

06-1142-CD

Marjorie Schindley vs DRMC

2006-1142-CD

Marjorie Schindley et al vs DRMC

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

MARJORIE SCHINDLEY,

Plaintiff,

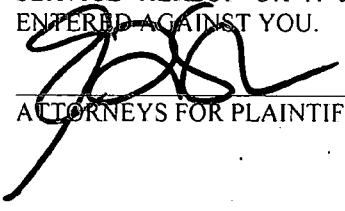
v.

DUBOIS REGIONAL MEDICAL CENTER,

Defendant.

TO THE WITHIN-NAMED DEFENDANT:

YOU ARE HEREBY NOTIFIED TO FILE A WRITTEN RESPONSE TO THE ENCLOSED COMPLAINT WITHIN TWENTY (20) DAYS FROM SERVICE HEREOF OR A JUDGMENT MAY BE ENTERED AGAINST YOU.


ATTORNEYS FOR PLAINTIFF

CIVIL ACTION – MEDICAL PROFESSIONAL LIABILITY

No. GD-
Code: 007 06-1142-CD

COMPLAINT IN CIVIL ACTION

Filed on behalf of PLAINTIFF

Counsel for PLAINTIFF:

NEIL R. ROSEN, ESQUIRE
Pa. I.D. #23619

ELIZABETH L. JENKINS, ESQUIRE
Pa. I.D. #85694

ROSEN LOUIK & PERRY, P.C.
Firm #020

Suite 200, The Frick Building
437 Grant Street
Pittsburgh, PA 15219
412-281-4200

JURY TRIAL DEMANDED

FILED *Atty pd. 85.00*
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JUL 17 2006
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JUL 17 2006
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William A. Shaw
Prothonotary/Clerk of Courts

COMPLAINT IN A CIVIL ACTION
Medical Professional Liability Action

NOTICE TO DEFEND

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

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

**Court Administrator's Office
Clearfield County Courthouse
230 East Market Street
Clearfield, PA 16830
Telephone: (814)765-2641 x5982**

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

MARJORIE SCHINDLEY,)	CIVIL ACTION – MEDICAL
)	PROFESSIONAL LIABILITY
Plaintiff,)	
)	
v.)	No. GD-
)	
DUBOIS REGIONAL MEDICAL CENTER,)	
)	
Defendant.)	
)	
)	
)	
)	

COMPLAINT IN CIVIL ACTION

1. Marjorie Schindley, Plaintiff herein, is an adult individual who resides at 143 East Long Avenue, DuBois, Clearfield County, Pennsylvania.
2. Defendant, DuBois Regional Medical Center (hereinafter referred to as "Defendant Hospital") is a corporation organized and existing under the laws of the Commonwealth of Pennsylvania, which provides a facility in which its agents, servants and/or employees provide medical care to patients such as Marjorie Schindley. At all times relevant to the matters set forth in this Complaint, the x-rays technicians in the radiology department of Defendant Hospital were acting as the agents, servants and/or employees of Defendant Hospital.
3. At all times relevant to the matters set forth in this Complaint, the physicians, nurses and other personnel of Defendant Hospital who participated in the care and treatment of

Plaintiff, including but not limited to, the x-ray technician who performed the CT scan on Marjorie Schindley on October 12, 2005, were the agents, servants and/or employees of Defendant Hospital and were acting within the course and scope of their employment by said hospital and were upon the business of Defendant Hospital.

4. On October 12, 2005 Plaintiff was admitted to Defendant Hospital with complaints of blood in her urine.

5. Plaintiff suffers from advanced multiple sclerosis and is at most times confined to her bed. Because of her condition, it is imperative that she be continuously repositioned so as to avoid the development of decubitus ulcers.

6. On October 12, 2005 upon her arrival to Defendant Hospital, Plaintiff was examined in the emergency room and a CT scan was ordered to be performed on Plaintiff.

7. Plaintiff was taken to the radiology department for the performance of the CT scan. While attempting to perform the CT scan on Plaintiff, Defendant's agent, a CT technician wrenched Plaintiff's right shoulder into the out side of the CT machine. Plaintiff cried out in pain repeatedly. However, the CT technician ignored Plaintiff's cries and continued with the CT scan.

8. Plaintiff continued to complain of severe, sharp stabbing pain after she was returned to her room. An x-ray of Plaintiff's right shoulder was eventually taken revealing a displaced fracture of the greater tubercle of the right humeral head and a fracture of the surgical neck of the right humerus.

9. Plaintiff was discharged from Defendant Hospital on October 15, 2005 with her right arm and shoulder immobilized by a sling.

10. Defendant Hospital, through its agents, servants and/or employees, including but not limited too the CT scan technicians, physicians and nurses assigned to care for and treat Plaintiff on October 12, 2005 were negligent and careless in some or all of the following particulars:

- a. as to the CT technician in failing to know the proper procedure to follow when obtaining a CT scan of a patient with advanced multiple sclerosis;
- b. in failing to employ proper and appropriate techniques in obtaining a CT scan of Plaintiff;
- c. in placing Plaintiff in a CT scan machine so carelessly as to wrench her right shoulder into the side of the CT scanner;
- d. in ignoring the Plaintiff's cries of pain when her shoulder was being wrenched into the side of the CT scanner;
- e. in failing to halt the CT scanning process when Plaintiff cried out in pain and in further failing to evaluate the reasons for Plaintiff's complaints;
- f. in failing to stop the procedure and immediately contact medical personnel appropriately trained in the evaluation and treatment of a patient with complaints of severe shoulder pain resulting from being wrenched into the side of a CT scanner;
- g. in failing to immediately contact a physician and/or other medical personnel properly trained to evaluate and treat a patient with complaints of severe shoulder pain resulting from being wrenched into a CT scanner after the completion of the CT scan;
- h. in failing to notify the nurses and physicians assigned to care for Plaintiff of the incident heretofore complained of;
- i. in failing to provide adequate documentation of Plaintiff's condition upon the completion of the CT scan;
- j. as to Defendant Hospital, in failing to properly and appropriately supervise, train and monitor the agents, servants and/or employees who had been assigned to care for Plaintiff, including but not limited too, the CT technician(s) who completed the October 12, 2005 CT scan;
- k. as to Defendant Hospital, in failing to provide adequate documentation of Plaintiff's condition following the CT scan performed on October 12,

