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## Medical Professional Liability Action

| Date      |                                                                                                                                                                                                                                                                                                                                                                          | Judge    |
|-----------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------|
| 4/11/2006 | New Case Filed.                                                                                                                                                                                                                                                                                                                                                          | No Judge |
|           | Filing: Civil Complaint Medical Professional Liability Action. Paid by: Thomas E. Crenney & Associates, LLC Receipt number: 1913310 Dated: 04/11/2006 Amount: \$85.00 (Check) 2 Cert. to Sheriff.                                                                                                                                                                        | No Judge |
|           | Certificate of Merit, filed by Atty. Crenney As to Jeris T. Alajaji, MD. no cert.                                                                                                                                                                                                                                                                                        | No Judge |
|           | Certificate of Merit, filed by Atty. Crenney As to DuBois Radiologists, Inc. no cert.                                                                                                                                                                                                                                                                                    | No Judge |
| 4/20/2006 | Praeipce For Entry of Appearance, filed. Please enter our appearance on behalf of the Defendant, Jerjis T. Alajaji MD, in the above-captioned matter, filed by s/ Darryl R. Slimak Esq. NO CC.                                                                                                                                                                           | No Judge |
| 5/2/2006  | Praeipce For Entry of Appearance, filed. Kindly enter the appearance of Walter Fredrick Wall, Esquire of the law firm of Meyer, Darragh, Buckler, Bebenek & Eck, PLLC. as counsel of record for the Defendant, DuBois Radiologists, Inc. in the above-captioned action, filed by s/ Walter Fredrick Wall Esq. NO CC.                                                     | No Judge |
| 5/8/2006  | Sheriff Return, April 17, 2006 at 11:15 am served the within Complaint; Plff. First Set of Interrogatories; Cert of Jerjus T. Alajaji MD. April 17, 2006 at 11:00 am served the within Complaint; Plff First Set of Interrogatories; cert of DuBois Radiologists Inc. So Answers, Chester A. Hawkins, Sheriff by s/Marilyn Hamm Shff Hawkins costs pd by Crenney \$60.91 | No Judge |
| 5/11/2006 | Defendant Dr. Alajaji's Answers to Plaintiffs' First Set of Interrogatories and Request for Production of Documents, filed by s/ Darryl R. Slimak Esq. No CC.                                                                                                                                                                                                            | No Judge |
| 5/19/2006 | Answer and New Matter filed by s/ Walter F. Wall Esq. No CC.                                                                                                                                                                                                                                                                                                             | No Judge |
| 6/2/2006  | Plaintiffs' Reply to New Matter of Defendant DuBois Radiologists Inc., filed by s/ Thomas E. Crenney Esq. No CC.                                                                                                                                                                                                                                                         | No Judge |
| 7/3/2006  | Certificate of Service, filed. That a true and correct copy of Jerjis T. Alajaji MD Interrogatories and Request for Production (set one) directed to the plaintiffs in the above-captioned matter was mailed to Thomas E. Crenney Esq. No CC.                                                                                                                            | No Judge |
|           | Certificate of Service, filed. That a true and correct copy of Jerjis T. Alajaji MD's Request for Production (set two) directed to the Plaintiffs in the above-captioned matter was mailed to Thomas E. Crenney Esq. No CC.                                                                                                                                              | No Judge |
|           | Certificate of Service, filed. That a true and correct copy of Jerjis T. Alajaji MD's Expert Interrogatories directed to the Plaintiffs in the above-captioned matter was mailed to Thomas E. Crenney Esq. No CC.                                                                                                                                                        | No Judge |
| 7/13/2006 | Certificate of Service, filed. That the Notice of Taking Oral Deposition of Paula Carlson, in the above-referenced matter was mailed on the 12th day of July 2006 to Thomas E. Crenney Esq and Walter F. Wall Esq., filed by s/ Darryl R. Slimak Esq. No CC.                                                                                                             | No Judge |
| 7/24/2006 | Stipulations, filed by Atty. Crenney no cert. copies. Dr. Alajaji and DurBois Radiology, Inc. do not oppose the filing of an Amended Complaint which will add DuBois Regional Medical Center as a defendant. Stipulated on the 20th day of July, 2006                                                                                                                    | No Judge |
|           | Amended Complaint in Civil Action Adding Party Defendant, filed by s/Thomas E. Crenney, Esq. One CC Sheriff                                                                                                                                                                                                                                                              | No Judge |



## Medical Professional Liability Action

| Date      |                                                                                                                                                                                                                                                                                                                                                       | Judge                   |
|-----------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------|
| 7/24/2006 | Certificate of Merit as to DuBois Regional Medical Center, filed by s/Thomas E. Crenney, Esq. One CC Sheriff                                                                                                                                                                                                                                          | No Judge                |
| 7/28/2006 | Answer and New Matter to Plaintiffs' Amended Complaint, filed by s/ Darryl R. Slimak, Esquire. No CC                                                                                                                                                                                                                                                  | No Judge                |
| 8/3/2006  | Praeipce for Appearance, filed. Kindly enter our appearance on behalf of DuBois Regional Medical Center, on of the defendants, filed by s/ David R. Johnson Esq. No CC., copy to C/A.                                                                                                                                                                 | No Judge                |
| 8/4/2006  | Plaintiffs' Reply to Answer and New Matter of Defendant Dr. Alajaji to Plaintiffs' Amended Complaint. Filed by s/ Thomas E. Crenney, Esquire. No CC                                                                                                                                                                                                   | No Judge                |
| 8/7/2006  | Preliminary Objections to Plaintiffs' Amended complaint, filed by Atty. Wall no cert. copies.                                                                                                                                                                                                                                                         | No Judge                |
| 8/9/2006  | Sheriff Return, July 27, 2006 at 2:30 pm served the within Amended Complaint adding Party Deft; Certificate on DuBois Regional Medical Center. So Answers, Chester A. Hawkins, Sheriff by s/Marilyn Hamm Shff Hawkins costs pd by Crenney \$44.91                                                                                                     | Fredric Joseph Ammerman |
| 8/11/2006 | Preliminary Objections To Plaintiffs' Complaint, filed by s/ David R. Johnson, Esquire. 1CC Atty.                                                                                                                                                                                                                                                     | Fredric Joseph Ammerman |
| 8/15/2006 | Order, NOW, this 14th day of August, 2006, it is Ordered that oral argument on defendants' preliminary objections to plaintiff's amended complaint is scheduled for the 13th day of Sept. 2006 at 10:00 a.m. in Courtroom 1. By The Court, /s/ Fredric J. Ammerman, Pres. Judge. 1CC Atty. Johnson                                                    | Fredric Joseph Ammerman |
| 8/21/2006 | Certificate of Service of Order dated August 14, 2006, filed by s/ David R. Johnson Esq. No CC.                                                                                                                                                                                                                                                       | Fredric Joseph Ammerman |
| 8/24/2006 | Order of Court, filed. 3 Cert. to Atty. Wall<br>Now, this 22nd day of August, 2006, Oral argument on the Defendant's Preliminary Objections to Plaintiff's Amended Complaint is scheduled for the 13th day of Sept., 2006.                                                                                                                            | Fredric Joseph Ammerman |
| 8/28/2006 | Second Amended Complaint in Civil Action, filed by s/ Thomas E. Crenney Esq. No CC.                                                                                                                                                                                                                                                                   | Fredric Joseph Ammerman |
|           | Certificate of Service, filed. That on this 25th day of August 2006, served the foregoing Order scheduling argument on Preliminary Objection to Plaintiffs' Amended Complaint on behalf of Defendant, DuBois Radiologist Inc. upon Thomas E. Crenney Esq., Darryl Slimak Esq and David R. Johnson Esq., filed by s/ Walter Frederick Wall Esq. NO CC. | Fredric Joseph Ammerman |
| 8/31/2006 | Praeipce, Please withdraw the Preliminary Objections to Plaintiff's Amended Complaint filed on behalf of this Def., DuBois Radiologists, Inc. Filed by s/ Walter Fredrick Wall, Esquire. No CC                                                                                                                                                        | Fredric Joseph Ammerman |
| 9/1/2006  | Defendant Dr. Jerjis Alajaji's Answer to Plaintiffs' Second Amended Complaint, filed by s/ Darryl R. Slimak Esq. No CC.                                                                                                                                                                                                                               | Fredric Joseph Ammerman |
| 9/5/2006  | Praeipce To Withdraw Preliminary Objection to Plaintiffs' Amended Complaint, filed by s/ David R. Johnson, Esquire. No CC                                                                                                                                                                                                                             | Fredric Joseph Ammerman |
| 9/6/2006  | Defendant Dr. Jerjis Alajaji's Answer with New Matter to Plaintiffs' Complaint, filed by s/ Darryl R. Slimak Esq. No CC.                                                                                                                                                                                                                              | Fredric Joseph Ammerman |
| 9/11/2006 | Notice of Service of Plaintiffs' Response to Defendant Jerjis T. Alajaji M.D.'s Request for Production (set two), filed by s/ Thomas E. Crenney Esq. No CC.                                                                                                                                                                                           | Fredric Joseph Ammerman |

## Medical Professional Liability Action

| Date       |                                                                                                                                                                                                                                                                                                                                                                                                        | Judge                   |
|------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------|
| 9/11/2006  | Notice of Service of Plaintiffs' Response to First Request for Production of Documents of DuBois Regional Medical Center, filed by s/ Thomas E. Crenney Esq. No CC.                                                                                                                                                                                                                                    | Fredric Joseph Ammerman |
|            | Notice of Service of Plaintiffs' Response to First Set of Interrogatories of DuBois Regional Medical Center, filed by s/ Thomas E. Crenney Esq. No CC.                                                                                                                                                                                                                                                 | Fredric Joseph Ammerman |
|            | Notice of Service of Plaintiffs' Response to Defendant Jerjis T. Alajaji M.D.'s Expert Interrogatories for Answer by Plaintiffs, filed by s/ Thomas E. Crenney Esq. No CC.                                                                                                                                                                                                                             | Fredric Joseph Ammerman |
|            | Notice of Service of Plaintiffs' Response Defendant Jerjis T. Alajaji M.D.'s Interrogatories for Answer by Plaintiffs and Request for Production (set one), filed by s/ Thomas E. Crenney Esq. No CC.                                                                                                                                                                                                  | Fredric Joseph Ammerman |
| 9/18/2006  | Answer and New Matter to Plaintiffs Second Amended Complaint, filed by s/ Walter Frederick Wall Esq. No CC.                                                                                                                                                                                                                                                                                            | Fredric Joseph Ammerman |
| 9/25/2006  | Certificate of Service, filed. Certify that the Notice of Rescheduled Oral Deposition of Paula Carlson, in the above-referenced matter was mailed on this 22nd day of September 2006 to Thomas E. Crenney Esq., Walter F. Wall Esq., David R Johnson Esq. filed by s/ Darryl R. Slimak Esq. No CC.                                                                                                     | Fredric Joseph Ammerman |
| 9/29/2006  | Plaintiffs' Reply to New Matter of Defendant, DuBois Radiologists, Inc., filed by s/ Thomas E. Crenney Esq. No CC.                                                                                                                                                                                                                                                                                     | Fredric Joseph Ammerman |
|            | Plaintiffs' Reply to New Matter of Defendant, Jerjis T. Alajaji M.D., filed by s/ Thomas E. Crenney Esq. No CC.                                                                                                                                                                                                                                                                                        | Fredric Joseph Ammerman |
| 10/5/2006  | Certificate of Service, filed. That on this 4th day of October 2006, I have personally served the foregoing Answers to Plaintiffs' First Set of Interrogatories and Request for Production of Documents Directed to Defendants on behalf of Defendant, DuBois Radiologists Inc., on Thomas E. Crenney Esq., Darryl Slimak Esq and David R. Johnson Esq., filed by s/ Walter Frederick Wall Esq. No CC. | Fredric Joseph Ammerman |
| 10/11/2006 | Notice of Service of Plaintiffs' Second Set of Interrogatories and Request for Production of Documents Directed to Defendant DuBois Regional Medical Center, filed by s/ Thomas E. Crenney Esq. 1cc Atty.                                                                                                                                                                                              | Fredric Joseph Ammerman |
| 1/8/2007   | Motion to Compel Discovery and for Sanctions, filed by s/Thomas E. Crenney, Esq. No CC                                                                                                                                                                                                                                                                                                                 | Fredric Joseph Ammerman |
| 1/10/2007  | Answer to Plaintiffs' Motion to Compel Discovery And For Sanctions, filed by s/ Walter Fredrick Wall, Esquire. No CC                                                                                                                                                                                                                                                                                   | Fredric Joseph Ammerman |
| 1/11/2007  | Order, NOW, this 11th day of Jan., 2007, upon consideration of the Motion to Compel Discovery and For Sanctions, it is Ordered that a rule is issued upon the respondents. Argument shall be held on Feb. 2, 2007, in Courtroom No. 1 @ 9:00 a.m. By the Court, /s/ Fredric J. Ammerman, Pres. Judge. 2CC atty. Crenney                                                                                | Fredric Joseph Ammerman |
| 1/16/2007  | Notice of Service of Plaintiffs' Response to Third Request for Production Directed to Plaintiffs filed on behalf of DuBois Regional Medical Center, notice was served on the 11th day of January 2007 to Darryl R. Slimak Esq., Walter Frederick Wall Esq., and David R. Johnson Esq., filed by s/ Thomas E. Crenney Esq. NO CC.                                                                       | Fredric Joseph Ammerman |
| 1/18/2007  | Defendant Dr. Jerjis Alajaji's Answer and New Matter to Plaintiffs' Motion to Compel Discovery and for Sanctions, filed by s/ Darryl R. Slimak, Esquire. No CC                                                                                                                                                                                                                                         | Fredric Joseph Ammerman |

## Medical Professional Liability Action

| Date      |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | Judge                   |
|-----------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------|
| 1/25/2007 | Motion To Compel Discovery, filed by s/ David R. Johnson, Esquire. No CC                                                                                                                                                                                                                                                                                                                                                                                                                                                    | Fredric Joseph Ammerman |
| 1/26/2007 | Order, NOW, this 25th day of Jan., 2007, Ordered that Plaintiffs Motion to Compel and for Sanctions is rescheduled from Feb. 2, 2007 to Feb. 5, 2007 at 11:00 a.m. in Courtroom 1. By The Court, /s/ Fredric J. Ammerman, Pres. Judge. 1CC Attys: T. Crenney, D. Slimak, W. Wall, D. Johnson                                                                                                                                                                                                                                | Fredric Joseph Ammerman |
| 1/29/2007 | Order, NOW, on this 26th day of Jan., 2007, Ordered that oral argument on the motion to compel is scheduled for the 5th day of Feb., 2007, at 11:00 a.m. Courtroom 1. by the Court, /s/ Fredric J. Ammerman, Pres. Judge. 4CC Atty. Johnson                                                                                                                                                                                                                                                                                 | Fredric Joseph Ammerman |
| 2/2/2007  | Certificate of Service of Order dated January 26, 2007 to Thomas E. Crenney Esq., Darryl R. Slimak Esq., Walter Frederick Wall Esq., filed by s/ David R. Johnson Esq. No CC.                                                                                                                                                                                                                                                                                                                                               | Fredric Joseph Ammerman |
| 2/5/2007  | Notice of Service of Plaintiffs' Response to Fourth Request for Production Directed to Plaintiffs filed on behalf of DuBois Regional Medical Center on Darryl R. Slimak Esq., Walter Fredrick Wall Esq and David R. Johnson, filed by s/ Thomas E. Crenney Esq. NO CC.                                                                                                                                                                                                                                                      | Fredric Joseph Ammerman |
|           | Notice of Service of Plaintiffs' Response to Second Set of Interrogatories Directed to Plaintiffs filed on behalf of DuBois Regional Medical Center on Darryl R. Slimak Esq., Walter Fredrick Wall Esq., David R. Johnson Esq., filed by s/ Thomas E. Crenney Esq. No CC.                                                                                                                                                                                                                                                   | Fredric Joseph Ammerman |
| 2/7/2007  | Response to Motion to Compel Discovery And For Sanctions, filed by s/ David R. Johnson, Esquire. No CC                                                                                                                                                                                                                                                                                                                                                                                                                      | Fredric Joseph Ammerman |
|           | Order, this 5th day of Feb., 2007, Plaintiffs' Motion to Compel and for Sanctions is Denied. Defendants' Motion to Compel Discovery is granted to the extent that Plaintiffs shall submit to the Court copies of the Plaintiff's diary in unredacted form. Plaintiff shall also submit copies of the relevant pages that have been redacted in order that the Court may compare the two and issue an appropriate order. By The Court, /s/ Fredric J. Ammerman, Pres. Judge. 1CC Attys: Crenney, Slimak, W. Wall, D. Johnson | Fredric Joseph Ammerman |
| 2/14/2007 | Order, NOW, this 12th day of Feb., 2007, Defendants' Motion to Compel Discovery of the unredacted portions of Plaintiff's diary shall be dismissed. By The Court, /s/ Fredric J. Ammerman, Pres. Judge. CC to T. Crenney, D. Slimak, W. Wall D. Johnson                                                                                                                                                                                                                                                                     | Fredric Joseph Ammerman |
| 2/23/2007 | Praeipe For Trial, filed by s/ Thomas E. Crenney, Esquire. No CC                                                                                                                                                                                                                                                                                                                                                                                                                                                            | Fredric Joseph Ammerman |
|           | Certificate of Service, filed. That on this 22nd day of February 2007 served the foregoing Defendant's Request to Plaintiffs for Production of Expert Reports on behalf of Defendant, DuBois Radiologists Inc., upon all counsel/parties of record to Thomas E. Crenney Esq., Darryl Slimak Esq., David R. Johnson Esq., filed by s/ Walter Fredrick Wall Esq. No CC.                                                                                                                                                       | Fredric Joseph Ammerman |
| 3/1/2007  | Defendant Dr. Jerjis Alajaji's Motion to Strike and Objection to Plaintiffs' Praeipe for Trial, filed by Atty. Slimak no cert. copies.                                                                                                                                                                                                                                                                                                                                                                                      | Fredric Joseph Ammerman |
|           | Defendant Dr. Jerjis Alajaji's Request for Plaintiffs to Produce Expert Reports, filed by Atty. Slimak no cert. copies.                                                                                                                                                                                                                                                                                                                                                                                                     | Fredric Joseph Ammerman |

## Medical Professional Liability Action

| Date      |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | Judge                   |
|-----------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------|
| 3/1/2007  | Order, NOW, this 1st day of March, 2007, argument on Motion to Strike is scheduled for the 28th day of March, 2007 at 1:30 p.m. in Courtroom 1. In addition, at this time a status conference relative this case will also be conducted. One hour has been allotted for these proceedings. By The Court, /s/ Fredric J. Ammerman, Pres. Judge. CC to Slimak, Johnson, Wall & Crenney                                                                                             | Fredric Joseph Ammerman |
| 3/5/2007  | Request to Plaintiffs for Production of Expert Reports, filed by s/ David R. Johnson Esq. NO CC.                                                                                                                                                                                                                                                                                                                                                                                 | Fredric Joseph Ammerman |
| 3/7/2007  | Joinder In Defendant Dr. Jerjis Alajaji's Motion to Strike And Objection to Plaintiffs' Praecept For Trial, filed by s/ David R. Johnson, Esquire. No CC                                                                                                                                                                                                                                                                                                                         | Fredric Joseph Ammerman |
| 3/14/2007 | Plaintiff's Reply to Defendant Jerjis T. Alajaji, M.D.'s Motion to Strike Plaintiff's Praecept for Trial. filed by Atty. Crenney no cert. copies.                                                                                                                                                                                                                                                                                                                                | Fredric Joseph Ammerman |
| 3/20/2007 | Certificate of Service, filed. That a true and correct copy of the Defendant's Notice of Intent to Serve Subpoenas for Production of Documents and Things directed to the Department of Labor and Insustry Commonwealth of Pennsylvania, Office of Vocational Rehabilitation on the 19th day of March 2007 to Thomas E. Crenney Esq., David R. Johnson Esq. and Walter F. Wall Esq., filed by s/ Darryl R. Slimak Esq. NO CC.                                                    | Fredric Joseph Ammerman |
| 3/28/2007 | Order, NOW, this 28th day of March, 2007, Ordered:<br>1. As of May 1, 2007, all of the Plaintiffs' liability and expert reports shall be filed;<br>2. As of July 1, 2007, all of the Defense expert reports, liability and damage, shall be filed;<br>3. Discovery shall be completed by all parties by July 1, 2007;<br>4. This case is continued to the Fall Term of Court 2007.<br>By The Court, /s/ Fredric J. Ammerman, Pres. Judge. 8CC Atty. Slimak (distributing copies) | Fredric Joseph Ammerman |
| 3/30/2007 | Notice of Intent to Serve Subpoena to Produce Documents and Things for Discovery Pursuant to Pa.R.C.P. 4009.21, and Certificate of Service, filed by s/ Darryl R. Slimak, Esquire. No CC                                                                                                                                                                                                                                                                                         | Fredric Joseph Ammerman |
| 4/3/2007  | Certificate of Service, filed. That a true and correct copy of the Judge's Scheduling Order dated March 28, 2007 in the above-captioned matter on this 2nd day of April 2007 to Thomas E. Crenney Esq., David R. Johnson Esq., Walter F. Wall Esq., filed by s/ Darryl R. Slimak Esq. No CC.                                                                                                                                                                                     | Fredric Joseph Ammerman |
| 4/9/2007  | Certificate of Service for Notice of Intent, filed. That a true and correct copy of the Defendant's Notice of Intent to Serve Subpoenas for Production of Documents and Things directed to Red Lobster Restaurant, Adolfo Rapaport M.D. and James Cherry M.D. in the above-captioned matter on the 6th day of April 2007 to Thomas E. Crenney Esq., David R. Johnson Esq., and Walter F. Wall Esq., filed by s/ Darryl R. Slimak Esq. No CC.                                     | Fredric Joseph Ammerman |
| 4/11/2007 | Certificate Prerequisite to Service of a Subpoena Pursuant to Pa.R.C.P. 4009.22, filed by s/ Darryl R. Slimak, Esquire. No CC                                                                                                                                                                                                                                                                                                                                                    | Fredric Joseph Ammerman |
| 4/13/2007 | Certificate of Service for Notice of Deposition, filed by s/ Darryl R. Slimak Esq. (In Re: Jamie Carlson) No CC.                                                                                                                                                                                                                                                                                                                                                                 | Fredric Joseph Ammerman |
| 5/1/2007  | Plaintiffs' Expert Liability Witnesses And Damage Report of James L. Kenkel, Ph.D., filed by s/ Thomas E. Crenney, Esquire. No CC                                                                                                                                                                                                                                                                                                                                                | Fredric Joseph Ammerman |

## Medical Professional Liability Action

| Date       |                                                                                                                                                                                                                                                                                                                                                                                                                                                         | Judge                   |
|------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------|
| 5/18/2007  | Certificate of Service, filed. That a true and correct copy of the Defendant's Notice of Intent to Serve Subpoenas for Production of Documents and Things directed to DuBois Regional Medical Center Occupational Health, Dr McVay; and Summit Rehabilitation Associates, in the above-captioned matter on this 17th day of May 2007 to Thomas E. Crenney Esq., David R. Johnson Esq. and Walter F. Wall Esq., filed by s/ Darryl R. Slimak Esq. No CC. | Fredric Joseph Ammerman |
| 5/24/2007  | Certificate of Service Prerequisite to Service of Subpoenas, filed by s/ Darryl R. Slimak Esq. No CC.                                                                                                                                                                                                                                                                                                                                                   | Fredric Joseph Ammerman |
| 7/27/2007  | Order, this 27th day of July, 2007, it is Ordered that a Pre-Trial Conference shall be held on the 24th day of August, 2007, in Chambers at 10:30 a.m. By The Court, /s/ Fredric J. Ammerman, Pres. Judge. 1CC Attys: Crenney, Slimak, Wall, D. Johnson                                                                                                                                                                                                 | Fredric Joseph Ammerman |
| 9/12/2007  | Order, this 12th day of Sept., 2007, following pre-trial conference with counsel, it is Ordered that: Jury Selection will be held on Jan. 3, 2008 at 9:00 a.m. in Courtroom 1. Jury Trial is scheduled to commence for 10 days on Feb. 25, 2008 through and including March 7, 2008, beginning at 9:00 a.m. each day in Courtroom 1. (see original). By The Court, /s/ Fredric J. Ammerman, Pres. Judge. 1CC Attys: Crenney, Slimak, Wall, Johnson      | Fredric Joseph Ammerman |
| 12/17/2007 | Motions In Limine, filed by s/ Walter Fredrick Wall, Esquire. no cc                                                                                                                                                                                                                                                                                                                                                                                     | Fredric Joseph Ammerman |
| 12/28/2007 | Order, this 26th day of Dec., 2007, it is Ordered that oral argument on Defendant's Motions in Limine are scheduled for the 18th day of Jan., 2008, at 9:00 a.m. in Courtroom No. 3. by the Court, /s/ John K. Reilly, Jr., Senior Judge. 3CC Atty. Wall                                                                                                                                                                                                | John K. Reilly Jr.      |
| 1/3/2008   | Certificate of Service, filed. That on this 31st day of December 2007, served the foregoing Order scheduling argument on Motions in Limine on behalf of Defendant, DuBois Radiologists Inc., upon Thomas E. Chenney Esq., Darryl Slimak Esq., and David R. Johnson Esq., filed by Walter Frederick Wall Esq., by first class mail. NO CC.                                                                                                               | Fredric Joseph Ammerman |
|            | Praecipe for Entry of Appearance/Praecipe for Withdrawal of Appearance, filed. On behalf of DuBois Radiologists, Inc., enter appearance of Walter Fredrick Wall, Esquire, and withdraw the appearance of Meyer, Darragh, Buckler, Bebenek & Eck, PLLC, by Mary Lou Maierhofer, Esquire. Filed by Walter Fredrick Wall, Esquire. No CC                                                                                                                   | Fredric Joseph Ammerman |
| 1/10/2008  | Amended Scheduling Order, NOW, this 10th day of Jan., 2008, it is Ordered that oral argument on Defendant's Motions in Limine shall be rescheduled from Jan. 18, 2008 at 9:00 a.m. to Jan. 30, 2008 at 1:30 p.m. in Courtroom 2 before the Honorable Charles C. Brown, Jr., Senior Judge. By The Court, /s/ Fredric J. Ammerman, Pres. Judge. 1CC Attys: Slimak, Crenney, Wall, Johnson                                                                 | Fredric Joseph Ammerman |
| 1/16/2008  | Defendant Dr. Alajaji's Emergency Motion to Preclude Deposition of Plaintiffs' Expert Dr. Mastropietro as Scheduled in Violation of Court Order of Sept. 12, 2007 AND Request for Attorneys' Fees, Costs and Expenses Under Pa. R.C.P.I. No. 4008, filed by s/ Darryl R. Slimak, Esquire. No CC                                                                                                                                                         | Fredric Joseph Ammerman |
|            | Rule to Show Cause, NOW, this 16th day of Jan., 2008, rule issued upon Plaintiffs. Rule returnable for Answer and argument the 21st day of Jan., 2008, at 10:30 a.m. in Courtroom 1. by The court, /s/ Fredric J. Ammerman, Pres. Judge. 3CC Atty. Slimak; 1CC faxed to Atty. Slimak by CA                                                                                                                                                              | Fredric Joseph Ammerman |

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| Date      |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | Judge                   |
|-----------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------|
| 1/17/2008 | Certificate of Service, filed. That a true and correct copy of the Rule to Show Cause Regarding Defendant Dr. Alajaji's Emergency Motion in the above-captioned matter was sent via facsimile and regular mail on this 16th day of January 2008 to Thomas E. Crenney Esq., Walter F. Wall Esq., David R. Johnson Esq., filed by s/ Darryl R. Slimak Esq. No CC.                                                                                                                                                                                                                                                                                                             | Fredric Joseph Ammerman |
| 1/18/2008 | Plaintiffs' Response in Opposition to Defendant, Dr. Alajaji's Emergency Motion to Preclude Deposition of Plaintiff's Expert, Dr. Mastropietro, filed by s/Thomas E. Crenney, Esq. No CC                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | Fredric Joseph Ammerman |
| 1/21/2008 | Order, this 21st day of Jan., 2008, Defendant Dr. Alajaji's motion to Strike and Preclude the deposition of Plaintiffs' expert Dr. Mastropietro unilaterally scheduled to be held in Lancaster Pennsylvania on Jan. 25, 2008 is Granted. In addition, Plaintiffs shall pay Defendant Counsels' attorneys' fees, costs and expenses as incurred by reason of having to participate in trial depositions scheduled in excess of 100 miles from the Clfd. Co. Courthouse for the convenience of Plaintiffs and their witnesses. By The Court, /s/ Fredric J. Ammerman, pres. Judge. 1CC Attys: Crenney, Slimak (in person) without memo; 1CC Attys: Wall, Johnson (with memo). | Fredric Joseph Ammerman |
| 1/22/2008 | Defendant Dr. Alajaji's Combined Motions in Limine, filed by Atty. Slimak no cert. copies.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | Fredric Joseph Ammerman |
| 1/24/2008 | Motion to Strike Certain Portions of the Trial Deposition of Mark A. Poasio MD, filed by s/ David R. Johnson Esq. No CC.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | Fredric Joseph Ammerman |
|           | Objections to Videotape Deposition Transcript of James Kenkel Ph.D and Response to Certain Objections of the Plaintiff, filed by s/ David R. Johnson Esq. No CC.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | Fredric Joseph Ammerman |
|           | Motion in Limine, filed by s/ David R. Johnson Esq. No CC.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | Fredric Joseph Ammerman |
|           | Joinder in Motions in Limine, filed by s/ David R. Johnson Esq. No CC.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      | Fredric Joseph Ammerman |
| 1/25/2008 | Plaintiffs' Response to Motion in Limine regarding Dr. Ghazanfar Shah, filed by s/ Thomas E. Crenney, Esquire. No CC                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        | Fredric Joseph Ammerman |
|           | Plaintiffs' Response to Defendant, DuBois Radiologists, Inc.'s Motion in Limine Prohibiting Reference to Dr. Alajaji's Termination From DuBois Radiologists, Inc., filed by s/ Thomas E. Crenney, Esquire. No CC                                                                                                                                                                                                                                                                                                                                                                                                                                                            | Fredric Joseph Ammerman |
|           | Defendant Dr. Alajaji's Motion in Limine and Brief to Preclude Various Expert Opinions of Plaintiffs' Orthopedic Surgeon, Dr. Kenneth Yaw, filed by s/Darryl R. Slimak, Esq. No CC                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | Fredric Joseph Ammerman |
|           | Defendant Dr. Alajaji's Motion/Brief for Rulings on Objections to Plaintiffs' Trial Deposition of Plaintiffs' Expert Economist, James Kenkel, filed by s/Darryl R. Slimak, Esq. No CC                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | Fredric Joseph Ammerman |
|           | Defendant Dr. Alajaji's Motion/Brief for Rulings on Objections to Plaintiffs' Trial Deposition of Plaintiffs' Expert Orthopedic Surgeon, Dr. Mark Piasio, filed by s/Darryl Slimak, Esq. No CC                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | Fredric Joseph Ammerman |
|           | Defendant Dr. Alajaji's Filing of Deposition Transcript of Dr. Mark Piasio of Record, filed by s/Darryl R. Slimak, Esq. No CC                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               | Fredric Joseph Ammerman |
|           | Videotape Deposition of Mark A. Piasio, M.D., filed.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        | Fredric Joseph Ammerman |
|           | Defendant Dr. Alajaji's Filing of Deposition Transcript of James Kenkel of Record, filed by s/Darryl R. Slimak, Esq. No CC                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | Fredric Joseph Ammerman |
|           | Videotape Deposition Transcript of James Kenkel, Ph.D., filed.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | Fredric Joseph Ammerman |

## Medical Professional Liability Action

| Date      |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | Judge                   |
|-----------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------|
| 1/25/2008 | Order, AND NOW, this 25th day of January 2008, argument on all outstanding Motions and Responses in the above captioned matter shall be and are hereby scheduled for the 12th day of February 2008 at 10:00 a.m. in Hearing Room No. 3 of the Clearfield County Courthouse, Clearfield, Pennsylvania, before the Honorable Charles C. Brown Jr. Senior Judge, specially presiding. BY THE COURT: /s/ Fredric J. Ammerman. P. Judge. 1CC C/A (without memo) and 1CC Attys: Crenney, Slimak, Wall and D. Johnson. | Fredric Joseph Ammerman |
| 1/28/2008 | Plaintiffs' Motion In Limine to Preclude Testimony of Ronald S. Kushner, filed by s/ Thomas E. Crenney, Esquire. No CC                                                                                                                                                                                                                                                                                                                                                                                          | Fredric Joseph Ammerman |
|           | Plaintiffs' Motion in Limine to Preclude "Small Town" Defense, filed by s/Thomas E. Crenney, Esquire. No CC                                                                                                                                                                                                                                                                                                                                                                                                     | Fredric Joseph Ammerman |
|           | Plaintiffs' Motion in Limine to Preclude Reference to Plaintiffs' Receipt of Social Security Benefits, filed by s/ Thomas E. Crenney, Esquire. No CC                                                                                                                                                                                                                                                                                                                                                            | Fredric Joseph Ammerman |
|           | Plaintiffs' Motion in Limine to Preclude Testimony by Defendants' General Radiologist Ross Horsley Regarding Standard of Care For PCP Stephen Graeca And Physician Assistant Lorie Natoli, filed by s/ Thomas E. Crenney, Esquire. No CC                                                                                                                                                                                                                                                                        | Fredric Joseph Ammerman |
|           | Plaintiffs' Motion in Limine to Preclude Evidence of or Reference to Paula Carlson's Unrelated Health History, filed by s/ Thomas E. Crenney, Esquire. No CC                                                                                                                                                                                                                                                                                                                                                    | Fredric Joseph Ammerman |
|           | Plaintiffs' Motion in Limine to Preclude Defense's Claim That Plaintiff May Return to Her Job at DuBois Regional Medical Center, filed by s/ Thomas E. Crenney, Esquire. No CC                                                                                                                                                                                                                                                                                                                                  | Fredric Joseph Ammerman |
|           | Plaintiffs' Motion to Strike Portions of Dr. Mark A. Piasio's Deposition, filed by s/ Thomas E. Crenney, Esquire. No CC                                                                                                                                                                                                                                                                                                                                                                                         | Fredric Joseph Ammerman |
|           | Plaintiffs' Motion to Sustain Objections And Strike Portions of James Kenkel, PH.D.'s Deposition, filed by s/ Thomas E. Crenney, Esquire. No CC                                                                                                                                                                                                                                                                                                                                                                 | Fredric Joseph Ammerman |
|           | Plaintiffs' Response in Opposition to DuBois Radiologists, Inc. 's Motion in Limine to Preclude References to Insurance and Contract Between DuBois Radiologists, Inc. And DuBois Regional Medical Center, filed by s/ Thomas E. Crenney, Esquire. 1CC Atty. Crenney                                                                                                                                                                                                                                            | Fredric Joseph Ammerman |
| 1/30/2008 | Notice of Service, filed. That a true and correct copy of the Notice of Service of Deposition of Dr. Ross A. Horsley by Written Interrogatories were served by facsimile and first class mail on the 28th day of January 2008 to Darryl R. Slimak Esq., Walter Fredrick Wall Esq. and David R. Johnson Esq., filed by s/ James T. Tallman Esq. NO CC.                                                                                                                                                           | Fredric Joseph Ammerman |
|           | Notice of Service, filed. That a true and correct copy of the Notice of Service of Deposition of Dr. Richard G. Schmidt by Written Interrogatories was served by facsimile and first class mail on the 28th day of January 2008 to Darryl R. Slimak Esq., Walter Fredrick Wall Esq. and David R. Johnson Esq., filed by s/ James T. Tallman Esq. No CC.                                                                                                                                                         | Fredric Joseph Ammerman |
| 2/5/2008  | Joiner in Motions in Limine, filed by Atty. Wall No Cert. copies.                                                                                                                                                                                                                                                                                                                                                                                                                                               | Fredric Joseph Ammerman |
| 2/7/2008  | Defendant Dr. Alajaji Response and Brief Regarding Plaintiffs' Motion in Limine Re Plaintiff Paula Carlson's Receipt of Social Security Benefits, filed by s/ Darryl R. Slimak Esq. No CC.                                                                                                                                                                                                                                                                                                                      | Fredric Joseph Ammerman |

## Medical Professional Liability Action

| Date     |                                                                                                                                                                                                                                                                                                                                                                         | Judge                   |
|----------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------|
| 2/7/2008 | Defendant Dr. Alajaji's Response and Brief in Opposition to Plaintiffs' Motion in Limine to Limit Testimony of Defense Expert Dr. Ross Horsley Regarding Liability and Causation Issues Pertaining to Physician's Assistant Natoli's and Dr. Graeca's Care of Plaintiff Paula Carlson, filed by s/ Darryle R. Slimak Esq. No CC.                                        | Fredric Joseph Ammerman |
|          | Defendant Dr. Alajaji's Response and Brief in Opposition to Plaintiffs' Motion in Limine to Exclude Paula Carlson's Pertinent Past Health History, filed by s/ Darryl R. Slimak Esq. No CC.                                                                                                                                                                             | Fredric Joseph Ammerman |
|          | Defendant Dr. Alajaji's Response and Brief in Opposition to Plaintiffs' Motion in Limine to Preclude Testimony of Defense Vocational Expert Ronald Kushner, filed by s/ Darryl R. Slimak Esq. No CC.                                                                                                                                                                    | Fredric Joseph Ammerman |
|          | Defendant Dr. Alajaji's Response and Brief re DuBois Regional Medical Center's Motion in Limine and to Prevent Plaintiffs and their Expert Donal Kirwan From Improperly Asserting that Defendants herein should be held Liable for Speculative Purported Future (Illegal) Discrimination against Like Plaintiff Paula Carlson, filed by s/ Darryl R. Slimak Esq. NO CC. | Fredric Joseph Ammerman |
| 2/8/2008 | Reply to Plaintiffs' Motion in Limine to Preclude Testimony of Ronald S. Kushner, filed by s/ David R. Johnson Esq. No CC.                                                                                                                                                                                                                                              | Fredric Joseph Ammerman |
|          | Response to Plaintiffs' Motion in Limine to Preclude Reference to Plaintiff's Receipt of Social Security Benefits, filed by s/ David R. Johnson Esq. No CC.                                                                                                                                                                                                             | Fredric Joseph Ammerman |
|          | Plaintiffs' Response in Opposition to Defendant Dr. Alajaji's Motion in Limine and Brief to Preclude Various Opinions of Plaintiffs' Orthopedic Surgeon Dr. Kenneth Yaw, filed by s/ Thomas E. Crenney Esq. NO CC.                                                                                                                                                      | Fredric Joseph Ammerman |
|          | Plaintiffs' Response in Opposition to Defendant Dr. Alajaji's Combined Motions in Limine, filed by s/ Thomas E. Crenney Esq. No CC.                                                                                                                                                                                                                                     | Fredric Joseph Ammerman |
|          | Plaintiffs' Response to DuBois Regional Medical Center's Motion in Limine, filed by s/ Thomas E. Crenney, Esquire. No CC                                                                                                                                                                                                                                                | Fredric Joseph Ammerman |



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

PAULA CARLSON and  
JAMIE CARLSON, her husband,

Plaintiffs,

vs.

JERJIS T. ALAJAJI, M.D. and  
DUBOIS RADIOLOGISTS, INC.,

Defendants.

No. 2006-563-CD

Civil Action – Medical Professional  
Liability Action

**COMPLAINT  
IN CIVIL ACTION**

Filed on behalf of Plaintiff

Counsel of Record for this Party:

Thomas E. Crenney, Esquire  
PA I.D. No. 40986

THOMAS E. CRENNNEY & ASSOCIATES, LLC  
One Gateway Center  
18<sup>th</sup> Floor West  
Pittsburgh, PA 15222  
412-644-5545

Dated: April 11, 2006

**JURY TRIAL DEMANDED**

**FILED**

APR 11 2006 *EW*  
m/12:25/ *m*  
William A. Shaw  
Prothonotary/Clerk of Courts  
2 CENT TO SHERIFF

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

PAULA CARLSON and  
JAMIE CARLSON, her husband,

No.

Plaintiffs,

vs

Civil Action – Medical Professional  
Liability Action

JERJIS T. ALAJAJI, M.D. and  
DUBOIS RADIOLOGIST, INC.,

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 objections to the claims set forth against you. You are warned that if you fail to do so, the case may proceed without you and a judgment may be entered against you by the court without further notice for any money claimed in the Complaint or for any claim or relief requested by the plaintiff. You may lose money or property or other rights important to you.

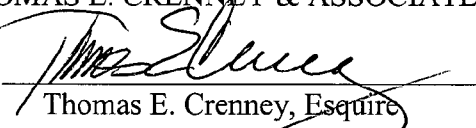
**YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE  
A LAWYER, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. THIS OFFICE  
CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER.**

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

COURT ADMINISTRATOR  
CLEARFIELD COUNTY COURTHOUSE  
SECOND & MARKET STREETS  
CLEARFIELD, PA 16830  
Telephone: (814) 765-2641, EXT. 50-51

THOMAS E. CRENNNEY & ASSOCIATES, LLC

By:

  
Thomas E. Crenney, Esquire  
Donna A. Alexander, Esquire  
Attorneys for Plaintiff

One Gateway Center  
18<sup>th</sup> Floor West  
Pittsburgh, PA 15222  
(412) 644-5545

DATE: 4-10-06

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

PAULA CARLSON and  
JAMIE CARLSON, her husband,

No.

Plaintiffs,

vs.

Civil Action – Medical Professional  
Liability Action

JERJIS T. ALAJAJI, M.D. and  
DUBOIS RADIOLOGISTS, INC.,

Defendants.

**COMPLAINT IN CIVIL ACTION**

AND NOW, come the Plaintiffs, Paula Carlson and Jamie Carlson, her husband, by and through their attorneys, Thomas E. Crenney & Associates, LLC, and file the within Complaint in Civil Action, averring as follows:

1. Plaintiff Paula Carlson is an adult individual residing at 1373 Sandstone Drive, Falls Creek, Jefferson County, Pennsylvania, 15840.
2. Plaintiff Jamie Carlson is an adult individual residing at 1373 Sandstone Drive, Falls Creek, Jefferson County, Pennsylvania, 15840. Plaintiff Jamie Carlson is the husband of Plaintiff Paula Carlson.
3. Defendant Jerjis T. Alajaji, M.D. is an adult individual licensed to practice medicine in the Commonwealth of Pennsylvania and actively does so at DuBois Regional Medical Center, West Unit, P.O. Box 447, DuBois, Clearfield County, Pennsylvania 15801.
4. Defendant DuBois Radiologists, Inc. is a professional corporation organized and existing under the laws of the Commonwealth of Pennsylvania with a principal place of business at 100 Hospital Avenue, DuBois, Clearfield County, Pennsylvania 15801.

5. At all times material to this cause of action, Defendant DuBois Radiologists, Inc. was acting by and through its duly authorized agents, servants and/or employees who were acting within the course and scope of their employment, on the business of said Defendant and under its direct supervision and control, such agents including but not limited to Jerjis T. Alajaji, M.D., and all physicians and other personnel involved in the interpretation of the April 12, 2005 x-ray of Plaintiff Paula Carlson's right wrist taken at DuBois Regional Medical Center.

6. On April 4, 2005, Plaintiff Paula Carlson called her PCP (Primary Care Physician) Dr. Steven Graeca, complaining of pain in her right wrist. She requested a doctor's appointment at that time.

7. On April 12, 2005, Plaintiff Paula Carlson saw physician assistant Lorie Natoli in Dr. Graeca's office with a chief complaint of right wrist pain with occasional numbness. Ms. Natoli ordered an x-ray of Plaintiff's right wrist at that time.

8. This x-ray, performed at DuBois Regional Medical Center that same day, April 12, 2005, was interpreted by Defendant Dr. Jerjis T. Alajaji as negative. A final x-ray report was issued on April 13, 2005. It was also reported as negative. It was not negative. It was in fact abnormal.

9. On April 26, 2005, Plaintiff returned to Dr. Graeca's office. Dr. Graeca's office ordered an x-ray of her cervical spine and referred Plaintiff to Dr. Lynn Myers.

10. Because of the erroneous negative x-ray report of April 12 and 13, Dr. Myers worked Plaintiff up for carpal tunnel syndrome, and of course found she did not have it. Steroids and occupational therapy were ordered as treatment.

11. On June 2, 2005, Plaintiff received a steroid injection into her right wrist at Dr. Myers' office because of the continuing severe pain in her wrist.

12. On June 6, 2005, Plaintiff called Dr. Graeca's office informing him that despite the steroid shot, she continued to suffer horrible pain in her right wrist.

13. On June 9, 2005, Dr. Graeca's office referred Plaintiff to Dr. Mark Piasio, an orthopedic physician, for evaluation of her right wrist pain. Dr. Piasio reviewed the prior x-ray film from April 12, 2005, which had been interpreted as negative by Defendants, and noted that the x-ray in fact showed a lytic lesion in the ulnar aspect of the distal radius and was interpreted as negative in error.

14. Dr. Piasio ordered a repeat x-ray that same day, which showed significant changes from the April 12 film including that the lytic lesion with a much more worrisome peripheral margin, moth eaten in nature, permeative and without sclerotic margins. Dr. Piasio's initial impression was a bone lesion in the distal right radius, possible giant cell versus possible Ewing sarcoma. He ordered an MRI, bone scan, and chemistry evaluation.

15. The bone scan was done on June 13, 2005. Based on the results, Dr. Piasio referred Plaintiff to Dr. Kenneth Yaw, a tumor specialist.

16. Plaintiff saw Dr. Yaw on June 17, 2005, at which time he review the April 12, 2005 x-ray film and noted a well marginated radiolucent lesion about half the size of the current lesion with intact subchondral bone and no evidence of cortical penetration.

17. Dr. Yaw noted that the current x-ray performed in June 2005 by Dr. Piasio now showed a poorly marginated radiolucent lesion involving the distal metaphysis and the epiphysis of the radius with destruction of subchondral bone and probable evidence of intra-articular undisplaced crack.

18. Dr. Yaw noted also that the current MRI confirmed the extent of the lesion in Plaintiff Paula Carlson's right wrist, noting that there was penetration of the volar cortex with

about 30% of the lesion extraosseous (outside of the bone) on the volar side displacing the neurovascular structures and flexor tendons.

19. Dr. Yaw ordered a percutaneous needle biopsy of the lesion, which was performed on June 20, 2005, and which revealed the lesion to be a right radius benign giant cell tumor.

20. The giant cell tumor of the distal right radius by this time had completely destroyed the distal radius and had spread to outside bone. Because of the extent of this tumor, Dr. Yaw, on June 27, 2005, performed a radical resection of the distal right radius with a right wrist fusion using the distal ulna as an intercalary graft of the radius. This procedure involved a transposition of the distal ulna onto the radius with wrist fusion creating a single bone forearm. Approximately three inches of her radius was removed, and a long cortical plate was inserted that extends from the mid-shaft of the radius across the wrist to the third metacarpal (middle finger). Plaintiff Paula Carlson stayed in the hospital after this procedure until June 29, 2005.

21. Had the April 12 film been read properly, Plaintiff would not have required surgical treatment or far less invasive surgery and would have had a far better result that would not have affected her activities of daily living and would not have prevented her from doing her job as a radiation therapist.

22. Since her surgery, Plaintiff has been off work from her job. She may never be able to return to her job as a radiation therapist.

**Count I**

**Paula Carlson and Jamie Carlson, her husband, v. Jerjis T. Alajaji, M.D.**

**Negligence**

23. The averments contained in paragraphs 1 through 22 of this Complaint are incorporated by reference as though fully set forth at length herein.

24. Pursuant to his undertaking to provide services to Plaintiff Paula Carlson, Defendant Dr. Jerjis T. Alajaji had a duty to act with reasonable and ordinary care of radiologists and medical providers in his care and services for Paula Carlson.

25. Defendant Dr. Alajaji breached his duty to Plaintiff by deviating from the ordinary standard of care in regard to the medical attention given to Paula Carlson in general and in the following particulars:

- a. In misinterpreting Plaintiff's April 12, 2005 x-ray film of her right wrist as negative when in fact the film showed a well marginated radiolucent lesion; and/or
- b. Failing to diagnose a clear, conspicuous distal right radius tumor on Plaintiff's April 12, 2005 right wrist x-ray film; and/or
- c. Failing to diagnose Plaintiff in a timely manner given the history, clinical presentation, and conspicuous images on her right wrist x-ray from April 12, 2005; and/or

d. Failing to use ordinary care to identify, discover, avoid, prevent, eliminate, or reduce the risk of an extensive giant cell tumor requiring radical resection of Plaintiff's right wrist; and/or

e. Misdiagnosing the true nature of Plaintiff's condition; and/or

f. In failing to protect Plaintiff from the increased risk of harm that Plaintiff would suffer an extensive tumor in her right wrist requiring a radical resection and removal of three inches of her right radius, placement of a long cortical plate, and permanent flexed position of her wrist.

26. As a direct and proximate result of the negligent conduct of Defendant, Plaintiff suffered and continues to suffer damages and consequences as to be set forth herein, including the increased risk of harm that such damages and consequences would result to Plaintiff.

27. As a direct and proximate result of the negligent conduct of Defendant, Plaintiff suffered serious injuries and complications, including but not limited to:

a. Permanent fixed flexion of her right wrist;

b. Removal of 3 inches of her right radius, replaced with a cortical plate extending from the mid-shaft of her radius across her wrist to her third metacarpal (middle finger), as a result of a preventable radical resection of her distal right radius with a right wrist fusion using the distal ulna as an intercalary graft;

c. Inability to lift weight over her head;

d. An incision from her knuckles to almost her elbow on her right arm;

e. Having to wear a cast for at least three (3) months, possibly longer, on her right wrist;

f. Inability to return to work as a radiation technician;



- g. Continuous and severe pain with movement of her right wrist;
- h. The inability to lift with her right arm;
- i. Inability to grip with her right arm;
- j. Permanent impairment in the use of her right wrist and hand; and
- k. An avoidable operative procedure entailing a radical resection of three inches of her right radius replaced with a cortical plate.

28. As a direct and proximate result of the negligent conduct of the Defendant, Plaintiff suffered extreme physical and emotional anguish, pain and suffering, shock, emotional distress and inconvenience which continues to the present day and will continue into the future;

29. As a direct and proximate result of the negligent conduct of the Defendant, Plaintiff suffered disfigurement as a result of the operative procedure that was required due to the delay in diagnosis of her right wrist tumor.

30. As a direct and proximate result of the negligent conduct of the Defendant, Plaintiff suffered embarrassment and humiliation, and was deprived of the ordinary pleasures of life and continues to be so deprived.

31. As a direct and proximate result of the negligent conduct of the Defendant, Plaintiff was compelled to abstain from carrying on her normal and customary occupation and as a result thereof suffered a loss of earnings and/or a reduction, diminution and/or lessening of her earning power and capacity now and into the future.

32. As a direct and proximate result of the negligent conduct of the Defendant, Plaintiff was forced to undergo numerous medical examinations, procedures, therapies and surgeries, and was compelled to expend substantial monies for medical aid, medicines, surgical appliances, physical therapy, and the like.

No.  
Clearfield County, Pennsylvania

33. As a direct and proximate result of the negligent conduct of the Defendant, Plaintiff incurred incidental costs and expenses.

34. At all times and places pertinent hereto, Plaintiff acted in a careful, cautious and reasonably prudent manner, and her injuries and damages are due to no fault of her own.

WHEREFORE Plaintiff Paula Carlson demands judgment in her favor and against Defendant Dr. Jerjis T. Alajaji for a sum in excess of the arbitration limits of Clearfield County, plus costs and attorneys fees.

### **Count II**

#### **Paula Carlson and Jamie Carlson, her husband, v. DuBois Radiologists, Inc.**

#### **Vicarious Liability**

35. The averments contained in paragraphs 1 through 34 of this Complaint are incorporated by reference as though fully set forth at length herein.

36. Plaintiff Paula Carlson presented herself, via her radiographic film of April 12, 2005, to the Defendant and informed it, its ostensible agents, servants and employees of the nature and extent of ailments and employed them to examine and diagnose the nature, extent and cause of her ailments.

37. The physician, Dr. Jerjis T. Alajaji, and other personnel who interpreted, diagnosed or otherwise acted on Plaintiff's behalf during the course of her x-ray examination of her right wrist on April 12, 2005, as described aforesaid, were the agents, servants and/or employees of Defendant, were acting while in and upon the business of said Defendant and while

in the course and scope of their employment, and were acting under the Defendant's direct supervision and control.

38. Defendant, through its agents, ostensible agents, servants and/or employees, negligently breached its duty to Plaintiff by failing to exercise a reasonable and ordinary standard of care in regard to the medical attention personally given to the Plaintiff in general and in the following particulars:

- a. In misinterpreting Plaintiff's April 12, 2005 x-ray film of her right wrist as negative when in fact the film showed a well marginated radiolucent lesion; and/or
- b. Failing to diagnose a clear, conspicuous distal right radius tumor on Plaintiff's April 12, 2005 right wrist x-ray film; and/or
- c. Failing to diagnose Plaintiff in a timely manner given the history, clinical presentation, and conspicuous images on her right wrist x-ray from April 12, 2005; and/or
- d. Failing to use ordinary care to identify, discover, avoid, prevent, eliminate, or reduce the risk of an extensive giant cell tumor requiring radical resection of Plaintiff's right wrist; and/or
- e. Misdiagnosing the true nature of Plaintiff's condition; and/or
- f. In failing to protect Plaintiff from the increased risk of harm that Plaintiff would suffer an extensive tumor in her right wrist requiring a radical resection and removal of three inches of her right radius, placement of a long cortical plate, and permanent flexed position of her right wrist.

39. As a direct and proximate result of the negligent conduct of Defendant, Plaintiff suffered and continues to suffer damages and consequences as to be set forth herein, including the increased risk of harm that such damages and consequences would result to Plaintiff.

40. As a direct and proximate result of the negligent conduct of Defendant, Plaintiff suffered serious injuries and complications, including but not limited to:

- a. Permanent fixed flexion of her right wrist;
- b. Removal of 3 inches of her right radius, replaced with a cortical plate extending from the mid-shaft of her radius across her wrist to her third metacarpal (middle finger), as a result of a preventable radical resection of her distal right radius with a right wrist fusion using the distal ulna as an intercalary graft;
- c. Inability to lift weight over her head;
- d. An incision from her knuckles to almost her elbow on her right arm;
- e. Having to wear a cast for at least three (3) months, possibly longer, on her right wrist;
- f. Inability to return to work as a radiation technician;
- g. Continuous and severe pain with movement of her right wrist;
- h. The inability to lift with her right arm;
- i. Inability to grip with her right arm;
- j. Permanent impairment in the use of her right wrist and hand; and
- k. An avoidable operative procedure entailing a radical resection of three inches of her right radius replaced with a cortical plate.

41. As a direct and proximate result of the negligent conduct of the Defendant, Plaintiff suffered extreme physical and emotional anguish, pain and suffering, shock, emotional distress and inconvenience which continues to the present day and will continue into the future;

42. As a direct and proximate result of the negligent conduct of the Defendant, Plaintiff suffered disfigurement as a result of the operative procedure that was required due to the delay in diagnosis of her right wrist tumor.

43. As a direct and proximate result of the negligent conduct of the Defendant, Plaintiff suffered embarrassment and humiliation, and was deprived of the ordinary pleasures of life and continues to be so deprived.

44. As a direct and proximate result of the negligent conduct of the Defendant, Plaintiff was compelled to abstain from carrying on her normal and customary occupation and as a result thereof suffered a loss of earnings and/or a reduction, diminution and/or lessening of her earning power and capacity now and into the future.

45. As a direct and proximate result of the negligent conduct of the Defendant, Plaintiff was forced to undergo numerous medical examinations, procedures, therapies and surgeries, and was compelled to expend substantial monies for medical aid, medicines, surgical appliances, physical therapy, and the like.

46. As a direct and proximate result of the negligent conduct of the Defendant, Plaintiff incurred incidental costs and expenses.

47. At all times and places pertinent hereto, Plaintiff acted in a careful, cautious and reasonably prudent manner, and her injuries and damages are due to no fault of her own.

No.  
Clearfield County, Pennsylvania

WHEREFORE Plaintiff Paula Carlson demands judgment in her favor and against Defendant DuBois Radiologists, Inc. for a sum in excess of the arbitration limits of Clearfield County, plus costs and attorneys fees.

### **COUNT III**

#### **Jamie Carlson v. Jerjis T. Alajaji, M.D. and DuBois Radiologists, Inc.**

#### **Loss of Consortium**

48. The averments contained in paragraphs 1 through 47 of this Complaint are incorporated by reference as though fully set forth at length herein.

49. As the direct and proximate result of the injuries sustained by his wife, Plaintiff Jamie Carlson suffered, and/or suffers and/or may continue to suffer a loss of consortium with his wife.

50. As the direct and proximate result of the injuries sustained by his wife, Plaintiff Jamie Carlson has suffered and/or suffers and/or may continue to suffer the loss of his wife's services, including daily chores and assistance, companionship, nurture, comfort and society.

51. As the direct and proximate result of the injuries sustained by his wife, Plaintiff Jamie Carlson has been and/or is and/or may continue to be compelled to expend various sums of money for medical services.

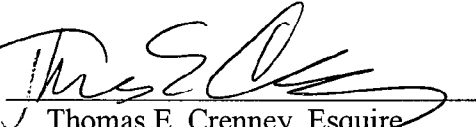
WHEREFORE, Plaintiff Jamie Carlson demands judgment in his favor and against the Defendants in an amount in excess of the arbitration limits of Clearfield County, plus costs and attorneys fees.

No.  
Clearfield County, Pennsylvania

**JURY TRIAL DEMANDED**

Respectfully submitted,

THOMAS E. CRENNNEY & ASSOCIATES, LLC

By:   
Thomas E. Crenney, Esquire  
PA I.D. No. 40986  
Donna A. Alexander, Esquire  
PA I.D. No. 85538  
Attorney for Plaintiff

DATE: 4-10-06

One Gateway Center  
18<sup>th</sup> Floor West  
Pittsburgh, PA 15222  
(412) 644-5545

No.  
Clearfield County, Pennsylvania

**VERIFICATION**

I verify that the averments of fact made in the Complaint in Civil Action are true and correct based upon my personal knowledge, information and belief, and that I understand the penalties for unsworn falsification to authorities provided in 18 Pa. C.S. §4909.

Dated: 3/29/06

Jamie Carlson  
Jamie Carlson



No.  
Clearfield County, Pennsylvania

**VERIFICATION**

I verify that the averments of fact made in the Complaint in Civil Action are true and correct based upon my personal knowledge, information and belief, and that I understand the penalties for unsworn falsification to authorities provided in 18 Pa. C.S. §4909.

Dated: \_\_\_\_\_

3/29/06

Paula Carlson  
Paula Carlson

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

PAULA CARLSON and  
JAMIE CARLSON, her husband,

Plaintiffs,

vs.

JERJIS T. ALAJAJI, M.D. and  
DUBOIS RADIOLOGISTS, INC.,

Defendants.

No. 2006 - 563 - cy

Civil Action – Medical Professional  
Liability Action

**CERTIFICATE OF MERIT AS TO  
JERJIS T. ALAJAJI, M.D.**

Filed on behalf of Plaintiff

Counsel of Record for this Party:

Thomas E. Crenney, Esquire  
PA I.D. No. 40986

THOMAS E. CRENNNEY & ASSOCIATES, LLC  
One Gateway Center  
18<sup>th</sup> Floor West  
Pittsburgh, PA 15222  
412-644-5545

Dated: April 11, 2006

**JURY TRIAL DEMANDED**

**FILED**

APR 11 2006

m/12:30/wjs  
William A. Shaw

Prothonotary/Clerk of Courts

no c/c

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

PAULA CARLSON and  
JAMIE CARLSON, her husband,

No.

Plaintiffs,

vs.

Civil Action – Medical Professional  
Liability Action

JERJIS T. ALAJAJI, M.D. and  
DUBOIS RADIOLOGIST, INC.,

Defendants.

**CERTIFICATE OF MERIT AS TO  
JERJIS T. ALAJAJI, M.D.**

I, Thomas E. Crenney, Esquire and Thomas E. Crenney & Associates, LLC, 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;

**AND/OR**



the claim that this defendant deviated from an acceptable professional standard is based solely on allegations that other licensed professionals for whom this defendant is responsible deviated from an acceptable professional standard and an appropriate licensed professional has supplied a written statement to the undersigned that there is a basis to conclude that the care, skill or knowledge exercised or exhibited by the other licensed professionals in the treatment, practice or work that is the subject of the

complaint, fell outside acceptable professional standards and that such conduct was a cause in bringing about the harm;

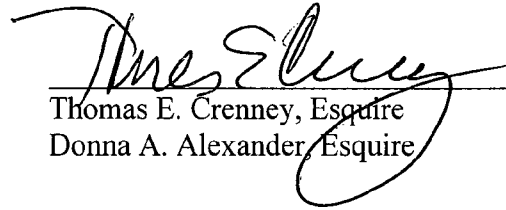
**OR**

☐

expert testimony of an appropriate licensed professional is unnecessary for prosecution of the claim against the defendant.

Date: \_\_\_\_\_

4-10-06

  
\_\_\_\_\_  
Thomas E. Crenney, Esquire  
Donna A. Alexander, Esquire

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

PAULA CARLSON and  
JAMIE CARLSON, her husband,

No. 2006-563-CV

Plaintiffs,

vs.

Civil Action – Medical Professional  
Liability Action

JERJIS T. ALAJAJI, M.D. and  
DUBOIS RADIOLOGISTS, INC.,

**CERTIFICATE OF MERIT AS TO  
DUBOIS RADIOLOGISTS, INC.**

Defendants.

Filed on behalf of Plaintiff

Counsel of Record for this Party:

Thomas E. Crenney, Esquire  
PA I.D. No. 40986

THOMAS E. CRENNNEY & ASSOCIATES, LLC  
One Gateway Center  
18<sup>th</sup> Floor West  
Pittsburgh, PA 15222  
412-644-5545

Dated: April 11, 2006.

**JURY TRIAL DEMANDED**

**FILED**

APR 11 2006 *Sum*  
m 12:30 *hax*  
William A. Shaw  
Prothonotary/Clerk of Courts  
NC C/C

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

PAULA CARLSON and  
JAMIE CARLSON, her husband,

No.

Plaintiffs,

vs.

Civil Action – Medical Professional  
Liability Action

JERJIS T. ALAJAJI, M.D. and  
DUBOIS RADIOLOGIST, INC.,

Defendants.

**CERTIFICATE OF MERIT AS TO  
DUBOIS RADIOLOGISTS, INC.**

I, Thomas E. Crenney, Esquire and Thomas E. Crenney & Associates, LLC, 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;

**AND/OR**

☒

the claim that this defendant deviated from an acceptable professional standard is based solely on allegations that other licensed professionals for whom this defendant is responsible deviated from an acceptable professional standard and an appropriate licensed professional has supplied a written statement to the undersigned that there is a basis to conclude that the care, skill or knowledge exercised or exhibited by the other licensed professionals in the treatment, practice or work that is the subject of the

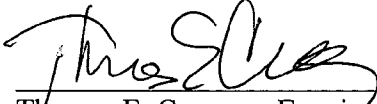
complaint, fell outside acceptable professional standards and that such conduct was a cause in bringing about the harm;

**OR**

☐

expert testimony of an appropriate licensed professional is unnecessary for prosecution of the claim against the defendant.

Date: 4-10-06

  
\_\_\_\_\_  
Thomas E. Crenney, Esquire  
Donna A. Alexander, Esquire

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL ACTION - MEDICAL PROFESSIONAL LIABILITY ACTION

PAULA CARLSON and JAMIE CARLSON,  
her husband,

Plaintiffs,

vs.

JERJIS T. ALAJAJI, M.D. and  
DUBOIS RADIOLOGISTS, INC.,

Defendants.

Docket No: 2006 - 563 - C.D.

Jury Trial Demanded

Type of Pleading  
*Praecipe for Entry of Appearance  
on Behalf of Defendant Jerjis T.  
Alajaji, M.D.*

Filed on Behalf of Defendant  
*Jerjis T. Alajaji, M.D.*

Counsel of Record for This Party  
*Darryl R. Slimak, Esquire*  
Pa. Supreme Court I.D. #41695

McQuaide, Blasko, Fleming &  
Faulkner, Inc.  
811 University Drive  
State College, PA 16801  
(814) 238-4926  
Fax: (814) 238-9624

Counsel for Adverse Party  
*Thomas E. Crenney, Esquire*

**FILED** No  
m112:4721 cc  
APR 20 2006  
William A. Shaw  
Prothonotary/Clerk of Courts



IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL ACTION - MEDICAL PROFESSIONAL LIABILITY ACTION

PAULA CARLSON and JAMIE CARLSON,  
her husband,

Plaintiffs,

vs.

JERJIS T. ALAJAJI, M.D. and  
DUBOIS RADIOLOGISTS, INC.,

Defendants.

Docket No: 2006 - 563 - C.D.

Jury Trial Demanded

**PRAECIPE FOR ENTRY OF APPEARANCE**

TO THE PROTHONOTARY:

Please enter our appearance on behalf of the Defendant, JERJIS T. ALAJAJI, M.D., in  
the above-captioned matter.

McQUAIDE, BLASKO,  
FLEMING & FAULKNER, INC.

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

  
Darryl R. Slimak  
Attorneys for Defendant  
811 University Drive  
State College, PA 16801  
(814) 238-4926  
Fax: (814) 238-9624

Dated: April 19, 2006

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL ACTION - MEDICAL PROFESSIONAL LIABILITY ACTION

PAULA CARLSON and JAMIE CARLSON,  
her husband,

Plaintiffs,

vs.

JERJIS T. ALAJAJI, M.D. and  
DUBOIS RADIOLOGISTS, INC.,

Defendants.

Docket No: 2006 - 563 - C.D.

Jury Trial Demanded

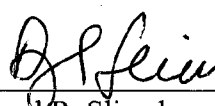
**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the Praecipe for Entry of Appearance on  
Behalf of Defendant Jerjis T. Alajaji, M.D., in the above-captioned matter was mailed by regular  
mail, postage prepaid, at the Post Office, State College, Pennsylvania, on this 19<sup>th</sup> day of April,  
2006, to the attorney(s) of record:

Thomas E. Crenney, Esquire  
Thomas E. Crenney & Associates, LLC  
One Gateway Center 18<sup>th</sup> Floor West  
Pittsburgh, PA 15222

McQUAIDE, BLASKO,  
FLEMING & FAULKNER, INC.

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

  
Darryl R. Slimak  
Attorneys for Defendant  
JERJIS T. ALAJAJI, M.D.  
811 University Drive  
State College, PA 16801  
(814) 238-4926  
Fax: (814) 238-9624

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

PAULA CARLSON AND JAMIE  
CARLSON, her husband,

Plaintiffs,

vs.

JERJIS T. ALAJAJI, M.D. AND DUBOIS  
RADIOLOGISTS, INC.,

Defendants.

CIVIL DIVISION

No. 2006-563- CD

**PRAECIPE FOR ENTRY OF  
APPEARANCE**

Filed on Behalf of Defendant, DuBois  
Radiologists, Inc.

Counsel of Record for this Party:

WALTER FREDRICK WALL, ESQUIRE  
PA. I.D. #23657

MEYER, DARRAGH, BUCKLER,  
BEBENEK & ECK, P.L.L.C.  
120 Lakemont Park Boulevard  
Altoona, PA 16602

Telephone No.: (814) 941-4600  
Fax No.: (814) 941-4605

**FILED** *no cc*  
*m/12:18/06*  
**MAY 02 2006** *un*

William A. Shaw  
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

PAULA CARLSON AND JAMIE  
CARLSON, her husband,

Plaintiffs,

vs.

JERJIS T. ALAJAJI, M.D. AND DUBOIS  
RADIOLOGISTS, INC.,

Defendants.

CIVIL DIVISION

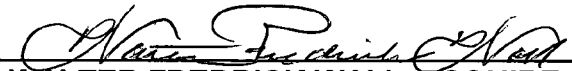
No. 2006-563- CD

**PRAECIPE FOR ENTRY OF APPEARANCE**

Kindly enter the appearance of Walter Fredrick Wall, Esquire of the law firm of MEYER, DARRAGH, BUCKLER, BEBENEK & ECK, PLLC, as counsel of record for the Defendant, DuBois Radiologists, Inc., in the above-captioned action.

**MEYER, DARRAGH, BUCKLER, BEBENEK & ECK, PLLC**

BY:

  
**WALTER FREDRICK WALL, ESQUIRE**

Counsel for Defendant, DuBois Radiologists, Inc.  
120 Lakemont Park Boulevard  
Altoona, PA 16602  
Phone No.: (814) 941-4600  
ID # 23657

**CERTIFICATE OF SERVICE**

TO THE PROTHONOTARY:

I, Walter Fredrick Wall, Esquire, of the law firm of MEYER, DARRAGH, BUCKLER, BEBENEK & ECK, PLLC, hereby certify that on this **1<sup>st</sup> day of May, 2006**, I have served the foregoing Praecipe of Entry of Appearance on behalf of Defendant, DuBois Radiologists, Inc., upon all counsel/parties of record, by mailing a true and correct copy of same by United States first class mail, postage prepaid as follows:

Thomas E. Crenney, Esquire  
One Gateway Center  
18<sup>th</sup> Floor West  
Pittsburgh, PA 15222

Darryl Slimak, Esquire  
McQuaide Blasko  
811 University Drive  
State College, Pennsylvania

**MEYER, DARRAGH, BUCKLER, BEBENEK & ECK, PLLC**

BY: \_\_\_\_\_



**WALTER FREDRICK WALL, ESQUIRE**

Counsel for Defendant, DuBois Radiologists, Inc.  
120 Lakemont Park Boulevard  
Altoona, PA 16602  
Phone No.: (814) 941-4600  
ID # 23657

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET # 101438  
NO: 06-563-CD  
SERVICE # 1 OF 2  
COMPLAINT; PLFF.FIRST SET OF

INTERROGATORIES;CERT.

PLAINTIFF: PAULA CARLSON & JAMIE CARLSON

vs.

DEFENDANT: JERJIS T. ALAJAJI, M.D. and DUBOIS RADIOLOGISTS, INC.

**SHERIFF RETURN**

---

NOW, April 17, 2006 AT 11:15 AM SERVED THE WITHIN COMPLAINT; PLFF.FIRST SET OF INTERROGATORIES;CERT. ON JERJIS T. ALAJAJI, M.D. DEFENDANT AT RESIDENCE, 25 B. TOWER LANE, DUBOIS, CLEARFIELD COUNTY, PENNSYLVANIA, BY HANDING TO JERJIS ALAJAJI, DEFENDANT A TRUE AND ATTESTED COPY OF THE ORIGINAL COMPLAINT; PLFF.FIRST SET OF INTERROGATORIES;CERT. AND MADE KNOWN THE CONTENTS THEREOF.

SERVED BY: COUDRIET /

**FILED**  
012:58/301  
MAY 08 2006

William A. Shaw  
Prothonotary/Clerk of Courts

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

DOCKET # 101438  
NO: 06-563-CD  
SERVICE # 2 OF 2  
COMPLAINT; PLFF.FIRST SET OF

INTERROGATORIES;CERT.

PLAINTIFF: PAULA CARLSON & JAMIE CARLSON

vs.

DEFENDANT: JERJIS T. ALAJAJI, M.D. and DUBOIS RADIOLOGISTS, INC.

**SHERIFF RETURN**

---

NOW, April 17, 2006 AT 11:00 AM SERVED THE WITHIN COMPLAINT; PLFF.FIRST SET OF INTERROGATORIES;CERT. ON DUBOIS RADIOLOGISTS, INC. DEFENDANT AT 100 HOSPITAL AVE., DUBOIS, CLEARFIELD COUNTY, PENNSYLVANIA, BY HANDING TO DR. SHAW, PERSON IN CHARGE A TRUE AND ATTESTED COPY OF THE ORIGINAL COMPLAINT; PLFF.FIRST SET OF INTERROGATORIES;CERT. AND MADE KNOWN THE CONTENTS THEREOF.

SERVED BY: COUDRIET /

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET # 101438  
NO: 06-563-CD  
SERVICES 2  
COMPLAINT; PLFF.FIRST SET OF

INTERROGATORIES;CERT.

PLAINTIFF: PAULA CARLSON & JAMIE CARLSON

vs.

DEFENDANT: JERJIS T. ALAJAJI, M.D. and DUBOIS RADIOLOGISTS, INC.

SHERIFF RETURN

RETURN COSTS

| Description     | Paid By | CHECK # | AMOUNT |
|-----------------|---------|---------|--------|
| SURCHARGE       | CRENNEY | 3610    | 20.00  |
| SHERIFF HAWKINS | CRENNEY | 3610    | 40.91  |

Sworn to Before Me This

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

\_\_\_\_\_

So Answers,



Chester A. Hawkins  
Sheriff



IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL ACTION - MEDICAL PROFESSIONAL LIABILITY ACTION

PAULA CARLSON and JAMIE CARLSON,  
her husband,

Plaintiffs,

vs.

JERJIS T. ALAJAJI, M.D. and  
DUBOIS RADIOLOGISTS, INC.,

Defendants.

Docket No: 2006 - 563 - C.D.

Jury Trial Demanded

Type of Pleading  
*Defendant Dr. Alajaji's  
Answers to Plaintiffs' First Set  
of Interrogatories and Request  
for Production of Documents*

Filed on Behalf of Defendant  
*Jerjis T. Alajaji, M.D.*

Counsel of Record for This Party  
*Darryl R. Slimak, Esquire*  
Pa. Supreme Court I.D. #41695

McQuaide, Blasko, Fleming &  
Faulkner, Inc.  
811 University Drive  
State College, PA 16801  
(814) 238-4926  
Fax: (814) 238-9624

Counsel for Adverse Party  
*Thomas E. Crenney, Esquire*

FILED <sup>NO CC</sup>  
MAY 11 2006  
11:36 AM

William A. Shaw  
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL ACTION - MEDICAL PROFESSIONAL LIABILITY ACTION

PAULA CARLSON and JAMIE CARLSON,  
her husband,

Plaintiffs,

vs.

JERJIS T. ALAJAJI, M.D. and  
DUBOIS RADIOLOGISTS, INC.,

Defendants.

Docket No: 2006 - 563 - C.D.

Jury Trial Demanded

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the Defendant Dr. Alajaji's Answers to Plaintiffs' First Set of Interrogatories and Request for Production of Documents in the above-captioned matter was mailed by regular mail, postage prepaid, at the Post Office, State College, Pennsylvania, on this 10<sup>th</sup> day of May, 2006, to the attorney(s) of record:

Thomas E. Crenney, Esquire  
Thomas E. Crenney & Associates, LLC  
One Gateway Center 18<sup>th</sup> Floor West  
Pittsburgh, PA 15222

McQUAIDE, BLASKO,  
FLEMING & FAULKNER, INC.

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



Darryl R. Slimak  
Attorneys for Defendant  
JERJIS T. ALAJAJI, M.D.  
811 University Drive  
State College, PA 16801  
(814) 238-4926  
Fax: (814) 238-9624

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

PAULA CARLSON AND JAMIE  
CARLSON, her husband,

Plaintiffs,

vs.

JERJIS T. ALAJAJI, M.D. AND DUBOIS  
RADIOLOGISTS, INC.,

Defendants.

CIVIL DIVISION

No. 2006-563- CD

JURY TRIAL DEMANDED

**ANSWER AND NEW MATTER**

Filed on Behalf of Defendant, DuBois  
Radiologists, Inc.

Counsel of Record for this Party:

WALTER FREDRICK WALL, ESQUIRE  
PA. I.D. #23657

MEYER, DARRAGH, BUCKLER,  
BEBENEK & ECK, P.L.L.C.  
120 Lakemont Park Boulevard  
Altoona, PA 16602

Telephone No.: (814) 941-4600  
Fax No.: (814) 941-4605

**FILED** *no cc*  
*mt 33/01*  
MAY 19 2008 

William A. Shaw  
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

PAULA CARLSON AND JAMIE  
CARLSON, her husband,

Plaintiffs,

vs.

JERJIS T. ALAJAJI, M.D. AND DUBOIS  
RADIOLOGISTS, INC.,

Defendants.

CIVIL DIVISION

No. 2006-563- CD

JURY TRIAL DEMANDED

**NOTICE TO PLEAD**

In accordance with Rules 1026 and 1361 of the Pennsylvania Rules of Civil Procedure, you are hereby notified to plead to the within ANSWER and NEW MATTER within twenty (20) days from service hereof or a default judgment may be entered against you.

**MEYER, DARRAGH, BUCKLER, BEBENEK & ECK, PLLC**

**BY:** \_\_\_\_\_

**WALTER FREDRICK WALL, ESQUIRE**

Counsel for Defendant, DuBois Radiologists, Inc.  
120 Lakemont Park Boulevard  
Altoona, PA 16602  
Phone No.: (814) 941-4600  
ID # 23657

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

PAULA CARLSON AND JAMIE  
CARLSON, her husband,

Plaintiffs,

vs.

JERJIS T. ALAJAJI, M.D. AND DUBOIS  
RADIOLOGISTS, INC.,

Defendants.

CIVIL DIVISION

No. 2006-563- CD

JURY TRIAL DEMANDED

**ANSWER AND NEW MATTER**

NOW COMES the Defendant, DuBois Radiologists, Inc., by and through its counsel, MEYER, DARRAGH, BUCKLER, BEBENEK & ECK, PLLC and files this Answer and New Matter to Plaintiffs' Complaint of which the following is a statement:

1. The identity of the Plaintiff is admitted. The remaining allegations are denied in that after reasonable investigation, this Defendant lacks information sufficient upon which to form an opinion in regard to the truth of same. Strict proof of same is demanded at the time of trial.

2. The identity of the Plaintiff is admitted. The remaining allegations are denied in that after reasonable investigation, this Defendant lacks information sufficient upon which to form an opinion in regard to the truth of same. Strict proof of same is demanded at the time of trial.

3. It is admitted that at times relevant, Defendant Jerjis T. Alajaji, M.D. was an adult individual licensed to practice medicine in the Commonwealth of Pennsylvania. The remaining allegations are denied in that after reasonable investigation, this Defendant lacks

information sufficient upon which to form an opinion in regard to the truth of same. Strict proof of same is demanded at the time of trial.

4. Admitted.

5. It is admitted that at the time alleged, Defendant Jerjis T. Alajaji, M.D. was an agent, servant and employee of this Defendant DuBois Radiologists, Inc. and was acting by and through its authorization. All allegations concerning unidentified agents, servants and employees of this Defendant are denied as conclusions of law and further denied in that after reasonable investigation, this Defendant lacks information sufficient upon which to form an opinion in regard to who is alleged. Strict proof of same is therefore denied at the time of trial.

6-7. Denied in that after reasonable investigation, this Defendant currently lacks information sufficient upon which to form an opinion in regard to the truth of same. Strict proof of same is demanded at the time of trial.

8. As to the allegations that the x-ray taken on April 12, 2005 and/or the report issued on April 13, 2005 were the result of an improper interpretation, such is denied as a conclusion of law and fact. Strict proof of same is demanded at the time of trial. As to the allegations that an x-ray was performed at DuBois Regional Medical Center and interpreted thereafter by Defendant Dr. Jerjis T. Alajaji as negative, such are admitted to the extent the medical records support same. To the extent the medical records are inconsistent with those allegations, said allegations are denied.

9-20. Denied in that after reasonable investigation, this Defendant lacks information sufficient upon which to form an opinion in regard to the truth of same. Strict proof of same is demanded at the time of trial.

21-22. All allegations of negligence and/or liability are denied as conclusions of law. Said allegations are further denied in that after reasonable investigation, this Defendant currently lacks information sufficient upon which to form an opinion in regard to the truth of same. Strict proof of same is demanded at the time of trial.

### **COUNT I**

**Paula Carlson and Jamie Carlson, her husband v. Jerjis T. Alajaji, M.D.**

#### **Negligence**

23-34. Said allegations are neither admitted nor denied in that they are directed to a Defendant other than this answering Defendant. To the extent further response is deemed necessary, said allegations are denied for reasons set forth above all of which are incorporated herein by reference thereto as if same were set forth at length.

### **COUNT II**

**Paula Carlson and Jamie Carlson, her husband v. DuBois Radiologists, Inc.**

#### **Vicarious Liability**

35. The allegations set forth above are incorporated herein by reference thereto as if same were set forth at length.

36. Denied in that after reasonable investigation, this Defendant current lacks information sufficient upon which to form an opinion in regard to the truth of same. Strict proof of same is demanded at the time of trial.

37-47. All allegations of negligence, liability and/or unidentified agents, servants and employees are denied as conclusions of law. Said allegations are further denied in that after reasonable investigation, this Defendant currently lacks information sufficient

upon which to form an opinion in regard to the truth of same. Strict proof of same is demanded at the time of trial.

### **COUNT III**

**Jamie Carlson v. Jerjis T. Alajaji, M.D. and DuBois Radiologists, Inc.**

#### **Loss of Consortium**

48. The allegations set forth above are incorporated herein by reference thereto as if same were set forth at length.

49-51. Denied as conclusions of law and further denied in that after reasonable investigation, this Defendant currently lacks information sufficient upon which to form an opinion in regard to the truth of same. Strict proof of same is demanded at the time of trial.

WHEREFORE, Defendant, DuBois Radiologists, Inc., prays that Plaintiffs' Complaint be dismissed.

### **NEW MATTER**

52. Defendant Jerjis T. Alajaji, M.D. is not currently an agent, servant or employee of Defendant DuBois Radiologists, Inc. and therefore, Defendant, DuBois Radiologists, Inc. lacks information sufficient upon which to form an opinion in regard to the substantive allegations of Plaintiff's Complaint and further notes that said allegations are currently directed to a party other than DuBois Radiologists, Inc.

53. The ad damnum clauses in Plaintiffs' Complaint seek the recovery of attorney's fees. The law is quite settled in Pennsylvania that actions captioned as this Complaint as a Medical Professional Liability action do not set forth a basis for recovery of attorney's fees and such should be stricken.

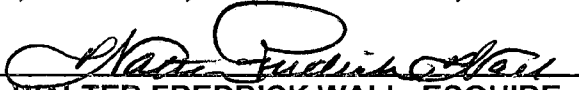


54. To the extent Plaintiff claims liability upon this Defendant solely under a theory of vicarious liability and further to the extent Plaintiff proves a right to recover against Defendant Jerjis T. Alajaji, M.D. as an agent of this Defendant, all liability is denied for any alleged acts or inactions beyond the scope of Defendant Jerjis T. Alajaji, M.D.'s authorization to act on behalf of this Defendant.

55. This Defendant affirmatively pleads all rights, limitations and bars pursuant to the MCARE Act.

**MEYER, DARRAGH, BUCKLER, BEBENEK & ECK, PLLC**

BY:



**WALTER FREDRICK WALL, ESQUIRE**

Counsel for Defendant, DuBois Radiologists, Inc.

120 Lakemont Park Boulevard

Altoona, PA 16602

Phone No.: (814) 941-4600

ID # 23657

VERIFICATION

I, **Ghazanfar A. Shah, M.D., of DuBois Radiologists, Inc.**, do hereby verify that I have read the foregoing ANSWER AND NEW MATTER. The statements therein are true and correct to the best of my knowledge as to part, and based upon information and belief as to the rest.

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

A handwritten signature in black ink, appearing to read 'Ghazanfar A. Shah', written over a horizontal line.

**Ghazanfar A. Shah, M.D., of  
DuBois Radiologists, Inc.**

DATE: 5/15/06

**CERTIFICATE OF SERVICE**

TO THE PROTHONOTARY:

I, Walter Fredrick Wall, Esquire, of the law firm of MEYER, DARRAGH, BUCKLER, BEBENEK & ECK, PLLC, hereby certify that on this **18<sup>th</sup> day of May, 2006**, I have served the foregoing Answer and New Matter on behalf of Defendant, DuBois Radiologists, Inc., upon all counsel/parties of record, by mailing a true and correct copy of same by United States first class mail, postage prepaid as follows:

Thomas E. Crenney, Esquire  
One Gateway Center  
18<sup>th</sup> Floor West  
Pittsburgh, PA 15222

Darryl Slimak, Esquire  
McQuaide Blasko  
811 University Drive  
State College, Pennsylvania

**MEYER, DARRAGH, BUCKLER, BEBENEK & ECK, PLLC**

BY:   
**WALTER FREDRICK WALL, ESQUIRE**  
Counsel for Defendant, DuBois Radiologists, Inc.  
120 Lakemont Park Boulevard  
Altoona, PA 16602  
Phone No.: (814) 941-4600  
ID # 23657

**FILED**

**MAY 19 2006**

William A. Shaw  
Prothonotary/Clerk of Courts

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

PAULA CARLSON and  
JAMIE CARLSON, her husband,

No. 2006-563-CD

Plaintiffs,

vs.

Civil Action – Medical Professional  
Liability Action

BERJIS T. ALAJAJI, M.D. and  
DUBOIS RADIOLOGISTS, INC.,

Defendants.

**PLAINTIFFS' REPLY TO NEW  
MATTER OF DEFENDANT  
DUBOIS RADIOLOGISTS, INC.**

Filed on behalf of Plaintiff

Counsel of Record for this Party:

Thomas E. Crenney, Esquire  
PA I.D. No. 40986

THOMAS E. CRENNY & ASSOCIATES, LLC  
One Gateway Center  
18<sup>th</sup> Floor West  
Pittsburgh, PA 15222  
412-644-5545

Dated: 5/31/06

**JURY TRIAL DEMANDED**

**FILED** *no cc*  
*m 11:24*  
JUN 02 2006 *PLN*  
William A. Shaw  
Prothonotary/Clerk of Courts

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

|                             |   |                                     |
|-----------------------------|---|-------------------------------------|
| PAULA CARLSON and           | ) | No. 2006-563-CD                     |
| JAMIE CARLSON, her husband, | ) |                                     |
|                             | ) |                                     |
| Plaintiffs,                 | ) |                                     |
|                             | ) |                                     |
| vs                          | ) | Civil Action – Medical Professional |
|                             | ) | Liability Action                    |
| JERJIS T. ALAJAJI, M.D. and | ) |                                     |
| DUBOIS RADIOLOGISTS, INC.,  | ) |                                     |
|                             | ) |                                     |
| Defendants.                 | ) |                                     |

**PLAINTIFFS' REPLY TO NEW MATTER**  
**OF DEFENDANT DUBOIS RADIOLOGISTS, INC.**

AND NOW, come the Plaintiffs, Paula Carlson and Jamie Carlson, her husband, by and through their attorneys, Thomas E. Crenney, Esquire and the law offices of Thomas E. Crenney & Associates, LLC, and file the within Reply to New Matter of Defendant DuBois Radiologists, Inc. and in support thereof aver as follows:

1. Paragraph 52 of Defendant DuBois Radiologists, Inc.'s New Matter is denied as stated. Plaintiffs lack sufficient information regarding the present relationship between the Defendants for which reason the allegations in paragraph 52 are denied. Further, it is noted that at the time of this incident Dr. Alajaji was an agent, servant and employee of Defendant DuBois.
2. Paragraph 53 of Defendant DuBois Radiologists, Inc.'s New Matter is denied as a conclusion of law.

3. Paragraph 54 of Defendant DuBois Radiologists, Inc.'s New Matter is denied as stated. All acts of negligence as set forth in the Complaint by Dr. Alajaji occurred in his role as an agent, servant and employee of Defendant DuBois.

4. Paragraph 55 of Defendant DuBois Radiologists, Inc.'s New Matter pleads nothing. Nonetheless, should any court infer the pleading of any fact or theory of law in paragraph 55, the same is denied and strict proof demanded at time of trial.

WHEREFORE Plaintiffs, Paula Carlson and Jamie Carlson, her husband, demand judgment in their favor and against Defendant DuBois Radiologists, Inc. for a sum in excess of the arbitration limits of Clearfield County, plus costs and fees.

JURY TRIAL DEMANDED.

Respectfully submitted,

THOMAS E. CRENNNEY & ASSOCIATES, LLC

By 

Thomas E. Crenney, Esquire  
Attorney for Plaintiffs

One Gateway Center  
18<sup>th</sup> Floor – West  
Pittsburgh, PA 15222  
(412) 644-5545

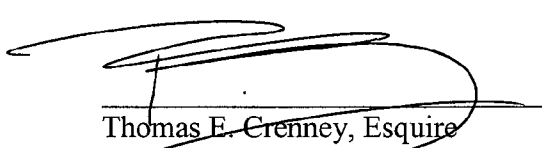
DATE: 5/31/06

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and correct copy of the foregoing PLAINTIFFS' REPLY TO NEW MATTER OF DEFENDANT DUBOIS RADIOLOGISTS was served by First Class Mail, postage prepaid on the 31 day of MAY, 2006, as follows:

Darryl R. Slimak, Esquire  
McQuaide Blasko Fleming & Faulkner, Inc.  
811 University Drive  
State College, PA 16801  
(Counsel for Jerjis T. Alajaji, M.D.)

Walter Fredrick Wall, Esquire  
MEYER, DARRAGH, BUCKLER, BEBENEK & ECK, P.L.L.C.  
120 Lakemont Park Boulevard  
Altoona, PA 16602  
(Counsel for DuBois Radiologists, Inc.)



Thomas E. Crenney, Esquire  
Donna A. Alexander, Esquire  
Attorney for Plaintiffs



IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL ACTION - MEDICAL PROFESSIONAL LIABILITY ACTION

PAULA CARLSON and JAMIE CARLSON,  
her husband,

Plaintiffs,

vs.

JERJIS T. ALAJAJI, M.D. and  
DUBOIS RADIOLOGISTS, INC.,

Defendants.

Docket No: 2006 - 563 - C.D.

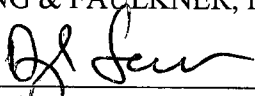
Jury Trial Demanded

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of Jerjis T. Alajaji, M.D.'s Interrogatories and Request for Production (Set One) directed to the plaintiffs in the above-captioned matter was mailed by regular mail, postage prepaid, at the Post Office, State College, Pennsylvania, on this 30th day of June, 2006, to the attorney(s) of record:

Thomas E. Crenney, Esquire  
Thomas E. Crenney & Associates, LLC  
One Gateway Center, 18<sup>th</sup> Floor West  
Pittsburgh, PA 15222

McQUAIDE, BLASKO,  
FLEMING & FAULKNER, INC.

By: 

DARRYL R. SLIMAK  
Attorneys for Defendant  
Jerjis T. Alajaji, M.D.

**FILED** *NO CC*  
*11:46 AM*  
**JUL 03 2006** 

William A. Shaw  
Prothonotary/Clerk of Courts



## MCQUAIDE BLASKO

ATTORNEYS AT LAW

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

(814) 238-4926

FAX (814) 234-5620  
www.mqblaw.com

June 30, 2006

Thomas E. Crenney, Esquire  
Thomas E. Crenney & Associates, LLC  
One Gateway Center, 18<sup>th</sup> Floor West  
Pittsburgh, PA 15222

In re: Paula and Jamie Carlson v. Jerjis T. Alajaji, M.D. and DuBois  
Radiologists, Inc.

Docket No: 2006 - 563 - CD

Dear Mr. Crenney:

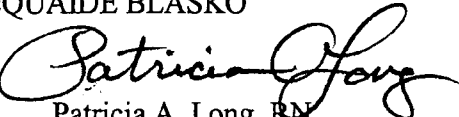
Enclosed herewith please find Interrogatories and Request for Production (Set One), Request for Production (Set Two), and Expert Interrogatories for answer by plaintiffs in reference to the above case.

Thank you for your attention to this matter.

Very truly yours,

MCQUAIDE BLASKO

By

  
Patricia A. Long, RN  
Litigation Paralegal

DRS/pal  
Enclosures

cc: Thomas E. Crenney, Esq. w/enc  
cc: Dr. Jerjis T. Alajaji w/enc  
cc: Nancy McKittrick - JUA (7081) w/enc

---

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

State College Office: John W. Blasko R. Mark Faulkner David M. Weikel Steven S. Hurvitz James M. Horne Wendell V. Courtney Darryl R. Slimak Mark Righter Daniel E. Bright  
Paul J. Tomczuk Janine C. Gismondi John A. Snyder April C. Simpson Allen P. Neely Pamela A. Ruest Katherine V. Oliver Katherine M. Allen Wayne L. Mowery, Jr.  
Chena L. Glenn-Hart Livinia N. Jones Cristina R. Long Matthew T. Rogers Frederick R. Battaglia Anthony A. Simon

Hershey Office: Grant H. Fleming Maureen A. Gallagher Michael J. Mohr Jonathan B. Stepanian Britt D. Russell

Hollidaysburg Office: Thomas M. Reese J. Benjamin Yeager Sean M. Burke Michael P. Routh

John G. Love (1893-1966) Roy Wilkinson, Jr. (1915-1995) Delbert J. McQuaide (1936-1997)



## MCQUAIDE BLASKO

ATTORNEYS AT LAW

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

(814) 238-4926

FAX (814) 234-5620  
www.mqblaw.com

June 30, 2006

William A. Shaw, Sr.  
Prothonotary  
Clearfield County Courthouse  
230 East Market Street  
Clearfield, PA 16830

In re: Paula and Jamie Carlson v. Jerjis T. Alajaji, M.D. and DuBois  
Radiologists, Inc.  
Docket No: 2006 - 563 - CD

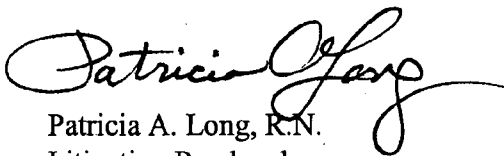
Dear Mr. Shaw:

Enclosed herewith please find Interrogatories and Request for Production (Set One), Request for Production (Set Two), and Expert Interrogatories for answer by plaintiffs in reference to the above case. I have also enclosed Certificates of Service for filing of same.

Thank you for your anticipated cooperation in this matter.

Very truly yours,

McQUAIDE, BLASKO,  
FLEMING & FAULKNER, INC.

By:   
Patricia A. Long, R.N.  
Litigation Paralegal

DRS/pal  
Enclosures  
cc: Thomas E. Crenney, Esq. w/enc  
cc: Dr. Jerjis T. Alajaji w/enc  
cc: Nancy McKittrick - JUA (7081) w/enc

McQUAIDE, BLASKO, FLEMING & FAULKNER, INC.

State College Office: John W. Blasko R. Mark Faulkner David M. Weixel Steven S. Hurvitz James M. Horne Wendell V. Courtney Darryl R. Slimak Mark Righter Daniel E. Bright  
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John G. Love (1893-1966) Roy Wilkinson, Jr. (1915-1995) Delbert J. McQuaide (1936-1997)

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL ACTION - MEDICAL PROFESSIONAL LIABILITY ACTION

PAULA CARLSON and JAMIE CARLSON,  
her husband,

Plaintiffs,

vs.

JERJIS T. ALAJAJI, M.D. and  
DUBOIS RADIOLOGISTS, INC.,

Defendants.

Docket No: 2006 - 563 - C.D.

Jury Trial Demanded

Type of Pleading  
Certificate of Service

Filed on Behalf of Defendant  
***Jerjis T. Alajaji, M.D.***

Counsel of Record for This Party  
***Darryl R. Slimak, Esquire***  
Pa. Supreme Court I.D. #41695

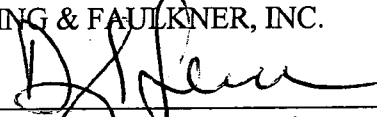
McQuaide, Blasko, Fleming &  
Faulkner, Inc.  
811 University Drive  
State College, PA 16801  
(814) 238-4926  
Fax: (814) 238-9624

Counsel for Adverse Party  
***Thomas E. Crenney, Esquire***

These shall be deemed to be continuing Interrogatories. If, between the time of your answers and the time of trial of this case, you or anyone acting on your behalf learn of any further information not contained in your answers, you shall promptly furnish said information to the undersigned by supplemental answers.

McQUAIDE, BLASKO,  
FLEMING & FAULKNER, INC.

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

  
Darryl R. Slimak, Esquire  
Attorneys for Defendant

### DEFINITIONS

A. "You" and/or "your" means Plaintiffs , your agents and employees and others acting on your behalf with regard to asserting the cause of action to be set forth in Plaintiffs Complaint in the above-captioned case.

B. "Document" shall mean any writing (whether handwritten, typed, printed or otherwise made), drawing, graph, chart, photograph, phonograph record, or electronic or mechanical matter (including microfilm of any kind or nature, tape or recording), or other data compilations from which information can be obtained (translated, if necessary, into reasonably usable form), and shall include, without limiting the generality of the foregoing, all records, correspondence, telegrams, teletypes, agreements, studies, reports, drafts, memoranda, and computer print outs.

C. As used herein "identify", when used in reference to an individual, means his full name and present or last known residence and business address, his present or last known position or title and business affiliation, and his position at the time in question.

D. "Health care provider" means a person, corporation, facility, institution or other entity licensed or approved by the Commonwealth to provide health care or professional medical related services, including but not limited to a medical doctor, a doctor of osteopathy, a doctor of podiatry; chiropractor, nurses, hospital; nursing home; health maintenance organization; or an officer, employee or agent of any of them acting in the course and scope of his employment.

Where the Interrogatories request that documents be identified, an identification of it should include at least the following: author, addressee, type of document, date, subject matter, and the name and address of the person or party presently having custody of the document and any known copies of it.

INSTRUCTIONS FOR ANSWERING INTERROGATORIES

A. In accordance with Pa. R.C.P. Rule 4005, the original copy of these written Interrogatories has been served upon you to be answered by the party served of, if the party served is a public or private corporation or similar entity or a partnership or association, by any officer or agent, who shall furnish such information as is available to the party.

B. In accordance with Pa. R.C.P. Rule 4006, written answers shall be inserted in the spaces provided in the Interrogatories. If there is sufficient space to answer an Interrogatory, the remainder of the answer shall follow on a supplemental sheet.

C. Please serve these answers to Interrogatories in accordance with the Rules of Civil Procedure.



## INTERROGATORIES

1. Please provide the following background information:
  - (a) Your full name;
  - (b) Any other names you have used or been known by;
  - (c) Your date and place of birth;
  - (d) Your social security number;
  - (e) Your present address;
  - (f) Your marital status, presently and at the time of the alleged incident; and
  - (g) The schools and colleges that you have attended and the degrees or certificates awarded.

ANSWER:

2. Please provide the following employment and income information:

- (a) Your employer, job description, rate of pay and average weekly wages, **currently;**
- (b) Your employer, job description, rate of pay and average weekly wages **at the time of the alleged incident;**
- (c) Your employer, job description, rate of pay and average weekly wages for each job for **ten years preceding the alleged incident;** and
- (d) Your gross income for each of the past five (5) years.

ANSWER:

3. State with particularity the nature of your claims against the Defendant Jerjis T. Alajaji, M.D. as well as all facts which support the Plaintiffs theory of negligence or malpractice. In particular, specify all facts which support those allegations set forth in Plaintiffs Complaint.

ANSWER:

4. If you claim or contend that the negligence or malpractice of any person(s) other than Defendant Jerjis T. Alajaji, M.D., contributed to cause the alleged incident and/or Plaintiffs alleged injuries, identify each such person and the nature of his or her involvement.

ANSWER:

5. If you claim or contend that any drug, medical instrument or device caused or contributed to the alleged incident and/or Plaintiffs alleged injuries, identify each such item in detail, including manufacturer of same, and specify the manner in which you contend it caused or contributed to the alleged incident.

ANSWER:

6. Regarding any injuries which you allege were caused by the alleged incident, state the following:
- (a) A precise and full description of all injuries which you claim to have sustained as a result of the incident;
  - (b) The identity of all health care providers who have examined, attended or treated you concerning the injuries referenced in response to paragraph (a);
  - (c) As to each person identified in the preceding subparagraph, the nature of the treatment provided and the dates on which you visited each listed health care provider;
  - (d) Whether any of the health care providers identified in response to subparagraph (c) were consulted on advice or referral of your attorney, and if so, which health care provider(s).

ANSWER:

7. Do you contemplate the necessity of further examination and/or treatment in the future due to the alleged malpractice by Defendant Jerjis T. Alajaji, M.D. ? If so, please set forth a full description of examination and/or treatment which will be necessary, as well as any physician(s) who has advised of the need for such treatment.

ANSWER:

8. Please provide the following information relating to plaintiffs' medical bills. Attach copies of the actual medical bills:
- (a) Name of health care provider
  - (b) Date(s) of service
  - (c) Summary of services rendered
  - (d) Amounts billed
  - (e) Amounts paid to each health care provider by third party payers, including plaintiffs' medical insurance carrier(s)
  - (f) Amounts paid out of plaintiffs' pocket to each health care provider
  - (g) Amounts paid by Medicare, Medicaid, Public Welfare, Public Assistance, or any other public source.

ANSWER:

9. Please identify any Department of Public Welfare medical assistance liens, Medicare/Medicaid liens, liens from any public source or any other applicable liens.
10. Were you confined to home or other place of convalescence as a result of the incident? If so, specify:
- (a) The beginning and end dates for each period of confinement;
  - (b) The place where each confinement took place;
  - (c) The identity of each physician, nurse, or other person who provided care during each period of confinement;
  - (d) An itemization of any costs associated with each period of confinement.

ANSWER:

11. Are you seeking damages for past lost wages? If so, specify:

- (a) Each date on which you were absent from work due to the alleged incident;
- (b) The total number of days or hours which you allegedly lost;
- (c) Whether your absence from work was pursuant to a physician's directive, and if so the name of the physician and the date you were cleared to return to work;
- (d) The gross and net amount of lost wages sought;
- (e) Whether you have been paid by your employer or have received income from any other source during your absence; and
- (f) If your response to the preceding subinterrogatory is affirmative, the identity of the person paying it, the reason why it was paid, and the amount paid.

ANSWER:

12. Are you seeking damages for loss of future earning capacity? If so, state:

- (a) Whether you are claiming partial or full disability;
- (b) The anticipated duration of disability;
- (c) The precise nature of the claimed disability and medical reason(s) why you claim entitlement to damages for loss of future earning capacity;
- (d) The identity and address of all health care professionals who have expressed an opinion as to the subject matter addressed at subinterrogatories (a), (b), and (c); and
- (e) The amount claimed as damages and the method of computing this amount.

ANSWER:

13. Are you seeking damages for emotional or psychological injuries and/or for pain and suffering? If so, specify:
- (a) The nature of the emotional or psychological injuries claimed, including a description of any physical manifestations;
  - (b) The anticipated duration of the emotional or psychological injuries;
  - (c) The identity and address of all health care professionals who have treated you for said injuries and/or expressed an opinion as to the subject matter addressed at subinterrogatories (a) and (b);
  - (d) All treatment received for said problems, including counseling, therapy and/or medications; and,
  - (e) The dates of such examination, consultation and/or therapy.

ANSWER:



14. State whether or not any of the alleged injuries resulted in any scars, abrasions, contusions or lacerations of your body. If so, describe and specify the parts of your body so affected.

ANSWER:

15. To the extent not set forth above, specify and itemize all expenditures which you attribute to the incident in question, including household help, nursing, or other services.

ANSWER:

16. Other than those set forth above, identify each and every health care provider who rendered to you any care, treatment or performed any examination upon you whatsoever **since the date of incident to present date** and/or with whom you have a scheduled future appointment, whether or not you claim that the treatment is directly related to the incident.

ANSWER:

17. Either **prior or subsequent** to the treatment, surgery, or examination referred to in the Complaint, did you suffer any injury, illness or disease in those portions of the body claimed to have been affected by the treatment, surgery, or examination referred to in the Complaint? If so, please state:
- (a) A description of any such injury, illness or disease which you suffered;
  - (b) The cause of any such injury, illness or disease, and if by an accident, the date, time and mechanism of injury; and
  - (c) The identity of any health care providers and/or health care institutions which provided treatment or examination because of such injury, illness or disease.

ANSWER:

18. To the extent not already specified above, state the name, specialty, and address of any health care provider who provided any medical treatment or examination whatsoever to you at any time, along with the date and description of the type of service rendered and the reason for same.

ANSWER:

19. If you took or ingested any drug, narcotic, sedative, tranquilizer, or any other form of medication in the six month period prior to the incident in question, specify:
- (a) The name, whether brand name or generic, of each such drug or medication;
  - (b) The date and time of taking each such drug or medication, or in the alternative, the daily dosage;
  - (c) Whether such drug or medication was prescribed by a physician, and if so, the physician's name and business address; and
  - (d) The pharmacy or other place where each such drug or medication was obtained.
20. State whether you have ever been a party to any other litigation or legal proceeding, including but not limited to personal injury actions, social security disability, or unemployment and workers' compensation proceedings, and if so, please state the following:
- (a) The nature of the case or proceeding;
  - (b) The date, court, tribunal, and place where the case or proceeding was filed or commenced;
  - (c) The identity of all plaintiffs, defendants, other parties, and their attorneys;
  - (d) The present status of each litigation or proceeding; and
  - (e) If concluded, the result of each case or proceeding.

ANSWER:

21. Have you ever filed an application for insurance on your life, or for health and accident insurance? If so, give the date of such application, the name of the company to which you applied, the name and address of the insurance agent through whom you made such application, and whether you were approved for coverage. If you were rejected, state the reason for rejection.

ANSWER:

22. If you have ever pleaded guilty, pleaded no contest, or been convicted of any crime other than traffic violations, please state the nature of the offense, the date, the county in which you were tried, and the sentences given you.

ANSWER:

23. Identify each person who possesses knowledge relevant to the facts alleged in the Complaint, stating for each, their name, address, and a summary of the subject matter of which each has knowledge.

ANSWER:

24. Identify each person whom you intend to call as a non-expert witness at the trial of this case, stating for each, their name, address, and a summary of the subject matter of their anticipated testimony.

ANSWER:

25. Was there any investigation into facts relevant to the events alleged in the complaint conducted by or on behalf of Plaintiffs, or by any other person, whether or not done on behalf of Plaintiff? If so, please state:

- (a) The identity and employer of each person who conducted any such investigation;
- (b) The dates of any such investigations; and
- (c) Whether any reports, records, notes, tests, photographs, audio or video recordings, or documents of any type were generated as a result of any such investigation and if so, a description of same.

ANSWER:

26. Were any statements (as defined by Pa.R.C.P. 4003.4) given or produced by any person(s) having knowledge concerning the alleged incident and/or the instant action, including Plaintiffs herein? If so, please state:

- (a) The identity and employer of each person who has given or produced such a statement;
- (b) The identity and employer of the person by whom each statement was taken;
- (c) The date upon which any such statement was given or produced;
- (d) The method by which the statement was provided, recorded or preserved; and
- (e) The identity of all persons presently having custody of the notes, recordings, transcripts, etc. relative to any such statements.

ANSWER:

27. Do you know of the existence of any photographs, video or audio tapes, diagrams, x-rays or models of the surrounding area or the areas of the treatment, surgery or examination or any other matters or things relevant to the treatment, surgery or examination, or to your alleged injuries? If the answer is in the affirmative, state:

- (a) The date(s) when such photographs, video or audio tapes, diagrams, x-rays or models were made;
- (b) The name, address and employer of the party making them;
- (c) Where they were made; and
- (d) The object(s) or subject(s) which each photograph, video or audio tape, diagram or model represents;

ANSWER:

28. Identify fully and completely each and every document (as defined herein and including diaries, notes, calendars, date books, reports, correspondence, medical records, etc.), object or item which is relevant to the facts of this case.

ANSWER:



29. Identify each and every documentary and demonstrative exhibit, picture, object, model, movie, tape or other document which you intend to introduce at trial as exhibits and/or refer to during the testimony of any witness at the trial of this case and for each, identify the witness(es) whom you intend to question concerning said exhibit.

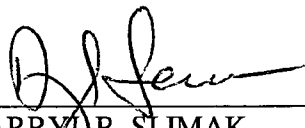
ANSWER:

30. Identify all persons who assisted in the preparation of answers to these Interrogatories.

ANSWER:

Respectfully submitted,

McQUAIDE, BLASKO,  
FLEMING & FAULKNER, INC.

BY   
DARRYL R. SLIMAK

811 University Drive  
State College, PA 16801  
(814) 238-4926  
Attorneys for Defendant  
Jerjis T. Alajaji, M.D.

Dated: 6-30-2006

REQUEST FOR PRODUCTION OF DOCUMENTS  
(SET ONE)

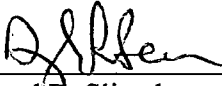
Defendant Jerjis T. Alajaji, M.D., pursuant to Rule 4009.1, 4009.11 and 4009.12 of the Pennsylvania Rules of Civil Procedure, hereby requests that Plaintiffs produce for inspection and copying, all documents identified or referred to in the answers to the foregoing Interrogatories and all documents reviewed by Plaintiffs or anyone acting on behalf of Plaintiffs in the preparation of answers to the foregoing Interrogatories.

Respectfully submitted,

McQUAIDE, BLASKO,  
FLEMING & FAULKNER, INC.

Dated: 6-30-2008

BY

  
Darryl R. Slimak  
811 University Drive  
State College, PA 16801  
Court ID No. 41695  
(814) 238-4926  
Attorneys for Defendant  
Jerjis T. Alajaji, M.D.

VERIFICATION

I verify that I am authorized to make this verification on my own behalf as Plaintiff in the within action; and that the statements made in the foregoing Answers to Interrogatories and Request for Production (One) are true and correct to the best of my knowledge, information and belief. I understand that false statements herein are subject to the penalties of 18 Pa. C.S.A. §4904, related to unsworn falsification to authority.

---

Paula Carlson

---

Jamie Carlson

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL ACTION - MEDICAL PROFESSIONAL LIABILITY ACTION

PAULA CARLSON and JAMIE CARLSON,  
her husband,

Plaintiffs,

vs.

JERJIS T. ALAJAJI, M.D. and  
DUBOIS RADIOLOGISTS, INC.,

Defendants.

Docket No: 2006 - 563 - C.D.

Jury Trial Demanded

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of Jerjis T. Alajaji, M.D.'s Request for Production (Set Two) directed to the plaintiffs in the above-captioned matter was mailed by regular mail, postage prepaid, at the Post Office, State College, Pennsylvania, on this 30<sup>th</sup> day of June, 2006, to the attorney(s) of record:

Thomas E. Crenney, Esquire  
Thomas E. Crenney & Associates, LLC  
One Gateway Center, 18<sup>th</sup> Floor West  
Pittsburgh, PA 15222

McQUAIDE, BLASKO,  
FLEMING & FAULKNER, INC.

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

  
DARRYL R. SLIMAK  
Attorneys for Defendant  
Jerjis T. Alajaji, M.D.

**FILED**  
JUL 03 2006  


William A. Shaw  
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL ACTION - MEDICAL PROFESSIONAL LIABILITY ACTION

PAULA CARLSON and JAMIE CARLSON,  
her husband,

Plaintiffs,

vs.

JERJIS T. ALAJAJI, M.D. and  
DUBOIS RADIOLOGISTS, INC.,

Defendants.

Docket No: 2006 - 563 - C.D.

Jury Trial Demanded

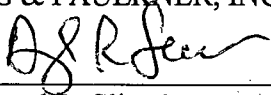
**DEFENDANT JERJIS T. ALAJAJI, M.D.'S REQUEST FOR PRODUCTION**  
**(SET TWO)**

TO: PLAINTIFFS

C/O Thomas E. Crenney, Esquire  
Thomas E. Crenney & Associates, LLC  
One Gateway Center, 18<sup>th</sup> Floor West  
Pittsburgh, PA 15222

AND NOW, comes the Defendant, Jerjis T. Alajaji, M.D., by and through his counsel, McQuaide, Blasko, Fleming & Faulkner, Inc., and requests that Plaintiffs produce the documents and tangible things described below pursuant to Rule 4009 of the Pennsylvania Rules of Civil Procedure for inspection and/or photocopying by the Defendant, his attorneys and agents. The documents and tangible things shall be produced at the offices of McQuaide, Blasko, Fleming & Faulkner, Inc., 811 University Drive, State College, Pennsylvania 16801, thirty (30) days from service of this Request, or at such other time and place that the parties may mutually agree. In responding to this request, you (as hereinafter defined) shall utilize the definitions and follow the instructions hereinafter set forth, each of which shall be deemed to be a material part of each request.

McQUAIDE, BLASKO,  
FLEMING & FAULKNER, INC.

By:   
Darryl R. Slimak  
Attorneys for Defendant

### INSTRUCTIONS

1. With respect to each of the following requests, you shall identify and/or produce all documents which are known to you or which can be located or discovered by you through diligent effort on the part of you, your employees, representatives, attorneys or accountants, including but not limited to, all documents which are in the business of personal files of your employees, in the possession of your representatives, attorneys or accountants, or accessible to you, your employees, or your representatives, attorneys or accountants.

2. The following requests shall be deemed to be continuing so as to require further and supplemental production of documents by you in accordance with Rule 4007.4 of the Pennsylvania Rules of Civil Procedure.

3. If any documents requested herein or fairly comprised within the scope of the following requests have been lost or destroyed, you shall provide in lieu of a true and correct copy thereof a list of each document so lost or destroyed together with the following information: (1) the date of origin; (2) a brief description of such document; (3) the author of such document; (4) the date upon which the document was lost or destroyed; and (5) a brief statement of the manner in which the document was lost or destroyed.

4. In the event you refuse to produce any document requested on grounds of any claimed privilege from discovery, state each ground for such claimed privilege, describe the document withheld by date, author, recipients (including all persons who were shown or received a copy), and give a general description of the subject matter of the document.

5. In the event that more than one copy of a document exists, the original shall be produced, as well as every copy on which appears any notation or marking of any sort not appearing on the original.

6. For any documents which are stored or maintained in files in the normal course of business, such documents shall be produced in such files, or in such a manner as to preserve and indicate the file from which such documents were taken.

### DEFINITIONS

1. "You" and "your" shall mean Plaintiffs as well as their agents, attorneys, employees, accountants, consultants, independent contractors, and any other individual or entity associated or affiliated with her or purporting to act on her behalf with respect to the matter in question.

2. "Document" shall mean all written or printed matter of any kind in your possession, custody or control, which is either known to you or can be located or discovered by diligent effort, including the originals and all non-identical copies, whether different from the original by reason of any notation made on such copies or otherwise, including without limitation, correspondence, memoranda, notes, speeches, press releases, diaries, calendars, agenda, statistics, letters, telegrams, minutes, contracts, purchase orders, reports, studies, checks, statements, receipts, returns, summaries, pamphlets, books, inter-office and intraoffice communications, offers, bulletins, printed matter, computer printouts, teletypes, telefax, invoices, work sheets, work papers, records of telephone calls or other communications or conversations, and all drafts, alterations, modifications, changes or amendments of any of the foregoing, graphic or aural records or representations of any kind (including without limitation, photographs, charts, graphs, microfiche, microfilm, video tapes, recordings and motion pictures) and electric or mechanical records of representations of any kind (including without limitation, tapes, cassettes, discs, and recordings).

3. "Relating to" shall include pertaining to, recording, evidencing, containing, setting forth, reflecting, showing, disclosing, describing, explaining, summarizing, concerning or referring to, whether directly or indirectly.

4. The conjunctions "and" and "or" shall be interpreted to mean "and/or", and shall not be interpreted to exclude any information otherwise within the scope of any request.

5. "Person" shall mean any individual, firm, partnership, corporation, association, business or governmental entity or subdivision, agency, department, and any "person" acting by or through, directly or indirectly, any other "person" as well as any "person" by whom such "person" was controlled with respect to the matter in question.



### DOCUMENTS TO BE PRODUCED

1. Copies of any and all medical records in connection with any care and treatment you may have received from any physician, hospital or medical facility for the ten (10) years preceding the said procedure at issue in this action, and all medical records for care received since said procedure. This request includes hard copies of any computer-generated records and other records in the form of electronic media
2. Any and all photographs and/or videotapes and/or audiotapes in the possession, custody or control of the Plaintiffs, counsel for Plaintiffs, or any other person or entity acting on behalf of the Plaintiffs, including any insurers for the Plaintiffs, showing, representing or purporting to show any person, place, or thing which in any way related to the events which are the subject matter of this litigation.
3. All statements, signed statements, transcripts of recorded statements or interviews, recorded statements if not transcribed or any statement of recorded statements if not transcribed verbatim taken of any parties, persons, or witnesses as part of an investigation of the happening or cause of the incident in question, conducted by, or in the possession of Plaintiffs, Plaintiffs' attorney, insurers, or anyone else acting on behalf of Plaintiffs.
4. Copies of any notes, memos, diaries, memorializations, statements, transcripts of recorded statements or interviews relating to, referring to, or in any way describing the allegations and events with respect to the subject matter upon which Plaintiffs bases this action, authored by Plaintiffs, or anyone acting on their behalf and/or any person involved and/or related in any way to the incidences which are the subject matter of this lawsuit.
5. All documents prepared by Plaintiffs or by any insurers, representatives, agents or anyone acting on behalf of Plaintiffs, except their attorneys, during an investigation of any aspect of the incident in question or prepared in anticipation of litigation or trial of this matter. Such documents shall include any documents made or prepared up through the present time, with the exclusion of the mental impressions, conclusions, or opinions respecting the value or merit of a claim or defense or respecting strategy or tactics.

(NOTE: As referred to herein, "documents" includes written, printed, typed, recorded, or graphic matter, however produced or reproduced, including correspondence, telegrams, other written communications, data processing storage units, tapes, contracts, agreements, notes, memoranda, analyses, projections, indices, work papers, studies, reports, surveys, diaries, calendars, films, photographs, diagrams, drawings, minutes of meetings or any other writing (including copies of

the foregoing, regardless of whether the parties to whom this request is addressed is now in the possession, custody or control of the original) now in the possession, custody or control of Plaintiffs, their former or present counsel, agents, employees, officers, insurers, or any other person acting on Plaintiffs behalf.)

6. Copies of any and all demonstrative or other physical evidence which you intend to rely upon, introduce, or in any way utilize at trial.
7. A listing of all monetary expenses for which you seek recovery in this lawsuit, including but not limited to, documents establishing claimed medical expenses, pharmacy expenses and incidental expenses pertaining to the injuries which Plaintiff allegedly suffered in the incident in question.
8. Copies of federal, state and municipal income tax returns and supporting documentation for Plaintiffs for the five (5) year period preceding the incident, and all tax returns since that time and to the present. If tax returns are not available for a given year, please provide copies of W2 statements or any other documentary information which will verify the extent of the wages and earnings.
9. Copies of any and all writings of whatsoever nature relating and/or reflecting the lost past or future income of the Plaintiff(s).
10. Copies of any and all documents which support, establish, or relate in any manner whatsoever to any of the claims/allegations set forth by Plaintiffs regarding this incident, or which will be relied upon by Plaintiffs in the prosecution of this action.
11. All expert opinions, expert reports, expert summaries, or other writings of experts in the possession, custody or control of Plaintiffs, or their attorneys or insurers, which relate to the subject matter of this litigation and the incident in question.
12. Copies of any and all documents relating in any manner to any oral or written

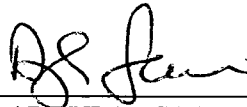
report, notice, communication or correspondence made by Plaintiffs to any entity,  
or to any person regarding this incident.

Respectfully submitted,

McQUAIDE, BLASKO,  
FLEMING & FAULKNER, INC.

Dated: 6-30-2006

BY



DARRYL R. SLIMAK  
811 University Drive  
State College, PA 16801  
(814) 238-4926  
Court ID # 41695  
Attorneys for Defendant  
Jerjis T. Alajaji, M.D.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL ACTION - MEDICAL PROFESSIONAL LIABILITY ACTION

PAULA CARLSON and JAMIE CARLSON,  
her husband,

Plaintiffs,

vs.

JERJIS T. ALAJAJI, M.D. and  
DUBOIS RADIOLOGISTS, INC.,

Defendants.

Docket No: 2006 - 563 - C.D.

Jury Trial Demanded

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of Jerjis T. Alajaji, M.D.'s Expert Interrogatories directed to the plaintiffs in the above-captioned matter was mailed by regular mail, postage prepaid, at the Post Office, State College, Pennsylvania, on this 30<sup>th</sup> day of June, 2006, to the attorney(s) of record:

Thomas E. Crenney, Esquire  
Thomas E. Crenney & Associates, LLC  
One Gateway Center, 18<sup>th</sup> Floor West  
Pittsburgh, PA 15222

McQUAIDE, BLASKO,  
FLEMING & FAULKNER, INC.

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

Darryl R. Slimak  
DARRYL R. SLIMAK  
Attorneys for Defendant  
Jerjis T. Alajaji, M.D.

FILED <sup>NO CC</sup>  
m/11:46/61  
JUL 03 2006

William A. Shaw  
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL ACTION - MEDICAL PROFESSIONAL LIABILITY ACTION

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JERJIS T. ALAJAJI, M.D. and  
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Defendants.

Docket No: 2006 - 563 - C.D.

Jury Trial Demanded

**DEFENDANT JERJIS T. ALAJAJI, M.D.'S EXPERT INTERROGATORIES FOR  
ANSWER BY PLAINTIFFS**

TO: PLAINTIFFS

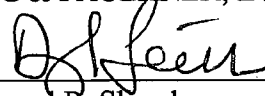
C/O Thomas E. Crenney, Esquire  
Thomas E. Crenney & Associates, LLC  
One Gateway Center, 18<sup>th</sup> Floor West  
Pittsburgh, PA 15222

Please take notice that you are hereby required pursuant to the Pennsylvania Rules of Civil Procedure, to serve upon the undersigned, within thirty (30) days from service hereof, your answers to the Interrogatories in writing and under oath.

These shall be deemed to be continuing interrogatories. If, between the time of your answers and the time of trial of this case, you or anyone acting on your behalf learn of any further information not contained in your answers, you shall promptly furnish said information to the undersigned by supplemental answers.

McQUAIDE, BLASKO,  
FLEMING & FAULKNER, INC.

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

A handwritten signature in cursive script, appearing to read "D. R. Slimak", written over a horizontal line.

Darryl R. Slimak  
Attorneys for Defendant

Definitions:

A. "Document" shall mean any writing (whether handwritten, typed, printed or otherwise made), drawing, graph, chart, photograph, phonograph record, or electronic or mechanical matter (including microfilm of any kind or nature, tape or recording), or other data compilations from which information can be obtained (translated, if necessary, into reasonably usable form), and shall include, without limiting the generality of the foregoing, all records, correspondence, telegrams, teletypes, agreements, studies, reports, drafts, memoranda, and computer print outs.

B. "Health care provider" means a person, corporation, facility, institution or other entity who provided health care or professional services as a physician, including a medical doctor and a doctor of osteopathy and a doctor of podiatry; psychiatrist or psychologist; chiropractor; therapist; hospital; nursing home; health maintenance organization; or an officer, employee or agent of any of them acting in the course and scope of his employment

C. "Incident" or "alleged incident" means actions or omissions upon which this action is purportedly based.

D. As used herein "identify", when used in reference to an individual, means his full name and present or last known residence and business address, his present or last known position or title and business affiliation, and his position at the time in question.

E. "Injury" means any bodily or mental harm or damage, including that as a result of a disease process.

F. "Person" means a natural person, firm, partnership, association, corporation, legal representative, and/or trustee.

G. "You" and/or "your" means Plaintiffs, their agents and employees and others acting on her behalf with regard to asserting the cause of action set forth in Plaintiffs' Complaint in the above-captioned case.

Instructions for Answering Interrogatories:

A. In accordance with Pa.R.C.P. Rule 4005, the original of these written Interrogatories have been served upon you to be answered by the party served of, if the party served is a public or private corporation or similar entity or a partnership or association, by any officer or agent, who shall furnish such information as is available to the party.

B. When the Interrogatories request that documents be identified, an identification of it should include at least the following: author, addressee, type of document, date, subject matter, and the name and address of the person or party presently having custody of the document and any known copies of it.

C. In accordance with Pa.R.C.P. Rule 4006, written answers shall be inserted in the spaces provided in the Interrogatories. If there is sufficient space to answer an Interrogatory, the remainder of the answer shall follow on a supplemental sheet.

D. In accordance with Pa.R.C.P. Rule 4006(b), a sufficient answer to such an Interrogatory shall be to specify the records from which the answer may be derived or ascertained.

E. Please file and serve answers to these Interrogatories in accordance with Pa.R.C.P. Rule 4006(a)(2).



INTERROGATORIES

1. Please provide the name, business address and home address for each **medical expert** witness whom you intend to call at the trial of this case.

ANSWER:

2. For each **medical expert** witness identified in response to the above Interrogatory, please specify the following information relative to qualifications:

(You may attach a copy of each expert's curriculum vitae and list of publications in lieu of answering this Interrogatory)

- (a) Colleges and medical or technical schools attended, dates of attendance, dates of graduation and degrees attained;
- (b) The medical schools or hospitals where the witness pursued any internship or residency and the dates of such study;
- (c) The specialties in which the witness has received certification by any board of medical specialty or professional organization, the date of such certification, and the identity of the board issuing such certification;
- (d) All professional societies, academies, associations or other organized professional groups of which this expert is a member;
- (e) All states in which the witness has ever been licensed and the states in which the witness is currently licensed;
- (f) All hospitals where such witness has ever been granted staff privileges and the dates of such staff appointments, and for each such hospital, whether such hospital ever revoked or suspended such staff privileges;
- (g) If the witness is not self-employed, state each address where the witness is employed; and
- (h) All textbooks, treatises, papers, articles, or other writings which this witness has ever authored, and for each, the name of the article, publication, citation of the publication and date of publication.

ANSWER:

3. Please provide the name, business address and home address for each **non-medical expert** witness whom you intend to call at the trial of this case.

ANSWER:

4. For each **non-medical expert** witness identified in response to the above Interrogatory, please specify the following information relative to qualifications:

(You may attach a copy of each expert's curriculum vitae and list of publications in lieu of answering this Interrogatory)

- (a) Colleges and/or technical schools attended, dates of attendance, dates of graduation and degrees attained;
- (b) The specialties in which the witness has received certification by any board or professional organization, the date of such certification, and the identity of the board issuing such certification;
- (c) All professional societies, academies, associations or other organized professional groups of which this expert is a member;
- (d) All states in which the witness has ever been licensed and the states in which the witness is currently licensed;
- (e) All textbooks, treatises, papers, articles, or other writings which this witness has ever authored, and for each, the name of the article, publication, citation of the publication and date of publication; and
- (f) If the witness is not self-employed, state each address where the witness is employed.

ANSWER:

5. For each expert witness identified above (medical and non-medical), state the subject matter on which the expert is expected to testify.

ANSWER:

6. For each expert witness identified above (medical and non-medical), state the substance of each and every opinion which the expert is expected to render, and provide a summary of the grounds for each such opinion.

ANSWER:

7. List by title, author, and official citation, all treatises, articles, textbooks or any literature whatsoever, which the expert(s) identified above relied upon in formulating his or her opinions relative to this case or which the expert(s) intends to present, utilize or refer to during his or her trial testimony.

ANSWER:

8. For each expert witness identified above, state the number of times the expert has previously been retained for the purpose of either reviewing cases or for testifying in cases for Plaintiffs' counsel or by members of the law firm to which Plaintiffs' counsel belongs.

ANSWER:



9. For each expert witness identified above, state whether any such expert witness has had any past or present business or personal relationship with the Plaintiffs, Plaintiffs' counsel, or by members of the law firm to which Plaintiffs' counsel belongs. If so, specify the persons involved and the nature of any such relationship.

ANSWER:

Respectfully submitted,

McQUAIDE, BLASKO,  
FLEMING & FAULKNER, INC.

Dated: 6/30/06

BY 

DARRYL R. SLIMAK  
811 University Drive  
State College, PA 16801  
Court ID No. 41695  
(814) 238-4926  
Attorneys for Defendant  
Jerjis T. Alajaji, M.D.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA  
CIVIL ACTION - MEDICAL PROFESSIONAL LIABILITY ACTION

PAULA CARLSON and JAMIE CARLSON,  
her husband,

Plaintiffs,

vs.

JERJIS T. ALAJAJI, M.D. and  
DUBOIS RADIOLOGISTS, INC.,

Defendants.

Docket No: 2006 - 563 - C.D.

Jury Trial Demanded

Type of Pleading  
Certificate of Service

Filed on Behalf of Defendant  
*Jerjis T. Alajaji, M.D.*

Counsel of Record for This Party  
*Darryl R. Slimak, Esquire*  
Pa. Supreme Court I.D. #41695

McQuaide, Blasko, Fleming &  
Faulkner, Inc.  
811 University Drive  
State College, PA 16801  
(814) 238-4926  
Fax: (814) 238-9624

Counsel for Adverse Party  
*Thomas E. Crenney, Esquire*

**FILED** *no cc*  
*MT:4/6/06*  
JUL 13 2006  
*LM*

William A. Shaw  
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL ACTION - MEDICAL PROFESSIONAL LIABILITY ACTION

PAULA CARLSON and JAMIE CARLSON,  
her husband,

Plaintiffs,

vs.

JERJIS T. ALAJAJI, M.D. and  
DUBOIS RADIOLOGISTS, INC.,

Defendants.

Docket No: 2006 - 563 - C.D.

Jury Trial Demanded

**NOTICE OF TAKING ORAL DEPOSITION OF PAULA CARLSON**

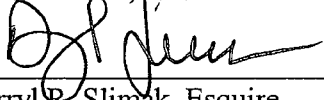
TO: Paula Carlson  
C/O Thomas E. Crenney, Esquire  
Thomas E. Crenney & Associates, LLC  
One Gateway Center, 18<sup>th</sup> Floor West  
Pittsburgh, PA 15222

PLEASE TAKE NOTICE that pursuant to the Pennsylvania Rules of Civil Procedure, the undersigned attorneys for Defendant in the above-captioned matter will take the oral deposition of **Paula Carlson**, on **Tuesday, August 15, 2006**, commencing at **1:30 p.m.**, at the **Dubois Regional Medical Center ,West, Conference Room, 100 Hospital Avenue, DuBois, PA 15801**; before a stenographer/Notary Public of Sargent's Court Reporting, 210 Main Street, Johnstown, PA., Ph. # 1-800-727-4349,

**The Deponent is to bring with her any and all notes, diaries, memoranda, calendars, and any other documents relating to this case which Deponent has prepared or has in her possession.**

McQUAIDE, BLASKO,  
FLEMING & FAULKNER, INC.

Dated: 7/12/06

By: 

Darryl R. Slimak, Esquire  
I.D. No. 41695  
811 University Drive  
State College, PA 16801  
(814) 238-4926  
Attorneys for Defendant  
Jerjis T. Alajaji, M.D.

DRS/pal

cc: Walter F. Wall, Esquire  
Sargent's Court Reporting Service

CIVIL ACTION - MEDICAL PROFESSIONAL LIABILITY ACTION

PAULA CARLSON and JAMIE CARLSON,  
her husband,

Plaintiffs,

vs.

JERJIS T. ALAJAJI, M.D. and  
DUBOIS RADIOLOGISTS, INC.,

Defendants.

Docket No: 2006 - 563 - C.D.

Jury Trial Demanded

CERTIFICATE OF SERVICE

I hereby certify that the Notice of Taking Oral Deposition of Paula Carlson, in the above-referenced matter was mailed by regular mail, first class, at the Post Office, State College, Pennsylvania, postage prepaid, this 12 day of July, 2006, to:

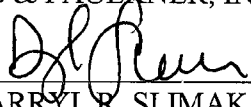
**Original:**

Thomas E. Crenney, Esquire  
Thomas E. Crenney & Associates, LLC  
One Gateway Center, 18<sup>th</sup> Floor West  
Pittsburgh, PA 15222

**Copy:**

Walter F. Wall, Esquire  
Meyer, Darragh, Buckerl, Bebenek & Eck, PLLC  
120 Lakemont Park Boulevard  
Altoona, PA 16602

McQUAIDE, BLASKO,  
FLEMING & FAULKNER, INC.

By:   
DARRYL R. SLIMAK  
Attorneys for Defendant  
Jerjis T. Alajaji, M.D.

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

PAULA CARLSON and  
JAMIE CARLSON, her husband,

No. 2006-563-CD

Plaintiffs,

vs.

Civil Action – Medical Professional  
Liability Action

JERJIS T. ALAJAJI, M.D. and  
DUBOIS RADIOLOGISTS, INC.,

Defendants.

**STIPULATION REGARDING  
FILING OF AMENDED COMPLAINT**

Filed on behalf of Plaintiff

Counsel of Record for this Party:

Thomas E. Crenney, Esquire  
PA I.D. No. 40986

THOMAS E. CRENNNEY & ASSOCIATES, LLC  
One Gateway Center  
18<sup>th</sup> Floor West  
Pittsburgh, PA 15222  
412-644-5545

**JURY TRIAL DEMANDED**

**FILED**

JUL 24 2006

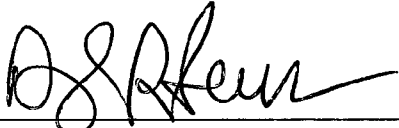
*ml 1:20:14*  
William A. Shaw  
Prothonotary



No. 2006-563-CD  
Clearfield County, Pennsylvania

McQUAIDE BLASKO FLEMING &  
FAULKNER, INC.

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



Darryl R. Slimak, Esquire  
811 University Drive  
State College, PA 16801  
(Counsel for Jerjis T. Alajaji, M.D.)

MEYER DARRAGH BUCKLER BEBENEK  
& ECK, P.L.L.C.

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

Walter Fredrick Wall, Esquire  
120 Lakemont Park Boulevard  
Altoona, PA 16602  
(Counsel for DuBois Radiologists, Inc.)

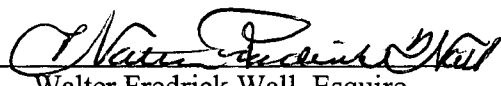


No. 2006-563-CD  
Clearfield County, Pennsylvania

McQUAIDE BLASKO FLEMING &  
FAULKNER, INC.

MEYER DARRAGH BUCKLER BEBENEK  
& ECK, P.L.L.C.

By: \_\_\_\_\_  
Darryl R. Slimak, Esquire  
811 University Drive  
State College, PA 16801  
(Counsel for Jerjis T. Alajaji, M.D.)

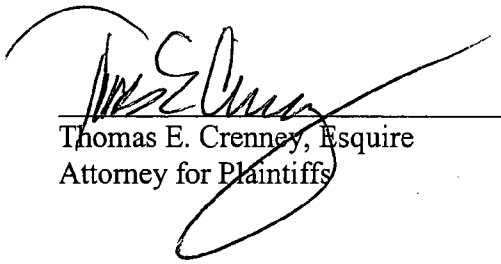
By:  \_\_\_\_\_  
Walter Fredrick Wall, Esquire  
120 Lakemont Park Boulevard  
Altoona, PA 16602  
(Counsel for DuBois Radiologists, Inc.)

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and correct copy of the foregoing STIPULATION REGARDING FILING OF AMENDED COMPLAINT was served by First Class Mail, postage prepaid on the 20 day of July, 2006, as follows:

Darryl R. Slimak, Esquire  
McQuaide Blasko Fleming & Faulkner, Inc.  
811 University Drive  
State College, PA 16801  
(Counsel for Jerjis T. Alajaji, M.D.)

Walter Fredrick Wall, Esquire  
MEYER, DARRAGH, BUCKLER, BEBENEK & ECK, P.L.L.C.  
120 Lakemont Park Boulevard  
Altoona, PA 16602  
(Counsel for DuBois Radiologists, Inc.)

  
\_\_\_\_\_  
Thomas E. Crenney, Esquire  
Attorney for Plaintiffs

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

PAULA CARLSON and  
JAMIE CARLSON, her husband,

No. 2006-563-CD

Plaintiffs,

vs.

Civil Action – Medical Professional  
Liability Action

JERJIS T. ALAJAJI, M.D.;  
DUBOIS RADIOLOGISTS, INC.; and  
DUBOIS REGIONAL MEDICAL  
CENTER,

**AMENDED COMPLAINT  
IN CIVIL ACTION ADDING  
PARTY DEFENDANT**

Defendants

Filed on behalf of Plaintiff

Counsel of Record for this Party:

Thomas E. Crenney, Esquire  
PA I.D. No. 40986

THOMAS E. CRENNNEY & ASSOCIATES, LLC  
One Gateway Center  
18<sup>th</sup> Floor West  
Pittsburgh, PA 15222  
412-644-5545

**JURY TRIAL DEMANDED**

**FILED** <sup>ICC</sup> Shff  
JUL 24 2006  
William A. Shaw  
Prothonotary/Clerk of Courts

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

PAULA CARLSON and  
JAMIE CARLSON, her husband,  
Plaintiffs,

vs

No. 2006-563-CD

Civil Action – Medical Professional  
Liability Action

JERJIS T. ALAJAJI, M.D.;  
DUBOIS RADIOLOGIST, INC.; and  
DUBOIS REGIONAL MEDICAL  
CENTER,

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 objections to the claims set forth against you. You are warned that if you fail to do so, the case may proceed without you and a judgment may be entered against you by the court without further notice for any money claimed in the Complaint or for any claim or relief requested by the plaintiff. You may lose money or property or other rights important to you.

**YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE  
A LAWYER, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. THIS OFFICE  
CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER.**

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

**COURT ADMINISTRATOR  
CLEARFIELD COUNTY COURTHOUSE  
SECOND & MARKET STREETS  
CLEARFIELD, PA 16830  
Telephone: (814) 765-2641, EXT. 50-51**

THOMAS E. CRENNNEY & ASSOCIATES, LLC

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

Thomas E. Crenney, Esquire  
Donna A. Alexander, Esquire  
Attorneys for Plaintiff

DATE: \_\_\_\_\_

7/21/2006

One Gateway Center  
18<sup>th</sup> Floor West  
Pittsburgh, PA 15222  
(412) 644-5545

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

PAULA CARLSON and  
JAMIE CARLSON, her husband,

No. 2006-563-CD

Plaintiffs,

vs.

Civil Action – Medical Professional  
Liability Action

JERJIS T. ALAJAJI, M.D.;  
DUBOIS RADIOLOGISTS, INC.; and  
DUBOIS REGIONAL MEDICAL  
CENTER,

Defendants.

**AMENDED COMPLAINT IN CIVIL ACTION**  
**ADDING PARTY DEFENDANT**

AND NOW, come the Plaintiffs, Paula Carlson and Jamie Carlson, her husband, by and through their attorneys, Thomas E. Crenney & Associates, LLC, and file the within Amended Complaint in Civil Action Adding Party Defendant, averring as follows:

1. Plaintiff Paula Carlson is an adult individual residing at 1373 Sandstone Drive, Falls Creek, Jefferson County, Pennsylvania, 15840.
2. Plaintiff Jamie Carlson is an adult individual residing at 1373 Sandstone Drive, Falls Creek, Jefferson County, Pennsylvania, 15840. Plaintiff Jamie Carlson is the husband of Plaintiff Paula Carlson.
3. Defendant Jerjis T. Alajaji, M.D. is an adult individual licensed to practice medicine in the Commonwealth of Pennsylvania and actively does so at DuBois Regional Medical Center, West Unit, P.O. Box 447, DuBois, Clearfield County, Pennsylvania 15801.

4. Defendant DuBois Radiologists, Inc. is a professional corporation organized and existing under the laws of the Commonwealth of Pennsylvania with a principal place of business at 100 Hospital Avenue, DuBois, Clearfield County, Pennsylvania 15801.

5. At all times material to this cause of action, Defendant DuBois Radiologists, Inc. was acting by and through its duly authorized agents, servants and/or employees who were acting within the course and scope of their employment, on the business of said Defendant and under its direct supervision and control, such agents including but not limited to Jerjis T. Alajaji, M.D., and all physicians and other personnel involved in the interpretation of the April 12, 2005 x-ray of Plaintiff Paula Carlson's right wrist taken at DuBois Regional Medical Center.

6. Defendant DuBois Regional Medical Center is a non-profit corporation organized and existing under the laws of the Commonwealth of Pennsylvania with a principal place of business at 100 Hospital Avenue, DuBois, Clearfield County, Pennsylvania 15801.

7. At all times material to this cause of action, Defendant DuBois Regional Medical Center was acting by and through its duly authorized agents, ostensible agents, servants and/or employees who were acting within the course and scope of their employment and/or agency, on the business of said Defendant and under its direct supervision and control, such agents including but not limited to Jerjis T. Alajaji, M.D., in the interpretation of the April 12, 2005 x-ray of Plaintiff Paula Carlson's right wrist taken at DuBois Regional Medical Center.

8. On April 4, 2005, Plaintiff Paula Carlson called her PCP (Primary Care Physician) Dr. Steven Graeca, complaining of pain in her right wrist. She requested a doctor's appointment at that time.

9. On April 12, 2005, Plaintiff Paula Carlson saw physician assistant Lorie Natoli in Dr. Graeca's office with a chief complaint of right wrist pain with occasional numbness. Ms. Natoli ordered an x-ray of Plaintiff's right wrist at that time.

10. This x-ray, performed at DuBois Regional Medical Center that same day, April 12, 2005, was interpreted by Defendant Dr. Jerjis T. Alajaji as negative. A final x-ray report was issued on April 13, 2005. It was also reported as negative. It was not negative. It was in fact abnormal.

11. On April 26, 2005, Plaintiff returned to Dr. Graeca's office. Dr. Graeca's office ordered an x-ray of her cervical spine and referred Plaintiff to Dr. Lynn Myers.

12. Because of the erroneous negative x-ray report of April 12 and 13, Dr. Myers worked Plaintiff up for carpal tunnel syndrome, and of course found she did not have it. Steroids and occupational therapy were ordered as treatment.

13. On June 2, 2005, Plaintiff received a steroid injection into her right wrist at Dr. Myers' office because of the continuing severe pain in her wrist.

14. On June 6, 2005, Plaintiff called Dr. Graeca's office informing him that despite the steroid shot, she continued to suffer horrible pain in her right wrist.

15. On June 9, 2005, Dr. Graeca's office referred Plaintiff to Dr. Mark Piasio, an orthopedic physician, for evaluation of her right wrist pain. Dr. Piasio reviewed the prior x-ray film from April 12, 2005, which had been interpreted as negative by Defendants, and noted that the x-ray in fact showed a lytic lesion in the ulnar aspect of the distal radius and was interpreted as negative in error.

16. Dr. Piasio ordered a repeat x-ray that same day, which showed significant changes from the April 12 film including that the lytic lesion with a much more worrisome peripheral

margin, moth eaten in nature, permeative and without sclerotic margins. Dr. Piasio's initial impression was a bone lesion in the distal right radius, possible giant cell versus possible Ewing sarcoma. He ordered an MRI, bone scan, and chemistry evaluation.

17. The bone scan was done on June 13, 2005. Based on the results, Dr. Piasio referred Plaintiff to Dr. Kenneth Yaw, a tumor specialist.

18. Plaintiff saw Dr. Yaw on June 17, 2005, at which time he review the April 12, 2005 x-ray film and noted a well margined radiolucent lesion about half the size of the current lesion with intact subchondral bone and no evidence of cortical penetration.

19. Dr. Yaw noted that the current x-ray performed in June 2005 by Dr. Piasio now showed a poorly margined radiolucent lesion involving the distal metaphysis and the epiphysis of the radius with destruction of subchondral bone and probable evidence of intra-articular undisplaced crack.

20. Dr. Yaw noted also that the current MRI confirmed the extent of the lesion in Plaintiff Paula Carlson's right wrist, noting that there was penetration of the volar cortex with about 30% of the lesion extraosseous (outside of the bone) on the volar side displacing the neurovascular structures and flexor tendons.

21. Dr. Yaw ordered a percutaneous needle biopsy of the lesion, which was performed on June 20, 2005, and which revealed the lesion to be a right radius benign giant cell tumor.

22. The giant cell tumor of the distal right radius by this time had completely destroyed the distal radius and had spread to outside bone. Because of the extent of this tumor, Dr. Yaw, on June 27, 2005, performed a radical resection of the distal right radius with a right wrist fusion using the distal ulna as an intercalary graft of the radius. This procedure involved a



transposition of the distal ulna onto the radius with wrist fusion creating a single bone forearm. Approximately three inches of her radius was removed, and a long cortical plate was inserted that extends from the mid-shaft of the radius across the wrist to the third metacarpal (middle finger). Plaintiff Paula Carlson stayed in the hospital after this procedure until June 29, 2005.

23. Had the April 12 film been read properly, Plaintiff would not have required surgical treatment or far less invasive surgery and would have had a far better result that would not have affected her activities of daily living and would not have prevented her from doing her job as a radiation therapist.

24. Since her surgery, Plaintiff has been off work from her job. She may never be able to return to her job as a radiation therapist.

### **Count I**

#### **Paula Carlson and Jamie Carlson, her husband, v. Jerjis T. Alajaji, M.D.**

### **Negligence**

25. The averments contained in paragraphs 1 through 24 of this Complaint are incorporated by reference as though fully set forth at length herein.

26. Pursuant to his undertaking to provide services to Plaintiff Paula Carlson, Defendant Dr. Jerjis T. Alajaji had a duty to act with reasonable and ordinary care of radiologists and medical providers in his care and services for Paula Carlson.

27. Defendant Dr. Alajaji breached his duty to Plaintiff by deviating from the ordinary standard of care in regard to the medical attention given to Paula Carlson in general and in the following particulars:

a. In misinterpreting Plaintiff's April 12, 2005 x-ray film of her right wrist as negative when in fact the film showed a well marginated radiolucent lesion; and/or

b. Failing to diagnose a clear, conspicuous distal right radius tumor on Plaintiff's April 12, 2005 right wrist x-ray film; and/or

c. Failing to diagnose Plaintiff in a timely manner given the history, clinical presentation, and conspicuous images on her right wrist x-ray from April 12, 2005; and/or

d. Failing to use ordinary care to identify, discover, avoid, prevent, eliminate, or reduce the risk of an extensive giant cell tumor requiring radical resection of Plaintiff's right wrist; and/or

e. Misdiagnosing the true nature of Plaintiff's condition; and/or

f. In failing to protect Plaintiff from the increased risk of harm that Plaintiff would suffer an extensive tumor in her right wrist requiring a radical resection and removal of three inches of her right radius, placement of a long cortical plate, and permanent flexed position of her wrist.

28. As a direct and proximate result of the negligent conduct of Defendant, Plaintiff suffered and continues to suffer damages and consequences as to be set forth herein, including the increased risk of harm that such damages and consequences would result to Plaintiff.

29. As a direct and proximate result of the negligent conduct of Defendant, Plaintiff suffered serious injuries and complications, including but not limited to:

a. Permanent fixed flexion of her right wrist;

b. Removal of 3 inches of her right radius, replaced with a cortical plate extending from the mid-shaft of her radius across her wrist to her third metacarpal (middle finger), as a result of a preventable radical resection of her distal right radius with a right wrist fusion using the distal ulna as an intercalary graft;

c. Inability to lift weight over her head;

d. An incision from her knuckles to almost her elbow on her right arm;

e. Having to wear a cast for at least three (3) months, possibly longer, on her right wrist;

f. Inability to return to work as a radiation technician;

g. Continuous and severe pain with movement of her right wrist;

h. The inability to lift with her right arm;

i. Inability to grip with her right arm;

j. Permanent impairment in the use of her right wrist and hand; and

k. An avoidable operative procedure entailing a radical resection of three inches of her right radius replaced with a cortical plate.

30. As a direct and proximate result of the negligent conduct of the Defendant, Plaintiff suffered extreme physical and emotional anguish, pain and suffering, shock, emotional distress and inconvenience which continues to the present day and will continue into the future;

31. As a direct and proximate result of the negligent conduct of the Defendant, Plaintiff suffered disfigurement as a result of the operative procedure that was required due to the delay in diagnosis of her right wrist tumor.

32. As a direct and proximate result of the negligent conduct of the Defendant, Plaintiff suffered embarrassment and humiliation, and was deprived of the ordinary pleasures of life and continues to be so deprived.

33. As a direct and proximate result of the negligent conduct of the Defendant, Plaintiff was compelled to abstain from carrying on her normal and customary occupation and as a result thereof suffered a loss of earnings and/or a reduction, diminution and/or lessening of her earning power and capacity now and into the future.

34. As a direct and proximate result of the negligent conduct of the Defendant, Plaintiff was forced to undergo numerous medical examinations, procedures, therapies and surgeries, and was compelled to expend substantial monies for medical aid, medicines, surgical appliances, physical therapy, and the like.

35. As a direct and proximate result of the negligent conduct of the Defendant, Plaintiff incurred incidental costs and expenses.

36. At all times and places pertinent hereto, Plaintiff acted in a careful, cautious and reasonably prudent manner, and her injuries and damages are due to no fault of her own.

WHEREFORE Plaintiff Paula Carlson demands judgment in her favor and against Defendant Dr. Jerjis T. Alajaji for a sum in excess of the arbitration limits of Clearfield County, plus costs and attorneys fees.

**Count II**

**Paula Carlson and Jamie Carlson, her husband, v. DuBois Radiologists, Inc. and DuBois**

**Regional Medical Center**

**Vicarious Liability**

37. The averments contained in paragraphs 1 through 36 of this Complaint are incorporated by reference as though fully set forth at length herein.

38. Plaintiff Paula Carlson presented herself, via her radiographic film of April 12, 2005, to the Defendants and informed them, their ostensible agents, servants and employees of the nature and extent of ailments and employed them to examine and diagnose the nature, extent and cause of her ailments.

39. The physician, Dr. Jerjis T. Alajaji, and other personnel who interpreted, diagnosed or otherwise acted on Plaintiff's behalf during the course of her x-ray examination of her right wrist on April 12, 2005, as described aforesaid, were the agents, servants and/or employees of Defendants, were acting while in and upon the business of said Defendants and while in the course and scope of their employment, and were acting under the Defendants' direct supervision and control.

40. Defendants, through their agents, ostensible agents, servants and/or employees, negligently breached their duty to Plaintiff by failing to exercise a reasonable and ordinary standard of care in regard to the medical attention personally given to the Plaintiff in general and in the following particulars:

- a. In misinterpreting Plaintiff's April 12, 2005 x-ray film of her right wrist as negative when in fact the film showed a well marginated radiolucent lesion;  
and/or

b. Failing to diagnose a clear, conspicuous distal right radius tumor on Plaintiff's April 12, 2005 right wrist x-ray film; and/or

c. Failing to diagnose Plaintiff in a timely manner given the history, clinical presentation, and conspicuous images on her right wrist x-ray from April 12, 2005; and/or

d. Failing to use ordinary care to identify, discover, avoid, prevent, eliminate, or reduce the risk of an extensive giant cell tumor requiring radical resection of Plaintiff's right wrist; and/or

e. Misdiagnosing the true nature of Plaintiff's condition; and/or

f. In failing to protect Plaintiff from the increased risk of harm that Plaintiff would suffer an extensive tumor in her right wrist requiring a radical resection and removal of three inches of her right radius, placement of a long cortical plate, and permanent flexed position of her right wrist.

41. As a direct and proximate result of the negligent conduct of Defendants, Plaintiff suffered and continues to suffer damages and consequences as to be set forth herein, including the increased risk of harm that such damages and consequences would result to Plaintiff.

42. As a direct and proximate result of the negligent conduct of Defendants, Plaintiff suffered serious injuries and complications, including but not limited to:

a. Permanent fixed flexion of her right wrist;

b. Removal of 3 inches of her right radius, replaced with a cortical plate extending from the mid-shaft of her radius across her wrist to her third metacarpal (middle finger), as a result of a preventable radical resection of her distal right radius with a right wrist fusion using the distal ulna as an intercalary graft;

- c. Inability to lift weight over her head;
- d. An incision from her knuckles to almost her elbow on her right arm;
- e. Having to wear a cast for at least three (3) months, possibly longer, on her right wrist;
- f. Inability to return to work as a radiation technician;
- g. Continuous and severe pain with movement of her right wrist;
- h. The inability to lift with her right arm;
- i. Inability to grip with her right arm;
- j. Permanent impairment in the use of her right wrist and hand; and
- k. An avoidable operative procedure entailing a radical resection of three inches of her right radius replaced with a cortical plate.

43. As a direct and proximate result of the negligent conduct of the Defendants, Plaintiff suffered extreme physical and emotional anguish, pain and suffering, shock, emotional distress and inconvenience which continues to the present day and will continue into the future;

44. As a direct and proximate result of the negligent conduct of the Defendants, Plaintiff suffered disfigurement as a result of the operative procedure that was required due to the delay in diagnosis of her right wrist tumor.

45. As a direct and proximate result of the negligent conduct of the Defendants, Plaintiff suffered embarrassment and humiliation, and was deprived of the ordinary pleasures of life and continues to be so deprived.

46. As a direct and proximate result of the negligent conduct of the Defendants, Plaintiff was compelled to abstain from carrying on her normal and customary occupation and as

a result thereof suffered a loss of earnings and/or a reduction, diminution and/or lessening of her earning power and capacity now and into the future.

47. As a direct and proximate result of the negligent conduct of the Defendants, Plaintiff was forced to undergo numerous medical examinations, procedures, therapies and surgeries, and was compelled to expend substantial monies for medical aid, medicines, surgical appliances, physical therapy, and the like.

48. As a direct and proximate result of the negligent conduct of the Defendants, Plaintiff incurred incidental costs and expenses.

49. At all times and places pertinent hereto, Plaintiff acted in a careful, cautious and reasonably prudent manner, and her injuries and damages are due to no fault of her own.

WHEREFORE Plaintiff Paula Carlson demands judgment in her favor and against Defendant DuBois Radiologists, Inc. and Defendant DuBois Regional Medical Center for a sum in excess of the arbitration limits of Clearfield County, plus costs and attorneys fees.

### **COUNT III**

**Jamie Carlson v. Jerjis T. Alajaji, M.D.; DuBois Radiologists, Inc.; and**

**DuBois Regional Medical Center**

#### **Loss of Consortium**

50. The averments contained in paragraphs 1 through 49 of this Complaint are incorporated by reference as though fully set forth at length herein.

51. As the direct and proximate result of the injuries sustained by his wife, Plaintiff Jamie Carlson suffered, and/or suffers and/or may continue to suffer a loss of consortium with his wife.



52. As the direct and proximate result of the injuries sustained by his wife, Plaintiff Jamie Carlson has suffered and/or suffers and/or may continue to suffer the loss of his wife's services, including daily chores and assistance, companionship, nurture, comfort and society.

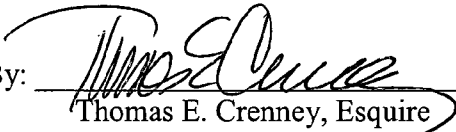
53. As the direct and proximate result of the injuries sustained by his wife, Plaintiff Jamie Carlson has been and/or is and/or may continue to be compelled to expend various sums of money for medical services.

WHEREFORE, Plaintiff Jamie Carlson demands judgment in his favor and against the Defendants in an amount in excess of the arbitration limits of Clearfield County, plus costs and attorneys fees.

**JURY TRIAL DEMANDED**

Respectfully submitted,

THOMAS E. CRENNNEY & ASSOCIATES, LLC

By:   
Thomas E. Crenney, Esquire  
PA I.D. No. 40986  
Donna A. Alexander, Esquire  
PA I.D. No. 85538  
Attorney for Plaintiff

DATE: 7/21/2006

One Gateway Center  
18<sup>th</sup> Floor West  
Pittsburgh, PA 15222  
(412) 644-5545

**VERIFICATION**

I, Thomas E. Crenney, hereby state that I am the attorney for the Plaintiffs, Paula Carlson and Jamie Carlson, her husband, and being authorized to do so, state the facts contained in the within Amended Complaint in Civil Action Adding Party Defendant are true and correct to the best of my knowledge, information and belief. This statement is made subject to the penalties of 18 Pa. C. S. Section 4904, relating to unsworn falsification to authorities.

Dated: 7/21/2006

A handwritten signature in black ink, appearing to be 'T. Crenney', written over a horizontal line.

No. 2006-563-CD  
Clearfield County, Pennsylvania

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

PAULA CARLSON and  
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Plaintiffs,  
vs

No. 2006-563-CD

Civil Action – Medical Professional  
Liability Action

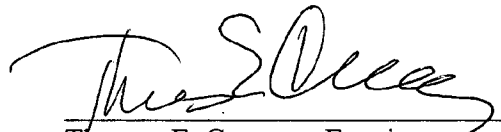
JERJIS T. ALAJAJI, M.D. and  
DUBOIS RADIOLOGIST, INC.; and  
DUBOIS REGIONAL MEDICAL  
CENTER,  
Defendants.

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and correct copy of the foregoing **AMENDED  
COMPLAINT IN CIVIL ACTION ADDING PARTY DEFENDANT** was served by First  
Class Mail, postage prepaid on the 21 day of July, 2006, as follows:

Darryl R. Slimak, Esquire  
McQuaide Blasko Fleming & Faulkner, Inc.  
811 University Drive  
State College, PA 16801  
(Counsel for Jerjis T. Alajaji, M.D.)

Walter Fredrick Wall, Esquire  
MEYER, DARRAGH, BUCKLER, BEBENEK & ECK, P.L.L.C.  
120 Lakemont Park Boulevard  
Altoona, PA 16602  
(Counsel for DuBois Radiologists, Inc.)

  
Thomas E. Crenney, Esquire  
Donna A. Alexander, Esquire  
Attorney for Plaintiffs

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

PAULA CARLSON and  
JAMIE CARLSON, her husband,

No. 2006-563-CD

Plaintiffs,

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Liability Action

JERJIS T. ALAJAJI, M.D.;  
DUBOIS RADIOLOGISTS, INC.; and  
DUBOIS REGIONAL MEDICAL  
CENTER,

**CERTIFICATE OF MERIT  
AS TO DUBOIS REGIONAL  
MEDICAL CENTER**

Defendants

Filed on behalf of Plaintiff

Counsel of Record for this Party:

Thomas E. Crenney, Esquire  
PA I.D. No. 40986

THOMAS E. CRENNNEY & ASSOCIATES, LLC  
One Gateway Center  
18<sup>th</sup> Floor West  
Pittsburgh, PA 15222  
412-644-5545

**JURY TRIAL DEMANDED**

**FILED** *iec*  
*m 11:07 AM*  
*Shff*  
*Recd* JUL 24 2006  
William A. Shaw  
Prothonotary/Clerk of Courts

**IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
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PAULA CARLSON and  
JAMIE CARLSON, her husband,

No. 2006-563-CD

Plaintiffs,

vs.

Civil Action – Medical Professional  
Liability Action

JERJIS T. ALAJAJI, M.D. and  
DUBOIS RADIOLOGIST, INC.; and  
DUBOIS REGIONAL MEDICAL  
CENTER,

Defendants.

**CERTIFICATE OF MERIT AS TO  
DUBOIS REGIONAL MEDICAL CENTER**

I, Thomas E. Crenney, Esquire and Thomas E. Crenney & Associates, LLC, 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;

**AND/OR**

☒

the claim that this defendant deviated from an acceptable professional standard is based solely on allegations that other licensed professionals for whom this defendant is responsible deviated from an acceptable professional standard and an appropriate licensed professional has supplied a written statement to the undersigned that there is a basis to conclude that the care, skill or knowledge exercised or exhibited by the other

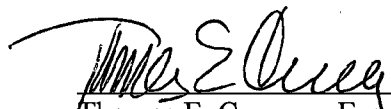
licensed professionals in the treatment, practice or work that is the subject of the complaint, fell outside acceptable professional standards and that such conduct was a cause in bringing about the harm;

**OR**

☐

expert testimony of an appropriate licensed professional is unnecessary for prosecution of the claim against the defendant.

Date: 7/21/2006

  
\_\_\_\_\_  
Thomas E. Crenney, Esquire  
Donna A. Alexander, Esquire

No. 2006-563-CD  
Clearfield County, Pennsylvania

**IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
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No. 2006-563-CD

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JERJIS T. ALAJAJI, M.D. and  
DUBOIS RADIOLOGIST, INC.; and  
DUBOIS REGIONAL MEDICAL  
CENTER,  
Defendants.

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and correct copy of the foregoing  
**CERTIFICATE OF MERIT AS TO DUBOIS REGIONAL MEDICAL CENTER** was  
served by First Class Mail, postage prepaid on the 21 day of July, 2006, as follows:

Darryl R. Slimak, Esquire  
McQuaide Blasko Fleming & Faulkner, Inc.  
811 University Drive  
State College, PA 16801  
(Counsel for Jerjis T. Alajaji, M.D.)

Walter Fredrick Wall, Esquire  
MEYER, DARRAGH, BUCKLER, BEBENEK & ECK, P.L.L.C.  
120 Lakemont Park Boulevard  
Altoona, PA 16602  
(Counsel for DuBois Radiologists, Inc.)

  
Thomas E. Crenney, Esquire  
Donna A. Alexander, Esquire  
Attorney for Plaintiffs

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL ACTION - MEDICAL PROFESSIONAL LIABILITY ACTION

PAULA CARLSON and JAMIE CARLSON,  
her husband,

Plaintiffs,

vs.

JERJIS T. ALAJAJI, M.D. and  
DUBOIS RADIOLOGISTS, INC., and  
DUBOIS REGIONAL MEDICAL CENTER,

Defendants.

Docket No: 2006 - 563 - C.D.

Jury Trial Demanded

Type of Pleading  
***Defendant Dr. Alajaji's Answer  
and New Matter to Plaintiffs'  
Amended Complaint***

Filed on Behalf of Defendant  
***Jerjis T. Alajaji, M.D.***

Counsel of Record for This Party  
***Darryl R. Slimak, Esquire***  
Pa. Supreme Court I.D. #41695

McQuaide, Blasko, Fleming &  
Faulkner, Inc.  
811 University Drive  
State College, PA 16801  
(814) 238-4926  
Fax: (814) 238-9624

Counsel for Adverse Party  
***Thomas E. Crenney, Esquire***

**FILED** <sup>WCC</sup>  
JUL 28 2006 <sup>CR</sup>

William A. Shaw  
Prothonotary/Clerk of Courts



IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL ACTION - MEDICAL PROFESSIONAL LIABILITY ACTION

PAULA CARLSON and JAMIE CARLSON,  
her husband,

Plaintiffs,

vs.

JERJIS T. ALAJAJI, M.D. and  
DUBOIS RADIOLOGISTS, INC., and  
DUBOIS REGIONAL MEDICAL CENTER,

Defendants.

Docket No: 2006 - 563 - C.D.

Jury Trial Demanded

**NOTICE TO PLEAD**

TO: PAULA and JAMIE CARLSON  
c/o Thomas E. Crenney, Esquire

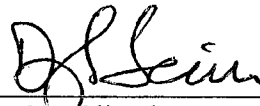
DuBOIS REGIONAL MEDICAL CENTER  
c/o David R. Johnson, Esquire

DuBOIS RADIOLOGISTS, INC.  
c/o Walter F. Wall, Esquire

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

McQUAIDE, BLASKO,  
FLEMING & FAULKNER, INC.

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



Darryl R. Slimak  
Attorney for Defendant  
JERJIS T. ALAJAJI, M.D.  
811 University Drive  
State College, PA 16801  
(814) 238-4926  
Fax: (814) 238-9624

Dated: July 27, 2006

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL ACTION - MEDICAL PROFESSIONAL LIABILITY ACTION

PAULA CARLSON and JAMIE CARLSON,  
her husband,

Plaintiffs,

vs.

JERJIS T. ALAJAJI, M.D. and  
DUBOIS RADIOLOGISTS, INC., and  
DUBOIS REGIONAL MEDICAL CENTER,

Defendants.

Docket No: 2006 - 563 - C.D.

Jury Trial Demanded

**DEFENDANT DR. ALAJAJI'S ANSWER AND NEW MATTER**  
**TO PLAINTIFFS' AMENDED COMPLAINT**

AND NOW, comes Defendant, JERJIS T. ALAJAJI, M.D., by and through his attorneys, McQuaide, Blasko, Fleming & Faulkner, Inc., and responds to Plaintiffs' Amended Complaint as follows:

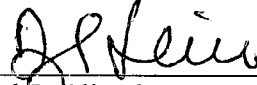
1-53. In response to Amended Complaint paragraphs 1 through 53, inclusive, answering Defendant incorporates herein by reference his response to the original Complaint in this matter, as though set forth at length herein. To the extent Plaintiffs' Amended Complaint contains new or additional allegations, they appear to be directed against a Defendant other than answering Defendant, and therefore no specific or further response thereto is required under the applicable Rules of Civil Procedure.

WHEREFORE, Defendant Dr. Alajaji respectfully requests entry of judgment in his favor and that the Complaint against him be dismissed, with prejudice.

Respectfully submitted,

McQUAIDE, BLASKO,  
FLEMING & FAULKNER, INC.

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



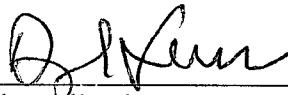
Darryl R. Slimak  
Attorneys for Defendant  
JERJIS T. ALAJAJI, M.D.  
811 University Drive  
State College, PA 16801  
(814) 238-4926  
Fax: (814) 238-9624

Dated: July 27, 2006

Carlson v. Alajaji, et al

**VERIFICATION**

Darryl R. Slimak, hereby verifies that he is the Attorney of Record for Defendant, JERJIS T. ALAJAJI, M.D., in the foregoing action, and as such, he is authorized to make this Affidavit on his behalf, and that the facts set forth in the foregoing **DEFENDANT DR. ALAJAJI'S ANSWER AND NEW MATTER TO PLAINTIFFS' AMENDED COMPLAINT** are true and correct to the best of his information, knowledge and belief. This verification is made by the attorney of record instead of the Defendant in that the pleading is based on a pleading previously verified by the client, and the additional and/or changed averments are statements of legal defenses and/or facts within the undersigned's personal knowledge and belief. This Verification is hereby made subject to the penalties of 18 Pa.C.S.A. §4904 relating to unsworn falsification to authorities.



---

Darryl R. Slimak, Esquire

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL ACTION - MEDICAL PROFESSIONAL LIABILITY ACTION

PAULA CARLSON and JAMIE CARLSON,  
her husband,

Plaintiffs,

vs.

JERJIS T. ALAJAJI, M.D. and  
DUBOIS RADIOLOGISTS, INC., and  
DUBOIS REGIONAL MEDICAL CENTER,

Defendants.

Docket No: 2006 - 563 - C.D.

Jury Trial Demanded

**CERTIFICATE OF SERVICE**

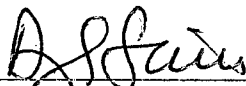
I hereby certify that a true and correct copy of the Defendant Dr. Alajaji's Answer and New Matter to Plaintiffs' Amended Complaint in the above-captioned matter was mailed by regular mail, postage prepaid, at the Post Office, State College, Pennsylvania, on this 27<sup>th</sup> day of July, 2006, to the attorney(s) of record:

Thomas E. Crenney, Esquire  
Thomas E. Crenney & Associates, LLC  
One Gateway Center 18<sup>th</sup> Floor West  
Pittsburgh, PA 15222

Walter F. Wall, Esquire  
Meyer, Darragh, Buckler, Bebenek & Eck, LLC  
120 Lakemont Park Boulevard  
Altoona, PA 16602

David R. Johnson, Esquire  
Thompson, Rhodes & Cowie, P.C.  
1010 Two Chatham Center  
Pittsburgh, PA 15219

McQUAIDE, BLASKO,  
FLEMING & FAULKNER, INC.

By: 

Darryl R. Slimak  
Attorneys for Defendant  
JERJIS T. ALAJAJI, M.D.  
811 University Drive  
State College, PA 16801  
(814) 238-4926  
Fax: (814) 238-9624

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

PAULA CARLSON and JAMIE  
CARLSON, her husband,

Plaintiffs,

vs.

JERJIS T. ALAJAJI, M.D.; DUBOIS  
RADIOLOGISTS, INC.; and DUBOIS  
REGIONAL MEDICAL CENTER,

Defendants.

CIVIL DIVISION

No. 2006-563-CD

Issue No.

PRAECIPE FOR APPEARANCE

Code: 007

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

Counsel of Record for This Party:

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

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

(412) 232-3400

**FILED**

AUG 03 2006

M/12:10/06  
William A. Shaw  
Prothonotary/Clerk of Courts  
no 4C

copy to C/A

PRAECIPE FOR APPEARANCE

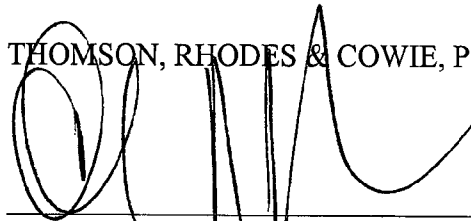
TO: PROTHONOTARY

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

JURY TRIAL DEMANDED.

Respectfully submitted,

THOMSON, RHODES & COWIE, P.C.

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

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



**CERTIFICATION OF SERVICE**

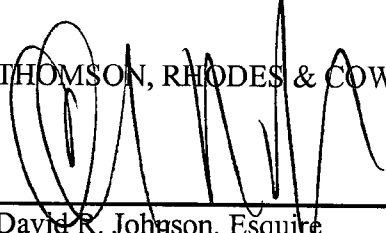
I hereby certify that a true and correct copy of the within PRAECIPE FOR  
APPEARANCE has been served upon the following counsel of record and same placed  
in the U.S. Mails on this 1<sup>st</sup> day of Aug., 2006:

Thomas E. Crenney, Esquire  
Thomas E. Crenney & Associates, LLC  
One Gateway Center  
18<sup>th</sup> Floor West  
Pittsburgh, PA 15222

Darryl R. Slimak, Esquire  
McQuaide, Blasko, Fleming  
& Faulkner, Inc.  
811 University Drive  
State College, PA 16801

Walter Frederick Wall, Esquire  
Meyer, Darragh, Buckler, Bebenek & Eck  
120 Lakemont Park Boulevard  
Altoona, PA 16602

THOMSON, RHODES & COWIE, P.C.

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

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

PAULA CARLSON and  
JAMIE CARLSON, her husband,

No. 2006-563-CD

Plaintiffs,

vs.

Civil Action – Medical Professional  
Liability Action

JERJIS T. ALAJAJI, M.D.;  
DUBOIS RADIOLOGISTS, INC.; and  
DUBOIS REGIONAL MEDICAL  
CENTER,

**PLAINTIFFS' REPLY TO ANSWER  
AND NEW MATTER OF DEFENDANT  
DR. ALAJAJI TO PLAINTIFFS'  
AMENDED COMPLAINT**

Defendants

Filed on behalf of Plaintiff

Counsel of Record for this Party:

Thomas E. Crenney, Esquire  
PA I.D. No. 40986

THOMAS E. CRENNNEY & ASSOCIATES, LLC  
One Gateway Center  
18<sup>th</sup> Floor West  
Pittsburgh, PA 15222  
412-644-5545

**JURY TRIAL DEMANDED**

**FILED**

**AUG 04 2006**

*m/1:00/c*  
William A. Shaw  
Prothonotary/Clerk of Courts

*ws c/c*

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

PAULA CARLSON and  
JAMIE CARLSON, her husband,

No. 2006-563-CD

Plaintiffs,

vs.

Civil Action – Medical Professional  
Liability Action

JERJIS T. ALAJAJI, M.D.;  
DUBOIS RADIOLOGISTS, INC.; and  
DUBOIS REGIONAL MEDICAL  
CENTER,

Defendants.

**PLAINTIFFS' REPLY TO ANSWER AND NEW MATTER OF DEFENDANT  
DR. ALAJAJI TO PLAINTIFFS' AMENDED COMPLAINT**

AND NOW, come the Plaintiffs, Paula Carlson and Jamie Carlson, her husband, by and through their attorneys, Thomas E. Crenney & Associates, LLC, and file the within Reply to Answer and New Matter of Defendant Dr. Alajaji to Plaintiffs' Amended Complaint, averring as follows:

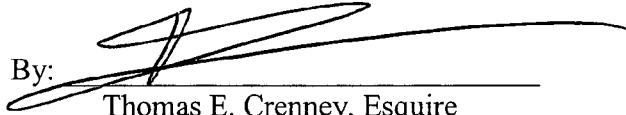
This pleading is in its entirety accomplished by incorporation and therefore pleads and avers nothing. If a court or fact finder should infer that averments are made, the same are denied. By way of answer, Plaintiffs incorporate their original Reply to New Matter.

WHEREFORE, Plaintiffs Paula Carlson and Jamie Carlson, her husband, demand judgment in their favor and against the Defendants in an amount in excess of the arbitration limits of Clearfield County, plus costs and attorneys fees.

**JURY TRIAL DEMANDED**

Respectfully submitted,

THOMAS E. CRENNNEY & ASSOCIATES, LLC

By: 

Thomas E. Crenney, Esquire  
Pa. I.D. No. 40986  
Attorney for Plaintiff

One Gateway Center  
18<sup>th</sup> Floor West  
Pittsburgh, PA 15222  
(412) 644-5545

DATE: 8/2/06

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and correct copy of the foregoing **PLAINTIFFS' REPLY TO ANSWER AND NEW MATTER OF DEFENDANT DR. ALAJAJI TO PLAINTIFFS' AMENDED COMPLAINT** was served by First Class Mail, postage prepaid on the 2 day of August, 2006, as follows:

Darryl R. Slimak, Esquire  
McQuaide Blasko Fleming & Faulkner, Inc.  
811 University Drive  
State College, PA 16801  
(Counsel for Jerjis T. Alajaji, M.D.)

Walter Fredrick Wall, Esquire  
Meyer, Darragh, Buckler, Bebenek & Eck, P.L.L.C.  
120 Lakemont Park Boulevard  
Altoona, PA 16602  
(Counsel for DuBois Radiologists, Inc.)

David R. Johnson, Esquire  
Thomson Rhodes & Cowie  
Two Chatham Center, 10<sup>th</sup> Floor  
Pittsburgh, PA 15219  
(Counsel for DuBois Regional Medical Center)

  
Thomas E. Crenney, Esquire  
Attorney for Plaintiffs

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

PAULA CARLSON AND JAMIE  
CARLSON, her husband,

Plaintiffs,

vs.

JERJIS T. ALAJAJI, M.D. AND DUBOIS  
RADIOLOGISTS, INC.,

Defendants.

CIVIL DIVISION

No. 2006-563- CD

JURY TRIAL DEMANDED

**PRELIMINARY OBJECTION TO  
PLAINTIFFS' AMENDED COMPLAINT**

Filed on Behalf of Defendant, DuBois  
Radiologists, Inc.

Counsel of Record for this Party:

WALTER FREDRICK WALL, ESQUIRE  
PA. I.D. #23657

MEYER, DARRAGH, BUCKLER,  
BEBENEK & ECK, P.L.L.C.  
120 Lakemont Park Boulevard  
Altoona, PA 16602

Telephone No.: (814) 941-4600  
Fax No.: (814) 941-4605

**FILED**

AUG 07 2006

*m/1-35/w*

William A. Shaw  
Prothonotary/Clerk of Courts

*no 9c*

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

PAULA CARLSON AND JAMIE  
CARLSON, her husband,

Plaintiffs,

vs.

JERJIS T. ALAJAJI, M.D. AND DUBOIS  
RADIOLOGISTS, INC.,

Defendants.

CIVIL DIVISION

No. 2006-563- CD

JURY TRIAL DEMANDED

**SCHEDULING PRAECIPE**

Kindly place the foregoing Preliminary Objection to Plaintiffs' Amended Complaint  
filed on behalf of Defendant, DuBois Radiologists, Inc., on the next available argument list.

**MEYER, DARRAGH, BUCKLER, BEBENEK & ECK, PLLC**

BY:

  
\_\_\_\_\_  
**WALTER FREDRICK WALL, ESQUIRE**

Counsel for Defendant, DuBois Radiologists, Inc.  
120 Lakemont Park Boulevard  
Altoona, PA 16602  
Phone No. (814) 941-4600  
PA I.D. #23657

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

PAULA CARLSON AND JAMIE  
CARLSON, her husband,

Plaintiffs,

vs.

JERJIS T. ALAJAJI, M.D. AND DUBOIS  
RADIOLOGISTS, INC.,

Defendants.

CIVIL DIVISION

No. 2006-563- CD

JURY TRIAL DEMANDED

**PRELIMINARY OBJECTION TO PLAINTIFFS' AMENDED COMPLAINT**

NOW COMES the Defendant, DuBois Radiologists, Inc., by and through its counsel, MEYER, DARRAGH, BUCKLER, BEBENEK & ECK, PLLC and files this Preliminary Objection to Plaintiffs' Amended Complaint in manner and form as follows:

**MOTION TO STRIKE**

1. Plaintiffs, in their prayer for relief, at Count II and Count III demands judgment for sum in excess of the Arbitration limits of Clearfield County, plus costs and attorneys fees.
2. Plaintiffs have failed to set forth express statutory authority, a clear agreement by the parties or some established exception which would allow the imposition of attorney's fees.
3. The law of this Commonwealth does not recognize the right for such an award under the allegations in the Amended Complaint.

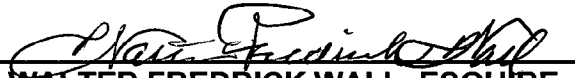


WHEREFORE, Defendant, DuBois Radiologists, Inc., prays that all claims for attorney fees be stricken from the Amended Complaint.

Respectfully submitted,

**MEYER, DARRAGH, BUCKLER, BEBENEK & ECK, PLLC**

BY:

  
**WALTER FREDRICK WALL, ESQUIRE**

Counsel for Defendant, DuBois Radiologists, Inc.  
120 Lakemont Park Boulevard  
Altoona, PA 16602  
Phone No.: (814) 941-4600  
ID # 23657

**CERTIFICATE OF SERVICE**

TO THE PROTHONOTARY:

I, Walter Fredrick Wall, Esquire, of the law firm of MEYER, DARRAGH, BUCKLER, BEBENEK & ECK, PLLC, hereby certify that on this **4<sup>th</sup> day of August, 2006**, I have served the foregoing Preliminary Objection to Plaintiffs' Amended Complaint on behalf of Defendant, DuBois Radiologists, Inc., upon all counsel/parties of record, by mailing a true and correct copy of same by United States first class mail, postage prepaid as follows:

Thomas E. Crenney, Esquire  
One Gateway Center  
18<sup>th</sup> Floor West  
Pittsburgh, PA 15222

Darryl Slimak, Esquire  
McQuaide Blasko  
811 University Drive  
State College, Pennsylvania

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

**MEYER, DARRAGH, BUCKLER, BEBENEK & ECK, PLLC**

BY: \_\_\_\_\_



**WALTER FREDRICK WALL, ESQUIRE**

Counsel for Defendant, DuBois Radiologists, Inc.  
120 Lakemont Park Boulevard  
Altoona, PA 16602  
Phone No.: (814) 941-4600  
ID # 23657

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

PAULA CARLSON AND JAMIE  
CARLSON, her husband,

Plaintiffs,

vs.

JERJIS T. ALAJAJI, M.D. AND DUBOIS  
RADIOLOGISTS, INC.,

Defendants.

CIVIL DIVISION

No. 2006-563- CD

JURY TRIAL DEMANDED

**PRELIMINARY OBJECTION TO  
PLAINTIFFS' AMENDED COMPLAINT**

Filed on Behalf of Defendant, DuBois  
Radiologists, Inc.

Counsel of Record for this Party:

WALTER FREDRICK WALL, ESQUIRE  
PA. I.D. #23657

MEYER, DARRAGH, BUCKLER,  
BEBENEK & ECK, P.L.L.C.  
120 Lakemont Park Boulevard  
Altoona, PA 16602

Telephone No.: (814) 941-4600  
Fax No.: (814) 941-4605

**FILED**

AUG 07 2006

William A. Shaw  
Prothonotary/Clerk of Courts

109c

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

PAULA CARLSON AND JAMIE  
CARLSON, her husband,

Plaintiffs,

vs.

JERJIS T. ALAJAJI, M.D. AND DUBOIS  
RADIOLOGISTS, INC.,

Defendants.

CIVIL DIVISION

No. 2006-563- CD

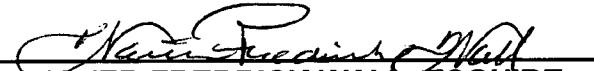
JURY TRIAL DEMANDED

**SCHEDULING PRAECIPE**

Kindly place the foregoing Preliminary Objection to Plaintiffs' Amended Complaint  
filed on behalf of Defendant, DuBois Radiologists, Inc., on the next available argument list.

**MEYER, DARRAGH, BUCKLER, BEBENEK & ECK, PLLC**

BY:

  
WALTER FREDRICK WALL, ESQUIRE

Counsel for Defendant, DuBois Radiologists, Inc.  
120 Lakemont Park Boulevard  
Altoona, PA 16602  
Phone No. (814) 941-4600  
PA I.D. #23657

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

PAULA CARLSON AND JAMIE  
CARLSON, her husband,

Plaintiffs,

vs.

JERJIS T. ALAJAJI, M.D. AND DUBOIS  
RADIOLOGISTS, INC.,

Defendants.

CIVIL DIVISION

No. 2006-563- CD

JURY TRIAL DEMANDED

**PRELIMINARY OBJECTION TO PLAINTIFFS' AMENDED COMPLAINT**

NOW COMES the Defendant, DuBois Radiologists, Inc., by and through its counsel, MEYER, DARRAGH, BUCKLER, BEBENEK & ECK, PLLC and files this Preliminary Objection to Plaintiffs' Amended Complaint in manner and form as follows:

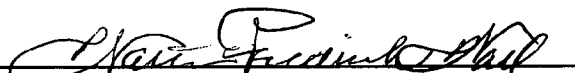
**MOTION TO STRIKE**

1. Plaintiffs, in their prayer for relief, at Count II and Count III demands judgment for sum in excess of the Arbitration limits of Clearfield County, plus costs and attorneys fees.
2. Plaintiffs have failed to set forth express statutory authority, a clear agreement by the parties or some established exception which would allow the imposition of attorney's fees.
3. The law of this Commonwealth does not recognize the right for such an award under the allegations in the Amended Complaint.

WHEREFORE, Defendant, DuBois Radiologists, Inc., prays that all claims for attorney fees be stricken from the Amended Complaint.

Respectfully submitted,

**MEYER, DARRAGH, BUCKLER, BEBENEK & ECK, PLLC**

BY:   
**WALTER FREDRICK WALL, ESQUIRE**  
Counsel for Defendant, DuBois Radiologists, Inc.  
120 Lakemont Park Boulevard  
Altoona, PA 16602  
Phone No.: (814) 941-4600  
ID # 23657

**CERTIFICATE OF SERVICE**

TO THE PROTHONOTARY:

I, Walter Fredrick Wall, Esquire, of the law firm of MEYER, DARRAGH, BUCKLER, BEBENEK & ECK, PLLC, hereby certify that on this **4<sup>th</sup> day of August, 2006**, I have served the foregoing Preliminary Objection to Plaintiffs' Amended Complaint on behalf of Defendant, DuBois Radiologists, Inc., upon all counsel/parties of record, by mailing a true and correct copy of same by United States first class mail, postage prepaid as follows:

Thomas E. Crenney, Esquire  
One Gateway Center  
18<sup>th</sup> Floor West  
Pittsburgh, PA 15222

Darryl Slimak, Esquire  
McQuaide Blasko  
811 University Drive  
State College, Pennsylvania

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

**MEYER, DARRAGH, BUCKLER, BEBENEK & ECK, PLLC**

BY: 

**WALTER FREDRICK WALL, ESQUIRE**

Counsel for Defendant, DuBois Radiologists, Inc.  
120 Lakemont Park Boulevard  
Altoona, PA 16602  
Phone No.: (814) 941-4600  
ID # 23657

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET # 101744  
NO: 06-563-CD  
SERVICE # 1 OF 1  
AMENDED COMPLAINT ADDING PARTY

DEFT.;CERTIFICATE

PLAINTIFF: PAULA CARLSON and JAMIE CARLSON

vs.

DEFENDANT: JERJIS T. ALAJAJI, M.D.; DUBOIS RADIOLOGISTS, INC. and  
DUBOIS REGIONAL MEDICAL CENTER

SHERIFF RETURN

NOW, July 27, 2006 AT 2:30 PM SERVED THE WITHIN AMENDED COMPLAINT ADDING PARTY  
DEFT.;CERTIFICATE ON DUBOIS REGIONAL MEDICAL CENTER DEFENDANT AT 100 HOSPITAL AVE.,  
DUBOIS, CLEARFIELD COUNTY, PENNSYLVANIA, BY HANDING TO LISA BATSON, RISK MANAGEMENT A  
TRUE AND ATTESTED COPY OF THE ORIGINAL AMENDED COMPLAINT ADDING PARTY DEFT.;CERTIFICATE  
AND MADE KNOWN THE CONTENTS THEREOF.

SERVED BY: COUDRIET /

FILED  
06/27/06  
AUG 09 2006

William A. Shaw  
Prothonotary/Clerk of Courts

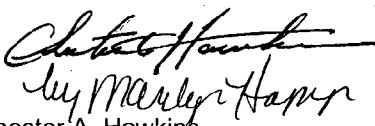
| PURPOSE         | VENDOR  | CHECK # | AMOUNT |
|-----------------|---------|---------|--------|
| SURCHARGE       | CRENNEY | 3884    | 10.00  |
| SHERIFF HAWKINS | CRENNEY | 3884    | 34.91  |

Sworn to Before Me This

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

\_\_\_\_\_

So Answers,

  
Chester A. Hawkins  
Sheriff



LA

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

PAULA CARLSON and JAMIE  
CARLSON, her husband,

Plaintiffs,

vs.

JERJIS T. ALAJAJI, M.D.; DUBOIS  
RADIOLOGISTS, INC.; and DUBOIS  
REGIONAL MEDICAL CENTER,

Defendants.

CIVIL DIVISION

No. 2006-563-CD

Issue No.

PRELIMINARY OBJECTIONS TO  
PLAINTIFFS' COMPLAINT

Code: 007

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

Counsel of Record for This Party:

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

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

(412) 232-3400

**FILED** *icc*  
*m/11/17/06*  
**AUG 11 2006** *Atty*  
*OK*  
William A. Shaw  
Prothonotary/Clerk of Courts

**PRELIMINARY OBJECTIONS**  
**TO PLAINTIFFS' AMENDED COMPLAINT**

NOW COMES DuBois Regional Medical Center, one of the defendants, by its attorneys, Thomson, Rhodes & Cowie, P.C., and files the following Preliminary Objections to Plaintiffs' Amended Complaint in Civil Action adding party defendant.

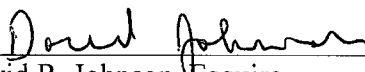
**MOTION TO STRIKE**

1. This is a professional liability case filed against the defendants.
2. Count II of Plaintiffs' Complaint (Vicarious Liability) and Count III (Loss of Consortium) are pleaded against this defendant.
3. In the wherefore clause of each paragraph, plaintiffs seek damages "in an amount in excess of the arbitration limits of Clearfield County, plus costs and attorneys' fees."
4. Plaintiffs have failed to set forth statutory authority or a clear agreement by the parties, or any other legal basis upon which they would be allowed to collect attorneys' fees.
5. Given the allegations in plaintiffs' complaint, plaintiffs are not permitted to recover attorneys' fees and, accordingly, such claim should be stricken from the complaint.

WHEREFORE, DuBois Regional Medical Center moves to strike all claims for attorneys' fees from the amended complaint.

Respectfully submitted

THOMSON, RHODES & COWIE, P.C.

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

**CERTIFICATION OF SERVICE**

I hereby certify that a true and correct copy of the within PRELIMINARY  
OBJECTIONS TO PLAINTIFFS' COMPLAINT has been served upon the following counsel of  
record and same placed in the U.S. Mails on this 9<sup>th</sup> day of August,  
2006:

Thomas E. Crenney, Esquire  
Thomas E. Crenney & Associates, LLC  
One Gateway Center  
18<sup>th</sup> Floor West  
Pittsburgh, PA 15222

Darryl R. Slimak, Esquire  
McQuaide, Blasko, Fleming  
& Faulkner, Inc.  
811 University Drive  
State College, PA 16801

Walter Frederick Wall, Esquire  
Meyer, Darragh, Buckler, Bebenek & Eck  
120 Lakemont Park Boulevard  
Altoona, PA 16602

THOMSON, RHODES & COWIE, P.C.

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

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

PAULA CARLSON and JAMIE  
CARLSON, her husband,

Plaintiffs,

vs.

JERJIS T. ALAJAJI, M.D.; DUBOIS  
RADIOLOGISTS, INC.; and DUBOIS  
REGIONAL MEDICAL CENTER,

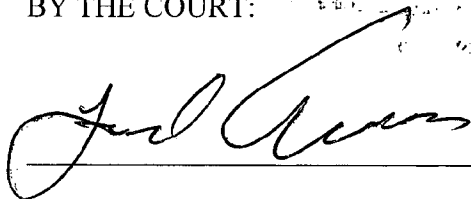
Defendants.

) CIVIL DIVISION  
)  
) No. 2006-563-CD  
)  
) Issue No.  
)  
) Code: 007  
)  
)  
)

ORDER OF COURT

AND NOW on this 14 day of August, 2006, it is hereby  
ORDERED, ADJUGED and DECREED that oral argument on defendants' preliminary  
objections to plaintiff's amended complaint is scheduled for the 13<sup>th</sup> day of  
September, 2006, at 10:00 (a.m.)/p.m. before Judge Ammerman  
in Courtroom No. 1 of the Clearfield County Courthouse.

BY THE COURT:

 J.

**FILED**  
019:45/01  
AUG 15 2006  
Atty Johnson  
William A. Shaw  
Prothonotary/Clerk of Courts

DATE: 8/15/06

☒ 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:

**FILED**

**AUG 15 2006**

William A. Shaw  
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

PAULA CARLSON and JAMIE  
CARLSON, her husband,

Plaintiffs,

vs.

JERJIS T. ALAJAJI, M.D.; DUBOIS  
RADIOLOGISTS, INC.; and DUBOIS  
REGIONAL MEDICAL CENTER,

Defendants.

CIVIL DIVISION

No. 2006-563-CD

Issue No.

CERTIFICATE OF SERVICE OF ORDER  
DATED AUGUST 14, 2006

Code: 007

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

Counsel of Record for This Party:

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

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

(412) 232-3400

FILED *No cc*  
*m 11:39 AM*  
AUG 21 2006 *(JF)*

William A. Shaw  
Prothonotary/Clerk of Courts

CERTIFICATE OF SERVICE OF ORDER DATED AUGUST 14, 2006

Defendant has served the order of court dated August 14, 2006, attached hereto as Exhibit A, to the following counsel of record:

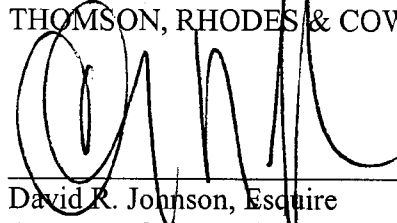
Thomas E. Crenney, Esquire  
Thomas E. Crenney & Associates, LLC  
One Gateway Center  
18<sup>th</sup> Floor West  
Pittsburgh, PA 15222

Darryl R. Slimak, Esquire  
McQuaide, Blasko, Fleming  
& Faulkner, Inc.  
811 University Drive  
State College, PA 16801

Walter Frederick Wall, Esquire  
Meyer, Darragh, Buckler, Bebenek & Eck  
120 Lakemont Park Boulevard  
Altoona, PA 16602

Respectfully submitted,

THOMSON, RHODES & COWIE, P.C.

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

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

Note R/ dated in  
①

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

PAULA CARLSON and JAMIE  
CARLSON, her husband,

Plaintiffs,

vs.

JERJIS T. ALAJAJI, M.D.; DUBOIS  
RADIOLOGISTS, INC.; and DUBOIS  
REGIONAL MEDICAL CENTER,

Defendants.

) CIVIL DIVISION  
)  
) No. 2006-563-CD  
)  
) Issue No.  
)  
) Code: 007  
)  
)  
)

ORDER OF COURT

AND NOW on this 14 day of August, 2006, it is hereby  
ORDERED, ADJUGED and DECREED that oral argument on defendants' preliminary  
objections to plaintiff's amended complaint is scheduled for the 13<sup>th</sup> day of  
September, 2006, at 10:00 (a.m.) p.m. before Judge Ammerman  
in Courtroom No. 1 of the Clearfield County Courthouse.

BY THE COURT:

/s/ Fredric J. Ammerman

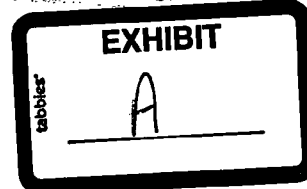
J.

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

AUG 15 2006

Attest.

*William A. Brown*  
Prothonotary/  
Clerk of Courts





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

PAULA CARLSON AND JAMIE  
CARLSON, her husband,

Plaintiffs,

vs.

JERJIS T. ALAJAJI, M.D. AND DUBOIS  
RADIOLOGISTS, INC.,

Defendants.

CIVIL DIVISION

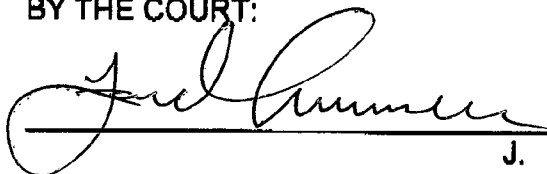
No. 2006-563- CD

JURY TRIAL DEMANDED

**ORDER OF COURT**

AND NOW on this 22 day of August, 2006, it is hereby ORDERED,  
DIRECTED and DECREED that oral argument on Defendant's Preliminary Objections to  
Plaintiff's Amended Complaint is scheduled for the 13<sup>th</sup> day of September,  
2006, at 10:00 a.m./~~1:00~~ before The Honorable Fredric Ammerman in Courtroom  
No. 1 of the Clearfield County Courthouse.

BY THE COURT:



J.

FILED

AUG 22 2006

William A. Shaw  
Prothonotary/Clerk of Courts

FILED

AUG 22 2006

William A. Shaw  
Prothonotary/Clerk of Courts

DATE: 8/22/06

☒ 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:

William A. Shaw  
Prothonotary/Clerk of Courts

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

PAULA CARLSON and  
JAMIE CARLSON, her husband,  
Plaintiffs,

vs

JERJIS T. ALAJAJI, M.D.;  
DUBOIS RADIOLOGIST, INC.; and  
DUBOIS REGIONAL MEDICAL  
CENTER,

Defendants.

No. 2006-563-CD

Civil Action – Medical Professional  
Liability Action

**NOTICE TO DEFEND**

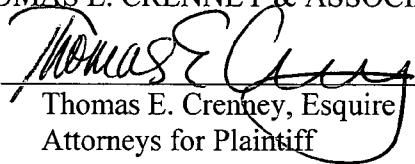
You have been sued in court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this Complaint and Notice are served, by entering a written appearance personally or by objections to the claims set forth against you. You are warned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

**YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE  
A LAWYER, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. THIS OFFICE  
CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER.**

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

**COURT ADMINISTRATOR  
CLEARFIELD COUNTY COURTHOUSE  
SECOND & MARKET STREETS  
CLEARFIELD, PA 16830  
Telephone: (814) 765-2641, EXT. 50-51**

THOMAS E. CRENNNEY & ASSOCIATES, LLC

By:   
Thomas E. Crenney, Esquire  
Attorneys for Plaintiff

One Gateway Center  
18<sup>th</sup> Floor West  
Pittsburgh, PA 15222  
(412) 644-5545

DATE: 8-25-06

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

PAULA CARLSON and  
JAMIE CARLSON, her husband,

No. 2006-563-CD

Plaintiffs,

vs.

Civil Action – Medical Professional  
Liability Action

JERJIS T. ALAJAJI, M.D.;  
DUBOIS RADIOLOGISTS, INC.; and  
DUBOIS REGIONAL MEDICAL  
CENTER,

Defendants.

**SECOND AMENDED COMPLAINT IN CIVIL ACTION**

AND NOW, come the Plaintiffs, Paula Carlson and Jamie Carlson, her husband, by and through their attorneys, Thomas E. Crenney & Associates, LLC, and file the within Amended Complaint in Civil Action Adding Party Defendant, averring as follows:

1. Plaintiff Paula Carlson is an adult individual residing at 1373 Sandstone Drive, Falls Creek, Jefferson County, Pennsylvania, 15840.
2. Plaintiff Jamie Carlson is an adult individual residing at 1373 Sandstone Drive, Falls Creek, Jefferson County, Pennsylvania, 15840. Plaintiff Jamie Carlson is the husband of Plaintiff Paula Carlson.
3. Defendant Jerjis T. Alajaji, M.D. is an adult individual licensed to practice medicine in the Commonwealth of Pennsylvania and actively does so at DuBois Regional Medical Center, West Unit, P.O. Box 447, DuBois, Clearfield County, Pennsylvania 15801.

4. Defendant DuBois Radiologists, Inc. is a professional corporation organized and existing under the laws of the Commonwealth of Pennsylvania with a principal place of business at 100 Hospital Avenue, DuBois, Clearfield County, Pennsylvania 15801.

5. At all times material to this cause of action, Defendant DuBois Radiologists, Inc. was acting by and through its duly authorized agents, servants and/or employees who were acting within the course and scope of their employment, on the business of said Defendant and under its direct supervision and control, such agents including but not limited to Jerjis T. Alajaji, M.D., and all physicians and other personnel involved in the interpretation of the April 12, 2005 x-ray of Plaintiff Paula Carlson's right wrist taken at DuBois Regional Medical Center.

6. Defendant DuBois Regional Medical Center is a non-profit corporation organized and existing under the laws of the Commonwealth of Pennsylvania with a principal place of business at 100 Hospital Avenue, DuBois, Clearfield County, Pennsylvania 15801.

7. At all times material to this cause of action, Defendant DuBois Regional Medical Center was acting by and through its duly authorized agents, ostensible agents, servants and/or employees who were acting within the course and scope of their employment and/or agency, on the business of said Defendant and under its direct supervision and control, such agents including but without limitation Jerjis T. Alajaji, M.D. and all physicians and other personnel involved in the interpretation of the April 12, 2005 x-ray of Plaintiff Paula Carlson's right wrist taken at DuBois Regional Medical Center.

8. On April 4, 2005, Plaintiff Paula Carlson called her PCP (Primary Care Physician) Dr. Steven Graeca, complaining of pain in her right wrist. She requested a doctor's appointment at that time.

9. On April 12, 2005, Plaintiff Paula Carlson saw physician assistant Lorie Natoli in Dr. Graeca's office with a chief complaint of right wrist pain with occasional numbness. Ms. Natoli ordered an x-ray of Plaintiff's right wrist at that time.

10. This x-ray, performed at DuBois Regional Medical Center that same day, April 12, 2005, was interpreted by Defendant Dr. Jerjis T. Alajaji as negative. A final x-ray report was issued on April 13, 2005. It was also reported as negative. It was not negative. It was in fact abnormal.

11. On April 26, 2005, Plaintiff returned to Dr. Graeca's office. Dr. Graeca's office ordered an x-ray of her cervical spine and referred Plaintiff to Dr. Lynn Myers.

12. Because of the erroneous negative x-ray report of April 12 and 13, Dr. Myers worked Plaintiff up for carpal tunnel syndrome, and of course found she did not have it. Steroids and occupational therapy were ordered as treatment.

13. On June 2, 2005, Plaintiff received a steroid injection into her right wrist at Dr. Myers' office because of the continuing severe pain in her wrist.

14. On June 6, 2005, Plaintiff called Dr. Graeca's office informing him that despite the steroid shot, she continued to suffer horrible pain in her right wrist.

15. On June 9, 2005, Dr. Graeca's office referred Plaintiff to Dr. Mark Piasio, an orthopedic physician, for evaluation of her right wrist pain. Dr. Piasio reviewed the prior x-ray film from April 12, 2005, which had been interpreted as negative by Defendants, and noted that the x-ray in fact showed a lytic lesion in the ulnar aspect of the distal radius and was interpreted as negative in error.

16. Dr. Piasio ordered a repeat x-ray that same day, which showed significant changes from the April 12 film including that the lytic lesion with a much more worrisome peripheral

margin, moth eaten in nature, permeative and without sclerotic margins. Dr. Piasio's initial impression was a bone lesion in the distal right radius, possible giant cell versus possible Ewing sarcoma. He ordered an MRI, bone scan, and chemistry evaluation.

17. The bone scan was done on June 13, 2005. Based on the results, Dr. Piasio referred Plaintiff to Dr. Kenneth Yaw, a tumor specialist.

18. Plaintiff saw Dr. Yaw on June 17, 2005, at which time he review the April 12, 2005 x-ray film and noted a well margined radiolucent lesion about half the size of the current lesion with intact subchondral bone and no evidence of cortical penetration.

19. Dr. Yaw noted that the current x-ray performed in June 2005 by Dr. Piasio now showed a poorly margined radiolucent lesion involving the distal metaphysis and the epiphysis of the radius with destruction of subchondral bone and probable evidence of intra-articular undisplaced crack.

20. Dr. Yaw noted also that the current MRI confirmed the extent of the lesion in Plaintiff Paula Carlson's right wrist, noting that there was penetration of the volar cortex with about 30% of the lesion extraosseous (outside of the bone) on the volar side displacing the neurovascular structures and flexor tendons.

21. Dr. Yaw ordered a percutaneous needle biopsy of the lesion, which was performed on June 20, 2005, and which revealed the lesion to be a right radius benign giant cell tumor.

22. The giant cell tumor of the distal right radius by this time had completely destroyed the distal radius and had spread to outside bone. Because of the extent of this tumor, Dr. Yaw, on June 27, 2005, performed a radical resection of the distal right radius with a right wrist fusion using the distal ulna as an intercalary graft of the radius. This procedure involved a



transposition of the distal ulna onto the radius with wrist fusion creating a single bone forearm. Approximately three inches of her radius was removed, and a long cortical plate was inserted that extends from the mid-shaft of the radius across the wrist to the third metacarpal (middle finger). Plaintiff Paula Carlson stayed in the hospital after this procedure until June 29, 2005.

23. Had the April 12 film been read properly, Plaintiff would not have required surgical treatment or far less invasive surgery and would have had a far better result that would not have affected her activities of daily living and would not have prevented her from doing her job as a radiation therapist.

24. Since her surgery, Plaintiff has been off work from her job. Plaintiff is not able to return to her job as a radiation therapist.

### **Count I**

#### **Paula Carlson and Jamie Carlson, her husband, v. Jerjis T. Alajaji, M.D.**

#### **Negligence**

25. The averments contained in paragraphs 1 through 24 of this Complaint are incorporated by reference as though fully set forth at length herein.

26. Pursuant to his undertaking to provide services to Plaintiff Paula Carlson, Defendant Dr. Jerjis T. Alajaji had a duty to act with reasonable and ordinary care of radiologists and medical providers in his care and services for Paula Carlson.

27. Defendant Dr. Alajaji breached his duty to Plaintiff by deviating from the ordinary standard of care in regard to the medical attention given to Paula Carlson in general and in the following particulars:

a. In misinterpreting Plaintiff's April 12, 2005 x-ray film of her right wrist as negative when in fact the film showed a well marginated radiolucent lesion; and/or

b. Failing to diagnose a clear, conspicuous distal right radius tumor on Plaintiff's April 12, 2005 right wrist x-ray film; and/or

c. Failing to diagnose Plaintiff in a timely manner given the history, clinical presentation, and conspicuous images on her right wrist x-ray from April 12, 2005; and/or

d. Failing to refer to proper specialist; and/or

e. Failing to use ordinary care to identify, discover, avoid, prevent, eliminate, or reduce the risk of an extensive giant cell tumor requiring radical resection of Plaintiff's right wrist; and/or

f. Misdiagnosing the true nature of Plaintiff's condition; and/or

g. In failing to protect Plaintiff from the increased risk of harm that Plaintiff would suffer an extensive tumor in her right wrist requiring a radical resection and removal of three inches of her right radius, placement of a long cortical plate, and permanent flexed position of her wrist.

28. As a direct and proximate result of the negligent conduct of Defendant, Plaintiff suffered and continues to suffer damages and consequences as to be set forth herein, including the increased risk of harm that such damages and consequences would result to Plaintiff.

29. As a direct and proximate result of the negligent conduct of Defendant, Plaintiff suffered serious injuries and complications, including but not limited to:

a. Permanent fixed flexion of her right wrist;

b. Removal of 3 inches of her right radius, replaced with a cortical plate extending from the mid-shaft of her radius across her wrist to her third metacarpal (middle finger), as a result of a preventable radical resection of her distal right radius with a right wrist fusion using the distal ulna as an intercalary graft;

c. Inability to lift weight over her head;

d. An incision from her knuckles to almost her elbow on her right arm;

e. Permanent scarring, atrophy, disfigurement and weakness in the right arm;

f. Having to wear a cast for at least three (3) months, possibly longer, on her right wrist;

g. Inability to return to work as a radiation technician;

h. Continuous and severe pain with movement of her right wrist;

i. The inability to lift with her right arm;

j. Inability to grip with her right arm;

k. Permanent impairment in the use of her right wrist and hand; and

l. An avoidable operative procedure entailing a radical resection of three inches of her right radius replaced with a cortical plate;

m. Any other such injuries that may be diagnosed prior to trial.

30. As a direct and proximate result of the negligent conduct of the Defendant, Plaintiff suffered extreme physical and emotional anguish, pain and suffering, shock, emotional distress and inconvenience which continues to the present day and will continue into the future;

31. As a direct and proximate result of the negligent conduct of the Defendant, Plaintiff suffered disfigurement as a result of the operative procedure that was required due to the delay in diagnosis of her right wrist tumor.

32. As a direct and proximate result of the negligent conduct of the Defendant, Plaintiff suffered embarrassment and humiliation, and was deprived of the ordinary pleasures of life and continues to be so deprived.

33. As a direct and proximate result of the negligent conduct of the Defendant, Plaintiff was compelled to abstain from carrying on her normal and customary occupation and as a result thereof suffered a loss of earnings and/or a reduction, diminution and/or lessening of her earning power and capacity now and into the future.

34. As a direct and proximate result of the negligent conduct of the Defendant, Plaintiff was forced to undergo numerous medical examinations, procedures, therapies and surgeries, and was compelled to expend substantial monies for medical aid, medicines, surgical appliances, physical therapy, and the like.

35. As a direct and proximate result of the negligent conduct of the Defendant, Plaintiff incurred incidental costs and expenses.

36. At all times and places pertinent hereto, Plaintiff acted in a careful, cautious and reasonably prudent manner, and her injuries and damages are due to no fault of her own.

WHEREFORE Plaintiff Paula Carlson demands judgment in her favor and against Defendant Dr. Jerjis T. Alajaji for a sum in excess of the arbitration limits of Clearfield County, plus costs and interest.

**Count II**

**Paula Carlson and Jamie Carlson, her husband, v.  
DuBois Radiologists, Inc. and DuBois Regional Medical Center**

37. The averments contained in paragraphs 1 through 36 of this Complaint are incorporated by reference as though fully set forth at length herein.

38. Plaintiff Paula Carlson presented herself to the Defendants on April 12, 2005, as described herein above, and informed them, their ostensible agents, servants and employees of the nature and extent of ailments and employed them to examine and diagnose the nature, extent and cause of her ailments. Pursuant to the undertaking of Defendants, which was for pecuniary gain, these Defendants had a duty to act with reasonable and ordinary care of medical and surgical providers; to use reasonable care in the maintenance of safe and adequate facilities and equipment; to select and retain only competent physicians; to oversee all persons who practice medicine within their walls as to patient care; and to formulate, adopt and enforce adequate rules and policies to ensure quality care for patients.

39. The physician, Dr. Jerjis T. Alajaji, and other personnel who interpreted, diagnosed or otherwise acted on Plaintiff's behalf during the course of her x-ray examination of her right wrist on April 12, 2005, as described aforesaid, were the agents, servants and/or employees of Defendants, were acting while in and upon the business of said Defendants and while in the course and scope of their employment, and were acting under the Defendants' direct supervision and control.

40. Defendants, through their agents, ostensible agents, servants and/or employees, negligently breached their duties as described above herein to Plaintiff by failing to exercise a

reasonable and ordinary standard of care in regard to the medical attention, care and treatment personally given to the Plaintiff in general and in the following particulars:

- a. In misinterpreting Plaintiff's April 12, 2005 x-ray film of her right wrist as negative when in fact the film showed a well marginated radiolucent lesion; and/or
- b. Failing to diagnose a clear, conspicuous distal right radius tumor on Plaintiff's April 12, 2005 right wrist x-ray film; and/or
- c. Failing to diagnose Plaintiff in a timely manner given the history, clinical presentation, and conspicuous images on her right wrist x-ray from April 12, 2005; and/or
- d. Failing to use ordinary care to identify, discover, avoid, prevent, eliminate, or reduce the risk of an extensive giant cell tumor requiring radical resection of Plaintiff's right wrist; and/or
- e. Misdiagnosing the true nature of Plaintiff's condition; and/or
- f. In failing to protect Plaintiff from the increased risk of harm that Plaintiff would suffer an extensive tumor in her right wrist requiring a radical resection and removal of three inches of her right radius, placement of a long cortical plate, and permanent flexed position of her right wrist; and/or
- g. In failing to refer Plaintiff to a proper specialist; and/or
- h. In failing to oversee and adequately supervise Defendant Dr. Jerjis T. Alajaji, and other personnel who interpreted, diagnosed or otherwise acted on Plaintiff's behalf during the course of her x-ray examination of her right wrist on April 12, 2005, and specifically, in failing to question, oversee and adequately

supervise Defendant Alajaji and other personnel who interpreted, diagnosed or otherwise acted on Plaintiff's behalf during the course of her x-ray examination of her right wrist on April 12, 2005; and/or

i. In failing to select and retain only competent physicians, as evidenced by the negligence of Defendant Alajaji described above herein in Count I; and/or

j. In failing to formulate, adopt and enforce adequate rules and policies to ensure quality care for Plaintiff, where it conducted no and/or inadequate review of Defendant Alajaji and other personnel who interpreted, diagnosed or otherwise acted on Plaintiff's behalf during the course of her x-ray examination of her right wrist on April 12, 2005.

41. As a direct and proximate result of the negligent conduct of Defendants, Plaintiff suffered and continues to suffer damages and consequences as to be set forth herein, including the increased risk of harm that such damages and consequences would result to Plaintiff.

42. As a direct and proximate result of the negligent conduct of Defendants, Plaintiff suffered serious injuries and complications, including but not limited to:

- a. Permanent fixed flexion of her right wrist;
- b. Removal of 3 inches of her right radius, replaced with a cortical plate extending from the mid-shaft of her radius across her wrist to her third metacarpal (middle finger), as a result of a preventable radical resection of her distal right radius with a right wrist fusion using the distal ulna as an intercalary graft;
- c. Inability to lift weight over her head;
- d. An incision from her knuckles to almost her elbow on her right arm;
- e. Permanent scarring, atrophy, disfigurement and weakness in the right arm;

f. Having to wear a cast for at least three (3) months, possibly longer, on her right wrist;

g. Inability to return to work as a radiation technician;

h. Continuous and severe pain with movement of her right wrist;

i. The inability to lift with her right arm;

j. Inability to grip with her right arm;

k. Permanent impairment in the use of her right wrist and hand; and

l. An avoidable operative procedure entailing a radical resection of three inches of her right radius replaced with a cortical plate;

m. Any other such injuries that may be diagnosed prior to trial.

43. As a direct and proximate result of the negligent conduct of the Defendants, Plaintiff suffered extreme physical and emotional anguish, pain and suffering, shock, emotional distress and inconvenience which continues to the present day and will continue into the future;

44. As a direct and proximate result of the negligent conduct of the Defendants, Plaintiff suffered disfigurement as a result of the operative procedure that was required due to the delay in diagnosis of her right wrist tumor.

45. As a direct and proximate result of the negligent conduct of the Defendants, Plaintiff suffered embarrassment and humiliation, and was deprived of the ordinary pleasures of life and continues to be so deprived.

46. As a direct and proximate result of the negligent conduct of the Defendants, Plaintiff was compelled to abstain from carrying on her normal and customary occupation and as a result thereof suffered a loss of earnings and/or a reduction, diminution and/or lessening of her earning power and capacity now and into the future.



47. As a direct and proximate result of the negligent conduct of the Defendants, Plaintiff was forced to undergo numerous medical examinations, procedures, therapies and surgeries, and was compelled to expend substantial monies for medical aid, medicines, surgical appliances, physical therapy, and the like.

48. As a direct and proximate result of the negligent conduct of the Defendants, Plaintiff incurred incidental costs and expenses.

49. At all times and places pertinent hereto, Plaintiff acted in a careful, cautious and reasonably prudent manner, and her injuries and damages are due to no fault of her own.

WHEREFORE Plaintiff Paula Carlson demands judgment in her favor and against Defendant DuBois Radiologists, Inc. and Defendant DuBois Regional Medical Center for a sum in excess of the arbitration limits of Clearfield County, plus costs and interest.

### **COUNT III**

**Jamie Carlson v. Jerjis T. Alajaji, M.D.; DuBois Radiologists, Inc.; and**

**DuBois Regional Medical Center**

#### **Loss of Consortium**

50. The averments contained in paragraphs 1 through 49 of this Complaint are incorporated by reference as though fully set forth at length herein.

51. As the direct and proximate result of the injuries sustained by his wife, Plaintiff Jamie Carlson suffered, and/or suffers and/or may continue to suffer a loss of consortium with his wife.

52. As the direct and proximate result of the injuries sustained by his wife, Plaintiff Jamie Carlson has suffered and/or suffers and/or may continue to suffer the loss of his wife's services, including daily chores and assistance, companionship, nurture, comfort and society.

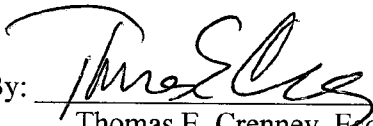
53. As the direct and proximate result of the injuries sustained by his wife, Plaintiff Jamie Carlson has been and/or is and/or may continue to be compelled to expend various sums of money for medical services.

WHEREFORE, Plaintiff Jamie Carlson demands judgment in his favor and against the Defendants in an amount in excess of the arbitration limits of Clearfield County, plus costs and interest.

**JURY TRIAL DEMANDED**

Respectfully submitted,

THOMAS E. CRENNNEY & ASSOCIATES, LLC

By:   
Thomas E. Crenney, Esquire  
PA I.D. No. 40986  
Attorney for Plaintiff

DATE: 8-25-06

One Gateway Center  
18<sup>th</sup> Floor West  
Pittsburgh, PA 15222  
(412) 644-5545

**VERIFICATION**

I verify that the averments of fact made in the Second Amended Complaint in Civil Action are true and correct based upon my personal knowledge, information and belief, and that I understand the penalties for unsworn falsification to authorities provided in 18 Pa. C.S. §4909.

Dated: 8-25-06

  
\_\_\_\_\_  
Paula Carlson

**VERIFICATION**

I verify that the averments of fact made in the Second Amended Complaint in Civil Action are true and correct based upon my personal knowledge, information and belief, and that I understand the penalties for unsworn falsification to authorities provided in 18 Pa. C.S. §4909.

Dated: 8-25-06

  
Jamie Carlson

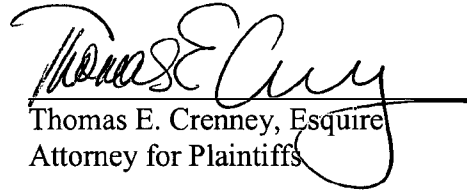
**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and correct copy of the foregoing **SECOND AMENDED COMPLAINT IN CIVIL ACTION** was served by First Class Mail, postage prepaid on the 25<sup>th</sup> day of August, 2006, as follows:

Darryl R. Slimak, Esquire  
MCQUAIDE BLASKO FLEMING & FAULKNER, INC.  
811 University Drive  
State College, PA 16801  
(Counsel for Jerjis T. Alajaji, M.D.)

Walter Fredrick Wall, Esquire  
MEYER, DARRAGH, BUCKLER, BEBENEK & ECK, P.L.L.C.  
120 Lakemont Park Boulevard  
Altoona, PA 16602  
(Counsel for DuBois Radiologists, Inc.)

David R. Johnson, Esquire  
THOMSON RHODES & COWIE  
Two Chatham Center, 10<sup>th</sup> Floor  
Pittsburgh, PA 15219  
(Counsel for DuBois Regional Medical Center)

  
Thomas E. Crenney, Esquire  
Attorney for Plaintiffs

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

PAULA CARLSON AND JAMIE  
CARLSON, her husband,

Plaintiffs,

vs.

JERJIS T. ALAJAJI, M.D. AND DUBOIS  
RADIOLOGISTS, INC.,

Defendants.

CIVIL DIVISION

No. 2006-563- CD

JURY TRIAL DEMANDED

**CERTIFICATE OF SERVICE**

TO THE PROTHONOTARY:

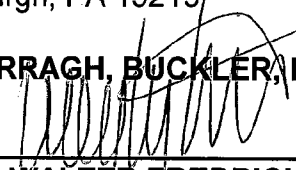
I, Walter Fredrick Wall, Esquire, of the law firm of MEYER, DARRAGH, BUCKLER, BEBENEK & ECK, PLLC, hereby certify that on this **25<sup>th</sup> day of August, 2006**, I have served the foregoing Order scheduling argument on Preliminary Objection to Plaintiffs' Amended Complaint on behalf of Defendant, DuBois Radiologists, Inc., upon all counsel/parties of record, by mailing a true and correct copy of same by United States first class mail, postage prepaid as follows:

Thomas E. Crenney, Esquire  
One Gateway Center  
18<sup>th</sup> Floor West  
Pittsburgh, PA 15222

Darryl Slimak, Esquire  
McQuaide Blasko  
811 University Drive  
State College, Pennsylvania

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

**MEYER, DARRAGH, BUCKLER, BEBENEK & ECK, PLLC**

BY: 

**WALTER FREDRICK WALL, ESQUIRE**

Counsel for Defendant, DuBois Radiologists, Inc.  
120 Lakemont Park Boulevard  
Altoona, PA 16602  
Phone No.: (814) 941-4600  
ID # 23657

**FILED**

AUG 28 2006

William A. Shaw  
Prothonotary/Clerk of Courts

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**FILED**  
**AUG 28 2006**  
William A. Shaw  
Prothonotary/Clerk of Courts

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IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

PAULA CARLSON AND JAMIE  
CARLSON, her husband,

Plaintiffs,

vs.

JERJIS T. ALAJAJI, M.D. AND DUBOIS  
RADIOLOGISTS, INC.,

Defendants.

CIVIL DIVISION

No. 2006-563- CD

JURY TRIAL DEMANDED

**PRAECIPE**

TO THE PROTHONOTARY:

Please withdraw the Preliminary Objections to Plaintiff's Amended Complaint filed  
on behalf of this Defendant, DuBois Radiologists, Inc.

**MEYER, DARRAGH, BUCKLER, BEBENEK & ECK, PLLC**

BY:



**WALTER FREDRICK WALL, ESQUIRE**

Counsel for Defendant, DUBOIS RADIOLOGISTS, INC.

120 Lakemont Park Boulevard

Altoona, PA 16602

Phone No. (814) 941-4600

PA I.D. #23657

**FILED** <sup>no</sup>  
m) 11:43/61 <sup>cc</sup>  
AUG 31 2006 <sup>cc</sup>

William A. Shaw  
Prothonotary/Clerk of Courts



**CERTIFICATE OF SERVICE**

TO THE PROTHONOTARY:

I, Walter Fredrick Wall, Esquire, of the law firm of MEYER, DARRAGH, BUCKLER, BEBENEK & ECK, PLLC, hereby certify that on this **30<sup>th</sup> day of August, 2006**, I have served the foregoing Praecipe to Withdraw the Preliminary Objections to Plaintiffs' Amended Complaint on behalf of Defendant, DuBois Radiologists, Inc., upon all counsel/parties of record, by mailing a true and correct copy of same by United States first class mail, postage prepaid as follows:

Thomas E. Crenney, Esquire  
One Gateway Center  
18<sup>th</sup> Floor West  
Pittsburgh, PA 15222

Darryl Slimak, Esquire  
McQuaide Blasko  
811 University Drive  
State College, Pennsylvania

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

**MEYER, DARRAGH, BUCKLER, BEBENEK & ECK, PLLC**

BY: 

**WALTER FREDRICK WALL, ESQUIRE**

Counsel for Defendant, DuBois Radiologists, Inc.  
120 Lakemont Park Boulevard  
Altoona, PA 16602  
Phone No.: (814) 941-4600  
ID # 23657

4

**FILED**

**AUG 31 2006**

William A. Shaw  
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL ACTION - MEDICAL PROFESSIONAL LIABILITY ACTION

PAULA CARLSON and JAMIE CARLSON,  
her husband,

Plaintiffs,

vs.

JERJIS T. ALAJAJI, M.D. and  
DUBOIS RADIOLOGISTS, INC., and  
DUBOIS REGIONAL MEDICAL CENTER,

Defendants.

Docket No: 2006 - 563 - C.D.

Jury Trial Demanded

Type of Pleading  
***Defendant Dr. Jerjis Alajaji's  
Answer to Plaintiffs' Second  
Amended Complaint***

Filed on Behalf of Defendant  
***Jerjis T. Alajaji, M.D.***

Counsel of Record for This Party  
***Darryl R. Slimak, Esquire***  
Pa. Supreme Court I.D. #41695

McQuaide, Blasko, Fleming &  
Faulkner, Inc.  
811 University Drive  
State College, PA 16801  
(814) 238-4926  
Fax: (814) 238-9624

Counsel for Adverse Party  
***Thomas E. Crenney, Esquire***

**FILED** <sup>NO</sup> <sub>cc</sub>  
SEP 01 2006

William A. Shaw  
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL ACTION - MEDICAL PROFESSIONAL LIABILITY ACTION

PAULA CARLSON and JAMIE CARLSON,  
her husband,

Plaintiffs,

vs.

JERJIS T. ALAJAJI, M.D. and  
DUBOIS RADIOLOGISTS, INC., and  
DUBOIS REGIONAL MEDICAL CENTER,

Defendants.

Docket No: 2006 - 563 - C.D.

Jury Trial Demanded

**DEFENDANT DR. JERJIS ALAJAJI'S ANSWER TO  
PLAINTIFFS' SECOND AMENDED COMPLAINT**

Answering Defendant Dr. Alajaji incorporates herein by reference his Answer to the Plaintiffs' First Amended Complaint as though set forth at length herein. Answering Defendant believes no further or more specific response is required to the Second Amended Complaint in that it appears the changed or additional averments of the Second Amended Complaint primarily pertain to allegations against Defendants other than answering Defendant, to which no response by Dr. Alajaji is required under the Rules of Civil Procedure. To the extent same may be deemed required, answering Defendant responds that same are denied pursuant to and consistent with Pa. R.C.P No. 1029(e). It is further noted that Plaintiffs' Second Amended Complaint has now

withdrawn the prayer for relief that had requested attorney's fees and substituted a request for interest, any entitlement to which is denied by answering Defendant and to which no further or more specific response is required under the Rules of Civil Procedure.

Respectfully submitted,

McQUAIDE, BLASKO,  
FLEMING & FAULKNER, INC.

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



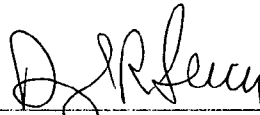
Darryl R. Slimak  
Attorneys for Defendant  
JERJIS T. ALAJAJI, M.D.  
811 University Drive  
State College, PA 16801  
(814) 238-4926  
Fax: (814) 238-9624

Dated: August 31, 2006

Carlson v. Alajaji, et al

**VERIFICATION**

Darryl R. Slimak, hereby verifies that he is the Attorney of Record for Defendant, JERJIS T. ALAJAJI, M.D., in the foregoing action, and as such, he is authorized to make this Verification on his behalf, and that the facts set forth in the foregoing document are true and correct to the best of his information, knowledge and belief. This Verification is made by the attorney of record instead of the Defendant in that the pleading is based on a pleading previously verified by the client, and the additional and/or changed averments are statements of legal defenses and/or facts within the undersigned's personal knowledge and belief. This Verification is hereby made subject to the penalties of 18 Pa.C.S.A. §4904 relating to unsworn falsification to authorities.



\_\_\_\_\_  
Darryl R. Slimak

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL ACTION - MEDICAL PROFESSIONAL LIABILITY ACTION

PAULA CARLSON and JAMIE CARLSON,  
her husband,

Plaintiffs,

vs.

JERJIS T. ALAJAJI, M.D. and  
DUBOIS RADIOLOGISTS, INC., and  
DUBOIS REGIONAL MEDICAL CENTER,

Defendants.

Docket No: 2006 - 563 - C.D.

Jury Trial Demanded

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the Defendant Dr. Jerjis Alajaji's Answer  
to Plaintiffs' Second Amended Complaint in the above-captioned matter was mailed by regular  
mail, postage prepaid, at the Post Office, State College, Pennsylvania, on this 31<sup>st</sup> day of August,  
2006, to the attorney(s) of record:

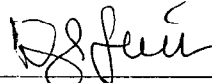
Thomas E. Crenney, Esquire  
Thomas E. Crenney & Associates, LLC  
One Gateway Center 18<sup>th</sup> Floor West  
Pittsburgh, PA 15222

Walter F. Wall, Esquire  
Meyer, Darragh, Buckler, Bebenek & Eck  
120 Lakemont Park Boulevard  
Altoona, PA 16602

David R. Johnson, Esquire  
Thomson, Rhodes & Cowie  
Two Chatham Center 10<sup>th</sup> Floor  
Pittsburgh, PA 15219

McQUAIDE, BLASKO,  
FLEMING & FAULKNER, INC.

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



Darryl R. Slimak

Attorneys for Defendant

JERJIS T. ALAJAJI, M.D.

811 University Drive

State College, PA 16801

(814) 238-4926

Fax: (814) 238-9624



CA

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

PAULA CARLSON and JAMIE  
CARLSON, her husband,

Plaintiffs,

vs.

JERJIS T. ALAJAJI, M.D.; DUBOIS  
RADIOLOGISTS, INC.; and DUBOIS  
REGIONAL MEDICAL CENTER,

Defendants.

CIVIL DIVISION

No. 2006-563-CD

Issue No.

PRAECIPE TO WITHDRAW  
PRELIMINARY OBJECTION TO  
PLAINTIFFS' AMENDED COMPLAINT

Code: 007

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

Counsel of Record for This Party:

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

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

(412) 232-3400

FILED  
M/T 10/06  
SEP 05 2006  
William A. Shaw  
Prothonotary/Clerk of Courts

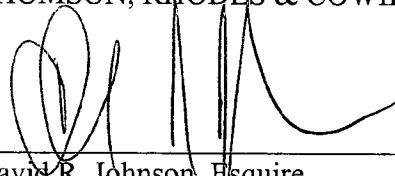
PRAECIPE TO WITHDRAW PRELIMINARY OBJECTION TO PLAINTIFFS'  
AMENDED COMPLAINT

TO: PROTHONOTARY

Please withdraw the preliminary objections to plaintiffs' amended complaint filed on behalf of this defendant, DuBois Regional Medical Center.

Respectfully submitted,

THOMSON, RHODES & COWIE, P.C.

A handwritten signature in black ink, appearing to read 'DR Johnson', written over a horizontal line.

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

**CERTIFICATION OF SERVICE**

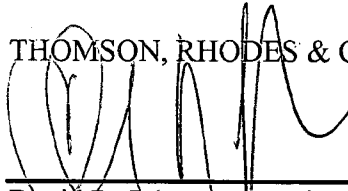
I hereby certify that a true and correct copy of the within PRAECIPE TO  
WITHDRAW PRELIMINARY OBJECTION TO PLAINTIFFS' AMENDED  
COMPLAINT has been served upon the following counsel of record and same placed in  
the U.S. Mails on this 1st day of Sept, 2006:

Thomas E. Crenney, Esquire  
Thomas E. Crenney & Associates, LLC  
One Gateway Center  
18<sup>th</sup> Floor West  
Pittsburgh, PA 15222

Darryl R. Slimak, Esquire  
McQuaide, Blasko, Fleming  
& Faulkner, Inc.  
811 University Drive  
State College, PA 16801

Walter Frederick Wall, Esquire  
Meyer, Darragh, Buckler, Bebenek & Eck  
120 Lakemont Park Boulevard  
Altoona, PA 16602

THOMSON, RHODES & COWIE, P.C.

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

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL ACTION - MEDICAL PROFESSIONAL LIABILITY ACTION

PAULA CARLSON and JAMIE CARLSON,  
her husband,

Plaintiffs,

vs.

JERJIS T. ALAJAJI, M.D. and  
DUBOIS RADIOLOGISTS, INC.,

Defendants.

Docket No: 2006 - 563 - C.D.

Jury Trial Demanded

Type of Pleading  
*Defendant Dr. Jerjis Alajaji's  
Answer with New Matter to  
Plaintiffs' Complaint*

Filed on Behalf of Defendant  
*Jerjis T. Alajaji, M.D.*

Counsel of Record for This Party  
*Darryl R. Slimak, Esquire*  
Pa. Supreme Court I.D. #41695

McQuaide, Blasko, Fleming &  
Faulkner, Inc.  
811 University Drive  
State College, PA 16801  
(814) 238-4926  
Fax: (814) 238-9624

Counsel for Adverse Party  
*Thomas E. Crenney, Esquire*

FILED

SEP 06 2008  
m/2:00/10 CC  
William A. Shaw  
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL ACTION - MEDICAL PROFESSIONAL LIABILITY ACTION

PAULA CARLSON and JAMIE CARLSON,  
her husband,

Plaintiffs,

vs.

JERJIS T. ALAJAJI, M.D. and  
DUBOIS RADIOLOGISTS, INC.,

Defendants.

Docket No: 2006 - 563 - C.D.

Jury Trial Demanded

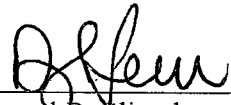
**NOTICE TO PLEAD**

TO: PAULA and JAMIE CARLSON  
c/o Thomas E. Crenney, Esquire

DUBOIS RADIOLOGISTS, INC.  
c/o Walter F. Wall, Esquire

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

McQUAIDE, BLASKO,  
FLEMING & FAULKNER, INC.

By:   
Darryl R. Slimak  
Attorney for Defendant  
JERJIS T. ALAJAJI, M.D.  
811 University Drive  
State College, PA 16801  
(814) 238-4926  
Fax: (814) 238-9624

Dated: September 5, 2006

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL ACTION - MEDICAL PROFESSIONAL LIABILITY ACTION

PAULA CARLSON and JAMIE CARLSON,  
her husband,

Plaintiffs,

vs.

JERJIS T. ALAJAJI, M.D. and  
DUBOIS RADIOLOGISTS, INC.,

Defendants.

Docket No: 2006 - 563 - C.D.

Jury Trial Demanded

**DEFENDANT DR. JERJIS ALAJAJI'S ANSWER**  
**WITH NEW MATTER TO PLAINTIFFS' COMPLAINT**

AND NOW comes Defendant, JERJIS T. ALAJAJI, M.D., by and through his counsel,  
McQuaide, Blasko, Fleming & Faulkner, Inc., and responds to the allegations in the Complaint as  
follows:

1-4. The averments of Complaint paragraphs 1 through 4, inclusive, are presently  
believed to be correct and are therefore admitted.

5. The averments of Complaint paragraph 5 appear to be directed to a Defendant  
other than answering Defendant and therefore no response thereto is required under the Rules of  
Civil Procedure.

6-7. After reasonable investigation, answering Defendant is without knowledge or information sufficient to form a belief as to the truth of the averments of Complaint paragraphs 6 and 7, and therefore same are deemed denied at the present time.

8. The averments of Complaint paragraph 8 are denied as stated. It is admitted that on April 12, 2005 an x-ray performed at DuBois Regional Medical Center was interpreted by Dr. Alajaji as negative, with a final report issued April 13, 2005. The balance of the averments are specifically denied pending further investigation and review of the matter. It is averred that at all times Dr. Alajaji exercised reasonable and proper skill, care, and judgment with regard to his reading of the x-ray and issuance of the report as indicated.

9-22. The averments of Complaint paragraphs 9 through 22, inclusive, are denied in that after reasonable investigation, answering Defendant is without knowledge or information sufficient to form a belief as to the truth of same. Said averments are further denied pursuant to and consistent with Pa. R.C.P. No. 1029(e).

### **COUNT I**

23. In response to Complaint paragraph 23, answering Defendant incorporates herein by reference his foregoing responses as though set forth at length.

24. The averments of Complaint paragraph 24 constitute legal conclusions to which no specific response is required under the Rules of Civil Procedure.

25. The averments of Complaint paragraph 25 constitute legal conclusions to which no specific response is required under the Rules of Civil Procedure, and which are further denied pursuant to and consistent with Pa. R.C.P. No. 1029(e).

26-34. The averments of Complaint paragraphs 26 through 34, inclusive, constitute legal conclusions and statements of Plaintiffs' legal position to which no specific response is required



under the Rules of Civil Procedure and which are in any event denied, pursuant to and consistent with Pa. R.C.P. No. 1092(e).

WHEREFORE, answering Defendant, Dr. Jerjis Alajaji, respectfully requests entry of judgment in his favor and that the Complaint against him be dismissed, with prejudice.

### **COUNT II**

35-47. The averments of Count II, Complaint paragraphs 35 through 47, inclusive, appear to be directed to a Defendant other than answering Defendant, and therefore no response thereto is required under the Rules of Civil Procedure.

WHEREFORE, answering Defendant, Dr. Jerjis Alajaji, respectfully requests entry of judgment in his favor and that the Complaint against him be dismissed, with prejudice.

### **COUNT III**

48-51. In response to the averments of Complaint paragraphs 48 through 51, inclusive, answering Defendant incorporates herein by reference his foregoing responses as though set forth at length. Said averments are further denied as legal conclusions to which no specific response is required under the Rules of Civil Procedure and/or pursuant to and consistent with Pa. R.C.P. No. 1029(e).

WHEREFORE, answering Defendant, Dr. Jerjis Alajaji, respectfully requests entry of judgment in his favor and that the Complaint against him be dismissed, with prejudice.

### **NEW MATTER**

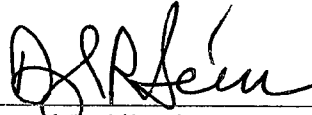
52. Answering Defendant raises all defenses of the Healthcare Services Malpractice Act, 40 P.S. § 1301 *et. seq.*, and the M-Care Act, 40 P.S. §1303.101, *et seq.*, insofar as applicable hereto.

WHEREFORE, answering Defendant, Dr. Jerjis Alajaji, respectfully requests entry of judgment in his favor and that the Complaint against him be dismissed, with prejudice.

Respectfully submitted,

McQUAIDE, BLASKO,  
FLEMING & FAULKNER, INC.

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

  
Darryl R. Slimak  
Attorneys for Defendant  
JERJIS T. ALAJAJI, M.D.  
811 University Drive  
State College, PA 16801  
(814) 238-4926  
Fax: (814) 238-9624

Dated: September 5, 2006

Carlson v. Alajaji and DuBois Radiologists, Inc.

**VERIFICATION**

The undersigned verifies that he is authorized to make this verification on his own behalf; and that the statements made in the foregoing DEFENDANT DR. JERJIS ALAJAJI'S ANSWER WITH NEW MATTER TO PLAINTIFFS' COMPLAINT are true and correct to the best of his knowledge, information and belief. I understand that false statements herein are subject to the penalties of 18 Pa. C.S.A. §4904, related to unsworn falsification to authority.

A handwritten signature in cursive script, appearing to read 'J. Alajaji', written in black ink.

Jerjis T. Alajaji, M.D.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL ACTION - MEDICAL PROFESSIONAL LIABILITY ACTION

PAULA CARLSON and JAMIE CARLSON,  
her husband,

Plaintiffs,

vs.

JERJIS T. ALAJAJI, M.D. and  
DUBOIS RADIOLOGISTS, INC.,

Defendants.

Docket No: 2006 - 563 - C.D.

Jury Trial Demanded

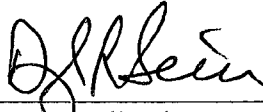
**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of Defendant Dr. Jerjis Alajaji's Answer with New Matter to Plaintiffs' Complaint in the above-captioned matter was mailed by regular mail, postage prepaid, at the Post Office, State College, Pennsylvania, on this 5<sup>th</sup> day of September, 2006, to the attorney(s) of record:

Thomas E. Crenney, Esquire  
Thomas E. Crenney & Associates, LLC  
One Gateway Center 18<sup>th</sup> Floor West  
Pittsburgh, PA 15222

Walter F. Wall, Esquire  
Meyer, Darragh, Buckler, Bebenek & Eck  
120 Lakemont Park Boulevard  
Altoona, PA 16602

McQUAIDE, BLASKO,  
FLEMING & FAULKNER, INC.

