



## Civil Other

Date		Judge
10/16/2006	✓ Notice of Service of First Set of Interrogatories Directed to Plaintiff and First Request for Production of Documents Directed to Plaintiff filed on behalf of Defendant James P. Cherry M.D., filed by s/ Terry C. Cavanaugh Esq. No CC.	No Judge
10/17/2006	✓ Answer and New Matter to Plaintiff's Complaint, filed by s/ John W. Blasko Esq. No CC.	No Judge
10/18/2006	✓ Certificate of Service, copy of Defendant's Notice of Intent to Subpoena was mailed by first class mail on Oct. 11, 2006, to: Lisa Smith Presta, Esquire; David R. Johnson, Esquire; and Terry C. Cavanaugh, Esquire. No CC	No Judge
11/6/2006	✓ Certificate Prerequisite to Service of a Subpoena Pursuant to Pa.R.C.P. 4009.22, filed by s/ John W. Blasko, Esquire. No CC	No Judge
11/13/2006	✓ Sheriff Return, September 29, 2006 at 10:10 am Served the within Summons on James P. Cherry M.D. So Answers, Chester A. Hawkins, Sheriff by s/Marilyn Hamm Shff Hawkins costs pd by MacDonald \$44.91	No Judge
11/22/2006	✓ Certificate of Merit as to Defendant DuBois Regional Medical Center, filed by s/ Lisa Smith Presta Esq. NO CC.	No Judge
	✓ Certificate of Merit as to Defendant Gary Ott M.D., filed by s/ Lisa Smith Presta Esq. No CC.	No Judge
	✓ Certificate of Merit as to Defendant James P. Cherry MD., filed by s/ Lisa Smith Presta Esq. NO CC.	No Judge
	✓ Plaintiff's Reply to New Matter of Defendant Gary Ott MD, filed by s/ Lisa Smith Presta Esq. No CC.	No Judge
12/14/2006	✓ Answer and New Matter filed by Atty. Cavanaugh no cert. copies.	No Judge
1/3/2007	✓ Answer and New Matter filed by s/ David R. Johnson Esq. No CC.	No Judge
1/24/2007	✓ Motion to Compel, filed by Atty. Oliver no cert. copies.	No Judge
1/26/2007	✓ Order, NOW, this 26th day of Jan., 2007, oral argument on defendant's motion to compel is scheduled for the 16th day of Feb., 2007, at 11:00 a.m. before Judge Ammerman in Courtroom 1. By The Court, /s/ Fredric J. ammerman, Pres. Judge. 1CC Atty. Oliver	Fredric Joseph Ammerman

Date: 2/1/2007

Clearfield County Court of Common Pleas

User: LMILLER

Time: 10:25 AM

ROA Report

Page 2 of 2

Case: 2006-01114-CD

Current Judge: Paul E. Cherry

David L. Piccoli Sr., Discovery House CU, Inc. vs. Clearfield County, Pike Township. Guardian Inspection Services, Inc.,  
Clearfield County Planning Commission

Civil Other

Date		Judge
9/11/2006	✓ Reply of Defendants Clearfield County and Clearfield County Planning Commission to Plaintiffs' New Matter to Counterclaim, filed by s/ Kim C. Kesner Esq. 5CC Atty Kesner.	Paul E. Cherry
	✓ Reply of Defendant Pike Township to Plaintiffs' New Matter to Counterclaim, filed by s/ Kim C. Kesner Esq. 5CC Atty Kesner.	Paul E. Cherry
12/29/2006	✓ Motion For Special Relief, filed by s/ Kim C. Kesner Esq. 4CC atty Kesner.	Paul E. Cherry
1/2/2007	✓ Order AND NOW, this 2nd day of January 2007, upon consideration of Defendant Pike Township's Motion for Special Relief (Injunction), it is hereby ORDERED AND DECREED that hearing thereon in accordance with P.A.R.Civ.P. Rule 1531 shall be held on the 6th day of February 2007 in Courtroom NO. 2 at 2:00 p.m. BY THE COURT: /s/ Paul E. Cherry, Judge. 4CC Atty Kesner.	Paul E. Cherry
1/5/2007	✓ Certificate of Service, filed by Atty. Kesner, 1 Cert. to Atty. Served copy of Motion for Special Relief and Order on Atty. Strouss, Guradian Inspection Services and Mr. Wruble.	Paul E. Cherry
1/31/2007	Motion For Continuance of Hearing on Motion For Special Relief, filed by s/ Ruth E. Granfors, Esquire. 2CC Atty.	Paul E. Cherry

