

**Jerjis Alajaji vs DuBois Radiologists et al**  
**2006-1018-CD**

## CIVIL ACTION

Date		Judge
6/28/2006	New Case Filed. ① Filing: Petition for Injunctive Relief, Paid by: Noble, Theron G. (attorney for Alajaji, Jerjis T.) Receipt number: 1914459 Dated: 6/28/2006 Amount: \$85.00 (Check) 3 Cert. to Atty.	No Judge No Judge 42 pg
	② Rule to Show Cause, filed. 4 Cert. to Atty. 1 pg NOW, this 28th day of June, 2006, Rule Returnable, for filing written response, is set for the 7th day of August, 2006 and hearing will be held on the 28th day of August, 2006 9:00 a.m.	Fredric Joseph Ammerman
	Case Filed.	Fredric Joseph Ammerman
7/21/2006	③ Sheriff Return, July 17, 2006 at 11:15 am served the within Petition for Injunctive Relief & Rule to Show Cause on DuBois Radiologists Inc. So Answers, Chester A. Hawkins, Sheriff by s/Marilyn Hamm Shff Hawkins costs pd by Noble \$45.30 1 pg	Fredric Joseph Ammerman Fredric Joseph Ammerman
8/10/2006	④ Preliminary Objections to Plaintiff's Petition for Injunctive Relief, filed by s/Mary-Jo Rebelo, Esq. No CC 6 pg ⑤ Praeclipe to Schedule Oral Argument in Accordance with Rule L211 and L1028(c) on Defendant DuBois Radiologists Inc.'s Preliminary Objections, filed by s/Mary-Jo Rebelo, Esq. No CC 3 pg ⑥ Order, NOW, this 8th day of August, 2006, 1 pg it is Ordered that the Court's June 28th 2006 Rule to Show Cause Order is Amended such that Def.'s written response to Plaintiff's Petition for Injunctive Relief is due on or before August 10, 2006. All other dates in the June 28, 2006 Rule to Show Cause Order remain unchanged. By the Court, /s/ Fredric J. Ammerman, Pres. Judge. 1CC Atty: Noble, Rebelo	Fredric Joseph Ammerman Fredric Joseph Ammerman Fredric Joseph Ammerman
8/14/2006	⑦ Motion To Continue Hearing On Plaintiff's Petition For Injunctive Relief, filed by s/ Ann B. Graff, Esquire. No CC 6 pg	Fredric Joseph Ammerman
8/16/2006	⑧ Order Of Court, Now, this 15th day of August, 2006, it is Ordered that Argument on Def., Dubois Radiologists, Inc.'s Preliminary Objections is scheduled for August 28, 2006 at 9:00 a.m. in Courtroom No. 1 of the Clfd. Co. Courthouse. By The Court, /s/ Fredric J. Ammerman, Pres. Judge. 2CC Atty. Rebelo 1 pg	Fredric Joseph Ammerman
8/23/2006	⑨ Amended Civil Complaint, filed by Atty. Noble no cert. copies. 45 pg	Fredric Joseph Ammerman
8/28/2006	⑩ Order, NOW, this 28th day of August, 2006, following argument on the Plaintiff's request for an injunction; Ordered that said request is Denied. By The Court, /s/ Fredric J. Ammerman, Pres. Judge. 2CC Atty: Noble, Rebelo 1 pg	Fredric Joseph Ammerman Fredric Joseph Ammerman
9/11/2006	⑪ Answer to Plaintiff's Amended Civil Complaint, filed by s/ Mary Jo Rebelo Esq. No CC. 25 pg	Fredric Joseph Ammerman
9/14/2006	⑫ Notice of Service, filed. This 13th day of September 2006, I did propound a true and correct copy of Plaintiff's First Set of Discovery Materials to Mary-Jo Robelo Esq., filed by s/ Theron G. Noble Esq. No CC. 2 pg	Fredric Joseph Ammerman
9/21/2006	⑬ Motion for Leave of Court to Amend Civil Complaint. filed by Atty. Noble no cert. copies. 7 pg	Fredric Joseph Ammerman
9/22/2006	⑭ Rule To Show Cause, NOW, this 22nd day of Sept., 2006, upon consideration of the Motion For leave of Court to Amend Civil Complaint, a Rule is issued upon the Defendant. Rule Returnable for filing a written response is set for the 13th day of October, 2006 and hearing will be held on the 31st day of Oct., 2006, commencing at 1:30 p.m. Courtroom No. 1. By the Court, /s/ Fredric J. Ammerman, Pres. Judge. 1CC to Atty 1 pg	Fredric Joseph Ammerman

Current Judge: Fredric Joseph Ammerman

Jerjis T. Alajajivs.DuBois Radiologists, Inc., et al

## CIVIL ACTION

Date	Judge
9/27/2006 (15) Notice of Service, filed. This 26th day of September 2006 that I did propound a true and correct copy of the Rule to Show Cause issued upon his Motion for Leave of Court and Amend Civil Complaint to Mary-Jo Robelo Esq. filed by s/ Theron G Noble Esq. No CC. 3 pg	Fredric Joseph Ammerman
10/17/2006 (16) Motion To Compel And For Sanctions, filed by s/ Theron G. Noble, Esquire. Fredric Joseph Ammerman No CC 7 pg	
10/19/2006 (17) Rule, NOW, this 18th day of Oct., 2006, upon consideration of the Motion to Compel And For Sanctions, a Rule is issued upon Defendant/Respondent. Rule Returnable for filing written response is set for the 31st day of Oct. 2006, and hearing will be held on the 31st day of Oct., 2006, commencing at 1:30 p.m. Courtroom No. 1. By The Court, /s/ Fredric J. Ammerman, Pres. Judge. 1CC to Atty 1 pg	Fredric Joseph Ammerman
10/25/2006 (18) Notice of Service, filed. On this 24th day of October 2006 served a true and correct copy of the Rule to Show Cause issued upon Motion to Compel and for Sanctions to Mary-Jo Robeo Esq., filed by s/ Theron G. Noble Esq. NO CC. 3 pg	Fredric Joseph Ammerman
10/26/2006 (19) Notice of Service, filed. This 25th day of october 2006, I did propounf on Defendant/Respondent, Plaintiff/Petitioner's Second Set of Discovery Materials Consisting of Interrogatories and Request for Production of Documents on Mary-Jo Robelo Esq., filed by s/ Theron G. Noble Esq. No CC. 3 pg	Fredric Joseph Ammerman
10/31/2006 (20) Order AND NOW, this 30th day of October, 2006, upon consideration of Plaintiff's Motion for Leave of Court to Amend Civil Complaint, the same is hereby GRANTED and Plaintiff may amend it Amended Civil Complaint in accordance with said MOTION. Plaintiff shall do so within 20 days hereof. BY THE COURT: /s/ Fredric J. Ammerman, P. Judge. 3CC Noble. 1 pg	Fredric Joseph Ammerman
11/1/2006 (21) Order, NOW, this 31st day of October, 2006, Motion to Compel is dimissed. Fredric Joseph Ammerman In the event said documents are not so produced or the parties do not proceed as agreed upon as to the objections, Plaintiff may bring forward its Motion to Compel and For Sanctions at that time. By the Court, /s/ Fredric J. Ammerman, Pres. Judge. 1CC to Atty. Nobel 1 pg	
11/3/2006 (22) Notice of Service, filed. This 2nd day of November 2006, Serve a true and correct copy of the ORDER issued upon Plaintiff's Motion to Amend to Mary-Jo Robelo Esq., filed by s/ Theron G. Noble Esq. NO CC. 2 pg	Fredric Joseph Ammerman
11/6/2006 (23) Notice of Service, filed. This 3rd day of November 2006, served a true and correct copy of the ORDER issued upon Plaintiff's Motion to Compel and For Sanctions to Mary-Jo Robelo Esq., filed by s/ Theron G. Noble. No CC. 2 pg	Fredric Joseph Ammerman
11/13/2006 (24) Second Amended Civil Complaint, filed by s/ Theron G. Noble Esq. No CC. 55 pg	Fredric Joseph Ammerman
11/27/2006 (25) Verification to Second Amended Civil Complaint, filed by s/ Theron G. Noble Esq. No CC. 3 pg	Fredric Joseph Ammerman
12/7/2006 (26) Defendant's Acceptance of Service, filed. I accept service of process, pursuant to Pa.R.Civ.P. 402 (b) of the Second Amended Civil Complaint on behalf of Defendant DuBois Radiologists Inc., Ghazanfar A. Shah M.D., and George M. Kosco, signed by s/ Mary Jo Rebelo Esq. No CC. 4 pg	Fredric Joseph Ammerman
12/11/2006 (27) Answer to Plaintiff's Second Amended Civil Complaint, filed by s/ Mary-Jo Rebelo Esq. No CC. 21 pg	Fredric Joseph Ammerman
12/19/2006 (28) Motion For Partial Judgment on The Pleadings, Summary Judgment and to Bifurcate Request For Permanent Injunction, filed by s/Theron G. Noble, Esquire. No CC 18 pg	Fredric Joseph Ammerman