2005 so as to enable other medical personnel to adequately evaluate Plaintiff's condition and facilitate treatment of Plaintiff's injuries;

1. as to Defendant Hospital, in failing to provide adequate physician coverage in the radiology department during Plaintiff's October 12, 2005 CT scan

11. As a direct and proximate result of the negligence and carelessness of Defendants, Plaintiff has suffered a displaced fracture of the right humeral head and fracture of the surgical neck of the right humerus.

12. As a further direct and proximate result of the conduct of Defendant, Plaintiff was caused to endure great pain and suffering, inconvenience and will suffer the same in the future.

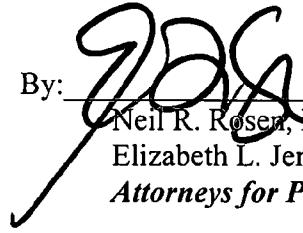
13. Plaintiff has suffered and will continue to suffer from decubitus ulcers which have resulted from the inability to reposition the Plaintiff due to her fractured shoulder.

14. As a further direct and proximate result of the conduct of Defendant Hospital, Plaintiff was forced to submit to medical treatment, embarrassment and humiliation and will suffer the same in the future.

WHEREFORE, Plaintiff, Marjorie Schindley, claims damages from Defendant, DuBois Regional Medical Center, in a sum in excess of the arbitration limits of this Court and demands a jury trial.

JURY TRIAL DEMANDED

ROSEN LOUIK & PERRY, P.C.

By: 

Neil R. Rosen, Esquire

Elizabeth L. Jenkins, Esquire

Attorneys for Plaintiff

VERIFICATION

I, Marjorie Schindley, have read the foregoing COMPLAINT IN CIVIL ACTION. The averments and/or denials contained therein are true and correct to the best of my personal knowledge or information and belief.

This statement and Verification are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities, which statute provides that false statements are subject to criminal penalties.

Date: 6-21-06



Marjorie Schindley



IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY
PENNSYLVANIA

MARJORIE SCHINDLEY,

Plaintiff,

vs.

DuBOIS REGIONAL MEDICAL CENTER,

Defendant.

CIVIL DIVISION—MEDICAL
PROFESSIONAL LIABILITY ACTION

Case No.: Ole-1142-CD

Code: 007

**CERTIFICATE OF MERIT AS TO
DEFENDANT, DuBOIS REGIONAL
MEDICAL CENTER**

Filed on behalf of PLAINTIFF

Counsel for PLAINTIFF:

NEIL R. ROSEN, ESQUIRE
Pa. I.D. #23619

ELIZABETH L. JENKINS, ESQUIRE
Pa. I.D. #85694

ROSEN LOUIK & PERRY, P.C.
Firm #020

The Frick Building, Suite 200
437 Grant Street
Pittsburgh, PA 15219
412-281-4200

JURY TRIAL DEMANDED

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William A. Shaw
Prothonotary/Clerk of Courts

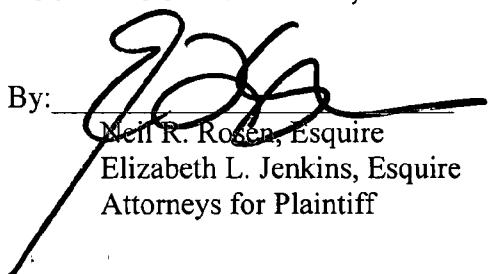
IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

MARJORIE SCHINDLEY,) CIVIL DIVISION—MEDICAL
Plaintiff,) PROFESSIONAL LIABILITY
vs.) ACTION
DuBOIS REGIONAL MEDICAL CENTER,))
Defendant.) Case No.: _____

CERTIFICATE OF MERIT AS TO DEFENDANT,
DuBOIS REGIONAL MEDICAL CENTER

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

ROSEN LOUIK & PERRY, P.C.

By: 

Neil R. Rosen, Esquire
Elizabeth L. Jenkins, Esquire
Attorneys for Plaintiff

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

MARJORIE SCHINDLEY,

: No. 2006 - 1142 - CD

: ISSUE:

: PRAECIPE FOR APPEARANCE

Plaintiff

vs.

DUBOIS REGIONAL MEDICAL CENTER,

: Filed on behalf of Defendant,
DUBOIS REGIONAL MEDICAL
CENTER

Defendant

: Counsel of Record for This Party:
John L. McIntyre, Esquire
PA I.D. #28015

: McINTYRE, HARTYE & SCHMITT
P.O. Box 533
Hollidaysburg, PA 16648
(814) 696-3581

: JURY TRIAL DEMANDED

I HEREBY CERTIFY THAT A TRUE AND
CORRECT COPY OF THE WITHIN WAS
MAILED TO ALL COUNSEL OF RECORD
THIS 1ST DAY OF AUGUST, 2006.



Attorneys for Defendant

FILED NO cc
m/11/2006
AUG 02 2006
[Handwritten Signature]

William A. Shaw
Prothonotary/Clerk of Courts

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

MARJORIE SCHINDLEY,	:	No. 2006 - 1142 - CD
Plaintiff	:	
vs.	:	
DUBOIS REGIONAL MEDICAL CENTER,	:	
Defendant	:	JURY TRIAL DEMANDED

PRAECIPE FOR APPEARANCE

TO: PROTHONOTARY

Enter my Appearance on behalf of Defendant, DUBOIS REGIONAL MEDICAL
CENTER.