MARGARET HUDSICK,  
Plaintiff

v.

DUBOIS REGIONAL MEDICAL  
CENTER, GARY OTT, M.D., JAMES P.  
CHERRY, M.D. and LARRY  
SCHACHTER, M.D.  
Defendants

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

) MEDICAL PROFESSIONAL LIABILITY  
) ACTION  
)

) JURY TRIAL REQUESTED  
)

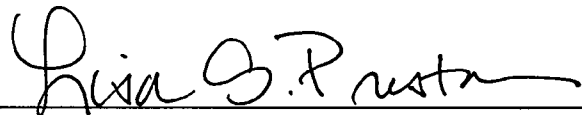
) NO. 06-1304-CD  
)

**PRAECIPE FOR WRIT OF SUMMONS**

To: Prothonotary (Civil) Division  
Clearfield County

Please issue Writs of Summons upon the defendants as listed above and forward the  
Writs to the Clearfield County Sheriff's Office for original service.

Respectfully submitted,



Lisa Smith Presta  
MacDONALD, ILLIG, JONES & BRITTON LLP  
100 State Street, Suite 700  
Erie, Pennsylvania 16507-1459  
(814) 870-7650

Attorneys for Plaintiff  
Margaret Hudsick

969513

**FILED** Atty pd. 85.00  
AUG 15 2006 i Writ to Atty  
3 Writs to Sheriff  
William A. Shaw  
Prothonotary/Clerk of Courts

**FILED**

**AUG 15 2006**

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

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

**SUMMONS**

**Margaret Hudsick**

**Vs.**

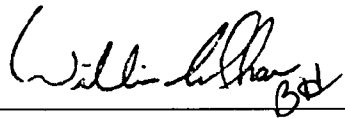
**NO.: 2006-01304-CD**

**DuBois Regional Medical Center  
Gary Ott, MD  
James P. Cherry, MD  
Larry Schachter, MD**

**TO: DUBOIS REGIONAL MEDICAL CENTER  
GARY OTT MD  
JAMES P. CHERRY MD  
LARRY SCHACHTER MD**

To the above named Defendant(s) you are hereby notified that the above named Plaintiff(s) has/have commenced a Civil Action against you.

Date: 08/15/2006

  
\_\_\_\_\_  
William A. Shaw  
Prothonotary

Issuing Attorney:  
Lisa Smith Presta  
100 State Street, Ste. 700  
Erie, PA 16507-1459  
(814) 870-7650

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

DOCKET # 101825  
NO: 06-1304-CD  
SERVICE # 1 OF 3  
SUMMONS

PLAINTIFF: MARGARET HUDSICK

vs.

DEFENDANT: DUBOIS REGIONAL MEDICAL CENTER al

**SHERIFF RETURN**

---

NOW, August 23, 2006 AT 11:45 AM SERVED THE WITHIN SUMMONS ON DUBOIS REGIONAL MEDICAL CENTER DEFENDANT AT 100 HOSPITAL AVE., DUBOIS, CLEARFIELD COUNTY, PENNSYLVANIA, BY HANDING TO GREG VOLPE, RISK MANAGEMENT A TRUE AND ATTESTED COPY OF THE ORIGINAL SUMMONS AND MADE KNOWN THE CONTENTS THEREOF.

