

04-1555-CD
PATRICIA FARNSWORTH, ETAL. VS. CLEARFIELD HOSPITAL, ETAL.

Patricia Farnsworth et al vs Penn Highlands
2004-1555-CD

Date: 10/9/2007

Clearfield County Court of Common Pleas

User: LMILLER

Time: 04:47 PM

ROA Report

Page 1 of 4

Case: 2004-01555-CD

Current Judge: Fredric Joseph Ammerman

Patricia Farnsworth, Frank Harzinski vs. Clearfield Hospital, Sharon Goodman, Clearfield Community Nurses, Norma J. Parent R.N

Civil Other

Date		Judge
10/6/2004	✓ Filing: Writ of Summons Paid by: Pribanic, Victor H. (attorney for Farnsworth, Patricia) Receipt number: 1887946 Dated: 10/06/2004 Amount: \$85.00 (Check) 1 CC to Atty. 1 CC and 5 Writs to Shff.	No Judge
10/29/2004	✓ Entry of Appearance on behalf of Def. Clearfield Hospital filed by Atty. Hartye No cc.	No Judge
11/2/2004	✓ Sheriff Return, Papers served on Defendant(s) Clfd. Community Nurses October 14, 2004, Clearfield Hospital October 18, 2004, Sharon Goodman, October 18, 2004. Returned Norma J. Pant R. N. as Not Found. So Answers, Chester A. Hawkins, Sheriff by s/Marilyn Hamm Costs \$78.37.	No Judge
11/19/2004	✓ Entry of Appearance And Demand for Jury Trial, Kindly enter our appearance on behalf of Clfd. Community Nurses, and Norma J. Parent, R.N. (incorrectly identified as Norma J. Pant, R.N.) in the within action. Defendants hereby demands a jury trial in this matter. Jury of twelve with alternates, demanded. Filed by s/ Daniel J. McCarthy, Esquire. No CC	No Judge
	✓ Praecipe For Rule to File a Complaint, Please enter a Rule upon plaintiff to file a complaint within 20 days hereof or suffer the entry of a Judgment of Non Pros. Filed by s/ Daniel J. McCarthy, Esquire. No CC, Rule to Atty	No Judge
12/7/2004	✓ Praecipe For Entry of Appearance, filed by Atty. Hartye no cert. copies Enter appearance on behalf of Sharon Goodman, R.N. s/Frank Hartye	No Judge
12/20/2004	✓ Complaint, filed by Atty. Pribanic no cert. copies.	No Judge
1/5/2005	✓ Filing: Praecipe To Reissue Writ of Summons Paid by: Pribanic, Victor H. (attorney for Farnsworth, Patricia) Receipt number: 1893299 Dated: 01/05/2005 Amount: \$7.00 (Check) filed by s/ Victor H. Pribanic, Esquire. No CC, 1 Writ re-issued to atty.	No Judge
2/10/2005	✓ Defendants, Clearfield Communtiy Nurses, and Norma J. Parent, R.N. (incorrectly identified as Norma J. Pant, R.N.) Answer To Plaintiff's Complaint, filed by s/ Daniel J. McCarthy, Esquire. 1CC to Atty.	No Judge
2/17/2005	✓ Answer and New Matter to Plaintiff's Complaint filed. By s/ Frank J. Hartye, Esquire. No CC	No Judge
	✓ Notice of Service of Interrogatories and Request For Production of Documents Directed to Plaintiff-dated 2/15/05	No Judge
2/22/2005	✓ Certificate Prerequisite to Service of a Subpoena Pursuant to Pa.R.C.P. 4009.22, filed by s/ Daniel J. McCarthey, Esquire. no cc	No Judge
	✓ Reply To New Matter Of Defendants Clearfield Community nurses and Norma J. Parent, R. N. , filed by s/ Victor H. Pribanic, Esquire. No CC	No Judge
2/24/2005	✓ Acceptance of Service of Reissued Writ of Summons, filed by s/ Victor H. Pribanic, Esquire. No CC	No Judge
2/28/2005	✓ Reply To New Matter Of Defendants Clearfield Hospital and Sharon Goodman, R.N., filed by s/Victor H. Pribanic, Esquire. No CC	No Judge
3/11/2005	✓ Stipulation, filed by s/ Victor H. Pribanic, Esquire. No CC	No Judge
5/19/2005	✓ Motion To Compel Discovery Responses, filed by s/ Frank J. Hartye, Esquire. 1CC Atty. Hartye	No Judge
5/26/2005	✓ Order, AND NOW, this 26th day of May, 2005, upon consideration of Defendants Clfd. Hospital and Sharon Goodman, R. N.'s Motion to Compel Discovery, Plaintiff is directed to file responses within no more than 20 days from the date of this Order. BY THE COURT: /s/ Fredric J. Ammerman, Pres. Judge. 4CC Atty. Hartye w/ memo Re: Service	Fredric Joseph Ammerman
11/16/2005	✓ Notice of Deposition, filed by s/ Frank J. Hartye Esq. No CC.	Fredric Joseph Ammerman

Patricia Farnsworth, Frank Harzinski vs. Clearfield Hospital, Sharon Goodman, Clearfield Community Nurses, Norma J. Parent R.N

Civil Other

Date		Judge
8/24/2007	✓ Order, this 24th day of August, 2007, agument on the Motion in Limine filed on behalf of Defendants, Clearfield Hospital and Sharon Goodman, RN, by Frank J. Hartye, Esquire; and the Motion in Limine and Motion to Join in the Motion in Limine of Defendants Sharon Goodman, RN and Clearfield Hospital filed on behalf of Defendants, Clearfield Community Nurses and Norma J. Parent, RN, by Daniel J. McCarthy, Esquire, will be held on the 31st day of August, 2007 at 10:00 a.m. in Courtroom 1. By The Court, /s/ Fredric J. Ammerman, Pres. Judge. 1CC to Judge Ammerman to be faxed to Attys: Pribanic, Hartye, and Mc Carthy; 1CC Sent to Attys: Pribanic, Hartye, and McCarthy	Fredric Joseph Ammerman
8/27/2007	✓ Order, this 24th day of August, 2007, following pre-trial conference, it is Ordered: Jury Selection will be held on August 28, 2007 at 10:00 a.m. in Courtroom 1. Jury Trial is scheduled for Oct. 29, 30, and 31 and Nov. 1, 2007 commencing at 9:00 a.m. each day in Courtroom 1. (see original). By the Court, /s/ Fredric J. Ammerman, Pres. Judge. 1CC to Attys: V. Pribanic, F. Hartye, D. McCarthy	Fredric Joseph Ammerman
9/4/2007	✓ Plaintiff's Motion to Continue Argument, filed by s/ Victor H. Pribanic, Esquire. No CC	Fredric Joseph Ammerman
	✓ Order, this 4th day of Sept., 2007, upon consideration of Plaintiff's Motion to Continue Argument, the same is Granted and oral argument is rescheduled to Oct. 5, 2007, at 9:30 a.m. in Courtroom 1. By The Court, /s/ Fredric J. Ammerman, Pres. Judge. 1CC Atty. Pribanic	Fredric Joseph Ammerman
	✓ Plaintiff's Motion to Continue Argument, filed by s/ Victor H. Pribanic, Esquire. No CC	Fredric Joseph Ammerman
9/5/2007	✓ Plaintiff's Response to Defendants' Motion in Limine, filed by s/ Victor H. Pribanic, Esquire. No CC	Fredric Joseph Ammerman
	✓ Plaintiff's Motion to Supplement Pretrial Statement in Response to Defendants' Motion in Limine, filed by s/ Victor H. Pribanic, Esquire. No CC	Fredric Joseph Ammerman
9/6/2007	✓ Defendants, Clearfield Community Nurses And Norma J. Parent, R.N.'s Response to Plaintiffs' Motion to Supplement Pretrial Statement in Response to Defendants' Motion In Limine, filed by s/ Daniel J. McCarthy, Esquire. No CC	Fredric Joseph Ammerman
9/10/2007	✓ Plaintiff's First Supplemental Pretrial Statement, filed by s/ Victor H. Pribanic Esq. 1CC Atty Pribanic.	Fredric Joseph Ammerman
9/11/2007	✓ Order, this 10th day of Sept., 2007, upon review of the Motion to Supplement Pretrial Statement in Response to Defendants' Motion in Limine filed on behalf of the Plaintiff, it is Ordered that argument on said motion shall be held on the 5th day of Oct., 2007 at 9:30 a.m. in Courtroom 1. By The Court, /s/ Fredric J. Ammerman, Pres. Judge. 1CC Attys; Pribanic, Hartye, McCarthy	Fredric Joseph Ammerman
9/13/2007	✓ Motion To Strike Expert Report of Karl Steinberg, M.D. Filed by s/ Frank J. Hartye, Esquire. No CC	Fredric Joseph Ammerman
	✓ Defendants Clearfield Hospital and Sharon Goodman, R.N.'s Response to Plaintiff's Motion to Supplement Pre-Trial Statement in Response to Defendants' Motion in Limine, filed by s/ Frank J. Hartye, Esquire. No CC	Fredric Joseph Ammerman
9/24/2007	✓ Order, this 24th day of Sept., 2007, upon consideration of the Motion to Strike Expert Report of Karl Steinberg, M.D., a rule is issued upon the respondent. Argument shall be held on Oct. 5, 2007 at 9:30 a.m. in Courtroom 1. By The Court, /s/ Fredric J. Ammerman, pres. Judge. 2CC Atty. Hartye	Fredric Joseph Ammerman

Patricia Farnsworth, Frank Harzinski vs. Clearfield Hospital, Sharon Goodman, Clearfield Community Nurses, Norma J. Parent R.N

Civil Other

Date		Judge
11/28/2005	✓ Notice of Deposition of Dr. Sheldon R. Rosenthal, filed by s/ Frank J. Hartye Esq. No CC.	Fredric Joseph Ammerman
9/14/2006	✓ Motion of Defendants Clearfield Community Nurses and norma J. Pant, R.N. for Status Conference Pursuant to Rule 212.1, filed by Atty. McCarthy 1 cert. to Atty.	Fredric Joseph Ammerman
9/18/2006	✓ Order, NOW, this 15th day of Sept., 2006, Status Conference is scheduled for October 17, 2006 Courtroom No. 1 at 9:00 a.m. By The Court, /s/ Fredric J. Ammerman, Pres. Judge. 1CC Atty. McCarthy	Fredric Joseph Ammerman
10/18/2006	✓ Case Management Order, NOW, this 17th day of Oct., 2006, following status conference among counsel and the Court and upon agreement of the parties it is the Order of this Court as follows: 1. Discovery closed by no later than Dec. 31, 2006. 2. Plff's expert report(s) shall be provided to Def. counsel by no later than March 1, 2007. 3. Def.'s expert report(s) shall be provided to counsel for the Plaintiff by no later than May 1, 2007. 4. Civil Call on July 26, 2007 at 11:00 a.m. in Courtroom No. 1 5. Pre-trial conference on August 17, 2007 at a time to be determined. 6. Jury selection on August 28, 2007. By the Court, /s/ Fredric J. Ammerman, Pres. Judge. 1CC Attys: Pribanic, Hartye, McCarthy	Fredric Joseph Ammerman
1/3/2007	✓ Consent Motion to Extend Discovery, filed by s/ Victor H. Pribanic Esq. No CC.	Fredric Joseph Ammerman
	✓ Order AND NOW, this 28 day of December 2006, it is HEREBY ORDERED, ADJUDGED AND DECREED that Plaintiff's Consent Motion to Extend Discovery to February 2, 2007 is granted. All remaining dates in the Case Management Order shall remain unaffected unless by further Order of Court. BY THE COURT: /s/ Fredric J. Ammerman, P. Judge. 4CC Atty Pribanic.	Fredric Joseph Ammerman
7/27/2007	✓ Order, this 27th day of July, 2007, it is Ordered that a Pre Trial Conference in the above Matter shall be held on the 24th day of August, 2007, in Chambers at 10:00 a.m. By The Court, /s/ Fredric J. Ammerman, Pres. Judge. 1CC Attys: Pribanic, Hartye, D. McCarthy	Fredric Joseph Ammerman
8/20/2007	✓ Motion in Limine, filed by s/ Frank O. Burke, Esquire. No CC	Fredric Joseph Ammerman
8/21/2007	✓ Motion to Join in The Motion in Limine of Defendants, Sharon Goodman, R.N. and Clearfield Hospital, filed by s/ Daniel J. McCarthy, Esquire. 1CC Atty.	Fredric Joseph Ammerman
	✓ Order, NOW, this 21st day of August, 2007, argument on Defendants' Motion in Limine scheduled for the 24th day of August, 2007, at 10:00 a.m. in conjunction with the previously scheduled Pre-Trial conference. BY THE COURT: /s/Fredric J. Ammerman, P.J. One CC Attys: Pribanic, Hartye, McCarthy (also faxed 8/21/07)	Fredric Joseph Ammerman
8/22/2007	Motion in Limine of Defendants, Clearfield Community Nurses and Norma J. Parent, R.N, filed by Atty. McCarthy one cert. to Atty.	Fredric Joseph Ammerman

Date: 10/9/2007

Clearfield County Court of Common Pleas

User: LMILLER

Time: 04:47 PM

ROA Report

Page 4 of 4

Case: 2004-01555-CD

Current Judge: Fredric Joseph Ammerman

Patricia Farnsworth, Frank Harzinski vs. Clearfield Hospital, Sharon Goodman, Clearfield Community Nurses, Norma J. Parent R.N

Civil Other

Date		Judge
9/25/2007	Motion to Preclude The Report And Testimony of Plaintiffs' Expert, Karl E. Steinberg, M.D., filed by s/ Daniel J. McCarthy, Esquire. 1CC Atty. McCarthy	Fredric Joseph Ammerman
	✓ Order, this 25th day of Sept., 2007, argument on the Motion to Preclude the Report and Testimony of Plaintiffs' Expert, Karl E. Steinberg, M.D., shall be held on the 5th day of Oct., 2007 at 9:30 a.m. in Courtroom 1. By The Court, /s/ Fredric J. Ammerman, Pres. Judge. 1CC Attys: Pribanic, Hartye, McCarthy	Fredric Joseph Ammerman
9/26/2007	✓ Plaintiff's Affidavit of Return of Service of Certified Mailing of Subpoena Upon Amy Stucke, filed. That on or about September 17, 2007 mailed a true Subpoena to Attend and Testify in the captioned to Mrs. Amy Strucke, filed by s/ Lisa M. Wilson. 1CC Atty.	Fredric Joseph Ammerman
10/5/2007	Order, filed cert. to Atty. Pribaanic Hartye McCarthy. NOW, this 5th day of Oct., 2007, RE: Motion in Limine filed on behalf of Defendants, Clfd. Hospital & Sharon Goodman, R.N.	Fredric Joseph Ammerman
	Order, filed 3 Cert. to Atty. McCarthy. Now, this 5th day of Oct., 2007, RE: Defendants, Clfd. Community Nurses and Norma J. Parent, R.N. Motion in Limine. ORDERed that Defendants' Motion in Limine to Preclude the Report and Testimony of Plaintiffs' Expert, Karl E. Steinberg, M.D/, and any response thereto, ORDERED that Defendants' Motion in Limine is Granted.	Fredric Joseph Ammerman
10/9/2007	Order, filed 3 cert. to Atty. McCarthy. Now, this 5th day of Oct., 2007, RE: Defendants, Clfd. Community Nurses and norma J. Parent, R. N.'s Motion in Limine, and response thereto, ORDERED that Defendants' Motion is Limine is Granted.	Fredric Joseph Ammerman

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

PATRICIA FARNSWORTH, Personal
Representative of the ESTATE of
FRANK HARZINSKI,

Plaintiff,

vs.

CLEARFIELD HOSPITAL, SHARON
GOODMAN, R.N., CLEARFIELD
COMMUNITY NURSES, and NORMA
J. PANT, R.N.,

Defendants.

CIVIL DIVISION

No.: 04-1555-CD

PRAECIPE FOR WRIT
OF SUMMONS

Filed on behalf of Plaintiff:

PATRICIA FARNSWORTH

Counsel of record for this party:

VICTOR H. PRIBANIC
PA I.D. No. 30785

PRIBANIC & PRIBANIC, L.L.C.
1735 Lincoln Way
White Oak, PA 15131

(412) 672-5444

NJZ

JURY TRIAL DEMANDED

FILED

m 2.26 *per 85.00*
rec to atty *1 cc + 5 writ*
to shft.

OCT 06 2004

William A. Shaw
Prothonotary

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

PATRICIA FARNSWORTH, Personal
Representative of the ESTATE of
FRANK HARZINSKI,

Plaintiff,

vs.

CLEARFIELD HOSPITAL, SHARON
GOODMAN, R.N., CLEARFIELD
COMMUNITY NURSES, and NORMA
J. PANT, RN

Defendants.

CIVIL DIVISION

No.:

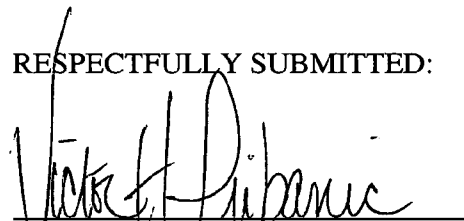
04-1555

PRAECIPE FOR WRIT OF SUMMONS

TO THE PROTHONOTARY:

Kindly issue a Writ of Summons regarding the above-captioned action.

RESPECTFULLY SUBMITTED:



VICTOR H. PRIBANIC
Counsel for Plaintiff

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

SUMMONS

**Patricia Farnsworth, Personal
Representative of the Estate of
Frank Harzinski**

Vs.

NO.: 2004-01555-CD

**Clearfield Hospital,
Sharon Goodman, R.N.
Clearfield Community Nurses
and Norma J. Pant, R.N.**

**TO: CLEARFIELD HOSPITAL
SHARON GOODMAN, R.N.
CLEARFIELD COMMUNITY NURSES
NORMA J. PANT, R.N.**

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: 10/07/2004

William A. Shaw
Prothonotary

Issuing Attorney:

Victor H. Pribanic
1735 Lincoln Way
White Oak, PA 15131

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

PATRICIA FARNSWORTH, Personal
Representative of the ESTATE OF
FRANK HARZINSKI,

Plaintiff

vs.

CLEARFIELD HOSPITAL,
SHARON GOODMAN, R.N.,
CLEARFIELD COMMUNITY NURSES,
and NORMA J. PANT, R.N.,

Defendants

No. 2004 – 1555 CD

ISSUE:
PRAECIPE FOR APPEARANCE

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 28TH DAY OF OCTOBER, 2004.


Attorneys for Named Defendant

FILED *NCC*
012-2681
OCT 29 2004

William A. Shaw
Prothonotary

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

PATRICIA FARNSWORTH, Personal
Representative of the ESTATE OF
FRANK HARZINSKI,

Plaintiff

vs.

CLEARFIELD HOSPITAL,
SHARON GOODMAN, R.N.,
CLEARFIELD COMMUNITY NURSES,
and NORMA J. PANT, R.N.,

Defendants

No. 2004 – 1555 CD

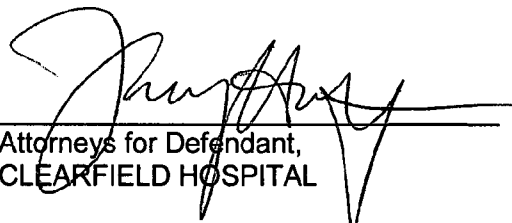
JURY TRIAL DEMANDED

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: October 28, 2004

FILED

OCT 29 2004

William A. Shaw
Prothonotary

In The Court of Common Pleas of Clearfield County, Pennsylvania

FARNSWORTH, PATRICIA personal rep. of estate of Frank Harzinski

Sheriff Docket # 16414

VS.

04-1555-CD

CLEARFIELD HOSPITAL, al

SUMMONS

SHERIFF RETURNS

NOW OCTOBER 14, 2004 AT 1:32 PM SERVED THE WITHIN SUMMONS ON CLEARFIELD COMMUNITY NURSES, DEFENDANT AT EMPLOYMENT, 211 1/2 LOCUST ST., CLEARFIELD, CLEARFIELD COUNTY, PENNSYLVANIA BY HANDING TO JACQUELINE ERICH, ADM. A TRUE AND ATTESTED COPY OF THE ORIGINAL SUMMONS AND MADE KNOWN TO HER THE CONTENTS THEREOF.
SERVED BY: NEVLING/HUNTER

NOW OCTOBER 18, 2004 AT 12:35 PM SERVED THE WITHIN SUMMONS ON CLEARFIELD HOSPITAL, DEFENDANT AT EMPLOYMENT, 809 TURNPIKE AVE., CLEARFIELD, CLEARFIELD COUNTY, PENNSYLVANIA BY HANDING TO GWEN BOALICH, EX. ASST. A TRUE AND ATTESTED COPY OF THE ORIGINAL SUMMONS AND MADE KNOWN TO HER THE CONTENTS THEREOF.
SERVED BY: NEVLING/HUNTER

NOW OCTOBER 18, 2004 AT 12:35 PM SERVED THE WITHIN SUMMONS ON SHARON GOODMAN, R.N., DEFENDANT AT EMPLOYMENT, 809 TURNPIKE AVE., CLEARFIELD, CLEARFIELD COUNTY, PENNSYLVANIA BY HANDING TO GWEN BOALICH, EX. ASST. A TRUE AND ATTESTED COPY OF THE ORIGINAL SUMMONS AND MADE KNOWN TO HER THE CONTENTS THEREOF.
SERVED BY: NEVLING/HUNTER

NOW NOVEMBER 1, 2004 AFTER DILIGENT SEARCH IN MY BAILIWICK I RETURN THE WITHIN SUMMONS "NOT FOUND" AS TO NORMA J. PANT, R.N., DEFENDANT. NO LONGER EMPLOYED WITH CLEARFIELD NURSES. CORRECT SPELLING OF LAST NAME IS "PARENT"..

Return Costs

Cost	Description
38.37	SHERIFF HAWKINS PAID BY: ATTY CK# 2178
40.00	SURCHARGE PAID BY: ATTY Ck# 2179

FILED

013:1930
NOV 01 2004

William A. Shaw
Prothonotary/Clerk of Courts

Sworn to Before Me This

1st Day Of Nov 2004



WILLIAM A. SHAW

Prothonotary

My Commission Expires
1st Monday in Jan. 2006
Clearfield Co., Clearfield, PA

So Answers,



Chester A. Hawkins
Sheriff

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

SUMMONS

**Patricia Farnsworth, Personal
Representative of the Estate of
Frank Harzinski**

Vs.

NO.: 2004-01555-CD

**Clearfield Hospital,
Sharon Goodman, R.N.
Clearfield Community Nurses
and Norma J. Pant, R.N.**

**TO: CLEARFIELD HOSPITAL
SHARON GOODMAN, R.N.
CLEARFIELD COMMUNITY NURSES
NORMA J. PANT, R.N.**

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: 10/07/2004



William A. Shaw
Prothonotary

Issuing Attorney:

Victor H. Pribanic
1735 Lincoln Way
White Oak, PA 15131

COPY

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

SUMMONS

Patricia Farnsworth, Personal
Representative of the Estate of
Frank Harzinski

Vs.


NO.: 2004-01555-CD

Clearfield Hospital,
Sharon Goodman, R.N.
Clearfield Community Nurses
and Norma J. Pant, R.N.

TO: CLEARFIELD HOSPITAL
SHARON GOODMAN, R.N.
CLEARFIELD COMMUNITY NURSES
NORMA J. PANT, R.N.

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: 10/07/2004



William A. Shaw
Prothonotary

Issuing Attorney:

Victor H. Pribanic
1735 Lincoln Way
White Oak, PA 15131

MINTZER, SAROWITZ, ZERIS,
LEDVA & MEYERS
BY: DANIEL J. McCARTHY, ESQUIRE
Identification No.: 41440
22nd Floor
1528 Walnut Street
Philadelphia, PA 19102
(215) 735-7200
MSZL&M File No. 0210.1314

Attorney for Defendants, CLEARFIELD
COMMUNITY NURSES, and NORMA
J. PARENT, R.N. (incorrectly identified
as Norma J. Pant, R.N.)

PATRICIA FARNSWORTH, PERSONAL
REPRESENTATIVE OF THE ESTATE OF
FRANK HARZINSKI,

COURT OF COMMON PLEAS
Clearfield County

vs.

No. 2004-01555-CD

CLEARFIELD HOSPITAL, SHARON
GOODMAN, R.N., CLEARFIELD
COMMUNITY NURSES AND NORMA J.
PANT, R.N.,

ENTRY OF APPEARANCE AND DEMAND FOR JURY TRIAL

TO THE PROTHONOTARY:

Kindly enter our appearance on behalf of defendants, CLEARFIELD COMMUNITY
NURSES, and NORMA J. PARENT, R.N. (incorrectly identified as Norma J. Pant, R.N.) in the
within action. Defendants hereby demands a jury trial in this matter. Jury of twelve with alternates,
demanded.

FILED ^{E6K}
NOV 19 2004 ^{10 cc}

William A. Shaw
Prothonotary/Clerk of Courts

MINTZER, SAROWITZ, ZERIS,
LEDVA & MEYERS

BY: 

DANIEL J. McCARTHY, ESQUIRE
Attorney for Defendants, CLEARFIELD COMMUNITY
NURSES, and NORMA J. PARENT, R.N. (incorrectly
identified as Norma J. Pant, R.N.)

IN THE DISTRICT COURT OF THE
STATE OF NEW YORK
IN SENeca COUNTY
JAMES J. ROSS, JR.
Plaintiff
vs.
JAMES J. ROSS, JR.
Defendant

STATE OF NEW YORK
SENeca COUNTY
JAMES J. ROSS, JR.
Plaintiff
vs.
JAMES J. ROSS, JR.
Defendant

FILED

NOV 19 2004

William A. Shaw
Prothonotary/Clerk of Courts

STATE OF NEW YORK
SENeca COUNTY
JAMES J. ROSS, JR.
Plaintiff
vs.
JAMES J. ROSS, JR.
Defendant

MINTZER, SAROWITZ, ZERIS,
LEDVA & MEYERS
BY: DANIEL J. McCARTHY, ESQUIRE
Identification No.: 41440
22nd Floor
1528 Walnut Street
Philadelphia, PA 19102
(215) 735-7200
MSZL&M File No. 0210.1314

Attorney for Defendants, CLEARFIELD
COMMUNITY NURSES, and, NORMA
J. PARENT, R.N. (Incorrectly identified
as Norma J. Pant, R.N.)

PATRICIA FARNSWORTH, PERSONAL
REPRESENTATIVE OF THE ESTATE OF
FRANK HARZINSKI,

COURT OF COMMON PLEAS
Clearfield County

vs.

No. 2004-01555-CD

CLEARFIELD HOSPITAL, SHARON
GOODMAN, R.N., CLEARFIELD
COMMUNITY NURSES AND NORMA J.
PANT, R.N.,

PRAECIPE FOR RULE TO FILE COMPLAINT

TO THE PROTHONOTARY:

Please enter a Rule upon plaintiff to file a Complaint within 20 days hereof or suffer the
entry of a Judgment of Non Pros.

MINTZER, SAROWITZ, ZERIS,
LEDVA & MEYERS

FILED No. cc
m/11:19/54
NOV 19 2004 Rule to
William A. Shaw
Prothonotary/Clerk of Courts
Any

BY: 

DANIEL J. McCARTHY
Attorney for Defendants CLEARFIELD
COMMUNITY NURSES, and NORMA J. PARENT,
R.N. (Incorrectly identified as Norma J. Pant, R.N.)

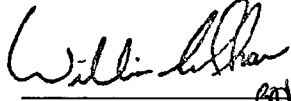
FILED

NOV 19 2004

William A. Shaw
Prothonotary/Clerk of Courts

RULE TO FILE COMPLAINT

AND NOW, this 19th day of Nov. 2004, a Rule is hereby granted upon plaintiff to file a Complaint herein within 20 Days after service hereof or suffer the entry of a Judgement of Non Pros.



PROTHONOTARY

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

PATRICIA FARNSWORTH, Personal
Representative of the ESTATE OF
FRANK HARZINSKI,

Plaintiff

vs.

CLEARFIELD HOSPITAL,
SHARON GOODMAN, R.N.,
CLEARFIELD COMMUNITY NURSES,
and NORMA J. PANT, R.N.,

Defendants

No. 2004 – 1555 CD

ISSUE:
PRAECIPE FOR APPEARANCE

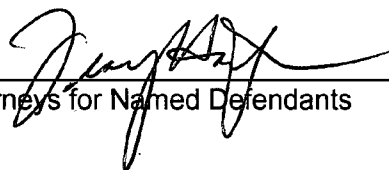
Filed on behalf of Defendants,
CLEARFIELD HOSPITAL
and SHARON GOODMAN, RN

Counsel of Record For These Parties:
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 6th DAY OF **DECEMBER, 2004.**


Attorneys for Named Defendants

FILED

DEC 07 2004

William A. Shaw

Prothonotary/Clerk of Courts

W.A. Shaw

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

PATRICIA FARNSWORTH, Personal
Representative of the ESTATE OF
FRANK HARZINSKI,

Plaintiff

vs.

CLEARFIELD HOSPITAL,
SHARON GOODMAN, R.N.,
CLEARFIELD COMMUNITY NURSES,
and NORMA J. PANT, R.N.,

Defendants

No. 2004 – 1555 CD

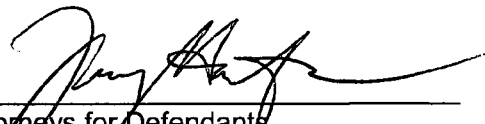
JURY TRIAL DEMANDED

PRAECIPE FOR APPEARANCE

TO: PROTHONOTARY

Enter my Appearance on behalf of Defendant, SHARON GOODMAN, RN.

Papers may be served at the address set forth below.


Attorneys for Defendants,
CLEARFIELD HOSPITAL
and SHARON GOODMAN, RN

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: December 6, 2004

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

PATRICIA FARNSWORTH, Personal
Representative of the ESTATE of
FRANK HARZINSKI,

Plaintiff,

vs.

CLEARFIELD HOSPITAL, SHARON
GOODMAN, R.N., CLEARFIELD
COMMUNITY NURSES, and NORMA
J. PANT, R.N.,

Defendants.

CIVIL DIVISION

No.: 04-1555-CD

COMPLAINT

Filed on behalf of Plaintiff:

PATRICIA FARNSWORTH

Counsel of record for this party:

VICTOR H. PRIBANIC
PA I.D. No. 30785

PRIBANIC & PRIBANIC, L.L.C.
1735 Lincoln Way
White Oak, PA 15131

(412) 672-5444 NJZ

JURY TRIAL DEMANDED

FILED

DEC 20 2004

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William A. Shaw
Prothonotary

NO CENT. COPIES

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

PATRICIA FARNSWORTH, Personal
Representative of the ESTATE of
FRANK HARZINSKI,

Plaintiff,

vs.

CLEARFIELD HOSPITAL, SHARON
GOODMAN, R.N., CLEARFIELD
COMMUNITY NURSES, and NORMA
J. PANT, R.N.,

Defendants.

CIVIL DIVISION

No.: 04-1555-CD

NOTICE TO DEFEND

YOU HAVE BEEN SUED IN COURT. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this complaint and notice are served, by entering a written appearance personally or by an attorney and filing in writing with the court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you by the court without further notice for any money claimed in the complaint or for any other claim or relief requested by the Plaintiff. You may lose money or property or other rights important to you. **YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.**

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

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

PATRICIA FARNSWORTH, Personal
Representative of the ESTATE of
FRANK HARZINSKI,

Plaintiff,

vs.

CLEARFIELD HOSPITAL, SHARON
GOODMAN, R.N., CLEARFIELD
COMMUNITY NURSES, and NORMA
J. PANT, R.N.,

Defendants.

CIVIL DIVISION

No.: 04-1555-CD

COMPLAINT

PATRICIA FARNSWORTH, as Personal Representative of the ESTATE OF FRANK P. HARZINSKI, Plaintiff, by and through his counsel, Victor H. Pribanic, files the following PROFESSIONAL LIABILITY ACTION and in support thereof avers as follows:

1. Plaintiff, PATRICIA FARNSWORTH, is the daughter of the decedent and an adult individual resident of Clearfield County, Pennsylvania who has been duly appointed as the Personal Representative of the Estate of FRANK P. HARZINSKI.

2. Defendant, Clearfield Hospital, is upon information and belief, a professional corporation existing and operating under the laws of the Commonwealth of Pennsylvania and is located in Clearfield County, Pennsylvania, specifically located at 809 Turnpike Avenue, Clearfield, PA 16830.

3. Defendant, Sharon Goodman, R.N., is upon information and belief, a licensed, registered and practicing nurse in the Commonwealth of Pennsylvania, specifically located at Clearfield Hospital, 809 Turnpike Avenue, Clearfield, PA 16830.

4. At all relevant times Defendant, Sharon Goodman, R.N. was acting in her capacity as an employee, agent and/or ostensible agent of Defendant, Clearfield Hospital, as well as a medical practitioner in his own right.

5. Defendant, Clearfield Community Nurses, is upon information and belief, a professional corporation existing and operating under the laws of the Commonwealth of Pennsylvania and maintains an office in Clearfield County, Pennsylvania, specifically located at 211 1/2 East Locust Street, Clearfield, PA 16830.

6. Defendant, Norma J. Pant, R.N., is upon information and belief, a licensed, registered and practicing nurse in the Commonwealth of Pennsylvania, specifically located at Clearfield Community Nurses, 211 1/2 East Locust Street, Clearfield, PA 16830.

7. At all relevant times hereto, Defendant, Norma J. Pant, R.N., was acting in her capacity as an employee, agent and/or ostensible agent of Clearfield Community Nurses.

8. Decedent, Frank Harzinski was a 84-year old gentlemen who was admitted to the Emergency Room at Clearfield Hospital on or about November 3, 2002 complaining of shortness of breath, and suffering from nausea, wheezing, rhonchi, rales as well a decreased level of consciousness.

9. At all relevant times hereto, Decedent, Frank Harzinski's penis was not circumcised.

10. On or about November 3, 2002, Dr. Bruno Romeo, Decedent's physician at Clearfield Hospital, diagnosed Decedent, Frank Harzinski as suffering from a urinary tract infection and ordered a Foley catheter to be inserted into Decedent's penis .

11. On or about November 4, 2002, Defendant, Clearfield Hospital, acting through its employees, agents, and/or ostensible agents, ordered and placed a Foley catheter into the penis of the deceased, Frank Harzinski.

12. Decedent, Frank Harzinski, was discharged from Clearfield Hospital to Ridgeview Nursing Home with Foley catheter in place on or about November 13, 2002.

13. The Foley catheter was removed on or about November 19, 2002 at Ridgeview Nursing Home and Decedent, Frank Harzinski was discharged from Ridgeview Nursing Home to his home without a Foley catheter in place on or about December 4, 2002.

14. On or about December 9, 2002, Defendant, Clearfield Community Nurses, acting through its employees, agents, and/or ostensible agents was providing medical services/treatment to Frank Harzinski while he resided at home.

15. On or about December 9, 2002, Defendant, Clearfield Community Nurses, acting through its employees, agents, and/or ostensible agents inserted a Foley catheter into Frank Harzinski that was removed on or about December 16, 2002.

16. On or about January 1, 2003, Decedent, Frank Harzinski, was admitted to Clearfield Hospital and Dr. Bruno Romeo diagnosed Decedent as suffering from acute renal failure and again ordered a Foley catheter to be inserted into Decedent's penis.

17. On or about January 1, 2003, Defendant, Sharon Goodman, R.N., inserted a Foley catheter into Mr. Harzinski and left the foreskin of his penis in a retracted position.

18. Decedent, Frank Harzinski was discharged from Clearfield Hospital to his home on or about January 5, 2003 with the Foley catheter in place although the foreskin of his penis remained in a retracted position.

19. During January 5, 2003 until January 27, 2003, Defendant, Clearfield Community Nurses, provided medical services/treatment to Decedent, Frank Harzinski while he remained at home.

20. On or about January 24, 2003, Defendant, Clearfield Community Nurses, through its employees, agents, and/or ostensible agents noted pain at the tip of Decedent's penis without redness or discharge, but failed to notice that the foreskin of Mr. Harzinski's penis was in a retracted position.

21. On or about January 26, 2003, Defendant, Norma J. Pant, R.N. changed Mr. Harzinski's Foley catheter, failed to tape the Foley catheter to Decedent's abdomen, failed to notice that the foreskin of Mr. Harzinski's penis was still in a retracted position and failed to place the foreskin into the neutral/reduced position.

22. On or about January 27, 2003, Decedent, Frank Harzinski, was admitted to Clearfield Hospital suffering from a large amount of purulent drainage, scrotal pain, his penis and scrotum were edematous (swollen), he had cloudy urine, and he was diagnosed with penoscrotal necrosis.

23. On or about February 1, 2003, Dr. Sheldon P. Rosenthal performed surgery upon Decedent, Frank Harzinski, at Clearfield Hospital, where he underwent cystourethroscopy, exploration and debridement of the scrotum and partial urethrectomy.

24. Decedent, Frank Harzinski passed away on February 21, 2003.

25. No Autopsy was performed upon the Decedent, Frank Harzinski.

COUNT I - WRONGFUL DEATH

PLAINTIFF, PATRICIA FARNSWORTH, AS PERSONAL REPRESENTATIVE

OF THE ESTATE OF FRANK HARZINSKI, DECEASED, vs. SHARON

GOODMAN, R.N.

Plaintiff hereby incorporates by reference Paragraphs 1 through 25 of the Complaint as though fully set forth herein and further aver that:

26. Plaintiff, Patricia Farnsworth, as the Personal Representative of the Estate of Frank Harzinski, brings this action on her own behalf and on behalf of all other persons entitled to recover damages for the wrongful death of Frank Harzinski pursuant to the provisions of 42 Pa. C.S. § 8301.

27. Plaintiff also brings this action to recover damages on behalf of the Estate of Frank Harzinski pursuant to the provisions of 42 Pa. C.S. § 8302.

28. The following persons are or may be entitled by laws to recover damages for the wrongful death of Frank Harzinski:

- (a) Patricia Farnsworth (daughter) who resides at 304 Margareta Street, Clearfield, PA 16830;
- (b) Bonnie Baun (daughter) P.O. Box 99, West Decatur, PA;
- (c) Donna McCaula (daughter) Address unknown.

WHEREFORE, Plaintiff, Patricia Farnsworth, Personal Representative of the Estate of Frank Harzinski, seeks judgment against Defendant, Sharon Goodman, R.N., to recover damages in excess of the jurisdiction of the Board of Arbitrators of this Court.

COUNT II – SURVIVAL

PLAINTIFF, PATRICIA FARNSWORTH, AS PERSONAL REPRESENTATIVE

OF THE ESTATE OF FRANK HARZINSKI, DECEASED, vs. SHARON

GOODMAN, R.N.

Plaintiff incorporates by reference Paragraphs 1 through 35 of the Complaint and further avers that:

36. As a direct and proximate result of the previously described negligent conduct of Defendant, Sharon Goodman, R.N., Plaintiff, Patricia Farnsworth, Personal Representative for the Estate of Frank Harzinski, seeks damages for which Defendant is liable pursuant to the provisions of 20 Pa. C.S. § 3373 and 42 Pa. C.S. § 8302 which include, inter alia:

- (a) physical and mental pain, suffering and inconvenience of Frank Harzinski from the time he presented himself to Defendant on January 1, 2003 up to and including the time of his death;
- (b) decedent's loss of earnings and/or earning potential during the balance of his life expectancy calculated from the date of his death and also loss of earnings between the time of his injury and his death;
- (c) hospital, surgical and medical/pharmacy expenses incurred on his behalf,
- (d) decedent's loss of his penis as well as future use of his penis, and;
- (e) such other losses and damages as are recoverable by law or statute.

WHEREFORE, Plaintiff, Patricia Farnsworth as Personal Representative of the Estate of Frank Harzinski seeks judgment against Defendant, Sharon Goodman, R.N. to recover damages in excess of the jurisdiction of the Board of Arbitrators of this court.

COUNT III - WRONGFUL DEATH

PLAINTIFF, PATRICIA FARNSWORTH, AS PERSONAL REPRESENTATIVE
OF THE ESTATE OF FRANK HARZINSKI, DECEASED, vs. CLEARFIELD
HOSPITAL

Plaintiff incorporates by reference Paragraphs 1 through 36 of the Complaint and further avers that:

37. At all times relevant hereto, Decedent, Frank Harzinski, relied upon Defendant Clearfield Hospital to render full, complete, careful and proper care and treatment for her condition.

38. At all relevant times, Defendant Sharon Goodman, R.N. was an agent, ostensible agent and/or employee of Defendant Clearfield Hospital.

39. Decedent, as a direct and proximate result of the care and treatment rendered by Defendant, Clearfield Hospital, particularly, in failing to place the foreskin of Decedents penis in a neutral/reduced position rather than retracted position, suffered an increased risk of harm and further and additional severe and serious injuries as described herein.

40. The foregoing acts and/or omissions of Defendant and resulting injury of Decedent were caused by and were the direct result of Defendant's failure to exercise reasonable treatment and care and that degree of care owed the Plaintiff under the

circumstances by and through its agents as set forth above in the Complaint, Count I and in any or all of the following respects:

- (a) in failing to place the foreskin of Decedent's penis in a neutral/reduced position;
- (b) in failing to properly supervise its agents including Defendant Sharon Goodman, R.N., the physician assistants and other relevant personnel involved in the care and treatment of Mr. Harzinski;
- (d) in failing to develop and enforce policies and procedures pertaining to the insertion of a Foley catheter, particularly placing the foreskin of Decedent's penis in a neutral/reduced position;
- (e) in leaving the foreskin of decedent's penis in a retracted position; and,
- (f) in discharging Decedent with a Foley catheter in place with the foreskin of his penis in a retracted position;

41. As a result of the conduct set forth above, Decedent has sustained injuries and damages as set forth above in Count I of the Complaint.

42. Solely as a result of Defendant's negligent conduct, which conduct was the direct and proximate cause of Plaintiff's injuries, Defendant, Clearfield Hospital, is liable for the damages set forth above in Count I.

WHEREFORE, Plaintiff, Patricia Farnsworth, Personal Representative of the Estate of Frank Harzinski seeks judgment against Defendant, Clearfield Hospital, to recover damages in excess of the jurisdiction of the Board of Arbitrators of this court.

COUNT IV-SURVIVAL

PLAINTIFF, PATRICIA FARNSWORTH, AS PERSONAL REPRESENTATIVE
OF THE ESTATE OF FRANK HARZINSKI, DECEASED, vs. CLEARFIELD
HOSPITAL

Plaintiff incorporates by reference Paragraphs 1 through 42 of the Complaint and further avers that:

43. As a direct and proximate result of the previously described negligent conduct of Defendant, Clearfield Hospital, Plaintiff, Patricia Farnsworth, Personal Representative for the Estate of Frank Harzinski, seeks damages for which Defendant is liable pursuant to the provisions of 20 Pa. C.S. § 3373 and 42 Pa. C.S. § 8302 which are set forth above in Count II.

WHEREFORE, Plaintiff, Patricia Farnsworth, Personal Representative of the Estate of Frank Harzinski seeks judgment against Defendant, Clearfield Hospital to recover damages in excess of the jurisdiction of the Board of Arbitrators of this court.

COUNT V-WRONGFUL DEATH

PLAINTIFF, PATRICIA FARNSWORTH, AS PERSONAL REPRESENTATIVE
OF THE ESTATE OF FRANK HARZINSKI, DECEASED, vs.. NORMA J. PANT,

R.N.

Plaintiff incorporates by reference Paragraphs 1 through 43 of the Complaint and further avers that:

44. At all times relevant hereto, Decedent, Frank Harzinski, relied upon the Defendant to render full, complete, careful and proper care and treatment for her condition.

45. The acts/omissions of Defendant and resulting death of Decedent, Frank Harzinski were caused by and were the direct result of Defendant's failure to exercise reasonable treatment and care and that degree of care owed the Decedent under the circumstances as set forth above and as follows:

- (a) In failing to notice that the foreskin of Decedent's penis was in a retracted position and needed to be placed in a neutral/reduced position while the Foley catheter was in place;
- (b) In changing decedent's Foley catheter and failing to place the foreskin of Decedent's penis in a neutral/reduced position;
- (c) In failing to identify and/or correct the position of the foreskin of decedent's penis, which was in a retracted position, after Decedent had complained of pain at the tip of his penis;
- (d) In failing to identify and/or correct the position of the foreskin of decedent's penis, which was in a retracted position, after a large amount of purulent drainage occurred at the Foley site, Decedent's penis and scrotum became edematous (swollen), and/or his urine became cloudy;
- (e) In failing to comply with the standard of care which requires placing the foreskin of the penis in a neutral/reduced position when a Foley catheter is inserted and/or in place;
- (f) In failing to tape the Foley catheter to Decedent's abdomen;
- (g) in failing to notify a doctor or other professional medical provider of Decedent's condition;

46. The decedent's death was the direct and proximate result of the acts and/or omissions of Defendant, Norma J. Pant, R.N.

47. The persons entitled by law to recover damages for Frank Harzinski's death have sustained damages as set forth above in Count I of the Complaint.

48. Solely as a result of Defendant's negligent conduct, which conduct was the direct and proximate cause of Frank Harzinski's death, Defendant, Norma J. Pant, R.N., is liable for the damages set forth above.

WHEREFORE, Plaintiff, Patricia Farnsworth, Personal Representative of the Estate of Frank Harzinski seeks judgment against Defendant, Norma J. Pant, R.N. to recover damages in excess of the jurisdiction of the Board of Arbitrators of this court.

COUNT VI-SURVIVAL

**PLAINTIFF, PATRICIA FARNSWORTH, AS PERSONAL REPRESENTATIVE
OF THE ESTATE OF FRANK HARZINSKI, DECEASED, vs. NORMA J. PANT,**

R.N.

Plaintiff incorporates by reference Paragraphs 1 through 48 of the Complaint and further avers that:

49. As a direct and proximate result of the previously described negligent conduct of Defendant, Norma J. Pant, R.N., Plaintiff, Patricia Farnsworth, Personal Representative of the Estate of Frank Harzinski, seeks damages for which Defendant is liable pursuant to the provisions of 20 Pa. C.S. § 3373 and 42 Pa. C.S. § 8302 as set forth above.

WHEREFORE, Plaintiff Patricia Farnsworth, Personal Representative of the Estate of Frank Harzinski seeks judgment against Defendant, Norma J. Pant, R.N., to recover damages in excess of the jurisdiction of the Board of Arbitrators of this court.

COUNT VII – WRONGFUL DEATH

PLAINTIFF, PATRICIA FARNSWORTH, AS PERSONAL REPRESENTATIVE

OF THE ESTATE OF FRANK HARZINSKI, DECEASED, vs. CLEARFIELD

COMMUNITY NURSES

Plaintiff incorporates by reference Paragraphs 1 through 49 of the Complaint and further avers that:

50. At all times relevant hereto, Decedent, Frank Harzinski, relied upon Defendant, Clearfield Community Nurses to render full, complete, careful and proper care and treatment for her condition.

51. At all relevant times, Defendant, Norma J. Pant, R.N. was an agent, ostensible agent and/or employee of Defendant, Clearfield Community Nurses.

52. Decedent, as a direct and proximate result of the care and treatment rendered by Defendant, Clearfield Community Nurses, particularly, in failing to place the foreskin of Decedent's penis in a neutral/reduced position when a Foley catheter was in place, suffered an increased risk of harm and further and additional severe and serious injuries as described herein.

53. The foregoing acts and/or omissions of Defendant and resulting injury of Decedent were caused by and were the direct result of Defendant's failure to exercise reasonable treatment and care and that degree of care owed the Plaintiff under the circumstances by and through its agents as set forth above in the Complaint, Count VI and in any or all of the following respects:

- (a) in failing to select and retain only those registered nurses, agents and/or employees who are adequately trained and have demonstrated competence;

- (b) in failing to properly supervise its agents including Defendant, Norma J. Pant, R.N. and other relevant personnel involved in the care and treatment of Mr. Harzinski; and,
- (e) in failing to develop and enforce policies and procedures pertaining to the placement of a Foley catheter, including but not limited to the placement of the foreskin in a neutral/reduced position when a Foley catheter is in place;

54. As a result of the conduct set forth above, Decedent has sustained injuries and damages as set forth above in Count I of the Complaint.

55. Solely as a result of Defendant's negligent conduct, which conduct was the direct and proximate cause of Plaintiff's injuries, Defendant Clearfield Community Nurses is liable for the damages set forth above in Count I.

WHEREFORE, Plaintiff, Patricia Farnsworth as Personal Representative for the Estate of Frank Harzinski, seeks judgment against Defendant, Clearfield Community Nurses to recover damages in excess of the jurisdiction of the Board of Arbitrators of this court.

COUNT VIII - SURVIVAL

PLAINTIFF, PATRICIA FARNSWORTH, AS PERSONAL REPRESENTATIVE OF THE ESTATE OF FRANK HARZINSKI, DECEASED, vs. CLEARFIELD COMMUNITY NURSES

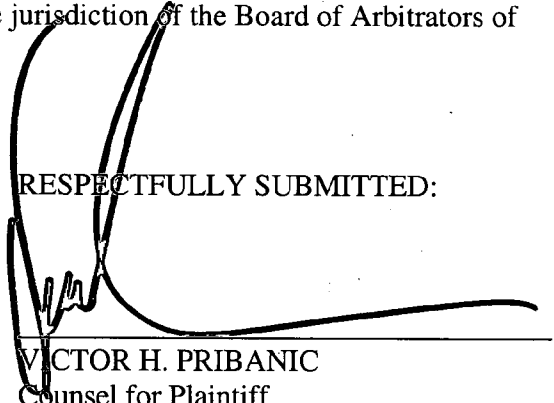
Plaintiff incorporates by reference Paragraphs 1 through 55 of the Complaint and further avers that:

56. As a direct and proximate result of the previously described negligent conduct of Defendant, Clearfield Community Nurses, Plaintiff, Patricia Farnsworth, Personal Representative of the Estate of Frank Harzinski, seeks damages for which

Defendant is liable pursuant to the provisions of 20 Pa. C.S. § 3373 and 42 Pa. C.S. § 8302 as set forth above in Count II.

WHEREFORE, Plaintiff, Patricia Fransworth as Personal Representative of the Estate of Frank Harzinski seeks judgment against Defendant, Clearfield Community Nurses, to recover damages in excess of the jurisdiction of the Board of Arbitrators of this court.

RESPECTFULLY SUBMITTED:



VICTOR H. PRIBANIC
Counsel for Plaintiff

JURY TRIAL DEMANDED

VERIFICATION TO COMPLAINT

Plaintiff verifies that she is the Plaintiff in the foregoing action; that the foregoing Complaint is based upon information which she has furnished to counsel and information which has been gathered by counsel in the preparation of the lawsuit. The language of the Complaint is that of counsel and not of Plaintiff. Plaintiff has read the Complaint and to the extent that the Complaint is based upon information which she has given to counsel, it is true and correct to the best of her knowledge, information and belief. To the extent that the content of the Complaint is that of counsel, she has relied upon counsel in making this Affidavit. Plaintiff understands that false statements herein are made subject to the penalties of 18 Pa. C.S. Section 4904, relating to unsworn falsification to authorities.

11-16-04
Date

Patricia Farnsworth
PATRICIA FARNSWORTH, Personal
Representative of the Estate of
FRANK HARZINSKI

PATRICIA FARNSWORTH, Personal Representative of the Estate of FRANK
HARZINSKI, deceased, vs. CLEARFIELD HOSPITAL, SHARON GOODMAN, R.N.,
CLEARFIELD COMMUNITY NURSES, and NORMA J. PANT, R.N.

Certificate of Merit as to Sharon Goodman, R.N.

Civil Division No.: 04-1555-CD

I, Victor H. Pribanic, certify that:

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

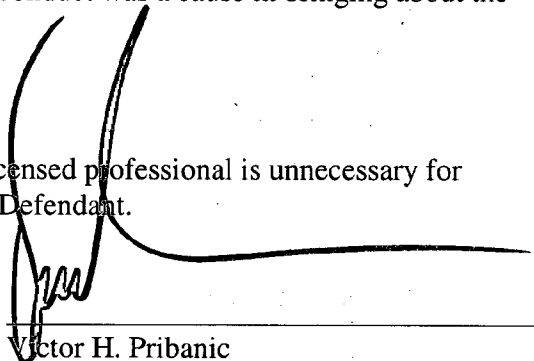
OR

— the claim that this Defendant deviated from an acceptable professional standard is based solely on allegations that other licensed professionals for whom this Defendant is responsible deviated from an acceptable professional standard and an appropriate licensed professional has supplied a written statement to the undersigned that there is a basis to conclude that the care, skill or knowledge exercised or exhibited by the other licensed professionals in the treatment, practice or work that is the subject of the Complaint, fell outside acceptable professional standards and that such conduct was a cause in bringing about the harm;

OR

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

Date: 11-16-09


Victor H. Pribanic

PATRICIA FARNSWORTH, Personal Representative of the Estate of FRANK HARZINSKI, deceased, vs. CLEARFIELD HOSPITAL, SHARON GOODMAN, R.N., CLEARFIELD COMMUNITY NURSES, and NORMA J. PANT, R.N.

Certificate of Merit as to Norma J. Pant, R.N.

