)
DUBOIS REGIONAL MEDICAL)
CENTER and ROBERT CHERRY, M.D.,)
Defendants.)
No. 03-1194 CD
JURY TRIAL DEMANDED

CERTIFICATE OF SERVICE

I hereby certify that the original Answers, Responses and Objections of Defendant Robert Cherry, M.D. to Plaintiffs' First Set of Interrogatories and Request for Production of Documents, in the above-referenced matter were mailed by regular mail, first class, at the Post Office, State College, Pennsylvania, postage prepaid, this 13th day of December, 2003 to:

Original:
William S. Schweers, Esquire
100 Ross Street
Pittsburgh, PA 15219

Copy:
David R. Johnson, Esquire
Two Chatham Center, Tenth Floor
Pittsburgh, PA 15219-3499

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

By: 
JOHN W. BLASKO
Attorneys for Defendant
Robert Cherry, M.D.

FILED

NOV 14 2003

William A. Shaw
Prothonotary/Clerk of Courts

CP

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

GEORGE EVAN SAY and :
ELIZABETH SAY, his wife :
vs. : No. 03-1194-CD
DUBOIS REGIONAL MEDICAL :
CENTER and ROBERT CHERRY, :
M.D. :

O R D E R

NOW, this 25th day of November, 2003, upon consideration of
recusal of both Judges sitting in the 46th Judicial District, it is the ORDER of this
Court that the Court Administrator of Clearfield County refer the above-captioned
civil matter to Administrative Regional Unit II for assignment of a specially presiding
judicial authority.

BY THE COURT:

JOHN K. REILLY, JR.
President Judge

FILED

NOV 26 2003

William A. Shaw
Prothonotary/Clerk of Courts

FILED

018:47 8/1
NOV 26 2003

William A. Shaw
Prothonotary/Clerk of Courts

cc CIA

cc Atty Schweers

cc Atty Johnson

cc Atty Blasko

E
R

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

GEORGE EVAN SAY and)
ELIZABETH SAY, his wife,)
Plaintiffs,)
vs.) No: 03-1194 CD
DUBOIS REGIONAL MEDICAL)
CENTER and ROBERT CHERRY, M.D.)
Defendants.)
JURY TRIAL DEMANDED
Type of Pleading:
PRELIMINARY OBJECTIONS TO
PLAINTIFFS' COMPLAINT
Filed on Behalf of Defendant:
ROBERT CHERRY, M.D.
Counsel of Record for this
Party: JOHN W. BLASKO
Court I.D. No.: 06787
RICHARD K. LAWS
Court I.D. No.: 82369
McQUAIDE, BLASKO, SCHWARTZ,
FLEMING & FAULKNER, INC.
811 University Drive
State College, PA 16801
(814) 238-4926
Counsel of Record for
Adverse Party:
William S. Schweers

Dated: 10/23/03

FILED

OCT 23 2003

William A. Shaw
Prothonotary/Clerk of Courts

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

GEORGE EVAN SAY and)
ELIZABETH SAY, his wife,)
Plaintiffs,)
vs.) No. 03-1194 CD
DUBOIS REGIONAL MEDICAL)
CENTER and ROBERT CHERRY, M.D.,) JURY TRIAL DEMANDED
Defendants.)

NOTICE TO PLEAD

TO: George and Elizabeth Say
c/o William S. Schweers, Esquire

YOU ARE HEREBY notified to file a written response to the enclosed

Preliminary Objections to Plaintiffs' Complaint within twenty (20) days from the date of service hereof or a judgment may be entered against you.

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

Date: 10/12/03

By: 2-4

John W. Blasko
Richard K. Laws
Attorneys for Defendant
Robert Cherry, M.D.
811 University Drive
State College, PA 16801
(814) 238-4926

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

GEORGE EVAN SAY and)
ELIZABETH SAY, his wife,)
Plaintiffs,)
vs.) No. 03-1194 CD
DUBOIS REGIONAL MEDICAL)
CENTER and ROBERT CHERRY, M.D.,) JURY TRIAL DEMANDED
Defendants.)