By:   
Darryl R. Slimak

Attorneys for Defendant  
JERJIS T. ALAJAJI, M.D.  
811 University Drive  
State College, PA 16801  
(814) 238-4926  
Fax: (814) 238-9624

No. 2006-563-CD  
Clearfield County, Pennsylvania

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

PAULA CARLSON and  
JAMIE CARLSON, her husband,

No. 2006-563-CD

Plaintiffs,

vs.

Civil Action – Medical Professional  
Liability Action

JERJIS T. ALAJAJI, M.D.;  
DUBOIS RADIOLOGISTS, INC., and  
DUBOIS REGIONAL MEDICAL  
CENTER,

Defendants.

**NOTICE OF SERVICE OF  
PLAINTIFFS' RESPONSE TO  
DEFENDANT JERJIS T. ALAJAJI,  
M.D.'S REQUEST FOR PRODUCTION  
(SET TWO)**

Filed on behalf of Plaintiff

Counsel of Record for this Party:

Thomas E. Crenney, Esquire  
PA I.D. No. 40986

THOMAS E. CRENNNEY & ASSOCIATES, LLC  
One Gateway Center  
18<sup>th</sup> Floor West  
Pittsburgh, PA 15222  
412-644-5545

**JURY TRIAL DEMANDED**

**FILED** *no cc*  
*m/108/20*  
SEP 11 2006 *(S)*

William A. Shaw  
Prothonotary/Clerk of Courts

**NOTICE OF SERVICE OF PLAINTIFFS' RESPONSE TO DEFENDANT JERJIS T.  
ALAJAJI, M.D.'S REQUEST FOR PRODUCTION (SET TWO)**

I hereby certify that Plaintiffs' Response to Defendant Jerjis T. Alajaji, M.D.'s Request for Production (Set Two) and a copy of the Notice of Service were served upon all counsel of record by United States First Class Mail, postage prepaid, this 8<sup>th</sup> day of September, 2006 as follows:

Darryl R. Slimak, Esquire  
McQuaide Blasko Fleming & Faulkner, Inc.  
811 University Drive  
State College, PA 16801  
(Counsel for Jerjis T. Alajaji, M.D.)

Walter Fredrick Wall, Esquire  
Meyer, Darragh, Buckler, Bebenek & Eck, P.L.L.C.  
120 Lakemont Park Boulevard  
Altoona, PA 16602  
(Counsel for DuBois Radiologists, Inc.)

David R. Johnson, Esquire  
Thomson Rhodes & Cowie  
Two Chatham Center, 10<sup>th</sup> Floor  
Pittsburgh, PA 15219  
(Counsel for DuBois Regional Medical Center)

  
Thomas E. Crenney, Esquire  
Attorney for Plaintiffs

No. 2006-563-CD  
Clearfield County, Pennsylvania

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

PAULA CARLSON and  
JAMIE CARLSON, her husband,

No. 2006-563-CD

Plaintiffs,

vs.

Civil Action – Medical Professional  
Liability Action

JERJIS T. ALAJAJI, M.D.;  
DUBOIS RADIOLOGISTS, INC., and  
DUBOIS REGIONAL MEDICAL  
CENTER,

**NOTICE OF SERVICE OF  
PLAINTIFFS' RESPONSE TO  
FIRST REQUEST FOR PRODUCTION  
OF DOCUMENTS OF DUBOIS  
REGIONAL MEDICAL CENTER**

Defendants.

Filed on behalf of Plaintiff

Counsel of Record for this Party:

Thomas E. Crenney, Esquire  
PA I.D. No. 40986

THOMAS E. CRENNNEY & ASSOCIATES, LLC  
One Gateway Center  
18<sup>th</sup> Floor West  
Pittsburgh, PA 15222  
412-644-5545

**JURY TRIAL DEMANDED**

**FILED** NO CC  
m 11:08/21  
SEP 11 2006

William A. Shaw  
Prothonotary/Clerk of Courts



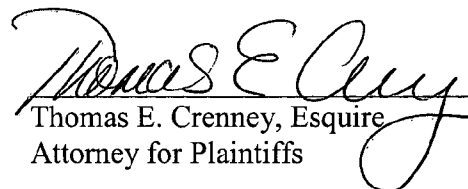
**NOTICE OF SERVICE OF PLAINTIFFS' RESPONSE TO FIRST REQUEST FOR  
PRODUCTION OF DOCUMENTS OF DUBOIS REGIONAL MEDICAL CENTER**

I hereby certify that Plaintiffs' Response to First Request for Production of Documents of DuBois Regional Medical Center and a copy of the Notice of Service were served upon all counsel of record by United States First Class Mail, postage prepaid, this 8<sup>th</sup> day of September, 2006 as follows:

Darryl R. Slimak, Esquire  
McQuaide Blasko Fleming & Faulkner, Inc.  
811 University Drive  
State College, PA 16801  
(Counsel for Jerjis T. Alajaji, M.D.)

Walter Fredrick Wall, Esquire  
Meyer, Darragh, Buckler, Bebenek & Eck, P.L.L.C.  
120 Lakemont Park Boulevard  
Altoona, PA 16602  
(Counsel for DuBois Radiologists, Inc.)

David R. Johnson, Esquire  
Thomson Rhodes & Cowie  
Two Chatham Center, 10<sup>th</sup> Floor  
Pittsburgh, PA 15219  
(Counsel for DuBois Regional Medical Center)

  
Thomas E. Crenney, Esquire  
Attorney for Plaintiffs

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

PAULA CARLSON and  
JAMIE CARLSON, her husband,

No. 2006-563-CD

Plaintiffs,

vs.

Civil Action – Medical Professional  
Liability Action

JERJIS T. ALAJAJI, M.D.;  
DUBOIS RADIOLOGISTS, INC., and  
DUBOIS REGIONAL MEDICAL  
CENTER,

Defendants.

**NOTICE OF SERVICE OF  
PLAINTIFFS' RESPONSE TO  
FIRST SET OF INTERROGATORIES  
OF DUBOIS REGIONAL MEDICAL  
CENTER**

Filed on behalf of Plaintiff

Counsel of Record for this Party:

Thomas E. Crenney, Esquire  
PA I.D. No. 40986

THOMAS E. CRENNNEY & ASSOCIATES, LLC  
One Gateway Center  
18<sup>th</sup> Floor West  
Pittsburgh, PA 15222  
412-644-5545

**JURY TRIAL DEMANDED**

**FILED** NO  
mjt:08/01 CC  
SEP 11 2006  
William A. Shaw  
Prothonotary/Clerk of Courts

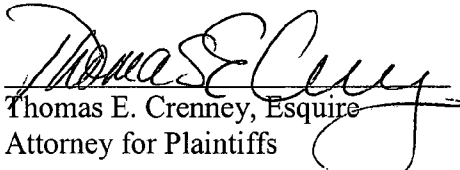
**NOTICE OF SERVICE OF PLAINTIFFS' RESPONSE TO FIRST SET OF  
INTERROGATORIES OF DUBOIS REGIONAL MEDICAL CENTER**

I hereby certify that Plaintiffs' Response to First Set of Interrogatories of DuBois Regional Medical Center and a copy of the Notice of Service were served upon all counsel of record by United States First Class Mail, postage prepaid, this 8<sup>th</sup> day of September, 2006 as follows:

Darryl R. Slimak, Esquire  
McQuaide Blasko Fleming & Faulkner, Inc.  
811 University Drive  
State College, PA 16801  
(Counsel for Jerjis T. Alajaji, M.D.)

Walter Fredrick Wall, Esquire  
Meyer, Darragh, Buckler, Bebenek & Eck, P.L.L.C.  
120 Lakemont Park Boulevard  
Altoona, PA 16602  
(Counsel for DuBois Radiologists, Inc.)

David R. Johnson, Esquire  
Thomson Rhodes & Cowie  
Two Chatham Center, 10<sup>th</sup> Floor  
Pittsburgh, PA 15219  
(Counsel for DuBois Regional Medical Center)

  
Thomas E. Crenney, Esquire  
Attorney for Plaintiffs

No. 2006-563-CD  
Clearfield County, Pennsylvania

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

PAULA CARLSON and  
JAMIE CARLSON, her husband,

No. 2006-563-CD

Plaintiffs,

vs.

Civil Action – Medical Professional  
Liability Action

JERJIS T. ALAJAJI, M.D.;  
DUBOIS RADIOLOGISTS, INC., and  
DUBOIS REGIONAL MEDICAL  
CENTER,

Defendants.

**NOTICE OF SERVICE OF  
PLAINTIFFS' RESPONSE TO  
DEFENDANT JERJIS T. ALAJAJI,  
M.D.'S EXPERT INTERROGATORIES  
FOR ANSWER BY PLAINTIFFS**

Filed on behalf of Plaintiff

Counsel of Record for this Party:

Thomas E. Crenney, Esquire  
PA I.D. No. 40986

THOMAS E. CRENNY & ASSOCIATES, LLC  
One Gateway Center  
18<sup>th</sup> Floor West  
Pittsburgh, PA 15222  
412-644-5545

**JURY TRIAL DEMANDED**

**FILED** *no ce*  
*MTJ-08781*  
SEP 11 2006 *W*

William A. Shaw  
Prothonotary/Clerk of Courts

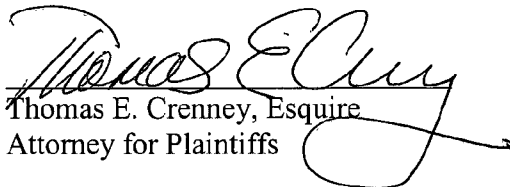
**NOTICE OF SERVICE OF PLAINTIFFS' RESPONSE TO DEFENDANT JERJIS T. ALAJAJI, M.D.'S EXPERT INTERROGATORIES FOR ANSWER BY PLAINTIFFS**

I hereby certify that Plaintiffs' Response to Defendant Jerjis T. Alajaji, M.D.'s Expert Interrogatories for Answer by Plaintiffs and a copy of the Notice of Service were served upon all counsel of record by United States First Class Mail, postage prepaid, this 30<sup>th</sup> day of September, 2006 as follows:

Darryl R. Slimak, Esquire  
McQuaide Blasko Fleming & Faulkner, Inc.  
811 University Drive  
State College, PA 16801  
(Counsel for Jerjis T. Alajaji, M.D.)

Walter Fredrick Wall, Esquire  
Meyer, Darragh, Buckler, Bebenek & Eck, P.L.L.C.  
120 Lakemont Park Boulevard  
Altoona, PA 16602  
(Counsel for DuBois Radiologists, Inc.)

David R. Johnson, Esquire  
Thomson Rhodes & Cowie  
Two Chatham Center, 10<sup>th</sup> Floor  
Pittsburgh, PA 15219  
(Counsel for DuBois Regional Medical Center)

  
Thomas E. Crenney, Esquire  
Attorney for Plaintiffs

No. 2006-563-CD  
Clearfield County, Pennsylvania

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

PAULA CARLSON and  
JAMIE CARLSON, her husband,

No. 2006-563-CD

Plaintiffs,

vs.

Civil Action – Medical Professional  
Liability Action

JERJIS T. ALAJAJI, M.D.;  
DUBOIS RADIOLOGISTS, INC., and  
DUBOIS REGIONAL MEDICAL  
CENTER,

Defendants.

**NOTICE OF SERVICE OF  
PLAINTIFFS' RESPONSE  
DEFENDANT JERJIS T. ALAJAJI,  
M.D.'S INTERROGATORIES FOR  
ANSWER BY PLAINTIFFS AND  
REQUEST FOR PRODUCTION  
(SET ONE)**

Filed on behalf of Plaintiff

Counsel of Record for this Party:

Thomas E. Crenney, Esquire  
PA I.D. No. 40986

THOMAS E. CRENNY & ASSOCIATES, LLC  
One Gateway Center  
18<sup>th</sup> Floor West  
Pittsburgh, PA 15222  
412-644-5545

**JURY TRIAL DEMANDED**

**FILED** *no cc*  
*m 11:08/61*  
SEP 11 2006

William A. Shaw  
Prothonotary/Clerk of Courts

**NOTICE OF SERVICE OF PLAINTIFFS' RESPONSE TO DEFENDANT JERJIS T.  
ALAJAJI, M.D.'S INTERROGATORIES FOR ANSWER BY PLAINTIFFS AND  
REQUEST FOR PRODUCTION (SET ONE)**

I hereby certify that Plaintiffs' Response to Defendant Jerjis T. Alajaji, M.D.'s Interrogatories for Answer by Plaintiffs and Request for Production (Set One) and a copy of the Notice of Service were served upon all counsel of record by United States First Class Mail, postage prepaid, this 8th day of September, 2006 as follows:

Darryl R. Slimak, Esquire  
McQuaide Blasko Fleming & Faulkner, Inc.  
811 University Drive  
State College, PA 16801  
(Counsel for Jerjis T. Alajaji, M.D.)

Walter Fredrick Wall, Esquire  
Meyer, Darragh, Buckler, Bebenek & Eck, P.L.L.C.  
120 Lakemont Park Boulevard  
Altoona, PA 16602  
(Counsel for DuBois Radiologists, Inc.)

David R. Johnson, Esquire  
Thomson Rhodes & Cowie  
Two Chatham Center, 10<sup>th</sup> Floor  
Pittsburgh, PA 15219  
(Counsel for DuBois Regional Medical Center)

  
Thomas E. Crenney, Esquire  
Attorney for Plaintiffs

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

PAULA CARLSON AND JAMIE  
CARLSON, her husband,

Plaintiffs,

vs.

JERJIS T. ALAJAJI, M.D. AND DUBOIS  
RADIOLOGISTS, INC.,

Defendants.

CIVIL DIVISION

No. 2006-563- CD

JURY TRIAL DEMANDED

**ANSWER AND NEW MATTER TO  
PLAINTIFFS' SECOND AMENDED  
COMPLAINT**

Filed on Behalf of Defendant, DuBois  
Radiologists, Inc.

Counsel of Record for this Party:

WALTER FREDRICK WALL, ESQUIRE  
PA. I.D. #23657

MEYER, DARRAGH, BUCKLER,  
BEBENEK & ECK, P.L.L.C.  
120 Lakemont Park Boulevard  
Altoona, PA 16602

Telephone No.: (814) 941-4600  
Fax No.: (814) 941-4605

**FILED** *no cc*  
*m/11:32/61*  
SEP 18 2006 *(S)*  
William A. Shaw  
Prothonotary/Clerk of Courts



IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

PAULA CARLSON AND JAMIE  
CARLSON, her husband,

Plaintiffs,

vs.

JERJIS T. ALAJAJI, M.D. AND DUBOIS  
RADIOLOGISTS, INC.,

Defendants.

CIVIL DIVISION

No. 2006-563- CD

JURY TRIAL DEMANDED

**NOTICE TO PLEAD**

In accordance with Rules 1026 and 1361 of the Pennsylvania Rules of Civil Procedure, you are hereby notified to plead to the within ANSWER and NEW MATTER within twenty (20) days from service hereof or a default judgment may be entered against you.

**MEYER, DARRAGH, BUCKLER, BEBENEK & ECK, PLLC**

BY:



**WALTER FREDRICK WALL, ESQUIRE**

Counsel for Defendant, DuBois Radiologists, Inc.

120 Lakemont Park Boulevard

Altoona, PA 16602

Phone No.: (814) 941-4600

ID # 23657

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

PAULA CARLSON AND JAMIE  
CARLSON, her husband,

Plaintiffs,

vs.

JERJIS T. ALAJAJI, M.D. AND DUBOIS  
RADIOLOGISTS, INC.,

Defendants.

CIVIL DIVISION

No. 2006-563- CD

JURY TRIAL DEMANDED

**ANSWER AND NEW MATTER TO PLAINTIFFS' SECOND AMENDED COMPLAINT**

NOW COMES the Defendant, DuBois Radiologists, Inc., by and through its counsel, MEYER, DARRAGH, BUCKLER, BEBENEK & ECK, PLLC and files this Answer and New Matter to Plaintiffs' Second Amended Complaint of which the following is a statement:

1. The identity of the Plaintiff is admitted. The remaining allegations are denied in that after reasonable investigation, this Defendant lacks information sufficient upon which to form an opinion in regard to the truth of same. Strict proof of same is demanded at the time of trial.

2. The identity of the Plaintiff is admitted. The remaining allegations are denied in that after reasonable investigation, this Defendant lacks information sufficient upon which to form an opinion in regard to the truth of same. Strict proof of same is demanded at the time of trial.

3. It is admitted that at times relevant, Defendant Jerjis T. Alajaji, M.D. was an adult individual licensed to practice medicine in the Commonwealth of Pennsylvania. The remaining allegations are denied in that after reasonable investigation, this Defendant lacks

information sufficient upon which to form an opinion in regard to the truth of same. Strict proof of same is demanded at the time of trial.

4. Admitted.

5. It is admitted that at the time alleged, Defendant Jerjis T. Alajaji, M.D. was an agent, servant and employee of this Defendant DuBois Radiologists, Inc. and was acting by and through its authorization. All allegations concerning unidentified agents, servants and employees of this Defendant are denied as conclusions of law and further denied in that after reasonable investigation, this Defendant lacks information sufficient upon which to form an opinion in regard to who is alleged. Strict proof of same is therefore demanded at the time of trial.

6. Neither admitted nor denied in that said allegations are directed to a party other than this answering Defendant.

7. To the extent said allegations are directed to this Defendant, it is denied that this Defendant was an agent, servant and/or employee of Defendant DuBois Regional Medical Center and such are denied as conclusions of law. Strict proof of same is demanded at the time of trial.

8-9. Denied in that after reasonable investigation, this Defendant currently lacks information sufficient upon which to form an opinion in regard to the truth of same. Strict proof of same is demanded at the time of trial.

10. As to the allegations that the x-ray taken on April 12, 2005 and/or the report issued on April 13, 2005 were the result of an improper interpretation, such is denied as a conclusion of law and fact. Strict proof of same is demanded at the time of trial. As to the allegations that an x-ray was performed at DuBois Regional Medical Center and

interpreted thereafter by Defendant Jerjis T. Alajaji as negative, such are admitted to the extent the medical records support same. To the extent the medical records are inconsistent with those allegations, said allegations are denied.

11-21. Denied for reasons set forth above and/or denied in that after reasonable investigation, this Defendant currently lacks information sufficient upon which to form an opinion in regard to the truth of same. Strict proof of same is demanded at the time of trial.

23-24. All allegations of negligence and/or liability are denied as conclusions of law. Said allegations are further denied in that after reasonable investigation, this Defendant currently lacks information sufficient upon which to form an opinion in regard to the truth of same. Strict proof of same is demanded at the time of trial.

#### **COUNT I**

#### **Paula Carlson and Jamie Carlson, her husband v. Jerjis T. Alajaji, M.D.** **Negligence**

25-36. Said allegations are neither admitted nor denied in that they are directed to a Defendant other than this answering Defendant. To the extent further response is deemed necessary, said allegations are denied for reasons set forth above and hereinafter all of which are incorporated herein by reference thereto as if same were set forth at length.

#### **COUNT II**

#### **Paula Carlson and Jamie Carlson, her husband v. DuBois Radiologists, Inc.** **and DuBois Regional Medical Center** **Vicarious Liability**

37. The allegations set forth above are incorporated herein by reference thereto as if same were set forth at length.

38. It is admitted that Plaintiff Paula Carlson presented on April 12, 2005. The remaining allegations are denied as conclusions of law. All allegations of unidentified

agents, servants and employees are denied as conclusions of law. All allegations of an imposeable duty upon this Defendant are denied as conclusions of law and fact. By way of further response, the allegations set forth hereinafter are incorporated herein by reference thereto as if same were set forth at length.

39. It is admitted that Defendant Alajaji was an agent, servant and employee of this Defendant. All allegations of other personnel are denied. It is denied that this Defendant was an agent, servant and/or employee of Defendant DuBois Regional Medical Center.

40. Denied as conclusions of law and further denied for reasons set forth hereinafter all of which are incorporated herein by reference thereto as if same were set forth at length. All allegations of negligence and liability are denied as conclusions of law. Said

41-49. All allegations of negligence and/or liability are denied as conclusions of law and for reasons set forth above and hereinafter all of which are incorporated herein by reference thereto as if same were set forth at length. All allegations of injuries and/or damages are denied in that after reasonable investigation, this Defendant lacks information sufficient upon which to form an opinion in regard to the truth of same. Strict proof of same is demanded at the time of trial.

WHEREFORE, Defendant DuBois Radiologist, Inc., prays that Plaintiffs' Complaint be dismissed.

**COUNT III**  
**Jamie Carlson v. Jerjis T. Alajaji, M.D., DuBois Radiologists, Inc.**  
**and DuBois Regional Medical Center**  
**Loss of Consortium**

50. The allegations set forth above are incorporated herein by reference thereto as if same were set forth at length.

51-53. Denied as conclusions of law and further denied in that after reasonable investigation, this Defendant currently lacks information sufficient upon which to form an opinion in regard to the truth of same. Strict proof of same is demanded at the time of trial.

WHEREFORE, Defendant, DuBois Radiologists, Inc., prays that Plaintiffs' Complaint be dismissed.

**NEW MATTER**

54. Defendant Jerjis T. Alajaji, M.D. is not currently an agent, servant or employee of Defendant DuBois Radiologists, Inc. and therefore, Defendant, DuBois Radiologists, Inc. lacks information sufficient upon which to form an opinion in regard to the truth of allegations of Plaintiff's Complaint and further notes that said allegations are currently directed to a party other than this Defendant.

55. To the extent Plaintiff attempts to set forth a cause of action against this Defendant other than under a theory of vicarious liability for the alleged acts and/or failure to act of Defendant Jerjis T. Alajaji, M.D., said allegations are barred in that:

- (a) Plaintiff fails to set forth a basis upon which recovery against this Defendant may be sought.
- (b) Under the law of this Commonwealth, any theory against this Defendant under the facts and circumstances pled other than vicarious liability is not recognized at law.

(c) The allegations of Plaintiffs' Complaint fail to conform to the substantive law of this Commonwealth.

56. To the extent Plaintiff claims liability upon this Defendant under a theory of vicarious liability for the acts and/or failure to act of Defendant Jerjis T. Alajaji, M.D. and to the extent Plaintiff proves a right to recovery against Defendant Jerjis T. Alajaji, M.D., as an agent of this Defendant, all liability is denied for any alleged acts or inactions beyond the scope of Defendant Jerjis T. Alajaji, M.D.'s authorization to act on behalf of this Defendant.

57. This Defendant affirmatively pleads all rights, limitations and bars under the MCARE Act.

**MEYER, DARRAGH, BUCKLER, BEBENEK & ECK, PLLC**

BY:

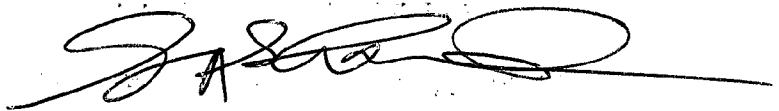
  
**WALTER FREDRICK WALL, ESQUIRE**

Counsel for Defendant, DuBois Radiologists, Inc.  
120 Lakemont Park Boulevard  
Altoona, PA 16602  
Phone No.: (814) 941-4600  
ID # 23657

VERIFICATION

I, **Ghazanfar A. Shah, M.D., of DuBois Radiologists, Inc.**, do hereby verify that I have read the foregoing ANSWER AND NEW MATTER TO PLAINTIFFS' SECOND AMENDED COMPLAINT. The statements therein are true and correct to the best of my knowledge as to part, and based upon information and belief as to the rest.

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



**Ghazanfar A. Shah, M.D., of  
DuBois Radiologists, Inc.**

DATE: 9/11/06



**CERTIFICATE OF SERVICE**

TO THE PROTHONOTARY:

I, Walter Fredrick Wall, Esquire, of the law firm of MEYER, DARRAGH, BUCKLER, BEBENEK & ECK, PLLC, hereby certify that on this **15<sup>th</sup> day of September, 2006**, I have served the foregoing Answer and New Matter to Plaintiffs' Second Amended Complaint on behalf of Defendant, DuBois Radiologists, Inc., upon all counsel/parties of record, by mailing a true and correct copy of same by United States first class mail, postage prepaid as follows:

Thomas E. Crenney, Esquire  
One Gateway Center  
18<sup>th</sup> Floor West  
Pittsburgh, PA 15222

Darryl Slimak, Esquire  
McQuaide Blasko  
811 University Drive  
State College, Pennsylvania

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

**MEYER, DARRAGH, BUCKLER, BEBENEK & ECK, PLLC**

BY:   
**WALTER FREDRICK WALL, ESQUIRE**  
Counsel for Defendant, DuBois Radiologists, Inc.  
120 Lakemont Park Boulevard  
Altoona, PA 16602  
Phone No.: (814) 941-4600  
ID # 23657

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA  
CIVIL ACTION - MEDICAL PROFESSIONAL LIABILITY ACTION

PAULA CARLSON and JAMIE CARLSON,  
her husband,

Plaintiffs,

vs.

JERJIS T. ALAJAJI, M.D. and  
DUBOIS RADIOLOGISTS, INC.,

Defendants.

Docket No: 2006 - 563 - C.D.

Jury Trial Demanded

Type of Pleading  
*Notice of Rescheduled Oral  
Deposition of Paula Carlson*

Filed on Behalf of Defendant  
*Jerjis T. Alajaji, M.D.*

Counsel of Record for This Party  
*Darryl R. Slimak, Esquire*  
Pa. Supreme Court I.D. #41695

McQuaide, Blasko, Fleming &  
Faulkner, Inc.  
811 University Drive  
State College, PA 16801  
(814) 238-4926  
Fax: (814) 238-9624

Counsel for Adverse Party  
*Thomas E. Crenney, Esquire*

**FILED** *no cc*  
*SEP 25 2006*

William A. Shaw  
Prothonotary/Clerk of Courts

Dated: August 7, 2006

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL ACTION - MEDICAL PROFESSIONAL LIABILITY ACTION

PAULA CARLSON and JAMIE CARLSON,  
her husband,

Plaintiffs,

vs.

JERJIS T. ALAJAJI, M.D. and  
DUBOIS RADIOLOGISTS, INC.,

Defendants.

Docket No: 2006 - 563 - C.D.

Jury Trial Demanded

**CERTIFICATE OF SERVICE**

I hereby certify that the Notice of Rescheduled Oral Deposition of Paula Carlson, in the  
above-referenced matter was mailed by regular mail, first class, at the Post Office, State College,  
Pennsylvania, postage prepaid, this 22<sup>nd</sup> day of September, 2006, to:

Thomas E. Crenney, Esquire  
Thomas E. Crenney & Associates, LLC  
One Gateway Center, 18<sup>th</sup> Floor West  
Pittsburgh, PA 15222

Walter F. Wall, Esquire  
Meyer, Darragh, Buckler, Benebek & Eck  
120 Lakemont Park Boulevard  
Altoona, PA 16602

David R. Johnson, Esquire  
Thompson, Rhodes & Cowie, P.C.  
1010 Two Chatham Center  
Pittsburgh, PA 15219

McQUAIDE, BLASKO,  
FLEMING & FAULKNER, INC.

By: 

DARRYL R. SLIMAK  
Attorneys for Defendant  
Jerjis T. Alajaji, M.D.  
811 University Drive  
State College, PA 16801  
(814) 238-4926  
Fax (814) 238-9624

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

PAULA CARLSON and  
JAMIE CARLSON, her husband,

Plaintiffs,

vs.

JERJIS T. ALAJAJI, M.D., DUBOIS  
RADIOLOGISTS, INC. and DUBOIS  
REGIONAL MEDICAL CENTER,

Defendants.

No. 2006-563-CD

Civil Action – Medical Professional  
Liability Action

**PLAINTIFFS' REPLY TO NEW MATTER  
OF DEFENDANT, DUBOIS  
RADIOLOGISTS, INC.**

Filed on behalf of the Plaintiffs

Counsel of Records for this Party:

Thomas E. Crenney, Esquire  
PA I.D. No. 40986

James T. Tallman, Esquire  
PA I.D. No. 79257

THOMAS E. CRENNY & ASSOCIATES, LLC  
One Gateway Center  
18<sup>th</sup> Floor West  
Pittsburgh, PA 15222  
Telephone: (412) 644-5545  
Facsimile: (412) 644-5581

**JURY TRIAL DEMANDED**

**FILED** *ncc*  
*m 11:07 AM*  
**SEP 29 2006**  
William A. Shaw  
Prothonotary/Clerk of Courts

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

PAULA CARLSON and  
JAMIE CARLSON, her husband,

Plaintiffs,

No. 2006-563-CD

Civil Action – Medical Professional  
Liability Action

vs.

JERJIS T. ALAJAJI, M.D., DUBOIS  
RADIOLOGISTS, INC. and DUBOIS  
REGIONAL MEDICAL CENTER,

Defendants.

**PLAINTIFFS' REPLY TO NEW MATTER OF DEFENDANT,  
DUBOIS RADIOLOGISTS, INC.**

AND NOW, come the Plaintiffs, Paula Carlson and Jamie Carlson, by and through their attorneys, Thomas E. Crenney & Associates, LLC, and files the within Reply to New Matter of Defendant, DuBois Radiologists, Inc. and in support thereof avers as follows:

1. The averments of Paragraph 55 of Defendant's DuBois Radiologists, Inc.'s New Matter are legal conclusions to which no affirmative response is required from Plaintiff. To the extent that a response is deemed necessary, the averments of Paragraph 55 are denied and strict proof of same is demanded at time of trial.

2. The averments of Paragraph 56 of Defendant's DuBois Radiologists, Inc.'s New Matter are legal conclusions to which no affirmative response is required from Plaintiff. To the extent that a response is deemed necessary, the averments of Paragraph 56 are denied and strict proof of same is demanded at time of trial.

3. The averments of Paragraph 57 of Defendant's DuBois Radiologists, Inc.'s New Matter are legal conclusions to which no affirmative response is required from Plaintiff. To the

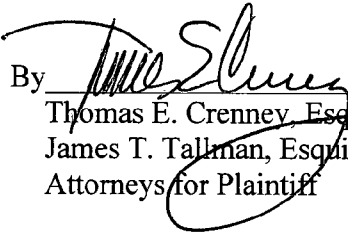
extent that a response is deemed necessary, the averments of Paragraph 57 are denied and strict proof of same is demanded at time of trial.

WHEREFORE, Plaintiffs Paula Carlson and Jamie Carlson demand judgment in their favor and against Defendants, jointly and severally.

JURY TRIAL DEMANDED

Respectfully submitted,

THOMAS E. CRENNY & ASSOCIATES, LLC

By   
Thomas E. Crenney, Esquire  
James T. Tallman, Esquire  
Attorneys for Plaintiff

One Gateway Center  
18<sup>th</sup> Floor - West  
Pittsburgh, PA 15222  
(412) 644-5545

DATE: 9-27-06

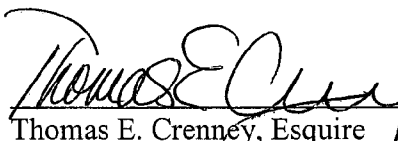
**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and correct copy of the foregoing  
**PLAINTIFFS' REPLY TO NEW MATTER OF DEFENDANT, DUBOIS  
RADIOLOGISTS, INC.** was served by First Class Mail, postage prepaid on the 27<sup>th</sup> day of  
September, 2006, as follows:

Darryl R. Slimak, Esquire  
MCQUAIDE BLASKO FLEMING & FAULKNER,  
INC.  
811 University Drive  
State College, PA 16801  
(Counsel for Jerjis T. Alajaji, M.D.)

Walter Fredrick Wall, Esquire  
MEYER, DARRAGH, BUCKLER, BEBENEK &  
ECK, P.L.L.C.  
120 Lakemont Park Boulevard  
Altoona, PA 16602  
(Counsel for DuBois Radiologists, Inc.)

David R. Johnson, Esquire  
THOMSON RHODES & COWIE  
Two Chatham Center, 10<sup>th</sup> Floor  
Pittsburgh, PA 15219  
(Counsel for DuBois Regional Medical Center)

  
Thomas E. Crenney, Esquire  
Donna A. Alexander, Esquire  
Attorneys for Plaintiff



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

PAULA CARLSON and  
JAMIE CARLSON, her husband,

Plaintiffs,

vs.

JERJIS T. ALAJAJI, M.D., DUBOIS  
RADIOLOGISTS, INC. and DUBOIS  
REGIONAL MEDICAL CENTER,

Defendants.

No. 2006-563-CD

Civil Action – Medical Professional  
Liability Action

**PLAINTIFFS' REPLY TO NEW MATTER  
OF DEFENDANT, JERJIS T. ALAJAJI,  
M.D.**

Filed on behalf of the Plaintiffs

Counsel of Records for this Party:

Thomas E. Crenney, Esquire  
PA I.D. No. 40986

James T. Tallman, Esquire  
PA I.D. No. 79257

THOMAS E. CRENNY & ASSOCIATES, LLC  
One Gateway Center  
18<sup>th</sup> Floor West  
Pittsburgh, PA 15222  
Telephone: (412) 644-5545  
Facsimile: (412) 644-5581

**JURY TRIAL DEMANDED**

**FILED** No cc  
m1110761  
SEP 29 2006

William A. Shaw  
Prothonotary/Clerk of Courts

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

PAULA CARLSON and  
JAMIE CARLSON, her husband,

Plaintiffs,

No. 2006-563-CD

Civil Action – Medical Professional  
Liability Action

vs.

JERJIS T. ALAJAJI, M.D., DUBOIS  
RADIOLOGISTS, INC. and DUBOIS  
REGIONAL MEDICAL CENTER,

Defendants.

**PLAINTIFFS' REPLY TO NEW MATTER OF DEFENDANT,  
JERJIS T. ALAJAJI, M.D.**

AND NOW, come the Plaintiffs, Paula Carlson and Jamie Carlson, by and through their attorneys, Thomas E. Crenney & Associates, LLC, and files the within Reply to New Matter of Defendant, Jerjis T. Alajaji, M.D. and in support thereof avers as follows:

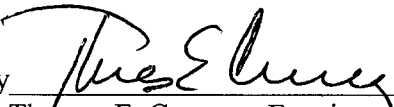
1. The averments of Paragraph 52 of Defendant's Jerjis T. Alajaji, M.D.'s New Matter are legal conclusions to which no affirmative response is required from Plaintiff. To the extent that a response is deemed necessary, the averments of Paragraph 52 are denied and strict proof of same is demanded at time of trial.

WHEREFORE, Plaintiffs Paula Carlson and Jamie Carlson demand judgment in their favor and against Defendants, jointly and severally.

JURY TRIAL DEMANDED

Respectfully submitted,

THOMAS E. CRENNNEY & ASSOCIATES, LLC

By   
Thomas E. Crenney, Esquire  
Donna A. Alexander, Esquire  
Attorneys for Plaintiff

DATE: 9-27-06

One Gateway Center  
18<sup>th</sup> Floor - West  
Pittsburgh, PA 15222  
(412) 644-5545

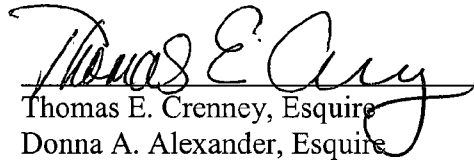
**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and correct copy of the foregoing  
**PLAINTIFFS' REPLY TO NEW MATTER OF DEFENDANT, JERJIS T. ALAJAJI,**  
**M.D.** was served by First Class Mail, postage prepaid on the 27<sup>th</sup> day of September,  
2006, as follows:

Darryl R. Slimak, Esquire  
MCQUAIDE BLASKO FLEMING & FAULKNER,  
INC.  
811 University Drive  
State College, PA 16801  
(Counsel for Jerjis T. Alajaji, M.D.)

Walter Fredrick Wall, Esquire  
MEYER, DARRAGH, BUCKLER, BEBENEK &  
ECK, P.L.L.C.  
120 Lakemont Park Boulevard  
Altoona, PA 16602  
(Counsel for DuBois Radiologists, Inc.)

David R. Johnson, Esquire  
THOMSON RHODES & COWIE  
Two Chatham Center, 10<sup>th</sup> Floor  
Pittsburgh, PA 15219  
(Counsel for DuBois Regional Medical Center)

  
Thomas E. Crenney, Esquire  
Donna A. Alexander, Esquire  
Attorneys for Plaintiff

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

PAULA CARLSON and  
JAMIE CARLSON, her husband,  
Plaintiffs,

vs

No. 2006-563-CD

Civil Action – Medical Professional  
Liability Action

JERJIS T. ALAJAJI, M.D. and  
DUBOIS RADIOLOGIST, INC.,  
Defendants.

**JURY TRIAL DEMANDED**

**CERTIFICATE OF SERVICE**

TO THE PROTHONOTARY:

**FILED**

OCT 05 2006

m/1:55/c

William A. Shaw

Prothonotary/Clerk of Courts

WAS/c/c (W)

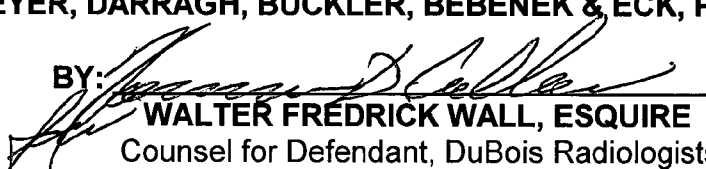
I, Walter Fredrick Wall, Esquire, of the law firm of MEYER, DARRAGH, BUCKLER, BEBENEK & ECK, PLLC, hereby certify that on this **4<sup>th</sup> day of October, 2006**, I have personally served the foregoing Answers to Plaintiffs' First Set of Interrogatories and Request for Production of Documents Directed to Defendants on behalf of Defendant, DuBois Radiologists, Inc., upon all counsel/parties of record, by mailing a true and correct copy of same by United States first class mail, postage prepaid as follows:

Thomas E. Crenney, Esquire  
One Gateway Center  
18<sup>th</sup> Floor West  
Pittsburgh, PA 15222

Darryl Slimak, Esquire  
McQuaide Blasko  
811 University Drive  
State College, Pennsylvania 16801

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

**MEYER, DARRAGH, BUCKLER, BEBENEK & ECK, PLLC**

BY: 

**WALTER FREDRICK WALL, ESQUIRE**

Counsel for Defendant, DuBois Radiologists, Inc.  
120 Lakemont Park Boulevard  
Altoona, PA 16602  
Phone No.: (814) 941-4600  
ID # 23657

No. 2006-563-CD  
Clearfield County, Pennsylvania

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

PAULA CARLSON and  
JAMIE CARLSON, her husband,

Plaintiffs,

vs.

JERJIS T. ALAJAJI, M.D., DUBOIS  
RADIOLOGISTS, INC. and DUBOIS  
REGIONAL MEDICAL CENTER,

Defendants.

No. 2006-563-CD

Civil Action – Medical Professional  
Liability Action

**NOTICE OF SERVICE OF  
PLAINTIFFS' SECOND SET OF  
INTERROGATORIES AND REQUEST  
FOR PRODUCTION OF DOCUMENTS  
DIRECTED TO DEFENDANT DUBOIS  
REGIONAL MEDICAL CENTER**

Filed on behalf of the Plaintiffs

Counsel of Record for this Party:

Thomas E. Crenney, Esquire  
PA I.D. No. 40986

THOMAS E. CRENNNEY & ASSOCIATES, LLC  
One Gateway Center  
18<sup>th</sup> Floor West  
Pittsburgh, PA 15222  
Telephone: (412) 644-5545  
Facsimile: (412) 644-5581

**JURY TRIAL DEMANDED**

**FILED**  
OCT 11 2006  
m/11:30/45  
William A. Shaw  
Prothonotary/Clerk of Courts  
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ATTY

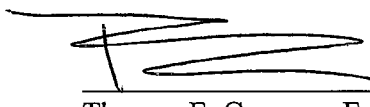
**NOTICE OF SERVICE OF PLAINTIFFS' SECOND REQUEST FOR  
PRODUCTION OF DOCUMENTS DIRECTED TO DEFENDANT  
DUBOIS REGIONAL MEDICAL CENTER**

I hereby certify that Plaintiffs' Second Request for Production of Documents Directed to the Defendant DuBois Regional Medical Center was served upon all counsel of record this 9 day of October, 2006 as follows:

Darryl R. Slimak, Esquire  
MCQUAIDE BLASKO FLEMING & FAULKNER,  
INC.  
811 University Drive  
State College, PA 16801  
(Counsel for Jerjis T. Alajaji, M.D.)

David R. Johnson, Esquire  
THOMSON RHODES & COWIE  
Two Chatham Center, 10<sup>th</sup> Floor  
Pittsburgh, PA 15219  
(Counsel for DuBois Regional Medical Center)

Walter Fredrick Wall, Esquire  
MEYER, DARRAGH, BUCKLER, BEBENEK &  
ECK, P.L.L.C.  
120 Lakemont Park Boulevard  
Altoona, PA 16602  
(Counsel for DuBois Radiologists, Inc.)

  
\_\_\_\_\_  
Thomas E. Crenney, Esquire  
Attorneys for Plaintiff

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

PAULA CARLSON AND JAMIE  
CARLSON, her husband,

Plaintiffs,

vs.

JERJIS T. ALAJAJI, M.D. AND DUBOIS  
RADIOLOGISTS, INC.,

Defendants.

CIVIL DIVISION

No. 2006-563- CD

JURY TRIAL DEMANDED

**ANSWER TO PLAINTIFFS' MOTION TO  
COMPEL DISCOVERY AND FOR  
SANCTIONS**

Filed on Behalf of Defendant, DuBois  
Radiologists, Inc.

Counsel of Record for this Party:

WALTER FREDRICK WALL, ESQUIRE  
PA. I.D. #23657

MEYER, DARRAGH, BUCKLER,  
BEBENEK & ECK, P.L.L.C.  
120 Lakemont Park Boulevard  
Altoona, PA 16602

Telephone No.: (814) 941-4600  
Fax No.: (814) 941-4605



IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

PAULA CARLSON AND JAMIE  
CARLSON, her husband,

Plaintiffs,

vs.

JERJIS T. ALAJAJI, M.D. AND DUBOIS  
RADIOLOGISTS, INC.,

Defendants.

CIVIL DIVISION

No. 2006-563- CD

JURY TRIAL DEMANDED

**ANSWER TO PLAINTIFFS' MOTION TO COMPEL DISCOVERY  
AND FOR SANCTIONS**

NOW COMES the Defendant, DuBois Radiologists, Inc., by and through its counsel, MEYER, DARRAGH, BUCKLER, BEBENEK & ECK, PLLC and files this Answer to Plaintiffs' Motion to Compel Discovery and for Sanctions of which the following is a statement:

1. It is admitted that this is a medical malpractice action pursued by Plaintiffs' counsel on the basis of allegations of an improper interpretation of an x-ray.

2. Admitted.

3. Admitted.

4. Admitted and further, this Defendant believes and therefore avers that each Defendant has so advised Plaintiffs' counsel and further as fully documented in the portions of the depositions attached as Exhibit "A".

5. The Motion served upon this Defendant did not include a paragraph 5.

6. The Motion served upon this Defendant did not include a paragraph 6.

7. The Motion served upon this Defendant did not include a paragraph 7.

8. The deposition transcripts attached as Exhibits speak for themselves.

9. The deposition transcripts attached as Exhibits speak for themselves.

10. It is admitted that the hospital directed a letter dated April 6, 2006 to Dr. Shah as President of Defendant DuBois Radiologists, Inc., advising that Dr. Alajaji lost his medical privileges with the hospital. By way of further response, as set forth in the full transcript of Dr. Shah's deposition and in accordance with the written agreements between DuBois Regional Medical Center and DuBois Radiologists, Inc., DuBois Radiologists, Inc. was compelled to terminate employment and/or other relationships with any employee whose privileges were denied and/or withdrawn by DuBois Regional Medical Center and further in accordance with the employment agreement between DuBois Radiologists, Inc. and Dr. Alajaji, a termination and/or withdraw of privileges to an employee of DuBois Radiologists, Inc., was a basis for termination from the corporation. Copies of all of these documents have been provided to Plaintiffs' counsel.

11. Denied. On the contrary, as the portions of the transcripts of the deposition testimony of Dr. Shah, Dr. Alajaji, counsel for all Defendants have advised Plaintiffs' counsel on the record that the basis alleged by Defendant, DuBois Regional Medical Center for the termination of the privileges of Defendant Dr. Alajaji did not bear on issues of patient care.

12. Denied. On the contrary, Plaintiff has not complied with the Pennsylvania Rules of Civil Procedure in seeking a Motion for Sanctions nor has Plaintiff set forth a viable basis for a Motion to Compel. By way of further response, the allegations set forth

hereinafter under New Matter are incorporated herein by reference thereto as if same were set forth at length.

**NEW MATTER**

13. Plaintiff asserts entitlement to obtain a copy of a letter authored by Defendant DuBois Regional Medical Center dated April 6, 2006 wherein Defendant, DuBois Regional Medical Center, set forth a basis for DuBois Regional Medical Center's termination of the privileges of Defendant, Dr. Alajaji.

14. Written employment agreements between DuBois Radiologists, Inc. and Defendant Alajaji specifically provided that under circumstances wherein an employee's privileges were terminated or withdrawn by DuBois Regional Medical Center, such were grounds for termination of employment with DuBois Radiologists, Inc. (A copy of those agreements has previously been provided to Plaintiffs' counsel).

15. Clearly by Plaintiffs' own assertions, the determination and basis for the termination of Dr. Alajaji's privileges at DuBois Regional Medical Center were made by representatives of DuBois Regional Medical Center, not DuBois Radiologists, Inc., and therefore, the issue addressed in Plaintiffs' Motion to Compel is properly directed to parties other than DuBois Radiologists, Inc.

16. Nevertheless, as the copies of the transcripts of Dr. Shah of DuBois Radiologists, Inc., and Dr. Alajaji (attached to Plaintiffs' Motion), clearly set forth all defense counsel have, on the record, certified to Plaintiffs' counsel that the basis asserted by DuBois Regional Medical Center for the termination of Dr. Alajaji's privileges was not based upon patient care.

17. Plaintiffs' Motion to Compel admits to the certification by all defense counsel of non relevance to patient care, but nevertheless, persists against all Defendants without any basis to support a determination by this Court as to whether the letter authored by DRMC is, in fact, discoverable or relevant to the issues in this litigation.

18. Plaintiffs' Motion including a claim for Sanctions, violates the Pennsylvania Rules of Civil Procedure, specifically Rule 4019 Sanctions.

19. Under Rule 4019(g)(1), it is incumbent upon a party such as the Plaintiff herein in seeking a directive from the Court to proceed with a Motion to Compel. Furthermore, it is only after Plaintiff sets forth a basis resulting in an Order by the Court in responding to the party's request and the failure of the party to comply with an Order of Court that a Motion for Sanctions is then ripe and/or available to the moving party such as the Plaintiff herein.

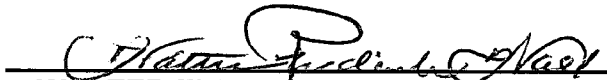
20. Plaintiff merely asserts a right to \$500 as costs and counsel fees "in preparing the Motion before this Court." It is, at least, doubtful based upon a review of the Motion that any reasonable fee for preparation of same could possibly rise to the level of \$500 and Plaintiff fails to attach by Affidavit or relevant billing records any basis for his assertion.

WHEREFORE, Defendant, DuBois Radiologists, Inc., prays this Court to enter an Order:

1. Dismissing Plaintiffs' Motion to Compel Discovery and for Sanctions, and/or in the alternative;

2. Pursuant to Plaintiffs' Motion to Compel, schedule a hearing at which time Plaintiff can submit to the Court a basis for the Motion to Compel and the Defendants may be heard;
3. Dismiss Plaintiffs' Motion as to seeking Sanctions as in violation at this time of the Pennsylvania Rules of Civil Procedure, and further,
4. Direct Plaintiff that in any future Motions for Sanctions if and when such are in accordance with the Pennsylvania Rules of Civil Procedure, Plaintiff be compelled to set forth a reasonable basis for the fees he seeks and copies of all relevant documents in support of same.

**MEYER, DARRAGH, BUCKLER, BEBENEK & ECK, PLLC**

BY: 

**WALTER FREDRICK WALL, ESQUIRE**

Counsel for Defendant, DuBois Radiologists, Inc.

120 Lakemont Park Boulevard

Altoona, PA 16602

Phone No.: (814) 941-4600

ID # 23657

**CERTIFICATE OF SERVICE**

TO THE PROTHONOTARY:

I, Walter Fredrick Wall, Esquire, of the law firm of MEYER, DARRAGH, BUCKLER, BEBENEK & ECK, PLLC, hereby certify that on this **9<sup>th</sup> day of January, 2007**, I have served the foregoing Answer to Plaintiffs' Motion to Compel Discovery and for Sanctions on behalf of Defendant, DuBois Radiologists, Inc., upon all counsel/parties of record, by mailing a true and correct copy of same by United States first class mail, postage prepaid as follows:

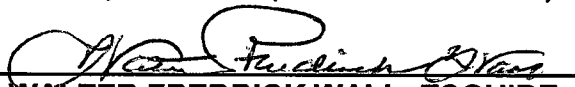
Thomas E. Crenney, Esquire  
One Gateway Center  
18<sup>th</sup> Floor West  
Pittsburgh, PA 15222

Darryl Slimak, Esquire  
McQuaide Blasko  
811 University Drive  
State College, Pennsylvania

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

**MEYER, DARRAGH, BUCKLER, BEBENEK & ECK, PLLC**

BY:

  
**WALTER FREDRICK WALL, ESQUIRE**  
Counsel for Defendant, DuBois Radiologists, Inc.  
120 Lakemont Park Boulevard  
Altoona, PA 16602  
Phone No.: (814) 941-4600  
ID # 23657

**FILED**

**JAN 10 2007**

William A. Shaw  
Prothonotary/Clerk of Courts

CA

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

PAULA CARLSON and  
JAMIE CARLSON, her husband,

Plaintiffs,

vs.

JERJIS T. ALAJAJI, M.D., DUBOIS  
RADIOLOGISTS, INC. and DUBOIS  
REGIONAL MEDICAL CENTER,

Defendants.

No. 2006-563-CD

Civil Action – Medical Professional  
Liability Action

The Honorable Frederic Ammerman

**MOTION TO COMPEL DISCOVERY  
AND FOR SANCTIONS**

Filed on behalf of the Plaintiffs

Counsel of Records for this Party:

Thomas E. Crenney, Esquire  
PA I.D. No. 40986

James T. Tallman, Esquire  
PA I.D. No. 79257

THOMAS E. CRENNY & ASSOCIATES, LLC  
One Gateway Center  
18<sup>th</sup> Floor West  
Pittsburgh, PA 15222  
Telephone: (412) 644-5545  
Facsimile: (412) 644-5581

**JURY TRIAL DEMANDED**

**FILED** *no cc*  
*3/11/07*  
**JAN 08 2007**  
*Shaw*  
William A. Shaw  
Prothonotary/Clerk of Courts



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

PAULA CARLSON and  
JAMIE CARLSON, her husband,

Plaintiffs,

vs.

JERJIS T. ALAJAJI, M.D., DUBOIS  
RADIOLOGISTS, INC. and DUBOIS  
REGIONAL MEDICAL CENTER,

Defendants.

No. 2006-563-CD

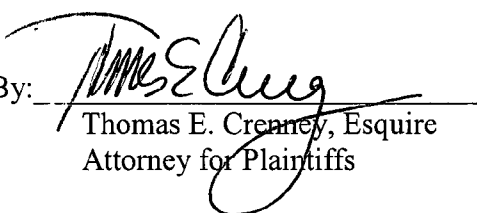
Civil Action – Medical Professional  
Liability Action

The Honorable Frederic Ammerman

**CERTIFICATION OF COUNSEL PURSUANT TO LOCAL RULES L 208.2(d) and (e)**

Thomas E. Crenney & Associates, LLC, attorneys for Plaintiffs, hereby certify that we have attempted to resolve the subjects at issue in the Motion to Compel Discovery with Defense Counsel and that we have been unable to resolve the issues of the matter therein.

THOMAS E. CRENNNEY & ASSOCIATES, LLC

By: 

Thomas E. Crenney, Esquire  
Attorney for Plaintiffs

DATE: 1/5/07

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

PAULA CARLSON and  
JAMIE CARLSON, her husband,

Plaintiffs,

vs.

JERJIS T. ALAJAJI, M.D., DUBOIS  
RADIOLOGISTS, INC. and DUBOIS  
REGIONAL MEDICAL CENTER,

Defendants.

No. 2006-563-CD

Civil Action – Medical Professional  
Liability Action

The Honorable Frederic Ammerman

**MOTION TO COMPEL DISCOVERY AND FOR SANCTIONS**

AND NOW, come the Plaintiffs, Paula Carlson and Jamie Carlson, by and through their attorneys, Thomas E. Crenney, Esquire and Thomas E. Crenney & Associates, LLC, and file the following Motion to Compel Discovery and For Sanctions, averring as follows:

1. This is a medical malpractice action involving an error in the interpretation of an x-ray of Plaintiff Paula Carlson's right wrist. While the x-ray was interpreted as "negative," it in fact showed a giant cell tumor.
2. This x-ray was taken at DuBois Regional Medical Center on April 12, 2005 and was read by Defendant Dr. Jerjis T. Alajaji.
3. Dr. Alajaji was a radiologist employed by Defendant DuBois Radiologists, Inc. DuBois Radiologists, Inc. had an exclusive contract with Defendant DuBois Regional Medical Center to provide radiology services.
4. Discovery is ongoing. Plaintiffs have learned that Dr. Alajaji was fired from his position with DuBois Radiologists, Inc. on or about April 6, 2006.

5. Plaintiffs have also learned that Dr. Alajaji lost his medical privileges with the hospital, DuBois Regional Medical Center. See Dr. Shah's deposition, pp. 19-21, attached hereto as Exhibit A.

6. After many discussions with all Defendants and Defense Counsel, none of them will provide the reason that Dr. Alajaji was fired and why he lost his medical privileges. See, e.g., Exhibit A; Deposition of Robert McKee, pp. 38-43, attached hereto as Exhibit B; Dr. Alajaji's Deposition, pp. 18-25, attached hereto as Exhibit C. Despite Plaintiffs' repeated attempts to extract an answer to this very relevant question, Defense Counsel has instructed their witnesses not to answer. See Exhibits A, B, and C.

7. The following exchange took place during Dr. Shah's deposition:

Q. Did you fire him [Dr. Alajaji]?

A. Yes.

Q. Okay. Why did you fire him?

A. In our contract, it says that . . . if the hospital finds one of the corporation employee physicians ineligible to be on the medical staff of the hospital . . . than he has to be let go immediately. . . . The hospital . . . gave me a letter on April 6<sup>th</sup> of this year that they have found him ineligible to be on the medical staff of the hospital, so I had to let him go.

Q. Okay. I'm going to ask this and you can respond as you want. Why was he found to be ineligible to be on the medical staff?

ATTORNEY WALL:

Objection. He didn't make those decisions, I don't even know if he has actual information. I would submit to you, you can ask if it had anything to do with the issues in this case and he can answer that.

ATTORNEY CRENNY:

Well, it wouldn't be his decision to make that determination. Okay.

ATTORNEY WALL:

I'm sorry?

ATTORNEY CRENNY:

It would not be up to him to make that determination. And I'm not going to ask you that, I'll figure that out when I find out why.

Q. Did the hospital tell you the basis for its decision, the reason they found him to be ineligible, did they tell you that?

A. Yes.

Q. Did they put it in a letter?

A. Yes.

Q. And my understanding is that under advise of counsel you're not going to tell me what that was; is that correct?

ATTORNEY WALL:

That's correct.

A. Yes.

See Exhibit A.

8. Plaintiffs also directly asked Robert McKee, the Human Resources Director for the hospital, why Dr. Alajaji was fired. The following exchange occurred during Mr. McKee's deposition:

Q. Do you know why Doctor Alajaji was terminated from the hospital?

ATTORNEY SLIMAK:

I object to that.

ATTORNEY JOHNSON:

Object to the form.

ATTORNEY SLIMAK:

You can answer that yes or no?

A. Yes, I have received an explanation of that.

Q. And why was he terminated?

ATTORNEY SLIMAK:

Objection to the form

A. I am not told that it dealt with any patient care or quality issues. It dealt with --- actually the explanation has been presented to me is that it is not anything that is involved with patient care.

Q. What was the explanation?

ATTORNEY JOHNSON:

I may object to this and instruct the witness not to answer the question. But I don't know that. For that reason, I want to confer with the witness and see whether an objection is appropriate.

OFF RECORD DISCUSSION

Q. Why was Doctor Alajaji let go or what were the circumstances of his --- the termination of his relationship to the hospital?

ATTORNEY JOHNSON:

And I'm going to object to that question or any similar questions and instruct the witness not to answer the question. The reasons for my objections first I believe it's outside of the scope of permissible discovery insofar as the witness has articulated that he has no knowledge that it was a patient care concern in any regard. So, therefore, I believe that any information elicited on this subject would be neither relevant nor likely to lead to admissible evidence.

Further, I can represent, as you know, that Doctor Alajaji was not a hospital employee but rather was employed by the radiology group. And if the question were to be asked whether this witness has had any conversations with any member of the radiology group, with regard to the reasons for Doctor Alajaji's employment, the answer would be in the negative.

So for that reason, we're not going to get into that line of inquiry without a court order that we need to do so.

ATTORNEY CRENNNEY:

Okay. Well, let me just say that no witness has been willing to tell me why Doctor Alajaji lost his staff privileges. And it isn't for the defense lawyers in this case to make that decision. I'm entitled to that information and I will ask for sanctions. A Plaintiff, in a case like this, is put through the ringer, all aspects of her personal life examined, questioned. You for instance, suggest that, you know one, of the reasons --- you suggest to a witness one of the reasons that she's not working is she does not want to work. Okay. So all of her motives come under close scrutiny. But the Defendant who in the case --- one who is in this case clearly a negligent Defendant, which everybody knows is somehow afforded this special privilege. It's not warranted. I shouldn't have to file a motion, and when I file a motion, some sort of written explanation is not going to be what I want. I want to come up and I want to question him about it.

And that's what ought to happen, and you know if the question is answered you're right, we'll just move on. But I want to make that clear, and that goes for the next witness when I ask him. Regardless, you're not going to let him answer the question; is that correct?

ATTORNEY JOHNSON:

I have nothing more to add on the subject, other than of course I don't agree with the comments that you made.

See Exhibit B.

9. Plaintiffs directly asked Dr. Alajaji himself why he was fired, as shown by the following excerpt from Dr. Alajaji's deposition:

Q. Do you have staff privileges at DuBois Regional Medical Center?

A. No.

Q. When were those staff privileges terminated?

ATTORNEY SLIMAK:

Just objection to the form. You may answer if you can.

A. April '06.

Q. . . . Why were they terminated?

A. I stopped working there ---

ATTORNEY SLIMAK:

Same objection, but go ahead.

A. I stopped working there for absolutely no medical quality issues whatsoever and it's nothing to do with Paula's case.

Q. Okay. What was the reason then? Whether you think it has to do with Paula's case or not, what was the reason you stopped working there?

ATTORNEY SLIMAK:

I think he already indicated that he doesn't have staff privileges. Didn't he say that?

ATTORNEY CRENNNEY:

Yes.

Q. Why don't you have staff privileges? What lead to your losing your staff privileges?

A. It's nothing to do with my relation with the employees, my relation with the staff, other doctors, techs or patients or the quality of my care. Actually, the quality of my care according to the testimony of most doctors there, was excellent.

Q. Okay. Well, be that as it may, what was the reason?

ATTORNEY SLIMAK:

I just think under the circumstances, he has given you an appropriate explanation, and the balance of your question at this point in time is not likely to lead to any discovery of admissible evidence.

Q. Okay. And rather than me going through it again you were there when I stated my view --- I think it was during Mr. McKee's deposition; correct?

ATTORNEY SLIMAK:

I concur with Attorney Johnson's objection at the time.

...

ATTORNEY CRENNNEY:

He owes me an answer. He won't answer. I'm going to file a motion for sanctions. I'm going to ask for fees, I'm not going to be satisfied with a written answer, I want to pursue it. For instance, you know, we could do this the easy way or the hard way. You want it the hard way, that's fine with me.

He could have been guilty of who knows perjury. I don't know, you won't tell me. You just tell me it's none of my business, that's not your role.

ATTORNEY SLIMAK:

Ask him if he's guilty of perjury.

ATTORNEY CRENNNEY:

I don't know what it is. So whether it will lead to discoverable information, whether it's relevant, that's not your role. He was let go, I'm entitled to know why. If you would tell me I might not pursue it at all.

ATTORNEY SLIMAK:

I would just state once again that he already indicated his answer in that regard with regard to not having staff privileges at the hospital.

The hospital will have its reasons for that. That's perhaps a question better addressed to the hospital.

ATTORNEY CRENNNEY:

Well, the hospital won't answer either.

ATTORNEY SLIMAK:

Well, then I can't answer, he's not speaking for the hospital.

ATTORNEY CRENNNEY:

Well, he can speak for himself and his failure to answer is improper. He should answer and again, I'm not going to be satisfied if I have to come up here again. I'm going to want my hourly fees. I'm going to want the cost of the deposition the whole tomato.

ATTORNEY SLIMAK:

He can't speak today for the hospital.

ATTORNEY CRENNNEY:

It has nothing to do with speaking for the hospital. Nobody's asking him to speak for the hospital. He knows why he was let go.

...

ATTORNEY SLIMAK:

At this time I would ask you to move on to a different subject.

ATTORNEY CRENNNEY:

Well, you're instructing him not to answer. I think that's improper.

10. As noted in the above excerpts, there is a letter dated April 6, 2006 to Dr. Shah from DuBois Regional Medical Center that apparently states the reason that Dr. Alajaji lost his medical privileges with the hospital. See Exhibit A.

11. On its face, this information is discoverable. It may lead to admissible evidence. It is not for the defense lawyers to decide that it won't. This is an issue of discovery, not an issue of ultimate admissibility.

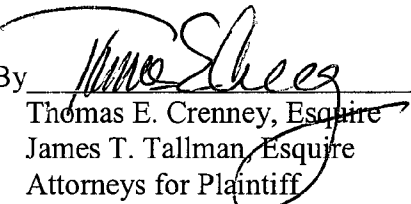
12. Should this Honorable Court grant Plaintiffs' Motion to Compel Discovery, Plaintiffs further request sanctions of \$500 for the preparation of this motion.

WHEREFORE, Plaintiffs respectfully request that this Honorable Court order all Defendants to produce the letter dated April 6, 2006 from the hospital to Dr. Shah referenced in this Motion; order Dr. Alajaji to answer in writing the reason for his firing from DuBois

Radiologists, Inc. and from the hospital; and, if needed, permit Plaintiffs to re-question the witnesses identified in this Motion relative to the firing of Dr. Alajaji. Plaintiffs further respectfully request sanctions against all Defendants for a total amount of \$500 plus any additional amount the Court finds appropriate should the resolution of this Motion require oral argument.

Respectfully submitted,

THOMAS E. CRENNY & ASSOCIATES, LLC

By   
Thomas E. Crenney, Esquire  
James T. Tallman, Esquire  
Attorneys for Plaintiff

DATE: 1/5/07

One Gateway Center  
18<sup>th</sup> Floor - West  
Pittsburgh, PA 15222  
(412) 644-5545



## **EXHIBIT A**

1 receivable of the corporation totally?

2 A. Maybe about \$5,000.

3 Q. \$5,000?

4 A. For him?

5 Q. Right now if we took a  
6 snapshot?

7 A. I think on any given day  
8 there's about \$200,000 billed out and  
9 we get about 42 percent receipts out  
10 of that so I would say about \$80,000.

11 Q. Was Doctor Alajaji?

12 A. Alajaji.

13 Q. Did you fire him?

14 A. Yes.

15 Q. Okay. Why did you fire him?

16 A. In our contract it says that  
17 one of the clauses, I don't know  
18 exactly which one, that if the  
19 hospital finds one of the corporation  
20 employee physicians ineligible to be  
21 on the medical staff of the hospital  
22 due to any reason, than he has to be  
23 let go immediately. The hospital  
24 found him, due to some reasons which  
25 we don't have to go into detail here,

1     they gave me a letter on April 6th of  
2     this year that they have found him  
3     ineligible to be on the medical staff  
4     of the hospital, so I had to let him  
5     go.

6     Q.       Okay. I'm going to ask this  
7     and you can respond as you want. Why  
8     was he found to be ineligible to be on  
9     the medical staff?

10            ATTORNEY WALL:

11            Objection. He didn't  
12            make those decisions, I don't  
13            even know if he has actual  
14            information. I would submit to  
15            you, you can ask if it had  
16            anything to do with the issues  
17            in this case and he can answer  
18            that.

19            ATTORNEY CRENNEY:

20            Well, it wouldn't be his  
21            decision to make that  
22            determination. Okay.

23            ATTORNEY WALL:

24            I'm sorry?

25            ATTORNEY CRENNEY:

1                   It would not be up to  
2                   him to make that determination.  
3                   And I'm not going to ask you  
4                   that, I'll figure that out when  
5                   I find out why.

6                   BY ATTORNEY CRENNEY:

7                   Q.           Did the hospital tell you the  
8                   basis for its decision, the reason  
9                   they found him to be ineligible, did  
10                  they tell you that?

11                  A.           Yes.

12                  Q.           Did they put it in a letter?

13                  A.           Yes.

14                  Q.           And my understanding is that  
15                  under advise of counsel you're not  
16                  going to tell me what that was; is  
17                  that correct?

18                               ATTORNEY WALL:

19                               That's correct.

20                  A.           Yes.

21                   BY ATTORNEY CRENNEY:

22                  Q.           Is that correct?.

23                  A.           Uh-huh (yes).

24                  Q.           In terms of the officers of  
25                  DuBois Radiology, Inc., are you the

## **EXHIBIT B**

1                    ATTORNEY SLIMAK:

2                    Pretty close. Doctor

3                    Alajaji (corrects

4                    pronunciation).

5                    BY ATTORNEY CRENNY:

6                    Q.            Do you know why Doctor Alajaji  
7                    was terminated from the hospital

8                    ATTORNEY SLIMAK:

9                    I object to that.

10                   ATTORNEY JOHNSON:

11                   Object to the form.

12                   ATTORNEY SLIMAK:

13                   You can answer that yes

14                   or no?

15                   A.            Yes, I have received an  
16                   explanation of that.

17                   BY ATTORNEY CRENNY:

18                   Q.            And why was he terminated?

19                   ATTORNEY SLIMAK:

20                   Objection to the form?

21                   A.            I am not told that it dealt with  
22                   any patient care or quality issues. It  
23                   dealt with --- actually the explanation  
24                   has been presented to me is that it is  
25                   not anything that is involved with

1 patient care.

2 BY ATTORNEY CRENNY:

3 Q. What was the explanation?

4 ATTORNEY JOHNSON:

5 I may object to this and  
6 instruct the witness not to  
7 answer the question. But I  
8 don't know that. For that  
9 reason, I want to confer with  
10 the witness and see whether an  
11 objection is appropriate.

12 OFF RECORD DISCUSSION

13 BY ATTORNEY CRENNY:

14 Q. Why was Doctor Alajaji let go or  
15 what were the circumstances of his ---  
16 the termination of his relationship to  
17 the hospital?

18 ATTORNEY JOHNSON:

19 And I'm going to object  
20 to that question or any similar  
21 questions and instruct the  
22 witness not to answer the  
23 question. The reasons for my  
24 objections first I believe it's  
25 outside of the scope of

1 permissible discovery insofar as  
2 the witness has articulated that  
3 he has no knowledge that it was  
4 a patient care concern in any  
5 regard. So, therefore, I believe  
6 that any information elicited on  
7 this subject would be neither  
8 relevant nor likely to lead to  
9 admissible evidence.

10 Further I can represent,  
11 as you know, that Doctor Alajaji  
12 was not a hospital employee but  
13 rather was employed by the  
14 radiology group. And if the  
15 question were to be asked  
16 whether this witness has had any  
17 conversations with any member of  
18 the radiology group, with regard  
19 to the reasons for Doctor  
20 Alajaji's employment, the answer  
21 would be in the negative.

22 So for that reason, we're  
23 not going to get into that line  
24 of inquiry without a court order  
25 that we need to do so.



ATTORNEY CRENNNEY:

Okay. Well, let me just say that no witness has been willing to tell me why Doctor Alajaji lost his staff privileges. And it isn't for the defense lawyers in this case to make that decision. I'm entitled to that information and I will ask for sanctions. A Plaintiff, in a case like this, is put through the ringer, all aspects of her personal life examined, questioned. You for instance, suggest that, you know one, of the reasons --- you suggest to a witness one of the reasons that she's not working is she does not want to work. Okay. So all of her motives come under close scrutiny. But the Defendant who in the case --- one who is in this case clearly a negligent Defendant, which everybody knows is somehow

1           afforded this special privilege.  
2           It's not warranted. I shouldn't  
3           have to file a motion, and when  
4           I file a motion, some sort of  
5           written explanation is not going  
6           to be what I want. I want to  
7           come up and I want to question  
8           him about it.

9                     And that's what ought to  
10           happen, and you know if the  
11           question is answered you're  
12           right, we'll just move on. But  
13           I want to make that clear, and  
14           that goes for the next witness  
15           when I ask him. Regardless,  
16           you're not going to let him  
17           answer the question; is that  
18           correct?

19                    ATTORNEY JOHNSON:

20                    I have nothing more to  
21           add on the subject, other than  
22           of course I don't agree with the  
23           comments that you made.

24                    ATTORNEY CRENNEY:

25                    Those comments are right

1           on the button. Because he's a  
2           the doctor, you're the  
3           Defendants, somehow he gets  
4           special treatment. You think  
5           he's entitled to it. He's not.  
6           You'll decide that I can't have  
7           that information.

8   BY ATTORNEY CRENNY:

9   Q.       You had at some point at least a  
10   belief that Paula could come back and  
11   do the job; correct?

12   A.       Yes.

13   Q.       And that was based principally  
14   on the functional capacity exam and  
15   recommendations made by Martin Maloney;  
16   is that correct?

17   A.       Actually, the functional  
18   capacity exam, as a non-clinical  
19   person, I was not able to understand  
20   it. It identified a certain percentage  
21   of ability to --- you know a percentile  
22   rating of ability to do certain items  
23   in the job role. The actual evaluation  
24   of the workplace and the identification  
25   of the accommodations by Marty Maloney

## **EXHIBIT C**

1                   Okay. I just think he  
2                   should answer all of these  
3                   questions.

4                   ATTORNEY SLIMAK:

5                   At the appropriate time  
6                   he would be able to answer the  
7                   questions. At this time, it's  
8                   not an appropriate time in my  
9                   judgment. That's why I was  
10                  instructing him not to answer.

11                  ATTORNEY CRENNEY:

12                  Fair enough. I just  
13                  want to say I think it is the  
14                  appropriate time.

15                  BY ATTORNEY CRENNEY:

16                  Q.           Do you have staff privileges at  
17                  DuBois Regional Medical Center?

18                  A.           No.

19                  Q.           When were those staff  
20                  privileges terminated?

21                  ATTORNEY SLIMAK:

22                  Just objection to the  
23                  form. You may answer if you  
24                  can.

25                  A.           April '06.

1 BY ATTORNEY CRENNEY:

2 Q. Obviously, after April 12th ---  
3 strike that.

4 Why were they terminated?

5 A. I stopped working there ---.

6 ATTORNEY SLIMAK:

7 Same objection, but go  
8 ahead.

9 A. I stopped working there for  
10 absolutely no medical quality issues  
11 whatsoever and it's nothing to do with  
12 Paula's case.

13 BY ATTORNEY CRENNEY:

14 Q. Okay. What was the reason  
15 then? Whether you think it has to do  
16 with Paula's case or not, what was the  
17 reason you stopped working there?

18 ATTORNEY SLIMAK:

19 I think he already  
20 indicated that he doesn't have  
21 staff privileges. Didn't he  
22 say that?

23 ATTORNEY CRENNEY:

24 Yes.

25 BY ATTORNEY CRENNEY:

1. Q. Why don't you have staff  
2 privileges? What lead to your losing  
3 your staff privileges?

4 A. It's nothing to do with my  
5 relation with the employees, my  
6 relation with the staff, other  
7 doctors, techs or patients or the  
8 quality of my care. Actually, the  
9 quality of my care according to the  
10 testimony of most doctors there, was  
11 excellent.

12 Q. Okay. Well, be that as it may,  
13 what was the reason?

14 ATTORNEY SLIMAK:

15 I just think under the  
16 circumstances, he has given you  
17 an appropriate explanation, and  
18 the balance of your question at  
19 this point in time is not  
20 likely to lead to any discovery  
21 of admissible evidence.

22 BY ATTORNEY CRENNY:

23 Q. Okay. And rather than me going  
24 through it again you were there when I  
25 stated my view --- I think it was

1 during Mr. McKee's deposition;  
2 correct?

3 ATTORNEY SLIMAK:

4 I concur with Attorney  
5 Johnson's objection at the  
6 time.

7 ATTORNEY CRENNY:

8 Mr. Slimak, I  
9 understand. But you heard what  
10 I said, I just don't want to  
11 repeat it. You heard what I  
12 said; correct?

13 ATTORNEY SLIMAK:

14 I know we have a  
15 transcript being made of what  
16 was being said. I didn't take  
17 a note of everything. I'm sure  
18 I heard something that was said  
19 or what was said.

20 ATTORNEY CRENNY:

21 He owes me an answer.  
22 He won't answer. I'm going to  
23 file a motion for sanctions.  
24 I'm going to ask for fees, I'm  
25 not going to be satisfied with



1. a written answer, I want to  
2 pursue it. For instance, you  
3 know, we could do this the easy  
4 way or the hard way. You want  
5 it the hard way, that's fine  
6 with me.

7 He could have been  
8 guilty of who knows perjury. I  
9 don't know, you won't tell me.  
10 You just tell me it's none of  
11 my business, that's not your  
12 role.

13 ATTORNEY SLIMAK:

14 Ask him if he's guilty  
15 of perjury.

16 ATTORNEY CRENNY:

17 I don't know what it is.  
18 So whether it will lead to  
19 discoverable information,  
20 whether it's relevant, that's  
21 not your role. He was let go,  
22 I'm entitled to know why. If  
23 you would tell me I might not  
24 pursue it at all.

25 ATTORNEY SLIMAK:

1 I would just state once  
2 again that he already indicated  
3 his answer in that regard with  
4 regard to not having staff  
5 privileges at the hospital.  
6 The hospital will have its  
7 reasons for that. That's  
8 perhaps a question better  
9 addressed to the hospital.

10 ATTORNEY CRENNEY:

11 Well, the hospital won't  
12 answer either.

13 ATTORNEY SLIMAK:

14 Well, then I can't  
15 answer, he's not speaking for  
16 the hospital.

17 ATTORNEY CRENNEY:

18 Well, he can speak for  
19 himself and his failure to  
20 answer is improper. He should  
21 answer and again, I'm not going  
22 to be satisfied if I have to  
23 come up here again. I'm going  
24 to want my hourly fees. I'm  
25 going to want the cost of the

1 deposition the whole tomato.

2 ATTORNEY SLIMAK:

3 He can't speak today for  
4 the hospital.

5 ATTORNEY CRENNY:

6 It has nothing to do  
7 with speaking for the hospital.  
8 Nobody's asking him to speak  
9 for the hospital. He knows why  
10 he was let go.

11 ATTORNEY SLIMAK:

12 Let's take a little  
13 break to have things cool down.

14 SHORT BREAK TAKEN

15 ATTORNEY SLIMAK:

16 At this time I would ask  
17 you to move on to a different  
18 subject.

19 ATTORNEY CRENNY:

20 Well, you're instructing  
21 him not to answer. I think  
22 that's improper.

23 ATTORNEY SLIMAK:

24 We have already heard  
25 that objection.

1 ATTORNEY CRENNY:

2 Okay.

3 ATTORNEY SLIMAK:

4 I understand that's your  
5 position on the matter.

6 ATTORNEY CRENNY:

7 I just want to make it  
8 clear that you said you've  
9 asked me to move on to a  
10 different subject. I'm going  
11 to not voluntarily. I just  
12 want to make that point.

13 BY ATTORNEY CRENNY:

14 Q. Doctor, are you going to give  
15 testimony as to standard of care in  
16 this case?

17 ATTORNEY SLIMAK:

18 I'm just going to object  
19 on the basis that that is issue  
20 for he and his attorney to  
21 discuss and we haven't  
22 discussed that.

23 EXAMINATION

24 BY ATTORNEY CRENNY:

25 Q. Do you believe you observed the

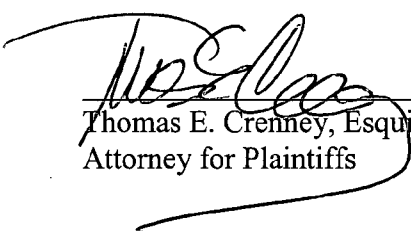
**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and correct copy of the foregoing **MOTION TO COMPEL DISCOVERY AND FOR SANCTIONS** was served by First Class Mail, postage prepaid on the 5 day of JANUARY, 2007, as follows:

Darryl R. Slimak, Esquire  
MCQUAIDE BLASKO FLEMING & FAULKNER,  
INC.  
811 University Drive  
State College, PA 16801  
(Counsel for Jerjis T. Alajaji, M.D.)

David R. Johnson, Esquire  
THOMSON RHODES & COWIE  
Two Chatham Center, 10<sup>th</sup> Floor  
Pittsburgh, PA 15219  
(Counsel for DuBois Regional Medical Center)

Walter Fredrick Wall, Esquire  
MEYER, DARRAGH, BUCKLER, BEBENEK &  
ECK, P.L.L.C.  
120 Lakemont Park Boulevard  
Altoona, PA 16602  
(Counsel for DuBois Radiologists, Inc.)

  
Thomas E. Crenney, Esquire  
Attorney for Plaintiffs

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

PAULA CARLSON and  
JAMIE CARLSON, her husband,

Plaintiffs,

vs.

No. 2006-563-CD

Civil Action – Medical Professional  
Liability Action

The Honorable Frederic Ammerman

JERJIS T. ALAJAJI, M.D., DUBOIS  
RADIOLOGISTS, INC. and DUBOIS  
REGIONAL MEDICAL CENTER,

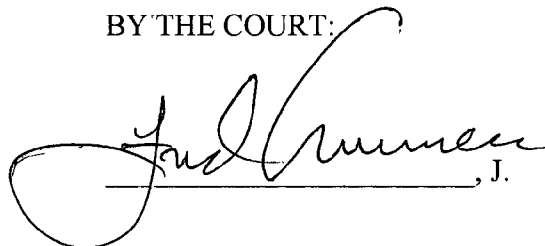
Defendants.

**ORDER OF COURT**

AND NOW, this 11 day of Jan., 2007, upon consideration of the foregoing Motion to Compel Discovery and For Sanctions, it is hereby ORDERED that:

- (1) a rule is issued upon the respondents to show cause why the moving party is not entitled to the relief requested;
- (2) the respondents shall file an answer to the motion within \_\_\_\_\_ days of this date;
- (3) the motion shall be decided under Pa. R.C.P. 206.7;
- (4) argument shall be held on February 2, 2007, in Courtroom No. 1 of the Clearfield County Courthouse; and 9:00 A.M.
- (5) notice of the entry of this order shall be provided to all parties by the moving party.

BY THE COURT:

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

**FILED** *2cc Atty Crenney*  
*01/21/07 cm*  
**JAN 11 2007** *GR*

William A. Shaw  
Prothonotary/Clerk of Courts

DATE: 1-11-2007

X You are responsible for serving all appropriate parties.

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

\_\_\_\_\_ Plaintiff(s) \_\_\_\_\_ Plaintiff(s) Attorney \_\_\_\_\_ Other

\_\_\_\_\_ Defendant(s) \_\_\_\_\_ Defendant(s) Attorney

\_\_\_\_\_ Special Instructions:

**FILED**

**JAN 11 2007**

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

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

PAULA CARLSON and  
JAMIE CARLSON, her husband,

Plaintiffs,

vs.

JERJIS T. ALAJAJI, M.D., DUBOIS  
RADIOLOGISTS, INC. and DUBOIS  
REGIONAL MEDICAL CENTER,

Defendants.

No. 2006-563-CD

Civil Action – Medical Professional  
Liability Action

The Honorable Frederic Ammerman

**ORDER OF COURT**

AND NOW, this \_\_\_\_\_ day of \_\_\_\_\_, 2007, upon consideration of the foregoing Motion to Compel Discovery and For Sanctions, it is hereby ORDERED, ADJUDGED and DECREED that said Motion is GRANTED, and, within thirty (30) days of the date of this Order, all Defendants are ordered to produce the letter dated April 6, 2006 from the hospital to Dr. Shah referenced in this Motion, and Dr. Alajaji is ordered to answer in writing the reason for his firing from DuBois Radiologists, Inc. and from the hospital. Sanctions are hereby ordered against all Defendants for a total amount of \$500.

BY THE COURT:

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



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

PAULA CARLSON and  
JAMIE CARLSON, her husband,

Plaintiffs,

vs.

JERJIS T. ALAJAJI, M.D., DUBOIS  
RADIOLOGISTS, INC. and DUBOIS  
REGIONAL MEDICAL CENTER,

Defendants.

No. 2006-563-CD

Civil Action – Medical Professional  
Liability Action

Judge Ammerman

**NOTICE OF SERVICE OF  
PLAINTIFFS' RESPONSE TO THIRD  
REQUEST FOR PRODUCTION  
DIRECTED TO PLAINTIFFS FILED ON  
BEHALF OF DUBOIS REGIONAL  
MEDICAL CENTER**

Filed on behalf of the Plaintiffs

Counsel of Records for this Party:

Thomas E. Crenney, Esquire  
PA I.D. No. 40986

James T. Tallman, Esquire  
PA I.D. No. 79257

THOMAS E. CRENNY & ASSOCIATES, LLC  
One Gateway Center  
18<sup>th</sup> Floor West  
Pittsburgh, PA 15222  
Telephone: (412) 644-5545  
Facsimile: (412) 644-5581

**JURY TRIAL DEMANDED**

**FILED**  
MT:03/04  
JAN 16 2007  
LM

William A. Shaw  
Prothonotary/Clerk of Courts

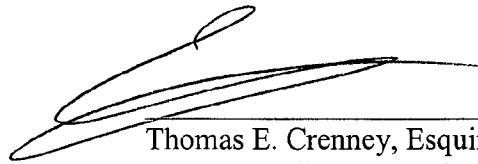
**NOTICE OF SERVICE OF PLAINTIFFS' RESPONSE TO THIRD REQUEST  
FOR PRODUCTION DIRECTED TO PLAINTIFFS FILED ON  
BEHALF OF DUBOIS REGIONAL MEDICAL CENTER**

I hereby certify that Plaintiffs' Response to Third Request for Production Directed to Plaintiffs Filed on Behalf of DuBois Regional Medical Center and a copy of this Notice of Service were served upon all counsel of record by United States First Class Mail, postage prepaid, this 11<sup>th</sup> day of January, 2007 as follows:

Darryl R. Slimak, Esquire  
McQuaide Blasko Fleming & Faulkner, Inc.  
811 University Drive  
State College, PA 16801  
(Counsel for Jerjis T. Alajaji, M.D.)

Walter Fredrick Wall, Esquire  
Meyer, Darragh, Buckler, Bebenek & Eck, P.L.L.C.  
120 Lakemont Park Boulevard  
Altoona, PA 16602  
(Counsel for DuBois Radiologists, Inc.)

David R. Johnson, Esquire  
Thomson Rhodes & Cowie  
Two Chatham Center, 10<sup>th</sup> Floor  
Pittsburgh, PA 15219  
(Counsel for DuBois Regional Medical Center)

  
Thomas E. Crenney, Esquire  
James T. Tallman, Esquire  
Attorneys for Plaintiffs

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL ACTION - MEDICAL PROFESSIONAL LIABILITY ACTION

PAULA CARLSON and JAMIE CARLSON,  
her husband,

Plaintiffs,

vs.

JERJIS T. ALAJAJI, M.D. and  
DUBOIS RADIOLOGISTS, INC., and  
DUBOIS REGIONAL MEDICAL CENTER,

Defendants.

Docket No: 2006 - 563 - C.D.

Jury Trial Demanded

Type of Pleading  
*Defendant Dr. Jerjis Alajaji's  
Answer and New Matter to  
Plaintiffs' Motion to Compel  
Discovery and for Sanctions*

Filed on Behalf of Defendant  
*Jerjis T. Alajaji, M.D.*

Counsel of Record for This Party  
*Darryl R. Slimak, Esquire*  
Pa. Supreme Court I.D. #41695

McQuaide, Blasko, Fleming &  
Faulkner, Inc.  
811 University Drive  
State College, PA 16801  
(814) 238-4926  
Fax: (814) 238-9624

Counsel for Adverse Party  
*Thomas E. Crenney, Esquire*

**FILED** *NO CC*  
*m 11:42 AM*  
**JAN 18 2007** *GW*

William A. Shaw  
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL ACTION - MEDICAL PROFESSIONAL LIABILITY ACTION

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Docket No: 2006 - 563 - C.D.

Jury Trial Demanded

**DEFENDANT DR. JERJIS T. ALAJAJI'S ANSWER AND NEW MATTER  
TO PLAINTIFF'S MOTION TO COMPEL DISCOVERY AND FOR SANCTIONS**

1. Admitted in part and denied in part. It is admitted that Plaintiffs have brought a medical malpractice action based upon Dr. Alajaji's interpretation of an x-ray, but it is denied that there was any error in his interpretation. It is further averred that at all times, Dr. Alajaji exercised reasonable and proper skill, care, and judgment with regard to his reading of the x-ray.

2. Admitted.

3. Admitted.

4. Denied as stated, as "fired" has pejorative connotations, albeit it is correct that Dr. Alajaji was terminated as an employee of DuBois Radiologists, Inc. as of April 6, 2006.

5. Admitted.

6. Denied. Counsel for all Defendants have informed Plaintiffs' counsel, on the record, that the basis for the loss of Dr. Alajaji's medical privileges does not bear on his care of Plaintiff Paula Carlson or any other medical quality issues.

7. Admitted. The deposition transcripts speak for themselves.

8. Admitted. The deposition transcripts speak for themselves.

9. Admitted. The deposition transcripts speak for themselves.

10. It is admitted that the letter dated April 6, 2006 indicated that Dr. Alajaji no longer has his medical privileges with the hospital. It is further averred that when Plaintiffs'

counsel asked Dr. Alajaji for the reasons his privileges were lost, Dr. Alajaji properly explained that he "stopped working there for absolutely no medical quality issues whatsoever and it's nothing to do with [Plaintiffs'] case." (See Alajaji depo transc. 123/8/06, p. 19, copy attached hereto as Exhibit "A").

11. Denied. The averments of paragraph 11 constitute legal conclusions and statements of Plaintiffs' legal position to which no specific response is required. In any event, the averments are denied as all Defendants have advised Plaintiffs' counsel that the reasons why Dr. Alajaji no longer has staff privileges at DuBois Regional Medical Center has no bearing whatsoever on patient care.

12. Denied. The averments contained in paragraph 12 constitute legal conclusions and requests for relief by Plaintiffs to which no specific response is required and which, in any event, are denied. Moreover, a request for sanctions and attorney's fees is premature and inappropriate.

#### **NEW MATTER**

13. Paragraphs 1 through 12 are incorporated herein by reference as though set forth at length.

14. Plaintiffs seek a copy of a letter dated April 6, 2006 from the hospital to Dr. Shah, and also seeks a written answer from Dr. Alajaji regarding the reasons for his being let go as an employee of DuBois Radiologists, Inc. and permission to re-question witnesses relative to same.

15. Defendants, however, have already indicated to Plaintiffs' counsel that the reasons for Dr. Alajaji's termination as an employee of the Radiology Group are not related to issues of patient care and/or medical quality issues. Rather, it was explained that when the hospital ended Dr. Alajaji's staff privileges, the Radiology Group had no choice but to end the employment relationship with Dr. Alajaji as the hospital is the Group's exclusive focus of practice.

16. Discovery is not permitted if it seeks to obtain facts not relevant to the subject matter of the instant action. Pa.R.C.P. 4011; Pa.R.C.P. 4003.

17. Discovery should be prohibited when it seeks information on matters that have been stated too broadly or without proper specification, and would amount to a "fishing expedition."

18. Further, no discovery should be permitted which would cause unreasonable annoyance, embarrassment, or oppression to any person or party.

19. All counsel for the Defendants have provided sufficient and appropriate indication to Plaintiffs' counsel that the basis for the termination of Dr. Alajaji's medical privileges does not relate to patient care or quality issues.

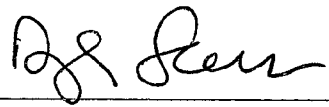
20. Further inquiry by Plaintiffs with regard to this subject matter amounts to a "fishing expedition" and would cause unreasonable annoyance and embarrassment to Dr. Alajaji, and interject disputed collateral issues into the case as the parties hereto do not even agree as to the reasons why Dr. Alajaji's privileges at the hospital were ended, except the agreement that same have nothing whatsoever to do with quality of patient care.

WHEREFORE, Defendant, Jerjis T. Alajaji, M.D., respectfully requests this Honorable Court deny Plaintiffs' Motion to Compel Discovery and For Sanctions.

Respectfully submitted,

McQUAIDE, BLASKO,  
FLEMING & FAULKNER, INC.

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

  
Darryl R. Slimak  
Attorneys for Defendant  
JERJIS T. ALAJAJI, M.D.  
811 University Drive  
State College, PA 16801  
(814) 238-4926  
Fax: (814) 238-9624

Dated: 6-17-2007

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL ACTION - MEDICAL PROFESSIONAL LIABILITY ACTION

PAULA CARLSON and JAMIE CARLSON,  
her husband,

Plaintiffs,

vs.

JERJIS T. ALAJAJI, M.D. and  
DUBOIS RADIOLOGISTS, INC., and  
DUBOIS REGIONAL MEDICAL CENTER,

Defendants.

Docket No: 2006 - 563 - C.D.

Jury Trial Demanded

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the Defendant Dr. Jerjis Alajaji's Answer  
and New Matter to Plaintiffs' Motion to Compel Discovery and for Sanctions in the above-  
captioned matter was mailed by regular mail, postage prepaid, at the Post Office, State College,  
Pennsylvania, on this 17<sup>th</sup> day of January, 2007, to the attorney(s) of record:

Thomas E. Crenney, Esquire  
Thomas E. Crenney & Associates, LLC  
One Gateway Center 18<sup>th</sup> Floor West  
Pittsburgh, PA 15222

David R. Johnson, Esquire  
Thompson, Rhodes & Cowie, P.C.  
1010 Two Chatham Center  
Pittsburgh, PA 15219

Walter F. Wall, Esquire  
Meyer, Darragh, Buckler, Bebenek & Eck, LLC  
120 Lakemont Park Boulevard  
Altoona, PA 16602

McQUAIDE, BLASKO,  
FLEMING & FAULKNER, INC.

By:   
Darryl R. Slimak

Attorneys for Defendant  
JERJIS T. ALAJAJI, M.D.  
811 University Drive  
State College, PA 16801  
(814) 238-4926  
Fax: (814) 238-9624





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

\* \* \* \* \*

PAULA CARLSON and \*  
JAMIE CARLSON, her \*  
Husband, \*

Plaintiffs \* No. 2006-563-CD

VS. \*

JERJIS T. ALAJAJI, \*  
M.D., DUBOIS \*  
RADIOLOGISTS, INC. \*  
And DUBOIS REGIONAL \*  
MEDICAL CENTER, \*  
Defendants \*

\* \* \* \* \*

COPY

DEPOSITION OF  
JERJIS T. ALAJAJI, M.D.  
December 8, 2006

Any reproduction of this transcript is  
prohibited without authorization  
by the certifying agency

1 BY ATTORNEY CRENNEY:

2 Q. Obviously, after April 12th ---  
3 strike that.

4 Why were they terminated?

5 A. I stopped working there ---.

6 ATTORNEY SLIMAK:

7 Same objection, but go  
8 ahead.

9 A. I stopped working there for  
10 absolutely no medical quality issues  
11 whatsoever and it's nothing to do with  
12 Paula's case.

13 BY ATTORNEY CRENNEY:

14 Q. Okay. What was the reason  
15 then? Whether you think it has to do  
16 with Paula's case or not, what was the  
17 reason you stopped working there?

18 ATTORNEY SLIMAK:

19 I think he already  
20 indicated that he doesn't have  
21 staff privileges. Didn't he  
22 say that?

23 ATTORNEY CRENNEY:

24 Yes.

25 BY ATTORNEY CRENNEY:

CA

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

PAULA CARLSON and JAMIE  
CARLSON, her husband,

Plaintiffs,

vs.

JERJIS T. ALAJAJI, M.D.; DUBOIS  
RADIOLOGISTS, INC.; and DUBOIS  
REGIONAL MEDICAL CENTER,

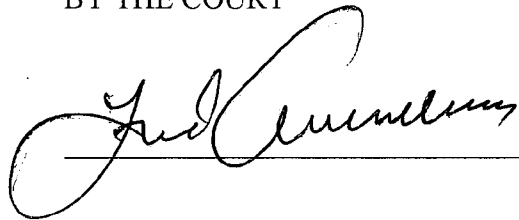
Defendants.

) CIVIL DIVISION  
)  
) No. 2006-563-CD  
)  
)  
)  
)  
)  
)  
)  
)  
)

ORDER OF COURT

AND NOW on this 26 day of Jan, 2007, it is hereby  
ORDERED, ADJUGED and DECREED that oral argument on the motion to compel filed by  
defendant DuBois Regional Medical Center is scheduled for the 5th day of  
February, 2007, at 11:00 a.m. before Judge Ammerman  
in Courtroom No. 1 of the Clearfield County Courthouse.

BY THE COURT

 P.J.

**FILED**  
01/29/07 4CC  
JAN 29 2007 Amy Johnson  
William A. Shaw  
Prothonotary/Clerk of Courts

DATE: 1/29/07

☒ You are responsible for serving all appropriate parties.

\_\_\_\_ The Probationary's office has provided service to the following parties:

\_\_\_\_ Plaintiff(s)      \_\_\_\_ Plaintiff(s) Attorney      \_\_\_\_ Other

\_\_\_\_ Defendant(s)      \_\_\_\_ Defendant(s) Attorney

\_\_\_\_ Special Instructions:

**FILED**

**JAN 29 2007**

William A. Shaw  
Probationary/Clerk of Courts

CM

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

PAULA CARLSON and JAMIE  
CARLSON, her husband,

Plaintiffs,

vs.

JERJIS T. ALAJAJI, M.D.; DUBOIS  
RADIOLOGISTS, INC.; and DUBOIS  
REGIONAL MEDICAL CENTER,

Defendants.

CIVIL DIVISION

No. 2006-563-CD

Issue No.

**MOTION TO COMPEL DISCOVERY**

Code: 007

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

Counsel of Record for This Party:

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

Brad R. Korinski, Esquire  
PA I.D. #86831

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

(412) 232-3400

**FILED** *MP CC*  
*m110:48701*  
JAN 25 2007 *(GR)*

William A. Shaw  
Prothonotary/Clerk of Courts

## MOTION TO COMPEL DISCOVERY

NOW COMES, DuBois Regional Medical Center, one of the defendants, by their attorneys, Thomson, Rhodes & Cowie, P.C., and files the following motion to compel discovery stating as follows:

1. This is a professional malpractice action in which wife-plaintiff alleges negligence on the part of the healthcare provider defendants for their purported failure to timely diagnosis a Giant Cell Tumor condition in her right hand from approximately March to June of 2005. The crux of wife-plaintiff's damage claim is that, had her condition been earlier diagnosed, she would not now experience and exhibit pain and limitation in her right hand/wrist. To this end, wife-plaintiff has asserted a permanent injury caused by the defendants, with the claimed consequential inability to participate in her former occupation and usual daily activities.

2. Through discovery, plaintiff has produced copious entries from a diary that wife-plaintiff maintained for at least 1½ years up through July of 2006. However, from those diary entries, plaintiffs have unilaterally redacted several passages beginning in March of 2006.

3. It is believed that the redacted passages contain information relevant to wife-plaintiff's damage claims, inasmuch as the diary pages that have been produced recount her recreational activities, household chores and subjective feelings on a daily basis. Therefore, this diary is a proper subject of discovery.

4. Via a third request for production of documents directed to plaintiffs on December 12, 2006, this defendant requested full and complete copies of wife-plaintiff's diary. That request for production together with the redacted diary entries is attached hereto as Exhibit A.

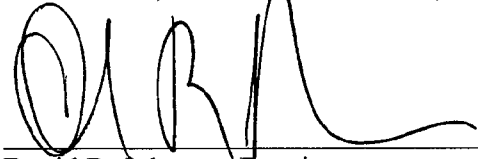
5. To date, plaintiffs have not produced the diary entries in their entirety. They objected to the requests and claimed attorney client privilege. Plaintiffs' response is attached hereto as Exhibit "B". However, no privilege log or similar document has been forthcoming to substantiate this position. Moreover, given the nature of what was produced -- a diary -- as well as what appears to be a narrative of events, it seems curious that these random deleted passages constitute confidential communications to plaintiffs' counsel for the purpose of seeking legal advice. If the entries are anything else, they are not privileged.

6. For this reason, this defendant has filed the instant motion, requesting that this Honorable Court direct and order plaintiffs to submit the requested diary passages for an *in camera* review to determine whether or not their sequestration from discovery has been appropriate under the Rules of Civil Procedure.

WHEREFORE, this defendant, DuBois Regional Medical Center, respectfully requests that this Honorable Court issue the attached Order to direct plaintiffs to produce full and complete diary entries for the *in camera* review of the Court and the later determination of the Court as to whether such diary entries should be produced in response to pending discovery requests.

Respectfully Submitted,

THOMSON, RHODES & COWIE, P.C.

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

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



IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

PAULA CARLSON and JAMIE  
CARLSON, her husband,

Plaintiffs,

vs.

JERJIS T. ALAJAJI, M.D.; DUBOIS  
RADIOLOGISTS, INC.; and DUBOIS  
REGIONAL MEDICAL CENTER,

Defendants.

CIVIL DIVISION

No. 2006-563-CD

Issue No.

THIRD REQUEST FOR PRODUCTION  
DIRECTED TO PLAINTIFFS

Code: 007

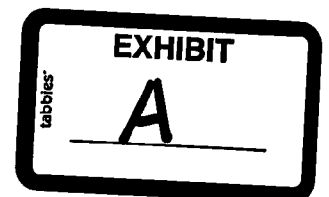
Filed on behalf of DuBois Regional Medical  
Center, one of the defendants.

Counsel of Record for This Party:

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

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

(412) 232-3400



THIRD REQUEST FOR PRODUCTION DIRECTED TO PLAINTIFFS

NOW COMES DuBois Regional Medical Center, one of the defendants, by its attorneys, Thomson, Rhodes & Cowie, P.C., and directs the following Request for Production to plaintiffs in accordance with the Pennsylvania Rules of Civil Procedure.

In accordance with the Pennsylvania Rules of Civil Procedure, you are required to respond to this Request for Production by one of the three alternative methods stated below:

- (a) By mailing each of the requested items to Thomson, Rhodes & Cowie, P.C., Suite 1010, Two Chatham Center, Pittsburgh, PA 15219 before January 17, 2007;
- (b) By delivering each of the requested items to Thomson, Rhodes & Cowie, P.C., for inspection, photographing and/or copying, before January 17, 2007;
- (c) By making arrangements for production of each of the items specified with attorneys for the defendant, before January 17, 2007.

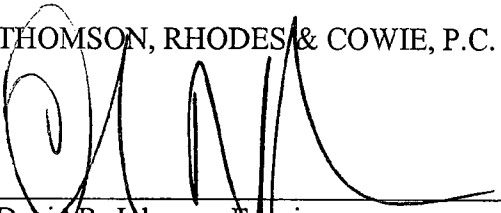
In accordance with the Pennsylvania Rules of Civil Procedure and the preceding, you are requested to produce the following items:

1. Please produce full and complete copies of plaintiff's diary to the extent that copies have not previously been produced. Attached hereto are Pages 110001000,

110000998, 110000994, 110000981, 110000980, 110000965, 110000962, 110000957  
and 110000954. You are requested to provide full copies of each of these pages.

Respectfully submitted,

THOMSON, RHODES & COWIE, P.C.



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

JULY

FRIDAY

197170 WEEK 28

June 2006

S M T W T F S  
1 2 3 4 5 6 7 8  
9 10 11 12 13 14 15 16 17  
18 19 20 21 22 23 24  
25 26 27 28 29 30 31

July 2006

S M T W T F S  
1 2 3 4 5 6 7 8  
9 10 11 12 13 14 15 16 17  
18 19 20 21 22 23 24  
25 26 27 28 29 30 31

Morning  
8:00 we got up + had contractions  
around

9:00 we got to  
the hospital around 9:30 + they  
10:00 took Dad back right away, he said  
Krisna + Housner the CT showed some  
11:00 spots but there not sure if the Ca  
marker is something else. They were  
12:00 going to review + maybe do biopsy +  
get him to see Dr. Kett about more  
1:00 Dr. Housner's changing his peds.

them - I got home around 6:00 we went up  
the drive in

August 2006

S M T W T F S  
1 2 3 4 5 6 7 8  
9 10 11 12 13 14 15 16 17  
18 19 20 21 22 23 24  
25 26 27 28 29 30 31

September 2006

S M T W T F S  
1 2 3 4 5 6 7 8  
9 10 11 12 13 14 15 16 17  
18 19 20 21 22 23 24  
25 26 27 28 29 30

October 2006

S M T W T F S  
1 2 3 4 5 6 7 8  
9 10 11 12 13 14 15 16 17  
18 19 20 21 22 23 24  
25 26 27 28 29 30 31

11:00 we went to see Dr. Kett + the  
+ cars. I started to storm at the end

Morning  
8:00  
9:00 Mom came out of our boy  
10:00 took 1 in the yard + worked  
on laundry + cleaned some  
11:00 at the cramp + went swimming  
with Mom. We went into  
12:00 Brian was moping for James to  
help him bring in a mattress +  
1:00 took spring, we came home +  
Dad went to Legos + we went to  
pillman. Dad got a new  
bike. Lexi stayed over night.  
Dad didn't feel so great. Dad  
they might get an  
our cold tomorrow

Morning  
8:00 We greeted at church. Lexi  
9:00 Stuffed last night. We  
took her to church after  
church we came home  
the kids sat in chair for  
10:00 forgetting. We took Ryan  
to Tony's. + we went to the  
11:00 Jeff's for to see the Princess  
contest. Tessa was in. She got  
12:00 1st runner up. 6:00 Madison won  
Princess. Ryan came home +  
1:00 was beat

197168 WEEK 29

Evening

JULY

10 MONDAY  
19/7/74 WEEK 28

June 2006

S M T W T F S  
4 5 6 7 8 9 10  
11 12 13 14 15 16 17  
18 19 20 21 22 23 24  
25 26 27 28 29 30  
31

July 2006

S M T W T F S  
1 2 3 4 5 6 7 8  
9 10 11 12 13 14 15  
16 17 18 19 20 21 22  
23 24 25 26 27 28 29  
30 31

August 2006

S M T W T F S  
1 2 3 4 5 6 7 8  
9 10 11 12 13 14 15  
16 17 18 19 20 21 22  
23 24 25 26 27 28 29  
30 31

September 2006

S M T W T F S  
1 2 3 4 5 6 7 8  
9 10 11 12 13 14 15  
16 17 18 19 20 21 22  
23 24 25 26 27 28 29  
30

October 2006

S M T W T F S  
1 2 3 4 5 6 7 8  
9 10 11 12 13 14 15  
16 17 18 19 20 21 22  
23 24 25 26 27 28  
29 30 31

2006

11 TUESDAY  
19/7/73 WEEK 28

Morning  
8:00 Today's report Dad had to take them to get a job at. They were over around 9:30 + we had lunch + they left around 12:30. Brother went home with them.  
11:00 Lili came up around 10:30 + was here until around 5:00 + Gaby told them to go down to her house because her was going to the movies + they wanted to go to the arcade to see the Kirates of the Caribbean + Pachito Libre so we went + it was closed. I cut the grass + today I talked to Janet + today long was waiting for his game + he was waiting for his last Thursday + they said it could take 2 weeks. I called about when to go back to school the only one who said the money was already back dated. He said I will may be allowed to wait for 2 weeks. I called + left a message for the lady to call me back.

mommy + gaby were in the car  
we came back

JUN.-JUL.

30 FRIDAY  
18/184 WEEK 25

June 2006  
S M T W T F S  
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31

August 2006  
S M T W T F S  
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31

September 2006  
S M T W T F S  
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30

October 2006  
S M T W T F S  
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31

2006

SATURDAY  
182/193 WEEK 26

Canada Day

Morning  
8:00 We went to Cooks Forest today.

9:00 We went to rodeo horses for

10:00 We played mini-golf

11:00 What if we had time to go

12:00 I had but Brooke was very

1:00 early. We went to friends

2:00 home. We went to

3:00 church tonight

4:00

5:00

6:00

Evening

1:00

Evening

2:00

3:00

4:00

5:00

6:00

7:00

8:00

9:00

10:00

11:00

12:00

1:00

Evening

2:00

3:00

4:00

5:00

6:00

7:00

8:00

9:00

10:00

11:00

12:00

1:00

Evening

2:00

MAY-JUN.

31 WEDNESDAY  
15/214 WEEK 22

April 2006

S M T W T F S  
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30

May 2006

S M T W T F S  
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31

Today we got up + picked up the  
8:00 phone. Went to town. Had a receipt  
9:00 apt inspection, called Julie. Water  
shelton happened, we went to  
the mall, visited store, Brooke met  
her hair. Out to S.M.S. + Walmart  
10:00 Brooke went to Sherie's + Ryan + Q  
11:00 Came home + I put pork +  
Shawarma in + chit glass.

June 2006

S M T W T F S  
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31

July 2006

S M T W T F S  
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31

August 2006

S M T W T F S  
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31

2006

THURSDAY 1  
15/213 WEEK 22

Today I did some laundry.  
8:00 hung on my new hood, still  
drops - broke it off  
9:00 the girl came. Ryan went to  
hosp. Amber came over.  
10:00 Ryan had soccer at 5:00  
but when we got to halfway  
11:00 it started pouring. Brooke's  
game was at 8:00 + it looked  
like it was going to clear  
up so we went to Isabelle's  
1:00 Brooke played F.C. + with  
I called when almost about  
2:00 getting my sick time + they  
said I called so I called  
3:00 Mr. Green + talked to his secretary  
+ she called back + said to set up a  
4:00 meeting + I said I didn't want a meeting  
I just wanted to talk to her. She  
5:00 was going to schedule me like in July  
I told her what I wanted + she told me to  
6:00 call HR so I called + she told me to  
I did + asked her if I could get my  
picks time + she said she  
didn't see why not + she  
booked with the girl + got  
back to me by the end of  
the day + she + I didn't

MAY

29 MONDAY  
145216 WEEK 22  
Memorial Day, Observed

April 2006  
S M T W T F S  
1 2 3 4 5 6  
7 8 9 10 11 12 13  
14 15 16 17 18 19 20  
21 22 23 24 25 26 27  
28 29 30 31

May 2006  
S M T W T F S  
1 2 3 4 5 6  
7 8 9 10 11 12 13  
14 15 16 17 18 19 20  
21 22 23 24 25 26 27  
28 29 30 31

2006  
TUESDAY 30  
150715 WEEK 22

Morning  
8:00 Grand Shari came up to camp at noon we ate then  
9:00 Deen + I went on the boat with the kids + the Heplers. we saw the Martins at  
10:00 them dock. Bob + Sharon + her kids came around 3:00.  
11:00 The kids went out on the boat. They left around 8:30 then boys have school tomorrow. Shari left.  
12:00 we went to bed around 1:00-1:30  
1:00 Bellios came around 1:00-1:30 they left around 8:30 then boys have school tomorrow. Shari left.  
2:00 we went to bed around 1:30. It was pretty hot.  
3:00 I went to sleep in the living room with the children.  
4:00 I had a high fever + I was sick with me.  
5:00 Dad + mom were going to come up but Dad got sick + he's really weak.  
Evening  
Dad + mom were going to come up but Dad got sick + he's really weak.  
Dad + mom were going to come up but Dad got sick + he's really weak.  
Dad + mom were going to come up but Dad got sick + he's really weak.

Morning  
8:00 Today we got up + had breakfast + called up to come home from camp. We left around 11:00.  
9:00 We got home + unpacked + James put me up a  
10:00 clothes line. Then he took a nap. Brooke played B.Dat  
11:00 Ca. 57. They one. I we went + got dice (8100) then we went to get James beer cut + they were closed.  
12:00 we stopped at Melville Ryan got a double beer burger + Brooke got a peanut. I came home + set James hair.  
1:00  
2:00  
3:00  
4:00  
5:00 Dad didn't feel so good he was having pressure + mom thought he's dehydrated from not taking on drinking enough.  
Evening  
It was close to 90° today



APRIL

24 MONDAY  
114251 WEEK 17

Rear passage  
changed at poop  
Today I painted the science fair board

March 2006  
S M T W T F S  
1 2 3 4  
5 6 7 8 9 10 11  
12 13 14 15 16 17 18  
19 20 21 22 23 24 25  
26 27 28 29 30 31

April 2006  
S M T W T F S  
1 2 3 4  
5 6 7 8 9 10 11  
12 13 14 15 16 17 18  
19 20 21 22 23 24 25  
26 27 28 29 30

May 2006  
S M T W T F S  
1 2 3 4 5 6  
7 8 9 10 11 12 13  
14 15 16 17 18 19 20  
21 22 23 24 25 26 27  
28 29 30 31

June 2006  
S M T W T F S  
1 2 3  
4 5 6 7 8 9 10  
11 12 13 14 15 16 17  
18 19 20 21 22 23 24  
25 26 27 28 29 30

July 2006  
S M T W T F S  
1 2 3 4 5 6 7 8  
9 10 11 12 13 14 15  
16 17 18 19 20 21 22  
23 24 25 26 27 28 29  
30 31

2006  
TUESDAY 25  
115250 WEEK 17

Morning

8:00

9:00

10:00

11:00

12:00

1:00

2:00

3:00

4:00

5:00

6:00

Evening

Brother had softball.  
Daphne & I went to  
goodwill

Morning

8:00

9:00

10:00

11:00

12:00

1:00

2:00

3:00

4:00

5:00

6:00

Evening

I tried to shoot  
my up to set up for  
the science fair  
looks good. It rained  
practice got cancelled.

March 2006  
S M T W T F S  
5 6 7 8 9 10 11  
12 13 14 15 16 17 18  
19 20 21 22 23 24 25  
26 27 28 29 30 31

Morning  
8:00 The kids were home today.

9:30 Our electrician went out and

9:00 down for a momentary short

down it was supposed to be

off until 1:30 we went to

the bank & got Haven

then drove to home we

11:00 the minnows down the kids

checked & caught a few. we

12:00 re-stringed our soda pop

got a outside shooting

1:00 bench & we put it

together. we got home

2:00 around 4:00 then Brooke

had supper at 5:00 till

6:30. the girls looked

good. Brooke checked some

balls to the outfield.

4:00 pyram is starting soccer

5:00 on Thursday. I had a

call from Mary about wanting

6:00 to see if I could open the

camp, till call him tomorrow

10:00 just called. Dr. H. H.

11:00 No show job- last week

Evening I guess there was an

argument she was escorted

out of the hospital

May 2006  
S M T W T F S  
1 2 3 4 5 6  
7 8 9 10 11 12 13  
14 15 16 17 18 19 20  
21 22 23 24 25 26 27  
28 29 30 31

June 2006  
S M T W T F S  
1 2 3 4 5 6  
7 8 9 10 11 12 13  
14 15 16 17 18 19 20  
21 22 23 24 25 26 27  
28 29 30 31

July 2006  
S M T W T F S  
1 2 3 4 5 6  
7 8 9 10 11 12 13  
14 15 16 17 18 19 20  
21 22 23 24 25 26 27  
28 29 30 31

18 TUESDAY 10/25/06 WEEK 16

Morning  
8:00

9:00

10:00

11:00

12:00

1:00 claim to get bus stuff

then I had called Mary

2:00 he tested me on those camps.

I could only open the R 112

3:00 I left 34 & he is looking for

something else. He said

4:00 she would write up his

report & they would

5:00 get it tomorrow. He said on

papers. I should be able

6:00 to do my job. I will just

see what my boss can do. We

had our last bus,

meeting tonight

APRIL

5 WEDNESDAY  
095720 WEEK 14

March 2006  
S M T W T F S  
1 2 3 4  
5 6 7 8 9 10 11  
12 13 14 15 16 17 18  
19 20 21 22 23 24 25  
26 27 28 29 30 31

April 2006  
S M T W T F S  
1 2 3 4  
5 6 7 8 9 10 11  
12 13 14 15 16 17 18  
19 20 21 22 23 24 25  
26 27 28 29 30

May 2006  
S M T W T F S  
1 2 3 4 5 6  
7 8 9 10 11 12 13  
14 15 16 17 18 19 20  
21 22 23 24 25 26 27  
28 29 30 31

June 2006  
S M T W T F S  
1 2 3  
4 5 6 7 8 9 10  
11 12 13 14 15 16 17  
18 19 20 21 22 23 24  
25 26 27 28 29 30

July 2006  
S M T W T F S  
1 2 3  
4 5 6 7 8 9 10  
11 12 13 14 15 16 17  
18 19 20 21 22 23 24  
25 26 27 28 29 30 31

2006  
THURSDAY 6  
095269 WEEK 14

I went to Martins & S-M-S

Morning

8:00

9:00

10:00

11:00

12:00

1:00

2:00

3:00

4:00

5:00

6:00

Evening

Today

12:00 I went up to DZMC to get my 2004 statement I mailed but at the post office. I cleaned the kitchen then the kids came home & helped me clean. Anne went to the Ball fields for a work party. Then with Brooke went to Walmart

5:00 I made Ryan get himself ready for day he did great

The Suburban left to go to Canada today for JKS

MARCH

29 WEDNESDAY  
088277 WEEK 13

February 2006

S M T W T F S  
1 2 3 4  
5 6 7 8 9 10 11  
12 13 14 15 16 17 18  
19 20 21 22 23 24 25  
26 27 28

March 2006

S M T W T F S  
1 2 3 4  
5 6 7 8 9 10 11  
12 13 14 15 16 17 18  
19 20 21 22 23 24 25  
26 27 28 29 30 31

Ryan finally went to school  
today. I went to Walmart.  
I had a good will

Morning

8:00

9:00

10:00

11:00

Tammi went to get his  
hand checked. He went  
home to hang it. He went  
The kids got their report  
cards Ryan got a D in  
reading. C in math &  
B in spelling. I called his  
father. He said he's doing  
fine but she is going to  
send a letter reading home  
for him

Must have left today  
hopefully did not go home  
yet. I feel better.

Evening

6:00

April 2006

S M T W T F S  
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31

May 2006

S M T W T F S  
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31

June 2006

S M T W T F S  
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30

2006  
THURSDAY 30  
089276 WEEK 13

Morning

8:00

9:00

10:00

11:00

Tammi went to  
said a George is supposed to  
go into the department store  
maybe I'll find something  
but soon

It was beautiful today.  
I cleared out my car  
top to bottom

12:00

1:00

2:00

3:00

4:00

5:00

6:00

Evening

6:00

**CERTIFICATION OF SERVICE**

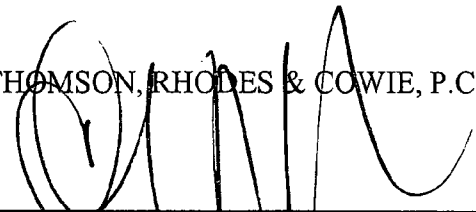
I hereby certify that a true and correct copy of the within THIRD REQUEST FOR PRODUCTION DIRECTED TO PLAINTIFFS has been served upon the following counsel of record and same placed in the U.S. Mails on this 12<sup>th</sup> day of Dec., 2006:

Thomas E. Crenney, Esquire  
Thomas E. Crenney & Associates, LLC  
One Gateway Center  
18<sup>th</sup> Floor West  
Pittsburgh, PA 15222

Darryl R. Slimak, Esquire  
McQuaide, Blasko, Fleming  
& Faulkner, Inc.  
811 University Drive  
State College, PA 16801

Walter Frederick Wall, Esquire  
Meyer, Darragh, Buckler, Bebenek & Eck  
120 Lakemont Park Boulevard  
Altoona, PA 16602

THOMSON, RHODES & COWIE, P.C.

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

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

PAULA CARLSON and  
JAMIE CARLSON, her husband,

Plaintiffs,

vs.

JERJIS T. ALAJAJI, M.D., DUBOIS  
RADIOLOGISTS, INC. and DUBOIS  
REGIONAL MEDICAL CENTER,

Defendants.

No. 2006-563-CD

Civil Action – Medical Professional  
Liability Action

Judge Ammerman

**PLAINTIFFS' RESPONSE TO THIRD  
REQUEST FOR PRODUCTION  
DIRECTED TO PLAINTIFFS FILED ON  
BEHALF OF DUBOIS REGIONAL  
MEDICAL CENTER**

Filed on behalf of the Plaintiffs

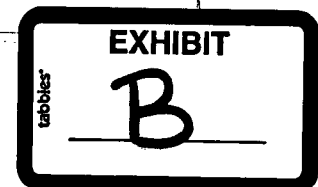
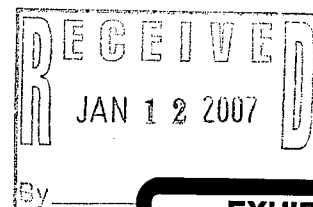
Counsel of Records for this Party:

Thomas E. Crenney, Esquire  
PA I.D. No. 40986

James T. Tallman, Esquire  
PA I.D. No. 79257

THOMAS E. CRENNY & ASSOCIATES, LLC  
One Gateway Center  
18<sup>th</sup> Floor West  
Pittsburgh, PA 15222  
Telephone: (412) 644-5545  
Facsimile: (412) 644-5581

**JURY TRIAL DEMANDED**



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

PAULA CARLSON and  
JAMIE CARLSON, her husband,

Plaintiffs,

No. 2006-563-CD

Civil Action – Medical Professional  
Liability Action

vs.

JERJIS T. ALAJAJI, M.D., DUBOIS  
RADIOLOGISTS, INC. and DUBOIS  
REGIONAL MEDICAL CENTER,

Defendants.

**PLAINTIFFS' RESPONSE TO THIRD REQUEST  
FOR PRODUCTION DIRECTED TO PLAINTIFFS  
FILED ON BEHALF OF DUBOIS REGIONAL MEDICAL CENTER**

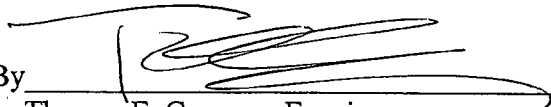
The Plaintiffs, Paula Carlson and Jamie Carlson, by and through their attorneys, Thomas E. Crenney & Associates, hereby respond to the Defendants, DuBois Regional Medical Center's Third Request for Production as follows:

**REQUEST NO. 1:** Please produce full and complete copies of Plaintiff's diary to the extent that copies have not previously been produced. Attached hereto are pages 110001000, 110000998, 110000994, 110000981, 110000980, 110000965, 110000962, 110000957 and 110000954. You are requested to provide full copies of each of these pages.

**RESPONSE TO REQUEST NO. 1:** Objection. Plaintiffs previously provided full copies of the entirety of Paula Carlson's diary with attorney/client entries redacted. Attorney/client communications are not discoverable under the Pennsylvania Rules of Civil Procedure.

Respectfully submitted,

THOMAS E. CRENNNEY & ASSOCIATES, LLC

By 

Thomas E. Crenney, Esquire  
James T. Tallman, Esquire  
Attorneys for Plaintiff

One Gateway Center  
18<sup>th</sup> Floor - West  
Pittsburgh, PA 15222  
(412) 644-5545

DATE: 1/11/07



**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and correct copy of the foregoing PLAINTIFFS' RESPONSE TO THIRD REQUEST FOR PRODUCTION DIRECTED TO PLAINTIFFS FILED ON BEHALF OF DUBOIS REGIONAL MEDICAL CENTER was served by First Class Mail, postage prepaid on the 11<sup>th</sup> day of JANUARY, 2007, as follows:

Darryl R. Slimak, Esquire  
MCQUAIDE BLASKO FLEMING & FAULKNER,  
INC.  
811 University Drive  
State College, PA 16801  
(Counsel for Jerjis T. Alajaji, M.D.)

David R. Johnson, Esquire  
THOMSON RHODES & COWIE  
Two Chatham Center, 10<sup>th</sup> Floor  
Pittsburgh, PA 15219  
(Counsel for DuBois Regional Medical Center)

Walter Fredrick Wall, Esquire  
MEYER, DARRAGH, BUCKLER, BEBENEK &  
ECK, P.L.L.C.  
120 Lakemont Park Boulevard  
Altoona, PA 16602  
(Counsel for DuBois Radiologists, Inc.)



Thomas E. Crenney, Esquire  
James T. Tallman, Esquire  
Attorneys for Plaintiffs

CERTIFICATION OF SERVICE

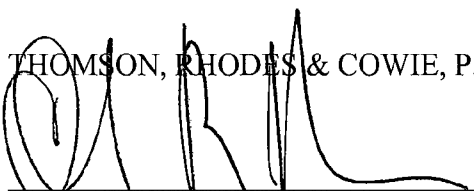
I hereby certify that a true and correct copy of the within document has been served upon the following counsel of record and same placed in the U.S. Mails on this \_\_\_\_\_ day of \_\_\_\_\_, 2007:

Thomas E. Crenney, Esquire  
Thomas E. Crenney & Associates, LLC  
One Gateway Center  
18<sup>th</sup> Floor West  
Pittsburgh, PA 15222

Darryl R. Slimak, Esquire  
McQuaide, Blasko, Fleming  
& Faulkner, Inc.  
811 University Drive  
State College, PA 16801

Walter Frederick Wall, Esquire  
Meyer, Darragh, Buckler, Bebenek & Eck  
120 Lakemont Park Boulevard  
Altoona, PA 16602

THOMSON, RHODES & COWIE, P.C.



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

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

|                                 |   |                 |
|---------------------------------|---|-----------------|
| PAULA CARLSON and JAMIE         | ) | CIVIL DIVISION  |
| CARLSON, her husband,           | ) |                 |
|                                 | ) | No. 2006-563-CD |
| Plaintiffs,                     | ) |                 |
|                                 | ) |                 |
| vs.                             | ) |                 |
|                                 | ) |                 |
| JERJIS T. ALAJAJI, M.D.; DUBOIS | ) |                 |
| RADIOLOGISTS, INC.; and DUBOIS  | ) |                 |
| REGIONAL MEDICAL CENTER,        | ) |                 |
|                                 | ) |                 |
| Defendants.                     | ) |                 |

ORDER OF COURT

AND NOW, on this \_\_\_\_\_ day of 2007, pursuant to the Motion to Compel filed on behalf of DuBois Regional Medical Center, one of the defendants, it s hereby ORDERED, ADJUDGED and DECREED that plaintiffs shall submit all entries and passages redacted from wife-plaintiff's diary to this Court in their entirety for an *in camera* review and determination by this Court as to whether such entries and passages have been properly withheld from discovery by plaintiffs.

BY THE COURT

\_\_\_\_\_ P.J.

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

PAULA CARLSON and JAMIE  
CARLSON, her husband

vs.

No. 06-563-CD

JERJIS T. ALAJAJI, M.D., DUBOIS  
RADIOLOGISTS, INC., and DUBOIS  
REGIONAL MEDICAL CENTER

**ORDER**

AND NOW, this 25<sup>TH</sup> day of January, 2007, it is the ORDER of the  
Court that Plaintiffs Motion to Compel and for Sanctions in the above-captioned  
matter shall and is hereby rescheduled from February 2, 2007 to **Monday, February**  
**5, 2007 at 11:00 A.M.** in Courtroom No. 1, Clearfield County Courthouse, Clearfield,  
PA.

**FILED**

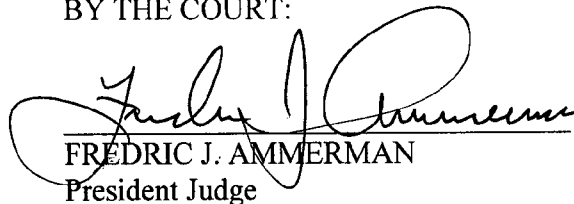
01/26/07  
JAN 26 2007

William A. Shaw  
Prothonotary/Clerk of Courts

icc/Attys-  
J. Cremer  
D. Shuman  
W. Wall  
D. Johnson

(6)

BY THE COURT:

  
FREDRIC J. AMMERMAN  
President Judge

FILED

JAN 26 2007

William A. Shaw  
Prothonotary/Clerk of Courts

DATE: 1/16/07  
You are responsible for serving all appropriate parties.  
X The Prothonotary's office has provided service to the following parties:  
Plaintiff(s) X Plaintiff(s) Attorney        Other         
Defendant(s) X Defendant(s) Attorney         
Special Instructions:

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

PAULA CARLSON and JAMIE  
CARLSON, her husband,

Plaintiffs,

vs.

JERJIS T. ALAJAJI, M.D.; DUBOIS  
RADIOLOGISTS, INC.; and DUBOIS  
REGIONAL MEDICAL CENTER,

Defendants.

CIVIL DIVISION

No. 2006-563-CD

Issue No.

CERTIFICATE OF SERVICE OF ORDER  
DATED JANUARY 26, 2007

Code: 007

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

Counsel of Record for This Party:

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

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

(412) 232-3400

FILED NO  
01/29/07  
FEB 02 2007 (S) CC

William A. Shaw  
Prothonotary/Clerk of Courts

LA

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

PAULA CARLSON and JAMIE  
CARLSON, her husband,

Plaintiffs,

vs.

JERJIS T. ALAJAJI, M.D.; DUBOIS  
RADIOLOGISTS, INC.; and DUBOIS  
REGIONAL MEDICAL CENTER,

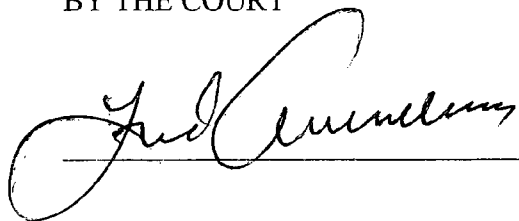
Defendants.

) CIVIL DIVISION  
)  
) No. 2006-563-CD  
)  
)  
)  
)  
)  
)  
)  
)  
)

ORDER OF COURT

AND NOW on this 26 day of Jan, 2007, it is hereby  
ORDERED, ADJUGED and DECREED that oral argument on the motion to compel filed by  
defendant DuBois 'Regional Medical Center is scheduled for the 5th day of  
February, 2007, at 11:00 a.m./p.m. before Judge Ammerman  
in Courtroom No. 1 of the Clearfield County Courthouse.

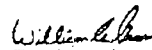
BY THE COURT

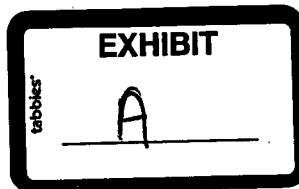
  
P.J.

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

JAN 29 2007

Attest.

  
Prothonotary/  
Clerk of Courts



CERTIFICATE OF SERVICE OF ORDER DATED AUGUST 14, 2006

Defendant has served the order of court dated January 26, 2007, attached hereto  
as Exhibit A, to the following counsel of record:

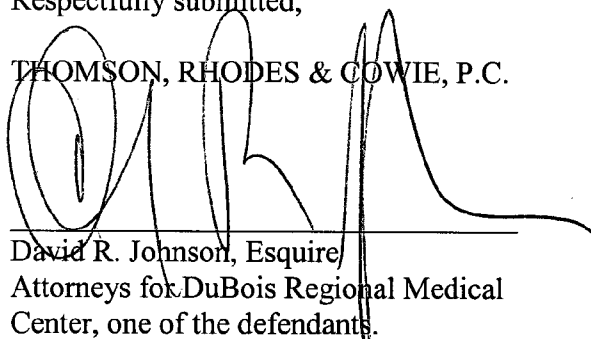
Thomas E. Crenney, Esquire  
Thomas E. Crenney & Associates, LLC  
One Gateway Center  
18<sup>th</sup> Floor West  
Pittsburgh, PA 15222

Darryl R. Slimak, Esquire  
McQuaide, Blasko, Fleming  
& Faulkner, Inc.  
811 University Drive  
State College, PA 16801

Walter Frederick Wall, Esquire  
Meyer, Darragh, Buckler, Bebenek & Eck  
120 Lakemont Park Boulevard  
Altoona, PA 16602

Respectfully submitted,

THOMSON, RHODES & COWIE, P.C.



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



FILED

FEB 02 2007

William A. Shaw  
Prothonotary/Clerk of Courts

RECEIVED  
FEB 02 2007  
CLERK OF COURTS

RECEIVED  
FEB 02 2007  
CLERK OF COURTS

1000

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

PAULA CARLSON and  
JAMIE CARLSON, her husband,

Plaintiffs,

vs.

JERJIS T. ALAJAJI, M.D., DUBOIS  
RADIOLOGISTS, INC. and DUBOIS  
REGIONAL MEDICAL CENTER,

Defendants.

No. 2006-563-CD

Civil Action – Medical Professional  
Liability Action

Judge Ammerman

**NOTICE OF SERVICE OF PLAINTIFFS'  
RESPONSE TO FOURTH REQUEST FOR  
PRODUCTION DIRECTED TO  
PLAINTIFFS FILED ON BEHALF OF  
DUBOIS REGIONAL MEDICAL CENTER**

Filed on behalf of the Plaintiffs

Counsel of Records for this Party:

Thomas E. Crenney, Esquire  
PA I.D. No. 40986

James T. Tallman, Esquire  
PA I.D. No. 79257

THOMAS E. CRENNY & ASSOCIATES, LLC  
One Gateway Center  
18<sup>th</sup> Floor West  
Pittsburgh, PA 15222  
Telephone: (412) 644-5545  
Facsimile: (412) 644-5581

**JURY TRIAL DEMANDED**

**FILED** *no cc*  
*m) 1:54 PM*  
**FEB 05 2007** *(W)*

William A. Shaw  
Prothonotary/Clerk of Courts

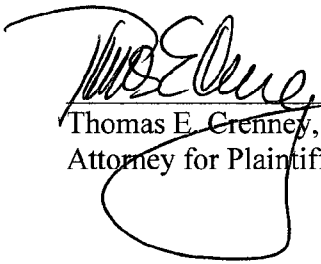
**NOTICE OF SERVICE OF PLAINTIFFS' RESPONSE TO FOURTH  
REQUEST FOR PRODUCTION DIRECTED TO PLAINTIFFS FILED  
ON BEHALF OF DUBOIS REGIONAL MEDICAL CENTER**

I hereby certify that Plaintiffs' Response to Fourth Request for Production Directed to Plaintiffs Filed on Behalf of DuBois Regional Medical Center and a copy of this Notice of Service were served upon all counsel of record by United States First Class Mail, postage prepaid, this 1<sup>st</sup> day of ~~January~~<sup>February</sup>, 2007 as follows:

Darryl R. Slimak, Esquire  
McQuaide Blasko Fleming & Faulkner, Inc.  
811 University Drive  
State College, PA 16801  
(Counsel for Jerjis T. Alajaji, M.D.)

Walter Fredrick Wall, Esquire  
Meyer, Darragh, Buckler, Bebenek & Eck, P.L.L.C.  
120 Lakemont Park Boulevard  
Altoona, PA 16602  
(Counsel for DuBois Radiologists, Inc.)

David R. Johnson, Esquire  
Thomson Rhodes & Cowie  
Two Chatham Center, 10<sup>th</sup> Floor  
Pittsburgh, PA 15219  
(Counsel for DuBois Regional Medical Center)

  
Thomas E. Crenney, Esquire  
Attorney for Plaintiffs

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

PAULA CARLSON and  
JAMIE CARLSON, her husband,

Plaintiffs,

vs.

JERJIS T. ALAJAJI, M.D., DUBOIS  
RADIOLOGISTS, INC. and DUBOIS  
REGIONAL MEDICAL CENTER,

Defendants.

No. 2006-563-CD

Civil Action – Medical Professional  
Liability Action

Judge Ammerman

**NOTICE OF SERVICE OF  
PLAINTIFFS' RESPONSE TO SECOND  
SET OF INTERROGATORIES  
DIRECTED TO PLAINTIFFS FILED ON  
BEHALF OF DUBOIS REGIONAL  
MEDICAL CENTER**

Filed on behalf of the Plaintiffs

Counsel of Records for this Party:

Thomas E. Crenney, Esquire  
PA I.D. No. 40986

James T. Tallman, Esquire  
PA I.D. No. 79257

THOMAS E. CRENNY & ASSOCIATES, LLC  
One Gateway Center  
18<sup>th</sup> Floor West  
Pittsburgh, PA 15222  
Telephone: (412) 644-5545  
Facsimile: (412) 644-5581

**JURY TRIAL DEMANDED**

**FILED** *NO CC*  
*MT 1:54/61*  
FEB 05 2007 *UN*

William A. Shaw  
Prothonotary/Clerk of Courts

**NOTICE OF SERVICE OF PLAINTIFFS' RESPONSE TO SECOND SET OF  
INTERROGATORIES DIRECTED TO PLAINTIFFS FILED ON  
BEHALF OF DUBOIS REGIONAL MEDICAL CENTER**

I hereby certify that Plaintiffs' Response to Second Set of Interrogatories Directed to Plaintiffs Filed on Behalf of DuBois Regional Medical Center and a copy of this Notice of Service were served upon all counsel of record by United States First Class Mail, postage prepaid, this 1<sup>st</sup> day of ~~January~~ <sup>February</sup>, 2007 as follows:

Darryl R. Slimak, Esquire  
McQuaide Blasko Fleming & Faulkner, Inc.  
811 University Drive  
State College, PA 16801  
(Counsel for Jerjis T. Alajaji, M.D.)

Walter Fredrick Wall, Esquire  
Meyer, Darragh, Buckler, Bebenek & Eck, P.L.L.C.  
120 Lakemont Park Boulevard  
Altoona, PA 16602  
(Counsel for DuBois Radiologists, Inc.)

David R. Johnson, Esquire  
Thomson Rhodes & Cowie  
Two Chatham Center, 10<sup>th</sup> Floor  
Pittsburgh, PA 15219  
(Counsel for DuBois Regional Medical Center)



Thomas E. Crenney, Esquire  
Attorney for Plaintiffs

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

PAULA CARLSON and JAMIE  
CARLSON, her husband,

Plaintiffs,

vs.

JERJIS T. ALAJAJI, M.D.; DUBOIS  
RADIOLOGISTS, INC.; and DUBOIS  
REGIONAL MEDICAL CENTER,

Defendants.

CIVIL DIVISION

No. 2006-563-CD

Issue No.

RESPONSE TO MOTION TO COMPEL  
DISCOVERY AND FOR SANCTIONS

Code: 007

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

Counsel of Record for This Party:

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

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

(412) 232-3400

FILED <sup>NO CC</sup>  
m/s: 2/7/07  
FEB 07 2007 @

William A. Shaw  
Prothonotary/Clerk of Courts

RESPONSE TO MOTION TO COMPEL DISCOVERY AND FOR SANCTIONS

NOW COMES DuBois Regional Medical Center, by its attorneys, Thomson, Rhodes & Cowie, P.C., and responds to plaintiffs' motion to compel discovery and for sanctions.

1. Plaintiff has moved to compel discovery and for sanctions. The basis is that objection has been made to questions posed to witnesses as to why Dr. Alajaji was terminated from his employment and why he had his staff privileges terminated. Witnesses have established on the record that the basis for the actions involving Dr. Alajaji (1) had absolutely nothing to do with patient care, and (2) did not in any manner involve Paula Carlson.

2. To the extent that any action was taken regarding Dr. Alajaji's staff privileges, said actions are taken confidentially, through peer review proceedings, pursuant to the hospital bylaws. As such, it is not a proper subject for discovery.

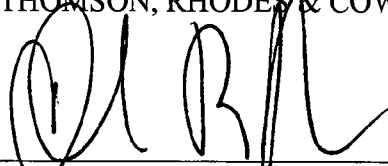
3. If, as has been explained extensively, Dr. Alajaji is no longer working for DuBois Radiologists, Inc. or at DuBois Regional Medical Center for reasons unrelated to his manner of performing patient care and unrelated to any care provided to Paula Carlson, there is absolutely no relevance to the issue of why he was terminated or lost his staff privileges.

4. Co-defendants have filed or are filing responses to the motion, along with briefs. DuBois Regional Medical Center incorporates by reference and adopts all responses filed on behalf of other defendants.

WHEREFORE, plaintiffs' motion to compel discovery and for sanctions should be denied.

Respectfully submitted,

THOMSON, RHODES & COWIE, P.C.

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

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



**CERTIFICATION OF SERVICE**

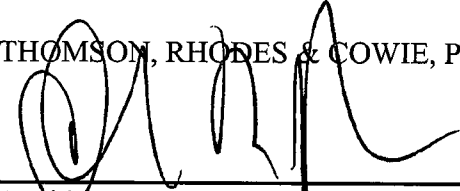
I hereby certify that a true and correct copy of the within RESPONSE TO  
MOTION TO COMPEL DISCOVERY AND FOR SANCTIONS has been served upon  
the following counsel of record and same placed in the U.S. Mails on this 5<sup>th</sup> day of  
Feb, 2007:

Thomas E. Crenney, Esquire  
Thomas E. Crenney & Associates, LLC  
One Gateway Center  
18<sup>th</sup> Floor West  
Pittsburgh, PA 15222  
(via facsimile to 412-644-5581)

Darryl R. Slimak, Esquire  
McQuaide, Blasko, Fleming  
& Faulkner, Inc.  
811 University Drive  
State College, PA 16801  
(via facsimile to 814-238-9624)

Walter Frederick Wall, Esquire  
Meyer, Darragh, Buckler, Bebenek & Eck  
120 Lakemont Park Boulevard  
Altoona, PA 16602  
(via facsimile to 814-941-4605)

THOMSON, RHODES & COWIE, P.C.

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

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

PAULA CARLSON and JAMIE CARLSON,  
her Husband,

Plaintiffs

vs.

JERJIS T. ALAJAJI, M.D., DuBOIS  
RADIOLOGISTS, INC., and DuBOIS  
REGIONAL MEDICAL CENTER,  
Defendants

NO. 06-563-CD

**ORDER**

NOW, this 5<sup>th</sup> day of February, 2007, following argument on Plaintiffs' Motion to Compel and for Sanctions, with the Court noting that the information in question is contained within public record filed with the Court of Common Pleas of Clearfield County to No. 06-1018-CD, it is the ORDER of this Court that said Motion to Compel and for Sanctions be and is hereby DENIED.

Defendants' Motion to Compel Discovery is granted to the extent that Plaintiffs shall submit to the Court copies of the Plaintiff's diary in unredacted form. Plaintiff shall also submit copies of the relevant pages that have been redacted in order that the Court may compare the two and issue an appropriate order.

**FILED**

01/13/07  
FEB 07 2007

William A. Shaw  
Prothonotary/Clerk of Courts

icc

Attys: Crenney

Slimak  
w. Wall

D. Johnson

CR

BY THE COURT,



FREDRIC J. AMMERMAN  
President Judge

FILED

FEB 07 2007

William A. Shaw  
Prothonotary/Clerk of Courts

DATE: 2/7/07

☐ You are responsible for serving all appropriate parties.

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

☐ Plaintiff(s) ☒ Plaintiff(s) Attorney ☐ Other

☐ Defendant(s) ☒ Defendant(s) Attorney

☐ Special Instructions:

IN THE COURT OF COMMON PLEAS  
OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

PAULA CARLSON and JAMIE  
CARLSON, her husband

-VS-

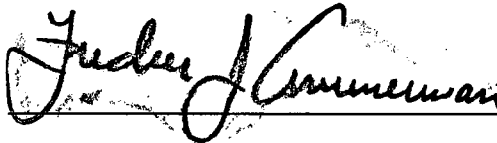
No. 06-563-CD

JERJIS T. ALAJAJI, M.D.,  
DUBOIS RADIOLOGISTS, INC.,  
and DUBOIS REGIONAL  
MEDICAL CENTER

O R D E R

AND NOW, this 12th day of February, 2007, the Court having reviewed the appropriate unredacted portions of the Plaintiff's diary and the Court finding the said portions of the same to not be relevant for Discovery purposes, it is the ORDER of this Court that the Defendants' Motion to Compel Discovery of the unredacted portions of the said diary shall be and is hereby dismissed.

BY THE COURT,



President Judge

FILED

FEB 14 2007

0 13:45 (u)  
William A. Shaw

Prothonotary/Clerk of Courts

CLERK, T. CRENNY

D. SHIMAK

W. WALL

D. JOHNSON

DATE: 2-14-07

☐ You are responsible for serving all appropriate parties.

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

☐ Plaintiff(s) ☒ Plaintiff(s) Attorney ☐ Other

☐ Defendant(s) ☒ Defendant(s) Attorney

☐ Special Instructions:

ALL 4 ATTYS

Prothonotary/Clerk of Courts  
William A. Shaw

FEB 14 2007

FILED

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

PAULA CARLSON and  
JAMIE CARLSON, her husband,

Plaintiffs,

vs.

JERJIS T. ALAJAJI, M.D., DUBOIS  
RADIOLOGISTS, INC. and DUBOIS  
REGIONAL MEDICAL CENTER,

Defendants.

No. 2006-563-CD

Civil Action – Medical Professional  
Liability Action

Honorable Fredric Ammerman

**PRAECIPE FOR TRIAL**

Filed on behalf of the Plaintiffs

Counsel of Records for this Party:

Thomas E. Crenney, Esquire  
PA I.D. No. 40986

James T. Tallman, Esquire  
PA I.D. No. 79257

THOMAS E. CRENNNEY & ASSOCIATES, LLC  
One Gateway Center  
18<sup>th</sup> Floor West  
Pittsburgh, PA 15222  
Telephone: (412) 644-5545  
Facsimile: (412) 644-5581

**JURY TRIAL DEMANDED**

**FILED** *no ec*  
*m 11:13 AM*  
**FEB 23 2007** *(6K)*

William A. Shaw  
Prothonotary/Clerk of Courts

PAULA CARLSON and  
JAMIE CARLSON, her husband,

**VS**

Defendants.

Honorable Fredric Ammerman

## By

DATE: 2/21/2007

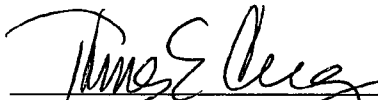
**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and correct copy of the foregoing PRAECIPE  
FOR TRIAL was served by First Class Mail, postage prepaid on the 21 day of  
February, 2007, as follows:

Darryl R. Slimak, Esquire  
MCQUAIDE BLASKO FLEMING & FAULKNER,  
INC.  
811 University Drive  
State College, PA 16801  
(Counsel for Jerjis T. Alajaji, M.D.)

David R. Johnson, Esquire  
THOMSON RHODES & COWIE  
Two Chatham Center, 10<sup>th</sup> Floor  
Pittsburgh, PA 15219  
(Counsel for DuBois Regional Medical Center)

Walter Fredrick Wall, Esquire  
MEYER, DARRAGH, BUCKLER, BEBENEK &  
ECK, P.L.L.C.  
120 Lakemont Park Boulevard  
Altoona, PA 16602  
(Counsel for DuBois Radiologists, Inc.)

  
\_\_\_\_\_  
Thomas E. Crenney, Esquire  
James T. Tallman, Esquire  
Attorneys for Plaintiff



IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

PAULA CARLSON AND JAMIE  
CARLSON, her husband,

Plaintiffs,

vs.

JERJIS T. ALAJAJI, M.D. AND DUBOIS  
RADIOLOGISTS, INC.,

Defendants.

CIVIL DIVISION

No. 2006-563- CD

**FILED**

M 11:19 AM  
FEB 23 2007

William A. Shaw  
Prothonotary/Clerk of Courts

JURY TRIAL DEMANDED

**CERTIFICATE OF SERVICE**

TO THE PROTHONOTARY:

I, Walter Fredrick Wall, Esquire, of the law firm of MEYER, DARRAGH, BUCKLER, BEBENEK & ECK, PLLC, hereby certify that on this **22<sup>nd</sup> day of February, 2007**, I have served the foregoing Defendant's Request to Plaintiffs for Production of Expert Reports on behalf of Defendant, DuBois Radiologists, Inc., upon all counsel/parties of record, by mailing a true and correct copy of same by United States first class mail, postage prepaid as follows:

Thomas E. Crenney, Esquire  
One Gateway Center  
18<sup>th</sup> Floor West  
Pittsburgh, PA 15222

Darryl Slimak, Esquire  
McQuaide Blasko  
811 University Drive  
State College, Pennsylvania

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

**MEYER, DARRAGH, BUCKLER, BEBENEK & ECK, PLLC**

BY: 

**WALTER FREDRICK WALL, ESQUIRE**

Counsel for Defendant, DuBois Radiologists, Inc.  
120 Lakemont Park Boulevard  
Altoona, PA 16602  
Phone No.: (814) 941-4600  
ID # 23657

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL ACTION - MEDICAL PROFESSIONAL LIABILITY ACTION

PAULA CARLSON and JAMIE CARLSON,  
her husband,

Plaintiffs,

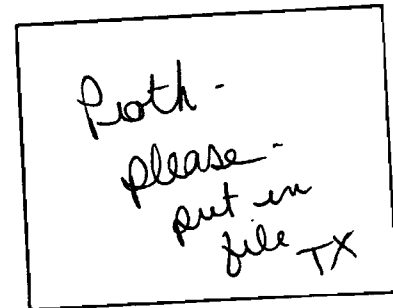
vs.

JERJIS T. ALAJAJI, M.D. and  
DUBOIS RADIOLOGISTS, INC., and  
DUBOIS REGIONAL MEDICAL CENTER,

Defendants.

Docket No: 2006 - 563 - C.D.

Jury Trial Demanded



**PROPOSED ORDER**

AND NOW this \_\_\_\_ day of \_\_\_\_\_, 2007, upon consideration of Defendant  
Dr. Jerjis Alajaji's Motion to Strike and Objection to Plaintiffs' Praeipe for Trial, said motion/  
objection is GRANTED and this matter is STRICKEN from the Trial List.

BY THE COURT

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

MA

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL ACTION - MEDICAL PROFESSIONAL LIABILITY ACTION

PAULA CARLSON and JAMIE CARLSON,  
her husband,

Plaintiffs,

vs.

JERJIS T. ALAJAJI, M.D. and  
DUBOIS RADIOLOGISTS, INC., and  
DUBOIS REGIONAL MEDICAL CENTER,

Defendants.

Docket No: 2006 - 563 - C.D.

Jury Trial Demanded

Type of Pleading  
***Defendant Dr. Jerjis Alajaji's  
Motion to Strike and Objection  
to Plaintiffs' Praecipe for Trial***

Filed on Behalf of Defendant  
***Jerjis T. Alajaji, M.D.***

Counsel of Record for This Party  
***Darryl R. Slimak, Esquire***  
Pa. Supreme Court I.D. #41695

McQuaide, Blasko, Fleming &  
Faulkner, Inc.  
811 University Drive  
State College, PA 16801  
(814) 238-4926  
Fax: (814) 238-9624

Counsel for Adverse Party  
***Thomas E. Crenney, Esquire***

**FILED**   
0/8:30 LM  
MAR 01 2007

William A. Shaw  
Prothonotary/Clerk of Courts  
No 9/c

4. Plaintiffs' praecipe attempting to list the case for trial violates and is not in compliance with Local Rule 212.2, for reasons including but not limited to the fact that discovery is not in fact completed, and no Order of Court has been entered limiting discovery. As such, Plaintiffs' praecipe has been filed prematurely and the praecipe should be stricken and this case not listed for trial at the present time.

5. While multiple depositions have been taken to date, and written discovery exchanged, discovery is not complete. In accordance with Local Rule 212.2(c), the Court may strike the action from the trial list if there are remaining issues of discovery. By way of example, Plaintiff-husband Jaime Carlson's deposition has not yet been completed. Moreover, defense counsel has been seeking Plaintiff-wife's complete Social Security Disability file, which efforts have been delayed and obstructed by Plaintiffs who have to date failed or refused to provide signed social security file release authorization forms to defense counsel, and have only recently, and belatedly, provided portions of the social security file. Other discovery is being considered by defense counsel regarding both liability, causation and damages issues in the case.

6. In addition, while Plaintiffs have provided the defense with various expert reports, Plaintiffs have not certified that they have filed all of their expert reports, and no deadlines for provision of same nor completion of discovery have been set by this Court. In addition, per Pa. R.C.P. No. 1042.26 and 1042.29, *et seq.*, any defense expert reports are not yet due. Moreover, development of defense expert reports has been delayed due to ongoing discovery, including but not limited to the fact that the deposition of Physician's Assistant Lori Natoli, who ordered the x-ray at issue in this case and orchestrated Plaintiff's care, and which deposition had been scheduled by Plaintiffs' counsel for March 16, 2007, was unilaterally and precipitously canceled by Plaintiffs' counsel concomitant with prematurely filing the Praecipe to List the case for trial.

7. By letters dated February 2<sup>nd</sup> and February 26, 2007 (received February 28<sup>th</sup>), which latter date is after Plaintiffs prematurely filed the Praecipe to List the case for trial, Plaintiffs' counsel has continued to forward various vocational expert reports and information which the defense needs time to consider and further investigate, including the potential for

having to retain a vocational specialist expert of its own which will likely require a vocational interview and assessment of the Plaintiff Paula Carlson.

8. As such, this case is not ready for trial.

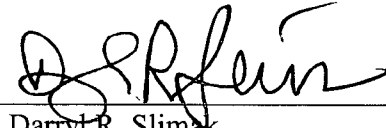
9. Further, in view of the ongoing but uncompleted discovery and uncertainty regarding all parties' expert reports, the parties have not been able to fully and properly assess the value of the case and/or make decisions as to whether settlement negotiations should be considered.

WHEREFORE, Defendant Dr. Jerjis Alajaji, objects to Plaintiffs' Praecipe for Trial pursuant to Local Rule 212.2 and respectfully requests this Court strike the action from the trial list.

Respectfully submitted,

McQUAIDE, BLASKO,  
FLEMING & FAULKNER, INC.

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



Darryl R. Slimak  
Attorneys for Defendant  
JERJIS T. ALAJAJI, M.D.  
811 University Drive  
State College, PA 16801  
(814) 238-4926  
Fax: (814) 238-9624

Date: March 1, 2007

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL ACTION - MEDICAL PROFESSIONAL LIABILITY ACTION

PAULA CARLSON and JAMIE CARLSON,  
her husband,

Plaintiffs,

vs.

JERJIS T. ALAJAJI, M.D. and  
DUBOIS RADIOLOGISTS, INC., and  
DUBOIS REGIONAL MEDICAL CENTER,

Defendants.

Docket No: 2006 - 563 - C.D.

Jury Trial Demanded

**CERTIFICATE OF SERVICE**

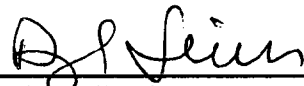
I hereby certify that a true and correct copy of the Defendant Dr. Jerjis Alalaji's Objection to Plaintiffs' Praecipe for Trial in the above-captioned matter was mailed by regular mail, postage prepaid, at the Post Office, State College, Pennsylvania, on this 1<sup>st</sup> day of March, 2007, to the attorney(s) of record:

Thomas E. Crenney, Esquire  
Thomas E. Crenney & Associates  
One Gateway Center 18<sup>th</sup> Floor West  
Pittsburgh, PA 15222

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

Walter F. Wall, Esquire  
Meyer, Darragh, Buckler, Bebenek & Eck, PLLC  
120 Lakemont Park Boulevard  
Altoona, PA 16602

McQUAIDE, BLASKO,  
FLEMING & FAULKNER, INC.

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

Darryl R. Slimak  
Attorneys for Defendant  
JERJIS T. ALAJAJI, M.D.  
811 University Drive  
State College, PA 16801  
(814) 238-4926  
Fax: (814) 238-9624



IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL ACTION - MEDICAL PROFESSIONAL LIABILITY ACTION

PAULA CARLSON and JAMIE CARLSON,  
her husband,

Plaintiffs,

vs.

JERJIS T. ALAJAJI, M.D. and  
DUBOIS RADIOLOGISTS, INC., and  
DUBOIS REGIONAL MEDICAL CENTER,

Defendants.

Docket No: 2006 - 563 - C.D.

Jury Trial Demanded

Type of Pleading

***Defendant Dr. Jerjis Alajaji's  
Request for Plaintiffs to Produce  
Expert Reports***

Filed on Behalf of Defendant  
***Jerjis T. Alajaji, M.D.***

Counsel of Record for This Party  
***Darryl R. Slimak, Esquire***  
Pa. Supreme Court I.D. #41695

McQuaide, Blasko, Fleming &  
Faulkner, Inc.  
811 University Drive  
State College, PA 16801  
(814) 238-4926  
Fax: (814) 238-9624

Counsel for Adverse Party  
***Thomas E. Crenney, Esquire***

**FILED**

MAR 01 2007

William A. Shaw  
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL ACTION - MEDICAL PROFESSIONAL LIABILITY ACTION

PAULA CARLSON and JAMIE CARLSON,  
her husband,

Plaintiffs,

vs.

JERJIS T. ALAJAJI, M.D. and  
DUBOIS RADIOLOGISTS, INC., and  
DUBOIS REGIONAL MEDICAL CENTER,

Defendants.

Docket No: 2006 - 563 - C.D.

Jury Trial Demanded

**DEFENDANT DR. JERJIS ALAJAJI'S REQUEST TO  
PLAINTIFFS TO PRODUCE EXPERT REPORTS**

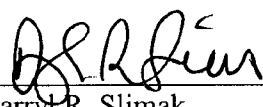
TO: PAULA and JAMIE CARLSON  
c/o Thomas E. Crenney, Esquire

FROM: JERJIS T. ALAJAJI, M.D.

Pursuant to Pennsylvania Rule of Civil Procedure 1042.28(b), you are requested within one hundred eighty (180) days of service of this request to furnish to me, the Defendant named above, expert reports summarizing the expert testimony that you will offer to support the claims of professional negligence that you have made against Defendant. You are required to serve copies of all expert reports on all other parties.

Respectfully submitted,

McQUAIDE, BLASKO,  
FLEMING & FAULKNER, INC.

By: 

Darryl R. Slimak  
Attorneys for Defendant  
JERJIS T. ALAJAJI, M.D.  
811 University Drive  
State College, PA 16801  
(814) 238-4926  
Fax: (814) 238-9624

Dated: February 28, 2007

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL ACTION - MEDICAL PROFESSIONAL LIABILITY ACTION

PAULA CARLSON and JAMIE CARLSON,  
her husband,

Plaintiffs,

vs.

JERJIS T. ALAJAJI, M.D. and  
DUBOIS RADIOLOGISTS, INC., and  
DUBOIS REGIONAL MEDICAL CENTER,

Defendants.

Docket No: 2006 - 563 - C.D.

Jury Trial Demanded

**DEFENDANT DR. JERJIS ALAJAJI'S REQUEST TO  
PLAINTIFFS TO PRODUCE EXPERT REPORTS**

TO: PAULA and JAMIE CARLSON  
c/o Thomas E. Crenney, Esquire

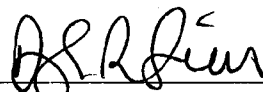
FROM: JERJIS T. ALAJAJI, M.D.

Pursuant to Pennsylvania Rule of Civil Procedure 1042.28(b), you are requested within one hundred eighty (180) days of service of this request to furnish to me, the Defendant named above, expert reports summarizing the expert testimony that you will offer to support the claims of professional negligence that you have made against Defendant. You are required to serve copies of all expert reports on all other parties.

Respectfully submitted,

McQUAIDE, BLASKO,  
FLEMING & FAULKNER, INC.

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

  
Darryl R. Slimak  
Attorneys for Defendant  
JERJIS T. ALAJAJI, M.D.  
811 University Drive  
State College, PA 16801  
(814) 238-4926  
Fax: (814) 238-9624

Dated: February 28, 2007

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL ACTION - MEDICAL PROFESSIONAL LIABILITY ACTION

PAULA CARLSON and JAMIE CARLSON,  
her husband,

Plaintiffs,

vs.

JERJIS T. ALAJAJI, M.D. and  
DUBOIS RADIOLOGISTS, INC., and  
DUBOIS REGIONAL MEDICAL CENTER,

Defendants.

Docket No: 2006 - 563 - C.D.

Jury Trial Demanded

**CERTIFICATE OF SERVICE**

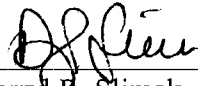
I hereby certify that a true and correct copy of the Defendant Dr. Jerjis Alajaji's Request to Plaintiffs to Produce Expert Reports in the above-captioned matter was mailed by regular mail, postage prepaid, at the Post Office, State College, Pennsylvania, on this 28<sup>th</sup> day of February, 2007, to the attorney(s) of record:

Thomas E. Crenney, Esquire  
Thomas E. Crenney & Associates  
One Gateway Center 18<sup>th</sup> Floor West  
Pittsburgh, PA 15222

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

Walter F. Wall, Esquire  
Meyer, Darragh, Buckler, Bebenek & Eck, PLLC  
120 Lakemont Park Boulevard  
Altoona, PA 16602

McQUAIDE, BLASKO,  
FLEMING & FAULKNER, INC.

By:   
Darryl R. Slimak  
Attorneys for Defendant  
JERJIS T. ALAJAJI, M.D.  
811 University Drive  
State College, PA 16801  
(814) 238-4926  
Fax: (814) 238-9624

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

PAULA CARLSON and JAMIE CARLSON,  
her Husband,

Plaintiffs

vs.

JERJIS T. ALAJAJI, M.D. and  
DUBOIS RADDIOLOGISTS, INC.,  
and DUBOIS REGIONAL MEDICAL CENTER,  
Defendants

NO. 06-563-CD

ORDER

**FILED**

MAR 01 2007

01/3:50/um

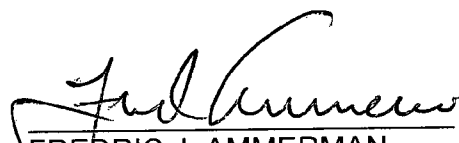
William A. Shaw  
Prothonotary/Clerk of Courts

chat to  
Slime  
Johnson  
Wynn & G...  
G...  
G...

NOW, this 1<sup>st</sup> day of March, 2007, the Court being in receipt and having reviewed

the Motion to Strike and Objection to Plaintiff's Praecipe for Trial filed on behalf of Defendant Jerjis T. Alajaji, it is the ORDER of this Court that argument on said Motion is scheduled for the **28<sup>th</sup> day of March, 2007 at 1:30 p.m.** in Courtroom No. 1 of the Clearfield County Courthouse, Clearfield, Pennsylvania. In addition, at this time a status conference relative this case will also be conducted. One hour has been allotted for these proceedings.

BY THE COURT,

  
FREDRIC J. AMMERMAN  
President Judge

DATE: 3-1-07

☒ You are responsible for serving all appropriate parties.  
☒ The Prothonotary's office has provided service to the following parties:  
Plaintiff(s) ☒ Plaintiff(s) Attorney ☐ Other  
Defendant(s) ☒ Defendant(s) Attorney ☐ Special Instructions:

4 ATTYS

FILED

MAR 01 2007

William A. Shaw  
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

PAULA CARLSON and JAMIE  
CARLSON, her husband,

Plaintiffs,

vs.

JERJIS T. ALAJAJI, M.D.; DUBOIS  
RADIOLOGISTS, INC.; and DUBOIS  
REGIONAL MEDICAL CENTER,

Defendants.

CIVIL DIVISION

No. 2006-563-CD

Issue No.

REQUEST TO PLAINTIFFS FOR  
PRODUCTION OF EXPERT REPORTS

Code: 007

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

Counsel of Record for This Party:

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

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

(412) 232-3400

FILED <sup>NO CC</sup>  
MAR 05 2007

William A. Shaw  
Prothonotary/Clerk of Courts



REQUEST TO PLAINTIFFS FOR PRODUCTION OF EXPERT REPORTS

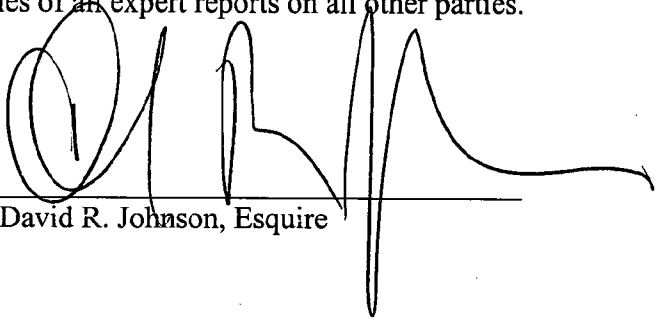
NOW COMES DuBois Regional Medical Center, one of the defendants, by their attorneys, Thomson, Rhodes & Cowie, P.C., and file the following requests to plaintiffs for production of expert reports required by Rule 1042.28(a)(1) of the Pennsylvania Rules of Civil Procedure.

TO: PAULA CARLSON and JAMIE CARLSON, her husband, plaintiffs  
FROM: DUBOIS REGIONAL MEDICAL CENTER, one of the defendants

Pursuant to Pennsylvania Rule of Civil Procedure 1042.28(b) you are requested within 180 days of service of this request to furnish to me, attorney for the defendant above named, expert reports summarizing the expert testimony that you will offer to support the claims of professional negligence that you have made against the defendants above named. You are required to serve copies of all expert reports on all other parties.

Dated: \_\_\_\_\_

3.2.07

  
\_\_\_\_\_  
David R. Johnson, Esquire

**CERTIFICATION OF SERVICE**

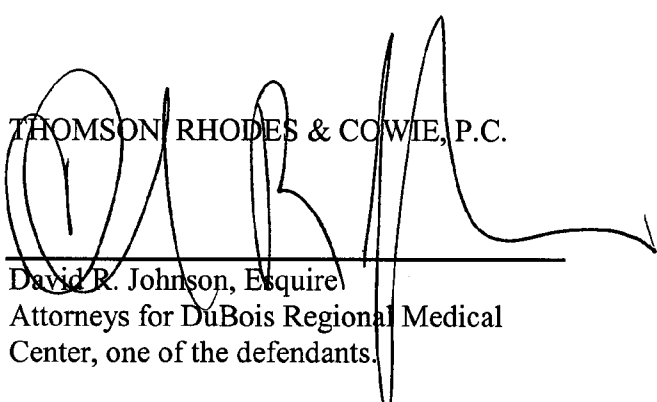
I hereby certify that a true and correct copy of the within REQUEST TO  
PLAINTIFFS FOR PRODUCTION OF EXPERT REPORTS has been served upon the  
following counsel of record and same placed in the U.S. Mails on this 2nd day of  
March, 2007:

Thomas E. Crenney, Esquire  
Thomas E. Crenney & Associates, LLC  
One Gateway Center  
18<sup>th</sup> Floor West  
Pittsburgh, PA 15222

Darryl R. Slimak, Esquire  
McQuaide, Blasko, Fleming  
& Faulkner, Inc.  
811 University Drive  
State College, PA 16801

Walter Frederick Wall, Esquire  
Meyer, Darragh, Buckler, Bebenek & Eck  
120 Lakemont Park Boulevard  
Altoona, PA 16602

THOMSON RHODES & COWIE, P.C.



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

LA

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

PAULA CARLSON and JAMIE  
CARLSON, her husband,

Plaintiffs,

vs.

JERJIS T. ALAJAJI, M.D.; DUBOIS  
RADIOLOGISTS, INC.; and DUBOIS  
REGIONAL MEDICAL CENTER,

Defendants.

CIVIL DIVISION

No. 2006-563-CD

Issue No.

JOINDER IN DEFENDANT DR. JERJIS  
ALAJAJI'S MOTION TO STRIKE AND  
OBJECTION TO PLAINTIFFS' PRAECIPE  
FOR TRIAL

Code: 007

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

Counsel of Record for This Party:

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

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

(412) 232-3400

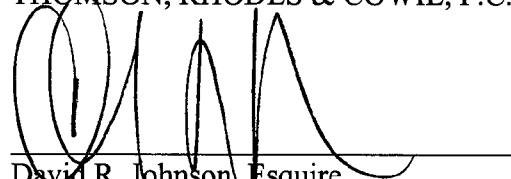
FILED NO CC  
MAR 07 2007 (CK)

JOINDER IN DEFENDANT DR. JERJIS ALAJAJI'S MOTION TO STRIKE AND  
OBJECTION TO PLAINTIFFS' PRAECIPE FOR TRIAL

NOW COMES DuBois Regional Medical Center, one of the defendants, by its attorneys, Thomson, Rhodes & Cowie, P.C., and files the within joinder in Dr. Alajaji's motion to strike and objection to plaintiffs' praecipe for trial, for the reasons set forth within said motion.

Respectfully submitted,

THOMSON, RHODES & COWIE, P.C.

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

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

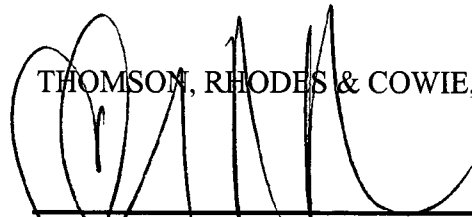
**CERTIFICATION OF SERVICE**

I hereby certify that a true and correct copy of the within JOINDER IN  
DEFENDANT DR. JERJIS ALAJAJI'S MOTION TO STRIKE AND OBJECTION TO  
PLAINTIFFS' PRAECIPE FOR TRIAL has been served upon the following counsel of  
record and same placed in the U.S. Mails on this 5<sup>th</sup> day of  
March, 2007:

Thomas E. Crenney, Esquire  
Thomas E. Crenney & Associates, LLC  
One Gateway Center  
18<sup>th</sup> Floor West  
Pittsburgh, PA 15222

Darryl R. Slimak, Esquire  
McQuaide, Blasko, Fleming  
& Faulkner, Inc.  
811 University Drive  
State College, PA 16801

Walter Frederick Wall, Esquire  
Meyer, Darragh, Buckler, Bebenek & Eck  
120 Lakemont Park Boulevard  
Altoona, PA 16602

  
THOMSON, RHODES & COWIE, P.C.  
\_\_\_\_\_  
David R. Johnson, Esquire  
Attorneys for DuBois Regional Medical  
Center, one of the defendants.

CP

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

PAULA CARLSON and  
JAMIE CARLSON, her husband,

Plaintiffs,

vs.

JERJIS T. ALAJAJI, M.D., DUBOIS  
RADIOLOGISTS, INC. and DUBOIS  
REGIONAL MEDICAL CENTER,

Defendants.

No. 2006-563-CD

Civil Action – Medical Professional  
Liability Action

Honorable Frederic Ammerman

**PLAINTIFFS' REPLY TO DEFENDANT  
JERJIS T. ALAJAJI, M.D.'S MOTION TO  
STRIKE PLAINTIFFS' PRAECIPE FOR  
TRIAL**

Filed on behalf of the Plaintiffs

Counsel of Records for this Party:

Thomas E. Crenney, Esquire  
PA I.D. No. 40986

James T. Tallman, Esquire  
PA I.D. No. 79257

THOMAS E. CRENNY & ASSOCIATES, LLC  
One Gateway Center  
18<sup>th</sup> Floor West  
Pittsburgh, PA 15222  
Telephone: (412) 644-5545  
Facsimile: (412) 644-5581

**JURY TRIAL DEMANDED**

**FILED**

**MAR 14 2007**

m/v:701  
William A. Shaw  
Prothonotary/Clerk of Courts  
No C/c

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

PAULA CARLSON and  
JAMIE CARLSON, her husband,

Plaintiffs,

No. 2006-563-CD

Civil Action – Medical Professional  
Liability Action

vs.

JERJIS T. ALAJAJI, M.D., DUBOIS  
RADIOLOGISTS, INC. and DUBOIS  
REGIONAL MEDICAL CENTER,

Defendants.

**PLAINTIFFS' REPLY TO DEFENDANT JERJIS T. ALAJAJI, M.D.'S  
MOTION TO STRIKE PLAINTIFFS' PRAECIPE FOR TRIAL**

AND NOW, come the Plaintiffs, Paula Carlson and Jamie Carlson, by and through their attorneys, Thomas E. Crenney & Associates, LLC, and file the within Reply to Defendant Jerjis T. Alajaji, M.D.'s Motion to Strike Praecipe for Trial and in support thereof aver as follows:

1. Paragraph 1 of Defendant's Motion is admitted.
2. Paragraph 2 of Defendant's Motion is admitted.
3. Paragraph 3 of Defendant's Motion is admitted.
4. Paragraph 4 of Defendant's Motion is denied. Plaintiffs were not aware that any other party desired any further discovery in this case.

5. Paragraph 5 of Defendant's Motion is admitted in part and denied in part. It is admitted that many depositions have been taken. Specifically, the following depositions have been taken: Paula Carlson, Dr. Jerjis T. Alajaji, Dr. Ghazanfar Ali Shah, Rose Campbell (as

corporate designee for DuBois Regional Medical Center), Robert McKee, Martin Maloney, and Dr. Steven Graeca.

Further, the following discovery has been exchanged and answered:

- a. Plaintiffs' First Set of Interrogatories and Request for Production of Documents directed to Defendants;
- b. Plaintiffs' Second Set of Interrogatories and Request for Production of Documents directed to Defendant DuBois Regional Medical Center;
- c. Defendant Jerjis T. Alajaji, M.D.'s Expert Interrogatories for Answer by Plaintiffs;
- d. Defendant Jerjis T. Alajaji, M.D.'s Interrogatories for Answer by Plaintiffs and Request for Production (Set One);
- e. Defendant Jerjis T. Alajaji, M.D.'s Request for Production of Documents (Set Two);
- f. Defendant DuBois Regional Medical Center's First Set of Interrogatories and Request for Production of Documents;
- g. Defendant DuBois Regional Medical Center's Second Set of Interrogatories;
- h. Defendant DuBois Regional Medical Center's Second, Third and Fourth Requests for Production of Documents directed to Plaintiffs;
- i. All medical records, x-ray films and CD's, reports from treating physician Dr. Kenneth Yaw, and functional capacity reports have been provided up to date; and
- j. Letter from Mary T. DeFranco of the Office of Vocational Rehabilitation has been provided.

By way of further answer, no Defendant, including Mr. Slimak and Dr. Alajaji, ever stated that it wished to take the deposition of husband-Plaintiff, Jamie Carlson. Plaintiffs have provided all of the Social Security file that it has received from the Social Security Administration to Defendants. Plaintiffs recently received the Notice of Decision which has been provided to all counsel. That decision was fully favorable to Paula Carlson.

6. Paragraph 6 of Defendant's Motion is admitted in part and denied in part. It is admitted that since this case was so obvious on the issue of liability Plaintiffs took the unusual step of providing Defendants with a liability report on May 11, 2006. It is attached hereto as Exhibit "A". It is admitted that Plaintiffs may file further reports.



Further, Plaintiffs do not understand why counsel complains about the cancellation of the deposition of Lori Natoli. Only Plaintiffs ever expressed any interest in taking her deposition. At no time did any other party express or state any interest in taking her deposition

7. Paragraph 7 of Defendant's Motion is admitted in part and denied in part. It is admitted that Plaintiffs filed a Praecipe to Place the Case at Issue and move it toward trial. It is denied that this was done prematurely or improperly. It is admitted that counsel continues to provide all parties with information as it is received regarding the medical care that is being received by Paula Carlson.

8. Paragraph 8 of Defendant's Motion is denied in part. The issues in this case are relatively simple. The case can be ready for trial as soon as further expert reports are exchanged. Any remaining or clean-up discovery required can be done in short order and during that time frame.

9. Paragraph 9 of Defendant's Motion is denied. As previously stated, Plaintiffs took the unusual step of providing an expert report on standard of care at the outset of this case. Further, Plaintiffs invited Mr. Slimak to discuss with a subsequent treater, Dr. Mark Piasio, the issue of standard of care. Mr. Slimak declined to exercise that option. It would have been a good way for him to evaluate this case.

10. Dr. Alajaji has \$500,000 in primary care coverage. A predicate to the settlement of this case would be for that amount to be tendered to the CAT Fund. Liability is obvious. All of the credible evidence is to the effect that because of the negligence of Dr. Alajaji Paula Carlson is disabled from performing her job as a radiological therapist. That is a job she made over \$60,000 a year doing. The Social Security Administration has found that she

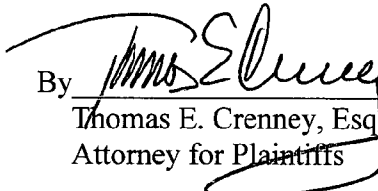
is totally disabled and capable of doing only the most sedentary work. Her treating physicians agree. Indeed, that decision by the Social Security Administration was based on the findings and opinions of her treating physician.

WHEREFORE, Plaintiffs, Paula Carlson and Jamie Carlson, respectfully request this Honorable Court deny Defendant's Motion to Strike the Praecipe for Trial.

Respectfully submitted,

THOMAS E. CRENNY & ASSOCIATES, LLC

By

  
Thomas E. Crenney, Esquire  
Attorney for Plaintiffs

One Gateway Center  
18<sup>th</sup> Floor - West  
Pittsburgh, PA 15222  
(412) 644-5545

DATE: 3/12/07

## **EXHIBIT A**



## Titusville Area Hospital

May 7, 2006

Thomas E. Crenney  
Attorney at Law  
One Gateway Center  
18th Floor-West  
Pittsburgh, Pa 15222

Dear Mr. Crenney,

At your request I have reviewed radiographic studies of your client Paula Carlson. Following is my opinion regarding this review.

Radiographs of the right wrist of Paula Carlson, dated April 12, 2005, labeled as being from the Medical Arts Building clearly demonstrate a lucent lesion in the distal radius at the end of the bone to the ulnar side. This abnormality is obvious and not subtle or difficult to perceive.

The official report of these radiographs was that of a normal wrist. This interpretation was given by Dr. Jerjis T. Alajaji.

By failing to report the lesion in the radius, this interpretation falls below the expected standard of care.

This opinion is given to a reasonable degree of medical certainty.

Sincerely,

Lawrence Cooperstein, M.D.

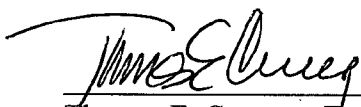
**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and correct copy of the foregoing  
**PLAINTIFFS' REPLY TO DEFENDANT JERJIS T. ALAJAJI, M.D.'S MOTION TO  
STRIKE PLAINTIFFS' PRAECIPE FOR TRIAL** was served by First Class Mail, postage  
prepaid on the 12 day of March, 2007, as follows:

Darryl R. Slimak, Esquire  
MCQUAIDE BLASKO FLEMING & FAULKNER,  
INC.  
811 University Drive  
State College, PA 16801  
(Counsel for Jerjis T. Alajaji, M.D.)

David R. Johnson, Esquire  
THOMSON RHODES & COWIE  
Two Chatham Center, 10<sup>th</sup> Floor  
Pittsburgh, PA 15219  
(Counsel for DuBois Regional Medical Center)

Walter Fredrick Wall, Esquire  
MEYER, DARRAGH, BUCKLER, BEBENEK &  
ECK, P.L.L.C.  
120 Lakemont Park Boulevard  
Altoona, PA 16602  
(Counsel for DuBois Radiologists, Inc.)

  
\_\_\_\_\_  
Thomas E. Crenney, Esquire  
James T. Tallman, Esquire  
Attorneys for Plaintiffs

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

PAULA CARLSON and  
JAMIE CARLSON, her husband,

Plaintiffs,

No. 2006-563-CD

Civil Action – Medical Professional  
Liability Action

vs.

JERJIS T. ALAJAJI, M.D., DUBOIS  
RADIOLOGISTS, INC. and DUBOIS  
REGIONAL MEDICAL CENTER,

Defendants.

**ORDER OF COURT**

AND NOW, this \_\_\_\_\_ day of \_\_\_\_\_, 2007, it is hereby  
ORDERED, ADJUDGED and DECREED that Defendant Jerjis T. Alajaji, M.D.'s Motion to  
Strike Praecipe for Trial is DENIED.

BY THE COURT:

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

FILED  
MAR 14 2007  
William A. Shaw  
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL ACTION - MEDICAL PROFESSIONAL LIABILITY ACTION

PAULA CARLSON and JAMIE CARLSON,  
her husband,

Plaintiffs,

vs.

JERJIS T. ALAJAJI, M.D. and  
DUBOIS RADIOLOGISTS, INC., and  
DUBOIS REGIONAL MEDICAL CENTER

Defendants.

Docket No: 2006 - 563 - C.D.

Jury Trial Demanded

Type of Pleading  
Certificate of Service

Filed on Behalf of Defendant  
*Jerjis T. Alajaji, M.D.*

Counsel of Record for This Party  
*Darryl R. Slimak, Esquire*  
Pa. Supreme Court I.D. #41695

McQuaide, Blasko, Fleming &  
Faulkner, Inc.  
811 University Drive  
State College, PA 16801  
(814) 238-4926  
Fax: (814) 238-9624

Counsel for Adverse Party  
*Thomas E. Crenney, Esquire*

FILED

MAR 20 2007

4/12/20/aw  
William A. Shaw  
Prothonotary/Clerk of Courts

to c/c



IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL ACTION - MEDICAL PROFESSIONAL LIABILITY ACTION

PAULA CARLSON and JAMIE CARLSON,  
her husband,

Plaintiffs,

vs.

JERJIS T. ALAJAJI, M.D. and  
DUBOIS RADIOLOGISTS, INC., and  
DUBOIS REGIONAL MEDICAL CENTER,

Defendants.

Docket No: 2006 - 563 - C.D.

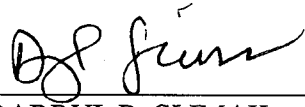
Jury Trial Demanded

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

Defendants intend to serve a subpoena identical to those attached to this notice to Department of Labor and Industry Commonwealth of Pennsylvania, Office of Vocational Rehabilitation. You have twenty (20) days from the date listed below in which to file of record and serve upon the undersigned any objection to the subpoenas. If no objection is made, the subpoena may be served.

McQUAIDE, BLASKO,  
FLEMING & FAULKNER, INC.

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

  
DARRYL R. SLIMAK  
I.D. No. 41695  
811 University Drive  
State College, PA 16801  
(814) 238-4926  
Attorneys for Defendant  
Jerjis T. Alajaji, M.D.

Dated: \_\_\_\_\_

3/19/07

COMMONWEALTH OF PENNSYLVANIA  
COUNTY OF CLEARFIELD

Paula Carlson and  
Jamie Carlson  
Plaintiff(s)

Vs.

Jerjis T. Alajaji, M.D.  
DuBois Radiologists, Inc. and  
DuBois Regional Medical Center  
Defendant(s)

No. 2006-00563-CD

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

TO: Mary T. DeFranco  
Office of Vocational Rehabilitation  
Department of Labor and Industry  
Commonwealth of Pennsylvania  
199 Beaver Drive  
DuBois, PA 15801

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

The Complete OVR Records of Paula Jo Carlson: DOB 04/26/1971; SS# 201-66-3077

At: McQuaide Blasko Law Offices, 811 University Drive, State College, PA 16801

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: DARRYL R. SLIMAK, ESQUIRE

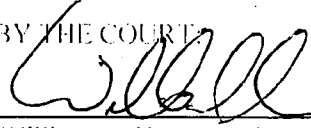
ADDRESS: 811 UNIVERSITY DRIVE  
STATE COLLEGE, PA 16801

TELEPHONE: 814-238-4926

SUPREME COURT ID # 41695

ATTORNEY FOR: JERJIS T. ALAJAJI, M.D.

BY THE COURT:

  
William A. Shaw, Prothonotary

DATE: Friday, March 16, 2007  
Seal of the Court

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

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL ACTION - MEDICAL PROFESSIONAL LIABILITY ACTION

PAULA CARLSON and JAMIE CARLSON,  
her husband,

Plaintiffs,

vs.

JERJIS T. ALAJAJI, M.D. and  
DUBOIS RADIOLOGISTS, INC., and  
DUBOIS REGIONAL MEDICAL CENTER,

Defendants.

Docket No: 2006 - 563 - C.D.

Jury Trial Demanded

**CERTIFICATE OF SERVICE**

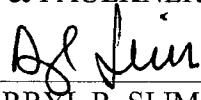
I hereby certify that a true and correct copy of the Defendant's Notice of Intent to Serve Subpoenas for Production of Documents and Things directed to the Department of Labor and Industry Commonwealth of Pennsylvania, Office of Vocational Rehabilitation, in the above-captioned matter was mailed by regular mail, postage prepaid, at the Post Office, State College, Pennsylvania, on this 19<sup>th</sup> day of March, 2007, to the attorney(s) of record:

Thomas E. Crenney, Esquire  
Thomas E. Crenney & Associates, LLC  
One Gateway Center, 18<sup>th</sup> Floor West  
Pittsburgh, PA 15222

Walter F. Wall, Esquire  
Meyer, Darragh, Buckerl, Bebenek & Eck, PLLC  
120 Lakemont Park Boulevard  
Altoona, PA 16602

David R. Johnson, Esquire  
Thompson, Rhodes & Cowie, P.C.  
1010 Two Chatham Center  
Pittsburgh, PA 15219

McQUAIDE, BLASKO,  
FLEMING & FAULKNER, INC.

By: 

DARRYL R. SLIMAK  
I.D. No. 41695  
811 University Drive  
State College, PA 16801  
(814) 238-4926  
Attorneys for Defendant  
Jerjis T. Alajaji, M.D.

IN THE COURT OF COMMON PLEAS  
OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

PAULA CARLSON and JAMIE  
CARLSON, her husband

-VS-

No. 06-563-CD

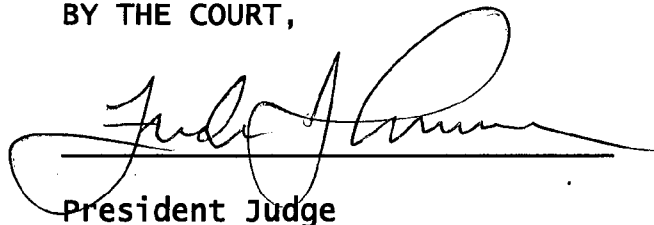
JERJIS T. ALAJAJI, M.D.,  
DUBOIS RADIOLOGISTS, INC.,  
and DUBOIS REGIONAL  
MEDICAL CENTER

O R D E R

AND NOW, this 28th day of March, 2007, it is the  
ORDER of this Court as follow:

1. As of May 1, 2007, all of the Plaintiffs'  
liability and expert reports shall be filed;
2. As of July 1, 2007, all of the Defense  
expert reports, liability and damage, shall be filed;
3. Discovery shall be completed by all parties  
by July 1, 2007;
4. This case is continued to the Fall Term of  
Court 2007.

BY THE COURT,

  
President Judge

**FILED**  
MAR 28 2007

8cc  
02:19 PM Amy Slimak  
William A. Shaw  
Prothonotary/Clerk of Courts  
(distributing  
Copies)

CP

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL ACTION - MEDICAL PROFESSIONAL LIABILITY ACTION

PAULA CARLSON and JAMIE CARLSON,  
her husband,

Plaintiffs,

vs.

JERJIS T. ALAJAJI, M.D. and  
DUBOIS RADIOLOGISTS, INC., and  
DUBOIS REGIONAL MEDICAL CENTER  
Defendants.

Docket No: 2006 - 563 - C.D.

Jury Trial Demanded

Type of Pleading  
Certificate of Service  
Prerequisite to Service of Subpoenas

Filed on Behalf of Defendant  
*Jerjis T. Alajaji, M.D.*

Counsel of Record for This Party  
*Darryl R. Slimak, Esquire*  
Pa. Supreme Court I.D. #41695

McQuaide, Blasko, Fleming &  
Faulkner, Inc.  
811 University Drive  
State College, PA 16801  
(814) 238-4926  
Fax: (814) 238-9624

Counsel for Adverse Party  
*Thomas E. Crenney, Esquire*

**FILED**

MAR 30 2007  
m/12:20/w  
William A. Shaw  
Prothonotary/Clerk of Courts  
No C/C

(CR)

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL ACTION - MEDICAL PROFESSIONAL LIABILITY ACTION

PAULA CARLSON and JAMIE CARLSON,  
her husband,

Plaintiffs,

vs.

JERJIS T. ALAJAJI, M.D. and  
DUBOIS RADIOLOGISTS, INC., and  
DUBOIS REGIONAL MEDICAL CENTER,

Defendants.

Docket No: 2006 - 563 - C.D.

Jury Trial Demanded

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

Defendants intend to serve a subpoena identical to those attached to this notice to Department of Labor and Industry Commonwealth of Pennsylvania, Office of Vocational Rehabilitation. You have twenty (20) days from the date listed below in which to file of record and serve upon the undersigned any objection to the subpoenas. If no objection is made, the subpoena may be served.

McQUAIDE, BLASKO,  
FLEMING & FAULKNER, INC.

By: 

DARRYL R. SLIMAK  
I.D. No. 41695  
811 University Drive  
State College, PA 16801  
(814) 238-4926  
Attorneys for Defendant  
Jerjis T. Alajaji, M.D.

Dated: 3/19/07

COMMONWEALTH OF PENNSYLVANIA  
COUNTY OF CLEARFIELD

Paula Carlson and  
Jamie Carlson  
Plaintiff(s)

Vs.

Jerjis T. Alajaji, M.D.  
DuBois Radiologists, Inc. and  
DuBois Regional Medical Center  
Defendant(s)

No. 2006-00563-CD

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

TO: Mary T. DeFranco  
Office of Vocational Rehabilitation  
Department of Labor and Industry  
Commonwealth of Pennsylvania  
199 Beaver Drive  
DuBois, PA 15801

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

The Complete OVR Records of Paula Jo Carlson: DOB 04/26/1971; SS# 201-66-3077

At: McQuaide Blasko Law Offices, 811 University Drive, State College, PA 16801

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: DARRYL R. SLIMAK, ESQUIRE

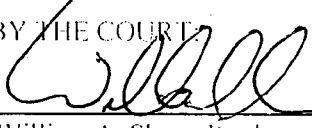
ADDRESS: 811 UNIVERSITY DRIVE  
STATE COLLEGE, PA 16801

TELEPHONE: 814-238-4926

SUPREME COURT ID # 41695

ATTORNEY FOR: JERJIS T. ALAJAJI, M.D.

BY THE COURT:

  
William A. Shaw, Prothonotary

DATE: Friday, March 16, 2007  
Seal of the Court

**WILLIAM A. SHAW**  
Prothonotary  
My Commission Expires  
1st Monday in Jan. 2016  
Clearfield Co., Clearfield, PA

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL ACTION - MEDICAL PROFESSIONAL LIABILITY ACTION

PAULA CARLSON and JAMIE CARLSON,  
her husband,

Plaintiffs,

vs.

JERJIS T. ALAJAJI, M.D. and  
DUBOIS RADIOLOGISTS, INC., and  
DUBOIS REGIONAL MEDICAL CENTER,

Defendants.

Docket No: 2006 - 563 - C.D.

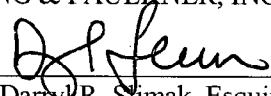
Jury Trial Demanded

**CERTIFICATE**  
**PREREQUISITE TO SERVICE OF SUBPOENAS**  
**PURSUANT TO RULE 4009.22**

As a prerequisite to service of subpoenas for documents and things pursuant to Rule 4009.22, Defendants certify that:

- 1) a notice of intent to serve the subpoena with a copy of the subpoena attached thereto was mailed or delivered to the party at least twenty days prior to the date on which the subpoenas are 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 the 20 days have been waived
- 4) the subpoena which will be served is identical to the subpoenas which is attached to the notice of intent to serve the subpoena.

McQUAIDE, BLASKO,  
FLEMING & FAULKNER, INC.

By: 

Darryl R. Shmak, Esquire  
I.D. No. 41695  
811 University Drive  
State College, PA 16801  
(814) 238-4926  
Attorneys for Defendant

Dated: 3-29-2007



IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL ACTION - MEDICAL PROFESSIONAL LIABILITY ACTION

PAULA CARLSON and JAMIE CARLSON,  
her husband,

Plaintiffs,

vs.

JERJIS T. ALAJAJI, M.D. and  
DUBOIS RADIOLOGISTS, INC., and  
DUBOIS REGIONAL MEDICAL CENTER,

Defendants.

Docket No: 2006 - 563 - C.D.

Jury Trial Demanded

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the Certificate Prerequisite to Service of Subpoenas for Production of Documents and Things directed to the Mary T. DeFranco, Office of Vocational Rehabilitation in the above-captioned matter was mailed by regular mail, postage prepaid, at the Post Office, State College, Pennsylvania, on this 29th day of March, 2007, to the attorney(s) of record:

Thomas E. Crenney, Esquire  
Thomas E. Crenney & Associates, LLC  
One Gateway Center, 18<sup>th</sup> Floor West  
Pittsburgh, PA 15222

Walter F. Wall, Esquire  
Meyer, Darragh, Bucklerl, Bebenek & Eck, PLLC  
120 Lakemont Park Boulevard  
Altoona, PA 16602

David R. Johnson, Esquire  
Thompson, Rhodes & Cowie, P.C.  
1010 Two Chatham Center  
Pittsburgh, PA 15219

McQUAIDE, BLASKO,  
FLEMING & FAULKNER, INC.

By: 

DARRYL R. SLIMAK  
I.D. No. 41695  
811 University Drive  
State College, PA 16801  
(814) 238-4926  
Attorneys for Defendant  
Jerjis T. Alajaji, M.D.



## MCQUAIDE BLASKO

ATTORNEYS AT LAW

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

(814) 238-4926

FAX (814) 234-5620  
www.mqblaw.com

March 29, 2007

Thomas E. Crenney, Esquire  
Thomas E. Crenney & Associates, LLC  
One Gateway Center, 18<sup>th</sup> Floor West  
Pittsburgh, PA 15222

In re: Paula and Jamie Carlson v. Jerjis T. Alajaji, M.D. and DuBois  
Radiologists, Inc.

Docket No: 2006 - 563 - CD

Dear Mr. Crenney:

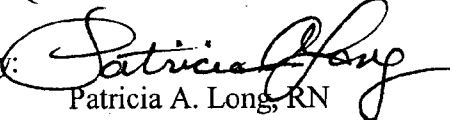
Please allow this letter to reflect your agreement to waive the 20 days for the subpoena to Mary T. DeFranco, Office of Vocational Rehabilitation, in exchange for a complete copy of all the records we receive.

Enclosed is a copy of the Notice of Intent to Serve Subpoenas to Produce Documents and Things for Discovery, copy of the Subpoena, Certificate of Service and Certificate Prerequisite to Service of Subpoenas, as well as a copy of the letter to the Prothonotary re filing of the same directed to Mary T. DeFranco, Office of Vocational Rehabilitation, Department of Labor and Industry in the Commonwealth of Pennsylvania.

Thank you for your attention to this matter.

Very truly yours,

McQUAIDE BLASKO

By:   
Patricia A. Long, RN  
Litigation Paralegal

DRS/pal

cc: David R. Johnson, Esquire

cc: Walter F. Wall, Esquire

cc: Jerjis Alajaji, M.D.

McQUAIDE, BLASKO, FLEMING & FAULKNER, INC.

State College Office: John W. Blasko R. Mark Faulkner David M. Weixel Steven S. Hurvitz James M. Horne Wendell V. Courtney Darryl R. Slimak Mark Righter Daniel E. Bright  
Paul J. Tomczuk Janine C. Gismondi John A. Snyder April C. Simpson Allen P. Neely Pamela A. Ruest Katherine V. Oliver Katherine M. Allen Wayne L. Mowery, Jr.  
Chena L. Glenn-Hart Livinia N. Jones Cristin R. Long Matthew T. Rogers Frederick R. Battaglia Anthony A. Simon Dominick J. Muracco

Hershey Office: Grant H. Fleming Maureen A. Gallagher Michael J. Mohr Jonathan B. Stepanian

Hollidaysburg Office: Thomas M. Reese J. Benjamin Yeager Sean M. Burke Michael P. Routh

John G. Love (1893-1966) Roy Wilkinson, Jr. (1915-1995) Delbert J. McQuaide (1936-1997)

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL ACTION - MEDICAL PROFESSIONAL LIABILITY ACTION

PAULA CARLSON and JAMIE CARLSON,  
her husband,

Plaintiffs,

vs.

JERJIS T. ALAJAJI, M.D. and  
DUBOIS RADIOLOGISTS, INC., and  
DUBOIS REGIONAL MEDICAL CENTER,

Defendants.

Docket No: 2006 - 563 - C.D.

Jury Trial Demanded

Type of Pleading  
***Certificate of Service Pertaining  
to Service of Judge's Scheduling  
Order Dated March 28, 2007***

Filed on Behalf of Defendant  
***Jerjis T. Alajaji, M.D.***

Counsel of Record for This Party  
***Darryl R. Slimak, Esquire***  
Pa. Supreme Court I.D. #41695

McQuaide, Blasko, Fleming &  
Faulkner, Inc.  
811 University Drive  
State College, PA 16801  
(814) 238-4926  
Fax: (814) 238-9624

Counsel for Adverse Party  
***Thomas E. Crenney, Esquire***

**FILED**

APR 03 2007

William A. Shaw  
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL ACTION - MEDICAL PROFESSIONAL LIABILITY ACTION

PAULA CARLSON and JAMIE CARLSON,  
her husband,

Plaintiffs,

vs.

JERJIS T. ALAJAJI, M.D. and  
DUBOIS RADIOLOGISTS, INC., and  
DUBOIS REGIONAL MEDICAL CENTER,

Defendants.

Docket No: 2006 - 563 - C.D.

Jury Trial Demanded

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the Judge's Scheduling Order Dated March 28, 2007 in the above-captioned matter was mailed by regular mail, postage prepaid, at the Post Office, State College, Pennsylvania, on this 2<sup>nd</sup> day of April, 2007, to the attorney(s) of record:

Thomas E. Crenney, Esquire  
Thomas E. Crenney & Associates  
One Gateway Center 18<sup>th</sup> Floor West  
Pittsburgh, PA 15222

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

Walter F. Wall, Esquire  
Meyer, Darragh, Buckler, Bebenek & Eck, PLLC  
120 Lakemont Park Boulevard  
Altoona, PA 16602

McQUAIDE, BLASKO,  
FLEMING & FAULKNER, INC.

By:   
Darryl R. Slimak  
Attorneys for Defendant  
JERJIS T. ALAJAJI, M.D.  
811 University Drive  
State College, PA 16801  
(814) 238-4926  
Fax: (814) 238-9624

IN THE COURT OF COMMON PLEAS  
OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

PAULA CARLSON and JAMIE  
CARLSON, her husband

-VS-

No. 06-563-CD

JERJIS T. ALAJAJI, M.D.,  
DUBOIS RADIOLOGISTS, INC.,  
and DUBOIS REGIONAL  
MEDICAL CENTER

O R D E R

AND NOW, this 28th day of March, 2007, it is the  
ORDER of this Court as follow:

1. As of May 1, 2007, all of the Plaintiffs'  
liability and expert reports shall be filed;
2. As of July 1, 2007, all of the Defense  
expert reports, liability and damage, shall be filed;
3. Discovery shall be completed by all parties  
by July 1, 2007;
4. This case is continued to the Fall Term of  
Court 2007.

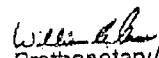
BY THE COURT,

/S/ Fredric J Ammerman

\_\_\_\_\_  
President Judge hereby certify this to be a true  
and attested copy of the original  
statement filed in this case.

MAR 28 2007

Attest.

  
Prothonotary/  
Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL ACTION - MEDICAL PROFESSIONAL LIABILITY ACTION

PAULA CARLSON and JAMIE CARLSON,  
her husband,

Plaintiffs,

vs.

JERJIS T. ALAJAJI, M.D. and  
DUBOIS RADIOLOGISTS, INC.; and  
DUBOIS REGIONAL MEDICAL CENTER

Defendants.

Docket No: 2006 - 563 - C.D.

Jury Trial Demanded

Type of Pleading  
Certificate of Service for Notice of  
Intent

Filed on Behalf of Defendant  
***Jerjis T. Alajaji, M.D.***

Counsel of Record for This Party  
***Darryl R. Slimak, Esquire***  
Pa. Supreme Court I.D. #41695

McQuaide, Blasko, Fleming &  
Faulkner, Inc.  
811 University Drive  
State College, PA 16801  
(814) 238-4926  
Fax: (814) 238-9624

Counsel for Adverse Party  
***Thomas E. Crenney, Esquire***

**FILED** Noce -  
m/215cm  
APR 09 2007  
(5)

William A. Shaw  
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL ACTION - MEDICAL PROFESSIONAL LIABILITY ACTION

PAULA CARLSON and JAMIE CARLSON,  
her husband,

Plaintiffs,

vs.

JERJIS T. ALAJAJI, M.D. and  
DUBOIS RADIOLOGISTS, INC., and  
DUBOIS REGIONAL MEDICAL CENTER,

Defendants.

Docket No: 2006 - 563 - C.D.

Jury Trial Demanded

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

Defendants intend to serve a subpoena identical to those attached to this notice to Red Lobster Restaurant, Adolfo Rapaport, D.O. and Dr. James P. Cherry, M.D.. You have twenty (20) days from the date listed below in which to file of record and serve upon the undersigned any objection to the subpoenas. If no objection is made, the subpoena may be served.

McQUAIDE, BLASKO,  
FLEMING & FAULKNER, INC.

By: 

DARRYL R. SLIMAK  
I.D. No. 41695  
811 University Drive  
State College, PA 16801  
(814) 238-4926  
Attorneys for Defendant  
Jerjis T. Alajaji, M.D.

Dated: 4-6-2007



IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL ACTION - MEDICAL PROFESSIONAL LIABILITY ACTION

PAULA CARLSON and JAMIE CARLSON,  
her husband,

Plaintiffs,

vs.

JERJIS T. ALAJAJI, M.D. and  
DUBOIS RADIOLOGISTS, INC., and  
DUBOIS REGIONAL MEDICAL CENTER,

Defendants.

Docket No: 2006 - 563 - C.D.

Jury Trial Demanded

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the Defendant's Notice of Intent to Serve Subpoenas for Production of Documents and Things directed to Red Lobster Restaurant, Adolfo Rapaport, M.D. and James Cherry, M.D., in the above-captioned matter was mailed by regular mail, postage prepaid, at the Post Office, State College, Pennsylvania, on this 6<sup>th</sup> day of April, 2007, to the attorney(s) of record:

Thomas E. Crenney, Esquire  
Thomas E. Crenney & Associates, LLC  
One Gateway Center, 18<sup>th</sup> Floor West  
Pittsburgh, PA 15222

Walter F. Wall, Esquire  
Meyer, Darragh, Buckner, Bebenek & Eck, PLLC  
120 Lakemont Park Boulevard  
Altoona, PA 16602

David R. Johnson, Esquire  
Thompson, Rhodes & Cowie, P.C.  
1010 Two Chatham Center  
Pittsburgh, PA 15219

McQUAIDE, BLASKO,  
FLEMING & FAULKNER, INC.

By: 

DARRYL R. SLIMAK  
I.D. No. 41695  
811 University Drive  
State College, PA 16801  
(814) 238-4926  
Attorneys for Defendant  
Jerjis T. Alajaji, M.D.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL ACTION - MEDICAL PROFESSIONAL LIABILITY ACTION

PAULA CARLSON and JAMIE CARLSON,  
her husband,

Plaintiffs,

vs.

JERJIS T. ALAJAJI, M.D. and  
DUBOIS RADIOLOGISTS, INC., and  
DUBOIS REGIONAL MEDICAL CENTER  
Defendants.

Docket No: 2006 - 563 - C.D.

Jury Trial Demanded

Type of Pleading

Certificate of Service

Prerequisite to Service of Subpoenas

Filed on Behalf of Defendant

*Jerjis T. Alajaji, M.D.*

Counsel of Record for This Party

*Darryl R. Slimak, Esquire*

Pa. Supreme Court I.D. #41695

McQuaide, Blasko, Fleming &

Faulkner, Inc.

811 University Drive

State College, PA 16801

(814) 238-4926

Fax: (814) 238-9624

Counsel for Adverse Party

*Thomas E. Crenney, Esquire*

**FILED**

**APR 10 2007**

*M / 12125 / u*  
William A. Shaw

Prothonotary/Clerk of Courts

*No C/C*

*CK*

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL ACTION - MEDICAL PROFESSIONAL LIABILITY ACTION

PAULA CARLSON and JAMIE CARLSON,  
her husband,

Plaintiffs,

vs.

JERJIS T. ALAJAJI, M.D. and  
DUBOIS RADIOLOGISTS, INC., and  
DUBOIS REGIONAL MEDICAL CENTER,

Defendants.

Docket No: 2006 - 563 - C.D.

Jury Trial Demanded

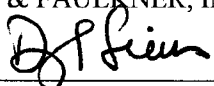
**CERTIFICATE**  
**PREREQUISITE TO SERVICE OF SUBPOENAS**  
**PURSUANT TO RULE 4009.22**

As a prerequisite to service of subpoenas for documents and things pursuant to Rule 4009.22, Defendants certify that:

- 1) a notice of intent to serve the subpoena with a copy of the subpoena attached thereto was mailed or delivered to the party at least twenty days prior to the date on which the subpoenas are 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 the 20 days have been waived
- 4) the subpoena which will be served is identical to the subpoenas which is attached to the notice of intent to serve the subpoena.

McQUAIDE, BLASKO,  
FLEMING & FAULKNER, INC.

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

  
Darryl R. Slimak, Esquire  
I.D. No.41695  
811 University Drive  
State College, PA 16801  
(814) 238-4926  
Attorneys for Defendant

Dated: \_\_\_\_\_

4/10/07

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL ACTION - MEDICAL PROFESSIONAL LIABILITY ACTION

PAULA CARLSON and JAMIE CARLSON,  
her husband,

Plaintiffs,

vs.

JERJIS T. ALAJAJI, M.D. and  
DUBOIS RADIOLOGISTS, INC., and  
DUBOIS REGIONAL MEDICAL CENTER,

Defendants.

Docket No: 2006 - 563 - C.D.

Jury Trial Demanded

**CERTIFICATE OF SERVICE**

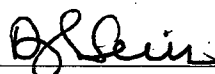
I hereby certify that a true and correct copy of the Certificate Prerequisite to Service of Subpoenas for Production of Documents and Things directed to Red Lobster Restaurant, Adolfo Rappaport, M.D. and James Cherry, M.D. in the above-captioned matter was mailed by regular mail, postage prepaid, at the Post Office, State College, Pennsylvania, on this 10<sup>th</sup> day of April, 2007, to the attorney(s) of record:

Thomas E. Crenney, Esquire  
Thomas E. Crenney & Associates, LLC  
One Gateway Center, 18<sup>th</sup> Floor West  
Pittsburgh, PA 15222

Walter F. Wall, Esquire  
Meyer, Darragh, Buckerl, Bebenek & Eck, PLLC  
120 Lakemont Park Boulevard  
Altoona, PA 16602

David R. Johnson, Esquire  
Thompson, Rhodes & Cowie, P.C.  
1010 Two Chatham Center  
Pittsburgh, PA 15219

McQUAIDE, BLASKO,  
FLEMING & FAULKNER, INC.

By: 

DARRYL R. SLIMAK  
I.D. No. 41695  
811 University Drive  
State College, PA 16801  
(814) 238-4926  
Attorneys for Defendant  
Jerjis T. Alajaji, M.D.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL ACTION - MEDICAL PROFESSIONAL LIABILITY ACTION

PAULA CARLSON and JAMIE CARLSON,  
her husband,

Plaintiffs,

vs.

JERJIS T. ALAJAJI, M.D. and  
DUBOIS RADIOLOGISTS, INC., and  
DUBOIS REGIONAL MEDICAL CENTER,

Defendants.

Docket No: 2006 - 563 - C.D.

Jury Trial Demanded

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

Defendants intend to serve a subpoena identical to those attached to this notice to Red Lobster Restaurant, Adolfo Rapaport, D.O. and Dr. James P. Cherry, M.D.. You have twenty (20) days from the date listed below in which to file of record and serve upon the undersigned any objection to the subpoenas. If no objection is made, the subpoena may be served.

McQUAIDE, BLASKO,  
FLEMING & FAULKNER, INC.

By: 

DARRYL R. SLIMAK  
I.D. No. 41695  
811 University Drive  
State College, PA 16801  
(814) 238-4926  
Attorneys for Defendant  
Jerjis T. Alajaji, M.D.

Dated: 4-6-2007

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL ACTION - MEDICAL PROFESSIONAL LIABILITY ACTION

PAULA CARLSON and JAMIE CARLSON,  
her husband,

Plaintiffs,

vs.

JERJIS T. ALAJAJI, M.D. and  
DUBOIS RADIOLOGISTS, INC., and  
DUBOIS REGIONAL MEDICAL CENTER,

Defendants.

Docket No: 2006 - 563 - C.D.

Jury Trial Demanded

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

TO: James P. Cherry, M.D.  
145 Hospital Avenue  
# 313  
DuBois, PA 15801

Within twenty (20) days after service of this subpoena, you are ordered by the court to produce the following documents or things: **Complete Records of Paula Jo Carlson; DOB 04/26/1971; SS# 201-66-3077. Also see attachment.**

at: **McQuaide Blasko Law Offices, 811 University Drive, State College, PA 16801**

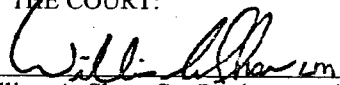
You may deliver or mail legible copies of the documents or produce things by this subpoena, together with the certificate of compliance, to the party making this request at the address listed above. You have the right to seek, in advance, the reasonable cost of preparing the copies or producing the things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

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

NAME: Darryl R. Slimak, Esquire  
ADDRESS: 811 University Drive, State College, PA 16801  
TELEPHONE: (814) 238-4926  
SUPREME CT ID#: 41695  
ATTORNEY FOR: Defendants

BY THE COURT:

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

Dated: 4-9-2007

[Seal of the Court]

### **SUBPOENA ATTACHMENT**

Copies of all records pertaining to **Paula J. Carlson, d/o/b 4/26/1971, SS # 201-66-3077**, including but not limited to a full and complete copy of any and all records, billing statements (***including charges, payments, adjustments and balances***), office notes, admission summaries, discharge summaries, operative reports, lab reports, medication records, reports, notes, correspondence, x-ray reports, test results, consultations, progress notes or other material or information relating to any consultation, examination, medical history, diagnosis or treatment. **We reserve the right to obtain copies of radiology films using this subpoena once we have had an opportunity to review any records or radiology reports that are received in response to this request.**

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL ACTION - MEDICAL PROFESSIONAL LIABILITY ACTION

PAULA CARLSON and JAMIE CARLSON,  
her husband,

Plaintiffs,

vs.

JERJIS T. ALAJAJI, M.D. and  
DUBOIS RADIOLOGISTS, INC., and  
DUBOIS REGIONAL MEDICAL CENTER,

Defendants.

Docket No: 2006 - 563 - C.D.

Jury Trial Demanded

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

TO: Red Lobster Restaurant  
813 East DuBois Avenue  
DuBois, PA 15801

Within twenty (20) days after service of this subpoena, you are ordered by the court to produce the following documents or things: Complete Records of Paula Jo Carlson; DOB 04/26/1971; SS# 201-66-3077. Also see attachment.

at: McQuaide Blasko Law Offices, 811 University Drive, State College, PA 16801

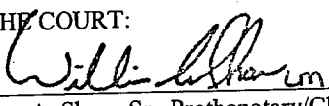
You may deliver or mail legible copies of the documents or produce things by this subpoena, together with the certificate of compliance, to the party making this request at the address listed above. You have the right to seek, in advance, the reasonable cost of preparing the copies or producing the things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

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

NAME: Darryl R. Slimak, Esquire  
ADDRESS: 811 University Drive, State College, PA 16801  
TELEPHONE: (814) 238-4926  
SUPREME CT ID# 41695  
ATTORNEY FOR: Defendants

BY THE COURT:

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

Dated: 4-9-2007

[Seal of the Court]



IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL ACTION - MEDICAL PROFESSIONAL LIABILITY ACTION

PAULA CARLSON and JAMIE CARLSON,  
her husband,

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vs.

JERJIS T. ALAJAJI, M.D. and  
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DUBOIS REGIONAL MEDICAL CENTER,

Defendants.

Docket No: 2006 - 563 - C.D.

Jury Trial Demanded

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TO: Red Lobster Restaurant  
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at: *McQuaide Blasko Law Offices, 811 University Drive, State College, PA 16801*

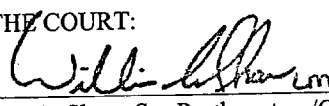
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If you fail to produce the documents or things required by this subpoena, within twenty (20) days after its service, the party serving this subpoena may seek a court ordering compelling you to comply with it.

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

NAME: *Darryl R. Slimak, Esquire*  
ADDRESS: *811 University Drive, State College, PA 16801*  
TELEPHONE: *(814) 238-4926*  
SUPREME CT ID# *41695*  
ATTORNEY FOR: *Defendants*

BY THE COURT:

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

Dated: 4-9-2007

[Seal of the Court]

**SUBPOENA ATTACHMENT**

**DOCUMENTS TO BE PRODUCED**

Any and all records **including but not limited to**, employment applications, personnel records, retirement benefits, employee benefits, attendance records, performance appraisals, wages paid to date and pay rate information within your custody or control regarding the employment of  
**Paula J. Carlson, d/o/b 4/26/1971, SS # 201-66-3077,**

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL ACTION - MEDICAL PROFESSIONAL LIABILITY ACTION

PAULA CARLSON and JAMIE CARLSON,  
her husband,

Plaintiffs,

vs.

JERJIS T. ALAJAJI, M.D. and  
DUBOIS RADIOLOGISTS, INC., and  
DUBOIS REGIONAL MEDICAL CENTER,

Defendants.

Docket No: 2006 - 563 - C.D.

Jury Trial Demanded

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

TO: Adolfo Rapaport, D.O.  
90 Beaver Drive, # 211d  
DuBois, PA 15801

Within twenty (20) days after service of this subpoena, you are ordered by the court to produce the following documents or things: Complete Records of Paula Jo Carlson; DOB 04/26/1971; SS# 201-66-3077. Also see attachment.

at: *McQuaide Blasko Law Offices, 811 University Drive, State College, PA 16801*

You may deliver or mail legible copies of the documents or produce things 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 ordering compelling you to comply with it.

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

NAME: *Darryl R. Simak, Esquire*  
ADDRESS: *811 University Drive, State College, PA 16801*  
TELEPHONE: *(814) 238-4926*  
SUPREME CT ID#: *41695*  
ATTORNEY FOR: *Defendants*

BY THE COURT:

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

Dated: 4-9-2007

[Seal of the Court]

**SUBPOENA ATTACHMENT**

Copies of all records pertaining to **Paula J. Carlson, d/o/b 4/26/1971, SS # 201-66-3077**, including but not limited to a full and complete copy of any and all records, billing statements (*including charges, payments, adjustments and balances*), office notes, admission summaries, discharge summaries, operative reports, lab reports, medication records, reports, notes, correspondence, x-ray reports, test results, consultations, progress notes or other material or information relating to any consultation, examination, medical history, diagnosis or treatment. **We reserve the right to obtain copies of radiology films using this subpoena once we have had an opportunity to review any records or radiology reports that are received in response to this request.**

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL ACTION - MEDICAL PROFESSIONAL LIABILITY ACTION

PAULA CARLSON and JAMIE CARLSON,  
her husband,

Plaintiffs,

vs.

JERJIS T. ALAJAJI, M.D. and  
DUBOIS RADIOLOGISTS, INC.; and  
DUBOIS REGIONAL MEDICAL CENTER

Defendants.

Docket No: 2006 - 563 - C.D.

Jury Trial Demanded

Type of Pleading  
Certificate of Service for Notice of  
Deposition

Filed on Behalf of Defendant  
*Jerjis T. Alajaji, M.D.*

Counsel of Record for This Party  
*Darryl R. Slimak, Esquire*  
Pa. Supreme Court I.D. #41695

McQuaide, Blasko, Fleming &  
Faulkner, Inc.  
811 University Drive  
State College, PA 16801  
(814) 238-4926  
Fax: (814) 238-9624

Counsel for Adverse Party  
*Thomas E. Crenney, Esquire*

**FILED** 110 cc  
mll 25/06  
APR 13 2006  
William A. Shaw  
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL ACTION - MEDICAL PROFESSIONAL LIABILITY ACTION

PAULA CARLSON and JAMIE CARLSON,  
her husband,

Plaintiffs,

vs.

JERJIS T. ALAJAJI, M.D. and  
DUBOIS RADIOLOGISTS, INC., and  
DUBOIS REGIONAL MEDICAL CENTER,

Defendants.

Docket No: 2006 - 563 - C.D.

Jury Trial Demanded

**NOTICE OF TAKING ORAL DEPOSITION OF JAMIE CARLSON**

TO: **Jamie Carlson**

C/O Thomas E. Crenney, Esquire  
Thomas E. Crenney & Associates, LLC  
One Gateway Center 18<sup>th</sup> Floor West  
Pittsburgh, PA 15222

PLEASE TAKE NOTICE that pursuant to the Pennsylvania Rules of Civil Procedure, the undersigned attorneys for Defendant in the above-captioned matter will take the oral deposition of **Jamie Carlson**, on **Tuesday, May 15, 2007**, commencing at **11:00 a.m.**, before a stenographer/Notary Public of MLP Reporting Service, Inc., 413 North Vesper Street, Lock Haven, PA 17745, 1-814-234-0775, at the **Dubois Regional Medical Center- Home Health Building Conference Room (Second Floor), 100 Hospital Avenue, Dubois, PA 15801.**

**The Deponent is to bring with him any and all notes, diaries, memoranda, calendars, and any other documents relating to this case which Deponent has prepared or has in his possession.**

McQUAIDE, BLASKO,  
FLEMING & FAULKNER, INC.

Dated: 4-17-2007

By: 

Darryl R. Slimak, Esquire  
I.D. No. 41695  
811 University Drive  
State College, PA 16801  
(814) 238-4926  
Attorneys for Defendants  
Jerjis Alajaji, M.D.

DRS/pal  
Enclosures

cc: Thomas E. Crenney, Esq. w/enc  
cc: Walter F. Wall, Esq. w/enc.  
cc: David R. Johnson, Esquire w/enc.  
cc: MLP Reporting w/enc  
cc: Dr. Jerjis T. Alajaji w/o enc

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL ACTION - MEDICAL PROFESSIONAL LIABILITY ACTION

PAULA CARLSON and JAMIE CARLSON,  
her husband,

Plaintiffs,

vs.

JERJIS T. ALAJAJI, M.D. and  
DUBOIS RADIOLOGISTS, INC., and  
DUBOIS REGIONAL MEDICAL CENTER,

Defendants.

Docket No: 2006 - 563 - C.D.

Jury Trial Demanded

**CERTIFICATE OF SERVICE**

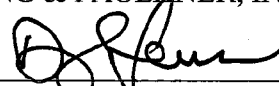
I hereby certify that the Amended Notice of Taking Oral Deposition of **Jamie Carlson**,  
in the above-referenced matter was mailed by regular mail, first class, at the Post Office, State  
College, Pennsylvania, postage prepaid, this 12<sup>th</sup> day of April, 2007, to:

Thomas E. Crenney, Esquire  
Thomas E. Crenney & Associates, LLC  
One Gateway Center 18<sup>th</sup> Floor West  
Pittsburgh, PA 15222

Walter F. Wall, Esquire  
Meyer, Darragh, Buckler, Bebenek & Eck, LLC  
120 Lakemont Park Boulevard  
Altoona, PA 16602

David R. Johnson, Esquire  
Thompson, Rhodes & Cowie, P.C.  
1010 Two Chatham Center  
Pittsburgh, PA 15219

McQUAIDE, BLASKO,  
FLEMING & FAULKNER, INC.

By: 

DARRYL R. SLIMAK  
I.D. No. 41695  
811 University Drive  
State College, PA 16801  
(814) 238-4926  
Attorneys for Defendant  
Jerjis T. Alajaji, M.D.



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

PAULA CARLSON and  
JAMIE CARLSON, her husband,

Plaintiffs,

vs.

JERJIS T. ALAJAJI, M.D., DUBOIS  
RADIOLOGISTS, INC. and DUBOIS  
REGIONAL MEDICAL CENTER,

Defendants.

No. 2006-563-CD

Civil Action – Medical Professional  
Liability Action

Judge Ammerman

**PLAINTIFFS' EXPERT LIABILITY  
WITNESSES AND DAMAGE REPORT  
OF JAMES L. KENKEL, Ph.D.**

Filed on behalf of the Plaintiffs

Counsel of Records for this Party:

Thomas E. Crenney, Esquire  
PA I.D. No. 40986

THOMAS E. CRENNY & ASSOCIATES, LLC  
One Gateway Center  
18<sup>th</sup> Floor West  
Pittsburgh, PA 15222  
Telephone: (412) 644-5545  
Facsimile: (412) 644-5581

**JURY TRIAL DEMANDED**

**FILED** *no cc*  
*10:38 AM*  
MAY 01 2007 *CR*  
William A. Shaw  
Prothonotary/Clerk of Courts

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

PAULA CARLSON and  
JAMIE CARLSON, her husband,

Plaintiffs,

No. 2006-563-CD

Civil Action – Medical Professional  
Liability Action

vs.

JERJIS T. ALAJAJI, M.D., DUBOIS  
RADIOLOGISTS, INC. and DUBOIS  
REGIONAL MEDICAL CENTER,

Defendants.

**PLAINTIFFS' EXPERT LIABILITY WITNESSES  
AND DAMAGE REPORT OF JAMES L. KENKEL, Ph.D.**

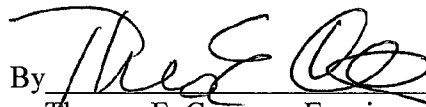
AND NOW, come the Plaintiffs, Paula Carlson and Jamie Carlson, by and through their attorneys, Thomas E. Crenney & Associates, LLC, and file the within Expert Liability Witnesses and Damage Report of James L. Kenkel, Ph.D. as follows:

1. Letter of Mary Defranco dated January 29, 2007;
2. Letter of N. Anthony Mastropietro dated March 26, 2007 (CV attached);
3. Reports of Lawrence Cooperstein, M.D. dated March 25, 2007 and May 7, 2006 (CV attached);
4. Letters of Kenneth M. Yaw, M.D. dated April 24, 2007, March 7, 2006 and February 23, 2006 (CV attached);
5. Report of James L. Kenkel, Ph.D. dated April 1, 2007
6. Social Security Disability Decision and Record dated March 5, 2007;
7. Functional Capacity Evaluation dated March 8, 2006;
8. Functional Capacity Evaluation of Rehabilitation Safety Associates dated June 13, 2006;

9. Various films as interpreted by G. A. Shah, M.D., including MRI of June 9, 2005 and CT Scan of June 14, 2005, Total Body Scan of June 10, 2005;
10. X-ray Report of June 9, 2005 as read by Dr. Piasio of right wrist;
11. Mark Piasio, M.D. letter to Kenneth Yaw, M.D. dated June 13, 2005; and
12. Office Notes of Mark Piasio, M.D. dated June 9, 2005 through June 13, 2005.

Respectfully submitted,

THOMAS E. CRENNNEY & ASSOCIATES, LLC

By 

Thomas E. Crenney, Esquire  
Attorney for Plaintiffs

One Gateway Center  
18<sup>th</sup> Floor - West  
Pittsburgh, PA 15222  
(412) 644-5545

DATE: 4/30/07





DEPARTMENT OF  
**LABOR & INDUSTRY**  
COMMONWEALTH OF PENNSYLVANIA

OFFICE OF VOCATIONAL REHABILITATION

199 BEAVER DRIVE  
DuBois, PA 15801



---

(814) 371-7340 • (814) 913-1002 FAX • 800-922-4017 Voice/TTY

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January 29, 2007

To Whom It May Concern:

This is in regards to Paula Carlson who recently became involved with OVR for assistance with employment. Paula has very significant limitations with her dominant hand and wrist due to surgery to remove a bone tumor. She has very poor general strength, grip, speed, endurance, dexterity and coordination. She does not have sufficient ability with her non-dominant hand to make up for the limitations with the other.

Although Paula worked for years, her education, skills and experience are very specific to her field. Unfortunately, she can no longer handle the duties of a radiation therapist. She is not qualified for anything else and has no other work experience. Her severe limitations make it difficult to establish appropriate vocational goals; for example, even sedentary and/or professional jobs require activities including computer use and other fine motor skills, such as writing and manipulating. As a result, I cautioned Paula that it may be very difficult, if not impossible, to find something she will be able to handle, plus, if/when a position is found, it likely will be part-time and low-paying.

At this point, Paula and I are trying to figure out potential possible jobs she may be able to do. She is gathering information and also applying for positions we hope are feasible. We are also trying to establish what other specific services may be of assistance to her in her quest for employment. Although the overall goal is for Paula to return to work in some capacity, it is not likely she will be gainfully employed, as in the past.

I hope this information is helpful to you.

Sincerely,

Mary T. Defranco  
Vocational Rehabilitation Counselor

MTD/srp





Family Practice

N. Anthony Mastropietro, M.D.

David Ling, M.D.

Preeti Malhotra, M.D.

Cindy A. Brubaker, PA-C

Michael C. Shipman, PA-C

Teresa L. Weitz, PA-C

2145 Noll Drive

Lancaster, PA 17603

Phone 717-397-4921

Fax 717-397-7170

March 26, 2007

Mr. Thomas E. Crenney  
One Gateway Center  
18<sup>th</sup> Floor – West  
Pittsburgh, PA 15222

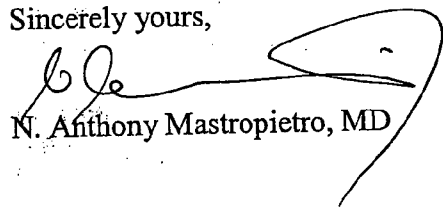
Dear Mr. Crenney:

Thank you for asking me to review the case of Paula Carlson. My review of the records confirms that Dr. Graeca and his staff very appropriately met the standard of care in Ms. Carlson's case despite being limited by an inaccurate x-ray report.

Had the accurate reading been reported as abnormal or suspicious, requesting an MRI and a bone scan of the wrist immediately is what a reasonably prudent physician would have done.

If you have any further questions, please contact me.

Sincerely yours,

  
N. Anthony Mastropietro, MD



**Family Practice &  
Internal Medicine**

N. Anthony Mastropietro, M.D.  
Arif Hafiz, M.D.  
David Ling, M.D.  
Douglas A. Fronzaglia, D.O.  
Cindy A. Brubaker, PA-C

Michael C. Shiptman, PA-C  
Teresa L. Weitz, PA-C

2145 Noll Drive • Lancaster, PA 17603  
717-397-4921 • Fax 717-397-7170

## N. Anthony Mastropietro, M.D.

### Education

#### College

Villanova University  
President, Lambda Kappa Delta Fraternity

BA in Social Science, 1967

#### Medical School

Georgetown University  
School of Medicine

M.D. Degree, 1971

#### Residency

Family Practice Residency, Lancaster General Hospital  
Chief Resident, Lancaster General Hospital

1971-1974  
1973-1974

### Professional Experience

Group Practice in Family Medicine- Lancaster, PA

1976-1982

Solo Practice in Family Medicine- Lancaster, PA

1982-1990

Mastropietro & Associates- Lancaster, PA  
Medical Director

1990-Present

### Hospital Privileges

Lancaster Regional Medical Center  
Lancaster General Hospital  
Heart of Lancaster Regional Medical Center



## Military Experience

Lieutenant Commander, U.S. Navy

1974-1976

Staff Physician

U.S. Naval Hospital- Jacksonville, FL

Teaching Staff, Family Practice Residency

U.S. Naval Hospital- Jacksonville, FL

Clinical Instructor

University of Florida School of Medicine- Gainesville, FL

Director of Physician's Assistant Training

U.S. Naval Hospital, Jacksonville, FL

Clinical Associate in Family Practice

University of Nebraska School of Medicine

Honorable Discharge 1976

## Certification and Licensure

Certified by the American Board of Family Practice

1974

Recertified by the Board

1980, 1986, 1993, 2000

Licensed in the State of Pennsylvania

1971 through Present

Licensed in the State of Georgia

1974 to 1978

Licensed in the State of Florida

1974-1981

Diplomat- National Board of Medical Examiners

1971

## Professional Societies

Member- American Academy of Family Physicians

## Personal Data

Married, 9 Children





## Titusville Area Hospital

March 25, 2007

Thomas E. Crenney  
Attorney at Law  
One Gateway Center  
18th Floor-West  
Pittsburgh, PA 15222

Dear Mr. Crenney,

As to the radiographs of the right wrist of Paula Carlson, dated April 12, 2005, I would have dictated the following report had I read them in my normal course of work.

"Multiple views of the right wrist demonstrate a lucent lesion in the distal radius. The lesion is slightly greater than one centimeter in size and extends to the end of the bone. There is no cortical erosion and no extra-osseous extension is evident. The lesion is uniformly lucent and contains no calcification or ossification. Proximally, the lesion has a poorly defined border. No other abnormality can be identified. There is no pathologic fracture.

Based on the appearance of the lesion and the patient's age, the leading consideration is giant cell tumor. Other etiologies however, both benign and malignant, are possible. Further imaging with a bone scan and MRI are recommended to evaluate this further. Biopsy/excision will most likely be needed for definitive diagnosis.

Impression: Lucent lesion distal radius. The leading differential diagnostic consideration is giant cell tumor. Further imaging is recommended."

I have also read the depositions of Dr. Shah and Dr. Alajaji. Having read these depositions, my opinions expressed in my letter to you dated May 7, 2005 have not changed.

Sincerely,

Lawrence Cooperstein, M.D.



## Titusville Area Hospital

May 7, 2006

Thomas E. Crenney  
Attorney at Law  
One Gateway Center  
18th Floor-West  
Pittsburgh, Pa 15222

Dear Mr. Crenney,

At your request I have reviewed radiographic studies of your client Paula Carlson. Following is my opinion regarding this review.

Radiographs of the right wrist of Paula Carlson, dated April 12, 2005, labeled as being from the Medical Arts Building clearly demonstrate a lucent lesion in the distal radius at the end of the bone to the ulnar side. This abnormality is obvious and not subtle or difficult to perceive.

The official report of these radiographs was that of a normal wrist. This interpretation was given by Dr. Jerjis T. Alajaji.

By failing to report the lesion in the radius, this interpretation falls below the expected standard of care.

This opinion is given to a reasonable degree of medical certainty.

Sincerely,

Lawrence Cooperstein, M.D.

## CURRICULUM VITAE

**NAME:** LAWRENCE A. COOPERSTEIN, M.D.

**BIRTHDATE:** February 6, 1953

**BIRTHPLACE:** Cleveland, OH

**CITIZENSHIP:** U.S.A.

**HOME ADDRESS:** 880 Old Hickory Road  
Pittsburgh, PA 15243  
Telephone: (412) 343-8094

**BUSINESS ADDRESS:** Titusville Area Hospital  
Department of Diagnostic Imaging  
406 West Oak Street  
Titusville, PA 16354  
Telephone: (814) 827-1851

**EDUCATION & TRAINING:** Princeton University  
Princeton, NJ  
1971-1975 - A.B. (Geology)

University of Rochester  
School of Medicine  
Rochester, NY  
1975-1979 - M.D.

Waynesburg College  
Waynesburg, PA  
2000-2002 - M.B.A.

**POSTGRADUATE TRAINING:** Health Center of the  
University of Pittsburgh  
Pittsburgh, PA  
1979-1980 - Intern, Radiology  
1980-1983 - Resident, Radiology

University of Florida  
Gainesville, FL  
September/October, 1983  
Fellowship, Skeletal Radiology  
Terry Hudson, M.D.

University of California, San Diego  
San Diego, CA  
November/December, 1983  
Fellowship, Skeletal Radiology  
Donald Resnick, M.D.

**FACULTY APPOINTMENTS  
& POSITIONS:**

Assistant Professor of Radiology  
University of Pittsburgh  
School of Medicine  
University Health Center of Pittsburgh  
July, 1983 - February, 1988

Section Chief, Skeletal Radiology,  
Presbyterian-University Hospital  
Pittsburgh, PA  
1985 - 1990

Director of Residency Training  
in Diagnostic Radiology  
University of Pittsburgh  
Pittsburgh, PA  
1986 - 1990

Vice-Chairman for Education  
in Diagnostic Radiology  
University of Pittsburgh  
Pittsburgh, PA  
1986 - 1989

Director of Radiology  
Falk Clinic  
Pittsburgh, PA  
1987 - 1990

Associate Professor of Radiology  
University of Pittsburgh  
School of Medicine  
University Health Center of Pittsburgh  
Pittsburgh, PA  
March, 1988 - May, 1990

Clinical Associate Professor of Radiology  
University of Pittsburgh  
School of Medicine  
University Health Center of Pittsburgh  
Pittsburgh, PA  
June, 1990 - June, 1997

Lawrence A. Cooperstein, M.D.

Chief, Division of  
Musculoskeletal Imaging,  
Director, Diagnostic Division  
Department of Radiology  
Shadyside Hospital  
Pittsburgh, PA  
June, 1990 - September, 2002

Radiologist  
Department of Radiology  
UPMC-St. Margaret Hospital  
Pittsburgh, PA  
September, 2002 - October 2003

Clinical Associate Professor of Radiology  
University of Pittsburgh Medical Center  
September, 2002 - October 2003

Chief, Department of Diagnostic Imaging  
Jefferson Regional Medical Center  
Pittsburgh, PA  
November, 2003 - July, 2004

Chief, Department of Diagnostic Imaging  
Titusville Area Hospital  
Titusville, PA  
August, 2004 - present

Lawrence A. Cooperstein, M.D.

**CERTIFICATION & LICENSURE:** National Board of Medical Examiners  
March, 1980

American Board of Radiology  
May, 1983

**PROFESSIONAL LICENSURE:** Medicine - Pennsylvania - 1980  
Certificate Number: MD-023989-E

**HONORS:** Graduated Magna Cum Laude,  
Princeton University, 1975

Rochester Graduation Speaker, University of  
of Medicine Commencement Exercises, 1979

Honorable Mention for Presentation on  
Prosthetic Cardiac Valves,  
Pittsburgh Roentgen Society  
March, 1982

Resident Teacher of the Year  
Department of Diagnostic Radiology  
University of Pittsburgh  
1985 - 1986

Honorable Mention for Scientific  
Exhibit on the Lost Surgical Sponge:  
Do You Know What it Looks Like?  
RSNA, November, 1986

**MEMBERSHIP IN PROFESSIONAL  
& SCIENTIFIC SOCIETIES:** Allegheny County Medical Society  
Pennsylvania Medical Society  
Pittsburgh Roentgen Society  
Sigma Xi Research Society  
American College of Radiology  
Pennsylvania Radiological Society  
Radiological Society of North America  
American Roentgen Ray Society

**COMMITTEE APPOINTMENTS:** Medical Economics Committee  
The Pittsburgh Roentgen Society  
1986 - 1987

Nominating Committee  
The Pittsburgh Roentgen Society



Lawrence A. Cooperstein, M.D.

1987 - 1988

Lawrence A. Cooperstein, M.D.

Board of Directors  
Pennsylvania Radiological Society  
1987 - 1988, 1988 - 1989  
Committee on Membership (Vice Chairman)  
1988 - 1989

Standing Committee for Non-Tenured  
Faculty Promotions & Appointments in the  
School of Medicine  
University of Pittsburgh  
1989 - 1990

Reviewer - Radiology  
1989 - 1992

Committee on Graduate Medical Education  
School of Medicine,  
University of Pittsburgh  
1989 - 1990

Transitional Year Coordinating Committee  
Shadyside Hospital  
1990 - 1992

Education and Research Committee  
Shadyside Hospital  
1991 - 1994

Medical Staff Secretary, Shadyside  
Hospital  
1995 - 1996

Credentials Committee, Shadyside Hospital  
1995 - 1996

Co-Director, Penn State University  
Radiography Program  
May, 1998 - September, 2002

Radiation Safety Officer  
Jefferson Regional Medical Center  
November, 2003 - July, 2004

Radiation Safety Officer  
Titusville Area Hospital  
August, 2004 - present

Lawrence A. Cooperstein, M.D.

## PUBLICATIONS

### Refereed Articles

1. Lorand L, Campbell-Wilkes LK, Cooperstein LA: A Filter Paper Assay for Transaminating Enzymes Using Radioactive Amine Substrates. Analytical Biochemistry 50:623, 1972.
2. Lester R, Carey MC, Little J, Cooperstein LA, Dowd SR: Crustacean Intestinal Detergent Promotes Sterol Solubilization. Science 189:1098, 1975.
3. Lopaciuk S, Bykowska K, McDonagh JM, McDonagh RP, Yount WJ, Fuller CR, Cooperstein LA, Gray A Jr., Lorand L: Differences Between Type I AutoImmune Inhibitors of Fibrin Stabilization in Two Patients With Severe Hemorrhagic Disorder. Journal of Clinical Investigation 61:1196, 1978.
4. Burk DL, Mears DC, Herbert DL, Straub WH, Cooperstein LA, Beck EA: Pelvic and Acetabular Fractures: Examination by Angled CT Scanning. Radiology 153:548, 1984.
5. Burk DL, Mears DC, Kennedy WH, Cooperstein LA, Herbert DL: Three-Dimensional Computed Tomography of Acetabular Fractures. Radiology 155:183-186, 1985.
6. Burk DL, Mears DC, Cooperstein LA, Herman GT, Udupa JK: Acetabular Fractures: Three-Dimensional Computed Tomography Imaging and Interactive Surgical Planning. Journal of Computed Tomography 10:1-12, 1986.
7. Cush JJ, Medsger TA, Christy WC, Herbert DL, Cooperstein LA: Adult Onset Still's Disease: Clinical Course and Outcome. Arthritis and Rheumatism 30:186-194, 1987.
8. Herron JM, Good WF, Gur D, Maitz GS, Miller SL, Fuhrman CR, Cooperstein LA: High Resolution Work Station for Evaluation of Diagnostic Efficacy. SPIE 767, 670-674, 1987.
9. Fuhrman CR, Gur D, Good BG, Rockette H, Cooperstein LA, Feish JH: Storage Phosphor Radiographs versus Conventional Films: Interpreters' Perceptions of Diagnostic Quality. AJR 150:1011-1014, 1988.
10. Good BC, Cooperstein LA, and Gur D: Radiologists' Perceptions of and Preferences for a Concise Computerized History Form During Radiologic Interpretations. SPIE 914(B), 970-975, 1988.
11. Piraino B, Chen T, Cooperstein L, Segre G, Puschett J: Fractures and Vertebral Bone Mineral Density in Patients with Renal Osteodystrophy. Clinical Nephrology 30:57, 1988.

Lawrence A. Cooperstein, M.D.

12. Nicholas JJ, Haidet E, Helfrich D, Herndon JH, Cooperstein L: Groin and Hip Pain Due to Fractures At or Near the Pubic Symphysis. Archives of Physical Medicine and Rehabilitation 70:696, 1989.
13. Nicholas JJ, Helfrich D, Cooperstein L, Goodman M: Clinical and Radiographic Improvement of Bone of the Second Lumbar Vertebra in Paget's Disease Following Therapy with Etidronate Disodium: A Case Report. Arthritis and Rheumatism 32:776, 1989.
14. Gruen GS, Mears DC, Cooperstein LA: Three-Dimensional Angio-Computed Tomography: New Technique for Imaging the Acetabulum and Adjacent Vessels in a Patient with Acetabular Protrusion. Journal of Arthroplasty 4:353, 1989.
15. Slasky BS, Gur D, Good WF, Costa-Greco M, Harris K, Cooperstein LA, Rockette HE: Receiver Operating Characteristic Analysis of Chest Image Interpretation with Conventional, Laser-Printed, and High Resolution Workstation Images. Radiology 174:775, 1990.
16. Wasielewski R, Cooperstein LA, Kruger MP, Rubash HE: Acetabular Anatomy and Transacetabular Screw Fixation in Total Hip Arthroplasty. Journal of Bone and Joint Surgery 72A:501-508, 1990.
17. Rockette HE, Gur D, Cooperstein LA, Obuchowski NA, King JL, Fuhrman CR, Tabor ER, Metz CE: Effect of Two Rating Formats in Multi-Disease ROC Study of Chest Images. Investigative Radiology 25:225, 1990.
18. Gur D, Rockette HE, Good WF, Slasky BS, Cooperstein LA, Straub WH, Obuchowski NA, Metz CE: Effect of Observer Instruction on ROC study of Chest Images. Investigative Radiology 25:230, 1990.
19. Good BC, Cooperstein LA, DeMarino GB, Miketic LM, Gennari RC, Rockette HE, Gur D: Does Knowledge of the Clinical History Affect the Accuracy of Chest Radiography Interpretation? American Journal of Roentgenology 154:709, 1990.
20. Cooperstein LA, Good BC, Eelkema E, Sumkin JH, Tabor E, Siderovich K, Curtin H, Yousem W: The Effect of Clinical History on Chest Interpretations in a PACS Environment. Investigative Radiology 25:670, 1990.
21. Oddis CV, Medsger TA, Cooperstein LA: A Subluxing Arthropathy Associated with the Anti-JO-1 Antibody in Polymyositis-Dermatomyositis. Arthritis and Rheumatism 33:1640-1645, 1990.