Civil Division No.: 04-1555-CD

I, Victor H. Pribanic, certify that:

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

OR

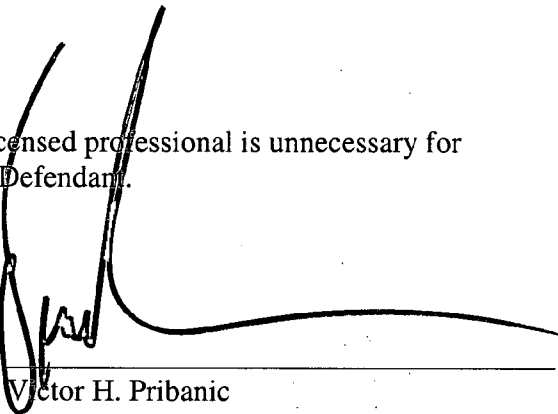
☐ the claim that this Defendant deviated from an acceptable professional standard is based solely on allegations that other licensed professionals for whom this Defendant is responsible deviated from an acceptable professional standard and an appropriate licensed professional has supplied a written statement to the undersigned that there is a basis to conclude that the care, skill or knowledge exercised or exhibited by the other licensed professionals in the treatment, practice or work that is the subject of the Complaint, fell outside acceptable professional standards and that such conduct was a cause in bringing about the harm;

OR

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

Date:

11-16-04


Victor H. Pribanic

PATRICIA FARNSWORTH, Personal Representative of the Estate of FRANK
HARZINSKI, deceased, vs. CLEARFIELD HOSPITAL, SHARON GOODMAN, R.N.,
CLEARFIELD COMMUNITY NURSES, and NORMA J. PANT, R.N.

Certificate of Merit as to Clearfield Hospital

Civil Division No.: 04-1555-CD

I, Victor H. Pribanic, certify that:

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

✓ OR

_____ the claim that this Defendant deviated from an acceptable professional standard is based solely on allegations that other licensed professionals for whom this Defendant is responsible deviated from an acceptable professional standard and an appropriate licensed professional has supplied a written statement to the undersigned that there is a basis to conclude that the care, skill or knowledge exercised or exhibited by the other licensed professionals in the treatment, practice or work that is the subject of the Complaint, fell outside acceptable professional standards and that such conduct was a cause in bringing about the harm;

OR

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

Date:

11-16-04


Victor H. Pribanic

PATRICIA FARNSWORTH, Personal Representative of the Estate of FRANK HARZINSKI, deceased, vs. CLEARFIELD HOSPITAL, SHARON GOODMAN, R.N., CLEARFIELD COMMUNITY NURSES, and NORMA J. PANT, R.N.

Certificate of Merit as to Clearfield Community Nurses

Civil Division No.: 04-1555-CD

I, Victor H. Pribanic, certify that:

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

OR

✓ _____ the claim that this Defendant deviated from an acceptable professional standard is based solely on allegations that other licensed professionals for whom this Defendant is responsible deviated from an acceptable professional standard and an appropriate licensed professional has supplied a written statement to the undersigned that there is a basis to conclude that the care, skill or knowledge exercised or exhibited by the other licensed professionals in the treatment, practice or work that is the subject of the Complaint, fell outside acceptable professional standards and that such conduct was a cause in bringing about the harm;

OR

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

Date:

11-16-04



Victor H. Pribanic

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the within has been served via U.S. Postal Service postage prepaid on the 16th day of December, 2004 upon the following:

Frank J. Hartye, Esquire
McINTYRE, DUGAS, HARTYE & SCHMITT
P.O. Box 533
Hollidaysburg, PA 16648

(814) 696-3581

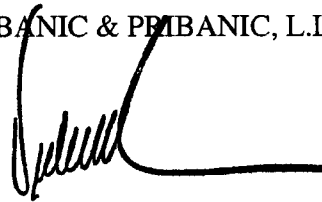
*** Counsel for Defendants Clearfield Hospital and Sharon Goodman, R.N.**

Daniel J. McCarthy, Esquire
MINTZER SAROWITZ ZERIS LEDVA & MEYERS
1528 Walnut Street, 22nd Floor
Philadelphia, PA 19102-3614

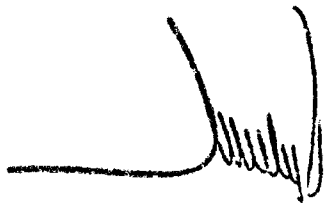
(215) 735-7200
(215) 735-1714 Fax #

*** Counsel for Defendants Clearfield Community Nurses and Norma J. Parent, R.N.
(Incorrectly identified as Norma J. Pant, R.N.)**

PRIBANIC & PRIBANIC, L.L.C.



VICTOR H. PRIBANIC
Counsel for Plaintiff

A handwritten signature in black ink, consisting of a long horizontal stroke followed by a series of vertical, slightly wavy lines.

FILED

DEC 20 2004

William A. Shaw
Prothonotary

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

PATRICIA FARNSWORTH, Personal
Representative of the ESTATE of
FRANK HARZINSKI,

Plaintiff,

vs.

CLEARFIELD HOSPITAL, SHARON
GOODMAN, R.N., CLEARFIELD
COMMUNITY NURSES, and NORMA
J. PARENT, R.N., incorrectly identified as
NORMA J. PANT, R.N.,

Defendants.

CIVIL DIVISION

No.: 04-1555-CD

**PRAECIPE TO REISSUE
WRIT OF SUMMONS**

Filed on behalf of Plaintiff:

PATRICIA FARNSWORTH

Counsel of record for this party:

VICTOR H. PRIBANIC
PA I.D. No. 30785

PRIBANIC & PRIBANIC, L.L.C.
1735 Lincoln Way
White Oak, PA 15131

(412) 672-5444

SLP

JURY TRIAL DEMANDED

FILED NoCC
JAN 05 2005 11:40 AM
William A. Shaw
Prothonotary/Clerk of Courts
to Atty

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

PATRICIA FARNSWORTH, Personal
Representative of the ESTATE of
FRANK HARZINSKI,

Plaintiff,

vs.

CLEARFIELD HOSPITAL, SHARON
GOODMAN, R.N., CLEARFIELD
COMMUNITY NURSES, and NORMA
J. PARENT, R.N., incorrectly identified as
NORMA J. PANT, R.N.,

Defendants.

CIVIL DIVISION

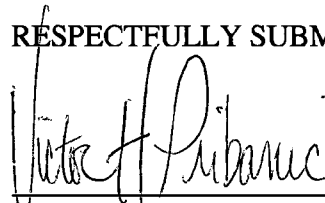
No.: 04-1555-CD

PRAECIPE TO REISSUE WRIT OF SUMMONS

TO THE PROTHONOTARY:

Kindly reissue the Writ of Summons regarding the above-captioned action.

RESPECTFULLY SUBMITTED:



VICTOR H. PRIBANIC
Counsel for Plaintiff

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

COPY

SUMMONS

Patricia Farnsworth, Personal
Representative of the Estate of
Frank Harzinski

Vs.

NO.: 2004-01555-CD

Clearfield Hospital,
Sharon Goodman, R.N.
Clearfield Community Nurses
and Norma J. Pant, R.N.

TO: CLEARFIELD HOSPITAL
SHARON GOODMAN, R.N.
CLEARFIELD COMMUNITY NURSES
NORMA J. PANT, R.N.

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

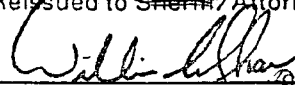
Date: 10/07/2004



William A. Shaw
Prothonotary

Issuing Attorney:

Victor H. Pribanic
1735 Lincoln Way
White Oak, PA 15131

1-5-05 Document
Reinstated/Reissued to Sheriff/Attorney
for service.

Deputy Prothonotary

**MINTZER, SAROWITZ, ZERIS,
LEDVA & MEYERS**
BY: DANIEL J. MCCARTHY, ESQUIRE
Identification No.: 41440
22nd Floor
1528 Walnut Street
Philadelphia, PA 19102
(215) 735-7200
MSZL&M File No. 0210.1314

YOU ARE HEREBY NOTIFIED TO PLEAD TO
THE ENCLOSED PLEADING WITHIN TWENTY
(20) DAYS FROM SERVICE HEREOF OR A
JUDGMENT WILL BE ENTERED AGAINST
YOU.

Attorney for Defendants, CLEARFIELD
COMMUNITY NURSES, and NORMA J.
PARENT, R.N. (incorrectly identified as
Norma J. Pant, R.N.)

PATRICIA FARNSWORTH, PERSONAL
REPRESENTATIVE OF THE ESTATE OF
FRANK HARZINSKI

vs.

CLEARFIELD HOSPITAL, SHARON
GOODMAN, R.N., CLEARFIELD
COMMUNITY NURSES AND NORMA J.
PANT, R.N.

COURT OF COMMON PLEAS
CLEARFIELD COUNTY

No. 2004-01555-CD

FILED

6F FEB 10 2005
W 10:30 AM
William A. Shaw
Prothonotary/Clerk of Courts
1 cent to ATT

DEFENDANTS, CLEARFIELD COMMUNITY NURSES, and NORMA J. PARENT,
R.N. (incorrectly identified as Norma J. Pant, R.N.),
ANSWER TO PLAINTIFF'S COMPLAINT

And now the defendants, Clearfield Community Nurses and Norma J. Parent, R.N.

(Incorrectly identified as Norma J. Pant, R.N.), hereby aver the following:

1. Denied. Answering defendants, after reasonable investigation presently lack
sufficient knowledge and/or information to admit or deny the allegations contained in the
corresponding paragraph of the plaintiff's complaint and strict proof thereof is demanded at the
time of trial of material.

2. Denied. Answering defendants, after reasonable investigation presently lack sufficient knowledge and/or information to admit or deny the allegations contained in the corresponding paragraph of the plaintiff's complaint and strict proof thereof is demanded at the time of trial of material.

3. Denied. Answering defendants, after reasonable investigation presently lack sufficient knowledge and/or information to admit or deny the allegations contained in the corresponding paragraph of the plaintiff's complaint and strict proof thereof is demanded at the time of trial of material.

4. Denied. Answering defendants, after reasonable investigation presently lack sufficient knowledge and/or information to admit or deny the allegations contained in the corresponding paragraph of the plaintiff's complaint and strict proof thereof is demanded at the time of trial of material.

5. Denied. Answering defendants are advised by counsel and therefore aver that the allegations contained in the corresponding paragraphs of plaintiff's complaint are automatically deemed denied as conclusions of law to which no responsive pleading is required. Strict proof thereof is demanded at the time of trial, if material. To the extent, however, that a responsive pleading is required, answering defendants, after reasonable investigation, presently lack sufficient knowledge and/or information to admit or deny the allegations contained in the corresponding paragraph of the plaintiff's complaint and strict proof thereof is demanded at the time of trial, if material.

6. Denied. Answering defendants are advised by counsel and therefore aver that the allegations contained in the corresponding paragraphs of plaintiff's complaint are automatically deemed denied as conclusions of law to which no responsive pleading is required. Strict proof

thereof is demanded at the time of trial, if material. To the extent, however, that a responsive pleading is required, answering defendants, after reasonable investigation, presently lack sufficient knowledge and/or information to admit or deny the allegations contained in the corresponding paragraph of the plaintiff's complaint and strict proof thereof is demanded at the time of trial, if material.

7. It is admitted only that Norma J. Parent, R.N. was a nurse acting in the employ of Clearfield Community Nurses.

8. Denied. Answering defendants, after reasonable investigation presently lack sufficient knowledge and/or information to admit or deny the allegations contained in the corresponding paragraph of the plaintiff's complaint and strict proof thereof is demanded at the time of trial of material.

9. Denied. Answering defendants, after reasonable investigation presently lack sufficient knowledge and/or information to admit or deny the allegations contained in the corresponding paragraph of the plaintiff's complaint and strict proof thereof is demanded at the time of trial of material.

10. Denied. Answering defendants, after reasonable investigation presently lack sufficient knowledge and/or information to admit or deny the allegations contained in the corresponding paragraph of the plaintiff's complaint and strict proof thereof is demanded at the time of trial of material.

11. Denied. Answering defendants, after reasonable investigation presently lack sufficient knowledge and/or information to admit or deny the allegations contained in the corresponding paragraph of the plaintiff's complaint and strict proof thereof is demanded at the time of trial of material.

12. Denied. Answering defendants, after reasonable investigation presently lack sufficient knowledge and/or information to admit or deny the allegations contained in the corresponding paragraph of the plaintiff's complaint and strict proof thereof is demanded at the time of trial of material.

13. Denied. Answering defendants, after reasonable investigation presently lack sufficient knowledge and/or information to admit or deny the allegations contained in the corresponding paragraph of the plaintiff's complaint and strict proof thereof is demanded at the time of trial of material.

14. Denied. Answering defendants, after reasonable investigation presently lack sufficient knowledge and/or information to admit or deny the allegations contained in the corresponding paragraph of the plaintiff's complaint and strict proof thereof is demanded at the time of trial of material.

15. Denied. Answering defendants, after reasonable investigation presently lack sufficient knowledge and/or information to admit or deny the allegations contained in the corresponding paragraph of the plaintiff's complaint and strict proof thereof is demanded at the time of trial of material.

16. Denied. Answering defendants, after reasonable investigation presently lack sufficient knowledge and/or information to admit or deny the allegations contained in the corresponding paragraph of the plaintiff's complaint and strict proof thereof is demanded at the time of trial of material.

17. Denied. Answering defendants, after reasonable investigation presently lack sufficient knowledge and/or information to admit or deny the allegations contained in the

corresponding paragraph of the plaintiff's complaint and strict proof thereof is demanded at the time of trial of material.

18. Denied. Answering defendants, after reasonable investigation presently lack sufficient knowledge and/or information to admit or deny the allegations contained in the corresponding paragraph of the plaintiff's complaint and strict proof thereof is demanded at the time of trial of material.

19. Denied. Answering defendants, after reasonable investigation presently lack sufficient knowledge and/or information to admit or deny the allegations contained in the corresponding paragraph of the plaintiff's complaint and strict proof thereof is demanded at the time of trial of material.

20. Denied. Answering defendants, after reasonable investigation presently lack sufficient knowledge and/or information to admit or deny the allegations contained in the corresponding paragraph of the plaintiff's complaint and strict proof thereof is demanded at the time of trial of material.

21. Denied. Answering defendants, after reasonable investigation presently lack sufficient knowledge and/or information to admit or deny the allegations contained in the corresponding paragraph of the plaintiff's complaint and strict proof thereof is demanded at the time of trial of material.

22. Denied. Answering defendants, after reasonable investigation presently lack sufficient knowledge and/or information to admit or deny the allegations contained in the corresponding paragraph of the plaintiff's complaint and strict proof thereof is demanded at the time of trial of material.

23. Denied. Answering defendants, after reasonable investigation presently lack sufficient knowledge and/or information to admit or deny the allegations contained in the corresponding paragraph of the plaintiff's complaint and strict proof thereof is demanded at the time of trial of material.

24. Denied. Answering defendants, after reasonable investigation presently lack sufficient knowledge and/or information to admit or deny the allegations contained in the corresponding paragraph of the plaintiff's complaint and strict proof thereof is demanded at the time of trial of material.

25. Denied. Answering defendants, after reasonable investigation presently lack sufficient knowledge and/or information to admit or deny the allegations contained in the corresponding paragraph of the plaintiff's complaint and strict proof thereof is demanded at the time of trial of material.

COUNT I

Answering defendants incorporate herein by reference the answers to paragraphs 1 through 25 as though each answer was set forth at length herein.

26-35. The averments contained in corresponding paragraphs of plaintiff's Complaint are not directed at the answering defendants and therefore no response is required of answering defendants.

WHEREFORE, answering defendants respectfully request this Honorable Court to find in their favor and against all other parties.

COUNT II

Answering defendants incorporate herein by reference the answers to paragraphs 1 through 35 as though each answer was set forth at length herein.

36. The averments contained in corresponding paragraphs of plaintiff's Complaint are note directed at the answering defendants and therefore no response is required of answering defendants.

WHEREFORE, answering defendants respectfully request this Honorable Court to find in their favor and against all other parties.

COUNT III

Answering defendants incorporate herein by reference the answers to paragraphs 1 through 36 as though each answer was set forth at length herein.

37-42. The averments contained in corresponding paragraphs of plaintiff's Complaint are note directed at the answering defendants and therefore no response is required of answering defendants.

WHEREFORE, answering defendants respectfully request this Honorable Court to find in their favor and against all other parties.

COUNT IV

Answering defendants incorporate herein by reference the answers to paragraphs 1 through 42 as though each answer was set forth at length herein.

43. The averments contained in corresponding paragraphs of plaintiff's Complaint are note directed at the answering defendants and therefore no response is required of answering defendants.

WHEREFORE, answering defendants respectfully request this Honorable Court to find in their favor and against all other parties.

COUNT V

Answering defendants incorporate herein by reference the answers to paragraphs 1 through 43 as though each answer was set forth at length herein.

44. Denied. Answering defendants, after reasonable investigation presently lack sufficient knowledge and/or information to admit or deny the allegations contained in the corresponding paragraph of the plaintiff's complaint and strict proof thereof is demanded at the time of trial of material.

45. Denied. Answering defendants are advised by counsel and therefore aver that the allegations contained in the corresponding paragraphs of plaintiff's complaint are automatically deemed denied as conclusions of law to which no responsive pleading is required. Strict proof thereof is demanded at the time of trial, if material. To the extent, however, that a responsive pleading is required, answering defendants, after reasonable investigation, presently lack sufficient knowledge and/or information to admit or deny the allegations contained in the corresponding paragraph of the plaintiff's complaint and strict proof thereof is demanded at the time of trial, if material. By way of further response it is specifically denied that answering defendant, Norma J. Parent, R.N., was negligent in any way in the care and treatment of the plaintiff's decedent. It is further specifically denied that answering defendant, Norma J. Parent, R.N. was negligent in any way in the placement and care of a Foley catheter in treating plaintiff's decedent.

46. Denied. Answering defendants are advised by counsel and therefore aver that the allegations contained in the corresponding paragraph of plaintiff's complaint are automatically deemed denied as conclusions of law to which no responsive pleading is required. Strict proof thereof is demanded at the time of trial, if material.

47. Denied. Answering defendants are advised by counsel and therefore aver that the allegations contained in the corresponding paragraph of plaintiff's complaint are automatically deemed denied as conclusions of law to which no responsive pleading is required. Strict proof thereof is demanded at the time of trial, if material.

48. Denied. Answering defendants are advised by counsel and therefore aver that the allegations contained in the corresponding paragraph of plaintiff's complaint are automatically deemed denied as conclusions of law to which no responsive pleading is required. Strict proof thereof is demanded at the time of trial, if material.

WHEREFORE, answering defendants respectfully request this Honorable Court to find in their favor and against all other parties.

COUNT VI

Answering defendants incorporate herein by reference the answers to paragraphs 1 through 48 as though each answer was set forth at length herein.

49. Denied. Answering defendants are advised by counsel and therefore aver that the allegations contained in the corresponding paragraphs of plaintiff's complaint are automatically deemed denied as conclusions of law to which no responsive pleading is required. Strict proof thereof is demanded at the time of trial, if material. To the extent, however, that a responsive pleading is required, answering defendants, after reasonable investigation, presently lack

sufficient knowledge and/or information to admit or deny the allegations contained in the corresponding paragraph of the plaintiff's complaint and strict proof thereof is demanded at the time of trial, if material.

WHEREFORE, answering defendants respectfully requests this Honorable Court to find in their favor and against all other parties.

COUNT VII

Answering defendants incorporate herein by reference the answers to paragraphs 1 through 49 as though each answer was set forth at length herein.

50. Denied. Answering defendant, after reasonable investigation presently lacks sufficient knowledge and/or information to admit or deny the allegations contained in the corresponding paragraph of the plaintiff's complaint and strict proof thereof is demanded at the time of trial of material.

51. Denied. Answering defendant is advised by counsel and therefore avers that the allegations contained in the corresponding paragraphs of plaintiff's complaint are automatically deemed denied as conclusions of law to which no responsive pleading is required. Strict proof thereof is demanded a the time of trial, if material. To the extent, however, that a responsive pleading is required, answering defendant, after reasonable investigation, presently lacks sufficient knowledge and/or information to admit or deny the allegations contained in the corresponding paragraph of the plaintiff's complaint and strict proof thereof is demanded at the time of trial, if material.

52. Denied. Answering defendant is advised by counsel and therefore avers that the allegations contained in the corresponding paragraphs of plaintiff's complaint are automatically

deemed denied as conclusions of law to which no responsive pleading is required. Strict proof thereof is demanded at the time of trial, if material. To the extent, however, that a responsive pleading is required, answering defendant, after reasonable investigation, presently lacks sufficient knowledge and/or information to admit or deny the allegations contained in the corresponding paragraph of the plaintiff's complaint and strict proof thereof is demanded at the time of trial, if material.

53. Denied. Answering defendant is advised by counsel and therefore avers that the allegations contained in the corresponding paragraphs of plaintiff's complaint are automatically deemed denied as conclusions of law to which no responsive pleading is required. Strict proof thereof is demanded at the time of trial, if material. To the extent, however, that a responsive pleading is required, answering defendant, after reasonable investigation, presently lacks sufficient knowledge and/or information to admit or deny the allegations contained in the corresponding paragraph of the plaintiff's complaint and strict proof thereof is demanded at the time of trial, if material. By way of further response it is specifically denied that answering defendant Clearfield Community Nurses was negligent in any way in the selection, training, supervision of any of its staff including defendant Norma J. Parent, R.N. It is further specifically denied that answering defendant was negligent in any way in regards to the development and enforcement of any policies and procedures pertaining to the medical care of any patient including but not limited to plaintiff's decedent.

54. Denied. Answering defendant, after reasonable investigation presently lacks sufficient knowledge and/or information to admit or deny the allegations contained in the

corresponding paragraph of the plaintiff's complaint and strict proof thereof is demanded at the time of trial of material.

55. Denied. Answering defendant is advised by counsel and therefore avers that the allegations contained in the corresponding paragraph of plaintiff's complaint are automatically deemed denied as conclusions of law to which no responsive pleading is required. Strict proof thereof is demanded at the time of trial, if material.

WHEREFORE, answering defendant respectfully requests this Honorable Court to find in their favor and against all other parties.

COUNT VIII

Answering defendant incorporates herein by reference the answers to paragraphs 1 through 55 as though each answer was set forth at length herein.

56. Denied. Answering defendant is advised by counsel and therefore avers that the allegations contained in the corresponding paragraphs of plaintiff's complaint are automatically deemed denied as conclusions of law to which no responsive pleading is required. Strict proof thereof is demanded at the time of trial, if material. To the extent, however, that a responsive pleading is required, answering defendant, after reasonable investigation, presently lacks sufficient knowledge and/or information to admit or deny the allegations contained in the corresponding paragraph of the plaintiff's complaint and strict proof thereof is demanded at the time of trial, if material.

WHEREFORE, answering defendant respectfully requests this Honorable Court to find in their favor and against all other parties.

23. On or about February 1, 2003, Dr. Sheldon P. Rosenthal performed surgery upon Decedent, Frank Harzinski, at Clearfield Hospital, where he underwent cystourethroscopy, exploration and debridement of the scrotum and partial urethrectomy.

24. Decedent, Frank Harzinski passed away on February 21, 2003.

25. No Autopsy was performed upon the Decedent, Frank Harzinski.

COUNT I - WRONGFUL DEATH

PLAINTIFF, PATRICIA FARNSWORTH, AS PERSONAL REPRESENTATIVE

OF THE ESTATE OF FRANK HARZINSKI, DECEASED, vs. SHARON

GOODMAN, R.N.

Plaintiff hereby incorporates by reference Paragraphs 1 through 25 of the Complaint as though fully set forth herein and further aver that:

26. Plaintiff, Patricia Farnsworth, as the Personal Representative of the Estate of Frank Harzinski, brings this action on her own behalf and on behalf of all other persons entitled to recover damages for the wrongful death of Frank Harzinski pursuant to the provisions of 42 Pa. C.S. § 8301.

27. Plaintiff also brings this action to recover damages on behalf of the Estate of Frank Harzinski pursuant to the provisions of 42 Pa. C.S. § 8302.

28. The following persons are or may be entitled by laws to recover damages for the wrongful death of Frank Harzinski:

- (a) Patricia Farnsworth (daughter) who resides at 304 Margarett Street, Clearfield, PA 16830;
- (b) Bonnie Baun (daughter) P.O. Box 99, West Decatur, PA;
- (c) Donna McCaula (daughter) Address unknown.

29. During his lifetime, Frank Harzinski, did not commence any action to recover damages for the injuries which caused his death and/or loss of his penis, and no other action has been filed to recover damages for the wrongful death of Frank Harzinski.

30. At all times relevant hereto, Decedent, Frank Harzinski, relied upon the Defendant to render full, complete, careful and proper care and treatment for his condition.

31. Decedent, Frank Harzinski, as a direct and proximate result of the care and treatment rendered by Defendant, Sharon Goodman, R.N., more specifically, failed to adequately and properly insert a Foley catheter, placed the foreskin of Decedent's penis in neutral/reduced position, failed to timely notice that the foreskin was in a retracted position and discharged the decedent with a Foley catheter in place while the foreskin of his penis was in a retracted position, experienced increased risk of harm and ultimately suffered a premature death as set forth herein.

32. The foregoing acts and/or omissions of Defendant and resulting death of Decedent, Frank Harzinski, were caused by and were the direct result of Defendant's failure to exercise reasonable treatment and care and that degree of care owed the Decedent under the circumstances in any or all of the following respects:

- (a) In failing to notice that the foreskin of Decedent's penis was in a retracted position and needed to be placed in a neutral/reduced position while the Foley catheter was in place;
- (b) In inserting a Foley catheter into Decedent and failing to place the foreskin of Decedent's penis in a neutral/reduced position;
- (c) In failing to comply with the standard of care which requires placing the foreskin of the penis in a neutral/reduced position when a Foley catheter is inserted and/or in place;

- (d) in failing to notify a doctor or other professional medical provider of Decedent's condition;

33. The decedent's death was the direct and proximate result of the acts and/or omissions of Defendant, Sharon Goodman, R.N.

34. The persons entitled by law to recover damages for Frank Harzinski's death have sustained the following damages:

- (a) the cost of hospital and medical services and supplies incident to the treatment and subsequent death of the Decedent, Frank Harzinski;
- (b) the cost of funeral, burial and estate administration expenses occasioned by the death of Frank Harzinski;
- (c) loss of the value of such contributions decedent would have provided between the time of his death through the balance of his life expectancy;
- (d) loss of the financial support and all pecuniary benefits which they would have received from Frank Harzinski;
- (e) loss of the financial support and all pecuniary benefits which they would have received from Frank Harzinski from the date of his death through the present;
- (f) loss of the value of the service, assistance, comfort, guidance, counseling, companionship and society of Frank Harzinski; and,
- (g) such other losses and damages as are recoverable by law or statute.

35. Solely as a result of Defendant's negligent conduct, which conduct was the direct and proximate cause of Frank Harzinski's death, Defendant, Sharon Goodman, R.N., is liable for the damages set forth above.

NEW MATTER

57. The claims of the plaintiff are barred by the applicable Statute of Limitations.
58. Plaintiff has failed to state a claim upon which relief can be granted.
59. Plaintiffs' claims are barred in whole or part by the Doctrine of Comparative Negligence and/or Assumption of the Risk.
60. Plaintiff has not sustained any injuries recognizable under Pennsylvania Law as a consequence of answering defendant's alleged actions.
61. Plaintiffs' claims are barred in whole or part because the plaintiffs' alleged injuries, if any, were not caused by the actions of Ginger O'Sullivan, C.R.N.P.
62. Plaintiffs' claims are barred because the plaintiff has sustained no injury in fact.
63. Plaintiffs have not alleged facts sufficient to support their allegations of negligence.
64. Plaintiffs' claims are barred and/or limited by the provisions of the Health Care Services Practice Act, Pa. Section 1301 et. seq.
65. The injuries, if any, sustained by plaintiffs did not result from any negligence or breach of the standard of care by answering defendant.

WHEREFORE, answering defendants respectfully requests this Honorable Court to enter a judgment in their favor.

MINTZER, SAROWITZ, ZERIS, LEDVA & MEYERS

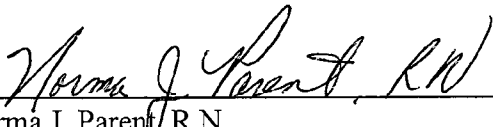
BY: 

DANIEL J. MCCARTHY, ESQUIRE
Attorney for Defendants: CLEARFIELD
COMMUNITY NURSES, and NORMA
J. PARENT, R.N. (incorrectly identified
as Norma J. Pant, R.N.)

591.wpd

VERIFICATION

The undersigned is authorized to sign this verification with regards to the foregoing as an authorized representative of defendant listed below. The averments or denials of facts contained in the foregoing are true based upon the signer's personal knowledge or information and belief. If the foregoing contains averments which are inconsistent in fact, signer has been unable, after reasonable investigation, to ascertain which of the inconsistent averments are true, but signer has knowledge or information sufficient to form a belief that one of them is true. The language of this pleading is that of counsel and not of signer. This verification is made subject to the penalties of 18 PA C.S.A. §4904 relating to unsworn falsification to authorities.



Norma J. Parent, R.N.

DATE: 1-31-05

VERIFICATION

The undersigned is authorized to sign this verification with regards to the foregoing as an authorized representative of defendant listed below. The averments or denials of facts contained in the foregoing are true based upon the signer's personal knowledge or information and belief. If the foregoing contains averments which are inconsistent in fact, signer has been unable, after reasonable investigation, to ascertain which of the inconsistent averments are true, but signer has knowledge or information sufficient to form a belief that one of them is true. The language of this pleading is that of counsel and not of signer. This verification is made subject to the penalties of 18 PA C.S.A. §4904 relating to unsworn falsification to authorities.

Daniel M. Forney

DATE: 1/20/05

**MINTZER, SAROWITZ, ZERIS,
LEDVA & MEYERS**
BY: DANIEL J. MCCARTHY, ESQUIRE
Identification No.: 41440
22nd Floor
1528 Walnut Street
Philadelphia, PA 19102
(215) 735-7200
MSZL&M File No. 0210.1314

Attorney for Defendants, CLEARFIELD
COMMUNITY NURSES, and NORMA
J. PARENT, R.N. (incorrectly identified
as Norma J. Pant, R.N.)

PATRICIA FARNSWORTH, PERSONAL
REPRESENTATIVE OF THE ESTATE OF
FRANK HARZINSKI

vs.

CLEARFIELD HOSPITAL, SHARON
GOODMAN, R.N., CLEARFIELD
COMMUNITY NURSES AND NORMA J.
PANT, R.N.

COURT OF COMMON PLEAS
CLEARFIELD

No. 2004-01555-CD

CERTIFICATE OF SERVICE

I, Daniel J. McCarthy, Esq., do hereby certify that a true and correct copy of Defendants
Clearfield Communnith Nurses and Norma J. Parent, R.N. (incorrectly identified as Norma J.
Pant, R.N.) Answer to Plaintiff's Complaint was forwarded by First Class Mail, postage prepaid
on 2/8/05, as follows:

Cheryl Penrod, Esquire
PRIBANIC & PRIBANIC
1735 Lincoln Way
White Oak, PA 15131

Frank J. Hartye, Esquire
McINTYRE, DUGAS, HARTYE & SCHNMITT
P.O. Box 333
Hollidaysburg, PA 16648

MINTZER, SAROWITZ, ZERIS, LEDVA & MEYERS

BY: 

DANIEL J. MCCARTHY, ESQUIRE
Attorney for Defendants: CLEARFIELD
COMMUNITY NURSES, and NORMA J.
PARENT, R.N. (incorrectly identified as
Norma J. Pant, R.N.)

FILED

FEB 10 2005

William A. Shaw
Prothonotary/Clerk of Courts

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

PATRICIA FARNSWORTH, Personal
Representative of the ESTATE OF
FRANK HARZINSKI,

Plaintiff

vs.

CLEARFIELD HOSPITAL,
SHARON GOODMAN, R.N.,
CLEARFIELD COMMUNITY NURSES,
and NORMA J. PANT, R.N.,

Defendants

No. 2004 – 1555 CD

ISSUE:

ANSWER AND NEW MATTER
TO PLAINTIFF'S COMPLAINT

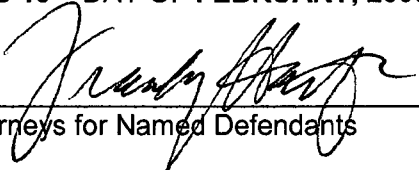
Filed on behalf of Defendants,
CLEARFIELD HOSPITAL
and SHARON GOODMAN, RN

Counsel of Record For These Parties:
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 15TH DAY OF FEBRUARY, 2005.


Attorneys for Named Defendants

FILED

64 FEB 17 2005

M/10:40/wwj
William A. Shaw
Prothonotary
No c/c

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

PATRICIA FARNSWORTH, Personal
Representative of the ESTATE OF
FRANK HARZINSKI,

Plaintiff

vs.

CLEARFIELD HOSPITAL,
SHARON GOODMAN, R.N.,
CLEARFIELD COMMUNITY NURSES,
and NORMA J. PANT, R.N.,

Defendants

No. 2004 – 1555 CD

JURY TRIAL DEMANDED

**ANSWER AND NEW MATTER TO
PLAINTIFF'S COMPLAINT**

AND NOW, come defendants, CLEARFIELD HOSPITAL and SHARON GOODMAN, R.N., by and through their attorneys, MCINTYRE, DUGAS, HARTYE & SCHMITT, and file the following Answer and New Matter to plaintiff's Complaint.

1. After reasonable investigation defendants are without sufficient knowledge or information as to the truth of these averments and therefore they are denied as stated.
2. Admitted.
3. Admitted.
4. It is admitted that Sharon Goodman is an employee of Clearfield Hospital.
- 5.-7. These allegations are not directed to answering defendants and no further response is required.
8. Admitted that Frank Harzinski was 84 years old and was admitted to the emergency department of Clearfield Hospital on November 3, 2002. The remaining

allegations are denied as stated to the extent that they incompletely describe the patient's condition at that time.

9. Admitted.

10. Denied. The Foley catheter was ordered and placed in the emergency department prior to admission.

11. Denied. To the contrary the Foley catheter was inserted on November 3 in the emergency department. It is more specifically set forth in the patient's records.

12. Admitted.

13.-15. After reasonable investigation defendants are without sufficient knowledge or information as to the truth of these averments and therefore they are denied.

16. It is admitted that Frank Harzinski was admitted to Clearfield Hospital on January 1, 2003. The remaining allegations are denied as stated. Dr. Joseph Vetrano was the admitting physician ordered a Foley catheter be inserted.

17. It is admitted that on January 1, 2003 that Sharon Goodman inserted a Foley catheter into Mr. Harzinski. The remaining allegations are specifically denied. It is denied that she left the foreskin retracted.

18. Admitted that Mr. Harzinski was discharged from the hospital on January 5, 2003 with a Foley catheter in place. Prior to discharge Nurse Miller instructed the plaintiff how to care for her father's catheter while at home. It is denied that the foreskin was retracted at that time.

19.-21. After reasonable investigation defendants are without sufficient knowledge or information as to the truth of these averments and therefore they are denied.

22. It is admitted that Frank Harzinski returned to Clearfield Hospital on January 27, 2003 with pain and swelling in the genital area as more specifically set forth in his chart. Therefore the remaining allegations in this paragraph are denied as stated.

23. Admitted to the extent that the same is reflected in the patient's hospital records.

24. After reasonable investigation defendant is without sufficient knowledge or information as to the truth of these averment and therefore they are denied.

25. Defendant had no knowledge as to whether an autopsy was performed on Mr. Harzinski.

COUNT I – WRONGFUL DEATH
PLAINTIFF, PATRICIA FARNSWORTH, AS PERSONAL REPRESENTATIVE
OF THE ESTATE OF FRANK HARZINSKI, DECEASED vs. SHARON
GOODMAN, R.N.

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

26.-27. The allegations contained in Paragraphs No. 26 and 27 are conclusions of law and no further response is required.

28. After reasonable investigation defendant is without sufficient knowledge or information as to the truth of these averments.

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

30. The allegations contained in Paragraph No. 30 are denied as stated. Nurse Goodman saw the patient on January 1 and January 2, 2003 and did not see him after that date and therefore these allegations are denied.

31. Denied. It is denied that Sharon Goodman failed to adequately and properly insert a Foley catheter or failed to return the foreskin to its proper position and therefore all the allegations contained in Paragraph No. 31 are denied. Further,

plaintiff's Complaint fails to set forth the plaintiff's cause of death and therefore plaintiff's claim fails to set forth a cause of action upon which relief can be granted.

32. Denied. It is denied that Sharon Goodman was negligent or careless in any manner. To the contrary Sharon Goodman exercised reasonable and prudent care and met the standard of care applicable to her as a nurse. As a result all the allegations contained in Paragraph No. 32 and the subparagraphs thereof are specifically denied and strict proof thereof is demanded.

33. Denied. It is denied that decedent's death was the direct or proximate result of the actions or inactions of Sharon Goodman, R.N. and strict proof thereof is demanded.

34. The allegations contained in Paragraph No. 34 are conclusions of law and are denied as stated.

35. Denied. It is denied that Sharon Goodman was negligent and careless in any manner. To the contrary all care provided by her was proper and appropriate. It is denied that any action or inaction on her part caused or contributed to the injuries, damages and death of the decedent.

WHEREFORE, defendant, SHARON GOODMAN, R.N., demands judgment in her favor with costs of suit awarded to defendant.

COUNT II – SURVIVAL
PLAINTIFF, PATRICIA FARNSWORTH, AS PERSONAL REPRESENTATIVE
OF THE ESTATE OF FRANK HARZINSKI, DECEASED vs. SHARON
GOODMAN, R.N.

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

36. Denied. It is denied that Sharon Goodman was negligent or careless in any manner. It is denied that any action or inaction on the part of Sharon Goodman

either caused or contributed to the alleged injuries, damages and death of the decedent and therefore all the allegations contained in Paragraph No. 36 are denied.

COUNT III – WRONGFUL DEATH
PLAINTIFF, PATRICIA FARNSWORTH, AS PERSONAL REPRESENTATIVE
OF THE ESTATE OF FRANK HARZINSKI, DECEASED vs. CLEARFIELD
HOSPITAL

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

37. Denied as stated. Defendant does not know what is meant by proper care and treatment for "her condition."

38. It is admitted that Sharon Goodman was an employee of Clearfield Hospital. The remaining allegations are denied.

39. Denied. It is denied that Clearfield Hospital or any of its agents, servants, or employees were negligent or careless in any manner. Defendant incorporates by reference the previous responses as though the same were set forth herein at length and therefore all the allegations contained in Paragraph No. 39 are denied.

40. Denied. It is denied that Clearfield Hospital or any of its agent, servants, or employees were negligent or careless or failed to exercise reasonable care and therefore all the allegations contained in Paragraph No. 40 and the subparagraphs thereof are denied.

41. Denied. It is denied that Clearfield Hospital or any of its agents, servants, or employees were negligent or careless in any manner. It is 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 the allegations contained in Paragraph No. 41 and incorporated therein are denied.

42. 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 the allegations contained in Paragraph No. 42 and incorporated therein are denied.

WHEREFORE, defendant, CLEARFIELD HOSPITAL, demands judgment in its favor with costs of suit awarded to defendant.

COUNT IV – SURVIVAL
PLAINTIFF, PATRICIA FARNSWORTH, AS PERSONAL REPRESENTATIVE
OF THE ESTATE OF FRANK HARZINSKI, DECEASED vs. CLEARFIELD
HOSPITAL

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

43. 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 the allegations contained in Paragraph No. 43 and incorporated therein are denied.

WHEREFORE, defendant, CLEARFIELD HOSPITAL, demands judgment in its favor with costs of suit awarded to defendant.

COUNT V – WRONGFUL DEATH
PLAINTIFF, PATRICIA FARNSWORTH, AS PERSONAL REPRESENTATIVE
OF THE ESTATE OF FRANK HARZINSKI, DECEASED vs. NORMA J. PANT,
R.N.

44.-48. The allegations contained in Paragraph No. 44 through 48 are not directed to answering defendant and no further response is required.

COUNT VI – SURVIVAL
PLAINTIFF, PATRICIA FARNSWORTH, AS PERSONAL REPRESENTATIVE
OF THE ESTATE OF FRANK HARZINSKI, DECEASED vs. NORMA J. PANT,
R.N.

49. The allegations contained in Paragraph No. 49 are not directed to answering defendants and no further response is required.

COUNT VII – WRONGFUL DEATH
PLAINTIFF, PATRICIA FARNSWORTH, AS PERSONAL REPRESENTATIVE
OF THE ESTATE OF FRANK HARZINSKI, DECEASED vs. CLEARFIELD
COMMUNITY NURSES

50.-55. The allegations contained in Paragraphs No. 50-55 are not directed to answering defendants and no further response is required.

COUNT VIII – SURVIVAL
PLAINTIFF, PATRICIA FARNSWORTH, AS PERSONAL REPRESENTATIVE
OF THE ESTATE OF FRANK HARZINSKI, DECEASED vs. CLEARFIELD
COMMUNITY NURSES

56. The allegations in Paragraph No. 56 are not directed to answering defendant and no further response is required.

WHEREFORE, defendants, CLEARFIELD HOSPITAL and SHARON GOODMAN, R.N., demand judgment in their favor with costs of suit awarded to defendant.

NEW MATTER

By way of further and more complete answer defendants aver the following New Matter.

57. Plaintiff has not pled a specific cause of death and therefore plaintiff has failed to set forth a cause of action upon which relief can be granted and plaintiff's Complaint should be dismissed.

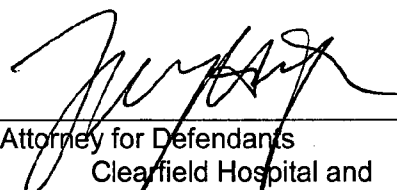
58. All injuries and damages suffered by the decedent are the direct, sole, and proximate result of preexisting medical conditions and not the result of any violation of the standard of care.

59. To the extent the plaintiff establishes the right to recover for the alleged injuries, damages, and death of the decedent, the same were the direct and sole result of conduct of others over whom these defendants had neither the ability nor attempted to exercise control.

60. Defendants hereby affirmatively plead all bars, rights and limitations pursuant to the Health Care Services Malpractice Act, 40 P.S. Section 1301.103, et seq.

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

MCINTYRE, DUGAS, HARTYE & SCHMITT

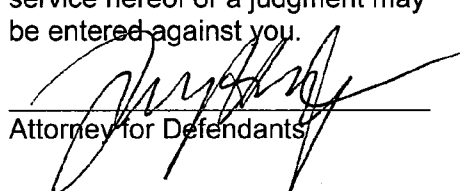


Attorney for Defendants
Clearfield Hospital and
Sharon Goodman, R.N.

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

Notice to Plead

To: Plaintiff
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.



Attorney for Defendants

CHT 024 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 PLAINTIFF'S 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: _____

2/3/05

VERIFICATION

I, **SHARON GOODMAN, R.N.**, do hereby verify that I have read the foregoing **ANSWER AND NE MATTER TO PLAINTIFF'S COMPLAINT**. The statements therein are correct to the best of my personal knowledge or information and belief.

This statement and verification 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.


Sharon Goodman, R.N.

Date: 2-4-05

FILED

FEB 17 2005

William A. Shaw
Prothonotary

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

PATRICIA FARNSWORTH, Personal
Representative of the ESTATE OF
FRANK HARZINSKI,

Plaintiff.

vs.

CLEARFIELD HOSPITAL,
SHARON GOODMAN, R.N.,
CLEARFIELD COMMUNITY NURSES,
and NORMA J. PANT, R.N.,

Defendants

I HEREBY CERTIFY THAT A TRUE AND
CORRECT COPY OF THE WITHIN WAS
MAILED TO ALL COUNSEL OF RECORD
THIS 15TH DAY OF FEBRUARY, 2005.


Attorneys for Named Defendants

No. 2004 - 1555 CD

ISSUE:

NOTICE OF SERVICE OF
INTERROGATORIES AND REQUEST
FOR PRODUCTION OF DOCUMENTS
DIRECTED TO PLAINTIFF -
DATED: 2/15/05

Filed on behalf of Defendants,
CLEARFIELD HOSPITAL
and SHARON GOODMAN, RN

Counsel of Record For These Parties:
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

FILED

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FEB 17 2005

William A. Shaw
Prothonotary

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

PATRICIA FARNSWORTH, Personal
Representative of the ESTATE OF
FRANK HARZINSKI,

Plaintiff

vs.

CLEARFIELD HOSPITAL,
SHARON GOODMAN, R.N.,
CLEARFIELD COMMUNITY NURSES,
and NORMA J. PANT, R.N.,

Defendants

No. 2004 – 1555 CD

ISSUE:
NOTICE OF SERVICE OF
INTERROGATORIES AND REQUEST
FOR PRODUCTION OF DOCUMENTS
DIRECTED TO PLAINTIFF -
DATED: 2/15/05

Filed on behalf of Defendants,
CLEARFIELD HOSPITAL
and SHARON GOODMAN, RN

Counsel of Record For These Parties:
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 15TH DAY OF FEBRUARY, 2005.


Attorneys for Named Defendants

FILED

10.54188 10 02

62 FEB 17 2005

William A. Shaw
Prothonotary

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

PATRICIA FARNSWORTH, Personal
Representative of the ESTATE OF
FRANK HARZINSKI,

Plaintiff

vs.

CLEARFIELD HOSPITAL,
SHARON GOODMAN, R.N.,
CLEARFIELD COMMUNITY NURSES,
and NORMA J. PANT, R.N.,

Defendants

No. 2004 – 1555 CD

JURY TRIAL DEMANDED


**NOTICE OF SERVICE OF INTERROGATORIES AND
REQUEST FOR PRODUCTION OF DOCUMENTS
DIRECTED TO PLAINTIFFS – DATED: 2/15/05**

TO: PROTHONOTARY

You are hereby notified that on the 15th day of **February, 2005**, Defendants,
CLEARFIELD HOSPITAL and SHARON GOODMAN, RN, served Interrogatories and
Request for Production of Documents Directed to Plaintiff – Dated: 2/15/05 by mailing
the original of same via First Class U.S. Mail, postage prepaid, addressed to the
following:

Sherie Lynn Painter, Esquire
Pribanic & Pribanic
1735 Lincoln Way
White Oak, PA 15131

McINTYRE, DUGAS, HARTYE & SCHMITT

By 
Attorneys for Defendants,
CLEARFIELD HOSPITAL and
SHARON GOODMAN, RN

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

MINTZER, SAROWITZ, ZERIS,
LEDVA & MEYERS
BY: DANIEL J. MCCARTHY, ESQUIRE
Identification No.: 41440
22nd Floor
1528 Walnut Street
Philadelphia, PA 19102
(215) 735-7200
MSZL&M File No. 0210.1314

Attorney for Defendant(s),
INSURED

FILED ^{ngc}
FEB 22 2005
18:51

William A. Shaw
Prothonotary/Clerk of Courts

PATRICIA FARNSWORTH, PERSONAL
REPRESENTATIVE OF THE ESTATE OF FRANK
HARZINSKI

COURT OF COMMON PLEAS
CLEARFIELD

vs.

No. 2004-01555-CD

CLEARFIELD HOSPITAL, SHARON GOODMAN,
R.N., CLEARFIELD COMMUNITY NURSES AND
NORMA J. PANT, R.N.

CERTIFICATE PREREQUISITE TO SERVICE OF A SUBPOENA
PURSUANT TO RULE 4009.22

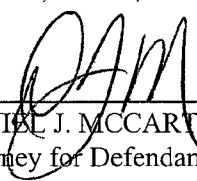
As a prerequisite to service of a subpoena for documents and things pursuant to Rule 4009.22,
defendant certifies that:

- (1) a notice of intent to serve the subpoena with a copy of the subpoena attached thereto was
mailed or delivered to each party at least twenty days prior to the date on which the
subpoena is sought to be served,
- (2) a copy of the notice of intent, including the proposed subpoena, is attached to this
certificate,
- (3) no objection to the subpoena has been received, and
- (4) the subpoena which will be served is identical to the subpoena which is attached to the
notice of intent to serve the subpoena.

Dated: February 17, 2005

MINTZER, SAROWITZ, ZERIS, LEDVA & MEYERS

BY: _____


DANIEL J. MCCARTHY, ESQUIRE
Attorney for Defendant(s):

MINTZER, SAROWITZ, ZERIS,
LEDVA & MEYERS
BY: DANIEL J. McCARTHY, ESQUIRE
Identification No.: 41440
22nd Floor
1528 Walnut Street
Philadelphia, PA 19102
(215) 735-7200
MSZL&M File No. 0210.1314

Attorney for Defendants,

PATRICIA FARNSWORTH, PERSONAL
REPRESENTATIVE OF THE ESTATE OF
FRANK HARZINSKI,

vs.

CLEARFIELD HOSPITAL, SHARON
GOODMAN, R.N., CLEARFIELD
COMMUNITY NURSES AND NORMA J.
PANT, R.N.,

COURT OF COMMON PLEAS
Clearfield County

No. 2004-01555-CD

**NOTICE OF INTENT TO SERVE A SUBPOENA(S) TO PRODUCE DOCUMENTS
AND THINGS FOR DISCOVERY PURSUANT TO RULE 4009.21**

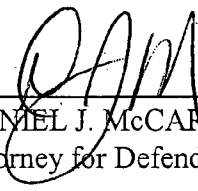
To: Victor H. Pribanic, Esquire

Defendant, intends to serve a subpoena(s) identical to the one that is/are attached to this Notice. You have twenty (20) days from the date listed below in which to file of record and serve upon the undersigned an objection to the subpoena(s). If no objection is made the subpoena(s) may be served.

Dated: January 25, 2005

MINTZER, SAROWITZ, ZERIS,
LEDVA & MEYERS

BY:


DANIEL J. McCARTHY, ESQUIRE
Attorney for Defendant(s),

COMMONWEALTH OF PENNSYLVANIA
COUNTY OF CLEARFIELD

Patricia Farnsworth
Frank Harzinski
Plaintiff(s)

Vs.

Clearfield Hospital
Sharon Goodman
Clearfield Community Nurses
Norma J. Pant
Defendant(s)

No. 2004-01555-CD

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

TO: DR. BRUNO ROMEO c/o Clearfield Professional Group:
(Name of Person or Entity)

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

PLEASE SEE ATTACHED ADDENDUM

Mintzer, Sarowitz, Zeris, Ledva & Meyers 1528 Walnut St., 22nd
Floor, Philadelphia, PA 19102

(Address)

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

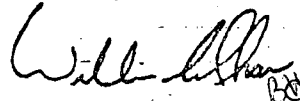
If you fail to produce the documents or things required by this subpoena within twenty (20) days after its service, the party serving this subpoena may seek a court order compelling you to comply with it.

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

NAME: DANIEL J. MCCARTHY, ESQUIRE
ADDRESS: 1528 Walnut Street, 22nd Floor
Philadelphia, PA 19102
TELEPHONE: (215) 735-7200
SUPREME COURT ID # 41440
ATTORNEY FOR: DEFENDANTS

BY THE COURT:

William A. Shaw
Prothonotary/Clerk, Civil Division



Deputy

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

DATE: Wednesday, January 19, 2005
Seal of the Court

COMMONWEALTH OF PENNSYLVANIA
COUNTY OF CLEARFIELD

Patricia Farnsworth
Frank Harzinski
Plaintiff(s)

Vs.

Clearfield Hospital
Sharon Goodman
Clearfield Community Nurses
Norma J. Pant
Defendant(s)

*

*

*

No. 2004-01555-CD

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

TO: RIDGEVIEW ELDER CARE REHAB CENTER:

(Name of Person or Entity)

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

PLEASE SEE ATTACHED ADDENDUM

Mintzer, Sarowitz, Zeris, Ledva & Meyers 1528 Walnut St., 22nd F
Floor, Philadelphia, PA 19102

(Address)

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

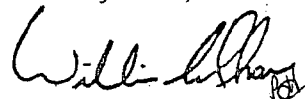
If you fail to produce the documents or things required by this subpoena within twenty (20) days after its service, the party serving this subpoena may seek a court order compelling you to comply with it.

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

NAME: DANIEL J. MCCARTHY, ESQUIRE
ADDRESS: 1528 Walnut Street, 22nd Floor
Philadelphia, PA 19102
TELEPHONE: (215) 735-7200
SUPREME COURT ID # 41440
ATTORNEY FOR: DEFENDANTS

BY THE COURT:

William A. Shaw
Prothonotary/Clerk, Civil Division



Deputy

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

DATE: Wednesday, January 19, 2005
Seal of the Court

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

PATRICIA FARNSWORTH, Personal
Representative of the ESTATE of
FRANK HARZINSKI,

Plaintiff,

vs.

CLEARFIELD HOSPITAL, SHARON
GOODMAN, R.N., CLEARFIELD
COMMUNITY NURSES, and NORMA
J. PARENT, R.N., incorrectly identified as
NORMA J. PANT, R.N.,

Defendants.

JURY TRIAL DEMANDED

CIVIL DIVISION

No.: 04-1555-CD

REPLY TO NEW MATTER OF
DEFENDANTS CLEARFIELD
COMMUNITY NURSES and NORMA
J. PARENT, R.N.

Filed on behalf of Plaintiff:

PATRICIA FARNSWORTH

Counsel of record for this party:

VICTOR H. PRIBANIC
PA I.D. No. 30785

PRIBANIC & PRIBANIC, L.L.C.
1735 Lincoln Way
White Oak, PA 15131

(412) 672-5444

FILED
FEB 22 2005

William A. Shaw
Prothonotary/Clerk of Courts

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

PATRICIA FARNSWORTH, Personal
Representative of the ESTATE of
FRANK HARZINSKI,

Plaintiff,

vs.