Date: 4/22/2015  
Time: 02:26 PM  
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**Clearfield County Court of Common Pleas**

User: LGHRIST

ROA Report

Case: 2006-01018-CD

Current Judge: Fredric Joseph Ammerman

Jerjis T. Alajajivs.DuBois Radiologists, Inc., et al

**CIVIL ACTION**

Date	Judge
1/3/2007 (24) Rule to Show Cause, NOW, this 29th day of December 2006, upon consideration of the attached MOTION FOR PARTIAL JUDGMENT ON THE PLEADINGS, MOTION FOR SUMMARY JUDGMENT AND TO BIFURCATE PERMANENT INJUNCTION REQUEST, a Rule is hereby issued upon the defendants to show cause why the Motion should not be granted. RULE RETURNABLE, for filing written response, is set for the 19th day of January 2007 and hearing will be held on the 25th day of January 2007 commencing at 10:30 a.m. Courtroom NO. 1. BY THE COURT: /s/ Fredric J. Ammerman, P. Judge. 1CC Atty Noble.	Fredric Joseph Ammerman 2 pg
1/9/2007 (25) Notice of Service, filed. This 8th day of January 2007 served a true and correct copy of the Rule Returnable issued upon Plaintiff's Motion for Partial Judgment on the Pleadings, Summary Judgment and to Bifurcate Permanent Injunctive Request on Mary-Jo Rebelo Esq., filed by s/ Theron G. Noble Esq. NO CC.	Fredric Joseph Ammerman 2 pg
1/19/2007 (31) Defendants' Motion to Strike as Premature-Plaintiff's Motion for Partial Summary Judgment on the Pleadings, Summary Judgment and to Bifurcate Request for Permanet Injunction, filed by Atty. Rebelo 1 Cert. to Atty. 14 pg	Fredric Joseph Ammerman
2/21/2007 (32) Notice of Service, on the 20th of Feb., 2007, served Plaintiff's Third Set of Discovery Materials, including Interrogatories and Request for Production of Documents, upon Mary-Jo Rebelo, Esquire by first class mail. Filed by s/ Theron G. Noble, Esquire. No CC 2 pg	Fredric Joseph Ammerman
2/22/2007 Deposition of Ghazanfar A. Shah, M.D., Jan. 4, 2007, filed. Deposition of Rhonda Heffner, Jan. 5, 2007, filed. Deposition of George M. Kosko, M.D., filed.	Fredric Joseph Ammerman Fredric Joseph Ammerman Fredric Joseph Ammerman
2/28/2007 (33) Order, NOW, this 28th day of Feb., 2007, following argument on the Plaintiff's Motion for Partial Summary Judgment and to Bifurcate as well as Defendants' Motion to Strike Plaintiff's Motion, it is Ordered: (see original). By The Court, /s/ Fredric J. Ammerman, Pres. Judge. 1 pg	Fredric Joseph Ammerman
2/24/2009 (34) Notice of Service, filed. This 23rd day of February 2009, that I did propound Fredric Joseph Ammerman upon the Defendants in this case Plaintiff's Fourth Set of Discovery Materials, including Interrogatories and Request for Production of Documents via first class mail to Mary-Jp Rebelo Esq., filed by s/ Theron G. Noble Esq. No CC. 2 pg	Fredric Joseph Ammerman
4/24/2009 (35) Motion to Compel, filed by Atty. Noble no cert. copies. 4 pg	Fredric Joseph Ammerman
4/28/2009 (36) Order, AND NOW, this 27th day of April, 2009, being the date said for argument on Plaintiff's Motion to Compel, the same is Granted. Defendants shall produce full and complete responses to Plaintiff's Fourth Discovery Request within 20 days hereof. BY THE COURT: /s/Fredric J. Ammerman, P.J. One CC Attorney Noble 1 pg	Fredric Joseph Ammerman
5/1/2009 (37) Notice of Service, filed. This 30th day of April 2009, did serve upon the defendants in this case the ORDER issued upon Plaintiff's Motion to Compel as to his Fourth Set of Discovery Materials, including Interrogatories and Request for Production of Documents to Mary-Jo Rebelo Esq., via first class mail, filed by s/ Theron G. Noble Esq. No CC. 2 pg	Fredric Joseph Ammerman
8/9/2010 (38) Motion For Corporate Financial Information, filed by s/ Theron G. Noble, Esquire. 1CC Atty. Noble 8 pg	Fredric Joseph Ammerman
8/17/2010 (39) Notice of Service, Plaintiff's 5th Set of Discovery Materials upon Mary-Jo Rebelo, Esq., filed by s/Theron G. Noble, Esq. No CC 6 pg	Fredric Joseph Ammerman

Current Judge: Fredric Joseph Ammerman  
Jerjis T. Alajajivs.DuBois Radiologists, Inc., et al

CIVIL ACTION

Date	Judge
8/17/2010 (40) Rule, this 16th of Aug., 2010, upon consideration of the Motion For Corporate Financial Information a Rule is issued upon the Def. DuBois Radiologists, Inc. Rule Returnable for filing written response and hearing will be held on the 2nd of Sept., 2010, and hearing will be held on the 2nd of Sept. 2010, at 11:00 a.m. Courtroom 1. By The Court, /s/ Fredric J. Ammerman, Pres. Judge. 1CC Atty. Noble 1 Pg	Fredric Joseph Ammerman
8/19/2010 (41) Certificate of Service, filed. This 18th day of August 2010 served a certified copy of the Rule to Show Cause to Mary-Jo Rebelo Esq by first class mail, filed by s/ Theron G. Noble Esq. No CC. 2 Pg	Fredric Joseph Ammerman
9/8/2010 (42) Order, this 2nd day of Sept., 2010, in consideration of the Plff's Motion for Corporate Financial Information, which Court notes the said information has been provided; and in consideration of the request for legal fees; it is Ordered that Def. shall pay legal fees within no more than 30 days from this date. By The Court, /s/ Fredric J. Ammerman, Pres. Judge. 2CC Attys; Noble, Rebelo 1 Pg	Fredric Joseph Ammerman
4/28/2011 (43) Notice of Service, filed by Atty. Noble no cert. copies. Served copy Plaintiff's Seventh Discovery Request. 2 Pg	Fredric Joseph Ammerman
6/1/2011 (44) Motion to Compel, filed by s/ Theron G. Noble Esq. No CC. 4 Pg	Fredric Joseph Ammerman
6/7/2011 (45) Order, this 3rd of June, 2011, hearing on Plff's Motion to Compel is scheduled for the 29th of June, 2011, at 2:30 p.m. in Courtroom 1. By the Court, /s/ Fredric J. Ammerman, Pres. Judge. 3CC Atty. Noble 1 Pg	Fredric Joseph Ammerman
6/14/2011 (46) Notice of Service, filed. This 12th day of June 2011 serve upon Mary Jo Rebelo Esq a true and correct copy of Rule to Show Cause issued upon Plaintiff's Motion to Compel by first class mail, filed by s/ Theron G. Noble Esq. No CC. 2 Pg	Fredric Joseph Ammerman
6/29/2011 (47) Order, this 28th of June, 2011, argument scheduled for June 29, 2011 is canceled. By The Court, /s/ Fredric J. Ammerman, Pres. Judge. 1CC Attys: Noble, Rebelo 2 Pg	Fredric Joseph Ammerman
10/21/2011 (48) Notice of Service, filed. This 20th day of October 2011 I did propound upon Mary-Jo Rebelo Esq with Eighth Discovery Request Consisting of Interrogatories, Request for Production of Documents and Request for Admissions via first class mail, filed by s/ Theron G. Noble Esq. No CC. 2 Pg	Fredric Joseph Ammerman
1/25/2012 (49) Motion to Compel, filed by s/ Theron G. Noble, Esq. No CC 4 Pg	Fredric Joseph Ammerman
1/27/2012 (50) Rule, this 25th of Jan., 2012, a rule is issued upon the Defendant Re: Motion to Compel. Rule Returnable, which shall be held along with a Case Management Conference on the 24th of Feb., 2012 at 9:30 a.m. in chambers. By The Court, /s/ Fredric J. Ammerman, Pres. Judge. 1CC Atty. Noble 1 Pg	Fredric Joseph Ammerman
1/31/2012 (51) Defendant's Motion For Partial Summary Judgment, filed by s/ Mary-Jo Rebelo, Esq. No CC 6 Pg	Fredric Joseph Ammerman
2/2/2012 (52) Order, this 1st of Feb., 2012, argument on the Defendants' Motion For Partial Summary Judgment is scheduled on the 6th of March, 2012 at 1:30 p.m. in Courtroom 1. By The Court, /s/ Fredric J. Ammerman, Pres. Judge. 4CC Atty. Rebelo 1 Pg	Fredric Joseph Ammerman
1/31/2012 (53) Notice of Service, filed. This 31st day of January 2012 served a true and correct copy of the Rule Returnable upon Mary-Jo Rebelo Esq by first class mail, filed by s/ Theron G. Noble Esq. No CC. 2 Pg	Fredric Joseph Ammerman