SERVED BY: COUDRIET /

**FILED**  
AUG 30 2006  
0/2:15  
William A. Shaw  
Prothonotary/Clerk of Courts

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

DOCKET # 101825  
NO: 06-1304-CD  
SERVICE # 2 OF 3  
SUMMONS

PLAINTIFF: MARGARET HUDSICK

vs.

DEFENDANT: DUBOIS REGIONAL MEDICAL CENTER al

**SHERIFF RETURN**

---

NOW, August 23, 2006 AT 12:20 PM SERVED THE WITHIN SUMMONS ON GARY OTT, M.D. DEFENDANT AT 145 HOSPITAL AVE., DUBOIS, CLEARFIELD COUNTY, PENNSYLVANIA, BY HANDING TO MARCY BAIRD, MEDICAL ASSISTANT A TRUE AND ATTESTED COPY OF THE ORIGINAL SUMMONS AND MADE KNOWN THE CONTENTS THEREOF.

SERVED BY: COUDRIET /



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

DOCKET # 101825  
NO: 06-1304-CD  
SERVICE # 3 OF 3  
SUMMONS

PLAINTIFF: MARGARET HUDSICK

VS.

DEFENDANT: DUBOIS REGIONAL MEDICAL CENTER al

**SHERIFF RETURN**

---

NOW, August 23, 2006 AT 12:00 PM SERVED THE WITHIN SUMMONS ON LARRY SCHACHTER, M.D. DEFENDANT AT 145 HOSPITAL AVE., DUBOIS, CLEARFIELD COUNTY, PENNSYLVANIA, BY HANDING TO MARSHA SHENK, MEDICAL ASSISTANT A TRUE AND ATTESTED COPY OF THE ORIGINAL SUMMONS AND MADE KNOWN THE CONTENTS THEREOF.

SERVED BY: COUDRIET /

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET # 101825  
NO: 06-1304-CD  
SERVICES 3  
SUMMONS

PLAINTIFF: MARGARET HUDSICK

vs.

DEFENDANT: DUBOIS REGIONAL MEDICAL CENTER at

SHERIFF RETURN

RETURN COSTS

Description	Paid By	CHECK #	AMOUNT
SURCHARGE	MACDONALD	108192	30.00
SHERIFF HAWKINS	MACDONALD	108192	46.91

Sworn to Before Me This

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

\_\_\_\_\_

So Answers,



Chester A. Hawkins  
Sheriff

FILED *no cc*  
m 12-31/24  
SEP 01 2006 (S)  
William A. Shaw  
Prothonotary/Clerk of Courts

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

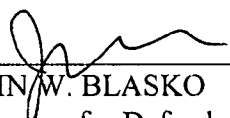
MARGARET HUDSICK,	)	
	)	Civil Action-Medical Professional
Plaintiff,	)	Liability Action
	)	
vs.	)	No. 2006-01304 CD
	)	
DUBOIS REGIONAL MEDICAL CENTER,	)	JURY TRIAL DEMANDED
GARY OTT, M.D., JAMES P. CHERRY, M.D.,	)	
LARRY SCHACHTER, M.D.,	)	
	)	
Defendants.	)	

**PRAECIPE FOR ENTRY OF APPEARANCE**

TO THE PROTHONOTARY:

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

McQUAIDE, BLASKO,  
FLEMING & FAULKNER, INC.

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

Dated: 8/31/06

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


MARGARET HUDSICK,	)	
	)	Civil Action-Medical Professional
Plaintiff,	)	Liability Action
	)	
vs.	)	No. 2006-01304 CD
	)	
DUBOIS REGIONAL MEDICAL CENTER,	)	JURY TRIAL DEMANDED
GARY OTT, M.D., JAMES P. CHERRY, M.D.,	)	
LARRY SCHACHTER, M.D.,	)	
	)	
Defendants.	)	

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the Praecipe for Entry of Appearance on Behalf of the Defendant, Gary Ott, M.D., in the above-captioned matter was mailed by regular mail, postage prepaid, at the Post Office, State College, Pennsylvania, on this 31<sup>st</sup> day of August, 2006, to the attorney(s) of record:

Lisa Smith Presta, Esquire  
MacDonald, Illig, Jones & Britton  
100 State Street, Suite 700  
Erie, PA 16507

McQUAIDE, BLASKO,  
FLEMING & FAULKNER, INC.

