04-110-CD
DOREEN BRADY, etal. vs. CLEARFIELD HOSPITAL, etal

Doreen Brady et al vs. Penn Highlands et al
2004-110-CD

Doreen Brady, et alvs.Clearfield Hospital, et al

CIVIL ACTION

Date		Judge
1/23/2004	Filing: Writ of Summons Paid by: Richard H. Milgrub, Attorney at Law Receipt number: 1872585 Dated: 01/23/2004 Amount: $85.00 (Check)	No Judge
	Case Filed.	Fredric Joseph Ammerman
2/6/2004	Praecipe For Appearance On Behalf of Clearfield Hospital. filed by, s/Frank J. Hartye, Esquire no cc	No Judge
	Praecipe For Rule To File Complaint. filed by, s/Frank J. Hartye, Esquire 1 Rule issued to Atty Hartye no cc	No Judge
2/12/2004	Certificate of Service of Rule to File Complaint upon Samuel Cohen, Esq. filed by, s/Frank J. Hartye, Esquire no cc	No Judge
2/27/2004	Sheriff Return, Papers served on Defendant, Clearfield Hospital. Attempted to serve the within Summons on State Medevace, Inc., Defendant by deputizing the Sheriff of Beaver County. The return of Sheriff DeLuca is hereto attached and made a part of this Return marked "NOT FOUND". According to 911 Center/N Stat Medevac, Inc. in Ellwood City Both Beaver Co./Lawrence Co. So Answers, Chester A. Hawkins, Sheriff by s/Marilyn Hamm	No Judge
3/9/2004	Filing: Praecipe to Reissue Writ of Summons Paid by: Milgrub, Richard Receipt number: 1875187 Dated: 03/09/2004 Amount: $7.00 (Check) Reissued Writ of Summon to Atty. Milgrub	No Judge
3/23/2004	Certificate of Merit as to Clearfield Hospital and STAT Medevac, Inc. s/Samuel Cohen, Esquire no cc	No Judge
4/5/2004	Praecipe for Appearance, filed on behalf of Stat Medevac, Inc. by s/Wilbur McCoy Otto, Esq. One CC Attorney	No Judge
5/7/2004	Sheriff Return, Papers served on Defendant, Stat Medevac, Inc. So Answers, Chester A. Hawkins, Sheriff by s/Marilyn Hamm	No Judge
5/17/2004	Civil Action Complaint. filed by, s/Samuel Cohen, Esquire Verification s/Samuel Cohen, Esquire Certificate of Service 1 cc to Atty	No Judge
5/28/2004	Praecipe To Substitute Verification. s/Samuel Cohen, Esquire Verification s/Doreen Brady s/Edward Brady no cc	No Judge
6/2/2004	Notice of Service of Interrogatories and Request For Production Of Documents Directed to Plaintiffs Dated June 1, 2004, upon: Samuel Cohen, Esquire. filed by, s/Frank J. Hartye, Esquire no cc	No Judge
6/7/2004	Answer And New Matter To Plaintiffs' Complaint. filed by, s/Frank J. Hartye, Esquire Verification s/Jon Steen no cc	No Judge
6/28/2004	Reply to New Matter of Defendant Clearfield Hospital, filed by s/Samuel Cohen No CC	No Judge
7/6/2004	Praecipe to Substitute Verification, Re: Plaintiffs' Reply to New Matter of Defendant Clearfield Hospital, filed by s/Samuel Cohen No CC	No Judge
8/30/2004	Praecipe, Re: assign Stipulation to Amend Plaintiffs' Complaint, filed by s/S. Manoj Jegasothy, Esq. Two CC Attorney Jegasothy, Esq.	No Judge
	Stipulation to Amend Plaintiffs' Complaint, filed by s/S. Manoj Jegasothy, Esq. s/Samuel Cohen, Esq. Two CC Attorney Jegasothy, Esq.	No Judge
8/31/2004	Order of Court, AND NOW, to wit, this 30 day of August, 2004, (Re: See original for details of granted Stipulation to Amend Plaintiffs' Complaint). BY THE COURT: /s/Fredric J. Ammerman, P.J. Two CC Attorney Jegasothy	Fredric Joseph Ammerman

APOTHAKER & ASSOCIATES, P.C.

ATTORNEYS AT LAW

May 23, 2011

PROTHONOTARY
CLEARFIELD COUNTY
230 E. MARKET STREET
CLEARFIELD, PA 16830

RE: PORTFOLIO RECOVERY ASSOCIATES, LLC v. ROBIN E SROCK
DOCKET NO.: 2010-2003-CD
OUR FILE NO.: 266512

Dear Clerk:

Enclosed herein please find a Praecipe to Enter Default Judgment along with our check in the amount of $20.00. Kindly file same and return a copy to this office in the enclosed self-addressed stamped envelope provided for your convenience.

Thank you for your anticipated cooperation, I remain

Very truly yours,

APOTHAKER & ASSOCIATES, P.C.

David J. Apothaker

DJA/CA
Enclosure

520 Fellowship Road C306, Mt. Laurel, NJ 08054
800 672.0215 800 757.4928f
856 780.1000 856 780.1020f
215 634.8920 215 634.8421f

Doreen Brady, et alvs.Clearfield Hospital, et al

CIVIL ACTION

Date		Judge
9/24/2004	Answer and New Matter To Plaintiffs' Complaint, filed on behalf of Defendant, by s/ Marc T. Thirkell, Esq. Certificate of Service, served upon Samuel Cohen, Esquire, and Frank L. Hartye, Esquire. No CC.	Fredric Joseph Ammerman
11/4/2004	Plaintiff's Reply to new Matter of Defendant Stat Medevac, Inc., filed by s/ Samuel Cohen, Esquire. No CC.	Fredric Joseph Ammerman
3/10/2005	Praecipe for Substitution of Appearance, filed by Atty. Williott no cert. copies. copy to C/A Substitute my appearance for the appearance of Wilbur McCoy Otto.	Fredric Joseph Ammerman
4/21/2005	Certification of Service, copy of Plaintiff's Answers to Interrogatories, April 19, 2005 to Anthony J. Williot, Esquire, and Frank L. Hartye, Esquire. filed by s/ Samuel Cohen, Esquire No CC	Fredric Joseph Ammerman
4/27/2005	Notice of Deposition of Doreen Brady and Edward Brady, filed by s/Frank J. Hartye, Esquire. No CC	Fredric Joseph Ammerman
7/12/2005	Certificate of Service, filed. that a true and correct copy of the within Plaintiffs' Interrogatories addressed to Defendants Clearfiled Hospital and Stat Medevac Inc., on Anthony J. Williot Esquire on July 8, 2005 filed by Samuel Cohen Esquire.	Fredric Joseph Ammerman
9/2/2005	Notice of service of Answer to Plaintiffs' Interrogatories, filed. That on the 31st day of August 2005, Defendant, Clearfield Hospital served Answers to Plaintiffs to Samuel Cohen Esq., filed by s/ Frank J. Hartye Esq. No CC.	Fredric Joseph Ammerman
7/20/2006	Certificate of Service, filed. That a true and correct copy of the within Plaintiffs Answers to Supplemental Interrogatories of Defendant Stat Medevac was forwarded to Anthony J. Williott Esq., and Frank L. Hartye Esq. NO CC.	Fredric Joseph Ammerman
2/5/2009	Petition of Katz, Cohen & Price For Extraordinary Relief For Permission to withdraw Appearance on Behalf of Plaintiffs, filed by s/ /Samuel Cohen, Esquire. 1CC Atty. Cohen	Fredric Joseph Ammerman
2/10/2009	Rule, this 10th day of Feb., 2009, a Rule is granted. Rule returnable on the 4th day of March, 2009, in Courtroom 1 at 11:30 a.m. All proceedings to stay meanwhile. By The Court, /s/ Fredric J. Ammerman, Pres. Judge. 2CC Atty. Cohen	Fredric Joseph Ammerman
3/3/2009	Affidavit of Service filed. A Certified copy of the Petition for Extraordinary Relief for Permisssion to Withdraw Appearance on Behalf of Plaintiffs and Order scheduling hearing was served upon Edward Brady on Feb. 20, 2009 and upon Doreen Brady on Feb. 21, 2009 by certified mail. filed by s/ Richard H. Milgrub, Esquire. No CC	Fredric Joseph Ammerman
3/4/2009	Order, this 4th day of March, 2009, 1. Katz, Cohen & Price, P.C. and Samuel Cohen are granted leave to withdraw as counsel. 2. The within matter is stayed for a period of 60 days to permit Plaintiffs to secure new counsel. By The Court, /s/ Fredric J. Ammerman, Pres. Judge. 4CC Atty. Cohen	Fredric Joseph Ammerman
3/9/2009	Praecipe to Withdrawal as Counsel Per Court Order Dated March 4, 2009. On behalf of Plaintiffs Doreen Brady and Edward Brady, withdraw appearance of Samuel Cohen, Esquire. no CC	Fredric Joseph Ammerman
1/28/2010	Praecipe For Substitution of Appearance, kindly substitute my appearance for the appearance of Anthony J. Williott, Esquire, on behalf of Defendant, STAT MedEvac, Inc. filed by s/ Justin M. Gottwald, Esquire. No CC	Fredric Joseph Ammerman

APOTHAKER & ASSOCIATES, P.C.

ATTORNEYS AT LAW

May 23, 2011

PROTHONOTARY
CLEARFIELD COUNTY
230 E. MARKET STREET
CLEARFIELD, PA 16830

RE: LVNV FUNDING, LLC v. DENNIS WOMER
DOCKET NO.: 2010-1568-CD
OUR FILE NO.: 267631

Dear Clerk:

Enclosed herein please find a Praecipe to Enter Default Judgment along with our check in the amount of $20.00. Kindly file same and return a copy to this office in the enclosed self-addressed stamped envelope provided for your convenience.

Thank you for your anticipated cooperation, I remain

Very truly yours,

APOTHAKER & ASSOCIATES, P.C.

David J. Apothaker

DJA/CA
Enclosure

520 Fellowship Road C306, Mt. Laurel, NJ 08054
800 672.0215 800 757.4928f
856 780.1000 856 780.1020f
215 634.8920 215 634.8421f

Clearfield County Court of Common Pleas

ROA Report

Case: 2004-00110-CD

Current Judge: Fredric Joseph Ammerman

Doreen Brady, et alvs.Clearfield Hospital, et al

CIVIL ACTION

Date		Judge
2/1/2010	Request For Production of Expert Reports Directed to Plaintiffs Pursuant to PA. R. CIV. P. 1042.28, filed by s/ Justin M. Gottwald, Esquire. No CC	Fredric Joseph Ammerman
2/3/2010	Request For Production of Expert Reports Directed to Plaintiffs, filed by s/ Frank J. Hartye, Esquire. No CC	Fredric Joseph Ammerman
7/26/2010	Notice of Service, filed. That on the 23rd day of July 2010 served the following Expert Reports upon counsel for Defendants in response to their Requests therefore dated January 29, 2010 and February 2, 2010, filed by s/ David S. Klett Esq. No CC.	Fredric Joseph Ammerman
	Praecipe for Entry of Appearnce of Counsel for Plaintiffs, filed. Kindly enter the appearance of David S. Klett Esq and Michael J. Colarusso Esq as counsel for Plaintiff's, filed by s/ David S. Klett Esq and s/ Michael J. Colarusso Esq. No CC., copy to C/A.	Fredric Joseph Ammerman
9/13/2010	Certificate of Readiness for Jury Trial, filed by s/ David S. Klett, Esq. No CC	Fredric Joseph Ammerman
9/15/2010	Motion to Enforce Settlement and Remove Case from Trial List, filed by s/ Frank J. Hartye Esq. 1CC Atty Hartye.	Fredric Joseph Ammerman
	Order, this 15th of Sept., 2010, Pre-trial conference is scheduled for Nov. 1, 2010, at 10:00 a.m. in Judges Chambers. Civil Jury Selection is scheduled for Jan. 4, 2011 at 9:00 a.m. in Courtroom 1. By The Court, /s/ Fredric J. Ammerman, Pres. Judge. 1CC Attys: Klett, Hartye, Gottwald	Fredric Joseph Ammerman
9/17/2010	Rule Returnable, filed 2 Cert. to Atty. RE: Rule on 19th day of Oct. at 10:00 am on Motion to Enforce Settlement	Fredric Joseph Ammerman
9/27/2010	Joint Affidavit of Doreen Brady and Edward Brady, filed by Atty. Klett 1 Cert. to Atty.	Fredric Joseph Ammerman
10/4/2010	Answer to Motion to Enforce Settlement and Remove Case from Trial List. BY THE COURT: /s/David S. Klett, esq. No CC	Fredric Joseph Ammerman
10/8/2010	Motion to Enforce Settlement and Remove Case from Trial List, filed by Atty. Gottwald 1 Cert. to Atty.	Fredric Joseph Ammerman
10/11/2010	Order, this 11th of Oct., argument on Motion to Enforce Settlement and Remove Case from Trial is scheduled for the 19th of Oct., 2010 at 10:00 a.m. in Courtroom 1. By The Court, /s/ Fredric J. Ammerman, Pres. Judge. 1CC Attys; Gottwald, Hartye, Klett, Colarusso	Fredric Joseph Ammerman
10/18/2010	Motion to Protect and Strike Subpoenas to Attend and Testify, filed by s/David S. Klett, Esq. no CC	Fredric Joseph Ammerman
	Order, NOW, this 18th day of October, 2010, Re: Motion to Protect and Strike Subpoenas, Subpoena issued to Samuel Cohen, Esq. is quashed. BY THE COURT: /s/Fredric J. Ammerman, P.J. One CC Attorneys: Gottwald, Hartye, Klett, and Colarusso	Fredric Joseph Ammerman

APOTHAKER & ASSOCIATES, P.C.

ATTORNEYS AT LAW

May 23, 2011

PROTHONOTARY
CLEARFIELD COUNTY
230 E. MARKET STREET
CLEARFIELD, PA 16830

RE: LVNV FUNDING, LLC v. DENNIS WOMER
DOCKET NO.: 2010-1568-CD
OUR FILE NO.: 267631

Dear Clerk:

Enclosed herein please find a Praecipe to Enter Default Judgment along with our check in the amount of $20.00. Kindly file same and return a copy to this office in the enclosed self-addressed stamped envelope provided for your convenience.

Thank you for your anticipated cooperation, I remain

Very truly yours,

APOTHAKER & ASSOCIATES, P.C.

David J. Apothaker

DJA/CA
Enclosure

520 Fellowship Road C306, Mt. Laurel, NJ 08054
800 672.0215 800 757.4928f
856 780.1000 856 780.1020f
215 634.8920 215 634.8421f

Doreen Brady, et alvs.Clearfield Hospital, et al

CIVIL ACTION

Date		Judge
10/20/2010	Order, this 19th of Oct. 2010, following hearing on Defendants' Motion to Enforce Settlement and Remove from Trial List, it is Orered that counsel for the parties have no more than 30 days from this date to supply the Court with a brief on the following issues: (see original). The record in this matter shall remain open pending receipt of briefs and the Court's determination as to admissibility of further evidence. Additionally, the Court Administrator is directed to cancel the pre-trial conference scheduled for Nov. 1, 2010 at 10:00 a.m. and to remove the matter from Civil Jury Selection, scheduled for Jan. 4, 2011 at 9:00 a.m. The pre-trial conference is rescheduled for March 1, 2011, at 11:00 a.m. in Judges Chambers. Civil Jury Selection is rescheduled for April 5, 2011 at 9:00 a.m. in Courtroom 1. By The Court, /s/ Fredric J. Ammerman, Pres. Judge. 1CC Attys; Klett, Colarusso, Hartye, Gottwald	Fredric Joseph Ammerman
1/20/2011	Order, Opinion and Order, this 19th of Jan, 2011, it is Ordered that Defendants' Motions to Enforce Settlement and Remove from Trial List are DENIED. By The Court, /s/ Fredric J. Ammerman, Pres. Judge. 1CC Attys: Klett, Hartye, Gottwald, Colarusso 1CC D. Mikesell, Law Library (without memo)	Fredric Joseph Ammerman
1/28/2011	Notice of Service, filed. That on the 26th day of January 2011, defendant, Clearfield Hospital served Request for Production of Documents Directed to Plaintiffs dated 1/26/11 via first class mail to David S. Klett Esq., filed by s/ Frank J. Hartye Esq. No CC.	Fredric Joseph Ammerman
2/7/2011	Motion to Compel Discovery, filed by s/ Justin M. Gottwald, Esq. No CC	Fredric Joseph Ammerman
2/8/2011	Order, this 7th of Feb., 2011, Motion to Compel Discovery is granted, and Plffs shall respond to Interrogatories and Request for Production of Documents within 30 days from the date of this Order. By The Court, /s/ Fredric J. Ammerman, Pres. Judge. 1CC Atty. Gottwald	Fredric Joseph Ammerman
2/24/2011	Motion For Reconsideration of Order Dated Feb. 7, 2011, filed by s/ David S. Klett, Esq. 1CC Atty. Klett	Fredric Joseph Ammerman
3/3/2011	Order, NOW, this 1st day of March, 2011, Order that a Status Conference is scheduled for the 10th day of June, 2011, at 9:00 a.m. with Senior Judge Charles C. Brown, Jr., Sp. Presiding. It is further Ordered that the following shall be present: (See Original). BY THE COURT: /s/Fredric J. Ammerman, P.J. One CC Attorneys: Klett, Hartye, Colarusso, Gottwald/Otto	Fredric Joseph Ammerman
	Order, NOW, this 1st day of March, 2011, following pre-trial conference, Order that: 1) Jury Selection will be held July 27, 2011 2) Jury Trial is scheduled for October 3-6, 2011. (See Original for further details). BY THE COURT: /s/Fredric J. Ammerman, P.J. One CC Attorneys: Klett, Hartye, Colarusso, Gottwald/Otto	Fredric Joseph Ammerman
3/14/2011	Notice of Service of Attached Request for Production of Documents dated March 10, 2011 Directed to All Defendant, filed by s/ David S. Klett Esq. No CC.	Fredric Joseph Ammerman

APOTHAKER & ASSOCIATES, P.C.

ATTORNEYS AT LAW

May 23, 2011

PROTHONOTARY
CLEARFIELD COUNTY
230 E. MARKET STREET
CLEARFIELD, PA 16830

RE: LVNV FUNDING, LLC v. THOMASINE DUTTRY
DOCKET NO.: 2010-1478-CD
OUR FILE NO.: 267547

Dear Clerk:

Enclosed herein please find a Praecipe to Enter Default Judgment along with our check in the amount of $20.00. Kindly file same and return a copy to this office in the enclosed self-addressed stamped envelope provided for your convenience.

Thank you for your anticipated cooperation, I remain

Very truly yours,

APOTHAKER & ASSOCIATES, P.C.

David J. Apothaker

DJA/CA
Enclosure

520 Fellowship Road C306, Mt. Laurel, NJ 08054
800 672.0215 800 757.4928f
856 780.1000 856 780.1020f
215 634.8920 215 634.8421f

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

DOREEN BRADY and	*	
EDWARD BRADY, w/h	*	
RD 1 BOX 241	*	
CLEARFIELD, PA 16830	*	
	*	
-vs-	*	No. 04-110-CD
	*	
CLEARFIELD HOSPITAL	*	
P.O. BOX 992	*	
CLEARFIELD, PA 16830	*	
and	*	
STAT MEDEVAC, INC	*	
123 FIFTH AVENUE	*	
ELWOOD CITY, PA 16117	*	

Type of Pleading:

Praecipe for Writ of Summons

Filed on Behalf of:

Doreen Brady and Edward Brady

Counsel of Record for this Party:

SAMUEL COHEN, ESQUIRE
Supreme Court I.D. 27544

Katz, Cohen & Price, P.C.
117 South 17th Street
Suite 2010
Philadelphia, PA 19103
(215) 636-0400

FILED

JAN 23 2004

William A. Shaw
Prothonotary/Clerk of Courts

March 9, 2004 Document
~~Reinstated~~/Reissued to ~~Sheriff~~/Attorney
for service.

~~Deputy~~ Prothonotary

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

DOREEN BRADY and	*	
EDWARD BRADY, w/h	*	
RD 1 BOX 241	*	
CLEARFIELD, PA 16830	*	
	*	
-vs-	*	No.
	*	
CLEARFIELD HOSPITAL	*	
P.O. BOX 992	*	
CLEARFIELD, PA 16830	*	
and	*	
STAT MEDEVAC, INC	*	
123 FIFTH AVENUE	*	
ELWOOD CITY, PA 16117	*	

PRAECIPE FOR WRIT OF SUMMONS

TO THE PROTHONOTARY:

Please issue a Writ of Summons upon the above-captioned Defendants, Clearfield Hospital and Stat Medevac, Inc.

KATZ, COHEN & PRICE, P.C.

Samuel Cohen

SAMUEL COHEN

Dated: 1/23/04

FILED 2cc @
3:07 PM 4 writs to Shff
JAN 23 2004 Atty Milgrub pd. 85.00

William A. Shaw
Prothonotary/Clerk of Courts

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

SUMMONS

Doreen Brady and
Edward Brady, w/h

Vs. **NO.: 2004-00110-CD**

Clearfield Hospital
Stat Medevac, Inc.

TO: CLEARFIELD HOSPITAL
STAT MEDEVAC, INC.

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

Date: 01/23/2004

William A. Shaw
Prothonotary

Issuing Attorney:

Samuel Cohen
117 South 17th Street
Suite 2010
Philadelphia, PA 19103-5020

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

DOREEN BRADY and EDWARD BRADY, wife and husband,	:	No. 2004 – 110 CD
	:	**ISSUE:** PRAECIPE FOR APPEARANCE
Plaintiffs	:	
vs.	:	
	:	Filed on behalf of Defendant, CLEARFIELD HOSPITAL
CLEARFIELD HOSPITAL and STAT MEDEVAC, INC.,	:	Counsel of Record for This Party: Frank J. Hartye, Esquire PA I.D. #25568
Defendants	:	McINTYRE, DUGAS, HARTYE & SCHMITT P.O. Box 533 Hollidaysburg, PA 16648 (814) 696-3581
	:	JURY TRIAL DEMANDED

I HEREBY CERTIFY THAT A TRUE AND CORRECT COPY OF THE WITHIN WAS MAILED TO ALL COUNSEL OF RECORD THIS **4TH** DAY OF **FEBRUARY, 2004**.

Attorneys for Named Defendant

FILED

FEB 06 2004

William A. Shaw
Prothonotary/Clerk of Courts

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

DOREEN BRADY and EDWARD BRADY, wife and husband,	:	No. 2004 – 110 CD
Plaintiffs	:	
vs.	:	
CLEARFIELD HOSPITAL and STAT MEDEVAC, INC.,	:	
Defendants	:	JURY TRIAL DEMANDED

PRAECIPE FOR APPEARANCE

TO: PROTHONOTARY

Enter my Appearance on behalf of Defendant, CLEARFIELD HOSPITAL.

Papers may be served at the address set forth below.

Attorneys for Defendant,
CLEARFIELD HOSPITAL

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

Date: February 4, 2004

FILED No cc

mb 21 BK

FEB 06 2004

William A. Shaw
Prothonotary/Clerk of Courts

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

DOREEN BRADY and EDWARD BRADY, wife and husband, Plaintiffs vs. CLEARFIELD HOSPITAL and STAT MEDEVAC, INC., Defendants	No. 2004 – 110 CD **ISSUE:** PRAECIPE FOR RULE TO FILE COMPLAINT Filed on behalf of Defendant, CLEARFIELD HOSPITAL Counsel of Record for This Party: Frank J. Hartye, Esquire PA I.D. #25568 McINTYRE, DUGAS, HARTYE & SCHMITT P.O. Box 533 Hollidaysburg, PA 16648 (814) 696-3581 JURY TRIAL DEMANDED

I HEREBY CERTIFY THAT A TRUE AND CORRECT COPY OF THE WITHIN WAS MAILED TO ALL COUNSEL OF RECORD THIS **4TH** DAY OF **FEBRUARY, 2004**.

Attorneys for Named Defendant

FILED

FEB 06 2004

William A. Shaw
Prothonotary/Clerk of Courts

FILED 1 Rule issued
m/11:22 AM to Atty Hartye
FEB 06 2004
William A. Shaw
Prothonotary/Clerk of Courts

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

DOREEN BRADY and EDWARD BRADY, wife and husband, Plaintiffs vs. CLEARFIELD HOSPITAL and STAT MEDEVAC, INC., Defendants	No. 2004 – 110 CD **ISSUE:** PRAECIPE FOR RULE TO FILE COMPLAINT Filed on behalf of Defendant, CLEARFIELD HOSPITAL Counsel of Record for This Party: Frank J. Hartye, Esquire PA I.D. #25568 McINTYRE, DUGAS, HARTYE & SCHMITT P.O. Box 533 Hollidaysburg, PA 16648 (814) 696-3581 JURY TRIAL DEMANDED

I HEREBY CERTIFY THAT A TRUE AND CORRECT COPY OF THE WITHIN WAS MAILED TO ALL COUNSEL OF RECORD THIS **4TH** DAY OF **FEBRUARY, 2004**.

Attorneys for Named Defendant

FILED

FEB 06 2004

William A. Shaw
Prothonotary/Clerk of Courts

FILED 1 Rule issued
m/11:22 ~~AM~~ to Atty Hartye
FEB 06 2004
William A. Shaw
Prothonotary/Clerk of Courts

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

DOREEN BRADY and EDWARD BRADY, wife and husband,	:	No. 2004 – 110 CD
Plaintiffs	:	
vs.	:	
CLEARFIELD HOSPITAL and STAT MEDEVAC, INC.,	:	
Defendants	:	JURY TRIAL DEMANDED

PRAECIPE FOR RULE TO FILE COMPLAINT

TO: PROTHONOTARY

Please enter a Rule upon the Plaintiffs, DOREEN BRADY and EDWARD BRADY, wife and husband, to file a Complaint in the above-captioned matter within twenty (20) days from service of said Rule.

McINTYRE, DUGAS, HARTYE & SCHMITT

By_____
Attorneys for Defendant,
CLEARFIELD HOSPITAL

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

FILED 1 Rule issued
m/11:22 ~~pm~~ to Atty Hartye
FEB 06 2004
William A. Shaw
Prothonotary/Clerk of Courts

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

DOREEN BRADY and EDWARD BRADY, wife and husband,	:	No. 2004 – 110 CD
Plaintiffs	:	
vs.	:	
CLEARFIELD HOSPITAL and STAT MEDEVAC, INC.,	:	
Defendants	:	JURY TRIAL DEMANDED

COPY

RULE TO FILE COMPLAINT

AND NOW, this 16th day of February, 2004, Rule is entered on the Plaintiff to file a Complaint.

Prothonotary

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

DOREEN BRADY and EDWARD BRADY, wife and husband,	:	No. 2004 – 110 CD
	:	**ISSUE:** CERTIFICATE OF SERVICE OF RULE TO FILE COMPLAINT
Plaintiffs	:	
vs.	:	
	:	Filed on behalf of Defendant, CLEARFIELD HOSPITAL
CLEARFIELD HOSPITAL and STAT MEDEVAC, INC.,	:	Counsel of Record for This Party: Frank J. Hartye, Esquire PA I.D. #25568
Defendants	:	McINTYRE, DUGAS, HARTYE & SCHMITT P.O. Box 533 Hollidaysburg, PA 16648 (814) 696-3581
	:	JURY TRIAL DEMANDED

I HEREBY CERTIFY THAT A TRUE AND CORRECT COPY OF THE WITHIN WAS MAILED TO ALL COUNSEL OF RECORD THIS **10th** DAY OF **FEBRUARY, 2004**.

Attorneys for Named Defendant

FILED

FEB 12 2004

William A. Shaw
Prothonotary/Clerk of Courts

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

DOREEN BRADY and EDWARD BRADY, wife and husband,	:	No. 2004 – 110 CD
Plaintiffs	:	
vs.	:	
CLEARFIELD HOSPITAL and STAT MEDEVAC, INC.,	:	
Defendants	:	JURY TRIAL DEMANDED

CERTIFICATE OF SERVICE OF RULE TO FILE COMPLAINT

TO: PROTHONOTARY

You are hereby notified that on the **10th** day of **FEBRUARY, 2004**, Defendant, CLEARFIELD HOSPITAL, served a RULE upon the Plaintiffs, by mailing the original of same via First Class Mail, postage prepaid, addressed to Plaintiffs' counsel:

Samuel Cohen, Esquire
Katz, Cohen & Price
117 South 17th Street
Suite 2010
Philadelphia, PA 19103-5020

McINTYRE, DUGAS, HARTYE & SCHMITT

Attorneys for Defendant,
CLEARFIELD HOSPITAL

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

In The Court of Common Pleas of Clearfield County, Pennsylvania

BRADY, DOREEN & EDWARD

VS.

CLEARFIELD HOSPITAL & STAT MEDEVAC, INC.

SUMMONS

Sheriff Docket # 15116

04-110-CD

SHERIFF RETURNS

NOW JANUARY 28, 2004 AT 10:00 AM SERVED THE WITHIN SUMMONS ON CLEARFIELD HOSPITAL, DEFENDANT AT EMPLOYMENT, PO BOX 992, CLEARFIELD, CLEARFIELD COUNTY, PENNSYLVANIA BY HANDING TO ELEANE C. KARCHNER, EXEC. SEC. A TRUE AND ATTESTED COPY OF THE ORIGINAL SUMMONS AND MADE KNOWN TO HER THE CONTENTS THEREOF.
SERVED BY: NEVLING/MCCLEARY

NOW JANUARY 26, 2004, FELIX DeLUCA, SHERIFF OF BEAVER COUNTY WAS DEPUTIZED BY CHESTER A HAWKINS, SHERIFF OF CLEARFIELD COUNTY TO SERVE THE WITHIN SUMMONS ON STAT MEDEVAC, INC., DEFENDANT.

NOW FEBRUARY 6, 2004 ATTEMPTED TO SERVE THE WITHIN SUMMONS ON STATE MEDEVACE, INC., DEFENDANT BY DEPUTIZING THE SHERIFF OF BEAVER COUNTY. THE RETURN OF SHERIFF DeLUCA IS HERETO ATTACHED AND MADE A PART OF THIS RETURN MARKED "NOT FOUND". ACCORDING TO 911 CENTER/N STAT MEDEVAC INC. IN ELLWOOD CITY BOTH BEAVER CO./LAWRENCE CO.

Return Costs

Cost	Description
34.74	SHERIFF HAWKINS PAID BY: ATTY CK# 22540
20.00	SURCHARGE PAID BY: ATTY CK# 22541
50.00	BEAVER COUNTY SHERIFF PAID BY: ATTY.

Sworn to Before Me This

27th Day Of Feb 2004

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

So Answers,

Chester A. Hawkins
Sheriff

FILED
at 3:20 PM
FEB 27 2004

William A. Shaw
Prothonotary/Clerk of Courts

Sheriff's Office
Clearfield County

OFFICE (814) 765-2641 EXT. 5986
AFTER 4:00 P.M. (814) 765-1533
FAX (814) 765-5915

COURTHOUSE
1 NORTH SECOND STREET, SUITE 116
CLEARFIELD, PENNSYLVANIA 16830

CHESTER A. HAWKINS
SHERIFF

ROBERT SNYDER
CHIEF DEPUTY

MARILYN HAMM
DEPT. CLERK

CYNTHIA AUGHENBAUGH
OFFICE MANAGER

PETER F. SMITH
SOLICITOR

DEPUTATION

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

PAGE 15116

DOREEN & EDWARD BRADY

VS

CLEARFIELD HOSPITAL al

TERM & NO. 04-110-CD

DOCUMENT TO BE SERVED:

SUMMONS

SERVE BY: 02/22/2004

RECEIVED
SHERIFF'S OFFICE
2004 JAN 31 A 11: 38
BEAVER COUNTY PA

MAKE REFUND PAYABLE TO: *RICHARD MILGRUB, ESQ.*

SERVE: *STAT MEDEVAC, INC.*

ADDRESS: *123 Fifith Ave., Elwood City, Pa. 16117*

Know all men by these presents, that I, CHESTER A. HAWKINS, HIGH SHERIFF of CLEARFIELD COUNTY, State of Pennsylvania, do hereby deputize the SHERIFF OF *BEAVER* COUNTY, Pennsylvania to execute this writ. This Deputation being made at the request and risk of the Plaintiff this *26th* Day of *JANUARY* 2004

Respectfully,

CHESTER A. HAWKINS,
SHERIFF OF CLEARFIELD COUNTY

RECEIPT FOR PAYMENT

Beaver County Sheriff's Office
County Courthouse

Receipt Date 02/03/2004
Receipt Time 11:17:46
Receipt No. 46444

DOREEN BRADY ET AL (VS) CLEARFIELD HOSPITAL ET AK

Case Number 2004-00110 T
Service Info
Remarks TM

Total Check...	+	50.00	Check No. 22542
Total Cash....	+	.00	
Cash Out.....	-	.00	
Receipt total.	=	50.00	

---------- Distribution Of Payment ----------

Transaction Description	Payment Amount	
ADVANCE PAYMENT	50.00	MILGRUB RICHARD H
	50.00	

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

SUMMONS

Doreen Brady and
Edward Brady, w/h

Vs. **NO.: 2004-00110-CD**

Clearfield Hospital
Stat Medevac, Inc.

TO: CLEARFIELD HOSPITAL
STAT MEDEVAC, INC.

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

Date: 01/23/2004

William A. Shaw
Prothonotary

Issuing Attorney:

Samuel Cohen
117 South 17th Street
Suite 2010
Philadelphia, PA 19103-5020

COPY

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

SUMMONS

Doreen Brady and
Edward Brady, w/h

Vs. **NO.: 2004-00110-CD**

Clearfield Hospital
Stat Medevac, Inc.

TO: CLEARFIELD HOSPITAL
STAT MEDEVAC, INC.

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

Date: 01/23/2004

William A. Shaw
Prothonotary

Issuing Attorney:

Samuel Cohen
117 South 17th Street
Suite 2010
Philadelphia, PA 19103-5020

OP

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

SUMMONS

Doreen Brady and
Edward Brady, w/h

Vs. **NO.: 2004-00110-CD**

Clearfield Hospital
Stat Medevac, Inc.

