

06-936-CD  
Angela Hale et al vs Michael J. Kush MD et al

Angela Hale et al vs Michael Kush et al  
2006-936-CD

Date: 9/25/2007

Clearfield County Court of Common Pleas

User: BILLSHAW

Time: 11:42 AM

ROA Report

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Case: 2006-00936-CD

Current Judge: Fredric Joseph Ammerman

Angela Hale, Randy A. Hale, Ashtyn Halevs. Michael J. Kush MD, Gary D. Ott MD, DuBois Regional Medical Center

Medical Professional Liability Action

| Date      |  | Judge                   |
|-----------|--|-------------------------|
| 6/12/2006 | New Case Filed.  | No Judge                |
|           | ✓ Filing: Civil Complaint-Medical Professional Liability Action, Paid by: Cohen, Harry S. (attorney for Hale, Randy A.) Receipt number: 1914249 Dated: 6/12/2006 Amount: \$85.00 (Check) 3 Cert. to Atty.  | No Judge                |
| 6/23/2006 | ✓ Praeclipe for Appearance, filed. Kindly enter our appearance on behalf of DuBois Regional Medical Center, one of the defendants, filed by s/ David R. Johnson Esq. NO CC.  | No Judge                |
| 6/29/2006 | ✓ Praeclipe For Entry of Appearance, filed. Please enter our appearance on behalf of the Defendant, Gary D. Ott M.D. in the above matter, filed by s/ John W. Blasko Esq. NO CC.   | No Judge                |
| 6/30/2006 | ✓ Acceptance of Service of Complaint on Behalf of Defendant Gary D. Ott, M.D., signed by s/ John W. Blasko, Esquire. Filed by s/ Harry S. Cohen & Associates, PC. 3CC to Atty  | No Judge                |
| 7/3/2006  | ✓ Praeclipe for Appearance, filed. Kindly enter our appearance on behalf of Michael J. Kush MD one of the defendants, filed by David R. Johnson Esq. No CC.  | No Judge                |
| 7/5/2006  | ✓ Acceptance of Service Of Complaint on Behalf of Defendants Michael J. Kush, M.D. And DuBois Regional Medical Center, filed by s/ Harry S. Cohen & Associates, PC. Signed by David R. Johnson, Esquire. 3CC To Atty   | No Judge                |
| 7/13/2006 | ✓ Certificate of Service, filed. That Defendant Ott's Interrogatories and Request for Production (set one) directed to Plaintiffs, in the above-referenced matter was mailed on this 12th day of July 2006 to Harry S. Cohen Esq and David R. Johnson Esq., filed by s/ John W. Blasko Esq. No CC. | No Judge                |
|           | ✓ Certificate of Service, filed. That Defendant Ott's Request for Production (set two) directed to Plaintiffs, in the above-referenced matter on this 12th day of July 2006 to Harry S. Cohen Esq and David R. Johnson Esq., filed by s/ John W. Blasko Esq. No CC.                                | No Judge                |
|           | ✓ Certificate of Service, filed. That defendant Ott's Expert Interrogatories directed to Plaintiffs, in the above-referenced matter was mailed on this 12th day of July 2006 to Harry S. Cohen Esq and David R. Johnson Esq., filed by s/ John W. Blasko Esq. No CC.                               | No Judge                |
| 7/24/2006 | ✓ Answer and New Matter to Plaintiffs' Complaint, filed by s/ John W. Blasko Esq. No CC.   | No Judge                |
| 9/14/2006 | ✓ Notice of Praeclipe to Enter Default Judgment against Defendant DuBois Regional Medical Center, Important Notice, dated September 12, 2006, filed by s/ Todd D. Bowlus Esq. No CC.   | No Judge                |
| 9/22/2006 | ✓ Answer and New Matter filed, filed by s/ Brad R. Korinski Esq. No CC.  | No Judge                |
| 9/28/2006 | ✓ Plaintiff's Motion to Consolidate, filed by s/ Todd D. Bowlus, Esquire. No CC, Original to 05-364-CD   | No Judge                |
| 9/29/2006 | ✓ Verification of Michael J. Kush, M.D., filed by s/ Brad R. Korinski Esq. NO CC.  | No Judge                |
|           | ✓ Rule, NOW, this 28th day of Sept., 2006, a Rule is issued to show cause why Plaintiffs' Motion to Consolidate should not be granted. Rule returnable the 27th day of Oct., 2006, Courtroom 1 at 9:00 a.m. By The Court, /s/ Fredric J. Ammerman, Pres. Judge. 1CC Atty. Cohen                    | Fredric Joseph Ammerman |

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Case: 2006-00936-CD

Current Judge: Fredric Joseph Ammerman

Angela Hale, Randy A. Hale, Ashtyn Halevs, Michael J. Kush MD, Gary D. Ott MD, DuBois Regional Medical Center

Medical Professional Liability Action

| Date       | Judge  |                         |
|------------|--|-------------------------|
| 10/6/2006  | Plaintiffs' Reply to New Matter filed on behalf of Defendants Michael J. Kush, MD and DuBois Regional Medical Center, filed by s/ Todd D. Bowlus Esq. No CC.   | No Judge                |
| 10/31/2006 | Order, NOW, this 27th day of Oct., 2006, relative the Plaintiffs' and Defendants' Motions to Compel Expert Reports, with the parties being in agreement for the entry of a case management order, it is Ordered: (see original). By the Court, /s/ Fredric J. Ammerman, Pres. Judge. 1CC Attys: Cohen, Johnson, Blasko   | Fredric Joseph Ammerman |
| 11/1/2006  | Amended NOW, this 1st day of Nov., 2006, It is the Order of this Court that the Order entered on Oct. 27, 2006, is hereby Amended to read as follows: (see original). By The Court, /s/ Fredric J. Ammerman, Pres. Judge. 1CC Attys: Cohen, Johnson, Blasko  | Fredric Joseph Ammerman |
| 11/8/2006  | Order, NOW, this 27th day of Oct., 2006, relative the Plaintiffs' Motion to Consolidate the above-captioned case with the case filed to No. 05-364-CD; with the Court noting that counsel for the Defendants being in agreement with the Plaintiffs' requests, it is the Order of this Court that the cases be and are hereby consolidated. By The Court, /s/ Fredric J. Ammerman, Pres. Judge.  | Fredric Joseph Ammerman |
| 2/23/2007  | Notice of Deposition of George Cherian M.D. with Subpeona Duces Tecum, filed by s/ Todd D. Bowlus Esq. (original filed to 05-364-CD)   | Fredric Joseph Ammerman |
| 3/12/2007  | Second Notice of Deposition of George Cherian M.D. with Subpeona Duces Tecum, filed by s/ Todd D. Bowlus Esq. (original filed to 2005-364-CD)  | Fredric Joseph Ammerman |
| 3/21/2007  | Plaintiffs' Motion For Extension of Time to File Expert Reports or in The Alternative Motion For Trial Continuance, filed by s/ Harry S. Cohen, Esquire. No CC Orig. to 05-364-CD  | Fredric Joseph Ammerman |
|            | Plaintiffs' Motion to Dismiss Case (2006-936-CD) Without Prejudice, filed by s/ Harry S. Cohen, Esquire. No CC   | Fredric Joseph Ammerman |
| 4/4/2007   | Rule, NOW, this 26th day of March, 2007, a Rule is issued to show cause why Plaintiffs' Motion to Dismiss Case (2006-936-CD) Without Prejudice should not be granted. Rule Returnable the 14th day of May, 2007 in Clfd. Co. Courtroom 1 at 9:30 a.m. by The Court, /s/ Fredric J. Ammerman, Pres. Judge. 1CC Attys: Bowlus, Blasko, D. Johnson; 1CC T. Yoo - 145 Hospital Ave., Ste. 315, DuBois, PA 15801  | Fredric Joseph Ammerman |
|            | Rule To Show Cause: Now, this 4th day of April, 2007, a Rule is issued to show cause why Plaintiffs' Motion for Extension of Time to File Expert Reports/Motion or Trial Continuance should not be granted. Rule returnable the 14th day of May, 2007, Courtroom 1 at 9:30 a.m. By The Court, /s/ Fredric J. Ammerman, Pres. Judge. 1CC Attys: Bowlus, Blasko, D. Johnson; 1CC Def. T. Yoo - 145 Hospital Ave. Ste. 315, DuBois, PA 15801            | Fredric Joseph Ammerman |
| 4/10/2007  | Motion for Continuance, filed by Atty. Blasko no cert. copies. original with 05-364-CD.  | Fredric Joseph Ammerman |
| 4/13/2007  | Order of Court, NOW, this 13th day of April, 2007, upon consideration of Motion for Continuance of Argument Date, the argument on Plaintiffs' Motion for Extension of Time to File Expert Report/Motion for Trial Continuance, and Plaintiffs' Motion to Dismiss Case (2006-936-CD) without prejudice is continued and rescheduled for May 29, 2007 in Courtroom 1 at 9:00 a.m. By The Court, /s/ Fredric J. Ammerman, Pres. Judge. 1CC Atty. Blasko | Fredric Joseph Ammerman |

Date: 9/25/2007

Clearfield County Court of Common Pleas

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Case: 2006-00936-CD

Current Judge: Fredric Joseph Ammerman

Angela Hale, Randy A. Hale, Ashtyn Halevs. Michael J. Kush MD, Gary D. Ott MD, DuBois Regional Medical Center

Medical Professional Liability Action

| Date      | Judge  |                         |
|-----------|--|-------------------------|
| 4/18/2007 | ✓ Affidavit of Service filed. Copy of the Order of Court dated April 13, 2007 was served upon counsel of record: Harry S. Cohen, Esquire and Todd D. Bowlus, Esquire, Harry S. Cohen & Associates, P.C., and David R. Johnson, Esquire, by regular mail, first class, on April 17, 2007. Filed by s/John W. Blasko, Esquire. Original w/ 2005-364-CD   | Fredric Joseph Ammerman |
| 4/19/2007 | ✓ Answer to Plaintiffs' Motion for Extension of Time to File Expert Reports or, Fredric Joseph Ammerman in the alternative, Motion for Continuance, filed by s/ John W. Blasko, Esquire. No CC. Original to 05-364-CD<br>✓ Answer to Plaintiffs' Motion to Dismiss Case 2006-936 CD without Prejudice, filed by s/ John W. Blasko, Esquire. no CC. Original to 05-364-CD   | Fredric Joseph Ammerman |
| 4/26/2007 | ✓ Joinder In Answer to Plaintiffs' Motion to Dismiss Case 2006-936-CD Without Prejudice, filed by s/David R. Johnson, Esquire. No CC Orig. to 05-364-CD<br>✓ Joinder in Answer to Plaintiffs' Motion For Extension of Time to File Expert Reports or in The Alternative Motion For Continuance, filed by s/ David R. Johnson, Esquire. Orig. to 05-364-CD  | Fredric Joseph Ammerman |
| 5/2/2007  | ✓ Plaintiffs' Reply to New Matter in Defendant Gary D. Ott, MD's Answer to Motion For Extension of Time to File Expert Reports or in The Alternative Motion For Trial Continuance, filed by s/ Harry S. Cohen, Esquire. Orig. to 05-364-CD<br>✓ Plaintiffs' Reply to New Matter in Defendant Gary D. Ott, MD's Answer to Motion to Dismiss Case (2006-936-CD) Without Prejudice, filed by s/ Harry S. Cohen, Esquire. Orig. to 05-364-CD | Fredric Joseph Ammerman |
| 5/10/2007 | ✓ Plaintiffs' Motion For Continuance of Argument Date, filed by s/ Harry S. Cohen, Esquire. 1CC Atty Original filed to 05-364-CD   | Fredric Joseph Ammerman |
| 5/11/2007 | ✓ Order, NOW, this 11th day of May, 2007, it is Ordered that the argument on Plaintiffs' Motion for Extension of Time to File Expert Reports/motion for Trial Continuance, and, Motion to Dismiss Case (2006-936 CD) Without Prejudice is continued and rescheduled for the 11th day of May, 2007 in Courtroom 1 at 10:00 a.m. By The Court, /s/ Fredric J. Ammerman, Pres. Judge. 1CC Atty. Cohen, Orig. to 05-364-CD                   | Fredric Joseph Ammerman |
| 7/2/2007  | ✓ Disclosure of Expert Reports, filed by s/David R. Johnson, Esq. No CC<br>✓ Motion for Summary Judgment on Behalf of Michael J. Kush, MD, filed by s/Brad R. Korinski, Esq. Three CC Attorney Korinski  | Fredric Joseph Ammerman |
| 7/10/2007 | ✓ Order, Now, this 10th day of July, 2007, it is Ordered that oral argument on Dr. Kush's motion for summary judgment is scheduled for the 10th day of August, 2007, at 10:00 a.m. in Courtroom 1. by The Court, /s/ Fredric J. Ammerman, Pres. Judge. 3CC Atty. Korinski Orig. filed to 05-364-CD.  | Fredric Joseph Ammerman |
| 7/16/2007 | ✓ Notice of Service of Plaintiff's Sixth Request for Production of Documents Directed to Defendant DuBois Regional Medical Center, filed by s/ Todd Bowlus Esq. 1CC Atty. (original filed to 2005-364-CD)  | Fredric Joseph Ammerman |
| 7/23/2007 | ✓ Notice to Attend Directed to Defendant Gary D. Ott M.D. with Subpoena Duces Tuncum, filed by s/ Todd D. Bowlus Esq. 1CC Atty. (original filed to 05-364-CD)<br>✓ Notice to Attend Directed to Records Custodian of Defendant DuBois Regional Medical Center with Subpoena Duces Tecum, filed by s/ Todd D. Bowlus Esq. 1CC Atty. (original filed to 05-364-CD)   | Fredric Joseph Ammerman |

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Clearfield County Court of Common Pleas  
ROA Report  
Case: 2006-00936-CD

User: BILLSHAW

Current Judge: Fredric Joseph Ammerman  
Angela Hale, Randy A. Hale, Ashtyn Halevs. Michael J. Kush MD, Gary D. Ott MD, DuBois Regional Medical Center

Medical Professional Liability Action

| Date      | Judge   |
|-----------|---|
| 7/23/2007 | ✓ Notice to Attend Directed to Kathryn Raybuck R.N., filed by s/ Todd D. Bowlus Esq. 1CC Atty. (original filed to 05-364-CD)  |
|           | ✓ Notice to Attend Directed to Desiree Smith R.N., filed by s/ Todd D. Bowlus Esq. 1CC Atty. (original filed to 05-364-CD)  |
| 7/27/2007 | ✓ Plaintiffs' Motion in Limine to Preclude Irrelevant Evidence, filed by s/ Harry S. Cohen, Esquire, and Todd D. Bowlus, Esquire. Orig. filed to 05-364-CD  |
|           | ✓ Plaintiffs' Motion in Limine to Limit Expert Testimony, filed by s/ Harry S. Cohen, Esquire, and Todd D. Bowlus, Esquire. Original filed to 05-364-CD   |
|           | Order, NOW, this 27th day of July, 2007, it is Ordered that a Pre-Trial Conference in the above matter shall be held on the 24th day of August, 2007, in Chambers at 9:30 a.m. By The Court, /s/ Fredric J. Ammerman, Pres. Judge. 1CC Cohen and Bowlus; Johnson and Oliver; Blasko and Neely; T. Cherry (original to 05-364-CD)  |
|           | ✓ Rule, this 27th day of July, 2007, a Rule is issued. Rule returnable the 10th day of August, 2007 Courtroom 1 at 10:00 a.m. By The Court, /s/ Fredric J. Ammerman, Pres. Judge. 3CC Atty. Bowlus (original to 05-364-CD)  |
| 8/3/2007  | ✓ Affidavit of Service filed. That a true and correct copies of Rules to Show Cause dated July 27, 2007 Re: Plaintiffs' Motion in Limine to Preclude Irrelevant Evidence and Plaintiffs' Motion in Limine to Limit Expert Testimony and signed by the Honorable Fredric J. Ammerman, the above-captioned case was served upon John W. Blasko Esq., and David R. Johnson Esq., on the 1st day of August 2007 filed by s/ Todd D. Bowlus Esq. NO CC. (original filed to 06-936-CD) No CC. |
| 8/7/2007  | ✓ Answer to Plaintiffs' Motion in Limine to Limit Expert Testimony, filed by s/John W. Blasko. Esq. No CC   |
|           | ✓ Answer to Plaintiffs' Motion in Limine to Preclude Irrelevant Evidence, filed by s/John W. Blasko, Esq. No CC   |
| 8/15/2007 | ✓ Motion in Limine to Preclude Testimony of Dr. George Cherian and/or Evidence Regarding Irrelevant and Inadmissible Matters, filed by s/Frederick Battaglia No CC  |
| 8/22/2007 | ✓ Joinder in Motion in Limine to Preclude Testimony of Dr. George Cherian and/or Evidence Regarding Irrelevant and Inadmissible Matters, filed by Atty. Johnson no cert. copies.  |
| 8/30/2007 | ✓ Plaintiffs' Motion For Clarification of Court Order Dated August 10, 2007/Motion to Preclude Evidence, filed by s/ Todd D. Bowlus, Esquire, Harry S. Cohen, Esquire. original to 05-364-CD.   |
|           | ✓ Plaintiffs' Response to Defendants' Response to Defendants' Motion in Limine to Preclude Testimony of Dr. George Cherian, filed by s/ Harry S. Cohen, Esquire. Original to 05-364-CD  |
| 9/4/2007  | ✓ Order, this 4th day of Sept., 2007, oral argument on Plaintiffs' Motion for Clarification of Court Order Dated August 10, 2007/Motion to Preclude Evidence is scheduled for the 10th day of Sept., 2007 Courtroom 1 at 9:30 a.m. By The Court, /s/ Fredric J. Ammerman, Pres. Judge. 2CC Attys: Cohen & Bowlus 9/4/07; Faxed by CA 9/4/07   |
|           | Order of Court, this 30th day of august, 2007, oral argument on Plaintiffs' Motion for Clarification of Court Order Dated August 10, 2007/Motion to Preclude Evidence is scheduled for the 31st day of august, 2007, Courtroom 1 at 11:00 a.m. By The Court, /s/ Fredric J. Ammerman, Pres. Judge. 1CC Atty. Bowlus, orig. to 05-364-CD   |

Date: 9/25/2007

Time: 11:42 AM

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Clearfield County Court of Common Pleas

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Case: 2006-00936-CD

Current Judge: Fredric Joseph Ammerman

Angela Hale, Randy A. Hale, Ashtyn Halevs. Michael J. Kush MD, Gary D. Ott MD, DuBois Regional Medical Center

Medical Professional Liability Action

| Date                | Judge   |                         |
|---------------------|---|-------------------------|
| 9/5/2007            | ✓ Answer to Plaintiffs' Motion for Clarification of Court Order of 8/10/07/Motion to Preclude Evidence, filed by s/ John W. Blasko Esq. No CC.  | Fredric Joseph Ammerman |
| 9/10/2007           | ✓ Certificate of Service of Service of Court Order dated September 4, 2007 Re: Hearing Date for Plaintiffs' Motion for Clarification of Court Order/Motion to Preclude Evidence has been served on the 5th day of September 2007 to John W. Blasko Esq. and David R. Johnson Esq., filed by s/ Todd D. Bowlus Esq. NO CC. (original filed to 05-364-CD)                                   | Fredric Joseph Ammerman |
| 9/11/2007<br>Clerk. | Transcript of Proceedings, filed. Argument on Dr. Kush's Motion for Summary Judgment and Motions in Limine, held before Honorable Fredric J. Ammerman, Pres. Judge, on August 10, 2007  | Fredric Joseph Ammerman |
| 9/17/2007           | ✓ Motion to Strike Plaintiffs' Untimely Expert Report and/or Preclude Inappropriate Expert Testimony, filed by s/ John W. Blasko, Esquire.  | Fredric Joseph Ammerman |
| 9/21/2007           | ✓ Plaintiffs' Suggested Jury Charge, filed by s/ Todd D. Bowlus Esq. 2CC Atty Bowlus. (original filed to 05-364-CD)   | Fredric Joseph Ammerman |
|                     | ✓ Order, NOW, Sept. 20, 2007, upon consideration of defense motion for compulsory nonsuit and on examination of the testimony of Dr. Cetrulo, it is Ordered that said motion is denied. By the Court, /s/ John K. Reilly, Jr., Senior Judge. 1CC Attys: Cohen, Bowlus, Blasko, Neely, Johnson, Oliver   | Fredric Joseph Ammerman |
| 9/24/2007<br>miss   | ✓ Plaintiffs' Suggested Jury Charge, filed by Atty. Cohen no cert. copies.  | Fredric Joseph Ammerman |
|                     | ✓ Points for Charge, filed by Atty. Blasko no cert. copies.   | Fredric Joseph Ammerman |
|                     | ✓ Plaintiffs' Additional Suggested Jury Charge, filed by Atty. Cohen  | Fredric Joseph Ammerman |
|                     | ✓ Special Verdict Questions, filed by Atty. Blasko no cert. copies.   | Fredric Joseph Ammerman |
|                     | ✓ Verdict, filed.<br>We, the jurors empanelled in the above entitled case, find as follows:<br>Question 1: Do you find the Defendant, Gary D. Ott, M.D. negligent in the care and treatment of Angela Hale? NO<br>Question 3: Do you find the Defendant DuBois Regional Memorial Hospital negligent in the care and treatment of Angela Hale? NO<br>9/24/07 s/ Brian David, Jury Foreman. | Fredric Joseph Ammerman |

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

ANGELA HALE and RANDY A.  
HALE, as parents and natural guardians  
of ASHTYN HALE, a minor,

Plaintiffs,

vs.

MICHAEL J. KUSH, MD; an adult  
individual; GARY D. OTT, MD; an adult  
individual; and DUBOIS REGIONAL  
MEDICAL CENTER, a Pennsylvania  
corporation,

Defendants.

CIVIL DIVISION - MEDICAL  
PROFESSIONAL LIABILITY ACTION

Case No.: 2006-936-*AB*

**COMPLAINT**

Filed on Behalf of Plaintiffs

Counsel of Record for Plaintiffs:

Harry S. Cohen, Esquire  
PA I.D. #30682

Todd D. Bowlus, Esquire  
PA I.D. #89106

HARRY S. COHEN & ASSOCIATES, PC  
Two Chatham Center, Suite 985  
Pittsburgh, PA 15219  
Firm ID #813

**JURY TRIAL DEMANDED**

(412) 281-3000

*S* **FILED** *E*  
JUN 12 2007  
11:50 AM  
William A. Shaw  
Prothonotary/Clerk of Courts  
3 CENTS TO KATT

**ORIGINAL**

**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 prompt action within twenty (20) days after this Complaint and Notice are served, by entering a written appearance personally or objections to the claims set forth against you. You are warned that if you fail to do so, the case may proceed without you and a judgment may be entered against you by the Court without further notice for any money claimed in the Complaint or for any claim or relief requested in these papers by the Plaintiff. You may lose money or property or other rights important to you.

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

**IF YOU CANNOT AFFORD TO HIRE 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.**

**DAVID S. MEHOLICK  
CLEARFIELD COUNTY COURTHOUSE  
ONE NORTH SECOND STREET  
CLEARFIELD, PA 16830  
(814) 765-2641**

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

ANGELA HALE and RANDY A. : CIVIL DIVISION  
HALE, as parents and natural guardians :  
of ASHTYN HALE, a minor, : Case No.:  
Plaintiffs, :  
vs. :  
MICHAEL J. KUSH, MD; an adult :  
individual; GARY D. OTT, MD; an adult :  
individual; and DUBOIS REGIONAL :  
MEDICAL CENTER, a Pennsylvania :  
corporation, :  
Defendants. :

**CERTIFICATE OF MERIT AS TO DEFENDANT MICHAEL J. KUSH, M.D.**

I, Harry S. Cohen, certify that:

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

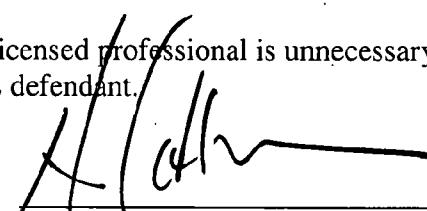
and/or

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 the 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;

and/or

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

June 9, 2006

  
Harry S. Cohen, Esquire

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

ANGELA HALE and RANDY A. HALE, as parents and natural guardians of ASHTYN HALE, a minor, : CIVIL DIVISION  
Plaintiffs, : Case No.:  
vs. :  
MICHAEL J. KUSH, MD; an adult individual; GARY D. OTT, MD; an adult individual; and DUBOIS REGIONAL MEDICAL CENTER, a Pennsylvania corporation, :  
Defendants. :

**CERTIFICATE OF MERIT AS TO DEFENDANT GARY D. OTT, M.D.**

I, Harry S. Cohen, certify that:

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

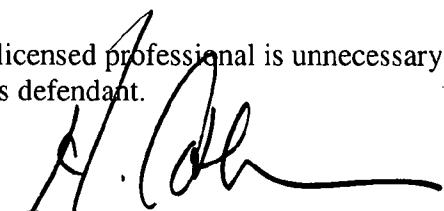
OR

the claim that this Defendant deviated from an acceptable professional standard is based solely on allegations that other licensed professionals for whom this defendant is responsible deviated from the 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 the prosecution of the claim against this defendant.

June 9, 2006

  
Harry S. Cohen, Esquire

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

ANGELA HALE and RANDY A. : CIVIL DIVISION  
HALE, as parents and natural guardians :  
of ASHTYN HALE, a minor, : Case No.:  
Plaintiffs, :  
vs. :  
MICHAEL J. KUSH, MD; an adult :  
individual; GARY D. OTT, MD; an adult :  
individual; and DUBOIS REGIONAL :  
MEDICAL CENTER, a Pennsylvania :  
corporation, :  
Defendants. :

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

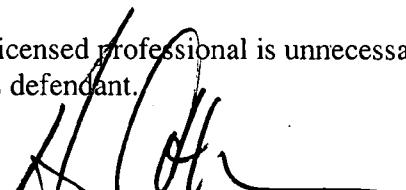
I, Harry S. Cohen, certify that:

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

or  the claim that this Defendant deviated from an acceptable professional standard is based solely on allegations that other licensed professionals for whom this defendant is responsible deviated from the 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 the prosecution of the claim against this defendant.

June 9, 2006

  
Harry S. Cohen, Esquire

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

|  |   |                |
|--|---|----------------|
| ANGELA HALE and RANDY A.               | : | CIVIL DIVISION |
| HALE, as parents and natural guardians | : |                |
| of ASHTYN HALE, a minor,               | : | Case No.:      |
|  | : |                |
| Plaintiffs,                            | : |                |
|  | : |                |
| vs.                                    | : |                |
|  | : |                |
| MICHAEL J. KUSH, MD; an adult          | : |                |
| individual; GARY D. OTT, MD; an adult  | : |                |
| individual; and DUBOIS REGIONAL        | : |                |
| MEDICAL CENTER, a Pennsylvania         | : |                |
| corporation,                           | : |                |
|  | : |                |
| Defendants.                            | : |                |

**COMPLAINT IN CIVIL ACTION**

AND NOW, come the Plaintiffs, Angela Hale and Randy A. Hale, as parents and natural guardians of Ashtyn Hale, a minor, by and through their attorneys, Harry S. Cohen & Associates, by Harry S. Cohen, Esquire and Todd D. Bowlus, Esquire, and set forth the following Complaint in Civil Action:

1. Plaintiff, Angela Hale ("Plaintiff") is an adult individual at all times material hereto, residing at 116 Wilson Avenue, Dubois, PA, 15801.
2. Plaintiff, Randy A. Hale ("Husband-Plaintiff") is an adult individual at all times material hereto, residing at 116 Wilson Avenue, Dubois, PA, 15801.
3. Plaintiffs are the natural parents and guardians of Ashtyn Hale and Reganne Hale, minors, who at all times material hereto, reside with Plaintiffs at 116 Wilson Avenue, Dubois, PA, 15801.
4. At all times material hereto, Plaintiffs were married as husband and wife.

5. Defendant Michael Kush, MD ("Dr. Kush") is a licensed professional with an office at 145 Hospital Avenue, Dubois, PA, 15801. Plaintiff is asserting a professional liability claim against this defendant.

6. Defendant Gary Ott, MD ("Dr. Ott") is a licensed professional with an office at 635 B., Maple Avenue, Dubois, PA, 15801. Plaintiff is asserting a professional liability claim against this defendant.

7. Defendant Dubois Regional Medical Center ("Defendant Hospital") is a Pennsylvania corporation at all material times having its principal place of business at 100 Hospital Avenue, Dubois, PA, 15801. Plaintiff is asserting a professional liability and vicarious professional liability claim against this defendant.

8. At all times material hereto, Dr. Kush was an employee of Defendant Hospital.

9. At all times material hereto, Dr. Kush was an agent, ostensible agent, and/or actual agent of Defendant Hospital.

10. At all times material hereto Defendant Hospital acted by and through its' agents, ostensible agents, and/or employees, acting within the course, scope and authority of their employment and agency, including its nursing staff and Dr. Kush.

11. Plaintiff is a thirty year-old female with a history of preterm labor in 1996 that was stopped at eight months gestation with tocolytics.

12. In 2002, Plaintiff became pregnant with twins, Reganne and Ashtyn.

13. Since Plaintiff had a history of preterm labor, was Rh negative, and had a positive AFP test, she was considered high risk and referred to Defendant Dr. Kush at Defendant Hospital at approximately 4½ months gestation.

14. Plaintiff's estimated date of confinement was February 1, 2003.

15. On November 9, 2002, at approximately 28 weeks gestation, Plaintiff developed a light brownish red vaginal discharge.

16. Plaintiff went to Defendant Hospital and Defendant Dr. Ott examined Plaintiff.

17. Defendant Dr. Ott determined that Plaintiff was not dilated and Plaintiff remained at Defendant Hospital for approximately two hours.

18. No ultrasound was performed and Plaintiff was then discharged home.

19. On November 10, 2002, Plaintiff felt like she was having contractions in the morning.

20. Plaintiff called Labor & Delivery at Defendant Hospital and was told to come to Defendant Hospital.

21. Plaintiff arrived at Defendant Hospital with her husband at around 2:00 p.m. complaining of contractions, diarrhea, and back pain similar to what she experienced as preterm labor with her previous pregnancy and she waited with her husband in the reception area.

22. She was admitted to the OB department outpatient testing area at 4:45 p.m.

23. At approximately 5:30 p.m., a nurse at Defendant Hospital reportedly performed a vaginal exam and determined that Plaintiff's cervix was unchanged, since November 9, 2002.

24. The nurse also determined that the Plaintiff was not having any contractions on the external monitor.

25. Around 6:00 p.m., a nurse telephoned Defendant Dr. Ott with a report, and received verbal orders for Terbutaline to be given both oral and subcutaneous, to be given a prescription for Brethine, and to observe for improvement in condition.

26. Defendant Dr. Ott arrived at Defendant Hospital at approximately 8:14 p.m., reviewed the fetal monitor strips, and saw the contractions that had been occurring.

27. Defendant Dr. Ott then performed a vaginal exam, the first time Plaintiff was seen by a physician since her admission, which demonstrated that Plaintiff was dilated 3 - 4 centimeters/ 90% effaced/ at 0 station.

28. Defendant Dr. Ott then ordered Bethamethasone, Magnesium sulfate and subcutaneous Terbutaline subcutaneous for preterm labor.

29. Between 8 and 9 p.m., Plaintiff was dilated around 7 centimeters and an ultrasound was performed.

30. At approximately 9:16 p.m., Defendant Dr. Ott stated that delivery was imminent and ordered a cesarean section.

31. Dr. Stephen Regec assisted with the cesarean section.

32. On November 10, 2002 at 10:08 p.m., Reganne was delivered.

33. On November 10, 2002 at 10:09 p.m., Ashtyn was delivered.

34. Ashtyn required intubation and received Survanta. She remained on the ventilator until the beginning of December and on oxygen until the beginning of January.

35. Ashtyn remained in the NICU at Defendant Hospital until January 11, 2003. She was discharged to home on January 11, 2003.

36. Ashtyn is currently followed by Gateway Area Medical Group and Brookville Behavioral Health, Inc.

37. As a direct and proximate result of the negligence described herein, Minor- Plaintiff Ashtyn Hale, has and will incur the following injuries and damages:

- a. Prematurity;
- b. Need for resuscitation;
- c. Developmental delay;

- d. Neurological deficits;
- e. PDD (Pervasive Development Disorder);
- f. PDA (Patent Ductus Arteriosus);
- g. Bronchopulmonary dysplasia;
- h. Apnea;
- i. Bilateral retinopathy;
- j. Gastroesophageal reflux;
- k. Respiratory distress syndrome;
- l. Neuro-developmental problems;
- m. Behavioral problems;
- n. Pain and suffering;
- o. Loss of enjoyment of life;
- p. Requirement of speech, occupational, and physical therapy;
- q. Loss of income and impairment of earning power;
- r. Partial and/or permanent disability;
- s. Embarrassment and humiliation;
- t. Emotional distress; and
- u. The need to expend large sums of money for medical, therapeutic, and rehabilitative services.

**COUNT I – Professional Negligence**

*Angela Hale and Randy Hale, as parents and natural  
guardians of Ashtyn Hale, a minor vs. Michael J. Kush, MD*

38. The foregoing paragraphs are incorporated herein by reference as though fully set forth below, at length.

39. Defendant Dr. Kush was negligent in the following particulars:

- a. By failing to closely follow Plaintiff's high risk pregnancy;
- b. By failing to order growth ultrasounds;
- c. By failing to evaluate Plaintiff's cervix;
- d. By failing to recommend to Dr. Ott that Dr. Kush would manage the high risk pregnancy;
- e. By failing to order extended observation of Plaintiff at Defendant Hospital on November 9, 2002;
- f. By failing to order tocolytics and corticosteroids on November 9, 2002; and
- g. By failing to diagnose and treat Plaintiff's preterm labor on November 10, 2002.

40. The negligence of Defendant Dr. Kush, as described herein, was the "legal cause" of Minor-Plaintiff Ashtyn Hale's injuries and damages, as described herein.

41. The negligence of Defendant Dr. Kush as described herein increased the risk that Minor-Plaintiff Ashtyn Hale would suffer the injuries and damages as described herein.

42. As a direct and proximate result of the negligence of Defendant Dr. Kush, as described herein, Minor-Plaintiff Ashtyn Hale suffered and Defendant Dr. Kush is liable to Plaintiffs for the within described injuries and damages.

WHEREFORE, Plaintiffs demand judgment in their favor and against Defendant Dr. Kush, jointly, severally, and/or jointly and severally, in an amount in excess of the jurisdictional limits of compulsory arbitration, excluding costs and interest.

**JURY TRIAL DEMANDED**

**COUNT II – Vicarious Liability**

*Angela Hale and Randy Hale, as parents and natural guardians of  
Ashtyn Hale, a minor vs. Dubois Regional Medical Center*

43. The foregoing paragraphs are incorporated herein by reference as though fully set forth below, at length.

44. Defendant Hospital is responsible for the negligent acts and omissions of its agent, ostensible agent, and/or employee, Dr. Kush, as described herein.

45. The negligence of Defendant Hospital's agent, ostensible agent, and/or employee, as described herein, was the "legal cause" of Minor-Plaintiff Ashtyn Hale's injuries and damages, as described herein.

46. As a direct and proximate result of the negligence of Defendant Hospital's agent, ostensible agent, and/or employee, as set forth herein, Minor-Plaintiff Ashtyn Hale has incurred the injuries and damages, as described herein.

47. As a direct and proximate result of the negligence of Defendant Hospital's agent, ostensible agent, and/or employee, as described herein, Minor-Plaintiff Ashtyn Hale and Defendant Hospital is liable to Plaintiff for the within described injuries and damages.

WHEREFORE, Plaintiffs demand judgment in their favor and against Defendant Hospital, jointly, severally, and/or jointly and severally, in an amount in excess of the jurisdictional limits of compulsory arbitration, excluding costs and interest.

**JURY TRIAL DEMANDED**

### **COUNT III – Professional Negligence**

***Angela Hale and Randy Hale, as parents and natural  
guardians of Ashtyn Hale, a minor vs. Gary D. Ott, MD***

48. The foregoing paragraphs are incorporated herein by reference as though fully set forth below, at length.

49. Defendant Dr. Ott was negligent in the following particulars:

- a. By failing to request that Dr. Kush manage the high risk pregnancy;
- b. By failing to order growth ultrasounds;
- c. By failing to evaluate Plaintiff's cervix;
- d. By failing to order extended observation of Plaintiff at Defendant Hospital on November 9, 2002;
- e. By failing to order tocolytics and corticosteroids on November 9, 2002 in a timely manner;
- f. By failing to order tocolytics and corticosteroids on November 10, 2002 in a timely manner;
- g. By failing to examine Plaintiff in a timely manner on November 10, 2002;
- h. By failing to order a transvaginal ultrasound to assess the Plaintiff's cervix;
- i. By failing to diagnose and treat Plaintiff's preterm labor in a timely manner on November 10, 2002;
- j. By failing to properly order tocolytics in a timely manner on November 10, 2002;
- k. By failing to properly order corticosteroids in a timely manner on November 10, 2002;
- l. By failing to consult with the maternal fetal medicine specialist regarding Plaintiff's care on November 9, 2002; and
- m. By failing to consult with the maternal fetal medicine specialist regarding Plaintiff's care on November 10, 2002.