CLEARFIELD HOSPITAL, SHARON
GOODMAN, R.N., CLEARFIELD
COMMUNITY NURSES, and NORMA
J. PARENT, R.N., incorrectly identified as
NORMA J. PANT, R.N.,

Defendants.

CIVIL DIVISION

No.: 04-1555-CD

REPLY TO NEW MATTER

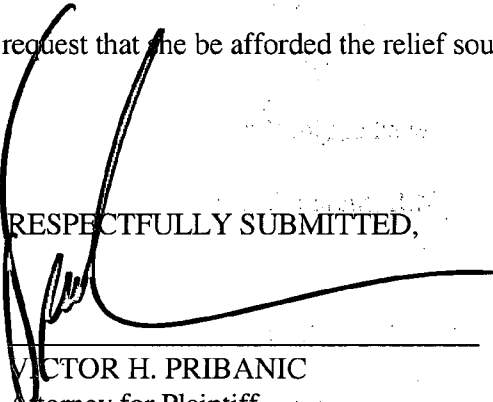
Plaintiff, by her counsel, Victor H. Pribanic, files the within Reply to New Matter asserted on behalf of Defendants Clearfield Community Nurses and Norma J. Parent, R.N. and in support thereof avers:

1. The averments of Defendant's New Matter are denied.
2. The application of the current joint and several liability legislation

in the Commonwealth of Pennsylvania is unconstitutional.

WHEREFORE, Plaintiff respectfully request that she be afforded the relief sought in the Complaint filed in the captioned action.

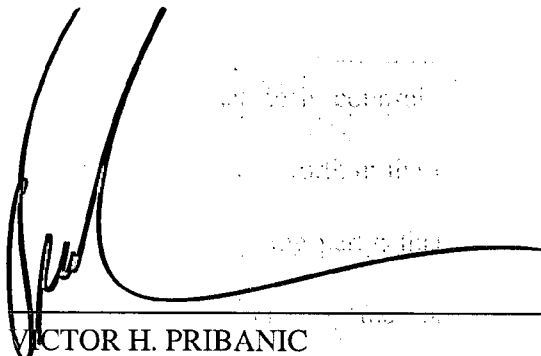
RESPECTFULLY SUBMITTED,



VICTOR H. PRIBANIC
Attorney for Plaintiff

VERIFICATION

VICTOR H. PRIBANIC, Esquire, deposes and says that he is counsel for the foregoing party; that he is authorized to make this Verification; that the facts set forth in the foregoing are true and correct based upon information supplied to him by the foregoing party; that the purposes of this verification are to expedite the litigation; and that a Verification by the party hereto will be furnished if requested. This statement is made subject to penalties of 18 Pa. C.S. Section 4909 relating to unsworn falsification of authorities.

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

VICTOR H. PRIBANIC
Counsel for Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the within has been served via U. S. Postal Service postage prepaid on the 16th day of Feb, 2005 upon the following:

Frank J. Hartye, Esquire
McIntyre, Dugas, Hartye & Schmitt
P.O. Box 533
Hollidaysburg, PA 16648
Counsel for Defendants Clearfield Hospital and Sharon Goodman, R.N.

Daniel J. McCarthy, Esquire
Mintzer Sarowitz Zeris Ledva & Meyers
1528 Walnut Street, 22nd Floor
Philadelphia, PA 19102-3614
Counsel for Defendants Clearfield Community Nurses and Norma J. Parent, R.N.


PRIBANIC & PRIBANIC, L.L.C.

VICTOR H. PRIBANIC
Counsel for Plaintiff

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

PATRICIA FARNSWORTH, Personal
Representative of the ESTATE of
FRANK HARZINSKI,

Plaintiff,

vs.

CLEARFIELD HOSPITAL, SHARON
GOODMAN, R.N., CLEARFIELD
COMMUNITY NURSES, and NORMA
J. PARENT, R.N., incorrectly identified as
NORMA J. PANT, R.N.,

Defendants.

CIVIL DIVISION

No.: 04-1555-CD

ACCEPTANCE OF SERVICE OF
REISSUED WRIT OF SUMMONS

Filed on behalf of Plaintiff:

PATRICIA FARNSWORTH

Counsel of record for this party:

VICTOR H. PRIBANIC
PA I.D. No. 30785

PRIBANIC & PRIBANIC, L.L.C.
1735 Lincoln Way
White Oak, PA 15131

(412) 672-5444

SLP

JURY TRIAL DEMANDED

FILED
6/10/10 10:55 AM
FEB 24 2005
William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

PATRICIA FARNSWORTH, Personal
Representative of the ESTATE of
FRANK HARZINSKI,

Plaintiff,

vs.

CLEARFIELD HOSPITAL, SHARON
GOODMAN, R.N., CLEARFIELD
COMMUNITY NURSES, and NORMA
J. PARENT, R.N., incorrectly identified as
NORMA J. PANT, R.N.,

Defendants.

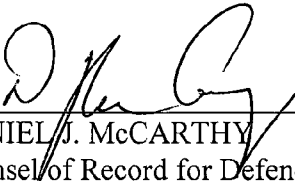
CIVIL DIVISION

No.: 04-1555-CD

ACCEPTANCE OF SERVICE OF REISSUED WRIT OF SUMMONS

I, Daniel J. McCarthy, Esquire, accept service of the Reissued Writ of Summons on behalf of Defendant, Norma J. Parent, R.N., incorrectly identified as Norma J. Pant, R.N., and certify that I am authorized to do so.

1/31/05
Date



DANIEL J. MCCARTHY
Counsel of Record for Defendant, Norma J. Parent, R.N.
incorrectly identified as Norma J. Pant, R.N.

MINTZER SAROWITZ ZERIS LEDVA & MEYERS
1528 Walnut Street, 22nd Floor
Philadelphia, PA 19102-3614

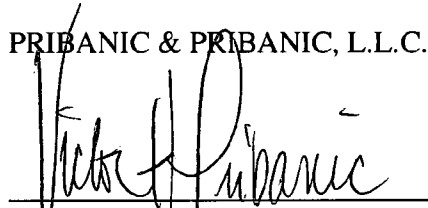
CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the within has been served via U. S. Postal Service postage prepaid on the 20th day of February, 2005 upon the following:

Frank J. Hartye, Esquire
McIntyre, Dugas, Hartye & Schmitt
P.O. Box 533
Hollidaysburg, PA 16648
Counsel for Defendants Clearfield Hospital and Sharon Goodman, R.N.

Daniel J. McCarthy, Esquire
Mintzer Sarowitz Zeris Ledva & Meyers
1528 Walnut Street, 22nd Floor
Philadelphia, PA 19102-3614
Counsel for Defendants Clearfield Community Nurses and Norma J. Parent, R.N.

PRIBANIC & PRIBANIC, L.L.C.

A handwritten signature in black ink, appearing to read "Victor H. Pribanic", is written over a horizontal line.

VICTOR H. PRIBANIC
Counsel for Plaintiff

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

PATRICIA FARNSWORTH, Personal
Representative of the ESTATE of
FRANK HARZINSKI,

Plaintiff,

vs.

CLEARFIELD HOSPITAL, SHARON
GOODMAN, R.N., CLEARFIELD
COMMUNITY NURSES, and NORMA
J. PARENT, R.N., incorrectly identified as
NORMA J. PANT, R.N.,

Defendants.

CIVIL DIVISION

No.: 04-1555-CD

REPLY TO NEW MATTER OF
DEFENDANTS CLEARFIELD
HOSPITAL AND SHARON
GOODMAN, R.N.

Filed on behalf of Plaintiff:

PATRICIA FARNSWORTH

Counsel of record for this party:

VICTOR H. PRIBANIC
PA I.D. No. 30785

PRIBANIC & PRIBANIC, L.L.C.
1735 Lincoln Way
White Oak, PA 15131

(412) 672-5444

JURY TRIAL DEMANDED

FILED
m/1:4324
FEB 28 2005
William A. Shaw
Prothonotary/Clerk of Courts

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

PATRICIA FARNSWORTH, Personal
Representative of the ESTATE of
FRANK HARZINSKI,

Plaintiff,

vs.

CLEARFIELD HOSPITAL, SHARON
GOODMAN, R.N., CLEARFIELD
COMMUNITY NURSES, and NORMA
J. PARENT, R.N., incorrectly identified as
NORMA J. PANT, R.N.,

Defendants.

CIVIL DIVISION

No.: 04-1555-CD

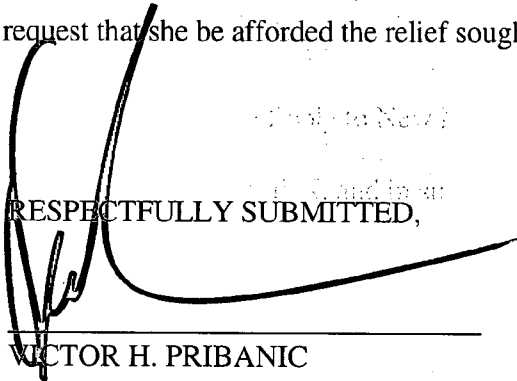
REPLY TO NEW MATTER

Plaintiff, by her counsel, Victor H. Pribanic, files the within Reply to New Matter asserted on behalf of Defendants Clearfield Hospital and Sharon Goodman, R.N. and in support thereof avers:

1. The averments of Defendant's New Matter are denied.
2. The application of the current joint and several liability legislation in the Commonwealth of Pennsylvania is unconstitutional.

WHEREFORE, Plaintiff respectfully request that she be afforded the relief sought in the Complaint filed in the captioned action.

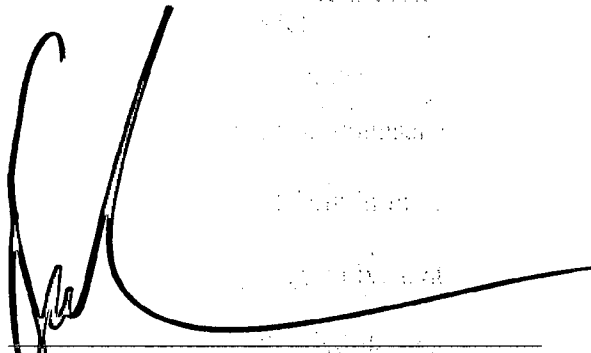
RESPECTFULLY SUBMITTED,



VICTOR H. PRIBANIC
Attorney for Plaintiff

VERIFICATION

VICTOR H. PRIBANIC, Esquire, deposes and says that he is counsel for the foregoing party; that he is authorized to make this Verification; that the facts set forth in the foregoing are true and correct based upon information supplied to him by the foregoing party; that the purposes of this verification are to expedite the litigation; and that a Verification by the party hereto will be furnished if requested. This statement is made subject to penalties of 18 Pa. C.S. Section 4909 relating to unsworn falsification of authorities.



VICTOR H. PRIBANIC
Counsel for Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the within has been served via U. S. Postal Service postage prepaid on the 29th day of Feb, 2005 upon the following:

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

Counsel for Defendants Clearfield Hospital and Sharon Goodman, R.N.

Daniel J. McCarthy, Esquire
Mintzer Sarowitz Zeris Ledva & Meyers
1528 Walnut Street, 22nd Floor
Philadelphia, PA 19102-3614

Counsel for Defendants Clearfield Community Nurses and Norma J. Parent, R.N.


PRIBANIC & PRIBANIC, L.L.C.

VICTOR H. PRIBANIC
Counsel for Plaintiff

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

PATRICIA FARNSWORTH, Personal
Representative of the ESTATE of
FRANK HARZINSKI,

Plaintiff,

vs.

CLEARFIELD HOSPITAL, SHARON
GOODMAN, R.N., CLEARFIELD
COMMUNITY NURSES, and NORMA
J. PARENT, R.N., incorrectly identified as
NORMA J. PANT, R.N.,

Defendants.

CIVIL DIVISION

No.: 04-1555-CD

STIPULATION

Filed on behalf of Plaintiff:

PATRICIA FARNSWORTH

Counsel of record for this party:

VICTOR H. PRIBANIC
PA I.D. No. 30785

PRIBANIC & PRIBANIC, L.L.C.
1735 Lincoln Way
White Oak, PA 15131

(412) 672-5444

JURY TRIAL DEMANDED

FILED NO
CC
MAR 11 2005 62

William A. Shaw
Prothonotary/Clerk of Courts

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

PATRICIA FARNSWORTH, Personal
Representative of the ESTATE of
FRANK HARZINSKI,

Plaintiff,

vs.

CLEARFIELD HOSPITAL, SHARON
GOODMAN, R.N., CLEARFIELD
COMMUNITY NURSES, and NORMA
J. PARENT, R.N., incorrectly identified as
NORMA J. PANT, R.N.,

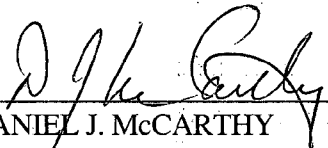
Defendants.

CIVIL DIVISION

No.: 04-1555-CD

STIPULATION

The undersigned hereby stipulate and agree that the caption in the above action may be amended to delete Norma J. Pant, R.N. and include Norma J. Parent, R.N. as a Defendant herein.



DANIEL J. MCCARTHY
Counsel for Defendants Clearfield
Community Nurses and Norma J. Parent, R.N.



VICTOR H. PRIBANIC
Counsel for Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the within has been served via U. S. Postal Service postage prepaid on the 16 day of Feb, 2005 upon the following:

Frank J. Hartye, Esquire
McIntyre, Dugas, Hartye & Schmitt
P.O. Box 533
Hollidaysburg, PA 16648
Counsel for Defendants Clearfield Hospital and Sharon Goodman, R.N.

Daniel J. McCarthy, Esquire
Mintzer Sarowitz Zeris Ledva & Meyers
1528 Walnut Street, 22nd Floor
Philadelphia, PA 19102-3614
Counsel for Defendants Clearfield Community Nurses and Norma J. Parent, R.N.


PRIBANIC & PRIBANIC, L.L.C.

VICTOR H. PRIBANIC
Counsel for Plaintiff

CA

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

PATRICIA FARNSWORTH, Personal
Representative of the ESTATE OF
FRANK HARZINSKI,

Plaintiff

vs.

CLEARFIELD HOSPITAL,
SHARON GOODMAN, R.N.,
CLEARFIELD COMMUNITY NURSES,
and NORMA J. PARENT, R.N.,

Defendants

No. 2004 – 1555 CD

ISSUE:
MOTION TO COMPEL DISCOVERY
RESPONSES

Filed on behalf of Defendants,
CLEARFIELD HOSPITAL
and SHARON GOODMAN, RN

Counsel of Record For These Parties:
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 17TH DAY OF MAY, 2005.


Attorneys for Named Defendants

FILED ⁶⁴ice
m/11:30 AM
MAY 19 2005

Atty Hartye

William A. Shaw
Prothonotary/Clerk of Courts

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

PATRICIA FARNSWORTH, Personal
Representative of the ESTATE OF
FRANK HARZINSKI,

Plaintiff

vs.

CLEARFIELD HOSPITAL,
SHARON GOODMAN, R.N.,
CLEARFIELD COMMUNITY NURSES,
and NORMA J. PARENT, R.N.,

Defendants

No. 2004 – 1555 CD

JURY TRIAL DEMANDED

ORDER

AND NOW, this _____ day of _____, 2005, upon
consideration of the foregoing motion, it is hereby ordered that:

- (1) a rule is issued upon the respondent to show cause why the
moving parties are not entitled to the relief requested;
- (2) the respondent shall file an answer to the motion within _____
days of this date;
- (3) the motion shall be decided under Pa. R.C.P. 206.7;
- (4) depositions and all other discovery shall be completed within
_____ days of this date;
- (5) an evidentiary hearing on disputed issues of material fact shall be
held on _____, 2005, in the Clearfield County Courthouse, Clearfield,
PA, in Courtroom No. _____;
- (6) argument shall be held on _____, 2005,
Courtroom No. _____ of the Clearfield County Courthouse; and

(7) notice of the entry of this order shall be provided to all parties by the moving party.

BY THE COURT:

J.

(7) notice of the entry of this order shall be provided to all parties by
the moving party.

BY THE COURT:

J.

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

PATRICIA FARNSWORTH, Personal
Representative of the ESTATE OF
FRANK HARZINSKI,

Plaintiff

vs.

CLEARFIELD HOSPITAL,
SHARON GOODMAN, R.N.,
CLEARFIELD COMMUNITY NURSES,
and NORMA J. PARENT, R.N.,

Defendants

No. 2004 – 1555 CD

JURY TRIAL DEMANDED

MOTION TO COMPEL DISCOVERY RESPONSES

AND NOW, come the Defendants, CLEARFIELD HOSPITAL and SHARON GOODMAN, RN, by and through their attorneys, McINTYRE, DUGAS, HARTYE & SCHMITT, and file the following Motion to Compel Discovery Responses.

1. Plaintiff initiated the within action by filing a Praeceptum for Writ of Summons on October 6, 2004. Thereafter plaintiff filed a Complaint alleging professional negligence against the defendants on or about December 16, 2004.

2. Defendants, Clearfield Hospital and Sharon Goodman, RN, filed Interrogatories and Request for Production of Documents upon the plaintiff on February 15, 2005.

3. It has been more than 90 days and despite requests, plaintiff has failed to file responses to discovery.

4. Pennsylvania Rule of Civil Procedure 4006(a)(2) provides that a party shall serve answers and objections within 30 days after service of the Interrogatories.

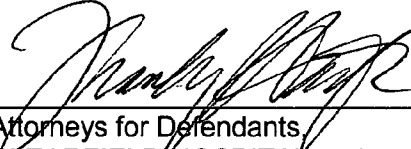
5. Likewise, Pennsylvania Rule of Civil Procedure 4009.12(a) provides that a party upon which a Request is served shall within 30 days after service serve answers to them.

6. Defendants cannot properly and promptly prepare a defense in this action without receiving discovery responses from the plaintiff.

WHEREFORE, Defendants request this Honorable Court to enter an Order requiring plaintiff to file complete responses to Interrogatories and Request for Production of Documents within 20 days of the date of the Court's Order.

Respectfully submitted,

McINTYRE, DUGAS, HARTYE & SCHMITT

By 
Attorneys for Defendants,
CLEARFIELD HOSPITAL and
SHARON GOODMAN, RN

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

FILED

MAY 19 2005

William A. Shaw
Prothonotary/Clerk of Courts

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

PATRICIA FARNSWORTH, Personal :
Representative of the ESTATE OF :
FRANK HARZINSKI :

vs. :

No. 04-1555-CD

CLEARFIELD HOSPITAL, SHARON :
GOODMAN, R.N., CLEARFIELD :
COMMUNITY NURSES and :
NORMA J. PARENT, R.N. :

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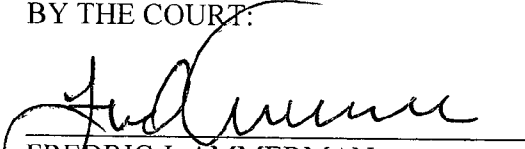
cc Atty
Hastye w/
memo Re Service

William A. Shaw
Prothonotary/Clerk of Courts

ORDER

AND NOW, this 26 day of May, ²⁰⁰⁵ upon consideration of
Defendants Clearfield Hospital and Sharon Goodman, R.N.'s Motion to Compel
Discovery, Plaintiff is directed to file responses within no more than twenty (20) days
from the date of this Order.

BY THE COURT:


FREDRIC J. AMMERMAN
President Judge

FILED

MAY 26 2005

William A. Shaw
Prothonotary/Clerk of Courts



OFFICE OF COURT ADMINISTRATOR
FORTY-SIXTH JUDICIAL DISTRICT OF PENNSYLVANIA

CLEARFIELD COUNTY COURTHOUSE
SUITE 228, 230 EAST MARKET STREET
CLEARFIELD, PENNSYLVANIA 16830

DAVID S. MEHOLICK
COURT ADMINISTRATOR

PHONE: (814) 765-2641
FAX: 1-814-765-7649

MARCY KELLEY
DEPUTY COURT ADMINISTRATOR

MEMO: To all parties filing Petitions/Motions in Clearfield County:

Please make note of the following:

Rule 206(f) The party who has obtained the issuance of a Rule to Show Cause shall forthwith serve a true and correct copy of both the Court Order entering the Rule and specifying a return date, and the underlying Petition or Motion, upon every other party to the proceeding in the manner prescribed by the Pennsylvania Rules of Civil Procedure (see PA. R.C.P. 440) and upon the Court Administrator.

Rule 206(g) The party who has obtained the issuance of a Rule to Show Cause shall file with the Prothonotary, within seven (7) days of the issuance of the Rule, an Affidavit of Service indicating the time, place and manner of service. Failure to comply with this provision may constitute sufficient basis for the Court to deny the prayer of the Petition or Motion.

***** Please note: This also includes service of scheduling orders obtained as the result of the filing of any pleading.**

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

PATRICIA FARNSWORTH, Personal
Representative of the ESTATE OF
FRANK HARZINSKI,

Plaintiff

vs.

CLEARFIELD HOSPITAL,
SHARON GOODMAN, R.N.,
CLEARFIELD COMMUNITY NURSES,
and NORMA J. PARENT, R.N.,

Defendants

No. 2004 – 1555 CD

ISSUE:

Notice of Deposition of
Bruno J. Romeo, M.D.

FILED ^{NO} ^{CC}
m/11:44/61
NOV 16 2005

William A. Shaw
Prothonotary/Clerk of Courts

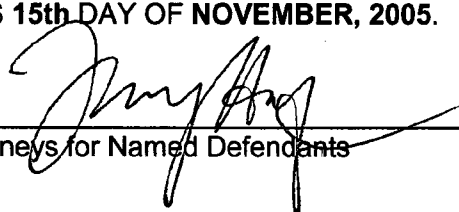
Filed on behalf of Defendants,
CLEARFIELD HOSPITAL
and SHARON GOODMAN, RN

Counsel of Record For These Parties:
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 15th DAY OF NOVEMBER, 2005.


Attorneys for Named Defendants

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

PATRICIA FARNSWORTH, Personal
Representative of the ESTATE OF
FRANK HARZINSKI,

Plaintiff

vs.

CLEARFIELD HOSPITAL,
SHARON GOODMAN, R.N.,
CLEARFIELD COMMUNITY NURSES,
and NORMA J. PARENT, R.N.,

Defendants

No. 2004 – 1555 CD

JURY TRIAL DEMANDED

NOTICE OF DEPOSITION

TO: Bruno J. Romeo, M.D.
Clearfield Professional Group
820 Turnpike Avenue
Clearfield, PA 16830

Victor Pribanic, Esquire
Pribanic & Pribanic
1735 Lincoln Way
White Oak, PA 15131

Daniel J. McCarthy, Esquire
Mintzer, Sarowitz, Zeris,
Ledva & Meyers
1528 Walnut Street, 22nd Floor
Philadelphia, PA 19102-3614

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

Please take notice that the deposition of Bruno J. Romeo, M.D. shall be taken
upon oral examination by an official Court Reporter at the offices of **Dr. Romeo,**

Clearfield Professional Group, 820 Turnpike Avenue, Clearfield, PA, on the 23rd day of March, 2006, commencing at 1:00 p.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
Clearfield Hospital and Sharon
Goodman, R.N.

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

FILED

NOV 16 2005

William A. Shaw
Prothonotary/Clerk of Courts

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

PATRICIA FARNSWORTH, Personal
Representative of the ESTATE OF
FRANK HARZINSKI,

Plaintiff

vs.

CLEARFIELD HOSPITAL,
SHARON GOODMAN, R.N.,
CLEARFIELD COMMUNITY NURSES,
and NORMA J. PARENT, R.N.,

Defendants

No. 2004 – 1555 CD

ISSUE:

Notice of Deposition of Dr.
Sheldon R. Rosenthal

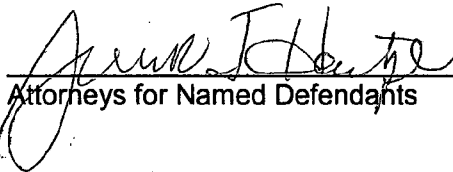
Filed on behalf of Defendants,
CLEARFIELD HOSPITAL
and SHARON GOODMAN, RN

Counsel of Record For These Parties:
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 23rd DAY OF NOVEMBER, 2005.


Attorneys for Named Defendants

FILED ^{no cc}
m/11/25/04
NOV 28 2005

William A. Shaw
Prothonotary/Clerk of Courts

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

PATRICIA FARNSWORTH, Personal
Representative of the ESTATE OF
FRANK HARZINSKI,

Plaintiff

vs.

CLEARFIELD HOSPITAL,
SHARON GOODMAN, R.N.,
CLEARFIELD COMMUNITY NURSES,
and NORMA J. PARENT, R.N.,

Defendants

No. 2004 – 1555 CD

JURY TRIAL DEMANDED

NOTICE OF DEPOSITION

TO: Dr. Sheldon R. Roshethal
807 Doctors Drive
Clearfield, PA 16830

Victor Pribanic, Esquire
Pribanic & Pribanic
1735 Lincoln Way
White Oak, PA 15131

Daniel J. McCarthy, Esquire
Mintzer, Sarowitz, Zeris,
Ledva & Meyers
1528 Walnut Street, 22nd Floor
Philadelphia, PA 19102-3614

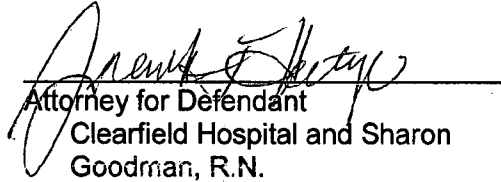
Sargent's Court Reporting Service
210 Main Street
Johnstown, PA 15901

Please take notice that the deposition of Dr. Sheldon R. Rosenthal shall be taken upon oral examination by an official Court Reporter at the offices of **Sargent's Court Reporting Service, 106 N. Second Street, Clearfield, PA**, on the **2nd day of December, 2005**, commencing at **3:00 p.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
Clearfield Hospital and Sharon
Goodman, R.N.

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

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JANUARY 10 2006
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JANUARY 10 2006

FILED

NOV 28 2005

William A. Shaw
Prothonotary/Clerk of Courts

PATRICIA FARNSWORTH, PERSONAL
REPRESENTATIVE OF THE ESTATE OF
FRANK HARZINSKI

vs.

CLEARFIELD HOSPITAL, SHARON
GOODMAN, R.N., CLEARFIELD
COMMUNITY NURSES AND NORMA J.
PANT, R.N.

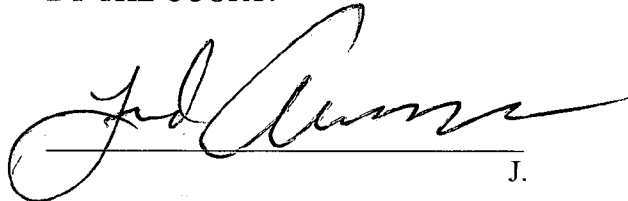
COURT OF COMMON PLEAS
CLEARFIELD

NO. 2004-01555-CD

ORDER OF COURT

AND NOW, to wit, this 15 day of Sept., 2006, it is hereby Ordered
and Decreed that a Status Conference is scheduled for October 17, 2006 in
the Clearfield County Court of Common Pleas, Courtroom No. 1, with the
Honorable Fredric J. Ammerman at 9:00 A.m.

BY THE COURT:


J.

FILED ICCA
9/12/10
SEP 18 2006
McCarty
CA

William A. Shaw
Prothonotary/Clerk of Courts

DATE: 9-18-2006

☒ 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: _____

FILED

SEP 18 2006

William A. Shaw
Prothonotary/Clerk of Courts

**MINTZER, SAROWITZ, ZERIS,
LEDVA & MEYERS**
BY: DANIEL J. MCCARTHY, ESQUIRE
Attorney I.D. No. 41440
22nd Floor
1528 Walnut Street
Philadelphia, PA 19102
(215) 735-7200
MSZL&M File No. 0210.1314

Attorney for Defendant(s),
CLEARFIELD COMMUNITY NURSES AND
NORMA J. PANT, R.N.

PATRICIA FARNSWORTH, PERSONAL
REPRESENTATIVE OF THE ESTATE OF
FRANK HARZINSKI

COURT OF COMMON PLEAS
CLEARFIELD

vs.

NO. 2004-01555-CD

CLEARFIELD HOSPITAL, SHARON
GOODMAN, R.N., CLEARFIELD
COMMUNITY NURSES AND NORMA J.
PANT, R.N.

**MOTION OF DEFENDANTS CLEARFIELD
COMMUNITY NURSES AND NORMA J. PANT, R.N. FOR
STATUS CONFERENCE PURSUANT TO RULE 212.1**

1. Plaintiff filed a Complaint seeking damages against moving Defendants.
2. Moving Defendants request that this Honorable Court schedule a Status

Conference pursuant to Rule 212.1.

MINTZER, SAROWITZ, ZERIS, LEDVA & MEYERS

BY: *Daniel J. McCarthy*
DANIEL J. MCCARTHY, ESQUIRE
Attorney for Defendant(s), CLEARFIELD COMMUNITY
NURSES AND NORMA J. PANT, R.N.

FILED

SEP 14 2006

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William A. Shaw
Prothonotary/Clerk of Courts

1 cent to Ann

**MINTZER, SAROWITZ, ZERIS,
LEDVA & MEYERS**

BY: DANIEL J. MCCARTHY, ESQUIRE

Attorney I.D. No. 41440

22nd Floor

1528 Walnut Street

Philadelphia, PA 19102

(215) 735-7200

MSZL&M File No. 0210.1314

Attorney for Defendant(s),

CLEARFIELD COMMUNITY NURSES AND

NORMA J. PANT, R.N.

PATRICIA FARNSWORTH, PERSONAL
REPRESENTATIVE OF THE ESTATE OF
FRANK HARZINSKI

COURT OF COMMON PLEAS
CLEARFIELD

vs.

NO. 2004-01555-CD

CLEARFIELD HOSPITAL, SHARON
GOODMAN, R.N., CLEARFIELD
COMMUNITY NURSES AND NORMA J.
PANT, R.N.

**MEMORANDUM OF LAW IN SUPPORT OF
MOTION FOR STATUS CONFERENCE UNDER RULE 212.1**

The within action is one for damages. Local Rule 212.1 provides that "[i]n any civil action, a party shall have the right to request a status after sixty (60) days from the filing of the Complaint...."

Moving Defendants request that this Honorable Court schedule a Status Conference pursuant to the above Rule.

MINTZER, SAROWITZ, ZERIS, LEDVA & MEYERS

BY: *Daniel J. McCarthy*

DANIEL J. MCCARTHY, ESQUIRE

Attorney for Defendant(s), CLEARFIELD COMMUNITY
NURSES AND NORMA J. PANT, R.N.

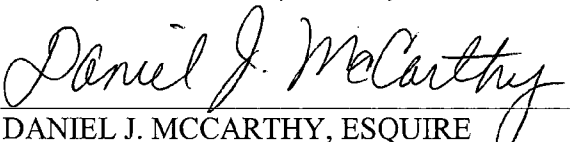
CERTIFICATE OF SERVICE

I, Daniel J. McCarthy, Esq., do hereby certify that a true and correct copy of the attached Motion was forwarded by First Class Mail, postage prepaid on the 12th day of September, 2006, as follows:

Victor H. Pribanic, Esquire
PRIBANIC & PRIBANIC
1735 Lincoln Way
White Oak, PA 15131

Frank Hartye, Esquire
McIntyre, Dugas, Hartye, Schmitt,
1816 Old Route, 220 N. Business,
Hollidaysburg PA, 16648

MINTZER, SAROWITZ, ZERIS, LEDVA & MEYERS

BY: 
DANIEL J. MCCARTHY, ESQUIRE
Attorney for Defendant(s), CLEARFIELD COMMUNITY
NURSES AND NORMA J. PANT, R.N.

Dated: September 12, 2006

A

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

PATRICIA FARNSWORTH, Personal
Representative of the ESTATE of
FRANK HARZINSKI,
Plaintiff

vs.

CLEARFIELD HOSPITAL, SHARON
GOODMAN, R.N., CLEARFIELD
COMMUNITY NURSES, AND
NORMA J. PANT, R.N.,
Defendants

No. 04-1555-CD

CASE MANAGEMENT ORDER

NOW, this 17th day of October, 2006, following status conference among counsel and the Court and upon agreement of the parties it is the ORDER of this Court as follows:

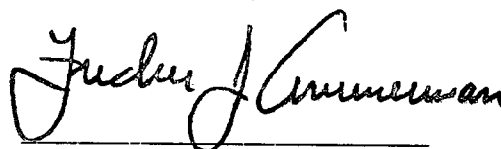
1. All discovery shall be closed, including but not limited to the taking of any depositions, by no later than December 31, 2006;
2. Plaintiff's expert report(s) shall be provided to Defense counsel by no later than March 1, 2007;
3. Defendants' expert report(s) shall be provided to counsel for the Plaintiff by no later than May 1, 2007;
4. The case shall be listed for Civil Call before the Court on July 26, 2007 at 11:00 a.m. in Courtroom No. 1, Clearfield County Courthouse, Clearfield, Pennsylvania;
5. The pre-trial conference will be held on August 17, 2007 at a time to be determined. The parties shall file their pre-trial statement and other documents in conformity with Clearfield County Local Rules; and
6. Jury selection shall be on August 28, 2007.

FILED
OCT 18 2006

William A. Shaw
Prothonotary/Clerk of Courts

cc Atty's:
Pribanic
Hartze
McCarthy
(60)

BY THE COURT,



FREDRIC J. AMMERMAN
President Judge

FILED

OCT 18 2006

William A. Shaw
Prothonotary/Clerk of Courts

DATE: 10/18/06

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

PATRICIA FARNSWORTH, Personal
Representative of the ESTATE of
FRANK HARZINSKI,

Plaintiff,

vs.

CLEARFIELD HOSPITAL, SHARON
GOODMAN, R.N., CLEARFIELD
COMMUNITY NURSES, and NORMA
J. PARENT, R.N., incorrectly identified as
NORMA J. PANT, R.N.,

Defendants.

CIVIL DIVISION

No.: 04-1555-CD

CONSENT MOTION TO
EXTEND DISCOVERY

Filed on behalf of Plaintiff:

PATRICIA FARNSWORTH

Counsel of record for this party:

VICTOR H. PRIBANIC
PA I.D. No. 30785

PRIBANIC & PRIBANIC, L.L.C.
1735 Lincoln Way
White Oak, PA 15131

(412) 672-5444

SLP

JURY TRIAL DEMANDED

FILED NO CC
01/10/25/2014
JAN 03 2014

William A. Shaw
Prothonotary/Clerk of Courts

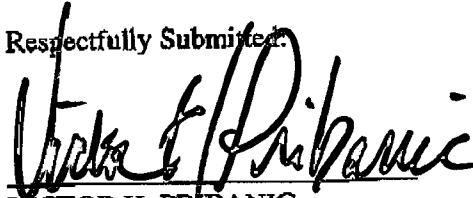
PATRICIA FARNSWORTH, Personal]	CIVIL DIVISION
Representative of the ESTATE of]	
FRANK HARZINSKI,]	No.: 04-1555-CD
]	
Plaintiff,]	
]	
vs.]	
]	
CLEARFIELD HOSPITAL, SHARON]	
GOODMAN, R.N., CLEARFIELD]	
COMMUNITY NURSES, and NORMA]	
J. PARENT, R.N., incorrectly identified as]	
NORMA J. PANT, R.N.,]	
]	
Defendants.]	

AND NOW, comes Plaintiff, by and through her attorney, Victor H. Pribanic, and Pribanic & Pribanic, L.L.C., and files the within Consent Motion to Extend Discovery and further aver the following:

1. Pursuant to this Honorable Court's Case Management Order of October 17, 2006, discovery shall be closed by no later than December 31, 2006.
2. Although Depositions of the Defendant Nurses were scheduled to take place prior to the discovery deadline, due to a scheduling conflict, Counsel for Defendant Parent is unable to attend one of the Depositions.
3. Defense Counsel, Frank J. Hartye, and Defense Counsel, Daniel J. McCarthy, have both consented to this Motion to Extend Discovery.

WHEREFORE, Plaintiff respectfully requests that discovery in this matter be extended to February 2, 2007 in order to permit the taking of both Defendant nurses' depositions.

Respectfully Submitted:



VICTOR H. PRIBANIC
Counsel for Plaintiff

Consented to by:

(See NEXT page)

FRANK J. HARTYE

Counsel for Defendants Clearfield Hospital and Sharon Goodman, R.N.



DANIEL J. MCCARTHY

Counsel for Defendants Clearfield Community Nurses and Norma J. Parent, R.N. (Incorrectly identified as Norma J. Pant, R.N.)

WHEREFORE, Plaintiff respectfully requests that discovery in this matter be extended to February 2, 2007 in order to permit the taking of both Defendant nurses' depositions.

Respectfully Submitted:

VICTOR H. PRIBANIC
Counsel for Plaintiff

Consented to by:



FRANK J. HARTVE
Counsel for Defendants Clearfield Hospital and Sharon Goodman, R.N.

DANIEL J. McCARTHY
Counsel for Defendants Clearfield Community Nurses and Norma J. Parent, R.N. (Incorrectly identified as Norma J. Pant, R.N.)

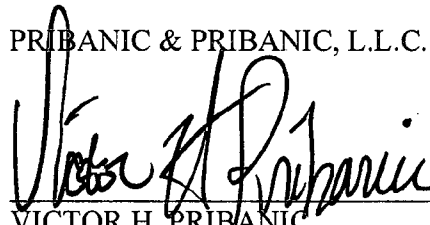
CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the within has been served via facsimile transmission and U. S. Postal Service postage prepaid on the 18th of December, 2006 upon the following:

Frank J. Hartye, Esquire
McINTYRE, DUGAS, HARTYE & SCHMITT
P.O. Box 533
Hollidaysburg, PA 16648
Counsel for Defendants Clearfield Hospital and Sharon Goodman, R.N.
Fax: 814-696-9399

Daniel J. McCarthy, Esquire
MINTZER SAROWITZ ZERIS LEDVA & MEYERS
1528 Walnut Street, 22nd Floor
Philadelphia, PA 19102-3614
Counsel for Defendants Clearfield Community Nurses and Norma J. Parent, R.N.
Fax: 215-735-1714

PRIBANIC & PRIBANIC, L.L.C.



VICTOR H. PRIBANIC
Counsel for Plaintiff

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

PATRICIA FARNSWORTH, Personal
Representative of the ESTATE of
FRANK HARZINSKI,

Plaintiff,

vs.

CLEARFIELD HOSPITAL, SHARON
GOODMAN, R.N., CLEARFIELD
COMMUNITY NURSES, and NORMA
J. PARENT, R.N., incorrectly identified as
NORMA J. PANT, R.N.,

Defendants.

Motion

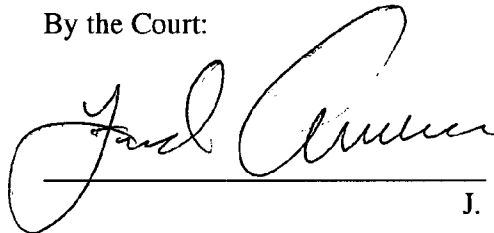
CIVIL DIVISION

No.: 04-1555-CD

ORDER OF COURT

AND NOW, this 28 day of December, 2006, it is HEREBY ORDERED, ADJUDGED
AND DECREED that Plaintiff's Consent Motion to Extend Discovery to February 2, 2007 is granted.
All remaining dates in the Case Management Order shall remain unaffected unless by further Order of
Court.

By the Court:


J.

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William A. Shaw
Prothonotary/Clerk of Courts

FILED

JAN 03 2007

William A. Shaw
Prothonotary/Clerk of Courts

DATE: 1/3/07

☒ 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:

0A

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

PATRICIA FARNSWORTH, Personal Representative
of the ESTATE OF FRANK HARZINSKI
Plaintiff

vs.

CLEARFIELD HOSPITAL, SHARON GOODMAN, R.N.,
CLEARFIELD COMMUNITY NURSES, and
NORMA J. PANT, R.N.,
Defendants

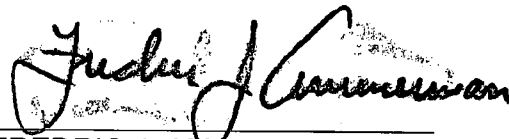
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NO. 04-1555-CD

ORDER

AND NOW, this 27th day of July, 2007, it is the ORDER of the Court that a Pre-Trial Conference in the above matter shall be held on the **24th day of August, 2007**, in **Chambers at 10:00 o'clock a.m.**

BY THE COURT,



FREDRIC J. AMMERMAN
President Judge

FILED
014:0030
JUL 27 2007

William A. Shaw
Prothonotary/Clerk of Courts

1cc Attys:
Prabaric
Hartye
D. McCarthy
CR

DATE: 7/27/07

 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:

William A. Shaw
Prothonotary/Clerk of Courts

FILED
JUL 27 2007

LA

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

PATRICIA FARNSWORTH, Personal
Representative of the ESTATE OF
FRANK HARZINSKI,

Plaintiff

vs.

CLEARFIELD HOSPITAL,
SHARON GOODMAN, R.N.,
CLEARFIELD COMMUNITY NURSES,
and NORMA J. PARENT, R.N.,

Defendants

No. 2004 – 1555 CD

ISSUE:
MOTION IN LIMINE

Filed on behalf of Defendants,
CLEARFIELD HOSPITAL
and SHARON GOODMAN, RN

Counsel of Record For These Parties:
Frank J. Hartye, Esquire
PA I.D. #25568

Laura O. Burke, Esquire
PA I.D. #200595
McINTYRE, 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 17th DAY OF AUGUST, 2007.


Attorneys for Named Defendants

FILED NO CC
mll:0207
AUG 20 2007 (CK)

William A. Shaw
Prothonotary/Clerk of Courts

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

PATRICIA FARNSWORTH, Personal
Representative of the ESTATE OF
FRANK HARZINSKI,

Plaintiff

vs.

CLEARFIELD HOSPITAL,
SHARON GOODMAN, R.N.,
CLEARFIELD COMMUNITY NURSES,
and NORMA J. PARENT, R.N.,

Defendants

No. 2004 – 1555 CD

JURY TRIAL DEMANDED

MOTION IN LIMINE

AND NOW, come defendants, SHARON GOODMAN, R.N. and CLEARFIELD HOSPITAL, by and through their attorneys, McINTYRE, HARTYE & SCHMITT, and file the following Motion in Limine:

1. Plaintiff has filed a Complaint alleging negligence with the placement of a Foley catheter resulting in paraphimosis and Fournier's Gangrene, that is, necrosis of the penis and scrotum.

2. Bruno Romeo, M.D., Mr. Harzinski's attending physician signed a letter prepared by Dr. Davidson, the Patient's Safety Officer at Clearfield Hospital. The letter is attached hereto as Exhibit "A". (Deposition, Dr. Romeo, pages 69-71. The relevant portions of Dr. Romeo's deposition are attached hereto as Exhibit "C".)

3. Dr. Romeo testified that the letter was written by Dr. Davidson as Patient's Safety Officer because the letter was required to be sent to the family if a patient suffered complications (Deposition, Dr. Romeo, pages 69 -70.)

4. When asked specifically about the following statement, Dr. Romeo indicated that he agreed with the statement based upon conversations he had with Dr.

Rosenthal, but Dr. Romeo himself had no understanding of how a Foley catheter could cause penoscrotal necrosis. (Deposition, Dr. Romeo, pages 78 – 79):

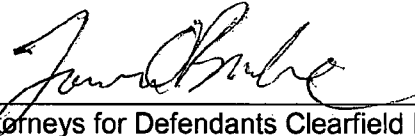
“it is unfortunate that your father experienced a complication, relating to his Foley catheter, while he was a patient in our hospital that resulted in the need for surgical intervention by Dr. Sheldon P. Rosenthal, M.D. on February 1, 2003. I have discussed this event with you.”

5. For the following reasons, the letter of February 7, 2003 signed by Dr. Bruno Romeo, M.D. is inadmissible at trial:
 - a. The letter itself is hearsay, is based upon hearsay, and does not fall under any exceptions to the hearsay rule.
 - b. The letter was written pursuant to 40 P.S. § 1303.308(b) (a copy of this statute and the relevant definitions section are attached hereto as Exhibit “B”) and requires medical facilities to notify the family of a patient of a serious event. The statute specifically states that notification under this subsection shall not constitute an acknowledgement or admission of liability. Because the letter is not an acknowledgement or admission of liability and because the letter is not based on Dr. Romeo’s own knowledge, experience, or expertise, it is not relevant to this action and is not admissible.

WHEREFORE, Defendants Sharon Goodman, R.N. and Clearfield Hospital request this Honorable Court to grant their Motion In Limine and preclude plaintiff or any party from questioning any witnesses or introducing any evidence at trial of the letter of February 7, 2003 attached hereto as Exhibit “A”.

Respectfully submitted,

McINTYRE, HARTYE & SCHMITT

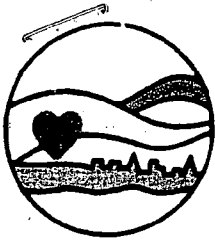
A handwritten signature in black ink, appearing to read "Laura O. Burke", written over a horizontal line.

Attorneys for Defendants Clearfield Hospital
and Sharon Goodman, RN

Frank J. Hartye, Esquire
PA ID # 25568

Laura O. Burke, Esquire
PA ID #200595

P.O. Box 533
Hollidaysburg, PA 16648
814/696-3581
814/696-9399 FAX



Clearfield Hospital

(814) 765-5341

www.clearfieldhosp.org

February 7, 2003

Patricia G. Fernsworth
304 Margaretta Street
Clearfield, PA 16830

Dear Ms. Fernsworth,

Clearfield Hospital is committed to providing quality medical care to its patients and the communities it serves. Despite constant and committed efforts to provide and improve patient care, adverse events sometimes occur.

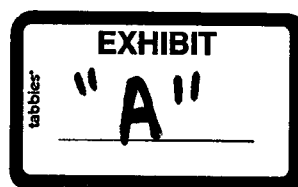
It is unfortunate that your father experienced a complication, relating to his Foley catheter, while he was a patient in our hospital that resulted in the need for surgical intervention by Sheldon P. Rosenthal MD on February 1, 2003. I have discussed this event with you.

Our facility is committed to respecting the rights of patients and their families to be informed about the occurrence of serious events, and to analyze such events to improve patient care and prevent reoccurrence. We take all these events seriously and your father's complication will be reviewed at our Patient Safety Committee in an effort to improve systems and processes for our patients.

Should you have further questions about your care please do not hesitate to contact me at 814-765-6644 or James P. Davidson, DO, as the Patient Safety Officer at 814-765-1521.

Sincerely,

Bruno J. Romeo, MD



Service: **Get by Citation**
Terms: **40 ps 1303.302**

40 P.S. § 1303.302

PENNSYLVANIA STATUTES, ANNOTATED BY LEXISNEXIS(R)

*THIS DOCUMENT IS CURRENT THROUGH ACT 189 OF THE REG SESSION AND ACT 1 OF THE SP.
LEGISLATIVE SESSION*

*** JULY 12, 2007 ANNOTATION SERVICE ***

PENNSYLVANIA STATUTES
TITLE 40. INSURANCE
CHAPTER 5C. MEDICAL CARE AVAILABILITY AND REDUCTION OF ERROR (MCARE) ACT
CHAPTER 3. PATIENT SAFETY

40 P.S. § 1303.302 (2006)

§ 1303.302. Definitions

The following words and phrases when used in this chapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"Abortion facility." A facility or medical facility as defined in 18 Pa.C.S. § 3203 (relating to definitions) which is subject to this chapter pursuant to section 315(b) or (c) and which is not subject to licensure under the act of July 19, 1979 (P.L. 130, No. 48), known as the Health Care Facilities Act.

"Ambulatory surgical facility." An entity defined as an ambulatory surgical facility under the act of July 19, 1979 (P.L. 130, No. 48), known as the Health Care Facilities Act.

"Authority." The Patient Safety Authority established in section 303

"Board." The board of directors of the Patient Safety Authority.

"Department." The Department of Health of the Commonwealth.

"Fund." The Patient Safety Trust Fund established in section 305

"Health care worker." An employee, independent contractor, licensee or other individual authorized to provide services in a medical facility.

"Incident." An event, occurrence or situation involving the clinical care of a patient in a medical facility which could have injured the patient but did not either cause an unanticipated injury or require the delivery of additional health care services to the patient. The term does not include a serious event.

"Infrastructure." Structures related to the physical plant and service delivery systems necessary for the provision of health care services in a medical facility.

"Infrastructure failure." An undesirable or unintended event, occurrence or situation involving the infrastructure of a medical facility or the discontinuation or significant disruption of a service which could seriously compromise patient safety.

"Licensee." An individual who is all of the following:

- (1) Licensed or certified by the department or the Department of State



to provide professional services in this Commonwealth.

(2) Employed by or authorized to provide professional services in a medical facility.

"Medical facility." An ambulatory surgical facility, birth center, hospital or abortion facility.

"Patient safety officer." An individual designated by a medical facility under section 309

"Serious event." An event, occurrence or situation involving the clinical care of a patient in a medical facility that results in death or compromises patient safety and results in an unanticipated injury requiring the delivery of additional health care services to the patient. The term does not include an incident.

Service: **Get by Citation**

Terms: **40 ps 1303.302**

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40 P.S. § 1303.308

PENNSYLVANIA STATUTES, ANNOTATED BY LEXISNEXIS(R)

*THIS DOCUMENT IS CURRENT THROUGH ACT 189 OF THE REG SESSION AND ACT 1 OF THE SP.
LEGISLATIVE SESSION*

*** JULY 12, 2007 ANNOTATION SERVICE ***

PENNSYLVANIA STATUTES
TITLE 40. INSURANCE
CHAPTER 5C. MEDICAL CARE AVAILABILITY AND REDUCTION OF ERROR (MCARE) ACT
CHAPTER 3. PATIENT SAFETY

40 P.S. § 1303.308 (2006)

§ 1303.308. Reporting and notification

(a) **REPORTING.**-- A health care worker who reasonably believes that a serious event or incident has occurred shall report the serious event or incident according to the patient safety plan of the medical facility unless the health care worker knows that a report has already been made. The report shall be made immediately or as soon thereafter as reasonably practicable, but in no event later than 24 hours after the occurrence or discovery of a serious event or incident.

(b) **DUTY TO NOTIFY PATIENT.**-- A medical facility through an appropriate designee shall provide written notification to a patient affected by a serious event or, with the consent of the patient, to an available family member or designee within seven days of the occurrence or discovery of a serious event. If the patient is unable to give consent, the notification shall be given to an adult member of the immediate family. If an adult member of the immediate family cannot be identified or located, notification shall be given to the closest adult family member. For unemancipated patients who are under 18 years of age, the parent or guardian shall be notified in accordance with this subsection. The notification requirements of this subsection shall not be subject to the provisions of section 311(a) Notification under this subsection shall not constitute an acknowledgment or admission of liability.

(c) **LIABILITY.**-- A health care worker who reports the occurrence of a serious event or incident in accordance with subsection (a) or (b) shall not be subject to any retaliatory action for reporting the serious event or incident and shall have the protections and remedies set forth in the act of December 12, 1986 (P.L. 1559, No. 169), known as the Whistleblower Law.

(d) **LIMITATION.**-- Nothing in this section shall limit a medical facility's ability to take appropriate disciplinary action against a health care worker for failure to meet defined performance expectations or to take corrective action against a licensee for unprofessional conduct, including making false reports or failure to report serious events under this chapter.

Service: **Get by Citation**
Terms: **40 ps 1303.308**
View: Full
Date/Time: Thursday, July 26, 2007 - 1:05:55 PM EDT

1 believe Counsel asked some questions
2 concerning a letter generated February
3 7th, 2003. I don't know if there's
4 any peer review issues that are going
5 to be relevant here, and I don't want
6 to get into that. But do you have an
7 independent recollection of writing
8 this letter, Doctor?

9 A. No, I did not write this
10 letter.

11 Q. Who wrote this letter?

12 A. Most likely Dr. Davidson, since
13 he's the patient safety officer.

14 Q. Okay. But you signed this
15 letter; correct, Doctor?

16 A. Correct.

17 Q. Do you have a copy there?

18 A. Yes.

19 Q. Is this letter a common letter
20 that's sent out to family members or
21 patients?

22 A. I believe so. It's kind of a
23 standard letter.

24 Q. It's sent out after a patient
25 has a complication?



1 A. Yes.

2 Q. After every complication, a
3 letter like this goes out?

4 A. I believe so. I believe it's
5 required.

6 Q. Okay. And reading this second
7 paragraph, it is unfortunate that your
8 father experienced a complication
9 relating to his Foley catheter while
10 he was a patient in our hospital that
11 resulted in the need for surgical
12 intervention by Sheldon P. Rosenthal,
13 M.D. on February 21st, 2003.

14 A. February 1st.

15 Q. February 1st, 2003. I have
16 discussed this event with you. Based
17 upon your testimony, you did not write
18 that paragraph; correct?

19 A. Correct.

20 Q. The paragraph says I have
21 discussed this event with you.

22 A. Uh-huh (yes).

23 Q. That is a conversation between
24 Mr. --- or Dr. Davidson and Ms.
25 Fransworth; is that what your

1 testimony is?

2 A. No. I discussed the
3 complications. Since I was the
4 attending physician, Dr. Davidson had
5 asked me if I would discuss the
6 complications. He said he would draft
7 the letter. I did read the letter.

