

06-327-CD  
Erin Lux vs Charles W. Rice D.P.M.

**Erin Lux vs Charles Rice et al**  
**2006-327-CD**

Date: 2/3/2009

**Clearfield County Court of Common Pleas**

User: LMILLER

Time: 09:53 AM

ROA Report

Page 1 of 1

Case: 2006-00327-CD

Current Judge: No Judge

Erin E. Luxvs.Charles W. Rice, D.P.M., et al

**Medical Professional Liability Action**

Date		Judge
3/2/2006	New Case Filed.	No Judge
	✓ Filing: Civil Complaint Paid by: Cooper Owen & Renner PC Receipt number: 1912712 Dated: 3/2/2006 Amount: \$85.00 (Check) 3 cert. to sheriff.	No Judge
3/24/2006	✓ Certificate of Merit, Medical Liability case, as to Charles W. Rice, D.P.M., P.C. Filed by s/ Jeffrey R. Owen, Esquire. No CC	No Judge
	✓ Certificate of Merit, Medical Liability case, as to Charles W. Rice, D.P.M., filed by s/ Jeffrey R. Owen, Esquire. No CC	No Judge
	✓ Praeclipe for Appearance, filed. Kindly enter my appearance on behalf of the Defendants, Charles W. Rice, D.P.M. and Charles W. Rice, D.P.M., P. C. with respect to the captioned case, filed by s/ Christopher C. Rulis Esq. No CC.	No Judge
4/18/2006	✓ Sheriff Return, March 16, 2006 at 12:00 pm served the within Complaint on Charles W. Rice D.P.M.	No Judge
	March 16, 2006 at 12:00 pm-served the within Complaint on Charles W. Ric D.P.M. P.C. So Answers, Chester A. Hawkins, Sheriff by s/Marilyn Hamm Shff Hawkins costs pd by Cooper \$61.30	
4/19/2006	✓ Notice of Service of Interrogatories and Requests for Production of Documents directed to Plaintiff to Jeffrey R. Owens on on April 17, 2006 filed by s/ Christopher C. Rullis	No Judge
6/15/2006	✓ Motion For Admission Pro Hac Vice, filed by s/ Christopher C. Rulis. No CC	No Judge
6/21/2006	✓ Rule, NOW, this 21st day of June, 2006, upon consideration of Motion For Admission PRO HAC VICE, a Rule is hereby issued upon the parties to Show Cause why the motion should not be granted. Rule Returnable the 21st day of July, 2006, for filing written response. By The Court, /s/ Fredric J. Ammerman, Pres. Judge. 4CC Atty. Rulis	Fredric Joseph Ammerman
7/3/2006	✓ Answer and New Matter filed by s/ Christopher C. Rulis Esq. No CC.	No Judge
9/22/2006	✓ Notice of Service of Response to Interrogatories and Requests for Productic of Documents, filed by s/ Christopher Rulis Esq. No CC.	No Judge
3/5/2007	✓ Certificate Prerequisite to Service of a Subpoena Pursuant to Pa.R.C.P. 4009.22, filed by s/ Christopher Rulis Esq. NO CC.	No Judge
5/31/2007	✓ Certificate Prerequisite to Service of a Subpoena Pursuant to Pa.R.C.P. 4009.22, filed by s/ Christopher Rulis, Esquire. No CC	No Judge
9/25/2007	✓ Notice of Service of Request for Production of Expert Reports Directed to th Plaintiff, filed by s/ Christopher C. Rulis Esq. No CC.	No Judge
3/20/2008	✓ Notice of Service, filed. That Plaintiff's Request to Defendants for Productior of Expert Report was served this 18th day of March 2008 upon Christopher C. Rulis Esq. and Larry M. Waranch Esq., filed by s/ Jeffrey R. Owen Esq. NO CC.	No Judge
2/2/2009	Order, this 2nd day of Feb., 2009, Defendant's Motion for Admission Pro Ha Vice is Granted and Larry M. Waranch is admitted to the Bar of the Commonwealth for purposes limited to involvement in the above-captioned matter. by The Court, /s/ Fredric J. Ammerman, Pres. Judge. 3CC Atty. Rulis	No Judge

Date: 11/13/2008

**Clearfield County Court of Common Pleas**

User: LMILLER

Time: 08:31 AM

Hearings by Judge

Page 5 of 5

CT COMMON PLEAS,

All Case Types

From 11/17/2008 08:00 AM to 11/21/2008 05:00 PM

Paul E. Cherry

Begin Date and Time    End Date and Time

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11/20/2008 01:30 PM    11/20/2008 02:30 PM    **Jacqueline R. Michelitsch, et al. vs. Lisa L. Gobbler, et al.**

Case: 2008-00115-CD

Custody Conference

Courtroom:

Plaintiffs: Michelitsch, Jacqueline R.

Attorney: Vrobel, Benjamin J.

Michelitsch, Kirk E.

Attorney: Vrobel, Benjamin J.

Defendants: Gobbler, Lisa L.

**Days to Speedy Trial:**

**Speedy Trial Date:**

Alias: Lisa L. Gabler (1 of 1)

Attorney: Heltzel, Lea Ann

Michelitsch, Kirk M.

**Days to Speedy Trial:**

**Speedy Trial Date:**

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11/21/2008 10:30 AM    11/21/2008 11:30 AM    **Kelly J. Hoy vs. Theresa A. Rinehart**

Case: 2008-02016-CD

Custody Conference

Courtroom:

Plaintiff: Hoy, Kelly J.

Attorney: Naddeo, James A.

Defendant: Rinehart, Theresa A.

**Days to Speedy Trial:**

**Speedy Trial Date:**

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IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

ERIN E. LUX, )  
Plaintiff ) CIVIL DIVISION  
vs. ) Case No.: 2006-327-CD  
CHARLES W. RICE, D.P.M., and )  
CHARLES W. RICE, D.P.M., P.C. )  
Defendants )

Filed on behalf of ERIN E. LUX,

Plaintiff

Counsel of Record for this Party:

Jeffrey R. Owen, Esquire  
PA I.D. #45896

COOPER OWEN & RENNER, P.C.  
Firm #233

1600 Benedum-Trees Building  
223 Fourth Avenue  
Pittsburgh, PA 15222-1713  
(412) 281-9696

A JURY TRIAL IS HEREBY DEMANDED:

  
Jeffrey R. Owen, Esquire  
Counsel For Plaintiff,  
Erin E. Lux

**FILED**

MAR 02 2006  
12:25 PM  
William A. Shaw  
Prothonotary/Clerk of Courts

3 cents to Staff

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

ERIN E. LUX,	)	
	)	CIVIL DIVISION
	)	
Plaintiff	)	Case No.:
	)	
	)	
vs.	)	
	)	
	)	
CHARLES W. RICE, D.P.M., and	)	
CHARLES W. RICE, D.P.M., P.C.	)	
	)	
Defendants	)	

**NOTICE TO DEFEND**

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

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

**Office of Court Administrator  
Clearfield County Courthouse  
230 East Market Street  
Clearfield, PA 16830  
(814) 765-2641 Ext. 50-51**

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

ERIN E. LUX )  
 ) CIVIL DIVISION  
 )  
 Plaintiff ) Case No.:  
 )  
 )  
 )  
 vs. )  
 )  
 )  
 )  
 )  
 CHARLES W. RICE, D.P.M. ,and )  
 CHARLES W. RICE, D.P.M., P.C. )  
 )  
 )  
 )  
 Defendants )

**COMPLAINT**

AND NOW, comes the Plaintiff, Erin E. Lux, by and through her Counsel, Cooper Owen & Renner, P.C. and Jeffrey R. Owen, Esquire, and files this Complaint, of which the following is a statement.

1. Plaintiff Erin E. Lux (“Erin Lux”) is an adult individual residing within the Commonwealth of Pennsylvania at 653 Sher De Lin Road, Du Bois, Clearfield County, Pennsylvania 15801.

2. Defendant Charles W. Rice, D.P.M. ("Charles Rice") is an adult individual licensed as a Doctor of Podiatric Medicine in the Commonwealth of Pennsylvania at licence number SC002358L, and with his principle place of business at Charles W. Rice, D.P.M., P.C., 90 Beaver Drive #13, Du Bois, Clearfield County, Pennsylvania 15801.

3. Defendant Charles W. Rice, D.P.M., P.C. is a professional Corporation (referred to herein as the "Professional Corporation"), formed by Charles Rice, and created pursuant to the Laws of the Commonwealth of Pennsylvania with a stated business purpose of conducting the practice of Podiatry, and with its registered office and principle place of business at 90 Beaver Drive #13, Du Bois, Clearfield County, Pennsylvania 15801.

4. At all times relevant hereto, Defendant Charles Rice was and is the Chief Executive officer of, and an employee and agent of, the Professional Corporation.

5. Prior to June 7, 2002, Plaintiff Erin Lux suffered an injury to her right foot, namely a fracture of the tibial sesamoid bone in her right foot.

6. On or about June 7, 2002, Erin Lux came under the continuing treatment and care of Charles Rice and the Professional Corporation.

7. Charles Rice performed an examination, including the review of x-ray films of Erin Lux's right foot, in which he made orthopedic findings, supported by the x-ray images, of a fracture of the tibial sesamoid of the right foot, resulting in the prescription of pain medication and a course of treatment which continued through 2003 and into 2004.

8. Thereafter, on or about March 3, 2004, Charles Rice undertook to perform surgery upon Erin Lux's right foot, having informed her of the need to surgically remove the fractured sesamoid bone.

9. When performing the surgery, Charles Rice surgically removed a different bone in the right foot, the unfractured fibular sesamoid bone, and left the fractured tibial sesamoid still in her foot.

10. Defendant Charles Rice was negligent and failed to provide the acceptable standard of care to Erin Lux in removing the fibular sesamoid instead of the tibial sesamoid, either through a failure to properly diagnose the condition suffered by Erin Lux, or through a failure to identify and remove the actual fractured sesamoid bone, thereby causing Erin Lux to suffer serious, permanent and irreversible injuries.

11. Defendant, Charles Rice was negligent, and committed professional malpractice in his treatment of Erin Lux, including but not limited to the following:

- a. In negligently confusing which sesamoid bone of Erin Lux's right foot was fractured.
- b. In the alternative, mistakenly misdiagnosing the injury to the tibial sesamoid as being a malady of the fibular sesamoid , and then surgically removing that bone from Erin Lux's right foot.
- c. In the alternative, mistakenly removing the fibular sesamoid when he intended to remove the tibial sesamoid.
- d. In failing to properly interpret , and/or in the alternative, in failing to properly treat Erin Lux based upon the information provided by the diagnostic x-rays and/or diagnostic images of Erin Lux's right foot;
- e. In failing to seek proper consultation of other medical professionals qualified to diagnose Erin Lux's condition and/or properly interpret the x-rays and diagnostic images;
- f. In failing to adequately, or accurately examine the condition suffered by Erin Lux in her right foot;
- g. In failing to accurately diagnose, or in the alternative, negligently changing his diagnosis of the injury suffered by Erin Lux;

- h. In failing to accurately and/or correctly record and/or fully review his medical notations to insure that the proper course of treatment was being undertaken;
- i. In failing to properly and adequately treat the fractured tibial sesamoid bone suffered by Erin Lux;
- j. In failing to adequately and fully explain the condition suffered by Erin Lux and failing to warn her of the risks of the surgery undertaken, to such a level as to preclude her from giving informed consent to the operative procedure that he performed;
- k. In removing the wrong sesamoid bone from Erin Lux's right foot, or in the alternative, wrongly determining that he would remove the fibular sesamoid when in fact the tibial sesamoid was damaged;
- l. In failing to adequately treat Erin Lux post-operatively; and
- m. In failing to comprehend his error, or in the alternative, failing to inform Erin Lux of the improper treatment that he had given in removing the wrong sesamoid bone.

12. Following the Surgery, Erin Lux continued to seek treatment from Charles Rice due to the unabated and increasing severe pain experienced in her right foot.

13. Despite a continuing course of treatment by Charles Rice through July 5, 2005, during which Erin Lux continued to have severe pain in her right foot, at no time did Charles Rice inform her that she still suffered from the presence of a fractured tibial sesamoid bone in her right foot, or properly treat her condition as a fractured tibial sesamoid bone.

14. The fractured tibial sesamoid bone in Erin Lux's right foot is clearly apparent on both pre-operative and post-operative films of her foot.

15. Prior to the removal of Erin Lux's fibular sesamoid bone, it may have been possible to remove the tibial sesamoid that was actually fractured. However, due to the physiology of the foot, the fractured tibial sesamoid bone still present in Erin Lux's right foot cannot now be safely removed because of the high risk of instability and deformity of the right big toe that would result from the removal of this last remaining sesamoid bone.

16. As a result, Erin Lux is now permanently injured and disfigured as a direct and proximate result of the surgery and course of treatment undertaken by Charles Rice.

17. As a further result, Erin Lux has suffered and will continue to suffer physical pain, disfigurement, loss of function and ability, mental anguish, embarrassment, humiliation, discomfort, inconvenience, and distress.

18. The Defendant Professional Corporation at all times relevant hereto, has employed the services of Defendant Charles W. Rice, D.P.M. and is liable as his employer, principal, and by respondent superior for his actions and negligence in the treatment of Erin Lux.