**DR. ROBERT CHERRY'S PRELIMINARY OBJECTIONS
TO PLAINTIFFS' COMPLAINT**

AND NOW comes the Defendant, ROBERT CHERRY, M.D., by and through his attorneys, McQuaide Blasko, and files Preliminary Objections to Plaintiffs' Complaint, as follows:

1. Plaintiffs commenced this action, which sounds in alleged medical malpractice, by filing a Praecept for Writ of Summons on or about August 13, 2003. Pursuant to the filing of a Rule to File Complaint by Defendant, a Complaint was ultimately filed on September 30, 2003.

2. Briefly stated, Plaintiffs appear to allege (as to Objecting Defendant) that Dr. Cherry "performed a traumatic catheterization" in association with Plaintiff-husband's August 15, 2001 right total hip arthroplasty. (See Complaint at ¶¶5-10, 15).

3. Defendant Dr. Cherry raises Preliminary Objections on the following grounds: (i) Motion to Strike / Motion for a More Specific Pleading relative to several prejudicially vague and indefinite paragraphs; (ii) Motion to Dismiss Plaintiff-wife from Count II of Plaintiffs'

Complaint; and, (iii) Motion to Strike for failing to attach a proper verification in accordance with Pa.R.C.P. 1024(a).

I. MOTION TO STRIKE / MOTION FOR A MORE SPECIFIC PLEADING

4. Pennsylvania remains a fact pleading jurisdiction. Pennsylvania Rule of Civil Procedure No. 1019(a), provides that the material facts upon which a cause of action is based shall be stated in a concise and summary form. In various respects, Plaintiffs' Complaint does not comply with this rule.

5. Specifically, Defendant objects to Paragraph 15 (a) and (d), which contend that Dr. Cherry was negligent in the following respects:

“(a) In performing a **traumatic catheterization**;

....

(d) In failing to **minimize the duration of the urinary catheter and to employ general hygienic procedures.**”

6. In subparagraph 15 (a), Plaintiffs vaguely and generally claim that Dr. Cherry performed a “traumatic catheterization,” but fail to define what is meant by such a term or the specific aspects in which the catheterization was “traumatic,” as alleged. In subparagraph 15 (d), Plaintiffs contend that Dr. Cherry was negligent in failing to “minimize the duration of the urinary catheter” and in failing to “employ general hygienic procedures.” Plaintiffs provide no indication of what is meant by “minimizing the duration of the catheter” and include the broad and non-limited contention that Dr. Cherry failed to “employ general hygienic procedures.”

7. Plaintiffs in malpractice actions are required to plead the material facts as to what a health care provider should have done, or how that which was done breached the standard of care. In the above-referenced respects, Plaintiffs have failed to do so.

8. The objected-to allegations fail to conform to Pa.R.C.P. 1019(a), as well as the principle enunciated in Connor v. Allegheny General Hosp., 501 Pa. 306, 461 A.2d 600 (1983).

9. Because the challenged paragraphs fail to sufficiently apprise Dr. Cherry of the tortious conduct which Plaintiffs assert, Dr. Cherry is unable to appropriately respond or adequately prepare a defense to such allegations.

10. The foregoing factual deficiencies of the challenged allegations are prejudicial to Dr. Cherry and may result in Dr. Cherry's inability to properly prepare a defense to these allegations and/or result in waiver of various defenses and objections pursuant to Pa.R.C.P. 1032, in as much as further specifics are usually not forthcoming from Plaintiffs until after their expert reports are filed, usually late in the proceedings and when trial is imminent.

WHEREFORE, it is respectfully requested that the following paragraphs and subparagraphs be stricken, or in the alternative, that Plaintiffs be required to re-plead same in order to set forth sufficiently specific allegations: Paragraphs 15(a) and 15(d).