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

FILED

SEP 01 2006

William A. Shaw  
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

MARGARET HUDSICK,

Plaintiff,

vs.

DUBOIS REGIONAL MEDICAL  
CENTER, GARY OTT, MD, JAMES P.  
CHERRY, MD, LARRY SCHACHTER,  
MD,

Defendants.

CIVIL DIVISION

No. 2006-01304-CD

Issue No.

PRAECIPE FOR APPEARANCE

Filed on behalf of DuBois Regional Medical  
Center

Counsel of Record for This Party:

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

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

(412) 232-3400

FILED NO CC  
m12:34/01  
SEP 01 2006

William A. Shaw  
Prothonotary/Clerk of Courts

PRAECIPE FOR APPEARANCE

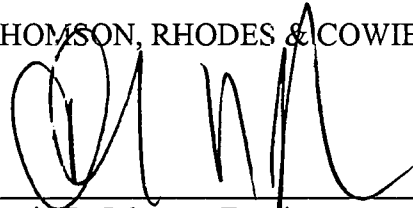
TO: PROTHONOTARY

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

JURY TRIAL DEMANDED.

Respectfully submitted,

THOMSON, RHODES & COWIE, P.C.

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

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

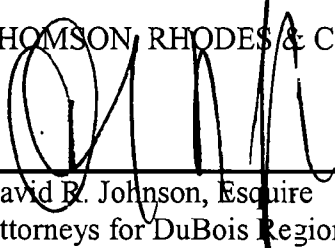


**CERTIFICATION OF SERVICE**

I hereby certify that a true and correct copy of the within PRAECIPE FOR  
APPEARANCE has been served upon the following counsel of record and same placed  
in the U.S. Mails on this 30<sup>th</sup> day of Aug., 2006:

Lisa Smith Presta, Esquire  
100 State Street, Suite 700  
Erie, PA 16507-1459

THOMSON, RHODES & COWIE, P.C.

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

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

MARGARET HUDSICK,

Plaintiff,

vs.

DUBOIS REGIONAL MEDICAL  
CENTER, GARY OTT, MD, JAMES P.  
CHERRY, MD, LARRY SCHACHTER,  
MD,

Defendants.

CIVIL DIVISION

No. 2006-01304-CD

Issue No.

PRAECIPE FOR RULE FOR COMPLAINT

Filed on behalf of DuBois Regional Medical  
Center

Counsel of Record for This Party:

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

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

(412) 232-3400

**FILED** No CC  
m 12:34/01 Rule to Atty Johnson  
SEP 01 2006 @P

William A. Shaw  
Prothonotary/Clerk of Courts

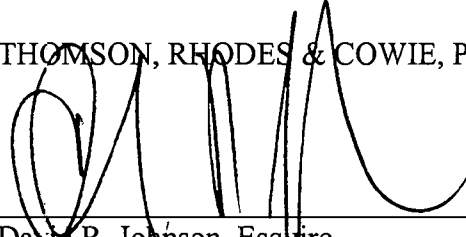
PRAECIPE FOR RULE FOR COMPLAINT

TO: PROTHONOTARY

Kindly issue a rule on plaintiff to file her complaint within twenty days.

Respectfully submitted,

THOMSON, RHODES & COWIE, P.C.