8 Q. That's what I was going to ask
9 you, Doctor. Go ahead, keep going.

10 A. I read the letter and I agreed
11 with the wording of the letter, and
12 that's why I signed it.

13 Q. You didn't do what most of us
14 here in this room do on a daily basis.
15 You didn't dictate something and Dr.
16 Davidson typed it up?

17 A. No.

18 Q. Dr. Davidson wrote this
19 letter, ---

20 A. Yes.

21 Q. --- you looked at it, you
22 agreed with the contents of the letter
23 and you signed it; right?

24 A. Correct.

25 Q. What does this second paragraph

1 Q. Does the Foley catheter touch
2 the scrotum at any point?

3 A. Usually not.

4 Q. If the person's anatomy is
5 normal, it usually wouldn't?

6 A. Correct.

7 Q. Okay. So although --- I guess
8 what you're saying is, although you
9 agree with what the letter said, and
10 that was your understanding at the
11 time, you have really no idea of how
12 the Foley catheter could have caused
13 the necrotic scrotum?

14 A. Correct.

15 Q. And that would be the same with
16 your discharge summary, although you
17 have number one as diagnosis as ---
18 let me get it correctly here. And we
19 can give the court reporter a copy.

20 ATTORNEY FRANKOVIC:

21 What are you looking
22 for?

23 ATTORNEY HARTYE:

24 I got it.

25 BY ATTORNEY HARTYE:

1 Q. Penoscrotal necrosis secondary
2 to chronic indwelling Foley catheter.
3 You have that, but you have no idea of
4 how the necrosis was caused by the
5 Foley catheter?

6 A. I base that on Dr. Rosenthal's
7 expertise in the area.

8 Q. Okay. And that was your
9 understanding from talking with him?

10 A. Yes.

11 Q. But you, as a physician, really
12 had no understanding of how a Foley
13 catheter could cause penoscrotal
14 necrosis? That's correct?

15 A. Yes.

16 ATTORNEY HARTYE:

17 Thank you.

18 ATTORNEY CHO:

19 No questions.

20 RECROSS EXAMINATION

21 BY ATTORNEY FRANKOVIC:

22 Q. I don't really expect you to
23 recall verbatim any conversation
24 you've had with Dr. Rosenthal, but do
25 you have an independent recollection

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

FILED

7/12:46/34
AUG 21 2007

William A. Shaw
Prothonotary/Clerk of Courts

ICC Atty

PATRICIA FARNSWORTH, PERSONAL
REPRESENTATIVE OF THE ESTATE OF
FRANK HARZINSKI

NO. 2004-01555-CD

JURY TRIAL DEMANDED

vs.

CLEARFIELD HOSPITAL, SHARON
GOODMAN, R.N., CLEARFIELD
COMMUNITY NURSES AND NORMA J.
PARENT, R.N.

ISSUE: **MOTION TO JOIN IN THE
MOTION IN LIMINE OF DEFENDANTS,
SHARON GOODMAN, R.N. AND
CLEARFIELD HOSPITAL**

Filed on behalf of Defendants,
CLEARFIELD COMMUNITY NURSES AND
NORMA J. PARENT, R.N.

Counsel of Record:
DANIEL J. MCCARTHY, ESQUIRE
Attorney I.D. No. 41440
**MINTZER, SAROWITZ, ZERIS,
LEDVA & MEYERS**
22nd Floor
1528 Walnut Street
Philadelphia, PA 19102
(215) 735-7200
MSZL&M File No. 0210.1314

**MOTION OF DEFENDANTS, CLEARFIELD COMMUNITY NURSES AND NORMA J.
PARENT, R.N. TO JOIN IN THE MOTION IN LIMINE OF DEFENDANTS, SHARON
GOODMAN, R.N. AND CLEARFIELD HOSPITAL TO PRECLUDE PLAINTIFF FROM
PLAINTIFF FROM QUESTIONING ANY WITNESSES OR INTRODUCING ANY
EVIDENCE AT TRIAL IN CONNECTION WITH THE LETTER OF FEBRUARY 7, 2003,
SIGNED BY BRUNO ROMEO, M.D.**

Defendants, CLEARFIELD COMMUNITY NURSES AND NORMA J. PARENT, R.N.,
by and through their attorneys, MINTZER, SAROWITZ, ZERIS, LEDVA & MEYERS, hereby
move to join in the Motion in Limine of Defendants, Sharon Goodman, R.N. and Clearfield
Hospital, and in support thereof, aver as follows:

1. Defendants, Clearfield Community Nurses and Norma J. Parent, R.N., respectfully join and adopt the Motion in Limine of Defendants, Sharon Goodman, R.N. and Clearfield Hospital to preclude plaintiff from questioning any witnesses or introducing any evidence at trial in connection with the letter of February 7, 2003, signed by Bruno Romeo, M.D., as if the same were set forth herein at length and in its entirety.

WHEREFORE, Defendants, Clearfield Community Nurses and Norma J. Parent, R.N., respectfully request this Court to grant Defendants' Motion to Join in the Motion in Limine of Defendants, Sharon Goodman, R.N. and Clearfield Hospital.

Respectfully submitted,

August 20, 2007

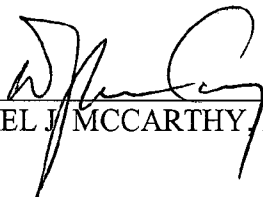
MINTZER, SAROWITZ, ZERIS, LEDVA & MEYERS

BY: 

DANIEL J. MCCARTHY, ESQUIRE
Attorney for Defendants, CLEARFIELD COMMUNITY
NURSES AND NORMA J. PARENT, R.N.

VERIFICATION

The averments or denials of facts contained in the foregoing are true, based upon the signer's personal knowledge or information and belief. If the foregoing contains averments which are consistent in fact, signer has been unable, after reasonable investigation, to ascertain which of the inconsistent averments are true, but signer has knowledge or information sufficient to form a belief that one of them is true. This Verification is made subject to the penalties of 18 Pa.C.S. §4904 relating to unsworn falsification to authorities.



DANIEL J. MCCARTHY, ESQUIRE

Dated: August 20, 2007

CERTIFICATE OF SERVICE

I, DANIEL J. MCCARTHY, ESQUIRE, hereby certify that I caused to be served a copy of Defendants, Motion to Join in the Motion in Limine Defendants, Sharon Goodman, R.N. and Clearfield Hospital to preclude plaintiff from questioning any witnesses or introducing any evidence at trial of the letter of February 7, 2003 signed by Bruno Romeo, M.D, to all parties of record in this proceeding in accordance with the requirements of the Rules of Civil Procedure by First Class Mail, postage pre-paid on August 20, 2007 upon:

Victor H. Pribanic, Esquire
Pribanic & Pribanic, LLC
1735 Lincoln Way
White Oak, PA 15131
Attorney for Plaintiff

Frank J. Hartye, Esquire
McINTYRE, HARTYE & SCHMITT
P.O. Box 533
Hollidaysburg, PA 16648
Attorney for Defendants, Sharon Goodman, R.N. and Clearfield Hospital

MINTZER, SAROWITZ, ZERIS, LEDVA & MEYERS

BY: 

DANIEL J. MCCARTHY, ESQUIRE
Attorney for Defendants, CLEARFIELD COMMUNITY
NURSES AND NORMA J. PARENT, R.N.

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

PATRICIA FARNSWORTH, Personal Representative
of the ESTATE OF FRANK HARZINSKI
Plaintiff

vs.

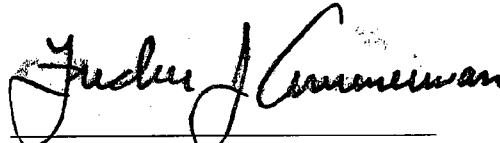
CLEARFIELD HOSPITAL, SHARON GOODMAN, R.N.,
CLEARFIELD COMMUNITY NURSES, and
NORMA J. PANT, R.N.,
Defendants

NO. 04-1555-CD

ORDER

NOW, this 21st day of August, 2007, the Court being in receipt of and having reviewed the Defendants' Motion in Limine, it is the ORDER of this Court that argument on said Motion be and is hereby scheduled for the 24th day of August, 2007 at 10:00 a.m., in conjunction with the previously scheduled Pre-Trial conference.

BY THE COURT,



FREDRIC J. AMMERMAN
President Judge

FILED
014:00
AUG 21 2007

William A. Shaw
Prothonotary/Clerk of Courts

icc Atty's:
Pribanic
Harty
McCarthy
(also faxed 8/21/07)

FILED

AUG 21 2007

William A. Shaw
Prothonotary/Clerk of Courts

DATE: 8/21/07

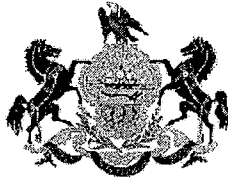
___ You are responsible for serving all appropriate parties.

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

___ Plaintiff(s) ☒ Plaintiff(s) Attorney ___ Other

___ Defendant(s) ☒ Defendant(s) Attorney

___ Special Instructions:



OFFICE OF THE COURT ADMINISTRATOR
FORTY-SIXTH JUDICIAL DISTRICT OF PENNSYLVANIA

CLEARFIELD COUNTY COURTHOUSE
230 E. MARKET STREET
CLEARFIELD, PENNSYLVANIA 16830

PHONE: 814 / 765-2641

FAX: 814 / 765-7649

DANIEL J. NELSON
COURT ADMINISTRATOR

RONDA WISOR
DEPUTY COURT ADMINISTRATOR

FACSIMILE MESSAGE

TO: V. PRIBANIC, ESQ. 412-672-3715
F. HARTYE, ESQ. 696-9399
D. McCARTHY, ESQ, 215-735-1714

FROM: CHAMBERS OF JUDGE FREDRIC J. AMMERMAN

RE: MOTION IN LIMINE – FARNSWORTH vs. CLEARFIELD
HOSPITAL, et al 04-1555-CD

DATE: 8-21-07

No. of pages in message: 2

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

PATRICIA FARNSWORTH, Personal Representative
of the ESTATE OF FRANK HARZINSKI
Plaintiff

vs.

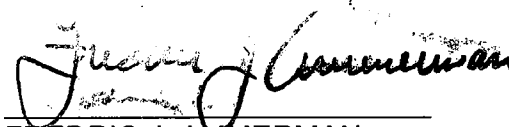
CLEARFIELD HOSPITAL, SHARON GOODMAN, R.N.,
CLEARFIELD COMMUNITY NURSES, and
NORMA J. PANT, R.N.,
Defendants

NO. 04-1555-CD

ORDER

NOW, this 24th day of August, 2007, the Court being in receipt of the Motion in Limine filed on behalf of Defendants, Clearfield Hospital and Sharon Goodman, RN, by Frank J. Hartye, Esquire and the Motion in Limine and Motion to Join in the Motion in Limine of Defendants Sharon Goodman, RN and Clearfield Hospital filed on behalf of Defendants, Clearfield Community Nurses and Norma J. Parent, RN, by Daniel J. McCarthy, Esquire; it is the ORDER of this Court that argument on said Motions will be held on the 31st day of August, 2007 at 10:00 a.m. in Courtroom No. 1 of the Clearfield County Courthouse, Clearfield, Pennsylvania.

BY THE COURT,



FREDRIC J. AMMERMAN
President Judge

FILED

O 1:22p.m. GK
AUG 24 2007

William A. Shaw
Prothonotary/Clerk of Courts

ICC TO JUDGE AMMERMAN
TO BE FAXED TO ATTYs:
Pribanic, Hartye, and McCarthy
ICC SENT TO
Any Pribanic, Hartye & McCarthy

660

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

PATRICIA FARNSWORTH, Personal Representative
of the ESTATE OF FRANK HARZINSKI
Plaintiff

vs.

CLEARFIELD HOSPITAL, SHARON GOODMAN, R.N.,
CLEARFIELD COMMUNITY NURSES, and
NORMA J. PANT, R.N.,
Defendants

NO. 04-1555-CD

FILED
0/11:15 am
AUG 27 2007

icc to
Attys: V. Pribanic
F. Hartje
D. McCarthy

ORDER


William A. Shaw
Prothonotary/Clerk of Courts

NOW, this 24th day of August, 2007, 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 August 28, 2007 at 10:00 a.m. in Courtroom No. 1 of the Clearfield County Courthouse, Clearfield, Pennsylvania.
2. Jury Trial is hereby scheduled for Monday, Tuesday, Wednesday and Thursday, October 29th, 30th, 31st and November 1st, 2007 commencing at 9:00 a.m. each day in Courtroom No. 1 of the Clearfield County Courthouse, Clearfield, Pennsylvania.
3. Any party making objections relative the testimony to be provided by any witness in the form of a deposition at the time of Trial shall submit said objections to the Court, in writing, no later than thirty (30) days prior to the commencement of Trial. All objections shall reference specific page and line numbers within the deposition(s) in question along with that party's brief relative same. The opposing party shall submit its brief in opposition to said objections no later than fifteen (15) days prior to the commencement to Trial.

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

BY THE COURT,



FREDRIC J. AMMERMAN
President Judge

DATE: 8-27-2007

 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

AUG 27 2007

William A. Shaw
Prothonotary/Clerk of Courts

VA

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

PATRICIA FARNSWORTH, Personal
Representative of the ESTATE of
FRANK HARZINSKI,

Plaintiff,

vs.

CLEARFIELD HOSPITAL, SHARON
GOODMAN, R.N., CLEARFIELD
COMMUNITY NURSES, and NORMA
J. PARENT, R.N., incorrectly identified as
NORMA J. PANT, R.N.,

Defendants.

CIVIL DIVISION

No.: 04-1555-CD


FILED ICC AH
011:31 am Pribanic
SEP 04 2007 CW

William A. Shaw
Prothonotary/Clerk of Courts

ORDER OF COURT

AND NOW, to-wit, this 4 day of September, 2007, upon
consideration of Plaintiff's Motion to Continue Argument, the same is hereby
GRANTED and oral argument is hereby rescheduled to now occur on Friday, October 5,
2007, at 9:30 a.m. before The Honorable Judge Ammerman in Courtroom 1 of the
Clearfield County Courthouse.

BY THE COURT:


J.

DATE: 9-4-2007

☒ 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:

FILED

SEP 04 2007

William A. Shaw
Prothonotary/Clerk of Courts

UP

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

PATRICIA FARNSWORTH, Personal
Representative of the ESTATE of
FRANK HARZINSKI,

Plaintiff,

vs.

CLEARFIELD HOSPITAL, SHARON
GOODMAN, R.N., CLEARFIELD
COMMUNITY NURSES, and NORMA
J. PARENT, R.N., incorrectly identified as
NORMA J. PANT, R.N.,

Defendants.

JURY TRIAL DEMANDED

CIVIL DIVISION

No.: 04-1555-CD

**PLAINTIFF'S MOTION TO
CONTINUE ARGUMENT**

Filed on behalf of Plaintiff:

PATRICIA FARNSWORTH

Counsel of record for this party:

VICTOR H. PRIBANIC
PA I.D. No. 30785

PRIBANIC & PRIBANIC, L.L.C.
1735 Lincoln Way
White Oak, PA 15131

(412) 672-5444

FILED No CC
SEP 04 2007

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

PATRICIA FARNSWORTH, Personal
Representative of the ESTATE of
FRANK HARZINSKI,

Plaintiff,

vs.

CLEARFIELD HOSPITAL, SHARON
GOODMAN, R.N., CLEARFIELD
COMMUNITY NURSES, and NORMA
J. PARENT, R.N., incorrectly identified as
NORMA J. PANT, R.N.,

Defendants.

CIVIL DIVISION

No.: 04-1555-CD

PLAINTIFF'S MOTION TO CONTINUE ARGUMENT

AND NOW, comes the Plaintiff, Patricia Farnsworth, Personal representative of the Estate of Frank Harzinski, by and through her counsel, Victor H. Pribanic and the law firm of Pribanic & Pribanic, L.L.C., and files the following Motion to Continue Argument and in support thereof avers as follows:

1. Currently an argument on Defendants' Motions in Limine is scheduled to be heard before Judge Ammerman on Friday, August 31, 2007, at 10:00 a.m.
2. Counsel for Plaintiff has a scheduling conflict and is unable to attend the argument.
3. Counsel for Defendants have consented to the rescheduling of said argument.

ATTORNEY AT LAW

DEPT.

FILED

DEPT.

FILED

FILED

William A. Shaw
Prothonotary/Clerk of Courts

FILED
SEP 04 2007

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

PATRICIA FARNSWORTH, Personal
Representative of the ESTATE of
FRANK HARZINSKI,

Plaintiff,

vs.

CLEARFIELD HOSPITAL, SHARON
GOODMAN, R.N., CLEARFIELD
COMMUNITY NURSES, and NORMA
J. PARENT, R.N., incorrectly identified as
NORMA J. PANT, R.N.,

Defendants.

CIVIL DIVISION

No.: 04-1555-CD

PLAINTIFF'S MOTION TO CONTINUE ARGUMENT

AND NOW, comes the Plaintiff, Patricia Farnsworth, Personal representative of the Estate of Frank Harzinski, by and through her counsel, Victor H. Pribanic and the law firm of Pribanic & Pribanic, L.L.C., and files the following Motion to Continue Argument and in support thereof avers as follows:

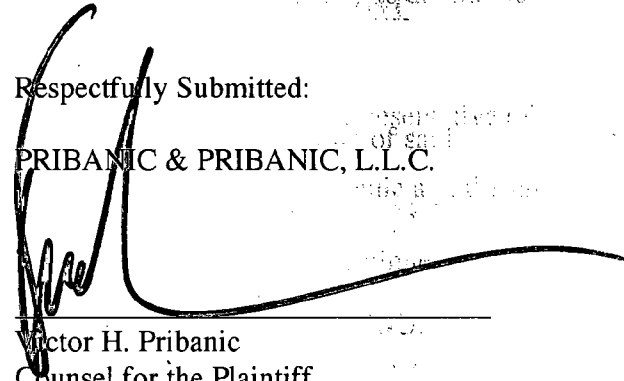
1. Currently an argument on Defendants' Motions in Limine is scheduled to be heard before Judge Ammerman on Friday, August 31, 2007, at 10:00 a.m.
2. Counsel for Plaintiff has a scheduling conflict and is unable to attend the argument.
3. Counsel for Defendants have consented to the rescheduling of said argument.

WHEREFORE, Plaintiff respectfully requests that the argument in the captioned action be rescheduled.

Respectfully Submitted:

PRIBANIC & PRIBANIC, L.L.C.

By:


Victor H. Pribanic
Counsel for the Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the within has been served via facsimile transmission, this 30th day of August, 2007 upon the following:

The Honorable Judge Frederic J. Ammerman
Clearfield County Courthouse
One North Second Street
Clearfield, PA 16830

Frank J. Hartye, Esquire
McINTYRE, DUGAS, HARTYE & SCHMITT
P.O. Box 533
Hollidaysburg, PA 16648
(Counsel for Defendants Clearfield Hospital and Sharon Goodman, R.N.)

Daniel J. McCarthy, Esquire
MINTZER SAROWITZ ZERIS LEDVA & MEYERS
1528 Walnut Street, 22nd Floor
Philadelphia, PA 19102-3614
*(Counsel for Defendants Clearfield Community Nurses
and Norma J. Parent, R.N.)*



Victor H. Pribanic

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

PATRICIA FARNSWORTH, Personal
Representative of the ESTATE of
FRANK HARZINSKI,

Plaintiff,

vs.

CLEARFIELD HOSPITAL, SHARON
GOODMAN, R.N., CLEARFIELD
COMMUNITY NURSES, and NORMA
J. PARENT, R.N., incorrectly identified as
NORMA J. PANT, R.N.,

Defendants.

CIVIL DIVISION

No.: 04-1555-CD

ORDER OF COURT

AND NOW, to-wit, this _____ day of _____, 2007, upon
consideration of Plaintiff's Motion to Continue Argument, the same is hereby
GRANTED and oral argument is hereby rescheduled to now occur on Friday, October 5,
2007, at 9:30 a.m. before The Honorable Judge Ammerman in Courtroom 1 of the
Clearfield County Courthouse.

BY THE COURT:

_____, J.

2007-10-05

by

Friday, October 5,

2007

1 of 1

UA

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

PATRICIA FARNSWORTH, Personal
Representative of the ESTATE of
FRANK HARZINSKI,

Plaintiff,

vs.

CLEARFIELD HOSPITAL, SHARON
GOODMAN, R.N., CLEARFIELD
COMMUNITY NURSES, and NORMA
J. PARENT, R.N., incorrectly identified as
NORMA J. PANT, R.N.,

Defendants.

JURY TRIAL DEMANDED

CIVIL DIVISION

No.: 04-1555-CD

**PLAINTIFF'S MOTION TO
CONTINUE ARGUMENT**

Filed on behalf of Plaintiff:

PATRICIA FARNSWORTH

Counsel of record for this party:

VICTOR H. PRIBANIC
PA I.D. No. 30785

PRIBANIC & PRIBANIC, L.L.C.
1735 Lincoln Way
White Oak, PA 15131

(412) 672-5444

FILED No CC.
0/11/31 um
SEP 04 2007

William A. Shaw
Prothonotary/Clerk of Courts

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

PATRICIA FARNSWORTH, Personal
Representative of the ESTATE of
FRANK HARZINSKI,

Plaintiff,

vs.

CLEARFIELD HOSPITAL, SHARON
GOODMAN, R.N., CLEARFIELD
COMMUNITY NURSES, and NORMA
J. PARENT, R.N., incorrectly identified as
NORMA J. PANT, R.N.,

Defendants.

CIVIL DIVISION

No.: 04-1555-CD

PLAINTIFF'S MOTION TO CONTINUE ARGUMENT

AND NOW, comes the Plaintiff, Patricia Farnsworth, Personal representative of the Estate of Frank Harzinski, by and through her counsel, Victor H. Pribanic and the law firm of Pribanic & Pribanic, L.L.C., and files the following Motion to Continue Argument and in support thereof avers as follows:

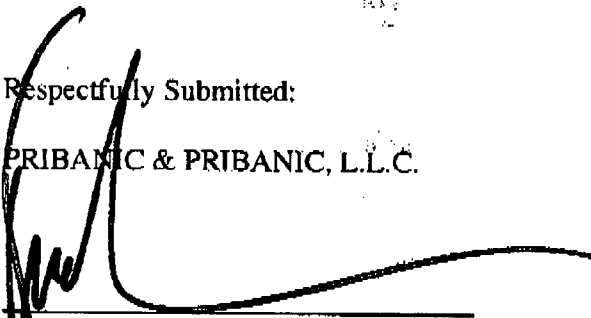
1. Currently an argument on Defendants' Motions in Limine is scheduled to be heard before Judge Ammerman on Friday, August 31, 2007, at 10:00 a.m.
2. Counsel for Plaintiff has a scheduling conflict and is unable to attend the argument.
3. Counsel for Defendants have consented to the rescheduling of said argument.

WHEREFORE, Plaintiff respectfully requests that the argument in the captioned action be rescheduled.

Respectfully Submitted:

PRIBANIC & PRIBANIC, L.L.C.

By:


Victor H. Pribanic
Counsel for the Plaintiff

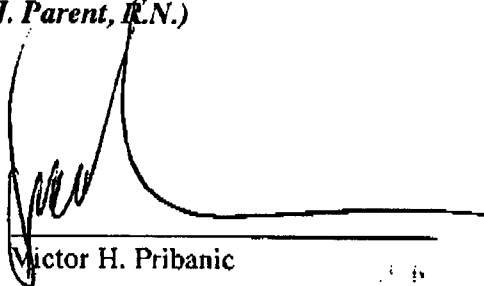
CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the within has been served via facsimile transmission, this 30th day of August, 2007 upon the following:

The Honorable Judge Frederic J. Ammerman
Clearfield County Courthouse
One North Second Street
Clearfield, PA 16830

Frank J. Hartye, Esquire
McINTYRE, DUGAS, HARTYE & SCHMITT
P.O. Box 533
Hollidaysburg, PA 16648
(Counsel for Defendants Clearfield Hospital and Sharon Goodman, R.N.)

Daniel J. McCarthy, Esquire
MINTZER SAROWITZ ZERIS LEDVA & MEYERS
1528 Walnut Street, 22nd Floor
Philadelphia, PA 19102-3614
*(Counsel for Defendants Clearfield Community Nurses
and Norma J. Parent, R.N.)*



Victor H. Pribanic

LAW OFFICES OF
PRIBANIC & PRIBANIC

A Limited Liability Company
1735 LINCOLN WAY
WHITE OAK, PENNSYLVANIA 15131
TEL. 412/672-5444

VICTOR H. PRIBANIC

FAX. 412/672-3715

PITTSBURGH OFFICE
513 COURT PLACE
PITTSBURGH, PA 15219
TEL. 412/281-8844

August 30, 2007

VIA FACSIMILE TO: 814.765.7649
AND FIRST CLASS U.S. MAIL

The Honorable Judge Frederic J. Ammerman
Clearfield County Courthouse
One North Second Street
Clearfield, PA 16830

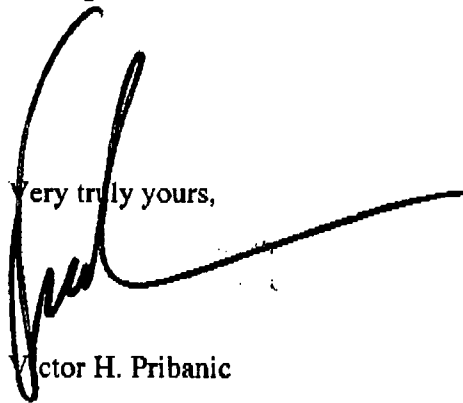
Re: Estate of Frank Harzinski v. Clearfield Hospital, Sharon Goodman, R.N.,
Clearfield Community Nurses, and Norma J. Parent, R.N., incorrectly identified
as Norma J. Pant, R.N.
Our File No.: 5952

Dear Judge Ammerman:

Enclosed please find Plaintiff's Motion to Continue Argument relative to the above-captioned case.

Thank you for your attention to this matter.

Very truly yours,


Victor H. Pribanic

VHP:lmw

Enclosure

cc: Frank J. Hartye, Esquire (via facsimile to: 814.696.9399)
Daniel J. McCarthy, Esquire (via facsimile to: (215) 735-1714)
(both w/enclosure)

CA
CA

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

PATRICIA FARNSWORTH, Personal
Representative of the ESTATE of
FRANK HARZINSKI,

Plaintiff,

vs.

CLEARFIELD HOSPITAL, SHARON
GOODMAN, R.N., CLEARFIELD
COMMUNITY NURSES, and NORMA
J. PARENT, R.N., incorrectly identified as
NORMA J. PANT, R.N.,

Defendants.

CIVIL DIVISION

No.: 04-1555-CD

**PLAINTIFF'S MOTION TO
SUPPLEMENT PRETRIAL
STATEMENT IN RESPONSE TO
DEFENDANTS' MOTION IN
LIMINE**

Filed on behalf of Plaintiff:

PATRICIA FARNSWORTH

Counsel of record for this party:

VICTOR H. PRIBANIC
PA I.D. No. 30785

PRIBANIC & PRIBANIC, L.L.C.
1735 Lincoln Way
White Oak, PA 15131

(412) 672-5444

JURY TRIAL DEMANDED

FILED
mjl:48/51
SEP 05 2007
NO CC
CW

William A. Shaw
Prothonotary/Clerk of Courts

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

PATRICIA FARNSWORTH, Personal	]	CIVIL DIVISION
Representative of the ESTATE of]	
FRANK HARZINSKI,	]	No.: 04-1555-CD
]	
Plaintiff,]	
]	
vs.]	
]	
CLEARFIELD HOSPITAL, SHARON]	
GOODMAN, R.N., CLEARFIELD]	
COMMUNITY NURSES, and NORMA]	
J. PARENT, R.N., incorrectly identified as]	
NORMA J. PANT, R.N.,]	
]	
Defendants.]	

**PLAINTIFF'S MOTION TO SUPPLEMENT PRETRIAL STATEMENT
IN RESPONSE TO DEFENDANTS' MOTION IN LIMINE**

AND NOW, comes the Plaintiff, Patricia Farnsworth, Personal Representative of the Estate of Frank Harzinski, by and through her counsel, Victor H. Pribanic and the law firm of Pribanic & Pribanic, L.L.C., and files the following Motion to Supplement Pretrial Statement in Response to Defendants' Motion in Limine, and in support thereof avers as follows:

1. Plaintiff filed the within action styled as a wrongful death and survival action as a result of the death of Frank Harzinski.
2. Plaintiff retained the services of Michael P. Small, M.D., an urologist, who offered an opinion as to negligence and damages, however, Dr. Small did not and

could not given his specialty set forth an opinion as to the contribution the conduct of the Defendants made to the death of Frank Harzinski.

3. The Defendants have moved to exclude evidence of the relationship between the Defendants' conduct and the death of Frank Harzinski based upon the failure of Dr. Small to comment upon it in his expert report.

4. Pretrial Statements in this matter were filed during the week of August 13, 2007.

5. The Defendants' experts have offered opinions that the infection and subsequent surgery which is the subject of this action did not cause or contribute in any way to the decedent's death – the relevant portions of the Defendants' expert reports are attached hereto as Exhibits A, B and C with the appropriate language highlighted indicating their opinions.

6. This matter is scheduled for trial on October 29, 2007, more than sixty (60) days from now.

7. Plaintiff believes that the infection and subsequent surgery which is the subject of this action was a factual cause of the death of Frank Harzinski and has received an oral opinion to this effect from Karl Steinberg, M.D. who will be able to supply a report to this effect on or before September 6, 2007.

8. Accordingly, Plaintiff request leave to supplement their Pretrial Statement with Dr. Steinberg's report on or before September 6, 2007.

9. Given the fact that the Defendants already have expert testimony available to combat any such allegation and further given the interval until trial of this case, no conceivable prejudice will occur to the Defendants.

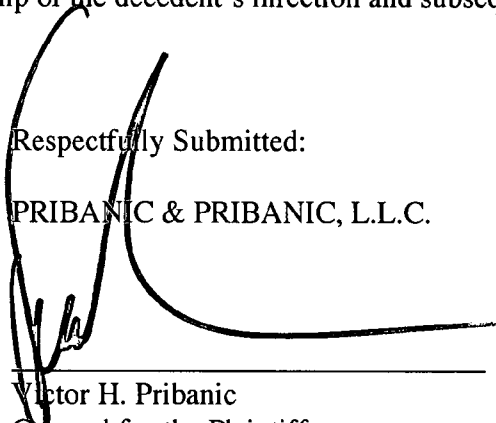
10. Further, the Plaintiff will not object to and will agree to the Defendants may supplement their Pretrial statements in anyway they see fit in response to Dr. Steinberg's report.

WHEREFORE, Plaintiff respectfully requests that this Honorable Court allow amendment of the Plaintiff's Pretrial Statement in this matter on or before September 6, 2007, with a report addressing the relationship of the decedent's infection and subsequent surgery to this death.

Respectfully Submitted:

PRIBANIC & PRIBANIC, L.L.C.

By:



Victor H. Pribanic
Counsel for the Plaintiff

02/0.13/4

Arnold Melman, M.D.
969 Park Avenue, Suite 1G
New York, New York 10028

April 25, 2007

Dan J. McCarthy, Esq.
1528 Walnut Street
22th Floor
Philadelphia, PA 19102

Re: The estate of Frank Harzinski vs. Clearfield Hospital, Clearfield Community
nurses Normal J. Parent RN

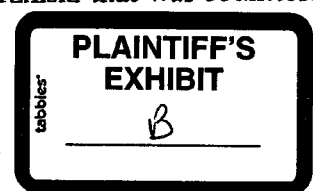
Dear Mr. McCarthy,

Thank you for allowing me to review the above case. In preparation for this report I have reviewed the records of Mr. Harzinski's Clearfield Hospital admissions of November, 2002, 1/1/03 and 1/27/03, the deposition testimonies of Sharon Goodman, Bruno J. Romeo, Sheldon, P. Rosenthal, Norma, J. Parent, and Patricia Farnsworth, the expert reports of Michael P. Small, Ronald M. Benoit, Alan Pollock and the Clearfield Community nursing chart.

The issue is whether Mr. Frank Harzinski, a chronically ill man with cognitive defects that were a result of Alzheimer's disease, chronic pulmonary disease, hypoxemia and infected bedsores died as a result of an alleged paraphimosis that was not recognized by community health nurses.

Mr. Harzinski, a two pack a day smoker for forty-five years, who was hospitalized in November of 2002 with, hypoxemia and a large pleural effusion that had to be drained by his personal physician Dr. Bruno J. Romeo. He was discharged by Dr. Vetrano, a partner of Dr. Romeo, who dictated the discharge note. He was re-admitted to the hospital on January 1st of 2003. That hospitalization was necessitated by the reoccurrence of another large 2000 ml pleural effusion. Upon admission a Foley catheter was placed. He remained in the hospital until January 5 and was then discharged with the Foley catheter left indwelling to be managed at home by the visiting nurses and the daughter who oversaw his care.

He was then required readmission to the hospital on January 27th. There was an admitting complaint of bleeding around the catheter and pain in the scrotum. That admission note was written by a physician's assistant. He did the initial history and physical examination of Mr. Harzinski that was countersigned by Dr. Romeo. The



physician assistant wrote that based on his examination that the patient was circumcised. Dr. Romeo believed he was circumcised as well. He also reported that the penis and scrotum were swollen and erythematous and that he had gangrene of both heels. He was also assessed as having sepsis secondary to the Foley catheter. Initial CBC showed a white blood cell count of 25,000 that confirmed the presence of sepsis. On the 28th of January a urologist, Dr. Sheldon Rosenthal, was asked to consult upon Mr. Harzinski. Dr. Rosenthal believed as a result of his examination that Mr. Harzinski had a paraphimosis. The glans was visible to inspection and the penile skin proximal to the glans was noted to be swollen. He also observed that there was scrotal edema. Dr. Rosenthal manually reduced the penile skin at the bedside. Dr. Rosenthal saw Mr. Harzinski again on the 29th. He noted decreased edema of the penis. He wrote in his note that a urethral catheter was present but was without any major problems and that there were no complaints. Dr. Rosenthal saw Mr. Harzinski on the 31st and at that time noted that he had a urethral discharge, a possible balanitis, and inflammation at the penoscrotal junction. The following day there was increased redness of the penoscrotal junction and Dr. Rosenthal was concerned about the possibility of Fournier's gangrene. He took Mr. Harzinski to the operating room for surgery on February 1st. At that time a suprapubic cystoscopy was placed and necrotic tissue around and including the urethra was surgically removed. The remaining proximal portion of the urethra was tied off to prevent a leakage of urine. The wound was then packed with dressing. Mr. Harzinski was examined by Dr. Rosenthal who on the 2nd and 3rd of February noted that there was no evidence of any new necrotic tissue. Mr. Harzinski had been placed and continued on antibiotics at the time of the surgery. He was seen the 6th, 8th of February and continued on the intravenous antibiotics. On the 9th Dr. Rosenthal felt that Mr. Harzinski would benefit from a stay in a swing bed unit for rehabilitation. The wound seemed to be healing well. On the 10th of February Dr. Rosenthal wrote a note stating the wound would take months to heal. The patient died 11 days later having not been seen by Dr. Rosenthal after visit on the 10th. The cause of death was secondary to pulmonary disease. In his deposition Dr. Rosenthal admits that having a Foley catheter in place for one month would result in a 100% chance of having a urinary infection. In his deposition Dr. Rosenthal stated that he does not believe that the possible paraphimosis caused his urethral infection. The primary severe infection was at the ventral base of the penis not at the glans or distal penile shaft an area that would have been affected by the paraphimosis. The other issue is whether or not Mr. Harzinski received proper care from the visiting nurses. In the deposition of Norma J. Parent, she was asked, on page 21 whether or not the catheter should have been taped to any part of the body when Mr. Harzinski was at home. Dr. Small had stated a catheter should have been taped to the abdomen. However, the standard of Urological care is not to tape the catheter to the body but either to one leg or not at all. Mr. Harzinski was seen by the nurse on January 26 he noted that he had a flaccid penis and that there was no swelling. She thought there might have been a small amount of blood on the tip his penis at the point of entry of the catheter into the urethra. She thought it might have been a result of Mr. Harzinski pulling on the Foley catheter. There was no other discharge or penile swelling. Nurse Parent changed the catheter without difficulty the 26th. She noted that it slid from the penis with ease. Mr. Harzinski's daughter, Patty Farnsworth, called the

nursing answering service and reported bleeding at the catheter. Nurse Parent saw Mr. Harzinski on the 27th with a slight fever of 99.6 and was complaining of pain in his genitalia. She noted a large amount of purulent drainage at the urinary catheter site and that the patient complained of scrotal pain. At that point, the patient was transferred to the hospital at her request because of the large amount of purulent drainage at the urinary catheter site.

In summary, it is my medical belief that in a chronically ill 85-year-old man with Alzheimer's, COPD, pleural effusions, infected sacral and heel decubiti, hypoxemia died as a result of his underlying chronic diseases and debility. He required an indwelling catheter for nearly a month because of medical necessity. The urinary infection is an expected side effect of the needed indwelling catheter. The catheter management as directed by the nurses was correct and met the urological standard. Mr. Harzinski developed urinary infection as well as gangrene of his heels. Thus, he was a chronically ill, debilitated man with Alzheimer's disease, chronic pulmonary disease and pleural effusions. Furthermore, it was uncertain whether or not Mr. Harzinski had been previously circumcised. Dr. Rosenthal manually reduced what he thought was a paraphimosis but a both the PA and his admitting physician thought the patient had been previously circumcised. In any event, there was only a minor amount of penile swelling and edema on admission and the operation that Dr. Rosenthal eventually performed was for a necrotic urethra, possibly Fournier's gangrene. Urethral necrosis or gangrene only occurs in debilitated people such as Mr. Harzinski and was related to the chronic Foley catheter not the distal balanitis or paraphimosis. Certainly there was no medical evidence that the care given by the visiting nurses in any way contributed to severe urethral infection. Urethral necrosis, a consequence of the necessary Foley catheter, was treated and an in fact appeared to be healing, and was not the proximate of his death. The proximate cause of his death was related to his multiple debilitating diseases.

All of my opinions are based upon a reasonable degree of medical certainty. I reserve the right to amend my report if any additional records are sent to me for review.

Very truly yours,



Arnold Melman, M.D.
Professor and Chairman

Alan A. Pollock, M.D.
16 Mountain Peak Road
Chappaqua, N.Y. 10514

Daniel J. McCarthy, Esq.
Mintzer, Sarowitz, Zeris,
Ledva & Meyers LLP
1528 Walnut Street
22nd Floor
Philadelphia, PA 19102

March 31, 2007

Dear Mr. McCarthy:

I am a board certified specialist in both Internal Medicine and Infectious Diseases. I am Clinical Assistant Professor of Medicine at New York University School of Medicine and have been in clinical practice for the past 30 years.

I have reviewed the available medical records on Frank Harzinski including Clearfield Hospital admissions, Clearfield Community nursing records, depositions of Dr. Rosenthal, Dr. Romeo, Norma Parent, RN, Sharon Goodman, RN and Patricia Farnsworth, and the reports of Dr. Benoit and Dr. Small.

The patient was an 84 year old male with a prior history of long-standing COPD, coronary artery disease, myocardial infarction, coronary artery bypass, carotid endarterectomy, severe congestive heart failure with recurrent pleural effusions, chronic renal failure, right frontal lobe hemorrhage and Alzheimer's disease. He was admitted to Clearfield Hospital on 1/1/03 for evaluation and treatment of chest pain and large pleural effusion which required thoracentesis. During this admission, urinary retention required bladder catheterization and a Foley was placed by Sharon Goodman, RN. At no time during this hospitalization was there any complaint of local pain or evidence of penile swelling. He was discharged on 1/5/03 with "Foley catheter intact," indicating that it was observed and was not associated with any signs of swelling of the penis or scrotum. During the period between 1/6/03 and 1/26/03 (3 weeks), the patient was observed at home without any complaints of penile discomfort or swelling. This is even confirmed by the patient's daughter. During her deposition, she was asked, "Q: So from when he was discharged on the 5th of June up until either the 26th or 27th when he went back, that time frame for about three weeks there, as far as you knew there was no problem with that catheter? A: Not that I recall. Q: ...so for three weeks you didn't see anything wrong with it, correct? A: No I didn't." Nursing records also indicated that the patient would often pull on the catheter, thereby increasing urethral trauma. On 1/26/03, the patient's daughter noted the presence of blood and notified the nurse. Norma Parent, RN visited the patient on 1/26/03 and removed the Foley catheter. Blood was present at the tip consistent with urethral trauma. A new catheter was replaced without difficulty. On



1/27/03, purulent urethral discharge was noted and the penis and scrotum were now swollen and painful. She appropriately referred the patient for admission to Clearfield Hospital where the urologist, Dr. Rosenthal, was consulted. He noted phimosis which was manually reduced but he also observed proximal penile edema as well scrotal edema. The patient had an elevated temperature (99.8°) and a markedly elevated peripheral white blood cell count (25,200) indicating an acute urinary tract infection. Intravenous ciprofloxacin was given empirically. Urine culture grew *staph aureus*, sensitive to ciprofloxacin. Over the next two days, swelling decreased but on 1/31/03, infection was noted at the base of the penis and antibiotics were changed to ticarcillin/clavulanate, clindamycin, and gentamicin for possible Fournier's gangrene. On 2/1/03, he was taken to the operating room where surgical findings demonstrated necrotic soft tissue at the junction between the base of the penis and scrotum as well as urethral necrosis. This is entirely consistent with a diagnosis of Fournier's gangrene. There was no evidence of necrosis of the glans or distal penis. The patient was treated with intravenous antibiotics and local wound care and was discharged on 2/11/03. On 2/21/03, the patient expired. The cause of death was listed as COPD, not urinary tract sepsis.

Impression: The patient developed urethral necrosis as a result of a rapidly progressive mixed staphylococcal and anaerobic urinary tract infection, not as a result of phimosis. Urinary tract infections are extremely common and bacteriuria is inevitable as long as a catheter is present. It is quite clear that there were no signs of phimosis either during the Clearfield Hospital admission (1/1/03 through 1/5/03) or during the three week period between 1/6/03 and 1/26/03 while he was under the care of the community nurses. If the foreskin had remained in a retracted position and exerted excessive pressure on the glans, constriction would quickly lead to edema and venous engorgement of the glans and foreskin. This occurs in a matter of minutes to hours, not four weeks (1/1/03 through 1/26/03). It would be impossible to have phimosis present for nearly four weeks without severe swelling, pain and eventual necrosis of the glans and distal penis. The blood supply to the glans and distal penis includes the dorsal artery and vein which originate at the **base** of the penis, not the tip. Blood flow therefore moves from the base of the penis to the tip, not the reverse. Even if constriction had occurred at the glans (for which there is no evidence), edema and pain would be restricted only to the glans and distal penis, not the base of the penis or scrotum. There is no physiological way for constriction at the glans to result in edema of the base of the penis or scrotum. What occurred in this patient was a rapidly progressive *staph aureus* and anaerobic infection of the urethra which resulted in significant soft tissue swelling at the **base of the penis** followed by compression of venous return and edema of the scrotum and the entire penis. As the penis became swollen, the foreskin became tighter and had the appearance of phimosis but, in fact, was not the **cause** of the swelling. Indeed, after the foreskin was manually reduced by the urologist, it had no effect on the urethral necrosis at the base of penis four days later. Operative findings demonstrated a mixed aerobic and anaerobic (*staph aureus*, enterococcus, and peptostreptococcus) soft tissue infection deep in the **proximal** urethra but absolutely no evidence of necrosis of the distal penis at the location of the foreskin.

Dr. Small believes that the foreskin was not placed back over the glans leading to phimosis. It is quite likely that the foreskin was loose and short and could easily slide back and forth over the glans without exerting any pressure on the glans. By self-manipulation, a patient could easily retract the foreskin himself. Norma Parent even stated in her deposition that "he appeared to be a circumcised male" (p.13). If there was any significant pressure, Dr. Small cannot explain why it would take four weeks for this to result in necrosis of an **unrelated** area of the penis, namely the base of the penis and scrotum and why there was no necrosis of the head of penis at the precise area of the presumed constriction. The "phimosis" was a direct result of the entire penis becoming swollen secondary to the infection at the base with resulting compression of venous return. Dr. Small believes that it was a departure in not taping the catheter to the abdomen. In more than thirty years of clinical experience, I have never seen a Foley catheter "taped to the abdomen." When it is taped, it is usually to the proximal thigh. There is absolutely no standard of care in this regard. Taping is at the discretion of the individual inserting the catheter and is often **not done** to avoid traction on the catheter. "Pressure" necrosis, if there were any, would be noted at base of the bladder where the Foley balloon is in direct contact with the mucosa. This is an area proximal to the prostate and an area specifically not at the base of penile urethra where the necrosis and infection were located. Urethral necrosis at the base of the penis was not due to pressure from the Foley, but rather, as a direct result of a rapidly progressive bacterial infection, i.e., Fournier's gangrene.

The patient expired due to severe, advanced heart disease and COPD. He did not expire from a urinary tract infection which had been adequately treated and cured. The nursing care provided by both Sharon Goodman and Norma Parent was appropriate and certainly within the standard of care.

If there are any questions regarding this case, please feel free to contact me at the above address.

Very truly yours,



Alan A. Pollock, M.D.
Clinical Assistant Professor of Medicine
NYU School of Medicine

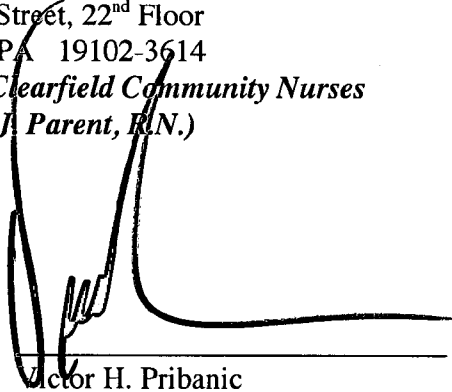
CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the within has been served via facsimile transmission, this 31st day of August, 2007 upon the following:

The Honorable Judge Frederic J. Ammerman
Clearfield County Courthouse
One North Second Street
Clearfield, PA 16830

Frank J. Hartye, Esquire
McINTYRE, DUGAS, HARTYE & SCHMITT
P.O. Box 533
Hollidaysburg, PA 16648
(Counsel for Defendants Clearfield Hospital and Sharon Goodman, R.N.)

Daniel J. McCarthy, Esquire
MINTZER SAROWITZ ZERIS LEDVA & MEYERS
1528 Walnut Street, 22nd Floor
Philadelphia, PA 19102-3614
*(Counsel for Defendants Clearfield Community Nurses
and Norma J. Parent, R.N.)*



Victor H. Pribanic

_____, J.

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

PATRICIA FARNSWORTH, Personal
Representative of the ESTATE OF
FRANK HARZINSKI,

Plaintiff

vs.

CLEARFIELD HOSPITAL,
SHARON GOODMAN, R.N.,
CLEARFIELD COMMUNITY NURSES,
and NORMA J. PARENT, R.N.,

Defendants

No. 2004 – 1555 CD

FILED acc AM
9/23/07 Hartye
SEP 24 2007 (GK)

William A. Shaw
Prothonotary/Clerk of Courts

JURY TRIAL DEMANDED

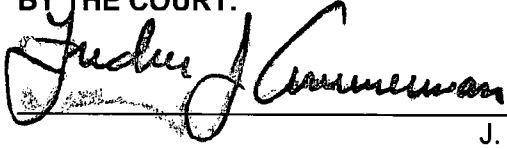
ORDER

AND NOW, this 24th day of September, 2007, upon
consideration of the foregoing motion, it is hereby ordered that:

- (1) a rule is issued upon the respondent to show cause why the
moving parties are not entitled to the relief requested;
- (2) the respondent shall file an answer to the motion within _____
days of this date;
- (3) the motion shall be decided under Pa. R.C.P. 206.7;
- (4) depositions and all other discovery shall be completed within
_____ days of this date;
- (5) an evidentiary hearing on disputed issues of material fact shall be
held on _____, 2007, in the Clearfield County Courthouse, Clearfield,
PA, in Courtroom No. _____;
- (6) argument shall be held on October 5, 2007 at 9:30 a.m. in
Courtroom No. 1 of the Clearfield County Courthouse; and

(7) notice of the entry of this order shall be provided to all parties by
the moving party.

BY THE COURT:


J.

DATE: 9-24-2007

☒ 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:

FILED

SEP 24 2007

William A. Shaw
Prothonotary/Clerk of Courts

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

PATRICIA FARNSWORTH, Personal
Representative of the ESTATE of
FRANK HARZINSKI,

Plaintiff,

vs.

CLEARFIELD HOSPITAL, SHARON
GOODMAN, R.N., CLEARFIELD
COMMUNITY NURSES, and NORMA
J. PARENT, R.N., incorrectly identified as
NORMA J. PANT, R.N.,

Defendants.

CIVIL DIVISION

No.: 04-1555-CD

**PLAINTIFF'S RESPONSE TO
DEFENDANTS' MOTION IN
LIMINE**

Filed on behalf of Plaintiff:

PATRICIA FARNSWORTH

Counsel of record for this party:

VICTOR H. PRIBANIC
PA I.D. No. 30785

PRIBANIC & PRIBANIC, L.L.C.
1735 Lincoln Way
White Oak, PA 15131

(412) 672-5444

JURY TRIAL DEMANDED

FILED *NO*
11:48/01
SEP 05 2007 *ce* *CP*

William A. Shaw
Prothonotary/Clerk of Courts

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

PATRICIA FARNSWORTH, Personal	]	CIVIL DIVISION
Representative of the ESTATE of]	
FRANK HARZINSKI,	]	No.: 04-1555-CD
]	
Plaintiff,]	
]	
vs.]	
]	
CLEARFIELD HOSPITAL, SHARON]	
GOODMAN, R.N., CLEARFIELD]	
COMMUNITY NURSES, and NORMA]	
J. PARENT, R.N., incorrectly identified as]	
NORMA J. PANT, R.N.,]	
]	
Defendants.]	

PLAINTIFF'S RESPONSE TO DEFENDANTS' MOTION IN LIMINE

AND NOW, comes the Plaintiff, Patricia Farnsworth, Personal Representative of the Estate of Frank Harzinski, by and through her counsel, Victor H. Pribanic and the law firm of Pribanic & Pribanic, L.L.C., and files the following Response to Defendants' Motion in Limine, and in support thereof avers as follows:

1. Defendants have moved to exclude the letter attached as Exhibit 1 to this Motion on the grounds that it is hearsay.
2. The letter is clearly an admission of a party and thus not subject to the hearsay rule.
3. Defendants have additionally suggested that the MCARE statute specifically 40 P.S. § 1303.308(b) precludes the admission of this document.

4. No cases have construed this section of the MCARE statute, however, a reading of the statute reveals that it does not in any way proscribe the admission of the document but simply indicates that such documents will not serve as an admission of liability which are entirely different propositions – depending upon the course of testimony on behalf of the Defendants in this case, the document may very well become relevant and admissible for *inter alia* purposes of impeachment, etc.

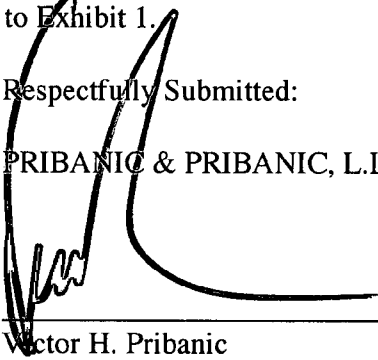
5. In short, the Defendants should not be permitted to testify in any fashion inconsistent with the tenor of the letter notwithstanding the application of the MCARE statute which again precludes only the effect of the document as an admission and not its admissibility as such.

WHEREFORE, Plaintiff respectfully requests that this Honorable Court overrule the Defendants' Motion in Limine in respect to Exhibit 1.

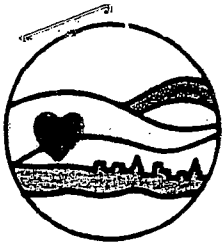
Respectfully Submitted:

PRIBANIC & PRIBANIC, L.L.C.

By:



Victor H. Pribanic
Counsel for the Plaintiff



Clearfield Hospital

(814) 765-534

www.clearfieldhosp

February 7, 2003

Patricia G. Fernsworth
304 Margareta Street
Clearfield, PA 16830

Dear Ms. Fernsworth,

Clearfield Hospital is committed to providing quality medical care to its patients and the communities it serves. Despite constant and committed efforts to provide and improve patient care, adverse events sometimes occur.

It is unfortunate that your father experienced a complication, relating to his Foley catheter, while he was a patient in our hospital that resulted in the need for surgical intervention by Sheldon P. Rosenthal MD on February 1, 2003. I have discussed this event with you.

Our facility is committed to respecting the rights of patients and their families to be informed about the occurrence of serious events, and to analyze such events to improve patient care and prevent reoccurrence. We take all these events seriously and your father's complication will be reviewed at our Patient Safety Committee in an effort to improve systems and processes for our patients.

Should you have further questions about your care please do not hesitate to contact me at 814-765-6644 or James P. Davidson, DO, as the Patient Safety Officer at 814-765-1521.

Sincerely,

Bruno J. Romeo, MD



CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the within has been served via facsimile transmission, this 31st day of August, 2007 upon the following:

The Honorable Judge Frederic J. Ammerman
Clearfield County Courthouse
One North Second Street
Clearfield, PA 16830

Frank J. Hartye, Esquire
McINTYRE, DUGAS, HARTYE & SCHMITT
P.O. Box 533
Hollidaysburg, PA 16648
(Counsel for Defendants Clearfield Hospital and Sharon Goodman, R.N.)