**Count I**  
**Negligence**  
**(Professional Negligence)**  
**Plaintiff Erin E. Lux vs.**  
**Defendant Charles W. Rice, D.P.M.**

19. Paragraphs 1 through 18 and 24 through 35 are hereby incorporated by reference as if fully restated herein.

20. Because of the improper treatment and care given by Charles Rice, including the improper removal of her fibular sesamoid bone, Erin Lux has suffered and sustained serious, irreversible, and untreatable injury.

21. Because of her injuries, Erin Lux has suffered and will continue to suffer physical pain, disfigurement, loss of function and ability, mental anguish, embarrassment, humiliation, discomfort, inconvenience, and distress that will remain chronic and irreparable for the remainder of her life.

22. The negligence of Defendant Charles W. Rice D.P.M. was and is a substantial factor in causing the serious injuries suffered by the Plaintiff, Erin E. Lux.

23. Because of the injuries inflicted by Charles Rice, Erin Lux has suffered and will continue to suffer damage, including but not limited to loss of enjoyment of life, loss of earnings and earning capacity, past and future medical expenses, incidental expenses, and an inability to undertake the normal and customary activities of her life, which are and will continue to be curtailed by the condition of her right foot.

WHEREFORE, Plaintiff, Erin E. Lux demands judgment against Defendant Charles W. Rice D.P.M. for an amount in excess of the statutory arbitration limits for the injuries and damages she has suffered, together with her costs and expenses expended herein.

**Count II**  
**Negligence**  
**Plaintiff Erin E. Lux vs.**  
**Defendant Charles W. Rice, D.P.M., P.C.**

24. Paragraphs 1 through 23 and 29 through 35 are hereby incorporated by reference as if fully restated herein.

25. At the time and place of the surgery, and during the course of treatment of the Plaintiff by Charles Rice described herein, Charles Rice was an agent and/or employee of Defendant Charles W. Rice, D.P.M., P.C. (the "Professional Corporation"), and was at all times relevant hereto acting within the scope and course of his duties and/or employment responsibilities.

26. The Professional Corporation is incorporated for the purpose of conducting Podiatric Medicine through the services of Defendant Charles Rice, its employee licensed to undertake the practice of podiatry.

27. The Defendant Professional Corporation is directly liable to Erin Lux for its own activities, as well as for the actions of its agent and employee Charles Rice, including but not limited to the following particulars:

- a. Its failure to allocate sufficient resources to the practice of podiatry, or in support of the activities of Charles Rice as a Podiatrist, and failure to provide oversight and safeguards in its mode of operation, so as to avoid the negligence and mistakes made in removing the wrong sesamoid bone from Erin Lux's right foot;
- b. Failing to adequately supervise its employee and agent, Charles Rice;
- c. Failing to inform Erin Lux of the improper diagnosis, or in the alternative improper and mistaken removal of the fibular sesamoid bone of her right foot; and
- d. Failing to take corrective measures once the errors and negligence of Charles Rice were apparent.

28. The negligence of Defendant Charles W. Rice D.P.M., P.C. was and is a substantial factor in causing the serious injuries suffered by the Plaintiff, Erin E. Lux.

WHEREFORE, Plaintiff, Erin E. Lux demands judgment against Defendant Charles W. Rice D.P.M. for an amount in excess of the statutory arbitration limits for the injuries and damages she has suffered, together with her costs and expenses expended herein.

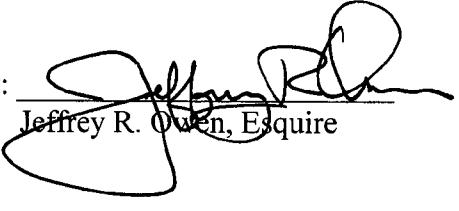
**Count III**  
**Medical Battery**  
**Plaintiff Erin E. Lux vs.**  
**Defendant Charles W. Rice, D.P.M.**  
***and***  
**Defendant Charles W. Rice, D.P.M., P.C.**

29. Paragraphs 1 through 28 are hereby incorporated by reference as if fully restated herein.
30. Defendant Charles Rice failed to adequately inform or provide material information to Erin Lux necessary to permit her to determine whether to proceed with the surgical procedure or to remain in her present condition; and failed to provide Erin Lux with a true understanding of the nature of the operation to be performed, the seriousness of it, the parts of the body involved, the incapacity sought to be cured, and the possible results thereof.
31. Defendant Charles Rice further failed to advise Erin Lux of those material facts, risks, complications, and alternatives to surgery that a reasonable person in the patient's situation would consider significant in deciding whether to have the operation in question.
32. Defendant Charles Rice further failed to differentiate to Erin Lux the different sesamoid bone structures of her right foot, and to fully and completely inform her as to the risks inherent in removing the fibular sesamoid bone while leaving the fractured tibial sesamoid in her foot.
33. Defendant Charles Rice, erroneously referenced to Erin Lux only the removal of the fractured sesamoid bone when he apparently mistakenly intended to remove the intact fibular sesamoid bone.
34. In the alternative, Defendant Charles Rice, negligently removed the fibular sesamoid bone instead of the tibial sesamoid.
35. Such activity constitutes medical battery for which both defendant Charles Rice and the defendant Professional corporation are liable.

WHEREFORE, Plaintiff, Erin E. Lux demands judgment against Defendant Charles W. Rice D.P.M., and Charles W. Rice, D.P.M., P.C. for an amount in excess of the statutory arbitration limits for the injuries and damages she has suffered, together with her costs and expenses expended herein.

**A JURY TRIAL IS DEMANDED.**

Cooper Owen & Renner, P.C.

By: 

Jeffrey R. Owen, Esquire

**VERIFICATION**

I, Erin E. Lux, aver that the statements contained in the foregoing Complaint are true and correct to the best of my personal knowledge or information and belief.

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

Date: March 1, 2006

  
Erin E. Lux

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

ERIN E. LUX, ) CIVIL DIVISION  
                  )  
Plaintiff       ) Case No.: 2006-327-CD  
                  )  
                  )  
vs.              )  
                  )  
CHARLES W. RICE, D.P.M., and )  
CHARLES W. RICE, D.P.M., P.C. )  
                  )  
Defendant       )

**CERTIFICATE OF MERIT AS TO  
CHARLES W. RICE, D.P.M., P.C.**

Filed on behalf of ERIN E. LUX,  
Plaintiff

Counsel of Record for this Party:

Jeffrey R. Owen, Esquire  
PA I.D. #45896

COOPER OWEN & RENNER, P.C.  
Firm #233

1600 Benedum-Trees Building  
223 Fourth Avenue  
Pittsburgh, PA 15222-1713

(412) 281-9696

11:53 AM NO  
MAR 24 2006

William A. Shaw  
Prothonotary/Clerk of Courts

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

ERIN E. LUX, ) CIVIL DIVISION  
Plaintiff )  
vs. ) Case No.: 2006-327-CD  
CHARLES W. RICE, D.P.M., and )  
CHARLES W. RICE, D.P.M., P.C. )  
Defendant )

**CERTIFICATE OF MERIT AS TO CHARLES W. RICE, D.P.M., P.C.**

I, Jeffrey R. Owen, Esquire 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.

Cooper Owen & Renner, P.C.

By:

Jeffrey R. Owen, Esquire

Dated: 3/21/2006

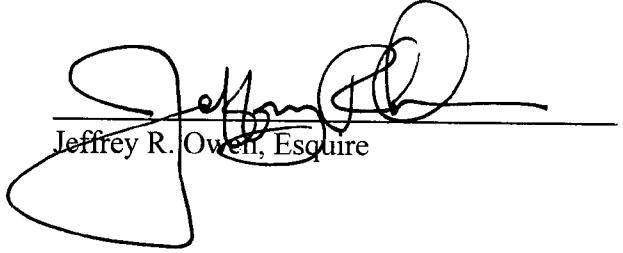
**CERTIFICATE OF SERVICE**

I do hereby certify that on the 21st day of March, 2006, a true and correct copy of the foregoing Certificate of Merit as to Charles W. Rice, D.P.M., P.C. was served upon the following by depositing the same in the United States Mail, First Class delivery, postage prepaid:

Charles W. Rice, D.P.M.  
90 Beaver Drive #13  
Dubois, PA 15801

Charles W. Rice, D.P.M., P.C.  
90 Beaver Drive #13  
Dubois, PA 15801

Jeffrey R. Owen, Esquire



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

ERIN E. LUX, ) CIVIL DIVISION  
                  )  
Plaintiff       ) Case No.: 2006-327-CD  
                  )  
                  )  
vs.              )  
                  )  
                  )  
CHARLES W. RICE, D.P.M., and )  
CHARLES W. RICE, D.P.M., P.C. )  
                  )  
Defendant        )

**CERTIFICATE OF MERIT AS TO  
CHARLES W. RICE, D.P.M.**

Filed on behalf of ERIN E. LUX,  
Plaintiff

Counsel of Record for this Party:

Jeffrey R. Owen, Esquire  
PA I.D. #45896

COOPER OWEN & RENNER, P.C.  
Firm #233

1600 Benedum-Trees Building  
223 Fourth Avenue  
Pittsburgh, PA 15222-1713

(412) 281-9696

NO  
m 11:53 AM CC  
MAR 24 2006

William A. Shaw  
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

ERIN E. LUX, ) CIVIL DIVISION  
Plaintiff )  
vs. ) Case No.: 2006-327-CD  
CHARLES W. RICE, D.P.M., and )  
CHARLES W. RICE, D.P.M., P.C. )  
Defendant )

**CERTIFICATE OF MERIT AS TO CHARLES W. RICE, D.P.M.**

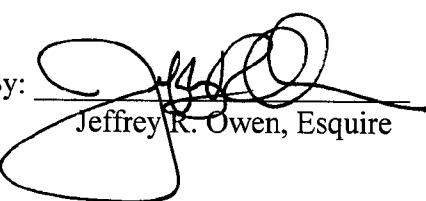
I, Jeffrey R. Owen, Esquire certify that:

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.

Cooper Owen & Renner, P.C.

Dated: 3/21/2006

By:

  
Jeffrey R. Owen, Esquire

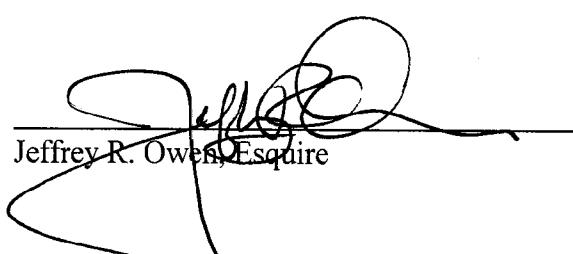
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Charles W. Rice, D.P.M.  
90 Beaver Drive #13  
Dubois, PA 15801

Charles W. Rice, D.P.M., P.C.  
90 Beaver Drive #13  
Dubois, PA 15801

Jeffrey R. Owen, Esquire



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

ERIN E. LUX,

Plaintiffs

CASE No. 2006-327-CD

vs.

CHARLES W. RICE, D.P.M. and  
CHARLES W. RICE, D.P.M., P.C.

Praeclipe for Appearance

Defendants

Filed on Behalf of :  
Defendants

Counsel of Record for this  
Party:

Christopher C. Rulis  
PA ID# 34886

O'BRIEN RULIS BOCHICCHIO  
& SOSSO, LLC  
DDI One Plaza, Suite 300  
1225 Washington Pike  
Bridgeville, PA 15017  
(412) 914-1053

12:05 PM NO  
MAR 2 2006  
WM

William A. Shew  
Prothonotary/Clerk of Courts

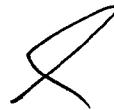
IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL DIVISION

ERIN E. LUX, :  
Plaintiffs : CASE No. 2006-327-CD  
vs. :  
CHARLES W. RICE, D.P.M. and :  
CHARLES W. RICE, D.P.M., P.C. :  
Defendants :  
:

**PRAECIPE FOR APPEARANCE**

TO: PROTHONOTARY OF CLEARFIELD COUNTY

Kindly enter my appearance on behalf of the Defendants, Charles W. Rice, D.P.M. and  
Charles W. Rice, D.P.M., P.C. with respect to the captioned case.



Christopher C. Rulis, Esquire  
Attorney for Defendants

**JURY TRIAL DEMANDED**

**CERTIFICATE OF SERVICE**

I, the undersigned, hereby certify that a true and correct copy of the within  
**PRAECIPE FOR APPEARANCE** was mailed by United States Mail on this 22  
day of March , 2006, to the following:

Jeffrey R. Owen, Esquire  
Cooper Owen & Renner, P.C.  
1600 Benedum Trees Building  
223 Fourth Avenue  
Pittsburgh, PA 15222



---

Christopher C. Rulis, Esquire  
O'BRIEN, RULIS & BOCHICCHIO, LLC

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET # 101307  
NO: 06-327-CD  
SERVICE # 1 OF 2  
COMPLAINT

PLAINTIFF: ERIN E. LUX

VS.

DEFENDANT: CHARLES W. RICE, D.P.M. and CHARLES W. RICE, D.P.M. , P.C.