Papers may be served at the address set forth below

John L. McIntyre

Attorneys for Defendant,
DUBOIS REGIONAL MEDICAL CENTER

McINTYRE, HARTYE & SCHMITT
John L. McIntyre, Esquire
PA I.D. #28015
P.O. Box 533
Hollidaysburg, PA 16648-0533
PH: (814) 696-3581
FAX: (814) 696-9399

Date: August 1, 2006

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET # 101729
NO: 06-1142-CD
SERVICE # 1 OF 1
COMPLAINT & CERTIFICATE OF MERIT

PLAINTIFF: MARJORIE SCHINDLEY
vs.
DEFENDANT: DUBOIS REGIONAL MEDICAL CENTER

SHERIFF RETURN

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

SERVED BY: COUDRIET /

PURPOSE	VENDOR	CHECK #	AMOUNT
SURCHARGE	ROSEN	1887	10.00
SHERIFF HAWKINS	ROSEN	1887	34.91

FILED

AUG 04 2006

01-250

William A. Shaw
Prothonotary/Clerk of Courts

Sworn to Before Me This

So Answers,

____ Day of _____ 2006

Chester A. Hawkins
by Marilyn Hupp
Chester A. Hawkins
Sheriff

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

MARJORIE SCHINDLEY,

No. 2006 - 1142 - CD

Plaintiff

ISSUE:

ANSWER AND NEW MATTER TO
PLAINTIFF'S COMPLAINT

VS.

DUBOIS REGIONAL MEDICAL CENTER,

Filed on behalf of Defendant,
DUBOIS REGIONAL MEDICAL
CENTER

Defendant

Counsel of Record for This Party:
John L. McIntyre, Esquire
PA I.D. #28015

McINTYRE, HARTYE & SCHMITT
P.O. Box 533
Hollidaysburg, PA 16648
(814) 696-3581

JURY TRIAL DEMANDED

I HEREBY CERTIFY THAT A TRUE AND
CORRECT COPY OF THE WITHIN WAS
MAILED TO ALL COUNSEL OF RECORD
THIS 25th DAY OF AUGUST, 2006.

Attnorneys for Defendant

FILED

AUG 29 2006

11:50 AM
William A. Shaw
Prothonotary/Clerk of Courts

NO C/C

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

MARJORIE SCHINDLEY,	:	No. 2006 – 1142 – CD
Plaintiff	:	
vs.	:	
DUBOIS REGIONAL MEDICAL CENTER,	:	
Defendant	:	JURY TRIAL DEMANDED

ANSWER AND NEW MATTER TO PLAINTIFF'S COMPLAINT

NOW, comes the Defendant, DUBOIS REGIONAL MEDICAL CENTER, by and through its attorneys, MCINTYRE, HARTYE & SCHMITT, and files the following Answer and New Matter to Plaintiff's Complaint and in support sets forth the following:

1. Admitted.
2. In response to Paragraph No. 2, it is admitted that DuBois Regional Medical Center is a health care provider and at the times referenced in the Plaintiff's Complaint, the x-ray technicians in the radiology department were employees of the hospital.
3. In response to Paragraph No. 3 of the Plaintiff's Complaint, DuBois Regional Medical Center is unable to admit or deny that all of the physicians and other personnel who provided care and treatment to Marjorie Schindley were agents, servants or employees and acting in the course and scope of their employment. It is admitted that the x-ray technicians would have been employees of the hospital. Strict proof of all claims of employment and/or agency as to the hospital is demanded at trial.
4. Admitted.
5. In response to Paragraph No. 5 of the Plaintiff's Complaint, said allegations are denied in accordance with Pa.R.C.P. 1029(e) and strict proof is demanded at trial. By way of further response, said allegations constitute medical/legal

conclusions as to what care and treatment was required for Marjorie Schindley and strict proof is demanded at trial.

6. It is admitted that the Plaintiff was examined in the emergency room and a CT scan was ordered.

7. In response to Paragraph No. 7 of the Plaintiff's Complaint, said allegations are denied in accordance with Pa.R.C.P. 1029(e). By way of further answer, it is denied that a "CT technician wrenched Plaintiff's right shoulder into the machine and/or that the Plaintiff cried out in pain". Further, it is denied that the CT technician ignored Plaintiff's cries and continued with the CT scan. To the contrary, at all times, the person or persons who performed the CT scan did so in accordance with the accepted standards and in an appropriate manner and strict proof of Plaintiff's allegations in Paragraph No. 7 is demanded at trial.

8. In response to Paragraph No. 8 of the Plaintiff's Complaint, said allegations are denied in accordance with Pa.R.C.P. 1029(e) and strict proof is demanded at the time of trial. By way of further answer, it is admitted that an x-ray was taken of Plaintiff's right shoulder and the contents of the x-ray and x-ray reports speak for themselves.

9. In response to Paragraph No. 9 of the Plaintiff's Complaint, it is admitted that the Plaintiff was discharged from the hospital on October 15, 2005. As to the remainder of said allegations, the same are denied in accordance with Pa.R.C.P. 1029(e).

10. In response to Paragraph No. 10 and sub-paragraphs a – l of Plaintiff's Complaint, all allegations are denied in accordance with Pa.R.C.P. 1029(e) and strict proof thereof is demanded at the time of trial. By way of further answer, DRMC is not able to admit or deny that all of the physicians, nurses and technicians who provided care and treatment were agents, servants or employees. It is admitted that the

technicians and nurses would have been employees of the hospital. It is denied that any of the persons who provided care and treatment on October 12, 2005, with regard to the CT scan were negligent and/or careless in treating Marjorie Schindley. To the contrary, at all times, the hospital personnel followed all appropriate procedures, employed appropriate techniques and attempted to obtain a CT scan of Marjorie Schindley in accordance with the accepted standards of care then and there existing. It is denied that Marjorie Schindley cried out in pain and that said cries were ignored or otherwise ignored by any of the personnel who were involved in obtaining the CT scan. Appropriate documentation was prepared and there was no duty to notify any medical personnel of any incident insofar as all actions were appropriate and the CT personnel did not experience any problems or difficulties in obtaining a CT scan with regard to Marjorie Schindley. At all times, the hospital did properly and appropriately supervise, train and monitor its agents, servants and employees with regard to obtaining CT scans. Strict proof of all allegations of negligence and causation, as contained in Paragraph No. 10, sub-paragraphs a – l is demanded at the time of trial.