Daniel J. McCarthy, Esquire
MINTZER SAROWITZ ZERIS LEDVA & MEYERS
1528 Walnut Street, 22nd Floor
Philadelphia, PA 19102-3614
*(Counsel for Defendants Clearfield Community Nurses
and Norma J. Parent, R.N.)*



Victor H. Pribanic

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

PATRICIA FARNSWORTH, Personal
Representative of the ESTATE of
FRANK HARZINSKI,

Plaintiff,

vs.

CLEARFIELD HOSPITAL, SHARON
GOODMAN, R.N., CLEARFIELD
COMMUNITY NURSES, and NORMA
J. PARENT, R.N., incorrectly identified as
NORMA J. PANT, R.N.,

Defendants.

CIVIL DIVISION

No.: 04-1555-CD

ORDER OF COURT

AND NOW, to-wit, this _____ day of _____, 2007, upon
consideration of Plaintiff's Response to Motions in Limine, it is hereby ORDERED that
Defendants' Motion in Limine in respect to the letter of Bruno J. Romeo, M.D. dated
February 7, 2003 is hereby denied.

BY THE COURT:

_____, J.

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

PATRICIA FARNSWORTH, PERSONAL
REPRESENTATIVE OF THE ESTATE OF
FRANK HARZINSKI

vs.

CLEARFIELD HOSPITAL, SHARON
GOODMAN, R.N., CLEARFIELD
COMMUNITY NURSES AND NORMA J.
PARENT, R.N.

FILED *NO cc*
7/12:40 PM
SEP 06 2007 *(GR)*

William A. Shaw
Prothonotary/Clerk of Courts

NO. 2004-01555-CD

ISSUE: REPLY TO PLAINTIFFS' MOTION
TO SUPPLEMENT PRETRIAL STATEMENT
IN RESPONSE TO DEFENDANTS'
MOTION IN LIMINE

Filed on behalf of Defendants,
CLEARFIELD COMMUNITY NURSES AND
NORMA J. PARENT, R.N.

Counsel of Record for this Party:
DANIEL J. MCCARTHY, ESQUIRE
Attorney I.D. No. 41440
MINTZER, SAROWITZ, ZERIS,
LEDVA & MEYERS
22nd Floor
1528 Walnut Street
Philadelphia, PA 19102
(215) 735-7200
MSZL&M File No. 0210.1314

JURY TRIAL DEMANDED

DEFENDANTS, CLEARFIELD COMMUNITY NURSES AND
NORMA J. PARENT, R.N.'S RESPONSE TO PLAINTIFFS' MOTION TO
SUPPLEMENT PRETRIAL STATEMENT IN RESPONSE TO
DEFENDANTS' MOTION IN LIMINE

AND NOW, come Defendants, CLEARFIELD COMMUNITY NURSES and NORMA
J. PARENT, R.N., by and through their attorneys, MINTZER, SAROWITZ, ZERIS, LEDVA &
MEYERS, and file the within reply to Plaintiffs' Motion to Supplement Pretrial Statement in
Response to Defendants' Motion in Limine, and in support thereof, aver as follows:

1. Admitted only to the extent that Plaintiffs' Complaint speaks for itself.

2. Admitted only to the extent that Dr. Small's report speaks for itself.
3. Admitted. On August 22, 2007, defendants filed a Motion in limine to preclude plaintiffs from seeking damages pursuant to the Wrongful Death Statute for failure to produce expert evidence causally relating plaintiff's decedent's death to the alleged negligence of the defendants. On the morning of August 30, 2007, plaintiff's counsel advised this office that they had no attorneys available to appear for oral arguments on August 31, 2007 and sought the party's consent for a continuance. Counsel agreed to this and the oral argument was rescheduled by the Court for October 5, 2007.
4. Admitted. The parties exchanged their Pretrial Conference Statements which included a full disclosure of their respective proposed witness list, including expert witnesses and exhibit list.
5. Admitted.
6. Denied. By the time plaintiffs' filed their Response to Defendants' Motion on August 31, 2007, a trial in this matter was scheduled to start less than 60 days on October 29, 2007. Most importantly, jury selection process already took place on August 28, 2007, at which time each party's proposed expert witnesses were identified to the jury panel for the purposes of determining potential jury bias. At no time during Jury Selection did plaintiffs identify additional expert witnesses for their case.
7. Denied. Because of plaintiffs' failure to produce expert evidence causally relating plaintiff's decedent's death to the alleged negligence of the defendants pursuant to the Case Management Order, defendants filed a Motion in limine to preclude plaintiffs from seeking damages pursuant to the Wrongful Death Statute at the time of trial.

8. Admitted to the extent that on August 31, 2007 at approximately 1:54 p.m., this office received a facsimile from plaintiffs' counsel enclosing a copy of their Motion to Supplement Pretrial Statement in Response to Defendants' Motion in Limine in which they indicated that they recently obtained an oral opinion from an expert as to the cause of death. It is clear that plaintiffs are now underhandedly attempting to offer a new expert report by way of a response to defendants' Motion since they realized that they have only one expert report from an urologist who did not offer any opinions causally related plaintiff's decedent's death to the alleged negligence of the defendants.

9. -10. Denied. Plaintiffs must be precluded from offering a new expert report as they are clearly out of time at this juncture. In the event the Court permits plaintiffs to produce a new expert report from an expert who was not previously identified, defendants will be highly prejudiced since plaintiffs are violating the Rules of Court. The purpose of the Pretrial Conference is to notify all parties of their respective expert witnesses who may called at the time of trial so that there are no "surprise witnesses".

Furthermore, a trial in this matter is scheduled to commence the week of October 29, 2007. Not only did plaintiffs have more than sufficient time to retain expert witnesses in support of their claims since they filed a Summons and Complaint nearly three years ago in November of 2004, they had sufficient notice of the opinions of defendants' expert witnesses since May 1, 2007.

Procedurally, on October 17, 2006, before the parties appeared before the Honorable Fredric J. Ammerman for a status conference, plaintiff's counsel proposed the deadlines for completion of certain discovery, including deadlines for the production of expert reports to which co-defendants were in agreement. Thereafter, the parties presented their proposed

discovery deadlines to the Court for its approval, and Judge Ammerman issued a Case Management Order accordingly. (A copy of the Case Management Order is attached hereto and marked as Exhibit "A".) Pursuant to the Case Management Order, the production of plaintiff's expert reports were due no later than March 1, 2007, and the production of defense expert reports were due no later than May 1, 2007. (See Exhibit "A".) Defendants produced copies of their expert reports to plaintiff's counsel on April 27, 2007 via Federal Express. At no time, did plaintiffs request an extension of time to produced additional expert reports.

This matter was listed for a Civil Call before the Court on July 26, 2007, at which time plaintiff's counsel advised the Court that this matter was ready for trial. A Pretrial Conference was thereafter scheduled on August 24, 2007, at which time parties exchanged their Pretrial Statements which included a full disclosure of their respective proposed witness list, including expert witnesses and exhibit list. Plaintiffs were also served with a copy Defendants' Motion in limine on August 21, 2007. At the Pretrial Conference, the Court scheduled a trial in this matter to commence on October 29, 2007. At no time during the Pretrial Conference did plaintiffs indicate that they were in the process of retaining additional experts.

The jury selection process was thereafter held on August 28, 2007, at which time each party's proposed expert witnesses were identified to the jury panel for the purposes of determining potential jury bias. At no time during Jury Selection did plaintiffs identify additional expert witnesses for their case.


Because of plaintiffs' initial settlement demand of \$1.2 million, defendants have already incurred an enormous amount in expenses in expert fees alone. Defendants will be required to expend even more money to have their expert witnesses review and issue rebuttal reports.

WHEREFORE, Defendant Clearfield Community Nurses and Norma J. Parent, R.N. respectfully request that this Honorable Court deny Plaintiffs' Motion to Supplement Their Pretrial Statement. On the other hand, Defendant Clearfield Community Nurses and Norma J. Parent, R.N. respectfully request that this Honorable Court grant their Motion in Limine and issue an order precluding plaintiff from seeking damages pursuant to the Wrongful Death Statute at the time of trial.

Respectfully submitted,

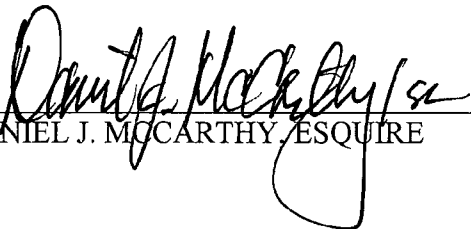
September 4, 2007

MINTZER, SAROWITZ, ZERIS, LEDVA & MEYERS

BY: 
DANIEL J. MCCARTHY, ESQUIRE
Attorney for Defendants, CLEARFIELD COMMUNITY
NURSES AND NORMA J. PARENT, R.N.

VERIFICATION

The averments or denials of facts contained in the foregoing are true, based upon the signer's personal knowledge or information and belief. If the foregoing contains averments which are consistent in fact, signer has been unable, after reasonable investigation, to ascertain which of the inconsistent averments are true, but signer has knowledge or information sufficient to form a belief that one of them is true. This Verification is made subject to the penalties of 18 Pa.C.S. §4904 relating to unsworn falsification to authorities.



DANIEL J. MCCARTHY, ESQUIRE

Dated: September 4, 2007

✓ 0210.1314

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

PATRICIA FARNSWORTH, Personal *
Representative of the ESTATE of *
FRANK HARZINSKI, *
Plaintiff *

vs. *

No. 04-1555-CD

CLEARFIELD HOSPITAL, SHARON *
GOODMAN, R.N., CLEARFIELD *
COMMUNITY NURSES, AND *
NORMA J. PANT, R.N., *
Defendants *

CASE MANAGEMENT ORDER

NOW, this 17th day of October, 2006, following status conference among counsel and the Court and upon agreement of the parties it is the ORDER of this Court as follows:

1. All discovery shall be closed, including but not limited to the taking of any depositions, by no later than December 31, 2006;
2. Plaintiff's expert report(s) shall be provided to Defense counsel by no later than March 1, 2007;
3. Defendants' expert report(s) shall be provided to counsel for the Plaintiff by no later than May 1, 2007;
4. The case shall be listed for Civil Call before the Court on July 26, 2007 at 11:00 a.m. in Courtroom No. 1, Clearfield County Courthouse, Clearfield, Pennsylvania;
5. The pre-trial conference will be held on August 17, 2007 at a time to be determined. The parties shall file their pre-trial statement and other documents in conformity with Clearfield County Local Rules; and
6. Jury selection shall be on August 28, 2007.

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

OCT 18 2006

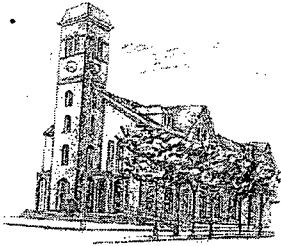
Attest.

William L. B...
Prothonotary/
Clerk of Courts

BY THE COURT,

/s/ Fredric J. Ammerman

FREDRIC J. AMMERMAN
President Judge



Clearfield County Office of the Prothonotary and Clerk of Courts

William A. Shaw
Prothonotary/Clerk of Courts

David S. Ammerman
Solicitor

Jacki Kendrick
Deputy Prothonotary

Bonnie Hudson
Administrative Assistant

To: All Concerned Parties

From: William A. Shaw, Prothonotary

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

Sincerely,

William A. Shaw
Prothonotary

DATE: 10/18/06

____ 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:

CERTIFICATE OF SERVICE

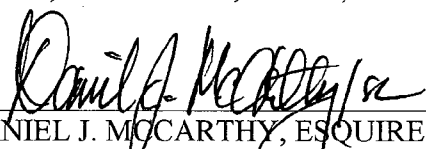
I, DANIEL J. MCCARTHY, ESQUIRE, hereby certify that I caused to be served a copy of Defendants' Reply to Plaintiffs' Motion to Supplement Pretrial Statement in Response to Defendants' Motion in limine to all parties of record in this proceeding in accordance with the requirements of the Rules of Civil Procedure by DHL Overnight Mail, postage pre-paid on September 4, 2007 upon:

Victor H. Pribanic, Esquire
Pribanic & Pribanic, LLC
1735 Lincoln Way
White Oak, PA 15131
Attorney for Plaintiff

Frank J. Hartye, Esquire
McINTYRE, HARTYE & SCHMITT
P.O. Box 533
Hollidaysburg, PA 16648
Attorney for Defendants, Sharon Goodman, R.N.
and Clearfield Hospital

MINTZER, SAROWITZ, ZERIS, LEDVA & MEYERS

BY: _____


DANIEL J. MCCARTHY, ESQUIRE
Attorney for Defendants, CLEARFIELD COMMUNITY
NURSES AND NORMA J. PARENT, R.N.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

PATRICIA FARNSWORTH, Personal
Representative of the ESTATE of
FRANK HARZINSKI,

Plaintiff,

vs.

CLEARFIELD HOSPITAL, SHARON
GOODMAN, R.N., CLEARFIELD
COMMUNITY NURSES, and NORMA
J. PARENT, R.N., incorrectly identified as
NORMA J. PANT, R.N.,

Defendants.

JURY TRIAL DEMANDED

CIVIL DIVISION

No.: 04-1555-CD

**PLAINTIFF'S FIRST SUPPLEMENTAL
PRETRIAL STATEMENT**

Filed on behalf of Plaintiff:

PATRICIA FARNSWORTH

Counsel of record for this party:

VICTOR H. PRIBANIC
PA I.D. No. 30785

PRIBANIC & PRIBANIC, L.L.C.
1735 Lincoln Way
White Oak, PA 15131

(412) 672-5444

SLP

FILED

SEP 10 2007

William A. Shaw
Prothonotary/Clerk of Courts

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

PATRICIA FARNSWORTH, Personal
Representative of the ESTATE of
FRANK HARZINSKI,

Plaintiff,

vs.

CLEARFIELD HOSPITAL, SHARON
GOODMAN, R.N., CLEARFIELD
COMMUNITY NURSES, and NORMA
J. PARENT, R.N., incorrectly identified as
NORMA J. PANT, R.N.,

Defendants.

CIVIL DIVISION

No.: 04-1555-CD

PLAINTIFF'S FIRST SUPPLEMENTAL PRETRIAL STATEMENT

AND NOW, comes the Plaintiff, by her counsel, Victor H. Pribanic, Esquire, and Pribanic & Pribanic, LLC, files the following First Supplemental Pretrial Statement and in support thereof avers that:

II. WITNESSES

A. LIABILITY

1. Karl Steinberg, M.D.
Stone Mountain Medical Associates
3608 Napa Court
Oceanside, CA 92056
(Report dated September 1, 2007 is attached.)

B. DAMAGE

15. Karl Steinberg, M.D.
Stone Mountain Medical Associates
3608 Napa Court
Oceanside, CA 92056

III. EXHIBITS

17. Expert report of Karl E. Steinberg, M.D. dated September 1, 2007.

**PLAINTIFF RESERVES THE RIGHT TO AMEND OR SUPPLEMENT THIS
PRE-TRIAL STATEMENT UP TO AND INCLUDING THE TIME OF TRIAL.**

Respectfully submitted,

PRIBANIC & PRIBANIC, L.L.C.

By: Victor H. Pribanic
Victor H. Pribanic
Counsel for Plaintiff

KARL E. STEINBERG, MD
Stone Mountain Medical Associates, Inc.
3608 Napa Court
Oceanside, CA 92056
(760) 414-7263

FELLOW, AMERICAN ACADEMY OF FAMILY PHYSICIANS

DIPLOMATE, AMERICAN BOARD OF FAMILY PRACTICE

September 1, 2007
VIA FACSIMILE & US MAIL

Victor Pribanic
Pribanic & Pribanic, APC
1735 Lincoln Way
White Oak, PA 15131

Re: Frank Harzinski (deceased)
Case Name: *Farnsworth v. Clearfield Hospital, et al.*
Case No.: 2004-01555-CD

BRIEF MEDICOLEGAL EVALUATION REPORT

Dear Mr. Pribanic:

I am writing this report at your request to assess the injuries sustained by the above-referenced decedent, and the connection between his injuries and his death. If called to testify at deposition or trial, I could and would confirm the opinions contained herein within a reasonable degree of medical certainty. This report should not be construed as exhaustive; if the case proceeds, I will likely develop additional opinions as well as refine and elaborate on those contained herein. If and when additional evidence becomes available to me, I would reserve the opportunity to formulate and propound supplementary opinions in this matter.

I am a Board-Certified Family Physician in the full-time clinical practice of geriatrics and long-term care in San Diego County. I have cared for many patients with the types of medical conditions that Mr. Harzinski suffered from, including chronic obstructive pulmonary disease (COPD), renal insufficiency, urinary tract infections, cerebral hemorrhage, glaucoma, atherosclerotic coronary artery disease, congestive heart failure with pleural effusion, anemia, dementia, hypertension, esophageal strictures, and hypothyroidism.

I am on the teaching faculty for UCSD and Naval Hospital Camp Pendleton's Family Medicine residency programs as a clinical preceptor in geriatrics, and have given educational presentations to a national audience through AMDA on care of the elderly. You have in your possession a copy of my *Curriculum Vitae*, which more fully sets forth my education, training and experience.

In preparation for generating this report, I reviewed the files you sent me concerning Mr. Harzinski, including:

1. Medical Records from Clearfield Community Nurses.
2. Medical Records from Clearfield Hospital (multiple admissions).
3. Medical Records from Ridgeview Elder Care.
4. Death Certificate.
5. Deposition Transcript of Sheldon P. Rosenthal, MD.

SUMMARY OF OPINIONS

I have reviewed and considered the records listed above and it is my opinion, within a reasonable degree of medical certainty, that the serious nature of Mr. Harzinski's perineal abscess and its ensuing sepsis, as well as the resultant necessity for major urological surgery that required removal of part of his urethra and placement of a permanent suprapubic urinary catheter, were ***direct and substantial contributing factors in his death.***

But for the mismanagement by home health personnel of Mr. Harzinski's Foley catheter and the failure to recognize and reduce his paraphimosis, which were direct and substantial contributing causes to his life-threatening genitourinary sepsis and abscess/cellulitis with possible Fournier's gangrene, within a reasonable degree of medical certainty, Mr. Harzinski ***would not have died*** within a few weeks after his débridement surgery. The surgical procedure and the need for anesthesia, as well as the need for postoperative care, wound care, and pain-related issues and management, all contributed to hasten his decline and his demise.

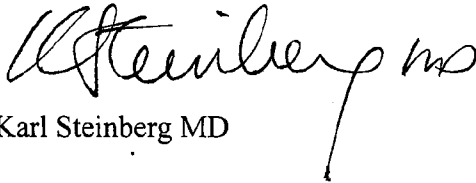
While Mr. Harzinski was indisputably a frail elderly man with multiple, serious medical problems, he was reasonably stable and doing fairly well before this episode of genitourinary sepsis in late January 2003. Medical records, including those from Clearfield Community Nurses personnel, document clearly that he had stabilized somewhat and was reasonably settled-in and coping with his situation at home before the development of penile pain in late January. Subsequent home health notes from February 2003 ***after*** the hospitalization demonstrate unequivocally that his condition had worsened markedly—his physical condition, his emotional state, and even his cognitive functioning declined significantly in response to the infection and the required surgery. Even though he did survive the surgery and was improving slightly from his critically ill status, Mr. Harzinski never re-attained his pre-infection functional or physical status, and had obviously suffered additional insults as far as his dementia that he never recovered from.

I have considered the Death Certificate in arriving at my opinions in this matter. The cause of death is stated to be COPD, with "other significant conditions contributing to death, but not resulting in the

underlying cause" listed as "H[istory]/O[f] M[yocardial] I[nfarction], H[istory]/O[f] [Hypertension], and Renal Insufficiency. The Death Certificate does not specifically mention the recent surgical procedure or the serious genitourinary infection Mr. Harzinski suffered, but I believe it *should* have mentioned them, as well as listing some of Mr. Harzinski's other significant contributing medical diagnoses that combined to take his life just a few weeks after the last hospitalization (such as his congestive heart failure). It is an unfortunate but indisputable reality that Death Certificates are not always filled out completely or correctly, and errors of omission are commonplace. That was the situation with Mr. Harzinski's Death Certificate. These errors are usually not intentional, but simply reflect the difficulty in always remembering every historical detail of recent and remote events and conditions when a patient expires. In Mr. Harzinski's case, it scarcely requires a medical expert to surmise—between the severity of the insult to his systems from the infection, anesthesia and surgery and the obvious decline that occurred immediately following them—and adding the temporal proximity of his death a few short weeks later—that the infection and its sequelae directly and substantially contributed to his decline and death.

In conclusion, it is my opinion that there is a direct causal link between the genitourinary infection Mr. Harzinski developed as the result of negligence on the part of Clearfield Community Nurses personnel and his death a few weeks later.

Sincerely yours,

A handwritten signature in cursive script, appearing to read 'K. Steinberg MD', written in black ink.

Karl Steinberg MD

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the within has been served via U. S. Postal Service postage prepaid on the ~~10th~~^{7th} day of September, 2007 upon the following:

Frank J. Hartye, Esquire
McINTYRE, DUGAS, HARTYE & SCHMITT
P.O. Box 533

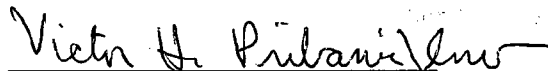
Hollidaysburg, PA 16648

Counsel for Defendants Clearfield Hospital and Sharon Goodman, R.N.

Daniel J. McCarthy, Esquire
MINTZER SAROWITZ ZERIS LEDVA & MEYERS

1528 Walnut Street, 22nd Floor
Philadelphia, PA 19102-3614

Counsel for Defendants Clearfield Community Nurses and Norma J. Parent, R.N.



Victor H. Pribanic

6A

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

PATRICIA FARNSWORTH, Personal Representative
of the ESTATE OF FRANK HARZINSKI
Plaintiff

vs.

CLEARFIELD HOSPITAL, SHARON GOODMAN, R.N.,
CLEARFIELD COMMUNITY NURSES, and
NORMA J. PARENT, R.N.,
Defendants

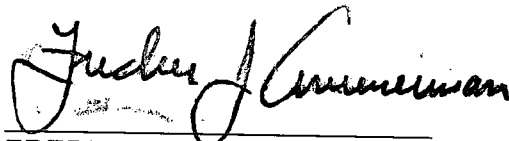
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NO. 04-1555-CD

ORDER

NOW, this 10th day of September, 2007, upon review of the Motion to Supplement Pretrial Statement in Response to Defendants' Motion in Limine filed on behalf of the Plaintiff; it is the ORDER of this Court that argument on said Motion shall be held on the 5th day of October, 2007 at 9:30 a.m. in Courtroom No. 1 of the Clearfield County Courthouse, Clearfield, Pennsylvania.

BY THE COURT,



FREDRIC J. AMMERMAN
President Judge

FILED

SEP 11 2007

William A. Shaw
Prothonotary/Clerk of Courts

1cc Atty's:
Pribanic

Hartye
McCarthy

@R

FILED

SEP 11 2007

William A. Shaw
Prothonotary/Clerk of Courts

DATE: 9/11/07

____ 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

PATRICIA FARNSWORTH, Personal
Representative of the ESTATE OF
FRANK HARZINSKI,

Plaintiff

vs.

CLEARFIELD HOSPITAL,
SHARON GOODMAN, R.N.,
CLEARFIELD COMMUNITY NURSES,
and NORMA J. PARENT, R.N.,

Defendants

No. 2004 – 1555 CD

ISSUE:

Defendants Clearfield Hospital and
Sharon Goodman, R.N.'s Response
to Plaintiff's Motion to Supplement
Pre-Trial Statement in Response to
Defendants' Motion in Limine

Filed on behalf of Defendants,
CLEARFIELD HOSPITAL
and SHARON GOODMAN, RN

Counsel of Record For These Parties:
Frank J. Hartye, Esquire
PA I.D. #25568

McINTYRE, 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 11th DAY OF **SEPTEMBER, 2007.**


Attorneys for Named Defendants

FILED NOCC
m10-44/64
SEP 13 2007 (6K)

William A. Shaw
Prothonotary/Clerk of Courts

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

PATRICIA FARNSWORTH, Personal
Representative of the ESTATE OF
FRANK HARZINSKI,

Plaintiff

vs.

CLEARFIELD HOSPITAL,
SHARON GOODMAN, R.N.,
CLEARFIELD COMMUNITY NURSES,
and NORMA J. PARENT, R.N.,

Defendants

No. 2004 – 1555 CD

JURY TRIAL DEMANDED

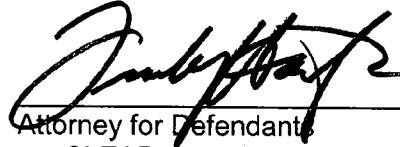
**DEFENDANTS CLEARFIELD HOSPITAL AND SHARON GOODMAN, R.N.'S
RESPONSE TO PLAINTIFF'S MOTION TO SUPPLEMENT PRE-TRIAL STATEMENT
IN RESPONSE TO DEFENDANTS' MOTION IN LIMINE**

AND NOW, come defendants, CLEARFIELD HOSPITAL and SHARON GOODMAN, R.N., by and through their attorneys, MCINTYRE, HARTYE & SCHMITT, and file the following Reply to Plaintiff's Motion to Supplement Pre-Trial Statement in Response to Defendants' Motion in Limine.

1. Defendants incorporate by reference the response of Clearfield Community Nurses and Norma J. Parent, R.N. as though the same were set forth herein at length.

WHEREFORE, defendants request this Honorable Court to deny plaintiff's Motion to Supplement a Pre-Trial Statement and to grant the Motion in Limine filed on behalf of defendants.

MCINTYRE, HARTYE & SCHMITT

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

Attorney for Defendants
CLEARFIELD HOSPITAL and SHARON
GOODMAN, R.N.

FRANK J. HARTYE, ESQUIRE
PA. ID. No. 25568
P.O. Box 533
Hollidaysburg, PA 16648
814/696-3581

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

PATRICIA FARNSWORTH, Personal
Representative of the ESTATE OF
FRANK HARZINSKI,

Plaintiff

vs.

CLEARFIELD HOSPITAL,
SHARON GOODMAN, R.N.,
CLEARFIELD COMMUNITY NURSES,
and NORMA J. PARENT, R.N.,

Defendants

No. 2004 – 1555 CD

ISSUE:
MOTION TO STRIKE EXPERT
REPORT OF KARL STEINBERG, M.D.

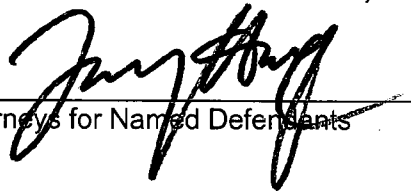
Filed on behalf of Defendants,
CLEARFIELD HOSPITAL
and SHARON GOODMAN, RN

Counsel of Record For These Parties:
Frank J. Hartye, Esquire
PA I.D. #25568

McINTYRE, 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 12TH DAY OF SEPTEMBER, 2007.


Attorneys for Named Defendants

FILED NO
m/10:4361 CC
SEP 13 2007 GK
William A. Shaw
Prothonotary/Clerk of Courts

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

PATRICIA FARNSWORTH, Personal
Representative of the ESTATE OF
FRANK HARZINSKI,

Plaintiff

vs.

CLEARFIELD HOSPITAL,
SHARON GOODMAN, R.N.,
CLEARFIELD COMMUNITY NURSES,
and NORMA J. PARENT, R.N.,

Defendants

No. 2004 – 1555 CD

JURY TRIAL DEMANDED

**MOTION TO STRIKE EXPERT REPORT
OF KARL E. STEINBERG, M.D.**

AND NOW, come the Defendants, CLEARFIELD HOSPITAL and SHARON GOODMAN, R.N., by and through their attorneys, McINTYRE, HARTYE & SCHMITT, and file the following Motion to Strike Expert Report of Karl E. Steinberg, M.D.

1. Plaintiff initiated the within action by filing a Praecipe for Writ of Summons on October 6, 2004. Thereafter plaintiff filed a Complaint and Certificates of Merit in support of an alleged wrongful death and survival action on behalf of the Estate of Frank Harzinski.

2. On October 17, 2006, a Status Conference was held with the Honorable Fredric J. Ammerman at which time Judge Ammerman entered a Case Management Order requiring plaintiff's expert reports to be filed no later than March 1, 2007, with defense expert reports to be filed no later than May 1, 2007.

3. On August 24, 2007, a Pre-Trial Conference was held with Judge Ammerman who scheduled jury selection for August 28, 2007. Prior to the Pre-Trial Conference, defendants had filed a Motion in Limine as to the wrongful death action since there had been no expert report to address the plaintiff's cause of death. Jury

selection was scheduled for August 28, 2007. There was no mention of any possible or potential report from Karl Steinberg, M.D.

4. Jury selection was held on August 28, 2007. While the jury was asked whether they knew the other witnesses in the case, the name of Karl Steinberg, M.D. was not brought up by plaintiff and was not included in any Pre-Trial Statements.

5. On or about September 7, 2007, plaintiff's counsel faxed to defense counsel a Supplemental Pre-Trial Statement containing the report of Karl Steinberg without Dr. Steinberg's Curriculum Vitae. The doctor's report is dated September 1, 2007 and is attached hereto.

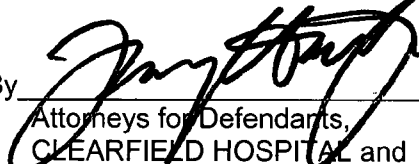
6. The report of Dr. Steinberg was filed after the Court's imposed deadline and four months after all defense expert reports had been filed.

7. Answering defendants have retained a nursing expert and a urologist based on the timely reports filed by plaintiff. Defendants did not retain a causation expert because plaintiff had not retained such an expert and did not offer any opinion as to cause of death. To allow plaintiff to call Dr. Steinberg at trial currently scheduled for October 2007 would prejudice these defendants.

WHEREFORE, defendants request this Honorable Court to strike the report of Karl E. Steinberg, M.D. and to preclude Dr. Steinberg from testifying at time of trial.

Respectfully submitted,

McINTYRE, HARTYE & SCHMITT

By 
Attorneys for Defendants,
CLEARFIELD HOSPITAL and
SHARON GOODMAN, RN

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

KARL E. STEINBERG, MD
Stone Mountain Medical Associates, Inc.
3608 Napa Court
Oceanside, CA 92056
(760) 414-7263

FELLOW, AMERICAN ACADEMY OF FAMILY PHYSICIANS

DIPLOMATE, AMERICAN BOARD OF FAMILY PRACTICE

September 1, 2007
VIA FACSIMILE & US MAIL

Victor Pribanic
Pribanic & Pribanic, APC
1735 Lincoln Way
White Oak, PA 15131

Re: Frank Harzinski (deceased)
Case Name: **Farnsworth v. Clearfield Hospital, et al.**
Case No.: 2004-01555-CD

BRIEF MEDICOLEGAL EVALUATION REPORT

Dear Mr. Pribanic:

I am writing this report at your request to assess the injuries sustained by the above-referenced decedent, and the connection between his injuries and his death. If called to testify at deposition or trial, I could and would confirm the opinions contained herein within a reasonable degree of medical certainty. This report should not be construed as exhaustive; if the case proceeds, I will likely develop additional opinions as well as refine and elaborate on those contained herein. If and when additional evidence becomes available to me, I would reserve the opportunity to formulate and propound supplementary opinions in this matter.

I am a Board-Certified Family Physician in the full-time clinical practice of geriatrics and long-term care in San Diego County. I have cared for many patients with the types of medical conditions that Mr. Harzinski suffered from, including chronic obstructive pulmonary disease (COPD), renal insufficiency, urinary tract infections, cerebral hemorrhage, glaucoma, atherosclerotic coronary artery disease, congestive heart failure with pleural effusion, anemia, dementia, hypertension, esophageal strictures, and hypothyroidism.

I am on the teaching faculty for UCSD and Naval Hospital Camp Pendleton's Family Medicine residency programs as a clinical preceptor in geriatrics, and have given educational presentations to a national audience through AMDA on care of the elderly. You have in your possession a copy of my *Curriculum Vitae*, which more fully sets forth my education, training and experience.

In preparation for generating this report, I reviewed the files you sent me concerning Mr. Harzinski, including:

1. Medical Records from Clearfield Community Nurses.
2. Medical Records from Clearfield Hospital (multiple admissions).
3. Medical Records from Ridgeview Elder Care.
4. Death Certificate.
5. Deposition Transcript of Sheldon P. Rosenthal, MD.

SUMMARY OF OPINIONS

I have reviewed and considered the records listed above and it is my opinion, within a reasonable degree of medical certainty, that the serious nature of Mr. Harzinski's perineal abscess and its ensuing sepsis, as well as the resultant necessity for major urological surgery that required removal of part of his urethra and placement of a permanent suprapubic urinary catheter, were ***direct and substantial contributing factors in his death.***

But for the mismanagement by home health personnel of Mr. Harzinski's Foley catheter and the failure to recognize and reduce his paraphimosis, which were direct and substantial contributing causes to his life-threatening genitourinary sepsis and abscess/cellulitis with possible Fournier's gangrene, within a reasonable degree of medical certainty, Mr. Harzinski ***would not have died*** within a few weeks after his débridement surgery. The surgical procedure and the need for anesthesia, as well as the need for postoperative care, wound care, and pain-related issues and management, all contributed to hasten his decline and his demise.

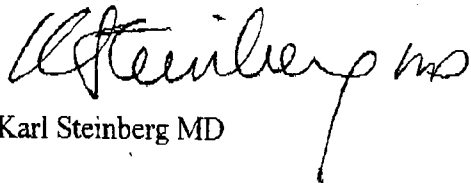
While Mr. Harzinski was indisputably a frail elderly man with multiple, serious medical problems, he was reasonably stable and doing fairly well before this episode of genitourinary sepsis in late January 2003. Medical records, including those from Clearfield Community Nurses personnel, document clearly that he had stabilized somewhat and was reasonably settled-in and coping with his situation at home before the development of penile pain in late January. Subsequent home health notes from February 2003 ***after*** the hospitalization demonstrate unequivocally that his condition had worsened markedly—his physical condition, his emotional state, and even his cognitive functioning declined significantly in response to the infection and the required surgery. Even though he did survive the surgery and was improving slightly from his critically ill status, Mr. Harzinski never re-attained his pre-infection functional or physical status, and had obviously suffered additional insults as far as his dementia that he never recovered from.

I have considered the Death Certificate in arriving at my opinions in this matter. The cause of death is stated to be COPD, with "other significant conditions contributing to death, but not resulting in the

underlying cause" listed as "H[istory]/O[f] M[yocardial] I[nfarction], H[istory]/O[f] [Hypertension], and Renal Insufficiency. The Death Certificate does not specifically mention the recent surgical procedure or the serious genitourinary infection Mr. Harzinski suffered, but I believe it *should* have mentioned them, as well as listing some of Mr. Harzinski's other significant contributing medical diagnoses that combined to take his life just a few weeks after the last hospitalization (such as his congestive heart failure). It is an unfortunate but indisputable reality that Death Certificates are not always filled out completely or correctly, and errors of omission are commonplace. That was the situation with Mr. Harzinski's Death Certificate. These errors are usually not intentional, but simply reflect the difficulty in always remembering every historical detail of recent and remote events and conditions when a patient expires. In Mr. Harzinski's case, it scarcely requires a medical expert to surmise—between the severity of the insult to his systems from the infection, anesthesia and surgery and the obvious decline that occurred immediately following them—and adding the temporal proximity of his death a few short weeks later—that the infection and its sequelae directly and substantially contributed to his decline and death.

In conclusion, it is my opinion that there is a direct causal link between the genitourinary infection Mr. Harzinski developed as the result of negligence on the part of Clearfield Community Nurses personnel and his death a few weeks later.

Sincerely yours,

A handwritten signature in cursive script, appearing to read "K. Steinberg MD". The signature is written in dark ink and is positioned above the printed name.

Karl Steinberg MD

CA

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

PATRICIA FARNSWORTH, Personal Representative
of the ESTATE OF FRANK HARZINSKI
Plaintiff

vs.

NO. 04-1555-CD

CLEARFIELD HOSPITAL, SHARON GOODMAN, R.N.,
CLEARFIELD COMMUNITY NURSES, and
NORMA J. PARENT, R.N.,
Defendants

ORDER

NOW, this 25th day of September, 2007, upon review of the Motion to Preclude the Report and Testimony of Plaintiffs' Expert, Karl E. Steinberg, M.D., it is the ORDER of this Court that argument on said Motion shall be held on the 5th day of October, 2007 at 9:30 a.m. in Courtroom No. 1 of the Clearfield County Courthouse, Clearfield, Pennsylvania.

BY THE COURT,



FREDRIC J. AMMERMAN
President Judge

FILED
013:55/01
SEP 25 2007

William A. Shaw
Prothonotary/Clerk of Courts

1cc Atty's:
Pribanic
Hartyle
McCarthy
GLO

FILED

SEP 25 2007

William A. Shaw
Prothonotary/Clerk of Courts

DATE: 9/25/07

☐ 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:

LA

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

PATRICIA FARNSWORTH, Personal
Representative of the ESTATE of
FRANK HARZINSKI,

Plaintiff,

vs.

CLEARFIELD HOSPITAL, SHARON
GOODMAN, R.N., CLEARFIELD
COMMUNITY NURSES, and NORMA
J. PARENT, R.N., incorrectly identified as
NORMA J. PANT, R.N.,

Defendants.

CIVIL DIVISION

No.: 04-1555-CD

PLAINTIFF'S AFFIDAVIT OF
RETURN OF SERVICE OF
CERTIFIED MAILING OF
SUBPOENA UPON
AMY STUCKE

Filed on behalf of Plaintiff:

PATRICIA FARNSWORTH

Counsel of record for this party:

VICTOR H. PRIBANIC
PA I.D. No. 30785

PRIBANIC & PRIBANIC, L.L.C.
1735 Lincoln Way
White Oak, PA 15131

(412) 672-5444

JURY TRIAL DEMANDED

FILED

SEP 26 2007

William A. Shaw
Prothonotary/Clerk of Courts

1 sent to
Amy

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

PATRICIA FARNSWORTH, Personal
Representative of the ESTATE of
FRANK HARZINSKI,

Plaintiff,

vs.

CLEARFIELD HOSPITAL, SHARON
GOODMAN, R.N., CLEARFIELD
COMMUNITY NURSES, and NORMA
J. PARENT, R.N., incorrectly identified as
NORMA J. PANT, R.N.,

Defendants.

CIVIL DIVISION

No.: 04-1555-CD

**PLAINTIFF'S AFFIDAVIT OF RETURN OF SERVICE OF CERTIFIED MAILING OF
SUBPOENA UPON AMY STUCKE**

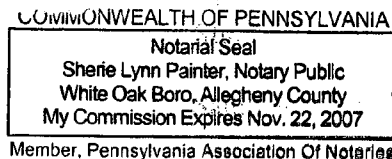
Before me, a Notary Public, Personally appeared Lisa M. Wilson, who being duly sworn according to law, deposes and says that on or about September 17, 2007, she caused to be mailed a true Subpoena to Attend and Testify in the captioned action to Mrs. Amy Stucke, 1087 Flegal Road, Clearfield, PA 16830, by certified mail, return receipt requested. Said Subpoena was received on or about September 20, 2007, by Brian Stucke as evidenced by the U.S. Postal Office Return Receipt, Certified No. 7007 0220 0002 9316 6739 which is attached hereto and made a part hereof.

Lisa M. Wilson

Lisa M. Wilson

Sworn to and subscribed before me this 24th
day of September, 2007.

Sherie Lynn Painter
Notary Public



Member, Pennsylvania Association Of Notaries

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

PATRICIA FARNSWORTH, Personal
Representative of the ESTATE of
FRANK HARZINSKI,

Plaintiff,

vs.

CLEARFIELD HOSPITAL, SHARON
GOODMAN, R.N., CLEARFIELD
COMMUNITY NURSES, and NORMA
J. PARENT, R.N., incorrectly identified as
NORMA J. PANT, R.N.,

Defendants.

CIVIL DIVISION

No.: 04-1555-CD

**PLAINTIFF'S AFFIDAVIT OF RETURN OF SERVICE OF CERTIFIED MAILING OF
SUBPOENA UPON AMY STUCKE**

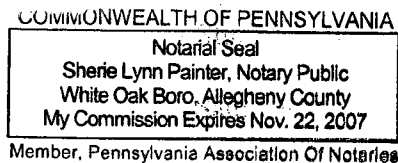
Before me, a Notary Public, Personally appeared Lisa M. Wilson, who being duly sworn according to law, deposes and says that on or about September 17, 2007, she caused to be mailed a true Subpoena to Attend and Testify in the captioned action to Mrs. Amy Stucke, 1087 Flegal Road, Clearfield, PA 16830, by certified mail, return receipt requested. Said Subpoena was received on or about September 20, 2007, by Brian Stucke as evidenced by the U.S. Postal Office Return Receipt, Certified No. 7007 0220 0002 9316 6739 which is attached hereto and made a part hereof.

Lisa M. Wilson

Lisa M. Wilson

Sworn to and subscribed before me this 24th
day of September, 2007.

Sherie Lynn Painter
Notary Public



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:

Mrs. Amy Stucke
1087 Flegal Road
Clearfield, PA 16830

COMPLETE THIS SECTION ON DELIVERY**A. Signature****X**☒ Agent☐ Addressee**B. Received by (Printed Name)**

Brian Stucke

C. Date of Delivery

9/20/07

D. Is delivery address different from item 1? ☐ YesIf 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)

7007 0220 0002 9316 6739

PS Form 3811, February 2004

Domestic Return Receipt

102595-02-M-1540

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the within has been served via U. S. Postal Service postage prepaid on the 25th day of September, 2007 upon the following:

Frank J. Hartye, Esquire
McINTYRE, DUGAS, HARTYE & SCHMITT
P.O. Box 533

Hollidaysburg, PA 16648

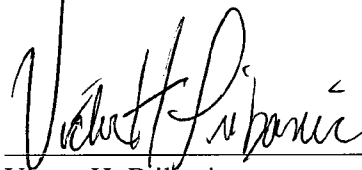
Counsel for Defendants Clearfield Hospital and Sharon Goodman, R.N.

Daniel J. McCarthy, Esquire
MINTZER SAROWITZ ZERIS LEDVA & MEYERS

1528 Walnut Street, 22nd Floor

Philadelphia, PA 19102-3614

Counsel for Defendants Clearfield Community Nurses and Norma J. Parent, R.N.



Victor H. Pribanic

ch

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

PATRICIA FARNSWORTH, Personal :
Representative of the ESTATE OF :
FRANK HARZINSKI :
: VS. : NO. 04-1555-CD
: CLEARFIELD HOSPITAL, SHARON :
GOODMAN, R.N., CLEARFIELD :
COMMUNITY NURSES, and :
NORMA J. PARENT, R.N. :

O R D E R

AND NOW, this 5th day of October, 2007, following argument on the Motion in Limine filed on behalf of Defendants Clearfield Hospital and Sharon Goodman, R.N., to preclude the Plaintiff from introducing at time of trial the letter of February 7, 2003, from Dr. Bruno J. Romeo, M.D., to Patricia Farnsworth, the said Motion is hereby granted and the said letter inadmissible at time of trial unless through some other means the Defense would open the door to admission of the letter.

BY THE COURT,

Frederick J. Cunningham
President Judge

EW
FILED
014:000601
OCT 05 2007

William A. Shaw
Prothonotary/Clerk of Courts

icc Atty's:
Pribanic
Hastye
McCarthy

FILED

OCT 05 2007

William A. Shaw
Prothonotary/Clerk of Courts

DATE: 10/5/07

 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:

CM

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

PATRICIA FARNSWORTH, PERSONAL
REPRESENTATIVE OF THE ESTATE OF
FRANK HARZINSKI

NO. 2004-01555-CD

vs.

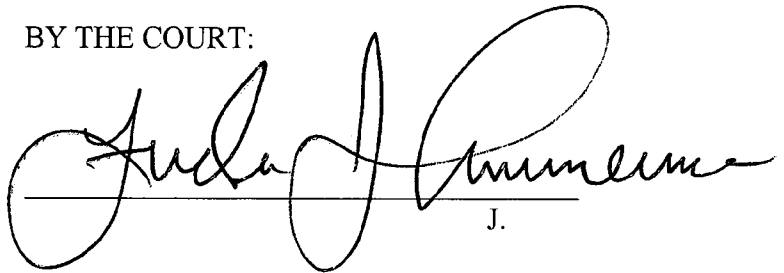
CLEARFIELD HOSPITAL, SHARON
GOODMAN, R.N., CLEARFIELD
COMMUNITY NURSES AND NORMA J.
PANT, R.N.

ORDER

AND NOW, this 5th day of October, 2007, upon
consideration of Defendants, Clearfield Community Nurses and Norma J. Parent, R.N.'s Motion
in Limine to Preclude the Report and Testimony of Plaintiffs' Expert, Karl E. Steinberg, M.D.,
and any response thereto, it is hereby **ORDERED** and **DECREED** that Defendants' Motion *in*
Limine is **GRANTED**.

IT IS FURTHER ORDERED that Plaintiffs are hereby precluded from offering the
report and testimony of Karl E. Steinberg, M.D. at trial.

BY THE COURT:


J.

FILED

OCT 05 2007

300

Atty. McCaskey

DATE: 10/5/07

☒ You are responsible for serving all appropriate parties.

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

☐ Plaintiff(s) ☐ Plaintiff(s) Attorney ☐ Other

☐ Defendant(s) ☐ Defendant(s) Attorney

☐ Special Instructions:

FILED
OCT 05 2007
William A. Shaw,
Probationary/Clerk of Courts

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

PATRICIA FARNSWORTH, PERSONAL
REPRESENTATIVE OF THE ESTATE OF
FRANK HARZINSKI

NO. 2004-01555-CD

vs.

CLEARFIELD HOSPITAL, SHARON
GOODMAN, R.N., CLEARFIELD
COMMUNITY NURSES AND NORMA J.
PANT, R.N.

ORDER

AND NOW, this _____ day of _____, 2007, upon
consideration of Defendants, Clearfield Community Nurses and Norma J. Parent, R.N.'s Motion
in Limine to bar Plaintiffs' Expert, Karl E. Steinberg, M.D. from offering any and all expert
opinions pertaining to urologic matters, including paraphimosis and Fournier's gangrene at trial,
and any response thereto, it is hereby **ORDERED** and **DECREED** that Defendants' Motion *in*
Limine is **GRANTED**.

BY THE COURT:

J.

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

PATRICIA FARNSWORTH, PERSONAL
REPRESENTATIVE OF THE ESTATE OF
FRANK HARZINSKI

vs.

CLEARFIELD HOSPITAL, SHARON
GOODMAN, R.N., CLEARFIELD
COMMUNITY NURSES AND NORMA J.
PANT, R.N.

NO. 2004-01555-CD

ISSUE: MOTION TO PRECLUDE THE
REPORT AND TESTIMONY OF PLAINTIFFS'
EXPERT, KARL E. STEINBERG, M.D.

Filed on behalf of Defendants,
CLEARFIELD COMMUNITY NURSES AND
NORMA J. PARENT, R.N. (incorrectly
identified as Norma J. Pant, R.N.)

Counsel of Record:
DANIEL J. MCCARTHY, ESQUIRE
Attorney I.D. No. 41440
MINTZER, SAROWITZ, ZERIS,
LEDVA & MEYERS
22nd Floor
1528 Walnut Street
Philadelphia, PA 19102
(215) 735-7200
MSZL&M File No. 0210.1314

JURY TRIAL DEMANDED

FILED ^{ICC}
n/123251 Atty
SEP 25 2007 McCarthy
William A. Shaw
Prothonotary/Clerk of Courts,
Gh

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

PATRICIA FARNSWORTH, PERSONAL
REPRESENTATIVE OF THE ESTATE OF
FRANK HARZINSKI

NO. 2004-01555-CD

vs.

CLEARFIELD HOSPITAL, SHARON
GOODMAN, R.N., CLEARFIELD
COMMUNITY NURSES AND NORMA J.
PANT, R.N.

**MOTION IN LIMINE TO PRECLUDE THE REPORT AND TESTIMONY
OF PLAINTIFFS' EXPERT, KARL E. STEINBERG, M.D.**

Defendants, CLEARFIELD COMMUNITY NURSES AND NORMA J. PARENT, R.N.
(incorrectly identified as Norma J. Pant, R.N.), by and through their attorneys, MINTZER,
SAROWITZ, ZERIS, LEDVA & MEYERS, hereby move to preclude the report and testimony
of plaintiff's proffered expert, Karl E. Steinberg, M.D. at trial, and in support thereof, aver as
follows:

Introduction and Factual Background

1. On October 7, 2004, Plaintiff, Patricia Farnsworth instituted a wrongful death and
survival action against the defendants on behalf of her deceased father, Frank Harzinski by way
of a Writ of Summons and subsequently by filing a Complaint. (A true and correct copy of
plaintiffs' Complaint is attached hereto and marked as Exhibit "A").

2. Plaintiff alleges that Mr. Harzinski developed penoscrotal and urethral necrosis
(Fournier's gangrene) requiring surgery resulting from negligent Foley catheter care provided to
her father by the defendants, specifically the failure to recognize that Mr. Harzinski was not
circumcised, the failure to notice that the foreskin of Mr. Harzinski's penis was in a retracted

position after the insertion/exchange of the Foley catheter, the failure to place the foreskin in a neutral position, and the failure to tape the Foley catheter to the abdomen. (See Exhibit "A", ¶¶ 45, 52.)

3. Plaintiff alleges that her father's death was the direct and proximate result of the negligent care and treatment provided to her father by the defendants. (See Exhibit "A", ¶ 46.)

4. At the time of the alleged incident, Mr. Harzinski was an 84 year old man with multiple health problems, including chronic obstructive pulmonary disease, heart disease with a history of coronary artery bypass surgery, right carotid endarterectomy, chronic renal failure, and dementia.

5. Between 2001 and 2002, Mr. Harzinski had multiple hospital admissions related to his chronic obstructive pulmonary disease and cardiac issues; an indwelling catheter was placed on numerous occasions during his hospitalizations due to problems with incontinence and his overall declining condition.

6. On January 1, 2003, Mr. Harzinski was re-admitted to Clearfield Hospital with chest pain and shortness of breath at which time defendant Nurse Goodman inserted the Foley catheter in question.

7. Mr. Harzinski underwent a thoracentesis to aspirate 2000 cc of fluid in his chest cavity and was discharged home on January 5, 2003.

8. Upon discharge, the visiting nurses at Clearfield Community Nurses, including Nurse Parent provided skilled nursing care to Mr. Harzinski.

9. On January 26, 2003, Nurse Parent exchanged the catheter when Mr. Harzinski complained of pain at the catheter site, and Ms. Farnsworth also reported that her father had been pulling on the catheter and that there was bleeding at the catheter site.

10. The following day on January 27, 2003, Nurse Parent returned to see Mr. Harzinski and noted edema at the penis and scrotum site and that Mr. Harzinski was voiding cloudy, yellow urine and also found discharge at the catheter site.

11. Mr. Harzinski was re-admitted to Clearfield Hospital on January 27, 2003 under the care of his family physician, Bruno Romeo, M.D.

12. The following day on January 28, 2003, Sheldon Rosenthal, M.D., an urologist, rendered a diagnosis of paraphimosis and manually reduced the paraphimosis without difficulty.

13. Mr. Harzinski subsequently developed foul smelling discharge from a genitalia site on January 31, 2003, and Dr. Rosenthal noted necrotic tissue at the penoscrotal area.

14. On February 1, 2003, Rosenthal performed surgery to remove the necrotic tissue from the urethra.

15. Mr. Harzinski was subsequently discharged to home on February 11, 2003 against the recommendations of the treating physicians and expired on February 21, 2003.

16. An autopsy was not performed on Mr. Harzinski.

17. The Death Certificate prepared by Mr. Harzinski's family doctor, Bruno Romeo, M.D. lists chronic obstructive pulmonary disease as the underlying cause of death, and other significant conditions contributing to death are listed as a history of myocardial infarction, history of hypertension and renal insufficiency.

18. In support of their claims, plaintiffs presented an expert report from an urologist, Michael Small, M.D.

19. While Dr. Small offered opinions with respect to the standard for Foley catheter care and contends that Mr. Harzinski developed paraphimosis resulting from the foreskin not being placed back over the glans, he did not offer any opinions causally relating Mr. Harzinski's

death to the defendants' alleged negligence. (A copy of Dr. Small's report is attached hereto and marked as Exhibit "B".)

20. Plaintiffs are now attempting to offer an expert report from a new expert, dated September 1, 2007 to address Mr. Harzinski's cause of death although plaintiffs' expert deadline had long expired six months ago on March 1, 2007; the Pretrial Conference has already taken place on August 24, 2007; the trial date has been set for October 29, 2007; and most importantly, the jury selection has already taken place on August 28, 2007.

Procedural History

21. At the Status Conference on October 17, 2006, the Honorable Fredric Ammerman entered a Case Management Order setting the completion of all discovery by December 31, 2006, requiring the production of plaintiff's expert reports no later than March 1, 2007, and requiring the production of defense expert reports no later than May 1, 2007. (See a copy of the Case Management Order attached hereto and marked as Exhibit "C".)

22. Following plaintiffs' production of their expert report from Dr. Small, defendants produced expert reports from a nursing expert, urology expert and an infectious disease expert on or about April 27, 2007 in accordance with the Case Management Order.