**SHERIFF RETURN**

---

NOW, March 16, 2006 AT 12:00 PM SERVED THE WITHIN COMPLAINT ON CHARLES W. RICE D.P.M. DEFENDANT AT 90 BEAVER DRIVE #13 BLDG. D, DUBOIS, CLEARFIELD COUNTY, PENNSYLVANIA, BY HANDING TO JUDY BROCIUS, RECEPTIONIST A TRUE AND ATTESTED COPY OF THE ORIGINAL COMPLAINT AND MADE KNOWN THE CONTENTS THEREOF.

SERVED BY: COUDRIET /

FILED  
019-403d  
APR 18 2006  
JS

William A. Shaw  
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET # 101307  
NO: 06-327-CD  
SERVICE # 2 OF 2  
COMPLAINT

PLAINTIFF: ERIN E. LUX

VS.

DEFENDANT: CHARLES W. RICE, D.P.M. and CHARLES W. RICE, D.P.M. , P.C.

**SHERIFF RETURN**

---

NOW, March 16, 2006 AT 12:00 PM SERVED THE WITHIN COMPLAINT ON CHARLES W. RICE, D.P.M., P.C. DEFENDANT AT 90 BEAVER DRIVE #13 BLDG. D, DUBOIS, CLEARFIELD COUNTY, PENNSYLVANIA, BY HANDING TO JUDY BROCIUS, RECEPTIONIST A TRUE AND ATTESTED COPY OF THE ORIGINAL COMPLAINT AND MADE KNOWN THE CONTENTS THEREOF.

SERVED BY: COUDRIET /

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET # 101307  
NO: 06-327-CD  
SERVICES 2  
COMPLAINT

PLAINTIFF: ERIN E. LUX

vs.

DEFENDANT: CHARLES W. RICE, D.P.M. and CHARLES W. RICE, D.P.M. , P.C.

**SHERIFF RETURN**

---

**RETURN COSTS**

Description	Paid By	CHECK #	AMOUNT
SURCHARGE	COOPER	29960	20.00
SHERIFF HAWKINS	COOPER	29960	41.30

Sworn to Before Me This

So Answers,

\_\_\_\_ Day of \_\_\_\_\_ 2006

*Chester Hawkins*  
*by Manly Henry*  
Chester A. Hawkins  
Sheriff

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

ERIN E. LUX, )  
 ) CIVIL DIVISION  
 )  
 Plaintiff ) Case No.: 2006-327-CO  
 )  
 ) COMPLAINT  
 vs. )  
 )  
 )  
 CHARLES W. RICE, D.P.M., and )  
 CHARLES W. RICE, D.P.M., P.C. )  
 )  
 Defendants )

COURT

Filed on behalf of ERIN E. LUX,

Plaintiff

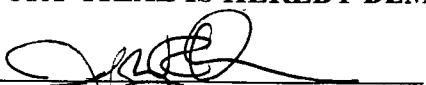
Counsel of Record for this Party:

Jeffrey R. Owen, Esquire  
PA I.D. #45896

COOPER OWEN & RENNER, P.C.  
Firm #233

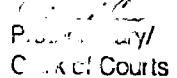
1600 Benedum-Trees Building  
223 Fourth Avenue  
Pittsburgh, PA 15222-1713  
(412) 281-9696

**A JURY TRIAL IS HEREBY DEMANDED:**

  
Jeffrey R. Owen, Esquire  
Counsel For Plaintiff,  
Erin E. Lux

I hereby demand to be a true  
copy of the foregoing original  
statement of cause in this case.

Attest.

  
Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

ERIN E. LUX,	)	
	)	CIVIL DIVISION
	)	
Plaintiff	)	Case No.:
	)	
	)	
vs.	)	
	)	
	)	
CHARLES W. RICE, D.P.M., and	)	
CHARLES W. RICE, D.P.M., P.C.	)	
	)	
Defendants	)	

**NOTICE TO DEFEND**

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

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

**Office of Court Administrator  
Clearfield County Courthouse  
230 East Market Street  
Clearfield, PA 16830  
(814) 765-2641 Ext. 50-51**

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

ERIN E. LUX )  
 ) CIVIL DIVISION  
 )  
 Plaintiff ) Case No.:  
 )  
 )  
 )  
 vs. )  
 )  
 )  
 )  
 )  
 CHARLES W. RICE, D.P.M. ,and )  
 CHARLES W. RICE, D.P.M., P.C. )  
 )  
 )  
 Defendants )

## **COMPLAINT**

AND NOW, comes the Plaintiff, Erin E. Lux, by and through her Counsel, Cooper Owen & Renner, P.C. and Jeffrey R. Owen, Esquire, and files this Complaint, of which the following is a statement.

1. Plaintiff Erin E. Lux ("Erin Lux") is an adult individual residing within the Commonwealth of Pennsylvania at 653 Sher De Lin Road, Du Bois, Clearfield County, Pennsylvania 15801.

2. Defendant Charles W. Rice, D.P.M. ("Charles Rice") is an adult individual licensed as a Doctor of Podiatric Medicine in the Commonwealth of Pennsylvania at licence number SC002358L, and with his principle place of business at Charles W. Rice, D.P.M., P.C., 90 Beaver Drive #13, Du Bois, Clearfield County, Pennsylvania 15801.

3. Defendant Charles W. Rice, D.P.M., P.C. is a professional Corporation (referred to herein as the "Professional Corporation"), formed by Charles Rice, and created pursuant to the Laws of the Commonwealth of Pennsylvania with a stated business purpose of conducting the practice of Podiatry, and with its registered office and principle place of business at 90 Beaver Drive #13, Du Bois, Clearfield County, Pennsylvania 15801.

4. At all times relevant hereto, Defendant Charles Rice was and is the Chief Executive officer of, and an employee and agent of, the Professional Corporation.

5. Prior to June 7, 2002, Plaintiff Erin Lux suffered an injury to her right foot, namely a fracture of the tibial sesamoid bone in her right foot.

6. On or about June 7, 2002, Erin Lux came under the continuing treatment and care of Charles Rice and the Professional Corporation.

7. Charles Rice performed an examination, including the review of x-ray films of Erin Lux's right foot, in which he made orthopedic findings, supported by the x-ray images, of a fracture of the tibial sesamoid of the right foot, resulting in the prescription of pain medication and a course of treatment which continued through 2003 and into 2004.

8. Thereafter, on or about March 3, 2004, Charles Rice undertook to perform surgery upon Erin Lux's right foot, having informed her of the need to surgically remove the fractured sesamoid bone.

9. When performing the surgery, Charles Rice surgically removed a different bone in the right foot, the unfractured fibular sesamoid bone, and left the fractured tibial sesamoid still in her foot.

10. Defendant Charles Rice was negligent and failed to provide the acceptable standard of care to Erin Lux in removing the fibular sesamoid instead of the tibial sesamoid, either through a failure to properly diagnose the condition suffered by Erin Lux, or through a failure to identify and remove the actual fractured sesamoid bone, thereby causing Erin Lux to suffer serious, permanent and irreversible injuries.

11. Defendant, Charles Rice was negligent, and committed professional malpractice in his treatment of Erin Lux, including but not limited to the following:

- a. In negligently confusing which sesamoid bone of Erin Lux's right foot was fractured.
- b. In the alternative, mistakenly misdiagnosing the injury to the tibial sesamoid as being a malady of the fibular sesamoid, and then surgically removing that bone from Erin Lux's right foot.
- c. In the alternative, mistakenly removing the fibular sesamoid when he intended to remove the tibial sesamoid.
- d. In failing to properly interpret, and/or in the alternative, in failing to properly treat Erin Lux based upon the information provided by the diagnostic x-rays and/or diagnostic images of Erin Lux's right foot;
- e. In failing to seek proper consultation of other medical professionals qualified to diagnose Erin Lux's condition and/or properly interpret the x-rays and diagnostic images;
- f. In failing to adequately, or accurately examine the condition suffered by Erin Lux in her right foot;
- g. In failing to accurately diagnose, or in the alternative, negligently changing his diagnosis of the injury suffered by Erin Lux;

- h. In failing to accurately and/or correctly record and/or fully review his medical notations to insure that the proper course of treatment was being undertaken;
- i. In failing to properly and adequately treat the fractured tibial sesamoid bone suffered by Erin Lux;
- j. In failing to adequately and fully explain the condition suffered by Erin Lux and failing to warn her of the risks of the surgery undertaken, to such a level as to preclude her from giving informed consent to the operative procedure that he performed;
- k. In removing the wrong sesamoid bone from Erin Lux's right foot, or in the alternative, wrongly determining that he would remove the fibular sesamoid when in fact the tibial sesamoid was damaged;
- l. In failing to adequately treat Erin Lux post-operatively; and
- m. In failing to comprehend his error, or in the alternative, failing to inform Erin Lux of the improper treatment that he had given in removing the wrong sesamoid bone.

12. Following the Surgery, Erin Lux continued to seek treatment from Charles Rice due to the unabated and increasing severe pain experienced in her right foot.

13. Despite a continuing course of treatment by Charles Rice through July 5, 2005, during which Erin Lux continued to have severe pain in her right foot, at no time did Charles Rice inform her that she still suffered from the presence of a fractured tibial sesamoid bone in her right foot, or properly treat her condition as a fractured tibial sesamoid bone.

14. The fractured tibial sesamoid bone in Erin Lux's right foot is clearly apparent on both pre-operative and post-operative films of her foot.

15. Prior to the removal of Erin Lux's fibular sesamoid bone, it may have been possible to remove the tibial sesamoid that was actually fractured. However, due to the physiology of the foot, the fractured tibial sesamoid bone still present in Erin Lux's right foot cannot now be safely removed because of the high risk of instability and deformity of the right big toe that would result from the removal of this last remaining sesamoid bone.

16. As a result, Erin Lux is now permanently injured and disfigured as a direct and proximate result of the surgery and course of treatment undertaken by Charles Rice.

17. As a further result, Erin Lux has suffered and will continue to suffer physical pain, disfigurement, loss of function and ability, mental anguish, embarrassment, humiliation, discomfort, inconvenience, and distress.

18. The Defendant Professional Corporation at all times relevant hereto, has employed the services of Defendant Charles W. Rice, D.P.M. and is liable as his employer, principal, and by respondent superior for his actions and negligence in the treatment of Erin Lux.

**Count I**  
**Negligence**  
**(Professional Negligence)**  
**Plaintiff Erin E. Lux vs.**  
**Defendant Charles W. Rice, D.P.M.**

19. Paragraphs 1 through 18 and 24 through 35 are hereby incorporated by reference as if fully restated herein.

20. Because of the improper treatment and care given by Charles Rice, including the improper removal of her fibular sesamoid bone, Erin Lux has suffered and sustained serious, irreversible, and untreatable injury.

21. Because of her injuries, Erin Lux has suffered and will continue to suffer physical pain, disfigurement, loss of function and ability, mental anguish, embarrassment, humiliation, discomfort, inconvenience, and distress that will remain chronic and irreparable for the remainder of her life.

22. The negligence of Defendant Charles W. Rice D.P.M. was and is a substantial factor in causing the serious injuries suffered by the Plaintiff, Erin E. Lux.

23. Because of the injuries inflicted by Charles Rice, Erin Lux has suffered and will continue to suffer damage, including but not limited to loss of enjoyment of life, loss of earnings and earning capacity, past and future medical expenses, incidental expenses, and an inability to undertake the normal and customary activities of her life, which are and will continue to be curtailed by the condition of her right foot.

WHEREFORE, Plaintiff, Erin E. Lux demands judgment against Defendant Charles W. Rice D.P.M. for an amount in excess of the statutory arbitration limits for the injuries and damages she has suffered, together with her costs and expenses expended herein.

**Count II**  
**Negligence**  
**Plaintiff Erin E. Lux vs.**  
**Defendant Charles W. Rice, D.P.M., P.C.**

24. Paragraphs 1 through 23 and 29 through 35 are hereby incorporated by reference as if fully restated herein.

25. At the time and place of the surgery, and during the course of treatment of the Plaintiff by Charles Rice described herein, Charles Rice was an agent and/or employee of Defendant Charles W. Rice, D.P.M., P.C. (the "Professional Corporation"), and was at all times relevant hereto acting within the scope and course of his duties and/or employment responsibilities.

26. The Professional Corporation is incorporated for the purpose of conducting Podiatric Medicine through the services of Defendant Charles Rice, its employee licensed to undertake the practice of podiatry.

27. The Defendant Professional Corporation is directly liable to Erin Lux for its own activities, as well as for the actions of its agent and employee Charles Rice, including but not limited to the following particulars:

- a. Its failure to allocate sufficient resources to the practice of podiatry, or in support of the activities of Charles Rice as a Podiatrist, and failure to provide oversight and safeguards in its mode of operation, so as to avoid the negligence and mistakes made in removing the wrong sesamoid bone from Erin Lux's right foot;
- b. Failing to adequately supervise its employee and agent, Charles Rice;
- c. Failing to inform Erin Lux of the improper diagnosis, or in the alternative improper and mistaken removal of the fibular sesamoid bone of her right foot; and
- d. Failing to take corrective measures once the errors and negligence of Charles Rice were apparent.

28. The negligence of Defendant Charles W. Rice D.P.M., P.C. was and is a substantial factor in causing the serious injuries suffered by the Plaintiff, Erin E. Lux.