TO: CLEARFIELD HOSPITAL
STAT MEDEVAC, INC.

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

Date: 01/23/2004

William A. Shaw
Prothonotary

Issuing Attorney:

Samuel Cohen
117 South 17th Street
Suite 2010
Philadelphia, PA 19103-5020

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

DOREEN BRADY and EDWARD BRADY w/h RD 1, Box 241 Clearfield, PA 16830 Plaintiff	*	
-vs-	*	No. 2004-00110
CLEARFIELD HOSPITAL PO Box 992 Clearfield, PA 16830	*	
and	*	
STAT MEDEVAC, INC. 123 Beaver Avenue Elwood City, PA 16117 Defendants	*	

FILED

MAR 09 2004

William A. Shaw
Prothonotary/Clerk of Courts

Type of Action:
Civil

Type of Pleading:
Praecipe to Reissue
Writ of Summons

Filed on Behalf of:
Plaintiff

Counsel of Record for this Party:

Samuel Cohen, Esquire
Supreme Court I.D. 27544

117 South 17th Street
Suite 2010
Philadelphia, PA 19103
(215) 636-0400

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

DOREEN BRADY and EDWARD BRADY w/h RD 1, Box 241 Clearfield, PA 16830 Plaintiff	*	
-vs-	*	No. 2004-00110
CLEARFIELD HOSPITAL PO Box 992 Clearfield, PA 16830	*	
and	*	
STAT MEDEVAC, INC. 123 Beaver Avenue Elwood City, PA 16117 Defendants	*	

PRAECIPE TO REISSUE WRIT OF SUMMONS

TO THE PROTHONOTARY:

Please reissue the Writ of Summons against the above-named Defendants and have Allegheny County Sheriff's Office deputized to make service on Stat Medevac Service, Center for Emergency Medicine, Suite 611 - Building 7, Parkway Center, Pittsburgh, Pennsylvania 15220.

Date: 3/9/04

By Samuel Cohen
Samuel Cohen, Esquire
Attorney for Plaintiff

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

SUMMONS

Doreen Brady and
Edward Brady, w/h

Vs. **NO.: 2004-00110-CD**

Clearfield Hospital
Stat Medevac, Inc.

TO: CLEARFIELD HOSPITAL
STAT MEDEVAC, INC.

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

Date: 01/23/2004

William A. Shaw
Prothonotary

Issuing Attorney:

Samuel Cohen
117 South 17th Street
Suite 2010
Philadelphia, PA 19103-5020

M March 9, 2004 Document
~~Reinstated~~/Reissued to ~~Sheriff~~/Attorney
for service.

~~Deputy~~ Prothonotary

FILED

MAR 23 2004

William A. Shaw
Prothonotary/Clerk of Courts

KATZ, COHEN & PRICE, P.C.
By: SAMUEL COHEN
ATTORNEY I.D. NO.: 27544
117 SOUTH 17th STREET
SUITE 2010
PHILADELPHIA, PA 19103
(215) 636-0400

ATTORNEY FOR PLAINTIFFS

DOREEN BRADY and EDWARD BRADY w/h RD 1 BOX 241 CLEARFIELD, PA 16830	:	COURT OF COMMON PLEAS
vs	:	CLEARFIELD COUNTY
CLEARFIELD HOSPITAL P.O. BOX 992 CLEARFIELD, PA 16830 and STAT MEDEVAC, INC 123 BEAVER AVE. ELLWOOD CITY, PA 16117	:	Case No.: 2004-00110

CERTIFICATE OF MERIT AS TO CLEARFIELD HOSPITAL AND STAT MEDEVAC, INC.

I, Samuel Cohen, certify that:

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

[ ] the claim that this Defendant deviated from an acceptable professional standard is based solely on allegations that other licensed professional 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 professional in the treatment, practice or work that is the subject of the Complaint, fell outside acceptable professional standard and that such conduct was a cause in bringing about the harm.

[ ] expert testimony of an appropriate licensed professional is unnecessary for prosecution of the claim against this Defendant.

KATZ, COHEN & PRICE, P.C.

BY: _____
SAMUEL COHEN

DATED: 3/19/02

FILED No CC

m/11:11 a

MAR 23 2004

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOREEN BRADY and EDWARD BRADY, w/h,	CIVIL ACTION - LAW
Plaintiffs,	No. 2004-00110-CD
v.	PRAECIPE FOR APPEARANCE
CLEARFIELD HOSPITAL; and STAT MEDEVAC, INC.,	Filed on behalf of:
Defendants.	STAT MEDEVAC, INC., Defendant.
	Counsel of Record for this Party:
	Wilbur McCoy Otto, Esq. Pa. I.D. #01524
	DICKIE, MCCAMEY AND CHILCOTE Firm #067 Two PPG Place, Suite 400 Pittsburgh, PA 15222
	(412) 281-7272

FILED

APR 05 2004

William A. Shaw
Prothonotary

PRAECIPE FOR APPEARANCE

TO: William A. Shaw, Prothonotary/Clerk of Courts

KINDLY ENTER our Appearance for Defendant, STAT MEDEVAC, INC.

DICKIE, McCAMEY & CHILCOTE

BY: _____
Wilbur McCoy Otto, Esq.
Attorney for Defendant(s)

JURY TRIAL DEMANDED

FILED

APR 0 5 2004

William A. Shaw
Prothonotary

In The Court of Common Pleas of Clearfield County, Pennsylvania

BRADY, DOREEN & EDWARD

VS.

CLEARFIELD HOSPITAL & STAT MEDEVAC, INC.

SUMMONS

Sheriff Docket # 15116

04-110-CD

SHERIFF RETURNS

NOW MARCH 9, 2004, PETER DEFAZIO, SHERIFF OF ALLEGHENY COUNTY WAS DEPUTIZED BY CHESTER A. HAWKINS, SHERIFF OF CLEARFIELD COUNTY TO SERVE THE WITHIN SUMMONS ON STAT MEDEVAC, INC., DEFENDANT.

NOW MARCH 15, 2004 SERVED THE WITHIN SUMMONS ON STAT MEDEVAC, INC., DEFENDANT BY DEPUTIZING THE SHERIFF OF ALLEGHENY COUNTY. THE RETURN OF SHERIFF DEFAZIO IS HERETO ATTACHED AND MADE A PART OF THIS RETURN STATING THAT HE SERVED PATTY THOMPSON, AGENT.

Return Costs

Cost	Description
18.37	SHERIFF HAWKINS PAID BY: ATTY MILGRUB Ck# 22721
10.00	SURCHARGE PAID BY: ATTY MILGRUB CK# 22722
50.00	SHFF. OF ALLEGHENY CO. PAID BY: ATTY MILGRUB CK# 22724
3.00	NOTARY PAID BY: ATTY MILGRUB CK# 22725

Sworn to Before Me This

7 Day Of May 2004

So Answers,

Chester A. Hawkins
by Marilyn Hamm

Chester A. Hawkins
Sheriff

FILED
0 1:04
MAY 07 2004

William A. Shaw
Prothonotary

AW

Patty Thompson

15116

ALLEGHENY COUNTY SHERIFF'S DEPARTMENT

436 GRANT STREET
PITTSBURGH, PA 15219-2496
PHONE (412) 350-4700
FAX (412) 350-6388

685538

PETER R. DEFAZIO
Sheriff

DENNIS SKOSNIK
Chief Deputy

PLAINTIFF: Doreen Brady and Edward Brady

VS.

DEFT.: Clearfield Hospital

DEFT.: Stat Medevac, Inc.

DEFT.:

GARNISHEE:

ADDRESS: Centre for Emergency Medicine, Suite 611-Building 7, Parkway Center, Pittsburgh, PA 15220

CASE#: 04-110-CD

EXPIRES:

- ☒ SUMMONS/PRAECIPE
- ❑ SEIZURE OR POSSESSION
- ❑ NOTICE AND COMPLAINT
- ❑ REVIVAL OR SCI FA
- ❑ INTERROGATORIES
- ❑ EXECUTION • LEVY OR GARNISHEE
- ❑ OTHER

MUNICIPALITY OR CITY WARD:

ATTY: Samuel Cohen, Esq.

DATE: 20

ADDRESS: 117 South 17th St., Ste. 2010 Philadelphia, PA 19103

ATTY'S PHONE: 215-636-0400

INDICATE TYPE OF SERVICE: ❑ PERSONAL ☒ PERSON IN CHARGE ❑ DEPUTIZE ❑ MAIL ❑ POSTED ❑ OTHER ❑ LEVY ❑ SEIZED & STORED

NOW: 20 I, SHERIFF OF ALLEGHENY COUNTY, PA do hereby deputize the Sheriff of County to execute this Writ and make return thereof according to law

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, with out liability on the part of such deputy herein for any loss, destruction or removal of any such property before sheriff's sale therof.

Seize, levy, advertise and sell all the personal property of the defendant on the premises located at:

MAKE	MODEL	MOTOR NUMBER	SERIAL NUMBER	LICENSE NUMBER

SHERIFF'S OFFICE USE ONLY

I hearby CERTIFY and RETURN that on the 15 day of March, 2004, at 10:40 o'clock A.M./P.M. Address Above/ Address Below, County of Allegheny, Pennsylvania

I have served in the manner Described below:

- ❑ Defendant(s) personally served.
- ❑ Adult family member with whom said Defendant(s) reside(s). Name & Relationship
- ❑ Adult in charge of Defendant's residence who refused to give name or relationship.
- ❑ Manager/other person authorized to accept deliveries of United States Mail
- ☒ Agent or person in charge of Defendant(s) office or usual place of business. Patty Thompson
- ❑ Other
- ❑ Property Posted

Defendant not found because: ❑ Moved ❑ Unknown ❑ No Answer ❑ Vacant ❑ Other

❑ Certified Mail ❑ Receipt ❑ Envelope Returned ❑ Neither receipt or envelope retuned: writ expired

❑ Regular Mail Why

You are hereby notified that on , 19 , levy was made in the case of

Possession/Sale has been set for , 20 at o'clock

YOU MUST CALL DEPUTY ON THE MORNING OF SALE/POSSESSION BETWEEN 8:30 - 9:30 A.M.

ATTEMPTS / / / / / /

Additional Costs Due $, This is placed on writ when returned to Prothonotary. Please check before satisfying case.

Affirmed and subscribed before me this day of MAR 19 2004

Sheila R O'Brien
Notary

Notarial Seal
Sheila R. O'Brien, Notary Public
City of Pittsburgh, Allegheny County
My Commission Expires June 19, 2004
Member, Pennsylvania Association of Notaries

PETER R. DEFAZIO, Sheriff

BY: (DEPUTY)

DISTRICT: 2

39

White Copy - Sheriff **Pink Copy - Attorney**

Sheriff's Office
Clearfield County

OFFICE (814) 765-2641 EXT. 5986
AFTER 4:00 P.M. (814) 765-1533
FAX (814) 765-5915

COURTHOUSE
1 NORTH SECOND STREET, SUITE 116
CLEARFIELD, PENNSYLVANIA 16830

CHESTER A. HAWKINS
SHERIFF

ROBERT SNYDER
CHIEF DEPUTY

MARILYN HAMM
DEPT. CLERK

CYNTHIA AUGHENBAUGH
OFFICE MANAGER

PETER F. SMITH
SOLICITOR

DEPUTATION

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

PAGE 15116

DOREN & EDWARD BRADY

VS

CLEARFIELD HOSPITAL al

TERM & NO. 04-110-CD

DOCUMENT TO BE SERVED:

SUMMONS

SERVE BY: 04/08/2004

MAKE REFUND PAYABLE TO: *RICHARD H. MILGRUB, ESQ.*

SERVE: *STAT MEDEVAC, INC.*

ADDRESS: *Stat Medevac Services Center for Emergency Medicine, Ste. 611, bldg. 7, Parkway Center, Pittsburgh 15220*

Know all men by these presents, that I, CHESTER A. HAWKINS, HIGH SHERIFF of CLEARFIELD COUNTY, State of Pennsylvania, do hereby deputize the SHERIFF OF *ALLEGHENY* COUNTY, Pennsylvania to execute this writ. This Deputation being made at the request and risk of the Plaintiff this *9th* Day of *MARCH* 2004

Respectfully,

CHESTER A. HAWKINS,
SHERIFF OF CLEARFIELD COUNTY

March 9, 2004

Peter R. DeFazio
Allegheny County Sheriff
Allegheny County Courthouse
City County Building
Grant Street
Pittsburgh, PA 15219

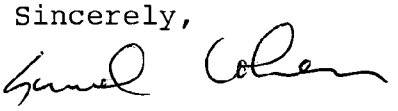
IN RE: Brady v. Clearfield Hospital and
Stat Medevac, Inc.
No. 04-110-CD (Clearfield County)

To Whom It May Concern:

Please note that service had been attempted on Stat Medevac, Inc. at 123 Fifth Avenue, Elwood City, PA 16117. The business entity no longer has a facility at that location. I have discovered that they do have a location in Pittsburgh at Stat Medevac Services, Center for Emergency Medicine, Suite 611 - Building 7, Parkway Center, Pittsburgh, PA 15220.

Please serve Stat Medevac at the Parkway Center address and disregard the address on the caption.

Sincerely,



Samuel Cohen

SC/kr
Enclosures

KATZ, COHEN & PRICE, P.C.
By: SAMUEL COHEN
ATTORNEY I.D. NO.: 27544
117 SOUTH 17th STREET
SUITE 2010
PHILADELPHIA, PA 19103
(215) 636-0400

ATTORNEY FOR PLAINTIFFS

DOREEN BRADY and EDWARD BRADY w/h RD 1 BOX 241 CLEARFIELD, PA 16830	:	COURT OF COMMON PLEAS
vs	:	CLEARFIELD COUNTY
CLEARFIELD HOSPITAL P.O. BOX 992 CLEARFIELD, PA 16830 and STAT MEDEVAC, INC 123 BEAVER AVE. ELLWOOD CITY, PA 16117	:	Case No.: 2004-00110

CIVIL ACTION COMPLAINT

COME NOW, Plaintiffs Doreen Brady and Edward Brady, wife and husband, by their counsel, Katz, Cohen & Price, P.C. by Samuel Cohen, Esquire and desiring to recover compensation for injuries, losses and damages sustained by them as a result of the negligence and carelessness of Defendants aver in support thereof the following:

1. Plaintiffs Doreen Brady and Edward Brady are adult individuals who are wife and husband and who are citizens and residents of the Commonwealth of Pennsylvania residing therein at RD 1 BOX 241, Clearfield, Clearfield County.

2. Defendant Clearfield Hospital is a not for profit corporation organized and existing under the laws of the Commonwealth of Pennsylvania, having a regular place of business at 1 Turnpike Avenue in Clearfield, Clearfield County.

3. Defendant Stat MedEvac, Inc, is corporation regularly conducting business in Clearfield County, Pennsylvania having a place of business at 123 Fifth Avenue, Elwood City, Beaver County.

4. At all times material hereto, each of the Defendants acted by and through its authorized agents, servants, workmen and/or employees each of whom was acting within the course and scope of his/her agency and/or employment with said Defendants.

5. Additionally, at all times material hereto, the agents, servants, workman and/or employees of the respected Defendants were also acting as the agents, servants, workmen and/or employees of the other Defendant acting within the course and scope of his/her agency and or employment with said Defendants.

6. On or about February 2, 2002, Plaintiff Doreen Brady was a patient for pay on the premiss of Defendant Clearfield Hospital.

7. On or about the aforementioned date, at or about the aforementioned date at or about 10:00p.m., Plaintiff Doreen Brady was being transported from the emergency room area of Clearfield Hospital to a helicopter landing pad adjacent to Clearfield Hospital by individuals who, upon information and belief, were the agents, servants, workmen and/or employees of both Defendants.

8. At the time she was being transported, Plaintiff Doreen Brady was placed on to a wheeled device by agents, servants, workmen and/or employees of the Defendants for the purpose of transporting her from the emergency room area of Defendant Clearfield Hospital to the helicopter landing pad.

9. In order to transport Plaintiff Doreen Brady, Doreen Brady was strapped to the wheeled device on which she was being transported at the time of the incident more particularly described hereafter.

10. During the course of her transport from the emergency room to the helicopter landing pad, Plaintiff had no ability to control or direct the movements of the wheeled device nor her own physical movements as her body was immobilized.

11. At the time of her transport, Plaintiff Doreen Brady's body was exclusively in the possession and control of Defendants through their agents, servants, workmen and/or employees as was the wheeled device on which Ms. Brady was being transported.

12. On or about the aforementioned date, at or about the aforementioned time, as Plaintiff Doreen Brady was being transported from the emergency room to the helicopter landing pad, she was so negligently and carelessly transported that her body was thrown to the ground and as a result, Plaintiff sustained serious personal injuries, losses and damages more particularly set forth hereafter.

13. No act or failure to act on the parts of Plaintiffs caused or contributed

to the happening of the incident or to the nature and/or extent of their injuries losses and damages.

14. At all times material hereto, the device upon which Ms. Brady was being transported was exclusively owned, operated, maintained, possessed and controlled by Defendants.

15. The injuries, losses and damages sustained by Plaintiffs were caused as a result the negligence and carelessness of Defendants in some or all of the following respects:

a. In failing to properly transport Doreen Brady;

b. In permitting Ms. Brady to fall to the ground;

c. In improperly operating the wheeled device so as to allow it to throw Ms. Brady to the ground;

d. In failing to properly secure Ms. Brady to the wheeled device;

e. In failing to take in to account the rights, safety and position of Plaintiff Doreen Brady;

f. In failing to properly use the wheeled device upon which Ms. Brady was being transported;

g. In moving the wheeled device so as to cause Ms. Brady to fall and strike the ground;

h. In failing to properly care for Doreen Brady in transporting her;

i. In failing to warn Ms. Brady of the condition of the wheeled device;

j. In failing to properly maintain the wheeled device;

k. In failing to use the appropriate skill and care required to transport Plaintiff Doreen Brady;

l. In violating applicable rules, statutes, standards and ordinances; and

m. In moving the wheeled device such as to cause Ms. Brady to fall from it;

COUNT I - PLAINTIFF DOREEN BRADY VS DEFENDANTS

16. Plaintiff, Doreen Brady, incorporates herein by reference each and every averment contained in paragraphs 1 through 15 as though same were full set forth herein at length.

17. By reason of the said wrongful acts of Defendants, the Plaintiff has suffered various injuries, including, but not limited to, myofacial pain syndrome, fibromyalgia, multiple bruising, multiple lumps in her interior abdominal wall, sprain of the cervical and

thoracic spine, bulging annulus at the level of L5-S1, disc protrusion at the level of T11-12, injuries to her left shoulder and right hand together with a severe shock to her nerves and nervous system and aggravation and activation of pre-existing and dormant conditions and she was otherwise injured, some or all of which injuries are or may be serious and permanent in nature.

18. By reason of the said wrongful acts of Defendants, the Plaintiff has sustained great physical pain, mental suffering and humiliation and will continue to endure said pain, suffering mental anguish and humiliation for an indefinite time in the future.

19. By reason of the said wrongful acts of Defendants, the Plaintiff has been obliged and will in the future be obliged to expend various sums of money for medicine and medical expenses in and above endeavoring to treat and cure her injuries much to her financial damage and loss.

20. By reason of the said wrongful acts of Defendants, the Plaintiff has been unable to follow her usual occupation and will be unable to follow same for an indefinite time in the future, has lost the emoluments which would have come to her through her employment and has suffered an impairment of her earning capacity and power, all of which losses are or may be serious and permanent in nature.

21. By reason of the said wrongful acts of Defendants, the Plaintiff has suffered a loss of the enjoyment of her usual duties, life's pleasures and activities, all to her great detriment and loss and will continue to do so for an indefinite time in the future.

22. By reason of the said wrongful acts of Defendants, the Plaintiff has or may hereinafter incur various other expenses or losses and may continue to incur same for an indefinite time in the future.

WHEREFORE, Plaintiff demands judgement in his favor and against Defendant for a sum in **excess of $20, 0000.**

COUNT II-PLAINTIFF EDWARD BRADY VS DEFENDANTS

23. Plaintiff, Edward Brady, incorporates herein by reference each and every averment contained in paragraphs 1 through 22 as though same were full set forth herein at length.

24. By reason of the said wrongful acts of Defendants, Plaintiff, Edward Brady has been deprived of the aid, society, care and consortium of his wife, Doreen Brady, much to his great detriment and loss.

25. By reason of the said wrongful acts of Defendants, the Plaintiff has been obliged and will in the future be obliged to expend various sums of money for medicine and medical expenses in and above endeavoring to treat and cure the injuries to his wife, Doreen Brady much to his financial damage and loss.

26. By reason of the said wrongful acts of Defendants, Plaintiff, Edward Brady, has or may incur various other damages and incur other expenses or losses for his

wife and may continue to incur same for an indefinite time in the future much to his/her great financial damage and loss.

WHEREFORE, Plaintiff demands judgement in his favor and against Defendants for a sum in excess of $20,000.00.

KATZ, COHEN & PRICE

BY: SAMUEL COHEN

DATED: 5/12/04

VERIFICATION

I, SAMUEL COHEN, ESQUIRE, verify that I am the attorney for Plaintiff named herein, and that the averments of fact set forth in the foregoing Civil Action Complaint are true and correct upon my personal knowledge, information and belief. I understand that this Verification is made subject to the penalties of 18 Pa. C.S. § 4904, relating to unsworn falsification to authorities.

KATZ, COHEN & PRICE, P.C.

SAMUEL COHEN, ESQUIRE

Dated 5/12/04

CERTIFICATION OF SERVICE

I, Samuel Cohen, certify that a true and correct copy of the within Plaintiffs' Civil Action Complaint directed to Defendants was forwarded via regular mail through the United States Postal Service on May 12, 2004 to:

Wilbur McCoy Otto, Esquire
Dickie, McCamey & Chilcote
Two PPG Place - Suite 400
Pittsburgh, Pennsylvania 15222-5402

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

KATZ, COHEN & PRICE, P.C.

By: SAMUEL COHEN

KATZ, COHEN & PRICE, P.C.
By: SAMUEL COHEN
ATTORNEY I.D. NO.: 27544
117 SOUTH 17th STREET
SUITE 2010
PHILADELPHIA, PA 19103
(215) 636-0400

ATTORNEY FOR PLAINTIFFS

DOREEN BRADY and	:	COURT OF COMMON PLEAS
EDWARD BRADY w/h	:	
RD 1 BOX 241	:	
CLEARFIELD, PA 16830	:	
vs	:	CLEARFIELD COUNTY
	:	
CLEARFIELD HOSPITAL	:	Case No.: 2004-00110
P.O. BOX 992	:	
CLEARFIELD, PA 16830	:	
and	:	
STAT MEDEVAC, INC	:	
123 BEAVER AVE.	:	
ELLWOOD CITY, PA 16117	:	

PRAECIPE TO SUBSTITUTE VERIFICATION

TO THE PROTHONOTARY:

Kindly substitute Plaintiffs Doreen Brady and Edward Brady's Verification for Samuel Cohen, Esquire's Verification, which was attached to Plaintiffs' Civil Action

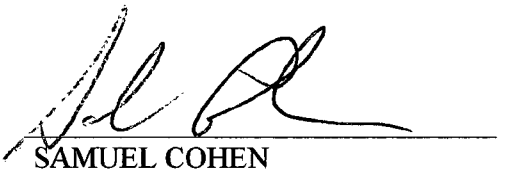
FILED

MAY 28 2004

William A. Shaw
Prothonotary/Clerk of Courts

Complaint which was filed on May 17, 2004.

KATZ, COHEN & PRICE, P.C.



SAMUEL COHEN
Attorney for Plaintiffs

Dated: 5/20/04

VERIFICATION

We, Doreen Brady and Edward Brady, verify that we are the Plaintiffs in this matter and that the averments of fact set forth in the foregoing Civil Action Complaint are true and correct to the best of our personal knowledge, information and belief. I understand that this Verification is made subject to the penalties of 18 Pa. C.S.§4904, relating to unsworn falsification to authorities.

Doreen Brady
DOREEN BRADY

Edward Brady
EDWARD BRADY

Dated: 5-18-04

FILED
m/12:57/3N NO CC
MAY 28 2004

William A. Shaw
Prothonotary/Clerk of Courts

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

DOREEN BRADY and EDWARD BRADY, wife and husband,	:	No. 2004 – 110 CD
	:	**ISSUE:** Notice of Service of Interrogatories and Request for Production of Document Directed to Plaintiffs Dated June 1, 2004
Plaintiffs	:	
vs.	:	
	:	Filed on behalf of Defendant, CLEARFIELD HOSPITAL
CLEARFIELD HOSPITAL and STAT MEDEVAC, INC.,	:	Counsel of Record for This Party: Frank J. Hartye, Esquire PA I.D. #25568
Defendants	:	McINTYRE, DUGAS, HARTYE & SCHMITT P.O. Box 533 Hollidaysburg, PA 16648 (814) 696-3581
	:	JURY TRIAL DEMANDED

I HEREBY CERTIFY THAT A TRUE AND CORRECT COPY OF THE WITHIN WAS MAILED TO ALL COUNSEL OF RECORD THIS 1st DAY OF JUNE, 2004.

Attorneys for Named Defendant

FILED

JUN 02 2004

William A. Shaw
Prothonotary/Clerk of Courts

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

DOREEN BRADY and EDWARD BRADY, wife and husband,	:	No. 2004 – 110 CD
Plaintiffs	:	
vs.	:	
CLEARFIELD HOSPITAL and STAT MEDEVAC, INC.,	:	
Defendants	:	JURY TRIAL DEMANDED

NOTICE OF SERVICE OF INTERROGATORIES AND REQUEST FOR PRODUCTION OF DOCUMENTS DIRECTED TO PLAINTIFFS DATED JUNE 1, 2004

TO: PROTHONOTARY

You are hereby notified that on the 1st day of June, 2004, Defendant, CLEARFIELD HOSPITAL, served Interrogatories and Request for Production of Documents Directed to Plaintiffs Dated June 1, 2004 by mailing the original of same via First Class U.S. Mail, postage prepaid, addressed to the following:

Samuel Cohen, Esquire
Katz, Cohen & Price
117 South 17th Street
Suite 2010
Philadelphia, PA 19103-5020

McINTYRE, DUGAS, HARTYE & SCHMITT

Attorney for Defendant
Clearfield Hospital

FRANK J. HARTYE, ESQUIRE
PA I.D. No. 25568
P. O. Box 533
Hollidaysburg, PA 16648-0533
(814) 696-3581

FILED NO
m/filed CC
JUN 0 2 2004

William A. Shaw
Prothonotary/Clerk of Courts

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

DOREEN BRADY and EDWARD BRADY, wife and husband,	:	No. 2004 – 110 CD
	:	**ISSUE:** ANSWER AND NEW MATTER TO PLAINTIFFS' COMPLAINT
Plaintiffs	:	
vs.	:	
	:	Filed on behalf of Defendant, CLEARFIELD HOSPITAL
CLEARFIELD HOSPITAL and STAT MEDEVAC, INC.,	:	Counsel of Record for This Party: Frank J. Hartye, Esquire PA I.D. #25568
Defendants	:	McINTYRE, DUGAS, HARTYE & SCHMITT P.O. Box 533 Hollidaysburg, PA 16648 (814) 696-3581
	:	JURY TRIAL DEMANDED

I HEREBY CERTIFY THAT A TRUE AND CORRECT COPY OF THE WITHIN WAS MAILED TO ALL COUNSEL OF RECORD THIS 3rd DAY OF **JUNE, 2004**.

Attorneys for Named Defendant

FILED

JUN 07 2004

William A. Shaw
Prothonotary/Clerk of Courts

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

DOREEN BRADY and EDWARD BRADY, wife and husband,	:	No. 2004 – 110 CD
Plaintiffs	:	
vs.	:	
CLEARFIELD HOSPITAL and STAT MEDEVAC, INC.,	:	
Defendants	:	JURY TRIAL DEMANDED

ANSWER AND NEW MATTER
TO PLAINTIFFS' COMPLAINT

AND NOW, comes the Defendant, CLEARFIELD HOSPITAL, by and through its attorneys, McINTYRE, DUGAS, HARTYE & SCHMITT, and files the following Answer and New Matter to plaintiffs' Complaint.

1. The allegations contained in paragraph 1 are true to the best of defendant's knowledge.

2. Admitted except defendant's address is 809 Turnpike Avenue, Clearfield, PA 16830.

3. The allegations contained in paragraph 3 are not directed to answering defendant.

4. The allegations contained in paragraph 4 are overly broad and therefore they are denied as stated.

5. The allegations contained in paragraph 5 are denied. It is denied that any agents, servants or employees of Defendant, Stat Medevac, Inc., were agents, servants or employees of Clearfield Hospital.

6. Admitted.

7. Admitted in part and denied in part. It is admitted that Plaintiff, Doreen Brady, was being transported from the emergency room area of Clearfield Hospital to a helicopter landing pad by individuals. It is denied that those individuals were agents, servants, workmen or employees of Clearfield Hospital.

8. Admitted in part and denied in part. It is admitted that Plaintiff, Doreen Brady, was placed on a wheeled device and was being transported from the emergency room area to the helicopter landing pad. It is denied that the patient was being transported by agents, servants, or employees of Clearfield Hospital.

9. The allegations contained in paragraph 9 are true to the best of answering defendant's knowledge.

10. After reasonable investigation, answering defendant is without sufficient knowledge or information as to the truth of these averments and therefore they are denied as stated.

11. Denied. It is denied that Doreen Brady was exclusively in possession and control of Clearfield Hospital, its agents, servants, workmen or employees while she was being transported and therefore all of the allegations in paragraph 11 are denied as stated.

12. The allegations contained in paragraph 12 are denied as stated. It is denied that Clearfield Hospital or any of its agents, servants or employees were negligent or careless in any manner. It is further denied that any action or inaction on the part of Clearfield Hospital or any of its agents, servants or employees either caused or contributed to the plaintiff's fall and any subsequent injuries sustained as a result thereof and therefore all of the allegations contained in paragraph 12 are denied.

13. After reasonable investigation, answering defendant is without sufficient knowledge or information as to the truth of these averments and therefore they are denied as stated.

14. It is admitted that one of the devices upon which Ms. Brady was being transported was owned by Clearfield Hospital. The remaining allegations are denied for the reasons set forth above.

15. Denied. It is denied that Clearfield Hospital or any of its agents, servants or employees were negligent or careless in any manner. It is further denied that any action or inaction on the part of Clearfield Hospital or any of its agents, servants or employees either caused or contributed to the injuries and damages set forth in plaintiffs' Complaint and therefore all of the allegations contained in paragraph 15 and the subparagraphs thereof are denied and strict proof thereof is demanded.

WHEREFORE, Defendant, Clearfield Hospital, demands judgment in its favor with costs of suit awarded to Clearfield Hospital.

COUNT I – PLAINTIFF DOREEN BRADY vs. DEFENDANTS'

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

17-22. The allegations contained in paragraphs 17 through 22 are denied. It is denied that Clearfield Hospital or any of its agents, servants or employees were negligent or careless in any manner. It is further denied that any action or inaction on the part of Clearfield Hospital or any of its agents, servants or employees either caused or contributed to the alleged injuries and damages set forth and therefore all of the

allegations contained in paragraphs 17 through 22 are denied and strict proof thereof is demanded.

WHEREFORE, Defendant, Clearfield Hospital, demands judgment in its favor with costs of suit awarded to Clearfield Hospital.

COUNT II – PLAINTIFF EDWARD BRADY vs. DEFENDANTS

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

24-26. The allegations contained in paragraphs 24 through 26 are denied. It is denied that Clearfield Hospital or any of its agents, servants or employees were negligent or careless in any manner. It is further denied that any action or inaction on the part of Clearfield Hospital or any of its agents, servants or employees either caused or contributed to the alleged injuries and damages set forth and therefore all of the allegations contained in paragraphs 24 through 26 are denied and strict proof thereof is demanded.

WHEREFORE, Defendant, Clearfield Hospital, demands judgment in its favor with costs of suit awarded to Clearfield Hospital.

NEW MATTER

By way of further and more complete Answer, Defendant, Clearfield Hospital, avers the following New Matter:

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

28. If plaintiff suffered injuries and damages as a result of actions or inactions of individuals, as alleged in plaintiffs' Complaint, such actions or inactions were of individuals or entities other than Defendant, Clearfield Hospital, its agents, servants or employees and over whom Clearfield Hospital neither exercised nor had the right or duty to exercise control, and for whose actions or inactions Clearfield Hospital is not responsible or otherwise legally liable.

29. Some or all of plaintiffs' cause of action is barred by the two-year statute of limitations.

WHEREFORE, Defendant, Clearfield Hospital, demands judgment in its favor with costs of suit awarded to defendant.

Respectfully submitted,

McINTYRE, DUGAS, HARTYE & SCHMITT

By_____
Attorneys for Defendant,
CLEARFIELD HOSPITAL

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

TO: PLAINTIFFS

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

_____
Attorneys for Named Defendant

P 246 MH

VERIFICATION

I, **Jon Steen, Vice President of Human Resources** of **CLEARFIELD HOSPITAL** do hereby verify that I have read the foregoing **ANSWER AND NEW MATTER TO PLAINTIFFS' COMPLAINT**. The statements therein are correct to the best of my personal knowledge or information and belief.

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

CLEARFIELD HOSPITAL

Jon Steen
Vice President of Human Resources

Date: 5/28/04

FILED NO Cc
m/11:16 BH
JUN 07 2004

William A. Shaw
Prothonotary/Clerk of Courts

KATZ, COHEN & PRICE, P.C.
By: SAMUEL COHEN
ATTORNEY I.D. NO.: 27544
117 SOUTH 17th STREET
SUITE 2010
PHILADELPHIA, PA 19103
(215) 636-0400

ATTORNEY FOR PLAINTIFFS

DOREEN BRADY and	:	COURT OF COMMON PLEAS
EDWARD BRADY w/h	:	
RD 1 BOX 241	:	
CLEARFIELD, PA 16830	:	
vs	:	CLEARFIELD COUNTY
	:	
CLEARFIELD HOSPITAL	:	Case No.: 2004-00110
P.O. BOX 992	:	
CLEARFIELD, PA 16830	:	
and	:	
STAT MEDEVAC, INC	:	
123 BEAVER AVE.	:	
ELLWOOD CITY, PA 16117	:	

REPLY TO NEW MATTER OF DEFENDANT CLEARFIELD HOSPITAL

27.-29. Denied. To the extent the averments contained in these paragraphs constitute conclusions of law, no response is required under and pursuant to the Pennsylvania Rules of Civil Procedure.