II. MOTION TO DISMISS PLAINTIFF-WIFE'S COUNT II CLAIM OF NEGLIGENCE

11. Within the caption to Count II, a claim of medical negligence is asserted as to Dr. Cherry for the events described herein.

12. Although the claim is limited to direct allegations against Dr. Cherry by only Plaintiff-husband, with resulting damages, a claim is also made on behalf of Plaintiff-wife, as she is identified in the caption of the Count II claim.

13. The Pennsylvania Supreme Court has long held that:

"[i]t is fundamental that an action at law requires a person or entity **which has the right to bring the action**, and a person or entity against which the action can be maintained. By its very terms, an action at law implies the existence of legal

parties; they may be natural or artificial persons, **but they must be entities which the law recognizes as competent.”**

See e.g Thompson v. Peck, 320 Pa. 27, 30, 181 A. 597, 598 (1935).

14. As a result of the foregoing, it is respectfully submitted that Plaintiff-wife's name be stricken from the caption of Count II and that she be permitted to proceed only as to her Count II claim of loss of consortium.

WHEREFORE, it is respectfully requested that Plaintiff-wife's name be stricken from the caption of Count II and that she be permitted to proceed only as to her Count II claim of loss of consortium.

III. MOTION TO STRIKE - FAILURE TO ATTACH A PROPER VERIFICATION

15. Pennsylvania Rule of Civil Procedure 1024(a) requires that every pleading containing an averment of fact be verified.

16. "The verification **shall** be made by one or more of the **parties** filing the pleading unless all the parties (1) lack sufficient knowledge or information, or (2) are outside of the jurisdiction of the court and the verification of none of them can be obtained within the time allowed for filing the pleading." Pa.R.C.P. 1024(c)(emphasis supplied).

17. The Plaintiffs did not verify the Complaint in this action.

18. Rather, Plaintiffs' Complaint contains only the Verification of their attorney, who is not a party to this action.

19. Within Plaintiffs' counsel's verification there is no indication provided as to why Plaintiffs were and/or remain unable to provide a proper Verification for the Complaint, or for that matter, when such a Verification will indeed be forthcoming.

20. Accordingly, it is respectfully requested that this Honorable Court strike the Plaintiffs' Complaint for lack of proper Verification and/or require Plaintiffs to promptly file a proper Verification(s) to Plaintiffs' Complaint.

WHEREFORE, Objecting Defendant respectfully requests that the within Motion to Strike be granted, and that this Honorable Court strike Plaintiffs' Complaint for lack of proper Verification and/or require Plaintiffs to promptly file a proper Verification(s) to Plaintiffs' Complaint.

Respectfully Submitted,

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

Date: 10/31/03

By:



John W. Blasko
Richard K. Laws
Attorneys for Defendant
Robert Cherry, M.D.
811 University Drive
State College, PA 16801
(814) 238-4926

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

GEORGE EVAN SAY and)
ELIZABETH SAY, his wife,)
)
Plaintiffs,)
)
vs.)
)
DUBOIS REGIONAL MEDICAL)
CENTER and ROBERT CHERRY, M.D.,)
)
Defendants.)
)
No. 03-1194 CD
JURY TRIAL DEMANDED

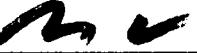
CERTIFICATE OF SERVICE

I hereby certify a true and correct copy of Dr. Cherry's Preliminary Objections to
Complaint, in the above-referenced matter was mailed by regular mail, first class, at the Post
Office, State College, Pennsylvania, postage prepaid, this 10 day of October,
2003 to:

William S. Schweers, Esquire
100 Ross Street
Pittsburgh, PA 15219

David R. Johnson, Esquire
Two Chatham Center, Tenth Floor
Pittsburgh, PA 15219-3499

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

By: 

JOHN W. BLASKO
RICHARD K. LAWS
Attorneys for Defendant
Robert Cherry, M.D.

CA

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

GEORGE EVAN SAY and ELIZABETH
SAY, his wife,

Plaintiffs,

Vs.