## CIVIL ACTION

## Date

## Judge

2/27/2012	(54) Order, this 24th of Feb., 2012, argument on Defendants' Motion For Summary Judgement be continued. The hearing scheduled for March 6, 2012 is hereby canceled. Argument on the Motion shall be rescheduled at the request of either party. Unless argument is rescheduled, Plaintiff is not required to file a response or answer to the Defs.' Motion. By the Court, /s/ Fredric J Ammerman, Pres. Judge. 1CC Attys: Noble, Rebelo	Fredric Joseph Ammerman
3/29/2012	(55) Stipulated Order, this 22nd of March, 2012, it is Ordered: (see original). By The Court, /s/ Fredric J. Ammerman, Pres. Judge. 4CC Atty. Noble	Fredric Joseph Ammerman
4/5/2012	(56) Notice of Service, filed. This April 4, 2012 sent a true and correct copy of the Order via first class mail to Mary-Jo Rebelo Esq., filed by s/Theron G. Noble Esq. No CC. 2 Pox	Fredric Joseph Ammerman
4/25/2012	(57) Stipulated Order Appointing Master, filed. 3 Cert. to Atty. Noble. 2 Pox	Fredric Joseph Ammerman
4/30/2012	(58) Notice of Service, filed. This April 27, 2012 served a true and correct copy of Court Order by first class mail to Mary-Jo Rebelo Esq., filed by s/Theron G. Noble Esq. No CC. 2 Pox	Fredric Joseph Ammerman
12/10/2012	(59) Motion For Contempt, filed by s/ Theron G. Noble, Esq. No CC 15 Pox	Fredric Joseph Ammerman
12/17/2012	(60) Order, filed Cert. to Atty. Noble NOW, this 17th day of Dec., 2012. RE: Hearing will be held on Jan. 4th, 2013. 1 Pox	Fredric Joseph Ammerman
12/19/2012	(61) Praeclipe to Withdraw Motion for Contempt, filed by s/Theron G. Noble Esq. Fredric Joseph Ammerman No CC. 3 Pox	Fredric Joseph Ammerman
12/24/2012	(62) Order, filed Cert. to Noble and Rabelo NOW, this 21st. day of Dec., 2012, RE: Argument for Jan. 4, 2013 is hereby CANCELED. 1 Pox	Fredric Joseph Ammerman
2/21/2013	(63) Motion to Compel and for Sanctions, filed by s/ Theron G. Noble, Esq. No CC 13 Pox	Fredric Joseph Ammerman
2/27/2013	(64) Rule to Show Cause, filed. Cert. to Atty. Noble 1 Pox NOW, this 26th day of February, 2013 RE: Hearing to be held on March 27, 2013.	Fredric Joseph Ammerman
3/4/2013	(65) Notice of Service, on the 2nd of March, 2013, a copy of the Rule issued upon Plaintiff's Motion to Compel and For sanctions was served via first class mail, postage prepaid, to Mary-Jo Rebelo, Esq. Filed by s/ Theron G. Noble, Esq. No CC 2 Pox	Fredric Joseph Ammerman
4/3/2013	(66) Order, this 3rd of April, 2013, the Motion to Compel and for Sanctions is DISMISSED. By The Court, /s/ Fredric J. Ammerman, Pres. Judge. 2CC Attys: Noble, Rebelo 1 Pox	Fredric Joseph Ammerman
4/25/2013	(67) Notice of service filed. On April 23rd, 2013, Plaintiff's 9th set of Discovery Requests, consisting of interrogatories and requests for production of documents, was served upon Mary-Jo Rebelo, Esq. via United States mail, First class, postage prepaid. Filed by /s/Theron G. Noble, Esq. NoCC. 2 Pox	Fredric Joseph Ammerman
1/21/2014	(68) Order, this 14th day of January 2014, it is ORDER that a pre-trial conference is scheduled for March 3, 2014 at 2:00 and Civil Jury selection is scheduled for May 29, 2014 at 9:00. All Plaintiff(s), Defendants and their attorneys must be present for Jury selection. BY THE COURT: /s/ Fredric J Ammerman, P. Judge. 2CC Attys: Noble and M Rebelo.	Fredric Joseph Ammerman
3/24/2014	(69) Objections to Master's Report, filed by s/ Theron G. Noble, Esq. 5CC Atty. Noble 1 Pox	Fredric Joseph Ammerman

Date: 4/22/2015  
Time: 02:26 PM  
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**Clearfield County Court of Common Pleas**

User: LGHRIST

**ROA Report**

Case: 2006-01018-CD

Current Judge: Fredric Joseph Ammerman

Jerjis T. Alajajivs.DuBois Radiologists, Inc., et al

**CIVIL ACTION**

Date	Judge
4/4/2014 (70) Order, this 3rd of April, 2014, Status Conference is scheduled for the 11th of April, 2014 at 10:15 a.m. By the Court, /s/ Fredric J. Ammerman, Pres. Judge. 1CC Attys: Noble, M. Rebelo 1 pg	Fredric Joseph Ammerman
4/16/2014 (71) Order, this 15th of April, 2014, following status conference, it is Ordered: The Master shall have no more than 60 days from this date to submit a written response(see original). Pre-Trial conference among the Court and counsel is scheduled, in Chambers, for the 28th of July, 2014, at 11:00 a.m. Jury selection previously scheduled for May 29, 2014 is Canceled. by The Court, /s/ Fredric J. Ammerman, Pres Judge. 2CC Attys: Noble, M. Rebelo 1 pg	Fredric Joseph Ammerman
4/23/2014 (72) Motion to Reschedule Pre-trial Conference, filed by s/ Mary-Jo Rebelo Esq. Fredric Joseph Ammerman 1CC Atty Rebelo. 6 pg	Fredric Joseph Ammerman
4/25/2014 (73) Order, Order of Court, now this 24 day of April, 2014, Pre-trial Conference has been rescheduled to August 5, 2014, at 1:30 P.m. in Judge Ammerman's Chambers. 1 cc Atty. Rebelo. 8 pg	Fredric Joseph Ammerman
5/5/2014 (74) Motion to Strike Improper Objections to Master's Report, filed by s/ Mary-Jo Rebelo, Esq. No CC 29 pg	Fredric Joseph Ammerman
5/7/2014 (75) Order, this 6th of May, 2014, a hearing on Defendant's Motion to Strike Improper Objections to Master's Report is scheduled for the 9th of June, 2014 at 1:30 p.m. in Courtroom 1. By the Court, /s/ Fredric J. Ammerman, Pres. Judge. 3CC Atty. Rebelo 1 pg	Fredric Joseph Ammerman
6/9/2014 (76) Master's Response to the Plaintiff's Objections to the Master's Report, filed by s/ Grossman Yanak & Ford, LLP. 11 pg	Fredric Joseph Ammerman
7/29/2014 (77) Miscellaneous Filing, Master's Report, filed by Robert J. Grossman. Nocc. 11 pg	Fredric Joseph Ammerman
(78) Opinion and Order, this 24th day of July, 2014, Motion to Strike Improper Objections to Master's Report, it is the Order of this Court said Motion is GRANTED. Plaintiff's Objections are hereby Stricken. BY THE COURT:/s/ Fredric J. Ammerman, President Judge. 1cc Atty's Noble, Rebelo, Law Library, Mikesell. 5 pg	Fredric Joseph Ammerman
8/19/2014 (79) Order, this 18th of Aug., 2014, following pre-trial conference, it is Ordered: Non-jury trial is scheduled for Nov. 13 and 14, 2014, at 9:00 a.m. each day, Courtroom 1. (See Original). By The Court, /s/ Fredric J. Ammerman, Pres. Judge. 2CC Attys: ;Noble, M. Rebelo 1 pg	Fredric Joseph Ammerman
10/20/2014 (80) Order, this 15th of Oct., 2014, hearing concerning Objections to the Master's Report scheduled for Nov. 13, 14 is rescheduled on Nov. 14, 2014 and Nov. 24, 2014. By The Court, /s/Fredric J. Ammerman, Pres. Judge. 1CC Attys: Noble, M. Rebelo 1 pg	Fredric Joseph Ammerman
11/26/2014 (81) Order, this 24th of Nov., 2014, Ordered that counsel for both parties submit letter brief, /s/Fredric J. Ammerman, Pres. Judge. 2CC Atty. Noble; 3CC atty. Rebelo 1 pg	Fredric Joseph Ammerman
1/5/2015 Transcript of Proceedings, Day I of II, filed. Civil Non-Jury Trial, Day I of II, held before FJA, P.J., on Nov. 14, 2014. No CC	Fredric Joseph Ammerman
Transcript of Proceedings, filed. Civil Non-Jury Trial, Day II of II, held before FJA, P. J. on Nov. 24, 2014. No CC	Fredric Joseph Ammerman
1/20/2015 (82) DEFENDANTS' REPLY TO PLAINTIFF'S LETTER BRIEF ON OBJECTIONS TO MASTER'S REPORT, filed by 1cc Atty. Rebelo. 11 pg	Fredric Joseph Ammerman
1/28/2015 (83) Opinion, /s/FJA, P.J. 1CC Attys: Mikesell, Noble, Rebelo; 1CC Law Library	Fredric Joseph Ammerman
(84) Final Order, this 28th of Jan., 2015, /s/FJA, 1CC Attys Noble, Rebelo 1 pg	Fredric Joseph Ammerman