WHEREFORE, Plaintiffs pray this Honorable Court deny the New Matter of

Defendant and enter judgement in their favor and against Defendant.

KATZ, COHEN & PRICE

BY: _____
SAMUEL COHEN

DATED: 6/25/04

VERIFICATION

I, SAMUEL COHEN, ESQUIRE, verify that I am the attorney for Plaintiffs named herein, and that the averments of fact set forth in the foregoing Reply to New Matter are true and correct upon my personal knowledge, information and belief. I understand that this Verification is made subject to the penalties of 18 Pa. C.S. § 4904, relating to unsworn falsification to authorities.

KATZ, COHEN & PRICE, P.C.

SAMUEL COHEN, ESQUIRE

Dated 6/25/04

CERTIFICATION OF SERVICE

I, Samuel Cohen, certify that a true and correct copy of the within **Plaintiffs' Reply to New Matter of Defendant** was forwarded via regular mail through the United States Postal Service on June 25, 2004 to:

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

Marc T. Thirkell, Esquire
Dickie, McCamey & Chilcote
Two PPG Place- Suite 300
Pittsburgh, Pennsylvania 15222-5402

KATZ, COHEN & PRICE, P.C.

By: SAMUEL COHEN

FILED No cc

m 11:49 BN

JUN 28 2004

William A. Shaw
Prothonotary/Clerk of Courts

KATZ, COHEN & PRICE, P.C.
By: SAMUEL COHEN
ATTORNEY I.D. NO.: 27544
117 SOUTH 17th STREET
SUITE 2010
PHILADELPHIA, PA 19103
(215) 636-0400

ATTORNEY FOR PLAINTIFFS

DOREEN BRADY and EDWARD BRADY w/h RD 1 BOX 241 CLEARFIELD, PA 16830 vs CLEARFIELD HOSPITAL P.O. BOX 992 CLEARFIELD, PA 16830 and STAT MEDEVAC, INC 123 BEAVER AVE. ELLWOOD CITY, PA 16117	: : : : : : : : : : : : :	COURT OF COMMON PLEAS CLEARFIELD COUNTY Case No.: 2004-00110

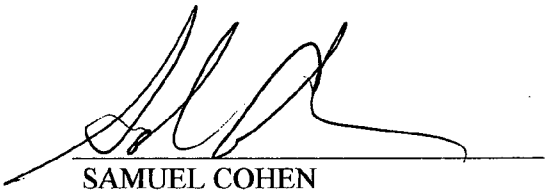
PRAECIPE TO SUBSTITUTE VERIFICATION

TO THE PROTHONOTARY:

Kindly substitute Plaintiffs Doreen Brady and Edward Brady's Verification for Samuel Cohen, Esquire's Verification, which was attached to Plaintiffs' **Reply to New**

Matter of Defendant Clearfield Hospital which was filed June 28, 2004.

KATZ, COHEN & PRICE, P.C.



SAMUEL COHEN
Attorney for Plaintiffs

Dated: 7/1/04

VERIFICATION

We, Doreen Brady and Edward Brady, verify that we are the Plaintiffs in this matter and that the averments of fact set forth in the foregoing **Reply to New Matter of Defendant Clearfield Hospital** are true and correct to the best of our personal knowledge, information and belief. I understand that this Verification is made subject to the penalties of 18 Pa. C.S.§ 4904, relating to unsworn falsification to authorities.

Doreen D. Brady
DOREEN BRADY

Edward Brady
EDWARD BRADY

Dated: 6-28-04

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOREEN BRADY and EDWARD BRADY,	:	**CIVIL DIVISION**
PLAINTIFFS	:	**CASE NO. 2004-00110**
vs.	:	**ISSUE NO.**
CLEARFIELD HOSPITAL and STAT MEDEVAC, INC.,	:	
DEFENDANTS	:	**JURY TRIAL DEMANDED**

PRAECIPE

TO THE PROTHONOTARY:

Please assign the Stipulation to Amend Plaintiffs' Complaint to the Clerk for approval.

Respectfully submitted,

DICKIE, MCCAMEY & CHILCOTE, P.C.,

Date: 8/25/04

S. Manoj Jegasothy / CAC

S. Manoj Jegasothy, Esquire
PA I.D. #80084
Marc T. Thirkell, Esquire
PA. I.D. #90995
Two PPG Place, Suite 400
Pittsburgh, PA 15222-5402
Counsel for Defendant Stat Medevac, Inc.

CERTIFICATE OF SERVICE

AND NOW, this 26th day of August, 2004, I, S. Manoj Jegasothy, Esquire, hereby certify that I did serve a true and correct copy of the foregoing PRAECIPE upon all counsel of record by depositing, or causing to be deposited, same in the U.S. mail, postage prepaid, at Harrisburg, Pennsylvania, addressed as follows:

By First-Class Mail:

Samuel Cohen, Esquire
Marshall, Dennehey, Warner, Coleman & Goggin
1845 Walnut Street
Philadelphia, PA 19103-4797
Counsel for Plaintiffs

S. Manoj Jegasothy /CAC
S. Manoj Jegasothy, Esquire

No. 2004 - 00110

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOREEN BRADY and EDWARD BRADY,	CIVIL DIVISION
Plaintiffs,	Case No.: 2004-00110
v.	Issue No.
CLEARFIELD HOSPITAL and STAT MEDEVAC, INC.,	**STIPULATION TO AMEND PLAINTIFFS' COMPLAINT**
Defendants.	Code: 007

Filed on behalf of Defendant, Stat Medevac, Inc.

Counsel of record for this party:

S. Manoj Jegasothy, Esq.
PA. I.D. #80084
Marc T. Thirkell, Esq.
PA. I.D. #90995

DICKIE, McCAMEY & CHILCOTE, P.C.
Firm #067
Two PPG Place, Suite 400
Pittsburgh, PA 15222-5402
(412) 281-7272

JURY TRIAL DEMANDED

FILED 2cc
m/1:54/BH Atty Jegasothy
AUG 30 2004
William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOREEN BRADY and EDWARD BRADY,	)	CIVIL DIVISION
	)	
	)	Case No.: 2004-00110
Plaintiffs,	)	
	)	
v.	)	
	)	
CLEARFIELD HOSPITAL and STAT MEDEVAC, INC.,	)	
	)	
	)	
Defendants.	)	
	)	
	)	
	)	
	)	

STIPULATION TO AMEND PLAINTIFFS' COMPLAINT

AND NOW, comes the Defendant, Stat Medevac, Inc., by and through its attorneys, Dickie, McCamey & Chilcote, P.C., and files the within Stipulation to Amend Plaintiffs' Complaint averring as follows:

1. This action was instituted by Writ of Summons on January 23, 2004.

2. On April 5, 2004, a Praecipe for Appearance was filed on behalf of Stat Medevac, Inc.

3. Subsequently, a Complaint in Civil Action in this case was filed against this Defendant on May 12, 2004.

4. Plaintiffs now agree that paragraph 12 of Plaintiffs' Complaint should be amended to read as follows:

> On or about the aforementioned date, at or about the aforementioned time, as Plaintiff, Doreen Brady, was being transported from the emergency room to the helicopter landing pad, she was so negligently and carelessly transported, **as more fully set forth herein**, that her body was thrown to the ground and as a result, Plaintiff sustained serious personal injuries, losses and damages, more particularly set forth herein.

5. Plaintiffs now agree that paragraph 15a of Plaintiffs' Complaint should be amended to read as follows:

> In failing to properly transport Doreen Brady **as more fully set forth herein**,

6. Plaintiffs now agree that paragraph 15h of Plaintiffs' Complaint should be amended to read as follows:

> In failing to properly care for Doreen Brady in transporting her **as more fully set forth herein**,

7. Plaintiffs now agree that paragraph 15k of Plaintiffs' Complaint should be amended to read as follows:

> In failing to use the appropriate skill and care required to transport Plaintiff Doreen Brady **as more fully set forth herein**,

8. Plaintiffs now agree that paragraph 15l of Plaintiffs' Complaint should be amended to read as follows:

> In violating standards and Defendants' applicable rules with regard to ground transportation of patients such as Doreen Brady.

KATZ, COHEN & PRICE, P.C.

By _____
Samuel Cohen, Esquire

Attorneys for Plaintiffs

DICKIE, McCAMEY & CHILCOTE, P.C.

By _____
S. Manoj Jegasothy, Esq.
Marc T. Thirkell, Esq.

Attorneys for Defendant, State Medevac, Inc.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Stipulation to Amend Plaintiffs' Complaint has been served this 19 day of July, 2004, by U.S. First Class Mail, postage prepaid to the following counsel of record:

Samuel Cohen, Esquire
Katz, Cohen & Price, P.C.
117 South 17th Street
Suite 2010
Philadelphia, PA 19103

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

DICKIE, McCAMEY & CHILCOTE, P.C.

By Marc T. Thirkell
Marc T. Thirkell, Esquire

Attorneys for Defendant, Stat Medevac, Inc.

FILED

AUG 30 2004

William A. Shaw
Prothonotary/Clerk of Courts

No. 2004 - 00110

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOREEN BRADY and EDWARD BRADY,	)	CIVIL DIVISION
Plaintiffs,	)	Case No.: 2004-00110
v.	)	
CLEARFIELD HOSPITAL and STAT MEDEVAC, INC.,	)	
Defendants.	)	

ORDER OF COURT

AND NOW, to wit, this 30 day of August, 2004, upon consideration of the within Stipulation to Amend Plaintiffs' Complaint, it is hereby ORDERED, ADJUDGED and AGREED that the same is granted, and paragraph 12 of Plaintiffs' Complaint shall be amended to read as follows:

> On or about the aforementioned date, at or about the aforementioned time, as Plaintiff, Doreen Brady, was being transported from the emergency room to the helicopter landing pad, she was so negligently and carelessly transported, **as more fully set forth herein**, that her body was thrown to the ground and as a result, Plaintiff sustained serious personal injuries, losses and damages, more particularly set forth herein.

Paragraph 15a of Plaintiffs' Complaint shall be amended to read as follows:

> In failing to properly transport Doreen Brady **as more fully set forth herein**,

Paragraph 15h of Plaintiffs' Complaint should be amended to read as follows:

FILED
01:06 BA
AUG 31 2004
William A. Shaw
Prothonotary/Clerk of Courts
2 CC Atty Jegasothy

> In failing to properly care for Doreen Brady in transporting **as more fully set forth herein**,

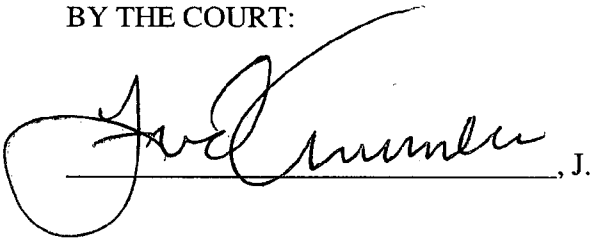
Paragraph 15k of Plaintiffs' Complaint shall be amended to read as follows:

> In failing to use the appropriate skill and care required to transport Plaintiff Doreen Brady **as more fully set forth herein**,

And paragraph 15l of Plaintiffs' Complaint should be amended to read as follows:

> In violating standards and Defendants' applicable rules with regard to ground transportation of patients such as Doreen Brady.

BY THE COURT:

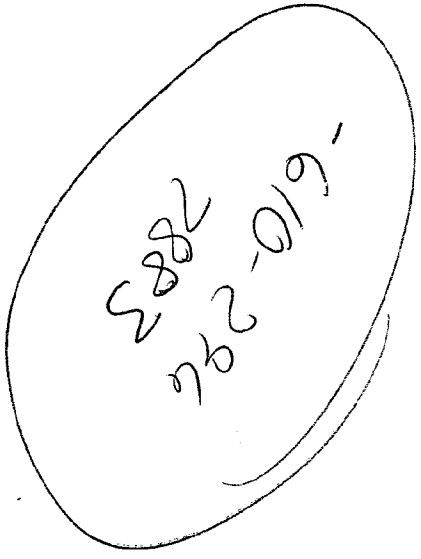


_____, J.

FILED

AUG 3 0 2004

William A. Shaw
Prothonotary/Clerk of Courts



FILED

AUG 3 1 2004

William A. Shaw
Prothonotary/Clerk of Courts

No. 2004-00110

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOREEN BRADY and EDWARD BRADY,

Plaintiffs,

v.

CLEARFIELD HOSPITAL and STAT MEDEVAC, INC.,

Defendants.

CIVIL DIVISION

Case No.: 2004-00110

Issue No.

ANSWER AND NEW MATTER TO PLAINTIFFS' COMPLAINT

Code: 007

Filed on behalf of Defendant, Stat Medevac, Inc.

Counsel of record for this party:

S. Manoj Jegasothy, Esq.
PA. I.D. #80084
Marc T. Thirkell, Esq.
PA. I.D. #90995

DICKIE, McCAMEY & CHILCOTE, P.C.
Firm #067
Two PPG Place, Suite 400
Pittsburgh, PA 15222-5402
(412) 281-7272

JURY TRIAL DEMANDED

NOTICE TO PLEAD

TO: Plaintiffs

You are hereby notified to file a written response to the enclosed Answer and New Matter within twenty (20) days from the date of service hereof or a judgment may be entered against you.

By Marc T. Thirkell
Marc T. Thirkell, Esquire

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOREEN BRADY and EDWARD BRADY,	)	CIVIL DIVISION
	)	
	)	Case No.: 2004-00110
Plaintiffs,	)	
	)	
v.	)	
	)	
CLEARFIELD HOSPITAL and STAT MEDEVAC, INC.,	)	
	)	
	)	
Defendants.	)	
	)	
	)	
	)	
	)	

ANSWER AND NEW MATTER TO PLAINTIFFS' COMPLAINT

AND NOW, comes the Defendant, State Medevac, Inc., by and through its attorneys, Dickie, McCamey & Chilcote, P.C., and files the within Answer and New Matter to Plaintiffs' Complaint and aver as follows:

1. After a reasonable investigation, this Defendant is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in paragraph 1 of Plaintiffs' Complaint.

2. The allegations of paragraph 2 of Plaintiffs' Complaint do not relate to this Defendant, and thus, no response is required.

3. It is admitted that Defendant Stat Medevac, Inc., is a corporation regularly conducting business in Clearfield County, Pennsylvania having a place of business at 123 Fifth Avenue Ellwood City, Beaver County.

4. To the extent the allegations in paragraph 4 of Plaintiffs' Complaint contain conclusions of law, no response is required. To the extent a response is deemed necessary, after a

reasonable investigation, this Defendant does not have information or knowledge sufficient to form a belief as to whom is being referenced by the terms "authorized agents, servants, workmen and/or employees," and thus, said allegations are denied.

5. To the extent the allegations in paragraph 5 of Plaintiffs' Complaint contain conclusions of law, no response is required. To the extent a response is deemed necessary, after a reasonable investigation, this Defendant does not have information or knowledge sufficient to form a belief as to whom is being referenced by the terms "authorized agents, servants, workmen and/or employees," and thus, said allegations are specifically denied.

6. The allegations of paragraph 6 of Plaintiffs' Complaint do not relate to this Defendant, and thus, no response is required. To the extent a response is deemed necessary, to the extent that said allegations contain an inaccurate and/or incomplete representation of Plaintiff, Doreen Brady's medical records, said allegations are denied.

7. To the extent that the allegations of paragraph 7 of Plaintiffs' Complaint contain an inaccurate and/or incomplete representation of Plaintiff, Doreen Brady's medical records, said allegations are denied pursuant to Pa. R.C.P. No. 1029(e). To the extent the allegations contain conclusions of law, no further response is required. By way of further response, after a reasonable investigation, this Defendant does not have information or knowledge sufficient to form a belief as to whom is being referenced by the terms "authorized agents, servants, workmen and/or employees," and thus, said allegations are specifically denied.

8. To the extent that the allegations of paragraph 8 of Plaintiffs' Complaint contain an inaccurate and/or incomplete representation of Plaintiff, Doreen Brady's medical records, said allegations are denied pursuant to Pa. R.C.P. No. 1029(e). To the extent the allegations contain conclusions of law, no further response is required. By way of further response, after a reasonable

investigation, this Defendant does not have information or knowledge sufficient to form a belief as to whom is being referenced by the terms "authorized agents, servants, workmen and/or employees," and thus, said allegations are specifically denied. Further, after a reasonable investigation, this Defendant does not have information or knowledge sufficient to form a belief as to what is being referenced by the term "wheeled device," therefore, said allegations are denied.

9. To the extent the allegations of paragraph 9 contain an inaccurate or incomplete representation of Plaintiff, Doreen Brady's medical records, said allegations are denied pursuant to Pa. R.C.P. No. 1029(e). By way of further response, after a reasonable investigation, this Defendant does not have information or knowledge sufficient to form a belief as to what is being referenced by the term "wheeled device," therefore, said allegations are denied.

10. To the extent the allegations of paragraph 10 contain an inaccurate or incomplete representation of Plaintiff, Doreen Brady's medical records, said allegations are denied pursuant to Pa. R.C.P. No. 1029(e). By way of further response, after a reasonable investigation, this Defendant does not have information or knowledge sufficient to form a belief as to what is being referenced by the term "wheeled device," therefore, said allegations are denied. Further, after a reasonable investigation, this Defendant is without information or knowledge sufficient to form a belief as to the truth of the remaining allegations contained in paragraph 10 of Plaintiffs' Complaint.

11. To the extent the allegations contain conclusions of law, no further response is required. To the extent a response is deemed necessary, after a reasonable investigation, this Defendant does not have information or knowledge sufficient to form a belief as to whom is being referenced by the terms "agents, servants, workmen, and/or employees," therefore, said allegations are specifically denied. Further, after reasonable investigation, this Defendant does not have

information or knowledge sufficient to form a belief as to what is being referred to by the terms "wheeled device" and "control," therefore, said allegations are denied.

12. To the extent that the allegations of paragraph 12 of Plaintiffs' Complaint contain conclusions of law, no response is required. To the extent a response is deemed necessary, it is denied that this Defendant was negligent and/or careless in any way with regard to Plaintiff, Doreen Brady. By way of further response, after reasonable investigation, this Defendant does not have information or knowledge sufficient to form a belief as to the extent of Plaintiff's alleged injuries, losses and damages.

13. To the extent the allegations contain conclusions of law, no further response is required. To the extent a response is deemed necessary, after reasonable investigation, this Defendant does not have information or knowledge sufficient to form a belief as to the truth of the allegations contained in paragraph 13 of Plaintiffs' Complaint.

14. After a reasonable investigation, this Defendant does not have information or knowledge sufficient to form a belief as to what is being referenced by the term "device," therefore, said allegations are denied.

15. To the extent the allegations of paragraph 15 of Plaintiffs' Complaint contain conclusions of law, no response is required. To the extent a response is deemed necessary, it is denied that this Defendant was in any way negligent and/or careless with respect to the Plaintiff, Doreen Brady. Further, it is denied that this Defendant was any cause of Plaintiff's alleged injuries, losses and damages.

COUNT I - PLAINTIFF DOREEN BRADY v. DEFENDANTS

16. Defendant, Stat Medevac, Inc., hereby incorporates by reference paragraphs 1 through 15 above as though more fully set forth herein.

17. It is denied that this Defendant committed "wrongful acts" and was in any way the cause of Plaintiff's alleged injuries. By way of further response, after a reasonable investigation, this Defendant does not have information or knowledge sufficient to form a belief as to the truth of the allegations regarding Plaintiff, Doreen Brady's present health and/or conditions.

18. It is denied that this Defendant committed "wrongful acts" and was in any way the cause of Plaintiff's alleged injuries. By way of further response, after a reasonable investigation, this Defendant does not have information or knowledge sufficient to form a belief as to the truth of the allegations regarding Plaintiff, Doreen Brady's present health and/or conditions.

19. It is denied that this Defendant committed "wrongful acts" and was in any way the cause of Plaintiff's alleged injuries, losses and damages. By way of further response, after a reasonable investigation, this Defendant does not have information or knowledge sufficient to form a belief as to the truth of the remaining allegations of paragraph 19 of Plaintiffs' Complaint.

20. It is denied that this Defendant committed "wrongful acts" and was in any way the cause of Plaintiff's alleged injuries, losses and damages. By way of further response, after a reasonable investigation, this Defendant does not have information or knowledge sufficient to form a belief as to the truth of the remaining allegations of paragraph 20 of plaintiffs' complaint.

21. It is denied that this Defendant committed "wrongful acts" and was in any way the cause of Plaintiff's alleged injuries, losses and damages. By way of further response, after a reasonable investigation, this Defendant does not have information or knowledge sufficient to form a belief as to the truth of the remaining allegations of paragraph 21 of Plaintiffs' Complaint.

22. It is denied that this Defendant committed "wrongful acts" and was in any way the cause of Plaintiff's alleged injuries, losses and damages. By way of further response, after a

reasonable investigation, this Defendant does not have information or knowledge sufficient to form a belief as to the truth of the remaining allegations of paragraph 22 of Plaintiffs' Complaint.

WHEREFORE, it is respectfully requested that Plaintiffs' Complaint and all allegations therein be dismissed with costs paid.

COUNT II - PLAINTIFF EDWARD BRADY v. DEFENDANTS

23. Defendant, Stat Medevac, Inc., hereby incorporates by reference paragraphs 1 through 22 above as though more fully set forth herein.

24. It is denied that this Defendant committed "wrongful acts" and was in any way the cause of Plaintiff's alleged injuries, losses and damages. By way of further response, after a reasonable investigation, this Defendant does not have information or knowledge sufficient to form a belief as to the truth of the remaining allegations in paragraph 24 of Plaintiffs' Complaint.

25. It is denied that this Defendant committed "wrongful acts" and was in any way the cause of Plaintiff's alleged injuries, losses and damages. By way of further response, after a reasonable investigation, this Defendant does not have information or knowledge sufficient to form a belief as to the truth of the remaining allegations in paragraph 25 of Plaintiffs' Complaint.

26. It is denied that this Defendant committed "wrongful acts" and was in any way the cause of Plaintiff's alleged injuries, losses and damages. By way of further response, after a reasonable investigation, this Defendant does not have information or knowledge sufficient to form a belief as to the truth of the remaining allegations in paragraph 26 of Plaintiffs' Complaint.

WHEREFORE, it is respectfully requested that Plaintiffs' Complaint and all allegations therein be dismissed with costs paid.

JURY TRIAL DEMANDED.

NEW MATTER

27. To the extent that the evidence reveals that Plaintiff failed to follow medical advice, failed to treat properly, or otherwise failed to mitigate her damages, this Defendant pleads the defense of the failure to mitigate.

28. To the extent that the evidence reveals that Plaintiffs failed to file this action in a timely manner, this Defendant pleads the defense of the statute of limitations.

29. To the extent that the evidence reveals that the Plaintiff had a pre-existing condition that caused or contributed to her injuries, this Defendant pleads the existence of that pre-existing condition as a defense.

30. If at the time of trial it is established that this Defendant accepted less than full payment for certain of Plaintiff's medical expenses or otherwise forgave certain of those expenses, than this Defendant pleads any such set-offs as an affirmative defense.

31. Plaintiffs' claims are barred or limited under the Health Care Services Malpractice Act.

32. To the extent that the evidence reveals that Plaintiffs lacked the capacity to sue at the time this action was commenced, or at any time relevant hereto, this Defendant pleads the lack of capacity to sue as an affirmative defense.

33. To the extent that it is determined that Plaintiffs are or were engaged in other litigation or proceedings pertaining to the injuries alleged in this Complaint, this Defendant pleads the defenses of accord and satisfaction, arbitration and award, estoppel, and release.

34. This Defendant avers that the Plaintiff's injuries were directly and proximately caused by the negligence or fault of parties other than this Defendant, whether named or unnamed in

Plaintiff's Complaint, over whom this Defendant had no supervision or control and for whose actions and omissions this Defendant has no legal responsibility.

WHEREFORE, this Defendant denies liability and requests that judgment be entered in its favor and against Plaintiffs and that Defendant be awarded attorney's fees and costs.

JURY TRIAL DEMANDED.

Respectfully submitted,

DICKIE, McCAMEY & CHILCOTE, P.C.

By Marc T. Thirkell
S. Manoj Jegasothy, Esq.
Marc T. Thirkell, Esq.

Attorneys for Defendant, State Medevac, Inc.

VERIFICATION

I, JAMES BOTHWELL, have read the foregoing Answer and New Matter to Plaintiffs' Complaint. The statements therein are correct to the best of my personal knowledge or information and belief.

This statement and verification 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 statements, I may be subject to criminal penalties.

DATE: 9/10/04

(Brady)

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Answer and New Matter to Plaintiffs' Complaint has been served this 21 day of September, 2004, by U.S. First Class Mail, postage prepaid to the following counsel of record:

Samuel Cohen, Esquire
Katz, Cohen & Price, P.C.
117 South 17th Street
Suite 2010
Philadelphia, PA 19103

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

DICKIE, McCAMEY & CHILCOTE, P.C.

By Marc T. Thirkell
Marc T. Thirkell, Esquire

Attorneys for Defendant, Stat Medevac, Inc.

KATZ, COHEN & PRICE, P.C.
By: SAMUEL COHEN
ATTORNEY I.D. NO.: 27544
117 SOUTH 17th STREET
SUITE 2010
PHILADELPHIA, PA 19103
(215) 636-0400

ATTORNEY FOR PLAINTIFFS

DOREEN BRADY and EDWARD BRADY w/h RD 1 BOX 241 CLEARFIELD, PA 16830	:	COURT OF COMMON PLEAS
vs	:	CLEARFIELD COUNTY
CLEARFIELD HOSPITAL P.O. BOX 992 CLEARFIELD, PA 16830 and STAT MEDEVAC, INC 123 BEAVER AVE. ELLWOOD CITY, PA 16117	:	Case No.: 2004-00110

PLAINTIFF'S REPLY TO NEW MATTER OF DEFENDANT STAT MEDEVAC, INC.

27-34. Denied. The averments contained in these paragraphs constitute conclusions of law for which no response is required under and pursuant to Pennsylvania Rules of Civil Procedure.

WHEREFORE, Plaintiff prays this Honorable Court deny the New Matter of Defendant Stat Medivac, Inc. and enter judgement in her favor and against all Defendants.

KATZ, COHEN & PRICE

BY: _____
SAMUEL COHEN

DATED: 11/2/04

VERIFICATION

I, SAMUEL COHEN, verify that I am the attorney for Doreen Brady and that the averments of fact set forth in the foregoing Plaintiff's Response to New Matter of Defendant Stat Medevac, Inc., are true and correct to the best of my knowledge, information and belief. I understand that this Verification is made subject to the penalties of 18 Pa. C.S.§ 4904, relating to unsworn falsification to authorities.

SAMUEL COHEN

Dated 11/2/04

CERTIFICATION OF SERVICE

I, Samuel Cohen, certify that a true and correct copy of the within Plaintiff's Response to New Matter of Defendant Stat Medevac, Inc., was forwarded via regular mail through the United States Postal Service on November 2, 2004 to:

Marc T. Thirkell, Esquire
Dickie, McCamey & Chilcote
Two PPG Place- Suite 300
Pittsburgh, Pennsylvania 15222-5402

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

KATZ, COHEN & PRICE

BY: _____
SAMUEL COHEN

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOREEN BRADY and EDWARD BRADY,	CIVIL DIVISION
Plaintiffs,	Case No.: 2004-00110
v.	Issue No.
CLEARFIELD HOSPITAL and STAT MEDEVAC, INC.,	**PRAECIPE FOR SUBSTITUTION OF APPEARANCE**
Defendants.	Code: 007

Filed on behalf of Defendant, STAT MedEvac, Inc.

Counsel of record for this party:

Anthony J. Williott, Esquire
PA. I.D. #43684

DICKIE, McCAMEY & CHILCOTE, P.C.
Firm #067
Two PPG Place, Suite 400
Pittsburgh, PA 15222-5402
(412) 281-7272

JURY TRIAL DEMANDED

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOREEN BRADY and EDWARD BRADY,	)	CIVIL DIVISION
	)	
	)	Case No.: 2004-00110
Plaintiffs,	)	
	)	
v.	)	
	)	
CLEARFIELD HOSPITAL and STAT MEDEVAC, INC.,	)	
	)	
	)	
Defendants.	)	
	)	
	)	
	)	
	)	

PRAECIPE FOR SUBSTITUTION OF APPEARANCE

TO: PROTHONOTARY OF CLEARFIELD COUNTY

Kindly substitute my appearance for the appearance of Wilbur McCoy Otto, Esquire on behalf of Defendant, STAT MedEvac, Inc.

Respectfully submitted,

DICKIE, McCAMEY & CHILCOTE, P.C.

By Anthony J. Willott

Anthony J. Willott, Esquire

Attorneys for Defendant, STAT MedEvac, Inc.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing **Praecipe for Substitution of Appearance** has been served this 8th day of March, 2005, by U.S. First Class Mail, postage prepaid, to the following counsel of record:

Samuel Cohen, Esquire
Katz, Cohen & Price, P.C.
117 South 17th Street
Suite 2010
Philadelphia, PA 19103

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

DICKIE, McCAMEY & CHILCOTE, P.C.

By _____
Anthony J. Williott, Esquire

Attorneys for Defendant, STAT MedEvac, Inc.

FILED

MAR 1 0 2005

William A. Shaw
Prothonotary/Clerk of Courts

KATZ, COHEN & PRICE, P.C.
By: SAMUEL COHEN
ATTORNEY I.D. NO.: 27544
117 SOUTH 17th STREET
SUITE 2010
PHILADELPHIA, PA 19103
(215) 636-0400

ATTORNEY FOR PLAINTIFFS

DOREEN BRADY and EDWARD BRADY w/h RD 1 BOX 241 CLEARFIELD, PA 16830	:	COURT OF COMMON PLEAS
vs	:	CLEARFIELD COUNTY
CLEARFIELD HOSPITAL P.O. BOX 992 CLEARFIELD, PA 16830 and STAT MEDEVAC, INC 123 BEAVER AVE. ELLWOOD CITY, PA 16117	:	Case No.: 2004-00110

CERTIFICATION OF SERVICE

I, Samuel Cohen, certify that a true and correct copy of the within Plaintiff's Answers to Interrogatories was forwarded via regular mail through the United States Postal Service on April 19, 2005 to:

Anthony J. Williot, Esquire
Dickie, McCamey & Chilcote
Two PPG Place-Suite 300
Pittsburgh, Pennsylvania 15222-5402

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

KATZ, COHEN & PRICE

BY: _____

SAMUEL COHEN

FILED

APR 2 1 2005

William A. Shaw
Prothonotary/Clerk of Courts

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

DOREEN BRADY and EDWARD BRADY, wife and husband,	No. 2004 – 110 CD
	ISSUE: Notice of Deposition of Doreen Brady and Edward Brady
Plaintiffs	
vs.	
	Filed on behalf of Defendant, CLEARFIELD HOSPITAL
CLEARFIELD HOSPITAL and STAT MEDEVAC, INC.,	Counsel of Record for This Party: Frank J. Hartye, Esquire PA I.D. #25568
Defendants	McINTYRE, DUGAS, HARTYE & SCHMITT P.O. Box 533 Hollidaysburg, PA 16648 (814) 696-3581
	JURY TRIAL DEMANDED

I HEREBY CERTIFY THAT A TRUE AND CORRECT COPY OF THE WITHIN WAS MAILED TO ALL COUNSEL OF RECORD THIS **26th** DAY OF **April, 2005**.

Attorneys for Named Defendant

FILED

APR 27 2005

m/11:00/c

William A. Shaw

Prothonotary

no c/c

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

DOREEN BRADY and EDWARD BRADY, wife and husband,	:	No. 2004 – 110 CD
Plaintiffs	:	
vs.	:	
CLEARFIELD HOSPITAL and STAT MEDEVAC, INC.,	:	
Defendants	:	JURY TRIAL DEMANDED

NOTICE OF DEPOSITION

TO: Doreen Brady and Edward Brady, wife and husband
c/o Samuel Cohen, Esquire
Katz, Cohen & Price
117 South 17th Street
Suite 2010
Philadelphia, PA 19103-5020

Anthony J. Williott, Esquire
Dickie, McCamey & Chilcote
Suite 400
2 PPG Place
Pittsburgh, PA 15222

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

Please take notice that the deposition of **Doreen Brady and Edward Brady** shall be taken upon oral examination by an official Court Reporter at Sargent's Court Reporting Service, 106 N. Second Street, Clearfield, PA 16830, on the **21st** day of **June, 2005**, commencing at **11:00 a.m.**

The scope of said deposition testimony will include inquiry into all facts concerning the happening of the incident complained of and all other matters relevant to the issues raised in the case.

You are invited to attend and participate.

McINTYRE, DUGAS, HARTYE & SCHMITT

Attorney for Defendant

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

FILED

APR 27 2005

William A. Shaw
Prothonotary

KATZ, COHEN & PRICE, P.C.
By: SAMUEL COHEN
ATTORNEY I.D. NO.: 27544
117 SOUTH 17th STREET
SUITE 2010
PHILADELPHIA, PA 19103
(215) 636-0400

ATTORNEY FOR PLAINTIFFS

DOREEN BRADY and EDWARD BRADY w/h RD 1 BOX 241 CLEARFIELD, PA 16830	:	COURT OF COMMON PLEAS
vs	:	CLEARFIELD COUNTY
CLEARFIELD HOSPITAL P.O. BOX 992 CLEARFIELD, PA 16830 and STAT MEDEVAC, INC 123 BEAVER AVE. ELLWOOD CITY, PA 16117	:	Case No.: 2004-00110

CERTIFICATION OF SERVICE

I, Samuel Cohen, certify that a true and correct copy of the within **PLAINTIFFS' INTERROGATORIES ADDRESSED TO DEFENDANTS CLEARFIELD HOSPITAL AND STAT MEDEVAC, INC.** was forwarded via regular mail through the United States Postal Service on July 8, 2005 to:

Anthony J. Williot, Esquire
Dickie, McCamey & Chilcote
Two PPG Place-Suite 300
Pittsburgh, Pennsylvania 15222-5402

FILED NO CC
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JUL 12 2005
William A. Shaw
Prothonotary/Clerk of Courts

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

KATZ, COHEN & PRICE. P.C.