DUBOIS REGIONAL MEDICAL
CENTER and ROBERT CHERRY, M.D.,

Defendants.

CIVIL DIVISION

No. 03-1194 CD

Issue No.

PRAECIPE FOR ENTRY OF JUDGMENT
OF NON PROS PURSUANT TO RULE
1042.6 OF THE PENNSYLVANIA RULES
OF CIVIL PROCEDURE

Code: 007

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

Counsel of Record for This Party:

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

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

(412) 232-3400

FILED

DEC 08 2003

William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

GEORGE EVAN SAY and ELIZABETH
SAY, his wife,

CIVIL DIVISION

No. 03-1194 CD

Plaintiffs,

Vs.

DUBOIS REGIONAL MEDICAL
CENTER and ROBERT CHERRY, M.D.,

Defendants.

PRAECIPE FOR JUDGMENT OF NON PROS

TO THE PROTHONOTARY:

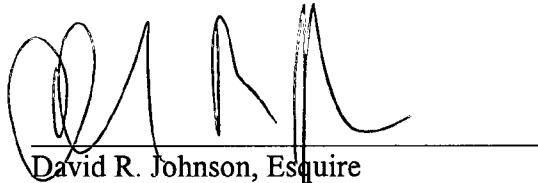
Kindly enter a judgment of non pros against the plaintiffs pursuant to Pennsylvania Rule of Civil Procedure 1042.6 for failure to file a Certificate of Merit in this action.

I, the undersigned, certify that the plaintiffs named above have asserted a professional liability claim against the defendant DuBois Regional Medical Center above who is a licensed professional, that no certificate of merit has been filed within the time required by Pa.R.C.P. 1042.3 and that there is no pending timely filed motion to extend the time for filing the certificate before the court.

Respectfully submitted,

THOMSON, RHODES & COWIE, P.C.

Date: 11/15/03



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

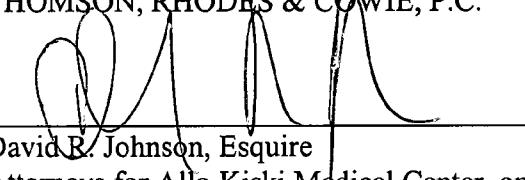
CERTIFICATION OF SERVICE

I hereby certify that a true and correct copy of the within document has been served upon the following counsel of record by U.S. Mails on this 5th day of December 2003:

William S. Schweers, Jr., Esquire
Harrington, Schweers, Dattilo & McClelland, P.C.
100 Ross Street
Pittsburgh, PA 15219

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

THOMSON, RHODES & COWIE, P.C.



David R. Johnson, Esquire
Attorneys for Alle-Kiski Medical Center, one of the
defendants.

FILED

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matter of ~~state~~ ~~state~~
DEC 08 2003
C.R.

William A. Clow
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

GEORGE EVAN SAY and ELIZABETH SAY, CIVIL DIVISION
his wife,

No. 03-1194 CD

Plaintiffs,

Vs.

DUBOIS REGIONAL MEDICAL CENTER
and ROBERT CHERRY, M.D.,

Defendants.

NOTICE OF ORDER, DECREE OR JUDGMENT

TO: **George Evan Say and Elizabeth Say, his wife**
[Plaintiffs]

You are hereby notified that the following Order, Decree, or Judgment has been entered against you on
December 9, 2003.

<input type="checkbox"/>	Decree Nisi in Equity.						
<input type="checkbox"/>	Final Decree in Equity.						
<input checked="" type="checkbox"/>	Judgment	<input type="checkbox"/>	Confession	<input type="checkbox"/>	Verdict	<input type="checkbox"/>	Court Order
		<input type="checkbox"/>	Default	<input type="checkbox"/>	Non-Suit		
		<input checked="" type="checkbox"/>	Non-Pros	<input type="checkbox"/>	Arbitration Award		
<input type="checkbox"/>	Judgment in the amount of \$ _____, plus costs.						
<input type="checkbox"/>	District Justice Transcript of Judgment in the amount of \$ _____, plus costs.						
<input type="checkbox"/>	If not satisfied within sixty (60) days, your motor vehicle operator's license will be suspended by the Pennsylvania Department of Transportation.						