Lawrence A. Cooperstein, M.D.

22. Arthur RS, Piraino B, Candib D, Cooperstein LA, Chen T, West C, Puschett J: The Effect of Low Dose Calcitriol Therapy on Bone Histomorphometry and Urinary Calcium Excretion in Osteogenic Women. Mineral and Electrolyte Metabolism 16(6):385, 1990.

Lawrence A. Cooperstein, M.D.

23. Cauley JA, Egeland G, Kwoh KC, Nevitt M, Cooperstein LA, Romay J, Towers AL, Gutai JP: Serum Sex Hormones and Severity of Osteoarthritis of the Hand. Journal of Rheumatology 20:1170-5, 1993.
24. Lynch J, Cooperstein LA, Digioia A: Plantar Medial Subluxation of the Medial Cuneiform - Case Report of an Uncommon Variant of the Lisfranc Injury. Foot and Ankle. 16(5):299-301, 1995.
25. Daffner RM, Kennedy SL, Fox KR, Crowley JJ, Sauser DD, Cooperstein LA: Synchronous Multicentric Osteosarcoma: The Case for Metastases. Skeletal Radiology. 26:569-578, 1997.

Lawrence A. Cooperstein, M.D.

**REVIEWS, INVITED PUBLISHED PAPERS, PROCEEDINGS OF  
CONFERENCES AND SYMPOSIA, MONOGRAPHS, BOOKS AND BOOK  
CHAPTERS**

1. Troxler RF, Cooperstein LA, Lester R: Carbon Monoxide Evolution During Photo-Bleaching of Cholorphyll in vitro. Biological Bulletin 155:470, 1978.
2. Wholey MH, Cooperstein LA: Embolization of Bronchial Arteries in Patients with Hemoptysis. In Wilkins, R.A., and Viamonte, J., Jr., editors, Interventional Radiology, Blackwell Scientific Publications, Boston, 1982. pp. 173-150.
3. Wholey MH, Cooperstein LA: Renal Trauma. In Abrams, H.L., editor, Abrams Angiography: Vascular and Interventional Radiology, 3rd edition, Vol. 2, Little, Brown and Company, Boston, 1983. pp. 1231-1245
4. Cooperstein LA: Peripheral Vascular Disease. In Straub WH, editor, Manual of Diagnostic Imaging: A Clinician's Guide to Clinical Problem Solving, Little, Brown and Company, Boston, 1984. pp 203-206.
5. Fuhrman C., Cooperstein L, Herron J, Good W, Gur D, Maitz G, Tabor E, Hoy R: High Resolution Work Station for Evaluation of Diagnostic Efficacy. Presented at the Chest Imaging Conference - 87 (CIC-87), Madison, WI, August 31-September 2, 1987. Proceedings Published as Proceedings of Chest Imaging Conference '87, Peppler WW, Alter AA (eds.) 1988; pp 172-177.
6. Fuhrman C, Feist J. Cooperstein L, Gur D, Herron J, Good W, Schaetzing R, Whiting B: High resolution storage phosphor chest imaging. Presented at the Chest Imaging Conference - 87 (CIC-87), Madison, WI, August 31 - September 2, 1987. Proceedings published as Proceedings of Chest Imaging Conference '87, Peppler WW, Alter AA (eds.) 1988; pp 216-222.
7. Cooperstein LA: Pelvic Fractures. In Straub WH, editor, Manual of Diagnostic Imaging: A Clinician's Guide to Clinical Problem Solving (Second Edition), Little, Brown and Company, Boston, 1989. pp 250-254.
8. Cooperstein LA: Evaluating the Arthritides. In Struab WH, editor, Manual of Diagnostic Imaging: A Clinician's Guide to Clinical Problem Solving (Second Edition), Little, Brown and Company, Boston, 1989. pp 256-259.
9. Cooperstein LA: Avascular Necrosis. In Straub WH, editor,

Lawrence A. Cooperstein, M.D.

Manual of Diagnostic Imaging: A Clinician's Guide to Clinical  
Problem Solving (Second Edition), Little, Brown and Company,  
1989. pp 259-262.



Lawrence A. Cooperstein, M.D.

10. Cooperstein LA: Stress Fractures/Sports Related Injuries. In Straub WH, editor, Manual of Diagnostic Imaging: A Clinician's Guide to Clinical Problem Solving (Second Edition), Little, Brown and Company, 1989. pp 254-256.
11. Cooperstein LA and Penkrot RJ: Musculoskeletal Tumors. In Straub WH, editor, Manual of Diagnostic Imaging: A Clinician's Guide to Clinical Problem Solving (Second Edition), Little, Brown and Company, 1989. pp 326-328.
12. Cooperstein LA: Osteoporosis. In Straub WH, editor, Manual of Diagnostic Imaging: A Clinician's Guide to Clinical Problem Solving (Second Edition), Little, Brown and Company, 1989. pp 265-267.
13. Cooperstein LA and Penkrot RJ: Osteomyelitis. In Straub WH, editor, Manual of Diagnostic Imaging: A Clinician's Guide to Clinical Problem Solving (Second Edition), Little, Brown and Company, 1989. pp 262-264.
14. Cooperstein LA, Good BC, Miketic LM, Tabor ER, Yousem SA, King JL, Gennari R, Felice MA, and Sidorovich K: Patient History: Impact on Diagnosis. Decisions in Imaging Economics 3:25-28, 1990.
15. Cooperstein LA, Good BC, Miketic LM, Tabor ER, Yousem SA, King JL, Gennari R, Felice MA, and Sidorovich K: Incorporation of a Clinical History into the Interpretation Process in a PACS Environment. Proc. SPIE 1234:1990.
16. Cooperstein LA. Current Trends in Joint Imaging. Shadyside Hospital Physician's Newsletter. Vol. 5, No. 2, Winter 1991.
17. Towers JD, Cooperstein LA. Paget's Disease of Bone. Contemporary Diagnostic Radiology Vol. 14, No. 24, 1991.
18. Cooperstein LA, MRI in Musculoskeletal Diagnosis. Shadyside Hospital Physicians Newsletter. Vol 8, No. 3, 1994.
19. Cooperstein, Lawrence. Imaging in Sports Medicine. In Mellion, MB, Putukian, M, and Madden, CC, editors, Sports Medicine Secrets, Third Edition, Hanley and Belfus, Inc., 2003. pp. 589-593.

Lawrence A. Cooperstein, M.D.

**PUBLISHED ABSTRACTS**

1. Cooperstein LA, Little JM, Dowd SR, Lester R, Carey MC: Bile Salts are not Necessary for Sterol Miccellization. Gastroenterology 68:1089, 1975.
2. Good BC, Cooperstein LA, Gur D, Miller SL, Good WF, Fuhrman CR, Straub WH: Computerized Clinical History in the Clinical Radiology Environment. Investigative Radiology 22:S25, 1987.
3. Herron JM, Good WF, Gur D, Maitz GS, Miller SL, Fuhrman C, Cooperstein L, Slasky BS: High-Resolution Work Station for Evaluation of Diagnostic Efficacy. Investigative Radiology 22:S25, 1987.
4. Fuhrman C, Cooperstein L, herron JM, Good WF, Gur D, Maitz G, Tabor E, Hoy R: Primary diagnosis of chest images using a high-resolution work station. Presented at the 38th Annual General Meeting of the Royal Australasian College of Radiologists, October 3, 1987. In: Proceedings of the Royal Australasian College of Radiologists 38th Annual General Meeting, p. 2:4, 1987.
5. Cooperstein LA, Good Bc, Gur D, Fuhrman C, Feist J, Struab W: Radiologist's perceptions of and preferences for a concise computerized history form during radiologic interpretations. Presented at the 38th Annual General Meeting of the Royal Australasian College of Radiologists, October 6, 1987. In: Proceedings of the Royal Australasian College of Radiologists 38th Annual General Meeting, p. 2:57, 1987.
6. Fuhrman CR, Cooperstein LA, Herron J, Good WF, Good B, Gur D, Maitz, G, Tabor E, Hoy RJ: Effects of display resolution and size on primary diagnosis of chest images using a high-resolution electronic work station. Presented at the 73rd Scientific Assembly and Annual Meeting of the RSNA, Chicago, IL, November 29-December 4, 1987. Radiology 165 (P):3, 1987.
7. Cooperstein LA, Good BC, Eelkema E, Sumkin JH, Tabor E, Siderovich K, Curtin H, Yousem W: The Effect of Clinical History on Chest Interpretations in a PACS Environment. SPIE 25, 670, 1990.
8. Arthur Rs, Piraino B, Candib D, Cooperstein LA, Chen T, West C, Puschet J: The Effect of Low Dose Calcitrick Therapy on Bone Histomorphometry and Urinary Calcium Excretion in Osteogenic Women. Menopause Digest, 1991.

Lawrence A. Cooperstein, M.D.

**GRANTS**

|                 |                                                                                                                            |                                            |
|-----------------|----------------------------------------------------------------------------------------------------------------------------|--------------------------------------------|
| 7/1/86-1/31/87  | Clinical History in the<br>Radiology Environment<br>P.I. - L. Cooperstein, M.D.                                            | IBM<br>\$38,900                            |
| 4/1/86-3/31/89  | Equipment for Storage Phosphor<br>and PACS<br>P.I. - D.Gur, Sc.D.                                                          | Kodak & General<br>Electric<br>\$1,200,000 |
| 4/1/86-3/1/89   | Evaluation of Storage<br>Phosphor Systems<br>P.I. - D. Gur, Sc.D.                                                          | Kodak & General<br>Electric<br>\$116,000   |
| 7/1/87-6/30/88  | Evaluation of High-Resolution Work<br>Station<br>(Co-principal Investigator)                                               | General<br>Electric<br>\$63,500            |
| 8/1/87-7/31/92  | Evaluation of PACS Related<br>Diagnostic Radiology Concepts<br>(Investigator)<br>--- PROJECT 1<br>(Principal Investigator) | NCI<br>\$2,130,000                         |
| 1/1/89 - 1/1/90 | The Epidemiology of Sex Hormones<br>and Osteoarthritis of the Hand<br>(Investigator)                                       | Arthritis<br>Foundation<br>\$6,210         |
| 1/1/90-12/31/90 | The Epidemiology of Sex Hormones<br>and Osteoarthritis of the Hand<br>(Investigator)                                       | Arthritis<br>Foundation<br>\$9,259         |

Lawrence A. Cooperstein, M.D.

### **PRESENTATIONS**

1. Cooperstein LA, Wholey MH, Rao G: Radiographic Evaluation of Prosthetic Cardiac Valves. Presented at the American Roentgen Ray Society Meeting, San Francisco, CA, March, 1981.
2. Cooperstein LA, Wholey MH, Rao G: Radiographic Evaluation of Prosthetic Cardiac Valves. Presented at the Pittsburgh Roentgen Ray Society Meeting, Pittsburgh, PA, March, 1982.
3. Burk DL, Mears DC, Herbert DL, Straub WH, Cooperstein LA: Computed Tomography of Pelvic and Acetabular Fractures with Plain Radiographic Correlation and Angled Scanning of the Pelvic Ring. Presented at the Radiological Society of North American Meeting, Chicago, IL, November 18, 1983.
4. Burk DL, Mears DC, Kennedy WH, Cooperstein LA, Herbert DL: 3D CT of the Acetabulum. Presented at the Pittsburgh Roentgen Society Meeting, Pittsburgh, PA, May 9, 1984.
5. Burk DL, Mears DC, Kennedy WH, Cooperstein LA, Herbert DL: 3D CT of Acetabular Fractures. Presented at the Radiological Society of North America Meeting, Washington, DC, November 25-30, 1984.
6. Cooperstein L, Schwartz ML: The Lost Surgical Sponge: Do You Know What It Looks Like? Presented at the Radiological Society of North America Meeting, November 1985.
7. Piraino B, Chen T, Cooperstein L, Segre G, Puschett J: Vertebral Bone Mineral Density in Patients with Renal Osteodystrophy. Presented at the Eighth Annual Meeting, American Society for Bone and Mineral Research, Anaheim, CA, January 1986.
8. Mears DC, Sawaguchi T, Harvell JC, Rubash H, Burk DL, Cooperstein LA: The Classification of Acetabular Fractures by Three Dimensional Computed Tomography. Presented at the American Academy of Orthopaedic Surgeons Meeting, February 1986.
9. Burk DL, Mears DC, Cooperstein LA, Ward WT, Swink C: 3D CT of Fractures of the Lower Extremities. Presented at the American Roentgen Ray Society annual Meeting, Washington, DC, April 1986.
10. Britton, CA, Cooperstein LA: Errors in Radiographic Recognition in the Emergency Room. Presented at the Radiological Society of North America Meeting, Chicago, IL, November 1986.
11. Good BC, Cooperstein LA, Gur D, Miller SL, Good WF, Fuhrman CR,

Lawrence A. Cooperstein, M.D.

Straub WH: Computerized Clinical History in the Clinical Radiology Environment. Presented at the Association of University Radiologists Annual Meeting, Charleston, SC, March 1987.

12. Cooperstein LA, Britton CA: Errors in Radiographic Recognition in the Emergency Room. Presented at the Association of University Radiologists Annual Meeting, Charleston, SC, March 1987.
13. Fuhrman C, Feist J, Straub W, Cooperstein L, Gur D, Herron J, Good W, Schaetzing R, Whiting B: High Resolution Storage Phosphor Chest Imaging. Presented by invitation at CIC Meeting, Madison, WI, September 1987.
14. Fuhrman C, Cooperstein L, Herron J, Good W, Gur D, Maitz G, Tabor E, Hoy R: Primary Diagnosis of Chest Images Using a High Resolution Work Station. Presented by invitation at the CIC Meeting, Madison, WI, September 1987.
15. Fuhrman C, Cooperstein L, Herron J, Good W, Good B, Gur D, Maitz G, Tabor E, Hoy R: Effects of Display Resolution and Size on Primary Diagnosis of Chest Images Using High Resolution Electronic Work Station. Presented at Radiological Society of North America Meeting, Chicago, IL, November 1987.
16. Imbriglia J, Cooperstein L, Matthews D: Use of 3D-CT Scanning in Evaluation of the Distal Radioulnar Joint. Presented at the American Society of Surgery of the Hand Meeting, Baltimore, MD, September 1988.
17. Gur D, Cooperstein L, Harris K, Fuhrman C, Straub W, Slasky BS: Mammography Using a High-Resolution Storage Phosphor Imaging System. Presented at Radiologic Society of North American, Chicago, IL, November 1988.
18. Cooperstein LA: Radiology in Sports Medicine. Presented by invitation at Second Annual Panther Sports Medicine Symposium, Pittsburgh, PA, December 1988.
19. Wasielewski R, Kruger MP, Cooperstein LA, Rubash HE: Acetabular Anatomy and Transacetabular Screw Fixation in Total Hip Arthroplasty. Presented at American Academy of Orthopaedic Surgeons Meeting, Las Vegas, NV, February 1989.
20. Gur D, Rockette H, Good B, Slasky BS, Fuhrman C, Cooperstein L; Correlation between Subjective Perception of Image Quality and Ability to Arrive at Correct Diagnoses. Presented At computer Assisted Radiology Third International Symposium on Computer Assisted Radiology, Berlin, Germany, June 1989.

Lawrence A. Cooperstein, M.D.

21. Cooperstein LA: Imaging in Orthopedics. Presented by invitation at the East Coast Orthopedic Residents Meeting, Baltimore, MD, August 1989.

Lawrence A. Cooperstein, M.D.

22. Wasielewski R, cooperstein LA, Kruger MP, Rubash HE:  
Acetabular Anatomy and Transacetabular Screw Fixation in Total Hip Arthroplasty.  
Presented by invitation at - Eastern Orthopedic Association  
(Founder's Award), Montreal,  
Quebec, Canada, July 1989.  
  
- American Orthopedic Association (Zimmer Travel Award),  
Colorado Springs, CO, August 1989.  
  
- Pennsylvania Orthopedic  
Society, Philadelphia, PA,  
October 1989.
23. Cooperstein LA: Bone and Joint Trauma. Presented by  
invitation at University of Pittsburgh Affiliated Residency in  
Emergency Medicine, Core Lecture Series, Pittsburgh, PA,  
September 1989.
24. Gur D, Rockette HE, Good WF, Slasky BS, Cooperstein LA, Straub  
WH, Metz CE: Effect of Radiologists' Training on ROC Study of  
Chest Images. Presented at Radiological Society of North  
America Meeting, Chicago, IL, November 1989.
25. Cooperstein LA: Imaging for Diagnosis. Presented at Diagnosis  
and Treatment of Sarcomas of Bone and Soft Tissue, Shadyside  
Hospital, Pittsburgh, PA, May 1992.
26. Cooperstein LA: Imaging of the Post-Operative Pelvic Fracture  
Patient. Presented at Surgery of the Pelvis and Acetabulum:  
an International Consensus. Pittsburgh, PA October, 1992.
27. Cooperstein LA: Radiologic Evaluation of Fractures and  
Dislocations. Presented at Shadyside Hospital: St. Francis  
College Physician Assistant Program, Pittsburgh, PA November,  
1992.
28. Cooperstein LA: Orthopedic Imaging. Presented at Pennsylvania  
Society of Radiologic Technologists District #1 Meeting.  
Pittsburgh, PA September 1993.
29. Cooperstein LA: Radiologic Evaluation of Fractures and  
Dislocations. Presented at Shadyside Hospital: St. Francis  
College Physician Assistant Program, Pittsburgh, PA November,  
1994, November 1996.
30. Cooperstein LA, Goodman M: Bone Tumor Imaging. Presented at  
Surgery of the Pelvis and Acetabulum: Second International  
Consensus. Pittsburgh, PA October, 1994.

Lawrence A. Cooperstein, M.D.

31. Cooperstein LA, Goodman M. Bone Tumor Imaging. Presented at Pittsburgh Pathology Society Meeting, January 1995.



Lawrence A. Cooperstein, M.D.

32. Cooperstein LA. Musculoskeletal MRI. Emergency Medicine Grand Rounds, Shadyside Hospital, April 1996.
33. Cooperstein LA: Radiology of Musculoskeletal Abnormalities. Presented at UPMC - Shadyside Orthopaedic Program for Physician Assistant Students, Pittsburgh, PA. November 1997, November 1998, November, 1999, November, 2000, November 2001, November, 2002.

Lawrence A. Cooperstein, M.D.

**SCIENTIFIC EXHIBITS**

1. Holden RW, Jackson VP, Wholey MH, Cooperstein LA: Bronchial Artery Embolization in Patients with Massive Hemoptysis. Presented at the Radiological Society of North American Meeting, Dallas, TX, November 1980.
2. Holden RW, Jackson VP, Wholey MH, Cooperstein LA: Bronchial Artery Embolization in Patients with Massive Hemoptysis. Presented at the American Roentgen Ray Society Meeting, San Francisco, CA, March 1981.
3. Burk DL, Mears DC, Kennedy WH, Cooperstein LA, Herbert DL: 3D CT of the Acetabulum. Presented at the Pennsylvania Radiological Society Meeting, Hershey, PA, May 17-20, 1984.
4. Burk DL, Mears DC, Kennedy WH, Cooperstein LA, Herbert DL: 3D CT of Acetabular Fractures. Presented at the Radiological Society of North America Meeting, Washington, DC, November 25-30, 1984.
5. Mears DC, Burk DL, Rubash HE, Cooperstein LA, Kennedy WH, Herbert DL: Orthopaedic Applications of 3-Dimensional computerized Tomographic Imaging. Presented at the American Academy of Orthopaedic Surgeons, Las Vegas, NV, January 24-29, 1985.
6. Burk DL, Mears DC, Kennedy WH, Cooperstein LA, Herbert DL, Rubash H: Orthopaedic Applications of 3D CT. Presented at the American Roentgen Ray Society, Boston, MA, April 21-26-, 1985.
7. Burk DL, Cooperstein LA, Kennedy WH, Mears DC, Ward WT: Fractures of the Lower Extremities: 3D CT Evaluation. Presented at the Radiological Society of North American Meeting, November 1985.
8. Goodman MA, Burk DL, Cooperstein LA, Kanal E, Wolf G: 1.5% Magnetic Resonance Imaging of Musculoskeletal Tumors. Presented at the American Academy of Orthopaedic Surgeons, February 1986.
9. Schwartz ML, Herbener TE, Cooperstein LA: The Lost Surgical Sponge: Do you Know What it Looks Like? Presented at the Radiological Society of North America Meeting, Chicago, IL, November 1986.
10. Britton CA, Cooperstein LA: Errors of Recognition in the Emergency Room. Presented at the Association of University Radiologists Annual Meeting, Charleston, SC, March 1987.
11. Thaete FL, Cooperstein LA, Nicholas JJ: Unusual Manifestations

Lawrence A. Cooperstein, M.D.

of Paget's Disease (Osteitis Deformans). Presented at the  
American Roentgen Ray Society Annual Meeting, Miami Beach, FL,  
April 1987.

Lawrence A. Cooperstein, M.D.

12. Britton CA, Cooperstein LA: Errors of Recognition in the Emergency Room. Presented at the American Roentgen Ray Society Annual Meeting, Miami Beach, FL, April 1987.
13. Schwartz ML, Herbener TE, Cooperstein LA: The Lost Surgical Sponge: Do you Know What it Looks Like? Presented by invitation at the VI European Congress of Radiology, Lisbon, Portugal, June 1987.
14. Fuhrman CR, Cooperstein LA, Herron J, Good W, Good B, Gur D, Maitz G, Tabor E, Hoy RJ: Effects for Display Resolution and Size on Primary Diagnosis of Chest Images Using a High Resolution Electronic Work Station. Presented at the Radiological Society of North America Meeting, Chicago, IL, November 1987.
15. Nicholas JJ, Haidet E, Helfrich D, Herndon JH, Cooperstein L: Groin and Hip Pain Due to Fractures at or Near the Pubic Symphysis. Presented at American Congress of Rehabilitation Medicine/American Academy of Physical Medicine and Rehabilitation, Seattle, WA, October 1988.
16. Gur D, Cooperstein LA, Harris K, Fuhrman CR, Straub WH, Slasky BS: Mammography Using a High-Resolution Storage Phosphor Imaging System. Presented at Radiological Society of North America Meeting, Chicago, IL, November 1988.
17. Fuhrman CR, Gur D, Cooperstein LA, Feist JH, Slasky BS, Good B: High-Resolution Storage Phosphor Imaging of the Chest - A Comparison with Conventional Screen-film Systems. Presented at Radiological Society of North America Meeting, Chicago, IL, November 1988.
18. Wasielewski R, Kruger MP, Cooperstein LA, Rubash HE: Acetabular Anatomy and Transacetabular Screw Fixation in Total Hip Arthroplasty. Presented at American Academy of Orthopaedic Surgeons Meeting, Las Vegas, NV, February 1989.
19. Oddis CV, Medsger TA, Cooperstein LA: The Distinctive Arthropathy Associated with Anti-Jo-1 Polymyositis. Presented at American Rheumatism Association Meeting, Cincinnati, OH, June 1989.
20. Goodman M, Cooperstein LA: Musculoskeletal Sarcoma, Imaging. Presented at International Orthopaedic Oncology Meeting, Tokyo, Japan, July, 1993.



**Kenneth M. Yaw, M.D.**  
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April 24, 2007

Mr. Thomas E. Crenney  
One Gateway Center, 18<sup>th</sup> Floor West  
Pittsburgh, PA 15222

RE: Paula Carlson (DOB 4/26/1971)

Dear Mr. Crenney:

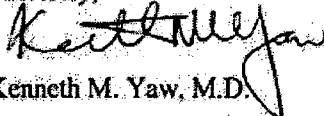
At your request I have reviewed the following documents regarding Paula Carlson:

- 1) X-ray reports of 4/12/2005 and 6/9/2005
- 2) Office note of Dr. Mark Piasio of 6/9/2005
- 3) Dr. Mark Piasio letter to me of 6/13/2005
- 4) Mercy Orthopedic Associates notes of 6/17/2005 (mine) and 2/14/2007 (Dr. Richman)
- 5) MRI report of 6/9/2005
- 6) My letters to you of 2/23/2006 and 3/7/2006
- 7) Office of Vocation Rehabilitation (Mary Defranco) report 1/29/2007
- 8) SSA Notice of Decision (Fully Favorable) of 3/5/2007

It is my opinion that had the diagnosis been made on the 4/12/2005 x-rays then the treatment would have consisted of intralesional excision and packing of the hole thereby preserving Mrs. Carlson's distal radius and normal wrist joint. In that case it is more than likely that she would have had nearly normal wrist function and would most likely have been able to successfully return to her career as a radiation therapy technologist.

My opinions expressed in this letter are stated with a reasonable degree of medical certainty.

Sincerely,

  
Kenneth M. Yaw, M.D.

Mercy Orthopedic Associates

Mercy Health Center  
1350 Locust Street, Suite 220  
Pittsburgh, PA 15219-5166

412.232.5800 *telephone*  
412.232.7351 *facsimile*

Jory D. Richman, MD  
Mitchell H. Rothenberg, MD  
Kenneth M. Yaw, MD  
Gregory F. Habib, DO  
Eric McCoy, PA-C  
Robert T. Modrak, PA-C  
Holly Dignan, PA-C  
Jennifer Houlihan, PA-C

March 7, 2006

Mr. Thomas E. Crenney  
Crenney & Associates, LLC  
One Gateway Center  
18<sup>th</sup> Floor – West  
Pittsburgh, PA 15222



RE: Paula Carlson  
DOB = 4/26/1971  
Your File No. 2895.01

Dear Mr. Crenney:

I am writing this letter pursuant to our conversation and under the medical information release authorization signed and dated by Paula Carlson 8/4/05. The tumor in Mrs. Carlson's right distal radius was sufficiently clear and conspicuous on her initial radiographs performed 4/12/2005 that it should have been detected and reported by any radiologist who reviewed those films. I express this opinion within a reasonable degree of medical certainty.

I hope this information is of use to you. Please contact me if I can provide further assistance in this matter.

Sincerely,

A handwritten signature in cursive script, appearing to read "Kay", which is the signature of Kenneth M. Yaw.

Kenneth M. Yaw, MD

Mercy Orthopedics .associates

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1350 Locust Street, Suite 220  
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Eric McCoy, PA-C  
Robert Modrak, PA-C  
Holly Dignan, PA-C

February 23, 2006

Mr. Thomas E. Crenney  
Crenney & Associates, LLC  
One Gateway Center  
18<sup>th</sup> Floor – West  
Pittsburgh, PA 15222



RE: Paula Carlson  
DOB = 4/26/1971  
Your File No. 2895.01

Dear Mr. Crenney:

I am writing this letter at the request of my patient Paula Carlson and under the medical information release authorization signed and dated by her 8/4/05. When I first saw Paula 6/17/2005 I also reviewed copy plain radiographs of her wrist dated 4/12/2005. It is my opinion within a reasonable degree of medical certainty that had the lesion been diagnosed at the time of the 4/12/2005 radiograph then there is a reasonable likelihood that the treatment would have been significantly different, and furthermore that the outcome would have been significantly better.

I hope this information is of use to you. Please contact me if I can provide further assistance in this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Ken Yaw".

Kenneth M. Yaw, MD



○ BIOGRAPHICAL ○

**Name:** Kenneth M. Yaw, M.D. **Birth Date:** 1953  
**Home Address:** 139 Old Mill Road **Birth Place:** England  
Pittsburgh, PA 15238  
**Home Phone:** (412) 963-1564 **Citizenship:** U.S.A.  
**Business Address:** **E-Mail:** orthoyaw@comcast.net  
**Business Phone:** (412) 952-2627 (leave msg)

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EDUCATION AND TRAINING

**UNDERGRADUATE:**

1971-1975 Montana State University  
Bozeman, Montana  
BS, 1975  
Chemical Engineering

**GRADUATE:**

1975-1979 University of Chicago Pritzker School of Medicine  
Chicago, Illinois  
MD, 1979

**POST GRADUATE:**

1979-1980 Categorical Surgery Internship  
Virginia Mason Medical Center  
Seattle, Washington  
Program Director: James Coatesworth, M.D.

1980 Aerospace Medicine Primary Course  
U.S. Air Force School of Aerospace Medicine  
San Antonio, Texas

1983-1987 Residency in Orthopaedic Surgery  
Wilford Hall U.S. Air Force Medical Center  
San Antonio, Texas  
Program Director: Thomas Shepler, M.D.

1987-1988 Fellowship, Orthopaedic Oncology  
Massachusetts General Hospital and Boston Children's Hospital  
Boston, Massachusetts  
Program Director: Henry J. Mankin, M.D.

## APPOINTMENTS AND POSITIONS

### **ACADEMIC:**

1987-1988      Assistant in Orthopaedic Surgery  
Harvard University  
Boston, Massachusetts

1988-1990      Clinical Instructor in Orthopaedics  
University of Texas Health Science Center  
San Antonio, Texas

1990-1999      Assistant Professor of Orthopaedic Surgery  
University of Pittsburgh School of Medicine  
Pittsburgh, Pennsylvania

1990-2003      Chief, Division of Musculoskeletal Oncology  
Department of Orthopaedic Surgery  
University of Pittsburgh School of Medicine  
Pittsburgh, Pennsylvania

1997-2003      Residency Program Director  
Department of Orthopaedic Surgery  
University of Pittsburgh School of Medicine  
Pittsburgh, Pennsylvania

2000-2003      Associate Professor of Orthopaedic Surgery  
University of Pittsburgh School of Medicine  
Pittsburgh, Pennsylvania

### **NON-ACADEMIC POSITIONS:**

1980-1983      Chief of Aerospace Medicine  
USAF Regional Hospital  
Minot, North Dakota

1988-1990      Chief of Orthopaedic Oncology  
Wilford Hall USAF Medical Center  
San Antonio, Texas

1990-Present      Associate Member  
Pittsburgh Cancer Institute  
Pittsburgh, Pennsylvania

1991-1995      Assistant Chief, Orthopaedic Surgery Section  
Veterans Administration Medical Center (University Drive)  
Pittsburgh, Pennsylvania

## **NON-ACADEMIC POSITIONS (Continued):**

1995 – 3/99            Chief, Orthopaedic Surgery Section  
                              VA Pittsburgh Healthcare System  
                              Pittsburgh, Pennsylvania

3/99 - Present        Assistant Chief, Orthopaedic Surgery Section  
                              VA Pittsburgh Healthcare System  
                              Pittsburgh, Pennsylvania

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## **CERTIFICATION AND LICENSURE**

### **SPECIALTY CERTIFICATION:**

1990                    American Board of Orthopaedic Surgery (Recertified 01/2001)

### **MEDICAL OR OTHER PROFESSIONAL LICENSURE**

|               |   |             |          |   |                |
|---------------|---|-------------|----------|---|----------------|
| Pennsylvania  | - | MD-042924-L | Arizona  | - | 32079          |
| Washington    | - | MD-00018827 | Michigan | - | (Expired 1990) |
| Massachusetts | - | 57353       |          |   |                |
| Montana       | - | 10271       |          |   |                |

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## **MEMBERSHIPS IN PROFESSIONAL AND SCIENTIFIC SOCIETIES**

2000-Present        Academic Orthopaedic Society

1986-Present        American Medical Association

1986-Present        American Academy of Orthopaedic Surgeons

1986-Present        Society of Military Orthopaedic Surgeons

1991-Present        Pennsylvania Orthopaedic Society

1990-Present        Allegheny County Medical Society

1990-Present        Interstate Orthopaedic Society

1990-Present        Pennsylvania Medical Society

1994-Present        Musculoskeletal Tumor Society

1993-Present        International Society of Limb Salvage

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### Memberships In Professional And Scientific Societies (Continued)

|           |                                          |
|-----------|------------------------------------------|
| 1991-2003 | Eastern Cooperative Oncology Group       |
| 1994-2003 | Children's Oncology Group (Formerly CCG) |
| 1994-2003 | American Association of Tissue Banks     |
| 1995-2001 | Orthopaedic Rehabilitation Association   |
| 1980-1993 | Society of Air Force Clinical Surgeons   |
| 1980-1983 | Aerospace Medicine Association           |

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### HONORS

|      |                                                                                                                       |
|------|-----------------------------------------------------------------------------------------------------------------------|
| 2000 | Certificate of Appreciation and Recognition of Service<br>VA Pittsburgh Healthcare System                             |
| 1997 | University of Pittsburgh Orthopaedic Program<br>"Golden Apple" Award for Teacher of the Year                          |
| 1995 | University of Pittsburgh Orthopaedic Program<br>"Golden Apple" Award for Teacher of the Year                          |
| 1995 | Golden Headed Cane Award, Visiting Professor in Orthopaedics,<br>Wilford Hall USAF Medical Center, San Antonio, Texas |
| 1994 | University of Pittsburgh Orthopaedic Program<br>"Golden Apple" Award for Teacher of the Year                          |
| 1992 | University of Pittsburgh Orthopaedic Program<br>"Golden Apple" Award for Teacher of the Year                          |
| 1990 | Wilford Hall USAF Medical Center Orthopaedic Program<br>"Golden Apple" Award for Teacher of the Year                  |
| 1990 | U.S. Air Force Meritorious Service Medal                                                                              |
| 1983 | U.S. Air Force Commendation Medal                                                                                     |
| 1983 | Strategic Air Command Flight Surgeon of the Year                                                                      |
| 1983 | Jaycees Outstanding Young Man of America                                                                              |
| 1974 | Tau Beta Pi Engineering Honorary                                                                                      |

## PUBLICATIONS

### Peer-reviewed

1. Horton MJ, Brandon CA, Morris TJ, Braun TW, Yaw KM, Sciote JJ. "Abundant expression of myosin heavy-chain IIB RNA in a subset of human masseter muscle fibres", Archives of Oral Biology, May 2001.
2. Yaw KM. "Pediatric Bone Tumors" Seminars in Surgical Oncology, Vol. 16, No. 2, March 1999.
3. Yaw KM. "Evaluation and Management of Tumors About the Knee." The American Journal of Knee Surgery, Vol. 11, No. 4, Fall 1998.
4. Allen CR, Yaw KM. "Current uses in Allografts in Musculoskeletal Oncology" Current Opinion in Orthopedics, Vol. 9, No. VI: 69-74, 1998.
5. Rao UN, Surti U, Hoffner L, Howard T, Leger W, Contis L, Yaw KM. Extraskelatal and Skeletal Myxoid Chondrosarcoma: A Multiparameter Analysis of Three Cases Including Cytogenetic Analysis and Fluorescence *In Situ* Hybridization. Molecular Diagnosis, Vol. 1 No. 2(1996).
6. Rao UN, Surti U, Hoffner L, Yaw KM. Cytogenetic and Histologic Correlation of Peripheral Nerve Sheath Tumors of Soft Tissue. Cancer Genet Cytogenet 88:17-25(1996).
7. Towbin R, Kaye R, Meza MP, Pollock AN, Yaw KM, Moreland MS. Osteoid Osteoma: Percutaneous Excision Using a CT-Guided Coaxial Technique. American Journal of Radiology 164:945-949(1995).
8. Meyers SP, Yaw KM, Devaney K. Giant Cell Tumor of the Thoracic Spine: MR Appearance. American Journal of Neuroradiology 15:962-964(1994).
9. Donaldson WFIII, Peppelman WC Jr., Yaw KM. Symptomatic Metastatic Malignant Melanoma to the Spine. Journal of Spinal Disorders 6:360-363(1993).
10. Miller MD, Yaw KM, Foley HT. Malpractice Maladies in the Management of Musculoskeletal Malignancies. Contemporary Orthopaedics, 23:577-584(1991).
11. Khurana JS, Kattapuram SV, Ehara S, Rosenberg AE, Yaw KM. Case Report 577. Metastatic Paraganglioma. Skeletal Radiology, 18:565-7(1989).

### Non-Peer Reviewed

1. Wurtz LD, Yaw KM "Tumor Resections and Amputations" (Chapter 8) in Surgical Reconstruction of the Upper Extremity, (James H. Herndon, editor) Appleton & Lange, Stamford, CT 1999.
2. Yaw KM, Leit M "Tumors and Amputations"(Chapter 21) in Surgical Reconstruction of the Upper Extremity, (James H. Herndon, editor) Appleton & Lange, Stamford, CT 1999.

**PUBLICATIONS (Continued)**  
**Non-Peer Reviewed (Continued)**

3. Yaw KM, Doyle JS. "Surgical Treatment of Bone Metastases of the Axial Skeleton and Extremities" in Regional Therapy of Cancer (Lotze MT, Rubin JT, eds) Lippincott-Raven Publishers, Philadelphia, PA., 1997.
4. Hasselman CT, Anderson GB, Yaw, KM, Jaffe R. Rosai-Dorfman Disease: An Unusual Cause of a Lytic Bone Lesion in a Child. Pittsburgh Orthopaedic Journal 5:49-53(1994).
5. Sotereanos NG, Sotereanos DG, Rubash HE, Berger RA, Schoedel KE, Charron M, Morrell MK, Yaw KM. Vascularized Orthotopic Osteochondral Transplantation of the Canine Proximal Femur. Transaction of the Orthopaedic Research Society, page 550, Feb 1994.
6. Yaw KM, Dolecki M. "Tumor and Related Conditions" in Knee Surgery, pp 457 - 481, (Fu FH, Harner CD, and Vince K, eds), published by Williams and Wilkins, Baltimore, MD, 1994.
7. Sotereanos NG, Berger RA, Sotereanos DG, Rubash HE, Yaw KM, Schoedel KE, Thompson WH, Silvaggio VJ, Todo S, Herndon JH. Vascularized Orthotopic Osteochondral Transplantation of the Canine Proximal Femur. Pittsburgh Orthopaedic Journal 4:19-22(1993).
8. Regan M, Yaw KM, Herndon JH, Crossett LS. Hemophilic Pseudotumor of the Femur: Treatment with an Allograft/Prosthetic Composite Total Femoral Replacement. Pittsburgh Orthopaedic Journal 4:33-35, 1993.
9. Yaw KM. "Orthopaedic Pathology" in Review of Orthopaedics, pp. 167 - 211(Miller MD eds) published by W. B. Saunders Company, 1992.
10. Yaw KM, Gebhardt MC, Mankin HJ. "Chemotherapy Effect on the Clinical Results of Allograft Transplantation in the Treatment of Malignant Bone Tumors" in Limb Salvage - Major Reconstructions in Oncologic and Nontumoral Conditions. Springer-Verlag, Berlin & Heidelberg, pp107-115, 1991.
11. Yaw KM, Wurtz LD. Resection and Reconstruction for Bone Tumors in the Proximal Tibia. Orthopaedic Clinics of North America, 22:133-148(1991).

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**PROFESSIONAL ACTIVITIES**

**TEACHING:**

Musculoskeletal Organ Block – PBL- Sessions I & II, Introduction and Resolution, University of Pittsburgh. May 10, 16, 24, 29, 2001.

"Cartilage Tumors", Visiting Professor in Orthopaedic Surgery at Shriner's Hospital, Erie, Pennsylvania, January 20, 2001.

## **PROFESSIONAL ACTIVITIES (Continued)**

### **TEACHING:**

"Ewing's sarcoma", presented to Orthopaedic Surgeons and Residents, West Penn Allegheny Health System, December 19, 2000.

"Ewing's sarcoma", Visiting Professor in Orthopaedic Surgery at Shriner's Hospital, Erie, Pennsylvania, December 5, 2000.

"Oncology Review", presented to Orthopaedic Residents, University of Pittsburgh Medical Center, October 18, 2000

"Osteosarcoma", presented to Orthopaedic Residents, University of Pittsburgh Medical Center, October 11, 2000.

"Osteosarcoma", Visiting Professor in Orthopaedic Surgery at Shriner's Hospital, Erie, Pennsylvania, September 26, 2000.

"Staging Musculoskeletal Tumors", Instructional Course presented at De Ortopedia Y Traumatologia 26<sup>th</sup> Annual Meeting in Quito, Ecuador, August 16 – 17, 2000.

Musculoskeletal Organ Block – PBL- Sessions I & II, Introduction and Resolution, University of Pittsburgh. May 22, 23, 25, and 30, 2000.

Congressional Meetings regarding Musculoskeletal Research invited through AAOS, Washington, DC April 5 – 6, 2000.

Neoplasia Section Coordinator, Musculoskeletal Organ Block Course, Pittsburgh, PA 1994 – Present

Ambulatory Sub-specialties Course Co-Director, University of Pittsburgh School of Medicine, 1994 – Present.

"Current Concepts in Joint Reconstruction After Tumor Resection", presented at the Pennsylvania Orthopaedic Society Fall Meeting, October 21, 1999 at Nemicolin Woodlands.

"Clinical Outcomes in Bone Tumor Resections", presented with Molly Vogt, Ph.D. to Orthopaedic Residents, University of Pittsburgh Medical Center, September 22, 1999.

"Osteosarcoma", Visiting Professor in Orthopaedic Surgery at Shriner's Hospital, Erie, Pennsylvania, August 11, 1999.

"Pathophysiology of Musculoskeletal Neoplasms," Ambulatory Sub-specialties Course, University of Pittsburgh School of Medicine, June 1, 1999.

"Pathology of Mesenchymal Tumors and Bone Forming Lesions", Ambulatory Sub-specialties Course, University of Pittsburgh School of Medicine, June 1, 1999.

## **PROFESSIONAL ACTIVITIES (Continued)**

### **TEACHING:**

Staging and Treatment of Musculoskeletal Neoplasms", Ambulatory Sub-specialties Course, University of Pittsburgh School of Medicine, June 2, 1999.

Musculoskeletal Organ Block, Anatomy Lab for 1<sup>st</sup> Year Medical Students, "Upper Extremity", University of Pittsburgh School of Medicine, May 13, 1999.

"Cartilage Tumors", Visiting Professor in Orthopaedic Surgery at Shriners' Hospital, Erie, Pennsylvania, April 20, 1999.

"Ewing's Sarcoma", Visiting Professor in Orthopaedic Surgery at Shriners' Hospital, Erie, Pennsylvania, October 20, 1998.

"Basic Science Overview", presented to Orthopaedic Residents, University of Pittsburgh Medical Center, September 23, 1998.

Musculoskeletal Neoplasia – Evaluation & Treatment Algorithms", presented to Orthopaedic Residents, University of Pittsburgh Medical Center, September 16, 1998.

"Osteosarcoma", Visiting Professor in Orthopaedic Surgery at Shriners' Hospital, Erie, Pennsylvania, July 21, 1998.

"Limb Salvage Surgery", University of Pittsburgh School of Medicine, Musculoskeletal Organ Block Course, Pittsburgh, PA, June 4, 1998.

"Staging and Treatment of Musculoskeletal Neoplasms", University of Pittsburgh School of Medicine, Musculoskeletal Organ Block Course, Pittsburgh, PA, June 3, 1998.

"Pathophysiology of Musculoskeletal Neoplasms", University of Pittsburgh School of Medicine, Musculoskeletal Organ Block Course, Pittsburgh, PA, June 2, 1998.

"Osteosarcoma", presented to Orthopaedic Residents, University of Pittsburgh Medical Center, May 27, 1998.

"Management of Musculoskeletal Tumors", Armstrong Memorial Hospital, Kittanning, PA, May 5, 1998

"Cartilage Tumors", Visiting Professor in Orthopaedic Surgery at Shriners' Hospital, Erie, Pennsylvania, April 21, 1998.

AAOS 1998 Instruction Course #104, "Malignant Bone Tumors", New Orleans, LA, February, 1998.

"Soft Tissue Sarcoma", presented to Orthopaedic Residents, University of Pittsburgh Medical Center, December 10, 1997.



## **PROFESSIONAL ACTIVITIES (Continued)**

### **TEACHING:**

"Management of Skeletal Metastases", Visiting Professor in Orthopaedic Surgery at Shriner's Hospital, Erie, Pennsylvania, December 4, 1997.

"Oncology Indications", presented at The Salvage Knee conference, Pittsburgh, Pennsylvania, November 6, 1997.

"Management of Skeletal Metastases" Orthopaedic Grand Rounds, Washington University, St. Louis, Missouri, October 8, 1997.

"Prophylactic Fixation for Pathologic Fractures in Metastatic Cancer" Presented to the Medical Staff at United Community Hospital, Grove City, Pennsylvania, September 25, 1997.

"Skeletal Muscle" presented to Orthopaedic Residents, University of Pittsburgh Medical Center, September 24, 1997.

"Ligament, Tendon, and Meniscus" presented to Orthopaedic Residents, University of Pittsburgh Medical Center, September 17, 1997.

"Bone" presented to Orthopaedic Residents, University of Pittsburgh Medical Center, September 10, 1997.

"Hyaline Cartilage" presented to Orthopaedic Residents, University of Pittsburgh Medical Center, September 3, 1997.

"Pediatric Bone Tumors", Visiting Professor in Orthopaedic Surgery at Shriners Hospital, Erie, Pennsylvania, July 15, 1997.

"Lower Extremity Prosthetics", presented to Orthopaedic Residents, University of Pittsburgh Medical Center, January 15, 1997.

"Sarcomas", Latrobe Area Hospital Oncology Rounds, Latrobe, Pennsylvania, September 26, 1996.

"Treatment of Musculoskeletal Neoplasms", presented to Orthopaedic Residents, University of Pittsburgh Medical Center, September 25, 1996.

"Fibrous Tumors & Cysts", presented to Orthopaedic Residents, University of Pittsburgh Medical Center, September 18, 1996.

"Round Cell Tumors & Reticuloendothelioses", presented to Orthopaedic Residents, University of Pittsburgh Medical Center, September 11, 1996.

"Imaging & Staging of Musculoskeletal Neoplasms", presented to Orthopaedic Residents, University of Pittsburgh Medical Center, September 4, 1996.

## **PROFESSIONAL ACTIVITIES (Continued)**

### **TEACHING:**

"Soft Tissue Sarcomas", Connemaugh Memorial Hospital Oncology Conference, Johnstown, Pennsylvania, June 7, 1996.

"Staging of Soft Tissue Tumors", presented to Orthopaedic Residents, University of Pittsburgh Medical Center, May 8, 1996.

"Bone Forming Lesions", presented to Orthopaedic Residents, University of Pittsburgh Medical Center, March 6, 1996.

"Radiolucent Lesions of the Extremities", Audiotaped lecture, EPOK Studios, Pittsburgh, Pennsylvania, January 24, 1996.

"Surgical Management of Bone and Soft Tissue Sarcomas", Westmoreland Regional Hospital, Greensburg, Pennsylvania, January 9, 1996.

"Ewing's Sarcoma 1995", Visiting Professor, Department of Orthopaedic Surgery, Wilford Hall USAF Medical Center, San Antonio, Texas, November 1995.

Segal R, Towers J, Mulvihill JJ, Yaw KM, Martinez J, Comey C, Kirkwood JM. Malignant Degeneration of Nerve Sheath Tumors in Neurofibromatosis 1 (NF-1) Patients. Poster presentation at Congress of Neurological Surgeons Annual Meeting, San Francisco, CA, Oct.14-19, 1995.

Yaw KM. "Limb Sparing Surgery for Primary Bone Malignancies", Eleventh Annual George Tolstoi Hematology/Oncology Symposium, The Uniontown Hospital, Nemacolin Woodlands, Farmington, Pennsylvania, April 23, 1994.

Yaw KM. "Surgical Management of Bone Sarcomas", Mini-Course on Management of Sarcomas, University of Pittsburgh Medical Center, Pittsburgh, Pennsylvania, March 6, 1993.

"Prospective Randomized Trial of the Gamma Nail Versus the Compressive Hip Screw Fixation for the Treatment of Intertrochanteric Fractures of the Proximal Femur", Doyle JS, Crossett LS, Yaw KM, Gruen GS, Rubash HE, Poster Exhibit, American Academy of Orthopaedic Surgeons Annual Meeting, San Francisco, California, February 1993.

Donaldson WFIII, Peppelman WC Jr., Yaw KM. "Symptomatic Metastatic Malignant Melanoma to the Spine", Presented at Western Orthopaedic Association Meeting, Monterey, California, October 11-14, 1992.

Course Co-Director, "Diagnosis and Treatment of Sarcomas of Bone and Soft Tissue", Shadyside Hospital, Pittsburgh, Pennsylvania, May 16, 1992.

"Tibia Fractures", Presented at AO/ORP Course, Pittsburgh, Pennsylvania, October 25-26, 1991.

## **PROFESSIONAL ACTIVITIES (Continued)**

### **TEACHING:**

"Management of Fractures in the Osteoporotic Patient", Presented at "Osteoporosis: A Multidisciplinary Update", Pittsburgh, Pennsylvania, October 1, 1991.

Orthopaedic Surgery I and II, Osler Institute General Surgery Review Course, Pittsburgh, Pennsylvania, September 18, 1991.

"Limb Salvage for Pediatric Tumors", Invited Speaker, Medical Alumni Association of Children's Hospital, Pittsburgh, Pennsylvania, November 1990.

Yaw KM, Mankin HJ, McGinty JB. "Caveat Arthroscopos (Revisited)", presented to the Society of Air Force Clinical Surgeons, Bethesda, Maryland, April 1990.

Miller MD, Yaw KM, Foley HT. "Malpractice Maladies in the Management of Musculoskeletal Malignancies", presented at the Society of Air Force Clinical Surgeons, Bethesda, Maryland, April 1990.

"Bone Tumors", Invited Speaker, National Association of Orthopaedic Nurses, San Antonio, Texas, March 1990.

"Limb Salvage Surgery", Poster Exhibit, Cancer Update 1990, Baptist Medical Center, San Antonio, Texas, February 1990.

Program Director, Society of Military Orthopaedic Surgeons 31st Annual Meeting, San Antonio, Texas, December 1989.

K.M. Yaw, H.J. Mankin, M.C. Gebhardt: "Chemotherapy Effect on the Use of Allografts in the Treatment of Malignant Bone Tumors", presented at the Fifth International Symposium on Limb Salvage, Saint Malo, France, September 1989.

Yaw KM, Mankin HJ, McGinty JB. "Caveat Arthroscopos (Revisited)", presented to the Arthroscopy Association of North America, Seattle, Washington, March 1989.

"Musculoskeletal Neoplasms". Orthopaedic Grand Rounds. University of Texas Health Science Center at San Antonio, Texas, February 1989.

K.M. Yaw, H.J. Mankin, M.C. Gebhardt: "Chemotherapy Effect on the Use of Allografts in the Treatment of Malignant Bone Tumors", presented to the American Academy of Orthopaedic Surgeons, Las Vegas, Nevada, February 1989.

Yaw KM, Amendt WC, Eady JL. "Extraskkeletal Rhabdomyosarcoma - Case Report", presented to the Society of Military Orthopaedic Surgeons, Oakland, California, November 1984.

---

### SERVICE

Standing Committee for Non-Tenured Faculty Promotions and Appointments (NTFPA) in the University of Pittsburgh School of Medicine June 2001 to present.

Board Member for Adolescent and Young Adult Amputee Program-April, 2000 to present

Executive Committee Member, Department of Orthopaedic Surgery, University of Pittsburgh, January, 1998 to present

Children's Cancer Group Orthopaedic Surgery Committee, 1997-Present

Section Editor of the Musculoskeletal Oncology and Metabolic Bone Disease Section of "Orthopedics Today" Publisher: SLACK Incorporated, Thorofare, NJ, 1997 to present

Manuscript Reviewer, "Annals of Surgical Oncology", 1997 to present

Medical Research Advisory Group, Department of Veteran Affairs, March 1997 to 1999

EpicCare Physician Advisory Group, UPMC, June 1997 to present

Pittsburgh Cancer Conference Round Table Leader, 1996

Graduate Medical Education Committee, UPMC, August 1996 to present

Electronic Medical Record Systemwide Confidentiality Committee, July 1996 to present

Fourth Annual Gold Headed Cane Awards/Conference, San Antonio, Texas, 1995

Children's Cancer Group-7006 Phase III Methotrexate Study, July, 1995 to present

Children's Cancer Group -7942 (POG-9354/INT-1054), A Randomized Phase III Evaluation of Intensified Vincristine, Doxorubicin, Cyclophosphamide, Ifosfamide, and Etoposide in Treatment of Newly Diagnosed Ewing's Sarcoma or PNET of Bone or Soft Tissue. May, 1995 to present

Children's Cancer Group -7943, A Phase II Window of Topotecan (NCS # 609699) in Children with Newly Diagnosed Metastatic Osteosarcoma Study Committee, March 1995 to present

Children's Cancer Group Bone Tumor Strategy Committee, March 1995 to present

Osteoporosis Advisory Committee, Magee Women's Hospital, March 1995 to 1997

Moderator, 28th Annual American Orthopaedic Association Residents' Conference, Pittsburgh, Pennsylvania, March 1995

Orthopaedic Consultant, Osteoporosis Prevention & Treatment Center, Magee Women's Hospital, Pittsburgh PA, 1995 to present

## SERVICE (Continued)

Advisor: National Specialty Review Service, March 1994 to 1997

Reviewer: Keystone Peer Review Organization, 1991 – 1996

Neoplasia Section Coordinator, Musculoskeletal Organ Block Course, Pittsburgh, PA 1994 – Present

Ambulatory Sub-specialties Course Co-Director, University of Pittsburgh School of Medicine, 1994 – Present.

U.S. Air Force Active Duty in Support of Operation Desert Storm, February - March 1991

Cancer Committee, University of Pittsburgh Medical Center, December 1990 to present

Total Quality Council, University of Pittsburgh Medical Center, December 1990 to present

Oncology Committee, Children's Hospital of Pittsburgh, December 1990 to present

Tissue and Surgical Case Review Committee, UPMC, December 1990 to 1997

Advisory Committee Member: Pittsburgh Tissue Bank, 1990 – 1995

Protocol Development Committee, Pittsburgh Cancer Institute, December 1990 to 1992

Moderator, American Orthopaedic Association 21<sup>st</sup> Annual Residents' Meeting, Boston, Massachusetts, January 1988.

---

## RESEARCH

"In vitro and In Vivo Evaluation of BMP-2 Mediated Bone Formation in Enchondroma and Chondrosarcoma Cells". Huard, J; Wright, VJ; Yaw, KM; Day, CS; Rao, UN.

This research is ongoing but the purpose of this research project is two-fold:

1. To determine if cartilaginous cells from enchondromas and chondrosarcomas respond to BMP-2 in vitro by producing alkaline phosphatase and osteocalcin.
2. To determine if cells, isolated from enchondromas and chondrosarcoms can be induced into an osteogenic lineage in vivo.

Research project in collaboration with the Department of Orthodontics at the University of Pittsburgh School of Dental Medicine. The initial phase of this research culminated in the article "Coexpression of Myosin Heavy Chain Genes in External Oblique", American Journal of Physiology-Cell Physiology. By Horton, MJ; Brandon, CA; Morris, TJ; Yaw, KM; Sciote, JJ. Accepted 7/01.

Collaboration Judith M. Younginger, Ph.D., R.D., C.N.S.D. and involved muscle biopsies. "Ergogenic Effect of Oral Creatine Monohydrate supplementation and Vegetarian Diet Anaerobic Exercise", Medicine and Science in Sports and Exercise. By Younginger, JM; Robertson, RJ; Arch, JE; Moore, GE; Yaw, KM; Kelly, DE; Rubin, JT; Goss, FL; Moyna, NM. Submitted 11/15/99.

○ BIOGRAPHICAL ○

**Name:** Kenneth M. Yaw, M.D. **Birth Date:** 1953  
**Home Address:** 139 Old Mill Road **Birth Place:** England  
Pittsburgh, PA 15238  
**Home Phone:** (412) 963-1564 **Citizenship:** U.S.A.  
**Business Address:** **E-Mail:** orthoyaw@comcast.net  
  
**Business Phone:** (412) 952-2627 (leave msg)

---

EDUCATION AND TRAINING

**UNDERGRADUATE:**

1971-1975 Montana State University  
Bozeman, Montana  
BS, 1975  
Chemical Engineering

**GRADUATE:**

1975-1979 University of Chicago Pritzker School of Medicine  
Chicago, Illinois  
MD, 1979

**POST GRADUATE:**

1979-1980 Categorical Surgery Internship  
Virginia Mason Medical Center  
Seattle, Washington  
Program Director: James Coatesworth, M.D.

1980 Aerospace Medicine Primary Course  
U.S. Air Force School of Aerospace Medicine  
San Antonio, Texas

1983-1987 Residency in Orthopaedic Surgery  
Wilford Hall U.S. Air Force Medical Center  
San Antonio, Texas  
Program Director: Thomas Shepler, M.D.

1987-1988 Fellowship, Orthopaedic Oncology  
Massachusetts General Hospital and Boston Children's Hospital  
Boston, Massachusetts  
Program Director: Henry J. Mankin, M.D.

## APPOINTMENTS AND POSITIONS

### **ACADEMIC:**

1987-1988      Assistant in Orthopaedic Surgery  
Harvard University  
Boston, Massachusetts

1988-1990      Clinical Instructor in Orthopaedics  
University of Texas Health Science Center  
San Antonio, Texas

1990-1999      Assistant Professor of Orthopaedic Surgery  
University of Pittsburgh School of Medicine  
Pittsburgh, Pennsylvania

1990-2003      Chief, Division of Musculoskeletal Oncology  
Department of Orthopaedic Surgery  
University of Pittsburgh School of Medicine  
Pittsburgh, Pennsylvania

1997-2003      Residency Program Director  
Department of Orthopaedic Surgery  
University of Pittsburgh School of Medicine  
Pittsburgh, Pennsylvania

2000-2003      Associate Professor of Orthopaedic Surgery  
University of Pittsburgh School of Medicine  
Pittsburgh, Pennsylvania

### **NON-ACADEMIC POSITIONS:**

1980-1983      Chief of Aerospace Medicine  
USAF Regional Hospital  
Minot, North Dakota

1988-1990      Chief of Orthopaedic Oncology  
Wilford Hall USAF Medical Center  
San Antonio, Texas

1990-Present      Associate Member  
Pittsburgh Cancer Institute  
Pittsburgh, Pennsylvania

1991-1995      Assistant Chief, Orthopaedic Surgery Section  
Veterans Administration Medical Center (University Drive)  
Pittsburgh, Pennsylvania

## **NON-ACADEMIC POSITIONS (Continued):**

1995 – 3/99            Chief, Orthopaedic Surgery Section  
                              VA Pittsburgh Healthcare System  
                              Pittsburgh, Pennsylvania

3/99 - Present            Assistant Chief, Orthopaedic Surgery Section  
                              VA Pittsburgh Healthcare System  
                              Pittsburgh, Pennsylvania

---

## **CERTIFICATION AND LICENSURE**

### **SPECIALTY CERTIFICATION:**

1990                      American Board of Orthopaedic Surgery (Recertified 01/2001)

### **MEDICAL OR OTHER PROFESSIONAL LICENSURE**

|               |   |             |          |   |                |
|---------------|---|-------------|----------|---|----------------|
| Pennsylvania  | - | MD-042924-L | Arizona  | - | 32079          |
| Washington    | - | MD-00018827 | Michigan | - | (Expired 1990) |
| Massachusetts | - | 57353       |          |   |                |
| Montana       | - | 10271       |          |   |                |

---

## **MEMBERSHIPS IN PROFESSIONAL AND SCIENTIFIC SOCIETIES**

2000-Present            Academic Orthopaedic Society

1986-Present            American Medical Association

1986-Present            American Academy of Orthopaedic Surgeons

1986-Present            Society of Military Orthopaedic Surgeons

1991-Present            Pennsylvania Orthopaedic Society

1990-Present            Allegheny County Medical Society

1990-Present            Interstate Orthopaedic Society

1990-Present            Pennsylvania Medical Society

1994-Present            Musculoskeletal Tumor Society

1993-Present            International Society of Limb Salvage

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### Memberships In Professional And Scientific Societies (Continued)

|           |                                          |
|-----------|------------------------------------------|
| 1991-2003 | Eastern Cooperative Oncology Group       |
| 1994-2003 | Children's Oncology Group (Formerly CCG) |
| 1994-2003 | American Association of Tissue Banks     |
| 1995-2001 | Orthopaedic Rehabilitation Association   |
| 1980-1993 | Society of Air Force Clinical Surgeons   |
| 1980-1983 | Aerospace Medicine Association           |

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### HONORS

|      |                                                                                                                       |
|------|-----------------------------------------------------------------------------------------------------------------------|
| 2000 | Certificate of Appreciation and Recognition of Service<br>VA Pittsburgh Healthcare System                             |
| 1997 | University of Pittsburgh Orthopaedic Program<br>"Golden Apple" Award for Teacher of the Year                          |
| 1995 | University of Pittsburgh Orthopaedic Program<br>"Golden Apple" Award for Teacher of the Year                          |
| 1995 | Golden Headed Cane Award, Visiting Professor in Orthopaedics,<br>Wilford Hall USAF Medical Center, San Antonio, Texas |
| 1994 | University of Pittsburgh Orthopaedic Program<br>"Golden Apple" Award for Teacher of the Year                          |
| 1992 | University of Pittsburgh Orthopaedic Program<br>"Golden Apple" Award for Teacher of the Year                          |
| 1990 | Wilford Hall USAF Medical Center Orthopaedic Program<br>"Golden Apple" Award for Teacher of the Year                  |
| 1990 | U.S. Air Force Meritorious Service Medal                                                                              |
| 1983 | U.S. Air Force Commendation Medal                                                                                     |
| 1983 | Strategic Air Command Flight Surgeon of the Year                                                                      |
| 1983 | Jaycees Outstanding Young Man of America                                                                              |
| 1974 | Tau Beta Pi Engineering Honorary                                                                                      |

## PUBLICATIONS

### Peer-reviewed

1. Horton MJ, Brandon CA, Morris TJ, Braun TW, Yaw KM, Sciote JJ. "Abundant expression of myosin heavy-chain IIB RNA in a subset of human masseter muscle fibres", Archives of Oral Biology, May 2001.
2. Yaw KM. "Pediatric Bone Tumors" Seminars in Surgical Oncology, Vol. 16, No. 2, March 1999.
3. Yaw KM. "Evaluation and Management of Tumors About the Knee." The American Journal of Knee Surgery, Vol. 11, No. 4, Fall 1998.
4. Allen CR, Yaw KM. "Current uses in Allografts in Musculoskeletal Oncology" Current Opinion in Orthopedics, Vol. 9, No. VI: 69-74, 1998.
5. Rao UN, Surti U, Hoffner L, Howard T, Leger W, Contis L, Yaw KM. Extraskelatal and Skeletal Myxoid Chondrosarcoma: A Multiparameter Analysis of Three Cases Including Cytogenetic Analysis and Fluorescence *In Situ* Hybridization. Molecular Diagnosis, Vol. 1 No. 2(1996).
6. Rao UN, Surti U, Hoffner L, Yaw KM. Cytogenetic and Histologic Correlation of Peripheral Nerve Sheath Tumors of Soft Tissue. Cancer Genet Cytogenet 88:17-25(1996).
7. Towbin R, Kaye R, Meza MP, Pollock AN, Yaw KM, Moreland MS. Osteoid Osteoma: Percutaneous Excision Using a CT-Guided Coaxial Technique. American Journal of Radiology 164:945-949(1995).
8. Meyers SP, Yaw KM, Devaney K. Giant Cell Tumor of the Thoracic Spine: MR Appearance. American Journal of Neuroradiology 15:962-964(1994).
9. Donaldson WFIII, Peppelman WC Jr., Yaw KM. Symptomatic Metastatic Malignant Melanoma to the Spine. Journal of Spinal Disorders 6:360-363(1993).
10. Miller MD, Yaw KM, Foley HT. Malpractice Maladies in the Management of Musculoskeletal Malignancies. Contemporary Orthopaedics, 23:577-584(1991).
11. Khurana JS, Kattapuram SV, Ehara S, Rosenberg AE, Yaw KM. Case Report 577. Metastatic Paraganglioma. Skeletal Radiology, 18:565-7(1989).

### Non-Peer Reviewed

1. Wurtz LD, Yaw KM "Tumor Resections and Amputations" (Chapter 8) in Surgical Reconstruction of the Upper Extremity, (James H. Herndon, editor) Appleton & Lange, Stamford, CT 1999.
2. Yaw KM, Leit M "Tumors and Amputations"(Chapter 21) in Surgical Reconstruction of the Upper Extremity, (James H. Herndon, editor) Appleton & Lange, Stamford, CT 1999.

**PUBLICATIONS (Continued)**  
**Non-Peer Reviewed (Continued)**

3. Yaw KM, Doyle JS. "Surgical Treatment of Bone Metastases of the Axial Skeleton and Extremities" in Regional Therapy of Cancer (Lotze MT, Rubin JT, eds) Lippincott-Raven Publishers, Philadelphia, PA., 1997.
4. Hasselman CT, Anderson GB, Yaw, KM, Jaffe R. Rosai-Dorfman Disease: An Unusual Cause of a Lytic Bone Lesion in a Child. Pittsburgh Orthopaedic Journal 5:49-53(1994).
5. Sotereanos NG, Sotereanos DG, Rubash HE, Berger RA, Schoedel KE, Charron M, Morrell MK, Yaw KM. Vascularized Orthotopic Osteochondral Transplantation of the Canine Proximal Femur. Transaction of the Orthopaedic Research Society, page 550, Feb 1994.
6. Yaw KM, Dolecki M. "Tumor and Related Conditions" in Knee Surgery, pp 457 - 481, (Fu FH, Harner CD, and Vince K, eds), published by Williams and Wilkins, Baltimore, MD, 1994.
7. Sotereanos NG, Berger RA, Sotereanos DG, Rubash HE, Yaw KM, Schoedel KE, Thompson WH, Silvaggio VJ, Todo S, Herndon JH. Vascularized Orthotopic Osteochondral Transplantation of the Canine Proximal Femur. Pittsburgh Orthopaedic Journal 4:19-22(1993).
8. Regan M, Yaw KM, Herndon JH, Crossett LS. Hemophilic Pseudotumor of the Femur: Treatment with an Allograft/Prosthetic Composite Total Femoral Replacement. Pittsburgh Orthopaedic Journal 4:33-35, 1993.
9. Yaw KM. "Orthopaedic Pathology" in Review of Orthopaedics, pp. 167 - 211(Miller MD eds) published by W. B. Saunders Company, 1992.
10. Yaw KM, Gebhardt MC, Mankin HJ. "Chemotherapy Effect on the Clinical Results of Allograft Transplantation in the Treatment of Malignant Bone Tumors" in Limb Salvage - Major Reconstructions in Oncologic and Nontumoral Conditions. Springer-Verlag, Berlin & Heidelberg, pp107-115, 1991.
11. Yaw KM, Wurtz LD. Resection and Reconstruction for Bone Tumors in the Proximal Tibia. Orthopaedic Clinics of North America, 22:133-148(1991).

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**PROFESSIONAL ACTIVITIES**

**TEACHING:**

Musculoskeletal Organ Block – PBL- Sessions I & II, Introduction and Resolution, University of Pittsburgh. May 10, 16, 24, 29, 2001.

"Cartilage Tumors", Visiting Professor in Orthopaedic Surgery at Shriner's Hospital, Erie, Pennsylvania, January 20, 2001.

## **PROFESSIONAL ACTIVITIES (Continued)**

### **TEACHING:**

"Ewing's sarcoma", presented to Orthopaedic Surgeons and Residents, West Penn Allegheny Health System, December 19, 2000.

"Ewing's sarcoma", Visiting Professor in Orthopaedic Surgery at Shriner's Hospital, Erie, Pennsylvania, December 5, 2000.

"Oncology Review", presented to Orthopaedic Residents, University of Pittsburgh Medical Center, October 18, 2000

"Osteosarcoma", presented to Orthopaedic Residents, University of Pittsburgh Medical Center, October 11, 2000.

"Osteosarcoma", Visiting Professor in Orthopaedic Surgery at Shriner's Hospital, Erie, Pennsylvania, September 26, 2000.

"Staging Musculoskeletal Tumors", Instructional Course presented at De Ortopedia Y Traumatologia 26<sup>th</sup> Annual Meeting in Quito, Ecuador, August 16 – 17, 2000.

Musculoskeletal Organ Block – PBL- Sessions I & II, Introduction and Resolution, University of Pittsburgh. May 22, 23, 25, and 30, 2000.

Congressional Meetings regarding Musculoskeletal Research invited through AAOS, Washington, DC April 5 – 6, 2000.

Neoplasia Section Coordinator, Musculoskeletal Organ Block Course, Pittsburgh, PA 1994 – Present

Ambulatory Sub-specialties Course Co-Director, University of Pittsburgh School of Medicine, 1994 – Present.

"Current Concepts in Joint Reconstruction After Tumor Resection", presented at the Pennsylvania Orthopaedic Society Fall Meeting, October 21, 1999 at Nemicolin Woodlands.

"Clinical Outcomes in Bone Tumor Resections", presented with Molly Vogt, Ph.D. to Orthopaedic Residents, University of Pittsburgh Medical Center, September 22, 1999.

"Osteosarcoma", Visiting Professor in Orthopaedic Surgery at Shriner's Hospital, Erie, Pennsylvania, August 11, 1999.

"Pathophysiology of Musculoskeletal Neoplasms," Ambulatory Sub-specialties Course, University of Pittsburgh School of Medicine, June 1, 1999.

"Pathology of Mesenchymal Tumors and Bone Forming Lesions", Ambulatory Sub-specialties Course, University of Pittsburgh School of Medicine, June 1, 1999.

## PROFESSIONAL ACTIVITIES (Continued)

### **TEACHING:**

Staging and Treatment of Musculoskeletal Neoplasms", Ambulatory Sub-specialties Course, University of Pittsburgh School of Medicine, June 2, 1999.

Musculoskeletal Organ Block, Anatomy Lab for 1<sup>st</sup> Year Medical Students, "Upper Extremity", University of Pittsburgh School of Medicine, May 13, 1999.

"Cartilage Tumors", Visiting Professor in Orthopaedic Surgery at Shriner's Hospital, Erie, Pennsylvania, April 20, 1999.

"Ewing's Sarcoma", Visiting Professor in Orthopaedic Surgery at Shriner's Hospital, Erie, Pennsylvania, October 20, 1998.

"Basic Science Overview", presented to Orthopaedic Residents, University of Pittsburgh Medical Center, September 23, 1998.

Musculoskeletal Neoplasia – Evaluation & Treatment Algorithms", presented to Orthopaedic Residents, University of Pittsburgh Medical Center, September 16, 1998.

"Osteosarcoma", Visiting Professor in Orthopaedic Surgery at Shriner's Hospital, Erie, Pennsylvania, July 21, 1998.

"Limb Salvage Surgery", University of Pittsburgh School of Medicine, Musculoskeletal Organ Block Course, Pittsburgh, PA, June 4, 1998.

"Staging and Treatment of Musculoskeletal Neoplasms", University of Pittsburgh School of Medicine, Musculoskeletal Organ Block Course, Pittsburgh, PA, June 3, 1998.

"Pathophysiology of Musculoskeletal Neoplasms", University of Pittsburgh School of Medicine, Musculoskeletal Organ Block Course, Pittsburgh, PA, June 2, 1998.

"Osteosarcoma", presented to Orthopaedic Residents, University of Pittsburgh Medical Center, May 27, 1998.

"Management of Musculoskeletal Tumors", Armstrong Memorial Hospital, Kittanning, PA, May 5, 1998

"Cartilage Tumors", Visiting Professor in Orthopaedic Surgery at Shriner's Hospital, Erie, Pennsylvania, April 21, 1998.

AAOS 1998 Instruction Course #104, "Malignant Bone Tumors", New Orleans, LA, February, 1998.

"Soft Tissue Sarcoma", presented to Orthopaedic Residents, University of Pittsburgh Medical Center, December 10, 1997.

## **PROFESSIONAL ACTIVITIES (Continued)**

### **TEACHING:**

"Management of Skeletal Metastases", Visiting Professor in Orthopaedic Surgery at Shriner's Hospital, Erie, Pennsylvania, December 4, 1997.

"Oncology Indications", presented at The Salvage Knee conference, Pittsburgh, Pennsylvania, November 6, 1997.

"Management of Skeletal Metastases" Orthopaedic Grand Rounds, Washington University, St. Louis, Missouri, October 8, 1997.

"Prophylactic Fixation for Pathologic Fractures in Metastatic Cancer" Presented to the Medical Staff at United Community Hospital, Grove City, Pennsylvania, September 25, 1997.

"Skeletal Muscle" presented to Orthopaedic Residents, University of Pittsburgh Medical Center, September 24, 1997.

"Ligament, Tendon, and Meniscus" presented to Orthopaedic Residents, University of Pittsburgh Medical Center, September 17, 1997.

"Bone" presented to Orthopaedic Residents, University of Pittsburgh Medical Center, September 10, 1997.

"Hyaline Cartilage" presented to Orthopaedic Residents, University of Pittsburgh Medical Center, September 3, 1997.

"Pediatric Bone Tumors", Visiting Professor in Orthopaedic Surgery at Shriners Hospital, Erie, Pennsylvania, July 15, 1997.

"Lower Extremity Prosthetics", presented to Orthopaedic Residents, University of Pittsburgh Medical Center, January 15, 1997.

"Sarcomas", Latrobe Area Hospital Oncology Rounds, Latrobe, Pennsylvania, September 26, 1996.

"Treatment of Musculoskeletal Neoplasms", presented to Orthopaedic Residents, University of Pittsburgh Medical Center, September 25, 1996.

"Fibrous Tumors & Cysts", presented to Orthopaedic Residents, University of Pittsburgh Medical Center, September 18, 1996.

"Round Cell Tumors & Reticuloendothelioses", presented to Orthopaedic Residents, University of Pittsburgh Medical Center, September 11, 1996.

"Imaging & Staging of Musculoskeletal Neoplasms", presented to Orthopaedic Residents, University of Pittsburgh Medical Center, September 4, 1996.

## PROFESSIONAL ACTIVITIES (Continued)

### **TEACHING:**

"Soft Tissue Sarcomas", Connemaugh Memorial Hospital Oncology Conference, Johnstown, Pennsylvania, June 7, 1996.

"Staging of Soft Tissue Tumors", presented to Orthopaedic Residents, University of Pittsburgh Medical Center, May 8, 1996.

"Bone Forming Lesions", presented to Orthopaedic Residents, University of Pittsburgh Medical Center, March 6, 1996.

"Radiolucent Lesions of the Extremities", Audiotaped lecture, EPOK Studios, Pittsburgh, Pennsylvania, January 24, 1996.

"Surgical Management of Bone and Soft Tissue Sarcomas", Westmoreland Regional Hospital, Greensburg, Pennsylvania, January 9, 1996.

"Ewing's Sarcoma 1995", Visiting Professor, Department of Orthopaedic Surgery, Wilford Hall USAF Medical Center, San Antonio, Texas, November 1995.

Segal R, Towers J, Mulvihill JJ, Yaw KM, Martinez J, Comey C, Kirkwood JM. Malignant Degeneration of Nerve Sheath Tumors in Neurofibromatosis 1 (NF-1) Patients. Poster presentation at Congress of Neurological Surgeons Annual Meeting, San Francisco, CA, Oct.14-19, 1995.

Yaw KM. "Limb Sparing Surgery for Primary Bone Malignancies", Eleventh Annual George Tolstoi Hematology/Oncology Symposium, The Uniontown Hospital, Nemacolin Woodlands, Farmington, Pennsylvania, April 23, 1994.

Yaw KM. "Surgical Management of Bone Sarcomas", Mini-Course on Management of Sarcomas, University of Pittsburgh Medical Center, Pittsburgh, Pennsylvania, March 6, 1993.

"Prospective Randomized Trial of the Gamma Nail Versus the Compressive Hip Screw Fixation for the Treatment of Intertrochanteric Fractures of the Proximal Femur", Doyle JS, Crossett LS, Yaw KM, Gruen GS, Rubash HE, Poster Exhibit, American Academy of Orthopaedic Surgeons Annual Meeting, San Francisco, California, February 1993.

Donaldson WFIII, Peppelman WC Jr., Yaw KM. "Symptomatic Metastatic Malignant Melanoma to the Spine", Presented at Western Orthopaedic Association Meeting, Monterey, California, October 11-14, 1992.

Course Co-Director, "Diagnosis and Treatment of Sarcomas of Bone and Soft Tissue", Shadyside Hospital, Pittsburgh, Pennsylvania, May 16, 1992.

"Tibia Fractures", Presented at AO/ORP Course, Pittsburgh, Pennsylvania, October 25-26, 1991.

## **PROFESSIONAL ACTIVITIES (Continued)**

### **TEACHING:**

"Management of Fractures in the Osteoporotic Patient", Presented at "Osteoporosis: A Multidisciplinary Update", Pittsburgh, Pennsylvania, October 1, 1991.

Orthopaedic Surgery I and II, Osler Institute General Surgery Review Course, Pittsburgh, Pennsylvania, September 18, 1991.

"Limb Salvage for Pediatric Tumors", Invited Speaker, Medical Alumni Association of Children's Hospital, Pittsburgh, Pennsylvania, November 1990.

Yaw KM, Mankin HJ, McGinty JB. "Caveat Arthroscopos (Revisited)", presented to the Society of Air Force Clinical Surgeons, Bethesda, Maryland, April 1990.

Miller MD, Yaw KM, Foley HT. "Malpractice Maladies in the Management of Musculoskeletal Malignancies", presented at the Society of Air Force Clinical Surgeons, Bethesda, Maryland, April 1990.

"Bone Tumors", Invited Speaker, National Association of Orthopaedic Nurses, San Antonio, Texas, March 1990.

"Limb Salvage Surgery", Poster Exhibit, Cancer Update 1990, Baptist Medical Center, San Antonio, Texas, February 1990.

Program Director, Society of Military Orthopaedic Surgeons 31st Annual Meeting, San Antonio, Texas, December 1989.

K.M. Yaw, H.J. Mankin, M.C. Gebhardt: "Chemotherapy Effect on the Use of Allografts in the Treatment of Malignant Bone Tumors", presented at the Fifth International Symposium on Limb Salvage, Saint Malo, France, September 1989.

Yaw KM, Mankin HJ, McGinty JB. "Caveat Arthroscopos (Revisited)", presented to the Arthroscopy Association of North America, Seattle, Washington, March 1989.

"Musculoskeletal Neoplasms". Orthopaedic Grand Rounds. University of Texas Health Science Center at San Antonio, Texas, February 1989.

K.M. Yaw, H.J. Mankin, M.C. Gebhardt: "Chemotherapy Effect on the Use of Allografts in the Treatment of Malignant Bone Tumors", presented to the American Academy of Orthopaedic Surgeons, Las Vegas, Nevada, February 1989.

Yaw KM, Amendt WC, Eady JL. "Extraskkeletal Rhabdomyosarcoma - Case Report", presented to the Society of Military Orthopaedic Surgeons, Oakland, California, November 1984.



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## SERVICE

Standing Committee for Non-Tenured Faculty Promotions and Appointments (NTFPA) in the University of Pittsburgh School of Medicine June 2001 to present.

Board Member for Adolescent and Young Adult Amputee Program-April, 2000 to present

Executive Committee Member, Department of Orthopaedic Surgery, University of Pittsburgh, January, 1998 to present

Children's Cancer Group Orthopaedic Surgery Committee, 1997-Present

Section Editor of the Musculoskeletal Oncology and Metabolic Bone Disease Section of "Orthopedics Today" Publisher: SLACK Incorporated, Thorofare, NJ, 1997 to present

Manuscript Reviewer, "Annals of Surgical Oncology", 1997 to present

Medical Research Advisory Group, Department of Veteran Affairs, March 1997 to 1999

EpicCare Physician Advisory Group, UPMC, June 1997 to present

Pittsburgh Cancer Conference Round Table Leader, 1996

Graduate Medical Education Committee, UPMC, August 1996 to present

Electronic Medical Record Systemwide Confidentiality Committee, July 1996 to present

Fourth Annual Gold Headed Cane Awards/Conference, San Antonio, Texas, 1995

Children's Cancer Group-7006 Phase III Methotrexate Study, July, 1995 to present

Children's Cancer Group -7942 (POG-9354/INT-1054), A Randomized Phase III Evaluation of Intensified Vincristine, Doxorubicin, Cyclophosphamide, Ifosfamide, and Etoposide in Treatment of Newly Diagnosed Ewing's Sarcoma or PNET of Bone or Soft Tissue. May, 1995 to present

Children's Cancer Group -7943, A Phase II Window of Topotecan (NCS # 609699) in Children with Newly Diagnosed Metastatic Osteosarcoma Study Committee, March 1995 to present

Children's Cancer Group Bone Tumor Strategy Committee, March 1995 to present

Osteoporosis Advisory Committee, Magee Women's Hospital, March 1995 to 1997

Moderator, 28th Annual American Orthopaedic Association Residents' Conference, Pittsburgh, Pennsylvania, March 1995

Orthopaedic Consultant, Osteoporosis Prevention & Treatment Center, Magee Women's Hospital, Pittsburgh PA, 1995 to present

## SERVICE (Continued)

Advisor: National Specialty Review Service, March 1994 to 1997

Reviewer: Keystone Peer Review Organization, 1991 – 1996

Neoplasia Section Coordinator, Musculoskeletal Organ Block Course, Pittsburgh, PA 1994 – Present

Ambulatory Sub-specialties Course Co-Director, University of Pittsburgh School of Medicine, 1994 – Present.

U.S. Air Force Active Duty in Support of Operation Desert Storm, February - March 1991

Cancer Committee, University of Pittsburgh Medical Center, December 1990 to present

Total Quality Council, University of Pittsburgh Medical Center, December 1990 to present

Oncology Committee, Children's Hospital of Pittsburgh, December 1990 to present

Tissue and Surgical Case Review Committee, UPMC, December 1990 to 1997

Advisory Committee Member: Pittsburgh Tissue Bank, 1990 – 1995

Protocol Development Committee, Pittsburgh Cancer Institute, December 1990 to 1992

Moderator, American Orthopaedic Association 21<sup>st</sup> Annual Residents' Meeting, Boston, Massachusetts, January 1988.

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## RESEARCH

"In vitro and In Vivo Evaluation of BMP-2 Mediated Bone Formation in Enchondroma and Chondrosarcoma Cells". Huard, J; Wright, VJ; Yaw, KM; Day, CS; Rao, UN.

This research is ongoing but the purpose of this research project is two-fold:

1. To determine if cartilaginous cells from enchondromas and chondrosarcomas respond to BMP-2 in vitro by producing alkaline phosphatase and osteocalcin.
2. To determine if cells, isolated from enchondromas and chondrosarcomas can be induced into an osteogenic lineage in vivo.

Research project in collaboration with the Department of Orthodontics at the University of Pittsburgh School of Dental Medicine. The initial phase of this research culminated in the article "Coexpression of Myosin Heavy Chain Genes in External Oblique", American Journal of Physiology-Cell Physiology. By Horton, MJ; Brandon, CA; Morris, TJ; Yaw, KM; Sciote, JJ. Accepted 7/01.

Collaboration Judith M. Younginger, Ph.D., R.D., C.N.S.D. and involved muscle biopsies. "Ergogenic Effect of Oral Creatine Monohydrate supplementation and Vegetarian Diet Anaerobic Exercise", Medicine and Science in Sports and Exercise. By Younginger, JM; Robertson, RJ; Arch, JE; Moore, GE; Yaw, KM; Kelly, DE; Rubin, JT; Goss, FL; Moyna, NM. Submitted 11/15/99.

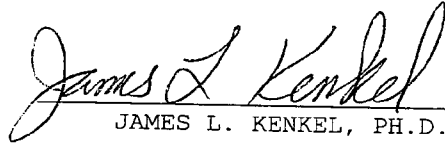


EXPERT REPORT OF  
JAMES L. KENKEL, PH.D.

RE: PAULA CARLSON

FOR  
THOMAS E. CRENNY & ASSOCIATES

SUBMITTED: April 1, 2007



A handwritten signature in cursive script, reading "James L. Kenkel", is written over a horizontal line.

JAMES L. KENKEL, PH.D.

807 ACADEMY PLACE  
PITTSBURGH, PA 15243

412-563-4128

FAX: 412-563-0806

## PURPOSE

The purpose of this report is to calculate the potential economic losses resulting from injuries suffered by Paula Carlson.

## BACKGROUND INFORMATION

1. Date of Birth: 4-26-1971
2. Date of Injury: 4-12-2005
3. Age at Date of Injury: 33.9 years
4. Elapsed Time from Date of Injury to Present: 1.95 years
5. Current Age: 35.9 years
6. Life Expectancy at Date of Injury:  
48.6 additional years to age 82.5<sup>1</sup>
7. Median Age at Final Retirement: 61.3 years<sup>2</sup>

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<sup>1</sup>Source: United States Life Tables, 2003. National Vital Statistics Reports, Vol. 54, No. 14, Department of Health and Human Services, National Center for Health Statistics, April 19, 2006.

<sup>2</sup>Source: David M. Nelson, "The use of worklife tables in estimates of lost earning capacity," Monthly Labor Review, U.S. Department of Labor, Bureau of Labor Statistics, April 1983, pages 30-31; Kenneth J. Boldreux, "A further adjustment needed to estimate lost earning capacity," Monthly Labor Review, October 1983, pages 30-31; and George C. Alter and William E. Becker, "Estimating lost future earnings using the new worklife tables," Monthly Labor Review, February 1985, pages 39-42. Also see, Gary Skoog and James Ciecka, "Probability Mass Functions for Years to Final Separation from the Labor Force Induced by the Markov Model", Journal of Forensic Economics, 16 (1), 2003, pp. 51-86.

8. Number of Years from Date of Injury until Median Age at Retirement:  
27.4 years<sup>3</sup>

9. Number of Years from Date of Injury until Potential Retirement at Age 67: 33.1 years

NOTE: Paula Carlson would have been eligible to receive full social security benefits at age 67.

10. Percentage of People having the same Age, Race, and Sex as Paula Carlson who live to Age 62: 91.8%

11. Percentage of People having the same Age, Race, and Sex as Paula Carlson who live to Age 65: 89.2%

12. Percentage of People having the same Age, Race, and Sex as Paula Carlson who live to Age 70: 83.2%

13. Marital Status: Married

Spouse: Jamie Carlson  
Date of Birth: 2-16-1971  
Current Age: 36.1 years  
Current Life Expectancy: 41.3 years to age 77.4

14. Children:

Brooke Carlson born 12-15-1995  
Ryan Carlson born 5-6-1998

15. Education:

Graduated from Philipsburg High School in 1989

Mercy Hospital School of Radiology, 1989-1991, certified in radiology

Community College of Allegheny County, 1991-1992, certified in radiation therapy

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<sup>3</sup>Source: David M. Nelson, "The use of worklife tables in estimates of lost earning capacity," Monthly Labor Review, U.S. Department of Labor, Bureau of Labor Statistics, April 1983, pp. 30-31. Also see, Gary Skoog and James Ciecka, Probability Mass Functions for Years to Final Separation from the Labor Force Induced by the Markov Model", Journal of Forensic Economics, 16 (1), 2003, pp. 51-86.

## 16. Employment:

8-24-1992 to 5-5-2005:

DuBois Regional Medical Center, radiation therapist

Worked 36 hours per week at \$32.87 per hour

## 17. Past Income: (Source: W-2 statements)

1999: \$41,409.19

2000: \$42,847.93

2001: \$46,129.13

2002: \$45,517.77

2003: \$56,525.75

2004: \$64,042.24

2005: \$33,984.55

\$20,600.00

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\$54,584.55

## 18. Hourly Wage Rate:

1992: \$12.70

1993: \$13.70

1994: \$14.35

1995: \$15.16

1996: \$15.92

1997: \$16.72

1998: \$17.39

1999: \$18.39

2000: \$18.94

2001: \$19.45

2002: \$20.81

2003: \$29.88

2004: \$

2005: \$31.26

2006: \$32.87

## CALCULATION OF ECONOMIC LOSSES

The use of an economist to value pecuniary damages in personal injury and death actions has become commonplace. Usually, the economist is utilized to estimate the present value of the monetary and non-monetary (fringe benefit) income an individual would have been expected to earn absent the occurrence of the injury or death.

In a personal injury action, it is necessary to project the potential income which the individual would have earned over the expected future working life, after the date of injury, absent the injury. To this should be added the value of potential fringe benefits, absent the injury, and the value of lost household services. From this sum, we should subtract the value of potential income and potential fringe benefits, after the date of injury, with the injury. Unlike in a death action, in a personal injury action, no personal maintenance expenses need to be deducted.

In a personal injury action, we calculate the total potential monetary and non-monetary earnings of the individual without the injury and we subtract from this the total potential monetary and non-monetary earnings of the individual with the injury.



## DISCOUNTING TO PRESENT VALUE

Two principal elements that determine the value of lost income are the projected income the employee could have earned and the corresponding discount rate that would reduce this flow of income loss to its "present worth". In some jurisdictions, it is required that a deliberate choice be made as to offsetting factors influencing both the income loss and the discount rate that would be appropriate in computing its present worth.

The Pennsylvania Supreme Court has ruled in Kaczkowski v. Bolubasz<sup>4</sup> that when calculating the present value of lost future income we should use the "total offset method". The court stated,

"In awarding damages for lost future earnings, court, upon proper foundation, shall consider victim's lost future productivity and, as matter of law, future inflation shall be presumed equal to future interest rates with those factors offsetting; thus practice of discounting future lost earnings will be abandoned, so that impact of inflation will be reflected without specifically submitting question to jury."

Because the Pennsylvania Supreme Court requires us to assume that future inflationary increases in income are totally offset by the discount rate, this implies that we do not have to project future inflationary trends and we do not have to discount future losses to present value.

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<sup>4</sup>Source: Kaczkowski v. Bolubasz, 421 A.2d 1027 (Pa. 1980).

## CALCULATION OF DAMAGES

## IN MEDICAL MALPRACTICE CASES

On March 20, 2002, Governor Schweiker signed into law a new medical malpractice bill known as the Pennsylvania Medical Care Availability and Reduction of Error (MCARE).

Section 508 of MCARE establishes a change in the calculation of economic damages for medical and other related expenses:

The future damages set forth in the findings for medical and other related expenses shall be paid as periodic payments after payment of proportionate share of counsel fees and costs. There must be reduction to present value.

Section 510 of MCARE establishes a change in the calculation of economic damages for loss of earnings or earning capacity:

Future damages for loss of earnings or earning capacity in a medical professional liability action shall be reduced to present value based upon the return that the claimant can earn on a reasonable secure fixed income investment.

DISCOUNTING TO PRESENT VALUE  
IN MEDICAL MALPRACTICE CASES

"In theory, the present valuation of a stream of future earnings consists of (1) inflating base year earnings to future levels using anticipated rates of earnings growth, and (2) discounting these future earnings levels to a present lump-sum using anticipated rates of interest."<sup>5</sup>

When projecting the present value of future economic losses, it is necessary to take into account the rate at which future income is projected to grow and the interest rate at which funds can be invested.

When determining potential damages, we should consider the fact that a present payment will be made in lieu of sums which would have been received at periodic times in the future. An appropriate discount rate must thus be determined for the purpose of reducing to present value the potential income which the individual's earning capacity has been determined to be worth in each of the remaining years of potential employment.

Any damages that are awarded today can be invested so that there will be a sufficient amount of money available in the future to compensate the individual for his or her future loss. The appropriate

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<sup>5</sup>Source: Ronald A. Dulaney, "An Historical Simulation Approach to the Present Valuation of Future Earnings", Journal of Forensic Economics, Vol. 1, Number 1, September 1987.

amount to award in damages depends on the projected amount of the future loss during each year and the interest rate at which a current damage award can be invested.

The annual economic loss will change from year to year based on the projected annual increase in wages and salaries. Any future projected economic losses must be discounted to present value using an appropriate discount rate. This discount rate should reflect the probable rate of return on a prudent investment, so that the discounted total amount of loss suffered through the destruction of earning capacity will, if prudently invested, earn enough interest for the total amount of damages and accumulated interest to cover exactly the periodic payments the individual would have received.

Rather than project the annual rate of growth of income and the annual interest rate, it is more customary to estimate the difference between the interest rate at which funds can be invested and the annual rate of growth of income. This is called the real discount rate.

$$\text{Real discount rate} = \text{Interest rate} - \text{Rate of growth of income}$$

The real discount rate is the difference between the interest rate at which funds can be invested and the projected rate of growth of income. A reasonable rate to use for the interest rate would be the interest rate being earned on U.S. government securities. Because

these securities are backed by the United States government, there is virtually no danger of default.

Future inflation is projected to be approximately 3.0% per year. At the present time, the yield on 10 year Treasury securities is approximately 4.5% per year.

In this report, I make projections using a 1.5% per year real discount rate to determine the present value of future economic losses.

## INCREASES IN PRODUCTIVITY

At any moment of time, the earnings of an individual depend on a number of factors, some related to general economic conditions and some to the individual. Among those factors affecting all workers are the general level of labor productivity.

The level of productivity (output per worker) determines the general level of real income (income adjusted for inflation) and thus the standard of living of society. Output per worker is much higher today than it was twenty or thirty years ago, and the sustained rise in our standard of living is the result of the sustained rise in labor productivity. For example, the output per hour of workers in the nonfarm business sector has increased by 125% between 1960 and 2000; it increased by 69.2% between 1970 and 2000. This means that today a worker has to work for about 27 minutes to produce the same amount that could be produced in 1960 by working for one full hour; today a worker has to work for about 36 minutes to produce the same amount that could be produced in 1970 by working for one full hour. Alternatively, by supplying the same work effort today as in 1960, workers can produce approximately 125% more today than they could in 1960. By supplying the same work effort today as in 1970, workers can produce approximately 69% more today than in 1970. This productivity increase accrues to the benefit of most workers because incomes typically rise to reflect increases in productivity.

The Pennsylvania Supreme Court has stated that, in calculating economic damages, it is proper to take into account future productivity changes.<sup>6</sup> In Kaczkowski v. Bolubasz, the court stated:

"Moreover, the assertion that productivity factors are too speculative to consider in computing lost future earnings is also fallacious. An individual's future earning capacity is capable of estimation based upon objective factors of age, maturity, education and skill...Henceforth, in this Commonwealth, damages will be awarded for lost future earnings that compensate the victim to the full extent of the injury sustained. Upon proper foundation, the court shall consider the victim's lost future productivity."

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<sup>6</sup>Source: Kaczkowski v. Bolubasz, 421 A.2d 1027, (Pa. 1980).

## ANNUAL CHANGES IN PRODUCTIVITY

The data below show annual changes in productivity since 1985.<sup>7</sup>

| Year | Annual Change<br>Output Per Hour<br>(Nonfarm Business Sector) |
|------|---------------------------------------------------------------|
| 1985 | 1.6%                                                          |
| 1986 | 3.1%                                                          |
| 1987 | 0.5%                                                          |
| 1988 | 1.7%                                                          |
| 1989 | 0.7%                                                          |
| 1990 | 1.9%                                                          |
| 1991 | 1.6%                                                          |
| 1992 | 4.1%                                                          |
| 1993 | 0.4%                                                          |
| 1994 | 1.1%                                                          |
| 1995 | 0.5%                                                          |
| 1996 | 2.7%                                                          |
| 1997 | 1.6%                                                          |
| 1998 | 2.8%                                                          |
| 1999 | 2.9%                                                          |
| 2000 | 2.8%                                                          |
| 2001 | 2.5%                                                          |
| 2002 | 4.1%                                                          |
| 2003 | 3.7%                                                          |
| 2004 | 3.0%                                                          |
| 2005 | 2.3%                                                          |

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<sup>7</sup>Source: Economic Report of the President.



## PROJECTION OF LOST INCOME

There will be two projections of potential income, absent the injury.

Under Projection 1, it is projected that Paula Carlson had the potential to work for 27.4 additional years from the date of injury until eventual retirement.

Under Projection 2, it is projected that Paula Carlson had the potential to work for 33.1 additional years from the date of injury until eventual retirement at age 67.

Future income is discounted to present value using a real discount rate of 1.5% per year.

## PAST LOST POTENTIAL INCOME

FROM 4-12-2005 TO 12-31-2006

For convenience, past losses are calculated through 12-31-2006 and future losses are calculated after 1-1-2007.

At the date of injury, Paula Carlson was earning \$31.26 per hour and was working 36 hours per week. This yields potential income of \$58,518.72 per year.

No losses are projected for the approximately 3 months from 4-12-2005 to 6-30-2005.

Based on an annualized income of \$58,518.72, lost potential income from 7-1-2005 to 12-31-2005 amounts to \$29,259.36.

During 2006, Paula Carlson would have earned \$32.87 per hour for 36 hours per week. This yields potential earnings of \$61,532.64 per year. Lost potential income during 2006 is projected to be \$61,532.64.

Total past potential income from 4-12-2005 to 12-31-2006 is projected to be \$90,792.00 and is shown in the following table.

PAULA CARLSON  
PAST LOST POTENTIAL INCOME  
FROM 4-12-2005 TO 12-31-2006

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|                             |             |
|-----------------------------|-------------|
| 2005                        | \$29,259.36 |
| 2006                        | \$61,532.64 |
| <hr/>                       |             |
| TOTAL PAST POTENTIAL INCOME | \$90,792.00 |

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PROJECTION 1  
POTENTIAL FUTURE INCOME  
ABSENT THE INJURY

During 2006, the Consumer Price Index increased 3.2%. It is projected that as of 1-1-2007 the annual income of Paula Carlson would have increased by 3.2% to \$63,501.68.

Under Projection 1, as of 1-1-2007, there would be approximately 25.7 years of worklife expectancy remaining.

Future income is discounted to present value using a real discount rate of 1.5% per year.

Under Projection 1, the present value of future potential income after 1-1-2007 would be \$1,346,235.62.

PROJECTION 1  
TOTAL POTENTIAL INCOME  
ABSENT THE INJURY  
EMPLOYMENT FOR 27.4 YEARS

Potential income from the date of injury to 12-31-2006 is projected to be \$90,792.00.

The present value of future potential income after 1-1-2007 is projected to be \$1,346,235.62.

Under Projection 1, the present value of total potential income, absent the injury, is \$1,437,027.62.

## PROJECTION 1

PAULA CARLSON

TOTAL POTENTIAL INCOME

ABSENT THE INJURY

27.4 YEARS OF EMPLOYMENT

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|                                             |                            |
|---------------------------------------------|----------------------------|
| Past Potential Income                       | \$90,792.00                |
| Present Value of<br>Future Potential Income | \$1,346,235.62             |
| Total Potential Income                      | <hr/> \$1,437,027.62 <hr/> |

PROJECTION 2

POTENTIAL INCOME

ABSENT THE INJURY

33.1 YEARS OF EMPLOYMENT TO AGE 67

In Projection 2, it is projected that, absent her injury, Paula Carlson had the potential to work for 33.1 additional years from the date of injury to projected retirement at age 67.

As in Projection 1, past potential income from 4-12-2005 to 12-31-2006 is \$90,792.00.

PROJECTION 2

POTENTIAL FUTURE INCOME AFTER 1-1-2007

ABSENT THE INJURY

It is projected that, as of 1-1-2007, Paula Carlson would be earning \$63,501.68 per year. As of 1-1-2007, there would be approximately 31.4 years of worklife remaining to retirement at age 67.

Future income is discounted to present value using a real discount rate of 1.5% per year.

Under Projection 2, the present value of future potential income after 1-1-2007 would be \$1,581,191.83.

PROJECTION 2

TOTAL POTENTIAL INCOME

ABSENT THE INJURY

33.1 YEARS OF EMPLOYMENT TO AGE 67

Potential income from the date of injury to 12-31-2006 is projected to be \$90,792.00.

The present value of future potential income after 1-1-2007 is projected to be \$1,581,191.83.

Under Projection 2, the present value of total potential income, absent the injury, is \$1,671,983.83.



## PROJECTION 2

PAULA CARLSON

## TOTAL POTENTIAL INCOME

ABSENT THE INJURY

33.1 YEARS OF EMPLOYMENT TO AGE 67

---

|                                             |                |
|---------------------------------------------|----------------|
| Past Potential Income                       | \$90,792.00    |
| Present Value of<br>Future Potential Income | \$1,581,191.83 |
| <hr/>                                       |                |
| Total Potential Income                      | \$1,671,983.83 |

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## FRINGE BENEFITS

The value of the potential fringe benefits which an employee receives depends to a certain extent on the wage and salary compensation which would have been earned. Government data indicate that, in general, the value of the fringe benefits which an employee receives tends to be positively correlated with the employee's annual income. In general, employees with high incomes tend to receive more fringe benefits than employees with low incomes.

Under most collective bargaining agreements and many individual employment arrangements or contracts, fringe benefits are part of the basic wage or salary agreement. That is, payments for fringe benefits are considered part of the basic earnings of the employee to which he may look forward in the regular course of employment. They constitute part of the reason why the individual took the job and why the individual continues to be employed. The fact that the income supplements are called "fringe benefits" should in no way suggest that they are peripheral or tangential to the basic earnings of the employee. Fringe benefits are an integral part of an employee's total compensation.

## SOME TYPICAL FRINGE BENEFITS

As a general rule, the following items (where applicable) are included in fringe benefits:

- Employer's contribution to pension and retirement plans
- Employer's contribution to social security
- Employer's contribution to family health plans
- Employer's contribution to savings and thrift plans
- Employer's contribution to life insurance programs
- Employer's contribution to accident insurance programs
- Various other miscellaneous items

The data in the following tables show the employer's contribution rate to social security and Medicare. The employer contributes a total of 6.20% of earnings to social security (up to the maximum earnings limit) and 1.45% of earnings to Medicare (with no income maximum).

## EMPLOYER'S CONTRIBUTIONS TO SOCIAL SECURITY AND MEDICARE

| Year | Employer's<br>Contribution<br>to Social<br>Security | Employer's<br>Contribution<br>to<br>Medicare | Total | Maximum<br>Earnings<br>Subject<br>to Tax |
|------|-----------------------------------------------------|----------------------------------------------|-------|------------------------------------------|
| 1937 | 1.00%                                               | ****                                         | 1.00% | \$ 3,000                                 |
| 1938 | 1.00%                                               | ****                                         | 1.00% | \$ 3,000                                 |
| 1939 | 1.00%                                               | ****                                         | 1.00% | \$ 3,000                                 |
| 1940 | 1.00%                                               | ****                                         | 1.00% | \$ 3,000                                 |
| 1941 | 1.00%                                               | ****                                         | 1.00% | \$ 3,000                                 |
| 1942 | 1.00%                                               | ****                                         | 1.00% | \$ 3,000                                 |
| 1943 | 1.00%                                               | ****                                         | 1.00% | \$ 3,000                                 |
| 1944 | 1.00%                                               | ****                                         | 1.00% | \$ 3,000                                 |
| 1945 | 1.00%                                               | ****                                         | 1.00% | \$ 3,000                                 |
| 1946 | 1.00%                                               | ****                                         | 1.00% | \$ 3,000                                 |
| 1947 | 1.00%                                               | ****                                         | 1.00% | \$ 3,000                                 |
| 1948 | 1.00%                                               | ****                                         | 1.00% | \$ 3,000                                 |
| 1949 | 1.00%                                               | ****                                         | 1.00% | \$ 3,000                                 |
| 1950 | 1.50%                                               | ****                                         | 1.50% | \$ 3,000                                 |
| 1951 | 1.50%                                               | ****                                         | 1.50% | \$ 3,600                                 |
| 1952 | 1.50%                                               | ****                                         | 1.50% | \$ 3,600                                 |
| 1953 | 1.50%                                               | ****                                         | 1.50% | \$ 3,600                                 |
| 1954 | 2.00%                                               | ****                                         | 2.00% | \$ 4,200                                 |
| 1955 | 2.00%                                               | ****                                         | 2.00% | \$ 4,200                                 |
| 1956 | 2.00%                                               | ****                                         | 2.00% | \$ 4,800                                 |
| 1957 | 2.25%                                               | ****                                         | 2.25% | \$ 4,800                                 |
| 1958 | 2.25%                                               | ****                                         | 2.25% | \$ 4,800                                 |
| 1959 | 2.50%                                               | ****                                         | 2.50% | \$ 4,800                                 |
| 1960 | 3.00%                                               | ****                                         | 3.00% | \$ 4,800                                 |
| 1961 | 3.00%                                               | ****                                         | 3.00% | \$ 4,800                                 |
| 1962 | 3.13%                                               | ****                                         | 3.13% | \$ 4,800                                 |
| 1963 | 3.63%                                               | ****                                         | 3.63% | \$ 4,800                                 |
| 1964 | 3.63%                                               | ****                                         | 3.63% | \$ 4,800                                 |
| 1965 | 3.63%                                               | ****                                         | 3.63% | \$ 4,800                                 |
| 1966 | 3.85%                                               | 0.35%                                        | 4.20% | \$ 6,600                                 |
| 1967 | 3.80%                                               | 0.60%                                        | 4.40% | \$ 6,600                                 |
| 1968 | 3.80%                                               | 0.60%                                        | 4.40% | \$ 7,800                                 |
| 1969 | 4.20%                                               | 0.60%                                        | 4.80% | \$ 7,800                                 |

## EMPLOYER'S CONTRIBUTIONS TO SOCIAL SECURITY AND MEDICARE

| Year | Employer's<br>Contribution<br>to Social<br>Security | Employer's<br>Contribution<br>to<br>Medicare | Total | Maximum<br>Earnings<br>Subject<br>to Tax |
|------|-----------------------------------------------------|----------------------------------------------|-------|------------------------------------------|
| 1970 | 4.20%                                               | 0.60%                                        | 4.80% | \$ 7,800                                 |
| 1971 | 4.60%                                               | 0.60%                                        | 5.20% | \$ 7,800                                 |
| 1972 | 4.60%                                               | 0.60%                                        | 5.20% | \$ 9,000                                 |
| 1973 | 4.95%                                               | 0.90%                                        | 5.85% | \$10,800                                 |
| 1974 | 4.95%                                               | 0.90%                                        | 5.85% | \$13,200                                 |
| 1975 | 4.95%                                               | 0.90%                                        | 5.85% | \$14,100                                 |
| 1976 | 4.95%                                               | 0.90%                                        | 5.85% | \$15,300                                 |
| 1977 | 4.95%                                               | 0.90%                                        | 5.85% | \$16,500                                 |
| 1978 | 5.05%                                               | 1.00%                                        | 6.05% | \$17,700                                 |
| 1979 | 5.08%                                               | 1.05%                                        | 6.13% | \$22,900                                 |
| 1980 | 5.08%                                               | 1.05%                                        | 6.13% | \$25,900                                 |
| 1981 | 5.35%                                               | 1.30%                                        | 6.65% | \$29,700                                 |
| 1982 | 5.40%                                               | 1.30%                                        | 6.70% | \$32,400                                 |
| 1983 | 5.40%                                               | 1.30%                                        | 6.70% | \$35,700                                 |
| 1984 | 5.70%                                               | 1.30%                                        | 7.00% | \$37,800                                 |
| 1985 | 5.70%                                               | 1.35%                                        | 7.05% | \$39,600                                 |
| 1986 | 5.70%                                               | 1.45%                                        | 7.15% | \$42,000                                 |
| 1987 | 5.70%                                               | 1.45%                                        | 7.15% | \$43,800                                 |
| 1988 | 6.06%                                               | 1.45%                                        | 7.51% | \$45,000                                 |
| 1989 | 6.06%                                               | 1.45%                                        | 7.51% | \$48,000                                 |

## EMPLOYER'S CONTRIBUTIONS TO SOCIAL SECURITY AND MEDICARE

| Year | Employer's<br>Contribution<br>to Social<br>Security | Maximum<br>Earnings<br>Subject<br>to Tax | Employer's<br>Contribution<br>to<br>Medicare | Maximum<br>Earnings<br>Subject<br>to Tax |
|------|-----------------------------------------------------|------------------------------------------|----------------------------------------------|------------------------------------------|
| 1990 | 6.20%                                               | \$51,300                                 | 1.45%                                        | \$ 51,300                                |
| 1991 | 6.20%                                               | \$53,400                                 | 1.45%                                        | \$125,000                                |
| 1992 | 6.20%                                               | \$55,500                                 | 1.45%                                        | \$130,200                                |
| 1993 | 6.20%                                               | \$57,600                                 | 1.45%                                        | \$135,000                                |
| 1994 | 6.20%                                               | \$60,600                                 | 1.45%                                        | No limit                                 |
| 1995 | 6.20%                                               | \$61,200                                 | 1.45%                                        | No limit                                 |
| 1996 | 6.20%                                               | \$62,700                                 | 1.45%                                        | No limit                                 |
| 1997 | 6.20%                                               | \$65,400                                 | 1.45%                                        | No limit                                 |
| 1998 | 6.20%                                               | \$68,400                                 | 1.45%                                        | No limit                                 |
| 1999 | 6.20%                                               | \$72,600                                 | 1.45%                                        | No limit                                 |
| 2000 | 6.20%                                               | \$76,200                                 | 1.45%                                        | No limit                                 |
| 2001 | 6.20%                                               | \$80,400                                 | 1.45%                                        | No limit                                 |
| 2002 | 6.20%                                               | \$84,900                                 | 1.45%                                        | No limit                                 |
| 2003 | 6.20%                                               | \$87,000                                 | 1.45%                                        | No limit                                 |
| 2004 | 6.20%                                               | \$87,900                                 | 1.45%                                        | No limit                                 |
| 2005 | 6.20%                                               | \$90,000                                 | 1.45%                                        | No limit                                 |
| 2006 | 6.20%                                               | \$94,200                                 | 1.45%                                        | No limit                                 |
| 2007 | 6.20%                                               | \$97,500                                 | 1.45%                                        | No Limit                                 |

## PERCENTAGES OF EMPLOYEES RECEIVING VARIOUS BENEFITS

The data in the following table show the percentages of full time employees in private industry who receive various different types of fringe benefits. The data are published in the Statistical Abstract of the United States and are based on surveys conducted by the U.S. Department of Labor. The data indicate that almost all employees are covered by some form of life and health insurance and indicate that there are a wide variety of fringe benefit plans available in the private economy.

EMPLOYEE BENEFITS<sup>8</sup>

| Type of Employee<br>Benefit | Percentage Receiving<br>Benefit |
|-----------------------------|---------------------------------|
| Paid Sick Leave             | 65                              |
| Accident Insurance          | 44                              |
| Long-term disability        | 41                              |
| Life insurance              | 91                              |
| Pension                     | 78                              |
| Medical care                | 82                              |
| Hospital/room & board       | 82                              |
| Extended care facility      | 67                              |
| Home health care            | 71                              |
| Mental health care          | 80                              |
| Dental                      | 62                              |
| Vision                      | 26                              |
| Recreation facilities       | 26                              |
| Educational assistance      | 72                              |

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<sup>8</sup>Source: Statistical Abstract of the United States. Also see: Employee Benefits in Medium and Large Firms, U.S. Department of Labor, Bureau of Labor Statistics.



## VALUE OF FRINGE BENEFITS AS A PERCENTAGE OF INCOME

The Department of Labor, Bureau of Labor Statistics, and the Department of Commerce, Bureau of the Census, have published information about supplemental pay and fringe benefits.

Fringe benefits stated as a percentage of income are shown in the following table of values obtained from annual data published in the Statistical Abstract of the United States.

FRINGE BENEFITS AS A PERCENT OF INCOME<sup>9</sup>

| Year | Fringe Benefits as<br>a Percent of Income |
|------|-------------------------------------------|
| 1988 | 21.8%                                     |
| 1989 | 21.8%                                     |
| 1990 | 22.2%                                     |
| 1991 | 22.8%                                     |
| 1992 | 23.6%                                     |
| 1994 | 24.8%                                     |
| 1995 | 23.8%                                     |
| 1996 | 23.3%                                     |
| 1997 | 22.2%                                     |
| 1998 | 21.6%                                     |
| 2000 | 21.3%                                     |
| 2001 | 21.3%                                     |
| 2002 | 21.6%                                     |
| 2003 | 22.5%                                     |
| 2004 | 23.9%                                     |
| 2005 | 25.9%                                     |

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<sup>9</sup>Source: Data are taken from the Statistical Abstract of the United States, various editions.

## PROJECTION OF POTENTIAL FRINGE BENEFITS

The data in the previous table show fringe benefits as a percentage of income. According to data published by the U.S. Department of Labor, fringe benefits are approximately 25.9 percent of wage and salary income.

Paula Carlson opted out of the health coverage program because she received coverage through her husband's employment.

In this report, the only fringe benefits which are considered are the value of the employer's contribution to social security and the employer's contribution to the 401(k) plan. The employer's contribution to social security would be 7.65% of income. The employer's contribution to 401(k) plan would be 4.0% of income. It is projected that fringe benefits would be 11.65% of earned income.

Under Projection 1, if Paula Carlson earned \$1,437,027.62, then the expected fringe benefits would total \$167,413.72.

Under Projection 2, if Paula Carlson earned \$1,671,983.83, then the expected fringe benefits would total \$194,786.12.

## VALUE OF LOST HOUSEHOLD SERVICES

A typical individual performs many household services which have economic value but for which no income is received. The economic losses resulting from the injury of an individual fall into several areas. Because of an injury, it is possible that the injured individual can no longer perform some of the services which would have been performed, absent the injury.

There is an economic loss resulting from these lost services regardless of whether someone is hired to perform them, whether some other family member performs them without compensation, or whether the services go unperformed. "Whether or not lost production actually is replaced is irrelevant, since the household incurs a loss either way."<sup>10</sup>

In his book, Economic Damages, The Handbook for Plaintiff and Defense Attorneys, Professor Michael L. Brookshire indicates that an economic loss exists when the ability to perform household services has been impaired and he states quite clearly that the loss exists regardless of whether someone else is hired to perform the services, another family member performs the services, or the services are not replaced. He states as follows:

"The issue is what the household must pay to replace the service that was lost. This value of loss is the same if another member of the household now performs the service or if the service is

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<sup>10</sup>Source: Fisher, Charles C., "Measuring Household Production: Methodological Considerations and Current Practice", Journal of Legal Economics, Vol. 3, No. 1, March 1993, pages 15-32.

foregone. In the former case, the family shouldn't suffer because they replaced the service internally, and only the "contracting out" price on the market can value this internal replacement. In the latter case (when the lost services are not replaced), the family is worse off than before, and, again, only the replacement cost can provide a dollar value of the extent to which they are worse off."<sup>11</sup>

Similarly, Professor Christopher Bruce has stated:<sup>12</sup>

"It is generally held that the plaintiffs have suffered a loss even if they intend to perform services that had previously been performed by the deceased [or injured person]. For example, even though a widow may mow the lawn herself, rather than hire someone to replace her husband in that job, she can still claim to have suffered a loss, a loss upon which a pecuniary value can be placed."

With respect to lost household services, Professor Christopher Bruce has stated the following:<sup>13</sup>

"A complicating factor is that the plaintiff's injuries may be such that, although he or she may be able to perform all (or most) of the household services which were performed before the accident, more time is now required to complete those tasks. For example, the plaintiff may formerly have spent 15 hours per week completing his or her housework but, due to injuries, now requires 20 hours. It is clear that the plaintiff has suffered a loss."

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<sup>11</sup>Source: Brookshire, Michael L., Economic Damages, The Handbook for Plaintiff and Defense Attorneys, Anderson Publishing Company, Cincinnati, OH, 1987, page 65.

<sup>12</sup>Source: Bruce, Christopher, Assessment of Personal Injury Damages, Third Edition, Butterworths Canada Ltd., Toronto, 1999, page 52.

<sup>13</sup>Source: Bruce, Christopher, Assessment of Personal Injury Damages, Third Edition, Butterworths Canada Ltd., Toronto, 1999, page 21.

Thus, there is an economic loss resulting from the fact that the injured person takes more time to perform services with the injury than without the injury. Also, frequently the injured individual must spend time resting, performing therapy and visiting doctors. The resultant loss of time causes an economic loss which should be compensated.

The economic losses include the monetary value of the lost potential household services which the individual would have performed because presumably one can go into the labor market and hire people to provide these services.

It is projected that economic losses exist because household services would have been provided which will have to be performed by someone else in the future and that time has been lost due to the fact that some services take longer to perform with the injury than without the injury.

Among other things, household services include food preparation and cleanup, household cleaning, clothing care, marketing, shopping for household goods, home repair and maintenance, home management and family management activities, car repair and maintenance, guidance for other family members, physical and nonphysical childcare, yard work including mowing the lawn, gardening, shoveling snow, raking leaves, and so forth. Many individuals do electrical repairs, plumbing repairs, and appliance repairs, paint the house, clean gutters, wash windows, move furniture, and other things.

## METHOD OF PROJECTING THE VALUE OF HOUSEHOLD SERVICES

To calculate the value of lost household services, we need to know two things: the number of hours of lost household services and the monetary value of each hour. For example, Professor Harvey Paul states:<sup>14</sup>

"The procedures for computing the value of household output require calculating the number of hours the individual would have spent on 'household' activities and attaching a monetary value to each hour."

When valuing household services, economists note that someone could be paid to provide the lost services for the family. The same cash values which are assigned in the market place can be used to determine the value of the individual's time spent providing any service. The economic value of the household services provided by an individual could be obtained by multiplying the hourly wage rate for performing each task by the average amount of time that the individual spent performing those tasks.

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<sup>14</sup>Source: Paul, Harvey, "The Role of the Husband/Father in Household Output", The Journal of Forensic Economics, Vol. IV, Summer 1991, pages 203-210.

## PROJECTING THE AMOUNT OF HOUSEHOLD SERVICES

Since the 1960's there has been considerable investigation of time spent performing household services. The University of Michigan Survey Research Center began compiling time use data in the late 1960's. For example, an analysis of the Michigan data for husbands under age 65 indicates that household services average approximately 13 hours per week, or approximately 2.0 hours per day. The Michigan data for 1981 shows men over age 65 working 3 more hours per week on household services than men under age 65. Thus, men over age 65 average approximately 2.5 hours per day performing household services.<sup>15</sup> Women typically spend much more time than men on household services.

The amount of services that a person provides for the family varies from person to person and from one family to another, but it depends primarily on the following things:

1. The number of children in the family. Individuals in families with many children tend to spend more time performing household services than individuals in families with few or no children.
2. The age of the children (especially the age of the youngest child). Individuals with young children tend to spend more time performing household services than individuals in families without young children.

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<sup>15</sup>Source: Paul, Harvey, "The Role of the Husband/Father in Household Output", The Journal of Forensic Economics, Vol. IV, Summer 1991, pages 203-210.



3. Whether the person is employed in the labor force. Typically, unemployed and retired people spend more time performing household services than do employed people because unemployed and retired individuals have more time available during which to perform the services.
4. The ages of the individuals. Typically, individuals over age 65 spend more time on household services than younger individuals.
5. The health of the family members. For elderly couples, it frequently is the case that one of the family members becomes ill and must rely on his or her spouse for medical treatment and general nursing care. In such a case, the number of hours of household services provided to the unhealthy mate will be much greater than the amount provided in the typical household.

For a detailed explanation and analysis of these ideas, see What is a Wife Worth by Michael Minton.<sup>16</sup>

Contrary to what many people might think, the amount of time spent performing household services has not decreased in recent years. For

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<sup>16</sup>Source: Michael H. Minto with Jean Libman Block, What Is a Wife Worth?, McGraw-Hill Book Company, New York, 1983. See especially Chapter 16: "When the Wife Is a Wage Earner"; Chapter 19: "The Displaced Homemaker", Chapter 20: "Let's Talk about Husbands"; and Chapter 22: "How Much Are You Worth?".

example, concerning the housework performed by husbands, Professor Harvey Paul states:<sup>17</sup>

"These studies do indicate that husbands are, on the average, doing an hour or two more housework than they did in the 1960's and 1970's. For example, Juster's analysis shows an increase from 1975 to 1981 in the workweek of husbands age 18 to 44 of almost 2 hours."

An even earlier study produced similar results. Based on a survey of 1296 families in 1968, Kathryn Walker states,<sup>18</sup>

"Time used for homemaking work has not been reduced over the years as is often popularly assumed... Total time the homemaker used was not less, on the average, in 1967-68 than it had been 40 years earlier. Families seem to have changed the "mix" of their time use but have not really reduced total work time... The average time used for household work by all homemakers in the 1296 families in the sample was about 7 hours per day."

Another survey taken in 1970 by Florence Hall and Marguerite Schroeder confirmed the results found by Kathryn Walker. They state:<sup>19</sup>

"Despite the many additional conveniences and resources available, today's homemaker spends as much total time on household tasks as her counterpart did 50 years ago. The amount of time spent at individual tasks has shifted, though, because of changing family and social patterns. Findings from this study agree, in part, with those reported by Kathryn E. Walker... The average time spent at all household tasks by homemakers was 49.3 hours per week."

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<sup>17</sup>Source: Paul, Harvey, "The Role of the Husband/Father in Household Output", The Journal of Forensic Economics, Vol. IV, Summer 1991, pages 203-210.

<sup>18</sup>Source: Walker, Kathryn A., "Homemaking Still Takes Time", Journal of Home Economics, Vol. 61, No. 8, October 1969, pages 622-624.

<sup>19</sup>Source: Hall, Florence Turnbull, and Marguerite Paulsen Schroeder, "Time Spent on Household Tasks", Journal of Home Economics, Vol. 62, No. 1, January 1970, pages 23-29.

The average amount of the household services provided by an individual tends to be highest when the children in the family are very young and need a substantial amount of attention, but the number of hours of services performed is still substantial even where there are no children in the family or after all the children are in school or have moved away.

Various different individuals and organizations have performed studies to estimate the average amount of household services provided by the various family members. These studies are based on observing the activities of a large sample of men, women, and children. For example, a 1976 survey indicated that the typical adult male spent 786 hours per year (or 2.15 hours per day) performing household services and the typical adult female spent 1,756 hours per year performing household services.<sup>20</sup>

William H. Gauger and Kathryn E. Walker, two researchers at the New York State College of Human Ecology of Cornell University, performed a study<sup>21</sup> in which they reported the average number of hours per day spent performing household and family related services by men, women, and by children of various ages in families containing various numbers of children. The data in the Cornell report are based on a

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<sup>20</sup>Source: Janice Peskin, "Measuring Household Production for the GNP", Family Economics Review, (Special Issue: Household Production), 1982 (3), U.S. Department of Agriculture, Washington, D.C. page 20.

<sup>21</sup>William H. Gauger and Kathryn E. Walker, The Dollar Value of Household Work, New York State College of Human Ecology, Cornell University, Ithaca, New York, Information Bulletin 60, 1980.

survey of 1400 families and show the mean number of hours per day various family members spend performing household tasks and services. The data vary according to the number of children in the family, the age of the youngest child, and whether or not the individual being examined was employed outside the home.

When reviewing studies of the quantity of household services performed by men and women, Professor Christopher Bruce has stated the following:<sup>22</sup>

"What these studies show is that the average male spends approximately 20 hours per week performing household chores when the couple has young children and when the couple is retired. At other times, the average male's share of the housework drops to approximately 12 hours per week. Employed women do about 20 hours of housework if they have no young children and 30 if they do have young children. Among women who are not employed in the labour market, the average number of hours spent in household chores is approximately 35 if they have no young children and 50 if they do have young children. Retired women spend about 30 hours in housework if they are married, and 25 if they are not married."

The Dollar Value of a Day (DVD) is a recent publication which provides estimates of the value of household production for a variety of demographic categories including gender, age, marital status, and work status.<sup>23</sup> This publication provides estimates of hours spent in household production from The National Human Activity Pattern Survey, a

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<sup>22</sup>Source: Bruce, Christopher, Assessment of Personal Injury Damages, Third Edition, Butterworths Canada Ltd., Toronto, 1999, page 52.

<sup>23</sup>Krueger, Karl V. and John O. Ward, The Dollar Value of a Day: 2005 Dollar Valuation. (Shawnee Mission, Kansas: Expectancy Data, 2006).

time-use study commissioned by the U.S. Environmental Protection Agency.

The DVD reports that working men provide approximately 14 hours per week of household services and retired men provide approximately 23 hours per week of services.

The DVD reports that working women provide approximately 4 to 6 hours per day of household services and retired women provide approximately 5 to 6 hours per day of services.

## ESTIMATING THE HOURLY WAGE RATE

There are several ways to estimate the dollar value of an hour of household services. Hourly wage rates for the types of services provided by an individual can be obtained by examining want ads in newspapers or by consulting government documents which show salaries earned by individuals in different occupations. In 1982, researchers at the University of Utah and at Cornell University<sup>24</sup> performed time and motion studies of a large sample of individuals in order to determine the types of activities various family members performed and the amount of time per day each individual spent performing each type of task. Then they found the hourly cost of hiring an individual to perform each specific task. By multiplying the dollar value of each type of work by the amount of time spent performing each specific task, they found that, in 1982, \$7.00 per hour was a reasonable hourly rate to use as the value of household services.

Between 1982 and 2002, the Consumer Price Index increased by more than 86%. After taking into account increases in the Consumer Price Index which have occurred since 1982, the current value of the hourly wage recommended by Zick and Bryant is more than \$13.00 per hour.

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<sup>24</sup>Cathleen D. Zick and W. Keith Bryant, Alternative Strategies for Pricing Home Work Time, Department of Family and Consumer Studies, University of Utah, Salt Lake City, Utah 84112, 1982 (Report HERJ 82-85T).

Wage data indicate that in 2002 in Pittsburgh the pay for "maids and housemen" was \$9.27 per hour; the pay for "janitors and cleaners" was \$12.69 per hour.<sup>25</sup>

Wage data indicate that in 1997 in West Virginia the pay for "janitors and cleaners" was \$9.28 per hour.<sup>26</sup>

In this report, two projections will be made concerning the potential economic value of lost household services. In the first projection, household services will be valued at the new Pennsylvania minimum wage of \$7.15 per hour.

In the second projection, household services will be valued at \$10.00 per hour.

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<sup>25</sup>Source: Pittsburgh, PA, National Compensation Survey, January 2002, Bulletin 3115-10; U.S. Department of Labor. September 2002. Page 5.

<sup>26</sup>Source: National Compensation Survey, Wages and Salaries, West Virginia, May 1997, Bulletin 3090-21; U.S. Department of Labor. February 1998. Page 5.

## PROJECTION OF THE ECONOMIC VALUE OF LOST HOUSEHOLD SERVICES

1. It is projected that household services have been lost for a period of 48.6 years from the date of injury through the projected date of death.
2. Various studies indicate that people with characteristics like Paula Carlson spend up to 6.0 hours per day, (or 2,190 hours per year), on household services.
3. It is my understanding that Paula Carlson has lost time performing household chores such as grocery shopping, washing dishes, cooking, laundry, child care, household cleaning, financial management and record keeping, tax preparation, and so forth. Paula Carlson also performed inside and outside chores such as routine home repairs and maintenance, painting, yard work, gardening, raking leaves, snow shoveling, and so forth. For Paula Carlson, it is projected that lost household services total 2.0 hours per day, or 730 hours per year.
4. At \$7.15 per hour, the annual value of these household services would be \$5,219.50 per year.
5. At \$7.15 per hour, during a period of 48.6 years, the present value of lost household services would be \$183,726.40.
6. At \$10.00 per hour, the annual value of these household services would be \$7,300.00 per year.
7. At \$10.00 per hour, during a period of 48.6 years, the present value of lost household services would be \$256,960.00.



## DEDUCTION BASED ON POTENTIAL EMPLOYMENT WITH INJURY

In order to calculate the net economic loss, it is necessary to subtract any income which Paula Carlson actually earns after the date of injury from the potential income which would have been earned absent the injury. This implies that it is necessary to project future potential income which can be earned, despite the injury.

## EARNING POWER OF THE DISABLED WORKER

## COMPARED TO THE EARNING POWER OF THE NON-DISABLED WORKER

Data show the following:

1. Disabled workers earn less than non-disabled workers.
2. Disabled workers are more likely to drop out of the labor force than non-disabled workers.
3. Disabled workers have higher unemployment rates than non-disabled workers.
4. Disabled workers earn less than non-disabled workers even when employed in the same occupation.
5. Disabled workers who are employed tend to work fewer hours than non-disabled employees.
6. Disabled workers have lower worklife expectancies than non-disabled workers.

With respect to earnings by disabled individuals, Professor Christopher Bruce has stated the following:<sup>27</sup>

"The non-participation rate is much higher among the disabled - often as much as 20 per cent higher. Thus, in addition to the fact that those who are disabled earn less than the non-disabled when they are employed, they are much less likely to be employed."

"The statistics appear to indicate that even if the disabled individual has changed occupations, in order to mitigate the effects of the injury, he or she can still expect to suffer a higher rate of unemployment than will be experienced by the average non-disabled employee in the new occupation...the disabled

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<sup>27</sup>Source: Bruce, Christopher, Assessment of Personal Injury Damages, Third Edition, Butterworths Canada Ltd., Toronto, 1999.

plaintiff's earnings will fall both because of a reduction in wages per hour and because of a reduction in number of hours worked."

"Numerous studies have shown that one of the most consistent determinants of early retirement is poor health. To the extent, therefore, that a serious personal injury may be considered to have created a situation of poor health, such an injury may be expected to shorten the plaintiff's working life span."

## PHYSICAL DEMANDS AND STRENGTH REQUIREMENTS

The physical demands of various different jobs are described in Selected Characteristics of Occupations Defined in the Dictionary of Occupational Titles. One factor used to classify jobs is the level of strength required. Based on strength requirements, jobs are classified into one of five categories: Sedentary Work, Light Work, Medium Work, Heavy Work and Very Heavy Work.<sup>28</sup> The five degrees of physical demands are described as follows:

SEDENTARY WORK

"Lifting 10 lbs. maximum and occasionally lifting and/or carrying such articles as dockets, ledgers, and small tools. Although a sedentary job is defined as one which involves sitting, a certain amount of walking and standing is often necessary in carrying out job duties. Jobs are sedentary if walking and standing are required only occasionally and other sedentary criteria are met."

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<sup>28</sup>Source: Selected Characteristics of Occupations Defined in the Dictionary of Occupational Titles, U.S. Department of labor, Employment and Training Administration, U.S. Government printing Office, Washington, D.C. 1981, page 465.

LIGHT WORK

"Lifting 20 lbs. maximum with frequent lifting and/or carrying of objects weighing up to 10 lbs. Even though the weight lifted may be only a negligible amount, a job is in this category when it requires walking or standing to a significant degree, or when it involves sitting most of the time with a degree of pushing and pulling of arm and/or leg controls."

MEDIUM WORK

"Lifting 50 lbs. maximum with frequent lifting and/or carrying of objects up to 25 lbs."

HEAVY WORK

"Lifting 100 lbs. maximum with frequent lifting and/or carrying of objects weighing up to 50 lbs."

VERY HEAVY WORK

"Lifting objects in excess of 100 lbs. with frequent lifting and/or carrying of objects weighing 50 lbs. or more."

When describing work capacities, the terms "occasional", "frequent", and "constant" are defined in the Dictionary of Occupational Titles to refer to the frequency of "exerting a force", including lifting, carrying, pushing, pulling or any other physical activity.

| <u>DEFINITIONS</u> | <u>% of Workday</u> |
|--------------------|---------------------|
| Occasional         | 0 - 33%             |
| Frequent           | 34 - 66%            |
| Constant           | 67 - 100%           |

## JOB STRENGTH RATING

The "Job Strength Rating" (JSR) for a particular occupation or job is determined by comparing the maximum lift required on the job to the individual's ability to perform physical work. For example, if a job requires an individual to lift, say, 80 lbs. and the individual has the strength to lift, say, 60 lbs. before straining himself, the individual is likely to injure himself by performing the job.

## DEFINITIONS OF RISK FACTORS

Risk factors associated with various occupations and jobs are determined as follows:

|                 |                                                                                                      |
|-----------------|------------------------------------------------------------------------------------------------------|
| JSR: > 1.0      | VERY HIGH RISK OF INJURY<br>Worker is 3 to 9 times more likely to develop musculo-skeletal injuries. |
| JSR: 0.5 to 1.0 | HIGH RISK OF INJURY<br>Worker is more likely to develop musculo-skeletal injuries.                   |
| JSR: 0.0 to 0.5 | LOW RISK OF INJURY<br>Worker is not more likely to develop musculo-skeletal injuries.                |

## SPECIFIC VOCATIONAL PREPARATION

The following definitions are included to illustrate various skill levels referenced in the Dictionary of Occupational Titles.

LEVEL

1. Short demonstration only. (Unskilled)
2. Anything beyond short demonstration up to and including 30 days.  
(Unskilled)
3. Over 30 days up to and including 3 months. (Semi-skilled)
4. Over 3 months up to and including 6 months. (Semi-skilled)
5. Over 6 months up to and including 1 year. (Skilled)
6. Over 1 year up to and including 2 years. (Skilled)
7. Over 2 years up to and including 4 years. (Skilled)
8. Over 4 years up to and including 10 years. (Skilled)
9. Over 10 years. (Skilled)



## POTENTIAL INCOME WITH THE INJURY

On 1-29-2007, Paula Carlson began working as a seater at Red Lobster at \$6.25 per hour. During the 5 weeks from 1-29-2007 to 3-5-2007, she earned \$604.38. This implies that she worked approximately 20 hours per week.

It is projected that, despite the injury, Paula Carlson has the potential to earn \$6.25 per hour for 20 hours per week. If Paula Carlson worked 20 hours per week for 52 weeks per year, her annual income would be \$6,500.00 per year.

Under Projection 1, it is projected that Paula Carlson has the potential to work after 1-1-2007 for her remaining worklife of 25.7 years. Under Projection 1, the present value of future income with the injury would be \$137,800.00.

Under Projection 2, it is projected that Paula Carlson has the potential to work with the injury after 1-1-2007 for 31.4 years until age 67. Under Projection 2, the present value of future income with the injury would be \$161,850.00.

## POTENTIAL FRINGE BENEFITS WITH THE INJURY

In order to calculate the net economic loss, it also is necessary to subtract the present value of any future fringe benefits that would be earned in potential employment with the injury.

It is projected that, for Paula Carlson, fringe benefits would be 7.65 percent of earned income. This represents the employer's mandatory contribution to social security and Medicare. Workers in low paying positions rarely receive additional fringe benefits.

Under Projection 1, if Paula Carlson earned \$137,800.00 with the injury, the present value of potential fringe benefits would total \$10,541.70.

Under Projection 2, if Paula Carlson earned \$161,850.00 with the injury, the present value of potential fringe benefits would total \$12,381.53.

## TOTAL DEDUCTION WITH THE INJURY

The present value of potential income and fringe benefits is \$148,341.70 under Projection 1 and \$174,231.53 under Projection 2.

The amount \$148,341.70 should be subtracted when calculating the net economic loss under Projection 1 based on employment for 25.7 years or \$174,231.53 should be subtracted when calculating the net economic loss under Projection 2 based on employment for 31.4 years until eventual retirement at age 67.

## PROJECTION 1

PAULA CARLSON

## POTENTIAL INCOME WITH THE INJURY

EMPLOYMENT FOR 25.7 YEARS

INCOME = \$6,500.00 PER YEAR

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|                               |              |
|-------------------------------|--------------|
| Potential Income, With Injury | \$137,800.00 |
| Potential Fringe Benefits     | \$10,541.70  |
| <hr/>                         |              |
| Net Income, With Injury       | \$148,341.70 |

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## PROJECTION 2

PAULA CARLSON

POTENTIAL INCOME WITH THE INJURY

EMPLOYMENT FOR 31.4 YEARS TO AGE 67

INCOME = \$6,500.00 PER YEAR

---

|                               |              |
|-------------------------------|--------------|
| Potential Income, With Injury | \$161,850.00 |
| Potential Fringe Benefits     | \$12,381.53  |
|                               | <hr/>        |
| Net Income, With Injury       | \$174,231.53 |

---

## SUMMARY AND CONCLUSIONS

1. The net economic loss is projected as the difference between potential income and fringe benefits after the date of injury absent the injury and potential income and fringe benefits after the date of injury with the injury.
2. Under Projection 1, it is projected that, absent her injury, Paula Carlson had the potential to work for 27.4 additional years and the future real discount rate is 1.5% per year. Under Projection 2, it is projected that, absent her injury, Paula Carlson had the potential to work for 33.1 additional years until retirement at age 67 and the future real discount rate is 1.5% per year.
3. Absent her injury, the present value of total potential income is projected to be \$1,437,027.62 under Projection 1 and \$1,671,983.83 under Projection 2.
4. Absent her injury, the present value of potential fringe benefits is projected to be \$167,413.72 under Projection 1 and \$194,786.12 under Projection 2.
5. If household services are valued at \$7.15 per hour, the present value of lost household services is projected to be \$183,726.40.
6. If household services are valued at \$10.00 per hour, the present value of lost household services is projected to be \$256,960.00.
7. The present value of potential income after the date of injury, with the injury, is projected to be \$137,800.00 under Projection 1 and \$161,850.00 under Projection 2.
8. The present value of potential fringe benefits, with the injury, total \$10,541.70 under Projection 1 and \$12,381.53 under Projection 2.
9. The present value of potential income and fringe benefits, with the injury, is \$148,341.70 under Projection 1 and \$174,231.53 under Projection 2.
10. Under Income Projection 1, if household services are valued at \$7.15 per hour, the net economic loss is \$1,639,826.04.
11. Under Income Projection 1, if household services are valued at \$10.00 per hour, the net economic loss is \$1,713,059.64.
12. Under Income Projection 2, if household services are valued at \$7.15 per hour, the net economic loss is \$1,876,264.82.

13. Under Income Projection 2, if household services are valued at \$10.00 per hour, the net economic loss is \$1,949,498.42.

14. These calculations do not include any consideration for the issues of pain and suffering and loss of any of the pleasures of life. Such intangibles have not been added to the calculations of economic loss. If estimates of pain and suffering and loss of quality of life are considered, they would increase the economic losses.

15. The net economic losses are summarized in the following tables.

The opinions in this report are expressed with a reasonable degree of economic certainty.

TABLE 1

PAULA CARLSON

NET ECONOMIC LOSS

EMPLOYMENT FOR 27.4 YEARS

HOUSEHOLD SERVICES VALUED AT \$7.15 PER HOUR

FUTURE REAL DISCOUNT RATE: 1.5% PER YEAR

---

|                                 |                |
|---------------------------------|----------------|
| Potential Income, Absent Injury | \$1,437,027.62 |
| Potential Fringe Benefits       | \$167,413.72   |
| Lost Household Services         | \$183,726.40   |
| <hr/>                           |                |
| Net Income, Absent Injury       | \$1,788,167.74 |

---

## DEDUCTION FOR FUTURE POTENTIAL INCOME

INCOME = \$6,500.00 PER YEAR FOR 25.7 YEARS

|                               |              |
|-------------------------------|--------------|
| Potential Income, With Injury | \$137,800.00 |
| Potential Fringe Benefits     | \$10,541.70  |
| <hr/>                         |              |
| Net Income, With Injury       | \$148,341.70 |

---

|                   |                |
|-------------------|----------------|
| Net Economic Loss | \$1,639,826.04 |
|-------------------|----------------|

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## TABLE 2

PAULA CARLSON

NET ECONOMIC LOSS

EMPLOYMENT FOR 27.4 YEARS

HOUSEHOLD SERVICES VALUED AT \$10.00 PER HOUR

FUTURE REAL DISCOUNT RATE: 1.5% PER YEAR

---

|                                 |                |
|---------------------------------|----------------|
| Potential Income, Absent Injury | \$1,437,027.62 |
| Potential Fringe Benefits       | \$167,413.72   |
| Lost Household Services         | \$256,960.00   |
| <hr/>                           |                |
| Net Income, Absent Injury       | \$1,861,401.34 |

---

## DEDUCTION FOR FUTURE POTENTIAL INCOME

INCOME = \$6,500.00 PER YEAR FOR 25.7 YEARS

|                               |                |
|-------------------------------|----------------|
| Potential Income, With Injury | \$137,800.00   |
| Potential Fringe Benefits     | \$10,541.70    |
| <hr/>                         |                |
| Net Income, With Injury       | \$148,341.70   |
| <hr/>                         |                |
| Net Economic Loss             | \$1,713,059.64 |

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TABLE 3

PAULA CARLSON

NET ECONOMIC LOSS

EMPLOYMENT FOR 33.1 YEARS TO AGE 67

HOUSEHOLD SERVICES VALUED AT \$7.15 PER HOUR

FUTURE REAL DISCOUNT RATE: 1.5% PER YEAR

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|                                 |                |
|---------------------------------|----------------|
| Potential Income, Absent Injury | \$1,671,983.83 |
| Potential Fringe Benefits       | \$194,786.12   |
| Lost Household Services         | \$183,726.40   |
| <hr/>                           |                |
| Net Income, Absent Injury       | \$2,050,496.35 |

---

## DEDUCTION FOR FUTURE POTENTIAL INCOME

INCOME = \$6,500.00 PER YEAR FOR 31.4 YEARS

|                               |              |
|-------------------------------|--------------|
| Potential Income, With Injury | \$161,850.00 |
| Potential Fringe Benefits     | \$12,381.53  |
| <hr/>                         |              |
| Net Income, With Injury       | \$174,231.53 |

---

|                   |                |
|-------------------|----------------|
| Net Economic Loss | \$1,876,264.82 |
|-------------------|----------------|

---

TABLE 4

PAULA CARLSON

NET ECONOMIC LOSS

EMPLOYMENT FOR 33.1 YEARS TO AGE 67

HOUSEHOLD SERVICES VALUED AT \$10.00 PER HOUR

FUTURE REAL DISCOUNT RATE: 1.5% PER YEAR

---

|                                 |                |
|---------------------------------|----------------|
| Potential Income, Absent Injury | \$1,671,983.83 |
| Potential Fringe Benefits       | \$194,786.12   |
| Lost Household Services         | \$256,960.00   |
| <hr/>                           |                |
| Net Income, Absent Injury       | \$2,123,729.95 |

---

## DEDUCTION FOR FUTURE POTENTIAL INCOME

INCOME = \$6,500.00 PER YEAR FOR 31.4 YEARS

|                               |              |
|-------------------------------|--------------|
| Potential Income, With Injury | \$161,850.00 |
| Potential Fringe Benefits     | \$12,381.53  |
| <hr/>                         |              |
| Net Income, With Injury       | \$174,231.53 |

---

|                   |                |
|-------------------|----------------|
| Net Economic Loss | \$1,949,498.42 |
|-------------------|----------------|

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APPENDIX TABLE A1  
INFLATION RATES AND INTEREST RATES<sup>29</sup>

| YEAR | INFLATION | INTEREST RATE ON TREASURY SECURITIES |        |         |
|------|-----------|--------------------------------------|--------|---------|
|      | RATE      | 3 MONTH                              | 3 YEAR | 10 YEAR |
| 1970 | 5.7       | 6.46                                 | 7.29   | 7.35    |
| 1971 | 4.4       | 4.35                                 | 5.65   | 6.16    |
| 1972 | 3.2       | 4.07                                 | 5.72   | 6.21    |
| 1973 | 6.2       | 7.04                                 | 6.95   | 6.84    |
| 1974 | 11.0      | 7.89                                 | 7.82   | 7.56    |
| 1975 | 9.1       | 5.83                                 | 7.49   | 7.99    |
| 1976 | 5.8       | 4.99                                 | 6.77   | 7.61    |
| 1977 | 6.5       | 5.27                                 | 6.69   | 7.42    |
| 1978 | 7.6       | 7.22                                 | 8.29   | 8.41    |
| 1979 | 11.3      | 10.04                                | 9.71   | 9.44    |
| 1980 | 13.5      | 11.51                                | 11.55  | 11.46   |
| 1981 | 10.3      | 14.03                                | 14.44  | 13.91   |
| 1982 | 6.2       | 10.69                                | 12.92  | 13.00   |
| 1983 | 3.2       | 8.63                                 | 10.45  | 11.10   |
| 1984 | 4.3       | 9.58                                 | 11.89  | 12.44   |
| 1985 | 3.6       | 7.48                                 | 9.64   | 10.62   |
| 1986 | 1.9       | 5.98                                 | 7.06   | 7.68    |
| 1987 | 3.6       | 5.82                                 | 7.68   | 8.39    |
| 1988 | 4.1       | 6.69                                 | 8.26   | 8.85    |
| 1989 | 4.8       | 8.12                                 | 8.55   | 8.49    |
| 1990 | 5.4       | 7.51                                 | 8.26   | 8.55    |
| 1991 | 4.2       | 5.42                                 | 6.82   | 7.86    |
| 1992 | 3.0       | 3.45                                 | 5.30   | 7.01    |
| 1993 | 3.0       | 3.02                                 | 4.44   | 5.87    |
| 1994 | 2.6       | 4.29                                 | 6.27   | 7.09    |
| 1995 | 2.8       | 5.51                                 | 6.25   | 6.57    |
| 1996 | 3.0       | 5.02                                 | 5.99   | 6.44    |
| 1997 | 2.3       | 5.07                                 | 6.10   | 6.35    |
| 1998 | 1.6       | 4.81                                 | 5.14   | 5.26    |
| 1999 | 2.2       | 4.66                                 | 5.49   | 5.65    |
| 2000 | 3.4       | 5.85                                 | 6.22   | 6.03    |
| 2001 | 2.8       | 3.45                                 | 4.09   | 5.02    |
| 2002 | 1.6       | 1.62                                 | 3.10   | 4.61    |
| 2003 | 2.3       | 1.02                                 | 2.10   | 4.01    |
| 2004 | 2.7       | 1.38                                 | 2.78   | 4.27    |
| 2005 | 3.4       | 3.16                                 | 3.93   | 4.29    |
| 2006 | 3.2       | 4.73                                 | 4.77   | 4.80    |

<sup>29</sup>Source: Economic Report of the President, United States Government Printing Office.

## APPENDIX TABLE A2

AVERAGE ANNUAL INFLATION RATES AND INTEREST RATES<sup>30</sup>

| Years       | Average<br>Annual<br>Inflation<br>Rate | Average<br>Annual<br>Treasury<br>10 Year<br>Rate | Difference |
|-------------|----------------------------------------|--------------------------------------------------|------------|
| 1950 - 1959 | 2.03%                                  | 3.22%                                            | 1.19%      |
| 1960 - 1969 | 2.36%                                  | 4.67%                                            | 2.31%      |
| 1970 - 1979 | 7.08%                                  | 7.50%                                            | 0.42%      |
| 1980 - 1989 | 5.55%                                  | 10.59%                                           | 5.04%      |
| 1990 - 1999 | 3.01%                                  | 6.67%                                            | 3.66%      |
| 2000 - 2004 | 2.56%                                  | 4.79%                                            | 2.23%      |
| 1950 - 2004 | 3.87%                                  | 6.37%                                            | 2.50%      |

<sup>30</sup>Various issues of Economic Report of the President.

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## EDUCATION:

**Bachelor of Arts, Mathematics, 1966.**

Xavier University, Cincinnati, Ohio. Honors College.

**Master of Science, Economics, 1968.**

Purdue University, Lafayette, Indiana.

Areas of Specialization: Econometrics, Statistics, Mathematical Economics, Advanced Macroeconomics, Money and Banking, Economic History of the United States.

**Doctor of Philosophy (Ph.D.), Economics, 1969.**

Purdue University, Lafayette, Indiana.

Areas of Specialization: Econometrics, Statistics, Mathematical Economics, Economic Theory.

**National Science Foundation Post-Graduate Fellowship, 1971.**

Princeton University, Princeton, New Jersey.

## EMPLOYMENT:

**Associate Professor of Economics**

University of Pittsburgh, Pittsburgh, Pennsylvania.  
1974 – present

**Assistant Professor of Economics**

University of Pittsburgh, Pittsburgh, Pennsylvania.  
1969 – 1974

**Positions held at the University of Pittsburgh:**

**Acting Chair, Department of Economics**  
1982 – 1983

**Director of Graduate Program in Economics**  
1975 – 1978

**Social Science Computer Research Institute, Executive Committee**  
1971 – 1990; Chair, 1979

**Graduate Committee in Economics**  
1975 – 1985; 1990 – 1992

**Undergraduate Committee in Economics**  
1995 – 1999, 2006 - Present

**Graduate Admissions, Committee**  
1975 – 1985; 1990 – 1993; Chair, 1992 – 1993

**Undergraduate Advisor in Economics**  
1970 – 1975

**University Committee on Quantitative and Formal Reasoning**  
1983 – 1989; 1991 – 1994

**Thorn Outstanding Teaching Award**  
2000 - Present

**PROFESSIONAL MEMBERSHIPS:**

American Economic Association

American Statistical Association

Econometric Society

International Institute of Forecasters

Pennsylvania Association of Economists

National Association of Forensic Economics

American Academy of Economic and Financial Experts

American Board of Forensic Examiners

American Rehabilitation Economics Association

American Law and Economics Association

Mathematical Association of America

## AWARDS AND HONORS:

Four Year Presidential Scholarship  
Xavier University, 1962-1966

Pi Mu Epsilon  
National Mathematics Honor Society, 1964

Senior Class President  
Xavier University, 1965-66

National Defense Education Act (NDEA) Fellowship  
Purdue University, 1966-69

National Science Foundation Fellowship  
Purdue University, 1968-69

National Science Foundation Fellowship  
Princeton University, 1971

Outstanding Teacher Award  
University of Pittsburgh, 1982

Phi Eta Sigma, National Scholastic Honor Society  
University of Pittsburgh, 1983

Who's Who in the East, 1985 to present

Who's Who in Finance and Industry, 1990 to present

Who's Who in American Education, 1991

Who's Who in Science and Engineering, 1993 to present

Who's Who in the World, 1992 to present

Who's Who Among America's Teachers, 2006

Founder's Day, Special Honor Initiate, Pi Kappa Alpha Fraternity  
University of Pittsburgh, March 1990

Most Outstanding Teacher, 1990-91  
Department of Economics, University of Pittsburgh

Finalist, Chancellor's Distinguished Teaching Award, 1998  
University of Pittsburgh

Delta Phi Epsilon, Recognition of Outstanding Teaching Skills and Dedication to Learning,  
February 2002



**SELECTED CONSULTING POSITIONS:**

United States Environmental Protection Agency  
Federal Home Loan Bank Board  
United States Steel Corporation  
Jones & Laughlin Steel Corporation  
National Steel Corporation  
Sony Corporation  
Westinghouse Electric Corporation  
Mellon Bank  
Pelikan, Inc.  
People's Natural Gas Co.  
Pharmaceutical Manufacturers Association  
Pittsburgh Press Club  
North Hills Dodge  
Consad Research Corporation  
Designs by Metzke, Inc.  
Thermo King Corporation  
General Refractories Corporation  
Kustom Kar Kare, Inc.  
Irwin Automation, Inc.  
Newcomer Industries  
Allegheny County Sanitary Authority  
Pittsburgh Coil Technology  
Rost Electric, Inc.  
Transmission Magician  
Triangle Welding  
Mercy Hospital  
American Marazzi Tile, Inc.  
West Penn Power Company  
Iron Carbide Holdings, Inc.  
PAT Transit  
Gates Rubber Company  
Rust Evader Corporation  
Sears, Roebuck & Co.  
Steamfitters and Pipefitters Union Local 449  
Johnstown America Corporation  
USAir Flight 427 Disaster in Pittsburgh, PA on 9-8-1994  
USAir Flight 1016 Disaster in Charlotte, NC on 7-2-1994  
Benke Motors, Verona Motor Sales, and American Auto Sales  
Bob Thomas Honda/Kawasaki  
Shenango Systems Solutions  
Roth Computer Register Co., Inc.  
Dow Chemical Company  
Kanho Kawasaki

## **LEGAL CONSULTING:**

More than thirty-five years of trial experience as an economic and statistical expert in forensic matters

Provide economic projections and/or trial testimony in more than 5,000 cases for both plaintiffs and defendants in state and federal cases in approximately 20 states

## **Invited Speaker:**

Law School, University of Pittsburgh, 1987  
Continuing Education Program in Trial Advocacy  
Lecturer on calculation of economic losses in personal injury and death cases

Law School, University of Pittsburgh, April 1990  
Trial Training Program  
Lecturer on calculation of economic losses in personal injury and death cases

Office of Attorney General, Commonwealth of Pennsylvania, July 26, 1990  
Department of General Services, Bureau of Risk and Insurance Management and Department of Transportation, Bureau of Risk Management  
Annual Torts Litigation Seminar: "Evaluation of economic losses in personal injury and death cases"

Supreme Court of Pennsylvania, Committee on Racial and Gender Bias in the Justice System, November 29, 2000

Pennsylvania Bar Institute, May 10, 2001  
"Examining Medical and Non-Medical Experts in Pennsylvania Civil Practice"

Pennsylvania Bar Institute, August 12, 2003  
"Economic Testimony in Work Loss Cases"

## **Economic Reports:**

Project the economic losses resulting from personal injury or death in Pennsylvania, West Virginia, Ohio, Indiana, Michigan, Connecticut, New York, New Jersey, Maryland, Illinois, California, Virginia, Maine, Missouri, Florida, Kentucky, North Carolina, South Carolina, Texas, Wyoming and Washington, D.C. for both plaintiffs and defendants

Project the potential cost of lifetime medical and attendant care for injured individuals

Project the present value of potential pension and retirement benefits

Project the appropriate distribution of assets in divorce cases

Project the economic losses suffered by individuals and companies as a result of incorrect or missing telephone numbers in a telephone directory

**LEGAL CONSULTING (continued):**

**Financial and Business Valuation Reports:**

Determine the economic valuation of companies

Determine the economic valuation of blocks of stock in various corporations

Project the lost potential profits of companies resulting from contract violations and other causes

Economic and statistical analysis of automobile and motorcycle franchises

**Statistical Analyses:**

Analyze statistical issues in cases involving age, sex or race discrimination for both plaintiffs and defendants.

Perform statistical and/or financial analyses for corporations, unions, and governmental agencies.

Test hypotheses in business loss cases.

## **TEACHING EXPERIENCE:**

### **Macroeconomics, Topics Covered:**

Trends in major economic variables: Income, investment, prices and wages, employment and unemployment, interest rates, government spending, taxes, the deficit, the money supply  
Theories of production and consumption  
Theory of income and consumption determination  
Theories of investment  
Theories of unemployment and inflation  
Theories of interest rate determination  
Government spending and taxing  
Discounting to present value  
Theories of investment and the stock market  
Social security and Medicare  
The federal and state income tax system  
The national debt  
International trade  
The Federal Reserve and money and banking in the United States  
Fiscal and monetary policy  
Productivity and growth  
Income distribution and poverty  
Business cycle analysis and leading economic indicators

### **Microeconomics, Topics Covered:**

Theory of consumer behavior  
Utility maximization  
Theories of the firm  
Profit maximization  
Competitive markets  
Monopolistic markets  
Oligopolistic markets  
Labor markets and wage determination  
Effects of education, race and sex on occupation and income  
Theories of job search  
Theories of unemployment  
Life expectancy and worklife expectancy  
Discounting to present value

### **Statistics/Mathematical Economics Courses:**

Applied Statistics  
Calculus and Analytic Geometry  
Linear Algebra  
Mathematical Economics  
Introduction to Econometrics  
Econometric Theory I and II  
Linear Programming  
Business Decision Theory  
Time Series Analysis  
Multivariate Statistical Analysis  
Econometrics of Limited Dependent Variables  
Operations Research: Business Decision Theory

### **Other Economics Courses:**

Money and Banking  
Honors Seminar in Economics

#### **EDITORIAL ADVISOR FOR ECONOMIC JOURNALS:**

Journal of Economics and Business  
(Member of the Editorial Advisory Board)

Journal of Econometrics

Review of Economics and Statistics

Journal of the American Statistical Association

Journal of Macroeconomics

Journal of Economic Literature

Social Science Research Council  
(Royal Statistical Society, London)

Journal of Computational Statistics and Data Analysis

#### **CONSULTING POSITIONS WITH MAJOR TEXTBOOK PUBLISHERS:**

Addison-Wesley

D. C. Heath and Company

Duxbury Press

Houghton-Mifflin

Macmillan Publishing Company

Prentice-Hall

Random House

Scott, Foresman and Company

Simon & Schuster

#### **PH.D. DISSERTATION COMMITTEES:**

Member of more than 80 Ph.D. Dissertation Committees in the Departments of Economics, Mathematics, History, Industrial Engineering, the Katz Graduate School of Business, and the Graduate School of Public and International Affairs.

## BOOKS:

Introductory Statistics for Management and Economics, Fourth Edition, Wadsworth Publishing Company, 1996, (1,099 pages).

Test Bank for Introductory Statistics for Management and Economics, Fourth Edition, Wadsworth Publishing Company, 1996, (307 pages).

Introductory Statistics for Management and Economics, Third Edition, PWS-Kent Publishing Co., Boston, 1989 (1,024 pages).

Solution Manual to Accompany Introductory Statistics for Management and Economics, Third Edition, PWS-Kent Publishing Co., Boston, 1989 (324 pages).

Partial Solutions Manual to Accompany Introductory Statistics for Management and Economics, Third Edition, PWS-Kent Publishing Co., Boston, 1989 (117 pages).

Test Items to Accompany Introductory Statistics for Management and Economics, Third Edition, PWS-Kent Publishing Co., Boston, 1989 (approximately 400 pages).

Transparency Masters to Accompany Introductory Statistics for Management and Economics, Third Edition, PWS-Kent Publishing Co., Boston, 1989 (286 pages).

Introductory Statistics for Management and Economics, Second Edition, Prindle, Weber and Schmidt, Inc., Boston, 1984, (889 pages).

Solution Manual to Accompany Introductory Statistics for Management and Economics, Second Edition, Prindle, Weber and Schmidt, Inc., Boston, 1984, (253 pages).

Test Items to Accompany Introductory Statistics for Management and Economics, Second Edition, Prindle, Weber and Schmidt, Inc., Boston, 1984, (149 pages).

Introductory Statistics for Management and Economics, Prindle, Weber and Schmidt, Inc., Boston, 1981, (901 pages).

Solution Manual to Accompany Introductory Statistics for Management and Economics, Prindle, Weber and Schmidt, Inc., Boston, 1981.

Computer Data Base Problems to Accompany Introductory Statistics for Management and Economics, Prindle, Weber and Schmidt, Inc., Boston, 1981, (67 pages).

Dynamic Linear Economic Models. Gordon and Breach, New York, 1974 (377 pages).

A Study of the Factors Associated with or Contributing to Risk in Urban Mortgage Lending, Federal Home Loan Bank board, Washington, D.C., 1973, with A. Williams and Wm. Beranek (317 pages).

Introduction to Statistics for Economists, University External Studies Program, University of Pittsburgh, Pittsburgh, PA, 1975 (800 pages).

## PUBLISHED ARTICLES AND PRESENTATIONS:

Estimating Parameters of the Markov Probability Model from Aggregate Time Series Data, by T.C. Lee, G.G. Judge and A. Zellner, Journal of Economic Literature, Vol. X, No. 1, March 1972, pp. 88-89 (Book Review).

"Simulating the Demographic and Economic Characteristics of a Disaggregated Population over Time: An Analytical Technique which Preserves the Micro Data Base," Proceedings of the Fourth Pittsburgh Modeling and Simulation Conference, Instrument Society of America, Pittsburgh, PA, 1973, pp. 182-186.

"Factors Affecting Mortgage Credit Risk in Urban Areas – A Pittsburgh Prototype Analysis," Meetings of the American Real Estate and Urban Economics Association, New York, December, 1973.

"A Monte Carlo Study of Some Small Sample Properties of Estimators of the Linear Probability Function," Econometric Society Meetings, New York, December, 1973.

"Risk Factors in Urban Home Mortgages – A Comparative Study of Eight Savings and Loan Associations," Symposium on Small Area Analysis, Federal Home Loan Bank Board, May, 1974.

"Some Stochastic Extensions of the Matrix Model for Population Dynamics," Modeling and Simulation, Proceedings of the Fifth Pittsburgh Modeling and Simulation Conference, edited by William G. Vogt and Marlin H. Mickle, Instrument Society of America, Pittsburgh, PA, 1974, pp. 253-257.

"Default Risk in Urban Mortgages – A Pittsburgh Prototype Analysis," Journal of the American Real Estate and Urban Economics Association, Vol. 2, No. 2, Fall 1974, pp. 101-112.

"Some Small Sample Properties of Durbin's Tests for Serial Correlation in Regression Models Containing Lagged Dependent Variables and Serially Correlated Errors," Econometrica, Vol. 42, July, 1974, pp. 763-769.

"The Economics of Information and Search for Prices and Wages," Journal of Economics and Business, Vol. 45, Spring 1975, pp. 209-218.

"Small Sample Tests for Serial Correlation in Models Containing Lagged Dependent Variables," Review of Economics and Statistics, Vol. LVII, August 1975, pp. 383-386.

"A Note on the Calculation of Forecasts and Multipliers Using Nonlinear Econometric Models," Journal of Economics and Business, Vol. 27, Fall 1975, pp. 97-98.

Modeling the Economy, edited by G.A. Renton, Journal of Economic Literature, Vol. XIII, No. 4, December, 1975, pp. 1349-50 (Book Review).

"On the Small Sample Power of Durbin's h-test," Journal of the American Statistical Association, Vol. 21, March 1976, pp. 96-97.

"Some Methods for Examining Rounding Error in a Least Squares Regression Computer Program," Journal of Economics and Business, Vol. 28, Winter 1976, pp. 104-110.

"A Model of Price and Income Determination Featuring Oligopolistic Pricing and External Finance," Meetings of the Eastern Economic Association, Washington, D.C., April 1978 (with J. Cohen).

"Simulating the Trade-Off Between Unemployment and Inflation in a Model Featuring External Finance and Economies of Scale," Modeling and Simulation, Proceedings of the Tenth

Pittsburgh Modeling and Simulation Conference, edited by William G. Vogt and Marlin H. Mickle, Instrument Society of America, Pittsburgh, PA, 1979, pp. 1533-1538.

"An Iterative Technique for Finding Efficient Trade-Offs Between Variables in Economic Models," Modeling and Simulation, Proceedings of the Tenth Pittsburgh Modeling and Simulation Conference, edited by William G. Vogt and Marlin H. Mickle, Instrument Society of America, Pittsburgh, PA, 1979, pp. 1515-1519.

"A Credit Model Featuring External Finance and Scale Economies," Journal of Post Keynesian Economics, Vol. II, NO. 2, Winter 1979-80, pp. 255-266 (with J. Cohen).

"An Examination of the Mean and Variance of the Error Term When Estimating the Logistic Model by OLS and GLS," Modeling and Simulation, Proceedings of the Eleventh Pittsburgh Modeling and Simulation Conference, edited by William G. Vogt and Marlin H. Mickle, Instrument Society of America, Pittsburgh, PA, 1980, pp. 497-503.

"A Monte Carlo Study Analyzing the Properties of OLS and GLS Estimates of the Logistic Model," Modeling and Simulation, Proceedings of the Eleventh Pittsburgh Modeling and Simulation Conference, edited by William G. Vogt and Marlin H. Mickle, Instrument Society of America, Pittsburgh, PA, 1980, pp. 479-483.

"Can Profits Be Made Betting on Pro Football Games," Proceedings of the American Statistical Association, Cincinnati, Ohio, August, 1982, pp. 128-130.

"The Information Content of the Flow of Funds," Transactions of the 2<sup>nd</sup> World Financial Congress, Chicago, October 1986, pp. 264-309 (with J. Cohen).

"Testing for Structural Change in the Estimation of the Effects of U.S. Budget Deficits," Modeling and Simulation, Proceedings of the Twenty-first Pittsburgh Modeling and Simulation Conference, edited by William G. Vogt and Marlin H. Mickle, Instrument Society of America, Pittsburgh, PA, 1990, pp. 165-169 (with Steven D. Lang).

"Evaluating Lost Vacation Benefits: Should They be Valued at Their Pre-Injury or Post-Injury Cost?" Journal of Forensic Economics, Vol. VI No. 1, Winter, 1992, pp. 67-68.

#### **UNIVERSITY OF PITTSBURGH WORKING PAPERS:**

"Delinquency Risk in Mortgage Portfolios – A Comparative Study of Seven Savings and Loan Associations," Graduate School of Business, University of Pittsburgh, Working Paper No. 90, 1974.

"Delinquency Risk Exposure in the Mortgage Portfolios of Individual Lending Institutions," Graduate School of Business, University of Pittsburgh, Working Paper No. 150, 1975.

"The Characteristic Equation of the Population Projection Matrix," Department of Economics, University of Pittsburgh, Working Paper No. 23, July 1975.

"Some Problems in Using an Ordinary Least Squares Procedure to Calculate Two-State Least Squares Estimates," Department of Economics, University of Pittsburgh, Working Paper No. 22, July 1975.

"A Note on a Consistent Estimator of the Linear Probability Function," Department of Economics, University of Pittsburgh, Working Paper No. 33, January 1976.



"A Nonconsistent Two-Stage Least Squares Variance Estimator," Department of Economics, University of Pittsburgh, Working Paper No. 35, June 1977.

"A Necessary Condition for the Existence of the Two-Stage Least Squares Estimator," Department of Economics, University of Pittsburgh, Working Paper No. 68, June 1977.

"Using Optimal Control Techniques to Find the Efficient Set and to Determine Trade-Offs Within and Between Periods, Department of Economics, University of Pittsburgh, Working Paper No. 79, February 1978.

"Tests of Equality Between Sets of Coefficients in Three or More Linear Regressions: An Extension of the Chow Test," Department of Economics, University of Pittsburgh, Working Paper No. 91, February 1979.

"An Examination of the Mean and Variance of the Error Term when Estimating the Logit Model by OLS and GLS," Department of Economics, University of Pittsburgh, Working Paper No. 101, February 1980.

"Estimation of Relationships Having Limited Dependent Variables: A Comparison of Maximum Likelihood and OLS Estimators in the Tobit Model," Department of Economics, University of Pittsburgh, Working Paper No. 105, February 1980.

"A Proof that OLS Yields Biased Estimates in Autoregressive Models, Department of Economics, University of Pittsburgh, Working Paper No. 106, April 1980.

"A Modified Logit Model: A Critical Comment," April, 1981.

"Calculating the Mean of the Exact Finite Sampling Distribution of OLS Estimators in Autoregressive Models," Department of Economics, University of Pittsburgh, Working Paper No. 145, May 1982.

"Asymptotic Distribution Theory," 1980.

"Almon Lags," 1980





### **Time to File an Appeal**

To file an appeal, you must file your request for review **within 60 days** from the date you get this notice.

The Appeals Council assumes you got the notice 5 days after the date shown above unless you show you did not get it within the 5-day period. The Council will dismiss a late request unless you show you had a good reason for not filing it on time.

### **Time to Submit New Evidence**

You should submit any new evidence you wish to the Appeals Council to consider **with** your request for review.

### **How an Appeal Works**

Our regulations state the rules the Appeals Council applies to decide when and how to review a case. These rules appear in the Code of Federal Regulations, Title 20, Chapter III, Part 404 (Subpart J).

If you file an appeal, the Council will consider all of my decision, even the parts with which you agree. The Council may review your case for any reason. It **will** review your case if one of the reasons for review listed in our regulation exists. Section 404.970 of the regulation lists these reasons.

Requesting review places the entire record of your case before the Council. Review can make any part of my decision more or less favorable or unfavorable to you.

On review, the Council may itself consider the issues and decide your case. The Council may also send it back to an Administrative Law Judge for a new decision.

### **If No Appeal and No Appeals Council Review**

If you do not appeal and the Council does not review my decision on its own motion, you will not have a right to court review. My decision will be a final decision that can be changed only under special rules.

See Next Page

Paula Jo Carlson (201-66-3077)

Page 3 of 3

**If You Have Any Questions**

If you have any questions, you may call, write or visit any Social Security office. If you visit an office, please bring this notice and decision with you. The telephone number of the local office that serves your area is (814) 372-1470. Its address is 302 Liberty Blvd, Dubois, PA 15801.

cc: Martin G. Colavincenzo  
Attorney at Law  
4 West Manilla Avenue  
Pittsburgh, PA 15220

SOCIAL SECURITY ADMINISTRATION  
Office of Disability Adjudication and Review

**DECISION**

**IN THE CASE OF**

Paula Jo Carlson  
(Claimant)

(Wage Earner)

**CLAIM FOR**

Period of Disability and  
Disability Insurance Benefits

201-66-3077

(Social Security Number)

**JURISDICTION AND PROCEDURAL HISTORY**

On May 1, 2006, the claimant protectively filed an application for a period of disability and disability insurance benefits, alleging disability beginning May 5, 2005. This claim was denied and is now before the undersigned Administrative Law Judge on a timely written request for hearing filed on October 15, 2006 (20 CFR 404.929 *et seq.*). The claimant appeared and testified at a hearing held on February 15, 2007, in Dubois, Pennsylvania. Judy Schollaert, an impartial vocational expert, also appeared at the hearing. The claimant is represented by Martin G. Colavincenzo, Attorney at Law.

**ISSUES**

The issue is whether the claimant is disabled under Sections 216(i) and 223(d) of the Social Security Act. Disability is defined as the inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment or combination of impairments that can be expected to result in death or that has lasted or can be expected to last for a continuous period of not less than 12 months.

There is an additional issue whether the insured status requirements of Sections 216(i) and 223 of the Social Security Act are met. The claimant's earnings record shows that the claimant has acquired sufficient quarters of coverage to remain insured through December 31, 2010. Thus, the claimant must establish disability on or before that date in order to be entitled to a period of disability and disability insurance benefits.

After careful review of the entire record, the undersigned finds that the claimant has been disabled from May 5, 2005 through the date of this decision. The undersigned also finds that the insured status requirements of the Social Security Act were met as of the date disability is established.

See Next Page

APPLICABLE LAW

Under the authority of the Social Security Act, the Social Security Administration has established a five-step sequential evaluation process for determining whether an individual is disabled (20 CFR 404.1520(a)). The steps are followed in order. If it is determined that the claimant is or is not disabled at a step of the evaluation process, the evaluation will not go on to the next step.

At step one, the undersigned must determine whether the claimant is engaging in substantial gainful activity (20 CFR 404.1520(b)). Substantial gainful activity (SGA) is defined as work activity that is both substantial and gainful. "Substantial work activity" is work activity that involves doing significant physical or mental activities (20 CFR 404.1572(a)). "Gainful work activity" is work that is usually done for pay or profit, whether or not a profit is realized (20 CFR 404.1572(b)). Generally, if an individual has earnings from employment or self-employment above a specific level set out in the regulations, it is presumed that she has demonstrated the ability to engage in SGA (20 CFR 404.1574 and 404.1575). If an individual engages in SGA, she is not disabled regardless of how severe her physical or mental impairments are and regardless of her age, education, and work experience. If the individual is not engaging in SGA, the analysis proceeds to the second step.

At step two, the undersigned must determine whether the claimant has a medically determinable impairment that is "severe" or a combination of impairments that is "severe" (20 CFR 404.1520(c)). An impairment or combination of impairments is "severe" within the meaning of the regulations if it significantly limits an individual's ability to perform basic work activities. An impairment or combination of impairments is "not severe" when medical and other evidence establish only a slight abnormality or a combination of slight abnormalities that would have no more than a minimal effect on an individual's ability to work (20 CFR 404.1521; Social Security Rulings (SSRs) 85-28, 96-3p, and 96-4p). If the claimant does not have a severe medically determinable impairment or combination of impairments, she is not disabled. If the claimant has a severe impairment or combination of impairments, the analysis proceeds to the third step.

At step three, the undersigned must determine whether the claimant's impairment or combination of impairments meets or medically equals the criteria of an impairment listed in 20 CFR Part 404, Subpart P, Appendix 1 (20 CFR 404.1520(d), 404.1525, and 404.1526). If the claimant's impairment or combination of impairments meets or medically equals the criteria of a listing and meets the duration requirement (20 CFR 404.1509), the claimant is disabled. If it does not, the analysis proceeds to the next step.

Before considering step four of the sequential evaluation process, the undersigned must first determine the claimant's residual functional capacity (20 CFR 404.1520(e)). An individual's residual functional capacity is her ability to do physical and mental work activities on a sustained basis despite limitations from her impairments. In making this finding, the undersigned must consider all of the claimant's impairments, including impairments that are not severe (20 CFR 404.1520(e) and 404.1545; SSR 96-8p).

See Next Page

Next, the undersigned must determine at step four whether the claimant has the residual functional capacity to perform the requirements of her past relevant work (20 CFR 404.1520(f)). The term past relevant work means work performed (either as the claimant actually performed it or as it is generally performed in the national economy) within the last 15 years or 15 years prior to the date that disability must be established. In addition, the work must have lasted long enough for the claimant to learn to do the job and have been SGA (20 CFR 404.1560(b) and 404.1565). If the claimant has the residual functional capacity to do her past relevant work, the claimant is not disabled. If the claimant is unable to do any past relevant work or does not have any past relevant work, the analysis proceeds to the fifth and last step.

At the last step of the sequential evaluation process (20 CFR 404.1520(g)), the undersigned must determine whether the claimant is able to do any other work considering her residual functional capacity, age, education, and work experience. If the claimant is able to do other work, she is not disabled. If the claimant is not able to do other work and meets the duration requirement, she is disabled. Although the claimant generally continues to have the burden of proving disability at this step, a limited burden of going forward with the evidence shifts to the Social Security Administration. In order to support a finding that an individual is not disabled at this step, the Social Security Administration is responsible for providing evidence that demonstrates that other work exists in significant numbers in the national economy that the claimant can do, given the residual functional capacity, age, education, and work experience (20 CFR 404.1512(g) and 404.1560(c)).

#### **FINDINGS OF FACT AND CONCLUSIONS OF LAW**

After careful consideration of the entire record, the undersigned makes the following findings:

- 1. The claimant meets the insured status requirements of the Social Security Act through December 31, 2010.**
- 2. The claimant has not engaged in substantial gainful activity since May 5, 2005, the alleged onset date (20 CFR 404.1520(b) and 404.1571 *et seq.*).**

The evidence shows the claimant returned to work part-time two weeks before the hearing as a seater but is unable to perform ancillary duties including moving tables and chairs. Further, this work activity does not constitute substantial gainful activity in accordance with Section 404.1574. Consequently, the undersigned concludes the claimant has not engaged in substantial gainful activity at any time relevant herein.

- 3. The claimant has the following severe impairments: Giant cell tumor of the right wrist and residuals of a radical resection of the right distal radius and a right wrist fusion (20 CFR 404.1520(c)).**

The above impairments cause significant limitation in the claimant's ability to perform basic work activities.

See Next Page



4. The claimant does not have an impairment or combination of impairments that meets or medically equals one of the listed impairments in 20 CFR Part 404, Subpart P, Appendix 1 (20 CFR 404.1520(d)).

5. After careful consideration of the entire record, the undersigned finds that the claimant has the residual functional capacity to perform sedentary work activity. Further, she is unable to lift more than two to three pounds ten percent or less of the time with the right dominant hand or perform fine manipulation, push or pull with the right upper extremity, is limited to occasional balancing, crawling and climbing ramps and stairs, is unable to climb ladders, ropes and scaffolds, needs to avoid concentrated exposure to extreme hot or cold, vibration and hazards, and is unable to perform fine fingering more than occasionally with the left, non-dominant hand.

In making this finding, the undersigned considered all symptoms and the extent to which these symptoms can reasonably be accepted as consistent with the objective medical evidence and other evidence, based on the requirements of 20 CFR 404.1529 and SSRs 96-4p and 96-7p. The undersigned has also considered opinion evidence in accordance with the requirements of 20 CFR 404.1527 and SSRs 96-2p, 96-5p, 96-6p and 06-3p.

On June 9, 2005, Dr. Mark Piasio reported the claimant's two to three-month history of right wrist pain located in the radial aspect. There was pain with range of motion, marked tenderness over the distal radius, X-ray evidence of a lytic lesion in the distal radius ulnar aspect, which was confirmed by MRI that appeared to penetrate a cortex (Exhibit 1F).

The claimant was hospitalized between June 27, 2005 and June 29, 2005, to undergo radial resection of the distal radius and right wrist fusion due to a giant cell tumor (Exhibit 2F). However, Dr. Steven Graeca reported the claimant continued to experience pain and was unable to move the wrist (Exhibit 4F).

Dr. Kenneth Yaw reported the claimant had marked soft tissue wasting around the single bone forearm crossing the right wrist and she experienced worsening pain with a work hardening program. There was synovial thickening over the plate of the middle finger metacarpal dorsum, tenderness on the radial border and irritation from tendon overuse. Following a functional capacity evaluation, Dr. Yaw concluded the claimant was limited to lifting and carrying three to five pounds on a periodic but not repetitive basis with her right upper extremity due to loss of motion and motor power, as well as sensitivity to direct force. Additionally, Dr. Yaw completed a physical residual functional capacity questionnaire, which reported the claimant continued to experience stiffness, weakness and right wrist pain, she was unable to lift and carry any weight with the right upper extremity and had lost almost complete function of the right upper extremity (Exhibits 5F, 7F and 10F).

Mary T. Defranco, Vocational Rehabilitation Counselor, reported the claimant was not qualified for other work, as her education, skills and experience were very specific to her field. Her severe limitations made it difficult to establish appropriate vocational goals, as she was unable to perform even fine motor skills including writing and manipulating in a sedentary-type position (Exhibit 8F).

After considering the evidence of record, the undersigned finds that the claimant's medically determinable impairments could reasonably be expected to produce the alleged symptoms, and that the claimant's statements concerning the intensity, persistence and limiting effects of these symptoms are generally credible.

The State agency medical opinion is given little weight because evidence received at the hearing level shows that the claimant is more limited than determined by the State agency consultant. Furthermore, the State agency consultant did not adequately consider the claimant's subjective complaints or the combined effect of the claimant's impairments.

**6. The claimant is unable to perform any past relevant work (20 CFR 404.1565).**

The claimant has past relevant work as a radiation therapist, DOT Code 078.361-034, which was classified as light, skilled work activity but heavy as performed by the claimant. As the claimant is limited to sedentary work activity, she is unable to perform past relevant work.

**7. The claimant was a younger individual age 18-44 on the established disability onset date (20 CFR 404.1563).**

**8. The claimant has at least a high school education and is able to communicate in English (20 CFR 404.1564).**

**9. The claimant's acquired job skills do not transfer to other occupations within the residual functional capacity defined above (20 CFR 404.1568).**

The vocational expert testified that based on the claimant's residual functional capacity, there were no transferable skills.

**10. Considering the claimant's age, education, work experience, and residual functional capacity, there are no jobs that exist in significant numbers in the national economy that the claimant can perform (20 CFR 404.1560(c) and 404.1566).**

In determining whether a successful adjustment to other work can be made, the undersigned must consider the claimant's residual functional capacity, age, education, and work experience in conjunction with the Medical-Vocational Guidelines, 20 CFR Part 404, Subpart P, Appendix 2. If the claimant can perform all or substantially all of the exertional demands at a given level of exertion, the medical-vocational rules direct a conclusion of either "disabled" or "not disabled" depending upon the claimant's specific vocational profile (SSR 83-11). When the claimant cannot perform substantially all of the exertional demands of work at a given level of exertion and/or has nonexertional limitations, the medical-vocational rules are used as a framework for decisionmaking unless there is a rule that directs a conclusion of "disabled" without considering the additional exertional and/or nonexertional limitations (SSRs 83-12 and 83-14). If the claimant has solely nonexertional limitations, section 204.00 in the Medical-Vocational Guidelines provides a framework for decisionmaking (SSR 85-15).

See Next Page

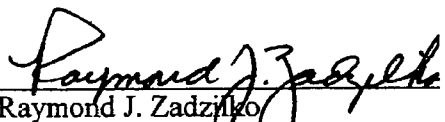
If the claimant had the residual functional capacity to perform the full range of sedentary work, a finding of "not disabled" would be directed by Medical-Vocational Rule 201.28. However, the claimant's ability to perform all or substantially all of the requirements of this level of work has been impeded by additional limitations. To determine the extent to which these limitations erode the unskilled sedentary occupational base, the Administrative Law Judge asked the vocational expert whether jobs exist in the national economy for an individual with the claimant's age, education, work experience and residual functional capacity. The vocational expert testified that given all of these factors there are no jobs in the national economy that the individual could perform.

Based on the testimony of the vocational expert, the undersigned concludes that, considering the claimant's age, education, work experience, and residual functional capacity, a finding of "disabled" is appropriate under the framework of the above-cited rule.

**11. The claimant has been under a disability, as defined in the Social Security Act, from May 5, 2005 through the date of this decision (20 CFR 404.1520(g)).**

**DECISION**

Based on the application protectively filed on May 1, 2006, the claimant has been disabled for a period of disability and disability insurance benefits under Sections 216(i) and 223(d) of the Social Security Act beginning on May 5, 2005.

  
Raymond J. Zadzilko  
Administrative Law Judge

Date 05 MAR 2007

LIST OF EXHIBITS

Claimant: Paula J. Carlson

SSN: 201-66-3077

| Exh. Part |  |             | No. of |
|-----------|--|-------------|--------|
| No. No.   |  | Description | Pages  |

**MEDICAL RECORDS**

|   |   |                                                                                                                                  |    |
|---|---|----------------------------------------------------------------------------------------------------------------------------------|----|
| 1 | F | Medical records covering the period from 4/12/05 through 6/13/05 from Mark A. Piasio, MD                                         | 15 |
| 2 | F | Hospital Records for admission on 6/27/05 through discharge on 6/29/05 from Mercy Hospital of Pittsburgh, pre-op records 6/20/05 | 25 |
| 3 | F | Operative report dated 1/25/06 from Kenneth M. Yaw, MD with outpatient records, Mercy Hospital                                   | 4  |
| 4 | F | Medical Records covering the period from 4/12/05 to 5/23/06 from Steven W. Graeca, DO                                            | 43 |
| 5 | F | Medical Records covering the period from 6/17/05 to 7/10/06 from Kenneth M. Yaw, MD                                              | 13 |
| 6 | F | RFC - Residual Functional Capacity Assessment - Physical (completed by DDS physician) dated 08/07/06                             | 7  |
| 7 | F | Medical Records dated September 7, 2006 from Kenneth Yaw, MD (submitted by atty)                                                 | 3  |

**RECEIVED DURING HEARING**

|    |   |                                                                                                     |   |
|----|---|-----------------------------------------------------------------------------------------------------|---|
| 8  | F | Report dated 01/29/07 from OVR, DuBois, PA                                                          | 1 |
| 9  | F | Pre-Hearing Memorandum dated 02/13/07 by Attorney Martin G. Colavincenzo                            | 4 |
| 10 | F | Physical Residual Functional Capacity Questionnaire dated 02/14/07 from Mercy Orthopedic Associates | 4 |
| 11 | F | X-ray Report dated 02/14/07 from Mercy Hospital of Pittsburgh                                       | 1 |

LIST OF EXHIBITS

CLAIMANT: Paula Jo Carlson SSN: 201-66-3077

X-REF: \_\_\_\_\_ SSN: \_\_\_\_\_

Section A PAYMENT DOCUMENTS/DECISIONS

Section B JURISDICTIONAL DOCUMENTS/NOTICES

NON-DISABILITY DEVELOPMENT

Section D contains paperwork that involves non-disability issues such as records of Social Security taxes paid in. Each set of documents is labeled with section number and numerically as an exhibit.

Section D consists of 4 exhibits.

DISABILITY RELATED DEVELOPMENT AND DOCUMENTATION

Section E contains paperwork related to the claimant for disability such as forms and reports completed by and for the claimant, information on work background and medications. Each set of documents is labeled with the section number and numerically as an exhibit.

Section E consists of 5 exhibits.

Part A (Yellow) - Payment Documents/Decisions  
Part B (Red) - Jurisdictional Documents/Notices  
Part D (Orange) - Non-Disability Development  
Part E (Blue) - Disability Related Development and Documentation  
Part F (Yellow) - Medical Records

ADDITIONAL CLAIM FILE, IF APPLICABLE:

Part (SSI) - Supplemental Security Income  
Part (DWB) - Disabled Widow/Widower  
Part (CDB) - Child's Disability Benefits

○ ○

**SOCIAL SECURITY ADMINISTRATION  
Office of Disability Adjudication and Review**

**ORDER**

**IN THE CASE OF**

Paula Jo Carlson  
(Claimant)

(Wage Earner)

**CLAIM FOR**

Period of Disability and  
Disability Insurance Benefits

201-66-3077

(Social Security Number)

I approve the fee agreement between the claimant and her representative subject to the condition that the claim results in past-due benefits.

My determination is limited to whether the fee agreement meets the statutory conditions for approval and is not otherwise accepted. I neither approve nor disapprove any other aspect of the agreement.

**HOW TO ASK US TO REVIEW THE FEE AGREEMENT DETERMINATION**

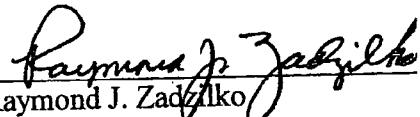
You or your representative may ask us to review the determination on the fee agreement. If you decide to ask us for a review, write us within 15 days from the day you get this order. Tell us that you disagree and give your reasons.

Send your request to this address:

- Jasper J. Bede  
Acting Regional Chief Administrative Law Judge  
SSA ODAR Regional Office  
4th Floor  
PO Box 13496  
Philadelphia, PA 19101

Your representative also has 15 days to write us if he or she does not agree with the determination on the fee agreement.

You should include the social security number(s) shown on this order on any papers that you send us.

  
Raymond J. Zadzilko  
Administrative Law Judge

05 MAR 2007  
Date

YOUR RIGHT TO PAYMENT WITHIN A REASONABLE TIME

We are required by a District Court order in Holman et al. V. Bowen, (Civ. No. 78-0494, M.D. PA, May 1, 1987), to notify you of your right to have your disability payments sent to you by us within a reasonable time after a favorable determination of your eligibility for benefits.

If you would like to know when you will receive your benefits, you may contact any Social Security office to ask when you can expect to receive payment of your claim.

If, at any time, you feel that your payments are being unreasonably delayed, you may seek relief from a United States District Court.

You may wish to contact an attorney regarding your rights. If you do not have an attorney, free legal services may be available if you qualify for them due to financial need. For further information about where to apply for free legal help, you may call the Law Coordination Center, toll free, at 1-800/732-3545.







DuBois Regional  
Medical Center

P.O. Box 447  
DuBois, Pennsylvania 15801-0447

*Making the difference for life.*

Date: March 8<sup>th</sup>, 2006  
To: Kenneth M. Yaw, MD  
Steven W. Graeca, DO  
From: Martin R. Maloney, PT  
Re: Paula Carlson  
Functional Capacity Evaluation  
MR#: 406631

Patient reports that on June 27<sup>th</sup>, 2005 she underwent a partial removal of the (R) radius as a result of a giant cell tumor. She has an incision on the posterior aspect of her (R) hand/wrist. She has an internal fixation device placed to support the wrist.

PAST MEDICAL HISTORY: PMH includes a C5-C6 herniated nucleus pulposus.

WORK TITLE/DESCRIPTION: Patient works as a radiation therapist and is not presently working.

HEIGHT: 5' 4".

WEIGHT: 105 lbs.

SEX: Female.

AGE: 34.

PAIN LEVEL: At the posterior aspect of her (R) wrist/forearm. Pain at worst with activity 4 to 5/10 and at best 0/10.

A Functional Capacity Evaluation was performed, including Static Strength Tests, Maximum Efforts Tests, Non Organic Testing, and Non Material Handling. Client was tested statically in various positions 3 times to ensure consistency of effort.

Static Strength Tests:

Torso lift: 113, 115, 114 lbs. which is an average of 114 lbs. generated which puts patient at the 31<sup>st</sup> percentile when compared to healthy industrial females.

Leg lift: 96, 101, 113 lbs. which puts patient at the 27<sup>th</sup> percentile when compared to industrial females.

Arm lift: 29, 31, 29 lbs. which is an average of 30 lbs. which puts patient into the less than 10<sup>th</sup> percentile compared to healthy industrial females.

Back lordosis: 96, 101, 113 lbs. with an average of 103 lbs. which puts the patient at the 27<sup>th</sup> percentile when compared to healthy industrial females.

Continued

Page 2

Patient: Paula Carlson

FCE (Continued)

(L) Hand grip: 70, 70, 65 lbs. with an average of 68 lbs. which puts the patient at 41<sup>st</sup> percentile when compared to healthy industrial females.

(R) Hand grip: 40, 40, 40 lbs. with an average of 40 lbs. which puts the patient at the less than 10<sup>th</sup> percentile when compared to healthy industrial females.

A reading of less than the 10<sup>th</sup> percentile means that 90% of the healthy industrial female population is stronger than the candidate statically.

Maximum Effort Tests were performed in various lifting positions.

Floor to waist: 53 lbs.

Waist to Shoulder: 53 lbs.

Shoulder to overhead: 23 lbs.

Pushing and Pulling 40 ft.: 53 lbs.

Carrying 40 Ft: 53 lbs.

53 lbs. in the above category puts the patient in what is considered the work level medium.

Medium Work Level is defined as follows:

Occasional - 0-33% of the working day max. lift/carry is 50 lbs.

Frequent - 34-66% of the working day max. lift/carry is 25 lbs.

Constant - 67-100% of the working day max. lift/carry is 10 lbs.

It should be noted that the shoulder to overhead lift of 23 lbs. puts Paula in the light category for this lift.

Light Work Level is defined as follows:

Occasional - 0-33% of the working day max. lift/carry is 20 lbs.

Frequent - 34-66% of the working day max. lift/carry is 10 lbs.

Constant - 67-100% of the working day max. lift/carry is negligible.

Symptom Magnification/Non Organic was also tested. Tenderness was negative for superficial and non-anatomic. Simulation for trunk rotation was negative. Regional was negative. Sensation was negative. Over-reaction was negative. Client scored negative in the Symptom Magnification portion of the test.

The fourth portion of the test was Non-Material Handling: Sitting, bending, squatting, reaching, twisting, kneeling, crawling, balancing, and climbing was evaluated in this portion of the test.

Sitting: Patient subjectively reports that she can sit for 4 hours which falls into the continuous category.

Standing/walking: Pt reports that she is able to do either 12 hours which puts her into the continuous category.

Other: Sleeping 8 hours. Patient does have a driver's license. Patient states that she can drive 4 hours before needing to stop for a rest. It took her 15 minutes to drive to the clinic today.

Continued

Page 3

Patient: Paula Carlson

FCE (Continued)

Bending: Patient performed bending 10 repetitions fast which puts her into the frequent category.

Squatting: Patient performed squatting 10 times fast which puts her into the frequent category.

Reaching: Patient performed reaching (R) and (L) 10 times fast which puts her into the frequent category.

Twisting: Patient performed twisting (R) and (L) 10 times fast which puts her into the frequent category.

Patient did not perform kneeling or crawling secondary to not needing to do this per her job description.

Balancing: Patient was able to balance on single leg stance 30 seconds (R) and (L) which puts her into the occasional category.

Climbing: Not performed secondary to not being part of the physical demands of her job.

Arm/Leg Control: Patient falls into the occasional category for arm and leg control.

Patient's wrist is fixed at ~ 10° wrist extension secondary to the internal fixation device. She has no flexion, no radial or ulnar deviation in the (R) hand. Pronation/supination 0-70°. She presents WFL's finger motion, strength is good and the incision is healed well.

In Summary, patient performed Static Strength test. Patient performed static strength tests to her maximal efforts. The reason for stopping these tests was maximal effort, coefficient variation was less than 15% which also reinforces maximum efforts were the reason for stopping. In the Maximum Effort Tests, Paula falls into the medium category for floor to waist, waist to shoulder, pushing and pulling 40 ft. and carrying 40 ft. which puts her into the medium category. Shoulder to overhead, Paula was able to lift 23 lbs which places her in the light category for this lift.

Paula scored negative in the symptom magnification portion of the test.

Non-Material Handling – patient meets all the requirements required in the job description when it comes to Non-Material handling. Further definition and explanation of the categories are as follows:

Frequent is defined by the Dictionary of Occupational Titles as 34-66% of the working day that these Non-Material Handling positions can be performed.

Occasional is defined by the Dictionary of Occupational Titles as 0-33% of the working day that these Non-Material Handling positions can be performed.

Never is defined as 0% of the working day that these Non-Material Handling positions can be performed.

Continued

Page 4

Patient: Paula Carlson

FCE (Continued)

Recommendations at this time would be continued strengthening either through physical therapy or the wellness program, work site modification, and an ergonomic evaluation of work site. It is noted that in the physical demands portion of a radiation therapist description at DRMC that 50 lbs. needs to be lifted overhead. Work site evaluation should be performed to ascertain if this lift does need to be performed, if 50 lbs is lifted overhead and if there are modifications which can be performed.

If I can answer any questions or be of any further assistance please do not hesitate to contact me.

Martin R. Maloney, PT  
Martin R. Maloney, PT (814) 375-3520

3/9/06  
Date

\_\_\_\_\_  
Physician's Signature

\_\_\_\_\_  
Date

MRM/ams

\* Please fax or mail a signed physician's copy of the initial evaluation back to DRMC's Therapy Department at (814) 375-3049.



o

## Rehabilitation Safety Associates

703 Millers Lane  
Plum, PA 15239  
Phone: 412-798-1041  
FAX: 412-798-1476  
Cell: 412-719-7315  
412-287-1240

- FCE Testing
- Fitness for Duty
- Job Analysis
- Ergonomics
- Injury Prevention
- Education.
- Hazard Analysis
- Post Offer Testing
- Records Review
- Safety Programs

Kenneth Yaw, MD  
1359 Locust Street  
Pittsburgh, PA 15219

June 13, 2006

RE: Paula Jo Carlson  
Insurance Co: BC/BS  
ID #: PFB 80058692801  
Social Security #: 201-66-3077  
Date of Injury: June 27, 2005  
Diagnosis: S/P reconstruction /  
fusion right wrist  
Time of Test: 5 hours – 20 units.



Dear Dr. Yaw,

### Introduction:

We had the opportunity to evaluate Paula Jo Carlson for a Functional Capacity Evaluation, on 6/13/06.

### Physical Demand Category: Medium

Her current physical demands are not consistent with the physical demands of her pre-injury position.

### AMA Impairment Rating: 29% Whole Person Impairment

### Reliability Index: Score: 96.67%

Reliability scores of 70% or greater indicate consistent effort imparted by the client in the course of the examination.

### Diagnosis:

Review of the medical records established the diagnosis as: S/P Giant Cell Tumor Removal right distal radius, with reconstruction. Ms. Carlson reported she has continued sensitivity in the right forearm/wrist and hand with associated weakness in the right upper extremity.

### Subjective Complaints:

Ms. Carlson was noted to have the following subjective complaints:

1. Pre-Test:
  - a. Burning pain in the cervical spine, and right upper trapezius area.
  - b. Tightness sensation in the right forearm/wrist/hand.
2. Post-Test:
  - a. Burning pain in the cervical spine and bilateral upper trapezius muscles.
  - b. Burning pain in the right forearm/wrist/hand
3. Disabilities of the Arm, Shoulder and Hand Score (DASH) was 54%, with 0% indicating the self perception of no disability and 100% indicating the self perception of total disability.
4. Initial pain rating of 2, post test pain rating of 8 on the 0/10 pain scale.

### Physical Exam Summary:

Ms. Carlson was noted to have the following physical findings:

1. Mildly antalgic posture with 4° elevation of the right shoulder/scapula in relation to the left side.
2. Cervical and upper extremity ROM is listed below
3. Weakness was noted in the right upper extremity, refer to table below:
4. Sensation was assessed with Semmes Weinstein Monofilaments and Two Point Discrimination and was WNL right to left.
5. Girth Measurements were recorded pre and post-test, data demonstrated a slight increase in girth post-test (0.5 cm) indicating reactive swelling. No difference in girth was noted on the non-involved left upper extremity.

| Cervical:           | ROM | AMA Normals: |
|---------------------|-----|--------------|
| Flexion:            | 50° | 50°          |
| Extension:          | 55° | 50°          |
| Right Side Bending: | 40° | 45°          |
| Left Side Bending:  | 40° | 45°          |
| Right Rotation:     | 70° | 80°          |
| Left Rotation       | 80° | 80°          |

| Shoulder ROM:               | Right: | Left: | AMA Normals: |
|-----------------------------|--------|-------|--------------|
| Flexion:                    | 165°   | 170°  | 180°         |
| Extension:                  | 45°    | 45°   | 50°          |
| Abduction:                  | 105°   | 110°  | 180°         |
| External Rotation:          | 90°    | 90°   | 90°          |
| Internal Rotation:          | 90°    | 90°   | 90°          |
| Elbow ROM:                  | Right: | Left: | AMA Normals: |
| Flexion:                    | 125°   | 125°  | 120°         |
| Extension:                  | 0°     | 0°    | 0°           |
| Wrist ROM:                  | Right: | Left: | AMA Normals: |
| Flexion:                    | 0°     | 60°   | 60°          |
| Extension:                  | 0°     | 70°   | 60°          |
| Radial Deviation:           | 0°     | 20°   | 20°          |
| Ulnar Deviation:            | 0°     | 30°   | 30°          |
| Pronation:                  | 90°    | 90°   | 80°          |
| Supination:                 | 35°    | 90°   | 80°          |
| Hand ROM:                   |        |       |              |
| Finger Flexion / Extension: | WNL    | WNL   |              |
| Thumb ROM:                  |        |       |              |
| Thumb IP Flexion:           | 90°    | 90°   | 80°          |
| Thumb MP Flexion:           | 30°    | 60°   | 60°          |
| Thumb Radial Abduction:     | 40°    | 55°   | 50°          |
| Thumb Adduction:            | 2 cm   | 0 cm  | 0 cm         |
| Thumb Opposition:           | 6 cm   | 7 cm  | 8 cm         |

| Hand Strength:  | Right: | Norm Data: | Left: | Norm Data: |
|-----------------|--------|------------|-------|------------|
| Grip Position 2 | 35#    | 74.1#      | 52#   | 66.3#      |
| Key Pinch:      | 10#    | 18.7#      | 13#   | 17.8#      |
| Palmer Pinch:   | 10#    | 19.3#      | 11#   | 18.1#      |
| Tip Pinch:      | 8#     | 12.6#      | 8#    | 11.7#      |

| MMT:               | Right: | Left: |
|--------------------|--------|-------|
| Abduction:         | 5#     | 12#   |
| External Rotation: | 5#     | 10#   |
| Biceps             | 3#     | 20#   |
| Triceps:           | 8#     | 18#   |

**AMA Impairment Rating:****29% Whole Person Impairment**

Impairment assessment was conducted as listed in the 5<sup>th</sup> edition of the AMA Guides to the Evaluation of Permanent Impairment. Results indicate that Ms. Carlson has a 29% WPI.

**Functional Evaluation Summary:**

The following functional limitations were identified during the course of the functional examination:

1. Ms. Carlson demonstrated functional weakness and poor endurance with activity involving the right hand.
2. Ms. Carlson demonstrates positive signs of deconditioning.

**Test Accommodations:**

The following Reasonable Accommodations were identified in the course of the examination:

1. Frequent breaks were required:
  - a. To allow heart rate to return to resting level.
  - b. Secondary to pain and fatigue in the right upper extremity.

**Physical Demand Level:**

In summary, Ms. Carlson's demonstrated performance level places her in the Medium Lifting Category (20-50 pounds occasional, 10-20 pounds frequently, and 10 pounds constantly, 3.6 – 6.3 METS), according to the United States Department of Labor's guidelines for physical demand characteristics of work. Ms. Carlson's position as a Radiation Tech at Dubois Hospital has been rated in the Heavy Lifting Category based on a Job description from the employer (required 50# overhead lift) Her current physical demands are not consistent with the physical demands of her pre-injury position.

**Reliability Index:**

The results of this evaluation indicate that Ms. Carlson provided reliable on 29 of 30 reliability items scored within expected limits. The results indicate that there was consistent effort imparted in all sections of the examination. The following inconsistencies were noted:

1. Predicted isotonic lift level based on isometric performance was outside the expected range for:
  - a. Knuckle to shoulder lift.

For specifics regarding reliability examination determination, please refer to page 7 of this report.

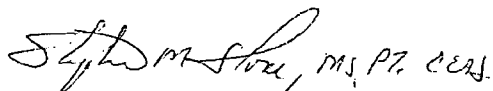
**Recommendations:**

Based on the findings in this examination the following recommendations are made for:

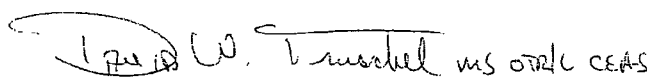
1. Conditioning / strengthening program based on clients demonstrated level of deconditioning.

**Conclusions:**

Paula Jo Carlson was pleasant and cooperative during the course of the examination. It is our opinion that these results reflect her maximum functional abilities, based on her demonstrated performance noted in the course of the examination. The estimated capabilities listed in the report are based on her performance and frequencies demonstrated in the course of the evaluation and should be tolerated well by her in the competitive employment market. It should be noted that Ms. Carlson reported an increase in pain and was noted to have mild reactive swelling post testing.



Stephen M. Slane, MS, PT, CEAS  
PT-003441-L



David W. Truschel, MS, OTR/L, CEAS  
OC-002143L



Non-Material Handling evaluation demonstrated the following functional activity tolerances as indicated below:

| TEST PATTERN:                 |   | FREQUENCY  | JOB RATING | PROTOCOL<br>TERMINATION<br>(REASON PROTOCOL<br>STOPPED) |
|-------------------------------|---|------------|------------|---------------------------------------------------------|
| Sitting:                      |   | CONSTANT   | OCCASIONAL | GOAL ACHIEVED                                           |
| Standing:                     |   | CONSTANT   | CONSTANT   | GOAL ACHIEVED                                           |
| Walking:                      |   | CONSTANT   | CONSTANT   | GOAL ACHIEVED                                           |
| Bending:                      |   | CONSTANT   | N/L        | GOAL ACHIEVED                                           |
| Squatting:                    |   | CONSTANT   | OCCASIONAL | GOAL ACHIEVED                                           |
| Kneeling                      |   | CONSTANT   | NEVER      | GOAL ACHIEVED                                           |
|                               |   | CONSTANT   | NEVER      | GOAL ACHIEVED                                           |
| Cervical Flexion/Extension:   |   | CONSTANT   | N/L        | GOAL ACHIEVED                                           |
| Cervical Rotation:            |   | CONSTANT   | N/L        | GOAL ACHIEVED                                           |
| Cervical Side Bending         |   | CONSTANT   | N/L        | GOAL ACHIEVED                                           |
| Reach Immediate:              | L | CONSTANT   | N/L        | GOAL ACHIEVED                                           |
|                               | R | CONSTANT   | N/L        | GOAL ACHIEVED                                           |
| Reach Over Head:              | L | CONSTANT   | OCCASIONAL | GOAL ACHIEVED                                           |
|                               | R | CONSTANT   | OCCASIONAL | GOAL ACHIEVED                                           |
| Elbow Flexion/Extension:      | L | CONSTANT   | N/L        | GOAL ACHIEVED                                           |
|                               | R | CONSTANT   | N/L        | GOAL ACHIEVED                                           |
| Pronation/Supination:         | L | CONSTANT   | N/L        | GOAL ACHIEVED                                           |
|                               | R | CONSTANT   | N/L        | LIMITED ROM DUE TO<br>FUSION                            |
| Wrist Flexion /<br>Extension: | L | CONSTANT   | N/L        | GOAL ACHIEVED                                           |
|                               | R | NEVER      | N/L        | WRIST FUSED                                             |
| Repeated Grasp:               | L | CONSTANT   | N/L        | GOAL ACHIEVED                                           |
|                               | R | OCCASIONAL | N/L        | PAIN / FATIGUE                                          |
| Fine Manipulation:            | L | CONSTANT   | N/L        | GOAL ACHIEVED                                           |
|                               | R | OCCASIONAL | N/L        | PAIN / FATIGUE                                          |

**Comments:**

NOTE: N/L indicates not listed. Supination motion was limited to 35° on the right secondary to fusion

Manual material handling ability was tested using a standardized protocol. The client was able to perform the following resistive movements on the associated basis:

|                               |   | FREQUENCY           |            |          |          | TEST DATA               |
|-------------------------------|---|---------------------|------------|----------|----------|-------------------------|
|                               |   | MAXIMUM LIFT LEVEL. | OCCASIONAL | FREQUENT | CONSTANT | REASON PROTOCOL STOPPED |
| FLOOR TO KNUCKLE:             |   | 37#                 | 30#        | 15#      | 6#       | SYMPTOM EXACERBATION    |
| KNUCKLE TO SHOULDER:          |   |                     | 15#        | 7#       | 3#       | MECHANICAL END POINT    |
| SHOULDER TO REACH:            |   |                     | 25#        | 10#      | 5#       | MAXIMUM EFFORT          |
| TWO HAND CARRY:               |   |                     | 30#        | 15#      | 6#       | MECHANICAL END POINT    |
| LEFT/RIGHT FLOOR TO KNUCKLE:  | L |                     | 32.5#      | 16#      | 6#       | MECHANICAL END POINT    |
|                               | R |                     | 20#        | 10#      | 4#       | MAXIMUM EFFORT          |
| LEFT/RIGHT FLOOR TO SHOULDER: | L |                     | 25#        | 12#      | 5#       | MECHANICAL END POINT    |
|                               | R |                     | 20#        | 10#      | 4#       | MAXIMUM EFFORT          |
| LEFT/RIGHT FLOOR TO REACH:    | L |                     | 15#        | 7#       | 3#       | MECHANICAL END POINT    |
|                               | R |                     | 5#         | 2#       | 1#       | MAXIMUM EFFORT          |
| LEFT/RIGHT CARRY:             | L |                     | 10#        | 5#       | 2#       | MECHANICAL END POINT    |
|                               | R |                     | 5#         | 2#       | 1#       | MAXIMUM EFFORT          |
| PUSH:                         |   |                     | 49#        | 24#      | 10#      | TEST COMPLETED          |
| PULL                          |   |                     | 50#        | 25#      | 10#      | TEST COMPLETED          |

**Comments:**

Maximum lift level was determined by isometrics testing. Frequent and constant lift level determined by testing and extrapolation from occasional lift.

## PATIENT RELIABILITY ASSESSMENT

|                                   | RELIABLE                            | INCONSISTENT                        |
|-----------------------------------|-------------------------------------|-------------------------------------|
| NON-ORGANIC SIGNS                 | Organic                             | Non-Organic                         |
| MODIFIED WADDELL SIGNS            | 0/5                                 | N/A                                 |
| AMA ROM TESTING                   |                                     |                                     |
| Cervical Spine:                   | <input checked="" type="checkbox"/> | <input type="checkbox"/>            |
| STATIC GRIP                       |                                     |                                     |
| Left Grip Bell                    | <input checked="" type="checkbox"/> | <input type="checkbox"/>            |
| Left Grip Repeated #2             | <input checked="" type="checkbox"/> | <input type="checkbox"/>            |
| Right Grip Bell                   | <input checked="" type="checkbox"/> | <input type="checkbox"/>            |
| Right Grip Repeated #2            | <input checked="" type="checkbox"/> | <input type="checkbox"/>            |
| Left Key Pinch Repeated           | <input checked="" type="checkbox"/> | <input type="checkbox"/>            |
| Right Key Pinch Repeated          | <input checked="" type="checkbox"/> | <input type="checkbox"/>            |
| Left 3 Jaw Repeated               | <input checked="" type="checkbox"/> | <input type="checkbox"/>            |
| Right 3 Jaw Repeated              | <input checked="" type="checkbox"/> | <input type="checkbox"/>            |
| Left 3 Tip Repeated               | <input checked="" type="checkbox"/> | <input type="checkbox"/>            |
| Right 3 Tip Repeated              | <input checked="" type="checkbox"/> | <input type="checkbox"/>            |
| Left Rapid Exchange:              | <input checked="" type="checkbox"/> | <input type="checkbox"/>            |
| Right Rapid Exchange              | <input checked="" type="checkbox"/> | <input type="checkbox"/>            |
| MANUAL MUSCLE TESTING:            |                                     |                                     |
| Right Shoulder Abduction:         | <input checked="" type="checkbox"/> | <input type="checkbox"/>            |
| Left Shoulder Abduction:          | <input checked="" type="checkbox"/> | <input type="checkbox"/>            |
| Right Shoulder External Rotation: | <input checked="" type="checkbox"/> | <input type="checkbox"/>            |
| Left Shoulder External Rotation:  | <input checked="" type="checkbox"/> | <input type="checkbox"/>            |
| Right Biceps:                     | <input checked="" type="checkbox"/> | <input type="checkbox"/>            |
| Left Biceps:                      | <input checked="" type="checkbox"/> | <input type="checkbox"/>            |
| Right Triceps:                    | <input checked="" type="checkbox"/> | <input type="checkbox"/>            |
| Left Triceps                      | <input checked="" type="checkbox"/> | <input type="checkbox"/>            |
| ISOMETRIC STRENGTH TEST:          |                                     |                                     |
| 12" Lift:                         | <input checked="" type="checkbox"/> | <input type="checkbox"/>            |
| Arm Lift:                         | <input checked="" type="checkbox"/> | <input type="checkbox"/>            |
| High Near:                        | <input checked="" type="checkbox"/> | <input type="checkbox"/>            |
| Push Bilateral:                   | <input checked="" type="checkbox"/> | <input type="checkbox"/>            |
| Pull Bilateral:                   | <input checked="" type="checkbox"/> | <input type="checkbox"/>            |
| MANUAL MATERIAL HANDLING          |                                     |                                     |
| Knuckle:                          | <input checked="" type="checkbox"/> | <input type="checkbox"/>            |
| Shoulder:                         | <input type="checkbox"/>            | <input checked="" type="checkbox"/> |
| Reach:                            | <input checked="" type="checkbox"/> | <input type="checkbox"/>            |

TOTAL RELIABILITY ITEMS SCORED  
 TOTAL RELIABILITY ITEMS PASSED  
 PERCENT PASSED:

30  
 29  
 96.67%

*Stephen M. Slane, MS, PT, CEAS*

Stephen M. Slane, MS, PT, CEAS  
 PT-003441-L

*David W. Truschel, MS, OTR/L, CEAS*

David W. Truschel, MS, OTR/L, CEAS  
 OC-002143L

## Rehabilitation Safety Associates

703 Millers Lane  
Plum, PA 15239  
Phone: 412-798-1041  
FAX: 412-798-1476  
Cell: 412-719-7315  
412-287-1240

- FCE Testing
- Fitness for Duty
- Job Analysis
- Ergonomics
- Injury Prevention
- Education
- Hazard Analysis
- Post Offer Testing
- Records Review
- Safety Programs

### INDUSTRIAL REHABILITATION PROGRAM PLAN OF TREATMENT

Client Name: Paula Jo Carlson  
Referral Source: Kenneth Yaw, MD

Social Security #: 201-66-3077  
Diagnosis: S/P reconstruction / fusion right wrist

#### Physical/Functional Deficits Assessment:

1. Loss of ROM / strength right upper extremity.
2. AMA Impairment rating 29% WPI

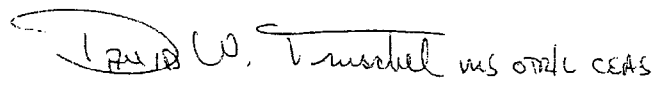
#### Industrial Rehabilitation Treatment Plan:

- ☐ Work Reconditioning for \_\_\_\_\_ weeks.
- ☐ Work Hardening for \_\_\_\_\_ weeks, \_\_\_\_\_ times per week.
- ☐ Body Mechanics Training
- ☐ Job Analysis
- ☐ Job Coaching (on-site)
- ☒ Other: Formal job analysis to determine exact job demands and to determine possibility of ergonomic job modifications to lessen job demands.

#### Goals:

- ☐ Improve physical capacities to the \_\_\_\_\_ category.
- ☐ Improve endurance to tolerate \_\_\_\_\_
- ☐ Enable client to \_\_\_\_\_
- ☐ Improve client's knowledge of body mechanics to diminish chance of injury.
- ☐ Improve client's ability to assume and maintain required work related postures.
- ☒ Other: Employment within his demonstrated physical capacity

  
Stephen M. Slane, MS, PT, CEAS  
PT-003441-L

  
David W. Truschel, MS, OTR/L, CEAS  
OC-002143L

#### Approval of Referring Physician:

- \_\_\_\_\_ I have reviewed and agree with the above Plan of Treatment.  
\_\_\_\_\_ I have reviewed and wish to change the above Plan of Treatment in the following ways: \_\_\_\_\_

\_\_\_\_\_  
Physician's Signature

\_\_\_\_\_  
Date



DUBOIS MAGNETIC IMAGING CENTER, 145 HOSPITAL AVE. SUITE 102, DUBOIS, PA 15801  
PHONE (814) 375-3595 OR (814) 375-3596 OR FAX (814) 375-3298

PATIENT NAME: CARLSON, PAULA J.  
ADDRESS : 1373 SANDSTONE DR.  
FALLS CREEK, PA 15840

DATE OF BIRTH: 4-26-71 AGE: 34  
SOC. SEC # : 201-66-3077

EXAM REQUESTED: MR IMAGING OF RIGHT WRIST AREA  
DATE OF EXAM: 6-9-05 SCAN #: 20783

REF. PHY.: PIASIO

MR IMAGING OF RIGHT WRIST AREA:

SCAN SEQUENCE: Multi-planar images were obtained in multiple sequences before and following intravenous administration of 11 ml of Magnevist.

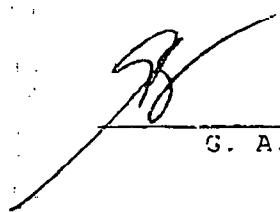
REPORT:

There is a lesion involving the distal radial metaphysis epiphyseal region. The lesion is hypointense in T1 weighted sequences and hyperintense in T2 weighted images. The mass in the bone extends to the subchondral region of the distal radius. There is asymmetrical location in the distal radius with involvement of the lateral volar aspect of the bone. The cortex is eroded and there is extension of the lesion into the soft tissues between the distal radius and ulna. No definite pathological fracture is seen at this time. No extension to any other bone around the wrist is seen. There is patchy contrast enhancement noted.

IMPRESSION:

THERE IS A LESION IN THE DISTAL RADIUS. IT HAS FEATURES TYPICAL OF A GIANT CELL TUMOR.

REPORT WAS FAXED TO DR. PIASIO'S OFFICE.

  
G. A. SHAH, M.D.

D: 6-10-05  
T: 6-10-05  
llw

DUBOIS REGIONAL MEDICAL CENTER  
100 Hospital Ave, DuBois, PA 15801

CARLSON, PAULA J  
1373 SAND STONE DR  
FALLS CREEK PA 15840

OPW  
Age 34Y

Unit # 000406631  
Acct # D0516500628

Date:06/14/05 Time:0717

PIASIO, MARK  
145 HOSPITAL AVE MED ARTS  
DUBOIS PA 15801

GRAECA, STEVEN W  
145 HOSPITAL AVENUE  
DUBOIS PA 15801

| Chk-in # | Order | Exam  |                                                                       |
|----------|-------|-------|-----------------------------------------------------------------------|
| 776886   | 0001  | 72754 | CT-UPPER EXTREMITY ENHANCED*R<br>Ord Diag: ;GIANT CELL TUMOR R RADIUS |
| 776887   | 0001  | 72810 | CT-RECONSTRUCTION<br>Ord Diag: ;GIANT CELL TUMOR R RADIUS             |

CT SCAN OF RIGHT WRIST:

Axial images were obtained. There is an osteolytic lesion involving the distal radius along its ulnar side. There is mild expansion of the bone and erosion of the dorsal and ventral aspect of the cortex. There is extension of the lesion into the soft tissues. There is no extension of lesion into the wrist joint. Margin of the distal radius appears to be intact. Margins of lesion are indistinct and there is permeative erosion of bone seen at the margins.

IMPRESSION: PREDOMINANTLY OSTEOLYTIC SLIGHTLY EXPANDING LESION  
OF THE DISTAL RADIUS WITH EROSION OF THE  
CORTEX OF THE BONE ALONG THE DORSAL AND  
VOLAR SIDE.

THERE IS A LARGE SOFT TISSUE COMPONENT OF THE LESION  
EXTENDING BEYOND THE CORTEX OF THE BONE DORSALLY  
AND ALONG THE VENTRAL SIDE.

GIANT CELL TUMOR OF THE BONE IS THE PRIMARY  
CONSIDERATION.

/READ BY/ G. ALI SHAH  
/Released By/ G. ALI SHAH

06/14/05 1526  
BC

*Has artifact with tumor*

Complete

DUBOIS REGIONAL MEDICAL CENTER  
100 Hospital Ave, DuBois, PA 15801

CARLSON, PAULA J  
1373 SAND STONE DR  
FALLS CREEK PA 15840

OPW  
Age 34Y

Unit # 000406631  
Acct # D0516100332

Date:06/10/05 Time:0953

PIASIO, MARK  
145 HOSPITAL AVE MED ARTS  
DUBOIS PA 15801

GRAECA, STEVEN W  
145 HOSPITAL AVENUE  
DUBOIS PA 15801

Chk-in # Order Exam  
776014 0003 56047 NM-THREE PHASE  
Ord Diag: ;MASS R RADIUS

THREE-PHASE RADIONUCLIDE SCAN OF BOTH WRIST AND HANDS AND STATIC TOTAL BODY SCAN:

METHOD:

Following intravenous administration of 21.1 mCi of technetium 99m HDP, rapid sequence images of both wrist and hands were obtained for 1 minute. 5 minute blood pool images were taken and delayed static images of whole skeleton were made.

FINDINGS:

There is a focal area of increased vascularity seen in the distal radius. Delay images also show marked increased tracer uptake in this region. Distribution of tracer in the rest of the osseous and articular structures is normal.

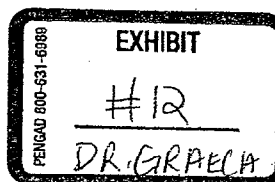
IMPRESSION: INCREASED VASCULARITY AND INTENSELY INCREASED TRACER UPTAKE IN THE DISTAL RADIUS ON THE RIGHT SIDE CORRESPONDING WITH THE LESION (GIANT CELL TUMOR) SEEN ON PLAIN FILMS AND MR IMAGING OF THIS AREA. THERE IS NO OTHER LESION SEEN IN THE BODY. THE REST OF THE SKELETON SHOWS NORMAL TRACER UPTAKE.

/READ BY/ G. ALI SHAH  
/Released By/ G. ALI SHAH

06/11/05 0614  
LLW

*pu*

Complete



10250





DUBOIS REGIONAL MEDICAL CENTER  
100 Hospital Ave, DuBois, PA 15801

CARLSON, PAULA J  
1373 SAND STONE DR  
FALLS CREEK PA 15840

OPW  
Age 34Y

Unit # 000406631  
Acct # D0516000388

Date: 06/09/05 Time: 1326

PIASIO, MARK  
145 HOSPITAL AVE MED ARTS  
DUBOIS PA 15801

GRAECA, STEVEN W  
145 HOSPITAL AVENUE  
DUBOIS PA 15801

|          |       |       |                                     |
|----------|-------|-------|-------------------------------------|
| Chk-in # | Order | Exam  |                                     |
| 775773   | 0001  | 45540 | PI-WRIST MIN 3*R                    |
|          |       |       | Ord Diag: 719.43-JOINT PAIN-FOREARM |

RIGHT WRIST - AP, LATERAL, AND OBLIQUE:

A large lytic lesion is seen on the ulnar aspect of the distal radius. It incorporates predominance of the distal radius. It extends to the articular margin. It does not cross the articular margin. There appears to be some punctate calcification in an ulnar direction on the AP view. No discrete fracture is seen.

IMPRESSION: LYTIC LESION PERMEATIVE WITHOUT DEFINED MARGINS DISTAL RADIUS.  
CONSIDERATIONS FOR GIANT CELL OR EWING'S.

/READ BY/ MARK A PIASIO M.D.  
/Released By/ MARK A PIASIO M.D.

06/14/05 1154  
LLW

Complete





# East Allegheny Center for Bone & Joint Disease

145 Hospital Avenue, Suite 311, DuBois, PA 15801 • Tel 814-375-9617, Fax 814-375-9624 • [orthodoc.aaos.org/mpiasio](http://orthodoc.aaos.org/mpiasio)

Mark A. Piasio, MD, FAAOS, FACS  
Amy Vezza, CRNP

06-13-05

Dr. Ken Yaw  
Mercy Health Center, 5<sup>th</sup> Floor  
1515 Locust Street  
Pittsburgh, PA 15219

RE: Paula Carlson  
DB: 04-26-1971

Dear Ken,

Thank you so much for quickly seeing Paula Carlson. Paula is a very pleasant 34-year old woman who works here at DRMC in the Cancer Center who has had wrist pain for a couple of months time.

She was initially treated outside. I saw her recently where she was found to have a progressive lytic lesion of the distal radius on the right side.

I've enclosed copies of my notes and she should be presenting with both films as well as a CD of all of her radiographic studies as well.

I'd appreciate if you'd check the CD to make sure it works as we've had some trouble referring patient's with our CDs in the past.

I look forward to your thoughts and again, thanks so much for getting her in so quickly as it does appear this lesion does appear fairly rapidly growing.

Warm regards,

Mark A. Piasio, M.D.  
MAP/jlw



CARLSON, PAULA  
DB: 04-26-1971

06-09-05

S: This woman is self-referred for problems with her right wrist. She's a delightful 34-year old woman who works here as a radiation x-ray tech. She has had wrist pain now, going on for about two to three months. She saw Dr. Graeca, reported no injury and had radial wrist pain and an EMG study was done, which really was unremarkable for carpal tunnel.

Apparently she's had some cervical disc problem in the past, I don't have those records available and they were reported to be consistent with a disc. Spine workup, however, did not seem to relate to her arm symptom.

The pain is mostly on the radial aspect of the right wrist. It seems to be over the distal wrist. It started off on the volar side, now a little bit more into the thumb. She has no real neuro complaints. She's had some dorsal pain and now reports pain with any wrist range of motion.

Again, she's had EMG studies done, which were consistent with a midcervical radiculopathy that was done in February of 2003, most recent EMG study done for carpal tunnel on 05-05-05 was nondiagnostic. She had an x-ray, which was reported to be normal.

O: Examination shows a healthy thin female. She has no tenderness over the first dorsal compartment and no wrist synovitis. There is no tenosynovitis. She has pain with right wrist range of motion and limited supination, but intact pronation. She is markedly tender over the distal radius. Phalen and Tinel are difficult to assess because of the wrist pain. Finkelstein is negative. There are no triggering of the fingers.

X-ray done from April shows a lytic lesion in the ulnar aspect of the distal radius. A repeat x-ray today shows more progressive changes of the lytic lesion with a much more worrisome peripheral margin. It is moth-eaten in nature, permeative and without sclerotic margins.

I think on physical exam, there may be a soft tissue component as well.

I: Bone lesion distal radius right, possible giant cell versus possible Ewing sarcoma.

(Continued on Page 2...)

(Page 2...)  
CARLSON, PAULA

06-09-05

P: Obviously she needs a very aggressive immediate workup and we've scheduled it all done for today and tomorrow. A MR and bone scan has been ordered as well as a full chemistry evaluation as well and I will see her back probably tomorrow.

Mark A. Piasio, M.D.  
MAP/jlw

cc: Dr. Graeca✓

CARLSON, PAULA  
DB: 04-26-1971

06-13-05

S: This woman is followed for wrist pain on the right side.

Review of her workup shows just minimal elevation in her thyroid function, though nothing significant.

Chest x-ray is clear. Lung CT is clear. Bone scan only shows uptake in the distal radius.

The MR does show a lesion involved in the ulnar aspect of the radius and does appear to penetrate a cortex, but I do not appreciate a significant soft tissue mass. It appears to be fairly well demarcated by MR study.

I: I do think that in light of her age and location that this minimal soft tissue mass is probably more likely giant cell than Ewings.

I'm certainly encouraged that the metastatic workup is negative. I am however, concerned of the aggressivity of this tumor and I suspect that it is probably a more high staged giant cell lesion.

P: I recommend fairly urgent referral to a tumor specialist and believe we've been able to secure an appointment with Dr. Ken Yaw on Friday.

We'll obtain a CT in the interm, but hold off on angiographic studies unless Dr. Yaw feels appropriate. We greatly look forward to his thoughts.

She's to maintain the splint and was given a script for Darvocet.

Mark A. Piasio, M.D. ✓  
MAP/jlw

cc: Dr. Graeca ✓



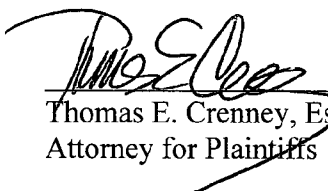
**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and correct copy of the foregoing  
**PLAINTIFFS' EXPERT LIABILITY WITNESSES AND DAMAGE REPORT OF**  
**JAMES L. KENKEL, Ph.D.** was served by First Class Mail, postage prepaid on the 30<sup>th</sup> day  
of APRIL, 2007, as follows:

Darryl R. Slimak, Esquire  
MCQUAIDE BLASKO FLEMING & FAULKNER,  
INC.  
811 University Drive  
State College, PA 16801  
(Counsel for Jerjis T. Alajaji, M.D.)

David R. Johnson, Esquire  
THOMSON RHODES & COWIE  
Two Chatham Center, 10<sup>th</sup> Floor  
Pittsburgh, PA 15219  
(Counsel for DuBois Regional Medical Center)

Walter Fredrick Wall, Esquire  
MEYER, DARRAGH, BUCKLER, BEBENEK &  
ECK, P.L.L.C.  
120 Lakemont Park Boulevard  
Altoona, PA 16602  
(Counsel for DuBois Radiologists, Inc.)

  
\_\_\_\_\_  
Thomas E. Crenney, Esquire  
Attorney for Plaintiffs

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL ACTION - MEDICAL PROFESSIONAL LIABILITY ACTION

PAULA CARLSON and JAMIE CARLSON,  
her husband,

Plaintiffs,

vs.

JERJIS T. ALAJAJI, M.D. and  
DUBOIS RADIOLOGISTS, INC.; and  
DUBOIS REGIONAL MEDICAL CENTER

Defendants.

Docket No: 2006 - 563 - C.D.

Jury Trial Demanded

Type of Pleading  
Certificate of Service for Notice of  
Intent

Filed on Behalf of Defendant  
*Jerjis T. Alajaji, M.D.*

Counsel of Record for This Party  
*Darryl R. Slimak, Esquire*  
Pa. Supreme Court I.D. #41695

McQuaide, Blasko, Fleming &  
Faulkner, Inc.  
811 University Drive  
State College, PA 16801  
(814) 238-4926  
Fax: (814) 238-9624

Counsel for Adverse Party  
*Thomas E. Crenney, Esquire*

**FILED** *no cc*  
*m 11:22/07*  
**MAY 18 2007**  
*(JS)*  
William A. Shaw  
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL ACTION - MEDICAL PROFESSIONAL LIABILITY ACTION

PAULA CARLSON and JAMIE CARLSON,  
her husband,

Plaintiffs,

vs.

JERJIS T. ALAJAJI, M.D. and  
DUBOIS RADIOLOGISTS, INC., and  
DUBOIS REGIONAL MEDICAL CENTER,

Defendants.

Docket No: 2006 - 563 - C.D.

Jury Trial Demanded

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

Defendants intend to serve a subpoena identical to those attached to this notice to Dubois Regional Medical Center, Occupational Health, Dr. McVay; and Summit Rehabilitation Associates. You have twenty (20) days from the date listed below in which to file of record and serve upon the undersigned any objection to the subpoenas. If no objection is made, the subpoena may be served.

McQUAIDE, BLASKO,  
FLEMING & FAULKNER, INC.

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

  
DARRYL R. SLIMAK  
I.D. No. 41695  
811 University Drive  
State College, PA 16801  
(814) 238-4926  
Attorneys for Defendant  
Jerjis T. Alajaji, M.D.

Dated: \_\_\_\_\_

5/17/07

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL ACTION - MEDICAL PROFESSIONAL LIABILITY ACTION

PAULA CARLSON and JAMIE CARLSON,  
her husband,

Plaintiffs,

vs.

JERJIS T. ALAJAJI, M.D. and  
DUBOIS RADIOLOGISTS, INC., and  
DUBOIS REGIONAL MEDICAL CENTER,

Defendants.

Docket No: 2006 - 563 - C.D.

Jury Trial Demanded

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the Defendant's Notice of Intent to Serve Subpoenas for Production of Documents and Things directed to Dubois Regional Medical Center Occupational Health, Dr. McVay; and Summit Rehabilitation Associates, in the above-captioned matter was mailed by regular mail, postage prepaid, at the Post Office, State College, Pennsylvania, on this 17<sup>th</sup> day of May, 2007, to the attorney(s) of record:

Thomas E. Crenney, Esquire  
Thomas E. Crenney & Associates, LLC  
One Gateway Center, 18<sup>th</sup> Floor West  
Pittsburgh, PA 15222

Walter F. Wall, Esquire  
Meyer, Darragh, Buckerl, Bebenek & Eck, PLLC  
120 Lakemont Park Boulevard  
Altoona, PA 16602

David R. Johnson, Esquire  
Thompson, Rhodes & Cowie, P.C.  
1010 Two Chatham Center  
Pittsburgh, PA 15219

McQUAIDE, BLASKO,  
FLEMING & FAULKNER, INC.

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

  
DARRYL R. SLIMAK  
I.D. No. 41695  
811 University Drive  
State College, PA 16801  
(814) 238-4926  
Attorneys for Defendant  
Jerjis T. Alajaji, M.D.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL ACTION - MEDICAL PROFESSIONAL LIABILITY ACTION

PAULA CARLSON and JAMIE CARLSON,  
her husband,

Plaintiffs,

vs.

JERJIS T. ALAJAJI, M.D. and  
DUBOIS RADIOLOGISTS, INC., and  
DUBOIS REGIONAL MEDICAL CENTER  
Defendants.

Docket No: 2006 - 563 - C.D.

Jury Trial Demanded

Type of Pleading  
Certificate of Service  
Prerequisite to Service of Subpoenas

Filed on Behalf of Defendant  
*Jerjis T. Alajaji, M.D.*

Counsel of Record for This Party  
*Darryl R. Slimak, Esquire*  
Pa. Supreme Court I.D. #41695

McQuaide, Blasko, Fleming &  
Faulkner, Inc.  
811 University Drive  
State College, PA 16801  
(814) 238-4926  
Fax: (814) 238-9624

Counsel for Adverse Party  
*Thomas E. Crenney, Esquire*

**FILED** *no cc*  
MAY 24 2007  
William A. Shaw  
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL ACTION - MEDICAL PROFESSIONAL LIABILITY ACTION

PAULA CARLSON and JAMIE CARLSON,  
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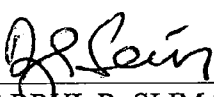
Docket No: 2006 - 563 - C.D.

Jury Trial Demanded

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

Defendants intend to serve a subpoena identical to those attached to this notice to Dubois Regional Medical Center, Occupational Health, Dr. McVay; and Summit Rehabilitation Associates. You have twenty (20) days from the date listed below in which to file of record and serve upon the undersigned any objection to the subpoenas. If no objection is made, the subpoena may be served.

McQUAIDE, BLASKO,  
FLEMING & FAULKNER, INC.

By: 

DARRYL R. SLIMAK  
I.D. No. 41695  
811 University Drive  
State College, PA 16801  
(814) 238-4926  
Attorneys for Defendant  
Jerjis T. Alajaji, M.D.

Dated: 5/17/07

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL ACTION - MEDICAL PROFESSIONAL LIABILITY ACTION

PAULA CARLSON and JAMIE CARLSON,  
her husband,

Plaintiffs,

vs.

JERJIS T. ALAJAJI, M.D. and  
DUBOIS RADIOLOGISTS, INC., and  
DUBOIS REGIONAL MEDICAL CENTER,

Defendants.

Docket No: 2006 - 563 - C.D.

Jury Trial Demanded

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

TO: Summit Rehabilitation Associates  
145 Hospital Avenue, Suite 300  
Dubois, PA 15801

Within twenty (20) days after service of this subpoena, you are ordered by the court to produce the following documents or things: **Complete Records of Paula Jo Carlson; DOB 04/26/1971; SS# 201-66-3077. Also see attachment.**

at: **McQuaide Blasko Law Offices, 811 University Drive, State College, PA 16801**

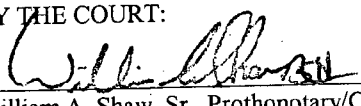
You may deliver or mail legible copies of the documents or produce things by this subpoena, together with the certificate of compliance, to the party making this request at the address listed above. You have the right to seek, in advance, the reasonable cost of preparing the copies or producing the things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

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

NAME: Darryl R. Slimak, Esquire  
ADDRESS: 811 University Drive, State College, PA 16801  
TELEPHONE: (814) 238-4926  
SUPREME CT ID#: 41695  
ATTORNEY FOR: Defendants

BY THE COURT:

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

Dated: 5/18/07

[Seal of the Court]

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

### **SUBPOENA ATTACHMENT**

Copies of all records pertaining to **Paula J. Carlson, d/o/b 4/26/1971, SS # 201-66-3077**, including but not limited to a full and complete copy of any and all records, billing statements (***including charges, payments, adjustments and balances***), office notes, admission summaries, discharge summaries, operative reports, lab reports, medication records, reports, notes, correspondence, x-ray reports, test results, consultations, progress notes or other material or information relating to any consultation, examination, medical history, diagnosis or treatment. **We reserve the right to obtain copies of radiology films using this subpoena once we have had an opportunity to review any records or radiology reports that are received in response to this request.**



IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL ACTION - MEDICAL PROFESSIONAL LIABILITY ACTION

PAULA CARLSON and JAMIE CARLSON,  
her husband,

Plaintiffs,

vs.

JERJIS T. ALAJAJI, M.D. and  
DUBOIS RADIOLOGISTS, INC., and  
DUBOIS REGIONAL MEDICAL CENTER,

Defendants.

Docket No: 2006 - 563 - C.D.

Jury Trial Demanded

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

TO: Dubois Regional Medical Center Occupational Health  
Edward J. McVay, M.D.  
100 Hospital Avenue  
Dubois, PA 15801

Within twenty (20) days after service of this subpoena, you are ordered by the court to produce the following documents or things: Complete Records of Paula Jo Carlson; DOB 04/26/1971; SS# 201-66-3077. Also see attachment.

at: McQuaide Blasko Law Offices, 811 University Drive, State College, PA 16801

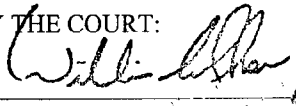
You may deliver or mail legible copies of the documents or produce things by this subpoena, together with the certificate of compliance, to the party making this request at the address listed above. You have the right to seek, in advance, the reasonable cost of preparing the copies or producing the things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

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

NAME: Darryl R. Slimak, Esquire  
ADDRESS: 811 University Drive, State College, PA 16801  
TELEPHONE: (814) 238-4926  
SUPREME CT ID#: 41695  
ATTORNEY FOR: Defendants

BY THE COURT:

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

Dated: 5/18/07

[Seal of the Court]

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

**SUBPOENA ATTACHMENT**

Copies of all records pertaining to **Paula J. Carlson, d/o/b 4/26/1971, SS # 201-66-3077**, including but not limited to a full and complete copy of any and all records, billing statements (***including charges, payments, adjustments and balances***), office notes, admission summaries, discharge summaries, operative reports, lab reports, medication records, reports, notes, correspondence, x-ray reports, test results, consultations, progress notes or other material or information relating to any consultation, examination, medical history, diagnosis or treatment. **We reserve the right to obtain copies of radiology films using this subpoena once we have had an opportunity to review any records or radiology reports that are received in response to this request.**

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
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Defendants.

Docket No: 2006 - 563 - C.D.