BY: _____

SAMUEL COHEN

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

DOREEN BRADY and EDWARD BRADY, wife and husband,	Nc. 2004 – 110 CD
	ISSUE: NOTICE OF SERVICE OF ANSWERS TO PLAINTIFFS' INTERROGATORIES
Plaintiffs	
vs.	Filed on behalf of Defendant, CLEARFIELD HOSPITAL
CLEARFIELD HOSPITAL and STAT MEDEVAC, INC.,	Counsel of Record for This Party: Frank J. Hartye, Esquire PA I.D. #25568
Defendants	McINTYRE, DUGAS, HARTYE & SCHMITT P.O. Box 533 Hollidaysburg, PA 16648 (814) 696-3581
	JURY TRIAL DEMANDED

I HEREBY CERTIFY THAT A TRUE AND CORRECT COPY OF THE WITHIN WAS MAILED TO ALL COUNSEL OF RECORD THIS **31ST** DAY OF **AUGUST, 2005**.

Attorneys for Named Defendant

FILED no cc
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SEP 02 2005

William A. Shaw
Prothonotary/Clerk of Courts

FILED

SEP 0 2 2005

William A. Shaw
Prothonotary/Clerk of Courts

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

DOREEN BRADY and EDWARD BRADY, wife and husband,	:	No. 2004 – 110 CD
	:	**ISSUE:** NOTICE OF SERVICE OF ANSWERS TO PLAINTIFFS' INTERROGATORIES
Plaintiffs	:	
vs.	:	
	:	Filed on behalf of Defendant, CLEARFIELD HOSPITAL
CLEARFIELD HOSPITAL and STAT MEDEVAC, INC.,	:	Counsel of Record for This Party: Frank J. Hartye, Esquire PA I.D. #25568
Defendants	:	McINTYRE, DUGAS, HARTYE & SCHMITT P.O. Box 533 Hollidaysburg, PA 16648 (814) 696-3581
	:	JURY TRIAL DEMANDED

I HEREBY CERTIFY THAT A TRUE AND CORRECT COPY OF THE WITHIN WAS MAILED TO ALL COUNSEL OF RECORD THIS **31ST** DAY OF **AUGUST, 2005**.

Attorneys for Named Defendant

FILED no cc
m/11:30 AM
SEP 02 2005

William A. Shaw
Prothonotary/Clerk of Courts

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

DOREEN BRADY and EDWARD BRADY, wife and husband,	:	No. 2004 – 110 CD
Plaintiffs	:	
vs.	:	
CLEARFIELD HOSPITAL and STAT MEDEVAC, INC.,	:	
Defendants	:	JURY TRIAL DEMANDED

NOTICE OF SERVICE OF ANSWERS TO PLAINTIFFS' INTERROGATORIES

TO: PROTHONOTARY

You are hereby notified that on the 31ST day of AUGUST, 2005, Defendant, CLEARFIELD HOSPITAL served Answers to Plaintiffs' Interrogatories on the Plaintiffs by mailing the original of same via First Class U.S. Mail, postage prepaid, addressed to the following:

Samuel Cohen, Esquire
Katz, Cohen & Price
117 South 17th Street
Suite 2010
Philadelphia, PA 19103-5020

McINTYRE, DUGAS, HARTYE & SCHMITT

By _____
Attorneys for Defendant,
CLEARFIELD HOSPITAL

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

KATZ, COHEN & PRICE, P.C.
By: SAMUEL COHEN
ATTORNEY I.D. NO.: 27544
117 SOUTH 17th STREET
SUITE 2010
PHILADELPHIA, PA 19103
(215) 636-0400

ATTORNEY FOR PLAINTIFFS

DOREEN BRADY and EDWARD BRADY w/h RD 1 BOX 241 CLEARFIELD, PA 16830	:	COURT OF COMMON PLEAS
vs	:	CLEARFIELD COUNTY
CLEARFIELD HOSPITAL P.O. BOX 992 CLEARFIELD, PA 16830 and STAT MEDEVAC, INC 123 BEAVER AVE. ELLWOOD CITY, PA 16117	:	Case No.: 2004-00110

CERTIFICATION OF SERVICE

I, Samuel Cohen, certify that a true and correct copy of the within **PLAINTIFFS ANSWERS TO SUPPLEMENTAL INTERROGATORIES OF DEFENDANT STAT**

FILED
JUL 20 2006
m/12:10(
William A. Shaw
Prothonotary/Clerk of Courts
No c/c

MEDEVAC was forwarded via regular mail through the United States Postal Service on

July 18, 2006 to:

Anthony J. Williott, Esquire
Dickie, McCamey & Chilcote
Two PPG Place-Suite 300
Pittsburgh, Pennsylvania 15222-5402

cc:

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

KATZ, COHEN & PRICE, P.C.

By: SAMUEL COHEN

COURT OF COMMON PLEAS OF CLEARRIELD COUNTY
PENNSYLVANIA

Doreen Brady & Edward Brady
(Plaintiff)

RD 1, Box 241
(Street Address)

Clearfield, PA 16830
(City, State, Zip)

VS.

Clearfield Hospital, et.al.
(Defendant)

P.C. Box 992
(Street Address)

Clearfield, PA 16830
(City, State, Zip)

CIVIL ACTION

No. 2004-00110

Type of Case: Slip & Fall

Type of Pleading: Petition to Withdraw Appearance

Filed on Behalf of:

Plaintiff
(Plaintiff/Defendant)

Samuel Cohen, Esquire
(Filed by)

1420 Walnut street, Suite 1500
Philadelphia, PA 19102
(Address)

215-545-2204
(Phone)

(Signature)

FILED 1CC
014:00BOH Atty Cohen
FEB 05 2009
William A. Shaw
Prothonotary/Clerk of Courts

KATZ, COHEN & PRICE, P.C.
Attorney for Plaintiffs
By: Samuel Cohen, Esquire
Attorney I.d. No.: 27544
1420 Walnut Street, Suite 1500
Philadelphia, Pa 19102
(215) 545-2201

Doreen Brady and	:	COURT OF COMMON PLEAS
Edward Brady, husband and wife	:	
RD 1, Box 241	:	CLEARFIELD COUNTY
Clearfield, PA 16830	:	No: 2004-00110
Plaintiff,	:	
	:	
vs.	:	
	:	
Clearfield Hospital	:	
P.O. Box 992	:	
Clearfield, PA 16830	:	
and	:	
Stat Medevac, Inc.	:	
123 Beaver Ave.	:	
Ellwood City, PA	:	
Defendant,	:	
	:	

PETITION OF KATZ, COHEN & PRICE FOR EXTRAORDINARY RELIEF FOR PERMISSION TO WITHDRAW APPEARANCE ON BEHALF OF PLAINTIFFS

TO THE HONORABLE, THE JUDGES OF THE SAID COURT:

The Petition of Katz, Cohen & Price, P.C. by Samuel Cohen, respectfully represents:

1. The captioned matter is an action seeking damages for personal injuries arising from an incident which occurred on February 2, 2002.

2. The Plaintiffs retained Samuel Cohen of the law firm of Katz, Cohen & Price, P.C. as counsel by virtue of a written Power of Attorney/Contingent Fee Agreement. Because of Attorney Client privilege, a copy of said document is not attached hereto.

3. On May, 17, 2004, as of the above Court Term and Number, Petitioner instituted suit in the Court of Common Pleas of Clearfield County on behalf of Plaintiffs and against Defendants seeking compensatory damages for the injuries sustained by plaintiffs as a result of the incident of February 2, 2002.

4. Subsequent thereto certain differences have arisen between Counsel and his clients that make it impossible for him to continue his representation.

5. Subsequent to his securing the offer of settlement, Plaintiffs filed for protection under the United States Bankruptcy Code.

6. Counsel for plaintiff contacted the trustee in bankruptcy, Lisa Swope, Esquire and after reviewing the facts and circumstances of the matter, attorney Swope determined that she was not interested in pursuing the matter because of issues surrounding the case involving liability, causation, and the extent of the damages.

7. The reason why counsel desires to withdraw involve confidential matters which counsel will disclose in camera to the Court with the Plaintiffs present should they desire to oppose this Petition.

8. Though prejudice would result to Plaintiffs since there is a state of proceedings pending the bankruptcy matter or such other reasonable time as the Court may determine, it is hereby requested as part of a Court Order in order to afford Plaintiffs ample time to engage new counsel and permit new counsel to become acquainted with the file.

9. The Petitioner assures the Court and the Respondent of his full cooperation with substitute counsel in turning over all of the file and file material to substitute counsel and assisting to familiarize substitute counsel with the instant matter.

10. Petitioner has communicated to opposing counsel his intent to file the instant Rule

and Petition to Withdraw His Appearance as counsel for Plaintiff and there is no objection to either from opposing counsel.

WHEREFORE, Petitioner respectfully seeks leave of this Honorable Court to withdraw as counsel of record, granting Plaintiffs reasonable time within which to obtain substitute counsel. All proceedings to stay meanwhile.

Respectfully submitted
KATZ, COHEN & PRICE, P.C..

SAMUEL COHEN, ESQUIRE
Attorney for Plaintiffs

KATZ, COHEN & PRICE, P.C.
Attorney for Plaintiffs
By: Samuel Cohen, Esquire
Attorney I.d. No.: 27544
1420 Walnut Street, Suite 1500
Philadelphia, Pa 19102
(215) 545-2201

Doreen Brady and Edward Brady, husband and wife RD 1, Box 241 Clearfield, PA 16830 *Plaintiff,*	:	COURT OF COMMON PLEAS CLEARFIELD COUNTY No: 2004-00110
vs.	:	
Clearfield Hospital P.O. Box 992 Clearfield, PA 16830 and Stat Medevac, Inc. 123 Beaver Ave. Ellwood City, PA *Defendant,*	:	

MEMORANDUM OF LAW IN SUPPORT OF PETITION OF COUNSEL FOR PLAINTIFFS TO WITHDRAW

SECTION I-STATEMENT OF FACTS

The within matter involves a claim by Plaintiffs against Defendants for injuries sustained as a result of an incident which occurred on February 2, 2008.

On February 2, 2008 , Plaintiff Doreen Brady was being transported from the emergency room of Clearfield Hospital to a helicopter for transport to another medical facility. As she was being transported from Clearfield Hospital, it is believed that a gurney rolled over a curb causing Doreen Brady to be thrown from the gurney to the ground. At the time of the incident, the Gurney was being pushed by employees of Defendant, Stat Medevac, Inc.

Counsel's reasons for desiring to withdraw will be disclosed to the Court on Camera with

the Plaintiffs in attendance if they so choose.

Given various discussions between Petitioner and his clients, it is believed that an impasse has been reached. It would not be appropriate for the details of the impasse to be presented in a Court filing and counsel respectfully requests that a Hearing be held in chambers to flush out the details of the problems.

Under the circumstances, your Petitioner does not believe that it would be in the best interests of either Plaintiffs or Petitioner to continue representation of Plaintiffs at this time and request that this honorable Court will grant leave for Petitioner to Withdraw as Counsel of record.

SECTION II-LEGAL ARGUMENT

Rule 1.16 of the Code of Professional Responsibility deals with declining or terminating representation. It provides, in pertinent part:

> ...(b) Except as stated in paragraph (c), a lawyer may withdraw from representing a client if:... (4) The client insists upon taking action that the lawyer considers repugnant or with which the lawyer has a fundamental disagreement...
> (6) The representation will result in an unreasonable financial burden on the lawyer or has been rendered unreasonably difficult by the client; or
> (7) Other good cause for withdrawal exists.

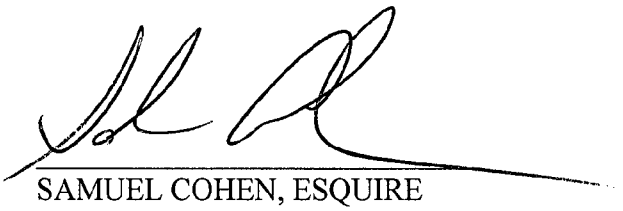
Because of issues regarding client confidentiality, Petitioner does not believe it to be appropriate to release the details regarding the facts which form the basis of his desire to withdraw as counsel in a public filing. Counsel would prefer to present this matter before the court in chambers so the details are not unduly prejudicial to the Plaintiffs' interest.

SECTION III-CONCLUSION

Based on the requirements of Rule 1.16 (b) of the Rules of Professional Conduct

Based on the requirements of Rule 1.16 (b) of the Rules of Professional Conduct governing attorneys in Pennsylvania, counsel for Plaintiffs' respectfully request that he be permitted to withdraw. Counsel will provide abundant reasons at the time of the hearing.

Respectfully submitted,
KATZ, COHEN & PRICE, P.C.



SAMUEL COHEN, ESQUIRE
Attorney for Plaintiffs

KATZ, COHEN & PRICE, P.C.
Attorney for Plaintiffs
By: Samuel Cohen, Esquire
Attorney I.d. No.: 27544
1420 Walnut Street, Suite 1500
Philadelphia, Pa 19102
(215) 545-2201

Doreen Brady and Edward Brady, husband and wife RD 1, Box 241 Clearfield, PA 16830 *Plaintiff,*	:	COURT OF COMMON PLEAS CLEARFIELD COUNTY No: 2004-00110-CD
vs.	:	
Clearfield Hospital P.O. Box 992 Clearfield, PA 16830 and Stat Medevac, Inc. 123 Beaver Ave. Ellwood City, PA *Defendant,*	:	

RULE TO SHOW CAUSE

AND NOW, this 10th day of February, 2009, upon consideration of the Petition of counsel for Plaintiffs for leave to withdraw as counsel, a Rule is hereby granted to show cause why Katz, Cohen & Price, P.C., and Samuel Cohen, Esquire should not be permitted to withdraw as counsel of record for Plaintiffs, Doreen and Edward Brady , on whose behalf he has entered his appearance.

Rule returnable on the 4th day of March, 2009, in Courtroom 1 located at the Clearfield County Courthouse, 230 East Market Street, Clearfield PA 16830-2448 at 11:30 O'clock A.M. All proceedings to stay meanwhile.

BY THE COURT:

Fredric J. Ammerman

J.

FILED

FEB 10 2009

William A. Shaw
Prothonotary/Clerk of Courts

DATE: 2/10/09

X You are responsible for serving all appropriate parties.

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

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

____ Defendant(s) ____ Defendant(s) Attorney

____ Special Instructions:

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

DOREEN BRADY and EDWARD BRADY, husband and wife RD 1, Box 241 Clearfield, PA 16830 Plaintiffs	*	
-vs-	*	No. 2004-110-CD
CLEARFIELD HOSPITAL PO Box 992 Clearfield, PA 16830 and STAT MEDEVAC, INC. 123 Beaver Avenue Ellwood City, PA Defendants	*	

Type of Pleading:
Affidavit of Service

Filed on Behalf of:
Samuel Cohen, Esquire

Counsel of Record for this Party:

Samuel Cohen, Esquire
Katz, Cohen & Price, PC
1420 Walnut Street
Suite 1500
Philadelphia, PA 19102
(215) 545-2201

THE LAW OFFICES OF
RICHARD H. MILGRUB
211 NORTH SECOND STREET
CLEARFIELD, PA 16830
—
109 NORTH BRADY STREET
DUBOIS, PA 15801

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

DOREEN BRADY and	*	
EDWARD BRADY, husband and wife	*	
RD 1, Box 241	*	
Clearfield, PA 16830	*	
Plaintiffs	*	
	*	
-vs-	*	No. 2004-110-CD
	*	
CLEARFIELD HOSPITAL	*	
PO Box 992	*	
Clearfield, PA 16830	*	
and	*	
STAT MEDEVAC, INC.	*	
123 Beaver Avenue	*	
Ellwood City, PA	*	
Defendants	*	

AFFIDAVIT OF SERVICE

Richard H. Milgrub, attorney for Plaintiff, being duly sworn according to law, deposes and states that a certified copy of the Petition of Katz, Cohen & Price for Extraordinary Relief for Permission to Withdraw Appearance on Behalf of Plaintiffs and Order scheduling hearing for Wednesday, March 4, 2009 at 11:30 a.m. was served upon Edward Brady, PO Box 495, 63 Flegal Road, Clearfield, PA 16830 on February 20, 2009 and upon Doreen Brady, PO Box 495, 63 Flegal Road, Clearfield, PA 16830 on February 21, 2009 by certified mail, return receipt requested as appears from receipts of certified mail attached hereto.

Richard H. Milgrub

SWORN and SUBSCRIBED to before me this 3rd day of March 2009.

WILLIAM A. SHAW
Prothonotary
My Commission Expires
1st Monday in Jan. 2010
Clearfield Co., Clearfield, PA

THE LAW OFFICES OF
RICHARD H. MILGRUB
211 NORTH SECOND STREET
CLEARFIELD, PA 16830
—
109 NORTH BRADY STREET
DUBOIS, PA 15801

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:

Edward Brady
P.O. Box 495
63 Flegal Road
Clearfield, Pa 16830

COMPLETE THIS SECTION ON DELIVERY

A. Signature
X Edward E Brady ☐ Agent ☐ Addressee

B. Received by (*Printed Name*) Edward E. Brady
C. Date of Delivery

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

CLEARFIELD PA 16830 FEB 20 2009 USPS

3. Service Type
☐ Certified Mail ☐ Express Mail
☐ Registered ☐ Return Receipt for Merchandise
☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? (*Extra Fee*) ☒ Yes

2. Article Number
7008 3230 0003 3588 3423

PS Form 3811, February 2004 Domestic Return Receipt 102595-02-M-1540

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:

Doreen Brady
PO BOX 495
63 Flegal Rd
Clearfield PA 16830

COMPLETE THIS SECTION ON DELIVERY

A. Signature
X Doreen D. Brady ☐ Agent ☒ Addressee

B. Received by (*Printed Name*) Doreen D. Brady
C. Date of Delivery 2/21/09

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

3. Service Type
☒ Certified Mail ☐ Express Mail
☐ Registered ☐ Return Receipt for Merchandise
☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? (*Extra Fee*) ☒ Yes

2. Article Number (Transfer from service label)
7008 3230 0003 3588 3430

PS Form 3811, February 2004 Domestic Return Receipt 102595-02-M-1540

THE LAW OFFICES OF
RICHARD H. MILGRUB
211 NORTH SECOND STREET
CLEARFIELD, PA 16830

109 NORTH BRADY STREET
DUBOIS, PA 15801

KATZ, COHEN & PRICE, P.C.
Attorney for Plaintiffs
By: Samuel Cohen, Esquire
Attorney I.d. No.: 27544
1420 Walnut Street, Suite 1500
Philadelphia, Pa 19102
(215) 545-2201

Doreen Brady and	:	COURT OF COMMON PLEAS
Edward Brady, husband and wife	:	
RD 1, Box 241	:	CLEARFIELD COUNTY
Clearfield, PA 16830	:	No: 2004-00110
Plaintiff,	:	
	:	
vs.	:	
	:	
Clearfield Hospital	:	
P.O. Box 992	:	
Clearfield, PA 16830	:	
and	:	
Stat Medevac, Inc.	:	
123 Beaver Ave.	:	
Ellwood City, PA	:	
Defendant,	:	
	:	

ORDER

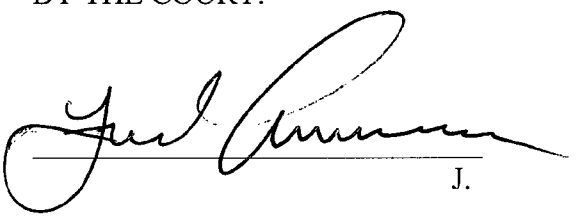
AND NOW, to wit, this 4th day of March, 2009, it is hereby ORDERED and DECREED that:

1. Katz, Cohen & Price, P.C. and Samuel Cohen are hereby granted leave to withdraw as counsel in the captioned matter;

2. The within matter is stayed for a period of 60 days to permit Plaintiffs to secure new counsel.

FJA

BY THE COURT:



J.

FILED

MAR 0 4 2009

William A. Shaw
Prothonotary/Clerk of Courts

DATE: 3/4/09

X You are responsible for serving all appropriate parties.

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

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

____ Defendant(s) ____ Defendant(s) Attorney

____ Special Instructions:

KATZ, COHEN & PRICE, P.C.
By: SAMUEL COHEN
ATTORNEY FOR PLAINTIFF
ATTORNEY I.D. NO.:27544
1420 Walnut Street, Suite 1500
Philadelphia, PA 19102
(215) 545-2201

Doreen Brady and Edward Brady, husband and wife RD 1, Box 241 Clearfield, PA 16830 *Plaintiff,*	:	COURT OF COMMON PLEAS CLEARFIELD COUNTY No: 2004-00110
vs.	:	
Clearfield Hospital P.O. Box 992 Clearfield, PA 16830 and Stat Medevac, Inc. 123 Beaver Ave. Ellwood City, PA *Defendant,*	:	

PRAECIPE TO WITHDRAWAL AS COUNSEL PER COURT ORDER

DATED MARCH 4, 2009

TO THE PROTHONOTARY:

Kindly withdraw my appearance on behalf of Plaintiffs Doreen Brady and Edward Brady, husband and wife, pursuant to the Court Order Dated March 4, 2008.

KATZ, COHEN & PRICE, P.C.

By: _____

SAMUEL COHEN, ESQUIRE
Attorney for Plaintiff
ATTORNEY I.D. NO.:27544
KATZ, COHEN & PRICE, P.C.
1420 Walnut Street, Suite 1500
Philadelphia, PA 19102
(215) 545-2201

FILED NO CC
M/3:39 pm
MAR 09 2009
William A. Shaw
Prothonotary/Clerk of Courts
5 copy to CIA

Dated: 3/5/09

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOREEN BRADY and EDWARD BRADY,	CIVIL DIVISION
Plaintiffs,	Case No.: 2004-00110
v.	Issue No.
CLEARFIELD HOSPITAL and STAT MEDEVAC, INC.,	**PRAECIPE FOR SUBSTITUTION OF APPEARANCE**
Defendants.	Code: 007

Filed on behalf of Defendant, STAT MedEvac, Inc.

Counsel of record for this party:

Justin M. Gottwald, Esquire
PA I.D. # 92847

DICKIE, McCAMEY & CHILCOTE, P.C.
Firm #067
Two PPG Place, Suite 400
Pittsburgh, PA 15222-5402
(412) 281-7272

JURY TRIAL DEMANDED

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOREEN BRADY and EDWARD BRADY,	)	CIVIL DIVISION
	)	
	)	Case No.: 2004-00110
Plaintiffs,	)	
	)	
v.	)	
	)	
CLEARFIELD HOSPITAL and STAT MEDEVAC, INC.,	)	
	)	
	)	
Defendants.	)	

PRAECIPE FOR SUBSTITUTION OF APPEARANCE

TO: PROTHONOTARY OF CLEARFIELD COUNTY

Kindly substitute my appearance for the appearance of Anthony J. Williott, Esquire on behalf of Defendant, STAT MedEvac, Inc.

Respectfully submitted,

DICKIE, McCAMEY & CHILCOTE, P.C.

By_____
Justin M. Gottwald, Esquire

Attorneys for Defendant,
STAT MedEvac, Inc.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing **Praecipe for Substitution of Appearance** has been served this 26th day of January, 2010, by U.S. First Class Mail, postage prepaid, to the following counsel of record:

Doreen and Edward Brady
Box 63 Flegal Road
Clearfield, PA 16830

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

DICKIE, McCAMEY & CHILCOTE, P.C.

By_____
Justin M. Gottwald, Esquire

Attorneys for Defendant,
STAT MedEvac, Inc.

No. 2004-00110

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOREEN BRADY and EDWARD BRADY,	CIVIL DIVISION
Plaintiffs,	Case No.: 2004-00110
v.	Issue No.
CLEARFIELD HOSPITAL and STAT MEDEVAC, INC.,	**REQUEST FOR PRODUCTION OF EXPERT REPORTS DIRECTED TO PLAINTIFFS PURSUANT TO PA. R. CIV. P. 1042.28**
Defendants.	

Code: 007

Filed on behalf of Defendant,
STAT MedEvac, Inc.

Counsel of record for this party:

Justin M. Gottwald, Esquire
PA I.D. # 92847

DICKIE, McCAMEY & CHILCOTE, P.C.
Firm #067
Two PPG Place, Suite 400
Pittsburgh, PA 15222-5402
(412) 281-7272

JURY TRIAL DEMANDED

No. 2004-00110

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOREEN BRADY and EDWARD BRADY,	)	CIVIL DIVISION
	)	
	)	Case No.: 2004-00110
Plaintiffs,	)	
	)	
v.	)	
	)	
CLEARFIELD HOSPITAL and STAT MEDEVAC, INC.,	)	
	)	
	)	
Defendants.	)	

REQUEST FOR PRODUCTION OF EXPERT REPORTS DIRECTED TO PLAINTIFFS PURSUANT TO PA. R. CIV. P. 1042.28

TO: Doreen and Edward Brady
Box 63 Flegal Road
Clearfield, PA 16830
(*Pro Se* Plaintiffs)

Pursuant to Pennsylvania Rule of Civil Procedure 1042.28, you are requested within one hundred and eighty (180) days of service of this request to furnish all expert reports summarizing the expert testimony that you will offer to support the claims of professional negligence that you have alleged in this action against this defendant.

DICKIE, McCAMEY & CHILCOTE, P.C.

By_____
Justin M. Gottwald, Esquire

Attorneys for Defendant,
STAT MedEvac, Inc.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Request for Production of Expert Reports Directed to Plaintiffs Pursuant to Pa. R. Civ. P. 1042.28 has been served this 29th day of January, 2010, by U.S. First Class Mail, postage prepaid, to the following counsel of record:

Doreen and Edward Brady
Box 63 Flegal Road
Clearfield, PA 16830
(*Pro Se* Plaintiffs)

Frank L. Hartye, Esquire
McIntyre, Dugas, Hartye & Schmitt
P.O. Box 533
Hollidaysburg, PA 16648
(Counsel for Clearfield Hospital)

DICKIE, McCAMEY & CHILCOTE, P.C.

By_____
Justin M. Gottwald, Esquire

Attorneys for Defendant,
STAT MedEvac, Inc.

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

DOREEN BRADY and EDWARD BRADY, wife and husband,	:	No. 2004 – 110 CD
	:	**ISSUE:** REQUEST FOR PRODUCTION OF EXPERT REPORTS DIRECTED TO PLAINTIFFS PURSUANT TO PA R.C.P. 1042.28 – DATED: 2/1/10
Plaintiffs	:	
vs.	:	
	:	Filed on behalf of Defendant, CLEARFIELD HOSPITAL
CLEARFIELD HOSPITAL and STAT MEDEVAC, INC.,	:	Counsel of Record for This Party: Frank J. Hartye, Esquire PA I.D. #25568
	:	McINTYRE, HARTYE, SCHMITT & SOSNOWSKI P.O. Box 533 Hollidaysburg, PA 16648 (814) 696-3581
Defendants	:	
	:	JURY TRIAL DEMANDED

I HEREBY CERTIFY THAT A TRUE AND CORRECT COPY OF THE WITHIN WAS MAILED TO ALL COUNSEL OF RECORD THIS **1ST** DAY OF **FEBRUARY, 2010.**

Attorneys for Named Defendant

FILED NO CC
m/10:40 cm
FEB 03 2010
William A. Shaw
Prothonotary/Clerk of Courts

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

DOREEN BRADY and EDWARD BRADY, wife and husband,	:	No. 2004 – 110 CD
Plaintiffs	:	
vs.	:	
CLEARFIELD HOSPITAL and STAT MEDEVAC, INC.,	:	
Defendants	:	JURY TRIAL DEMANDED

REQUEST FOR PRODUCTION OF EXPERT REPORTS DIRECTED TO PLAINTIFFS PURSUANT TO PA R.C.P. 1042.28 – DATED: 2/1/10

TO: Plaintiffs, Doreen Brady and Edward Brady
Box 63 Flegal Road
Clearfield, PA 16830

Pursuant to Pennsylvania Rule of Civil Procedure 1042.28, you are requested within one hundred eight (180) days of service of this request to furnish all expert reports summarizing the expert testimony that you will offer to support the claims of professional negligence that you have alleged in this action against this defendant.

McINTYRE, HARTYE, SCHMITT & SOSNOWSKI

By_____
Attorneys for Defendant,
CLEARFIELD HOSPITAL

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

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOREEN BRADY and EDWARD BRADY,

Plaintiffs,

v.

CLEARFIELD HOSPITAL and
STAT MEDEVAC, INC.,

Defendants.

CIVIL DIVISION

CASE NO. 2004-00110

NOTICE OF SERVICE OF EXPERT REPORTS IN RESPONSE TO DEFENDANTS' REQUESTS PURSUANT TO PA.R.C.P. 1042.28

Filed on behalf of Plaintiffs,
DOREEN BRADY and EDWARD BRADY

Counsel of Record for this Party:

DAVID S. KLETT, ESQUIRE
Pa.I.D. No. 51906

KLETT & ASSOCIATES
420 Ft. Duquesne Boulevard, Suite 1325
Pittsburgh, PA 15222
(412) 471-4714

MICHAEL J. COLARUSSO, ESQUIRE
PA I.D. No. 44740

COLARUSSO and COHEN, LLC
One Gateway Center
13th Floor North
Pittsburgh, PA 15222
(412) 261-1380

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

DOREEN BRADY and EDWARD BRADY,	)	CASE NO. 2004-00110
	)	
Plaintiff,	)	
	)	
v.	)	
	)	
CLEARFIELD HOSPITAL and	)	
STAT MEDEVAC, INC.,	)	
	)	
Defendants.	)	

NOTICE OF SERVICE OF EXPERT REPORTS IN RESPONSE
TO DEFENDANTS' REQUESTS PURSUANT TO PA.R.C.P. 1042.28

I certify that on the 23rd day of July, 2010 I served the following Expert Reports upon counsel for Defendants in response to their Requests therefor dated January 29, 2010 and February 2, 2010:

Guy H. Haskell, PhD, JD, NREMT-P
Emergency Medical and Safety Services Consultants, Dated July 17, 2010

Vanessa Fazio, PhD
UPMC Center for Sports Medicine, University of Pittsburgh Physicians, Department of Orthopedic Surgery Dated November 3, 2009

Respectfully submitted,

KLETT & ASSOCIATES

By_____

DAVID S. KLETT, ESQUIRE
Pa. I.D. No. 51906

420 Ft. Duquesne Boulevard, Suite 1325
Pittsburgh, PA 15222
(412) 471-4714

Attorneys for Plaintiffs.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the within Notice was served this 23rd day of July 2010, via first-class U.S. mail, postage pre-paid upon the following:

Frank L. Hartye, Esquire
MCINTYRE, DUGAS, HARTYE & SCHMITT
P.O. Box 533
Hollidaysburg, PA 16648
(814) 696-3581

Justin M. Gottwald, Esquire
DICKIE, MCCAMEY & CHILCOTE, P.C.
Two PPG Place, Suite 400
Pittsburgh, PA 15222
(412) 281-7272

KLETT & ASSOCIATES

By _____
David S. Klett, Esquire

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOREEN BRADY and EDWARD BRADY,

Plaintiffs,

v.

CLEARFIELD HOSPITAL and
STAT MEDEVAC, INC.,

Defendants.

CIVIL DIVISION

CASE NO. 2004-00110

PRAECIPE FOR ENTRY OF APPEARANCE OF COUNSEL FOR PLAINTIFFS

Filed on behalf of Plaintiffs,
DOREEN BRADY and EDWARD BRADY

Counsel of Record for this Party:

DAVID S. KLETT, ESQUIRE
Pa.I.D. No. 51906

KLETT & ASSOCIATES
420 Ft. Duquesne Boulevard, Suite 1325
Pittsburgh, PA 15222
(412) 471-4714

MICHAEL J. COLARUSSO, ESQUIRE
PA I.D. No. 44740

COLARUSSO and COHEN, LLC
One Gateway Center
13th Floor North
Pittsburgh, PA 15222
(412) 261-1380

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

DOREEN BRADY and EDWARD BRADY,	)	CASE NO. 2004-00110
	)	
Plaintiff,	)	
	)	
v.	)	
	)	
CEARFIELD HOSPITAL and	)	
STAT MEDEVAC, INC.,	)	
	)	
Defendants.	)	

PRAECIPE FOR ENTRY OF APPEARANCE OF COUNSEL FOR PLAINTIFFS

TO THE PROTHONOTARY:

Kindly enter the appearance of David S. Klett and Klett and Associates, and Michael J. Colarusso and Colarusso and Cohen, LLC, as counsel for Plaintiffs in the above-captioned matter.

Respectfully submitted,

KLETT & ASSOCIATES

By_____

DAVID S. KLETT, ESQUIRE
Pa. I.D. No. 51906

420 Ft. Duquesne Boulevard, Suite 1325
Pittsburgh, PA 15222
(412) 471-4714

COLARUSSO and COHEN, LLC

By_____

MICHAEL J. COLARUSSO, ESQUIRE
PA I.D. No. 44740

One Gateway Center
13th Floor North
Pittsburgh, PA 15222
(412) 261-1380

Attorneys for Plaintiffs.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the within Praecipe was served this 23rd day of July 2010, via first-class U.S. mail, postage pre-paid upon the following:

Frank L. Hartye, Esquire
MCINTYRE, DUGAS, HARTYE & SCHMITT
P.O. Box 533
Hollidaysburg, PA 16648
(814) 696-3581

Justin M. Gottwald, Esquire
DICKIE, MCCAMEY & CHILCOTE, P.C.
Two PPG Place, Suite 400
Pittsburgh, PA 15222
(412) 281-7272

KLETT & ASSOCIATES

By _____
David S. Klett, Esquire

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOREEN BRADY and EDWARD BRADY,

Plaintiffs,

v.

CLEARFIELD HOSPITAL and
STAT MEDEVAC, INC.,

Defendants.