WHEREFORE, Plaintiff, Erin E. Lux demands judgment against Defendant Charles W. Rice D.P.M. for an amount in excess of the statutory arbitration limits for the injuries and damages she has suffered, together with her costs and expenses expended herein.

**Count III**  
**Medical Battery**  
**Plaintiff Erin E. Lux vs.**  
**Defendant Charles W. Rice, D.P.M.**  
***and***  
**Defendant Charles W. Rice, D.P.M., P.C.**

29. Paragraphs 1 through 28 are hereby incorporated by reference as if fully restated herein.
30. Defendant Charles Rice failed to adequately inform or provide material information to Erin Lux necessary to permit her to determine whether to proceed with the surgical procedure or to remain in her present condition; and failed to provide Erin Lux with a true understanding of the nature of the operation to be performed, the seriousness of it, the parts of the body involved, the incapacity sought to be cured, and the possible results thereof.
31. Defendant Charles Rice further failed to advise Erin Lux of those material facts, risks, complications, and alternatives to surgery that a reasonable person in the patient's situation would consider significant in deciding whether to have the operation in question.
32. Defendant Charles Rice further failed to differentiate to Erin Lux the different sesamoid bone structures of her right foot, and to fully and completely inform her as to the risks inherent in removing the fibular sesamoid bone while leaving the fractured tibial sesamoid in her foot.
33. Defendant Charles Rice, erroneously referenced to Erin Lux only the removal of the fractured sesamoid bone when he apparently mistakenly intended to remove the intact fibular sesamoid bone.
34. In the alternative, Defendant Charles Rice, negligently removed the fibular sesamoid bone instead of the tibial sesamoid.
35. Such activity constitutes medical battery for which both defendant Charles Rice and the defendant Professional corporation are liable.

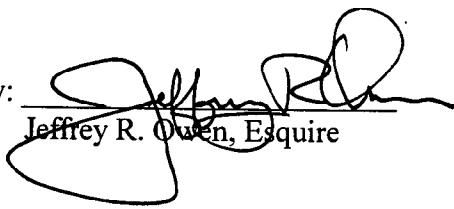
WHEREFORE, Plaintiff, Erin E. Lux demands judgment against Defendant Charles W. Rice D.P.M., and Charles W. Rice, D.P.M., P.C. for an amount in excess of the statutory arbitration limits for the injuries and damages she has suffered, together with her costs and expenses expended herein.

**A JURY TRIAL IS DEMANDED.**

Cooper Owen & Renner, P.C.

By:

Jeffrey R. Owen, Esquire

A handwritten signature in black ink, appearing to read "Jeffrey R. Owen, Esquire". The signature is fluid and cursive, with "Jeffrey" on the top line and "R. Owen, Esquire" on the bottom line.

**VERIFICATION**

I, Erin E. Lux, aver that the statements contained in the foregoing Complaint are true and correct to the best of my personal knowledge or information and belief.

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

Date: March 1, 2006

  
\_\_\_\_\_  
Erin E. Lux

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

ERIN E. LUX,

Plaintiffs

CASE No. 2006-327-CD

vs.

CHARLES W. RICE, D.P.M. and  
CHARLES W. RICE, D.P.M., P.C.

NOTICE OF SERVICE OF  
INTERROGATORIES  
AND REQUESTS FOR  
PRODUCTION OF  
DOCUMENTS DIRECTED  
TO PLAINTIFF  
Filed on Behalf of :  
Defendants

Defendants

Counsel of Record for this  
Party:

Christopher C. Rulis  
PA ID# 34886

O'BRIEN RULIS  
BOCHICCHIO  
& SOSSO, LLC  
DDI One Plaza, Suite 300  
1225 Washington Pike  
Bridgeville, PA 15017  
(412) 914-1053

FILED NO  
M/1/30/06  
APR 19 2006  
S

William A. Shaw  
Prothonotary/Clerk of Courts

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

ERIN E. LUX,

Plaintiffs

CASE No. 2006-327-CD

vs.

CHARLES W. RICE, D.P.M. and  
CHARLES W. RICE, D.P.M., P.C.

Defendants

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

I hereby certify that Interrogatories and Request for Production of Documents  
Directed to Plaintiff were served upon the following individuals via first class mail,  
postage prepaid on April 17, 2006.

Jeffrey R. Owen, Esquire  
Cooper Owen & Renner, P.C.  
1600 Benedum Trees Building  
223 Fourth Avenue  
Pittsburgh, PA 15222



Christopher C. Rulis, Esquire  
O'BRIEN, RULIS & BOCHICCHIO, LLC

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

ERIN E. LUX, :  
Plaintiffs : CASE No. 2006-327-CD  
vs. :  
CHARLES W. RICE, D.P.M. and : MOTION FOR  
CHARLES W. RICE, D.P.M., P.C. : ADMISSION PRO HAC  
VICE :  
Defendants : Filed on Behalf of :  
Defendants :  
: Counsel of Record for :  
this Party:  
Christopher C. Rulis  
PA ID# 34886  
O'BRIEN RULIS  
BOCHICCHIO  
& SOSSO, LLC  
555 Grant St. Suite 120  
Pittsburgh, PA 15219  
412-566-1717

FILED

JUN 15 2006  
114315 NOCC  
William A. Shaw  
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

ERIN E. LUX,	:	CIVIL DIVISION
Plaintiffs	:	CASE No. 2006-327-CD
vs.	:	
CHARLES W. RICE, D.P.M. and	:	
CHARLES W. RICE, D.P.M., P.C.	:	
Defendants	:	

**NOTICE OF PRESENTATION**

To: Jeffrey R. Owen, Esquire  
1600 Benedum-Trees Building  
223 Fourth Avenue  
Pittsburgh, PA 15222-1713

Please be advised that this within Motion for Admission *Pro Hac Vice*  
will be presented to the Honorable \_\_\_\_\_, Clearfield  
County Courthouse, Clearfield, Pennsylvania on \_\_\_\_\_  
at \_\_\_\_\_.

Date \_\_\_\_\_

By \_\_\_\_\_

  
Christopher C. Rulis, Esquire  
Attorney for Defendants,  
Charles W. Rice, D.P.M. and  
Charles W. Rice, D.P.M., P.C.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

ERIN E. LUX,	:	CIVIL DIVISION
Plaintiffs	:	CASE No. 2006-327-CD
vs.	:	
CHARLES W. RICE, D.P.M. and	:	
CHARLES W. RICE, D.P.M., P.C.	:	
Defendants	:	

**MOTION FOR ADMISSION *PRO HAC VICE***

AND NOW, Christopher C. Rulis, Esq. and O'Brien, Rulis, Bochicchio & Sosso, LLC, counsel of record for Defendants, Charles W. Rice, D.P.M. and Charles W. Rice, D.P.M., P.C., hereby moves for admission *Pro Hac Vice* to the Bar of this Court, Larry M. Waranch of the law firm of Waranch & Brown, LLC, 1301 York Road, Suite 300, Lutherville, Maryland 21093 and states the following:

1. This is a professional malpractice action in which Charles W. Rice, D.P.M. and Charles W. Rice, D.P.M., P.C. have been named as a Defendants.
2. Christopher Rulis, Esquire has entered his appearance on behalf of the Defendants, Charles W. Rice, D.P.M. and Charles W. Rice, D.P.M.,

P.C.

3. This Motion for Admission, *Pro Hac Vice*, is made by Christopher C. Rulis, counsel of record for Defendants, Charles W. Rice, D.P.M. and Charles W. Rice, D.P.M., P.C. Christopher Rulis is a member of the Bar of the Commonwealth of Pennsylvania.

4. This Motion for Admission *Pro Hac Vice* is made on behalf of Larry M. Waranch, Esq., an attorney with the law firm of Waranch & Brown, LLC, 1301 York Road, Suite 300, Lutherville, Maryland 21093.

5. Attorney Waranch and Waranch & Brown, LLC are also counsel for Charles W. Rice, D.P.M. and Charles W. Rice, D.P.M., P.C. and National Counsel to Podiatry Insurance Company of America.

6. Attorney Waranch is a member of good standing of the Bar of Maryland (Date of Admission: 1978) and in the District of Columbia (Date of Admission: 1985).

7. This Motion is made pursuant to Rule 301 of the Pennsylvania Bar Admission Rules, so that Larry M. Waranch, Esq. of the law firm of Waranch & Brown, LLC, 1301 York Road, Suite 300, Lutherville, Maryland 21093, may be admitted to the Bar of this Commonwealth for purposes limited to involvement in the above-captioned matter, with Christopher C. Rulis, Esq. of O'Brien Rulis Bochicchio & Sosso, LLC, as attorney of record for Defendants, Charles W. Rice, D.P.M. and Charles W. Rice, D.P.M., P.C.

WHEREFORE, Christopher C. Rulis respectfully requests that this Honorable Court enter an Order in the form attached hereto specifically admitting Larry M. Waranch, Esq. *Pro Hac Vice* for purposes of involvement limited to the matter identified in the above caption.

Respectfully submitted,

**O'BRIEN, RULIS BOCHICCHIO  
& SOSSO, LLC**



---

Christopher C. Rulis, Esquire  
555 Grant St., Suite 120  
Pittsburgh, PA 15219  
(412) 904-5213

Larry M. Waranch, Esq.  
Waranch & Brown, LLC  
1301 York Road, Suite 300  
Lutherville, MD 21093  
(410) 821-3500

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

ERIN E. LUX

vs.

CHARLES W. RICE, D.P.M. AND  
CHARLES W. RICE, D.P.M., P.C.

: No. 06-327-CD

FILED

06/21/2006

JUN 21 2006

6K

4cc *Atty. Rulis*

William A. Shaw  
Prothonotary/Clerk of Courts

NOW, this 21 day of June, 2006, upon consideration of the attached Motion For Admission PRO HAC VICE, a Rule is hereby issued upon the parties to Show Cause why the Motion should not be granted. Rule Returnable the 21st day of July 2006, for filing written response.

N O T I C E

A PETITION OR MOTION HAS BEEN FILED AGAINST YOU IN COURT. IF YOU WISH TO DEFEND AGAINST THE CLAIMS SET FORTH IN THE FOLLOWING PETITION OR MOTION BY ENTERING A WRITTEN APPEARANCE PERSONALLY OR BY ATTORNEY AND FILING IN WRITING WITH THE COURT YOUR DEFENSES OR OBJECTIONS TO THE MATTER SET FORTH AGAINST YOU. YOU ARE WARNED THAT IF YOU FAIL TO DO SO THE CASE MAY PROCEED WITHOUT YOU AND AN ORDER MAY BE ENTERED AGAINST YOU BY THE COURT WITHOUT FURTHER NOTICE FOR RELIEF REQUESTED BY THE PETITIONER OR MOVANT. YOU MAY LOSE 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.

COURT ADMINISTRATOR  
Clearfield County Courthouse  
230 East Market Street, Suite 228  
Clearfield, PA 16830  
(814) 765-2641, Ext. 1300 or 1301

BY THE COURT:

  
HONORABLE FREDRIC J. AMMERMAN  
President Judge

**FILED**

JUN 21 2006

William A. Shaw  
Prothonotary/Clerk of Courts

DATE: 10/21/06

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:

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

ERIN E. LUX,

Plaintiffs

CASE No. 2006-327-CD

vs.

CHARLES W. RICE, D.P.M. and  
CHARLES W. RICE, D.P.M., P.C.

ANSWER AND NEW  
MATTER

Defendants

Filed on Behalf of :  
Defendants

Counsel of Record for this  
Party:

Christopher C. Rulis  
PA ID# 34886

O'BRIEN RULIS  
BOCHICCHIO  
& SOSSO, LLC  
555 Grant St. Suite 120  
Pittsburgh, PA 15219  
412-566-1717

FILED  
MAY 2006  
JUL 03 2006  
NOCC  
WM

William A. Shaw  
Prothonotary/Clerk of Courts

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

ERIN E. LUX,

Plaintiffs : CASE No. 2006-327-CD

vs.

CHARLES W. RICE, D.P.M. and  
CHARLES W. RICE, D.P.M., P.C.

Defendants :

**NOTICE TO PLEAD**

TO:                   Erin E. Lux  
                         c/o Jeffrey R. Owen, Esquire  
                         1600 Benedum-Trees Building  
                         223 Fourth Avenue  
                         Pittsburgh, PA 15222-1713

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

**JURY TRIAL DEMANDED**

**O'BRIEN, RULIS, BOCHICCHIO  
& SOSSO, LLC.**

By: \_\_\_\_\_

Christopher C. Rulis, Esquire



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

ERIN E. LUX, :  
Plaintiffs : CASE No. 2006-327-CD  
vs. :  
CHARLES W. RICE, D.P.M. and :  
CHARLES W. RICE, D.P.M., P.C. :  
Defendants :  
.

**ANSWER AND NEW MATTER**

AND NOW, come the Defendants, Charles W. Rice, D.P.M. and Charles W. Rice, D.P.M., P.C., by and through their counsel Christopher C. Rulis, Esquire and O'Brien, Rulis, Bochicchio & Sosso, LLC and files the following Answer and New Matter:

1. Denied. After reasonable investigation, the Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 1. Accordingly, the same are denied and strict proof thereof is demanded at the time of trial.
2. Admitted.
3. Admitted.
4. Admitted.
5. Admitted in part and denied in part. Paragraph 5 is admitted to the extent that said allegations are consistent with the medical records of the Plaintiff which are incorporated by reference herein.