Jury Trial Demanded

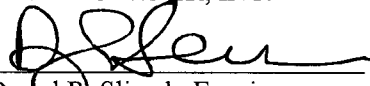
**CERTIFICATE**  
**PREREQUISITE TO SERVICE OF SUBPOENAS**  
**PURSUANT TO RULE 4009.22**

As a prerequisite to service of subpoenas for documents and things pursuant to Rule 4009.22, Defendants certify that:

- 1) a notice of intent to serve the subpoena with a copy of the subpoena attached thereto was mailed or delivered to the party at least twenty days prior to the date on which the subpoenas are 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 the 20 days have been waived
- 4) the subpoena which will be served is identical to the subpoenas which is attached to the notice of intent to serve the subpoena.

McQUAIDE, BLASKO,  
FLEMING & FAULKNER, INC.

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

  
Darryl R. Slimak, Esquire  
I.D. No. 41695  
811 University Drive  
State College, PA 16801  
(814) 238-4926  
Attorneys for Defendant

Dated: \_\_\_\_\_

5/23/07

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL ACTION - MEDICAL PROFESSIONAL LIABILITY ACTION

PAULA CARLSON and JAMIE CARLSON,  
her husband,

Plaintiffs,

vs.

JERJIS T. ALAJAJI, M.D. and  
DUBOIS RADIOLOGISTS, INC., and  
DUBOIS REGIONAL MEDICAL CENTER,

Defendants.

Docket No: 2006 - 563 - C.D.

Jury Trial Demanded

**CERTIFICATE OF SERVICE**

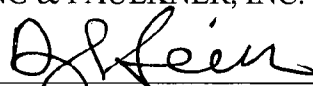
I hereby certify that a true and correct copy of the Certificate Prerequisite to Service of Subpoenas for Production of Documents and Things directed to Dubois Regional Medical Center Occupational Health, Dr. McVay; and Summit Rehabilitation Associates in the above-captioned matter was mailed by regular mail, postage prepaid, at the Post Office, State College, Pennsylvania, on this 23<sup>rd</sup> day of May, 2007, to the attorney(s) of record:

Thomas E. Crenney, Esquire  
Thomas E. Crenney & Associates, LLC  
One Gateway Center, 18<sup>th</sup> Floor West  
Pittsburgh, PA 15222

Walter F. Wall, Esquire  
Meyer, Darragh, Buckerl, Bebenek & Eck, PLLC  
120 Lakemont Park Boulevard  
Altoona, PA 16602

David R. Johnson, Esquire  
Thompson, Rhodes & Cowie, P.C.  
1010 Two Chatham Center  
Pittsburgh, PA 15219

McQUAIDE, BLASKO,  
FLEMING & FAULKNER, INC.

By: 

DARRYL R. SLIMAK

I.D. No. 41695

811 University Drive

State College, PA 16801

(814) 238-4926

Attorneys for Defendant

Jerjis T. Alajaji, M.D.

**THOMAS E. CRENNNEY & ASSOCIATES, LLC**

ATTORNEYS AT LAW  
ONE GATEWAY CENTER  
18<sup>th</sup> FLOOR - WEST  
PITTSBURGH, PENNSYLVANIA 15222  
TELEPHONE: 412-644-5545  
FACSIMILE: 412-644-5581

May 21, 2007

Patricia A. Long, RN  
MCQUAIDE BLASKO FLEMING &  
FAULKNER, INC.  
811 University Drive  
State College, PA 16801-6699

Re: *Paula Carlson, et al. vs. Jerjis T. Alajaji, M.D., et al.*  
Docket No. 2006 – 563 GD (Clearfield County)  
Our File No. 2895.01

Dear Ms. Long:

In response to your letter dated May 17, 2007, please be advised that we will waive the 20-day objection period relative to the subpoenas for the records from DRMC Occupational Health (Dr. McVay) and Summit Rehabilitation Associates. We request in return that you provide us with copies of all the records that you obtain.

Thank you for your time and attention.

Yours truly,



Donna A. Alexander

/daa

cc: David R. Johnson, Esquire  
cc: Walter F. Wall, Esquire

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

PAULA CARLSON and JAMIE  
CARLSON, her husband

vs.

No. 06-563-CD

JERJIS T. ALAJAJI, M.D., DUBOIS  
RADIOLOGISTS, INC., and DUBOIS  
REGIONAL MEDICAL CENTER

FILED  
03:59/BD  
SEP 12 2007

William A. Shaw  
Prothonotary/Clerk of Courts

1 CC Atty's Crenney  
Slimak  
Wall  
Johnson

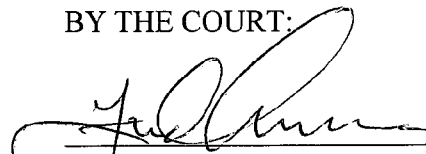
**ORDER**

AND NOW, this 12 day of September, 2007, following pre-trial  
conference with counsel for the parties as set forth above, it is the ORDER of the  
Court as follows:

1. Jury Selection will be held on January 3, 2008 at 9:00 a.m. in Courtroom No. 1  
of the Clearfield County Courthouse, Clearfield, Pennsylvania.
2. Jury Trial is hereby scheduled to commence for ten (10) days on Monday,  
February 25, 2008 through and including March 7, 2008, beginning at 9:00  
a.m. each day in Courtroom No. 1 of the Clearfield County Courthouse,  
Clearfield, Pennsylvania.
3. Any party making objections relative the testimony to be provided by any  
witness in the form of a deposition at the time of Trial shall submit said  
objections to the Court, in writing, no later than thirty (30) days prior to the  
commencement of Trial. All objections shall reference specific page and line  
numbers within the deposition(s) in question along with that party's brief  
relative same. The opposing party shall submit its brief in opposition to said  
objections no later than fifteen (15) days prior to the commencement to Trial.

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

BY THE COURT:



FREDRIC J. AMMERMAN  
President Judge

FILED

SEP 12 2007

William A. Shaw  
Prothonotary/Clerk of Courts

DATE: 9/12/07

     You are responsible for serving all appropriate parties.

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

     Plaintiff(s)   X   Plaintiff(s) Attorney      Other

     Defendant(s)   X   Defendant(s) Attorney

     Special Instructions:



IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

PAULA CARLSON AND JAMIE  
CARLSON, her husband,

Plaintiffs,

vs.

JERJIS T. ALAJAJI, M.D. AND DUBOIS  
RADIOLOGISTS, INC.,

Defendants.

CIVIL DIVISION

No. 2006-563- CD

JURY TRIAL DEMANDED

**MOTIONS IN LIMINE**

Filed on Behalf of Defendant, DuBois  
Radiologists, Inc.

Counsel of Record for this Party:

WALTER FREDRICK WALL, ESQUIRE  
PA. I.D. #23657

MEYER, DARRAGH, BUCKLER,  
BEBENEK & ECK, P.L.L.C.  
120 Lakemont Park Boulevard  
Altoona, PA 16602

Telephone No.: (814) 941-4600  
Fax No.: (814) 941-4605

**FILED** *no cc*  
*m/12:56 PM*  
**DEC 17 2007** *GR*

William A. Shaw  
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

PAULA CARLSON AND JAMIE  
CARLSON, her husband,

Plaintiffs,

vs.

JERJIS T. ALAJAJI, M.D. AND DUBOIS  
RADIOLOGISTS, INC.,

Defendants.

CIVIL DIVISION

No. 2006-563- CD

JURY TRIAL DEMANDED

**MOTIONS IN LIMINE**

NOW COMES Defendant, Dubois Radiologists, Inc., by and through its counsel, MEYER, DARRAGH, BUCKLER, BEBENEK & ECK, PLLC, and files these Motions in Limine in manner and form as follows:

**I. MOTION IN LIMINE**

1. Plaintiffs have listed Ghazanfar A. Shah, M.D., as an expert in their pretrial statement.
2. Dr. Ghazanfar Shah is the major shareholder of Defendant DuBois Rdiologists, Inc.
3. Dr. Shah has executed on behalf of DuBois Radiologists, Inc., verifications on the pleadings filed in this case.
4. While Dr. Shah is not a named party, he owns controlling interest in Defendant, DuBois Radiologists, Inc.
5. Plaintiff cannot compel Dr. Shah's expert testimony at time of trial.

6. Dr. Shah cannot be required to give expert testimony concerning the allegedly negligent conduct of other Defendants (i.e. Dr. Alajaji and/or DuBois Radiologists, Inc.) see, Jistarri v. Nappi, M.D., 549 A.2d 210 (Pa. Super. 1988).

7. DuBois Radiologists, Inc. objects to Dr. Shah being called as an expert witness for Plaintiffs. Dr. Shah has the right to refuse to give expert testimony for the adverse party based upon Evans v. Otis Elevator Co., 168 A.2d 573 (Pa. 1961).

WHEREFORE, Defendant, DuBois Radiologists, Inc., prays this Court to enter an Order barring Plaintiffs from calling Ghazanfar A. Shah, M.D. as an expert witness for the Plaintiffs.

## **II. MOTION IN LIMINE**

8. Plaintiffs have also indicated an intent to introduce the Agreements between DuBois Radiologists, Inc. and the DuBois Regional Medical Center.

9. DuBois Radiologists, Inc., objects to the admission and use of the 2006 Agreement, not in effect at the time of the alleged incident, as not being relevant.

10. DuBois Radiologists, Inc., has or will stipulate as to the existence of the 1993 Agreement with DuBois Regional Medical Center; that Defendant Dr. Alajaji was employed by DuBois Radiologists, Inc., at the time of the alleged incident; and that DuBois Radiologists, Inc., provided radiology services to the DuBois Regional Medical Center (Hospital) at that time.

11. DuBois Radiologists, Inc., objects to and opposes any and all references to insurance and/or to any obligation that the agreement imposed to obtain or provide insurance.

12. Any alleged breach of the 1993 agreement as to obtaining insurance cannot be the basis for establishing a violation of the standard of care in this case.

13. The sole purpose of any reference to insurance or the obligation to obtain insurance would be to prejudice the Defendant. Such prejudicial comment is contrary to the law of this Commonwealth.

14. It is well established that "Evidence that a person was or was not insured against liability is not admissible upon the issue whether the person acted negligently or otherwise wrongfully." Pa. R.E. 411; Paxton Nat. Ins. Co. v. Brickajlik, 522 A.2d 531 (Pa. 1987).

WHEREFORE, Defendant, DuBois Radiologists, Inc., prays this Court to enter an Order barring Plaintiffs from admitting into evidence the 2006 Agreement; any testimony about or reference to the 2006 Agreement; and, any testimony, comment or reference to insurance or the obligation to obtain insurance pursuant to the 1993 Agreement. In the event that the 1993 Agreement is admitted into evidence, it is respectfully submitted that all references to insurance and/or the obligation to obtain insurance be redacted from same prior to submission to the jury.

### **III. MOTION IN LIMINE**

15. On or about June 28, 2006, Defendant Dr. Jerjis Alajaji filed an action against DuBois Radiologists, Inc., at No. 06-1018-CD concerning an alleged improper termination of employment.

16. Dr. Alajaji's action against DuBois Radiologists, Inc., concerned Dr. Alajaji's alleged violation of DuBois Regional Medical Center's Internet Usage Policy.

17. Dr. Alajaji's action against DuBois Radiologists, Inc., and the substance of the facts concerning the alleged violation of the Internet Usage Policy have no bearing on the issues of this case as to alleged professional negligence in the standard of care.

18. Dr. Alajaji's action against DuBois Radiologists, Inc., for his termination of employment and the cause alleged have no probative value as to the issues in this case and is totally irrelevant.

19. The only purpose for injecting such collateral issues into Plaintiffs' case would be to prejudice the minds of the jury.

20. Any reference to Dr. Alajaji's collateral lawsuit and the basis for his termination would be highly prejudicial and would have absolutely no probative value concerning the issues to be presented to the fact finder.

21. DuBois Radiology, Inc., objects to and opposes any and all references to Dr. Alajaji's collateral lawsuit and the basis for his termination.

WHEREFORE, Defendant, DuBois Radiologists, Inc., prays this Court to enter an Order barring Plaintiffs from admitting into evidence the 2006 collateral lawsuit by Dr. Alajaji and any testimony, comment or reference thereto by Plaintiffs.

Respectfully submitted,

**MEYER, DARRAGH, BUCKLER, BEBENEK & ECK, PLLC**

BY: 

**WALTER FREDRICK WALL, ESQUIRE**

Counsel for Defendant, DuBois Radiologists, Inc.

120 Lakemont Park Boulevard

Altoona, PA 16602

Phone No.: (814) 941-4600

ID # 23657

**CERTIFICATE OF SERVICE**

TO THE PROTHONOTARY:

I, Walter Fredrick Wall, Esquire, of the law firm of MEYER, DARRAGH, BUCKLER, BEBENEK & ECK, PLLC, hereby certify that on this 14<sup>th</sup> day of December, 2007, I have served the foregoing Motions in Limine on behalf of Defendant, DuBois Radiologists, Inc., upon all counsel/parties of record, by mailing a true and correct copy of same by United States first class mail, postage prepaid as follows:

Thomas E. Crenney, Esquire  
One Gateway Center  
18<sup>th</sup> Floor West  
Pittsburgh, PA 15222

Darryl Slimak, Esquire  
McQuaide Blasko  
811 University Drive  
State College, Pennsylvania

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

**MEYER, DARRAGH, BUCKLER, BEBENEK & ECK, PLLC**

BY:

  
**WALTER FREDRICK WALL, ESQUIRE**

Counsel for Defendant, DuBois Radiologists, Inc.  
120 Lakemont Park Boulevard  
Altoona, PA 16602  
Phone No.: (814) 941-4600  
ID # 23657

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

PAULA CARLSON AND JAMIE  
CARLSON, her husband,

Plaintiffs,

vs.

JERJIS T. ALAJAJI, M.D. AND DUBOIS  
RADIOLOGISTS, INC.,

Defendants.

CIVIL DIVISION

No. 2006-563- CD

JURY TRIAL DEMANDED

**ORDER OF COURT**

AND NOW on this 26<sup>th</sup> day of December, 2007, it is hereby ORDERED,  
DIRECTED and DECREED that oral argument on Defendant's Motions in Limine are  
scheduled for the 18<sup>th</sup> day of January, 2008, at 9:00 (a.m.)/p.m. before  
The Honorable John K. Reilly, Jr. in Courtroom No. 3 of the Clearfield County  
Courthouse.

BY THE COURT:

John K. Reilly, Jr.  
J.

**FILED**

01/02/25/07  
DEC 28 2007

3cc  
Atty Wall

ER

William A. Shaw  
Prothonotary/Clerk of Courts

FILED

DEC 28 2007

William A. Shaw  
Prothonotary/Clerk of Courts

DATE: 12/28/07

☒ You are responsible for serving all appropriate parties.  
☐ The Prothonotary's office has provided service to the following parties:  
\_\_\_\_ Plaintiff(s) \_\_\_\_\_ Plaintiff(s) Attorney \_\_\_\_\_ Other  
\_\_\_\_ Defendant(s) \_\_\_\_\_ Defendant(s) Authority  
\_\_\_\_ Special Instructions:



IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

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CARLSON, her husband,

Plaintiffs,

vs.

JERJIS T. ALAJAJI, M.D. AND DUBOIS  
RADIOLOGISTS, INC.,

Defendants.

CIVIL DIVISION

No. 2006-563- CD

**FILED** NO CC  
m/11:25/01  
JAN 03 2008

William A. Shaw  
Prothonotary/Clerk of Courts

JURY TRIAL DEMANDED

**CERTIFICATE OF SERVICE**

TO THE PROTHONOTARY:

I, Walter Fredrick Wall, Esquire, of the law firm of MEYER, DARRAGH, BUCKLER, BEBENEK & ECK, PLLC, hereby certify that on this **31<sup>st</sup> day of December, 2007**, I have served the foregoing Order scheduling argument on Motions in Limine on behalf of Defendant, DuBois Radiologists, Inc., upon all counsel/parties of record, by mailing a true and correct copy of same by United States first class mail, postage prepaid as follows:

Thomas E. Crenney, Esquire  
One Gateway Center  
18<sup>th</sup> Floor West  
Pittsburgh, PA 15222

Darryl Slimak, Esquire  
McQuaide Blasko  
811 University Drive  
State College, Pennsylvania

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

**MEYER, DARRAGH, BUCKLER, BEBENEK & ECK, PLLC**

BY:

  
**WALTER FREDRICK WALL, ESQUIRE**

Counsel for Defendant, DuBois Radiologists, Inc.  
120 Lakemont Park Boulevard  
Altoona, PA 16602  
Phone No.: (814) 941-4600  
ID # 23657

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

PAULA CARLSON AND JAMIE  
CARLSON, her husband,

Plaintiffs,

vs.

JERJIS T. ALAJAJI, M.D. AND DUBOIS  
RADIOLOGISTS, INC.,

Defendants.

CIVIL DIVISION

No. 2006-563- CD

JURY TRIAL DEMANDED

**ORDER OF COURT**

AND NOW on this 26<sup>th</sup> day of December, 2007, it is hereby ORDERED,  
DIRECTED and DECREED that oral argument on Defendant's Motions in Limine are  
scheduled for the 18<sup>th</sup> day of January, 2008, at 9:00 (a.m.)/p.m. before  
The Honorable John K. Reilly, Jr. in Courtroom No. 3 of the Clearfield County  
Courthouse.

BY THE COURT:

/s/ JOHN K. REILLY, JR.

J.

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

DEC 28 2007

Attest.

William A. Shaw  
Prothonotary/  
Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

PAULA CARLSON AND JAMIE  
CARLSON, her husband,

Plaintiffs,

vs.

JERJIS T. ALAJAJI, M.D. AND DUBOIS  
RADIOLOGISTS, INC.,

Defendants.

CIVIL DIVISION

No. 2006-563- CD

**FILED**

JAN 03 2008

William A. Shaw  
Prothonotary/Clerk of Courts

*mt 11/25/07*  
*NO CC*  
*Copy to CIA*

JURY TRIAL DEMANDED

**PRAECIPE FOR WITHDRAW/ENTRY OF APPEARANCE**

TO THE PROTHONOTARY:

Please withdraw the appearance of Meyer, Darragh, Buckler, Bebenek & Eck, PLLC, as counsel for Defendant, DuBois Radiologists, Inc., in the above-captioned matter.

**MEYER, DARRAGH, BUCKLER, BEBENEK & ECK, PLLC**

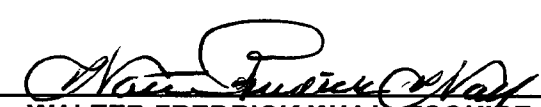
BY: 

**MARY LOU MAIERHOFER, ESQUIRE**

120 Lakemont Park Boulevard  
Altoona, PA 16602  
Phone No.: (814) 941-4600  
ID # 62175

-----  
TO THE PROTHONOTARY:

Please enter my appearance as counsel for Defendant, DuBois Radiologists, Inc., in the above-captioned matter.

BY: 

**WALTER FREDRICK WALL, ESQUIRE**

10 Sheraton Drive  
Altoona, PA 16601  
Phone No.: (814) 296-2072  
ID # 23657

**CERTIFICATE OF SERVICE**

TO THE PROTHONOTARY:

I, Walter Fredrick Wall, Esquire, of the law firm of MEYER, DARRAGH, BUCKLER, BEBENEK & ECK, PLLC, hereby certify that on this 31<sup>st</sup> day of December, 2007, I have served the foregoing Praecept to Withdraw/Entry of Appearance on behalf of Defendant, DuBois Radiologists, Inc., upon all counsel/parties of record, by mailing a true and correct copy of same by United States first class mail, postage prepaid as follows:

Thomas E. Crenney, Esquire  
One Gateway Center  
18<sup>th</sup> Floor West  
Pittsburgh, PA 15222

Darryl Slimak, Esquire  
McQuaide Blasko  
811 University Drive  
State College, Pennsylvania

**BY:** \_\_\_\_\_

**WALTER FREDRICK WALL, ESQUIRE**

10 Sheraton Drive  
Altoona, PA 16601  
Phone No.: (814) 296-2072  
ID # 23657

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

PAULA CARLSON AND JAMIE  
CARLSON, her husband

Plaintiff,

vs.

JERJIS T. ALAJAJI, M.D. AND DUBOIS  
RADIOLOGISTS, INC.

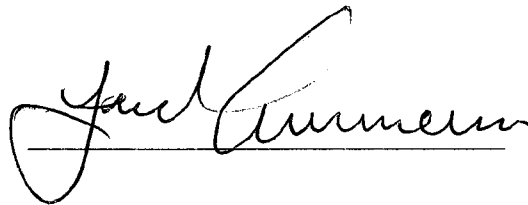
Defendant

NO. 06-563-C.D.

**AMENDED SCHEDULING ORDER**

AND NOW, this 10<sup>th</sup> day of January 2008, it is hereby ORDERED, DIRECTED and DECREED that oral argument on Defendant's Motions in Limine shall be and are hereby rescheduled from January 18, 2008 at 9:00 A.M. to **Wednesday, January 30, 2008 at 1:30 PM** in Courtroom # 2 of the Court of Common Pleas of Clearfield County, Pennsylvania, before the Honorable Charles C. Brown, Jr., Senior Judge.

BY THE COURT:



**FILED**

019:44/504  
JAN 10 2008

William A. Shaw  
Prothonotary/Clerk of Courts

1cc to:  
Stimak  
Cremey  
Wall  
Johnson  
(GW)

FILED

JAN 10 2008

William A. Shaw  
Prothonotary/Clerk of Courts

DATE: 1/10/08

     You are responsible for serving all appropriate parties.

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

     Plaintiff(s) X Plaintiff(s) Attorney      Other

     Defendant(s) X Defendant(s) Attorney

     Special Instructions:

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL ACTION - MEDICAL PROFESSIONAL LIABILITY ACTION

PAULA CARLSON and JAMIE CARLSON,  
her husband,

Plaintiffs,

vs.

JERJIS T. ALAJAJI, M.D. and  
DUBOIS RADIOLOGISTS, INC., and  
DUBOIS REGIONAL MEDICAL CENTER,

Defendants.

Docket No: 2006 - 563 - C.D.

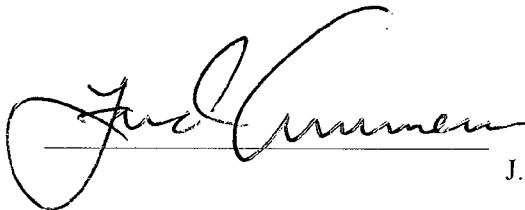
Jury Trial Demanded

RULE TO SHOW CAUSE

AND NOW, this 16<sup>th</sup> day of JAN, 2008, the Plaintiffs are directed to show cause, if any they have, why Defendant Dr. Alajaji's Emergency Motion to Preclude Deposition of Plaintiffs' Expert Dr. Mastropietro Scheduled in Violation of Court Order of September 12, 2007 and Request for Attorneys' Fees, Costs and Expenses Under Pa. R.C.P. No. 4008, should not be granted.

This Rule is returnable for Answer and argument is scheduled for the 21<sup>st</sup> day of January, 2008, at 10:30 A.m. in Courtroom 1 of the Clearfield County Courthouse, Clearfield, Pennsylvania.

BY THE COURT

  
J.

FILED

010:4367  
JAN 16 2008

William A. Shaw  
Prothonotary/Clerk of Courts

ICC faxed to  
Amy Slimak  
by CA

FILED

JAN 16 2008

William A. Shaw  
Prothonotary/Clerk of Courts

DATE: 1/16/08

X You are responsible for serving all appropriate parties.

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

\_\_\_ Plaintiff(s) \_\_\_ Plaintiff(s) Attorney \_\_\_ Other

\_\_\_ Defendant(s) \_\_\_ Defendant(s) Attorney

\_\_\_ Special Instructions:



IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL ACTION - MEDICAL PROFESSIONAL LIABILITY ACTION

PAULA CARLSON and JAMIE CARLSON,  
her husband,

Plaintiffs,

vs.

JERJIS T. ALAJAJI, M.D. and  
DUBOIS RADIOLOGISTS, INC., and  
DUBOIS REGIONAL MEDICAL CENTER,

Defendants.

Docket No: 2006 - 563 - C.D.

Jury Trial Demanded

Type of Pleading

***Defendant Dr. Alajaji's Emergency  
Motion to Preclude Deposition of  
Plaintiffs' Expert Dr. Mastropietro  
as Scheduled in Violation of Court  
Order of September 12, 2007***

***AND***

***Request for Attorneys' Fees, Costs  
and Expenses Under Pa. R.C.P.  
No. 4008***

Filed on Behalf of Defendant

***Jerjis T. Alajaji, M.D.***

Counsel of Record for This Party

***Darryl R. Slimak, Esquire***

Pa. Supreme Court I.D. #41695

McQuaide, Blasko, Fleming &  
Faulkner, Inc.

811 University Drive

State College, PA 16801

(814) 238-4926

Fax: (814) 238-9624

Counsel for Adverse Party

***Thomas E. Crenney, Esquire***

Other Counsel

***David R. Johnson, Esquire***

***Walter F. Wall, Esquire***

**FILED**  
O 8:30 a.m. BH  
JAN 16 2008  
William A. Shaw  
Prothonotary/Clerk of Courts  
NO CC

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL ACTION - MEDICAL PROFESSIONAL LIABILITY ACTION

PAULA CARLSON and JAMIE CARLSON,  
her husband,

Plaintiffs,

vs.

JERJIS T. ALAJAJI, M.D. and  
DUBOIS RADIOLOGISTS, INC., and  
DUBOIS REGIONAL MEDICAL CENTER,

Defendants.

Docket No: 2006 - 563 - C.D.

Jury Trial Demanded

**DEFENDANT DR. ALAJAJI'S EMERGENCY MOTION TO PRECLUDE  
DEPOSITION OF PLAINTIFFS' EXPERT DR. MASTROPIETRO  
AS SCHEDULED IN VIOLATION OF COURT ORDER OF  
SEPTEMBER 12, 2007 AND REQUEST FOR ATTORNEYS' FEES,  
COSTS AND EXPENSES UNDER Pa. R.C.P. No. 4008**

1. The trial of the instant medical malpractice case is scheduled for February 25 through March 7, 2008.
2. By Order of this Honorable Court on September 12, 2007, a copy of which is attached hereto as Exhibit "A," this Court held a Pretrial Conference and issued a directive that depositions must be scheduled and taken in such timely fashion such that

"any party making objections relative (to) the testimony to be provided by any witness in the form of deposition at the time of trial shall submit said objections to the Court, in writing, no later than thirty (30) days prior to the commencement of trial. All objections shall reference **specific page and line numbers within the deposition(s)** in question **along with that party's brief** relative same."

The deadline thus established is **Saturday**, January 26, 2008. This provided a four month window of advance notice for compliance with the Court's directive.

3. The Court's scheduling Order with regard to trial depositions and objections relative to same was issued to allow for proper briefings schedule and argument of the matter in advance of the actual commencement of trial.

4. Despite the Court's September 2007 Order in this matter with regard to the requirement of timely scheduling depositions to be taken and presented at trial, Plaintiffs neglected and delayed until January 9 and 10, 2008 to unilaterally schedule multiple (three) trial depositions **all in the week immediately before the deadline**. Attached hereto are three notices of the depositions. Exhibit "B" is a notice for the deposition of Plaintiffs' expert economist scheduled for **Monday**, January 21, 2008 in **Pittsburgh**. Exhibit "C" is a notice for the deposition of Plaintiffs' treating orthopedic surgeon Dr. Mark Piasio scheduled to be held in **DuBois**, Pennsylvania on **Tuesday**, January 22, 2008. Exhibit "D" is a notice for the deposition of Plaintiffs' expert Dr. N. Anthony Mastropietro scheduled for **Friday**, January 25, 2008 in **Lancaster**, Pennsylvania.

5. All of these depositions were unilaterally scheduled by Plaintiffs without consultation or courtesy telephone calls to the undersigned defense counsel. In addition to the depositions apparently neglected by Plaintiffs until the last moment, and being scheduled for the sole convenience of Plaintiffs' counsel and his witnesses, the deposition of Plaintiffs' expert Dr. Mastropietro is to be taken on the afternoon of the very same day as the Court's prior scheduling Order would require the Defendants to have filed their detailed specification of objections with specific page and line number designations to the deposition transcript for rulings by the Court, together with the party's brief relative to same (Friday, January 25, 2008). This is self-apparently impossible to do if the deposition is just being taken in Lancaster, Pennsylvania commencing at 2:00 p.m. on Friday, January 25, 2008.

6. Plaintiffs' failure to in good faith comply with this Court's Order for the proper scheduling of depositions so as to allow opposing parties to submit required specifications of objections tied into the actual transcripts, along with the party's briefs relative to same, is extremely prejudicial to the Defendants in this matter.

7. Moreover, the depositions of Mr. Kenkel and Dr. Mastropietro, being held in Pittsburgh and Lancaster, Pennsylvania, respectively, are more than 100 miles from the courthouse in Clearfield County. As contemplated by Pa. R.C.P. NO. 4008, Plaintiffs have not offered, and therefore Defendants hereby request the Court Order reimbursement for costs and expenses and attorneys' fees to be incurred by Defendants for participating in these depositions unilaterally scheduled to be held in excess of 100 miles from the Clearfield County courthouse, which depositions were so scheduled for the convenience and cost savings to Plaintiffs, their counsel and their experts.

WHEREFORE, Defendant Dr. Alajaji respectfully requests this Honorable Court preclude the deposition of Plaintiffs' expert trial witness Dr. Mastropietro which had been unilaterally scheduled to be held in Lancaster, Pennsylvania on Friday, January 25, 2008. In addition, it is requested that per Rule 4008 the Court Order Plaintiffs to pay Defendants' attorneys' fees, costs and expenses, for having to participate in trial depositions scheduled for the convenience of Plaintiffs and their counsel and witnesses, in excess of 100 miles from the courthouse.

Respectfully submitted,

McQUAIDE, BLASKO,  
FLEMING & FAULKNER, INC.

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

A handwritten signature in black ink, appearing to read "D. Slimak", written over a horizontal line.

Darryl R. Slimak

Attorneys for Defendant

JERJIS T. ALAJAJI, M.D.

811 University Drive

State College, PA 16801

(814) 238-4926

Fax: (814) 238-9624

Dated: January 16, 2008

Walter F. Wall, Esquire  
Meyer, Darragh, Buckler, Bebenek & Eck, LLC  
120 Lakemont Park Boulevard  
Altoona, PA 16602

David R. Johnson, Esquire  
Thompson, Rhodes & Cowie, P.C.  
1010 Two Chatham Center  
Pittsburgh, PA 15219

McQUAIDE, BLASKO,  
FLEMING & FAULKNER, INC.

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



Darryl R. Slimak  
Attorneys for Defendant  
JERJIS T. ALAJAJI, M.D.  
811 University Drive  
State College, PA 16801  
(814) 238-4926  
Fax: (814) 238-9624

# EXHIBIT A



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

PAULA CARLSON and JAMIE  
CARLSON, her husband

vs.

No. 06-563-CD

JERJIS T. ALAJAJI, M.D., DUBOIS  
RADIOLOGISTS, INC., and DUBOIS  
REGIONAL MEDICAL CENTER

**ORDER**

AND NOW, this 12 day of September, 2007, following pre-trial conference with counsel for the parties as set forth above, it is the ORDER of the Court as follows:

1. Jury Selection will be held on January 3, 2008 at 9:00 a.m. in Courtroom No. 1 of the Clearfield County Courthouse, Clearfield, Pennsylvania.
2. Jury Trial is hereby scheduled to commence for ten (10) days on Monday, February 25, 2008 through and including March 7, 2008, beginning at 9:00 a.m. each day in Courtroom No. 1 of the Clearfield County Courthouse, Clearfield, Pennsylvania.
3. Any party making objections relative the testimony to be provided by any witness in the form of a deposition at the time of Trial shall submit said objections to the Court, in writing, no later than thirty (30) days prior to the commencement of Trial. All objections shall reference specific page and line numbers within the deposition(s) in question along with that party's brief relative same. The opposing party shall submit its brief in opposition to said objections no later than fifteen (15) days prior to the commencement to Trial.

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

BY THE COURT:

/S/ Fredric J Ammerman

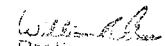
FREDRIC J. AMMERMAN

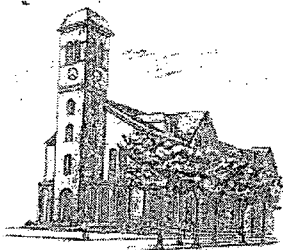
President Judge

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

SEP 12 2007

Attest.

  
Prothonotary/  
Clerk of Courts



## Clearfield County Office of the Prothonotary and Clerk of Courts

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

**Jacki Kendrick**  
Deputy Prothonotary/Clerk of Courts

**Bonnie Hudson**  
Administrative Assistant

**David S. Ammerman**  
Solicitor

PO Box 549, Clearfield, PA 16830 ■ Phone: (814) 765-2641 Ext. 1330 ■ Fax: (814) 765-7659 ■ [www.clearfieldco.org](http://www.clearfieldco.org)

To: All Concerned Parties

From: William A. Shaw, Prothonotary

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

Sincerely,

William A. Shaw  
Prothonotary

DATE: 9/12/07

\_\_\_\_\_ You are responsible for serving all appropriate parties.

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

\_\_\_\_\_ Plaintiff(s) X Plaintiff(s) Attorney \_\_\_\_\_ Other

\_\_\_\_\_ Defendant(s) X Defendant(s) Attorney

\_\_\_\_\_ Special Instructions:

# EXHIBIT B

---

**THOMAS E. CRENNY & ASSOCIATES, LLC**

ATTORNEYS AT LAW  
ONE GATEWAY CENTER  
18<sup>th</sup> FLOOR - WEST  
PITTSBURGH, PENNSYLVANIA 15222  
TELEPHONE: 412-644-5545  
FACSIMILE: 412-644-5581

January 9, 2008

**VIA FAX AND MAIL**

Darryl R. Slimak, Esquire  
MCQUAIDE BLASKO FLEMING &  
FAULKNER, INC.  
811 University Drive  
State College, PA 16801-6699

David R. Johnson, Esquire  
THOMSON, RHODES & COWIE, P.C.  
Two Chatham Center, 10<sup>th</sup> Floor  
Pittsburgh, PA 15219

Walter Frederick Wall, Esquire  
120 Lakemont Park Boulevard  
Altoona, PA 16602

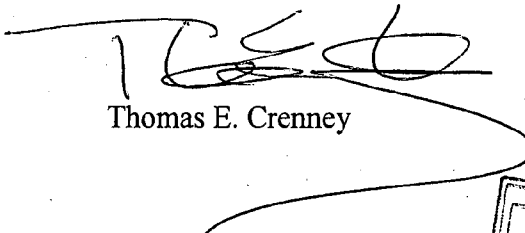
Re: Paula Carlson, et al. vs. Jerjis T. Alajaji, M.D., et al.  
Docket No. 2006 - 563 GD (Clearfield County)  
Our File No. 2895.01

Gentlemen:

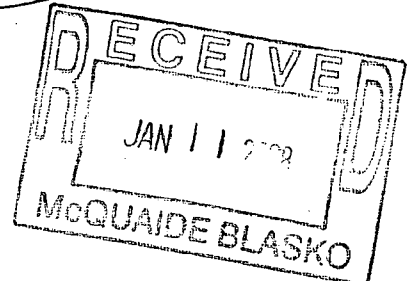
Enclosed please find a Notice scheduling the Videotaped Deposition For Use at Trial of James L. Kenkel, Ph.D. for Monday, January 21, 2008 at 1:00 p.m. at my offices.

Thank you for your kind attention to this matter.

Yours truly,

  
Thomas E. Crenney

TEC/bjw  
Enclosure



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

PAULA CARLSON and  
JAMIE CARLSON, her husband,

Plaintiffs,

vs.

JERJIS T. ALAJAJI, M.D.,  
DUBOIS RADIOLOGISTS, INC.,  
and DUBOIS REGIONAL MEDICAL  
CENTER,

Defendants.

No. 2006-563-CD

Civil Action – Medical Professional  
Liability Action

**NOTICE TO TAKE VIDEOTAPED  
DEPOSITION FOR USE AT TRIAL**

Filed on behalf of Plaintiffs

Counsel of Record for this Party:

Thomas E. Crenney, Esquire  
PA I.D. No. 40986

THOMAS E. CRENNY & ASSOCIATES, LLC  
One Gateway Center  
18<sup>th</sup> Floor West  
Pittsburgh, PA 15222  
412-644-5545

**JURY TRIAL DEMANDED**

## DATE:

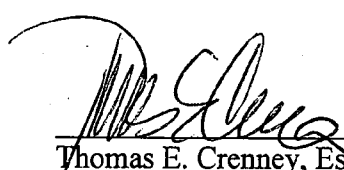
**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and correct copy of the foregoing NOTICE TO TAKE VIDEOTAPED DEPOSITION FOR USE AT TRIAL. was served by First Class Mail, <sup>FACSIMILE AND</sup> postage prepaid on the 9<sup>th</sup> day of JANUARY, 2008, as follows:

David R. Johnson, Esquire  
Thomson, Rhodes & Cowie, P.C.  
Two Chatham Center, 10<sup>th</sup> Floor  
Pittsburgh, PA 15219  
(Counsel for DuBois Regional Medical Center)

Darryl R. Slimak, Esquire  
McQuaide Blasko Fleming & Faulkner, Inc.  
811 University Drive  
State College, PA 16801  
(Counsel for Jerjis T. Alajaji, M.D.)

Walter Fredrick Wall, Esquire  
120 Lakemont Park Boulevard  
Altoona, PA 16602  
(Counsel for DuBois Radiologists, Inc.)

  
Thomas E. Crenney, Esquire  
Attorney for Plaintiffs



# EXHIBIT C

**THOMAS E. CRENNY & ASSOCIATES, LLC**

ATTORNEYS AT LAW  
ONE GATEWAY CENTER  
18<sup>th</sup> FLOOR - WEST  
PITTSBURGH, PENNSYLVANIA 15222  
TELEPHONE: 412-644-5545  
FACSIMILE: 412-644-5581

January 9, 2008

**VIA FAX AND MAIL**

Darryl R. Slimak, Esquire  
MCQUAIDE BLASKO FLEMING &  
FAULKNER, INC.  
811 University Drive  
State College, PA 16801-6699

David R. Johnson, Esquire  
THOMSON, RHODES & COWIE, P.C.  
Two Chatham Center, 10<sup>th</sup> Floor  
Pittsburgh, PA 15219

Walter Frederick Wall, Esquire  
120 Lakemont Park Boulevard  
Altoona, PA 16602

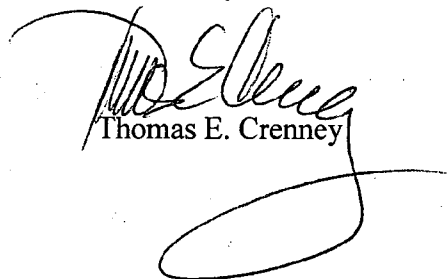
Re: Paula Carlson, et al. vs. Jerjis T. Alajaji, M.D., et al.  
Docket No. 2006 – 563 GD (Clearfield County)  
Our File No. 2895.01

Gentlemen:

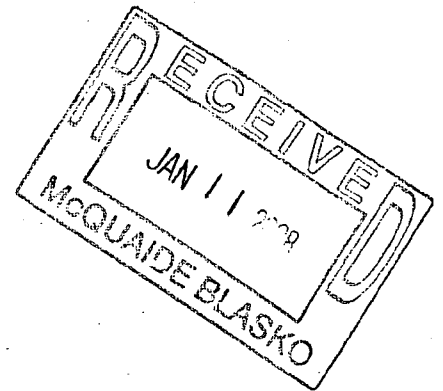
Please be advised Dr. Piasio's deposition has been rescheduled to begin at 4:00 p.m. as per Mr. Slimak's request. Enclosed please find an Amended Notice for same.

Thank you for your kind attention to this matter.

Yours truly,

  
Thomas E. Crenney

TEC/bjw  
Enclosure



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

PAULA CARLSON and  
JAMIE CARLSON, her husband,

Plaintiffs,

vs.

JERJIS T. ALAJAJI, M.D.,  
DUBOIS RADIOLOGISTS, INC.,  
and DUBOIS REGIONAL MEDICAL  
CENTER,

Defendants.

No. 2006-563-CD

Civil Action – Medical Professional  
Liability Action

**AMENDED NOTICE TO TAKE  
VIDEOTAPED DEPOSITION FOR  
USE AT TRIAL**

Filed on behalf of Plaintiffs

Counsel of Record for this Party:

Thomas E. Crenney, Esquire  
PA I.D. No. 40986

THOMAS E. CRENNY & ASSOCIATES, LLC  
One Gateway Center  
18<sup>th</sup> Floor West  
Pittsburgh, PA 15222  
412-644-5545

**JURY TRIAL DEMANDED**

## DATE:

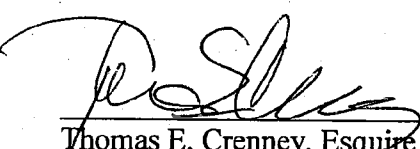
**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and correct copy of the foregoing AMENDED  
NOTICE TO TAKE VIDEOTAPED DEPOSITION FOR USE AT TRIAL was served by First <sup>Facsimile</sup>  
Class Mail, postage prepaid on the 9 day of JANUARY, 2008, as follows:

David R. Johnson, Esquire  
Thomson, Rhodes & Cowie, P.C.  
Two Chatham Center, 10<sup>th</sup> Floor  
Pittsburgh, PA 15219  
(Counsel for DuBois Regional Medical Center)

Darryl R. Slimak, Esquire  
McQuaide Blasko Fleming & Faulkner, Inc.  
811 University Drive  
State College, PA 16801  
(Counsel for Jerjis T. Alajaji, M.D.)

Walter Fredrick Wall, Esquire  
120 Lakemont Park Boulevard  
Altoona, PA 16602  
(Counsel for DuBois Radiologists, Inc.)

  
Thomas E. Crenney, Esquire  
Attorney for Plaintiffs

# EXHIBIT D

**THOMAS E. CRENNNEY & ASSOCIATES, LLC**

ATTORNEYS AT LAW  
ONE GATEWAY CENTER  
18<sup>th</sup> FLOOR - WEST  
PITTSBURGH, PENNSYLVANIA 15222  
TELEPHONE: 412-644-5545  
FACSIMILE: 412-644-5581

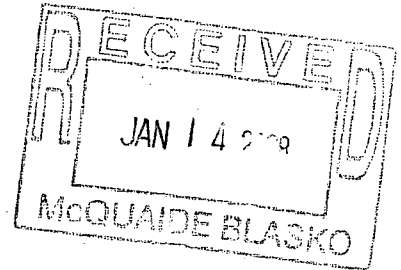
January 10, 2008

**VIA FAX AND MAIL**

Darryl R. Slimak, Esquire  
MCQUAIDE BLASKO FLEMING &  
FAULKNER, INC.  
811 University Drive  
State College, PA 16801-6699

Walter Frederick Wall, Esquire  
120 Lakemont Park Boulevard  
Altoona, PA 16602

David R. Johnson, Esquire  
THOMSON, RHODES & COWIE, P.C.  
Two Chatham Center, 10<sup>th</sup> Floor  
Pittsburgh, PA 15219



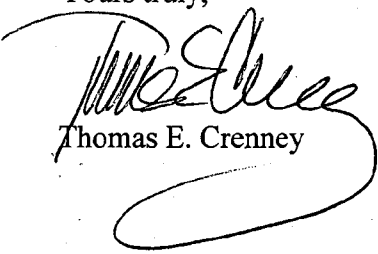
Re: Paula Carlson, et al. vs. Jerjis T. Alajaji, M.D., et al.  
Docket No. 2006 – 563 GD (Clearfield County)  
Our File No. 2895.01

Gentlemen:

Enclosed please find a Notice scheduling the Videotaped Deposition for Use at Trial of Dr. N. Anthony Mastropietro for Friday, January 25, 2008 at 2:00 p.m. in Lancaster, PA.

Thank you for your kind attention to this matter.

Yours truly,

  
Thomas E. Crenney

TEC/bjw  
Enclosure

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

PAULA CARLSON and  
JAMIE CARLSON, her husband,

Plaintiffs,

vs.

JERJIS T. ALAJAJI, M.D.,  
DUBOIS RADIOLOGISTS, INC.,  
and DUBOIS REGIONAL MEDICAL  
CENTER,

Defendants.

No. 2006-563-CD

Civil Action – Medical Professional  
Liability Action

**NOTICE TO TAKE VIDEOTAPED  
DEPOSITION FOR USE AT TRIAL**

Filed on behalf of Plaintiffs

Counsel of Record for this Party:

Thomas E. Crenney, Esquire  
PA I.D. No. 40986

THOMAS E. CRENNY & ASSOCIATES, LLC  
One Gateway Center  
18<sup>th</sup> Floor West  
Pittsburgh, PA 15222  
412-644-5545

**JURY TRIAL DEMANDED**



DATE: 1/10/08

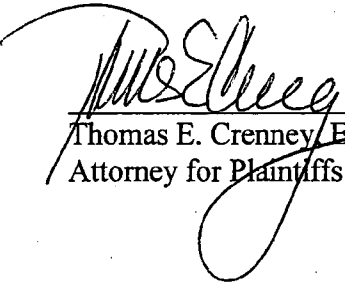
**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and correct copy of the foregoing NOTICE TO  
TAKE VIDEOTAPED DEPOSITION FOR USE AT TRIAL. was served by First Class Mail, <sup>Facsimile &</sup>  
postage prepaid on the 10 day of JANUARY, 2008 as follows:

David R. Johnson, Esquire  
Thomson, Rhodes & Cowie, P.C.  
Two Chatham Center, 10<sup>th</sup> Floor  
Pittsburgh, PA 15219  
(Counsel for DuBois Regional Medical Center)

Darryl R. Slimak, Esquire  
McQuaide Blasko Fleming & Faulkner, Inc.  
811 University Drive  
State College, PA 16801  
(Counsel for Jerjis T. Alajaji, M.D.)

Walter Fredrick Wall, Esquire  
120 Lakemont Park Boulevard  
Altoona, PA 16602  
(Counsel for DuBois Radiologists, Inc.)

  
\_\_\_\_\_  
Thomas E. Crenney, Esquire  
Attorney for Plaintiffs

Jan. 17. 2008 3:51AM

No. 0291 P. 1



Court Reporting & VideoTech Services

AKF Reporters, Inc.  
436 Boulevard of the Allies  
Pittsburgh, PA 15219-1314

412.261.2323  
1.888.253.3376

FAX 412.261.2537

Wednesday, January 16, 2008

LAW OFFICES OF THOMAS CRENNY  
& ASSOCIATES  
18th Floor, One Gateway Center  
Pittsburgh, PA 15222  
P 412-644-5545  
F 412-644-5581

Re: Upcoming Depositions in Carlson vs. Alajaji

Dear Mr. Crenney:

I am writing this letter in follow-up my phone conversation with your office today regarding the case.

You have hired our services to report the deposition of Dr. James Kenkel on Monday, January 21, 2008 at 1:00 p.m. at your office, and also the deposition of Dr. Mark Pisasio (which is also to be videotaped) on Tuesday, January 22, 2008, at 4:00 p.m. in DuBois. You have advised me that you are requesting to receive the transcript the following day of each of these depositions. I assured you in my conversation with you today that there will be no problem accommodating that request.

If there is anything further you need, please contact me.

Sincerely,

A handwritten signature in cursive script, appearing to read 'Ed Fulesday'.

Ed Fulesday  
President

Erie Office - 814.453.5700  
email: depo@akf.com  
http://www.akf.com

EXHIBIT A

GEIGER & LORIA

7175411509

01/16/08 03:52pm P. 001

2000 Park Drive, Suite B  
Harrisburg, PA 17110  
717-541-1508  
FAX: 717-541-1509



P.O. Box 8031  
Lancaster, PA 17604-8031  
717-295-7021

www.GeigerLoria.com gls@GeigerLoria.com  
1-800-222-4577

January 16, 2008

Thomas E. Crenney, Esq.  
Thomas E. Crenney & Associates  
One Gateway Center  
18th Floor - West  
Pittsburgh, PA 15222

RE: Paula Carlson vs Jerjis Alajaji,  
Deposition of Dr. N. Anthony Mastropietro, January 25, 2008

Dear Mr. Crenney:

This will confirm that we have a reporter and videographer scheduled for depositions to be held in the above captioned case. Additionally, the transcript will be complete and emailed within 24 hours after the deposition.

Sincerely,

Robin L. Smith  
General Manager

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL ACTION - MEDICAL PROFESSIONAL LIABILITY ACTION

PAULA CARLSON and JAMIE CARLSON,  
her husband,

Plaintiffs,

vs.

JERJIS T. ALAJAJI, M.D. and  
DUBOIS RADIOLOGISTS, INC., and  
DUBOIS REGIONAL MEDICAL CENTER,

Defendants.

Docket No: 2006 - 563 - C.D.

Jury Trial Demanded

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the Rule to Show Cause Regarding

Defendant Dr. Alajaji's Emergency Motion in the above-captioned matter was sent via facsimile  
and mailed by regular mail, postage prepaid, at the Post Office, State College, Pennsylvania, on  
this 16<sup>th</sup> day of January, 2008, to the attorney(s) of record:

Thomas E. Crenney, Esquire  
Thomas E. Crenney & Associates, LLC  
One Gateway Center 18<sup>th</sup> Floor West  
Pittsburgh, PA 15222

Walter F. Wall, Esquire  
Meyer, Darragh, Buckler, Bebenek & Eck, LLC  
120 Lakemont Park Boulevard  
Altoona, PA 16602

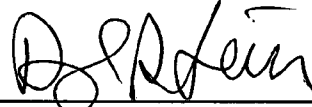
David R. Johnson, Esquire  
Thompson, Rhodes & Cowie, P.C.  
1010 Two Chatham Center  
Pittsburgh, PA 15219

**FILED**  
m/j/2/08  
JAN 17 2008

William A. Shaw  
Prothonotary/Clerk of Courts

McQUAIDE, BLASKO,  
FLEMING & FAULKNER, INC.

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

A handwritten signature in black ink, appearing to read "D. R. Slimak", written over a horizontal line.

Darryl R. Slimak  
Attorneys for Defendant  
JERJIS T. ALAJAJI, M.D.  
811 University Drive  
State College, PA 16801  
(814) 238-4926  
Fax: (814) 238-9624

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL ACTION - MEDICAL PROFESSIONAL LIABILITY ACTION

PAULA CARLSON and JAMIE CARLSON,  
her husband,

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JERJIS T. ALAJAJI, M.D. and  
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Defendants.

Docket No: 2006 - 563 - C.D.

Jury Trial Demanded

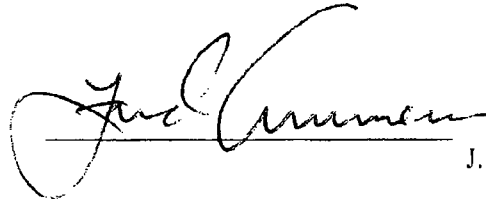
**RULE TO SHOW CAUSE**

AND NOW, this 16<sup>th</sup> day of JAN, 2008, the Plaintiffs are directed to show cause, if any they have, why Defendant Dr. Alajaji's Emergency Motion to Preclude Deposition of Plaintiffs' Expert Dr. Mastropietro Scheduled in Violation of Court Order of September 12, 2007 and Request for Attorneys' Fees, Costs and Expenses Under Pa. R.C.P. No. 4008, should not be granted.

This Rule is returnable for Answer and argument is scheduled for the 21<sup>st</sup> day of January, 2008, at 10:30 A.m. in Courtroom 1 of the Clearfield County Courthouse, Clearfield, Pennsylvania.

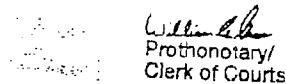
BY THE COURT

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

  
J.

JAN 16 2008

Attest.

  
Prothonotary/  
Clerk of Courts

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

PAULA CARLSON and  
JAMIE CARLSON, her husband,

Plaintiffs,

vs.

JERJIS T. ALAJAJI, M.D., DUBOIS  
RADIOLOGISTS, INC. and DUBOIS  
REGIONAL MEDICAL CENTER,

Defendants.

No. 2006-563-CD

Civil Action – Medical Professional  
Liability Action

**PLAINTIFFS' RESPONSE IN  
OPPOSITION TO DEFENDANT, DR.  
ALAJAJI'S EMERGENCY MOTION TO  
PRECLUDE DEPOSITION OF  
PLAINTIFF'S EXPERT, DR.  
MASTROPIETRO**

Filed on behalf of the Plaintiffs

Counsel of Records for this Party:

Thomas E. Crenney, Esquire  
PA I.D. No. 40986

James T. Tallman, Esquire  
PA I.D. No. 79257

THOMAS E. CRENNY & ASSOCIATES, LLC  
One Gateway Center  
18<sup>th</sup> Floor West  
Pittsburgh, PA 15222  
Telephone: (412) 644-5545  
Facsimile: (412) 644-5581

**JURY TRIAL DEMANDED**

**FILED**

013:02 CC  
JAN 18 2008

William A. Shaw  
Prothonotary/Clerk of Courts



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

PAULA CARLSON and  
JAMIE CARLSON, her husband,

Plaintiffs,

No. 2006-563-CD

Civil Action – Medical Professional  
Liability Action

vs.

JERJIS T. ALAJAJI, M.D., DUBOIS  
RADIOLOGISTS, INC. and DUBOIS  
REGIONAL MEDICAL CENTER,

Defendants.

**PLAINTIFFS' RESPONSE IN OPPOSITION TO DEFENDANT,  
DR. ALAJAJI'S EMERGENCY MOTION TO PRECLUDE  
DEPOSITION OF PLAINTIFF'S EXPERT, DR. MASTROPIETRO**

AND NOW, come the Plaintiffs, Paula Carlson and Jamie Carlson, by and through their attorneys, Thomas E. Crenney & Associates, LLC, and respectfully present the following Response in Opposition to Defendant, Dr. Alajaji's Emergency Motion to Preclude Deposition of Plaintiff's Expert, Dr. Mastropietro:

1. Admitted.
2. Admitted, except to the extent that it suggests that Plaintiffs' counsel did not comply with the Court's September 12, 2007 Order.
3. Denied as stated. The September 12, 2007 Order was issued by the Court when it was scheduled to try this case. Given the time demands on this Court, the case has been assigned to Centre County Senior Judge Charles C. Brown, Jr. It is assumed that Judge Brown does not have the same demands as the Court. It is certainly possible that Judge Brown will be able to decide objections in a timely and efficient manner even if objections are not submitted by the

deadline set by the September 12, 2007 Order. It is respectfully noted that it is practically impossible to accommodate the schedules of four lawyers and experts in the ordinary course of business, let alone in the context of a trial schedule. Further, throughout the pendency of this litigation, Attorney Slimak has routinely refused Plaintiff's calls. It is further noted that Attorneys Walter Wall and David Johnson have not complained about the depositions. Under the September 12, 2007 Order, the deadline for submitting objections to deposition testimony is Saturday, January 26, 2008. Pursuant to Pa. R.C.P. 106, the deadline becomes Monday, January 28, 2008. Plaintiffs' counsel does acknowledge that as a practical matter, objections to Dr. Mastropietro probably cannot be provided to the Court by January 28, 2008. Plaintiffs' counsel is attempting to reschedule Dr. Mastropietro's deposition to January 24, 2008.

4. Denied. Plaintiffs' counsel has complied with the Court's Order while also trying to accommodate the schedules of several experts. The time and place of Dr. Mastropietro's deposition was based on his schedule and availability. The transcripts for each of the depositions can be completed within twenty-four hours. (See letters from AKF and Geigler & Loria, collectively attached as Exhibit "A" hereto.) As noted above, the actual deadline for submitting objections to the Court would be Monday, January 28, 2008. See Pa.R.C.P. 106.

5. Denied. In further response, see ¶4 above.

6. Denied. Plaintiffs' counsel has acted in good faith and has complied with the Court's Order given Plaintiffs' experts' availability. Also, Plaintiffs' counsel had hoped that this case would settle and that Plaintiffs would not have to spend significant money on expert depositions long before trial. To the extent that submitting objections to Dr. Mastropietro's deposition by Monday, January 28, 2008 is a hardship to Defendants, Plaintiffs do not object to Defendants' having additional time.

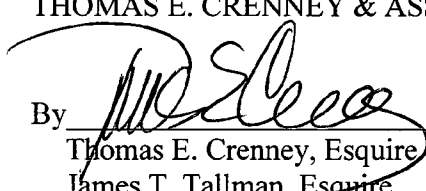
7. As for the location of Dr. James Kenkel's deposition, Plaintiffs have accommodated Defendants. Plaintiffs have changed the location of Dr. Kenkel's deposition to the offices of Attorney Milford McBride Jr. located at 211 South Center Street, Grove City, Pennsylvania, which is 100 miles from the Clearfield County Courthouse. Further, Plaintiffs have moved the starting time of Dr. Kenkel's deposition from 1:00 to 2:00 p.m., in light of this motion which is scheduled at 10:30 a.m. on the same day.

8. As for Dr. Mastropietro's deposition, the location is 124 miles from Attorney Slimak's office in State College, Pennsylvania. Plaintiffs do not believe there is any hardship for defense counsel to travel to Lancaster, Pennsylvania. However, Plaintiffs are willing to reimburse whatever expenses the Court deems appropriate under the circumstances.

WHEREFORE, Plaintiffs respectfully request that this Court deny Defendants' Motion to Preclude Deposition of Plaintiff's Expert, Dr. Mastropietro.

Respectfully submitted,

THOMAS E. CRENNNEY & ASSOCIATES, LLC

By 

Thomas E. Crenney, Esquire  
James T. Tallman, Esquire  
Attorney for Plaintiffs

One Gateway Center  
18<sup>th</sup> Floor - West  
Pittsburgh, PA 15222  
(412) 644-5545

DATE: 1/17/2008

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and correct copy of the foregoing  
**PLAINTIFFS' RESPONSE IN OPPOSITION TO DEFENDANT, DR. ALAJAJI'S**  
**EMERGENCY MOTION TO PRECLUDE DEPOSITION OF PLAINTIFF'S EXPERT,**  
facsimile and  
**DR. MASTROPIETRO** was served by First Class Mail, postage prepaid on the 17th day of  
January, 2008, as follows:

Darryl R. Slimak, Esquire  
MCQUAIDE BLASKO FLEMING & FAULKNER,  
INC.  
811 University Drive  
State College, PA 16801  
(Counsel for Jerjis T. Alajaji, M.D.)

David R. Johnson, Esquire  
THOMSON RHODES & COWIE  
Two Chatham Center, 10<sup>th</sup> Floor  
Pittsburgh, PA 15219  
(Counsel for DuBois Regional Medical Center)

Walter Fredrick Wall, Esquire  
MEYER, DARRAGH, BUCKLER, BEBENEK &  
ECK, P.L.L.C.  
120 Lakemont Park Boulevard  
Altoona, PA 16602  
(Counsel for DuBois Radiologists, Inc.)

  
\_\_\_\_\_  
Thomas E. Crenney, Esquire  
James T. Tallman, Esquire  
Attorneys for Plaintiff

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

PAULA CARLSON and  
JAMIE CARLSON, her husband,

Plaintiffs,

vs.

JERJIS T. ALAJAJI, M.D., DUBOIS  
RADIOLOGISTS, INC. and DUBOIS  
REGIONAL MEDICAL CENTER,

Defendants.

No. 2006-563-CD

Civil Action – Medical Professional  
Liability Action

**ORDER OF COURT**

AND NOW, this \_\_\_\_ day of \_\_\_\_\_, 2008, upon consideration of Plaintiffs' Response in Opposition to Defendant, Dr. Alajaji's Emergency Motion to Preclude Deposition of Plaintiff's Expert, Dr. Mastropietro, it is hereby ORDERED that Defendants' Emergency Motion is denied.

BY THE COURT

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

**THOMAS E. CRENNNEY & ASSOCIATES, LLC**

ATTORNEYS AT LAW  
ONE GATEWAY CENTER  
18<sup>th</sup> FLOOR - WEST  
PITTSBURGH, PENNSYLVANIA 15222  
TELEPHONE: 412-644-5545  
FACSIMILE: 412-644-5581

January 17, 2008

MON - 1/21/08

**Via Federal Express - Next Day Air**

Daniel Nelson, Court Administrator  
CLEARFIELD COUNTY COURTHOUSE  
230 East Market Street  
Clearfield, PA 16830

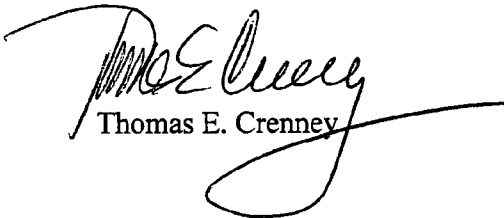
Re: Paula Carlson, et al v. Jerjis T. Alajaji, M.D., et al  
Clearfield County Case No. 2006-563-CD  
Our File No. 2895-01

Dear Mr. Nelson:

Enclosed for filing please find Plaintiffs' Response to Defendant Jerjis T. Alajaji's Emergency Motion to Preclude Deposition of Plaintiff's Expert, Dr. Mastropietro regarding trial depositions scheduled for Friday, January 25, 2008.

Thank you for your kind attention to this matter.

Yours truly,

  
Thomas E. Crenney

TEC/amp  
Enclosure

cc: (all with enclosures)

David R. Johnson, Esquire (Via Facsimile and U.S. Mail)

Darryl R. Slimak, Esquire (Via Facsimile and U.S. Mail)

Walter Fredrick Wall, Esquire (Via Facsimile and U.S. Mail)

Honorable Frederic Ammerman (Via Federal Express, Next Day Air)

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

PAULA CARLSON and  
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Plaintiffs,

vs.

JERJIS T. ALAJAJI, M.D., DUBOIS  
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REGIONAL MEDICAL CENTER,

Defendants.

No. 2006-563-CD

Civil Action – Medical Professional  
Liability Action

**PLAINTIFFS' RESPONSE IN  
OPPOSITION TO DEFENDANT, DR.  
ALAJAJI'S EMERGENCY MOTION TO  
PRECLUDE DEPOSITION OF  
PLAINTIFF'S EXPERT, DR.  
MASTROPIETRO**

Filed on behalf of the Plaintiffs

Counsel of Records for this Party:

Thomas E. Crenney, Esquire  
PA I.D. No. 40986

James T. Tallman, Esquire  
PA I.D. No. 79257

THOMAS E. CRENNY & ASSOCIATES, LLC  
One Gateway Center  
18<sup>th</sup> Floor West  
Pittsburgh, PA 15222  
Telephone: (412) 644-5545  
Facsimile: (412) 644-5581

**JURY TRIAL DEMANDED**

2

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

PAULA CARLSON and  
JAMIE CARLSON, her husband,

Plaintiffs,

vs.

JERJIS T. ALAJAJI, M.D., DUBOIS  
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REGIONAL MEDICAL CENTER,

Defendants.

No. 2006-563-CD

Civil Action – Medical Professional  
Liability Action

**PLAINTIFFS' RESPONSE IN OPPOSITION TO DEFENDANT,  
DR. ALAJAJI'S EMERGENCY MOTION TO PRECLUDE  
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2. Admitted, except to the extent that it suggests that Plaintiffs' counsel did not comply with the Court's September 12, 2007 Order.
3. Denied as stated. The September 12, 2007 Order was issued by the Court when it was scheduled to try this case. Given the time demands on this Court, the case has been assigned to Centre County Senior Judge Charles C. Brown, Jr. It is assumed that Judge Brown does not have the same demands as the Court. It is certainly possible that Judge Brown will be able to decide objections in a timely and efficient manner even if objections are not submitted by the



1  
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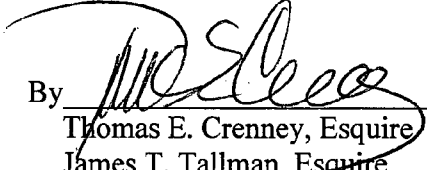
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WHEREFORE, Plaintiffs respectfully request that this Court deny Defendants' Motion to Preclude Deposition of Plaintiff's Expert, Dr. Mastropietro.

Respectfully submitted,

THOMAS E. CRENNY & ASSOCIATES, LLC

By

  
Thomas E. Crenney, Esquire  
James T. Tallman, Esquire  
Attorney for Plaintiffs

One Gateway Center  
18<sup>th</sup> Floor - West  
Pittsburgh, PA 15222  
(412) 644-5545

DATE: 1/17/2008

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and correct copy of the foregoing  
**PLAINTIFFS' RESPONSE IN OPPOSITION TO DEFENDANT, DR. ALAJAJI'S**  
**EMERGENCY MOTION TO PRECLUDE DEPOSITION OF PLAINTIFF'S EXPERT,**  
facsimile and  
**DR. MASTROPIETRO** was served by First Class Mail, postage prepaid on the 17th day of  
January, 2008, as follows:

Darryl R. Slimak, Esquire  
MCQUAIDE BLASKO FLEMING & FAULKNER,  
INC.  
811 University Drive  
State College, PA 16801  
(Counsel for Jerjis T. Alajaji, M.D.)

David R. Johnson, Esquire  
THOMSON RHODES & COWIE  
Two Chatham Center, 10<sup>th</sup> Floor  
Pittsburgh, PA 15219  
(Counsel for DuBois Regional Medical Center)

Walter Fredrick Wall, Esquire  
MEYER, DARRAGH, BUCKLER, BEBENEK &  
ECK, P.L.L.C.  
120 Lakemont Park Boulevard  
Altoona, PA 16602  
(Counsel for DuBois Radiologists, Inc.)

  
Thomas E. Crenney, Esquire  
James T. Tallman, Esquire  
Attorneys for Plaintiff

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

PAULA CARLSON and  
JAMIE CARLSON, her husband,

Plaintiffs,

No. 2006-563-CD

Civil Action – Medical Professional  
Liability Action

vs.

JERJIS T. ALAJAJI, M.D., DUBOIS  
RADIOLOGISTS, INC. and DUBOIS  
REGIONAL MEDICAL CENTER,

Defendants.

**ORDER OF COURT**

AND NOW, this \_\_\_\_ day of \_\_\_\_\_, 2008, upon consideration of Plaintiffs' Response in Opposition to Defendant, Dr. Alajaji's Emergency Motion to Preclude Deposition of Plaintiff's Expert, Dr. Mastropietro, it is hereby ORDERED that Defendants' Emergency Motion is denied.

BY THE COURT

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

Jan. 17. 2008 3:51AM

No. 0291 P. 1



Court Reporting & VideoTech Services

AKF Reporters, Inc.  
436 Boulevard of the Allies  
Pittsburgh, PA 15219-1314

412.261.2323  
1.888.253.3376

FAX 412.261.2537

Wednesday, January 16, 2008

LAW OFFICES OF THOMAS CRENNNEY  
& ASSOCIATES  
18th Floor, One Gateway Center  
Pittsburgh, PA 15222  
P 412-644-5545  
F 412-644-5581

Re: Upcoming Depositions in Carlson vs. Alajaji

Dear Mr. Crenney:

I am writing this letter in follow-up my phone conversation with your office today regarding the case.

You have hired our services to report the deposition of Dr. James Kenkel on Monday, January 21, 2008 at 1:00 p.m. at your office, and also the deposition of Dr. Mark Pisasio (which is also to be videotaped) on Tuesday, January 22, 2008, at 4:00 p.m. in DuBois. You have advised me that you are requesting to receive the transcript the following day of each of these depositions. I assured you in my conversation with you today that there will be no problem accommodating that request.

If there is anything further you need, please contact me.

Sincerely,

A handwritten signature in black ink, appearing to read 'Ed Fulesday'.

Ed Fulesday  
President

Eric Office - 814.453.5700  
email: depo@akf.com  
http://www.akf.com

EXHIBIT A

GEIGER & LORIA

7175411589

01/16/08 03:30pm P. 001

2400 Park Drive, Suite 8  
Harrisburg, PA 17110  
717-541-1508  
FAX: 717-541-1509



P.O. Box 8031  
Lancaster, PA 17604-8031  
717-299-7021

www.GeigerLoria.com gls@GeigerLoria.com  
1-800-222-4577

January 16, 2008

Thomas E. Crenney, Esq.  
Thomas E. Crenney & Associates  
One Gateway Center  
18th Floor - West  
Pittsburgh, PA 15222

RE: Paula Carlson vs Jerjis Alajaji,  
Deposition of Dr. N. Anthony Mastropietro, January 25, 2008

Dear Mr. Crenney:

This will confirm that we have a reporter and videographer scheduled for depositions to be held in the above captioned case. Additionally, the transcript will be complete and emailed within 24 hours after the deposition.

Sincerely,

Robin L. Smith  
General Manager

(29)

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL ACTION - MEDICAL PROFESSIONAL LIABILITY ACTION

PAULA CARLSON and JAMIE CARLSON,  
her husband,

Plaintiffs,

vs.

JERJIS T. ALAJAJI, M.D. and  
DUBOIS RADIOLOGISTS, INC., and  
DUBOIS REGIONAL MEDICAL CENTER,

Defendants.

Docket No: 2006 - 563 - C.D.

Jury Trial Demanded

**FILED**  
0/11:15 am  
JAN 21 2008

icc Atty's:  
Crenney  
Slimak  
(in person)  
without memo

William A. Shaw  
Prothonotary/Clerk of Courts

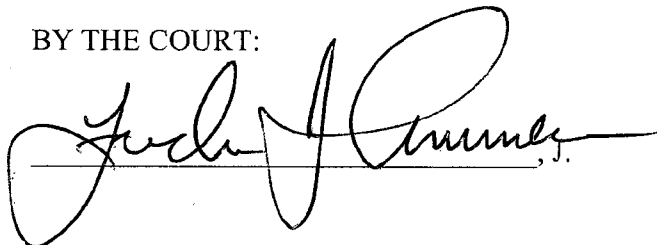
**ORDER**

AND NOW this 21 day of January, 2008, Defendant Dr. Alajaji's Motion to Strike and Preclude the deposition of Plaintiffs' expert Dr. Mastropietro unilaterally scheduled to be held in Lancaster, Pennsylvania on January 25, 2008 is hereby GRANTED. Said deposition is precluded to be taken on that said date as being in violation of this Court's scheduling Order of September 12, 2007, and prejudicial to the Defendants.

icc Atty's:  
Wall  
Johnson  
(with memo)  
(GP)

In addition, pursuant to Pa. R.C.P. No. 4008, Plaintiffs shall pay Defendant counsels' attorneys' fees, costs and expenses as incurred by reason of having to participate in trial depositions scheduled in excess of 100 miles from the Clearfield County Courthouse for the convenience of Plaintiffs and their witnesses.

BY THE COURT:



DATE: 1/21/08

☐ You are responsible for serving all appropriate parties.

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

☐ Plaintiff(s) ☒ Plaintiff(s) Attorney ☐ Other

☐ Defendant(s) ☒ Defendant(s) Attorney

☐ Special Instructions:

**FILED**

**JAN 21 2008**

William A. Shaw  
Prothonotary/Clerk of Courts



IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL ACTION - MEDICAL PROFESSIONAL LIABILITY ACTION

FILED

JAN 22 2008

0/3:45 (L)  
William A. Shaw

Prothonotary/Clerk of Courts

PAULA CARLSON and JAMIE CARLSON,  
her husband,

Plaintiffs,

vs.

JERJIS T. ALAJAJI, M.D. and  
DUBOIS RADIOLOGISTS, INC., and  
DUBOIS REGIONAL MEDICAL CENTER,

Defendants.

Docket No: 2006 - 563 - C.D. No 2/1

Jury Trial Demanded

Type of Pleading

***Defendant Dr. Alajaji's Combined  
Motions in Limine***

Filed on Behalf of Defendant

***Jerjis T. Alajaji, M.D.***

Counsel of Record for This Party

***Darryl R. Slimak, Esquire***

Pa. Supreme Court I.D. #41695

McQuaide, Blasko, Fleming &

Faulkner, Inc.

811 University Drive

State College, PA 16801

(814) 238-4926

Fax: (814) 238-9624

Counsel for Adverse Party

***Thomas E. Crenney, Esquire***

AND NOW comes Defendant, JERJIS T. ALAJAJI, M.D., by and through his attorney's McQuaide, Blasko, Fleming & Faulkner, Inc., and files the following Motions in Limine:

**I**  
**MOTION IN LIMINE TO PRECLUDE PLAINTIFFS**  
**FROM OFFERING TESTIMONY OR EVIDENCE**  
**REGARDING PLAINTIFF PAULA CARLSON'S**  
**SOCIAL SECURITY DISABILITY DETERMINATION**

1. The instant medical malpractice case is a claim for personal injury and disability allegedly arising from failure of the Defendant radiologist to detect a giant cell tumor of the distal radius bone at the Plaintiff's wrist.

2. In the attached April 24, 2007 report of Plaintiffs' orthopedic expert/treating physician Dr. Kenneth Yaw, he indicates that at Plaintiffs' Attorney Crenney's request, he reviewed various documents including: "(8) SSA Notice of Decision (fully favorable) of 3/5/2007." (See Exhibit "A," attached hereto). The paragraphs to follow fail to substantively discuss the Social Security Disability Determination, however, and set forth Dr. Yaw's medical opinion that an earlier diagnosis of her bone tumor would have allowed treatment that "would most likely have enabled to successfully return (Paula Carlson to) her career as a radiation therapy technologist."

3. There is no legitimate reason or basis for Dr. Yaw to cite the Social Security Administration Decision with regard to any opinions he has as to his care and treatment of Mrs. Carlson or as regards his medical opinion of whether Mrs. Carlson is medically capable of returning to work as a radiation technologist.

4. In the July 11, 2007 report of Plaintiffs' labor market survey vocational expert Donal Kirwan (a copy of which is attached hereto as Exhibit "B"), he references and quotes from the Social Security Administrative Decision that Mrs. Carlson was "adjudged disabled by the

Social Security Administration as of May 5, 2005,” and that according to same she only has “the residual functional capacity to perform sedentary work, with restrictions.” (pp. 2-3)

5. Mr. Kirwan also goes on to quote from the Social Security “Notice of a Decision,” at some length, including commenting that the Administrative Law Judge quoted a vocational expert who apparently participated in the Social Security determination who had “testified that given all these factors, there are no jobs in the national economy that the individual could perform.”

6. As a matter of law, determinations of or comments within a Social Security Disability Administrative Decision are not admissible in the instant proceedings, and reference to and/or use thereof at trial by Plaintiffs is highly prejudicial to the Defendant’s ability to obtain a fair trial.

7. A copy of the Social Security Disability Decision referenced by Dr. Yaw and Mr. Kirwan is attached hereto as Exhibit “C.” As is apparent from the Decision, the Social Security proceedings were nonadversarial proceedings at which only counsel for Mrs. Carlson appeared. The party Defendants to the instant civil liability action, of course, did not participate or present contrary evidence.

8. Also, the Decision is hearsay relating to hearsay of a vocational expert and has the aura of an official legal determination by an “Administrative Law Judge” and the United States Government. Moreover, while the Administrative Law Judge found Mrs. Carlson to be “disabled,” this was with reference to “disability” as defined by the Social Security Act so as to allow those types of benefits to be paid, which has unique definitions and burdens of proof involved in the Social Security proceedings. This determination was not a determination of total and permanent disability as would be at issue in a civil case. Moreover, while there was an

ultimate determination that Mrs. Carlson was “disabled” as defined in the Social Security statute, this is misleading in that the Decision also found that Mrs. Carlson “has a residual functional capacity to perform sedentary work activity,” but decided that benefits could nevertheless be awarded to Mrs. Carlson on the basis of the conclusion, subsequently proven to be erroneous by Plaintiff Carlson herself, that there supposedly were “no jobs that exist in significant numbers in the national economy that Claimant can perform.” *See* Findings of Fact #5 and #10; *see also* Finding of Fact/Conclusion of Law #11.

9. Shortly after receiving this favorable Decision, the record reflects that Mrs. Carlson actually obtained a job and commenced work at the local Red Lobster Restaurant. *See* documents attached hereto as Exhibit “D”; *see also*, deposition of Plaintiff-husband Jamie Carlson at pp. 25, 32, and 41, pertinent pages of which are attached hereto as Exhibit “E.” The documents and deposition testimony reveal that Plaintiff Paula Carlson commenced work as a seater/greeter at Red Lobster on January 29, 2007 and has continued to work there ever since.

10. For the reasons stated hereinbefore and in the Brief being filed concomitantly herewith, as a matter of law, the Social Security Disability Determination is inadmissible at the trial of this matter and Plaintiffs and their witnesses should be precluded from referring to or relying on same at the trial of this case.

WHEREFORE, Plaintiffs’ expert Dr. Yaw and Plaintiffs’ other witnesses should be precluded from referencing or relying upon or attempting to admit into evidence the Social Security Disability Determination regarding Paula Carlson.

**II**  
**MOTION IN LIMINE TO ALLOW LIMITED**  
**REFERENCE TO PLAINTIFF'S RECEIPT OF**  
**UNEMPLOYMENT COMPENSATION BENEFITS**

11. In the instant case, Paula Carlson testified in her deposition of October 4, 2006, pertinent portions of which are attached hereto as Exhibit "F," that she intentionally made no effort to seek alternative employment after medical treatment of her giant cell tumor of her wrist was received, for as long as she was able to collect unemployment compensation which was paid through November 2006. (pp. 157-158).

12. As a general rule, unemployment compensation benefits received by Plaintiff are not admissible in an action for personal injuries because it is a collateral source. However, an exception applies where the evidence of the receipt of unemployment compensation is relevant to a material issue in the case.

13. In that Plaintiff's receipt of income from unemployment compensation was the reason for her not seeking out or obtaining alternative employment, rather than due to total and complete disability which did not then exist, same constitutes an exception to the usual collateral source rule such that the fact of receipt of unemployment compensation must be held admissible at the trial of this matter.

14. Moreover, it is inconsistent for Plaintiff to be claiming that total disability resulted from the injury blamed on Dr. Alajaji, while receiving unemployment compensation which requires a willingness and readiness to work. As such, evidence of Plaintiff's receipt of unemployment compensation benefits is admissible at the trial of this matter.

WHEREFORE, Defendant Dr. Alajaji respectfully requests this Honorable Court grant his Motion in Limine and allow reference to Plaintiff's receipt of unemployment compensation as the basis for not pursuing available work through November 2006.

**III**  
**MOTION IN LIMINE TO PRECLUDE TESTIMONY**  
**FROM PLAINTIFFS' SPECIALLY RETAINED FAMILY**  
**PRACTICE/INTERNAL MEDICINE EXPERT,**  
**N. ANTHONY MASTROPIETRO, M.D.**

15. In the instant medical malpractice action against Defendant Board Certified Radiologist Dr. Alajaji, Plaintiffs have produced the curriculum vitae and two reports of specially retained family practice/internal medicine expert, N. Anthony Mastropietro, M.D., copies of which are attached hereto as Exhibit "G."

16. In the second paragraph of his report dated July 24, 2007, Dr. Mastropietro states as follows: "The first point I would like to make is that I personally reviewed the original wrist x-rays in this case. **I am not a radiologist**, but the offending lesion is so obvious that virtually any physician should be able to recognize it is an abnormality. It is not a 'subtle' finding."

17. Despite admitting he is not a radiologist and offering no qualifications for interpretation of x-rays, Dr. Mastropietro portends to offer an expert opinion that the x-ray depicts an abnormality, and moreover, that it is purportedly not a "subtle" finding.

18. Dr. Mastropietro also goes on to offer his "expert" opinions that the limited clinical information provided to the Defendant radiologist, and Dr. Mastropietro's assertion that he perceives an abnormality on the x-ray, "should have been more than sufficient to provide an accurate radiologic diagnosis."

19. Dr. Mastropietro is not qualified to offer an opinion as a radiologist, which he admits he is not, and/or to indicate that in his nonexpert opinion, there is an abnormality on the

x-rays, and that in his opinion the abnormality is purportedly “not subtle.” Moreover, he is not qualified to provide expert opinions as to what clinical information is sufficient for a Board Certified Radiologist to provide an accurate radiologic diagnosis.

20. Dr. Mastropietro’s opinions are also unnecessarily cumulative of the opinions of Plaintiffs’ other specially retained experts in radiology (Dr. Cooperstein) and orthopedic surgery (Dr. Yaw). *See* reports attached to Plaintiffs’ Pretrial Statement.

21. Dr. Mastropietro’s reports also reflect that he also intends to offer opinions that nonparty physician Dr. Graeca, and his Physician’s Assistant Lori Natoli, complied with the applicable standards of care for a primary care physician and for a physician’s assistant/ PA.

22. Dr. Mastropietro’s report then goes further, and seeks to criticize defense expert Dr. Horsley as purportedly not appropriately qualified to testify as regards the care or lack thereof by Physician’s Assistant Natoli and/or primary care physician, Dr. Graeca.

23. It is legally inappropriate for Dr. Mastropietro to appoint himself the judge in this case to make evidentiary rulings as to who is or is not qualified to testify at the trial of this matter. Thus, his proposed testimony as to whether Dr. Horsley is or is not qualified to testify must also be stricken and prohibited.

WHEREFORE, this Honorable Court should grant Dr. Alajaji’s Motion on Limine and preclude Dr. Mastropietro’s assertions of who is or is not qualified to testify, and in particular, from criticizing defense expert Dr. Horsley in this regard. Moreover, Dr. Mastropietro must be precluded from offering opinions as to interpretation of x-rays and/or standards of care of Board Certified Radiologist Defendant Dr. Alajaji.

IV  
**JOINDER IN MOTIONS IN LIMINE FILED BY**  
**DEFENDANT DUBOIS RADIOLOGISTS, INC.**

24. Defendant Dr. Alajaji joins in the following Motions in Limine of Defendant Dubois Radiologist, Inc.

(a) Motion in Limine to Preclude Plaintiff from trying to force Dubois Radiologist, Inc. Shareholder and employee, Dr. Ghansafar Shah, M.D. to be an expert witness at the trial of this matter regarding allegedly negligent conduct of Dr. Alajaji. In addition to the fact that Dr. Shah cannot be required or compelled to give expert testimony concerning Dr. Alajaji, on the basis of *Jistarri v. Nappi*, 549 A.2d, 210, (Pa. Super. Ct. 1988) and *Evans v. Otis Elevator, Co*, 168 A.2d 573, (Pa. 1961), Plaintiffs have not provided an expert report from Dr. Shah.

WHEREFORE, Defendant Dr. Alajaji, respectfully requests this Court grant his Motion in Limine, and preclude Plaintiffs from calling Dr. Shah as an expert witness to the trial of this matter.

(b) Dr. Alajaji joins in Motion in Limine II of Defendant Dubois Radiologist, Inc. in that there is no relevance to agreements between Dubois Radiologist, Inc. and Dubois Regional Medical Center, particularly in light of an offer to stipulate as to the employment relationship between Dubois Radiologist, Inc. and Dr. Alajaji, set forth in Dubois Radiologist, Inc.'s Motion in Limine, and in that the agreement prejudicially references irrelevant insurance and agreements or obligations to provide insurance.

WHEREFORE, Defendant Dr. Alajaji respectfully requests that this Honorable Court preclude Plaintiff from offering into evidence or referencing the agreement between Dubois Radiologist, Inc. and Dubois Regional Medical Center.

(c) Defendant Alajaji joins in Dubois Radiologist Inc.'s Motion in Limine III to preclude Plaintiff from referencing or offering into evidence Dr. Alajaji's legal Complaint of improper and/or wrongful termination of his services of employment by Dubois Radiologist, Inc. and/or loss of privileges at Dubois Regional Medical Center because of the dispute between the



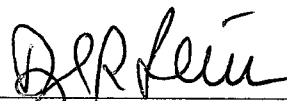
Medical Center and Dr. Alajaji concerning the Medical Center's internet usage policy. The circumstances and reasons related to Dr. Alajaji's loss of privileges at Dubois Regional Medical Center have nothing to do with the instant case or his competency or qualifications as a radiologist. Introduction of these reasons or issues relating to his termination of employment or loss of privileges at the hospital by virtue of internet usage is highly prejudicial and would interject collateral issues in to the trial's case, mislead and confuse the jury, and prejudice Dr. Alajaji's defense in the minds of the jury, particularly in that not only is same irrelevant and immaterial to the issues in this case, it implicates issues of Dr. Alajaji's middle eastern heritage and religious beliefs. A copy of Dr. Alajaji's legal Complaint filed regarding his improper termination is attached hereto as Exhibit "H."

WHEREFORE, Defendant, Dr. Alajaji, respectfully requests this Honorable Court grant his Motion in Limine and preclude Plaintiff or any other party from questioning any witness or attempting to present in evidence the facts and circumstance or allegations pertaining to the reasons for Dr. Alajaji's termination of privileges and employment at Dubois Regional Medical Center and/or Dubois Radiologists, Inc.

Respectfully submitted,

McQUAIDE, BLASKO,  
FLEMING & FAULKNER, INC.

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

  
Darryl R. Slimak  
Attorneys for Defendant  
JERJIS T. ALAJAJI, M.D.  
811 University Drive  
State College, PA 16801  
(814) 238-4926  
Fax: (814) 238-9624

Dated: 1-22-2008

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

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

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

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL ACTION - MEDICAL PROFESSIONAL LIABILITY ACTION

PAULA CARLSON and JAMIE CARLSON,  
her husband,

Plaintiffs,

vs.

JERJIS T. ALAJAJI, M.D. and  
DUBOIS RADIOLOGISTS, INC., and  
DUBOIS REGIONAL MEDICAL CENTER,

Defendants.

Docket No: 2006 - 563 - C.D.

Jury Trial Demanded

**RULE TO SHOW CAUSE**

AND NOW, this \_\_\_\_ day of \_\_\_\_\_, 2008, the Plaintiffs are directed to show  
cause, if any they have, why Defendant Dr. Alajaji's Motions in Limine should not be granted.

This Rule is returnable for Answer and argument is scheduled for the 30<sup>th</sup> day of January,  
2008, at 1:30 p.m. in Courtroom No. 2 of the Clearfield County Courthouse, Clearfield,  
Pennsylvania.

BY THE COURT

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

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL ACTION - MEDICAL PROFESSIONAL LIABILITY ACTION

PAULA CARLSON and JAMIE CARLSON,  
her husband,

Plaintiffs,

vs.

JERJIS T. ALAJAJI, M.D. and  
DUBOIS RADIOLOGISTS, INC., and  
DUBOIS REGIONAL MEDICAL CENTER,

Defendants.

Docket No: 2006 - 563 - C.D.

Jury Trial Demanded

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the Defendant Dr. Alajaji's Motions in Limine in the above-captioned matter was mailed by regular mail, postage prepaid, at the Post Office, State College, Pennsylvania, on this 22<sup>nd</sup> day of January, 2008, to the attorney(s) of record:

Thomas E. Crenney, Esquire  
Thomas E. Crenney & Associates, LLC  
One Gateway Center 18<sup>th</sup> Floor West  
Pittsburgh, PA 15222

Walter F. Wall, Esquire  
Meyer, Darragh, Buckler, Bebenek & Eck, LLC  
120 Lakemont Park Boulevard  
Altoona, PA 16602

David R. Johnson, Esquire  
Thompson, Rhodes & Cowie, P.C.  
1010 Two Chatham Center  
Pittsburgh, PA 15219

McQUAIDE, BLASKO,  
FLEMING & FAULKNER, INC.

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

Darryl R. Slimak  
Attorneys for Defendant  
JERJIS T. ALAJAJI, M.D.  
811 University Drive  
State College, PA 16801  
(814) 238-4926  
Fax: (814) 238-9624

# EXHIBIT A



Kenneth M. Yaw, M.D.  
1293 Mission Nuevo Drive, Unit B  
Las Cruces, NM 88011  
Cell 412-952-3819 [orthoyaw@comcast.net](mailto:orthoyaw@comcast.net) Fax 412-291-1526

April 24, 2007

Mr. Thomas E. Crenney  
One Gateway Center, 18<sup>th</sup> Floor West  
Pittsburgh, PA 15222

RE: Paula Carlson (DOB 4/26/1971)

Dear Mr. Crenney:

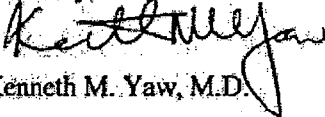
At your request I have reviewed the following documents regarding Paula Carlson:

- 1) X-ray reports of 4/12/2005 and 6/9/2005
- 2) Office note of Dr. Mark Piasio of 6/9/2005
- 3) Dr. Mark Piasio letter to me of 6/13/2005
- 4) Mercy Orthopedic Associates notes of 6/17/2005 (mine) and 2/14/2007 (Dr. Richman)
- 5) MRI report of 6/9/2005
- 6) My letters to you of 2/23/2006 and 3/7/2006
- 7) Office of Vocation Rehabilitation (Mary DeFranco) report 1/29/2007
- 8) SSA Notice of Decision (Fully Favorable) of 3/5/2007

It is my opinion that had the diagnosis been made on the 4/12/2005 x-rays then the treatment would have consisted of intralesional excision and packing of the hole thereby preserving Mrs. Carlson's distal radius and normal wrist joint. In that case it is more than likely that she would have had nearly normal wrist function and would most likely have been able to successfully return to her career as a radiation therapy technologist.

My opinions expressed in this letter are stated with a reasonable degree of medical certainty.

Sincerely,

  
Kenneth M. Yaw, M.D.

# EXHIBIT B

## FORENSIC HUMAN RESOURCES

413 Sylvania Drive  
Pittsburgh, PA 15229

Phone: (412) 260-8000

Fax: (412) 364-7221

June 11, 2007

Mr. Thomas E. Crenney, Esq.  
Thomas E. Crenney & Associates, LLC  
One Gateway Center, 18<sup>th</sup> Floor West  
Pittsburgh, PA 15222

Dear Mr. Crenney:

You asked that I prepare a Labor Market Survey regarding your client, Paula Carlson.

I reviewed the following documents in order to prepare this Labor Market Survey:

- Offices notes of Kenneth Yaw, MD and Jory Richman, MD dated 1995 through 2/14/07;
- Dr. Yaw's report of 4/24/2007;
- Ms. Carlson's 2007 pay stubs from her employment at the Red Lobster;
- Job description for a Radiation Therapist at the DuBois Regional Medical Center (DRMC);
- Letter dated 1/29/2007 and the records of Mary T. DeFranco of the Pennsylvania Office of Vocational Rehabilitation;
- Social Security Disability file for Ms. Carlson;
- Ms. Carlson's Human Resources file from DRMC;
- Ms. Carlson's Employee Health file from DRMC; and,
- Copy of the transcript of the deposition of Ms. Carlson conducted October 4, 2006.

### **Educational and Work History Background**

Paula Carlson is currently 36.14 years old. She studied radiation technology and subsequently graduated from the radiation therapy program at Community College of Allegheny County. Ms. Carlson worked at the DuBois Regional Medical Center from August 1992 to May 5, 2005. Her hourly pay rate at that time was \$32.26 per hour. In addition, she received fringe benefits which I valued at 30.4% of her wages. Ms. Carlson began work in February 2007 as a seater at the Red Lobster at a pay rate of \$6.25 per hour. She is currently earning \$6.50 per hour. She is currently working 14 hours per week. Her fringe benefits in this position are the value of the employer's contribution to the Social Security Retirement program, 5.9% of her wages.

**Medical History**

Dr. Yaw, on June 17, 2005, writes:

This is a 35 year old right hand dominant woman referred for office consultation regarding tumor in her right distal radius. The patient reports onset of aching wrist discomfort in April, 2005 with repeated lifting. She was treated with an elastic sleeve and some physical therapy and did not have any relief. She gradually went on to have progressively worsening pain and was recently found to have a tumor in the distal radius.

Ms. Carlson underwent a biopsy of the right distal radius on June 20, 2005 followed by a radical resection of the right distal radius on June 27, 2005. Dr. Yaw's 7/10/2006 office note reports that:

She has a fused (non-mobile) right wrist with some weakening of grip and strength in her right hand....As part of her job description she is required to be able to lift 50lb overhead. Both these functional capacity evaluations came to the conclusion that she cannot now and probably never will be able to do that.

It is my opinion with a reasonable degree of medical certainty that Paula Carlson is permanently precluded to return to work as a radiation therapy technician under the usual description of that job which requires significant lifting with the right upper extremity. While there may be some variation in what she is capable of in the future, I think for planning purposes it would be reasonable to expect her to lift from 3-5 lb with her right upper extremity on a periodic but not repetitive basis.

Dr. Yaw's office note of 9/7/06 notes that Ms. Carlson continued to have pain and sensitivity to touch and motion in the right wrist. He states: "Her functional status remains as previously documented with limited lifting ability because of loss of motion, loss of muscle power, and sensitivity to direct force."

Dr. Richman's office note of 2/14/07 states:

She is doing reasonably well although she does have chronic pain that requires occasional opiate medication. She was forced to discontinue working as a radiation therapist and currently works as a seater for Red Lobster but she has trouble clearing tables due to her chronic wrist and forearm pain.

I do believe she is effectively disabled from gainful employment that involves the use of the right arm due to her chronic pain.

Dr. Richman also notes that Ms. Carlson was applying for Social Security Disability benefits: She has subsequently been adjudged disabled by the Social Security Administration as of May 5, 2005. The Notice of Decision, dated 5 March 2007, details the reasons Ms. Carlson met the criteria under which she was adjudged disabled and will not be repeated here, except to note that

Ms. Carlson does have the residual functional capacity to perform sedentary work, with restrictions. The Notice of Decision states:

If the claimant had the residual functional capacity to perform the full range of sedentary work, a finding of "not disabled" would be directed by Medical-Vocational Rule 201.28. However, the claimant's ability to perform all or substantially all of the requirements of this level of work has been impeded by additional limitations. To determine the extent to which these limitations erode the unskilled sedentary occupational base, the Administrative Law Judge asked the vocational expert whether jobs exist in the national economy for an individual with the claimant's age, education, work experience and residual functional capacity. The vocational expert testified that given all these factors there are no jobs in the national economy that the individual could perform.

#### Other Pertinent Information

Ms. Carlson has attempted to find other employment and, in those attempts, utilized the services of the Pennsylvania Department of Labor and Industry's Office of Vocational Rehabilitation (OVR). Ms. Carlson worked with Mary T. DeFranco of the DuBois office who writes on January 29, 2007:

Paula has very significant limitations with her dominant hand and wrist due to surgery to remove a bone tumor. She has very poor general strength, grip, speed, endurance, dexterity and coordination. She does not have sufficient ability with her non-dominant hand to make up for the limitations with the other.

Although Paula worked for years, her education, skills and experience are very specific to her field. Unfortunately, she can no longer handle the duties of a radiation therapist. ***She is not qualified for anything else and has no other work experience.*** (Emphasis added) Her severe limitations make it difficult to establish appropriate vocational goals; for example, even sedentary and/or professional jobs require activities including computer use and other fine motor skills, such as writing and manipulating. As a result, I cautioned Paula that it may be very difficult, if not impossible, to find something she will be able to handle, plus, if/when a position is found, it likely will be part-time and low-paying.

Although the overall goal is for Paula to return to work in some capacity, it is not likely she will be gainfully employed, as in the past.

Ms. Carlson lives in Falls Creek, Pa, in Jefferson County. She had previously worked at the DuBois Regional Medical Center which is in Clearfield County. For purposes of this report, prospective job opportunities in both counties were evaluated. The Pennsylvania Careerlink website (<http://www.pacareerlink.state.pa.us/>) was used to evaluate potential opportunities in Ms. Carlson's area. As of this date, that website showed 107 potential openings in Jefferson County and 126 in Clearfield County. Jobs posted on that website included the following, among others:

Care Aide  
Front Desk Clerk  
Housekeeper  
Server  
Medical Office Clerk  
Sales Professional (Insurance sales)  
Planner/Buyer/Scheduler  
Part-time Personal Care Aide  
Entry level Manufacturing Technicians

A review of the posted job requirements for these jobs shows that the physical requirements are beyond Ms. Carlson's functional capacity. Some of the posted jobs require specialized training or education (e.g., Licensed Outpatient Therapist, Family Based Therapist) and some listed jobs were part-time. One job, that of the Front Desk Clerk, was for evening and weekend work and required computer knowledge and use. That job had a posted wage rate of \$6.25 per hour.

One posted opportunity at the time of the survey was for the position of Office Support-Route Coordinator. That position was listed as a full-time opportunity in DuBois with a pay rate of \$9.50. The employer was Paris Uniform Rental & Supply and we learned that the position required a good deal of computer work. There is concern regarding Ms. Carlson's ability to handle the required job duties given the limitations involving her right wrist.

Competing in the labor market puts Ms. Carlson, with her physical work limitations, at a significant competitive disadvantage. The Pennsylvania Department of Labor and Industry Center for Workforce Information and Analysis website, <http://www.paworkstats.state.pa.us>, data show that there are 5,605 private employers within a 25 mile radius of zip code 15840, Ms. Carlson's home zip code. Of the 5,605 employers, 1,281 have over 10 employees and only 115 have over 100 employees. Smaller employers are more likely to be reluctant to hire an individual with a work restriction due to concerns over productivity.<sup>1</sup> As Ms. DeFranco notes, any job she does find will likely be part-time and low-paying. The jobs available through PA Career Link bear out that assessment since many jobs listed on the website are for part-time, low-paying positions.

Adding to her competitive disadvantage in the labor market, U.S. Census Bureau data show that only 57.4% of the population in Clearfield County and 58.4% of the Jefferson County population over 16 are in the labor force. That means there would be significant competition for any posted job openings.

The number of employed in the two county area has grown from 47,299 to 47,861 from the first quarter 2000 to 2006.<sup>2</sup> However, as shown in the table below, the number of new hires has consistently been exceeded by the number of separations over the same period.

Change in Employment, Jefferson and Clearfield counties, Q1 2000 – Q1 2006

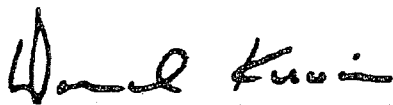
|              | 2000   | 2001   | 2002   | 2003   | 2004   | 2005   | 2006   |
|--------------|--------|--------|--------|--------|--------|--------|--------|
| Employment   | 47,299 | 46,366 | 45,840 | 45,993 | 45,489 | 45,606 | 47,861 |
| Job Creation | 2,459  | 2,452  | 4,651  | 2,230  | 2,025  | 2,212  | 2,325  |
| New Hires    | 5,583  | 5,395  | 5,800  | 5,033  | 6,622  | 5,459  | 5,469  |
| Separations  | 7,002  | 7,194  | 6,627  | 6,396  | 8,192  | 5,270  | 5,982  |

### Conclusion

It is my opinion, based on over thirty years experience in the staffing industry and Human Resources profession, that Ms. Carlson will not be able to find work in her prior field as a radiation therapist due to the weight lifting requirements. It is also my opinion that she will not be able to obtain employment in jobs other than those similar to her present one due to her physical restrictions. It is also my opinion, based on my experience, that Ms. Carlson will be at a disadvantage in the labor market due to her specialized education and work history: she has limited transferable skills from her prior occupation as a radiation therapist. Another factor to be considered, from my experience in staffing, is the reluctance on the part of employers to consider a candidate who, in the past, has earned significantly more than the wage being offered. That is, she had been earning \$32.26 per hour in 2005: the Center for Workforce Information and Analysis website data show that the average wage for all occupations in Clearfield County is \$13.76 per hour and \$12.94 in Jefferson County.<sup>3</sup> As noted above, the posted jobs are in the range \$6.25 and \$9.50 per hour.

The research reflected in this report was done by the author or individuals under my direction and supervision.

Very truly yours,



Donal F. Kirwan, SPHR

### Endnotes:

1. See Bricourt, John C. and Bentley, Kia J., "Disability Status and Perceptions of Employability by Employers," Social Work Research, Vol 24, no. 2, June 2000, pp 87-95
2. Source: <http://lehd.dsd.census.gov/led/datatools/qwiapp.html>
3. County Profiles for Clearfield and Jefferson counties, May 2007, accessed at <http://www.paworkstats.state.pa.us/gsipub/index.asp?docid=372>

## FORENSIC HUMAN RESOURCES

413 Sylvania Drive  
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August 15, 2007

Mr. Thomas E. Crenney, Esq.  
Thomas E. Crenney & Associates, LLC  
Attorneys at Law  
One Gateway Center, 18<sup>th</sup> Floor West  
Pittsburgh, PA 15222

Dear Mr. Crenney:

You asked that I comment on the Initial Vocational Report dated May 14, 2007 and the Labor Market Survey Report dated June 18, 2007 authored by Ronald S. Kushner.

In the Initial Vocational Report, Mr. Kushner notes that Ms. Carlson could be retrained in four medical-related occupations (Medical Technologist, Phlebotomist, Respiratory Therapist and Nurse). It is reasonable to expect that people performing the duties required of those occupations require the use of both hands to perform the respective job duties. He seems not to take into consideration Ms. Carlson limitations.

He also feels that Ms. Carlson could be retrained as a pharmaceutical or medical device sales person. It is my opinion based on over thirty years in the staffing industry and Human Resources profession, as well as the research performed in other cases, that the minimum educational background necessary to be considered for either of those positions would be a Bachelor's degree. Also necessary to be competitive would be sales experience. Ms. Carlson lacks the degree and the sales experience.

In the Labor Market Survey, Mr. Kushner notes he considered the cost of retraining Ms. Carlson as a nurse at Penn State, Altoona, without considering the distance between her home and the campus. That distance, approximately 50 miles each way, would possibly necessitate relocation.<sup>1</sup>

He also states the Ms. Carlson could possibly return to work as a radiation therapist. Ms. Carlson would be an employee at will which makes any employment situation based upon their performance and management's continued willingness to accommodate her physical limitations.

Mr. Kushner states: "in view of Ms. Carlson's recurrent work injures and demonstrated pre-existing medical and strength problems, such accommodations may well be needed in any event to continue work as a Radiation Therapist, and/or to prevent further injuries even if Ms. Carlson had not experience the tumor problems." He does not mention that Ms. Carlson had previously performed the same job without accommodations.



Mr. Kushner also suggests that, with retraining as a nurse, Ms. Carlson could obtain employment as a School Nurse or as a nurse in a medical office. It stands to reason that these are not entry level jobs and that they would be offered to nurses with more years experience. He also believes that, should she retrain as a nurse, she could complete her degree at Penn State, DuBois without considering the fact that the nursing program is not offered there.

Based on my past research, the number of opportunities for pharmaceutical sales representatives, information obtained from a reliable industry source notwithstanding, is actually declining. Again, Mr. Kushner suggests that Ms. Carlson could attend Penn State, Altoona but does include the cost of housing. That begs the questions: would there be an appropriate job for her husband available in the area and, would her children relocate?

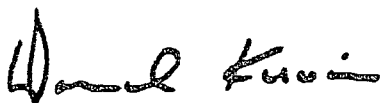
Of interest is his comment that "One or more of these jobs [minimum wage jobs] could be combined to obtain a full time work equivalent." He does not make mention of the disparity between the wages generated by her past job as a Radiation Therapist and those minimum wage jobs.

Mr. Kushner also does not take into account the report of Mary T. DeFranco in the DuBois Office of Vocational Rehabilitation which states that:

Although Paula worked for years, her education, skills and experience are very specific to her field. Unfortunately, she can no longer handle the duties of a radiation therapist. She is not qualified for anything else and has no other work experience. Her severe limitations make it difficult to establish appropriate vocational goals.

To reiterate, it is my opinion that Ms. Carlson will not be able to obtain employment in jobs other than those similar to her present one due to her physical restrictions. It is also my opinion, based on my experience, that Ms. Carlson will be at a disadvantage in the labor market due to her specialized education and work history: she has limited transferable skills from her prior occupation as a radiation therapist. Another factor to be considered, from my experience in staffing, is the reluctance on the part of employers to consider a candidate who, in the past, has earned significantly more than the wage being offered.

Very truly yours,



Donal F. Kirwan, SPHR

Endnotes:

1. <http://www.city-data.com/city/Falls-Creek-Pennsylvania.html>

# EXHIBIT C



1-800-780-1040 3/11/07 4-8 W-701  
SOCIAL SECURITY ADMINISTRATION *Call in 46 WKS*

Refer To: 201-66-3077

Office of Disability Adjudication and Review  
334 Washington St., Suite 200  
Johnstown, PA 15901  
Telephone: (814) 533-4462  
Date:

05 MAR 2007

Paula Jo Carlson  
1373 Sandstone Dr.  
Falls Creek, PA 15840

### NOTICE OF DECISION - FULLY FAVORABLE

I have made the enclosed decision in your case. Please read this notice and the decision carefully.

#### **This Decision is Fully Favorable To You**

Another office will process the decision and send you a letter about your benefits. Your local Social Security office or another may first ask you for more information. If you do not hear anything for 60 days, contact your local office.

#### **The Appeals Council May Review The Decision On Its Own**

The Appeals Council may decide to review my decision even though you do not ask it to do so. To do that, the Council must mail you a notice about its review within 60 days from the date shown above. Review at the Council's own motion could make the decision less favorable or unfavorable to you.

#### **If You Disagree With The Decision**

If you believe my decision is not fully favorable to you, or if you disagree with it for any reason, you may file an appeal with the Appeals Council.

#### **How to File an Appeal**

To file an appeal you or your representative must request that the Appeals Council review the decision. You must make the request in writing. You may use our Request for Review form, HA-520, or write a letter.

You may file your request at any local Social Security office or a hearing office. You may also mail your request right to the Appeals Council, Office of Disability Adjudication and Review, 5107 Leesburg Pike, Falls Church, VA 22041-3255. Please put the Social Security number shown above on any appeal you file.

See Next Page

### **Time to File an Appeal**

To file an appeal, you must file your request for review **within 60 days** from the date you get this notice.

The Appeals Council assumes you got the notice 5 days after the date shown above unless you show you did not get it within the 5-day period. The Council will dismiss a late request unless you show you had a good reason for not filing it on time.

### **Time to Submit New Evidence**

You should submit any new evidence you wish to the Appeals Council to consider **with** your request for review.

### **How an Appeal Works**

Our regulations state the rules the Appeals Council applies to decide when and how to review a case. These rules appear in the Code of Federal Regulations, Title 20, Chapter III, Part 404 (Subpart J).

If you file an appeal, the Council will consider all of my decision, even the parts with which you agree. The Council may review your case for any reason. It **will** review your case if one of the reasons for review listed in our regulation exists. Section 404.970 of the regulation lists these reasons.

Requesting review places the entire record of your case before the Council. Review can make any part of my decision more or less favorable or unfavorable to you.

On review, the Council may itself consider the issues and decide your case. The Council may also send it back to an Administrative Law Judge for a new decision.

### **If No Appeal and No Appeals Council Review**

If you do not appeal and the Council does not review my decision on its own motion, you will not have a right to court review. My decision will be a final decision that can be changed only under special rules.

Paula Jo Carlson (201-66-3077)

Page 3 of 3

**If You Have Any Questions**

If you have any questions, you may call, write or visit any Social Security office. If you visit an office, please bring this notice and decision with you. The telephone number of the local office that serves your area is (814) 372-1470. Its address is 302 Liberty Blvd, Dubois, PA 15801.

cc: Martin G. Colavincenzo  
Attorney at Law  
4 West Manilla Avenue  
Pittsburgh, PA 15220

**SOCIAL SECURITY ADMINISTRATION  
Office of Disability Adjudication and Review**

**DECISION**

**IN THE CASE OF**

Paula Jo Carlson  
(Claimant)

(Wage Earner)

**CLAIM FOR**

Period of Disability and  
Disability Insurance Benefits

201-66-3077

(Social Security Number)

**JURISDICTION AND PROCEDURAL HISTORY**

On May 1, 2006, the claimant protectively filed an application for a period of disability and disability insurance benefits, alleging disability beginning May 5, 2005. This claim was denied and is now before the undersigned Administrative Law Judge on a timely written request for hearing filed on October 15, 2006 (20 CFR 404.929 *et seq.*). The claimant appeared and testified at a hearing held on February 15, 2007, in Dubois, Pennsylvania. Judy Schollaert, an impartial vocational expert, also appeared at the hearing. The claimant is represented by Martin G. Colavincenzo, Attorney at Law.

**ISSUES**

The issue is whether the claimant is disabled under Sections 216(i) and 223(d) of the Social Security Act. Disability is defined as the inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment or combination of impairments that can be expected to result in death or that has lasted or can be expected to last for a continuous period of not less than 12 months.

There is an additional issue whether the insured status requirements of Sections 216(i) and 223 of the Social Security Act are met. The claimant's earnings record shows that the claimant has acquired sufficient quarters of coverage to remain insured through December 31, 2010. Thus, the claimant must establish disability on or before that date in order to be entitled to a period of disability and disability insurance benefits.

After careful review of the entire record, the undersigned finds that the claimant has been disabled from May 5, 2005 through the date of this decision. The undersigned also finds that the insured status requirements of the Social Security Act were met as of the date disability is established.

See Next Page

**APPLICABLE LAW**

Under the authority of the Social Security Act, the Social Security Administration has established a five-step sequential evaluation process for determining whether an individual is disabled (20 CFR 404.1520(a)). The steps are followed in order. If it is determined that the claimant is or is not disabled at a step of the evaluation process, the evaluation will not go on to the next step.

At step one, the undersigned must determine whether the claimant is engaging in substantial gainful activity (20 CFR 404.1520(b)). Substantial gainful activity (SGA) is defined as work activity that is both substantial and gainful. "Substantial work activity" is work activity that involves doing significant physical or mental activities (20 CFR 404.1572(a)). "Gainful work activity" is work that is usually done for pay or profit, whether or not a profit is realized (20 CFR 404.1572(b)). Generally, if an individual has earnings from employment or self-employment above a specific level set out in the regulations, it is presumed that she has demonstrated the ability to engage in SGA (20 CFR 404.1574 and 404.1575). If an individual engages in SGA, she is not disabled regardless of how severe her physical or mental impairments are and regardless of her age, education, and work experience. If the individual is not engaging in SGA, the analysis proceeds to the second step.

At step two, the undersigned must determine whether the claimant has a medically determinable impairment that is "severe" or a combination of impairments that is "severe" (20 CFR 404.1520(c)). An impairment or combination of impairments is "severe" within the meaning of the regulations if it significantly limits an individual's ability to perform basic work activities. An impairment or combination of impairments is "not severe" when medical and other evidence establish only a slight abnormality or a combination of slight abnormalities that would have no more than a minimal effect on an individual's ability to work (20 CFR 404.1521; Social Security Rulings (SSRs) 85-28, 96-3p, and 96-4p). If the claimant does not have a severe medically determinable impairment or combination of impairments, she is not disabled. If the claimant has a severe impairment or combination of impairments, the analysis proceeds to the third step.

At step three, the undersigned must determine whether the claimant's impairment or combination of impairments meets or medically equals the criteria of an impairment listed in 20 CFR Part 404, Subpart P, Appendix 1 (20 CFR 404.1520(d), 404.1525, and 404.1526). If the claimant's impairment or combination of impairments meets or medically equals the criteria of a listing and meets the duration requirement (20 CFR 404.1509), the claimant is disabled. If it does not, the analysis proceeds to the next step.

Before considering step four of the sequential evaluation process, the undersigned must first determine the claimant's residual functional capacity (20 CFR 404.1520(e)). An individual's residual functional capacity is her ability to do physical and mental work activities on a sustained basis despite limitations from her impairments. In making this finding, the undersigned must consider all of the claimant's impairments, including impairments that are not severe (20 CFR 404.1520(e) and 404.1545; SSR 96-8p).

See Next Page

Next, the undersigned must determine at step four whether the claimant has the residual functional capacity to perform the requirements of her past relevant work (20 CFR 404.1520(f)). The term past relevant work means work performed (either as the claimant actually performed it or as it is generally performed in the national economy) within the last 15 years or 15 years prior to the date that disability must be established. In addition, the work must have lasted long enough for the claimant to learn to do the job and have been SGA (20 CFR 404.1560(b) and 404.1565). If the claimant has the residual functional capacity to do her past relevant work, the claimant is not disabled. If the claimant is unable to do any past relevant work or does not have any past relevant work, the analysis proceeds to the fifth and last step.

At the last step of the sequential evaluation process (20 CFR 404.1520(g)), the undersigned must determine whether the claimant is able to do any other work considering her residual functional capacity, age, education, and work experience. If the claimant is able to do other work, she is not disabled. If the claimant is not able to do other work and meets the duration requirement, she is disabled. Although the claimant generally continues to have the burden of proving disability at this step, a limited burden of going forward with the evidence shifts to the Social Security Administration. In order to support a finding that an individual is not disabled at this step, the Social Security Administration is responsible for providing evidence that demonstrates that other work exists in significant numbers in the national economy that the claimant can do, given the residual functional capacity, age, education, and work experience (20 CFR 404.1512(g) and 404.1560(c)).

#### **FINDINGS OF FACT AND CONCLUSIONS OF LAW**

After careful consideration of the entire record, the undersigned makes the following findings:

- 1. The claimant meets the insured status requirements of the Social Security Act through December 31, 2010.**
- 2. The claimant has not engaged in substantial gainful activity since May 5, 2005, the alleged onset date (20 CFR 404.1520(b) and 404.1571 *et seq.*).**

The evidence shows the claimant returned to work part-time two weeks before the hearing as a seater but is unable to perform ancillary duties including moving tables and chairs. Further, this work activity does not constitute substantial gainful activity in accordance with Section 404.1574. Consequently, the undersigned concludes the claimant has not engaged in substantial gainful activity at any time relevant herein.

- 3. The claimant has the following severe impairments: Giant cell tumor of the right wrist and residuals of a radical resection of the right distal radius and a right wrist fusion (20 CFR 404.1520(c)).**

The above impairments cause significant limitation in the claimant's ability to perform basic work activities.

See Next Page



4. The claimant does not have an impairment or combination of impairments that meets or medically equals one of the listed impairments in 20 CFR Part 404, Subpart P, Appendix 1 (20 CFR 404.1520(d)).

5. After careful consideration of the entire record, the undersigned finds that the claimant has the residual functional capacity to perform sedentary work activity. Further, she is unable to lift more than two to three pounds ten percent or less of the time with the right dominant hand or perform fine manipulation, push or pull with the right upper extremity, is limited to occasional balancing, crawling and climbing ramps and stairs, is unable to climb ladders, ropes and scaffolds, needs to avoid concentrated exposure to extreme hot or cold, vibration and hazards, and is unable to perform fine fingering more than occasionally with the left, non-dominant hand.

In making this finding, the undersigned considered all symptoms and the extent to which these symptoms can reasonably be accepted as consistent with the objective medical evidence and other evidence, based on the requirements of 20 CFR 404.1529 and SSRs 96-4p and 96-7p. The undersigned has also considered opinion evidence in accordance with the requirements of 20 CFR 404.1527 and SSRs 96-2p, 96-5p, 96-6p and 06-3p.

On June 9, 2005, Dr. Mark Piasio reported the claimant's two to three-month history of right wrist pain located in the radial aspect. There was pain with range of motion, marked tenderness over the distal radius, X-ray evidence of a lytic lesion in the distal radius ulnar aspect, which was confirmed by MRI that appeared to penetrate a cortex (Exhibit 1F).

The claimant was hospitalized between June 27, 2005 and June 29, 2005, to undergo radial resection of the distal radius and right wrist fusion due to a giant cell tumor (Exhibit 2F). However, Dr. Steven Graeca reported the claimant continued to experience pain and was unable to move the wrist (Exhibit 4F).

Dr. Kenneth Yaw reported the claimant had marked soft tissue wasting around the single bone forearm crossing the right wrist and she experienced worsening pain with a work hardening program. There was synovial thickening over the plate of the middle finger metacarpal dorsum, tenderness on the radial border and irritation from tendon overuse. Following a functional capacity evaluation, Dr. Yaw concluded the claimant was limited to lifting and carrying three to five pounds on a periodic but not repetitive basis with her right upper extremity due to loss of motion and motor power, as well as sensitivity to direct force. Additionally, Dr. Yaw completed a physical residual functional capacity questionnaire, which reported the claimant continued to experience stiffness, weakness and right wrist pain, she was unable to lift and carry any weight with the right upper extremity and had lost almost complete function of the right upper extremity (Exhibits 5F, 7F and 10F).

Mary T. Defranco, Vocational Rehabilitation Counselor, reported the claimant was not qualified for other work, as her education, skills and experience were very specific to her field. Her severe limitations made it difficult to establish appropriate vocational goals, as she was unable to perform even fine motor skills including writing and manipulating in a sedentary-type position (Exhibit 8F).

After considering the evidence of record, the undersigned finds that the claimant's medically determinable impairments could reasonably be expected to produce the alleged symptoms, and that the claimant's statements concerning the intensity, persistence and limiting effects of these symptoms are generally credible.

The State agency medical opinion is given little weight because evidence received at the hearing level shows that the claimant is more limited than determined by the State agency consultant. Furthermore, the State agency consultant did not adequately consider the claimant's subjective complaints or the combined effect of the claimant's impairments.

**6. The claimant is unable to perform any past relevant work (20 CFR 404.1565).**

The claimant has past relevant work as a radiation therapist, DOT Code 078.361-034, which was classified as light, skilled work activity but heavy as performed by the claimant. As the claimant is limited to sedentary work activity, she is unable to perform past relevant work.

**7. The claimant was a younger individual age 18-44 on the established disability onset date (20 CFR 404.1563).**

**8. The claimant has at least a high school education and is able to communicate in English (20 CFR 404.1564).**

**9. The claimant's acquired job skills do not transfer to other occupations within the residual functional capacity defined above (20 CFR 404.1568).**

The vocational expert testified that based on the claimant's residual functional capacity, there were no transferable skills.

**10. Considering the claimant's age, education, work experience, and residual functional capacity, there are no jobs that exist in significant numbers in the national economy that the claimant can perform (20 CFR 404.1560(c) and 404.1566).**

In determining whether a successful adjustment to other work can be made, the undersigned must consider the claimant's residual functional capacity, age, education, and work experience in conjunction with the Medical-Vocational Guidelines, 20 CFR Part 404, Subpart P, Appendix 2. If the claimant can perform all or substantially all of the exertional demands at a given level of exertion, the medical-vocational rules direct a conclusion of either "disabled" or "not disabled" depending upon the claimant's specific vocational profile (SSR 83-11). When the claimant cannot perform substantially all of the exertional demands of work at a given level of exertion and/or has nonexertional limitations, the medical-vocational rules are used as a framework for decisionmaking unless there is a rule that directs a conclusion of "disabled" without considering the additional exertional and/or nonexertional limitations (SSRs 83-12 and 83-14). If the claimant has solely nonexertional limitations, section 204.00 in the Medical-Vocational Guidelines provides a framework for decisionmaking (SSR 85-15).

See Next Page

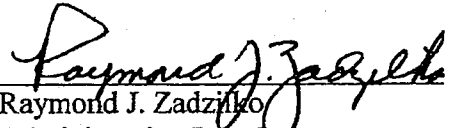
If the claimant had the residual functional capacity to perform the full range of sedentary work, a finding of "not disabled" would be directed by Medical-Vocational Rule 201.28. However, the claimant's ability to perform all or substantially all of the requirements of this level of work has been impeded by additional limitations. To determine the extent to which these limitations erode the unskilled sedentary occupational base, the Administrative Law Judge asked the vocational expert whether jobs exist in the national economy for an individual with the claimant's age, education, work experience and residual functional capacity. The vocational expert testified that given all of these factors there are no jobs in the national economy that the individual could perform.

Based on the testimony of the vocational expert, the undersigned concludes that, considering the claimant's age, education, work experience, and residual functional capacity, a finding of "disabled" is appropriate under the framework of the above-cited rule.

**11. The claimant has been under a disability, as defined in the Social Security Act, from May 5, 2005 through the date of this decision (20 CFR 404.1520(g)).**

**DECISION**

Based on the application protectively filed on May 1, 2006, the claimant has been disabled for a period of disability and disability insurance benefits under Sections 216(i) and 223(d) of the Social Security Act beginning on May 5, 2005.

  
Raymond J. Zadzik  
Administrative Law Judge

Date 05 MAR 2007

## LIST OF EXHIBITS

Claimant: Paula J. Carlson

SSN: 201-66-3077

| Exh. No. | Part No. | Description | No. of Pages |
|----------|----------|-------------|--------------|
|----------|----------|-------------|--------------|

### MEDICAL RECORDS

|   |   |                                                                                                                                  |    |
|---|---|----------------------------------------------------------------------------------------------------------------------------------|----|
| 1 | F | Medical records covering the period from 4/12/05 through 6/13/05 from Mark A. Piasio, MD                                         | 15 |
| 2 | F | Hospital Records for admission on 6/27/05 through discharge on 6/29/05 from Mercy Hospital of Pittsburgh, pre-op records 6/20/05 | 25 |
| 3 | F | Operative report dated 1/25/06 from Kenneth M. Yaw, MD with outpatient records, Mercy Hospital                                   | 4  |
| 4 | F | Medical Records covering the period from 4/12/05 to 5/23/06 from Steven W. Graeca, DO                                            | 43 |
| 5 | F | Medical Records covering the period from 6/17/05 to 7/10/06 from Kenneth M. Yaw, MD                                              | 13 |
| 6 | F | RFC - Residual Functional Capacity Assessment - Physical (completed by DDS physician) dated 08/07/06                             | 7  |
| 7 | F | Medical Records dated September 7, 2006 from Kenneth Yaw, MD (submitted by atty)                                                 | 3  |

### RECEIVED DURING HEARING

|    |   |                                                                                                     |   |
|----|---|-----------------------------------------------------------------------------------------------------|---|
| 8  | F | Report dated 01/29/07 from OVR, DuBois, PA                                                          | 1 |
| 9  | F | Pre-Hearing Memorandum dated 02/13/07 by Attorney Martin G. Colavincenzo                            | 4 |
| 10 | F | Physical Residual Functional Capacity Questionnaire dated 02/14/07 from Mercy Orthopedic Associates | 4 |
| 11 | F | X-ray Report dated 02/14/07 from Mercy Hospital of Pittsburgh                                       | 1 |

LIST OF EXHIBITS

CLAIMANT: Paula Jo Carlson SSN: 201-66-3077

X-REF: \_\_\_\_\_ SSN: \_\_\_\_\_

Section A PAYMENT DOCUMENTS/DECISIONS

Section B JURISDICTIONAL DOCUMENTS/NOTICES

NON-DISABILITY DEVELOPMENT

Section D contains paperwork that involves non-disability issues such as records of Social Security taxes paid in. Each set of documents is labeled with section number and numerically as an exhibit.

Section D consists of 4 exhibits.

DISABILITY RELATED DEVELOPMENT AND DOCUMENTATION

Section E contains paperwork related to the claimant for disability such as forms and reports completed by and for the claimant, information on work background and medications. Each set of documents is labeled with the section number and numerically as an exhibit.

Section E consists of 5 exhibits.

Part A (Yellow) - Payment Documents/Decisions  
Part B (Red) - Jurisdictional Documents/Notices  
Part D (Orange) - Non-Disability Development  
Part E (Blue) - Disability Related Development and Documentation  
Part F (Yellow) - Medical Records

ADDITIONAL CLAIM FILE, IF APPLICABLE:

Part (SSI) - Supplemental Security Income  
Part (DWB) - Disabled Widow/Widower  
Part (CDB) - Child's Disability Benefits

**SOCIAL SECURITY ADMINISTRATION**  
**Office of Disability Adjudication and Review**

**ORDER**

**IN THE CASE OF**

Paula Jo Carlson  
(Claimant)

(Wage Earner)

**CLAIM FOR**

Period of Disability and  
Disability Insurance Benefits

201-66-3077  
(Social Security Number)

I approve the fee agreement between the claimant and her representative subject to the condition that the claim results in past-due benefits.

My determination is limited to whether the fee agreement meets the statutory conditions for approval and is not otherwise accepted. I neither approve nor disapprove any other aspect of the agreement.

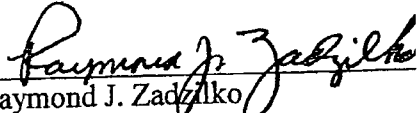
**HOW TO ASK US TO REVIEW THE FEE AGREEMENT DETERMINATION**

You or your representative may ask us to review the determination on the fee agreement. If you decide to ask us for a review, write us within 15 days from the day you get this order. Tell us that you disagree and give your reasons.  
Send your request to this address:

- Jasper J. Bede  
Acting Regional Chief Administrative Law Judge  
SSA ODAR Regional Office  
4th Floor  
PO Box 13496  
Philadelphia, PA 19101

Your representative also has 15 days to write us if he or she does not agree with the determination on the fee agreement.

You should include the social security number(s) shown on this order on any papers that you send us.

  
Raymond J. Zadzilko  
Administrative Law Judge

05 MAR 2007  
Date

### YOUR RIGHT TO PAYMENT WITHIN A REASONABLE TIME

We are required by a District Court order in Holman et al. V. Bowen (Civ. No. 78-0494, M.D. PA, May 1, 1987), to notify you of your right to have your disability payments sent to you by us within a reasonable time after a favorable determination of your eligibility for benefits.

If you would like to know when you will receive your benefits, you may contact any Social Security office to ask when you can expect to receive payment of your claim.

If, at any time, you feel that your payments are being unreasonably delayed, you may seek relief from a United States District Court.

You may wish to contact an attorney regarding your rights. If you do not have an attorney, free legal services may be available if you qualify for them due to financial need. For further information about where to apply for free legal help, you may call the Law Coordination Center, toll free, at 1-800/732-3545.

# EXHIBIT D



# RED LOBSTER CREW MEMBER PERSONNEL FOLDER

RESTAURANT NO. 736 POSITION: Server PHONE: 378-3669 <sup>cell</sup> 603-2523 RECEIVED GET READY TO MAKE WRAPES ☒

CREW MEMBER NUMBER 224 SOCIAL SECURITY 201-66-3077 I-9 COMPLETED & FILED IN I-9 FILE ☐ LS.

FIRST NAME PAULA INITIAL J LAST NAME CARLSON mgr. Initial

STREET ADDRESS 1373 SANDSTONE DR CITY FALLS CREEK STATE PA ZIP 15240

IN EMERGENCY CALL: Jamie Carlson PHONE: 603-2522

|                                           |  |                         |  |                                                                                                                     |  |                         |  |                                                                                       |  |                                         |  |                                               |  |
|-------------------------------------------|--|-------------------------|--|---------------------------------------------------------------------------------------------------------------------|--|-------------------------|--|---------------------------------------------------------------------------------------|--|-----------------------------------------|--|-----------------------------------------------|--|
| HIRE DATE<br>M M D D Y Y<br><u>012507</u> |  | JOB CLASS<br><u>310</u> |  | LINE<br>PRODUCTION 160<br>UTILITY 170<br>SERVER 180<br>HOST 220<br>CASHIER 310<br>BARTENDER 330<br>BUSER 340<br>350 |  | PAY RATE<br><u>6.25</u> |  | TAXING MATERIAL STATUS<br>MARRIED -M<br>SINGLE -S<br>HEAD OF HOUSEHOLD -H<br><u>M</u> |  | SEX<br>MALE -M<br>FEMALE -F<br><u>F</u> |  | DATE OF BIRTH<br>M M D D Y Y<br><u>042671</u> |  |
|-------------------------------------------|--|-------------------------|--|---------------------------------------------------------------------------------------------------------------------|--|-------------------------|--|---------------------------------------------------------------------------------------|--|-----------------------------------------|--|-----------------------------------------------|--|

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|---------------------------------------------------------------------------------|--|-------------------------------------------|--|-----------------------------------------|--|------------------------------------------------------|--|----------------------------------------------------|--|-----------------------------------------------------------------------------------------------------|--|--------------------------------------------------|--|----------------------------------------------------------------|--|
| RACE<br>AM. INDIAN 1<br>WHITE 2<br>ASIAN 3<br>BLACK 4<br>HISPANIC 5<br><u>2</u> |  | FEDERAL WITHHOLDING EXEMPTION<br><u>1</u> |  | STATE WITHHOLDING EXEMPTION<br><u>1</u> |  | ADDITIONAL FEDERAL WITHHOLDING AMOUNT<br>\$ <u>+</u> |  | ADDITIONAL STATE WITHHOLDING AMOUNT<br>\$ <u>+</u> |  | P.O.S. TAX CODE<br>(city tax code)<br>(IF APPLICABLE)<br>(city tax rate % NOT required)<br><u>-</u> |  | ADVANCED EARNED INCOME CREDIT (AEIC)<br><u>+</u> |  | 6-START AEIC (SINGLE)<br>7-START AEIC (MARRIED)<br>8-STOP AEIC |  |
|---------------------------------------------------------------------------------|--|-------------------------------------------|--|-----------------------------------------|--|------------------------------------------------------|--|----------------------------------------------------|--|-----------------------------------------------------------------------------------------------------|--|--------------------------------------------------|--|----------------------------------------------------------------|--|

NEW HIRE EDS ENTERED IN PC: DATE: 1/25/07 ENTERED BY: LS

## SPECIAL INFORMATION

### TERMINATION RECORD

#### DETAILED STATEMENT OF REASON FOR TERMINATION

VOLUNTARY TERMINATION CODE: \_\_\_\_\_

I AM VOLUNTARILY TERMINATING BECAUSE: \_\_\_\_\_

CREW MEMBER SIGNATURE: \_\_\_\_\_ DATE: \_\_\_\_\_

MANAGER INVOLVED IN TERMINATION \_\_\_\_\_

#### THIS FILE SHOULD INCLUDE:

- ☒ TWO REFERENCE CHECKS
- ☒ APPLICATION
- ☒ W-4
- ☒ NEW CREW MEMBER ACKNOWLEDGMENT
- ☒ STATE, LOCAL TAX FORMS
- ☒ WOTC
- ☒ REQUIRED PERMITS/CERTIFICATES

# APPLICATION FOR EMPLOYMENT

AN EQUAL OPPORTUNITY EMPLOYER



In order for you to be considered for employment, this application must be filled out in its ENTIRETY. Please write "N/A" if information is not applicable. Resumes, though certainly welcome, should not be submitted in place of information requested below.



PLEASE PRINT IN INK

|                                                                                                                                                                                                                                                                                                                                          |                                       |                                       |                                                                                            |                               |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------|---------------------------------------|--------------------------------------------------------------------------------------------|-------------------------------|
| First Name<br><u>Paula</u>                                                                                                                                                                                                                                                                                                               | Middle Initial<br><u>J</u>            | Last Name<br><u>Carlson</u>           | Social Security No.<br><u>201 166 13077</u>                                                | Today's Date<br><u>1-8-07</u> |
| Current Address<br><u>1373 Sandstone N</u>                                                                                                                                                                                                                                                                                               | Street/P.O. Box<br><u>Falls Creek</u> | Apt. #<br><u></u>                     | City<br><u>PA</u>                                                                          | State<br><u>15840</u>         |
| Permanent Address<br><u></u>                                                                                                                                                                                                                                                                                                             | Street/P.O. Box<br><u></u>            | Apt. #<br><u></u>                     | City<br><u></u>                                                                            | State<br><u></u>              |
| Day Phone No.<br><u>(814) 372-3669</u>                                                                                                                                                                                                                                                                                                   | Evening Phone No.<br><u>( ) - -</u>   | Alternate Phone No.<br><u>( ) - -</u> |                                                                                            |                               |
| For which position are you applying?<br><input type="radio"/> Server <input type="radio"/> Bartender <input checked="" type="radio"/> Host/Hostess<br><input type="radio"/> Line Cook <input type="radio"/> Production <input type="radio"/> Dish/Utility <input type="radio"/> Alley Coordinator <input checked="" type="radio"/> Other |                                       |                                       | Date you are available for employment<br><u>1-8-07</u>                                     |                               |
| What is the amount of money you expect to make?<br>\$ <u>/hour</u> \$ <u>/week</u>                                                                                                                                                                                                                                                       |                                       |                                       | Note: Statement of desired salary does not guarantee we will be able to meet your request. |                               |

- Are you presently or have you ever been employed by Red Lobster, Olive Garden, Bahama Breeze, Smokey Bones or any other restaurant operated by GMRI, Inc.? ☐ Yes ☒ No  
If yes, which restaurant? \_\_\_\_\_ Location \_\_\_\_\_ Mgr's Name \_\_\_\_\_
- If hired, can you submit documents to prove your legal right to work in the United States? ☒ Yes ☐ No
- If under 21, what is your age? \_\_\_\_\_
- Have you held more than one job in the last 12 months? ☐ Yes ☒ No  
If yes, please explain. \_\_\_\_\_
- Have you ever been terminated from a job(s)? ☐ Yes ☒ No  
If yes, how many times? \_\_\_\_\_ What were the circumstances? \_\_\_\_\_
- Have you ever been convicted of a felony which has not been annulled or sealed by a court? ☐ Yes ☒ No  
If yes, please explain. \_\_\_\_\_

(Please note: Convictions will not necessarily exclude you from employment, but date and type may be considered for job placement.)  
(California Applicants ONLY: You need not identify any conviction for a marijuana offense if the conviction is more than two years old, or any information pertaining to referral to and participation in any pre-trial or post-trial diversion program.)

- Some shifts at Red Lobster begin as early as 8 AM and end as late as 2 AM.  
Do you have a reliable means of transportation to and from work during these times? ☒ Yes ☐ No
- In the table below, please indicate the days you **CAN** work. List the earliest and latest times you **CAN** work. Please account for travel time to and from other obligations. Being on time for a shift is expected from everyone at Red Lobster.

|                  | MON            | TUES           | WED           | THURS         | FRI            | SAT        | SUN |
|------------------|----------------|----------------|---------------|---------------|----------------|------------|-----|
| Earliest time in | <u>anytime</u> | <u>for all</u> | <u>except</u> | <u>Sunday</u> | <u>10am to</u> | <u>3pm</u> |     |
| Latest time out  |                |                |               |               |                |            |     |

- How many hours per week do you expect to work? as many as possible
- Red Lobster is open 363 days a year; closed only for Christmas Day and Thanksgiving Day.  
Are you able to work holidays and weekends? ☒ Yes ☐ No
- We may conduct training on days or at times you have other obligations. Is your schedule flexible so you may come to training? ☒ Yes ☐ No
- Are you in school, taking courses, or planning schooling within the next 6 months? ☐ Yes ☒ No
- Do you have any plans or scheduled obligations (e.g. weddings, vacations, school, exams, reserve duty, sport participation, holidays, etc.) in the near future that conflict with your stated availability?  
Please list the date(s): Sat Jan 20, 2007 - taking girl scouts to Pittsburgh Girls B Ball game
- Please list leadership, volunteer, or military experience: (You may omit an information indicating legally protected characteristics, e.g., race, religion, color, ancestry, age, national origin, gender, disability, and sexual orientation.)  
Volunteer - Brockway Girl Scout leader + secretary, Sunday school teacher, welcome team leader at church  
Please list the skills you acquired from the above experience: inspirational, leader skills

I HERBY ACKNOWLEDGE THAT ALL THE ABOVE INFORMATION IS ACCURATE AND COMPLETE.

DATE: 1/8/07

SIGNATURE OF APPLICANT (PAGE 1)

Paula J Carlson

## 15. Education:

|               | Name and Location of School                      | Last Year Completed | Major/ Specialty               | Diploma Rec'd?                                                      | Grade Ave. |
|---------------|--------------------------------------------------|---------------------|--------------------------------|---------------------------------------------------------------------|------------|
| High School   | Philipsburg                                      | 9 10 11 12 grade    |                                | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No | 90         |
| College/Other | Mercy School of Radiology<br>CCAC of Philipsburg | 2 yrs<br>1 yr       | Radiology<br>Radiation Therapy | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No | 95         |

## 16. Work History:

PLEASE FILL IN ALL INFORMATION COMPLETELY. (List your last 3 jobs.)

|                                        | Current of Most Recent Job                                    | Previous Job                                       | Previous Job                                       |
|----------------------------------------|---------------------------------------------------------------|----------------------------------------------------|----------------------------------------------------|
| Your Position                          | Radiation Therapist                                           |                                                    |                                                    |
| Description of Job                     | Delivered radiation to cancer patients                        |                                                    |                                                    |
| Company Name                           | DRMC                                                          |                                                    |                                                    |
| Address                                | 100 Hospital Ave. DuBois                                      |                                                    |                                                    |
| Name and Title of Immediate Supervisor | Sheila Welsh                                                  |                                                    |                                                    |
| Phone Number of Immediate Supervisor   | 375-3535                                                      |                                                    |                                                    |
| Dates of Employment                    | 8 / 1992 to 5 / 2005<br>Month Year Month Year                 | Month Year to Month Year                           | Month Year to Month Year                           |
| Usual # of Hours Worked per Week       | 37                                                            |                                                    |                                                    |
| Reason for Leaving                     | Grantell in RT wrist surgery not able to perform job          |                                                    |                                                    |
| May we contact your employer?          | <input checked="" type="radio"/> Yes <input type="radio"/> No | <input type="radio"/> Yes <input type="radio"/> No | <input type="radio"/> Yes <input type="radio"/> No |
| Rate of Pay                            | \$ 12.75 Starting Wage \$ 32.06 Ending Wage                   | \$ Starting Wage \$ Ending Wage                    | \$ Starting Wage \$ Ending Wage                    |

## 17. Personal References (other than immediate family):

|    | Name          | Phone Number | Number of years known | Relation  |
|----|---------------|--------------|-----------------------|-----------|
| 1. | Dave Bish     | 371-0727     | 8 1/2                 | Pastor    |
| 2. | Rose Petrillo | 375-3531     | 10                    | Co-Worker |

18. Have you been given a Job Description and Crew brochure? ☐ Yes ☒ No  
 Do you understand the job requirements? ☐ Yes ☒ No  
 Do you understand the dress guideline requirements? ☐ Yes ☒ No
19. Can you perform the essential functions required by the job for which you are applying, either with or without reasonable accommodations? ☒ Yes ☐ No

## PLEASE READ THE FOLLOWING CAREFULLY AND SIGN BELOW

**NOTICE TO TIPPED EMPLOYEES:** You are hereby notified that Section 3(m) of the Fair Labor Standards Act (The Federal Minimum Wage Law) provides as follows: \* In determining the wage of a tipped employee, the amount paid such employee shall be at least an amount equal to the cash wage of \$2.13 an hour and an additional amount of the tips received by such employee which amount is equal to the difference between \$2.13 an hour and the current minimum wage in effect. The additional amount on account of tips may not exceed the value of the tips actually received by an employee. The preceding two sentences shall not apply with respect to any tipped employee unless such employee has been informed by the employer of the provisions of the section, and all tips received by such employee have been retained by the employee, except that nothing herein shall prohibit the pooling of tips among employees who customarily and regularly receive tips. Some states have eliminated the tip credit or require a lower percentage of the tip credit than The Federal Minimum Wage Law, in which case State Law will apply.

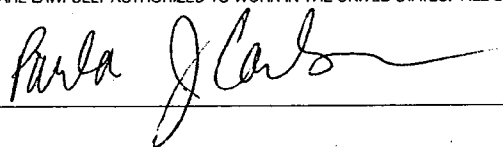
I UNDERSTAND THAT GMRI, INC. D/B/A RED LOBSTER HAS IN PLACE A DISPUTE RESOLUTION PROCEDURE, AND I FURTHER ACKNOWLEDGE AND AGREE THAT IF I AM OFFERED AND ACCEPT EMPLOYMENT, ANY DISPUTE BETWEEN ME AND GMRI, INC., RELATING TO MY EMPLOYMENT AND/OR MY SEPARATION FROM EMPLOYMENT, SHALL BE SUBMITTED WITHIN ONE (1) YEAR OF THE DAY WHICH I LEARNED OF THE EVENT AND SHALL BE RESOLVED PURSUANT TO THE TERMS AND CONDITIONS OF THE DISPUTE RESOLUTION PROCEDURE.

MARYLAND ONLY: UNDER MARYLAND LAW AN EMPLOYER MAY NOT REQUIRE OR DEMAND, AS A CONDITION OF EMPLOYMENT, PROSPECTIVE EMPLOYMENT, OR CONTINUED EMPLOYMENT, THAT AN INDIVIDUAL SUBMIT TO OR TAKE A LIE DETECTOR OR SIMILAR TEST. AN EMPLOYER WHO VIOLATES THIS LAW IS GUILTY OF A MISDEMEANOR AND SUBJECT TO A FINE NOT EXCEEDING \$100.00.

I AFFIRM THAT ALL INFORMATION IN THIS APPLICATION IS TRUE AND COMPLETE. ANY MISREPRESENTATION, FALSE STATEMENT, OR OMISSION OF FACTS CALLED FOR SHALL BE CAUSE FOR DISMISSAL, OR GROUNDS FOR REFUSAL OF EMPLOYMENT. I UNDERSTAND THAT ANY VIOLATION OF COMPANY RULES, POLICIES, STANDARDS, AND/OR PROCEDURES SHALL BE GROUNDS FOR DISMISSAL. I AGREE TO CONFORM TO THE RULES, POLICIES, STANDARDS, AND REGULATIONS OF GMRI, INC. AND RED LOBSTER. I UNDERSTAND THAT MY EMPLOYMENT AND COMPENSATION CAN BE TERMINATED WITH OR WITHOUT CAUSE, AND WITH OR WITHOUT NOTICE AT ANY TIME AT THE OPTION OF GMRI, INC., RED LOBSTER OR MYSELF, AND I UNDERSTAND THAT NO REPRESENTATIVE OF THE COMPANY HAS THE AUTHORITY TO MAKE ANY MODIFICATIONS, EITHER VERBALLY OR IN WRITING TO THE CONTRARY. IT IS THE POLICY OF GMRI, INC. AND RED LOBSTER TO HIRE ONLY U.S. CITIZENS AND ALIENS WHO ARE LAWFULLY AUTHORIZED TO WORK IN THE UNITED STATES. ALL EMPLOYEES WILL BE ASKED TO VERIFY EMPLOYMENT ELIGIBILITY PRIOR TO BEGINNING WORK.

I HEREBY ACKNOWLEDGE THE NOTICE AS DESCRIBED ABOVE.

DATE: 1-8-07 SIGNATURE OF APPLICANT (page 2)



I UNDERSTAND THAT MY APPLICATION WILL REMAIN ACTIVE FOR 30 DAYS FROM THE DATE RECEIVED.

**PAULA J CARLSON**  
1373 SANDSTONE DRIVE  
FALLS CREEK, PA 15840  
Phone: 814-372-3669  
Email: gobblergetter@msn.com

### **EXPERIENCE**

153 Months

**RADIATION THERAPIST**  
DRMC, DuBois, PA

Administering radiation treatments to cancer patients.

### **EDUCATION**

12 Months

**CCAC**  
Pittsburgh, PA  
General Equivalency Diploma (GED) in Radiation Therapy

24 Months

**MERCY SCHOOL OF RADIOLOGY**  
Altoona, PA  
General Equivalency Diploma (GED) in Radiology

### **CERTIFICATIONS**

**RADIOLOGY** from Mercy Hospital

**RADIATION THERAPY** from CCAC

### **REFERENCES**

Available upon request.

## **Volunteer Positions**

Secretary of the Brockway Girl Scouts  
2002- present

Leader of Junior Troop 590 Girl Scouts  
2001- present

Sunday School Teacher  
1999- present

Leader of Welcome Team at Tri-County Church of God  
2006- present

## **REFERENCES**

Dave Bish  
Route 255 North  
P.O Box 1001  
DuBois, PA. 15801  
(814) 371-0727

Rose Petrillo  
111B Wasson Ave.  
DuBois, PA. 15801  
(814) 371-7185 (Home)  
(814) 375-3531 (Work)  
rmpetrillo@drmc.org

Shelly Overturf  
3894 Clayplant Rd.  
Brockway, PA. 15824  
(814) 265-1267

# Form W-4 (2006)

**Purpose.** Complete Form W-4 so that your employer can withhold the correct federal income tax from your pay. Because your tax situation may change, you may want to refigure your withholding each year.

**Exemption from withholding.** If you are exempt, complete only lines 1, 2, 3, 4, and 7 and sign the form to validate it. Your exemption for 2006 expires February 16, 2007. See Pub. 505, Tax Withholding and Estimated Tax.

**Note.** You cannot claim exemption from withholding if (a) your income exceeds \$850 and includes more than \$300 of unearned income (for example, interest and dividends) and (b) another person can claim you as a dependent on their tax return.

**Basic instructions.** If you are not exempt, complete the **Personal Allowances Worksheet** below. The worksheets on page 2 adjust your withholding allowances based on itemized deductions, certain credits, adjustments to income, or two-

earner/two-job situations. Complete all worksheets that apply. However, you may claim fewer (or zero) allowances.

**Head of household.** Generally, you may claim head of household filing status on your tax return only if you are unmarried and pay more than 50% of the costs of keeping up a home for yourself and your dependent(s) or other qualifying individuals. See line E below.

**Tax credits.** You can take projected tax credits into account in figuring your allowable number of withholding allowances. Credits for child or dependent care expenses and the child tax credit may be claimed using the **Personal Allowances Worksheet** below. See Pub. 919, How Do I Adjust My Tax Withholding, for information on converting your other credits into withholding allowances.

**Nonwage income.** If you have a large amount of nonwage income, such as interest or dividends, consider making estimated tax payments using Form 1040-ES, Estimated Tax for Individuals. Otherwise, you may owe additional tax.

**Two earners/two jobs.** If you have a working spouse or more than one job, figure the total number of allowances you are entitled to claim on all jobs using worksheets from only one Form W-4. Your withholding usually will be most accurate when all allowances are claimed on the Form W-4 for the highest paying job and zero allowances are claimed on the others.

**Nonresident alien.** If you are a nonresident alien, see the Instructions for Form 8233 before completing this Form W-4.

**Check your withholding.** After your Form W-4 takes effect, use Pub. 919 to see how the dollar amount you are having withheld compares to your projected total tax for 2006. See Pub. 919, especially if your earnings exceed \$130,000 (Single) or \$180,000 (Married).

**Recent name change?** If your name on line 1 differs from that shown on your social security card, call 1-800-772-1213 to initiate a name change and obtain a social security card showing your correct name.

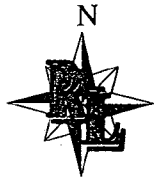
## Personal Allowances Worksheet (Keep for your records.)

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |                |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------|
| <b>A</b> Enter "1" for yourself if no one else can claim you as a dependent.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | <b>A</b> _____ |
| <b>B</b> Enter "1" if: <ul style="list-style-type: none"> <li>• You are single and have only one job; or</li> <li>• You are married, have only one job, and your spouse does not work; or</li> <li>• Your wages from a second job or your spouse's wages (or the total of both) are \$1,000 or less.</li> </ul>                                                                                                                                                                                                                                                                                                                                         | <b>B</b> _____ |
| <b>C</b> Enter "1" for your spouse. But, you may choose to enter "-0-" if you are married and have either a working spouse or more than one job. (Entering "-0-" may help you avoid having too little tax withheld.)                                                                                                                                                                                                                                                                                                                                                                                                                                    | <b>C</b> _____ |
| <b>D</b> Enter number of dependents (other than your spouse or yourself) you will claim on your tax return                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | <b>D</b> _____ |
| <b>E</b> Enter "1" if you will file as head of household on your tax return (see conditions under Head of household above)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | <b>E</b> _____ |
| <b>F</b> Enter "1" if you have at least \$1,500 of child or dependent care expenses for which you plan to claim a credit (Note. Do not include child support payments. See Pub. 503, Child and Dependent Care Expenses, for details.)                                                                                                                                                                                                                                                                                                                                                                                                                   | <b>F</b> _____ |
| <b>G</b> Child Tax Credit (including additional child tax credit): <ul style="list-style-type: none"> <li>• If your total income will be less than \$55,000 (\$82,000 if married), enter "2" for each eligible child.</li> <li>• If your total income will be between \$55,000 and \$84,000 (\$82,000 and \$119,000 if married), enter "1" for each eligible child plus "1" additional if you have four or more eligible children.</li> </ul>                                                                                                                                                                                                           | <b>G</b> _____ |
| <b>H</b> Add lines A through G and enter total here. (Note. This may be different from the number of exemptions you claim on your tax return.)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | <b>H</b> _____ |
| For accuracy, complete all worksheets that apply. <ul style="list-style-type: none"> <li>• If you plan to itemize or claim adjustments to income and want to reduce your withholding, see the Deductions and Adjustments Worksheet on page 2.</li> <li>• If you have more than one job or are married and you and your spouse both work and the combined earnings from all jobs exceed \$35,000 (\$25,000 if married) see the Two-Earner/Two-Job Worksheet on page 2 to avoid having too little tax withheld.</li> <li>• If neither of the above situations applies, stop here and enter the number from line H on line 5 of Form W-4 below.</li> </ul> |                |

Cut here and give Form W-4 to your employer. Keep the top part for your records.

|                                                                                                                                                                                                                                                                                                                                                                                                                                                              |  |                                                                                                                                                                                                                                                              |                                         |                                              |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------|----------------------------------------------|
| <b>Form W-4</b><br>Department of the Treasury<br>Internal Revenue Service                                                                                                                                                                                                                                                                                                                                                                                    |  | <b>Employee's Withholding Allowance Certificate</b><br>Whether you are entitled to claim a certain number of allowances or exemption from withholding is subject to review by the IRS. Your employer may be required to send a copy of this form to the IRS. |                                         | OMB No. 1545-0074<br><b>2006</b>             |
| 1 Type or print your first name and middle initial.<br>Paula J                                                                                                                                                                                                                                                                                                                                                                                               |  | Last name<br>Carlson                                                                                                                                                                                                                                         |                                         | 2 Your social security number<br>201 66 3077 |
| Home address (number and street or rural route)<br>1373 Sandstone Dr                                                                                                                                                                                                                                                                                                                                                                                         |  | 3 <input type="checkbox"/> Single <input checked="" type="checkbox"/> Married <input type="checkbox"/> Married, but withhold at higher Single rate.<br>Note. If married, but legally separated, or spouse is a nonresident alien, check the "Single" box.    |                                         |                                              |
| City or town, state, and ZIP code<br>Falls Creek PA 15840                                                                                                                                                                                                                                                                                                                                                                                                    |  | 4 If your last name differs from that shown on your social security card, check here. You must call 1-800-772-1213 for a new card. <input type="checkbox"/>                                                                                                  |                                         |                                              |
| 5 Total number of allowances you are claiming (from line H above or from the applicable worksheet on page 2)                                                                                                                                                                                                                                                                                                                                                 |  |                                                                                                                                                                                                                                                              |                                         | 5 1                                          |
| 6 Additional amount, if any, you want withheld from each paycheck                                                                                                                                                                                                                                                                                                                                                                                            |  |                                                                                                                                                                                                                                                              |                                         | 6 \$                                         |
| 7 I claim exemption from withholding for 2006, and I certify that I meet both of the following conditions for exemption. <ul style="list-style-type: none"> <li>• Last year I had a right to a refund of all federal income tax withheld because I had no tax liability and</li> <li>• This year I expect a refund of all federal income tax withheld because I expect to have no tax liability.</li> </ul> If you meet both conditions, write "Exempt" here |  |                                                                                                                                                                                                                                                              |                                         | 7                                            |
| Under penalties of perjury, I declare that I have examined this certificate, and to the best of my knowledge and belief, it is true, correct, and complete.                                                                                                                                                                                                                                                                                                  |  |                                                                                                                                                                                                                                                              |                                         |                                              |
| Employee's signature<br>(Form is not valid unless you sign it.)                                                                                                                                                                                                                                                                                                                                                                                              |  | Date 1/23/07                                                                                                                                                                                                                                                 |                                         |                                              |
| 8 Employer's name and address (Employer: Complete lines 8 and 10 only if sending to the IRS.)<br>RED LOBSTER 813 E. DuBois Ave.<br>DuBois, PA 15801                                                                                                                                                                                                                                                                                                          |  | 9 Office code (optional)                                                                                                                                                                                                                                     | 10 Employer identification number (EIN) |                                              |

## Keeping Ourselves ON-COURSE Compass Behaviors



**On Stage Performance:** At Red Lobster from the moment you are in our guest's view you are on stage, representing us on or off the clock. Our Guest's perception begins the moment our guests pull up to the moment they depart. To ensure an over-the-top guest perception of RL;

- ★ Guests should only experience their needs being taken care of. While on stage guests shouldn't see us drinking, eating, smoking, watching television, grooming ourselves, hanging-out, hear or see personal conversations or personal phone calls. All of our needs must be met "behind the stage". Rolling silverware, counting money, or tending to other side work should only be done in designated areas, or "behind the stage". Please check with your restaurant for designated break areas and times.
- ★ We ask that you be only at your restaurant during your designated work times. We want to ensure that the crew and management that are working are not distracted. Therefore, please pick-up your check during the designated times. Have family or friends who may be giving you a ride remain outside if possible. We love your company, but please refrain from hanging out off the clock so that the crew can focus on our guests.
- ★ Being an expert at your job. Using self-responsibility to know your job and doing it well. Guests truly appreciate and are impressed by a knowledgeable crewmember that can guide them and specifically describe our offerings in detail. Personally endorsing items that you are proud of are real "Wows".
- ★ Always being guest focused, never giving up on trying to "wow" our guests. There are so many people from so many backgrounds and cultures that may not be like our own. Therefore, we will never make assumptions, lose our focus or give up on over-the-top service even when we feel that it may not be recognized immediately. We will do whatever it takes to make every experience for our guests special, every guest!

**On Stage Appearance:** Your personal appearance is also very important to our Guest's perception of Red Lobster's standards and what we represent. Displaying the highest personal pride in your uniform, hygiene and appearance tells our guests who we are.

- ★ Please come to work in a clean, pressed and polished uniform. Well-groomed and looking great! We ask that you strictly adhere to our uniform standards in every detail. Our guests should never see us dressing, grooming or undressing. Please always come prepared.
- ★ A very important goal for all of us is to go out of our way by staying clean and pressed from the time you arrive until the time you leave. Our last guests deserve the same high standards that the first guests receive. Being careful not to wipe our hands on ourselves, by not leaning our body against counters, or by folding our arms tightly causing our shirt to wrinkle, all help to maintain your crisp, professional appearance.
- ★ There are four ways for each of us to communicate our messages, verbiage (your choice of words), toneology (your tone of voice), body language (your gestures, mannerisms, posture, eye contact) and how you spend your time (what you gravitate towards and away from). How you use each individually and together tell others about you; you're attitude, intelligence, professionalism, your manners, care and sincerity. Play yourself back in your head like a movie, are you communicating and projecting an image you are proud of.
- ★ Helping to keep our restaurant immaculate and organized for our guests and each other. Keeping my area of responsibility sparkling from the time I'm on until the time I go. Never walking past an opportunity and displaying the highest standards for cleanliness and sanitation speaks to our standards.

**"The Golden Rule":** Treating others, as you would like to be treated. It is so important to us at Red Lobster that you all feel welcomed, special and appreciated.

- ★ Please personally make sure that all new hired crewmembers feel welcomed, special and appreciated also! Always introduce yourself first. Offer help and support especially in their first few weeks. Helping new crewmembers feel included and cared for is our responsibility and speaks to who we are.
- ★ Calling each other by name within all parts of our restaurant. Always acknowledging each other. Using "please" and "thank you". Never treating each other badly by raising our voices, ignoring one another when spoken to and respecting each other's individuality.

**Positive Attitude:** Positive attitudes are contagious. Working in a positive and respectful culture is the cornerstone of Red Lobster's Compass. Nothing positive comes out of negativity therefore we ask:

- ★ You refrain from complaining. Complaining takes the energy out of the air, and no one benefits. When we are faced with a problem, we would rather think of it as an opportunity. We can resolve anything together. Being negative is unattractive and a drain on you and your team.
- ★ Making sure that we keep that negative volume down as low as possible, such as the irritating noises of smashing bottles, clashing plate ware, tossing instead of placing objectives. Being loud and boisterous. It is important for our cooks to concentrate on great food, please keep voices low.
- ★ Being the kind of person others would like to be around. Being fun to be around makes everyone's day brighter.
- ★ Never, ever complain or speak badly of our guests or fellow crewmembers. Not everyone acts the exact way we would like them too all of the time, but we will graciously take the good with the not so good and remain positive. Please bring any off-course behaviors to the attention of your manager.
- ★ Committing to, not wasting our energies on "blaming", just on "solutions".

**Being a Great Crew Mate:** Being a reliable crewmember that others can count on. Doing the "right thing", not because it is a rule but because it is the "right thing".

- ★ By being on time and ready for work shows respect and commitment to your fellow crewmates. Being a reliable crewmate that is punctual and prepared. Only using requests when absolutely necessary.
- ★ By coming in and learning our daily features and your responsibilities for the day make you an effective crewmate for your team.
- ★ Helping crewmates in need and asking others what you can do for them when you have a free moment.
- ★ Being kind and respectful. Giving each other positive reinforcement and support.

I have read our Compass Oath and agree to live the promises of a great crewmember.

I will support Red Lobster's focus on over-the-top hospitality and the specific On-Course Behaviors that brings our Compass to life.

I hereby commit and am willing to be held accountable to living our Compass Oath at Red Lobster.

*Paula J. Carlson* 1/25/07  
Crew Member Signature / Date  
*Paula J. Carlson*  
Print Name

*L. Slivinski* 1/25/07  
Managers Signature / Date  
*L. Slivinski*  
Print Name



# Host/Hostess Performance Review

8

Name: Paula Carlson Restaurant #: 736 Date: 2/7/07 Date of Last Review:           

Rate each individual performance expectation on a 1 – 5 scale: 1 = Unsatisfactory, 2 = Needs Improvement, 3 = Successful, 4 = Exceeds Expectations, 5 = Over-The-Top. Provide summary of strengths, opportunities, and development plan on 2nd page of this review.

## Keeps Promises of a Great Crew Member

|                     | 30 Day         | 6 Month |                                                                                                                                                                                                                        |
|---------------------|----------------|---------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Expected Outcomes   | Insert Ratings |         | Performance Expectations                                                                                                                                                                                               |
| Total Commitment    | 2              |         | Know Our Compass in detail, live its principles and promises, and teach it to crewmates                                                                                                                                |
| Self-Responsibility | 2              |         | Exhibit personal pride, learn every aspect of the job and do it well                                                                                                                                                   |
|                     | 3              |         | Take initiative and follow through on all tasks, never turn head on a standard or something that needs to be done                                                                                                      |
| Crewmanship         | 3              |         | Eagerly help and support crewmates, pick up menu(s) from menu boxes, help keep dining room full, complete side work duties, and find work that needs to be done (e.g., helps servers with refills, reset tables, etc.) |
|                     | 3              |         | Complete volume side work and closing duties as assigned (e.g., organize and clean lobby area, check for torn /worn menus & discard as needed, etc.). Perform additional duties as assigned                            |
|                     | 3              |         | Check out with a manager at end of shift                                                                                                                                                                               |
| Making Waves        | 3              |         | Maintain positive and friendly relationships with the HOH and other FOH crew                                                                                                                                           |
|                     | 3              |         | Treat guests' and crew members' urgency as own urgency                                                                                                                                                                 |

## Hospitality You Can Touch

|                           | 30 Day         | 6 Month |                                                                                                           |
|---------------------------|----------------|---------|-----------------------------------------------------------------------------------------------------------|
| Expected Outcomes         | Insert Ratings |         | Performance Expectations                                                                                  |
| Have a Great Attitude     | 3              |         | Smile, make eye contact with every guest                                                                  |
|                           | 3              |         | Immediately acknowledge and welcome every guest                                                           |
|                           | 3              |         | As guests leave, genuinely thank guests and invite them to return                                         |
|                           | 3              |         | Be on time and ready for work                                                                             |
| Be Attentive              | 3              |         | Proactively approach guests vs. wait for them to approach you (i.e. proactively open the door for guests) |
|                           | 3              |         | Seat best tables first                                                                                    |
|                           | 3              |         | Ensure resolution of all guest comments                                                                   |
| Be Knowledgeable          | 3              |         | Know table numbers                                                                                        |
|                           | 3              |         | Know next available table(s)                                                                              |
|                           | 2              |         | Know and give accurate quote times                                                                        |
| Give Personalized Service | 2              |         | Recognize frequent guests (use names whenever possible)                                                   |
|                           | 3              |         | Give guests compliments                                                                                   |
|                           | 3              |         | Acknowledge and celebrate guests' special occasions                                                       |
| Have a Fresh Appearance   | 3              |         | When escorting guests to table, walk at their pace and engage in conversation                             |
|                           | 3              |         | Clean as you go; ensure lobby area, floors, windows, podium and high chairs/booster chairs are spotless   |
|                           | 3              |         | Ensure clothes and personal appearance are crisp and clean, according to Red Lobster's standards          |
|                           | 3              |         | Maintain spotless and stocked restrooms                                                                   |

Please enter rating into PeopleSoft (when entering rating round off to nearest whole #):

Merit Increase: YES ☐ NO ☐ Date of Last Increase:           

Amount:            Effective Date:           

|                         | 30 day | 6 month |
|-------------------------|--------|---------|
| Overall Review Results: | 2.84   | 0.00    |

Crew member's safety shoes have been inspected and found to be in safe condition. If found to be unsafe, the shoes are to be replaced by the crew member, or the crew member may elect to wear safety overshoes provided by the company at no charge to the crew member.

☐ Acceptable Condition ☐ In Need of Replacement

My manager has reviewed with me and I fully understand our company's policies, procedures, and benefits (e.g., open door policy, no harassment, vacation, Darden savings plan, insurance, meals, and Dispute Resolution Procedure). I have received my copy of the "Get Ready to Make Waves" handbook.

Crew Member's Signature: x Paula Carlson Date: 3/29/07

Reviewer's Signature: W. St. Date: 2/07

GM's Signature: R. Sh. Date: 2/07

You must print both the Review and Development Plan worksheets

Page 1 of 2

## DARDEN RESTAURANTS EMPLOYEE SECURITY AGREEMENT

### Security Commitment

The safety and welfare of our guests and employees is the primary concern of all company security policies and standards. Prevention is the key to maintaining a safe work environment. All employees must individually and as a team, ensure that security standards and policies are followed at all times.

### Critical Security Standards

These security standards should be followed without exception:

- Employees will exit the restaurant after dark in groups of two or more, by the front door, proceed directly to their cars and drive away immediately.
- Under no circumstance is an hourly employee permitted to open the back door without direct supervision of a manager or only if they are trained and certified by a manager.
- Once the restaurant is open, all employees must enter and exit through the front door.
- Employees are not permitted to open the front door after the restaurant has been closed. If an emergency get the manager at once!
- After the restaurant has been closed, employees, employee friends/relatives and guests are not permitted to re-enter the building.
- Employees must complete the Darden Security Smart Program.
- If an employee observes a security problem(s) or has a suggestion, he/she is asked to bring this situation to the attention of management.

**When an employee is in violation of these standards, appropriate disciplinary action will be taken up to and including termination.**

Security is an ongoing pursuit for Darden Restaurants Inc. and our employees. Security starts with each employee's dedication to maintaining a safe dining and work environment. Darden Corporate Security strongly recommends that employees routinely review the Security Smart program.

**By signing this security agreement I acknowledge that I have participated in and understand the Darden Security Smart Program, and will comply with the above Darden security policies.**

Restaurant Name/ # Kelley's 736

Date 2/8/07

Employee Name Paula Carlson

Signature Paula Carlson

Program Name: ZPYR016  
Report Name: ZPYR016

Darden Restaurants, Inc.  
PeopleSoft HRMS  
Wage Compensation Report  
All Checks Processed From: 25-JAN-2007 Thru 19-APR-2007  
Listing Of Checks For All Business Units  
Report As Of: 19-APR-2007

Run Date: 04/19/2007  
Run Time: 12:08:14  
Page No: 1

Employee ID: 100636338  
Soc Sec Num: 201-66-3077  
Current BU/CO: RLUSA / GPA  
Check Deposit: | Savings

Name: Carlson, Paula J  
Address: 1373 Sandstone Drive  
Falls Creek PA 15840

Current Location: 0736  
Primary Job Code: 0310  
Orig. Hire Date: 25-JAN-2007

Charged Dept: 0736  
Pay Rate: 6.25 / Hr  
Term Date:

Check Dt: 02-FEB-2007  
Wk End Dt: 28-JAN-2007  
Check Num: 0  
Work St: PA  
CK BU/CO: RLUSA / GPA  
On/Off Cy: On

Check Totals:

Gross Pay

Net Pay

Job <--- Regular ---> <--- Overtime ---> <--- Other --->  
Code Hours Earnings Hours Earnings Type Hours Earnings  
0290 12.20 76.25  
Check Dt: 09-FEB-2007  
Wk End Dt: 04-FEB-2007  
Check Num: 701409  
Work St: PA  
CK BU/CO: RLUSA / GPA  
On/Off Cy: On

| Job | Code | Hours | Earnings | Hours | Earnings | Type                | Hours | Earnings | Type | Taxes               | Tax Amt | Deductions | Amt |
|-----|------|-------|----------|-------|----------|---------------------|-------|----------|------|---------------------|---------|------------|-----|
|     | 0290 | 12.20 | 76.25    |       |          |                     |       |          |      | (0171355C) WithHldg | 76.25   | 52.00      |     |
|     |      |       |          |       |          | (F) MED/EE          |       | 76.25    |      |                     | 1.11    |            |     |
|     |      |       |          |       |          | (F) OASDI/EE        |       | 76.25    |      |                     | 4.73    |            |     |
|     |      |       |          |       |          | (PA) Unempl EE      |       | 76.25    |      |                     | 0.07    |            |     |
|     |      |       |          |       |          | (F) Withholding     |       | 76.25    |      |                     | 2.34    |            |     |
|     |      |       |          |       |          | (PA) Withholding    |       | 76.25    |      |                     | 0.76    |            |     |
|     |      |       |          |       |          | (1171355C) WithHldg |       | 76.25    |      |                     |         |            |     |

Check Totals:

12.20 76.25

Gross Pay  
76.25

61.01

Net Pay  
15.24

\*=Not Included In Gross Pay #=Non Paid Update &=Non Paid Update and Not Included In Gross Pay Ded Type: (A)=After Tax/ (B)=Before Tax/ (T)=Taxable Benefit

Program Name: ZPYR016  
Report Name: ZPYR016

Darden Restaurants, Inc.  
Peoplesoft HRMS  
Wage Compensation Report  
All Checks Processed From: 25-JAN-2007 Thru 19-APR-2007  
Listing Of Checks For All Business Units  
Report As Of: 19-APR-2007

Run Date: 04/19/2007  
Run Time: 12:08:14  
Page No: 2

Employee ID: 100836338  
Soc Sec Num: 201-66-3077  
Current BU/CO: RLUSA / GPA  
Check Deposit: Savings

Name: Carlson, Paula J  
Address: 1373 Sandstone Drive  
Palle Creek PA 15840

Current Location: 0736  
Primary Job Code: 0310  
Orig. Hire Date: 25-JAN-2007

Charged Dept: 0736  
Pay Rate: 6.25 / Hr  
Term Date:

Check Dt: 16-FEB-2007  
Wk End Dt: 11-FEB-2007  
Check Num: 744113  
Work St: PA  
CK BU/CO: RLUSA / GPA  
On/Off Cy: On

| Job Code | Regular Hours | Regular Earnings | Overtime Hours | Overtime Earnings | Other Type | Other Hours | Other Earnings | Taxes Type         | Taxes Amt Txabl | Taxes Tax Amt | Deductions Type | Deductions Amt |
|----------|---------------|------------------|----------------|-------------------|------------|-------------|----------------|--------------------|-----------------|---------------|-----------------|----------------|
| 0290     | 21.32         | 133.25           |                |                   |            |             |                | (017135SC) WthHldg | 180.31          | 2.61          | (A) DIMES       | 1.00           |
| 0310     | 7.53          | 47.06            |                |                   |            |             |                | (F) MED/EE         | 180.31          | 11.18         |                 |                |
|          |               |                  |                |                   |            |             |                | (F) OASDI/EE       | 180.31          | 0.16          |                 |                |
|          |               |                  |                |                   |            |             |                | (PA) Unempl EE     | 180.31          |               |                 |                |
|          |               |                  |                |                   |            |             |                | (F) Withholding    | 180.31          | 5.54          |                 |                |
|          |               |                  |                |                   |            |             |                | (PA) Withholding   | 180.31          | 1.80          |                 |                |
|          |               |                  |                |                   |            |             |                | (I17135SC) WthHldg | 180.31          |               |                 |                |

Check Totals:

28.85 180.31

Gross Pay 180.31

21.29

Net Pay 158.02

Check Dt: 23-FEB-2007  
Wk End Dt: 18-FEB-2007  
Check Num: 787000  
Work St: PA  
CK BU/CO: RLUSA / GPA  
On/Off Cy: On

| Job  | Regular | Overtime | Other    | Taxes     | Deductions |
|------|---------|----------|----------|-----------|------------|
| Code | Hours   | Earnings | Hours    | Earnings  | Type       |
| 0310 | 17.78   | 111.13   |          |           | (A) DIMES  |
|      |         |          | Type     | Amt Txabl | Amt        |
|      |         |          | Hours    |           |            |
|      |         |          | Earnings |           |            |
|      |         |          | Type     |           |            |
|      |         |          | Hours    |           |            |
|      |         |          | Earnings |           |            |
|      |         |          | Type     |           |            |
|      |         |          | Hours    |           |            |
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|      |         |          | Type     |           |            |
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|      |         |          | Type     |           |            |
|      |         |          | Hours    |           |            |
|      |         |          | Earnings |           |            |
|      |         |          | Type     |           |            |
|      |         |          |          |           |            |

Check Totals:

17.78 111.13

Gross Pay 111.13

13.12

Net Pay 97.01

\*=Not Included In Gross Pay #=Non Paid Update &=Non Paid Update and Not Included In Gross Pay Ded Type: (A)=After Tax/ (B)=Before Tax/ (T)=Taxable Benefit

Darden Restaurants, Inc.  
PeopleSoft HRMS  
Wage Compensation Report  
Listing Of Checks For All Business Units  
Report As Of: 19-APR-2007  
All Checks Processed From: 25-JAN-2007 Thru 19-APR-2007

|                |             |
|----------------|-------------|
| Employee ID:   | 100836338   |
| Soc Sec Num:   | 201-66-3077 |
| Current BU/CO: | RLUSA / GPA |
| Check Deposit: | Savings     |

Name: Carlson, Paula J  
Address: 1373 Sandstone Drive  
Falls Creek PA 15840

Current Location: 0736  
Primary Job Code: 0310  
Orig. Hire Date: 25-JAN-2007

Charged Dept: 0736  
Pay Rate: 6.25 / Hr  
Term Date:

Check Dt: 02-MAR-2007  
Wk End Dt: 25-FEB-2007  
Check Num: 829906  
Work St: PA  
CK BU/CO: RLUSA / GPA  
On/Off Cy: On

| Job Code | Regular Hours | Earnings | OverTime Hours | Earnings | Type               | Hours | Earnings | Taxes Amt          | Txabl  | Tax Amt | Deductions Type | Amt  |
|----------|---------------|----------|----------------|----------|--------------------|-------|----------|--------------------|--------|---------|-----------------|------|
| 0310     | 25.47         | 159.19   |                |          |                    |       |          | (O1I7355C) WchHldg | 159.19 |         | (A) DIME\$      | 1.00 |
|          |               |          |                |          | (F) MED/EE         |       | 159.19   |                    |        | 2.31    |                 |      |
|          |               |          |                |          | (F) OASDI/EE       |       | 159.19   |                    |        | 9.87    |                 |      |
|          |               |          |                |          | (PA) Unempl EE     |       | 159.19   |                    |        | 0.14    |                 |      |
|          |               |          |                |          | (F) Withholding    |       | 159.19   |                    |        |         |                 |      |
|          |               |          |                |          | (PA) Withholding   |       | 159.19   |                    |        | 4.89    |                 |      |
|          |               |          |                |          | (I1I7355C) WchHldg |       | 159.19   |                    |        | 1.59    |                 |      |

**Check Totals:**

25.47 159.19

Gross Pay 159.19

|         |      |        |
|---------|------|--------|
| Net Pay | 1.00 | 139.39 |
|---------|------|--------|

Check Dt: 09-MAR-2007  
Wk End Dt: 04-MAR-2007  
Check Num: 873190  
Work St: PA  
Ck BU/CO: RLUSA / GPA  
On/Off Cy: On

| Job Code | Regular Hours | Earnings | Overtime Hours | Earnings | Type               | Hours   | Earnings | Taxes Amt | Txbl | Tax Amt | Deductions Type | Amt  |
|----------|---------------|----------|----------------|----------|--------------------|---------|----------|-----------|------|---------|-----------------|------|
| 0310     | 12.40         | 77.50    |                |          | (O171355C)         | WchHldg | 77.50    |           |      |         | (A) DIME\$      | 1.00 |
|          |               |          |                |          | (F) MED/EE         |         | 77.50    |           |      | 1.12    |                 |      |
|          |               |          |                |          | (F) OASDI/EE       |         | 77.50    |           |      | 4.80    |                 |      |
|          |               |          |                |          | (PA) Unempl EE     |         | 77.50    |           |      | 0.07    |                 |      |
|          |               |          |                |          | (F) Withholding    |         | 77.50    |           |      |         |                 |      |
|          |               |          |                |          | (PA) Withholding   |         | 77.50    |           |      | 2.38    |                 |      |
|          |               |          |                |          | (I171355C) WchHldg |         | 77.50    |           |      | 0.78    |                 |      |

**Check Totals:**

|       |       |
|-------|-------|
| 12.40 | 77.50 |
|-------|-------|

Gross Pay 77.50

|         |      |       |
|---------|------|-------|
| Net Pay | 1.00 | 67.35 |
|---------|------|-------|

\*=Not Included In Gross Pay    #-Non Paid Update    &=Non Paid Update and Not Included In Gross Pay    Ded Type: (A)=After Tax/ (B)=Before Tax/ (T)=Taxable Benefit

Program Name: ZPYR016  
Report Name: ZPYR016

Darden Restaurants, Inc.  
PeopleSoft HRMS  
Wage Compensation Report  
All Checks Processed From: 25-JAN-2007 Thru 19-APR-2007  
Listing Of Checks For All Business Units  
Report As Of: 19-APR-2007

Run Date: 04/19/2007  
Run Time: 12:08:14  
Page No: 4

Employee ID: 100836338 Name: Carlson, Paula J  
Soc Sec Num: 201-66-3077 Address: 1373 Sandstone Drive  
Current BU/CO: RLUSA / GPA Falls Creek PA 15840  
Check Deposit: Savings  
Current Location: 0736  
Primary Job Code: 0310  
Orig. Hire Date: 25-JAN-2007  
Charged Dept: 0736  
Pay Rate: 6.25 / Hr  
Term Date:

| Job <--- Regular --->  |       |          |  | <--- Overtime --->    |       |          |  | <--- Other --->    |       |          |  | <--- Taxes --->    |           |         |      | <--- Deductions ---> |      |  |  |
|------------------------|-------|----------|--|-----------------------|-------|----------|--|--------------------|-------|----------|--|--------------------|-----------|---------|------|----------------------|------|--|--|
| Code                   | Hours | Earnings |  | Code                  | Hours | Earnings |  | Type               | Hours | Earnings |  | Type               | Amt Txabl | Tax Amt |      | Type                 | Amt  |  |  |
| 0290                   | 2.05  | 12.81    |  |                       |       |          |  | (F) MED/EE.        |       |          |  | (0171355C) WthHldg | 138.94    | 2.02    |      | (A) DIMES            | 1.00 |  |  |
| 0310                   | 20.18 | 126.13   |  |                       |       |          |  | (F) OASDI/EE       |       |          |  |                    |           | 138.94  | 8.62 |                      |      |  |  |
| Check Dt: 16-MAR-2007  |       |          |  | Check Num: 916463     |       |          |  | (PA) Unempl EE     |       |          |  |                    |           | 138.94  | 0.13 |                      |      |  |  |
| Wk End Dt: 11-MAR-2007 |       |          |  | Work St: PA           |       |          |  | (F) Withholding    |       |          |  |                    |           | 138.94  |      |                      |      |  |  |
| Check Num: 916463      |       |          |  | CK BU/CO: RLUSA / GPA |       |          |  | (PA) Withholding   |       |          |  |                    |           | 138.94  | 4.27 |                      |      |  |  |
| On/Off Cy: On          |       |          |  |                       |       |          |  | (1171355C) WthHldg |       |          |  |                    |           | 138.94  | 1.39 |                      |      |  |  |

Check Totals: 22.23 138.94 Gross Pay 138.94 16.43 1.00 Net Pay 121.51

| Job <--- Regular --->  |       |          |  | <--- Overtime --->    |       |          |  | <--- Other --->    |       |          |  | <--- Taxes ---> |           |         |      | <--- Deductions ---> |           |      |  |
|------------------------|-------|----------|--|-----------------------|-------|----------|--|--------------------|-------|----------|--|-----------------|-----------|---------|------|----------------------|-----------|------|--|
| Code                   | Hours | Earnings |  | Code                  | Hours | Earnings |  | Type               | Hours | Earnings |  | Type            | Amt Txabl | Tax Amt |      | Type                 | Amt       |      |  |
| 0310                   | 18.25 | 114.06   |  |                       |       |          |  | (0171355C) WthHldg |       |          |  |                 |           | 114.06  | 1.65 |                      | (A) DIMES | 1.00 |  |
| Check Dt: 23-MAR-2007  |       |          |  | Check Num: 961551     |       |          |  | (F) MED/EE         |       |          |  |                 |           | 114.06  | 7.07 |                      |           |      |  |
| Wk End Dt: 18-MAR-2007 |       |          |  | Work St: PA           |       |          |  | (F) OASDI/EE       |       |          |  |                 |           | 114.06  | 0.10 |                      |           |      |  |
| Check Num: 961551      |       |          |  | CK BU/CO: RLUSA / GPA |       |          |  | (PA) Unempl EE     |       |          |  |                 |           | 114.06  |      |                      |           |      |  |
| On/Off Cy: On          |       |          |  |                       |       |          |  | (F) Withholding    |       |          |  |                 |           | 114.06  | 3.50 |                      |           |      |  |
|                        |       |          |  |                       |       |          |  | (PA) Withholding   |       |          |  |                 |           | 114.06  | 1.14 |                      |           |      |  |
|                        |       |          |  |                       |       |          |  | (1171355C) WthHldg |       |          |  |                 |           | 114.06  |      |                      |           |      |  |

Check Totals: 18.25 114.06 Gross Pay 114.06 13.46 1.00 Net Pay 99.60

\*=Not Included In Gross Pay #Non Paid Update &=Non Paid Update and Not Included In Gross Pay Ded Type: (A)=After Tax/ (B)=Before Tax/ (T)=Taxable Benefit

Program Name: ZPYR016  
Report Name: ZPYR016

Darden Restaurants, Inc.  
PeopleSoft HRMS  
Wage Compensation Report  
All Checks Processed From: 25-JAN-2007 Thru 19-APR-2007  
Listing Of Checks For All Business Units  
Report As Of: 19-APR-2007

Run Date: 04/19/2007  
Run Time: 12:08:14  
Page No: 5

Employee ID: 100836338  
Soc Sec Num: 201-66-3077  
Current BU/CO: RLUSA / GPA  
Check Deposit: Savings

Name: Carlson, Paula J  
Address: 1373 Sandstone Drive  
Falls Creek PA 15840

Current Location: 0736  
Primary Job Code: 0310  
Orig. Hire Date: 25-JAN-2007

Charged Dept: 0736  
Pay Rate: 6.25 / Hr  
Term Date:

Job <--- Regular --->  
Code 0310  
Hours 27.13  
Earnings 169.56  
Check Dt: 30-MAR-2007  
Wk End Dt: 25-MAR-2007  
Check Num: 196561  
Work St: PA  
CK BU/CO: RLUSA / GPA  
On/Off Cy: On

| <--- Regular ---> |       |          | <--- Overtime ---> |       |          | <--- Other ---> |       |          | <--- Taxes --->   |        |        | <--- Deductions ---> |      |  |
|-------------------|-------|----------|--------------------|-------|----------|-----------------|-------|----------|-------------------|--------|--------|----------------------|------|--|
| Code              | Hours | Earnings | Code               | Hours | Earnings | Code            | Hours | Earnings | Type              | Amt    | Taxabl | Type                 | Amt  |  |
| 0310              | 27.13 | 169.56   |                    |       |          |                 |       |          | (0171355C) WtHldg | 169.56 |        | (A) DIMES            | 1.00 |  |
|                   |       |          |                    |       |          |                 |       |          | (F) MED/EE        | 169.56 |        |                      |      |  |
|                   |       |          |                    |       |          |                 |       |          | (F) OASDI/EE      | 169.56 |        |                      |      |  |
|                   |       |          |                    |       |          |                 |       |          | (PA) Unempl EE    | 169.56 |        |                      |      |  |
|                   |       |          |                    |       |          |                 |       |          | (F) Withholding   | 169.56 |        |                      |      |  |
|                   |       |          |                    |       |          |                 |       |          | (PA) Withholding  | 169.56 |        |                      |      |  |
|                   |       |          |                    |       |          |                 |       |          | (1171355C) WtHldg | 169.56 |        |                      |      |  |

Check Totals: 27.13 169.56 Gross Pay 169.56 Taxes 20.03 Deductions 1.00 Net Pay 148.53

Job <--- Regular --->  
Code 0310  
Hours 16.40  
Earnings 102.50  
Check Dt: 06-APR-2007  
Wk End Dt: 01-APR-2007  
Check Num: 212416  
Work St: PA  
CK BU/CO: RLUSA / GPA  
On/Off Cy: On

| <--- Regular ---> |       |          | <--- Overtime ---> |       |          | <--- Other ---> |       |          | <--- Taxes --->   |        |        | <--- Deductions ---> |      |  |
|-------------------|-------|----------|--------------------|-------|----------|-----------------|-------|----------|-------------------|--------|--------|----------------------|------|--|
| Code              | Hours | Earnings | Code               | Hours | Earnings | Code            | Hours | Earnings | Type              | Amt    | Taxabl | Type                 | Amt  |  |
| 0310              | 16.40 | 102.50   |                    |       |          |                 |       |          | (0171355C) WtHldg | 102.50 |        | (A) DIMES            | 1.00 |  |
|                   |       |          |                    |       |          |                 |       |          | (F) MED/EE        | 102.50 |        |                      |      |  |
|                   |       |          |                    |       |          |                 |       |          | (F) OASDI/EE      | 102.50 |        |                      |      |  |
|                   |       |          |                    |       |          |                 |       |          | (PA) Unempl EE    | 102.50 |        |                      |      |  |
|                   |       |          |                    |       |          |                 |       |          | (F) Withholding   | 102.50 |        |                      |      |  |
|                   |       |          |                    |       |          |                 |       |          | (PA) Withholding  | 102.50 |        |                      |      |  |
|                   |       |          |                    |       |          |                 |       |          | (1171355C) WtHldg | 102.50 |        |                      |      |  |

Check Totals: 16.40 102.50 Gross Pay 102.50 Taxes 12.13 Deductions 1.00 Net Pay 89.37

\*=Not Included In Gross Pay #=Non Paid Update &=Non Paid Update and Not Included In Gross Pay Ded Type: (A)=After Tax/ (B)=Before Tax/ (T)=Taxable Benefit

Program Name: ZPYR016  
Report Name: ZPYR016

Darden Restaurants, Inc.  
Peoplesoft HRMS  
Wage Compensation Report  
All Checks Processed From: 25-JAN-2007 Thru 19-APR-2007  
Listing Of Checks For All Business Units  
Report As Of: 19-APR-2007

Run Date: 04/19/2007  
Run Time: 12:08:14  
Page No: 6

Employee ID: 100836338  
Soc Sec Num: 201-66-3077  
Current BU/CO: RLUSA / GPA  
Check Deposit: Savings

Name: Carlson, Paula J  
Address: 1373 Sandstone Drive  
Falls Creek PA 15840

Current Location: 0736  
Primary Job Code: 0310  
Orig. Hire Date: 25-JAN-2007

Charged Dept: 0736  
Pay Rate: 6.25 / Hr  
Term Date:

Job <--- Regular ---> <--- Overtime ---> <----- Other ----->  
Code Hours Earnings Hours Earnings Type Hours Earnings  
0310 16.58 103.63  
Check Dt: 13-APR-2007  
Wk End Dt: 08-APR-2007  
Check Num: 228290  
Work St: PA  
Ck BU/CO: RLUSA / GPA  
On/Off CY: On

<----- Taxes -----> <----- Deductions ----->  
Type Amt Txabl Tax Amt Type Amt  
(0171355C) WchHldg 103.63 (A) DIMES 1.00  
(F) MED/EE 103.63 1.50  
(F) OASDI/EE 103.63 6.42  
(PA) Unempl EE 103.63 0.09  
(F) Withholding 103.63  
(PA) Withholding 103.63 3.18  
(1171355C) WchHldg 103.63 1.04

Check Totals: 16.58 103.63 Gross Pay 103.63 12.23 Net Pay 90.40

Job <--- Regular ---> <--- Overtime ---> <----- Other ----->  
Code Hours Earnings Hours Earnings Type Hours Earnings  
0310 13.03 81.44  
Check Dt: 20-APR-2007  
Wk End Dt: 15-APR-2007  
Check Num: 244363  
Work St: PA  
Ck BU/CO: RLUSA / GPA  
On/Off CY: On

<----- Taxes -----> <----- Deductions ----->  
Type Amt Txabl Tax Amt Type Amt  
(0171355C) WchHldg 81.44 (A) DIMES 1.00  
(F) MED/EE 81.44 1.18  
(F) OASDI/EE 81.44 5.05  
(PA) Unempl EE 81.44 0.07  
(F) Withholding 81.44  
(PA) Withholding 81.44 2.50  
(1171355C) WchHldg 81.44 0.81

Check Totals: 13.03 81.44 Gross Pay 81.44 9.61 Net Pay 70.83

\*=Not Included In Gross Pay #=Non Paid Update &=Non Paid Update and Not Included In Gross Pay Ded Type: (A)=After Tax/ (B)=Before Tax/ (T)=Taxable Benefit



Run Date: 04/19/2007  
Run Time: 12:08:16  
Page No: 7

Charged Dept: 0736  
Pay Rate: 6.25 / Hr  
Term Date:

Wage Compensation Report  
All Checks Processed From: 25-JUN-2007 Thru 19-APR-2007  
Listing Of Checks For All Business Units  
Report As Of: 19-APR-2007  
Totals For All Checks

| Job                           | <--- Regular ---> | <--- Overtime ---> | <----- Other -----> | Type               | Taxes             | Deductions      |
|-------------------------------|-------------------|--------------------|---------------------|--------------------|-------------------|-----------------|
| Code                          | Hours             | Earnings           | Hours               | Earnings           | Amt Txabl Tax Amt | Type Amt        |
| 0290                          | 35.57             | 222.31             |                     | (F) OASDI/EE       | 1314.51           | 81.50 (A) DIMES |
|                               |                   |                    |                     | (F) MED/EE         | 1314.51           |                 |
| 0310                          | 174.75            | 1092.20            |                     | (F) Withholding    | 1314.51           |                 |
|                               |                   |                    |                     | (PA) Withholding   | 1314.51           | 40.37           |
|                               |                   |                    |                     | (I171355C) WchHldg | 1314.51           | 13.15           |
|                               |                   |                    |                     | (O171355C) WchHldg | 1314.51           | 52.00           |
|                               |                   |                    |                     | (PA) Unempl EE     | 1314.51           | 1.18            |
| <b>Gross Pay</b>              |                   |                    |                     |                    |                   |                 |
|                               | 210.32            | 1314.51            |                     |                    | 1314.51           |                 |
| <b>Totals for all checks:</b> |                   |                    |                     |                    |                   |                 |
|                               |                   |                    |                     |                    | 207.26            |                 |
| <b>Net Pay</b>                |                   |                    |                     |                    |                   |                 |
|                               |                   |                    |                     |                    | 10.00             |                 |
|                               |                   |                    |                     |                    | 1097.25           |                 |

\*=Not Included In Gross Pay    #-Non Paid Update    &=Non Paid Update and Not Included In Gross Pay    Ded Type: (A)=After Tax/ (B)=Before Tax/ (T)=Taxable Benefit  
End of Report

THIS WAS my first check

Red Lobster

[New Window](#) | [Help](#) | [Customize Page](#) | 

## View Paycheck

[Instrucciones en Espa](#)

Paula Carlson

Net Pay: **\$15.24**

### Company:

GM Restaurants of Pennsylvania

Pay Begin Date: 01/29/2007

### Address:

P.O. Box 593330

Pay End Date: 02/04/2007

Orlando, FL 32859

Check Date: 02/09/2007

[View a Different Paycheck](#)

### General

|              |                                               |                |                            |
|--------------|-----------------------------------------------|----------------|----------------------------|
| Name:        | Paula J Carlson                               | Business Unit: | RLUSA                      |
| Employee ID: | 100836338                                     | Pay Group:     | GPA RL Hourly USA          |
| Address:     | 1373 Sandstone Drive<br>Falls Creek, PA 15840 | Department:    | 0736 - Dubois, PA          |
|              |                                               | Location:      | Du Bois, Pa                |
|              |                                               | Job Title:     | Restaurant Hourly Employee |
|              |                                               | Pay Rate:      | Weekly                     |

### Tax Data

|                     |         |                    |                |
|---------------------|---------|--------------------|----------------|
| Fed Marital Status: | Married | PA Marital Status: | Not applicable |
| Fed Allowances:     | 1       | PA Allowances:     | 0              |
| Fed Addl Percent:   | 0.000   | PA Addl Percent:   | 0.000          |
| Fed Addl Amount:    | \$0.00  | PA Addl Amount:    | \$0.00         |

### Paycheck Summary

|         | Gross Earnings | Fed Taxable Gross | Total Taxes | Total Deductions | Net P |
|---------|----------------|-------------------|-------------|------------------|-------|
| Current | 76.25          | 76.25             | 61.01       | 0.00             | 15.24 |

| Earnings    |       |          |        |
|-------------|-------|----------|--------|
| Description | Hours | Rate     | Amount |
| Regular     | 12.20 | 6.250000 | 76.25  |
|             |       |          |        |
| Total:      | 12.20 |          | 76.25  |

| Taxes          |        |
|----------------|--------|
| Description    | Amount |
| Fed MED/EE     | 1.     |
| Fed OASD/EE    | 4.     |
| PA Unempl EE   | 0.     |
| PA Withholding | 2.     |
| PA Withholding | 0.     |
| PA EMS Tax     | 52.    |
| Total:         | 61.    |

| Before-Tax Deductions |        | After Tax Deductions |        | Employer Paid Benefits |        |
|-----------------------|--------|----------------------|--------|------------------------|--------|
| Description           | Amount | Description          | Amount | Description            | Amount |
|                       |        |                      |        |                        |        |

**RED LOBSTER**

|                                                                   |              |                                  |                            |                              |                         |                              |
|-------------------------------------------------------------------|--------------|----------------------------------|----------------------------|------------------------------|-------------------------|------------------------------|
| <b>PAULA J CARLSON</b>                                            |              | <b>EMPLOYEE NUMBER</b> 100836338 |                            | <b>PAY BEGIN</b> 02/05/07    | <b>PAY END</b> 02/11/07 | <b>CHECK NUMBER</b> 0744113  |
| <b>MAIL LOCATION</b> 0736 RLUSA                                   |              | <b>CURRENT YEAR TO DATE</b>      | <b>GROSS AMOUNT</b> 180.31 | <b>TAXABLE AMOUNT</b> 180.31 | <b>TAXES</b> 21.29      | <b>OTHER DEDUCTIONS</b> 1.00 |
| <b>EARNINGS</b>                                                   | <b>HOURS</b> | <b>CURRENT</b>                   | <b>TAXES</b>               | <b>CURRENT</b>               | <b>YEAR TO DATE</b>     | <b>OTHER DEDUCTIONS</b>      |
| REGULAR                                                           | 2885         | 625                              | 18031                      | 16                           | 23                      | DAR TIME                     |
|                                                                   |              |                                  | PA UNEMP                   | 554                          | 788                     |                              |
|                                                                   |              |                                  | PA WITHH                   | 180                          | 256                     |                              |
|                                                                   |              |                                  | PA WITH                    | 261                          | 372                     |                              |
|                                                                   |              |                                  | FED MED/                   | 1118                         | 1591                    |                              |
|                                                                   |              |                                  | FED OASD                   |                              | 5200                    |                              |
|                                                                   |              |                                  | PA EMS                     |                              |                         |                              |
| <b>TOTAL</b>                                                      | <b>2885</b>  |                                  | <b>18031</b>               | <b>2129</b>                  | <b>8230</b>             | <b>100</b>                   |
| <b>AVERAGE HOURS WORKED AS OF 02/11 FOR INSURANCE PURPOSE: 14</b> |              |                                  |                            |                              |                         |                              |

**RED LOBSTER**

|                                                                   |              |                                  |                            |                              |                         |                              |
|-------------------------------------------------------------------|--------------|----------------------------------|----------------------------|------------------------------|-------------------------|------------------------------|
| <b>PAULA J CARLSON</b>                                            |              | <b>EMPLOYEE NUMBER</b> 100836338 |                            | <b>PAY BEGIN</b> 02/12/07    | <b>PAY END</b> 02/18/07 | <b>CHECK NUMBER</b> 0787000  |
| <b>MAIL LOCATION</b> 0736 RLUSA                                   |              | <b>CURRENT YEAR TO DATE</b>      | <b>GROSS AMOUNT</b> 111.13 | <b>TAXABLE AMOUNT</b> 111.13 | <b>TAXES</b> 13.12      | <b>OTHER DEDUCTIONS</b> 1.00 |
| <b>EARNINGS</b>                                                   | <b>HOURS</b> | <b>CURRENT</b>                   | <b>TAXES</b>               | <b>CURRENT</b>               | <b>YEAR TO DATE</b>     | <b>OTHER DEDUCTIONS</b>      |
| REGULAR                                                           | 1778         | 625                              | 11113                      | 10                           | 33                      | DAR TIME                     |
|                                                                   |              |                                  | PA UNEMP                   | 341                          | 1129                    |                              |
|                                                                   |              |                                  | PA WITHH                   | 111                          | 367                     |                              |
|                                                                   |              |                                  | PA WITH                    | 161                          | 533                     |                              |
|                                                                   |              |                                  | FED MED/                   | 689                          | 2280                    |                              |
|                                                                   |              |                                  | FED OASD                   |                              | 5200                    |                              |
|                                                                   |              |                                  | PA EMS                     |                              |                         |                              |
| <b>TOTAL</b>                                                      | <b>1778</b>  |                                  | <b>11113</b>               | <b>1312</b>                  | <b>9542</b>             | <b>100</b>                   |
| <b>AVERAGE HOURS WORKED AS OF 02/18 FOR INSURANCE PURPOSE: 15</b> |              |                                  |                            |                              |                         |                              |

| PAULA J CARLSON |       |              |                  | PAY BEGIN        |                 | PAY END          |         | CHECK NUMBER |  |
|-----------------|-------|--------------|------------------|------------------|-----------------|------------------|---------|--------------|--|
| EMPLOYEE NUMBER |       | 100836338    |                  | 02/19/07         |                 | 02/25/07         |         | 0829906      |  |
| MAIL LOCATION   |       | CURRENT      | GROSS AMOUNT     | TAXABLE AMOUNT   | TAXES           | OTHER DEDUCTIONS | NET PAY |              |  |
| 0736 RLUSA      |       | YEAR TO DATE | 159.19<br>526.88 | 159.19<br>526.88 | 18.80<br>114.22 | 1.00             | 139.39  |              |  |
| EARNINGS        | HOURS | CURRENT      | TAXES            | CURRENT          | YEAR TO DATE    | OTHER DEDUCTIONS | AMOUNT  |              |  |
| REGULAR         | 25.47 | 625          | PA UNEMP         | 14               | 47              | PA DINE          | 100     |              |  |
|                 |       |              | PA WITHH         | 489              | 1618            |                  |         |              |  |
|                 |       |              | PA WITH          | 159              | 526             |                  |         |              |  |
|                 |       |              | FED MED          | 231              | 764             |                  |         |              |  |
|                 |       |              | FED OASD         | 987              | 3267            |                  |         |              |  |
|                 |       |              | PA EMS           |                  | 5200            |                  |         |              |  |
| TOTAL           | 25.47 | 15919        |                  | 1880             | 11422           |                  | 100     |              |  |

REMEMBER TO REPORT YOUR TAXES TO THE IRS

|                                                            |  |                |  |              |  |                  |  |
|------------------------------------------------------------|--|----------------|--|--------------|--|------------------|--|
| PAULA J CARLSON                                            |  | PAY BEGIN      |  | PAY END      |  | CHECK NUMBER     |  |
| EMPLOYEE NUMBER                                            |  | 02/26/07       |  | 03/04/07     |  | 0873190          |  |
| 100836338                                                  |  |                |  |              |  |                  |  |
| GROSS AMOUNT                                               |  | TAXABLE AMOUNT |  | TAXES        |  | OTHER DEDUCTIONS |  |
| 77.50                                                      |  | 77.50          |  | 9.15         |  | 1.00             |  |
| 604.38                                                     |  | 604.38         |  | 123.37       |  | 67.35            |  |
| MAIL LOCATION                                              |  | CURRENT        |  | YEAR TO DATE |  | NET PAY          |  |
| 0236 RI/USA                                                |  | 604.38         |  | 123.37       |  | 67.35            |  |
| EARNINGS                                                   |  | HOURS          |  | CURRENT      |  | TAXES            |  |
| REGULAR                                                    |  | 1240           |  | 625          |  | 7750             |  |
| PA UNEMP                                                   |  | PA WITHH       |  | PA WITH      |  | FED MED/         |  |
| 238                                                        |  | 1856           |  | 78           |  | 604              |  |
| 112                                                        |  | 876            |  | 480          |  | 3747             |  |
| 5200                                                       |  | 5400           |  | 100          |  |                  |  |
| PA EMS                                                     |  | PA             |  | PA           |  | PA               |  |
| TOTAL                                                      |  | 1240           |  | 7750         |  | 915              |  |
| 12337                                                      |  | 100            |  |              |  |                  |  |
| AVERAGE HOURS WORKED AS OF 03/04 FOR INSURANCE PURPOSE: 16 |  |                |  |              |  |                  |  |

# EXHIBIT E

IN THE COURT OF COMMON PLEAS  
OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL ACTION - MEDICAL PROFESSIONAL LIABILITY ACTION

PAULA CARLSON and JAMIE  
CARLSON, her husband,

Plaintiffs,

vs.

JERJIS T. ALAJAJI, M.D.  
and DUBOIS RADIOLOGISTS,  
INC., and DUBOIS REGIONAL  
MEDICAL CENTER,

Defendants.

:  
:  
:  
:  
:  
: Docket No. 2006-563-C.D.  
:  
: Jury Trial Demanded  
:  
:  
:  
:

DEPOSITION OF: JAMIE CARLSON

TAKEN BY: DEFENDANT - JERJIS T. ALAJAJI, M.D.

BEFORE: LISA L. RIVERA, RPR  
NOTARY PUBLIC

DATE: MAY 15, 2007; 11:04 A.M.

PLACE: DUBOIS REGIONAL MEDICAL CENTER  
100 HOSPITAL AVENUE  
HOME HEALTH BLDG. CONFERENCE ROOM  
DUBOIS, PA 15801

**ORIGINAL**

1 some combination?

2 A. Lung. Mesothelioma.

3 Q. Okay. And how old was he?

4 A. I think 58 or 59.

5 Q. Now, I understand for a period of time your wife  
6 kept a diary; is that accurate?

7 A. I know nothing -- she did, but I don't -- yeah,  
8 she did.

9 Q. Do you know why she stopped?

10 A. No.

11 Q. Do you know when she stopped?

12 A. No.

13 Q. Okay. Do you know if your wife takes any  
14 medications on a daily basis?

15 A. Not daily, no.

16 Q. Now, I understand that your wife is working at  
17 the Red Lobster in DuBois?

18 A. Yes.

19 Q. That's correct?

20 A. (Witness nods head affirmatively.)

21 Q. And did she start there in January of 2007?

22 A. I don't know.

23 Q. Do you know when your wife started looking for a  
24 job since the time that she's had the problems with her  
25 wrist?

1 four days a week over there?

2 A. At the time?

3 Q. Yes.

4 A. I believe so.

5 Q. When your wife started at Red Lobster, did she  
6 originally work weekends?

7 A. I think so.

8 Q. Did she work some weekdays as well?

9 A. Yes.

10 Q. Did she then go to working just weekdays or does  
11 she continue to work some weekends?

12 A. Some weekends.

13 Q. She does both now; weekdays and weekends?

14 A. Correct.

15 Q. Does she have an average hour schedule that she  
16 works?

17 A. Two days a week, three days a week I think. I  
18 don't recall.

19 Q. Do you know has your wife sought any alternative  
20 employment since she started working at Red Lobster?

21 A. No.

22 Q. Is there any particular reason you're aware of  
23 why not?

24 A. No.

25 Q. Okay. Has your wife explored the potential for



1 Center?

2 A. No.

3 Q. Have you ever suggested that to her?

4 A. No.

5 Q. What type of employment outside the home do you  
6 think that your wife could presently perform?

7 A. Don't know.

8 Q. Can you think of any type of job outside the  
9 home that your wife could presently perform?

10 A. No.

11 Q. Have you and she ever had any type of discussion  
12 of any type of job outside of the home that she could  
13 perform?

14 A. Seater at Red Lobster.

15 Q. I'm sorry?

16 A. A seater at Red Lobster where she's at now.

17 Q. How did it come about that that was selected to  
18 be the place where she would apply and obviously get hired?

19 A. I guess because she always has to worry about  
20 her arm and there's minimal of anything lifting or anything  
21 there as far as, you know, having to use her arm.

22 Q. How -- how did it come about that she ended up  
23 applying there?

24 A. Don't know.

25 Q. Did you have anything to do with suggesting that

# EXHIBIT F

THE COURT OF COMMON PLEAS OF  
CLEARFIELD COUNTY, PA  
CIVIL DIVISION

\* \* \* \* \*

PAULA CARLSON and \*

JAMIE CARLSON, her \*

husband, \*

Plaintiffs \* No. 2006-563-CD

~VS~ \*

JERJIS T. ALAJAJI, \*

M.D., DUBOIS \*

RADIOLOGISTS, INC. \*

and DUBOIS REGIONAL \*

MEDICAL CENTER, \*

Defendants \*

\* \* \* \* \*

ORIGINAL

DEPOSITION OF

PAULA CARLSON

October 4, 2006

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prohibited without authorization  
by the certifying agency

1 to see Doctor Graeca for?

2 A. Gynecological physical exam and  
3 yearly physical.

4 Q. Okay. Was it Doctor Piasio  
5 that made the referral to Doctor Yaw?

6 A. Yes.

7 Q. At some point in time did you  
8 make some efforts to seek out  
9 alternative employment?

10 A. Say that again.

11 Q. At some point in time since you  
12 developed this tumor have you  
13 undertaken some efforts to seek out  
14 other employment?

15 A. Oh, no.

16 Q. Did you not go to the job  
17 training center and apply or something  
18 like that?

19 A. I had to go there to be able to  
20 collect unemployment.

21 Q. But you made no inquiries on  
22 available jobs?

23 A. No.

24 Q. Any reason why you haven't?

25 A. To be totally honest with you

1 I'll never make the amount of money  
2 that I'm collecting on unemployment so  
3 when my unemployment runs out I'll be  
4 seeking a job.

5 Q. When is your unemployment  
6 scheduled to run out?

7 A. November.

8 Q. Do you have some --- November  
9 of 2006?

10 A. Yes.

11 Q. Are you doing any planning  
12 right now with regard to seeking out  
13 another job come November 2006  
14 whenever your unemployment runs out?

15 A. I haven't done anything, no.

16 Q. But you plan on doing ---?

17 A. November, I'm not sure of the  
18 date.

19 Q. Okay. Have you given any  
20 thought to what efforts you're going  
21 to undertake to start seeking out work  
22 when your unemployment runs out?

23 A. No.

24 Q. Do you ever watch the --- look  
25 through the newspaper to see if there

# EXHIBIT G



Family Practice &  
Internal Medicine

N. Anthony Mastropietro, M.D.  
Arif Hafiz, M.D.  
David Ling, M.D.  
Douglas A. Fronzaglia, D.O.  
Cindy A. Brubaker, PA-C

Michael C. Shipman, PA-C  
Teresa L. Weitz, PA-C

2145 Noll Drive • Lancaster, PA 17603  
717-397-4921 • Fax 717-397-7170

## N. Anthony Mastropietro, M.D.

### Education

#### College

Villanova University  
President, Lambda Kappa Delta Fraternity

BA in Social Science, 1967

#### Medical School

Georgetown University  
School of Medicine

M.D. Degree, 1971

#### Residency

Family Practice Residency, Lancaster General Hospital  
Chief Resident, Lancaster General Hospital

1971-1974  
1973-1974

### Professional Experience

Group Practice in Family Medicine- Lancaster, PA

1976-1982

Solo Practice in Family Medicine- Lancaster, PA

1982-1990

Mastropietro & Associates- Lancaster, PA  
Medical Director

1990-Present

### Hospital Privileges

Lancaster Regional Medical Center  
Lancaster General Hospital  
Heart of Lancaster Regional Medical Center

## **Military Experience**

Lieutenant Commander, U.S. Navy

1974-1976

Staff Physician

U.S. Naval Hospital- Jacksonville, FL

Teaching Staff, Family Practice Residency

U.S. Naval Hospital- Jacksonville, FL

Clinical Instructor

University of Florida School of Medicine- Gainesville, FL

Director of Physician's Assistant Training

U.S. Naval Hospital, Jacksonville, FL

Clinical Associate in Family Practice

University of Nebraska School of Medicine

Honorable Discharge 1976

## **Certification and Licensure**

Certified by the American Board of Family Practice

1974

Recertified by the Board

1980, 1986, 1993, 2001

Licensed in the State of Pennsylvania

1971 through Present

Licensed in the State of Georgia

1974 to 1978

Licensed in the State of Florida

1974-1981

Diplomat- National Board of Medical Examiners

1971

## **Professional Societies**

Member- American Academy of Family Physicians

## **Personal Data**

Married, 9 Children



N. Anthony Mastropietro, MD  
1300 Vickery Lane  
Lancaster, PA 17603

July 24, 2007

Mr. Thomas Crenney  
Crenney And Associates, LLC  
One Gateway Center  
18<sup>th</sup> Floor- West  
Pittsburgh, PA 15222

Dear Mr. Crenney:

I have read the opinions of Drs. Horsley and Schmidt in the case of Carlson v. Alajaji and am offering my rebuttal.

The first point I would like to make is that I have personally reviewed the original wrist x-rays in this case. I am not a radiologist, but the offending lesion is so obvious that virtually any physician should be able to recognize it as an abnormality. It is not a "subtle" finding.

Dr. Horsley's argument is that by diligently pursuing the proper diagnosis of Ms. Carlson's pain, it is somehow the fault of the primary care providers that this inaccurate report was rendered by Dr. Alajaji. Dr. Horsley is not an expert in primary care and his attempt to obfuscate the negligent radiology report with copious irrelevant facts and critical statements about the care rendered is outrageous. Everything Dr. Graeca and his PA did was based on the fact that they received an x-ray report that the wrist was normal! There are times when more clinical information might be helpful to a radiologist, but in this case "pain" and the readily seen abnormality on the x-ray should have been more than sufficient to provide an accurate radiological diagnosis. Dr. Horsley should limit his attempts to defend the inaccurate diagnosis to his expertise in radiology.

Dr. Horsley's other complaint was that an MRI was not ordered sooner in this case. With a negative x-ray, the time frame of the diagnostic workup was perfectly appropriate. The problem here was that, unfortunately for Ms. Carlson, she had a very aggressive tumor that was not reported in the original x-ray. It was not the fault of Dr. Graeca that he received an inaccurate x-ray report. Had he gotten a proper diagnosis of an abnormal lucency, an MRI would have been ordered immediately.

Dr. Horsley also feels it is necessary to demean the care rendered by Dr. Graeca's PA. First, it was completely appropriate for Ms. Natoli to be seeing this problem in this patient. Second, the care she rendered was completely appropriate as well. Dr. Horsley has no business making such commentary on the actions of the PA as he is a radiologist, not a primary care physician with expertise in supervising PAs.

Dr. Schmidt's defense of the inaccurate x-ray report is solely based on the fact that he believes the ultimate surgical treatment was not appropriate. Even if true, that is no defense for the inaccurate initial x-ray report. His contention that the delay in getting the diagnosis didn't contribute to the ultimate disability of Ms. Carlson is belied by the rapid growth of the tumor in the time it took to identify the tumor.

I have based my opinions on my expertise in primary care and in the education and supervision of physician's assistants. My opinions are made with a reasonable degree of medical certainty. If you have any further questions or concerns, please contact me.

Sincerely,



N. Anthony Mastropietro, MD



Family Practice

N. Anthony Mastropietro, M.D.

David Ling, M.D.

Preeti Malhotra, M.D.

Cindy A. Brubaker, PA-C

Michael C. Shipman, PA-C

Teresa L. Weitz, PA-C

2145 Noll Drive

Lancaster, PA 17603

Phone 717-397-4921

Fax 717-397-7170

March 26, 2007

Mr. Thomas E. Crenney  
One Gateway Center  
18<sup>th</sup> Floor - West  
Pittsburgh, PA 15222

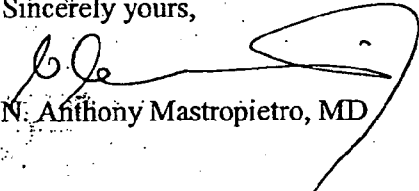
Dear Mr. Crenney:

Thank you for asking me to review the case of Paula Carlson. My review of the records confirms that Dr. Graeca and his staff very appropriately met the standard of care in Ms. Carlson's case despite being limited by an inaccurate x-ray report.

Had the accurate reading been reported as abnormal or suspicious, requesting an MRI and a bone scan of the wrist immediately is what a reasonably prudent physician would have done.

If you have any further questions, please contact me.

Sincerely yours,

  
N. Anthony Mastropietro, MD

# EXHIBIT H

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

Dr. JERJIS ALAJAJI,  
an adult individual;

PETITIONER,

v.  
DUBOIS RADIOLOGISTS, Inc., a duly formed  
and existing Pennsylvania Corporation

RESPONDENT.

No. 06- 1018 -CD

Type of Pleading:

**PETITION FOR INJUNCTIVE  
RELIEF**

Filed By:

**DR. JERJIS ALAJAJI**

Counsel of Record:

Theron G. Noble, Esquire  
Ferraraccio & Noble  
301 East Pine Street  
Clearfield, PA 16830  
(814)-375-2221  
PA I.D.#: 55942

**FILED**

JUN 28 2006

0/10205/w

William A. Shaw  
Prothonotary/Clerk of Courts

3 CEM TO ATT



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

Dr. JERJIS ALAJAJI,  
an adult individual;

PETITIONER,

v.

DUBOIS RADIOLOGISTS, Inc., a duly formed  
and existing Pennsylvania Corporation

RESPONDENT.

No. 06-\_\_\_\_\_-CD

RULE TO SHOW CAUSE

Now, this 28<sup>th</sup> day of June, 2006, upon consideration of the  
attached PETITION FOR INJUNCTIVE RELIEF, a RULE is hereby issued upon the  
Respondent to SHOW CAUSE why the PETITION should not be granted. RULE  
RETURNABLE, for filing written response, is set for the 7<sup>th</sup> day of August,  
2006 and hearing will be held on the 28<sup>th</sup> day of August, 2006,  
commencing at 9 : 00 , A.M., Courtroom No. I, Clearfield County  
Courthouse.

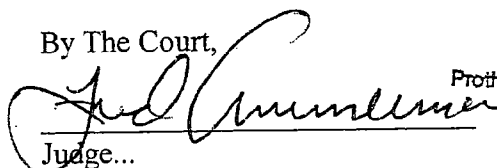
NOTICE

A PETITION HAS BEEN FILED AGAINST YOU IN COURT. IF YOU WISH TO DEFEND  
AGAINST THE CLAIMS SET FORTH IN THE FOLLOWING PETITION YOU SHOULD DO SO 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 ENTERED AGAINST YOU BY THE COURT WITHOUT  
FURTHER NOTICE FOR RELIEF REQUESTED BY THE PETITION. 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 CAN NOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH  
BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

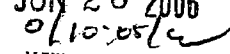
Court Administrator  
Second & Market Streets  
Clearfield, PA 16830  
(814)-765-2641

By The Court,

  
Judge...

**FILED**

JUN 28 2006

  
William A. Shaw  
Prothonotary/Clerk of Courts

4 CERT TO

ATTY

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

Dr. JERJIS ALAJAJI,  
an adult individual;

PETITIONER,

v.

DUBOIS RADIOLOGISTS, Inc., a duly formed  
and existing Pennsylvania Corporation

RESPONDENT.

No. 06-\_\_\_\_\_-CD

**PETITION FOR INJUNCTIVE RELIEF**

**NOW COMES** Petitioner, Dr. Jerjis Alajaji, by and through his counsel of record, Theron G. Noble, Esquire of Ferraraccio & Noble, who avers as follows in support of his PETITION FOR INJUNCTIVE RELIEF:

The Parties

1. Petitioner is Dr. Jerjis Alajaji, a duly licensed and board certified doctor in the field of radiology, who is, and at all times was, a resident of Clearfield County, Pennsylvania, residing at 25 B Tower Lane, DuBois, Pennsylvania 15801.
2. Respondent is DuBois Radiologists, Inc., upon information and belief, a duly formed and existing Pennsylvania Corporation, with principal office located at 28 E. Scribner Avenue, DuBois, Clearfield County, Pennsylvania and primary mailing address of P.O. Box 1106, DuBois PA 15801.



### Background

3. That on or about July 1, 1997, Dr. Alajaji commenced employment with Respondent as a Radiologist. See Exhibit "A".
4. That on or about September 13, 1999, Respondent accepted Dr. Alajaji as a "partner", retroactive to July 1, 1999, in which he became a shareholder of the corporation, entitled to share in the "corporate income". See Exhibit "B".
5. That, upon information and belief, in 1999, Respondent had four (4) shareholders of record, which included, besides Dr. Alajaji, Dr. Ghazanfar A. Shah, Dr. George M. Kosko and Dr. Robert J. Boron.
6. That Dr. Robert J. Boron retired in 2004 and relinquished his shares of Respondent's stock.
7. That since Dr. Boron's retirement, Respondent has had three (3) shareholders of record, upon information and belief, which are Drs. Shah, Kosko and Alajaji.
8. That since Dr. Boron's retirement, the income of the corporation was attempted to be equitably distributed on the basis of each shareholders' voluntary level of participation in producing the income of the corporation, which was so distributed through a quarterly "bonus" system, as touched upon in Exhibit "B". For instance, Dr. Kosko, who worked essentially "part-time" and did not provide certain services that Drs. Shah and Alajaji provided, received substantially less, but still quit considerable income (approximately \$900,000 for Drs. Shah and Alajaji and \$700,000 for Dr. Kosko).
9. That the corporate accountant, Zubair S. Mansori, prepared documents relative to Respondent's 2004 tax returns which reflect that Drs. Alajaji and Kosko each had a 16% interest in Respondent, while Dr. Shah purportedly held a 68% interest (since Dr. Boron

had retired his interest was 0%). See Exhibits C1, C2, C3 and C4.

10. Although not a primary concern at this juncture, Dr. Alajaji takes exception with this determination as Respondent purchased Dr. Boron's shares of the corporation, not Dr. Shah, such that the corporation would own Dr. Boron's former shares, thus altering the percentage used by Respondent's accountant.

11. That at all times herein discussed, as well as at present, Respondent had a contract to provide radiological services to DRMC.

12. That revenue for Respondent approaches, if not exceeds, 3 Million dollars a year.

See Exhibit "D".

13. That after deducting expenses of the corporation, Drs. Shah and Alajaji each receive approximately \$900,000 per year as compensation for their work and affiliation with Respondent, while Dr. Kosko receives \$700,000.

14. That on April 6, 2006, DRMC's President, Raymond A. Graeca, ordered Respondent to "remove" Dr. Alajaji from all clinical duties associated with the contract between Respondent and DRMC pursuant to said contract. See Exhibit "E".

15. That on April 7, 2006, Dr. Shah, as president of Respondent, terminated the employment of Dr. Alajaji, without a meeting of either the officers or directors of Respondent, or investigation into the alleged "internet usage violations". See Exhibit "E2".

16. That throughout Dr. Alajaji's affiliation with Respondent, Dr. Shah has always done as above averred, that is dominated and controlled Respondent such that there were not shareholders meetings, directors meetings nor did the corporate officers actually act in their corporate capacities.

17. Although not at issue for these proceedings, in order to help clear Dr. Alajaji's name, it must be noted that Dr. Alajaji takes exception to DRMC's unilateral determination that he violated its "internet usage policy" by visiting websites which were "offensive" because they were deemed to be "hateful and intolerant".

18. As such, it should be noted that Dr. Alajaji, although he is of Lebanese and Syrian decent and Christian faith, Eastern Orthodox Catholic to be specific, has a very religiously diverse family which also includes members of Muslim and Jewish traditions and is extremely intellectually curious.

19. That the majority of the websites DRMC thought to be offensive (i.e. "hateful and intolerant"), detailed various historical roles concerning some of these faiths. For instance, one particular website, entitled "Blacks and Jews" actually discusses the Jewish role in the American slave trade, which actually begs the question if that is not actually an attempt to be tolerant on the issue of race relations.

20. However, DRMC, upon information and belief, actually delegates its determination of what is offensive to a third party filtering system which must use some type of screening device based upon words and abbreviations. For instance, another website, with an address of "www.chslav.com", was deemed to violate said policy for "sexually explicit" reasons when in fact said web site is for Church Slavonic and has its Bible at that site, written in the Slavonic language.

21. In fact, so unexplainable are the internet usage violations that Dr. Alajaji received a letter, dated April 18, 2006, being after he was removed by DRMC and terminated by Respondent, from the DRMC Medical Staff President, Dr. Hazem El-Kassas, stating that Dr. Alajaji is a "member in good standing with no disciplinary actions or reductions in

clinical privileges". See Exhibit "F".

22. Lastly, as to DRMC's unilateral determinations about its internet usage policy, Dr. Alajaji is prosecuting joint complaints with the EEOC and PHRC for discriminatory acts associated with his religious and national origin.

23. At the time of his termination from Respondent, in addition to his role as an employee and shareholder, Dr. Alajaji was also a director and corporate vice-president.

24. That on very short notice, which upon information and belief most likely violated corporate By-Laws, while Dr. Alajaji was in Greece on vacation, from June 4th - 17th, Dr. Shah called for a 'meeting of Respondent's shareholders', on or about June 12, which resulted in Dr. Alajaji purportedly being removed as a corporate director. See Exhibit "G".

25. That Respondent and Dr. Shah, specifically, knew that Dr. Alajaji was to be away at this time in that (i) plans were made while he was employed and coverage was arranged for his absence; and (ii) Dr. Alajaji again informed Dr. Shah of his impending vacation during a phone call on May 30th.

26. In a conversation between counsel, the very morning of said 'shareholders meeting', Respondent's counsel informed Dr. Alajaji's counsel that there was to be a 'directors meeting', and Dr. Alajaji's counsel volunteered to go to said meeting which was refused.

27. If in fact a 'shareholder's meeting' was held, Dr. Alajaji would have the absolute right to have his proxy at said meeting, while the same is not true for a 'directors meeting'.

28. Since the date of his termination, Dr. Alajaji has been trying to obtain information concerning his rights and obligations associated with Respondent, and has received very

little information in this regards. For instance, he has requested copies of his employment contract (at least one that Respondent believes exists), copies of other key employee contracts, financial information relative to the corporation, corporate records and documents, pension plan information, and compensation issues. See Exhibits "H1 - 4". These issues shall be separately addressed as "issues" to be resolved at hearing on request for injunctive relief.

29. To date, the only documents received by Dr. Alajaji, besides being notified of the purported removal as a director, concerns (i) his compensation (to be more fully detailed and explained); (ii) summary of pension plan; and (iii) copy of the contract with DRMC.

30. As the Court will note, Respondent's counsel, by her letter of May 15th (See Exhibit "H-2"), directed Dr. Alajaji to seek said corporate financial information from the corporate accountant, which was done. See Exhibit "I". To date no such information has been received nor has the corporate accountant responded to said letter or phone calls, despite Respondent's counsel's assurance the same was being worked on.

31. Likewise, despite assurances, Dr. Alajaji has not received any information relative to the pension plan, except the SUMMARY of pension plan, which fails to provide great details of the plan and most importantly fails to identify any interest Dr. Alajaji has in said plan. See Exhibit "J".

32. In that it is approaching three (3) months since Dr. Alajaji has been terminated from his employment, it is well past time that these issues relative to his compensation for employment should have been resolved, or at least significant progress towards resolution should have been made.

33. As a shareholder, officer, and possibly as a director of Respondent, especially

considering its "closely held status", Dr. Alajaji is entitled to all the information he has requested and which in some instances has been refused, and in other instances promised to be delivered but not so provided.

**Issue I: Compensation**

34. Respondent has had a past practice of paying a departing radiologist money generated from account receivables attributable to his work while employed.

35. This was agreed to be done for Dr. Alajaji. See Exhibits "J" and "H4".

36. To assure that Dr. Alajaji receives his fair compensation from the "accounts receivable" he has requested to be provided with certain information, namely a copy of the invoices issued to generate said account receivables. See Exhibit "H3".

37. Although Dr. Alajaji has not received a copy of such invoices, he did receive as part of the "partial response" referenced by letter of Respondent's counsel dated June 1 (See Exhibit "H4"), a hand written piece of paper setting forth some numbers and a check for \$33,264.58, which matches the number contained on said hand written statement. See Exhibit "L".

38. The hand written "accounting" (See Exhibit "L"), follows a formula to determine the money to be paid to Dr. Alajaji's for the account receivables. In such formula, it lists the revenues received to date (less a fee for billing), then subtracts payments already made to or on behalf of Dr. Alajaji for (i) payroll; and (ii) other items. In numerical terms, Respondent paid Dr. Alajaji \$33,264.58 because Respondent received (as of June 1st) \$366,915.22 from account receivables attributable to services provided by Dr. Alajaji, removed 5% for billing fees, reducing receipts to \$348,569.47; it then subtracted from this amount \$216,213.50 as monies paid to Dr. Alajaji through payroll, and \$54,091.39 as

other payments made on his behalf.

39. In determining the money paid to or on behalf of Dr. Alajaji through payroll, Dr.

Shah, who prepared the "accounting", transposed numbers such that payroll should have been \$261,213.50 (instead of \$216,213.50).

40. As to other payments, said numbers total \$50,338.39 instead of \$54,091.39 as therein listed.

41. As such, Respondent, once the arithmetic and transposed number are corrected, Respondent should have paid Dr. Alajaji \$37,017.58<sup>1</sup>, being \$348,569.47 less (\$261,213.50 + \$50,338.39).

42. In that Respondent, according to its own understanding of payment based on accounts receivables, should have already paid Dr. Alajaji \$37,017.58, but has only paid \$33,264.58, Respondent should immediately pay to Dr. Alajaji the sum of \$3,753 to correct the math errors.

44. The reduction of 5% for "billing fees" is arbitrary and without basis in fact when the corporate financial records reflect that only 4.47% of the corporate expenses relate to billing. As such, only 4.47% should be used as "billing fee".

45. That for the account receivables already received and for which payment has been made, the difference in the percentage for billing fees would result in an additional \$1,944.64 which should be immediately paid to Dr. Alajaji by Respondent.

46. That for all future account receivables which are received and to be paid to Dr. Alajaji by Respondent, only 4.47% should be deducted for billing expense.

---

<sup>1</sup> Dr. Alajaji does not concur in the basis used to determine this amount, but for purposes of the present Petition, is only demonstrating that according to the formula used by Respondent, errors unfavorable to Dr. Alajaji are still present.

47. That Respondent made the payment to Dr. Alajaji as a "miscellaneous" distribution of income, whereas such payment should be made as part of payroll as the same is for services rendered while employed by Respondent.
48. That Respondent has deducted an amount for "medical malpractice insurance", in the amount of \$22,391. See Exhibit "L".
49. That the same should not be deducted as the same was paid last year out of monies earned by Dr. Alajaji, and Respondent should immediately pay Dr. Alajaji the sum of \$22,391, plus an additional sum of \$3,753 representing the refund received by Respondent once Dr. Alajaji's malpractice insurance was canceled.
50. That the deduction for "business expense" of \$19,783.25 should only be \$19,567, resulting in an additional \$216.25 which should be immediately paid to Dr. Alajaji by Respondent.
51. That Dr. Alajaji has spoken with Dr. Shah, who has agreed in principal with these changes but for which no additional payment has been received (at least as of filing the present Petition).
52. The Respondent should also be ordered to provide to Dr. Alajaji all documents, which shall include invoices, insurance reconciliation statements, and statements of cash flow to assure the account receivables are being paid as received.
53. That while account receivables are due and owing to Dr. Alajaji, Respondent should be ordered to provide him (i) the money owed him pursuant to said formula and (ii) documents which corroborate said sum on a monthly basis.
54. In addition to the above, upon information and belief, account receivables should have continued to be paid such that additional sums should be due and owing.



## **Issue II: By-Laws**

55. That Dr. Alajaji was never presented with nor does he have a copy of the applicable corporate By-Laws which pertain to said corporation.

56. That prior to his termination, given the equal sharing on the income based upon work, there were never any significant corporate issues which the three (3) shareholders and colleagues were not able to resolve.

57. That under the present circumstances, multiple issues with divergent interests can reasonably be anticipated.

58. That the corporation should have established By-Laws which will govern the many anticipated disputes between these divergent interests.

59. For instance, Dr. Shah and the Respondent have already recited By-Laws to support the removal of Dr. Alajaji as a corporate director.

60. In all likelihood, the By-laws, if they exist, provide for three (3) directors and currently there are only two directors.

61. The Respondent has never acted in a manner typically called for in corporate by-laws, including having annual meetings, officers acting in certain capacities and directors meetings. In support of such allegation, attention is drawn to Exhibit "H2", wherein corporate counsel indicates no minutes from such meetings have been maintained.

62. Dr. Alajaji is certainly entitled to a set of the corporate By-Laws applicable to Respondent.

## **Issue III: Financial Information**

63. Likewise, no issue can seriously call into question Dr. Alajaji's entitlement to

financial information relative to Respondent, given his position as shareholder, officer and director.

64. Despite requests for the same since May 4th, and despite following Respondent's suggestion as to how to obtain said information, none has been forthcoming. See Exhibit "H2".

65. That Respondent should provide monthly statements to Dr. Alajaji which indicate the (i) revenue; (ii) expenses and (iii) payments of the corporation.

#### **Issue IV: Directorship**

66. That Respondent's attempt to remove Dr. Alajaji as a director, upon information and belief, failed in that (i) the Shareholder's meeting was not held in a consistent with Respondent's By-Laws; (ii) was not in accordance with the voting rights incidental to the shares held by each shareholder; and (iii) was done at a time Dr. Alajaji was known not to be available, nor was a proxy permitted to attend.

67. That the Respondent's shareholder's meeting, held on June 12, 2006, should be declared null and void and all actions therein taken should be vacated.

#### **Issue V: Key Employee Contracts**

68. That Dr. Alajaji has requested that he be provided copies of all key employees' contracts, as well as all contracts to which Respondent is a party. See Exhibit "H1".

69. That Respondent has refused to provide the same, solely excepting the contract with DRMC, citing that since Dr. Alajaji is no longer employed by Respondent he has no right to the same. See Exhibit "H2".

70. That despite his termination from employment, Dr. Alajaji still remains a large shareholder, officer and director, and is entitled to the requested information in all such

capacities.

71. That Respondent should be ordered to provide copies of all contracts, including employment contracts, to which Respondent is a party within five (5) days of being so ordered.

**Issue VI: Health Insurance/COBRA**

72. That Respondent has informed Dr. Alajaji that it is switching health insurance plans as of June 30, 2006, and that he will need to obtain his own health insurance.

73. That as an employee of Respondent, who was receiving health insurance benefits, he is entitled to COBRA benefits.

74. That until Respondent complies with applicable laws under COBRA, Respondent should be ordered to maintain health insurance coverage for Dr. Alajaji and his family.

**Issue VII: "Bonus"**

75. That upon information and belief, Respondent would have paid the typical "Bonus" to Drs. Shah and Kosko at or around June 30th. See Exhibit "B".

76. That the Bonus system as used by Respondent is a method in which the corporate profit is distributed amongst its shareholders. See Exhibit "B".

77. While all three shareholders were also employees of Respondent, this method was fair and just.

78. That corporate income should not be paid to employees, who are only permitted to receive fair and just compensation, but rather corporate income should be distributed to the shareholders, of which Dr. Alajaji remains, in a pro rata method incidental to their shares of stock.

79. However, since one shareholder is no longer employed, it is not proper for

Respondent to continue to pay Drs. Shah and Kosko a "Bonus" but rather a dividend of which Dr. Alajaji should receive his fair share.

80. That under the circumstances, Respondent should (i) not issue any "Bonus" beyond April 7, 2006, being the last day of employment for Dr. Alajaji; (ii) any such "Bonus" which has been issued shall be returned; and (iii) any distribution of corporate income should be done as a dividend, paid in accordance with the proper issued and outstanding shares of stock.

#### **Issue VIII: Pension**

81. Since the time of Dr. Alajaji's termination, Dr. Shah has informed Dr. Alajaji that Respondent was working on his pension plan information. See Exhibit "J".

82. That counsel for Respondent has reiterated and maintained this same stance. See Exhibits "H2" and "H4".

83. That to date, the only information received relative to Respondent's Pension Plan was a summary of the plan, not even a full copy of said plan.

84. That Respondent has not provided Dr. Alajaji with any information relative to his interest in its Pension Plan, despite assurance for three (3) months that the same was coming.

85. That Respondent should be ordered to (i) provide Dr. Alajaji a copy of its Pension Plan and (ii) his interest in the Pension Plan within five days (5) days of any such order.

#### **Issue IX: Stock Shares of Record**

86. That in order for Respondent to properly function as a corporate entity, it is necessary to determine the total number of issued and outstanding shares.

87. That an issue exists as to what happened to those shares of Dr. Boron when he retired

and relinquished his shares of stock in Respondent.

88. That Respondent shall produce within five (5) days (i) all records associated with the purchase of Dr. Boron's shares of stock and (ii) all corporate records detailing the issued shares of stock and holds such shares.

**Count I: Request for Injunctive Relief**

89. That the averments of paragraphs 1 - 88, inclusive, are hereby incorporated as if again fully set forth at length.

90. That Dr. Alajaji is entitled to relief in regards to the above contained matters and his right to relief is clear.

91. That Respondent has not shown any indication that it intends to alter the manner in which it is currently treating its shareholder, director and officer, Dr. Alajaji.

92. That Dr. Alajaji will suffer irreparable injury if Respondent continues to disregard Pennsylvania corporate law, its By Laws, and employment laws relative to Dr. Alajaji's health insurance and pension plan benefits.

**WHEREFORE, Dr. Alajaji respectfully requests that Respondent be immediately ordered as follows, and to be made permanent after full hearing:**

(I) As to Dr. Alajaji's compensation for account receivables attributable to services provided by him while employed by Respondent:

(A) Immediate payment of \$32,057.89, being the sum not correctly paid given Respondent's arithmetic errors, plus the difference for the reduced fee to be used for "billing expense" on all payment(s) already made, correction for "business expense", and adjustment for malpractice insurance.;

(B) Respondent provide all reasonable documents to support the account receivables

and payment thereupon;

(C) Such future payments and information on a monthly basis until all account receivables to which Dr. Alajaji is entitled are paid and accounted, deducting only 4.47% as the "billing fee"; and

(D) Adjustments be made for the payment already made and all future payment for "accounts receivable" so that it properly reflects that the same are made from "payroll" rather than "miscellaneous income";

II. That Respondent provide Dr. Alajaji with a copy of its applicable By-Laws and any amendments thereof within five (5) days hereof;

III. That Respondent comply with its established By-Laws;

IV. That Respondent provide within fifteen (15) days hereof, all requested financial information;

V. That Respondent provide to Dr. Alajaji monthly statements showing Respondent's revenues, expenses and all distribution paid from corporate funds;

VI. That Respondent provide copies of all contracts to which it is a party within five (5) days hereof;

VII. That Respondent maintain Dr. Alajaji's health insurance until further order of the Court;

VIII. That Respondent provide Dr. Alajaji a copy of its Pension Plan and his interest therein within five (5) days hereof;

IX. That Dr. Alajaji be reinstated as a corporate director until further order of this Court;

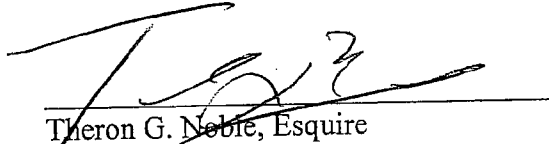
X. That Respondent provide all documents relative to its purchase of Dr. Boron's shares of stock as well as all other documents containing information typically found in a "stock

ledger", i.e. total number of issued shares and who holds such stock;

XI. That the parties attempt to resolve the issue as to the number of shares of stock issued and who holds the same, and if the parties are not so able to agree then the Court will decide the same upon motion of any interested party;  
and

XII. Any other relief deemed just and equitable under the attenuate circumstances.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read 'T. G. Noble', is written over a horizontal line.

Theron G. Noble, Esquire  
Attorney for Petitioner  
Ferraraccio & Noble  
301 East Pine Street  
Clearfield, PA 16830  
(814)-375-2221  
PA I.D. #: 55942



DuBois Regional  
Medical Center

P.O. Box 447  
DuBois, Pennsylvania 15801-0447

*Making the difference for life.*

May 23, 1997.

George T. Alajaji, MD  
8850 Marshall Corner Road,  
Pomfret, MD. 20675

Exhibit "A"

Dear Dr. Alajaji,

Your employment contract with Dubois Radiologists, Inc. is enclosed. Please sign where indicated and return the documents. A copy will be generated and returned to you for your files.

As previously discussed, this contract is for a period of one year beginning July 1, 1997.

Starting July 1, 1998, in the second year of employment with the corporation, your annual salary will be \$ 200,000.00 and you will also be eligible to participate in the employee Pension and Profit Sharing Plans setup by the corporation. In the third year, you will receive \$ 250,000.00 in salary. You will share income equally with other members of the corporation at the end of three full years.

Currently, total remuneration package, including all benefits is approximately \$ 400,000.00 per year.

I would again like to congratulate you on joining our group. We are all looking forward to a long and mutually satisfying relationship.

Please feel free, as always, to call me if there are any comments or questions.

Sincerely,

Ghazanfar Ali Shah MD



DUBOIS RADIOLOGISTS, Inc.  
P.O. Box 1106 • DuBois, Pennsylvania 15801

Robert J. Boron, M.D.  
George M. Kosco, M.D.  
Ghazanfar Ali Shah, M.D.  
John W. Thompson, M.D.

Telephone (814) 371-1784  
Fax Line (814) 371-4812  
DRMC East Radiology (814) 375-6200  
DRMC West Radiology (814) 375-3261

September 13, 1999

Jerjis Alajaji, MD  
Treasure Lake  
DuBois, PA 15801

Exhibit "B"

Dear Jerjis,

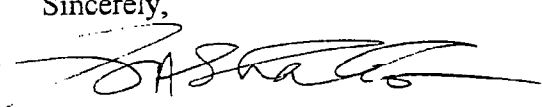
I am pleased to inform you that DuBois Radiologists, Inc. has decided to grant you full partnership status effective July 1, 1999. This is one year ahead of the stated terms in the original contract written in 1997.

You will be entitled to fully share the corporation income. This is currently done by paying quarterly bonuses to the partners in March, June and September. At the end of the year all monies are distributed with no residual left in the corporation accounts. All other benefits already enjoyed by you will remain in force.

I welcome you into our corporation and hope to have a long and happy professional relationship.

Please feel free to contact me in you have any questions or comments.