CIVIL DIVISION

CASE NO. 2004-00110

PRAECIPE FOR TRIAL AND CERTIFICATE OF READINESS

Filed on behalf of Plaintiffs,
DOREEN BRADY and EDWARD BRADY

Counsel of Record for this Party:

DAVID S. KLETT, ESQUIRE
Pa.I.D. No. 51906

KLETT & ASSOCIATES
420 Ft. Duquesne Boulevard, Suite 1325
Pittsburgh, PA 15222
(412) 471-4714

MICHAEL J. COLARUSSO, ESQUIRE
PA I.D. No. 44740

COLARUSSO and COHEN, LLC
One Gateway Center
13th Floor North
Pittsburgh, PA 15222
(412) 261-1380

JURY TRIAL DEMANDED

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

DOREEN BRADY and EDWARD BRADY,	)	CASE NO. 2004-00110
	)	
Plaintiff,	)	
	)	
v.	)	
	)	
CLEARFIELD HOSPITAL and	)	
STAT MEDEVAC, INC.,	)	
	)	
Defendants.	)	

PRAECIPE FOR TRIAL AND CERTIFICATE OF READINESS

TO THE PROTHONOTARY:

Kindly place the above-captioned case on the trial list by virtue of the attached Certificate of Readiness, which is incorporated herein by reference.

Respectfully submitted,

KLETT & ASSOCIATES

By_____
DAVID S. KLETT, ESQUIRE
Pa. I.D. No. 51906

420 Ft. Duquesne Boulevard, Suite 1325
Pittsburgh, PA 15222
(412) 471-4714

JURY TRIAL DEMANDED

Attorneys for Plaintiffs.

COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL TRIAL LISTING

CERTIFICATE OF READINESS

TO THE PROTHONOTARY

2004-00110-CD

DATE PRESENTED 9/9/2010

CASE NUMBER | TYPE TRIAL REQUESTED | ESTIMATED TRIAL TIME

Date Complaint Filed: 5/17/2004

(X) Jury ( ) Non-Jury
( ) Arbitration

3 days/~~hours~~

DOREEN BRADY and EDWARD BRADY

PLAINTIFF(S)

CLEARFIELD HOSPITAL; STAT MEDEVAC, INC. ( ) Check block if a Minor is a Party to the Case

DEFENDANT(S)

( )

ADDITIONAL DEFENDANT(S)

( )

JURY DEMAND FILED BY: All Parties

DATE JURY DEMAND FILED:

AMOUNT AT ISSUE: More than $20,000

CONSOLIDATION: ( ) yes (X) no

DATE CONSOLIDATION ORDERED:

PLEASE PLACE THE ABOVE CAPTIONED CASE ON THE TRIAL LIST.

I certify that all discovery in the case has been completed; all necessary parties and witnesses are available; serious settlement negotiations have been conducted; the case is ready in all respects for trial, and a copy of this Certificate has been served upon all counsel of record and upon all parties of record who are not represented by counsel:

David S. Klett, Esquire — 412 471 4714

FOR THE PLAINTIFF — TELEPHONE NUMBER

FOR THE DEFENDANT — TELEPHONE NUMBER

FOR ADDITIONAL DEFENDANT — TELEPHONE NUMBER

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the within Praecipe For Trial and Certificate of Readiness was served this 9th day of September 2010, via first-class U.S. mail, postage pre-paid upon the following:

Frank L. Hartye, Esquire
MCINTYRE, DUGAS, HARTYE & SCHMITT
P.O. Box 533
Hollidaysburg, PA 16648
(814) 696-3581

Justin M. Gottwald, Esquire
DICKIE, MCCAMEY & CHILCOTE, P.C.
Two PPG Place, Suite 400
Pittsburgh, PA 15222
(412) 281-7272

KLETT & ASSOCIATES

By _____
David S. Klett, Esquire

CA

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

DOREEN BRADY and EDWARD BRADY, wife and husband,	:	No. 2004 – 110 CD
	:	**ISSUE:** MOTION TO ENFORCE SETTLEMENT AND REMOVE CASE FROM TRIAL LIST
Plaintiffs	:	
vs.	:	
	:	Filed on behalf of Defendant, CLEARFIELD HOSPITAL
CLEARFIELD HOSPITAL and STAT MEDEVAC, INC.,	:	Counsel of Record for This Party: Frank J. Hartye, Esquire PA I.D. #25568
	:	McINTYRE, HARTYE, SCHMITT & SOSNOWSKI P.O. Box 533 Hollidaysburg, PA 16648 (814) 696-3581
Defendants	:	
	:	JURY TRIAL DEMANDED

I HEREBY CERTIFY THAT A TRUE AND CORRECT COPY OF THE WITHIN WAS MAILED TO ALL COUNSEL OF RECORD THIS **14TH** DAY OF **SEPTEMBER, 2010**.

Attorneys for Named Defendant

FILED 1cc
SEP 15 2010 Atty Hartye
William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

DOREEN BRADY and EDWARD BRADY, wife and husband,	:	No. 2004 – 110 CD
Plaintiffs	:	
vs.	:	
CLEARFIELD HOSPITAL and STAT MEDEVAC, INC.,	:	
Defendants	:	JURY TRIAL DEMANDED

MOTION TO ENFORCE SETTLEMENT
AND REMOVE CASE FROM THE TRIAL LIST

AND NOW, comes the Defendant, CLEARFIELD HOSPITAL, by and through its attorneys, McINTYRE, HARTYE, SCHMITT & SOSNOWSKI, and files the following Motion to Enforce Settlement and Remove Case from the Trial List.

1. Plaintiffs' counsel, Samuel Cohen, initiated this lawsuit by filing a Praecipe for Writ of Summons on January 23, 2004. Thereafter a Complaint was filed against the above-named defendants alleging negligence when the gurney upon which plaintiff was being transported turned over and plaintiff sustained a fall.

2. Depositions and other discovery were conducted.

3. This matter went to Mediation, which Mediation was not successful. Thereafter a joint offer of $25,000 was made to plaintiffs to resolve this lawsuit. By letter dated May 2, 2008, Attorney Cohen on behalf of the plaintiffs accepted the $25,000 offer and requested a Release and settlement check. (Exhibit "1")

4. A few days later on May 6, 2008, Attorney Cohen indicated that because of the plaintiffs declaring bankruptcy it was impossible to accept the $25,000 at that time

but he expected that the bankruptcy would be resolved shortly and the parties would be able to go forward (with the settlement). (Exhibit "2")

5. By Order dated March 4, 2009, Attorney Cohen was granted leave to withdraw as counsel and then the lawsuit was stayed for 60 days to permit plaintiffs to secure new counsel. (Exhibit "3")

6. Following Attorney Cohen's withdrawal from the case, Attorney Anthony Williott on behalf of the defense wrote to the plaintiffs attempting to accomplish the settlement within the restrictions of the Bankruptcy Court. (Exhibit "4")

7. There was no response from the plaintiffs and no entry of appearance until more than one year later on or about July 23, 2010 when Attorney David S. Klett entered his appearance and filed expert reports dated November 2009 and July 2010.

8. Defendants maintain that a settlement has been reached in this case in the amount of $25,000 subject to any requirements of the Bankruptcy Court. Plaintiffs' acceptance by Attorney Cohen on May 2, 2008 was never revoked and, defendants in reliance upon the same have been waiting to finalize the settlement since that time.

9. By letter dated August 17, 2010, defense counsel advised plaintiffs' counsel of the settlement which had been previously reached and requested bankruptcy documents to determine how best to proceed. (Exhibit "5")

10. Plaintiffs did not respond, instead they have filed a Praecipe to List this matter for Trial. Defendant Clearfield Hospital maintains that a settlement has been reached and is requesting the Court to enforce the settlement and remove the case from any trial list.

11. There is a strong judicial policy in favor of voluntarily settling lawsuit. Rothman v. Fillette, 503 Pa. 259, 266, 469 A.2d 543, 546 (1983). Settlement agreements are enforced according to principles of contract law. See Felix v. Giuseppe Kitchens & Bath, Inc., 848 A.2d 943 (Pa. Super. 2004).

WHEREFORE, Defendant, Clearfield Hospital, requests this Honorable Court to enforce settlement and upon payment of the settlement amount that this matter be discontinued.

Respectfully submitted,

McINTYRE, HARTYE, SCHMITT & SOSNOWSKI

By_____
Attorneys for Defendant,
CLEARFIELD HOSPITAL

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

P 246 MH
MAY - 5 2008

LAW OFFICES
KATZ, COHEN & PRICE, P.C.
SUITE 1500
1420 WALNUT STREET
PHILADELPHIA, PA 19102

215-545-2201
FAX 215-545-2221
E-MAIL: kcpattorneys@aol.com

SAMUEL COHEN
MICHAEL G. PRICE*
*PA AND NJ BAR

SAMUEL C. KATZ
1968-2007

123A WEST CLEMENTS BRIDGE ROAD
BARRINGTON, N.J. 08007
856-547-4201
FAX 856-547-1710

PLEASE RESPOND TO PHILA OFFICE

May 02, 2008

Anthony J. Williot, Esquire
Dickie McCamey & Chilcote, P.C.
Two PPG Place, Suite 400
Pittsburgh, PA 15222-5402

Frank J. Hartye, Esquire
P.O. Box 533
Holidaysburg, PA 16648-0533

Re: Brady vs.. Clearfield Hospital, et al
C.C.P., Clearfield County
No.: 2004-110 CD

Dear Counsel:

I have been instructed to accept your offer of Twenty-Five Thousand Dollars ($25,000.00) contained in your recent correspondence with regard to the captioned matter. Please forward the settlement draft(s) and release(s).

Thank you for your cooperation.

Very truly yours,

SAMUEL COHEN

SC:er

EXHIBIT
tabbies
1

LAW OFFICES
KATZ, COHEN & PRICE, P.C.
SUITE 1500
1420 WALNUT STREET
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E-MAIL: kcpattorneys@aol.com

123A WEST CLEMENTS BRIDGE ROAD
BARRINGTON, N.J. 08007
856-547-4201
FAX 856-547-1710

PLEASE RESPOND TO PHILA OFFICE

SAMUEL COHEN
MICHAEL G. PRICE*
*PA AND NJ BAR

SAMUEL C. KATZ
1968-2007

May 06, 2008

Anthony J. Williot, Esquire
Dickie McCamey & Chilcote, P.C.
Two PPG Place, Suite 400
Pittsburgh, PA 15222-5402

Frank J. Hartye, Esquire
P.O. Box 533
Holidaysburg, PA 16648-0533

Re: Brady vs. Clearfield Hospital, et al
C.C.P., Clearfield County
No.: 2004-110-CD

Dear Counsel:

Please be advised that an issue has arisen with regard to the Brady Bankruptcy which makes it impossible for us to accept the offer of Twenty-Five Thousand Dollars ($25,000.00) at this time. I expect this matter to resolve shortly and we will be able to go forward .

Very truly yours,

SAMUEL COHEN

SC:er
cc: Earle David Lees, Jr., Esquire
Via Fax

EXHIBIT
tabbies
2

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

MAR 04 2009

Attest. Prothonotary/ Clerk of Courts

KATZ, COHEN & PRICE, P.C.
Attorney for Plaintiffs
By: Samuel Cohen, Esquire
Attorney I.d. No.: 27544
1420 Walnut Street, Suite 1500
Philadelphia, Pa 19102
(215) 545-2201

Doreen Brady and Edward Brady, husband and wife RD 1, Box 241 Clearfield, PA 16830 *Plaintiff,*	:	COURT OF COMMON PLEAS CLEARFIELD COUNTY No: 2004-00110
vs.	:	
Clearfield Hospital P.O. Box 992 Clearfield, PA 16830 and Stat Medevac, Inc. 123 Beaver Ave. Ellwood City, PA *Defendant,*	:	

ORDER

AND NOW, to wit, this 4th day of March, 2009, it is hereby ORDERED and DECREED that:

1. Katz, Cohen & Price, P.C. and Samuel Cohen are hereby granted leave to withdraw as counsel in the captioned matter;

2. The within matter is stayed for a period of 60 FJA days to permit Plaintiffs to secure new counsel.

BY THE COURT:

J.

EXHIBIT 3

MAY 1 8 2009

Dickie McCamey

Anthony J. Williott
Attorney-at-Law
Admitted in PA

Direct Dial: 412-392-5258
Direct Fax: 412-392-5367
awilliott@dmclaw.com

May 14, 2009

Doreen and Edward Brady
Box 63 Flegal Road
Clearfield, PA 16830

RE: Doreen Brady and Edward Brady v. Clearfield Hospital and STAT MedEvac, Inc.
Our File No.: 6143.282222

Dear Mr. and Mrs. Brady:

As you know, I represent STAT MedEvac in your lawsuit.

Attorney Cohen withdrew as your counsel in early March and the court stayed the litigation for sixty days. That sixty day stay has now expired.

I am writing to you directly because you are unrepresented. We would like to resolve this case with you, if possible. It is my understanding from reviewing the bankruptcy papers and talking to the trustee in bankruptcy that any amount you secure in this lawsuit above $12,000 must go into the bankruptcy for payment of your creditors.

The defendants remain ready, willing and able to pay you $12,000 in exchange for full and final release and discontinuance, with prejudice, of your lawsuit.

I look forward to your response.

Sincerely yours,

Anthony J. Williott

AJW:dma

cc: Frank J. Hartye, Esquire

EXHIBIT
tabbies
4

MHS&S

McIntyre, Hartye, Schmitt & Sosnowski
LAW OFFICES

August 17, 2010

Our Reference: P 246 MH
REPLY TO HOLLIDAYSBURG

David S. Klett, Esquire
Klett & Associates
One Gateway Center – Suite 1325
420 Fort Duquesne Boulevard
Pittsburgh, PA 15222-1440

Re: Doreen Brady and Edward Brady, wife and husband vs.
Clearfield Hospital and Stat Medevac, Inc.
No. 2004 – 110 CD (Clearfield County)

Dear Mr. Klett:

Thank you for sending the reports from your experts. Prior to receiving correspondence from you, I was under the impression that this matter had been settled and we were merely awaiting approval from the Bankruptcy Court. I am enclosing a copy of the letter from Attorney Cohen from two years ago indicating that the settlement offer on behalf of the defendants was accepted.

Could you please forward to me a copy of Doreen Brady's Petition in Bankruptcy as well as the copy of any Orders relating to the bankruptcy. In addition, could you please forward to me an itemized list of the medical bills being claimed and an itemized statement from DPW and/or Medicare.

Once I have received those documents from you, I will advise whether or not I will proceed with a Motion to Enforce Settlement.

Thank you for your courtesy and cooperation in these matters.

Sincerely,

Frank J. Hartye

FJH/eh
Enclosure

cc: Justin M. Gottwald, Esquire
(w/enclosure)

John L. McIntyre Frank J. Hartye Louis C. Schmitt, Jr. Michael A. Sosnowski | Laura O. Burke Julie C. Radford

P.O. Box 533, Hollidaysburg, PA 16648 | 814-696-3581 | Fax 814-696-9399
111 W. Pitt Street #4, Bedford, PA 15522 | 814-623-5292 | Fax 814-623-5293

www.mhslawoffice.com

EXHIBIT
5

CA

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

DOREEN BRADY and EDWARD BRADY Plaintiffs	:	
vs.	:	No. 2004-0110-CD
CLEARFIELD HOSPITAL and STAT MEDEVAC, INC., Defendants	:	

ORDER

AND NOW, this 15th day of September, 2010, it is the Order of the Court that a pre-trial conference in the above-captioned matter shall be and is hereby scheduled for **Monday, November 1, 2010, at 10:00 A.M.** in Judges Chambers, Clearfield County Courthouse, Clearfield, PA.

Additionally, Civil Jury Selection in this matter shall be and is hereby scheduled for January 4, 2011 at 9:00 a.m. in Courtroom No. 1 of the Clearfield County Courthouse, Clearfield, Pennsylvania.

BY THE COURT:

Fredric J. Ammerman

FREDRIC J. AMMERMAN
President Judge

FILED
01:51 PM
SEP 15 2010
William A. Shaw
Prothonotary/Clerk of Courts

cc Attys:
Klett
Hartye
Gottwald
(6)

FILED

SEP 15 2010

William A. Shaw
Prothonotary/Clerk of Courts

DATE: 9/15/10

____ You are responsible for serving all appropriate parties.

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

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

____ Defendant(s) __X__ Defendant(s) Attorney

____ Special Instructions:

CA

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

DOREEN BRADY and EDWARD BRADY, wife and husband,	:	No. 2004 – 110 CD
Plaintiffs	:	
vs.	:	
CLEARFIELD HOSPITAL and STAT MEDEVAC, INC.,	:	
Defendants	:	JURY TRIAL DEMANDED

FILED
SEP 17 2010
01 10:40 h
William A. Shaw
Prothonotary/Clerk of Courts
2 cert to
Atty

RULE RETURNABLE

AND NOW, this 17 day of September, 2010, a Rule is hereby granted to show cause why the Motion to Enforce Settlement and Remove Case from Trial List should not be granted.

This Rule is returnable on the 19th day of October, 2010 at 10:00 am/~~pm~~ in Courtroom No. 1.

BY THE COURT:

FREDRIC J. AMMERMAN, PRESIDENT JUDGE

FILED

SEP 17 2010

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOREEN BRADY and EDWARD BRADY,

Plaintiffs,

v.

CLEARFIELD HOSPITAL and
STAT MEDEVAC, INC.,

Defendants.

CIVIL DIVISION

CASE NO. 2004-00110

JOINT AFFIDAVIT OF DOREEN BRADY AND EDWARD BRADY

Filed on behalf of Plaintiffs,
DOREEN BRADY and EDWARD BRADY

Counsel of Record for this Party:

DAVID S. KLETT, ESQUIRE
Pa.I.D. No. 51906

KLETT & ASSOCIATES
420 Ft. Duquesne Boulevard, Suite 1325
Pittsburgh, PA 15222
(412) 471-4714

MICHAEL J. COLARUSSO, ESQUIRE
PA I.D. No. 44740

COLARUSSO and COHEN, LLC
One Gateway Center
13th Floor North
Pittsburgh, PA 15222
(412) 261-1380

JURY TRIAL DEMANDED

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

DOREEN BRADY and EDWARD BRADY,	)	CASE NO. 2004-00110
	)	
Plaintiff,	)	
	)	
v.	)	
	)	
CLEARFIELD HOSPITAL and	)	
STAT MEDEVAC, INC.,	)	
	)	
Defendants.	)	

JOINT AFFIDAVIT OF DOREEN BRADY AND EDWARD BRADY

Commonwealth of Pennsylvania)
) ss
County of Allegheny)

We, Doreen Brady and Edward Brady, Husband and Wife, being of full age and under penalty of perjury, declare and state as follows:

Our case against Clearfield Hospital and Stat Medevac, Inc. was mediated before the Honorable Thomas Raup. Our attorney Sam Cohen told us to not go to our mediation hearing. He called at 4:50 p.m. with a $25,000 settlement offer. We did not at any time give Attorney Cohen any authority whatsoever to settle our case for $25,000, and specifically advised Attorney Cohen that we did not and would not accept $25,000 to settle our case.

Doreen Brady
Doreen Brady

Edward Brady
Edward Brady

SWORN TO and subscribed before me
a Notary Public, on this 21ST
day of September, 2010.

Andrea F. Borger

COMMONWEALTH OF PENNSYLVANIA
Notarial Seal
Andrea F. Borger, Notary Public
Clearfield Boro, Clearfield County
My Commission Expires Dec. 11, 2011
Member, Pennsylvania Association of Notaries

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the within Affidavit was served this 23rd day of September 2010, via first-class U.S. mail, postage pre-paid upon the following:

Frank L. Hartye, Esquire
MCINTYRE, DUGAS, HARTYE & SCHMITT
P.O. Box 533
Hollidaysburg, PA 16648
(814) 696-3581

Justin M. Gottwald, Esquire
DICKIE, MCCAMEY & CHILCOTE, P.C.
Two PPG Place, Suite 400
Pittsburgh, PA 15222
(412) 281-7272

KLETT & ASSOCIATES

By _____
David S. Klett, Esquire

FILED No CC.
4 m/12:14pm
OCT - 4 2010
William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOREEN BRADY and EDWARD BRADY,

Plaintiffs,

v.

CLEARFIELD HOSPITAL and
STAT MEDEVAC, INC.,

Defendants.

CIVIL DIVISION

CASE NO. 2004-00110

ANSWER TO MOTION TO ENFORCE SETTLEMENT AND REMOVE CASE FROM TRIAL LIST

Filed on behalf of Plaintiffs,
DOREEN BRADY and EDWARD BRADY

Counsel of Record for this Party:

DAVID S. KLETT, ESQUIRE
Pa.I.D. No. 51906

KLETT & ASSOCIATES
420 Ft. Duquesne Boulevard, Suite 1325
Pittsburgh, PA 15222
(412) 471-4714

MICHAEL J. COLARUSSO, ESQUIRE
PA I.D. No. 44740

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One Gateway Center
13th Floor North
Pittsburgh, PA 15222
(412) 261-1380

JURY TRIAL DEMANDED

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

DOREEN BRADY and EDWARD BRADY,	)	CASE NO. 2004-00110
	)	
Plaintiff,	)	
	)	
v.	)	
	)	
CLEARFIELD HOSPITAL and	)	
STAT MEDEVAC, INC.,	)	
	)	
Defendants.	)	

ANSWER TO MOTION TO ENFORCE SETTLEMENT
AND REMOVE CASE FROM TRIAL LIST

AND NOW come the Plaintiffs, DOREEN BRADY and EDWARD BRADY, by and through their attorneys, DAVID S. KLETT, ESQUIRE and KLETT & ASSOCIATES and file the following Answer to Motion to Enforce Settlement and Remove Case from Trial List:

1. Admitted.

2. Admitted.

3. Admitted in part and denied in part. It is admitted that the matter went to unsuccessful mediation. It is specifically denied that Attorney Cohen was expressly authorized by Plaintiffs to accept an offer of $25,000. It is specifically denied that Attorney Cohen accepted an offer on behalf of and at the request of Plaintiffs. The implication that Plaintiffs Doreen Brady and Edward Brady expressly authorized and accepted a $25,000 offer is specifically denied. By way of further answer, Exhibit "1" is a writing that speaks for itself. It is specifically alleged that Plaintiffs did not learn of the existence of Exhibit "1" until advised on May 6, 2008 by their counsel in bankruptcy, Earle David Lees, Jr. It is specifically alleged that Doreen Brady and Edward Brady did not give Attorney Cohen express authority to settle their case for $25,000, and it is specifically alleged that Doreen Brady and Edward Brady instructed Attorney Cohen to not accept the offer of $25,000, as further evidenced by

Joint Affidavit of Doreen Brady and Edward Brady dated September 21, 2010 filed of record in this matter on September 27, 2010, and attached hereto and incorporated herein by reference as Exhibit "A", which provides:

> We, Doreen Brady and Edward Brady, Husband and Wife, being of full age and under penalty of perjury, declare and state as follows:
>
> Our case against Clearfield Hospital and Stat Medevac, Inc. was mediated before the Honorable Thomas Raup. Our attorney Sam Cohen told us to not go to our mediation hearing. He called at 4:50 p.m. with a $25,000 settlement offer. We did not at any time give Attorney Cohen any authority whatsoever to settle our case for $25,000, and specifically advised Attorney Cohen that we did not and would not accept $25,000 to settle our case.
>
> /s/
> Doreen Brady
> /s/
> Edward Brady

The lack of express authority warrants denial of Defendant's Motion. Reutzel v. Douglas, 582 Pa. 149, 870 A.2d 787 (2005) (Trial Court erred in granting motion to enforce a settlement agreement because attorney representing plaintiffs did not have express authority to make the settlement offer, and apparent authority was not sufficient to make the offer valid).

4. Admitted in part and denied in part. It is admitted that it was impossible for Attorney Cohen to accept an offer of $25,000, and that notice thereof was delivered to Plaintiffs through Attorney Lees, as evidenced by Exhibit "2". Exhibit "2" is a writing that speaks for itself, and Defendant's characterization, embellishment and unreasonable inferences and conclusions as to the provisions of Exhibit "2" are specifically denied.

5. Admitted.

6. Admitted in part and denied in part. It is admitted that Attorney Williott communicated

with Plaintiffs who were unrepresented at the time through Exhibit "4". Exhibit "4" is a writing that speaks for itself, and Defendant's characterization, embellishment and unreasonable inferences and conclusions as to the provisions of Exhibit "4" are specifically denied. By way of further Answer, it is specifically denied that Attorney Williott was writing to accomplish settlement in the amount of $25,000, as evidenced by his offer of only $12,000. In fact, the offer of lesser money is advanced after acknowledging the lack of existence of prior settlement by stating "we would like to resolve this case with you, if possible." It is further believed and therefore averred that Attorney Williott's legal opinion being offered to unrepresented Plaintiffs concerning the amount of remaining exemptions was an incorrect statement of the law, given the unlimited nature of the precise exemptions being claimed by Plaintiffs.

7. Denied. To the contrary, in response to Exhibit "4", on October 29, 2009 the undersigned Counsel, David S. Klett, spoke with Attorney Williott with regard to the status of the matter, and Attorney Williott at no time represented that the matter had been settled.

8. Denied. To the contrary, Exhibit "2" is notice of impossibility of settlement, with the concept of revocation being irrelevant in the context of impossibility. Any purported reliance by Defendant is unreasonable and not supported by their subsequent conduct.

9. Admitted in part and denied in part. It is admitted that Attorney Hartye through Exhibit "5" requested information concerning Plaintiffs' bankruptcy. It is specifically denied that the matter had been settled and the parties were awaiting approval from the Bankruptcy Court. To the contrary, bankruptcy approval is not relevant to the circumstances of this matter, and no reference to any purported "approval" is contained in any Exhibit to the Motion herein. It is further specifically denied that Attorney Hartye possessed a reasonable impression that the matter had been settled. As evidenced by his ability to obtain the public record of Plaintiffs' bankruptcy information by attachment to

Defendant's brief in support of this Motion, Defendant could have readily determined the status, and anytime after May of 2008 when the case was closed provided a release and settlement proceeds of $25,000 (rather than the $12,000 offered by Attorney Williott) and moved to enforce the settlement. Instead, both defendants continued with discovery in this matter by each serving a Request for Production of Expert Reports Directed to Plaintiffs Pursuant to Pa.R.C.P. 1042.28 on or about February 1, 2010, with the obvious goal of seeking dismissal of the action without any monetary payment to Plaintiffs or coercion to accept the mere $12,000 then being offered. A copy of Mr. Hartye's letter of February 1, 2010 sent directly to Mr. and Mrs. Brady demanding production of expert reports, together with that of Mr. Gottwald (Attorney Williott) are attached hereto as Exhibit "B", and incorporated herein by reference.

10. Admitted in part and denied in part. It is admitted that Plaintiffs did not supply documents in response to Attorney Hartye's request for medical bills and bankruptcy court information which was otherwise available to him, and which was the subject of prior discovery and will be provided in Plaintiffs' Pretrial Statement. Plaintiffs did provide a response by placing this matter on a trial list, after obtaining and supplying expert reports in response to Defendants' discovery demand therefor on or about February 1, 2010. It is denied that settlement as been reached, and that such a claim is reasonably supported by the evidence.

11. The averments of paragraph 11 constitute conclusions of law to which no response is necessary or warranted. To the extent that a response is warranted, it is averred that Defendant's citation to authority in its Motion and its Brief in Support is premature based upon the procedure governing this Motion pursuant to Local Rule 206. Contrary to Defendant's assertions, this matter is governed by the recent teachings of the Supreme Court of Pennsylvania in Reutzel v. Douglas, 582 Pa. 149, 870 A.2d 787 (2005) (Trial Court erred in granting motion to enforce a settlement agreement

because attorney representing plaintiffs did not have express authority to make the settlement offer, and apparent authority was not sufficient to make the offer valid), which is attached as Exhibit "C" hereto for the convenience of the Court.

NEW MATTER

12. The averments of paragraphs 1 through 11 are incorporated here in by reference.

13. Defendant has alleged no prejudice in support of this Motion and Defendant has suffered no prejudice generally, or specifically as a result of being advised by fax of the impossibility of settlement on May 6, 2008 - one day after Defendant's receipt on May 5, 2008 of Attorney Cohen's letter of May 2, 2008 (Exhibit "1").

14. The lack of a Joint Motion including Defendant StatMedevac supports the conclusion that no settlement occurred in this matter.

15. Doreen Brady and Edward Brady did not give Attorney Cohen express authority to settle their case for $25,000.

16. Plaintiffs will suffer prejudice as a result of further costs and delay in this matter.

WHEREFORE, Plaintiffs Doreen Brady and Edward Brady pray that his Honorable Court will deny the within Motion.

Respectfully submitted,

KLETT & ASSOCIATES

By_____

DAVID S. KLETT, ESQUIRE
Pa. I.D. No. 51906

420 Ft. Duquesne Boulevard, Suite 1325
Pittsburgh, PA 15222
(412) 471-4714

JURY TRIAL DEMANDED

Attorneys for Plaintiffs.

VERIFICATION

I verify that the statements made in the foregoing Pleading are true and correct to the best of my knowledge, information and belief. I understand that false statements herein are made subject to the penalties of 18 Pa.C.S. § 4904, relating to unsworn falsification to authorities.

Doreen Brady

Doreen Brady

Edward Brady

Edward Brady

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

SEP 27 2010

Attest. William A. Shaw Prothonotary/ Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOREEN BRADY and EDWARD BRADY,

Plaintiffs,

v.

CLEARFIELD HOSPITAL and
STAT MEDEVAC, INC.,

Defendants.

CIVIL DIVISION

CASE NO. 2004-00110

JOINT AFFIDAVIT OF DOREEN BRADY AND EDWARD BRADY

Filed on behalf of Plaintiffs,
DOREEN BRADY and EDWARD BRADY

Counsel of Record for this Party:

DAVID S. KLETT, ESQUIRE
Pa.I.D. No. 51906

KLETT & ASSOCIATES
420 Ft. Duquesne Boulevard, Suite 1325
Pittsburgh, PA 15222
(412) 471-4714

MICHAEL J. COLARUSSO, ESQUIRE
PA I.D. No. 44740

COLARUSSO and COHEN, LLC
One Gateway Center
13th Floor North
Pittsburgh, PA 15222
(412) 261-1380

JURY TRIAL DEMANDED

EXHIBIT
A

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

DOREEN BRADY and EDWARD BRADY,	)	CASE NO. 2004-00110
Plaintiff,	)	
v.	)	
CLEARFIELD HOSPITAL and STAT MEDEVAC, INC.,	)	
Defendants.	)	

JOINT AFFIDAVIT OF DOREEN BRADY AND EDWARD BRADY

Commonwealth of Pennsylvania)
) ss
County of Allegheny)

We, Doreen Brady and Edward Brady, Husband and Wife, being of full age and under penalty of perjury, declare and state as follows:

Our case against Clearfield Hospital and Stat Medevac, Inc. was mediated before the Honorable Thomas Raup. Our attorney Sam Cohen told us to not go to our mediation hearing. He called at 4:50 p.m. with a $25,000 settlement offer. We did not at any time give Attorney Cohen any authority whatsoever to settle our case for $25,000, and specifically advised Attorney Cohen that we did not and would not accept $25,000 to settle our case.

Doreen Brady
Doreen Brady

Edward Brady
Edward Brady

SWORN TO and subscribed before me a Notary Public, on this 21ST day of September, 2010.

Andrea F. Borger

COMMONWEALTH OF PENNSYLVANIA
Notarial Seal
Andrea F. Borger, Notary Public
Clearfield Boro, Clearfield County
My Commission Expires Dec. 11, 2011
Member, Pennsylvania Association of Notaries

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the within Affidavit was served this 23rd day of September 2010, via first-class U.S. mail, postage pre-paid upon the following:

Frank L. Hartye, Esquire
MCINTYRE, DUGAS, HARTYE & SCHMITT
P.O. Box 533
Hollidaysburg, PA 16648
(814) 696-3581

Justin M. Gottwald, Esquire
DICKIE, MCCAMEY & CHILCOTE, P.C.
Two PPG Place, Suite 400
Pittsburgh, PA 15222
(412) 281-7272

KLETT & ASSOCIATES

By _____
David S. Klett, Esquire

MHS&S

McIntyre, Hartye, Schmitt & Sosnowski
LAW OFFICES

February 1, 2010

Our Reference: P 246 MH

Office of the Prothonotary
Court of Common Pleas of
Clearfield County
Courthouse
230 E. Market Street
Clearfield, PA 16830

Re: Doreen Brady and Edward Brady, wife and husband vs.
Clearfield Hospital and Stat Medevac, Inc.
No. 2004 – 110 CD

Dear Prothonotary:

Kindly file the enclosed **Request for Production of Expert Reports Directed to Plaintiffs Pursuant to Pa. R.C.P. 1042.28** on behalf of Defendant, Clearfield Hospital, in the above matter.

Thank you.

Sincerely,

Frank J. Hartye

FJH/eh
Enclosure

cc: Doreen and Edward Brady
Justin M. Gottwald, Esquire
(both w/enclosure)

John L. McIntyre Frank J. Hartye Louis C. Schmitt, Jr. Michael A. Sosnowski Heather A. Harrington | Laura O. Burke
P.O. Box 533, Hollidaysburg, PA 16648 | 814-696-3581 | Fax 814-696-9399 | www.mhslawoffice.com

EXHIBIT
B

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

DOREEN BRADY and EDWARD BRADY, wife and husband, Plaintiffs vs. CLEARFIELD HOSPITAL and STAT MEDEVAC, INC., Defendants	No. 2004 – 110 CD **ISSUE:** REQUEST FOR PRODUCTION OF EXPERT REPORTS DIRECTED TO PLAINTIFFS PURSUANT TO PA R.C.P. 1042.28 – DATED: 2/1/10 Filed on behalf of Defendant, CLEARFIELD HOSPITAL Counsel of Record for This Party: Frank J. Hartye, Esquire PA I.D. #25568 McINTYRE, HARTYE, SCHMITT & SOSNOWSKI P.O. Box 533 Hollidaysburg, PA 16648 (814) 696-3581 JURY TRIAL DEMANDED

I HEREBY CERTIFY THAT A TRUE AND CORRECT COPY OF THE WITHIN WAS MAILED TO ALL COUNSEL OF RECORD THIS 1ST DAY OF **FEBRUARY, 2010.**

Attorneys for Named Defendant

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

DOREEN BRADY and EDWARD BRADY, wife and husband,	:	No. 2004 – 110 CD
Plaintiffs	:	
vs.	:	
CLEARFIELD HOSPITAL and STAT MEDEVAC, INC.,	:	
Defendants	:	JURY TRIAL DEMANDED

REQUEST FOR PRODUCTION OF EXPERT REPORTS DIRECTED TO PLAINTIFFS PURSUANT TO PA R.C.P. 1042.28 – DATED: 2/1/10

TO: Plaintiffs, Doreen Brady and Edward Brady
Box 63 Flegal Road
Clearfield, PA 16830

Pursuant to Pennsylvania Rule of Civil Procedure 1042.28, you are requested within one hundred eight (180) days of service of this request to furnish all expert reports summarizing the expert testimony that you will offer to support the claims of professional negligence that you have alleged in this action against this defendant.