50. The negligence of Defendant Dr. Ott, as described herein, was the "legal cause" of Minor-Plaintiff Ashtyn Hale's injuries and damages, as described herein.

51. The negligence of Defendant Dr. Ott, as described herein increased the risk that Minor-Plaintiff Ashtyn Hale would suffer the injuries and damages as described herein.

52. As a direct and proximate result of the negligence of Defendant Dr. Ott, as described herein, Minor-Plaintiff Ashtyn Hale suffered and Defendant Dr. Ott is liable to Plaintiffs for the within described injuries and damages.

WHEREFORE, Plaintiffs demand judgment in their favor and against Defendant Dr. Ott, jointly, severally, and/or jointly and severally, in an amount in excess of the jurisdictional limits of compulsory arbitration, excluding costs and interest.

**JURY TRIAL DEMANDED**

**COUNT IV - Corporate Negligence**

*Angela Hale and Randy Hale, as parents and natural guardians of  
Ashtyn Hale, a minor vs. Dubois Regional Medical Center*

53. The foregoing paragraphs are incorporated herein by reference as though fully set forth below, at length.

54. Defendant Hospital was negligent in the following particulars:

- a. In failing to promulgate and/or enforce rules, regulations, procedures and standards to ensure that patients threatening preterm labor are promptly evaluated and treated by competent staff;
- b. In failing to promulgate and/or enforce rules, regulations, procedures and standards to ensure that high risk obstetrical patients are promptly evaluated and treated by competent staff;
- c. In failing to ensure that the medical personnel are properly trained to recognize the signs and symptoms of preterm labor;
- d. In failing to ensure that the medical personnel are properly trained to evaluate and treat high risk obstetrical patients;

- e. In failing to properly supervise the physicians and medical staff that provided care to the Plaintiff during her admissions to Defendant Hospital;
- f. In failing to select, retain or grant privileges to only competent physicians and medical staff, including, but not limited to Defendants;
- g. In failing to properly train and supervise the obstetrical nursing staff in assessing high risk obstetrical patients;
- h. In failing to communicate Mrs. Hale's high risk status to the nursing staff on November 10, 2002;
- i. In failing to communicate Mrs. Hale's high risk status to the nursing staff on November 10, 2002;
- j. In failing to properly train and supervise the obstetrical nursing staff in assessing patients in preterm labor;
- k. In failing to properly train and supervise the obstetrical nursing staff in promptly and accurately communicating patients' status to the treating physicians;
- l. In failing to monitor and correct the negligent procedure of physicians in not performing an assessment of a high risk obstetrical patient in a timely manner;
- m. In failing to monitor and correct the negligent procedure of physicians in not providing appropriate tocolysis and treatment to patients for preterm labor; and
- n. In failing to properly train/supervise its staff to recognize preterm labor in a multiple gestation pregnancy as an obstetrical emergency;

55. As a direct and proximate result of the negligence of Defendant Hospital, as set forth herein, Minor-Plaintiff Ashtyn Hale has incurred the injuries and damages described herein.

56. The negligence of Defendant Hospital, as described herein, was the "legal cause" of Minor-Plaintiff Ashtyn Hale's injuries and damages, as described herein.

57. The negligence of Defendant Hospital, as described herein and hereinafter, increased the risk that Minor-Plaintiff Ashtyn Hale would suffer the injuries and damages as described herein.

WHEREFORE, Plaintiffs demand judgment in their favor and against Defendant Hospital, jointly, severally, and/or jointly and severally, in an amount in excess of the jurisdictional limits of compulsory arbitration, excluding costs and interest.

**JURY TRIAL DEMANDED**

**COUNT V – Vicarious Liability**

*Angela Hale and Randy Hale, as parents and natural guardians of Ashtyn Hale, a minor vs. Dubois Regional Medical Center*

58. The foregoing paragraphs are incorporated herein by reference as though fully set forth below, at length.

59. Defendant Hospital is responsible for the negligent acts and omissions of its agents, ostensible agents, servants and/or employees, as described herein and as follows:

- a. By failing to admit Plaintiff and start her on tocolytics and corticosteroids when Plaintiff presented to Defendant on November 9, 2002;
- b. By failing to admit Plaintiff and start her on tocolytics and corticosteroids when Plaintiff presented to Defendant Hospital with complaints of preterm labor on November 10, 2002;
- c. By the nursing staff failing to promptly and accurately evaluate Plaintiff when she presented to Defendant Hospital on November 10, 2002 with complaints of contractions;
- d. By the nursing staff failing to promptly and accurately notify Dr. Ott and/or Dr. Kush of Plaintiff's symptoms on November 10, 2002;
- e. In failing to properly monitor Plaintiff's high risk pregnancy and labor course;
- f. In failing to appreciate the emergency nature presented by Plaintiff; and
- g. By failing to recognize Plaintiff's high risk of preterm labor.

60. The negligence of Defendant Hospital's agents, ostensible agents, and/or employees, as described herein, was the "legal cause" of Minor-Plaintiff Ashtyn Hale's injuries and damages, as described herein.

61. As a direct and proximate result of the negligence of Defendant Hospital's agents, ostensible agents, and/or employees, as set forth herein, Minor-Plaintiff Ashtyn Hale has incurred the injuries and damages, as described herein.

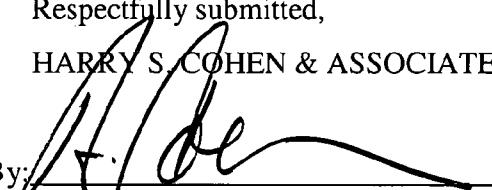
WHEREFORE, Plaintiffs demand judgment in their favor and against Defendant Hospital, jointly, severally, and/or jointly and severally, in an amount in excess of the jurisdictional limits of compulsory arbitration, excluding costs and interest.

**JURY TRIAL DEMANDED**

Respectfully submitted,

HARRY S. COHEN & ASSOCIATES, PC

By:

  
\_\_\_\_\_  
Harry S. Cohen, Esquire  
Todd D. Bowlus, Esquire  
Attorneys for Plaintiffs  
Two Chatham Center, Suite 985  
Pittsburgh, PA 15219  
(412) 281-3000

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

ANGELA HALE and RANDY A. : CIVIL DIVISION  
HALE, as parents and natural guardians :  
of ASHTYN HALE, a minor, : Case No.:  
Plaintiffs, :  
vs. :  
MICHAEL J. KUSH, MD; an adult :  
individual; GARY D. OTT, MD; an adult :  
individual; and DUBOIS REGIONAL :  
MEDICAL CENTER, a Pennsylvania :  
corporation, :  
Defendants. :

**VERIFICATION**

I verify that the averments contained in the foregoing **COMPLAINT IN CIVIL ACTION** are true and correct to the best of my knowledge, information and belief. I understand that said averments are made subject to the penalties of 18 Pa. C. S. § 4904 relating to unsworn falsification to authorities.

6-2-06

Date

By: Randy A. Hale  
Randy Hale, Plaintiff

6-2-06

Date

By: Angela M. Hale  
Angela Hale, Plaintiff

IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY,  
PENNSYLVANIA

ANGELA HALE and RANDY A. HALE, as  
parents and natural guardians of ASHTYN  
HALE, a minor,

Plaintiffs,

vs.

MICHAEL J. KUSH, M.D.; an adult  
individual; GARY D. OTT, M.D.; and adult  
individual; and DUBOIS REGIONAL  
MEDICAL CENTER, a Pennsylvania  
corporation,

Defendants.

CIVIL DIVISION

No. 2006 - 936 - CD

Issue No.

PRAECIPE FOR APPEARANCE

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 11:56 AM  
JUN 23 2008  
CLERK

William A. Shaw  
Prothonotary/Clerk of Courts

PRAECIPE FOR APPEARANCE

TO: PROTHONOTARY

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

JURY TRIAL DEMANDED.

Respectfully submitted,

THOMSON, RHODES & COWIE, P.C.

David Johnson  
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 21st day of June, 2006:

Harry S. Cohen, Esquire  
Harry S. Cohen & Associates, PC  
Two Chatham Center, Suite 985  
Pittsburgh, PA 15219

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

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, PENNSYLVANIA  
CIVIL ACTION - LAW

ANGELA HALE and RANDY A. HALE, )      Type of Case: Civil Action-  
as parents and natural guardians of )      Medical Professional Liability Action  
ASHTYN HALE, a minor, )  
)  
Plaintiffs, )  
)  
vs. )  
)  
MICHAEL J. KUSH, M.D., an adult, )  
individual; GARY D. OTT, M.D., an )  
adult individual; and DUBOIS REGIONAL )  
MEDICAL CENTER, a Pennsylvania )  
Corporation, )  
)  
Defendants )  
)  
)  
)  
)  
)  
Counsel of Record for this  
Party: JOHN W. BLASKO  
Court I.D. No.: 06787  
)  
)  
McQUAIDE, BLASKO,  
FLEMING & FAULKNER, INC.  
811 University Drive  
State College, PA 16801  
(814) 238-4926  
)  
)  
Counsel of Record for  
Adverse Party:  
Harry S. Cohen, Esquire  
Todd D. Bowlus, Esquire

Dated: June 28, 2006

FILED  
M 1:4, RD  
JUN 29 2006  
NO CC

William A. Shaw  
Prothonotary/Clerk of Courts

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

ANGELA HALE and RANDY A. HALE, ) CIVIL ACTION-MEDICAL  
as parents and natural guardians of ) PROFESSIONAL LIABILITY ACTION  
ASHTYN HALE, a minor, )  
)  
Plaintiffs, )  
)  
vs. )  
) No. 2006-936 CD  
MICHAEL J. KUSH, M.D., an adult )  
individual; GARY D. OTT, M.D., )  
an adult individual; and DUBOIS ) JURY TRIAL DEMANDED  
REGIONAL MEDICAL CENTER, )  
a Pennsylvania Corporation, )  
)  
Defendants. )

**PRAECIPE FOR ENTRY OF APPEARANCE**

TO THE PROTHONOTARY:

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

McQUAIDE, BLASKO,  
FLEMING & FAULKNER, INC.

By:

  
JOHN W. BLASKO  
Attorneys for Defendant  
Gary D. Ott, M.D.  
811 University Drive  
State College, PA 16801  
(814) 238-4926

Dated: June 28, 2006

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

ANGELA HALE and RANDY A. HALE, ) CIVIL ACTION-MEDICAL  
as parents and natural guardians of ) PROFESSIONAL LIABILITY ACTION  
ASHTYN HALE, a minor, )  
)  
Plaintiffs, )  
)  
vs. )  
) No. 2006-936 CD  
MICHAEL J. KUSH, M.D., an adult )  
individual; GARY D. OTT, M.D., )  
an adult individual; and DUBOIS ) JURY TRIAL DEMANDED  
REGIONAL MEDICAL CENTER, )  
a Pennsylvania Corporation, )  
)  
Defendants. )

CERTIFICATE OF SERVICE

I hereby certify that the Praecipe for Entry of Appearance, in the above-referenced matter was mailed by regular mail, first class, at the Post Office, State College, Pennsylvania, postage prepaid, this 28<sup>th</sup> day of June, 2005 to:

Harry S. Cohen, Esquire  
Todd D. Bowlus, Esquire  
Harry S. Cohen & Associates, PC  
Two Chatham Center, Suite 985  
Pittsburgh, PA 15219

David R. Johnson, Esquire  
1010 Two Chatham Center  
Pittsburgh, PA 15219

McQUAIDE, BLASKO,  
FLEMING & FAULKNER, INC.

By: 

JOHN W. BLASKO  
Attorneys for Defendant  
Gary D. Ott, M.D.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

ANGELA HALE and RANDY A.  
HALE, as parents and natural guardians  
of ASHTYN HALE, a minor,

Plaintiffs,

vs.

MICHAEL J. KUSH, MD; an adult  
individual; GARY D. OTT, MD; an adult  
individual; and DUBOIS REGIONAL  
MEDICAL CENTER, a Pennsylvania  
corporation,

Defendants.

CIVIL DIVISION - MEDICAL  
PROFESSIONAL LIABILITY ACTION

Case No.: 2006-936-CD

ACCEPTANCE OF SERVICE  
OF COMPLAINT ON BEHALF  
OF DEFENDANT GARY D.  
OTT, M.D.

Filed on Behalf of Plaintiffs

Counsel of Record for Plaintiff::

Harry S. Cohen, Esquire  
PA I.D. #30682

Todd D. Bowlus, Esquire  
PA I.D. #89106

HARRY S. COHEN & ASSOCIATES, PC  
Two Chatham Center, Suite 985  
Pittsburgh, PA 15219  
Firm ID #813

(412) 281-3000

FILED

JUN 30 2006

6/12:00 PM

William A. Shaw  
Prothonotary/Clerk of Courts

3 cent to Attn

ORIGINAL

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

ANGELA HALE and RANDY A.  
HALE, as parents and natural guardians  
of ASHTYN HALE, a minor,

CIVIL DIVISION

Case No.: 2006-936-CD

Plaintiffs,

vs.

MICHAEL J. KUSH, MD; an adult  
individual; GARY D. OTT, MD; an adult  
individual; and DUBOIS REGIONAL  
MEDICAL CENTER, a Pennsylvania  
corporation,

Defendants.

**ACCEPTANCE OF SERVICE OF  
COMPLAINT ON BEHALF OF DEFENDANT GARY D. OTT, M.D.**

I accept service of the Complaint on behalf of the Defendant, Gary D. Ott, M.D., and  
certify that I am authorized to do so.

6/26/06  
Date

John W. Blasko, Esquire  
Counsel and Authorized Agent for Defendant  
Gary D. Ott, M.D.  
McQuaide Blasko  
811 University Drive  
State College, PA 16801-6699

William A. Shaw  
Postmortem/Claire el Gahra

JUN 30 2006

FILED

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

ANGELA HALE and RANDY A. HALE, as  
parents and natural guardians of ASHTYN  
HALE, a minor,

Plaintiffs,

vs.

MICHAEL J. KUSH, M.D.; an adult  
individual; GARY D. OTT, M.D.; and adult  
individual; and DUBOIS REGIONAL  
MEDICAL CENTER, a Pennsylvania  
corporation,

Defendants.

CIVIL DIVISION

No. 2006 - 936 - CD

Issue No.

PRAECLYPE FOR APPEARANCE

Filed on behalf of Michael J. Kush, M.D., 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 11:48 A.M.  
JUL 03 2006  
WAS  
Clerk

William A. Shaw  
Prothonotary/Clerk of Courts

PRAECIPE FOR APPEARANCE

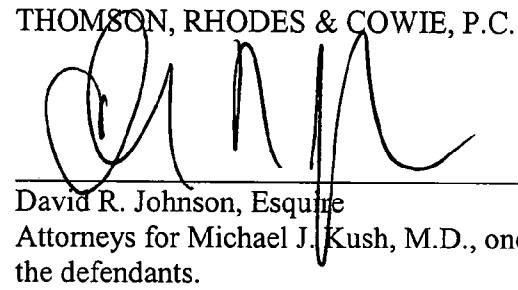
TO: PROTHONOTARY

Kindly enter our appearance on behalf of Michael J. Kush, M.D., one of the defendants.

JURY TRIAL DEMANDED.

Respectfully submitted,

THOMSON, RHODES & COWIE, P.C.

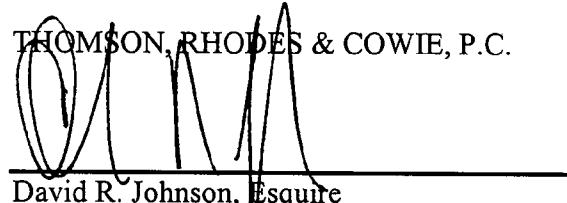
  
\_\_\_\_\_  
David R. Johnson, Esquire  
Attorneys for Michael J. Kush, M.D., one of  
the defendants.

**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 29<sup>th</sup> day of June, 2006:

Todd Bowlus, Esquire  
Harry S. Cohen & Associates, PC  
Two Chatham Center, Suite 985  
Pittsburgh, PA 15219

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

THOMSON, RHODES & COWIE, P.C.  
  
David R. Johnson, Esquire  
Attorneys for Michael J. Kush, M.D., one of  
the defendants.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

ANGELA HALE and RANDY A.  
HALE, as parents and natural guardians  
of ASHTYN HALE, a minor,

Plaintiffs,

vs.

MICHAEL J. KUSH, MD; an adult  
individual; GARY D. OTT, MD; an adult  
individual; and DUBOIS REGIONAL  
MEDICAL CENTER, a Pennsylvania  
corporation,

Defendants.

CIVIL DIVISION – MEDICAL  
PROFESSIONAL LIABILITY ACTION

Case No.: 2006-936-CD

**ACCEPTANCE OF SERVICE  
OF COMPLAINT ON BEHALF  
OF DEFENDANTS MICHAEL J.  
KUSH, M.D. AND DUBOIS  
REGIONAL MEDICAL CENTER**

Filed on Behalf of Plaintiffs

Counsel of Record for Plaintiffs:

Harry S. Cohen, Esquire  
PA I.D. #30682

Todd D. Bowlus, Esquire  
PA I.D. #89106

HARRY S. COHEN & ASSOCIATES, PC  
Two Chatham Center, Suite 985  
Pittsburgh, PA 15219  
Firm ID #813

**JURY TRIAL DEMANDED**

(412) 281-3000

**FILED**

JUL 05 2006  
MAY 12 2007  
William A. Shaw  
Prothonotary/Clerk of Courts  
3 CENTS TO ATT

**ORIGINAL**

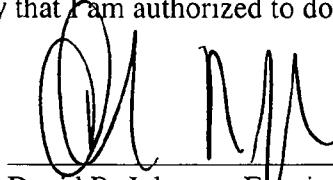
IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

ANGELA HALE and RANDY A. HALE, as parents and natural guardians of ASHTYN HALE, a minor, : CIVIL DIVISION  
Plaintiffs, : Case No.: 2006-936-CD  
vs. :  
MICHAEL J. KUSH, MD; an adult individual; GARY D. OTT, MD; an adult individual; and DUBOIS REGIONAL MEDICAL CENTER, a Pennsylvania corporation, :  
Defendants. :

**ACCEPTANCE OF SERVICE OF  
COMPLAINT ON BEHALF OF DEFENDANTS  
MICHAEL J. KUSH, M.D. AND DUBOIS REGIONAL MEDICAL CENTER**

I accept service of the Complaint on behalf of the Defendants, Michael J. Kush, M.D. and Dubois Regional Medical Center, and certify that I am authorized to do so.

6/29/06  
Date



David R. Johnson, Esquire  
Counsel and Authorized Agent for Defendants  
Michael J. Kush, M.D and Dubois Regional  
Medical Center  
Thomson, Rhodes & Cowie, PC  
Two Chatham Center  
Tenth Floor  
Pittsburgh, PA 15219

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

ANGELA HALE and RANDY A. HALE, ) CIVIL ACTION-MEDICAL  
as parents and natural guardians of ) PROFESSIONAL LIABILITY ACTION  
ASHTYN HALE, a minor, )  
)  
Plaintiffs, )  
vs. )  
)  
MICHAEL J. KUSH, M.D., an adult )  
individual; GARY D. OTT, M.D., )  
an adult individual; and DUBOIS )  
REGIONAL MEDICAL CENTER, )  
a Pennsylvania Corporation, )  
)  
Defendants. )  
No. 2006-936 CD  
JURY TRIAL DEMANDED

FILED  
M 11:50 AM  
JUL 13 2006  
WM

William A. Shaw  
Prothonotary/Clerk of Courts

CERTIFICATE OF SERVICE

I hereby certify that Defendant Ott's Interrogatories and Request for Production (Set One) directed to Plaintiffs, in the above-referenced matter was mailed by regular mail, first class, at the Post Office, State College, Pennsylvania, postage prepaid, this 12<sup>th</sup> day of July, 2006 to:

Harry S. Cohen, Esquire  
Todd D. Bowlus, Esquire  
Harry S. Cohen & Associates, PC  
Two Chatham Center, Suite 985  
Pittsburgh, PA 15219

David R. Johnson, Esquire  
1010 Two Chatham Center  
Pittsburgh, PA 15219

McQUAIDE, BLASKO,  
FLEMING & FAULKNER, INC.  
By: John W. Blasko/CJ  
JOHN W. BLASKO  
Attorneys for Defendant  
Gary D. Ott, M.D.

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

ANGELA HALE and RANDY A. HALE, ) CIVIL ACTION-MEDICAL  
as parents and natural guardians of ) PROFESSIONAL LIABILITY ACTION  
ASHTYN HALE, a minor, )  
)  
Plaintiffs, )  
vs. )  
) No. 2006-936 CD  
MICHAEL J. KUSH, M.D., an adult )  
individual; GARY D. OTT, M.D., )  
an adult individual; and DUBOIS ) JURY TRIAL DEMANDED  
REGIONAL MEDICAL CENTER, )  
a Pennsylvania Corporation, )  
)  
Defendants. )

FILED NO  
M 11:50 AM  
JUL 13 2006  
JUL 13 2006  
SFC

William A. Shaw  
Prothonotary/Clerk of Courts

CERTIFICATE OF SERVICE

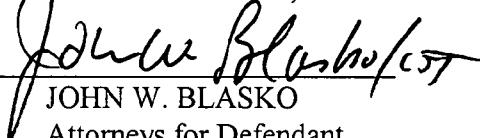
I hereby certify that Defendant Ott's Request for Production (Set Two) directed to Plaintiffs, in the above-referenced matter was mailed by regular mail, first class, at the Post Office, State College, Pennsylvania, postage prepaid, this 12<sup>th</sup> day of July, 2006 to:

Harry S. Cohen, Esquire  
Todd D. Bowlus, Esquire  
Harry S. Cohen & Associates, PC  
Two Chatham Center, Suite 985  
Pittsburgh, PA 15219

David R. Johnson, Esquire  
1010 Two Chatham Center  
Pittsburgh, PA 15219

McQUAIDE, BLASKO,  
FLEMING & FAULKNER, INC.

By:

  
JOHN W. BLASKO  
Attorneys for Defendant  
Gary D. Ott, M.D.

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

ANGELA HALE and RANDY A. HALE, ) CIVIL ACTION-MEDICAL  
as parents and natural guardians of ) PROFESSIONAL LIABILITY ACTION  
ASHTYN HALE, a minor, )  
)  
Plaintiffs, )  
vs. )  
) No. 2006-936 CD  
MICHAEL J. KUSH, M.D., an adult )  
individual; GARY D. OTT, M.D., )  
an adult individual; and DUBOIS ) JURY TRIAL DEMANDED  
REGIONAL MEDICAL CENTER, )  
a Pennsylvania Corporation, )  
)  
Defendants. )

FILED  
M 11:50 AM NO CC  
JUL 13 2006  
IS

William A. Shaw  
Prothonotary/Clerk of Courts

CERTIFICATE OF SERVICE

I hereby certify that Defendant Ott's Expert Interrogatories directed to Plaintiffs, in the above-referenced matter was mailed by regular mail, first class, at the Post Office, State College, Pennsylvania, postage prepaid, this 12<sup>th</sup> day of July, 2006 to:

Harry S. Cohen, Esquire  
Todd D. Bowlus, Esquire  
Harry S. Cohen & Associates, PC  
Two Chatham Center, Suite 985  
Pittsburgh, PA 15219

David R. Johnson, Esquire  
1010 Two Chatham Center  
Pittsburgh, PA 15219

McQUAIDE, BLASKO,  
FLEMING & FAULKNER, INC.

By: John W. Blasko/ot  
JOHN W. BLASKO  
Attorneys for Defendant  
Gary D. Ott, M.D.

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

ANGELA HALE and RANDY A. HALE, )      Type of Case: Civil Action-  
as parents and natural guardians of )      Medical Professional Liability Action  
ASHTYN HALE, a minor, )  
)  
Plaintiffs, )  
)  
vs. )  
)  
MICHAEL J. KUSH, M.D., an adult, )  
individual; GARY D. OTT, M.D., an )  
adult individual; and DUBOIS REGIONAL )  
MEDICAL CENTER, a Pennsylvania )  
Corporation, )  
)  
Defendants )  
)  
)  
)  
)  
)  
)  
Counsel of Record for this  
Party: JOHN W. BLASKO  
Court I.D. No.: 06787  
)  
)  
FREDERICK BATTAGLIA  
Court I.D. No. 91624  
)  
)  
McQUAIDE, BLASKO,  
FLEMING & FAULKNER, INC.  
811 University Drive  
State College, PA 16801  
(814) 238-4926  
)  
)  
Counsel of Record for  
Adverse Party:  
Harry S. Cohen, Esquire  
Todd D. Bowlus, Esquire

Dated: July 21, 2006

FILED NO CC  
M 10:47 AM  
JUL 24 2006 JS

William A. Shaw  
Prothonotary/Clerk of Courts

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

ANGELA HALE and RANDY A. HALE, ) CIVIL ACTION-MEDICAL  
as parents and natural guardians of ) PROFESSIONAL LIABILITY ACTION  
ASHTYN HALE, a minor, )  
)  
Plaintiffs, )  
vs. )  
) No. 2006-936 CD  
MICHAEL J. KUSH, M.D., an adult )  
individual; GARY D. OTT, M.D., )  
an adult individual; and DUBOIS ) JURY TRIAL DEMANDED  
REGIONAL MEDICAL CENTER, )  
a Pennsylvania Corporation, )  
)  
Defendants. )

NOTICE TO PLEAD

TO: Plaintiffs

YOU ARE HEREBY notified to plead to the within Answer with New Matter within twenty (20) days from the date of service hereof or a default judgment may be entered against you.

McQUAIDE, BLASKO, FLEMING,  
& FAULKNER, INC.

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

Dated: July 21, 2006

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

|                                       |                               |
|---------------------------------------|-------------------------------|
| ANGELA HALE and RANDY A. HALE, )      | CIVIL ACTION-MEDICAL          |
| as parents and natural guardians of ) | PROFESSIONAL LIABILITY ACTION |
| ASHTYN HALE, a minor, )               | )                             |
| )                                     | )                             |
| Plaintiffs, )                         | )                             |
| vs. )                                 | )                             |
| )                                     | No. 2006-936 CD               |
| MICHAEL J. KUSH, M.D., an adult )     | )                             |
| individual; GARY D. OTT, M.D., )      | )                             |
| an adult individual; and DUBOIS )     | JURY TRIAL DEMANDED           |
| REGIONAL MEDICAL CENTER, )            | )                             |
| a Pennsylvania Corporation, )         | )                             |
| )                                     | )                             |
| Defendants. )                         | )                             |

**ANSWER AND NEW MATTER OF DEFENDANT GARY D. OTT, M.D.**  
**TO PLAINTIFFS' COMPLAINT**

1. The averments of Paragraph 1 are denied in that Answering Defendant, after reasonable investigation, is without sufficient knowledge or information to form a belief as to the truth of the same.

2. The averments of Paragraph 2 are denied in that Answering Defendant, after reasonable investigation, is without sufficient knowledge or information to form a belief as to the truth of the same.

3. The averments of Paragraph 3 are denied in that Answering Defendant, after reasonable investigation, is without sufficient knowledge or information to form a belief as to the truth of the same.

4. The averments of Paragraph 4 are denied in that Answering Defendant, after reasonable investigation, is without sufficient knowledge or information to form a belief as to the truth of the same.

5. The averments of Paragraph 5 are directed to a Defendant other than Answering Defendant and thus no response is required under the Rules of Civil Procedure.

6. The averments of Paragraph 7 are admitted in part and denied in part. It is admitted that Plaintiffs are asserting a professional liability claim against Answering Defendant, who is a licensed medical professional. It is denied that Answering Defendant's office address is 635B Maple Avenue, DuBois, PA 15801. The correct address is 145 Hospital Avenue, Suite 315, DuBois, PA 15801.

7. The averments of Paragraph 8 are directed to a Defendant other than Answering Defendant and thus no response is required under the Rules of Civil Procedure.

8. The averments of Paragraph 8 are directed to a Defendant other than Answering Defendant and thus no response is required under the Rules of Civil Procedure.

9. The averments of Paragraph 9 are directed to a Defendant other than Answering Defendant and thus no response is required under the Rules of Civil Procedure.

10. The averments of Paragraph 10 are directed to a Defendant other than Answering Defendant and thus no response is required under the Rules of Civil Procedure.

11-15. The averments of Paragraphs 11 through 14, inclusive, are responded to as follows. Answering Defendant hereby incorporates the Plaintiff/wife's medical records which document the care and treatment rendered to Plaintiff/wife throughout the time period referenced. To the extent the averments of Paragraphs 11 through 14, inclusive, differ from that set forth herein, and/or that reflected within the relevant medical records, said averments are denied per Pa.R.C.P. 1029(e).

15. The averments of Paragraph 15 are admitted in part and denied in part. It is admitted only that on November 9, 2002, at approximately 28 weeks gestation, Plaintiff/wife

purportedly developed a vaginal discharge. It is specifically denied that that said discharge was "light brownish red." The Obstetrics Department Outpatient Testing note dated November 9, 2002 documented Plaintiff/wife's complaint of "brownish discharge." Furthermore, a urinalysis test of November 9, 2002 reported Plaintiff/wife's urine color as "straw."

16-18. The averments of Paragraphs 16 through 18, inclusive, are responded to as follows. Answering Defendant hereby incorporates the Plaintiff/wife's medical records which document the care and treatment rendered to Plaintiff/wife throughout the time period referenced. To the extent the averments of Paragraphs 16 through 18, inclusive, differ from that set forth herein, and/or that reflected within the relevant medical records, said averments are denied per Pa.R.C.P. 1029(e).

19. The averments of Paragraph 19 are denied in that Answering Defendant, after reasonable investigation, is without sufficient knowledge or information to form a belief as to the truth of the same.

20-24. The averments of Paragraphs 20 through 24, inclusive, are directed to a Defendant other than Answering Defendant and thus no response is required under the Rules of Civil Procedure. To the extent that a response would be deemed required, Answering Defendant hereby incorporates Plaintiff/wife's medical records which document the care and treatment rendered to Plaintiff/wife throughout the time period referenced. To the extent that the averments of Paragraphs 24 through 28, inclusive, differ from that set forth herein and/or that reflected within the relevant medical records, said averments are denied per Pa.R.C.P. 1029(e).

25-35. The averments of Paragraphs 25 through 35, inclusive, are responded to as follows. Answering Defendant hereby incorporates the Plaintiff/wife's and Plaintiff/minor's medical records which document the care and treatment rendered to Plaintiff/wife and

Plaintiff/minor throughout the time period referenced. To the extent the averments of Paragraphs 25 through 35, inclusive, differ from that set forth herein, and/or that reflected within the relevant medical records, said averments are denied per Pa.R.C.P. 1029(e).

36. The averments of Paragraph 36 are denied in that Answering Defendant, after reasonable investigation, is without sufficient knowledge or information to form a belief as to the truth of the same.

37. The averments of Paragraph 37, inclusive of the subparagraphs thereunder, set forth conclusions of law and/or statements of Plaintiffs' legal position and thus no response is required under the Rules of Civil Procedure. To the extent that a response is required, the averments of Paragraph 37, inclusive of the subparagraphs thereunder, are denied per Pa.R.C.P. 1029(e). Furthermore, it is specifically denied that any injury and/or loss which may have been sustained by minor/plaintiff was the direct or proximate result of any action or inaction by or on behalf of this Answering Defendant.

**Count I-Professional Negligence**  
**Angela Hale and Randy Hale, as parents and natural**  
**guardians of Ashtyn Hale, a minor vs. Michael J. Kush, M.D.**

38. Answering Defendant hereby incorporates Paragraphs 1 through 37, inclusive, of this Answer with New Matter as if the same were set forth at length herein.

39-42. The averments of Paragraphs 39 through 42, inclusive of the subparagraphs thereunder, are directed to a Defendant other than Answering Defendant and thus no response is required under the Rules of Civil Procedure. To the extent that a response is required, said averments are denied per Pa.R.C.P. 1029(e).

WHEREFORE, Defendant, Gary D. Ott, M.D., respectfully requests this Honorable Court to enter judgment in his favor and against the Plaintiffs, and that the Complaint against him be dismissed, with prejudice.

*Count II-Vicarious Liability*

*Angela Hale and Randy Hale, as parents and natural guardians of Ashtyn Hale, a minor vs. DuBois Regional Medical Center*

43. Answering Defendant hereby incorporates Paragraphs 1 through 42, inclusive, of this Answer with New Matter as if the same were set forth at length herein.

44-47. The averments of Paragraphs 54 through 57, inclusive, are directed to a Defendant other than Answering Defendant and thus no response is required under the Rules of Civil Procedure. To the extent that a response is required, said averments are denied per Pa.R.C.P. 1029(e).

WHEREFORE, Defendant, Gary D. Ott, M.D., respectfully requests this Honorable Court to enter judgment in his favor and against the Plaintiffs, and that the Complaint against him be dismissed, with prejudice.

*Count III-Professional Negligence*

*Angela Hale and Randy Hale, as parents and natural guardians of Ashtyn Hale, a minor vs. Gary Ott, M.D.*

48. Answering Defendant hereby incorporates Paragraphs 1 through 47, inclusive, of this Answer with New Matter as if the same were set forth at length herein.

49-52. The averments of Paragraphs 59 through 62, inclusive of the subparagraphs thereunder, set forth conclusions of law and/or statements of Plaintiffs' legal position and thus no response is required under the Rules of Civil Procedure. To the extent that a response is required, the averments of Paragraphs 59 through 62, inclusive of the subparagraphs thereunder, are denied per Pa.R.C.P. 1029(e).

WHEREFORE, Defendant, Gary D. Ott, M.D., respectfully requests this Honorable Court to enter judgment in his favor and against the Plaintiffs, and that the Complaint against him be dismissed, with prejudice.

**Count IV-Corporate Negligence**  
**Angela Hale and Randy Hale, as parents and natural**  
**guardians of Ashtyn Hale, a minor vs. DuBois Regional Medical Center**

53. Answering Defendant hereby incorporates Paragraphs 1 through 52, inclusive, of this Answer with New Matter as if the same were set forth at length herein.

54-57. The averments of Paragraphs 54 through 57, inclusive of the subparagraphs thereunder, are directed to a Defendant other than Answering Defendant and thus no response is required under the Rules of Civil Procedure. To the extent that a response is required, said averments are denied per Pa.R.C.P. 1029(e).

WHEREFORE, Defendant, Gary D. Ott, M.D., respectfully requests this Honorable Court to enter judgment in his favor and against the Plaintiffs, and that the Complaint against him be dismissed, with prejudice.

**Count V-Vicarious Liability**  
**Angela Hale and Randy Hale, as parents and natural**  
**guardians of Ashtyn Hale, a minor vs. DuBois Regional Medical Center**

58. Answering Defendant hereby incorporates Paragraphs 1 through 57, inclusive, of this Answer with New Matter as if the same were set forth at length herein.

59-61. The averments of Paragraphs 59 through 61, inclusive of the subparagraphs thereunder, are directed to a Defendant other than Answering Defendant and thus no response is required under the Rules of Civil Procedure. To the extent that a response is required, said averments are denied per Pa.R.C.P. 1029(e).

WHEREFORE, Defendant, Gary D. Ott, M.D., respectfully requests this Honorable Court to enter judgment in his favor and against the Plaintiffs, and that the Complaint against him be dismissed, with prejudice.

**NEW MATTER**

62. Answering Defendant hereby incorporates Paragraphs 1 through 61, inclusive, of this Answer with New Matter as though the same were set forth at length herein.

63. Answering Defendant raises all affirmative defenses of the Medical Care Availability and Reduction of Error Act of March, 2002, 40 P.S. §1301.101, et seq., as amended.

64. There was no negligence or other actionable conduct committed by or on behalf of Answering Defendant and therefore, this action should be dismissed.

65. Any alleged actions or omissions of the Answering Defendant which are alleged to constitute negligence were not a substantial cause or factual cause of any harm resulting to or sustained by the Plaintiffs.

66. The investigation into this case is ongoing and discovery is continuing; therefore, in order to avoid waiver of any potentially applicable affirmative defenses, Answering Defendant hereby pleads the defenses of estoppel, release, res judicata, statute of limitations and comparative/contributory negligence, insofar as same may be applicable.