Sincerely,

  
Ghazanfar Ali Shah, MD  
President  
DuBois Radiologists, Inc.

cc: file

2004

☐ Final K-1

☐ Amended K-1

Schedule K-1

Form 1120S

Department of the Treasury  
Internal Revenue Service

Tax year beginning \_\_\_\_\_  
and ending \_\_\_\_\_

**Shareholder's Share of Income, Deductions, Credits, etc.** See back of form and separate instructions.

**Part I Information About the Corporation**

A Corporation's employer identification number  
25-1715230

B Corporation's name, address, city, state, and ZIP code  
DUBOIS RADIOLOGISTS, INC.  
100 HOSPITAL AVENUE  
DUBOIS PA 15801

C IRS Center where corporation filed return  
Cincinnati, OH 45999

D ☐ Tax shelter registration number, if any \_\_\_\_\_

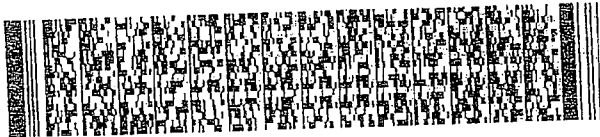
E ☐ Check if Form 8271 is attached

**Part II Information About the Shareholder**

F Shareholder's identifying number  
488-70-1728

G Shareholder's name, address, city, state, and ZIP code  
G. ALI SHAH, M.D.  
1222 TREASURE LAKE  
DUBOIS PA 15801

H Shareholder's percentage of stock ownership for tax year \_\_\_\_\_ 68.000000 %



| Part III Shareholder's Share of Current Year Income, Deductions, Credits, and Other Items |                                      |                                        |
|-------------------------------------------------------------------------------------------|--------------------------------------|----------------------------------------|
| 1                                                                                         | Ordinary business income (loss)      | 13 Credits & credit recapture          |
|                                                                                           | -75                                  |                                        |
| 2                                                                                         | Net rental real estate income (loss) |                                        |
| 3                                                                                         | Other net rental income (loss)       |                                        |
| 4                                                                                         | Interest income                      |                                        |
|                                                                                           | 2,275                                |                                        |
| 5a                                                                                        | Ordinary dividends                   |                                        |
| 5b                                                                                        | Qualified dividends                  | 14 Foreign transactions                |
| 6                                                                                         | Royalties                            |                                        |
| 7                                                                                         | Net short-term capital gain (loss)   |                                        |
| 8a                                                                                        | Net long-term capital gain (loss)    |                                        |
| 8b                                                                                        | Collectibles (28%) gain (loss)       |                                        |
| 8c                                                                                        | Unrecaptured section 1250 gain       |                                        |
| 9                                                                                         | Net section 1231 gain (loss)         |                                        |
| 10                                                                                        | Other income (loss)                  | 15 Alternative minimum tax (AMT) items |
|                                                                                           |                                      | A -2,047                               |
| 11                                                                                        | Section 179 deduction                | 16 Items affecting shareholder basis   |
|                                                                                           | 1,584                                |                                        |
| 12                                                                                        | Other deductions                     |                                        |
| A                                                                                         | 449                                  |                                        |
| 17                                                                                        | Other information                    |                                        |
| A                                                                                         | 2,275                                |                                        |

Exhibit "C1"

\* See attached statement for additional information.

6711

Schedule K-1

Form 1120S

Department of the Treasury  
Internal Revenue Service

Tax year beginning \_\_\_\_\_  
and ending \_\_\_\_\_

2004

☐ Final K-1

☐ Amended K-1

OMB No. 1545-0130

Shareholder's Share of Income, Deductions,  
Credits, etc.

See back of form and separate instructions.

Part I Information About the Corporation

1 Corporation's employer identification number  
25-1715230

2 Corporation's name, address, city, state, and ZIP code  
DUBOIS RADIOLOGISTS, INC.  
100 HOSPITAL AVENUE  
DUBOIS PA 15801

3 IRS Center where corporation filed return  
Cincinnati, OH 45999

4 ☐ Tax shelter registration number, if any \_\_\_\_\_

5 ☐ Check if Form 8271 is attached

Part II Information About the Shareholder

1 Shareholder's identifying number  
591-42-5153

2 Shareholder's name, address, city, state, and ZIP code  
JERJIS ALAJAJI MD  
1404 TREASURE LAKE  
DUBOIS PA 15801

3 Shareholder's percentage of stock ownership for tax year 16.000000 %



Part III Shareholder's Share of Current Year Income,  
Deductions, Credits, and Other Items

|    |                                      |    |                                     |
|----|--------------------------------------|----|-------------------------------------|
| 1  | Ordinary business income (loss)      | 13 | Credits & credit recapture          |
|    | -18                                  |    |                                     |
| 2  | Net rental real estate income (loss) |    |                                     |
| 3  | Other net rental income (loss)       |    |                                     |
| 4  | Interest income                      |    |                                     |
|    | 536                                  |    |                                     |
| 5a | Ordinary dividends                   |    |                                     |
| 5b | Qualified dividends                  | 14 | Foreign transactions                |
| 6  | Royalties                            |    |                                     |
| 7  | Net short-term capital gain (loss)   |    |                                     |
| 8a | Net long-term capital gain (loss)    |    |                                     |
| 8b | Collectibles (28%) gain (loss)       |    |                                     |
| 8c | Unrecaptured section 1250 gain       |    |                                     |
| 9  | Net section 1231 gain (loss)         |    |                                     |
| 10 | Other income (loss)                  | 15 | Alternative minimum tax (AMT) items |
|    |                                      | A  | -482                                |
| 11 | Section 179 deduction                | 16 | Items affecting shareholder basis   |
|    | 373                                  |    |                                     |
| 12 | Other deductions                     |    |                                     |
| A  | 106                                  |    |                                     |
| 17 | Other information                    |    |                                     |
|    |                                      | A  | 536                                 |

\* See attached statement for additional information.

Exhibit "C2"

25m 1120S)

Tax year beginning \_\_\_\_\_  
and ending \_\_\_\_\_

**Shareholder's Share of Income, Deductions, Credits, etc.** ▶ See back of form and separate instructions.

## 2004

**Part III** Shareholder's Share of Current Year Income, Deductions, Credits, and Other Items

**Part 1 Information About the Corporation**

25-1715230

DUBOIS RADIOLOGISTS, INC.

100 HOSPITAL AVENUE  
DUBOIS

PA 15801

Cincinnati, OH 45999

|   |                          |                                |
|---|--------------------------|--------------------------------|
| E | <input type="checkbox"/> | Check if Form 8271 is attached |
|---|--------------------------|--------------------------------|

## Part II Information About the Shareholder

159-24-0260

ROBERT J. BORO M.D  
127 PAULINE DR.

CLEARFIELD

PA 16830

H Shareholder's percentage of stock ownership for tax year



Exhibit "C3"

[illegible]

\* See attached statement for additional information.

Schedule K-1  
Form 1120SDepartment of the Treasury  
Internal Revenue ServiceTax year beginning \_\_\_\_\_  
and ending \_\_\_\_\_

2004

☐ Final K-1☐ Amended K-1

OMB No. 1545-0130

Shareholder's Share of Income, Deductions,  
Credits, etc.

▶ See back of form and separate instructions.

**Part III** Shareholder's Share of Current Year Income,  
Deductions, Credits, and Other Items

|    |                                      |    |                                     |
|----|--------------------------------------|----|-------------------------------------|
| 1  | Ordinary business income (loss)      | 13 | Credits & credit recapture          |
|    | -17                                  |    |                                     |
| 2  | Net rental real estate income (loss) |    |                                     |
| 3  | Other net rental income (loss)       |    |                                     |
| 4  | Interest income                      |    |                                     |
|    | 535                                  |    |                                     |
| 5a | Ordinary dividends                   |    |                                     |
| 5b | Qualified dividends                  | 14 | Foreign transactions                |
| 6  | Royalties                            |    |                                     |
| 7  | Net short-term capital gain (loss)   |    |                                     |
| 8a | Net long-term capital gain (loss)    |    |                                     |
| 8b | Collectibles (28%) gain (loss)       |    |                                     |
| 8c | Unrecaptured section 1250 gain       |    |                                     |
| 9  | Net section 1231 gain (loss)         |    |                                     |
| 10 | Other income (loss)                  | 15 | Alternative minimum tax (AMT) items |
|    |                                      | A  | -482                                |
| 11 | Section 179 deduction                | 16 | Items affecting shareholder basis   |
|    | 372                                  |    |                                     |
| 12 | Other deductions                     |    |                                     |
| A  | 105                                  |    |                                     |
|    |                                      |    |                                     |
|    |                                      |    |                                     |
|    |                                      |    |                                     |
|    |                                      |    |                                     |
|    |                                      |    |                                     |
|    |                                      | 17 | Other information                   |
|    |                                      | A  | 535                                 |
|    |                                      |    |                                     |
|    |                                      |    |                                     |
|    |                                      |    |                                     |
|    |                                      |    |                                     |
|    |                                      |    |                                     |

**Part I** Information About the Corporation

- A Corporation's employer identification number  
25-1715230
- B Corporation's name, address, city, state, and ZIP code  
DUBOIS RADIOLOGISTS, INC.  
100 HOSPITAL AVENUE  
DUBOIS PA 15801
- C IRS Center where corporation filed return  
Cincinnati, OH 45999
- D ☐ Tax shelter registration number, if any \_\_\_\_\_
- E ☐ Check if Form 8271 is attached

**Part II** Information About the Shareholder

- F Shareholder's identifying number  
167-36-4971
- G Shareholder's name, address, city, state, and ZIP code  
GEORGE M. KOS MD  
24 SOUTH 8TH ST.  
DUBOIS PA 15801
- H Shareholder's percentage of stock ownership for tax year ..... 16.000000 %



Exhibit "C4"

FOR  
IRS  
USE  
ONLY

\* See attached statement for additional information.

Form 1120S

# U.S. Income Tax Return for an S Corporation

OMB No. 1545-0030

Do not file this form unless the corporation has time to elect to be an S corporation.  
Form 2553 to elect to be an S corporation.

2004

Department of the Treasury  
Internal Revenue Service

See separate instructions.

|                                                                       |                                              |                                                                                                                           |                                                                  |
|-----------------------------------------------------------------------|----------------------------------------------|---------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------|
| or calendar year 2004, or tax year beginning                          |                                              | and ending                                                                                                                |                                                                  |
| Effective date of S election<br><b>1/01/02</b>                        | Use the IRS label. Otherwise, print or type. | Name Number, street, and room or suite no. (If a P.O. box, see page 12 of the instr.)<br><b>DUBOIS RADIOLOGISTS, INC.</b> | C Employer identification number<br><b>25-1715230</b>            |
| Business code number (see pages 36-38 of the instr.)<br><b>621111</b> |                                              | <b>100 HOSPITAL AVENUE</b>                                                                                                | D Date incorporated<br><b>10/01/1993</b>                         |
|                                                                       |                                              | City or town, state, and ZIP code<br><b>DUBOIS PA 15801</b>                                                               | E Total assets (see page 12 of instructions)<br><b>\$ 43,851</b> |

Check applicable boxes: (1) ☐ Initial return (2) ☐ Final return (3) ☐ Name change (4) ☐ Address change (5) ☐ Amended return **4**

Enter number of shareholders in the corporation at end of the tax year

Caution: Include only trade or business income and expenses on lines 1a through 21. See page 13 of the instructions for more information.

|                                                                                           |                                                                                                 |                  |                            |                   |                          |                  |                  |
|-------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------|------------------|----------------------------|-------------------|--------------------------|------------------|------------------|
| Income                                                                                    | 1a Gross rcpt. or sales                                                                         | <b>3,249,088</b> | b Less rtn. and allowances | <b>4,499</b>      | c Bal                    | 1c               | <b>3,244,589</b> |
|                                                                                           | 2 Cost of goods sold (Schedule A, line 8)                                                       |                  |                            |                   |                          | 2                |                  |
|                                                                                           | 3 Gross profit. Subtract line 2 from line 1c                                                    |                  |                            |                   |                          | 3                | <b>3,244,589</b> |
|                                                                                           | 4 Net gain (loss) from Form 4797, Part II, line 17 (attach Form 4797)                           |                  |                            |                   |                          | 4                |                  |
|                                                                                           | 5 Other income (loss) (attach schedule)                                                         |                  |                            |                   |                          | 5                |                  |
|                                                                                           | 6 Total income (loss). Add lines 3 through 5                                                    |                  |                            |                   |                          | 6                | <b>3,244,589</b> |
| Deductions<br>(see page 14 of the instructions for limitations)                           | 7 Compensation of officers                                                                      |                  |                            |                   |                          | 7                | <b>2,186,474</b> |
|                                                                                           | 8 Salaries and wages (less employment credits)                                                  |                  |                            |                   |                          | 8                | <b>82,884</b>    |
|                                                                                           | 9 Repairs and maintenance                                                                       |                  |                            |                   |                          | 9                | <b>1,974</b>     |
|                                                                                           | 10 Bad debts                                                                                    |                  |                            |                   |                          | 10               |                  |
|                                                                                           | 11 Rents                                                                                        |                  |                            |                   |                          | 11               | <b>10,888</b>    |
|                                                                                           | 12 Taxes and licenses                                                                           |                  |                            |                   |                          | 12               | <b>68,793</b>    |
|                                                                                           | 13 Interest                                                                                     |                  |                            |                   |                          | 13               |                  |
|                                                                                           | 14a Depreciation (attach Form 4562)                                                             |                  | 14a                        | <b>913</b>        |                          | 14c              | <b>913</b>       |
|                                                                                           | b Depreciation claimed on Schedule A and elsewhere on return                                    |                  | 14b                        |                   |                          |                  |                  |
|                                                                                           | c Subtract line 14b from line 14a                                                               |                  |                            |                   |                          |                  |                  |
|                                                                                           | 15 Depletion (Do not deduct oil and gas depletion.)                                             |                  |                            |                   |                          | 15               |                  |
|                                                                                           | 16 Advertising                                                                                  |                  |                            |                   |                          | 16               | <b>700</b>       |
|                                                                                           | 17 Pension, profit-sharing, etc., plans                                                         |                  |                            |                   |                          | 17               | <b>485,000</b>   |
|                                                                                           | 18 Employee benefit programs                                                                    |                  |                            |                   |                          | 18               | <b>85,371</b>    |
|                                                                                           | 19 Other deductions (attach schedule)                                                           |                  |                            | <b>See Stmt 1</b> |                          | 19               | <b>321,702</b>   |
| 20 Total deductions. Add the amounts shown in the far right column for lines 7 through 19 |                                                                                                 |                  |                            |                   | 20                       | <b>3,244,699</b> |                  |
| 21 Ordinary business income (loss). Subtract line 20 from line 6                          |                                                                                                 |                  |                            |                   | 21                       | <b>-110</b>      |                  |
| Tax and Payments                                                                          | 22 Tax: a Excess net passive income tax (attach schedule)                                       | 22a              |                            |                   |                          | 22c              |                  |
|                                                                                           | b Tax from Schedule D (Form 1120S)                                                              | 22b              |                            |                   |                          |                  |                  |
|                                                                                           | c Add lines 22a and 22b (see page 18 of the instructions for additional taxes)                  |                  |                            |                   |                          |                  |                  |
|                                                                                           | 23 Payments: a 2004 estimated tax payments and amount applied from 2003 return                  | 23a              |                            |                   |                          | 23d              |                  |
|                                                                                           | b Tax deposited with Form 7004                                                                  | 23b              |                            |                   |                          |                  |                  |
|                                                                                           | c Credit for Federal tax paid on fuels (attach Form 4136)                                       | 23c              |                            |                   |                          |                  |                  |
|                                                                                           | d Add lines 23a through 23c                                                                     |                  |                            |                   |                          |                  |                  |
|                                                                                           | 24 Estimated tax penalty (see page 18 of instructions). Check if Form 2220 is attached          |                  |                            |                   | <input type="checkbox"/> | 24               |                  |
|                                                                                           | 25 Tax due. If line 23d is smaller than the total of lines 22c and 24, enter amount owed.       |                  |                            |                   |                          | 25               |                  |
|                                                                                           | 26 Overpayment. If line 23d is larger than the total of lines 22c and 24, enter amount overpaid |                  |                            |                   |                          | 26               |                  |
| 27 Enter amount of line 26 you want: Credited to 2005 estimated tax                       |                                                                                                 |                  |                            | Refunded          | 27                       |                  |                  |

|                          |                                                                                                                                                                                                                                                                                                                        |                       |                                                                                                                                        |                                           |
|--------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------|----------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------|
| Sign Here                | Under penalties of perjury, I declare that I have examined this return, including accompanying schedules and statements, and to the best of my knowledge and belief, it is true, correct, and complete. Declaration of preparer (other than taxpayer) is based on all information of which preparer has any knowledge. |                       | May the IRS discuss this return with the preparer shown below (see instr. 1)? <input type="checkbox"/> Yes <input type="checkbox"/> No |                                           |
|                          | Signature of officer <b>[Signature]</b> Date <b>3/9/05</b>                                                                                                                                                                                                                                                             |                       | Title <b>President</b>                                                                                                                 |                                           |
| Paid Preparer's Use Only | Preparer's signature <b>[Signature]</b>                                                                                                                                                                                                                                                                                | Date <b>3/07/05</b>   | Check if self-employed <input type="checkbox"/>                                                                                        | Preparer's SSN or PTIN <b>211-56-1755</b> |
|                          | Firm's name (or yours if self-employed) <b>Zubair S. Mansori CPA, Attorney</b>                                                                                                                                                                                                                                         | EIN <b>59-3041496</b> |                                                                                                                                        | Phone no. <b>814-437-7535</b>             |
|                          | address, and ZIP code <b>Sidman, PA 15955</b>                                                                                                                                                                                                                                                                          |                       |                                                                                                                                        |                                           |



DuBois Regional  
Medical Center

P.O. Box 447  
DuBois, Pennsylvania 15801-0447

*Making the difference for life.*

April 6, 2006

Ghazanfar Ali Shah, M.D., President  
DuBois Radiologists, P.C.  
DuBois Regional Medical Center  
PO Box 447  
DuBois, PA 15801

Re: Removal of Dr. Alajaji from DRMC

Dear Dr. Shah:

As you are aware, DRMC has a policy that will permit the physicians who are employed by, or under contract to, DuBois Radiologists, P.C. (the "Corporation Physicians") to access the Internet through a DRMC-owned computer (the "DRMC Internet Usage Policy").

On multiple occasions, Dr. Jerjis Alajaji has used a DRMC-owned computer to access Internet sites that are prohibited by the DRMC Internet Usage Policy. As a result, on August 4, 2004, Dr. Alajaji attended a meeting during which he was informed of the DRMC Internet Usage Policy, that he was in violation of that policy, and that no further violation of the DRMC Internet Usage Policy would be tolerated. However, it has recently come to DRMC's attention that Dr. Alajaji has again violated the DRMC Internet Usage Policy.

Section 4 of the Professional Imaging Services Agreement sets forth the qualifications of each Corporation Physician. Section 4(d) of the Professional Imaging Services Agreement states that each Corporation Physician must comply with the Bylaws, Rules and Regulations, policies and directives of DRMC. Section 4(f) states that each Corporation Physician must perform the administrative and clinical services to the reasonable satisfaction of DRMC's President/CEO.

Dr. Alajaji's recent violation of the DRMC Internet Usage Policy constitutes a failure to comply with a policy and directive of DRMC as well a failure to perform his administrative and clinical services to my reasonable satisfaction. As a result, DRMC is hereby providing the Corporation with notice that it must immediately remove Dr. Alajaji from all duties pursuant to the Professional Imaging Services Agreement. Section 11(b) of the Professional Imaging Services Agreement then states that Dr. Alajaji's removal will result in the automatic expiration of his medical staff appointment and

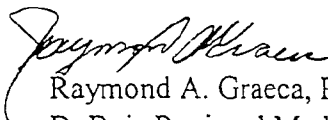
Exhibit "E" 2 pages

clinical privileges at DRMC. That action is effective immediately and is not subject to the hearing and appeals rights that are set forth in the DRMC Medical Staff Bylaws.

Please contact me at your earliest convenience so that we can discuss the manner in which the Corporation will provide the services that are set forth in the Professional Imaging Services Agreement now that Dr. Alajaji has been removed from DRMC. We must discuss whether it is necessary for the Corporation to replace Dr. Alajaji with a replacement Corporation Physician who is acceptable to DRMC and, if so, whether the Corporation will be able to find that replacement within 90 days.

DRMC regrets the need to take this action. However, Dr. Alajaji's recent violation of the DRMC Internet Usage Policy leaves DRMC with no other choice.

Respectfully,



Raymond A. Graeca, President  
DuBois Regional Medical Center

RAG/sjs





**DUBOIS RADIOLOGISTS INC**

28 E Scribner Ave  
P O Box 1106  
DuBois, PA 15801

Phone: 814-371-1784  
Fax: 814-371-4812

April 7, 2006

Dr. Jerjis Alajaji  
25-B Tower Lane  
DuBois, PA 15801

Exhibit "E2"

Dear Dr. Alajaji,

I am attaching a copy of the letter I just received from Mr. Raymond Graeca, CEO of DuBois Regional Medical Center. The letter is self explanatory.

As President of DuBois Radiologists, Inc, it is my obligation to comply with the rules and regulations set forth in the Professional Imaging Services Agreement the Corporation has signed with the hospital. As a result of you violating Section 4 (d) of that agreement, the CEO of DuBois Regional Medical Center has informed me that the Corporation must immediately remove you from all duties pursuant to the Professional Imaging Services Agreement. Section 11(b) of the Professional Imaging Services Agreement states your removal results in the automatic expiration of your medical staff appointment.

Since, DuBois Radiologists Inc., can not employ any physician who does not maintain his/her membership of the Medical Staff of DuBois Regional Medical Center, you are hereby removed from the employment of DuBois Radiologists Inc. with immediate effect on April 7, 2006.

All the moneys the corporation owes you until April 7, 2006 will be paid to you. The details of that will be provided to you in a separate letter.

Sincerely,

Ghazanfar A. Shah MD, President  
DuBois Radiologists Inc.





DuBois Regional  
Medical Center

P.O. Box 447  
DuBois, Pennsylvania 15801-0447

*Making the difference for life.*

April 18, 2006

Exhibit "F"

RE: Jerjis Alajaji, MD

Dear Sir or Madame:

This will confirm that the above referenced practitioner had privileges at the DuBois Regional Medical Center.

|                           |                         |
|---------------------------|-------------------------|
| NAME:                     | Jerjis Alajaji, MD      |
| DATES OF AFFILIATION      | 08/19/1997 – 04/07/2006 |
| DEPARTMENT:               | Medical                 |
| PRIVILEGE CLASSIFICATION: | Radiology               |
| STAFF STATUS:             | Active Staff            |

This practitioner is a member in good standing with no disciplinary actions or reductions in clinical privileges and met all requirements for Medical Staff membership. In addition, the results of quality assurance findings are considered and clinical privileges are renewed and updated, taking into consideration the applicant's education and training.

The following areas rated during the applicant's appointment/reappointment process include: basic medical knowledge, clinical competence, cooperativeness, ability to work with others, medical record completion, quality of medical records, patient management, physician-patient relationship, and relationship with Nursing Staff.

Sincerely,

Hazem El-Kassas, MD  
DRMC Medical Staff President

EK/nm  
cc: file

 DUBOIS RADIOLOGISTS INC

28 E Scribner Ave  
P O Box 1106  
DuBois, PA 15801

Phone: 814-371-1784  
Fax: 814-371-4812

MINUTES OF A SPECIAL MEETING  
OF SHAREHOLDERS OF  
DUBOIS RADIOLOGISTS, INC

A special meeting of the Shareholders of DuBois Radiologists, Inc. was held at the office of Dr. Ghazanfar Ali Shah, Medical Director of the Radiology Department of DuBois Regional Medical Center, DuBois, Pennsylvania on the 12th of June, 2006 at 10:00 a.m.

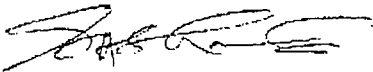
The meeting was attended by the following:

Dr. Ghazanfar Ali Shah, Shareholder, (owner of 68 shares), and  
Dr. George M. Kosco, Shareholder and Director. (owner of 16 shares)  
Dr. Jerjis T. Alajaji, \_\_\_\_\_

Ms. Rhonda Heffner was appointed as Secretary of the Meeting.

The meeting approved the following resolution by 84 votes to \_\_\_\_\_:

"Resolved that Dr. Jerjis Alajaji be and is hereby removed with immediate effects from the position of a Director of DuBois Radiologists, Inc. pursuant to Section 2.9 of Article II of the Bylaws of DuBois Radiologists, Inc."

  
Shareholder  
GHAZANFAR A. SHAH  
George M. Kosco  
Shareholder

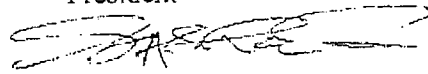
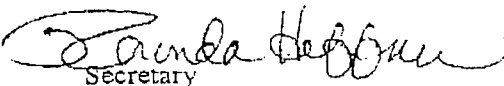
President  
  
Secretary  
  
Rhonda Heffner

Exhibit "G"



**FERRARACCIO & NOBLE**

301 East Pine Street  
Clearfield, PA 16830  
(814) 765-4990  
(814) 375-2221  
FAX: (814) 765-9377

Deborah J. Robinson, Esquire  
Houston Harbough  
401 Liberty Ave., 22nd Floor  
Pittsburgh, PA 15222-1005

May 4, 2006

Re: DuBois Radiologists, Inc.;  
Corporate Information Requests

Exhibit "H1"

3 pages

Dear Ms. Robinson:

This will acknowledge receipt of your letter of April 21st and Dr. Shah's letter to Dr. Alajaji of April 11, 2006.

As to Dr. Shah's letter, he has orally asked Dr. Alajaji to accept Dr. Shah's unilateral propositions therein contained. Please be advised that Dr. Alajaji is not in a position to accept the unilateral terms without specific sums incorporated therewith. This letter will serve as a guide to discuss the immediate topics as to compensation for employment rendered as well as outstanding corporate issues, which are as follows:

Compensation

As I understand Dr. Shah's letter, DuBois Radiologists, Inc., is not able to meet its financial obligations to Dr. Alajaji in a lump sum. Although troubling, the same is somewhat understandable given the large volume of work (and revenue) Dr. Alajaji contributed to the corporation. Of course one would think Dr. Shah would have considered this in his apparent decision to not have Dr. Alajaji return. Therefore, Dr. Alajaji and the Corporation will need to (i) agree upon amounts owed Dr. Alajaji for compensation and (ii) agree upon payments which reflect appropriate interest. The areas of compensation which remain are:

- A) Full wages until April 7th;
- B) Account Receivables attributable to Dr. Alajaji until April 7th;
- C) Accrued Vacation Pay;
- D) Refund for Malpractice Insurance Premium;
- E) Purchase of Stock; and
- F) Retirement Benefit

Page 2

Re: DuBois Radiologists, Inc.

May 4, 2006

I am certain that you are aware items (a) and (c) are subject to Pennsylvania Labor and Industry Standards which frown upon delayed or non payment. In that we are approaching a month post termination, I would strongly encourage speedy redress of these items. As to the value of the stock, to properly evaluate Mr. Mansori's determinations, when made, the following information is requested:

#### Financial Information

For the last three years, including monthly, quarterly and/or annual:

- A) Balance Sheet Statements;
- B) Cash Flow Statements;
- C) Income Statements;
- D) Income Tax Returns and supporting schedules and 1099s, W-2s and K-1s;
- E) Copies of all Bank Account Statements; and
- F) Insurance Company Reconciliation Statements.

#### Corporate Records

The following corporate records are again requested:

- A) By-Laws;
- B) Article of Incorporation; and
- C) Minutes of All Annual and Board of Directors Meetings (for the last three years).

#### Contracts

Copies of all executed contracts for which the corporation is currently a party, including but not limited to:

- A) All employment contracts; and
- B) Contracts between the Corporation and all other professional entities.

As to Dr. Shah's sarcastic comment in his letter of April 11th that Dr. Alajaji "never paid any money to buy that share", I would have you remind him that in fact Dr. Alajaji did pay for his share through his work.

Page 3

Re: DuBois Radiologists, Inc.

May 4, 2006

Lastly, it is duly noted that Dr. Shah has now refused to meet with Dr. Alajaji as well as a joint meeting with DRMC and not provided corporate documentation as per my letter of April 13th. I am truly beginning to wonder what role Dr. Shah played in Dr. Alajaji's termination as it is apparent he is attempting to hide something or at least profit from these circumstances.

I await to hear from you.

With regards, I am

Sincerely,

*SG*

Theron G. Noble, Esquire

tn/TGN

cc: Dr. J. Alajaji w.encl.



# Houston Harbaugh

ATTORNEYS AT LAW

WRITER'S DIRECT DIAL:  
(412) 288-2225  
[robinson@hh-law.com](mailto:robinson@hh-law.com)

File # 33311

May 15, 2006

Theron G. Noble, Esq.  
Ferraraccio & Noble  
301 East Pine Street  
Clearfield, PA 16830

Exhibit "H2"

2 pages

Dear Mr. Noble:

I received both of your letters dated May 4, 2006 and have shared them with Dr. Shah.

As to letter written to me as well as Henry Casale, attorney for DuBois Regional Medical Center (DRMC), our position on behalf of DuBois Radiologists, Inc. remains the same. Pursuant to Mr. Graeca's letter of April 6, 2006, Dr. Alajaji was to be removed from DRMC based on his violation of the DRMC Internet Usage Policy. This forced Dr. Shah to terminate Dr. Alajaji's Employment Agreement with DuBois Radiologists. It is our understanding that Mr. Graeca's letter has not been retracted and that DRMC does not intend to do so. For this reason, there is no need for any meeting or further discussion on this matter. Any allegations as to conversations between Dr. Alajaji and Mr. Graeca will need to be addressed by Mr. Casale and DRMC.

As to your letter regarding corporate matters, my understanding of the resolution of these matters is as follows:

1. Compensation

- (a) Dr. Alajaji has been paid all monies for wages due, including 1.5 days of accrued vacation.
- (b) All invoices have been submitted for fees generated by Dr. Alajaji and Dr. Shah has written your client a letter requesting him to choose an option for receiving that payment. We await his response.
- (c) Accrued vacation, based on my understanding, has been paid.
- (d) It is my understanding that Dr. Alajaji holds his malpractice insurance policy personally and, therefore, he should notify the carrier that his employment has been terminated. He would then receive the refund directly. If DuBois Radiologists has to confirm any dates, etc., Dr. Shah will certainly coordinate that and cooperate in the process.

Three Gateway Center • 401 Liberty Avenue 22nd Floor • Pittsburgh PA 15222-1005

Phone 412.281.5060 • Fax 412.281.4499 • [www.hh-law.com](http://www.hh-law.com)

May 15, 2006

Page 2

- (e), (f) The corporation's accountant, Zubair Mansouri (401-331-3122) is currently calculating the purchase price and Dr. Alajaji is always welcome to call Mr. Mansouri directly.
- (f) Dr. Shah is contacting the retirement plan administrators regarding obtaining information for Dr. Alajaji as to the termination of his participation in the plan and his options for distribution and directions for Dr. Alajaji for how he can direct that any distributions be handled.

2. Financial Information

I am told that Dr. Alajaji receives frequent and detailed financial information and has perhaps has even more information than Dr. Shah. He can always obtain financial information directly from Mr. Mansouri. At this time he is certainly permitted access to this information but his buy-out relates only to his accounts receivable and the book value of the stock.

3. Corporate Records

I am informed that Dr. Alajaji should have copies of the Bylaws and Articles of Incorporation. I also understand that no regular meeting minutes have been maintained over the last several years.

4. Contracts

Dr. Alajaji has his own Employment Agreement and has no right to copies of other Employment Agreements of the Corporation since his employment has been terminated. I am, however, providing you with a copy of the Agreement between DuBois Radiologists and DRMC so you can confirm that Dr. Alajaji's removal from the Hospital resulted in the mandatory relinquishment of his Medical Staff privileges and, hence, his termination of employment with DuBois Radiologists.

Dr. Shah continues to be ready to work toward a resolution of all corporate and employment matters. As soon as your client recognizes that his employment has indeed been terminated, it will be easier to work through these issues.

Very truly yours,



Deborah J. Robinson

DJR:kc

enclosures

cc: Ghazanfar A. Shah M.D.



**FERRARACCIO & NOBLE**

301 East Pine Street  
Clearfield, PA 16830  
(814) 765-4990  
(814) 375-2221  
FAX: (814) 765-9377

Deborah J. Robinson, Esquire  
Houston Harbough  
401 Liberty Ave., 22nd Floor  
Pittsburgh, PA 15222-1005

Exhibit "H3"

3 pages

May 22, 2006

Re: DuBois Radiologists, Inc.;  
Reply to Letter of May 15th

COPY

Dear Ms. Robinson:

Thank you for your letter of May 15th. Prior to providing a response to those items, I shall first mention that I have enclosed a letter to CPA Mansori requesting the financial information. As you will note, I do not believe it is incumbent upon Dr. Alajaji, to chase the financial information of the corporation. However, to move this matter along I have done so but will not hesitate to resort to the remedies provided in applicable Pennsylvania corporate law (including imposition of attorney's fees) in the event this gets to be much more of a chore to receive the financial information.

Please also be advised that I have advised Dr. Alajaji that as an officer and director, which I believe he most likely is, he can have access to the corporate office and corporate records therein at his leisure. To facilitate that right, please provide Dr. Alajaji with a key to the corporate office at your earliest convenience.

As to the purchase of Dr. Alajaji's stock, you and previously thereto, Dr. Shah have made statements that the stock purchase is to be at nominal value, or "book value". Please provide support for these assertions that the acquisition of Dr. Alajaji's stock (i) must be sold, as well as (ii) upon such terms and (iii) any term for which a definition of "book value" is included.

I have not seen any document which controls the purchase of his stock, nor upon those terms. In fact, given the profitability of the corporation, especially when you base compensation upon fair market wages rather than the unreasonable compensation of the corporate officers, I believe the stock to be quit valuable. This should be readily apparent for this year given the use of locums, for which I understand arrangements have been made for the remainder of the year. Please confirm that fact. Likewise, please confirm the hiring status of Dr. Barrett.

Page 2

Re: DuBois Radiologists, Inc.

May 22, 2006

As to the items outlined in my last letter and your response thereto, please be advised as follows:

Compensation

(a) Salary. Salary is paid, excepting for the bonus provision which is due at the end of June. Please confirm the intent to pay and the basis upon which payment will be derived. Also, the payment of the 2nd quarter bonus should be through payroll.

(b) Account Receivables. I would first note that five weeks have passed since Dr. Alajaji's termination. Whether payment for his account receivables was to be either (i) lump sum or (ii) as received, should have resulted in some payment by now. To the extent you need the pretext of Dr. Alajaji's election, he will accept the same on an as received basis with payment to be made every two weeks, on the 15th and 30th of each month.

In this regards, please have the corporation provide the invoices for all services provided by Dr. Alajaji from November 7, 2005 through April 7, 2006. This sixth month period will permit Dr. Alajaji to get an appropriate handle on this issue.

We shall expect the initial payment within five (5) days hereof.

(c) Vacation. Resolved. Thank you.

(d) Malpractice Insurance. Pursuant to your letter, Dr. Alajaji is working on the same.

(e) Corporate Stock. I have already addressed the same.

(f) Retirement. I believe it is time for this issue to move from "Dr. Shah is working on it" towards a state of progress. To that extent, please provide details of what efforts Dr. Shah has performed to effectuate this change. Likewise, I would expect that a pro-rata contribution will be made to Dr. Alajaji's pension for services in 2006. Please confirm.

Financial Information

Although I have done as previously herein referenced to move this matter along, upon the terms as herein stated, I must refute Dr. Shah's assertion that Dr. Alajaji has or had access to this information. In case you have not figured out the situation at this point, Dr. Shah dominated and controlled this corporation, which included providing only the information he wanted to provide, when he wanted it provided. That circumstance will change while I am involved.

Page 3

Re: DuBois Radiologists, Inc.

May 22, 2006

### Corporate Records

Dr. Alajaji has assured me that he was never presented with corporate records, including minutes, By Laws or Articles of Incorporation. Given your statement about the lack of minutes, and the cavalier attitude towards corporate law, I believe Board of Director's meetings, as are most likely mandated by the By-Laws, should commence at once. Please advise as to when the other directors would like to meet as well as provide the requested information as per my May 4th letter.

### Contracts

Your refusal to provide contractual information to a (i) shareholder; (ii) officer; and (iii) director borders on the most outlandish position I have ever seen asserted in a corporate matter. Please explain and support this position. If you can not do so and continue to refuse to provide the same within five (5) days hereof, I will duly consider the same, along with the requests for financial information and corporate records, to determine whether to seek immediate redress with the Court of Common Pleas as provided in Pennsylvania corporate law.

As to Dr. Alajaji's employment contract, I have received and reviewed a 1997 contract of employment. Please advise if this is the employment contract which you claim governed the employment relationship between Dr. Alajaji and the corporation. If not, I do not have the appropriate copy and would again request a copy.

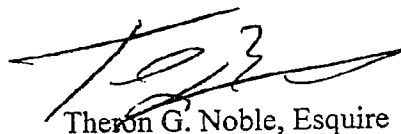
### Board of Directors

Please confirm whether Dr. Alajaji was a Board of Director member. Likewise, it is our position that he is the corporate vice-president. Please confirm that fact as well.

I await to hear from you.

With regards, I am

Sincerely,



Theron G. Noble, Esquire

tn/TGN w.encl.

cc: Dr. Jerjis Alajaji w.encl.



# Houston Harbaugh

ATTORNEYS AT LAW

WRITER'S DIRECT DIAL:  
(412) 288-2225  
[robinson@hh-law.com](mailto:robinson@hh-law.com)

File # 33311

June 1, 2006

Theron G. Noble, Esq.  
Ferraraccio & Noble  
301 East Pine Street  
Clearfield, PA 16830

**RE:** Dubois Radiology, Inc.

Dear Mr. Noble:

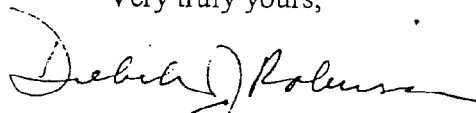
I've had the opportunity to discuss your letter of May 22, 2006 with Dr. G. Ali Shah. In partial response to your letter, I wanted you to have as soon as possible the accounting of accounts receivable for Dr. Alajaji through April 8, 2006.

According to these calculations, DuBois Radiology owes Dr. Alajaji \$33,264.58. I received a check from Dr. Shah which I am forwarding to you to give to your client along with the documentation. Dr. Alajaji will be paid the rest of the accounts receivable, less the 5% billing expense, as the moneys are received from the insurance company.

I am also enclosing for your information a copy of the DuBois Radiology, Inc. Pension Plan and Trust. That will explain the terms of his retirement benefits.

Dr. Shah has assured me that the stock valuation should be available very shortly and that Dr. Shah will also receive information regarding the vesting within the pension plan. I did, however, want to get this information to you as soon as possible and did not want to hold the check to Dr. Alajaji.

Very truly yours,



Deborah J. Robinson

DJR/jga  
enclosures

Exhibit "H4"

Three Gateway Center • 401 Liberty Avenue 22nd Floor • Pittsburgh PA 15222-1005

Phone 412.281.5060 • Fax 412.281.4499 • [www.hh-law.com](http://www.hh-law.com)

**FERRARACCIO & NOBLE**

301 East Pine Street  
Clearfield, PA 16830  
(814) 765-4990  
(814) 375-2221  
FAX: (814) 765-9377

Mr. Zubair S. Mansori, CPA  
313 Humbert Rd.  
Sidman, PA 15955

May 22, 2006

Re: DuBois Radiologists, Inc.;  
Request for Financial Information

Dear Mr. Mansori:

Please be advised that I represent Dr. Jerjis Alajaji, a former employee of your client, DuBois Radiologists, Inc.. Dr. Alajaji currently remains a shareholder, officer and most likely a member of its Board of Directors.

On his behalf, I requested certain financial information which he needs to fully evaluate his circumstances as well as abide by his legal obligations to the corporation. The attorney for the corporation, Deborah J. Robinson, informed me to request the financial information directly from you. Quit frankly, I do not believe we need to do as such as the corporation is under an affirmative obligation to provide the requested information, but in order to facilitate this matter, I thought I would make one attempt to honor her directive.

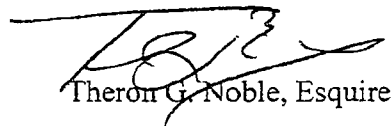
Therefore, I would request the following information be provided with fifteen (15) days, as follows:

For the last three years, including monthly, quarterly and/or annual:

- A) Balance Sheet Statements;
- B) Cash Flow Statements;
- C) Income Statements;
- D) Income Tax Returns and supporting schedules and 1099s, W-2s and K-1s;
- E) Copies of all Bank Account Statements; and
- F) Insurance Company Reconciliation Statements.

With regards, I am

Sincerely,

  
Theron G. Noble, Esquire

tn/TGN w.encl.

cc: Dr. Jerjis Alajaji  
Deborah J. Robinson, Esquire

Exhibit "I"



## DUBOIS RADIOLOGISTS INC

28 E Scribner Ave  
P O Box 1106  
DuBois, PA 15801

Phone: 814-371-1784  
Fax: 814-371-4812

April 11, 2006

Jerjis Alajaji MD  
50-B Tower Lane  
DuBois, PA 15801

Dear Dr. Alajaji,

As we discussed on the telephone, Rhonda is trying to bill for all the studies that you performed and reported till April 7, 2006. We should have a full and detailed account of that very soon.

Since the Corporation does not have money to pay the full amount in a lump sum, I would suggest that you accept the payments as they are received. However, if you elect to receive the money in full, we will have to make arrangements with the bank so that the Corporation takes out a loan against the accounts receivable. In that case, we will have to consider the billing expenses, write offs and interest. After all those considerations, an amount will be arrived at and paid to you in a single payment.

I have asked our accountant, Mr. Mansori to figure out your share in the Corporation's pension plan account. Once that is done, you will be able to transfer that money into your account in any way you prefer.

I have also asked Mr. Mansori to figure out the value of stock of the Corporation as of April 7, 2006. That figure, as you know, will be small as we do not own any property. However, whatever the amount, it will be paid to you although you never paid any money to buy that share unlike all other shareholders.

I will contact you as soon as I get some figures from Rhonda and Mr. Mansori. In the meantime, if you have any questions about the final account settlement, please contact me.

Sincerely,

Ghazanfar A. Shah, President  
DuBois Radiologists Inc.

Cc: File

Exhibit "J"



DR ALAJAJI

Accounting as of May 31, 2006

Total Receipts = \$ 366,915.22  
Sheet attached from  
billing office

Less 5% billing expenses:-

18,345.75

348,569.47

Total payments

i: Thru payroll:

Salary Jan - March

52,500.00

April one week pay  
1 1/2 wk vacation

11,000.00

pay  
Bonus (paid end of  
March)

188,000.00

Social Sec & Medicare taxes  
paid by corp.

9,487.15

Unemployment Corp. taxes  
paid by corp. for DR ALAJAJI

226.35

Total payroll payments

216,213.50

Exhibit "L"

2: Other payments :-

i - Malpractice Insurance prem: 22,391.00  
(after refund)

ii - Health Ins. premium  
thru June 2006

8,164.14

iii - Business education expenses  
reimbursed (Jan-April)

19,783.25

Total

54,091.39

Grand total 1 + 2

= 315,304.89

Check enclosed

348,569.47  
- 315,304.89

= 33,264.58

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

Dr. JERJIS ALAJAJI,  
an adult individual;

PETITIONER,

v.

DUBOIS RADIOLOGISTS, Inc., a duly formed  
and existing Pennsylvania Corporation

RESPONDENT.

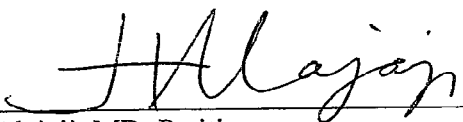
No. 06-\_\_\_\_\_-CD

**VERIFICATION**

I, Jerjis Alajaji, MD, Petitioner, do hereby swear and affirm that I have read the foregoing PETITION FOR INJUNCTIVE RELIEF and that the averments therein contained are true and correct to the best of my knowledge, information and belief. Furthermore, I am over the age of 18 years of age and give this unsworn statement knowing it is to authorities and subject to the penalties of 18 Pa.C.S.A. 4904.

So made this 24<sup>th</sup> day of June, 2006.

By,

  
\_\_\_\_\_  
Jerjis Alajaji, MD, Petitioner



11/18  
WJ/KRR

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

PAULA CARLSON AND JAMIE  
CARLSON, her husband,

Plaintiffs,

vs.

JERJIS T. ALAJAJI, M.D. AND DUBOIS  
RADIOLOGISTS, INC.,

Defendants.

CIVIL DIVISION

No. 2006-563- CD

JURY TRIAL DEMANDED

**BRIEF IN SUPPORT OF MOTIONS IN  
LIMINE**

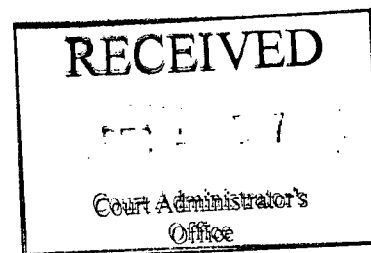
Filed on Behalf of Defendant, DuBois  
Radiologists, Inc.

Counsel of Record for this Party:

WALTER FREDRICK WALL, ESQUIRE  
PA. I.D. #23657

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IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

PAULA CARLSON AND JAMIE  
CARLSON, her husband,

Plaintiffs,

vs.

JERJIS T. ALAJAJI, M.D. AND DUBOIS  
RADIOLOGISTS, INC.,

Defendants.

CIVIL DIVISION

No. 2006-563- CD

JURY TRIAL DEMANDED

**BRIEF IN SUPPORT OF MOTIONS IN LIMINE**

NOW COMES Defendant, Dubois Radiologists, Inc., by and through its counsel, MEYER, DARRAGH, BUCKLER, BEBENEK & ECK, PLLC, and files the within Brief in Support of Motions in Limine in manner and form as follows:

**BRIEF SUMMARY OF FACTS**

Plaintiffs seek to recover damages in this medical professional liability action. On or about August 25, 2006, Plaintiffs filed their Second Amended Complaint. Depositions have been taken and discovery conducted. This case is listed for trial in February 2008 with jury selection to be held on January 3, 2008.

Plaintiffs have listed Ghazanfar A. Shah, M.D. as an expert in their pretrial statement. As indicated in discovery, Dr. Ghazanfar Shah is the major shareholder of Defendant DuBois Radiologists, Inc. and has signed on behalf of DuBois Radiologists, Inc., verifications for pleadings filed in this case. Plaintiffs have also indicated an intent to introduce the Agreements between DuBois Radiologists, Inc., and the DuBois Regional

Medical Center. Such Agreements make references to insurance and the obligation of Defendant to obtain insurance.

In June of 2006, Dr. Jerjis Alajaji filed an action against DuBois Radiologists, Inc., concerning an alleged improper termination of employment based upon Dr. Alajaji's asserted violation of the Hospital's Internet Usage Policy. Dr. Alajaji's 2006 lawsuit and the asserted reason for the termination of his employment are not relevant to the issues involved in Plaintiffs' case.

Motions in Limine have been filed seeking to preclude Dr. Shah being called as an expert witness against Dr. Alajaji and DuBois Radiologists, Inc., to preclude any reference to insurance or the obligation to obtain insurance, and to preclude any reference to Dr. Alajaji's 2006 lawsuit. The Motions in Limine also seek to preclude the admission into evidence of the 2006 Agreement. This Brief is filed in support of Defendant's Motions in Limine.

#### ISSUES

- I. ARE PLAINTIFFS PRECLUDED FROM CALLING DR. SHAH AS AN EXPERT WITNESS AGAINST DEFENDANTS, DR. ALAJAJI AND DUBOIS RADIOLOGISTS, INC.?
- II. ARE PLAINTIFFS PRECLUDED FROM INJECTING THE ISSUE OF INSURANCE INTO THE CASE?
- III. IS THE 2006 AGREEMENT ADMISSIBLE SINCE IT DID NOT EXIST AT THE TIME OF THE ALLEGED MEDICAL MALPRACTICE?
- IV. IS DEFENDANT DOCTOR'S TERMINATION OF EMPLOYMENT, THE ALLEGED REASONS FOR TERMINATION AND THE DOCTOR'S LAWSUIT AS TO TERMINATION PROBATIVE, RELEVANT OR ADMISSIBLE?

## ARGUMENT

- I. *ARE PLAINTIFFS PRECLUDED FROM CALLING DR. SHAH AS AN EXPERT WITNESS AGAINST DEFENDANTS, DR. ALAJAJI AND DUBOIS RADIOLOGISTS, INC.?*

*ANSWER: AFFIRMATIVE.*

Plaintiffs, in their pretrial statement, have listed Ghazanfar A. Shah, M.D. as an expert. Discovery has disclosed that Dr. Shah is the major shareholder of Defendant, DuBois Radiologists, Inc. It is also noted, either by stipulation or by facts as set forth in deposition testimony, that Dr. Alajaji was employed by Defendant DuBois Radiologists, Inc., during all times material to Plaintiffs' claims.

Dr. Shah, on behalf of Defendant DuBois Radiologists, Inc., has signed all necessary verifications in this case. In essence, if called as an expert witness by Plaintiffs and compelled to testify, Dr. Shah would be testifying against the Co-Defendant and the professional corporation of which he is the majority shareholder.

There is no question that Dr. Shah's opinion was discoverable pursuant to Pa.C.R.P. 4003.5. However, being discoverable does not indicate that such testimony is admissible. Pa.R.C.P. 4003.1 n.7 makes clear, information may properly be sought during discovery even though that information is not admissible at trial. See Jistarri v. Nappi, M.D., 549 A.2d 210, 218 (Pa. Super. 1988). In the Jistarri case, the Plaintiff proffered the deposition testimony of one of the Defendant doctors. The trial court precluded the use of those portions of the Defendant doctor's deposition which contained expert opinion on the basis of Evans v. Otis Elevator Co., 168 A.2d 573 (Pa. 1961). In Evans, the trial court recognized the expert's right to not to testify as an expert witness for the adverse party and the Supreme Court affirmed. 168 A.2d at 580.

The question before the Jistarri court was whether a medical expert, who is a Defendant, may be required to give expert testimony concerning the allegedly negligent conduct of other Defendants. 549 A.2d at 218. The Superior Court indicated that such a medical expert was not required to give expert testimony against other Defendants.

... however, appellant was not free to require Dr. Codario to give expert testimony, against his will, against other Defendants. '[T]he private litigant has no more right to compel a citizen to give up the product of his brain, then he has to compel the giving up of material things.' Pennsylvania Company for Insurance, etc. Trustee v. Philadelphia, 262 Pa. 439, 442, 105 A. 630 (1918), cited in Evans v. Otis Elevator Co., *supra*.  
Jistarri v. Nappi, M.D., 549 A.2d 210, 218 (Pa. Super. 1988)

In like manner, Dr. Shah cannot be compelled to give his expert testimony against both Defendant Alajaji and Defendant DuBois Radiologists, Inc., against his will, based upon the holdings of Evans and Jistarri.

Defendant's Motion in Limine to preclude the Plaintiffs from compelling Dr. Shah to testify as an expert witness against his will should be granted.

*II. ARE PLAINTIFFS PRECLUDED FROM INJECTING THE ISSUE OF INSURANCE INTO THE CASE?*

*ANSWER: AFFIRMATIVE.*

Plaintiffs have indicated an intent to introduce the Agreements between DuBois Radiologists, Inc. and the DuBois Regional Medical Center. The lack of relevance of the 2006 Agreement is set forth in the next section of this brief. A 1993 Agreement was in effect at all times material to Plaintiffs' asserted claims against Defendants.

Defendant DuBois Radiologists, Inc., has or will stipulate that the 1993 Agreement was in existence during the 2005; that Dr. Alajaji was employed by DuBois Radiologists,

Inc., at the time in question and that DuBois Radiologists, Inc., provided radiology services to the DuBois Regional Medical Center (hospital) at the time in question.

DuBois Radiologists, Inc. objects to and opposes any and all reference to insurance and/or to any obligation that the 1993 Agreement imposed to obtain or provide insurance. Any alleged or asserted breach of the 1993 Agreement as to obtaining insurance cannot form the basis for establishing a violation of the standard of care in this case. The sole purpose of any reference to insurance or the obligation to obtain insurance would be to prejudice Defendant, DuBois Radiologists, Inc. Such prejudicial comment is contrary to the case law of this Commonwealth. Plaintiffs cannot inject the issue of insurance into the trial of this case.

Our Superior Court has noted:

The general rule in Pennsylvania is that evidence of insurance is irrelevant and prejudicial and justifies the grant of a mistrial. Dolan v. Carrier Corp., 424 Pa. Super. 615, 623 A.2d 850, 853 (Pa. Super. 1993) (citing Paxton Nat. Ins. Co. v. Brickajlik, 513 Pa. 627, 522 A.2d 531, 533 (Pa. 1987). See Pa.R.E. 411 (Evidence that a person was or was not insured against liability is not admissible upon the issue whether the person acted negligently or otherwise wrongfully). Allied Electrical Supply Co. v. Craig T. Roberts, 797 A.2d 363, 364 (Pa. Super. 2002)

To allow Plaintiffs to inject the issue of insurance or the lack of insurance into this case would unfairly prejudice the jury and divert their attention from the issues involved in this case.

Defendant's Motion in Limine to preclude any testimony, comment, reference or argument as to insurance or the obligation to obtain insurance pursuant to the 1993 Agreement should be granted. In the alternative, in the event the 1993 Agreement is

admitted into evidence, all references to insurance and/or the obligation to obtain insurance should be redacted from same prior to admission to the jury.

*III. IS THE 2006 AGREEMENT ADMISSIBLE SINCE IT DID NOT EXIST AT THE TIME OF THE ALLEGED MEDICAL MALPRACTICE?*

*ANSWER: NEGATIVE.*

The 2006 Agreement between DuBois Regional Medical Center and DuBois Radiologists, Inc., is not relevant or admissible into evidence at this trial. The times material to the Plaintiffs' alleged cause of action, April 2005 through June 2005, predated the 2006 Agreement. Plaintiffs cannot use the 2006 Agreement which was not in existence at the time as a basis for any claim against the Defendants.

The 2006 Agreement cannot be the basis of establishing any deviation from the standard of care to support Plaintiffs' claims.

Defendant's Motion in Limine to preclude the introduction of the 2006 Agreement and any testimony, reference or argument in connection thereto, should be granted.

*IV. IS DEFENDANT DOCTOR'S TERMINATION OF EMPLOYMENT, THE ALLEGED REASONS FOR TERMINATION AND THE DOCTOR'S LAWSUIT AS TO TERMINATION PROBATIVE, RELEVANT OR ADMISSIBLE?*

*ANSWER: NEGATIVE.*

On or about June 28, 2006, Dr. Jerjis Alajaji commenced an action against DuBois Radiologists, Inc., at No. 06-1018-CD concerning an alleged improper termination of employment. The pleadings of record in that action reflect an allegation against Dr. Alajaji of being in violation of DuBois Regional Medical Center's Internet Usage Policy. This alleged violation is the asserted basis, under the Agreement between DuBois Radiologists, Inc., and DuBois Regional Medical Center, for the termination of Dr. Alajaji. None of the

factual allegations surrounding the alleged violation of the internet usage policy, the termination of employment and the pending lawsuit have any bearing on the Plaintiffs' Complaint. None of these collateral issues go to the elements that Plaintiffs must establish for their claim. Such collateral matters are not relevant, probative or admissible.

Pa.R.E. 401 defines relevant evidence:

'Relevant evidence' means evidence having any tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable than it would be without the evidence.

Evidence of any alleged violation of the Hospital's Internet Usage Policy, termination of employment based on such alleged violation, and Dr. Alajaji's lawsuit does not meet the standard of definition of Pa.R.E. 401. Such facts are of no consequence to the issues involved in Plaintiffs' action herein. Such facts are irrelevant.

Pa.R.E. 402 indicates that irrelevant evidence is inadmissible:

All relevant evidence is admissible, except as otherwise provided by law. Evidence that is not relevant is not admissible.

Further, any evidence of these collateral matters would have absolutely no probative value. The sole reason for admission of such non-relevant evidence would be to taint or poison the minds of the fact finders. Such evidence would be highly prejudicial and still have no bearing on the issues of Plaintiffs' case.



Defendant's Motion in Limine to preclude any testimony, comment, reference or argument as to Dr. Alajaji's lawsuit, his termination from employment and the alleged violation of the Hospital's Internet Usage Policy should be granted.

Respectfully submitted,

**MEYER, DARRAGH, BUCKLER, BEBENEK & ECK, PLLC**

BY: 

**WALTER FREDRICK WALL, ESQUIRE**

Counsel for Defendant, DuBois Radiologists, Inc.

120 Lakemont Park Boulevard

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Phone No.: (814) 941-4600

ID # 23657

**CERTIFICATE OF SERVICE**

TO THE PROTHONOTARY:

I, Walter Fredrick Wall, Esquire, of the law firm of MEYER, DARRAGH, BUCKLER, BEBENEK & ECK, PLLC, hereby certify that on this 14<sup>th</sup> **day of December, 2007**, I have served the foregoing Brief in Support of Motions in Limine on behalf of Defendant, DuBois Radiologists, Inc., upon all counsel/parties of record, by mailing a true and correct copy of same by United States first class mail, postage prepaid as follows:

Thomas E. Crenney, Esquire  
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Darryl Slimak, Esquire  
McQuaide Blasko  
811 University Drive  
State College, Pennsylvania

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

**MEYER, DARRAGH, BUCKLER, BEBENEK & ECK, PLLC**

BY: 

**WALTER FREDRICK WALL, ESQUIRE**

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Phone No.: (814) 941-4600  
ID # 23657

**ORIGINAL**

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

PAULA CARLSON and  
JAMIE CARLSON, her husband,

Plaintiffs,

vs.

JERJIS T. ALAJAJI, M.D., DUBOIS  
RADIOLOGISTS, INC. and DUBOIS  
REGIONAL MEDICAL CENTER,

Defendants.

No. 2006-563-CD

Civil Action – Medical Professional  
Liability Action

**PLAINTIFFS' PROPOSED VOIR DIRE**

Filed on behalf of the Plaintiffs

Counsel of Records for this Party:

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James T. Tallman, Esquire  
PA I.D. No. 79257

THOMAS E. CRENNY & ASSOCIATES, LLC  
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**JURY TRIAL DEMANDED**

**RECEIVED**

**JAN 04 2008**

Court Administrator's  
Office

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

PAULA CARLSON and  
JAMIE CARLSON, her husband,

Plaintiffs,

No. 2006-563-CD

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Liability Action

vs.

JERJIS T. ALAJAJI, M.D., DUBOIS  
RADIOLOGISTS, INC. and DUBOIS  
REGIONAL MEDICAL CENTER,

Defendants.

**PLAINTIFFS' PROPOSED VOIR DIRE**

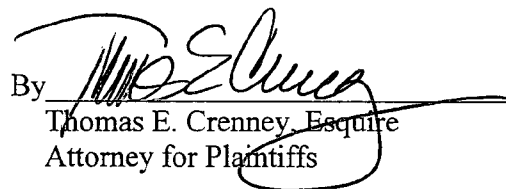
AND NOW, come the Plaintiffs, Paula Carlson and Jamie Carlson, by and through their attorneys, Thomas E. Crenney & Associates, LLC, and file the within Proposed Voir Dire:

1. Would you have any difficulty or would you hesitate to enter a verdict against DuBois Regional Medical Center or any doctor working for or associated with DuBois Regional Medical Center?
2. Do you know anyone who works for DuBois Regional Medical Center? If so, what is your relationship with that person? Does knowing this person affect your ability to rule against DuBois Regional Medical Center or any doctor working for or associated with DuBois Regional Medical Center?
3. Have you seen or heard advertisements which criticize persons who use the judicial system as a method of recovering money for personal injuries or damages caused by another person? If so, what have you seen or heard?

4. Does anything concern you about personal injury lawsuits generally or medical malpractice cases in particular in which an injured person seeks money damages? If so, what is your concern? Please explain.
5. Do any of you have any prejudice against a person who files a lawsuit seeking money damages for personal injuries based upon anything you or anyone in your family or household has seen or heard, or based upon any personal feelings or thoughts you may have?
6. Do any of you have any preconceived prejudice against individuals who file a lawsuit claiming injuries as a result of the medical malpractice of hospitals and/or physicians, because of recent publicity, advertising or newspaper stories that you have read or heard regarding the "so-called" medical malpractice crisis in the Philadelphia community? If so, please explain.

Respectfully submitted,

THOMAS E. CRENNNEY & ASSOCIATES, LLC

By   
Thomas E. Crenney, Esquire  
Attorney for Plaintiffs

One Gateway Center  
18<sup>th</sup> Floor - West  
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(412) 644-5545

DATE: 8/24/2007

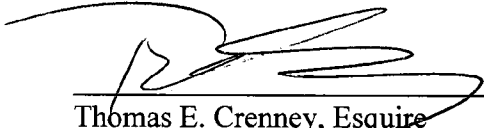
**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and correct copy of the foregoing  
**PLAINTIFFS' PROPOSED VOIR DIRE** was served by facsimile and first class mail on the  
2nd day of January, 2008, as follows:

Darryl R. Slimak, Esquire  
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Pittsburgh, PA 15219  
*(Counsel for DuBois Regional Medical Center)*

Walter Fredrick Wall, Esquire  
MEYER, DARRAGH, BUCKLER, BEBENEK &  
ECK, P.L.L.C.  
120 Lakemont Park Boulevard  
Altoona, PA 16602  
*(Counsel for DuBois Radiologists, Inc.)*  
**\*\*\*\*AFTER 2/1/08 CHANGE HIS FIRM &  
ADDRESS\***



Thomas E. Crenney, Esquire  
James T. Tallman, Esquire  
Attorneys for Plaintiff

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL ACTION - MEDICAL PROFESSIONAL LIABILITY ACTION

PAULA CARLSON and JAMIE CARLSON,  
her husband,

Plaintiffs,

vs.

JERJIS T. ALAJAJI, M.D. and  
DUBOIS RADIOLOGISTS, INC., and  
DUBOIS REGIONAL MEDICAL CENTER,

Defendants.

Docket No: 2006 - 563 - C.D.

Jury Trial Demanded

Type of Pleading

***Brief in Support of Defendant  
Dr. Alajaji's Emergency Motion to  
Preclude Deposition of Plaintiffs'  
Expert Dr. Mastropietro Scheduled  
for January 25, 2008***

***AND***

***Request for Attorneys' Fees, Costs,  
and Expenses Under Pa. R.C.P. No.  
4008***

Filed on Behalf of Defendant

***Jerjis T. Alajaji, M.D.***

Counsel of Record for This Party

***Darryl R. Slimak, Esquire***

Pa. Supreme Court I.D. #41695

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Counsel for Adverse Party

***Thomas E. Crenney, Esquire***

Other Counsel

***David R. Johnson, Esquire***

***Walter F. Wall, Esquire***

RECEIVED

JAN 16 2008

Court Administrator's  
Office

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
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Defendants.

Docket No: 2006 - 563 - C.D.

Jury Trial Demanded

**BRIEF IN SUPPORT OF DEFENDANT DR. ALAJAJI'S  
EMERGENCY MOTION TO PRECLUDE THE DEPOSITION  
OF PLAINTIFFS' EXPERT DR. MASTROPIETRO SCHEDULED FOR  
JANUARY 25, 2008 AND REQUEST FOR ATTORNEYS' FEES,  
COSTS AND EXPENSES UNDER Pa. R.C.P. No. 4008**

**I. STATEMENT OF FACTS AND RELEVANT PROCEDURAL HISTORY**

In the interest of brevity, the averments of facts in the motion filed concomitantly  
herewith are incorporated herein by reference.

**II. ISSUES**

- A. WHETHER A DEPOSITION UNILATERALLY SCHEDULED BY  
PLAINTIFFS IN VIOLATION OF THE COURT'S SCHEDULING ORDER  
SHOULD BE PRECLUDED WHERE THERE IS NO REASONABLE  
JUSTIFICATION FOR SAME, AND SAME WOULD BE PREJUDICIAL TO  
THE DEFENDANTS?

(Suggested Answer in the Affirmative)



- B. WHETHER PLAINTIFFS SHOULD BE ORDERED TO PAY DEFENDANTS' COUNSELS' ATTORNEYS' FEES, COSTS AND EXPENSES PER RULE 4008, BY REASON OF HAVING TO ATTEND TRIAL DEPOSITIONS PLAINTIFFS SCHEDULED FOR THE CONVENIENCE OF PLAINTIFFS AND THEIR WITNESSES, IN EXCESS OF 100 MILES FROM THE COURTHOUSE?

(Suggested Answer in the Affirmative)

### III. ARGUMENT

This Court's September 12, 2007 Order gave the parties a four month advanced directive to timely schedule all depositions for use at trial so that the opposing parties would have adequate time and opportunity to submit prepare and specific objections for ruling by the Court with references to specific page numbers and lines of the official transcripts, as well as the party's briefs in support thereof. The Court thereby contemplated adequate time for allowance of reply briefs as well as oral argument and/or rulings by the Court regarding same in advance of the commencement of trial. Plaintiffs neglect and delay in unilaterally scheduling their multiple expert witness trial depositions for the last possible minute, essentially ignored and undermined Court's Order in this regard, to the prejudice of the Defendants.

The Court's scheduling Order was certainly authorized by the Rules, as is its enforcement. Pa. R.C.P. No. 212.3, pertaining to "Pretrial Conferences," authorizes the court to issue orders that will aid in the disposition of the action. (*See* subsection (6a)(6)).

Rule 4007.3 pertaining to "Sequence and Timing of Discovery," authorizes the court to issues orders to regulate discovery whether by deposition or otherwise "for the convenience of the parties and witnesses and in the interest of justice."

Rule 4007.1(a) requires a party desiring to take the deposition of any person upon oral examination to give reasonable notice in writing to every other party to the action.

Rule 4012 pertaining to "Protective Orders," provides that upon motion and for good cause shown, the court "may make any order which justice requires to protect the party or person from unreasonable annoyance, . . . oppression, burden or expense, including . . . that the discovery or deposition shall be prohibited; that the discovery deposition shall be only on specified terms and conditions; . . .".

Rule 4013 pertaining to "Stay of Proceedings," provides that "the court for good cause shown may stay any or all proceedings in the action until disposition of the motion" for a protective order.

Rule 4019, pertaining to "Sanctions," provides that "the court may, on motion, make appropriate order if . . . (vii) a party or person otherwise fails to make discovery or to obey an order of court respecting discovery." Acting under subdivision (c), the court may issue orders that preclude the deposition or "such order with regard to failure to make discovery as is just."

This Court should enforce its Order and preclude the deposition of Dr. Mastropietro which was unilaterally and untimely filed in violation of this Court's Order despite the Court providing four months advanced notice that such depositions would have to be timely scheduled so as to allow the parties and Court proper consideration of objections to trial deposition testimony. It is patently unreasonable to think that Plaintiffs can **unilaterally** schedule up to the very day of the Court's deadline, three (3) expert witness and/or treating physician depositions being taken for trial, in three (3) different locations across the State (Pittsburgh, Lancaster, and DuBois), including one on the very date of the Court's deadline for submitting detailed motions and briefs for rulings on all deposition objections, which must cite specific pages and lines of the official deposition transcripts. The deposition transcripts will, of course, not be available on the date of the depositions, and defense counsel need adequate time to receive and review same, and

prepare and brief the Court's required specification of objections to be ruled upon by page and line. Plaintiffs' scheduling makes compliance with the Court's Order in this regard impossible. There is no valid reason why the Defense should be prejudiced in this regard by Plaintiffs' default in not acting more promptly during the four month time period this Court provided, to schedule the depositions earlier.

The Rules also provide for the party taking depositions for its convenience and probable costs savings, to pay the opposing parties' attorneys' fees, costs and expenses incurred in accommodating plaintiffs. Rule 4008, pertaining to "Limitations on Oral Deposition Examinations," mandates that "If a deposition is to be taken by oral examination more than 100 miles from the courthouse, the court upon motion may make an order requiring the payment of reasonable expenses, including attorney's fees, as the court shall deem proper."

In that the depositions of economist Mr. Kenkel and Plaintiffs' liability expert Dr. Mastropietro are more than 100 miles from the courthouse, should same be permitted, the Court should Order Plaintiffs to pay defense counsels' attorneys' fees, costs and expenses for having to attend the depositions more than 100 miles from the courthouse in Clearfield County.

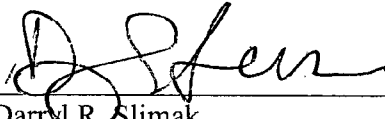
#### **IV. CONCLUSION**

Defendant Dr. Alajaji's Motion to Preclude the Deposition of Plaintiffs' Expert Dr. Mastropietro unilaterally scheduled to be held in Lancaster, Pennsylvania on January 25, 2008 should be GRANTED and Plaintiffs' ordered to pay defense counsels' attorneys' fees, costs and expenses to attend any deposition which is more than 100 miles from the courthouse in Clearfield County.

Respectfully submitted,

McQUAIDE, BLASKO,  
FLEMING & FAULKNER, INC.

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



Darryl R. Slimak

Attorneys for Defendant  
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(814) 238-4926  
Fax: (814) 238-9624

Dated: January 16, 2008

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
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DUBOIS REGIONAL MEDICAL CENTER,

Defendants.

Docket No: 2006 - 563 - C.D.

Jury Trial Demanded

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the Brief in Support of Defendant Dr. Alajaji's Motion to Preclude Deposition of Plaintiffs' Expert Dr. Mastropietro Scheduled in Violation of Court Order of September 12, 2007 in the above-captioned matter was faxed and mailed by regular mail, postage prepaid, at the Post Office, State College, Pennsylvania, on this 16<sup>th</sup> day of January, 2008, to the attorney(s) of record:

Thomas E. Crenney, Esquire  
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Meyer, Darragh, Buckler, Bebenek & Eck, LLC  
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Thompson, Rhodes & Cowie, P.C.  
1010 Two Chatham Center  
Pittsburgh, PA 15219

McQUAIDE, BLASKO,  
FLEMING & FAULKNER, INC.

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

Darryl R. Slimak  
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Defendants.

Docket No: 2006 - 563 - C.D.

Jury Trial Demanded

Type of Pleading  
***Defendant Dr. Alajaji's Brief in  
Support of His Combined  
Motions in Limine***

Filed on Behalf of Defendant  
***Jerjis T. Alajaji, M.D.***

Counsel of Record for This Party  
***Darryl R. Slimak, Esquire***  
Pa. Supreme Court I.D. #41695

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Fax: (814) 238-9624

Counsel for Adverse Party  
***Thomas E. Crenney, Esquire***

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JAN 22 2008

Court Administrator's  
Office

AND NOW comes Defendant, JERJIS T. ALAJAJI, M.D., by and through his attorneys, McQuaide, Blasko, Fleming & Faulkner, Inc., and files the following Brief in Support of His Combined Motions in Limine:

**I. STATEMENT OF THE CASE**

In the interest of brevity, the averments of facts in the motion filed concomitantly herewith are incorporated herein by reference. The facts will also be discussed in the Argument section to follow.

**II. ISSUES**

- A. WHETHER PLAINTIFFS SHOULD BE PRECLUDED FROM OFFERING TESTIMONY OR EVIDENCE REGARDING PLAINTIFF PAULA CARLSON'S SOCIAL SECURITY DISABILITY DETERMINATION WHEN SUCH EVIDENCE IS IRRELEVANT TO THE ISSUES IN THE INSTANT CASE AND HIGHLY PREJUDICIAL?

(Suggested Answer in the Affirmative).

- B. WHETHER LIMITED REFERENCE TO PLAINTIFF'S RECEIPT OF UNEMPLOYMENT COMPENSATION BENEFITS IS PERMITTED WHEN SUCH EVIDENCE IS RELEVANT TO THE MATERIAL ISSUE AS TO WHY PLAINTIFF DID NOT SEEK OUT OR OBTAIN ALTERNATIVE EMPLOYMENT, RATHER THAN DUE TO TOTAL AND COMPLETE DISABILITY WHICH DID NOT THEN EXIST?

(Suggested Answer in the Affirmative).

- C. WHETHER PLAINTIFFS' SPECIALLY RETAINED FAMILY PRACTICE MEDICINE EXPERT, N. ANTHONY MASTROPIETRO, M.D., SHOULD BE PRECLUDED FROM PRESENTING OPINIONS AS TO INTERPRETATION OF X-RAYS AND STANDARD OF CARE OF DEFENDANT RADIOLOGIST DR. ALAJAJI AND/OR CRITICIZING DEFENSE EXPERT DR. HORSLEY'S QUALIFICATIONS, WHEN DR. MASTROPIETRO IS NOT PROPERLY QUALIFIED AS AN EXPERT TO RENDER SUCH OPINIONS AND TESTIMONY, NOR COMPETENT TO ADDRESS THE JUDICIAL FUNCTION OF DETERMINING AN EXPERT'S QUALIFICATIONS TO TESTIFY?



(Suggested Answer in the Affirmative).

- D. WHETHER PLAINTIFFS SHOULD BE PRECLUDED FROM FORCING NONPARTY DR. SHAH TO TESTIFY AGAINST HIS WILL AS AN EXPERT WITNESS AGAINST DEFENDANT DR. ALAJAJI, AND CO-DEFENDANTS WHO INCLUDE HIS EMPLOYER?

(Suggested Answer in the Affirmative).

- E. WHETHER PLAINTIFFS SHOULD BE PRECLUDED FROM PRESENTING EVIDENCE RELATING TO OR REFERENCING AN INSURANCE AGREEMENT BETWEEN DUBOIS RADIOLOGISTS, INC. AND DUBOIS MEDICAL CENTER?

(Suggested Answer in the Affirmative).

- F. WHETHER EVIDENCE OF OR ALLEGATIONS PERTAINING TO THE REASONS FOR DR. ALAJAJI'S TERMINATION OF PRIVILEGES AND EMPLOYMENT AT DUBOIS REGIONAL MEDICAL CENTER AND/OR DUBOIS RADIOLOGISTS, INC. SHOULD BE PRECLUDED WHEN SUCH EVIDENCE IS IRRELEVANT TO THE PARTICULAR ISSUES IN THIS CASE AND HIGHLY PREJUDICIAL?

(Suggested Answer in the Affirmative).

### III. ARGUMENT

In ruling on a motion in limine, a court should apply the same standard as would be applied to the evidentiary issue at the actual trial of the case. Com. v. Johnson, 399 Pa. Super. 266, 582 A.2d 336 (1990), *affirmed*, 534 Pa. 51, 626 A.2d 514 (1993). The burden is on the party who intends to offer an item of evidence to establish that the evidence is admissible. Blum by Bum v. Merrell Dow Pharmaceuticals, Inc., 705 A.2d 1314 (Pa. Super. 1997), *affirmed*, 564 Pa. 3, 764 A.2d 1 (2000). Accordingly, as is discussed hereinafter, Defendant Dr. Alajaji meets his burden with respect to each of the Motions in Limine discussed hereinafter, but Plaintiffs fail in their burden.

***A. Plaintiffs Should Be Precluded From Offering Testimony or Evidence Regarding Plaintiff Paula Carlson's Social Security Disability Determination.***

In the April 24, 2007 report of Plaintiffs' orthopedic expert/treating physician Dr. Kenneth Yaw, he indicates that at Plaintiffs' Attorney Crenney's request, he reviewed various documents including: "8) SSA Notice of Decision (fully favorable) of 3/5/2007."<sup>1</sup> The paragraphs of Dr. Yaw's report that follow, however, fail to substantively discuss the Social Security Disability Determination and only set forth Dr. Yaw's medical opinion that an earlier diagnosis of Plaintiff's bone tumor would have allowed treatment that "would most likely have enabled to successfully return (Paula Carlson to) her career as a radiation therapy technologist [sic]."<sup>2</sup> It is thus apparent that there is no legitimate reason or basis for Dr. Yaw to cite the Social Security Administration Decision with regard to his care and treatment of Mrs. Carlson or as regards his medical opinion of whether Mrs. Carlson is medically capable of returning to work as a radiation technologist. It appears that Plaintiffs' Attorney Crenney simply supplied same to Dr. Yaw in an ill-fated attempt to try and get this inadmissible evidence before the jury.

Plaintiffs are trying to get the inadmissible Social Security decision into evidence via another witness as well. In the July 11, 2007 report of Plaintiffs' labor market survey vocational expert Donal Kirwan, he inappropriately references and quotes from the Social Security Administrative Decision.<sup>3</sup> Specifically, he states that Mrs. Carlson was "adjudged disabled by the Social Security Administration as of May 5, 2005," and that according to same she only has

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<sup>1</sup> The April 24, 2007 report of Dr. Kenneth Yaw is attached to Defendant Alajaji's Combined Motions in Limine as Exhibit A. Also, a copy of the Social Security Administration Notice of Decision is attached to Defendant Alajaji's Motion as Exhibit C.

<sup>2</sup> See Exhibit A attached to Defendant Alajaji's Motion.

<sup>3</sup> A copy of the July 11, 2007 report of Donal Kirwan is attached to Defendant Alajaji's Combined Motion in Limine as Exhibit B.

“the residual functional capacity to perform sedentary work, with restrictions.”<sup>4</sup> Mr. Kirwan also goes on to quote from the hearsay and inadmissible Social Security Notice of Decision, at some length, including commenting that the Administrative Law Judge quoted a vocational expert who apparently participated in the Social Security determination who had “testified that given all these factors, there are no jobs in the national economy that the individual could perform.” Other than quoting from the Social Security Decision in an obviously inappropriate attempt to try and introduce the inadmissible, and, try to improperly bolster his own opinion that Ms. Carlson has a work disability, Mr. Kirwan never discusses the Social Security Decision in the Opinion/“Conclusion” section of his report (p.5), thereby further emphasizing the inadmissibility of the Social Security Decision and it’s hearsay contents. As discussed hereinafter, like the reference made by Dr. Yaw, Mr. Kirwan’s testimony regarding the Social Security Administrative Decision is blatantly improper and should be precluded. Plaintiffs are inappropriately attempting to bolster Dr. Yaw’s and Mr. Kirwan’s disability opinions by indicating to the jury that the government and another supposed vocational expert has declared Ms. Carlson disabled. Moreover, the actual facts have proven the Social Security Administration Decision wrong, as Mrs. Carlson has indeed, since obtained a job.

As a matter of law, the collateral source rule prohibits introduction of evidence of receipt of benefits from a collateral source. Boudwin v. Yellow Cab Co., 410 Pa. 31, 188 A.2d 259 (1963); Johnson v. Beane, 541 Pa. 449, 664 A.2d 96 (1995). Likewise, determinations of or comments within a Social Security Disability Administrative Decision are not admissible in the instant proceedings, and reference to and/or use thereof at trial by Plaintiffs is highly prejudicial

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<sup>4</sup> See Exhibit B attached to Defendant Alajaji’s Combined Motions in Limine at pages 2-3.

to the Defendant's ability to obtain a fair trial. Frederick v. Action Tire Co., 744 A.2d 762 (Pa.Super. 1999), *appeal denied*, 564 Pa. 711, 764 A.2d 1070 (2000); Holmes v. University of Pennsylvania Health System, 82 Pa. D. & C.4<sup>th</sup> 363 (Phila.Co. 2007). As is apparent from the Social Security Decision, the administrative proceedings were nonadversarial and only counsel for Mrs. Carlson appeared. Notably, the Defendants in the instant civil liability action did not participate in, nor did they present contrary evidence, which by itself, is a sufficient basis for this Court to preclude evidence of the administrative decision. See Holmes v. University of Pennsylvania Health System, *supra* (court precluded reference to plaintiff's Social Security disability award in a medical malpractice action because the issues in the two proceedings were different, required different burdens of proof, and defendants were not parties to the administrative proceeding).

Moreover, the administrative determination relative to Mrs. Carlson's "disability" status has no relevance or bearing to the instant civil negligence action. While the Administrative Law Judge found Mrs. Carlson to be "disabled," such a decision was based on the term "disability" as it is defined by the Social Security Act. The Social Security Act is unique to the context of social security benefits and requires a much different burden of proof with respect to an award of such benefits, as opposed to the burden involved in a negligence action.<sup>5</sup> Importantly, this "disability"

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<sup>5</sup> See Frederick v. Action Tire Company, 744 A.2d 762 (Pa.Super. 1999). In Frederick, the Superior Court held that a social security ruling is not preclusive as to "disability status" in a negligence action. In disallowing the plaintiff to present evidence of a prior Social Security Administrative Decision relative to plaintiff's disability, the trial court commented that "the Social Security Administration may have determined that [the plaintiff] is disabled following his spinal surgeries but did not determine that the cause of disability was the motor vehicle accident of November 2, 2002," which was at issue in the current civil action. (*Continued on next page*)

determination was clearly not a determination of total and permanent disability as would be at issue in a civil case. Indeed, the fact is that, even before the Decision came out, Mrs. Carlson was in fact re-employed, despite the Decision's assertion that she was supposedly unemployable even in the national economy!

Recently, a trial court, which precluded reference to a Social Security decision in a medical malpractice action, opined as follows:

“Since the issue of causation of plaintiff's disability was not before the administrative law judge, nor were defendants part[ies] in the Social Security matter, nor did they have the opportunity to litigate any aspect of the plaintiff's Social Security claim, this trial judge opines that defendants were not estopped from defending themselves in this malpractice action. Clearly, the issues at the administrative hearing and the issues at trial were very different, and required different burdens of proof. The administrative decision, which found plaintiff disabled from substantial gainful activity, did not determine the source or cause of her disability. At trial, the jury was asked to determine whether defendants were (individually or collectively) negligent in their care of plaintiff and, if so, whether their negligence was a factual cause of her alleged injuries, issues not before the administrative law judge.”

Holmes, 82 Pa. D. & C.4<sup>th</sup> 363 at 372.

In addition to the vast differences between Social Security administrative proceedings and civil actions, the Social Security determination relative to Plaintiff presents further prejudice to

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<sup>5</sup>(*continued from prior page*) The Superior Court held the trial court's rejection of the social security determination “was not error,” and commented as follows: “The administrative law judge determined [plaintiff] has been under a disability as defined by the Social Security Act, but did not address the cause of such disability. [The defendants] were not parties (nor in privity with any party) to the Social Security proceedings. Consequently, they did not have an opportunity to litigate the issues of injury and causation in that forum.” Frederick, 744 A.2d at 768-769.

Defendant Alajaji.<sup>6</sup> Specifically, while there was an ultimate determination that Mrs. Carlson was “disabled” as defined in the Social Security statute, it is certainly misleading, if not contradictory, in that the Decision also found that Mrs. Carlson “has a residual functional capacity to perform sedentary work activity,” but decided that benefits could nevertheless be awarded to Mrs. Carlson on the basis of the conclusion, subsequently proven to be erroneous by Plaintiff Carlson herself, that there supposedly were “no jobs that exist in significant numbers in the national economy that Claimant can perform.”<sup>7</sup> In fact, shortly before receiving this favorable Decision, the record reflects that Mrs. Carlson actually obtained a job and commenced work at the local Red Lobster Restaurant.<sup>8</sup> Specifically, the documents and deposition testimony reveal that Plaintiff Paula Carlson commenced work as a seater/greeter at Red Lobster on January 29, 2007 and has continued to work there ever since.

For the reasons stated hereinbefore, as a matter of law, the Social Security Disability Determination is inadmissible at the trial of this matter and Plaintiffs and their witnesses should be precluded from referring to or relying on same at the trial of this case. Plaintiffs’ expert Dr. Yaw and Plaintiffs’ other witnesses should be precluded from referencing or relying upon or attempting to admit into evidence the Social Security Disability Determination regarding Plaintiff

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<sup>6</sup> It is also worth noting that evidence of the Social Security Decision is also hearsay. And, the testimony referenced within same is hearsay within hearsay. As defined by the Pennsylvania Rules of Evidence, hearsay is “any out of court statement . . . offered into evidence to prove the truth of the matter asserted.” Pa.R.E. 801. Thus, evidence of the Social Security administrative decision offered to show that Plaintiff was “disabled” under the Social Security Act is hearsay and thus not admissible. *See* Pa.R.E. 801, 802.

<sup>7</sup> *See* Exhibit C attached to Defendant Alajaji’s Motion, Findings of Fact #5 and #10; *See also* Finding of Fact/Conclusion of Law #11.

<sup>8</sup> *See* Exhibit D attached to Defendant Alajaji’s Motion; *see also* Exhibit E which includes pertinent portions of Plaintiff-husband Jamie Carlson’s deposition testimony.

Paula Carlson. To allow same to be admitted into evidence or referenced by Plaintiffs and their witnesses, would clearly constitute reversible error.

***B. Evidence of Plaintiffs' Receipt of Unemployment Compensation Benefits is Admissible for the Limited Purpose of Establishing that Plaintiff's Receipt of Income from Unemployment Compensation was the Reason for Her Not Seeking Employment, Rather Than Due to Total Disability Which Did Not Then Exist.***

Generally, the collateral source rule prohibits a defendant in a personal injury action from introducing evidence of the plaintiff's receipt of benefits from a collateral source. Boudwin, supra; Johnson, supra. An exception exists and evidence of plaintiff's recovery from collateral sources is admissible, however, if the evidence of such recovery is relevant to a material issue in the case. *See e.g., Gallagher v. Pennsylvania Liquor Control Bd.*, 584 Pa. 362, 883 A.2d 550 (2005)(payment of workers' compensation premiums was a relevant consideration in determining the identity of the employer).<sup>9</sup>

Here, Plaintiff's receipt of unemployment compensation benefits is relevant to the issue of her lack of employment. Specifically, in the instant case, Paula Carlson testified in her deposition of October 4, 2006 that she **intentionally** made **no effort** to seek alternative employment after medical treatment for her giant cell tumor of her wrist was received, **for as long as she was able to collect unemployment compensation** which was paid through

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<sup>9</sup> Evidence of compensation from collateral sources has routinely been permitted to establish material facts or for other evidentiary purposes that are not directly related to plaintiff's recovery, and generally can be accomplished without mention of the amount of the payment. *See e.g., Beechwoods Flying Service, Inc. v. Al Hamilton Contracting Corp.*, 504 Pa. 618, 476 A.2d 350 (1984)(holding that evidence of the procurement by plaintiff of insurance against property damage was admissible in bailment case where it related to an element of the bailment contract); Capozi v. Hearst Pub. Co., 371 Pa. 503, 92 A.2d 177 (1952)(holding that evidence of a defendant's maintenance of liability insurance, although usually irrelevant and prejudicial, may be admitted into evidence where relevance can be established).

November 2006.<sup>10</sup> In that Plaintiff's receipt of income from unemployment compensation was the reason for her not seeking out or obtaining alternative employment, rather than due to total and complete disability which did not then exist, same constitutes an exception to the usual collateral source rule such that the fact of receipt of unemployment compensation must be held admissible at the trial of this matter.

Furthermore, such evidence will assist the trier of fact in resolving the inconsistency of Plaintiff claiming that total disability resulted from the injury blamed on Dr. Alajaji, while receiving unemployment compensation which requires a willingness and readiness to work.<sup>11</sup> Defendant Alajaji's offering of evidence to clarify Plaintiff's motive for not working will not require disclosure of the amount of unemployment compensation benefits she received, the calculation of such benefits, or reference to any other monetary amounts.<sup>12</sup> Rather, as the case law herein permits, (See footnote 9, supra), Defendant Alajaji may offer evidence of the existence of receipt of such benefits for the limited purpose of showing the reason for Plaintiff's lack of pursuit of employment.

Accordingly, Defendant Dr. Alajaji respectfully requests this Honorable Court grant his Motion in Limine and allow reference to Plaintiff's receipt of unemployment compensation as the basis for not pursuing available work through November 2006.

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<sup>10</sup> See Exhibit F attached to Defendant Alajaji's Motion, pages 157-158 of the pertinent portions of deposition testimony there attached.

<sup>11</sup> See Unemployment Compensation Act, 43 P.S. § 801(d)(1) which requires that a claimant be "able to work and available for suitable work" in order to receive unemployment compensation benefits. "Available" means ready, willing and able to accept employment.

<sup>12</sup> Defendants' vocational experts and other witnesses will supply the jury with evidence of Mrs. Carlson's earning power during this time frame had she been willing to work — but for the unemployment compensation she received.



C. *Plaintiffs' specially retained "family physician" expert, Dr. Mastropietro, Should Be Precluded From Presenting Opinions as to Interpretation of X-Rays, the Standard of Care of Board Certified Radiologist, Dr. Alajaji, or as to Whether Defense Expert Dr. Horsley is Qualified to Testify at Trial, Because Dr. Mastropietro Is Not Properly Qualified as an Expert to Render Those Opinions, nor is he Competent to Assume the Judicial Function of Determining the Qualifications of Other Experts to Testify.*

In the instant medical malpractice action against Defendant Board Certified Radiologist Dr. Alajaji, Plaintiffs have produced the curriculum vitae and two reports of specially retained "family practice" expert, N. Anthony Mastropietro, M.D.<sup>13</sup> In the second paragraph of his report dated July 24, 2007, Dr. Mastropietro states as follows:

"The first point I would like to make is that I personally reviewed the original wrist x-rays in this case. **I am not a radiologist**, but the offending lesion is so obvious that virtually any physician should be able to recognize it is an abnormality. It is not a 'subtle' finding."<sup>14</sup>

Despite admitting he is **not** a radiologist and offering **no qualifications** for interpretation of x-rays (he is a "family practice" physician), Dr. Mastropietro portends to offer a radiologic **expert** opinion that the x-ray depicts an abnormality, and moreover, that it is purportedly not a "subtle" finding. Dr. Mastropietro also goes on to offer his "expert" opinions that the limited clinical information provided to the Defendant radiologist, and Dr. Mastropietro's assertion that he perceives an abnormality on the x-ray, "should have been more than sufficient to provide an accurate **radiologic** diagnosis." (emphasis supplied).

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<sup>13</sup> Copies of Dr. Mastropietro's curriculum vitae and reports are attached to Defendant Alajaji's Motion as Exhibit G.

<sup>14</sup> Interestingly, truly qualified Defense Board Certified Radiology expert, Dr. Horsley, disagrees with Plaintiffs' family physician expert, Mastropietro, as radiologist, Dr. Horsley, states the evidence of a tumor is "subtle." (Report of Dr. Horsley at p. 5, last paragraph)

Dr. Mastropietro's reports also reflect that he also intends to offer opinions that **nonparty** physician Dr. Graeca, and his Physician's Assistant Lori Natoli, complied with the applicable standards of care for a primary care physician and for a physician's assistant/PA. Dr. Mastropietro's report then goes further, and seeks to criticize defense expert Dr. Horsley as purportedly not appropriately qualified to testify as regards the care or lack thereof by Physician's Assistant Natoli and/or primary care physician, Dr. Graeca.

Dr. Mastropietro, as a "family practice" physician, is not qualified to offer an opinion as a radiologist specialist, which he admits he is not, and/or to indicate that in his nonexpert opinion, there is an abnormality on the x-rays, that is purportedly "not subtle." Moreover, he is not qualified to provide expert opinions as to what clinical information is sufficient for a Board Certified Radiologist to provide an accurate radiologic diagnosis.

Under common law principles, the courts of this Commonwealth have limited the degree to which a physician of a given specialty may render opinions upon another distinct medical specialty. *See, e.g., Gottlob v. Hillegas*, 195 Pa.Super. 453, 461, 171 A.2d 868, 872 (1961). In Gottlob, an expert in peripheral vascular disease who treated the patient for blood clots in the legs, was **not qualified** to render an opinion as to the heart and, therefore, his testimony as to causation, i.e. that an automobile accident caused a serious heart condition, was properly stricken. Id.

The Superior Court undertook an in-depth analysis of the subject of cross-specialty testimony in Dambacher by Dambacher v. Mallis, 336 Pa.Super. 22, 485 A.2d 408 (1984). In **precluding** testimony of experts who sought to proffer opinions that went too far, the court began by acknowledging that:

"Sometimes it may appear that the scope of the witness's experience and education embraces the subject in question in a logical, or fundamental, sense. In such a case, the witness is qualified to testify even though he has no particularized knowledge of the subject as such; for he will be able to reason from the knowledge he does have."

Dambacher, 336 Pa. Super. at 42, 485 A.2d at 418. The court then went on to survey opinions from numerous jurisdictions wherein physicians of one specialty were held **incompetent** to testify on the subject of another specialty, as follows:

"Other times it may appear that the scope of the witness's experience and education may embrace the subject in question in a general way, **but** the subject may be so specialized that even so, the witness will not be qualified to testify. **Thus, every doctor has a general knowledge of the human body. But an ophthalmologist, for example, is not qualified to testify concerning the causes and treatment of heart disease.** See Arnold v. Loose, 352 F.2d 959 (3rd Cir. 1965) (striking testimony of orthopedic surgeon that in his opinion defendant's decedent had lapsed into diabetic coma, which was cause of automobile-truck collision, held not beyond trial court's discretion where witness admitted he had never read any text on diabetes or diabetic comas, did not know who was leading authority on diabetes or which was leading treatise, and revealed no other special knowledge in field of diabetes); Hunt v. Bradshaw, 251 F.2d 103 (4th Cir. 1958) (radiologist **not qualified** to testify as to proper surgical procedure in chest operation); Wesley v. State, 32 Ala. App. 383, 26 So.2d 413 (1946) (toxicologist **not qualified** to testify wound inflicted with screwdriver or similar instrument); Harris v. Campbell, 2 Ariz. App. 351, 409 P.2d 67 (1965) (discretionary **exclusion** of general practitioner in malpractice action against gynecologist who performed vaginal hysterectomy); Huffman v. Lindquist, 37 Cal.2d 465, 234 P.2d 34 (1951) (autopsy surgeon **not qualified** as to treatment for brain injury); Moore v. Belt, 34 Cal.2d 525, 212 P.2d 509 (1950) (autopsy surgeon **not qualified** as to existing standards in practice or urology); Pearce v. Linde, 113 Cal. App.2d 627, 248 P.2d 506 (1952) (specialist in internal medicine **not qualified** as to orthopedics) Dolan v. Galluzzo, 77 Ill.2d 279, 32 Ill.Dec. 900, 396 N.E.2d 13 (1979) (physician unlicensed in podiatry **not qualified** to testify in malpractice action against podiatrist); Swanson v. Chatterton, 281 Minn. 129, 160 N.W.2d 662 (1968) (internist **not qualified** as to orthopedic surgery); State v. Askin, 90 Mont. 394,

3 P.2d 654 (1931) (general practitioner **not qualified** to testify as to brain injury); Whitehurst v. Boehm, 41 N.C.App. 670, 255 S.E.2d 761 (1979) (orthopedic surgeon unfamiliar with practice of podiatry **not qualified** to testify as to standard of care required of podiatrist); Capan v. Divine Providence Hospital, 270 Pa. Super. 127, 410, A.2d 1282 (1980) (anesthesiologist **not qualified** as to autopsy report)".  
Id. at 43-44, 485 A.2d at 419 (emphasis supplied).

The Dambacher case dealt with whether an automobile mechanic was qualified to testify as to the cause of an automobile tire blow out. Applying the reasoning discussed above, the court found that the mechanic lacked sufficient scientific or engineering knowledge to testify as to causation. In this regard, the court noted that "He had 'never read any technical articles published by a scientific or professional or engineering society or journal...' Even if he had read such articles, it is apparent that neither his educational background nor his experience equipped him to understand them." Id. at 37-38, 485 A.2d at 416.

The Dambacher case has been cited with approval by the Superior Court in numerous **subsequent** medical liability opinions, including the cases to follow. In McDaniel v. Merck, Sharp & Dohme, 367 Pa. Super. 600, 533 A.2d 436 (1987), *appeal denied*, 520 Pa. 589, 551 A.2d 215 (1988), the Superior Court held that the trial court had properly ruled that an anesthesiologist was **not qualified** to give an opinion as to the propriety of the use of a particular antibiotic and as to whether the antibiotic caused the decedent's fatal illness, even though both deal with medications. Id. at 610-611, 533 A.2d at 441-442. The plaintiff's medical expert was likewise **excluded** from testifying about whether the hospital had improperly supervised its staff, **as he lacked requisite experience in that area.** Id. at 611, 533 A.2d at 441-442. Although the Superior Court acknowledged that "experts in one area of medicine have been ruled qualified to address other areas of specialization **where the specialties overlap in practice**, or where the

specialist has experience in another related field," this was not such a case. Id. at 612, 533 A.2d at 442 (emphasis supplied).

The instant Carlson case is similar to McDaniel, in that Dr. Mastropietro is admittedly not a radiologist and, unlike Plaintiffs' other expert witness in radiology (Dr. Coopestein) and orthopedic surgeon (Dr. Yaw), Mastropietro's family practice is not a specialty that "overlaps in practice", nor is it a "related field" to Dr. Alajaji's radiology specialization. Moreover, Mastropietro's opinions on radiologic issues are improperly and unnecessarily cumulative, and should be excluded on those grounds as well. See, PA Rule of Evidence, 403.

Similarly, an orthodontist who did not perform oral surgery was found to be incompetent to testify as to the cause of a patient's dropped foot condition, even though the problem occurred after oral surgery. Dierolf v. Slade, 399 Pa.Super. 9, 581 A.2d 649 (1990). In affirming the trial court's decision, the Superior Court noted from the record that the proffered expert "never performed surgery, never observed a peroneal nerve injury, is not a neurologist, is not board certified, and is rarely present in the operating room." Id. at 13, 649 A.2d at 651. The court cited Dambacher for the proposition that "if a witness possesses neither experience nor education in the subject matter under investigation, he should not be found qualified." Id.

The law with regard to the requisite qualifications for an expert to testify concerning the standard of care in a medical malpractice action is, however, considerably **more stringent** than the common law standards, so as to prevent witnesses from testifying beyond their area of true competence. Specifically, the law with regard to the requisite qualifications has been significantly changed with the enactment of the MCARE Act, 40 P.S. §§ 1303.101 - 1303.910. The MCARE Act imposes specific requirements that a medical expert must meet prior to

offering expert medical opinions at trial concerning the care and treatment at issue. See Section 512, 40 P.S. § 1303.512, titled "Expert Qualifications."

Section 512 of the MCARE Act precludes Dr. Mastropietro from testifying as to the standard of care applicable to Dr. Alajaji in this matter because Dr. Mastropietro is not a Board Certified Radiologist, like Defendant Dr. Alajaji. Section 512(c) of the MCARE Act (40 P.S. § 1303.512(c)), regarding "**Standard of Care**" states that, an expert testifying as to a physician's standard of care also must meet all of the following qualifications:

Standard of care. - - In addition to the requirements set forth in subsections (a) and (b), an expert testifying as to a physician's standard of care also must meet the following qualifications:

- (1) Be substantially familiar with the applicable standard of care for the specific care at issue as of the time of the alleged breach of the standard of care.<sup>15</sup>
- (2) **Practice in the same subspecialty as the defendant physician, or in a subspecialty which has a substantially similar standard of care for the specific care at issue**, except as provided in subsection (d) or (e).
- (3) In the event the defendant physician is certified by an approved board, **be board certified by the same or similar approved board**, except as provided in subsection (e).
- (d) Care outside specialty. . . .
- (e) Otherwise adequate training, experience and knowledge -- A court may waive the same specialty and board certification requirements for an expert testifying as to a standard of care **if the court determines that the expert possesses sufficient training, experience and knowledge to provide the**

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<sup>15</sup> It is highly questionable whether Dr. Mastropietro can meet even this first MCARE requirement to provide expert opinions in this case. However, same is not overtly emphasized in the discussion to follow for he even more clearly does not meet the other requirements.

**testimony as a result of active involvement in or full-time teaching of medicine in the applicable subspecialty or a related field of medicine** within the previous five-year time period.

40 P.S. §1303.512(c). (emphasis supplied)

The significance of MCARE's enactment, as opposed to the common law standards of expertise, is profound. While under the old Pennsylvania standards, a doctor had a good deal of leeway in testifying, MCARE was enacted to strictly control that overly liberal practice. The applicable provisions of the MCARE Act are a **major change** from the previously "wide open" standard for expert qualification, which allowed testimony merely based on "any reasonable pretension to specialized knowledge on the subject under investigation." See Corrado v. Thomas Jefferson University Hosp., 790 A.2d 1022, 1027 (Pa.Super. 2001). As Judge Cullen remarked in Spotts v. Small, 61 Pa. D. & C. 4th 225 (Lancaster Co. 2003):

The MCARE Act does not set forth explicitly the legislature's intention in enacting §512, and the available legislative history does not provide reliable guidance. Based upon the language employed, the purpose of §512 of the MCARE Act is to establish a **more stringent standard for the admission of expert medical testimony in medical malpractice actions.**

Spotts, 61 Pa. D&C 4<sup>th</sup> at 228 (emphasis added).

Indeed, the Pennsylvania Supreme Court subsequently recognized this new **higher burden** on Plaintiffs' experts' qualifications and testimony in medical malpractice cases:

Subsection (1) provides that the expert must, first, have "sufficient education, training, knowledge and experience to provide credible, competent testimony" and second, **fulfill the additional qualifications set out in § 1303.512**. In our view, the first part of subsection (1) restates the common law standards for rendering an expert medical opinion. **The Act then adds new requirements in addition to the common law requirements**, in subsections (b) through (d)."

See Wexler v. Hecht, 928 A.2d 973 (Pa. 2007). As such, this Court must prohibit Plaintiffs from offering radiologic standard of care evidence at the trial of this matter where Dr. Mastropietro is not adequately qualified pursuant to the provisions of §512 of the MCARE Act. Not only did Dr. Mastropietro admit in his report that he is not a radiologist, Dr. Mastropietro is not Board Certified in Radiology as is Dr. Alajaji, certainly does not teach radiology, and “family practice” medicine is **not** “related to” radiology, but rather, is a far cry from the specialized practice of a Board Certified Radiologist, which requires years of advanced residency training, focused specifically on issues of radiologic interpretation of x-ray films.

Furthermore, it is legally inappropriate for Dr. Mastropietro to assume the role of the Judge in this case to pronounce his opinion as to who is or is not qualified to testify at the trial of this matter. See Pa.R.E. 104(a)(“Preliminary questions concerning qualification of a person to be a witness, the existence of a privilege, or the admissibility of evidence shall be determined by the court”); *see also* Pa.R.E. 702 (court must be satisfied that witness is qualified to render an expert opinion). Dr. Mastropietro may hold whatever opinions he fancies. Indeed, he apparently feels that he is qualified to testify as to a radiologist’s standard of care, regardless of the law in this area. Fortunately, for the judicial systems, and the rule of law, he is not the Judge. Thus, his proposed testimony as to whether Defense expert, Dr. Horsley, is or is not qualified to testify must also be stricken and prohibited. Dr. Horsley’s qualifications will be established to the satisfaction of this Court, and Dr. Mastropietro’s opinions in said regard are irrelevant, immaterial and unnecessary, and will only serve to confuse the jury.

Accordingly, this Court should also grant Dr. Alajaji’s Motion on Limine and preclude Dr. Mastropietro’s assertions of who is or is not qualified to testify, and in particular, from criticizing defense expert Dr. Horsley in this regard. Moreover, Dr. Mastropietro must be



precluded from offering opinions as to interpretation of x-rays and/or standards of care of Board Certified Radiologist Defendant Dr. Alajaji.

***D. Plaintiffs Should Be Precluded From Trying to Force Dr. Ghanzafar Shah to be an Expert Witness.***

Dr. Alajaji joins in Motion in Limine I filed by DuBois Radiologists, Inc. In this regard, Plaintiffs have listed nonparty Ghazanfar Ali Shah, M.D. as an expert in their Pretrial Statement. Dr. Shah is a shareholder of Dubois Radiologists, Inc., by which he and Dr. Alajaji were employed at the time of Plaintiff Paula Carlson's care. Dr. Shah has made it clear that he does not care to offer expert opinions at the trial of this case, outside of factual testimony as to any interpretations he reached based on radiographs that he personally interpreted in the course of Mrs. Carlson's care **subsequent** to the x-rays interpreted by Dr. Alajaji which are at issue in this case. As such, Dr. Shah may not be called as an expert witness by Plaintiffs and compelled to testify against his will, nor against his employer's co-Defendant, Dr. Alajaji, nor against the professional corporation merely because he is a shareholder and a radiologist.

It is well established in the law that Dr. Shah cannot be compelled to provide expert testimony against his will. Jistarri v. Nappi, 378 Pa. Super. 583, 549 A.2d 210 (1988); Evans v. Otis Elevator Co., 403 Pa. 13, 168 A.2d 573 (1961). Indeed, even if Dr. Shah were deemed a "party," he cannot be compelled against his will to offer opinions for or against a co-Defendant. *Id.* Even if Dr. Shah's opinion was discoverable, the mere fact of being discoverable does not automatically render same as admissible at trial.<sup>16</sup> Moreover, the Supreme Court has pointed out, a "private litigant has no more right to compel a citizen to give up the product of his brain, than

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<sup>16</sup> The Pennsylvania Rules of Civil Procedure clarify that information may properly be sought during discovery even though that information is not admissible at trial. Pa.R.C.P. 4003.1, n.7.

he has to compel the giving up of material things.” Pennsylvania Co. for Insurances on Lives & Granting Annuities v. City of Philadelphia, 262 Pa. 439, 105 A. 630 (1918), *cited by* Evans, 168 A.2d at 580.

In addition to the fact that Dr. Shah cannot be required or compelled to give expert testimony concerning Dr. Alajaji’s care, Plaintiffs have not provided an expert report from Dr. Shah as is required by the Pennsylvania Rules of Civil Procedure. *See* Pa.R.C.P. 4003.5. The purpose of requiring a party to disclose the substance of facts and opinion to which an expert is expected to testify is to avoid unfair surprise by enabling the adversary to prepare a response to the expert testimony. Corrado, *supra*. Thus, the unfairness that would occur if one party were unable to counter the expertise of a surprise witness proffered at the last minute by the opposing party, is prevented. Jistarri, *supra*.

Accordingly, Defendant Alajaji’s Motion in Limine to preclude Plaintiffs from forcing Dr. Shah to testify as an expert witness should be granted.

***E. Plaintiffs Should Be Precluded From Presenting Evidence of the Agreement Between Dubois Radiologist, Inc. and Dubois Medical Center.***

Dr. Alajaji also joins in Motion in Limine II of Defendant Dubois Radiologists, Inc. to preclude evidence of an agreement between Dubois Radiologists, Inc. and Dubois Medical Center. The only apparent reason for Plaintiffs to desire to introduce the Agreement at trial is to bring to the jury’s attention its requirement of liability insurance coverages. However, the general rule in Pennsylvania is that evidence of insurance is irrelevant and prejudicial and justifies the grant of a mistrial. Paxton Nat. Ins. Co. v. Brickajlik, 513 Pa. 627, 522 A.2d 531 (1987); *See also* Pa.R.E. 411 (evidence that a person was or was not insured against liability is not admissible upon the issue of whether the person acted negligently or otherwise wrongfully).

In the instant case, there is no relevance to agreements between Dubois Radiologists, Inc. and Dubois Regional Medical Center, particularly in light of an offer to stipulate as to the employment relationship between Dubois Radiologists, Inc. and Dr. Alajaji, set forth in Dubois Radiologists, Inc.'s Motion in Limine, and in that the agreement prejudicially references irrelevant insurance and agreements or obligations to provide insurance. Should Plaintiffs be permitted to offer evidence of the agreement, Defendants would be unfairly prejudiced. Accordingly, said Motion in Limine should be granted.

***F. Plaintiffs and Any Other Party Should Be Precluded From Presenting or Attempting to Present Evidence or Allegations Pertaining to the Reasons for Dr. Alajaji's Termination of Privileges and Employment at Dubois Regional Medical Center and/or Dubois Radiologists, Inc.***

Defendant Dr. Alajaji also joins in Dubois Radiologists, Inc.'s Motion in Limine III to preclude Plaintiffs from referencing or offering into evidence Dr. Alajaji's legal Complaint of improper and/or wrongful termination of his services of employment by Dubois Radiologists, Inc. and/or loss of privileges at Dubois Regional Medical Center because of the dispute between the Medical Center and Dr. Alajaji concerning the Medical Center's Internet usage policy. A copy of the Complaint Dr. Alajaji filed as regards his dismissal is attached to Dr. Alajaji's Motion in Limine as Exhibit "H." Such evidence is irrelevant and unduly prejudicial. Relevance is defined as "evidence having any tendency to make the existence of any fact that is of consequence to the determination of the action more or less probable than it would be without the evidence." Pa.R.E. 401.

The circumstances and reasons related to Dr. Alajaji's loss of privileges at Dubois Regional Medical Center have absolutely nothing to do with the instant case or his competency or qualifications as a radiologist. Introduction of these reasons or issues relating to his

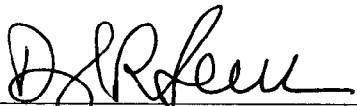
termination of employment or loss of privileges at the hospital by virtue of internet usage is highly prejudicial and would interject collateral issues into this trial, mislead and confuse the jury, and prejudice Dr. Alajaji's defense in the minds of the jury. *See* Pa.R.E. 403 ("Although relevant, evidence may be excluded if its probative value is outweighed by the danger of unfair prejudice, confusion of the issues, or misleading the jury). Such evidence is particularly prejudicial in that not only is same irrelevant and immaterial to the issues in this case, it implicates issues of Dr. Alajaji's middle eastern heritage and religious beliefs. See Motion, Exhibit "H". To introduce same could only serve as an attempt to activate and inflame the jurors' prejudices in view of current world events and religious tensions. Per Pa. Rule of Evidence 403, even if somehow conceivably relevant to this case, the potential for prejudice far, far outweighs any probative value. Moreover, allowance of such evidence at trial would result in the opening of the proverbial Pandora's Box of a collateral trial within the trial, as to why Dr. Alajaji's privileges were cancelled at the hospital, which involves a dispute as to whether it was over a violation of internet useage policies or illegal religious and ethnic persecution. Accordingly, said Motion in Limine should be granted. This trial is not the place for such a diversion from the truth seeking process of a trial of a medical negligence claim.

#### **IV. CONCLUSION**

Based upon the foregoing, Defendant Dr. Alajaji respectfully requests that this Court grant his Motions in Limine.

Respectfully submitted,

McQUAIDE, BLASKO,  
FLEMING & FAULKNER, INC.

By: 

Darryl R. Slimak

Attorneys for Defendant

JERJIS T. ALAJAJI, M.D.

811 University Drive

State College, PA 16801

(814) 238-4926

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Dated: 1-22-2008

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL ACTION - MEDICAL PROFESSIONAL LIABILITY ACTION

PAULA CARLSON and JAMIE CARLSON,  
her husband,

Plaintiffs,

vs.

JERJIS T. ALAJAJI, M.D. and  
DUBOIS RADIOLOGISTS, INC., and  
DUBOIS REGIONAL MEDICAL CENTER,

Defendants.

Docket No: 2006 - 563 - C.D.

Jury Trial Demanded

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the Defendant Dr. Alajaji's Brief in  
Support of His Combined Motions in Limine in the above-captioned matter was mailed by  
regular mail, postage prepaid, at the Post Office, State College, Pennsylvania, on this 2nd day of  
January, 2008, to the attorney(s) of record:

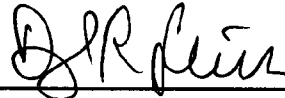
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McQUAIDE, BLASKO,  
FLEMING & FAULKNER, INC.

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



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CA

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

PAULA CARLSON and JAIME CARLSON, her husband,  
Plaintiffs

vs.

JERJIS T. ALAJAJI, M.D. DUBOIS RADIOLOGISTS, INC.,  
and DUBOIS REGIONAL MEDICAL CENTER  
Defendants

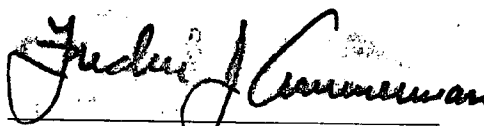
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NO. 06-563-CD

ORDER

AND NOW, this 27th day of July, 2007, it is the ORDER of the Court that a Pre-Trial Conference in the above matter shall be held on the **24th day of August, 2007, in Chambers at 10:30 o'clock a.m.**

BY THE COURT,



FREDRIC J. AMMERMAN  
President Judge

**FILED**

14:00/207  
JUL 27 2007

William A. Shaw  
Prothonotary/Clerk of Courts

1cc Atty's:

Crenney  
Slimak  
Wall

D. Johnson

GR



**FILED**

JUL 27 2007

William A. Shaw  
Prothonotary/Clerk of Courts

DATE: 7/27/07

       You are responsible for serving all appropriate parties.

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

       Plaintiff(s)   X   Plaintiff(s) Attorney        Other

       Defendant(s)   X   Defendant(s) Attorney

       Special Instructions:

11



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

PAULA CARLSON and  
JAMIE CARLSON, her husband,

Plaintiffs,

vs.

JERJIS T. ALAJAJI, M.D., DUBOIS  
RADIOLOGISTS, INC. and DUBOIS  
REGIONAL MEDICAL CENTER,

Defendants.

No. 2006-563-CD

Civil Action – Medical Professional  
Liability Action

**BRIEF IN SUPPORT OF PLAINTIFFS'**  
**OBJECTIONS TO DEFENDANTS'**  
**CROSS-EXAMINATION OF JAMES**  
**KENKEL, Ph.D.**

Filed on behalf of the Plaintiffs

Counsel of Records for this Party:

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**JURY TRIAL DEMANDED**

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

PAULA CARLSON and  
JAMIE CARLSON, her husband,

Plaintiffs,

No. 2006-563-CD

Civil Action – Medical Professional  
Liability Action

vs.

JERJIS T. ALAJAJI, M.D., DUBOIS  
RADIOLOGISTS, INC. and DUBOIS  
REGIONAL MEDICAL CENTER,

Defendants.

**BRIEF IN SUPPORT OF PLAINTIFFS' OBJECTIONS TO DEFENDANTS'  
CROSS-EXAMINATION OF JAMES KENKEL, Ph.D.**

AND NOW comes the Plaintiffs, Paula and Jamie Carlson, by and through their attorneys, Thomas E. Crenney & Associates, LLC, and file the following Brief in Support of Plaintiffs' Objections to Defendants Cross-Examination of James Kenkel, Ph.D., as follows:

This Brief provides an overview of Plaintiffs' objections to Defendants' Cross-Examination of James Kenkel, Ph.D. and the basis for sustaining the objections. The brief itself does not address each specific objection. Attached to the Brief as Exhibit "A" is a chart listing each specific objection that Plaintiff maintains and requests that the Court sustain. Attached to the Brief as Exhibit "B" is a copy of the entire transcript of Dr. Kenkel's deposition. Attached as Exhibit "C" to the Brief is a letter from Attorney Crenney to all defense counsel identifying objections that Plaintiffs are withdrawing.

**A. PLAINTIFFS' OBJECTIONS TO CROSS EXAMINATION REGARDING WHETHER MS. CARLSON RETURNING TO HER PRE-INJURY JOB WOULD AFFECT HER WAGE LOSS SHOULD BE SUSTAINED ON THE GROUNDS THAT THE QUESTIONS WERE REPETITIVE, IRRELEVANT, IMPROPER AND INTENDED TO PREJUDICE PLAINTIFFS.**

Beginning on page 58 of Dr. Kenkel's deposition, Attorney Slimak began questioning Dr. Kenkel whether if assumptions or information that Dr. Kenkel relied upon turned out to be wrong, it would affect his calculations. Initially, Attorney Slimak was not specific as to what he was referring and the questions were vague, unclear and ambiguous. See, e.g., p. 59, lines 15-25. Attorney Slimak did ask more specific questions but the questions were repetitive, improper, irrelevant and intended to prejudice the Plaintiffs. The apparent point that Attorney Slimak was attempting to make with Dr. Kenkel was that if Ms. Carlson returned to her pre-injury job at her pre-injury pay, her wage loss claim would be eliminated. The obvious answer is yes and this point could have been made in one or possibly two questions. Instead of just one or two questions and moving on, Attorney Slimak took advantage of the fact that the deposition was occurring outside of the courtroom where a judge could rule instantly on objections. Indeed, Plaintiffs' counsel has withdrawn many objections to Attorney Slimak's questions on this matter. (See Exhibit "C.") From page 60 until page 77, Attorney Slimak asked Dr. Kenkel essentially the same question to make the same point over and over again. Further, in his questioning, Attorney Slimak was putting facts into the record that were not yet in evidence regarding the disputed factual issue of DuBois Regional Medical Center's claimed job offer. In this regard, Attorney Slimak asked Dr. Kenkel whether he had been provided with and reviewed depositions of Rose Campbell, Bob McKee or Martin Maloney. The testimony from these individuals regarding the claimed job offers and/or Ms. Carlson's ability to return to her pre-injury job and/or DuBois Regional Medical Center's willingness to accommodate Ms. Carlson is beyond Dr. Kenkel's report and beyond his areas of expertise. Mr. Kenkel is not a vocational expert.

The testimony of these witnesses is beyond the area of Dr. Kenkel's expertise to evaluate and it is unfair to suggest to the jury that this is information that he should have reviewed.

One specific example of a question that was improper is the following:

Q. Are you aware of whether the hospital was willing to do whatever it would take and the law would require to accommodate Ms. Carlson so that she could return to work as a radiation therapist and have no ongoing work loss?

A. No.

MR. CRENNY: Objection. Just let me get this out. I'm so sorry, Professor. I don't mean to interrupt you. Objection to the form. Objection to the relevance. Objection to the phrase whatever it takes. Objection –

ATTORNEY SLIMAK: That's based on the testimony.

MR. CRENNY: Objection to the statement whatever it takes. Objection to the form. Objection as beyond the scope of this witness's competence or his testimony on direct. He has acknowledged to you that if she goes back to work and is paid what she was paid before and gets only a 3 percent increase per year that then she would get that money, and she wouldn't have the loss. These questions are just you making a speech.

ATTORNEY SLIMAK: I'll just object to your comments. That's your making a speech. Move to strike those comments.

MR. CRENNY: Your entire cross-examination with the greatest respect is you putting in points that aren't appropriate here.

ATTORNEY SLIMAK: That is your argument, and I certainly disagree with you under the law.

Kenkel dep. at p. 64, line 15 to p. 65, line 24.

Attorney Slimak's question on page 64, line 15 is improper for a number of reasons. It puts into evidence, as if established fact, the contested point of the Defendant hospital's willingness to accommodate in perpetuity Ms. Carlson. The question is also not relevant to Dr. Kenkel's testimony.

The issue of whether the hospital offered Paula her job back is tied to the question of whether she could do her job. It is also tied to the issue of whether the hospital would or could accommodate Paula Carlson her entire work life. It is tied to the question of what the hospital will do with an employee at will once the lawsuit is over and it is free to take whatever action it wishes to take. Counsel should not be permitted to repeatedly ask the same basic question to an economist, not a vocational rehabilitation witness, not a fact witness, as to what would happen if Paula Carlson got her job back, kept it and would have been paid what she was making pre-injury in perpetuity throughout her working career. Finally, the reality is that if all of this had taken place in Court, any judge would have said very quickly you have made your point counsel, move on.

**B. PLAINTIFFS' OBJECTIONS TO MEDICAL AND VOCATIONAL REHABILITATION QUESTIONS SHOULD BE SUSTAINED.**

In his voir dire of Dr. Kenkel, Attorney Slimak went to great lengths to establish that he is not a medical doctor and does not have any medical training. See Dep. at p. 14, line 1 to p. 16, line 9. Specifically, Attorney Slimak asked Dr. Kenkel if he had any experience or was qualified to testify about the adverse effects on life expectancy of various medical conditions such a giant cell tumor. Dr. Kenkel answered the question, "no." See Dep. at p. 14, line 19 to p. 16, line 6. In fact, Dr. Kenkel testified that he had never heard of a giant cell tumor prior to this case. Id. Attorney Slimak then clarified that Dr. Kenkel is not a rehabilitation or vocational expert, but

rather his expertise lies in the areas of mathematics, economics and statistics. Attorney Slimak then asked Dr. Kenkel whether he would be testifying on matters on medical, vocational or rehabilitation issues. See Dep. at p. 16, lines 7-8. Dr. Kenkel answered, "no." See Dep. at p. 16, line 9.

Despite these questions and answers on voir dire, Attorney Slimak asked Dr. Kenkel whether he had statistics or knowledge about the effects of giant cell tumors on people's ability to work or their tendency to retire. See Dep. p. 80, lines 8 to 21. He also asked Dr. Kenkel if he knew about the risk of recurrence of giant cell tumors. As Attorney Slimak has established in his voir dire, Dr. Kenkel did not have any familiarity with giant cell tumors before this case and stated that he would not be testifying about these matter. These are matters beyond the scope of Dr. Kenkel's report and direct testimony and were an improper attempt to undermine Dr. Kenkel's credibility and prejudice the jury against him. Similarly, Attorney Slimak asked Dr. Kenkel if he was aware of back injuries or degenerative disc disease on work life expectancy. See Dep. p. 79, line 15 to p. 80, line 7. Dr. Kenkel had testified during voir dire he was not a vocational or rehabilitation specialist. Attorney Slimak specifically asked, "Are you a rehabilitation specialist or vocational expert who is trained and experienced in returning people with medical problems back to work and increasing their earning power?" See Dep. at p. 15, lines 7 to 11. Dr. Kenkel answered "no" to that question. See Dep. at p. 15, line 12. Later in the deposition, Attorney Slimak again returned to questions outside of Dr. Kenkel's area of expertise and asked questions regarding her present work outside of the home. See Dep. at p. 92, line 15 to p. 94, line 1. These questions are outside of the scope of Dr. Kenkel's report and his area of expertise.

Attorney Slimak should not be permitted to ask such “strawman” questions to undermine Dr. Kenkel’s credibility after establishing the scope of his expertise and limit of the areas on which he is qualified to testify. Further, these questions went to matters beyond the scope of Dr. Kenkel’s report and direct testimony.

**C. PLAINTIFFS’ OBJECTIONS TO QUESTIONS REGARDING EVALUATION OF LOST HOUSEHOLD SERVICES SHOULD BE SUSTAINED AS DR. KENKEL’S DIRECT TESTIMONY DID NOT INCLUDE LOST HOUSEHOLD SERVICES.**

On direct examination, Dr. Kenkel was asked whether he was going to testify about the value of lost household services. See Dep. p. 30, line 5. Dr. Kenkel answered that he was not going to testify about such matter. See Dep. p. 30, lines 5 through 9. Dr. Kenkel’s report did include the value of lost household services but that claim is withdrawn. On cross-examination, however, Attorney Slimak and Attorney Johnson asked a number of questions concerning household services and Dr. Kenkel’s projections and why his testimony did not include household services. See Dep. at p. 87, lines 9 through 18. Specifically, on page 111, Attorney Johnson asked about Dr. Kenkel’s report in which he calculated household services even though he did not testify on direct examination about household services. This question is beyond the scope of Dr. Kenkel’s direct testimony. The Defendants are free to cross-examine Ms. Carlson about her work around the house. This is simply not a matter upon which Dr. Kenkel should have been questioned given its exclusion from his direct testimony.

**D. PLAINTIFFS’ OBJECTION TO QUESTION VIOLATING THE COLLATERAL SOURCE RULE SHOULD BE SUSTAINED.**

On cross examination, Attorney Slimak asked whether Dr. Kenkel was aware that Ms. Carlson had “elected to not return to work for a period of time because she had other sources of income.” See Dep. p. 92, lines 2 to 12. This question violates the collateral source rule



because in the question, Attorney Slimak states that Ms. Carlson had collateral sources of income.

**E. PLAINTIFFS' OBJECTIONS TO QUESTIONS IMPLYING THAT DR. KENKEL WAS PROVIDED WITH INCORRECT OR INCOMPLETE INFORMATION.**

On cross-examination, Attorney Slimak's "strawman" questions such as "it's better to have complete rather than incomplete information" and "it's better to have correct rather than incorrect information," in writing a report. See Dep. p. 74, line 23 to p. 75, line 13. These questions are improper as they unfairly imply that Dr. Kenkel had improper or incorrect information which was not established by Attorney Slimak. Attorney Slimak continued on asking the following question:

ATTORNEY SLIMAK: Do you agree, Dr. Kenkel, that it would be best to have presented a fair and balanced approach to the calculation of economic loss and let the jury decide the truth rather than having a one-sided approach?

MR. CRENNY: Objection to the form of that question. It's an outrageous question, Attorney Slimak, which I imagine you know. I am so surprised you would ask a question like that.

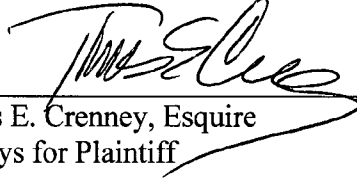
Kenkel Dep. at p. 75, line 25 to p. 76, line 8.

This objection should be sustained and the question stricken consistently with Plaintiffs' other arguments in this Brief. There is nothing unfair or not balanced about the economic report. If anything, as his testimony shows, it was extremely conservative. It used a three (3%) percent increase in salary when in fact the record shows that Paula Carlson averaged an increase in her salary of eleven (11%) percent per year from 2001 to 2006. It included nothing about household services. It used 1.5% as the discount rate.

Respectfully submitted,

THOMAS E. CRENNNEY & ASSOCIATES, LLC

By

  
Thomas E. Crenney, Esquire  
Attorneys for Plaintiff

DATE: 1/25/08

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|          |                                                                                                                                                                                                                                                                   |                                             |
|----------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------|
| <b>A</b> | <b>Plaintiffs' objections to cross examination regarding whether Ms. Carlson returning to her pre-injury job would affect her wage loss should be sustained on the grounds that the questions were repetitive, irrelevant and intend to prejudice Plaintiffs.</b> |                                             |
|          | 1                                                                                                                                                                                                                                                                 | p. 59, lines 1-2, 22                        |
|          | 2                                                                                                                                                                                                                                                                 | p. 60, lines 13-14                          |
|          | 3                                                                                                                                                                                                                                                                 | p. 62, lines 1 and 13                       |
|          | 4                                                                                                                                                                                                                                                                 | p. 64, lines 9-10, 21-25, p. 65, lines 1-17 |
|          | 5                                                                                                                                                                                                                                                                 | p. 69, line 9                               |
|          | 6                                                                                                                                                                                                                                                                 | p. 72, line 24                              |
|          | 7                                                                                                                                                                                                                                                                 | p. 73, lines 13-16 and 25                   |
|          | 8                                                                                                                                                                                                                                                                 | p. 74, line 4                               |
|          | 9                                                                                                                                                                                                                                                                 | p. 77, lines 11-13                          |
| <b>B</b> | <b>Plaintiffs' objections to medical questions should be sustained.</b>                                                                                                                                                                                           |                                             |
|          | 10                                                                                                                                                                                                                                                                | p. 80, lines 22-23                          |
|          | 11                                                                                                                                                                                                                                                                | p. 83, lines 9-10, 13-14, 16-17             |
|          | 12                                                                                                                                                                                                                                                                | p. 93, line 4                               |
|          | 13                                                                                                                                                                                                                                                                | p. 94, line 1                               |
| <b>C</b> | <b>Plaintiffs' objections to questions regarding evaluation of lost household services should be sustained as Dr. Kenkel's direct testimony did not include lost household services.</b>                                                                          |                                             |
|          | 14                                                                                                                                                                                                                                                                | p. 87, lines 16-18                          |
|          | 15                                                                                                                                                                                                                                                                | p. 88, lines 2-5                            |
|          | 16                                                                                                                                                                                                                                                                | p. 111, lines 15-16 and 21                  |
|          | 17                                                                                                                                                                                                                                                                | p. 112, lines 3-8                           |
|          | 18                                                                                                                                                                                                                                                                | p. 129, lines 1, 9-10, 20, 22-25            |
|          | 19                                                                                                                                                                                                                                                                | p. 131, lines 17-19                         |
| <b>D</b> | <b>Plaintiffs' objection to question violating the collateral source rule should be sustained.</b>                                                                                                                                                                |                                             |
|          | 20                                                                                                                                                                                                                                                                | p. 92, lines 7 and 13                       |
| <b>E</b> | <b>Plaintiffs' objections to questions implying that Dr. Kenkel was provided with incorrect or incomplete information.</b>                                                                                                                                        |                                             |
|          | 21                                                                                                                                                                                                                                                                | p. 75, lines 8-13                           |
|          | 22                                                                                                                                                                                                                                                                | p. 76, lines 5-8, 11-14                     |

1                   IN THE COURT OF COMMON PLEAS  
2                   OF CLEARFIELD COUNTY, PENNSYLVANIA

3           PAULA CARLSON and  
4           JAMIE CARLSON,  
5           her husband,

CIVIL DIVISION

6                   Plaintiffs,

No. 2006-563-CD

7                   vs.

8           JERJIS T. ALAJAJI, M.D.,  
9           DUBOIS RADIOLOGISTS,  
10           INC., and DUBOIS  
11           REGIONAL MEDICAL CENTER,  
12           Defendants.

VIDEOTAPE DEPOSITION  
TRANSCRIPT OF:  
James Kenkel, Ph.D.

DEPOSITION DATE:  
January 21, 2008  
Monday, 2:06 p.m.

PARTY TAKING DEPOSITION:  
Plaintiffs

COUNSEL OF RECORD  
FOR THIS PARTY:  
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REPORTED BY:  
Kristin Lytle, RPR  
Notary Public  
AKF Reference No. KL04947

**EXHIBIT "B"**

|                           |                                                      |
|---------------------------|------------------------------------------------------|
|                           | Page 2                                               |
| 1                         | VIDEOTAPE DEPOSITION OF JAMES KENKEL, Ph.D.,         |
| 2                         | a witness, called by the Plaintiffs for examination, |
| 3                         | in accordance with the Pennsylvania Rules of Civil   |
| 4                         | Procedure, taken by and before Kristin Lytle, RPR, a |
| 5                         | Court Reporter and Notary Public in and for the      |
| 6                         | Commonwealth of Pennsylvania, at the offices of      |
| 7                         | McBride & McBride, 211 South Center Street,          |
| 8                         | Grove City, Pennsylvania, on Monday, January 21,     |
| 9                         | 2008, commencing at 2:06 p.m.                        |
| 10                        | -----                                                |
| 11                        | APPEARANCES:                                         |
| 12                        | FOR THE PLAINTIFFS:                                  |
| 13                        | Thomas Crenney, Esq.                                 |
| 14                        | LAW OFFICES OF THOMAS CRENNNEY & ASSOCIATES          |
| 15                        | One Gateway Center, 18th Floor                       |
| 16                        | Pittsburgh, PA 15222                                 |
| 17                        | 412-644-5545                                         |
| 18                        | alicia@crenney.com                                   |
| 19                        | FOR THE DEFENDANT JERJIS T. ALAJAJI, M.D.:           |
| 20                        | Darryl R. Slimak, Esq.                               |
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| 24                        | 814-238-4926                                         |
| 25                        | drslimak@mcqblaw.com                                 |
|                           | theslimaks@comcast.net                               |
|                           | FOR THE DEFENDANT DUBOIS REGIONAL MEDICAL            |
|                           | CENTER:                                              |
|                           | David Johnson, Esq.                                  |
|                           | THOMSON RHODES & COWIE                               |
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|                           | drj@trc-law.com                                      |
|                           | ALSO PRESENT:                                        |
|                           | Matt Martin, videographer                            |
|                           | -----                                                |
|                           | EXHIBIT "B"                                          |
| Greensburg / 724.853.7700 | Pittsburgh / 412.261.2323                            |
|                           | Erie / 814.453.5700                                  |

|                           |                                                  |
|---------------------------|--------------------------------------------------|
|                           | Page 3                                           |
| 1                         | * I N D E X *                                    |
| 2                         | Examination by Mr. Crenney - - - - - 5           |
| 3                         | Voir Dire Examination by Mr. Slimak - - - - - 12 |
| 4                         | Cont. of Examination by Mr. Crenney - - - - - 25 |
| 5                         | Examination by Mr. Slimak - - - - - 57           |
| 6                         | Examination by Mr. Johnson - - - - - 97          |
| 7                         | Re-Examination by Mr. Crenney - - - - - 117      |
| 8                         | Re-Examination by Mr. Slimak - - - - - 128       |
| 9                         | Re-Examination by Mr. Johnson - - - - - 132      |
| 10                        | -----                                            |
| 11                        | Certificate of Court Reporter - - - - - 138      |
| 12                        | Errata Sheet - - - - - 139                       |
| 13                        | -----                                            |
| 14                        | * INDEX OF EXHIBITS *                            |
| 15                        | (Exhibits 1 and 2 were marked prior to the       |
| 16                        | proceedings and retained by Mr. Crenney.)        |
| 17                        | -----                                            |
| 18                        |                                                  |
| 19                        |                                                  |
| 20                        |                                                  |
| 21                        |                                                  |
| 22                        |                                                  |
| 23                        |                                                  |
| 24                        |                                                  |
| 25                        | EXHIBIT "B"                                      |
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|                           |                                                |
|---------------------------|------------------------------------------------|
|                           | Page 4                                         |
| 1                         | THE VIDEOGRAPHER: Good afternoon.              |
| 2                         | My name is Matthew Martin. I am the            |
| 3                         | videographer. I'm here from AKF Court          |
| 4                         | Reporting and VideoTech Services. Today's date |
| 5                         | is January 21st, 2008. The time right now is   |
| 6                         | 2:06 p.m., and it's indicated on the screen.   |
| 7                         | We are here to take the video                  |
| 8                         | deposition of Dr. James Kenkel. We are at 211  |
| 9                         | South Center Street, Grove City, Pennsylvania  |
| 10                        | 16127. The case name is Carlson versus         |
| 11                        | Alajaji. This case is being heard at the Court |
| 12                        | of Common Pleas, Clearfield, Pennsylvania,     |
| 13                        | Number 2006-563.                               |
| 14                        | Will Counsel please identify                   |
| 15                        | themselves and whom they represent?            |
| 16                        | MR. CRENNNEY: Tom Crenney for the              |
| 17                        | Carlsons.                                      |
| 18                        | MR. SLIMAK: This is Darryl Slimak,             |
| 19                        | and I'm here on behalf of Dr. Alajaji.         |
| 20                        | MR. JOHNSON: Dave Johnson                      |
| 21                        | representing DuBois Regional Medical Center.   |
| 22                        | THE VIDEOGRAPHER: And if the court             |
| 23                        | reporter may swear in the witness, we may      |
| 24                        | proceed.                                       |
| 25                        | -----                                          |
|                           | EXHIBIT "B"                                    |
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|                           |                                                   |
|---------------------------|---------------------------------------------------|
|                           | Page 5                                            |
| 1                         | JAMES KENKEL, Ph.D.,                              |
| 2                         | being first duly sworn,                           |
| 3                         | was examined and testified as follows:            |
| 4                         | -----                                             |
| 5                         | EXAMINATION                                       |
| 6                         | -----                                             |
| 7                         | BY MR. CRENNNEY:                                  |
| 8                         | Q. Professor, could you please state your name.   |
| 9                         | A. My name is James L. Kenkel, K-E-N-K-E-L.       |
| 10                        | Q. What is your address?                          |
| 11                        | A. I live at 807 Academy Place in Mount Lebanon,  |
| 12                        | Pennsylvania, which is a suburb of Pittsburgh.    |
| 13                        | Q. What's your current occupation?                |
| 14                        | A. I'm a professor of economics in the department |
| 15                        | of economics at the University of Pittsburgh.     |
| 16                        | Q. And what is your educational background?       |
| 17                        | A. I have a bachelor's degree in mathematics from |
| 18                        | Xavier University in Cincinnati, Ohio, in 1966,   |
| 19                        | a master's degree in economics from Purdue        |
| 20                        | University in Lafayette, Indiana, in 1968, and    |
| 21                        | a Ph.D. in economics from Purdue University in    |
| 22                        | 1969. I also had additional training in           |
| 23                        | economics at Princeton University in Princeton,   |
| 24                        | New Jersey, in 1971.                              |
| 25                        | Q. And what is your employment background?        |
|                           | EXHIBIT "B"                                       |
| Greensburg / 724.853.7700 | Pittsburgh / 412.261.2323                         |
|                           | Erie / 814.453.5700                               |

1 A. After receiving my Ph.D. in 1969, I was hired  
2 as a full-time faculty member in the department  
3 of economics at the University of Pittsburgh in  
4 September of 1969. And I have been a full-time  
5 faculty member there continuously since  
6 September of 1969. So I have been there about  
7 38 years.

8 Q. What are your duties as a professor?

9 A. Every faculty member has duties that fall into  
10 three broad areas. We're all supposed to  
11 teach. I have taught regularly at both the  
12 Ph.D. and the undergraduate level. We're all  
13 supposed to publish and do research. And we're  
14 to provide various services to the department  
15 and the university by holding different  
16 academic positions and serving on various  
17 committees.

18 Q. What courses have you taught, Professor?

19 A. I have taught courses in microeconomics. Micro  
20 means small. So in microeconomics we analyze  
21 the behavior of individual consumers or  
22 individual households or individual workers or  
23 individual businesses. And we analyze how  
24 people or businesses react to economic forces  
25 taking place around them.

EXHIBIT "B"

1 I have taught courses in  
2 macroeconomics. Macro means big. So in  
3 macroeconomics we are examining broad trends in  
4 the overall United States economy. We examine  
5 factors that contribute to the growth of the  
6 economy. We examine trends in inflation,  
7 trends in interest rates, trends in employment  
8 and unemployment. We examine how the banking  
9 system works, how the government influences the  
10 economy, how international trade influences  
11 economy, and so forth.

12 I have taught courses in monetary  
13 theory and money and banking, business decision  
14 theory. Given my background in mathematics, I  
15 have taught lots of different courses in  
16 mathematical economics. I have taught courses  
17 in the math department at Pitt. And I  
18 regularly teach in the statistics department.

19 Q. Have you written books and published articles?

20 A. I have published a book on risk in mortgage  
21 lending with a couple other professors at Pitt.  
22 I have published a Ph.D. level textbook on  
23 mathematical economics. I have published four  
24 different statistics books, the latest is  
25 called Statistics For Management and Economics

EXHIBIT "B"

1 that have been used at 50 to 100 universities  
2 across the country.

3 Along with the statistics books,  
4 there are I think 13 additional books that are  
5 teacher instruction manuals, student study  
6 guides, test banks, solution manuals, and  
7 various computer manuals that go along with a  
8 big textbook. And I have published articles in  
9 lots of different statistics and economic  
10 journals.

11 Q. Professor, can you tell us a little more about  
12 services you have performed for your department  
13 and for the university?

14 A. For approximately 5 years I was the director of  
15 the Ph.D. program in economics. I have served  
16 as the chairman of the department of economics.  
17 For approximately 20 years I was on the board  
18 of directors of the Computer Research Institute  
19 at Pitt. And I would say throughout the years  
20 I have served on a hundred or more different  
21 academic committees.

22 Q. Are you a member of any professional societies?

23 A. I'm a member of the American Economic  
24 Association and the Pennsylvania Economic  
25 Association, the International Institute of

EXHIBIT "B"

1 Forecasters, the American Association of  
2 Financial Experts, the American Statistical  
3 Association, the Mathematics Association of  
4 America. And what I'm doing today is  
5 testifying in a legal matter. That area of  
6 economics is called forensic economics. I'm a  
7 member of the National Association of Forensic  
8 Economics and also the American Rehabilitation  
9 Economics Association.

10 Q. Have you received any scholarships or  
11 fellowships during your career?

12 A. I attended Xavier University on a four-year  
13 presidential scholarship. I had a National  
14 Science Foundation fellowship and a National  
15 Defense Education Act fellowship at Purdue  
16 University. And I attended Princeton  
17 University on a National Science Foundation  
18 fellowship.

19 Q. Have you received teaching awards?

20 A. Yes, sir.

21 Q. And could you tell the jury about that if you  
22 don't mind?

23 A. In 1982 I received a Teacher of the Year Award  
24 at Pitt. In 1991 the economics department  
25 instituted a Teacher of the Year Award, and I

EXHIBIT "B"

1 was the first person to get that award. In  
2 nineteen -- I think it was '96 I was a finalist  
3 for the Chancellor's Distinguished Teaching  
4 Award at all university campuses.

5 Q. Have you performed consulting services for  
6 government agencies and national corporations?

7 A. I have consulted with the Federal Home Loan  
8 Bank Board in Washington concerning risk in  
9 mortgage lending and how it influences the  
10 decline and decay of the inner cities across  
11 the country. I have consulted with the  
12 Environmental Protection Agency concerning  
13 proposed changes in pollution control laws and  
14 how it influences profitability and investment  
15 in the steel industry.

16 I have consulted with the  
17 Pharmaceutical Manufacturers' Association in  
18 Washington concerning proposed changes in  
19 patent laws and how it influences research and  
20 development of new drugs and medicines. And  
21 throughout the years I have consulted with, I  
22 don't know, 50 to 100 major national and  
23 international corporations including companies  
24 such as Ford, General Motors, Chrysler,  
25 Westinghouse, Dow Chemical, Kawasaki, Hyundai,

EXHIBIT "B"

1 Sony Corporation, Mellon Bank, and many others.

2 Q. Have you taught seminars concerning how to  
3 calculate economic loss in an injury case?

4 A. Yes. What I'm here to do today is project  
5 economic losses suffered by Paula Carlson. I  
6 have been asked to give seminars at the  
7 University of Pittsburgh Law School to explain  
8 to attorneys from Ohio, Pennsylvania, and West  
9 Virginia what's involved in calculating  
10 economic losses in personal injury and wrongful  
11 death cases. I have been asked to give  
12 seminars to the Pennsylvania Bar Association.  
13 I have been asked to give seminars to the  
14 Attorney General's Office for the State of  
15 Pennsylvania and for the Supreme Court of  
16 Pennsylvania.

17 Q. Professor, have you testified for plaintiffs  
18 and defendants in these cases?

19 A. Yes, sir.

20 Q. Both sides?

21 A. Yes, sir.

22 Q. Approximately how many times have you  
23 testified?

24 A. I have testified I would say more than 600 to  
25 700 times.

EXHIBIT "B"

1 Q. And in what states?

2 A. I have testified all over Pennsylvania. I have  
3 testified in Ohio, West Virginia, Maryland,  
4 Washington, D.C., Virginia, North Carolina,  
5 South Carolina, New Jersey, New York,  
6 Connecticut. And I have worked for attorneys  
7 in probably 25 or 30 different states.

8 Q. And have you testified in both federal court  
9 and state court?

10 A. Yes, sir.

11 MR. CRENNNEY: I offer Professor  
12 Kenkel as an expert in economics.

13 - - - -

14 VOIR DIRE EXAMINATION

15 - - - -

16 BY MR. SLIMAK:

17 Q. Mr. Kenkel, do you usually go by Professor or  
18 Mr. or Dr. Kenkel? How do you like it?

19 A. Dr. Kenkel is what the students usually call  
20 me.

21 Q. Okay. Dr. Kenkel, based on what Attorney  
22 Crenney was asking you, will you essentially go  
23 to whatever state any attorney that hires you  
24 will pay you to go to to testify?

25 A. Possibly. Usually I try to have the testimony

EXHIBIT "B"

1 closer to my home. But I have testified in  
2 South Carolina and Connecticut, et cetera.

3 Q. Okay. As long as you're being paid, you will  
4 go?

5 A. If it fits into my schedule, yes.

6 Q. Okay. Well, today we're at an attorney's  
7 office apparently here in Grove City,  
8 Pennsylvania. Have you testified here before?

9 A. I have never been in Grove City to testify. I  
10 have testified in other -- all over the State  
11 of Pennsylvania however.

12 Q. Okay. So you also go wherever in Pennsylvania  
13 attorneys will hire you to testify?

14 A. In general, yes.

15 Q. Now are you -- there was discussion about your  
16 background and associations with the University  
17 of Pittsburgh. Are you here today on behalf of  
18 the University of Pittsburgh?

19 A. No, sir.

20 Q. Okay. With regard to your fees for today, does  
21 moneys go back to the University of Pittsburgh,  
22 or do they go back into your pocket?

23 A. The fees are mine. The University of  
24 Pittsburgh has nothing to do with this. This  
25 is a private affair.

EXHIBIT "B"

- 1 Q. Okay. Now you said that you used the -- used  
2 the title of Doctor. That's how you usually  
3 are known day-to-day; is that correct?  
4 A. Yes, sir.  
5 Q. Is that because you have a Doctorate of  
6 Philosophy in the area of economics?  
7 A. Yes, sir.  
8 Q. You are not trained as a physician doctor,  
9 correct?  
10 A. That's correct.  
11 Q. You have never went to medical school?  
12 A. That's correct.  
13 Q. You are not authorized to practice medicine in  
14 Pennsylvania?  
15 A. No, I'm not.  
16 Q. You have no training in any field of medicine,  
17 correct?  
18 A. That's correct.  
19 Q. Now are you qualified with the background you  
20 have talked about to render opinions on the  
21 adverse effects of certain medical conditions  
22 on life expectancy?  
23 A. No, sir.  
24 Q. Are you qualified based on the things that you  
25 have been talking about to testify in adverse

EXHIBIT "B"

- 1 effects on work life expectancy of various  
2 medical conditions such as a giant cell tumor?  
3 A. No, sir.  
4 Q. Have you ever heard of a giant cell tumor prior  
5 to this case?  
6 A. No, sir.  
7 Q. Okay. Are you a rehabilitation specialist or a  
8 vocational expert who is trained and  
9 experienced in returning people with medical  
10 problems back to work and increasing their  
11 earning power?  
12 A. No, sir.  
13 Q. Now you mentioned about your professional  
14 memberships, and you said you belong to the  
15 American Statistical Association I think. And  
16 another one I saw on your resume there was the  
17 Mathematical Association, among others; is that  
18 correct?  
19 A. Yes, sir.  
20 Q. Is that what you do a lot of is you use  
21 statistics and math calculations?  
22 A. Well, I teach courses in mathematical  
23 economics, and I also teach courses in the  
24 statistics department. And I have written a  
25 whole set of statistics books. So I use

EXHIBIT "B"

- 1 mathematics every day in my life.  
2 Q. So is what you're going to be doing today  
3 utilizing statistics?  
4 A. Yes.  
5 Q. Okay. And then mathematical calculations?  
6 A. Yes, sir.  
7 Q. Okay. But you're not getting into medical or  
8 vocational or rehabilitation issues?  
9 A. No, sir.  
10 Q. All right. With regard to the types of things  
11 that you anticipate testifying here to today,  
12 do you determine what the facts are, or do you  
13 make assumptions of what the facts are and then  
14 perform your statistical and mathematical  
15 calculations?  
16 A. I am provided with an information sheet that I  
17 sent to the attorney, and then I'm given  
18 background information which I assume is  
19 correct. And I also ask for various documents  
20 to support that information, and I received  
21 lots of background information.  
22 Q. So then you're dependent and what you  
23 anticipate testifying to are facts supplied to  
24 you by the attorney, correct?  
25 A. Yes.

EXHIBIT "B"

- 1 Q. And was that by all the attorneys at this  
2 deposition or just one attorney?  
3 A. Just Mr. Crenney's office.  
4 Q. So you are not here to testify with regard to  
5 any facts from anyone else other than  
6 Mr. Crenney?  
7 A. Well, the facts may have come from Paula  
8 Carlson or her husband. But I always get my  
9 information through the attorney so that the  
10 attorney is aware of any information that I  
11 might be using that was supplied to me.  
12 Q. Okay. Now with regard to your testifying here  
13 today, is it correct that you are hired by  
14 Mr. Crenney?  
15 A. Yes, sir.  
16 Q. You were not involved in this case by the court  
17 of Clearfield County, correct?  
18 A. That's correct.  
19 Q. Do you know how Mr. Crenney got your name to  
20 contact you to have you review this matter and  
21 testify for his clients?  
22 A. No, I do not.  
23 Q. Do you make it known in some fashion as to  
24 being available to be hired by attorneys to  
25 perform reviews in these types of medical cases

EXHIBIT "B"



1 for a fee?

2 A. No.

3 Q. Do you get so much business to testify through

4 word of mouth, past experience between

5 attorneys that bring personal injury lawsuits

6 that you don't -- that you have all the work

7 you need and don't need to advertise?

8 A. I have never advertised ever. It's not my goal

9 to advertise. And any legal case that I have

10 ever gotten presumably came through word of

11 mouth or my past reputation.

12 Q. Okay. Well, I think you said that you

13 testified 6 to 700 times so far; is that right?

14 A. Yes, sir.

15 Q. And I would assume from that that you've

16 probably reviewed a bunch more cases, more

17 times than you have testified, correct?

18 A. Yes.

19 Q. And now could you give us an estimate of how

20 many times you have been hired to review cases,

21 including the ones that you ended up testifying

22 in?

23 A. I have been involved in more than 5,000

24 economic cases.

25 Q. And each one of these you charge?

EXHIBIT "B"

1 A. Yes, sir.

2 Q. And each one of these you will go testify

3 wherever if the attorneys will pay you?

4 A. Well, as you have just indicated, most of the

5 time I don't have to testify. I would say

6 about 90 percent of the time a case settles

7 without me needing to testify, so I don't have

8 to go any place.

9 Q. You still charge for those cases?

10 A. Well, I charge if I write an economic report

11 and do any work, yes.

12 Q. Okay. Well, how many cases do you currently

13 have in your office in one stage or another of

14 review?

15 A. Well, right now at home I'm working on two

16 different cases.

17 Q. Well, how many cases do you have in one stage

18 or another of review whether or not you're

19 still working on them or whether they're

20 sitting there waiting for you to testify?

21 A. I don't know. I mean, I have done cases that

22 are sitting there since possibly 1998. I mean,

23 I don't even know if these cases are open or

24 not. They're just filed away.

25 Q. So how many case files do you think you have

EXHIBIT "B"

1 back home that may be in an active state?

2 A. I don't know. There might be a thousand of

3 them filed away.

4 Q. Okay. Now has it got to the point where some

5 attorneys keep hiring you time and time again?

6 A. I have worked for some attorneys on numerous

7 occasions, yes.

8 Q. Have you ever worked with Mr. Crenney before?

9 A. Not that I recall, no.

10 Q. Okay. Are there some attorneys, though, that

11 you do work for time and time again?

12 A. If they call and ask for my services, yes. I

13 have worked for many attorneys on more than one

14 occasion.

15 Q. Okay. And what do you charge for fees?

16 A. Typically I charge \$250 an hour.

17 Q. And sometimes is it not typical that you charge

18 other fees?

19 A. It depends. On some business cases and so on,

20 I might raise my rate. But on personal injury

21 and wrongful death cases, I typically charge

22 \$250.

23 Q. And how long does it typically take you to

24 prepare a report?

25 A. It varies. Probably about 8 hours is the

EXHIBIT "B"

1 average.

2 Q. And then you charge then for the time you

3 testify too?

4 A. Yes.

5 Q. What rate do you charge for that?

6 A. I charge \$1,200 to testify plus \$300 an hour

7 for travel.

8 Q. You charge more for traveling than you charge

9 for reviewing materials to prepare your report?

10 A. I now charge \$300 an hour, yes. The time is

11 not mine and I'm not at home.

12 Q. Okay. So if you are asked to testify, your

13 price goes up for the travel portion?

14 A. Yes.

15 Q. And you have a \$1,200 fee for the deposition?

16 A. Yes.

17 Q. Okay. And is that for a number -- certain

18 number of hours or not?

19 A. No. I mean, my day is gone. It doesn't matter

20 if I testify for 10 minutes or 8 hours. The

21 day is wasted in my -- I mean, well, from my

22 point of view, the day is wasted. I can't do

23 anything other than appear here at the

24 deposition.

25 Q. Okay. Now with regard to your -- the reports

EXHIBIT "B"

1 that you're charging for, is a lot of this in  
 2 your computer system?  
 3 A. Yes.  
 4 Q. And then do you use that as a template then for  
 5 your reports?  
 6 A. Well, I have certain things that I put into  
 7 every economic report. Because when I have  
 8 testified in Pennsylvania, attorneys and judges  
 9 have said if you don't kind of have this  
 10 explained in your report you're not allowed to  
 11 testify about it unless you're asked very  
 12 specific questions. So over the years my  
 13 reports typically just tended to get longer so  
 14 that I could cover everything that I thought  
 15 might be relevant when I'm asked questions in  
 16 court.  
 17 Q. Okay. And then with regard to each of these  
 18 reports that you have to generate for each of  
 19 these cases that you review or have to testify  
 20 in, what do you do, put in some additional data  
 21 for that specific individual that the --  
 22 whatever the attorney provided you with and  
 23 then push a couple buttons to print out the  
 24 final product?  
 25 A. Well, obviously to print it I push a couple of

EXHIBIT "B"

1 buttons. But it's not like I just type four  
 2 numbers into a computer and push a button and  
 3 say I get a generic report. I mean, here is  
 4 the information (indicating) I've got on Paula  
 5 Carlson which took a long, long time to review.  
 6 And after that I made a report specific to  
 7 Paula Carlson.  
 8 But there are certain sections in my  
 9 report that are identical to what I would put  
 10 in any report concerning a personal injury. I  
 11 mean, I have statements in here on what do I  
 12 mean by personal injury, how do I calculate the  
 13 losses, how do we discount the present value  
 14 and so forth. That's standard in every single  
 15 case that I do. So I put that same thing in  
 16 every report.  
 17 Q. So is it fair to say then that the bulk of the  
 18 pages of the report that you have in that pile  
 19 in front of you is something that you use  
 20 essentially in every case that's on your  
 21 computer as a template then for the reports you  
 22 generate for the attorneys?  
 23 MR. CRENNY: Counsel, I'm going to  
 24 object to the question to the extent that your  
 25 cross here is on qualifications, and you should

EXHIBIT "B"

1 try to limit your cross to qualifications and  
 2 do your cross of the witness after his  
 3 testimony.  
 4 BY MR. SLIMAK:  
 5 Q. You still have to answer the question because I  
 6 would disagree with that assertion with regard  
 7 to this particular question and with regard to  
 8 the door being open with regard to initial  
 9 questions asked by Mr. Crenney.  
 10 So if you need to be --  
 11 A. A large -- all I can say is a large portion of  
 12 this report is identical to what I would put in  
 13 any personal injury report.  
 14 Q. Okay. Do you give him a discount for that?  
 15 A. No.  
 16 MR. SLIMAK: Okay. Nothing further  
 17 at this time.  
 18 MR. JOHNSON: Can we go off camera,  
 19 please?  
 20 THE VIDEOGRAPHER: We are going off  
 21 the record. The time right now is 2:27 p.m.  
 22 That's indicated on the screen.  
 23 -- -- --  
 24 (Whereupon, the following was held  
 25 off the videotape record.)

EXHIBIT "B"

1 - - - -  
 2 MR. JOHNSON: I would like to see the  
 3 materials that the doctor has that pertain to  
 4 Ms. Carlson.  
 5 MR. SLIMAK: May I look over your  
 6 shoulder?  
 7 MR. JOHNSON: Certainly.  
 8 - - - -  
 9 (There was a recess in the proceedings.)  
 10 - - - -  
 11 MR. JOHNSON: Thank you. I have no  
 12 questions on qualifications at this time.  
 13 - - - -  
 14 (Whereupon, the videotape resumed.)  
 15 - - - -  
 16 THE VIDEOGRAPHER: We are now back on  
 17 the video record. The time right now is 2:32  
 18 p.m., and that is indicated on the screen. You  
 19 may proceed.  
 20 MR. JOHNSON: I would defer any  
 21 questioning of the Doctor.  
 22 - - - -  
 23 CONTINUED EXAMINATION  
 24 - - - -  
 25 BY MR. CRENNY:

EXHIBIT "B"

1 Q. Doctor or Professor will do, right?

2 A. Yes, sir.

3 Q. Did you ever meet me before today?

4 A. No, sir.

5 Q. Did we meet about 10 or 15 minutes before this

6 deposition started?

7 A. Yes, sir.

8 Q. For the first time ever, right?

9 A. Yes, sir.

10 Q. And other than sending you some basic facts

11 about this case, did I have anything to do with

12 your input in that report?

13 A. No, sir.

14 Q. For instance, you talked about facts that you

15 assumed. Principal among those facts are how

16 much Paula Carlson made before her injury

17 before she was hurt versus how much she made

18 afterward, correct?

19 A. Yes, sir.

20 Q. And you depended on other data like W-2s for

21 instance, not just what I told you to determine

22 that information, correct?

23 A. Yes, sir.

24 MR. SLIMAK: Continue objection to

25 leading.

EXHIBIT "B"

1 MR. CRENNNEY: You have no continuing

2 objection.

3 MR. SLIMAK: I will object every time

4 then.

5 MR. CRENNNEY: You are welcome to do

6 it.

7 BY MR. CRENNNEY:

8 Q. What did you depend on in terms of determining

9 Paula's income?

10 A. I had W-2 statements and income tax records.

11 Q. Would you agree that that's a lot more than

12 just what I told you?

13 A. That's correct.

14 Q. All right. Doctor, would you agree that

15 Mr. Slimak asked you a lot of questions, a lot

16 of questions about what you charged?

17 A. Yes, sir.

18 Q. Do you know if Mr. Slimak is going to pay some

19 of the witnesses he calls at trial?

20 A. Well, I don't know that for certain, but I

21 would say it's reasonable to assume that any

22 expert that is called by the defense will be

23 getting paid, yes.

24 Q. Like Dr. Schmidt, Dr. Horsley do you think

25 they're going to get paid?

EXHIBIT "B"

1 A. If they are testifying as experts for the

2 defense, I would assume they're being paid,

3 yes.

4 Q. You have been around courtrooms a while, and do

5 most of the experts get paid?

6 A. As far as --

7 MR. SLIMAK: Object. Beyond the

8 scope of the cross.

9 MR. CRENNNEY: I disagree with that.

10 BY MR. CRENNNEY:

11 Q. You have been around courts for quite a long

12 time. Do most of the experts get paid?

13 A. Yes.

14 Q. Okay. If you could, Professor, if you would be

15 kind enough to explain what economic loss is

16 and interface that if you could with what

17 you're trying to do, the story you're trying to

18 tell the jury.

19 A. When we try to project economic losses

20 resulting from an injury, we want to take into

21 account background information about the

22 individual, how old they were, what their

23 education history was, what their employment

24 history was, what their income history was, and

25 so forth. And based on that we like to project

EXHIBIT "B"

1 how much income they could have been expected

2 to earn over the remainder of their work life

3 absent the injury.

4 In addition, we'd like to take into

5 account the value of any fringe benefits they

6 may have been expected to receive in the course

7 of that employment absent the injury. And then

8 we should subtract any potential income that

9 they can be expected to earn after the injury

10 with the injury. And we should subtract any

11 fringe benefits they're expected to receive

12 with the injury after the injury.

13 So we basically calculate income and

14 fringe benefits that could have been earned

15 without the injury and subtract income and

16 fringe benefits that could be earned with the

17 injury. And in a typical case, people when

18 they suffer an injury lose the ability to do

19 certain things around the house, which I call

20 lost household services. In this case in order

21 to be conservative, I have been asked to omit

22 any discussion or calculation of lost household

23 services. But in most of my cases that is

24 part.

25 Q. So you're not going to calculate in any way,

EXHIBIT "B"

1 shape, or form a number for household services?

2 MR. SLIMAK: Objection to leading.

3 A. That's correct.

4 BY MR. CRENNNEY:

5 Q. Are you going to calculate household services?

6 A. No, sir.

7 Q. Are you going to calculate one penny for

8 household services?

9 A. No, sir.

10 Q. Is that normally done?

11 A. In most --

12 MR. SLIMAK: Objection. Irrelevant

13 now.

14 MR. CRENNNEY: I'll withdraw that.

15 I'll withdraw that. I agree that is

16 irrelevant.

17 BY MR. CRENNNEY:

18 Q. Do you start with how much Paula was making

19 before the injury? Is that an important thing

20 to know?

21 A. Yes.

22 Q. And can you tell the jury about that, what

23 information you have on what her earnings were

24 before the injury?

25 A. Well, prior to the injury she was working at

EXHIBIT "B"

1 DuBois Regional Medical Center as a radiation

2 therapist. The information provided to me

3 indicates that she's been employed as a

4 radiation therapist at the hospital or the

5 medical center from August of 1992 through --

6 the last date of actual employment was May 5th

7 of 2005.

8 The information provided to me

9 indicated that she worked 36 hours per week.

10 And I had information about her hourly wage

11 rate all the way back to 1992. For example, in

12 1992 she was making \$12.70 an hour. By 1995

13 she was making \$15.16 an hour. In the year

14 2000 she was making \$18.94 an hour. In 2005 --

15 well, we should review. The date of injury is

16 April the 12th of 2005. In 2005 she was making

17 \$31.26 an hour. And I had additional

18 information that in 2006 the hourly wage rate

19 increased to \$32.87 an hour. So I get

20 information about her wage rate, and from that

21 I could calculate, for example, rates of

22 increase in wages and so forth.

23 I also had W-2 statements that showed

24 what her annual income was. For example, in

25 1999 she made \$41,409. In the year 2000 she

EXHIBIT "B"

1 made \$42,847. In 2001 she made \$46,129. In

2 2002 she made \$45,517. In 2003 her earnings

3 were \$56,525. And in her last year of full

4 employment before the injury in 2004, her

5 income was \$64,042.

6 Q. Is it fair to say that her hourly rate

7 increased as the years went by?

8 A. Yes. She started in 1992 at \$12.70, and in

9 2005 she was making \$31.26 an hour.

10 Q. Now, Professor -- yearly she made more money

11 too, correct?

12 A. Yes.

13 Q. All right. Is part of what you're going to do

14 is project what she would have made absent the

15 injury; is that right?

16 A. Yes.

17 Q. Do you -- how do you do that? How do you take

18 into account for the future raises she might

19 get?

20 A. Well, I start out with the background

21 information. So I can kind of go through the

22 whole process.

23 I start with the background

24 information. I was given her date of birth,

25 April of 1971. The date of injury was April

EXHIBIT "B"

1 12th of 2005. So at the date of injury she was

2 33.9 years of age. So the first thing an

3 economist does in any case is project how long

4 would we expect this person to live. To do

5 that it is customary to refer to this document,

6 the United States Life Table which is published

7 by the Department of Health and Human Services.

8 So this is the official United States

9 Life Table. And in here we have tables which

10 show how long in the future a person can be

11 expected to live based on how old you are

12 today, based on whether you're male or female,

13 white or nonwhite. This document indicates

14 that if you are a female age 33.9, as Paul

15 Carlson was at the date of injury, she would

16 have a future life expectancy of 48.6

17 additional years to age 82.5.

18 The next thing we would like to do is

19 project how long would a person like Paula

20 Carlson be expected to work. To do that I

21 referred to information published by the

22 Department of Labor, the Bureau of Labor

23 Statistics, which shows that the average age at

24 retirement for a 33-year-old female is age

25 61.3. So if she worked from age 33.9 to age

EXHIBIT "B"

1 61.3, she would work for 27.4 additional years.

2 So in my report I made two different  
3 projections. One is based on potential  
4 employment for 27.4 additional years.

5 Alternatively, based on current Social Security  
6 rules and regulations, she would not be  
7 eligible to get full Social Security benefits  
8 until age 67. So I made a second projection  
9 that she had the capacity or the potential to  
10 work full time to at least age 67 in which case  
11 she would have worked for 33.1 years.

12 Q. May I stop you there? Are you saying that for  
13 Paula Carlson she can't get her Social Security  
14 under current regulations until she's 67 years  
15 old?

16 MR. SLIMAK: Objection. Leading.

17 A. She could Social Security --

18 BY MR. CRENNNEY:

19 Q. Hold on. I have to reform the question.

20 Under current regulations how long  
21 would it take -- at what age would Paula get  
22 Social Security? Explain that situation to the  
23 jury.

24 A. She could start getting Social Security at age  
25 62. But her annual benefit would be reduced by  
EXHIBIT "B"

1 30 percent compared to what she would get if  
2 she worked to age 67. Sixty-seven is her  
3 potential full retirement age. That's based on  
4 the year you're born. For example, for me my  
5 full retirement age is 66. If I retire before  
6 age 66, my Social Security income will be  
7 reduced every year for the rest of my life by a  
8 certain percentage. The same thing would be  
9 true for Paula Carlson.

10 So I made the first projection that  
11 she could work to age 61.3, which is earlier  
12 than age 62. So that projection had basically  
13 nothing to do with Social Security. The second  
14 one is based on to get full benefits she would  
15 have to work to at least age 67.

16 I took into account information about  
17 is it likely that she would die before reaching  
18 age 61 or age 67 or whatever. The  
19 documentation in the life table shows that if  
20 you are a 33-year-old female the probability  
21 that you'll live to at least age 62 is  
22 approximately 92 percent. So it would be  
23 extremely unusual if Paula Carlson dies before  
24 eaching reaching age 62.

25 I took into account her marital  
EXHIBIT "B"

1 status. Her husband is Jamie. He was also  
2 born in 1971, and he is now 36 years of age.  
3 And he has a future life expectancy to about  
4 age 77, which is customary or typical that  
5 women typically live about 5 years longer than  
6 men to do. I had information that the family  
7 had -- has two children. Brooke was born in  
8 1995, and Ryan was born in 1998. So they would  
9 be about 12 years of age now and about 9 years  
10 of age now.

11 I had information about Paula  
12 Carlson's education history. She graduated  
13 from Philipsburg High School in 1989. She  
14 attended the Mercy Hospital School of Radiology  
15 from 1989 through 1991 and eventually became  
16 certified in radiology. She attended the  
17 Community College of Allegheny County from 1991  
18 through 1992 and became certified in radiation  
19 therapy.

20 As I indicated earlier, I had her W-2  
21 statements. Her employment history basically  
22 is she worked full time at DuBois Regional  
23 Medical Center from 1992 until her injury in  
24 2005.

25 Q. Did you calculate the percentage of increase  
EXHIBIT "B"

1 she received in salary at DuBois for any period  
2 in the past?

3 A. Well, her wage rate increased on the average  
4 11 percent a year between 2001 and 2006. If  
5 she was still there in 2006, she would have  
6 been earning \$32.87 an hour.

7 Q. Go ahead.

8 A. In 2001 she would have been earning \$19.45.  
9 That's a 69 percent increase during a five-year  
10 period. And with a compound and annual growth  
11 rate, that represents a compound and annual  
12 growth at 11.1 percent per year.

13 Q. Thank you.

14 A. Also between 2005 and 2006 she would have  
15 received a raise of approximately 5.2 percent.  
16 So that is just based on documentation that was  
17 provided to me.

18 Q. Thank you.

19 A. Now when I projected the economic losses --  
20 this report was written in early 2007, so I  
21 needed some date to break what is the past loss  
22 and what is the future loss. And at the time I  
23 didn't know if there would be a trial or when  
24 it would be, so I needed some convenient date  
25 to break the past and the future. So the  
EXHIBIT "B"

1 obvious date would be let's call the past loss  
2 from the date of injury in 2005 up to December  
3 31st of 2006.

4 So I calculated a past loss. The way  
5 I did that was I said at the date of injury she  
6 was making \$31.26 an hour. That represents an  
7 annual income of \$58,518 a year based on  
8 working 36 hours a week.

9 Now she was being treated at the date  
10 of injury. I assumed that it would take  
11 approximately 3 months for her to recover. So  
12 I gave her no economic loss from April 12th of  
13 2005 to June 30th of 2005. Then I assumed that  
14 she could return to work as of July 1st of 2005  
15 and work for the remainder of the year, which  
16 would be exactly one-half year.

17 Q. Absent the injury?

18 A. Yes.

19 Q. Okay.

20 A. So based on employment for the whole year, she  
21 would have made \$58,518. So during that half  
22 year of lost employment because of this injury,  
23 her lost income in 2005 is \$29,259.

24 Then I had the wage rate data which  
25 shows that in 2006 her hourly wage would have  
**EXHIBIT "B"**

1 increased to \$32.87. So if she worked the same  
2 amount in 2006 as we projected in 2005, her  
3 income in 2006 would have been \$61,532. So  
4 during your half year of 2005 and the entire  
5 year of 2006, the loss would be \$90,792.

6 MR. SLIMAK: I'm going to just place  
7 an objection on the basis that there's no  
8 foundation for what you're testifying to  
9 because you haven't specified what you're  
10 claiming is the injury that you're basing your  
11 calculations on.

12 BY MR. CRENNNEY:

13 Q. You can go ahead and proceed.

14 A. The next thing I need to do is make a  
15 projection of how much income could be made in  
16 the future, and then we need to discount that  
17 to present value. So let me explain what we  
18 mean by discounting to present value.

19 Based on the information provided to  
20 me, it's reasonable to presume that she could  
21 have earned \$61,532 in 2006. So now the  
22 question becomes how much would we project that  
23 she could have earned in 2007, 2008, 2009, and  
24 in each year in the future.

25 Q. Now would you tell the jury again, if you would  
**EXHIBIT "B"**

1 be so kind, what those salary increases -- what  
2 the average was done between 2001 and I think  
3 you said 2005?

4 A. Between 2001 and 2006 her wage rate increased  
5 69 percent which is a compounded rate of growth  
6 of 11 percent per year.

7 Q. That was in the past during that period?

8 A. Yes.

9 Q. So now you're going to tell the jury what you  
10 did for the future, correct?

11 A. Yes. Now we don't know what the wage rates are  
12 going to be in the future with certainty, so we  
13 need to make some projection. The first thing  
14 I did was I said in 2006 the consumer price  
15 index increased 3.2 percent, so the cost of  
16 things basically went up 3.2 percent. So just  
17 to maintain your standard of living, to  
18 maintain your buying power, you would need a  
19 raise of 3.2 percent. I gave her a raise in  
20 2007 of 3.2 percent, which is extremely  
21 conservative given her past history where the  
22 average wage in a five-year period was -- the  
23 average wage raise was 11 percent per year.  
24 And even during the last year the raise was  
25 over 5 percent per year.

**EXHIBIT "B"**

1 Q. Did you go much lower than that?

2 A. After 2007 based on various government  
3 forecasts about what future inflation would be,  
4 I gave her a 3 percent raise every year.

5 Q. No more?

6 A. Three percent every single year.

7 Now we get to the idea of discounting  
8 to present value. Suppose that you say in the  
9 year 2015 a person should be earning, say,  
10 \$80,000 and suppose that the jury made an award  
11 today that says, okay, you lost \$80,000 in the  
12 year -- did I say 2015? The question becomes  
13 do you need to give that person \$80,000 today.  
14 No, you don't. You would give them less than  
15 80,000 today. They could invest that at a safe  
16 interest rate. And that amount that you gave  
17 the person or awarded them today would grow to  
18 match the 80,000 in the year 2015.

19 Q. In those 7 years they would make money on  
20 interest?

21 A. Yes. So the present value of the future loss  
22 is the amount you would have to set aside today  
23 so that that money could be invested in safe  
24 investments and grow with compound interest to  
25 match the 80,000 that should be awarded in  
**EXHIBIT "B"**

1 future years.

2 So besides projecting what the  
3 interest or the inflation rate should be, we  
4 need to also project, well, if you invested the  
5 money today how fast would it grow. When I  
6 wrote my report, the interest rate or yield on  
7 10-year treasury securities was about 4.5  
8 percent. So I projected that the investment in  
9 safe securities, treasury securities, would  
10 grow 4.5 percent per year. And based on that I  
11 projected how much you have to set aside today  
12 to match the future loss year after year after  
13 year.

14 Now at the present time the inflation  
15 rate is 4.1 percent. I projected 3 percent.  
16 So I do not have her income growing fast  
17 enough. I used a 4.5 percent interest rate.  
18 At the present time the yield on 10-year  
19 treasury securities is about 3.8 percent. So  
20 I'm giving her too much growth in interest. So  
21 the numbers I'm going to project today are  
22 going to be far too low compared to what they  
23 would be if I wrote the report today.

24 Q. But that's what we're going to stick with,  
25 isn't it?

EXHIBIT "B"

1 A. Yes.

2 Q. Okay.

3 A. Now based on the projection of working for 27.4  
4 years to age 61, I projected a past loss of  
5 about \$90,000. And the present value of the  
6 future loss over the future 25.7 years after  
7 January 1st of 2007 would be \$1,346,235.

8 So I'm explaining now how I did the  
9 projections, and now the numbers become  
10 relatively easy to calculate. And instead of  
11 me just constantly explaining these numbers, I  
12 made a chart here that summarizes my  
13 calculations. There are going to be two  
14 charts: one based on working for 27.4 years to  
15 age 61.3, and the second chart will be based on  
16 working longer to age 67.

17 So the first thing we want to do is  
18 project the present value of the potential  
19 income. And I explained that the past loss was  
20 about \$90,000, and the present value of the  
21 future loss was about \$1,346,000. So the  
22 amount you would have to set aside today to  
23 match the actual losses as her income grows  
24 over time the amount you would have to set  
25 aside today is \$1,437,027.

EXHIBIT "B"

1 The next thing I did was I made a  
2 projection of then what would be the value of  
3 the fringe benefits that she could have been  
4 expected to receive. The first thing is the  
5 employer is required to contribute 7.65 percent  
6 to Social security and Medicare. The only  
7 other fringe benefit that I took into account  
8 was the employer contribution to the 403  
9 retirement plan which was 4 percent.

10 Q. And that involved Paula putting in 4 percent  
11 and the employer matching?

12 A. Yes. So I projected the fringe benefits at  
13 11.65 percent. She had the option to receive  
14 medical benefits through the hospital, and she  
15 opted not to take the medical benefits because  
16 her husband in his employment had medical  
17 benefits.

18 Q. Did you know her husband had multiple  
19 sclerosis?

20 A. Yes.

21 Q. Was that part of the data you received?

22 A. Yes.

23 Q. But for now he has medical benefits and the  
24 family chooses to be on his plan; is that  
25 correct?

EXHIBIT "B"

1 MR. JOHNSON: Objection.

2 MR. CRENNEY: To the form?

3 MR. JOHNSON: I object to the form of  
4 the question. I also object on the basis of  
5 relevance.

6 MR. SLIMAK: I join.

7 BY MR. CRENNEY:

8 Q. Doctor, let me start this over.

9 Is Paula on the hospital medical  
10 plan?

11 A. No.

12 Q. What plan is she on?

13 A. She's on her husband's health plan.

14 Q. Does her husband receive that benefit through  
15 his employment?

16 A. Yes.

17 Q. Did you know he had multiple sclerosis? Is  
18 that part of the information you gathered?

19 MR. JOHNSON: Objection.

20 MR. SLIMAK: Object. Asked and  
21 answered, all of this.

22 BY MR. CRENNEY:

23 Q. You can answer.

24 A. Yes.

25 Q. Do you know what his prognosis is?

EXHIBIT "B"

1 MR. JOHNSON: Objection.  
 2 MR. SLIMAK: Objection.  
 3 A. No, I don't.  
 4 BY MR. CRENNNEY:  
 5 Q. Okay. Doctor, what is the generic value, if  
 6 you can give one, of health care benefits  
 7 vis-a-vis pay for someone who is in the  
 8 marketplace, working in the marketplace?  
 9 MR. SLIMAK: I'm going to object.  
 10 It's the beyond the scope of his report. His  
 11 report indicates that he was not going to  
 12 attribute expense to that.  
 13 MR. JOHNSON: I join in that  
 14 objection.  
 15 BY MR. CRENNNEY:  
 16 Q. Go ahead. You can answer.  
 17 A. The data that I put into my report showing the  
 18 percentage of people that get fringe benefits  
 19 and the value of fringe benefits relative to  
 20 income, the data in the Statistical Abstract of  
 21 the United States indicate that across the  
 22 country in businesses with say more than 50  
 23 employees, fringe benefits amount to about 25.9  
 24 percent of income. I have projected the fringe  
 25 benefits at 11.65 percent.

EXHIBIT "B"

1 MR. SLIMAK: I renew my objection.  
 2 Same basis. Move to strike.  
 3 MR. JOHNSON: I join.  
 4 BY MR. CRENNNEY:  
 5 Q. Doctor, are you saying this information is in  
 6 your report, correct?  
 7 MR. SLIMAK: I'm going to object to  
 8 leading.  
 9 A. Yes.  
 10 BY MR. CRENNNEY:  
 11 Q. Is this information in your report?  
 12 A. Yes.  
 13 Q. Now in terms of the numbers you're giving this  
 14 jury, did you make a calculation for Paula  
 15 Carlson that had anything to do with health  
 16 care?  
 17 A. No, sir. I did not give her any health care.  
 18 Q. So that is not going to be part of the numbers  
 19 you give the jury, correct?  
 20 A. That's correct.  
 21 Q. Okay. Go ahead.  
 22 A. So absent the injury I projected that her  
 23 income -- well, I should first of all mention  
 24 for the court reporter I guess the value of the  
 25 fringe benefits amount to \$167,413. So if we

EXHIBIT "B"

1 add together the income and the fringe benefits  
 2 in present value terms, the net income without  
 3 the injury would be \$1,604,441.  
 4 MR. SLIMAK: Same objections as  
 5 previously. I move to strike on the basis that  
 6 you haven't laid the foundation to identify  
 7 what the injury is that you're considering.  
 8 BY MR. CRENNNEY:  
 9 Q. You can go ahead.  
 10 A. The next thing I need to do is make a  
 11 subtraction for any potential income that can  
 12 be earned with the injury. The information  
 13 provided to me indicated that in January of  
 14 2007 Paula Carlson began working at Red Lobster  
 15 as the seater or the greeter, kind of a  
 16 receptionist, and was earning \$6.25 an hour.  
 17 The wage documentation that I received  
 18 indicated that she was working approximately 20  
 19 hours per week.  
 20 So I projected that during the  
 21 reminder of her work life she could earn income  
 22 for working about 20 hours per week at Red  
 23 Lobster. She was making \$6.25 an hour. So  
 24 exactly as I did at the hospital I'm going to  
 25 give her 3 percent raises, and I'm going to

EXHIBIT "B"

1 discount the present value at 4.5 percent per  
 2 year. So the present value of her income with  
 3 the injury would be \$137,800. For fringe  
 4 benefits --  
 5 MR. SLIMAK: Same objection.  
 6 THE WITNESS: The only fringe benefit  
 7 that she would be receiving would be the  
 8 employer's mandatory contribution to Social  
 9 Security and Medicare, which is 7.65 percent.  
 10 So the value of the fringe benefits would be  
 11 \$10,541. So her future earning capacity with  
 12 the injury, including income and fringe  
 13 benefits, all in present value terms, is  
 14 \$148,341.  
 15 MR. SLIMAK: Same objection.  
 16 THE WITNESS: So if we take into  
 17 account her potential income and fringe  
 18 benefits without the injury and subtract the  
 19 value of the fringe benefits and income with  
 20 the injury, the net economic loss becomes  
 21 \$1,456,099.  
 22 MR. SLIMAK: Same objection.  
 23 BY MR. CRENNNEY:  
 24 Q. And that is if she works for 27.4 years?  
 25 A. Yes, sir.

EXHIBIT "B"



1 Q. Okay. And it's up to you, Professor, but we  
2 can look -- and that's Plaintiffs' Exhibit 1,  
3 correct?

4 A. Yes.

5 Q. All right.

6 A. Then I repeated all these calculations based on  
7 the projection that she could have worked to  
8 age 67 at full Social Security retirement age.  
9 So here we have employment for 33 years. And  
10 the way I did the calculations the methodology  
11 is exactly the same. I don't know, for the  
12 court reporter I guess I should read the  
13 numbers.

14 So the potential income that she  
15 could have earned without the injury would be  
16 \$1,671,983.

17 MR. SLIMAK: Same objection.

18 THE WITNESS: The fringe benefits are  
19 again at 11.65 percent of income ignoring any  
20 health benefits. That would be \$194,786. So  
21 the net income absent the injury is \$1,866,769.

22 MR. SLIMAK: Same objection.

23 THE WITNESS: Now I have her working  
24 with the injury at Red Lobster working  
25 continuously again to age 67. Her potential

EXHIBIT "B"

1 income at Red Lobster in present value terms  
2 would be \$161,850. The fringe benefits would  
3 be \$12,381. So her net income with the injury  
4 would be \$174,231.

5 MR. SLIMAK: Same objection.

6 THE WITNESS: If we subtract her  
7 income with the injury from her income without  
8 the injury, the net economic loss is  
9 \$1,692,538.

10 MR. SLIMAK: Same objection.

11 THE WITNESS: And this is labeled as  
12 Exhibit 2.

13 BY MR. CRENNNEY:

14 Q. Professor, in terms of your calculations, you  
15 assumed, did you not, that absent what has been  
16 called the injury she would have been back to  
17 work on July 1st, 2005; is that correct?

18 A. Yes, sir.

19 Q. You did half a year for 2005?

20 A. Yes.

21 Q. And we could easily change that and use  
22 October 1 if that's what the evidence would  
23 indicate, correct?

24 And just -- I'm not asking you to  
25 make that calculation. But we would have to

EXHIBIT "B"

1 make a change for past earnings, wouldn't we,  
2 the loss of past earnings?

3 A. Yes. For example, I projected that the lost  
4 earnings in 2005 are \$29,259. If you made the  
5 assumption that she would never go back to work  
6 until January 1st of 2006, you should just  
7 decrease the numbers by \$29,259.

8 Q. And you'd be there, correct?

9 A. Yes, sir.

10 Q. All right. And you assume that something  
11 happened on April 12th that we are calling the  
12 injury, correct?

13 A. Yes.

14 Q. And you --

15 MR. SLIMAK: Objection. Leading.

16 MR. CRENNNEY: Pardon me?

17 MR. SLIMAK: Leading.

18 BY MR. CRENNNEY:

19 Q. Did you assume something occurred on April  
20 12th, and did you call that the injury?

21 A. Yes.

22 Q. April 12th, 2005?

23 A. Yes.

24 Q. Okay. And you made certain assumptions about  
25 when she could have gone back to work if that

EXHIBIT "B"

1 something that didn't happen, that thing we are  
2 calling an injury, correct?

3 MR. SLIMAK: Same objection.

4 A. That's correct.

5 MR. CRENNNEY: Is that an objection to  
6 form?

7 MR. SLIMAK: Yes. Plus the prior  
8 objection on the injury.

9 BY MR. CRENNNEY:

10 Q. Okay. Did you assume that something happened  
11 on April 12th that -- well, strike that. I'm  
12 going to move on.

13 Do you have to change your tape here  
14 pretty soon?

15 THE VIDEOGRAPHER: I have about 5  
16 minutes left.

17 MR. CRENNNEY: Why don't you go ahead  
18 and change it.

19 THE VIDEOGRAPHER: We are going off  
20 the record. This marks the end of tape number  
21 one in the deposition of Mr. Kenkel. The time  
22 is 3:08 p.m., and that's indicated on the  
23 screen. Please stand by.

24  
25 (There was a recess in the proceedings.)

EXHIBIT "B"

1  
2 THE VIDEOGRAPHER: We are now back on  
3 the video record. This marks the beginning of  
4 tape number two in the deposition of  
5 Mr. Kenkel. The time right now is 3:11 p.m.,  
6 and that's indicated on the screen. You may  
7 proceed.

8 BY MR. CRENNNEY:

9 Q. Doctor, were you provided medical records from  
10 Dr. Yaw, Dr. Richman, and Dr. Pisasio?

11 A. As I recall I was, yes. I mean, I'm not a  
12 medical doctor, so I didn't spend a lot of time  
13 reviewing that.

14 Q. Did you assume that Paula could not do the job  
15 of a radiation therapist in terms of making  
16 your calculations?

17 A. Yes.

18 Q. So is it accurate that if the hospital is  
19 willing to take her back at the same salary and  
20 increase that salary and give her a job as a  
21 glorified clerk and let her hold that job for  
22 27 years or 33 years would your calculations  
23 then be wrong?

24 MR. JOHNSON: Object to the question.

25 MR. SLIMAK: Objection to form  
EXHIBIT "B"

1 MR. JOHNSON: No proper foundation.

2 MR. CRENNNEY: I'll agree with that.

3 A. If the hospital would rehire her at some future  
4 date and match the salary that she would have  
5 earned as a radiation therapist, at that stage  
6 the economic loss would stop provided that they  
7 continued to employ her for the remainder of  
8 her work life if -- you know, if they hire her  
9 back and then the hospital goes out of  
10 business, well -- or if they, say, renege on  
11 the deal or whatever, then we would revert back  
12 to the situation I have here.

13 MR. JOHNSON: I move to strike the  
14 comments of Counsel prior to the answer. I  
15 also move to strike the answer of the witness.

16 BY MR. CRENNNEY:

17 Q. Would it also be true if the Red Lobster  
18 decided to pay her 64,000 a year 3 percent  
19 every year for what she's doing now then there  
20 wouldn't be any wage loss, would there?

21 MR. SLIMAK: Objection.

22 Argumentative.

23 MR. CRENNNEY: I'm not arguing with  
24 the witness.

25 A. That's correct but that's --

EXHIBIT "B"

1 BY MR. CRENNNEY:

2 Q. Is that likely?

3 A. No. I think it's a totally unreasonable  
4 assumption to assume that Red Lobster would pay  
5 a greeter \$65,000 a year --

6 Q. You may be right.

7 A. -- for 20 hours work.

8 Q. You may be right.

9 Professor, generally speaking are  
10 people working longer than they used to? Are  
11 they putting off retirement as a general  
12 proposition?

13 A. The data are a little bit mixed. But in  
14 general people work a tiny bit longer because  
15 their life expectancy is longer. So you need  
16 to kind of protect your wealth and income after  
17 you retire so you've got to generate more  
18 income while you're working.

19 Q. Professor, are the opinions that you have  
20 rendered today are they to a reasonable degree  
21 of certainty?

22 A. Yes, sir.

23 MR. CRENNNEY: Thanks. Go ahead and  
24 cross.

25 MR. SLIMAK: Thank you.

EXHIBIT "B"

## EXAMINATION

4 BY MR. SLIMAK:

5 Q. Mr. Kenkel, I do have a number of questions to  
6 ask you. Let me just start out what did you  
7 assume was the injury?

8 A. I was given information that Paula Carlson had  
9 a giant cell tumor on her right wrist and  
10 because of the error in reading the x-ray and  
11 the delay in diagnosis extensive surgery was  
12 required to remove it. As a result she has  
13 lost almost complete function of her upper --  
14 her right upper extremity.

15 Q. Okay. Did you assume then that the doctors  
16 gave her the giant cell tumor?

17 A. No, sir.

18 Q. Did you take into consideration what the  
19 outcome and treatments would be needed for the  
20 giant cell tumor even if it had been diagnosed  
21 on April 12th, 2005?

22 A. What I did was projected that she would have  
23 been able to return to work as of, as I  
24 indicated, July 1st of 2005. But we've also  
25 indicated, you know, if she returned to

EXHIBIT "B"

1 full-time work in, say, January of 2006 then  
 2 what we need to do is subtract about \$29,000  
 3 from my loss projections.  
 4 Q. Did you take into consideration or make in any  
 5 of your calculations the risk of recurrence of  
 6 a giant cell tumor even if it had been  
 7 diagnosed April 12th, 2005?  
 8 A. No, sir.  
 9 Q. Did you have any statistics to turn to with  
 10 regard to individuals who have had the  
 11 unfortunate circumstance of developing a giant  
 12 cell tumor at age 33 or 34?  
 13 A. No, sir.  
 14 Q. You don't know what effect that would be on her  
 15 work life expectancy, do you?  
 16 A. No, sir.  
 17 Q. Now do you agree that the calculations you've  
 18 made here today are based upon various  
 19 hypothetical assumptions that you have made?  
 20 A. Yes.  
 21 Q. Do you agree that if certain assumptions or the  
 22 facts that you made are incorrect then your  
 23 calculations do not reflect the proper measure  
 24 of what you're calling a loss resulting from  
 25 injuries?

EXHIBIT "B"

1 MR. CRENNNEY: Objection to the form  
 2 of the question.  
 3 A. It depends. It depends on which assumptions or  
 4 facts are wrong. For example, I have in my  
 5 report that she was born on April 26th of 1971.  
 6 If she was really born on April 25th, that's  
 7 not going to change any of my projections or  
 8 whatever.  
 9 I have here that she was hired on,  
 10 say, August 24th of 1992. Well, if she was  
 11 hired a month later or a year later even, it's  
 12 not going to change my projection. So it  
 13 depends on what numbers I'm using that you  
 14 presume are incorrect.  
 15 BY MR. SLIMAK:  
 16 Q. Well, you would agree that if certain of the  
 17 assumptions that you have to make to make your  
 18 calculations certain of those are very  
 19 important ones. And if they are incorrect, the  
 20 ultimate numbers that you're projecting are not  
 21 accurate?  
 22 MR. CRENNNEY: Objection to the form.  
 23 Unclear. Ambiguous. You don't know -- please  
 24 tell him what you're talking about. What  
 25 assumptions?

EXHIBIT "B"

1 A. I would agree that if certain things are  
 2 grossly wrong then it's possible that my  
 3 projections are totally wrong.  
 4 BY MR. SLIMAK:  
 5 Q. Okay. Well, did you personally meet with and  
 6 interview Ms. Carlson's employment supervisor  
 7 at DuBois Regional Medical Center, Rose  
 8 Campbell, or the hospital's human resources  
 9 administrator, Mr. Bob McKee, or any other  
 10 medical center personnel to determine whether  
 11 Ms. Carlson could return to work at the medical  
 12 center as a radiation technician?  
 13 MR. CRENNNEY: Objection. It's an  
 14 irrelevant question. Beyond the scope.  
 15 A. No, I did not.  
 16 BY MR. SLIMAK:  
 17 Q. In preparing your report did you take into  
 18 consideration and cite the Americans With  
 19 Disabilities Act return-to-work provisions?  
 20 A. I am aware of the act so --  
 21 MR. CRENNNEY: Same objection.  
 22 THE WITNESS: I am aware of it, so  
 23 it's in the background of any projection I  
 24 make. I am assuming that she is not capable of  
 25 returning to her former employment.

EXHIBIT "B"

1 BY MR. SLIMAK:  
 2 Q. Are you aware that under that law employers  
 3 must provide reasonable accommodations to allow  
 4 disabled employees to return to work as long as  
 5 with the accommodations the employee is able to  
 6 perform the essential functions of their job?  
 7 A. Yes.  
 8 MR. CRENNNEY: Pardon me. I'm so,  
 9 sorry, Professor. Same objection.  
 10 BY MR. SLIMAK:  
 11 Q. Are you aware of efforts that the DuBois  
 12 Regional Medical Center was making to  
 13 accommodate and prepare for Ms. Carlson's  
 14 return to work as a radiation therapist before  
 15 she sued them?  
 16 A. No.  
 17 MR. CRENNNEY: Same objection.  
 18 BY MR. SLIMAK:  
 19 Q. Are you aware of whether the medical center was  
 20 willing to comply with the law to provide  
 21 reasonable accommodations to Ms. Carlson so as  
 22 to allow her to return to work performing the  
 23 essential functions of her radiation technician  
 24 job without loss of any earnings or fringe  
 25 benefits at all?

EXHIBIT "B"

1 MR. CRENNNEY: Same objection.  
 2 A. No.  
 3 BY MR. SLIMAK:  
 4 Q. Do you agree that if the facts of this case  
 5 show that the hospital had undertaken efforts  
 6 to make sure that Ms. Carlson could continue to  
 7 do her radiation technologist job on a  
 8 full-time basis despite her giant cell tumor  
 9 problems because of the surgery performed by  
 10 Dr. Yaw that she could have returned to work  
 11 and would not have had any ongoing income loss  
 12 at all?

13 MR. CRENNNEY: Same objection.  
 14 A. If she could earn the same income as I've  
 15 projected and that income is going to be earned  
 16 for as long as I have projected, then in any  
 17 year that the income is earned that matches the  
 18 income that I projected there wouldn't be a  
 19 loss that year. But that presumes that  
 20 somebody is going to actually pay her to do  
 21 something that possibly she can't do.

22 BY MR. SLIMAK:  
 23 Q. Did plaintiff's attorney, Mr. Crenney, provided  
 24 you with the deposition of sworn testimony he  
 25 took of Rose Campbell or of Mr. Bob McKee that  
 EXHIBIT "B"

1 he also took under oath from them, these  
 2 personnel people at DuBois Regional Medical  
 3 Center?

4 MR. CRENNNEY: Objection. That would  
 5 have been outside the scope of this witness's  
 6 testimony and his competence.

7 MR. SLIMAK: Well, it's relevant for  
 8 cross-examination as to develop information  
 9 that was available and that was not provided to  
 10 the witness. On cross-examination that's  
 11 perfectly appropriate.

12 MR. CRENNNEY: Same objection.

13 BY MR. SLIMAK:  
 14 Q. Were you provided with those depositions that  
 15 Attorney Crenney took of the DuBois Regional  
 16 Medical Center hospital personnel?

17 A. No.

18 Q. Were you provided with the deposition of  
 19 Mr. Martin Maloney, the head physical therapist  
 20 at DuBois Regional Medical Center, whose  
 21 deposition Mr. Crenney took under oath in this  
 22 matter?

23 MR. CRENNNEY: Same objection.

24 A. No.

25 BY MR. SLIMAK:

EXHIBIT "B"

1 Q. Were you aware that Mr. Maloney had performed a  
 2 job function analysis and made changes in the  
 3 job description as well as recommendations for  
 4 reducing the amount of weight and physical  
 5 activity that she would have to perform with  
 6 her affected arm in order to potentially  
 7 accommodate her medical problem and allow  
 8 Ms. Carlson to return to work?

9 MR. CRENNNEY: Objection to the form.  
 10 Objection to the relevance.

11 A. No.

12 MR. CRENNNEY: Objection as beyond the  
 13 scope of this witness's testimony on direct.

14 BY MR. SLIMAK:

15 Q. Are you aware of whether the hospital was  
 16 willing to do whatever it would take and the  
 17 law would require to accommodate Ms. Carlson so  
 18 that she could return to work as a radiation  
 19 therapist and have no ongoing work loss?

20 A. No.

21 MR. CRENNNEY: Objection. Just let me  
 22 get this out. I'm so sorry, Professor. I  
 23 don't mean to interrupt you.

24 Objection to the form. Objection to  
 25 the relevance. Objection to the phrase  
 EXHIBIT "B"

1 whatever it takes. Objection --

2 MR. SLIMAK: That's based on the  
 3 testimony.

4 MR. CRENNNEY: Objection to the  
 5 statement whatever it takes. Objection to the  
 6 form. Objection as beyond the scope of this  
 7 witness's competence or his testimony on  
 8 direct.

9 He has acknowledged to you that if  
 10 she goes back to work and is paid what she was  
 11 paid before and gets only a 3 percent increase  
 12 per year that then she would get that money,  
 13 and she wouldn't have the loss. These  
 14 questions are just you making a speech.

15 MR. SLIMAK: I'll just object to your  
 16 comments. That's your making a speech. Move  
 17 to strike those comments.

18 MR. CRENNNEY: Your entire  
 19 cross-examination with the greatest respect is  
 20 you putting in points that aren't appropriate  
 21 here.

22 MR. SLIMAK: That is your argument,  
 23 and I certainly disagree with you under the  
 24 law.

25 MR. CRENNNEY: I understand. But  
 EXHIBIT "B"

1 that's the objection I have. This is just  
2 speech making by you, Mr. Slimak.

3 MR. SLIMAK: I move to strike.

4 MR. CRENNNEY: Surely you can wait  
5 until your own rehabilitation -- vocational  
6 rehabilitation -- this is the economist in the  
7 case.

8 MR. SLIMAK: Are you making a speech  
9 or what?

10 MR. CRENNNEY: I'm explaining to you  
11 the foundation of the objection in a polite  
12 way.

13 MR. SLIMAK: You don't need to  
14 explain to me.

15 MR. CRENNNEY: There is a vocational  
16 rehabilitation person that may testify for you  
17 and for the plaintiff, and that would be the  
18 appropriate place for this kind of thing on  
19 what the hospital is willing to do.

20 MR. SLIMAK: It's perfectly  
21 appropriate to cross-examine this witness. You  
22 provide him with certain information. I'm  
23 providing him with certain information that you  
24 failed to provide that you had available and  
25 had to determine if it affects his opinions if

EXHIBIT "B"

1 he would have had this information available to  
2 utilize it. That's perfectly appropriate and  
3 critical cross-examination.

4 MR. CRENNNEY: Not so.

5 BY MR. SLIMAK:

6 Q. I'm not sure if we had the answer to the last  
7 question, sir. Let me re-ask it I think where  
8 I was at.

9 Are you aware of whether the hospital  
10 was willing to do whatever it would take and  
11 the law would require to accommodate  
12 Ms. Carlson so that she could return to work as  
13 a radiation therapist and have no ongoing work  
14 loss?

15 MR. CRENNNEY: Same objection.

16 Objection to the form.

17 MR. SLIMAK: We already have your  
18 objection. I just re-asked the same question.  
19 You don't have to repeat your objections again.  
20 You're being obstructive.

21 MR. CRENNNEY: I am not trying to be  
22 obstructive.

23 MR. SLIMAK: Do you have nothing new,  
24 sir?

25 MR. CRENNNEY: Mr. Slimak, please

EXHIBIT "B"

1 excuse me. You're saying I have an objection  
2 to that question on any possible basis that I  
3 might have mentioned in the past; is that  
4 correct?

5 MR. SLIMAK: Are you repeating the  
6 same objections you already raised to the same  
7 question?

8 MR. CRENNNEY: My question to you --  
9 and it's a polite one -- do I have a continuing  
10 objection on all the bases that I stated in the  
11 past?

12 MR. SLIMAK: I couldn't possibly  
13 remember all those objections.

14 MR. CRENNNEY: Then I will make the  
15 objections again since you can't remember. I'm  
16 objecting on the form of the question. It's  
17 not clear. I'm objecting because it's beyond  
18 the scope of this witness's expertise or his  
19 testimony on direct. I'm objecting because  
20 it's inappropriate for this witness and  
21 irrelevant in the case and certainly irrelevant  
22 to economist's testimony.

23 MR. SLIMAK: Anything further, sir?

24 MR. CRENNNEY: No, sir.

25 BY MR. SLIMAK:

EXHIBIT "B"

1 Q. Now I'm going to re-ask the question so we know  
2 what it was.

3 Are you aware whether the hospital  
4 was willing to do whatever it would take and  
5 the law would require to accommodate  
6 Ms. Carlson so that she could return to work as  
7 a radiation therapist and have no ongoing work  
8 loss?

9 MR. CRENNNEY: Same objection.

10 A. No.

11 BY MR. SLIMAK:

12 Q. Now I know that you testified earlier that  
13 Ms. Carlson had worked at the hospital in this  
14 position for 12 to almost 13 years; is that  
15 correct?

16 A. Yes.

17 Q. And do you agree that with her training and  
18 background in this radiation technician area  
19 with that degree of experience that she was an  
20 extremely valuable and experienced employee  
21 that a hospital would want to keep working if  
22 at all possible?

23 MR. CRENNNEY: Objection. Do I have a  
24 continuing objection similar to the last one,  
25 sir? I don't want to interrupt you.

EXHIBIT "B"

1 BY MR. SLIMAK:

2 Q. Will you answer the question, please?

3 MR. CRENNNEY: Okay. Objection. I'm  
4 just going to note --

5 MR. SLIMAK: All you have to say is I  
6 repeat the same objection or same objection and  
7 then it will be acknowledged.

8 MR. CRENNNEY: Yeah, but I can't be  
9 sure you will agree to what it refers to. If  
10 you would just agree that I have a continuing  
11 objection based on what I said to the last two  
12 questions.

13 Let me go over it one more time that  
14 it is objection to the form, that it's not  
15 relevant, that it's beyond the scope of direct  
16 and beyond the scope of his expertise, an  
17 economist in this case.

18 Do I have a continuing objection for  
19 that?

20 MR. SLIMAK: Let me say this. You  
21 can't restrict the cross-examination of this  
22 witness to those facts that you asked him to  
23 assume only. I'm entitled to point out facts  
24 that he had available that he did not consider.  
25 And so the basis for your objection is totally  
EXHIBIT "B"

1 inappropriate. You're just being  
2 obstructionist.

3 MR. CRENNNEY: No, I'm not. I'm just  
4 making objections. If you'll agree that I have  
5 that continuing objection, I won't interrupt  
6 you. I don't mean to interrupt you.

7 MR. SLIMAK: I do think if you have  
8 an objection because of your prior position on  
9 such questions you should say same objection,  
10 and then we will understand that whatever it is  
11 that you have just been going on about would be  
12 what you meant in that regard. I think that's  
13 the easiest way to do it so that we know that  
14 you have an actual objection versus whether you  
15 don't have an objection to a particular  
16 question so we're not guessing when we go  
17 before the judge and have issues ruled upon.

18 BY MR. SLIMAK:

19 Q. Now let me re-ask the question.

20 Mr. Kenkel, do you agree that with  
21 Ms. Carlson's training and background as a  
22 radiation technician and radiation therapist  
23 and her 12 to 13 years' experience working in  
24 the radiation department of the DuBois Regional  
25 Medical Center that she would be an extremely  
EXHIBIT "B"

1 valuable and experienced employee that the  
2 hospital would want to keep working if at all  
3 possible?

4 MR. CRENNNEY: Same objection.

5 A. Yes.

6 BY MR. SLIMAK:

7 Q. Are you aware of testimony that Attorney  
8 Crenney obtained from Mr. McKee at the DuBois  
9 Regional Medical Center where he testified that  
10 the hospital did feel she was a good employee?

11 A. No.

12 MR. CRENNNEY: Same objection.

13 BY MR. SLIMAK:

14 Q. Are you aware of testimony that plaintiffs'  
15 attorney, Mr. Crenney, had developed under oath  
16 that Mr. McKee had called Paula Carlson in  
17 February of 2006 after he had spoke with  
18 Mr. Ray Graeca, the president of the medical  
19 center, and John Sutika, the vice president and  
20 chief financial officer, to reaffirm the  
21 medical center's position that they would like  
22 to work with her in terms of whatever she would  
23 be able to do when she could return to work?

24 MR. CRENNNEY: Same objection.

25 A. No.

EXHIBIT "B"

1 BY MR. SLIMAK:

2 Q. Are you aware of testimony by Mr. McKee that  
3 Mr. McKee communicated to Paula Carlson that  
4 the medical center wished to work with her when  
5 it was identified that she would be able to  
6 return to work?

7 And what I mean by with work her,  
8 identified what she could and could not do and  
9 determine what accommodations we could make so  
10 it would be possible for her to return to work.  
11 Were you aware of that?

12 A. No.

13 MR. CRENNNEY: Same objection.

14 Q. That's at his deposition at page 18 and 19.

15 MR. CRENNNEY: Excuse me. I'm so  
16 sorry. Same objection.

17 BY MR. SLIMAK:

18 Q. And were you aware of Mr. McKee's testimony in  
19 that same deposition at page 21 when he was  
20 asked the question: And it was the medical  
21 center's position that you wanted her back and  
22 you would make every effort to accommodate her;  
23 is that correct? And his answer was: That's  
24 what our goal was, yes.

25 MR. CRENNNEY: Same objection.

EXHIBIT "B"

1 BY MR. SLIMAK:  
 2 Q. Were you aware of that?  
 3 A. No.  
 4 MR. CRENNY: Same objection.  
 5 BY MR. SLIMAK:  
 6 Q. Are you aware Ms. Carlson testified in her  
 7 deposition that there was a meeting set up by  
 8 her supervisor, Rose Campbell, to talk to  
 9 Ms. Carlson about when she could return to  
 10 work?  
 11 A. No.  
 12 Q. Were you even provided with the sworn testimony  
 13 of Ms. Carlson in her deposition?  
 14 A. No.  
 15 Q. Is it relatively common, sir, in gathering  
 16 appropriate information to prepare a report and  
 17 come into a court of law or give sworn  
 18 testimony in a serious matter like this that  
 19 you would often review deposition testimony of  
 20 various witnesses if it is given to you by the  
 21 attorney who hired you?  
 22 A. Yes.  
 23 Q. Do you agree that it's best to have complete  
 24 information rather than incomplete information  
 25 when you are making important forensic economic

EXHIBIT "B"

1 decisions and trying to write a proper report?  
 2 MR. CRENNY: Same objection.  
 3 A. Yes.  
 4 BY MR. SLIMAK:  
 5 Q. Do you agree it is better to have correct  
 6 information than incorrect information when  
 7 you're trying to write your report?  
 8 MR. CRENNY: Same objection.  
 9 A. Yes.  
 10 MR. CRENNY: There's nothing  
 11 incorrect that was provided to this witness.  
 12 If you have something you want to point out,  
 13 otherwise it's very misleading.  
 14 MR. SLIMAK: That's for the judge and  
 15 the jury to decide based on all the evidence in  
 16 the case.  
 17 BY MR. SLIMAK:  
 18 Q. Who determined, Mr. Kenkel, what information  
 19 you would or would not consider in performing  
 20 your economic loss calculations and preparing  
 21 your report?  
 22 A. I provided an information form asking for  
 23 certain background information, and then the  
 24 attorney's office sent me the reply.  
 25 Q. Do you agree, Mr. Kenkel, that it would be best

EXHIBIT "B"

1 to have presented a fair and balanced approach  
 2 to the calculation of economic loss and let the  
 3 jury decide the truth rather than having a  
 4 one-sided approach?  
 5 MR. CRENNY: Objection to the form  
 6 of that question. It's an outrageous question,  
 7 Mr. Slimak, which I imagine you know. I am so  
 8 surprised you would ask a question like that.  
 9 BY MR. SLIMAK:  
 10 Q. Well, Mr. Kenkel, you have to answer.  
 11 MR. CRENNY: He does even though  
 12 that question is just a terrible question and  
 13 any lawyer would know was improper. Go ahead  
 14 and answer.  
 15 A. I have no information indicating that anything  
 16 that was provided to me is incorrect. So as  
 17 far as I know my projections are perfectly  
 18 reasonable.  
 19 BY MR. SLIMAK:  
 20 Q. Did you ask Attorney Crenney to provide you  
 21 with complete information that you should have  
 22 in order to make your calculations?  
 23 A. I asked for a certain set of information. And  
 24 as far as I know, the information I asked for I  
 25 received.

EXHIBIT "B"

1 Q. Now did you ask Mr. Crenney what all  
 2 information was available to take into  
 3 consideration to prepare your report?  
 4 A. No.  
 5 Q. If information would be provided to you that  
 6 indicated that Ms. Carlson could return to work  
 7 at the DuBois Regional Medical Center in her  
 8 job position as a radiation therapist, would  
 9 you have felt that was important information  
 10 for you to consider?  
 11 MR. CRENNY: Same objection. May I  
 12 add to that asked, asked, asked, and asked and  
 13 answered. It's repetitive beyond belief.  
 14 MR. SLIMAK: Unfortunately because  
 15 there's so many objections to everything I have  
 16 to clarify. And this is actually a bit  
 17 different than the prior questions because I am  
 18 trying to avoid some of your on and on  
 19 repetitive objections to every single question,  
 20 sir.  
 21 BY MR. SLIMAK:  
 22 Q. You'll have to answer.  
 23 A. If I was provided information that I thought  
 24 was relevant in making my projections that  
 25 would change my projection, I would take it

EXHIBIT "B"

1 into account.

2 Q. Okay. Now with regard to these calculations

3 that you did make based on information that

4 were given by Attorney Crenney, did you project

5 that Paula Carlson would have like 27.4

6 additional years to work?

7 A. Yes.

8 Q. Okay. And do you agree that there's no

9 certainty that Ms. Carlson would have actually

10 worked 27.4 additional years?

11 A. That's correct. There's no certainty that she

12 wouldn't have worked more than that.

13 Q. And obviously because you don't have a crystal

14 ball she may have worked less for a number of

15 reasons, correct?

16 A. Yes.

17 Q. What are some of the reasons that people don't

18 work out to their full statistical work life

19 expectancy?

20 A. Because the job ceases to exist, because they

21 don't like the job. One possibility is you get

22 injured. You die. You become unemployed.

23 Maybe your husband wins the lottery and you say

24 I don't need to work anymore.

25 Q. So you would agree then that the potential for

EXHIBIT "B"

1 an on-the-job injury is one of the factors that

2 would undermine the length of your statistical

3 work life expectancy if we knew that that might

4 occur?

5 A. But that's already taken into account in the

6 work life data that I have used.

7 Q. Only on a statistical basis applying to all

8 persons and all occupations, correct?

9 A. Yes.

10 Q. It is not specific to Paula Carlson's job as a

11 radiation technician or technologist, correct?

12 A. As far as I know there's no data in the world

13 concerning the rate of injuries of radiation

14 therapists.

15 Q. Well, you had indicated in your testimony

16 earlier that you had had some medical

17 information that was provided to you by

18 Mr. Crenney. Do you know if you were provided

19 information with regards to Paula Carlson's

20 past occupational health records of injuries at

21 work as a radiation therapist which included a

22 herniated disk in her neck?

23 MR. CRENNNEY: Objection.

24 A. I was aware that there was a herniated disk.

25 BY MR. SLIMAK:

EXHIBIT "B"

1 Q. Do you have some statistics for how long the

2 work life expectancy would be of an individual

3 if they have any type -- a job that requires

4 physical lifting and manipulation if they have

5 a herniated disk in their neck?

6 A. No. As far as I know there are no data like

7 that.

8 Q. Did you have any statistics of what age people

9 tend to retire after they have developed a

10 giant cell tumor of the wrist?

11 A. No.

12 Q. Do you whether people with giant cell tumors

13 oftentimes have to change jobs because of the

14 surgery they need to try to remove the tumor

15 and stop it from spreading?

16 A. No.

17 Q. Are you aware of what the risk of recurrence is

18 of a giant cell tumor even if it's caught very

19 early and tried to be treated with what is

20 known as curettage and cementing procedure?

21 A. No.

22 MR. CRENNNEY: Objection to all of

23 these questions. Same objection.

24 BY MR. SLIMAK:

25 Q. Are you aware of statistics out there with

EXHIBIT "B"

1 regard to the effect of degenerative disk

2 disease of the back on work life expectancy?

3 MR. CRENNNEY: Same objection.

4 A. No.

5 BY MR. SLIMAK:

6 Q. Are you aware of whether or not the literature

7 indicates that back injuries are one of the

8 most significant factors undermining

9 individuals' work life expectancies?

10 A. No.

11 MR. CRENNNEY: Same objection.

12 BY MR. SLIMAK:

13 Q. Now were you aware that Ms. Carlson had

14 testified in her deposition at page 102 to 103

15 that prior to April of 2005 she had had

16 problems from her day-to-day activities at work

17 that caused her back jobs problems as well as a

18 herniated disk in her neck and caused her to

19 miss work?

20 A. No.

21 Q. Were you aware that subsequent medical records

22 that she had obtained indicated that there had

23 been progression of her cervical disk disease

24 with the development of spurs in the area of

25 where the herniated disk occurred?

EXHIBIT "B"



1 A. No.

2 Q. With regard to your calculations, did you

3 subtract out of the work life expectancy any

4 periods of time for extended absences from work

5 from whatever cause?

6 A. No. The work life expectancy data already take

7 that into account.

8 Q. But that's for everybody in all occupations,

9 correct? It's not specific to Paula Carlson.

10 A. That's just like saying a life expectancy isn't

11 specific to a certain person. I mean, how long

12 an individual is going to live cannot be

13 projected with exact certainty. What you do is

14 put you the person into a class with

15 characteristics like themselves. That's what I

16 did with Paula Carlson when I projected how

17 long she would work.

18 Q. All right.

19 A. It's based on the average behavior of people.

20 Actually if you take her situation, her

21 probability of losing a job is much lower than

22 the typical person. She didn't change jobs.

23 Lots of people change jobs constantly. Their

24 jobs cease to exist. She is in a steady job.

25 The hospital typically isn't going to go out of

EXHIBIT "B"

1 existence. They're not going to have big

2 layoffs. So if anything I would say if I have

3 under -- if I've over or underestimated her

4 work life expectancy, I would say I have

5 underestimated it.

6 Q. Do you know what the statistical likelihood

7 would have been of Ms. Carlson even developing

8 a giant cell tumor to begin with?

9 MR. CRENNNEY: Objection.

10 A. No.

11 BY MR. SLIMAK:

12 Q. Your field is statistics, correct?

13 MR. CRENNNEY: Exactly. Same

14 objection --

15 A. Yes.

16 MR. CRENNNEY: -- on this line of

17 questioning.

18 BY MR. SLIMAK:

19 Q. Now in your calculations did you assume that --

20 well, let me reask the question.

21 Do you know whether -- let me re-ask

22 it a different way. I'm trying to avoid

23 Mr. Crenney's objection.

24 Mr. Kenkel, assuming that Ms. Carlson

25 would have needed an aggressive and extensive

EXHIBIT "B"

1 type of surgery similar to or the same as the

2 type of surgery she underwent on June 27th,

3 2005, even if her bone tumor had been diagnosed

4 on April 12th, 2005, do you know what the

5 effect of that would have been on her work life

6 expectancy?

MR. CRENNNEY: Same objection.

8 A. No. I assumed that she could have been back to

9 work as of July 1st of 2005. But I have also

10 indicated how my projections would change if

11 you assume she would be back to work, say,

12 January 1st of 2006.

13 BY MR. SLIMAK:

14 Q. If the treatment Ms. Carlson needed for her

15 condition would have been the same regardless

16 of the date of diagnosis, do you agree that

17 your calculations are incorrect because she

18 would not have had all these years of work loss

19 by --

MR. CRENNNEY: Same objection.

21 A. I agree.

22 BY MR. SLIMAK:

23 Q. Right. Okay.

24 Now I understand from your testimony

25 that you were -- made these projections of

EXHIBIT "B"

1 income loss based on an assumption that Paula

2 Carlson would continue to work at Red Lobster

3 at 20 hours per week only and at \$6.25 per

4 hour; is that correct?

5 A. Yes. But I have given her future raises.

6 Q. I understand that. But those other assumptions

7 that I just mentioned were part of your

8 calculations, correct?

9 A. I had assumed she would work 20 hours a week.

10 But once again, if the jury wants to double

11 that and say she would work 40 hours a week,

12 what you would do is look at my chart and just

13 double the numbers that we're subtracting and

14 make the new calculation. My calculations are

15 based on working 40 hours -- or 20 hours per

16 week, which is what she was doing when I wrote

17 my report.

18 Q. Okay. Now with regard to this work, do you

19 agree that in order to calculate a net economic

20 loss as I understand your theory here you have

21 been testifying about it's necessary to

22 subtract any income that Paul Carlson could

23 actually earn after the date of this claimed

24 injury from the potential income that would

25 have been projected to be earned absent claimed

EXHIBIT "B"

1 injury?

2 A. That's correct.

3 Q. All right. And you use \$6.25 an hour for 20

4 hours per week indefinitely for the next 27

5 years under one scenario and then 30 some years

6 under the other next scenario, is that correct,

7 plus a salary increase yearly?

8 A. Yes.

9 Q. All right. Are you aware that by June of 2007

10 Ms. Carlson was actually making \$6.50 an hour,

11 not the 6.15 -- not 6.25 an hour at Red

12 Lobster?

13 A. No.

14 Q. So you used a lower rate, right?

15 A. What date are you talking about?

16 Q. Well, by June of 2007 did you know that there

17 was a higher rate she was actually receiving?

18 A. That's basically what I'm projecting.

19 Q. Well, as we got here in today's deposition

20 didn't you have provided for us new pages that

21 you changed out of your report because you

22 changed them from what you originally

23 projected?

24 A. The only change I made was that I subtracted --

25 I eliminated the household services. Otherwise

EXHIBIT "B"

1 those charts are identical to my original

2 report.

3 Q. Okay. So when you got here today to testify,

4 you updated your report with regard to removing

5 claims that you had calculated for loss of

6 household services which you're not claiming

7 anymore, correct?

8 A. Yes.

9 Q. Now with regard to your report, am I correct

10 that in that area of the household services you

11 were projecting that those needs to be replaced

12 at 7.15 an hour, even though you have now

13 abandoned those, but yet for Ms. Carlson you

14 weren't giving her the benefit of the minimum

15 wage increase to \$7.15 per hour?

16 MR. CRENNNEY: I'm going to object

17 anything regarding household services as beyond

18 the scope of direct and irrelevant.

19 MR. SLIMAK: You have already raised

20 the issue and mentioned this issue. And what

21 I'm cross-examining him is on the inconsistency

22 in his report of making calculations that

23 Ms. Carlson can only make \$6.25 an hour into

24 the future when the law is and he understands

25 it and utilized it in his other calculations a

EXHIBIT "B"

1 rate of 7.15 per hour.

2 MR. CRENNNEY: You told me when I

3 asked the question on household services it was

4 irrelevant, and I agreed. You made an

5 objection on that.

6 MR. SLIMAK: It would be irrelevant

7 to claim those. I'm just questioning him with

8 regard to a factor that he used this in

9 calculations which now he's not used on the

10 other --

11 THE WITNESS: I would have her

12 earning approximately \$6.94 today rather than

13 \$7.15 which is the minimum wage.

14 BY MR. SLIMAK:

15 Q. So you recognize that you came into this

16 deposition to testify under oath using

17 calculations that are inconsistent with

18 Pennsylvania minimum wage law, correct?

19 A. If she is getting the minimum wage there as

20 opposed to -- different waitresses and servers

21 and so on get a much lower wage rate and also

22 get tips.

23 Q. Do you know Pennsylvania minimum wage law? Are

24 you familiar with it?

25 A. The Pennsylvania minimum wage is \$7.15 an hour.

EXHIBIT "B"

1 Q. Yes. And Ms. Carlson is not a waitress,

2 correct?

3 A. As far as I know. I don't know if she gets any

4 tips.

5 Q. Well, are you aware that with regard to her

6 category of work, her job position, that she

7 must be paid at a minimum the minimum

8 average -- excuse me, the minimum wage in

9 Pennsylvania?

10 A. The difference -- maybe we can speed things up.

11 The difference between what I have projected

12 and what she would be getting if she got the

13 minimum wage right now would be \$150 a year.

14 Over a period of 30 years let's say to split

15 the difference between 27 and 33, it would be

16 \$4,500 to add on, and that's not even in

17 present value terms. So it would be less than

18 \$4,5000, which I am willing to subtract from

19 the net economic loss.

20 Q. Well, let's look at some other factors that you

21 left out of your report and not using accurate

22 data. Did --

23 MR. CRENNNEY: I'm going to object to

24 the form of the question.

25 MR. SLIMAK: Let me withdraw the

EXHIBIT "B"

1 question.

2 BY MR. SLIMAK:

3 Q. In your report you assumed that she would only

4 be able to work 20 hours per week, correct?

5 A. I assumed she would average 20 hours per week.

6 Q. Are you aware that the records actually reflect

7 that even at Red Lobster there was weeks that

8 she worked 28 hours per week or 25 hours per

9 week or other hours per week?

10 A. Yes. She averaged 20. She averaged actually

11 less than 20. She averaged approximately 19.37

12 hours per week during the period when I had her

13 wage data.

14 Q. Are you aware of whether or not there are facts

15 that were developed in this case that would

16 indicate that Ms. Carlson could work up to 40

17 hours per week?

18 A. I have already indicated if she works 40 hours

19 per week then just double the numbers that I

20 have projected on the report and make the

21 subtraction. The jury should be capable of

22 multiplying by two and doing the subtraction.

23 Q. All right. So then we would have to double the

24 numbers to be subtracted out, is that what

25 you're saying, if she --

EXHIBIT "B"

1 A. If it is assumed that she is going to work 40

2 hours per week for the rest of her life, yes.

3 But she's not done that.

4 Q. Should we also be taking into consideration and

5 changing your figures that you have presented

6 on Plaintiffs' Exhibit No. 1 and 2 of the

7 claimed loss if, in fact, the evidence would

8 show that she could make a higher hourly rate

9 than what you have assumed which was the \$6.25

10 per hour plus the 3 percent raise per year?

11 A. I have already indicated that if she made \$7.15

12 an hour the numbers would change by about -- in

13 present value terms about \$150 a year. If she

14 worked 40 hours a week, it would be \$300 a

15 year. Over a period of 30 years that's about

16 \$9,000.

17 Q. Let's assume that if rather than working at

18 DuBois Regional Medical Center as a radiation

19 technologist if she did not go back there that

20 she was able to make 40 to \$50,000 per year in

21 a substitute job that was within her physical

22 capabilities would you agree that we would once

23 again need to adjust and subtract from your

24 calculations the amount she could make in those

25 jobs she could otherwise do?

EXHIBIT "B"

1 A. Yes.

2 Q. Okay. Were you aware from the data that you

3 were provided on some of those intake sheets

4 that Ms. Carlson had elected to not attempt to

5 return to work for a period of time because she

6 had other sources of income?

7 MR. CRENNEY: Objection.

8 A. No.

9 BY MR. SLIMAK:

10 Q. Okay. You didn't take any of that into

11 consideration?

12 A. No.

13 MR. CRENNEY: Same objection.

14 BY MR. SLIMAK:

15 Q. Do you agree that you are not qualified to make

16 the determination how many hours per week

17 Ms. Carlson could work at various jobs that

18 might be available?

19 A. I'm not a vocational expert. I'm not a medical

20 expert. So that's outside my area of

21 expertise.

22 Q. Okay. Did you have any information provided to

23 you of the types of activities that Ms. Carlson

24 testified in her deposition under oath that she

25 was performing around the house or outside the

EXHIBIT "B"

1 home or in the community that might translate

2 into time that she could otherwise be working?

3 A. No.

4 MR. CRENNEY: Same objection.

5 BY MR. SLIMAK:

6 Q. Now is it appropriate to take into

7 consideration under projections such as you're

8 making expenses that the individual no longer

9 has because they are not working as a deduction

10 from your calculations?

11 A. That's not done typically in a personal injury

12 case.

13 Q. All right.

14 A. I mean, it depends on some cases where there's

15 a union worker or whatever you might subtract

16 the union dues or their cost of, you know,

17 steel-toed shoes or something like that.

18 Q. All right. Did you make any assessment of

19 whether the numerous activities that

20 Ms. Carlson continues to do outside of the work

21 environment are things that she might be able

22 to utilize as skills to obtain other employment

23 to fill in those additional 20 hours that she's

24 not currently working because she's only

25 working at Red Lobster?

EXHIBIT "B"

1 MR. CRENNNEY: Same objection.

2 A. I did not take that into account.

3 BY MR. SLIMAK:

4 Q. Now I know earlier in your deposition you had

5 gave projections of life expectancy, correct?

6 A. Yes.

7 Q. And is that because there's some correlation

8 recognized between potential life expectancy

9 and with regard to work life expectancy or why?

10 A. I always put in the life expectancy in any case

11 that I do, whether I'm going to use it or not.

12 In my original report I made a projection of

13 lost household services. Presumably they would

14 go to the end of your life expectancy, so I

15 would need to know what her life expectancy is.

16 In this case the economic losses that I

17 projected are going to stop when she stops

18 working either at about age 61 or age 67.

19 Q. Okay. So in your report then, you would often

20 put in things which ultimately you're not going

21 to testify to are relevant to the particular

22 circumstances?

23 A. I have things in my report that may be

24 relevant, may not be relevant. I have

25 indicated that she graduated from high school

EXHIBIT "B"

1 in a certain year. I mean whether that's

2 relevant or not is for the jury to decide.

3 One thing I would think is relevant

4 is when you project that there's going to be

5 losses through a certain age is it reasonable

6 to assume a person is going to even live that

7 long. I have indicated that I projected losses

8 to age 61 or age 67, and I projected that her

9 life expectancy is to age 82. So clearly she

10 has the potential to live at least long enough

11 to generate the losses that I have testified

12 to.

13 Q. If there would be a factor that might affect

14 Ms. Carlson's work life or life expectancy

15 because of injury or disease in her family or

16 that might affect her, is that something then

17 that should be taken into consideration in

18 reducing these claims and calculations that

19 you've had?

20 MR. CRENNNEY: Same objection.

21 A. If a medical doctor comes in and says with a

22 reasonable degree of certainty that she's going

23 to die before age 61 or before age 67, then I

24 would agree that that should be taken into

25 account. I have already indicated that the

EXHIBIT "B"

1 probability that she will live to at least age

2 62 is about 92 percent. So it's totally

3 unreasonable given the information I have to

4 assume that Paula Carlson is going to die

5 before generating the economic losses that I

6 testified to.

7 BY MR. SLIMAK:

8 Q. Do you know what the statistics are for the

9 risk of getting cancer tumors?

10 A. I don't have the data with me, no.

11 Q. Do you know if that affects life expectancy?

12 A. I would assume if you have cancer, yes, it

13 would affect your life expectancy.

14 Q. Do you know if her family has any history of

15 cancer?

16 A. Do I know --

17 Q. Yes.

18 A. If? I'm sorry.

19 Q. Ms. Carlson's family has any history of cancer.

20 A. I don't recall if I was given information. I

21 think I may have -- I'm not sure.

22 MR. SLIMAK: I have no other

23 questions for you at this time.

24 MR. JOHNSON: I need a microphone.

25

EXHIBIT "B"

1 EXAMINATION

2 - - - -

3 BY MR. JOHNSON:

4 Q. Dr. Kenkel, good afternoon.

5 A. Hello.

6 Q. I won't be too long, but I do have some

7 questions I want to ask you.

8 You were asked some questions by

9 Mr. Slimak at the beginning of the deposition

10 and then by Mr. Crenney with regard to your

11 activities as an expert witness. Would you

12 agree with me, sir, that this is a very

13 substantial part of what you do professionally?

14 MR. CRENNNEY: Excuse me. I'm so

15 sorry. Would you identify who you represent

16 because I think the jury might be confused

17 about that if you don't?

18 MR. JOHNSON: I would be glad to. I

19 represent DuBois' Regional Medical Center. I

20 certainly assume, Mr. Crenney, that when the

21 time this deposition is played that, the jury

22 will be well acquainted with me.

23 MR. CRENNNEY: Well, I don't know when

24 it will be played. But you represent the

25 hospital, right?

EXHIBIT "B"

1 MR. JOHNSON: I do.

2 MR. CRENNY: Thank you. So sorry to

3 interrupt, Mr. Johnson.

4 BY MR. JOHNSON:

5 Q. Let me go back to my question, and I will

6 restate my question, Doctor.

7 Would you agree with me, sir, that

8 testifying in cases such as this and preparing

9 reports such as you have done in this case is a

10 very substantial portion of your professional

11 activities?

12 A. It depends on what you mean by very

13 substantial.

14 Q. Well, certainly it has been a very lucrative

15 business for you over the years, hasn't it,

16 sir?

17 A. Yes.

18 Q. And just to kind of put a number on it, I think

19 you told us that you have been involved in over

20 5,000 cases, correct?

21 A. Yes.

22 Q. You have testified in 600 to 700 cases,

23 correct?

24 A. Yes.

25 Q. And you told us earlier what your fees are with

EXHIBIT "B"

1 respect to that.

2 Now in this particular case, you

3 prepared a report that you have in front of

4 you, correct?

5 A. Yes.

6 Q. And you indicated that you charge about 8 hours

7 for preparing a report, right?

8 A. A typical report takes about 8 hours.

9 Q. Is this a typical report?

10 A. No.

11 Q. How long would it take to prepare this report?

12 A. Well, it took me longer than 8 hours.

13 Q. So longer than 8 hours to prepare this report.

14 How long do you estimate it took you to prepare

15 this report?

16 A. Somewhere between 12 and 16 hours.

17 Q. Now if we consider what you have for 12 to 16

18 hours in this report, can we agree, sir, that

19 on the first four pages of the report you have

20 certain information that pertains to this

21 plaintiff?

22 A. That's correct.

23 Q. And so that we can provide to the jury the

24 substance of what you have, on the first page

25 you have the information concerning -- and

EXHIBIT "B"

1 please feel free to look at it so I don't

2 misstate anything.

3 On the first page you have the date

4 of birth, date of injury, age at date of

5 injury, elapsed time from the date of injury to

6 present, current age, life expectancy, and

7 median age. That's all the information on

8 page -- actually it's page 2, correct, sir?

9 A. Yes.

10 Q. Then if we turn to the next page, the items of

11 information you have are number of years from

12 the date of injury until the median age of

13 retirement, number of years from the date of

14 injury until potential retirement, percentage

15 of people of the same age, race, and sex who

16 live to age 62, same question who live to age

17 65, same question of people who live to age 70,

18 their marital status, the name of her spouse,

19 her date of birth, her current age, her life

20 expectancy, the names and ages of her children,

21 and a description of her education. Correct?

22 A. Yes.

23 Q. That's all that's on that page.

24 The next page you have that she was

25 employed between 1992 and 2005 at DuBois

EXHIBIT "B"

1 Regional Medical Center, and you have

2 identified her income on a yearly basis

3 followed by her hourly wage rate on a yearly

4 basis, correct, sir?

5 A. Yes.

6 Q. And that takes care of page 4 of the

7 information, correct?

8 A. Yes.

9 Q. And then isn't it true that the next ten pages

10 are simply the same pages as you have included

11 in essentially every economic report that you

12 prepare?

13 A. No. It's basically the same in every economic

14 report involving personal injury.

15 Q. Okay. That's what I meant for the question to

16 be.

17 And in fact, you and I have discussed

18 this at numerous times in the past, correct?

19 A. Yes.

20 Q. So then we get to page 14 before we have any

21 additional information with particular

22 pertinence to Ms. Carlson, correct?

23 A. Yes.

24 Q. And beginning at page 14 you simply utilize the

25 information that we've described on pages

EXHIBIT "B"

1 1 through 4 -- and we have gone through over --  
 2 we've gone over all of it -- in order to make  
 3 your calculations, correct?  
 4 A. Yes.  
 5 Q. And you do that through the different  
 6 projections, and you do that over the next  
 7 seven pages with each page having about  
 8 three -- having about three or four paragraphs,  
 9 correct?  
 10 A. Yes.  
 11 Q. And then you get to the standard material again  
 12 in your report that goes from page 23 all the  
 13 way up to page 30, correct?  
 14 A. Yes.  
 15 Q. And then you take the same information, those  
 16 basic facts that were on page 1 through 4, and  
 17 you have one page that talks about fringe  
 18 benefits, correct?  
 19 A. Yes.  
 20 Q. And then you go into another section beginning  
 21 on page 33 and carrying through page 45 of your  
 22 report having to do with loss of household  
 23 services, correct?  
 24 A. Yes.  
 25 Q. And then beginning at page 45 you have more  
 EXHIBIT "B"

1 standard boilerplate information that carries  
 2 through to page 54, correct?  
 3 A. Yes.  
 4 Q. And then you use those same statistics that you  
 5 had on the first 4 pages that we went through,  
 6 and you make the projections beginning on page  
 7 54, correct?  
 8 A. Yes.  
 9 Q. Now you had told us at the end of Mr. Slimak's  
 10 questions that all this material that we have  
 11 in front of you pertains to Ms. Carlson,  
 12 correct?  
 13 A. Yes.  
 14 Q. In actual fact, sir, isn't it true that the  
 15 information you utilized to prepare your report  
 16 consisted of the basic statistical information  
 17 that you have identified in your report?  
 18 A. Yes.  
 19 Q. And so, for example, if you look through the  
 20 materials that you have, a lot of it pertains  
 21 to medical records and hospital charts. That  
 22 isn't relevant to your report, is it, sir?  
 23 A. Not to my report, no.  
 24 Q. And with respect to information concerning  
 25 Ms. Carlson you have, for example, her income  
 EXHIBIT "B"

1 tax returns which each are fairly thick, but  
 2 you just looked at the one line that has her  
 3 income, correct, sir?  
 4 A. No. I looked through the entire tax return.  
 5 Q. Okay. And with respect to the information you  
 6 utilized, you utilized the information  
 7 concerning her income, correct?  
 8 A. Yes.  
 9 Q. And did you, in fact, have her deposition  
 10 transcript?  
 11 A. No.  
 12 Q. May I just look at these for one second,  
 13 Doctor?  
 14 - - - - -  
 15 (There was a brief pause in the proceedings.)  
 16 - - - - -  
 17 BY MR. JOHNSON:  
 18 Q. Dr. Kenkel, looking at the materials is this  
 19 her deposition transcript?  
 20 A. Yes.  
 21 MR. SLIMAK: Her being who?  
 22 MR. JOHNSON: Her being Paula  
 23 Carlson.  
 24 THE WITNESS: Yes.  
 25 BY MR. JOHNSON:  
 EXHIBIT "B"

1 Q. So in fact, that was in the materials that you  
 2 had?  
 3 A. Yes.  
 4 Q. Okay. But you didn't look at it?  
 5 A. Yes, I did.  
 6 Q. Oh, you did look at it?  
 7 A. Yes.  
 8 Q. Okay. So you looked at her deposition, and it  
 9 was in the materials. You've now found that to  
 10 be the case, correct?  
 11 A. Yes.  
 12 Q. Very well. Dr. Kenkel, just a few basic  
 13 propositions. Would you agree with me that as  
 14 an economist you are attempting to predict the  
 15 future with respect to your projections?  
 16 A. Could you repeat the question?  
 17 Q. Would you agree with me that as an economist  
 18 you are attempting to predict the economic  
 19 future for Ms. Carlson?  
 20 A. I am trying to make a projection of what her  
 21 reasonable expected income is. I'm not going  
 22 to predict with certainty what's going to  
 23 happen in any given year. Given the background  
 24 and information, I want to make a projection  
 25 that is totally reasonable.  
 EXHIBIT "B"

1 Q. In fairness would it be true that predicting  
2 the future economics of any person is an  
3 inexact science?  
4 A. Yes.  
5 Q. So would it also be accurate that you are not  
6 telling the jury what will be economically for  
7 Ms. Carlson, but you are telling the jury what  
8 you are projecting or what may be the case,  
9 correct?  
10 A. Correct.  
11 Q. And is it also true, sir, that the accuracy of  
12 an economic projection based -- that it depends  
13 upon the accuracy of the assumptions that are  
14 made?  
15 A. Yes.  
16 Q. For example, in your calculations as to what  
17 Ms. Carlson would have earned, you assumed that  
18 she would have spent the rest of her working  
19 lifetime in the same position at DuBois  
20 Regional Medical Center, correct?  
21 A. Alternatively I'm projecting that she could  
22 earn the same amount in some other position as  
23 a radiation therapist if she decided to move  
24 to, say, a different hospital. She doesn't  
25 have to stay at DuBois to earn the amount of

EXHIBIT "B"

1 income she was earning. Presumably if she  
2 wanted to be become a radiation therapist some  
3 place else, she could earn a similar income  
4 elsewhere. Otherwise presumably she wouldn't  
5 change jobs.  
6 Q. And in your projections you were only looking  
7 specifically at the job at DuBois Regional  
8 Medical Center, correct, sir?  
9 A. Yes.  
10 Q. And in looking specifically at that job, you  
11 assumed that she wouldn't stop working short of  
12 your projections because of family concerns for  
13 example, correct?  
14 A. That's correct.  
15 Q. You assumed that for any personal reason she  
16 would not voluntarily decide to leave the work  
17 force, correct?  
18 A. I'm projecting that on the average she would  
19 work for about 27 to 33 years.  
20 Q. You projected that she wouldn't leave the work  
21 force because of accident or illness, correct?  
22 A. That's correct. But that information is  
23 already taken into account in the work life  
24 statistics. I mean, I have got her retiring at  
25 age 61, and most people don't retire at age 61.

EXHIBIT "B"

1 The reason is average is 61 is because some  
2 people lose about a year. Otherwise she would  
3 work to at least age 62.  
4 Q. And clearly, therefore, what you are projecting  
5 is a projection based on general statistics as  
6 opposed to something that is pertinent only to  
7 Ms. Carlson, correct?  
8 A. No. The data that I have used are exactly  
9 applicable to a person like Paula Carlson.  
10 Q. Like Paula Carlson, correct? Not necessarily  
11 Ms. Carlson and her personal attributes, right,  
12 sir?  
13 A. No. I have taken into account all the relevant  
14 information: her age, her education, her  
15 employment history. That's what you take into  
16 account when you project work life.  
17 Q. For example, wouldn't you agree with me,  
18 Dr. Kenkel, that two individuals of the same  
19 age in the same position with the same work  
20 history may make different employment decisions  
21 based upon different family circumstances?  
22 A. Yes.  
23 Q. Now going back to the fact or the premise that  
24 your calculations are only as good as your  
25 assumptions, with regard to the alternative

EXHIBIT "B"

1 employment that you have projected for  
2 Ms. Carlson you have projected, haven't you,  
3 that she will never engage in employment for  
4 the rest of her working lifetime at more than  
5 20 hours per week earning \$6.25 per hour plus  
6 cost of living increases?  
7 A. In my projections that's what I projected. But  
8 I have already indicated that if you want to  
9 assume she worked 40 hours a week that's very  
10 easy to make the adjustment by just doubling  
11 the amount that I have subtracted.  
12 Q. Well, in your projections, though, you have  
13 also not taken into account that potentially  
14 she could become employed in a job that pays  
15 her substantially more than that per hour,  
16 correct?  
17 A. I have no evidence supporting that projection,  
18 so I did not make that part of my report. I  
19 don't have any evidence that she could earn  
20 much more than she actually is. If that's the  
21 case, why wouldn't she do that.  
22 Q. Well, I don't know the answer to that, Doctor,  
23 but that's why I'm asking the questions.  
24 MR. CRENNY: Pardon me. I'm so  
25 sorry, Mr. Johnson. Motion to strike comments

EXHIBIT "B"

1 by the attorney.