WILLIAM SHAW, PROTHONOTARY

By: 
William Shaw
Deputy

If you have any questions concerning the above, please contact:

David R. Johnson, Esquire
Thomson, Rhodes & Cowie, P.C.
1010 Two Chatham Center
Pittsburgh, PA 15219
412-232-3400

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

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

GEORGE EVAN SAY and)
ELIZABETH SAY, his wife,)
Plaintiffs,)
vs.) No: 03-1194 CD
DUBOIS REGIONAL MEDICAL) Type of Case: Civil Action
CENTER and ROBERT CHERRY, M.D.)
Defendants.) JURY TRIAL DEMANDED
Type of Pleading: PRAECIPE FOR
JUDGMENT OF NON PROS PER
PA. R.C.P. 1042.6
Filed on Behalf of Defendant:
ROBERT CHERRY, M.D.
Counsel of Record for this
Party: JOHN W. BLASKO
Court I.D. No.: 06787
RICHARD K. LAWS
Court I.D. No.: 82369
McQUAIDE, BLASKO, SCHWARTZ,
FLEMING & FAULKNER, INC.
811 University Drive
State College, PA 16801
(814) 238-4926
Counsel of Record for
Adverse Party:
William S. Schueers

Dated: December 8, 2003

FILED

DEC 09 2003

William A. Shaw
Prothonotary

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

PRAEICE FOR JUDGMENT OF NON PROS PER Pa. R.C.P. 1042.6

TO THE PROTHONOTARY:

Please enter a judgment of non pros against the Plaintiffs and in favor of Dr. Robert Cherry, one of the Defendants, pursuant to Pennsylvania Rule of Civil Procedure 1042.6 for failure to file a Certificate of Merit in this action.

I, the undersigned, certify that the Plaintiffs named above have asserted a professional liability claim against the Defendant named above, Dr. Robert Cherry, who is a licensed professional, that no Certificate of Merit has been filed within the time required by Pa. R.C.P. 1042.3, and that there is no motion to extend time for filing the Certificate pending before the Court.

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

By: 
JOHN W. BLASKO
Attorneys for Defendant
ROBERT CHERRY, M.D.
811 University Drive
State College, PA 16801
(814) 238-4926

December 8, 2003

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

GEORGE EVAN SAY and)
ELIZABETH SAY, his wife,)
Plaintiffs,)
vs.)
DUBOIS REGIONAL MEDICAL)
CENTER and ROBERT CHERRY, M.D.,)
Defendants.)
No. 03-1194 CD
JURY TRIAL DEMANDED

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the Praeclipe for Entry of Non Pros Per
Pa.R.C.P. 1042.6, in the above-referenced matter were mailed by regular mail, first class, at the
Post Office, State College, Pennsylvania, postage prepaid, this 8th day of December,
2003 to:

William S. Schweers, Esquire
100 Ross Street
Pittsburgh, PA 15219

David R. Johnson, Esquire
Two Chatham Center, Tenth Floor
Pittsburgh, PA 15219-3499

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

By: 
JOHN W. BLASKO
Attorneys for Defendant
Robert Cherry, M.D.

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

GEORGE EVAN SAY and)
ELIZABETH SAY, his wife,)
Plaintiffs,)
vs.)
DUBOIS REGIONAL MEDICAL)
CENTER and ROBERT CHERRY, M.D.,)
Defendants.)
No. 03-1194 CD
JURY TRIAL DEMANDED

ENTRY OF JUDGMENT

AND NOW, this 9 day of Dec. 2003, there having been no Certificate of Merit filed of record in this matter as required, judgment of NON Pros is hereby entered in favor of Defendant Dr. Robert Cherry.