6. Admitted in part and denied in part. Paragraph 6 is admitted to the extent that said allegations are consistent with the medical records of the Plaintiff which are incorporated by reference herein.

7. Admitted in part and denied in part. Paragraph 7 is admitted to the extent that said allegations are consistent with the medical records of the Plaintiff which are incorporated by reference herein.

8. Denied. The patient was told that the fibular sesamoid bone may have to be removed during the surgery.

9. Denied. Defendant objects to the term "different bone." Defendant's intention was to remove the fibular bone which in fact was removed. Plaintiff was aware of this plan prior to the surgery.

10. Denied. It is denied that the Defendant Charles W. Rice, D.P.M. was negligent in the particulars set forth in Paragraph 10 or that he was negligent in any manner whatsoever.

11. Denied. It is denied that the Defendant Charles W. Rice, D.P.M. was negligent in the particulars set forth in Paragraph 11 or that he was negligent in any manner whatsoever.

12. Admitted in part and denied in part. Paragraph 12 is admitted to the extent that said allegations are consistent with the medical records of the Plaintiff which are incorporated by reference herein.

13. Denied. Prior to the surgery the Plaintiff was explained that the fibular bone may have to be removed. The Defendant never intended to remove the tibial sesamoid bone. Plaintiff was made aware of this plan.

14. Admitted.

15. Denied. After reasonable investigation, the Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 15. Accordingly, the same are denied and strict proof thereof is demanded at the time of trial.

16. Denied. After reasonable investigation, the Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 16. Accordingly, the same are denied and strict proof thereof is demanded at the time of trial.

17. Denied. After reasonable investigation, the Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 17. Accordingly, the same are denied and strict proof thereof is demanded at the time of trial.

18. Paragraph 18 is a conclusion of law and therefore no response is necessary.

**Count I**  
**Negligence**  
**(Professional Negligence)**  
**Plaintiff Erin E. Lux vs.**  
**Defendant Charles W. Rice, D.P.M.**

19. Paragraphs 1 through 18 are incorporated by reference as though the same were fully set forth at length herein.

20. Denied. It is denied that the Defendant Charles W. Rice, D.P.M. was negligent or that his negligence caused the Plaintiff to sustain bodily injury.

21. Denied. After reasonable investigation, this answering Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 21. Accordingly, the same are denied and strict proof thereof is demanded at the time of trial.

22. Paragraph 22 is a conclusion of law and therefore no response is necessary.

23. Denied. After reasonable investigation, this answering Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 23. Accordingly, the same are denied and strict proof thereof is demanded at the time of trial.

WHEREFORE, Defendants, Charles W. Rice, D.P.M., demand judgment in his favor with costs assessed against the Plaintiffs.

**Count II**  
**Negligence**  
**Plaintiff Erin E. Lux vs.**  
**Defendant Charles W. Rice, D.P.M., P.C.**

24. Paragraphs 1 through 23, are incorporated by reference as though the same were fully set forth at length herein.

25. Paragraph 25 is a conclusion of law and therefore no response is necessary. To the extent that a response is necessary, all allegations of agency are denied.

26. Admitted.

27. Denied. It is denied that the Defendant Professional Corporation was negligent in the particulars set forth in Paragraph 27 or that it was negligent in any manner whatsoever.

28. Paragraph 28 is a conclusion of law and therefore no response is necessary.

WHEREFORE, Defendant, Charles W. Rice, D.P.M., P.C., demand judgment in its favor with costs assessed against the Plaintiffs.

**Count III**  
**Medical Battery**  
**Plaintiff Erin E. Lux vs.**  
**Defendant Charles W. Rice, D.P.M.**  
**and**  
**Defendant Charles W. Rice, D.P.M., P.C.**

29. Paragraphs 1 through 28 are incorporated by reference as though the same were fully set forth at length herein.

30. Denied. It is denied that at any time the Defendants failed to adequately inform or provide material information to the Plaintiff.

31. Denied. It is denied that at any time the Defendants failed to adequately inform or provide material information to the Plaintiff.

32. Denied. It is denied that at any time the Defendants failed to adequately inform or provide material information to the Plaintiff.

33. Denied. It is denied that the Defendant mistakenly removed the fibular sesamoid bone. The Defendant's intent was to remove the fibular sesamoid bone.

34. Denied. It is denied that the Defendants were negligent. Defendants incorporate by reference their prior answers as though set forth more fully herein.

35. Paragraph 35 is a conclusion of law and therefore no response is necessary.

WHEREFORE, Defendants, Charles W. Rice, D.P.M. and Charles W. Rice, D.P.M., P.C., demand judgment in their favor with costs assessed against the Plaintiffs.

**NEW MATTER**

1. Paragraphs 1 through 35 are incorporated by reference as though set forth fully herein.

2. Plaintiff's claims are barred by any and all applicable statutes of limitations under Pennsylvania law.

3. These answering Defendants plead any failure of Plaintiff to mitigate damages, as such may be shown by the evidence developed in discovery or introduced at the time of trial.

4. To the extent justified by the facts developed in discovery and/or the evidence introduced at the time of trial, these answering Defendants aver that the conduct of others not a party to this action and/or factors beyond the control of these answering Defendants caused or contributed to the alleged injuries, and damages.

5. If, at the time of trial, it is established that Plaintiffs caused or contributed to the injuries and conditions alleged herein by failing to provide an accurate and thorough medical history and/or failing to obtain medical treatment or recommended medical treatment, then these answering Defendants plead assumption of the risk as an affirmative defense.

6. If, at the time of trial, it is established that Plaintiffs, caused or contributed to the injuries and conditions alleged herein by failing to provide an accurate and thorough medical history and/or failing to obtain medical treatment or recommended medical treatment, then these answering Defendants plead such contributory and/or comparative negligence as an affirmative defense.

WHEREFORE, Defendants, Charles W. Rice, D.P.M. and Charles W. Rice, D.P.M., P.C., demand judgment in their favor with costs assessed against the Plaintiffs.

Respectfully submitted,

**O'BRIEN, RULIS, BOCHICCHIO  
& SOSSO, LLC**



---

Christopher C. Rulis, Esquire  
Attorney for Defendant

**VERIFICATION**

I verify that the statements made in this Answer and New Matter are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa. C.S. Section 4904 relating to unsworn falsification to authorities.

6/2/06  
Date

Charles W. Rice  
Charles W. Rice, D.P.M.

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of NOTICE **DEFENDANT'S ANSWER AND NEW MATTER** has been sent to the following by first class U.S. mail, postage prepaid, this 29 day of June, 2006.

Jeffrey R. Owen, Esquire  
1600 Benedum-Trees Building  
223 Fourth Avenue  
Pittsburgh, PA 15222-1713

**O'BRIEN, RULIS, BOCHICCHIO &  
SOSSO, LLC**

By 

Christopher C. Rulis, Esquire  
Attorney for Defendants

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

ERIN E. LUX,

Plaintiffs : CASE No. 2006-327-CD

vs.

CHARLES W. RICE, D.P.M. and

CHARLES W. RICE, D.P.M., P.C.

Defendants :

NOTICE OF SERVICE OF  
RESPONSES TO  
INTERROGATORIES  
AND REQUESTS FOR  
PRODUCTION OF  
DOCUMENTS

Filed on Behalf of :  
Defendants

Counsel of Record for this  
Party:

Christopher C. Rulis  
PA ID# 34886

O'BRIEN RULIS BOCHICCHIO  
& SOSSO, LLC  
555 Grant Street, Suite 120  
Pittsburgh, PA 15219  
(412) 904-5215

Larry Waranch, Esquire  
Waranch & Brown LLC  
1301 York Road  
Suite 300  
Lutherville, MD 21093

FILED

SEP 22 2006  
M 12:20 PM  
William A. Shaw  
Prothonotary/Clerk of Courts  
No. 412

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

ERIN E. LUX,

Plaintiffs

CASE No. 2006-327-CD

vs.

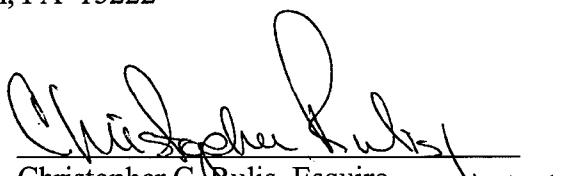
CHARLES W. RICE, D.P.M. and  
CHARLES W. RICE, D.P.M., P.C.

Defendants

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

I hereby certify that Responses to Plaintiffs' Interrogatories and Request for Production of Documents were served upon the following individuals via first class mail, postage prepaid on September 18, 2006.

Jeffrey R. Owen, Esquire  
Cooper Owen & Renner, P.C.  
1600 Benedum Trees Building  
223 Fourth Avenue  
Pittsburgh, PA 15222

  
Christopher C. Rulis, Esquire  
O'BRIEN, RULIS & BOCHICCHIO, LLC

CERTIFICATE

PREREQUISITE TO SERVICE OF A SUBPOENA

PURSUANT TO RULE 4009.22

FILED *NOCC*  
MAY 12 2007  
MAR 05 2007  
S

William A. Shaw  
Prothonotary/Clerk of Courts

IN THE MATTER OF:

COURT OF COMMON PLEAS

ERIN E. LUX

TERM,  
CLEARFIELD

-VS-

CASE NO: 2006-327-CD

CHARLES W. RICE

As a prerequisite to service of a subpoena for documents and things pursuant to Rule 4009.22

MCS on behalf of CHRISTOPHER RULIS, ESQUIRE  
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.

DATE: 02/01/2007

*[Handwritten Signature]*  
MCS on behalf of  
CHRISTOPHER RULIS, ESQUIRE  
Attorney for DEFENDANT

COMMONWEALTH OF PENNSYLVANIA  
COUNTY OF CLEARFIELD

IN THE MATTER OF:

COURT OF COMMON PLEAS

ERIN E. LUX

TERM,

-VS-

CASE NO: 2006-327-CD

CHARLES W. RICE

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

LARA ALLMAN, M.D.

MEDICAL

TO: JEFFREY OWENS, ESQ., PLAINTIFF COUNSEL  
MCS on behalf of CHRISTOPHER RULIS, ESQUIRE intends to serve a subpoena identical to the one that is 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. If the twenty day notice period is waived or if no objection is made, then the subpoena may be served. Complete copies of any reproduced records may be ordered at your expense by completing the attached counsel card and returning same to MCS or by contacting our local MCS office.

DATE: 01/12/2007

MCS on behalf of

CHRISTOPHER RULIS, ESQUIRE  
Attorney for DEFENDANT

CC: CHRISTOPHER RULIS, ESQUIRE

Any questions regarding this matter, contact

THE MCS GROUP, INC.  
300 LAWYERS BUILDING

PITTSBURGH, PA 15219  
(412) 642-4420

COMMONWEALTH OF PENNSYLVANIA  
COUNTY OF CLEARFIELD

Erin E. Lux

Plaintiff(s)

Vs.

\*

No. 2006-00327-CD

Charles W. Rice, D.P.M.

\*

Charles W. Rice, D.P.M., P.C.

Defendant(s)

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

TO: Custodian of Records: Lara M. Allman D.P.M.

(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:

**\*\*\*SEE ATTACHED RIDER\*\*\***

428 Forbes Ave, Pittsburgh PA 15219  
(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: Christopher C. Rulis, Esq.  
ADDRESS: 555 Grant St, Suite 120

Pittsburgh PA 15219  
TELEPHONE: 412-642-4420

SUPREME COURT ID #   
ATTORNEY FOR: Defendant

BY THE COURT:

William A. Shaw  
Prothonotary/Clerk, Civil Division

DATE: Wednesday, January 03, 2007

Seal of the Court

William A. Shaw  
Deputy

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

## **EXPLANATION OF REQUIRED RECORDS**

**TO: CUSTODIAN OF RECORDS FOR:**

**LARA ALLMAN, M.D.  
ADVANCED FOOT & ANKLE ASC  
207 BEAVER DR.**

**DUBOIS, PA 15801**

**RE: 22203  
ERIN E. LUX**

**Prior approval is required for fees in excess of \$100.00 for hospitals, \$50.00 for all other providers.**

**Any and all records, correspondence, files and memorandums, handwritten notes, relating to any examination, consultation, care or treatment.**

**\*TO INCLUDE PATIENT ID SHEET\*CERTIFICATION OF RECORDS MUST BE SIGNED & RETURNED\***

**Dates Requested: up to and including the present.**

**Subject : ERIN E. LUX**

**653 SHERDELIN RD, DUBOIS, PA 15801**

**Social Security #: XXX-XX-4962**

**Date of Birth: 04-20-1975**

COMMONWEALTH OF PENNSYLVANIA  
COUNTY OF CLEARFIELD

Erin E. Lux

Plaintiff(s)

Vs.

\*

No. 2006-00327-CD

Charles W. Rice, D.P.M.

\*

Charles W. Rice, D.P.M., P.C.