McINTYRE, HARTYE, SCHMITT & SOSNOWSKI

By _____
Attorneys for Defendant,
CLEARFIELD HOSPITAL

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

Dickie McCamey

Justin M. Gottwald
Attorney-at-Law
Admitted in PA

Direct Dial: 412-392-5676
Direct Fax: 412-392-5372
jgottwald@dmclaw.com

January 29, 2010

VIA CERTIFIED MAIL AND FIRST CLASS MAIL

Doreen and Edward Brady
Box 63 Flegal Road
Clearfield, PA 16830

RE: Doreen Brady and Edward Brady v. Clearfield Hospital and STAT MedEvac, Inc.
Case No.: 2004-00110
Our File No.: 21122.282222

Dear Mr. and Mrs. Brady:

Enclosed please find a copy of the Request for Production of Expert Reports Directed to Plaintiffs Pursuant to Pa. R. Civ. P. 1042.28 on behalf of defendant, STAT MedEvac, Inc., the original of which has been filed with the Court relative to the above-captioned matter.

Thank you.

Very truly yours,

Justin M. Gottwald

JMG/pll
Enclosure

cc: Frank L. Hartye, Esquire (w/encl.)

Justin M. Gottwald
Attorney-at-Law
Admitted in PA

Direct Dial: 412-392-5676
Direct Fax: 412-392-5372
jgottwald@dmclaw.com

January 29, 2010

William Shaw
Prothonotary
Clearfield County Courthouse
P.O. Box 549
Clearfield, PA 16830

RE: Doreen Brady and Edward Brady v. Clearfield Hospital and STAT MedEvac, Inc.
Case No.: 2004-00110
Our File No.: 21122.282222

Dear Mr. Shaw:

Enclosed for filing please find the original Request for Production of Expert Reports Directed to Plaintiffs Pursuant to Pa. R. Civ. P. 1042.28 on behalf of defendant, STAT MedEvac, Inc., with regard to the above-captioned matter. Also enclosed is an additional cover sheet which I would request that you time stamp and return to me in the enclosed self-addressed, stamped envelope.

Thank you in advance for your cooperation.

Very truly yours,

Justin M. Gottwald

JMG/lam
Enclosures

cc: Doreen and Edward Brady (w/encl.)

Frank L. Hartye, Esquire (w/encl.)

No. 2004-00110

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOREEN BRADY and EDWARD BRADY,	CIVIL DIVISION
Plaintiffs,	Case No.: 2004-00110
v.	Issue No.
CLEARFIELD HOSPITAL and STAT MEDEVAC, INC.,	**REQUEST FOR PRODUCTION OF EXPERT REPORTS DIRECTED TO PLAINTIFFS PURSUANT TO PA. R. CIV. P. 1042.28**
Defendants.	Code: 007

Filed on behalf of Defendant,
STAT MedEvac, Inc.

Counsel of record for this party:

Justin M. Gottwald, Esquire
PA I.D. # 92847

DICKIE, McCAMEY & CHILCOTE, P.C.
Firm #067
Two PPG Place, Suite 400
Pittsburgh, PA 15222-5402
(412) 281-7272

JURY TRIAL DEMANDED

No. 2004-00110

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOREEN BRADY and EDWARD BRADY,	)	CIVIL DIVISION
	)	
	)	Case No.: 2004-00110
Plaintiffs,	)	
	)	
v.	)	
	)	
CLEARFIELD HOSPITAL and STAT MEDEVAC, INC.,	)	
	)	
	)	
Defendants.	)	

REQUEST FOR PRODUCTION OF EXPERT REPORTS DIRECTED TO PLAINTIFFS PURSUANT TO PA. R. CIV. P. 1042.28

TO: Doreen and Edward Brady
Box 63 Flegal Road
Clearfield, PA 16830
(*Pro Se* Plaintiffs)

Pursuant to Pennsylvania Rule of Civil Procedure 1042.28, you are requested within one hundred and eighty (180) days of service of this request to furnish all expert reports summarizing the expert testimony that you will offer to support the claims of professional negligence that you have alleged in this action against this defendant.

DICKIE, McCAMEY & CHILCOTE, P.C.

By_____
Justin M. Gottwald, Esquire

Attorneys for Defendant,
STAT MedEvac, Inc.

No. 2004-00110

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Request for Production of Expert Reports Directed to Plaintiffs Pursuant to Pa. R. Civ. P. 1042.28 has been served this 29th day of January, 2010, by U.S. First Class Mail, postage prepaid, to the following counsel of record:

Doreen and Edward Brady
Box 63 Flegal Road
Clearfield, PA 16830
(*Pro Se* Plaintiffs)

Frank L. Hartye, Esquire
McIntyre, Dugas, Hartye & Schmitt
P.O. Box 533
Hollidaysburg, PA 16648
(Counsel for Clearfield Hospital)

DICKIE, McCAMEY & CHILCOTE, P.C.

By_____
Justin M. Gottwald, Esquire

Attorneys for Defendant,
STAT MedEvac, Inc.

Dickie McCamey

Justin M. Gottwald
Attorney-at-Law
Admitted in PA

Direct Dial: 412-392-5676
Direct Fax: 412-392-5372
jgottwald@dmclaw.com

September 30, 2010

David S. Klett, Esquire
Klett & Associates
420 Ft. Duquesne Boulevard
Suite 1325
Pittsburgh, PA 15222

RE: Doreen Brady and Edward Brady v. Clearfield Hospital and STAT MedEvac, Inc.
Case No.: 2004-00110
Our File No.: 21122.282222

Dear Mr. Klett:

Enclosed please find the Second Set of Interrogatories and Second Request for Production of Documents on behalf of the defendant, STAT MedEvac, Inc. relative to the above-captioned matter.

Thank you.

Very truly yours,

Justin M. Gottwald

JMG/kbd
Enclosure

cc: Frank L. Hartye, Esquire (w/enclosure)

Dickie McCamey

Justin M. Gottwald
Attorney-at-Law
Admitted in PA

Direct Dial: 412-392-5676
Direct Fax: 412-392-5372
jgottwald@dmclaw.com

September 30, 2010

David S. Klett, Esquire
Klett & Associates
420 Ft. Duquesne Boulevard
Suite 1325
Pittsburgh, PA 15222

RE: Doreen Brady and Edward Brady v. Clearfield Hospital and STAT MedEvac, Inc.
Case No.: 2004-00110
Our File No.: 21122.282222

Dear Mr. Klett:

Please provide me with a copy of all of Ms. Brady's records relative to her treatment at the University of Pittsburgh Physicians Department of Orthopedic Surgery and/or by Vanessa Fazio, Ph.D. If you are not in the possession of a complete copy of these records, kindly have your client execute the enclosed authorizations so that we may secure a complete copy.

Thank you.

Very truly yours,

Justin M. Gottwald

JMG/kbd
Enclosures

cc: Frank L. Hartye, Esquire (w/out enclosure)

ROZANNA Q. REUTZEL AND MARK REUTZEL, v. RICHARD DOUGLAS, M.D. AND ALLEGHENY GENERAL HOSPITAL, APPEAL OF: ROZANNA Q. REUTZEL

24 WAP 2004

SUPREME COURT OF PENNSYLVANIA

582 Pa. 149; 870 A.2d 787; 2005 Pa. LEXIS 598

September 20, 2004, Argued
March 29, 2005, Decided

PRIOR HISTORY: [***1] Appeal from the Order of the Superior Court entered January 6, 2004 at No. 2077 WDA 2002, affirming the Order of the Court of Common Pleas of Allegheny County, Civil Division, entered October 28, 2002, at No. GD96-015689.July 7, 2004 at 78 WAL 2004. Trial Court Judges: Eugene B. Strassburger III. Intermediate Court Judges: Joseph A. Hudock, Joan Orie Melvin and Justin M. Johnson, JJ. *Reutzel v. Douglas, 847 A.2d 766, 2004 Pa. Super. LEXIS 587 (Pa. Super. Ct., 2004)*

DISPOSITION: Reversed and remanded; the trial court's order granting Appellees' Joint Petition to Enforce the oral settlement agreement vacated.

COUNSEL: For Rozanna Q. Reutzel, APPELLANT: John E. Quinn, Esq., Raymond Paul Johnson and Paul W. Danielsen

For Allegheny General Hospital, APPELLEE: Terry C. Cavanaugh, Esq.

For Richard A. Douglas, M.D., APPELLEE: Diane Barr Quinlin, Esq.

JUDGES: BEFORE: CAPPY, C.J., CASTILLE, NIGRO, NEWMAN, SAYLOR, EAKIN AND BAER. Mr. Chief Justice Cappy files a concurring opinion in which Madame Justice Newman joins. Mr. Justice Eakin files a concurring opinion in which Mr. Justice Baer joins.

OPINION BY: NIGRO

OPINION

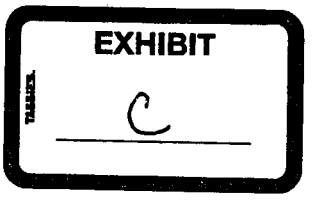
[*150] [**787] **MR. JUSTICE NIGRO**

The issue in this case is whether the Superior Court erred in enforcing a settlement agreement between Appellants Rozanna and Mark Reutzel and Appellees Dr. Richard Douglas, M.D., and Allegheny General Hospital ("AGH") based on its conclusion that the Reutzels' attorney had apparent authority to settle the case on the Reutzels' behalf. For the following [**788] reasons, we conclude that it did err and therefore reverse.

On November 23, 1994, Mark Reutzel and his wife Rozanna were traveling along an interstate highway in the family's mini-van when Mark lost control of the vehicle, causing it to veer [*151] across the road's grass median and collide head-on with a car traveling in the opposite direction. As a result of the collision, Rozanna sustained serious [***2] injuries to her back which rendered her paraplegic. Thereafter, she underwent back surgery at AGH, with Dr. Douglas as her surgeon. Unfortunately, the surgery was not entirely successful as Dr. Douglas, by his own later admission, incorrectly implanted a pedicle screw into Rozanna's vertebrae, thereby aggravating her pre-existing injury. Rozanna subsequently underwent a second surgery to have the screw removed and in 1996, the Reutzels brought an action against Dr. Douglas and AGH, seeking to recover for the negligently performed surgery.

In 2002, the parties engaged in negotiations to settle the case. Due largely to a personality conflict between the Reutzels' attorney, Paul Danielsen, and Dr. Douglas' attorney, Diane Barr Quinlin, the two communicated primarily in writing and apparently used AGH's attorney, Terry Cavanaugh, as an intermediary for many of their negotiations. On July 30, 2002, Danielsen left a voicemail for Cavanaugh, stating in relevant part:

> Before I have a knockdown drag out of any kind with [Quinlin], my thought is if you could talk to her first, you guys get us a hundred, contribute what you want, I will make it go away. I don't have client consent, but [***3] I'm not going to come back to you and say $ 125,000, I can guarantee you that. A hundred and it all goes poof!



Tr. Ct. Op. at 2.

As requested, Cavanaugh communicated this message to Quinlin. Quinlin, however, was about to leave on a trip to Europe and therefore informed Danielsen that he should temporarily communicate with Dr. Douglas' insurance agent, John Cleary, about all settlement matters. On August 7, 2002, Cleary advised Danielsen that he had obtained authority to settle the suit on Dr. Douglas' behalf for the $ 100,000 figure that Danielsen had suggested. When Quinlin returned from Europe, Cleary informed her that he had accepted the $ 100,000 proposition from Danielsen. Quinlin, believing the case to be settled, relayed this information to Cavanaugh, who [*152] agreed with Quinlin that there had been a meeting of the minds on the $ 100,000 figure, but cautioned Quinlin that Danielsen had since contacted him in an attempt to re-open negotiations, saying that he was "losing control of [his] client" and would actually need more money to settle the case. N.T., 10/28/02, at 5.

Fearful that Danielsen was trying to evade their prior agreement, on October 7, 2002, Quinlin and [***4] Cavanaugh filed a Joint Petition to Enforce Settlement Agreement (the "Petition") in which they asserted that the July 30 voicemail was an offer to settle for $ 100,000 and that Cleary's conversation with Danielsen on August 7 was an acceptance of that offer. For their part, the Reutzels and Danielsen claimed that they understood the voicemail and subsequent conversations merely to be part of ongoing negotiations and thus, were shocked by Quinlin's and Cavanaugh's filing of the Petition.

Following a hearing, the trial court granted the Petition and ordered AGH and Dr. Douglas to pay the Reutzels $ 100,000, finding that: (1) Danielsen had conveyed his ability to settle the suit on the Reutzels' behalf in the July 30 voicemail, despite his disclaimer that he did not have client consent; and (2) Cavanaugh and [**789] Quinlin had reasonably relied on that representation. The trial court therefore concluded that Quinlin and Cavanaugh had successfully established that Danielsen had acted with apparent authority, which was all that was necessary to bind his clients under Superior Court precedent. Tr. Ct. Op. at 5 (citing *Hannington v. Trustees of the Univ. of Pennsylvania, 2002 PA Super 314, 809 A.2d 406 (Pa. Super. 2002))*. [***5]

On appeal, the Superior Court affirmed, summarily endorsing the trial court's application of the Hannington decision and adopting the trial court's findings of facts as conclusively establishing that apparent authority existed under the circumstances.

In a lengthy dissent, Judge Johnson agreed that whether Danielsen had apparent authority to settle was the appropriate inquiry under the circumstances of the case, but disagreed that such authority was present here. According to Judge [*153] Johnson, the evidence showed that Danielsen expressly disavowed his authority to settle the case, and that such disavowal destroyed any reasonable reliance that Quinlin and Cavanaugh could place on Danielsen's representations. Moreover, Judge Johnson stated that the evidence, including correspondence between Cavanaugh and Danielsen after July 30 that appeared to signal continuing negotiations, [1] as well as the failure of all three parties to tender a release during the six week period following the voicemail, showed that Cavanaugh and Quinlin did not actually believe that the case had been settled, belying the trial court's conclusion that the two had reasonably relied on Danielsen's representations. [***6] Judge Johnson therefore stated that he would have reversed the trial court's order based on a lack of apparent authority.

1 On August 2, 2002, three days after receiving Danielsen's voicemail, Cavanaugh sent a letter to Danielsen suggesting that the two commemorate the contents of the voicemail in a letter, with a copy to be sent to Quinlin. The letter stated, in relevant part:

> Dear Paul,
>
> First, it is important to note that you have not made a commitment to me.
>
> Nonetheless, what harm would there be in a letter that I direct to you with a copy to [Quinlin] as follows:
>
> Dear Paul,
>
> I do appreciate the tone and tenor of our recent, cordial conversations.
>
> You have indicated to me that you are prepared to recommend to your client that she abandon all claims against Allegheny General Hospital so that you can concentrate exclusively on our co-defendant, Dr. Douglas.
>
> * * * *
>
> Because you have advised that you and counsel for the neurosurgeon are beginning negotiations, I see no point in discontinuing the action as to my client and amending the caption at present. If

negotiations break down, I do appreciate your willingness to abandon claims again Allegheny General.

* * * *

Very Truly Yours,

/s/ Terry C. Cavanaugh

Super. Ct. Op. at 8-9 (Johnson, J., dissenting) (emphases added).

[***7] On appeal to this Court, the Reutzels contend that the lower courts erred in concluding, based on Hannington, that Danielsen's authority was sufficient to bind his clients to a settlement agreement when he expressly stated that he did [*154] not have his client's consent. We agree. [2]

2 This case involves a question of law and therefore our review is plenary. *Stoner v. Stoner, 572 Pa. 665, 819 A.2d 529, 530 (Pa. 2003).*

The law in this jurisdiction is clear and well-settled that an attorney must [**790] have express authority in order to bind a client to a settlement agreement. *McLaughlin v. Monaghan, 290 Pa. 74, 138 A. 79 (Pa. 1927)*; *Starling v. West Erie Ave. Bldg. & Loan Ass'n, 333 Pa. 124, 3 A.2d 387 (Pa. 1939)*; *Senyshyn v. Karlak, 450 Pa. 535, 299 A.2d 294 (Pa. 1973)*; *Rizzo v. Haines, 520 Pa. 484, 555 A.2d 58, 66 (Pa. 1989)*. The rationale for this rule stems from the fact that parties settling legal disputes forfeit substantial legal rights, [***8] and such rights should only be forfeited knowingly. See, e.g., *Starling, 3 A.2d at 388* ("apparent or implied authority does not extend to unauthorized acts which will result in the surrender of any substantial right of the client, or the imposition of new liabilities or burdens upon him"). As such, a client's attorney may not settle a case without the client's grant of express authority, and such express authority can only exist where the principal specifically grants the agent the authority to perform a certain task on the principal's behalf. See *RESTATEMENT (SECOND) OF AGENCY § 7 cmt. c* (1958).

In concluding that Danielsen bound the Reutzels to a settlement agreement that they did not authorize, the lower courts relied on the Superior Court's decision in Hannington for the proposition that an attorney can settle a case based on apparent authority alone. In Hannington, the plaintiff, a Ph.D. candidate at the University of Pennsylvania (the "University"), sued the University for breach of an alleged tuition agreement. Following several months of settlement negotiations, the plaintiff's attorney informed counsel [***9] for the University that his client had agreed to the terms of the parties' negotiated agreement and release, and several weeks later, he sent a finalized version of the agreement to the University's counsel and informed the court that the parties had settled. Nevertheless, the plaintiff thereafter refused to sign the final settlement agreement, hired new counsel, and moved to resume his case against the University. The trial court denied the plaintiff's [*155] motion and on appeal, the Superior Court affirmed. According to the Superior Court, the plaintiff was bound by the settlement agreement because his attorney had acted with apparent authority and the University's counsel had reasonably believed that the plaintiff's attorney had that authority. In holding as such, the Superior Court cited this Court's decision in *Rothman v. Fillette, 503 Pa. 259, 469 A.2d 543 (Pa. 1983)*, for the underlying legal premise that a settlement agreement may be enforced against a principal where his lawyer acts with apparent authority, stating that "the Rothman Court ruled that, even though plaintiff's lawyer committed a fraud on plaintiff, plaintiff's lawyer had the apparent authority to [***10] settle with the innocent opposing party." *Hannington, 809 A.2d at 408.*

Appellees urge this Court to uphold the Superior Court below, arguing that it properly applied the Hannington decision. However, *Hannington's* statement that an attorney can bind his client to a settlement based on apparent authority alone is simply an incorrect statement of the law and is grounded in a misreading of this Court's decision in Rothman. [3]

3 We note that this Court granted allowance of appeal in *Hannington, 573 Pa. 659, 820 A.2d 162 (Pa. 2003)* (Table), but the case was subsequently discontinued upon the request of the parties.

Rothman was a personal injury case arising out of an automobile accident in which plaintiff Phillip Rothman was injured. After a period of settlement negotiations, Mr. Rothman's counsel informed Liberty Mutual, the defendants' insurance company, that his client had agreed to [**791] settle the case for seven thousand dollars. Liberty Mutual, relying on that representation, [***11] sent to Mr. Rothman's counsel a settlement agreement and a check made payable to Mr. Rothman and his wife. Contrary to his counsel's representations, however, Mr. Rothman had not authorized his counsel to settle the case, and when his counsel received the two documents, he forged Mr. Rothman's name and pocketed the settlement funds for his own use. Thereafter, the court declared the case settled, discontinued, and ended.

[*156] Years later, Mr. Rothman learned of his attorney's fraud and sought to re-open the case, arguing that "since he was neither aware of, nor had he authorized the settlement and [since] his agent acted without

authority, he should not be prevented from pursuing his claim against [defendants] and their insurer." *Rothman, 469 A.2d at 545.* The lower courts agreed with Mr. Rothman and reinstated his action against the defendants. On appeal, however, this Court reversed, explaining that "where one of two innocent persons must suffer, the loss should be borne by him who put the wrongdoer in a position of trust and confidence and thus enabled him to perpetrate the wrong." Id. (quoting *Rykaczewski v. Kerry Homes, Inc., 192 Pa. Super. 461, 161 A.2d 924, 926 (Pa. Super. 1960)).* [***12] As Mr. Rothman had hired the fraudulent attorney, this Court reasoned that as between him and the innocent insurance company, he should bear the loss. It therefore refused to re-open the personal injury case.

As Hannington and the decision of the Superior Court below make clear, Rothman has been interpreted, at least on occasion, as ruling that attorneys may bind their clients to settlements based on apparent authority alone. See *Hannington, 809 A.2d at 408 (Pa Super. 2002)* ("The doctrine of apparent authority permits a settlement agreement to be enforced where a third party reasonably believes that the principal's lawyer, the agent, had the authority to settle the case even though the lawyer fraudulently represents that he has such authority.") (citing *Rothman, 469 A.2d at 545*); id. ("The Rothman court ruled that, even though, plaintiff's lawyer committed a fraud on plaintiff, plaintiff's lawyer had the apparent authority to settle with the innocent opposing party."); Super. Ct. Op. at 6 ("Our reading of Hannington reveals that it comports with existing law regarding the doctrine of apparent authority."); see also *Manzitti v. Amsler, 379 Pa. Super. 454, 550 A.2d 537 (Pa. Super. 1988)* [***13] (applying Rothman and concluding that settlement agreement was enforceable where defendant's insurer had reasonable belief that an oral settlement agreement reached with plaintiffs' counsel had been expressly authorized by plaintiffs); *Covington v. Continental* [*157] *Gen'l Tire, Inc., 381 F.3d 216, 220 (3d Cir. 2004)* ("Questions of agency certainly emanated from the ethers of Rothman"); *Farris v. JC Penney Co., Inc., 176 F.3d 706, 709 (3d Cir. 1999)* ("At best, the court has left the applicability of the [apparent authority] doctrine open, seeming to suggest in Rothman . . . that apparent authority might be used to enforce a settlement given the right set of facts."). However, contrary to the understanding of these courts, Rothman's disposition did not rest on principles of apparent authority and thus, did not stand for such a proposition. Indeed, the first sentence of the Rothman opinion explains that the case raised the issue of "who must bear the burden of loss between innocent parties where the attorney for one of the parties has acted beyond the scope of his authority and has misappropriated funds." *Rothman, 469 A.2d at 544* [***14] (emphasis added). Similarly, at the beginning of its analysis, the court states that "it must be understood that under the facts of this case, there is no question of [**792] an implied or an apparent agency," emphasizing that the "law in this jurisdiction is quite clear that an attorney must have express authority to settle a cause of action of the client." *Id. at 545.* Accordingly, while the court ultimately held Mr. Rothman to the terms of the settlement that he had not authorized, it did so not based on a conclusion that his counsel had apparent authority, but rather, based on "the long recognized principle that where one of two innocent parties must suffer because of the fraud of a third, the one who has accredited him must bear the loss." Id. (citing *Keller v. N.J. Fidelity and Plate Glass Insur. Co., 306 Pa. 124, 159 A. 40 (1932)*; *Mundorff v. Wickersham, 63 Pa. 87 (1869))*; see also id. (citing with approval cases in which "the lack of authority of the agent has been rejected as a basis for shifting the principal's losses onto the innocent third party.").

We therefore conclude, as stated above, that Rothman did not establish that an [***15] attorney can bind his client based on apparent authority. Instead, the law remains that an attorney can only bind his client to a settlement based on express authority. See, e.g., Starling. Accordingly, Hannington clearly misstated the law emanating from Rothman and the [*158] lower courts erred in relying on Hannington's misstatement to find that the Reutzels were bound to the negotiated settlement here.

That said, as we did hold in *Rothman* that the innocent plaintiff in that case had to accept a settlement that his attorney had no authority to enter into, we feel compelled to consider whether the same principles of equity and agency that drove Rothman's conclusion should also compel us to find that the Reutzels are bound to the terms of the settlement that Danielsen negotiated. [4] We conclude that they do not. As a general matter, we note that Rothman was a particularly egregious case of attorney fraud and therefore warranted somewhat unusual treatment. See *Rothman, 469 A.2d at 544* ("Mindful of the adage that hard cases make bad law, we are constrained to conclude that the innocent client must bear the brunt of his counsel's errant [***16] behavior."). In contrast, in the instant case, while Appellees contend that Danielson misled them as to his authority, they do not go so far as to characterize his conduct as fraud and indeed, it seems clear that Danielsen's representations to Appellees regarding settlement simply did not rise to that level. [5] In any event, unlike the attorney in Rothman, Danielsen certainly did not defraud his own client, much less enter into a settlement by forging his client's signature and then pocketing the proceeds for his own use. As such, unlike the situation in Rothman, we are not faced with two defrauded parties, between whom we must apportion a loss. *Rothman, 469 A.2d at 545* ("Where one of two innocent persons must suffer because of the fraud of a

third, the one who has accredited him must bear the loss."). [*159] In addition, the fact that the Reutzels were not defrauded is significant in the balancing of the equities here, because [**793] defrauded clients like those in Rothman can oftentimes recover their losses from the Client Security Fund, see *469 A.2d at 546 n.4* (noting that Mr. Rothman's losses would be minimized by his ability to collect from the [***17] fund, citing *Pa.R.D.E. 502, et seq*), while the Reutzels, whose attorney did not defraud them, would not be entitled to such recovery. See *Pa.R.D.E. 514* (Permitting compensation for losses caused by an attorney's "dishonest conduct"); *Pa.R.D.E. 513* (defining dishonest conduct at "wrongful acts or omissions committed by [an attorney] in the manner of defalcation or embezzlement of money, or the wrongful taking of conversion of money, property or other things of value"). Finally, we think it noteworthy from an equities standpoint that the plaintiff in Rothman sought to set aside the settlement almost five years after it was executed, which would have seriously disrupted both the defendants' and the court's long-held belief that the case was settled, whereas here, the settlement had not been finalized, the case remained active, and at the most, the defendants only believed the case to be settled for a matter of two months. Accordingly, although this Court determined in Rothman that agency and equitable principles required Mr. Rothman to bear the losses sustained by his attorney's misconduct, we conclude that these principles do not require a similar result here.

4 This Court specifically stated in Rothman that our holding was "consistent with fundamentally sound principles of agency and equity . . . ." *Id. at 546* (emphasis added).

[***18]

5 We recognize that the trial court concluded that opposing counsel reasonably believed that Danielsen had authority to settle the case. See Tr. Ct. Op. at 4-6. However, even accepting this as so, it does not transform Danielsen's conduct into fraud and certainly does not transform it into a fraud of the magnitude of that in Rothman. Accordingly, we need not revisit the trial court's finding in that regard in order to conclude that Rothman is distinguishable on its facts and does not require the Reutzels to be bound by the settlement here.

In sum, we conclude that the Superior Court erred in holding that Danielsen's apparent authority was sufficient to bind the Reutzels to the terms of the oral settlement agreement at issue, when this Court has clearly stated that an attorney may only bind his client to the terms of a settlement based on express authority. See, e.g., *Starling, 333 Pa. 124, 3 A.2d 387*. Moreover, while we recognize that Rothman required a plaintiff to bear the loss associated with his attorney's fraud in connection with an unauthorized [***19] settlement, we do not believe that the same result is mandated in this case, as the facts and equities of the two cases are easily distinguishable from one another.

[*160] For the foregoing reasons, the Superior Court decision is reversed, the trial court's order granting Appellees' Joint Petition to Enforce the oral settlement agreement is vacated, and the case is remanded for further proceedings.

Mr. Chief Justice Cappy files a concurring opinion in which Madame Justice Newman joins.

Mr. Justice Eakin files a concurring opinion in which Mr. Justice Baer joins.

CONCUR BY: CAPPY; EAKIN

CONCUR

CONCURRING OPINION

MR. CHIEF JUSTICE CAPPY

I join the majority opinion. I write separately, however, to note that I would take this opportunity to adopt, prospectively, the doctrine of apparent authority as set forth in *Section 27 of the Restatement (Third) of the Law Governing Lawyers*. I favor embracing this approach due to its recognition of the practical difficulties inherent in negotiating and enforcing settlements, and its proper balancing of the competing policies of the client's right to control settlement, protection of third parties, [***20] and our strong public policy in favor of settlement.

As set forth by the majority, the law in our Commonwealth has been clear that an attorney must have express authority in order to bind a client to a settlement agreement. *Starling v. West Erie Avenue Building & Loan, 333 Pa. 124, 3 A.2d 387, 388 (Pa. 1939)*. While it has been suggested that whether our Court would adopt the doctrine of apparent authority is an open question, [1] our prior case law has expressly [**794] rejected the apparent authority doctrine. *Starling, 3 A.2d at 388* (determining that the "necessity of special [express] authority ... not only denies the existence of implied authority, but also of apparent authority of an attorney to bind his client" to a settlement agreement).

1 See, *Farris v. JC Penney Company, Inc., 176 F.3d 706, 709 (3rd Cir. 1999)*(noting that the Pennsylvania Supreme Court has never invoked the doctrine of apparent authority to enforce a settlement agreement, but at best, "has left the applicability of the doctrine open...." citing

Rothman v. Fillette, 503 Pa. 259, 469 A.2d 543 (Pa. 1983)).

[***21] [*161] I, however, would adopt, prospectively, the doctrine of apparent authority, as stated in *Section 27 of the Restatement (Third) of the Law Governing Lawyers* as the law of our Commonwealth. Embracing *Section 27* would slightly alter the current requirement of express authority by permitting enforcement of a settlement agreement where a third party reasonably assumes that the lawyer is authorized to settle a matter, based upon the client's manifestations of such authorization:

A lawyer's act is considered to be that of the client in proceedings before a tribunal or in dealings with a third person if the tribunal or third person reasonably assumes that the lawyer is authorized to do the act on the basis of the client's (and not the lawyer's) manifestations of such authorization.

RESTATEMENT (THIRD) OF THE LAW GOVERNING LAWYERS § 27 (2000).

I believe that such an approach is more desirable than the doctrine of express authority, first, because it takes into account the complex and difficult nature of negotiating a settlement agreement as well as a blameless third party's burden in enforcing a settlement [***22] agreement. Settlement disputes can arise if a recalcitrant attorney agrees to settle an action contrary to the express instructions of his or her client. Likewise, an attorney mistakenly may believe his or her client has authorized a settlement. Finally, a client may renege on a commitment to settle after authorizing his attorney to reach an agreement. Under the doctrine of express authority, the impact of such contests regarding the validity of a settlement falls disproportionately on a third party who relies upon an opposing party's attorney's acts and representations. This is due to the fact that a third party engaged in the settlement of a dispute seldom knows whether the opposing party's attorney is acting with the express authority of his or her client. Furthermore, in enforcing a settlement agreement, a third party may find proving express authority difficult, as the proof necessarily will involve dealings between the client and his or her attorney to which the third party was not privy and which [*162] may be protected by the attorney-client privilege. See generally, Grace M. Giesel, *Enforcement of Settlement Contracts: The Problem of the Attorney Agent, 12 Geo. J. Legal Ethics 543, 543-44 (Spring 1999).*

[***23] The doctrine of apparent authority as set forth in the Restatement (Third) of the Law Governing Lawyers alleviates, at least to some degree, these practical difficulties that are manifest in the settlement of disputes and the shortcomings of the express authority doctrine. Under the doctrine of apparent authority a third party bases enforcement of a settlement agreement upon the statements and conduct of the opposing attorney's client. Therefore, if the third party is reasonably misled by the client's communications or manifestations that the client's attorney is authorized to bind the client to a settlement agreement, then it is the client who must bear the burden for misleading. By adopting the apparent authority doctrine, a balance of interest between the parties is maintained where clients retain ultimate [**795] control over settlement issues yet, at the same time, reasonable third parties are protected.

Second, I believe that the apparent authority doctrine is more in line with our Court's strong and historic public policy of encouraging the settlement of disputes. *Muhammad v. Strassburger, et al., 526 Pa. 541, 587 A.2d 1346, 1350-51 (Pa. 1991).* Under the doctrine [***24] of apparent authority, if a client's communications or manifestations are reasonably interpreted to mean that the client's attorney has the authority to settle the dispute, any settlement agreement entered into by the client's attorney will be enforceable against that client. This approach also will reduce the ability of a client to renege on settlement after an agreement is reached. [2]

2 Scholarship has endorsed this approach to the enforcement of settlement agreements. See e.g. Giesel, *12 Geo. J. Legal Ethics at 590*; Parness and Bartlett, *The Authority of Illinois Lawyers to Settle Their Client's Civil Claims: On Principles Not Quite Settled, 31 Loy. U. Chi. L.J. 199, 220-21 (Winter 2000).*

Thus, for the reasons stated above, I join the majority opinion, but additionally would prospectively adopt as the law [*163] of our Commonwealth the *Restatement (Third) of the Law Governing Lawyers § 27.*

Madame Justice Newman joins this concurring opinion.

[***25] **CONCURRING OPINION**

MR. JUSTICE EAKIN

I concur with the result in this case; however, I write separately because I believe the majority opinion is too far-reaching and, therefore, advisory in nature.

The majority pronounces the proper rule of law: "an attorney can only bind his client to a settlement based on express authority." Majority Slip Op., at 9. Here, the attorney for appellants did not have such express authority to settle the case; the attorney stated "I don't have client consent" in the very voicemail construed below as an "offer." As such, the majority's thoughtful analysis balancing the equities in this case is an unnecessary step -- the absence of express authority ends the inquiry.