23. This matter was then listed for a Civil Call before the Court on July 26, 2007, at which time plaintiff's counsel advised the Court that this matter was ready for trial, and the Pretrial Conference was scheduled for August 24, 2007.

24. On August 22, 2007, defendants filed a Motion *in limine* to preclude plaintiffs from seeking damages pursuant to the Wrongful Death Statute as plaintiff had failed to produce expert evidence causally connecting the decedent's death to the alleged negligence of the defendants.

25. In light of the Pretrial Conference on August 24, 2007, the parties exchanged their Pretrial Statements which included a full disclosure of their witness and exhibit lists for trial.

26. Nowhere in their Pretrial Statement did plaintiffs identify Karl E. Steinberg, M.D. as an expert witness.

27. At the Pretrial Conference, the Court then set the trial in this matter to commence on October 29, 2007.

28. At no time during the Pretrial Conference did plaintiffs' counsel mention that a new expert had been retained.

29. The Jury Selection process was thereafter held on August 28, 2007, at which time each party's proposed expert witnesses were identified to the jury panel during Voir Dire for the purposes of determining potential jury bias.

30. At no time during Jury Selection did plaintiffs' counsel name Dr. Karl Steinberg as their expert witness for trial.

31. On the morning of August 30, 2007, plaintiff's counsel advised this office that they had no attorneys available to appear for oral arguments on Defendants' Motions *in limine* on August 31, 2007 and sought the party's consent for a continuance. Counsel agreed to this and the oral argument was rescheduled by the Court for October 5, 2007.

32. On August 31, 2007, moving defendants' counsel received a facsimile from plaintiffs' counsel enclosing a copy of their Motion to Supplement Pretrial Statement in Response to Defendants' Motion *in limine*.

33. In their Motion, plaintiffs' counsel certifies as follows:

"Plaintiff retained the services of Michael P. Small, M.D., an urologist, who offered an opinion as to negligence and damages, however, Dr. Small did not and could not given his specialty set forth an opinion as to the contribution the conduct of the

Defendants made to the death of Frank Harzinski.” (See a copy of Plaintiffs’ Motion attached hereto and marked as Exhibit “D”, ¶ 2.)

34. Plaintiffs’ counsel further certified that since “Defendants moved to exclude evidence of the relationship between the Defendants’ conduct and the death of Frank Harzinski based upon the failure of Dr. Small to comment upon it in his expert report”, plaintiff recently obtained an oral opinion from an expert as to the cause of death. (See Exhibit “D”, ¶¶ 3, 7.)

35. On September 7, 2007, over six months beyond the expiration of plaintiffs’ expert deadline, plaintiffs served a report from their new expert, Karl E. Steinberg, M.D., dated September 1, 2007 without the proffered expert’s Curriculum Vitae. (See a copy counsel’s transmittal letter and Dr. Steinberg’s report attached hereto and marked as Exhibit “E”).

- a. **Plaintiffs must be precluded from offering the new expert report and testimony of Dr. Karl E. Steinberg at trial because plaintiffs offer no credible extenuating circumstances why their proposed expert report was produced six months after plaintiffs’ expert discovery deadline and more importantly after jury selection had taken place; and thus, the unjustifiably delay in disclosure is highly prejudicial to defendants.**

36. Pa. R.C.P. 4003.5(b) provides as follows:

“An expert witness whose identity is **not disclosed** in compliance with subdivision (a)(1) of this rule shall **not be permitted** to testify on behalf of the defaulting party at the trial of the action. However, if the failure to disclose the identity of the witness is the result of the extenuating circumstances beyond the control of the defaulting party, the court may grant a continuance or other appropriate relief.” Pa. R.C.P. 4003.5(b). (Emphasis added.)

37. Although the preclusion of expert testimony is a drastic sanction which should only be applied when the facts of the case make it absolutely necessary to do so, the late disclosure of the identity of an expert is to be condemned. Kearns by Kearns v. DeHass, 377 Pa. Super. 200, 210, 546 A.2d 1226, 1231 (1988).

38. When the opposing side has been prejudiced by the dilatory disclosure, preclusion can lie. Id.

39. The prejudice to the defendant is a factor to be considered. See Brunetti v. Southeastern Pennsylvania Transportation Authority, 329 Pa. Super. 477, 481-82, 478 A.2d 889, 891 (1984).

40. The court should also consider factors such as surprise, ability to cure, disruption of the efficient flow of the trial and bad faith. McDaniel, supra, 367 Pa. Super. 600, 615, 533 A.2d 436, 444 (1987) (quoting Feingold v. SEPTA, 512 Pa. 567, 573, 517 A.2d 1270, 1273 (1986)).

41. At no time during the discovery process did plaintiffs identify Dr. Steinberg as a potential expert witness for their case until after the moving Defendants filed their Motion *in limine*.

42. Not only did plaintiffs have more than sufficient time to retain expert witnesses in support of their claims since they filed a Writ of Summons and Complaint approximately three years ago, they had sufficient notice of the opinions of defendants' expert witnesses since May 1, 2007.

43. At no time, did plaintiffs request an extension of time to produced additional expert reports.

44. At no time during the Pretrial Conference did plaintiffs indicate that an additional expert had been retained.

45. At no time during Jury Selection did plaintiffs identify additional expert witnesses for their case.

46. Plaintiffs certainly have the burden to meet in showing that something other than a lack of diligence was why a second expert was not identified until after all the discovery deadlines have expired, after defendants filed a Motion *in limine*, after the Pretrial Conference took place and most importantly after the Jury Selection had taken place. See Pa. R.C.P. 4003.5(b).

47. Yet, plaintiffs offer no credible extenuating circumstances why their proposed expert report was submitted on September 7, 2007 when all of the critical pretrial events had taken place.

48. As of the filing of this Motion, there are less than 40 (forty) days remaining before the commencement of trial on October 29, 2007.

49. As such, defendants will be highly prejudiced if plaintiffs are permitted to produce a new expert report at this late juncture from an expert who was not previously identified in violation of the rules of discovery and the Case Management Order.

50. Defendants would be left with virtually no time to have their experts evaluate and respond and be able to raise additional defenses to plaintiff's new expert opinions.

51. Allowing a new expert in a different field at this late juncture would diminish the value of discovery deadlines, and the Case Management Order entered by the Honorable Fredric Ammerman will be virtually meaningless.

52. Furthermore, defendants would be essentially penalized for filing their Motions *in limine* on a timely basis as Defendants' Motion will only serve to alert their adversary that they do not have sufficient expert evidence to prove their causes of action at trial and afford them another opportunity to rectify their deficiencies in proof.

WHEREFORE, Defendant Clearfield Community Nurses and Norma J. Parent, R.N. respectfully request that this Honorable Court grant their Motion in Limine and issue an order precluding plaintiffs from offering the report and testimony of their new expert, Karl E. Steinberg, M.D. at trial.

- b. Plaintiffs' proffered expert, Karl E. Steinberg, M.D. is not qualified to render any opinions pertaining to urological matters; and therefore such opinions are nothing more than net opinions that should not be admissible at the time of trial.**

53. In the event, plaintiffs' expert witness is permitted to testify at trial, moving defendants aver that Dr. Steinberg's proffered opinions pertaining to urologic issues are nothing more than net opinions as Dr. Steinberg is not a qualified expert in the field of Urology.

54. According to his report, Dr. Steinberg makes no mention of a having a medical background and/or training in the area of Urology.¹ (See Exhibit "D".)

55. Expert opinion testimony is proper only where formation of an opinion on a subject require knowledge, information, or skill beyond what is possessed by the ordinary juror. Ovitsky v. Capital City Economic Development Corp., 846 A.2d 124 (Pa. Super. 2004), re-argument denied.

56. However, the trial court must first consider whether the proffered expert witness has sufficient skill, knowledge, or experience in that field in order to be qualified as an expert to express an opinion on the subject matter to assist the trier of fact to determine a fact in issue. Wexler v. Hecht, 847 A.2d 95 (Pa. Super. 2004).

57. The determination of an expert's qualification is within the discretion of the trial court. Miller v. Brass Rail Tavern, Inc., 541 Pa. 474, 480-81, 664 A.2d 525, 528 (1995); Pa.R.E. 702.

¹ As of the filing of this Motion, Plaintiffs have not provided a copy of Dr. Steinberg's Curriculum Vitae.

58. The admission of expert testimony at the time of trial is left to the sound discretion of the trial court within the framework set by the Pennsylvania Rules of Evidence and applicable case law. Commonwealth v. Dunkle, 480 Pa. 340, 390 A.2d 172 (1978); Barrack v. Kolea, 438 Pa. Super. 11, 651 A.2d 149 (1994); Pa. R.E. 702.

59. The general standard for the admissibility of expert opinions is set forth under Pennsylvania Rules of Evidence 702 provides as follows:

“If scientific, technical or other specialized knowledge beyond that possessed by a layperson will assist the trier of fact to understand the evidence or to determine a fact in issue, a witness qualified as an expert by knowledge, skill, experience, training or education may testify thereto in the form of an opinion or otherwise.”
See also Wexler v. Hecht, 847 A.2d 95 (Pa. Super. 2004);
Pa. R.E. 702.

60. In its role as a “gatekeeper”, the court’s duty is to preclude any expert testimony it views as unreliable based on the level of intellectual rigor employed by the expert in forming his opinion. Grady v. Frito-Lay, Inc., 789 740 (Pa. Super. 2001); Frye v. United States, 293 F. 1013 (D.C. Cir. 1923); Pa. R.E. 702.

61. Accordingly, the weight of the testimony to be given is left to the trier of fact to determine. Miller v. Brass Rail Tavern, Inc., 541 Pa. 474, 480-81, 664 A.2d 525, 528 (1995); Pa.R.E. 702.

62. In the case at bar, the critical issue is whether the urologic condition called “paraphimosis” lead to the subsequent development of penoscrotal gangrene, is certainly an issue which requires specialized knowledge and training in the fields of Urology and/or Infectious Disease.

63. Dr. Steinberg states in his report as follows:

But for the mismanagement by home health personnel of Mr. Harzinski’s Foley catheter and the **failure to recognize and**

reduce his paraphimosis, which were direct and substantial contributing causes to his life-threatening genitourinary sepsis and abscess/cellulitis with possible Fournier's gangrene, within a reasonable degree of medical certainty, Mr. Harzinski would not have died within a few weeks after his debridement surgery." (See Exhibit "E", p.2, ¶ 3.)

64. Dr. Steinberg does not possess the specialized knowledge and training in the field of Urology or Infectious Disease to be qualified as an expert to render any opinions pertaining to urologic issues, specifically regarding paraphimosis and the Fournier's gangrene.


65. Therefore, Dr. Steinberg's speculative opinions are merely net opinions that may only serve to confuse the jury, and in turn, if allowed, defendants will be highly prejudiced.

WHEREFORE, Defendant Clearfield Community Nurses and Norma J. Parent, R.N. respectfully request that this Honorable Court grant their Motion and preclude plaintiffs from offering the report and testimony of Karl Steinberg, M.D. at trial.

Respectfully submitted,

MINTZER, SAROWITZ, ZERIS, LEDVA & MEYERS

BY: _____


DANIEL J. MCCARTHY, ESQUIRE
Attorney for Defendants, CLEARFIELD COMMUNITY
NURSES AND NORMA J. PARENT, R.N.

Dated: September 24, 2007

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

PATRICIA FARNSWORTH, PERSONAL
REPRESENTATIVE OF THE ESTATE OF
FRANK HARZINSKI

vs.

CLEARFIELD HOSPITAL, SHARON
GOODMAN, R.N., CLEARFIELD
COMMUNITY NURSES AND NORMA J.
PANT, R.N.

NO. 2004-01555-CD

ISSUE: MOTION IN LIMINE TO PRECLUDE
THE REPORT OF PLAINTIFF'S PROFFERED
EXPERT, KARL E. STEINBERG, M.D. AT
TRIAL

Filed on behalf of Defendants,
CLEARFIELD COMMUNITY NURSES AND
NORMA J. PANT, R.N. (incorrectly identified as
Norma J. Pant, R.N.)

Counsel of Record:
DANIEL J. MCCARTHY, ESQUIRE
Attorney I.D. No. 41440
**MINTZER, SAROWITZ, ZERIS,
LEDVA & MEYERS**
22nd Floor
1528 Walnut Street
Philadelphia, PA 19102
(215) 735-7200
MSZL&M File No. 0210.1314

**BRIEF IN SUPPORT OF MOTION IN LIMINE TO PRECLUDE THE REPORT
AND TESTIMONY OF PLAINTIFFS' EXPERT, KARL E. STEINBERG, M.D.**

Defendants, CLEARFIELD COMMUNITY NURSES AND NORMA J. PARENT, R.N.,
by and through their attorneys, MINTZER, SAROWITZ, ZERIS, LEDVA & MEYERS, hereby
file this Brief in support of their Motion in limine to preclude the report and testimony of
Plaintiff's Proffered Expert, Karl E. Steinberg, M.D. at trial, and aver as follows:

1. INTRODUCTION:

Plaintiff, Patricia Farnsworth instituted a wrongful death and survival action against the
defendants on behalf of her deceased father, Frank Harzinski. Plaintiff alleges that defendants
deviated from the standards of care by failing to adequately and properly insert a Foley catheter

in a gentleman who was not circumcised. Plaintiff further alleges that Mr. Harzinski developed penoscrotal and urethral necrosis (Fournier's gangrene) requiring surgery, resulting from the failure to recognize that the foreskin was not replaced in its neutral position as well as the failure to tape the Foley catheter to the abdomen. Plaintiff alleges that her father's death was the direct and proximate result of the negligent care and treatment provided to her father by the defendants. (See Exhibit "A".)

2. FACTUAL BACKGROUND:

At the time of the alleged incident, Mr. Harzinski was an 84 year old man with multiple health problems, including chronic obstructive pulmonary disease, heart disease with a history of coronary artery bypass surgery, right carotid endarterectomy, chronic renal failure, and dementia. Between 2001 and 2002, Mr. Harzinski had an indwelling catheter due on numerous occasions to incontinence and his overall declining condition.

On January 1, 2003, he was re-admitted to Clearfield Hospital with chest pain and shortness of breath at which time Nurse Goodman inserted the Foley catheter in question. Mr. Harzinski underwent a second thoracentesis procedure to aspirate 2000 cc of fluid and was discharged to home on January 5, 2003. Thereafter, Clearfield Community Nurses, including Nurse Parent provided skilled nursing care. On January 24, 2003, Mr. Harzinski complained of pain at the catheter site, and Ms. Farnsworth reported that her father had been pulling on the catheter. Nurse Parent exchanged the catheter on January 26, 2003 when Ms. Farnsworth reported bleeding at the catheter site. Nurse Parent testified that she was able to exchange the catheter without difficulty as the Foley balloon deflated and the catheter slid out with ease. The next day on January 27, 2003, Nurse Parent returned to see Mr. Harzinski and noted edema at the penis and scrotum site. She noted that Mr. Harzinski was voiding cloudy, yellow urine and also

found discharge at the catheter site and reported her findings to Mr. Harzinski's family doctor, Dr. Bruno Romeo.

Mr. Harzinski was re-admitted to Clearfield Hospital on January 27, 2003 under the care of Dr. Romeo who, in turn, requested a consult with Dr. Sheldon Rosenthal, an attending urologist. Dr. Rosenthal, who rendered a diagnosis of paraphimosis, testified that Mr. Harzinski's urological problems resolved on January 28, 2003 when he was able to manually reduce the paraphimosis without difficulty. Mr. Harzinski subsequently developed foul smelling discharge from the genitalia site on January 31, 2003, and Dr. Rosenthal noted necrotic tissue at the penoscrotal area. On February 1, 2003, Rosenthal performed surgery to remove the necrotic tissue from the urethra.

Mr. Harzinski's treating physicians recommended that Mr. Harzinski remain in the hospital for rehabilitation care due to his debilitated state; however, Mrs. Farnsworth took her father home on February 11, 2003. Mr. Harzinski died ten (10) days later on February 21, 2003. Primary cause of death indicated on the Death Certificate is chronic obstructive pulmonary disease with a history of myocardial infarction, hypertension and renal insufficiency. An autopsy was not performed.

3. PROCEDURAL HISTORY:

On October 17, 2006, before the parties appeared before the Honorable Fredric J. Ammerman for a status conference, plaintiff's counsel proposed the deadlines for completion of certain discovery, including deadlines for the production of expert reports to which co-defendants were in agreement. Thereafter, the parties presented their proposed discovery deadlines to the Court for its approval, and Judge Ammerman issued a Case Management Order accordingly. (See Exhibit "C".) Pursuant to the Case Management Order, the production of

plaintiff's expert reports were due no later than March 1, 2007, and the production of defense expert reports were due no later than May 1, 2007. (See Exhibit "C".) Defendants produced copies of their expert reports to plaintiff's counsel on April 27, 2007 in accordance with the Case Management Order. At no time, did plaintiffs request an extension of time to produced additional expert reports.

This matter was then listed for a Civil Call before the Court on July 26, 2007, at which time plaintiff's counsel advised the Court that this matter was ready for trial. On August 21, 2007, Defendants file a Motion *in limine* to preclude plaintiffs from seeking damages in connection with their wrongful death action for failure to provide expert medical evidence causally connection Mr. Harzinski's death to the alleged negligence of the defendants.

A Pretrial Conference was thereafter scheduled on August 24, 2007, at which time parties exchanged their Pretrial Statements which included a full disclosure of their respective witness and exhibit lists. Nowhere in their Pretrial Statement did plaintiffs identify Dr. Karl Steinberg as a potential expert witness.

At the Pretrial Conference, the Court scheduled a trial in this matter to commence on October 29, 2007. At no time during the Pretrial Conference did plaintiffs indicate that they were in the process of retaining additional experts.

The jury selection process was thereafter held on August 28, 2007, at which time each party's proposed expert witnesses were identified to the jury panel for the purposes of determining potential jury bias. At no time during Jury Selection did plaintiffs identify additional expert witnesses for their case.

Oral argument on Defendants' Motion *in limine* was scheduled to be heard on August 31, 2007. On October 30, 2007, Plaintiffs' counsel advised that they had no attorneys to appear for

oral argument. The parties consented to a continuance and the Court rescheduled oral arguments for October 5, 2007. On August 31, 2007, Plaintiffs filed a Motion to amend their Pretrial Statement to present a report from a new expert, Dr. Karl E. Steinberg to address Mr. Harzinski's cause of death in response to Defendants' Motion. (See Exhibit "D".) On September 7, 2007, over six months beyond the expiration of plaintiffs' expert deadline, plaintiffs served a report from their new expert, Karl E. Steinberg, M.D., dated September 1, 2007 without the proffered expert's Curriculum Vitae. (See Exhibit "E".) For the foregoing reasons, Defendants respectfully request that this Honorable Court preclude plaintiffs from offering the untimely report and testimony of plaintiff's proffered expert, Karl E. Steinberg, M.D. at the time of trial.

4. LEGAL ARGUMENT:

- a. Plaintiffs must be precluded from offering the new expert report and testimony of Dr. Karl E. Steinberg at trial because plaintiffs offer no credible extenuating circumstances why their proposed expert report was produced six months after plaintiffs' expert discovery deadline and more importantly after jury selection had taken place; and thus, the unjustifiably delay in disclosure is highly prejudicial to defendants.**

Pa. R.C.P. 4003.5(b) provides as follows:

"An expert witness whose identity is **not disclosed** in compliance with subdivision (a)(1) of this rule shall **not be permitted** to testify on behalf of the defaulting party at the trial of the action. However, if the failure to disclose the identity of the witness is the result of the extenuating circumstances beyond the control of the defaulting party, the court may grant a continuance or other appropriate relief." Pa. R.C.P. 4003.5(b). (Emphasis added.)

Although the preclusion of expert testimony is a drastic sanction which should only be applied when the facts of the case make it absolutely necessary to do so, the late disclosure of the identity of an expert is to be condemned. Kearns by Kearns v. DeHass, 377 Pa. Super. 200, 210, 546 A.2d 1226, 1231 (1988). When the opposing side has been prejudiced by the dilatory disclosure, preclusion can lie. Id. The court is required to strike a balance between the

procedural need to move the case to a prompt disposition and the substantive rights of the parties. See Gonzalez v. Procaccio Bros. Trucking Co., 268 Pa. Super. 245, 252, 407 A.2d 1138, 1341 (1979); Pride Contracting Inc. v. Biehn Construction Inc., 381 Pa. Super. 155, 159, 553 A.2d 82, 84 (1989), app. denied, 523 Pa. 643, 565 A.2d 1167 (1989). Therefore, the presiding court must balance the facts and circumstances of each case to determine the prejudice to each party. McDaniel v. Merck, Sharp & Dohme, 367 Pa. Super. 600, 615, 533 A.2d 436, 444 (1987) (quoting Feingold v. SEPTA, 512 Pa. 567, 573, 517 A.2d 1270, 1273 (1986)). Further, the prejudice to the defendant is a factor to be considered. See Brunetti v. Southeastern Pennsylvania Transportation Authority, 329 Pa. Super. 477, 481-82, 478 A.2d 889, 891 (1984). The court should consider factors such as surprise, ability to cure, disruption of the efficient flow of the trial and bad faith. McDaniel, supra, 367 Pa. Super. 600, 615, 533 A.2d 436, 444 (1987) (quoting Feingold v. SEPTA, 512 Pa. 567, 573, 517 A.2d 1270, 1273 (1986)).

In the matter of Kurian v. Anisman, 851 A.2d 152, 2004 Pa. Super. 165 (2004), the Superior Court determined that the trial court properly precluded plaintiff's expert testimony since the expert's report was offered in opposition to defendant's motion for summary judgment for failure to identify experts in accordance with Rule 4003.5(b) before the expert report deadline. In Kurian, the parties agreed to extend discovery until March 15, 2002. When March 15, came and went with plaintiffs failing to identify a single expert to support their medical malpractice action, and the defendants filed a Motion for Summary Judgment. Id. at 152. In response, plaintiffs produced a report from a treating physician to defeat the Summary Judgment Motion and argued that while their expert report was late according to the case management order, the report was a "timely response" to defendants' Motions for Summary Judgment. Id. at 157. The Appellate Court determined that the trial court acted pursuant to the discretion given to

it by Rule 4003.5(b) and did not permit the witness to testify at trial because the plaintiffs failed to identify their expert in accordance with Rule 4003.5(a)(1), and therefore, the failure of the plaintiffs to supplement their pleading resulting in their unable to produce evidence of facts essential to the cause of action. Id. at 161.

Likewise, in Tann v. GAF Corp., 1992 WL 685905, 19 Pa. D. & C. 4th 336, 25 Phila. Co. Rptr. 17 (1992), the Court of Common Pleas of Philadelphia County precluded the introduction of a new expert pathologist in an asbestos case as the expert was being offered long after the discovery deadline expired. The trial court stated, "The time to decide to use a pathologist is long before the discovery deadline expires, not after discovery has closed and the case is ready for trial." Id. 339. The trial court held that the order upholding the discovery deadline and precluding the last minute expert was appropriate and necessary as the defense would be "prejudiced either by being forced to go to trial without a pathologist or to face a continuance and have to again prepare the case months later." Id. at 340. The trial court further stated, "There would be prejudice to the court system, and consequently all of the litigants if discovery deadlines meant nothing." Id. at 340.

In Franks v. Brownstein, 1999 WL 1540139, 43 Pa. D. & C. 4th 230 (1999), the trial court precluded plaintiff's nephrology expert from testifying at plaintiff's medical malpractice trial involving an alleged failure to diagnose plaintiff's kidney disease because the expert report was not submitted until after the discovery deadline. Id. Pursuant to the Case Management Order, plaintiffs were required to submit all expert reports no later than July 31, 1997. Id. at 235. Plaintiffs submitted an expert report on September 27, 1999 which was two months after the deadline and one month before trial was scheduled to begin. Id. The Court held that plaintiff failed to justify why the report was not submitted in a timely manner. Plaintiff's counsel's

reasoning was that the testimony of the plaintiff's expert nephrologist was important in order to rebut the testimony of the defendant's expert nephrologist. Id. at 235.

In the case at bar, this is not a situation where plaintiffs recently found that they could not comply with the expert witness deadlines, and therefore now seeks to present an expert report beyond the time frame of the Case Management Order. This is not a situation where an existing expert is updating his report to expand upon his theory of liability, causation and/or damages. Plaintiffs' expert, Dr. Steinberg is a new expert in a different field from their other expert, Dr. Small who is being offered to defeat defendants' Motion.

Plaintiffs simply failed provide any expert medical evidence on the issue of causation of death. As in the cases cited above, it was only after defendants filed a Motion in limine pointing out the substantive deficiency of proof in plaintiffs' cause of action that plaintiffs retained a report from a new expert to defeat Defendants' Motion. In fact, it appears that the only explanation offered by plaintiffs' counsel for the late disclosure is contained in his Motion to Supplement Pretrial Statement in which he states that "Dr. Small did not and could not given his specialty set forth an opinion as to the contribution the conduct of the Defendants made to the death of Frank Harzinski." (See Exhibit "D", ¶2.) Plaintiffs' counsel further certified that "Since Defendants moved to exclude evidence of the relationship between the Defendants' conduct and the death of Frank Harzinski based upon the failure of Dr. Small to comment upon it in his expert report", plaintiff obtained an oral opinion from an expert as to the cause of death. (See Exhibit "D", ¶3, 7.)

Pursuant to Pa. R.C.P. 4003.5(b) and its applicable case law cited above, Plaintiffs certainly have the burden to meet in showing that something other than a lack of diligence was why a second expert was not identified until after all the discovery deadlines have expired, after

defendants filed a Motion in limine, after the Pretrial Conference took place and most importantly after the Jury Selection had taken place. Yet, plaintiffs offer no credible extenuating circumstances why their proposed expert report was submitted on September 7, 2007 when all of the critical pretrial events had taken place.

Allowing a new expert in a different field would diminish the value of discovery deadlines and the fundamental purposes of Pretrial Conferences and Voir Dire during Jury Selection. Pa. R.C. P. 4003.5(b) seeks to prevent unfair surprise and prejudice that has occurred in this case. Therefore, Plaintiffs should not be permitted to introduce Dr. Steinberg's expert report as such unjustifiably late submission will certainly be prejudicial to defendants.

b. Plaintiffs' proffered expert, Karl E. Steinberg, M.D. is not qualified to render any opinions pertaining to urological matters; and therefore such opinions are nothing more than net opinions that should not be admissible at the time of trial.

In the event, plaintiffs' proffered expert witness, Dr. Karl Steinberg is permitted to testify at trial, moving defendants aver that Dr. Steinberg's proffered opinions pertaining to urologic issues are nothing more than net opinions as Dr. Steinberg is not a qualified expert in the field of Urology.

Expert opinion testimony is proper only where formation of an opinion on a subject require knowledge, information, or skill beyond what is possessed by the ordinary juror. Ovitsky v. Capital City Economic Development Corp., 846 A.2d 124 (Pa. Super. 2004), re-argument denied. However, the trial court must first consider whether the proffered expert witness has sufficient skill, knowledge, or experience in that field in order to be qualified as an expert to express an opinion on the subject matter to assist the trier of fact to determine a fact in issue. Wexler v. Hecht, 847 A.2d 95 (Pa. Super. 2004). The determination of an expert's qualification

is within the discretion of the trial court. Miller v. Brass Rail Tavern, Inc., 541 Pa. 474, 480-81, 664 A.2d 525, 528 (1995); Pa.R.E. 702.

Further, the admission of expert testimony at the time of trial is left to the sound discretion of the trial court within the framework set by the Pennsylvania Rules of Evidence and applicable case law. Commonwealth v. Dunkle, 480 Pa. 340, 390 A.2d 172 (1978); Barrack v. Kolea, 438 Pa. Super. 11, 651 A.2d 149 (1994); Pa. R.E. 702.

The general standard for the admissibility of expert opinions is set forth under Pennsylvania Rules of Evidence 702 provides as follows:

“If scientific, technical or other specialized knowledge beyond that possessed by a layperson will assist the trier of fact to understand the evidence or to determine a fact in issue, a witness qualified as an expert by knowledge, skill, experience, training or education may testify thereto in the form of an opinion or otherwise.”
See also Wexler v. Hecht, 847 A.2d 95 (Pa. Super. 2004);
Pa. R.E. 702.

In its role as a “gatekeeper”, the court’s duty is to preclude any expert testimony it views as unreliable based on the level of intellectual rigor employed by the expert in forming his opinion.

Grady v. Frito-Lay, Inc., 789 740 (Pa. Super. 2001); Frye v. United States, 293 F. 1013 (D.C. Cir. 1923); Pa. R.E. 702. Accordingly, the weight of the testimony to be given is left to the trier of fact to determine. Miller v. Brass Rail Tavern, Inc., 541 Pa. 474, 480-81, 664 A.2d 525, 528 (1995); Pa.R.E. 702.

In the case at bar, the critical issue is whether the urologic condition called “paraphimosis” is associated with the subsequent development of the penoscrotal gangrene. Dr. Steinberg states in his report as follows:

But for the mismanagement by home health personnel of Mr. Harzinski’s Foley catheter and the **failure to recognize and reduce his paraphimosis, which were direct and substantial contributing causes to his life-threatening genitourinary sepsis**

and abscess/cellulitis with possible Fournier's gangrene, within a reasonable degree of medical certainty, Mr. Harzinski would not have died within a few weeks after his debridement surgery." (See Exhibit "E", p.2, ¶ 3.)


According to his credentials which are outlined in his report, Dr. Steinberg does not possess the specialized knowledge in the field of Urology or Infectious Disease; and therefore, he is certainly not qualified to render any expert opinions pertaining to urologic issues, specifically regarding paraphimosis and the Fournier's gangrene. (See Exhibit "E".) Therefore, Dr. Steinberg's speculative opinions are merely net opinions that may only serve to confuse the jury, and in turn, if allowed, defendants will be highly prejudiced.

5. CONCLUSION:

For all of the reasons stated above, Defendants respectfully request that plaintiffs be precluded from introducing Dr. Steinberg's expert report and testimony at trial. In the event, Dr. Steinberg is permitted to testify at trial, Defendants respectfully request that Dr. Steinberg be barred from offering any and all expert opinions pertaining to urologic matters, including paraphimosis and Fournier's gangrene.

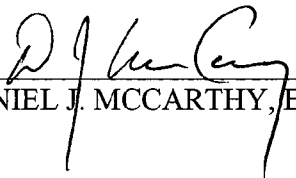
Respectfully submitted,

MINTZER, SAROWITZ, ZERIS, LEDVA & MEYERS

BY: 
DANIEL J. MCCARTHY, ESQUIRE
Attorney for Defendants, CLEARFIELD COMMUNITY
NURSES AND NORMA J. PARENT, R.N.

VERIFICATION

The averments or denials of facts contained in the foregoing are true, based upon the signer's personal knowledge or information and belief. If the foregoing contains averments which are consistent in fact, signer has been unable, after reasonable investigation, to ascertain which of the inconsistent averments are true, but signer has knowledge or information sufficient to form a belief that one of them is true. This Verification is made subject to the penalties of 18 Pa.C.S. §4904 relating to unsworn falsification to authorities.



DANIEL J. MCCARTHY, ESQUIRE

Dated: September 24, 2007

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210-1314

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

SUMMONS

Patricia Farnsworth, Personal
Representative of the Estate of
Frank Harzinski

Vs.

NO.: 2004-01555-CD

Clearfield Hospital,
Sharon Goodman, R.N.
Clearfield Community Nurses
and Norma J. Pant, R.N.

TO: CLEARFIELD HOSPITAL
SHARON GOODMAN, R.N.
CLEARFIELD COMMUNITY NURSES
NORMA J. PANT, R.N.

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

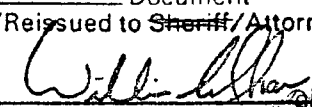
Date: 10/07/2004



William A. Shaw
Prothonotary

Issuing Attorney:

Victor H. Pribanic
1735 Lincoln Way
White Oak, PA 15131

1-5-05 Document
Reinstated/Reissued to Sheriff/Attorney
for service.

Deputy Prothonotary

Attorneys for Named Defendants

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

PATRICIA FARNSWORTH, Personal
Representative of the ESTATE OF
FRANK HARZINSKI,

Plaintiff

vs.

CLEARFIELD HOSPITAL,
SHARON GOODMAN, R.N.,
CLEARFIELD COMMUNITY NURSES,
and NORMA J. PANT, R.N.,

Defendants

No. 2004 – 1555 CD

JURY TRIAL DEMANDED

**ANSWER AND NEW MATTER TO
PLAINTIFF'S COMPLAINT**

AND NOW, come defendants, CLEARFIELD HOSPITAL and SHARON GOODMAN, R.N., by and through their attorneys, MCINTYRE, DUGAS, HARTYE & SCHMITT, and file the following Answer and New Matter to plaintiff's Complaint.

1. After reasonable investigation defendants are without sufficient knowledge or information as to the truth of these averments and therefore they are denied as stated.
2. Admitted.
3. Admitted.
4. It is admitted that Sharon Goodman is an employee of Clearfield Hospital.
- 5.-7. These allegations are not directed to answering defendants and no further response is required.
8. Admitted that Frank Harzinski was 84 years old and was admitted to the emergency department of Clearfield Hospital on November 3, 2002. The remaining

allegations are denied as stated to the extent that they incompletely describe the patient's condition at that time.

9. Admitted.

10. Denied. The Foley catheter was ordered and placed in the emergency department prior to admission.

11. Denied. To the contrary the Foley catheter was inserted on November 3 in the emergency department. It is more specifically set forth in the patient's records.

12. Admitted.

13.-15. After reasonable investigation defendants are without sufficient knowledge or information as to the truth of these averments and therefore they are denied.

16. It is admitted that Frank Harzinski was admitted to Clearfield Hospital on January 1, 2003. The remaining allegations are denied as stated. Dr. Joseph Vetrano was the admitting physician ordered a Foley catheter be inserted.

17. It is admitted that on January 1, 2003 that Sharon Goodman inserted a Foley catheter into Mr. Harzinski. The remaining allegations are specifically denied. It is denied that she left the foreskin retracted.

18. Admitted that Mr. Harzinski was discharged from the hospital on January 5, 2003 with a Foley catheter in place. Prior to discharge Nurse Miller instructed the plaintiff how to care for her father's catheter while at home. It is denied that the foreskin was retracted at that time.

19.-21. After reasonable investigation defendants are without sufficient knowledge or information as to the truth of these averments and therefore they are denied.

22. It is admitted that Frank Harzinski returned to Clearfield Hospital on January 27, 2003 with pain and swelling in the genital area as more specifically set forth in his chart. Therefore the remaining allegations in this paragraph are denied as stated.

23. Admitted to the extent that the same is reflected in the patient's hospital records.

24. After reasonable investigation defendant is without sufficient knowledge or information as to the truth of these averment and therefore they are denied.

25. Defendant had no knowledge as to whether an autopsy was performed on Mr. Harzinski.

COUNT I – WRONGFUL DEATH
PLAINTIFF, PATRICIA FARNSWORTH, AS PERSONAL REPRESENTATIVE
OF THE ESTATE OF FRANK HARZINSKI, DECEASED vs. SHARON
GOODMAN, R.N.

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

26.-27. The allegations contained in Paragraphs No. 26 and 27 are conclusions of law and no further response is required.

28. After reasonable investigation defendant is without sufficient knowledge or information as to the truth of these averments.

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

30. The allegations contained in Paragraph No. 30 are denied as stated. Nurse Goodman saw the patient on January 1 and January 2, 2003 and did not see him after that date and therefore these allegations are denied.

31. Denied. It is denied that Sharon Goodman failed to adequately and properly insert a Foley catheter or failed to return the foreskin to its proper position and therefore all the allegations contained in Paragraph No. 31 are denied. Further,

plaintiff's Complaint fails to set forth the plaintiff's cause of death and therefore plaintiff's claim fails to set forth a cause of action upon which relief can be granted.

32. Denied. It is denied that Sharon Goodman was negligent or careless in any manner. To the contrary Sharon Goodman exercised reasonable and prudent care and met the standard of care applicable to her as a nurse. As a result all the allegations contained in Paragraph No. 32 and the subparagraphs thereof are specifically denied and strict proof thereof is demanded.

33. Denied. It is denied that decedent's death was the direct or proximate result of the actions or inactions of Sharon Goodman, R.N. and strict proof thereof is demanded.

34. The allegations contained in Paragraph No. 34 are conclusions of law and are denied as stated.

35. Denied. It is denied that Sharon Goodman was negligent and careless in any manner. To the contrary all care provided by her was proper and appropriate. It is denied that any action or inaction on her part caused or contributed to the injuries, damages and death of the decedent.

WHEREFORE, defendant, SHARON GOODMAN, R.N., demands judgment in her favor with costs of suit awarded to defendant.

COUNT II – SURVIVAL
PLAINTIFF, PATRICIA FARNSWORTH, AS PERSONAL REPRESENTATIVE
OF THE ESTATE OF FRANK HARZINSKI, DECEASED vs. SHARON
GOODMAN, R.N.

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

36. Denied. It is denied that Sharon Goodman was negligent or careless in any manner. It is denied that any action or inaction on the part of Sharon Goodman

either caused or contributed to the alleged injuries, damages and death of the decedent and therefore all the allegations contained in Paragraph No. 36 are denied.

COUNT III – WRONGFUL DEATH
PLAINTIFF, PATRICIA FARNSWORTH, AS PERSONAL REPRESENTATIVE
OF THE ESTATE OF FRANK HARZINSKI, DECEASED vs. CLEARFIELD
HOSPITAL

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

37. Denied as stated. Defendant does not know what is meant by proper care and treatment for "her condition."

38. It is admitted that Sharon Goodman was an employee of Clearfield Hospital. The remaining allegations are denied.

39. Denied. It is denied that Clearfield Hospital or any of its agents, servants, or employees were negligent or careless in any manner. Defendant incorporates by reference the previous responses as though the same were set forth herein at length and therefore all the allegations contained in Paragraph No. 39 are denied.

40. Denied. It is denied that Clearfield Hospital or any of its agent, servants, or employees were negligent or careless or failed to exercise reasonable care and therefore all the allegations contained in Paragraph No. 40 and the subparagraphs thereof are denied.

41. Denied. It is denied that Clearfield Hospital or any of its agents, servants, or employees were negligent or careless in any manner. It is 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 the allegations contained in Paragraph No. 41 and incorporated therein are denied.

42. 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 the allegations contained in Paragraph No. 42 and incorporated therein are denied.

WHEREFORE, defendant, CLEARFIELD HOSPITAL, demands judgment in its favor with costs of suit awarded to defendant.

COUNT IV – SURVIVAL
PLAINTIFF, PATRICIA FARNSWORTH, AS PERSONAL REPRESENTATIVE
OF THE ESTATE OF FRANK HARZINSKI, DECEASED vs. CLEARFIELD
HOSPITAL

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

43. 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 the allegations contained in Paragraph No. 43 and incorporated therein are denied.

WHEREFORE, defendant, CLEARFIELD HOSPITAL, demands judgment in its favor with costs of suit awarded to defendant.

COUNT V – WRONGFUL DEATH
PLAINTIFF, PATRICIA FARNSWORTH, AS PERSONAL REPRESENTATIVE
OF THE ESTATE OF FRANK HARZINSKI, DECEASED vs. NORMA J. PANT,
R.N.

44.-48. The allegations contained in Paragraph No. 44 through 48 are not directed to answering defendant and no further response is required.

COUNT VI – SURVIVAL
PLAINTIFF, PATRICIA FARNSWORTH, AS PERSONAL REPRESENTATIVE
OF THE ESTATE OF FRANK HARZINSKI, DECEASED vs. NORMA J. PANT,
R.N.

49. The allegations contained in Paragraph No. 49 are not directed to answering defendants and no further response is required.

COUNT VII – WRONGFUL DEATH
PLAINTIFF, PATRICIA FARNSWORTH, AS PERSONAL REPRESENTATIVE
OF THE ESTATE OF FRANK HARZINSKI, DECEASED vs. CLEARFIELD
COMMUNITY NURSES

50.-55. The allegations contained in Paragraphs No. 50-55 are not directed to answering defendants and no further response is required.

COUNT VIII – SURVIVAL
PLAINTIFF, PATRICIA FARNSWORTH, AS PERSONAL REPRESENTATIVE
OF THE ESTATE OF FRANK HARZINSKI, DECEASED vs. CLEARFIELD
COMMUNITY NURSES

56. The allegations in Paragraph No. 56 are not directed to answering defendant and no further response is required.

WHEREFORE, defendants, CLEARFIELD HOSPITAL and SHARON GOODMAN, R.N., demand judgment in their favor with costs of suit awarded to defendant.

NEW MATTER

By way of further and more complete answer defendants aver the following New Matter.

57. Plaintiff has not pled a specific cause of death and therefore plaintiff has failed to set forth a cause of action upon which relief can be granted and plaintiff's Complaint should be dismissed.

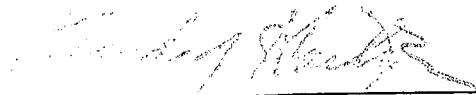
58. All injuries and damages suffered by the decedent are the direct, sole, and proximate result of preexisting medical conditions and not the result of any violation of the standard of care.

59. To the extent the plaintiff establishes the right to recover for the alleged injuries, damages, and death of the decedent, the same were the direct and sole result of conduct of others over whom these defendants had neither the ability nor attempted to exercise control.

60. Defendants hereby affirmatively plead all bars, rights and limitations pursuant to the Health Care Services Malpractice Act, 40 P.S. Section 1301.103, et seq.

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

MCINTYRE, DUGAS, HARTYE & SCHMITT

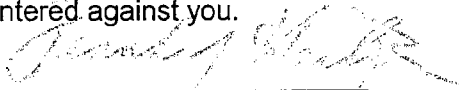


Attorney for Defendants
Clearfield Hospital and
Sharon Goodman, R.N.

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

Notice to Plead

To: Plaintiff
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.



Attorney for Defendants

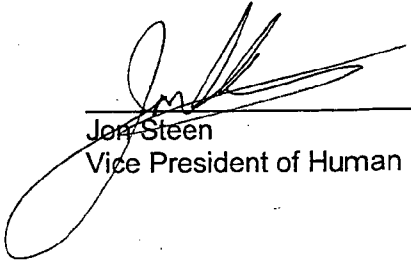
CHT 024 MH

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 PLAINTIFF'S 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: _____

2/3/05

VERIFICATION

I, **SHARON GOODMAN, R.N.**, do hereby verify that I have read the foregoing **ANSWER AND NE MATTER TO PLAINTIFF'S COMPLAINT**. The statements therein are correct to the best of my personal knowledge or information and belief.

This statement and verification 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.


Sharon Goodman, R.N.

Date: 2-4-05

5952
210.1314

MICHAEL P. SMALL, M.D., S.C.

- Urology
- Urologic Medical-Legal Review
- Urologic Consulting

P.O. Box 5099
Appleton, Wisconsin 54911
Phone: 920-380-9916
Fax: 920-380-9917

DIPLOMATE AMERICAN BOARD OF UROLOGY • FELLOW AMERICAN COLLEGE OF SURGEONS

Pribanic and Pribanic
Attn: Dr. Franzino
1735 Lincoln Way
White Oak, PA 15131

Re: Mr. Frank Harzinski

October 29, 2003

Dear Dr. Franzino:

I have reviewed the medical records sent to me on Mr. Frank Harzinski and enclosed is a summary of the issues as well as my opinion.

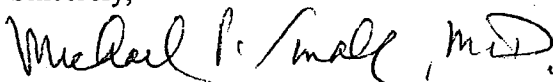
Sometime during the period of time when Mr. Harzinski was admitted to Clearfield Hospital on January 2, 2003 and subsequently discharged on January 5, 2003 he required Foley catheterization. After discharge he was followed by Clearfield Community Nurses.

On January 27, 2003 Mr. Harzinski was re admitted to Clearfield Hospital because of severe penile and scrotal swelling, penoscrotal and urethral necrosis and urethral fistula necessitating emergency surgery on February 1, 2003.

Based upon my review, after the catheterization at Clearfield Hospital the foreskin was not placed back over the glans leading to the development of paraphimosis causing the above pathology. In addition, the Foley catheter wasn't taped up to the abdomen leading to pressure necrosis of the urethra at the penoscrotal junction. This compounded the cause of the penoscrotal and urethral necrosis and urethral fistula.

Within a reasonable degree of medical certainty both Clearfield Hospital and Clearfield Community Nurses fell below the acceptable standard of care: Clearfield Hospital by not replacing the foreskin over the glans and not taping the catheter to the abdomen and Clearfield Community Nurses for not recognizing the paraphimosis and not correcting it and also for not taping the catheter to the abdomen.

Sincerely,


Michael P. Small, M.D.

✓ 0210.1314

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

PATRICIA FARNSWORTH, Personal *
Representative of the ESTATE of *
FRANK HARZINSKI, *
Plaintiff *

vs. *

No. 04-1555-CD

CLEARFIELD HOSPITAL, SHARON *
GOODMAN, R.N., CLEARFIELD *
COMMUNITY NURSES, AND *
NORMA J. PANT, R.N., *
Defendants *

CASE MANAGEMENT ORDER

NOW, this 17th day of October, 2006, following status conference among counsel and the Court and upon agreement of the parties it is the ORDER of this Court as follows:

1. All discovery shall be closed, including but not limited to the taking of any depositions, by no later than December 31, 2006;
2. Plaintiff's expert report(s) shall be provided to Defense counsel by no later than March 1, 2007;
3. Defendants' expert report(s) shall be provided to counsel for the Plaintiff by no later than May 1, 2007;
4. The case shall be listed for Civil Call before the Court on July 26, 2007 at 11:00 a.m. in Courtroom No. 1, Clearfield County Courthouse, Clearfield, Pennsylvania;
5. The pre-trial conference will be held on August 17, 2007 at a time to be determined. The parties shall file their pre-trial statement and other documents in conformity with Clearfield County Local Rules; and
6. Jury selection shall be on August 28, 2007.

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

BY THE COURT,

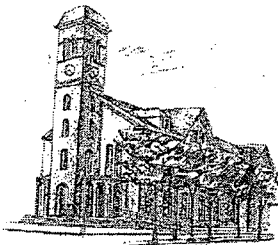
/s/ Fredric J. Ammerman

OCT 18 2006

Attest.

William L. Shaw
Prothonotary/
Clerk of Courts

FREDRIC J. AMMERMAN
President Judge



Clearfield County Office of the Prothonotary and Clerk of Courts

William A. Shaw
Prothonotary/Clerk of Courts

David S. Ammerman
Solicitor

Jacki Kendrick
Deputy Prothonotary

Bonnie Hudson
Administrative Assistant

To: All Concerned Parties

From: William A. Shaw, Prothonotary

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

Sincerely,

William A. Shaw
Prothonotary

DATE: 10/18/06

_____ 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**

PATRICIA FARNSWORTH, Personal
Representative of the ESTATE of
FRANK HARZINSKI,

Plaintiff,

vs.

CLEARFIELD HOSPITAL, SHARON
GOODMAN, R.N., CLEARFIELD
COMMUNITY NURSES, and NORMA
J. PARENT, R.N., incorrectly identified as
NORMA J. PANT, R.N.,

Defendants.

CIVIL DIVISION

No.: 04-1555-CD

**PLAINTIFF'S MOTION TO
SUPPLEMENT PRETRIAL
STATEMENT IN RESPONSE TO
DEFENDANTS' MOTION IN
LIMINE**

Filed on behalf of Plaintiff:

PATRICIA FARNSWORTH

Counsel of record for this party:

VICTOR H. PRIBANIC
PA I.D. No. 30785

PRIBANIC & PRIBANIC, L.L.C.
1735 Lincoln Way
White Oak, PA 15131

(412) 672-5444

JURY TRIAL DEMANDED

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

PATRICIA FARNSWORTH, Personal	|	CIVIL DIVISION
Representative of the ESTATE of	|	
FRANK HARZINSKI,	|	No.: 04-1555-CD
Plaintiff,	|	
vs.	|	
CLEARFIELD HOSPITAL, SHARON	|	
GOODMAN, R.N., CLEARFIELD	|	
COMMUNITY NURSES, and NORMA	|	
J. PARENT, R.N., incorrectly identified as	|	
NORMA J. PANT, R.N.,	|	
Defendants.	|	

**PLAINTIFF'S MOTION TO SUPPLEMENT PRETRIAL STATEMENT
IN RESPONSE TO DEFENDANTS' MOTION IN LIMINE**

AND NOW, comes the Plaintiff, Patricia Farnsworth, Personal Representative of the Estate of Frank Harzinski, by and through her counsel, Victor H. Pribanic and the law firm of Pribanic & Pribanic, L.L.C., and files the following Motion to Supplement Pretrial Statement in Response to Defendants' Motion in Limine, and in support thereof avers as follows:

1. Plaintiff filed the within action styled as a wrongful death and survival action as a result of the death of Frank Harzinski.
2. Plaintiff retained the services of Michael P. Small, M.D., an urologist, who offered an opinion as to negligence and damages, however, Dr. Small did not and

could not given his specialty set forth an opinion as to the contribution the conduct of the Defendants made to the death of Frank Harzinski.

3. The Defendants have moved to exclude evidence of the relationship between the Defendants' conduct and the death of Frank Harzinski based upon the failure of Dr. Small to comment upon it in his expert report.

4. Pretrial Statements in this matter were filed during the week of August 13, 2007.

5. The Defendants' experts have offered opinions that the infection and subsequent surgery which is the subject of this action did not cause or contribute in any way to the decedent's death – the relevant portions of the Defendants' expert reports are attached hereto as Exhibits A, B and C with the appropriate language highlighted indicating their opinions.

6. This matter is scheduled for trial on October 29, 2007, more than sixty (60) days from now.

7. Plaintiff believes that the infection and subsequent surgery which is the subject of this action was a factual cause of the death of Frank Harzinski and has received an oral opinion to this effect from Karl Steinberg, M.D. who will be able to supply a report to this effect on or before September 6, 2007.

8. Accordingly, Plaintiff request leave to supplement their Pretrial Statement with Dr. Steinberg's report on or before September 6, 2007.

9. Given the fact that the Defendants already have expert testimony available to combat any such allegation and further given the interval until trial of this case, no conceivable prejudice will occur to the Defendants.

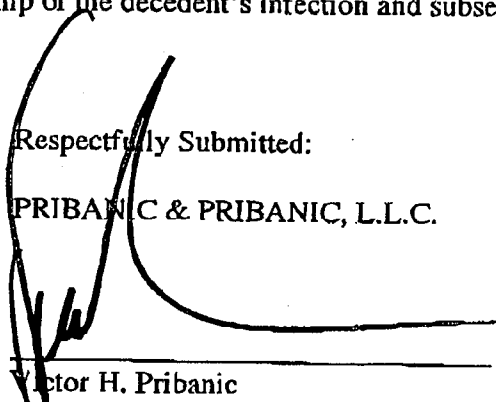
10. Further, the Plaintiff will not object to and will agree to the Defendants may supplement their Pretrial statements in anyway they see fit in response to Dr. Steinberg's report.

WHEREFORE, Plaintiff respectfully requests that this Honorable Court allow amendment of the Plaintiff's Pretrial Statement in this matter on or before September 6, 2007, with a report addressing the relationship of the decedent's infection and subsequent surgery to this death.

Respectfully Submitted:

PRIBANIC & PRIBANIC, L.L.C.

By:


Victor H. Pribanic
Counsel for the Plaintiff

LAW OFFICES OF
PRIBANIC & PRIBANIC

A Limited Liability Company
1735 LINCOLN WAY
WHITE OAK, PENNSYLVANIA 15131
TEL. 412/672-5444

VICTOR H. PRIBANIC

FAX. 412/672-3715

PITTSBURGH OFFICE
513 COURT PLACE
PITTSBURGH, PA 15219
TEL. 412/281-8844

September 7, 2007

Office of the Prothonotary
Clearfield County Courthouse
230 East Market Street
Clearfield, PA 16830

Re: Estate of Frank Harzinski v. Clearfield Hospital, Sharon Goodman, R.N.,
Clearfield Community Nurses, and Norma J. Parent, R.N., incorrectly identified
as Norma J. Pant, R.N.
Our File No.: 5952

Dear Prothonotary,

Enclosed for filing please find an original and one (1) copy of Plaintiff's First Supplemental Pretrial Statement regarding the above-captioned matter. Kindly file the original and return one (1) time-stamped copy of the document to my attention in the self-addressed, postage prepaid envelope I have also enclosed for your convenience.

Thank you for your continued professional courtesy. If you have any questions, please do not hesitate to contact me.

Very truly yours,


Victor H. Pribanic

VHP:lmw

Enclosures

cc: Frank J. Hartye, Esquire
Daniel J. McCarthy, Esquire
(both w/enclosure)

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

PATRICIA FARNSWORTH, Personal
Representative of the ESTATE of
FRANK HARZINSKI,

Plaintiff,

vs.

CLEARFIELD HOSPITAL, SHARON
GOODMAN, R.N., CLEARFIELD
COMMUNITY NURSES, and NORMA
J. PARENT, R.N., incorrectly identified as
NORMA J. PANT, R.N.,

Defendants.