11. In response to Paragraph No. 11 of the Plaintiff's Complaint, it is specifically denied that DRMC was negligent or careless in treating Marjorie Schindley and further, it is denied that injuries and damages complained of in Paragraph No. 11 were caused by any actions or inactions of the personnel in obtaining a CT scan. Strict proof of all claims of negligence, causation and damages is demanded at the time of trial.

12-14. In response to Paragraph Nos. 12 – 14 of the Plaintiff's Complaint, after reasonable investigation, this answering Defendant is without sufficient knowledge or information with regard to the injuries and damages being claimed and strict proof of same, as well as causation, is demanded at the time of trial.

WHEREFORE, Defendant, DuBois Regional Medical Center, respectfully requests that the Complaint of Marjorie Schindley be denied and dismissed with prejudice.

NEW MATTER

By way of further answer, DuBois Regional Medical Center sets forth the following New Matter:

15. Plaintiff's claims are barred or limited as provided by the provisions of the Health Care Services Malpractice Act, as amended. Plaintiff's claims are barred or limited as provided under the Medical Care Availability and Reduction of Error Act, 40 P.S. § 1303.101 et seq.

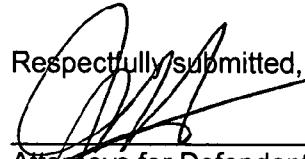
16. Pursuant to the provisions of the M-CARE Act, DuBois Regional Medical Center is neither a guarantor nor a warrantor of a cure.

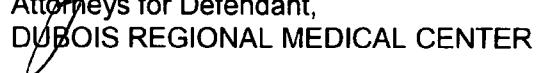
17. The incident, injuries and/or damages alleged to have been sustained by the Plaintiff were not proximately caused by DuBois Regional Medical Center, or its agents, servants or employees.

18. In the alternative, the alleged injuries and/or damages sustained by the Plaintiff were caused by or contributed to, in whole or part, by persons or entities other than those for whom DuBois Regional Medical Center is responsible.

19. At all times, all medical care and treatment provided by the agents, servants or employees of DuBois Regional Medical Center met or exceeded the applicable standard of care then and there existing under the circumstances.

WHEREFORE, Defendant, DuBois Regional Medical Center, respectfully
requests that the Plaintiff's Complaint be dismissed with prejudice and judgment entered
in its favor.

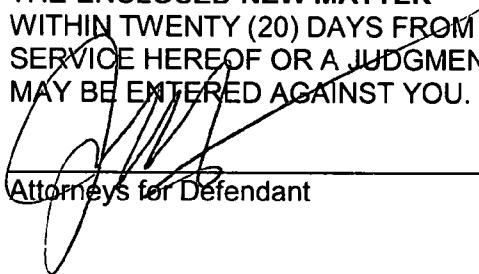

Respectfully submitted,


Attorneys for Defendant,
DUBOIS REGIONAL MEDICAL CENTER

McINTYRE, HARTYE & SCHMITT
John L. McIntyre, Esquire
PA I.D. #28015
P.O. Box 533
Hollidaysburg, PA 16648-0533
PH: (814) 696-3581
FAX: (814) 696-9399

TO: WITHIN NAMED PARTIES

YOU ARE HEREBY NOTIFIED TO
FILE A WRITTEN RESPONSE TO
THE ENCLOSED **NEW MATTER**
WITHIN TWENTY (20) DAYS FROM
SERVICE HEREOF OR A JUDGMENT
MAY BE ENTERED AGAINST YOU.


Attorneys for Defendant

VERIFICATION

I, **GREGORY VOLPE, Risk Manager**, do hereby verify that I have read the foregoing **ANSWER AND NEW MATTER TO PLAINTIFF'S COMPLAINT**. The statements therein are correct to the best of my personal knowledge or information and belief.

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

DUBOIS REGIONAL MEDICAL CENTER



Gregory Volpe

Gregory Volpe, Risk Manager

Date: 8-22-06

Prothonotary/Clerk of Courts
William A. Shaw

AUG 29 2006

FILED

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY
PENNSYLVANIA

MARJORIE SCHINDLEY,

Plaintiff,

vs.

DuBOIS REGIONAL MEDICAL CENTER,

Defendant.

CIVIL DIVISION—MEDICAL
PROFESSIONAL LIABILITY ACTION

Case No.: 06-1142-CD

Code: 007

**PLAINTIFF'S REPLY TO NEW
MATTER OF DEFENDANT, DuBOIS
REGIONAL MEDICAL CENTER**

Filed on behalf of PLAINTIFF

Counsel for PLAINTIFF:

NEIL R. ROSEN, ESQUIRE
Pa. I.D. #23619

ELIZABETH L. JENKINS, ESQUIRE
Pa. I.D. #85694

ROSEN LOUIK & PERRY, P.C.
Firm #020

The Frick Building, Suite 200
437 Grant Street
Pittsburgh, PA 15219
412-281-4200

JURY TRIAL DEMANDED

FILED NO CC
M/14/06
SEP 07 2006

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

MARJORIE SCHINDLEY,) CIVIL DIVISION—MEDICAL
) PROFESSIONAL LIABILITY
Plaintiff,) ACTION
)
vs.) Case No.: 06-1142-CD
)
DuBOIS REGIONAL MEDICAL CENTER,)
)
Defendant.)