Date: 4/22/2015  
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**Clearfield County Court of Common Pleas**

User: LGHRIST

**ROA Report**

Case: 2006-01018-CD

Current Judge: Fredric Joseph Ammerman

Jerjis T. Alajajivs.DuBois Radiologists, Inc., et al

**CIVIL ACTION**

Date		Judge
1/28/2015	ROA for statistical purposes only.	Fredric Joseph Ammerman
2/9/2015	(85) Motion for Post trial relief filed by s/Theron G. Noble, Esq. 4CC Atty Noble.	Fredric Joseph Ammerman 4pg
2/12/2015	(86) Order 2/10/15 it is the order of the court that the plaintiffs petition for post trial relief be and hereby is DISMISSED. 1 CC Atty Noble, 3 CC Atty Rebelo 1 pg	Fredric Joseph Ammerman
2/23/2015	Filing: Appeal to High Court Paid by: Theron G. Noble Receipt number: 1958490 Dated: 2/23/2015 Amount: \$50.00 (Check) For: Alajaji, Jerjis T. (plaintiff)	Fredric Joseph Ammerman
	(87) Notice of Appeal filed by s/Theron G. Noble, Esq. 6CC Atty Noble, 1CC Superior Court of PA and \$85.50 check. 4pg	Fredric Joseph Ammerman
	(88) Proof of Service filed. On February 23rd, 2015, a true and correct ceritifed copy of the Plff's Notice of Appeal was served upon Mary Jo Rebelo, Esq. A certified copy was also sent to FJA, PJ, Court Administrator and Court reporter. Filed by Theron G. Noble, Esq. 6CC Atty Noble, 1CC Superior Court of PA. 2pg	Fredric Joseph Ammerman
3/2/2015	(89) Letter from Judge Ammerman Re: No Further opinion. NoCC. 1pg	Fredric Joseph Ammerman
	(90) Appeal Docket Sheet, filed. NO CC 3pg	Fredric Joseph Ammerman

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

FILED  
CERTIFICATE OF CONTENTS

IN RE: *Dr. Jerjis Alajaji Vs DuBois Radiologists, Inc., et al*  
*Common Pleas No. 2006-1018-CD*  
*Appeal Docket No. 326 WDA 2015*

S APR 27 2015  
M/1000 *Spencer*  
BRIAN K. SPENCER  
PROTHONOTARY & CLERK OF COURTS  
NO CC

NOW, this 23<sup>rd</sup> Day of April, 2015, the undersigned, Prothonotary or Deputy Prothonotary of the Court of Common Pleas of Clearfield County, Pennsylvania, the said Court of record, does hereby certify that attached is the original record and 5 transcripts with exhibits of the case currently on Appeal.

An additional copy of this Certificate is enclosed with the original hereof and the Clerk or Prothonotary of the Superior Court is hereby directed to acknowledge receipt of the Appeal Record by executing such copy at the place indicated by forthwith returning the same to this Court.

By: *Brian K. Spencer*  
Brian K Spencer, Prothonotary

Record, Etc. Received:

Date: 4-24-15

*John Matson*  
(Signature & Title)

DR. JERJIS ALAJAJI, AN ADULT  
INDIVIDUAL,

Appellant

v.

DUBOIS RADIOLOGISTS, INC., A DULY  
FORMED AND EXISTING PENNSYLVANIA  
CORPORATION; GHAZANFAR A. SHAH,  
M.D., AN ADULT INDIVIDUAL; AND  
GEORGE M. KOSKO, M.D. AN ADULT  
INDIVIDUAL,

Appellees

IN THE SUPERIOR COURT OF  
PENNSYLVANIA

No. 326 WDA 2015

Appeal from the Order February 12, 2015  
In the Court of Common Pleas of Clearfield County  
Civil Division at No(s): 06-1018-CD

\_\_\_\_\_, \_\_\_ Received from the Superior Court of  
Pennsylvania, sitting at Pittsburgh, in the above entitled Certified Copy Order  
of Court dated FEBRUARY 17, 2016.

**CLEARFIELD COUNTY**

Receipt Acknowledged: \_\_\_\_\_ Date: \_\_\_\_\_

DR. JERJIS ALAJAJI, AN ADULT INDIVIDUAL,

Appellant

v.

DUBOIS RADIOLOGISTS, INC., A DULY FORMED AND EXISTING PENNSYLVANIA CORPORATION; GHAZANFAR A. SHAH, M.D., AN ADULT INDIVIDUAL; AND GEORGE M. KOSKO, M.D. AN ADULT INDIVIDUAL,

Appellees

IN THE SUPERIOR COURT OF PENNSYLVANIA

BRIAN K. SPENCER  
PROTHONOTARY &  
CLERK OF COURTS

FILED  
m/s  
FEB 22 A 9:10  
S  
BES

No. 326 WDA 2015

Appeal from the Order February 12, 2015  
In the Court of Common Pleas of Clearfield County  
Civil Division at No(s): 06-1018-CD

BEFORE: BENDER, P.J.E., SHOGAN, and MUSMANNO, JJ.

**ORDER**

Review of this matter indicates that judgment has not been entered on the trial court docket as required by Pa.R.A.P. 301. Pursuant to this Court's policy, Appellant is directed to praecipe the trial court Prothonotary to enter judgment and file with the Prothonotary of the Superior Court within ten days a certified copy of the trial court docket reflecting the entry of judgment. Upon compliance with Pa.R.A.P. 301, the notice of appeal previously filed in this case will be treated as filed after the entry of judgment. **See** Pa.R.A.P. 905(a). Failure to comply with this Court's directives may result in the dismissal of this appeal without further notice.

**See Johnston the Florist, Inc. v. Tedco Constr. Corp.**, 657 A.2d 511 (Pa. Super. 1995) (there is no authority for Superior Court to review the merits of an appeal in the face of a refusal by the parties to enter judgment).