Defendant(s)

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

TO: Custodian of Records: Lara M. Allman D.P.M.  
(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:

\*\*\*SEE ATTACHED RIDER\*\*\*

428 Forbes Ave, Pittsburgh PA 15219  
(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: Christopher C. Rulis, Esq.  
ADDRESS: 555 Grant St, Suite 120

Pittsburgh PA 15219  
TELEPHONE: 412-642-4420

SUPREME COURT ID #   
ATTORNEY FOR: Defendant

BY THE COURT:

William A. Shaw  
Prothonotary/Clerk, Civil Division

DATE: Wednesday, January 03, 2007  
Seal of the Court

William A. Shaw  
Deputy

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

## **EXPLANATION OF REQUIRED RECORDS**

**TO: CUSTODIAN OF RECORDS FOR:**

**LARA ALLMAN, M.D.  
ADVANCED FOOT & ANKLE ASC  
207 BEAVER DR.**

**DUBOIS, PA 15801**

**RE: 22203  
ERIN E. LUX**

**Prior approval is required for fees in excess of \$100.00 for hospitals, \$50.00 for all other providers.**

**Any and all records, correspondence, files and memorandums, handwritten notes, relating to any examination, consultation, care or treatment.**

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**Dates Requested: up to and including the present.**

**Subject : ERIN E. LUX**

**653 SHERDELIN RD, DUBOIS, PA 15801**

**Social Security #: XXX-XX-4962**

**Date of Birth: 04-20-1975**

CERTIFICATE

PREREQUISITE TO SERVICE OF A SUBPOENA  
PURSUANT TO RULE 4009.22

FILED  
MAY 31 2007  
NOCC  
CP

William A. Shaw  
Prothonotary/Clerk of Courts

IN THE MATTER OF:

COURT OF COMMON PLEAS

ERIN E. LUX

TERM,  
CLEARFIELD

-VS-

CASE NO: 2006-327-CD

CHARLES W. RICE

As a prerequisite to service of a subpoena for documents and things pursuant to Rule 4009.22

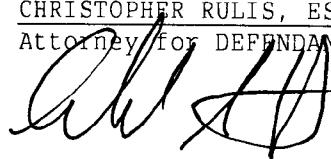
MCS on behalf of CHRISTOPHER RULIS, ESQUIRE (e)  
certifies that

- (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.

MCS on behalf of

DATE: 04/25/2007

CHRISTOPHER RULIS, ESQUIRE (e)  
Attorney for DEFENDANT



COMMONWEALTH OF PENNSYLVANIA  
COUNTY OF CLEARFIELD

IN THE MATTER OF:

ERIN E. LUX

-VS-

COURT OF COMMON PLEAS

TERM,

CASE NO: 2006-327-CD

CHARLES W. RICE

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

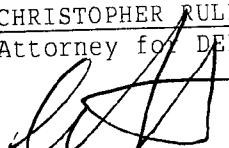
DUBOIS REGIONAL MEDICAL CENTER OTHER  
DUBOIS MAGNETIC IMAGING CTR. OTHER

TO: JEFFREY OWENS, ESQ., PLAINTIFF COUNSEL  
MCS on behalf of CHRISTOPHER RULIS, ESQUIRE (e) intends to serve a subpoena  
identical to the one that is 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. If the twenty day notice period is  
waived or if no objection is made, then the subpoena may be served. Complete  
copies of any reproduced records may be ordered at your expense by completing  
the attached counsel card and returning same to MCS or by contacting our local  
MCS office.

DATE: 04/05/2007

MCS on behalf of

CHRISTOPHER RULIS, ESQUIRE (e)  
Attorney for DEFENDANT



CC: CHRISTOPHER RULIS, ESQUIRE (e) -

Any questions regarding this matter, contact

THE MCS GROUP, INC.  
300 LAWYERS BUILDING

PITTSBURGH, PA 15219  
(412) 642-4420

COMMONWEALTH OF PENNSYLVANIA  
COUNTY OF CLEARFIELD

Erin E. Lux

Plaintiff(s)

Vs.

\*

No. 2006-00327-CD

Charles W. Rice, D.P.M.

\*

Charles W. Rice, D.P.M., P.C.

Defendant(s)

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

TO: Custodian of Records: Dubois Regional Medical Ctr  
(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:  
\*\*\*See Attached Rider\*\*\*

(Address)

MCS 300 Lawyers Building Pittsburgh, Pa 15219

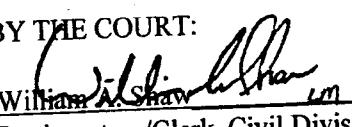
You may deliver or mail legible copies of the documents or produce things requested by  
this subpoena, together with the certificate of compliance, to the party making this request at the  
address listed above. You have the right to seek in advance the reasonable cost of preparing the  
copies or producing 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: Christopher Rulis, Esq  
ADDRESS: 555 Grant St Suite 120  
Pittsburgh, Pa 15219  
TELEPHONE: 412-642-4420  
SUPREME COURT ID #   
ATTORNEY FOR: Defendant

BY THE COURT:

  
William A. Shaw, Jr.  
Prothonotary/Clerk, Civil Division

DATE: Friday, March 30, 2007

Seal of the Court

Deputy

## EXPLANATION OF REQUIRED RECORDS

**TO: CUSTODIAN OF RECORDS FOR:**

DUBOIS REGIONAL MEDICAL CENTER  
PO BOX 447

DUBOIS, PA 15801

**RE: 22203**  
**ERIN E. LUX**

Prior approval is required for fees in excess of \$150.00 for hospitals, \$100.00 for all other providers.

COPIES OF RADIONUCLIDE SCAN OF BOTH FEET DATED 6/6/2006

**Subject : ERIN E. LUX**  
**653 SHERDELIN RD, DUBOIS, PA 15801**  
**Social Security #: XXX-XX-4962**  
**Date of Birth: 04-20-1975**

COMMONWEALTH OF PENNSYLVANIA  
COUNTY OF CLEARFIELD

Erin E. Lux

Plaintiff(s)

Vs.

\*

No. 2006-00327-CD

Charles W. Rice, D.P.M.

Charles W. Rice, D.P.M., P.C.

Defendant(s)

\*

\*

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

TO: Custodian of Records: Dubois Magnetic & Imaging Ctr

(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:

\*\*\*See Attached Rider\*\*\*

MCS 300 Lawyers Building Pittsburgh, Pa 15219  
(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  
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(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: Christopher Rulis, Esq

ADDRESS: 555 Grant St Suite 120

Pittsburgh, Pa 15219

TELEPHONE: 412-642-4420

SUPREME COURT ID #

ATTORNEY FOR: Defendant

BY THE COURT:

William A. Shaw

Prothonotary/Clerk, Civil Division

DATE: Friday, March 30, 2007

Seal of the Court

Deputy

## **EXPLANATION OF REQUIRED RECORDS**

**TO: CUSTODIAN OF RECORDS FOR:**

**DUBOIS MAGNETIC IMAGING CTR.  
145 HOSPITAL AVENUE  
SUITE 102**

**DUBOIS, PA 15801**

**RE: 22203  
ERIN E. LUX**

**Prior approval is required for fees in excess of \$150.00 for  
hospitals, \$100.00 for all other providers.**

**MRI OF THE RIGHT FOOT DATED 8/29/2006**

**Subject : ERIN E. LUX  
653 SHERDELIN RD, DUBOIS, PA 15801  
Social Security #: XXX-XX-4962  
Date of Birth: 04-20-1975**

COMMONWEALTH OF PENNSYLVANIA  
COUNTY OF CLEARFIELD

Erin E. Lux

Plaintiff(s)

Vs.

\*

No. 2006-00327-CD

\*

Charles W. Rice, D.P.M.

Charles W. Rice, D.P.M., P.C.

Defendant(s)

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

TO: Custodian of Records: Dubois Regional Medical Ctr  
(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:  
\*\*\*See Attached Rider\*\*\*

(Address)

MCS 300 Lawyers Building Pittsburgh, Pa 15219

You may deliver or mail legible copies of the documents or produce things requested by  
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THIS SUBPOENA WAS ISSUED AT THE REQUEST OF THE FOLLOWING PERSON:

NAME: Christopher Rulis, Esq

ADDRESS: 555 Grant ST Suite 120

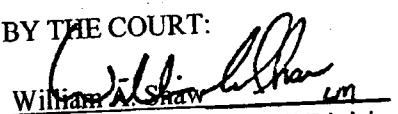
Pittsburgh, Pa 15219

TELEPHONE: 412-642-4420

SUPREME COURT ID #

ATTORNEY FOR: Defendant

BY THE COURT:

  
William J. Shaw  
Prothonotary/Clerk, Civil Division

DATE: Friday, March 30, 2007

Seal of the Court

Deputy

## EXPLANATION OF REQUIRED RECORDS

TO: CUSTODIAN OF RECORDS FOR:

DUBOIS REGIONAL MEDICAL CENTER  
PO BOX 447

DUBOIS, PA 15801

RE: 22203  
ERIN E. LUX

Prior approval is required for fees in excess of \$150.00 for  
hospitals, \$100.00 for all other providers.

COPIES OF RADIONUCLIDE SCAN OF BOTH FEET DATED 6/6/2006

Subject : ERIN E. LUX  
653 SHERDELIN RD, DUBOIS, PA 15801  
Social Security #: XXX-XX-4962  
Date of Birth: 04-20-1975

COMMONWEALTH OF PENNSYLVANIA  
COUNTY OF CLEARFIELD

Erin E. Lux

Plaintiff(s)

Vs.

\*

No. 2006-00327-CD

Charles W. Rice, D.P.M.

Charles W. Rice, D.P.M., P.C.

Defendant(s)

\*

\*

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

TO: Custodian of Records: Dubois Magnetic & Imaging Ctr  
(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:  
\*\*\*See Attached Rider\*\*\*

MCS 300 Lawyers Building Pittsburgh, Pa 15219  
(Address)

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NAME: Christopher Rulis, Esq

ADDRESS: 555 Grant St Suite 120

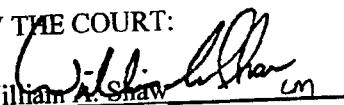
Pittsburgh, Pa 15219

TELEPHONE: 412-642-4420

SUPREME COURT ID #

ATTORNEY FOR: Defendant

BY THE COURT:

  
William A. Shaw  
Prothonotary/Clerk, Civil Division

DATE: Friday, March 30, 2007

Seal of the Court

Deputy

## **EXPLANATION OF REQUIRED RECORDS**

**TO: CUSTODIAN OF RECORDS FOR:**

**DUBOIS MAGNETIC IMAGING CTR.  
145 HOSPITAL AVENUE  
SUITE 102**

**DUBOIS, PA 15801**

**RE: 22203  
ERIN E. LUX**

**Prior approval is required for fees in excess of \$150.00 for  
hospitals, \$100.00 for all other providers.**

**MRI OF THE RIGHT FOOT DATED 8/29/2006**

**Subject : ERIN E. LUX  
653 SHERDELIN RD, DUBOIS, PA 15801  
Social Security #: XXX-XX-4962  
Date of Birth: 04-20-1975**

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

ERIN LUX,

Plaintiff,

vs.

CHARLES W. RICE, D.P.M., and  
CHARLES W. RICE, D.P.M., P.C.,

Defendants.

CIVIL DIVISION

CASE NO: 2006-327-CD

Type of Pleading:

**NOTICE OF SERVICE OF  
REQUEST FOR PRODUCTION  
OF EXPERT REPORTS  
DIRECTED TO THE PLAINTIFF**

Filed on behalf of Defendants

Counsel of record for these parties:

Christopher C. Rulis, Esquire  
PA I.D. # 34886

Janet K. Meub, Esquire  
PA I.D. # 88724

**O'BRIEN, RULIS &  
BOCHICCHIO, LLC**  
555 Grant Street  
Suite 120  
Pittsburgh, PA 15219  
(412) 566-1717

**WARANCH & BROWN, LLC**  
1301 York Road, Suite 300  
Lutherville, Maryland 21093

**JURY TRIAL DEMANDED**

FILED NO CC  
N 10:43 ct  
SEP 25 2007  
LM

William A. Shaw  
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

ERIN LUJX,	:	CIVIL DIVISION
Plaintiff,	:	CASE NO: 2006-327-CD
vs.	:	
CHARLES W. RICE, D.P.M., and	:	
CHARLES W. RICE, D.P.M., P.C.,	:	
Defendants.	:	

**NOTICE OF SERVICE**

I hereby certify that Defendants', Charles W. Rice, D.P.M., and Charles W. Rice, D.P.M., P.C., Request for Production of Expert Reports Directed to Plaintiff was served this 20th day of September, upon:

Jeffrey Owen, Esquire  
Cooper Owen & Renner, P.C.  
1600 Benedum-Trees Building  
223 Fourth Avenue  
Pittsburgh, PA 15222-1713  
(Counsel for Plaintiff)

O'BRIEN, RULIS & BOCHICCHIO, LLC

  
Christopher C. Rulis, Esquire

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

ERIN E. LUX,

**CIVIL DIVISION**

Plaintiff

Case No.: 2006-327-CD

vs.

CHARLES W. RICE, D.P.M., and  
CHARLES W. RICE, D.P.M., P.C.