CIVIL DIVISION

No.: 04-1555-CD

**PLAINTIFF'S FIRST SUPPLEMENTAL
PRETRIAL STATEMENT**

Filed on behalf of Plaintiff:

PATRICIA FARNSWORTH

Counsel of record for this party:

VICTOR H. PRIBANIC
PA I.D. No. 30785

PRIBANIC & PRIBANIC, L.L.C.
1735 Lincoln Way
White Oak, PA 15131

(412) 672-5444

SLP

JURY TRIAL DEMANDED

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

PATRICIA FARNSWORTH, Personal	]	CIVIL DIVISION
Representative of the ESTATE of]	
FRANK HARZINSKI,	]	No.: 04-1555-CD
]	
Plaintiff,]	
]	
vs.]	
]	
CLEARFIELD HOSPITAL, SHARON]	
GOODMAN, R.N., CLEARFIELD]	
COMMUNITY NURSES, and NORMA]	
J. PARENT, R.N., incorrectly identified as]	
NORMA J. PANT, R.N.,]	
]	
Defendants.]	

PLAINTIFF'S FIRST SUPPLEMENTAL PRETRIAL STATEMENT

AND NOW, comes the Plaintiff, by her counsel, Victor H. Pribanic, Esquire, and Pribanic & Pribanic, LLC, files the following First Supplemental Pretrial Statement and in support thereof avers that:

II. WITNESSES

A. LIABILITY

11 Karl Steinberg, M.D.
Stone Mountain Medical Associates
3608 Napa Court
Oceanside, CA 92056
(Report dated September 1, 2007 is attached.)

B. DAMAGE

15. Karl Steinberg, M.D.
Stone Mountain Medical Associates
3608 Napa Court
Oceanside, CA 92056

III. EXHIBITS

17. Expert report of Karl E. Steinberg, M.D. dated September 1, 2007.

**PLAINTIFF RESERVES THE RIGHT TO AMEND OR SUPPLEMENT THIS
PRE-TRIAL STATEMENT UP TO AND INCLUDING THE TIME OF TRIAL.**

Respectfully submitted,

PRIBANIC & PRIBANIC, L.L.C.

By:

Victor H. Pribanic
Victor H. Pribanic
Counsel for Plaintiff

KARL E. STEINBERG, MD
Stone Mountain Medical Associates, Inc.
3608 Napa Court
Oceanside, CA 92056
(760) 414-7263

FELLOW, AMERICAN ACADEMY OF FAMILY PHYSICIANS

DIPLOMATE, AMERICAN BOARD OF FAMILY PRACTICE

September 1, 2007
VIA FACSIMILE & US MAIL

Victor Pribanic
Pribanic & Pribanic, APC
1735 Lincoln Way
White Oak, PA 15131

Re: Frank Harzinski (deceased)
Case Name: *Farnsworth v. Clearfield Hospital, et al.*
Case No.: 2004-01555-CD

BRIEF MEDICOLEGAL EVALUATION REPORT

Dear Mr. Pribanic:

I am writing this report at your request to assess the injuries sustained by the above-referenced decedent, and the connection between his injuries and his death. If called to testify at deposition or trial, I could and would confirm the opinions contained herein within a reasonable degree of medical certainty. This report should not be construed as exhaustive; if the case proceeds, I will likely develop additional opinions as well as refine and elaborate on those contained herein. If and when additional evidence becomes available to me, I would reserve the opportunity to formulate and propound supplementary opinions in this matter.

I am a Board-Certified Family Physician in the full-time clinical practice of geriatrics and long-term care in San Diego County. I have cared for many patients with the types of medical conditions that Mr. Harzinski suffered from, including chronic obstructive pulmonary disease (COPD), renal insufficiency, urinary tract infections, cerebral hemorrhage, glaucoma, atherosclerotic coronary artery disease, congestive heart failure with pleural effusion, anemia, dementia, hypertension, esophageal strictures, and hypothyroidism.

I am on the teaching faculty for UCSD and Naval Hospital Camp Pendleton's Family Medicine residency programs as a clinical preceptor in geriatrics, and have given educational presentations to a national audience through AMDA on care of the elderly. You have in your possession a copy of my *Curriculum Vitae*, which more fully sets forth my education, training and experience.

In preparation for generating this report, I reviewed the files you sent me concerning Mr. Harzinski, including:

1. Medical Records from Clearfield Community Nurses.
2. Medical Records from Clearfield Hospital (multiple admissions).
3. Medical Records from Ridgeview Elder Care.
4. Death Certificate.
5. Deposition Transcript of Sheldon P. Rosenthal, MD.

SUMMARY OF OPINIONS

I have reviewed and considered the records listed above and it is my opinion, within a reasonable degree of medical certainty, that the serious nature of Mr. Harzinski's perineal abscess and its ensuing sepsis, as well as the resultant necessity for major urological surgery that required removal of part of his urethra and placement of a permanent suprapubic urinary catheter, were *direct and substantial contributing factors in his death*.

But for the mismanagement by home health personnel of Mr. Harzinski's Foley catheter and the failure to recognize and reduce his paraphimosis, which were direct and substantial contributing causes to his life-threatening genitourinary sepsis and abscess/cellulitis with possible Fournier's gangrene, within a reasonable degree of medical certainty, Mr. Harzinski *would not have died* within a few weeks after his débridement surgery. The surgical procedure and the need for anesthesia, as well as the need for postoperative care, wound care, and pain-related issues and management, all contributed to hasten his decline and his demise.

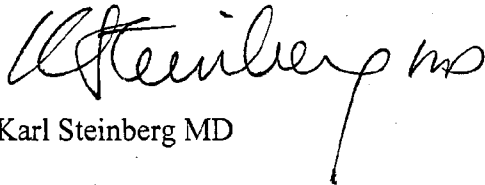
While Mr. Harzinski was indisputably a frail elderly man with multiple, serious medical problems, he was reasonably stable and doing fairly well before this episode of genitourinary sepsis in late January 2003. Medical records, including those from Clearfield Community Nurses personnel, document clearly that he had stabilized somewhat and was reasonably settled-in and coping with his situation at home before the development of penile pain in late January. Subsequent home health notes from February 2003 *after* the hospitalization demonstrate unequivocally that his condition had worsened markedly—his physical condition, his emotional state, and even his cognitive functioning declined significantly in response to the infection and the required surgery. Even though he did survive the surgery and was improving slightly from his critically ill status, Mr. Harzinski never re-attained his pre-infection functional or physical status, and had obviously suffered additional insults as far as his dementia that he never recovered from.

I have considered the Death Certificate in arriving at my opinions in this matter. The cause of death is stated to be COPD, with "other significant conditions contributing to death, but not resulting in the

underlying cause" listed as "H[istory]/O[f] M[yocardial] I[nfarction], H[istory]/O[f] [Hypertension], and Renal Insufficiency. The Death Certificate does not specifically mention the recent surgical procedure or the serious genitourinary infection Mr. Harzinski suffered, but I believe it *should* have mentioned them, as well as listing some of Mr. Harzinski's other significant contributing medical diagnoses that combined to take his life just a few weeks after the last hospitalization (such as his congestive heart failure). It is an unfortunate but indisputable reality that Death Certificates are not always filled out completely or correctly, and errors of omission are commonplace. That was the situation with Mr. Harzinski's Death Certificate. These errors are usually not intentional, but simply reflect the difficulty in always remembering every historical detail of recent and remote events and conditions when a patient expires. In Mr. Harzinski's case, it scarcely requires a medical expert to surmise—between the severity of the insult to his systems from the infection, anesthesia and surgery and the obvious decline that occurred immediately following them—and adding the temporal proximity of his death a few short weeks later—that the infection and its sequelae directly and substantially contributed to his decline and death.

In conclusion, it is my opinion that there is a direct causal link between the genitourinary infection Mr. Harzinski developed as the result of negligence on the part of Clearfield Community Nurses personnel and his death a few weeks later.

Sincerely yours,

A handwritten signature in cursive script, appearing to read 'K. Steinberg MD', written in dark ink.

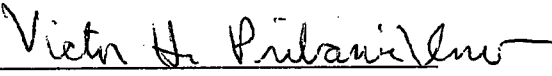
Karl Steinberg MD

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the within has been served via U. S. Postal Service postage prepaid on the ~~10th~~^{7th} day of September, 2007 upon the following:

Frank J. Hartye, Esquire
McINTYRE, DUGAS, HARTYE & SCHMITT
P.O. Box 533
Hollidaysburg, PA 16648
Counsel for Defendants Clearfield Hospital and Sharon Goodman, R.N.

Daniel J. McCarthy, Esquire
MINTZER SAROWITZ ZERIS LEDVA & MEYERS
1528 Walnut Street, 22nd Floor
Philadelphia, PA 19102-3614
Counsel for Defendants Clearfield Community Nurses and Norma J. Parent, R.N.


Victor H. Pribanic

CERTIFICATE OF SERVICE

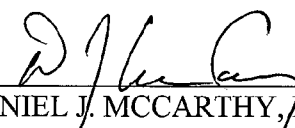
I, DANIEL J. MCCARTHY, ESQUIRE, hereby certify that I caused to be served a copy of Defendants' Motion *in Limine* to Preclude the Report and Testimony of Plaintiffs' Proffered Expert, Karl E. Steinberg, M.D. at Trial to all parties of record in this proceeding in accordance with the requirements of the Rules of Civil Procedure by First Class Mail, postage pre-paid on September 24, 2007 upon:

Victor H. Pribanic, Esquire
Pribanic & Pribanic, LLC
1735 Lincoln Way
White Oak, PA 15131
Attorney for Plaintiff

Frank J. Hartye, Esquire
McINTYRE, HARTYE & SCHMITT
P.O. Box 533
Hollidaysburg, PA 16648
Attorney for Defendants, Sharon Goodman, R.N.
and Clearfield Hospital

MINTZER, SAROWITZ, ZERIS, LEDVA & MEYERS

BY: _____


DANIEL J. MCCARTHY, ESQUIRE
Attorney for Defendants, CLEARFIELD COMMUNITY
NURSES AND NORMA J. PARENT, R.N.

4

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

PATRICIA FARNSWORTH, PERSONAL
REPRESENTATIVE OF THE ESTATE OF
FRANK HARZINSKI,

Plaintiff,

vs.

CLEARFIELD HOSPITAL, SHARON
GOODMAN, R.N., CLEARFIELD
COMMUNITY NURSES AND NORMA J.
PARENT, R.N.,

Defendants.

NO. 2004-01555-CD

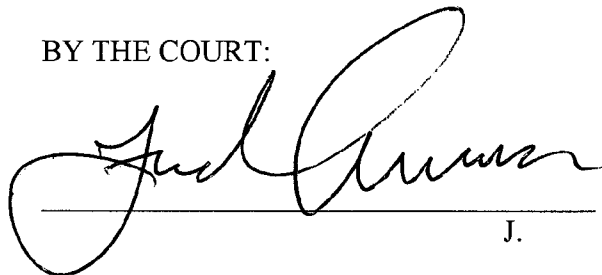
JURY TRIAL DEMANDED

ORDER

AND NOW, this 5th day of October, 2007, upon
consideration of Defendants, Clearfield Community Nurses and Norma J. Parent, R.N.'s Motion
in Limine, and any response thereto, it is hereby **ORDERED** and **DECREED** that Defendants'
Motion in Limine is **GRANTED**.

IT IS FURTHER ORDERED that Plaintiff is hereby precluded from seeking damages
pursuant to the Wrongful Death Action under 42 Pa. C.S.A. §8301.

BY THE COURT:


J.

FILED

013:23/54
OCT 05 2007

William A. Shaw
Prothonotary/Clerk of Courts

DATE: 10/5/07

☒ 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:

FILED

OCT 05 2007

William A. Shaw
Prothonotary/Clerk of Courts

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

FILED

PATRICIA FARNSWORTH, PERSONAL
REPRESENTATIVE OF THE ESTATE OF
FRANK HARZINSKI,

Plaintiff,

vs.

CLEARFIELD HOSPITAL, SHARON
GOODMAN, R.N., CLEARFIELD
COMMUNITY NURSES AND NORMA J.
PARENT, R.N.,

Defendants.

NO. 2004-01555-CD

ISSUE: MOTION IN LIMINE

Filed on behalf of Defendants,
CLEARFIELD COMMUNITY NURSES
AND NORMA J. PARENT, R.N.

Counsel of Record for this Party:
DANIEL J. MCCARTHY, ESQUIRE
Attorney I.D. No. 41440
MINTZER, SAROWITZ, ZERIS,
LEDVA & MEYERS
22nd Floor
1528 Walnut Street
Philadelphia, PA 19102
(215) 735-7200
MSZL&M File No. 0210.1314

JURY TRIAL DEMANDED

AUG 22 2007
M/11:55/5
William A. Shaw
Prothonotary/Clerk of Courts
1 CENT TO
AFT

**MOTION IN LIMINE OF DEFENDANTS,
CLEARFIELD COMMUNITY NURSES AND NORMA J. PARENT, R.N.**

AND NOW, come Defendants, CLEARFIELD COMMUNITY NURSES and NORMA J. PARENT, R.N., by and through their attorneys, MINTZER, SAROWITZ, ZERIS, LEDVA & MEYERS, and file the within Motion in Limine, and in support thereof, aver as follows:

1. Plaintiff, Patricia Farnsworth instituted a medical malpractice/ wrongful death and survival action against the defendants on behalf of her deceased father, Frank Harzinski. (A true and correct copy of plaintiff's Complaint is attached hereto and marked as Exhibit "A").
2. Plaintiff alleges that Mr. Harzinski developed penoscrotal and urethral necrosis (Fournier's gangrene) requiring surgery resulting from negligent Foley catheter care provided to

her father by the defendants, specifically the failure to recognize that Mr. Harzinski was not circumcised, the failure to notice that the foreskin of Mr. Harzinski's penis was in a retracted position after the insertion/exchange of the Foley catheter, the failure to place the foreskin in a neutral position, and the failure to tape the Foley catheter to the abdomen. (See Exhibit "A").

3. Plaintiff alleges that her father's death was the direct and proximate result of the negligent care and treatment provided to her father by the defendants.

4. No autopsy was performed upon the Decedent, Frank Harzinski.

5. At the time of the alleged incident, Mr. Harzinski was an 84 year old man with multiple health problems, including chronic obstructive pulmonary disease, heart disease with a history of coronary artery bypass surgery, right carotid endarterectomy, chronic renal failure, and dementia.

6. Prior to the alleged incident, Mr. Harzinski was admitted to the Clearfield Hospital on October 28, 2001 with complaints of chest pain and shortness of breath and was diagnosed with non Q-wave myocardial infarction. On November 3, 2002, Mr. Harzinski was underwent a thoracentesis procedure to aspirate 2000 cc of fluid build-up in his chest cavity and was also treated for a urinary tract infection at that time. Between 2001 and 2002, Mr. Harzinski had an indwelling catheter due on numerous occasions to incontinence and his overall declining condition. On January 1, 2003, he was re-admitted to Clearfield Hospital with chest pain and shortness of breath and underwent a second thoracentesis procedure to aspirate 2000 cc of fluid

7. In support of their claims against the defendants, plaintiff intends to offer the opinions of a urology expert, Michael Small, M.D.

8. While Dr. Small offered opinions with respect to the standard for Foley catheter care and contends that Mr. Harzinski developed paraphimosis resulting from the foreskin not

being placed back over the glans, he offered no opinions causally relating Mr. Harzinski's death to the defendants' alleged negligence. (A true and correct copy of Dr. Small's expert report is attached hereto and marked as Exhibit "B").

9. The Death Certificate, which was certified by Mr. Harzinski's primary care/pulmonary care specialist, Dr. Bruno Romeo, indicates that the primary cause of death is chronic obstructive pulmonary disease (COPD) with a history of myocardial infarction, hypertension, and renal insufficiency. (A true and correct copy of the Death Certificate is attached hereto and marked as Exhibit "C").

10. Expert testimony is generally required in a professional malpractice action to establish several of elements: the proper standard of care, the defendant's failure to exercise that standard of care, and the causal relationship between the failure to exercise the standard of care and the plaintiff's injury. Toogood v. Rogal, 573 Pa. 245, 255, 824 A.2d 1140, 1145 (2003).

11. Therefore, to establish the causation element in a professional malpractice action, the plaintiff must show that the defendant's failure to exercise the proper standard of care caused the plaintiff's injury. Id. at 261, 824 A.2d at 1149.

12. Furthermore, in order to recover in an action for wrongful death, the plaintiff must prove that the death was caused by negligence of the defendant, and therefore, liability for wrongful death requires a determination that a defendant's negligence caused the death. Quinby v. Plumsteadville Family Practice, Inc., 907 A.2d 1061 (Pa. Super. 2006); 42 Pa. C.S.A. §8301.

13. In the case at bar, since plaintiff has not presented any medical expert evidence of a causal connection between her father's death and the alleged breaches in the standard of nursing care, plaintiff cannot pursue a claim for damages under the Wrongful Death Action pursuant to 42 Pa. C.S.A. §8301.

WHEREFORE, Defendant Clearfield Community Nurses and Norma J. Parent, R.N. respectfully request that this Honorable Court grant their Motion in Limine and issue an order precluding plaintiff from seeking damages pursuant to the Wrongful Death Statute at the time of trial.

Respectfully submitted,

MINTZER, SAROWITZ, ZERIS, LEDVA & MEYERS

BY: 

DANIEL J. MCCARTHY, ESQUIRE
Attorney for Defendants, CLEARFIELD COMMUNITY
NURSES AND NORMA J. PARENT, R.N.

Dated: August 21, 2007

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

PATRICIA FARNSWORTH, PERSONAL
REPRESENTATIVE OF THE ESTATE OF
FRANK HARZINSKI,

Plaintiff,

vs.

CLEARFIELD HOSPITAL, SHARON
GOODMAN, R.N., CLEARFIELD
COMMUNITY NURSES AND NORMA J.
PARENT, R.N.,

Defendants.

NO. 2004-01555-CD

**ISSUE: BRIEF IN SUPPORT OF
MOTION IN LIMINE**

Filed on behalf of Defendants,
CLEARFIELD COMMUNITY NURSES
AND NORMA J. PARENT, R.N.

Counsel of Record for this Party:
DANIEL J. MCCARTHY, ESQUIRE
Attorney I.D. No. 41440
MINTZER, SAROWITZ, ZERIS,
LEDVA & MEYERS
22nd Floor
1528 Walnut Street
Philadelphia, PA 19102
(215) 735-7200
MSZL&M File No. 0210.1314

JURY TRIAL DEMANDED

**BRIEF IN SUPPORT OF MOTION IN LIMINE OF DEFENDANTS,
CLEARFIELD COMMUNITY NURSES AND NORMA J. PARENT, R.N.**

AND NOW, come Defendants, CLEARFIELD COMMUNITY NURSES and NORMA
J. PARENT, R.N., by and through their attorneys, MINTZER, SAROWITZ, ZERIS, LEDVA &
MEYERS, and file the within Brief in support of Motion in Limine.

1. STATEMENT OF FACT:

Plaintiff, Patricia Farnsworth instituted a medical malpractice/ wrongful death and
survival action against the defendants on behalf of her deceased father, Frank Harzinski.

Plaintiff alleges that defendants deviated from the standards of care by failing to adequately and
properly insert a Foley catheter in a gentleman who was not circumcised. Plaintiff further

alleges that Mr. Harzinski developed penoscrotal and urethral necrosis (Fournier's gangrene) requiring surgery, resulting from the failure to recognize that the foreskin was not replaced in its neutral position as well as the failure to tape the Foley catheter to the abdomen. Plaintiff alleges that her father's death was the direct and proximate result of the negligent care and treatment provided to her father by the defendants.

At the time of the alleged incident, Mr. Harzinski was an 84 year old man (D.O.B. April 19, 1918) with multiple health problems, including chronic obstructive pulmonary disease, heart disease with a history of coronary artery bypass surgery, right carotid endarterectomy, chronic renal failure, and dementia. Prior to the alleged incident, Mr. Harzinski was admitted to the Clearfield Hospital on October 28, 2001 with complaints of chest pain and shortness of breath and was diagnosed with non Q-wave myocardial infarction. On November 3, 2002, Mr. Harzinski underwent a thoracentesis procedure to aspirate 2000 cc of fluid build-up in his chest cavity and was also treated for a urinary tract infection at that time. Between 2001 and 2002, Mr. Harzinski had an indwelling catheter due on numerous occasions to incontinence and his overall declining condition.

On January 1, 2003, he was re-admitted to Clearfield Hospital with chest pain and shortness of breath at which time Nurse Goodman inserted the Foley catheter in question. Mr. Harzinski underwent a second thoracentesis procedure to aspirate 2000 cc of fluid and was discharged to home on January 5, 2003. Thereafter Clearfield Community Nurses, including Nurse Parent provided skilled nursing care. On January 24, 2003, Mr. Harzinski complained of pain at the catheter site, and Ms. Farnsworth reported that her father had been pulling on the catheter. Nurse Parent exchanged the catheter on January 26, 2003 when Ms. Farnsworth reported bleeding at the catheter site. Nurse Parent testified that she was able to exchange the

catheter without difficulty as the Foley balloon deflated and the catheter slid out with ease. The next day on January 27, 2003, Nurse Parent returned to see Mr. Harzinski and noted edema at the penis and scrotum site. She noted that Mr. Harzinski was voiding cloudy, yellow urine and also found discharge at the catheter site and reported her findings to Mr. Harzinski's family doctor, Dr. Bruno Romeo.

Mr. Harzinski was re-admitted to Clearfield Hospital on January 27, 2003 under the care of Dr. Romeo who, in turn, requested a consult with Dr. Sheldon Rosenthal, an attending urologist. Dr. Rosenthal, who rendered a diagnosis of paraphimosis, testified that Mr. Harzinski's urological problems resolved on January 28, 2003 when he was able to manually reduce the paraphimosis without difficulty. Mr. Harzinski subsequently developed foul smelling discharge from the genitalia site on January 31, 2003, and Dr. Rosenthal noted necrotic tissue at the penoscrotal area. On February 1, 2003, Rosenthal performed surgery to remove the necrotic tissue from the urethra.

Mr. Harzinski's treating physicians recommended that Mr. Harzinski remain in the hospital for rehabilitation care due to his debilitated state, however Mrs. Farnsworth took her father home on February 11, 2003. Mr. Harzinski died 10 days later on February 21, 2003. Primary cause of death indicated on the Death Certificate is chronic obstructive pulmonary disease with a history of myocardial infarction, hypertension and renal insufficiency. Autopsy was not performed. Plaintiff did not produce any expert reports causally relating Mr. Harzinski's death to the care and treatment rendered by any of the defendants.

2. LEGAL ARGUMENT:

To prevail in a professional malpractice action, expert testimony is generally required to establish several of elements: the proper standard of care, the defendant's failure to exercise that

standard of care, and the causal relationship between the failure to exercise the standard of care and the plaintiff's injury. Toogood v. Rogal, 573 Pa. 245, 255, 824 A.2d 1140, 1145 (2003).

Because the negligence of a health care profession encompasses matters not within the ordinary knowledge and experience of a layperson, the plaintiff must show through expert testimony that the defendant's failure to exercise the proper standard of care caused the plaintiff's injury. Id.

Furthermore, in order to recover in an action for wrongful death, the plaintiff must prove that the death was caused by negligence of the defendant, and therefore, liability for wrongful death requires a determination that a defendant's negligence caused the death. Quinby v.

Plumsteadville Family Practice, Inc., 907 A.2d 1061 (Pa. Super. 2006); 42 Pa. C.S.A. §8301.

In the case at bar, plaintiff's Complaint alleges that her father's death was the direct and proximate result of the negligent care and treatment provided to her father by the defendants. As illustrated above, Mr. Harzinski was an 84 year old man who had a long history of health problems and was admitted to the hospital on numerous occasions where he was catheterized. No autopsy was performed upon the Decedent, Frank Harzinski.

Plaintiff intends to present one expert report from a urology expert, Dr. Michael Small who renders opinions as to the standard of catheter care and the cause of the development of the paraphimosis and subsequent development of the penoscrotal and urethral necrosis. (See Exhibit "B"). Dr. Small does not render any opinions causally relating Mr. Harzinski's death to the alleged negligence of the defendants. (See Exhibit "B"). Furthermore, plaintiff has not presented any expert medical evidence establishing causation of Mr. Harzinski's death to anything that the defendants did or failed to do in this case. The Death Certificate, which was certified by Mr. Harzinski's primary care/ pulmonary care specialist, Dr. Bruno Romeo, indicates

that the primary cause of death is chronic obstructive pulmonary disease (COPD) with a history of myocardial infarction, hypertension, and renal insufficiency. (See Exhibit "C").

3. CONCLUSION:

For the reasons stated above, Defendant Clearfield Community Nurses and Norma J. Parent, R.N. respectfully request that this Honorable Court grant their Motion in Limine and issue an order precluding plaintiff from seeking damages pursuant to the Wrongful Death Statute at the time of trial.

Respectfully submitted,

MINTZER, SAROWITZ, ZERIS, LEDVA & MEYERS

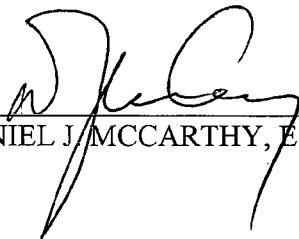
BY: 

DANIEL J. MCCARTHY, ESQUIRE
Attorney for Defendants, CLEARFIELD COMMUNITY
NURSES AND NORMA J. PARENT, R.N.

Dated: August 21, 2007

VERIFICATION

The averments or denials of facts contained in the foregoing are true, based upon the signer's personal knowledge or information and belief. If the foregoing contains averments which are consistent in fact, signer has been unable, after reasonable investigation, to ascertain which of the inconsistent averments are true, but signer has knowledge or information sufficient to form a belief that one of them is true. This Verification is made subject to the penalties of 18 Pa.C.S. §4904 relating to unsworn falsification to authorities.



DANIEL J. MCCARTHY, ESQUIRE

Dated: August 21, 2007

210-1314

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

PATRICIA FARNSWORTH, Personal
Representative of the ESTATE of
FRANK HARZINSKI,

Plaintiff,

vs.

CLEARFIELD HOSPITAL, SHARON
GOODMAN, R.N., CLEARFIELD
COMMUNITY NURSES, and NORMA
J. PANT, R.N.,

Defendants.

CIVIL DIVISION

No.: 04-1555-CD

COMPLAINT

Filed on behalf of Plaintiff:

PATRICIA FARNSWORTH

Counsel of record for this party:

VICTOR H. PRIBANIC
PA I.D. No. 30785

PRIBANIC & PRIBANIC, L.L.C.
1735 Lincoln Way
White Oak, PA 15131

(412) 672-5444 NJZ

JURY TRIAL DEMANDED

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

PATRICIA FARNSWORTH, Personal	]	CIVIL DIVISION
Representative of the ESTATE of]	
FRANK HARZINSKI,]	
]	
Plaintiff,	]	No.: 04-1555-CD
]	
vs.]	
]	
CLEARFIELD HOSPITAL, SHARON]	
GOODMAN, R.N., CLEARFIELD]	
COMMUNITY NURSES, and NORMA]	
J. PANT, R.N.,]	
]	
Defendants.]	

NOTICE TO DEFEND

YOU HAVE BEEN SUED IN COURT. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this complaint and notice are served, by entering a written appearance personally or by an attorney and filing in writing with the court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you by the court without further notice for any money claimed in the complaint or for any other claim or relief requested by the Plaintiff. You may lose money or property or other rights important to you. **YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.**

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

2. Defendant, Clearfield Hospital, is upon information and belief, a professional corporation existing and operating under the laws of the Commonwealth of Pennsylvania and is located in Clearfield County, Pennsylvania, specifically located at 809 Turnpike Avenue, Clearfield, PA 16830.

3. Defendant, Sharon Goodman, R.N., is upon information and belief, a licensed, registered and practicing nurse in the Commonwealth of Pennsylvania, specifically located at Clearfield Hospital, 809 Turnpike Avenue, Clearfield, PA 16830.

4. At all relevant times Defendant, Sharon Goodman, R.N. was acting in her capacity as an employee, agent and/or ostensible agent of Defendant, Clearfield Hospital, as well as a medical practitioner in his own right.

5. Defendant, Clearfield Community Nurses, is upon information and belief, a professional corporation existing and operating under the laws of the Commonwealth of Pennsylvania and maintains an office in Clearfield County, Pennsylvania, specifically located at 211 1/2 East Locust Street, Clearfield, PA 16830.

6. Defendant, Norma J. Pant, R.N., is upon information and belief, a licensed, registered and practicing nurse in the Commonwealth of Pennsylvania, specifically located at Clearfield Community Nurses, 211 1/2 East Locust Street, Clearfield, PA 16830.

7. At all relevant times hereto, Defendant, Norma J. Pant, R.N., was acting in her capacity as an employee, agent and/or ostensible agent of Clearfield Community Nurses.

8. Decedent, Frank Harzinski was a 84-year old gentlemen who was admitted to the Emergency Room at Clearfield Hospital on or about November 3, 2002 complaining of shortness of breath, and suffering from nausea, wheezing, rhonchi, rales as well a decreased level of consciousness.

9. At all relevant times hereto, Decedent, Frank Harzinski's penis was not circumcised.

10. On or about November 3, 2002, Dr. Bruno Romeo, Decedent's physician at Clearfield Hospital, diagnosed Decedent, Frank Harzinski as suffering from a urinary tract infection and ordered a Foley catheter to be inserted into Decedent's penis .

11. On or about November 4, 2002, Defendant, Clearfield Hospital, acting through its employees, agents, and/or ostensible agents, ordered and placed a Foley catheter into the penis of the deceased, Frank Harzinski.

12. Decedent, Frank Harzinski, was discharged from Clearfield Hospital to Ridgeview Nursing Home with Foley catheter in place on or about November 13, 2002.

13. The Foley catheter was removed on or about November 19, 2002 at Ridgeview Nursing Home and Decedent, Frank Harzinski was discharged from Ridgeview Nursing Home to his home without a Foley catheter in place on or about December 4, 2002.

14. On or about December 9, 2002, Defendant, Clearfield Community Nurses, acting through its employees, agents, and/or ostensible agents was providing medical services/treatment to Frank Harzinski while he resided at home.

15. On or about December 9, 2002, Defendant, Clearfield Community Nurses, acting through its employees, agents, and/or ostensible agents inserted a Foley catheter into Frank Harzinski that was removed on or about December 16, 2002.

16. On or about January 1, 2003, Decedent, Frank Harzinski, was admitted to Clearfield Hospital and Dr. Bruno Romeo diagnosed Decedent as suffering from acute renal failure and again ordered a Foley catheter to be inserted into Decedent's penis.

17. On or about January 1, 2003, Defendant, Sharon Goodman, R.N., inserted a Foley catheter into Mr. Harzinski and left the foreskin of his penis in a retracted position.

18. Decedent, Frank Harzinski was discharged from Clearfield Hospital to his home on or about January 5, 2003 with the Foley catheter in place although the foreskin of his penis remained in a retracted position.

19. During January 5, 2003 until January 27, 2003, Defendant, Clearfield Community Nurses, provided medical services/treatment to Decedent, Frank Harzinski while he remained at home.

20. On or about January 24, 2003, Defendant, Clearfield Community Nurses, through its employees, agents, and/or ostensible agents noted pain at the tip of Decedent's penis without redness or discharge, but failed to notice that the foreskin of Mr. Harzinski's penis was in a retracted position.

21. On or about January 26, 2003, Defendant, Norma J. Pant, R.N. changed Mr. Harzinski's Foley catheter, failed to tape the Foley catheter to Decedent's abdomen, failed to notice that the foreskin of Mr. Harzinski's penis was still in a retracted position and failed to place the foreskin into the neutral/reduced position.

22. On or about January 27, 2003, Decedent, Frank Harzinski, was admitted to Clearfield Hospital suffering from a large amount of purulent drainage, scrotal pain, his penis and scrotum were edematous (swollen), he had cloudy urine, and he was diagnosed with penoscrotal necrosis.

23. On or about February 1, 2003, Dr. Sheldon P. Rosenthal performed surgery upon Decedent, Frank Harzinski, at Clearfield Hospital, where he underwent cystourethroscopy, exploration and debridement of the scrotum and partial urethrectomy.

24. Decedent, Frank Harzinski passed away on February 21, 2003.

25. No Autopsy was performed upon the Decedent, Frank Harzinski.

COUNT I - WRONGFUL DEATH

PLAINTIFF, PATRICIA FARNSWORTH, AS PERSONAL REPRESENTATIVE

OF THE ESTATE OF FRANK HARZINSKI, DECEASED, vs. SHARON

GOODMAN, R.N.

Plaintiff hereby incorporates by reference Paragraphs 1 through 25 of the Complaint as though fully set forth herein and further aver that:

26. Plaintiff, Patricia Farnsworth, as the Personal Representative of the Estate of Frank Harzinski, brings this action on her own behalf and on behalf of all other persons entitled to recover damages for the wrongful death of Frank Harzinski pursuant to the provisions of 42 Pa. C.S. § 8301.

27. Plaintiff also brings this action to recover damages on behalf of the Estate of Frank Harzinski pursuant to the provisions of 42 Pa. C.S. § 8302.

28. The following persons are or may be entitled by laws to recover damages for the wrongful death of Frank Harzinski:

- (a) Patricia Farnsworth (daughter) who resides at 304 Margaretta Street, Clearfield, PA 16830;
- (b) Bonnie Baun (daughter) P.O. Box 99, West Decatur, PA;
- (c) Donna McCaula (daughter) Address unknown.

29. During his lifetime, Frank Harzinski, did not commence any action to recover damages for the injuries which caused his death and/or loss of his penis, and no other action has been filed to recover damages for the wrongful death of Frank Harzinski.

30. At all times relevant hereto, Decedent, Frank Harzinski, relied upon the Defendant to render full, complete, careful and proper care and treatment for his condition.

31. Decedent, Frank Harzinski, as a direct and proximate result of the care and treatment rendered by Defendant, Sharon Goodman, R.N., more specifically, failed to adequately and properly insert a Foley catheter, placed the foreskin of Decedent's penis in neutral/reduced position, failed to timely notice that the foreskin was in a retracted position and discharged the decedent with a Foley catheter in place while the foreskin of his penis was in a retracted position, experienced increased risk of harm and ultimately suffered a premature death as set forth herein.

32. The foregoing acts and/or omissions of Defendant and resulting death of Decedent, Frank Harzinski, were caused by and were the direct result of Defendant's failure to exercise reasonable treatment and care and that degree of care owed the Decedent under the circumstances in any or all of the following respects:

- (a) In failing to notice that the foreskin of Decedent's penis was in a retracted position and needed to be placed in a neutral/reduced position while the Foley catheter was in place;
- (b) In inserting a Foley catheter into Decedent and failing to place the foreskin of Decedent's penis in a neutral/reduced position;
- (c) In failing to comply with the standard of care which requires placing the foreskin of the penis in a neutral/reduced position when a Foley catheter is inserted and/or in place;

- (d) in failing to notify a doctor or other professional medical provider of Decedent's condition;

33. The decedent's death was the direct and proximate result of the acts and/or omissions of Defendant, Sharon Goodman, R.N.

34. The persons entitled by law to recover damages for Frank Harzinski's death have sustained the following damages:

- (a) the cost of hospital and medical services and supplies incident to the treatment and subsequent death of the Decedent, Frank Harzinski;
- (b) the cost of funeral, burial and estate administration expenses occasioned by the death of Frank Harzinski;
- (c) loss of the value of such contributions decedent would have provided between the time of his death through the balance of his life expectancy;
- (d) loss of the financial support and all pecuniary benefits which they would have received from Frank Harzinski;
- (e) loss of the financial support and all pecuniary benefits which they would have received from Frank Harzinski from the date of his death through the present;
- (f) loss of the value of the service, assistance, comfort, guidance, counseling, companionship and society of Frank Harzinski; and,
- (g) such other losses and damages as are recoverable by law or statute.

35. Solely as a result of Defendant's negligent conduct, which conduct was the direct and proximate cause of Frank Harzinski's death, Defendant, Sharon Goodman, R.N., is liable for the damages set forth above.

WHEREFORE, Plaintiff, Patricia Farnsworth, Personal Representative of the Estate of Frank Harzinski, seeks judgment against Defendant, Sharon Goodman, R.N., to recover damages in excess of the jurisdiction of the Board of Arbitrators of this Court.

COUNT II – SURVIVAL

PLAINTIFF, PATRICIA FARNSWORTH, AS PERSONAL REPRESENTATIVE
OF THE ESTATE OF FRANK HARZINSKI, DECEASED, vs. SHARON
GOODMAN, R.N.

Plaintiff incorporates by reference Paragraphs 1 through 35 of the Complaint and further avers that:

36. As a direct and proximate result of the previously described negligent conduct of Defendant, Sharon Goodman, R.N., Plaintiff, Patricia Farnsworth, Personal Representative for the Estate of Frank Harzinski, seeks damages for which Defendant is liable pursuant to the provisions of 20 Pa. C.S. § 3373 and 42 Pa. C.S. § 8302 which include, inter alia:

- (a) physical and mental pain, suffering and inconvenience of Frank Harzinski from the time he presented himself to Defendant on January 1, 2003 up to and including the time of his death;
- (b) decedent's loss of earnings and/or earning potential during the balance of his life expectancy calculated from the date of his death and also loss of earnings between the time of his injury and his death;
- (c) hospital, surgical and medical/pharmacy expenses incurred on his behalf,
- (d) decedent's loss of his penis as well as future use of his penis, and;
- (e) such other losses and damages as are recoverable by law or statute.

WHEREFORE, Plaintiff, Patricia Farnsworth as Personal Representative of the Estate of Frank Harzinski seeks judgment against Defendant, Sharon Goodman, R.N. to recover damages in excess of the jurisdiction of the Board of Arbitrators of this court.

COUNT III -WRONGFUL DEATH

PLAINTIFF, PATRICIA FARNSWORTH, AS PERSONAL REPRESENTATIVE
OF THE ESTATE OF FRANK HARZINSKI, DECEASED, vs. CLEARFIELD

HOSPITAL

Plaintiff incorporates by reference Paragraphs 1 through 36 of the Complaint and further avers that:

37. At all times relevant hereto, Decedent, Frank Harzinski, relied upon Defendant Clearfield Hospital to render full, complete, careful and proper care and treatment for her condition.

38. At all relevant times, Defendant Sharon Goodman, R.N. was an agent, ostensible agent and/or employee of Defendant Clearfield Hospital.

39. Decedent, as a direct and proximate result of the care and treatment rendered by Defendant, Clearfield Hospital, particularly, in failing to place the foreskin of Decedents penis in a neutral/reduced position rather than retracted position, suffered an increased risk of harm and further and additional severe and serious injuries as described herein.

40. The foregoing acts and/or omissions of Defendant and resulting injury of Decedent were caused by and were the direct result of Defendant's failure to exercise reasonable treatment and care and that degree of care owed the Plaintiff under the

circumstances by and through its agents as set forth above in the Complaint, Count I and in any or all of the following respects:

- (a) in failing to place the foreskin of Decedent's penis in a neutral/reduced position;
- (b) in failing to properly supervise its agents including Defendant Sharon Goodman, R.N., the physician assistants and other relevant personnel involved in the care and treatment of Mr. Harzinski;
- (d) in failing to develop and enforce policies and procedures pertaining to the insertion of a Foley catheter, particularly placing the foreskin of Decedent's penis in a neutral/reduced position;
- (e) in leaving the foreskin of decedent's penis in a retracted position; and,
- (f) in discharging Decedent with a Foley catheter in place with the foreskin of his penis in a retracted position;

41. As a result of the conduct set forth above, Decedent has sustained injuries and damages as set forth above in Count I of the Complaint.

42. Solely as a result of Defendant's negligent conduct, which conduct was the direct and proximate cause of Plaintiff's injuries, Defendant, Clearfield Hospital, is liable for the damages set forth above in Count I.

WHEREFORE, Plaintiff, Patricia Farnsworth, Personal Representative of the Estate of Frank Harzinski seeks judgment against Defendant, Clearfield Hospital, to recover damages in excess of the jurisdiction of the Board of Arbitrators of this court.

COUNT IV-SURVIVAL

PLAINTIFF, PATRICIA FARNSWORTH, AS PERSONAL REPRESENTATIVE
OF THE ESTATE OF FRANK HARZINSKI, DECEASED, vs. CLEARFIELD
HOSPITAL

Plaintiff incorporates by reference Paragraphs 1 through 42 of the Complaint and further avers that:

43. As a direct and proximate result of the previously described negligent conduct of Defendant, Clearfield Hospital, Plaintiff, Patricia Farnsworth, Personal Representative for the Estate of Frank Harzinski, seeks damages for which Defendant is liable pursuant to the provisions of 20 Pa. C.S. § 3373 and 42 Pa. C.S. § 8302 which are set forth above in Count II.

WHEREFORE, Plaintiff, Patricia Farnsworth, Personal Representative of the Estate of Frank Harzinski seeks judgment against Defendant, Clearfield Hospital to recover damages in excess of the jurisdiction of the Board of Arbitrators of this court.

COUNT V-WRONGFUL DEATH

PLAINTIFF, PATRICIA FARNSWORTH, AS PERSONAL REPRESENTATIVE
OF THE ESTATE OF FRANK HARZINSKI, DECEASED, vs.. NORMA J. PANT,

R.N.

Plaintiff incorporates by reference Paragraphs 1 through 43 of the Complaint and further avers that:

44. At all times relevant hereto, Decedent, Frank Harzinski, relied upon the Defendant to render full, complete, careful and proper care and treatment for her condition.

45. The acts/omissions of Defendant and resulting death of Decedent, Frank Harzinski were caused by and were the direct result of Defendant's failure to exercise reasonable treatment and care and that degree of care owed the Decedent under the circumstances as set forth above and as follows:

- (a) In failing to notice that the foreskin of Decedent's penis was in a retracted position and needed to be placed in a neutral/reduced position while the Foley catheter was in place;
- (b) In changing decedent's Foley catheter and failing to place the foreskin of Decedent's penis in a neutral/reduced position;
- (c) In failing to identify and/or correct the position of the foreskin of decedent's penis, which was in a retracted position, after Decedent had complained of pain at the tip of his penis;
- (d) In failing to identify and/or correct the position of the foreskin of decedent's penis, which was in a retracted position, after a large amount of purulent drainage occurred at the Foley site, Decedent's penis and scrotum became edematous (swollen), and/or his urine became cloudy;
- (e) In failing to comply with the standard of care which requires placing the foreskin of the penis in a neutral/reduced position when a Foley catheter is inserted and/or in place;
- (f) In failing to tape the Foley catheter to Decedent's abdomen;
- (g) in failing to notify a doctor or other professional medical provider of Decedent's condition;

46. The decedent's death was the direct and proximate result of the acts and/or omissions of Defendant, Norma J. Pant, R.N.

47. The persons entitled by law to recover damages for Frank Harzinski's death have sustained damages as set forth above in Count I of the Complaint.

48. Solely as a result of Defendant's negligent conduct, which conduct was the direct and proximate cause of Frank Harzinski's death, Defendant, Norma J. Pant, R.N., is liable for the damages set forth above.

WHEREFORE, Plaintiff, Patricia Farnsworth, Personal Representative of the Estate of Frank Harzinski seeks judgment against Defendant, Norma J. Pant, R.N. to recover damages in excess of the jurisdiction of the Board of Arbitrators of this court.

COUNT VI-SURVIVAL

**PLAINTIFF, PATRICIA FARNSWORTH, AS PERSONAL REPRESENTATIVE
OF THE ESTATE OF FRANK HARZINSKI, DECEASED, vs. NORMA J. PANT,**

R.N.

Plaintiff incorporates by reference Paragraphs 1 through 48 of the Complaint and further avers that:

49. As a direct and proximate result of the previously described negligent conduct of Defendant, Norma J. Pant, R.N., Plaintiff, Patricia Farnsworth, Personal Representative of the Estate of Frank Harzinski, seeks damages for which Defendant is liable pursuant to the provisions of 20 Pa. C.S. § 3373 and 42 Pa. C.S. § 8302 as set forth above.

WHEREFORE, Plaintiff Patricia Farnsworth, Personal Representative of the Estate of Frank Harzinski seeks judgment against Defendant, Norma J. Pant, R.N., to recover damages in excess of the jurisdiction of the Board of Arbitrators of this court.

COUNT VII – WRONGFUL DEATH

PLAINTIFF, PATRICIA FARNSWORTH, AS PERSONAL REPRESENTATIVE
OF THE ESTATE OF FRANK HARZINSKI, DECEASED, vs. CLEARFIELD
COMMUNITY NURSES

Plaintiff incorporates by reference Paragraphs 1 through 49 of the Complaint and further avers that:

50. At all times relevant hereto, Decedent, Frank Harzinski, relied upon Defendant, Clearfield Community Nurses to render full, complete, careful and proper care and treatment for her condition.

51. At all relevant times, Defendant, Norma J. Pant, R.N. was an agent, ostensible agent and/or employee of Defendant, Clearfield Community Nurses.

52. Decedent, as a direct and proximate result of the care and treatment rendered by Defendant, Clearfield Community Nurses, particularly, in failing to place the foreskin of Decedent's penis in a neutral/reduced position when a Foley catheter was in place, suffered an increased risk of harm and further and additional severe and serious injuries as described herein.

53. The foregoing acts and/or omissions of Defendant and resulting injury of Decedent were caused by and were the direct result of Defendant's failure to exercise reasonable treatment and care and that degree of care owed the Plaintiff under the circumstances by and through its agents as set forth above in the Complaint, Count VI and in any or all of the following respects:

- (a) in failing to select and retain only those registered nurses, agents and/or employees who are adequately trained and have demonstrated competence;

- (b) in failing to properly supervise its agents including Defendant, Norma J. Pant, R.N. and other relevant personnel involved in the care and treatment of Mr. Harzinski; and,
- (e) in failing to develop and enforce policies and procedures pertaining to the placement of a Foley catheter, including but not limited to the placement of the foreskin in a neutral/reduced position when a Foley catheter is in place;

54. As a result of the conduct set forth above, Decedent has sustained injuries and damages as set forth above in Count I of the Complaint.

55. Solely as a result of Defendant's negligent conduct, which conduct was the direct and proximate cause of Plaintiff's injuries, Defendant Clearfield Community Nurses is liable for the damages set forth above in Count I.

WHEREFORE, Plaintiff, Patricia Farnsworth as Personal Representative for the Estate of Frank Harzinski, seeks judgment against Defendant, Clearfield Community Nurses to recover damages in excess of the jurisdiction of the Board of Arbitrators of this court.

COUNT VIII - SURVIVAL

PLAINTIFF, PATRICIA FARNSWORTH, AS PERSONAL REPRESENTATIVE OF THE ESTATE OF FRANK HARZINSKI, DECEASED, vs. CLEARFIELD COMMUNITY NURSES

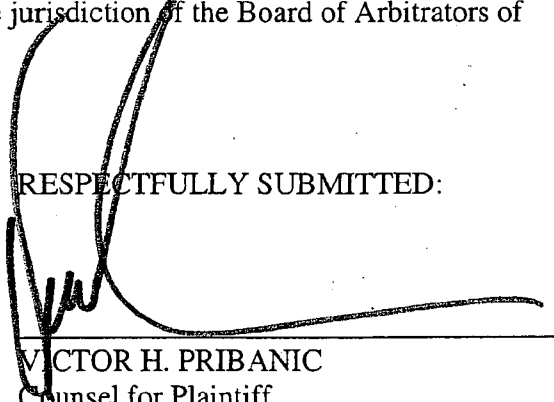
Plaintiff incorporates by reference Paragraphs 1 through 55 of the Complaint and further avers that:

56. As a direct and proximate result of the previously described negligent conduct of Defendant, Clearfield Community Nurses, Plaintiff, Patricia Farnsworth, Personal Representative of the Estate of Frank Harzinski, seeks damages for which

Defendant is liable pursuant to the provisions of 20 Pa. C.S. § 3373 and 42 Pa. C.S. § 8302 as set forth above in Count II.

WHEREFORE, Plaintiff, Patricia Fransworth as Personal Representative of the Estate of Frank Harzinski seeks judgment against Defendant, Clearfield Community Nurses, to recover damages in excess of the jurisdiction of the Board of Arbitrators of this court.

RESPECTFULLY SUBMITTED:



VICTOR H. PRIBANIC
Counsel for Plaintiff

JURY TRIAL DEMANDED

VERIFICATION TO COMPLAINT

Plaintiff verifies that she is the Plaintiff in the foregoing action; that the foregoing Complaint is based upon information which she has furnished to counsel and information which has been gathered by counsel in the preparation of the lawsuit. The language of the Complaint is that of counsel and not of Plaintiff. Plaintiff has read the Complaint and to the extent that the Complaint is based upon information which she has given to counsel, it is true and correct to the best of her knowledge, information and belief. To the extent that the content of the Complaint is that of counsel, she has relied upon counsel in making this Affidavit. Plaintiff understands that false statements herein are made subject to the penalties of 18 Pa. C.S. Section 4904, relating to unsworn falsification to authorities.

11-16-04

Date

Patricia Farnsworth

PATRICIA FARNSWORTH, Personal
Representative of the Estate of
FRANK HARZINSKI

PATRICIA FARNSWORTH, Personal Representative of the Estate of FRANK
HARZINSKI, deceased, vs. CLEARFIELD HOSPITAL, SHARON GOODMAN, R.N.,
CLEARFIELD COMMUNITY NURSES, and NORMA J. PANT, R.N.

Certificate of Merit as to Sharon Goodman, R.N.

Civil Division No.: 04-1555-CD

I, Victor H. Pribanic, certify that:

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

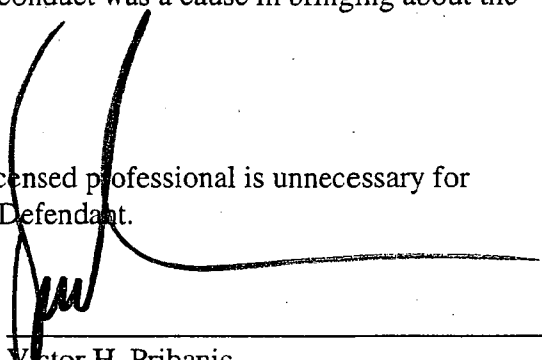
OR

— the claim that this Defendant deviated from an acceptable professional standard is based solely on allegations that other licensed professionals for whom this Defendant is responsible deviated from an acceptable professional standard and an appropriate licensed professional has supplied a written statement to the undersigned that there is a basis to conclude that the care, skill or knowledge exercised or exhibited by the other licensed professionals in the treatment, practice or work that is the subject of the Complaint, fell outside acceptable professional standards and that such conduct was a cause in bringing about the harm;

OR

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

Date: 11-16-04


Victor H. Pribanic

PATRICIA FARNSWORTH, Personal Representative of the Estate of FRANK HARZINSKI, deceased, vs. CLEARFIELD HOSPITAL, SHARON GOODMAN, R.N., CLEARFIELD COMMUNITY NURSES, and NORMA J. PANT, R.N.

Certificate of Merit as to Norma J. Pant, R.N.

Civil Division No.: 04-1555-CD

I, Victor H. Pribanic, certify that:

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

OR

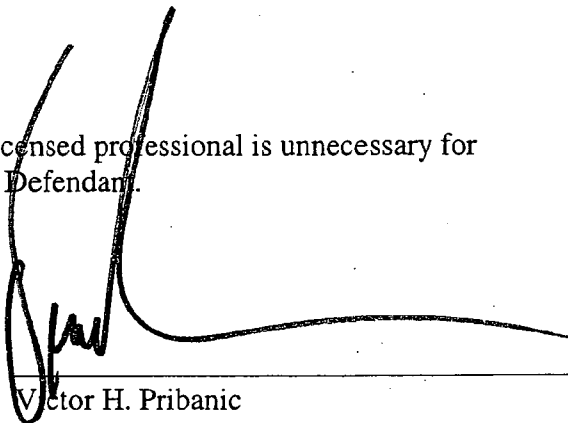
☐ the claim that this Defendant deviated from an acceptable professional standard is based solely on allegations that other licensed professionals for whom this Defendant is responsible deviated from an acceptable professional standard and an appropriate licensed professional has supplied a written statement to the undersigned that there is a basis to conclude that the care, skill or knowledge exercised or exhibited by the other licensed professionals in the treatment, practice or work that is the subject of the Complaint, fell outside acceptable professional standards and that such conduct was a cause in bringing about the harm;

OR

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

Date:

11-16-04


Victor H. Pribanic

PATRICIA FARNSWORTH, Personal Representative of the Estate of FRANK HARZINSKI, deceased, vs. CLEARFIELD HOSPITAL, SHARON GOODMAN, R.N., CLEARFIELD COMMUNITY NURSES, and NORMA J. PANT, R.N.

Certificate of Merit as to Clearfield Hospital

Civil Division No.: 04-1555-CD

I, Victor H. Pribanic, certify that:

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

✓ OR

_____ the claim that this Defendant deviated from an acceptable professional standard is based solely on allegations that other licensed professionals for whom this Defendant is responsible deviated from an acceptable professional standard and an appropriate licensed professional has supplied a written statement to the undersigned that there is a basis to conclude that the care, skill or knowledge exercised or exhibited by the other licensed professionals in the treatment, practice or work that is the subject of the Complaint, fell outside acceptable professional standards and that such conduct was a cause in bringing about the harm;

OR

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

Date:

11-16-04


Victor H. Pribanic

PATRICIA FARNSWORTH, Personal Representative of the Estate of FRANK HARZINSKI, deceased, vs. CLEARFIELD HOSPITAL, SHARON GOODMAN, R.N., CLEARFIELD COMMUNITY NURSES, and NORMA J. PANT, R.N.