WHEREFORE, Defendant Gary D.Ott, M.D. respectfully requests this Honorable Court to enter judgment in his favor and against Plaintiffs, and that the Complaint against be dismissed, with prejudice.

McQUAIDE, BLASKO,  
FLEMING & FAULKNER, INC.

By: 

JOHN W. BLASKO  
FREDERICK BATTAGLIA  
Attorneys for Defendant  
Gary D. Ott, M.D.  
811 University Drive  
State College, PA 16801  
(814) 238-4926

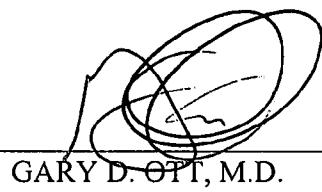
Dated:

July 21, 2006

Hale vs. Ott

VERIFICATION

The undersigned verifies that as a Defendant, he is authorized to make this verification in the within action; and that the Answer with New Matter to Plaintiffs' Complaint is 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.



---

GARY D. OTT, M.D.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

|                                     |   |                               |
|-------------------------------------|---|-------------------------------|
| ANGELA HALE and RANDY A. HALE,      | ) | CIVIL ACTION-MEDICAL          |
| as parents and natural guardians of | ) | PROFESSIONAL LIABILITY ACTION |
| ASHTYN HALE, a minor,               | ) |                               |
|                                     | ) |                               |
| Plaintiffs,                         | ) |                               |
| vs.                                 | ) |                               |
|                                     | ) | No. 2006-936 CD               |
| MICHAEL J. KUSH, M.D., an adult     | ) |                               |
| individual; GARY D. OTT, M.D.,      | ) |                               |
| an adult individual; and DUBOIS     | ) | JURY TRIAL DEMANDED           |
| REGIONAL MEDICAL CENTER,            | ) |                               |
| a Pennsylvania Corporation,         | ) |                               |
|                                     | ) |                               |
| Defendants.                         | ) |                               |

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the ANSWER AND NEW MATTER OF DEFENDANT GARY D. OTT, M.D. TO PLAINTIFFS' COMPLAINT, in the above-referenced matter was mailed by regular mail, first class, at the Post Office, State College, Pennsylvania, postage prepaid, this 21<sup>st</sup> day of July, 2006 to:

Harry S. Cohen, Esquire  
Todd D. Bowlus, Esquire  
Harry S. Cohen & Associates, PC  
Two Chatham Center, Suite 985  
Pittsburgh, PA 15219

David R. Johnson, Esquire  
1010 Two Chatham Center  
Pittsburgh, PA 15219

McQUAIDE, BLASKO,  
FLEMING & FAULKNER, INC.

By:   
JOHN W. BLASKO  
FREDERICK BATTAGLIA  
Attorneys for Defendant  
Gary D. Ott, M.D.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

ANGELA HALE and RANDY A.  
HALE, as parents and natural guardians  
of ASHTYN HALE, a minor,

Plaintiffs,

vs.

MICHAEL J. KUSH, MD; an adult  
individual; GARY D. OTT, MD; an adult  
individual; and DUBOIS REGIONAL  
MEDICAL CENTER, a Pennsylvania  
corporation,

Defendants.

CIVIL DIVISION – MEDICAL  
PROFESSIONAL LIABILITY ACTION

Case No.: 2006-936-CD

**NOTICE OF PRAECIPE TO ENTER  
DEFAULT JUDGMENT AGAINST  
DEFENDANT DUBOIS REGIONAL  
MEDICAL CENTER**

Filed on Behalf of Plaintiffs

Counsel of Record for Plaintiffs:

Harry S. Cohen, Esquire  
PA I.D. #30682

Todd D. Bowlus, Esquire  
PA I.D. #89106

HARRY S. COHEN & ASSOCIATES, PC  
Two Chatham Center, Suite 985  
Pittsburgh, PA 15219  
Firm ID #813

(412) 281-3000

**JURY TRIAL DEMANDED**

9-12-06  
Date

FILED NO  
m 11 2006  
SEP 14 2006  
WAS  
William A. Shaw  
Prothonotary/Clerk of Courts

ORIGINAL

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

|  |   |                       |
|--|---|-----------------------|
| ANGELA HALE and RANDY A.               | : | CIVIL DIVISION        |
| HALE, as parents and natural guardians | : |                       |
| of ASHTYN HALE, a minor,               | : | Case No.: 2006-936-CD |
| Plaintiffs,                            | : |                       |
| vs.                                    | : |                       |
| MICHAEL J. KUSH, MD; an adult          | : |                       |
| individual; GARY D. OTT, MD; an adult  | : |                       |
| individual; and DUBOIS REGIONAL        | : |                       |
| MEDICAL CENTER, a Pennsylvania         | : |                       |
| corporation,                           | : |                       |
| Defendants.                            | : |                       |

**NOTICE OF PRAECIPE TO ENTER DEFAULT JUDGMENT AGAINST  
DEFENDANT DUBOIS REGIONAL MEDICAL CENTER**

To: **Defendant Dubois Regional Medical Center**  
c/o David R. Johnson, Esquire  
Thomson, Rhodes & Cowie, PC  
1010 Two Chatham Center  
Pittsburgh, PA 15219

**Date of Notice: September 12, 2006**

**IMPORTANT NOTICE**

YOU ARE IN DEFAULT BECAUSE YOU HAVE FAILED TO ENTER A WRITTEN APPEARANCE PERSONALLY OR BY AND ATTORNEY AND FILE IN WRITING WITH THE COURT YOUR DEFENSES OR OBJECTIONS TO THE CLAIMS SET FORTH AGAINST YOU. UNLESS YOU ACT WITHIN TEN DAYS FROM THE DATE OF THIS NOTICE, A JUDGMENT MAY BE ENTERED AGAINST YOU WITHOUT A HEARING AND YOU MAY LOSE YOUR PROPERTY OR OTHER IMPORTANT RIGHTS.

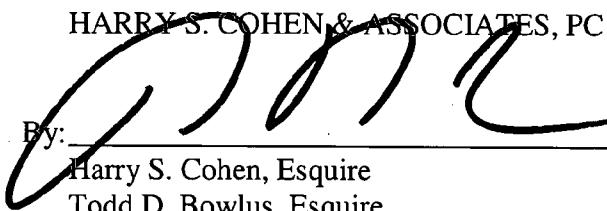
YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE IF YOU DO NOT HAVE A LAWYER, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER.

IF YOU CANNOT AFFORD TO HIRE 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.

DAVID S. MEHOLICK  
CLEARFIELD COUNTY COURTHOUSE  
ONE NORTH SECOND STREET  
CLEARFIELD, PA 16830  
(814)765-2641

Respectfully submitted,

HARRY S. COHEN & ASSOCIATES, PC

By: 

Harry S. Cohen, Esquire  
Todd D. Bowlus, Esquire  
Two Chatham Center; Suite 985  
Pittsburgh, PA 15219  
(412) 281-3000

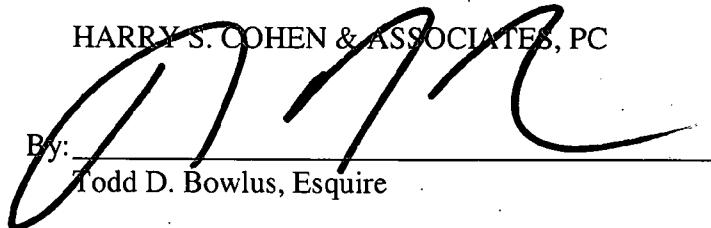
**CERTIFICATE OF SERVICE**

I hereby certify that the within **NOTICE OF PRAECIPE TO ENTER DEFAULT JUDGMENT AGAINST DEFENDANT DUBOIS REGIONAL MEDICAL CENTER** has been served pursuant to Pennsylvania Rule of Civil Procedure 440 by the first-class mailing of a true and correct copy to the party and address listed below on the 12<sup>th</sup> day of September 2006:

**John W. Blasko, Esquire**  
McQuaide Blasko  
811 University Drive  
State College, PA 16801-6699

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

HARRY S. COHEN & ASSOCIATES, PC  
By: \_\_\_\_\_  
Todd D. Bowlus, Esquire



IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

ANGELA HALE and RANDY A. HALE, as  
parents and natural guardians of ASHTYN  
HALE, a minor,

Plaintiffs,

vs.

MICHAEL J. KUSH, M.D., an adult individual;  
GARY D. OTT, M.D.; an adult individual; and  
DUBOIS REGIONAL MEDICAL CENTER, a  
Pennsylvania corporation,

Defendants.

NOTICE TO PLEAD:

To: Plaintiffs

You are hereby notified to file a written response to  
the enclosed ANSWER AND NEW MATTER  
within twenty (20) days of service hereof or a  
default judgment may be entered against you.

Brad Kush  
Attorneys for defendant.

CIVIL DIVISION

No. 06-936-CD

Issue No.

ANSWER AND NEW MATTER

Code: 007

Filed on behalf of Michael J. Kush, M.D. and  
DuBois Regional Medical Center, two of the  
defendants.

Counsel of Record for These Parties:

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  
M 10:23 AM  
SEP 22 2006  
No cc  
William A. Shaw  
Prothonotary/Clerk of Courts

ANSWER AND NEW MATTER

NOW COME, Michael J. Kush, M.D. and DuBois Regional Medical Center, two of the defendants, by their attorneys, Thomson, Rhodes & Cowie, P.C., and file the following answer and new matter in response to plaintiffs' complaint.

ANSWER

1. Defendants are advised and therefore believe and aver that the Pennsylvania Rules of Civil Procedure do not require them to set forth their answers and defenses except as stated below.
2. If and to the extent that any factual averment in the complaint is not responded to in the paragraphs which follow, said allegation is denied for the reason that, after a reasonable investigation, these defendants lack sufficient information or knowledge upon which to form a belief as to the truth of the averments therein.
3. Each of the paragraphs of this answer should be read so as to incorporate by reference each of the other paragraphs of this answer.
4. The following paragraphs of the complaint are denied for the reason that, after a reasonable investigation, these defendants have insufficient information or knowledge to form a belief as to the truth of the averments therein: 1, 2, 3, 4, 14, 19, 20, 25, and 36.
5. Paragraph 5 of the complaint is admitted in part and denied in part. It is admitted that Dr. Kush has been properly identified and that plaintiff is asserting a professional liability

action; however, any statement, suggestion or implication that Dr. Kush deviated from the standard of care is denied.

6. The following paragraphs of the complaint refer solely to other defendants for which reason no response is required: 6.

7. Paragraph 7 of the complaint is denied as stated. To the contrary, defendant is a non-profit healthcare institution located at the address specified in the complaint. It is admitted that a professional liability claim has been made with vicarious liability allegations; however, any statement, suggestion or implication that the hospital or any agent thereof deviated from the standard of care is denied.

8. The following paragraphs of the complaint are admitted: 8, 9, 12, 16, 31, 32, 33, and 35.

9. Paragraph 10 of the complaint is denied for the reason that, after a reasonable investigation, these defendants have insufficient information or knowledge to form a belief as to the truth of the averments therein, because the identity of the alleged agents, servants and/or employees of these defendants is not specified or disclosed.

10 Paragraphs 11, 13, 15, 17, 18, 21, 22, 23, 24, 26, 27, 28, 29, 30, and 34 of the complaint are denied for the reason that they incompletely, inaccurately and/or misleadingly describe events which occurred. While these paragraphs to some extent extract or reference words or phrases from the medical records, they do not reflect the context in which the notes were made and they ignore other words and phrases necessary to give fair meaning to the referenced language.

11. Paragraphs 37 (including sub-paragraphs (a) through (u)), 39 (including sub-paragraphs (a) through (g)), 40, 41, 42, 44, 45, 46, 47, 54 (including sub-paragraphs (a) through (n)), 55, 56, 57, 59 (including sub-paragraphs (a) through (g)), 60 and 61 of the complaint constitute conclusions of law to which no further response is required. However, if any response is deemed necessary, these paragraphs and sub-paragraphs are denied. In addition, all allegations of agency in Paragraphs 59 (including sub-paragraphs (a) through (g)), 60 and 61 are denied for the reason that, after a reasonable investigation, defendants have insufficient information or knowledge to form a belief as to the truth of the averments because the complaint does not identify the alleged agents, ostensible agents, servants and/or employees.

12. Paragraphs 38, 43, 48, 53, and 58 of the complaint solely incorporate by reference other paragraphs, for which no separate response is required. However, to the extent that any additional response is deemed necessary, defendants incorporate by reference their answers to those paragraphs which have been incorporated by the plaintiffs.

13. Paragraphs 49, 50, 51 and 52 of the complaint refer solely to other defendants for which reason no response is required. These paragraphs also constitute conclusions of law, for which additional reason no response is required. If, nonetheless, a response is deemed necessary, these paragraphs are denied.

WHEREFORE, plaintiffs' complaint should be dismissed and judgment should be entered in favor of these defendants.

NEW MATTER

14. In the absence of a special contract in writing, a healthcare provider is neither a warrantor nor a guarantor of a cure. This provision is pleaded as an affirmative defense insofar as there was no special contract in writing in this case.

15. These defendants plead the applicability of the Pennsylvania Comparative Negligence Statute as an affirmative defense.

16. While denying all negligence and all liability, these defendants aver that if they are found to have been negligent in any respect, any liability resulting therefrom would be diminished or barred by operation of the Pennsylvania Comparative Negligence Statute.

17. Plaintiffs' complaint fails to state any cause of action against these defendants.

18. Defendants plead the doctrines of intervening and superseding causes as affirmative defenses.

19. Defendants plead "payment" as an affirmative defense to the extent that any amount less than the amount billed for medical services to the plaintiffs after the alleged incident was accepted as payment in full.

20. Defendants are not liable for any pre-existing medical conditions which caused the claimed injuries and/or damages.

21. To the extent that evidence develops during discovery to demonstrate the application of the two schools of thought doctrine, defendants plead that doctrine as providing a complete defense for any alleged negligence and/or malpractice.

22. These defendants raise all affirmative defenses set forth or available as a result of the provisions of House Bill 1802 which became Pennsylvania law in 2002.

23. To the extent plaintiffs base their claim in whole or in part on any act occurring more than two years prior to the filing of the lawsuit, the claims are barred by the applicable statute of limitations, which is pleaded as an affirmative defense.

24. Defendants plead all applicable statutes of limitations as affirmative defenses.

25. If and to the extent that plaintiffs' claims were not filed within the time limitations imposed by law, said lawsuit is barred by the applicable statutes of limitations.

WHEREFORE, plaintiffs' complaint should be dismissed and judgment should be entered in favor of these defendants.

JURY TRIAL DEMANDED.

Respectfully submitted,

THOMSON, RHODES & COWIE, P.C.

  
\_\_\_\_\_  
David R. Johnson, Esquire  
Brad R. Korinski, Esquire  
Attorneys for Michael J. Kush, M.D. and  
DuBois Regional Medical Center, two of the  
defendants.

**VERIFICATION**

I, BRAD R. KORINSKI, Esq., in my capacity as counsel of record for the filing parties have read the foregoing ANSWER AND NEW MATTER. The statements therein are correct to the best of my knowledge, information and belief. I am filing this verification pursuant to Pa. R.C.P. 1024(c) for the reason that Dr. Kush is beyond the jurisdiction of this Court during the time required for the filing of this answer and new matter.

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

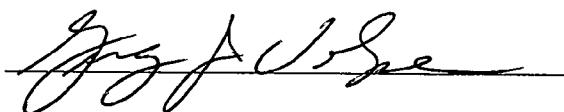
Brad Korinski

Date: 9.21.06

VERIFICATION

I, Greg J. Volpe in the capacity of  
Director of Risk MGT. at DuBois Regional Medical Center, have read the  
foregoing ANSWER AND NEW MATTER. The statements therein are correct to the best of my  
personal knowledge or information and belief.

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



Date: 9-18-06

**CERTIFICATION OF SERVICE**

I hereby certify that a true and correct copy of the within ANSWER AND NEW MATTER has been served upon the following counsel of record and same placed in the U.S.  
Mails on this 21<sup>st</sup> day of Sept, 2005:

Todd D. Bowlus, Esquire  
Harry S. Cohen & Associates, PC  
Two Chatham Center, Suite 985  
Pittsburgh, PA 15219

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

THOMSON, RHODES & COWIE, P.C.

Brad Korinski  
David R. Johnson, Esquire  
Brad R. Korinski, Esquire  
Attorneys for Michael J. Kush, M.D. and  
DuBois Regional Medical Center, two of the  
defendant.

**FILED**

**SEP 22 2006**

William A. Shaw  
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

ANGELA HALE and RANDY A.  
HALE, as parents and natural guardians  
of REGANNE HALE, a minor,

Plaintiffs,

vs.

MICHAEL J. KUSH, MD; an adult  
individual; GARY D. OTT, MD; an adult  
individual; YOO, TAI, Y., MD, a  
Pennsylvania corporation; and DUBOIS  
REGIONAL MEDICAL CENTER, a  
Pennsylvania corporation,

Defendants.

---

ANGELA HALE and RANDY A.  
HALE, as parents and natural guardians  
of ASHTYN HALE, a minor,

Plaintiffs,

vs.

MICHAEL J. KUSH, MD; an adult  
individual; GARY D. OTT, MD; an adult  
individual; and DUBOIS REGIONAL  
MEDICAL CENTER, a Pennsylvania  
corporation,

Defendants.

CIVIL DIVISION – MEDICAL  
PROFESSIONAL LIABILITY ACTION

Case No.: 2005-364-CD

**PLAINTIFFS' MOTION TO  
CONSOLIDATE**

Filed on Behalf of Plaintiffs

---

CIVIL DIVISION – MEDICAL  
PROFESSIONAL LIABILITY ACTION

Case No.: 2006-936 CD

Counsel of Record for Plaintiffs:

Harry S. Cohen, Esquire  
PA I.D. #30682

Todd D. Bowlus, Esquire  
PA I.D. #89106

HARRY S. COHEN & ASSOCIATES, PC  
Two Chatham Center, Suite 985  
Pittsburgh, PA 15219  
Firm ID #813

(412) 281-3000

**JURY TRIAL DEMANDED**

9-26-06  
Date

FILED NO CC Orig. to  
m/s/4/06  
SEP 28 2006  
William A. Shaw  
Prothonotary/Clerk of Courts

ORIGINAL

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

ANGELA HALE and RANDY A. HALE, as  
parents and natural guardians of ASHTYN  
HALE, a minor,

Plaintiffs,

vs.

MICHAEL J. KUSH, M.D.; an adult  
individual; GARY D. OTT, M.D.; and adult  
individual; and DUBOIS REGIONAL  
MEDICAL CENTER, a Pennsylvania  
corporation,

Defendants.

CIVIL DIVISION

No. 2006 - 936 - CD

Issue No.

**VERIFICATION OF MICHAEL J. KUSH,  
M.D.**

Filed on behalf of Michael J. Kush, M.D., one  
of the defendants.

Counsel of Record for These Parties:

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  
M 7/11/05 2006  
SEP 29 2006  
NOCC  
W.A. Shaw  
Prothonotary/Clerk of Courts

VERIFICATION

I, Michael Kush, M.D., have read the foregoing ANSWER AND NEW MATTER. The statements therein are correct to the best of my personal knowledge or information and belief.

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

Michael J. Kush

Date: 9/25/06

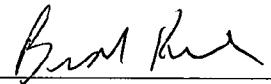
CERTIFICATION OF SERVICE

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 27th day of Sept, 2006:

Todd D. Bowlus, Esquire  
Harry S. Cohen & Associates, PC  
Two Chatham Center, Suite 985  
Pittsburgh, PA 15219

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

THOMSON, RHODES & COWIE, P.C.

  
\_\_\_\_\_  
David R. Johnson, Esquire  
Brad R. Korinski, Esquire  
Attorneys for Michael J. Kush, M.D., one of  
the defendants.

**FILED**

**SEP 29 2006**

William A. Shaw  
Prothonotary/Clerk of Courts

CA

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

ANGELA HALE and RANDY A. : CIVIL DIVISION  
HALE, as parents and natural guardians :  
of REGANNE HALE, a minor, : Case No.: 2005-364-CD  
Plaintiffs, :  
vs. :  
MICHAEL J. KUSH, MD; an adult :  
individual; GARY D. OTT, MD; an adult :  
individual; YOO, TAI, Y., MD, a :  
Pennsylvania corporation; and DUBOIS :  
REGIONAL MEDICAL CENTER, a :  
Pennsylvania corporation, :  
Defendants. :

---

ANGELA HALE and RANDY A. : CIVIL DIVISION  
HALE, as parents and natural guardians :  
of ASHTYN HALE, a minor, : Case No.: 2006-936-CD  
Plaintiffs, :  
vs. :  
MICHAEL J. KUSH, MD; an adult :  
individual; GARY D. OTT, MD; an adult :  
individual; and DUBOIS REGIONAL :  
MEDICAL CENTER, a Pennsylvania :  
corporation, :  
Defendants. :

FILED <sup>CC</sup>  
01/10/43/64 *Atty Cohen*  
SEP 29 2006 *(initials)*

William A. Shaw  
Prothonotary/Clerk of Courts

RULE TO SHOW CAUSE

AND NOW, this 28<sup>th</sup> day of September 2006, a Rule is hereby issued to show  
cause why Plaintiffs' Motion to Consolidate should not be granted.

Rule returnable the 27<sup>th</sup> day of October 2006 in Clearfield County Courthouse,  
Courtroom 1 at 9:00 o'clock. A.M.

BY THE COURT:

*Judge J. Zimmerman*, J.

**FILED**

**SEP 29 2006**

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

DATE: 9/29/06

You are responsible for serving all appropriate parties.

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

Plaintiff(s)  Plaintiff(s) Attorney  Other

Defendant(s)  Defendant(s) Attorney

Special Instructions:

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

ANGELA HALE and RANDY A.  
HALE, as parents and natural guardians  
of ASHTYN HALE, a minor,

Plaintiffs,

vs.

MICHAEL J. KUSH, MD; an adult  
individual; GARY D. OTT, MD; an adult  
individual; and DUBOIS REGIONAL  
MEDICAL CENTER, a Pennsylvania  
corporation,

Defendants.

CIVIL DIVISION – MEDICAL  
PROFESSIONAL LIABILITY ACTION

Case No.: 2006-936 CD

**PLAINTIFFS' REPLY TO NEW  
MATTER FILED ON BEHALF OF  
DEFENDANTS MICHAEL J. KUSH,  
MD AND DUBOIS REGIONAL  
MEDICAL CENTER**

Filed on Behalf of Plaintiffs

Counsel of Record for Plaintiffs:

Harry S. Cohen, Esquire  
PA I.D. #30682

Todd D. Bowlus, Esquire  
PA I.D. #89106

HARRY S. COHEN & ASSOCIATES, PC  
Two Chatham Center, Suite 985  
Pittsburgh, PA 15219  
Firm ID #813

(412) 281-3000

**JURY TRIAL DEMANDED**

10-3-06  
Date

FILED  
OCT 06 2006  
NOCC  
COURT OF COMMON PLEAS  
William A. Shaw  
Prothonotary/Clerk of Courts

**ORIGINAL**

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

ANGELA HALE and RANDY A. : CIVIL DIVISION  
HALE, as parents and natural guardians :  
of ASHTYN HALE, a minor, : Case No.: 2006-936 CD  
Plaintiffs, :  
vs. :  
MICHAEL J. KUSH, MD; an adult :  
individual; GARY D. OTT, MD; an adult :  
individual; and DUBOIS REGIONAL :  
MEDICAL CENTER, a Pennsylvania :  
corporation, :  
Defendants. :

**PLAINTIFFS' REPLY TO NEW MATTER FILED ON BEHALF OF DEFENDANTS**  
**MICHAEL J. KUSH, MD AND DUBOIS REGIONAL MEDICAL CENTER**

AND NOW, come the Plaintiffs, Angela Hale and Randy A. Hale, as parents and natural guardians of Reganne Hale, a minor, by and through their attorneys, Harry S. Cohen & Associates, by Harry S. Cohen, Esquire and Todd D. Bowlus, Esquire, and set forth the following Reply to New Matter:

1. The averments set forth in paragraph 14 of Defendants' New Matter state conclusions of law, to which no response is required. In the alternative, if a response is deemed required, which is denied, then in that alternative, the averments contained in this paragraph are specifically denied.

2. The averments set forth in paragraph 15 of Defendants' New Matter state conclusions of law, to which no response is required. In the alternative, if a response is deemed required, which is denied, then in that alternative, the averments contained in this paragraph are specifically denied.

3. The averments set forth in paragraph 16 of Defendants' New Matter state conclusions of law, to which no response is required. In the alternative, if a response is deemed required, which is denied, then in that alternative, the averments contained in this paragraph are specifically denied.

4. The averments set forth in paragraph 17 of Defendants' New Matter state conclusions of law, to which no response is required. In the alternative, if a response is deemed required, which is denied, then in that alternative, the averments contained in this paragraph are specifically denied.

5. The averments set forth in paragraph 18 of Defendants' New Matter state conclusions of law, to which no response is required. In the alternative, if a response is deemed required, which is denied, then in that alternative, the averments contained in this paragraph are specifically denied.

6. The averments set forth in paragraph 19 of Defendants' New Matter state conclusions of law, to which no response is required. In the alternative, if a response is deemed required, which is denied, then in that alternative, the averments contained in this paragraph are specifically denied.

7. The averments set forth in paragraph 20 of Defendants' New Matter state conclusions of law, to which no response is required. In the alternative, if a response is deemed required, which is denied, then in that alternative, the averments contained in this paragraph are specifically denied.

8. The averments set forth in paragraph 21 of Defendants' New Matter state conclusions of law, to which no response is required. In the alternative, if a response is deemed

required, which is denied, then in that alternative, the averments contained in this paragraph are specifically denied.

9. The averments set forth in paragraph 22 of Defendants' New Matter state conclusions of law, to which no response is required. In the alternative, if a response is deemed required, which is denied, then in that alternative, the averments contained in this paragraph are specifically denied.

10. The averments set forth in paragraph 23 of Defendants' New Matter state conclusions of law, to which no response is required. In the alternative, if a response is deemed required, which is denied, to the contrary Plaintiffs' claims have been filed within the applicable statute of limitations, and therefore, the averments contained in this paragraph are specifically denied.

11. The averments set forth in paragraph 24 of Defendants' New Matter state conclusions of law, to which no response is required. In the alternative, if a response is deemed required, which is denied, to the contrary Plaintiffs' claims have been filed within the applicable statute of limitations, and therefore, the averments contained in this paragraph are specifically denied.

12. The averments set forth in paragraph 25 of Defendants' New Matter state conclusions of law, to which no response is required. In the alternative, if a response is deemed required, which is denied, to the contrary Plaintiffs' claims have been filed within the applicable statute of limitations, and therefore, the averments contained in this paragraph are specifically denied.

WHEREFORE, Plaintiffs demand judgment in their favor and against all Defendants, jointly, severally, and/or jointly and severally, in an amount in excess of the jurisdictional limits of compulsory arbitration, excluding costs and interest.

JURY TRIAL DEMANDED

Respectfully submitted,

HARRY S. COHEN & ASSOCIATES, PC

By:

Harry S. Cohen, Esquire  
Todd D. Bowlus, Esquire  
Two Chatham Center, Suite 985  
Pittsburgh, PA 15219  
(412) 281-3000

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

ANGELA HALE and RANDY A. : CIVIL DIVISION  
HALE, as parents and natural guardians :  
of ASHTYN HALE, a minor, : Case No.: 2006-936 CD  
Plaintiffs, :  
vs. :  
MICHAEL J. KUSH, MD; an adult :  
individual; GARY D. OTT, MD; an adult :  
individual; and DUBOIS REGIONAL :  
MEDICAL CENTER, a Pennsylvania :  
corporation, :  
Defendants. :

VERIFICATION

I verify that the averments contained in the foregoing **PLAINTIFFS' REPLY TO NEW  
MATTER FILED ON BEHALF OF DEFENDANTS MICHAEL J. KUSH, MD AND  
DUBOIS REGIONAL MEDICAL CENTER** are true and correct to the best of my knowledge,  
information and belief. I understand that said averments are made subject to the penalties of 18  
Pa. C. S. § 4904 relating to unsworn falsification to authorities.

10-3-06  
Date

By: Randy A. Hale  
Randy Hale, Plaintiff

10-3-06  
Date

By: Angela M. Hale  
Angela Hale, Plaintiff

**CERTIFICATE OF SERVICE**

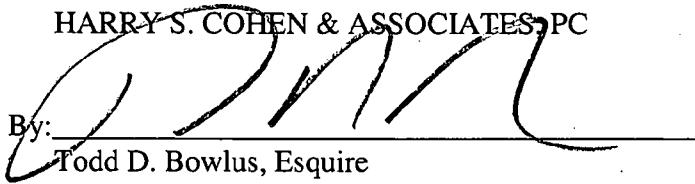
I hereby certify that a true and correct copy of the foregoing **PLAINTIFFS' REPLY TO NEW MATTER FILED ON BEHALF OF DEFENDANTS MICHAEL J. KUSH, MD AND DUBOIS REGIONAL MEDICAL CENTER** was served by U.S. Mail, postage pre-paid, on this 3<sup>rd</sup> day of October 2006 to the following:

**John W. Blasko, Esquire**  
McQuaide Blasko  
811 University Drive  
State College, PA 16801-6699

**David R. Johnson, Esquire**  
Thomson, Rhodes & Cowie, PC  
Two Chatham Center, Tenth Floor  
Pittsburgh, PA 15219

**HARRY S. COHEN & ASSOCIATES, PC**

By:

  
Todd D. Bowlus, Esquire

**FILED**

**OCT 06 2006**

William A. Shaw  
Prothonotary/Clerk of Courts

FILED *ICC Attns:  
Cohen  
OCT 31 2006 Johnson  
Blasco  
GW*  
William A. Shaw  
Prothonotary/Clerk of Courts

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

ANGELA HALE and RANDY A. HALE, :  
as parents and natural guardians:  
of ASHTYN HALE, a minor :  
:  
VS. : NO. 06-936-CD  
:  
MICHAEL J. KUSH, M.D., an adult :  
ind; GARY D. OTT, M.D., an adult:  
ind; YOO, TAI, Y., M.D., a :  
Pennsylvania Corporation; and :  
DUBOIS REGIONAL MEDICAL CENTER, :  
a Pennsylvania Corporation :

O R D E R

AND NOW, this 27th day of October, 2006, relative  
the Plaintiffs' and Defendants' Motions to Compel Expert  
Reports, wit the parties being in agreement for the entry of a  
case management order, it is the ORDER of this Court as follows:

1. Plaintiffs shall produce their liability expert  
reports on behalf of Reganne Hale and Ashtyn Hale on or before  
March 31, 2006;
2. The Defendants shall produce their expert  
reports on or before June 30, 2006;
3. The case shall be placed on the Civil Trial List  
for the Fall 2006 Term of Court;
4. Call of the Civil List shall be held on July 26,  
2007, at 11:00 a.m;
5. Pretrial Conference shall be held at a time to  
be determined on the 17th day of August, 2007, at a time to be

determined;

6. Jury Selection shall be held on 28th day of August, 2007, at 9:00 a.m;

7. Jury Trial of eight (8) days in length shall be scheduled at some time between September and December 2007.

BY THE COURT,



President Judge

**FILED**

OCT 31 2006

William A. Shaw  
Prothonotary/Clerk of Courts

DATE: 10/31/06

You are responsible for serving all appropriate parties.

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

Plaintiff(s)  Plaintiff(s) Attorney  Other

Defendant(s)  Defendant(s) Attorney

Special Instructions:

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

ANGELA HALE and RANDY A. HALE, :  
as parents and natural guardians:  
of ASHTYN HALE, a minor :  
:  
VS. : NO. 06-936-CD  
:  
MICHAEL J. KUSH, M.D., an adult :  
ind; GARY D. OTT, M.D., an adult:  
ind; YOO, TAI, Y., M.D., a :  
Pennsylvania Corporation; and :  
DUBOIS REGIONAL MEDICAL CENTER, :  
a Pennsylvania Corporation :  
:

FILED *ICLATTys!*  
of 3:30pm Cohen  
NOV - 1 2006 Johnson  
Bigslo  
*(CR)*

William A. Shaw  
Prothonotary/Clerk of Courts

O R D E R

AND NOW, this 1st day of November, 2006, it is the  
ORDER of this Court that the Order entered on October 27, 2006,  
be and is hereby AMENDED to read as follows:

O R D E R

AND NOW, this 27th day of October, 2006, relative  
the Plaintiffs' and Defendants' Motions to Compel Expert  
Reports, with the parties being in agreement for the entry of a  
case management order, it is the ORDER of this Court as follows:

1. Plaintiffs shall produce their liability expert  
reports on behalf of Reganne Hale and Ashtyn Hale on or before  
March 31, 2007;

2. The Defendants shall produce their expert  
reports on or before June 30, 2007;

3. The case shall be placed on the Civil Trial List  
for the Fall 2007 Term of Court;

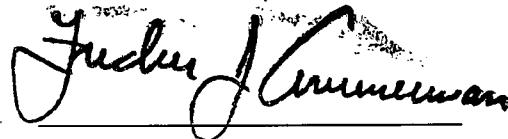
4. Call of the Civil List shall be held on July 26, 2007, at 11:00 a.m;

5. Pretrial Conference shall be held at a time to be determined on the 17th day of August, 2007;

6. Jury Selection shall be held on 28th day of August, 2007, at 9:00 a.m;

7. Jury Trial of eight (8) days in length shall be scheduled sometime between September and December 2007.

BY THE COURT,



President Judge

DATE: 11-1-2006

You are responsible for serving all appropriate parties.

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

Plaintiff(s)  Plaintiff(s) Attorney  Other

Defendant(s)  Defendant(s) Attorney

Special Instructions:

**FILED**

**NOV - 1 2006**

William A. Shaw  
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

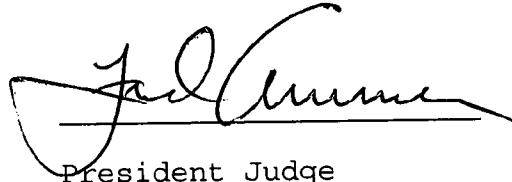
CIVIL DIVISION

ANGELA HALE and RANDY A. HALE, :  
as parents and natural guardians:  
of ASHTYN HALE, a minor :  
:  
VS. : NO. 06-936-CD  
:  
MICHAEL J. KUSH, M.D., an adult :  
ind; GARY D. OTT, M.D., an adult:  
ind; YOO, TAI, Y., M.D., a :  
Pennsylvania Corporation; and :  
DUBOIS REGIONAL MEDICAL CENTER, :  
a Pennsylvania Corporation :

O R D E R

AND NOW, this 27th day of October, 2006, relative  
the Plaintiffs' Motion to Consolidate the above-captioned case  
with the case filed to No. 05-364-CD; with the Court noting that  
counsel for the Defendants being in agreement with the  
Plaintiffs' requests, it is the ORDER of this Court that the  
cases be and are hereby consolidated.

BY THE COURT,

  
\_\_\_\_\_  
President Judge

**FILED**  
0 11:10 A.M. 6K  
NOV 08 2006  
6K

1cc TO ATTYS.  
D Johnson 2cc  
J. Blasko 1cc  
H Cohen - 3cc  
R Hale

William A. Shaw  
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

ANGELA HALE and RANDY A.  
HALE, as parents and natural guardians  
of REGANNE HALE, a minor,

Plaintiffs,

vs.

MICHAEL J. KUSH, MD; an adult  
individual; GARY D. OTT, MD; an adult  
individual; YOO, TAI, Y., MD, a  
Pennsylvania corporation; and DUBOIS  
REGIONAL MEDICAL CENTER, a  
Pennsylvania corporation,

Defendants.

---

ANGELA HALE and RANDY A.  
HALE, as parents and natural guardians  
of ASHTYN HALE, a minor,

Plaintiffs,

vs.

MICHAEL J. KUSH, MD; an adult  
individual; GARY D. OTT, MD; an adult  
individual; and DUBOIS REGIONAL  
MEDICAL CENTER, a Pennsylvania  
corporation,

Defendants.