A TRUE COPY JOSEPH D. SELETY

FILED: FEBRUARY 17, 2016

PER CURIAM

PROTHONOTARY, SUPERIOR COURT  
OF PENNSYLVANIA

N. B. V. OTT 2/18/16  
DEPUTY PROTHONOTARY

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

Dr. JERJIS ALAJAJI,  
an adult individual;

PLAINTIFF, : No. 06- 1018 -CD

v.  
DUBOIS RADIOLOGISTS, Inc., a duly formed  
and existing Pennsylvania Corporation ;  
GHAZANFAR A. SHAH, M.D., an adult individual;  
and GEORGE M. KOSKO, M.D., an adult individual. :

DEFENDANTS. :

Type of Pleading:

**PRAECIPE TO ENTER JUDGMENT**

:

:

:

Filed By:

: Plaintiff **Dr. Jerjis Alajaji**

:

:

Counsel of Record:

: Theron G. Noble, Esquire  
Ferraraccio & Noble

: 301 East Pine Street  
Clearfield, PA 16830

: (814)-375-2221  
PA I.D.#: 55942

*1/2* pd \$20.00  
S UCC Atty  
FED 25 2016  
0113416  
R. M. K. SPENCER  
PROTHONOTARY & CLERK OF COURTS

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

)  
Dr. JERJIS ALAJAJI,  
an adult individual;  
)  
)  
PLAINTIFF,  
)  
)  
v.  
)  
)  
DUBOIS RADIOLOGISTS, Inc., a duly formed  
and existing Pennsylvania Corporation, et.al.,  
)  
)  
DEFENDANTS.  
)  
No. 06- 1018 -CD

**PRAECIPE TO ENTER JUDGMENT**

To: Brian K. Spencer, Prothonotary

Date: February 25, 2016

Please enter JUDGMENT partially in favor of Plaintiff and against Defendants and partially in favor Defendants and against Plaintiff as per the Trial Court's ORDER of January 28, 2015 and the Superior Court's ORDER of February 17, 2016.

Respectfully Submitted,



Theron G. Noble, Esquire  
Attorney for Plaintiff  
Ferraraccio & Noble  
301 East Pine Street  
Clearfield, PA 16830  
(814)-375-2221  
PA I.D. #: 55942

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

Dr. JERJIS ALAJAJI, )  
an adult individual; )  
 )  
PLAINTIFF, ) ) No. 06- 1018 -CD  
 )  
v. )  
DUBOIS RADIOLOGISTS, Inc., a duly formed )  
and existing Pennsylvania Corporation ; )  
GHAZANFAR A. SHAH, M.D., an adult individual; )  
and GEORGE M. KOSKO, M.D., an adult individual. )  
 )  
DEFENDANTS. )

**CERTIFICATE OF SERVICE**

I, Theron G. Noble, Esquire of Ferraraccio & Noble, counsel for Plaintiff, does hereby certify this 25th day of February, 2016 that I did serve a true and correct copy of the PRAECIPE TO ENTER JUDGMENT, to the below indicated person, being counsel of record for Defendants, via United States Mail, first class, postage prepaid, as follows.

Mary-Jo Rebelo, Esquire  
Houston Harbaugh  
401 Liberty Ave., 22nd Floor  
Pittsburgh, PA 15222-1005

Respectfully Submitted,

  
Theron G. Noble, Esquire  
Attorney for Plaintiff  
Ferraraccio & Noble  
301 East Pine Street  
Clearfield, PA 16830  
(814)-375-2221  
PA I.D. #: 55942



## Superior Court of Pennsylvania

Joseph D. Seletyn, Esq.  
Prothonotary  
Nicholas V. Corsetti, Esq.  
Deputy Prothonotary

Western District

310 Grant Street, Suite 600  
Pittsburgh, PA 15219-2297  
(412) 565-7592  
[www.pacourts.us/courts/superior-court](http://www.pacourts.us/courts/superior-court)

### CERTIFICATE OF REMITTAL/REMAND OF RECORD

TO: Brian K. Spencer  
Prothonotary & Clerk of Courts

RE: Alajaji, J. v. Dubois Radiologists  
326 WDA 2015  
Intermediate Court Docket No:  
Trial Court: Clearfield County Court of Common Pleas  
Trial Court Docket No: 06-1018-CD

BNT  
**FILED 1159am**  
**M1 BNT 11cc Sup Court**  
**MAY 13 2016**

BRIAN K. SPENCER  
PROTHONOTARY & CLERK OF COURTS

S

Annexed hereto pursuant to Pennsylvania Rules of Appellate Procedure 2571 and 2572 is the entire record for the above matter.

#### Original Record contents:

Item	Filed Date	Description
Original Record	April 24, 2015	1 Part
Master's Report	April 24, 2015	2 Parts
Transcript(s)	April 24, 2015	2
Depositions	April 24, 2015	3
Exhibit(s)	April 24, 2015	1 Binder
Exhibit(s)	April 24, 2015	A, B, D

Additional Item(s): Along with Superior Court Memorandum dated 3-31-2016.

Remand/Remittal Date: 05/12/2016

ORIGINAL RECIPIENT ONLY - Please acknowledge receipt by signing, dating, and returning the enclosed copy of this certificate to our office. Copy recipients (noted below) need not acknowledge receipt.

Very truly yours,

Nicholas V. Corsetti, Esq.  
Deputy Prothonotary

/tdt

Enclosure

cc: The Honorable Fredric J. Ammerman, President Judge  
Theron G. Noble, Esq.  
Mary-Jo Rebelo, Esq.

Alajaji, J. v. Dubois Radiologists  
326 WDA 2015

Letter to: Brian K. Spencer

**Acknowledgement of Certificate of Remittal/Remand of Record (to be returned):**

Signature

Brian K. Spencer  
BNT

Date

5/13/2016

Printed Name

Brian K. Spencer  
BNT

**NON-PRECEDENTIAL DECISION - SEE SUPERIOR COURT I.O.P. 65.37**

DR. JERJIS ALAJAJI, AN ADULT INDIVIDUAL,

Appellant

v.

DUBOIS RADIOLOGISTS, INC., A DULY FORMED AND EXISTING PENNSYLVANIA CORPORATION; GHAZANFAR A. SHAH, M.D., AN ADULT INDIVIDUAL; AND GEORGE M. KOSKO, M.D. AN ADULT INDIVIDUAL,

Appellees

IN THE SUPERIOR COURT OF PENNSYLVANIA

  
**FILED**  
M 18NT 11159a  
**MAY 13 2016**  
**NO CC**  
BRIAN K. SPENCER  
PROTHONOTARY & CLERK OF COURTS  
S

No. 326 WDA 2015

Appeal from the Judgment Entered February 25, 2015  
In the Court of Common Pleas of Clearfield County  
Civil Division at No(s): 06-1018-CD

BEFORE: BENDER, P.J.E., SHOGAN, and MUSMANNO, JJ.

MEMORANDUM BY SHOGAN, J.:

**FILED MARCH 31, 2016**

Dr. Jerjis Alajaji ("Appellant") appeals from the judgment entered after the trial court denied his exceptions to a master's report and recommendation.<sup>1</sup> Specifically, Appellant challenges the denial of his

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<sup>1</sup> Appellant purports to appeal from the February 12, 2015 order denying his post-trial motion. This position is flawed for two reasons. First, "[a] motion for post-trial relief **may not be filed to . . .** motions relating to discovery or other proceedings which do not constitute a trial." Pa.R.C.P. 227.1(c) at Note (emphasis supplied) (citing ***U. S. National Bank in Johnstown v. Johnson***, 487 A.2d 809 (Pa. 1985)). Here, following a proceeding that did not constitute a trial, Appellant filed a motion for post-trial relief. This was a nullity. Second, the trial court entered an order denying Appellant's (Footnote Continued Next Page)

requests for a pro-rated share of profits, prejudgment interest, and punitive damages. For the reasons that follow, we affirm.

Appellant and Dr. George M. Kosko ("Dr. Kosko") were minority shareholders of DuBois Radiologists, Inc. ("DRI"), a subchapter S corporation that provided radiology services to DuBois Regional Medical Center ("Hospital"). Hospital was the controlling partner of DuBois Magnetic Imaging Center ("DMIC"), the MRI (magnetic resonance imaging) unit that performs studies within Hospital. Dr. Ghazanfar Shah ("Dr. Shah") was Director of Radiology at Hospital, the majority shareholder of DRI, and the sole shareholder of Raintree MRI, Inc. ("Raintree"), a company under contract with DMIC to handle DMIC's patient billing. In providing billing services to DMIC, Raintree utilized DRI's equipment and personnel, including DRI's office manager, Rhonda Heffner ("Ms. Heffner").