Defendants

**NOTICE OF SERVICE OF PLAINTIFF'S  
REQUEST TO DEFENDANTS FOR  
PRODUCTION OF EXPERT REPORT**

Filed on behalf of:

ERIN E. LUX,  
Plaintiff

Counsel of Record for this Party:

Jeffrey R. Owen, Esquire  
PA I.D. #45896

COOPER OWEN & RENNER, P.C.  
Firm #233

1600 Benedum-Trees Building  
223 Fourth Avenue  
Pittsburgh, PA 15222-1713  
(412) 281-9696

FILED NOCC  
MAR 10 2006  
WM  
William A. Shaw  
Prothonotary/Clerk of Courts

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

ERIN E. LUX

CIVIL DIVISION

Plaintiff

Case No.: 2006-327-CD

vs.

CHARLES W. RICE, D.P.M., and  
CHARLES W. RICE, D.P.M., P.C.

Defendants

**NOTICE OF SERVICE OF PLAINTIFF'S REQUEST  
TO DEFENDANTS FOR PRODUCTION OF EXPERT REPORT**

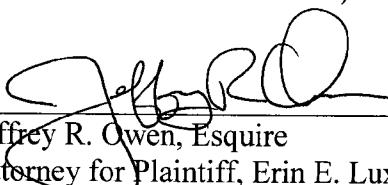
I hereby certify that Plaintiff's Request to Defendants for Production of Expert Report was served this 18<sup>th</sup> day of March, 2008, upon:

Christopher C. Rulis, Esquire  
O'Brien, Rulis & Bochicchio, LLC  
555 Grant Street, Suite 120  
Pittsburgh, PA 15219

Larry M. Waranch, Esquire  
Waranch & Brown, LLC  
1301 York Road, Suite 300  
Lutherville, MD 21093

**COOPER OWEN & RENNER, P.C.**

By

  
Jeffrey R. Owen, Esquire  
Attorney for Plaintiff, Erin E. Lux

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

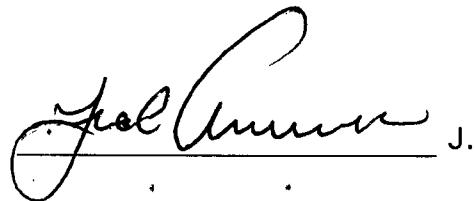
ERIN E. LUX, : CIVIL DIVISION  
Plaintiffs : CASE No. 2006-327-CD  
vs. :  
CHARLES W. RICE, D.P.M. and :  
CHARLES W. RICE, D.P.M., P.C. :  
Defendants :  
:

ORDER OF COURT

AND NOW, this 2<sup>nd</sup> day of Feb., <sup>2009</sup><sup>fja</sup>, after consideration of  
Defendant's Motion for Admission *PRO HAC VICE*, it is hereby Ordered and  
Decreed that said Motion is granted and Larry M. Waranch, Esq., an attorney  
with the law firm of Waranch & Brown, LLC, is admitted to the Bar of the  
Commonwealth for purposes limited to involvement in the above-captioned  
matter.

FILED <sup>300</sup>  
04/09/09 Atty Rulis  
FEB 02 2009  
(6)

William A. Shaw  
Prothonotary/Clerk of Courts

  
William A. Shaw J.

**FILED**

**FEB 02 2009**

**William A. Shaw  
Prothonotary/Clerk of Courts**

DATE: 2/6/09

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  Other  
 Special Instructions:

UR

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

---

CERTIFICATE OF READINESS

TO THE PROTHONOTARY

---

2006-327-CR

DATE PRESENTED 2/9/09

CASE NUMBER

TYPE TRIAL REQUESTED

ESTIMATED TRIAL TIME

Date Complaint

Filed: 3/2/06

( ) Jury ( ) Non-Jury

( ) Arbitration

3 days/hours

Erin E. Lux

PLAINTIFF(S)

Charles W. Rice, P.P.M. and

Charles W. Rice, P.P.M., P.C.

( )

Check block if a Minor  
is a Party to the Case

DEFENDANT(S)

ADDITIONAL DEFENDANT(S)

( )

( )

FILED NO CC  
M 10 46 81  
FEB 11 2009 (612)

JURY DEMAND FILED BY:

DATE JURY DEMAND FILED:

Jeffrey Owen, Esquire

3/2/06

AMOUNT AT ISSUE CONSOLIDATION DATE CONSOLIDATION ORDERED

More than amount in excess of statutory arbitration limits  
& ( ) yes ( ) no

---

PLEASE PLACE THE ABOVE CAPTIONED CASE ON THE TRIAL LIST.

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

---

Jeffrey Owen, Esquire

(412) 281-9696

FOR THE PLAINTIFF

TELEPHONE NUMBER

Larry Waranch, Esquire

(412) 831-1750

Christopher Rulis, Esquire

(412) 904-5214

FOR THE DEFENDANT

TELEPHONE NUMBER

---

FOR ADDITIONAL DEFENDANT

TELEPHONE NUMBER

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

ERIN E. LUX

vs.

: No. 06-327-CD

CHARLES W. RICE, DPM AND  
CHARLES W. RICE, DPM, P.C.

**O R D E R**

AND NOW, this 13<sup>th</sup> day of February, 2009, it is the Order of the Court that a pre-trial conference in the above-captioned matter shall be and is hereby scheduled for Wednesday, March 25, 2009 at 10:30 A.M. in Judges Chambers, Clearfield County Courthouse, Clearfield, PA.

Additionally, Jury Selection in this matter shall be and is hereby scheduled for April 2, 2009 at 9:00 a.m. in Courtroom No. 1 of the Clearfield County Courthouse, Clearfield, Pennsylvania.

BY THE COURT:



FREDRIC J. AMMERMAN  
President Judge

FILED

2/13/2009  
FEB 13 2009

100  
Attns: Owen  
Rulis

5  
William A. Shaw  
Prothonotary/Clerk of Courts  
610

**FILED**

**FEB 13 2009**

**William A. Shaw**  
**Prothonotary/Clerk of Courts**

DATE: 2/13/09

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

ERIN E. LUX,

Plaintiffs ) CIVIL DIVISION  
vs. ) No.: 06-327- CD  
CHARLES W. RICE, D.P.M., and )  
CHARLES W. RICE, D.P.M., P.C. )  
Defendants )

MOTION TO STRIKE  
Filed on behalf of:  
Erin E. Lux, Plaintiff

Counsel of Record for this Party:

Jeffrey R. Owen, Esquire  
PA I.D. #45896

COOPER OWEN & RENNER, P.C.  
Firm #233

1600 Benedum-Trees Building  
223 Fourth Avenue  
Pittsburgh, PA 15222-1713

(412) 281-9696

FILED 2CC  
MHS/BD Atty Owen  
FEB 20 2009  
S William A. Shaw  
Prothonotary/Clerk of Courts  
60

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

ERIN E. LUX,	)	<b>CIVIL DIVISION</b>
	)	
Plaintiff	)	No.: 06-327-CD
	)	
vs.	)	
	)	
CHARLES W. RICE, D.P.M., and	)	
CHARLES W. RICE, D.P.M., P.C.	)	
	)	
Defendants	)	

**MOTION TO STRIKE**

AND NOW, comes the Plaintiff, Erin E. Lux, by and through her Counsel, Cooper Owen & Renner, P.C. and Jeffrey R. Owen, Esquire, and files this Motion To Strike, and states the following:

1. On or about February 10, 2009, Counsel for Plaintiff received a Certificate of Readiness requesting that the above matter be placed on the trial list.
2. The Certificate is unsigned, so it is unknown who is purported to have made the certifications set forth herein.
3. Furthermore, while Plaintiff does not object to the placement of the matter on an upcoming trial list in short order, the matter is not ready for placement on the next list, for the following reasons:
  - a) All discovery has not been completed as required by Local Rule 212.2 (a)(1). Rather, there is an outstanding request from the Plaintiff to

Defendants to provide dates upon which the Defendant Charles W. Rice is available for deposition. To date, no deposition dates have been provided by the Defendant;

- b) Serious settlement discussions have not been undertaken; and,
- c) It is unknown if all witnesses are available for trial. It is anticipated that expert testimony will be presented by videotape deposition, and the same have not yet been taken by either the Plaintiff or Defendants.

4. This matter has not been listed for trial previously.

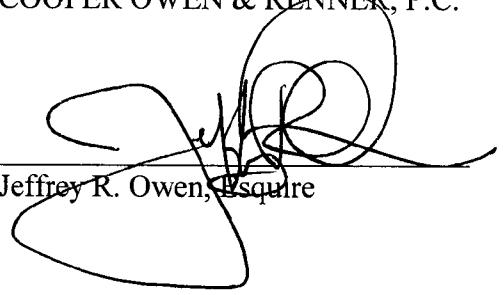
5. Plaintiff requests that the Defendants Certificate of Readiness be stricken to permit Defendants sufficient time to appear for deposition.

WHEREFORE, Plaintiff, Erin E. Lux requests this Honorable Court move to strike the Certificate of Readiness.

Respectfully submitted,

COOPER OWEN & RENNER, P.C.

Jeffrey R. Owen, Esquire



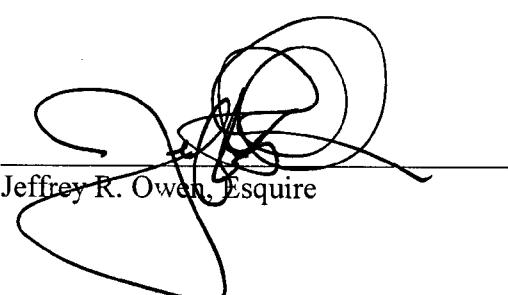
**CERTIFICATE OF SERVICE**

I hereby certify that on this 17<sup>th</sup> day of February 2009, an original copy of Motion to Strike was served on the following by depositing same in the United States Mail, First Class delivery, postage prepaid.

Christopher C. Rulis, Esquire  
O'Brien, Rulis & Bochicchio, LLC  
555 Grant Street, Suite 120  
Pittsburgh, PA 15219

Larry M. Waranch, Esquire  
Waranch & Brown, LLC  
1301 York Road, Suite 300  
Lutherville, MD 21093

Jeffrey R. Owen, Esquire

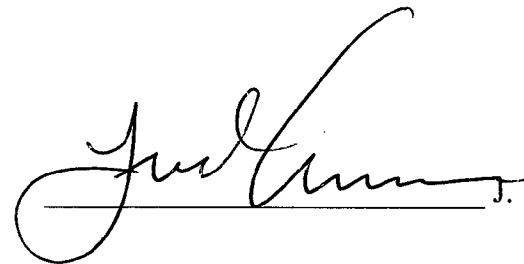


IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CA  
ERIN E. LUX, ) **CIVIL DIVISION**  
 )  
Plaintiff ) No.: 06-327-CD  
 )  
vs. )  
 )  
CHARLES W. RICE, D.P.M., and )  
CHARLES W. RICE, D.P.M., P.C. )  
 )  
Defendants )

**ORDER OF COURT**

AND NOW, this 20 day of February, 2009 being fully informed in all particulars, it is  
hereby ORDERED, ADJUDGED, and DECREED, that Plaintiff, Erin E. Lux's Motion to Strike  
is HEREBY ~~GRANTED~~.  
*Denied*



FILED *01/06/09* *cc*  
FEB 23 2009 *Atty Oseen*  
*60*  
William A. Shaw  
Prothonotary/Clerk of Courts

**FILED**

**FEB 23 2009**

William A. Shaw  
Prothonotary/Clerk of Courts

DATE: 2/23/09

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  Other

Special Instructions:

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

ERIN E. LUX

CIVIL DIVISION

Plaintiff,

No: 2006-327-CD

vs.

CHARLES W. RICE, D.P.M., and  
CHARLES W. RICE, D.P.M., P.C.

Defendants.

**UNCONTESTED MOTION TO  
PERMIT TRIAL COUNSEL TO  
APPEAR AT PRETRIAL  
CONFERENCE  
TELEPHONICALLY**

Filed on behalf of Defendants:

Charles W. Rice, D.P.M., and  
Charles W. Rice, D.P.M., P.C.

Counsel of record for these Parties:

Christopher C. Rulis, Esquire  
PA I.D. # 34886

**O'BRIEN, RULIS &  
BOCHICCHIO, LLC**  
555 Grant Street  
Suite 120  
Pittsburgh, PA 15219  
(412) 566-1717

Larry Waranch, Esquire  
**WARANCH & BROWN, LLC**  
1301 York Road  
Suite 300  
Lutherville, Maryland 21093  
(410) 821-3500

**JURY TRIAL DEMANDED**

FILED NOCC  
MAR 11 2009  
610  
William A. Shaw  
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

ERIN E. LUX : CIVIL DIVISION  
: Plaintiff, : No: 2006-327-CD  
: vs. :  
: CHARLES W. RICE, D.P.M., and :  
: CHARLES W. RICE, D.P.M., P.C. :  
: Defendants. :

**CERTIFICATE OF UNCONTESTED MOTION PURSUANT TO L.R. 208.2(d)**

I, Christopher C. Rulis, counsel for defendants, CHARLES W. RICE, and CHARLES W. RICE, D.P.M., P.C., certify that a true and correct copy of the attached Motion to Permit Trial Counsel to Attend Pretrial Conference Telephonically was served on all parties via facsimile on the 6th day of March, 2009. Pursuant to Local Rule 208.2(d), I further certify that this Motion is uncontested. Attached with this Motion is correspondence from counsel for the Plaintiff, dated March 4, 2009, indicating his concurrence.