CIVIL DIVISION – MEDICAL  
PROFESSIONAL LIABILITY ACTION

Case No.: 2005-364-CD

**NOTICE OF DEPOSITION OF  
GEORGE CHERIAN, M.D. WITH  
SUBPEONA DUCES TECUM**

Filed on Behalf of Plaintiffs

CIVIL DIVISION – MEDICAL  
PROFESSIONAL LIABILITY ACTION

Case No.: 2006-936 CD  
*Consolidated at 2005-364-CD*

Counsel of Record for Plaintiffs:

Harry S. Cohen, Esquire  
PA I.D. #30682

Todd D. Bowlus, Esquire  
PA I.D. #89106

HARRY S. COHEN & ASSOCIATES, PC  
Two Chatham Center, Suite 985  
Pittsburgh, PA 15219  
Firm ID #813

(412) 281-3000

**JURY TRIAL DEMANDED**

FILED  
MAY 14 2007  
FEB 23 2007  
NO CC  
MAY 14 2007  
FEB 23 2007

William A. Shaw Original filed  
Prothonotary/Clerk of Courts to 05-364-CD

ORIGINAL

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

ANGELA HALE and RANDY A. : CIVIL DIVISION  
HALE, as parents and natural guardians :  
of REGANNE HALE, a minor, : Case No.: 2005-364-CD

Plaintiffs, :

vs. :

MICHAEL J. KUSH, MD; an adult :  
individual; GARY D. OTT, MD; an adult :  
individual; YOO, TAI, Y., MD, a :  
Pennsylvania corporation; and DUBOIS :  
REGIONAL MEDICAL CENTER, a :  
Pennsylvania corporation,

Defendants. :

---

ANGELA HALE and RANDY A. : CIVIL DIVISION  
HALE, as parents and natural guardians :  
of ASHTYN HALE, a minor, : Case No.: 2006-936 CD  
*Consolidated at 2005-364-CD*

Plaintiffs, :

vs. :

MICHAEL J. KUSH, MD; an adult :  
individual; GARY D. OTT, MD; an adult :  
individual; and DUBOIS REGIONAL :  
MEDICAL CENTER, a Pennsylvania :  
corporation,

Defendants. :

**NOTICE OF DEPOSITION OF**  
**GEORGE CHERIAN, M.D. WITH SUBPEONA DUCES TECUM**

TO: George Cherian, M.D.  
George Cherian, M.D., P.C.  
803 West Mahoning Street  
Punxsutawney, PA 15767

**PLEASE TAKE NOTICE** that the Deposition of George Cherian, M.D. will be taken  
for the purposes of discovery, pursuant to the Pennsylvania Rules of Civil Procedure, before a

Notary Public duly authorized by law to administer oath in the conference room to be determined at Dubois Regional Hospital on the Wednesday, March 28, 2007 at George Cherian, M.D., P.C., 803 West Mahoning Street, Punxsutawney, Pennsylvania 15767 at 2:00 p.m. at which time and place you are invited to appear and take part as shall be fitting and proper.

The scope and purpose of the deposition is to inquire into the facts regarding the treatment of Angela Hale's 1996 pregnancy and to authenticate the medical records there from.

**SUBPOENA DUCES TECUM**

You are hereby instructed to bring the following with you:

1. The complete medical chart in your possession with regard to Plaintiff Angela Hale and her 1996 pregnancy.

Respectfully submitted,

HARRY S. COHEN & ASSOCIATES, PC

By: 

Harry S. Cohen, Esquire  
Todd D. Bowlus, Esquire  
Attorneys for Plaintiffs  
Two Chatham Center, Suite 985  
Pittsburgh, PA 15219  
(412) 281-3000

**CERTIFICATE OF SERVICE**

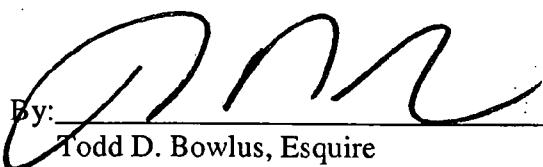
I hereby certify that a copy of the foregoing **NOTICE OF DEPOSITION OF GEORGE CHERIAN, M.D. WITH SUBPEONA DUCES TECUM** has been served pursuant to Pennsylvania Rule of Civil Procedure 440 by first-class mailing or hand delivery of a true and correct copy to the party and address listed below on the 20<sup>th</sup> day of February 20, 2007:

**John W. Blasko, Esquire**  
McQuaide Blasko  
811 University Drive  
State College, PA 16801-6699  
(*Counsel for Defendant Gary D. Ott, M.D.*)

**David R. Johnson, Esquire**  
Thomson, Rhodes & Cowie, PC  
Two Chatham Center  
Tenth Floor  
Pittsburgh, PA 15219  
(*Counsel for Defendants Michael J. Kush, M.D and Dubois Regional Medical Center*)

**George Cherian, M.D.**  
George Cherian, M.D., P.C.  
803 West Mahoning Street  
Punxsutawney, PA 15767

HARRY S. COHEN & ASSOCIATES, PC

By: 

Todd D. Bowlus, Esquire

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

ANGELA HALE and RANDY A.  
HALE, as parents and natural guardians  
of REGANNE HALE, a minor,

Plaintiffs,

vs.

MICHAEL J. KUSH, MD; an adult  
individual; GARY D. OTT, MD; an adult  
individual; YOO, TAI, Y., MD, a  
Pennsylvania corporation; and DUBOIS  
REGIONAL MEDICAL CENTER, a  
Pennsylvania corporation,

Defendants.

---

ANGELA HALE and RANDY A.  
HALE, as parents and natural guardians  
of ASHTYN HALE, a minor,

Plaintiffs,

vs.

MICHAEL J. KUSH, MD; an adult  
individual; GARY D. OTT, MD; an adult  
individual; and DUBOIS REGIONAL  
MEDICAL CENTER, a Pennsylvania  
corporation,

Defendants.

CIVIL DIVISION – MEDICAL  
PROFESSIONAL LIABILITY ACTION

Case No.: 2005-364-CD

**SECOND NOTICE OF DEPOSITION  
OF GEORGE CHERIAN, M.D. WITH  
SUBPEONA DUCES TECUM**

Filed on Behalf of Plaintiffs

CIVIL DIVISION – MEDICAL  
PROFESSIONAL LIABILITY ACTION

Case No.: 2006-936 CD  
*Consolidated at 2005-364-CD*

Counsel of Record for Plaintiffs:

Harry S. Cohen, Esquire  
PA I.D. #30682

Todd D. Bowlus, Esquire  
PA I.D. #89106

HARRY S. COHEN & ASSOCIATES, PC  
Two Chatham Center, Suite 985  
Pittsburgh, PA 15219  
Firm ID #813

(412) 281-3000

**JURY TRIAL DEMANDED**

March 7, 2007

FILED  
MAR 12 2007  
WCC

William A. Shaw  
Prothonotary/Clerk of Courts

Original filed  
to 05-364-CD

CO  
ORIGINAL

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

ANGELA HALE and RANDY A.  
HALE, as parents and natural guardians  
of REGANNE HALE, a minor,

CIVIL DIVISION

Case No.: 2005-364-CD

Plaintiffs,

vs.

MICHAEL J. KUSH, MD; an adult  
individual; GARY D. OTT, MD; an adult  
individual; YOO, TAI, Y., MD, a  
Pennsylvania corporation; and DUBOIS  
REGIONAL MEDICAL CENTER, a  
Pennsylvania corporation,

Defendants.

---

ANGELA HALE and RANDY A.  
HALE, as parents and natural guardians  
of ASHTYN HALE, a minor,

CIVIL DIVISION

Case No.: 2006-936 CD  
*Consolidated at 2005-364-CD*

Plaintiffs,

vs.

MICHAEL J. KUSH, MD; an adult  
individual; GARY D. OTT, MD; an adult  
individual; and DUBOIS REGIONAL  
MEDICAL CENTER, a Pennsylvania  
corporation,

Defendants.

**SECOND NOTICE OF DEPOSITION OF  
GEORGE CHERIAN, M.D. WITH SUBPEONA DUCES TECUM**

TO: George Cherian, M.D.  
George Cherian, M.D., P.C.  
803 West Mahoning Street  
Punxsutawney, PA 15767

**PLEASE TAKE NOTICE** that the Deposition of George Cherian, M.D. will be taken  
for the purposes of discovery, pursuant to the Pennsylvania Rules of Civil Procedure, before a

Notary Public duly authorized by law to administer oath in the conference room to be determined at Dubois Regional Hospital on the **Thursday, March 29, 2007 at George Cherian, M.D., P.C., 803 West Mahoning Street, Punxsutawney, Pennsylvania 15767 at 10:30 a.m.** at which time and place you are invited to appear and take part as shall be fitting and proper.

The scope and purpose of the deposition is to inquire into the facts regarding the treatment of Angela Hale's 1996 pregnancy and to authenticate the medical records there from.

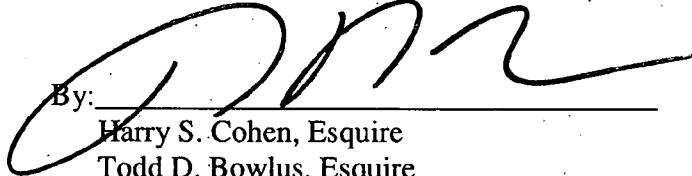
**SUBPOENA DUCES TECUM**

You are hereby instructed to bring the following with you:

1. The complete medical chart in your possession with regard to Plaintiff Angela Hale and her 1996 pregnancy.

Respectfully submitted,

HARRY S. COHEN & ASSOCIATES, PC

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

Harry S. Cohen, Esquire  
Todd D. Bowlus, Esquire  
Attorneys for Plaintiffs  
Two Chatham Center, Suite 985  
Pittsburgh, PA 15219  
(412) 281-3000

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing **SECOND NOTICE OF DEPOSITION OF GEORGE CHERIAN, M.D. WITH SUBPEONA DUCES TECUM** has been served pursuant to Pennsylvania Rule of Civil Procedure 440 by first-class mailing or hand delivery of a true and correct copy to the party and address listed below on the 7<sup>th</sup> day of March 2007:

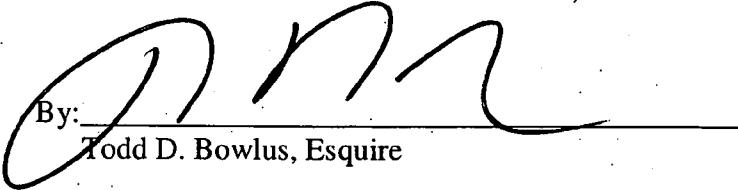
**John W. Blasko, Esquire**  
McQuaide Blasko  
811 University Drive  
State College, PA 16801-6699  
(*Counsel for Defendant Gary D. Ott, M.D.*)

**David R. Johnson, Esquire**  
Thomson, Rhodes & Cowie, PC  
Two Chatham Center  
Tenth Floor  
Pittsburgh, PA 15219  
(*Counsel for Defendants Michael J. Kush, M.D and Dubois Regional Medical Center*)

**George Cherian, M.D.**  
George Cherian, M.D., P.C.  
803 West Mahoning Street  
Punxsutawney, PA 15767

**Johnson & Mimless**  
(*via facsimile @ 412.765.3539*)

HARRY S. COHEN & ASSOCIATES, PC

By: 

Todd D. Bowlus, Esquire

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

ANGELA HALE and RANDY A. HALE, as parents and natural guardians of REGANNE HALE, a minor, Plaintiffs, : CIVIL DIVISION  
Case No.: 2005-364-CD  
vs.  
MICHAEL J. KUSH, MD; an adult individual; GARY D. OTT, MD; an adult individual; YOO, TAI, Y., MD, a Pennsylvania corporation; and DUBOIS REGIONAL MEDICAL CENTER, a Pennsylvania corporation, Defendants.

---

ANGELA HALE and RANDY A. HALE, as parents and natural guardians of ASHTYN HALE, a minor, Plaintiffs, : CIVIL DIVISION  
Case No.: 2006-936 CD

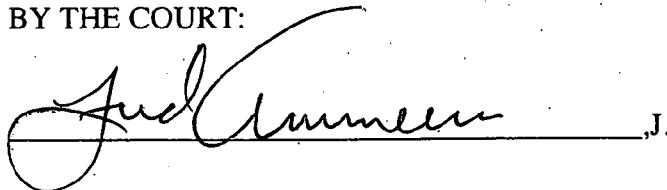
vs.  
MICHAEL J. KUSH, MD; an adult individual; GARY D. OTT, MD; an adult individual; and DUBOIS REGIONAL MEDICAL CENTER, a Pennsylvania corporation, Defendants.

RULE TO SHOW CAUSE

AND NOW, this 4<sup>th</sup> day of April 2007, a Rule is hereby issued to show cause why Plaintiffs' Motion for Extension of Time to File Expert Reports/Motion or Trial Continuance should not be granted.

Rule returnable the 14<sup>th</sup> day of May 2007 in Clearfield County Courthouse, Courtroom 1 at 9:30 o'clock.  
A.M.

BY THE COURT:



J.

FILED <sup>CC</sup>  
04/10/07  
APR 04 2007  
Attns: Bowles  
Blasko  
D. Johnson

William A. Shaw  
Prothonotary/Clerk of Courts ICC T. Yoo  
145 Hospital Ave, Ste. 315  
DuBois, PA 15801

**FILED**

APR 04 2007

William A. Shaw  
Prothonotary/Clerk of Courts

DATE: 4/19/07

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:

(envelopes for attys provided by Amy Cohen)

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

ANGELA HALE and RANDY A.  
HALE, as parents and natural guardians  
of REGANNE HALE, a minor,

Plaintiffs,

vs.

MICHAEL J. KUSH, MD; an adult  
individual; GARY D. OTT, MD; an adult  
individual; YOO, TAI, Y., MD, a  
Pennsylvania corporation; and DUBOIS  
REGIONAL MEDICAL CENTER, a  
Pennsylvania corporation,

Defendants.

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ANGELA HALE and RANDY A.  
HALE, as parents and natural guardians  
of ASHTYN HALE, a minor,

Plaintiffs,

vs.

MICHAEL J. KUSH, MD; an adult  
individual; GARY D. OTT, MD; an adult  
individual; and DUBOIS REGIONAL  
MEDICAL CENTER, a Pennsylvania  
corporation,

Defendants.

CIVIL DIVISION – MEDICAL  
PROFESSIONAL LIABILITY ACTION

Case No.: 2005-364-CD

**PLAINTIFFS' MOTION FOR  
EXTENSION OF TIME TO FILE  
EXPERT REPORTS OR IN THE  
ALTERNATIVE MOTION FOR TRIAL  
CONTINUANCE**

Filed on Behalf of Plaintiffs

---

CIVIL DIVISION – MEDICAL  
PROFESSIONAL LIABILITY ACTION

Case No.: 2006-936 CD

Counsel of Record for Plaintiffs:

Harry S. Cohen, Esquire  
PA I.D. #30682

Todd D. Bowlus, Esquire  
PA I.D. #89106

HARRY S. COHEN & ASSOCIATES, PC  
Two Chatham Center, Suite 985  
Pittsburgh, PA 15219  
Firm ID #813

(412) 281-3000

**JURY TRIAL DEMANDED**

March 19, 2007

*COPY*  
*FILED* NO CC  
13361  
MAR 21 2007 Ong to  
05-364-CD  
William A. Shaw  
Prothonotary/Clerk of Courts  
(60)

*RECEIVED*

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

ANGELA HALE and RANDY A.  
HALE, as parents and natural guardians  
of REGANNE HALE, a minor,

CIVIL DIVISION

Case No.: 2005-364-CD

Plaintiffs,

vs.

MICHAEL J. KUSH, MD; an adult  
individual; GARY D. OTT, MD; an adult  
individual; YOO, TAI, Y., MD, a  
Pennsylvania corporation; and DUBOIS  
REGIONAL MEDICAL CENTER, a  
Pennsylvania corporation,

Defendants.

---

ANGELA HALE and RANDY A.  
HALE, as parents and natural guardians  
of ASHTYN HALE, a minor,

CIVIL DIVISION

Case No.: 2006-936 CD

Plaintiffs,

vs.

MICHAEL J. KUSH, MD; an adult  
individual; GARY D. OTT, MD; an adult  
individual; and DUBOIS REGIONAL  
MEDICAL CENTER, a Pennsylvania  
corporation,

Defendants.

**PLAINTIFFS' MOTION FOR EXTENSION OF TIME TO FILE EXPERT  
REPORTS OR IN THE ALTERNATIVE MOTION FOR TRIAL CONTINUANCE**

AND NOW, come the Plaintiffs, Angela Hale and Randy A. Hale, as parents and natural  
guardians of Reganne Hale and Ashtyn Hale, minors, by and through their attorneys, Harry S.  
Cohen & Associates, by Harry S. Cohen, Esquire and Todd D. Bowlus, Esquire, and set forth the  
following Motion:

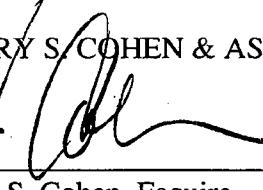
1. This matter is set for trial to begin on September 17, 2007.
2. This medical malpractice case involves the premature birth of twins, Reganne and Ashtyn Hale, and their resulting injuries.
3. On November 1, 2006, this Court entered an Order whereby Plaintiffs are to produce their liability expert reports on or before March 31, 2007.
4. An essential element of the case will be attempting to calculate the injuries that the girls will have throughout their lives and into adulthood. In fact, a life care planner will be required to write a report detailing the girls' future financial needs based on their projected injuries.
5. In an attempt to evaluate the girls and calculate their injuries, both girls, currently 4½-years old, have recently been examined by a pediatric neurologist and also by a pediatric psychologist.
6. Because of their deficits, which include attention disorders, the girls were very difficult to evaluate.
7. As such, both doctors have advised that writing a report on the girls and projecting their injuries would be extremely difficult at this time because of their age. Both doctors also advised that if the girls could be re-examined at a later date, maybe even 4-8 months from now, they would likely be able to more accurately define their injury and prognosis.
8. Plaintiffs have already provided Defendants with timely liability reports from an obstetrician, a maternal fetal medicine doctor, an obstetrical nurse, a neonatologist, and a pediatric neurologist.
9. Plaintiffs are now seeking an extension of time in which to file supplemental reports detailing the extent and severity of the girls' injuries and how the injuries relate to the

premature births, because, as discussed herein, this was extremely difficult to do by March 31, 2007, given the girls' age and the nature of their injuries.

WHEREFORE, Plaintiffs move this Honorable Court for an Order allowing Plaintiffs to file supplemental expert reports after March 31, 2007 and/or continue the trial of this matter and remove this case from the September 2007 trial list.

Respectfully submitted,

HARRY S. COHEN & ASSOCIATES, PC

By: 

Harry S. Cohen, Esquire  
Todd D. Bowlus, Esquire  
Attorneys for Plaintiffs  
Two Chatham Center, Suite 985  
Pittsburgh, PA 15219  
(412) 281-3000

**CERTIFICATE OF SERVICE**

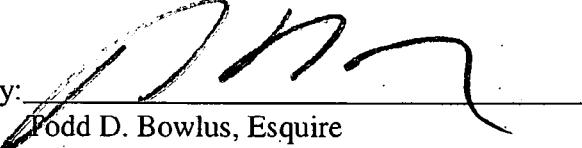
I hereby certify that a true and correct copy of the foregoing **PLAINTIFFS' MOTION FOR EXTENSION OF TIME TO FILE EXPERT REPORTS OR IN THE ALTERNATIVE MOTION FOR TRIAL CONTINUANCE** has been served on the 19<sup>th</sup> day of March 2007 to the following via facsimile and/or U.S. Mail:

**Court Administrator**  
Clearfield County Courthouse  
One North Second Street  
Clearfield, PA 16830

**John W. Blasko, Esquire**  
McQuaide Blasko  
811 University Drive  
State College, PA 16801-6699

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

**HARRY S. COHEN & ASSOCIATES, PC**

By: 

Todd D. Bowlus, Esquire

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

ANGELA HALE and RANDY A.  
HALE, as parents and natural guardians  
of REGANNE HALE, a minor,

CIVIL DIVISION

Case No.: 2005-364-CD

Plaintiffs,

vs.

MICHAEL J. KUSH, MD; an adult  
individual; GARY D. OTT, MD; an adult  
individual; YOO, TAI, Y., MD, a  
Pennsylvania corporation; and DUBOIS  
REGIONAL MEDICAL CENTER, a  
Pennsylvania corporation,

Defendants.

---

ANGELA HALE and RANDY A.  
HALE, as parents and natural guardians  
of ASHTYN HALE, a minor,

CIVIL DIVISION

Case No.: 2006-936 CD

Plaintiffs,

vs.

MICHAEL J. KUSH, MD; an adult  
individual; GARY D. OTT, MD; an adult  
individual; and DUBOIS REGIONAL  
MEDICAL CENTER, a Pennsylvania  
corporation,

Defendants.

**ORDER OF COURT**

AND NOW, this \_\_\_\_ day of \_\_\_\_\_ 2007, it is hereby ORDERED,  
ADJUDGED and DECREED that Plaintiffs may file supplemental expert reports detailing the  
extent and severity of the girls' injuries and how they relate to the premature births. Said reports  
must be filed by the \_\_\_\_ day of \_\_\_\_\_.

BY THE COURT:

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

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

ANGELA HALE and RANDY A. HALE, as parents and natural guardians of REGANNE HALE, a minor, : CIVIL DIVISION  
Case No.: 2005-364-CD

Plaintiffs, :

vs. :

MICHAEL J. KUSH, MD; an adult individual; GARY D. OTT, MD; an adult individual; YOO, TAI, Y., MD, a Pennsylvania corporation; and DUBOIS REGIONAL MEDICAL CENTER, a Pennsylvania corporation, :

Defendants. :

---

ANGELA HALE and RANDY A. HALE, as parents and natural guardians of ASHTYN HALE, a minor, : CIVIL DIVISION  
Case No.: 2006-936 CD

Plaintiffs, :

vs. :

MICHAEL J. KUSH, MD; an adult individual; GARY D. OTT, MD; an adult individual; and DUBOIS REGIONAL MEDICAL CENTER, a Pennsylvania corporation, :

Defendants. :

ORDER OF COURT

AND NOW, this \_\_\_\_ day of \_\_\_\_\_ 2007, it is hereby it is hereby ORDERED, ADJUDGED and DECREED that this case is continued for cause shown. The case will be re-listed for trial at a future date.

BY THE COURT:

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

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

ANGELA HALE and RANDY A.  
HALE, as parents and natural guardians  
of REGANNE HALE, a minor,  
Plaintiffs,

vs.

MICHAEL J. KUSH, MD; an adult  
individual; GARY D. OTT, MD; an adult  
individual; YOO, TAI, Y., MD, a  
Pennsylvania corporation; and DUBOIS  
REGIONAL MEDICAL CENTER, a  
Pennsylvania corporation,  
Defendants.

CIVIL DIVISION

Case No.: 2005-364-CD

ANGELA HALE and RANDY A.  
HALE, as parents and natural guardians  
of ASHTYN HALE, a minor,  
Plaintiffs,

vs.

MICHAEL J. KUSH, MD; an adult  
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individual; and DUBOIS REGIONAL  
MEDICAL CENTER, a Pennsylvania  
corporation,  
Defendants.

CIVIL DIVISION

Case No.: 2006-936 CD

FILED

04/20/2007  
APR 04 2007

William A. Shaw  
Prothonotary/Clerk of Courts  
ICC Atts: Bowles  
Blasko  
D. Johnson  
ICC T. Yoo  
145 Hospital Ave,  
Ste. 315  
DuBois, PA 15801

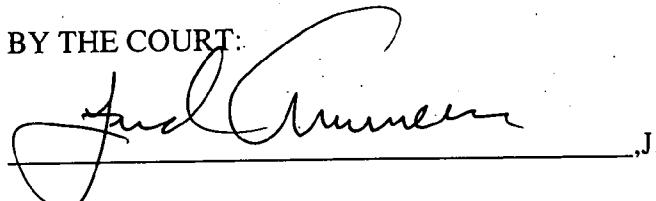
RULE TO SHOW CAUSE

AND NOW, this 26 day of March 2007, a Rule is hereby issued to show cause  
why Plaintiffs' Motion to Dismiss Case (2006-936 CD) Without Prejudice should not be granted.

Rule returnable the 14<sup>th</sup> day of May 2007 in Clearfield County Courthouse,

Courtroom 1 at 9:30 o'clock.  
AM

BY THE COURT:

  
J.

**FILED**

APR 04 2007

William A. Shaw  
Prothonotary/Clerk of Courts

DATE: 4/4/07

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  Other

<sup>YOD</sup>  
Special Instructions:  
*attn: Amy Cohen*

*(envelopes provided by Amy Cohen)*

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

ANGELA HALE and RANDY A.  
HALE, as parents and natural guardians  
of REGANNE HALE, a minor,

Plaintiffs,

vs.

MICHAEL J. KUSH, MD; an adult  
individual; GARY D. OTT, MD; an adult  
individual; YOO, TAI, Y., MD, a  
Pennsylvania corporation; and DUBOIS  
REGIONAL MEDICAL CENTER, a  
Pennsylvania corporation,

Defendants.

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ANGELA HALE and RANDY A.  
HALE, as parents and natural guardians  
of ASHTYN HALE, a minor,

Plaintiffs,

vs.

MICHAEL J. KUSH, MD; an adult  
individual; GARY D. OTT, MD; an adult  
individual; and DUBOIS REGIONAL  
MEDICAL CENTER, a Pennsylvania  
corporation,

Defendants.

CIVIL DIVISION – MEDICAL  
PROFESSIONAL LIABILITY ACTION

Case No.: 2005-364-CD

**PLAINTIFFS' MOTION TO DISMISS  
CASE (2006-936 CD) WITHOUT  
PREJUDICE**

Filed on Behalf of Plaintiffs

CIVIL DIVISION – MEDICAL  
PROFESSIONAL LIABILITY ACTION

Case No.: 2006-936 CD

Counsel of Record for Plaintiffs:

Harry S. Cohen, Esquire  
PA I.D. #30682

Todd D. Bowlus, Esquire  
PA I.D. #89106

HARRY S. COHEN & ASSOCIATES, PC  
Two Chatham Center, Suite 985  
Pittsburgh, PA 15219  
Firm ID #813

(412) 281-3000

**JURY TRIAL DEMANDED**

March 19, 2007

FILED NO CC  
M 11:33 AM  
MAR 21 2007  
©

William A. Shaw  
Prothonotary/Clerk of Courts

ORIGINAL

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

ANGELA HALE and RANDY A. HALE, as parents and natural guardians of REGANNE HALE, a minor, : CIVIL DIVISION  
Case No.: 2005-364-CD

Plaintiffs, :  
vs. :

MICHAEL J. KUSH, MD; an adult individual; GARY D. OTT, MD; an adult individual; YOO, TAI, Y., MD, a Pennsylvania corporation; and DUBOIS REGIONAL MEDICAL CENTER, a Pennsylvania corporation, :

Defendants. :

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ANGELA HALE and RANDY A. HALE, as parents and natural guardians of ASHTYN HALE, a minor, : CIVIL DIVISION  
Case No.: 2006-936 CD

Plaintiffs, :  
vs. :

MICHAEL J. KUSH, MD; an adult individual; GARY D. OTT, MD; an adult individual; and DUBOIS REGIONAL MEDICAL CENTER, a Pennsylvania corporation, :

Defendants. :

**PLAINTIFFS' MOTION TO DISMISS CASE (2006-936 CD) WITHOUT PREJUDICE**

AND NOW, come the Plaintiffs, Angela Hale and Randy A. Hale, as parents and natural guardians Ashtyn Hale, a minor, by and through their attorneys, Harry S. Cohen & Associates, by Harry S. Cohen, Esquire and Todd D. Bowlus, Esquire, and set forth the following Motion:

1. This matter is set for trial to begin on September 17, 2007.

2. This consolidated medical malpractice case involves the premature birth of twins, Reganne and Ashtyn Hale, and their resulting injuries.
3. The first action, based on Reganne Hale's injuries, was filed on March 16, 2005.
4. The second action, based on Ashtyn Hale's injuries, was filed on June 12, 2006.
5. Although ascertaining both girls' injuries have been difficult, Reganne's injuries are more readily apparent; however, Ashtyn's injuries are more difficult to assess.
6. Therefore, since Ashtyn's injuries may not have completely manifested themselves yet, but may become more apparent and quite severe in the future, Plaintiffs move to dismiss her case without prejudice.

WHEREFORE, Plaintiffs move this Honorable Court for an Order dismissing case number 2006-936 CD without prejudice.

Respectfully submitted,

HARRY S. COHEN & ASSOCIATES, PC

By: 

Harry S. Cohen, Esquire  
Todd D. Bowlus, Esquire  
Attorneys for Plaintiffs  
Two Chatham Center, Suite 985  
Pittsburgh, PA 15219  
(412) 281-3000

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing **PLAINTIFFS' MOTION TO DISMISS CASE (2006-936 CD) WITHOUT PREJUDICE** has been served on the 19<sup>th</sup> day of March 2007 to the following via facsimile and/or U.S. Mail:

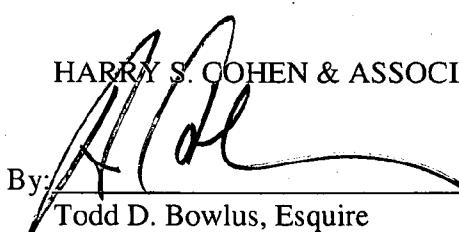
**Court Administrator**  
Clearfield County Courthouse  
One North Second Street  
Clearfield, PA 16830

**John W. Blasko, Esquire**  
McQuaide Blasko  
811 University Drive  
State College, PA 16801-6699

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

HARRY S. COHEN & ASSOCIATES, PC

By:

  
Todd D. Bowlus, Esquire

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

ANGELA HALE and RANDY A. HALE, )  
as parents and natural guardians of )  
REGANNE HALE, a minor, )  
Plaintiffs, ) *Civil Action-Medical Professional Liability*  
vs. ) *Action*  
MICHAEL J. KUSH, M.D., and adult )  
individual; GARY D. OTT, M.D., an )  
adult individual; YOO, TAI, M.D., A )  
Pennsylvania corporation; and DUBOIS ) *JURY TRIAL DEMANDED*  
REGIONAL MEDICAL CENTER, a )  
Pennsylvania corporation, )  
Defendants.

---

ANGELA HALE and RANDY A. HALE, )  
as parents and natural guardians of ) Case No. 2006 - 936 CD  
ASHTYN HALE, a minor, )  
Plaintiffs, ) *Civil Action - Medical Professional Liability*  
vs. ) *Action*  
MICHAEL J. KUSH, M.D., an adult )  
individual; GARY D. OTT, M.D., an ) *JURY TRIAL DEMANDED*  
adult individual; and DUBOIS )  
REGIONAL MEDICAL CENTER, a ) *Type of Pleading*  
Pennsylvania corporation, ) MOTION FOR CONTINUANCE  
Defendants. )  
) Filed on Behalf of Defendant  
)) *Gary D. Ott, M.D.*

05-364-CD  
I hereby certify this to be a true  
and attested copy of the original  
statement filed in this case.

Attest.

*William C. Blasko*  
Prothonotary/  
Clerk of Courts

APR 10 2007

) Counsel of Record for This Party  
)) *John W. Blasko, Esquire*  
)) Pa. Supreme Court I.D. #6787  
))  
)) McQuaide, Blasko, Fleming &  
)) Faulkner, Inc.  
)) 811 University Drive  
)) State College, PA 16801  
)) (814) 238-4926  
))  
)) Counsel for Adverse Party Plaintiffs  
)) *Harry S. Cohen, Esquire*  
)) *Todd D. Bowlus, Esquire*

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

ANGELA HALE and RANDY A. HALE, )  
as parents and natural guardians of )  
REGANNE HALE, a minor, )  
Plaintiffs, ) *Civil Action-Medical Professional Liability*  
vs. ) *Action*  
MICHAEL J. KUSH, M.D., and adult )  
individual; GARY D. OTT, M.D., an )  
adult individual; YOO, TAI, M.D., A )  
Pennsylvania corporation; and DUBOIS )  
REGIONAL MEDICAL CENTER, a )  
Pennsylvania corporation, )  
Defendants. ) No. 2005-364 CD

---

ANGELA HALE and RANDY A. HALE, )  
as parents and natural guardians of ) Case No. 2006 - 936 CD  
ASHTYN HALE, a minor, )  
Plaintiffs, ) *Civil Action - Medical Professional Liability*  
vs. ) *Action*  
MICHAEL J. KUSH, M.D., an adult )  
individual; GARY D. OTT, M.D., an ) JURY TRIAL DEMANDED  
adult individual; and DUBOIS )  
REGIONAL MEDICAL CENTER, a )  
Pennsylvania corporation, )  
Defendants. )

FILED  
OCT 4 2007  
APR 13 2007  
Blasko  
William A. Shaw  
Prothonotary/Clerk of Courts  
(GP)

ORDER OF COURT

AND NOW, this 13 day of April, 2007, upon consideration of Motion for  
Continuance of Argument Date filed by Gary D. Ott, M.D., the argument on Plaintiffs' Motion for  
Extension of Time to File Expert Reports/Motion for Trial Continuance, and, Plaintiffs' Motion to  
Dismiss Case (2006-936 CD) without prejudice is continued and rescheduled for May 29, 2007 in  
Courtroom 1 at 9:00 a.m.

BY THE COURT,

  
J.

**FILED**

**APR 13 2007**

Probationary/Clerk of Courts  
William A. Shaw

DATE: 4/13/2007

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:

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

ANGELA HALE and RANDY A. HALE, )  
as parents and natural guardians of )  
REGANNE HALE, a minor, )  
Plaintiffs, ) *Civil Action-Medical Professional Liability*  
vs. ) *Action*  
MICHAEL J. KUSH, M.D., and adult )  
individual; GARY D. OTT, M.D., an )  
adult individual; YOO, TAI, M.D., A )  
Pennsylvania corporation; and DUBOIS )  
REGIONAL MEDICAL CENTER, a )  
Pennsylvania corporation, )  
Defendants. ) No. 2005-364 CD *I hereby certify this to be a true*  
JURY TRIAL DEMANDED **APR 18 2007** *and attested copy of the original*  
*statement filed in this case.*

Attest. *William L. Chen*  
OP2610001 w 1  
Prothonotary/Clerk of Courts

---

ANGELA HALE and RANDY A. HALE, ) *2005-364-cp*  
as parents and natural guardians of )  
ASHTYN HALE, a minor, )  
Plaintiffs, ) Case No. 2006 - 936 CD (6K)  
vs. ) *Civil Action - Medical Professional Liability*  
MICHAEL J. KUSH, M.D., an adult )  
individual; GARY D. OTT, M.D., an )  
adult individual; and DUBOIS )  
REGIONAL MEDICAL CENTER, a )  
Pennsylvania corporation, )  
Defendants. ) JURY TRIAL DEMANDED  
Type of Pleading  
Affidavit of Service for Order of Court  
dated April 13, 2007  
Filed on Behalf of Defendant  
*Gary D. Ott, M.D.*  
Counsel of Record for This Party  
*John W. Blasko, Esquire*  
Pa. Supreme Court I.D. #6787  
McQuaide, Blasko, Fleming &  
Faulkner, Inc.  
811 University Drive  
State College, PA 16801  
(814) 238-4926  
Counsel for Adverse Party Plaintiffs  
*Harry S. Cohen, Esquire*  
*Todd D. Bowlus, Esquire*

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

|  |  |
|--|--|
| ANGELA HALE and RANDY A. HALE, )       |  |
| as parents and natural guardians of )  |  |
| REGANNE HALE, a minor, )               |  |
| Plaintiffs, )                          | <i>Civil Action-Medical Professional Liability</i>   |
| )                                      | <i>Action</i>  |
| vs. )                                  | No. 2005-364 CD                                      |
| MICHAEL J. KUSH, M.D., and adult )     |  |
| individual; GARY D. OTT, M.D., an )    |  |
| adult individual; YOO, TAI, M.D., A )  |  |
| Pennsylvania corporation; and DUBOIS ) | JURY TRIAL DEMANDED                                  |
| REGIONAL MEDICAL CENTER, a )           |  |
| Pennsylvania corporation, )            |  |
| Defendants. )                          |  |
| <hr/>                                  |  |
| ANGELA HALE and RANDY A. HALE, )       |  |
| as parents and natural guardians of )  | Case No. 2006 - 936 CD                               |
| ASHTYN HALE, a minor, )                |  |
| Plaintiffs, )                          | <i>Civil Action - Medical Professional Liability</i> |
| )                                      | <i>Action</i>  |
| vs. )                                  |  |
| MICHAEL J. KUSH, M.D., an adult )      |  |
| individual; GARY D. OTT, M.D., an )    |  |
| adult individual; and DUBOIS )         | JURY TRIAL DEMANDED                                  |
| REGIONAL MEDICAL CENTER, a )           |  |
| Pennsylvania corporation, )            |  |
| Defendants. )                          |  |

AFFIDAVIT OF SERVICE

Before me, the undersigned authority, personally appeared John W. Blasko, Esquire, who, being duly sworn, deposes and says that a true and correct copy of the Order of Court dated April 13, 2007, signed by the Honorable Fredric J. Ammerman, in the above-captioned cases was served upon counsel of record: Harry S. Cohen, Esquire and Todd D. Bowlus, Esquire, Harry S. Cohen & Associates, P.C., Two Chatham Center, Suite 985, Pittsburgh, PA 15219 and David R. Johnson, Esquire, 1010 Two Chatham Center, Pittsburgh, PA 15219 by regular mail, first class, at the Post Office, State College, Pennsylvania, postage prepaid, on April 17, 2007.