PLAINTIFF'S REPLY TO NEW MATTER OF DEFENDANT,
DuBOIS REGIONAL MEDICAL CENTER

AND NOW, comes Plaintiff, Marjorie Schindley (“Plaintiff”), by and through her undersigned counsel, ROSEN LOUIK & PERRY, P.C., and files the following Reply to New Matter contained in the “Answer and New Matter” filed on behalf of Defendant, DuBois Regional Medical Center (“Defendant DuBois Regional”):

15. The allegations contained in paragraph 15 of Defendant DuBois Regional’s New Matter are conclusions of law to which no response is necessary.

16. The allegations contained in paragraph 16 of Defendant DuBois Regional’s New Matter are conclusions of law to which no response is necessary.

17. The allegations contained in paragraph 17 of Defendant DuBois Regional’s New Matter are conclusions of law to which no response is necessary.

18. The allegations contained in paragraph 18 of Defendant DuBois Regional’s New Matter are denied in part. Portions of this allegation are conclusions of law to which no response is required. To the extent a response is required, Plaintiff alleges Defendant DuBois Regional is responsible for the person or persons who caused injury to Plaintiff.

19. The allegations contained in paragraph 19 of Defendant DuBois Regional's New Matter are denied. Please see Plaintiff's Complaint setting forth allegations of negligence and deviation from the standard of care.

WHEREFORE, Plaintiff requests that judgment be entered in her favor as stated in Plaintiff's Complaint.

ROSENLOUIK & PERRY, P.C.

By: 

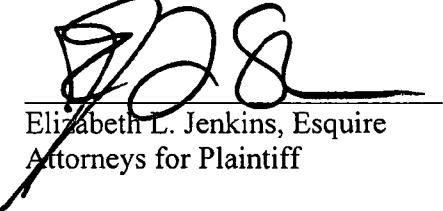
Neil R. Rosen, Esquire
Elizabeth L. Jenkins, Esquire
Attorneys for Plaintiff

VERIFICATION

I, ELIZABETH L. JENKINS, ESQ., have read the foregoing PLAINTIFF'S REPLY TO NEW MATTER OF DEFENDANT, DuBOIS REGIONAL MEDICAL CENTER. The averments and/or denials contained therein are true and correct to the best of my personal knowledge or information and belief.

This statement and Verification are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities, which statute provides that false statements are subject to criminal penalties.

Date: September 5, 2006

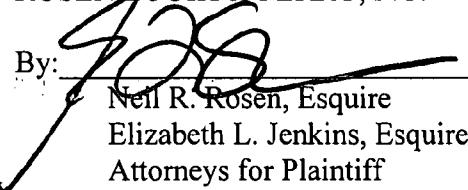

Elizabeth L. Jenkins, Esquire
Attorneys for Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the within PLAINTIFF'S REPLY TO NEW MATTER OF DEFENDANT, DuBOIS REGIONAL MEDICAL CENTER, was served upon all counsel of record by United States first-class mail, postage prepaid, or hand delivery, on the 5th day of September, 2006, as follows:

John L. McIntyre, Esquire
McIntyre Hartye & Schmitt
P.O. Box 533
Hollidaysburg, PA 16648-0533

ROSEN LOUIK & PERRY, P.C.

By: 

Neil R. Rosen, Esquire
Elizabeth L. Jenkins, Esquire
Attorneys for Plaintiff

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

MARJORIE SCHINDLEY,

: No. 2006 – 1142 – CD

Plaintiff

: ISSUE:

: Notice of Service of Interrogatories
and Request for Production of
Documents Directed to Plaintiff
Dated October 30, 2006

VS.

DUBOIS REGIONAL MEDICAL CENTER,

: Filed on behalf of Defendant,
DUBOIS REGIONAL MEDICAL
CENTER

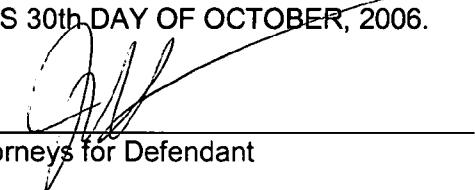
Defendant

: Counsel of Record for This Party:
John L. McIntyre, Esquire
PA I.D. #28015

: McINTYRE, HARTYE & SCHMITT
P.O. Box 533
Hollidaysburg, PA 16648
(814) 696-3581

: JURY TRIAL DEMANDED

I HEREBY CERTIFY THAT A TRUE AND
CORRECT COPY OF THE WITHIN WAS
MAILED TO ALL COUNSEL OF RECORD
THIS 30th DAY OF OCTOBER, 2006.



Attorneys for Defendant

FILED NO CC
m 11:03 AM
NOV 01 2006

William A. Shaw
Prothonotary/Clerk of Courts

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

MARJORIE SCHINDLEY, : No. 2006 – 1142 – CD
Plaintiff :
vs. :
DUBOIS REGIONAL MEDICAL CENTER, :
Defendant : JURY TRIAL DEMANDED

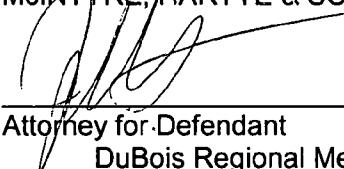
NOTICE OF SERVICE OF INTERROGATORIES
AND REQUEST FOR PRODUCTION OF DOCUMENTS
DIRECTED TO PLAINTIFF DATED OCTOBER 30, 2006

TO: PROTHONOTARY

You are hereby notified that on the 30TH day of October, 2006, Defendant, DUBOIS REGIONAL MEDICAL CENTER, served Interrogatories and Request for Production of Documents Directed to Plaintiff Dated October 30, 2006, by mailing the original of same via First Class U.S. Mail, postage prepaid, addressed to the following:

Neil R. Rosen, Esquire
Elizabeth L. Jenkins, Esquire
Rosen, Louik & Perry, P.C.
Suite 200, The Frick Bldg.
437 Grant Street
Pittsburgh, PA 15219

McINTYRE, HARTYE & SCHMITT



Attorney for Defendant
DuBois Regional Medical Center
John L. McIntyre, Esquire
PA I.D. No. 28015
P. O. Box 533
Hollidaysburg, PA 16648-0533
(814) 696-3581

FILED

NOV 01 2006

William A. Shaw
Prothonotary/Clerk of Courts

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

MARJORIE SCHINDLEY,

No. 2006 - 1142 - CD

Plaintiff

ISSUE:

NOTICE OF SERVICE OF ANSWERS
TO PLAINTIFF'S FIRST SET OF
INTERROGATORIES AND REQUEST
FOR PRODUCTION OF DOCUMENTS
DIRECTED TO DEFENDANT

vs.