In *Rothman v. Fillette, 503 Pa. 259, 469 A.2d 543 (Pa. 1983)*, this Court was asked to determine which innocent party should bear the loss resulting from fraud perpetrated by Rothman's attorney. *Id., at 544*. Here, there was no fraud perpetrated upon either party, and there was no loss; one party merely tried to benefit from the statements of another's counsel made during settlement negotiations. Insofar as that decision has been interpreted [***26] to allow apparent authority to bind the client in a case without fraud, it is rightly rejected. However, as the finding that apparent authority existed here is in error, resolving this issue might better wait for another day.

Mr. Justice Baer joined.

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

DOREEN BRADY and EDWARD BRADY,	)	CASE NO. 2004-00110
	)	
Plaintiff,	)	
	)	
v.	)	
	)	
CLEARFIELD HOSPITAL and	)	
STAT MEDEVAC, INC.,	)	
	)	
Defendants.	)	

ORDER OF COURT

AND NOW, this _____ day of _____, 2010, a Motion to Enforce Settlement and Remove Case from Trial List having come before the Court, it is hereby ORDERED, ADJUDGED AND DECREED that said Motion is hereby DENIED.

BY THE COURT

_____ J.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the within Answer was served this 1st day of October 2010, via first-class U.S. mail, postage pre-paid upon the following:

Frank L. Hartye, Esquire
MCINTYRE, DUGAS, HARTYE & SCHMITT
P.O. Box 533
Hollidaysburg, PA 16648
(814) 696-3581

Justin M. Gottwald, Esquire
DICKIE, MCCAMEY & CHILCOTE, P.C.
Two PPG Place, Suite 400
Pittsburgh, PA 15222
(412) 281-7272

KLETT & ASSOCIATES

By _____
David S. Klett, Esquire

2004- 110 CD

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOREEN BRADY and EDWARD BRADY, husband and wife,

Plaintiff,

v.

CLEARFIELD HOSPITAL and STAT MEDEVAC, INC.,

Defendants.

CIVIL DIVISION

No. 2004- 110 CD

Issue No.

MOTION TO ENFORCE SETTLEMENT AND REMOVE CASE FROM TRIAL LIST

Filed on behalf of Defendant,
STAT MEDEVAC, INC.

Counsel of record for this party:

Justin M. Gottwald, Esquire
PA I.D. # 92847

DICKIE, MCCAMEY & CHILCOTE, P.C.
Firm #067
Two PPG Place, Suite 400
Pittsburgh, PA 15222-5402

(412) 281-7272

JURY TRIAL DEMANDED

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOREEN BRADY and EDWARD BRADY, husband and wife,

Plaintiff,

v.

CLEARFIELD HOSPITAL and STAT MEDEVAC, INC.,

Defendants.

CIVIL DIVISION

No. 2004- 110 CD

MOTION TO ENFORCE SETTLEMENT
AND REMOVE CASE FROM THE TRIAL LIST

AND NOW, comes the Defendant, STAT MEDEVAC, INC., by and through its attorneys, DICKIE, McCAMEY, and CHILCOTE, P.C., and Justin M. Gottwald, Esquire, and file the within Motion to Enforce Settlement and Remove Case from the Trial List, and in support thereof avers as follows:

1. Plaintiffs' counsel, Samuel Cohen, Esquire, initiated this lawsuit by filing a Praecipe for Writ of Summons on January 23, 2004. Thereafter a Complaint was filed against the above-named defendants alleging negligence when the gurney upon which plaintiff was being transported turned over and plaintiff sustained a fall.

2. Depositions and other discovery were conducted.

3. This matter went to Mediation, but said Mediation was not successful. Thereafter a joint offer of $25,000 was made to plaintiffs to resolve this lawsuit.

4. By letter dated May 2, 2008, Attorney Cohen, on behalf of plaintiffs, accepted the $25,000 offer and requested a Release and settlement check. A copy of Attorney Cohen's May 2, 2008 correspondence is attached hereto as Exhibit A.

5. Attorney Cohen's May 2, 2008 letter explicitly sets forth that his clients authorized him to settle the case. authority he was granted to accept the offer on behalf of plaintiffs, "I have been instructed to accept your offer...." A copy of Attorney Cohen's May 2, 2008 correspondence is attached hereto as Exhibit A.

6. A few days later on May 6, 2008, Attorney Cohen indicated that because of the plaintiffs declaring bankruptcy it was impossible to accept the $25,000 at that time but he expected that the bankruptcy would be resolved shortly and the parties would be able to go forward [with the settlement]. A copy of Attorney Cohen's May 6, 2008 correspondence is attached hereto as Exhibit B.

7. By Order dated March 4, 2009, Attorney Cohen was granted leave to withdraw as counsel and then the lawsuit was stayed for sixty (60) days to permit plaintiffs to secure new counsel. A copy of the Order of Court dated March 4, 2009 is attached hereto as Exhibit C.

8. Following Attorney Cohen's withdrawal from the case, Anthony Williot, Esquire on behalf of the defendants, wrote to the plaintiffs attempting to accomplish the settlement within the restrictions of the Bankruptcy Court. Those restrictions, as per the bankruptcy trustee, Lisa Swope, with whom Attorney Williot spoke on or about March 19, 2009, were that any settlement amount above $12,000 would be placed back into the bankruptcy estate for distribution to creditors. Please see correspondence of Attorney Williot dated May 14, 2009 attached hereto as Exhibit D.

9. Plaintiffs did not respond to Attorney Williot's letter.

10. On or about October 30, 2009, Attorney David S. Klett phoned Attorney Williot to advise that he was considering entering his appearance on behalf of plaintiffs.

11. There was no response from the plaintiffs relative to the case settlement and no entry of appearance until on or about July 23, 2010 when Attorney Klett entered his appearance and filed expert reports dated November 2009 and July 2010.

12. Defendants maintain that a settlement has been reached in his case in the amount of $25,000 subject to any requirements of the Bankruptcy Court. Plaintiffs' acceptance by Attorney Cohen on May 2, 2008 was never revoked and, defendants in reliance upon the same have been waiting to finalize the settlement since that time within the confines of the Bankruptcy Court.

13. By letter dated August 17, 2010, defense counsel advised plaintiffs' counsel of the settlement which had been previously reached and requested bankruptcy documents to determine how best to proceed. Please see correspondence of Attorney Hartye attached hereto as Exhibit E.

14. Plaintiffs did not respond; instead they have filed a Praecipe to List this matter for Trial. Defendant Stat Medevac, Inc. maintains that a settlement has been reached and is requesting the Court to enforce the settlement and remove the case from any trial list.

15. There is a strong judicial policy in favor of voluntarily settling lawsuit. Rothman v. Fillette, 469 A.2d 543, 546 (Pa. 1983). Settlement agreements are enforced according to principles of contract law. See Felix v. Giuseppe Kitchens & Bath, Inc., 848 A.2d 943 (Pa.Super. 2004).

WHEREFORE, Defendant Stat Medevac, Inc., respectfully requests this Honorable Court to enforce settlement and upon payment of the settlement amount that this matter be discontinued.

Respectfully submitted,

DICKIE, McCAMEY & CHILCOTE, P.C.

By_____
Justin M. Gottwald, Esquire
Attorney for Defendant,
Stat Medevac, Inc.

P 2/6 mail

MAY - 5 2008

LAW OFFICES

KATZ, COHEN & PRICE, P.C.

SUITE 1500
1420 WALNUT STREET
PHILADELPHIA, PA 19102

215-545-2201
FAX 215-545-2221
E-MAIL: kcpattorneys@aol.com

SAMUEL COHEN
MICHAEL G. PRICE*
*PA AND NJ BAR

SAMUEL C. KATZ
1968-2007

123A WEST CLEMENTS BRIDGE ROAD
BARRINGTON, N.J. 08007
856-547-4201
FAX 856-547-1710

PLEASE RESPOND TO PHILA OFFICE

May 02, 2008

Anthony J. Williot, Esquire
Dickie McCamey & Chilcote, P.C.
Two PPG Place, Suite 400
Pittsburgh, PA 15222-5402

Frank J. Hartye, Esquire
P.O. Box 533
Holidaysburg, PA 16648-0533

Re: Brady vs.. Clearfield Hospital, et al
C.C.P., Clearfield County
No.: 2004-110 CD

Dear Counsel:

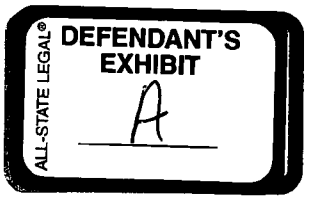
I have been instructed to accept your offer of Twenty-Five Thousand Dollars ($25,000.00) contained in your recent correspondence with regard to the captioned matter. Please forward the settlement draft(s) and release(s).

Thank you for your cooperation.

Very truly yours,

SAMUEL COHEN

SC:er



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SAMUEL COHEN
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SAMUEL C. KATZ
1968-2007

123A WEST CLEMENTS BRIDGE ROAD
BARRINGTON, N.J. 08007
856-547-4201
FAX 856-547-1710

PLEASE RESPOND TO PHILA OFFICE

May 06, 2008

Anthony J. Williot, Esquire
Dickie McCamey & Chilcote, P.C.
Two PPG Place, Suite 400
Pittsburgh, PA 15222-5402

Frank J. Hartye, Esquire
P.O. Box 533
Holidaysburg, PA 16648-0533

Re: Brady vs. Clearfield Hospital, et al
C.C.P., Clearfield County
No.: 2004-110-CD

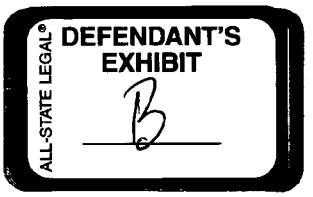
Dear Counsel:

Please be advised that an issue has arisen with regard to the Brady Bankruptcy which makes it impossible for us to accept the offer of Twenty-Five Thousand Dollars ($25,000.00) at this time. I expect this matter to resolve shortly and we will be able to go forward .

Very truly yours,

SAMUEL COHEN

SC:er
cc: Earle David Lees, Jr., Esquire
Via Fax



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

MAR 04 2009

Attest. William L. Shaw
Prothonotary/
Clerk of Courts

KATZ, COHEN & PRICE, P.C.
Attorney for Plaintiffs
By: Samuel Cohen, Esquire
Attorney I.d. No.: 27544
1420 Walnut Street, Suite 1500
Philadelphia, Pa 19102
(215) 545-2201

Doreen Brady and	:	COURT OF COMMON PLEAS
Edward Brady, husband and wife	:	
RD 1, Box 241	:	CLEARFIELD COUNTY
Clearfield, PA 16830	:	No: 2004-00110
Plaintiff,	:	
	:	
vs.	:	
	:	
Clearfield Hospital	:	
P.O. Box 992	:	
Clearfield, PA 16830	:	
and	:	
Stat Medevac, Inc.	:	
123 Beaver Ave.	:	
Ellwood City, PA	:	
Defendant,	:	
	:	

ORDER

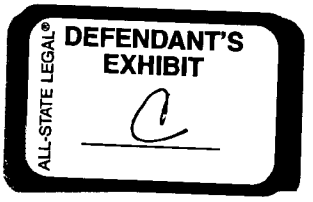
AND NOW, to wit, this 4th day of March, 2009, it is hereby ORDERED and DECREED that:

1. Katz, Cohen & Price, P.C. and Samuel Cohen are hereby granted leave to withdraw as counsel in the captioned matter;

2. The within matter is stayed for a period of 60 FJA days to permit Plaintiffs to secure new counsel.

BY THE COURT:

J.



MAY 1 8 2009

Dickie McCamey

Anthony J. Williott
Attorney-at-Law
Admitted in PA

Direct Dial: 412-392-5258
Direct Fax: 412-392-5367
awilliott@dmclaw.com

May 14, 2009

Doreen and Edward Brady
Box 63 Flegal Road
Clearfield, PA 16830

RE: Doreen Brady and Edward Brady v. Clearfield Hospital and STAT MedEvac, Inc.
Our File No.: 6143.282222

Dear Mr. and Mrs. Brady:

As you know, I represent STAT MedEvac in your lawsuit.

Attorney Cohen withdrew as your counsel in early March and the court stayed the litigation for sixty days. That sixty day stay has now expired.

I am writing to you directly because you are unrepresented. We would like to resolve this case with you, if possible. It is my understanding from reviewing the bankruptcy papers and talking to the trustee in bankruptcy that any amount you secure in this lawsuit above $12,000 must go into the bankruptcy for payment of your creditors.

The defendants remain ready, willing and able to pay you $12,000 in exchange for full and final release and discontinuance, with prejudice, of your lawsuit.

I look forward to your response.

Sincerely yours,

Anthony J. Williott

AJW:dma

cc: Frank J. Hartye, Esquire

ALL-STATE LEGAL®
DEFENDANT'S EXHIBIT
D

MHS&S

McIntyre, Hartye, Schmitt & Sosnowski
LAW OFFICES

August 17, 2010

Our Reference: P 246 MH
REPLY TO HOLLIDAYSBURG

David S. Klett, Esquire
Klett & Associates
One Gateway Center – Suite 1325
420 Fort Duquesne Boulevard
Pittsburgh, PA 15222-1440

Re: Doreen Brady and Edward Brady, wife and husband vs.
Clearfield Hospital and Stat Medevac, Inc.
No. 2004 – 110 CD (Clearfield County)

Dear Mr. Klett:

Thank you for sending the reports from your experts. Prior to receiving correspondence from you, I was under the impression that this matter had been settled and we were merely awaiting approval from the Bankruptcy Court. I am enclosing a copy of the letter from Attorney Cohen from two years ago indicating that the settlement offer on behalf of the defendants was accepted.

Could you please forward to me a copy of Doreen Brady's Petition in Bankruptcy as well as the copy of any Orders relating to the bankruptcy. In addition, could you please forward to me an itemized list of the medical bills being claimed and an itemized statement from DPW and/or Medicare.

Once I have received those documents from you, I will advise whether or not I will proceed with a Motion to Enforce Settlement.

Thank you for your courtesy and cooperation in these matters.

Sincerely,

Frank J. Hartye

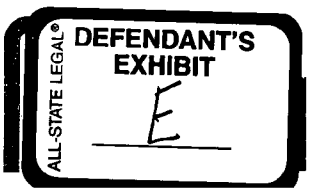
FJH/eh
Enclosure

cc: Justin M. Gottwald, Esquire
(w/enclosure)

John L. McIntyre Frank J. Hartye Louis C. Schmitt, Jr. Michael A. Sosnowski | Laura O. Burke Julie C. Radford

P.O. Box 533, Hollidaysburg, PA 16648 | 814-696-3561 | Fax 814-696-9399
111 W. Pitt Street #4, Bedford, PA 15522 | 814-623-5292 | Fax 814-623-5293

www.mhslawoffice.com



CERTIFICATE OF SERVICE

I, Justin M. Gottwald, Esquire, hereby certify that true and correct copies of the within Motion to Enforce Settlement and Remove Case from Trial list have been served this 6th day of October, 2010, by U.S. first-class mail, postage pre-paid, to counsel of record listed below:

David S. Klett, Esquire
Klett & Associates
420 Ft. Duquesne Boulevard
Suite 1325
Pittsburgh, PA 15222
Counsel for Plaintiffs

Frank J. Hartye, Esquire
McINTYRE, HARTYE, SCHMITT & SOSNOWSKI
P.O. Box 533
Hollidaysburg, PA 16648
Counsel for Defendant, Clearfield Hospital

DICKIE, McCAMEY & CHILCOTE, P.C.

By: _____
Justin M. Gottwald

Attorney for Defendant,
Stat Medevac, Inc.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOREEN BRADY and EDWARD BRADY, husband and wife,

Plaintiff,

v.

CLEARFIELD HOSPITAL and STAT MEDEVAC, INC.,

Defendants.

CIVIL DIVISION

No. 2004- 110 CD

ORDER OF COURT

AND NOW, to wit, this _____ day of _____, 2010, upon consideration of the Motion to Enforce Settlement and Remove Case from Trial List it is hereby ORDERED, ADJUDGED and DECREED that said Motion is GRANTED.

BY THE COURT:

_____J.

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

DOREEN BRADY and EDWARD BRADY, husband and wife, Plaintiffs vs CLEARFIELD HOSPITAL and STAT MEDEVAC, INC., Defendants	* * * * * * *	NO. 04-110-CD

ORDER

NOW, this 11th day of October, upon review and consideration of Motion to Enforce Settlement and Remove Case from Trial List filed by Defendant State Medevac, Inc.; it is the ORDER of this Court that argument on the said Motion be and is hereby scheduled for the **19th day of October, 2010 at 10:00 a.m.** in Courtroom No. 1 of the Clearfield County Courthouse, Clearfield, Pennsylvania.

BY THE COURT,

Fredric J. Ammerman

FREDRIC J. AMMERMAN
President Judge

FILED
013:22 BOI
OCT 11 2010
William A. Shaw
Prothonotary/Clerk of Courts

ICC Attys: Gottwald
Hartye
Klett
Colarusso

FILED

OCT 11 2010

William A. Shaw
Prothonotary/Clerk of Courts

DATE: 10/11/10

____ You are responsible for serving all appropriate parties.

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

____ Plaintiff(s) _X_ Plaintiff(s) Attorney ____ Other

____ Defendant(s) _X_ Defendant(s) Attorney

____ Special Instructions:

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOREEN BRADY and EDWARD BRADY,

Plaintiffs,

v.

CLEARFIELD HOSPITAL and
STAT MEDEVAC, INC.,

Defendants.

CIVIL DIVISION

CASE NO. 2004-00110

MOTION TO PROTECT AND STRIKE SUBPOENAS TO ATTEND AND TESTIFY

Filed on behalf of Plaintiffs,
DOREEN BRADY and EDWARD BRADY

Counsel of Record for this Party:

DAVID S. KLETT, ESQUIRE
Pa.I.D. No. 51906

KLETT & ASSOCIATES
420 Ft. Duquesne Boulevard, Suite 1325
Pittsburgh, PA 15222
(412) 471-4714

MICHAEL J. COLARUSSO, ESQUIRE
PA I.D. No. 44740

COLARUSSO and COHEN, LLC
One Gateway Center
13th Floor North
Pittsburgh, PA 15222
(412) 261-1380

JURY TRIAL DEMANDED

NOTICE OF PRESENTATION

TO:

Frank L. Hartye, Esquire
MCINTYRE, DUGAS, HARTYE & SCHMITT
P.O. Box 533
Hollidaysburg, PA 16648
(814) 696-3581

Justin M. Gottwald, Esquire
DICKIE, MCCAMEY & CHILCOTE, P.C.
Two PPG Place, Suite 400
Pittsburgh, PA 15222
(412) 281-7272

Kindly TAKE NOTICE that the within Motion will be presented to the Court of Common Pleas of Clearfield County on October 19, 2010 10:00 a.m. or at such time thereafter as suits the convenience of the Court.

KLETT & ASSOCIATES

By_____
David S. Klett, Esquire

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the within Motion was served this 15th day of October 2010, via facsimile and first-class U.S. mail, postage pre-paid upon the following:

Frank L. Hartye, Esquire
MCINTYRE, DUGAS, HARTYE & SCHMITT
P.O. Box 533
Hollidaysburg, PA 16648
(814) 696-3581

Justin M. Gottwald, Esquire
DICKIE, MCCAMEY & CHILCOTE, P.C.
Two PPG Place, Suite 400
Pittsburgh, PA 15222
(412) 281-7272

KLETT & ASSOCIATES

By_____
David S. Klett, Esquire

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

DOREEN BRADY and EDWARD BRADY,	)	CASE NO. 2004-00110
	)	
Plaintiff,	)	
	)	
v.	)	
	)	
CLEARFIELD HOSPITAL and	)	
STAT MEDEVAC, INC.,	)	
	)	
Defendants.	)	

MOTION TO PROTECT AND STRIKE SUBPOENAS TO ATTEND AND TESTIFY

AND NOW come the Plaintiffs, DOREEN BRADY and EDWARD BRADY, by and through their attorneys, DAVID S. KLETT, ESQUIRE and KLETT & ASSOCIATES and file the following Motion to Protect and Strike Subpoenas to Attend and Testify:

1. On September 14, 2010 Defendant Clearfield Hospital filed an unverified Motion to Enforce Settlement and Remove Case from Trial List upon the certification of its counsel, Frank J. Hartye, Esquire, and by Julie C. Radford, Esquire by virtue of a Brief in Support filed on or about October 1, 2010.

2. On September 17, 2010 a Rule to Show Cause returnable by October 19, 2010 was issued by the Honorable Fredric J. Ammerman, pursuant to Local Rule 206. Said Rule to Show Cause, which was prepared by Mr. Hartye did not comply with Local Rule 206(i) in that it failed to contain the mandatory Notice to Plead.

3. Local Rule 206, and its comment in subsection (l) provides:

> This rule clarification is to make clear that the rule to show cause in petition/motion practice is a "notice to plead". A hearing is not seasonable until an answer has been filed and the issues have been determined. Hearings or depositions will be scheduled at a conference on Petition, Motion, and Argument days after the answer has been filed.

Local Rule 206(i) further provides that "hearings will not be scheduled in the Order issuing the Rule

to Show Cause, except upon special leave of court upon due notice to the other parties."

4. On September 27, 2010 Plaintiffs filed a Joint Affidavit of Doreen Brady and Edward Brady in support of Answer to Motion to Enforce Settlement and Remove Case From Trial List filed by the Plaintiffs on October 4, 2010 in satisfaction of the Rule to Show Cause.

5. Local Rule 206(k) provides that "[w]hen an Answer is filed, it shall be the duty of the moving party to take depositions of disputed issues of fact or to request the Court Administrator to schedule a hearing."

6. By letter dated October 8, 2010 Mr. Hartye served three (3) Subpoenas to Attend and Testify-Duces Tecum upon past and present counsel for Plaintiffs for all three attorneys to attend and testify simultaneously on the same day of October 19, 2010 at 10:00 a.m., copies of which are attached hereto.

7. On October 11, 2010 the Honorable Fredric J. Ammerman issued an Order scheduling argument on the Motion on October 19, 2010 at 10:00 a.m.

8. A hearing in this matter has not been scheduled and the procedures governing this Rule to Show Cause do not provide for discovery in the form of unilateral conduct by Mr. Hartye through the unscheduled and unnoticed issuance of three (3) subpoenas for three (3) attorneys to attend and testify and produce documents simultaneously on the same day in a Courtroom on October 19, 2010 at 10:00 a.m.

9. The discovery sought by Defendant through the three (3) subpoenas is sought in bad faith, and would cause unreasonable annoyance, oppression, burden or expense, and prejudice to the Plaintiffs.

10. Plaintiffs' Answer and supporting Affidavit evidence that Plaintiffs did not provide express authority to settle. The conduct of Mr. Hartye and Mr. Williott makes it clear that there was

no meeting of the minds required for settlement, based upon the Defendants inconsistent conduct in not tendering a release or proceeds, in reducing the offer from $25,000 to $12,000 through correspondence containing legal opinions directly to unrepresented Plaintiffs, in not mentioning settlement to the undersigned counsel, and in continuing with discovery and demands pursuant to Pa.R.C.P. 1042.28 for expert reports as to professional negligence with the only possible goal being dismissal of the action without payment of any money.

WHEREFORE, Plaintiffs pray that this Honorable Court issue an Order of Court striking the three (3) Subpoenas dated October 7, 2010 issued in the above-captioned matter.

Respectfully submitted,

KLETT & ASSOCIATES

By_____

DAVID S. KLETT, ESQUIRE
Pa. I.D. No. 51906

420 Ft. Duquesne Boulevard, Suite 1325
Pittsburgh, PA 15222
(412) 471-4714

JURY TRIAL DEMANDED

Attorneys for Plaintiffs.

MHS&S

McIntyre, Hartye, Schmitt & Sosnowski
LAW OFFICES

October 8, 2010

Our Reference: P 246 MH
REPLY TO HOLLIDAYSBURG

David S. Klett, Esquire
Klett & Associates
One Gateway Center – Suite 1325
420 Fort Duquesne Boulevard
Pittsburgh, PA 15222-1440

Re: Doreen Brady and Edward Brady, wife and husband vs.
Clearfield Hospital and Stat Medevac, Inc.
No. 2004 – 110 CD (Clearfield County)

Dear Mr. Klett:

Enclosed herewith please find a Subpoena for your attendance at the upcoming Rule Returnable session with Judge Ammerman. I have served Subpoenas on Attorney Cohen and Attorney Lees. I have enclosed copies for your review.

If you have any questions concerning this matter please do not hesitate to give me a call.

Sincerely,

Frank J. Hartye

FJH/eh
Enclosure

John L. McIntyre Frank J. Hartye Louis C. Schmitt, Jr. Michael A. Sosnowski | Laura O. Burke Julie C. Radford
P.O. Box 533, Hollidaysburg, PA 16648 | 814-696-3581 | Fax 814-696-9399
111 W. Pitt Street #4, Bedford, PA 15522 | 814-623-5292 | Fax 814-623-5293
www.mhslawoffice.com

COMMONWEALTH OF PENNSYLVANIA
CLEARFIELD COUNTY

Doreen Brady
Edward Brady
Plaintiff(s)

Vs.

Clearfield Hospital
Stat Medevac, Inc.
Defendant(s)

No. 2004-00110-CD

SUBPOENA TO ATTEND AND TESTIFY - **DUCES TECUM**

TO: **David S. Klett, Esquire - Klett & Associates**
One Gateway Center - Suite 1325
420 Fort Duquesne Blvd., Pittsburgh, PA 15222-1440

1. You are ordered by the Court to come to **Clearfield Co. Courthouse, 230 East Market Street, Clearfield (Courtroom #1 - Judge Ammerman)**
(Specify Courtroom or other place)
at **Clearfield** County, Pennsylvania, on **Octobert 19, 2010** at **10:00** o'clock, **A.**M., to testify on behalf of **Defendants**
in the above case, and to remain until excused.

2. And bring with you the following: **Any and all correspondence, memoranda, notes, or any other document evidencing discussions with Doreen Brady and/or Edward Brady and her attorneys concerning authority to settle this lawsuit, documents relating to all contacts and phone calls with Lisa M. Swope, (cont'd. below)**

If you fail to attend or to produce the documents or things required by this subpoena, you may be subject to the sanctions authorized by Rule 234.5 of the Pennsylvania Rules of Civil Procedure, including but not limited to costs, attorney fees and imprisonment.

ISSUED BY A PARTY/COUNSEL IN COMPLIANCE WITH PA.R.C.P. No. 234.2(a)

NAME: **Frank J. Hartye, Esquire**
ADDRESS: **P.O. Box 533**
Hollidaysburg, PA 16648
TELEPHONE: **814/696-3581**
SUPREME COURT ID # **25568**

BY THE COURT:

William A. Shaw
Prothonotary/Clerk, Civil Division

Deputy

DATE: Thursday, October 07, 2010

Seal of the Court

WILLIAM A. SHAW
Prothonotary
My Commission Expires
1st Monday in Jan, 2014
Clearfield Co., Clearfield, PA

OFFICIAL NOTE: This form of subpoena shall be used whenever a subpoena is issuable, including hearings in connection with depositions and before arbitrators, masters, commissioners, etc. in compliance with PA.R.C.P. No. 234.1 . If a subpoena for production of documents, records or things is desired, complete Paragraph 2.

****Trustee in Bankruptcy, and Power of Attorney/Contingent Fee Agreement with Doreen and Edward Brady.**

COPY

COMMONWEALTH OF PENNSYLVANIA
CLEARFIELD COUNTY

Doreen Brady
Edward Brady
Plaintiff(s)
Vs.
Clearfield Hospital
Stat Medevac, Inc.
Defendant(s)

No. 2004-00110-CD

SUBPOENA TO ATTEND AND TESTIFY - **DUCES TECUM**

TO: Samuel Cohen, Esquire - Katz, Cohen & Price, PC
Suite 1500, 1420 Walnut Street
Philadelphia, PA 19102

1. You are ordered by the Court to come to Clearfield Co. Courthouse, 230 East Market Street, Clearfield (Courtroom #1 - Judge Ammerman)
(Specify Courtroom or other place)
at Clearfield County, Pennsylvania, on October 19, 2010 at 10:00 o'clock, A. M., to testify on behalf of Defendants in the above case, and to remain until excused.

2. And bring with you the following: Any and all correspondence, memoranda, notes, or any other document evidencing discussions with Doreen Brady and/or Edward Brady and her attorneys concerning authority to settle this lawsuit, documents relating to all contacts and phone calls with Lisa M. Swope, (cont'd. below)

If you fail to attend or to produce the documents or things required by this subpoena, you may be subject to the sanctions authorized by Rule 234.5 of the Pennsylvania Rules of Civil Procedure, including but not limited to costs, attorney fees and imprisonment.

ISSUED BY A PARTY/COUNSEL IN COMPLIANCE WITH PA.R.C.P. No. 234.2(a)

NAME: Frank J. Hartye, Esq.
ADDRESS: P.O. Box 533
Hollidaysburg, PA 16648
TELEPHONE: 814/696-3581
SUPREME COURT ID # 25568

BY THE COURT:

William A. Shaw
Prothonotary/Clerk, Civil Division

Deputy

DATE: Thursday, October 07, 2010

Seal of the Court

WILLIAM A. SHAW
Prothonotary
My Commission Expires
1st Monday in Jan, 2014
Clearfield Co., Clearfield, PA

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**Trustee in Bankruptcy, and Power of Attorney/Contingent Fee Agreement with Doreen and Edward Brady.

COPY

COMMONWEALTH OF PENNSYLVANIA
CLEARFIELD COUNTY

Doreen Brady
Edward Brady
Plaintiff(s)
Vs.
Clearfield Hospital
Stat Medevac, Inc.
Defendant(s)

No. 2004-00110-CD

SUBPOENA TO ATTEND AND TESTIFY - **DUCES TECUM**

TO: **Earle D. Lees, Jr., Esquire**
P.O. Box 685, 109 North Brady Street
DuBois, PA 15801

1. You are ordered by the Court to come to **Clearfield Co. Courthouse, 230 East Market Street, Clearfield (Courtroom #1 - Judge Ammerman)**
(Specify Courtroom or other place)
at **Clearfield** County, Pennsylvania, on **October 19, 2010** at **10:00** o'clock, **A.**M., to testify on behalf of **Defendants** in the above case, and to remain until excused.

2. And bring with you the following: **Any and all correspondence, memoranda, notes, or any other document evidencing discussions with Doreen Brady and/or Edward Brady and her attorneys concerning authority to settle this lawsuit, documents relating to all contacts and phone calls with Lisa M. Swope (cont'd. below)**
If you fail to attend or to produce the documents or things required by this subpoena, you may be subject to the sanctions authorized by Rule 234.5 of the Pennsylvania Rules of Civil Procedure, including but not limited to costs, attorney fees and imprisonment.

ISSUED BY A PARTY/COUNSEL IN COMPLIANCE WITH PA.R.C.P. No. 234.2(a)

NAME: **Frank J. Hartye, Esquire**
ADDRESS: **P.O. Box 533**
Hollidaysburg, PA 16648
TELEPHONE: **814/696-3581**
SUPREME COURT ID # **25568**

BY THE COURT:

William A. Shaw
Prothonotary/Clerk, Civil Division

Deputy

DATE: Thursday, October 07, 2010

Seal of the Court

WILLIAM A. SHAW
Prothonotary
My Commission Expires
1st Monday in Jan, 2014
Clearfield Co., Clearfield, PA

OFFICIAL NOTE: This form of subpoena shall be used whenever a subpoena is issuable, including hearings in connection with depositions and before arbitrators, masters, commissioners, etc. in compliance with PA.R.C.P. No. 234.1. If a subpoena for production of documents, records or things is desired, complete Paragraph 2.

****Trustee in Bankruptcy, and Power of Attorney/Contingent Fee Agreement with Doreen and Edward Brady.**

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

DOREEN BRADY and EDWARD BRADY,	)	CASE NO. 2004-00110
	)	
Plaintiff,	)	
	)	
v.	)	
	)	
CLEARFIELD HOSPITAL and	)	
STAT MEDEVAC, INC.,	)	
	)	
Defendants.	)	

ORDER OF COURT

AND NOW, this _____ day of _____, 2010, a Motion to Protect and Strike Subpoenas to Attend and Testify having come before the Court, it is hereby ORDERED, ADJUDGED AND DECREED that said Motion is hereby GRANTED, and the three (3) Subpoenas dated October 7, 2010 issued in the above-captioned matter are hereby stricken.

BY THE COURT

_____J.

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

DOREEN BRADY and EDWARD BRADY, Plaintiffs	:	NO.: 2004-00110-CD
v.	:	
CLEARFIELD HOSPITAL and STAT MEDEVAC, INC., Defendants	:	

FILED
OCT 18 2010
William A. Shaw
Prothonotary/Clerk of Courts

1CC Attys: Gottwald, Hartye, Kleff, Colarusso

ORDER

NOW, this 18th day of October, 2010, a Motion to Protect and Strike Subpoenas to Attend and Testify having come before the Court, it is hereby ORDERED, ADJUDGED AND DECREED that the subpoena issued to Samuel Cohen, Esquire be and is hereby quashed.

BY THE COURT,

FREDRIC J. AMMERMAN
PRESIDENT JUDGE

CA

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

DOREEN BRADY and EDWARD BRADY Plaintiffs	:	
vs.	:	NO. 2004-0110-CD
CLEARFIELD HOSPITAL and, STAT MEDEVAC, INC. Defendants	:	

ORDER

AND NOW, this 19th day of October 2010, following hearing on Defendants' Motion to Enforce Settlement and Remove from Trial List and following taking of some testimony, it is the ORDER of this Court that counsel for the parties have no more than thirty (30) days from this date to supply the Court with a brief on the following issues:

(1) Whether Plaintiffs' disputing they authorized anyone to settle on their behalf waived any potential attorney-client privilege regarding same;

(2) Whether the bankruptcy trustee is authorized to accept a settlement offer on behalf of the Plaintiffs without their consent; and

(3) Whether the burden of proof shifts to the Plaintiffs to show no settlement occurred, provided Defendants set forth a prima facie case of offer and acceptance.

The record in this matter shall remain open pending receipt of briefs and the Court's determination as to admissibility of further evidence.

Additionally, the Court Administrator is hereby directed to cancel the pre-trial conference scheduled for Monday, November 1, 2010, at 10:00 a.m. and to remove the matter from Civil Jury Selection, scheduled for January 4, 2011, at 9:00 a.m.