McQUAIDE, BLASKO, FLEMING  
& FAULKNER, INC.

BY

*John W. Blasko*  
JOHN W. BLASKO  
Counsel for Defendant  
Gary D. Ott, M.D.

Sworn to and subscribed before me  
this 19<sup>th</sup> day of April, 2007.

*Nancy L. Swisher*

Notary Public

NOTARIAL SEAL  
NANCY L. SWISHER, NOTARY PUBLIC  
STATE COLLEGE BORO, CENTRE COUNTY  
MY COMMISSION EXPIRES FEB. 23, 2011

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

ANGELA HALE and RANDY A. HALE, )  
as parents and natural guardians of )  
REGANNE HALE, a minor, )  
Plaintiffs, ) *Civil Action-Medical Professional Liability*  
vs. ) *Action*  
MICHAEL J. KUSH, M.D., and adult )  
individual; GARY D. OTT, M.D., an )  
adult individual; YOO, TAI, M.D., A )  
Pennsylvania corporation; and DUBOIS )  
REGIONAL MEDICAL CENTER, a )  
Pennsylvania corporation, )  
Defendants. ) No. 2005-364 CD

---

ANGELA HALE and RANDY A. HALE, )  
as parents and natural guardians of ) Case No. 2006 - 936 CD  
ASHTYN HALE, a minor, )  
Plaintiffs, ) *Civil Action - Medical Professional Liability*  
vs. ) *Action*  
MICHAEL J. KUSH, M.D., an adult )  
individual; GARY D. OTT, M.D., an )  
adult individual; and DUBOIS )  
REGIONAL MEDICAL CENTER, a )  
Pennsylvania corporation, )  
Defendants. ) JURY TRIAL DEMANDED

ORDER OF COURT

AND NOW, this 13 day of April, 2007, upon consideration of Motion for  
Continuance of Argument Date filed by Gary D. Ott, M.D., the argument on Plaintiffs' Motion for  
Extension of Time to File Expert Reports/Motion for Trial Continuance, and, Plaintiffs' Motion to  
Dismiss Case (2006-936 CD) without prejudice is continued and rescheduled for May 29, 2007 in  
Courtroom 1 at 9:00 a.m.

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

BY THE COURT  
*/S/ Fredric J. Ammerman*

J.

APR 18 2007

Attest.

*William L. Bissell*  
Prothonotary/  
Clark of Courts  
ODMA/PCDOCS/DOCSTB/6/16/06

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

ANGELA HALE and RANDY A. HALE, )  
as parents and natural guardians of )  
REGANNE HALE, a minor, )  
Plaintiffs, ) *Civil Action-Medical Professional Liability*  
vs. ) *Action*  
MICHAEL J. KUSH, M.D., and adult )  
individual; GARY D. OTT, M.D., an )  
adult individual; YOO, TAI, M.D., A )  
Pennsylvania corporation; and DUBOIS )  
REGIONAL MEDICAL CENTER, a ) JURY TRIAL DEMANDED  
Pennsylvania corporation, )  
Defendants. )

---

ANGELA HALE and RANDY A. HALE, ) Case No. 2006-936 CD  
as parents and natural guardians of )  
ASHTYN HALE, a minor, ) *Civil Action-Medical Professional*  
Plaintiffs, ) *Liability Action*  
vs. )  
MICHAEL J. KUSH, M.D., an adult ) JURY TRIAL DEMANDED  
individual; GARY D. OTT, M.D., an )  
adult individual; and DUBOIS )  
REGIONAL MEDICAL CENTER, a ) Type of Pleading:  
Pennsylvania corporation, ) *Answer to Plaintiffs' Motion to*  
Defendants. ) *Dismiss Case 2006-936 CD without*  
 ) *Prejudice*  
 ) Filed on Behalf of Defendant  
 ) *Gary D. Ott, M.D.*  
 ) Counsel of Record for This Party  
 ) *John W. Blasko, Esquire*  
 ) Pa. Supreme Court I.D. #6787  
 ) McQuaide, Blasko, Fleming &  
 ) Faulkner, Inc.  
 ) 811 University Drive  
 ) State College, PA 16801  
 ) (814) 238-4926  
 ) Fax: (814) 238-9624  
 ) Counsel for Adverse Party Plaintiffs  
 ) *Harry S. Cohen, Esquire*  
 ) *Todd D. Bowlus, Esquire*

*COPY FILED  
APR 19 2007  
NO CC  
GK*

William A. Shaw  
Prothonotary/Clerk of Courts

*Original to 05-364-cd*

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

ANGELA HALE and RANDY A. HALE,      )  
as parents and natural guardians of      )  
REGANNE HALE, a minor,      )  
Plaintiffs,      )      *Civil Action-Medical Professional Liability*  
                    )      *Action*  
vs.      )      No. 2005-364 CD  
MICHAEL J. KUSH, M.D., and adult      )  
individual; GARY D. OTT, M.D., an      )  
adult individual; YOO, TAI, M.D., A      )  
Pennsylvania corporation; and DUBOIS      )      JURY TRIAL DEMANDED  
REGIONAL MEDICAL CENTER, a      )  
Pennsylvania corporation,      )  
Defendants.      )

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ANGELA HALE and RANDY A. HALE,      )      Case No.      2006-936 CD  
as parents and natural guardians of      )  
ASHTYN HALE, a minor,      )      *Civil Action-Medical Professional*  
Plaintiffs,      )      *Liability Action*  
vs.      )  
MICHAEL J. KUSH, M.D., an adult      )      JURY TRIAL DEMANDED  
individual; GARY D. OTT, M.D., an      )  
adult individual; and DUBOIS      )      Type of Pleading:  
REGIONAL MEDICAL CENTER, a      )      *Answer to Plaintiffs' Motion for*  
Pennsylvania corporation,      )      *Extension of Time to File Expert*  
Defendants.      )      *Reports or, in the Alternative, Motion*  
                    )      *for Continuance*  
                    )      Filed on Behalf of Defendant  
                    )      *Gary D. Ott, M.D.*  
                    )      Counsel of Record for This Party  
                    )      *John W. Blasko, Esquire*  
                    )      Pa. Supreme Court I.D. #6787  
                    )      McQuaide, Blasko, Fleming &  
                    )      Faulkner, Inc.  
                    )      811 University Drive  
                    )      State College, PA 16801  
                    )      (814) 238-4926  
                    )      Counsel for Adverse Party Plaintiffs  
                    )      *Harry S. Cohen, Esquire*  
                    )      *Todd D. Bowlus, Esquire*

William A. Shaw  
Prothonotary/Clerk of Courts

Original to 05-364-CD

60

FED  
APR 19 2007  
NOCC  
2005-364

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

ANGELA HALE and RANDY A. HALE, as  
parents and natural guardians of REGANNE  
HALE, a minor,

Plaintiffs,

vs.

MICHAEL J. KUSH, M.D., an adult  
individual; GARY D. OTT, M.D.; an adult  
individual; YOO, TAI, Y., M.D., a  
Pennsylvania corporation; and DUBOIS  
REGIONAL MEDICAL CENTER, a  
Pennsylvania corporation,

Defendants.

---

ANGELA HALE and RANDY A. HALE, as  
parents and natural guardians of ASHTYN  
HALE, a minor,

Plaintiffs,

vs.

MICHAEL J. KUSH, M.D., an adult  
individual; GARY D. OTT, M.D., an adult  
individual; and DUBOIS REGIONAL  
MEDICAL CENTER, a Pennsylvania  
corporation.

Defendants.

CIVIL DIVISION

No. 05-364-CD

**CONSOLIDATED WITH**

No. 06-936-CD

Issue No.

JOINDER IN ANSWER TO PLAINTIFFS'  
MOTION TO DISMISS CASE 2006-936 CD  
WITHOUT PREJUDICE

Code: 007

Filed on behalf of Michael J. Kush, M.D. and  
DuBois Regional Medical Center, two of the  
defendants.

Counsel of Record for These Parties:

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

FLRD  
APR 16 2007  
C  
William A. Shaw  
Prothonotary/Clerk of Courts  
Orig. to  
OS-364-CD  
(6A)

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

ANGELA HALE and RANDY A. HALE, as  
parents and natural guardians of REGANNE  
HALE, a minor,

Plaintiffs,

vs.

MICHAEL J. KUSH, M.D., an adult  
individual; GARY D. OTT, M.D.; an adult  
individual; YOO, TAI, Y., M.D., a  
Pennsylvania corporation; and DUBOIS  
REGIONAL MEDICAL CENTER, a  
Pennsylvania corporation,

Defendants.

ANGELA HALE and RANDY A. HALE, as  
parents and natural guardians of ASHTYN  
HALE, a minor,

Plaintiffs,

vs.

MICHAEL J. KUSH, M.D., an adult  
individual; GARY D. OTT, M.D., an adult  
individual; and DUBOIS REGIONAL  
MEDICAL CENTER, a Pennsylvania  
corporation.

Defendants.

CIVIL DIVISION

No. 05-364-CD

**CONSOLIDATED WITH**

No. 06-936-CD

Issue No.

JOINDER IN ANSWER TO PLAINTIFFS'  
MOTION FOR EXTENSION OF TIME TO  
FILE EXPERT REPORTS OR IN THE  
ALTERNATIVE MOTION FOR  
CONTINUANCE

Code: 007

Filed on behalf of Michael J. Kush, M.D. and  
DuBois Regional Medical Center, two of the  
defendants.

Counsel of Record for These Parties:

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

*FORD* *6/6/2007* *6/6/2007*  
*APR 6 2007* *Orig. to*  
William A. Shaw  
Prothonotary/Clerk of Courts  
05-364-CD

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

ANGELA HALE and RANDY A.  
HALE, as parents and natural guardians  
of REGANNE HALE, a minor,

Plaintiffs,

vs.

MICHAEL J. KUSH, MD; an adult  
individual; GARY D. OTT, MD; an adult  
individual; YOO, TAI, Y., MD, a  
Pennsylvania corporation; and DUBOIS  
REGIONAL MEDICAL CENTER, a  
Pennsylvania corporation,

Defendants.

---

ANGELA HALE and RANDY A.  
HALE, as parents and natural guardians  
of ASHTYN HALE, a minor,

Plaintiffs,

vs.

MICHAEL J. KUSH, MD; an adult  
individual; GARY D. OTT, MD; an adult  
individual; and DUBOIS REGIONAL  
MEDICAL CENTER, a Pennsylvania  
corporation,

Defendants.

CIVIL DIVISION – MEDICAL  
PROFESSIONAL LIABILITY ACTION

Case No.: 2005-364-CD  
*Consolidated at Case No.: 2005-364-CD*

**PLAINTIFFS' REPLY TO NEW  
MATTER IN DEFENDANT GARY D.  
OTT, MD'S ANSWER TO MOTION  
FOR EXTENSION OF TIME TO FILE  
EXPERT REPORTS OR IN THE  
ALTERNATIVE MOTION FOR TRIAL  
CONTINUANCE**

Filed on Behalf of Plaintiffs

---

CIVIL DIVISION – MEDICAL  
PROFESSIONAL LIABILITY ACTION

Case No.: 2006-936-CD

Counsel of Record for Plaintiffs:

Harry S. Cohen, Esquire  
PA I.D. #30682

Todd D. Bowlus, Esquire  
PA I.D. #89106

HARRY S. COHEN & ASSOCIATES, PC  
Two Chatham Center, Suite 985  
Pittsburgh, PA 15219  
Firm ID #813

(412) 281-3000

**JURY TRIAL DEMANDED**

April 30, 2007

FILED  
MAY 02 2007  
William A. Shaw  
Prothonotary/Clerk of Courts  
Dng. to 05-364-CD

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

ANGELA HALE and RANDY A.  
HALE, as parents and natural guardians  
of REGANNE HALE, a minor,

Plaintiffs,

vs.

MICHAEL J. KUSH, MD; an adult  
individual; GARY D. OTT, MD; an adult  
individual; YOO, TAI, Y., MD, a  
Pennsylvania corporation; and DUBOIS  
REGIONAL MEDICAL CENTER, a  
Pennsylvania corporation,

Defendants.

ANGELA HALE and RANDY A.  
HALE, as parents and natural guardians  
of ASHTYN HALE, a minor,

Plaintiffs,

vs.

MICHAEL J. KUSH, MD; an adult  
individual; GARY D. OTT, MD; an adult  
individual; and DUBOIS REGIONAL  
MEDICAL CENTER, a Pennsylvania  
corporation,

Defendants.

April 30, 2007

FILED  
MAY 02 2007  
William A. Shaw  
Prothonotary/Clerk of Courts  
Orig. to 05-364-CD

CIVIL DIVISION – MEDICAL  
PROFESSIONAL LIABILITY ACTION

Case No.: 2005-364-CD

*Consolidated at Case No.: 2005-364-CD*

**PLAINTIFFS' REPLY TO NEW  
MATTER IN DEFENDANT GARY D.  
OTT, MD'S ANSWER TO MOTION TO  
DISMISS CASE (2006-936 CD)  
WITHOUT PREJUDICE**

Filed on Behalf of Plaintiffs

CIVIL DIVISION – MEDICAL  
PROFESSIONAL LIABILITY ACTION

Case No.: 2006-936-CD

Counsel of Record for Plaintiffs:

Harry S. Cohen, Esquire  
PA I.D. #30682

Todd D. Bowlus, Esquire  
PA I.D. #89106

HARRY S. COHEN & ASSOCIATES, PC  
Two Chatham Center, Suite 985  
Pittsburgh, PA 15219  
Firm ID #813

(412) 281-3000

**JURY TRIAL DEMANDED**

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

ANGELA HALE and RANDY A.  
HALE, as parents and natural guardians  
of REGANNE HALE, a minor,

Plaintiffs,

vs.

MICHAEL J. KUSH, MD; an adult  
individual; GARY D. OTT, MD; an adult  
individual; YOO, TAI, Y., MD, a  
Pennsylvania corporation; and DUBOIS  
REGIONAL MEDICAL CENTER, a  
Pennsylvania corporation,

Defendants.

---

ANGELA HALE and RANDY A.  
HALE, as parents and natural guardians  
of ASHTYN HALE, a minor,

Plaintiffs,

vs.

MICHAEL J. KUSH, MD; an adult  
individual; GARY D. OTT, MD; an adult  
individual; and DUBOIS REGIONAL  
MEDICAL CENTER, a Pennsylvania  
corporation,

Defendants.

CIVIL DIVISION – MEDICAL  
PROFESSIONAL LIABILITY ACTION

Case No.: 2005-364-CD

*Consolidated at Case No.: 2005-364-CD*

**PLAINTIFFS' MOTION FOR  
CONTINUANCE OF ARGUMENT  
DATE**

Filed on Behalf of Plaintiffs

---

CIVIL DIVISION – MEDICAL  
PROFESSIONAL LIABILITY ACTION

Case No.: 2006-936 CD

Counsel of Record for Plaintiffs:

Harry S. Cohen, Esquire  
PA I.D. #30682

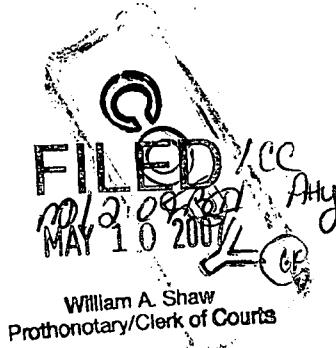
Todd D. Bowlus, Esquire  
PA I.D. #89106

HARRY S. COHEN & ASSOCIATES, PC  
Two Chatham Center, Suite 985  
Pittsburgh, PA 15219  
Firm ID #813

(412) 281-3000

**JURY TRIAL DEMANDED**

May 8, 2007



ORIGINAL

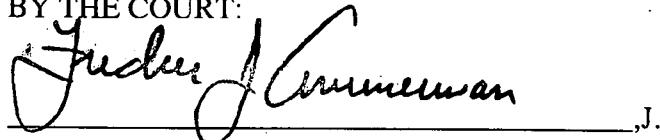
IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

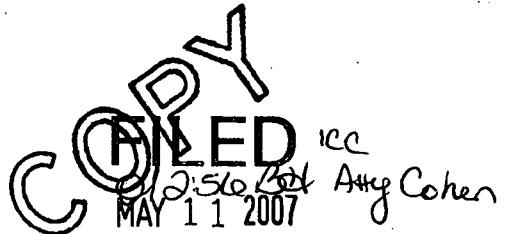
ANGELA HALE and RANDY A. : CIVIL DIVISION  
HALE, as parents and natural guardians :  
of REGANNE HALE, a minor, : Case No.: 2005-364-CD  
Plaintiffs, : Case No.: 2006-936 CD  
Consolidated at Case No.: 2005-364-CD  
vs. :  
MICHAEL J. KUSH, ET AL. :  
Defendants. :

ORDER OF COURT

AND NOW, this 11<sup>th</sup> day of May 2007, it is hereby ORDERED,  
ADJUDGED and DECREED that, upon consideration of Plaintiffs' Motion for Continuance of  
Argument Date, the argument on Plaintiffs' Motion for Extension of Time to File Expert  
Reports/Motion for Trial Continuance, and, Motion to Dismiss Case (2006-936 CD) Without  
Prejudice is continued and rescheduled for the 11<sup>th</sup> day of May 2007 in Courtroom  
1 at 10 : 00 A.m.

BY THE COURT:

  
J. Zimmerman

  
COPY  
FILED  
MAY 11 2007  
2:56 PM Atty Cohen  
cc

William A. Shaw  
Prothonotary/Clerk of Courts  
Eng. to  
05-364-CD  
GK

**FILED**

**MAY 11 2007**

William A. Shaw  
Prothonotary/Clerk of Courts

DATE: 5/11/07

You are responsible for serving all appropriate parties.

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

Plaintiff(s)  Plaintiff(s) Attorney  Other

Defendant(s)  Defendant(s) Attorney  Other

Special Instructions:

5/11/07  
SAC

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

ANGELA HALE and RANDY A. HALE, as  
parents and natural guardians of REGANNE  
HALE, a minor,

Plaintiffs,

vs.

MICHAEL J. KUSH, M.D., an adult  
individual; GARY D. OTT, M.D.; an adult  
individual; YOO, TAI, Y., M.D., a  
Pennsylvania corporation; and DUBOIS  
REGIONAL MEDICAL CENTER, a  
Pennsylvania corporation,  
Defendants.

---

ANGELA HALE and RANDY A. HALE, as  
parents and natural guardians of ASHTYN  
HALE, a minor,

Plaintiffs,

vs.

MICHAEL J. KUSH, M.D., an adult  
individual; GARY D. OTT, M.D., an adult  
individual; and DUBOIS REGIONAL  
MEDICAL CENTER, a Pennsylvania  
corporation.

Defendants.

CIVIL DIVISION

No. 05-364-CD

**CONSOLIDATED WITH**

No. 06-936-CD

Issue No.

DISCLOSURE OF EXPERT REPORTS

Code: 007

Filed on behalf of Michael J. Kush, M.D. and  
DuBois Regional Medical Center, two of the  
defendants.

Counsel of Record for These Parties:

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

RECEIVED  
FILED NOCC  
JUL 02 2007  
Orig. to  
William A. Shaw  
Prothonotary/Clerk of Courts 05-364-CD  
BLC

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

ANGELA HALE and RANDY A. HALE, as parents and natural guardians of REGANNE HALE, a minor,

Plaintiffs,

vs.

MICHAEL J. KUSH, M.D., an adult individual; GARY D. OTT, M.D.; an adult individual; YOO, TAI, Y., M.D., a Pennsylvania corporation; and DUBOIS REGIONAL MEDICAL CENTER, a Pennsylvania corporation,

Defendants.

---

ANGELA HALE and RANDY A. HALE, as parents and natural guardians of ASHTYN HALE, a minor,

Plaintiffs,

vs.

MICHAEL J. KUSH, M.D., an adult individual; GARY D. OTT, M.D., an adult individual; and DUBOIS REGIONAL MEDICAL CENTER, a Pennsylvania corporation.

Defendants.

CIVIL DIVISION

No. 05-364-CD

**CONSOLIDATED WITH**

No. 06-936-CD

Issue No.

MOTION FOR SUMMARY JUDGMENT ON BEHALF OF MICHAEL J. KUSH, M.D.

Code: 007

Filed on behalf of Michael J. Kush, M.D., 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

*orig. to  
3 CC of 3rd etd  
Atty  
Korinski*

**COPY**  
**FILED**  
JUL 02 2001  
William A. Shaw  
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

ANGELA HALE and RANDY A. HALE, as parents and natural guardians of REGANNE HALE, a minor, Plaintiffs, vs. MICHAEL J. KUSH, M.D., an adult individual; GARY D. OTT, M.D.; an adult individual; YOO, TAI, Y., M.D., a Pennsylvania corporation; and DUBOIS REGIONAL MEDICAL CENTER, a Pennsylvania corporation, Defendants.

---

ANGELA HALE and RANDY A. HALE, as parents and natural guardians of ASHTYN HALE, a minor, Plaintiffs, vs. MICHAEL J. KUSH, M.D., an adult individual; GARY D. OTT, M.D., an adult individual; and DUBOIS REGIONAL MEDICAL CENTER, a Pennsylvania corporation. Defendants.

) CIVIL DIVISION  
))  
)) No. 05-364-CD  
)) **CONSOLIDATED WITH**  
)) No. 06-936-CD

*COPY*

**FILED** 3cc  
01/4/00 (by) Amherst, JUL 10 2007

William A. Shaw orig. filed  
Prothonotary/Clerk of Courts to 05-364-CD

(GR)

ORDER OF COURT

AND NOW on this 10<sup>th</sup> day of July, 2007, it is hereby ORDERED, ADJUGED and DECREED that oral argument on Dr. Kush's motion for summary judgment is scheduled for the 10<sup>th</sup> day of August, 2007, at 10:00 a.m./p.m. before Judge Ammerman in Courtroom No. 1 of the Clearfield County Courthouse.

BY THE COURT:

*Judie Ammerman, Jr.*

FILED

JUL 10 2007

William A. Shaw  
Prothonotary/Clerk of Courts

DATE: 7/10/07

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

ANGELA HALE and RANDY A.  
HALE, as parents and natural guardians  
of REGANNE HALE, a minor,

Plaintiffs,

vs.

MICHAEL J. KUSH, MD; an adult  
individual; GARY D. OTT, MD; an adult  
individual; YOO, TAI, Y., MD, a  
Pennsylvania corporation; and DUBOIS  
REGIONAL MEDICAL CENTER, a  
Pennsylvania corporation,

Defendants.

---

ANGELA HALE and RANDY A.  
HALE, as parents and natural guardians  
of ASHTYN HALE, a minor,

Plaintiffs,

vs.

MICHAEL J. KUSH, MD; an adult  
individual; GARY D. OTT, MD; an adult  
individual; and DUBOIS REGIONAL  
MEDICAL CENTER, a Pennsylvania  
corporation,

Defendants.

CIVIL DIVISION – MEDICAL  
PROFESSIONAL LIABILITY ACTION

Case No.: 2005-364-CD

*Consolidated at Case No.: 2005-364-CD*

**NOTICE OF SERVICE OF  
PLAINTIFFS' SIXTH REQUEST  
FOR PRODUCTION OF DOCUMENTS  
DIRECTED TO DEFENDANT DUBOIS  
REGIONAL MEDICAL CENTER**

**FILED**

*m/11/2007  
JUL 16 2007*

Filed on Behalf of Plaintiffs

William A. Shaw  
Prothonotary/Clerk of Courts

---

CIVIL DIVISION – MEDICAL  
PROFESSIONAL LIABILITY ACTION

Case No.: 2006-936-CD

*Consolidated at Case No.: 2005-364-CD*

Counsel of Record for Plaintiffs:

Harry S. Cohen, Esquire  
PA I.D. #30682

Todd D. Bowlus, Esquire  
PA I.D. #89106

HARRY S. COHEN & ASSOCIATES, PC  
Two Chatham Center, Suite 985  
Pittsburgh, PA 15219  
Firm ID #813

(412) 281-3000

**JURY TRIAL DEMANDED**

**ORIGINAL**

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

|  |   |  |
|--|---|--|
| ANGELA HALE and RANDY A.               | : | CIVIL DIVISION                               |
| HALE, as parents and natural guardians | : | Case No.: 2005-364-CD                        |
| of REGANNE HALE, a minor,              | : | Case No.: 2006-936-CD                        |
| Plaintiffs,                            | : | <b>Consolidated at Case No.: 2005-364-CD</b> |
| vs.                                    | : |  |
| MICHAEL J. KUSH, MD ET AL.             | : |  |
| Defendants.                            | : |  |

**NOTICE OF SERVICE OF  
PLAINTIFFS' SIXTH REQUEST FOR  
PRODUCTION OF DOCUMENTS DIRECTED  
TO DEFENDANT DUBOIS REGIONAL MEDICAL CENTER**

TO: PROTHONOTARY:

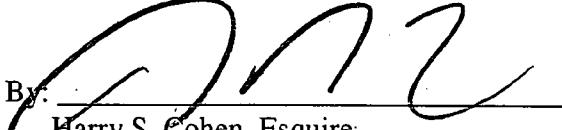
I hereby certify that a true and correct copy of Plaintiffs' Sixth Request for Production of Documents Directed to Defendant Dubois Regional Medical Center was served on the 12<sup>th</sup> day of July 2007 by First Class U.S. Mail, postage prepaid upon the following:

**John W. Blasko, Esquire**  
McQuaide Blasko  
811 University Drive  
State College, PA 16801-6699  
(Counsel for Defendant Gary  
D. Ott, M.D.)

**David R. Johnson, Esquire**  
Thomson, Rhodes & Cowie, PC  
1010 Two Chatham Center  
Pittsburgh, PA 15219  
(Counsel for Defendants Michael J.  
Kush, M.D. and Dubois Regional  
Medical Center)

Respectfully submitted:

HARRY S. COHEN & ASSOCIATES, PC

By:   
Harry S. Cohen, Esquire  
Todd D. Bowlus, Esquire  
Attorneys for Plaintiffs

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

ANGELA HALE and RANDY A.  
HALE, as parents and natural guardians  
of REGANNE HALE, a minor,

Plaintiffs,

vs.

MICHAEL J. KUSH, MD; an adult  
individual; GARY D. OTT, MD; an adult  
individual; YOO, TAI, Y., MD, a  
Pennsylvania corporation; and DUBOIS  
REGIONAL MEDICAL CENTER, a  
Pennsylvania corporation,

Defendants.

ANGELA HALE and RANDY A.  
HALE, as parents and natural guardians  
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vs.

MICHAEL J. KUSH, MD; an adult  
individual; GARY D. OTT, MD; an adult  
individual; and DUBOIS REGIONAL  
MEDICAL CENTER, a Pennsylvania  
corporation,

Defendants.

CIVIL DIVISION – MEDICAL  
PROFESSIONAL LIABILITY ACTION

Case No.: 2005-364-CD

*Consolidated at Case No.: 2005-364-CD*

NOTICE TO ATTEND DIRECTED  
TO DEFENDANT GARY D. OTT,  
M.D. WITH SUBPOENA DUCES  
TECUM

Filed on Behalf of Plaintiffs

FILED *ICC A/H*  
M/11/50am  
JUL 23 2005  
*Wm*

William A. Shaw  
Prothonotary/Clerk of Courts

*Original to*

OS-364-CD

CIVIL DIVISION – MEDICAL  
PROFESSIONAL LIABILITY ACTION

Case No.: 2006-936 CD

*Consolidated at Case No.: 2005-364-CD*

Counsel of Record for Plaintiffs:

Harry S. Cohen, Esquire  
PA I.D. #30682

Todd D. Bowlus, Esquire  
PA I.D. #89106

HARRY S. COHEN & ASSOCIATES, PC  
Two Chatham Center, Suite 985  
Pittsburgh, PA 15219  
Firm ID #813

(412) 281-3000

**JURY TRIAL DEMANDED**

**ORIGINAL**

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

ANGELA HALE and RANDY A.  
HALE, as parents and natural guardians  
of REGANNE HALE, a minor,

Plaintiffs,

vs.

MICHAEL J. KUSH, MD; an adult  
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Pennsylvania corporation; and DUBOIS  
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Pennsylvania corporation,

Defendants.

ANGELA HALE and RANDY A.  
HALE, as parents and natural guardians  
of ASHTYN HALE, a minor,

Plaintiffs,

vs.

MICHAEL J. KUSH, MD; an adult  
individual; GARY D. OTT, MD; an adult  
individual; and DUBOIS REGIONAL  
MEDICAL CENTER, a Pennsylvania  
corporation,

Defendants.

CIVIL DIVISION – MEDICAL  
PROFESSIONAL LIABILITY ACTION

Case No.: 2005-364-CD

*Consolidated at Case No.: 2005-364-CD*

**NOTICE TO ATTEND DIRECTED  
TO RECORDS CUSTODIAN OF  
DEFENDANT DUBOIS REGIONAL  
MEDICAL CENTER WITH  
SUBPOENA DUCES TECUM**

Filed on Behalf of Plaintiffs

FILED 1CC A/Hy  
m/11/06 9:00 AM  
JUL 22 2007  
WM

William A. Shaw

Administrator/Clerk of Courts

CIVIL DIVISION – MEDICAL *Original to*  
PROFESSIONAL LIABILITY ACTION *OS-364-CD*

Case No.: 2006-936 CD

*Consolidated at Case No.: 2005-364-CD*

Counsel of Record for Plaintiffs:

Harry S. Cohen, Esquire  
PA I.D. #30682

Todd D. Bowlus, Esquire  
PA I.D. #89106

HARRY S. COHEN & ASSOCIATES, PC  
Two Chatham Center, Suite 985  
Pittsburgh, PA 15219  
Firm ID #813

(412) 281-3000

**JURY TRIAL DEMANDED**

**ORIGINAL**

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

ANGELA HALE and RANDY A.  
HALE, as parents and natural guardians  
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vs.

MICHAEL J. KUSH, MD; an adult  
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Pennsylvania corporation; and DUBOIS  
REGIONAL MEDICAL CENTER, a  
Pennsylvania corporation,

Defendants.

ANGELA HALE and RANDY A.  
HALE, as parents and natural guardians  
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Plaintiffs,

vs.

MICHAEL J. KUSH, MD; an adult  
individual; GARY D. OTT, MD; an adult  
individual; and DUBOIS REGIONAL  
MEDICAL CENTER, a Pennsylvania  
corporation,

Defendants.

CIVIL DIVISION – MEDICAL  
PROFESSIONAL LIABILITY ACTION

Case No.: 2005-364-CD

*Consolidated at Case No.: 2005-364-CD*

**NOTICE TO ATTEND DIRECTED  
TO KATHRYN RAYBUCK, R.N.**

Filed on Behalf of Plaintiffs

FILED *ICC Atty*  
M 11:50 AM  
JUL 23 2011  
*FS*

William A. Shaw  
Prothonotary/Clerk of Courts

*Original to 05-364-CD*

CIVIL DIVISION – MEDICAL  
PROFESSIONAL LIABILITY ACTION

Case No.: 2006-936 CD

*Consolidated at Case No.: 2005-364-CD*

Counsel of Record for Plaintiffs:

Harry S. Cohen, Esquire  
PA I.D. #30682

Todd D. Bowlus, Esquire  
PA I.D. #89106

HARRY S. COHEN & ASSOCIATES, PC  
Two Chatham Center, Suite 985  
Pittsburgh, PA 15219  
Firm ID #813

(412) 281-3000

**JURY TRIAL DEMANDED**

**ORIGINAL**

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

ANGELA HALE and RANDY A.  
HALE, as parents and natural guardians  
of REGANNE HALE, a minor,

Plaintiffs,

vs.

MICHAEL J. KUSH, MD; an adult  
individual; GARY D. OTT, MD; an adult  
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Pennsylvania corporation; and DUBOIS  
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Pennsylvania corporation,

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ANGELA HALE and RANDY A.  
HALE, as parents and natural guardians  
of ASHTYN HALE, a minor,

Plaintiffs,

vs.

MICHAEL J. KUSH, MD; an adult  
individual; GARY D. OTT, MD; an adult  
individual; and DUBOIS REGIONAL  
MEDICAL CENTER, a Pennsylvania  
corporation,

Defendants.

CIVIL DIVISION – MEDICAL  
PROFESSIONAL LIABILITY ACTION

Case No.: 2005-364-CD

*Consolidated at Case No.: 2005-364-CD*

**NOTICE TO ATTEND DIRECTED  
TO DESIREE SMITH, R.N.**

Filed on Behalf of Plaintiffs

FILED ICC 141y  
m/11/50 Lm  
JUL 23 2007  
CM

William A. Shaw  
Prothonotary/Clerk of Courts

CIVIL DIVISION – MEDICAL  
PROFESSIONAL LIABILITY ACTION

Case No.: 2006-936 CD

*Consolidated at Case No.: 2005-364-CD*

Counsel of Record for Plaintiffs:

Harry S. Cohen, Esquire  
PA I.D. #30682

Todd D. Bowlus, Esquire  
PA I.D. #89106

HARRY S. COHEN & ASSOCIATES, PC  
Two Chatham Center, Suite 985  
Pittsburgh, PA 15219  
Firm ID #813

(412) 281-3000

**JURY TRIAL DEMANDED**

**ORIGINAL**

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

ANGELA HALE and RANDY A. : CIVIL DIVISION  
HALE, as parents and natural guardians :  
of REGANNE HALE, a minor, : Case No.: 2005-364-CD  
*Consolidated at Case No.: 2005-364-CD*

Plaintiffs, :

vs. :

MICHAEL J. KUSH, MD ET AL, :

Defendants. :

---

ANGELA HALE and RANDY A. : CIVIL DIVISION  
HALE, as parents and natural guardians :  
of ASHTYN HALE, a minor, : Case No.: 2006-936 CD  
*Consolidated at Case No.: 2005-364-CD*

Plaintiffs, :

vs. :

MICHAEL J. KUSH, MD; ET AL. :

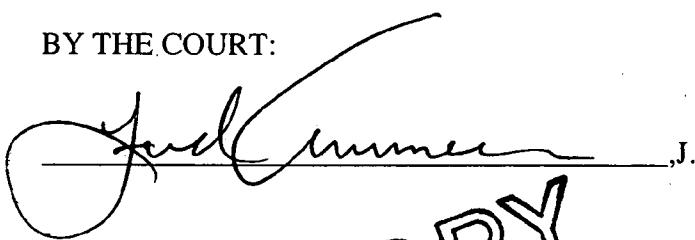
Defendants. :

**RULE TO SHOW CAUSE**

AND NOW, this 27 day of July 2007, a Rule is hereby issued to show cause  
why Plaintiffs' Motion in Limine to Preclude Irrelevant Evidence should not be granted.

Rule returnable the 10<sup>th</sup> day of August 2007 in Clearfield County Courthouse,  
Courtroom 1 at 10:00 o'clock. A.M.

BY THE COURT:



**COPY FILED**  
07/27/2007 Atty. Bowles  
3CC  
JUL 27 2007

William A. Shaw  
Prothonotary/Clerk of Courts

(long. to 05-364-CD)

DATE: 7/27/07

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:

Prothonotary/Clerk of Courts  
William A. Shriver

JUL 27 2007

FILED

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

ANGELA HALE and RANDY A.  
HALE, as parents and natural guardians  
of REGANNE HALE, a minor,

Plaintiffs,

vs.

MICHAEL J. KUSH, MD; an adult  
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Pennsylvania corporation; and DUBOIS  
REGIONAL MEDICAL CENTER, a  
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Defendants.

ANGELA HALE and RANDY A.  
HALE, as parents and natural guardians  
of ASHTYN HALE, a minor,

Plaintiffs,

vs.

MICHAEL J. KUSH, MD; an adult  
individual; GARY D. OTT, MD; an adult  
individual; and DUBOIS REGIONAL  
MEDICAL CENTER, a Pennsylvania  
corporation,

Defendants.