DUBOIS REGIONAL MEDICAL CENTER,

Filed on behalf of Defendant,
DUBOIS REGIONAL MEDICAL
CENTER

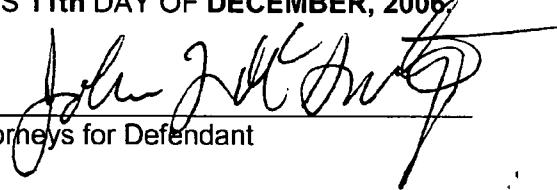
Defendant

Counsel of Record for This Party:
John L. McIntyre, Esquire
PA I.D. #28015

McINTYRE, HARTYE & SCHMITT
P.O. Box 533
Hollidaysburg, PA 16648
(814) 696-3581

JURY TRIAL DEMANDED

I HEREBY CERTIFY THAT A TRUE AND
CORRECT COPY OF THE WITHIN WAS
MAILED TO ALL COUNSEL OF RECORD
THIS 11th DAY OF DECEMBER, 2006.


Attorneys for Defendant

FILED NO CC
M 11/18/06
DEC 12 2006
5

William A. Shaw
Prothonotary/Clerk of Courts

FILED

DEC 12 2006

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY
PENNSYLVANIA

MARJORIE SCHINDLEY,

Plaintiff,

vs.

DuBOIS REGIONAL MEDICAL CENTER,

Defendant.

CIVIL DIVISION—MEDICAL
PROFESSIONAL LIABILITY ACTION

Case No.: 06-1142-CD

Code: 007

**VOLUNTARY SUBSTITUTION OF
PARTY PLAINTIFF**

Filed on behalf of PLAINTIFF

Counsel for PLAINTIFF:

NEIL R. ROSEN, ESQUIRE
Pa. I.D. #23619

ELIZABETH L. JENKINS, ESQUIRE
Pa. I.D. #85694

ROSEN LOUIK & PERRY, P.C.
Firm #020

The Frick Building, Suite 200
437 Grant Street
Pittsburgh, PA 15219
412-281-4200

JURY TRIAL DEMANDED

FILED
MARCH 17 2008
10 CC
GR

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

MARJORIE SCHINDLEY,) CIVIL DIVISION—MEDICAL
Plaintiff,) PROFESSIONAL LIABILITY
vs.) ACTION
DuBOIS REGIONAL MEDICAL CENTER,) Case No.: 06-1142-CD
Defendant.)

VOLUNTARY SUBSTITUTION OF PARTY PLAINTIFF

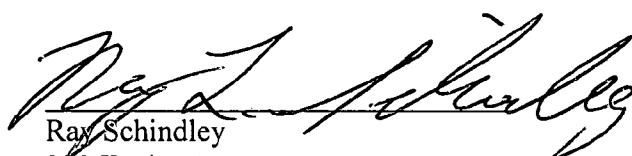
1. I, RAY SCHINDLEY, am the successor-in-interest of MARJORIE J. SCHINDLEY, Plaintiff herein, and desire to substitute myself for MARJORIE J. SCHINDLEY, as Plaintiff herein.

2. The material facts on which my right of succession and substitution is based are as follows:

- (a) Marjorie J. Schindley died on November 28, 2007; and
- (b) I was appointed the Executor of the Estate of Marjorie J. Schindley and was issued Letters of Testamentary by the Register of Wills of Clearfield County, Pennsylvania on February 29, 2008.

3. I do hereby voluntarily substitute myself in my representative capacity as Executor of the Estate of Marjorie J. Schindley, Deceased, as Plaintiff herein, in the place and stead of Marjorie J. Schindley.

Date: 3-11-2008

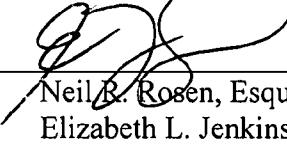

Ray Schindley
320 Tozier Avenue
DuBois, PA 15801

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the within VOLUNTARY
SUBSTITUTION OF PARTY PLAINTIFF, was served upon all counsel of record by United
States first-class mail, postage prepaid, or hand delivery, on the 13th day of March, 2008, as
follows:

John L. McIntyre, Esquire
McIntyre Hartye & Schmitt
P.O. Box 533
Holidaysburg, PA 16648
(Counsel for Defendant)

ROSEN LOUIK & PERRY, P.C.

By: 

Neil R. Rosen, Esquire
Elizabeth L. Jenkins, Esquire
Attorneys for Plaintiff

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY
PENNSYLVANIA

RAY SCHINDLEY, Executor of the Estate of
MARJORIE SCHINDLEY, Deceased,

Plaintiff,

vs.

DuBOIS REGIONAL MEDICAL CENTER,

Defendant.