2 MR. JOHNSON: And I move to strike  
3 the comments by the witness in that event also.

4 MR. SLIMAK: I join in that.

5 MR. CRENNNEY: I join in that.

6 BY MR. JOHNSON:

7 Q. Dr. Kenkel, with regard to your assumptions, is  
8 it correct that you have also projected that  
9 over the next 30 years no job opportunities  
10 will be available to Ms. Carlson that pay her  
11 at a higher rate than what she's currently  
12 earning at her part-time job at Red Lobster?

13 A. That's correct.

14 Q. And is it correct, Dr. Kenkel, that you have  
15 projected over the next 30 years that no job  
16 opportunity will be available to Ms. Carlson by  
17 which she could work at full-time employment?

18 A. I have already indicated that I have projected  
19 that she work half time based on her employment  
20 record that was given to me. And I have  
21 indicated that if the jury disagrees with that  
22 projection, it's very, very easy to adjust my  
23 projection to take into account full-time  
24 employment.

25 Q. And your assumptions have not taken into  
EXHIBIT "B"

1 account whether she may be retrained or go to  
2 school or have any additional education for  
3 some other job besides working as a greeter at  
4 Red Lobster, correct?

5 A. That's correct.

6 Q. We know, Dr. Kenkel, that when you prepared  
7 this report in this case you had Ms. Carlson's  
8 deposition and you reviewed it, right?

9 A. Yes.

10 Q. We also know that at the time you prepared the  
11 report even though it is not now being claimed  
12 by the plaintiffs you have an entire section  
13 that talks about loss of household services,  
14 correct?

15 MR. CRENNNEY: Objection. Irrelevant.  
16 Beyond the scope of direct.

17 MR. JOHNSON: It goes to credibility.

18 BY MR. JOHNSON:

19 Q. That's correct, isn't it, sir?

20 A. Yes.

21 MR. CRENNNEY: Same objection.

22 BY MR. JOHNSON:

23 Q. And isn't it true, Dr. Kenkel, that in  
24 reviewing Ms. Carlson's deposition you saw  
25 that, in fact, she is doing many more household  
EXHIBIT "B"

1 activities now than she was performing before  
2 she was injured?

3 MR. CRENNNEY: Objection. May I have  
4 a continuing objection, Mr. Johnson, and then I  
5 will not interrupt you on this line?

6 MR. JOHNSON: Surely.

7 MR. CRENNNEY: I do have that  
8 objection. Thank you.

9 A. Yes.

10 BY MR. JOHNSON:

11 Q. Now, Dr. Kenkel, how was the decision made to  
12 not include fringe benefits? Excuse me. I  
13 misspoke.

14 How was the decision made to not  
15 include household services?

16 A. Mr. Crenney asked me to omit any discussion of  
17 household services.

18 Q. When did he make that request to you?

19 A. Several days ago I guess. I don't remember  
20 exactly when.

21 Q. So at least several days ago you spoke to  
22 Mr. Crenney about this case, correct?

23 A. Yes.

24 Q. How long did you and Mr. Crenney discuss it  
25 several days ago?

EXHIBIT "B"

1 A. It was probably an E-mail, so there was no time  
2 element on the telephone or something like  
3 that.

4 Q. Did he tell you why he did not want you to go  
5 into that part of your report that had to do  
6 with household services?

7 MR. CRENNNEY: That's objectionable  
8 for a number of reasons. Do I have all points  
9 objection on that Mr. --

10 MR. JOHNSON: You may have any  
11 objection you want on that.

12 MR. CRENNNEY: Thank you.

13 A. I think what he was saying is that the  
14 information in the deposition conflicted with  
15 the information in the information form. So in  
16 order to simplify the situation and be  
17 conservative just omit any discussion of lost  
18 household services.

19 BY MR. JOHNSON:

20 Q. In other words, you understood that the reason  
21 that household services was not to be gotten  
22 into, even though you have it in your report,  
23 was because it was not supported by the  
24 plaintiff's deposition testimony, correct?

25 A. There was a discrepancy between some of the  
EXHIBIT "B"



1 information that I was provided with in two  
2 different forms.  
3 Q. And Dr. Kenkel, the videographer is giving me  
4 the high sign, so we will move to a new tape  
5 and go off the record.

6 THE VIDEOGRAPHER: We are going off  
7 the record. The time right now is 4:15 p.m.,  
8 and that's indicated on the screen. Please  
9 stand by.

10 - - - -  
11 (There was a recess in the proceedings.)  
12 - - - -

13 THE VIDEOGRAPHER: We are now back on  
14 the video record. The time right now is 4:17  
15 p.m., and that's indicated on the screen. You  
16 may proceed.

17 BY MR. JOHNSON:

18 Q. Thank you. Dr. Kenkel, with regard to the  
19 report that you did prepare, you did include a  
20 projection with regard to fringe benefits,  
21 didn't you, sir?

22 A. Yes.

23 Q. And isn't it true that the majority of the  
24 fringe benefits which you have included in your  
25 report constitute the employer's contribution

EXHIBIT "B"

1 to Social Security?

2 A. Yes.

3 Q. In fact, the employer's contribution to Social  
4 Security bear very little relationship to any  
5 benefit the worker will ultimately receive;  
6 isn't that true?

7 A. No. The amount that you receive in Social  
8 Security benefits depends on your 35 years of  
9 best earnings that are weighted by average  
10 earnings of people in the labor force during  
11 different years. So for example, \$10,000 of  
12 earnings in 1970 is equivalent to, say, \$35,000  
13 of earnings in, let's say, 1997.

14 Q. And we all --

15 A. Some people get more back from Social Security  
16 than they put in. Some people get a little bit  
17 less back from Social Security.

18 For a person like Ms. Carlson who is  
19 expected to live to age 82, you would expect  
20 she would get more back from Social Security  
21 than she put in. The problem with Social  
22 Security when you read about all this stuff is  
23 that most of the people that are earning the  
24 incomes that go into your Social Security  
25 benefits are males. And males tend to live

EXHIBIT "B"

1 shorter life expectancies. You only get the  
2 Social Security benefits until you die. The  
3 longer you live the more benefits you're going  
4 to get. So women come out ahead.

5 Q. And we all know, don't we, sir, that in fact  
6 from each of our paychecks the amounts are  
7 deducted up to a certain limit with respect to  
8 Social Security?

9 A. Yes.

10 Q. So in fact, you or I as an employee and  
11 Ms. Carlson as an employee out of her gross pay  
12 those amounts are deducted for Social Security,  
13 correct?

14 A. The employer puts in 7.65 percent, and the  
15 employee puts in 7.65 percent. That's a tax.  
16 Taxes are not to be discussed as far as I know  
17 in Pennsylvania legal cases. So the amount  
18 that the employee puts into the fund as a tax  
19 is irrelevant.

20 Q. So you're only talking about whatever amount  
21 the employer puts in which is not related to  
22 the ultimate amount the person is entitled to,  
23 correct? That's based on their salary, right?

24 MR. CRENNNEY: Objection.

25 A. The amount that the employer puts in is based

EXHIBIT "B"

1 on your salary of 7.65 percent.

2 BY MR. JOHNSON:

3 Q. Isn't the Social Security based on the  
4 individual's salary?

5 A. Yes.

6 Q. And isn't money deducted from that salary out  
7 of the employee's income?

8 A. Yes. That's a tax. It's not to be discussed  
9 in Pennsylvania legal cases.

10 MR. CRENNNEY: Same objection.

11 MR. JOHNSON: I have no further  
12 questions. Thank you.

13 - - - -

14 RE-EXAMINATION

15 - - - -

16 BY MR. CRENNNEY:

17 Q. Doctor, you don't know what the job market is  
18 like in Clearfield County, correct? You're not  
19 a vocational rehabilitation person; isn't that  
20 right?

21 A. I'm not a vocational rehabilitation person, no.  
22 But I mean, Clearfield County has a  
23 higher-than-the-average unemployment rate. I  
24 would expect that if you had an income of  
25 \$64,000 you're far above average, and there

EXHIBIT "B"

1 aren't too many jobs that are going to pay  
 2 something like that in Clearfield County.  
 3 MR. SLIMAK: Objection. Not  
 4 qualified to give that opinion.  
 5 MR. JOHNSON: I also object beyond  
 6 the scope of the cross-examination.  
 7 MR. CRENNNEY: I think it's clearly in  
 8 the scope of cross-examination.  
 9 BY MR. CRENNNEY:  
 10 Q. Is it your testimony that it might be very  
 11 difficult for Paula Carlson to find another job  
 12 with her education and her training that pays  
 13 \$64,000 a year in Clearfield County?  
 14 MR. SLIMAK: Same objection and  
 15 leading.  
 16 A. Yes.  
 17 BY MR. CRENNNEY:  
 18 Q. Do you have an opinion as to whether it would  
 19 be easy or difficult, likely or unlikely for  
 20 Paula Carlson to be able to find another job in  
 21 Clearfield County that pays \$64,000 a year?  
 22 MR. SLIMAK: Same objections. Lack  
 23 of qualification.  
 24 MR. JOHNSON: Join. No proper  
 25 foundation.

EXHIBIT "B"

1 BY MR. CRENNNEY:  
 2 Q. Do you have an opinion?  
 3 A. I think it would be very difficult for her to  
 4 get a job like that.  
 5 Q. These men talked about the individual Paula  
 6 Carlson, and I would like to do that for a  
 7 minute. You did not -- and in fact, Mr. Slimak  
 8 talked about her chance of getting cancer. If  
 9 she got cancer and died in 2 or 3 years or 5  
 10 years, then your calculations would not be  
 11 accurate? She wouldn't have all that economic  
 12 loss, correct?  
 13 A. That's correct.  
 14 Q. If her husband required her attention because  
 15 of his illness -- Mr. Johnson talked about her  
 16 leaving work for personal reasons. If her  
 17 husband's illness progressed and she was  
 18 required at home to take care of him and she  
 19 had to quit her job, then your calculations  
 20 would change, wouldn't they?  
 21 A. Yes.  
 22 Q. I would like to talk about the dichotomy  
 23 between your testimony generally. Like you  
 24 talked about people like Paula Carlson live to  
 25 82 and Paula Carlson. You had a lot of data on

EXHIBIT "B"

1 Paula, correct?  
 2 A. Yes.  
 3 Q. And you used life tables to make a projection  
 4 on how long she would live?  
 5 A. Yes.  
 6 Q. And in doing that were you relying on economic,  
 7 technical material that is scientific in  
 8 nature?  
 9 A. Yes.  
 10 Q. Okay. And so in that sense that is fairly  
 11 exact as to the general population, correct?  
 12 MR. SLIMAK: Objection.  
 13 Argumentative and leading.  
 14 BY MR. CRENNNEY:  
 15 Q. How would you characterize in terms of its  
 16 technical and scientific efficacy your  
 17 testimony that testimony that Paula on  
 18 average -- a person like Paula would live to be  
 19 82?  
 20 A. The data show that the average female like  
 21 Paula Carlson at age 33 will live 48.6  
 22 additional years. The data also show what  
 23 percentage of people live longer, what  
 24 percentage of people live less.  
 25 For my projections to be valid, we

EXHIBIT "B"

1 need her to live to say age 61. I have already  
 2 indicated that more than 92 percent of people  
 3 like Paula Carlson live to at least age 62.  
 4 The other thing that people don't  
 5 take into account she's got a life expectancy  
 6 of 48 years. Well, approximately 40 years ago  
 7 the life expectancy of women was like 75. Now  
 8 the life expectancy of women is like 83, 84.  
 9 Twenty-five years from now the life expectancy  
 10 of these women is going to be much longer. So  
 11 if anything we have underestimated how long  
 12 Paula Carlson would be expected to live because  
 13 of all future medical improvements.  
 14 Q. Doctor, you were questioned about  
 15 communications you and I had and the fact that  
 16 I suggested to you that we weren't going to  
 17 offer evidence on household losses, correct?  
 18 A. Yes.  
 19 Q. Okay. Your report gives her an increase. You  
 20 used 3 percent, correct, 3 percent in terms of  
 21 the consumer price index? That's the salary  
 22 increase you gave her, correct?  
 23 A. I assumed a 3 percent annual increase in salary  
 24 in the future.  
 25 Q. Okay. And in fact, it -- in fact -- and we've

EXHIBIT "B"

1 talked a lot about these lawyers want to talk  
 2 about the individual Paula. Between 2001 and  
 3 2006 she had an 11 percent increase, correct?  
 4 A. 11 percent per year.  
 5 Q. Per year?  
 6 MR. SLIMAK: Objection to leading.  
 7 A. Her income went up 69 percent, which amounts to  
 8 about 11 percent per year.  
 9 MR. SLIMAK: Object to the fact of  
 10 leading and continuing leading as well as now  
 11 we're redoing and rehashing the direct. It's  
 12 inappropriate. Move to strike.  
 13 MR. CRENNNEY: I will reform the  
 14 leading part. I think the other is right on  
 15 the money on redirect.  
 16 MR. SLIMAK: You're trying to get the  
 17 last words on all the same thing you already  
 18 had.  
 19 MR. CRENNNEY: That's not true. You  
 20 have attacked the credibility of this report  
 21 even to the point the integrity of the report  
 22 and the purpose. And you did that with some  
 23 questions that I think were objectionable. I  
 24 am simply going to take a look at that issue.  
 25 And you can have a -- well, never mind. That's

EXHIBIT "B"

1 the purpose.  
 2 MR. SLIMAK: You can't go back and  
 3 redo your whole direct or even portions of your  
 4 direct that you've already covered at length.  
 5 BY MR. CRENNNEY:  
 6 Q. Professor, okay, did I call -- and again,  
 7 Mr. Johnson talked to you about communications  
 8 we had. Did I call you and complain that you  
 9 didn't use 11 percent instead of 3 percent?  
 10 A. No, sir.  
 11 Q. Okay. When we met for 10 minutes here before  
 12 you testified, did I complain about that or  
 13 suggest that you use 11 percent since we were  
 14 making some changes?  
 15 A. No, sir.  
 16 Q. All right. Counsel has pointed out that you  
 17 deal with lots of lawyers and testify in lots  
 18 of cases. Do some lawyers try to squeeze every  
 19 penny that's possible if you can find any  
 20 foundation for it? They try to squeeze you or  
 21 try to influence you. Do they try that?  
 22 MR. JOHNSON: Objection.  
 23 BY MR. CRENNNEY:  
 24 Q. Does that sometimes happen?  
 25 MR. SLIMAK: Objection to form and

EXHIBIT "B"

1 argumentative.  
 2 A. Yes.  
 3 BY MR. CRENNNEY:  
 4 Q. Okay. Do you resist that?  
 5 A. Yes.  
 6 Q. Okay. Did I try that in this case?  
 7 A. No, sir.  
 8 Q. Okay. Did I instruct you to be extremely  
 9 conservative in the approach you took and the  
 10 numbers you gave to the jury?  
 11 MR. SLIMAK: Objection. Leading.  
 12 A. Actually you didn't give me any direction  
 13 whether you wanted me to be conservative or  
 14 aggressive or whatever. But after we talked or  
 15 whatever after I guess my deposition was set up  
 16 or whatever, you indicated that you wanted to  
 17 remove any discussion of household services.  
 18 And since then I have talked to you  
 19 about that the wage rate I projected was 3  
 20 percent whereas her actual history was 11  
 21 percent raises. I explained that I used an  
 22 interest rate of 4-and-a-half percent to assume  
 23 growth of a potential damage award where at the  
 24 present time the interest rate is like 3.8  
 25 percent. And I indicated that all of my

EXHIBIT "B"

1 numbers if you did the report over today all of  
 2 the numbers would be higher, and you said we're  
 3 going to stay with the report as written.  
 4 BY MR. CRENNNEY:  
 5 Q. How would you characterize it, as conservative  
 6 or aggressive?  
 7 A. Conservative.  
 8 Q. Doctor, you were asked questions at length on  
 9 cross-examination about Paula Carlson's ability  
 10 or lack thereof to return to the job and the  
 11 willingness of the hospital to make  
 12 accommodations for her. That just happened so  
 13 you remember that, don't you?  
 14 A. Yes, sir.  
 15 Q. Okay. Do you know is there data on how  
 16 employers feel about employees when they are  
 17 sued in third-party cases? Are they -- do they  
 18 look less favorably on employees when they're  
 19 sued?  
 20 MR. JOHNSON: Objection.  
 21 A. I haven't seen any studies discussing that  
 22 issue. I mean, it's pretty reasonable to  
 23 assume that an employer would frown on any  
 24 employee that sued them.  
 25 MR. JOHNSON: Move to strike. No

EXHIBIT "B"

1 proper foundation.  
 2 BY MR. CRENNNEY:  
 3 Q. Do you know what the hospital's reaction has  
 4 been to this lawsuit?  
 5 MR. JOHNSON: Objection.  
 6 A. No, sir.  
 7 BY MR. CRENNNEY:  
 8 Q. Do you know who Ray Graeca is?  
 9 A. No, sir.  
 10 Q. Do you know who Ray Graeca's son is?  
 11 A. No, sir.  
 12 Q. Do you know if Ray Graeca is the head of the  
 13 hospital, and he was afraid that his son might  
 14 be sued so he directed that this offer be made  
 15 to Paula Carlson?  
 16 MR. JOHNSON: Objection.  
 17 A. No, sir.  
 18 MR. CRENNNEY: I will withdraw the  
 19 question for today.  
 20 BY MR. CRENNNEY:  
 21 Q. Doctor, what is an employee at will?  
 22 MR. JOHNSON: Objection.  
 23 A. As I understand it, that's an employee that can  
 24 be terminated at the wish of the employer.  
 25 MR. SLIMAK: Objection. **EXHIBIT "B"**

1 BY MR. CRENNNEY:  
 2 Q. For any reason?  
 3 MR. SLIMAK: Objection. Beyond the  
 4 scope of direct and now we're leading again.  
 5 BY MR. CRENNNEY:  
 6 Q. Do you know what --  
 7 MR. SLIMAK: Objection to the scope  
 8 of the cross. Sorry.  
 9 MR. CRENNNEY: I think this is right  
 10 on the money for the cross that was done.  
 11 MR. SLIMAK: You always do.  
 12 MR. CRENNNEY: Well, I do. You asked  
 13 interminable questions on whether Paula could  
 14 return to work and count on employment for 33  
 15 years. That's why I'm asking this question.  
 16 BY MR. CRENNNEY:  
 17 Q. Do you know what an employee at will is?  
 18 MR. SLIMAK: Objection.  
 19 A. As I understand it's an employee who can be  
 20 terminated at the wishes of the employer.  
 21 BY MR. CRENNNEY:  
 22 Q. Do you know whether Paula Carlson is in the  
 23 union or not?  
 24 A. I have assumed that she's not in a union.  
 25 Q. Do you know if she is an employee at will? **EXHIBIT "B"**

1 A. Presumably she would be an employee at will if  
 2 she went back.  
 3 Q. Do you know whether the aforementioned Rose  
 4 Campbell described her as an employee at will?  
 5 A. No.  
 6 Q. And are the opinions you have rendered here to  
 7 a reasonable degree of scientific, technical,  
 8 economic certainty?  
 9 A. Yes, sir.  
 10 MR. CRENNNEY: Thank you, sir.  
 11 - - -  
 12 RE-EXAMINATION  
 13 - - -  
 14 BY MR. SLIMAK:  
 15 Q. Mr. Kenkel, did you change what you had  
 16 expected to testify to here today?  
 17 MR. CRENNNEY: Excuse me, Mr. Slimak.  
 18 You need the mike.  
 19 MR. SLIMAK: Thank you.  
 20 BY MR. SLIMAK:  
 21 Q. Mr. Kenkel, did you change what you had  
 22 expected to testify to here today because  
 23 Mr. Crenney who hired you told you that he  
 24 wanted to change what you were planning to  
 25 testify to? **EXHIBIT "B"**

1 MR. CRENNNEY: Object to form of the  
 2 question.  
 3 A. He asked me to omit any discussion of lost  
 4 household services.  
 5 BY MR. SLIMAK:  
 6 Q. My question is did Mr. Crenney ask you to  
 7 change what you had expected to testify to here  
 8 today?  
 9 MR. CRENNNEY: Objection. Asked and  
 10 answered.  
 11 A. I had no idea what I expected to testify to.  
 12 BY MR. SLIMAK:  
 13 Q. Did Mr. -- did you have some expectations of  
 14 what you thought you were going to be  
 15 testifying to?  
 16 A. I assumed that I would testify to the data  
 17 that's in my economic report.  
 18 Q. And did Mr. Crenney tell you to not testify to  
 19 certain aspects of the data in your report?  
 20 MR. CRENNNEY: Objection.  
 21 A. He asked me --  
 22 MR. CRENNNEY: Objection to the form.  
 23 Other than -- if you're going to do that, ask  
 24 him other than taking out household services  
 25 because there was nothing else. **EXHIBIT "B"**

1 BY MR. SLIMAK:

2 Q. You have to answer the question.

3 A. He didn't tell me. He asked me to omit any  
4 discussion of household services. And I said  
5 in order to be conservative, fine, I will do  
6 that.

7 Q. Did you have a discussion with Mr. Crenney  
8 about whether or not for today's deposition you  
9 would not make any reference to Paula Carlson's  
10 deposition transcript which is in your file of  
11 materials?

12 A. No. He never mentioned it at all. The  
13 deposition was at the bottom of my pile. He  
14 never mentioned that I should -- should or  
15 should not discuss it. He never said a word  
16 about it.

17 Q. The report that you prepared was it prepared  
18 based on Paula Carlson's actual testimony in  
19 her deposition, or was your report that you  
20 prepared based on this document on top which is  
21 the information provided to you by Paula  
22 Carlson's attorney in summary form?

23 A. My report was based on -- the discussion of  
24 household services was based on the information  
25 in this form.

EXHIBIT "B"

1 Q. Who provided you that form?

2 A. It says the form was completed by Paula Carlson  
3 and Thomas Crenney & Associates.

4 Q. Did they sign it?

5 A. It's typed in.

6 Q. Did you find out today that -- or within the  
7 last few days that there's inconsistencies  
8 between that information provided in that  
9 document which you said was provided by Paula  
10 Carlson and in her deposition testimony?

11 A. No. I had both of these.

12 Q. What did you say earlier that you find -- found  
13 just out recently was inconsistent? Was there  
14 inconsistencies between her deposition  
15 testimony and this document that was provided  
16 to you?

17 MR. CRENNY: I'm assuming I have a  
18 continuing objection on all of this; is that  
19 correct?

20 MR. SLIMAK: Yes.

21 A. In the information form, the amount of time  
22 doing lost household services was described,  
23 which is different than what she said in her  
24 deposition.

25 BY MR. SLIMAK:

EXHIBIT "B"

1 Q. My question to you is did you find that there  
2 was testimony of Ms. Carlson in her deposition  
3 which was inconsistent with information that  
4 Ms. Carlson provided to you in this form that  
5 you have?

6 A. The data are to a certain extent inconsistent,  
7 yes.

8 MR. SLIMAK: That's all the questions  
9 I have.

10 - - - -  
11 RE-EXAMINATION  
12 - - - -

13 BY MR. JOHNSON:

14 Q. Dr. Kenkel, with respect to the wage increase  
15 that you referenced, what time period were you  
16 talking about when you mentioned an 11 percent  
17 increase?

18 A. 2001 through 2006.

19 Q. So in fact, you're talking about a five-year  
20 period that in toto amounts to an 11 percent  
21 increase?

22 A. No.

23 Q. You're not talking about 11 percent annually?

24 A. In 2006 her wage rate would be \$32.87. In 2001  
25 her actual wage rate was \$19.45. That's a 69

EXHIBIT "B"

1 percent increase in a period of five years.

2 Q. Dr. Kenkel, aren't you really manipulating  
3 numbers there? Because if you start with 2000  
4 and 2001 she had 2.7 increase that year, didn't  
5 she?

6 A. I am starting in 2001.

7 Q. And between 2001 and 2002 she had a 7 percent  
8 increase, correct?

9 A. Approximately.

10 Q. And then a 4 percent increase the next year?

11 A. No. In 2003 her income was \$29.88 an hour.

12 And in 2002 it was \$20.81 an hour. That's a 43  
13 percent increase in one year.

14 Q. Okay. And so after that certainly she did not  
15 have that type of projection that you've used  
16 to calculate the 11 percent, did she?

17 A. The 11 percent is based on a five-year average.  
18 Just in the last year though her increase was  
19 over 5.1 percent. I used a 3 percent raise.  
20 If I used a 5 percent raise, all of my  
21 projections would be much, much higher.

22 Q. And if in a person's work history they, in  
23 fact, get a promotion so that they are into a  
24 higher work category, that does not necessarily  
25 mean that that's going to continue into the

EXHIBIT "B"

1 future, does it, sir?  
 2 A. The rate of increase might change if you don't  
 3 get another promotion. I would agree with  
 4 that. The wage rate is not going to go down.  
 5 That's for sure.

6 MR. JOHNSON: Thank you. I have no  
 7 further questions. Thank you.

8 MR. CRENNNEY: I have none. Thank  
 9 you. Thank you, Professor.

10 THE VIDEOGRAPHER: With there being  
 11 no further questions, the deposition is  
 12 concluded. The time right now is 4:38 p.m.

13 - - - -

14 (Whereupon, the following was held  
 15 off the videotape record.)

16 - - - -

17 MR. CRENNNEY: Mr. Slimak, I would be  
 18 pleased to call you on Wednesday to try to do  
 19 something to make sure the judge doesn't have  
 20 to do too much because I'm sure we can agree --  
 21 reach an agreement on many of these objections,  
 22 and I would like to have the opportunity to do  
 23 that.

24 Does that sound all right, or is  
 25 there a better day for you?

EXHIBIT "B"

1 MR. SLIMAK: I don't have my calendar  
 2 with me. But I have to review the transcript.  
 3 It is common that people will review these  
 4 transcripts and decide some objections will be  
 5 pursued and some will not be. And that would  
 6 be the normal course of what I would expect.  
 7 And so therefore we'll have to regroup, and we  
 8 will decide in the limited time that we have  
 9 before Friday to have all this filed of what's  
 10 to be argued, that type of thing. So we have  
 11 to wait until we get the transcript first  
 12 before we can decide anything.

13 MR. CRENNNEY: Well, obviously we need  
 14 the transcript to try to do this. All I'm  
 15 saying to you is I would like to call and try  
 16 to do it. Do you want to try to do that?

17 MR. SLIMAK: What I would prefer  
 18 because it makes it easier and it makes it much  
 19 more efficient is that if you send me those  
 20 objections that you actually intend to argue  
 21 then we can do that effectively.

22 MR. CRENNNEY: My experience is that  
 23 people get on the phone and do it together and  
 24 that way it's not one sided. Is that your  
 25 experience, Mr. Johnson?

EXHIBIT "B"

1 MR. SLIMAK: I don't expect it to be  
 2 one sided, sir.

3 MR. CRENNNEY: That's what I'm saying.  
 4 Can we get on the phone and do this? Can we  
 5 get on the phone and try to do this, sir?

6 MR. SLIMAK: I'm not sure that I have  
 7 multiple hours to discuss each and every  
 8 objection that you made to the questions on the  
 9 phone for several hours when we have such a  
 10 limited time, as you know, to prepare our page  
 11 and line transcript issues for the judge to  
 12 rule on if we don't agree.

13 I think it's far more effective and  
 14 efficient for us to outline those objections  
 15 that we actually intend to pursue and not to  
 16 pursue and then we regroup and decide whether  
 17 or not the other side will concede those or  
 18 not. That is the way it's been routinely done.  
 19 It is very efficient and effective to resolve  
 20 the things because then we don't have to  
 21 present to the Court issues that are  
 22 inconsequential.

23 MR. CRENNNEY: I think it's too bad  
 24 that you won't get on the phone with me to try  
 25 to do this.

EXHIBIT "B"

1 MR. SLIMAK: I'm asking you to get on  
 2 the phone after we set forth those objections  
 3 that we really want to discuss so that I can be  
 4 prepared to know which ones we need to focus on  
 5 versus which ones we don't need to focus on.  
 6 And I just submit that that I think is a very  
 7 efficient way to get on the phone for us to  
 8 discuss these things because I think to the  
 9 extent that we can work them out before they  
 10 have to all be presented to the Court that is  
 11 fine.

12 MR. JOHNSON: For my pace as far as  
 13 I'm concerned, I'm willing to go either way and  
 14 work it out however anybody wants to.

15 MR. CRENNNEY: I will give you a call  
 16 as soon as we get the transcript to try to set  
 17 something up, Mr. Johnson. Is that all right?

18 MR. JOHNSON: That's fine.

19 MR. CRENNNEY: Thanks.

20 - - - -

21 (The proceedings were concluded at 4:42 p.m.)

22 - - - -

23  
 24  
 25

EXHIBIT "B"

1 COMMONWEALTH OF PENNSYLVANIA ) CERTIFICATE

2 COUNTY OF ALLEGHENY ) SS:

3 I, Kristin Lytle, RPR, a Court Reporter and  
 4 Notary Public in and for the Commonwealth of  
 5 Pennsylvania, do hereby certify that the witness,  
 6 JAMES KENKEL, Ph.D., was by me first duly sworn to  
 7 testify to the truth, the whole truth, and nothing  
 8 but the truth; that the foregoing deposition was  
 9 taken at the time and place stated herein; and that  
 10 the said deposition was recorded stenographically by  
 11 me and then reduced to printing under my direction,  
 12 and constitutes a true record of the testimony given  
 13 by said witness.

14 I further certify that I am not a relative or  
 15 employee of any of the parties, or a relative or  
 16 employee of either counsel, and that I am in no way  
 17 interested directly or indirectly in this action.

18 IN WITNESS WHEREOF, I have hereunto set my hand  
 19 and affixed my seal of office this 22nd day of  
 20 January, 2008.

21  
 22  
 23  
 24 Notary Public

25 EXHIBIT "B"

1 COMMONWEALTH OF PENNSYLVANIA ) E R R A T A

2 COUNTY OF ALLEGHENY ) S H E E T

3 I, JAMES KENKEL, Ph.D., have read the foregoing pages  
 4 of my deposition given on January 21, 2008, and wish  
 5 to make the following, if any, amendments, additions,  
 6 deletions or corrections:

7 Page/Line Should Read Reason for Change  
 8  
 9  
 10  
 11  
 12  
 13  
 14  
 15  
 16  
 17  
 18  
 19

20 In all other respects, the transcript is true and  
 21 correct.

22 JAMES KENKEL, Ph.D.

23 Subscribed and sworn to before me this

24 \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

25 Notary Public

AKF Reference No. KL04947

EXHIBIT "B"

**THOMAS E. CRENNY & ASSOCIATES, LLC**

ATTORNEYS AT LAW  
ONE GATEWAY CENTER  
18<sup>th</sup> FLOOR - WEST  
PITTSBURGH, PENNSYLVANIA 15222  
TELEPHONE: 412-644-5545  
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January 24 2008

**Via Facsimile and U.S. Mail**

Darryl R. Slimak, Esquire  
MCQUAIDE BLASKO FLEMING &  
FAULKNER, INC.  
811 University Drive  
State College, PA 16801-6699

David R. Johnson, Esquire  
THOMSON, RHODES & COWIE, P.C.  
Two Chatham Center, 10<sup>th</sup> Floor  
Pittsburgh, PA 15219

Walter Frederick Wall, Esquire  
120 Lakemont Park Boulevard  
Altoona, PA 16602

Re: Paula Carlson, et al. vs. Jerjis T. Alajaji, M.D., et al.  
Docket No. 2006 – 563 GD (Clearfield County)  
Our File No. 2895.01

Gentlemen:

Listed below are my proposals for removal of sections of Dr. Kenkel's testimony and my withdrawals of objections. Please note the references are from the emailed version of the transcript. As I stated in my previous correspondence, I continue to believe that the best way to accomplish our goals which would be to save the Court's time is to work together in good faith over the telephone. I note again that I have not heard from anyone regarding voluntary withdrawals or proposals for removals. This, of course, makes it difficult for me in preparing my submissions to the Court.

1. Proposed removal page 29, line 25 and page 30, lines 1 – 16, with the caveat that discussions of household services would not be included in anything that's presented to the jury at any place in the deposition, since he's not going to give a number for it
2. Remove page 53, lines 10 – 25
3. Withdraw page 60, line 21
4. Withdraw page 61, lines 8 & 9
5. Withdraw page 61, line 17

EXHIBIT "C"



**THOMAS E. CRENNY & ASSOCIATES, LLC**

All Counsel  
January 24, 2008  
Page 2

6. Withdraw page 63, lines 4 – 6,
7. Withdraw page 63, line 12
8. Withdraw page 63, line 23
9. Remove page 65, lines 18 – 25
10. Remove all of page 66
11. Remove page 67, lines 1 – 4
12. Withdraw objection page 67, lines 15 & 16
13. Remove page 67, 17 – 25
14. Remove all of page 68
15. Proposed removal page 69, lines 17 – 25
16. Remove all of page 70
17. Remove page 71, lines 1 – 19
18. Withdraw page 72, line 4
19. Withdraw page 72, line 12
20. Withdraw page 75, line 2
21. Withdraw page 79, line 23
22. Withdraw page 81, line 3
23. Withdraw page 81, line 11
24. Withdraw page 84, line 7
25. Withdraw page 84, line 20
26. Withdraw page 89, lines 23 – 25
27. Remove page 90, line 1

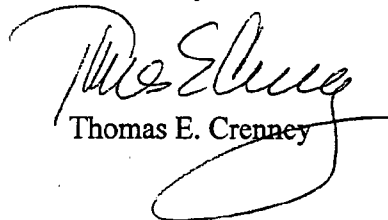
**THOMAS E. CRENNY & ASSOCIATES, LLC**

All Counsel  
January 24, 2008  
Page 3

28. Withdraw page 95, line 20
29. Strike page 109, line 20 beginning "if that's the case why wouldn't she do that" throughout the rest of the page
30. Strike page 110, lines 1 – 5
31. Remove objections page 113, lines 7 – 12
32. Withdraw page 116, line 24
33. Withdraw page 117, line 10
34. Proposed removal page 126, lines 12 – 19

Thank you for your kind attention to this matter.

Yours truly,



Thomas E. Crenney

TEC/bjw

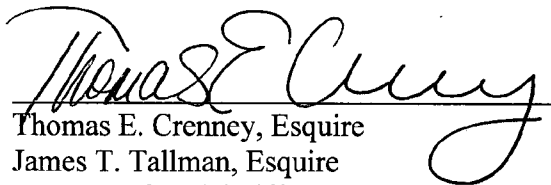
**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and correct copy of the foregoing **BRIEF IN SUPPORT OF PLAINTIFFS' OBJECTIONS TO DEFENDANTS' CROSS-EXAMINATION OF JAMES KENKEL, Ph.D.** was served by First Class Mail, postage prepaid on the 25<sup>th</sup> day of January, 2008, as follows:

Darryl R. Slimak, Esquire  
MCQUAIDE BLASKO FLEMING & FAULKNER,  
INC.  
811 University Drive  
State College, PA 16801  
(Counsel for Jerjis T. Alajaji, M.D.)

Walter Fredrick Wall, Esquire  
120 Lakemont Park Boulevard  
Altoona, PA 16602  
(Counsel for DuBois Radiologists, Inc.)

David R. Johnson, Esquire  
THOMSON RHODES & COWIE  
Two Chatham Center, 10<sup>th</sup> Floor  
Pittsburgh, PA 15219  
(Counsel for DuBois Regional Medical Center)

  
Thomas E. Crenney, Esquire  
James T. Tallman, Esquire  
Attorneys for Plaintiff

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

PAULA CARLSON and  
JAMIE CARLSON, her husband,

Plaintiffs,

vs.

JERJIS T. ALAJAJI, M.D., DUBOIS  
RADIOLOGISTS, INC. and DUBOIS  
REGIONAL MEDICAL CENTER,

Defendants.

No. 2006-563-CD

Civil Action – Medical Professional  
Liability Action

**BRIEF IN SUPPORT OF PLAINTIFFS’  
OBJECTIONS TO DEFENDANTS’  
CROSS-EXAMINATION OF JAMES  
KENKEL, Ph.D.**

Filed on behalf of the Plaintiffs

Counsel of Records for this Party:

Thomas E. Crenney, Esquire  
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**JURY TRIAL DEMANDED**

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

PAULA CARLSON and  
JAMIE CARLSON, her husband,

Plaintiffs,

vs.

JERJIS T. ALAJAJI, M.D., DUBOIS  
RADIOLOGISTS, INC. and DUBOIS  
REGIONAL MEDICAL CENTER,

Defendants.

No. 2006-563-CD

Civil Action – Medical Professional  
Liability Action

**PLAINTIFFS' MOTION TO SUSTAIN  
OBJECTIONS AND STRIKE PORTIONS  
OF JAMES KENKEL, PH.D.'S  
DEPOSITION**

Filed on behalf of the Plaintiffs

Counsel of Records for this Party:

Thomas E. Crenney, Esquire  
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**JURY TRIAL DEMANDED**

**FILED**  
JAN 2 2008  
William A. Shaw  
Prothonotary/Clerk of Courts

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

PAULA CARLSON and  
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RADIOLOGISTS, INC. and DUBOIS  
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Defendants.

No. 2006-563-CD

Civil Action – Medical Professional  
Liability Action

**PLAINTIFFS' MOTION TO SUSTAIN  
OBJECTIONS AND STRIKE PORTIONS  
OF JAMES KENKEL, PH.D.'S  
DEPOSITION**

Filed on behalf of the Plaintiffs

Counsel of Records for this Party:

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**IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
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PAULA CARLSON and  
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Plaintiffs,

vs.

JERJIS T. ALAJAJI, M.D., DUBOIS  
RADIOLOGISTS, INC. and DUBOIS  
REGIONAL MEDICAL CENTER,

Defendants.

No. 2006-563-CD

Civil Action – Medical Professional  
Liability Action

**PLAINTIFFS' MOTION TO STRIKE  
PORTIONS OF DR. MARK A. PIASIO'S  
DEPOSITION**

Filed on behalf of the Plaintiffs

Counsel of Records for this Party:

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**JURY TRIAL DEMANDED**

**FILED**  
**JAN 28 2008**  
William A. Shaw  
Prothonotary/Clerk of Courts

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

PAULA CARLSON and  
JAMIE CARLSON, her husband,

Plaintiffs,

vs.

JERJIS T. ALAJAJI, M.D., DUBOIS  
RADIOLOGISTS, INC. and DUBOIS  
REGIONAL MEDICAL CENTER,

Defendants.

No. 2006-563-CD

Civil Action – Medical Professional  
Liability Action

**PLAINTIFFS' MOTION IN LIMINE TO  
PRECLUDE DEFENSE'S CLAIM THAT  
PLAINTIFF MAY RETURN TO HER JOB  
AT DUBOIS REGIONAL MEDICAL  
CENTER**

Filed on behalf of the Plaintiffs

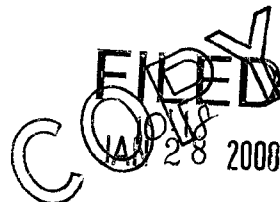
Counsel of Records for this Party:

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**JURY TRIAL DEMANDED**



William A. Shaw  
Prothonotary/Clerk of Courts



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

PAULA CARLSON and  
JAMIE CARLSON, her husband,

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vs.

JERJIS T. ALAJAJI, M.D., DUBOIS  
RADIOLOGISTS, INC. and DUBOIS  
REGIONAL MEDICAL CENTER,

Defendants.

No. 2006-563-CD

Civil Action – Medical Professional  
Liability Action

**PLAINTIFFS' MOTION IN LIMINE TO  
PRECLUDE EVIDENCE OF OR  
REFERENCE TO PAULA CARLSON'S  
UNRELATED HEALTH HISTORY**

Filed on behalf of the Plaintiffs

Counsel of Records for this Party:

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**JURY TRIAL DEMANDED**

**FILED**  
**JAN 28 2008**  
William A. Shaw  
Prothonotary/Clerk of Courts

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

PAULA CARLSON and  
JAMIE CARLSON, her husband,

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JERJIS T. ALAJAJI, M.D., DUBOIS  
RADIOLOGISTS, INC. and DUBOIS  
REGIONAL MEDICAL CENTER,

Defendants.

No. 2006-563-CD

Civil Action – Medical Professional  
Liability Action

**PLAINTIFFS' MOTION IN LIMINE TO  
PRECLUDE TESTIMONY BY  
DEFENDANTS' GENERAL  
RADIOLOGIST ROSS HORSLEY  
REGARDING STANDARD OF CARE  
FOR PCP STEPHEN GRAECA AND  
PHYSICIAN ASSISTANT LORIE  
NATOLI**

Filed on behalf of the Plaintiffs

Counsel of Records for this Party:

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James T. Tallman, Esquire  
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**JURY TRIAL DEMANDED**

**COPY  
FILED  
JAN 28 2008**

William A. Shaw  
Prothonotary/Clerk of Courts

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

PAULA CARLSON and  
JAMIE CARLSON, her husband,

Plaintiffs,

vs.

JERJIS T. ALAJAJI, M.D., DUBOIS  
RADIOLOGISTS, INC. and DUBOIS  
REGIONAL MEDICAL CENTER,

Defendants.

No. 2006-563-CD

Civil Action – Medical Professional  
Liability Action

**PLAINTIFFS' MOTION IN LIMINE TO  
PRECLUDE REFERENCE TO  
PLAINTIFFS' RECEIPT OF SOCIAL  
SECURITY BENEFITS**

Filed on behalf of the Plaintiffs

Counsel of Records for this Party:

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**JURY TRIAL DEMANDED**

**FILED**  
JAN 28 2008  
William A. Shaw  
Prothonotary/Clerk of Courts

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

PAULA CARLSON and  
JAMIE CARLSON, her husband,

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vs.

JERJIS T. ALAJAJI, M.D., DUBOIS  
RADIOLOGISTS, INC. and DUBOIS  
REGIONAL MEDICAL CENTER,

Defendants.

No. 2006-563-CD

Civil Action – Medical Professional  
Liability Action

**PLAINTIFFS' MOTION IN LIMINE TO  
PRECLUDE "SMALL TOWN" DEFENSE**

Filed on behalf of the Plaintiffs

Counsel of Records for this Party:

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**JURY TRIAL DEMANDED**

**FILED**  
JAN 28 2008  
William A. Shaw  
Prothonotary/Clerk of Courts

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

PAULA CARLSON and  
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JERJIS T. ALAJAJI, M.D., DUBOIS  
RADIOLOGISTS, INC. and DUBOIS  
REGIONAL MEDICAL CENTER,

Defendants.

No. 2006-563-CD

Civil Action – Medical Professional  
Liability Action

**PLAINTIFFS' MOTION IN LIMINE TO  
PRECLUDE TESTIMONY OF RONALD  
S. KUSHNER**

Filed on behalf of the Plaintiffs

Counsel of Records for this Party:

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**JURY TRIAL DEMANDED**

**FILED**  
JAN 28 2008  
William A. Shaw  
Prothonotary/Clerk of Courts

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IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

PAULA CARLSON and JAMIE  
CARLSON, her husband,

Plaintiffs,

vs.

JERJIS T. ALAJAJI, M.D.; DUBOIS  
RADIOLOGISTS, INC.; and DUBOIS  
REGIONAL MEDICAL CENTER,

Defendants.

COUNSEL FOR PLAINTIFFS:

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CIVIL DIVISION

No. 2006-563-CD

Issue No.

BRIEF IN SUPPORT OF MOTION TO  
STRIKE TESTIMONY OF DR. PIASIO

Code: 007

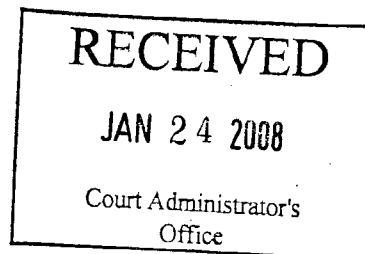
Filed on behalf of DuBois Regional Medical  
Center, one of the defendants.

Counsel of Record for This Party:

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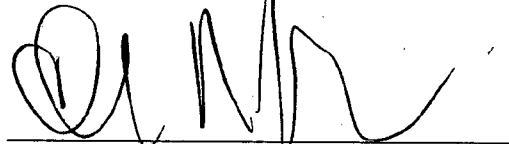
BRIEF IN SUPPORT OF MOTION TO STRIKE TESTIMONY OF DR. PIASIO

NOW COMES DuBois Regional Medical Center, by its attorneys, Thomson, Rhodes & Cowie, P.C., and files the following brief in support of motion to strike testimony of Dr. Piasio.

Although the deposition of Dr. Piasio lasted for over 2 hours, the areas of objectionable testimony are somewhat limited and have been specifically described in the accompanying motion. The areas of testimony which are the subject of defendant's motion are ones which were not included in any way in a report filed by Dr. Piasio prior to his testifying as an expert witness. Furthermore, they relate to subjects which are not relevant to his testimony, for which there is not a proper foundation and/or which would be highly prejudicial to the defendant. On a subject-by-subject basis, in the motion itself, the defendant has explained the reasons why the different areas of testimony by Dr. Piasio should be stricken. Defendant respectfully requests that the court grant its motion in limine for the reasons set forth within the motion itself, as well as in this brief.

Respectfully submitted,

THOMSON, RHODES & COWIE, P.C.

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

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



**CERTIFICATION OF SERVICE**

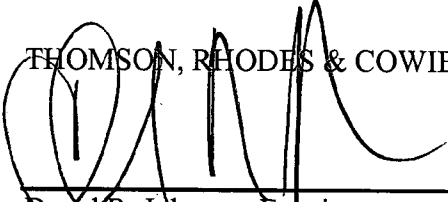
I hereby certify that a true and correct copy of the within BRIEF IN SUPPORT OF MOTION TO STRIKE TESTIMONY OF DR. PIASIO has been served upon the following counsel of record and same placed in the U.S. Mails on this 23rd day of Jan., 2008:

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

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
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REGIONAL MEDICAL CENTER,

Defendants.

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CIVIL DIVISION

No. 2006-563-CD

Issue No.

BRIEF IN SUPPORT OF MOTIONS TO  
STRIKE TESTIMONY OF DR. KENKEL

Code: 007

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

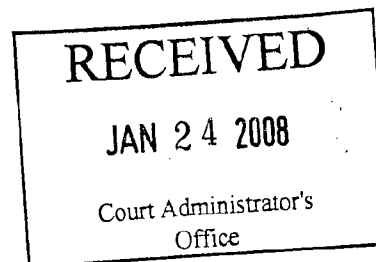
Counsel of Record for This Party:

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BRIEF IN SUPPORT OF MOTION TO STRIKE TESTIMONY OF DR. KENKEL

NOW COMES DuBois Regional Medical Center, by its attorneys, Thomson, Rhodes & Cowie, P.C., and files the following brief in support of motion to strike testimony of Dr. Kenkel.

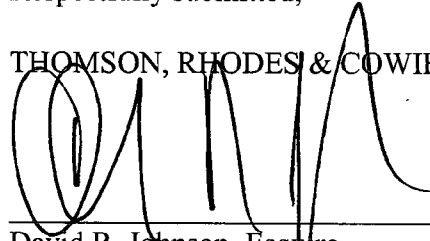
Defendant has filed a specific motion as to those portions of the testimony of Dr. Kenkel which it believes should be stricken. Within the motion itself, defendant has identified those portions of the transcript which are objectionable and the reasons why. Defendant respectfully requests that the court grant the objections and strike the testimony of Dr. Kenkel with regard to those areas referenced in the deposition transcript.

The premise for each objection has been set forth within the motion. Allowing the testimony which is subject to the objections would be inappropriate and inconsistent with the Rules of Evidence.

With regard to the subject of Dr. Kenkel's inclusion of a claim for loss of household services in his report, but the omission of such a claim in his testimony, all questions on this subject were appropriate cross examination. It bears upon Dr. Kenkel's credibility that he would include a claim in his report which was unfounded, based upon the written information given to him in advance of preparing his report. It is entirely appropriate for the jury to know that this has occurred, so that they will be able to evaluate his credibility in assessing the other opinions that he has rendered.

Respectfully submitted,

THOMSON, RHODES & COWIE, P.C.

A handwritten signature in black ink, appearing to read 'DR Johnson', written over a horizontal line.

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

**CERTIFICATION OF SERVICE**

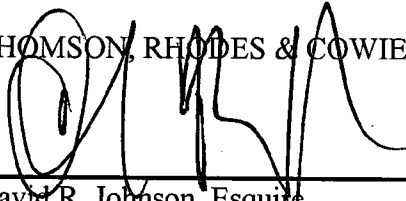
I hereby certify that a true and correct copy of the within BRIEF IN SUPPORT OF MOTION TO STRIKE TESTIMONY OF DR. KENKEL has been served upon the following counsel of record and same placed in the U.S. Mails on this 23rd day of Jan., 2008:

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IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

PAULA CARLSON and JAMIE  
CARLSON, her husband,

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vs.

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RADIOLOGISTS, INC.; and DUBOIS  
REGIONAL MEDICAL CENTER,

Defendants.

CIVIL DIVISION

No. 2006-563-CD

Issue No.

BRIEF IN SUPPORT OF MOTION IN  
LIMINE

Code: 007

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

Counsel of Record for This Party:

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

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RECEIVED

JAN 24 2008

Court Administrator's  
Office

BRIEF IN SUPPORT OF MOTION IN LIMINE

NOW COMES DuBois Regional Medical Center, by its attorneys, Thomson, Rhodes & Cowie, P.C., and files the following brief in support of motion in limine.

In defendant's motion in limine, it has attempted to set forth succinctly those areas where testimony, questioning or argument would be inappropriate. It has been evident throughout this case that the plaintiff and/or her attorney will attempt to introduce into evidence certain subjects which are highly inappropriate, designed only to prejudice the jury, and lacking in any probative value with respect to those issues that are pertinent to this case.

The particular areas referenced in defendant's motion in limine concern the following subjects:

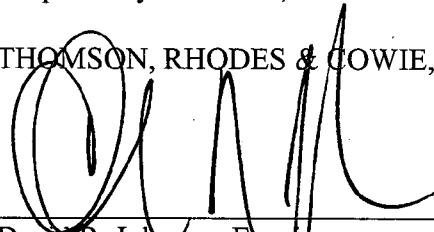
- (1) Plaintiff's status as an employee at will.
- (2) Any employer's (or DRMC's) attitude towards employees who have filed suit.
- (3) How employers (or DRMC) might treat employees who are disabled.
- (4) What an employer's (or DRMC's) options are with respect to an employee at will.
- (5) Whether plaintiff was accorded any special treatment because her PCP's father is CEO of the hospital.

None of these subjects bear upon any issue concerning either liability or damages in this case. The only thing that would be accomplished by permitting questioning or testimony with regard to any of these matters would be to confuse and mislead the jury and to have a jury consider irrelevant and prejudicial evidence.

For all of these reasons, defendant respectfully requests that the court grant its motion in limine.

Respectfully submitted,

THOMSON, RHODES & COWIE, P.C.

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

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



**CERTIFICATION OF SERVICE**

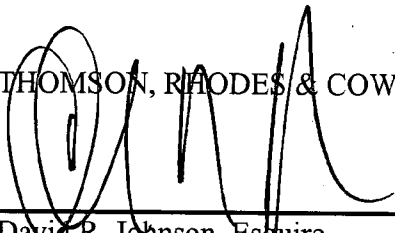
I hereby certify that a true and correct copy of the within BRIEF IN SUPPORT  
OF MOTION IN LIMINE has been served upon the following counsel of record and  
same placed in the U.S. Mails on this 23<sup>rd</sup> day of Jan,  
2008:

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

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CARLSON, her husband,

Plaintiffs,

vs.

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RADIOLOGISTS, INC.,

Defendants.

CIVIL DIVISION

No. 2006-563- CD

JURY TRIAL DEMANDED

**LEGAL MEMORANDUM IN SUPPORT  
OF OBJECTIONS MADE IN  
VIDEOTAPED DEPOSITION OF MARK  
A. PIASIO, M.D.**

Filed on Behalf of Defendant, DuBois  
Radiologists, Inc.

Counsel of Record for this Party:

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IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

PAULA CARLSON AND JAMIE  
CARLSON, her husband,

Plaintiffs,

vs.

JERJIS T. ALAJAJI, M.D. AND DUBOIS  
RADIOLOGISTS, INC.,

Defendants.

CIVIL DIVISION

No. 2006-563- CD

JURY TRIAL DEMANDED

**LEGAL MEMORANDUM IN SUPPORT OF OBJECTIONS MADE IN VIDEOTAPED  
DEPOSITION OF MARK A. PIASIO, M.D.**

NOW COMES the Defendant, DuBois Radiologists, Inc., by and through its counsel, Walter Fredrick Wall, Esquire and files this Legal Memorandum in Support of Objections made in Videotaped Deposition of Mark A. Piasio, M.D., in manner and form as follows:

**BRIEF SUMMARY OF FACTS**

Plaintiffs seek to recover damages in this medical professional liability action. On or about August 25, 2006, Plaintiffs filed their Second Amended Complaint. Depositions have been taken and discovery conducted. Jury Selection occurred on January 3, 2008. Trial is scheduled to commence on Monday, February 25, 2008 and is listed for two weeks.

The videotaped deposition of Mark A. Piasio, M.D. was taken on January 22, 2008 for use at trial. During that deposition, a number of objections were timely made. The

nature of the timely objections were: beyond the scope of the expert's report; lacking proper foundation; beyond the experience of the witness; and relevancy.

Defendant, DuBois Radiologists, Inc., seeks to strike the objectionable testimony as well as the lengthy argument or commentary of counsel.

#### I. OBJECTIONS BASED ON TESTIMONY BEYOND EXPERT REPORT

The videotaped deposition of Mark A. Piasio, M.D. was taken on January 22, 2008 for use at trial. A true and correct copy of the transcript is attached to this Memorandum and marked as Exhibit "A." The "expert report", a one page letter dated June 11, 2007 to Thomas E. Crenney is referenced in the deposition transcript at page 28, line 18 as Exhibit 9. A true and correct copy of that report is attached to this Memorandum and marked as Exhibit "B." The doctor's records are marked as Exhibit "C" and attached hereto.

During the January 22, 2008 deposition of Dr. Piasio, Attorney Crenney asked the following questions to which timely objections were made:

Q. Are you familiar with the procedure that Dr. Yaw did in late June of 2005?  
(Transcript, page 41, lines 9-10).

Among other objections, it was asserted:

Mr. Johnson: I join in those and I also join - - I also object on the basis that any such testimony would exceed the scope of the doctor's report.

Mr. Slimak: I join in that too.

Mr. Wall: Join in.

(Transcript, page 41, lines 19-24).

Q. Do you have an opinion as to whether both of those procedures would have been constituted reasonable course of action for Paula Carlson in June of 2005?

Mr. Johnson: Objection.  
Mr. Wall: Objection. This witness has not produced a report to put any of the defense counsel on notice of your intended use of him as an expert offering these opinions. My understanding was you referenced to the Court as late as yesterday that this physician was going to be called primarily as a treating physician and we are certainly not prepared to cross examine or deal with this line of questioning.

(Transcript, page 46, lines 12 through page 47, line 1).

Q. Well, doctor, you read Schmidt's report and you know he said that Yaw's surgery was the wrong surgery to do and that the allograft would have been the right surgery. And, my question to you, do you feel comfortable in your - - do you feel comfortable in answering the question, or both reasonable options, that's all I'm asking?

Mr. Wall: I'm going to object for the record. Can we have a continual objection to every opinion you're seeking of him in regards to any other doctor's report.

(Transcript, page 52, lines 6-17).

Q. What I'm asking you is we have got this guy Schmidt saying Yaw did the wrong surgery, he's accusing him of malpractice - -

Mr. Slimak: Objection.

Mr. Wall: Objection to that characterization.

(Transcript, page 54, line 24 through page 55, line 4).

Q. You have every right not to answer that question . . . if you want to answer the question of whether Dr. - -

A. I can answer the question to the level of my training. It is my understanding that both of these procedures are surgical alternatives for the tumor at hand. I cannot tell you which is the preferable procedure in the literature or which is better in any one particular surgeon's hands. Generally, the best procedure is the one you do best

and - - but I do know that both are accepted procedures for that tumor.

Mr Wall: Move to Strike.  
(Transcript, page 56, line 23 through page 57, lines 13).

Q. Doctor, are you in any way critical of the care provided by Dr. Graeca or his staff to Paula Carlson?

Mr. Wall: Objection.  
Mr. Slimak: Objection. Lack of a report.  
(Transcript, page 148, line 1-6).

The expert report of Dr. Piasio fails to set forth any opinions, let alone, bases for the above-cited references in his videotaped deposition. (See report Exhibit "B" attached hereto). The issue is whether such opinion evidence, as cited above, should be stricken as being beyond the fair scope of Dr. Piasio's report. The Fair Scope Rule addressed in Pa.R.C.P. 4003.5(c) provides that an expert witness may not testify in direct examination concerning matters which are either inconsistent with or go beyond the fair scope of matters testified to in discovery proceedings or included in a separate report. Walsh v. Kubiak, 661 A.2d 416, 420 (Pa. Super. 1995).

In determining whether testimony exceeds the fair scope of an expert's report, the Court must determine whether the report provides sufficient notice of the expert's theory to enable the opposing party to prepare a rebuttal witness. The question is whether under the particular facts and circumstances of the case, the discrepancy between the report and the testimony is of a nature to prevent the adversary from making a meaningful response or which would mislead th adversary as to the nature of the appropriate response. Feden v. Conrail, 746 A.2d 1158, 1162 (Pa. Super. 2000).

In this case, Dr. Piasio's testimony in each and every above-cited instance went beyond the fair scope of his report. Dr. Piasio's report did not contain any opinion based on the expert reports shown to him during the videotaped deposition. See Woodard v. Chatterjee, 827 A.2d 433 (Pa. Super. 2003) (Court held that testimony exceeded scope of expert report where expert testified about the findings and diagnoses of other physicians when he made no reference to them in his own report).

The testimony of Dr. Piasio, as objected to, constitutes unfair and prejudicial surprise in that such testimony deprived the Defendants of the opportunity to adequately prepare for a meaningful response to that testimony. The objectionable testimony should be stricken from Dr. Piasio's deposition.

## II. OBJECTIONS BASED ON LACK OF PROPER FOUNDATION

During the January 22, 2008 deposition of Dr. Piasio, Attorney Crenney asked the following questions to which timely objections were made:

Q. What does Exhibit 8 (radiology report) -- you're holding Exhibit 8, what does it say under Impression?

Mr. Slimak: I'm going to object because this doctor hasn't indicated that he had a foundation for having reviewed the course of his treatment. That seems to me that at this point in time, you're going beyond in having or developing testimony as a fact witness with regard to Dr. Piasio's care of this particular patient. Now, you're trying to introduce or have the doctor expound and give expert opinions and there's certainly been no special report prepared in that regard to having comment on physicians reporting or have him criticize it or comment on it or support it or whatever.

Mr. Wall: I join in the objection.  
(Transcript, page 26, line 11 through page 27, line 4).

Q. And, are you comfortable with Dr. Yaw determining her current situation in the nature of her disability?

Mr. Slimak: Objection.

Mr. Wall: Objection.

Mr. Johnson: I object to that, no proper foundation.  
(Transcript, page 3, lines 16 through 22).

Q. Is it accurate that Dr. Yaw is in a better position to comment on her disability.

Mr. Slimak: Same Objection.

Mr. Johnson: Same Objection.

Mr. Wall: Same Objection.

(Transcript, page 30, line 25 through page 31, line 4)

Q. Okay. And, is Dr. Yaw in a better position than you would be to determine her current disability?

Mr. Slimak: Same Objection.

Mr. Johnson: Same Objection.

Mr. Wall: Same Objection.

A. Yes, I believe so.

(Transcript, page 31, line 18 through page 32, line 2).

Q. Do you know the operation that Dr. Schmidt recommended, the allograph, the articular allograph?

A. Yeah.

Mr. Slimak: Same Objection as before. No qualifications or foundation.

Mr. Wall: I join.

(Transcript, page 45, lines 7-13).

Q. Doctor, are you in any way critical of the care provided by Dr. Graeca or his staff to Paula Carlson?

(Transcript, page 148, lines 1-3).

Among other objections:

Mr. Wall: Well, I'm going to object, there's no foundation. I don't know if the doctor has ever reviewed Dr.



Graeca's records to be able to afford an answer to you.

(Transcript, page 148, lines 12-16).

It is basic Hornbook law that before expert opinion testimony can be presented, one must lay a proper foundation. When a Rule of Evidence requires that a fact or event be a condition for the admission of that testimony, that fact or event becomes part of the foundation necessary for the admission of such testimony. Pa.R.E. 705 states:

The expert may testify in terms of opinion or inferences and give reasons therefore; however, the expert must testify as to the facts or data on which the opinion or inference is based.  
Pa.R.E. 705

In each instance noted above, wherein the objection was made as to lack of foundation, in Dr. Piasio's deposition, Plaintiff's counsel failed to lay or establish a proper foundation. Dr. Piasio did not testify as to the facts or data (i.e. reports) relied upon in reaching his asserted opinion testimony. The objectionable testimony should be stricken from Dr. Piasio's deposition.

### III. OBJECTIONS TO TESTIMONY BEYOND THE EXPERIENCE OF THE WITNESS

During the January 22, 2008 deposition of Dr. Piasio, Attorney Crenney asked the following questions to which timely objections were made.

Q. Are you familiar with the procedure that Dr. Yaw did in late June of 2005?

Mr. Wall: Objection. I believe this witness is being called to make some assumptions and conclusions far beyond his practice and far beyond his knowledge.

Mr. Slimak: I join in. He's already indicated he's not an orthopedic bone tumor specialist and had to make referral out.

(Transcript, p. 41, line 9-18).

Q. Do you know the operation that Dr. Schmidt recommended, the allograph, the articular allograph?

A. Yeah.

Mr. Slimak: Same objection as before. No qualifications or foundation.

Mr. Wall: I join.  
(Transcript, page 45, line 7-13).

A. I can answer the question to the level of my training. It is my understanding that both of these procedures are surgical alternatives for the tumor at hand. I cannot tell you which is the preferable procedure in the literature or which is better in any one particular surgeon's hands. Generally, the best procedure is the one you do best and - - but I do know that both are accepted procedures for the tumor.

Mr. Wall: Move to strike.  
(Transcript, page 57, lines 3-13).

Pa.R.E. 702 allows testimony by experts.

If scientific, technical or other specialized knowledge beyond that possessed by a lay person will assist the trier of fact to understand the evidence or to determine a fact in issue, a witness qualified as an expert by knowledge, skill, experience, training or education may testify thereto in the form of an opinion or otherwise.  
Pa.R.E. 702

Not only must an expert be qualified by knowledge, skill, experience, training or education generally, under the case law, but in a professional liability action, 40 P.S. § 1303.512 Expert Qualifications, (MCARE Act), requires that the expert witness meet certain additional standards.

Dr. Piasio's own testimony indicates that he was not qualified by his practice or his experience to render certain opinions as to the surgical procedures used in this case. (See

Transcript, page 52, line 15 through page 53, line 5, as to being a general orthopedic surgeon being trained in tumor, but not specifically treating tumor). Under the stricter standards of the MCARE Act, 40 P.S. § 1303.512, based upon Dr. Piasio's own testimony, certain opinions set forth in his deposition were beyond his experience and practice. Defendant's objections should be sustained and the objectionable testimony stricken.

#### IV. OBJECTIONS BASED ON RELEVANCY

During the January 22, 2008 deposition of Dr. Piasio, Attorney Crenney asked the following questions to which timely objections as to relevancy were made.

Q. And, did it say that Mr. Slimak represented Dr. Alajaji and Paula Carlson was represented by a Pittsburgh attorney, Tom Crenney; is that right?

Mr. Johnson: I'm going to object to any questions concerning this letter.

Mr. Wall: Join in.

A. I don't remember specifically. I know the contents had some testimony that I had - - was aware of before and was asked to review it.

(Transcript, page 38, line 20 through page 39, line 5).

Q. Well, let's just check the third paragraph. I'm going to read it and then give it to you. It has been indicated to me that you were not given full and complete information by Attorney Crenney as to why Dr. Alajaji, DuBois Radiologists, Inc. and the DuBois Regional Medical Center are defending this claim. Is that what the sentence says?

Mr. Johnson: Object to the question.

Mr. Wall: Join.

A. Yes.

(Transcript, page 39, line 7-17).

Q. Doctor, could you give us a list of the reports that Mr. Slimak sent to you if you would be so kind?

A. You'd have to give me them. I don't recall.

Mr. Johnson: Objection relevance.

Mr. Wall: Join in.

A. A copy of the June 28<sup>th</sup>, 2007 report from Dr. Schmidt.  
(Transcript, page 43, lines 1-8).

Q. Doctor, would you be kind enough to tell me if you were reluctant to testify in this case and if so, would you tell me why?

Mr. Johnson: Objection. Relevance.

Mr. Wall: Objection.

Mr. Slimak: I join.

A. I had to answer that question two ways. I am reluctant because I don't want to be in this circumstance because I work here and I know all the parties involved so I'm reluctant to be a witness. No different than anyone who witnesses something that they don't want to be involved in the trial. On the other hand, I am not reluctant if it's - - you know to come and tell the truth as I see it.  
(Transcript, page 145, line 17 through page 146, line 9).

Q. And that's your record; correct?

A. That record is - - that's filled out by sometimes the front office and sometimes the patient when it's incomplete. I'm not always fully aware of how a patient presents to my office. I try to find it out only because I like to know who my friends are. However, I don't like to give someone credit for referral that really wasn't or vice versa, so I like to - - so we do chart and looking at our business practices who refers patients to us and who doesn't.

So you know, we basically know, you know, who can get someone in today, who can get someone in tomorrow. So we try to keep track of. Plus, for billing purposes and also for documentation purposes, I need to know where my letters need to go and I also need to

know, we have different billing codes if someone is referred or not. This is the world within which I live.

Mr. Johnson: Just for the record, I move to strike that as being beyond the scope of the question and also on the basis of relevancy.

Mr. Wall: Join.  
(Transcript, page 150, line 9 through page 151, line 9).

Evidence is relevant if it has any tendency to make any fact that is of consequence to the case more or less probable. Pa.R.E. 401. It is clear from the above-indicated questions, answers and objections that the objected to material has no tendency to prove any fact at issue in this case. Defendant's objections as to relevancy should be sustained and objectionable testimony stricken.

#### V. MOTIONS TO STRIKE

In several instances, Defendant's counsel moved to strike inappropriate remarks or objected to the same.

A. I recall that in our conversations, I believe I was relatively clear of the difficult circumstances that I was in as a treating physician with knowledge of the case and the different opinion within the facility wherein I work, that, that was a very sensitive circumstance and expressed, I believe in multiple times to please settle this without me having to be here today.

Mr. Wall: Move to strike.  
(Transcript, page 145, lines 4-13).

It is clear that any reference to settlement must be stricken from the deposition of Dr. Piasio. It would be highly prejudicial to Defendants to allow that portion of his testimony to remain. There is no basis and no probative value to any reference to settlement.

Objection was also made to the reference in Dr. Schmidt's report that Plaintiff's counsel had Dr. Piasio read.

Q. Did he say that Dr. Yaw did the wrong operation in June of 2005?

A. Yes.

Mr. Wall: Objection.

A. I believe so.  
(Transcript, page 45, line 1-5).

This objection can be based on the opinion of Dr. Piasio exceeding his report, lacking the foundation, being beyond his knowledge and experience and being irrelevant to the issues that Dr. Piasio was testifying about. The objected to question, answer and two responses should be stricken.

The attorneys throughout this deposition engaged in excessive commentary and argument all of which should be stricken from Dr. Piasio's deposition transcript. All of the references to the letter written by Attorney Slimak to Dr. Piasio (Exhibit #10) referenced on page 38 through page 41 concerning the reports and the letter sent by Attorney Slimak to the doctor. The extensive commentary and argument by counsel commencing at page 47, line 18 through page 48, line 18 should be stricken as not being relevant to the proceedings as well as constituting testimony of the attorneys. In like manner, page 49, line 18 through page 52, line 10. The comments among and between the attorneys is not testimony and should not be heard by the jury. It has no relevance to the case and can only prejudice the parties during the trial. Similarly, the comments on page 53, line 9 through page 55, line 3 wherein the attorneys are debating the appropriateness of certain actions and raising issues of ethical and/or inappropriate conduct. Insofar as the allegation

is made that there was a violation of the Rules, Rule 4003.6, this Defendant is satisfied that no inappropriate or improper conduct was engaged by a Defendant attorney on behalf of his client in sending material to an employee of Defendant Hospital, Dr. Piasio. Even if Plaintiff's counsel is correct in the allegation of some type of inappropriate conduct, any attempt by Plaintiff's counsel to argue that this waives or opens the door to allow expert testimony which was not previously noticed or put in Dr. Piasio's report, cannot be held against either Defendant, DuBois Radiologists, Inc., or the hospital who had nothing to do with sending the reports.

Objection was also timely made to characterization as to the alleged wrong surgery constituting malpractice (Transcript, page 54, line 24 through page 55, line 4). The introduction of the terminology as to malpractice in a professional liability action would be highly prejudicial to all Defendants involved and must be stricken from Dr. Piasio's transcript.

### CONCLUSION

Based on the objections as noted above, the questions and the answers, all the objectionable material properly objected to should be deleted or stricken from Dr. Piasio's deposition. Dr. Piasio had only provided a one page letter report in which he expressed no opinions. Any opinions asserted as an expert during his deposition must be stricken as exceeding the fair scope of his expert report. Several of the matters that Dr. Piasio testified to, lacked a proper foundation and must be stricken. Also, some of the opinions rendered were beyond the experience or knowledge and in conformance with the MCARE Act and proper qualifications must be stricken. The relevancy objections heretofore outlined must be sustained and the irrelevant and immaterial testimony should be stricken.

The commentary, arguments or testimony of counsel are not relevant and have no bearing on the case and should be stricken or deleted from the deposition transcript.

Respectfully submitted,

BY:

  
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**CERTIFICATE OF SERVICE**

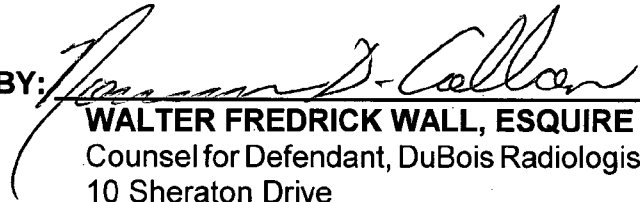
TO THE PROTHONOTARY:

I, Walter Fredrick Wall, Esquire, hereby certify that on this **25<sup>th</sup> day of January, 2008**, I have served the foregoing Legal Memorandum in Support of Objections made in Videotaped Deposition of Mark A. Piasio, M.D. on behalf of Defendant, DuBois Radiologists, Inc., upon all counsel/parties of record, by mailing a true and correct copy of same by United States first class mail, postage prepaid as follows:

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IN THE COURT OF COMMON PLEAS OF  
CLEARFIELD COUNTY, PENNSYLVANIA

PAULA CARLSON and JAMIE  
CARLSON, her husband,

Plaintiffs, No. 2006-563-CD

- VS -

JERJIS T. ALAJAJI, M.D., VIDEOTAPE  
DuBOIS RADIOLOGISTS, INC., DEPOSITION OF:  
and DuBOIS REGIONAL MARK A. PIASIO, M.D.  
MEDICAL CENTER,

Defendants.

DEPOSITION TAKEN:  
January 22, 2008  
Tuesday, 4:16 p.m.

FILED ON BEHALF OF:  
Plaintiffs

COUNSEL OF RECORD FOR  
THIS PARTY:

Thomas E. Crenney, Esq.  
LAW OFFICES OF THOMAS  
One Gateway Center  
18th Floor  
Pittsburgh, PA 15222  
412-644-5545

REPORTED BY:  
Tammie Elias, RPR  
Notary Public  
AKF Ref. No. TE04821

VIDEOTAPE DEPOSITION OF MARK A. PIASIO, M.D.,  
a witness, called by the Plaintiffs for examination,  
in accordance with the Pennsylvania Rules of Civil  
Procedure, taken by and before Tammie Elias, RPR,  
and Notary Public in and for the Commonwealth of  
Pennsylvania, at the offices of Dr. Piasio, 145  
Hospital Avenue, Suite 311, DuBois, Pennsylvania, on  
January 22, 2008, commencing at 4:16 p.m.

EXHIBIT

"A"

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3 EXAMINATION INDEX

|    |                                   |     |
|----|-----------------------------------|-----|
| 4  | MARK A. PIASIO, M.D               |     |
| 5  | BY MR. CRENNY . . . . .           | 5   |
| 6  | CONTINUED BY MR. CRENNY . . . . . | 10  |
| 7  | BY MR. SLIMAK . . . . .           | 57  |
| 8  | BY MR. WALL . . . . .             | 137 |
| 9  | RE BY MR. CRENNY . . . . .        | 144 |
| 10 | RE BY MR. SLIMAK . . . . .        | 150 |
| 11 | RE BY MR. WALL . . . . .          | 152 |

|    |                                   |     |
|----|-----------------------------------|-----|
| 10 | CERTIFICATE OF REPORTER . . . . . | 154 |
|----|-----------------------------------|-----|

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(ALL EXHIBITS WERE RETAINED BY PLAINTIFF COUNSEL)

4

1  
2 VIDEOGRAPHER: Good afternoon. My  
3 name is Matthew Martin, I'm the videographer.  
4 I'm here from AKF Court Reporting and  
5 VideoTech Services. Today's date is January  
6 22, 2008 and the time right now is 4:16 p.m.  
7 and that is indicated on the screen. We're  
8 here to take the video deposition of Dr. Mark  
9 Piasio in the case caption Carlson versus  
10 Alajaji. We are at 145 Hospital Avenue,  
11 DuBois, Pennsylvania 15801. The case is being  
12 heard in the Court of Common Pleas of  
13 Clearfield County, No. 2006-563.  
14 would counsel please identify  
15 themselves and whom they represent.

piasio.txt

16 MR. CRENNY: Tom Crenney for the  
17 Carlsons.

18 MR. WALL: Walter Wall for DuBois  
19 Radiology, Inc.

20 MR. SLIMAK: This is Darryl Slimak,  
21 I represent Dr. Alajaji.

22 MR. JOHNSON: Dave Johnson, DuBois  
23 Regional Medical Center.

24 VIDEOGRAPHER: And if the Court  
25 Reporter may swear in the witness, we may

0 5  
1 proceed.

2 - - - -  
3 MARK A. PIASIO, M.D.,  
4 having been duly sworn,  
5 was examined and testified as follows  
6 - - - -

---

EXAMINATION

---

7  
8 - - - -  
9 BY MR. CRENNY:  
10 Q. Doctor, could you state your name?

11 A. Mark A. Piasio.

12 Q. And what is your profession?

13 A. I am an orthopedic surgeon at DuBois Regional  
14 Medical Center.

15 Q. And what is your office address?

16 A. 145 Hospital avenue, Suite 311, DuBois,  
17 Pennsylvania.

18 Q. Where did you go to college?

19 A. Johns Hopkins.

20 Q. And where did you go to medical school?

21 A. Georgetown University.

22 Q. And could you just tell us about your medical  
23 training after you got out of medical school?

24 A. I spent two years at the Washington Hospital  
25 Center in general surgery, four years at Tufts  
University in orthopedic surgery and six

6

1 months at the New England Baptist Hospital in  
2 spine surgery.

3 Q. What's orthopedics generally?

4 A. Bone and joint.

5 Q. Are you a surgeon, are you an orthopedic  
6 surgeon?

7 A. Yes.

8 Q. Could you tell us about your average week? I  
9 realize probably there's no average week, but  
10 generally how you spend your time in terms of  
11 clinical, administrative, teaching, things

12 that you do?

13 A. My job is a little bit more unique. At least  
14 over the past couple of years, I have had more  
15 administrative work, but generally speaking I  
16 would probably as chief of surgery here spend  
17 maybe ten percent of my time in administrative  
18 duties. When I occasionally have students,  
19 five to ten percent of my time in that and  
20 about 80 percent of my time in clinical  
21 duties. Of that time, I would put in maybe  
22 now about eight or nine, maybe eight hours of  
23 surgery a week and 30, 40 hours of clinical,  
24 of office based orthopedics.

25 Q. When you say here, what hospital are you

7

1 referring to?  
2 A. At DuBois, at DuBois Regional Medical Center.  
3 Q. And are you chief of surgery at DuBois  
4 Regional Medical Center?  
5 A. Yes, I am.  
6 Q. How long have you held that position?  
7 A. I believe it's seven or eight years.  
8 Q. Did you also at least for a time work at  
9 Clearfield Hospital?  
10 A. I worked at Clearfield from 1989 through 1997.  
11 Q. And what did you do over there?  
12 A. Was an orthopedic surgeon and I was the  
13 chairman of the quality assurance committee.  
14 Q. Are you board certified?  
15 A. Yes.  
16 Q. What's board certification and how do you  
17 become board certified?

---

18 A. I can only speak from the prospective of the  
19 M.D.s. The D.O.s have their own certification  
20 process of which I'm not familiar. On the  
21 M.D. process in the specialty of orthopedic  
22 surgery, which I'm familiar, when you finish  
23 your orthopedic residency, if it's accredited  
24 and you complete it and you're given  
25 accreditation from your training program, you

8

1 take an oral examination and if you pass that  
2 oral examination, you have to practice for two  
3 years, at which point then you sit  
4 for -- correct, let me go back.

5 You take a written examination at  
6 the end of your training program. If you pass

piasio.txt

7 that exam, two years subsequent you have an  
8 oral examination that goes over, you know,  
9 what you know as well as what you've done,  
10 going over your particular -- the particular  
11 procedures that you do. You give them a case  
12 list and the examiners question you on that.

13 The process has changed a little bit  
14 since I took my initial oral examination.  
15 Every then every ten years subsequent, you  
16 have to retake either an oral or a written  
17 examination.

18 Q. How long have you been board certified?

19 A. I was board certified in 1991. I was  
20 recertified in I believe '97 or '98 and my  
21 re-recertification is coming up in 2011.

22 Q. Do you belong to the Pennsylvania Medical

23 Society?

---

24 A. Yes, I do.

25 Q. What is that society?

9

1 A. It's a professional society representing -- we  
2 represent all the physicians in the  
3 Commonwealth, but we don't necessarily have  
4 them all as members. But we pretty much try  
5 to promote the profession and the general  
6 welfare through a professional organization no  
7 different than the bar association.

8 Q. About how many physicians are there in the  
9 society?

10 A. We have about 18,000 members.

11 Q. And did you ever hold office in that society?



12 A. Yes. I have been a county <sup>piasio.txt</sup> president in  
13 Clearfield County, chair of -- or vice chair  
14 of governing counsel of young physicians,  
15 board of trustees and recently I was president  
16 of the organization.

17 Q. Statewide?

18 A. Yes.

19 Q. Do you belong to any other professional  
20 societies?

21 A. I'm a member of the AMA. I'm a member of  
22 the -- I'm a fellow of the American College of  
23 Surgeons, a fellow of American Orthopedic  
24 Association, and a fellow of the -- what is  
25 it, College of Physician Executives.

□

10

1 Q. Doctor, have you written learned articles or  
2 have you published in your field?

3 A. I have, but not extensively. It's not been  
4 the thrust of my professional career.

5 Q. And do you commonly treat patients for  
6 orthopedic problems, problems involving their  
7 bones and joints?

8 A. Yes, I do. I would consider myself, although  
9 subspecialty trained, I'm a general orthopedic  
10 surgeon.

11 Q. What's your subspecialty training in?

12 A. I was trained in spine.

13 MR. CRENNY: Are there questions on  
14 qualifications?

15 MR. SLIMAK: I reserve my questions  
16 until later.

17 - - - -

CONTINUED EXAMINATION

18

19

20 BY MR. CRENNY:

21 Q. Doctor, when did you first see Paula Carlson?

22 A. For accuracy I'm going to go to the chart  
23 because I don't know off the top of my head.  
24 In my chart I have here that I saw her first  
25 June 9th, 2005.

□

11

1 Q. And did you make a note of that first visit?

2 A. Yes, I did.

3 Q. And would you be kind enough to read the first  
4 paragraph of that note?

5 A. 6/9/05. Paula Carlson, date of birth  
6 4/26/1971. S, stands for subjective, this  
7 woman is self-referred for problems with her

8 ~~right wrist. She's a delightful 34 year old~~  
9 woman who works here as a radiation x-ray  
10 tech. She has had wrist pain now going on for  
11 about two to three months. She saw  
12 Dr. Graeca, reported no injury, and had radial  
13 wrist pain and the EMG study was done, which  
14 really was unremarkable for carpal tunnel.

15 Q. And we are looking at your note of that date;  
16 correct?

17 A. Yes.

18 MR. CRENNY: I'm going to mark that  
19 as Plaintiffs 3 and move it into evidence.  
20 Any objection?

21

22 (Exhibit 3 marked for identification.)

23

24

MR. WALL: No objection.

25

MR. JOHNSON: I object to the extent

0

12

1

that I'm not sure that medical records should

2

be moved into evidence to go out with the

3

jury, so I would object on that basis.

4

MR. SLIMAK: I join in that.

5

MR. CRENNY: Anything else,

6

Mr. Slimak?

7

MR. SLIMAK: No, I'm just waiting

8

for your questions, sir.

9

MR. CRENNY: oh, okay. I just

10

wanted to be polite and give you a chance.

11 BY MR. CRENNY:

12 Q.

Doctor, when Paula Carlson first came to see

13

you on June 9th, did you have access to films

14

or computer images that had been taken on

15

April 12th, 2005?

16 A.

Yes.

17 Q.

And was it your understanding that they had

18

been -- and I will refer you to the last

19

sentence in the fourth paragraph of your note,

20

was it your understanding that those x-rays

21

had been reported as normal?

22 A.

Yes.

23

MR. SLIMAK: Objection.

24 BY MR. CRENNY:

25 Q.

If you would be so kind, would you read the

0

13

1

last sentence in the fourth paragraph of your

2

note?

piasio.txt

- 3 A. She had an x-ray, which was reported to be  
4 normal.
- 5 Q. Is that something you wrote?
- 6 A. Yes.
- 7 Q. Okay. Did you look at that computer image?
- 8 A. Yes.
- 9 Q. And what was your interpretation, what did you  
10 see?
- 11 A. I felt there was a lytic lesion on the ulnar  
12 aspect of the distal radius.
- 13 Q. Could you show us where that is, if you would  
14 be so kind using your own wrist?
- 15 A. If you would look at your wrist, the thumb  
16 side is the radial side and the pinky is the  
17 ulnar side. There are two bones in your  
18 wrist, there's one on the radial side, which  
19 ~~is the bigger bone, and there's a little bone~~  
20 on the ulnar side. So it would be if you took  
21 the bigger bone, it would be on the pinky side  
22 of the bigger bone. Somewhere around the  
23 middle, would be about the middle of your  
24 wrist, would be where it would be located.
- 25 Q. And did you at that time decide to do another

14

- 1 x-ray on June 9th, 2005?
- 2 A. Yes.
- 3 Q. Were you able to do that right in your office?
- 4 A. Yes.
- 5 Q. Did you yourself interpret that x-ray?
- 6 A. Yes.
- 7 Q. I'm going to mark your interpretation as

8 Plaintiff's Exhibit 4 and do you have access  
9 to that in your chart, Doctor?

10 - - - -

11 (Exhibit 4 marked for identification.)

12 - - - -

13 A. I have the reading in my chart.

14 BY MR. CRENNY:

15 Q. And naturally this was almost two months  
16 later, what was your interpretation of that  
17 right wrist x-ray that you ordered and  
18 interpreted that day?

19 A. My impression as I dictated at the time was  
20 lytic lesion, permeative without defined  
21 margins, distal radius. Considerations for  
22 giant cell or Ewings.

23 Q. And, Doctor, if you could refer back to your  
24 note of the narrative that you did of June

25 9th, and in that regard I'll call your

□

15

1 attention to the bottom paragraph or at least  
2 the one with three or four sentences, do you  
3 comment on the x-ray on that note?

4 A. Yes.

5 Q. And this is the x-ray you took on the 9th?

6 A. Yes.

7 Q. And would you be kind enough to read what you  
8 wrote that day?

9 A. X-ray done from April shows a lytic lesion in  
10 the ulnar aspect of the distal radius. A  
11 repeat x-ray today shows more progressive  
12 changes of the lytic lesion with a much more  
13 worrisome peripheral margin. It is moth-eaten

piasio.txt

14 in nature, permeative and without sclerotic  
15 margins.

16 Q. what did you mean when you stated much more  
17 worrisome peripheral margin?

18 A. The perimeter of the lesion was not as  
19 discrete, meaning that it's difficult to say  
20 where the lesion ended and where it started.  
21 A margin on a bone lesion can be sclerotic  
22 where it has a rim of white or dense bone. It  
23 can be demarcated with no rim of bone or  
24 non-sclerotic, which was the original  
25 presentation. And then on the repeat film

□

16

1 that I did at that time, the margin was  
2 non-distinct.

3 In other words, it was hard to tell

4 ~~looking at if you had to draw the lesion,~~

5 where did it end. So the periphery seemed to  
6 blend -- the peripheral lesion seems to blend  
7 more into normal bone than a discrete line.

8 Q. And what did you mean that it is moth-eaten in  
9 nature?

10 A. Moth-eaten, it has little tiny punctate,  
11 thinned out bone. No different than if your  
12 sweater was in the closet and a moth had  
13 gotten at it. It would be little tiny  
14 perforations or thinning of the fabric. It  
15 looks as if similar -- if you look at a bone,  
16 the striations of the bone, it has what we  
17 call sort of a permeative moth-eaten. It's  
18 what we see in tumors where there's particular

19 punctate, nondescript absences of bone.

20 Q. Doctor, was this the same lesion that you saw  
21 when you reviewed the image from April 12th?

22 A. Well, it looked different than the image in  
23 April.

24 Q. How was it different?

25 A. It appeared larger. And again like I

□

17

1 commented, larger and less distinct.

2 Q. Doctor, did you make a differential diagnosis  
3 after you saw Paula Carlson on June 9th?

4 A. Yes.

5 Q. And what was your -- first of all, what's a  
6 differential diagnosis?

7 A. It's a list of likely or probable diagnoses.

8 Q. And what was that?

9 A. My number one was giant cell, giant cell

---

10 tumor, and number two was the Ewing sarcoma.

11 Q. At that time, did you make a treatment plan?

12 A. Yes.

13 Q. And is that contained under the rubric P in  
14 your note of June 9th, 2005?

15 A. Yes.

16 Q. And would you be kind enough to read that?

17 A. Obviously she needs a very aggressive  
18 immediate workup and we've scheduled it all  
19 done for today and tomorrow. A MR and bone  
20 scan has been ordered as well as full  
21 chemistry evaluation as well and I will see  
22 her back probably tomorrow.

23 Q. What is an MR?

24 A. Magnetic resonance or MRI.

25 Q. And what is the difference between an x-ray,

□

18

1 flat x-ray an MRI?

2 A. They all have their pros and cons or their  
3 ability to see different things. A plain  
4 x-ray is a little better to look at some bone  
5 issues, but it's only in a single plain. An  
6 MRI gives you three plain or 3D capacity to  
7 look at lesions and then it gives you a soft  
8 tissue comment as well. With the plain x-ray  
9 does not show you soft tissue to the level of  
10 an MRI.

11 A CAT scan can show you soft tissue  
12 as well. It's a little bit better defined for  
13 bone, but in this circumstance on physical  
14 exam where I thought there was fullness, that

15 ~~I felt there was some soft tissue comment, and~~

16 if you're going to diagnose Ewings, you need  
17 to get a better look at soft tissue. So the  
18 MR particularly in that short time frame was  
19 an acceptable study.

20 Q. Doctor, did you see the patient again on June  
21 13th?

22 A. Yes.

23 Q. Had an MRI been done?

24 A. Yes.

25 Q. And did you have the results of that MRI?

□

19

1 A. I don't know if I had the results. I looked  
2 at it myself.

3 Q. What did you see, what was your



4 interpretation?

5 A. Well, I gave -- at that time I ordered pretty  
6 much a full tumor workup. There are things  
7 that we do when we suspect a tumor to look at  
8 other areas that are going to guide how we're  
9 going to treat it, so i would have a chest  
10 x-ray and a lung CT ordered as well,  
11 particularly if you're looking at osteosarcoma  
12 or Ewings, which are metastatic to bone.  
13 That's the reason for the bone scan as well,  
14 trying to stage what she may have. It also is  
15 stuff that's going to have to get done when  
16 she eventually sees a tumor surgeon, which I  
17 am not.

18 The MR to me showed lesion in the  
19 ulnar aspect of the radius, I believe it  
20 penetrated the cortex. I did not appreciate a

---

21 large soft tissue mass. The MR seemed to show  
22 a pretty good delineation of what the tumor  
23 was.

24 Q. What is the cortex?

25 A. It is the hard bone, the hard perimeter of

1 bone, whether it marrow or medullary cavity or  
2 cancellous bone is the internal bone.

3 Q. Did you make a further plan in terms of the  
4 treatment of Paula Carlson?

5 A. Well, from the time she first presented, the  
6 ultimate plan was referral because we don't  
7 have the capacity to do biopsy for that and I  
8 am not -- the first rule as a board examiner  
9 when you see a musculoskeletal tumor, you

piasio.txt

10 refer it to a musculoskeletal tumor expert.  
11 we don't treat them in the community, so the  
12 plan was referral, but it was to get as much  
13 done as possible before she had to go to  
14 Pittsburgh so that they could make a decision  
15 on a short basis.

16 The only question was whether or not  
17 she needed an arteriogram, which is debatable  
18 in this day and age with MR study, but at that  
19 point in time I thought it was giant cell. It  
20 met all the characteristics of a giant cell  
21 tumor.

22 Q. And did you say in your plan of June 13, I  
23 recommend fairly urgent referral to a tumor  
24 specialist?

25 A. Yes.

21

1 Q. And who did you refer her to?

2 A. Dr. Ken Yaw at UPMC.

3 MR. CRENNY: I would like to note  
4 that I have marked Dr. Piasio's note of June  
5 13, 2005 as Plaintiffs Exhibit 5 and I will be  
6 moving that into evidence as well as 4 noting  
7 your objections. You may have another same  
8 objection, Mr. Johnson and Mr. Slimak.

9 - - - - -  
10 (Exhibit 5 marked for identification.)

11 - - - - -

12 MR. JOHNSON: Thank you.

13 BY MR. CRENNY:

14 Q. Had you worked with Dr. Yaw previously?

15 A. Yes.

16 Q. And why did you refer her to Dr. Yaw?

17 A. Several reasons, number one, there were not  
18 very many tumor -- musculoskeletal tumor  
19 specialists available. There are only two in  
20 the Pittsburgh area, both he and Dr. Goodman  
21 and I know both of them, they both do fine  
22 work and I use them both interchangeably.  
23 Generally who I can get into the quickest is  
24 usually who I'll use, but he's well respected  
25 and does fine appropriate work, so I have no

□

22

1 problem sending a patient to him.

2 Q. Did you have occasion incident to your  
3 administrative duties here at DuBois Regional  
4 Medical Center, to attempt to recruit Dr. Yaw  
5 to come to your hospital?

---

6 A. Yes.

7 Q. Did you decide to do a further study, a CT  
8 scan, on June 13th?

9 A. I believe we did because I had a day or two  
10 before I got her to Dr. Yaw and I really  
11 wanted to get as much done as I could, but I  
12 think that's the last that I saw her. I'm not  
13 even sure I saw the CT.

14 Q. I'm going to mark the CT report as Exhibit 6  
15 and if you don't have it, I can give you a  
16 copy?

17

-----

18 (Exhibit 6 marked for identification.)

19

-----

20 A. I have a copy of the radiology report. I have

21 it here, yes.

22 BY MR. CRENNY:

23 Q. Was that read by Dr. Shah?

24 A. Yes.

25 Q. Did it show that soft tissue component that

□

23

1 you had talked about before?

2 A. Yes.

3 Q. Did you write a letter to Dr. Yaw regarding  
4 this patient?

5 A. I know we called him to get her in as soon as  
6 possible. I generally do write a letter and  
7 I'm looking through my chart. I'm not sure he  
8 would have got it in time, but I'm sure I made  
9 comment to him. Let me see if I can find it.

10 MR. CRENNY: I have marked that

11 ~~letter as Exhibit 7 and I'll be moving that~~

12 into evidence with deference to your  
13 objections.

14

15 (Exhibit 7 marked for identification.)

16

17 A. Okay.

18 BY MR. CRENNY:

19 Q. And rather than read the whole thing, would  
20 you read the last paragraph?

21 A. I look forward to your thoughts and again,  
22 thanks so much for getting her in so quickly  
23 as it does appear this lesion does appear  
24 fairly rapidly growing.

25 Q. Thank you, Doctor. Doctor, I'm going to show

□

1 you the report of April 12th, which I marked  
2 as Exhibit 8, and this is the film of April  
3 12th that you had access to when Paula first  
4 came in on June 9th.

5 MR. SLIMAK: Objection leading. And  
6 he's holding a report, not a film.

7 MR. CRENNY: I understand that.

8

- - - -

9 (Exhibit 8 marked for identification.)

10

- - - -

11 BY MR. CRENNY:

12 Q. Would you identify Exhibit 8, what you're  
13 holding there?

14 A. I'm holding a radiology report of an x-ray  
15 taken 4/12/05 for Drs. Kruk and Dr. Natoli and  
16 Graeca of a right wrist on Paula Carlson.

17 Q. Is this a report of the image that you looked  
18 at on June 9th?

19 A. I believe so.

20 MR. WALL: I'm going to object. The  
21 Doctor would have to make assumptions on that  
22 unless he had seen that report when he treated  
23 the patient.

24 BY MR. CRENNY:

25 Q. Doctor, did you see the report when you saw

□

1 the patient?

2 A. I don't believe so, but I don't routinely look  
3 for the radiology reports when I have the  
4 films, I can read my own.

5 Q. All right. As I recall, however, it was

piasio.txt

6 reported to you that this x-ray or computer  
7 image was reported at normal -- as normal,  
8 that's what you put in your note of June 9th;  
9 correct?

10 MR. SLIMAK: I'm going to object to  
11 the form because that was a report by  
12 Ms. Carlson to the doctor's notes. So I'm  
13 going to object to what your inference is,  
14 that this report was sent to the Doctor.

15 MR. CRENNY: Well, I'm not  
16 inferring or implying actually that this was  
17 sent to the Doctor.

18 BY MR. CRENNY:

19 Q. I'm going to ask you, what was your  
20 understanding of how the x-ray of April 12th,  
21 the one you looked at on June 9th, what was  
22 your understanding of how it was reported?

23 A. Well, since we're getting so technical, in  
24 looking back, it's my recollection that  
25 Ms. Carlson told me the x-ray was reported to

□

26

1 be normal.

2 Q. Okay.

3 A. Now, I don't recall if I read the x-ray report  
4 specifically or not because when I saw the  
5 film, I saw what I saw and did what I did. I  
6 don't know, I can't recall exactly if I read  
7 the report or not, but was under the  
8 impression that it was reported as normal  
9 because I was seeing her for carpal tunnel and  
10 wrist pain supposedly with a normal x-ray.

11 Q. What does the Exhibit 8 -- <sup>piasio.txt</sup> you're holding  
12 Exhibit 8, what does it say under impression?  
13 MR. SLIMAK: I'm going to object  
14 because this Doctor hasn't indicated that he  
15 had a foundation for having reviewed the  
16 course of his treatment. That seems to me  
17 that at this point in time you're going beyond  
18 in having or developing testimony as a fact  
19 witness with regard to Dr. Piasio's care of  
20 this particular patient, now you're trying to  
21 introduce or have the Doctor expound and give  
22 expert opinions and there's certainly been no  
23 special report prepared in that regard to have  
24 him comment on physicians reporting or have  
25 him criticize it or comment on it or support

□

- 27

1 it or whatever.

2 MR. CRENNY: Well, your objection  
3 is noted.

4 MR. WALL: I join in the objection.

5 BY MR. CRENNY:

6 Q. Let's mark your report, the report that you  
7 did provide.

8 A. This, is that what you want?

9 Q. Thank you, Doctor.

10 A. I'll give you this as well.

11 MR. CRENNY: I'm going to mark  
12 Dr. Piasio's report of --

13 MR. SLIMAK: Which report is that?

14 MR. CRENNY: It is a report of June  
15 11th, '07. It was filed with our pretrial  
16 statement.

17

- - - -

18 (Exhibit 9 marked for identification.)

19

- - - -

20 BY MR. CRENNY:

21 Q. And, Doctor, if you'd be kind enough to read  
22 the second paragraph of that report?

23 A. What am I reading now? Oh, the letter?

24 Q. It's called Exhibit 9, it's a letter that you  
25 wrote or a report that you filed in this case

□

28

1 A. A letter that I wrote to you June 11, '07?

2 Q. Yes, sir.

3 A. The second paragraph?

4 Q. Yes, if you would be so kind.

5 A. At that point in time review of her radiograph  
6 from my belief 4/12/05, revealed a lytic

7 ~~lesion on the ulnar aspect of the distal~~

8 radius. I repeated the x-ray at that time to  
9 ensure that this was not artifact and indeed  
10 they were progressive changes of that lytic  
11 lesion. An immediate workup ensued including  
12 an MR study of the wrist, chest x-ray and  
13 blood work.

14 Q. Is that an accurate statement, Dr. Piasio,  
15 that second paragraph?

16 A. Yes.

17 Q. And was the radiograph that you looked at that  
18 day, was it normal?

19 A. The radiograph that was done in April or the  
20 one in June?

21 Q. The one on April 12th, was it normal?



22 A. In my opinion it was not.

23 Q. Was it negative?

24 A. I read a lesion.

25 Q. Thank you, Doctor. Doctor, also in that

□

29

1 report, Exhibit 9, would you be kind enough to  
2 read -- strike that question.

3 Doctor, by the way, you're here  
4 under subpoena today, are you not?

5 A. Yes.

6 Q. And if you would be kind enough to read the  
7 last paragraph of your report, the last longer  
8 paragraph?

9 A. She was found to have a giant cell tumor.  
10 Referred to Dr. Ken Yaw, who has treated her  
11 since. I have not had the opportunity to see  
12 Ms. Carlson in follow up and would be unable

---

13 to comment on any continuing disability and  
14 would have to defer that to Dr. Yaw, who is  
15 much more familiar with her current situation.

16 Q. And are you comfortable with Dr. Yaw  
17 determining her current situation in the  
18 nature of her disability?

19 MR. SLIMAK: Objection.

20 MR. WALL: Objection.

21 MR. JOHNSON: I object to that, no  
22 proper foundation. Also, object on the basis  
23 of relevance.

24 BY MR. CRENNY:

25 Q. Is it accurate that Dr. Yaw is in a better

□

30

1 position to comment on her disability?

piasio.txt

2 MR. SLIMAK: Same objection.  
3 MR. JOHNSON: Same objection.  
4 MR. WALL: Same objection.  
5 MR. CRENNY: Excuse me, if you  
6 would be kind enough to just let me finish the  
7 question.

8 BY MR. CRENNY:

9 Q. Doctor, are you still comfortable with the  
10 paragraph that you just read?

11 MR. SLIMAK: Same objection.

12 BY MR. CRENNY:

13 Q. Is that your position today?

14 A. And I comfortable with the paragraph?

15 Q. Yes.

16 A. Yes. I have not seen Ms. Carlson in follow up  
17 since my initial evaluation.

18 Q. Okay. And is Dr. Yaw in a better position  
19 than you would be to determine her current  
20 disability?

21 MR. SLIMAK: Same objection.

22 MR. JOHNSON: Same objection.

23 MR. WALL: Same objection.

24 A. Do I still answer?

25 BY MR. CRENNY:

□

31

1 Q. You can answer.

2 A. Yes, I believe so.

3 Q. Thank you, Doctor. Now, Doctor, are those  
4 opinions expressed to a reasonable degree of  
5 medical certainty?

6 A. I would have to say so because I have rendered

piasio.txt

7 very little opinion.

8 Q. Okay. And -- that's true. That's true.

9 MR. CRENNY: If we could go off the  
10 record, gentlemen, I'd like to try to set up  
11 and see if we can take a look at the two  
12 images that we have discussed, the one of  
13 April 12th and the one of June 9th.

14 VIDEOGRAPHER: We are now going off  
15 the record. The time now is 4:46 p.m. and  
16 that's indicated on the screen. Please stand  
17 by.

18 - - - -  
19 (There was a discussion off the  
20 record.)

21 - - - -  
22 VIDEOGRAPHER: We're now back on the  
23 video record. The time right now is 4:53 p.m.

24 and that's indicated on the screen. You may  
25 proceed.

□

32

1 BY MR. CRENNY:

2 Q. Doctor, I think we're looking at what a  
3 layperson would call an x-ray, I know it's a  
4 computer image?

5 A. It's a digital, a digital image.

6 Q. Could you tell me the date of that image?

7 A. April 12th, 2005.

8 Q. And, Doctor, how are you able to bring that up  
9 so that we can look at it today as part of  
10 this deposition?

11 A. We have what's called Packs or digital  
12 archiving of our x-rays here at DRMC. We'll

piasio.txt

13 able to do all of our radiology now is done  
14 digitally. So this would be an analog type of  
15 data is converted to digital data. Whereas,  
16 MRs and CTs are digital data and they are  
17 stored as such on a computer as opposed to on  
18 a piece of film. The advantage of this is the  
19 ability to archive and access files from  
20 anywhere in the world.

21 Q. And so basically have you asked this computer  
22 to give you the film, the x-ray that was done  
23 on Paula Carlson's wrist on April 12, 2005?

24 A. Yes. This computer is directly hooked up or  
25 linked to the hospital server computers where

□

33

1 all of our x-rays are archived --

2 Q. And that's what we have here?

3 A. ~~since about 2005 when we instituted this~~  
4 type of radiology.

5 Q. And can we agree that that should be what  
6 Dr. Alajaji looked at, Alajaji?

7 A. I would assume so, yes.

8 Q. And you testified previously that you  
9 interpreted a lesion in the film of April  
10 12th, could you show us where that is?

11 A. Well, my original call was what's called a  
12 lucency or in this area right here on the  
13 ulnar side of the radius, appears to have less  
14 bone than the rest of the radius and there  
15 seems to be, although not very distinct, but a  
16 demarcated area where can you see there's less  
17 bone to where there's more normal bone and you

piasio.txt  
18 can see it here, a little sclerotic rimming  
19 there or whiteness. But right in that area  
20 there, it looks like there's less bone than  
21 the rest of the -- of the rest and there's  
22 some other projections, which I can show you  
23 here.

24                   And you might be able to -- with  
25           this little cursor, you can see a little bit

1.

34

1 in there. Here's it's not as easily  
2 visualized. These are different positions of  
3 the wrist when x-ray is taken allowing us to  
4 try to get a 3D understanding where something  
5 maybe.

6 Q. These are the lateral views we're looking at  
7 now?

8 A. This is a lateral view, this is an oblique  
9 view.

10 Q. Was it harder to see on those views?

11 A. Yes. This AP view or front to back shooting  
12 it this way, is the easiest view.

13 Q. And are you -- I assume as a layperson, do you  
14 have the mouse on the darker portion there  
15 that's in --

16 A. Yes, right here.

17 Q. And why is that darker portion significant in  
18 your interpretation?

19 A. Well, areas that looked darker, areas that  
20 have less calcium, therefore, less bone. So  
21 we look for things like that, you have a  
22 fracture, there's a line because there's no  
23 bone, there's no bone in that area. Tumors,

piasio.txt

24 cysts and things of that nature, whether it's  
25 missing bone, they look darker or less white

□

35

1 or lucent.

2 Q. And, Doctor, can you show us the x-ray that  
3 you took, are you able to retrieve that, the  
4 one that you took on June 9th?

5 A. Yeah. You got to give me a minute here. June  
6 9th?

7 Q. Yes, the one you took that day.

8 MR. CRENNY: Should we go off the  
9 record for a moment, maybe we should.

10 VIDEOGRAPHER: We're now going off  
11 the record. The time right now is 4:57 p.m.  
12 and it's indicated on the screen.

13

- - - - -

14 (There was a discussion off the  
15 record.)

16

- - - - -

17 VIDEOGRAPHER: We are now back on  
18 the video record. The time right now is  
19 4:58 p.m. as indicated on the screen.

20 BY MR. CRENNY:

21 Q. What are we looking at now, Doctor?

22 A. We're looking at the right wrist of Paula  
23 Carlson, plain radiograph taken June 9th,  
24 2005.

25 Q. And is it different?

□

36

1 A. Yes.

2 Q. How has it changed?

piasio.txt

3 A. well, you can see here, the lucent area or the  
4 less white is considerably larger. There are  
5 areas outside that look, as I described  
6 earlier, permeative or moth-eaten. Still  
7 within -- looks to be within the bone in terms  
8 of the wrist joint cortex here, it looks like  
9 it maybe a little violated. And again here  
10 the margins are much less distinct, might be  
11 some fracture there.

12 And here at least I don't see  
13 breakthrough, although there's a little hint  
14 that there maybe some there. I can't tell for  
15 sure on this film if anything has come through  
16 the cortex or not, but the lucent area is  
17 larger.

18 Q. Thank you, Doctor.

19 VIDEOGRAPHER: We are now going off

20 the record. The time right now is 4:59 p.m.

21 Please stand by.

22 - - - -

23 (There was a discussion off the  
24 record.)

25 - - - -

□

37

1 BY MR. CRENNY:

2 Q. Doctor, who is your employer?

3 A. DuBois Regional Medical Center.

4 Q. And again you're under subpoena for this  
5 deposition; correct?

6 MR. SLIMAK: Asked and answered.

7 A. That's correct.

8 BY MR. CRENNY:

piasio.txt

9 Q. Doctor, could I look at your chart, please?  
10 I'll give that back to you. Doctor, last  
11 week did you receive a letter from Mr. Slimak?

12 A. Yes.

13 MR. CRENNY: I'm going to mark that  
14 as Exhibit 10 and we only have one right now,  
15 so we'll share it.

16 - - - - -  
17 (Exhibit 10 marked for identification.)

18 - - - - -

19 BY MR. CRENNY:

20 Q. And did it say that Mr. Slimak represented  
21 Dr. Alajaji and Paula Carlson was represented  
22 by a Pittsburgh attorney, Tom Crenney; is that  
23 right?

24 MR. JOHNSON: I'm going to object to  
25 ~~any questions concerning this letter.~~

□

38

1 MR. WALL: Join in.

2 A. I don't remember specifically. I know it  
3 had -- the contents had some testimony that I  
4 had -- was aware of before and some new and  
5 was asked to review it.

6 BY MR. CRENNY:

7 Q. Well, let's just check the third paragraph and  
8 I'm going to read it and then give it to you.  
9 It has been indicated to me that you were not  
10 given full and complete information by  
11 Attorney Crenney as to why Dr. Alajaji, DuBois  
12 Radiologists, Inc., and the DuBois Regional  
13 Medical Center are defending this claim. Is



14 that what that sentence says?

15 MR. JOHNSON: Object to the

16 question.

17 MR. WALL: Join.

18 A. Yes.

19 BY MR. CRENNY:

20 Q. And as to that letter, is Paula Carlson copied  
21 on that letter?

22 A. I don't know. I don't think so.

23 Q. Is there any indication on the letter that --

24 A. No.

25 Q. -- that she received a copy?

□

39

1 A. No.

2 Q. Is there any indication that I received a  
3 copy?

4 A. No.

---

5 Q. And does Mr. Slimak choose to provide you all  
6 the expert reports in the case, is that what  
7 it says, both sides?

8 A. I was provided several reports, several of  
9 which I have already had the chance to review,  
10 and a couple that were new, some responses I  
11 think to some original reports of what I had  
12 not seen before. But some of the original  
13 expert reports I did have a chance to review.  
14 I don't know when, but in the past.

15 Q. Did I send you any expert reports, either my  
16 own or others?

17 A. I believe so.

18 Q. What was sent?

19 A. I reviewed a letter to Attorney -- is it

piasio.txt

20 Slimak, Slimak?

21 MR. SLIMAK: My name is Slimak, yes.

22 A. Slimak, okay. A letter from a Dr. Ross  
23 Horsley that was dated May 24, 2007 and a  
24 letter from a Dr. Richard Schmidt, June 28,  
25 2007. I believe that was it, those two

□

40

1 letters.

2 BY MR. CRENNY:

3 Q. You're not saying I sent you those, I mean I  
4 believe you got those from Mr. Slimak;  
5 correct?

6 MR. SLIMAK: I don't think so.

7 A. I think you sent me those.

8 MR. SLIMAK: Let's have that marked  
9 as an exhibit what you're referring to.

---

10 BY MR. CRENNY:

11 Q. Is there a cover letter for that, sir?

12 A. Yes.

13 MR. SLIMAK: Just so the record  
14 reflects, we're looking at the letter July  
15 2nd, 2007 from Thomas Crenney to Dr. Piasio  
16 enclosing two reports. We'll have a copy of  
17 that marked for the record then.

18 MR. CRENNY: I will indeed. If we  
19 can mark that as Exhibit 11.

20 - - - -

21 (Exhibit 11 marked for identification.)

22 - - - -

23 BY MR. CRENNY:

24 Q. Now, Doctor, did you read the further reports

25 of Dr. Schmidt?

□

41

1 A. Yes.

2 Q. Reports that I had not sent you; correct?

3 A. Yes.

4 Q. And you were treating this patient in June of  
5 2005; correct?

6 A. For three days, yes.

7 Q. On the 9th and on the 13th?

8 A. 13th, four days.

9 Q. Are you familiar with the procedure that  
10 Dr. Yaw did in late June of 2005?

11 MR. WALL: Objection. I believe  
12 this witness is being called to make some  
13 assumptions and conclusions far beyond his  
14 practice and far beyond his knowledge.

15 MR. SLIMAK: I join in. He's

16 already indicated he's not an orthopedic bone  
17 tumor specialist and had to make the referral  
18 out.

19 MR. JOHNSON: I join in those and I  
20 also join -- I also object on the basis that  
21 any such testimony would exceed the scope of  
22 the Doctor's report.

23 MR. SLIMAK: I join in that too.

24 MR. WALL: Join in.

25 BY MR. CRENNY:

□

42

1 Q. Doctor, could you give us a list of the  
2 reports that Mr. Slimak sent to you if you'd  
3 be so kind?

4 A. You'd have to give me them, I don't recall.  
Page 34

piasio.txt

5 MR. JOHNSON: Objection, relevance.

6 MR. WALL: Join in.

7 A. A copy of the June 28th, 2007 report from  
8 Dr. Schmidt.

9 BY MR. CRENNY:

10 Q. June what, Doctor?

11 A. June 28, 2007. A report March 26, 2007 by a  
12 Dr. Anthony Mastropietro. A letter from Ken  
13 Yaw dated April 24, 2007 and a letter from Ken  
14 Yaw July 19th, 2007. A letter from Ken Yaw  
15 February 23rd, 2006 to Mr. Crenney from  
16 Dr. Yaw and March 7, 2006 from Dr. Yaw. A  
17 letter March 26 probably related to the report  
18 from and Anthony Mastropietro. A letter July  
19 30, 2007 from Dr. Richard G. Schmidt, that's  
20 July 30, 2007 and comment 2007. The same one,  
21 July 30, 2007.

22 Q. Are there two different reports, if you could  
23 take a look at that on July 30th, I think  
24 you'll find there are two?

25 A. Yes, there are two separate reports.

□

43

1 Q. Thank you, sir. Go ahead?

2 A. A letter from Dr. Lawrence Cooperstein, March  
3 25th and March 7th.

4 Q. Okay.

5 A. And a letter March 24th, 2007, I believe  
6 that's probably the same from Dr. Horsley and  
7 a June 6, 2007 Dr. Horsley. July 25th, 2007  
8 Dr. Cooperstein. July 24, 2007,  
9 Dr. Mastropietro.

- 10 Q. And so Mr. Slimak in fairness to him as far as  
11 you can tell, sent you all the reports?  
12 A. Well, I don't know if it's all, but certainly  
13 more than I had seen in the past.  
14 Q. Well, I'm not absolutely sure, but it looks  
15 like he covered all of them, he covered a lot  
16 of them; right?  
17 A. I don't know what all would be. I mean I'm  
18 not -- I have been very peripherally involved  
19 in this case. I saw the woman for four days  
20 and haven't seen or treated her since. So  
21 what reports are out there, I don't know if  
22 this is all or one of many, I don't know.  
23 There are a lot of fair number of reports.  
24 Q. Did you read all of Dr. Schmidt's reports?  
25 A. I believe I read them all.

□

44

- 1 Q. Did he say that Dr. Yaw did the wrong  
2 operation in June of 2005?  
3 A. Yes.  
4 MR. WALL: Objection.  
5 A. I believe so.  
6 BY MR. CRENNY:  
7 Q. Do you know the operation that Dr. Schmidt  
8 recommend, the allograph, the articular  
9 allograph?  
10 A. Yeah.  
11 MR. SLIMAK: Same objections as  
12 before, no qualifications or foundation.  
13 MR. WALL: I join.  
14 MR. CRENNY: I'm going to ask about  
15 that.

16 BY MR. CRENNY:

17 Q. Are you familiar with that procedure?

18 A. Yes.

19 Q. Are you familiar with the fusion, the  
20 operation that Dr. Yaw did?

21 A. Yes.

22 Q. And while you -- have you ever done those  
23 operations yourself?

24 A. No.

25 Q. Have you assisted in surgeries where that

□

45

1 procedure was done?

2 A. Yes.

3 Q. And have you treated patients and followed  
4 patients who have had both of those  
5 procedures?

---

6 A. Not really, not that I can really recall, not  
7 followed. I'm aware of them, I have done them  
8 as a resident, but -- wait, let me think. I  
9 don't think I have treated and followed  
10 specifically radial allograph or ulnar  
11 transposition or wrist fusion in my practice.  
12 Q. Do you have an opinion as to whether both of  
13 those procedures would have been constituted  
14 reasonable courses of action for Paula Carlson  
15 in June of 2005?

16 MR. JOHNSON: Objection.

17 MR. WALL: Objection. This witness  
18 has not produced a report to put any of the  
19 defense counsel on notice of your intended use  
20 of him as an expert offering these opinions.

piasio.txt

21 My understanding was you referenced to the  
22 court as late as yesterday that this physician  
23 was going to be called primarily as a treating  
24 physician and we are certainly not prepared to  
25 cross examine or deal with this line of

□

46

1 questioning.

2 MR. CRENNY: Well, Mr. Slimak has

3 --

4 MR. SLIMAK: Also lack of  
5 qualifications established for a given opinion  
6 with regard to that type of issue.

7 MR. CRENNY: Just a second --

8 MR. JOHNSON: Let me get my  
9 objection on the record. I also object to it  
10 for the reasons that had been stated. I also  
11 object to it on the grounds that this witness

---

12 is a factual witness. This witness is not  
13 obliged to offer opinion testimony,  
14 particularly having been subpoenaed, and I  
15 believe that you're putting the witness in an  
16 unfair position of soliciting opinion  
17 testimony from a factual witness.

18 MR. CRENNY: Let me just say a  
19 couple of things. One, that Mr. Slimak was  
20 certainly prepared to cross. Whether he gave  
21 you guys a heads up, I don't know.

22 MR. SLIMAK: Well, that's not for  
23 you to say and actually no basis. I had no  
24 idea that you had given him reports for sure  
25 before at which indicates that you were trying

□

47

piasio.txt

1 to sandbag us in fact. That's what was going  
2 on.

3 MR. CRENNY: With greatest respect,  
4 I give you credit for brass. I didn't  
5 remember that I had provided those reports.

6 MR. SLIMAK: Well, I know what  
7 you're like.

8 MR. CRENNY: Well, I really wonder  
9 if that's necessary, Mr. Slimak.

10 MR. SLIMAK: Well, no, I know what  
11 you're like, you would feed him reports of  
12 various experts before you would take a  
13 deposition. It was obvious that you would do  
14 that.

15 BY MR. CRENNY:

16 Q. Did we talk about those reports, the reports I  
17 ~~gave you in the time that we were preparing,~~  
18 Doctor, the two that you found I gave to you?

19 MR. JOHNSON: Objection relevance.

20 BY MR. CRENNY:

21 Q. Did we talk about them, did I bring them up,  
22 those two reports?

23 A. No. Most of the reports I have kept to  
24 myself. Although, I will admit from the very  
25 beginning, I don't know if I can say this --

□

48

1 can you go off the record? We can't go off  
2 the record.

3 Q. Sure, you can go off.

4 MR. CRENNY: We'll go off the  
5 record.



piasio.txt

6 VIDEOGRAPHER: We are now going off  
7 the record. The time now is 5:14 p.m. as  
8 indicated on the screen.

9 - - - -

10 (There was a discussion off the  
11 record.)

12 - - - -

13 VIDEOGRAPHER: We are now back on  
14 the video record. The time right now is  
15 5:15 p.m. as indicated on the screen. You may  
16 proceed.

17 BY MR. CRENNY:

18 Q. Mr. Slimak has accused me of being a  
19 sandbagger --

20 MR. SLIMAK: I'm going to object.  
21 This is on the videotape and now we're being  
22 inappropriate with your questioning and need

23 to strike. You're being argumentative as  
24 well.

25 MR. CRENNY: And it seems a bit

□ 49

1 unfair that he would make that accusation.  
2 Mr. Slimak sent all of the experts reports to  
3 a treating physician, all of them, in  
4 saying -- and sent a letter saying that I had  
5 been unfair and he did that, he violated the  
6 privacy of Paula Carlson. I believe he  
7 violated Pennsylvania Rules of Procedure  
8 4003. I wasn't going to bring this up, I was  
9 going to let it go.

10 MR. WALL: Is there a reason this is  
11 going on because it's not going to be played

piasio.txt

12 for the jury, so what are we doing on the  
13 record here?

14 MR. CRENNY: Because I need to make  
15 a record for whatever court decides this issue  
16 and Mr. Slimak has made this accusation,  
17 Mr. Wall. I didn't make it. I don't like  
18 handling it this way. For him -- I'd like the  
19 chance to finish.

20 MR. WALL: Let's gets done with it.

21 MR. SLIMAK: It's inappropriate for  
22 the video record.

23 MR. CRENNY: I think it's -- be cut  
24 from the video just like -- I think it's very  
25 unfair and most importantly, in terms of

□ 50

1 responding to the objection, it is Mr. Slimak  
2 ~~who on the eve of this deposition, said here~~  
3 is the material that's relevant, here is the  
4 material you should look at. And I think if  
5 things have turned out differently, he would  
6 think it was a very good idea that it be  
7 looked at by the Doctor and that's exactly  
8 what he intended. So I don't know what the  
9 basis of his objection is.

10 MR. SLIMAK: That's because you had  
11 to presented only some of the reports to the  
12 Doctor.

13 MR. CRENNY: You don't have the  
14 slightest idea about that. I didn't even know  
15 it.

16 MR. SLIMAK: You were sandbagging

17 that. It has your name on your letterhead.  
18 Mr. Crenney, now that is very disingenuous of  
19 you.

20 MR. CRENNY: You continue to use  
21 that word and given what you have done, you  
22 didn't know about that. I had forgotten and  
23 for you to continue to use that word, I don't  
24 think is appropriate. I'm going to move on.

25 MR. SLIMAK: You're forgetting what

51

1 you have done --

2 MR. CRENNY: I'm going to move on.

3 MR. SLIMAK: Does not make it  
4 disingenuous for you to deny it.

5 MR. CRENNY: I'm going to move on  
6 and talk to you maybe after the deposition  
7 about what I think is the appropriate action

---

8 in this case. These other guys don't want to  
9 listen to this, I'm sure the judge won't want  
10 to listen to it either.

11 BY MR. CRENNY:

12 Q. Doctor, you specifically do not wish to give  
13 an opinion in this case on standard of care;  
14 correct?

15 A. The two standards upon which I would be asked,  
16 one radiology, I am not a radiologist. I'm an  
17 orthopedic surgeon, and so I cannot comment on  
18 the standard of care of a radiologist. Two, I  
19 am a general orthopedic surgeon, I am trained  
20 in tumor and have to answer questions in  
21 tumor, but I don't specifically treat tumor,  
22 nor did I have subspecialty training in

23       musculoskeletal management, although it is not  
24       foreign to me.

25                       I can testify as a generalist that

□

52

1       understands and knows treatment of tumor, but  
2       not as a subspecialist in that regard. So I  
3       would want everyone to understand what the  
4       level of -- the level of my -- my level of  
5       expertise is.

6 Q.   well, Doctor, you read Schmidt's report and  
7       you know he said that Yaw's surgery was the  
8       wrong surgery to do and that the allograft  
9       would have been the right surgery. And my  
10      question to you, do you feel comfortable in  
11      your -- do you feel comfortable in answering  
12      the question, were both reasonable options,

13      that's all I'm asking you?

---

14                   MR. WALL: I'm going to object for  
15      the record. Can we have a continuing  
16      objection to every opinion you're seeking of  
17      him regards any other doctor's report?

18                   MR. CRENNY: In regards to these  
19      reports he has received, sure, Mr. Wall,  
20      absolutely.

21                   MR. SLIMAK: I want to renew my  
22      objections on the same basis as previously  
23      stated.

24                   MR. JOHNSON: I object on the basis  
25      that it's not an issue of whether the Doctor

□

53

1       is comfortable or not comfortable in rendering

piasio.txt

2 an opinion, it's an issue that it's beyond the  
3 scope of any report that's been prepared by  
4 the Doctor. It's also the situation that this  
5 witness is a factual witness who has not been  
6 retained as an expert and I believe it's  
7 unfair and inappropriate to solicit any  
8 opinions from him.

9 MR. CRENNY: I would agree with  
10 that and it wouldn't have happened if  
11 Mr. Slimak hadn't sent this letter accusing me  
12 of foul play and all of these reports which  
13 you --

14 MR. WALL: It has nothing to do with  
15 Mr. Johnson's client or my client

16 MR. CRENNY: Maybe so.

17 MR. SLIMAK: It had nothing to do  
18 with your having sent reports, plus your

---

19 having met with the Doctor beforehand?

20 MR. CRENNY: He's the treating  
21 Doctor, Mr. Slimak, you know better than  
22 that.

23 MR. SLIMAK: Of course, I do. But  
24 he's an employee of the hospital and you're  
25 soliciting reports and opinions and meeting

0 54  
1 with an employee of the hospital who's a  
2 defendant in this case.

3 MR. CRENNY: I'm asking him about  
4 the reports that you sent him.

5 BY MR. CRENNY:

6 Q. Do you feel you have the expertise to make a  
7 call on that, whether that was the wrong

8 surgery to do?

9 MR. JOHNSON: That's a different  
10 question --

11 MR. WALL: That's a different  
12 question.

13 MR. JOHNSON: And I object to it for  
14 the same reasons as the last question.

15 MR. CRENNY: Go ahead. You have  
16 all the objections you want to.

17 MR. JOHNSON: And I also would  
18 appreciate it if you would advise the witness  
19 that as a factual witness, he has the ability  
20 to decline to offer any opinions.

21 MR. CRENNY: Absolutely. If you  
22 don't --

23 BY MR. CRENNY:

24 Q. ~~What I'm asking you is we have got this guy~~  
25 Schmidt saying Yaw did the wrong surgery, he's

□ 55  
1 accusing him of malpractice --

2 MR. SLIMAK: Objection.

3 MR. WALL: Objection to that  
4 characterization.

5 MR. SLIMAK: That's totally improper  
6 for you to --

7 MR. WALL: There's only one of two  
8 problems and it's yours.

9 MR. CRENNY: No, there are two  
10 others. Mr. Slimak has accused Dr. Yaw of  
11 malpractice and Dr. Graeca of malpractice and  
12 we all know it and he knows it because he's

piasio.txt

13 read the records.

14 MR. WALL: It's not malpractice.

15 MR. CRENNY: Please.

16 MR. SLIMAK: He had a error in  
17 judgment.

18 MR. CRENNY: A change, that's a  
19 distinction without a difference.

20 MR. SLIMAK: That's a legal  
21 distinction.

22 BY MR. CRENNY:

23 Q. You have every right not to answer that  
24 question. Mr. Johnson is 100 percent correct  
25 and in fairness to you, if you don't want to

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56

1 answer it, don't answer it. If you want to  
2 answer the question of whether Doctor --

3 A. I can answer the question to the level of my

---

4 training. It is my understanding that both of  
5 those procedures are surgical alternatives for  
6 the tumor at hand. I cannot tell you which is  
7 the preferable procedure in the literature or  
8 which is better in any one particular  
9 surgeon's hands. Generally the best procedure  
10 is the one you do best and -- but I do know  
11 that both are accepted procedures for that  
12 tumor.

13 MR. WALL: Move to strike.

14 MR. SLIMAK: Same.

15 MR. JOHNSON: Join.

16 MR. CRENNY: That's it. The other  
17 lawyers are going to have questions for you.

18 A. certainly.

piasio.txt

19 VIDEOGRAPHER: We are now going off  
20 the video record. The time right now is  
21 5:22 p.m. This will mark the end of tape  
22 number one of the video deposition. Please  
23 stand by.

24 - - - -  
25 (There was a discussion off the  
26 record.)  
27 57

28 - - - -  
29 VIDEOGRAPHER: We're now back on the  
30 video record. The time right now is 5:42 p.m.  
31 that's indicated on the screen. This marks  
32 the beginning of tape number two. You may  
33 proceed.

34 - - - -  
35 EXAMINATION

36 - - - -  
37 BY MR. SLIMAK:  
38 Q. Hello, Dr. Piasio. I want to follow up with  
39 some questions that Attorney Crenney had posed  
40 to you.  
41 A. Sure.  
42 Q. And at one point in time you said that he had  
43 sent you a subpoena for this deposition; is  
44 that correct?  
45 A. Yes.  
46 Q. Did he just sent it by mail or did he send it  
47 through the sheriff?  
48 A. I don't know.  
49 Q. Isn't there a letter, cover letter, saying



24 that he sent it along?

25 A. I didn't pay any attention to it.

□

58

1 Q. So doesn't it say on this letter by Attorney  
2 Crenney he did not use the sheriff's office to  
3 serve a subpoena, but rather he sent it by  
4 Federal Express to deliver and serve you with  
5 a subpoena, isn't that what it says?

6 A. Okay.

7 Q. Do you agree?

8 A. I guess. I don't know. I mean you're way out  
9 of my field. I mean I'm assuming it was sent  
10 by Federal. I had asked to have it sent.

11 Q. Did you ask to have it sent because your wife  
12 had told you that, well, if you're giving a  
13 deposition, you better get a subpoena for  
14 that?

15 A. Because I'm a hospital employee and they are  
16 named in the suit, she's recommended for my  
17 own good that I be subpoenaed.

18 Q. And so then you conveyed that to Mr. Crenney  
19 and then he sent you one by mail; is that  
20 correct?

21 A. I believe that's correct.

22 Q. But he apparently to your knowledge did not  
23 follow the procedure of sending it by the  
24 sheriff?

25 A. I don't know what the procedure is.

□

59

1 Q. Now, with regard to your contacts with  
2 Mr. Crenney over the years, is it correct that  
3 it goes back in time even before the lawsuit

piasio.txt

4 had been filed?

5 A. I don't know when the lawsuit was filed, but  
6 we have communicated over some time prior to  
7 all of this occurring.

8 Q. And did you require subpoenas for any of that?

9 A. No.

10 Q. In fact, have you had several conversations  
11 with him on the telephone and several  
12 exchanges of correspondence with Mr. Crenney  
13 without needing any subpoena at all?

14 A. Yes.

15 Q. And, in fact, did you get a contact from a  
16 Dr. Yaw indicating that, hey, I want to let  
17 you know about this attorney Mr. Crenney and  
18 did you make a note of that in your chart?

19 A. Yes.

---

20 Q. And what I'm showing you, is this part of your  
21 chart?

22 A. Yes.

23 Q. And I'd like to have the videographer focus in  
24 on that. Did you make a note on April 3rd of  
25 2006?

□

60

1 A. I have -- I'm looking at this note. I have  
2 no -- nothing written on that. This is not my  
3 signature.

4 Q. Yes.

5 A. I didn't make this note.

6 Q. Would the usual practice in your office be  
7 that your staff takes a phone message, they  
8 write you a note, and then you would provide

9 you the note, and then you would review it;  
 10 correct?  
 11 A. Yes.  
 12 Q. So then the note becomes part of your chart;  
 13 correct?  
 14 A. Yes.  
 15 Q. Does this note indicate that can you return  
 16 his call at your convenience next week, Thomas  
 17 Crenney, Attorney, and you had a phone number;  
 18 correct?  
 19 A. Correct.  
 20 Q. Does it look like a cell phone number or toll  
 21 free number?  
 22 A. I believe it's probably toll free.  
 23 Q. And then Ken Yaw, did you get a call according  
 24 to this note from Ken Yaw, orthopedic  
 25 oncologist, spoke to you about this attorney?

61

1 A. Yes.  
 2 Q. Did you understand that he was calling you,  
 3 Dr. Yaw, to tell you about Attorney Crenney?  
 4 A. Yes.  
 5 Q. And at that point in time, did they give you  
 6 any reports at that point in time?  
 7 A. Any reports?  
 8 Q. Yes.  
 9 A. No, I don't believe so. This is all  
 10 recollection for me. I don't have specific  
 11 time frames.  
 12 Q. Now, over the months and years since that time  
 13 up to the present time, have you had several  
 14 other contacts with Mr. Crenney or his staff?

piasio.txt

15 A. Yes.

16 Q. And, in fact, was there a period of time back  
17 in July of 2007 that Mr. Crenney on his  
18 signature on his letterhead had sent you this  
19 letter, Dear Dr. Piasio, enclosing with that  
20 some reports?

21 A. That's correct.

22 Q. And that pertains to the Paula Carlson matter;  
23 correct?

24 A. Correct.

25 Q. Did he give you as many reports as I had given

□

62

1 you in a subsequent letter when Mr. Crenney  
2 sent you his letter?

3 A. No. I believe, if I can recall, there were  
4 two reports, one was from I believe a

5 ~~Dr. Horsley or something like that and one was~~  
6 from a Dr. Schmidt.

7 Q. Okay. And so Mr. Crenney at that point in  
8 time through this letter had given you a  
9 couple of the reports and did he also ask you  
10 that these doctors will testify consistent  
11 with these reports? Once you had the  
12 opportunity to read them, would you be kind  
13 enough to give me a call; is that correct?

14 A. Yes.

15 Q. And did he give you a call after doing that  
16 providing you with the reports, some reports?

17 A. As I recall, I believe so. Again I did not  
18 make record of any phone conversations.

19 Q. And then I'm going to show you another

piasio.txt

20 document that we had from your file. Can you  
21 identify this as a document, it's another  
22 letter, now, September 18, 2007 from Attorney  
23 Crenney to you, Mark Piasio, M.D.?

24 A. Yes.

25 Q. And did he indicate that he was intending to

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63

1 call you to give testimony in this letter?

2 A. Yes.

3 Q. Now, previously there were questions asked of  
4 you and probably marked as an exhibit in this  
5 case, a letter that you had authored written  
6 to Mr. Crenney; is that correct?

7 A. Yes.

8 Q. Do you remember writing him --

9 A. Yes, yes.

10 Q. -- Mr. Crenney a letter --

---

11 A. Yes.

12 Q. -- of June 11, 2007?

13 A. Yes.

14 Q. And I'm going to approach you with that, if I  
15 may. And is this the letter then that you  
16 wrote Mr. Crenney June 11, 2007?

17 A. Yes.

18 Q. Did Mr. Crenney talk to you or ask you for  
19 this letter in some fashion?

20 A. I could only -- I would have to assume yes.

21 Q. Okay.

22 A. But I don't -- I would not just send a letter  
23 for no reason.

24 Q. Well, it says this letter is in response to  
25 need for clarification of my medical records

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1 of Paula Carlson, referring to my being you;  
2 correct?

3 A. Correct

4 Q. So in some fashion, had Mr. Crenney contacted  
5 you before this letter to ask you to write  
6 this letter?

7 A. I would believe so, yes.

8 Q. In that regard, did Mr. Crenney contact you by  
9 telephone or did he write you a letter to ask  
10 you to contact him to write a report for  
11 clarification?

12 A. I can't recall. I believe by phone.

13 Q. So did he subpoena you before asking you --

14 A. No.

15 Q. -- to talk about this matter?

16 A. No, no.

17 Q. And in that regard then, did you call him up?

18 A. Yes.

19 Q. Did he tell you what he wanted you to write  
20 about in your letter?

21 A. The clarification of what my involvement was,  
22 as I recall in the case, what I thought I saw  
23 at the time.

24 Q. So what you thought you saw at the time is  
25 what you wrote in this letter of June 11,

0

1 2007; correct?

2 A. Yes.

3 Q. And at that time, referring back to when you  
4 had the office visits back in June of 2005?

5 A. Yes, it was reference with those two visits.

6 Q. We'll get into that in a little further in

7 just a few minutes. Now, prior to today's

8 deposition, did you meet with Mr. Crenney?

9 A. Yes.

10 Q. And did you meet with him for awhile before

11 you started your testimony today?

12 A. Not much.

13 Q. Was it five minutes, ten minutes, more?

14 A. Maybe five, five to ten.

15 Q. And did you go over a number of things that

16 Mr. Crenney was going to ask you about and

17 testify to?

18 A. Just that I only wanted to stipulate as to

19 what I saw.

20 Q. Yes, okay. Now, with regard to that meeting,

21 was there any other of the attorneys

---

22 representing the hospital, your employer,

23 present, was there an attorney present for

24 DuBois Radiologists, Inc. or was there

25 Dr. Alajaji's attorney present for that

□

66

1 meeting?

2 A. No.

3 Q. Was it just a meeting between you and

4 Mr. Crenney?

5 A. Yes.

6 Q. And was it held back here in this office?

7 A. It was held in one of the exam rooms. They

8 were setting up for videography at the time.

9 Q. So the two of you went to a private office; is

10 that correct?

piasio.txt

- 11 A. Yes.
- 12 Q. And no one else was present and the two of you
- 13 talked?
- 14 A. Yes.
- 15 Q. Then you started this deposition shortly after
- 16 that?
- 17 A. Yes.
- 18 Q. All right. Now, I want to go back and discuss
- 19 aspects of some other matters, if I may. I
- 20 have been moving around here a little bit.
- 21 with regard to the letter I had sent to you
- 22 with a variety of reports, did I send you
- 23 reports from both the plaintiffs and the
- 24 defendants experts?
- 25 A. Yes.

□

67

- 
- 1 Q. ~~Did I indicate in my letter that was not read~~
- 2 out into the record previously, that I sent
- 3 them to you in the interest of fairness and
- 4 understanding, that I included the reports of
- 5 both parties experts; correct?
- 6 A. Correct.
- 7 MR. JOHNSON: So that I may preserve
- 8 my objections, I object to any questioning at
- 9 this time regarding those letters as well.
- 10 MR. SLIMAK: I'm only asking those
- 11 questions because right now we have a
- 12 videotape record that Mr. Crenney has asked
- 13 questions about that were duly objected to.
- 14 MR. JOHNSON: I understand. I just
- 15 didn't want there to be any inference of a



16 waiver.

17 MR. SLIMAK: I understand. There is

18 none.

19 BY MR. SLIMAK:

20 Q. Now, let me ask you some questions about Paula  
21 Carlson's care that you were involved with,  
22 okay, plus I want to ask you some questions  
23 about your background, experience in this  
24 area. I think you indicated previously in  
25 your testimony that you're not qualified to

□

68

1 give testimony as to the standard of care of a  
2 radiologist; correct?

3 A. I believe that's correct.

4 Q. Yes. And your training in board certification  
5 and medical practice is as an orthopedic  
6 surgeon; correct?

---

7 A. Correct.

8 Q. And I think you went through aspects of your  
9 qualifications as I take it you have some very  
10 extensive specialized training as an  
11 orthopedic surgeon; correct?

12 A. Yes.

13 Q. And then you went onto specialize in  
14 fellowship training in the area of orthopedic  
15 surgery or orthopedics; correct?

16 A. Yes.

17 Q. And what was that area again?

18 A. Spine.

19 Q. The spine. And then since your practice, you  
20 focused in on general orthopedic surgery I  
21 think you testified to; correct?

22 A. That's correct.

23 Q. Am I correct that you do not hold yourself out  
24 as an orthopedic subspecialist in bone tumors?

25 A. Correct.

□

69

1 Q. In fact, if one of those would develop or be  
2 seen or thought to be there in your practice,  
3 you would make a referral out to someone else;  
4 correct?

5 A. I would make a referral for definitive  
6 treatment, yes.

7 Q. Yes. And because you're in Clearfield, do you  
8 typically refer toward the Pittsburgh area  
9 rather than the Philadelphia area?

10 A. That's closer, yes.

11 Q. Closer for your patients; correct?

---

12 A. Right.

13 Q. And so that's the usual direction you would  
14 send them; correct?

15 A. Usual and I'm very comfortable with the care  
16 they receive.

17 Q. I understand. Now, with regard to your  
18 practice, do you get to personally see the  
19 patient and take a history from the patient,  
20 examine the patient, order and pull up a  
21 review x-rays or MRIs or other imaging  
22 studies, make a diagnosis and treat the  
23 patient, is that how you go about your  
24 practice?

25 A. Pretty much, right.

□

70

- 1 Q. And based on your experience, is that  
2 different than what a radiologist does?  
3 A. A radiologist generally doesn't have an  
4 opportunity to see a patient.  
5 Q. Okay.  
6 A. Unless they are doing invasive procedure or  
7 something of that nature.  
8 Q. But a plain x-ray is not an invasive  
9 procedure; correct?  
10 A. Correct. They would not see a patient.  
11 Q. Have there been any times in your practice  
12 over the years where you could not make a  
13 diagnosis based on standard x-rays alone and  
14 had to either repeat the x-ray sometime later  
15 to compare and see if anything had changed or  
16 order other imaging studies, such as an MRI,  
17 CT scan in order to help you diagnose your  
18 patient?  
19 A. Certainly.  
20 Q. Do you agree that is helpful to an orthopedic  
21 surgeon such as yourself in an attempt to  
22 reach a diagnosis, to have the ability to  
23 personally examine the patient, take a history  
24 of the patient's condition from the patient,  
25 ask the patient questions, and to order and  
□ obtain and review the various studies and  
2 tests, do you find that helpful?  
3 A. Yes, sure.  
4 Q. Now, do you agree giant cell tumor is a rare  
5 condition?  
6 A. Yes.

piasio.txt

7 Q. Prior to Mrs. Carlson's situation, had you  
8 ever personally seen and diagnosed a giant  
9 cell tumor of the radius bone in your practice  
10 at DuBois Regional Medical Center?

11 A. Not of the radius bone.

12 Q. How many patients have you seen over the years  
13 with some types of wrist pain?

14 A. Wrist pain?

15 Q. Yes.

16 A. Hundreds, thousands.

17 Q. How many years have you been in practice here?

18 A. 20 years.

19 Q. And over all of that time, there have never  
20 been a giant cell tumor of the wrist?

21 A. Of the wrist?

22 Q. Yes.

23 A. No.

24 Q. I'm correct? I just want to clarify what your  
25 answer is? I believe that's what you were

□

72

1 saying earlier.

2 A. I would have to surmise a response because I  
3 can't say for sure what I did over 20 years.  
4 I can't recall anyone specifically, but I  
5 can't say for a fact that I have never seen a  
6 giant cell of the wrist in my practice.

7 Q. In your training, had you been trained on  
8 giant cell tumors specifically?

9 A. Yes.

10 Q. And had you seen them in your residency  
11 training as an orthopedic surgeon with the

12 advanced training that you <sup>piasio.txt</sup> underwent?

13 A. Yes.

14 Q. Had you seen them in advanced stages?

15 A. Advanced stages?

16 Q. Yes.

17 A. No.

18 Q. Had you seen them --

19 A. Well, I really don't recall. That's quite

20 awhile back. I can't remember all the cases I

21 had as a resident.

22 Q. Do you recall in your training, and you

23 trained at where, Johns Hopkins, where else?

24 A. I went undergrad at Johns Hopkins.

25 Q. Where else?

□

73

1 A. I trained at the Washington Hospital Center in

2 general surgery, Tufts University in

---

3 orthopedics and the New England Baptist

4 Hospital in spine.

5 Q. At some of those facilities, had you been

6 introduced in some fashion to giant cell

7 tumors that a patient had happened to come in?

8 A. I have seen them at some point in my residency

9 training and actually did some tumor modeling

10 research at IH when I was in Washington on

11 giant cells.

12 Q. So at some point in your past career, you had

13 some specific interest in giant cell tumors to

14 whatever degree you have just been talking

15 about?

16 A. I was certainly trained to diagnose and

17 recognize them.

piasio.txt

18 Q. Specifically giant cell tumors; correct?

19 A. Yes. Well, yeah, most tumors. I had a  
20 complete residency.

21 Q. Are there some classic characteristics of a  
22 giant cell tumor that you had received  
23 specific training in looking for?

24 A. There are some characteristics of them that  
25 would make one think of one.

□

74

1 Q. Now, in the giant cell tumors that you had  
2 seen in your training, do you know if there  
3 was evidence of fracture present?

4 A. I really can't recall in training.

5 Q. Do you recall back at that point in time,  
6 there was evidence of bone expansion, cortical  
7 thinning or cortical erosion?

---

8 A. Yes, those are hallmark of giant cell tumor.  
9 They typically occur in the distant ends of  
10 long bones. In the joint, don't cross the  
11 joint. It can be expand lesions, they can  
12 break cortex. They can be permeated, they can  
13 be slow growing, fast growing depending upon  
14 their histologic grade. They are a variable  
15 tumor. They intend to not metastasize, but  
16 they tend to be locally problematic.

17 Q. Now, are those the types of things that you  
18 would look for to diagnose giant cell tumor,  
19 which you have been talking about?

20 A. Yes. Once I see a radiograph that is  
21 suspicious of it, then we look for those  
22 issues.

23 Q. Now, you agree that in this particular case  
24 when you did make a tentative diagnosis of  
25 giant cell tumor, that you did so at that June

75

1 9th office visit where you got to talk to  
2 Paula Carlson, you got to learn about her  
3 medical history and treatment to that point,  
4 she had provided you with some written  
5 materials with regard to her background and  
6 care and how she got to you as well as what  
7 her problems were; is that correct?

8 A. Uh-huh.

9 Q. Is that a yes?

10 A. Yes.

11 Q. Did you also get an opportunity to examine her  
12 and review all the tests that had been  
13 obtained to that point in time?

14 A. Yes.

15 Q. Do you find it easier to make the diagnosis of  
16 giant cell tumor when that tumor has classic  
17 characteristics and is more evident on repeat  
18 x-rays, that shows some progression?

19 A. Well, that wouldn't be fair to say because it  
20 depends on what your initial radiograph looks  
21 like.

22 Q. I understand that.

23 A. Obviously in this particular case, the repeat  
24 x-rays were more -- I was more worried about  
25 Ewing, which is a more serious tumor.

76

1 Q. We'll talk about that in a little bit in a  
2 minute. Would you agree that when you first

piasio.txt

3 saw Mrs. Carlson in your office on June 9,  
4 2005, that her tumor at that point had several  
5 characteristics on the standard x-rays that  
6 you obtained on that date, which were  
7 different from and not present on the April  
8 12, 2005 films?

9 A. That's correct

10 Q. would you agree that the x-rays you ordered  
11 and obtained on June 9th, 2005 of the distal  
12 radius had some rather classic indications of  
13 giant cell tumor of the radius?

14 A. Of an aggressive giant cell tumor, yes.

15 Q. Tell me about those findings, if you can  
16 recollect, if you need to refer to your  
17 records, which are indicative as of June 9th,  
18 2005 that you saw on the June 9th, 2005 films

19 that indicated this was a particularly  
20 aggressive giant cell tumor of the radius?

21 A. Well, at that time I couldn't say what tumor  
22 it was other than the fact that in the two  
23 month time frame it was fairly aggressive bone  
24 disruption. It was treated four times its  
25 original size, the margins were indistinct.

□

77

1 It was a permeative pattern, questionable  
2 breakthrough to the cortex. The articular  
3 surface was still intact.

4 Q. The joint itself?

5 A. The joint itself. The distal radius was still  
6 intact, the cartilage surface of the radius.  
7 There was no expansion of the cortex, there



8 was no cortical reaction.  
 9 Q. Are you talking on the --  
 10 A. Or periosteal reaction on the June film.  
 11 Q. Thank you for clarifying that. Is it true  
 12 that on the June films, you weren't sure of  
 13 whether or not there was cortical expansion?  
 14 A. I didn't know if there was cortical  
 15 breakthrough. I couldn't say for sure.  
 16 Q. Is that true with x-rays in general, there are  
 17 other tests that can be more specific to try  
 18 to determine such things of whether or not  
 19 there's cortical breakthrough?  
 20 A. There are. Generally a plain film is  
 21 reasonably good. If there is, then it's there  
 22 it is. The purpose of getting the additional  
 23 studies is to look for that specifically to  
 24 ~~see if the cortex is attacked, but more so to~~  
 25 look at is there a soft tissue component of

78

0  
 1 the tumor as well. In the Ewings, which was a  
 2 possibility in her case --  
 3 Q. That type of cancer?  
 4 A. -- Ewings sarcoma, which would be much worse.  
 5 They classically have a large soft tissue  
 6 component. On physical exam she had some  
 7 swelling, but not to the extent that one might  
 8 see in a Ewing, but a Ewing is more likely to  
 9 be in the mid shaft and not so much the  
 10 distal.  
 11 Q. By the time you saw Paula Carlson in June,  
 12 there was some swelling present; correct?  
 13 A. I believe I noted in my record that I thought

piasio.txt

14 there was some fullness around the radius.

15 Q. And that equates with swelling?

16 A. Swelling.

17 Q. And do you know for how long that swelling had  
18 been present and reported by Paula Carlson  
19 prior to the time that you saw her?

20 A. I can't recall. I'd have to look at my chart  
21 if I made a note of that.

22 Q. Yes, you may.

23 A. I don't believe she reported swelling. At  
24 least I don't have that documented.

25 Q. But from your physical examination findings,

□

79

1 you detected evidence of fullness which you  
2 equated with swelling?

3 A. Let me see. I said I think on physical exam

4 there maybe a soft tissue component as well.

5 So I didn't say specifically fullness, but I  
6 felt something.

7 Q. You thought that what you felt was essentially  
8 fullness or swelling?

9 A. Some soft tissue component. What we call soft  
10 tissue component. There's soft tissue in the  
11 radius, around the area where I saw the  
12 lesion, that was not supposed to be there. I  
13 don't know if it's fluid, blood, tumor,  
14 synovitis, I don't know. But there was soft  
15 tissue component there that's not in my wrist,  
16 so I feel mine, it's not there, there I felt  
17 something.

18 Q. You feel there was a sensation of more

19 fullness or thickness or something there  
 20 that's not in a normal wrist?  
 21 A. Compared to her opposite side, her baseline.  
 22 Q. Now, did you know at that point in time that  
 23 Ms. Carlson had previously been seen by Lori  
 24 Natoli, a physician's assistant at  
 25 Dr. Graeca's office?

0 80

1 A. At that point I wasn't fully -- you know, at  
 2 that point, I wasn't fully aware of who she  
 3 was seeing or treating.  
 4 Q. Did they provide you, meaning Dr. Graeca's  
 5 office or Ms. Carlson or Lori Natoli, the  
 6 physician's assistant, with their records of  
 7 care of Ms. Carlson prior to her seeing her in  
 8 June?

9 A. I have been in practice 20 years and I can  
 10 count on maybe ten times that I have actually  
 11 been given information on the patient that's  
 12 referred. So after over 20,000 patients, I  
 13 can count them on one hand.

14 Q. I'm only asking specifically --

15 A. Specifically I would say it's extremely  
 16 unusual for me ever to get records on a  
 17 patient and I don't believe I got any before I  
 18 saw her as well.

19 Q. That's what I want to confirm. So then you  
 20 would not have been aware of how long the  
 21 patient had been complaining that she felt  
 22 that she had had swelling of her wrist, is  
 23 that fair to say, you would not have known?

24 A. Well, I asked her directly. I mean she had  
 Page 66

25 pain for two, three months.

□

81

1 Q. Did you ask her specifically of how long she  
2 had had swelling?

3 A. I didn't ask her if she had swelling. At  
4 least I didn't document that I asked her if  
5 she had swelling. That was on my exam.

6 Q. Do you know if Mrs. Carlson had actually had  
7 swelling that she felt was present going back  
8 into April of 2005?

9 A. Do I know if she thought she had swelling?

10 Q. Yes.

11 A. How would I know that?

12 Q. Either by talking to her, reviewing some  
13 records or if Mr. Crenney told you or not?

14 A. I don't have any recollection of that. I mean

---

15 I don't have it documented in my note that I  
16 asked her that. I have no records from anyone  
17 indicating if there was any swelling there.  
18 But again I would say that is something that I  
19 am expert at and would pick up more than  
20 somebody else. I wouldn't expect a person on  
21 the street to pick that up.

22 Q. How about the patient herself, shouldn't she  
23 be able to say I have swelling?

24 A. She may or may not. She may or may not. A  
25 lot of tumors come in here, people don't

□

82

1 notice. You know, it depends on their -- the  
2 symptoms that come from it.

3 Q. Well, if the patient reported to you that she

4 felt she had swelling, do you feel that the  
5 patient is a good person to rely upon in that  
6 regard?

7 A. Occasionally, not always. I have had  
8 complaints of swelling that are not there.

9 Q. Now, swelling, what does that suggest to you  
10 about the giant cell tumor?

11 A. Knowing that it's a giant cell tumor now or at  
12 the time when I examined her?

13 Q. Yes, now.

14 A. It can indicate a lot of things.

15 Q. Does the swelling --

16 A. It can indicate --

17 Q. Go ahead.

18 A. Fracture, soft tissue component, bleeding, any  
19 of those things.

20 Q. Does that swelling, can it indicate that there

21 maybe cortical expansion or cortical erosion  
22 or breakthrough occurring?

23 A. Yeah, that would be consistent with soft  
24 tissue component of tumor, tumor expansion or  
25 bleeding.

83

1 Q. Thank you, very much. Now, when you diagnosed  
2 this giant cell tumor of the wrist in June of  
3 2005, you had obtained x-rays that you had  
4 ordered on that same date; correct?

5 A. Yes.

6 Q. You repeated x-rays; correct?

7 A. Yes.

8 Q. You wanted to get some additional films;  
9 correct?

piasio.txt

10 A. I wasn't sure what I was looking at on the  
11 film of April was real or artifact.

12 MR. CRENNY: I'd object to the form  
13 of the question in that it suggests he had  
14 other x-rays when he diagnosed the April 12th  
15 film. That was not his testimony, nor is that  
16 consistent with this record.

17 MR. SLIMAK: I don't think that's my  
18 question, Mr. Crenney.

19 MR. CRENNY: The first thing he did  
20 was look at the film of April 12th.

21 MR. SLIMAK: Your argument is  
22 noted. Could we read back the question,  
23 please, for the Court Reporter?  
24

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25 (The record was read back by the

---

1 Reporter.)

2 -----

3 BY MR. SLIMAK:

4 Q. Would you now answer again?

5 A. That I wanted to get additional films?

6 Q. Yes.

7 A. Yes.

8 Q. And on June 9th, 2005, had you just indicated  
9 that you wanted to get additional films  
10 because you weren't sure if the original films  
11 showed artifact or not; correct?

12 A. Correct. I saw what I thought was a lesion  
13 and I wanted to be sure that I was not over  
14 reading the film.

15 Q. What is artifact?

16 A. Something that would cause you to see  
17 something that's not there. Let's give an  
18 example. An x-ray is a two dimensional  
19 representation of a three dimensional  
20 process. So if you've got a paperclip in your  
21 pocket and I x-ray your hip and it looks like  
22 the paperclip is in your hip and that would be  
23 artifact. Or if you are -- let's say I'm  
24 wearing a blouse with a plastic button, that  
25 button maybe enough to show a little halo over

□

85

1 something that you would see on a chest  
2 x-ray. That's not a lesion of the chest  
3 x-ray, but artifact from a button.

4 So you worry that am I seeing

5 something or is that an overlying shadow or

6 oftentimes you get an x-ray of an abdomen and  
7 a gas pattern maybe overlying a bone and it  
8 looked like a tumor because there's a gas or  
9 fat pattern overlying it and that area is  
10 going to be less dense when the x-ray goes  
11 through. So you'll see something that looks  
12 like something, but isn't really something,  
13 it's what we call an artifact, something  
14 throwing you off from some external process  
15 that's not making the radiograph  
16 interpretable.

17 Q. Is it fair to say that an artifact is not  
18 actually a disease condition itself?

19 A. Correct.

20 Q. Now, with regard to the films that you took

piasio.txt

21 and interpreted yourself of June 9th, 2005,  
22 okay?

23 A. Okay.

24 Q. These x-rays, did those films clearly appear  
25 to you to not be artifact?

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86

1 A. The films that I took?

2 Q. On June 9th.

3 A. You mean the ones I took in June?

4 Q. Yes, yes.

5 A. Yes, those were not artifact.

6 Q. Did they have classic things such as an  
7 unusually large lytic area?

8 A. They had many classic radiographic appearances  
9 of a tumor.

10 Q. That's when you were talking about had this

11 moth-eaten appearance or permeative borders;

12 is that correct?

13 A. That's correct.

14 Q. I think in your report you indicated that it  
15 appeared to you that there may even be some  
16 punctuate calcifications in the ulnar  
17 direction on the AP view, if I use your words,  
18 do you recall that?

19 A. I don't recall that, but I'll look it up.

20 Q. Please do.

21 A. This is in my original x-ray reading or in my  
22 office note?

23 Q. If you would like me to share it with you?

24 A. That would be wonderful.

25 Q. I'm reading in your report, this portion was



0

1 not read in previously in testimony by  
 2 Mr. Crenney's questions. Do you indicate  
 3 here --  
 4 A. Okay.  
 5 Q. What did you read here?  
 6 A. It extends the articular margin. It does not  
 7 cross the articular margin.  
 8 Q. That's the joint itself; correct?  
 9 A. That's the joint, right.  
 10 Q. Then what did you write here?  
 11 A. There appears to be some punctuate  
 12 calcification in the ulnar direction on the AP  
 13 view.  
 14 Q. Now with regard to now in June there's  
 15 punctuate calcification that you see on those  
 16 x-rays that are in the ulnar direction on the

17 AP view --  
 18 A. I think I said I may see.  
 19 Q. Yes, that's exactly what I want to point out?  
 20 A. Yes.  
 21 Q. You said --  
 22 A. Because if you have a lot of bone eaten away  
 23 by tumor, I might be looking at punctuate  
 24 calcification or remaining bone, so I'm not  
 25 sure if that's calcified tumor or bone left

0

1 over that isn't quite all the way eaten, which  
 2 is why I believe I said may.  
 3 Q. I know you didn't say may, but you did say  
 4 there appears to be?  
 5 A. Appears to be, okay.

piasio.txt

6 Q. So I can take that as a may, okay?

7 A. Okay.

8 Q. Is that the way that it is with these standard  
9 basic x-rays, that sometimes you're not  
10 certain of what you're seeing with that  
11 particular study, it can be interpreted  
12 different ways?

13 A. We may disagree on readings, yes. We don't  
14 always --

15 Q. You don't mean you and I, you mean  
16 professionals in your field?

17 A. Sure.

18 Q. Even between board certified orthopedic  
19 surgeons, they can have differences of  
20 opinions of what a film does or doesn't show;  
21 correct?

22 A. Correct.

23 Q. And in between specialties they can have  
24 differences of opinion; correct?

25 A. I would venture to say that we may disagree on

□

89

1 things, yes.

2 Q. And does that happen to you over time in your  
3 practice?

4 A. Yes.

5 Q. Over the years here at DuBois Regional Medical  
6 Center as well as in your training?

7 A. Absolutely.

8 Q. And your training was at these other  
9 institutions that you have talked about  
10 earlier; correct?

11 A. That's right.  
12 Q. Were you still trying to do a good job even  
13 though someone else disagreed with you?  
14 A. On?  
15 Q. Interpretation?  
16 A. You mean in life or --  
17 Q. Interpretation of films, I'm sorry?  
18 A. I was doing my job.  
19 Q. Thank you.  
20 A. Although if my care is going to be on trial  
21 here, then I may need representation, which I  
22 don't have.  
23 Q. I'm not suggesting that in any way.  
24 A. I just want to make sure if we're going to get  
25 to that. I'm just trying to --

□

90

1 Q. Now --

2 MR. CRENNY: It's Dr. Graeca and  
3 Dr. Yaw.

4 MR. SLIMAK: I don't know what that  
5 was for sure, but let me continue with my  
6 questions.

7 MR. CRENNY: That's a fact.

8 BY MR. SLIMAK:

9 Q. With regard to your involvement in this case,  
10 did physician's assistant Natoli call you up?

11 A. She might have, I don't recall for sure.

12 Q. Did Dr. Graeca call you up?

13 A. I think he might have, but I don't recall for  
14 sure.

15 Q. Did you make any note of either of that?

16 A. I didn't make any note, but I do remember

17 talking to him about the case, I don't know if  
18 it was before or after.

19 Q. Now, with regard to the x-rays in April 12,  
20 2005, when you did look at them, was it the  
21 course of your practice that day that you  
22 first obtained written information from Paula  
23 Carlson when she came in the office that you  
24 would review initially; correct?

25 A. Correct.

□

91

1 Q. And after that, then did you meet and talk  
2 with her about why she was there, what her  
3 symptoms may be and what her past course of  
4 care had been to date?

5 A. That's correct.

6 Q. And after that did you do a physical

7 examination?

8 A. Yes.

9 Q. And then after that did you pull up these  
10 x-rays as you did for Attorney Crenney here  
11 today in your deposition and then look at  
12 those?

13 A. Yes.

14 Q. And then after that, did you order some  
15 additional studies, being an MRI, a bone scan,  
16 and as well as your repeat x-rays?

17 A. I ordered the repeat x-ray and then after  
18 reviewing that film, then I ordered the  
19 remaining workup after I saw the second x-ray,  
20 not before.

21 Q. So there was a sequence of events that you

22 went through to work up the patients condition  
23 and situation and then order additional  
24 studies and make your determinations of what  
25 you thought was going on at that point in time

□

92

1 in ;June correct?

2 A. Correct.

3 Q. So is it correct that you did not just have  
4 the patient come into the office and look at  
5 her past x-rays, you went through these other  
6 processes and steps first?

7 A. That's my job.

8 Q. That's what I wanted to find out. Now, with  
9 regard to the information that you had  
10 obtained from Paula Carlson before you looked  
11 at any films, I would like you to look at some  
12 of your records with us. And if we may, if

13 the videographer can assist in this regard,  
14 and Doctor, it maybe easier if you don't mind,  
15 if you're going to sit there, if I can just  
16 prop this right on the arm of your chair.  
17 okay? Are you able to see that from your  
18 angle?

19 A. Yes.

20 MR. SLIMAK: And the videographer,  
21 were you able to read that reasonably well if  
22 I point out anything? Yes, he's indicating  
23 yes. Thank you.

24 BY MR. SLIMAK:

25 Q. So is this standard as an orthopedic surgeon

□

93

1 to have your patients come into the office

piasio.txt

2 before you would actually examine them or talk  
3 to them and have them complete historical  
4 information?

5 A. That's correct.

6 Q. What is the significance of why you go through  
7 this process with your patients before you see  
8 them?

9 A. Well, sometimes there's something here that I  
10 may miss in my history taking or that we can  
11 document some past history with something as  
12 different later, we can get a good look, but  
13 we try to get as much history as we can.  
14 Sometimes they are very unnecessary.  
15 Sometimes they are helpful down the road when  
16 I can try to look back and see if I can recall  
17 patients and as things change. I have  
18 patients for a very long time and it's good to  
19 have a basic -- we like to have a full basic  
20 past history, past medical history and a  
21 review of systems in the chart. So we have  
22 them fill out as much as they can and I  
23 focus -- I have a much more problem focused  
24 evaluation when I see a patient. I'm not a  
25 primary care physician.

94

1 Q. would that have been the process then that  
2 would occur with regard to this type  
3 of -- this document here, which is for Paula  
4 Carlson in June 9, 2005?

5 A. Every patient that comes through is supposed  
6 to have a form of this nature filled out

piasio.txt

7 before they present.

8 Q. And in your chart in front of you, do you have  
9 this form in that?

10 MR. CRENNY: I'd just like to make  
11 a general --

12 A. Yes.

13 MR. CRENNY: Excuse me, an  
14 objection to what you got on the video because  
15 it is highlighted.

16 MR. SLIMAK: well, I want to draw  
17 his attention to certain aspects of the record  
18 and we're entitled to do that. So your  
19 objection is noted, sir.

20 MR. CRENNY: Thank you.

21 BY MR. SLIMAK:

22 Q. Now, have I highlighted that this is your DRMC  
23 orthopedics stationary or forms?

24 A. Yes.

25 Q. And Paula Carlson --

□

95

1 A. Yes.

2 Q. -- that would be the patient's name; correct?

3 A. Correct.

4 Q. And then to address your attention over here,  
5 June 9, 2005, would that be the date that the  
6 information was gained from the patient?

7 A. Yes.

8 Q. And do you take before you see the patient or  
9 work on her diagnosis, a family history as  
10 recorded here?

11 A. Just as recorded there. I don't personally  
12 take one.

piasio.txt

13 Q. But you have the patient complete this form to  
14 provide that background information?

15 A. As background, correct.

16 Q. Yes. And you through this form have specific  
17 questions, such as, for instance, does the  
18 family members relatives, has any blood  
19 relative ever had cancer; correct?

20 A. Correct.

21 MR. CRENNY: Objection as to  
22 relevance.

23 BY MR. SLIMAK:

24 Q. In this particular circumstance, what  
25 information did Ms. Carlson provide to you at

□

96

1 that point in time as to whether or not there  
2 was some family history of a family member  
3 having had cancer prior to June 9th, 2005 that  
4 you had available to you as background?

5 A. I have available, but it was not relevant to  
6 what I was doing at the time.

7 Q. I understand. But my question just is, what  
8 information did she provide to you through  
9 this record at that time?

10 A. That her father had lung cancer.

11 Q. Now, do you also ask other questions about  
12 diabetes and her father had diabetes; correct?

13 A. Correct.

14 Q. But the point is, you would take into  
15 consideration, if relevant, all of this  
16 information with regard to you then seeing the  
17 patient and working up the condition and



18 trying to make your diagnosis of what she had;  
19 correct?

20 A. It's used as a -- we create a record so that  
21 we have information over time. Things may  
22 change, I get different things, something is  
23 not what it is, I have something to refer to  
24 it.

25 Q. And is there a question that down below here

□

97

1 where it says -- I think there's a hole marked  
2 there. Does it say, have you --

3 A. Have you been treated for this problem by  
4 another physician.

5 Q. And the answer circled is what?

6 A. Yes.

7 Q. And who is the physician indicated that had  
8 been treating her for this condition?

9 A. Dr. Meyers.

10 Q. Was there any indication that Dr. Graeca -- or  
11 physician assistant Natoli had been treating  
12 her for her condition or her complaint?

13 A. Not on this.

14 Q. And then do you obtain personal -- detailed  
15 personal information history as well provided  
16 to you by the patient at this initial visit?

17 A. Yes.

18 Q. Is that what we're looking at here?

19 A. Yes.

20 Q. Does that run the gamut from everything  
21 whether she's had chickenpox or anemia, pain  
22 in the wrist or arms; correct?

23 A. Yes.

piasio.txt

24 Q. Could you say yes just so our record is clear?

25 A. Yes.

□

98

1 Q. Whether she's had swelling of the hands, feet

2 or ankles and she indicated yes; correct?

3 A. Yes.

4 Q. Whether she's had sprains, she indicated yes;

5 correct?

6 A. Yes.

7 Q. Whether she's had blood in -- any blood in the

8 urine, the indication was yes; correct?

9 MR. CRENNY: Objection to

10 relevance. Objection as to the highlighting.

11 MR. SLIMAK: Well, we're showing

12 this evidence to indicate the thoroughness of

13 the background information that the Doctor's

14 standardized forms of processing of orthopedic

15 patients develops and then we're going to ask

16 some specific questions related to this as we

17 go through the patient's care.

18 BY MR. SLIMAK:

19 Q. Is there additional information that's asked

20 and answered in this form of whether she had

21 had recurrent back pains?

22 A. I'm going to reiterate again, am I being

23 questioned as to the standard of care that I'm

24 rendering; if so, I want counsel?

25 Q. No, you're not.

□

99

1 MR. WALL: On the record, you're

2 not, Doctor.

piasio.txt

3 A. Because we seem to be asking these questions.

4 I don't understand the questioning line here.

5 MR. WALL: On the record, you're  
6 not, Doctor.

7 MR. SLIMAK: Yes.

8 A. I realize we're on the record, but I'm in a  
9 room of attorneys and this is a liability case  
10 and I know where people are being accused or  
11 whatever and I'm a little uncomfortable right  
12 now.

13 MR. SLIMAK: That's all right.

14 A. So if this is where we're going, I may just  
15 ask that we could stop and I'll get counsel.

16 BY MR. SLIMAK:

17 Q. We're only asking factual information, that's  
18 all I'm intending and then there's no  
19 intention I don't think of anybody in this  
20 room to sue you for anything, Doctor. I think  
21 I speak for all the counsel here. I don't  
22 know for Mr. Crenney, who I can't speak for,  
23 but --

24 MR. CRENNY: Mr. Slimak, please  
25 don't make remarks like that.

100

1 MR. SLIMAK: I don't pretend to  
2 speak for you is what I'm indicating. Okay.

3 MR. CRENNY: By the way, I have no  
4 idea why questions about Ms. Carlson's urine  
5 in the blood has been highlighted and all of  
6 this irrelevant information, I don't have the  
7 slightest idea. If I knew, I would chime in.

8 BY MR. SLIMAK:

piasio.txt

9 Q. We're trying to develop this additional  
10 background information. And at this point in  
11 time, we're going factually through. Are you  
12 trying to be through with regard to your  
13 question here, to anticipate all possible  
14 circumstances that might have relevance to  
15 your orthopedic care?

16 A. We like to have a baseline record of a  
17 patient's past medical history on all patients  
18 that come through. Do we pour over them, no.  
19 You come in and you break your leg, I don't  
20 need to know what your grandmother had, but we  
21 do for completeness put it in the record. If  
22 at any one point in time it becomes relevant,  
23 we have record of it.

24 Q. With regard to some of that information, did  
25 you obtain information that Ms. Carlson had

□

101

1 had recurrent back pains, backaches, joint  
2 pains, swelling of any joints, tingling or  
3 weakness of hands or feet and loss or change  
4 in sensation of hands or feet?

5 A. I would just say this is Mrs. Carlson's -- or  
6 Ms. Carlson's record.

7 Q. And then did you do a physical examination?

8 A. Yes.

9 Q. And is this the page of your chart that  
10 reflects your handwritten notes at the time  
11 before you had them put into a typewritten  
12 form?

13 A. These are the notes I scribble while I'm

14 talking to her and then dictate as soon as I  
 15 have see her.  
 16 Q. In that regard, did you specifically note that  
 17 there was no injury?  
 18 A. Yes.  
 19 Q. why is that significant to you when you talk  
 20 to her to find there's no evidence of injury?  
 21 A. We're obviously looking for occult fractures.  
 22 We're looking for dead bone or somewhere that  
 23 I can localize where the problem is. Injury  
 24 obviously changes the nature of the disease  
 25 from something that's infectious or metabolic,

0

102

1 chemical, tumorous or traumatic. So that's as  
 2 I'm trying to diagnose why she has wrist pain  
 3 and nobody seems to have been able to figure  
 4 it out, that's what I'm trying to sort out.

---

5 Q. With the history that you solicited from the  
 6 patient that she had had no injury, does that  
 7 make you start thinking more along the lines  
 8 of perhaps something metabolic or something  
 9 that's tumorous or something of that nature?  
 10 A. I'm less likely to look for fracture. I'm not  
 11 looking for fracture or thinking fracture as  
 12 much.  
 13 Q. And your writing I have to say with due  
 14 respect, I'm not criticizing you for this --  
 15 A. No.  
 16 Q. -- but it is difficult to read?  
 17 A. I'm having trouble with it too.  
 18 Q. Good, because it's not just me.  
 19 A. That's why I dictate right away.

20 Q. what is this that I highlighted so I could  
21 remind to ask you?

22 A. I am thinking about that one myself. It's  
23 something for six weeks.

24 Q. No change for six weeks or something else?

25 A. what I have here is burning dorsal right

□

103

1 wrist.

2 Q. Okay.

3 A. And this is no, I believe it's relief for six  
4 weeks.

5 Q. And then what do you have over here?

6 A. Negative shoulder, negative neck, negative  
7 paresthesias.

8 Q. what do you mean by those?

9 A. I'm looking for something in her cervical

---

10 spine.

11 Q. Do you initially evaluate whether there's  
12 something in her neck or cervical spine by  
13 questioning the patient in order to try to  
14 rule in or rule out that?

15 A. I generally will do it on a wrist, but I have  
16 a patient coming to me with a normal x-ray,  
17 normal EMG, seen two physicians without a  
18 diagnosis, I'm looking at everything.

19 Q. Yes, okay.

20 A. My job is now to figure this problem out.

21 Q. would that be the process that you would try  
22 to look at everything that's pertinent if she  
23 would have come to see you back in April just  
24 as she had come to see you in June?

25 A. Yes.

104

□

1 Q. You try to be thorough with your questioning  
2 and developing of information; correct?

3 A. I have an undiagnosed problem here and I have  
4 to be fairly thorough at this point. Some  
5 things I'm not as thorough. You break your  
6 arm, I'm not that thorough, it's fairly clear  
7 to me. But this was not when this patient  
8 came, this was a patient with a lot of pain  
9 that did not have a diagnosis.

10 Q. Have there been patients in the past of  
11 Dr. Graeca or physician's assistant Natoli  
12 that they were having trouble diagnosing and  
13 they would make the referral to you because it  
14 was an orthopedic issue within your  
15 specialty?

---

16 MR. CRENNY: Object to the form of  
17 the question.

18 A. I have a lot of patients referred to me  
19 because they can't make a diagnosis. I like  
20 to think that when they can't make a  
21 diagnosis, here's where they send them.

22 BY MR. SLIMAK:

23 Q. Is tendinitis something within your medical  
24 specialty --

25 A. Yes, it is.

105

□

1 Q. -- for diagnosing?

2 A. Yes.

3 Q. And how about carpal tunnel syndrome?

4 A. Yes.

piasio.txt

5 Q. How about as far as a cervical problem or  
6 herniated disc, whether that was causing  
7 symptomatology into the wrist and hand?

8 A. Yes.

9 Q. Those are right up your alley; correct?

10 A. That's what I do.

11 MR. CRENNY: Objection as to  
12 reference.

13 BY MR. SLIMAK:

14 Q. I'll just take my seat again and look at some  
15 notes, I wanted to ask you about some other  
16 things. Do you agree that back on the April  
17 12th, 2005 x-rays, if you can review your  
18 records in that regard or your recollection,  
19 that at that point in time, there was no  
20 permeative appearance or moth-eaten appearance

21 on the April 12th films?

22 A. Absolutely, correct.

23 Q. And with regard to the April 12th films, there  
24 was no evidence of any change in the joint;  
25 correct?

0

106

1 A. In the joint?

2 Q. In the joint.

3 A. That's correct.

4 Q. On the April 12th films, there was no  
5 indication of fracture; correct?

6 A. That's correct.

7 Q. And on the April 12th films, you couldn't see  
8 on those films any evidence of expansion of  
9 the cortical bone or osseous extension;



10 correct?

11 A. Or interosseous extension, correct.

12 Q. Correct me, thank you for using the right

13 word. Correct?

14 A. Correct.

15 Q. What do those mean that were not there?

16 A. It's the interarticular extension. The bone

17 was not dilating. The bone gets bigger and

18 the cortex does not break, it's more

19 indicative of a slower growing tumor. If it

20 doesn't invade the joint, that's more

21 indicative again of a less aggressive tumor.

22 Giant cell classically -- giant cell

23 classically can be slower -- slow or fast

24 growing and can expand the bone, go to the

25 joint, but will not go into the joint. That's

□

107

1 usually a more histologically lower grade

2 giant cell.

3 Q. When you evaluated Ms. Carlson in June, took

4 additional studies of repeat x-rays, bone

5 scans, MRI scans, CT scans, did you find

6 evidence at that point in time that this was

7 indeed a very rapid growing aggressive type of

8 giant cell tumor?

9 A. I didn't know that it was a giant cell tumor,

10 but it was an aggressive -- a locally

11 aggressive neoplasm probably from the bone

12 that did not appear to have any metastatic

13 source or any other metabolic source. You can

14 have like a Brown's tumor is a hypothyroidism,

15 you can occasionally get tumors that may get

piasio.txt

16 of this nature, which is why we check the  
17 thyroid function.

18 Q. That's what I want to clarify next. To make  
19 those kind of decisions, is that because you  
20 ordered other tests and studies, metabolic  
21 studies as well as these additional imaging  
22 studies?

23 A. I'm trying as hard as I can to make an  
24 noninvasive diagnosis and rule out as many  
25 things as possible knowing full well that

□

108

1 looking at this knowing that this is a tumor  
2 and it's going to be referred, but to make  
3 sure the workup is complete. I am trained to  
4 completely workup a tumor and I will do that  
5 before I refer them, you know, for expediency,

6 ~~but I do know what has to be ordered.~~

7 Q. Now, I was looking at your records and report  
8 and Attorney Crenney read you certain portions  
9 of them, but there were other portions he had  
10 not read to you and so let me ask you about  
11 some aspects of that.

12 MR. CRENNY: Object to the form of  
13 the question.

14 MR. SLIMAK: Do you disagree with  
15 that?

16 MR. CRENNY: Object to the form of  
17 the question.

18 BY MR. SLIMAK:

19 Q. Specifically, let's then refer to your report  
20 of June 9th, 2005, your actual office record,

21 okay?

22 A. okay.

23 Q. In that regard, did you develop some history  
24 from talking to Paula Carlson that she had had  
25 wrist pain now going on for two to three

□

109

1 months?

2 A. Yes.

3 Q. And if I may bring this back up to the arm of  
4 your chair, so we can share this with the  
5 jury. Tell the videographer to focus on this,  
6 please. In addition --

7 MR. CRENNY: Same objection on the  
8 highlighting. None of this -- objection that  
9 all of these are not in evidence. I doubt  
10 they will be in evidence with the  
11 highlighting.

12 MR. SLIMAK: You have already  
13 identified them and moved into admission this  
14 record, highlighting so I can direct the  
15 Doctor the questions I'm going to talk about.

16 MR. CRENNY: The highlighting is  
17 inappropriate on the video. I've never seen  
18 anybody do it and I object to it.

19 MR. SLIMAK: It's been done a  
20 million times, Mr. Crenney, in court including  
21 in the Court of Common Pleas of Clearfield  
22 County.

23 BY MR. SLIMAK:

24 Q. Now, did you take a history just from talking  
25 to her that there that she reported -- she saw

□

110

piasio.txt

- 1 Dr. Graeca, reported no injury; correct?
- 2 A. That's what I wrote.
- 3 Q. And that she had radial wrist pain; correct?
- 4 A. Correct.
- 5 Q. In talking to her, did she use the word radial
- 6 wrist pain or was that something you
- 7 determined based on whatever it was that she
- 8 saw you?
- 9 A. I would have to assume that that was my word.
- 10 A few people would tell me -- would say I have
- 11 radial wrist pain.
- 12 Q. well, you know she's a radiation technician at
- 13 the hospital here; correct?
- 14 A. She's a radiation technician, not a radiograph
- 15 technician, so --
- 16 Q. Do you know for sure?

---

17 A. I don't know for sure if she said radial or I

18 said radial.

19 Q. Regardless of whether she said radial or you

20 said radial wrist pain when you wrote the

21 note, did she give you information that able

22 you to focus in on the radius at the wrist as

23 to the area of her pain?

24 A. From my history taking?

25 Q. Yes.

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111

1 A. If I wrote that, she would have had to have

2 indicated to me that the pain was more radial

3 than ulnar because ulnar sided wrist pain is a

4 different situation, that's a different

5 workup.

- 6 Q. Did you note that the EMG study was done,  
7 which really was unremarkable for carpal  
8 tunnel?  
9 A. Yes.  
10 Q. And what is carpal tunnel?  
11 A. That's a situation of pressure on a nerve in  
12 your hand, which generally gives you some  
13 finger numbness and some hand pain, but  
14 generally not a wrist pain. Although, it can  
15 be unusual in a younger patient.  
16 Q. So typically wrist pain would not be the pain  
17 of carpal tunnel; correct?  
18 A. It can be in a younger patient, but it's not  
19 what I would classically attribute to carpal  
20 tunnel.  
21 Q. When you say younger, what age are you  
22 talking?  
23 A. People in their 20s and 30s as opposed to 60s  
24 and 70s.  
25 Q. Are there various tests that can be performed  
□  
1 then to determine if there's a carpal tunnel  
2 going on?  
3 A. Clinical exam is usually the best.  
4 Q. And that would be the Phalen's sign?  
5 A. Phalen's, Tinel's, examination of sweat  
6 patterns in the fingers, loss of sensation,  
7 two point discrimination, things of that  
8 nature.  
9 Q. Are these tests that only an orthopedic  
10 surgeon can do or can physician assistants or  
11 family physicians perform those types of

12 testing as well?

13 A. I would not trust the family physician to make  
14 an accurate judgment. Myself, a neurologist,  
15 neurosurgeon, classic surgeon, yes. On  
16 physical exam I think that we're a little more  
17 sophisticated in making that call.

18 Q. Thank you very much. Now, you note here that  
19 she's apparently had some cervical disc  
20 problem in the past; correct?

21 A. That's what she reported to me.

22 Q. And then you have recorded here spine workup,  
23 however, did not seem to relate to her arm  
24 symptom; correct?

25 A. I wrote that, I don't understand that:

□

113

1 Q. Do you know if that was from her or what you

2 were assessing from what she was telling you?

3 A. I don't know if that was from my assessment  
4 when I took a history of her hand, her arm,  
5 those kind of things. I believe that my spine  
6 workup in questioning about her hand, her  
7 neck, sensation, things of that nature, did  
8 not seem to relate to the arm. So I would say  
9 that that -- if I in describing that sentence,  
10 I think that's from my workup of her spine  
11 when I examined her.

12 Q. You said did not seem to relate to the arm, do  
13 you mean relate to the neck?

14 A. Exactly. I didn't think that the complaints  
15 in her wrist were cervical spine related by  
16 her history.

- 17 Q. That's from just talking to her; correct?
- 18 A. From the history taking.
- 19 Q. And then you again confirm the pain is
- 20 most likely -- excuse me, the pain is mostly
- 21 on the radial aspect of the right wrist;
- 22 correct?
- 23 A. Yes.
- 24 Q. It seems to be over the distal wrist; correct?
- 25 A. Correct.

□

114

- 1 Q. The distal wrist, could you just point your
- 2 hand, what do you mean by distal?
- 3 A. Somewhere more in the base of the wrist area
- 4 as opposed to if someone says my wrist hurts
- 5 and they go here, but it was very, very close
- 6 to what are called the radial carpal joint,
- 7 very close to where the hand --
- 
- 8 Q. So she had given you information about
- 9 specific pain in a specific area of the wrist;
- 10 correct?
- 11 A. Correct.
- 12 Q. And then after that, you again note about the
- 13 EMG studies were done, which were consistent
- 14 with a mid cervical radiculopathy that was
- 15 done in February of 2003; correct?
- 16 A. Uh-huh, yes.
- 17 Q. Does that relate back to like a herniated disc
- 18 or some abnormality in the cervical neck spine
- 19 causing symptomatology into the arm?
- 20 A. Yes.
- 21 Q. Now, but is that something that you kind of
- 22 felt you were ruling out?

piasio.txt

23 A. Well, it was an older study. It was 2003 and  
24 a most recent study was nondiagnostic, so I  
25 was more comfortable with a more recent

□

115

1 study. Although, the more recent study I  
2 don't recall was as complete. Those are two  
3 separate EMGs that can be done. They don't  
4 always do all.

5 Q. Now, here you have no wrist synovitis;  
6 correct?

7 A. Correct.

8 Q. What do you mean there was no wrist synovitis?

9 A. There was no swelling within the wrist joint.

10 Q. So you're distinguishing between a wrist joint  
11 and other areas of the wrist?

12 A. I'm trying to determine if this is possibly

13 ~~rheumatoid arthritis, which with the history~~

14 that came in, a person on the street is going  
15 to miss and I would notice that by having  
16 specific synovitis or swelling and  
17 inflammation of the wrist joint proper and I  
18 didn't see that.

19 Q. But that is not excluding your finding or your  
20 thinking there was some fullness in another  
21 part of the wrist?

22 A. Right.

23 Q. Correct?

24 A. Correct.

25 Q. Then you say there is no tenosynovitis, what

□

116

1 is tenosynovitis?



2 A. Tendinitis.  
3 Q. The same thing; correct?  
4 A. Different than synovitis.  
5 Q. I understand.  
6 A. One is the wrist. Wrist synovitis and  
7 tenosynovitis is inflammation of the tendon  
8 sheath.  
9 Q. So when you have teno or tenosynovitis, that  
10 means there's no tendinitis; correct?  
11 A. That was my opinion, yes.  
12 Q. And you determined that on a physical  
13 examination; correct?  
14 A. Correct.  
15 Q. You determined that on physical examination on  
16 June 9, 2005, even though we know from the  
17 studies that you had looked at, that she had a  
18 more advanced stage giant cell tumor at that

---

19 point in time; correct?  
20 A. I did the examination of her tendons before I  
21 read the second film.  
22 Q. Fine.  
23 A. Yes.  
24 Q. But as of that point in time --  
25 A. I did not diagnose her with tenosynovitis.

0

117

1 Q. You felt that there was none present; correct?  
2 A. That's correct.  
3 Q. No tendinitis?  
4 A. Correct.  
5 Q. Is that something that you usually evaluate  
6 patients for, that's something different  
7 than -- well, let me just strike that. Let me

piasio.txt

8 go onto something else.  
9 Finkelstein is negative, right, or  
10 Finkelstein?  
11 A. Correct.  
12 Q. Is that where you have them cup their thumb in  
13 their hand and then bend their finger to the  
14 other direction --  
15 A. That's correct.  
16 Q. -- to see if it pulls along the outer aspect  
17 of their hand in those tendon areas, is that  
18 correct?  
19 A. That's correct.  
20 Q. Now, that's a test of the tendons of the thumb  
21 and the base and the wrist; correct?  
22 A. Correct, two tendons of the radial side of the  
23 wrist.

---

24 Q. ~~Is that a test that if there would be a report~~  
25 of pain in that area due to the Finkelstein

118

□  
1 examination, then that would give you cause to  
2 think that there might be tendinitis of the  
3 wrist?  
4 A. It's another source of wrist pain.  
5 Q. And with regard to the Finkelstein test, did  
6 you find that to be negative?  
7 A. That was negative.  
8 Q. Did you mean there was no report of pain?  
9 A. I could not elicit pain with that maneuver.  
10 Q. Now, did you say that that was normal or did  
11 you use the word negative?  
12 A. Negative.

- 13 Q. And is that somehow different than normal in  
14 that context?
- 15 A. Negative is normal.
- 16 Q. Can you have an abnormality of the thumb base  
17 and not have a positive Finkelstein test?
- 18 A. Yes.
- 19 Q. So you can have an abnormality there at the  
20 thumb base at the wrist in the tendons or  
21 other structures even though the test is  
22 negative; correct?
- 23 A. That would be another diagnosis, correct.
- 24 Q. Thank you. Now, so then you did your repeat  
25 studies today, correct, and you show the

□

119

- 1 progressive changes of the lytic lesion in a  
2 much more worrisome peripheral margin;  
3 correct?

- 4 A. Correct.
- 5 Q. Now, it's moth-eaten in nature, permeative and  
6 without sclerotic margins; correct?
- 7 A. Correct.
- 8 Q. Would you agree then that there were also  
9 there were no sclerotic margins back in the  
10 April film when you looked at that?
- 11 A. On retrospect looking back at the film now, if  
12 someone were to beat me up and said do you  
13 think there's any sclerotic margin anywhere, I  
14 could make a case that there maybe some.
- 15 Q. But that's in retrospect; correct?
- 16 A. But at the time I did not see and still don't  
17 on the AP view see a sclerotic margin. I  
18 would argue with myself that the more ulnar

19 proximal margin of the lesion is less distinct  
20 than the more radial aspects of the lesion, if  
21 I really had to critically look at the film  
22 now.

23 Q. Now, is that something that occurs sometimes,  
24 when you go back and look at these plain  
25 standard x-rays in retrospect, you may think

120

1 that you see some additional things there that  
2 you didn't determine the first time?

3 A. If we could do retrospect, we would never be  
4 in these rooms, but you can always see things  
5 better once you have a better idea of how  
6 things went, they look much more obvious to  
7 you later.

8 Q. with your physical examination, you indicated

9 there maybe a soft tissue component as well;  
10 correct?

11 A. Yes.

12 Q. So that was something --

13 A. I thought that -- you know, she's a very small  
14 woman and I thought that in palpating the area  
15 where she had pain, that it seemed a little  
16 bigger than her other side, but this was a  
17 very subtle finding.

18 Q. Is that something that you were not able to  
19 see on either of your x-ray studies of April  
20 or the June ones?

21 A. That's not a radiographic finding, that's a  
22 physical exam finding.

23 Q. Now, we had talked about the tenosynovitis or

24 tenosynovitis, I guess that's the same word,  
25 and being the same as tendinitis; correct?

□

121

1 A. It's a similar word, right.

2 Q. With regard to tendinitis, is that something  
3 that would usually come on in a patient that  
4 has had some type of acute trauma or injury or  
5 some repetitive stress activity to the wrist  
6 or hand?

7 A. There are --

8 MR. CRENNY: You know, I'm afraid  
9 I'm going to have to object, asked and  
10 answered, relevance. My objection would be  
11 mercy, mercy on all of us. So I would like to  
12 add that objection. No, I'm just kidding. My  
13 objection is as to it's repetitious and not  
14 relevant.

---

15 BY MR. SLIMAK:

16 Q. Do you recall the question, Dr. Piasio?

17 A. Tendinitis can come -- actually tendinitis and  
18 tenosynovitis are slightly different.  
19 tenosynovitis is swelling of the tendon  
20 lining. Tendinitis can be that in addition to  
21 degenerative change or calcified change in a  
22 tendon. Degenerative change within a tendon,  
23 you can use that specific terminology.

24 Q. Okay, but my question --

25 A. Tenosynovitis can come from a host of things.

□

122

1 Trauma repetitive activity can be one, that's  
2 debatable, but that's argued that that's a  
3 source.

piasio.txt

4 Q. That's something that it's commonly attributed  
5 to; correct?

6 A. Correct.

7 Q. Some type of acute trauma or repetitive stress  
8 type?

9 A. Repetitive activity is more commonly  
10 associated with it than the tendinitis.

11 Q. Let me just review a few notes. Now, when the  
12 patient did come to see you, did you indicate  
13 in your record for June 9, 2005 that she was  
14 self-referred?

15 A. Yes.

16 Q. And what do you mean by Ms. Carlson was self-  
17 referred to you on June 9th?

18 A. It was my understanding -- I generally ask  
19 where I get my -- I like to find out where my

20 patients come from.

21 Q. Yes.

22 A. And she said that she wanted to see me for  
23 this problem.

24 Q. On her own initiative?

25 A. That was my understanding.

□

123

1 Q. And that's what you recorded in your chart  
2 back then; correct?

3 A. Yes.

4 Q. Now, with respect to that, if she had been  
5 referred to you by physician assistant Natoli  
6 back in April, would you have seen her in that  
7 fashion in the regular course of your  
8 practice?

9 MR. CRENNY: Objection, relevance.

10 A. If she was referred to me with a wrist?

11 BY MR. SLIMAK:

12 Q. Yes.

13 A. I see almost anybody referred to me. There  
14 are very few patients I don't see.

15 Q. And then with regard to that referral back at  
16 that point in time, if it would had occurred  
17 in April, would you see the patients in  
18 approximately a week?

19 A. That I can't -- I would have no idea.

20 MR. CRENNY: Objection, relevance.

21 BY MR. SLIMAK:

22 Q. With regard to if you had seen the patient  
23 back in April, would you have gone through the  
24 same process of working up the patient that  
25 you did in June?

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124

1 A. Yes.

2 MR. CRENNY: Objection, relevance.

3 BY MR. SLIMAK:

4 Q. Now, is a basic x-ray such as your obtaining  
5 on June 9th, 2005, the test that you would  
6 perform to look for tendinitis?

7 A. I will generally get an x-ray on any complaint  
8 because of the world within which I live.

9 Q. My specific question is, would you use an  
10 x-ray to look for tendinitis?

11 A. An x-ray is not used for tendinitis unless, of  
12 course, it's end stage calcific tendinitis and  
13 then you'll make that determination. So if  
14 you have tendinitis, tennis elbow, I will

piasio.txt

- 15 x-ray that and can diagnose that on an x-ray.  
16 Q. When you say end stage, you mean a very severe  
17 longstanding?  
18 A. Calcific change. Or rotator cuff tendinitis I  
19 can diagnose with an x-ray occasionally.  
20 Q. But tendinitis in the wrist you typically  
21 couldn't unless it was an end stage very  
22 severe with calcific changes?  
23 A. There are only a handful of tendonitis about  
24 the wrist and other than own, there are very  
25 few that are diagnosed on a plain film, but

125

- 1 there are some.  
2 Q. Is MRI study a better study if you were --  
3 A. No.  
4 Q. -- trying to use an imaging study?  
5 A. No.  
6 Q. Does the MRI show both structures of bone as  
7 well as soft tissue?  
8 A. Yes.  
9 Q. And it also can show fluids and things?  
10 A. Yes.  
11 Q. Now, do you agree that there is quite a bit of  
12 bone density variability from person to  
13 person, there can be?  
14 A. There can be.  
15 Q. Is there a normal range of variation of bone  
16 density?  
17 A. Yes.  
18 Q. So everybody's bones don't look exactly the  
19 same, even if you're looking at the same bone



20 in different people on a <sup>piasio.txt</sup> plain film x-ray;  
21 correct?  
22 A. Not only can they be different, but even the  
23 radiographic technique can change them as well  
24 as I can with the computer as well. I can  
25 change -- which is one of the advantage, I

126

0  
1 can't change the radiographic technique if I  
2 like without repeating the film.

3 Q. And that's something that you do here in your  
4 office because you have access to this system?

5 A. I do it routinely on cases where I'm not sure  
6 if I'm looking at -- you know, what I'm  
7 actually looking when I try to sometimes move  
8 what we call the window in and out of the  
9 x-ray to change if I want to see more soft  
10 tissue or more bone. By highlighting, by

11 playing with the computer, I can change the  
12 image to pick up soft tissue changes as  
13 opposed to bone changes.

14 Q. So by doing that, one of the things you can  
15 try to look for is actually, although it's not  
16 bone, but the soft tissue surrounding the  
17 bones of the forearm, correct, you're looking  
18 to see if there's something evident there?

19 A. Possibly.

20 Q. I understand that.

21 A. You can change the technique of a plain film  
22 with a digital film by playing with the  
23 computer and adjusting how the digital  
24 presentation shows itself. So that with  
25 otherwise with a regular x-ray, I have to take

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1 multiple films if I want to look at soft  
2 tissue and look for fluid or look for mass or  
3 something and see if it's there. Whereas,  
4 with the computer, I can just do it with any  
5 film I can change it, change the way it looks.

6 Q. Now, when you say playing with it, do you mean  
7 examining it in a professional manner?

8 A. Yes.

9 Q. Just because you used that word, I wanted to  
10 have you clarify that?

11 A. Correct. That's correct.

12 Q. Because you wouldn't be playing --

13 A. If you'd like, I can demonstrate that, but --

14 Q. I know what it means, to look at it in a  
15 professional manner which you determined as

16 playing?

17 A. Playing.

18 Q. Now, just give me a moment, please bear with  
19 me. We have been here a long time and I think  
20 I'm getting close to the end of my questions?

21 A. I'm still good.

22 Q. Thank you. You're still smiling.

23 A. I'm still okay.

24 MR. SLIMAK: The videographer  
25 indicated this would be a good time to change

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1 the tape, so let's take a quick break for that  
2 purpose.

3 A. Okay.

4 VIDEOGRAPHER: We're now going off

5 the record. This marks the end of tape number  
6 two in the deposition. The time right now is  
7 6:45 p.m. Please stand by.

8 - - - - -  
9 (There was a discussion off the  
10 record.)

11 - - - - -  
12 VIDEOGRAPHER: We are now back on  
13 the video record. The time right now is  
14 6:48 p.m. that's indicated on the screen.  
15 This will mark the beginning of tape number  
16 three in the deposition. You may proceed.

17 BY MR. SLIMAK:

18 Q. In your records and I think in your earlier  
19 testimony, you indicated that one of the tests  
20 you performed was a bone scan; correct?

21 A. Correct.

22 Q. Are bone scans tests that can only be ordered  
23 by orthopedic surgeons such as yourself?

24 A. No.

25 Q. Can they be ordered by family physicians or

□ 1 physician assistants?

129

2 A. PAs, yes.

3 Q. Is the bone scan the type of test that can  
4 attempt to identify whether there is  
5 essentially a hot area in a certain area of  
6 bone due to decrease of something or other?

7 A. Bone activity.

8 Q. Bone activity --

9 A. Yes.

10 Q. -- the word escapes me?

piasio.txt

- 11 A. A bone scan is a very nonspecific but  
12 sensitive test that localizes bone activity.  
13 It doesn't tell you if it's tumor, fracture,  
14 infection. It just says that there's bone  
15 turnover, bone action and it's like a red  
16 flag, a place you want to look, or isolates  
17 other areas for tumor patients that may have  
18 other lesions that may not be symptomatic.  
19 Q. If you do that bone scan, is it also called a  
20 three-phase radionuclide scan?  
21 A. Yes.  
22 Q. The same thing. Now, is that something that  
23 you can do body wide and then be able to see  
24 on that study whether or not there is  
25 increased activity, so to speak, in just one  
□

130

- 
- 1 wrist versus in both wrists and make  
2 comparisons?  
3 A. Yes.  
4 Q. Does that help you isolate the area for  
5 possible diagnosis or further workup?  
6 A. It can be used for lots of different reasons.  
7 In this particular case, it was done to stage  
8 her and not to diagnose her with -- otherwise  
9 it can be used if you're looking for occult  
10 fractures, we use it for scaphoid fractures,  
11 we use them for stress fractures in those  
12 circumstances.  
13 Q. Are there times whenever there are plain basic  
14 x-rays ordered of both right and left arm or  
15 wrist for comparison purposes?

16 A. Generally only in two circumstances, one, if  
 17 you have trauma in a child and they have  
 18 growth plates and you cannot determine from  
 19 that film if something is in line or not  
 20 because there's not bone evident, and that's  
 21 oftentimes just at the elbow, which is very  
 22 confusing. And you'll occasionally get them  
 23 in other parts if there's a congenital anomaly  
 24 that where you look at it, are there two of  
 25 those, is this isolated, or is this the way

131

1 they are born. Like you can see people with  
 2 different ears or something.

3 Q. Is that a method then to look at both hands  
 4 and compare them with the radiographic  
 5 appearance would be?

6 A. You could get a bone scan to look at -- we  
 7 sometimes get -- we get them oftentimes for  
 8 scaphoid fractures, which you can see on an  
 9 x-ray occasionally and you'll see increased  
 10 flow or uptake in that particular bone and not  
 11 on the other side. So we get -- when we do a  
 12 bone scan, we generally don't do them in one  
 13 area just because the tracer is in your whole  
 14 body and there's no reason not to get a  
 15 comparison because it's sitting there and you  
 16 get it either way.

17 Q. You reference that you get the bone scan for  
 18 scaphoid fractures, you'll have to tell us,  
 19 where's the scaphoid bone?

20 A. The scaphoid is a bone in the wrist. It's  
 21 a -- in a traumatic patient that has a normal

22 x-ray that has continued radial wrist pain, it  
23 would be what one would get in a trauma case.

24 Q. So sometimes there are x-rays that would not  
25 pick up even fractures --

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132

1 A. That's correct.

2 Q. -- in the area of the wrist; correct?

3 A. That's correct.

4 Q. Now, Attorney Crenney had taken you through  
5 the sequence of events after your initial  
6 visit. As I understand it, you saw  
7 Ms. Carlson back on the 13th after you had had  
8 additional imaging studies; correct?

9 A. Correct.

10 Q. At that point in time, then you discuss the  
11 situation with her, indicated that you would

---

12 make a referral at that point to Dr. Yaw;  
13 correct?

14 A. Correct.

15 Q. And you noted in your chart that among other  
16 things, it appeared the lesion, being this  
17 tumor, appeared to be fairly rapid growing;  
18 correct?

19 A. Correct.

20 Q. Now, there were evidence in this case -- well,  
21 let me back up. Were you aware that Dr. Yaw  
22 did not actually perform his surgery until  
23 June 27th, 2005?

24 A. I don't doubt that. I don't know that I  
25 recall specifically.

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133

1 Q. If we assume for the moment that the facts  
2 show that you made your referral to Dr. Yaw by  
3 letter of June 13th, 2005 and he did not  
4 perform his surgery that we talked about  
5 earlier on her wrist until June 27th, 2005,  
6 okay, is that a typical period of time that  
7 would transpire in your practice from when you  
8 would see a patient and make a diagnosis until  
9 your patients would undergo surgery by the  
10 bone tumor specialist?

11 MR. CRENNY: Objection.

12 A. I would tell you that that's a very short  
13 period of time to get someone on for that kind  
14 of procedure. It was about a week.

15 MR. CRENNY: Withdraw the  
16 objection.

17 A. I saw her the 13th I believe, Ken saw her a  
18 couple of days after, within ten days she had  
19 a radical resection on her wrist, that's very  
20 good time.

21 BY MR. SLIMAK:

22 Q. Good. Thank you for clarifying that because  
23 that's what I want to establish. In the usual  
24 course or oftentimes in your practice, even if  
25 you suspect that there's a tumor of the bone

□

134

1 and you're going to make a referral of a  
2 patient to an orthopedic bone specialist that  
3 you anticipate will be performing surgery,  
4 does it oftentimes even take longer than 14  
5 days for that surgery to occur?

6 A. I have a very close relationship with -- or  
Page 110

piasio.txt

7 had with Dr. Yaw before he left and  
8 Dr. Goodman and I don't make that referral  
9 without a phone call. I don't leave that up  
10 to anyone and if it's not timely in my  
11 opinion, we discuss it. But I also know that  
12 the only two oncologists in five states, so  
13 that usually necessitates a call from me when  
14 I want them seen, but it's not unusual for a  
15 tumor case to take longer than that. That's  
16 actually fairly quick from phone call to  
17 surgery knowing -- just knowing how busy they  
18 are, knowing that Mark Goodman says he does up  
19 to 28, 30 cases a week, so that was good.

20 Q. With regard to the suspicion of a giant cell  
21 tumor on the basis of which you made a  
22 referral to a physician in Pittsburgh, if you  
23 had had that suspicion back in April of 2005,  
24 would you have expected that it would be two  
25 weeks or greater for your patient to undergo

135

1 surgery indicated?

2 MR. CRENNY: Objection.

3 A. Can I answer?

4 MR. CRENNY: Sure, absolutely.

5 A. I'm trying to understand the question. If I  
6 had seen the patient originally.

7 BY MR. SLIMAK:

8 Q. Just let me ask the question --

9 MR. CRENNY: Let him answer the  
10 question.

11 A. I'm not sure I understand the question.



12 BY MR. SLIMAK:

13 Q. Let me try to clarify.

14 MR. CRENNY: Please let him answer  
15 the question. He was beginning to answer your  
16 question. You have a question on the board.

17 A. It's hard to say because if I had seen the  
18 patient in April, obviously the urgency of the  
19 workup would not be as acute at that time.

20 BY MR. SLIMAK:

21 Q. It would be less, less urgent?

22 A. I don't know that I would get everything done  
23 in a day. I would get it done within a week  
24 because I knew I had a tumor, but --

25 Q. What do you mean by everything?

□

136

1 A. An MRI, CAT scan, CAT scan of the lungs, chest  
2 x-ray, all the blood work.

3 Q. So you may have taken longer than you took  
4 when you saw her in June to get all of that  
5 done if you had seen her in April?

6 MR. CRENNY: Objection. He said  
7 exactly how long.

8 A. I don't know that I would have been able to  
9 impress upon anyone to get all of that done  
10 because basically other patients were  
11 cancelled to get her, to accommodate her  
12 because the phone call went out this will not  
13 wait, I need this today. Initial  
14 presentation, you know, probably within a  
15 week. We would have said we need this within  
16 the week, we're not waiting longer than a  
17 week.

18 BY MR. SLIMAK:

19 Q. And then would you expect if she needed  
20 surgery, even if you had made that referral  
21 and did that workup within a week of April  
22 12th, that there would still be a period of at  
23 least two weeks until your patient would have  
24 undergone surgery?

25 A. I don't know how -- I don't know how to answer

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137.

1 that. I mean that's up to their -- I would  
2 have to make the referral that I have a lytic  
3 lesion of the distal radius, I suspect this  
4 giant cell and I'm looking at the mercy of  
5 whatever their schedule is. I don't know how  
6 quickly they would get someone in. You like  
7 them the next day, but realistically I don't  
8 know how quickly that would occur.

9 Q. Now, when you specifically advise the  
10 Pittsburgh orthopedic surgeons that you felt  
11 this was a fairly aggressive rapidly growing  
12 lesion that you felt was a tumor, correct,  
13 they took two weeks to take her to surgery;  
14 correct?

15 A. Correct.

16 Q. That's from the date you made the call until  
17 she underwent the surgery, June 27th; correct?

18 A. Correct.

19 MR. SLIMAK: That's all the  
20 additional questions I have for you at this  
21 time. The other attorneys may have some.

22

23 EXAMINATION

24 - - - - -

25 BY MR. WALL:

□ 138

1 Q. Doctor, as you know, we just met earlier this  
2 evening, I'm Walter Wall and I represent DRI,  
3 DuBois Radiology, Inc. and I appreciate your  
4 patience of going on with us. I can assure  
5 you, I will be relatively speaking shorter,  
6 just two areas. Is it fair to say when this  
7 patient first came to your office, the  
8 complaint was pain in the right wrist; is that  
9 correct?

10 A. That's correct.

11 Q. And we'll bypass everything you have testified  
12 to, but you have your chart there, I direct

---

13 your attention to the requisition you  
14 thereafter did for the MRI and the bone scan  
15 and that, of course, was the same date,  
16 Thursday, June 9th?

17 A. Am I looking for the --

18 Q. Let me show you?

19 A. -- x-ray orders?

20 Q. Do you have it somewhere? I just need  
21 clarification on what's on the top there?

22 A. I have it.

23 Q. Up on the history on the right-hand corner at  
24 the top, could you read --

25 A. This is June 9th?

□ 139

1 Q. Yes, sir.

- 2 A. Under history?
- 3 Q. Yes, sir.
- 4 A. Mass right radius.
- 5 Q. And then down below it said MRI --
- 6 A. MR right distal radius.
- 7 Q. Correct?
- 8 A. Correct.
- 9 Q. And then next page, at least the next page I
- 10 have, is the bone scan and you basically wrote
- 11 the same things under both history, mass of
- 12 the right radius, and down below mass of the
- 13 right radius; correct?
- 14 A. I'm looking. I have a lot of requisitions.
- 15 Q. I'm sorry.
- 16 A. For the bone scan, correct, mass right radius,
- 17 mass right radius.
- 18 Q. What was your purpose for writing both the
- 19 history and the direction as you did?
- 20 A. I am forced to so they can bill correctly. If
- 21 I don't fill in those forms, they are unable
- 22 to code and bill for the x-ray correctly and
- 23 sometimes necessitates a delay in getting them
- 24 approved.
- 25 Q. However, you could have easily said just as

140

- 1 was done before in this case, pain in right
- 2 wrist, MRI right wrist?
- 3 A. I could, but I -- at that point I'm a little
- 4 better. I mean I could write pain and still
- 5 get it approved and there's no issue. You can
- 6 write pain, but when I'm writing that order,
- 7 June 9th or 10th, it's not pain right wrist,

8 it's mass right wrist.  
9 Q. You're trying to be more definitive?  
10 A. Correct. I try to help them as much as I can.  
11 Q. Help them being the staff that's going to  
12 undertake the MR and the bone scan?  
13 A. That's correct.  
14 Q. You want to give them as best information as  
15 you can to focus on?  
16 A. Right.  
17 Q. Doctor, in your practice currently or in the  
18 past, you have had occasion to have  
19 physician's assistant on your staff, have you  
20 not?  
21 A. That's correct.  
22 Q. Did you have or do you have a policy as to a  
23 patient coming in with a new complaint, how  
24 many office visits will pass when only a  
25 physician's assistant sees that patient?

□ 141

1 MR. CRENNY: Objection.  
2 BY MR. WALL:  
3 Q. You can answer.  
4 A. There maybe state law in a primary practice,  
5 but occasional I don't even see patients long  
6 enough to necessarily warrant the visit.  
7 That's something we are debating very  
8 viciously at the state regulatory level and  
9 probably beyond the scope of this deposition,  
10 but I think that those -- I don't know what  
11 state law is with respect to primary care, but  
12 I think a lot of that is determined by the

13 particular relationship you have with that  
14 ancillary provider and their level of  
15 expertise into what it is.

16 Now, when I had a nurse practitioner  
17 in my office, we're very focused on one area  
18 and almost never were not in the office  
19 together. It was rare that we did not work at  
20 the same time, so our relationship was a  
21 little bit different. But so it's hard to  
22 comment. I don't know what actual law is in  
23 terms of how often someone has to see.

24 Q. Well, we both agree there is statutory --

25 A. I believe there is some and I think it's every

□

142

1 third or fourth visit or sixth. I'm not sure  
2 where it is right now, where the regulation  
3 is.

4 Q. I wasn't going to ask you the legal issue, I  
5 asked you if you had a policy established as  
6 to that fact?

7 A. Our policy in my office was to be consistent  
8 with state regulations as they apply to the  
9 nursing board because I had a nurse  
10 practitioner, not a PA, and those regulations  
11 are different. And the nurse practitioner, I  
12 don't believe it's as frequent as to what the  
13 physician assistant. Hopefully we won't get  
14 any worse than that, but it -- but we had a  
15 very close working relationship. So, it  
16 was -- like I said, it was rare.

17 The way that we worked, we tried to  
18 see patients simultaneously so that I was

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19 always there for any time that she would see  
20 so that I would actually see my patients and  
21 half of hers.

22 Q. would you have occasion thereafter to review  
23 her chart entries?

24 A. I rarely --

25 MR. CRENNY: Objection.

□

143

1 A. We worked close enough that I would usually  
2 see the patient at the time and anything  
3 unusual, she would always bring it up to me.  
4 We had a close relationship.

5 BY MR. WALL:

6 Q. So the two of you are communicating that way?

7 A. Very intensely.

8 Q. Nevertheless, when she would see a patient and

9 make a chart entry, would you review that  
10 chart?

11 A. Not all of them, no.

12 Q. Did you sign it?

13 A. No. Every chart entry?

14 Q. Yes.

15 A. No.

16 MR. WALL: Thank you, Doctor.

17 That's all I have.

18 MR. JOHNSON: Doctor, I'm Dave  
19 Johnson. I represent DuBois Regional Medical  
20 Center. You and I met for the first time just  
21 as I was walking into the room today; correct?

22 A. Correct.

23 MR. JOHNSON: It's the first time

piasio.txt

24 you and I have ever talked with each other?

25 A. I have heard your name, but this is the first

144

1 we have met, yes.

2 MR. JOHNSON: Doctor, I have no  
3 questions of you. Thank you very much.

4 - - - -

5 RE-EXAMINATION

6 - - - -

7 BY MR. CRENNY:

8 Q. Doctor, you may recall sometime ago when  
9 Mr. Slimak began his cross examination -- I  
10 didn't have my mic, so I don't know if that  
11 pick up. It probably did. But do you  
12 remember when Mr. Slimak began his cross  
13 examination, that he talked about the times  
14 you and I had talked, do you recall that, over  
15 the telephone?

16 A. Yes.

17 Q. And during those talks, he -- well, strike  
18 that. He mentioned the report, correct, the  
19 report that you wrote and sent to me?

20 A. Correct, that one-page letter, correct.

21 Q. Do you recall when I called you about that  
22 report, I said if you will write a report and  
23 clarify your record, maybe you won't have to  
24 testify at all, do you recall that?

25 MR. SLIMAK: I'm going to object to

145

1 leading.

2 BY MR. CRENNY:

3 Q. Do you recall --



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4 A. I recall that in our conversations, I believe  
5 I was relatively clear of the difficult  
6 circumstance that I was in as a treating  
7 physician with knowledge of the case and a  
8 differing opinion within the facility within I  
9 work, that that was a very sensitive  
10 circumstance and expressed I believe in  
11 multiple times to please settle this without  
12 me having to be here today.

13 MR. WALL: Move to strike.

14 MR. JOHNSON: Move to strike.

15 MR. SLIMAK: Same objection.

16 By MR. Crenney:

17 Q. Doctor, would you be kind enough to tell me if  
18 you were reluctant to testify in this case  
19 and, if so, would you tell me why?

---

20 MR. JOHNSON: Objection, relevance.

21 MR. WALL: Objection.

22 MR. SLIMAK: I join.

23 A. Am I answering?

24 BY MR. CRENNY:

25 Q. Yes, you are, sir.

□

146

1 A. That I had to answer that question two ways.  
2 I'm reluctant because I don't want to be in  
3 this circumstance because I work here and I  
4 know all the parties involved, so I'm  
5 reluctant to be a witness. No different than  
6 anyone who witnesses something that they don't  
7 want to be involved in the trial. On the  
8 other hand, I am not reluctant if it's -- you

9 know, to come and tell the truth as I see it.  
 10 Q. And, Doctor, Mr. Slimak talked a lot about a  
 11 lot of conditions like Paula Carlson's dad  
 12 died of lung cancer, he brought that to your  
 13 attention. That somebody in their family had  
 14 diabetes. He talked about the Finkelstein  
 15 test and the spines and necks, do you recall  
 16 that, going through all of that about Paula?  
 17 A. Yes.  
 18 Q. Did you need that information to identify the  
 19 lytic lesion that when you looked at the x-ray  
 20 of April 12th, was that important information,  
 21 did you need it?  
 22 A. No.  
 23 Q. Was the lytic lesion clear when you first  
 24 looked at that image to you?  
 25 A. It was clear to me.

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147

1 Q. Doctor, are you in any way critical of the  
 2 care provided by Dr. Graeca or his staff to  
 3 Paula Carlson?  
 4 MR. WALL: Objection.  
 5 MR. SLIMAK: Objection, lack of a  
 6 report.  
 7 MR. CRENNY: I think your cross  
 8 examination and its purpose was to explicitly  
 9 and implicitly call into question Dr. Graeca's  
 10 care and I feel it's a fair question based on  
 11 your cross. You may answer.  
 12 MR. WALL: Well, I'm going to  
 13 object, there's no foundation. I don't know  
 14 if the Doctor has ever reviewed Dr. Graeca's

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15 records to be able to afford an answer to  
16 you.

17 MR. SLIMAK: He's already indicated  
18 he hadn't. No foundation.

19 MR. Crenney: Well, he received a  
20 lot of information on what Dr. Graeca did from  
21 you through the report of Dr. Horsley, so he  
22 has that foundation.

23 BY MR. CRENNEY:

24 Q. Basic on what you know, are you critical of  
25 Dr. Graeca?

□

148

1 MR. CRENNEY: Your objections are  
2 noted.

3 MR. SLIMAK: Same objection.

4 BY MR. CRENNEY:

5 Q. You can answer?

6 A. No, I'm not critical.

7 Q. How about Dr. Yaw?

8 A. I'm not critical.

9 Q. Thank you, Doctor. Are you critical of  
10 Dr. Natoli or Dr. Meyers, not Dr. Natoli, PA  
11 Natoli or Dr. Meyers?

12 MR. SLIMAK: Same objections.

13 MR. CRENNEY: I'll withdraw the  
14 question. Thank you, Doctor.

15 MR. WALL: I guess we're at you,  
16 Mr. Slimak.

17 MR. SLIMAK: Oh, I wasn't sure.

18 MR. CRENNEY: All done, thank you.  
19 well, no, not quite, one more thing. May I

20 turn this back, Mr. Slimak <sup>piasio.txt</sup> to the beginning  
21 one?

22 MR. SLIMAK: Yes.

23 BY MR. CRENNY:

24 Q. Doctor, we're now looking at the first page  
25 that Mr. Slimak brought to your attention and

□ 149

1 without waiving my objection to that, I would  
2 like to ask you about items that are not  
3 highlighted on what Mr. Slimak gave you. Does  
4 it say referred by Dr. Graeca, see to the  
5 referred by?

6 A. Yes.

7 Q. And then does it say by Dr. Graeca?

8 A. Yes.

9 Q. And that's your record; correct?

10 A. That record is -- that's filled out by

11 sometimes the front office and sometimes  
12 patient when it's incomplete. I'm not always  
13 fully aware of how a patient presents to my  
14 office. I try to find it out only because I  
15 like to know who my friends are. However, I  
16 don't like to give someone credit for referral  
17 that really wasn't or vice versa, so I like  
18 to -- and we do chart in looking at our  
19 business practices who refers patients to us  
20 and who doesn't.

21 So you know, we basically know, you  
22 know, who can get someone in today, who can  
23 get someone in tomorrow. So we try to keep  
24 track of. Plus for billing purposes and also  
25 for documentation purposes, I need to know

0

1 where my letters need to go. And I also need  
2 to know we have different billing codes if  
3 someone is referred or not. This is the world  
4 within which I live.

5 MR. JOHNSON: Just for the record, I  
6 move to strike that as being beyond the scope  
7 of the question and also on the basis of  
8 relevance.

9 MR. WALL: Join.

10 MR. CRENNY: I'm going to withdraw  
11 questions about this document altogether and  
12 conclude my redirect. So I will withdraw all  
13 the questions from the very beginning that I  
14 asked about this.

15 MR. WALL: From the beginning of the  
16 deposition?

17 MR. CRENNY: No, except for this  
18 document. Thank you very much, Doctor.

19 - - - -

20 RE-EXAMINATION

21 - - - -

22 BY MR. SLIMAK:

23 Q. Doctor, is Dr. Graeca one of your friends  
24 here, so to speak, at the hospital?

25 A. We don't socialize. We -- you know, certainly

0

1 consider him a friend. I mean he does refer  
2 patients to me. I refer patients to him and  
3 we work professionally together. We  
4 don't -- not that I wouldn't socialize with

5 him, but we just don't. I <sup>piasio.txt</sup> have no problems  
6 with him personally. He's not in my circle of  
7 friends and vice versa.

8 Q. You try to keep a good relationship with  
9 Dr. Graeca?

10 A. Absolutely.

11 Q. And the two of you still practice here at the  
12 hospital in separate offices, but in the same  
13 building; correct?

14 A. Yes, we do.

15 Q. Now, just one other thing, you had used this  
16 word artifact previously, correct --

17 A. Correct.

18 Q. -- when you talked about this case?

19 MR. CRENNY: Objection. Beyond the  
20 scope of my redirect.

21 BY MR. SLIMAK:

22 Q. Is this the word artifact you're talking  
23 about?

24 A. Yes.

25 MR. CRENNY: Objection. Move to

□

152

1 strike. Very funny, but move to strike.

2 MR. SLIMAK: I think that's all the  
3 questions I have for you at this time. Thank  
4 you, sir.

5 MR. WALL: One question.

6 - - - - -

7 RE-EXAMINATION

8 - - - - -

9 BY MR. WALL:

10 Q. Doctor, Mr. Crenney asked you a question over  
Page 125

piasio.txt

11 my objection, but you didn't answer it --

12 A. I'm sorry.

13 Q. -- and that was, do you have any criticism of

14 PA Natoli from whatever it is you know about

15 the treatment Mrs.. Carlson received before

16 she saw you?

17 A. No, I don't.

18 MR. SLIMAK: I have an objection,

19 the same as before that were objected to in

20 Mr. Crenney's questions in that regard.

21 MR. WALL: That's all I have. We're

22 done.

23 VIDEOGRAPHER: With there being no

24 further questions, the deposition is

25 concluded. The time now is 7:12 p.m. and

□

153

---

1 that's indicated on the screen. Thank you

2 very much and have a good night.

3 - - - -

4 (Thereupon, the deposition was

5 concluded at 7:12 p.m.)

6 - - - -

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154

1 COMMONWEALTH OF PENNSYLVANIA) CERTIFICATE

2 COUNTY OF ALLEGHENY ) SS:

3 I, Tammie Elias, RPR, a Court Reporter and

4 Notary Public in and for the Commonwealth of

5 Pennsylvania, do hereby certify that the witness,

6 MARK A. PIASIO, M.D., was by me first duly sworn to

---

7 testify to the truth; that the foregoing deposition

8 was taken at the time and place stated herein; and

9 that the said deposition was recorded

10 stenographically by me and then reduced to printing

11 under my direction, and constitutes a true record of

12 the testimony given by said witness.

13 I further certify that the inspection, reading

14 and signing of said deposition were waived by

15 counsel for the respective parties and by the

16 witness.

17 I further certify that I am not a relative or

18 employee of any of the parties, or a relative or

19 employee of either counsel, and that I am in no way

20 interested, directly or indirectly, in this action.

21 IN WITNESS WHEREOF, I have hereunto set my



piasio.txt

22 hand and affixed my seal of office this 22nd day of  
23 January, 2008.

24

25

---

Notary Public

□



DuBois Regional  
Medical Center

*Making the difference for life.*

06-11-07

Thomas E. Crenney  
Attorneys at Law  
One Gateway Center  
18<sup>th</sup> Floor - West  
Pittsburgh, PA 15222

RE: Paula J. Carlson  
DB: 04-26-1971  
SS# 201-66-3077  
Our File # 2895.01

Dear Mr. Crenney,

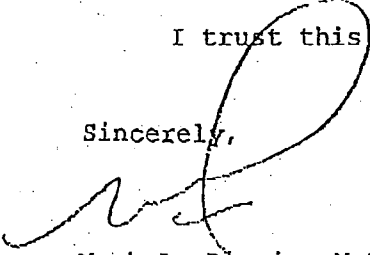
This letter is in response to need for clarification of my medical records of Paula Carlson. As you are aware Ms. Carlson presented to my office on 06-09-05 for evaluation of right wrist pain at the request of Dr. Steve Graeca. I believe you have my office note of that date.

At that point in time review of her radiograph, from I believe 04-12-05 revealed a lytic lesion on the ulnar aspect of the distal radius. I repeated the x-ray at that time to insure this was not artifact and indeed there were progressive changes of that lytic lesion and immediate workup ensued, including a MR study of the wrist, chest x-ray and blood work.

She was found to have a giant cell tumor, referred to Dr. Ken Yaw who has treated her since. I have not had the opportunity to see Ms. Carlson in followup and would be unable to comment on any continuing disability and would have to defer that to Dr. Yaw who is much more familiar with her current situation.

I trust this clarifies the circumstance.

Sincerely,

  
Mark A. Piasio, M.D.  
MAP/jlw

West Unit (814) 371-2200 East Unit (814) 375-4321 Direct Dial: (814) 375-  
Visit our web site at [www.drmc.org](http://www.drmc.org)

Mark A. Piasio, MD, MBA, FAAOS  
Amy Vezza, CRNP  
Orthopaedic Surgery

145 Hospital Avenue  
Suite 311  
DuBois, PA 15801

Phone: 814-375-9617  
Fax: 814-375-9624

EXHIBIT

"B"

KROT

ZELIGER

PIASIO

DATE OF CALL:

6/6/05

6/9/05

12:30

PATIENT'S NAME:

Paula Carlson

REFERRED BY:

Dr. ~~Graeco~~ Graeco

BIRTHDATE:

4/26/71

SS#

201-66-3077

PROBLEM:

(R) wrist pain/weakness

PHONE:

372-3669

ADDRESS:

1373 Sandstone Dr. Falls Creek

INSURANCE:

Keystone

WC:

2

AUTO:

2

X RAYS/SCANS/EMG

ETC. & DATE/LOCATION:

X-Ray 4/12 Emb 5/5/05

PREVIOUS SURGERY/TX:

EXHIBIT

tabbies

"C"



Name Paula Carlson

PRIMARY MEDICAL DOCTOR

X = No Change

| Allergies |
|-----------|
|           |
|           |
|           |

## PROBLEM LIST

C

**Compliments of the PMSLIC/PMS Risk Management Department**



DuBois Regional  
Medical Center  
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# DRMC ORTHOPAEDICS

NOTE: This is a confidential record of your medical history and will be kept in this office. Information contained here will not be released to any person except when you have authorized us to do so.

Name: Paula Carlson Age: 34 Marital Status: married Today's Date: 6/9/05  
Occupation: radiation therapist All previous occupations: \_\_\_\_\_  
Birthplace: New York Birthdate: 4/26/71  
Family doctor: Dr. Gracca Referred by: N. Gracca

List any medications you take (including over-the-counter and herbal medications)

Lodine 300 mg 3x daily Vitamin E  
Tramadol 50mg 2-3x daily  
daily vitamin  
calcium  
iron  
fiber

List allergies or bad reactions to any medications:

List medical illnesses and hospitalizations

List all surgeries

| Year | Illness |
|------|---------|
|      |         |
|      |         |
|      |         |
|      |         |
|      |         |

| Year | Operation |
|------|-----------|
|      |           |
|      |           |
|      |           |
|      |           |
|      |           |

## FAMILY HISTORY

|                   | If living |             | If deceased  |       | Has any blood relative ever had | Please Circle                           | Who    |
|-------------------|-----------|-------------|--------------|-------|---------------------------------|-----------------------------------------|--------|
|                   | Age       | Health      | Age at death | Cause |                                 |                                         |        |
| Father            | 58        | has lung Ca |              |       | Cancer                          | No <input checked="" type="radio"/> Yes | father |
| Mother            | 57        | well        |              |       | Tuberculosis                    | No <input checked="" type="radio"/> Yes |        |
| Brother or Sister | 1. 38     | well        |              |       | Diabetes                        | No <input checked="" type="radio"/> Yes | father |
|                   | 2.        |             |              |       | Heart trouble                   | No <input checked="" type="radio"/> Yes |        |
|                   | 3.        |             |              |       | High blood Pressure             | No <input checked="" type="radio"/> Yes |        |
|                   | 4.        |             |              |       | Stroke                          | No <input checked="" type="radio"/> Yes |        |
|                   | 5.        |             |              |       | Epilepsy                        | No <input checked="" type="radio"/> Yes |        |
| Husband or Wife   | 34        | M.S.        |              |       | Mental illness                  | No <input checked="" type="radio"/> Yes |        |
| Son or Daughter   | 1. 9      | well        |              |       | Suicide                         | No <input checked="" type="radio"/> Yes |        |
|                   | 2. 7      | well        |              |       |                                 |                                         |        |
|                   | 3.        |             |              |       |                                 |                                         |        |
|                   | 4.        |             |              |       |                                 |                                         |        |
|                   | 5.        |             |              |       |                                 |                                         |        |

Do you smoke? Yes ☒ No ☒ If yes, how many packs per day? \_\_\_\_\_ How many years have you smoked? \_\_\_\_\_  
Do you drink alcohol? Yes ☒ No ☒ If yes, how many drinks per week? \_\_\_\_\_  
Weight: Now 105 One year ago 105 Maximum \_\_\_\_\_ When \_\_\_\_\_  
Height: 5'4" Any decrease in height: Yes ☒ No ☒  
Why are you here to see the doctor today?  
RT wrist pain

Were you seen in an emergency room for this problem? Yes ☒ No ☒ Date: \_\_\_\_\_  
Were x rays taken of this problem? Yes ☒ No ☒ Date: \_\_\_\_\_  
Have you been treated for this problem by another physician? Yes ☒ No ☒ If yes, doctor's name: Dr. Myers  
Do you have a living will? Yes ☒ No ☒ If yes, please provide a copy for our office to keep on file.  
If no, would you like to receive information on a living will? Yes ☒ No ☒

# PERSONAL HISTORY

HAVE YOU EVER HAD: (PLEASE CIRCLE)

Measles ☒ No ☐ Yes  
 German Measles ☒ No ☐ Yes  
 Mumps ☒ No ☐ Yes  
 Chicken Pox ☒ No ☒ Yes  
 Whooping Cough ☒ No ☐ Yes  
 Scarlet Fever or Scarlatina ☒ No ☐ Yes  
 Diphtheria ☒ No ☐ Yes  
 Smallpox ☒ No ☐ Yes  
 Pneumonia ☒ No ☐ Yes  
 Influenza ☒ No ☐ Yes  
 Pleurisy ☒ No ☐ Yes  
 Rheumatic fever or heart disease ☒ No ☐ Yes  
 Arthritis or rheumatism ☒ No ☐ Yes  
 Any bone or joint disease ☒ No ☐ Yes  
 Neuritis or neuralgia ☒ No ☐ Yes  
 Bursitis, sciatica, or lumbago ☒ No ☐ Yes  
 Polio or meningitis ☒ No ☐ Yes  
 Kidney disease ☒ No ☐ Yes  
 Gonorrhea or syphilis ☒ No ☐ Yes  
 Gallbladder disease ☒ No ☐ Yes  
 Anemia ☒ No ☒ Yes  
 Indigestion ☒ No ☐ Yes  
 Bladder disease ☒ No ☐ Yes  
 Epilepsy ☒ No ☐ Yes  
 Migraine headaches ☒ No ☐ Yes  
 Tuberculosis ☒ No ☐ Yes  
 Diabetes ☒ No ☐ Yes  
 Cancer ☒ No ☐ Yes  
 High or low blood pressure ☒ No ☐ Yes  
 Colitis or other bowel disease ☒ No ☐ Yes  
 Hemorrhoids or any anal disease ☒ No ☐ Yes  
 Nervous breakdown ☒ No ☐ Yes  
 Food, chemical or drug poisoning ☒ No ☐ Yes  
 Hives or eczema ☒ No ☐ Yes  
 Frequent infections or boils ☒ No ☐ Yes  
 AIDS ☒ No ☐ Yes  
 Gout ☒ No ☐ Yes  
 Hepatitis ☒ No ☐ Yes  
 Depression ☒ No ☐ Yes  
 Sleeping problems ☒ No ☐ Yes  
 Blood clots ☒ No ☐ Yes  
 Alcohol/drug abuse ☒ No ☐ Yes  
 Any other diseases: \_\_\_\_\_

Recurrent nosebleeds ☒ No ☐ Yes  
 Recurrent head colds ☒ No ☐ Yes  
 Sinus trouble ☒ No ☐ Yes  
 Hay fever or asthma ☒ No ☐ Yes  
 Persistent hoarseness ☒ No ☐ Yes  
 Difficulty swallowing ☒ No ☐ Yes  
 Enlarged glands ☒ No ☐ Yes  
 Recurrent sore throats ☒ No ☐ Yes  
 Recurrent sores in mouth ☒ No ☐ Yes  
 Soreness or bleeding of gums when brushing ☒ No ☐ Yes  
 Chest pain ☒ No ☐ Yes  
 Angina pectoris ☒ No ☐ Yes  
 Coughing up blood ☒ No ☐ Yes  
 Pain in arm(s) Wrist ☒ No ☒ Yes  
 Night sweats ☒ No ☐ Yes  
 Chronic or frequent cough ☒ No ☐ Yes  
 Chronic or frequent cough when laying down ☒ No ☐ Yes  
 Wake up at night short of breath ☒ No ☐ Yes  
 How many bed pillows do you use? 2  
 Shortness of breath when: walking several blocks ☒ No ☐ Yes  
 one flight of stairs ☒ No ☐ Yes  
 Palpitations or fluttering of heart ☒ No ☐ Yes  
 High blood pressure ☒ No ☐ Yes  
 Swelling of hands, feet, or ankles ☒ No ☐ Yes  
 Leg cramps when walking or at night ☒ No ☐ Yes  
 Enlarged veins in legs ☒ No ☐ Yes  
 Recurrent stomach pain ☒ No ☐ Yes

## HAVE YOU EVER HAD ANY:

Broken/cracked bones ☒ No ☐ Yes  
 Sprains ☒ No ☒ Yes  
 Lacerations ☒ No ☐ Yes  
 Dislocations ☒ No ☐ Yes  
 Concussion/head injury ☒ No ☐ Yes  
 Ever been knocked unconscious ☒ No ☐ Yes  
 Blood or plasma transfusions ☒ No ☐ Yes

Appetite: Good Fair Poor

## DO YOU NOW HAVE OR HAVE YOU HAD WITHIN THE PAST YEAR:

Nausea or vomiting ☒ No ☐ Yes  
 Vomited blood ☒ No ☐ Yes  
 Avoid some foods ☒ No ☐ Yes  
 What kinds \_\_\_\_\_  
 Avoid spices ☒ No ☐ Yes  
 Abdominal cramping ☒ No ☐ Yes  
 Blood in bowel movement ☒ No ☐ Yes  
 Rectal pain with BM ☒ No ☐ Yes  
 Change in size, shape, or texture of BM ☒ No ☐ Yes  
 Pain when urinating ☒ No ☐ Yes  
 Difficulty starting urination ☒ No ☐ Yes  
 Do you get up at night to urinate ☒ No ☐ Yes  
 How many times? \_\_\_\_\_  
 Any blood in urine ☒ No ☒ Yes 3-6  
 How many times per day do you urinate? 3-6  
 Full feeling of bladder, but only small amount of urination ☒ No ☐ Yes

Lose urine when coughing or sneezing ☒ No ☐ Yes  
 Discharge from penis ☒ No ☐ Yes  
 Recurrent back pains ☒ No ☐ Yes  
 Backaches ☒ No ☐ Yes  
 Joint pains ☒ No ☐ Yes  
 Swelling of any joints ☒ No ☐ Yes  
 Redness or heat of any joint ☒ No ☐ Yes  
 Tingling or weakness of hands or feet ☒ No ☐ Yes  
 Muscle spasms ☒ No ☐ Yes  
 Loss or change in sensation of hands or feet ☒ No ☐ Yes  
 Trembling of any extremity ☒ No ☐ Yes  
 Growth in neck or throat ☒ No ☐ Yes  
 Hot flashes ☒ No ☐ Yes  
 Tiredness without reason ☒ No ☐ Yes  
 Brittleness of nails ☒ No ☐ Yes  
 Dryness of skin ☒ No ☐ Yes  
 Easy bruising ☒ No ☐ Yes  
 Inability to stand heat ☒ No ☐ Yes  
 Inability to stand cold ☒ No ☐ Yes  
 Change in hair texture ☒ No ☐ Yes  
 Change in skin texture ☒ No ☐ Yes  
 Any skin rash ☒ No ☐ Yes

## FOR WOMEN ONLY

Menstrual history: 12  
 Age at onset \_\_\_\_\_  
 Regular? ☒ Yes ☐ No ☐ Varies  
 Cycle: 28 days (from start to finish)  
 Flow: Heavy ☒ Medium ☐ Light  
 Pains or cramps? ☒ Yes ☐ No  
 Date of last period: 5/31/05  
 Date of last pelvic exam: 5/04  
 Date of last Pap test: 5/04  
 Results: ☒ Negative ☐ Positive  
 Do you take birth control pills? ☒ Yes ☐ No  
 How long have you taken them? \_\_\_\_\_  
 Pregnancies: \_\_\_\_\_  
 How many children born alive 2  
 How many still births \_\_\_\_\_  
 How many premature births \_\_\_\_\_  
 How many Cesarean sections \_\_\_\_\_  
 How many miscarriages 1  
 Any complications with pregnancy: ☒ Yes ☐ No  
 If yes, describe \_\_\_\_\_  
 Age at menopause \_\_\_\_\_  
 Osteoporosis ☒ Yes ☐ No  
 Bone density testing done ☒ Yes ☐ No  
 Hormone replacement therapy ☒ Yes ☐ No

## DO YOU NOW HAVE OR HAVE YOU HAD WITHIN THE PAST YEAR:

Frequent or severe headaches ☒ No ☐ Yes  
 Fainting spells ☒ No ☐ Yes  
 Dizziness when changing position ☒ No ☐ Yes  
 Unconscious spells ☒ No ☐ Yes  
 Blurred vision ☒ No ☐ Yes  
 Double vision ☒ No ☐ Yes  
 Spots before eyes ☒ No ☐ Yes  
 Reddened eyes ☒ No ☐ Yes  
 Pain behind eyes ☒ No ☐ Yes  
 Any change in vision ☒ No ☐ Yes  
 Do you wear glasses or contacts ☒ No ☐ Yes  
 When were they last checked? \_\_\_\_\_  
 Earaches ☒ No ☐ Yes  
 Discharge from ears ☒ No ☐ Yes  
 Ringing in ears ☒ No ☐ Yes  
 Decrease in hearing ☒ No ☐ Yes

DRMC Orthopaedics

Name: Paula Carlson BD: 4/26/71 Date: 6/9/05

Do you have any new medical problems/new doctors since your last visit? \_\_\_\_\_

Have you had any surgery since your last visit? \_\_\_\_\_

Are you taking any new medications? \_\_\_\_\_

Do you have any new allergies? \_\_\_\_\_

Alcohol use? \_\_\_\_\_ Tobacco use? \_\_\_\_\_

\*\*\*\*\*STOP HERE\*\*\*\*\*

Height: 54 Weight: 105 Temp: 97.5 Pain Scale: 8-9

| PHYSICAL EXAM:              | WNL                                                              | See note |
|-----------------------------|------------------------------------------------------------------|----------|
| General appearance          |                                                                  |          |
| Gait                        |                                                                  |          |
| Eyes                        | correction of vision<br>conjunctivae/sclera<br>periorbital edema |          |
| Neck                        | thyromegaly<br>trachea midline                                   |          |
| ENT                         | hearing<br>nasal congestion<br>hoarseness                        |          |
| Chest                       |                                                                  |          |
| Lymph                       |                                                                  |          |
| Resp.                       | SOB<br>wheezing<br>cough<br>resp. effort                         |          |
| Cardiac                     | edema of extremities<br>rate and rhythm                          |          |
| Abd.                        | tenderness                                                       |          |
| Skin                        | rash<br>lesion                                                   |          |
| Psych.                      | A & O x 3<br>anxiety<br>affect<br>depression                     |          |
| Neuro                       | cranial nerves                                                   |          |
| Extremities/musculoskeletal |                                                                  | X        |

6/9/05 (R) Wrist pain  
EMG

3/4/05 - RHO.  
OK - Rad XRT skelene.

XRT  
constant. EPOs  
brace 8/12. 1 injury /  
rad XRT pain. sub

Very close to normal -  
wrist x burs

OT -  
Exerc. ed. ed. ed.  
EPOs

Stenoid if (RHO)

Instructions given today:

- Medication
- Diet
- Exercise program
- Osteoporosis management
- Fall prevention
- Smoking cessation
- Patient info. booklet



CARLSON, PAULA  
DB: 04-26-1971

06-09-05

S: This woman is self-referred for problems with her right wrist. She's a delightful 34-year old woman who works here as a radiation x-ray tech. She has had wrist pain now, going on for about two to three months. She saw Dr. Graeca, reported no injury and had radial wrist pain and an EMG study was done, which really was unremarkable for carpal tunnel.

Apparently she's had some cervical disc problem in the past, I don't have those records available and they were reported to be consistent with a disc. Spine workup, however, did not seem to relate to her arm symptom.

The pain is mostly on the radial aspect of the right wrist. It seems to be over the distal wrist. It started off on the volar side, now a little bit more into the thumb. She has no real neuro complaints. She's had some dorsal pain and now reports pain with any wrist range of motion.

Again, she's had EMG studies done, which were consistent with a midcervical radiculopathy that was done in February of 2003, most recent EMG study done for carpal tunnel on 05-05-05 was nondiagnostic. She had an x-ray, which was reported to be normal.

O: Examination shows a healthy thin female. She has no tenderness over the first dorsal compartment and no wrist synovitis. There is no tenosynovitis. She has pain with right wrist range of motion and limited supination, but intact pronation. She is markedly tender over the distal radius. Phalen and Tinel are difficult to assess because of the wrist pain. Finkelstein is negative. There are no triggering of the fingers.