CIVIL DIVISION – MEDICAL  
PROFESSIONAL LIABILITY ACTION

Case No.: 2005-364-CD

**PLAINTIFFS' MOTION IN LIMINE  
TO PRECLUDE IRRELEVANT  
EVIDENCE**

Filed on Behalf of Plaintiffs

*FILED*  
MAY 27 2007  
JUL 27 2007  
William A. Shaw  
Prothonotary/Clerk of Courts

CIVIL DIVISION – MEDICAL  
PROFESSIONAL LIABILITY ACTION

Case No.: 2006-936 CD

Counsel of Record for Plaintiffs:

Harry S. Cohen, Esquire  
PA I.D. #30682

Todd D. Bowlus, Esquire  
PA I.D. #89106

HARRY S. COHEN & ASSOCIATES, PC  
Two Chatham Center, Suite 985  
Pittsburgh, PA 15219  
Firm ID #813

(412) 281-3000

JURY TRIAL DEMANDED

**FILED**

JUL 27 2007

William A. Shaw  
Prothonotary/Clerk of Courts  
Orig. filed to (6)  
OS-364-CD

**ORIGINAL**

July 25, 2007

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

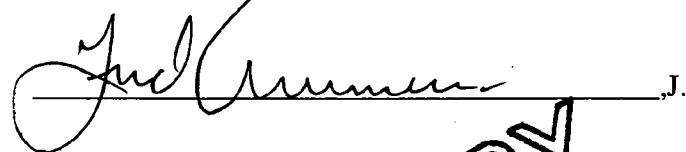
ANGELA HALE and RANDY A. : CIVIL DIVISION  
HALE, as parents and natural guardians :  
of REGANNE HALE, a minor, : Case No.: 2005-364-CD  
Plaintiffs, : *Consolidated at Case No.: 2005-364-CD*  
vs. :  
MICHAEL J. KUSH, MD ET AL, :  
Defendants. :  
-----  
ANGELA HALE and RANDY A. : CIVIL DIVISION  
HALE, as parents and natural guardians :  
of ASHTYN HALE, a minor, : Case No.: 2006-936 CD  
Plaintiffs, : *Consolidated at Case No.: 2005-364-CD*  
vs. :  
MICHAEL J. KUSH, MD; ET AL. :  
Defendants. :  
-----

**RULE TO SHOW CAUSE**

AND NOW, this 27<sup>th</sup> day of July 2007, a Rule is hereby issued to show cause  
why Plaintiffs' Motion in Limine to Limit Expert Testimony should not be granted.

Rule returnable the 10<sup>th</sup> day of August 2007 in Clearfield County Courthouse,  
Courtroom 1 at 10:00 o'clock A.M.

BY THE COURT:

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

**COPY FILED** 3cc  
06-43604 Atty  
JUL 27 2007 Bowles  
William A. Shaw Long to  
Prothonotary/Clerk of Courts 05-364-c

**FILED**

**JUL 27 2007**

William A. Shaw  
Prothonotary/Clerk of Courts

DATE: 7/27/07

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:

*YD*

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

ANGELA HALE and RANDY A.  
HALE, as parents and natural guardians  
of REGANNE HALE, a minor,

Plaintiffs,

vs.

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individual; GARY D. OTT, MD; an adult  
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MEDICAL CENTER, a Pennsylvania  
corporation,

Defendants.

CIVIL DIVISION – MEDICAL  
PROFESSIONAL LIABILITY ACTION

Case No.: 2005-364-CD

**PLAINTIFFS' MOTION IN LIMINE  
TO LIMIT EXPERT TESTIMONY**

Filed on Behalf of Plaintiffs

*FILED NO cc  
JUL 3 2007  
William A. Shaw  
Prothonotary/Clerk of Courts*

CIVIL DIVISION – MEDICAL  
PROFESSIONAL LIABILITY ACTION

Case No.: 2006-936 CD

Counsel of Record for Plaintiffs:

Harry S. Cohen, Esquire  
PA I.D. #30682

Todd D. Bowlus, Esquire  
PA I.D. #89106

HARRY S. COHEN & ASSOCIATES, PC  
Two Chatham Center, Suite 985  
Pittsburgh, PA 15219  
Firm ID #813

(412) 281-3000

**JURY TRIAL DEMANDED**

**FILED**  
JUL 27 2007

William A. Shaw  
Prothonotary/Clerk of Courts  
Dkt. filed to  
05-364-CD

**ORIGINAL**

July 25, 2007

FILED  
AUG 13 2007  
NOCC  
William A. Shaw  
Prothonotary/Clerk of Courts  
Orig. to  
05-364-CD

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

ANGELA HALE and RANDY A.  
HALE, as parents and natural guardians  
of REGANNE HALE, a minor,

Plaintiffs,

vs.

MICHAEL J. KUSH, MD; an adult  
individual; GARY D. OTT, MD; an adult  
individual; YOO, TAI, Y., MD, a  
Pennsylvania corporation; and DUBOIS  
REGIONAL MEDICAL CENTER, a  
Pennsylvania corporation,

Defendants.

---

ANGELA HALE and RANDY A.  
HALE, as parents and natural guardians  
of ASHTYN HALE, a minor,

Plaintiffs,

vs.

MICHAEL J. KUSH, MD; an adult  
individual; GARY D. OTT, MD; an adult  
individual; and DUBOIS REGIONAL  
MEDICAL CENTER, a Pennsylvania  
corporation,

Defendants.

CIVIL DIVISION – MEDICAL  
PROFESSIONAL LIABILITY ACTION

Case No.: 2005-364-CD

**Consolidated at Case No.: 2005-364-CD**

**AFFIDAVIT OF SERVICE FOR RULES  
TO SHOW CAUSE OF 7/27/07**

**Re: Motions in Limine**

Filed on Behalf of Plaintiffs

CIVIL DIVISION – MEDICAL  
PROFESSIONAL LIABILITY ACTION

Case No.: 2006-936 CD

**Consolidated at Case No.: 2005-364-CD**

Counsel of Record for Plaintiffs:

Harry S. Cohen, Esquire  
PA I.D. #30682

Todd D. Bowlus, Esquire  
PA I.D. #89106

HARRY S. COHEN & ASSOCIATES, PC  
Two Chatham Center, Suite 985  
Pittsburgh, PA 15219  
Firm ID #813

(412) 281-3000

**JURY TRIAL DEMANDED**

**ORIGINAL**

August 1, 2007

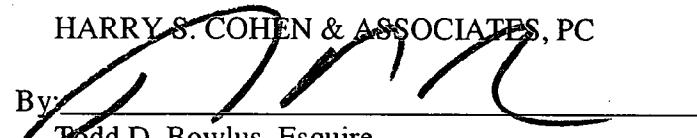
IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

ANGELA HALE and RANDY A. : CIVIL DIVISION  
HALE, as parents and natural guardians :  
of REGANNE HALE, a minor, : Case No.: 2005-364-CD  
Plaintiffs, : *Consolidated at Case No.: 2005-364-CD*  
vs. :  
MICHAEL J. KUSH, MD ET AL, :  
:

**AFFIDAVIT OF SERVICE**

Before me, the undersigned authority, personally appeared Todd D. Bowlus, Esquire, who being duly sworn, deposes and says that a true and correct copies of Rules to Show Cause dated July 27, 2007 RE Plaintiffs' Motion in Limine to Preclude Irrelevant Evidence and Plaintiffs' Motion in Limine to Limit Expert Testimony and signed by the Honorable Fredric J. Ammerman, in the above-captioned case was served upon counsel of record: John W. Blasko, Esquire, McQuaide Blasko, 811 University Drive, State College, PA, 16801-6699 and David R. Johnson, Esquire, Thomson, Rhodes & Cowie, PC, 1010 Two Chatham Center, Pittsburgh, PA, 15219 by U.S. First Class Mail on the 1<sup>st</sup> day of August 2007.

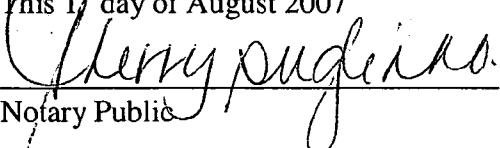
HARRY S. COHEN & ASSOCIATES, PC

By: 

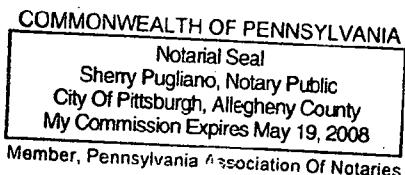
Todd D. Bowlus, Esquire  
Attorneys for Plaintiff  
Two Chatham Center, Suite 985  
Pittsburgh, PA 15219  
(412) 281-3000

Sworn to and subscribed before me

This 1<sup>st</sup> day of August 2007

  
Sherry Pugliano  
Notary Public

My commission expires:



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

ANGELA HALE and RANDY A. HALE, )  
as parents and natural guardians of )  
REGANNE HALE, a minor, )  
Plaintiffs, ) *Civil Action-Medical Professional Liability*  
vs. ) *Action*  
MICHAEL J. KUSH, M.D., and adult ) Case No. 2005-364 CD  
individual; GARY D. OTT, M.D., an ) *Consolidated at No. 2005-364-CD*  
adult individual; YOO, TAI, M.D., A )  
Pennsylvania corporation; and DUBOIS )  
REGIONAL MEDICAL CENTER, a ) JURY TRIAL DEMANDED  
Pennsylvania corporation, )  
Defendants. )

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ANGELA HALE and RANDY A. HALE, ) Case No. 2006-936 CD  
as parents and natural guardians of ) *Consolidated at No. 2005-364-CD*  
ASHTYN HALE, a minor, ) *Civil Action-Medical Professional*  
Plaintiffs, ) *Liability Action*  
vs. )  
MICHAEL J. KUSH, M.D., an adult ) JURY TRIAL DEMANDED  
individual; GARY D. OTT, M.D., an )  
adult individual; and DUBOIS )  
REGIONAL MEDICAL CENTER, a ) Type of Pleading:  
Pennsylvania corporation, ) MOTION IN LIMINE TO PRECLUDE  
Defendants. ) TESTIMONY OF DR. GEORGE CHERIAN  
AND/OR EVIDENCE REGARDING  
IRRELEVANT AND INADMISSIBLE  
MATTERS  
File on Behalf of Defendant  
*Gary D. Ott, M.D.*  
Counsel of Record for This Party  
*John W. Blasko, Esquire*  
Pa. Supreme Court I.D. #6787  
McQuaide, Blasko, Fleming &  
Faulkner, Inc.  
811 University Drive  
State College, PA 16801  
(814) 238-4926  
Counsel for Adverse Party Plaintiffs  
*Harry S. Cohen, Esquire*  
*Todd D. Bowlus, Esquire*

SEARCHED  
INDEXED  
SERIALIZED  
FILED  
APR 15 2007  
NO CC

William A. Shaw  
Prothonotary/Clerk of Courts

Orig. to

05-364-CD

FILED

AUG 22 2007

11:50 AM

William A. Shaw  
Prothonotary/Clerk of Courts  
w/o Clerk.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

ANGELA HALE and RANDY A. HALE, as  
parents and natural guardians of REGANNE  
HALE, a minor,

Plaintiffs,

vs.

MICHAEL J. KUSH, M.D., an adult  
individual; GARY D. OTT, M.D.; an adult  
individual; YOO, TAI, Y., M.D., a  
Pennsylvania corporation; and DUBOIS  
REGIONAL MEDICAL CENTER, a  
Pennsylvania corporation,

Defendants.

ANGELA HALE and RANDY A. HALE, as  
parents and natural guardians of ASHTYN  
HALE, a minor,

Plaintiffs,

vs.

MICHAEL J. KUSH, M.D., an adult  
individual; GARY D. OTT, M.D., an adult  
individual; and DUBOIS REGIONAL  
MEDICAL CENTER, a Pennsylvania  
corporation.

Defendants.

CIVIL DIVISION

No. 05-364-CD

**CONSOLIDATED WITH**

No. 06-936-CD

Issue No.

JOINDER IN MOTION IN LIMINE TO  
PRECLUDE TESTIMONY OF DR. GEORGE  
CHERIAN AND/OR EVIDENCE  
REGARDING IRRELEVANT AND  
INADMISSIBLE MATTERS

Code: 007

Filed on behalf of Michael J. Kush, M.D. and  
DuBois Regional Medical Center, two of the  
defendants.

Counsel of Record for These Parties:

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

**COPY**

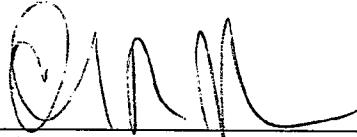
JOINDER IN MOTION IN LIMINE TO PRECLUDE TESTIMONY OF DR. GEORGE  
CHERIAN AND/OR EVIDENCE REGARDING IRRELEVANT AND  
INADMISSIBLE MATTERS

NOW COMES DuBois Regional Medical Center, one of the defendants, by its attorneys, Thomson, Rhodes & Cowie, P.C., and files the following joinder.

1. This defendant joins in the motion in limine to preclude testimony of Dr. George Cherian and/or evidence regarding irrelevant and inadmissible matters. Accordingly, defendant incorporates by reference co-defendant's motion and brief and requests the same relief as that sought by the co-defendant.

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 JOINDER IN MOTION  
IN LIMINE TO PRECLUDE TESTIMONY OF DR. GEORGE CHERIAN AND/OR  
EVIDENCE REGARDING IRRELEVANT AND INADMISSIBLE MATTERS has  
been served upon the following counsel of record and same placed in the U.S. Mails on  
this 20th day of August, 2007:

Harry S. Cohen, Esquire  
Harry S. Cohen & Associates, PC  
Two Chatham Center, Suite 985  
Pittsburgh, PA 15219

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

THOMSON RHODES & COWIE, P.C.

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

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

ANGELA HALE and RANDY A.  
HALE, as parents and natural guardians  
of REGANNE HALE, a minor,

Plaintiffs,

vs.

GARY D. OTT, MD; an adult individual;  
and DUBOIS REGIONAL MEDICAL  
CENTER, a Pennsylvania corporation,

Defendants.

---

ANGELA HALE and RANDY A.  
HALE, as parents and natural guardians  
of ASHTYN HALE, a minor,

Plaintiffs,

vs.

GARY D. OTT, MD; an adult  
individual; and DUBOIS REGIONAL  
MEDICAL CENTER, a Pennsylvania  
corporation,

Defendants.

CIVIL DIVISION – MEDICAL  
PROFESSIONAL LIABILITY ACTION

Case No.: 2005-364-CD  
*Consolidated at Case No.: 2005-364-CD*

**PLAINTIFFS' MOTION FOR  
CLARIFICATION OF COURT ORDER  
DATED AUGUST 10, 2007 / MOTION  
TO PRECLUDE EVIDENCE**

Filed on Behalf of Plaintiffs

---

CIVIL DIVISION – MEDICAL  
PROFESSIONAL LIABILITY ACTION

Case No.: 2006-936 CD  
*Consolidated at Case No.: 2005-364-CD*

Counsel of Record for Plaintiffs:

Harry S. Cohen, Esquire  
PA I.D. #30682

Todd D. Bowlus, Esquire  
PA I.D. #89106

HARRY S. COHEN & ASSOCIATES, PC  
Two Chatham Center, Suite 985  
Pittsburgh, PA 15219  
Firm ID #813

(412) 281-3000

August 29, 2007

**FILED**  
AUG 30 2007  
orig. to 05-364-CD  
William A. Shaw  
Prothonotary/Clerk of Courts

**JURY TRIAL DEMANDED**

**ORIGINAL**

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

ANGELA HALE and RANDY A.  
HALE, as parents and natural guardians  
of REGANNE HALE, a minor,

Plaintiffs,

vs.

GARY D. OTT, MD; an adult individual;  
and DUBOIS REGIONAL MEDICAL  
CENTER, a Pennsylvania corporation,

Defendants.

ANGELA HALE and RANDY A.  
HALE, as parents and natural guardians  
of ASHTYN HALE, a minor,

Plaintiffs,

vs.

GARY D. OTT, MD; an adult  
individual; and DUBOIS REGIONAL  
MEDICAL CENTER, a Pennsylvania  
corporation,

Defendants.

CIVIL DIVISION – MEDICAL  
PROFESSIONAL LIABILITY ACTION

Case No.: 2005-364-CD  
*Consolidated at Case No.: 2005-364-CD*

**PLAINTIFFS' RESPONSE TO  
DEFENDANTS' MOTION IN LIMINE  
TO PRECLUDE TESTIMONY OF DR.  
GEORGE CHERIAN**

Filed on Behalf of Plaintiffs

---

CIVIL DIVISION – MEDICAL  
PROFESSIONAL LIABILITY ACTION

Case No.: 2006-936 CD  
*Consolidated at Case No.: 2005-364-CD*

Counsel of Record for Plaintiffs:

Harry S. Cohen, Esquire  
PA I.D. #30682

Todd D. Bowlus, Esquire  
PA I.D. #89106

HARRY S. COHEN & ASSOCIATES, PC  
Two Chatham Center, Suite 985  
Pittsburgh, PA 15219  
Firm ID #813

(412) 281-3000

August 29, 2007

REED  
JURY TRIAL DEMANDED  
AUG 30 2007  
William A. Shaw  
Prothonotary/Clerk of Courts  
Orig. to 05-364-CD  
(6K)

ORIGINAL

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

ANGELA HALE and RANDY A. HALE, as parents and natural guardians of REGANNE HALE, a minor, Plaintiffs, : CIVIL DIVISION : Case No.: 2005-364-CD : *Consolidated at Case No.: 2005-364-CD*

VS.

MICHAEL J. KUSH, MD ET AL.

### Defendants.

ANGELA HALE and RANDY A. : CIVIL DIVISION  
HALE, as parents and natural guardians :  
of ASHTYN HALE, a minor, : Case No.: 2006-936 CD  
Plaintiffs, : *Consolidated at Case No.: 2005-364-CD*

vs.

MICHAEL J. KUSH, MD; ET AL.

## Defendants.

FILED <sup>2cc</sup>  
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01/10/41 Kochen &  
SEP 04 2007 Bowles  
914107

William A. Shaw  
Prothonotary/Clerk of Courts  
Faxed by CA  
914107

## ORDER OF COURT

AND NOW, this 4 day of Sept. 2007, oral argument on Plaintiffs' Motion for Clarification of Court Order Dated August 10, 2007/Motion to Preclude Evidence is scheduled for the 10<sup>th</sup> day of September 2007 in Clearfield County Courthouse, Courtroom 1 at 9:30 A.m.

BY THE COURT:

BY THE COURT:

**FILED**

**SEP 04 2007**

William A. Shaw  
Prothonotary/Clerk of Courts

DATE: 9/4/07  
You are responsible for serving all appropriate parties.

The Prothonotary's office has provided service to the following parties:  
 Plaintiff(s)  Attorney  Other  
 Plaintiff(s)  Defendant(s)  Attorney  
 Defendant(s)  Special Instructions:

# COPY

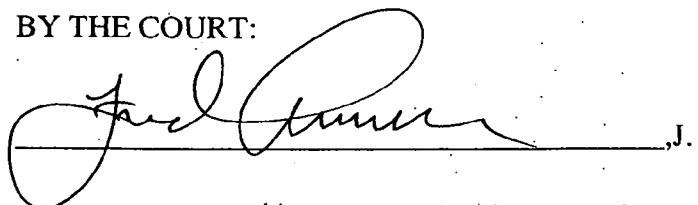
## IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

|  |   |  |
|--|---|--|
| ANGELA HALE and RANDY A.               | : | CIVIL DIVISION                               |
| HALE, as parents and natural guardians | : | Case No.: 2005-364-CD                        |
| of REGANNE HALE, a minor,              | : | <i>Consolidated at Case No.: 2005-364-CD</i> |
| Plaintiffs,                            | : |  |
| vs.                                    | : |  |
| MICHAEL J. KUSH, MD ET AL,             | : |  |
| Defendants.                            | : |  |
| <hr/>                                  |   |  |
| ANGELA HALE and RANDY A.               | : | CIVIL DIVISION                               |
| HALE, as parents and natural guardians | : | Case No.: 2006-936-CD                        |
| of ASHTYN HALE, a minor,               | : | <i>Consolidated at Case No.: 2005-364-CD</i> |
| Plaintiffs,                            | : |  |
| vs.                                    | : |  |
| MICHAEL J. KUSH, MD; ET AL.            | : |  |
| Defendants.                            | : |  |

### ORDER OF COURT

AND NOW, this 4 day of Sept 2007, oral argument on Plaintiffs' Motion for Clarification of Court Order Dated August 10, 2007/Motion to Preclude Evidence is scheduled for the 10<sup>th</sup> day of September 2007 in Clearfield County Courthouse, Courtroom 1 at 9:30 A.m.

BY THE COURT:



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

SEP 04 2007

**FAXED**  
9/4/07

Attest.

William L. Cawley  
Prothonotary/  
Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

ANGELA HALE and RANDY A. : CIVIL DIVISION  
HALE, as parents and natural guardians :  
of REGANNE HALE, a minor, : Case No.: 2005-364-CD  
Plaintiffs, : *Consolidated at Case No.: 2005-364-CD*  
vs. :  
MICHAEL J. KUSH, MD ET AL, :  
Defendants. :

---

ANGELA HALE and RANDY A. : CIVIL DIVISION  
HALE, as parents and natural guardians :  
of ASHTYN HALE, a minor, : Case No.: 2006-936 CD  
Plaintiffs, : *Consolidated at Case No.: 2005-364-CD*  
vs. :  
MICHAEL J. KUSH, MD; ET AL. :  
Defendants. :

ORDER OF COURT

AND NOW, this 30<sup>th</sup> day of August 2007, oral argument on Plaintiffs' Motion  
for Clarification of Court Order Dated August 10, 2007/Motion to Preclude Evidence is  
scheduled for the 31<sup>st</sup> day of August 2007 in Clearfield County Courthouse,  
Courtroom 1 at 11:00 a.m.

BY THE COURT:

Judge J. Cunningham, J.

  
FILED 09-4031 Amy Bowles  
SEP 04 2007  
William A. Shaw orig. to  
Prothonotary/Clerk of Courts 05-364-CD  
(6K)

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

ANGELA HALE and RANDY A. HALE, )  
as parents and natural guardians of )  
REGANNE HALE, a minor, )  
Plaintiffs, ) *Civil Action-Medical Professional Liability*  
vs. ) *Action*  
MICHAEL J. KUSH, M.D., and adult ) Case No. 2005-364 CD  
individual; GARY D. OTT, M.D., an ) *Consolidated at No. 2005-364-CD*  
adult individual; YOO, TAI, M.D., A )  
Pennsylvania corporation; and DUBOIS )  
REGIONAL MEDICAL CENTER; a ) JURY TRIAL DEMANDED  
Pennsylvania corporation, )  
Defendants. )  
FILED  
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William A. Shaw  
Prothonotary/Clerk of Co

FILED NO CC.  
03:40 am  
D SEP 05 2007

William A. Shaw  
Prothonotary/Clerk of Courts

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

ANGELA HALE and RANDY A. HALE,      )  
as parents and natural guardians of      )  
REGANNE HALE, a minor,      )  
            Plaintiffs,      )      *Civil Action-Medical Professional Liability*  
            )      *Action*  
            vs.      )      No. 2005-364 CD  
MICHAEL J. KUSH, M.D., and adult      )  
individual; GARY D. OTT, M.D., an      )  
adult individual; YOO, TAI, M.D., A      )  
Pennsylvania corporation; and DUBOIS      )      JURY TRIAL DEMANDED  
REGIONAL MEDICAL CENTER, a      )  
Pennsylvania corporation,      )  
            Defendants.      )

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ANGELA HALE and RANDY A. HALE,      )  
as parents and natural guardians of      )      Case No.      2006 - 936 CD  
ASHTYN HALE, a minor,      )  
            Plaintiffs,      )      *Civil Action - Medical Professional Liability*  
            )      *Action*  
            vs.      )  
MICHAEL J. KUSH, M.D., an adult      )  
individual; GARY D. OTT, M.D., an      )  
adult individual; and DUBOIS      )  
REGIONAL MEDICAL CENTER, a      )      JURY TRIAL DEMANDED  
Pennsylvania corporation,      )  
            Defendants.      )

NOTICE TO PLEAD

TO: Plaintiffs

YOU ARE HEREBY notified to plead to the within Answer with New Matter within twenty (20) days from the date of service hereof or a default judgment may be entered against you.

McQUAIDE, BLASKO,  
FLEMING & FAULKNER, INC.

By: 

JOHN W. BLASKO  
Attorney for Defendant  
Gary D. Ott, M.D.  
811 University Drive  
State College, PA 16801  
(814) 238-4926

Dated: September 5, 2007

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

ANGELA HALE and RANDY A. HALE, )  
as parents and natural guardians of )  
REGANNE HALE, a minor, )  
Plaintiffs, ) *Civil Action-Medical Professional Liability*  
vs. ) *Action*  
MICHAEL J. KUSH, M.D., and adult )  
individual; GARY D. OTT, M.D., an )  
adult individual; YOO, TAI, M.D., A )  
Pennsylvania corporation; and DUBOIS )  
REGIONAL MEDICAL CENTER, a )  
Pennsylvania corporation, )  
Defendants. ) No. 2005-364 CD  
JURY TRIAL DEMANDED

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ANGELA HALE and RANDY A. HALE, )  
as parents and natural guardians of ) Case No. 2006 - 936 CD  
ASHTYN HALE, a minor, )  
Plaintiffs, ) *Civil Action - Medical Professional Liability*  
vs. ) *Action*  
MICHAEL J. KUSH, M.D., an adult )  
individual; GARY D. OTT, M.D., an )  
adult individual; and DUBOIS )  
REGIONAL MEDICAL CENTER, a )  
Pennsylvania corporation, )  
Defendants. ) JURY TRIAL DEMANDED

**ANSWER OF DEFENDANT GARY D. OTT, M.D. TO**  
**PLAINTIFFS' MOTION FOR CLARIFICATION OF COURT ORDER**  
**DATED AUGUST 10, 2007/MOTION TO PRECLUDE EVIDENCE**

1. Paragraph 1 of the Motion is admitted to the extent that a bifurcated trial is to commence on September 17, 2007. The remainder of the paragraph as stated is denied. In response, the following is averred:

[a] On April 18, 2007, in response to Plaintiffs' Motion for Extension of Time or Continuance, the Defendant filed an Answer and New Matter requesting bifurcation therein stating:

- [i] "16. Bifurcation in this medical malpractice trial is appropriate in furtherance of judicial expediency, the convenience of the Court and parties, and to avoid prejudice to the Defendants. **The liability phase of the case would be limited to the period of treatment and hospitalization of the Plaintiff Angela Hale from the period of November 9, 2002 through November 13, 2002.** Thereafter, all medical care and treatment would relate to damages, in that, Ashtyn and Reganne were transferred to other hospitals and subsequently treated by other health care providers."
- [ii] "17. **The factual issues of liability are not intertwined with the issues of damages in this case, and, the majority of witnesses could be separated and be unrelated to the damage portion of the case.** The following records deal solely with liability and are irrelevant to damages: (1) Office records of Dr. Ott; (2) Office records of Dr. Kush; (3) DRMC records of November 9, 2002; and, (4) DRMC records of November 10 to 13, 2002. All other records produced in this case would relate to damage issues."

[b] The Defendant requested and the Plaintiffs agreed to a Court Order that the trial be bifurcated separating the issues of liability from damages.

[i] On May 11, 2007, the Court entered the following Order inter alia:

"3. The parties have agreed that they will proceed to trial on September 17, 2007 and that the matter be bifurcated. **The jury trial scheduled to commence on said date shall be relative issues of alleged negligence and causation only.** Any legal determination relative to damages shall be done, if necessary, at a later proceeding."

Clearly, the Court stated the issues would be liability and causation. The questions for submission to the jury would be along the following lines:

[a] Were the Defendants negligent?

[b] If you find the Defendants negligent, was their negligence a substantial factor in bringing about the harm?

Stated another way, the specific issues in this case for the jury would be:

[a] Whether the Defendants were negligent in diagnosing and treating Mrs. Hale's pre-term labor?

[b] If so, was the Defendants' negligence a substantial factor in bringing about the premature birth of the twins?

2. It is admitted that an argument was heard on Plaintiffs' Motion In Limine to Limit Expert Testimony on August 10, 2007. The remainder of the allegations as to the basis of the Motion is denied. The Plaintiffs' Motion was to restrict Dr. Ott's **four different obstetricians experts** from testifying on the basis that under Pennsylvania Rules of Evidence the testimony of the **four obstetricians** was cumulative in nature. See Paragraph 7 of Plaintiffs' Motion in Limine to Limit Expert Testimony, attached as Exhibit "A" to Plaintiffs' instant Motion. The Plaintiffs' Motion was specifically directed to the limitation of the **number of obstetricians** that each party was to call, not all experts. Indeed, in Paragraph 8 of the Motion in Limine to Limit Expert Testimony, Plaintiffs stated:

"The Plaintiffs and Dr. Ott should each be limited to **one expert obstetrician on the obstetrical negligence issue . . .**"  
[Exhibit "A" to Plaintiffs' Motion]

**There was no Motion filed or before the Court to limit Defendant's expert, pathologist, who is not an obstetrician.**

3. It is admitted that the Court entered an Order on August 10, 2007, however, it is denied that Dr. Ott was prohibited from calling an expert pathologist as alleged by Plaintiffs. The Court stated that Dr. Ott was limited to two experts instead of four experts, which meant **obstetricians, not a pathologist**. This was in response to the Plaintiffs' Motion which clearly

pointed out that Dr. Ott had **four different obstetricians**. See Paragraph 5 of Plaintiffs' Motion in Limine to Limit Expert Testimony attached as Exhibit "A" to Plaintiffs' instant Motion There was no mention of Dr. Ott's expert pathologist who will not be testifying as to the standard of care, but rather only as to the interpretation of the pathology slides. Accordingly, Plaintiffs' representation that all of Dr. Ott's expert witnesses would be limited to two is misleading.

4. Paragraph 4 is denied. On June 28, 2007 by federal express, counsel for Defendant Ott served on Plaintiffs' counsel the report of Geoffrey Altshuler, M.D. dated March 30, 2007 and April 30, 2007, together with his CV, a copy of the letter being attached hereto and marked as Exhibit "I." Dr. Altshuler is not an obstetrician but rather an expert pathologist. Accordingly, Plaintiffs' representation that counsel for Dr. Ott expressed the intent for the first time at the Pre-Trial Conference to call Dr. Altshuler is inaccurate.

5. Paragraph 5 is denied. At no time during the course of the proceeding of this case did counsel for Dr. Ott represent to Todd Bowlus, co-counsel for the Plaintiffs or agree with him that only obstetricians would be testifying at trial. Counsel for Dr. Ott in his conversation with Mr. Bowlus indicated that he would not be calling Dr. Scher, a pediatric neurologist who had prepared a report which was provided to Plaintiffs' counsel on June 24, 2007. As a result of this conversation and representation by defense counsel, Dr. Scher's report was not attached to Defendant's Pre-Trial Memorandum filed with this Court as a witness to be called. Dr. Altshuler was listed as a witness and his report was attached to the Pre-Trial Memorandum. At the same time, Mr. Bowlus inquired as to whether Dr. Lyndon Hill, Magee Women's Hospital, an obstetrician, would be called and counsel for Dr. Ott responded that it had not yet been decided. However, since the argument of August 10, 2007, it was decided not to call Dr. Hill as an

obstetrician. Accordingly, Plaintiffs' representation in Paragraph 5 of its Motion is absolutely incorrect.

6. Paragraph 6 is denied. Paragraph 3 of Plaintiffs' Motion in Limine to Limit Expert Testimony, Exhibit "A" to Plaintiffs' instant Motion, states that the first trial will relate only to "whether the Defendants **deviated from the standard of care "causing"** a premature labor." Plaintiffs ignore that an essential element of liability as hereinafter set forth in a cause of action of medical malpractice liability is causation. The Plaintiffs are trying to place one inquiry before the jury by combining the two jury questions of whether there was a breach of the standard of care, (i.e. failure to prevent pre-term labor), and, if so, was the breach a substantial factor or legal cause of the harm (the premature birth).

7. Paragraph 7 is denied as being nonsensical. As indicated at jury selection, the Plaintiffs' counsel holds his firm out to the public as being experts in handling medical malpractice cases. (See Plaintiffs' counsel's website materials, attached hereto as Exhibit "II.") In this case, Plaintiffs' counsel filed the initial lawsuit and Complaint on March 16, 2005 for the first twin. Presumably, Plaintiffs' counsel, as being an experienced medical malpractice lawyer as represented to the public, would review the facts of the case, assemble a summary and list of medical care providers, hospitalizations, dates of treatment, and, acquire and procure all the pertinent and relevant medical records for review by the experts which Plaintiffs represent in their advertising is the procedure they follow. In any medical malpractice case involving birth injuries, it is essential and basic for any expert review to acquire as part of the records the pathological slides of the mother's placenta. In this case, presumably Plaintiffs' counsel acquired the DRMC records of Angela Hale for November 10 through November 13, 2002 which records included a pathological report on the mother's placenta and cord, which report as part of its

records refers specifically to the specimens of her placenta of both twins, as well as the cord, a copy of the pathology report is attached hereto and marked Exhibit "III." The pathology report prepared by Dr. Gregory Suslow on November 14, 2002 states the records including "representative sections are submitted in cassettes as follows: A1 and A2, Twin A placenta, membranes and cord; A3 and A4, Twin B placenta, membranes and cord; A5 fused membranes."

Clearly any experienced Plaintiffs' malpractice attorney would consider whether these specimens as part of the record should be obtained and reviewed by their respective experts. Plaintiffs' counsel evidently exercised his judgment not to do so, but rather rely on Dr. Suslow's report.

By Order dated October 27, 2006 as amended by Order dated November 1, 2006, the Court established that the Plaintiffs produce their liability experts on or before March 31, 2007, and, the Defendants were to produce their expert reports on or before June 30, 2007. At no time did the Plaintiffs object to the scheduling of these deadlines nor did the Plaintiffs at any time request that the Order be modified to provide a provision for rebuttal reports.

The Plaintiffs' allegation that they recently decided to request pathology slides is a matter within their own professional judgment. Prior to filing this action, on May 6, 2004, Plaintiffs' counsel requested the medical records of the DuBois Regional Medical Center for Angela Hale. A copy of the counsel's letter is attached hereto marked Exhibit "IV." The Plaintiffs' counsel forwarded an authorization signed by Mrs. Hale dated May 6, 2004 which indicates that Plaintiffs' counsel wanted all reports, **including the pathology report**, a copy of the authorization is attached hereto and marked Exhibit "V." Accordingly, from this correspondence and authorization, the Plaintiffs had requested and were aware as experienced malpractice lawyers the importance of acquiring all records, including the pathology materials included in

Mrs. Hale's records. The Plaintiffs' counsel's request was made over three years ago prior to the dates that the expert reports were due in this case.

8. Paragraph 8 is a statement of Plaintiffs' position. The Plaintiffs have the pathology report of Dr. Gregory Suslow, the pathologist at DRMC who analyzed the pathological slides and prepared his report on Mrs. Hale's placenta on November 14,2002. The Plaintiffs, as experienced malpractice trial lawyers, should be aware that a placental pathologist would always be involved in baby cases. The placental slides were part of the medical records as indicated on the attached pathology report (Exhibit "III"), and, were provided by DRMC at the request of Defendants' counsel. Plaintiffs' counsel is in effect stating that they decided not to acquire the pathology slides and/or report, and, now that a report on the interpretation of the pathology slides has been given by the Defendant Ott, through his pathologist, Dr. Altshuler, Plaintiffs are attempting to shift the blame on defense counsel. Evidently, Plaintiffs' counsel made a judgment to rely on Dr. Suslow's report, and, as a result he should be bound by the decision.

9. Paragraph 9 is denied. The Plaintiffs have had the report of Defendant's pathology expert, Dr. Altshuler, since June 28, 2007, and, at no time until the present Motion have Plaintiffs raised any issue. Further, this Court by Order dated July 27, 2007 ordered that all "Motions and Petitions shall be filed by no later than August 16, 2007, together with an appropriate Brief."

The Plaintiffs failed to file such a Motion within the time limitations of the Court Order, even though they had Defendant's expert pathologist report for over two months..

**NEW MATTER**

10. This Court by Order dated May 11, 2007 in providing bifurcation clearly pointed out the following:

"The jury trial scheduled to commence on said date shall be relative issues of alleged **negligence and causation** only. Any legal determination relative to damages shall be done if necessary, at a later proceeding."

11. In order to set forth a *prima facie* case of malpractice, Plaintiffs must plead and prove the following four elements:

- [a] a duty owed by the physician to the patient;
- [b] a breach of the duty from the physician to the patient;
- [c] that the breach of duty was the proximate cause or substantial factor in bringing about the harm suffered by the patient; and
- [d] damages suffered by the patient that were the direct result of the harm.

Mitzelfelt v. Kamarian, 526 Pa. 54, 584 A.2d 888, 891 (1990) and Gregorio v. Zeluck, 451, Pa. Super. 154, 678 A.2d 810, 813 (1996). The first three elements go to the issues of negligence.