CIVIL DIVISION—MEDICAL
PROFESSIONAL LIABILITY ACTION

Case No.: 06-1142-CD

Code: 007

**PETITION FOR LEAVE TO SETTLE A
DEATH CASE**

Filed on behalf of PLAINTIFF

Counsel for PLAINTIFF:

NEIL R. ROSEN, ESQUIRE
Pa. I.D. #23619

ELIZABETH L. JENKINS, ESQUIRE
Pa. I.D. #85694

ROSEN LOUIK & PERRY, P.C.
Firm #020

The Frick Building, Suite 200
437 Grant Street
Pittsburgh, PA 15219
412-281-4200

JURY TRIAL DEMANDED

FILED
M 10:40 AM
JUN 03 2008
NoCC

William A. Shaw
Prothonotary/Clerk of Courts
[Signature]

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

RAY SCHINDLEY, Executor of the) CIVIL DIVISION—MEDICAL
Estate of MARJORIE SCHINDLEY,) PROFESSIONAL LIABILITY
Deceased,) ACTION
)
 Plaintiff,)
)
 vs.) Case No.: 06-1142-CD
)
 DuBOIS REGIONAL MEDICAL CENTER,)
)
 Defendant.)

PETITION FOR LEAVE TO SETTLE A DEATH CASE

NOW comes Plaintiff Ray Schindley, Executor of the Estate of Marjorie Schindley, Deceased, by his attorneys ROSEN LOUIK & PERY, P.C., and files the following Petition seeking permission from this Honorable Court to settle this death case. In support thereof, Plaintiff avers:

1. Ray Schindley was the husband of Marjorie Schindley (“Decedent”) and has been appointed the personal representative of Decedent’s Estate by the Register of Wills of Clearfield County on February 29, 2008 at No. 1708-0117.
2. On October 12, 2005, Decedent, who suffered from advanced multiple sclerosis and was at most times confined to her bed, was admitted to Defendant DuBois Regional Medical Center (“Defendant Hospital”) with blood in her urine. Upon admission, Decedent was taken to Defendant Hospital’s radiology department to undergo a CT scan. In positioning Decedent for the test, a CT technician employed by Defendant Hospital wrenched Decedent’s right shoulder into the outside of the CT machine. Although Decedent immediately cried out in pain

repeatedly, the CT technician ignored her cries and continued with the CT scan. Decedent continued to complain of severe, sharp stabbing pain after she was returned to her room. An x-ray of her right shoulder was eventually taken revealing a displaced fracture of the greater tubercle of the right humeral head and a fracture of the surgical neck of the right humerus. Plaintiff was discharged from Defendant Hospital on October 15, 2005 with her right arm and shoulder immobilized by a sling. Decedent received no additional treatment for this injury. Decedent eventually died on November 28, 2007 as a result of numerous medical problems completely unrelated to her shoulder injury.

3. Decedent, who was 58 years old at the time, died, survived by her husband, the Plaintiff, and three adult children, John Cozen, III, Richard L. Schindley and Robin L Park. In a Last Will and Testament dated September 27, 1993, Decedent left her entire estate to her husband, the Plaintiff.

4. As a result of the events described above, Decedent retained Neil R. Rosen, Esquire, and Rosen Louik & Perry, P.C. as her attorneys to investigate the circumstances surrounding Decedent's treatment and to determine whether Defendant Hospital had provided Decedent with medical care that deviated from accepted standards of care. After obtaining Decedent's medical records, reviewing those records, conducting medical research and consulting with experts, Decedent's counsel determined that a lawsuit was appropriate. After the pleadings had closed, Decedent's attorneys sent written discovery to Defendant Hospital and answered written discovery propounded by Defendant Hospital. After Decedent died, her

attorneys had Plaintiff appointed the personal representative of Decedent's Estate. Thereafter, on March 17, 2008, Plaintiff filed a Voluntary Substitution of Party Plaintiff.¹

5. An offer of \$25,000 has now been made on behalf of Defendant Hospital to settle this case. Plaintiff has tentatively accepted the offer, pending approval of this Honorable Court.

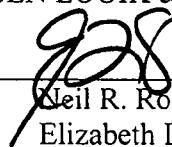
6. Because Decedent died of causes unrelated to the injuries for which this action was brought, the entire settlement proceeds must be apportioned to her survival claim and distributed according to the terms of her Last Will and Testament.

7. Plaintiff Ray Schindley, Executor of the Estate of Marjorie Schindley, Deceased, hereby declares that the averments of this Petition have been completely read and are fully understood by him and, subject to this Court's approval, are accepted by him for the purpose of making a full and complete compromise agreement and settlement of any and all claims arising from this accident.

WHEREFORE, Plaintiff requests that this Court grant him leave to settle by entering the attached proposed Order of Court.

Respectfully submitted,

ROSEN LOUIK & PERRY, P.C.

By: 

Neil R. Rosen, Esquire

Elizabeth L. Jenkins, Esquire
Attorneys for Plaintiff

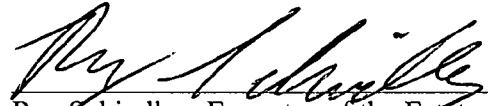
¹ Because of the settlement, Plaintiff's counsel has never taken formal action to amend the caption in this case.

VERIFICATION

I, RAY SCHINDLEY, have read the foregoing PETITION FOR LEAVE TO SETTLE A DEATH CASE. The averments and/or denials contained therein are, insofar as they are derived from my own knowledge, true and correct to the best of my knowledge, information and belief, and insofar as they are derived from others, such facts are believed to be true and correct.

This statement and verification is made subject to the penalties of 19 Pa. C. S. §4904 relating to unsworn falsification to authorities, which statute provides that false statements are subject to criminal penalties.

5-22-2008
Date

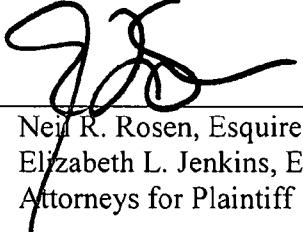

Ray Schindley, Executor of the Estate of Marjorie Schindley, Deceased

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the within **PLAINTIFF'S PETITION FOR LEAVE TO SETTLE A DEATH CASE**, was served this 2 day of June, 2008, via hand delivery and/or first-class United States mail, upon the following counsel of record, addressed as follows:

John L. McIntyre, Esquire
McIntyre Hartye & Schmitt
P.O. Box 533
Hollidaysburg, PA 16648-0533

ROSEN LOUIK & PERRY, P.C.