FILED 013:52 OCT 20 2010
William A. Shaw
Prothonotary/Clerk of Courts

1cc Attys: (6)
Klott
Colarusso
Hartye
Gottwald

The pre-trial conference shall be and is hereby rescheduled for Tuesday, March 1, 2011, at 11:00 a.m. in Judges Chambers, Clearfield County Courthouse, Clearfield, Pennsylvania. One-half hour has been allotted for said pre-trial conference. Civil Jury Selection in this matter shall be and is hereby rescheduled for Tuesday, April 5, 2011, at 9:00 a.m. in Courtroom No. 1 of the Clearfield County Courthouse, Clearfield, Pennsylvania.

BY THE COURT,

FREDRIC J. AMMERMAN
President Judge

FILED

OCT 20 2010

William A. Shaw
Prothonotary/Clerk of Courts

DATE: 10/20/10

____ You are responsible for serving all appropriate parties.

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

____ Plaintiff(s) _X_ Plaintiff(s) Attorney ____ Other

____ Defendant(s) _X_ Defendant(s) Attorney

____ Special Instructions:

CA

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

DOREEN BRADY and EDWARD BRADY Plaintiffs	:	
vs.	:	NO. 2004-0110-CD
CLEARFIELD HOSPITAL and, STAT MEDEVAC, INC. Defendants	:	

OPINION

Currently before this Court are motions by Defendants Clearfield Hospital and STAT Medevac, Inc., seeking Court approval to enforce a purported settlement reached between the Defendants and Plaintiffs Doreen and Edward Brady for $25,000.00. Defendants claim the settlement is binding because Plaintiff's former counsel was authorized to enter into the agreement, whereas Plaintiffs claim they never authorized their former counsel to settle, in part because they themselves lacked the authority to settle the claim due to a then-pending bankruptcy. For the following reasons, the Court agrees that Plaintiffs and/or their counsel lacked the authority to settle any claims at the time of the purported settlement due to the pending bankruptcy proceedings.

Pursuant to the Bankruptcy Code, commencement of a bankruptcy case creates an estate that is comprised of all legal and equitable property interests of the debtors. 11 U.S.C. § 541. This includes personal injury claims that may be pending at the time of filing. *Northview Motors, Inc. v. Chrysler Motors Corp.*, 186 F.3d 345, 350 (3rd Cir. 1999). In the instant action, Plaintiffs' personal injury action pre-dated the filing of the bankruptcy action and was still pending when the bankruptcy case commenced. Therefore, the personal injury action

1CC Attys: Klett
Hartye
Gottwald
Colarusso
1CC: D. Mikesell, Law Library (without memo)

became an asset of the bankruptcy estate under the custody and control of the trustee. The trustee then is authorized to utilize the procedure set forth in Bankruptcy Rule 9019 to settle a claim of the estate. The trustee must file a motion with the bankruptcy court seeking approval of the settlement, and thereafter a hearing must be held on the proposed settlement. Fed. R. Bankr. P. 9019.

The debtors (here, the Plaintiffs) no longer control the course of the lawsuit once the bankruptcy proceeding commences. This is not to say, however, that they lacked *any* say in the matter. Their role, however, was substantially limited by the bankruptcy filing. Once the trustee moves for bankruptcy court approval of the settlement, the debtors are only entitled to notice of the proposed settlement and an opportunity to voice their concerns over it. *In re Martin*, 91 F.3d 389 (1996). It is the trustee who has the authority to accept or reject any settlement offers, subject to bankruptcy court approval. *In re RFE Industries, Inc.*, 283 F.3d 159 (3rd Cir. 2002).

In the case *sub judice*, the lawsuit was part of the estate, controlled by the trustee. There is no evidence that the trustee approved the settlement or sought approval from the bankruptcy court of any purported settlement. Rather, Defendants appear to rest their case on the fact that Plaintiffs' former counsel, Samuel Cohen, was authorized to settle the dispute. The law is clear that this was not the case, though. The power of settlement was held by the trustee alone, subject only to the bankruptcy court's approval. Whether Plaintiffs told Mr. Cohen to accept the $25,000.00 offer or not is immaterial. The fact remains that Mr. Cohen had no legal authority to bind the bankruptcy estate to the settlement.

At the time of the purported settlement on May 2, 2008, the bankruptcy proceeding, although it was winding down, was still pending. It was not until two weeks after the alleged

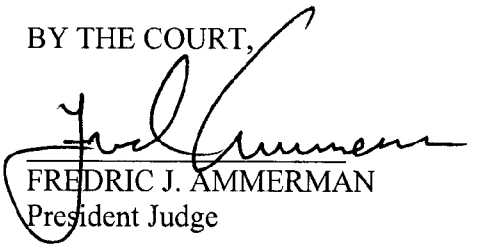
settlement was reached that the bankruptcy case was closed. Once the bankruptcy proceeding closed on May 16, 2008, the lawsuit was effectively abandoned by the estate, rendering the claim once again within the Plaintiffs' control. Only then does the issue of Plaintiffs' authorization to Mr. Cohen become material. However, since there are no allegations that a purported settlement arose post-closing of the bankruptcy case, this is not a matter before this Court.

Based on the foregoing, the Court enters the following:

ORDER

AND NOW, this 19th day of January, 2011, following hearing on Defendants' Motions to Enforce Settlement and Remove from Trial List, review of the record and timely submission of the parties' briefs, it is the ORDER of this Court that Defendants' Motions be and are hereby DENIED.

BY THE COURT,



FREDRIC J. AMMERMAN
President Judge

FILED

JAN 20 2011

William A. Shaw
Prothonotary/Clerk of Courts

DATE: 1/20/11

___ You are responsible for serving all appropriate parties.

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

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

___ Defendant(s) X Defendant(s) Attorney

___ Special Instructions:

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

DOREEN BRADY and EDWARD BRADY, wife and husband,	No. 2004 – 110 CD
	ISSUE: NOTICE OF SERVICE OF REQUEST FOR PRODUCTION OF DOCUMENTS DIRECTED TO PLANTIFFS - DATED: 1/26/11
Plaintiffs	
vs.	
	Filed on behalf of Defendant, CLEARFIELD HOSPITAL
CLEARFIELD HOSPITAL and STAT MEDEVAC, INC.,	Counsel of Record for This Party: Frank J. Hartye, Esquire PA I.D. #25568
	McINTYRE, HARTYE, SCHMITT & SOSNOWSKI P.O. Box 533 Hollidaysburg, PA 16648 (814) 696-3581
Defendants	
	JURY TRIAL DEMANDED

I HEREBY CERTIFY THAT A TRUE AND CORRECT COPY OF THE WITHIN WAS MAILED TO ALL COUNSEL OF RECORD THIS **26TH** DAY OF **JANUARY, 2011**.

Attorneys for Named Defendant

FILED No CC.
m/ 11:07 cm
JAN 28 2011
S
William A. Shaw
Prothonotary/Clerk of Courts

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

DOREEN BRADY and EDWARD BRADY, wife and husband,	:	No. 2004 – 110 CD
Plaintiffs	:	
vs.	:	
CLEARFIELD HOSPITAL and STAT MEDEVAC, INC.,	:	
Defendants	:	JURY TRIAL DEMANDED

NOTICE OF SERVICE OF REQUEST FOR PRODUCTION OF DOCUMENTS DIRECTED TO PLAINTIFFS – DATED: 1/26/11

TO: PROTHONOTARY

You are hereby notified that on the 26th day of January, 2011, Defendant, CLEARFIELD HOSPITAL, served Request for Production of Documents Directed to Plaintiffs Dated: 1/26/11 by mailing the original of same via First Class U.S. Mail, postage prepaid, addressed to the following:

David S. Klett, Esquire
Klett & Associates
420 Ft. Duquesne Boulevard,
Suite 1325
Pittsburgh, PA 15222

McINTYRE, HARTYE, SCHMITT & SOSNOWSKI

Attorney for Defendant,
Clearfield Hospital

FRANK J. HARTYE, ESQUIRE
PA I.D. No. 25568
P. O. Box 533
Hollidaysburg, PA 16648-0533
(814) 696-3581

CA

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOREEN BRADY and EDWARD BRADY,	CIVIL DIVISION
Plaintiffs,	No. 2004-00110 CD
v.	Issue No.
CLEARFIELD HOSPITAL and STAT MEDEVAC, INC.,	**MOTION TO COMPEL DISCOVERY**
Defendants.	Filed on behalf of Defendant, STAT MedEvac, Inc.

Counsel of record for this party:

Justin M. Gottwald, Esquire
PA I.D. # 92847

DICKIE, MCCAMEY & CHILCOTE, P.C.
Firm #067
Two PPG Place, Suite 400
Pittsburgh, PA 15222-5402

(412) 281-7272

JURY TRIAL DEMANDED

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOREEN BRADY and EDWARD BRADY,	)	CIVIL DIVISION
	)	
Plaintiffs,	)	No. 2004-00110 CD
	)	
v.	)	
	)	
CLEARFIELD HOSPITAL and STAT MEDEVAC, INC.,	)	
	)	
Defendants.	)	

MOTION TO COMPEL DISCOVERY

AND NOW comes one of the defendants, STAT MedEvac, Inc., by and through its counsel, Dickie, McCamey & Chilcote, P.C. and Justin M. Gottwald, Esquire, and hereby files the within Motion to Compel Discovery, and in support thereof avers as follows:

1. Plaintiffs, after a period of inactivity of over four (4) years, certified this case as ready for trial on September 9, 2010.

2. Defendants objected to this certification in that they sought to enforce the settlement of this matter. Defendants' Motion to Enforce Settlement and Remove Case from Trial List was denied by this Honorable Court (Ammerman, P.J.) on January 19, 2011.

3. Plaintiff, Doreen Brady, was deposed on June 21, 2005.

4. Prior to the filing of a Certificate of Readiness, counsel for plaintiffs did not supplement plaintiffs' responses to this defendant's First Set of Interrogatories and Request for Production of Documents.

5. Along with the Certificate of Readiness, counsel for plaintiff submitted an undated expert report of Vanessa Fazio, Ph.D.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOREEN BRADY and EDWARD BRADY,	)	CIVIL DIVISION
	)	
Plaintiffs,	)	No. 2004-00110 CD
	)	
v.	)	
	)	
CLEARFIELD HOSPITAL and STAT MEDEVAC, INC.,	)	
	)	
	)	
Defendants.	)	

MOTION TO COMPEL DISCOVERY

AND NOW comes one of the defendants, STAT MedEvac, Inc., by and through its counsel, Dickie, McCamey & Chilcote, P.C. and Justin M. Gottwald, Esquire, and hereby files the within Motion to Compel Discovery, and in support thereof avers as follows:

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3. Plaintiff, Doreen Brady, was deposed on June 21, 2005.

4. Prior to the filing of a Certificate of Readiness, counsel for plaintiffs did not supplement plaintiffs' responses to this defendant's First Set of Interrogatories and Request for Production of Documents.

5. Along with the Certificate of Readiness, counsel for plaintiff submitted an undated expert report of Vanessa Fazio, Ph.D.

6. Dr. Fazio performed five (5) evaluations of Ms. Brady from December of 2008 through October of 2009.

7. Dr. Fazio's records of treatment were not produced to the defendants along with her narrative report.

8. Dr. Fazio also considered and relied upon the records of several of Ms. Brady's treating physicians. These physicians provided care to Ms. Brady in the years following her deposition. None of the medical records relied upon by Dr. Fazio were produced to the defendants.

9. In summary, plaintiffs have not provided the defendants with any medical records of Ms. Brady since the date of her deposition.

10. Having not received any supplemental discovery responses, on September 30, 2010, this defendant propounded and served upon counsel for plaintiffs a Second Set of Interrogatories and Request for Production of Documents. These discovery requests were narrowly tailored to discover information relative to Ms. Brady's condition since the date of her deposition.

11. On January 21, 2011, counsel for this defendant requested plaintiffs' overdue responses to the Second Set of Interrogatories and Request for Production of Documents. Plaintiffs served a "Response" to this defendant's Second Set of Interrogatories and Request for Production of Documents on January 26, 2011. In short, plaintiffs objected to providing any updated information regarding Ms. Brady or her medical condition aside from the information contained in the expert report of Dr. Fazio.

12. Without full and complete discovery responses, this defendant cannot properly proceed with the preparation of its case and is thereby prejudiced.

13. Counsel for this defendant certifies that it has conferred or attempted to confer with all interested parties in order to resolve the matter without Court action in compliance with Local Rule 208.2 (e).

WHEREFORE, the Defendant, STAT MedEvac, Inc., respectfully requests that this Honorable Court enter an Order directing Plaintiffs to respond to the Second Set of Interrogatories and Request for Production of Documents completely, fully, and in good faith within ten (10) days from the date of this Order.

Respectfully submitted,

DICKIE, McCAMEY & CHILCOTE, P.C.

By: _____
Justin M. Gottwald, Esquire

Attorneys for Defendant,
STAT MedEvac, Inc.

CERTIFICATE OF SERVICE

I, Justin M. Gottwald, Esquire, hereby certify that true and correct copies of the foregoing Motion to Compel Discovery have been served this 30 day of February, 2011, by U.S. first-class mail, postage pre-paid, to counsel of record listed below:

David S. Klett, Esquire
Klett & Associates
One Gateway Center, Suite 1325
420 Fort Duquesne Boulevard
Pittsburgh, PA 15222-1440
Attorneys for Plaintiffs

Frank L. Hartye, Esquire
McIntyre, Dugas, Hartye & Schmitt
P. O. Box 533
Hollidaysburg, PA 16648
Attorneys for Defendant,
Clearfield Hospital

DICKIE, McCAMEY & CHILCOTE, P.C.

By _____
Justin M. Gottwald, Esquire

Attorneys for Defendant,
STAT MedEvac, Inc.

CA

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOREEN BRADY and EDWARD BRADY,	)	CIVIL DIVISION
	)	
Plaintiffs,	)	No. 2004-00110 CD
	)	
v.	)	
	)	
CLEARFIELD HOSPITAL and STAT MEDEVAC, INC.,	)	
	)	
Defendants.	)	

ORDER OF COURT

AND NOW, to-wit, this 7 day of February, 2011, upon consideration of the within Motion to Compel Discovery presented on behalf of Defendant, STAT MedEvac, Inc., it is hereby ORDERED, ADJUDGED, and DECREED that said Motion is granted, and Plaintiffs shall respond to Interrogatories and Request for Production of Documents within ~~ten (10)~~ Thirty (30) FJA days from the date of this Order.

BY THE COURT

By: _____ J.

FILED
FEB 08 2011
William A. Shaw
Prothonotary/Clerk of Courts

5 1cc 12:52 BH Atty Gottwald (60)

FILED

FEB 08 2011

William A. Shaw
Prothonotary/Clerk of Courts

FILED

FEB 07 2011

William A. Shaw
Prothonotary/Clerk of Courts

DATE: 2/8/11

X You are responsible for serving all appropriate parties.

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

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

____ Defendant(s) ____ Defendant(s) Attorney

____ Special Instructions:

CA

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOREEN BRADY and EDWARD BRADY,

Plaintiffs,

v.

CLEARFIELD HOSPITAL and
STAT MEDEVAC, INC.,

Defendants.

CIVIL DIVISION

CASE NO. 2004-00110

MOTION FOR RECONSIDERATION OF ORDER DATED FEBRUARY 7, 2011

Filed on behalf of Plaintiffs,
DOREEN BRADY and EDWARD BRADY

Counsel of Record for this Party:

DAVID S. KLETT, ESQUIRE
Pa.I.D. No. 51906

KLETT & ASSOCIATES
420 Ft. Duquesne Boulevard, Suite 1325
Pittsburgh, PA 15222
(412) 471-4714

JURY TRIAL DEMANDED

ORIGINAL

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

DOREEN BRADY and EDWARD BRADY,	)	CASE NO. 2004-00110
	)	
Plaintiff,	)	
	)	
v.	)	
	)	
CLEARFIELD HOSPITAL and	)	
STAT MEDEVAC, INC.,	)	
	)	
Defendants.	)	

MOTION FOR RECONSIDERATION OF ORDER DATED FEBRUARY 7, 2011

AND NOW come the Plaintiffs, DOREEN BRADY and EDWARD BRADY, by their attorneys, DAVID S. KLETT, ESQUIRE and KLETT & ASSOCIATES and file the following Motion:

1. Defendant Stat Medevac, Inc. served a Second Set of Interrogatories and Request for Production of Documents upon Plaintiffs on September 30, 2010.

2. On October 19, 2010, after hearing on Defendant's motion to enforce settlement, Counsel for Defendant was advised that Plaintiffs objected to the discovery on the basis of timeliness.

3. By letter dated January 21, 2011 Defendant advised that a motion to compel would be filed if a discovery response was not received within ten (10) days.

4. On January 26, 2011 Plaintiffs provided a formal discovery response raising certain specific objections.

5. On February 7, 2011 Defendant filed a Motion to Compel Discovery which did not set forth the basis for Plaintiffs' objections to the discovery sought.

6. On February 7, 2011 the Court entered an Order of Court requiring Plaintiffs' to respond to the discovery within thirty (30) days, without having been afforded the opportunity to consider Plaintiffs' objections.

7. The specific objections contained in Plaintiffs' formal response dated January 21, 2011 are as follows:

> 1 - 13. Objection. Discovery is closed. Local Rule 212.2 provides for trial listing by Praecipe and Certificate of Readiness pursuant to Local Rule 212.2(a) that discovery is closed or limited by Order of Court, and no motions are outstanding. Plaintiffs filed with the Court and served on all parties a Praecipe for Trial and Certificate of Readiness pursuant to Local Rule 212.2(a) on or about September 9, 2010. The matter was listed for trial by Order of Court dated September 15, 2010.
>
> Local Rule 212.2(b) provides that any party objecting to the case being listed for trial shall file a motion to strike the case from the trial list within seven (7) days of notice of the Praecipe for Trial from Plaintiffs. Defendant Stat Medevac, Inc. did not file within seven (7) days, or at any time, a motion to strike raising any objection to the trial listing with regard to purported outstanding discovery.
>
> By way of further objection, Plaintiffs filed their Pretrial Statement on or about October 16, 2010, which contains information sought by Defendant. This matter is scheduled for pretrial conference on March 1, 2011 and for jury selection on April 5, 2011.

8. Defendant Stat Medevac, Inc. had an opportunity to provide timely objection to the trial listing on the basis that discovery was not completed, and had it done so, discovery could have been completed and Plaintiffs would not be threatened with further delay of trial associated with the timing of the discovery presently sought.

9. Defendant previously deposed Plaintiffs Doreen Brady and Edward Brady, as well as their two children. Defendant has conducted an independent medical examination of Doreen Brady, and has filed a pretrial statement with an expert medical report.

10. Plaintiffs provided Defendant with Plaintiffs' expert's medical report on July 23, 2010 and filed their pretrial statement on October 16, 2010, and Plaintiffs have previously suffered delay in trial in response to Defendant's unsuccessful motion to enforce settlement.

WHEREFORE, Plaintiffs pray that this Honorable Court issue an Order of Court vacating the

Order of Court dated February 7, 2011 and protecting Plaintiffs from further discovery pursuant to Local Rule 212.2(b) where Defendant raised no timely objection concerning discovery in response to Plaintiff's Praecipe for Trial.

Respectfully submitted,

KLETT & ASSOCIATES

By_____

DAVID S. KLETT, ESQUIRE
Pa. I.D. No. 51906

420 Ft. Duquesne Boulevard, Suite 1325
Pittsburgh, PA 15222
(412) 471-4714

JURY TRIAL DEMANDED

Attorneys for Plaintiffs.

CA

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOREEN BRADY and EDWARD BRADY,	)	CIVIL DIVISION
	)	
Plaintiffs,	)	No. 2004-00110 CD
	)	
v.	)	
	)	
CLEARFIELD HOSPITAL and STAT MEDEVAC, INC.,	)	
	)	
Defendants.	)	

ORDER OF COURT

AND NOW, to-wit, this 7 day of February, 2011, upon consideration of the within Motion to Compel Discovery presented on behalf of Defendant, STAT MedEvac, Inc., it is hereby ORDERED, ADJUDGED, and DECREED that said Motion is granted, and Plaintiffs shall respond to Interrogatories and Request for Production of Documents within ~~ten (10)~~ Thirty (30) FJA days from the date of this Order.

BY THE COURT

By: _____ J.

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

FEB 08 2011

Attest.

Prothonotary/
Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOREEN BRADY and EDWARD BRADY,	)	CIVIL DIVISION
	)	
Plaintiffs,	)	No. 2004-00110 CD
	)	
v.	)	
	)	
CLEARFIELD HOSPITAL and STAT MEDEVAC, INC.,	)	
	)	
Defendants.	)	

MOTION TO COMPEL DISCOVERY

AND NOW comes one of the defendants, STAT MedEvac, Inc., by and through its counsel, Dickie, McCamey & Chilcote, P.C. and Justin M. Gottwald, Esquire, and hereby files the within Motion to Compel Discovery, and in support thereof avers as follows:

1. Plaintiffs, after a period of inactivity of over four (4) years, certified this case as ready for trial on September 9, 2010..

2. Defendants objected to this certification in that they sought to enforce the settlement of this matter. Defendants' Motion to Enforce Settlement and Remove Case from Trial List was denied by this Honorable Court (Ammerman, P.J.) on January 19, 2011.

3. Plaintiff, Doreen Brady, was deposed on June 21, 2005.

4. Prior to the filing of a Certificate of Readiness, counsel for plaintiffs did not supplement plaintiffs' responses to this defendant's First Set of Interrogatories and Request for Production of Documents.

5. Along with the Certificate of Readiness, counsel for plaintiff submitted an undated expert report of Vanessa Fazio, Ph.D.

6. Dr. Fazio performed five (5) evaluations of Ms. Brady from December of 2008 through October of 2009.

7. Dr. Fazio's records of treatment were not produced to the defendants along with her narrative report.

8. Dr. Fazio also considered and relied upon the records of several of Ms. Brady's treating physicians. These physicians provided care to Ms. Brady in the years following her deposition. None of the medical records relied upon by Dr. Fazio were produced to the defendants.

9. In summary, plaintiffs have not provided the defendants with any medical records of Ms. Brady since the date of her deposition.

10. Having not received any supplemental discovery responses, on September 30, 2010, this defendant propounded and served upon counsel for plaintiffs a Second Set of Interrogatories and Request for Production of Documents. These discovery requests were narrowly tailored to discover information relative to Ms. Brady's condition since the date of her deposition.

11. On January 21, 2011, counsel for this defendant requested plaintiffs' overdue responses to the Second Set of Interrogatories and Request for Production of Documents. Plaintiffs served a "Response" to this defendant's Second Set of Interrogatories and Request for Production of Documents on January 26, 2011. In short, plaintiffs objected to providing any updated information regarding Ms. Brady or her medical condition aside from the information contained in the expert report of Dr. Fazio.

12. Without full and complete discovery responses, this defendant cannot properly proceed with the preparation of its case and is thereby prejudiced.

13. Counsel for this defendant certifies that it has conferred or attempted to confer with all interested parties in order to resolve the matter without Court action in compliance with Local Rule 208.2 (e).

WHEREFORE, the Defendant, STAT MedEvac, Inc., respectfully requests that this Honorable Court enter an Order directing Plaintiffs to respond to the Second Set of Interrogatories and Request for Production of Documents completely, fully, and in good faith within ten (10) days from the date of this Order.

Respectfully submitted,

DICKIE, McCAMEY & CHILCOTE, P.C.

By: _____
Justin M. Gottwald, Esquire

Attorneys for Defendant,
STAT MedEvac, Inc.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the within Motion was served this 23rd day of February 2011, via first-class U.S. mail, postage pre-paid upon the following:

Frank L. Hartye, Esquire
MCINTYRE, DUGAS, HARTYE & SCHMITT
P.O. Box 533
Hollidaysburg, PA 16648
(814) 696-3581

Justin M. Gottwald, Esquire
DICKIE, MCCAMEY & CHILCOTE, P.C.
Two PPG Place, Suite 400
Pittsburgh, PA 15222
(412) 281-7272

KLETT & ASSOCIATES

By _____
David S. Klett, Esquire

CA

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

DOREEN BRADY and EDWARD BRADY, Plaintiff vs CLEARFIELD HOSPITAL and STAT MEDEVAC, INC., Defendants	* * * * *	NO. 04-110-CD

ORDER

NOW, this 1st day of March, 2011, it is the ORDER of this Court that a Settlement Conference is scheduled for the **10th day of June, 2011 at 9:00 a.m.** in Hearing Room No. 3 of the Clearfield County Courthouse, with Senior Judge Charles C. Brown, Jr., Specially Presiding.

It is further ORDERED that the following shall be present:

1. Plaintiffs' counsel and the Plaintiffs;
2. Counsel for the Defendants;
3. The respective Insurance company representative(s) do not need to be present as long as they are immediately accessible by telephone.

All parties shall have full authority for settlement of the case.

FILED 01:40 PM MAR 03 2011 William A. Shaw Prothonotary/Clerk of Courts

cc Attys: Klett Hartye Colarusso Gottwald/OHO

BY THE COURT,

FREDRIC J. AMMERMAN
President Judge

FILED

MAR 03 2011

William A. Shaw
Prothonotary/Clerk of Courts

DATE: 3/3/11

____ You are responsible for serving all appropriate parties.

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

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

____ Defendant(s) X Defendant(s) Attorney

____ Special Instructions:

CA

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

DOREEN BRADY and EDWARD BRADY, * NO. 04-110-CD
Plaintiff
*
vs
*
CLEARFIELD HOSPITAL and STAT MEDEVAC, INC., *
Defendants

FILED
01:9:37 pm
MAR 03 2011
William A. Shaw
Prothonotary/Clerk of Courts

1cc Attys:
D. Kleff
Hartye
Colarusso
J. Gotthold
W. Otto

ORDER

NOW, this 1st day of March, 2011, 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 **July 27, 2011** commencing at 9:00 a.m. in Courtroom No. 1 of the Clearfield County Courthouse, Clearfield, Pennsylvania.
2. Jury Trial is hereby scheduled for **October 3, 4, 5, and 6, 2011**, commencing at 9:00 a.m. each day in Courtroom No. 1 of the Clearfield County Courthouse.
3. All depositions which are to be used for trial presentation purposes shall be completed by absolutely no later than sixty (60) days prior to the commencement of trial or the same will not be available for use at trial. A copy of the transcript of any such deposition(s) shall be provided to opposing counsel within no more that ten (10) days following completion of the deposition(s).
4. The written report of any expert who will testify at trial which has not previously been provided to opposing counsel shall be delivered within no more than sixty (60) days from this date. Failure to comply will result in the witness not being available for use at trial.
5. 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 forty-five (45) 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 file an Answer thereto and submit its brief in opposition to said objections no later than thirty (30) days prior to the commencement of trial.

6. 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 forty-five (45) 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 thirty (30) days prior to trial.

BY THE COURT

FREDRIC J. AMMERMAN
President Judge

FILED

MAR 03 2011

William A. Shaw
Prothonotary/Clerk of Courts

DATE: 3/3/11

____ You are responsible for serving all appropriate parties.

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

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

____ Defendant(s) __X__ Defendant(s) Attorney

____ Special Instructions:

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOREEN BRADY and EDWARD BRADY,

Plaintiffs,

v.

CLEARFIELD HOSPITAL and
STAT MEDEVAC, INC.,

Defendants.

CIVIL DIVISION

CASE NO. 2004-00110

NOTICE OF SERVICE OF ATTACHED REQUEST FOR PRODUCTION OF DOCUMENTS DATED MARCH 10, 2011 DIRECTED TO ALL DEFENDANTS

Filed on behalf of Plaintiffs,
DOREEN BRADY and EDWARD BRADY

Counsel of Record for this Party:

DAVID S. KLETT, ESQUIRE
Pa.I.D. No. 51906

KLETT & ASSOCIATES
420 Ft. Duquesne Boulevard, Suite 1325
Pittsburgh, PA 15222
(412) 471-4714

JURY TRIAL DEMANDED

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOREEN BRADY and EDWARD BRADY,

Plaintiffs,

v.

CLEARFIELD HOSPITAL and
STAT MEDEVAC, INC.,

Defendants.

CIVIL DIVISION

CASE NO. 2004-00110

REQUEST FOR PRODUCTION OF DOCUMENTS DATED MARCH 10, 2011 DIRECTED TO ALL DEFENDANTS

Filed on behalf of Plaintiffs,
DOREEN BRADY and EDWARD BRADY

Counsel of Record for this Party:

DAVID S. KLETT, ESQUIRE
Pa.I.D. No. 51906

KLETT & ASSOCIATES
420 Ft. Duquesne Boulevard, Suite 1325
Pittsburgh, PA 15222
(412) 471-4714

JURY TRIAL DEMANDED

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

DOREEN BRADY and EDWARD BRADY,	)	CASE NO. 2004-00110
	)	
Plaintiff,	)	
	)	
v.	)	
	)	
CLEARFIELD HOSPITAL and	)	
STAT MEDEVAC, INC.,	)	
	)	
Defendants.	)	

REQUEST FOR PRODUCTION OF DOCUMENTS DATED MARCH 10, 2011
DIRECTED TO ALL DEFENDANTS

AND NOW come the Plaintiffs, DOREEN BRADY and EDWARD BRADY, by and through their attorneys, DAVID S. KLETT, ESQUIRE and KLETT & ASSOCIATES and demand pursuant to the Pennsylvania Rules of Civil Procedure Nos. 4009.1 and 4009.11 that Defendants Clearfield Hospital and Stat MedEvac, Inc. provide the following documents for the period 2-2-2002 through the present:

1. All documents obtained by Defendant through the use of any authorization provided by Doreen Brady to Defendants at any time.

Please take notice that this request in continuing in nature and these Defendants are required to provide additional answers until the time of trial.

Respectfully submitted,

KLETT & ASSOCIATES

By_____

DAVID S. KLETT, ESQUIRE
Pa. I.D. No. 51906

420 Ft. Duquesne Boulevard, Suite 1325
Pittsburgh, PA 15222
(412) 471-4714

JURY TRIAL DEMANDED

Attorneys for Plaintiffs.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the within Request was served this 10th. day of March 2011, via hand-delivery upon the following:

Frank L. Hartye, Esquire
MCINTYRE, DUGAS, HARTYE & SCHMITT
P.O. Box 533
Hollidaysburg, PA 16648
(814) 696-3581

and regular mail upon the following:

Justin M. Gottwald, Esquire
DICKIE, MCCAMEY & CHILCOTE, P.C.
Two PPG Place, Suite 400
Pittsburgh, PA 15222
(412) 281-7272

KLETT & ASSOCIATES

By _____
David S. Klett, Esquire

CA

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

DOREEN BRADY and EDWARD BRADY, Plaintiff	*	NO. 04-110-CD
vs	*	
CLEARFIELD HOSPITAL and STAT MEDEVAC, INC., Defendants	*	

ORDER

NOW, this 12th day of July, 2011, the Court being advised that the parties have reached a settlement in the above captioned case during settlement conference with Senior Judge Charles Brown, Specially Presiding and counsel for the parties on June 10, 2011, it is the ORDER of this Court that Jury Selection scheduled for July 27, 2011 be and is hereby canceled and the case is removed from the trial list.

Additionally, once all settlement details of the case have been concluded, the Plaintiff is directed to file a Praecipe to Settle/Discontinue the case with the Prothonotary of Clearfield County.

BY THE COURT,

Fredric J. Ammerman

FREDRIC J. AMMERMAN
President Judge

FILED
02:38 PM
JUL 14 2011
William A. Shaw
Prothonotary/Clerk of Courts

1 cc Attys:
Kleff
Colaresso
Hartye
Gottwald
GK

FILED

JUL 14 2011

William A. Shaw
Prothonotary/Clerk of Courts

DATE: 7/14/11

____ You are responsible for serving all appropriate parties.

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

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

____ Defendant(s) __X__ Defendant(s) Attorney

____ Special Instructions:

FILED No cc copy to C/A.
m/ 10:56am
JUL 21 2011
William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOREEN BRADY and EDWARD BRADY,

Plaintiffs,

v.

CLEARFIELD HOSPITAL and
STAT MEDEVAC, INC.,

Defendants.

CIVIL DIVISION

CASE NO. 2004-00110

PRAECIPE TO SETTLE AND DISCONTINUE

Filed on behalf of Plaintiffs,
DOREEN BRADY and EDWARD BRADY

Counsel of Record for this Party:

DAVID S. KLETT, ESQUIRE
Pa.I.D. No. 51906

KLETT & ASSOCIATES
420 Ft. Duquesne Boulevard, Suite 1325
Pittsburgh, PA 15222
(412) 471-4714

MICHAEL J. COLARUSSO, ESQUIRE
PA I.D. No. 44740

COLARUSSO and COHEN, LLC
One Gateway Center
13th Floor North
Pittsburgh, PA 15222
(412) 261-1380

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

DOREEN BRADY and EDWARD BRADY,	)	CASE NO. 2004-00110
	)	
Plaintiff,	)	
	)	
v.	)	
	)	
CLEARFIELD HOSPITAL and	)	
STAT MEDEVAC, INC.,	)	
	)	
Defendants.	)	

PRAECIPE TO SETTLE AND DISCONTINUE ACTION

TO THE PROTHONOTARY:

Kindly settle and discontinue the above-captioned matter.

Respectfully submitted,

KLETT & ASSOCIATES

By_____

DAVID S. KLETT, ESQUIRE
Pa. I.D. No. 51906

420 Fort Duquesne Boulevard,
Suite 1325
One Gateway Center
Pittsburgh, PA 15222-1440
(412) 471-4714

Attorneys for Plaintiffs,
DOREEN BRADY AND EDWARD BRADY

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the within Praecipe was served this 19th. day of July 2011, via first-class U.S. mail, postage pre-paid upon the following:

Frank L. Hartye, Esquire
MCINTYRE, DUGAS, HARTYE & SCHMITT
P.O. Box 533
Hollidaysburg, PA 16648
(814) 696-3581

Justin M. Gottwald, Esquire
DICKIE, MCCAMEY & CHILCOTE, P.C.
Two PPG Place, Suite 400
Pittsburgh, PA 15222
(412) 281-7272

KLETT & ASSOCIATES

By_____
David S. Klett, Esquire