Following the termination of his privileges at Hospital and his position with DRI, Appellant filed a petition for injunctive relief and, subsequently, an amended complaint for preliminary and permanent injunctive relief, declaratory judgment, breach of contract, and appointment of a corporate  
*(Footnote Continued)* —————

exceptions on January 28, 2014, thereby affirming the master's recommendation. At our direction, Appellant praeciped the court of common pleas prothonotary to enter judgment. Judgment was entered on February 25, 2016. **See Johnston the Florist, Inc. v. TEDCO Constr. Corp.**, 657 A.2d 511 (Pa. Super. 1995) ("[E]ven though the appeal was filed prior to the entry of judgment, it is clear that jurisdiction in appellate courts may be perfected after an appeal notice has been filed upon the docketing of a final judgment."). We have amended the caption accordingly.

custodian. Amended Complaint, 8/23/06, at Counts I-V. By stipulated orders, the trial court set forth a mediation procedure for resolution of the parties' dispute and appointed Certified Public Accountant Robert Grossman of Grossman, Ford and Yanek, an accounting firm with specialized knowledge in the medical industry, to serve as a master. Stipulated Orders, 3/29/12 and 4/25/12.<sup>2</sup> Mr. Grossman ("the Master") was charged with addressing narrowly tailored financial issues that the parties had not been able to resolve after six years of litigation. Stipulated Order, 3/29/12, at ¶¶ 9, 11.

Over the course of two years, the Master investigated and calculated (1) the value of Appellant's sixteen percent stock holdings in DRI; (2) the value of Appellant's share of DRI's profits; (3) Appellant's share, if any, of profits or losses generated by Raintree; and (4) Appellant's share, if any, of the director's fee paid to DRI by Hospital. Master's Report Summary Letter, 2/24/14, at 1-2. The Master valued Appellant's DRI stock holdings at \$72,700 and his share of DRI profits at \$111,518. Master's Report, 2/13/14, at 3-4. Having determined that the profits generated by Raintree were *de minimus*, the Master concluded that Appellant's share of Raintree profits was \$0.00. ***Id.*** at 5. The Master also determined that the director's

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<sup>2</sup> The first stipulated order was issued on March 22, 2012, and filed on March 29, 2012. The second stipulated order was issued on April 23, 2012, and filed on April 25, 2012.

fee was payable to Dr. Shah for his services and, therefore, did not pass through to DRI for distribution to its shareholders, *i.e.*, Appellant. ***Id.*** at 8.

Appellant filed seven exceptions, labeled “objections,” to the Master’s report, and Dr. Kosko, Dr. Shah, and DRI (collectively “Defendants”) filed a motion to strike some of the objections. *Objections to Master’s Report*, 3/24/14; *Motion to Strike*, 5/5/14. Agreeing with Defendants, the trial court granted the motion to strike, thereby dismissing Appellant’s claims for interest on his share of DRI profits, use of a “fair value” standard with regard to his DRI shares, and punitive damages. *Order and Opinion*, 7/29/14, at 2, 5. The trial court conducted a two-day hearing on the remaining objections in November of 2014 and permitted briefing. *Order*, 11/26/14. Thereafter, the trial court denied Appellant’s objections and wholly adopted the Master’s report and recommendation, awarding Appellant \$184,218. *Order*, 1/28/15. Appellant filed a document entitled, “*Motion for Post-Trial Relief*,” which the trial court dismissed. *Motion for Post-Trial Relief*, 2/9/15; *Order*, 2/12/15. This appeal followed.

On appeal, Appellant presents the following questions for our review:

1. WHETHER PROFIT SOLELY GENERATED THROUGH USE OF A DOMINATED CORPORATION’S ASSETS BELONGS TO THAT CORPORATION?

2. WHETHER FUNDS DEPRIVED TO A MINORITY SHAREHOLDER ARE ENTITLED TO INTEREST?

3. WHETHER PUNITIVE DAMAGES ARE APPROPRIATE WHEN A CORPORATION THROUGH ITS MAJORITY SHAREHOLDERS ACTS OPPRESSIVELY AGAINST A MINORITY SHAREHOLDER?

Appellant's Brief at 4.<sup>3</sup>

Appellant first claims that the trial court erred in concluding that he is not entitled to a pro-rated share of Raintree's profits from 1999 through 2010. Appellant's Brief at 13, 22. Appellant contends that, "Raintree, the entity solely owned by defendant DRI's majority shareholder, defendant Dr. Shah, received profit each and every year by using the employees, equipment, cash and other assets of DRI, as [Dr. Shah's] own property."

***Id.*** at 14. According to Appellant, as a shareholder of DRI, he is entitled to profits received by Raintree through the use of DRI's assets. In support of his position, Appellant cites ***Bailey v. Jacobs***, 189 A. 320 (Pa. 1936), and ***Rivoli Theatre Company v. Allison***, 152 A.2d 449 (Pa. 1949), for the proposition that "profit made through corporate assets belong to the corporation." Appellant's Brief at 13-14. Furthermore, Appellant insists that, given "Raintree's just share of the freely provided rent, postage, insurance, utilities, and postage [sic], the true expense to DRI was in reality

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<sup>3</sup> The trial court allowed Appellant's post-trial motion to serve as his Pa.R.A.P. 1925(b) statement of errors complained of on appeal. Order, 2/12/15. Appellant raised the same issues in his post-trial motion and in his Statement of Questions Presented. Motion for Post-Trial Relief, 2/9/15, at 1-2; Appellant's Brief at 4. However, in its opinion to this Court, the trial court addressed Appellant's objections to the Master's report, not the claims raised in his post-trial motion. Trial Court Opinion, 1/28/15, at 4-9. Consequently, the trial court did not address Appellant's second and third appellate issues. For the trial court's analysis on those two issues, we shall rely on its opinion addressing Defendants' motion to strike. Opinion and Order, 7/29/14, at 3.

not de minimis . . . and remains purely immaterial and irrelevant given Bailey and Rivoli." Appellant's Brief at 16.

Our standard of review in equity is limited. ***Viener v. Jacobs***, 834 A.2d 546, 554 (Pa. Super. Ct. 2003) (citing ***Liberty Prop. Trust v. Day-Timers, Inc.***, 815 A.2d 1045, 1048 (Pa. Super. 2003)). We will reverse only where the trial court was "palpably erroneous, misapplied the law or committed a manifest abuse of discretion." ***Day-Timers***, 815 A.2d at 1048 (citing ***Thermo-Guard, Inc. v. Cochran***, 596 A.2d 188, 193 (Pa. Super. 1991)). Where there are any apparently reasonable grounds for the trial court's decision, we must affirm it. ***Id.*** at 1048. Moreover, "[a]bsent an abuse of discretion or an error of law, we are bound to accept the findings of the trial court or master, particularly where the findings are largely dependent upon the credibility of the witnesses." ***Werner v. Werner***, 573 A.2d 1119, 1121 (Pa. Super. 1990).

Here, the Master found that DRI's costs associated with Raintree's billing services to DMIC were "not material." Master's Report, 7/19/14, at 5. Thus, the Master concluded that "no profit or loss generated by Raintree MRI Services, Inc. should be allocated to [Appellant] as a shareholder of DRI."

***Id.*** Based on a credibility determination, the trial court agreed:

The long-time office manager for DRI and the person who personally handled the billing related activities for Raintree, Rhonda Heffner, testified at the Hearing. She personally prepared the global billing invoices for both the professional and technical components of the services provided by use of a standardized HCFA form. An HCFA form is "a standard insurance

claim form that is accepted by all insurance companies to document who the patient was and what the service was they had rendered, and also identify who rendered the service." (11/14/14 Hearing Transcript, pg. 101.) Ms. Heffner also testified that the same HCFA standard form would be used whether you were billing globally (i.e., both the professional and technical components) or whether you were billing only for the DRI professional component.

As Ms. Heffner's credible testimony indicates, one second is the amount of additional time she spent in order to prepare global bills as opposed to preparing bills solely for the DRI professional component. Ms. Heffner also testified to the amount of time she spent handling the banking related matters once payments were received for the global bills issued. As the Master concluded, and as Ms. Heffner confirmed in her testimony, the time was *de minimis*.