Willi Schan

PROTHONOTARY

Date: 12/09/2003
Time: 02:00 PM

Clearfield County Court of Common Pleas
Receipt

NO. 1870345
Page 1 of 1

Received of: Blasko, John W. (attorney for Cherry, Robert) \$ 20.00

Twenty and 00/100 Dollars

Case: 2003-01194-CD	Amount
Judgment	20.00
Total:	20.00

Next hearing: 12/12/2003 11:15 AM, Preliminary Objections

Check: 85424

Payment Method: Check

William A. Shaw, Prothonotary/Clerk of Courts

Amount Tendered: 20.00

By: _____

Deputy Clerk

Clerk: BANDERSON

Duplicate

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

GEORGE EVAN SAY, a1 :
-vs- : No. 03-1194-CD
DUBOIS REGIONAL MEDICAL :
CENTER :
.....

O R D E R

NOW, this 12th day of December, 2003, based upon
the faxed correspondence, the preliminary objections are
dismissed as moot.

~~BY THE COURT,~~
.....

The Honorable J. Michael Williamson,
Specially Presiding

FILED

DEC 12 2003

William A. Shaw
Prothonotary/Clerk of Courts

THOMSON, RHODES & COWIE, P.C.

John David Rhodes
Richard E. Rush
James R. Hustine*
Linton L. Moyer
John K. Heisey
David R. Johnson
Jerry R. Hogenmiller*
David M. McQuiston
William James Rogers
Glenn H. Gillette
Teropleton Smith, Jr.
Harry W. Rosenstock

Norman J. Cowie (1929-1998)
Thomas D. Thomson (1925-1999)

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Senior Special Counsel:
Robert J. Pfaff
Special Counsel:
L. Jane Charlton

Thomas B. Anderson
Dana Weber Horton
Suzanne M. Oppman
Margaret M. Hock
Geraldine M. Linn

* Also Admitted in West Virginia

* Also Admitted in Illinois

† Also Admitted in New Jersey
and Washington

December 11, 2003

George Evan Say and Elizabeth Say, his wife vs. DuBois Regional medical Center and Robert Cherry, M.D. In the Court of Common Pleas of Clearfield County, Pennsylvania. Civil Division No. 03-1194 CD. Our File No. 13364.

Honorable J. Michael Williamson
Clinton County Courthouse
230 East Water Street
Lockhaven, PA 17745

Your Honor:

This is to confirm that this office entered a judgment of non pros against the plaintiffs in the above-captioned action pursuant to Pa. R.C.P. 1042.6 for failure to file a certificate of merit. Therefore, the action is no longer viable as to DuBois Regional Medical Center. A non pros was also taken on behalf of Robert Cherry, M.D., and thus there is no open action at No. 03-1194 CD in the Court of Common Pleas of Clearfield County.

It is my understanding that Attorney William S. Schweers, Jr., is in agreement with the above statement and does not believe the scheduled argument is necessary.

Obviously, I will appear in Clearfield if the court so directs.

Thank you for your consideration.

Yours very truly,



Robert J. Pfaff

RJP/pm

cc: John Blasko, Esquire
William S. Schweers, Jr., Esquire
VIA FACSIMILE TRANSMITTAL

FILED

DEC 12 2003

William A. Shaw
Prothonotary/Clerk of Courts

HARRINGTON SCHWEERS DATTILO & McCLELLAND P.C. LAW OFFICES

WILLIAM S. SCHWEERS, Jr.
JAMES A. DATTILO
REGIS M. McCLELLAND
DONA M. TACCONI
JASON C. TETLOW

108 ROSS STREET
PITTSBURGH, PA 15219-2871
TELEPHONE (412) 391-3477
TELECOPIER (412) 391-7197

OF COUNSEL
DENNIS C. HARRINGTON
MOIRA CM HARRINGTON

December 11, 2003

via Facsimile and First-Class U.S. Mail

Honorable J. Michael Williamson
Clinton County Courthouse
230 E. Water Street
Lock Haven, PA 17745