X-ray done from April shows a lytic lesion in the ulnar aspect of the distal radius. A repeat x-ray today shows more progressive changes of the lytic lesion with a much more worrisome peripheral margin. It is moth-eaten in nature, permeative and without sclerotic margins.

I think on physical exam, there may be a soft tissue component as well.

I: Bone lesion distal radius right, possible giant cell versus possible Ewing sarcoma.

(Continued on Page 2...)

(Page 2...)  
CARLSON, PAULA

06-09-05

P: Obviously she needs a very aggressive immediate workup and we've scheduled it all done for today and tomorrow. A MR and bone scan has been ordered as well as a full chemistry evaluation as well and I will see her back probably tomorrow.

Mark A. Piasio, M.D.  
MAP/jlw

cc: Dr. Graeca✓

BRING THIS ORDER WITH YOU OR WE MAY BE UNABLE TO PROVIDE SERVICES



DuBois Regional  
Medical Center  
Making the difference for life.

# LABORATORY

## PHYSICIAN OUTPATIENT ORDER FORM

ABN Date

Issued Initials

Patient Name

Paul Corbo

DOB 04-26-71 Standing Order q

REQUIRED

| TEST                                                        | Signs/Symptoms/ICD9 | TEST                                            | Signs/Symptoms/ICD9 | TEST                                            | Signs/Symptoms/ICD9      |
|-------------------------------------------------------------|---------------------|-------------------------------------------------|---------------------|-------------------------------------------------|--------------------------|
| CHEMISTRY                                                   |                     | CHEMISTRY                                       |                     | BLOOD BANK                                      |                          |
| <input checked="" type="checkbox"/> Albumin                 |                     | <input type="checkbox"/> IgE                    |                     | <input type="checkbox"/> ABO                    |                          |
| <input checked="" type="checkbox"/> Alkaline Phosphatase    |                     | <input type="checkbox"/> Iron                   |                     | <input type="checkbox"/> Rh                     |                          |
| <input checked="" type="checkbox"/> ALT                     |                     | <input type="checkbox"/> TIBC                   |                     | <input type="checkbox"/> Antibody Screen        |                          |
| <input type="checkbox"/> Ammonia                            |                     | <input checked="" type="checkbox"/> LDH         |                     | URINALYSIS / MICROBIOLOGY / PATHOLOGY / MISC    |                          |
| <input type="checkbox"/> Amylase                            |                     | <input type="checkbox"/> Lipid Panel *          |                     | <input type="checkbox"/> Urinalysis No Micro    |                          |
| <input type="checkbox"/> ANA                                |                     | <input type="checkbox"/> Lithium                |                     | <input type="checkbox"/> Urinalysis With Micro  |                          |
| <input type="checkbox"/> ASO                                |                     | <input type="checkbox"/> Lyme IgG/IgM Initial   |                     | <input type="checkbox"/> Urine Micro Albumin    |                          |
| <input checked="" type="checkbox"/> AST                     |                     | <input type="checkbox"/> Magnesium              |                     | <input type="checkbox"/> Urine Culture          |                          |
| <input checked="" type="checkbox"/> Basic Metabolic         |                     | <input checked="" type="checkbox"/> Phosphorous |                     | <input type="checkbox"/> Occult Blood Screen    | Screening (Asymptomatic) |
| <input type="checkbox"/> Bilirubin Direct                   |                     | <input type="checkbox"/> Potassium              |                     | <input type="checkbox"/> 1-3 Spec               | Date of Last:            |
| <input type="checkbox"/> Bilirubin Total                    |                     | <input type="checkbox"/> Protime                |                     | <input type="checkbox"/> Occult Blood Diag      |                          |
| <input type="checkbox"/> B12                                |                     | <input type="checkbox"/> APTT                   |                     | <input type="checkbox"/> 1-3 Spec               |                          |
| <input type="checkbox"/> B-type Natriuretic Peptide         |                     | <input type="checkbox"/> RA                     |                     | <input type="checkbox"/> Rapid Strep Screen     |                          |
| <input checked="" type="checkbox"/> BUN                     |                     | <input type="checkbox"/> Rast NE 14 Panel       |                     | <input type="checkbox"/> Culture Throat         |                          |
| <input checked="" type="checkbox"/> Calcium                 |                     | <input type="checkbox"/> Renal Function Panel   |                     | <input type="checkbox"/> GC/Chlamydia DNA Probe |                          |
| <input checked="" type="checkbox"/> CEA                     |                     | <input type="checkbox"/> RPR                    |                     | <input type="checkbox"/> Surgical Pathology **  |                          |
| <input type="checkbox"/> Cholesterol                        |                     | <input type="checkbox"/> Sodium                 |                     | <input type="checkbox"/> Cytology **            |                          |
| <input type="checkbox"/> HDL Cholesterol                    |                     | <input type="checkbox"/> Theophylline           |                     | FLUIDS                                          |                          |
| <input type="checkbox"/> CK                                 |                     | <input type="checkbox"/> Triglycerides *        |                     | Fluid Source:                                   |                          |
| <input checked="" type="checkbox"/> Comprehensive Metabolic |                     | <input type="checkbox"/> T3 Up                  |                     | <input type="checkbox"/> Cell Count             |                          |
| <input type="checkbox"/> Creatinine                         |                     | <input checked="" type="checkbox"/> T4          |                     | <input type="checkbox"/> Cell Count With Diff   |                          |
| <input type="checkbox"/> Digoxin                            |                     | <input checked="" type="checkbox"/> TSH         |                     | <input type="checkbox"/> Mucin Clot             |                          |
| <input type="checkbox"/> Electrolytes                       |                     | <input type="checkbox"/> Free T4                |                     | <input type="checkbox"/> Crystal Exam           |                          |
| <input type="checkbox"/> Ferritin                           |                     | <input type="checkbox"/> Uric Acid              |                     | <input type="checkbox"/> Gram Stain             |                          |
| <input type="checkbox"/> Folate                             |                     | HEMATOLOGY                                      |                     | <input type="checkbox"/> Culture Body Fluid     |                          |
| <input type="checkbox"/> General Health Panel               |                     | <input type="checkbox"/> CBC / Platelet         |                     | <input type="checkbox"/> Culture Wound          |                          |
| <input type="checkbox"/> GGT                                |                     | <input type="checkbox"/> CBC/Plat/Auto Diff     |                     | <input type="checkbox"/> Culture Anaerobic      |                          |
| <input type="checkbox"/> Glucose                            |                     | <input type="checkbox"/> CBC/Plat/Manual Diff   |                     | <input type="checkbox"/> Culture GC             |                          |
| <input type="checkbox"/> Helicobacter Pylori Test           |                     | <input type="checkbox"/> Hemoglobin             |                     | <input type="checkbox"/> Culture Fungus         |                          |
| <input type="checkbox"/> Hemoglobin A1C                     |                     | <input type="checkbox"/> Hematocrit             |                     | <input type="checkbox"/> Culture Acid Fast      |                          |
| <input type="checkbox"/> Hepatic Function Panel             |                     | <input type="checkbox"/> Platelet Count         |                     | <input type="checkbox"/> Cytology **            |                          |
| <input type="checkbox"/> HBsAg                              |                     | <input type="checkbox"/> Reticulocyte Count     |                     |                                                 |                          |
| <input type="checkbox"/> Hepatitis Panel Acute              |                     | <input type="checkbox"/> WBC                    |                     |                                                 |                          |
| <input type="checkbox"/> HIV                                |                     | <input type="checkbox"/> Sed Rate               |                     |                                                 |                          |
| <input type="checkbox"/> Homocystine                        |                     |                                                 |                     |                                                 |                          |

Signs/Symptoms/ICD9 and Other Tests

Mans @ Raden

\* 12 - 14 hour Fast

Signs/Symptoms/ICD9 - No Rule Outs, Probables, Possibles, or Questionables

\*\* Must have separate requisition in addition to this fi

Physician Signature

Piasio

☐ Amy Vezza

Date

09/05

Collection Date

Collection Time

Collector Initials

BRING THIS ORDER WITH YOU OR EXAM MAY NEED TO BE CANCELED OR RESCHEDULED.



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IMAGING / CARDIOPULMONARY  
PHYSICIAN OUTPATIENT ORDER FORM

Suite 102

|        |          |
|--------|----------|
| ABN    | Date     |
| Issued | Initials |

Patient Name Paula Carlson  
REQUIRED BD-04-26-71

Appointment Date and Time Thurs. June 9 4pm  
Date of Last Mammogram  
Date of Last Dexa

Instructions :

History Met R. Pickus

| RADIOLOGY                                                               | Signs/Symptoms/ICD9 | RADIOLOGY                                                                  | Signs/Symptoms/ICD9 | RADIOLOGY                                                                   | Signs/Symptoms/ICD9 |
|-------------------------------------------------------------------------|---------------------|----------------------------------------------------------------------------|---------------------|-----------------------------------------------------------------------------|---------------------|
| <input type="checkbox"/> Barium Enema *                                 |                     | <input type="checkbox"/> Chest PA & Lat                                    |                     | <input type="checkbox"/> Abdomen                                            |                     |
| <input type="checkbox"/> Upper GI *                                     |                     | <input type="checkbox"/> Sinuses                                           |                     | <input type="checkbox"/> Hip L / R / Bil                                    |                     |
| <input type="checkbox"/> IVP *                                          |                     | <input type="checkbox"/> Soft Tissue Neck                                  |                     | <input type="checkbox"/> Femur L / R / Bil                                  |                     |
| <input type="checkbox"/> VCU in Xray *                                  |                     | <input type="checkbox"/> Humerus L / R / Bil                               |                     | <input type="checkbox"/> Knee L / R / Bil                                   |                     |
| <input type="checkbox"/> Scoliosis Series                               |                     | <input type="checkbox"/> Elbow L / R / Bil                                 |                     | <input type="checkbox"/> Tibia-fibula L / R / Bil                           |                     |
| <input type="checkbox"/> Cervical Spine                                 |                     | <input type="checkbox"/> Forearm L / R / Bil                               |                     | <input type="checkbox"/> Ankle L / R / Bil                                  |                     |
| <input type="checkbox"/> Thoracic Spine                                 |                     | <input type="checkbox"/> Wrist L / R / Bil                                 |                     | <input type="checkbox"/> Foot L / R / Bil                                   |                     |
| <input type="checkbox"/> Lumbar Spine                                   |                     | <input type="checkbox"/> Hand L / R / Bil                                  |                     | <input type="checkbox"/> Toe(s)                                             |                     |
| <input type="checkbox"/> Ribs L / R / Bil                               |                     | <input type="checkbox"/> Finger(s)                                         |                     |                                                                             |                     |
| ULTRASOUND                                                              | Signs/Symptoms/ICD9 | ULTRASOUND                                                                 | Signs/Symptoms/ICD9 | ULTRASOUND                                                                  | Signs/Symptoms/ICD9 |
| <input type="checkbox"/> Abdomen *                                      |                     | <input type="checkbox"/> Carotid Duplex L / R / Bil *                      |                     | <input type="checkbox"/> Pelvic Biophysical Profile *                       |                     |
| <input type="checkbox"/> Abdomen Limited *                              |                     | <input type="checkbox"/> Venous Duplex L / R / Bil *                       |                     | <input type="checkbox"/> Renal *                                            |                     |
| Specify Organ                                                           |                     | <input type="checkbox"/> Pelvic GYN *                                      |                     | <input type="checkbox"/> Bladder Sonogram *                                 |                     |
| <input type="checkbox"/> Arterial Duplex L / R / Bil *                  |                     | <input type="checkbox"/> Pelvic OB *                                       |                     | <input type="checkbox"/> Transvaginal *                                     |                     |
| BREAST CENTER                                                           | Signs/Symptoms/ICD9 | BREAST CENTER                                                              | Signs/Symptoms/ICD9 | BREAST CENTER                                                               | Signs/Symptoms/ICD9 |
| <input type="checkbox"/> Annual Referral * - to include the following : |                     | <input type="checkbox"/> Mammogram Screening *                             | V76.12<br>V76.11    | MINIMALLY INVASIVE BREAST BIOPSY/PROCEDURES                                 |                     |
| Mammogram Screening<br>L / R / Bilateral                                | V76.12<br>V76.11    | <input type="checkbox"/> Mammogram Diagnostic *                            |                     | <input type="checkbox"/> Stereotactic * L / R / Bil                         |                     |
| Mammogram Diagnostic<br>L / R / Bilateral                               |                     | <input type="checkbox"/> Breast Ultrasound *                               |                     | <input type="checkbox"/> Ultrasound Guided Core Bx *                        |                     |
| Breast Ultrasound as indicated<br>L / R / Bilateral                     |                     |                                                                            |                     | L / R / Bilateral                                                           |                     |
|                                                                         |                     |                                                                            |                     | <input type="checkbox"/> Fine Needle Aspiration *                           |                     |
|                                                                         |                     |                                                                            |                     | L / R / Bilateral                                                           |                     |
|                                                                         |                     |                                                                            |                     | <input type="checkbox"/> Cyst Aspiration * L / R / Bil                      |                     |
|                                                                         |                     |                                                                            |                     | <input type="checkbox"/> Ductogram *                                        |                     |
| CT SCAN                                                                 | Signs/Symptoms/ICD9 | NUCLEAR MED                                                                | Signs/Symptoms/ICD9 | NUCLEAR MED                                                                 | Signs/Symptoms/ICD9 |
| <input type="checkbox"/> Abdomen *                                      |                     | <input type="checkbox"/> Bone Scan *                                       |                     | <input type="checkbox"/> Tumor localization WB *                            |                     |
| <input type="checkbox"/> Chest *                                        |                     | <input type="checkbox"/> Three Phase Bone *                                |                     | (Gallium)                                                                   |                     |
| <input type="checkbox"/> Head *                                         |                     | <input type="checkbox"/> HIDA Scan W/WO CCK *                              |                     | <input type="checkbox"/> Cardiolite Treadmill Stress *                      |                     |
| <input type="checkbox"/> Lumbar Spine *                                 |                     | <input type="checkbox"/> MUGA Scan *                                       |                     | <input type="checkbox"/> Cardiolite Stress *                                |                     |
| <input type="checkbox"/> Pelvis *                                       |                     | <input type="checkbox"/> Lung Scan VQ *                                    |                     | Adenosine / Persantine<br>(circle one)                                      |                     |
| <input type="checkbox"/> Sinus *                                        |                     | <input type="checkbox"/> Thyroid Scan With Uptake *                        |                     | <input type="checkbox"/> Cardiolite Dobutamine Stress *                     |                     |
| <input type="checkbox"/> Soft Tissue Neck *                             |                     | <input type="checkbox"/> Parathyroid *                                     |                     | <input type="checkbox"/> Thallium Stress *                                  |                     |
| CARDIO/PULMONARY                                                        | Signs/Symptoms/ICD9 | CARDIO/PULMONARY                                                           | Signs/Symptoms/ICD9 | CARDIO/PULMONARY                                                            | Signs/Symptoms/ICD9 |
| <input type="checkbox"/> ABG                                            |                     | <input type="checkbox"/> PFT Pre/Post *                                    |                     | <input type="checkbox"/> Stress ECHO (Treadmill) *                          |                     |
| <input type="checkbox"/> ABG With O2 SAT                                |                     | <input type="checkbox"/> EEG *                                             |                     | <input type="checkbox"/> Stress ECHO / Dobutamine *                         |                     |
| <input type="checkbox"/> Complete Pulmonary Function *                  |                     | <input type="checkbox"/> ECHO *                                            |                     | <input type="checkbox"/> Tilt Table *                                       |                     |
| <input type="checkbox"/> Exercise Induced Asthma Test *                 |                     | <input type="checkbox"/> EKG                                               |                     | <input type="checkbox"/> King Of Hearts Monitor<br>Scheduled through Cardio |                     |
| <input type="checkbox"/> Methacholine Challenge *                       |                     | <input type="checkbox"/> Holter Monitor *                                  |                     | <input type="checkbox"/> Transesophageal ECHO *                             |                     |
| <input type="checkbox"/> Spirometry Simple *<br>(No Bronchodilators)    |                     | <input type="checkbox"/> Stress Regular *<br>(TREADMILL ONLY, NON NUCLEAR) |                     |                                                                             |                     |

Signs/Symptoms/ICD9 and Other Tests

MR (E) D. H. Pickus

\* Must be scheduled through INFO Signs/Symptoms/ICD9 - No Rule Outs, Probables, Possibles, or Questionables

Physician Signature

Date

☐ Piasio

☐ Amy Vezza

Rev 6.24.04

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IMAGING / CARDIOPULMONARY  
PHYSICIAN OUTPATIENT ORDER FORM

DRMc West

|        |          |
|--------|----------|
| ABN    | Date     |
| Issued | Initials |

Patient Name Paula Carlson

Appointment Date and Time: Fri, June 10, 9:45-injection/1:00-see

Date of Last Mammogram

Date of Last Dexa

BD-0426-71

History Mossy P. Nodules

Instructions :

| RADIOLOGY                                                               | Signs/Symptoms/ICD9        | RADIOLOGY                                                                  | Signs/Symptoms/ICD9        | RADIOLOGY                                                                   | Signs/Symptoms/ICD9        |
|-------------------------------------------------------------------------|----------------------------|----------------------------------------------------------------------------|----------------------------|-----------------------------------------------------------------------------|----------------------------|
| <input type="checkbox"/> Barium Enema *                                 |                            | <input type="checkbox"/> Chest PA & Lat                                    |                            | <input type="checkbox"/> Abdomen                                            |                            |
| <input type="checkbox"/> Upper GI *                                     |                            | <input type="checkbox"/> Sinuses                                           |                            | <input type="checkbox"/> Hip L / R / Bil                                    |                            |
| <input type="checkbox"/> IVP *                                          |                            | <input type="checkbox"/> Soft Tissue Neck                                  |                            | <input type="checkbox"/> Femur L / R / Bil                                  |                            |
| <input type="checkbox"/> VCU in Xray *                                  |                            | <input type="checkbox"/> Humerus L / R / Bil                               |                            | <input type="checkbox"/> Knee L / R / Bil                                   |                            |
| <input type="checkbox"/> Scoliosis Series                               |                            | <input type="checkbox"/> Elbow L / R / Bil                                 |                            | <input type="checkbox"/> Tibia-fibula L / R / Bil                           |                            |
| <input type="checkbox"/> Cervical Spine                                 |                            | <input type="checkbox"/> Forearm L / R / Bil                               |                            | <input type="checkbox"/> Ankle L / R / Bil                                  |                            |
| <input type="checkbox"/> Thoracic Spine                                 |                            | <input type="checkbox"/> Wrist L / R / Bil                                 |                            | <input type="checkbox"/> Foot L / R / Bil                                   |                            |
| <input type="checkbox"/> Lumbar Spine                                   |                            | <input type="checkbox"/> Hand L / R / Bil                                  |                            | <input type="checkbox"/> Toe(s)                                             |                            |
| <input type="checkbox"/> Ribs L / R / Bil                               |                            | <input type="checkbox"/> Finger(s)                                         |                            |                                                                             |                            |
| <b>ULTRASOUND</b>                                                       | <b>Signs/Symptoms/ICD9</b> | <b>ULTRASOUND</b>                                                          | <b>Signs/Symptoms/ICD9</b> | <b>ULTRASOUND</b>                                                           | <b>Signs/Symptoms/ICD9</b> |
| <input type="checkbox"/> Abdomen *                                      |                            | <input type="checkbox"/> Carotid Duplex L / R / Bil *                      |                            | <input type="checkbox"/> Pelvic Biophysical Profile *                       |                            |
| <input type="checkbox"/> Abdomen Limited *                              |                            | <input type="checkbox"/> Venous Duplex L / R / Bil *                       |                            | <input type="checkbox"/> Renal *                                            |                            |
| Specify Organ                                                           |                            | <input type="checkbox"/> Pelvic GYN *                                      |                            | <input type="checkbox"/> Bladder Sonogram *                                 |                            |
| <input type="checkbox"/> Arterial Duplex L / R / Bil *                  |                            | <input type="checkbox"/> Pelvic OB *                                       |                            | <input type="checkbox"/> Transvaginal *                                     |                            |
| <b>BREAST CENTER</b>                                                    | <b>Signs/Symptoms/ICD9</b> | <b>BREAST CENTER</b>                                                       | <b>Signs/Symptoms/ICD9</b> | <b>BREAST CENTER</b>                                                        | <b>Signs/Symptoms/ICD9</b> |
| <input type="checkbox"/> Annual Referral * - to include the following : |                            | <input type="checkbox"/> Mammogram Screening *                             | V76.12<br>V76.11           | <b>MINIMALLY INVASIVE BREAST BIOPSY/PROCEDURES</b>                          |                            |
| Mammogram Screening<br>L / R / Bilateral                                | V76.12<br>V76.11           | <input type="checkbox"/> Mammogram Diagnostic *                            |                            | <input type="checkbox"/> Stereotactic * L / R / Bil                         |                            |
| Mammogram Diagnostic<br>L / R / Bilateral                               |                            | <input type="checkbox"/> Breast Ultrasound *                               |                            | <input type="checkbox"/> Ultrasound Guided Core Bx *                        |                            |
| Breast Ultrasound as indicated<br>L / R / Bilateral                     |                            | <input type="checkbox"/> Breast Ultrasound *                               |                            | <input type="checkbox"/> Fine Needle Aspiration *                           |                            |
|                                                                         |                            | <input type="checkbox"/> Breast Ultrasound *                               |                            | <input type="checkbox"/> Cyst Aspiration * L / R / Bil                      |                            |
|                                                                         |                            | <input type="checkbox"/> Breast Ultrasound *                               |                            | <input type="checkbox"/> Ductogram *                                        |                            |
| <b>CT SCAN</b>                                                          | <b>Signs/Symptoms/ICD9</b> | <b>NUCLEAR MED</b>                                                         | <b>Signs/Symptoms/ICD9</b> | <b>NUCLEAR MED</b>                                                          | <b>Signs/Symptoms/ICD9</b> |
| <input type="checkbox"/> Abdomen *                                      |                            | <input checked="" type="checkbox"/> Bone Scan *                            |                            | <input type="checkbox"/> Tumor localization WB *                            |                            |
| <input type="checkbox"/> Chest *                                        |                            | <input checked="" type="checkbox"/> Three Phase Bone *                     |                            | (Gallium)                                                                   |                            |
| <input type="checkbox"/> Head *                                         |                            | <input type="checkbox"/> HIDA Scan W/WO CCK *                              |                            | <input type="checkbox"/> Cardiolite Treadmill Stress *                      |                            |
| <input type="checkbox"/> Lumbar Spine *                                 |                            | <input type="checkbox"/> MUGA Scan *                                       |                            | <input type="checkbox"/> Cardiolite Stress *                                |                            |
| <input type="checkbox"/> Pelvis *                                       |                            | <input type="checkbox"/> Lung Scan VQ *                                    |                            | Adenosine / Persantine<br>(circle one)                                      |                            |
| <input type="checkbox"/> Sinus *                                        |                            | <input type="checkbox"/> Thyroid Scan With Uptake *                        |                            | <input type="checkbox"/> Cardiolite Dobutamine Stress *                     |                            |
| <input type="checkbox"/> Soft Tissue Neck *                             |                            | <input type="checkbox"/> Parathyroid *                                     |                            | <input type="checkbox"/> Thallium Stress *                                  |                            |
| <b>CARDIO/PULMONARY</b>                                                 | <b>Signs/Symptoms/ICD9</b> | <b>CARDIO/PULMONARY</b>                                                    | <b>Signs/Symptoms/ICD9</b> | <b>CARDIO/PULMONARY</b>                                                     | <b>Signs/Symptoms/ICD9</b> |
| <input type="checkbox"/> ABG                                            |                            | <input type="checkbox"/> PFT Pre/Post *                                    |                            | <input type="checkbox"/> Stress ECHO (Treadmill) *                          |                            |
| <input type="checkbox"/> ABG With O2 SAT                                |                            | <input type="checkbox"/> EEG *                                             |                            | <input type="checkbox"/> Stress ECHO / Dobutamine *                         |                            |
| <input type="checkbox"/> Complete Pulmonary Function *                  |                            | <input type="checkbox"/> ECHO *                                            |                            | <input type="checkbox"/> Tilt Table *                                       |                            |
| <input type="checkbox"/> Exercise Induced Asthma Test *                 |                            | <input type="checkbox"/> EKG                                               |                            | <input type="checkbox"/> King Of Hearts Monitor<br>Scheduled through Cardio |                            |
| <input type="checkbox"/> Methacholine Challenge *                       |                            | <input type="checkbox"/> Holter Monitor *                                  |                            | <input type="checkbox"/> Transesophageal ECHO *                             |                            |
| <input type="checkbox"/> Spirometry Simple *<br>(No Bronchodilators)    |                            | <input type="checkbox"/> Stress Regular *<br>(TREADMILL ONLY, NON NUCLEAR) |                            |                                                                             |                            |
| Signs/Symptoms/ICD9 and Other Tests                                     |                            |                                                                            |                            |                                                                             |                            |

\* Must be scheduled through INFO Signs/Symptoms/ICD9 - No Rule Outs, Probables, Possibles, or Questionables

Physician Signature

☒ Piasio

☐ Amy Vezza

6/9/05  
Date

# DRMC ORTHOPAEDICS--RADIOLOGY CHARGES

Billing # 0516000388

X MARK PIASIO, MD

KEITH ZELIGER, DO

ALEXANDER KROT, DO

PATIENT'S NAME Paula Carlson 4/26/71 DATE 6/9/05

DIAGNOSIS/X-RAYS ORDERED Wrist (pain) 719.43

|                                   |       |
|-----------------------------------|-------|
| 71020 CHEST, 2 VIEWS, AP/LAT      | 33.00 |
| 71021 CHEST, AP/LAT W/LORDOT      | 41.00 |
| 71035 CHEST, SPECIAL VIEWS        | 27.00 |
| 71100 RIBS, UNILAT, 2 VIEWS       | 34.00 |
| 71110 RIBS, BILAT, 3 VIEWS        | 42.00 |
| 71120 STERNUM, MIN 2 VIEWS        | 30.00 |
| 72020 SPINE, SINGLE VIEW          | 23.00 |
| 72040 CERV-SPINE, 2 OR 3 VW       | 33.00 |
| 72050 CERV-SPINE, MIN 4 VW        | 47.00 |
| 72052 C-SPINE, COMP, OBL, FLX/EXT | 55.00 |
| 72069 THOR-LUMAR SPINE, SCOLI     | 33.00 |
| 72070 THORACIC SPINE, 2 VW        | 33.00 |
| 72072 T-SPINE, 3 VIEWS            | 33.00 |
| 72080 THORACOLUM SPINE, 2 VW      | 33.00 |
| 72100 L-S SPINE, 2 OR 3 VW        | 33.00 |
| 72110 L-S SPINE, MIN 4 VW         | 47.00 |
| 72114 L-S SPINE COMPL W/BENDG     | 55.00 |
| 72120 L-S SPINE, BENDNG, MIN 4    | 33.00 |
| 72170 PELVIS, 1 OR 2 VIEWS        | 25.00 |
| 72190 PELVIS, COMPL, MIN 3        | 32.00 |
| 72200 S-I JOINTS, LESS THAN       | 26.00 |
| 72220 SACRUM & COCCYX, MIN 2      | 26.00 |
| 73000 CLAVICLE, COMPLETE          | 24.00 |
| 73010 SCAPULA, COMPLETE           | 26.00 |
| 73020 SHOULDER, 1 VIEW            | 23.00 |
| 73030 SHOULDER, COMP, MIN 2 VW    | 27.00 |
| 73050 AC JOINTS, BILAT            | 30.00 |

|                                     |              |
|-------------------------------------|--------------|
| 73060 HUMERUS, MIN 2 VIEWS          | 26.00        |
| 73070 ELBOW, 2 VIEWS                | 23.00        |
| 73080 ELBOW, COMPL, MIN 3 VW        | 26.00        |
| 73090 FOREARM, 2 VIEWS              | 24.00        |
| 73092 UPPER EXTR, INFANT, 2 VW      | 24.00        |
| 73100 WRIST, 2 VIEWS                | 24.00        |
| <u>73110 WRIST, COMPL, MIN 3 VW</u> | <u>26.00</u> |
| 73120 HAND, 2 VIEWS                 | 24.00        |
| 73130 HAND, MIN 3 VIEWS             | 26.00        |
| 73140 FINGERS, MIN 2 VIEWS          | 20.00        |
| 73500 HIP, UNILAT, 1 VIEW           | 26.00        |
| 73510 HIP, UNILAT, COMP, 2 VW       | 32.00        |
| 73520 HIPS, BILAT & AP PELVIS       | 40.00        |
| 73540 PELVIS & HIPS, FROG VIEW      | 31.00        |
| 73550 FEMUR, 2 VIEWS                | 26.00        |
| 73560 KNEE, 1 OR 2 VIEWS            | 25.00        |
| 73562 KNEE, 3 VIEWS                 | 28.00        |
| 73564 KNEE, COMP, 4 OR MORE         | 34.00        |
| 73565 KNEE, BOTH, STANDING AP       | 25.00        |
| 73590 TIB/FIB, 2 VIEWS              | 25.00        |
| 73592 LOWER EXT, INFANT, MIN 2      | 24.00        |
| 73600 ANKLE, 2 VIEWS                | 24.00        |
| 73610 ANKLE, COMPL, MIN 3 VW        | 26.00        |
| 73620 FOOT, 2 VIEWS                 | 24.00        |
| 73630 FOOT, COMPL, MIN 3 VW         | 26.00        |
| 73650 CALCANEUS, MIN 2 VW           | 24.00        |
| 73660 TOE(S), MIN 2 VIEWS           | 20.00        |
| 76040 BONE LENGTH                   |              |

OTHER \_\_\_\_\_

DR'S SIGNATURE

*faxed* BRING THIS ORDER WITH YOU OR EXAM MAY NEED TO BE CANCELED OR RESCHEDULED.



DuBois Regional  
Medical Center

IMAGING / CARDIOPULMONARY  
PHYSICIAN OUTPATIENT ORDER FORM

ABN Date

Issued Initials

Patient Name Paula Carlson Appointment Date and Time: 06-10-05 Date of Last Mammogram 11/30

Date of Birth 04-26-1971 Date of Last Dexa

Instructions: History

| RADIOLOGY                                                               | Signs/Symptoms/ICD9 | RADIOLOGY                                                               | Signs/Symptoms/ICD9 | RADIOLOGY                                                                | Signs/Symptoms/ICD9 |
|-------------------------------------------------------------------------|---------------------|-------------------------------------------------------------------------|---------------------|--------------------------------------------------------------------------|---------------------|
| <input type="checkbox"/> Barium Enema *                                 |                     | <input checked="" type="checkbox"/> Chest PA & Lat                      |                     | <input type="checkbox"/> Abdomen                                         |                     |
| <input type="checkbox"/> Upper GI *                                     |                     | <input type="checkbox"/> Sinuses                                        |                     | <input type="checkbox"/> Hip L / R / Bil                                 |                     |
| <input type="checkbox"/> IVP *                                          |                     | <input type="checkbox"/> Soft Tissue Neck                               |                     | <input type="checkbox"/> Femur L / R / Bil                               |                     |
| <input type="checkbox"/> VCU in Xray *                                  |                     | <input type="checkbox"/> Humerus L / R / Bil                            |                     | <input type="checkbox"/> Knee L / R / Bil                                |                     |
| <input type="checkbox"/> Scoliosis Series                               |                     | <input type="checkbox"/> Elbow L / R / Bil                              |                     | <input type="checkbox"/> Tibia-fibula L / R / Bil                        |                     |
| <input type="checkbox"/> Cervical Spine                                 |                     | <input type="checkbox"/> Forearm L / R / Bil                            |                     | <input type="checkbox"/> Ankle L / R / Bil                               |                     |
| <input type="checkbox"/> Thoracic Spine                                 |                     | <input type="checkbox"/> Wrist L / R / Bil                              |                     | <input type="checkbox"/> Foot L / R / Bil                                |                     |
| <input type="checkbox"/> Lumbar Spine                                   |                     | <input type="checkbox"/> Hand L / R / Bil                               |                     | <input type="checkbox"/> Toe(s)                                          |                     |
| <input type="checkbox"/> Ribs L / R / Bil                               |                     | <input type="checkbox"/> Finger(s)                                      |                     |                                                                          |                     |
| <b>ULTRASOUND</b>                                                       | Signs/Symptoms/ICD9 | <b>ULTRASOUND</b>                                                       | Signs/Symptoms/ICD9 | <b>ULTRASOUND</b>                                                        | Signs/Symptoms/ICD9 |
| <input type="checkbox"/> Abdomen *                                      |                     | <input type="checkbox"/> Carotid Duplex L / R / Bil *                   |                     | <input type="checkbox"/> Pelvic Biophysical Profile *                    |                     |
| <input type="checkbox"/> Abdomen Limited *                              |                     | <input type="checkbox"/> Venous Duplex L / R / Bil *                    |                     | <input type="checkbox"/> Renal *                                         |                     |
| Specify Organ                                                           |                     | <input type="checkbox"/> Pelvic GYN *                                   |                     | <input type="checkbox"/> Bladder Sonogram *                              |                     |
| <input type="checkbox"/> Arterial Duplex L / R / Bil *                  |                     | <input type="checkbox"/> Pelvic OB *                                    |                     | <input type="checkbox"/> Transvaginal *                                  |                     |
| <b>BREAST CENTER</b>                                                    | Signs/Symptoms/ICD9 | <b>BREAST CENTER</b>                                                    | Signs/Symptoms/ICD9 | <b>BREAST CENTER</b>                                                     | Signs/Symptoms/ICD9 |
| <input type="checkbox"/> Annual Referral * - to include the following : |                     | <input type="checkbox"/> Mammogram Screening *                          | V76.12<br>V76.11    | <b>MINIMALLY INVASIVE BREAST BIOPSY/PROCEDURES</b>                       |                     |
| Mammogram Screening                                                     | L / R / Bilateral   | <input type="checkbox"/> Mammogram Diagnostic *                         | L / R / Bilateral   | <input type="checkbox"/> Stereotactic * L / R / Bil                      |                     |
| Mammogram Diagnostic                                                    | L / R / Bilateral   | <input type="checkbox"/> Breast Ultrasound *                            | L / R / Bilateral   | <input type="checkbox"/> Ultrasound Guided Core Bx *                     |                     |
| Breast Ultrasound as indicated                                          | L / R / Bilateral   |                                                                         |                     | <input type="checkbox"/> Fine Needle Aspiration *                        |                     |
|                                                                         |                     |                                                                         |                     | <input type="checkbox"/> Cyst Aspiration * L / R / Bil                   |                     |
|                                                                         |                     |                                                                         |                     | <input type="checkbox"/> Ductogram *                                     |                     |
| <b>CT SCAN</b>                                                          | Signs/Symptoms/ICD9 | <b>NUCLEAR MED</b>                                                      | Signs/Symptoms/ICD9 | <b>NUCLEAR MED</b>                                                       | Signs/Symptoms/ICD9 |
| <input type="checkbox"/> Abdomen *                                      |                     | <input type="checkbox"/> Bone Scan *                                    |                     | <input type="checkbox"/> Tumor localization WB *                         |                     |
| <input type="checkbox"/> Chest *                                        |                     | <input type="checkbox"/> Three Phase Bone *                             |                     | (Gallium)                                                                |                     |
| <input type="checkbox"/> Head *                                         |                     | <input type="checkbox"/> HIDA Scan W/WO CCK *                           |                     | <input type="checkbox"/> Cardiolite Treadmill Stress *                   |                     |
| <input type="checkbox"/> Lumbar Spine *                                 |                     | <input type="checkbox"/> MUGA Scan *                                    |                     | <input type="checkbox"/> Cardiolite Stress *                             |                     |
| <input type="checkbox"/> Pelvis *                                       |                     | <input type="checkbox"/> Lung Scan YQ *                                 |                     | Adenosine / Persantine (circle one)                                      |                     |
| <input type="checkbox"/> Sinus *                                        |                     | <input type="checkbox"/> Thyroid Scan With Uptake *                     |                     | <input type="checkbox"/> Cardiolite Dobutamine Stress *                  |                     |
| <input type="checkbox"/> Soft Tissue Neck *                             |                     | <input type="checkbox"/> Parathyroid *                                  |                     | <input type="checkbox"/> Thallium Stress *                               |                     |
| <b>CARDIO/PULMONARY</b>                                                 | Signs/Symptoms/ICD9 | <b>CARDIO/PULMONARY</b>                                                 | Signs/Symptoms/ICD9 | <b>CARDIO/PULMONARY</b>                                                  | Signs/Symptoms/ICD9 |
| <input type="checkbox"/> ABG                                            |                     | <input type="checkbox"/> PFT Pre/Post *                                 |                     | <input type="checkbox"/> Stress ECHO (Treadmill) *                       |                     |
| <input type="checkbox"/> ABG With O2 SAT                                |                     | <input type="checkbox"/> EEG *                                          |                     | <input type="checkbox"/> Stress ECHO / Dobutamine *                      |                     |
| <input type="checkbox"/> Complete Pulmonary Function *                  |                     | <input type="checkbox"/> ECHO *                                         |                     | <input type="checkbox"/> Tilt Table *                                    |                     |
| <input type="checkbox"/> Exercise Induced Asthma Test *                 |                     | <input type="checkbox"/> EKG                                            |                     | <input type="checkbox"/> King Of Hearts Monitor Scheduled through Cardio |                     |
| <input type="checkbox"/> Methacholine Challenge *                       |                     | <input type="checkbox"/> Holter Monitor *                               |                     | <input type="checkbox"/> Transesophageal ECHO *                          |                     |
| <input type="checkbox"/> Spirometry Simple * (No Bronchodilators)       |                     | <input type="checkbox"/> Stress Regular * (TREADMILL ONLY, NON NUCLEAR) |                     |                                                                          |                     |

Signs/Symptoms/ICD9 and Other Tests

*Neoplasm, @ radius 239.2*  
*Chest CT & chest x-ray (PA & lat.)*

\* Must be scheduled through INFO Signs/Symptoms/ICD9 - No Rule Outs, Probables, Possibles, or Questionables

Physician Signature

Date 06-10-05

☒ Piasio

☐ Amy Vezza

CARLSON, PAULA  
DB: 04-26-1971

06-13-05

S: This woman is followed for wrist pain on the right side.

Review of her workup shows just minimal elevation in her thyroid function, though nothing significant.

Chest x-ray is clear. Lung CT is clear. Bone scan only shows uptake in the distal radius.

The MR does show a lesion involved in the ulnar aspect of the radius and does appear to penetrate a cortex, but I do not appreciate a significant soft tissue mass. It appears to be fairly well demarcated by MR study.

I: I do think that in light of her age and location that this minimal soft tissue mass is probably more likely giant cell than Ewings.

I'm certainly encouraged that the metastatic workup is negative. I am however, concerned of the aggressivity of this tumor and I suspect that it is probably a more high staged giant cell lesion.

P: I recommend fairly urgent referral to a tumor specialist and believe we've been able to secure an appointment with Dr. Ken Yaw on Friday.

We'll obtain a CT in the interim, but hold off on angiographic studies unless Dr. Yaw feels appropriate. We greatly look forward to his thoughts.

She's to maintain the splint and was given a script for Darvocet.

Mark A. Piasio, M.D.✓  
MAP/jlw

cc: Dr. Graeca✓



DRMC Orthopaedics

Name: Paula Carlson

BD: \_\_\_\_\_

Date: 6/13/05

Do you have any new medical problems/new doctors since your last visit? \_\_\_\_\_

Do you have any surgery since your last visit? \_\_\_\_\_

Are you taking any new medications? \_\_\_\_\_

Do you have any new allergies? \_\_\_\_\_

Alcohol use? \_\_\_\_\_

Tobacco use? \_\_\_\_\_

\*\*\*\*\*STOP HERE\*\*\*\*\*

Height: \_\_\_\_\_

Weight: \_\_\_\_\_

Temp: \_\_\_\_\_

Pain Scale: \_\_\_\_\_

| PHYSICAL EXAM:              | WNL                                                             | See note |
|-----------------------------|-----------------------------------------------------------------|----------|
| General appearance          |                                                                 |          |
| Gait                        |                                                                 |          |
| Eyes                        | correction of vision<br>conjunctivae/sclera<br>periocular edema |          |
| Neck                        | thyromegaly<br>trachea midline                                  |          |
| ENT                         | hearing<br>nasal congestion<br>hoarseness                       |          |
| Chest                       |                                                                 |          |
| Lymph                       |                                                                 |          |
| Resp.                       | SOB<br>wheezing<br>cough<br>resp. effort                        |          |
| Cardiac                     | edema of extremities<br>rate and rhythm                         |          |
| Abd.                        | tenderness                                                      |          |
| Skin                        | rash<br>lesion                                                  |          |
| Psych.                      | A & O x 3<br>anxiety<br>affect<br>depression                    |          |
| Neuro                       | cranial nerves                                                  |          |
| Extremities/musculoskeletal |                                                                 | X        |

6/13/05 MRI, Bone Scan and Lab  
results

Instructions given today:

Medication

Diet

Exercise program

Osteoporosis management

Fall prevention

Smoking cessation

Patient info. booklet

BRING THIS ORDER WITH YOU OR EXAM MAY NEED TO BE CANCELED OR RESCHEDULED.



DuBois Regional  
Medical Center  
*Making the Difference for Life*

IMAGING / CARDIOPULMONARY  
PHYSICIAN OUTPATIENT ORDER FORM

ABN Date  
Issued Initials

Patient Name Paul Corda  
REQUIRED

Appointment Date and Time: 06/14/05 @ 6:30 Date of Last Mammo

Date of Last Dexa

Instructions:

History Man P. Lach

| RADIOLOGY                                                               | Signs/Symptoms/ICD9 | RADIOLOGY                                                               | Signs/Symptoms/ICD9 | RADIOLOGY                                                                | Signs/Symptoms/ICD9 |
|-------------------------------------------------------------------------|---------------------|-------------------------------------------------------------------------|---------------------|--------------------------------------------------------------------------|---------------------|
| <input type="checkbox"/> Barium Enema *                                 |                     | <input type="checkbox"/> Chest PA & Lat                                 |                     | <input type="checkbox"/> Abdomen                                         |                     |
| <input type="checkbox"/> Upper GI *                                     |                     | <input type="checkbox"/> Sinuses                                        |                     | <input type="checkbox"/> Hip L / R / Bil                                 |                     |
| <input type="checkbox"/> IVP *                                          |                     | <input type="checkbox"/> Soft Tissue Neck                               |                     | <input type="checkbox"/> Femur L / R / Bil                               |                     |
| <input type="checkbox"/> VCU in Xray *                                  |                     | <input type="checkbox"/> Humerus L / R / Bil                            |                     | <input type="checkbox"/> Knee L / R / Bil                                |                     |
| <input type="checkbox"/> Scoliosis Series                               |                     | <input type="checkbox"/> Elbow L / R / Bil                              |                     | <input type="checkbox"/> Tibia-fibula L / R / Bil                        |                     |
| <input type="checkbox"/> Cervical Spine                                 |                     | <input type="checkbox"/> Forearm L / R / Bil                            |                     | <input type="checkbox"/> Ankle L / R / Bil                               |                     |
| <input type="checkbox"/> Thoracic Spine                                 |                     | <input type="checkbox"/> Wrist L / R / Bil                              |                     | <input type="checkbox"/> Foot L / R / Bil                                |                     |
| <input type="checkbox"/> Lumbar Spine                                   |                     | <input type="checkbox"/> Hand L / R / Bil                               |                     | <input type="checkbox"/> Toe(s)                                          |                     |
| <input type="checkbox"/> Ribs L / R / Bil                               |                     | <input type="checkbox"/> Finger(s)                                      |                     |                                                                          |                     |
| <b>ULTRASOUND</b>                                                       | Signs/Symptoms/ICD9 | <b>ULTRASOUND</b>                                                       | Signs/Symptoms/ICD9 | <b>ULTRASOUND</b>                                                        | Signs/Symptoms/ICD9 |
| <input type="checkbox"/> Abdomen *                                      |                     | <input type="checkbox"/> Carotid Duplex L / R / Bil *                   |                     | <input type="checkbox"/> Pelvic Biophysical Profile *                    |                     |
| <input type="checkbox"/> Abdomen Limited *                              |                     | <input type="checkbox"/> Venous Duplex L / R / Bil *                    |                     | <input type="checkbox"/> Renal *                                         |                     |
| Specify Organ                                                           |                     | <input type="checkbox"/> Pelvic GYN *                                   |                     | <input type="checkbox"/> Bladder Sonogram *                              |                     |
| <input type="checkbox"/> Arterial Duplex L / R / Bil *                  |                     | <input type="checkbox"/> Pelvic OB *                                    |                     | <input type="checkbox"/> Transvaginal *                                  |                     |
| <b>BREAST CENTER</b>                                                    | Signs/Symptoms/ICD9 | <b>BREAST CENTER</b>                                                    | Signs/Symptoms/ICD9 | <b>BREAST CENTER</b>                                                     | Signs/Symptoms/ICD9 |
| <input type="checkbox"/> Annual Referral * - to include the following : |                     | <input type="checkbox"/> Mammogram Screening *                          | V76.12<br>V76.11    | <b>MINIMALLY INVASIVE BREAST BIOPSY/PROCEDURES</b>                       |                     |
| Mammogram Screening                                                     | V76.12<br>V76.11    | <input type="checkbox"/> Mammogram Diagnostic *                         |                     | <input type="checkbox"/> Stereotactic * L / R / Bil                      |                     |
| L / R / Bilateral                                                       |                     | <input type="checkbox"/> Breast Ultrasound *                            |                     | <input type="checkbox"/> Ultrasound Guided Core Bx *                     |                     |
| Mammogram Diagnostic                                                    |                     | L / R / Bilateral                                                       |                     | L / R / Bilateral                                                        |                     |
| L / R / Bilateral                                                       |                     | <input type="checkbox"/> Dual Energy Bone Density *                     |                     | <input type="checkbox"/> Fine Needle Aspiration *                        |                     |
| Breast Ultrasound as indicated                                          |                     |                                                                         |                     | L / R / Bilateral                                                        |                     |
| L / R / Bilateral                                                       |                     |                                                                         |                     | <input type="checkbox"/> Cyst Aspiration * L / R / Bil                   |                     |
|                                                                         |                     |                                                                         |                     | <input type="checkbox"/> Ductogram *                                     |                     |
| <b>CT SCAN</b>                                                          | Signs/Symptoms/ICD9 | <b>NUCLEAR MED</b>                                                      | Signs/Symptoms/ICD9 | <b>NUCLEAR MED</b>                                                       | Signs/Symptoms/ICD9 |
| <input type="checkbox"/> Abdomen *                                      |                     | <input type="checkbox"/> Bone Scan *                                    |                     | <input type="checkbox"/> Tumor localization WB *                         |                     |
| <input type="checkbox"/> Chest *                                        |                     | <input type="checkbox"/> Three Phase Bone *                             |                     | (Gallium)                                                                |                     |
| <input type="checkbox"/> Head *                                         |                     | <input type="checkbox"/> HIDA Scan W/WO CCK *                           |                     | <input type="checkbox"/> Cardiolite Treadmill Stress *                   |                     |
| <input type="checkbox"/> Lumbar Spine *                                 |                     | <input type="checkbox"/> MUGA Scan *                                    |                     | <input type="checkbox"/> Cardiolite Stress *                             |                     |
| <input type="checkbox"/> Pelvis *                                       |                     | <input type="checkbox"/> Lung Scan VQ *                                 |                     | Adenosine / Persantine (circle one)                                      |                     |
| <input type="checkbox"/> Sinus *                                        |                     | <input type="checkbox"/> Thyroid Scan With Uptake *                     |                     | <input type="checkbox"/> Cardiolite Dobutamine Stress *                  |                     |
| <input type="checkbox"/> Soft Tissue Neck *                             |                     | <input type="checkbox"/> Parathyroid *                                  |                     | <input type="checkbox"/> Thallium Stress *                               |                     |
| <b>CARDIO/PULMONARY</b>                                                 | Signs/Symptoms/ICD9 | <b>CARDIO/PULMONARY</b>                                                 | Signs/Symptoms/ICD9 | <b>CARDIO/PULMONARY</b>                                                  | Signs/Symptoms/ICD9 |
| <input type="checkbox"/> ABG                                            |                     | <input type="checkbox"/> PFT Pre/Post *                                 |                     | <input type="checkbox"/> Stress ECHO (Treadmill) *                       |                     |
| <input type="checkbox"/> ABG With O2 SAT                                |                     | <input type="checkbox"/> EEG *                                          |                     | <input type="checkbox"/> Stress ECHO / Dobutamine *                      |                     |
| <input type="checkbox"/> Complete Pulmonary Function *                  |                     | <input type="checkbox"/> ECHO *                                         |                     | <input type="checkbox"/> Tilt Table *                                    |                     |
| <input type="checkbox"/> Exercise Induced Asthma Test *                 |                     | <input type="checkbox"/> EKG                                            |                     | <input type="checkbox"/> King Of Hearts Monitor Scheduled through Cardio |                     |
| <input type="checkbox"/> Methacholine Challenge *                       |                     | <input type="checkbox"/> Holter Monitor *                               |                     | <input type="checkbox"/> Transesophageal ECHO *                          |                     |
| <input type="checkbox"/> Spirometry Simple * (No Bronchodilators)       |                     | <input type="checkbox"/> Stress Regular * (TREADMILL ONLY, NON NUCLEAR) |                     |                                                                          |                     |

Signs/Symptoms/ICD9 and Other Tests

\* Must be scheduled through INFO Signs/Symptoms/ICD9 - No Rule Outs, Probables, Possibles, or Questionables

Physician Signature

☒ Piasio

☐ Amv Vezza

Date



## East Allegheny Center for Bone & Joint Disease

145 Hospital Avenue, Suite 311, DuBois, PA 15801 • Tel 814-375-9617, Fax 814-375-9624 • [orthodoc.aaos.org/mpiasio](http://orthodoc.aaos.org/mpiasio)

Mark A. Piasio, MD, FAAOS, FACS  
Amy Vezza, CRNP

06-13-05

Dr. Ken Yaw  
Mercy Health Center, 5<sup>th</sup> Floor  
1515 Locust Street  
Pittsburgh, PA 15219

RE: Paula Carlson  
DB: 04-26-1971

Dear Ken,

Thank you so much for quickly seeing Paula Carlson. Paula is a very pleasant 34-year old woman who works here at DRMC in the Cancer Center who has had wrist pain for a couple of months time.

She was initially treated outside. I saw her recently where she was found to have a progressive lytic lesion of the distal radius on the right side.

I've enclosed copies of my notes and she should be presenting with both films as well as a CD of all of her radiographic studies as well.

I'd appreciate if you'd check the CD to make sure it works as we've had some trouble referring patient's with our CDs in the past.

I look forward to your thoughts and again, thanks so much for getting her in so quickly as it does appear this lesion does appear fairly rapidly growing.

Warm regards,

Mark A. Piasio, M.D.  
MAP/jlw

Patient's Name

Paula Carlson

Appt. Date

06/17/05 @ 10:30

Physician

Dr. Kenneth Yaw

Address

Meray Health Center, 5th Floor  
1515 Locust Street, Pittsburgh, PA 15219

Phone Number

412-232-5800

Appt. information  
needed

Jan. 1. 1996 5:38AM

No.0141 P. 5/7

DUBOIS REGIONAL MEDICAL CENTER  
100 Hospital Ave, DuBois, PA 15801

CARLSON, PAULA J  
1373 SAND STONE DR  
FALLS CREEK PA 15840

OPC  
Age 33Y

Unit # 000406631  
Acct # D0510200479

Date:04/12/05 Time:0913

NATOLI, LORIE B  
C/O DRS KRUK AND GRAECA  
DUBOIS PA 15801

GRAECA, STEVEN W  
145 HOSPITAL AVENUE  
DUBOIS PA 15801

Chk-in # Order Exam  
759066 0002 44511 DI-WRIST MIN 3\*R  
Ord Diag: ;PAIN

RIGHT WRIST:

The bones are intact. The joint relationships are normally maintained.  
The soft tissues are unremarkable.

IMPRESSION: NEGATIVE.

/READ BY/ JERJIS ALAJAJI  
/Released By/ JERJIS ALAJAJI

04/13/05 0941  
BC

*Alajaji*

Complete

DUBOIS REGIONAL MEDICAL CENTER  
100 Hospital Ave, DuBois, PA 15801

CARLSON, PAULA J  
1373 SAND STONE DR  
FALLS CREEK PA 15840

OPW  
Age 34Y

Unit # 000406631  
Acct # D0516000388

Date: 06/09/05 Time: 1326

PIASIO, MARK  
145 HOSPITAL AVE MED ARTS  
DUBOIS PA 15801

GRAECA, STEVEN W  
145 HOSPITAL AVENUE  
DUBOIS PA 15801

Chk-in #    Order    Exam    PI-WRIST MIN 3\*R  
775773    0001    45540    Ord Diag: 719.43-JOINT PAIN-FOREARM

RIGHT WRIST - AP, LATERAL, AND OBLIQUE:

A large lytic lesion is seen on the ulnar aspect of the distal radius. It incorporates predominance of the distal radius. It extends to the articular margin. It does not cross the articular margin. There appears to be some punctate calcification in an ulnar direction on the AP view. No discrete fracture is seen.

IMPRESSION: LYTIC LESION PERMEATIVE WITHOUT DEFINED MARGINS. DISTAL RADIUS.  
CONSIDERATIONS FOR GIANT CELL OR EWING'S.

/READ BY/ MARK A PIASIO M.D.  
/Released By/ MARK A PIASIO M.D.

06/14/05 1154  
LLW

Complete

DUBOIS MRI

8143753298

06/10 13:06 NO.169 01/01

DUBOIS MAGNETIC IMAGING CENTER, 145 HOSPITAL AVE. SUITE 102, DUBOIS, PA 15801  
PHONE (814) 375-3595 OR (814) 375-3596 OR FAX (814) 375-3298

PATIENT NAME: CARLSON, PAULA J.  
ADDRESS : 1373 SANDSTONE DR.  
FALLS CREEK, PA 15840

DATE OF BIRTH: 4-26-71 AGE: 34  
SOC. SEC # : 201-66-3077

EXAM REQUESTED: MR IMAGING OF RIGHT WRIST AREA  
DATE OF EXAM: 6-9-05 SCAN #: 20783

REF. PHY.: PIASIO

MR IMAGING OF RIGHT WRIST AREA:

SCAN SEQUENCE: Multi-planar images were obtained in multiple sequences before and following intravenous administration of 11 ml of Magnevist.

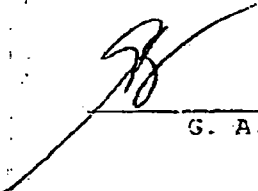
REPORT:

There is a lesion involving the distal radial metaphysis epiphyseal region. The lesion is hypointense in T1 weighted sequences and hyperintense in T2 weighted images. The mass in the bone extends to the subchondral region of the distal radius. There is asymmetrical location in the distal radius with involvement of the lateral volar aspect of the bone. The cortex is eroded and there is extension of the lesion into the soft tissues between the distal radius and ulna. No definite pathological fracture is seen at this time. No extension to any other bone around the wrist is seen. There is patchy contrast enhancement noted.

IMPRESSION:

THERE IS A LESION IN THE DISTAL RADIUS. IT HAS FEATURES TYPICAL OF A GIANT CELL TUMOR.

REPORT WAS FAXED TO DR. PIASIO'S OFFICE.

  
G. A. SHAH, M.D.

D: 6-10-05  
T: 6-10-05  
llw

DUBOIS REGIONAL MEDICAL CENTER  
100 Hospital Ave, DuBois, PA 15801

CARLSON, PAULA J  
1373 SAND STONE DR  
FALLS CREEK PA 15840

OPW  
Age 34Y

Unit # 000406631  
Acct # D0516100332

Date:06/10/05 Time:1216

PIASIO, MARK  
145 HOSPITAL AVE MED ARTS  
DUBOIS PA 15801

GRAECA, STEVEN W  
145 HOSPITAL AVENUE  
DUBOIS PA 15801

|          |       |       |                              |
|----------|-------|-------|------------------------------|
| Chk-in # | Order | Exam  |                              |
| 776084   | 0004  | 72733 | CT-THORAX ENHANCED           |
|          |       |       | Ord Diag: ;NEOPLASN,R RADIUS |

COMPUTED TOMOGRAPHY OF THORAX:

Axial CT of the thorax was obtained with intravenous contrast enhancement.

There is no evidence of pulmonary mass, acute process, or enlarged mediastinal lymph nodes. The heart is normal in size. The visualized superior aspect of the liver and the spleen show no abnormality.

IMPRESSION: NO EVIDENCE OF PULMONARY MASS, ACUTE PROCESS,  
OR METASTATIC DISEASE.

/READ BY/ EMILIO G FLORES, Radiologist  
/Released By/ EMILIO G FLORES, Radiologist

06/10/05 1430  
JAH

Complete



DUBOIS REGIONAL MEDICAL CENTER  
100 Hospital Ave, DuBois, PA 15801

CARLSON, PAULA J  
1373 SAND STONE DR  
FALLS CREEK PA 15840

OPW  
Age 34Y

Unit # 000406631  
Acct # D0516100332

Date: 06/10/05 Time: 1204

PIASIO, MARK  
145 HOSPITAL AVE MED ARTS  
DUBOIS PA 15801

GRAECA, STEVEN W  
145 HOSPITAL AVENUE  
DUBOIS PA 15801

|          |       |       |                       |
|----------|-------|-------|-----------------------|
| Chk-in # | Order | Exam  |                       |
| 776085   | 0004  | 41003 | XR-CHEST PA & LATERAL |
|          |       |       | Ord Diag: ;NEOPLASM   |

CHEST - PA AND LATERAL:

The lungs are well-aerated. No infiltrate or consolidation is seen. The cardiomediastinal silhouette is normal. There is no pleural effusion or pneumothorax seen.

IMPRESSION: NO ACTIVE PULMONARY PATHOLOGY.

/READ BY/ G. ALI SHAH  
/Released By/ G. ALI SHAH

06/11/05 0614  
LLW

Complete

DUBOIS REGIONAL MEDICAL CENTER  
100 Hospital Ave, DuBois, PA 15801

CARLSON, PAULA J  
1373 SAND STONE DR  
FALLS CREEK PA 15840

OPW  
Age 34Y

Unit # 000406631  
Acct # D0516100332

Date: 06/10/05 Time: 0953

PIASIO, MARK  
145 HOSPITAL AVE MED ARTS  
DUBOIS PA 15801

GRAECA, STEVEN W  
145 HOSPITAL AVENUE  
DUBOIS PA 15801

Chk-in # 776014    Order 0003    Exam 56047    NM-THREE PHASE  
Ord Diag: ;MASS R RADIUS

THREE-PHASE RADIONUCLIDE SCAN OF BOTH WRIST AND HANDS AND STATIC TOTAL  
BODY SCAN:

METHOD:

Following intravenous administration of 21.1 mCi of technetium 99m HDP,  
rapid sequence images of both wrist and hands were obtained for  
1 minute. 5 minute blood pool images were taken and delayed static  
images of whole skeleton were made.

FINDINGS:

There is a focal area of increased vascularity seen in the distal  
radius. Delay images also show marked increased tracer uptake in this  
region. Distribution of tracer in the rest of the osseous and  
articular structures is normal.

IMPRESSION: INCREASED VASCULARITY AND INTENSELY INCREASED TRACER  
UPTAKE IN THE DISTAL RADIUS ON THE RIGHT SIDE  
CORRESPONDING WITH THE LESION (GIANT CELL TUMOR)  
SEEN ON PLAIN FILMS AND MR IMAGING OF THIS AREA.  
THERE IS NO OTHER LESION SEEN IN THE BODY.  
THE REST OF THE SKELETON SHOWS NORMAL TRACER UPTAKE.

/READ BY/ G. ALI SHAH  
/Released By/ G. ALI SHAH

06/11/05 0614  
LLW

Complete

DUBOIS REGIONAL MEDICAL CENTER  
100 Hospital Ave, DuBois, PA 15801

CARLSON, PAULA J  
1373 SAND STONE DR  
FALLS CREEK PA 15840

OPW  
Age 34Y

Unit # 000406631  
Acct # D0516500628

Date: 06/14/05 Time: 0717

PIASIO, MARK  
145 HOSPITAL AVE MED ARTS  
DUBOIS PA 15801

GRAECA, STEVEN W  
145 HOSPITAL AVENUE  
DUBOIS PA 15801

| Chk-in # | Order | Exam  |                                                                       |
|----------|-------|-------|-----------------------------------------------------------------------|
| 776886   | 0001  | 72754 | CT-UPPER EXTREMITY ENHANCED*R<br>Ord Diag: ;GIANT CELL TUMOR R RADIUS |
| 776887   | 0001  | 72810 | CT-RECONSTRUCTION<br>Ord Diag: ;GIANT CELL TUMOR R RADIUS             |

CT SCAN OF RIGHT WRIST:

Axial images were obtained. There is an osteolytic lesion involving the distal radius along its ulnar side. There is mild expansion of the bone and erosion of the dorsal and ventral aspect of the cortex. There is extension of the lesion into the soft tissues. There is no extension of lesion into the wrist joint. Margin of the distal radius appears to be intact. Margins of lesion are indistinct and there is permeative erosion of bone seen at the margins.

IMPRESSION: PREDOMINANTLY OSTEOLYTIC SLIGHTLY EXPANDING LESION OF THE DISTAL RADIUS WITH EROSION OF THE CORTEX OF THE BONE ALONG THE DORSAL AND VOLAR SIDE.

THERE IS A LARGE SOFT TISSUE COMPONENT OF THE LESION EXTENDING BEYOND THE CORTEX OF THE BONE DORSALLY AND ALONG THE VENTRAL SIDE.

GIANT CELL TUMOR OF THE BONE IS THE PRIMARY CONSIDERATION.

/READ BY/ G. ALI SHAH  
/Released By/ G. ALI SHAH

06/14/05 1526  
BC

Complete

Jun 10, 2005 1404

Section  
DUBOIS REGIONAL MEDICAL CENTER  
100 Hospital Ave, DuBois, PA 15801

Page: 1

Name: CARLSON, PAULA J  
Unit #/Acct #: 000406631/D0516100332  
Loc: OPW  
Phys-Service: PIASIO, MARK - \*OUTPATIENT

\*\*\*\*\*  
In: 06/10/05 0929  
Out: 06/10/05 1121  
Coll Time: 06/10/05 0919  
Order Phys: PIASIO, MARK  
Spec: Blood  
Techs: V01078 T10334  
[D0516100332/2312008]

| Result Name         | Result | Normal Range |
|---------------------|--------|--------------|
| Phosphorus (mg/dl): | 3.0    | 2.4-4.9      |

In: 06/10/05 0929  
Out: 06/10/05 1121  
Coll Time: 06/10/05 0919  
Order Phys: PIASIO, MARK  
Spec: Blood  
Techs: V01078 T10334  
[D0516100332/2312008]

| Result Name                 | Result | Normal Range |
|-----------------------------|--------|--------------|
| Lactic Dehydrogenase (U/L): | 142    | 100-190      |

In: 06/10/05 0929  
Out: 06/10/05 1145  
Coll Time: 06/10/05 0919  
Order Phys: PIASIO, MARK  
Spec: Blood  
Techs: V01078 T10339  
[D0516100332/2312008]

| Result Name        | Result | Normal Range |
|--------------------|--------|--------------|
| Thyroxine (ug/dl): | 12.0 H | 5.0-11.5     |

Limitation:  
Patient samples may contain human heterophilic antibodies that could react with immunoassays to give falsely elevated or depressed results.

In: 06/10/05 0929  
Out: 06/10/05 1146  
Coll Time: 06/10/05 0919  
Order Phys: PIASIO, MARK  
Spec: Blood  
Techs: V01078 T10339  
[D0516100332/2312008]

| Result Name                   | Result | Normal Range |
|-------------------------------|--------|--------------|
| Thyroid Stimulating (uIU/ml): | 1.031  | 0.25-5.12    |

Limitation:  
Patient samples may contain human heterophilic antibodies that could react with immunoassays to give falsely elevated or depressed results.

CARLSON, PAULA J

(F-04/26/71)

Jun 10, 2005 1404

Section  
DUBOIS REGIONAL MEDICAL CENTER  
100 Hospital Ave, DuBois, PA 15801

Page: 2

Name: CARLSON, PAULA J  
Unit #/Acct #: 000406631/D0516100332  
Loc: OPW  
Phys-Service: PIASIO, MARK - \*OUTPATIENT

\*\*\*\*\*  
In: 06/10/05 0929 Spec: Blood  
Out: 06/10/05 1121 | COMPREHENSIVE METABOLIC PANEL | Techs: V01078 T10334  
Coll Time: 06/10/05 0919-----  
Order Phys: PIASIO, MARK [D0516100332/2312008]

| Result Name                 | Result | Normal Range |
|-----------------------------|--------|--------------|
| Glucose (mg/dl):            | 65 L   | 70-110       |
| BUN (mg/dl):                | 11     | 7-18         |
| Creatinine, Serum (mg/dl):  | 0.5 L  | 0.6-1.3      |
| Total Protein (g/dl):       | 7.3    | 6.4-8.2      |
| Albumin (gm/dl):            | 4.3    | 3.4-5.0      |
| Globulins, Total (gm/dl):   | 3.0    | 2.1-3.5      |
| Calcium (mg/dl):            | 10.0   | 8.5-10.4     |
| Bilirubin Total (mg/dl):    | 0.7    | 0-1.0        |
| Sodium (mEq/L):             | 141    | 136-145      |
| Potassium (mEq/L):          | 5.0    | 3.6-5.2      |
| Chloride (mEq/L):           | 102    | 96-108       |
| Total Co2 (mEq/L):          | 30.3   | 21-32        |
| Anion Gap:                  | 8.7    | 0-17         |
| Alkaline Phosphatase (U/L): | 76     | 50-136       |
| Aspartate Aminotrans (U/L): | 15     | 5-29         |
| Anine Aminotransfe (U/L):   | 32     | 15-54        |
| FR (ml/min/1.73 Sq Meter):  | 150.1  | >59          |

In: 06/10/05 0929 Spec: Blood  
Out: 06/10/05 1209 | CARCINOEMBRYONIC ANTIGEN | Techs: V01078 T10339\*  
Coll Time: 06/10/05 0919-----  
Order Phys: PIASIO, MARK [D0516100332/2312008]

| Result Name  | Result                                                                                                                                                                                                                    | Normal Range                                      |
|--------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------|
| CEA (ng/ml): | < 0.50                                                                                                                                                                                                                    | Smokers less than 5.0<br>Nonsmokers less than 2.5 |
| Comment 6:   | This CEA result was obtained using Ciba-Corning ACS reagents. If the assay method used for determing CEA levels has been changed, additiional sequential testing should be carried out to establish a new baseline level. |                                                   |
| Comment 7:   | CEA levels should not be interpreted as absolute evidence of presence or absence of disease. The CEA value should be used in conjunction with information available from clinical evaluation & other diagnostic methods.  |                                                   |
| Comment 8:   | The CEA assay should not be used as a cancer                                                                                                                                                                              |                                                   |

(Continued on next page)

CARLSON, PAULA J

(F-04/26/71)

Jun 10, 2005 1404

Section  
DUBOIS REGIONAL MEDICAL CENTER  
100 Hospital Ave, DuBois, PA 15801

Name: CARLSON, PAULA J  
Unit #/Acct #: 000406631/D0516100332  
Loc: OPW  
Phys-Service: PIASIO, MARK - \*OUTPATIENT

Page: 3

\*\*\*\*\*  
In: 06/10/05 0929  
Out: 06/10/05 1209  
Coll Time: 06/10/05 0919  
Order Phys: PIASIO, MARK  
Spec: Blood  
Techs: V01078 T10339\*  
[D0516100332/2312008]

Result Name

Result

Normal Range

(Continued from previous page)

screening test.

Limitation:

Patient samples may contain human heterophilic antibodies that could react with immunoassays to give falsely elevated or depressed results.

End of Report - 06/10/05 14:04pm

CARLSON, PAULA J

(F-04/26/71)

MARKA PIASIO, M.D.  
DEA # [redacted] LIC # MD 043778-E  
AMY VEZZA, CRNP  
DEA # [redacted] LIC # VPO05236B  
145 HOSPITAL AVENUE SUITE 31  
DUBOIS, PA 15801  
814 375 3611

NAME David Clark AGE 67  
ADDRESS [redacted] DATE 05/14/15  
RX ILLEGAL IF NOT SAFETY BLUE BACKGROUND

**R** Worried  
(No work)

REFILL 1 TIMES  
☐ LABEL

SUBSTITUTION PERMISSIBLE  
IN ORDER FOR A BRAND NAME PRODUCT TO BE DISPENSED THE  
PRESCRIBER MUST HAND WRITE "BRAND NECESSARY" OR  
"BRAND MEDICALLY NECESSARY" IN THE SPACE BELOW

4EOS1390197

MARK A. PIRASIO, M.D.  
DEA # 1111111111 LIC # MD 043778-E  
AMY VEZZA, CRNP  
DEA # 1111111111 LIC # NP005236B  
145 HOSPITAL AVENUE, SUITE 311  
DUBOIS, PA 15801  
(814) 275-9517

NAME Paul Carlson AGE 45  
ADDRESS \_\_\_\_\_ DATE 1/15  
RE: LEGAL IF NOT SAFETY BLUE BACKGROUND

**R** Amoxicillin  
# 10  
375 mg po

REFILL 0 TIMES  
☒ LABEL

SUBSTITUTION PERMISSIBLE  
IN ORDER FOR A BRAND NAME PRODUCT TO BE DISPENSED, THE  
PRESCRIBER MUST HAND WRITE "BRAND NECESSARY" OR  
"BRAND MEDICALLY NECESSARY" IN THE SPACE BELOW

4EQS1390197



06/09/05 12:47 PM

FACE SHEET

Page 1

Account : 11477

Acct Type: 6 Insurance

Setup : 06/06/05

Memo One : CO PAY \$25.00

MC ORTHOPAEDICS

145 HOSPITAL AVE, STE 311

DUBOIS, PA 15801

Paula Carlson  
1373 Sandstone Drive

Falls Creek, PA 15840

Emerg:

Pharm:

Loc : 2-Dubois Office

Diag1:

Diag2:

Diag3:

RESPONSIBLE PARTY

Chart :

H-phone: (814)-372-3669

W-phone: (814)

Fax-Num: (814)

Cell :

SSN : 201-66-3077

DOB : 04/26/1971

Age : 34 Sex: F

Onst: 00/00/0000

Doctor : 1 - Piasio, Mark A., M.D.  
145 Hospital Ave, Suite 311

(814)-375-9617

Refdoc : 224 - Graeca, Steven, D.O.  
Medical Arts Suite 215  
145 Hospital Avenue  
Dubois, PA 15801

(814)-371-1717

(814)-375-4422

PCP :

Allergies:

Marital Status: S M D W

Spouse's Name \_\_\_\_\_ #Children \_\_\_\_\_

Co : \*3-Blue Shield-highmark  
PO Box 890062

Emplr : State Of PA

Camp Hill, PA 17089-0062

Harrisburg PA

Srd: Jamie D Carlson

Phone #: (717)-975-5054

D.O.B: 00/00/0000 SS#

Group #: 01218000

Plan :

| Member Name         | BirthDate  | Ord | Member Id#      | ExpDate  | Onset      |
|---------------------|------------|-----|-----------------|----------|------------|
| 001 - Paula Carlson | 04/26/1971 | 001 | YYM105069080001 | 00/00/00 | 00/00/0000 |

PATIENT AUTHORIZATION

I authorize the release of any medical information necessary to process insurance claims, and the release of information back to my physician.

SIGNED

*Paula Carlson*

DATE

*6/9/05*

I authorize payment of medical benefits to above stated physician or supplier for services rendered. I understand that I will be responsible for any balances not covered by my insurance including co-pays, deductibles and any non-covered amounts.

SIGNED

*Paula Carlson*

DATE

*6/9/05*

*New pt  
No OPC needed  
6/9/05  
RV*



**DuBois Regional  
Medical Center**

*Making the difference for life.*

**PATIENT INFORMATION**  
**DRMC ORTHOPEDIC PRACTICE**  
 145 HOSPITAL AVENUE, SUITE 311  
 DUBOIS PA 15801  
 814-375-3750

Patient Carlson Paula JD Albert  
 (Last Name) (First) (Middle) (Maiden)  
 Address 1373 Sandstone Dr Falls Creek PA 15840  
 (Street or Box) (City) (State) (Zip)  
 Birth Date 4/26/71 Age: 34 Home Phone 372-3669 SS# 201-66-3077  
 Patient's Employer DRMC Phone 375-3535  
 Address 100 Hospital Ave DuBois PA 15801  
 CHECK ONE: Minor ☐ Single ☐ Married ☒ Divorced ☐ Separated ☐ Widowed ☐  
 Spouse Jamie D Carlson Birthdate 2/6/71 SS# 206-64-3866  
 Spouse's Employer State of Pa Phone 375-1446  
 Address Harrisburg, PA

Person to contact in case of emergency Jamie Carlson Phone 372-3669  
 Referred by: \_\_\_\_\_ Family doctor: Gracca

If patient is a minor, please complete:

Children's Names/Date of Birth: \_\_\_\_\_ DOB \_\_\_\_\_ DOB \_\_\_\_\_  
 \_\_\_\_\_ DOB \_\_\_\_\_ DOB \_\_\_\_\_

Father's Name \_\_\_\_\_ Birthdate \_\_\_\_\_ SS# \_\_\_\_\_  
 Father's Address \_\_\_\_\_ Phone \_\_\_\_\_  
 Father's Employer \_\_\_\_\_ Phone \_\_\_\_\_  
 Mother's Name \_\_\_\_\_ Birthdate \_\_\_\_\_ SS# \_\_\_\_\_  
 Mother's Address \_\_\_\_\_ Phone \_\_\_\_\_  
 Mother's Employer \_\_\_\_\_ Phone \_\_\_\_\_

Insurance Information (Please have cards ready to present). Name of School/College \_\_\_\_\_

Medicare \_\_\_\_\_ Railroad \_\_\_\_\_  
 (Number) (Letter) (Number) (Letter)

Blue Shield Agreement # \_\_\_\_\_ Group # \_\_\_\_\_  
 Name on Card \_\_\_\_\_ 65 Special \_\_\_\_\_ 65 Plus \_\_\_\_\_

United Mine Workers Number \_\_\_\_\_ Code \_\_\_\_\_  
 Miner \_\_\_\_\_ Dependent of Minor \_\_\_\_\_

Other Medical Insurance \_\_\_\_\_ Address \_\_\_\_\_  
 Name on Card \_\_\_\_\_

Medical Assistance \_\_\_\_\_

Other Medical Insurance/Compensation/Auto: \_\_\_\_\_

Address: \_\_\_\_\_ Claim #: \_\_\_\_\_

**Please Sign:** I authorize \_\_\_\_\_, MD, to release information to insurance carriers, concerning my illness and treatments. I assign to this physician, all payments for medical services rendered to myself and my dependents. I understand I am responsible for any amount not covered by my insurance. I consent to examination and/or medical care as prescribed by the physician. I understand that sample medications are for patient use and shall be dispensed in non child-proof containers. I understand I will be instructed on the use and indication of any sample medication(s) and possible side effects or adverse reactions. This authorization is in force unless revoked in writing.

Signature \_\_\_\_\_ Effective Date \_\_\_\_\_  
 Patient (Parent, if Minor)



PAULA J CARLSON

ID# YYM105069080001

GRP# 01218000

COPAY OV \$15 SP \$25  
ER \$50

BC Plan 363 BS Plan 865

PEBITF

Member Service/Benefit Questions: Call 1-800-386-4944.

Providers: All claims should be submitted to your local Blue Cross and/or Blue Shield plan.

Blues on Call: Call 1-888-BLUE-428 for 24-hour access to nurses who provide health education and support services.

To Receive High Level Benefits: You must receive care from a network provider. If you choose to receive care through an out-of-network provider, for other than emergency care, you will receive payment at a reduced level of benefits.

Admissions to a Non-PPOBlue Provider Hospital or Facility: For Mental Health/Substance Abuse call 1-800-924-0105; for all other admissions call 1-800-386-4944.

Member Submitted Claims: If the provider does not submit your claim to their local Blue Cross/Blue Shield plan, send your claim to Claims, P.O. Box 890062, Camp Hill, PA 17089-0062.

Highmark Blue Cross Blue Shield provides administrative claims payment services and does not assume any financial risk or obligation with respect to claims.

[www.highmarkbcbs.com](http://www.highmarkbcbs.com)

BT0045

**ACKNOWLEDGEMENT**  
**OF RECEIPT OF NOTICE AND CONSENT TO USE AND**  
**DISCLOSE HEALTH INFORMATION**

**Read before signing the Acknowledgement and Consent**

This acknowledgement of notice and consent authorizes the DuBois Regional Medical Center to use and disclose health information about you for treatment, payment, and health care operational purposes.

**Notice of Privacy Statement:** The DuBois Regional Medical Center has a "Notice of Privacy Statement", which describes how we may use and disclose your protected health information and how you can access your protected health information and exercise other rights concerning your protected health information. You may review our current notice prior to signing this acknowledgement and consent.

**Amendments:** We reserve the right to change our "Notice of Privacy Statement" and to make the terms of any change effective for all protected health information that we maintain, including information created or obtained prior to the date of the effective date of the change. You may obtain a revised notice by contacting your medical practice or by submitting a written request to Medical Records Department.

Medical Records Department  
DuBois Regional Medical Center  
P.O. Box 447  
DuBois, PA 15801

**Acknowledgement and Consent**

Print or type all information except the signature.

I have received the "Notice of Privacy Statement" for the DuBois Regional Medical Center, the practice is authorized to use and disclose health information about Paula Carlson (patient name) for treatment, payment, and healthcare operational purposes consistent with its "Notice of Privacy Statement".

Paula Carlson

Signature of Patient  
(or patient's personal representative)

6/8/05  
Date

Personal Representative Information (if applicable)

\_\_\_\_\_  
Name of Personal Representative

\_\_\_\_\_  
Relationship to Patient (or other authority)

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

PAULA CARLSON and  
JAMIE CARLSON, her husband

vs.

No. 06-563-CD

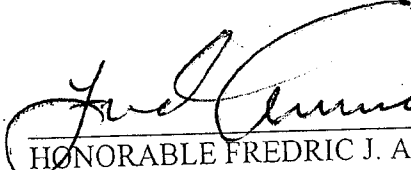
JERJIS T. ALAJAJI, M.D., DUBOIS  
RADIOLOGISTS, INC. and DUBOIS  
REGIONAL MEDICAL CENTER

ORDER

AND NOW, this 25<sup>th</sup> day of January, 2008, argument on all  
outstanding Motions and Responses in the above captioned matter shall be and are  
hereby scheduled for the 12<sup>th</sup> day of February, 2008 at 10:00 A.M. in Hearing  
Room No. 3 of the Clearfield County Courthouse, Clearfield, Pennsylvania, before  
the Honorable Charles C. Brown, Jr., Senior Judge, specially presiding.

Copy for  
Judge Brown

BY THE COURT:

  
HONORABLE FREDRIC J. AMMERMAN  
President Judge

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

JAN 25 2008

Attest.

  
Prothonotary/  
Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL ACTION - MEDICAL PROFESSIONAL LIABILITY ACTION

PAULA CARLSON and JAMIE CARLSON,  
her husband,

Plaintiffs,

vs.

JERJIS T. ALAJAJI, M.D. and  
DUBOIS RADIOLOGISTS, INC., and  
DUBOIS REGIONAL MEDICAL CENTER,

Defendants.

Docket No: 2006 - 563 - C.D.

Jury Trial Demanded

Type of Pleading  
***Defendant Dr. Alajaji's  
Brief in Opposition to Plaintiffs'  
Motions in Limine Regarding  
Testimony of Defense Expert  
Dr. Ross Horsley, M.D***

Filed on Behalf of Defendant  
***Jerjis T. Alajaji, M.D.***

Counsel of Record for This Party  
***Darryl R. Slimak, Esquire***  
Pa. Supreme Court I.D. #41695

McQuaide, Blasko, Fleming &  
Faulkner, Inc.  
811 University Drive  
State College, PA 16801  
(814) 238-4926  
Fax: (814) 238-9624

Counsel for Adverse Party  
***Thomas E. Crenney, Esquire***

Please  
hold  
w/ file  
for visiting  
judge  
TR

RECEIVED

FEB 07 2008

Court Administrator's  
Office

(Suggested Answer: Yes. Dr. Horsley is qualified to present the proposed testimony in all respects.)

## II. COUNTER-STATEMENT OF FACTS AND ARGUMENT

As evidenced by Dr. Horsley's curriculum vitae, a copy of which is attached hereto as Exhibit "A," Dr. Horsley is a Board Certified general Radiologist who has been in private practice since 1984. Prior to becoming a radiologist, Dr. Horsley, of course, went to and completed medical school. Medical school training is training of the general practice physician. It is certainly more training and experience than that that of Dr. Graeca's Physician's Assistant, Lori Natoli, whom treating primary care physician Dr. Graeca was required to supervise in her practice.

In addition to his general medical school training, Dr. Horsley completed a general, "flexible rotating internship." During this year, Dr. Horsley trained and practiced as a general medical practitioner, before going on for advanced training specializing in radiology. The evidence will also show that throughout his practice, Dr. Horsley has gained extensive experience working with all types of physicians who order and/or utilize x-rays in their practice, including general practice physicians, internal medicine physicians, physician's assistants, and a host of other medical generalists and specialists.

In the course of his medical and radiology training and practice, as reflected in Dr. Horsley's expert report attached hereto as Exhibit "B," Dr. Horsley is and must be very familiar with general medical conditions of the neck, shoulder and back, which contain bony structures, which as a physician and radiologist, he is required to diagnose. He follows patients over the years as they age and their conditions deteriorate and degenerate over time, leading to worsening disability and function. It is standard practice to compare current films with past films to diagnose such worsening of patients' conditions. Moreover, as a radiologist, and as a supervising physician of a regional radiation therapy facility similar to that at which Plaintiff Paula Carlson



worked when she developed her wrist tumor, Dr. Horsley is knowledgeable regarding and supervises radiation technicians who hold the exact type of job position held by Mrs. Carlson at the time she acquired her tumor. This is the Regional Cancer Care facility in Olean, New York.

At trial, Dr. Horsley will testify at length with regard not only to his general medical training and knowledge of and interactions with, physician's assistants, family physicians and a host of other general and specialized healthcare providers and physicians, but also as regards his familiarity with Ms. Carlson's job responsibilities, duties and functional aspects of her job as a radiation technician who administers radiation to treat cancerous tumors. Dr. Horsley will establish a foundation for his testimony and discuss his training and experience and understanding with regard to the progression, diagnosis, and treatment of neck, shoulder, back, and forearm/wrist abnormalities and resulting disabilities and need for medical care, just as he takes same into consideration in the course of his day-to-day practice of his profession. Indeed, Dr. Horsley's unique training and experiences in these regards make him uniquely qualified to testify as regards the expected course and deterioration of Ms. Carlson's neck, shoulder and back problems as she ages and continues working as a radiation technician, and as to how this will in his professional medical opinion ultimately interfere with her ability to continue in the position as a radiation technician as a result thereof, unless there would be modification of her job duties or provision of an assistant as is standard practice in his own health care facility. Moreover, his testimony will be consistent with the documented medical history outlined in Dr. Horsley's expert report in this matter, as to how Mrs. Carlson's work as a radiation technician has already resulted in a herniated disc in her neck, low back problems and need for care in that regard, absences from work, and serial x-rays and MRI studies of her neck and back. These studies document that over the years as she continued to work as a radiation technician, as well as from

natural aging, Mrs. Carlson has already in fact developed a worsened radiographic appearance of the disease processes in her neck and back, which over time, Dr. Horsley will explain, will necessarily continue to deteriorate and ultimately result in further symptomology, worsened radiographic appearance on films of these degenerative conditions, and work disability.

Dr. Horsley need not be a "vocational rehabilitation expert" in this regard, and indeed, is in many respects far more qualified than such a nonmedical expert would be to address the issues this case presents, for he is not only intimately familiar and directly responsible for supervising radiation technicians, but he also has been and/or is responsible for diagnosis and recommendations for treatment of the bony and musculoskeletal abnormalities which result from these disease processes and aging, as well as work trauma from the grind of day-to-day work as a radiation technician.

Dr. Horsley also need not currently be practicing as a primary care physician. While he was trained to be and has been one in the past, just because his qualifications now extend beyond that of a primary care physician does not mean he is no longer qualified to testify regarding general medical diagnosis and care. Moreover, as a physician, he certainly is more than qualified and experienced to testify as regards Physician's Assistant, Lori Natoli's care. (*See, e.g.*, discussion of citations of case law *infra* at page 9, holding that physicians are qualified to testify as to the care of nurses and others with less medical training than the physician expert). Indeed, the evidence will show that Dr. Horsley is so intimately knowledgeable and intertwined with the general clinical practice of medicine that he set up his radiology facility in the midst of a complex of office buildings that he then leased to general practitioners so as to work closely with same in the care of their common patients.

It is also important to understand that Plaintiffs misconstrue the nature and intent of Dr. Horsley's expected testimony. Dr. Horsley will in large part be testifying with regards to the expectations of a radiologist as to the information the family physician/physician's assistant has available as a clinician and is expected to provide the radiologist, and/or how the radiologist views the absence of such clinical information, which the radiologist then utilizes while interpreting the x-ray studies ordered by, in this case, the physician's assistant. This analysis relates to what the **radiologist's** standard of care is, and whether it was complied with in the case at bar. In this regard, it is critically important for Dr. Horsley to discuss the differing roles of the clinician and the radiologist as regards the patient's diagnosis and care. Related to that discussion, he will also be testifying with regard to the fact that it was not the radiologist's failure to detect the very early appearing and subtle tumor on this x-ray, but rather delays in obtaining follow-up studies and investigation and/or pursuit of ill-advised and unwarranted medical diagnoses by inadequately supervised Physician's Assistant Natoli, which was the cause of any material delay in obtaining the diagnosis and definitive treatment for the patient's rapidly progressing bone tumor at issue herein.

It is important to note that even **Plaintiffs'** own radiology expert, Dr. Cooperstein, in his reports contends that the radiologist is obligated to provide direction to the physician's assistant and family physician who ordered radiologic studies, as to potential diagnoses, tests to be ordered, etc. See report attached hereto as Exhibit "C". It is self-apparently not possible to do so without thereby conceding the implicit knowledge and understanding of a radiologist as to the respective physicians'/physician's assistants' skills and roles as clinicians versus radiology consultant.

As outlined in his report, Dr. Horsley will address how the physician's assistant's failure to communicate all relevant history and her diagnostic uncertainties and considerations, undermined the radiologist's ability to interpret the shadows in x-rays as potential abnormalities versus normal variations or nonpathologic/inconsequential artifacts. It also affects what the radiologist comments on or suggests that the clinicians do next. As such, Dr. Horsley will explain that to be a radiologist, one is trained and must first be a general physician and certainly have the knowledge of the role and proper care obligations of a physician's assistant. He will also explain that it is **not** the role of the radiologist, however, to supervise the physician's assistant who orders the tests and treats the patient. He will also explain, as he does in his report, that:

"Radiology is a focused and limited science, and also an art. The reality of radiology and indeed medicine in general, is that it is not always possible to make a diagnosis that is clearer in hindsight, or that subspecialties or other specialties might make. The radiologist provides an interpretation based on his judgment. He does not undertake the patient's care from the clinician. The clinicians know well the numerous types of imaging and other studies available and their advantages, and do not need to be told by the radiologist. The cause of any material delay in diagnosis was not the radiologist's report." (Report at p. 7).

Dr. Horsley's report further states that:

"... clinicians and surgeons often consult with me as a radiologist, to discuss the extent, indicated cause of the disease, and treatment plans, and I have followed such cases over time." (*Id.* at p. 7).

• • • • •

"I do not feel that the interpretation (of the April 12, 2005 x-ray) is a violation of the standard of care or negligence by a general radiologist under the circumstances. When the radiologist reviews a radiograph, he is trying to answer the question of the ordering physician. As in this case when the history given to the radiologist is nonspecific, the radiologist may not answer a question that is not

asked. The ordering physician controls this process which puts the radiologist at some disadvantage. He does not examine the patient, take his own history, nor dictate what studies to obtain.” (*Id.* at p. 8).

• • • • •

“The question or history in this case should have been indicated in the (radiology) requisition . . . .The ordering clinician should have stated what she sought to rule out. If that history had been given and question asked, I believe Dr. Alajaji would have focused more closely on the distal radius and the odds are greatly increased that even though he had never seen an early giant cell tumor of the radius in 11 years of practice, even though it was small and not visible on two of the four views, I believe he would have commented on the lucency in his report even though it is subtle. His report largely addresses acute injury or chronic degenerative conditions which he correctly indicates are not evident. This is typically the question being asked regarding such studies. PA-Natoli’s notes reflect this is what she was seeking.” (*Id.* at p. 9).

Dr. Horsley goes on to discuss the radiologist’s expectations of the clinicians as to follow-up on a negative x-ray interpretation, ordering of additional tests, what radiologic tests would be proper and potentially diagnostic, and how this would have led to more timely diagnosis. (*Id.* at pp. 9-10)

Further detail and information supporting Dr. Horsley’s qualifications to testify and respects outlined in his report will develop at trial. All of same need not be set forth in his curriculum vitae and/or expert report produced in discovery. Expert reports need only provide a summary of the facts and grounds for the opinions to which the expert is expected to testify at the time of trial. It is not a complete evidentiary foundation. Plaintiffs’ motion is thus premature and if not denied outright at this time, should, at a minimum, not be considered until the time of trial when Dr. Horsley’s qualifications and testimony is being developed and ultimately presented.

As the foregoing counter-statement of facts sets forth, a well-supported evidentiary record can and will be developed at time of trial to support the expert opinions which will be developed and presented from defense expert, Dr. Horsley. Accordingly, as the legal discussion hereinafter dictates, Plaintiffs' Motion in Limine must be denied.

### III. LEGAL DISCUSSION

Under the Pennsylvania Rules of Evidence, an individual with any reasonable pretension to specialized knowledge may testify as an expert where that testimony will be helpful to the jury. *See* Pa.R.E. 702 ("Testimony by experts").<sup>1</sup> Decisions regarding the qualifications of expert witnesses are within the discretion of the trial judge. Flanagan v. Labe, 547 Pa. 254, 257, 690 A.2d 183, 185 (1997). The Pennsylvania Supreme Court stated:

"The test to be applied when qualifying a witness to testify as an expert witness is whether the witness has **any reasonable pretension to specialized knowledge** on the subject under investigation. If he does, he may testify and the weight to be given to such testimony is for the trier of fact to determine."

Miller v. Brass Rail Tavern, Inc., 541 Pa. 474, 480-481, 664 A.2d 525, 528 (1995). (emphasis supplied)

In this case, Dr. Horsley certainly qualifies under this broad definition. Whether other individuals would be more qualified to so testify, is not the issue. Rather, such an inquiry is simply a matter that goes to the weight of Dr. Horsley's testimony. *See* Taylor v. Spencer Hospital, 222 Pa.Super. 17, 292 A.2d 449, 452-453 (1972)(the weight to be given to the

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<sup>1</sup> "If scientific, technical or other specialized knowledge beyond that possessed by a layperson will assist the trier of fact to understand the evidence or to determine a fact in issue, a witness qualified as an expert by knowledge, skill, experience, training or education may testify thereto in the form of an opinion or otherwise." Pa.R.E. 702.

testimony of an expert found to be so qualified is for the jury; witnesses having any pretension to specialized knowledge on a given subject should be allowed to testify as an expert witness even though they may not be the best possible witness available).<sup>2</sup>

In fact, many cases stand for the principle that an expert in one area of medicine, who has general medical experience and training, may testify to general medical training and experience issues of a lesser qualified physician, and herein, a mere physician's assistant. See Montgomery v. South Philadelphia Medical Group, 441 Pa. Super. 146, 153, 656 A.2d 1385, 1389 (1995) ("It would seem that knowledge as to the treatment and care of patients which may be possessed by a physician's assistant is also knowledge generally possessed by a medical doctor"); Taylor v. Spencer Hosp., 222 Pa. Super. 17, 292 A.2d 449 (1972) ("All areas of medical expertise within the knowledge of nurses are also within the knowledge of medical doctors"). Furthermore, in the area of medicine, specialties sometimes overlap and a practitioner may be knowledgeable in more than one field. See Estate of Pew, 409 Pa. Super. 417, 598 A.2d 65 (1991), *alloc. denied*, 530 Pa. 645, 607 A.2d 255 (1992) (court permitted geneticist to provide expert testimony as to blood types because specialties overlap); see also Lira v. Albert Einstein Med. Center, 384 Pa. Super. 503, 559 A.2d 550 (1989), *appeal denied*, 527 Pa. 635, 592 A.2d 1032 (1990) (neurologist permitted to provide expert testimony in otolaryngology, the specialty dealing with the larynx and trachea).

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<sup>2</sup> The Pennsylvania Supreme Court has stated that "different doctors will have different qualifications, some doctors being more qualified than others to testify about certain medical practices. It is, however, for the jury to determine the weight to be given to expert testimony, in light of the qualifications shown by the expert witness. Taylor, supra, citing Moodie v. Westinghouse Electric Corp., 367 Pa. 493, 80 A.2d 734 (1951).

Plaintiffs cite Section 512 of MCARE Act, which provides that an expert testifying as to standard of care must “practice in the same sub-specialty **as the defendant physician** or a sub-specialty with a substantially similar standard of care for the specific care at issue.” *See* 40 Pa.C.S. § 1303.512 (c). In this regard, Plaintiffs misconstrue and misapply MCARE. Defense expert, Dr. Horsley, does have qualifications as a radiologist which is the same subspecialty as Defendant Alajaji. Moreover, Section 512(b) of the MCARE Act provides:

Medical testimony. — An expert testifying on a medical matter, including the **standard of care**, risks and alternatives, **causation and the nature and extent of the injury**, must meet the following qualifications:

- (1) Possess an unrestricted physician’s license to practice medicine in any state or the District of Columbia.
- (2) Be engaged in or retired within the previous five years from active clinical practice or teaching.

Provided, however, the court may **waive** the requirements of this subsection for an expert **on a matter other than the standard of care** **if** the court determined that the expert is **otherwise competent to testify about medical or scientific issues by virtue of education, training or experience.** (emphasis supplied).

Certainly Dr. Horsley meets **not only** the first two requirements, but also the noted waiver exception of demonstrable education, training and experience as to the matter at issue in this case.

In addition, Section 512(c) (40 P.S. § 1303.512(c)), on “Standard of Care” states that an expert testifying as to a physician’s standard of care also must also meet the following qualifications:

Standard of care. - - In addition to the requirements set forth in subsections (a) and (b), an expert testifying as to a **physician’s standard of care** also must meet the following qualifications:



(1) Be substantially familiar with the applicable standard of care for the specific care at issue as of the time of the alleged breach of the standard of care.

(2) Practice in the same subspecialty as the defendant physician, or in a subspecialty which has a substantially similar standard of care for the specific care at issue, except as provided in subsection (d) or (e).

(3) In the event the defendant physician is certified by an approved board, be board certified by the same or similar approved board, except as provided in subsection (e).

• • • • •

(e) Otherwise adequate training, experience and knowledge-- A court may waive the same specialty and board certification requirements for an expert testifying as to a standard of care if the court determines that the expert possesses sufficient training, experience and knowledge to provide the testimony as a result of active involvement in or full-time teaching of medicine in the applicable subspecialty or a related field of medicine within the previous five-year time period.

40 Pa.C.S. §1303.512 (a), (b), (c) and (e).

On its face, this MCARE provision is not even applicable to Dr. Horsley's testimony relative to the Physician's **Assistant**, Ms. Natoli. As such, MCARE does not apply at all. MCARE §512 applies to testimony as regards the care of a **physician**, not physician's assistants, nurses, etc. In any event, Dr. Horsley is not actually seeking to establish the standards of care of the **non-party** Physician Assistant Natoli, or even that of her supervising physician, Dr. Graeca, such that MCARE does not apply to Dr. Horsley's comments regarding their care. To the contrary, what Dr. Horsley is actually testifying to, is what expectations **the radiologist has** of the clinicians, which impacts the **radiologist's** standards of care. See Montgomery, supra. Dr. Horsley is unquestionably qualified to testify in this regard. Indeed, as non-parties to this case, it is irrelevant and immaterial whether Ms. Natoli, or Dr. Graeca, technically breached "standards of care", or simply made mistakes in judgment. Dr. Horsley's report does not explicitly address

such matters. However, it is quite relevant as to what the radiologist's expectations and knowledge would be as to the expected work-up of the patient, general medical knowledge and care, treatment plans and differing roles of clinicians, such as Physician Assistant Natoli and Dr. Graeca, which impacts how the radiologist goes about his duties and responsibilities in following the standards of care of a radiologist. In addition, and related thereto, Dr. Horsley's report addresses the issue of what caused any **material delay** in diagnosing and instituting the appropriate treatment for the giant cell tumor Mrs. Carlson developed. In this regard, it is necessary and appropriate for Dr. Horsley to discuss the usual practice of the physician's assistant and general practitioner with regard to the conditions they were considering Mrs. Carlson had at the time (carpal tunnel syndrome and/or tendonitis), and, for instance, that x-rays ordered by the physician's assistant are not the proper radiological test to utilize in an attempt to diagnose same, for they would not reveal evidence of carpal tunnel or tendonitis.<sup>3</sup>

Furthermore, Dr. Horsley will testify as to the reasonable expectations of the radiologist, which is that the physician's assistant would be expected to have developed and provided the radiologist with all the pertinent clinical information that the radiologist would need to consider when attempting to make an interpretation of the films and diagnosis based thereon. As Dr. Horsley's report notes, the presence or absence of certain clinical information affects the radiologist's interpretation of the x-rays. Dr. Horsley will point out that because the complete

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<sup>3</sup> In Taylor v. Spencer Hosp., 222 Pa. Super. 17, 292 A.2d 449 (1972), the plaintiff-patient brought suit against the defendant-hospital and alleged that the nurses on its staff had been negligent in providing her with care and treatment. At trial, the plaintiff called a medical doctor to testify to the degree of care owed to her by the hospital and its staff. The Superior Court held that the doctor was a qualified expert. Specifically, the Court stated that "[i]t is evident that the nurses in the instant case made decisions involving the medical treatment of [the plaintiff], and that these decisions were not uniquely administrative or outside the knowledge of a medical doctor."

information available to the physician's assistant was not provided to the radiologist, this hampered his ability to detect an abnormality on the x-rays at issue in this case. This helps establish that Defendant radiologist Dr. Alajaji complied with the standards of care of a **radiologist** in exercising reasonable skill, care and judgment under the circumstances in attempting to interpret the x-ray films, despite being so handicapped by the dearth of information provided to him by the physician's assistant.

In such regard, it is wholly appropriate for Dr. Horsley to indicate that the clinical evidence, which the **physician's assistant** had, did "not suggest carpal tunnel syndrome or tendonitis and the diversion into those and other diagnoses by Mrs. Carlson's physician's assistant delayed further evaluation which should have occurred more promptly in the case of persistent pain in the right wrist joint with an April 12, 2005 "negative" x-ray report." It is also perfectly appropriate for radiology expert, Dr. Horsley, to testify that the radiologist, Dr. Alajaji, is not medically expected to ensure that the physician's assistant has a proper care plan which she should pursue with diligence and under the proper supervision of the physician assistant's supervising physician, failing which resulted in the wrong radiographic types of test being ordered and/or delayed, such that the proper diagnosis of giant cell tumor of the wrist was not obtained until the referral was belatedly made by the physician's assistant to orthopedic surgeon, Dr. Piasio, who immediately ordered a repeat x-ray, radiographic bone scan, magnetic resonance imaging/MRI study, and a CT x-ray study of Ms. Carlson's wrist, all of which could have been, but were not, ordered by the physician's assistant or Dr. Graeca previously, which would have promptly diagnosed the condition. *See* Dr. Horsley's report.

Even Plaintiffs' own radiology expert indicates in his report that it was incumbent upon Dr. Alajaji to recommend additional studies and possible differential diagnoses of the problem in

Mrs. Carlson's wrist to the physician's assistant. To do so, he obviously must be familiar with the variety of potential medical conditions that can occur in an individual's wrist and what radiographic studies potentially would and could have been ordered by the physician's assistant and/or family physician which would have helped define and reach the appropriate diagnosis. It is thus hypocritical for Plaintiffs to contend that defense radiologist expert, Dr. Horsley, who was originally trained and experienced in general practice medicine, cannot testify as to the physician's assistant's and family physician's roles with regard to reaching a diagnosis of the patient's arm pain, of which radiographic interpretation of x-rays is only one piece of the puzzle. Moreover, it is appropriate for Dr. Horsley to offer his professional opinions that what the clinicians did or did not do caused Dr. Alajaji to not detect this rare abnormality in the x-rays, despite Dr. Alajaji's exercise of reasonable care, skill and judgment in compliance with the applicable standards of radiologic care. Also, Dr. Horsley need not even testify as to whether Physician's Assistant Natoli or Dr. Graeca technically did or did not violate any standards of care themselves while pointing out that what they did or did not do was the overwhelming cause of any material delay in reaching the diagnosis. Dr. Horsley's testimony in this regard undermines the materiality of the purported delay that Plaintiffs' other experts attempt to pin on Dr. Alajaji for not detecting the subtle and exceedingly rare early-appearing tumor of the right wrist.

Moreover, Dr. Horsley's testimony with regard to the physician's assistant and/or her supervisor, Dr. Graeca, and their lack of diligence or logic in their care and work-up of the patient's condition, is appropriate because it challenges their credibility as it points out that they have reason to be antagonistic to and/or shift blame toward Dr. Alajaji because of their own default in caring for this patient. In this regard, attached hereto as Exhibit "D," is a copy of the office note of Dr. Graeca which points out that he expected to be sued by reason of the poor

judgment and delay on his office's part in rendering proper care to Mrs. Carlson. Likewise, Dr. Horsley's discussion of the physician assistant's and family physician's care, or lack thereof, and delay goes to the issue of causation, in that because of their misdiagnosis and delay in follow-up evaluation of this patient's condition, same constituted the cause of any material delay in identifying the tumor and obtaining definitive treatment, as opposed to the alleged misinterpretation of the original film by Dr. Alajaji.

Similarly, Dr. Horsley is more than qualified to testify with regard to Ms. Carlson's ability to resume her position as a radiation technician. His report and testimony at trial will demonstrate his familiarity with the position and its job functions and responsibilities, as not only is he in the radiology field himself, he is responsible for and supervises radiation technicians in the nearby regional cancer treatment center. (Report at pp. 10-11). These radiation technicians hold the exact same position and duties that Mrs. Carlson did when she worked at Dubois Regional Medical Center. It is inconsequential that the defense has retained a vocational expert, Ronal Kushner, to examine Mrs. Carlson's specific job site at Dubois Regional Medical Center to determine what reasonable accommodations and changes in the job duties could be effectuated so as to facilitate her return to that work. Mr. Kushner and Dr. Horsley's testimony is not cumulative in the legal sense, but rather, complimentary.<sup>4</sup> The fact that these two different experts come from wholly different fields, one from medicine who holds a supervisory role over radiation technicians, and one with knowledge of the Americans with Disabilities Act and

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<sup>4</sup> In determining whether expert testimony is cumulative, a court should compare the testimony of the experts, and their testimony will not be considered cumulative if the experts are not so similar in their credentials and approach to the issues. See Oxford Presbyterian Church v. Weil-McClain Co, Inc., 815 A.2d 1094 (Pa. Super. 2003)(experts not cumulative when providing similar opinions when one expert had a Ph.D. in electrical engineering and the other was an engineering foreman).

required potential job modifications, and vocational aspects of a return to employment, and examined Mrs. Carlson's specific job position at her hospital and opportunities thereat to accommodate her return to work, are of the same opinion that Mrs. Carlson could have successfully returned to her job as a radiation technician, does not result in or warrant striking either or both defense experts' testimony.<sup>5</sup>

It is also inconsistent for Plaintiffs to argue that Dr. Horsley should not be able to testify as regards the physician's assistant and primary care physician's care and delay in diagnosis when Plaintiffs have offered not only a radiologist, but two orthopedic surgeons and a family practitioner as experts against radiologist Dr. Alajaji, all of whom apparently intend to cumulatively testify that he misread the x-ray and/or that PA-Natoli and/or primary care physician Dr. Graeca provided proper care and supposedly did not materially delay the diagnosis of Mrs. Carlson's bone tumor by their consideration and treatment of conditions she did not have (i.e., tendonitis and carpal tunnel syndrome).

#### **IV. CONCLUSION**

For the reasons discussed herein, it is respectfully requested that this Honorable Court deny and dismiss Plaintiffs' Motion in Limine. Dr. Horsley is quite qualified to testify as to all

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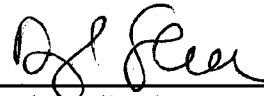
<sup>5</sup> It should also be noted that Dr. Horsley offers opinions that differ somewhat from Mr. Kushner's as to the potential reasonable accommodations that could be made, in his professional experience and opinions, in order to accommodate Mrs. Carlson's disability to return her to work as a radiation technologist. Dr. Horsley emphasizes the common useage, economic efficiency, and increase in patient safety associated with hospital employers providing a "technicians aide", similar to a "nurses aide" type medical assistant, in radiation facilities to assist the technicians with patient lifting and positioning requirements, while Mr. Kushner notes the infrequency of lifting required, team approach and availability of help at Mrs. Carlson's place of employment, as well as job duty modifications, etc.

of the subject matters of his report, and his testimony is not to be precluded on any other grounds attempted to be concocted by Plaintiffs in their Motion.

Respectfully submitted,

McQUAIDE, BLASKO,  
FLEMING & FAULKNER, INC.

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



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State College, PA 16801  
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Fax: (814) 238-9624

Dated: 2-6-2008

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL ACTION - MEDICAL PROFESSIONAL LIABILITY ACTION

PAULA CARLSON and JAMIE CARLSON,  
her husband,

Plaintiffs,

vs.

JERJIS T. ALAJAJI, M.D. and  
DUBOIS RADIOLOGISTS, INC., and  
DUBOIS REGIONAL MEDICAL CENTER,

Defendants.

Docket No: 2006 - 563 - C.D.

Jury Trial Demanded

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the Defendant Dr. Alajaji's Brief in  
Opposition to Plaintiffs' Motions In Limine Regarding Testimony of Defense Expert Ross  
Horsley, M.D in the above-captioned matter was mailed by regular mail, postage prepaid, at the  
Post Office, State College, Pennsylvania, on this 6<sup>th</sup> day of February, 2008, to the attorney(s)  
of record:

Thomas E. Crenney, Esquire  
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Pittsburgh, PA 15222

Walter F. Wall, Esquire  
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IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
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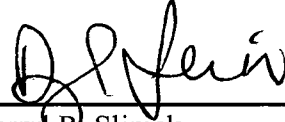
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By: \_\_\_\_\_



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# **EXHIBIT A**

## **CIRRICULUM VITAE**

**NAME:** ROSS A. HORSLEY, M.D.  
**ADDRESS:** 13 UPLAND TERRACE, ALLEGANY, NY 14706  
**DATE OF BIRTH:** MARCH 29, 1953  
**PLACE OF BIRTH:** MADISON, TENNESSEE  
**MARITAL STATUS:** MARRIED, FOUR CHILDREN

### **EDUCATION:**

**COLLEGE:** ATLANTIC UNION COLLEGE  
SOUTH LANCASTER, MASS 01561  
B.A. DEGREE 1974

**MEDICAL:** 1. 1976-1978 UNIVERSIDAD AUTONOMA DE  
CIUDAD JUAREZ, JUAREZ, CHIH., MEXICO

2. 1978-1979 AMERICAN UNIVERSITY OF THE  
CARIBBEAN, PLYMOUTH, MONTSERRAT  
BRITISH WEST INDIES  
M.D. DEGREE DECEMBER 1979

### **POST GRADUATE MEDICAL:**

**FLEXIBLE INTERNSHIP:** JANUARY 1980 TO JANUARY 1981  
AT C.S WILSON MEMORIAL HOSPITAL  
33-57 HARRISON ST, JOHNSON CITY, NY 13790

**DIAGNOSTIC RADIOLOGY RESIDENCY:** JANUARY 1981 TO DECEMBER 31, 1983  
ALBANY MEDICAL COLLEGE  
NEW SCOTLAND AVE.  
ALBANY, NY 12208

**EXAMINATIONS;**

ABR CERTIFIED-1987  
ECFMG-1979  
FLEX- 1980

**LICENSURE;**

KENTUCKY # 39869  
MASSACHUSETTS# 347574  
NEW YORK # 153020  
PENNSYLVANIA # 038835

**PRACTICE;**

ST. FRANCIS HOSPITAL &  
OLEAN GENERAL HOSPITAL  
OLEAN, NY  
1984-1990

BRADFORD HOSPITAL  
BRADFORD, PA.  
1988-2005

CUBA MEMORIAL HOSPITAL  
CUBA, NY  
2006-Present

OLEAN OPEN MRI  
OLEAN, NY  
2001-Present

# **EXHIBIT B**

OLEAN OPEN  
  
**MRI & CT**  
The Diagnostic Edge

May 24, 2007

Darryl R. Slimak, Esquire  
McQuaide Blasko Law Offices  
811 University Drive  
State College, PA 16801-6699

In re: Paula and Jamie Carlson vs. Jerjis T. Alajaji, M.D., DuBois  
Radiologists, Inc. and DuBois Regional Medical Center

Dear Mr. Slimak:

I have reviewed the medical records of Paula Carlson including the office records of Drs. Graeca, Yaw, Piasio, Summit Rehabilitation, and DRMC Employee Health. In addition, I have reviewed the depositions of Paula Carlson and Dr. Jerjis Alajaji. I have also reviewed the radiology films in the case.

I am a general radiologist who has practiced in small town settings very similar to Dr. Alajaji. I have practiced at Olean General Hospital, Bradford Regional Medical Center, and currently at Cuba Memorial Hospital and Olean Open MRI. In addition to geography and proximity, Dr. Alajaji and I share practice patterns in that we both practice general radiology and have similar patient population. I am a board certified radiologist who has seen and followed a wide variety of cases over the past 25 years including a number of giant cell tumors.

In preparation for this review, as I would in my own cases of rare diseases, I have reviewed articles and other publications in Resnick and Kronsdorf, Bone and Joint Imaging, 3<sup>rd</sup> Ed.; the European Radiology Journal on giant cell tumors, published 5-3-05; Journal of Hand Clinic, #20, published in 2004 on "Aneurysmal Bone Cyst and Giant Cell Tumor of the Hand and Distal Radius"; Chapter 21, "Benign (Occasionally Aggressive) Tumors of Bone," Campbell's Operative Orthopedics, published 2003; Current Therapy in Plastic Surgery, published 2006; American Journal of Clinical Oncology, Vol. 29, No. 1, February 2006, Giant Cell Tumor of Bone; and the American Academy of Orthopedic Surgeons, Orthopedic Information on Giant Cell Tumor of Bone.



My opinion as to this case is to the best of my medical judgment, and based on reasonable medical certainty.

The records document that Mrs. Carlson underwent evaluation at DRMC Employee Health before starting her radiation therapist position in 1992, with significantly low results on strength testing.

Paula Carlson presented originally to Dr. Gracca on September 3, 2002, to establish herself as his patient. At that time, she was 31 years of age and was complaining of several months of low back pain. The pain was aggravated by her work as a radiation therapist. Curling up in a fetal position seemed to help. She had also had chronic urinary tract infections and had a herniated disc in her cervical spine confirmed by MRI, also caused or aggravated by her work as a radiation therapist. She had a history of mood swings requiring medication, and occasional headaches, which she attributed to stress at work and at home caring for her husband and two children. She was to undergo physical therapy, daily Motrin, wear a back brace and use good lifting techniques. A plan was stated of follow-up studies such as "x-ray and then onto MRI" was contemplated "if she is not better." She was subsequently seen for anemia and skin biopsies, shoulder, back and neck pain, and gastroesophageal reflux disease.

Problems developed in her right shoulder in January 2003, that had become a constant and throbbing pain, severe at 10/10. Icy Hot, ice packs, heat packs, and Aleve were all not helpful. She was having tingling sensation into her arm and fingers, and neck discomfort to the right. There was no recent injury reported. Physician's Assistant Natoli conducted a physical examination and diagnosed musculoskeletal strain of the right shoulder and neck area. Multiple medications were prescribed. The plan was for physical therapy and x-rays if the discomfort did not improve in two weeks.

She was followed for recurrent right sided neck pain in March 2004 which felt similar to her pain suffered from the previous disc herniation. She again needed physical therapy, Lodine, and now Skelaxin was added.

Mrs. Carlson was seen and treated at Summit Rehabilitation in February 2003 for neck and right arm pain, cervical radiculopathy/C<sub>5-6</sub> disc herniation, dysesthesias, decreased reflexes and sensation in the right arm, and decreased strength with elbow flexion and extension of the right wrist. Restricted work duty, physical therapy modalities including traction and Lodine medications were instituted.

At discharge several months later (May 20, 2003), she was improved but occasionally experiencing problems. Her neck pain was "about nonexistent," but not completely gone. It was noted she had been seen and treated by Dr. Meyers for a herniated disc found by MRI that Dr. Meyers had ordered. That MRI found a cause of the symptoms that plain x-rays ordered by Dr. Graeca's Physician's Assistant Lori Fenton (Natoli) had not. Mrs. Carlson was to continue on a home exercise program, and was still taking Lodine two or three times a week.

Plain films cervical x-rays ordered and obtained on January 15, 2003 by Dr. Graeca's office suggested possible muscle spasm but no bony abnormalities. An MRI had to be performed February 18, 2003 per Dr. Meyer's order, which revealed a herniated C<sub>5-6</sub> disc, to the right side, that the x-rays could not detect. By April 26, 2005, cervical spine x-rays showed expected progression with mild degenerative narrowing and small marginal spurs now evident.

On April 11, 2005, Mrs. Carlson called into Dr. Graeca's office and the telephone log relates that she complained of pain in her right wrist and had worn a brace for approximately one week. Other records reflect the symptoms may have been occurring for as long as three weeks. There was no swelling yet. "Hurts at joint." The following day she saw Lori Natoli, a PA who works with Dr. Graeca. Right wrist only x-ray imaging was ordered and interpreted by Dr. Alajaji on the April 13<sup>th</sup>. There were no right and/or left wrist comparison x-rays ordered. Even before the x-ray report was returned, Ms. Carlson was assessed by her clinician as having carpal tunnel or tendinitis and Mrs. Carlson's Lodine prescription was "refilled." There was a plan stated to send Mrs. Carlson back to Dr. Meyers for evaluation and treatment, and additional tests, but this did not occur for nearly a month until May 5, 2005. PA-Natoli's note indicates that she ordered the x-ray "because of the acute nature of her wrist pain," noting that Mrs. Carlson "does not recall injury but she states that she could have done something at work and did not realize it." PA-Natoli considered Mrs. Carlson's history of herniated cervical disc a "possible" explanation. Physical examination indicated no Tinel's sign but carpal tunnel syndrome was being considered, although Ms. Natoli admitted the "exam does not really point to that." Her supervisor, Dr. Graeca, was not consulted despite the physician's assistant's uncertainty, and he was not scheduled to see Mrs. Carlson until May 31, 2005. No bone scan, MRI or cervical spine x-rays were ordered at that time.

None of this history or uncertainty was communicated to the radiologist who was to interpret the wrist images. The only information provided on Mrs. Carlson was age 33, "pain."

While being off work initially seemed to lessen Mrs. Carlson's symptomatology somewhat, the physical therapy initiated on May 9<sup>th</sup> did not resolve the complaints and the physical therapy progress notes at times documented that even Mrs. Carlson questioned the propriety of exercises. In an April 20, 2005 telephone log to Dr. Graeca's office, the patient reported that she now felt there was a new onset of swelling in her wrist, and Lodine was not taking the pain away. The EMG/NCV that had not yet been done was then to be scheduled.

She was seen again by Lori Natoli on April 26, 2005, two weeks after the first evaluation, and given an appointment with Dr. Meyers for May 5, 2005. There is no indication in the records or testimony that Dr. Meyers was advised by PA-Natoli that an initial x-ray of the wrist was reported as normal, even though from the beginning Mrs. Carlson's work up and care was largely deferred to him. It thus did not influence his treatment. PA-Natoli pursued work up of the neck, despite palpatory findings at the wrist and no presenting complaints in the neck area. A cervical spine x-ray was also ordered. No repeat wrist x-rays, MRI, CT scans or bone scans were ordered, however. EMGs and nerve conduction studies were eventually ordered. There was degenerative narrowing of the C<sub>5-6</sub> disc space evident on the cervical spine x-ray, however, the EMGs and nerve conduction studies were reported as normal into the right extremity. The cause of the wrist symptoms was obviously elsewhere. PA-Natoli lists no working diagnosis. She notes an orthopedic referral may be needed, but it was not pursued at that time. Mrs. Carlson's appointment with Dr. Graeca remained scheduled over a month out, for May 31, 2005 and was not moved up.

Dr. Meyers saw Mrs. Carlson on May 5<sup>th</sup> and read the EMG/NCV as normal for the right upper extremity, with no cervical mediated problem at that time. Prednisone taper and physical therapy were recommended, as was a wrist splint, with steroid injection to be considered in approximately two weeks if not significantly improved.

On the progress report in PA-Natoli's and Dr. Graeca's records for May 31, 2005, the records indicate a diagnosis of chronic tendinitis in the wrist. Physical therapy and Prednisone taper had not been helpful. It was noted that an injection was still planned and had not been tried yet. Dr. Graeca suggests "significant tendonitis of the flexor at the right wrist," that eight days later orthopaedic surgeon, Dr. Plasio, indicates was not present. A June 6<sup>th</sup> note records the injection did not work and now Mrs. Carlson was "in horrible pain."

A thyroid function test was normal. Mrs. Carlson "refused" a further appointment with PA-Natoli. Dr. Graeca then finally referred her to orthopaedic surgeon Dr. Piasio. After that, the patient never saw PA-Natoli again and Dr. Graeca's notes through June of 2006 review the failed course of care orchestrated to date via his office, the prompt diagnosis and institution of proper care by Dr. Piasio and referral to Dr. Yaw, and Dr. Graeca's concerns of being sued for what he documents was a "very rare" giant cell tumor.

On June 9, 2005, Dr. Piasio documented a history of "no injury." He notes that the EMG/NCV of May 5, 2005 were normal. Dr. Piasio documented that there was no wrist synovitis or tenosynovitis even by then. New, very appropriate studies were timely obtained, and showed a classic tumor. Dr. Mark Piasio ordered a bone scan of both wrists and hands with total body scan. This was done on June 10, 2005 and showed findings consistent with a giant cell tumor. Repeat x-rays, wrist MRI and a CT of the chest were obtained and an approximately 2.0 cm expansile lesion in the distal radius with extension beyond the bone into the volar soft tissues was identified. Dr. Piasio's records explicitly confirm my assessment that this was an "aggressive" and "rapid growing" tumor. The diagnosis by a specialist was easier as the history was more extensive and physical examination focused on the distal radial aspect of the wrist.

She was referred to Dr. Yaw in Pittsburgh, PA, who did not proceed to immediate surgery due to the potential for cancer, and initially did a biopsy on June 20, 2005 which showed a giant cell tumor. On June 27, 2005, he then resected the distal radius and transposed the ulna onto the radius and fused the ulna to the wrist. This was nearly three weeks after the tumor was identified. Obviously, the work-up was likely to have been somewhat less aggressive had a nondescript lucency of unknown but recent origin, in an seemingly early, nonclassic stage, been identified on April 13<sup>th</sup>.

On hindsight review of the radiographs obtained April 12, 2005 of the right wrist, there is a subtle 1.0 cm in diameter lucency involving the distal radius. This is just over 1/3 of an inch. The lucency is only present on two of the four views that were obtained. There were no corresponding views of the left wrist ordered for comparison. This lucency shows very discrete margins and is not expanding the cortex. The small lucency is the only aspect of the images suggestive of some abnormality. This type of lucency does not have an appearance characteristic of giant cell tumor and most likely would represent an interosseous ganglion, a simple bone cyst, or an interosseous lipoma. The cyst on initial x-ray shows no evidence of typical cortical expansion (the cortex is preserved), and does not involve the most distal radius.

There is no evidence of cortical thinning, soft tissue extension, loculation, fracture, trabeculations, sclerotic changes or calcifications, or other findings classic for giant cell tumor or malignant etiology. It would not have warranted an expedited workup. The report does not mention the small cyst but is accurate in indicating that there is no fracture, joint abnormality or soft tissue abnormality of acute or chronic duration.

A giant cell tumor of the wrist is quite rare occurring in approximately 1 in 10 million population for one year. In my experience, it is most often located about the knee either in the distal femur or the proximal tibia. The literature reports only 10% occurrence in the radius. Almost always there is a long (approximately 6 months) period of symptoms before diagnosis. In the distal radius and ulna, 92% of these tumors are not diagnosed until Stage II or later. Stage I lesions are found only 8% of the time; Stage II 2-72%; and Stage III 20%. Based on my experience and also after review of the literature, the symptoms related to giant cell tumors are usually present for six months in duration prior to the initial diagnosis. The radiographic appearance of the tumor when diagnosed is typically highly characteristic. Here it was not on April 12th. My review of the literature indicates that 93% of the cases show radiographic evidence of bony expansion and 65% show cortical destruction when first diagnosed. Soft tissue extension is detected in as many as 50% of initial diagnosed cases. Trabeculations are often present. Fractures are the first indication of the abnormality in 10-30% of cases. Sclerotic margins may or may not be seen. Nevertheless, one can not say that this was a very early tumor in the low stage on April 12, 2005. Standard radiographs have limitations. An MRI at that time may have shown a more advanced stage and there could well have been at least microscopic penetration of the cortex that would not have been discernable even on MRI.

In my opinion, the symptoms were not suggestive of carpal tunnel syndrome or tendinitis and the diversion into those and other diagnoses by Mrs. Carlson's clinicians delayed further evaluation which should have occurred more promptly in the case of persistent pain in the wrist joint with an April 12, 2005 "negative" x-ray report. A "negative" initial x-ray report does not categorically exclude the presence of a cause of symptoms that other studies may detect, if ordered. The clinicians, but not the radiologist, knew there was no accident, trauma or repetitive stress mechanism leading to the onset of symptomatology, yet did not bring this to the attention of the radiologist or promptly order more definitive studies that are well known to clinicians to be more sensitive to such pathology, and in my opinion would have allowed the radiologist to discern the early tumor. In particular, an MRI should have been obtained sooner in this case. A radiologist may recommend a further study if the initial study revealed a condition that needed better analysis.

Updated cervical studies, EMG/NCV, and referral to physiatry and orthopaedic specialists was delayed despite uncertainty of the cause. The onset of swelling reported by the patient on April 20, 2005, and the clinical suspicion of tendinitis should have prompted requesting an MRI study by the clinician. It is the responsibility of the clinician, not the radiologist, to put all the clues together and determine what other studies and plan of action to pursue. The radiologist is not responsible for the lack of a proper plan and diligence or supervision of the clinicians. Radiology is a focused and limited science, and also an art. The reality of radiology and indeed medicine in general, is that it is not always possible to make a diagnosis that is clearer in hindsight, or that subspecialties or other specialties might make. The radiologist provides an interpretation based on his judgment. He does not undertake the patient's care from the clinicians. The treating clinicians know well the numerous types of imaging and other studies available and their advantages, and do not need to be told by the radiologist. The cause of any material delay in diagnosis was not the radiologist's report.

On the CT scan of the wrist obtained June 14, 2005, there is marked enlargement of the cyst with extension of the cortex and erosion through the cortex with extension of the lesion into the volar soft tissues. The margin of the distal radius is intact and there is a permeative erosion of bone at the margins of the lesion which is typical for giant cell tumor, and is also seen on the repeat plain film x-rays which are now classic in appearance at only 2½ months. In my opinion, this eight week course from a tiny cyst that even in hindsight could only be seen on two of four views, without classic giant cell characteristics, to a very aggressive appearing expansile lesion with soft tissue extension is clearly a case of a highly aggressive lesion. The progression of this lesion, in this patient, is very rapid and unusually aggressive, even for a giant cell tumor. Dr. Piasio likewise documents such.

In such rare diseases, the clinicians and surgeons often consult with me as a radiologist, to discuss the extent, indicated course of the disease, and treatment plans, and I have followed such cases over time. Radiation is sometimes utilized as treatment, but is itself problematic. While the incidence of recurrence reportedly varies, in my training and experience, giant cell tumors have an approximately 70% recurrence rate when treated with intralesional curettage where the cyst is scooped out and wide excision is not performed. If this type of treatment had been attempted on the lesion in April 2005, there would have been an approximately 70% chance of local recurrence. Local implantation of the tumor in adjacent soft tissues has been reported with mere curettage and grafting. The literature documents that even with adjuvant therapies, usual recurrence rates have not been reliably obtained where the tumor initially presents in the distal radius.

Local treatment can still result in complications other than recurrence, including stiffness, pain, infection, neurapraxia, joint collapse, etc. When this tumor occurs in the radius, it is known to be most aggressive and the commonest site to seed patients with pulmonary metastases. Recurrence is most likely in tumors which have a higher histologic grade and aggressive features. While curettage may be preferred, in view of the aggressiveness of tumors of the distal radius, primary resection and reconstruction may be indicated and gives the lowest recurrence rate. I feel that looking back at the extremely aggressive nature of this particular lesion, even with an earlier diagnosis, wide excision and resection of the radius would have been required to give the lowest rate of recurrence and perhaps cure the patient. Even then, cure would not be certain.

There may have been microscopic or blood system extension of the tumor even as of April 13<sup>th</sup>, or when the patient reported swelling by April 20<sup>th</sup>, or by the time there was definitive action taken had the lucency been worked-up and surgery occurred, even if suspected as of April 13<sup>th</sup>. One must also keep in mind that even if the initial x-rays detected some abnormality, it is likely that there would have been several weeks of delay, and progression of the tumor, until surgically treated, just as was the case even when it was classic in appearance by June 9, 2005. The tumor may have at least microscopically breached the cortex in April, increasing the risk of recurrence and spread, had only a limited procedure been performed. With recurrence, the same procedure would have been indicated and the outcome the same or worse, depending on if there was spread to the lungs or other organs with disastrous consequences. There is significant risk of metastasis particularly to the lungs from such an aggressive tumor. The surgical approach that stood the best chance of curing her even in April would have been a wide excision.

As to the issue of the original x-ray and its interpretation obtained April 12, 2005, I do not feel that the interpretation is a violation of the standard of care or negligence by a general radiologist, under the circumstances. When the radiologist reviews a radiograph, he is trying to answer the question of the ordering physician. As in this case when the history given to the radiologist is nonspecific, the radiologist may not answer a question that is not asked. The ordering clinician controls this process, which puts the radiologist at some disadvantage. The radiologist is trained to assume that he has been given all pertinent data by a competent clinician. He does not examine the patient, take his own history, nor dictate what studies to obtain. The request that Dr. Alajaji received for interpretation of the x-ray of the wrist states only that Mrs. Carlson is 33 years old with "pain."

The question or history in this case should have been indicated in the requisition and should have at least said, "pain distal radius, no past acute or repetitive trauma, ?carpal tunnel, ?tendonitis, rule out any boney pathology." The ordering clinician should have stated what she sought to rule out. If that history had been given and question asked, I believe Dr. Alajaji would have focused more closely on the distal radius and the odds are greatly increased that even though he had never seen an early giant cell tumor of the radius in 11 years of practice, even though it was small and not visible on two of the four views, I believe he would have commented on the lucency in his report even though it is subtle. His report largely addresses acute injury or chronic degenerative conditions which he correctly indicates are not evident. This is typically the question being asked regarding such studies. PA-Natoli's notes reflect this is what she was seeking. Per his deposition testimony, it also appears that Dr. Alajaji was influenced by lucency of other bones seen in the films when studied via computerized imaging, and lack of any suggestion of abnormality on two of the four views. One must also consider the whole context in which the images were presented to Dr. Alajaji, including his lack of experience with this small and very rare tumor, in an unusually early stage, in an unusual location, and without classic findings that would make same more apparent.

The wrist was not definitively declared "normal" by the radiologist's impression. What was described was accurate. When an x-ray report is reported as negative and the problem persists, as in this case, radiologists expect that a diligent further investigation is warranted by the clinicians. With common boney causes of such symptoms discounted by the radiologist's findings, it was incumbent on the clinicians to start considering the more rare potentialities. Obviously, Mrs. Carlson's clinicians never contemplated such a rare and aggressive tumor either, and may well never had had a patient with same either. Their office records reflect uncertainty of diagnosis, but slow follow-up with an indicated plan. Carpal tunnel and tendinitis did not make sense, and were never found even at the later stage of the disease upon presentation to Dr. Piasio. Somehow, the patient was labeled with carpal tunnel syndrome or tendinitis when there was no suggestion of either. The carpal tunnel is in the base of the palm, just distal to the wrist crease. The symptomatic cyst located in the distal radius did not involve the tendons and the clinician's diagnosis of tendinitis actually delayed investigation and appropriate treatment. Wrist x-rays would neither confirm nor rule out either carpal tunnel syndrome or tendinitis. An MRI would have been the appropriate study to have imaged for problems of the tendons and sheath, and the radiologist would most certainly have advised PA-Natoli of this had her requisition indicated that she was considering carpal tunnel or tendinitis. The subtle lucency in the distal radius would have been most likely to be more apparent on an MRI at this time.



The MRI would have been helpful to rule out tendinitis and had a greater likelihood for detecting the distal radial tumor. There was still no tendinitis by the time of Dr. Piasio's evaluation in June, as he documents. A repeat x-ray, bone scan, or MRI should have been ordered for this patient when the pain persisted. A bone scan could also have been ordered before or after the x-ray and would isolate the tumor to the distal radius, thus assisting the radiologist in interpreting the plain films. A plain film x-ray is the most rudimentary of our arsenal of radiologic and imaging studies in an attempt to discern pathology. It is not good at detecting small, early lesions inside of a bone. It is known that some bony abnormalities may not be discerned on initial images, and it is commonplace for treating clinicians to request further consideration of the original images or to order repeat images at regular intervals, or more detailed and specialized studies, particularly where there was development of swelling within two weeks, normal EMG/nerve conduction studies, worsening complaints, etc.

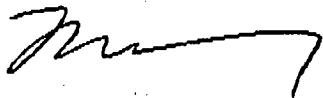
You have also asked me for any comments I might have on Mrs. Carlson's work loss claim based not only on my familiarity with the medicine, but also the position of a radiation technician with whom I have worked over the years. Mrs. Carlson had persistent complaints of work related low back pain and neck pain, even at a young age suffering a herniated disc in her neck prior to the giant cell in the wrist. She has always been very thin, petite, and not a strong woman. Functional assessment at the time of application for the position in 1992 revealed quite low static strength testimony with maximum effort, even at that time at the age of 21. While she managed in her job for many years, most likely using the compensatory strategies and good body mechanics and assistance of others as needed (the technicians work in teams), she had lifting injuries and difficulties, leading to required work duty modification and periodic medical care. In my opinion, it is unlikely that she would have been able to continue working an entire career with such recurrent problems with her cervical and lumbar discs. Her films have shown that the bony abnormalities such as vertebral spurs have developed and her degenerative condition progressed, as is expected, even at her relatively young age. I see a number of patients on a daily basis and follow them for a number of years with similar cervical and lumbar disc problems. I find that the disc protrusions, bony degeneration, and pain associated with these protrusions never goes away, recurs, and only increases in severity and extent over the years. Dr. Graeca's records also document mood swings and headaches from work and family care stress, which also take their toll. Also, the rare tumor that developed in her radius was a surprise to everyone, and even with a lesser procedure, would likely have impacted her employment, at least long term. I also note that a period of recuperation and physical therapy would likewise be needed post a curettage.

I would also like to comment on the accommodations possible for Mrs. Carlson's problems. The work of a radiation technologist is of two types. The preliminary work is positioning the patient on the therapy table prior to beginning the treatment. This portion of the technician's work can at times involve lifting, maneuvering, pushing, etc. which can be stressful on the back and wrists. The second part of the technician's work is operating a computer that controls the therapy machine. With skilled job function analysis one may find that the job can be made easier. Good body mechanics and compensatory techniques should also be instituted. I also believe that if a technician's aide was made available, then Mrs. Carlson would be able to do her job as a radiation therapist indefinitely. Many departments already recognize the periodic need for physical assistance to the therapy technician. Often, this work is done in teams. The tech aide would assist and provide the manual effort with positioning the patient and equipment. This would allow Mrs. Carlson to be relieved of the physical aspects of the job and focus solely on the computer manipulation of the equipment, radiotherapy planning, and interacting with and instructing the patient. Perhaps the same tech aide would be helpful for the other technicians as well to focus on their work careers. The cost is minimal. This is quite similar to nurses' aides assisting nurses with physical work in hospital settings and can actually make the whole department more efficient and safer for patients as well as Mrs. Carlson, with or without the consequences of her tumor.

Regarding resumption of her employment, the most recent, February 14, 2007 evaluation by Dr. Richman notes tendon function, sensation, and vascular examination remained normal to her digits. She had surprisingly well preserved pronation and supination. Radiographs revealed an excellent solid arthrodesis and position.

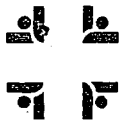
Please contact me should you require further information or clarification of this report. I would also be glad to consider any pertinent additional information that may become available.

Sincerely,

A handwritten signature in dark ink, appearing to read 'Ross A. Horsley', with a stylized, sweeping underline.

Ross A. Horsley, M.D.

# EXHIBIT C



## Titusville Area Hospital

March 25, 2007

Thomas E. Crenney  
Attorney at Law  
One Gateway Center  
18th Floor-West  
Pittsburgh, PA 15222

Dear Mr. Crenney,

As to the radiographs of the right wrist of Paula Carlson, dated April 12, 2005, I would have dictated the following report had I read them in my normal course of work.

"Multiple views of the right wrist demonstrate a lucent lesion in the distal radius. The lesion is slightly greater than one centimeter in size and extends to the end of the bone. There is no cortical erosion and no extra-osseous extension is evident. The lesion is uniformly lucent and contains no calcification or ossification. Proximally, the lesion has a poorly defined border. No other abnormality can be identified. There is no pathologic fracture.

Based on the appearance of the lesion and the patient's age, the leading consideration is giant cell tumor. Other etiologies however, both benign and malignant, are possible. Further imaging with a bone scan and MRI are recommended to evaluate this further. Biopsy/excision will most likely be needed for definitive diagnosis.

Impression: Lucent lesion distal radius. The leading differential diagnostic consideration is giant cell tumor. Further imaging is recommended."

I have also read the depositions of Dr. Shah and Dr. Alajaji. Having read these depositions, my opinions expressed in my letter to you dated May 7, 2005 have not changed.

Sincerely,

A handwritten signature in cursive script, appearing to read "Lawrence Cooperstein".

Lawrence Cooperstein, M.D.

# EXHIBIT D

CARLSON, PAULA

406631

10/25/05

Paula came in today for her Pap smear, which was completed. She had some early period signs. We did a scraping today. Her internal exam revealed normal ovaries, no palpable masses. Rectal was heme negative, good sphincter tone. No external genitalia abnormalities. Her breast exam reveals no lumps, bumps, or retractions that were abnormal. She had no lymph nodes in the neck, axilla.

I examined her right arm. There is significant trophy and deformity from her previous surgery. She cannot bend her wrist. She has pretty good function of her hand except from her wrist to her forearm it is pretty contractured.

IMPRESSION AND PLAN:

1. Preventative care. We did the Pap smear today, completed my preventative care, and we will go from there. She is heme negative today.
2. History of iron deficiency anemia. Recheck CBC after a multiple vitamin with iron is placed on. She was heme negative in 2004 as well as 2005. She has heavy periods in the past.
3. History of C5-C6 disk herniation. Treated medically.
4. History of aunt with breast cancer. Mammogram in 2006 will be due when she is 35.
5. Irregular periods. She is actually pretty regular at this point. They have improved.
6. Right wrist giant cell tumor. This was unfortunately originally missed on the initial x-ray and there was a slight delay in diagnosis. She has had the definitive surgery. There may be a few cancer cells left. She is still not ready to make the decision whether or not she can return to work or not. I think she should have a few more months if not all the way to June for her full disability to make the decision whether or not she can return to routine duties. She is going to talk to Dr. Yaw and he is going to hopefully send me a note as he has not done so and hopefully she will have this. She understands because we do have an attorney's note in the chart that this is potentially a litigation case and we talked extensively about this very openly and honestly and quite honestly she does want to work again and does not want to sue anyone although she does express some anger towards the missing of the diagnosis on the first x-ray but appears to have been adjusting to everything relatively well. I shall see her back in three months just to make sure that everything is okay. I will repeat her iron studies for her iron deficiency anemia and I did also tell her that she had some very mild urine even though her cytology was normal she had very mild blood in her urine, 5.9, that was 3.9, now normal at 1.2 red blood cells. She understands my official recommendation especially in her case is to offer urology referral to rule-out malignancy and she understands that. She is just going to recheck UA and urine cytology in three months along with her CBC and iron studies. She has always been heme negative and she will start a multiple vitamin with iron and we will see what Dr. Yaw says who will see her next in January. We had about a 45-minute discussion today.

D: 10/25/05 T: 10/26/05 SG/lmw

CARLSON, PAULA J

406631

05/23/06

Here for follow-up of laboratory tests. She still has persistent hematuria, still refusing referral. She does know that it can be a sign of malignancy of the GU tract. Her wrist still pains her on most days. She has to take Vicodin for this. She offers no cough. She is getting some depression now because of the whole issue with her wrist and inability to be able to work.

ALLERGIES AND MEDICATION LIST: Reviewed and updated.

REVIEW OF SYSTEMS: The wrist pain.

PHYSICAL EXAMINATION: Right wrist shows the deformity, inability to move it. HEART: Regular. LUNGS: Clear. BELLY: Soft. There are no lymph nodes in the neck, axilla, or groin.

LABORATORIES: Urine cytology is negative, urinalysis shows 8 red blood cells, iron and ferritin are normal, CBC is normal too except for MCV of 82.

IMPRESSION AND PLAN:

1. History of back pain, quiescent. Not complained of today.
2. Iron deficiency anemia. She has always been heme negative. Her iron and ferritin are normal. She is on a multiple vitamin. She has had a history of heavy periods.
3. History of C5-C6 disk herniation. Treated medically by Dr. Myers.
4. Aunt with breast cancer. Mammogram due at physical this year.
5. Irregular periods, stabilized.
6. Hematuria. Again, recurrence. Again, I offered her a chance to go to urologist to rule-out malignancy. I sent her for a CAT scan at least. Her urine cytology is negative.
7. Right wrist giant cell. Unfortunately, she has gotten this in relation to her x-ray being delayed. Now in regards to what she tells me that Dr. Yaws is saying that she can no longer work her full job, there is some dispute with the hospital. She currently has a lawyer involved in the case and I told her that if she does proceed with a formal lawsuit and we are named we will have to unfortunately release her from the practice. She understands that and she tells us she does not hold us responsible and she believes that we did everything right. She tells me that today.

I will see her back for her physical and we will go from there.

D: 05/23/06 T: 05/23/06 SG/lmw

C/23 - use B.O.V. chart →  
no pain  
will refer

(B)

CARLSON, PAULA

408631

06/14/06

Called in Paula today to do a pelvic exam as we had hematuria. We have offered her to go for workup for that and she has refused until today and we will get her over to Dr. Jim Cherry for cystoscopy as urine cytology is negative and a CAT scan was ordered for this and it showed a right adnexal hypodense lesion that has the appearance of a cyst 4.2 X 4 cm in the right ovary. I honestly could not feel it that well because of the internal dimension of her vaginal canal was quite long. I did not feel that she had any tenderness with this but still in regards to everything that has gone on with her in this office I think it is best to have her evaluated by a specialist. Therefore, I will get her over to Dr. Rapaport per her request and I will send him a letter, get her over to Dr. Jim Cherry for cystoscopy although I have a low index of suspicion that there is anything malignant about either of these things but then she pointed out to me that giant cell was very rare as well. It is a touchy situation with her unfortunately because we have been served with papers for old records for a lawyer and we are waiting for the impending potential lawsuit as documented before. She is to call me with any other questions. Otherwise, I have her for a physical in December.

D: 06/14/06 T: 06/14/06 SG/lmw

45



CARLSON, PAULA

406631

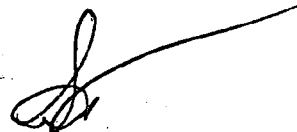
12/06/06

I called Paula today as she canceled her visit on 12/05. I asked Paula why she did not come and she said that she lost her job and it was a good paying job and she does not have the co-pay. She was again upset that she had to pay \$25 to Dr. Cherry twice to be told twice that her cystoscopy was normal. I did review with her her normal cholesterol panel and her normal blood sugar and urinalysis free of hematuria. I also discuss if she was planning on staying a patient as I sense that she may be resistant to scheduling and it may not just be the co-pay. She then asked me if I was willing to speak to her lawyer and I told her that my hospital administration has advised me when I received a letter from Attorney [redacted] that I should be represented although I am willing to cooperate I told her we can make a meeting but speaking on the telephone may not be in the best interest of the case. I told her that unless I would get sued I would be happy to be her doctor and I think what we should do I told her to keep an appointment on the books is that we should schedule her out for a 15-minute visit sometime in the mid to late spring. I think things will have declared themselves. I did reiterate my stance that it is a very unfortunate case and how things have played out both before and after the situation and I wished her a good holiday. It was a good conversation and I think she is agreeable to having another visit and I think she will pass onto her attorneys that we from the DRMC standpoint are willing to cooperate and arrange a potential meeting or at least a conversation if our lawyer team is also agreeable. I should also add I asked her if she was going to be looking for another doctor; she said at this time she was not sure.

D: 12/06/06

T: 12/07/06

SG/lmw



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

PAULA CARLSON and  
JAMIE CARLSON, her husband,

Plaintiffs,

vs.

JERJIS T. ALAJAJI, M.D., DUBOIS  
RADIOLOGISTS, INC. and DUBOIS  
REGIONAL MEDICAL CENTER,

Defendants.

No. 2006-563-CD

Civil Action – Medical Professional  
Liability Action

**PLAINTIFFS' BRIEF REGARDING**  
**DEFENDANTS' OBJECTIONS TO DR.**  
**MARK A. PIASIO'S DEPOSITION**

Filed on behalf of the Plaintiffs

Counsel of Records for this Party:

Thomas E. Crenney, Esquire  
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**JURY TRIAL DEMANDED**

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Office

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

PAULA CARLSON and  
JAMIE CARLSON, her husband,

Plaintiffs,

No. 2006-563-CD

Civil Action – Medical Professional  
Liability Action

vs.

JERJIS T. ALAJAJI, M.D., DUBOIS  
RADIOLOGISTS, INC. and DUBOIS  
REGIONAL MEDICAL CENTER,

Defendants.

**PLAINTIFFS' BRIEF REGARDING DEFENDANTS' OBJECTIONS TO  
DR. MARK A. PIASIO'S DEPOSITION**

AND NOW, come the Plaintiffs, Paula Carlson and Jamie Carlson, by and through their attorneys, Thomas E. Crenney & Associates, LLC, and respectfully present the following Brief Regarding Defendants' Objections to Dr. Mark A. Piasio's Deposition:

**Dr. Piasio's testimony regarding his reluctance to testify and the reasons for his testifying should be allowed given defense counsel's imputing of his credibility and suggestion of bias.**

Plaintiffs' counsel took the deposition of Dr. Piasio. On reexamination of the doctor, Attorney Crenney questioned Dr. Piasio's willingness to write a report and testify in this case. Defense counsel objected to this line of questioning based on relevance. Specifically, Dr. Piasio testified as follows:

Q. Doctor, you may recall sometime ago when Mr. Slimak began his cross examination -- I didn't have my mic, so I don't know if that pick up. It probably did. But do you remember when Mr. Slimak began his cross examination, that he talked about the times you and I had talked, do you recall that, over the telephone?

A. Yes.

Q. And during those talks, he -- well, strike that. He mentioned the report, correct, the report that you wrote and sent to me?

A. Correct, that one-page letter, correct.

Q. Do you recall when I called you about that report, I said if you will write a report and clarify your record, maybe you won't have to testify at all, do you recall that?

MR. SLIMAK: I'm going to object to leading.

BY MR. CRENNY:

Q. Do you recall --

A. I recall that in our conversations, I believe I was relatively clear of the difficult circumstance that I was in as a treating physician with knowledge of the case and a differing opinion within the facility within I work, that that was a very sensitive circumstance and expressed I believe in multiple times to please settle this without me having to be here today.

MR. WALL: Move to strike.

MR. JOHNSON: Move to strike.

MR. SLIMAK: Same objection.

By MR. CRENNY:

Q. Doctor, would you be kind enough to tell me if you were reluctant to testify in this case and, if so, would you tell me why?

MR. JOHNSON: Objection, relevance.

MR. WALL: Objection.

MR. SLIMAK: I join.

A. Am I answering?

BY MR. CRENNY:

Q. Yes, you are, sir.

A. That I had to answer that question two ways. I'm reluctant because I don't want to be in this circumstance because I work here and I know all the parties involved, so I'm reluctant to be a witness. No different than anyone who witnesses something that they don't want to be involved in the trial. On the other hand, I am not reluctant if it's -- you know, to come and tell the truth as I see it.

(See, Mark A. Piasio, M.D. Depo., p. 144, line 8 – p. 146, line 9.)

The above cited testimony is relevant and Defendants' objections should be overruled because on cross-examination, Attorney Slimak repeatedly impugned Dr. Piasio's credibility and suggested that his testimony was biased. (See, e.g., Dr. Piasio's Deposition pp. 57-68 attached hereto as Exhibit "A"). Attorney Slimak also suggested that Dr. Piasio was testifying voluntarily and was not under subpoena. In fact, Attorney Slimak misstated the law regarding service of the subpoena, stating that because it had not been served by a sheriff it was not proper service. This is simply wrong. Under Pa.R.C.P. 234.2(b)(2), a subpoena may be served by any form of mail requiring a return receipt, postage prepaid, restricted delivery. The receipt may be signed by any persons referred to in Rule 402(a)(2).

Attorney Slimak questioned Dr. Piasio at length regarding his contacts with Attorney Crenney with the intent of establishing bias. For example, Attorney Slimak questioned Dr. Piasio regarding his being subpoenaed for the deposition and prior conversations with Attorney Crenney:

Q Hello, Dr. Piasio. I want to follow up with some questions that Attorney Crenney had posed to you.

A Sure.

Q And at one point in time you said that he had sent you a subpoena for this deposition; is that correct?

A Yes.

Q Did he just sent it by mail or did he send it through the sheriff?

A I don't know.

Q Isn't there a letter, cover letter, saying that he sent it along?

A I didn't pay any attention to it.

Q. So doesn't it say on this letter by Attorney Crenney he did not use the sheriff's office to serve a subpoena, but rather he sent it by Federal Express to deliver and serve you with a subpoena, isn't that what it says?

A Okay.

Q Do you agree? I guess. I don't know. I mean you're way out of my field. I mean I'm assuming it was sent by Federal. I had asked to have it sent.

Q Did you ask to have it sent because your wife had told you that, well, if you're giving a deposition, you better get a subpoena for that?

A Because I'm a hospital employee and they are named in the suit, she's recommended for my own good that I be subpoenaed.

Q And so then you conveyed that to Mr. Crenney and then he sent you one by mail; is that correct?

A I believe that's correct.

Q But he apparently to your knowledge did not follow the procedure of sending it by the sheriff?

A I don't know what the procedure is.

Q Now, with regard to your contacts with Mr. Crenney over the years, is it correct that it goes back in time even before the lawsuit had been filed?

A I don't know when the lawsuit was filed, but we have communicated over some time prior to all of this occurring.

Q And did you require subpoenas for any of that?

A No.

Q In fact, have you had several conversations with him on the telephone and several exchanges of correspondence with Mr. Crenney without needing any subpoena at all?

A Yes.

(Dr. Piasio Depo., p. 57, l. 12 – p. 59, l. 14.)

Attorney Slimak also asked Dr. Piasio regarding meeting with Attorney Crenney before the deposition:

Q And did you meet with him for awhile before you started your testimony today?

A Not much.

Q Was it five minutes, ten minutes, more?

A Maybe five, five to ten.

Q And did you go over a number of things that Mr. Crenney was going to ask you about and testify to?

A Just that I only wanted to stipulate as to what I saw.

Q Yes, okay. Now, with regard to that meeting, was there any other of the attorneys representing the hospital, your employer, present, was there an attorney present for DuBois Radiologists, Inc. or was there Dr. Alajaji's attorney present for that meeting?

A No.

Q Was it just a meeting between you and Mr. Crenney?

A Yes.

Q And was it held back here in this office?

A It was held in one of the exam rooms. They were setting up for videography at the time.

Q So the two of you went to a private office; is that correct?

A Yes.

Q And no one else was present and the two of you talked?

A Yes.

Q Then you started this deposition shortly after that?

A Yes.

(Dr. Piasio Depo. p. 65, l. 10 – p. 66, l. 17.)

The defense intended to suggest to the jury that Dr. Piasio was biased in favor of the plaintiffs and against the defendants. They suggested that he was a happy cheerful volunteer whose goal was to support Paula Carlson's case. (It is respectfully noted that nothing could be further from the truth.)

By virtue of this attack on his credibility and integrity the defense opened the door to some simple questions that were asked of Dr. Piasio after his lengthy and contentious cross examination. In substance, Dr. Piasio was asked if he had any reluctance about giving evidence

in this case. His answer was effectively that he was deeply reluctant to give evidence because of his position at and relationship to DuBois Regional Medical Center and Dr. Alajaji.

Certainly, given the strident attack on his bias and his integrity Plaintiffs should be permitted to offer evidence regarding his true feeling about having to testify in this case.

WHEREFORE, it is respectfully requested that the defendants' objections to Dr. Piasio's testimony at page 144, line 8 through page 146, line 9 be denied.

Respectfully submitted,

THOMAS E. CRENNY & ASSOCIATES, LLC

By Thomas E. Crenney  
Thomas E. Crenney, Esquire  
Attorney for Plaintiffs

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18<sup>th</sup> Floor - West  
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(412) 644-5545

DATE: 2/7/08



## **EXHIBIT A**

1 IN THE COURT OF COMMON PLEAS OF  
2 CLEARFIELD COUNTY, PENNSYLVANIA

3 PAULA CARLSON and JAMIE  
4 CARLSON, her husband,

5 Plaintiffs,

No. 2006-563-CD

6 - vs -

7 JERJIS T. ALAJAJI, M.D.,  
8 DuBOIS RADIOLOGISTS, INC.,  
and DuBOIS REGIONAL  
MEDICAL CENTER,

VIDEOTAPE  
DEPOSITION OF:  
MARK A. PIASIO, M.D.

9 Defendants.

10 DEPOSITION TAKEN:  
January 22, 2008  
Tuesday, 4:16 p.m.

11  
12 ORIGINAL

13 FILED ON BEHALF OF:  
Plaintiffs

14  
15 COUNSEL OF RECORD FOR  
THIS PARTY:  
16 Thomas E. Crenney, Esq.  
17 LAW OFFICES OF THOMAS  
One Gateway Center  
18 18th Floor  
Pittsburgh, PA 15222  
412-644-5545

19  
20 REPORTED BY:  
21 Tammie Elias, RPR  
22 Notary Public  
AKF Ref. No. TE04821

record.)

- - - -

VIDEOGRAPHER: We're now back on the video record. The time right now is 5:42 p.m. that's indicated on the screen. This marks the beginning of tape number two. You may proceed.

- - - -  
EXAMINATION

BY MR. SLIMAK:

Q. Hello, Dr. Fiasio. I want to follow up with some questions that Attorney Crenney had posed to you.

A. Sure.

Q. And at one point in time you said that he had sent you a subpoena for this deposition; is that correct?

A. Yes.

Q. Did he just sent it by mail or did he send it through the sheriff?

A. I don't know.

Q. Isn't there a letter, cover letter, saying that he sent it along?

A. I didn't pay any attention to it.

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Q. So doesn't it say on this letter by Attorney Crenney he did not use the sheriff's office to serve a subpoena, but rather he sent it by Federal Express to deliver and serve you with a subpoena, isn't that what it says?

A. Okay.

Q. Do you agree?

A. I guess. I don't know. I mean you're way out of my field. I mean I'm assuming it was sent by Federal. I had asked to have it sent.

Q. Did you ask to have it sent because your wife had told you that, well, if you're giving a deposition, you better get a subpoena for that?

A. Because I'm a hospital employee and they are named in the suit, she's recommended for my own good that I be subpoenaed.

Q. And so then you conveyed that to Mr. Crenney and then he sent you one by mail; is that correct?

A. I believe that's correct.

Q. But he apparently to your knowledge did not follow the procedure of sending it by the sheriff?

A. I don't know what the procedure is.

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Q. Now, with regard to your contacts with Mr. Crenney over the years, is it correct that it goes back in time even before the lawsuit had been filed?

A. I don't know when the lawsuit was filed, but we have communicated over some time prior to all of this occurring.

Q. And did you require subpoenas for any of that?

A. No.

Q. In fact, have you had several conversations with him on the telephone and several exchanges of correspondence with Mr. Crenney without needing any subpoena at all?

A. Yes.

Q. And, in fact, did you get a contact from a Dr. Yaw indicating that, hey, I want to let you know about this attorney Mr. Crenney and did you make a note of that in your chart?

A. Yes.

Q. And what I'm showing you, is this part of your chart?

A. Yes.

Q. And I'd like to have the videographer focus in on that. Did you make a note on April 3rd of 2006?

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A. I have -- I'm looking at this note. I have no -- nothing written on that. This is not my signature.

Q. Yes.

A. I didn't make this note.

Q. Would the usual practice in your office be that your staff takes a phone message, they write you a note, and then you would provide you the note, and then you would review it; correct?

A. Yes.

Q. So then the note becomes part of your chart; correct?

A. Yes.

Q. Does this note indicate that can you return his call at your convenience next week, Thomas Crenney, Attorney, and you had a phone number; correct?

A. Correct.

Q. Does it look like a cell phone number or toll free number?

A. I believe it's probably toll free.

Q. And then Ken Yaw, did you get a call according to this note from Ken Yaw, orthopedic oncologist, spoke to you about this attorney?

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- 1 A. Yes.
- 2 Q. Did you understand that he was calling you,
- 3 Dr. Yaw, to tell you about Attorney Crenney?
- 4 A. Yes.
- 5 Q. And at that point in time, did they give you
- 6 any reports at that point in time?
- 7 A. Any reports?
- 8 Q. Yes.
- 9 A. No, I don't believe so. This is all
- 10 recollection for me. I don't have specific
- 11 time frames.
- 12 Q. Now, over the months and years since that time
- 13 up to the present time, have you had several
- 14 other contacts with Mr. Crenney or his staff?
- 15 A. Yes.
- 16 Q. And, in fact, was there a period of time back
- 17 in July of 2007 that Mr. Crenney on his
- 18 signature on his letterhead had sent you this
- 19 letter, Dear Dr. Piasio, enclosing with that
- 20 some reports?
- 21 A. That's correct.
- 22 Q. And that pertains to the Paula Carlson matter;
- 23 correct?
- 24 A. Correct.
- 25 Q. Did he give you as many reports as I had given

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- 1 you in a subsequent letter when Mr. Crenney
- 2 sent you his letter?
- 3 A. No. I believe, if I can recall, there were
- 4 two reports, one was from I believe a
- 5 Dr. Horsley or something like that and one was
- 6 from a Dr. Schmidt.
- 7 Q. Okay. And so Mr. Crenney at that point in
- 8 time through this letter had given you a
- 9 couple of the reports and did he also ask you
- 10 that these doctors will testify consistent
- 11 with these reports? Once you had the
- 12 opportunity to read them, would you be kind
- 13 enough to give me a call; is that correct?
- 14 A. Yes.
- 15 Q. And did he give you a call after doing that
- 16 providing you with the reports, some reports?
- 17 A. As I recall, I believe so. Again I did not
- 18 make record of any phone conversations.
- 19 Q. And then I'm going to show you another
- 20 document that we had from your file. Can you
- 21 identify this as a document, it's another
- 22 letter, now, September 18, 2007 from Attorney
- 23 Crenney to you, Mark Piasio, M.D.?
- 24 A. Yes.
- 25 Q. And did he indicate that he was intending to

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- 1 call you to give testimony in this letter?
- 2 A. Yes.
- 3 Q. Now, previously there were questions asked of
- 4 you and probably marked as an exhibit in this
- 5 case, a letter that you had authored written
- 6 to Mr. Crenney; is that correct?
- 7 A. Yes.
- 8 Q. Do you remember writing him --
- 9 A. Yes, yes.
- 10 Q. -- Mr. Crenney a letter --
- 11 A. Yes.
- 12 Q. -- of June 11, 2007?
- 13 A. Yes.
- 14 Q. And I'm going to approach you with that, if I
- 15 may. And is this the letter then that you
- 16 wrote Mr. Crenney June 11, 2007?
- 17 A. Yes.
- 18 Q. Did Mr. Crenney talk to you or ask you for
- 19 this letter in some fashion?
- 20 A. I could only -- I would have to assume yes.
- 21 Q. Okay.
- 22 A. But I don't -- I would not just send a letter
- 23 for no reason.
- 24 Q. Well, it says this letter is in response to
- 25 need for clarification of my medical records

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- 1 of Paula Carlson, referring to my being you;
- 2 correct?
- 3 A. Correct
- 4 Q. So in some fashion, had Mr. Crenney contacted
- 5 you before this letter to ask you to write
- 6 this letter?
- 7 A. I would believe so, yes.
- 8 Q. In that regard, did Mr. Crenney contact you by
- 9 telephone or did he write you a letter to ask
- 10 you to contact him to write a report for
- 11 clarification?
- 12 A. I can't recall. I believe by phone.
- 13 Q. So did he subpoena you before asking you --
- 14 A. No.
- 15 Q. -- to talk about this matter?
- 16 A. No, no.
- 17 Q. And in that regard then, did you call him up?
- 18 A. Yes.
- 19 Q. Did he tell you what he wanted you to write
- 20 about in your letter?
- 21 A. The clarification of what my involvement was,
- 22 as I recall in the case, what I thought I saw
- 23 at the time.
- 24 Q. So what you thought you saw at the time is
- 25 what you wrote in this letter of June 11,

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1 2007; correct?

2 A. Yes.

3 Q. And at that time, referring back to when you

4 had the office visits back in June of 2005?

5 A. Yes, it was reference with those two visits.

6 Q. We'll get into that in a little further in

7 just a few minutes. Now, prior to today's

8 deposition, did you meet with Mr. Crenney?

9 A. Yes.

10 Q. And did you meet with him for awhile before

11 you started your testimony today?

12 A. Not much.

13 Q. Was it five minutes, ten minutes, more?

14 A. Maybe five, five to ten.

15 Q. And did you go over a number of things that

16 Mr. Crenney was going to ask you about and

17 testify to?

18 A. Just that I only wanted to stipulate as to

19 what I saw.

20 Q. Yes, okay. Now, with regard to that meeting,

21 was there any other of the attorneys

22 representing the hospital, your employer,

23 present, was there an attorney present for

24 DuBois Radiologists, Inc. or was there

25 Dr. Alajaji's attorney present for that

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1 meeting?

2 A. No.

3 Q. Was it just a meeting between you and

4 Mr. Crenney?

5 A. Yes.

6 Q. And was it held back here in this office?

7 A. It was held in one of the exam rooms. They

8 were setting up for videography at the time.

9 Q. So the two of you went to a private office; is

10 that correct?

11 A. Yes.

12 Q. And no one else was present and the two of you

13 talked?

14 A. Yes.

15 Q. Then you started this deposition shortly after

16 that?

17 A. Yes.

18 Q. All right. Now, I want to go back and discuss

19 aspects of some other matters, if I may. I

20 have been moving around here a little bit.

21 With regard to the letter I had sent to you

22 with a variety of reports, did I send you

23 reports from both the plaintiffs and the

24 defendants experts?

25 A. Yes.

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1 Q. Did I indicate in my letter that was not read

2 out into the record previously, that I sent

3 them to you in the interest of fairness and

4 understanding, that I included the reports of

5 both parties experts; correct?

6 A. Correct.

7 MR. JOHNSON: So that I may preserve

8 my objections, I object to any questioning at

9 this time regarding those letters as well.

10 MR. SLIMAK: I'm only asking those

11 questions because right now we have a

12 videotape record that Mr. Crenney has asked

13 questions about that were duly objected to.

14 MR. JOHNSON: I understand. I just

15 didn't want there to be any inference of a

16 waiver.

17 MR. SLIMAK: I understand. There is

18 none.

19 BY MR. SLIMAK:

20 Q. Now, let me ask you some questions about Paula

21 Carlson's care that you were involved with,

22 okay, plus I want to ask you some questions

23 about your background, experience in this

24 area. I think you indicated previously in

25 your testimony that you're not qualified to

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1 give testimony as to the standard of care of a

2 radiologist; correct?

3 A. I believe that's correct.

4 Q. Yes. And your training in board certification

5 and medical practice is as an orthopedic

6 surgeon; correct?

7 A. Correct.

8 Q. And I think you went through aspects of your

9 qualifications as I take it you have some very

10 extensive specialized training as an

11 orthopedic surgeon; correct?

12 A. Yes.

13 Q. And then you went onto specialize in

14 fellowship training in the area of orthopedic

15 surgery or orthopedics; correct?

16 A. Yes.

17 Q. And what was that area again?

18 A. Spine.

19 Q. The spine. And then since your practice, you

20 focused in on general orthopedic surgery I

21 think you testified to; correct?

22 A. That's correct.

23 Q. Am I correct that you do not hold yourself out

24 as an orthopedic subspecialist in bone tumors?

25 A. Correct.

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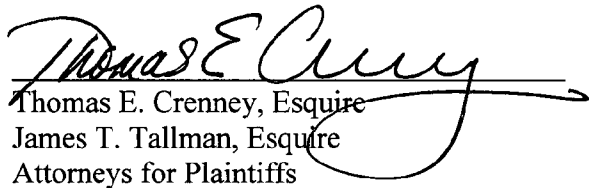
**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and correct copy of the foregoing  
**PLAINTIFFS' BRIEF REGARDING DEFENDANTS' OBJECTIONS TO DR. MARK A.  
PIASIO'S DEPOSITION** was served by First Class Mail, postage prepaid on the 7<sup>th</sup> day of  
February, 2008, as follows:

Darryl R. Slimak, Esquire  
MCQUAIDE BLASKO FLEMING & FAULKNER,  
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(Counsel for Jerjis T. Alajaji, M.D.)

Walter Fredrick Wall, Esquire  
10 Sheraton Drive  
Altoona, PA 16601  
(Counsel for DuBois Radiologists, Inc.)

David R. Johnson, Esquire  
THOMSON RHODES & COWIE  
Two Chatham Center, 10<sup>th</sup> Floor  
Pittsburgh, PA 15219  
(Counsel for DuBois Regional Medical Center)

  
Thomas E. Crenney, Esquire  
James T. Tallman, Esquire  
Attorneys for Plaintiffs

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

PAULA CARLSON and  
JAMIE CARLSON, her husband,

Plaintiffs,

vs.

JERJIS T. ALAJAJI, M.D., DUBOIS  
RADIOLOGISTS, INC. and DUBOIS  
REGIONAL MEDICAL CENTER,

Defendants.

No. 2006-563-CD

Civil Action – Medical Professional  
Liability Action

**ORDER OF COURT**

AND NOW, this \_\_\_\_\_ day of \_\_\_\_\_, 2008, upon consideration of Defendants' Objections to Dr. Mark A. Piasio's Deposition and Plaintiffs' Response thereto, it is hereby ORDERED that Defendants' objections to Dr. Piasio's testimony at page 144, line 8 through page 146, line 9 are DENIED.

BY THE COURT:

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

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Court Administrator's  
Office

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

PAULA CARLSON and JAMIE  
CARLSON, her husband,

Plaintiffs,

vs.

JERJIS T. ALAJAJI, M.D.; DUBOIS  
RADIOLOGISTS, INC.; and DUBOIS  
REGIONAL MEDICAL CENTER,

Defendants.

CIVIL DIVISION

No. 2006-563-CD

Issue No.

BRIEF IN OPPOSITION TO PLAINTIFFS'  
MOTION IN LIMINE TO PRECLUDE  
DEFENSE'S CLAIM THAT PLAINTIFF  
MAY RETURN TO HER JOB AT DUBOIS  
REGIONAL MEDICAL CENTER

Code: 007

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

Counsel of Record for This Party:

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

THOMSON, RHODES & COWIE, P.C.  
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BRIEF IN OPPOSITION TO PLAINTIFFS' MOTION IN LIMINE TO PRECLUDE  
DEFENSE'S CLAIM THAT PLAINTIFF MAY RETURN TO HER JOB AT DUBOIS  
REGIONAL MEDICAL CENTER

The facts of this case will be fleshed out at trial but, as a bottom line analysis, plaintiff alleges an injury to her wrist as a result of an alleged misdiagnosis. Plaintiff now claims to be permanently disabled from any and all full-time employment as a result of this injury, even though she is able to engage in a plethora of daily and weekly activities at home, at church, in the yard, in her car, at a minimum wage part-time job, and otherwise.

The evidence will also establish that the defendant hospital, which was also plaintiff's employer, engaged in every reasonable effort to have plaintiff return to work at her original job. A physical evaluation of plaintiff was done and to the extent that accommodations were required in order for plaintiff to fulfill her job responsibilities, the hospital agreed to such accommodations. However, at the point where plaintiff was about to be returned to work, plaintiff Paula Carlson purposefully thwarted the hospital's efforts by stating that if there was ever a situation where a patient was falling, she would let the patient fall, rather than risk injury to herself. Given these comments by the plaintiff, her return to work was stalled. A meeting was then set up for plaintiff to discuss the issue with human resources, however, that meeting was stopped by her counsel. In the end, plaintiff never did return to work, even though it seems apparent that she could have done so with only minor accommodations.

Additionally, plaintiff has chosen to not engage in any other work, except for being a greeter at a restaurant on a part-time basis, in the years following the matters alleged in her complaint. She holds herself out as being permanently and completely disabled.

With this background, plaintiff is advancing a claim that she will never be able to work in a more productive position than that of a part-time restaurant greeter, over the course of her whole lifetime.

In plaintiffs' motion they seek to "preclude defense's claim that plaintiff may return to her job at DuBois Regional Medical Center." There is neither logic, precedent, nor legal reasoning to support plaintiffs' motion. In reality, plaintiffs' motion seeks to preclude the defendant from providing evidence which opposes plaintiffs' fairly preposterous position that because of a wrist condition, plaintiff is fully and completely impaired from engaging in her previous job or any type of alternative full-time employment. Plaintiffs' motion has no logic, nor any merit whatsoever and should be denied.

Curiously, plaintiffs "support" their motion with an assertion that plaintiff has been declared permanently and totally disabled by the Social Security Administration. Ironically, plaintiffs have filed another motion in this case, styled "Plaintiffs' Motion in Limine to Preclude Reference to Plaintiffs' Receipt of Social Security Benefits," which seeks to preclude any reference to the fact that plaintiff is receiving social security

benefits. Thus, it appears that plaintiff seeks to, on the one hand, utilize the Social Security Administrating finding to preclude the defendants from defending the economic loss claim, while, at the same time, precluding the defendants from establishing that plaintiff has no motivation to return to work and is being handsomely compensated for not working. It would be entirely unfair and prejudicial for the plaintiffs to have it both ways.

Additionally, plaintiffs' suggestion that the findings of the Social Security Administration are dispositive as to whether plaintiff is or is not fully disabled have no foundation nor legal basis. Indeed, it can be questioned how, under the circumstances, plaintiff was successful in convincing the Social Security Administration that she is disabled. Notwithstanding that fact, however, neither defendants nor the jury are bound by this administrative finding in which they had no part. Determinations of disability are subject to future review and, for that reason, it would be inappropriate to preclude the defendants from opposing the permanent wage loss claim when it is unknown whether, in future years, plaintiff will continue to be declared permanently and totally disabled by the Social Security Administration. Moreover, plaintiff can obviously work – as proven by the fact that she has held the job of being a greeter.

In plaintiffs' motion, they contend that the evidence that plaintiff could work at the hospital is self-serving. In response, it is submitted that the evidence is helpful to the defendants but the fact that the underlying truth supports the defendant does not make the evidence inadmissible. The fact of the matter is that plaintiff could have returned to her

own job, had she not behaved in the manner in which she did. The fact of the matter is that if plaintiff would apply those efforts she utilizes at home, at church and on the road to securing and maintaining full-time gainful employment, she could be employed with a substantially depleted lost wage claim. Defendants should be permitted to be able to fully explore all aspects of this issue at time of trial.

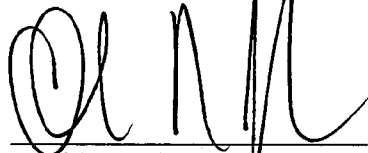
Rather bizarrely, plaintiffs note that two of the defendant's employees, Rose Campbell and Robert McKee, have offered certain testimony concerning plaintiff's return to work. Plaintiffs' attorney contends that they should be limited to that which they have already said on this subject. This claim, also, is preposterous, unprecedented, and without any legal merit. To the extent that Ms. Campbell and Mr. McKee are "on record" with regard to this issue, it is because they submitted to a deposition and were questioned by plaintiffs' attorney. With regard to this subject, the questioning was fairly limited. The witnesses had no obligation to flesh out the subject or provide additional information, and the defense had no obligation at the time of the deposition, to ask all of those questions which the plaintiffs' attorney had failed to ask, had elected not to ask, or had ignored. Thus, there is absolutely no basis upon which to properly restrict the testimony of Ms. Campbell and Mr. McKee about conversations with the plaintiff, plaintiff's ability to return to her old job, other jobs that might be capable of being performed by the plaintiff, or similar subjects. Certainly these witnesses are subject to cross examination by the plaintiffs' attorney if their testimony contradicts their deposition testimony; however, there is no foundation for plaintiffs' contention that they should be

limited to what they have already said on the subject in response to the specific and limited questions posed by plaintiffs' attorney at the time of the depositions.

Thus, for all of the reasons set forth above, plaintiffs' motion in limine to preclude defense's claim that plaintiff may return to her job at DuBois Regional Medical Center should be denied.

Respectfully submitted,

THOMSON, RHODES & COWIE, P.C.

A handwritten signature in black ink, appearing to read 'DR Johnson', written over a horizontal line.

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

**CERTIFICATION OF SERVICE**

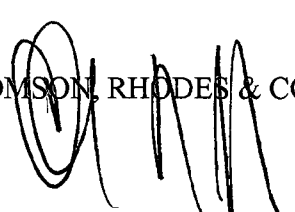
I hereby certify that a true and correct copy of the within BRIEF IN  
OPPOSITION TO PLAINTIFFS' MOTION IN LIMINE TO PRECLUDE DEFENSE'S  
CLAIM THAT PLAINTIFF MAY RETURN TO HER JOB AT DUBOIS REGIONAL  
MEDICAL CENTER has been served upon the following counsel of record and same  
placed in the U.S. Mails on this 7<sup>th</sup> day of Feb, 2008:

Thomas E. Crenney, Esquire  
Thomas E. Crenney & Associates, LLC  
One Gateway Center  
18<sup>th</sup> Floor West  
Pittsburgh, PA 15222

Darryl R. Slimak, Esquire  
McQuaide, Blasko, Fleming  
& Faulkner, Inc.  
811 University Drive  
State College, PA 16801

Walter F. Wall, Esquire  
10 Sheraton Drive  
Altoona, PA 16601

THOMSON, RHODES & COWIE, P.C.

---

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

RECEIVED

FEB 08 2008

Court Administrator's  
Office

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

PAULA CARLSON and JAMIE  
CARLSON, her husband,

Plaintiffs,

vs.

JERJIS T. ALAJAJI, M.D.; DUBOIS  
RADIOLOGISTS, INC.; and DUBOIS  
REGIONAL MEDICAL CENTER,

Defendants.

CIVIL DIVISION

No. 2006-563-CD

Issue No.

REPLY BRIEF TO PLAINTIFFS'  
RESPONSE TO DUBOIS REGIONAL  
MEDICAL CENTER'S MOTION IN LIMINE

Code: 007

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

Counsel of Record for This Party:

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

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

(412) 232-3400

REPLY BRIEF TO PLAINTIFFS' RESPONSE TO DUBOIS REGIONAL MEDICAL  
CENTER'S MOTION IN LIMINE

NOW COMES defendant, DuBois Regional Medical Center, by its attorneys, Thomson, Rhodes & Cowie, P.C., and files the following reply to plaintiffs' response in opposition to DuBois Regional Medical Center's motion in limine.

Paragraph 1 of the plaintiffs' response mischaracterizes the defendant's position with regard to damages: It is defendant's position that plaintiff was capable of returning to her job as a radiation technician at DuBois Regional Medical Center, with only minor accommodations, but that plaintiff sabotaged those efforts by declaring that she would let a patient fall if the situation arose. It is defendant's position that plaintiff could have been employed in her position as a radiation therapist, or in some other position, had her attitude been different than that which was evidenced by the comments she made. It is also defendant's position that plaintiff is not precluded from engaging in full-time gainful employment. Indeed, she spends her waking hours now engaging in a whole array of household, family and church services, yet claims to be permanently disabled. At the same time as she and her attorney tout her Social Security Administration status as being disabled, plaintiff is apparently able to work on a limited basis at a minimum wage job. It is defendant's position that plaintiff could be gainfully employed if she wished to be and that there is no credible basis for her loss of income claim.



Defendant opposes those efforts which have been undertaken by plaintiffs' attorney to expand the scope of this trial to embrace the law of at will employment. It is, of course, clear that if plaintiff were to be employed by DuBois Regional Medical Center, or by most other employers, that under the law of Pennsylvania she would be an at will employee. However, plaintiffs' suggestion that defendant's ability to terminate plaintiff would be completely unrestricted is not entirely correct. There are limitations on the ability to terminate an employee, even if the employment is one that is at will, and in plaintiff's situation, she may arguably have certain protections pursuant to statutes designed to protect disabled persons.

However, the point of defendant's motion in limine is that this trial should not become one in which the parties try and analyze the scope or limitations of the doctrine of employment at will. The real issue in the case is whether or not plaintiff actually is fully and completely disabled or whether she could be employed now and into the future. If the jury is convinced that the plaintiff is employable, then the question arises as to whether there would be available employment. The fact that the plaintiff could have worked at the hospital or that an opportunity might still exist for the plaintiff to work at the hospital is relevant evidence on this subject, just as would be evidence of any other position which might be available for the plaintiff with some other employer.

The fact that available employment may be with the defendant in the case should not open the door to any analysis of the doctrine of employment at will. The reality of the situation is that any person who is an employee at will is potentially subject to losing

their job. Permanent employment is not guaranteed to anyone. However, that does not make the issues underlying the doctrine of employment at will or the principles of at will employment appropriate ones for discussion during this trial, any more than they would be in any other case where the defendants identify available employment for a plaintiff which the plaintiff is seemingly qualified for but, for one reason or another, disinclined toward accepting.

In Paragraph 2 of their response, plaintiffs note that they have filed a motion in limine that the defense of “job offer/job availability be precluded all together.” Defendants have filed a separate brief in which it is explained in detail that there is no legal basis for the plaintiffs to seek an order of court precluding defendants from defending against the damages claim.

In response to Paragraph 3 of the response, defendants oppose any effort to introduce evidence that plaintiff would be an employee at will. The reason is that if this evidence is introduced at all, then each side would be obliged to offer further evidence and explanations as to what the doctrine of employee at will entails, what are its limitations and restrictions, how might any reasonable employer deal with employees at will, and how might that possibly affect Paula Carlson. All of these subjects are beyond the proper scope of this trial. Moreover, they encourage unfounded speculation.

In response to Paragraph 4 of the response, plaintiffs should be precluded from contending without any foundation “that the hospital would discharge her outright or

constructively after the suit had resolved.” Such a claim is entirely speculative and lacking in any foundation.

In Paragraph 5 of the response plaintiffs present the unusual notion that the plaintiff should be able to discuss insurance. In any liability lawsuit, the issue of insurance is totally irrelevant, all references to even the mention of insurance are universally barred. Plaintiff has identified no reason at all why this standard procedure should be abandoned in this case. It is totally irrelevant, whether true or not, whether plaintiff did or did not sue the hospital because she learned that DuBois Radiologists was uninsured.

Plaintiffs assert in Paragraph 5 of their response that the information [that DuBois Radiologists, Inc. was uninsured] “should be placed before the jury if defendants are permitted evidence of the claimed job offer.” Plaintiffs do not even suggest how the two issues might possibly be related or why the fact that plaintiff could have returned to work has any bearing on whether another entity is insured or not. To the extent that defendants can conceptualize at all as to what plaintiffs are getting to, it appears that plaintiffs are arguing that, *“I had to sue the hospital because there wasn’t enough insurance coverage otherwise, and now I’m afraid that if I came back to the hospital, they would fire me as soon as the lawsuit is over.”* Separate and apart from all components of this analysis representing classical “irrelevant considerations,” it appears to tacitly concede that plaintiff could return to work at DRMC if she really wanted to.

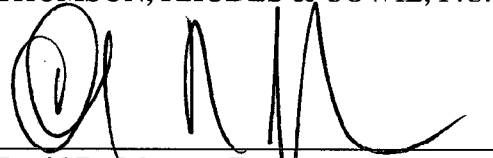
In Paragraph 6 of plaintiffs' response, they suggest that plaintiff was possibly offered a job at the hospital because the CEO's son allegedly was afraid he would be sued by the plaintiff. In the first place, the claim is entirely speculative and without any foundation whatsoever. Secondly, the whole subject is entirely irrelevant. The fact of the matter, as developed by deposition evidence, is that the defendant was willing to accommodate plaintiff and re-hire her until she purposefully engaged in conduct which caused the offer to be suspended.

It would be entirely inappropriate for the plaintiff to be permitted to suggest, explore, or distract the jury by the proffer of speculative evidence that the hospital had ulterior motives in offering the plaintiff employment. Moreover, even if plaintiffs' theory were true, and there were ulterior motives, the fact of the matter is that plaintiff was offered employment and could have come back to work but for her own purposeful conduct.

WHEREFORE, the motion in limine filed on behalf of DuBois Regional Medical Center should be sustained, plaintiffs having identified no reasons why such motion should be denied.

Respectfully submitted,

THOMSON, RHODES & COWIE, P.C.

A handwritten signature in black ink, appearing to read 'DR Johnson', written over a horizontal line.

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

**CERTIFICATION OF SERVICE**

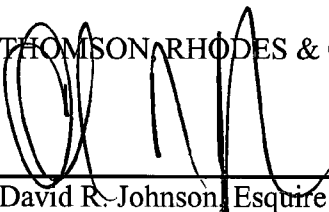
I hereby certify that a true and correct copy of the within REPLY BRIEF TO PLAINTIFFS' RESPONSE TO DUBOIS REGIONAL MEDICAL CENTER'S MOTION IN LIMINE has been served upon the following counsel of record and same placed in the U.S. Mails on this 7<sup>th</sup> day of Feb, 2008:

Thomas E. Crenney, Esquire  
Thomas E. Crenney & Associates, LLC  
One Gateway Center  
18<sup>th</sup> Floor West  
Pittsburgh, PA 15222

Darryl R. Slimak, Esquire  
McQuaide, Blasko, Fleming  
& Faulkner, Inc.  
811 University Drive  
State College, PA 16801

Walter F. Wall, Esquire  
10 Sheraton Drive  
Altoona, PA 16601

THOMSON, RHODES & COWIE, P.C.

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

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

PAULA CARLSON and JAMIE  
CARLSON, her husband,

Plaintiffs,

vs.

JERJIS T. ALAJAJI, M.D.; DUBOIS  
RADIOLOGISTS, INC.; and DUBOIS  
REGIONAL MEDICAL CENTER,

Defendants.

CIVIL DIVISION

No. 2006-563-CD

Issue No.

REPLY BRIEF CONCERNING  
PLAINTIFFS' OBJECTIONS TO THE  
DEPOSITION OF DR. KENKEL

Code: 007

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

Counsel of Record for This Party:

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

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

(412) 232-3400

REPLY BRIEF CONCERNING PLAINTIFFS' OBJECTIONS TO THE DEPOSITION  
OF DR. KENKEL

Plaintiffs' attorney has indicated that he will be calling his economic expert, James Kenkel, as a witness at trial and that he will not be utilizing the deposition transcript. If that is the case, then arguments regarding the scope and content of the deposition are inconsequential. However, there are certain points which developed during Dr. Kenkel's testimony which are likely to arise again at time of trial.

Dr. Kenkel was provided with the plaintiff's deposition testimony before he prepared his report. He denied this during his deposition, but then admitted that he had received and reviewed the deposition, after being confronted with the fact that the deposition was in his stack of materials.

Plaintiff's deposition demonstrates that Paula Carlson has engaged in providing an abundant amount of household services subsequent to the incident in this case. In fact, she does much more around the house and provides many more services to other family members than she did before the matters alleged in the complaint. All of this was apparent from her deposition testimony.

Notwithstanding Dr. Kenkel's review of this information, Dr. Kenkel prepared a written report which was then submitted in this case which details a claim for loss of household services and asserts that this is worth a great deal of money. At the beginning



of his deposition, plaintiffs' attorney said that he would not be claiming loss of household services.

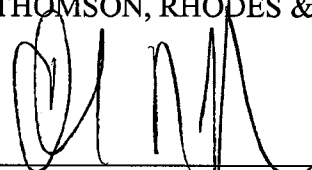
Under these circumstances, it is entirely appropriate for Dr. Kenkel to be questioned about the inclusion of this element of damages in his report, whether the plaintiff chooses to try and claim this unsupportable element of damages or not. The fact that Dr. Kenkel ignored fundamental information available to him which demonstrates that there is absolutely no basis for a loss of household services, but yet went on to calculate such a claim and include it in his report is an entirely appropriate subject for cross examination. What it demonstrates is the lack of credibility on the part of the witness. A witness who would selectively ignore certain factual information available to him and, instead, offer unsupported conclusions in an expert report cannot escape from the consequences of such conduct by abandoning his conclusions at the point where his testimony begins.

The jury is entitled to know that even though there was no credible basis whatsoever for a loss of household services claim, Dr. Kenkel advocated for it. This goes to the heart of the jury's evaluation of Dr. Kenkel's credibility, which is an essential part of the jury's role in determining whether or not to believe any of the testimony of Dr. Kenkel.

Thus, whether the deposition is used or whether Dr. Kenkel testifies at trial, it is appropriate for him to be cross examined on the fact that he purposefully ignored the facts of the case and wrote a report advancing a claim that was entirely without merit.

Respectfully submitted,

THOMSON, RHODES & COWIE, P.C.

A handwritten signature in black ink, appearing to read 'D. R. Johnson', written over a horizontal line.

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

**CERTIFICATION OF SERVICE**

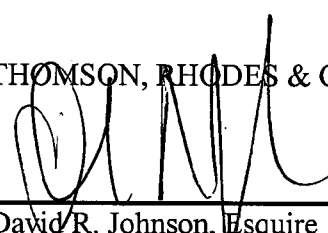
I hereby certify that a true and correct copy of the within REPLY BRIEF  
CONCERNING PLAINTIFFS' OBJECTIONS TO THE DEPOSITION OF DR.  
KENKEL has been served upon the following counsel of record and same placed in the  
U.S. Mails on this 7th day of Feb, 2008:

Thomas E. Crenney, Esquire  
Thomas E. Crenney & Associates, LLC  
One Gateway Center  
18<sup>th</sup> Floor West  
Pittsburgh, PA 15222

Darryl R. Slimak, Esquire  
McQuaide, Blasko, Fleming  
& Faulkner, Inc.  
811 University Drive  
State College, PA 16801

Walter F. Wall, Esquire  
10 Sheraton Drive  
Altoona, PA 16601

THOMSON, RHODES & COWIE, P.C.

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

**THOMAS E. CRENNY & ASSOCIATES, LLC**

ATTORNEYS AT LAW  
ONE GATEWAY CENTER  
18<sup>th</sup> FLOOR - WEST  
PITTSBURGH, PENNSYLVANIA 15222  
TELEPHONE: 412-644-5545  
FACSIMILE: 412-644-5581

January 25, 2008

The Honorable Fredric J. Ammerman  
CLEARFIELD COUNTY COURTHOUSE  
230 East Market Street  
Clearfield, PA 16830

COPY FOR  
JUDGE  
BROWN  
FOR 2/12/08

Re: *Paula Carlson, et al v. Jerjit T. Alajaji, M.D., et al*  
Clearfield County Case No. 2006-563-CD  
Our File No. 2895-01

Dear Judge Ammerman:

Enclosed please find the following documents on behalf of Plaintiffs:

1. Motion in Limine to Preclude Testimony of Ronald S. Kushner;
2. Motion in Limine to Preclude "Small Town" Defense;
3. Motion in Limine to Preclude Reference to Plaintiffs' Receipt of Social Security Benefits;
4. Motion in Limine to Preclude Testimony by Defendants' General Radiologist Ross Horsley Regarding Standard of Care for PCP Stephen Graeca and Physician Assistant Lorie Natoli;
5. Motion in Limine to Preclude Evidence of or Reference to Paula Carlson's Unrelated Health History;
6. Motion in Limine to Preclude Defense's Claim that Plaintiff May Return to Her Job at DuBois Regional Medical Center;
7. Motion to Strike Portions of Dr. Mark A. Piasio's Deposition;
8. Motion to Sustain Objections and Strike Portions of James Kenkel, Ph.D.'s Deposition; and
9. Brief in Support of Plaintiffs' Objections to Defendants Cross-Examination of James Kenkel, Ph.D.

**THOMAS E. CRENNY & ASSOCIATES, LLC**

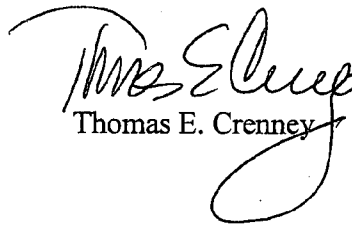
The Honorable Fredric J. Ammerman

January 25, 2008

Page 2

Thank you for your courtesy in this matter.

Yours truly,



Thomas E. Crenney

TEC/bjw  
Enclosures

cc: Honorable Charles C. Brown, Jr. (via Federal Express)  
(all w-enclosures, via First Class Mail)  
Darryl R. Slimak, Esquire  
Walter F. Wall, Esquire  
David R. Johnson, Esquire

17  
20  
IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL ACTION - LAW

PAULA CARLSON and  
JAMIE CARLSON, her husband,

Plaintiffs,

vs.

JERJIS T. ALAJAJI, M.D., DUBOIS  
RADIOLOGISTS, INC. and DUBOIS  
REGIONAL MEDICAL CENTER,

Defendants.

No. 2006-563-CD

Civil Action - Medical Professional  
Liability Action

**PLAINTIFFS' MOTION IN LIMINE TO  
PRECLUDE TESTIMONY OF RONALD  
S. KUSHNER**

Filed on behalf of the Plaintiffs

Counsel of Records for this Party:

Thomas E. Crenney, Esquire  
PA I.D. No. 40986

James T. Tallman, Esquire  
PA I.D. No. 79257

THOMAS E. CRENNY & ASSOCIATES, LLC  
One Gateway Center  
18<sup>th</sup> Floor West  
Pittsburgh, PA 15222  
Telephone: (412) 644-5545  
Facsimile: (412) 644-5581

**JURY TRIAL DEMANDED**

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

PAULA CARLSON and  
JAMIE CARLSON, her husband,

Plaintiffs,

No. 2006-563-CD

Civil Action – Medical Professional  
Liability Action

vs.

JERJIS T. ALAJAJI, M.D., DUBOIS  
RADIOLOGISTS, INC. and DUBOIS  
REGIONAL MEDICAL CENTER,

Defendants.

**PLAINTIFFS' MOTION IN LIMINE TO PRECLUDE  
TESTIMONY OF RONALD S. KUSHNER**

AND NOW, come the Plaintiffs, Paula Carlson and Jamie Carlson, by and through their attorneys, Thomas E. Crenney & Associates, LLC, and respectfully present the following Motion in Limine to Preclude Testimony of Ronald S. Kushner:

1. This is a medical malpractice case arising out of Dr. Alajaji's failure to read properly an April 12, 2005 x-ray in Ms. Carlson's right wrist.
2. Defendants have submitted the expert report of Ronald S. Kushner. Mr. Kushner is a vocational consultant.
3. Mr. Kushner should be limited to testifying regarding Ms. Carlson's ability to perform the job duties of a Radiation Therapist, not whether Ms. Carlson can perform the job duties of some position that DuBois Regional Medical Center claims to be willing to create for Ms. Carlson.
4. Mr. Kushner relies on Rose Campbell's explanation that modifications can be made to Ms. Carlson's job duties that essentially eliminate any physical requirement and that

based on such a job position, she can return to her position as a Radiation Therapist and thereby has no wage loss.

5. Whether DuBois Regional Medical Center will create such a position for Ms. Carlson for the next 30 years is not an issue for expert opinion but an issue of fact and credibility for the jury.

6. Mr. Kushner also states that he spoke with a Mr. Hanwell, who is a Radiation Therapist at Hann Regional Cancer Center, and relies on information provided to him from Mr. Hanwell. Mr. Hanwell can testify about his experiences as a Radiation Therapist at Hann Regional Cancer Center. This is not expert testimony.

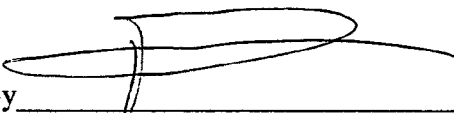
7. Mr. Kushner should be precluded from offering opinions based on claimed job offers or modifications to Paula's job. He should be limited to testifying about his opinion as to whether Paula Carlson can perform her former job as a Radiation Therapist based on her present physical abilities.

WHEREFORE, Plaintiffs, Paula Carlson and Jamie Carlson, respectfully request that this Honorable Court issue an Order precluding Ronald Kushner from offering opinions based on modifications to Paula Carlson's job or testifying about modifications or accommodations that Rose Campbell or any other representative of DuBois Regional Medical Center claims to be willing to make, and should be limited to testifying about his opinion as to whether Paula Carlson can perform her former job as a Radiation Therapist based on her present physical abilities.



9  
Respectfully submitted,

THOMAS E. CRENNY & ASSOCIATES, LLC



By

Thomas E. Crenney, Esquire  
Attorney for Plaintiffs

DATE: 1/25/2008

One Gateway Center  
18<sup>th</sup> Floor - West  
Pittsburgh, PA 15222  
(412) 644-5545

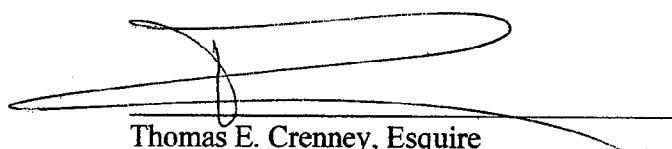
**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and correct copy of the foregoing  
**PLAINTIFFS' MOTION IN LIMINE TO PRECLUDE TESTIMONY OF RONALD S.**  
**KUSHNER** was served by First Class Mail, postage prepaid on the 25 day of  
JANUARY, 2008, as follows:

Darryl R. Slimak, Esquire  
MCQUAIDE BLASKO FLEMING & FAULKNER,  
INC.  
811 University Drive  
State College, PA 16801  
(Counsel for Jerjis T. Alajaji, M.D.)

David R. Johnson, Esquire  
THOMSON RHODES & COWIE  
Two Chatham Center, 10<sup>th</sup> Floor  
Pittsburgh, PA 15219  
(Counsel for DuBois Regional Medical Center)

Walter Fredrick Wall, Esquire  
MEYER, DARRAGH, BUCKLER, BEBENEK &  
ECK, P.L.L.C.  
120 Lakemont Park Boulevard  
Altoona, PA 16602  
(Counsel for DuBois Radiologists, Inc.)



Thomas E. Crenney, Esquire  
James T. Tallman, Esquire  
Attorneys for Plaintiff

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

PAULA CARLSON and  
JAMIE CARLSON, her husband,

Plaintiffs,

No. 2006-563-CD

Civil Action – Medical Professional  
Liability Action

vs.

JERJIS T. ALAJAJI, M.D., DUBOIS  
RADIOLOGISTS, INC. and DUBOIS  
REGIONAL MEDICAL CENTER,

Defendants.

**ORDER OF COURT**

AND NOW, this \_\_\_\_ day of \_\_\_\_\_, 2008, a Motion in Limine to Preclude Testimony of Ronald S. Kushner having come before the Court, upon consideration thereof, Motion is GRANTED and it is ORDERED, ADJUDGED and DECREED that Ronald Kushner is precluded from offering any opinions based modifications to Paula Carlson's job or testifying about modifications or accommodations that Rose Campbell or any other representative of DuBois Regional Medical Center claims to be willing to make, and is limited to testifying about his opinion as to whether Paula Carlson can perform her former job as a Radiation Therapist based on her present physical abilities.

BY THE COURT

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

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

PAULA CARLSON and  
JAMIE CARLSON, her husband,

Plaintiffs,

vs.

JERJIS T. ALAJAJI, M.D., DUBOIS  
RADIOLOGISTS, INC. and DUBOIS  
REGIONAL MEDICAL CENTER,

Defendants.

No. 2006-563-CD

Civil Action – Medical Professional  
Liability Action

**PLAINTIFFS' MOTION IN LIMINE TO  
PRECLUDE "SMALL TOWN" DEFENSE**

Filed on behalf of the Plaintiffs

Counsel of Records for this Party:

Thomas E. Crenney, Esquire  
PA I.D. No. 40986

James T. Tallman, Esquire  
PA I.D. No. 79257

THOMAS E. CRENNY & ASSOCIATES, LLC  
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Pittsburgh, PA 15222  
Telephone: (412) 644-5545  
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**JURY TRIAL DEMANDED**

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

PAULA CARLSON and  
JAMIE CARLSON, her husband,

Plaintiffs,

No. 2006-563-CD

Civil Action – Medical Professional  
Liability Action

vs.

JERJIS T. ALAJAJI, M.D., DUBOIS  
RADIOLOGISTS, INC. and DUBOIS  
REGIONAL MEDICAL CENTER,

Defendants.

**PLAINTIFFS' MOTION IN LIMINE TO PRECLUDE**  
**"SMALL TOWN" DEFENSE**

AND NOW, come the Plaintiffs, Paula Carlson and Jamie Carlson, by and through their attorneys, Thomas E. Crenney & Associates, LLC, and respectfully present the following Motion in Limine to Preclude "Small Town" Defense:

1. This is a medical malpractice case arising out of Dr. Jerjis Alajaji's failure to read properly the April 12, 2005 x-ray and report a tumor in Ms. Carlson's right wrist. Dr. Alajaji is board certified in both radiology and nuclear medicine.

2. Ross A. Horsley has submitted an expert report on behalf of Dr. Alajaji. Dr. Horsley is a general radiologist.

3. In his report, Dr. Horsley makes reference to Dr. Alajaji's practicing in a "small town" and that Dr. Horsley himself has personal experience with such "small town" practices. Dr. Horsley also states "In addition to geography and proximity, Dr. Alajaji and I share practice patterns in that we both practice general radiology and have similar patient population."

4. It is expected that Dr. Horsley will make such statements at trial in an effort, either explicitly or implicitly, to lower the standard of care applied to Dr. Alajaji.

5. Under Pennsylvania law, the standard of care for a specialist, such as a radiologist is the same regardless of where he practices, i.e. Pittsburgh, State College or Clearfield County. See Winschel v. Jain, 925 A.2d 782, 797 (Pa. Super. 2007). A specialist "is expected to exercise that degree of skill, learning and care normally possessed and exercised by the average physician who devotes special study and attention to the diagnosis and treatment of diseases within the specialty." Id.

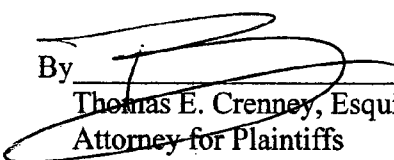
6. Dr. Horsley should not be allowed to state or suggest that Dr. Alajaji should be held to a lower or different standard of care.

7. Likewise, defense counsel should not be allowed to argue or suggest to the jury that such a lower or different standard of care applies to Dr. Alajaji.

WHEREFORE, Plaintiffs, Paula Carlson and Jamie Carlson, respectfully request that this Honorable Court issue an Order prohibiting Defendants and Defendants' experts, including but not limited to Dr. Ross Horsley, from stating, arguing or suggesting that a lower or different standard of care applies to Dr. Alajaji based on where Dr. Alajaji practiced.

Respectfully submitted,

THOMAS E. CRENNY & ASSOCIATES, LLC

By 

Thomas E. Crenney, Esquire  
Attorney for Plaintiffs

DATE: 1/25/2008

One Gateway Center  
18<sup>th</sup> Floor - West  
Pittsburgh, PA 15222  
(412) 644-5545

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and correct copy of the foregoing  
**PLAINTIFFS' MOTION IN LIMINE TO PRECLUDE "SMALL TOWN" DEFENSE** was  
served by First Class Mail, postage prepaid on the 25<sup>th</sup> day of JANUARY, 2008, as  
follows:

Darryl R. Slimak, Esquire  
MCQUAIDE BLASKO FLEMING & FAULKNER,  
INC.  
811 University Drive  
State College, PA 16801  
(Counsel for Jerjis T. Alajaji, M.D.)

David R. Johnson, Esquire  
THOMSON RHODES & COWIE  
Two Chatham Center, 10<sup>th</sup> Floor  
Pittsburgh, PA 15219  
(Counsel for DuBois Regional Medical Center)

Walter Fredrick Wall, Esquire  
MEYER, DARRAGH, BUCKLER, BEBENEK &  
ECK, P.L.L.C.  
120 Lakemont Park Boulevard  
Altoona, PA 16602  
(Counsel for DuBois Radiologists, Inc.)

  
\_\_\_\_\_  
Thomas E. Crenney, Esquire  
James T. Tallman, Esquire  
Attorneys for Plaintiff

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

PAULA CARLSON and  
JAMIE CARLSON, her husband,

Plaintiffs,

No. 2006-563-CD

Civil Action – Medical Professional  
Liability Action

vs.

JERJIS T. ALAJAJI, M.D., DUBOIS  
RADIOLOGISTS, INC. and DUBOIS  
REGIONAL MEDICAL CENTER,

Defendants.

**ORDER OF COURT**

AND NOW, this \_\_\_\_ day of \_\_\_\_\_, 2008, a Motion in Limine to Preclude Evidence of or Reference to Paula Carlson's Unrelated Health History having come before the Court, upon consideration thereof, Motion is GRANTED and it is ORDERED, ADJUDGED and DECREED that Defendants and Defendants' experts, including but not limited to Dr. Ross Horsley, are prohibited from stating, arguing or suggesting in any manner that a lower or different standard of care applies to Dr. Alajaji based on where Dr. Alajaji practiced.

BY THE COURT

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



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

PAULA CARLSON and  
JAMIE CARLSON, her husband,

Plaintiffs,

vs.

JERJIS T. ALAJAJI, M.D., DUBOIS  
RADIOLOGISTS, INC. and DUBOIS  
REGIONAL MEDICAL CENTER,

Defendants.

No. 2006-563-CD

Civil Action – Medical Professional  
Liability Action

**PLAINTIFFS' MOTION IN LIMINE TO  
PRECLUDE REFERENCE TO  
PLAINTIFFS' RECEIPT OF SOCIAL  
SECURITY BENEFITS**

Filed on behalf of the Plaintiffs

Counsel of Records for this Party:

Thomas E. Crenney, Esquire  
PA I.D. No. 40986

James T. Tallman, Esquire  
PA I.D. No. 79257

THOMAS E. CRENNY & ASSOCIATES, LLC  
One Gateway Center  
18<sup>th</sup> Floor West  
Pittsburgh, PA 15222  
Telephone: (412) 644-5545  
Facsimile: (412) 644-5581

**JURY TRIAL DEMANDED**

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

|                                                                                                                                                                                                       |                                                                                |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------|
| PAULA CARLSON and<br>JAMIE CARLSON, her husband,<br><br>Plaintiffs,<br><br>vs.<br><br>JERJIS T. ALAJAJI, M.D., DUBOIS<br>RADIOLOGISTS, INC. and DUBOIS<br>REGIONAL MEDICAL CENTER,<br><br>Defendants. | No. 2006-563-CD<br><br>Civil Action – Medical Professional<br>Liability Action |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------|

**PLAINTIFFS' MOTION IN LIMINE TO PRECLUDE REFERENCE  
TO PLAINTIFFS' RECEIPT OF SOCIAL SECURITY BENEFITS**

AND NOW, come the Plaintiffs, Paula Carlson and Jamie Carlson, by and through their attorneys, Thomas E. Crenney & Associates, LLC, and respectfully present the following Motion In Limine To Preclude Reference to Plaintiffs' Receipt of Social Security Benefits:

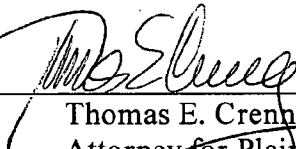
1. Plaintiff Paula Carlson has been awarded Social Security Disability benefits as a result of the injuries she sustained in this case.
2. The introduction of evidence regarding the receipt of social security benefits is precluded by proper application of the collateral source rule. Boudwin v. Yellow Cab Co., 410 Pa. 31, 188 A.2d 259 (1963); Nigra v. Walsh, 797 A.2d 353, 356 (2002).
3. Any information with regard to Plaintiff's receipt of social security is not relevant to the issues in this case, and does not in any manner tend to establish some fact material to the case, or tend to make a fact at issue more or less probable. To the contrary, the only conceivable purpose for eliciting such evidence would be to

minimize the amount of damages or divert and confuse the attention of the jury, which is clearly improper and irrelevant. Moreover, even it could be concluded that such evidence had some possible probative value, such is clearly outweighed by the potential prejudice to Plaintiff, and would unfairly and improperly divert the attention of the jury from the primary issues in the case. Greg v. Fisher, 377 Pa. 445, 105 A.2d 105 (1954); Commonwealth v. Sullivan, 372 Pa. Super. 88, 538 A.2d 1363 (1988), allocatur denied, \_\_\_ Pa. \_\_\_, 557 A.2d 343 (1989); Commonwealth v. Emge, 381 Pa. Super. 139, 553 A.2d 74 (1988); Lewis v. Coffing Hoist Division, Duff-Norton Co., Inc., 515 Pa. 334, 528 A.2d 590 (1987); Commonwealth v. Hickman, 453 Pa. 427, 309 A.2d 564 (1973).

WHEREFORE, Plaintiffs Paula and Jamie Carlson respectfully request that this Honorable Court issue an Order of Court prohibiting Defendants from mentioning in opening and closing statements, argument, cross-examination, testimonial evidence or evidence of any type whatsoever, Plaintiff Paula Carlson's receipt of social security benefits, and requiring all such references to be redacted from all documents prior to submission to the jury.

Respectfully submitted,

THOMAS E. CRENNY & ASSOCIATES, LLC

By   
Thomas E. Crenney, Esquire  
Attorney for Plaintiffs

One Gateway Center  
18<sup>th</sup> Floor - West  
Pittsburgh, PA 15222  
(412) 644-5545

DATE: 1/25/2008

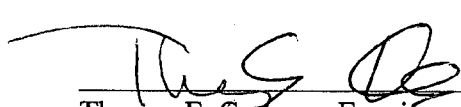
**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and correct copy of the foregoing  
**PLAINTIFFS' MOTION IN LIMINE TO PRECLUDE REFERENCE TO PLAINTIFFS'  
RECEIPT OF SOCIAL SECURITY BENEFITS** was served by First Class Mail, postage  
prepaid on the 25<sup>th</sup> day of January, 2008, as follows:

Darryl R. Slimak, Esquire  
MCQUAIDE BLASKO FLEMING & FAULKNER,  
INC.  
811 University Drive  
State College, PA 16801  
(Counsel for Jerjis T. Alajaji, M.D.)

David R. Johnson, Esquire  
THOMSON RHODES & COWIE  
Two Chatham Center, 10<sup>th</sup> Floor  
Pittsburgh, PA 15219  
(Counsel for DuBois Regional Medical Center)

Walter Fredrick Wall, Esquire  
120 Lakemont Park Boulevard  
Altoona, PA 16602  
(Counsel for DuBois Radiologists, Inc.)

  
\_\_\_\_\_  
Thomas E. Crenney, Esquire  
James T. Tallman, Esquire  
Attorneys for Plaintiffs

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

|                                                                                                                                                                                                       |                                                                                |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------|
| PAULA CARLSON and<br>JAMIE CARLSON, her husband,<br><br>Plaintiffs,<br><br>vs.<br><br>JERJIS T. ALAJAJI, M.D., DUBOIS<br>RADIOLOGISTS, INC. and DUBOIS<br>REGIONAL MEDICAL CENTER,<br><br>Defendants. | No. 2006-563-CD<br><br>Civil Action – Medical Professional<br>Liability Action |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------|

**ORDER OF COURT**

AND NOW, this \_\_\_\_ day of \_\_\_\_\_, 2008, upon consideration of Plaintiffs' Motion In Limine To Preclude Reference of Plaintiff's Receipt of Social Security Disability Benefits, it is hereby ORDERED that said Motion is GRANTED and the Defendants are prohibited from mentioning in opening and closing statements, argument, cross-examination, testimonial evidence or evidence of any type whatsoever, Plaintiff Paula Carlson's receipt of social security benefits, and requiring all such references to be redacted from all documents prior to submission to the jury.

BY THE COURT

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

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

PAULA CARLSON and  
JAMIE CARLSON, her husband,

Plaintiffs,

vs.

JERJIS T. ALAJAJI, M.D., DUBOIS  
RADIOLOGISTS, INC. and DUBOIS  
REGIONAL MEDICAL CENTER,

Defendants.

No. 2006-563-CD

Civil Action - Medical Professional  
Liability Action

**PLAINTIFFS' MOTION IN LIMINE TO  
PRECLUDE TESTIMONY BY  
DEFENDANTS' GENERAL  
RADIOLOGIST ROSS HORSLEY  
REGARDING STANDARD OF CARE  
FOR PCP STEPHEN GRAECA AND  
PHYSICIAN ASSISTANT LORIE  
NATOLI**

Filed on behalf of the Plaintiffs

Counsel of Records for this Party:

Thomas E. Crenney, Esquire  
PA I.D. No. 40986

James T. Tallman, Esquire  
PA I.D. No. 79257

THOMAS E. CRENNY & ASSOCIATES, LLC  
One Gateway Center  
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Pittsburgh, PA 15222  
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Facsimile: (412) 644-5581

**JURY TRIAL DEMANDED**

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

PAULA CARLSON and  
JAMIE CARLSON, her husband,

Plaintiffs,

No. 2006-563-CD

Civil Action – Medical Professional  
Liability Action

vs.

JERJIS T. ALAJAJI, M.D., DUBOIS  
RADIOLOGISTS, INC. and DUBOIS  
REGIONAL MEDICAL CENTER,

Defendants.

**PLAINTIFFS' MOTION IN LIMINE TO PRECLUDE TESTIMONY BY  
DEFENDANTS' GENERAL RADIOLOGIST ROSS HORSLEY  
REGARDING STANDARD OF CARE FOR PCP STEPHEN GRAECA  
AND PHYSICIAN ASSISTANT LORIE NATOLI**

AND NOW, come the Plaintiffs, Paula Carlson and Jamie Carlson, by and through their attorneys, Thomas E. Crenney & Associates, LLC, and respectfully present the following Motion In Limine To Preclude Testimony by Defendants' General Radiologist Ross Horsley Regarding Standard of Care for PCP Stephen Graeca and Physician Assistant Lorie Natoli:

1. Under the Pennsylvania Rules of Evidence and Section 512 of the MCARE Act, an expert in order to testify as to standard of care must "practice in the same subspecialty as the defendant physician or in a subspecialty which has a substantially similar standard of care for the specific care at issue." See 40 Pa. C.S. §1303.512(c).

2. Dr. Horsley, a general radiologist, has prepared an 11 page report which is attached to this motion as Exhibit "A".

3. In that report, Dr. Horsley, the defenses' general radiologist, broadly criticizes the care provided by Plaintiff's family physician, Dr. Stephen Graeca, and his physician assistant,

Lorie Natoli. Please note that neither are parties. Dr. Horsley is clearly not qualified to give these opinions and this testimony under Pennsylvania law.

4. The pertinent history of this case as to the professional relationship between Paula Carlson's family physician, Dr. Stephen Graeca, and the defendant radiologist, Dr. Jerjis Alajaji, is as follows.

5. Plaintiff, Paula Carlson, presented to her PCP, Dr. Stephen Graeca, on or about April 12, 2005 complaining of wrist pain.

6. An x-ray was ordered promptly by Dr. Graeca specifically through his physician assistant, Lorie Natoli, and was taken within 24 hours on April 12<sup>th</sup> and interpreted by Dr. Alajaji on April 13<sup>th</sup>.

7. Alajaji interpreted the x-ray of April 12 as normal. The x-ray report signed by Dr. Alajaji is attached as Exhibit "B".

8. This was an error by Dr. Alajaji. Every physician, expert and subsequent treater in the case, except for Dr. Horsley, agree that this was an error. Dr. Graeca did not read the x-ray but relied on the radiologist Alajaji and assumed that his normal interpretation was correct.

9. Nonetheless, Dr. Horsley spends much of his 11 page report criticizing, implicitly and explicitly, the care provided by Dr. Graeca and his staff between April 13<sup>th</sup> when Graeca received this erroneous x-ray report from Alajaji and June 9, 2005 when the proper diagnosis was made by Dr. Mark Piasio, an orthopedist to whom Dr. Graeca referred Paula Carlson.

10. It is respectfully noted that Dr. Piasio reviewed the x-ray of April 12<sup>th</sup>, the one Dr. Alajaji had said was normal, and identified a lytic lesion. His report in that regard is attached as Exhibit "C". Dr. Piasio is a treating doctor and was not specially retained or sought out by Plaintiffs or Plaintiffs' counsel in this case.



11. The heart of this criticism comes in paragraphs which begin on page 6 and end on page 7 of his report. It reads as follows:

"In my opinion, the symptoms were not suggestive of carpal tunnel syndrome or tendonitis and the diversion into those and other diagnoses by Mrs. Carlson's clinicians delayed further evaluation which should have occurred more promptly in the case of persistent pain in the wrist joint with an April 12, 2005 "negative" x-rays report. A "negative" initial x-ray report does not categorically exclude the presence of a cause of symptoms that other studies may detect, if ordered. The clinicians, but not the radiologist, knew there was no accident, trauma or repetitive stress mechanism leading to the onset of symptomatology, yet did not bring this to the attention of the radiologist or promptly order more definitive studies that are well known to clinicians to be more sensitive to such pathology, and in my opinion would have allowed the radiologist to discern the early tumor. In particular, an MRI should have been obtained sooner in this case. A radiologist may recommend a further study if the initial study revealed a condition that needed better analysis.

Updated cervical studies, EMG/NCV, and referral to physiatry and orthopaedic specialists was delayed despite uncertainty of the cause. The onset of swelling reported by the patient on April 20, 2005, and the clinical suspicion of tendonitis should have prompted requesting an MRI study by the clinician. It is the responsibility of the clinician, not the radiologist, to put all the clues together and determine what other studies and plan of action to pursue. The radiologist is not responsible for the lack of a proper plan and diligence or supervision of the clinicians. Radiology is a focused and limited science, and also an art. The reality of radiology and indeed medicine in general, is that it is not always possible to make a diagnosis that is clearer in hindsight, or that subspecialties or other specialties might make. The radiologist provides an interpretation based on his judgment. He does not undertake the patient's care from the clinicians. The treating clinicians know well the numerous types of imaging and other studies available and their advantages, and do not need to be told by the radiologist. The cause of any material delay in diagnosis was not the radiologist's report."

12. It is respectfully submitted that if Defendants had wished to criticize the conduct of this non-party family doctor in order to defend this case they should have found a PCP or family doctor who was qualified to do so. They did not.

13. While not specifically on point, it is also noted that Dr. Horsley's ramblings regarding Dr. Graeca are completely without merit and apparently offered only to create confusion or diversion for the jury.

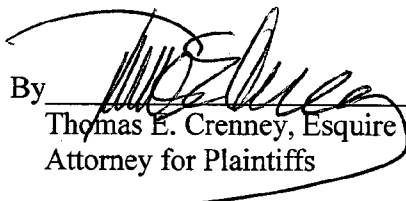
14. It is respectfully submitted that Dr. Horsley's testimony should be limited to the only issue that he is qualified to testify about and that is the issue of whether Dr. Alajaji deviated from the standard of care in his interpretation of the x-ray of April 12, 2005.

WHEREFORE, Plaintiffs, Paula Carlson and Jamie Carlson, respectfully request that this Honorable Court issue an Order directing that Defendants' General Radiologist Ross Horsley may only testify as to whether Dr. Alajaji deviated from the standard of care in his interpretation of the x-ray and/or computer image of April 12, 2005.

Respectfully submitted,

THOMAS E. CRENNY & ASSOCIATES, LLC

By

  
Thomas E. Crenney, Esquire  
Attorney for Plaintiffs

One Gateway Center  
18<sup>th</sup> Floor - West  
Pittsburgh, PA 15222  
(412) 644-5545

DATE: 1/25/2008

## **EXHIBIT A**

Received DRJ

JUL 2 X 2007

Dictated on ( )  
Diary Note ( )  
Copy to DRJ ( ) Copy Key Board

OLEAN OPEN  
MRI & CT

The Diagnostic Edge

May 24, 2007

Darryl R. Slimak, Esquire  
McQuaide Blasko Law Offices  
811 University Drive  
State College, PA 16801-6699

In re: Paula and Jamie Carlson vs. Jerjis T. Alajaji, M.D., DuBois  
Radiologists, Inc. and DuBois Regional Medical Center

Dear Mr. Slimak:

I have reviewed the medical records of Paula Carlson including the office records of Drs. Graeca, Yaw, Piasio, Summit Rehabilitation, and DRMC Employee Health. In addition, I have reviewed the depositions of Paula Carlson and Dr. Jerjis Alajaji. I have also reviewed the radiology films in the case.

I am a general radiologist who has practiced in small town settings very similar to Dr. Alajaji. I have practiced at Olean General Hospital, Bradford Regional Medical Center, and currently at Cuba Memorial Hospital and Olean Open MRI. In addition to geography and proximity, Dr. Alajaji and I share practice patterns in that we both practice general radiology and have similar patient population. I am a board certified radiologist who has seen and followed a wide variety of cases over the past 25 years including a number of giant cell tumors.

In preparation for this review, as I would in my own cases of rare diseases, I have reviewed articles and other publications in Resnick and Kronsdorf, Bone and Joint Imaging, 3<sup>rd</sup> Ed.; the European Radiology Journal on giant cell tumors, published 5-3-05; Journal of Hand Clinic, #20, published in 2004 on "Aneurysmal Bone Cyst and Giant Cell Tumor of the Hand and Distal Radius"; Chapter 21, "Benign (Occasionally Aggressive) Tumors of Bone," Campbell's Operative Orthopedics, published 2003; Current Therapy in Plastic Surgery, published 2006; American Journal of Clinical Oncology, Vol. 29, No. 1, February 2006, Giant Cell Tumor of Bone; and the American Academy of Orthopedic Surgeons, Orthopedic Information on Giant Cell Tumor of Bone.

My opinion as to this case is to the best of my medical judgment, and based on reasonable medical certainty.

---

The records document that Mrs. Carlson underwent evaluation at DRMC Employee Health before starting her radiation therapist position in 1992, with significantly low results on strength testing.

Paula Carlson presented originally to Dr. Graeca on September 3, 2002, to establish herself as his patient. At that time, she was 31 years of age and was complaining of several months of low back pain. The pain was aggravated by her work as a radiation therapist. Curling up in a fetal position seemed to help. She had also had chronic urinary tract infections and had a herniated disc in her cervical spine confirmed by MRI, also caused or aggravated by her work as a radiation therapist. She had a history of mood swings requiring medication, and occasional headaches, which she attributed to stress at work and at home caring for her husband and two children. She was to undergo physical therapy, daily Motrin, wear a back brace and use good lifting techniques. A plan was stated of follow-up studies such as "x-ray and then onto MRP" was contemplated "if she is not better." She was subsequently seen for anemia and skin biopsies, shoulder, back and neck pain, and gastroesophageal reflux disease.

Problems developed in her right shoulder in January 2003, that had become a constant and throbbing pain, severe at 10/10. Icy Hot, ice packs, heat packs, and Aleve were all not helpful. She was having tingling sensation into her arm and fingers, and neck discomfort to the right. There was no recent injury reported. Physician's Assistant Natoli conducted a physical examination and diagnosed musculoskeletal strain of the right shoulder and neck area. Multiple medications were prescribed. The plan was for physical therapy and x-rays if the discomfort did not improve in two weeks.

She was followed for recurrent right sided neck pain in March 2004 which felt similar to her pain suffered from the previous disc herniation. She again needed physical therapy, Lodine, and now Skelaxin was added.

Mrs. Carlson was seen and treated at Summit Rehabilitation in February 2003 for neck and right arm pain, cervical radiculopathy/C5-6 disc herniation, dysesthesias, decreased reflexes and sensation in the right arm, and decreased strength with elbow flexion and extension of the right wrist. Restricted work duty, physical therapy modalities including traction and Lodine medications were instituted.

At discharge several months later (May 20, 2003), she was improved but occasionally experiencing problems. Her neck pain was "about nonexistent," but not completely gone. It was noted she had been seen and treated by Dr. Meyers for a herniated disc found by MRI that Dr. Meyers had ordered. That MRI found a cause of the symptoms that plain x-rays ordered by Dr. Graeca's Physician's Assistant Lori Fenton (Natoli) had not. Mrs. Carlson was to continue on a home exercise program, and was still taking Lodine two or three times a week.

Plain films cervical x-rays ordered and obtained on January 15, 2003 by Dr. Graeca's office suggested possible muscle spasm but no bony abnormalities. An MRI had to be performed February 18, 2003 per Dr. Meyer's order, which revealed a herniated C<sub>5-6</sub> disc, to the right side, that the x-rays could not detect. By April 26, 2005, cervical spine x-rays showed expected progression with mild degenerative narrowing and small marginal spurs now evident.

On April 11, 2005, Mrs. Carlson called into Dr. Graeca's office and the telephone log relates that she complained of pain in her right wrist and had worn a brace for approximately one week. Other records reflect the symptoms may have been occurring for as long as three weeks. There was no swelling yet. "Hurts at joint." The following day she saw Lori Natoli, a PA who works with Dr. Graeca. Right wrist only x-ray imaging was ordered and interpreted by Dr. Alajaji on the April 13<sup>th</sup>. There were no right and/or left wrist comparison x-rays ordered. Even before the x-ray report was returned, Ms. Carlson was assessed by her clinician as having carpal tunnel or tendinitis and Mrs. Carlson's Lodine prescription was "refilled." There was a plan stated to send Mrs. Carlson back to Dr. Meyers for evaluation and treatment, and additional tests, but this did not occur for nearly a month until May 5, 2005. PA-Natoli's note indicates that she ordered the x-ray "because of the acute nature of her wrist pain," noting that Mrs. Carlson "does not recall injury but she states that she could have done something at work and did not realize it." PA-Natoli considered Mrs. Carlson's history of herniated cervical disc a "possible" explanation. Physical examination indicated no Tinel's sign but carpal tunnel syndrome was being considered, although Ms. Natoli admitted the "exam does not really point to that." Her supervisor, Dr. Graeca, was not consulted despite the physician's assistant's uncertainty, and he was not scheduled to see Mrs. Carlson until May 31, 2005. No bone scan, MRI or cervical spine x-rays were ordered at that time.

None of this history or uncertainty was communicated to the radiologist who was to interpret the wrist images. The only information provided on Mrs. Carlson was age 33, "pain."

---

While being off work initially seemed to lessen Mrs. Carlson's symptomatology somewhat, the physical therapy initiated on May 9<sup>th</sup> did not resolve the complaints and the physical therapy progress notes at times documented that even Mrs. Carlson questioned the propriety of exercises. In an April 20, 2005 telephone log to Dr. Graeca's office, the patient reported that she now felt there was a new onset of swelling in her wrist, and Lodine was not taking the pain away. The EMG/NCV that had not yet been done was then to be scheduled.

She was seen again by Lori Natoli on April 26, 2005, two weeks after the first evaluation, and given an appointment with Dr. Meyers for May 5, 2005. There is no indication in the records or testimony that Dr. Meyers was advised by PA-Natoli that an initial x-ray of the wrist was reported as normal, even though from the beginning Mrs. Carlson's work up and care was largely deferred to him. It thus did not influence his treatment. PA-Natoli pursued work up of the neck, despite palpatory findings at the wrist and no presenting complaints in the neck area. A cervical spine x-ray was also ordered. No repeat wrist x-rays, MRI, CT scans or bone scans were ordered, however. EMGs and nerve conduction studies were eventually ordered. There was degenerative narrowing of the C<sub>5-6</sub> disc space evident on the cervical spine x-ray, however, the EMGs and nerve conduction studies were reported as normal into the right extremity. The cause of the wrist symptoms was obviously elsewhere. PA-Natoli lists no working diagnosis. She notes an orthopedic referral may be needed, but it was not pursued at that time. Mrs. Carlson's appointment with Dr. Graeca remained scheduled over a month out, for May 31, 2005 and was not moved up.

Dr. Meyers saw Mrs. Carlson on May 5<sup>th</sup> and read the EMG/NCV as normal for the right upper extremity, with no cervical mediated problem at that time. Prednisone taper and physical therapy were recommended, as was a wrist splint, with steroid injection to be considered in approximately two weeks if not significantly improved.

On the progress report in PA-Natoli's and Dr. Graeca's records for May 31, 2005, the records indicate a diagnosis of chronic tendinitis in the wrist. Physical therapy and Prednisone taper had not been helpful. It was noted that an injection was still planned and had not been tried yet. Dr. Graeca suggests "significant tendonitis of the flexor at the right wrist," that eight days later orthopaedic surgeon, Dr. Piasio, indicates was not present. A June 6<sup>th</sup> note records the injection did not work and now Mrs. Carlson was "in horrible pain."

~~A thyroid function test was normal. Mrs. Carlson "refused" a further appointment with PA-Natoli. Dr. Graeca then finally referred her to orthopaedic surgeon Dr. Piasio. After that, the patient never saw PA-Natoli again and Dr. Graeca's notes through June of 2006 review the failed course of care orchestrated to date via his office, the prompt diagnosis and institution of proper care by Dr. Piasio and referral to Dr. Yaw, and Dr. Graeca's concerns of being sued for what he documents was a "very rare" giant cell tumor.~~

On June 9, 2005, Dr. Piasio documented a history of "no injury." He notes that the EMG/NCV of May 5, 2005 were normal. Dr. Piasio documented that there was no wrist synovitis or tenosynovitis even by then. New, very appropriate studies were timely obtained, and showed a classic tumor. Dr. Mark Piasio ordered a bone scan of both wrists and hands with total body scan. This was done on June 10, 2005 and showed findings consistent with a giant cell tumor. Repeat x-rays, wrist MRI and a CT of the chest were obtained and an approximately 2.0 cm expansile lesion in the distal radius with extension beyond the bone into the volar soft tissues was identified. Dr. Piasio's records explicitly confirm my assessment that this was an "aggressive" and "rapid growing" tumor. The diagnosis by a specialist was easier as the history was more extensive and physical examination focused on the distal radial aspect of the wrist.

She was referred to Dr. Yaw in Pittsburgh, PA, who did not proceed to immediate surgery due to the potential for cancer, and initially did a biopsy on June 20, 2005 which showed a giant cell tumor. On June 27, 2005, he then resected the distal radius and transposed the ulna onto the radius and fused the ulna to the wrist. This was nearly three weeks after the tumor was identified. Obviously, the work-up was likely to have been somewhat less aggressive had a nondescript lucency of unknown but recent origin, in an seemingly early, nonclassic stage, been identified on April 13<sup>th</sup>.

On hindsight review of the radiographs obtained April 12, 2005 of the right wrist, there is a subtle 1.0 cm in diameter lucency involving the distal radius. This is just over 1/3 of an inch. The lucency is only present on two of the four views that were obtained. There were no corresponding views of the left wrist ordered for comparison. This lucency shows very discrete margins and is not expanding the cortex. The small lucency is the only aspect of the images suggestive of some abnormality. This type of lucency does not have an appearance characteristic of giant cell tumor and most likely would represent an interosseous ganglion, a simple bone cyst, or an interosseous lipoma. The cyst on initial x-ray shows no evidence of typical cortical expansion (the cortex is preserved), and does not involve the most distal radius.



~~There is no evidence of cortical thinning, soft tissue extension, loculation, fracture, trabeculations, sclerotic changes or calcifications, or other findings classic for giant cell tumor or malignant etiology. It would not have warranted an expedited workup. The report does not mention the small cyst but is accurate in indicating that there is no fracture, joint abnormality or soft tissue abnormality of acute or chronic duration.~~

A giant cell tumor of the wrist is quite rare occurring in approximately 1 in 10 million population for one year. In my experience, it is most often located about the knee either in the distal femur or the proximal tibia. The literature reports only 10% occurrence in the radius. Almost always there is a long (approximately 6 months) period of symptoms before diagnosis. In the distal radius and ulna, 92% of these tumors are not diagnosed until Stage II or later. Stage I lesions are found only 8% of the time; Stage II 72%; and Stage III 20%. Based on my experience and also after review of the literature, the symptoms related to giant cell tumors are usually present for six months in duration prior to the initial diagnosis. The radiographic appearance of the tumor when diagnosed is typically highly characteristic. Here it was not on April 12th. My review of the literature indicates that 93% of the cases show radiographic evidence of bony expansion and 65% show cortical destruction when first diagnosed. Soft tissue extension is detected in as many as 50% of initial diagnosed cases. Trabeculations are often present. Fractures are the first indication of the abnormality in 10-30% of cases. Sclerotic margins may or may not be seen. Nevertheless, one can not say that this was a very early tumor in the low stage on April 12, 2005. Standard radiographs have limitations. An MRI at that time may have shown a more advanced stage and there could well have been at least microscopic penetration of the cortex that would not have been discernable even on MRI.

In my opinion, the symptoms were not suggestive of carpal tunnel syndrome or tendinitis and the diversion into those and other diagnoses by Mrs. Carlson's clinicians delayed further evaluation which should have occurred more promptly in the case of persistent pain in the wrist joint with an April 12, 2005 "negative" x-ray report. A "negative" initial x-ray report does not categorically exclude the presence of a cause of symptoms that other studies may detect, if ordered. The clinicians, but not the radiologist, knew there was no accident, trauma or repetitive stress mechanism leading to the onset of symptomatology, yet did not bring this to the attention of the radiologist or promptly order more definitive studies that are well known to clinicians to be more sensitive to such pathology, and in my opinion would have allowed the radiologist to discern the early tumor. In particular, an MRI should have been obtained sooner in this case. A radiologist may recommend a further study if the initial study revealed a condition that needed better analysis.

Updated cervical studies, EMG/NCV, and referral to physiatry and orthopaedic specialists was delayed despite uncertainty of the cause. The onset of swelling reported by the patient on April 20, 2005, and the clinical suspicion of tendinitis should have prompted requesting an MRI study by the clinician. It is the responsibility of the clinician, not the radiologist, to put all the clues together and determine what other studies and plan of action to pursue. The radiologist is not responsible for the lack of a proper plan and diligence or supervision of the clinicians. Radiology is a focused and limited science, and also an art. The reality of radiology and indeed medicine in general, is that it is not always possible to make a diagnosis that is clearer in hindsight, or that subspecialties or other specialties might make. The radiologist provides an interpretation based on his judgment. He does not undertake the patient's care from the clinicians. The treating clinicians know well the numerous types of imaging and other studies available and their advantages, and do not need to be told by the radiologist. The cause of any material delay in diagnosis was not the radiologist's report.

On the CT scan of the wrist obtained June 14, 2005, there is marked enlargement of the cyst with extension of the cortex and erosion through the cortex with extension of the lesion into the volar soft tissues. The margin of the distal radius is intact and there is a permeative erosion of bone at the margins of the lesion which is typical for giant cell tumor, and is also seen on the repeat plain film x-rays which are now classic in appearance at only 2½ months. In my opinion, this eight week course from a tiny cyst that even in hindsight could only be seen on two of four views, without classic giant cell characteristics, to a very aggressive appearing expansile lesion with soft tissue extension is clearly a case of a highly aggressive lesion. The progression of this lesion, in this patient, is very rapid and unusually aggressive, even for a giant cell tumor. Dr. Piasio likewise documents such.

In such rare diseases, the clinicians and surgeons often consult with me as a radiologist, to discuss the extent, indicated course of the disease, and treatment plans, and I have followed such cases over time. Radiation is sometimes utilized as treatment, but is itself problematic. While the incidence of recurrence reportedly varies, in my training and experience, giant cell tumors have an approximately 70% recurrence rate when treated with intralesional curettage where the cyst is scooped out and wide excision is not performed. If this type of treatment had been attempted on the lesion in April 2005, there would have been an approximately 70% chance of local recurrence. Local implantation of the tumor in adjacent soft tissues has been reported with mere curettage and grafting. The literature documents that even with adjuvant therapies, usual recurrence rates have not been reliably obtained where the tumor initially presents in the distal radius.

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Local treatment can still result in complications other than recurrence, including stiffness, pain, infection, neurapraxia, joint collapse, etc. When this tumor occurs in the radius, it is known to be most aggressive and the commonest site to seed patients with pulmonary metastases. Recurrence is most likely in tumors which have a higher histiologic grade and aggressive features. While curettage may be preferred, in view of the aggressiveness of tumors of the distal radius, primary resection and reconstruction may be indicated and gives the lowest recurrence rate. I feel that looking back at the extremely aggressive nature of this particular lesion, even with an earlier diagnosis, wide excision and resection of the radius would have been required to give the lowest rate of recurrence and perhaps cure the patient. Even then, cure would not be certain.

There may have been microscopic or blood system extension of the tumor even as of April 13<sup>th</sup>, or when the patient reported swelling by April 20<sup>th</sup>, or by the time there was definitive action taken had the lucency been worked-up and surgery occurred, even if suspected as of April 13<sup>th</sup>. One must also keep in mind that even if the initial x-rays detected some abnormality, it is likely that there would have been several weeks of delay, and progression of the tumor, until surgically treated, just as was the case even when it was classic in appearance by June 9, 2005. The tumor may have at least microscopically breached the cortex in April, increasing the risk of recurrence and spread, had only a limited procedure been performed. With recurrence, the same procedure would have been indicated and the outcome the same or worse, depending on if there was spread to the lungs or other organs with disastrous consequences. There is significant risk of metastasis particularly to the lungs from such an aggressive tumor. The surgical approach that stood the best chance of curing her even in April would have been a wide excision.

As to the issue of the original x-ray and its interpretation obtained April 12, 2005, I do not feel that the interpretation is a violation of the standard of care or negligence by a general radiologist, under the circumstances. When the radiologist reviews a radiograph, he is trying to answer the question of the ordering physician. As in this case when the history given to the radiologist is nonspecific, the radiologist may not answer a question that is not asked. The ordering clinician controls this process, which puts the radiologist at some disadvantage. The radiologist is trained to assume that he has been given all pertinent data by a competent clinician. He does not examine the patient, take his own history, nor dictate what studies to obtain. The request that Dr. Alajaji received for interpretation of the x-ray of the wrist states only that Mrs. Carlson is 33 years old with "pain."

The question or history in this case should have been indicated in the requisition and should have at least said, "pain distal radius, no past acute or repetitive trauma, ?carpal tunnel, ?tendonitis, rule out any boney pathology." The ordering clinician should have stated what she sought to rule out. If that history had been given and question asked, I believe Dr. Alajaji would have focused more closely on the distal radius and the odds are greatly increased that even though he had never seen an early giant cell tumor of the radius in 11 years of practice, even though it was small and not visible on two of the four views, I believe he would have commented on the lucency in his report even though it is subtle. His report largely addresses acute injury or chronic degenerative conditions which he correctly indicates are not evident. This is typically the question being asked regarding such studies. PA-Natoli's notes reflect this is what she was seeking. Per his deposition testimony, it also appears that Dr. Alajaji was influenced by lucency of other bones seen in the films when studied via computerized imaging, and lack of any suggestion of abnormality on two of the four views. One must also consider the whole context in which the images were presented to Dr. Alajaji, including his lack of experience with this small and very rare tumor, in an unusually early stage, in an unusual location, and without classic findings that would make same more apparent.

The wrist was not definitively declared "normal" by the radiologist's impression. What was described was accurate. When an x-ray report is reported as negative and the problem persists, as in this case, radiologists expect that a diligent further investigation is warranted by the clinicians. With common boney causes of such symptoms discounted by the radiologist's findings, it was incumbent on the clinicians to start considering the more rare potentialities. Obviously, Mrs. Carlson's clinicians never contemplated such a rare and aggressive tumor either, and may well never had had a patient with same either. Their office records reflect uncertainty of diagnosis, but slow follow-up with an indicated plan. Carpal tunnel and tendinitis did not make sense, and were never found even at the later stage of the disease upon presentation to Dr. Piasio. Somehow, the patient was labeled with carpal tunnel syndrome or tendinitis when there was no suggestion of either. The carpal tunnel is in the base of the palm, just distal to the wrist crease. The symptomatic cyst located in the distal radius did not involve the tendons and the clinician's diagnosis of tendinitis actually delayed investigation and appropriate treatment. Wrist x-rays would neither confirm nor rule out either carpal tunnel syndrome or tendinitis. An MRI would have been the appropriate study to have imaged for problems of the tendons and sheath, and the radiologist would most certainly have advised PA-Natoli of this had her requisition indicated that she as considering carpal tunnel or tendinitis. The subtle lucency in the distal radius would have been most likely to be more apparent on an MRI at this time.

The MRI would have been helpful to rule out tendinitis and had a greater likelihood for detecting the distal radial tumor. There was still no tendinitis by the time of Dr. Piasio's evaluation in June, as he documents. A repeat x-ray, bone scan, or MRI should have been ordered for this patient when the pain persisted. A bone scan could also have been ordered before or after the x-ray and would isolate the tumor to the distal radius, thus assisting the radiologist in interpreting the plain films. A plain film x-ray is the most rudimentary of our arsenal of radiologic and imaging studies in an attempt to discern pathology. It is not good at detecting small, early lesions inside of a bone. It is known that some bony abnormalities may not be discerned on initial images, and it is commonplace for treating clinicians to request further consideration of the original images or to order repeat images at regular intervals, or more detailed and specialized studies, particularly where there was development of swelling within two weeks, normal EMG/nerve conduction studies, worsening complaints, etc.

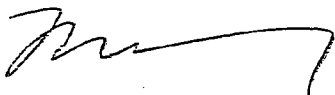
You have also asked me for any comments I might have on Mrs. Carlson's work loss claim based not only on my familiarity with the medicine, but also the position of a radiation technician with whom I have worked over the years. Mrs. Carlson had persistent complaints of work related low back pain and neck pain, even at a young age suffering a herniated disc in her neck prior to the giant cell in the wrist. She has always been very thin, petite, and not a strong woman. Functional assessment at the time of application for the position in 1992 revealed quite low static strength testimony with maximum effort, even at that time at the age of 21. While she managed in her job for many years, most likely using the compensatory strategies and good body mechanics and assistance of others as needed (the technicians work in teams), she had lifting injuries and difficulties, leading to required work duty modification and periodic medical care. In my opinion, it is unlikely that she would have been able to continue working an entire career with such recurrent problems with her cervical and lumbar discs. Her films have shown that the bony abnormalities such as vertebral spurs have developed and her degenerative condition progressed, as is expected, even at her relatively young age. I see a number of patients on a daily basis and follow them for a number of years with similar cervical and lumbar disc problems. I find that the disc protrusions, bony degeneration, and pain associated with these protrusions never goes away, recurs, and only increases in severity and extent over the years. Dr. Graeca's records also document mood swings and headaches from work and family care stress, which also take their toll. Also, the rare tumor that developed in her radius was a surprise to everyone, and even with a lesser procedure, would likely have impacted her employment, at least long term. I also note that a period of recuperation and physical therapy would likewise be needed post a curettage.