By: 

Neil R. Rosen, Esquire
Elizabeth L. Jenkins, Esquire
Attorneys for Plaintiff

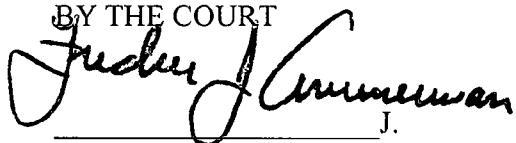
IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

RAY SCHINDLEY, Executor of the) CIVIL DIVISION—MEDICAL
Estate of MARJORIE SCHINDLEY,) PROFESSIONAL LIABILITY
Deceased,) ACTION
)
 Plaintiff,)
)
 vs.) Case No.: 06-1142-CD
)
 DuBOIS REGIONAL MEDICAL CENTER,)
)
 Defendant.)

ORDER OF COURT

NOW, this 4th day of JUNE, 2008, it is hereby ORDERED,
ADJUDGED and **DECREED** that the foregoing Petition For Leave to Settle a Death Case is
GRANTED. Plaintiff, Ray Schindley, is granted leave to settle this claim for \$25,000.00. The
entire settlement proceeds shall be allocated to Decedent's survival claim and distributed through
Decedent's Estate according to the terms of her Last Will and Testament dated September 27,
1993 that has been filed with the Register of Wills of Clearfield County. Decedent's Estate shall
be responsible for attorneys fee and costs.

BY THE COURT



J. C. Zimmerman
J.

FILED ^{1CC}
06/30/2008 Atty Rosen
JUN 04 2008
6P
William A. Shaw
Prothonotary/Clerk of Courts

FILED

JUN 04 2008

William A. Shaw
Prothonotary/Clerk of Courts

DATE: 6/4/08

You are responsible for serving all appropriate parties.

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

Plaintiff(s) Plaintiff(s) Attorney Other

Defendant(s) Defendant(s) Attorney

Special Instructions:

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY
PENNSYLVANIA

RAY SCHINDLEY, Executor of the Estate of
MARJORIE SCHINDLEY, Deceased,

Plaintiff,

vs.

DuBOIS REGIONAL MEDICAL CENTER,

Defendant.

CIVIL DIVISION—MEDICAL
PROFESSIONAL LIABILITY ACTION

Case No.: 06-1142-CD

Code: 007

**PRAECIPE TO SETTLE AND
DISCONTINUE**

Filed on behalf of PLAINTIFF

Counsel for PLAINTIFF:

NEIL R. ROSEN, ESQUIRE
Pa. I.D. #23619

ELIZABETH L. JENKINS, ESQUIRE
Pa. I.D. #85694

ROSEN LOUIK & PERRY, P.C.
Firm #020

The Frick Building, Suite 200
437 Grant Street
Pittsburgh, PA 15219
412-281-4200

JURY TRIAL DEMANDED

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FILED ^{ICC+1 Cert of}
^{disc issued to}
m/1:50pm OCT 20 2008 Atty Jenkins
OCT 20 2008

William A. Shaw
Prothonotary/Clerk of Courts

LM ^{Copy to C/A}

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

RAY SCHINDLEY, Executor of the) CIVIL DIVISION—MEDICAL
Estate of MARJORIE SCHINDLEY,) PROFESSIONAL LIABILITY
Deceased,) ACTION
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 Plaintiff,)
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 vs.) Case No.: 06-1142-CD
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 DuBOIS REGIONAL MEDICAL CENTER,)
)
 Defendant.)

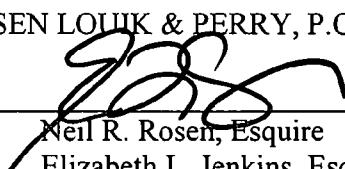
PRAECIPE TO SETTLE AND DISCONTINUE

TO: Clearfield County Prothonotary

Kindly settle and discontinue the above-captioned action, with prejudice, and mark it off
the docket.

Respectfully submitted,

ROSEN LOUIK & PERRY, P.C.

By: 

Neil R. Rosen, Esquire
Elizabeth L. Jenkins, Esquire
Attorneys for Plaintiff

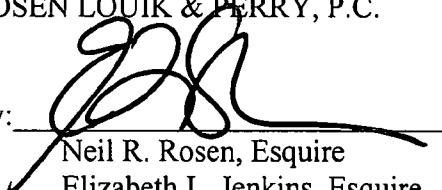
DATED: October 1, 2008

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the within **PRAECIPE TO SETTLE
AND DISCONTINUE**, was served this 17th ^{OCT 2008} day of ~~June~~, 2008, via hand delivery and/or first-class United States mail, upon the following counsel of record, addressed as follows:

John L. McIntyre, Esquire
McIntyre Hartye & Schmitt
P.O. Box 533
Hollidaysburg, PA 16648-0533

ROSEN LOUIK & PERRY, P.C.

By: 

Neil R. Rosen, Esquire
Elizabeth L. Jenkins, Esquire
Attorneys for Plaintiff

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

COPY

Marjorie Schindley
Ray Schindley

Vs.
DuBois Regional Medical Center

No. 2006-01142-CD

CERTIFICATE OF DISCONTINUATION

Commonwealth of PA
County of Clearfield

I, William A. Shaw, Prothonotary of the Court of Common Pleas in and for the County and Commonwealth aforesaid do hereby certify that the above case was on October 20, 2008, marked:

Settled and Discontinued with prejudice

Record costs in the sum of \$85.00 have been paid in full by Elizabeth L. Jenkins Esq.

IN WITNESS WHEREOF, I have hereunto affixed my hand and seal of this Court at Clearfield, Clearfield County, Pennsylvania this 20th day of October A.D. 2008.

William A. Shaw

Lm

William A. Shaw, Prothonotary