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

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

**CERTIFICATION OF SERVICE**

I hereby certify that a true and correct copy of the within PRAECIPE FOR RULE  
FOR COMPLAINT has been served upon the following counsel of record and same  
placed in the U.S. Mails on this 30<sup>th</sup> day of Aug., 2006:

Lisa Smith Presta, Esquire  
100 State Street, Suite 700  
Erie, PA 16507-1459

  
THOMSON, RHODES & COWIE, P.C.

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

FILED

SEP 01 2006

William A. Shaw  
Prothonotary/Clerk of Courts

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

Margaret Hudsick

Vs.

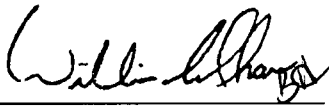
Case No. 2006-01304-CD

DuBois Regional Medical Center,  
Gary Ott MD, James P. Cherry MD,  
and Larry Schachter MD

RULE TO FILE COMPLAINT

TO: Margaret Hudsick

YOU ARE HEREBY RULED to file a Complaint in the above-captioned matter within twenty (20) days from service hereof, or a judgment of non pros may be entered against you.

  
\_\_\_\_\_  
William A. Shaw, Prothonotary

Dated: September 1, 2006

William A. Shaw  
Prothonotary/Clerk of Courts

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

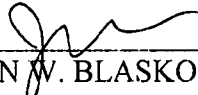
MARGARET HUDSICK,	)	
	)	Civil Action-Medical Professional
Plaintiff,	)	Liability Action
	)	
vs.	)	No. 2006-01304 CD
	)	
DUBOIS REGIONAL MEDICAL CENTER,	)	JURY TRIAL DEMANDED
GARY OTT, M.D., JAMES P. CHERRY, M.D.,	)	
LARRY SCHACHTER, M.D.,	)	
	)	
Defendants.	)	

**PRAECIPE FOR RULE TO FILE A COMPLAINT**

TO THE PROTHONOTARY:

Please issue a Rule on Plaintiff to file her Complaint within twenty (20) days from  
service thereof or suffer a judgment of non pros against her.

McQUAIDE, BLASKO,  
FLEMING & FAULKNER, INC.

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

Dated: 8/31/06



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

MARGARET HUDSICK,

Plaintiff,

vs.

DUBOIS REGIONAL MEDICAL CENTER,  
GARY OTT, M.D., JAMES P. CHERRY, M.D.,  
LARRY SCHACHTER, M.D.,

Defendants.


)  
) Civil Action-Medical Professional  
) Liability Action  
)  
) No. 2006-01304 CD  
)  
) JURY TRIAL DEMANDED  
)  
)  
)  
)

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the Praeceptum for Rule to File a Complaint filed on behalf of the Defendant, Gary Ott, M.D., in the above-captioned matter was mailed by regular mail, postage prepaid, at the Post Office, State College, Pennsylvania, on this 31<sup>st</sup> day of August, 2006, to the attorney(s) of record:

Lisa Smith Presta, Esquire  
MacDonald, Illig, Jones & Britton  
100 State Street, Suite 700  
Erie, PA 16507

McQUAIDE, BLASKO,  
FLEMING & FAULKNER, INC.

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

FILED

SEP 01 2006

William A. Shaw  
Prothonotary/Clerk of Courts

CC-1

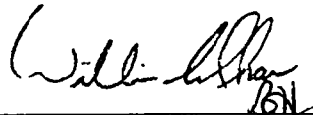
IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL DIVISION

MARGARET HUDSICK,	)	
	)	
Plaintiff,	)	Civil Action-Medical Professional
	)	Liability Action
	)	
vs.	)	No. 2006-01304 CD
	)	
DUBOIS REGIONAL MEDICAL CENTER,	)	JURY TRIAL DEMANDED
GARY OTT, M.D., JAMES P. CHERRY, M.D.,	)	
LARRY SCHACHTER, M.D.,	)	
	)	
Defendants.	)	

RULE

TO: Margaret Hudsick, Plaintiff  
c/o Lisa Smith Presta, Esquire  
MacDonald, Illig, Jones & Britton  
100 State Street, Suite 700  
Erie, PA 16507

YOU ARE HEREBY RULED to file a Complaint in the above-captioned matter within  
twenty (20) days from service hereof, or a judgment of non pros may be entered against you.