In support of [this issue, Appellant] offered no testimony or evidence to refute Ms. Heffner's testimony or the findings and conclusions of the Master. Notably, [Appellant's] expert, Mr. Kindler, offered no opinion on the issue of whether the Master erred in determining that [Appellant] is not entitled to any additional profit or revenue generated by Raintree for use of DRI's employees and equipment to perform billing services.

Trial Court Opinion, 1/28/15, at 6-7.

Upon review, we discern no basis upon which to disturb the trial court's ruling. The trial court accepted Ms. Heffner's testimony as credible. Ms. Heffner's and the Master's testimony confirmed that DRI's Raintree-billing costs were *de minimus*. N.T., 11/14/14, at 20, 56, 99-103. The record also establishes that, as a result of DMIC's billing agreement with Raintree, DRI received eighteen percent of the revenue for billed professional services; Appellant's share of that revenue was included in his income. ***Id.*** at 18-20, 57, 125, 133; N.T., 11/24/14, at 23. Furthermore,

Raintree received four percent of the revenue as a fee for Dr. Shah for his administrative services, to which Appellant was not entitled. *Id.* at 18, 23–24, 65–66, 69, 71, 125, 133–134; N.T., 11/24/14, at 33–34. Moreover, unlike the Master, who was charged with determining if Appellant was eligible to share in Raintree’s profits, Appellant’s expert did not offer an opinion on that topic. N.T., 11/24/14, at 13, 22. Rather, Appellant’s expert calculated Appellant’s share of Raintree’s profits based on an assumption that Appellant was entitled to share in Raintree’s profits. N.T., 11/24/14, at 13, 15. Lastly, Appellant’s expert did not have an opinion as to DRI’s costs or expenses with respect to Raintree’s billing. *Id.* at 24. Based on Defendants’ uncontroverted evidence of record, we discern no abuse of the trial court’s discretion or error of law.

Moreover, we do not consider *Bailey* or *Rivoli* dispositive. In *Bailey*, the defendant purchased patents, patent rights, and equipment with money belonging to two companies of which he was president. He transferred the assets to a Delaware corporation that he organized; in return, he received the entire capital stock of the new company. *Bailey*, 189 A. at 323–324. In an equity action brought by shareholders, the chancellor found the defendant’s transactions “to be wholly reprehensible, but held that recovery as to some of them was barred by the statute of limitations. The court [en] banc held that all were so barred, and dismissed the bill.” *Id.* at 323. However, the Pennsylvania Supreme Court reversed, holding that, because

the defendant "made profits from his personal use of the corporate funds, and because the patents and patent rights purchased by him were highly desirable for the Paper Company's purposes, he must account accordingly."

***Id.*** at 325.

Unlike the **Bailey** defendant, Dr. Shah did not take assets belonging to DRI and purchase other assets that were highly desirable for DRI's purposes. Rather, DRI already billed the physician component of MRI services.<sup>4</sup> In doing so, DRI paid expenses for rent, utilities, insurance, a post office box, postage, equipment, and Ms. Heffner's time. Consequently, the additional second Ms. Heffner spent inputting the technical component of MRI services to send out a global bill "added nothing" to DRI's costs. Heffner Deposition, 1/5/07, at 101-107.

Similarly, we dispose of **Rivoli**. Therein, three Blair County men formed a corporation that ran a movie theatre. The defendant was vice-president of the corporation and manager of the theatre. In an effort to

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<sup>4</sup> Specifically, a patient receiving an MRI at DMIC would receive a bill for technical services (*i.e.*, technician performs an MRI) and a bill for professional services (*i.e.*, physician interprets MRI). As the physician group, DRI received eighteen percent of DMIC's gross receipts. For its billing services, Raintree received four percent of DMIC's global billing amounts. DMIC sent all payments to a post office box paid for by DRI and shared with Raintree. Heffner Deposition, 1/5/07, at 45; N.T., 11/14/14, at 102. Ms. Heffner deposited all payments into an account dedicated to DMIC as reimbursements for the professional and technical components. Separately, Ms. Heffner deposited Raintree's portion of the global billing into an account opened by Dr. Shah. Heffner Deposition, 1/5/07, at 45, 50-55; N.T., 11/14/14, at 102-103.

increase sales, the defendant introduced candy vending machines and commercial advertising to the theatre, pocketing the sideline concession profits for his personal use without "full and frank disclosure" to the stockholders or officers of the corporation. *Rivoli*, 152 A.2d at 451. In light of the defendant's admissions, the trial court entered a directed verdict and denied the defendant's request for a new trial. *Id.* On appeal, the Pennsylvania Supreme Court stated, "[T]he test of liability is whether [the corporate officers or directors] have unjustly gained enrichment." *Id.* (quoting *Bailey*, 189 A. at 324). Citing the defendant's admissions, the Supreme Court found it "quite clear that [the defendant] enriched himself at the corporation's expense" and affirmed the directed verdict. *Id.*

Unlike the *Rivoli* defendant, Dr. Shah did not enrich himself at DRI's expense. DRI incurred no expense on behalf of Raintree. DRI was already financially supporting the professional billing services and, as previously stated, the additional second Ms. Heffner spent inputting the technical component of MRI services to send out a global bill "added nothing" to DRI's costs. Heffner Deposition, 1/5/07, at 101-107; N.T., 11/14/14, at 102-103.

Next, Appellant argues that he is entitled to prejudgment interest on his share of DRI and Raintree profits from 2007 through 2012, which amounts to \$73,952 and \$54,472, respectively. Appellant's Brief at 22, 25. Appellant contends that he is entitled to prejudgment interest because, as a shareholder, he was entitled to distributions that DRI withheld. *Id.* at 22.

Moreover, Appellant claims, prejudgment interest could easily be applied to the amounts the Master calculated that Appellant was entitled to receive each year. *Id.* at 22–23. Relying on common-law principles of contracts and liquidated damages, Appellant submits that Pennsylvania’s appellate courts “have the inherent authority to correct the error of not awarding prejudgment interest.” *Id.* at 23–24 (citing ***Fernandez v. Levin***, 548 A.2d 1191 (Pa. 1988)). Furthermore, Appellant asserts that “the right to interest begins at the time payment is withheld after it has been the duty of the debtor to make such payment.” *Id.* (quoting ***Palmgreen v. Palmer’s Garage, Inc.***, 117 A.2d 721 (Pa. 1955)).

Alternatively, Appellant contends that this is a breach-of-fiduciary-duty case that warrants the imposition of prejudgment interest. Appellant’s Brief at 24. According to Appellant, Dr. Shah breached a fiduciary duty to minority shareholder Appellant by failing to pay Appellant’s pro-rated share of profits; therefore, Appellant claims entitlement to prejudgment interest. *Id.* at 24–25 (citing ***Sack v. Feinman***, 413 A.2d 1059 (Pa. 1980), and ***Bailey v. Jacobs***, 189 A. 320 (Pa. 1936)). By not awarding prejudgment interest, Appellant asserts, the trial court unjustly enriched Dr. Shah and denied Appellant full restitution. *Id.* at 25.

The trial court rejected Appellant’s arguments in its opinion addressing Defendants’ motion to strike:

[Appellant] asserts the Master failed to calculate or award interest on [Appellant’s] share of the profits earned from DRI

.... The [c]ourt would first note that, per the Stipulated Order entered by the [c]ourt, the Master was not charged with the task of calculating any interest.... This is a fact [that] is acknowledged by both [Appellant] and Defendants.

The [c]ourt contends that it is improper for [Appellant] to take issue with the Master on [this] issue because the Master was never charged with the task[ Appellant] is now requesting. The Master's duties were carefully delineated in the [c]ourt's Order of March 22, 2012. This was an Order judiciously negotiated between the parties and entered by the [c]ourt at counsels' behest and with their express consent. [Appellant] cannot now come before the [c]ourt and demand [a] certain responsibilit[y] be placed upon the Master when [it is] completely outside the scope of the Stipulated Order. As [this] objection[] is beyond the specific boundaries of the matters for which the Master was charged to make a determination, the [c]ourt believes that [Appellant's] objection[] in this regard should be dismissed as improper. In short, if [Appellant] wanted [interest] calculated, [he] should have bargained for, and included [it] in, the Stipulated Order.

Trial Court Opinion, 7/29/14, at 3.