Certificate of Merit as to Clearfield Community Nurses

Civil Division No.: 04-1555-CD

I, Victor H. Pribanic, certify that:

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

✓
_____ OR

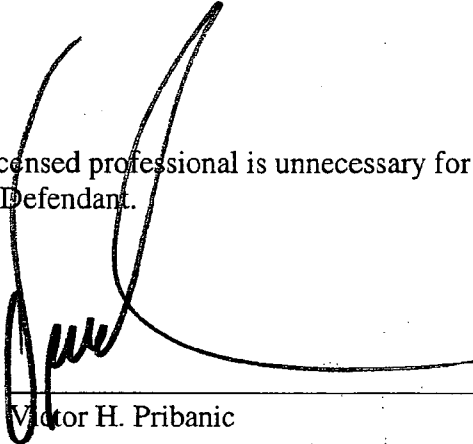
_____ the claim that this Defendant deviated from an acceptable professional standard is based solely on allegations that other licensed professionals for whom this Defendant is responsible deviated from an acceptable professional standard and an appropriate licensed professional has supplied a written statement to the undersigned that there is a basis to conclude that the care, skill or knowledge exercised or exhibited by the other licensed professionals in the treatment, practice or work that is the subject of the Complaint, fell outside acceptable professional standards and that such conduct was a cause in bringing about the harm;

OR

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

Date:

11-16-04



Victor H. Pribanic

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the within has been served via U.S. Postal Service postage prepaid on the 16th day of December, 2004 upon the following:

Frank J. Hartye, Esquire
McINTYRE, DUGAS, HARTYE & SCHMITT
P.O. Box 533
Hollidaysburg, PA 16648

(814) 696-3581

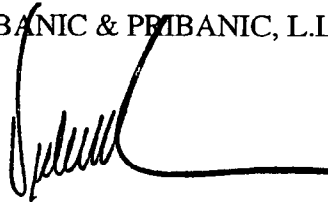
*** Counsel for Defendants Clearfield Hospital and Sharon Goodman, R.N.**

Daniel J. McCarthy, Esquire
MINTZER SAROWITZ ZERIS LEDVA & MEYERS
1528 Walnut Street, 22nd Floor
Philadelphia, PA 19102-3614

(215) 735-7200
(215) 735-1714 Fax #

*** Counsel for Defendants Clearfield Community Nurses and Norma J. Parent, R.N.
(Incorrectly identified as Norma J. Pant, R.N.)**

PRIBANIC & PRIBANIC, L.L.C.



VICTOR H. PRIBANIC
Counsel for Plaintiff

5952
210.1314

MICHAEL P. SMALL, M.D., S.C.

- Urology
- Urologic Medical-Legal Review
- Urologic Consulting

P.O. Box 5099
Appleton, Wisconsin 54911

Phone: 920-380-9916

Fax: 920-380-9917

DIPLOMATE AMERICAN BOARD OF UROLOGY • FELLOW AMERICAN COLLEGE OF SURGEONS

Pribanic and Pribanic
Attn: Dr. Franzino
1735 Lincoln Way
White Oak, PA 15131

Re: Mr. Frank Harzinski

October 29, 2003

Dear Dr. Franzino:

I have reviewed the medical records sent to me on Mr. Frank Harzinski and enclosed is a summary of the issues as well as my opinion.

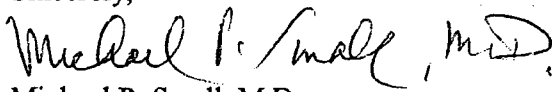
Sometime during the period of time when Mr. Harzinski was admitted to Clearfield Hospital on January 2, 2003 and subsequently discharged on January 5, 2003 he required Foley catheterization. After discharge he was followed by Clearfield Community Nurses.

On January 27, 2003 Mr. Harzinski was re admitted to Clearfield Hospital because of severe penile and scrotal swelling, penoscrotal and urethral necrosis and urethral fistula necessitating emergency surgery on February 1, 2003.

Based upon my review, after the catheterization at Clearfield Hospital the foreskin was not placed back over the glans leading to the development of paraphimosis causing the above pathology. In addition, the Foley catheter wasn't taped up to the abdomen leading to pressure necrosis of the urethra at the penoscrotal junction. This compounded the cause of the penoscrotal and urethral necrosis and urethral fistula.

Within a reasonable degree of medical certainty both Clearfield Hospital and Clearfield Community Nurses fell below the acceptable standard of care: Clearfield Hospital by not replacing the foreskin over the glans and not taping the catheter to the abdomen and Clearfield Community Nurses for not recognizing the paraphimosis and not correcting it and also for not taping the catheter to the abdomen.

Sincerely,


Michael P. Small, M.D.

This is to certify that this is a true copy of the record which is on file in the Pennsylvania Division of Vital Records in accordance with Act 66, P.L. 304, approved by the General Assembly, June 29, 1953.

WARNING: It is illegal to duplicate this copy by photostat or photograph.

Calvin B. Johnson
Calvin B. Johnson, M.D., M.P.H.
Secretary of Health



Frank Yeropoli
Frank Yeropoli
State Registrar

3902679

No.

AUG 22 2006

Date

H105.142 Rev. 2/87

COMMONWEALTH OF PENNSYLVANIA • DEPARTMENT OF HEALTH • VITAL RECORDS
CERTIFICATE OF DEATH

023554

TYPE/PRINT
IN
PERMANENT
BLACK INK

1. NAME OF DECEDENT (First, Middle, Last) Frank P. Harzinski				2. SEX Male		3. SOCIAL SECURITY NUMBER 160 - 12 - 0639		4. DATE OF DEATH (Month, Day, Year) February 21, 2003	
5. AGE (Last birthday) 84 Yrs.		6. UNDER 1 YEAR Months Days Hours Minutes		7. DATE OF BIRTH (Month, Day, Year) 4-19-18		8. BIRTHPLACE (City and State or Foreign Country) Curwensville, PA		9. PLACE OF DEATH (Check only one - see instructions on other side) HOSPITAL: Inpatient <input type="checkbox"/> ER/Outpatient <input type="checkbox"/> DCA <input type="checkbox"/> OTHER: Nursing Home <input type="checkbox"/> Residence <input checked="" type="checkbox"/> Other (Specify) <input type="checkbox"/>	
10. COUNTY OF DEATH Clearfield		11. CITY, BORO, TWP OF DEATH Clearfield Boro		12. FACILITY NAME (If not institution, give street and number) 304 Margaretta St.		13. WAS DECEDENT OF HISPANIC ORIGIN? No <input checked="" type="checkbox"/> Yes <input type="checkbox"/> If yes, specify Cuban, Mexican, Puerto Rican, etc.		14. RACE - American Indian, Black, White, etc. (Specify) White	
15. DECEDENT'S USUAL OCCUPATION (Give kind of work done during most of working life; do not use retired) Laborer		16. KIND OF BUSINESS/INDUSTRY Leather Industry		17. WAS DECEDENT EVER IN U.S. ARMED FORCES? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>		18. DECEDENT'S EDUCATION (Specify only highest grade completed) Elementary/Secondary <input type="checkbox"/> College <input checked="" type="checkbox"/> (1-4 or 5+)		19. MARITAL STATUS - Married <input type="checkbox"/> Never Married <input type="checkbox"/> Widowed <input checked="" type="checkbox"/> Divorced (Specify)	
20. DECEDENT'S MAILING ADDRESS (Street, City/Town, State, Zip Code) 304 Margaretta St. Clearfield, PA 16830		21. DECEDENT'S ACTUAL RESIDENCE (See instructions on other side) PA		22. Did decedent live in a township? Clearfield		23. 17c. <input type="checkbox"/> Yes, decedent lived in _____ township <input checked="" type="checkbox"/> No, decedent lived within actual limits of Clearfield city/boro		24. SURVIVING SPOUSE (If wife, give maiden name) None	
25. FATHER'S NAME (First, Middle, Last) Michael L. Harzinski				26. MOTHER'S NAME (First, Middle, Maiden Surname) Victoria Vesoloski					
27. INFORMANT'S NAME (Type/Print) Donna McCullough				28. INFORMANT'S MAILING ADDRESS (Street, City/Town, State, Zip Code) P.O. Box 77, Mineral Springs, PA 16855					
29. METHOD OF DISPOSITION Burial <input type="checkbox"/> Cremation <input checked="" type="checkbox"/> Removal from State <input type="checkbox"/> Other (Specify) <input type="checkbox"/>				30. DATE OF DISPOSITION (Month, Day, Year) 2-25-03		31. PLACE OF DISPOSITION - Name of Cemetery, Crematory or Other Place Crown Crest Memorial Park			
32. SIGNATURE OF FUNDERAL SERVICE LICENSEE OR PERSON ACTING AS SUCH <i>[Signature]</i>				33. LICENSE NUMBER FD 012233 L		34. NAME AND ADDRESS OF FACILITY The Bennett and Houser Funeral Home 312 E. Locust St., Clearfield, PA 16830 Inc.			
35. Complete Items 23a-c only when certifying physician is not available at time of death to certify cause of death.				36. To the best of my knowledge, death occurred at the time, date and place stated. <i>[Signature]</i> Amey Lynn Stucke RN.		37. DATE SIGNED (Month, Day, Year) 2-21-03			
38. Items 24-26 must be completed by person who pronounces death.				39. TIME OF DEATH 2:10 P.M.		40. DATE PRONOUNCED DEAD (Month, Day, Year) 2-21-03			
27. PART I: Enter the diseases, injuries or complications which caused the death. Do not enter the mode of dying, such as cardiac or respiratory arrest, shock or heart failure. List only one cause on each line. IMMEDIATE CAUSE (if not disease or condition resulting in death) → COPD a. DUE TO (OR AS A CONSEQUENCE OF): b. DUE TO (OR AS A CONSEQUENCE OF): c. DUE TO (OR AS A CONSEQUENCE OF): d. DUE TO (OR AS A CONSEQUENCE OF):									
41. WAS AN AUTOPSY PERFORMED? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>		42. WERE AUTOPSY FINDINGS AVAILABLE PRIOR TO COMPLETION OF CAUSE OF DEATH? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>		43. MANNER OF DEATH Natural <input checked="" type="checkbox"/> Homicide <input type="checkbox"/> Accident <input type="checkbox"/> Pending Investigation <input type="checkbox"/> Suicide <input type="checkbox"/> Could not be determined <input type="checkbox"/>		44. DATE OF INJURY (Month, Day, Year) 30a.		45. TIME OF INJURY 30b.	
46. INJURY AT WORK? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>		47. DESCRIBE HOW INJURY OCCURRED. 30c.		48. PLACE OF INJURY - At home, farm, street, factory, office building, etc. (Specify) 30d.		49. LOCATION (Street, City/Town, State) 30e.		50. SIGNATURE AND TITLE OF CERTIFIER 31b. Bruno J. Romeo MD	
51. CERTIFIER (Check only one) *CERTIFYING PHYSICIAN (Physician certifying cause of death when another physician has pronounced death and completed item 23) To the best of my knowledge, death occurred at the time, date, and place, and due to the cause(s) and manner as stated. *PRONOUNCING AND CERTIFYING PHYSICIAN (Physician both pronouncing death and certifying to cause of death) To the best of my knowledge, death occurred at the time, date, and place, and due to the cause(s) and manner as stated. *MEDICAL EXAMINER/CORONER On the basis of examination and/or investigation, in my opinion, death occurred at the time, date, and place, and due to the cause(s) and manner as stated.									
52. REGISTRAR'S SIGNATURE AND NUMBER <i>[Signature]</i> 33.				53. DATE FILED (Month, Day, Year) February 24, 2003		54. DATE SIGNED (Month, Day, Year) 31d. 2/24/03			

ALIAS USED

NAME OF DECEDENT *Frank Harzinski*

CERTIFICATE OF SERVICE

I, DANIEL J. MCCARTHY, ESQUIRE, hereby certify that I caused to be served a copy of Defendants, Motion to Join in the Motion in Limine Defendants, Sharon Goodman, R.N. and Clearfield Hospital to preclude plaintiff from questioning any witnesses or introducing any evidence at trial of the letter of February 7, 2003 signed by Bruno Romeo, M.D, to all parties of record in this proceeding in accordance with the requirements of the Rules of Civil Procedure by First Class Mail, postage pre-paid on August 21, 2007 upon:

Victor H. Pribanic, Esquire
Pribanic & Pribanic, LLC
1735 Lincoln Way
White Oak, PA 15131
Attorney for Plaintiff

Frank J. Hartye, Esquire
McINTYRE, HARTYE & SCHMITT
P.O. Box 533
Hollidaysburg, PA 16648
Attorney for Defendants, Sharon Goodman, R.N.
and Clearfield Hospital

MINTZER, SAROWITZ, ZERIS, LEDVA & MEYERS

BY: 

DANIEL J. MCCARTHY, ESQUIRE
Attorney for Defendants, CLEARFIELD COMMUNITY
NURSES AND NORMA J. PARENT, R.N.

⑧

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

FILED 

DEC 06 2007

William A. Shaw
Prothonotary/Clerk of Courts

1 cent to App

PATRICIA FARNSWORTH, Personal
Representative of the ESTATE of
FRANK HARZINSKI,

Plaintiff,

vs.

CLEARFIELD HOSPITAL, SHARON
GOODMAN, R.N., CLEARFIELD
COMMUNITY NURSES, and NORMA
J. PARENT, R.N., incorrectly identified as
NORMA J. PANT, R.N.,

Defendants.

CIVIL DIVISION

No.: 04-1555-CD

**PETITION FOR APPROVAL OF
SETTLEMENT AND DISTRIBUTION
OF DECEDENT'S CLAIM**

Filed on behalf of Plaintiff:

PATRICIA FARNSWORTH

Counsel of record for this party:

VICTOR H. PRIBANIC
PA I.D. No. 30785

PRIBANIC & PRIBANIC, L.L.C.
1735 Lincoln Way
White Oak, PA 15131

(412) 672-5444

SLP

JURY TRIAL DEMANDED

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

PATRICIA FARNSWORTH, Personal	]	CIVIL DIVISION
Representative of the ESTATE of]	
FRANK HARZINSKI,	]	No.: 04-1555-CD
]	
Plaintiff,]	
]	
vs.]	
]	
CLEARFIELD HOSPITAL, SHARON]	
GOODMAN, R.N., CLEARFIELD]	
COMMUNITY NURSES, and NORMA]	
J. PARENT, R.N., incorrectly identified as]	
NORMA J. PANT, R.N.,]	
]	
Defendants.]	

**PETITION FOR SETTLEMENT AND DISTRIBUTION
OF DECEDANT'S CLAIM**

Petitioner, Patricia Farnsworth, personal representative of the Estate of Frank Harzinski, files the following Petition by and through her attorney, Victor H. Pribanic, and Pribanic & Pribanic, L.L.C., and in support thereof aver the following:

1. The captioned matter arises as a result of injuries and subsequent death sustained by the decedent Frank Harzinski, on or about February 21, 2003.
2. On January 1, 2003, Mr. Harzinski, was diagnosed as suffering from acute renal failure; a Foley catheter was inserted into Decedent's penis, however, Defendant, Sharon Goodman, R.N., who inserted the catheter into Mr. Harzinski, left the foreskin of his penis in a retracted position.
3. Decedent, Frank Harzinski was discharged from Clearfield Hospital to his home on January 5, 2003 with the Foley catheter in place although the foreskin of his penis remained in a retracted position.

4. On January 27, 2003, Mr. Harzinski, was admitted to Clearfield Hospital suffering from a large amount of purulent drainage, scrotal pain, his penis and scrotum were edematous (swollen), he had cloudy urine, and he was diagnosed with penoscrotal necrosis.

5. On February 1, 2003, Dr. Sheldon P. Rosenthal performed surgery upon Decedent, Frank Harzinski, at Clearfield Hospital, where he underwent cystourethroscopy, exploration and debridement of the scrotum and partial urethrectomy.

6. Mr. Harzinski passed away on February 21, 2003. A copy of the death certificate is attached hereto as Exhibit "A".

7. Patricia Farnsworth was appointed Administratrix of the Estate of Frank Harzinski by the Register of Wills of Clearfield County at Estate Instrument Number 200304586 on March 24, 2003 via Letters of Administration.

8. The Decedent's Last Will and Testament dated January 10, 2003 gives, devises, and bequeaths decedent entire estate to Patricia Farnsworth. A copy of the Last Will and Testament and Short Certificate are attached hereto as Exhibits "B" and "C" respectively.

9. Plaintiff/Petitioner, Patricia Farnsworth, has entered into an agreement with the defendants to settle her claims subject to court-approval of the decedent's settlement pursuant to Pennsylvania Rule of Civil Procedure 2039, Pennsylvania Rule of Civil Procedure 2206, 20 Pa. C.S. 3323, and 42 Pa. C.S. 8302.

10. The parties liable for this incident as alleged by the Plaintiffs are Clearfield Hospital, Sharon Goodman, R.N., Clearfield Community Nurses, and Norma J. Parent, R.N., who have offered a global settlement of Forty-five Thousand dollars (\$45,000.00). A copy of the proposed Release is attached hereto as Exhibit "D"

11. To the best of Petitioner's knowledge, information, and belief, there is one unpaid claim against Decedent's Estate asserted by Centers for Medicare and Medicaid Services which is currently in the amount of \$11,101.34.

12. Counsel for Petitioner is currently negotiating the lien amount stated hereinabove as Counsel for Petitioner believes the nursing care charges should be removed from the lien since decedent was receiving nursing care prior to the events which were the subject of this litigation.

13. In the event Medicare is in agreement with Counsel's position as indicated in the foregoing paragraph, this would reduce the lien from \$11,101.34 to the amount of \$8,158.32.

14. Counsel for Petitioner believes the final Medicare lien will be reduced by at least 25%.

15. Counsel for Petitioners agree to hold the disputed sum of \$11,101.34 in escrow until the lien disputes are settled with Centers for Medicare and Medicaid Service.

16. A reduction in attorney's fees from 40% to the amount of 33.33% of the settlement amount, as well as payment of the costs of prosecution of this matter, have been agreed to by all parties.

17. Fees for the prosecution of this matter were earned by the Plaintiff/Petitioner's and decedent's counsel by obtaining all medical records, filing suit, conducting extensive discovery, retaining expert witnesses, contacting witnesses, negotiating with the respective insurance companies of the tort feasons, preparing for trial, and securing payment of insurance proceeds available for the Estate of Frank Harszynski.

18. Petitioner, Patricia Farnsworth, represented by counsel, fully understands the terms of and conditions of the proposed settlement and believes the settlement to be in the best interest of the estate.

19. Prior to engaging in this matter on Petitioner's behalf, Petitioner entered into an employment agreement with counsel on a contingent fee basis agreeing to counsel fees of 40 percent of whatever may be recovered on Petitioner's behalf, however counsel has agreed to reduce fees to 33.33% of the total recovery.

20. The following is a proposed distribution of the decedent's settlement amount of \$45,000.00:

	\$45,000.00
File Opening Fee	50.00
Ridgeview Elder Care – Records	77.25
Clearfield Hospital – Records	225.97
Michael P. Small, M.D. – Retainer	1,500.00
Sargent's Court Reporting – Rosenthal Transcript	149.75
Sergeants Court Reporting – Romeo Transcript	197.25
Summit Court Reporting, Inc. - Farnsworth Transcript	320.75
Esquire Deposition Services – Videoconference	640.00
Wawrzyniak Reporting – Parent Transcript	216.00
ASAP Court Reporting – Goodman Transcript	250.95
Michael P. Small, M.D. – Case Review, Research, Report	800.00
Amy Stucke – Subpoena Fee	15.00
Paul Sebelia – Search for Witness Fee	46.03
Sherie Painter, Esq. – Travel Expenses	75.75
Esquire Deposition Services – Parent Trial Transcript	239.80
Amy L. Stucke, R.N. – Witness Fee	220.00
Karl Steinberg, M.D. – preparing of Expert Report	1,840.00
Photocopies, Subpoena, Postage, Long Distance Phone	200.00
Court Costs	207.00
Centers for Medicare and Medicaid Services – Lien	<\$11,101.34>
* \$11,101.34 to be held in escrow pending final determination of lien total	
Victor H. Pribanic, and Pribanic & Pribanic, L.L.C. (Attorney's fees at 33.33%)	\$14,998.50
Estate of Frank Harzinski	\$11,628.66

21. Based on the foregoing, Petitioner represents that the proposed settlement and distribution is fair and reasonable under the circumstances and adequately compensates Petitioner's estate.

22. Victor H. Pribanic, counsel for Petitioner and the Estate of Frank Harszynski, hereby requests counsel fees in the amount of \$14,998.50 representing 33.33% of the total settlement, which in counsel's opinion is a reasonable fee. Counsel also requests reimbursement for costs or disbursements in the amount of \$18,372.84 (which includes the amount of \$11,101.34 to be held in escrow pending lien resolution).

WHEREFORE, Petitioners respectfully requests that this Honorable Court enter an Order approving the Settlement and Distribution of the decedent's claim as outlined in the attached proposed Order of Court.

RESPECTFULLY SUBMITTED,



VICTOR H. PRIBANIC
Counsel for Plaintiff/Petitioner

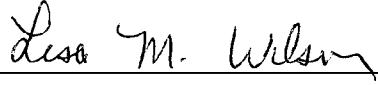
AFFIDAVIT OF COUNSEL

COMMONWEALTH OF PENNSYLVANIA }
COUNTY OF ALLEGHENY } S.S.

Before me, the undersigned notary public, this day personally appeared Victor H. Pribanic Esquire, of Pribanic & Pribanic, L.L.C., 1735 Lincoln Way, White Oak, Pennsylvania 15131, to me known or satisfactorily proven to me, who being duly sworn according to law, deposes and says that he is counsel for Petitioner/Plaintiff, Patricia Farnsworth, Personal Representative of the Estate of Frank Harszynski, and believes the proposed global settlement of \$45,000.00 is fair and reasonable and is the best attainable settlement under the circumstances. Counsel for Petitioner/Plaintiff and the Petitioner/Plaintiff have discussed and have agreed upon the allocation of the distribution of the global settlement.


VICTOR H. PRIBANIC

Sworn to and subscribed before me this 3rd day of December, 2007.


Notary Public

My Commission Expires:

COMMONWEALTH OF PENNSYLVANIA
Notarial Seal
Lisa M. Wilson, Notary Public
White Oak Boro, Allegheny County
My Commission Expires Nov. 9, 2011
Member, Pennsylvania Association of Notaries

This is to certify that this is a true copy of the record which is on file in the Pennsylvania Division of Vital Records in accordance with Act 66, P.L. 304, approved by the General Assembly, June 29, 1953.

WARNING: It is illegal to duplicate this copy by photostat or photograph.

Calvin B. Johnson, M.D., M.P.H.
Secretary of Health



Charles Hardester
State Registrar

MAY 25 2006

3787668

No.

Date

023554

COMMONWEALTH OF PENNSYLVANIA • DEPARTMENT OF HEALTH • VITAL RECORDS
CERTIFICATE OF DEATH

TYPE/PRINT
IN
PERMANENT
BLACK INK

H105.143 Rev 2/87

1. NAME OF DECEDENT (First, Middle, Last) Frank P. Harzinski		2. SEX Male	3. SOCIAL SECURITY NUMBER 160 - 12 - 0639	4. DATE OF DEATH (Month, Day, Year) February 21, 2003
5. AGE (Last Birthday) 84	6. DATE OF BIRTH (Month, Day, Year) 4-19-18	7. BIRTHPLACE (City and State or Foreign Country) Curwensville, PA	8. PLACE OF DEATH (Check only one - see instructions on other side) HOSPITAL: <input type="checkbox"/> Inpatient <input type="checkbox"/> EPT/Outpatient <input type="checkbox"/> DCA <input type="checkbox"/> OTHER: <input type="checkbox"/> Nursing Home <input type="checkbox"/> Residence <input checked="" type="checkbox"/> Other (Specify) <input type="checkbox"/>	
9. COUNTY OF DEATH Clearfield	10. CITY, BORO, TWP OF DEATH Clearfield Boro	11. FACILITY NAME (If not institution, give street and number) 304 Margaretta St.	12. WAS DECEDENT OF HISPANIC ORIGIN? <input type="checkbox"/> No <input type="checkbox"/> Yes (Specify Cuban, Mexican, Puerto Rican, etc.)	13. RACE (Specify) White
14. DECEDENT'S USUAL OCCUPATION (Give kind of work done during most of working life, do not use retired) Laborer	15. KIND OF BUSINESS/INDUSTRY Leather Industry	16. WAS DECEDENT EVER IN U.S. ARMED FORCES? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	17. DECEDENT'S EDUCATION (Specify only highest grade completed) Elementary/Secondary	18. MARITAL STATUS: Married <input type="checkbox"/> Never Married <input type="checkbox"/> Widowed <input type="checkbox"/> Divorced (Specify)
19. DECEDENT'S MAILING ADDRESS (Street, City/Town, State, Zip Code) 304 Margaretta St. Clearfield, PA 16830		20. DECEDENT'S ACTUAL RESIDENCE (See instructions on other side) PA	21. State PA	22. Did decedent live in a township? <input type="checkbox"/> No, decedent lived within actual limits of Clearfield
23. FATHER'S NAME (First, Middle, Last) Michael L. Harzinski		24. MOTHER'S NAME (First, Middle, Maiden Surname) Victoria Vesoloski		
25. INFORMANT'S NAME (Type/Print) Donna McCullough		26. INFORMANT'S MAILING ADDRESS (Street, City/Town, State, Zip Code) P.O. Box 77, Mineral Springs, PA 16855		
27. METHOD OF DISPOSITION Donation <input type="checkbox"/> Burial <input checked="" type="checkbox"/> Cremation <input type="checkbox"/> Removal from State <input type="checkbox"/> Other (Specify) <input type="checkbox"/>		28. DATE OF DISPOSITION (Month, Day, Year) 2-25-03		
29. SIGNATURE OF FUNERAL SERVICE LICENSEE OR PERSON ACTING AS SUCH <i>[Signature]</i>		30. LICENSE NUMBER FD 012233 L		
31. Complete items 23a-c only when certifying physician is not available at time of death to certify cause of death.		32. DATE OF DEATH 2-21-03		
33. TIME OF DEATH 2:10 P.M.		34. DATE PRONOUNCED DEAD (Month, Day, Year) 2-21-03		
35. PART I: Enter the diseases, injuries or complications which caused the death. Do not enter the mode of dying, such as cardiac or respiratory arrest, shock or heart failure. List only one cause on each line. Coronary Artery Disease		36. PART II: Other significant conditions contributing to death, but not resulting in the underlying cause given in PART I: 4/0 HTN 4/0 HTA Renal insufficiency		
37. IMMEDIATE CAUSE (Final disease or condition resulting in death) Coronary Artery Disease		38. DUE TO (OR AS A CONSEQUENCE OF): Coronary Artery Disease		
39. SEQUENTIALLY LIST CONDITIONS if any, leading to immediate cause. Enter UNDERLYING CAUSE (Disease or injury that initiated events resulting in death) LAST.		40. MANNER OF DEATH <input checked="" type="checkbox"/> Natural <input type="checkbox"/> Homicide <input type="checkbox"/> Accident <input type="checkbox"/> Pending investigation <input type="checkbox"/> Suicide <input type="checkbox"/> Could not be determined		
41. WAS AN AUTOPSY PERFORMED? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		42. DATE OF INJURY (Month, Day, Year) 2-21-03		
43. WERE AUTOPSY FINDINGS AVAILABLE PRIOR TO COMPLETION OF CAUSE OF DEATH? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		44. TIME OF INJURY 3:00 P.M.		
45. CERTIFIER (Check only one) *CERTIFYING PHYSICIAN (Physician certifying cause of death when another physician has pronounced death and completed item 23) To the best of my knowledge, death occurred due to the cause(s) and manner as stated.		46. SIGNATURE AND TITLE OF CERTIFIER Bruno J. Romeo M.D.		
*PRONOUNCING AND CERTIFYING PHYSICIAN (Physician both pronouncing death and certifying to cause of death) To the best of my knowledge, death occurred at the time, date, and place, and due to the cause(s) and manner as stated.		47. LICENSE NUMBER MD-044125-L		
*MEDICAL EXAMINER/CORONER On the basis of examination and/or investigation, in my opinion, death occurred at the time, date, and place, and due to the cause(s) and manner as stated.		48. DATE SIGNED (Month, Day, Year) 2/24/03		
49. REGISTRAR'S SIGNATURE AND NUMBER <i>[Signature]</i>		50. NAME AND ADDRESS OF PERSON WHO COMPLETED CAUSE OF DEATH (Item 27) Type or Print Bruno J. Romeo, M.D. 820 Turnpike Ave. Clearfield, PA 16830		
51. DATE FILED (Month, Day, Year) February 24, 2003		52. PLACE OF INJURY - At home, farm, street, factory, office, building, etc. (Specify) Home		
53. LOCATION (Street, City/Town, State) Clearfield, PA		54. DATE OF DEATH (Month, Day, Year) February 21, 2003		

EXHIBIT

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A

Last Will and Testament

Inst. # 200304586

I hereby certify this to be a true and correct copy of the original document filed in this office.

NOV 3 2004

Attest:

Karen L. Starck
Reg. of Wills, Treas. of Records & Clk. of Court

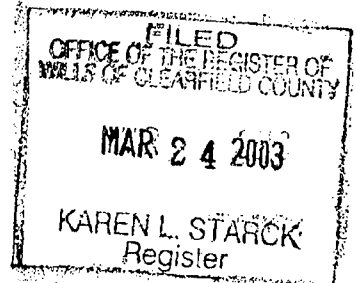
OF

FRANCIS P. HARZINSKI,

a/k/a

FRANK P. HARZINSKI

MY COMMISSION EXPIRES
FIRST MONDAY IN JANUARY 2008



I, FRANCIS P. HARZINSKI, a/k/a FRANK P. HARZINSKI, of 304 Margareta Street, Clearfield Borough, Clearfield County, Pennsylvania, do hereby make, publish and declare this as and for my Last Will and Testament, hereby revoking any and all prior Wills and any and all Codicils thereto, by me at any time heretofore made.

ITEM I: I direct that any and all my just debts and funeral expenses, including an appropriate grave marker, and all expenses of my last illness shall be paid out of my residuary estate as soon as practicable after my death.

ITEM II: I direct that any and all inheritance, estate and transfer taxes imposed upon my estate, passing under my Will or otherwise, shall be paid out of my residuary estate.

ITEM III: All the rest, residue and remainder of my estate, real, personal and mixed, of whatsoever kind and wheresoever situate, I give, devise and bequeath unto

EXHIBIT

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B

my daughter, PATRICIA GAIL FARNSWORTH, providing she survives me by thirty (30) days.

ITEM IV: In the event my said daughter, PATRICIA GAIL FARNSWORTH, not be living on the thirty-first (31st) day following my death, then I give, devise and bequeath all the rest, residue and remainder of my estate, real, personal and mixed, of whatsoever kind and wheresoever situate, in equal shares, to the surviving children of my daughter, PATRICIA GAIL FARNSWORTH.

ITEM V: I nominate, constitute and appoint my daughter, PATRICIA GAIL FARNSWORTH, as Executrix of this my Last Will and Testament. In the event of the renunciation, death resignation or inability to act for any reason whatsoever of my said daughter, PATRICIA GAIL FARNSWORTH, I nominate, constitute and appoint my granddaughter, DENISE McCREADIE, as successor Executrix of this my Last Will and Testament, with all the authority and powers granted to my original Executrix.

ITEM VI: I hereby relieve my Executrix from the necessity of posting security in connection with her duties as such in any jurisdiction in which she may be called upon to act insofar as I am able by law to do so.

IN WITNESS WHEREOF, I have hereunto set my hand and seal this 10th day of January, 2003, to this and the preceding one (1) page, and I have

also placed my initials on each page herein for purposes of greater security and better identification.

Francis P. Harzinski (SEAL)
FRANCIS P. HARZINSKI, a/k/a

Frank P. Harzinski (SEAL)
FRANK P. HARZINSKI

Signed, sealed, published and declared by the above-named Testator, FRANCIS P. HARZINSKI, a/k/a FRANK P. HARZINSKI, as and for his Last Will and Testament, in the presence of us, who at his request, in his presence and in the presence of each other, have hereunto subscribed our names as witnesses.

Lamara E. Smeal residing at *304 Margaretha St*
Clearfield Pa 16830

Levi M. Bumbarger residing at *410 E. Locust St*
Clearfield Pa 16830

COMMONWEALTH OF PENNSYLVANIA)

COUNTY OF CLEARFIELD)

SS.:)

We, FRANCIS P. HARZINSKI, a/k/a FRANK P. HARZINSKI, the Testator, Terri M. Bumbarger, and Tamara E. Smeal, the witnesses, being first duly sworn, do hereby declare to the undersigned authority that the Testator signed and executed the instrument as his Last Will and Testament and that he signed willingly, and that he executed it as his free and voluntary act for the purposes therein expressed, and that each of the witnesses, in the presence and hearing of the Testator, signed the Will as witnesses, and that to the best of their knowledge, the Testator was at the time eighteen (18) years of age or older, of sound mind and under no constraint or undue influence.

Francis P. Harzinski
FRANCIS P. HARZINSKI, a/k/a

Frank P. Harzinski
FRANK P. HARZINSKI

Tamara E. Smeal
Witness

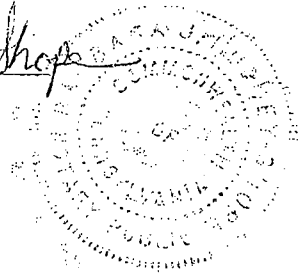
Terri M. Bumbarger
Witness

Subscribed, sworn to and acknowledged before me by FRANCIS P. HARZINSKI, a/k/a FRANK P. HARZINSKI, the Testator, and subscribed and sworn to before me by Tamara E. Smeal, and Terri M. Bumbarger, the witnesses, this 10th day of January, 2003.

Barbara J. Hugney-Shope
Notary Public

My Commission Expires:

NOTARIAL SEAL
BARBARA J. HUGNEY-SHOPE, Notary Public
Clearfield Boro, Clearfield County, PA
My Commission Expires Oct. 20, 2003



5952

SHORT CERTIFICATE

Certificate of Appointment of Executrix

Commonwealth of Pennsylvania
County of Clearfield

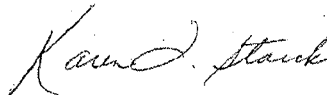
SS:

Social Security # 160-12-0639

The undersigned, Register for the Probate of Wills and granting Letters of Administration in and for the County of Clearfield, in the Commonwealth of Pennsylvania;

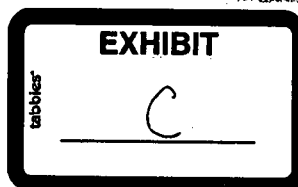
DO HEREBY CERTIFY and made known, that on the **24th** day of **March**, in the year of our Lord, **Two Thousand Two**, Letters of Testamentary on the Estate of **Francis P. Harzinski a/k/a Frank P. Harzinski**, deceased, were granted unto **Patricia Gail Farnsworth**, she, having first given security well and truly to administer the same. I further certify that said letters are in full force and effect at the present time, and entitled to full faith and credit.

GIVEN under my hand and seal of office this **24th** day of **March** in the year of our Lord, **Two Thousand Three**.



Register of Wills

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



RELEASE

This Release, dated _____, 2007, is given by the Releasors, **PATRICIA HARZINSKI, Personal Representative of the Estate of Frank Harzinski** (hereinafter referred to as "We"), to **CLEARFIELD COMMUNITY NURSES, HELPMATES, INC., NORMA J. PARENT, R.N.** (incorrectly identified as Norma J. Pant, R.N.), **CLEARFIELD HOSPITAL, SHARON GOODMAN, R.N., WESTERN WORLD INSURANCE GROUP, INC., WESTERN WORLD INSURANCE COMPANY, COMMUNITY HOSPITAL ALTERNATIVE FOR RISK TRANSFER (CHART), PROCLAIM AMERICA, INC.,** and their affiliates subsidiaries, divisions, directors, officers, shareholders, successors, employees, assignees, insurers and reinsurers (hereinafter referred to as "Releasees").

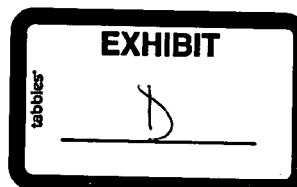
I. **Release.** We release and give up any and all claims and rights which we may have against Releasees. This releases all claims, including those of which we are not aware and those not mentioned in this Release. We specifically release the following:

A full and final Release of any and all claims that have been made against **CLEARFIELD HOSPITAL, SHARON GOODMAN, R.N., CLEARFIELD COMMUNITY NURSES AND NORMA J. PARENT, R.N.** (incorrectly identified as Norma J. Pant, R.N.) as set forth in an action pending in the Court of Common Pleas of **CLEARFIELD COUNTY, No. 2004-01555-CD** for which legal liability and damages have been disputed and denied.

It is expressly understood and agreed that the acceptance of the said amount is in full accord and satisfaction and in compromise of all disputed claims and demands and that the payment thereof is not an admission of liability but is made for the purpose of termination of all disputes and litigation between the parties.

It is further understood and agreed that the giving of this Release is not intended to release any other parties or persons other than those previously dismissed through Stipulation of counsel and that we reserve any causes of action that we may have against all other parties arising from said incident.

It is further understood and agreed that should any party to the litigation mentioned hereinabove who is not a signatory of this Release recover monies from the Releasees herein, then it is understood and agreed that the Releasors will fully indemnify the Releasees for such sums paid by the Releasees to said other parties. It is the intent of this Release and Covenant not to sue and that the Releasees will have no residual monetary liability to the Releasors over and above the **Forty Five Thousand Dollars (\$45,000.00)** which is to be paid to the Releasors by the Releasees.



2. **Warranty of Capacity to Execute Agreement.** We represent and warrant that no other person or entity has now or have had any interest in the claims, demands, obligations, or causes of action referred to in this release and that we have the sole right and exclusive authority to execute this release and receive the sum specified. We further represent that we have not sold, assigned, transferred, conveyed or otherwise disposed of any of the claims, demands, obligations or causes of action referred to in this release.

3. **Entire Agreement.** This Release contains the entire agreement between the plaintiffs and defendant and the insurers concerning the matters set forth in this document and shall be binding upon and ensure to the benefit of the executors, administrators, personal representatives, heirs, successors and assigns of each.

4. **Representation of Comprehension of Document.** In executing this release, we represent that we have relied upon the legal advice of our attorney who is the attorney of our own choice and that the terms of this release have been completely read and explained by our attorney and that those terms are fully understood and voluntarily accepted.

5. **No Admission of Liability.** It is further understood that in agreeing to settle this matter, the defendant is not admitting to liability in any fashion but is authorizing its insurance company to settle this claim.

6. **Liens.** We hereby certify that no liens exist against the proceeds of this settlement that is being paid to us, or that if any liens do exist, they will be paid in full, or compromised and released by us. If a lien exists which is not satisfied as required by this Agreement, and a claim is made by anyone to enforce that lien, we agree that we will pay that lien in full. This is intended to include all liens, including but not limited to attorney's liens, medical provider liens, Medicare and Medicaid liens, workers' compensation liens, all statutory or common law liens, and judgment liens. Releasors' attorney has investigated the existence of such liens and we are making this statement based upon information known to us and/or supplied to us by our attorney. Therefore, our attorney and we agree to indemnify and hold Releasees harmless in connection with any claims made against Releasees by reason of liens against the proceeds of this settlement. In the event a claim is hereafter made against Releasees by anyone seeking payment of the liens, the Releasors and Releasors' attorney will hold Releasees harmless for any money spent in payment of any such liens and/or defending against such a claim, including but not limited to attorney's fees, costs of suit, and interest.

7. **Indemnification.** In the event we shall recover any monies from any person or entity who thereafter seeks indemnification from Releasees arising from claims released in this document, we shall indemnify and hold Releasees harmless for any money spent in defending against these claims including, but not limited to, attorney's fees, costs of suit, judgment or settlement.

8. **Non-disclosure Agreement.** The parties mutually agree that neither they nor their attorneys or representatives shall reveal to anyone, other than as may

be mutually agreed to in writing, any of the terms of this settlement or release or any of the amounts, numbers or terms and conditions of any sums payable to the Releasors under the agreement and release. This non-disclosure agreement does not apply to bar disclosures for the purposes of obtaining legal, tax, accounting, or financial advice, or to disclosures which may be required by law, to disclose for the purposes of obtaining or maintaining publicly or privately funded benefits or insurance, or to disclosures made in the course of further prosecution of the within matter against non-settling defendants, or to disclosures made in the course of any Friendly Hearing needed to approve the within settlement, or to disclosures for the purposes of effectuating any trust which have been or which may be established in the future for the benefit of Releasors.

9. **Payment.** We have been paid a total of **\$45,000.00**, in full payment for making this Release. We agree that we will not seek anything further, including any other payments from Releasees.

10. **Who Is Bound.** We are bound by this Release, as are any heirs and executors of our Estate. This Release is made for Releasees' benefit and all who succeed to Releasees' rights and responsibilities.

11. **Signatures.** We understand and agree to the terms of this Release.

Witnessed By:

PATRICIA FARNSWORTH

COMMONWEALTH OF PENNSYLVANIA:

SS.

COUNTY OF CLEARFIELD:

I certify that on the _____ day of _____, 2007, Patricia Farnsworth, Personal Representative of the Estate of Frank Harzinski personally appeared before me and acknowledged, under oath, to my satisfaction, that this person:

(a) is named in and personally signed this document; and

(b) signed, sealed and delivered this document as her act and deed.

Sworn to and subscribed
before me this _____ day
of _____, 2007.

Notary Public

VERIFICATION

Petitioner verifies that the statements made herein are true and correct. Petitioner understands that false statements herein are made subject to the penalties of 18 Pa.S.C. Section 4904 relating to unsworn falsifications to authorities.

Date: Dec 1, 2007

Patricia Farnsworth
PATRICIA FARNSWORTH

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

PATRICIA FARNSWORTH, Personal
Representative of the ESTATE of
FRANK HARZINSKI,

Plaintiff,

vs.

CLEARFIELD HOSPITAL, SHARON
GOODMAN, R.N., CLEARFIELD
COMMUNITY NURSES, and NORMA
J. PARENT, R.N., incorrectly identified as
NORMA J. PANT, R.N.,

Defendants.

CIVIL DIVISION

No.: 04-1555-CD

FILED ^{icc}
014:00/61 ^{Att'y}
DEC 07 2007 ^{Pribanic}
William A. Shaw
Prothonotary/Clerk of Courts ^{GR}

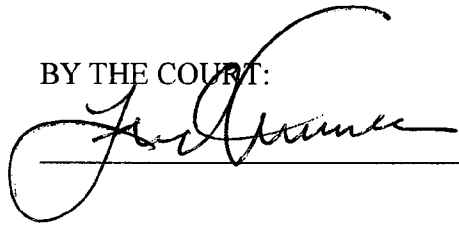
ORDER OF COURT

AND NOW, to wit this 7 day of December, 2007, upon consideration of the foregoing Petition, it is HEREBY ORDERED, ADJUDGED AND DECREED that settlement of this claim is subject to the Survival Statute pursuant to the provisions of 42 PA. C.S. §8302 for the sum of \$45,000.00 is approved and distribution is directed as follows:

- a) The Full and Final Release is to be executed on behalf of the Estate of Frank Harszynski by Patricia Farnsworth, Personal Representative;
- b) Patricia Farnsworth, Personal Representative of the Estate of Frank Harszynski, shall pay any subrogation claim owed by the Estate from the \$11,101.34 held in escrow pending resolution of the Medicare lien;
- c) The sum of \$14,998.50 to be paid to Pribanic & Pribanic, L.L.C., attorneys for Petitioner and the Estate of Frank Harszynski, as counsel fees;

- d) The sum of \$7,271.50 to be paid to Pribanic & Pribanic, L.L.C., and attorneys for Petitioner and the Estate of Frank Harszynski for reimbursement of costs expended; and,
- e) The balance of the Estate minus any subrogation claims be paid pursuant to 42 PA. C.S. §8302 directly to Patricia Farnsworth, the beneficiary of Decedent's Estate.

BY THE COURT:



J.

FILED

DEC 07 2007

William A. Shaw
Prothonotary/Clerk of Courts

DATE: 12/7/07

☒ 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:

UA

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

FILED

DEC 17 2007

m 12:00/1W
William A. Shaw
Prothonotary/Clerk of Courts

1 cent TO ATT

PATRICIA FARNSWORTH, Personal
Representative of the ESTATE of
FRANK HARZINSKI,

Plaintiff,

vs.

CLEARFIELD HOSPITAL, SHARON
GOODMAN, R.N., CLEARFIELD
COMMUNITY NURSES, and NORMA
J. PARENT, R.N., incorrectly identified as
NORMA J. PANT, R.N.,

Defendants.

CIVIL DIVISION

No.: 04-1555-CD

**PETITION TO FILE UNDER SEAL
THE PETITION FOR APPROVAL OF
SETTLEMENT AND DISTRIBUTION
OF DECEDENT'S CLAIM AND
CORRESPONDING ORDER OF
COURT**

Filed on behalf of Plaintiff:

PATRICIA FARNSWORTH

Counsel of record for this party:

VICTOR H. PRIBANIC
PA I.D. No. 30785

PRIBANIC & PRIBANIC, L.L.C.
1735 Lincoln Way
White Oak, PA 15131

(412) 672-5444

SLP

JURY TRIAL DEMANDED

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

PATRICIA FARNSWORTH, Personal	]	CIVIL DIVISION
Representative of the ESTATE of]	
FRANK HARZINSKI,	]	No.: 04-1555-CD
]	
Plaintiff,]	
]	
vs.]	
]	
CLEARFIELD HOSPITAL, SHARON]	
GOODMAN, R.N., CLEARFIELD]	
COMMUNITY NURSES, and NORMA]	
J. PARENT, R.N., incorrectly identified as]	
NORMA J. PANT, R.N.,]	
]	
Defendants.]	

PETITION TO FILE UNDER SEAL
PLAINTIFF'S PETITION FOR SETTLEMENT AND DISTRIBUTION OF
DECEDANT'S CLAIM
AND CORRESPONDING ORDER OF COURT

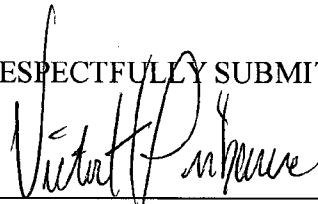
Petitioner, Patricia Farnsworth, personal representative of the Estate of Frank Harzinski, files the following Petition and proposed Order of Court by and through her attorney, Victor H. Pribanic, and Pribanic & Pribanic, L.L.C., and in support thereof aver the following:

1. A Petition for Settlement and Distribution of Decedent's Claim was filed on or about December 6, 2007.
2. On or about December 7, 2007 an Order of court attached to that petition was signed by The Honorable Judge Frederic J. Ammerman granting settlement of Decedent's Claim.
3. A non-publicity clause is contained in the release, a copy of which is attached to the Petition for Settlement of Decedents claim.

4. Petitioner respectfully requests this Honorable Court grant permission to the Prothonotary of Clearfield County to file both the Petition for Approval of Settlement and Distribution of Decedent's Estate and the corresponding Order of Court under seal.

WHEREFORE, Petitioner respectfully requests this Honorable Court enter an Order approving the Seal of the Petition for Settlement Distribution of the decedent's claim and corresponding Order of December 7, 2007.

RESPECTFULLY SUBMITTED,

A handwritten signature in cursive script, appearing to read "Victor H. Pribanic", written over a horizontal line.

VICTOR H. PRIBANIC

Counsel for Plaintiff/Petitioner

Prothonotary/Clerk of Courts
William A. Shaw

DEC 17 2007

FILED

Order returned 12/18/07-

Judge Ammerman will not sign.

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

PATRICIA FARNSWORTH, Personal
Representative of the ESTATE of
FRANK HARZINSKI,

Plaintiff,

vs.

CLEARFIELD HOSPITAL, SHARON
GOODMAN, R.N., CLEARFIELD
COMMUNITY NURSES, and NORMA
J. PARENT, R.N., incorrectly identified as
NORMA J. PANT, R.N.,

Defendants.

CIVIL DIVISION

No.: 04-1555-CD

ORDER OF COURT

AND NOW, to wit this _____ day of _____, 2007, upon
consideration of the foregoing Petition, it is HEREBY ORDERED, ADJUDGED AND
DECREED that the Petition for Settlement and Distribution of Decedent's Claim and
accompanying order of court dated December 7, 2007 be GRANTED and will be filed under Seal
by the Prothonotary of Clearfield County.

BY THE COURT:

J.

CP*

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

PATRICIA FARNSWORTH, Personal Representative
of the ESTATE OF FRANK HARZINSKI
Plaintiff

vs.

CLEARFIELD HOSPITAL, SHARON GOODMAN, R.N.,
CLEARFIELD COMMUNITY NURSES, and
NORMA J. PARENT, R.N., incorrectly identified as
NORMA J. PANT, R.N.,
Defendants

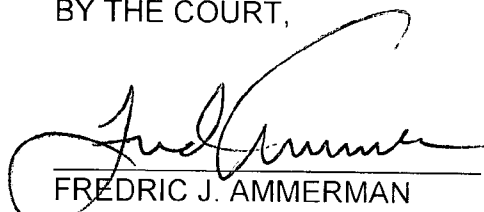
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*
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*
*

NO. 04-1555-CD

ORDER

NOW, this 17th day of January, 2008, the Court being in receipt of and having reviewed the Plaintiff's Petition to File Under Seal the Petition for Approval of Settlement and Distribution of Decedent's Claim and Corresponding Order of Court; it is the ORDER of this Court that said Petition be and is hereby DENIED.

BY THE COURT,


FREDRIC J. AMMERMAN
President Judge

FILED ^{6cc}
01/10/2008
JAN 18 2008
Atty. Prabanic
(GR)

William A. Shaw
Prothonotary/Clerk of Courts

FILED

JAN 18 2008

William A. Shaw
Prothonotary/Clerk of Courts

DATE: 1/8/08

☒ 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:

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

PATRICIA FARNSWORTH, Personal
Representative of the ESTATE of
FRANK HARZINSKI,

Plaintiff,

vs.

CLEARFIELD HOSPITAL, SHARON
GOODMAN, R.N., CLEARFIELD
COMMUNITY NURSES, and NORMA
J. PARENT, R.N., incorrectly identified as
NORMA J. PANT, R.N.,

Defendants.

CIVIL DIVISION

No.: 04-1555-CD

**PRAECIPE TO SETTLE
and DISCONTINUE**

Filed on behalf of Plaintiff:

PATRICIA FARNSWORTH

Counsel of record for this party:

VICTOR H. PRIBANIC
PA I.D. No. 30785

PRIBANIC & PRIBANIC, L.L.C.
1735 Lincoln Way
White Oak, PA 15131

(412) 672-5444

SLP

FILED *iccd/cert*
m/11: 50cm of disc issued
JAN 22 2008 *to Atty Pribanic*
(57) copy to C/A
William A. Shaw
Prothonotary/Clerk of Courts

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

PATRICIA FARNSWORTH, Personal
Representative of the ESTATE of
FRANK HARZINSKI,

Plaintiff,

vs.

CLEARFIELD HOSPITAL, SHARON
GOODMAN, R.N., CLEARFIELD
COMMUNITY NURSES, and NORMA
J. PARENT, R.N., incorrectly identified as
NORMA J. PANT, R.N.,

Defendants.

CIVIL DIVISION

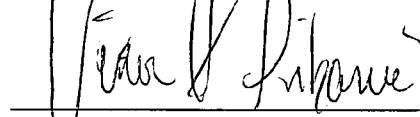
No.: 04-1555-CD

PRAECIPE TO SETTLE AND DISCONTINUE

To The Prothonotary:

Kindly settle and discontinue the above-captioned action.

RESPECTFULLY SUBMITTED:



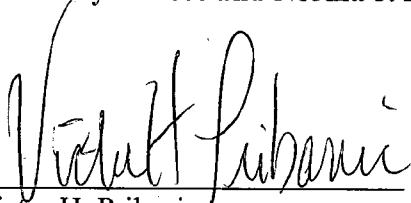
VICTOR H. PRIBANIC
Counsel for Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the within has been served via U. S. Postal Service postage prepaid on the 17th day of January, 2008 upon the following:

Frank J. Hartye, Esquire
McINTYRE, DUGAS, HARTYE & SCHMITT
P.O. Box 533
Hollidaysburg, PA 16648
Counsel for Defendants Clearfield Hospital and Sharon Goodman, R.N.

Daniel J. McCarthy, Esquire
MINTZER SAROWITZ ZERIS LEDVA & MEYERS
1528 Walnut Street, 22nd Floor
Philadelphia, PA 19102-3614
Counsel for Defendants Clearfield Community Nurses and Norma J. Parent, R.N.


Victor H. Pribanic

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

CIVIL DIVISION

COPY

**Patricia Farnsworth, personal
Representative of the Estate of
Frank Harzinski**

Vs.

No. 2004-01555-CD

**Clearfield Hospital, Sharon Goodman,
Clearfield Community Nurses,
Norma J. Parent R.N**

CERTIFICATE OF DISCONTINUATION

Commonwealth of PA
County of Clearfield

I, William A. Shaw, Prothonotary of the Court of Common Pleas in and for the County and Commonwealth aforesaid do hereby certify that the above case was on January 22, 2008, marked:

Settled and discontinued

Record costs in the sum of \$92.00 have been paid in full by Victor H. Pribanic Esq .

IN WITNESS WHEREOF, I have hereunto affixed my hand and seal of this Court at Clearfield, Clearfield County, Pennsylvania this 22nd day of January A.D. 2008.



William A. Shaw, Prothonotary

LM