PROTHONOTARY

Dated: 9/1/06

William A. Shaw  
Prothonotary/Clerk of Courts

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


MARGARET HUDSICK,	)	
	)	Civil Action-Medical Professional
Plaintiff,	)	Liability Action
	)	
vs.	)	No. 2006-01304 CD
	)	
DUBOIS REGIONAL MEDICAL CENTER,	)	JURY TRIAL DEMANDED
GARY OTT, M.D., JAMES P. CHERRY, M.D.,	)	
LARRY SCHACHTER, M.D.,	)	
	)	
Defendants.	)	

**CERTIFICATE OF SERVICE**

I hereby certify that the original Rule to File a Complaint, in the above-captioned matter was mailed by regular mail, postage prepaid, at the Post Office, State College, Pennsylvania, on this 6<sup>th</sup> day of September, 2006, to the attorney(s) of record:

Lisa Smith Presta, Esquire  
MacDonald, Illig, Jones & Britton  
100 State Street, Suite 700  
Erie, PA 16507

McQUAIDE, BLASKO,  
FLEMING & FAULKNER, INC.

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

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

MARGARET HUDSICK.

Plaintiff,

vs.

DUBOIS REGIONAL MEDICAL CENTER,  
GARY OTT, M.D., JAMES P. CHERRY, M.D.,  
LARRY SCHACHTER, M.D.,

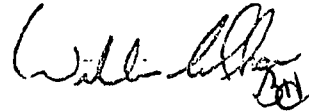
Defendants.

)  
) Civil Action-Medical Professional  
) Liability Action  
)  
) No. 2006-01304 CD  
)  
) JURY TRIAL DEMANDED  
)  
)  
)  
)

RULE

TO: Margaret Hudsick, Plaintiff  
c/o Lisa Smith Presta, Esquire  
MacDonald, Illig, Jones & Britton  
100 State Street, Suite 700  
Erie, PA 16507

YOU ARE HEREBY RULED to file a Complaint in the above-captioned matter within  
twenty (20) days from service hereof, or a judgment of non pros may be entered against you.



PROTHONOTARY

Dated: 4/1/06

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

MARGARET HUDSICK,

Plaintiff,

vs.

DUBOIS REGIONAL MEDICAL CENTER,  
GARY OTT, M.D., JAMES P. CHERRY, M.D.,  
LARRY SCHECHTER, M.D.,

Defendants.

)  
) Civil Action-Medical Professional  
) Liability Action  
)

) No. 2006-01304 CD  
)

) JURY TRIAL DEMANDED  
)  
)  
)

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of Defendant Ott's Interrogatories and Request for Production (Set One) directed to Plaintiff, in the above-captioned matter was mailed by regular mail, postage prepaid, at the Post Office, State College, Pennsylvania, on this 8th day of September, 2006, to the attorney(s) of record:

Lisa Smith Presta, Esquire  
MacDonald, Illig, Jones & Britton  
100 State Street, Suite 700  
Erie, PA 16507

McQUAIDE, BLASKO,  
FLEMING & FAULKNER, INC.

By:

John W. Blasko  
JOHN W. BLASKO

Attorneys for Defendant  
Gary Ott, M.D.

**FILED**

SEP 11 2006  
m/10/10/10  
William A. Shaw  
Prothonotary/Clerk of Courts  
nc 4c

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

MARGARET HUDSICK,

Plaintiff,

vs.

DUBOIS REGIONAL MEDICAL CENTER,  
GARY OTT, M.D., JAMES P. CHERRY, M.D.,  
LARRY SCHACHTER, M.D.,

Defendants.