"Our courts have generally regarded the award of prejudgment interest as not only a legal right, but also as an equitable remedy awarded to an injured party at the discretion of the trial court." ***Kaiser v. Old Republic Ins. Co.***, 741 A.2d 748, 755 (Pa. Super. 1999). "Whether a party is entitled to prejudgment interest is left to the sound discretion of the trial court in equity." ***Osborne v. Carmichaels Min. Mach. Repair, Inc.***, 628 A.2d 874, 879 (Pa. Super. 1993) (citing ***Gurenlian v. Gurenlian***, 595 A.2d 145 (1991)). A court of equity is not limited to the statutory rate of interest, but may make an award above it. ***Gurenlian***, 595 A.2d at 148.

Upon review of the record, we agree with the trial court that an award of prejudgment interest was not within the scope of the Master's review. The Master's review was limited to judiciously negotiated and narrowly tailored financial issues. **See** Order, 3/22/12 (defining scope of the Master's review). Appellant acknowledges that "the governing STIPULATED ORDER was silent as to whether interest should or should not be included." Appellant's Brief at 22 (emphasis in original); **see also** N.T., 11/14/14, at 43 (stipulation that the Master "did not opine on [interest] or include it in his report because he was not asked to [do so] as part of the order charging him with his assignment."). Therefore, Appellant has no basis for objecting to the Master's lack of a recommendation regarding prejudgment interest. Accordingly, we have no basis on which to disturb the trial court's decision.

Lastly, Appellant claims that the trial court erred by dismissing the issue of punitive damages. Appellant's Brief at 26. Appellant argues that he is entitled to punitive damages because the majority shareholders willfully withheld compensation. ***Id.*** at 26-28.

Again, in ruling on Defendants' motion to strike, the trial court opined that a determination of punitive damages was not before the Master:

[Appellant] argues that the Master should have awarded punitive damages in this case due to the conduct of Defendants. The [c]ourt would first note that, per the Stipulated Order entered by the [c]ourt, the Master was not charged with the task of . . . making any determination in regard to punitive damages. This is a fact [that] is acknowledged by both [Appellant] and Defendants.

The [c]ourt contends that it is improper for [Appellant] to take issue with the Master on [this] issue because the Master was never charged with the task[ Appellant] is now requesting. The Master's duties were carefully delineated in the [c]ourt's Order of March 22, 2012. This was an Order judiciously negotiated between the parties and entered by the [c]ourt at counsels' behest and with their express consent. [Appellant] cannot now come before the [c]ourt and demand [a] certain responsibilit[y] be placed upon the Master when [it is] completely outside the scope of the Stipulated Order. As [this] objection[] is beyond the specific boundaries of the matters for which the Master was charged to make a determination, the [c]ourt believes that [Appellant's] objection[] in this regard should be dismissed as improper. In short, if [Appellant] wanted [punitive damages] calculated, [he] should have bargained for, and included [them] in, the Stipulated Order.

Trial Court Opinion, 7/29/14, at 3.

The standard governing the award of punitive damages is well settled in Pennsylvania:

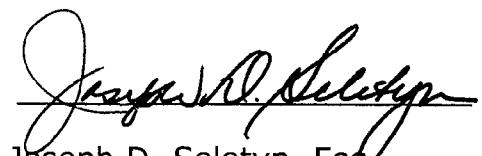
Punitive damages may be awarded for conduct that is outrageous, because of the defendant's evil motive or his reckless indifference to the rights of others. As the name suggests, punitive damages are penal in nature and are proper only in cases where the defendant's actions are so outrageous as to demonstrate willful, wanton or reckless conduct. The purpose of punitive damages is to punish a tortfeasor for outrageous conduct and to deter him or others like him from similar conduct. Additionally, this Court has stressed that, when assessing the propriety of the imposition of punitive damages, the state of mind of the actor is vital. The act, or the failure to act, must be intentional, reckless or malicious.

***Sokolsky v. Eidelman***, 93 A.3d 858, 871 (Pa. Super. 2014) (quoting ***Hutchison v. Luddy***, 870 A.2d 766, 770-771 (Pa. 2005) (citations, footnote, and internal quotation marks omitted)).

Upon review of the record, we agree with the trial court that an award of punitive damages was not within the scope of the Master's review. Therefore, Appellant has no basis for objecting to the Master's recommendation, and we have no basis upon which to disturb the trial court's decision.

Judgment affirmed.

Judgment Entered.



Joseph D. Seletyn, Esq.  
Prothonotary

Date: 3/31/2016



## Superior Court of Pennsylvania

Joseph D. Scletyn, Esq.

Prothonotary

Nicholas V. Corsetti, Esq.

Deputy Prothonotary

Western District

310 Grant Street, Suite 600

Pittsburgh, PA 15219-2297

(412) 565-7592

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*Fred J. Ammerman*

February 17, 2016

RE: Alajaji, J. v. Dubois Radiologists  
No. 326 WDA 2015  
Trial Court Docket No: 06-1018-CD

Dear Attorney Noble

Enclosed please find a copy of an order dated February 17, 2016 entered in the above-captioned matter. A certified copy of this Order has been sent to the Honorable Fredric Ammerman and Clearfield County Prothonotary.

*Attach to  
back of  
Folder*

Very truly yours,

A handwritten signature in black ink, appearing to read "Nicholas V. Corsetti".

Nicholas V. Corsetti, Esq.  
Deputy Prothonotary

/bbc

Enclosure

cc: The Honorable Fredric J. Ammerman, President Judge  
Mary-Jo Rebolo, Esq.

DR. JERJIS ALAJAJI, AN ADULT  
INDIVIDUAL,

Appellant

v.

DUBOIS RADIOLOGISTS, INC., A DULY  
FORMED AND EXISTING PENNSYLVANIA  
CORPORATION; GHAZANFAR A. SHAH,  
M.D., AN ADULT INDIVIDUAL; AND  
GEORGE M. KOSKO, M.D. AN ADULT  
INDIVIDUAL,

Appellees

IN THE SUPERIOR COURT OF  
PENNSYLVANIA

No. 326 WDA 2015

Appeal from the Order February 12, 2015  
In the Court of Common Pleas of Clearfield County  
Civil Division at No(s): 06-1018-CD

\_\_\_\_\_, \_\_\_ Received from the Superior Court of  
Pennsylvania, sitting at Pittsburgh, in the above entitled Certified Copy Order  
of Court dated FEBRUARY 17, 2016.

**HONORABLE F AMMERMAN**

Receipt Acknowledged: \_\_\_\_\_ Date: \_\_\_\_\_

DR. JERJIS ALAJAJI, AN ADULT INDIVIDUAL,

**Appellant**

v.

DUBOIS RADIOLOGISTS, INC., A DULY FORMED AND EXISTING PENNSYLVANIA CORPORATION; GHAZANFAR A. SHAH, M.D., AN ADULT INDIVIDUAL; AND GEORGE M. KOSKO, M.D. AN ADULT INDIVIDUAL,

## Appellees

No. 326 WDA 2015

Appeal from the Order February 12, 2015  
In the Court of Common Pleas of Clearfield County  
Civil Division at No(s): 06-1018-CD

BEFORE: BENDER, P.J.E., SHOGAN, and MUSMANNO, JJ.

## ORDER

Review of this matter indicates that judgment has not been entered on the trial court docket as required by Pa.R.A.P. 301. Pursuant to this Court's policy, Appellant is directed to praecipe the trial court Prothonotary to enter judgment and file with the Prothonotary of the Superior Court within ten days a certified copy of the trial court docket reflecting the entry of judgment. Upon compliance with Pa.R.A.P. 301, the notice of appeal previously filed in this case will be treated as filed after the entry of judgment. **See** Pa.R.A.P. 905(a). Failure to comply with this Court's directives may result in the dismissal of this appeal without further notice. **See Johnston the Florist, Inc. v. Tedco Constr. Corp.**, 657 A.2d 511 (Pa. Super. 1995) (there is no authority for Superior Court to review the merits of an appeal in the face of a refusal by the parties to enter judgment).

FILED: FEBRUARY 17, 2016

PER CURIAM

ARMED FORCES, SUPERIOR COURTS  
OF PENNSYLVANIA

Nita V. Ott 2/17/16

DR. JERJIS ALAJAJI, AN ADULT  
INDIVIDUAL,

Appellant

v.

DUBOIS RADIOLOGISTS, INC., A DULY  
FORMED AND EXISTING PENNSYLVANIA  
CORPORATION; GHAZANFAR A. SHAH,  
M.D., AN ADULT INDIVIDUAL; AND  
GEORGE M. KOSKO, M.D. AN ADULT  
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IN THE SUPERIOR COURT OF  
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