**In Re: George Evan Say and Elizabeth Say, his wife, Plaintiffs, vs. DuBois Regional Medical Center, and Robert Cherry, M.D., Defendants.
#03-1194-CD. Court of Common Pleas of Clearfield County, Pennsylvania.**

Dear Judge Williamson:

This letter will confirm the telephone conversation with opposing counsel, John W. Blasko, concerning argument scheduled before Your Honor tomorrow at 11:15 a.m., in the Clearfield County Courthouse. Mr. Blasko informed you that the case has been non-prosed pursuant to Pa.R.C.P. 1042.6 as a result of plaintiff's failure to file a certificate of merit as is required by Pa.R.C.P. 1042.3. The plaintiff is not contesting the non-pros and, therefore, no need for argument on preliminary objections filed prior to dismissal of the lawsuit.

Accordingly, counsel for the plaintiff respectfully requests that Your Honor remove this matter from the argument list as the case has been dismissed and non-pros entered. Thank you.

Sincerely,

William S. Schweers, Jr.

WSS,Jr.:mjw

cc: Marcy Kelley, Court Administrator's Office/Clearfield County
John W. Blasko, Esquire
David R. Johnson, Esquire

MCQUAIDE BLASKO

811 University Drive, State College, Pennsylvania 16801-6699
 Additional offices in Hershey and Hollidaysburg

ATTORNEYS AT LAW

(814) 238-4926 FAX (814) 234-5620
www.mcquaidebasko.com

December 11, 2003

Via Facsimile: (570) 893-4126

Honorable J. Michael Williamson
 Clinton County Courthouse
 230 East Water Street
 Lock Haven, PA 17745

In Re: Say vs. DuBois Regional Medical Center, et al.
Docket No: 03-1194 CD

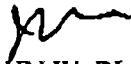
Dear Judge Williamson:

This will confirm our telephone conversation that pursuant to Pa.R.C.P. 1042.6, a Judgment of Non-Pros was entered in favor of Dr. Robert Cherry on December 9, 2003. I received a call this afternoon from William S. Schweers, Plaintiffs' counsel, who concurs the case is concluded, and, as such the Preliminary Objections scheduled for argument on Friday, December 12, 2003 is unnecessary.

Very truly yours,

McQUAIDE, BLASKO

By:


 JOHN W. BLASKO

JWB/nls

cc: William Schweers, Esquire (Via Facsimile: (412) 391-7397)
 cc: Robert Pfaff, Esquire (Via Facsimile: (412) 232-3498)

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

State College Office: John W. Blasko, Thomas B. Schwartz, R. Mark Faulkner, David M. Webel, Steven S. Kurytko, James M. Burns, Wondell V. Courtney, Darryl R. Shantz, Mark Righer, Daniel S. Bright, Paul J. Tomaszek, Janine C. Giandomi, John A. Snyder, April C. Simpson, Allen P. Neely, Pamela A. Russ, Katherine V. Oliver, Katherine M. Allen, Wayne L. Mowery, Jr., Ashley Hines, Kristin C. Chavis, L. Glenn Hart, Richard K. Love, Lillian K. Jones, Cristin R. Barnes, Matthew T. Rogers, Frederick R. Darragin, Anthony A. Shinn

Hershey Office: Gwin H. Fleming, Maureen A. Gallagher, Michael J. Mohr, Jonathan B. Stepanian, Dick D. Russell

Hollidaysburg Office: Thomas M. Reese, J. Benjamin Yeager

John G. Love (1891-1966) Roy W. Johnson, Jr. (1915-1995) Dewart J. McQuaid (1936-1997)

Judge Williamson
wants Dec. 11, '03
letter filed with
record

on
date
underneath. Thank

FILED
2:35 PM
DEC 12 2003
William A. Shaw
Prothonotary/Clerk of Courts
Filed per Judge Williamson's
direction.

William A. Shaw
Prothonotary/Clerk of Courts