12. In accordance with the foregoing law, the questions to be presented to the jury are as follows:

- [a] Was Dr. Ott negligent?
- [b] If so, was Dr. Ott's negligence a substantial factor in bringing about the harm?
- [c] Being fact specific to this case, the inquires would be
  - [i] whether Dr. Ott failed to comply with the standard of care in diagnosing and treating pre-term labor, and,
  - [ii] if so, did Dr. Ott's failure to treat or diagnose the pre-term labor cause the premature birth?

- [d] The Defendant's expert, Dr. Geoffrey Altshuler is not an expert on the obstetric standard of care. Dr. Altshuler is a board certified pathologist who reviewed the tissue slides of the placenta, and determined the mother's placenta had an underlying pathology problem which reduced uteroplacental flow to the placenta.
- [e] Based on Dr. Altshuler's interpretation of the slides, and his report, the Defendant's obstetrician and maternal/fetal experts, in their reports on the standard of care and causation relied on Dr. Altshuler's interpretation that there was a decrease in uteroplacental flow which was a disease process which caused the onset of premature birth which would not be affected by the medication which Dr. Ott prescribed or any failure by him to comply with a standard to prevent premature labor. The pre-term labor could not be stopped by Dr. Ott because of the disease process shown in the pathology slides as interpreted by Dr. Altshuler. This relates directly to the cause of the pre-term labor and premature birth which is the second question which the jury will be requested to answer, i.e., whether Dr. Ott's negligence, if any, was a substantial factor or legal cause of bringing about the premature births. Defendant Ott would be severely prejudiced by the exclusion of Dr. Altshuler's report.
- [f] Plaintiffs' counsel attempts to overlook the fact that liability must be established through negligence and causation. The issue of damages would not be before the jury, and whether Dr. Altshuler's report does not address damage.
- [g] The Plaintiffs filed this present Motion after the deadline set by the Court which has or will result in prejudice to Dr. Ott, in that his pathologist expert, Dr. Altshuler, is from Oklahoma City, Oklahoma. The Court has scheduled the argument on September 10, 2007, a week before trial; that travel arrangements for Dr. Altshuler for appearance at trial are frustrated because of Plaintiffs' Motion; that as a result of the Motion and its late scheduling, it will jeopardize providing for Dr. Altshuler's orderly appearance as a witness at time of trial depending on the Court's ruling; and that the Plaintiffs are aware that to exclude Dr. Altshuler's testimony would prejudice Defendant Ott's obstetrician experts' testimony and opinions, thereby, precluding Dr. Ott's defense of this case.

[h] The Plaintiffs by this instant Motion, as well as their other Motion to Limit Expert Testimony is an attempt to control and disrupt the defense in the presentation of their case, and, accordingly, the motion should be denied.

WHEREFORE, it is requested that Plaintiffs' Motion be dismissed as being filed untimely; that Dr. Ott's pathology expert be permitted to testify in accordance with his report on the interpretation of the placental slides, and, that in conformity with the Court's Order of May 11, 2006, the jury would consider "issues of alleged negligence and causation, i.e., [i] whether the Defendants were negligent in diagnosing and treating pre-term labor, and, [ii] if so, was the Defendants' negligence a substantial factor or legal cause of bringing about the premature birth.

McQUAIDE, BLASKO,  
FLEMING & FAULKNER, INC.

Dated: Sept 5, 2007

By: J

JOHN W. BLASKO  
811 University Drive  
State College, PA 16801  
(814) 238-4926  
Attorneys for Defendant  
Gary D. Ott, 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](http://www.mqblaw.com)

June 28, 2007

Via Federal Express

Harry S. Cohen, Esquire  
Todd D. Bowlus, Esquire  
Harry S. Cohen & Associates, PC  
Two Chatham Center, Suite 985  
Pittsburgh, PA 15219

In Re:      Hale vs. Ott, et al

Gentlemen:

Enclosed please find our expert reports and CVs in the above-captioned matter.

- [1] Report of James N. Martin, M.D. dated June 2, 2007 and CV;
- [2] Report of Julian N. Robinson, M.D. dated June 14, 2007 and CV;
- [3] Reports of Geoffrey Altshuler, M.D. dated March 30, 2007 and April 30, 2007 and CV;
- [4] Report of Lyndon M. Hill, M.D. dated June 8, 2007 and CV;
- [5] Report of Deborah Sommer, M.D. dated October 20, 2006 and CV.

Very truly yours,

McQUAIDE, BLASKO

By:

  
JOHN W. BLASKO

JWB/nls

cc:      David R. Johnson, Esquire [Via Federal Express]  
[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   Daryl R. Slusak   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.  
Chene L. Glenn-Harr   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. Rouch

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

EXHIBIT "II"

# Harry S. Cohen & Associates

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- [About](#)

Harry S. Cohen

**Harry S. Cohen**



Harry Cohen has been obtaining substantial verdicts and settlements for his clients in the Pittsburgh and surrounding areas for two decades. A graduate of Northwestern University and the University of Pittsburgh School of Law, Mr. Cohen's earliest medical malpractice concentration was in defending physicians and hospitals until 1986 when he confined his practice to the representation of patients. Since then, Mr. Cohen has litigated virtually every aspect of medical malpractice, having recovered scores of millions of dollars for his clients in birth injury cases alone, his primary focus.

Mr. Cohen obtained one of the largest medical malpractice settlements ever in Allegheny County (Pittsburgh), the largest medical malpractice verdict ever in Beaver County, Pennsylvania, one of the largest ever birth injury medical malpractice verdicts in Morgantown, West Virginia and one of the largest medical malpractice verdicts ever in Armstrong County. In the appellate courts Mr. Cohen has helped forge important law favorable to patients' rights, including a landmark case establishing a patient's right to sue an HMO for medical malpractice.

Mr. Cohen is a frequent lecturer to other trial lawyers in medical malpractice and an author on medical malpractice topics. He has been selected by his peers for inclusion in Best Lawyers in America and as a Pennsylvania Super Lawyer. He has an AV (highest) rating from Martindale-Hubbell and he is certified by the National Board of Trial

Advocacy and The Million Dollar Advocates Forum. Mr. Cohen is a member of the Allegheny County Academy of Trial Lawyers, the American and Pennsylvania Trial Lawyers Associations and the National, State and Local Bar Associations.

Mr. Cohen and his wife Cathy reside with their two sons in O'Hara Township, PA. He is a Board Member and Vice President of Adat Shalom Synagogue, and active in various charitable endeavors and local youth sports.

### **Admitted to the Bar**

- 1979 – Pennsylvania
- 1980 – Ohio
- 2002 – West Virginia

### **Education**

- Northwestern University (B.A., 1975)
- The University of Pittsburgh School of Law (J.D., 1979)

### **Memberships/Affiliations**

- Allegheny County Bar Association
- Pennsylvania Bar Association
- Western Pennsylvania Trial Lawyers
- American Trial Lawyers Association
- American Bar Association
- Academy of Trial Lawyers of Allegheny County
- National Board of Trial Advocacy
- Best Lawyers in America
- Pennsylvania Super Lawyers
- Million Dollar Advocates Forum
- AV (highest) Martindale-Hubbell Rating

### **Contact Information**

- Tel: (412) 281-3000
- Fax: (412) 232-6688
- Email: [hcohen@medmall.com](mailto:hcohen@medmall.com)

#### About Us

#### Douglas L. Price

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- [Contact Us](#)
- [Disclaimer](#)

Harry S. Cohen & Associates, P.C.  
Two Chatham Center, Suite 985  
Pittsburgh, PA 15219  
Tel: (412) 281-3000

[design by smallTransport](#)

Q  
Dubois Regional Medical Center  
Thu Nov 14, 2002 09:32 am  
Surgical Case Number Report

Copy CHART

Pg 1

|                |                           |            |               |
|----------------|---------------------------|------------|---------------|
| Patient:       | HALE, ANGELA              | Age: 26Y   | Sex: F        |
| Unit#/Acct#:   | D000417389/D0231400208    | Case#:     | S02-6230      |
| Location:      | DIS                       | Accn#:     | 1681897       |
| Att Phys-Serv: | OTT, GARY D - *OBSTETRICS | Completed: | 11/14/02 0932 |
| Ordering Phys: | OTT, GARY D               | Received:  | 11/11/02 1501 |
| Order Dx:      | NORMAL DELIVERY           | Collected: | 11/11/02 1500 |

\*\*\*\*\* SURGICAL PATHOLOGY ORDER \*\*\*\*\*

Specimen(s): Placenta-Twins

A. Placenta-Twins

Surgeon/Physician: OTT

Specimen: PLACENTA TWIN A, PLACENTA TWIN B

Pre-op Diag: NONE GIVEN

Post-op Diag: NONE GIVEN

History: NONE GIVEN

GROSS:

Specimen labeled "twin placenta" is received in formalin. It consists of a monochorionic diamniotic twin placenta. The twin A is designated by a clamped cord and the twin B by a sutured cord. The placenta measures 17.0 x 14.0 x 3.0 cm. The twin A umbilical cord measures 19.5 cm in length by up to 1.5 cm across and on cut section reveals three blood vessels. The twin B umbilical cord measures 16.0 cm in length by up to 1.4 cm across and on cut section also reveals three blood vessels. The fetal membranes are purple-gray, semi-transparent. The cotyledons on the maternal surface appear intact and on serial sectioning reveal a homogenous, spongy, dark red appearance. Representative sections are submitted in cassettes as follows: A1 and A2 twin A placenta, membranes and cord; A3 and A4 twin B placenta, membranes and cord; A5 fused membranes.

Gross By: Dr. Gregory Suslow M.D.

AFTER MICROSCOPIC EXAMINATION:

DX:

Monochorionic, diamniotic slightly hypomature twin placenta.

Bilateral trivascular umbilical cords.

Surgical Case Number Report  
Final (Continued on next page)  
LABORATORY  
Jose Costa M.D. Medical Director  
Gregory Suslow M. D.

HALE, ANGELA

D000417389/D0231400208

45

Dubois Regional Medical Center  
Thu Nov 14, 2002 09:32 am  
Surgical Case Number Report

Copy CHART

Pg 2

|                |                           |            |               |
|----------------|---------------------------|------------|---------------|
| Patient:       | HALE, ANGELA              | Age: 26Y   | Sex: F        |
| Unit#/Acct#:   | D000417389/D0231400208    | Case#:     | S02-6230      |
| Location:      | DIS                       | Accn#:     | 1681897       |
| Att Phys-Serv: | OTT, GARY D - *OBSTETRICS | Completed: | 11/14/02 0932 |
| Ordering Phys: | OTT, GARY D               | Received:  | 11/11/02 1501 |
| Order Dx:      | NORMAL DELIVERY           | Collected: | 11/11/02 1500 |

\*\*\*\*\* SURGICAL PATHOLOGY ORDER \*\*\*\*\*  
(Continued)

No evidence of acute chorioamnionitis or funisitis.

Read By: Dr. Gregory Suslow M.D.

End of Report - 11/14/02 09:32am

Surgical Case Number Report  
Final

HALE, ANGELA  
D000417389/D0231400208

LABORATORY  
Jose Costa M.D. Medical Director  
Gregory Suslow M. D.

46

EXHIBIT "IV"

70 P.A.  
5/12/04  
OAK  
5/12/04

MAY 12 2004

Harry S.  
**Cohen**  
**&**  
**Associates, P.C.**  
**LAW OFFICES**

need  
tips

May 6, 2004

66091  
62 1-1-11 \$1.76 15

Dubois Regional Medical Center  
ATTN: Medical Records Correspondence  
P.O. Box 447  
Dubois, PA 15801

RE: Angela Hale  
Date of Birth: 8/9/1976  
Social Security No.: 177-62-1839  
Date of treatment: November 10, 2002

Dear Sir/Madam:

Please be advised that our firm has been retained to represent the interest of Angela Hale. Mrs. Hale gave birth to twins on November 10, 2002 at your facility.

At this time we are requesting the a copy of the following record:

- a) The complete 11/9/02 admission of Angela Hale, including Fetal Monitoring strips and Ultra Sound reports.
- b) The complete 11/10/02 admission of Angela Hale, including Fetal Monitoring strips and Ultra Sound reports.

Enclosed please find an authorization for release of protected health information executed by Angela Hale for the release of these records to our office. If pre-payment is required please contact me so that I may remit a check as soon as possible.

Thank you for your attention to this matter.

Yours very truly

HARRY S. COHEN & ASSOCIATES

DENISE JOHNSON PARALEGAL

/dej  
enclosure

EXHIBIT "V"

**AUTHORIZATION FOR  
RELEASE OF PROTECTED  
HEALTH INFORMATION**

Harry S.  
Cohen  
&  
Associates  
LAW OFFICES

I, Angela Hale authorize DRmc MFM  
to release information from the record(s) of:

Patient Name: Angela Hale  
Date of Birth: 8-9-1976 Social Security No.: 177-62-1839  
Treatment date(s): 1-02 to 12-02

Information to be released: ALL RECORDS IN YOUR POSSESSION

|  |                                     |                       |                                     |
|--|-------------------------------------|-----------------------|-------------------------------------|
| OUTPATIENT   | <input checked="" type="checkbox"/> | EMERGENCY ROOM RECORD | <input checked="" type="checkbox"/> |
| SUMMARY SHEET  | <input checked="" type="checkbox"/> | DISCHARGE SUMMARY     | <input checked="" type="checkbox"/> |
| HISTORY & PHYSICAL                                     | <input checked="" type="checkbox"/> | CONSULTATIONS         | <input checked="" type="checkbox"/> |
| PROGRESS REPORT  | <input checked="" type="checkbox"/> | DOCTORS' ORDERS       | <input checked="" type="checkbox"/> |
| OPERATIVE REPORT                                       | <input checked="" type="checkbox"/> | NURSES' NOTES         | <input checked="" type="checkbox"/> |
| DIAGNOSTIC REPORTS: X-RAYS, LAB, EKG., ECG., PATHOLOGY |                                     |                       | <input checked="" type="checkbox"/> |
| OTHER: <u>Reports</u>                                  |                                     |                       | <input checked="" type="checkbox"/> |

Information is to be released to:  
**HARRY S. COHEN & ASSOCIATES**  
**985 TWO CHATHAM CENTER**  
**PITTSBURGH, PA 15219**

The purpose of disclosure: Litigation

I understand that this consent is to include disclosure of:

- Alcohol and/or drug abuse record \_\_\_\_\_ (initials)
- Sexually transmitted disease information \_\_\_\_\_ (initials)
- Psychiatric records. \_\_\_\_\_ (initials)
- HIV/AIDS information \_\_\_\_\_ (initials)

A photocopy of this authorization is to be considered as valid as the original

I understand that the information used or disclosed pursuant to this authorization may be subject to re-disclosure by the recipient and may no longer be protected by Federal Law.

I understand that this authorization is subject to revocation at any time. A photocopy or facsimile of this authorization will be considered valid unless otherwise specified. I also understand and agree that this authorization will terminate as set forth above unless I revoke this authorization in writing. I understand that recipients may redisclose information which I have authorized them to receive.

SIGNATURE: x Angela M. Hale DATE: 5-6-04

PR NAME: Angela M. Hale

Relationship to patient of personal/legal representative signing for Patient: \_\_\_\_\_

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

|                                       |  |
|---------------------------------------|--|
| ANGELA HALE and RANDY A. HALE, )      | <i>Civil Action-Medical Professional Liability</i> |
| as parents and natural guardians of ) |  |
| REGANNE HALE, a minor, )              |  |
| Plaintiffs, )                         |  |
| )                                     | Case No. 2005-364-CD                               |
| vs. )                                 | <i>Consolidated at No. 2005-364-CD</i>             |
| MICHAEL J. KUSH, M.D., et al., )      |  |
| Defendants. )                         | JURY TRIAL DEMANDED                                |

|                                       |  |
|---------------------------------------|--|
| ANGELA HALE and RANDY A. HALE, )      | <i>Civil Action - Medical Professional Liability</i> |
| as parents and natural guardians of ) |  |
| ASHTYN HALE, a minor, )               |  |
| Plaintiffs, )                         |  |
| )                                     | Case No. 2006 - 936 CD                               |
| vs. )                                 | <i>Consolidated at No. 2005-364-CD</i>               |
| MICHAEL J. KUSH, M.D., et al., )      |  |
| Defendants. )                         | JURY TRIAL DEMANDED                                  |

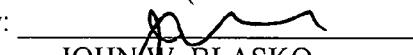
**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the Answer of Defendant Gary D. Ott, M.D. to Plaintiffs' Motion for Clarification of Court Order dated August 10, 2007/Motion to Preclude Evidence 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 Sept., 2007, to the attorney(s) of record:

Harry S. Cohen, Esquire  
Todd D. Bowlus, Esquire  
Harry S. Cohen & Associates, PC  
Two Chatham Center, Suite 985  
Pittsburgh, PA 15219

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

McQUAIDE, BLASKO,  
FLEMING & FAULKNER, INC.

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

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

ANGELA HALE and RANDY A.  
HALE, as parents and natural guardians  
of REGANNE HALE, a minor,

Plaintiffs,

vs.

GARY D. OTT, MD; an adult individual;  
and DUBOIS REGIONAL MEDICAL  
CENTER, a Pennsylvania corporation,

Defendants.

CIVIL DIVISION – MEDICAL  
PROFESSIONAL LIABILITY ACTION

Case No.: 2005-364-CD

*Consolidated at Case No.: 2005-364-CD*

**CERTIFICATE OF SERVICE  
OF COURT ORDER DATED  
SEPTEMBER 4, 2007 RE: HEARING  
DATE FOR PLAINTIFFS' MOTION  
FOR CLARIFICATION OF COURT  
ORDER/MOTION TO PRECLUDE  
EVIDENCE**

Filed on Behalf of Plaintiffs

---

ANGELA HALE and RANDY A.  
HALE, as parents and natural guardians  
of ASHTYN HALE, a minor,

Plaintiffs,

vs.

GARY D. OTT, MD; an adult  
individual; and DUBOIS REGIONAL  
MEDICAL CENTER, a Pennsylvania  
corporation,

Defendants.

CIVIL DIVISION – MEDICAL  
PROFESSIONAL LIABILITY ACTION

Case No.: 2006-936 CD

*Consolidated at Case No.: 2005-364-CD*

Counsel of Record for Plaintiffs:

Harry S. Cohen, Esquire  
PA I.D. #30682

Todd D. Bowlus, Esquire  
PA I.D. #89106

HARRY S. COHEN & ASSOCIATES, PC  
Two Chatham Center, Suite 985  
Pittsburgh, PA 15219  
Firm ID #813

(412) 281-3000

September 6, 2007

FILED  
10/30/07  
SEP 10 2007  
NO CC  
M  
William A. Shaw  
Prothonotary/Clerk of Courts  
Orig. to  
05-364-CD

JURY TRIAL DEMANDED

ORIGINAL

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

|  |   |  |
|--|---|--|
| ANGELA HALE and RANDY A.               | : | CIVIL DIVISION                               |
| HALE, as parents and natural guardians | : |  |
| of REGANNE HALE, a minor,              | : | Case No.: 2005-364-CD                        |
| Plaintiffs,                            | : | <i>Consolidated at Case No.: 2005-364-CD</i> |
| vs.                                    | : |  |
| GARY D. OTT, MD <i>ET AL</i> ,         | : |  |
| Defendants.                            | : |  |
| <hr/>                                  |   |  |
| ANGELA HALE and RANDY A.               | : | CIVIL DIVISION                               |
| HALE, as parents and natural guardians | : |  |
| of ASHTYN HALE, a minor,               | : | Case No.: 2006-936 CD                        |
| Plaintiffs,                            | : | <i>Consolidated at Case No.: 2005-364-CD</i> |
| vs.                                    | : |  |
| GARY D. OTT, MD <i>ET AL</i> ,         | : |  |
| Defendants.                            | : |  |

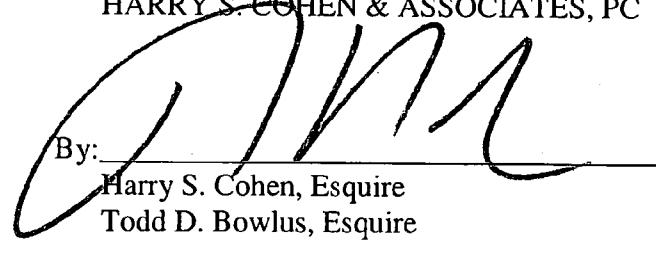
**CERTIFICATE OF SERVICE OF COURT ORDER DATED  
SEPTEMBER 4, 2007 RE: HEARING DATE FOR PLAINTIFFS' MOTION  
FOR CLARIFICATION OF COURT ORDER/MOTION TO PRECLUDE EVIDENCE**

I hereby certify that a true and correct copy of the foregoing **ORDER OF COURT**  
**DATED SEPTEMBER 4, 2007 RE: HEARING DATE FOR PLAINTIFFS' MOTION FOR**  
**CLARIFICATION OF COURT ORDER/MOTION TO PRECLUDE EVIDENCE** has been  
served on the 5<sup>th</sup> day of September 2007 to the following via facsimile:

**John W. Blasko, Esquire**  
McQuaide Blasko  
811 University Drive  
State College, PA 16801-6699

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

HARRY S. COHEN & ASSOCIATES, PC

By: 

Harry S. Cohen, Esquire  
Todd D. Bowlus, Esquire

9-17-07

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

ANGELA HALE and RANDY A. HALE, )  
as parents and natural guardians of )  
REGANNE HALE, a minor, )  
Plaintiffs, ) *Civil Action-Medical Professional Liability*  
vs. ) *Action*  
MICHAEL J. KUSH, M.D., and adult )  
individual; GARY D. OTT, M.D., an )  
adult individual; YOO, TAI, M.D., A )  
Pennsylvania corporation; and DUBOIS )  
REGIONAL MEDICAL CENTER, a )  
Pennsylvania corporation, ) *Case No. 2005-364 CD*  
Defendants. ) *Consolidated at No. 2005-364-CD*  

---

  
ANGELA HALE and RANDY A. HALE, ) *JURY TRIAL DEMANDED*  
as parents and natural guardians of )  
ASHTYN HALE, a minor, )  
Plaintiffs, ) *Civil Action-Medical Professional*  
vs. ) *Liability Action*  
MICHAEL J. KUSH, M.D., an adult )  
individual; GARY D. OTT, M.D., an )  
adult individual; and DUBOIS )  
REGIONAL MEDICAL CENTER, a )  
Pennsylvania corporation, ) *Type of Pleading:*  
Defendants. ) *Motion to Strike Plaintiffs' Untimely*  
 ) *Expert Report and/or Preclude*  
 ) *Inappropriate Expert Testimony*  
 ) *Filed on Behalf of Defendant*  
 ) *Gary D. Ott, M.D.*  
 ) *Counsel of Record for This Party*  
 ) *John W. Blasko, Esquire*  
 ) Pa. Supreme Court I.D. #6787  
 ) McQuaide, Blasko, Fleming &  
 ) Faulkner, Inc.  
 ) 811 University Drive  
 ) State College, PA 16801  
 ) (814) 238-4926  
 ) Fax: (814) 238-9624  
 ) *Counsel for Adverse Party Plaintiffs*  
 ) *Harry S. Cohen, Esquire*  
 ) *Todd D. Bowlus, Esquire*

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

ANGELA HALE and RANDY A.  
HALE, as parents and natural guardians  
of REGANNE HALE, a minor,

Plaintiffs,

vs.

GARY D. OTT, MD; an adult individual  
and DUBOIS REGIONAL MEDICAL  
CENTER, a Pennsylvania corporation

Defendants.

---

ANGELA HALE and RANDY A.  
HALE, as parents and natural guardians  
of ASHTYN HALE, a minor,

Plaintiffs,

vs.

GARY D. OTT, MD; an adult  
individual; and DUBOIS REGIONAL  
MEDICAL CENTER, a Pennsylvania  
corporation,

Defendants.

CIVIL DIVISION – MEDICAL  
PROFESSIONAL LIABILITY ACTION

Case No.: 2005-364-CD  
*Consolidated at Case No.: 2005-364-CD*

**PLAINTIFFS' SUGGESTED  
JURY CHARGE**

Filed on Behalf of Plaintiffs

---

CIVIL DIVISION – MEDICAL  
PROFESSIONAL LIABILITY ACTION

Case No.: 2006-936 CD ]  
*Consolidated at Case No.: 2005-364-CD*

Counsel of Record for Plaintiffs:

Harry S. Cohen, Esquire  
PA I.D. #30682

Todd D. Bowlus, Esquire  
PA I.D. #89106

HARRY S. COHEN & ASSOCIATES, PC  
Two Chatham Center, Suite 985  
Pittsburgh, PA 15219  
Firm ID #813

(412) 281-3000

**JURY TRIAL DEMANDED**

FICED 2CC AM  
08:45 AM Bowlus  
SEP 21 2007  
William A. Shaw  
Prothonotary/Clerk of Courts  
Original Filed  
20 05-364-CD

Judge  
Reilly

IN THE COURT OF COMMON PLEAS OF  
CLEARFIELD COUNTY, PENNSYLVANIA

ANGELA HALE and RANDY HALE, as \* CIVIL ACTION - LAW  
parents and natural guardians of \*  
REGANNE HALE, a minor, \*  
Plaintiffs \*

vs.

GARY D. OTT, M.D., AND \*  
DUBOIS REGIONAL MEDICAL CENTER, \*  
Defendants \* NO. 05-364-CD

ANGELA HALE and RANDY HALE, as  
parents and natural guardians of  
ASHTYN HALE, a minor,  
Plaintiffs

vs.

GARY D. OTT, M.D., AND  
DUBOIS REGIONAL MEDICAL CENTER,  
Defendants

NO. 05-364-CD

FILED  
01/01/2007  
SEP 21 2007

William A. Shaw  
Prothonotary/Clerk of Courts  
ICC Atty's: Chen, Bowles  
Blasko, Neely  
Johnson, Oliver  
936-CD

ORDER OF COURT

NOW, September 20, 2007, upon consideration of defense motion for compulsory nonsuit and on examination of the testimony of Dr. Cetrulo, IT IS THE ORDER OF THIS COURT that said motion be and is hereby denied.

BY THE COURT:

/s/ JOHN K. REILLY, JR.

John K. Reilly, Jr.  
Senior Judge

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

SEP 21 2007

William L. Fife  
Prothonotary/  
Clerk of Courts

Attest,

**FILED**

**SEP 21 2007**

William A. Shaw  
Prothonotary/Clerk of Courts

DATE: 9/21/07

You are responsible for serving all appropriate parties.  
 The Prothonotary's office has provided service to the following parties:  
 Plaintiff(s)  Plaintiff(s) Attorney  Other  
 Defendant(s)  Defendant(s) Attorney  
 Special Instructions:

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

**COPY FILED** *(Signature)*  
IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL DIVISION  
SEP 24 2007 *Judge Ammerman*

ANGELA HALE and RANDY A. HALE, ) William A. Shaw  
as parents and natural guardians of ) Prothonotary/Clerk of Courts  
REGANNE HALE, a minor, ) *Orig. to*  
Plaintiffs, ) *05-364CD*  
vs. )  
MICHAEL J. KUSH, M.D., and adult )  
individual; GARY D. OTT, M.D., an )  
adult individual; YOO, TAI, M.D., A )  
Pennsylvania corporation; and DUBOIS )  
REGIONAL MEDICAL CENTER, a )  
Pennsylvania corporation, )  
Defendants. )  

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ANGELA HALE and RANDY A. HALE, ) Case No. 2006-936 CD  
as parents and natural guardians of ) Consolidated at No. 2005-364-CD  
ASHTYN HALE, a minor, ) Civil Action-Medical Professional  
Plaintiffs, ) Liability Action  
vs. )  
MICHAEL J. KUSH, M.D., an adult ) JURY TRIAL DEMANDED  
individual; GARY D. OTT, M.D., an )  
adult individual; and DUBOIS )  
REGIONAL MEDICAL CENTER, a ) Type of Pleading:  
Pennsylvania corporation, ) POINTS FOR CHARGE  
Defendants. )  
) Filed on Behalf of Defendant  
)) *Gary D. Ott, M.D.*  
)  
)) Counsel of Record for This Party  
)) *John W. Blasko, Esquire*  
)) Pa. Supreme Court I.D. #6787  
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)) Counsel for Adverse Party Plaintiffs  
)) *Harry S. Cohen, Esquire*  
)) *Todd D. Bowlus, Esquire*

*John W. Blasko, Esquire*

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

|  |  |
|--|--|
| ANGELA HALE and RANDY A. HALE, )       |  |
| as parents and natural guardians of )  |  |
| REGANNE HALE, a minor, )               |  |
| Plaintiffs, )                          | <i>Civil Action-Medical Professional Liability</i>   |
| )                                      | <i>Action</i>  |
| vs. )                                  | No. 2005-364 CD                                      |
| MICHAEL J. KUSH, M.D., and adult )     |  |
| individual; GARY D. OTT, M.D., an )    |  |
| adult individual; YOO, TAI, M.D., A )  |  |
| Pennsylvania corporation; and DUBOIS ) | JURY TRIAL DEMANDED                                  |
| REGIONAL MEDICAL CENTER, a )           |  |
| Pennsylvania corporation, )            |  |
| Defendants. )                          |  |
| <hr/>                                  |  |
| ANGELA HALE and RANDY A. HALE, )       |  |
| as parents and natural guardians of )  |  |
| ASHTYN HALE, a minor, )                |  |
| Plaintiffs, )                          | <i>Civil Action - Medical Professional Liability</i> |
| )                                      | <i>Action</i>  |
| MICHAEL J. KUSH, M.D., an adult )      |  |
| individual; GARY D. OTT, M.D., an )    |  |
| adult individual; and DUBOIS )         |  |
| REGIONAL MEDICAL CENTER, a )           | JURY TRIAL DEMANDED                                  |
| Pennsylvania corporation, )            |  |
| Defendants. )                          |  |

**DEFENDANT GARY D. OTT, M.D.'S PROPOSED POINTS FOR CHARGE**

DEFENDANT'S PROPOSED POINT FOR CHARGE # 1.

Under all the evidence and the law applicable to this case, I direct, as a matter of law, that you return a verdict in favor of Defendant Dr. Gary D. Ott and against the Plaintiffs.

ACCEPTED \_\_\_\_\_  
REFUSED \_\_\_\_\_  
COVERED \_\_\_\_\_  
MODIFIED \_\_\_\_\_

DEFENDANT'S PROPOSED POINT FOR CHARGE # 2.

In civil cases such as this one, the Plaintiffs have the burden of proving those contentions which entitle them to relief.

When a party has the burden of proof on a particular issue, their contention on that issue must be established by a fair preponderance of the evidence. The evidence establishes a contention by a fair preponderance of the evidence if you are persuaded that it is more probably accurate and true than not.

To put it another way, think, if you will, of an ordinary balance scale, with a pan on each side. Onto one side of the scale, place all of the evidence favorable to the plaintiff; onto the other, place all of the evidence favorable to the defendant. If, after considering the comparable weight of the evidence, you feel that the scales tip, ever so slightly or to the slightest degree, in favor of the plaintiff, your verdict must be for them. If the scales tip in favor of the defendant, or are equally balanced, your verdict must be for the defendant.

The burden of proof is on the Plaintiffs to establish that: (1) Dr. Ott did not possess and employ the required skill and knowledge; or (2) did not exercise the care and judgment of a reasonable person in like cases, **and** that Plaintiffs' claimed injuries either: (1) resulted from the failure on the part of Dr. Ott to possess and employ the required skill and knowledge; or (2) resulted from his failure to exercise the care and judgment of a reasonable person in like circumstances. Dr. Ott does not have the burden of proving or disproving anything, although he may, and has, offered evidence in this case.

If, after considering all of the evidence, you feel persuaded that these propositions are more probably true than not true, your verdict must be for the Plaintiffs. Otherwise, your verdict must be for Dr. Ott.

Pennsylvania Suggested Standard Jury Instruction No. 5.50 (1981); Collins v. Hand, 431 Pa. 378, 246 A.2d 398, 401 (1968); Donaldson v. Maffucci, 397 Pa. 548, 156 A.2d 835, 838 (1959); MacDonald v. U.S., 767 F. Supp. 1295 (M.D. Pa. 1991), affirmed, 983 F.2d 1051.

ACCEPTED \_\_\_\_\_  
REFUSED \_\_\_\_\_  
COVERED \_\_\_\_\_  
MODIFIED \_\_\_\_\_

### DEFENDANT'S POINT FOR CHARGE #3

Dr. Ott is not legally liable for the alleged actions or inactions of any other physician, the nursing staff or any other health care providers involved in the care of Mrs. Hale. Similarly, Dr. Ott is not liable for any health care providers who have not been made parties to this lawsuit.

Willinger v. Mercy Cath. Med. Center, 312 A.2d 280 (1976); Strain v. Ferroni, 405 Pa. Super. 349, 592 A.2d 698, 704-05 (1991); Yorston v. Pennell, 397 Pa. 28, 153 A.2d 255, 259-60 (1959); Shull v. Schartz, 364 Pa. 554, 73 A.2d 402 (1950); Powell v. Risser, 375 Pa. 60, 99 A.2d 454, 456 (1953); Scacchi v. Montgomery, 365 Pa. 377, 75 A.2d 535, 537 (1950); Muller v. Likoff, 255 Pa. Super. 111, 310 A.2d 303, 205 (1973).

ACCEPTED \_\_\_\_\_  
REJECTED \_\_\_\_\_  
COVERED \_\_\_\_\_  
MODIFIED \_\_\_\_\_

## DEFENDANT'S POINT FOR CHARGE # 4

Dr. Ott is not negligent simply because a lawsuit has been filed against him.

The practice of medicine is a complex and experimental field. The law does not hold a physician liable for every unfortunate result, accidental occurrence, or failure of treatment which may occur following contact with a patient. The mere fact that you may find that a bad result or poor outcome followed Dr. Ott's contact with Mrs. Hale does **not**, in itself, establish any presumption or inference of negligence by Dr. Ott.

Collins v. Hand, 431 Pa. 378, 246 A.2d 398, 401 (9168); Lambert v. Soltis, 422 Pa. 304, 221 A.2d 173, 175 (1966); Ragan v. Steen, 29 Pa. Super. 515, 331 A.2d 724 (1974);  
Toogood v. Rogal, 824 A.2d 1140, 1150 (2003)

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| ACCEPTED | _____ |
| REJECTED | _____ |
| COVERED  | _____ |
| MODIFIED | _____ |

## DEFENDANT'S POINT FOR CHARGE # 5

A physician owes his patient a duty to employ that degree of knowledge, skill, and care ordinarily possessed by members of the medical profession. There is no requirement that he be infallible, and making a mistake is not negligence. Perfection and prophetic insight are not required.

Toogood v. Rogal, 824 A.2d 1140, 1150, (2003);  
Incollingo v. Ewing, 444 Pa. 263, 282  
A.2d 206, 213 (1971); Smith v. Yohe, 412 Pa. 94,  
194 A.2d 167, 170-71 (1963); Duckworth v.  
Bennett, 320 Pa. 47, 181 A. 558, 559 (1953);  
Powell v. Risser, 375 Pa. 60, 99 A.2d 454, 456  
(1953); Hodgson v. Bigelow, 335 Pa. 497, 7 A.2d  
338, 342 (1939); Ward v. Garvin, 328 Pa. 395,  
195 A. 885 (1938); English v. Free, 205 Pa. 624,  
55 A. 777, 777-78 (1903).

ACCEPTED \_\_\_\_\_  
REJECTED \_\_\_\_\_  
COVERED \_\_\_\_\_  
MODIFIED \_\_\_\_\_

## DEFENDANT'S PROPOSED POINT FOR CHARGE #6

An error in judgment on the part of the physician is also **not** evidence of negligence. If a physician possesses reasonable and ordinary learning and skill, and uses care such as is ordinarily used in like or similar situations by physicians of reasonable and average skill, he is not negligent even though the judgment which he arrives at may subsequently prove to be incorrect.

Smith v. Yohe, 412 Pa. 94, 194 A.2d 167 (1963);  
Toogood v. Rogal, 824 A.2d 1140, 1150 (2003).

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| COVERED  | _____ |
| MODIFIED | _____ |

## DEFENDANT'S PROPOSED POINT FOR CHARGE # 7

A physician must have and use the same knowledge and skill and exercise the same care as that which is usually had and exercised in the medical profession. A physician whose conduct does not meet this professional standard of care is negligent.

A physician who holds himself out as a specialist in a particular field of medicine must have and use the same knowledge and skill and exercise the same care as that which is usually had and exercised by other specialists in that same medical specialty. A specialist whose conduct does not meet this professional standard of care is negligent.

A physician must also keep informed of the contemporary developments in the medical profession or his specialty therein and he must use these current skills and knowledge. In other words, a physician is bound to be up to accepted and proven advances of the day in medical skills and knowledge. If he fails to inform himself of these advances or if he fails to employ these advances in the medical treatment of the patient he is negligent. Of course, a physician is not required to employ procedures or treatments which are still considered experimental or have not been confirmed as generally safe or effective.