I would also like to comment on the accommodations possible for Mrs. Carlson's problems. The work of a radiation technologist is of two types. The preliminary work is positioning the patient on the therapy table prior to beginning the treatment. This portion of the technician's work can at times involve lifting, maneuvering, pushing, etc. which can be stressful on the back and wrists. The second part of the technician's work is operating a computer that controls the therapy machine. With skilled job function analysis one may find that the job can be made easier. Good body mechanics and compensatory techniques should also be instituted. I also believe that if a technician's aide was made available, then Mrs. Carlson would be able to do her job as a radiation therapist indefinitely. Many departments already recognize the periodic need for physical assistance to the therapy technician. Often, this work is done in teams. The tech aide would assist and provide the manual effort with positioning the patient and equipment. This would allow Mrs. Carlson to be relieved of the physical aspects of the job and focus solely on the computer manipulation of the equipment, radiotherapy planning, and interacting with and instructing the patient. Perhaps the same tech aide would be helpful for the other technicians as well to focus on their work careers. The cost is minimal. This is quite similar to nurses' aides assisting nurses with physical work in hospital settings and can actually make the whole department more efficient and safer for patients as well as Mrs. Carlson, with or without the consequences of her tumor.

Regarding resumption of her employment, the most recent, February 14, 2007 evaluation by Dr. Richman notes tendon function, sensation, and vascular examination remained normal to her digits. She had surprisingly well preserved pronation and supination. Radiographs revealed an excellent solid arthrodesis and position.

Please contact me should you require further information or clarification of this report. I would also be glad to consider any pertinent additional information that may become available.

Sincerely,



Ross A. Horsley, M.D.

## **EXHIBIT B**

DUBOIS REGIONAL MEDICAL CENTER  
100 Hospital Ave, DuBois, PA 15801

CARLSON, PAULA J  
1373 SAND STONE DR  
FALLS CREEK PA 15840

OPC  
Age 33Y

Unit # 000406631  
Acct # D0510200479

Date:04/12/05 Time:0913

NATOLI, LORIE B  
C/O DRS KRUK AND GRAECA  
DUBOIS PA 15801

GRAECA, STEVEN W  
145 HOSPITAL AVENUE  
DUBOIS PA 15801

| Chk-in # | Order | Exam  |                                     |
|----------|-------|-------|-------------------------------------|
| 759066   | 0002  | 44511 | DI-WRIST MIN 3*R<br>Ord Diag: ;PAIN |

RIGHT WRIST:

The bones are intact. The joint relationships are normally maintained.  
The soft tissues are unremarkable.

IMPRESSION: NEGATIVE.

/READ BY/ JERJIS ALAJAJI  
/Released By/ JERJIS ALAJAJI

04/13/05 0941  
BC

*Alajaji*

Complete



## **EXHIBIT C**

DUBOIS REGIONAL MEDICAL CENTER  
100 Hospital Ave, DuBois, PA 15801

CARLSON, PAULA J  
1373 SAND STONE DR  
FALLS CREEK PA 15840

OPW  
Age 34Y

Unit # 000406631  
Acct # D0516000388

Date: 06/09/05 Time: 1326

PIASIO, MARK  
145 HOSPITAL AVE MED ARTS  
DUBOIS PA 15801

GRAECA, STEVEN W  
145 HOSPITAL AVENUE  
DUBOIS PA 15801

|          |       |       |                                     |
|----------|-------|-------|-------------------------------------|
| Chk-in # | Order | Exam  |                                     |
| 775773   | 0001  | 45540 | PI-WRIST MIN 3*R                    |
|          |       |       | Ord Diag: 719.43-JOINT PAIN-FOREARM |

RIGHT WRIST - AP, LATERAL, AND OBLIQUE:

A large lytic lesion is seen on the ulnar aspect of the distal radius. It incorporates predominance of the distal radius. It extends to the articular margin. It does not cross the articular margin. There appears to be some punctate calcification in an ulnar direction on the AP view. No discrete fracture is seen.

IMPRESSION: LYTIC LESION PERMEATIVE WITHOUT DEFINED MARGINS DISTAL RADIUS.  
CONSIDERATIONS FOR GIANT CELL OR EWING'S.

/READ BY/ MARK A PIASIO M.D.  
/Released By/ MARK A PIASIO M.D.

06/14/05 1154  
LLW

Complete

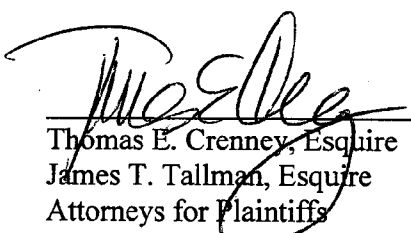
**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and correct copy of the foregoing  
**PLAINTIFFS' MOTION IN LIMINE TO PRECLUDE TESTIMONY BY  
DEFENDANTS' GENERAL RADIOLOGIST ROSS HORSLEY REGARDING  
STANDARD OF CARE FOR PCP STEPHEN GRAECA AND PHYSICIAN ASSISTANT  
LORIE NATOLI** was served by First Class Mail, postage prepaid on the 25<sup>th</sup> day of  
JANUARY, 2008, as follows:

Darryl R. Slimak, Esquire  
MCQUAIDE BLASKO FLEMING & FAULKNER,  
INC.  
811 University Drive  
State College, PA 16801  
(Counsel for Jerjis T. Alajaji, M.D.)

David R. Johnson, Esquire  
THOMSON RHODES & COWIE  
Two Chatham Center, 10<sup>th</sup> Floor  
Pittsburgh, PA 15219  
(Counsel for DuBois Regional Medical Center)

Walter Fredrick Wall, Esquire  
120 Lakemont Park Boulevard  
Altoona, PA 16602  
(Counsel for DuBois Radiologists, Inc.)

  
\_\_\_\_\_  
Thomas E. Crenney, Esquire  
James T. Tallman, Esquire  
Attorneys for Plaintiffs

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

PAULA CARLSON and  
JAMIE CARLSON, her husband,

Plaintiffs,

No. 2006-563-CD

Civil Action – Medical Professional  
Liability Action

vs.

JERJIS T. ALAJAJI, M.D., DUBOIS  
RADIOLOGISTS, INC. and DUBOIS  
REGIONAL MEDICAL CENTER,

Defendants.

**ORDER OF COURT**

AND NOW, this \_\_\_\_ day of \_\_\_\_\_, 2008, upon consideration of Plaintiffs' Motion In Limine To Preclude Testimony by Defendants' General Radiologist Ross Horsley Regarding Standard of Care for PCP Stephen Graeca and Physician Assistant Lorie Natoli, it is hereby ORDERED that Defendants' General Radiologist Ross Horsley may only testify as to whether Dr. Alajaji deviated from the standard of care in his interpretation of the x-ray and/or computer image of April 12, 2005.

BY THE COURT

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

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

PAULA CARLSON and  
JAMIE CARLSON, her husband,

Plaintiffs,

vs.

JERJIS T. ALAJAJI, M.D., DUBOIS  
RADIOLOGISTS, INC. and DUBOIS  
REGIONAL MEDICAL CENTER,

Defendants.

No. 2006-563-CD

Civil Action – Medical Professional  
Liability Action

**PLAINTIFFS' MOTION IN LIMINE TO  
PRECLUDE EVIDENCE OF OR  
REFERENCE TO PAULA CARLSON'S  
UNRELATED HEALTH HISTORY**

Filed on behalf of the Plaintiffs

Counsel of Records for this Party:

Thomas E. Crenney, Esquire  
PA I.D. No. 40986

James T. Tallman, Esquire  
PA I.D. No. 79257

THOMAS E. CRENNY & ASSOCIATES, LLC  
One Gateway Center  
18<sup>th</sup> Floor West  
Pittsburgh, PA 15222  
Telephone: (412) 644-5545  
Facsimile: (412) 644-5581

**JURY TRIAL DEMANDED**

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

PAULA CARLSON and  
JAMIE CARLSON, her husband,

Plaintiffs,

No. 2006-563-CD

Civil Action – Medical Professional  
Liability Action

vs.

JERJIS T. ALAJAJI, M.D., DUBOIS  
RADIOLOGISTS, INC. and DUBOIS  
REGIONAL MEDICAL CENTER,

Defendants.

**PLAINTIFFS' MOTION IN LIMINE TO PRECLUDE EVIDENCE OF OR REFERENCE  
TO PAULA CARLSON'S UNRELATED HEALTH HISTORY**

AND NOW, come the Plaintiffs, Paula Carlson and Jamie Carlson, by and through their attorneys, Thomas E. Crenney & Associates, LLC, and respectfully present the following Motion In Limine To Preclude Evidence of or Reference to Paula Carlson's Unrelated Health History:

1. This is a medical malpractice case arising out of Dr. Jerjis Alajaji's failure to read properly an April 12, 2005 x-ray and report a tumor in Ms. Carlson's right wrist.
2. At the time of Dr. Alajaji's negligence, Ms. Carlson was working as a Radiation Therapist at DuBois Regional Medical Center.
3. Ms. Carlson had worked at DuBois Regional Medical Center as a Radiation Therapist since 1992. When Ms. Carlson was hired, she was found fit to perform the job of a radiation therapist. (See 7/31/92 T. Carpin memo to Sue Miller attached as Exhibit "A.")
4. During the entire time Ms. Carlson worked at DuBois Regional Medical Center, she consistently received good evaluations. (See, e.g., 1/19/05 and 1/14/04 evaluations, collectively attached hereto as Exhibit "B.")

5. Additionally, Rose Campbell, Administrative Manager for DuBois Regional Medical Center, testified at her deposition that Ms. Carlson was a good employee and that she was able to fulfill all the physical requirements of her job. (See R. Campbell dep. at p. 29, line 24 to p. 30, attached hereto as Exhibit "C.")

6. Ms. Carlson received annual physicals, which consistently showed her to be in good health. (See, e.g., 5/9/01 and 5/20/03 evaluations, collectively attached hereto as Exhibit "D.")

7. Ms. Carlson participated in the DuBois Regional Medical Center's Health Quest which promoted good employee health in 2004 and 2005 and in fact was a Health Quest "Winner". (See Health Quest reports of 2004 and 2005, attached hereto as Exhibit "E.")

8. Likewise, Ms. Carlson's PCP, Dr. Graeca, reported that Ms. Carlson is "a really healthy individual," except for an ovarian cyst and the tumor at issue here. (See Dr. Graeca letter dated 6/14/06, attached hereto as Exhibit "F.")

9. Dr. Ross A. Horsley, a General Radiologist, and Ronald S. Kushner, a Vocational Consultant, have submitted expert reports on behalf of Dr. Alajaji.

10. In their respective reports, Dr. Horsley and Mr. Kushner discuss at length Ms. Carlson's unrelated medical history regarding her neck, shoulder and back and they both offer rank speculation that these problems could and or would have affected Ms. Carlson's ability to perform her job as a Radiation Therapist at some unspecified time in the future.

11. Neither Dr. Horsley nor Mr. Kushner are qualified to offer opinions about Ms. Carlson's neck, shoulder or back problems, as Dr. Horsley is a general radiologist and Mr. Kushner is not a doctor. They are speculating on a matter they are not qualified to discuss in the first place.

12. The only purpose in discussing Ms. Carlson's unrelated medical history is to prejudice the jury against Ms. Carlson.

13. Both Dr. Horsley and Mr. Kushner merely speculate that Ms. Carlson may not be able to continue working as a radiation therapist. For example, Mr. Kushner states in his report, "there is some question whether Ms. Carlson could continue to work indefinitely due to these recurrent and progressive problems," and "[i]n view of Ms. Carlson's recurrent work injuries and demonstrated pre-existing medical and strength problems, ... accommodations may well be needed in any event to continue work as a Radiation Therapist." Similarly, Dr. Horsley states, "In my opinion it is unlikely that she would have been able to continue working an entire career with such recurrent problems."

14. These opinions are completely speculative and uncertain and do not qualify as expert opinions. Moreover, Mr. Kushner is not qualified to render any medical opinion and Dr. Horsley is a general radiologist and is not qualified to render an opinion on such matters under MCARE. See 40 P.S. § 1303.512.

15. Defendants have offered no opinion by a qualified medical expert that Ms. Carlson could not perform her job based on her medical history prior to Dr. Alajaji's negligence that is at issue in this case. The uncontroverted evidence establishes that Ms. Carlson, in fact, was performing her job and was in very good health.

16. Accordingly, Defendants should be precluded from offering any evidence or testimony, expert or otherwise, relating to Ms. Carlson's medical history regarding her back, neck or shoulder, including the testimony of Dr. Horsley and Mr. Kushner on this issue.

WHEREFORE, Plaintiffs, Paula Carlson and Jamie Carlson, respectfully request that this Honorable Court issue an Order prohibiting Defendants from referring to or mentioning in any



manner or offering any evidence, including but not limited to the testimony of Dr. Ross Horsley and Ronald Kushner, about Ms. Carlson's medical history regarding her back, neck or shoulder, and requiring all such references to be redacted from all documents prior to submission to the jury.

Respectfully submitted,

THOMAS E. CRENNY & ASSOCIATES, LLC

By   
Thomas E. Crenney, Esquire  
Attorney for Plaintiffs

One Gateway Center  
18<sup>th</sup> Floor - West  
Pittsburgh, PA 15222  
(412) 644-5545

DATE: 1/25/2008

TO: Sue Miller, DRMC Employee Health  
FROM: Tracey Carpin, PT  
DATE: 07/31/92  
RE: Albert, Paula

This individual reports to the clinic today stating she is applying for a radiation therapy technician position with DRMC. She states her past occupation was as a student. She is 21 years old, right hand dominant, 5'4", 104 lbs. Past medical history is negative for any low back pain, and she takes no medications.

Active range of motion is within normal limits in the upper extremities, lower extremities and spine. Strength is within normal limits in the upper and lower extremities. Special tests are within normal limits. Standing posture of the pelvis and spine is within normal limits. Upon functional assessment with 25 lbs., she was independent and pain free with sit to stand, straight lift, carry 100', ascending and descending stairs. Static strength testing with the dynamometer ranged from less than the 1st percentile for left and right grip strength up through the 56th percentile for torso strength. Ms. Albert viewed the American Back School slides on proper lifting technique and back injury prevention.

Ms. Albert presents with no musculoskeletal abnormalities at this time that should prevent her from performing a radiation therapy technician position for DRMC. If you have any questions or concerns, please do not hesitate to contact me.

*Tracey Carpin PT*  
Tracey Carpin, PT

DuBois Regional Medical Center  
Hahne Cancer Center Criteria-Based Performance Evaluation

Radiation Therapist  
Hahne

Name: Paula Carlson

Date: 1-19-05

| <u>Qualifications and Duties</u>                                                                                                 | <u>Does Not Meet Standards</u> | <u>Meets Standards</u> | <u>Role Model</u> |
|----------------------------------------------------------------------------------------------------------------------------------|--------------------------------|------------------------|-------------------|
| Complies with DRMC policies and procedures, with accreditation agency requirements, federal, state or local law and regulations. |                                | ✓                      |                   |
| Performs the start-up and lock-up procedures for Linear Accelerator                                                              |                                | ✓                      |                   |
| Delivers accurately the prescribed course of radiation therapy                                                                   |                                | ✓                      |                   |
| Reports any concerns/changes in patient condition to radiation nurse or oncologist                                               |                                | ✓                      |                   |
| Documents daily treatments                                                                                                       |                                | ✓                      |                   |
| Maintains daily records as required                                                                                              |                                |                        | ✓                 |
| Observes patients for unusual reactions or events                                                                                |                                | ✓                      |                   |
| Provides patient education as necessary                                                                                          |                                | ✓                      |                   |
| Assists in the maintenance of the filing system                                                                                  |                                | ✓                      |                   |
| Assists in maintaining inventory of supplies                                                                                     |                                | ✓                      |                   |
| Attends chart rounds/tumor board <i>NA</i>                                                                                       |                                |                        |                   |
| Reviews port films with Radiation Oncologist                                                                                     |                                | ✓                      |                   |
| Accurately simulates patient for treatments                                                                                      |                                | ✓                      |                   |
| Accurately cuts blocks and makes shields for radiation treatment                                                                 |                                | ✓                      |                   |

| <u>Supportive Documentation and/or Comments (Qualifications And Duties Section)</u> |
|-------------------------------------------------------------------------------------|
|                                                                                     |
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|                                                                                     |

**EXHIBIT "B"**

Carlson

220000017

| <b>DRMC Core Behaviors</b>                                                          | <b>Does Not Meet Standards</b> | <b>Meets Standards</b> | <b>Role Model</b> |
|-------------------------------------------------------------------------------------|--------------------------------|------------------------|-------------------|
| <b>CORE BEHAVIOR #1: CARING ATTITUDE</b>                                            |                                |                        |                   |
| • Introduces self and explains functions to patients, family, visitors, co-workers. |                                | ✓                      |                   |
| • Attire/appearance is professional, properly displayed nametag.                    |                                | ✓                      |                   |
| • Language is professional and appropriate.                                         |                                | ✓                      |                   |
| • Respects patient/co-worker privacy                                                |                                | ✓                      |                   |
| • Displays a positive attitude & actions                                            |                                | ✓                      |                   |
| <b>CORE BEHAVIOR #2: CONFIDENTIALITY</b>                                            |                                |                        |                   |
| • Ensures that confidentiality is protected                                         |                                | ✓                      |                   |
| <b>CORE BEHAVIOR #3: COMMUNICATION</b>                                              |                                |                        |                   |
| • Involves the patient/family/co worker as a fully informed partner.                |                                |                        | ✓                 |
| • Collaborates with Physicians/Co-workers.                                          |                                | ✓                      |                   |
| • Answers the telephone per DRMC protocol.                                          |                                | ✓                      |                   |
| • Responds to Call Light or requests promptly.                                      |                                | ✓                      |                   |
| • Communicates with co-workers professionally.                                      |                                | ✓                      |                   |
| <b>CORE BEHAVIOR #4: COLLABORATION</b>                                              |                                |                        |                   |
| • Accepts responsibilities and pays attention to details.                           |                                | ✓                      |                   |
| • Treats all co-workers professionally & with Respect.                              |                                | ✓                      |                   |
| <b>CORE BEHAVIOR #5: CUSTOMER SATISFACTION</b>                                      |                                |                        |                   |
| • Consistently asks: Is there anything more I can do for you?                       |                                | ✓                      |                   |
| • Takes initiative to meet the customers needs.                                     |                                | ✓                      |                   |
| • Informs customers of delays promptly & provides updates as needed.                |                                | ✓                      |                   |
| • Recognizes & implements the REACT Plan when needed.                               |                                | ✓                      |                   |
| • Escorts lost customers to their destination.                                      |                                | ✓                      |                   |

| Supportive Documentation and/or Comments (Core Behaviors Section) |
|-------------------------------------------------------------------|
|                                                                   |
|                                                                   |
|                                                                   |
|                                                                   |
|                                                                   |

I have read and understand DRMC's CORE BEHAVIORS policy and the 5C's TO CUSTOMER SERVICE EXCELLENCE HANDBOOK. I agree that as a requirement and duty of my job, I will abide by this policy. Furthermore, I understand intentional or involuntary violations of this policy may result in disciplinary actions up to and including termination.

I will demonstrate this agreement by affixing my signature and date below:

Signature

*Paula Y. Carlson*

Date

*1/19/05*

| <u>Required Competencies</u>                                                                                                                                                                                                                                     | Does Not Meet Standards | Meets Standards | Role Model |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------|-----------------|------------|
| Actively participates or becomes aware of department Performance Improvement initiatives                                                                                                                                                                         |                         | ✓               |            |
| Demonstrates familiarity with equipment necessary in performing his/her job                                                                                                                                                                                      |                         | ✓               |            |
| Understands hospital Safety policies and procedures to maintain a safe environment                                                                                                                                                                               |                         | ✓               |            |
| Understands Infection Control policies and procedures and implements infection control measures                                                                                                                                                                  |                         | ✓               |            |
| Maintains a continuing education log of all training/education initiatives                                                                                                                                                                                       |                         | ✓               |            |
| Must acknowledge the concerns dealing with privacy and confidentiality                                                                                                                                                                                           |                         | ✓               |            |
| Must respond promptly to patient/client/customer/co-worker requests for service within the scope of the employee's responsibility. If not in the scope of responsibility, employee must refer the request to the appropriate resource (Principle of Information) |                         | ✓               |            |

| Supportive Documentation and/or Comments (Competencies Section) |
|-----------------------------------------------------------------|
|                                                                 |
|                                                                 |
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### Confidentiality Statement

It is a policy of the Medical Center that all information concerning patients; doctors and other employees must be kept strictly confidential. Erroneous or confidential information released may expose you and the Medical Center to liability and can cause embarrassment to you, the Medical Center and other patients. Remember that it is strictly a violation of DuBois Regional Medical Center policy to discuss or reveal information concerning a patient's condition or diagnosis, and any employee found doing so is subject to disciplinary action up to and including termination of employment.

Those employees having access to a patient's medical record should not review this information, unless the job requires you to make entries or review a section for professional and patient care.

Requests for newspapers, radio, TV and other news media for information concerning the medical condition of patients must be referred to the nursing supervisor or the Manager or Supervisor in charge of the department.

I have read and understand the Confidentiality Policy of DuBois Regional Medical Center as it appears above. I agree that as a requirement and duty of my job, I will abide by this policy. Furthermore, I understand that intentional or involuntary violations of this policy may result in disciplinary actions up to and including termination.

I will demonstrate this agreement by affixing my signature and date below.

Paula Carlson  
Signature

1/19/05  
Date

## Performance Evaluation Summary Sheet

|                                         |                                              |
|-----------------------------------------|----------------------------------------------|
| Developmental Goals and Training Needs: | <u>You need to be aware of "Near Miss"</u>   |
|                                         | <u>and the importance of reporting them.</u> |
|                                         |                                              |
|                                         |                                              |
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|                    |  |
|--------------------|--|
| Employee Comments: |  |
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|                    |  |
|                    |  |

Employee Signature:

Paul J. Carlson

Date:

1/19/05

Evaluator Signature:

Shel S. Clark

Date:

1/19/05

Manager Signature:

Lois M. Campbell

Date:

1-18-05

DuBois Regional Medical Center  
Hahne Cancer Center Criteria-Based Performance Evaluation

Radiation Therapist  
Hahne

Name: Paula Carlson 01550

Date: 1/13/04

| <u>Qualifications and Duties</u>                                                                                                 | <u>Does Not Meet Standards</u> | <u>Meets Standards</u> | <u>Role Model</u> |
|----------------------------------------------------------------------------------------------------------------------------------|--------------------------------|------------------------|-------------------|
| Complies with DRMC policies and procedures, with accreditation agency requirements, federal, state or local law and regulations. |                                | ✓                      |                   |
| Performs the start-up and lock-up procedures for Linear Accelerator                                                              |                                | ✓                      |                   |
| Delivers accurately the prescribed course of radiation therapy                                                                   |                                | ✓                      |                   |
| Reports any concerns/changes in patient condition to radiation nurse or oncologist                                               |                                | ✓                      |                   |
| Documents daily treatments                                                                                                       |                                |                        | ✓                 |
| Maintains daily records as required                                                                                              |                                |                        | ✓                 |
| Observes patients for unusual reactions or events                                                                                |                                | ✓                      |                   |
| Provides patient education as necessary                                                                                          |                                | ✓                      |                   |
| Assists in the maintenance of the filing system                                                                                  |                                | ✓                      |                   |
| Assists in maintaining inventory of supplies                                                                                     |                                | ✓                      |                   |
| Attends chart rounds/tumor board                                                                                                 |                                | ✓                      |                   |
| Reviews port films with Radiation Oncologist                                                                                     |                                | ✓                      |                   |
| Accurately simulates patient for treatments                                                                                      |                                | ✓                      |                   |
| Accurately cuts blocks and makes shields for radiation treatment                                                                 |                                | ✓                      |                   |

| <u>Supportive Documentation and/or Comments (Qualifications And Duties Section)</u>                                                                                                             |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Paula does an excellent job with the electronic charting. She makes sure the patient schedule and treatment info. are accurately documented so that the patient's treatments are not disrupted. |
|                                                                                                                                                                                                 |
|                                                                                                                                                                                                 |

CHECKED 1/22/04

**EXHIBIT "B"**

Carlson

220000008

| DRMC Core Behaviors                                                                 | Does Not Meet Standards | Meets Standards | Role Model |
|-------------------------------------------------------------------------------------|-------------------------|-----------------|------------|
| <b>CORE BEHAVIOR #1: CARING ATTITUDE</b>                                            |                         |                 |            |
| • Introduces self and explains functions to patients, family, visitors, co-workers. |                         | ✓               |            |
| • Attire/appearance is professional, properly displayed nametag.                    |                         | ✓               |            |
| • Language is professional and appropriate.                                         |                         | ✓               |            |
| • Respects patient/co-worker privacy                                                |                         | ✓               |            |
| • Displays a positive attitude & actions                                            |                         | ✓               |            |
| <b>CORE BEHAVIOR #2: CONFIDENTIALITY</b>                                            |                         |                 |            |
| • Ensures that confidentiality is protected                                         |                         | ✓               |            |
| <b>CORE BEHAVIOR #3: COMMUNICATION</b>                                              |                         |                 |            |
| • Involves the patient/family/co worker as a fully informed partner.                |                         | ✓               |            |
| • Collaborates with Physicians/Co-workers.                                          |                         | ✓               |            |
| • Answers the telephone per DRMC protocol                                           |                         | ✓               |            |
| • Responds to Call Light or requests promptly.                                      |                         | ✓               |            |
| • Communicates with co-workers professionally.                                      |                         | ✓               |            |
| <b>CORE BEHAVIOR #4: COLLABORATION</b>                                              |                         |                 |            |
| • Accepts responsibilities and pays attention to details.                           |                         | ✓               |            |
| • Treats all co-workers professionally & with Respect.                              |                         | ✓               |            |
| <b>CORE BEHAVIOR #5: CUSTOMER SATISFACTION</b>                                      |                         |                 |            |
| • Consistently asks: Is there anything more I can do for you?                       |                         | ✓               |            |
| • Takes initiative to meet the customers needs.                                     |                         | ✓               |            |
| • Informs customers of delays promptly & provides updates as needed.                |                         |                 | ✓          |
| • Recognizes & implements the REACT Plan when needed.                               |                         |                 | ✓          |
| • Escorts lost customers to their destination.                                      |                         | ✓               |            |

| Supportive Documentation and/or Comments (Core Behaviors Section) |
|-------------------------------------------------------------------|
|                                                                   |
|                                                                   |
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|                                                                   |

I have read and understand DRMC's CORE BEHAVIORS policy and the 5C's TO CUSTOMER SERVICE EXCELLENCE HANDBOOK. I agree that as a requirement and duty of my job, I will abide by this policy. Furthermore, I understand intentional or involuntary violations of this policy may result in disciplinary actions up to and including termination.

I will demonstrate this agreement by affixing my signature and date below:

Paula J. Carlson  
Signature

1-14-04  
Date



| <u>Required Competencies</u>                                                                                                                                                                                                                                     | Does Not Meet Standards | Meets Standards | Role Model |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------|-----------------|------------|
| Actively participates or becomes aware of department Performance Improvement initiatives                                                                                                                                                                         |                         | ✓               |            |
| Demonstrates familiarity with equipment necessary in performing his/her job                                                                                                                                                                                      |                         | ✓               |            |
| Understands hospital Safety policies and procedures to maintain a safe environment                                                                                                                                                                               |                         | ✓               |            |
| Understands Infection Control policies and procedures and implements infection control measures                                                                                                                                                                  |                         | ✓               |            |
| Maintains a continuing education log of all training/education initiatives                                                                                                                                                                                       |                         | ✓               |            |
| Must acknowledge the concerns dealing with privacy and confidentiality                                                                                                                                                                                           |                         | ✓               |            |
| Must respond promptly to patient/client/customer/co-worker requests for service within the scope of the employee's responsibility. If not in the scope of responsibility, employee must refer the request to the appropriate resource (Principle of Information) |                         | ✓               |            |

| Supportive Documentation and/or Comments (Competencies Section) |
|-----------------------------------------------------------------|
|                                                                 |
|                                                                 |
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### Confidentiality Statement

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Requests for newspapers, radio, TV and other news media for information concerning the medical condition of patients must be referred to the nursing supervisor or the Manager or Supervisor in charge of the department.

I have read and understand the Confidentiality Policy of DuBois Regional Medical Center as it appears above. I agree that as a requirement and duty of my job, I will abide by this policy. Furthermore, I understand that intentional or involuntary violations of this policy may result in disciplinary actions up to and including termination.

I will demonstrate this agreement by affixing my signature and date below.

Signature

*Paula J. Carlson*

Date

*1-14-04*

3

Carlson

**EXHIBIT "B"**

220000010

## Performance Evaluation Summary Sheet

|                                         |
|-----------------------------------------|
| Developmental Goals and Training Needs: |
|                                         |
|                                         |
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|--------------------|
| Employee Comments: |
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|                    |

Employee Signature: Paula J. Carlson Date: 1-14-04

Evaluator Signature: Bob C. Wells Date: 1-14-04

Manager Signature: Rose M. Campbell Date: 1-16-04

4  
**EXHIBIT "B"**

Carlson

220000011

1 All right. This is a  
2 request for such documents  
3 prior to April 1, 2005 or prior  
4 to April 12, 2005. If you have  
5 such documents, I'm, again,  
6 requesting that you produce  
7 them. If they are not produced  
8 and not given a chance to look  
9 at them, take appropriate  
10 discovery based on the  
11 production of those documents,  
12 I'll certainly object. If they  
13 end up being produced some  
14 other time at trial or just  
15 before trial, I'm asking for  
16 those documents to support an  
17 issue in the case, the general  
18 description of what you think  
19 may or may not exist is not  
20 sufficient. So again, making  
21 that request. Respectfully  
22 making that request.

23 BY ATTORNEY CRENNEY:

24 Q. Was Paula a good employee prior  
25 to getting this tumor?

1 A. Yes.

2 Q. Okay. Were you satisfied with  
3 her work?

4 A. Yes.

5 Q. Was she able to fulfill all of  
6 the physical requirements of her job?

7 A. Yes.

8 Q. And she got --- we don't have  
9 to go through them then. She got a  
10 lot of good evaluations; correct?

11 A. Yes.

12 Q. Did anybody complain about  
13 Paula's work to you prior to April of  
14 2005?

15 A. Not that I recall.

16 Q. Did anybody complain about  
17 Paula's attitude, anything at all?  
18 Did you have any problems of Paula of  
19 any description, now's the time to  
20 tell me?

21 A. No significant problems.

22 Q. Okay. All right. Who was  
23 Paula's immediate supervisor?

24 A. It was Sheila Welsh.

25 Q. And I assume Sheila Welsh

**DuBois Regional Medical Center Occupational Health Center**

☐ Pre Placement Physical Exam      ☒ Annual Physical  
 Name Paula Carlson      Date 5-9-01  
 Position Radiation Therapist  
 Vital Signs BP 110/70 P 80 R 20 Ht 5'4" Wt 104#

|              | Normal | Abnormal | Comments |
|--------------|--------|----------|----------|
| General      |        |          |          |
| Skin         |        |          |          |
| Head         |        |          |          |
| Eyes         |        |          |          |
| Ears         |        |          |          |
| Nose/Throat  |        |          |          |
| Neck         |        |          |          |
| Lymph Nodes  |        |          |          |
| Chest/Lungs  |        |          |          |
| Breasts      |        |          |          |
| Heart        |        |          |          |
| Abdomen      |        |          |          |
| Genitalia    |        |          |          |
| Rectal       |        |          |          |
| Extremities  |        |          |          |
| Back         |        |          |          |
| Neurological |        |          |          |

**Pre Placement physicals only:**

☒ Applicant is capable of performing above indicated position  
☐ Applicant is not capable of performing above indicated position  
☐ Applicant is capable of performing above indicated position with the following accommodations: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

Signature \_\_\_\_\_

**Annual Physicals only:**

☒ Normal physical      ☐ Abnormal Physical (see below)

Signature \_\_\_\_\_

The physical examination and/or laboratory studies suggest the need for additional follow-up for the following reasons \_\_\_\_\_  
 \_\_\_\_\_

Signature \_\_\_\_\_

Date \_\_\_\_\_

5/9/01

**EXHIBIT "D"**

Carlson

220000169

# DuBois Regional Medical Center Occupational Health Center

Pre Placement Physical Exam

☒ Annual Physical

Name Paula Carlson

Date 5-20-03

Position Radiation Therapist

Vital Signs BP 116/60 P 72 R 20 Ht 5'4" Wt 169

|              | Normal | Abnormal | Comments |
|--------------|--------|----------|----------|
| General      | ✓      |          |          |
| Skin         | ✓      |          |          |
| Head         | ✓      |          |          |
| Eyes         | ✓      |          |          |
| Ears         | ✓      |          |          |
| Nose/Throat  | ✓      |          |          |
| Neck         | ✓      |          |          |
| Lymph Nodes  | ✓      |          |          |
| Chest/Lungs  | ✓      |          |          |
| Breasts      | ✓      |          |          |
| Heart        | ✓      |          |          |
| Abdomen      | ✓      |          |          |
| Genitalia    | ✓      |          |          |
| Rectal       | ✓      |          |          |
| Extremities  | ✓      |          |          |
| Back         | ✓      |          |          |
| Neurological | ✓      |          |          |

## Pre Placement physicals only:

☐ Applicant is capable of performing above indicated position

☐ Applicant is not capable of performing above indicated position

☐ Applicant is capable of performing above indicated position with the following accommodations: \_\_\_\_\_

Signature \_\_\_\_\_

## Annual Physicals only:

☒ Normal physical

☐ Abnormal Physical (see below)

Signature [Signature]

The physical examination and/or laboratory studies suggest the need for additional follow-up for the following reasons: \_\_\_\_\_

Signature \_\_\_\_\_

Date \_\_\_\_\_

Carlson

EXHIBIT "D"

220000188

# **Congratulations!!!!**

CARLSON, PAULA J.

YOU ARE A 2004  
HEALTH QUEST WINNER

*YOUR POINTS ARE AS FOLLOWS:*

|                                |   |
|--------------------------------|---|
| EXERCISE PROGRAM PARTICIPATION | 0 |
| PERCENTAGE BODY FAT            | 1 |
| SELF DIRECTED ACTIVITIES       | 1 |
| SEAT BELT USE                  | 1 |
| CHOLESTEROL SCORE              | 1 |
| SICK TIME USAGE                | 1 |
| INJURY FREE                    | 1 |
| TOBACCO FREE                   | 1 |
| QUIET TIME                     | 1 |
| BLOOD PRESSURE                 | 1 |

TOTAL 9

EMPLOYEE # 1550

ANY QUESTIONS REGARDING POINTS, PLEASE CALL SUE MILLER AT X3351

23000005

**EXHIBIT "E"**

# Congratulations!!!!

CARLSON, PAULA J.

YOU ARE A 2005  
HEALTH QUEST WINNER

*YOUR POINTS ARE AS FOLLOWS:*

|                                |         |
|--------------------------------|---------|
| EXERCISE PROGRAM PARTICIPATION | 0       |
| PERCENTAGE BODY FAT            | 1       |
| SELF DIRECTED ACTIVITIES       | 1       |
| SEAT BELT USE                  | 1       |
| CHOLESTEROL SCORE              | 1       |
| SICK TIME USAGE                | 1       |
| INJURY FREE                    | 1       |
| TOBACCO FREE                   | 1       |
| QUIET TIME                     | 1       |
| BLOOD PRESSURE                 | 1       |
| TOTAL                          | <hr/> 9 |

EMPLOYEE # 1550

ANY QUESTIONS REGARDING POINTS, PLEASE CALL SUE MILLER AT X3351

**23000003**  
**EXHIBIT "E"**





**DuBois Regional  
Medical Center**

*Making the difference for life.*

Steven Graeca, D.O.  
*Board Certified Internal Medicine*

145 Hospital Avenue  
DuBois, Pennsylvania 15801

Telephone: (814) 371-1717

June 14, 2006

Adolfo Rapaport, DO  
90 Beaver Drive  
Suite 211-D  
DuBois, PA 15801

RE: Paula Carlson

Dear Adolfo:

I am sending you Paula Carlson for an ovarian cyst. We did a CAT scan in relation to this 35 year old for hematuria and found a 4.2 X 4 cm cyst near the right ovary. I have ordered an intravaginal ultrasound that will be available and wish you to take a comment because it seems a touch large to me for an ovarian cyst.

She has a history of giant tumor cell which was found late and is currently undergoing litigation. Otherwise, she is a really pretty healthy individual. Thank you.

Sincerely,

Steven Graeca, D.O.

SG/lmw

**EXHIBIT "F"**

(16)

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and correct copy of the foregoing  
**PLAINTIFFS' MOTION IN LIMINE TO PRECLUDE EVIDENCE OF OR REFERENCE**  
**TO PAULA CARLSON'S UNRELATED HEALTH HISTORY** was served by First Class

Mail, postage prepaid on the 25<sup>th</sup> day of JANUARY, 2008, as follows:

Darryl R. Slimak, Esquire  
MCQUAIDE BLASKO FLEMING & FAULKNER,  
INC.  
811 University Drive  
State College, PA 16801  
(Counsel for Jerjis T. Alajaji, M.D.)

Walter Fredrick Wall, Esquire  
120 Lakemont Park Boulevard  
Altoona, PA 16602  
(Counsel for DuBois Radiologists, Inc.)

David R. Johnson, Esquire  
THOMSON RHODES & COWIE  
Two Chatham Center, 10<sup>th</sup> Floor  
Pittsburgh, PA 15219  
(Counsel for DuBois Regional Medical Center)

  
\_\_\_\_\_  
Thomas E. Crenney, Esquire  
James T. Tallman, Esquire  
Attorneys for Plaintiff

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

PAULA CARLSON and  
JAMIE CARLSON, her husband,

Plaintiffs,

No. 2006-563-CD

Civil Action – Medical Professional  
Liability Action

vs.

JERJIS T. ALAJAJI, M.D., DUBOIS  
RADIOLOGISTS, INC. and DUBOIS  
REGIONAL MEDICAL CENTER,

Defendants.

**ORDER OF COURT**

AND NOW, this \_\_\_\_ day of \_\_\_\_\_, 2008, a Motion in Limine to Preclude Evidence of or Reference to Paula Carlson's Unrelated Health History having come before the Court, upon consideration thereof, Motion is GRANTED and it is ORDERED, ADJUDGED and DECREED that Defendants are prohibited from referring to or mentioning in any manner or offering any evidence, including but not limited to the testimony of Dr. Ross Horsley and Ronald Kushner, about Ms. Carlson's medical history regarding her back, neck or shoulder, and requiring all such references to be redacted from all documents prior to submission to the jury

BY THE COURT

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

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

PAULA CARLSON and  
JAMIE CARLSON, her husband,

Plaintiffs,

vs.

JERJIS T. ALAJAJI, M.D., DUBOIS  
RADIOLOGISTS, INC. and DUBOIS  
REGIONAL MEDICAL CENTER,

Defendants.

No. 2006-563-CD

Civil Action – Medical Professional  
Liability Action

**PLAINTIFFS' MOTION IN LIMINE TO  
PRECLUDE DEFENSE'S CLAIM THAT  
PLAINTIFF MAY RETURN TO HER JOB  
AT DUBOIS REGIONAL MEDICAL  
CENTER**

Filed on behalf of the Plaintiffs

Counsel of Records for this Party:

Thomas E. Crenney, Esquire  
PA I.D. No. 40986

James T. Tallman, Esquire  
PA I.D. No. 79257

THOMAS E. CRENNY & ASSOCIATES, LLC  
One Gateway Center  
18<sup>th</sup> Floor West  
Pittsburgh, PA 15222  
Telephone: (412) 644-5545  
Facsimile: (412) 644-5581

**JURY TRIAL DEMANDED**

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

PAULA CARLSON and  
JAMIE CARLSON, her husband,

Plaintiffs,

No. 2006-563-CD

Civil Action – Medical Professional  
Liability Action

vs.

JERJIS T. ALAJAJI, M.D., DUBOIS  
RADIOLOGISTS, INC. and DUBOIS  
REGIONAL MEDICAL CENTER,

Defendants.

**PLAINTIFFS' MOTION IN LIMINE TO PRECLUDE DEFENSE'S  
CLAIM THAT PLAINTIFF MAY RETURN TO HER JOB  
AT DUBOIS REGIONAL MEDICAL CENTER**

AND NOW, come the Plaintiffs, Paula Carlson and Jamie Carlson, by and through their attorneys, Thomas E. Crenney & Associates, LLC, and respectfully present the following Motion In Limine To Preclude Defense's Claim That Plaintiff May Return to Her Job at DuBois Regional Medical Center:

1. This is a medical malpractice case arising out of Defendant Dr. Jerjis Alajaji's failure to properly read an x-ray of April 12, 2005 and report a lesion in Ms. Carlson's right wrist.

2. Paula Carlson has been left with a significant disability. She has been declared permanently and totally disabled by the Social Security Administration. See the Notice of Decision – Fully Favorable dated March 5, 2007 attached as Exhibit A. Nonetheless, DuBois Regional Medical Center and the other Defendants will try to claim at trial that she has no wage loss claim because Defendant hospital was willing and/or is willing to provide her with a job at

her prior rate of pay of approximately \$64,000 a year on a permanent and lifetime basis. They further claim that they will make whatever modifications are necessary to accommodate her in the radiation department.

3. This claim and this evidence is grossly self-serving and should be precluded altogether at trial. A Defendant should not be permitted to defeat a wage loss claim by presenting in Court with a speculative promise regarding future employment.

4. Ms. Carlson was not a member of a union. Ms. Carlson was an at-will employee. Even if this scheme could be undertaken for a time, Ms. Carlson would remain an at-will employee. The Court is well aware of the prerogatives and latitude provided an employer in Pennsylvania for an at-will employee.

5. Plaintiff respectfully submits that the Court should preclude all together such evidence or in the alternative severely curtail the presentation of this evidence including confining such presentation to appropriate witnesses. (In that regard, it is noted that at the videotaped deposition of Plaintiffs' economic expert, Professor James Kenkel, defense spent an inordinate amount of time asking the basic question *isn't it true if the hospital gave her her job back she would have no wage loss*. Plaintiffs have listed the page numbers and lines for each time that question essentially was asked by Attorney Slimak. They are as follows:

| Page | Lines   |
|------|---------|
| 60   | 5 – 12  |
| 61   | 11 – 15 |
| 61   | 19 – 25 |
| 62   | 4 – 12  |
| 64   | 1 – 8   |
| 64   | 15 – 19 |
| 67   | 9 – 14  |
| 69   | 3 – 8   |
| 69   | 17 – 22 |
| 71   | 20 – 25 |
| 72   | 1 – 3   |

|    |         |
|----|---------|
| 72 | 14 - 23 |
| 73 | 2 - 11  |
| 73 | 18 - 24 |
| 74 | 6 - 10  |
| 77 | 5 - 10  |

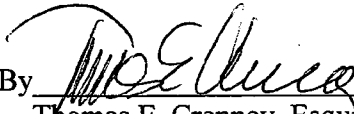
Please see the testimony collectively attached as Exhibit B for the Court's convenience. If this testimony was live before Your Honor, this line of questioning would have been stopped as already asked and answered and repetitious. Attorney Slimak took advantage of the videotaped setting to ask essentially the same question approximately 15 times. Plaintiff has also requested in its Motions in Limine that that Professor Kenkel's cross examination be struck or severely limited.)

6. Additionally, if the Court does not in the exercise of its discretion strike this defense all together, it is respectfully submitted that the Court should preclude any further evidence of this so-called job offer to the present state of the record. Two witnesses have been deposed and have claimed that an offer of a job was and/or is available at Defendant hospital. They are Rose Campbell, Plaintiff's supervisor, and Robert McKee, the Human Resource Manager. Again, if the Court does not wish to strike this testimony altogether, it is submitted discussion of it be limited to the testimony of these witnesses and no last minute grandstanding be permitted on this very prejudicial issue.

WHEREFORE, Plaintiffs' respectfully request that this Honorable Court issue an Order prohibiting Defendants from mentioning the claimed job offer at trial or evidence of the offer is limited to the testimony already recorded of two witnesses, Rose Campbell and Robert McKee, who have already been deposed in this matter.

Respectfully submitted,

THOMAS E. CRENNNEY & ASSOCIATES, LLC

By   
Thomas E. Crenney, Esquire  
Attorney for Plaintiffs

One Gateway Center  
18<sup>th</sup> Floor - West  
Pittsburgh, PA 15222  
(412) 644-5545

DATE: 1/25/2008



## **EXHIBIT A**



## SOCIAL SECURITY ADMINISTRATION

Refer To: 201-66-3077

Office of Disability Adjudication and Review  
334 Washington St., Suite 200  
Johnstown, PA 15901  
Telephone: (814) 533-4462  
Date:

05 MAR 2007

Paula Jo Carlson  
1373 Sandstone Dr.  
Falls Creek, PA 15840

### NOTICE OF DECISION – FULLY FAVORABLE

I have made the enclosed decision in your case. Please read this notice and the decision carefully.

#### **This Decision is Fully Favorable To You**

Another office will process the decision and send you a letter about your benefits. Your local Social Security office or another may first ask you for more information. If you do not hear anything for 60 days, contact your local office.

#### **The Appeals Council May Review The Decision On Its Own**

The Appeals Council may decide to review my decision even though you do not ask it to do so. To do that, the Council must mail you a notice about its review within 60 days from the date shown above. Review at the Council's own motion could make the decision less favorable or unfavorable to you.

#### **If You Disagree With The Decision**

If you believe my decision is not fully favorable to you, or if you disagree with it for any reason, you may file an appeal with the Appeals Council.

#### **How to File an Appeal**

To file an appeal you or your representative must request that the Appeals Council review the decision. You must make the request in writing. You may use our Request for Review form, HA-520, or write a letter.

You may file your request at any local Social Security office or a hearing office. You may also mail your request right to the Appeals Council, Office of Disability Adjudication and Review, 5107 Leesburg Pike, Falls Church, VA 22041-3255. Please put the Social Security number shown above on any appeal you file.

See Next Page

### **Time to File an Appeal**

To file an appeal, you must file your request for review **within 60 days** from the date you get this notice.

The Appeals Council assumes you got the notice 5 days after the date shown above unless you show you did not get it within the 5-day period. The Council will dismiss a late request unless you show you had a good reason for not filing it on time.

### **Time to Submit New Evidence**

You should submit any new evidence you wish to the Appeals Council to consider **with** your request for review.

### **How an Appeal Works**

Our regulations state the rules the Appeals Council applies to decide when and how to review a case. These rules appear in the Code of Federal Regulations, Title 20, Chapter III, Part 404 (Subpart J).

If you file an appeal, the Council will consider all of my decision, even the parts with which you agree. The Council may review your case for any reason. It **will** review your case if one of the reasons for review listed in our regulation exists. Section 404.970 of the regulation lists these reasons.

Requesting review places the entire record of your case before the Council. Review can make any part of my decision more or less favorable or unfavorable to you.

On review, the Council may itself consider the issues and decide your case. The Council may also send it back to an Administrative Law Judge for a new decision.

### **If No Appeal and No Appeals Council Review**

If you do not appeal and the Council does not review my decision on its own motion, you will not have a right to court review. My decision will be a final decision that can be changed only under special rules.

**If You Have Any Questions**

If you have any questions, you may call, write or visit any Social Security office. If you visit an office, please bring this notice and decision with you. The telephone number of the local office that serves your area is (814) 372-1470. Its address is 302 Liberty Blvd, Dubois, PA 15801.

cc: Martin G. Colavincenzo  
Attorney at Law  
4 West Manilla Avenue  
Pittsburgh, PA 15220

**SOCIAL SECURITY ADMINISTRATION  
Office of Disability Adjudication and Review**

**DECISION**

**IN THE CASE OF**

Paula Jo Carlson  
(Claimant)

(Wage Earner)

**CLAIM FOR**

Period of Disability and  
Disability Insurance Benefits

201-66-3077

(Social Security Number)

**JURISDICTION AND PROCEDURAL HISTORY**

On May 1, 2006, the claimant protectively filed an application for a period of disability and disability insurance benefits, alleging disability beginning May 5, 2005. This claim was denied and is now before the undersigned Administrative Law Judge on a timely written request for hearing filed on October 15, 2006 (20 CFR 404.929 *et seq.*). The claimant appeared and testified at a hearing held on February 15, 2007, in Dubois, Pennsylvania. Judy Schollaert, an impartial vocational expert, also appeared at the hearing. The claimant is represented by Martin G. Colavincenzo, Attorney at Law.

**ISSUES**

The issue is whether the claimant is disabled under Sections 216(i) and 223(d) of the Social Security Act. Disability is defined as the inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment or combination of impairments that can be expected to result in death or that has lasted or can be expected to last for a continuous period of not less than 12 months.

There is an additional issue whether the insured status requirements of Sections 216(i) and 223 of the Social Security Act are met. The claimant's earnings record shows that the claimant has acquired sufficient quarters of coverage to remain insured through December 31, 2010. Thus, the claimant must establish disability on or before that date in order to be entitled to a period of disability and disability insurance benefits.

After careful review of the entire record, the undersigned finds that the claimant has been disabled from May 5, 2005 through the date of this decision. The undersigned also finds that the insured status requirements of the Social Security Act were met as of the date disability is established.

See Next Page

### APPLICABLE LAW

Under the authority of the Social Security Act, the Social Security Administration has established a five-step sequential evaluation process for determining whether an individual is disabled (20 CFR 404.1520(a)). The steps are followed in order. If it is determined that the claimant is or is not disabled at a step of the evaluation process, the evaluation will not go on to the next step.

At step one, the undersigned must determine whether the claimant is engaging in substantial gainful activity (20 CFR 404.1520(b)). Substantial gainful activity (SGA) is defined as work activity that is both substantial and gainful. "Substantial work activity" is work activity that involves doing significant physical or mental activities (20 CFR 404.1572(a)). "Gainful work activity" is work that is usually done for pay or profit, whether or not a profit is realized (20 CFR 404.1572(b)). Generally, if an individual has earnings from employment or self-employment above a specific level set out in the regulations, it is presumed that she has demonstrated the ability to engage in SGA (20 CFR 404.1574 and 404.1575). If an individual engages in SGA, she is not disabled regardless of how severe her physical or mental impairments are and regardless of her age, education, and work experience. If the individual is not engaging in SGA, the analysis proceeds to the second step.

At step two, the undersigned must determine whether the claimant has a medically determinable impairment that is "severe" or a combination of impairments that is "severe" (20 CFR 404.1520(c)). An impairment or combination of impairments is "severe" within the meaning of the regulations if it significantly limits an individual's ability to perform basic work activities. An impairment or combination of impairments is "not severe" when medical and other evidence establish only a slight abnormality or a combination of slight abnormalities that would have no more than a minimal effect on an individual's ability to work (20 CFR 404.1521; Social Security Rulings (SSRs) 85-28, 96-3p, and 96-4p). If the claimant does not have a severe medically determinable impairment or combination of impairments, she is not disabled. If the claimant has a severe impairment or combination of impairments, the analysis proceeds to the third step.

At step three, the undersigned must determine whether the claimant's impairment or combination of impairments meets or medically equals the criteria of an impairment listed in 20 CFR Part 404, Subpart P, Appendix 1 (20 CFR 404.1520(d), 404.1525, and 404.1526). If the claimant's impairment or combination of impairments meets or medically equals the criteria of a listing and meets the duration requirement (20 CFR 404.1509), the claimant is disabled. If it does not, the analysis proceeds to the next step.

Before considering step four of the sequential evaluation process, the undersigned must first determine the claimant's residual functional capacity (20 CFR 404.1520(e)). An individual's residual functional capacity is her ability to do physical and mental work activities on a sustained basis despite limitations from her impairments. In making this finding, the undersigned must consider all of the claimant's impairments, including impairments that are not severe (20 CFR 404.1520(e) and 404.1545; SSR 96-8p).

See Next Page

Next, the undersigned must determine at step four whether the claimant has the residual functional capacity to perform the requirements of her past relevant work (20 CFR 404.1520(f)). The term past relevant work means work performed (either as the claimant actually performed it or as it is generally performed in the national economy) within the last 15 years or 15 years prior to the date that disability must be established. In addition, the work must have lasted long enough for the claimant to learn to do the job and have been SGA (20 CFR 404.1560(b) and 404.1565). If the claimant has the residual functional capacity to do her past relevant work, the claimant is not disabled. If the claimant is unable to do any past relevant work or does not have any past relevant work, the analysis proceeds to the fifth and last step.

At the last step of the sequential evaluation process (20 CFR 404.1520(g)), the undersigned must determine whether the claimant is able to do any other work considering her residual functional capacity, age, education, and work experience. If the claimant is able to do other work, she is not disabled. If the claimant is not able to do other work and meets the duration requirement, she is disabled. Although the claimant generally continues to have the burden of proving disability at this step, a limited burden of going forward with the evidence shifts to the Social Security Administration. In order to support a finding that an individual is not disabled at this step, the Social Security Administration is responsible for providing evidence that demonstrates that other work exists in significant numbers in the national economy that the claimant can do, given the residual functional capacity, age, education, and work experience (20 CFR 404.1512(g) and 404.1560(c)).

#### **FINDINGS OF FACT AND CONCLUSIONS OF LAW**

After careful consideration of the entire record, the undersigned makes the following findings:

- 1. The claimant meets the insured status requirements of the Social Security Act through December 31, 2010.**
- 2. The claimant has not engaged in substantial gainful activity since May 5, 2005, the alleged onset date (20 CFR 404.1520(b) and 404.1571 *et seq.*).**

The evidence shows the claimant returned to work part-time two weeks before the hearing as a seater but is unable to perform ancillary duties including moving tables and chairs. Further, this work activity does not constitute substantial gainful activity in accordance with Section 404.1574. Consequently, the undersigned concludes the claimant has not engaged in substantial gainful activity at any time relevant herein.

- 3. The claimant has the following severe impairments: Giant cell tumor of the right wrist and residuals of a radical resection of the right distal radius and a right wrist fusion (20 CFR 404.1520(c)).**

The above impairments cause significant limitation in the claimant's ability to perform basic work activities.

**4. The claimant does not have an impairment or combination of impairments that meets or medically equals one of the listed impairments in 20 CFR Part 404, Subpart P, Appendix 1 (20 CFR 404.1520(d)).**

**5. After careful consideration of the entire record, the undersigned finds that the claimant has the residual functional capacity to perform sedentary work activity. Further, she is unable to lift more than two to three pounds ten percent or less of the time with the right dominant hand or perform fine manipulation, push or pull with the right upper extremity, is limited to occasional balancing, crawling and climbing ramps and stairs, is unable to climb ladders, ropes and scaffolds, needs to avoid concentrated exposure to extreme hot or cold, vibration and hazards, and is unable to perform fine fingering more than occasionally with the left, non-dominant hand.**

In making this finding, the undersigned considered all symptoms and the extent to which these symptoms can reasonably be accepted as consistent with the objective medical evidence and other evidence, based on the requirements of 20 CFR 404.1529 and SSRs 96-4p and 96-7p. The undersigned has also considered opinion evidence in accordance with the requirements of 20 CFR 404.1527 and SSRs 96-2p, 96-5p, 96-6p and 06-3p.

On June 9, 2005, Dr. Mark Piasio reported the claimant's two to three-month history of right wrist pain located in the radial aspect. There was pain with range of motion, marked tenderness over the distal radius, X-ray evidence of a lytic lesion in the distal radius ulnar aspect, which was confirmed by MRI that appeared to penetrate a cortex (Exhibit 1F).

The claimant was hospitalized between June 27, 2005 and June 29, 2005, to undergo radial resection of the distal radius and right wrist fusion due to a giant cell tumor (Exhibit 2F). However, Dr. Steven Graeca reported the claimant continued to experience pain and was unable to move the wrist (Exhibit 4F).

Dr. Kenneth Yaw reported the claimant had marked soft tissue wasting around the single bone forearm crossing the right wrist and she experienced worsening pain with a work hardening program. There was synovial thickening over the plate of the middle finger metacarpal dorsum, tenderness on the radial border and irritation from tendon overuse. Following a functional capacity evaluation, Dr. Yaw concluded the claimant was limited to lifting and carrying three to five pounds on a periodic but not repetitive basis with her right upper extremity due to loss of motion and motor power, as well as sensitivity to direct force. Additionally, Dr. Yaw completed a physical residual functional capacity questionnaire, which reported the claimant continued to experience stiffness, weakness and right wrist pain, she was unable to lift and carry any weight with the right upper extremity and had lost almost complete function of the right upper extremity (Exhibits 5F, 7F and 10F).

Mary T. Defranco, Vocational Rehabilitation Counselor, reported the claimant was not qualified for other work, as her education, skills and experience were very specific to her field. Her severe limitations made it difficult to establish appropriate vocational goals, as she was unable to perform even fine motor skills including writing and manipulating in a sedentary-type position (Exhibit 8F).



After considering the evidence of record, the undersigned finds that the claimant's medically determinable impairments could reasonably be expected to produce the alleged symptoms, and that the claimant's statements concerning the intensity, persistence and limiting effects of these symptoms are generally credible.

The State agency medical opinion is given little weight because evidence received at the hearing level shows that the claimant is more limited than determined by the State agency consultant. Furthermore, the State agency consultant did not adequately consider the claimant's subjective complaints or the combined effect of the claimant's impairments.

**6. The claimant is unable to perform any past relevant work (20 CFR 404.1565).**

The claimant has past relevant work as a radiation therapist, DOT Code 078.361-034, which was classified as light, skilled work activity but heavy as performed by the claimant. As the claimant is limited to sedentary work activity, she is unable to perform past relevant work.

**7. The claimant was a younger individual age 18-44 on the established disability onset date (20 CFR 404.1563).**

**8. The claimant has at least a high school education and is able to communicate in English (20 CFR 404.1564).**

**9. The claimant's acquired job skills do not transfer to other occupations within the residual functional capacity defined above (20 CFR 404.1568).**

The vocational expert testified that based on the claimant's residual functional capacity, there were no transferable skills.

**10. Considering the claimant's age, education, work experience, and residual functional capacity, there are no jobs that exist in significant numbers in the national economy that the claimant can perform (20 CFR 404.1560(c) and 404.1566).**

In determining whether a successful adjustment to other work can be made, the undersigned must consider the claimant's residual functional capacity, age, education, and work experience in conjunction with the Medical-Vocational Guidelines, 20 CFR Part 404, Subpart P, Appendix 2. If the claimant can perform all or substantially all of the exertional demands at a given level of exertion, the medical-vocational rules direct a conclusion of either "disabled" or "not disabled" depending upon the claimant's specific vocational profile (SSR 83-11). When the claimant cannot perform substantially all of the exertional demands of work at a given level of exertion and/or has nonexertional limitations, the medical-vocational rules are used as a framework for decisionmaking unless there is a rule that directs a conclusion of "disabled" without considering the additional exertional and/or nonexertional limitations (SSRs 83-12 and 83-14). If the claimant has solely nonexertional limitations, section 204.00 in the Medical-Vocational Guidelines provides a framework for decisionmaking (SSR 85-15).

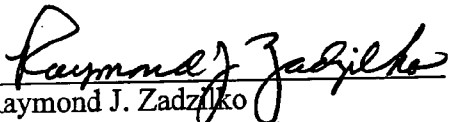
If the claimant had the residual functional capacity to perform the full range of sedentary work, a finding of "not disabled" would be directed by Medical-Vocational Rule 201.28. However, the claimant's ability to perform all or substantially all of the requirements of this level of work has been impeded by additional limitations. To determine the extent to which these limitations erode the unskilled sedentary occupational base, the Administrative Law Judge asked the vocational expert whether jobs exist in the national economy for an individual with the claimant's age, education, work experience and residual functional capacity. The vocational expert testified that given all of these factors there are no jobs in the national economy that the individual could perform.

Based on the testimony of the vocational expert, the undersigned concludes that, considering the claimant's age, education, work experience, and residual functional capacity, a finding of "disabled" is appropriate under the framework of the above-cited rule.

**11. The claimant has been under a disability, as defined in the Social Security Act, from May 5, 2005 through the date of this decision (20 CFR 404.1520(g)).**

### DECISION

Based on the application protectively filed on May 1, 2006, the claimant has been disabled for a period of disability and disability insurance benefits under Sections 216(i) and 223(d) of the Social Security Act beginning on May 5, 2005.

  
Raymond J. Zadzilko  
Administrative Law Judge

Date      05 MAR 2007

# LIST OF EXHIBITS

Claimant: Paula J. Carlson

SSN: 201-66-3077

| Exh. Part<br>No. No. | Description | No. of<br>Pages |
|----------------------|-------------|-----------------|
|----------------------|-------------|-----------------|

## MEDICAL RECORDS

|   |   |                                                                                                                                  |    |
|---|---|----------------------------------------------------------------------------------------------------------------------------------|----|
| 1 | F | Medical records covering the period from 4/12/05 through 6/13/05 from Mark A. Piasio, MD                                         | 15 |
| 2 | F | Hospital Records for admission on 6/27/05 through discharge on 6/29/05 from Mercy Hospital of Pittsburgh, pre-op records 6/20/05 | 25 |
| 3 | F | Operative report dated 1/25/06 from Kenneth M. Yaw, MD with outpatient records, Mercy Hospital                                   | 4  |
| 4 | F | Medical Records covering the period from 4/12/05 to 5/23/06 from Steven W. Graeca, DO                                            | 43 |
| 5 | F | Medical Records covering the period from 6/17/05 to 7/10/06 from Kenneth M. Yaw, MD                                              | 13 |
| 6 | F | RFC - Residual Functional Capacity Assessment - Physical (completed by DDS physician) dated 08/07/06                             | 7  |
| 7 | F | Medical Records dated September 7, 2006 from Kenneth Yaw, MD (submitted by atty)                                                 | 3  |

## RECEIVED DURING HEARING

|    |   |                                                                                                     |   |
|----|---|-----------------------------------------------------------------------------------------------------|---|
| 8  | F | Report dated 01/29/07 from OVR, DuBois, PA                                                          | 1 |
| 9  | F | Pre-Hearing Memorandum dated 02/13/07 by Attorney Martin G. Colavincenzo                            | 4 |
| 10 | F | Physical Residual Functional Capacity Questionnaire dated 02/14/07 from Mercy Orthopedic Associates | 4 |
| 11 | F | X-ray Report dated 02/14/07 from Mercy Hospital of Pittsburgh                                       | 1 |

## LIST OF EXHIBITS

CLAIMANT: Paula Jo Carlson SSN: 201-66-3077

X-REF: \_\_\_\_\_ SSN: \_\_\_\_\_

**Section A**     PAYMENT DOCUMENTS/DECISIONS

**Section B**     JURISDICTIONAL DOCUMENTS/NOTICES

**NON-DISABILITY DEVELOPMENT**

**Section D** contains paperwork that involves non-disability issues such as records of Social Security taxes paid in. Each set of documents is labeled with section number and numerically as an exhibit.

**Section D** consists of 4 exhibits.

**DISABILITY RELATED DEVELOPMENT AND DOCUMENTATION**

**Section E** contains paperwork related to the claimant for disability such as forms and reports completed by and for the claimant, information on work background and medications. Each set of documents is labeled with the section number and numerically as an exhibit.

**Section E** consists of 5 exhibits.

---

Part A (Yellow) - Payment Documents/Decisions  
Part B (Red) - Jurisdictional Documents/Notices  
Part D (Orange) - Non-Disability Development  
Part E (Blue) - Disability Related Development and Documentation  
Part F (Yellow) - Medical Records

**ADDITIONAL CLAIM FILE, IF APPLICABLE:**

Part (SSI) - Supplemental Security Income  
Part (DWB) - Disabled Widow/Widower  
Part (CDB) - Child's Disability Benefits

**SOCIAL SECURITY ADMINISTRATION  
Office of Disability Adjudication and Review**

**ORDER**

**IN THE CASE OF**

Paula Jo Carlson  
(Claimant)

(Wage Earner)

**CLAIM FOR**

Period of Disability and  
Disability Insurance Benefits

201-66-3077

(Social Security Number)

I approve the fee agreement between the claimant and her representative subject to the condition that the claim results in past-due benefits.

My determination is limited to whether the fee agreement meets the statutory conditions for approval and is not otherwise accepted. I neither approve nor disapprove any other aspect of the agreement.

**HOW TO ASK US TO REVIEW THE FEE AGREEMENT DETERMINATION**

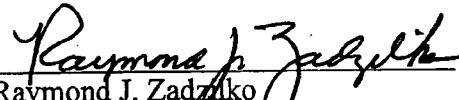
You or your representative may ask us to review the determination on the fee agreement. If you decide to ask us for a review, write us within 15 days from the day you get this order. Tell us that you disagree and give your reasons.

Send your request to this address:

- Jasper J. Bede  
Acting Regional Chief Administrative Law Judge  
SSA ODAR Regional Office  
4th Floor  
PO Box 13496  
Philadelphia, PA 19101

Your representative also has 15 days to write us if he or she does not agree with the determination on the fee agreement.

You should include the social security number(s) shown on this order on any papers that you send us.

  
Raymond J. Zadzik  
Administrative Law Judge

05 MAR 2007

Date

## YOUR RIGHT TO PAYMENT WITHIN A REASONABLE TIME

We are required by a District Court order in Holman et al. V. Bowen, (Civ. No. 78-0494, M.D. PA, May 1, 1987), to notify you of your right to have your disability payments sent to you by us within a reasonable time after a favorable determination of your eligibility for benefits.

If you would like to know when you will receive your benefits, you may contact any Social Security office to ask when you can expect to receive payment of your claim.

If, at any time, you feel that your payments are being unreasonably delayed, you may seek relief from a United States District Court.

You may wish to contact an attorney regarding your rights. If you do not have an attorney, free legal services may be available if you qualify for them due to financial need. For further information about where to apply for free legal help, you may call the Law Coordination Center, toll free, at 1-800/732-3545.

## **EXHIBIT B**

1                   IN THE COURT OF COMMON PLEAS  
2                   OF CLEARFIELD COUNTY, PENNSYLVANIA

3           PAULA CARLSON and                   CIVIL DIVISION  
4           JAMIE CARLSON,  
5           her husband,

6                   Plaintiffs,           No. 2006-563-CD

7                   vs.

8           JERJIS T. ALAJAJI, M.D.,       VIDEOTAPE DEPOSITION  
9           DUBOIS RADIOLOGISTS,       TRANSCRIPT OF:  
10           INC., and DUBOIS       James Kenkel, Ph.D.  
11           REGIONAL MEDICAL CENTER,

12                   Defendants.

13                   DEPOSITION DATE:  
14                   January 21, 2008  
15                   Monday, 2:06 p.m.

16                   PARTY TAKING DEPOSITION:  
17                   Plaintiffs

18                   COUNSEL OF RECORD  
19                   FOR THIS PARTY:  
20                   Thomas Crenney, Esq.  
21                   LAW OFFICES OF THOMAS  
22                   CRENNEY & ASSOCIATES  
23                   One Gateway Center  
24                   18th Floor  
25                   Pittsburgh, PA 15222  
                 412-644-5545

                 REPORTED BY:  
                 Kristin Lytle, RPR  
                 Notary Public  
                 AKF Reference No. KL04947



1 A. I would agree that if certain things are  
2 grossly wrong then it's possible that my  
3 projections are totally wrong.

4 BY MR. SLIMAK:

5 Q. Okay. Well, did you personally meet with and  
6 interview Ms. Carlson's employment supervisor  
7 at DuBois Regional Medical Center, Rose  
8 Campbell, or the hospital's human resources  
9 administrator, Mr. Bob McKee, or any other  
10 medical center personnel to determine whether  
11 Ms. Carlson could return to work at the medical  
12 center as a radiation technician?

13 MR. CRENNY: Objection. It's an  
14 irrelevant question. Beyond the scope.

15 A. No, I did not.

16 BY MR. SLIMAK:

17 Q. In preparing your report did you take into  
18 consideration and cite the Americans With  
19 Disabilities Act return-to-work provisions?

20 A. I am aware of the act so --

21 MR. CRENNY: Same objection.

22 THE WITNESS: I am aware of it, so  
23 it's in the background of any projection I  
24 make. I am assuming that she is not capable of  
25 returning to her former employment.

1 BY MR. SLIMAK:

2 Q. Are you aware that under that law employers  
3 must provide reasonable accommodations to allow  
4 disabled employees to return to work as long as  
5 with the accommodations the employee is able to  
6 perform the essential functions of their job?

7 A. Yes.

8 MR. CRENNNEY: Pardon me. I'm so,  
9 sorry, Professor. Same objection.

10 BY MR. SLIMAK:

11 Q. Are you aware of efforts that the DuBois  
12 Regional Medical Center was making to  
13 accommodate and prepare for Ms. Carlson's  
14 return to work as a radiation therapist before  
15 she sued them?

16 A. No.

17 MR. CRENNNEY: Same objection.

18 BY MR. SLIMAK:

19 Q. Are you aware of whether the medical center was  
20 willing to comply with the law to provide  
21 reasonable accommodations to Ms. Carlson so as  
22 to allow her to return to work performing the  
23 essential functions of her radiation technician  
24 job without loss of any earnings or fringe  
25 benefits at all?

1 MR. CRENNNEY: Same objection.

2 A. No.

3 BY MR. SLIMAK:

4 Q. Do you agree that if the facts of this case  
5 show that the hospital had undertaken efforts  
6 to make sure that Ms. Carlson could continue to  
7 do her radiation technologist job on a  
8 full-time basis despite her giant cell tumor  
9 problems because of the surgery performed by  
10 Dr. Yaw that she could have returned to work  
11 and would not have had any ongoing income loss  
12 at all?

13 MR. CRENNNEY: Same objection.

14 A. If she could earn the same income as I've  
15 projected and that income is going to be earned  
16 for as long as I have projected, then in any  
17 year that the income is earned that matches the  
18 income that I projected there wouldn't be a  
19 loss that year. But that presumes that  
20 somebody is going to actually pay her to do  
21 something that possibly she can't do.

22 BY MR. SLIMAK:

23 Q. Did plaintiff's attorney, Mr. Crenney, provided  
24 you with the deposition of sworn testimony he  
25 took of Rose Campbell or of Mr. Bob McKee that

1 Q. Were you aware that Mr. Maloney had performed a  
2 job function analysis and made changes in the  
3 job description as well as recommendations for  
4 reducing the amount of weight and physical  
5 activity that she would have to perform with  
6 her affected arm in order to potentially  
7 accommodate her medical problem and allow  
8 Ms. Carlson to return to work?

9 MR. CRENNY: Objection to the form.  
10 Objection to the relevance.

11 A. No.

12 MR. CRENNY: Objection as beyond the  
13 scope of this witness's testimony on direct.

14 BY MR. SLIMAK:

15 Q. Are you aware of whether the hospital was  
16 willing to do whatever it would take and the  
17 law would require to accommodate Ms. Carlson so  
18 that she could return to work as a radiation  
19 therapist and have no ongoing work loss?

20 A. No.

21 MR. CRENNY: Objection. Just let me  
22 get this out. I'm so sorry, Professor. I  
23 don't mean to interrupt you.

24 Objection to the form. Objection to  
25 the relevance. Objection to the phrase

1       he would have had this information available to  
2       utilize it. That's perfectly appropriate and  
3       critical cross-examination.

4               MR. CRENNY: Not so.

5 BY MR. SLIMAK:

6 Q.       I'm not sure if we had the answer to the last  
7       question, sir. Let me re-ask it I think where  
8       I was at.

9               Are you aware of whether the hospital  
10       was willing to do whatever it would take and  
11       the law would require to accommodate  
12       Ms. Carlson so that she could return to work as  
13       a radiation therapist and have no ongoing work  
14       loss?

15              MR. CRENNY: Same objection.  
16       Objection to the form.

17              MR. SLIMAK: We already have your  
18       objection. I just re-asked the same question.  
19       You don't have to repeat your objections again.  
20       You're being obstructive.

21              MR. CRENNY: I am not trying to be  
22       obstructive.

23              MR. SLIMAK: Do you have nothing new,  
24       sir?

25              MR. CRENNY: Mr. Slimak, please

1 Q. Now I'm going to re-ask the question so we know  
2 what it was.

3 Are you aware whether the hospital  
4 was willing to do whatever it would take and  
5 the law would require to accommodate  
6 Ms. Carlson so that she could return to work as  
7 a radiation therapist and have no ongoing work  
8 loss?

9 MR. CRENNY: Same objection.

10 A. No.

11 BY MR. SLIMAK:

12 Q. Now I know that you testified earlier that  
13 Ms. Carlson had worked at the hospital in this  
14 position for 12 to almost 13 years; is that  
15 correct?

16 A. Yes.

17 Q. And do you agree that with her training and  
18 background in this radiation technician area  
19 with that degree of experience that she was an  
20 extremely valuable and experienced employee  
21 that a hospital would want to keep working if  
22 at all possible?

23 MR. CRENNY: Objection. Do I have a  
24 continuing objection similar to the last one,  
25 sir? I don't want to interrupt you.

1 inappropriate. You're just being  
2 obstructionist.

3 MR. CRENNY: No, I'm not. I'm just  
4 making objections. If you'll agree that I have  
5 that continuing objection, I won't interrupt  
6 you. I don't mean to interrupt you.

7 MR. SLIMAK: I do think if you have  
8 an objection because of your prior position on  
9 such questions you should say same objection,  
10 and then we will understand that whatever it is  
11 that you have just been going on about would be  
12 what you meant in that regard. I think that's  
13 the easiest way to do it so that we know that  
14 you have an actual objection versus whether you  
15 don't have an objection to a particular  
16 question so we're not guessing when we go  
17 before the judge and have issues ruled upon.

18 BY MR. SLIMAK:

19 Q. Now let me re-ask the question.

20 Mr. Kenkel, do you agree that with  
21 Ms. Carlson's training and background as a  
22 radiation technician and radiation therapist  
23 and her 12 to 13 years' experience working in  
24 the radiation department of the DuBois Regional  
25 Medical Center that she would be an extremely

1       valuable and experienced employee that the  
2       hospital would want to keep working if at all  
3       possible?

4                   MR. CRENNY: Same objection.

5 A.     Yes.

6 BY MR. SLIMAK:

7 Q.     Are you aware of testimony that Attorney  
8       Crenney obtained from Mr. McKee at the DuBois  
9       Regional Medical Center where he testified that  
10      the hospital did feel she was a good employee?

11 A.    No.

12                  MR. CRENNY: Same objection.

13 BY MR. SLIMAK:

14 Q.     Are you aware of testimony that plaintiffs'  
15      attorney, Mr. Crenney, had developed under oath  
16      that Mr. McKee had called Paula Carlson in  
17      February of 2006 after he had spoke with  
18      Mr. Ray Graeca, the president of the medical  
19      center, and John Sutika, the vice president and  
20      chief financial officer, to reaffirm the  
21      medical center's position that they would like  
22      to work with her in terms of whatever she would  
23      be able to do when she could return to work?

24                  MR. CRENNY: Same objection.

25 A.    No.



1 BY MR. SLIMAK:

2 Q. Are you aware of testimony by Mr. McKee that  
3 Mr. McKee communicated to Paula Carlson that  
4 the medical center wished to work with her when  
5 it was identified that she would be able to  
6 return to work?

7 And what I mean by with work her,  
8 identified what she could and could not do and  
9 determine what accommodations we could make so  
10 it would be possible for her to return to work.  
11 Were you aware of that?

12 A. No.

13 MR. CRENNY: Same objection.

14 Q. That's at his deposition at page 18 and 19.

15 MR. CRENNY: Excuse me. I'm so  
16 sorry. Same objection.

17 BY MR. SLIMAK:

18 Q. And were you aware of Mr. McKee's testimony in  
19 that same deposition at page 21 when he was  
20 asked the question: And it was the medical  
21 center's position that you wanted her back and  
22 you would make every effort to accommodate her;  
23 is that correct? And his answer was: That's  
24 what our goal was, yes.

25 MR. CRENNY: Same objection.

1 BY MR. SLIMAK:

2 Q. Were you aware of that?

3 A. No.

4 MR. CRENNY: Same objection.

5 BY MR. SLIMAK:

6 Q. Are you aware Ms. Carlson testified in her  
7 deposition that there was a meeting set up by  
8 her supervisor, Rose Campbell, to talk to  
9 Ms. Carlson about when she could return to  
10 work?

11 A. No.

12 Q. Were you even provided with the sworn testimony  
13 of Ms. Carlson in her deposition?

14 A. No.

15 Q. Is it relatively common, sir, in gathering  
16 appropriate information to prepare a report and  
17 come into a court of law or give sworn  
18 testimony in a serious matter like this that  
19 you would often review deposition testimony of  
20 various witnesses if it is given to you by the  
21 attorney who hired you?

22 A. Yes.

23 Q. Do you agree that it's best to have complete  
24 information rather than incomplete information  
25 when you are making important forensic economic

1 Q. Now did you ask Mr. Crenney what all  
2 information was available to take into  
3 consideration to prepare your report?

4 A. No.

5 Q. If information would be provided to you that  
6 indicated that Ms. Carlson could return to work  
7 at the DuBois Regional Medical Center in her  
8 job position as a radiation therapist, would  
9 you have felt that was important information  
10 for you to consider?

11 MR. CRENNNEY: Same objection. May I  
12 add to that asked, asked, asked, and asked and  
13 answered. It's repetitive beyond belief.

14 MR. SLIMAK: Unfortunately because  
15 there's so many objections to everything I have  
16 to clarify. And this is actually a bit  
17 different than the prior questions because I am  
18 trying to avoid some of your on and on  
19 repetitive objections to every single question,  
20 sir.

21 BY MR. SLIMAK:

22 Q. You'll have to answer.

23 A. If I was provided information that I thought  
24 was relevant in making my projections that  
25 would change my projection, I would take it

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and correct copy of the foregoing MOTION IN LIMINE TO PRECLUDE DEFENSE'S CLAIM THAT PLAINTIFF MAY RETURN TO HER JOB AT DUBOIS REGIONAL MEDICAL CENTER was served by First Class Mail, postage prepaid on the 25<sup>th</sup> day of JANUARY, 2008, as follows:

Darryl R. Slimak, Esquire  
MCQUAIDE BLASKO FLEMING & FAULKNER, INC.  
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State College, PA 16801  
*(Counsel for Jerjis T. Alajaji, M.D.)*

Walter Fredrick Wall, Esquire  
120 Lakemont Park Boulevard  
Altoona, PA 16602  
*(Counsel for DuBois Radiologists, Inc.)*

David R. Johnson, Esquire  
THOMSON RHODES & COWIE  
Two Chatham Center, 10<sup>th</sup> Floor  
Pittsburgh, PA 15219  
*(Counsel for DuBois Regional Medical Center)*

  
\_\_\_\_\_  
Thomas E. Crenney, Esquire  
James T. Tallman, Esquire  
Attorneys for Plaintiff

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

PAULA CARLSON and  
JAMIE CARLSON, her husband,

Plaintiffs,

No. 2006-563-CD

Civil Action – Medical Professional  
Liability Action

vs.

JERJIS T. ALAJAJI, M.D., DUBOIS  
RADIOLOGISTS, INC. and DUBOIS  
REGIONAL MEDICAL CENTER,

Defendants.

**ORDER OF COURT**

AND NOW, this \_\_\_\_ day of \_\_\_\_\_, 2008, a Motion In Limine To Preclude Defense's Claim That Plaintiff May Return to Her Job at DuBois Regional Medical Center having come before the Court, upon consideration thereof, Motion is GRANTED and it is ORDERED, ADJUDGED and DECREED that Defendants are prohibiting from mentioning the claimed job offer or evidence of the offer is limited to the testimony already recorded of two witnesses, Rose Campbell and Robert McKee, who have already been deposed.

BY THE COURT

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

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

PAULA CARLSON and  
JAMIE CARLSON, her husband,

Plaintiffs,

vs.

JERJIS T. ALAJAJI, M.D., DUBOIS  
RADIOLOGISTS, INC. and DUBOIS  
REGIONAL MEDICAL CENTER,

Defendants.

No. 2006-563-CD

Civil Action – Medical Professional  
Liability Action

**PLAINTIFFS' MOTION TO STRIKE  
PORTIONS OF DR. MARK A. PIASIO'S  
DEPOSITION**

Filed on behalf of the Plaintiffs

Counsel of Records for this Party:

Thomas E. Crenney, Esquire  
PA I.D. No. 40986

James T. Tallman, Esquire  
PA I.D. No. 79257

THOMAS E. CRENNY & ASSOCIATES, LLC  
One Gateway Center  
18<sup>th</sup> Floor West  
Pittsburgh, PA 15222  
Telephone: (412) 644-5545  
Facsimile: (412) 644-5581

**JURY TRIAL DEMANDED**

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

|                                                                                                                                                                                                       |                                                                                |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------|
| PAULA CARLSON and<br>JAMIE CARLSON, her husband,<br><br>Plaintiffs,<br><br>vs.<br><br>JERJIS T. ALAJAJI, M.D., DUBOIS<br>RADIOLOGISTS, INC. and DUBOIS<br>REGIONAL MEDICAL CENTER,<br><br>Defendants. | No. 2006-563-CD<br><br>Civil Action – Medical Professional<br>Liability Action |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------|

**PLAINTIFFS' MOTION TO STRIKE PORTIONS OF  
DR. MARK A. PIASIO'S DEPOSITION**

AND NOW comes the Plaintiffs' by and through their attorneys and files the within motion to strike portions of the deposition of Dr. Mark A. Piasio. Said deposition transcript is attached as Exhibit "A" for the Court's reference.

1. **Plaintiffs' Objection, Pg. 83, lines 12-16 and 19-20.** Plaintiffs' counsel objected to the question asked at lines 8-9. Attorney Slimak following the objection re-asks the same question on page 84 lines 4 -14 and receives the same answer from Dr. Piasio. Plaintiff would simply ask that the question and answer be removed from **page 83, lines 8 -11** as it is repetitive.
2. **Plaintiffs' Objection, Pg. 94, lines 13-15. Objection, Pg. 95, lines 21-22. Objection, Pg. 98, lines 9-10.** Mr. Slimak at this point in the video deposition has taken parts of Ms. Carlson's medical records, blown them up, highlighted only particular portions of the medical record and is holding them up next to the doctor on the videotaped record. Mr. Slimak proceeds to read from Ms. Carlson's medical records that

have not been marked as an exhibit or properly moved into evidence. Mr. Slimak then publishes these highlighted medical records to the jury on the videotaped record without requesting this Honorable Court's permission.

A witness should not be permitted to show a document to the jury unless the document itself has been admitted. It is ordinarily within the discretion of the trial judge whether a document shall be read to the jury. At least on proper introduction it is not error to permit it to be read to the jury. Where documents have not been formally introduced into evidence, they may not be exhibited to the jury. 88 C.J.S. Trial Section 149 (2007).

Mr. Slimak was clearly taking advantage of the videotape setting to not properly follow any rules regarding the introduction of documents into evidence and the court's discretion as to whether any of these medical records in their highlighted fashion should be published to the jury on the videotaped record.

Additionally, Plaintiffs' counsel made an objection that the questions regarding her family medical history of cancer, blood in Ms. Carlson's urine, and prior back pain just to name a few were irrelevant to the issues in this case. Those objections are contained at **pages 95 and 98** of the transcript. In an effort to explain to this Honorable Court how the irrelevant questioning regarding Ms. Carlson's medical history went on for an extreme amount of time I draw the Court's attention to **page 98, lines 19 -25, page 99, lines 1 -25, and page 100, lines 1-7**. At this point in the record the witness himself stops the questioning by Mr. Slimak to ask the relevance of all of the questioning regarding the medical history and is in fact so confused he asks whether he should stop the deposition



and get counsel because he believes Mr. Slimak is trying to lay the foundation for a negligence case against him for treatment he rendered to Paula Carlson.

Plaintiff requests that all of the questioning involving Plaintiff Paula Carlson's medical history and the use on the video record of the highlighted medical records be stricken from the record as irrelevant and on the grounds that the documents were not properly admitted into evidence before being published to the jury.

3. **Plaintiffs' Objection page 108, lines 12-17.** Plaintiff objects to the extraneous comments by Mr. Slimak on page 108, lines 7 -11. The comments by Mr. Slimak are set forth below:

Now, I was looking at your records and report and Attorney Crenney read you certain portions of them, but there were other portions he had not read to you and so let me ask you about some aspects of that.

The commentary by Attorney Slimak is not a question and serves no purpose. He received no response from the witness at that point in the deposition. Plaintiff would ask that these comments be stricken from the record.

4. **Plaintiffs' Objection page 109, lines 7 -18.** Plaintiff objects to the use once again of the medical records of Dr. Mark Piasio's treatment of Paula Carlson that Mr. Slimak has chosen to blow-up, highlight certain portions of the documents and publish to the jury. Once again, Mr. Slimak has taken advantage of the videotape setting to not properly follow the rules and put a narrative report of a treating physician in front of the jury when it is not clear that this Honorable Court would have permitted the medical record to be published to the jury at all let alone with the selective highlighting.

Plaintiff ask that the portion of the videotape with Mr. Slimak holding up the highlighted narrative report be stricken from the record.

5. **Plaintiffs' Objection page 121, lines 8 -14.** Plaintiff objects to the questions asked by Mr. Slimak as repetitious and irrelevant. Counsel questions Dr. Piasio regarding past medical history, definitions of conditions, explanations of the different type of medical studies performed and numerous other topics that he repeatedly describes as background information. A great majority of the many questions are designed simply to distract, confuse the issues and mislead the jury. Plaintiff requests that this repetitive and irrelevant questioning by Mr. Slimak be stricken from the record.

6. **Plaintiffs' Objection page 142, line 25.** Plaintiff objects to Mr. Wall's question regarding how Dr. Piasio supervises and if he reviews chart entries made by his Physician Assistant. The defense in this case is to blame both Dr. Graeca and Physician Assistant, Lori Natoli for not figuring out what was wrong with Paula Carlson after they received A negative x-ray report from the Defendant, Dr. Alijaji. Dr. Piasio is not presented as an expert in this case. This is an improper line of questioning for a medical treater and this specific question is never completely answered by the doctor on the record. The only words on the transcript in the form of a answer from Dr. Piasio oat line 142 are "I rarely--- ." Plaintiff requests that the question and answer at **page 142, lines 22-24** be stricken from the record.

7. **Plaintiffs' Objection, pg. 151, line 25 and pg. 152, line 1.** Once again on the video record Mr. Slimak holds up a blow-up to be published to the jury. The documents itself can be best described as a demonstrative exhibit containing one word, in large bold letters, **ARTIFACT**. Mr. Slimak questioned Dr. Piasio on cross-examination

at length regarding his findings on the April 12, 2005 x-ray and then attempts on re-cross to ask the doctor for the spelling of the word artifact while holding a blow-up of the word on the video record. The document serves no purpose but to mislead and inflame the jury. Plaintiff requests that the question and answer be stricken from the record.

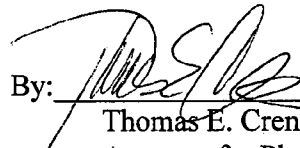
8. Finally, Plaintiff attaches a letter sent to all counsel dated January 24, 2008 submitting Plaintiffs' proposals for testimony to be stricken and voluntary withdrawal of Plaintiffs' objections in an effort to save the Court time. Said letter is attached hereto as Exhibit "B". As of this date, Plaintiff has received no response from any Defendant regarding said proposals. In addition, Plaintiff is adding to its removal of objections, Plaintiffs' objection at page 123, line 20.

WHEREFORE, Plaintiffs respectfully request that the above motion to strike testimony be granted.

Respectfully submitted,

THOMAS E. CRENNY & ASSOC., LLC

Date: 1/25/08

By:   
Thomas E. Crenney, Esquire  
Attorney for Plaintiffs

One Gateway Center, 18<sup>th</sup> Floor  
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1 IN THE COURT OF COMMON PLEAS OF  
2 CLEARFIELD COUNTY, PENNSYLVANIA

3

4 PAULA CARLSON and JAMIE  
5 CARLSON, her husband,

6

7 Plaintiffs, No. 2006-563-CD

8

9 - vs -

10

11 JERJIS T. ALAJAJI, M.D., VIDEOTAPE  
12 DuBOIS RADIOLOGISTS, INC., DEPOSITION OF:  
13 and DuBOIS REGIONAL MARK A. PIASIO, M.D.  
14 MEDICAL CENTER,  
15 Defendants.

16

17 DEPOSITION TAKEN:

18

19 January 22, 2008

20

21 Tuesday, 4:16 p.m.

22

23 FILED ON BEHALF OF:

24

25 Plaintiffs

26

27 COUNSEL OF RECORD FOR

28

29 THIS PARTY:

30

31 Thomas E. Crenney, Esq.

32

33 LAW OFFICES OF THOMAS

34

35 One Gateway Center

36

37 18th Floor

38

39 Pittsburgh, PA 15222

40

41 412-644-5545

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43 REPORTED BY:

44

45 Tammie Elias, RPR

46

47 Notary Public

48

49 AKF Ref. No. TE04821

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51

52

1 VIDEOTAPE DEPOSITION OF MARK A. PIASIO, M.D.,  
2 a witness, called by the Plaintiffs for examination,  
3 in accordance with the Pennsylvania Rules of Civil  
4 Procedure, taken by and before Tammie Elias, RPR,  
5 and Notary Public in and for the Commonwealth of  
6 Pennsylvania, at the offices of Dr. Piasio, 145  
7 Hospital Avenue, Suite 311, DuBois, Pennsylvania, on  
8 January 22, 2008, commencing at 4:16 p.m.

5

## 6 APPEARANCES:

7

## FOR THE PLAINTIFFS:

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8

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# EXAMINATION INDEX

MARK A. PIASIO, M.D

|                                   |     |
|-----------------------------------|-----|
| BY MR. CRENNY . . . . .           | 5   |
| CONTINUED BY MR. CRENNY . . . . . | 10  |
| BY MR. SLIMAK . . . . .           | 57  |
| BY MR. WALL . . . . .             | 137 |
| RE BY MR. CRENNY . . . . .        | 144 |
| RE BY MR. SLIMAK . . . . .        | 150 |
| RE BY MR. WALL . . . . .          | 152 |

CERTIFICATE OF REPORTER . . . . . 154

(ALL EXHIBITS WERE RETAINED BY PLAINTIFF COUNSEL)

1                                 - - - -

2                                 VIDEOGRAPHER: Good afternoon. My  
3 name is Matthew Martin, I'm the videographer.  
4 I'm here from AKF Court Reporting and  
5 VideoTech Services. Today's date is January  
6 22, 2008 and the time right now is 4:16 p.m.  
7 and that is indicated on the screen. We're  
8 here to take the video deposition of Dr. Mark  
9 Piasio in the case caption Carlson versus  
10 Alajaji. We are at 145 Hospital Avenue,  
11 DuBois, Pennsylvania 15801. The case is being  
12 heard in the Court of Common Pleas of  
13 Clearfield County, No. 2006-563.

14                                 Would counsel please identify  
15 themselves and whom they represent.

16                                 MR. CRENNY: Tom Crenney for the  
17 Carlsons.

18                                 MR. WALL: Walter Wall for DuBois  
19 Radiology, Inc.

20                                 MR. SLIMAK: This is Darryl Slimak,  
21 I represent Dr. Alajaji.

22                                 MR. JOHNSON: Dave Johnson, DuBois  
23 Regional Medical Center.

24                                 VIDEOGRAPHER: And if the Court  
25 Reporter may swear in the witness, we may

1 proceed.

2

3

4

5

MARK A. PIASIO, M.D.,  
having been duly sworn,  
was examined and testified as follows

6

EXAMINATION

7

8

BY MR. CRENNY:

9

Q. Doctor, could you state your name?

10

A. Mark A. Piasio.

11

Q. And what is your profession?

12

A. I am an orthopedic surgeon at DuBois Regional  
Medical Center.

14

Q. And what is your office address?

15

A. 145 Hospital avenue, Suite 311, DuBois,  
Pennsylvania.

17

Q. Where did you go to college?

18

A. Johns Hopkins.

19

Q. And where did you go to medical school?

20

A. Georgetown University.

21

Q. And could you just tell us about your medical  
training after you got out of medical school?

23

A. I spent two years at the Washington Hospital  
Center in general surgery, four years at Tufts

25



1 months at the New England Baptist Hospital in  
2 spine surgery.

3 Q. What's orthopedics generally?

4 A. Bone and joint.

5 Q. Are you a surgeon, are you an orthopedic  
6 surgeon?

7 A. Yes.

8 Q. Could you tell us about your average week? I  
9 realize probably there's no average week, but  
10 generally how you spend your time in terms of  
11 clinical, administrative, teaching, things  
12 that you do?

13 A. My job is a little bit more unique. At least  
14 over the past couple of years, I have had more  
15 administrative work, but generally speaking I  
16 would probably as chief of surgery here spend  
17 maybe ten percent of my time in administrative  
18 duties. When I occasionally have students,  
19 five to ten percent of my time in that and  
20 about 80 percent of my time in clinical  
21 duties. Of that time, I would put in maybe  
22 now about eight or nine, maybe eight hours of  
23 surgery a week and 30, 40 hours of clinical,  
24 of office based orthopedics.

25 Q. When you say here, what hospital are you

1           referring to?

2   A.     At DuBois, at DuBois Regional Medical Center.

3   Q.     And are you chief of surgery at DuBois

4           Regional Medical Center?

5   A.     Yes, I am.

6   Q.     How long have you held that position?

7   A.     I believe it's seven or eight years.

8   Q.     Did you also at least for a time work at

9           Clearfield Hospital?

10  A.     I worked at Clearfield from 1989 through 1997.

11  Q.     And what did you do over there?

12  A.     Was an orthopedic surgeon and I was the  
13           chairman of the quality assurance committee.

14  Q.     Are you board certified?

15  A.     Yes.

16  Q.     What's board certification and how do you  
17           become board certified?

18  A.     I can only speak from the prospective of the  
19           M.D.s. The D.O.s have their own certification  
20           process of which I'm not familiar. On the  
21           M.D. process in the specialty of orthopedic  
22           surgery, which I'm familiar, when you finish  
23           your orthopedic residency, if it's accredited  
24           and you complete it and you're given  
25           accreditation from your training program, you

1 take an oral examination and if you pass that  
2 oral examination, you have to practice for two  
3 years, at which point then you sit  
4 for -- correct, let me go back.

5 You take a written examination at  
6 the end of your training program. If you pass  
7 that exam, two years subsequent you have an  
8 oral examination that goes over, you know,  
9 what you know as well as what you've done,  
10 going over your particular -- the particular  
11 procedures that you do. You give them a case  
12 list and the examiners question you on that.

13 The process has changed a little bit  
14 since I took my initial oral examination.  
15 Every then every ten years subsequent, you  
16 have to retake either an oral or a written  
17 examination.

18 Q. How long have you been board certified?

19 A. I was board certified in 1991. I was  
20 recertified in I believe '97 or '98 and my  
21 re-recertification is coming up in 2011.

22 Q. Do you belong to the Pennsylvania Medical  
23 Society?

24 A. Yes, I do.

25 Q. What is that society?

1 A. It's a professional society representing -- we  
2 represent all the physicians in the  
3 Commonwealth, but we don't necessarily have  
4 them all as members. But we pretty much try  
5 to promote the profession and the general  
6 welfare through a professional organization no  
7 different than the bar association.

8 Q. About how many physicians are there in the  
9 society?

10 A. We have about 18,000 members.

11 Q. And did you ever hold office in that society?

12 A. Yes. I have been a county president in  
13 Clearfield County, chair of -- or vice chair  
14 of governing counsel of young physicians,  
15 board of trustees and recently I was president  
16 of the organization.

17 Q. Statewide?

18 A. Yes.

19 Q. Do you belong to any other professional  
20 societies?

21 A. I'm a member of the AMA. I'm a member of  
22 the -- I'm a fellow of the American College of  
23 Surgeons, a fellow of American Orthopedic  
24 Association, and a fellow of the -- what is  
25 it, College of Physician Executives.

1 Q. Doctor, have you written learned articles or  
2 have you published in your field?

3 A. I have, but not extensively. It's not been  
4 the thrust of my professional career.

5 Q. And do you commonly treat patients for  
6 orthopedic problems, problems involving their  
7 bones and joints?

8 A. Yes, I do. I would consider myself, although  
9 subspecialty trained, I'm a general orthopedic  
10 surgeon.

11 Q. What's your subspecialty training in?

12 A. I was trained in spine.

13 MR. CRENNY: Are there questions on  
14 qualifications?

15 MR. SLIMAK: I reserve my questions  
16 until later.

17 - - - -

18 CONTINUED EXAMINATION

19 - - - -

20 BY MR. CRENNY:

21 Q. Doctor, when did you first see Paula Carlson?

22 A. For accuracy I'm going to go to the chart  
23 because I don't know off the top of my head.  
24 In my chart I have here that I saw her first  
25 June 9th, 2005.

1 Q. And did you make a note of that first visit?

2 A. Yes, I did.

3 Q. And would you be kind enough to read the first  
4 paragraph of that note?

5 A. 6/9/05. Paula Carlson, date of birth  
6 4/26/1971. S, stands for subjective, this  
7 woman is self-referred for problems with her  
8 right wrist. She's a delightful 34 year old  
9 woman who works here as a radiation x-ray  
10 tech. She has had wrist pain now going on for  
11 about two to three months. She saw  
12 Dr. Graeca, reported no injury, and had radial  
13 wrist pain and the EMG study was done, which  
14 really was unremarkable for carpal tunnel.

15 Q. And we are looking at your note of that date;  
16 correct?

17 A. Yes.

18 MR. CRENNY: I'm going to mark that  
19 as Plaintiffs 3 and move it into evidence.  
20 Any objection?

21

22 (Exhibit 3 marked for identification.)

23

24 MR. WALL: No objection.

25 MR. JOHNSON: I object to the extent

1           that I'm not sure that medical records should  
2           be moved into evidence to go out with the  
3           jury, so I would object on that basis.

4                       MR. SLIMAK: I join in that.

5                       MR. CRENNY: Anything else,  
6           Mr. Slimak?

7                       MR. SLIMAK: No, I'm just waiting  
8           for your questions, sir.

9                       MR. CRENNY: oh, okay. I just  
10          wanted to be polite and give you a chance.

11 BY MR. CRENNY:

12 Q.       Doctor, when Paula Carlson first came to see  
13           you on June 9th, did you have access to films  
14           or computer images that had been taken on  
15           April 12th, 2005?

16 A.       Yes.

17 Q.       And was it your understanding that they had  
18           been -- and I will refer you to the last  
19           sentence in the fourth paragraph of your note,  
20           was it your understanding that those x-rays  
21           had been reported as normal?

22 A.       Yes.

23                       MR. SLIMAK: Objection.

24 BY MR. CRENNY:

25 Q.       If you would be so kind, would you read the

1 last sentence in the fourth paragraph of your  
2 note?

3 A. She had an x-ray, which was reported to be  
4 normal.

5 Q. Is that something you wrote?

6 A. Yes.

7 Q. Okay. Did you look at that computer image?

8 A. Yes.

9 Q. And what was your interpretation, what did you  
10 see?

11 A. I felt there was a lytic lesion on the ulnar  
12 aspect of the distal radius.

13 Q. Could you show us where that is, if you would  
14 be so kind using your own wrist?

15 A. If you would look at your wrist, the thumb  
16 side is the radial side and the pinky is the  
17 ulnar side. There are two bones in your  
18 wrist, there's one on the radial side, which  
19 is the bigger bone, and there's a little bone  
20 on the ulnar side. So it would be if you took  
21 the bigger bone, it would be on the pinky side  
22 of the bigger bone. Somewhere around the  
23 middle, would be about the middle of your  
24 wrist, would be where it would be located.

25 Q. And did you at that time decide to do another



1 x-ray on June 9th, 2005?

2 A. Yes.

3 Q. Were you able to do that right in your office?

4 A. Yes.

5 Q. Did you yourself interpret that x-ray?

6 A. Yes.

7 Q. I'm going to mark your interpretation as  
8 Plaintiff's Exhibit 4 and do you have access  
9 to that in your chart, Doctor?

10 - - - -

11 (Exhibit 4 marked for identification.)

12 - - - -

13 A. I have the reading in my chart.

14 BY MR. CRENNY:

15 Q. And naturally this was almost two months  
16 later, what was your interpretation of that  
17 right wrist x-ray that you ordered and  
18 interpreted that day?

19 A. My impression as I dictated at the time was  
20 lytic lesion, permeative without defined  
21 margins, distal radius. Considerations for  
22 giant cell or Ewings.

23 Q. And, Doctor, if you could refer back to your  
24 note of the narrative that you did of June  
25 9th, and in that regard I'll call your

1 attention to the bottom paragraph or at least  
2 the one with three or four sentences, do you  
3 comment on the x-ray on that note?

4 A. Yes.

5 Q. And this is the x-ray you took on the 9th?

6 A. Yes.

7 Q. And would you be kind enough to read what you  
8 wrote that day?

9 A. X-ray done from April shows a lytic lesion in  
10 the ulnar aspect of the distal radius. A  
11 repeat x-ray today shows more progressive  
12 changes of the lytic lesion with a much more  
13 worrisome peripheral margin. It is moth-eaten  
14 in nature, permeative and without sclerotic  
15 margins.

16 Q. What did you mean when you stated much more  
17 worrisome peripheral margin?

18 A. The perimeter of the lesion was not as  
19 discrete, meaning that it's difficult to say  
20 where the lesion ended and where it started.  
21 A margin on a bone lesion can be sclerotic  
22 where it has a rim of white or dense bone. It  
23 can be demarcated with no rim of bone or  
24 non-sclerotic, which was the original  
25 presentation. And then on the repeat film

1           that I did at that time, the margin was  
2           non-distinct.

3                       In other words, it was hard to tell  
4           looking at if you had to draw the lesion,  
5           where did it end. So the periphery seemed to  
6           blend -- the peripheral lesion seems to blend  
7           more into normal bone than a discrete line.

8   Q.     And what did you mean that it is moth-eaten in  
9           nature?

10  A.     Moth-eaten, it has little tiny punctate,  
11           thinned out bone. No different than if your  
12           sweater was in the closet and a moth had  
13           gotten at it. It would be little tiny  
14           perforations or thinning of the fabric. It  
15           looks as if similar -- if you look at a bone,  
16           the striations of the bone, it has what we  
17           call sort of a permeative moth-eaten. It's  
18           what we see in tumors where there's particular  
19           punctate, nondescript absences of bone.

20  Q.     Doctor, was this the same lesion that you saw  
21           when you reviewed the image from April 12th?

22  A.     Well, it looked different than the image in  
23           April.

24  Q.     How was it different?

25  A.     It appeared larger. And again like I

1 commented, larger and less distinct.

2 Q. Doctor, did you make a differential diagnosis  
3 after you saw Paula Carlson on June 9th?

4 A. Yes.

5 Q. And what was your -- first of all, what's a  
6 differential diagnosis?

7 A. It's a list of likely or probable diagnoses.

8 Q. And what was that?

9 A. My number one was giant cell, giant cell  
10 tumor, and number two was the Ewing sarcoma.

11 Q. At that time, did you make a treatment plan?

12 A. Yes.

13 Q. And is that contained under the rubric P in  
14 your note of June 9th, 2005?

15 A. Yes.

16 Q. And would you be kind enough to read that?

17 A. Obviously she needs a very aggressive  
18 immediate workup and we've scheduled it all  
19 done for today and tomorrow. A MR and bone  
20 scan has been ordered as well as full  
21 chemistry evaluation as well and I will see  
22 her back probably tomorrow.

23 Q. What is an MR?

24 A. Magnetic resonance or MRI.

25 Q. And what is the difference between an x-ray,

1 flat x-ray an MRI?

2 A. They all have their pros and cons or their  
3 ability to see different things. A plain  
4 x-ray is a little better to look at some bone  
5 issues, but it's only in a single plain. An  
6 MRI gives you three plain or 3D capacity to  
7 look at lesions and then it gives you a soft  
8 tissue comment as well. With the plain x-ray  
9 does not show you soft tissue to the level of  
10 an MRI.

11 A CAT scan can show you soft tissue  
12 as well. It's a little bit better defined for  
13 bone, but in this circumstance on physical  
14 exam where I thought there was fullness, that  
15 I felt there was some soft tissue comment, and  
16 if you're going to diagnose Ewings, you need  
17 to get a better look at soft tissue. So the  
18 MR particularly in that short time frame was  
19 an acceptable study.

20 Q. Doctor, did you see the patient again on June  
21 13th?

22 A. Yes.

23 Q. Had an MRI been done?

24 A. Yes.

25 Q. And did you have the results of that MRI?

1 A. I don't know if I had the results. I looked  
2 at it myself.

3 Q. What did you see, what was your  
4 interpretation?

5 A. Well, I gave -- at that time I ordered pretty  
6 much a full tumor workup. There are things  
7 that we do when we suspect a tumor to look at  
8 other areas that are going to guide how we're  
9 going to treat it, so i would have a chest  
10 x-ray and a lung CT ordered as well,  
11 particularly if you're looking at osteosarcoma  
12 or Ewings, which are metastatic to bone.  
13 That's the reason for the bone scan as well,  
14 trying to stage what she may have. It also is  
15 stuff that's going to have to get done when  
16 she eventually sees a tumor surgeon, which I  
17 am not.

18 The MR to me showed lesion in the  
19 ulnar aspect of the radius, I believe it  
20 penetrated the cortex. I did not appreciate a  
21 large soft tissue mass. The MR seemed to show  
22 a pretty good delineation of what the tumor  
23 was.

24 Q. What is the cortex?

25 A. It is the hard bone, the hard perimeter of

1 bone, whether it marrow or medullary cavity or  
2 cancellous bone is the internal bone.

3 Q. Did you make a further plan in terms of the  
4 treatment of Paula Carlson?

5 A. Well, from the time she first presented, the  
6 ultimate plan was referral because we don't  
7 have the capacity to do biopsy for that and I  
8 am not -- the first rule as a board examiner  
9 when you see a musculoskeletal tumor, you  
10 refer it to a musculoskeletal tumor expert.  
11 We don't treat them in the community, so the  
12 plan was referral, but it was to get as much  
13 done as possible before she had to go to  
14 Pittsburgh so that they could make a decision  
15 on a short basis.

16 The only question was whether or not  
17 she needed an arteriogram, which is debatable  
18 in this day and age with MR study, but at that  
19 point in time I thought it was giant cell. It  
20 met all the characteristics of a giant cell  
21 tumor.

22 Q. And did you say in your plan of June 13, I  
23 recommend fairly urgent referral to a tumor  
24 specialist?

25 A. Yes.

1 Q. And who did you refer her to?

2 A. Dr. Ken Yaw at UPMC.

3 MR. CRENNNEY: I would like to note  
4 that I have marked Dr. Piasio's note of June  
5 13, 2005 as Plaintiffs Exhibit 5 and I will be  
6 moving that into evidence as well as 4 noting  
7 your objections. You may have another same  
8 objection, Mr. Johnson and Mr. Slimak.

9 - - - -

10 (Exhibit 5 marked for identification.)

11 - - - -

12 MR. JOHNSON: Thank you.

13 BY MR. CRENNNEY:

14 Q. Had you worked with Dr. Yaw previously?

15 A. Yes.

16 Q. And why did you refer her to Dr. Yaw?

17 A. Several reasons, number one, there were not  
18 very many tumor -- musculoskeletal tumor  
19 specialists available. There are only two in  
20 the Pittsburgh area, both he and Dr. Goodman  
21 and I know both of them, they both do fine  
22 work and I use them both interchangeably.  
23 Generally who I can get into the quickest is  
24 usually who I'll use, but he's well respected  
25 and does fine appropriate work, so I have no



1 problem sending a patient to him.

2 Q. Did you have occasion incident to your  
3 administrative duties here at DuBois Regional  
4 Medical Center, to attempt to recruit Dr. Yaw  
5 to come to your hospital?

6 A. Yes.

7 Q. Did you decide to do a further study, a CT  
8 scan, on June 13th?

9 A. I believe we did because I had a day or two  
10 before I got her to Dr. Yaw and I really  
11 wanted to get as much done as I could, but I  
12 think that's the last that I saw her. I'm not  
13 even sure I saw the CT.

14 Q. I'm going to mark the CT report as Exhibit 6  
15 and if you don't have it, I can give you a  
16 copy?

17

- - - - -

18 (Exhibit 6 marked for identification.)

19

- - - - -

20 A. I have a copy of the radiology report. I have  
21 it here, yes.

22 BY MR. CRENNY:

23 Q. Was that read by Dr. Shah?

24 A. Yes.

25 Q. Did it show that soft tissue component that

1           you had talked about before?

2   A.     Yes.

3   Q.     Did you write a letter to Dr. Yaw regarding  
4           this patient?

5   A.     I know we called him to get her in as soon as  
6           possible. I generally do write a letter and  
7           I'm looking through my chart. I'm not sure he  
8           would have got it in time, but I'm sure I made  
9           comment to him. Let me see if I can find it.

10                   MR. CRENNY: I have marked that  
11           letter as Exhibit 7 and I'll be moving that  
12           into evidence with deference to your  
13           objections.

14                   - - - - -  
15           (Exhibit 7 marked for identification.)

16                   - - - - -

17   A.     Okay.

18   BY MR. CRENNY:

19   Q.     And rather than read the whole thing, would  
20           you read the last paragraph?

21   A.     I look forward to your thoughts and again,  
22           thanks so much for getting her in so quickly  
23           as it does appear this lesion does appear  
24           fairly rapidly growing.

25   Q.     Thank you, Doctor. Doctor, I'm going to show

1           you the report of April 12th, which I marked  
2           as Exhibit 8, and this is the film of April  
3           12th that you had access to when Paula first  
4           came in on June 9th.

5                       MR. SLIMAK: Objection leading. And  
6           he's holding a report, not a film.

7                       MR. CRENNY: I understand that.

8                       - - - - -

9           (Exhibit 8 marked for identification.)

10                      - - - - -

11 BY MR. CRENNY:

12 Q.       Would you identify Exhibit 8, what you're  
13       holding there?

14 A.       I'm holding a radiology report of an x-ray  
15       taken 4/12/05 for Drs. Kruk and Dr. Natoli and  
16       Graeca of a right wrist on Paula Carlson.

17 Q.       Is this a report of the image that you looked  
18       at on June 9th?

19 A.       I believe so.

20                      MR. WALL: I'm going to object. The  
21       Doctor would have to make assumptions on that  
22       unless he had seen that report when he treated  
23       the patient.

24 BY MR. CRENNY:

25 Q.       Doctor, did you see the report when you saw

1 the patient?

2 A. I don't believe so, but I don't routinely look  
3 for the radiology reports when I have the  
4 films, I can read my own.

5 Q. All right. As I recall, however, it was  
6 reported to you that this x-ray or computer  
7 image was reported at normal -- as normal,  
8 that's what you put in your note of June 9th;  
9 correct?

10 MR. SLIMAK: I'm going to object to  
11 the form because that was a report by  
12 Ms. Carlson to the doctor's notes. So I'm  
13 going to object to what your inference is,  
14 that this report was sent to the Doctor.

15 MR. CRENNY: Well, I'm not  
16 inferring or implying actually that this was  
17 sent to the Doctor.

18 BY MR. CRENNY:

19 Q. I'm going to ask you, what was your  
20 understanding of how the x-ray of April 12th,  
21 the one you looked at on June 9th, what was  
22 your understanding of how it was reported?

23 A. Well, since we're getting so technical, in  
24 looking back, it's my recollection that  
25 Ms. Carlson told me the x-ray was reported to

1 be normal.

2 Q. Okay.

3 A. Now, I don't recall if I read the x-ray report

4 specifically or not because when I saw the

5 film, I saw what I saw and did what I did. I

6 don't know, I can't recall exactly if I read

7 the report or not, but was under the

8 impression that it was reported as normal

9 because I was seeing her for carpal tunnel and

10 wrist pain supposedly with a normal x-ray.

11 Q. What does the Exhibit 8 -- you're holding

12 Exhibit 8, what does it say under impression?

13 MR. SLIMAK: I'm going to object

14 because this Doctor hasn't indicated that he

15 had a foundation for having reviewed the

16 course of his treatment. That seems to me

17 that at this point in time you're going beyond

18 in having or developing testimony as a fact

19 witness with regard to Dr. Piasio's care of

20 this particular patient, now you're trying to

21 introduce or have the Doctor expound and give

22 expert opinions and there's certainly been no

23 special report prepared in that regard to have

24 him comment on physicians reporting or have

25 him criticize it or comment on it or support

1           it or whatever.

2                   MR. CRENNNEY: Well, your objection  
3           is noted.

4                   MR. WALL: I join in the objection.

5 BY MR. CRENNNEY:

6 Q.       Let's mark your report, the report that you  
7       did provide.

8 A.       This, is that what you want?

9 Q.       Thank you, Doctor.

10 A.      I'll give you this as well.

11                   MR. CRENNNEY: I'm going to mark  
12      Dr. Piasio's report of --

13                   MR. SLIMAK: Which report is that?

14                   MR. CRENNNEY: It is a report of June  
15      11th, '07. It was filed with our pretrial  
16      statement.

17                               - - - - -

18                   (Exhibit 9 marked for identification.)

19                               - - - - -

20 BY MR. CRENNNEY:

21 Q.       And, Doctor, if you'd be kind enough to read  
22       the second paragraph of that report?

23 A.       What am I reading now? Oh, the letter?

24 Q.       It's called Exhibit 9, it's a letter that you  
25       wrote or a report that you filed in this case

- 1 A. A letter that I wrote to you June 11, '07?
- 2 Q. Yes, sir.
- 3 A. The second paragraph?
- 4 Q. Yes, if you would be so kind.
- 5 A. At that point in time review of her radiograph  
6 from my belief 4/12/05, revealed a lytic  
7 lesion on the ulnar aspect of the distal  
8 radius. I repeated the x-ray at that time to  
9 ensure that this was not artifact and indeed  
10 they were progressive changes of that lytic  
11 lesion. An immediate workup ensued including  
12 an MR study of the wrist, chest x-ray and  
13 blood work.
- 14 Q. Is that an accurate statement, Dr. Piasio,  
15 that second paragraph?
- 16 A. Yes.
- 17 Q. And was the radiograph that you looked at that  
18 day, was it normal?
- 19 A. The radiograph that was done in April or the  
20 one in June?
- 21 Q. The one on April 12th, was it normal?
- 22 A. In my opinion it was not.
- 23 Q. Was it negative?
- 24 A. I read a lesion.
- 25 Q. Thank you, Doctor. Doctor, also in that

1 report, Exhibit 9, would you be kind enough to  
2 read -- strike that question.

3 Doctor, by the way, you're here  
4 under subpoena today, are you not?

5 A. Yes.

6 Q. And if you would be kind enough to read the  
7 last paragraph of your report, the last longer  
8 paragraph?

9 A. She was found to have a giant cell tumor.  
10 Referred to Dr. Ken Yaw, who has treated her  
11 since. I have not had the opportunity to see  
12 Ms. Carlson in follow up and would be unable  
13 to comment on any continuing disability and  
14 would have to defer that to Dr. Yaw, who is  
15 much more familiar with her current situation.

16 Q. And are you comfortable with Dr. Yaw  
17 determining her current situation in the  
18 nature of her disability?

19 MR. SLIMAK: Objection.

20 MR. WALL: Objection.

21 MR. JOHNSON: I object to that, no  
22 proper foundation. Also, object on the basis  
23 of relevance.

24 BY MR. CRENNY:

25 Q. Is it accurate that Dr. Yaw is in a better



1 position to comment on her disability?

2 MR. SLIMAK: Same objection.

3 MR. JOHNSON: Same objection.

4 MR. WALL: Same objection.

5 MR. CRENNNEY: Excuse me, if you  
6 would be kind enough to just let me finish the  
7 question.

8 BY MR. CRENNNEY:

9 Q. Doctor, are you still comfortable with the  
10 paragraph that you just read?

11 MR. SLIMAK: Same objection.

12 BY MR. CRENNNEY:

13 Q. Is that your position today?

14 A. And I comfortable with the paragraph?

15 Q. Yes.

16 A. Yes. I have not seen Ms. Carlson in follow up  
17 since my initial evaluation.

18 Q. Okay. And is Dr. Yaw in a better position  
19 than you would be to determine her current  
20 disability?

21 MR. SLIMAK: Same objection.

22 MR. JOHNSON: Same objection.

23 MR. WALL: Same objection.

24 A. Do I still answer?

25 BY MR. CRENNNEY:

1 Q. You can answer.

2 A. Yes, I believe so.

3 Q. Thank you, Doctor. Now, Doctor, are those  
4 opinions expressed to a reasonable degree of  
5 medical certainty?

6 A. I would have to say so because I have rendered  
7 very little opinion.

8 Q. Okay. And -- that's true. That's true.

9 MR. CRENNY: If we could go off the  
10 record, gentlemen, I'd like to try to set up  
11 and see if we can take a look at the two  
12 images that we have discussed, the one of  
13 April 12th and the one of June 9th.

14 VIDEOGRAPHER: We are now going off  
15 the record. The time now is 4:46 p.m. and  
16 that's indicated on the screen. Please stand  
17 by.

18 - - - -  
19 (There was a discussion off the  
20 record.)

21 - - - -  
22 VIDEOGRAPHER: We're now back on the  
23 video record. The time right now is 4:53 p.m.  
24 and that's indicated on the screen. You may  
25 proceed.

1 BY MR. CRENNY:

2 Q. Doctor, I think we're looking at what a  
3 layperson would call an x-ray, I know it's a  
4 computer image?

5 A. It's a digital, a digital image.

6 Q. Could you tell me the date of that image?

7 A. April 12th, 2005.

8 Q. And, Doctor, how are you able to bring that up  
9 so that we can look at it today as part of  
10 this deposition?

11 A. We have what's called Packs or digital  
12 archiving of our x-rays here at DRMC. We'll  
13 able to do all of our radiology now is done  
14 digitally. So this would be an analog type of  
15 data is converted to digital data. Whereas,  
16 MRs and CTs are digital data and they are  
17 stored as such on a computer as opposed to on  
18 a piece of film. The advantage of this is the  
19 ability to archive and access files from  
20 anywhere in the world.

21 Q. And so basically have you asked this computer  
22 to give you the film, the x-ray that was done  
23 on Paula Carlson's wrist on April 12, 2005?

24 A. Yes. This computer is directly hooked up or  
25 linked to the hospital server computers where

1 all of our x-rays are archived --

2 Q. And that's what we have here?

3 A. -- since about 2005 when we instituted this  
4 type of radiology.

5 Q. And can we agree that that should be what  
6 Dr. Alajaji looked at, Alajaji?

7 A. I would assume so, yes.

8 Q. And you testified previously that you  
9 interpreted a lesion in the film of April  
10 12th, could you show us where that is?

11 A. Well, my original call was what's called a  
12 lucency or in this area right here on the  
13 ulnar side of the radius, appears to have less  
14 bone than the rest of the radius and there  
15 seems to be, although not very distinct, but a  
16 demarcated area where can you see there's less  
17 bone to where there's more normal bone and you  
18 can see it here, a little sclerotic rimming  
19 there or whiteness. But right in that area  
20 there, it looks like there's less bone than  
21 the rest of the -- of the rest and there's  
22 some other projections, which I can show you  
23 here.

24 And you might be able to -- with  
25 this little cursor, you can see a little bit

1           in there. Here's it's not as easily  
2           visualized. These are different positions of  
3           the wrist when x-ray is taken allowing us to  
4           try to get a 3D understanding where something  
5           maybe.

6   Q.     These are the lateral views we're looking at  
7           now?

8   A.     This is a lateral view, this is an oblique  
9           view.

10  Q.     Was it harder to see on those views?

11  A.     Yes. This AP view or front to back shooting  
12           it this way, is the easiest view.

13  Q.     And are you -- I assume as a layperson, do you  
14           have the mouse on the darker portion there  
15           that's in --

16  A.     Yes, right here.

17  Q.     And why is that darker portion significant in  
18           your interpretation?

19  A.     Well, areas that looked darker, areas that  
20           have less calcium, therefore, less bone. So  
21           we look for things like that, you have a  
22           fracture, there's a line because there's no  
23           bone, there's no bone in that area. Tumors,  
24           cysts and things of that nature, whether it's  
25           missing bone, they look darker or less white

1 or lucent.

2 Q. And, Doctor, can you show us the x-ray that  
3 you took, are you able to retrieve that, the  
4 one that you took on June 9th?

5 A. Yeah. You got to give me a minute here. June  
6 9th?

7 Q. Yes, the one you took that day.

8 MR. CRENNY: Should we go off the  
9 record for a moment, maybe we should.

10 VIDEOGRAPHER: We're now going off  
11 the record. The time right now is 4:57 p.m.  
12 and it's indicated on the screen.

13

- - - -

14 (There was a discussion off the  
15 record.)

16

- - - -

17 VIDEOGRAPHER: We are now back on  
18 the video record. The time right now is  
19 4:58 p.m. as indicated on the screen.

20 BY MR. CRENNY:

21 Q. What are we looking at now, Doctor?

22 A. We're looking at the right wrist of Paula  
23 Carlson, plain radiograph taken June 9th,  
24 2005.

25 Q. And is it different?

1 A. Yes.

2 Q. How has it changed?

3 A. Well, you can see here, the lucent area or the  
4 less white is considerably larger. There are  
5 areas outside that look, as I described  
6 earlier, permeative or moth-eaten. Still  
7 within -- looks to be within the bone in terms  
8 of the wrist joint cortex here, it looks like  
9 it maybe a little violated. And again here  
10 the margins are much less distinct, might be  
11 some fracture there.

12 And here at least I don't see  
13 breakthrough, although there's a little hint  
14 that there maybe some there. I can't tell for  
15 sure on this film if anything has come through  
16 the cortex or not, but the lucent area is  
17 larger.

18 Q. Thank you, Doctor.

19 VIDEOGRAPHER: We are now going off  
20 the record. The time right now is 4:59 p.m.  
21 Please stand by.

22 - - - -

23 (There was a discussion off the  
24 record.)

25 - - - -

1 BY MR. CRENNNEY:

2 Q. Doctor, who is your employer?

3 A. DuBois Regional Medical Center.

4 Q. And again you're under subpoena for this  
5 deposition; correct?

6 MR. SLIMAK: Asked and answered.

7 A. That's correct.

8 BY MR. CRENNNEY:

9 Q. Doctor, could I look at your chart, please?  
10 I'll give that back to you. Doctor, last  
11 week did you receive a letter from Mr. Slimak?

12 A. Yes.

13 MR. CRENNNEY: I'm going to mark that  
14 as Exhibit 10 and we only have one right now,  
15 so we'll share it.

16 - - - - -

17 (Exhibit 10 marked for identification.)

18 - - - - -

19 BY MR. CRENNNEY:

20 Q. And did it say that Mr. Slimak represented  
21 Dr. Alajaji and Paula Carlson was represented  
22 by a Pittsburgh attorney, Tom Crenney; is that  
23 right?

24 MR. JOHNSON: I'm going to object to  
25 any questions concerning this letter.



1 MR. WALL: Join in.

2 A. I don't remember specifically. I know it  
3 had -- the contents had some testimony that I  
4 had -- was aware of before and some new and  
5 was asked to review it.

6 BY MR. CRENNY:

7 Q. Well, let's just check the third paragraph and  
8 I'm going to read it and then give it to you.  
9 It has been indicated to me that you were not  
10 given full and complete information by  
11 Attorney Crenney as to why Dr. Alajaji, DuBois  
12 Radiologists, Inc., and the DuBois Regional  
13 Medical Center are defending this claim. Is  
14 that what that sentence says?

15 MR. JOHNSON: Object to the  
16 question.

17 MR. WALL: Join.

18 A. Yes.

19 BY MR. CRENNY:

20 Q. And as to that letter, is Paula Carlson copied  
21 on that letter?

22 A. I don't know. I don't think so.

23 Q. Is there any indication on the letter that --

24 A. No.

25 Q. -- that she received a copy?

1 A. No.

2 Q. Is there any indication that I received a  
3 copy?

4 A. No.

5 Q. And does Mr. Slimak choose to provide you all  
6 the expert reports in the case, is that what  
7 it says, both sides?

8 A. I was provided several reports, several of  
9 which I have already had the chance to review,  
10 and a couple that were new, some responses I  
11 think to some original reports of what I had  
12 not seen before. But some of the original  
13 expert reports I did have a chance to review.  
14 I don't know when, but in the past.

15 Q. Did I send you any expert reports, either my  
16 own or others?

17 A. I believe so.

18 Q. What was sent?

19 A. I reviewed a letter to Attorney -- is it  
20 Slimak, Slimak?

21 MR. SLIMAK: My name is Slimak, yes.

22 A. Slimak, okay. A letter from a Dr. Ross  
23 Horsley that was dated May 24, 2007 and a  
24 letter from a Dr. Richard Schmidt, June 28,  
25 2007. I believe that was it, those two

1 letters.

2 BY MR. CRENNY:

3 Q. You're not saying I sent you those, I mean I  
4 believe you got those from Mr. Slimak;  
5 correct?

6 MR. SLIMAK: I don't think so.

7 A. I think you sent me those.

8 MR. SLIMAK: Let's have that marked  
9 as an exhibit what you're referring to.

10 BY MR. CRENNY:

11 Q. Is there a cover letter for that, sir?

12 A. Yes.

13 MR. SLIMAK: Just so the record  
14 reflects, we're looking at the letter July  
15 2nd, 2007 from Thomas Crenney to Dr. Piasio  
16 enclosing two reports. We'll have a copy of  
17 that marked for the record then.

18 MR. CRENNY: I will indeed. If we  
19 can mark that as Exhibit 11.

20

- - - -

21 (Exhibit 11 marked for identification.)

22

- - - -

23 BY MR. CRENNY:

24 Q. Now, Doctor, did you read the further reports  
25 of Dr. Schmidt?

1 A. Yes.

2 Q. Reports that I had not sent you; correct?

3 A. Yes.

4 Q. And you were treating this patient in June of  
5 2005; correct?

6 A. For three days, yes.

7 Q. On the 9th and on the 13th?

8 A. 13th, four days.

9 Q. Are you familiar with the procedure that  
10 Dr. Yaw did in late June of 2005?

11 MR. WALL: Objection. I believe  
12 this witness is being called to make some  
13 assumptions and conclusions far beyond his  
14 practice and far beyond his knowledge.

15 MR. SLIMAK: I join in. He's  
16 already indicated he's not an orthopedic bone  
17 tumor specialist and had to make the referral  
18 out.

19 MR. JOHNSON: I join in those and I  
20 also join -- I also object on the basis that  
21 any such testimony would exceed the scope of  
22 the Doctor's report.

23 MR. SLIMAK: I join in that too.

24 MR. WALL: Join in.

25 BY MR. CRENNY:

1 Q. Doctor, could you give us a list of the  
2 reports that Mr. Slimak sent to you if you'd  
3 be so kind?

4 A. You'd have to give me them, I don't recall.

5 MR. JOHNSON: Objection, relevance.

6 MR. WALL: Join in.

7 A. A copy of the June 28th, 2007 report from  
8 Dr. Schmidt.

9 BY MR. CRENNY:

10 Q. June what, Doctor?

11 A. June 28, 2007. A report March 26, 2007 by a  
12 Dr. Anthony Mastropietro. A letter from Ken  
13 Yaw dated April 24, 2007 and a letter from Ken  
14 Yaw July 19th, 2007. A letter from Ken Yaw  
15 February 23rd, 2006 to Mr. Crenney from  
16 Dr. Yaw and March 7, 2006 from Dr. Yaw. A  
17 letter March 26 probably related to the report  
18 from and Anthony Mastropietro. A letter July  
19 30, 2007 from Dr. Richard G. Schmidt, that's  
20 July 30, 2007 and comment 2007. The same one,  
21 July 30, 2007.

22 Q. Are there two different reports, if you could  
23 take a look at that on July 30th, I think  
24 you'll find there are two?

25 A. Yes, there are two separate reports.

- 1 Q. Thank you, sir. Go ahead?
- 2 A. A letter from Dr. Lawrence Cooperstein, March  
3 25th and March 7th.
- 4 Q. Okay.
- 5 A. And a letter March 24th, 2007, I believe  
6 that's probably the same from Dr. Horsley and  
7 a June 6, 2007 Dr. Horsley. July 25th, 2007  
8 Dr. Cooperstein. July 24, 2007,  
9 Dr. Mastropietro.
- 10 Q. And so Mr. Slimak in fairness to him as far as  
11 you can tell, sent you all the reports?
- 12 A. Well, I don't know if it's all, but certainly  
13 more than I had seen in the past.
- 14 Q. Well, I'm not absolutely sure, but it looks  
15 like he covered all of them, he covered a lot  
16 of them; right?
- 17 A. I don't know what all would be. I mean I'm  
18 not -- I have been very peripherally involved  
19 in this case. I saw the woman for four days  
20 and haven't seen or treated her since. So  
21 what reports are out there, I don't know if  
22 this is all or one of many, I don't know.  
23 There are a lot of fair number of reports.
- 24 Q. Did you read all of Dr. Schmidt's reports?
- 25 A. I believe I read them all.

1 Q. Did he say that Dr. Yaw did the wrong  
2 operation in June of 2005?

3 A. Yes.

4 MR. WALL: Objection.

5 A. I believe so.

6 BY MR. CRENNY:

7 Q. Do you know the operation that Dr. Schmidt  
8 recommend, the allograph, the articular  
9 allograph?

10 A. Yeah.

11 MR. SLIMAK: Same objections as  
12 before, no qualifications or foundation.

13 MR. WALL: I join.

14 MR. CRENNY: I'm going to ask about  
15 that.

16 BY MR. CRENNY:

17 Q. Are you familiar with that procedure?

18 A. Yes.

19 Q. Are you familiar with the fusion, the  
20 operation that Dr. Yaw did?

21 A. Yes.

22 Q. And while you -- have you ever done those  
23 operations yourself?

24 A. No.

25 Q. Have you assisted in surgeries where that

1 procedure was done?

2 A. Yes.

3 Q. And have you treated patients and followed  
4 patients who have had both of those  
5 procedures?

6 A. Not really, not that I can really recall, not  
7 followed. I'm aware of them, I have done them  
8 as a resident, but -- wait, let me think. I  
9 don't think I have treated and followed  
10 specifically radial allograph or ulnar  
11 transposition or wrist fusion in my practice.

12 Q. Do you have an opinion as to whether both of  
13 those procedures would have been constituted  
14 reasonable courses of action for Paula Carlson  
15 in June of 2005?

16 MR. JOHNSON: Objection.

17 MR. WALL: Objection. This witness  
18 has not produced a report to put any of the  
19 defense counsel on notice of your intended use  
20 of him as an expert offering these opinions.  
21 My understanding was you referenced to the  
22 court as late as yesterday that this physician  
23 was going to be called primarily as a treating  
24 physician and we are certainly not prepared to  
25 cross examine or deal with this line of



1 questioning.

2 MR. CRENNY: Well, Mr. Slimak has

3 --

4 MR. SLIMAK: Also lack of  
5 qualifications established for a given opinion  
6 with regard to that type of issue.

7 MR. CRENNY: Just a second --

8 MR. JOHNSON: Let me get my  
9 objection on the record. I also object to it  
10 for the reasons that had been stated. I also  
11 object to it on the grounds that this witness  
12 is a factual witness. This witness is not  
13 obliged to offer opinion testimony,  
14 particularly having been subpoenaed, and I  
15 believe that you're putting the witness in an  
16 unfair position of soliciting opinion  
17 testimony from a factual witness.

18 MR. CRENNY: Let me just say a  
19 couple of things. One, that Mr. Slimak was  
20 certainly prepared to cross. Whether he gave  
21 you guys a heads up, I don't know.

22 MR. SLIMAK: Well, that's not for  
23 you to say and actually no basis. I had no  
24 idea that you had given him reports for sure  
25 before at which indicates that you were trying

1 to sandbag us in fact. That's what was going  
2 on.

3 MR. CRENNY: With greatest respect,  
4 I give you credit for brass. I didn't  
5 remember that I had provided those reports.

6 MR. SLIMAK: Well, I know what  
7 you're like.

8 MR. CRENNY: Well, I really wonder  
9 if that's necessary, Mr. Slimak.

10 MR. SLIMAK: Well, no, I know what  
11 you're like, you would feed him reports of  
12 various experts before you would take a  
13 deposition. It was obvious that you would do  
14 that.

15 BY MR. CRENNY:

16 Q. Did we talk about those reports, the reports I  
17 gave you in the time that we were preparing,  
18 Doctor, the two that you found I gave to you?

19 MR. JOHNSON: Objection relevance.

20 BY MR. CRENNY:

21 Q. Did we talk about them, did I bring them up,  
22 those two reports?

23 A. No. Most of the reports I have kept to  
24 myself. Although, I will admit from the very  
25 beginning, I don't know if I can say this --

1 can you go off the record? We can't go off  
2 the record.

3 Q. Sure, you can go off.

4 MR. CRENNNEY: We'll go off the  
5 record.

6 VIDEOGRAPHER: We are now going off  
7 the record. The time now is 5:14 p.m. as  
8 indicated on the screen.

9 - - - -

10 (There was a discussion off the  
11 record.)

12 - - - -

13 VIDEOGRAPHER: We are now back on  
14 the video record. The time right now is  
15 5:15 p.m. as indicated on the screen. You may  
16 proceed.

17 BY MR. CRENNNEY:

18 Q. Mr. Slimak has accused me of being a  
19 sandbagger --

20 MR. SLIMAK: I'm going to object.  
21 This is on the videotape and now we're being  
22 inappropriate with your questioning and need  
23 to strike. You're being argumentative as  
24 well.

25 MR. CRENNNEY: And it seems a bit

1 unfair that he would make that accusation.  
2 Mr. Slimak sent all of the experts reports to  
3 a treating physician, all of them, in  
4 saying -- and sent a letter saying that I had  
5 been unfair and he did that, he violated the  
6 privacy of Paula Carlson. I believe he  
7 violated Pennsylvania Rules of Procedure  
8 4003. I wasn't going to bring this up, I was  
9 going to let it go.

10 MR. WALL: Is there a reason this is  
11 going on because it's not going to be played  
12 for the jury, so what are we doing on the  
13 record here?

14 MR. CRENNY: Because I need to make  
15 a record for whatever court decides this issue  
16 and Mr. Slimak has made this accusation,  
17 Mr. Wall. I didn't make it. I don't like  
18 handling it this way. For him -- I'd like the  
19 chance to finish.

20 MR. WALL: Let's gets done with it.

21 MR. SLIMAK: It's inappropriate for  
22 the video record.

23 MR. CRENNY: I think it's -- be cut  
24 from the video just like -- I think it's very  
25 unfair and most importantly, in terms of

1 responding to the objection, it is Mr. Slimak  
2 who on the eve of this deposition, said here  
3 is the material that's relevant, here is the  
4 material you should look at. And I think if  
5 things have turned out differently, he would  
6 think it was a very good idea that it be  
7 looked at by the Doctor and that's exactly  
8 what he intended. So I don't know what the  
9 basis of his objection is.

10 MR. SLIMAK: That's because you had  
11 to presented only some of the reports to the  
12 Doctor.

13 MR. CRENNY: You don't have the  
14 slightest idea about that. I didn't even know  
15 it.

16 MR. SLIMAK: You were sandbagging  
17 that. It has your name on your letterhead.  
18 Mr. Crenney, now that is very disingenuous of  
19 you.

20 MR. CRENNY: You continue to use  
21 that word and given what you have done, you  
22 didn't know about that. I had forgotten and  
23 for you to continue to use that word, I don't  
24 think is appropriate. I'm going to move on.

25 MR. SLIMAK: You're forgetting what

1           you have done --

2                   MR. CRENNNEY: I'm going to move on.

3                   MR. SLIMAK: Does not make it  
4           disingenuous for you to deny it.

5                   MR. CRENNNEY: I'm going to move on  
6           and talk to you maybe after the deposition  
7           about what I think is the appropriate action  
8           in this case. These other guys don't want to  
9           listen to this, I'm sure the judge won't want  
10          to listen to it either.

11 BY MR. CRENNNEY:

12 Q.       Doctor, you specifically do not wish to give  
13       an opinion in this case on standard of care;  
14       correct?

15 A.       The two standards upon which I would be asked,  
16       one radiology, I am not a radiologist. I'm an  
17       orthopedic surgeon, and so I cannot comment on  
18       the standard of care of a radiologist. Two, I  
19       am a general orthopedic surgeon, I am trained  
20       in tumor and have to answer questions in  
21       tumor, but I don't specifically treat tumor,  
22       nor did I have subspecialty training in  
23       musculoskeletal management, although it is not  
24       foreign to me.

25                   I can testify as a generalist that

1 understands and knows treatment of tumor, but  
2 not as a subspecialist in that regard. So I  
3 would want everyone to understand what the  
4 level of -- the level of my -- my level of  
5 expertise is.

6 Q. Well, Doctor, you read Schmidt's report and  
7 you know he said that Yaw's surgery was the  
8 wrong surgery to do and that the allograph  
9 would have been the right surgery. And my  
10 question to you, do you feel comfortable in  
11 your -- do you feel comfortable in answering  
12 the question, were both reasonable options,  
13 that's all I'm asking you?

14 MR. WALL: I'm going to object for  
15 the record. Can we have a continuing  
16 objection to every opinion you're seeking of  
17 him regards any other doctor's report?

18 MR. CRENNY: In regards to these  
19 reports he has received, sure, Mr. Wall,  
20 absolutely.

21 MR. SLIMAK: I want to renew my  
22 objections on the same basis as previously  
23 stated.

24 MR. JOHNSON: I object on the basis  
25 that it's not an issue of whether the Doctor

1 is comfortable or not comfortable in rendering  
2 an opinion, it's an issue that it's beyond the  
3 scope of any report that's been prepared by  
4 the Doctor. It's also the situation that this  
5 witness is a factual witness who has not been  
6 retained as an expert and I believe it's  
7 unfair and inappropriate to solicit any  
8 opinions from him.

9 MR. CRENNY: I would agree with  
10 that and it wouldn't have happened if  
11 Mr. Slimak hadn't sent this letter accusing me  
12 of foul play and all of these reports which  
13 you --

14 MR. WALL: It has nothing to do with  
15 Mr. Johnson's client or my client

16 MR. CRENNY: Maybe so.

17 MR. SLIMAK: It had nothing to do  
18 with your having sent reports, plus your  
19 having met with the Doctor beforehand?

20 MR. CRENNY: He's the treating  
21 Doctor, Mr. Slimak, you know better than  
22 that.

23 MR. SLIMAK: Of course, I do. But  
24 he's an employee of the hospital and you're  
25 soliciting reports and opinions and meeting



1 with an employee of the hospital who's a  
2 defendant in this case.

3 MR. CRENNY: I'm asking him about  
4 the reports that you sent him.

5 BY MR. CRENNY:

6 Q. Do you feel you have the expertise to make a  
7 call on that, whether that was the wrong  
8 surgery to do?

9 MR. JOHNSON: That's a different  
10 question --

11 MR. WALL: That's a different  
12 question.

13 MR. JOHNSON: And I object to it for  
14 the same reasons as the last question.

15 MR. CRENNY: Go ahead. You have  
16 all the objections you want to.

17 MR. JOHNSON: And I also would  
18 appreciate it if you would advise the witness  
19 that as a factual witness, he has the ability  
20 to decline to offer any opinions.

21 MR. CRENNY: Absolutely. If you  
22 don't --

23 BY MR. CRENNY:

24 Q. What I'm asking you is we have got this guy  
25 Schmidt saying Yaw did the wrong surgery, he's

1           accusing him of malpractice --

2                   MR. SLIMAK:  Objection.

3                   MR. WALL:  Objection to that  
4           characterization.

5                   MR. SLIMAK:  That's totally improper  
6           for you to --

7                   MR. WALL:  There's only one of two  
8           problems and it's yours.

9                   MR. CRENNY:  No, there are two  
10          others.  Mr. Slimak has accused Dr. Yaw of  
11          malpractice and Dr. Graeca of malpractice and  
12          we all know it and he knows it because he's  
13          read the records.

14                   MR. WALL:  It's not malpractice.

15                   MR. CRENNY:  Please.

16                   MR. SLIMAK:  He had a error in  
17          judgment.

18                   MR. CRENNY:  A change, that's a  
19          distinction without a difference.

20                   MR. SLIMAK:  That's a legal  
21          distinction.

22  BY MR. CRENNY:

23  Q.       You have every right not to answer that  
24          question.  Mr. Johnson is 100 percent correct  
25          and in fairness to you, if you don't want to

1           answer it, don't answer it. If you want to  
2           answer the question of whether Doctor --

3   A.       I can answer the question to the level of my  
4           training. It is my understanding that both of  
5           those procedures are surgical alternatives for  
6           the tumor at hand. I cannot tell you which is  
7           the preferable procedure in the literature or  
8           which is better in any one particular  
9           surgeon's hands. Generally the best procedure  
10          is the one you do best and -- but I do know  
11          that both are accepted procedures for that  
12          tumor.

13                       MR. WALL: Move to strike.

14                       MR. SLIMAK: Same.

15                       MR. JOHNSON: Join.

16                       MR. CRENNY: That's it. The other  
17          lawyers are going to have questions for you.

18   A.       Certainly.

19                       VIDEOGRAPHER: We are now going off  
20          the video record. The time right now is  
21          5:22 p.m. This will mark the end of tape  
22          number one of the video deposition. Please  
23          stand by.

24                       - - - -

25                       (There was a discussion off the

1 record.)

2

- - - -

3 VIDEOGRAPHER: We're now back on the  
4 video record. The time right now is 5:42 p.m.  
5 that's indicated on the screen. This marks  
6 the beginning of tape number two. You may  
7 proceed.

8

- - - -

9 EXAMINATION

10

- - - -

11 BY MR. SLIMAK:

12 Q. Hello, Dr. Piasio. I want to follow up with  
13 some questions that Attorney Crenney had posed  
14 to you.

15 A. Sure.

16 Q. And at one point in time you said that he had  
17 sent you a subpoena for this deposition; is  
18 that correct?

19 A. Yes.

20 Q. Did he just sent it by mail or did he send it  
21 through the sheriff?

22 A. I don't know.

23 Q. Isn't there a letter, cover letter, saying  
24 that he sent it along?

25 A. I didn't pay any attention to it.

1 Q. So doesn't it say on this letter by Attorney  
2 Crenney he did not use the sheriff's office to  
3 serve a subpoena, but rather he sent it by  
4 Federal Express to deliver and serve you with  
5 a subpoena, isn't that what it says?

6 A. Okay.

7 Q. Do you agree?

8 A. I guess. I don't know. I mean you're way out  
9 of my field. I mean I'm assuming it was sent  
10 by Federal. I had asked to have it sent.

11 Q. Did you ask to have it sent because your wife  
12 had told you that, well, if you're giving a  
13 deposition, you better get a subpoena for  
14 that?

15 A. Because I'm a hospital employee and they are  
16 named in the suit, she's recommended for my  
17 own good that I be subpoenaed.

18 Q. And so then you conveyed that to Mr. Crenney  
19 and then he sent you one by mail; is that  
20 correct?

21 A. I believe that's correct.

22 Q. But he apparently to your knowledge did not  
23 follow the procedure of sending it by the  
24 sheriff?

25 A. I don't know what the procedure is.

1 Q. Now, with regard to your contacts with  
2 Mr. Crenney over the years, is it correct that  
3 it goes back in time even before the lawsuit  
4 had been filed?

5 A. I don't know when the lawsuit was filed, but  
6 we have communicated over some time prior to  
7 all of this occurring.

8 Q. And did you require subpoenas for any of that?

9 A. No.

10 Q. In fact, have you had several conversations  
11 with him on the telephone and several  
12 exchanges of correspondence with Mr. Crenney  
13 without needing any subpoena at all?

14 A. Yes.

15 Q. And, in fact, did you get a contact from a  
16 Dr. Yaw indicating that, hey, I want to let  
17 you know about this attorney Mr. Crenney and  
18 did you make a note of that in your chart?

19 A. Yes.

20 Q. And what I'm showing you, is this part of your  
21 chart?

22 A. Yes.

23 Q. And I'd like to have the videographer focus in  
24 on that. Did you make a note on April 3rd of  
25 2006?

1 A. I have -- I'm looking at this note. I have  
2 no -- nothing written on that. This is not my  
3 signature.

4 Q. Yes.

5 A. I didn't make this note.

6 Q. Would the usual practice in your office be  
7 that your staff takes a phone message, they  
8 write you a note, and then you would provide  
9 you the note, and then you would review it;  
10 correct?

11 A. Yes.

12 Q. So then the note becomes part of your chart;  
13 correct?

14 A. Yes.

15 Q. Does this note indicate that can you return  
16 his call at your convenience next week, Thomas  
17 Crenney, Attorney, and you had a phone number;  
18 correct?

19 A. Correct.

20 Q. Does it look like a cell phone number or toll  
21 free number?

22 A. I believe it's probably toll free.

23 Q. And then Ken Yaw, did you get a call according  
24 to this note from Ken Yaw, orthopedic  
25 oncologist, spoke to you about this attorney?

1 A. Yes.

2 Q. Did you understand that he was calling you,  
3 Dr. Yaw, to tell you about Attorney Crenney?

4 A. Yes.

5 Q. And at that point in time, did they give you  
6 any reports at that point in time?

7 A. Any reports?

8 Q. Yes.

9 A. No, I don't believe so. This is all  
10 recollection for me. I don't have specific  
11 time frames.

12 Q. Now, over the months and years since that time  
13 up to the present time, have you had several  
14 other contacts with Mr. Crenney or his staff?

15 A. Yes.

16 Q. And, in fact, was there a period of time back  
17 in July of 2007 that Mr. Crenney on his  
18 signature on his letterhead had sent you this  
19 letter, Dear Dr. Piasio, enclosing with that  
20 some reports?

21 A. That's correct.

22 Q. And that pertains to the Paula Carlson matter;  
23 correct?

24 A. Correct.

25 Q. Did he give you as many reports as I had given



1           you in a subsequent letter when Mr. Crenney  
2           sent you his letter?

3   A.    No. I believe, if I can recall, there were  
4           two reports, one was from I believe a  
5           Dr. Horsley or something like that and one was  
6           from a Dr. Schmidt.

7   Q.    Okay. And so Mr. Crenney at that point in  
8           time through this letter had given you a  
9           couple of the reports and did he also ask you  
10          that these doctors will testify consistent  
11          with these reports? Once you had the  
12          opportunity to read them, would you be kind  
13          enough to give me a call; is that correct?

14   A.    Yes.

15   Q.    And did he give you a call after doing that  
16          providing you with the reports, some reports?

17   A.    As I recall, I believe so. Again I did not  
18          make record of any phone conversations.

19   Q.    And then I'm going to show you another  
20          document that we had from your file. Can you  
21          identify this as a document, it's another  
22          letter, now, September 18, 2007 from Attorney  
23          Crenney to you, Mark Piasio, M.D.?

24   A.    Yes.

25   Q.    And did he indicate that he was intending to

1 call you to give testimony in this letter?

2 A. Yes.

3 Q. Now, previously there were questions asked of  
4 you and probably marked as an exhibit in this  
5 case, a letter that you had authored written  
6 to Mr. Crenney; is that correct?

7 A. Yes.

8 Q. Do you remember writing him --

9 A. Yes, yes.

10 Q. -- Mr. Crenney a letter --

11 A. Yes.

12 Q. -- of June 11, 2007?

13 A. Yes.

14 Q. And I'm going to approach you with that, if I  
15 may. And is this the letter then that you  
16 wrote Mr. Crenney June 11, 2007?

17 A. Yes.

18 Q. Did Mr. Crenney talk to you or ask you for  
19 this letter in some fashion?

20 A. I could only -- I would have to assume yes.

21 Q. Okay.

22 A. But I don't -- I would not just send a letter  
23 for no reason.

24 Q. Well, it says this letter is in response to  
25 need for clarification of my medical records

1 of Paula Carlson, referring to my being you;  
2 correct?

3 A. Correct

4 Q. So in some fashion, had Mr. Crenney contacted  
5 you before this letter to ask you to write  
6 this letter?

7 A. I would believe so, yes.

8 Q. In that regard, did Mr. Crenney contact you by  
9 telephone or did he write you a letter to ask  
10 you to contact him to write a report for  
11 clarification?

12 A. I can't recall. I believe by phone.

13 Q. So did he subpoena you before asking you --

14 A. No.

15 Q. -- to talk about this matter?

16 A. No, no.

17 Q. And in that regard then, did you call him up?

18 A. Yes.

19 Q. Did he tell you what he wanted you to write  
20 about in your letter?

21 A. The clarification of what my involvement was,  
22 as I recall in the case, what I thought I saw  
23 at the time.

24 Q. So what you thought you saw at the time is  
25 what you wrote in this letter of June 11,

1 2007; correct?

2 A. Yes.

3 Q. And at that time, referring back to when you  
4 had the office visits back in June of 2005?

5 A. Yes; it was reference with those two visits.

6 Q. We'll get into that in a little further in  
7 just a few minutes. Now, prior to today's  
8 deposition, did you meet with Mr. Crenney?

9 A. Yes.

10 Q. And did you meet with him for awhile before  
11 you started your testimony today?

12 A. Not much.

13 Q. Was it five minutes, ten minutes, more?

14 A. Maybe five, five to ten.

15 Q. And did you go over a number of things that  
16 Mr. Crenney was going to ask you about and  
17 testify to?

18 A. Just that I only wanted to stipulate as to  
19 what I saw.

20 Q. Yes, okay. Now, with regard to that meeting,  
21 was there any other of the attorneys  
22 representing the hospital, your employer,  
23 present, was there an attorney present for  
24 DuBois Radiologists, Inc. or was there  
25 Dr. Alajaji's attorney present for that

1 meeting?

2 A. No.

3 Q. Was it just a meeting between you and  
4 Mr. Crenney?

5 A. Yes.

6 Q. And was it held back here in this office?

7 A. It was held in one of the exam rooms. They  
8 were setting up for videography at the time.

9 Q. So the two of you went to a private office; is  
10 that correct?

11 A. Yes.

12 Q. And no one else was present and the two of you  
13 talked?

14 A. Yes.

15 Q. Then you started this deposition shortly after  
16 that?

17 A. Yes.

18 Q. All right. Now, I want to go back and discuss  
19 aspects of some other matters, if I may. I  
20 have been moving around here a little bit.  
21 With regard to the letter I had sent to you  
22 with a variety of reports, did I send you  
23 reports from both the plaintiffs and the  
24 defendants experts?

25 A. Yes.

1 Q. Did I indicate in my letter that was not read  
2 out into the record previously, that I sent  
3 them to you in the interest of fairness and  
4 understanding, that I included the reports of  
5 both parties experts; correct?

6 A. Correct.

7 MR. JOHNSON: So that I may preserve  
8 my objections, I object to any questioning at  
9 this time regarding those letters as well..

10 MR. SLIMAK: I'm only asking those  
11 questions because right now we have a  
12 videotape record that Mr. Crenney has asked  
13 questions about that were duly objected to.

14 MR. JOHNSON: I understand. I just  
15 didn't want there to be any inference of a  
16 waiver.

17 MR. SLIMAK: I understand. There is  
18 none.

19 BY MR. SLIMAK:

20 Q. Now, let me ask you some questions about Paula  
21 Carlson's care that you were involved with,  
22 okay, plus I want to ask you some questions  
23 about your background, experience in this  
24 area. I think you indicated previously in  
25 your testimony that you're not qualified to

1 give testimony as to the standard of care of a  
2 radiologist; correct?

3 A. I believe that's correct.

4 Q. Yes. And your training in board certification  
5 and medical practice is as an orthopedic  
6 surgeon; correct?

7 A. Correct.

8 Q. And I think you went through aspects of your  
9 qualifications as I take it you have some very  
10 extensive specialized training as an  
11 orthopedic surgeon; correct?

12 A. Yes.

13 Q. And then you went onto specialize in  
14 fellowship training in the area of orthopedic  
15 surgery or orthopedics; correct?

16 A. Yes.

17 Q. And what was that area again?

18 A. Spine.

19 Q. The spine. And then since your practice, you  
20 focused in on general orthopedic surgery I  
21 think you testified to; correct?

22 A. That's correct.

23 Q. Am I correct that you do not hold yourself out  
24 as an orthopedic subspecialist in bone tumors?

25 A. Correct.

1 Q. In fact, if one of those would develop or be  
2 seen or thought to be there in your practice,  
3 you would make a referral out to someone else;  
4 correct?

5 A. I would make a referral for definitive  
6 treatment, yes.

7 Q. Yes. And because you're in Clearfield, do you  
8 typically refer toward the Pittsburgh area  
9 rather than the Philadelphia area?

10 A. That's closer, yes.

11 Q. Closer for your patients; correct?

12 A. Right.

13 Q. And so that's the usual direction you would  
14 send them; correct?

15 A. Usual and I'm very comfortable with the care  
16 they receive.

17 Q. I understand. Now, with regard to your  
18 practice, do you get to personally see the  
19 patient and take a history from the patient,  
20 examine the patient, order and pull up a  
21 review x-rays or MRIs or other imaging  
22 studies, make a diagnosis and treat the  
23 patient, is that how you go about your  
24 practice?

25 A. Pretty much, right.



1 Q. And based on your experience, is that  
2 different than what a radiologist does?

3 A. A radiologist generally doesn't have an  
4 opportunity to see a patient.

5 Q. Okay.

6 A. Unless they are doing invasive procedure or  
7 something of that nature.

8 Q. But a plain x-ray is not an invasive  
9 procedure; correct?

10 A. Correct. They would not see a patient.

11 Q. Have there been any times in your practice  
12 over the years where you could not make a  
13 diagnosis based on standard x-rays alone and  
14 had to either repeat the x-ray sometime later  
15 to compare and see if anything had changed or  
16 order other imaging studies, such as an MRI,  
17 CT scan in order to help you diagnose your  
18 patient?

19 A. Certainly.

20 Q. Do you agree that is helpful to an orthopedic  
21 surgeon such as yourself in an attempt to  
22 reach a diagnosis, to have the ability to  
23 personally examine the patient, take a history  
24 of the patient's condition from the patient,  
25 ask the patient questions, and to order and

1           obtain and review the various studies and  
2           tests, do you find that helpful?

3   A.     Yes, sure.

4   Q.     Now, do you agree giant cell tumor is a rare  
5           condition?

6   A.     Yes.

7   Q.     Prior to Mrs. Carlson's situation, had you  
8           ever personally seen and diagnosed a giant  
9           cell tumor of the radius bone in your practice  
10          at DuBois Regional Medical Center?

11  A.     Not of the radius bone.

12  Q.     How many patients have you seen over the years  
13          with some types of wrist pain?

14  A.     Wrist pain?

15  Q.     Yes.

16  A.     Hundreds, thousands.

17  Q.     How many years have you been in practice here?

18  A.     20 years.

19  Q.     And over all of that time, there have never  
20          been a giant cell tumor of the wrist?

21  A.     Of the wrist?

22  Q.     Yes.

23  A.     No.

24  Q.     I'm correct? I just want to clarify what your  
25          answer is? I believe that's what you were

1 saying earlier.

2 A. I would have to surmise a response because I  
3 can't say for sure what I did over 20 years.  
4 I can't recall anyone specifically, but I  
5 can't say for a fact that I have never seen a  
6 giant cell of the wrist in my practice.

7 Q. In your training, had you been trained on  
8 giant cell tumors specifically?

9 A. Yes.

10 Q. And had you seen them in your residency  
11 training as an orthopedic surgeon with the  
12 advanced training that you underwent?

13 A. Yes.

14 Q. Had you seen them in advanced stages?

15 A. Advanced stages?

16 Q. Yes.

17 A. No.

18 Q. Had you seen them --

19 A. Well, I really don't recall. That's quite  
20 awhile back. I can't remember all the cases I  
21 had as a resident.

22 Q. Do you recall in your training, and you  
23 trained at where, Johns Hopkins, where else?

24 A. I went undergrad at Johns Hopkins.

25 Q. Where else?

1 A. I trained at the Washington Hospital Center in  
2 general surgery, Tufts University in  
3 orthopedics and the New England Baptist  
4 Hospital in spine.

5 Q. At some of those facilities, had you been  
6 introduced in some fashion to giant cell  
7 tumors that a patient had happened to come in?

8 A. I have seen them at some point in my residency  
9 training and actually did some tumor modeling  
10 research at IH when I was in Washington on  
11 giant cells.

12 Q. So at some point in your past career, you had  
13 some specific interest in giant cell tumors to  
14 whatever degree you have just been talking  
15 about?

16 A. I was certainly trained to diagnose and  
17 recognize them.

18 Q. Specifically giant cell tumors; correct?

19 A. Yes. Well, yeah, most tumors. I had a  
20 complete residency.

21 Q. Are there some classic characteristics of a  
22 giant cell tumor that you had received  
23 specific training in looking for?

24 A. There are some characteristics of them that  
25 would make one think of one.

1 Q. Now, in the giant cell tumors that you had  
2 seen in your training, do you know if there  
3 was evidence of fracture present?

4 A. I really can't recall in training.

5 Q. Do you recall back at that point in time,  
6 there was evidence of bone expansion, cortical  
7 thinning or cortical erosion?

8 A. Yes, those are hallmark of giant cell tumor.  
9 They typically occur in the distant ends of  
10 long bones. In the joint, don't cross the  
11 joint. It can be expand lesions, they can  
12 break cortex. They can be permeated, they can  
13 be slow growing, fast growing depending upon  
14 their histologic grade. They are a variable  
15 tumor. They intend to not metastasize, but  
16 they tend to be locally problematic..

17 Q. Now, are those the types of things that you  
18 would look for to diagnose giant cell tumor,  
19 which you have been talking about?

20 A. Yes. Once I see a radiograph that is  
21 suspicious of it, then we look for those  
22 issues.

23 Q. Now, you agree that in this particular case  
24 when you did make a tentative diagnosis of  
25 giant cell tumor, that you did so at that June

1 9th office visit where you got to talk to  
2 Paula Carlson, you got to learn about her  
3 medical history and treatment to that point,  
4 she had provided you with some written  
5 materials with regard to her background and  
6 care and how she got to you as well as what  
7 her problems were; is that correct?

8 A. Uh-huh.

9 Q. Is that a yes?

10 A. Yes.

11 Q. Did you also get an opportunity to examine her  
12 and review all the tests that had been  
13 obtained to that point in time?

14 A. Yes.

15 Q. Do you find it easier to make the diagnosis of  
16 giant cell tumor when that tumor has classic  
17 characteristics and is more evident on repeat  
18 x-rays, that shows some progression?

19 A. Well, that wouldn't be fair to say because it  
20 depends on what your initial radiograph looks  
21 like.

22 Q. I understand that.

23 A. Obviously in this particular case, the repeat  
24 x-rays were more -- I was more worried about  
25 Ewing, which is a more serious tumor.

1 Q. We'll talk about that in a little bit in a  
2 minute. Would you agree that when you first  
3 saw Mrs. Carlson in your office on June 9,  
4 2005, that her tumor at that point had several  
5 characteristics on the standard x-rays that  
6 you obtained on that date, which were  
7 different from and not present on the April  
8 12, 2005 films?

9 A. That's correct

10 Q. Would you agree that the x-rays you ordered  
11 and obtained on June 9th, 2005 of the distal  
12 radius had some rather classic indications of  
13 giant cell tumor of the radius?

14 A. Of an aggressive giant cell tumor, yes.

15 Q. Tell me about those findings, if you can  
16 recollect, if you need to refer to your  
17 records, which are indicative as of June 9th,  
18 2005 that you saw on the June 9th, 2005 films  
19 that indicated this was a particularly  
20 aggressive giant cell tumor of the radius?

21 A. Well, at that time I couldn't say what tumor  
22 it was other than the fact that in the two  
23 month time frame it was fairly aggressive bone  
24 disruption. It was treated four times its  
25 original size, the margins were indistinct.

1 It was a permeative pattern, questionable  
2 breakthrough to the cortex. The articular  
3 surface was still intact.

4 Q. The joint itself?

5 A. The joint itself. The distal radius was still  
6 intact, the cartilage surface of the radius.  
7 There was no expansion of the cortex, there  
8 was no cortical reaction.

9 Q. Are you talking on the --

10 A. Or periosteal reaction on the June film.

11 Q. Thank you for clarifying that. Is it true  
12 that on the June films, you weren't sure of  
13 whether or not there was cortical expansion?

14 A. I didn't know if there was cortical  
15 breakthrough. I couldn't say for sure.

16 Q. Is that true with x-rays in general, there are  
17 other tests that can be more specific to try  
18 to determine such things of whether or not  
19 there's cortical breakthrough?

20 A. There are. Generally a plain film is  
21 reasonably good. If there is, then it's there  
22 it is. The purpose of getting the additional  
23 studies is to look for that specifically to  
24 see if the cortex is attacked, but more so to  
25 look at is there a soft tissue component of



1 the tumor as well. In the Ewings, which was a  
2 possibility in her case --

3 Q. That type of cancer?

4 A. -- Ewings sarcoma, which would be much worse.  
5 They classically have a large soft tissue  
6 component. On physical exam she had some  
7 swelling, but not to the extent that one might  
8 see in a Ewing, but a Ewing is more likely to  
9 be in the mid shaft and not so much the  
10 distal.

11 Q. By the time you saw Paula Carlson in June,  
12 there was some swelling present; correct?

13 A. I believe I noted in my record that I thought  
14 there was some fullness around the radius.

15 Q. And that equates with swelling?

16 A. Swelling.

17 Q. And do you know for how long that swelling had  
18 been present and reported by Paula Carlson  
19 prior to the time that you saw her?

20 A. I can't recall. I'd have to look at my chart  
21 if I made a note of that.

22 Q. Yes, you may.

23 A. I don't believe she reported swelling. At  
24 least I don't have that documented.

25 Q. But from your physical examination findings,

1           you detected evidence of fullness which you  
2           equated with swelling?

3   A.     Let me see. I said I think on physical exam  
4           there maybe a soft tissue component as well.  
5           So I didn't say specifically fullness, but I  
6           felt something.

7   Q.     You thought that what you felt was essentially  
8           fullness or swelling?

9   A.     Some soft tissue component. What we call soft  
10          tissue component. There's soft tissue in the  
11          radius, around the area where I saw the  
12          lesion, that was not supposed to be there. I  
13          don't know if it's fluid, blood, tumor,  
14          synovitis, I don't know. But there was soft  
15          tissue component there that's not in my wrist,  
16          so I feel mine, it's not there, there I felt  
17          something.

18   Q.     You feel there was a sensation of more  
19          fullness or thickness or something there  
20          that's not in a normal wrist?

21   A.     Compared to her opposite side, her baseline.

22   Q.     Now, did you know at that point in time that  
23          Ms. Carlson had previously been seen by Lori  
24          Natoli, a physician's assistant at  
25          Dr. Graeca's office?

1 A. At that point I wasn't fully -- you know, at  
2 that point, I wasn't fully aware of who she  
3 was seeing or treating.

4 Q. Did they provide you, meaning Dr. Graeca's  
5 office or Ms. Carlson or Lori Natoli, the  
6 physician's assistant, with their records of  
7 care of Ms. Carlson prior to her seeing her in  
8 June?

9 A. I have been in practice 20 years and I can  
10 count on maybe ten times that I have actually  
11 been given information on the patient that's  
12 referred. So after over 20,000 patients, I  
13 can count them on one hand.

14 Q. I'm only asking specifically --

15 A. Specifically I would say it's extremely  
16 unusual for me ever to get records on a  
17 patient and I don't believe I got any before I  
18 saw her as well.

19 Q. That's what I want to confirm. So then you  
20 would not have been aware of how long the  
21 patient had been complaining that she felt  
22 that she had had swelling of her wrist, is  
23 that fair to say, you would not have known?

24 A. Well, I asked her directly. I mean she had  
25 pain for two, three months.

1 Q. Did you ask her specifically of how long she  
2 had had swelling?

3 A. I didn't ask her if she had swelling. At  
4 least I didn't document that I asked her if  
5 she had swelling. That was on my exam.

6 Q. Do you know if Mrs. Carlson had actually had  
7 swelling that she felt was present going back  
8 into April of 2005?

9 A. Do I know if she thought she had swelling?

10 Q. Yes.

11 A. How would I know that?

12 Q. Either by talking to her, reviewing some  
13 records or if Mr. Crenney told you or not?

14 A. I don't have any recollection of that. I mean  
15 I don't have it documented in my note that I  
16 asked her that. I have no records from anyone  
17 indicating if there was any swelling there.  
18 But again I would say that is something that I  
19 am expert at and would pick up more than  
20 somebody else. I wouldn't expect a person on  
21 the street to pick that up.

22 Q. How about the patient herself, shouldn't she  
23 be able to say I have swelling?

24 A. She may or may not. She may or may not. A  
25 lot of tumors come in here, people don't

1 notice. You know, it depends on their -- the  
2 symptoms that come from it.

3 Q. Well, if the patient reported to you that she  
4 felt she had swelling, do you feel that the  
5 patient is a good person to rely upon in that  
6 regard?

7 A. Occasionally, not always. I have had  
8 complaints of swelling that are not there.

9 Q. Now, swelling, what does that suggest to you  
10 about the giant cell tumor?

11 A. Knowing that it's a giant cell tumor now or at  
12 the time when I examined her?

13 Q. Yes, now.

14 A. It can indicate a lot of things.

15 Q. Does the swelling --

16 A. It can indicate --

17 Q. Go ahead.

18 A. Fracture, soft tissue component, bleeding, any  
19 of those things.

20 Q. Does that swelling, can it indicate that there  
21 maybe cortical expansion or cortical erosion  
22 or breakthrough occurring?

23 A. Yeah, that would be consistent with soft  
24 tissue component of tumor, tumor expansion or  
25 bleeding.

1 Q. Thank you, very much. Now, when you diagnosed  
2 this giant cell tumor of the wrist in June of  
3 2005, you had obtained x-rays that you had  
4 ordered on that same date; correct?

5 A. Yes.

6 Q. You repeated x-rays; correct?

7 A. Yes.

8 Q. You wanted to get some additional films;  
9 correct?

10 A. I wasn't sure what I was looking at on the  
11 film of April was real or artifact.

12 MR. CRENNY: I'd object to the form  
13 of the question in that it suggests he had  
14 other x-rays when he diagnosed the April 12th  
15 film. That was not his testimony, nor is that  
16 consistent with this record.

17 MR. SLIMAK: I don't think that's my  
18 question, Mr. Crenney.

19 MR. CRENNY: The first thing he did  
20 was look at the film of April 12th.

21 MR. SLIMAK: Your argument is  
22 noted. Could we read back the question,  
23 please, for the Court Reporter?

24

25 (The record was read back by the

1 Reporter.)

2 - - - -

3 BY MR. SLIMAK:

4 Q. Would you now answer again?

5 A. That I wanted to get additional films?

6 Q. Yes.

7 A. Yes.

8 Q. And on June 9th, 2005, had you just indicated  
9 that you wanted to get additional films  
10 because you weren't sure if the original films  
11 showed artifact or not; correct?

12 A. Correct. I saw what I thought was a lesion  
13 and I wanted to be sure that I was not over  
14 reading the film.

15 Q. What is artifact?

16 A. Something that would cause you to see  
17 something that's not there. Let's give an  
18 example. An x-ray is a two dimensional  
19 representation of a three dimensional  
20 process. So if you've got a paperclip in your  
21 pocket and I x-ray your hip and it looks like  
22 the paperclip is in your hip and that would be  
23 artifact. Or if you are -- let's say I'm  
24 wearing a blouse with a plastic button, that  
25 button maybe enough to show a little halo over

1 something that you would see on a chest  
2 x-ray. That's not a lesion of the chest  
3 x-ray, but artifact from a button.

4 So you worry that am I seeing  
5 something or is that an overlying shadow or  
6 oftentimes you get an x-ray of an abdomen and  
7 a gas pattern maybe overlying a bone and it  
8 looked like a tumor because there's a gas or  
9 fat pattern overlying it and that area is  
10 going to be less dense when the x-ray goes  
11 through. So you'll see something that looks  
12 like something, but isn't really something,  
13 it's what we call an artifact, something  
14 throwing you off from some external process  
15 that's not making the radiograph  
16 interpretable.

17 Q. Is it fair to say that an artifact is not  
18 actually a disease condition itself?

19 A. Correct.

20 Q. Now, with regard to the films that you took  
21 and interpreted yourself of June 9th, 2005,  
22 okay?

23 A. Okay.

24 Q. These x-rays, did those films clearly appear  
25 to you to not be artifact?



- 1 A. The films that I took?
- 2 Q. On June 9th.
- 3 A. You mean the ones I took in June?
- 4 Q. Yes, yes.
- 5 A. Yes, those were not artifact.
- 6 Q. Did they have classic things such as an
- 7 unusually large lytic area?
- 8 A. They had many classic radiographic appearances
- 9 of a tumor.
- 10 Q. That's when you were talking about had this
- 11 moth-eaten appearance or permeative borders;
- 12 is that correct?
- 13 A. That's correct.
- 14 Q. I think in your report you indicated that it
- 15 appeared to you that there may even be some
- 16 punctuate calcifications in the ulnar
- 17 direction on the AP view, if I use your words,
- 18 do you recall that?
- 19 A. I don't recall that, but I'll look it up.
- 20 Q. Please do.
- 21 A. This is in my original x-ray reading or in my
- 22 office note?
- 23 Q. If you would like me to share it with you?
- 24 A. That would be wonderful.
- 25 Q. I'm reading in your report, this portion was

1 not read in previously in testimony by  
2 Mr. Crenney's questions. Do you indicate  
3 here --

4 A. Okay.

5 Q. What did you read here?

6 A. It extends the articular margin. It does not  
7 cross the articular margin.

8 Q. That's the joint itself; correct?

9 A. That's the joint, right.

10 Q. Then what did you write here?

11 A. There appears to be some punctuate  
12 calcification in the ulnar direction on the AP  
13 view.

14 Q. Now with regard to now in June there's  
15 punctuate calcification that you see on those  
16 x-rays that are in the ulnar direction on the  
17 AP view --

18 A. I think I said I may see.

19 Q. Yes, that's exactly what I want to point out?

20 A. Yes.

21 Q. You said --

22 A. Because if you have a lot of bone eaten away  
23 by tumor, I might be looking at punctuate  
24 calcification or remaining bone, so I'm not  
25 sure if that's calcified tumor or bone left

1 over that isn't quite all the way eaten, which  
2 is why I believe I said may.

3 Q. I know you didn't say may, but you did say  
4 there appears to be?

5 A. Appears to be, okay.

6 Q. So I can take that as a may, okay?

7 A. Okay.

8 Q. Is that the way that it is with these standard  
9 basic x-rays, that sometimes you're not  
10 certain of what you're seeing with that  
11 particular study, it can be interpreted  
12 different ways?

13 A. We may disagree on readings, yes. We don't  
14 always --

15 Q. You don't mean you and I, you mean  
16 professionals in your field?

17 A. Sure.

18 Q. Even between board certified orthopedic  
19 surgeons, they can have differences of  
20 opinions of what a film does or doesn't show;  
21 correct?

22 A. Correct.

23 Q. And in between specialties they can have  
24 differences of opinion; correct?

25 A. I would venture to say that we may disagree on

1 things, yes.

2 Q. And does that happen to you over time in your  
3 practice?

4 A. Yes.

5 Q. Over the years here at DuBois Regional Medical  
6 Center as well as in your training?

7 A. Absolutely.

8 Q. And your training was at these other  
9 institutions that you have talked about  
10 earlier; correct?

11 A. That's right.

12 Q. Were you still trying to do a good job even  
13 though someone else disagreed with you?

14 A. On?

15 Q. Interpretation?

16 A. You mean in life or --

17 Q. Interpretation of films, I'm sorry?

18 A. I was doing my job.

19 Q. Thank you.

20 A. Although if my care is going to be on trial  
21 here, then I may need representation, which I  
22 don't have.

23 Q. I'm not suggesting that in any way.

24 A. I just want to make sure if we're going to get  
25 to that. I'm just trying to --

1 Q. Now --

2 MR. CRENNNEY: It's Dr. Graeca and  
3 Dr. Yaw.

4 MR. SLIMAK: I don't know what that  
5 was for sure, but let me continue with my  
6 questions.

7 MR. CRENNNEY: That's a fact.

8 BY MR. SLIMAK:

9 Q. With regard to your involvement in this case,  
10 did physician's assistant Natoli call you up?

11 A. She might have, I don't recall for sure.

12 Q. Did Dr. Graeca call you up?

13 A. I think he might have, but I don't recall for  
14 sure.

15 Q. Did you make any note of either of that?

16 A. I didn't make any note, but I do remember  
17 talking to him about the case, I don't know if  
18 it was before or after.

19 Q. Now, with regard to the x-rays in April 12,  
20 2005, when you did look at them, was it the  
21 course of your practice that day that you  
22 first obtained written information from Paula  
23 Carlson when she came in the office that you  
24 would review initially; correct?

25 A. Correct.

1 Q. And after that, then did you meet and talk  
2 with her about why she was there, what her  
3 symptoms may be and what her past course of  
4 care had been to date?

5 A. That's correct.

6 Q. And after that did you do a physical  
7 examination?

8 A. Yes.

9 Q. And then after that did you pull up these  
10 x-rays as you did for Attorney Crenney here  
11 today in your deposition and then look at  
12 those?

13 A. Yes.

14 Q. And then after that, did you order some  
15 additional studies, being an MRI, a bone scan,  
16 and as well as your repeat x-rays?

17 A. I ordered the repeat x-ray and then after  
18 reviewing that film, then I ordered the  
19 remaining workup after I saw the second x-ray,  
20 not before.

21 Q. So there was a sequence of events that you  
22 went through to work up the patients condition  
23 and situation and then order additional  
24 studies and make your determinations of what  
25 you thought was going on at that point in time

1 in ;June correct?

2 A. Correct.

3 Q. So is it correct that you did not just have  
4 the patient come into the office and look at  
5 her past x-rays, you went through these other  
6 processes and steps first?

7 A. That's my job.

8 Q. That's what I wanted to find out. Now, with  
9 regard to the information that you had  
10 obtained from Paula Carlson before you looked  
11 at any films, I would like you to look at some  
12 of your records with us. And if we may, if  
13 the videographer can assist in this regard,  
14 and Doctor, it maybe easier if you don't mind,  
15 if you're going to sit there, if I can just  
16 prop this right on the arm of your chair.  
17 Okay? Are you able to see that from your  
18 angle?

19 A. Yes.

20 MR. SLIMAK: And the videographer,  
21 were you able to read that reasonably well if  
22 I point out anything? Yes, he's indicating  
23 yes. Thank you.

24 BY MR. SLIMAK:

25 Q. So is this standard as an orthopedic surgeon

1 to have your patients come into the office  
2 before you would actually examine them or talk  
3 to them and have them complete historical  
4 information?

5 A. That's correct.

6 Q. What is the significance of why you go through  
7 this process with your patients before you see  
8 them?

9 A. Well, sometimes there's something here that I  
10 may miss in my history taking or that we can  
11 document some past history with something as  
12 different later, we can get a good look, but  
13 we try to get as much history as we can.  
14 Sometimes they are very unnecessary.  
15 Sometimes they are helpful down the road when  
16 I can try to look back and see if I can recall  
17 patients and as things change. I have  
18 patients for a very long time and it's good to  
19 have a basic -- we like to have a full basic  
20 past history, past medical history and a  
21 review of systems in the chart. So we have  
22 them fill out as much as they can and I  
23 focus -- I have a much more problem focused  
24 evaluation when I see a patient. I'm not a  
25 primary care physician.



1 Q. Would that have been the process then that  
2 would occur with regard to this type  
3 of -- this document here, which is for Paula  
4 Carlson in June 9, 2005?

5 A. Every patient that comes through is supposed  
6 to have a form of this nature filled out  
7 before they present.

8 Q. And in your chart in front of you, do you have  
9 this form in that?

10 MR. CRENNY: I'd just like to make  
11 a general --

12 A. Yes.

13 MR. CRENNY: Excuse me, an  
14 objection to what you got on the video because  
15 it is highlighted.

16 MR. SLIMAK: Well, I want to draw  
17 his attention to certain aspects of the record  
18 and we're entitled to do that. So your  
19 objection is noted, sir.

20 MR. CRENNY: Thank you.

21 BY MR. SLIMAK:

22 Q. Now, have I highlighted that this is your DRMC  
23 orthopedics stationary or forms?

24 A. Yes.

25 Q. And Paula Carlson --

1 A. Yes.

2 Q. -- that would be the patient's name; correct?

3 A. Correct.

4 Q. And then to address your attention over here,  
5 June 9, 2005, would that be the date that the  
6 information was gained from the patient?

7 A. Yes.

8 Q. And do you take before you see the patient or  
9 work on her diagnosis, a family history as  
10 recorded here?

11 A. Just as recorded there. I don't personally  
12 take one.

13 Q. But you have the patient complete this form to  
14 provide that background information?

15 A. As background, correct.

16 Q. Yes. And you through this form have specific  
17 questions, such as, for instance, does the  
18 family members relatives, has any blood  
19 relative ever had cancer; correct?

20 A. Correct.

21 MR. CRENNNEY: Objection as to  
22 relevance.

23 BY MR. SLIMAK:

24 Q. In this particular circumstance, what  
25 information did Ms. Carlson provide to you at

1           that point in time as to whether or not there  
2           was some family history of a family member  
3           having had cancer prior to June 9th, 2005 that  
4           you had available to you as background?

5   A.     I have available, but it was not relevant to  
6           what I was doing at the time.

7   Q.     I understand. But my question just is, what  
8           information did she provide to you through  
9           this record at that time?

10  A.     That her father had lung cancer.

11  Q.     Now, do you also ask other questions about  
12          diabetes and her father had diabetes; correct?

13  A.     Correct.

14  Q.     But the point is, you would take into  
15          consideration, if relevant, all of this  
16          information with regard to you then seeing the  
17          patient and working up the condition and  
18          trying to make your diagnosis of what she had;  
19          correct?

20  A.     It's used as a -- we create a record so that  
21          we have information over time. Things may  
22          change, I get different things, something is  
23          not what it is, I have something to refer to  
24          it.

25  Q.     And is there a question that down below here

1           where it says -- I think there's a hole marked  
2           there. Does it say, have you --

3   A.       Have you been treated for this problem by  
4           another physician.

5   Q.       And the answer circled is what?

6   A.       Yes.

7   Q.       And who is the physician indicated that had  
8           been treating her for this condition?

9   A.       Dr. Meyers.

10   Q.       Was there any indication that Dr. Graeca -- or  
11           physician assistant Natoli had been treating  
12           her for her condition or her complaint?

13   A.       Not on this.

14   Q.       And then do you obtain personal -- detailed  
15           personal information history as well provided  
16           to you by the patient at this initial visit?

17   A.       Yes.

18   Q.       Is that what we're looking at here?

19   A.       Yes.

20   Q.       Does that run the gamut from everything  
21           whether she's had chickenpox or anemia, pain  
22           in the wrist or arms; correct?

23   A.       Yes.

24   Q.       Could you say yes just so our record is clear?

25   A.       Yes.

1 Q. Whether she's had swelling of the hands, feet  
2 or ankles and she indicated yes; correct?

3 A. Yes.

4 Q. Whether she's had sprains, she indicated yes;  
5 correct?

6 A. Yes.

7 Q. Whether she's had blood in -- any blood in the  
8 urine, the indication was yes; correct?

9 MR. CRENNY: Objection to  
10 relevance. Objection as to the highlighting.

11 MR. SLIMAK: Well, we're showing  
12 this evidence to indicate the thoroughness of  
13 the background information that the Doctor's  
14 standardized forms of processing of orthopedic  
15 patients develops and then we're going to ask  
16 some specific questions related to this as we  
17 go through the patient's care.

18 BY MR. SLIMAK:

19 Q. Is there additional information that's asked  
20 and answered in this form of whether she had  
21 had recurrent back pains?

22 A. I'm going to reiterate again, am I being  
23 questioned as to the standard of care that I'm  
24 rendering; if so, I want counsel?

25 Q. No, you're not.

1 MR. WALL: On the record, you're  
2 not, Doctor.

3 A. Because we seem to be asking these questions.  
4 I don't understand the questioning line here.

5 MR. WALL: On the record, you're  
6 not, Doctor.

7 MR. SLIMAK: Yes.

8 A. I realize we're on the record, but I'm in a  
9 room of attorneys and this is a liability case  
10 and I know where people are being accused or  
11 whatever and I'm a little uncomfortable right  
12 now.

13 MR. SLIMAK: That's all right.

14 A. So if this is where we're going, I may just  
15 ask that we could stop and I'll get counsel.

16 BY MR. SLIMAK:

17 Q. We're only asking factual information, that's  
18 all I'm intending and then there's no  
19 intention I don't think of anybody in this  
20 room to sue you for anything, Doctor. I think  
21 I speak for all the counsel here. I don't  
22 know for Mr. Crenney, who I can't speak for,  
23 but --

24 MR. CRENNY: Mr. Slimak, please  
25 don't make remarks like that.

1 MR. SLIMAK: I don't pretend to  
2 speak for you is what I'm indicating. Okay.

3 MR. CRENNY: By the way, I have no  
4 idea why questions about Ms. Carlson's urine  
5 in the blood has been highlighted and all of  
6 this irrelevant information, I don't have the  
7 slightest idea. If I knew, I would chime in.

8 BY MR. SLIMAK:

9 Q. We're trying to develop this additional  
10 background information. And at this point in  
11 time, we're going factually through. Are you  
12 trying to be through with regard to your  
13 question here, to anticipate all possible  
14 circumstances that might have relevance to  
15 your orthopedic care?

16 A. We like to have a baseline record of a  
17 patient's past medical history on all patients  
18 that come through. Do we pour over them, no.  
19 You come in and you break your leg, I don't  
20 need to know what your grandmother had, but we  
21 do for completeness put it in the record. If  
22 at any one point in time it becomes relevant,  
23 we have record of it.

24 Q. With regard to some of that information, did  
25 you obtain information that Ms. Carlson had

1 had recurrent back pains, backaches, joint  
2 pains, swelling of any joints, tingling or  
3 weakness of hands or feet and loss or change  
4 in sensation of hands or feet?

5 A. I would just say this is Mrs. Carlson's -- or  
6 Ms. Carlson's record.

7 Q. And then did you do a physical examination?

8 A. Yes.

9 Q. And is this the page of your chart that  
10 reflects your handwritten notes at the time  
11 before you had them put into a typewritten  
12 form?

13 A. These are the notes I scribble while I'm  
14 talking to her and then dictate as soon as I  
15 have see her.

16 Q. In that regard, did you specifically note that  
17 there was no injury?

18 A. Yes.

19 Q. Why is that significant to you when you talk  
20 to her to find there's no evidence of injury?

21 A. We're obviously looking for occult fractures.  
22 We're looking for dead bone or somewhere that  
23 I can localize where the problem is. Injury  
24 obviously changes the nature of the disease  
25 from something that's infectious or metabolic,



1 chemical, tumorous or traumatic. So that's as  
2 I'm trying to diagnose why she has wrist pain  
3 and nobody seems to have been able to figure  
4 it out, that's what I'm trying to sort out.

5 Q. With the history that you solicited from the  
6 patient that she had had no injury, does that  
7 make you start thinking more along the lines  
8 of perhaps something metabolic or something  
9 that's tumorous or something of that nature?

10 A. I'm less likely to look for fracture. I'm not  
11 looking for fracture or thinking fracture as  
12 much.

13 Q. And your writing I have to say with due  
14 respect, I'm not criticizing you for this --

15 A. No.

16 Q. -- but it is difficult to read?

17 A. I'm having trouble with it too.

18 Q. Good, because it's not just me.

19 A. That's why I dictate right away.

20 Q. What is this that I highlighted so I could  
21 remind to ask you?

22 A. I am thinking about that one myself. It's  
23 something for six weeks.

24 Q. No change for six weeks or something else?

25 A. What I have here is burning dorsal right

- 1 wrist.
- 2 Q. Okay.
- 3 A. And this is no, I believe it's relief for six  
4 weeks.
- 5 Q. And then what do you have over here?
- 6 A. Negative shoulder, negative neck, negative  
7 paresthesias.
- 8 Q. What do you mean by those?
- 9 A. I'm looking for something in her cervical  
10 spine.
- 11 Q. Do you initially evaluate whether there's  
12 something in her neck or cervical spine by  
13 questioning the patient in order to try to  
14 rule in or rule out that?
- 15 A. I generally will do it on a wrist, but I have  
16 a patient coming to me with a normal x-ray,  
17 normal EMG, seen two physicians without a  
18 diagnosis, I'm looking at everything.
- 19 Q. Yes, okay.
- 20 A. My job is now to figure this problem out.
- 21 Q. Would that be the process that you would try  
22 to look at everything that's pertinent if she  
23 would have come to see you back in April just  
24 as she had come to see you in June?
- 25 A. Yes.

1 Q. You try to be thorough with your questioning  
2 and developing of information; correct?

3 A. I have an undiagnosed problem here and I have  
4 to be fairly thorough at this point. Some  
5 things I'm not as thorough. You break your  
6 arm, I'm not that thorough, it's fairly clear  
7 to me. But this was not when this patient  
8 came, this was a patient with a lot of pain  
9 that did not have a diagnosis.

10 Q. Have there been patients in the past of  
11 Dr. Graeca or physician's assistant Natoli  
12 that they were having trouble diagnosing and  
13 they would make the referral to you because it  
14 was an orthopedic issue within your  
15 specialty?

16 MR. CRENNY: Object to the form of  
17 the question.

18 A. I have a lot of patients referred to me  
19 because they can't make a diagnosis. I like  
20 to think that when they can't make a  
21 diagnosis, here's where they send them.

22 BY MR. SLIMAK:

23 Q. Is tendinitis something within your medical  
24 specialty --

25 A. Yes, it is.

1 Q. -- for diagnosing?

2 A. Yes.

3 Q. And how about carpal tunnel syndrome?

4 A. Yes.

5 Q. How about as far as a cervical problem or  
6 herniated disc, whether that was causing  
7 symptomatology into the wrist and hand?

8 A. Yes.

9 Q. Those are right up your alley; correct?

10 A. That's what I do.

11 MR. CRENNY: Objection as to  
12 reference.

13 BY MR. SLIMAK:

14 Q. I'll just take my seat again and look at some  
15 notes, I wanted to ask you about some other  
16 things. Do you agree that back on the April  
17 12th, 2005 x-rays, if you can review your  
18 records in that regard or your recollection,  
19 that at that point in time, there was no  
20 permeative appearance or moth-eaten appearance  
21 on the April 12th films?

22 A. Absolutely, correct.

23 Q. And with regard to the April 12th films, there  
24 was no evidence of any change in the joint;  
25 correct?

- 1 A. In the joint?
- 2 Q. In the joint.
- 3 A. That's correct.
- 4 Q. On the April 12th films, there was no
- 5 indication of fracture; correct?
- 6 A. That's correct.
- 7 Q. And on the April 12th films, you couldn't see
- 8 on those films any evidence of expansion of
- 9 the cortical bone or osseous extension;
- 10 correct?
- 11 A. Or interosseous extension, correct.
- 12 Q. Correct me, thank you for using the right
- 13 word. Correct?
- 14 A. Correct.
- 15 Q. What do those mean that were not there?
- 16 A. It's the interarticular extension. The bone
- 17 was not dilating. The bone gets bigger and
- 18 the cortex does not break, it's more
- 19 indicative of a slower growing tumor. If it
- 20 doesn't invade the joint, that's more
- 21 indicative again of a less aggressive tumor.
- 22 Giant cell classically -- giant cell
- 23 classically can be slower -- slow or fast
- 24 growing and can expand the bone, go to the
- 25 joint, but will not go into the joint. That's

1 usually a more histologically lower grade  
2 giant cell.

3 Q. When you evaluated Ms. Carlson in June, took  
4 additional studies of repeat x-rays, bone  
5 scans, MRI scans, CT scans, did you find  
6 evidence at that point in time that this was  
7 indeed a very rapid growing aggressive type of  
8 giant cell tumor?

9 A. I didn't know that it was a giant cell tumor,  
10 but it was an aggressive -- a locally  
11 aggressive neoplasm probably from the bone  
12 that did not appear to have any metastatic  
13 source or any other metabolic source. You can  
14 have like a Brown's tumor is a hypothyroidism,  
15 you can occasionally get tumors that may get  
16 of this nature, which is why we check the  
17 thyroid function.

18 Q. That's what I want to clarify next. To make  
19 those kind of decisions, is that because you  
20 ordered other tests and studies, metabolic  
21 studies as well as these additional imaging  
22 studies?

23 A. I'm trying as hard as I can to make an  
24 noninvasive diagnosis and rule out as many  
25 things as possible knowing full well that

1 looking at this knowing that this is a tumor  
2 and it's going to be referred, but to make  
3 sure the workup is complete. I am trained to  
4 completely workup a tumor and I will do that  
5 before I refer them, you know, for expediency,  
6 but I do know what has to be ordered.

7 Q. Now, I was looking at your records and report  
8 and Attorney Crenney read you certain portions  
9 of them, but there were other portions he had  
10 not read to you and so let me ask you about  
11 some aspects of that.

12 MR. CRENNY: Object to the form of  
13 the question.

14 MR. SLIMAK: Do you disagree with  
15 that?

16 MR. CRENNY: Object to the form of  
17 the question.

18 BY MR. SLIMAK:

19 Q. Specifically, let's then refer to your report  
20 of June 9th, 2005, your actual office record,  
21 okay?

22 A. Okay.

23 Q. In that regard, did you develop some history  
24 from talking to Paula Carlson that she had had  
25 wrist pain now going on for two to three

1 months?

2 A. Yes.

3 Q. And if I may bring this back up to the arm of  
4 your chair, so we can share this with the  
5 jury. Tell the videographer to focus on this,  
6 please. In addition --

7 MR. CRENNY: Same objection on the  
8 highlighting. None of this -- objection that  
9 all of these are not in evidence. I doubt  
10 they will be in evidence with the  
11 highlighting.

12 MR. SLIMAK: You have already  
13 identified them and moved into admission this  
14 record, highlighting so I can direct the  
15 Doctor the questions I'm going to talk about.

16 MR. CRENNY: The highlighting is  
17 inappropriate on the video. I've never seen  
18 anybody do it and I object to it.

19 MR. SLIMAK: It's been done a  
20 million times, Mr. Crenney, in court including  
21 in the Court of Common Pleas of Clearfield  
22 County.

23 BY MR. SLIMAK:

24 Q. Now, did you take a history just from talking  
25 to her that there that she reported -- she saw



- 1 Dr. Graeca, reported no injury; correct?
- 2 A. That's what I wrote.
- 3 Q. And that she had radial wrist pain; correct?
- 4 A. Correct.
- 5 Q. In talking to her, did she use the word radial
- 6 wrist pain or was that something you
- 7 determined based on whatever it was that she
- 8 saw you?
- 9 A. I would have to assume that that was my word.
- 10 A few people would tell me -- would say I have
- 11 radial wrist pain.
- 12 Q. Well, you know she's a radiation technician at
- 13 the hospital here; correct?
- 14 A. She's a radiation technician, not a radiograph
- 15 technician, so --
- 16 Q. Do you know for sure?
- 17 A. I don't know for sure if she said radial or I
- 18 said radial.
- 19 Q. Regardless of whether she said radial or you
- 20 said radial wrist pain when you wrote the
- 21 note, did she give you information that able
- 22 you to focus in on the radius at the wrist as
- 23 to the area of her pain?
- 24 A. From my history taking?
- 25 Q. Yes.

1 A. If I wrote that, she would have had to have  
2 indicated to me that the pain was more radial  
3 than ulnar because ulnar sided wrist pain is a  
4 different situation, that's a different  
5 workup.

6 Q. Did you note that the EMG study was done,  
7 which really was unremarkable for carpal  
8 tunnel?

9 A. Yes.

10 Q. And what is carpal tunnel?

11 A. That's a situation of pressure on a nerve in  
12 your hand, which generally gives you some  
13 finger numbness and some hand pain, but  
14 generally not a wrist pain. Although, it can  
15 be unusual in a younger patient.

16 Q. So typically wrist pain would not be the pain  
17 of carpal tunnel; correct?

18 A. It can be in a younger patient, but it's not  
19 what I would classically attribute to carpal  
20 tunnel.

21 Q. When you say younger, what age are you  
22 talking?

23 A. People in their 20s and 30s as opposed to 60s  
24 and 70s.

25 Q. Are there various tests that can be performed

1           then to determine if there's a carpal tunnel  
2           going on?

3   A.     Clinical exam is usually the best.

4   Q.     And that would be the Phalen's sign?

5   A.     Phalen's, Tinel's, examination of sweat  
6           patterns in the fingers, loss of sensation,  
7           two point discrimination, things of that  
8           nature.

9   Q.     Are these tests that only an orthopedic  
10           surgeon can do or can physician assistants or  
11           family physicians perform those types of  
12           testing as well?

13  A.     I would not trust the family physician to make  
14           an accurate judgment.  Myself, a neurologist,  
15           neurosurgeon, classic surgeon, yes.  On  
16           physical exam I think that we're a little more  
17           sophisticated in making that call.

18  Q.     Thank you very much.  Now, you note here that  
19           she's apparently had some cervical disc  
20           problem in the past; correct?

21  A.     That's what she reported to me.

22  Q.     And then you have recorded here spine workup,  
23           however, did not seem to relate to her arm  
24           symptom; correct?

25  A.     I wrote that, I don't understand that.

1 Q. Do you know if that was from her or what you  
2 were assessing from what she was telling you?

3 A. I don't know if that was from my assessment  
4 when I took a history of her hand, her arm,  
5 those kind of things. I believe that my spine  
6 workup in questioning about her hand, her  
7 neck, sensation, things of that nature, did  
8 not seem to relate to the arm. So I would say  
9 that that -- if I in describing that sentence,  
10 I think that's from my workup of her spine  
11 when I examined her.

12 Q. You said did not seem to relate to the arm, do  
13 you mean relate to the neck?

14 A. Exactly. I didn't think that the complaints  
15 in her wrist were cervical spine related by  
16 her history.

17 Q. That's from just talking to her; correct?

18 A. From the history taking.

19 Q. And then you again confirm the pain is  
20 most likely -- excuse me, the pain is mostly  
21 on the radial aspect of the right wrist;  
22 correct?

23 A. Yes.

24 Q. It seems to be over the distal wrist; correct?

25 A. Correct.

1 Q. The distal wrist, could you just point your  
2 hand, what do you mean by distal?

3 A. Somewhere more in the base of the wrist area  
4 as opposed to if someone says my wrist hurts  
5 and they go here, but it was very, very close  
6 to what are called the radial carpal joint,  
7 very close to where the hand --

8 Q. So she had given you information about  
9 specific pain in a specific area of the wrist;  
10 correct?

11 A. Correct.

12 Q. And then after that, you again note about the  
13 EMG studies were done, which were consistent  
14 with a mid cervical radiculopathy that was  
15 done in February of 2003; correct?

16 A. Uh-huh, yes.

17 Q. Does that relate back to like a herniated disc  
18 or some abnormality in the cervical neck spine  
19 causing symptomatology into the arm?

20 A. Yes.

21 Q. Now, but is that something that you kind of  
22 felt you were ruling out?

23 A. Well, it was an older study. It was 2003 and  
24 a most recent study was nondiagnostic, so I  
25 was more comfortable with a more recent

1 study. Although, the more recent study I  
2 don't recall was as complete. Those are two  
3 separate EMGs that can be done. They don't  
4 always do all.

5 Q. Now, here you have no wrist synovitis;  
6 correct?

7 A. Correct.

8 Q. What do you mean there was no wrist synovitis?

9 A. There was no swelling within the wrist joint.

10 Q. So you're distinguishing between a wrist joint  
11 and other areas of the wrist?

12 A. I'm trying to determine if this is possibly  
13 rheumatoid arthritis, which with the history  
14 that came in, a person on the street is going  
15 to miss and I would notice that by having  
16 specific synovitis or swelling and  
17 inflammation of the wrist joint proper and I  
18 didn't see that.

19 Q. But that is not excluding your finding or your  
20 thinking there was some fullness in another  
21 part of the wrist?

22 A. Right.

23 Q. Correct?

24 A. Correct.

25 Q. Then you say there is no tenosynovitis, what

- 1 is tenosynovitis?
- 2 A. Tendinitis.
- 3 Q. The same thing; correct?
- 4 A. Different than synovitis.
- 5 Q. I understand.
- 6 A. One is the wrist. Wrist synovitis and
- 7 tenosynovitis is inflammation of the tendon
- 8 sheath.
- 9 Q. So when you have teno or tenosynovitis, that
- 10 means there's no tendinitis; correct?
- 11 A. That was my opinion, yes.
- 12 Q. And you determined that on a physical
- 13 examination; correct?
- 14 A. Correct.
- 15 Q. You determined that on physical examination on
- 16 June 9, 2005, even though we know from the
- 17 studies that you had looked at, that she had a
- 18 more advanced stage giant cell tumor at that
- 19 point in time; correct?
- 20 A. I did the examination of her tendons before I
- 21 read the second film.
- 22 Q. Fine.
- 23 A. Yes.
- 24 Q. But as of that point in time --
- 25 A. I did not diagnose her with tenosynovitis.

1 Q. You felt that there was none present; correct?

2 A. That's correct.

3 Q. No tendinitis?

4 A. Correct.

5 Q. Is that something that you usually evaluate  
6 patients for, that's something different  
7 than -- well, let me just strike that. Let me  
8 go onto something else.

9 Finkelstein is negative, right, or  
10 Finkelstein?

11 A. Correct.

12 Q. Is that where you have them cup their thumb in  
13 their hand and then bend their finger to the  
14 other direction --

15 A. That's correct.

16 Q. -- to see if it pulls along the outer aspect  
17 of their hand in those tendon areas, is that  
18 correct?

19 A. That's correct.

20 Q. Now, that's a test of the tendons of the thumb  
21 and the base and the wrist; correct?

22 A. Correct, two tendons of the radial side of the  
23 wrist.

24 Q. Is that a test that if there would be a report  
25 of pain in that area due to the Finkelstein



1 examination, then that would give you cause to  
2 think that there might be tendinitis of the  
3 wrist?

4 A. It's another source of wrist pain.

5 Q. And with regard to the Finkelstein test, did  
6 you find that to be negative?

7 A. That was negative.

8 Q. Did you mean there was no report of pain?

9 A. I could not elicit pain with that maneuver.

10 Q. Now, did you say that that was normal or did  
11 you use the word negative?

12 A. Negative.

13 Q. And is that somehow different than normal in  
14 that context?

15 A. Negative is normal.

16 Q. Can you have an abnormality of the thumb base  
17 and not have a positive Finkelstein test?

18 A. Yes.

19 Q. So you can have an abnormality there at the  
20 thumb base at the wrist in the tendons or  
21 other structures even though the test is  
22 negative; correct?

23 A. That would be another diagnosis, correct.

24 Q. Thank you. Now, so then you did your repeat  
25 studies today, correct, and you show the

1           progressive changes of the lytic lesion in a  
2           much more worrisome peripheral margin;  
3           correct?

4   A.     Correct.

5   Q.     Now, it's moth-eaten in nature, permeative and  
6           without sclerotic margins; correct?

7   A.     Correct.

8   Q.     Would you agree then that there were also  
9           there were no sclerotic margins back in the  
10          April film when you looked at that?

11  A.     On retrospect looking back at the film now, if  
12          someone were to beat me up and said do you  
13          think there's any sclerotic margin anywhere, I  
14          could make a case that there maybe some.

15  Q.     But that's in retrospect; correct?

16  A.     But at the time I did not see and still don't  
17          on the AP view see a sclerotic margin. I  
18          would argue with myself that the more ulnar  
19          proximal margin of the lesion is less distinct  
20          than the more radial aspects of the lesion, if  
21          I really had to critically look at the film  
22          now.

23  Q.     Now, is that something that occurs sometimes,  
24          when you go back and look at these plain  
25          standard x-rays in retrospect, you may think

1           that you see some additional things there that  
2           you didn't determine the first time?

3   A.     If we could do retrospect, we would never be  
4           in these rooms, but you can always see things  
5           better once you have a better idea of how  
6           things went, they look much more obvious to  
7           you later.

8   Q.     With your physical examination, you indicated  
9           there maybe a soft tissue component as well;  
10          correct?

11  A.     Yes.

12  Q.     So that was something --

13  A.     I thought that -- you know, she's a very small  
14          woman and I thought that in palpating the area  
15          where she had pain, that it seemed a little  
16          bigger than her other side, but this was a  
17          very subtle finding.

18  Q.     Is that something that you were not able to  
19          see on either of your x-ray studies of April  
20          or the June ones?

21  A.     That's not a radiographic finding, that's a  
22          physical exam finding.

23  Q.     Now, we had talked about the tenosynovitis or  
24          tenosynovitis, I guess that's the same word,  
25          and being the same as tendinitis; correct?

1 A. It's a similar word, right.

2 Q. With regard to tendinitis, is that something  
3 that would usually come on in a patient that  
4 has had some type of acute trauma or injury or  
5 some repetitive stress activity to the wrist  
6 or hand?

7 A. There are --

8 MR. CRENNY: You know, I'm afraid  
9 I'm going to have to object, asked and  
10 answered, relevance. My objection would be  
11 mercy, mercy on all of us. So I would like to  
12 add that objection. No, I'm just kidding. My  
13 objection is as to it's repetitious and not  
14 relevant.

15 BY MR. SLIMAK:

16 Q. Do you recall the question, Dr. Piasio?

17 A. Tendinitis can come -- actually tendinitis and  
18 tenosynovitis are slightly different.  
19 tenosynovitis is swelling of the tendon  
20 lining. Tendinitis can be that in addition to  
21 degenerative change or calcified change in a  
22 tendon. Degenerative change within a tendon,  
23 you can use that specific terminology.

24 Q. Okay, but my question --

25 A. Tenosynovitis can come from a host of things.

1 Trauma repetitive activity can be one, that's  
2 debatable, but that's argued that that's a  
3 source.

4 Q. That's something that it's commonly attributed  
5 to; correct?

6 A. Correct.

7 Q. Some type of acute trauma or repetitive stress  
8 type?

9 A. Repetitive activity is more commonly  
10 associated with it than the tendinitis.

11 Q. Let me just review a few notes. Now, when the  
12 patient did come to see you, did you indicate  
13 in your record for June 9, 2005 that she was  
14 self-referred?

15 A. Yes.

16 Q. And what do you mean by Ms. Carlson was self-  
17 referred to you on June 9th?

18 A. It was my understanding -- I generally ask  
19 where I get my -- I like to find out where my  
20 patients come from.

21 Q. Yes.

22 A. And she said that she wanted to see me for  
23 this problem.

24 Q. On her own initiative?

25 A. That was my understanding.

1 Q. And that's what you recorded in your chart  
2 back then; correct?

3 A. Yes.

4 Q. Now, with respect to that, if she had been  
5 referred to you by physician assistant Natoli  
6 back in April, would you have seen her in that  
7 fashion in the regular course of your  
8 practice?

9 MR. CRENNY: Objection, relevance.

10 A. If she was referred to me with a wrist?

11 BY MR. SLIMAK:

12 Q. Yes.

13 A. I see almost anybody referred to me. There  
14 are very few patients I don't see.

15 Q. And then with regard to that referral back at  
16 that point in time, if it would had occurred  
17 in April, would you see the patients in  
18 approximately a week?

19 A. That I can't -- I would have no idea.

20 MR. CRENNY: Objection, relevance.

21 BY MR. SLIMAK:

22 Q. With regard to if you had seen the patient  
23 back in April, would you have gone through the  
24 same process of working up the patient that  
25 you did in June?

1 A. Yes.

2 MR. CRENNY: Objection, relevance.

3 BY MR. SLIMAK:

4 Q. Now, is a basic x-ray such as your obtaining  
5 on June 9th, 2005, the test that you would  
6 perform to look for tendinitis?

7 A. I will generally get an x-ray on any complaint  
8 because of the world within which I live.

9 Q. My specific question is, would you use an  
10 x-ray to look for tendinitis?

11 A. An x-ray is not used for tendinitis unless, of  
12 course, it's end stage calcific tendinitis and  
13 then you'll make that determination. So if  
14 you have tendinitis, tennis elbow, I will  
15 x-ray that and can diagnose that on an x-ray.

16 Q. When you say end stage, you mean a very severe  
17 longstanding?

18 A. Calcific change. Or rotator cuff tendinitis I  
19 can diagnose with an x-ray occasionally.

20 Q. But tendinitis in the wrist you typically  
21 couldn't unless it was an end stage very  
22 severe with calcific changes?

23 A. There are only a handful of tendonitis about  
24 the wrist and other than own, there are very  
25 few that are diagnosed on a plain film, but

1           there are some.

2   Q.       Is MRI study a better study if you were --

3   A.       No.

4   Q.       -- trying to use an imaging study?

5   A.       No.

6   Q.       Does the MRI show both structures of bone as  
7           well as soft tissue?

8   A.       Yes.

9   Q.       And it also can show fluids and things?

10  A.       Yes.

11  Q.       Now, do you agree that there is quite a bit of  
12           bone density variability from person to  
13           person, there can be?

14  A.       There can be.

15  Q.       Is there a normal range of variation of bone  
16           density?

17  A.       Yes.

18  Q.       So everybody's bones don't look exactly the  
19           same, even if you're looking at the same bone  
20           in different people on a plain film x-ray;  
21           correct?

22  A.       Not only can they be different, but even the  
23           radiographic technique can change them as well  
24           as I can with the computer as well. I can  
25           change -- which is one of the advantage, I



1           can't change the radiographic technique if I  
2           like without repeating the film.

3   Q.       And that's something that you do here in your  
4           office because you have access to this system?

5   A.       I do it routinely on cases where I'm not sure  
6           if I'm looking at -- you know, what I'm  
7           actually looking when I try to sometimes move  
8           what we call the window in and out of the  
9           x-ray to change if I want to see more soft  
10          tissue or more bone. By highlighting, by  
11          playing with the computer, I can change the  
12          image to pick up soft tissue changes as  
13          opposed to bone changes.

14   Q.       So by doing that, one of the things you can  
15          try to look for is actually, although it's not  
16          bone, but the soft tissue surrounding the  
17          bones of the forearm, correct, you're looking  
18          to see if there's something evident there?

19   A.       Possibly.

20   Q.       I understand that.

21   A.       You can change the technique of a plain film  
22          with a digital film by playing with the  
23          computer and adjusting how the digital  
24          presentation shows itself. So that with  
25          otherwise with a regular x-ray, I have to take

1 multiple films if I want to look at soft  
2 tissue and look for fluid or look for mass or  
3 something and see if it's there. Whereas,  
4 with the computer, I can just do it with any  
5 film I can change it, change the way it looks.

6 Q. Now, when you say playing with it, do you mean  
7 examining it in a professional manner?

8 A. Yes.

9 Q. Just because you used that word, I wanted to  
10 have you clarify that?

11 A. Correct. That's correct.

12 Q. Because you wouldn't be playing --

13 A. If you'd like, I can demonstrate that, but --

14 Q. I know what it means, to look at it in a  
15 professional manner which you determined as  
16 playing?

17 A. Playing.

18 Q. Now, just give me a moment, please bear with  
19 me. We have been here a long time and I think  
20 I'm getting close to the end of my questions?

21 A. I'm still good.

22 Q. Thank you. You're still smiling.

23 A. I'm still okay.

24 MR. SLIMAK: The videographer  
25 indicated this would be a good time to change

1 the tape, so let's take a quick break for that  
2 purpose.

3 A. Okay.

4 VIDEOGRAPHER: We're now going off  
5 the record. This marks the end of tape number  
6 two in the deposition. The time right now is  
7 6:45 p.m. Please stand by.

8 - - - -

9 (There was a discussion off the  
10 record.)

11 - - - -

12 VIDEOGRAPHER: We are now back on  
13 the video record. The time right now is  
14 6:48 p.m. that's indicated on the screen.  
15 This will mark the beginning of tape number  
16 three in the deposition. You may proceed.

17 BY MR. SLIMAK:

18 Q. In your records and I think in your earlier  
19 testimony, you indicated that one of the tests  
20 you performed was a bone scan; correct?

21 A. Correct.

22 Q. Are bone scans tests that can only be ordered  
23 by orthopedic surgeons such as yourself?

24 A. No.

25 Q. Can they be ordered by family physicians or

1 physician assistants?

2 A. PAs, yes.

3 Q. Is the bone scan the type of test that can  
4 attempt to identify whether there is  
5 essentially a hot area in a certain area of  
6 bone due to decrease of something or other?

7 A. Bone activity.

8 Q. Bone activity --

9 A. Yes.

10 Q. -- the word escapes me?

11 A. A bone scan is a very nonspecific but  
12 sensitive test that localizes bone activity.  
13 It doesn't tell you if it's tumor, fracture,  
14 infection. It just says that there's bone  
15 turnover, bone action and it's like a red  
16 flag, a place you want to look, or isolates  
17 other areas for tumor patients that may have  
18 other lesions that may not be symptomatic.

19 Q. If you do that bone scan, is it also called a  
20 three-phase radionuclide scan?

21 A. Yes.

22 Q. The same thing. Now, is that something that  
23 you can do body wide and then be able to see  
24 on that study whether or not there is  
25 increased activity, so to speak, in just one

1 wrist versus in both wrists and make  
2 comparisons?

3 A. Yes.

4 Q. Does that help you isolate the area for  
5 possible diagnosis or further workup?

6 A. It can be used for lots of different reasons.  
7 In this particular case, it was done to stage  
8 her and not to diagnose her with -- otherwise  
9 it can be used if you're looking for occult  
10 fractures, we use it for scaphoid fractures,  
11 we use them for stress fractures in those  
12 circumstances.

13 Q. Are there times whenever there are plain basic  
14 x-rays ordered of both right and left arm or  
15 wrist for comparison purposes?

16 A. Generally only in two circumstances, one, if  
17 you have trauma in a child and they have  
18 growth plates and you cannot determine from  
19 that film if something is in line or not  
20 because there's not bone evident, and that's  
21 oftentimes just at the elbow, which is very  
22 confusing. And you'll occasionally get them  
23 in other parts if there's a congenital anomaly  
24 that where you look at it, are there two of  
25 those, is this isolated, or is this the way

1           they are born. Like you can see people with  
2           different ears or something.

3   Q.     Is that a method then to look at both hands  
4           and compare them with the radiographic  
5           appearance would be?

6   A.     You could get a bone scan to look at -- we  
7           sometimes get -- we get them oftentimes for  
8           scaphoid fractures, which you can see on an  
9           x-ray occasionally and you'll see increased  
10          flow or uptake in that particular bone and not  
11          on the other side. So we get -- when we do a  
12          bone scan, we generally don't do them in one  
13          area just because the tracer is in your whole  
14          body and there's no reason not to get a  
15          comparison because it's sitting there and you  
16          get it either way.

17   Q.     You reference that you get the bone scan for  
18           scaphoid fractures, you'll have to tell us,  
19           where's the scaphoid bone?

20   A.     The scaphoid is a bone in the wrist. It's  
21           a -- in a traumatic patient that has a normal  
22           x-ray that has continued radial wrist pain, it  
23           would be what one would get in a trauma case.

24   Q.     So sometimes there are x-rays that would not  
25           pick up even fractures --

- 1 A. That's correct.
- 2 Q. -- in the area of the wrist; correct?
- 3 A. That's correct.
- 4 Q. Now, Attorney Crenney had taken you through
- 5 the sequence of events after your initial
- 6 visit. As I understand it, you saw
- 7 Ms. Carlson back on the 13th after you had had
- 8 additional imaging studies; correct?
- 9 A. Correct.
- 10 Q. At that point in time, then you discuss the
- 11 situation with her, indicated that you would
- 12 make a referral at that point to Dr. Yaw;
- 13 correct?
- 14 A. Correct.
- 15 Q. And you noted in your chart that among other
- 16 things, it appeared the lesion, being this
- 17 tumor, appeared to be fairly rapid growing;
- 18 correct?
- 19 A. Correct.
- 20 Q. Now, there were evidence in this case -- well,
- 21 let me back up. Were you aware that Dr. Yaw
- 22 did not actually perform his surgery until
- 23 June 27th, 2005?
- 24 A. I don't doubt that. I don't know that I
- 25 recall specifically.

1 Q. If we assume for the moment that the facts  
2 show that you made your referral to Dr. Yaw by  
3 letter of June 13th, 2005 and he did not  
4 perform his surgery that we talked about  
5 earlier on her wrist until June 27th, 2005,  
6 okay, is that a typical period of time that  
7 would transpire in your practice from when you  
8 would see a patient and make a diagnosis until  
9 your patients would undergo surgery by the  
10 bone tumor specialist?

11 MR. CRENNY: Objection.

12 A. I would tell you that that's a very short  
13 period of time to get someone on for that kind  
14 of procedure. It was about a week.

15 MR. CRENNY: Withdraw the  
16 objection.

17 A. I saw her the 13th I believe, Ken saw her a  
18 couple of days after, within ten days she had  
19 a radical resection on her wrist, that's very  
20 good time.

21 BY MR. SLIMAK:

22 Q. Good. Thank you for clarifying that because  
23 that's what I want to establish. In the usual  
24 course or oftentimes in your practice, even if  
25 you suspect that there's a tumor of the bone



1           and you're going to make a referral of a  
2           patient to an orthopedic bone specialist that  
3           you anticipate will be performing surgery,  
4           does it oftentimes even take longer than 14  
5           days for that surgery to occur?

6   A.     I have a very close relationship with -- or  
7           had with Dr. Yaw before he left and  
8           Dr. Goodman and I don't make that referral  
9           without a phone call. I don't leave that up  
10          to anyone and if it's not timely in my  
11          opinion, we discuss it. But I also know that  
12          the only two oncologists in five states, so  
13          that usually necessitates a call from me when  
14          I want them seen, but it's not unusual for a  
15          tumor case to take longer than that. That's  
16          actually fairly quick from phone call to  
17          surgery knowing -- just knowing how busy they  
18          are, knowing that Mark Goodman says he does up  
19          to 28, 30 cases a week, so that was good.

20   Q.     With regard to the suspicion of a giant cell  
21           tumor on the basis of which you made a  
22           referral to a physician in Pittsburgh, if you  
23           had had that suspicion back in April of 2005,  
24           would you have expected that it would be two  
25           weeks or greater for your patient to undergo

1 surgery indicated?

2 MR. CRENNY: Objection.

3 A. Can I answer?

4 MR. CRENNY: Sure, absolutely.

5 A. I'm trying to understand the question. If I  
6 had seen the patient originally.

7 BY MR. SLIMAK:

8 Q. Just let me ask the question --

9 MR. CRENNY: Let him answer the  
10 question.

11 A. I'm not sure I understand the question.

12 BY MR. SLIMAK:

13 Q. Let me try to clarify.

14 MR. CRENNY: Please let him answer  
15 the question. He was beginning to answer your  
16 question. You have a question on the board.

17 A. It's hard to say because if I had seen the  
18 patient in April, obviously the urgency of the  
19 workup would not be as acute at that time.

20 BY MR. SLIMAK:

21 Q. It would be less, less urgent?

22 A. I don't know that I would get everything done  
23 in a day. I would get it done within a week  
24 because I knew I had a tumor, but --

25 Q. What do you mean by everything?

1 A. An MRI, CAT scan, CAT scan of the lungs, chest  
2 x-ray, all the blood work.

3 Q. So you may have taken longer than you took  
4 when you saw her in June to get all of that  
5 done if you had seen her in April?

6 MR. CRENNY: Objection. He said  
7 exactly how long.

8 A. I don't know that I would have been able to  
9 impress upon anyone to get all of that done  
10 because basically other patients were  
11 cancelled to get her, to accommodate her  
12 because the phone call went out this will not  
13 wait, I need this today. Initial  
14 presentation, you know, probably within a  
15 week. We would have said we need this within  
16 the week, we're not waiting longer than a  
17 week.

18 BY MR. SLIMAK:

19 Q. And then would you expect if she needed  
20 surgery, even if you had made that referral  
21 and did that workup within a week of April  
22 12th, that there would still be a period of at  
23 least two weeks until your patient would have  
24 undergone surgery?

25 A. I don't know how -- I don't know how to answer

1       that. I mean that's up to their -- I would  
2       have to make the referral that I have a lytic  
3       lesion of the distal radius, I suspect this  
4       giant cell and I'm looking at the mercy of  
5       whatever their schedule is. I don't know how  
6       quickly they would get someone in. You like  
7       them the next day, but realistically I don't  
8       know how quickly that would occur.

9 Q.   Now, when you specifically advise the  
10      Pittsburgh orthopedic surgeons that you felt  
11      this was a fairly aggressive rapidly growing  
12      lesion that you felt was a tumor, correct,  
13      they took two weeks to take her to surgery;  
14      correct?

15 A.   Correct.

16 Q.   That's from the date you made the call until  
17      she underwent the surgery, June 27th; correct?

18 A.   Correct.

19               MR. SLIMAK: That's all the  
20      additional questions I have for you at this  
21      time. The other attorneys may have some.

22               - - - -  
23               EXAMINATION

24               - - - -

25 BY MR. WALL:

1 Q. Doctor, as you know, we just met earlier this  
2 evening, I'm Walter Wall and I represent DRI,  
3 DuBois Radiology, Inc. and I appreciate your  
4 patience of going on with us. I can assure  
5 you, I will be relatively speaking shorter,  
6 just two areas. Is it fair to say when this  
7 patient first came to your office, the  
8 complaint was pain in the right wrist; is that  
9 correct?

10 A. That's correct.

11 Q. And we'll bypass everything you have testified  
12 to, but you have your chart there, I direct  
13 your attention to the requisition you  
14 thereafter did for the MRI and the bone scan  
15 and that, of course, was the same date,  
16 Thursday, June 9th?

17 A. Am I looking for the --

18 Q. Let me show you?

19 A. -- x-ray orders?

20 Q. Do you have it somewhere? I just need  
21 clarification on what's on the top there?

22 A. I have it.

23 Q. Up on the history on the right-hand corner at  
24 the top, could you read --

25 A. This is June 9th?

- 1 Q. Yes, sir.
- 2 A. Under history?
- 3 Q. Yes, sir.
- 4 A. Mass right radius.
- 5 Q. And then down below it said MRI --
- 6 A. MR right distal radius.
- 7 Q. Correct?
- 8 A. Correct.
- 9 Q. And then next page, at least the next page I
- 10 have, is the bone scan and you basically wrote
- 11 the same things under both history, mass of
- 12 the right radius, and down below mass of the
- 13 right radius; correct?
- 14 A. I'm looking. I have a lot of requisitions.
- 15 Q. I'm sorry.
- 16 A. For the bone scan, correct, mass right radius,
- 17 mass right radius.
- 18 Q. What was your purpose for writing both the
- 19 history and the direction as you did?
- 20 A. I am forced to so they can bill correctly. If
- 21 I don't fill in those forms, they are unable
- 22 to code and bill for the x-ray correctly and
- 23 sometimes necessitates a delay in getting them
- 24 approved.
- 25 Q. However, you could have easily said just as

- 1           was done before in this case, pain in right  
2           wrist, MRI right wrist?
- 3   A.       I could, but I -- at that point I'm a little  
4           better. I mean I could write pain and still  
5           get it approved and there's no issue. You can  
6           write pain, but when I'm writing that order,  
7           June 9th or 10th, it's not pain right wrist,  
8           it's mass right wrist.
- 9   Q.       You're trying to be more definitive?
- 10  A.       Correct. I try to help them as much as I can.
- 11  Q.       Help them being the staff that's going to  
12           undertake the MR and the bone scan?
- 13  A.       That's correct.
- 14  Q.       You want to give them as best information as  
15           you can to focus on?
- 16  A.       Right.
- 17  Q.       Doctor, in your practice currently or in the  
18           past, you have had occasion to have  
19           physician's assistant on your staff, have you  
20           not?
- 21  A.       That's correct.
- 22  Q.       Did you have or do you have a policy as to a  
23           patient coming in with a new complaint, how  
24           many office visits will pass when only a  
25           physician's assistant sees that patient?

1 MR. CRENNY: Objection.

2 BY MR. WALL:

3 Q. You can answer.

4 A. There maybe state law in a primary practice,  
5 but occasional I don't even see patients long  
6 enough to necessarily warrant the visit.  
7 That's something we are debating very  
8 viciously at the state regulatory level and  
9 probably beyond the scope of this deposition,  
10 but I think that those -- I don't know what  
11 state law is with respect to primary care, but  
12 I think a lot of that is determined by the  
13 particular relationship you have with that  
14 ancillary provider and their level of  
15 expertise into what it is.

16 Now, when I had a nurse practitioner  
17 in my office, we're very focused on one area  
18 and almost never were not in the office  
19 together. It was rare that we did not work at  
20 the same time, so our relationship was a  
21 little bit different. But so it's hard to  
22 comment. I don't know what actual law is in  
23 terms of how often someone has to see.

24 Q. Well, we both agree there is statutory --

25 A. I believe there is some and I think it's every



1           third or fourth visit or sixth. I'm not sure  
2           where it is right now, where the regulation  
3           is.

4   Q.     I wasn't going to ask you the legal issue, I  
5           asked you if you had a policy established as  
6           to that fact?

7   A.     Our policy in my office was to be consistent  
8           with state regulations as they apply to the  
9           nursing board because I had a nurse  
10          practitioner, not a PA, and those regulations  
11          are different. And the nurse practitioner, I  
12          don't believe it's as frequent as to what the  
13          physician assistant. Hopefully we won't get  
14          any worse than that, but it -- but we had a  
15          very close working relationship. So, it  
16          was -- like I said, it was rare.

17                   The way that we worked, we tried to  
18          see patients simultaneously so that I was  
19          always there for any time that she would see  
20          so that I would actually see my patients and  
21          half of hers.

22   Q.     Would you have occasion thereafter to review  
23           her chart entries?

24   A.     I rarely --

25                   MR. CRENNNEY: Objection.

1 A. We worked close enough that I would usually  
2 see the patient at the time and anything  
3 unusual, she would always bring it up to me.  
4 We had a close relationship.

5 BY MR. WALL:

6 Q. So the two of you are communicating that way?

7 A. Very intensely.

8 Q. Nevertheless, when she would see a patient and  
9 make a chart entry, would you review that  
10 chart?

11 A. Not all of them, no.

12 Q. Did you sign it?

13 A. No. Every chart entry?

14 Q. Yes.

15 A. No.

16 MR. WALL: Thank you, Doctor.  
17 That's all I have.

18 MR. JOHNSON: Doctor, I'm Dave  
19 Johnson. I represent DuBois Regional Medical  
20 Center. You and I met for the first time just  
21 as I was walking into the room today; correct?

22 A. Correct.

23 MR. JOHNSON: It's the first time  
24 you and I have ever talked with each other?

25 A. I have heard your name, but this is the first

1 we have met, yes.

2 MR. JOHNSON: Doctor, I have no  
3 questions of you. Thank you very much.

4 - - - -

5 RE-EXAMINATION

6 - - - -

7 BY MR. CRENNNEY:

8 Q. Doctor, you may recall sometime ago when  
9 Mr. Slimak began his cross examination -- I  
10 didn't have my mic, so I don't know if that  
11 pick up. It probably did. But do you  
12 remember when Mr. Slimak began his cross  
13 examination, that he talked about the times  
14 you and I had talked, do you recall that, over  
15 the telephone?

16 A. Yes.

17 Q. And during those talks, he -- well, strike  
18 that. He mentioned the report, correct, the  
19 report that you wrote and sent to me?

20 A. Correct, that one-page letter, correct.

21 Q. Do you recall when I called you about that  
22 report, I said if you will write a report and  
23 clarify your record, maybe you won't have to  
24 testify at all, do you recall that?

25 MR. SLIMAK: I'm going to object to

1 leading.

2 BY MR. CRENNNEY:

3 Q. Do you recall --

4 A. I recall that in our conversations, I believe  
5 I was relatively clear of the difficult  
6 circumstance that I was in as a treating  
7 physician with knowledge of the case and a  
8 differing opinion within the facility within I  
9 work, that that was a very sensitive  
10 circumstance and expressed I believe in  
11 multiple times to please settle this without  
12 me having to be here today.

13 MR. WALL: Move to strike.

14 MR. JOHNSON: Move to strike.

15 MR. SLIMAK: Same objection.

16 By MR. Crenney:

17 Q. Doctor, would you be kind enough to tell me if  
18 you were reluctant to testify in this case  
19 and, if so, would you tell me why?

20 MR. JOHNSON: Objection, relevance.

21 MR. WALL: Objection.

22 MR. SLIMAK: I join.

23 A. Am I answering?

24 BY MR. CRENNNEY:

25 Q. Yes, you are, sir.

- 1 A. That I had to answer that question two ways.  
2 I'm reluctant because I don't want to be in  
3 this circumstance because I work here and I  
4 know all the parties involved, so I'm  
5 reluctant to be a witness. No different than  
6 anyone who witnesses something that they don't  
7 want to be involved in the trial. On the  
8 other hand, I am not reluctant if it's -- you  
9 know, to come and tell the truth as I see it.
- 10 Q. And, Doctor, Mr. Slimak talked a lot about a  
11 lot of conditions like Paula Carlson's dad  
12 died of lung cancer, he brought that to your  
13 attention. That somebody in their family had  
14 diabetes. He talked about the Finkelstein  
15 test and the spines and necks, do you recall  
16 that, going through all of that about Paula?
- 17 A. Yes.
- 18 Q. Did you need that information to identify the  
19 lytic lesion that when you looked at the x-ray  
20 of April 12th, was that important information,  
21 did you need it?
- 22 A. No.
- 23 Q. Was the lytic lesion clear when you first  
24 looked at that image to you?
- 25 A. It was clear to me.

1 Q. Doctor, are you in any way critical of the  
2 care provided by Dr. Graeca or his staff to  
3 Paula Carlson?

4 MR. WALL: Objection.

5 MR. SLIMAK: Objection, lack of a  
6 report.

7 MR. CRENNY: I think your cross  
8 examination and its purpose was to explicitly  
9 and implicitly call into question Dr. Graeca's  
10 care and I feel it's a fair question based on  
11 your cross. You may answer.

12 MR. WALL: Well, I'm going to  
13 object, there's no foundation. I don't know  
14 if the Doctor has ever reviewed Dr. Graeca's  
15 records to be able to afford an answer to  
16 you.

17 MR. SLIMAK: He's already indicated  
18 he hadn't. No foundation.

19 MR. Crenney: Well, he received a  
20 lot of information on what Dr. Graeca did from  
21 you through the report of Dr. Horsley, so he  
22 has that foundation.

23 BY MR. CRENNY:

24 Q. Basic on what you know, are you critical of  
25 Dr. Graeca?

1 MR. CRENNY: Your objections are  
2 noted.

3 MR. SLIMAK: Same objection.

4 BY MR. CRENNY:

5 Q. You can answer?

6 A. No, I'm not critical.

7 Q. How about Dr. Yaw?

8 A. I'm not critical.

9 Q. Thank you, Doctor. Are you critical of  
10 Dr. Natoli or Dr. Meyers, not Dr. Natoli, PA  
11 Natoli or Dr. Meyers?

12 MR. SLIMAK: Same objections.

13 MR. CRENNY: I'll withdraw the  
14 question. Thank you, Doctor.

15 MR. WALL: I guess we're at you,  
16 Mr. Slimak.

17 MR. SLIMAK: Oh, I wasn't sure.

18 MR. CRENNY: All done, thank you.  
19 Well, no, not quite, one more thing. May I  
20 turn this back, Mr. Slimak to the beginning  
21 one?

22 MR. SLIMAK: Yes.

23 BY MR. CRENNY:

24 Q. Doctor, we're now looking at the first page  
25 that Mr. Slimak brought to your attention and

1 without waiving my objection to that, I would  
2 like to ask you about items that are not  
3 highlighted on what Mr. Slimak gave you. Does  
4 it say referred by Dr. Graeca, see to the  
5 referred by?

6 A. Yes.

7 Q. And then does it say by Dr. Graeca?

8 A. Yes.

9 Q. And that's your record; correct?

10 A. That record is -- that's filled out by  
11 sometimes the front office and sometimes  
12 patient when it's incomplete. I'm not always  
13 fully aware of how a patient presents to my  
14 office. I try to find it out only because I  
15 like to know who my friends are. However, I  
16 don't like to give someone credit for referral  
17 that really wasn't or vice versa, so I like  
18 to -- and we do chart in looking at our  
19 business practices who refers patients to us  
20 and who doesn't.

21 So you know, we basically know, you  
22 know, who can get someone in today, who can  
23 get someone in tomorrow. So we try to keep  
24 track of. Plus for billing purposes and also  
25 for documentation purposes, I need to know



1       where my letters need to go. And I also need  
2       to know we have different billing codes if  
3       someone is referred or not. This is the world  
4       within which I live.

5                   MR. JOHNSON: Just for the record, I  
6       move to strike that as being beyond the scope  
7       of the question and also on the basis of  
8       relevance.

9                   MR. WALL: Join.

10                  MR. CRENNY: I'm going to withdraw  
11       questions about this document altogether and  
12       conclude my redirect. So I will withdraw all  
13       the questions from the very beginning that I  
14       asked about this.

15                  MR. WALL: From the beginning of the  
16       deposition?

17                  MR. CRENNY: No, except for this  
18       document. Thank you very much, Doctor.

19                               - - - -

20                               RE-EXAMINATION

21                               - - - -

22 BY MR. SLIMAK:

23 Q.       Doctor, is Dr. Graeca one of your friends  
24       here, so to speak, at the hospital?

25 A.       We don't socialize. We -- you know, certainly

1 consider him a friend. I mean he does refer  
2 patients to me. I refer patients to him and  
3 we work professionally together. We  
4 don't -- not that I wouldn't socialize with  
5 him, but we just don't. I have no problems  
6 with him personally. He's not in my circle of  
7 friends and vice versa.

8 Q. You try to keep a good relationship with  
9 Dr. Graeca?

10 A. Absolutely.

11 Q. And the two of you still practice here at the  
12 hospital in separate offices, but in the same  
13 building; correct?

14 A. Yes, we do.

15 Q. Now, just one other thing, you had used this  
16 word artifact previously, correct --

17 A. Correct.

18 Q. -- when you talked about this case?

19 MR. CRENNY: Objection. Beyond the  
20 scope of my redirect.

21 BY MR. SLIMAK:

22 Q. Is this the word artifact you're talking  
23 about?

24 A. Yes.

25 MR. CRENNY: Objection. Move to

1 strike. Very funny, but move to strike.

2 MR. SLIMAK: I think that's all the  
3 questions I have for you at this time. Thank  
4 you, sir.

5 MR. WALL: One question.

6 - - - -

7 RE-EXAMINATION

8 - - - -

9 BY MR. WALL:

10 Q. Doctor, Mr. Crenney asked you a question over  
11 my objection, but you didn't answer it --

12 A. I'm sorry.

13 Q. -- and that was, do you have any criticism of  
14 PA Natoli from whatever it is you know about  
15 the treatment Mrs.. Carlson received before  
16 she saw you?

17 A. No, I don't.

18 MR. SLIMAK: I have an objection,  
19 the same as before that were objected to in  
20 Mr. Crenney's questions in that regard.

21 MR. WALL: That's all I have. We're  
22 done.

23 VIDEOGRAPHER: With there being no  
24 further questions, the deposition is  
25 concluded. The time now is 7:12 p.m. and

1 that's indicated on the screen. Thank you  
2 very much and have a good night.

3 - - - -

4 (Thereupon, the deposition was  
5 concluded at 7:12 p.m.)

6 - - - -

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1 COMMONWEALTH OF PENNSYLVANIA) CERTIFICATE

2 COUNTY OF ALLEGHENY ) SS:

3 I, Tammie Elias, RPR, a Court Reporter and  
4 Notary Public in and for the Commonwealth of  
5 Pennsylvania, do hereby certify that the witness,  
6 MARK A. PIASIO, M.D., was by me first duly sworn to  
7 testify to the truth; that the foregoing deposition  
8 was taken at the time and place stated herein; and  
9 that the said deposition was recorded  
10 stenographically by me and then reduced to printing  
11 under my direction, and constitutes a true record of  
12 the testimony given by said witness.

13 I further certify that the inspection, reading  
14 and signing of said deposition were waived by  
15 counsel for the respective parties and by the  
16 witness.

17 I further certify that I am not a relative or  
18 employee of any of the parties, or a relative or  
19 employee of either counsel, and that I am in no way  
20 interested, directly or indirectly, in this action.

21 IN WITNESS WHEREOF, I have hereunto set my  
22 hand and affixed my seal of office this 22nd day of  
23 January, 2008.

24

25

---

Notary Public

THOMAS E. CRENNNEY & ASSOCIATES, LLC

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January 24 2008

**Via Facsimile and U.S. Mail**

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Altoona, PA 16602

Re: Paula Carlson, et al. vs. Jerjis T. Alajaji, M.D., et al.  
Docket No. 2006 – 563 GD (Clearfield County)  
Our File No. 2895.01

Gentlemen:

Listed below are my proposals for removal of sections of Dr. Piasio's testimony and my withdrawals of objections. Please note the references are from the emailed version of the transcript. I continue to believe that the best way to accomplish our goals which would be to save the Court's time is to work together in good faith over the telephone. I note that I have not heard from anyone regarding voluntary withdrawals or proposals for removals. This, of course, makes it difficult for me in preparing my submissions to the Court.

1. Remove page 19, second line 25, all of pages 20 & 21, and page 22, lines 11 - 25 and 1 - 4
2. Remove pages 31 through 47 and page 47, lines 19 – 25 and 1 – 9
3. Remove page 55, lines 1 – 15 and page 56, lines 16 – 18.
4. Remove page 74, lines 2 - 7
5. Remove page 79, lines 21 & 22
6. Withdraw objection at page 86, lines 16 & 17

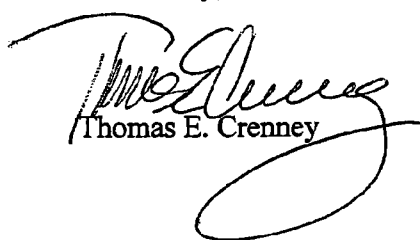
THOMAS E. CRENNNEY & ASSOCIATES, LLC

All Counsel  
January 24, 2008  
Page 2

7. Withdraw objection at page 87, lines 11 & 12
8. Withdraw objection at page 102, lines 9, 20 & 2
9. Withdraw page 110, lines 11, 15 & 16
10. Withdraw page 111, lines 2, 9 & 10
11. Remove page 112, lines 14 – 16 and 6 & 7
12. Withdraw page 116, line 1
13. Withdraw page 118, line 25
14. Withdraw page 122, lines 9 – 19 at the bottom
15. Withdraw page 123 in its entirety
16. Withdraw page 124, lines 1- 18

Thank you for your kind attention to this matter.

Yours truly,

  
Thomas E. Crenney

TEC/bjw

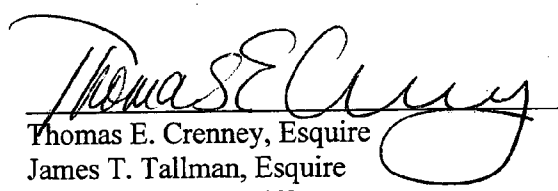
**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and correct copy of the foregoing  
**PLAINTIFFS' MOTION TO STRIKE PORTIONS OF DR. MARK A. PIASIO'S**  
**DEPOSITION** was served by First Class Mail, postage prepaid on the 25<sup>th</sup> day of  
January, 2008, as follows:

Darryl R. Slimak, Esquire  
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Thomas E. Crenney, Esquire  
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Attorneys for Plaintiff



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

PAULA CARLSON and  
JAMIE CARLSON, her husband,

Plaintiffs,

No. 2006-563-CD

Civil Action – Medical Professional  
Liability Action

vs.

JERJIS T. ALAJAJI, M.D., DUBOIS  
RADIOLOGISTS, INC. and DUBOIS  
REGIONAL MEDICAL CENTER,

Defendants.

**ORDER OF COURT**

AND NOW, this \_\_\_\_ day of \_\_\_\_\_, 2008, it is hereby ORDERED that oral argument on Plaintiffs' Plaintiffs' Motion to Strike Portions of Dr. Mark A. Piasio's Deposition is scheduled for the \_\_\_\_ day of \_\_\_\_\_, 2008, at \_\_\_\_\_ o'clock \_\_\_\_m. before the Honorable Charles C. Brown, Jr. in Courtroom No. \_\_\_\_ of the Clearfield County Courthouse.

BY THE COURT

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