Dated: 03/06/09

*Christopher C. Rulis, Esq.*  
CHRISTOPHER C. RULIS, ESQUIRE  
PA. Id. # 34886  
O'BRIEN, RULIS & BOCHICCHIO, LLC  
555 Grant Street, Suite 120  
Pittsburgh, PA 15219  
(412) 904-5205

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

ERIN E. LUX	:	CIVIL DIVISION
	:	
Plaintiff,	:	No: 2006-327-CD
	:	
vs.	:	
	:	
CHARLES W. RICE, D.P.M., and	:	
CHARLES W. RICE, D.P.M., P.C.	:	
	:	
Defendants,	:	

## PRAECLYPE

**TO THE COURT ADMINISTRATOR:**

Expedited Disposition of attached motion is requested for the following reasons:

If this Motion is denied, trial counsel for the Defendants will have to make travel arrangements to attend the scheduled Pretrial Conference on March 25, 2009, in person. If the Motion is granted, trial counsel may plan to attend the Pretrial Conference telephonically. Moving counsel requests that The Honorable Frederic Ammerman grant this Motion by signing the attached Order and providing a copy to all parties.

Respectfully Submitted,

## O'BRIEN, RULIS & BOCHICCHIO, LLC

Christine A. Cain / by MCF

Christophér C. Rulis, Esquire  
Counsel for Defendants  
Charles W. Rice, D.P.M., and  
Charles W. Rice, D.P.M., P.C.

**FOR COURT ADMINISTRATION ACTION ONLY**

MOTION OR PETITION ASSIGNED TO JUDGE

COUNSEL FOR MOVING PARTY NOTIFIED OF JUDICIAL ASSIGNMENT

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

ERIN E. LUX	:	CIVIL DIVISION
Plaintiff,	:	No: 2006-327-CD
vs.	:	
CHARLES W. RICE, D.P.M., and	:	
CHARLES W. RICE, D.P.M., P.C.	:	
Defendants.	:	

**MOTION TO PERMIT TRIAL COUNSEL**  
**TO ATTEND PRETRIAL CONFERENCE TELEPHONICALLY**

Defendants, CHARLES W. RICE, D.P.M., and CHARLES W. RICE, D.P.M., P.C., pursuant to Clearfield County Local Rule L212.4(d), file the within Motion to Permit Trial Counsel to Attend Pretrial Conference Telephonically. In support thereof, Defendants state the following:

1. A Pretrial Conference has been scheduled in the above-captioned professional negligence action for Wednesday, March 25, 2009, at 10:30 a.m., before the Honorable Frederic J. Ammerman.
2. Clearfield County Local Rule L212.4(d) provides that counsel attending the pre-trial conference must have full settlement authority.
3. Trial counsel in this case is Larry Waranch, Esquire. Mr. Waranch is located in Lutherville, Maryland, and requests to attend the Pretrial Conference by telephone. Mr. Waranch will have full authority with respect to all aspects of the case.
4. Local counsel for Defendants, Christopher C. Rulis, Esquire, or an associate from his office, will attend the Pretrial Conference in person.

5. Counsel for the Plaintiff has advised that he does not contest Mr. Waranch attending the Pretrial Conference by telephone. See Correspondence from Plaintiff's counsel, dated March 4, 2009, attached hereto as Exhibit "A."

6. Defendants respectfully request that Mr. Waranch be permitted to attend the Pretrial Conference via telephone.

**WHEREFORE**, defendants, CHARLES W. RICE, D.P.M., and CHARLES W. RICE, D.P.M., P.C. respectfully request that this Honorable Court permit trial counsel, Larry Waranch, to attend the March 25, 2009 Pretrial Conference telephonically, by signing the attached proposed Order of Court.

Respectfully Submitted,

**O'BRIEN, RULIS & BOCHICCHIO, LLC**

*Christopher C. Rulis by MC*  
Christopher C. Rulis, Esquire  
Counsel for Defendants  
Charles W. Rice, D.P.M., and  
Charles W. Rice, D.P.M., P.C.

MAR - 5 2009

**COOPER OWEN & RENNER, P.C.**  
ATTORNEYS AT LAW

1600 BENEDUM TREES BUILDING, 223 FOURTH AVENUE, PITTSBURGH, PENNSYLVANIA 15222 • TELEPHONE (412) 281-9696 • FAX (412) 281-9680

P. Ronald Cooper  
Jeffrey R. Owen  
S. Todd Renner  
Joseph Cafaro, Jr.

Of Counsel:  
William E. Goehring

March 4, 2009

Marissa Farrone, Esquire  
O'Brien, Rulis, Bochicchio, LLC  
555 Grant Street, Suite 120  
Pittsburgh, PA 15219

**RE: Erin E. Lux v. Charles W. Rice, D.P.M. and Charles W. Rice, D.P.M., P.C.**

Dear Ms. Farrone:

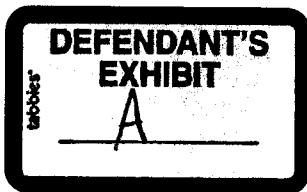
This will confirm our conversation this afternoon, as well as my conversation with Larry Waranch.

I have discussed with both of you that the Plaintiff does not object to Larry attending the Pre-Trial Conference by telephone. You are authorized to inform the court that we do not contest, and in fact consent to this request.

We have further discussed and agreed that we will proceed to hold the deposition of Dr. Rice on April 15, which is a date that the Doctor has stated he is available to take deposition in Dubois. In addition, Larry has requested that the deposition be held in your offices in Pittsburgh. We do not object to this, and will await further information from you as to the scheduling of the exact time and place of this deposition.

Because the deposition will be taking place in mid-April, Larry and I have further agreed that there will be no objection by either party as to the amendment of Pre-Trial Statements or Trial Memoranda to permit either party to reflect any changes arising from Dr. Rice's deposition. Larry and I have further agreed to change the jury selection date from April 2, to a date which is sufficient to accommodate the review of Dr. Rice's deposition transcript by our expert witnesses.

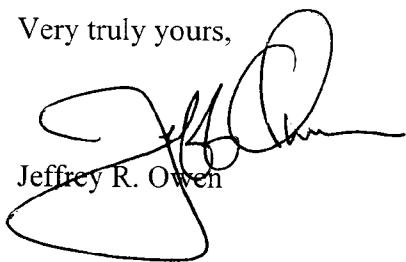
Finally, we have discussed that I will be obtaining dates for a videotape deposition of Dr. Wukich for use at trial, and will provide information as to his availability on a date scheduled to permit sufficient time for his review of Dr. Rice's deposition transcript.



A copy of this correspondence is also being provided to Larry for his review. I would ask that either of you contact me immediately should there be any discrepancy in the above recitation of our agreements.

Thank you for your cooperation in these matters.

Very truly yours,

A handwritten signature in black ink, appearing to read "Jeffrey R. Owen".

Jeffrey R. Owen

JRO/ekp

cc: Larry M. Waranch, Esq.

**CERTIFICATE OF SERVICE**

I, the undersigned, hereby certify that a true and correct copy of the within **MOTION TO PERMIT TRIAL COUNSEL TO ATTEND PRETRIAL CONFERENCE** **TELEPHONICALLY** was served upon the following individuals via first class mail, postage prepaid on March 10<sup>th</sup>, 2009.

Jeffrey R. Owen, Esquire  
Cooper Owen & Renner, P.C.  
1600 Benedum Trees Building  
223 Fourth Avenue  
Pittsburgh, PA 15222

**O'BRIEN, RULIS & BOCHICCHIO, LLC**

*Christopher C. Rulis /by MCF*  
Christopher C. Rulis, Esquire  
Counsel for Defendants  
Charles W. Rice, D.P.M., and  
Charles W. Rice, D.P.M., P.C.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

ERIN E. LUX : CIVIL DIVISION

Plaintiff, : No: 2006-327-CD

vs. :

CHARLES W. RICE, D.P.M., and  
CHARLES W. RICE, D.P.M., P.C. :

Defendants. :

**ORDER OF COURT**

AND NOW, this 12<sup>th</sup> day of March, 2009, upon the Motion to Permit Trial Counsel To Attend Pretrial Conference Telephonically filed by defendants, CHARLES W. RICE, D.P.M., and CHARLES W. RICE, D.P.M., P.C., with the consent of all parties, and for good cause shown, said Motion is GRANTED. With respect to the March 25, 2009 Pretrial Conference, trial counsel, Larry Waranch, may attend telephonically.

BY THE COURT:

  
\_\_\_\_\_, J.

FILED  
01/11/09 3:00 PM  
12/27/09 Atty Rulus  
S  
William A. Shaw  
Prothonotary/Clerk of Courts  
(60)

FILED

Mar 1 2009

William A. Shaw  
Prothonotary/Clerk of Courts

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

ERIN E. LUX, \*  
Plaintiff  
vs. \*  
CHARLES W. RICE, D.P.M and \*  
CHARLES W. RICE, D.P.M., P.C., \*  
Defendants \*

NO. 06-327-CD

FILED  
04/09/09  
MAR 25 2009

William A. Shaw  
Prothonotary/Clerk of Courts  
ICC Atlys: Owen  
Rulus

ORDER

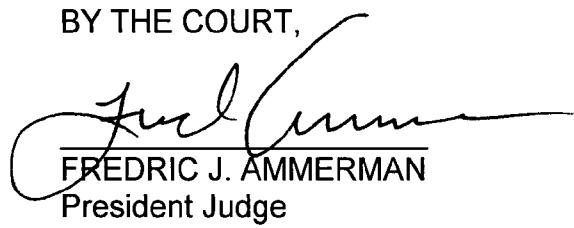
NOW, this 25<sup>th</sup> day of March, 2009, following pre-trial conference with counsel for the parties as set forth above, it is the ORDER of this Court as follows:

1. Jury Selection will be held on July 23, 2009 commencing at 9:00 a.m. in Courtroom No. 1 of the Clearfield County Courthouse, Clearfield, Pennsylvania.
2. Jury Trial is hereby scheduled for October 28, 29, 30, 2009, commencing at 9:00 a.m. each day in Courtroom No. 1 of the Clearfield County Courthouse.
3. All depositions which are to be used for trial presentation purposes shall be completed by absolutely no later than sixty (60) days prior to the commencement of trial or the same will not be available for use at trial. A copy of the transcript of any such deposition(s) shall be provided to opposing counsel within no more than ten (10) days following completion of the deposition(s).
4. The written report of any expert who will testify at trial which has not previously been provided to opposing counsel shall be delivered within no more than sixty (60) days from this date. Failure to comply will result in the witness not being available for use at trial.
5. Any party making objections relative the testimony to be provided by any witness in the form of a deposition at the time of trial shall submit said objections to the Court, in writing, no later than forty-five (45) days prior to the commencement of

trial. All objections shall reference specific page and line numbers within the deposition(s) in question along with that party's brief relative same. The opposing party shall file an Answer thereto and submit its brief in opposition to said objections no later than thirty (30) days prior to the commencement of trial.

6. Any party filing any Motion or Petition regarding limitation or exclusion of evidence or testimony to be presented at time of trial, including but not limited to Motions in Limine, shall file the same no more than forty-five (45) days prior to the trial date. The party's Petition or Motion shall be accompanied by an appropriate brief. The responding party thereto shall file its Answer and submit appropriate response brief no later than thirty (30) days prior to trial.

BY THE COURT,



FREDRIC J. AMMERMAN  
President Judge

**FILED**

**MAR 25 2009**

William A. Shaw  
Prothonotary/Clerk of Courts

DATE: 3/25/09

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

ERIN E. LUX,

Plaintiff,

vs.

CHARLES W. RICE, D.P.M. and  
CHARLES W. RICE, D.P.M., P.C.,

Defendants.

CIVIL DIVISION

Case No.: 2006-327-CD

*Aug 20 2009*  
*ml 10135 (w)*  
*William A. Shaw*  
*Prothonotary/Clerk of Courts*  
*no 9c*

**PRAECIPE TO SETTLE  
AND DISCONTINUE**

Filed on behalf of:  
**ERIN E. LUX**, Plaintiff

Counsel of record for this party:

Jeffrey R. Owen, Esquire  
PA I.D. # 45896

COOPER OWEN & RENNER, P.C.  
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(412) 281-9696

jowen@corlaw.com

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

ERIN E. LUX,

CIVIL DIVISION

Plaintiff,

Case No.: 2006-327-CD

vs.

CHARLES W. RICE, D.P.M. and  
CHARLES W. RICE, D.P.M., P.C.,

Defendants.

**PRAECIPE TO SETTLE AND DISCONTINUE**

TO: Prothonotary

Please mark the docket in reference to the above case as settled and discontinued with prejudice.

I HEREBY CERTIFY THAT THE FOREGOING IS A TRUE AND CORRECT STATEMENT OF THE ABOVE CASE.

THIS STATEMENT IS MADE SUBJECT TO THE PENALTIES OF 18 PA C.S. §4904 RELATING TO UNSWORN FALSIFICATIONS TO AUTHORITIES.

Jeffrey R. Owen, Esquire  
Attorney for Plaintiff