A physician must also use the same degree of care as would a reasonable person under the circumstances, and if he fails to do so he is negligent.

You must decide whether or not Dr. Ott was negligent in any of these respects. In so doing, you must apply the standard of practice that existed for practitioners of the particular specialty in 2002, not 2007.

If you find that Dr. Ott was negligent in any of these respects, then you must determine whether this negligence was a substantial contributing factor in bringing about the injuries of the Plaintiffs. Only if you so find, may you return a verdict in favor of the Plaintiffs and against Dr. Ott.

Pennsylvania Suggested Standard Jury Instruction No.  
10.03A (1991) (amended).

ACCEPTED \_\_\_\_\_  
REFUSED \_\_\_\_\_  
COVERED \_\_\_\_\_  
MODIFIED \_\_\_\_\_

DEFENDANT'S POINT FOR CHARGE #8

The art of healing frequently calls for balancing of risks and dangers to a patient. Consequently, if injury results from the course adopted, where no negligence or fault is present, liability should not be imposed upon a physician actually seeking to assist the patient.

Toogood v. Rogal, 824 A.2d 1140 (2003).

ACCEPTED \_\_\_\_\_  
REJECTED \_\_\_\_\_  
COVERED \_\_\_\_\_  
MODIFIED \_\_\_\_\_

## DEFENDANT'S POINT FOR CHARGE #9

In addition, medical uncertainties exist because each patient is unique, and undesirable results occur even when the diagnosis is correct and treatment is properly administered.

A physician is not a warrantor of cures. Physicians do not guarantee the outcome of their care and the result of medical treatment or surgery is not certain. Thus, no inference of negligence arises from an undesirable outcome of medical care.

Toogood v. Rogal, 824 A.2d 1140, 1150, 1151 (2003).

ACCEPTED \_\_\_\_\_  
REJECTED \_\_\_\_\_  
COVERED \_\_\_\_\_  
MODIFIED \_\_\_\_\_

DEFENDANT'S POINT FOR CHARGE #10

A physician is not liable simply because a patient failed to improve or when serious disease processes were not arrested and where another course of action might possibly have brought a better result.

Toogood v. Rogal, 824 A.2d 1140, 1150 (2003).

ACCEPTED \_\_\_\_\_  
REJECTED \_\_\_\_\_  
COVERED \_\_\_\_\_  
MODIFIED \_\_\_\_\_

## DEFENDANT'S POINT FOR CHARGE # 11

In order for Plaintiffs to recover against Dr. Ott, the Plaintiffs must prove that any negligent conduct of Dr. Ott was a substantial factor in bringing about the injury. This is what the law recognizes as legal cause. A substantial factor is an actual, real factor, although the result may be unusual or unexpected, but it is not a factor having no connection or only an insignificant connection to the injury, or an imaginary or fanciful factor.

A defendant may not be held liable, even if he is found to be negligent, if his negligence was not a substantial factor in bringing about harm to the plaintiff. Similarly, if other causes would have produced the harm independent of a defendant's negligence, the defendant is not liable.

Jones v. Montefiore Hospital, 494 Pa. 410, 431 A.2d 920, 923 (1981); Majors v. Broadhead Hotel, 416 Pa. 265, 205 A.2d 873, 878 (1965).

|          |       |
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| ACCEPTED | _____ |
| REFUSED  | _____ |
| COVERED  | _____ |
| MODIFIED | _____ |

DEFENDANT'S PROPOSED POINT FOR CHARGE #12

If you find that Plaintiffs would have suffered the harm complained of regardless of the conduct of Dr. Ott, then Dr. Ott's conduct would not be a substantial factor in bringing about any harm to Plaintiffs, and your verdict must be in favor of Dr. Ott.

Hamil v. Bashline, 481 Pa. 256, 392 A.2d 1280 (1978).

|          |       |
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| REJECTED | _____ |
| COVERED  | _____ |
| MODIFIED | _____ |

DEFENDANT'S PROPOSED POINT FOR CHARGE # 13

You are not permitted to determine your verdict based on sympathy for a party.

See S.S.J.I. (Civ.) 20.00 subsection (8)

|          |       |
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| ACCEPTED | _____ |
| REFUSED  | _____ |
| COVERED  | _____ |
| MODIFIED | _____ |

DEFENDANT'S PROPOSED POINT FOR CHARGE # 14

You cannot speculate or guess as to the proximate cause of the injuries of which the Plaintiffs complain. Plaintiffs have the burden of proving with reasonable medical certainty that the injuries complained of were caused by the allegedly negligent acts or omissions of Dr. Ott, and if you are left to speculate or guess as to whether Plaintiffs' claimed injuries were the result of the allegedly negligent acts or omissions of Dr. Ott, you must find in his favor.

Cwiakala v. Paal, 427 Pa. 322, 235 A.2d 145, 146-47 (1967); Laubach v. Haigh, 433 Pa. 487, 252 A.2d 682, 683 (1969); Gordon v. Trovato, 234 Pa. Super. 279, 338 A.2d 653, 657 (1975).

ACCEPTED: \_\_\_\_\_  
REFUSED: \_\_\_\_\_  
COVERED: \_\_\_\_\_  
MODIFIED: \_\_\_\_\_

## DEFENDANT'S POINT FOR CHARGE #15

Physicians hold an important place in our society due to the role that they play in the health and even survival of the peoples of this nation. For that reason, society does not allow a physician's actions to be second guessed at trial without a clear understanding of the standards of care required.

Toogood v. Rogal, 824 A.2d 1140, 1151 (2003).

ACCEPTED: \_\_\_\_\_  
REFUSED: \_\_\_\_\_  
COVERED: \_\_\_\_\_  
MODIFIED: \_\_\_\_\_

## DEFENDANT'S PROPOSED POINT FOR CHARGE # 16

The opinion of an expert is necessary to establish the standard of care required under the circumstances, that a deviation from said standard existed, and that the alleged injuries were proximately caused by the deviation from the standard of care. In this latter regard, expert testimony is necessary to establish the causal connection between the injury and the allegedly negligent conduct with reasonable medical certainty in those cases where the connection is not obvious, such as in this case.

Brannan v. Lankenau Hospital, 490 Pa. 588, 417 A.2d 196, 199 (1980); Maliszewski v. Rendon, 374 Pa.Super. 109, 542 A.2d 170, 172 (1988), appeal denied, 526 Pa. 617, 554 A.2d 510 (1988).

ACCEPTED: \_\_\_\_\_  
REFUSED: \_\_\_\_\_  
COVERED: \_\_\_\_\_  
MODIFIED: \_\_\_\_\_

DEFENDANT'S PROPOSED POINT FOR CHARGE # 17

A witness who has special knowledge, skill, experience, training or education in a particular science, profession or occupation may give his opinion as an expert as to any matter in which he is skilled. In determining the weight to be given to his opinion, you should consider the qualifications, experience and reliability of the expert and the reasons given for his opinion. You are not bound by an expert's opinion merely because he is an expert; you may accept or reject it, as in the case of other witnesses. Give it the weight, if any, to which you deem it entitled.

Pennsylvania Suggested Standard Jury Instruction  
5.30.

ACCEPTED: \_\_\_\_\_  
REFUSED: \_\_\_\_\_  
COVERED: \_\_\_\_\_  
MODIFIED: \_\_\_\_\_

## DEFENDANT'S PROPOSED POINT FOR CHARGE # 18

In resolving any conflict that may exist in the testimony of expert witnesses, you are entitled to weigh the opinion of one expert against that of another. In doing this, you should consider the relative qualifications and reliability of the expert witnesses, as well as the reasons for each opinion and the facts and other matters upon which it was based.

Pennsylvania Suggested Standard Jury Instruction  
5.33 (1981).

ACCEPTED: \_\_\_\_\_  
REFUSED: \_\_\_\_\_  
COVERED: \_\_\_\_\_  
MODIFIED: \_\_\_\_\_

## DEFENDANT'S PROPOSED POINT FOR CHARGE # 19

In general, the opinion of an expert has value only when you accept the facts upon which it is based. This is true whether the facts are assumed hypothetically by the expert, come from his personal knowledge, from some other proper source, or from some combination of these.

Questions may have been asked in which an expert witness was invited to assume that certain facts were true and to give an opinion based upon that assumption. These are called hypothetical questions. If you find that any material fact assumed in a particular hypothetical question has not been established by the evidence, you should disregard the opinion of the expert given in response to that question. (By material fact, we mean one which is important to the expert in forming his opinion.)

Similarly, if the expert has made it clear that his opinion is based on the assumption that a particular fact did not exist, and from the evidence you find that it did exist and that it was material, you should give no weight to the opinion so expressed.

Pennsylvania Suggested Standard Jury Instructions Nos. 5.31, 5.32 (1997); Battistone v. Benedetti, 385 Pa. 163, 122 A.2d 536, 539 (1956); Jackson v. United States Pipeline Co., 325 Pa. 436, 191 A. 165, 166 (1937), *quoted in Gordon v. State Farm Life Ins. Co.*, 415 Pa. 256, 203 A.2d 320, 322 (1964).

ACCEPTED: \_\_\_\_\_  
REFUSED: \_\_\_\_\_  
COVERED: \_\_\_\_\_  
MODIFIED: \_\_\_\_\_

## DEFENDANT'S PROPOSED POINT FOR CHARGE #20

The mere "possibility" that the claimed injuries could be related to the negligence at issue is **not** sufficient proof of causation. In such case, the Plaintiffs have not met their burden of proof on the item of injury at issue.

Gordon v. Trovato, 234 Pa. Super. 279, 338 A.2d 653, 654, 657 (1975); Rice v. Hill, 315 Pa. 166, 172-73, 172 A. 289 (1934); Lorch v. Eglin, 369 Pa. 314, 321, 85 A.2d 841, 844 (1952); Baccare v. Mennella, 246 Pa. Super. 53, 369 A.2d 806, 807, 809 (1976); American Air Filter Co., Inc. v. McNichol, 527 F.2d 1297 (3rd. Cir. 1975).

|          |       |
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| ACCEPTED | _____ |
| REJECTED | _____ |
| COVERED  | _____ |
| MODIFIED | _____ |

## DEFENDANT'S POINT FOR CHARGE # 21

You will now retire to consider all of the evidence received in this trial in the light of the various factors I have presented to you and apply the law as I have given it to the facts as found by you.

If you find that Dr. Ott was negligent, and that his conduct was a substantial factor in bringing about harm to the Plaintiffs, your verdict must be in favor of the Plaintiffs and against Dr. Ott.

If you find that Dr. Ott was not negligent, or that his negligence was not a substantial factor in bringing about harm to the Plaintiffs, your verdict must be for Dr. Ott.

|          |       |
|----------|-------|
| ACCEPTED | _____ |
| REFUSED  | _____ |
| COVERED  | _____ |
| MODIFIED | _____ |

OPY

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

ANGELA HALE and RANDY A.  
HALE, as parents and natural guardians  
of REGANNE HALE, a minor,

Plaintiffs,

vs.

GARY D. OTT, MD; an adult individual  
and DUBOIS REGIONAL MEDICAL  
CENTER, a Pennsylvania corporation

Defendants.

ANGELA HALE and RANDY A.  
HALE, as parents and natural guardians  
of ASHTYN HALE, a minor,

Plaintiffs,

vs.

GARY D. OTT, MD; an adult  
individual; and DUBOIS REGIONAL  
MEDICAL CENTER, a Pennsylvania  
corporation,

Defendants.

CIVIL DIVISION – MEDICAL  
PROFESSIONAL LIABILITY ACTION

Case No.: 2005-364-CD

*Consolidated at Case No.: 2005-364-CD*

**PLAINTIFFS' ADDITIONAL  
SUGGESTED JURY CHARGE**

Filed on Behalf of Plaintiffs

CIVIL DIVISION – MEDICAL  
PROFESSIONAL LIABILITY ACTION

Case No.: 2006-936 CD

*Consolidated at Case No.: 2005-364-CD*

Counsel of Record for Plaintiffs:

Harry S. Cohen, Esquire  
PA I.D. #30682

Todd D. Bowlus, Esquire  
PA I.D. #89106

HARRY S. COHEN & ASSOCIATES, PC  
Two Chatham Center, Suite 985  
Pittsburgh, PA 15219  
Firm ID #813

(412) 281-3000

**JURY TRIAL DEMANDED**

FILED  
09/21/01  
SEP 24 2001  
No CC

William A. Shaw Filed per  
Prothonotary/Clerk of Courts Judge Ammerman  
Original to 05-364-CD

• RIGIN

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

|  |   |   |
|--|---|---|
| ANGELA HALE and RANDY A.               | : | CIVIL DIVISION                                |
| HALE, as parents and natural guardians | : | Case No.: 2005-364-CD                         |
| of REGANNE HALE, a minor,              | : | <i>Consolidated at Case No.: 2005-364-CD.</i> |
| Plaintiffs,                            | : |   |
| vs.                                    | : |   |
| GARY D. OTT, MD <i>ET AL</i> ,         | : |   |
| Defendants.                            | : |   |
| <hr/>                                  |   |   |
| ANGELA HALE and RANDY A.               | : | CIVIL DIVISION                                |
| HALE, as parents and natural guardians | : | Case No.: 2006-936 CD                         |
| of ASHTYN HALE, a minor,               | : | <i>Consolidated at Case No.: 2005-364-CD</i>  |
| Plaintiffs,                            | : |   |
| vs.                                    | : |   |
| GARY D. OTT, MD <i>ET AL</i> ,         | : |   |
| Defendants.                            | : |   |

**PLAINTIFFS' ADDITIONAL SUGGESTED JURY CHARGE**

AND NOW, come the Plaintiffs, Randy Hale and Angela Hale, parents and natural guardians of Reganne Hale and Ashtyn Hale, minors, by and through their attorneys of record, Harry S. Cohen & Associates, PC, by Harry S. Cohen, Esquire and Todd D. Bowlus, Esquire, and set forth the following Suggested Jury Charge:

**1. FAILURE TO PRODUCE EVIDENCE *Pa. S.S.J.I. 5.06 (Civ)***

In this case, Dr. Ott did not call Dr. Alshulter as a witness. The general rule as it applies in the case of failure to call a witness is as follows:

where a potential witness is within the control of one of the parties and is shown to have special information relevant to the case, so that his testimony would not merely be cumulative, and where that witness' relationship to one of the parties is such that the witness would ordinarily be expected to favor that party, then if that party does not produce the witness' testimony, and there is no satisfactory explanation for the

failure to do so, you may draw the inference that such testimony would not have been favorable.

Therefore, if you find that Dr. Alshulter, who was not called as a witness, was within the control of Dr. Ott, has special information that was relevant, and that his testimony would not merely be cumulative, and that his relationship to Dr. Ott is such that Dr. Alshulter would ordinarily be expected to favor Dr. Ott, then if there is no satisfactory explanation for Dr. Ott's failure to call that witness, you may infer that the testimony of Dr. Alshulter would have been unfavorable.

ACCEPTED \_\_\_\_\_ REJECTED \_\_\_\_\_ MODIFIED \_\_\_\_\_

Respectfully submitted,

HARRY S COHEN & ASSOCIATES, PC

By: 

Harry S. Cohen, Esquire  
Todd D. Bowlus, Esquire  
Attorneys for Plaintiffs  
Two Chatham Center, Suite 985  
Pittsburgh, PA 15219  
(412) 281-3000

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing **PLAINTIFFS' ADDITIONAL SUGGESTED JURY CHARGE** has been served pursuant to Pennsylvania Rule of Civil Procedure 440 by hand-delivery of a true and correct copy to the party and address listed below on the 24<sup>th</sup> day of September 2007:

**Daniel J. Nelson, Court Administrator**  
Clearfield County Courthouse  
One North Second Street  
Clearfield, PA 16830

**John W. Blasko, Esquire**  
McQuaide Blasko  
811 University Drive  
State College, PA 16801-6699

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

**HARRY S. COHEN & ASSOCIATES, PC**

By: 

\_\_\_\_\_  
Harry S. Cohen, Esquire  
Todd D. Bowlus, Esquire

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

COPIED NO CC  
03.14.04 SEP 24 2007

William A. Shaw  
Prothonotary/Clerk of Courts  
Orig. +0  
05-364-CD

ANGELA HALE and RANDY A. HALE, )  
as parents and natural guardians of )  
REGANNE HALE, a minor, )  
Plaintiffs, )  
vs. )  
MICHAEL J. KUSH, M.D., and adult )  
individual; GARY D. OTT, M.D., an )  
adult individual; YOO, TAI, M.D., A )  
Pennsylvania corporation; and DUBOIS )  
REGIONAL MEDICAL CENTER, a )  
Pennsylvania corporation, )  
Defendants. )

---

ANGELA HALE and RANDY A. HALE, ) Case No. 2006-936 CD  
as parents and natural guardians of ) Consolidated at No. 2005-364-CD  
ASHTYN HALE, a minor, ) Civil Action-Medical Professional  
Plaintiffs, ) Liability Action  
vs. ) JURY TRIAL DEMANDED  
MICHAEL J. KUSH, M.D., an adult )  
individual; GARY D. OTT, M.D., an )  
adult individual; and DUBOIS ) Type of Pleading:  
REGIONAL MEDICAL CENTER, a ) SPECIAL VERDICT QUESTIONS  
Pennsylvania corporation, )  
Defendants. )  
) Filed on Behalf of Defendant  
Gary D. Ott, M.D.  
)  
Counsel of Record for This Party  
John W. Blasko, Esquire  
) Pa. Supreme Court I.D. #6787  
McQuaide, Blasko, Fleming &  
Faulkner, Inc.  
) 811 University Drive  
State College, PA 16801  
) (814) 238-4926  
Fax: (814) 238-9624  
)  
Counsel for Adverse Party Plaintiffs  
Harry S. Cohen, Esquire  
Todd D. Bowlus, Esquire

*John W. Blasko*

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

ANGELA HALE and RANDY A. HALE,      )  
as parents and natural guardians of      )  
REGANNE HALE, a minor,      )  
    Plaintiffs,      )      *Civil Action-Medical Professional Liability*  
    )      *Action*  
    vs.      )      No. 2005-364 CD  
MICHAEL J. KUSH, M.D., and adult      )  
individual; GARY D. OTT, M.D., an      )  
adult individual; YOO, TAI, M.D., A      )  
Pennsylvania corporation; and DUBOIS      )      JURY TRIAL DEMANDED  
REGIONAL MEDICAL CENTER, a      )  
Pennsylvania corporation,      )  
    Defendants.      )

---

ANGELA HALE and RANDY A. HALE,      )  
as parents and natural guardians of      )      Case No.      2006 - 936 CD  
ASHTYN HALE, a minor,      )  
    Plaintiffs,      )      *Civil Action - Medical Professional Liability*  
    )      *Action*  
    vs.      )  
MICHAEL J. KUSH, M.D., an adult      )  
individual; GARY D. OTT, M.D., an      )  
adult individual; and DUBOIS      )  
REGIONAL MEDICAL CENTER, a      )      JURY TRIAL DEMANDED  
Pennsylvania corporation,      )  
    Defendants.      )

SPECIAL VERDICT QUESTIONS

TO THE JURY:

Based on the preponderance of the evidence, answer the following Special Verdict  
Questions which have been propounded to you.

**QUESTION #1:**

Were any of the following Defendants negligent:

a) GARY D. OTT, M.D.,

(check one)  Yes

No

b) DUBOIS REGIONAL MEDICAL CENTER, through its agents, employees and representatives

(check one)  Yes

No

**INSTRUCTIONS:**

- (a) If you have answered "Yes" to Question #1, as to any of the Defendants, proceed to Question #2 below.
- (b) If you have answered "No" above as to all Defendants, do not answer any more questions and return to the Courtroom after the jury foreperson has signed the last page.

**QUESTION #2:**

If you answered Question #1 "yes" as to one or more of the Defendants, was the negligence of that Defendant a substantial factor in bringing about the harm to Plaintiff:

a) GARY D. OTT, M.D.,

(check one)  Yes

No

*(Answer only if you answered "yes" as to this Defendant in Question #1)*

b) DUBOIS REGIONAL MEDICAL CENTER, through its agents, employees and representatives

(check one)  Yes

No

*(Answer only if you answered "yes" as to this Defendant in Question #1)*

**INSTRUCTIONS:**

- (a) If you have answered "Yes" as to a Defendant both as to Question #1 and Question #2, proceed to Question #3.
- (b) If you answered "No" as to any Defendant in response to Question #2, do not answer any more questions and return to the Courtroom after the jury foreperson has signed the last page.

**QUESTION #3:**

Only if you have answered "Yes" to Questions #1 and #2, what percentage of causal negligence was attributable to each Defendant?

Percentage of causal negligence \_\_\_\_\_% (enter 0 to 100%)  
attributable to GARY D. OTT, M.D.

*(Answer only if you answered "yes" as to this Defendant in Questions #1 and #2)*

Percentage of causal negligence \_\_\_\_\_% (enter 0 to 100%)  
attributable to DUBOIS REGIONAL  
MEDICAL CENTER, through its  
agents, employees and representatives

*(Answer only if you answered "yes" as to this Defendant in Questions #1 and #2)*

TOTAL MUST EQUAL: 100%

**INSTRUCTIONS:**

Please return to the Courtroom after the foreperson has signed below.

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

\_\_\_\_\_  
JURY FOREPERSON

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

ANGELA HALE and RANDY A. HALE, :  
as parents and natural guardians of :  
REGANNE HALE, a minor, :  
Plaintiffs, :  
v. : No. 2005-364-CD  
Consolidated at No. 2005-364-CD

GARY D. OTT, M.D.; an adult individual :  
and DUBOIS REGIONAL MEDICAL :  
CENTER, a Pennsylvania corporation :  
Defendants :

ANGELA HALE and RANDY A. HALE, :  
as parents and natural guardians of :  
ASHTYN HALE, a minor, :  
Plaintiffs, :

v. : No. 2006-936-CD  
Consolidated at No. 2005-364-CD

GARY D. OTT, M.D.; an adult individual :  
and DUBOIS REGIONAL MEDICAL :  
CENTER, a Pennsylvania corporation :  
Defendants :

**COPYED**

SEP 24 2007  
0145614  
William A. Shaw  
Prothonotary/Clerk of Courts

**VERDICT**

We, the jurors empanelled in the above entitled case, find as follows

Question 1:

Do you find the Defendant, Gary D. Ott, M.D., negligent in the care and treatment of  
Angela Hale?

Yes \_\_\_\_\_

No

If you answered #1 "no", the Plaintiffs cannot recover against Defendant Gary D. Ott,  
M.D. and you need not answer question #2, proceed to answer question #3.

Question 2:

Do you find that Defendant Gary D. Ott, M.D.'s negligence was a factual cause of harm  
for Reganne and Ashtyn Hale?

Yes \_\_\_\_\_

No

If you answered question #2 "no", the Plaintiffs cannot recover against Defendant Gary D. Ott, M.D.

Question 3:

Do you find the Defendant Dubois Regional Memorial Hospital negligent in the care and treatment of Angela Hale?

Yes \_\_\_\_\_

No

If you answered question #3 "no", the Plaintiffs cannot recover against Defendant Dubois Regional Memorial Hospital and you need not answer question #4.

Question 4:

Do you find that Defendant Dubois Regional Memorial Hospital's negligence was a factual cause of harm for Reganne and Ashtyn Hale?

Yes \_\_\_\_\_

No \_\_\_\_\_

If you answered question #4 "no", the Plaintiffs cannot recover against Defendant Dubois Regional Memorial Hospital.

Question 5:

If you find both Defendant Gary D. Ott, M.D. and Defendant Dubois Regional Memorial Hospital liable, taking the combined causal negligence that was a factual cause of harm to Reganne and Ashtyn Hale as 100%, what percentage of that causal negligence was attributable to:

Defendant Gary D. Ott, M.D.: 0 %

Defendant Dubois Regional Memorial Hospital: 0 %

Total 100%

9-24-07

Date

Brian Daniel

Jury Foreman

COURT OF COMMON PLEAS, CLEARFIELD COUNTY  
PENNSYLVANIA

CASE NO. 05-364-CD and 06-936-CD

Date of Jury Selection: August 28, 2007

Presiding Judge: John K. Reilly Jr., SJSP

Angela Hale and Randy A. Hale, as parents  
and natural guardians of Reganne Hale, a  
minor

*Betsy Nissel 9/11-19-20-21*  
Court Reporter: *Beth Krebs 9/18-21*

VS

Gary D. Ott M.D. and DuBois Regional  
Medical Center

Date of Trial: September 17-26, 2007

Date Trial Ended: Sept. 24, 2007

MEMBERS OF THE JURY

1. Frederick Cutler  
2. Traci Moore  
3. Brian David  
4. Linda Young  
5. James Emigh  
6. Ellery Solt  
ALT #1 Susan Pilosky

7. Jeffrey Freeman  
8. Carol Daly  
9. Angi Lansberry  
10. Roberta Ball  
11. Shirley Freeman  
12. Deborah Benninger  
ALT #2 John Rumery

PLAINTIFF'S WITNESSES:

1. Kathryn Raybuck R.N.  
2. Christie Smith Freeman R.N.  
3. Gary D. Ott M.D.  
4. Curis Setruld M.D.  
5. Angela Hale  
6. Randy A. Hale  
7. Patricia S. Fordorko PAD - RNC.

PLAINTIFF'S ATTY: Harry S. Cohen Esq.  
Todd D. Bowles, Esq.

ADDRESS TO JURY: 12:22 P.M.

JUDGE'S ADDRESS TO JURY: 2:22 P.M.

VERDICT: In favor of Defendants: Dr. Gary D. Ott  
DuBois Reg. Med. Center.

8. Re-call Angela Hale  
9. Sandra Reznick, M.D.

DEFENDANT'S WITNESSES:

1. Gary D. Ott - M.D.  
2. James Martin - M.D.  
3. Healdene Jones, R.N.  
4. Mark Evans, M.D.  
5. \_\_\_\_\_  
6. \_\_\_\_\_

DEFENDANT'S ATTY: John W. Blasko Esq and  
David R. Johnson Esq. Fred Bottaillia Esq.  
Brad Korinski, Esq. 10:03 AM. Atty Johnson  
ADDRESS TO JURY: 10:46 AM Atty Blasko

JURY OUT: 3:01 PM JURY IN: 3:45 PM

FOREPERSON: Brian David

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

|  |  |
|--|--|
| ANGELA HALE and RANDY A. HALE, )   |  |
| as parents and natural guardians of )  |  |
| REGANNE HALE, a minor, )   |  |
| Plaintiffs, )  | <i>Civil Action-Medical Professional Liability Action</i>  |
| )  | Case No. 2005-364 CD   |
| vs. )  | <i>Consolidated at No. 2005-364-CD</i>   |
| MICHAEL J. KUSH, M.D., and adult )   |  |
| individual; GARY D. OTT, M.D., an )  |  |
| adult individual; YOO, TAI, M.D., A )  |  |
| Pennsylvania corporation; and DUBOIS )   | JURY TRIAL DEMANDED  |
| REGIONAL MEDICAL CENTER, a )   |  |
| Pennsylvania corporation, )  |  |
| Defendants. )  |  |
| <hr/>  |  |
| ANGELA HALE and RANDY A. HALE, )   | Case No. 2006-936 CD ,   |
| as parents and natural guardians of )  | <i>Consolidated at No. 2005-364-CD</i>   |
| ASHTYN HALE, a minor, )  | <i>Civil Action-Medical Professional Liability Action</i>  |
| Plaintiffs, )  |  |
| vs. )  | JURY TRIAL DEMANDED  |
| MICHAEL J. KUSH, M.D., an adult )  |  |
| individual; GARY D. OTT, M.D., an )  |  |
| adult individual; and DUBOIS )   | Type of Pleading:  |
| REGIONAL MEDICAL CENTER, a )   | <i>Praecipe for Entry of Judgment</i>  |
| Pennsylvania corporation, )  | on the Verdict   |
| Defendants. )  |  |
| )  | Filed on Behalf of Defendant   |
| )  | <i>Gary D. Ott, M.D.</i>   |
| )  | Counsel of Record for This Party   |
| )  | <i>John W. Blasko, Esquire</i>   |
| )  | Pa. Supreme Court I.D. #6787   |
| )  | McQuaide, Blasko, Fleming &  |
| )  | Faulkner, Inc.   |
| )  | 811 University Drive   |
| )  | State College, PA 16801  |
| )  | (814) 238-4926   |
| )  | Fax: (814) 238-9624  |
| FILED pd \$20.00<br>9/8/35cm<br>OCT 05 2007<br>William A. Shaw<br>Prothonotary/Clerk of Courts<br>Original filed<br>to 05-364-CD | Counsel for Adverse Party Plaintiffs<br><i>Harry S. Cohen, Esquire</i><br><i>Todd D. Bowlus, Esquire</i> |

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

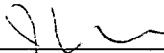
|                                       |  |
|---------------------------------------|--|
| ANGELA HALE and RANDY A. HALE, )      |  |
| as parents and natural guardians of ) |  |
| REGANNE HALE, a minor, )              |  |
| Plaintiffs, )                         | <i>Civil Action-Medical Professional Liability</i>   |
| )                                     | <i>Action</i>  |
| vs. )                                 | No. 2005-364 CD                                      |
| GARY D. OTT, M.D., an adult )         |  |
| individual; and DUBOIS REGIONAL )     | JURY TRIAL DEMANDED                                  |
| MEDICAL CENTER, a Pennsylvania )      |  |
| corporation, )                        |  |
| Defendants. )                         |  |
| <hr/>                                 |  |
| ANGELA HALE and RANDY A. HALE, )      |  |
| as parents and natural guardians of ) | Case No. 2006 - 936 CD                               |
| ASHTYN HALE, a minor, )               |  |
| Plaintiffs, )                         | <i>Civil Action - Medical Professional Liability</i> |
| )                                     | <i>Action</i>  |
| vs. )                                 |  |
| GARY D. OTT, M.D., an adult )         |  |
| individual; and DUBOIS REGIONAL )     | JURY TRIAL DEMANDED                                  |
| MEDICAL CENTER, a Pennsylvania )      |  |
| Corporation, )                        |  |
| Defendants. )                         |  |

**PRAECIPE FOR ENTRY OF JUDGMENT ON THE JURY'S VERDICT**

TO THE PROTHONOTARY:

Please enter judgment on the jury verdict entered on September 24, 2007, in favor of Defendant, Gary D. Ott, M.D., and against the Plaintiffs, Angela Hale and Randy A. Hale, as parents and natural guardians of Reganne Hale, a minor and Angela Hale and Randy Hale as parents and natural guardians of Ashtyn Hale, a minor, given that Post-Trial Motions have not been filed within 10 days, as required by Pa.R.C.P. 227.1(c).

McQUAIDE, BLASKO,  
FLEMING & FAULKNER, INC.

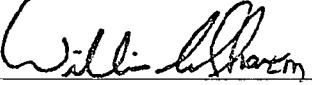
BY 

JOHN W. BLASKO  
Attorney for Defendant,  
Gary D. Ott, M.D.  
811 University  
State College, PA 16801  
(814) 238-4926

Dated: 10/4/07

JUDGMENT ENTERED ON THE JURY VERDICT OF SEPTEMBER 24, 2007 IN  
FAVOR OF DEFENDANT, GARY D. OTT, M.D. AND AGAINST PLAINTIFFS, ANGELA HALE  
AND RANDY A. HALE AS PARENTS AND NATURAL GUARDIANS OF REGANNE HALE  
AND ASHTYN, HALE, MINORS.

Dated: October 5, 2007

  
PROTHONOTARY

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

|                                       |  |
|---------------------------------------|--|
| ANGELA HALE and RANDY A. HALE, )      | <i>Civil Action-Medical Professional Liability</i>   |
| as parents and natural guardians of ) |  |
| REGANNE HALE, a minor, )              |  |
| Plaintiffs, )                         |  |
| )                                     | Case No. 2005-364-CD                                 |
| vs. )                                 | <i>Consolidated at No. 2005-364-CD</i>               |
| GARY D. OTT, M.D., et al., )          |  |
| Defendants. )                         | <b>JURY TRIAL DEMANDED</b>                           |
| <hr/>                                 |  |
| ANGELA HALE and RANDY A. HALE, )      | <i>Civil Action - Medical Professional Liability</i> |
| as parents and natural guardians of ) |  |
| ASHTYN HALE, a minor, )               | Case No. 2006 - 936 CD                               |
| Plaintiffs, )                         | <i>Consolidated at No. 2005-364-CD</i>               |
| )                                     |  |
| vs. )                                 |  |
| GARY D. OTT, M.D., et al., )          |  |
| Defendants. )                         | <b>JURY TRIAL DEMANDED</b>                           |

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the Praeince for Entry of Judgment on the Jury's Verdict in the above-captioned matter was mailed by regular mail, postage prepaid, at the Post Office, State College, Pennsylvania, on this 4th day of October, 2007, to the attorney(s) of record:

|  |   |
|--|---|
| Harry S. Cohen, Esquire<br>Todd D. Bowlus, Esquire<br>Harry S. Cohen & Associates, PC<br>Two Chatham Center, Suite 985<br>Pittsburgh, PA 15219 | David R. Johnson, Esquire<br>Thomson, Rhodes & Cowie, P.C.<br>1010 Two Chatham Center<br>Pittsburgh, PA 15219 |
|--|---|

McQUAIDE, BLASKO,  
FLEMING & FAULKNER, INC.

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

**COPY**

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

ANGELA HALE and RANDY A. HALE, as  
parents and natural guardians of REGANNE  
HALE, a minor,

Plaintiffs,

vs.

MICHAEL J. KUSH, M.D., an adult  
individual; GARY D. OTT, M.D.; an adult  
individual; YOO, TAI, Y., M.D., a  
Pennsylvania corporation; and DUBOIS  
REGIONAL MEDICAL CENTER, a  
Pennsylvania corporation,

Defendants.

---

ANGELA HALE and RANDY A. HALE, as  
parents and natural guardians of ASHTYN  
HALE, a minor,

Plaintiffs,

vs.

MICHAEL J. KUSH, M.D., an adult  
individual; GARY D. OTT, M.D., an adult  
individual; and DUBOIS REGIONAL  
MEDICAL CENTER, a Pennsylvania  
corporation.

Defendants.

CIVIL DIVISION

No. 05-364-CD

**CONSOLIDATED WITH**

No. 06-936-CD

Issue No.

PRAECIPE TO ENTER JUDGMENT

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** Orig. to 05-364-CD  
M 11/5/01  
OCT 09 2001

William A. Shaw  
Prothonotary/Clerk of Courts

Notice to Atty Cohen  
and Blasko

(6K)

PRAECLipe TO ENTER JUDGMENT

TO: PROTHONOTARY

Please enter judgment in favor of DuBois Regional Medical Center, one of the defendants, and against plaintiffs on the jury's verdict entered on September 24, 2007.

Respectfully submitted,

THOMSON, RHODES & COWIE, P.C.

David Johnson  
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 ENTER JUDGMENT 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 Oct., 2007:

Harry S. Cohen, Esquire  
Harry S. Cohen & Associates, PC  
Two Chatham Center, Suite 985  
Pittsburgh, PA 15219

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

THOMSON, RHODES & COWIE, P.C.

David 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

ANGELA HALE and RANDY A. HALE, as parents and natural guardians of REGANNE HALE, a minor, Plaintiffs, vs. MICHAEL J. KUSH, M.D., an adult individual; GARY D. OTT, M.D.; an adult individual; YOO, TAI, Y., M.D., a Pennsylvania corporation; and DUBOIS REGIONAL MEDICAL CENTER, a Pennsylvania corporation, Defendants.

---

ANGELA HALE and RANDY A. HALE, as parents and natural guardians of ASHTYN HALE, a minor, Plaintiffs, vs. MICHAEL J. KUSH, M.D., an adult individual; GARY D. OTT, M.D., an adult individual; and DUBOIS REGIONAL MEDICAL CENTER, a Pennsylvania corporation. Defendants.

NOTICE OF ORDER, DECREE OR JUDGMENT

TO:  Plaintiff  Defendant  Garnishee  Additional Defendant

You are hereby notified that the following Order, Decree, or Judgment has been entered against you on October 9, 2007.

Decree Nisi in Equity.

Final Decree in Equity.

Judgment of  Confession  Verdict  
 Default  Non-Suit  
 Non-Pros  Arbitration Award

Judgment is in the amount of \$ \_\_\_\_\_ PLUS COSTS.

( ) District Justice Transcript of Judgment in (Assumpsit/Trespass) in the amount of  
\$ \_\_\_\_\_ PLUS COSTS.

( ) If not satisfied within sixty (60) days, your motor vehicle operator's license will be suspended by the Pennsylvania Department of Transportation.

## PROTHONOTARY

By Willie Hansen  
Deputy

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

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