)  
) Civil Action-Medical Professional  
) Liability Action  
)  
) No. 2006-01304 CD  
)  
) JURY TRIAL DEMANDED  
)  
)  
)  
)

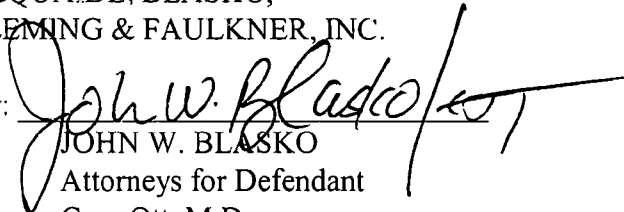
**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of Defendant Ott's Interrogatories and Request for Production (Set Two) directed to Plaintiff, in the above-captioned matter was mailed by regular mail, postage prepaid, at the Post Office, State College, Pennsylvania, on this 8th day of September, 2006, to the attorney(s) of record:

Lisa Smith Presta, Esquire  
MacDonald, Illig, Jones & Britton  
100 State Street, Suite 700  
Erie, PA 16507

McQUAIDE, BLASKO,  
FLEMING & FAULKNER, INC.

By:

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

**FILED**  
M/11.10am  
SEP 11 2006  
NCC

William A. Shaw  
Prothonotary/Clerk of Courts



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

MARGARET HUDSICK,

Plaintiff,

vs.

DUBOIS REGIONAL MEDICAL CENTER,  
GARY OTT, M.D., JAMES P. CHERRY, M.D.,  
LARRY SCHACHTER, M.D.,

Defendants.

)  
) Civil Action-Medical Professional  
) Liability Action  
)

) No. 2006-01304 CD  
)

) JURY TRIAL DEMANDED  
)  
)  
)

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of Defendant Ott's Expert Interrogatories directed to Plaintiff, in the above-captioned matter was mailed by regular mail, postage prepaid, at the Post Office, State College, Pennsylvania, on this 8<sup>th</sup> day of September, 2006, to the attorney(s) of record:

Lisa Smith Presta, Esquire  
MacDonald, Illig, Jones & Britton  
100 State Street, Suite 700  
Erie, PA 16507

McQUAIDE, BLASKO,  
FLEMING & FAULKNER, INC.

By

John W. Blasko  
JOHN W. BLASKO

Attorneys for Defendant  
Gary Ott, M.D.

**FILED**

SEP 11 2006

William A. Shaw  
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

MARGARET HUDSICK,

Plaintiff,

vs.

DUBOIS REGIONAL MEDICAL  
CENTER, GARY OTT, MD, JAMES P.  
CHERRY, MD, LARRY SCHACHTER,  
MD,

Defendants.

CIVIL DIVISION

No. 2006-01304-CD

Issue No.

AFFIDAVIT OF SERVICE OF RULE FOR  
COMPLAINT

Filed on behalf of DuBois Regional Medical  
Center

Counsel of Record for This Party:

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

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

(412) 232-3400

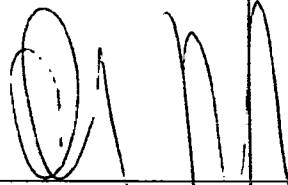
**FILED**

SEP 14 2006  
M/12:45/2  
William A. Shaw  
Prothonotary/Clerk of Courts

AFFIDAVIT OF SERVICE

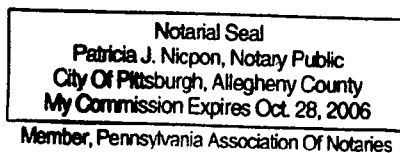
Before me, the undersigned authority, personally appeared David R. Johnson, Esquire, who, being duly sworn, deposes and says that a true and correct copy of the Rule to File a Complaint in the above-captioned case was served upon plaintiff's counsel, Lisa Smith Presta, Esquire, 100 State Street, Suite 700, Erie, PA 16507-1459, by certified mail, return receipt requested, and that the same was received on his behalf on 9/8/06, as shown by the return receipt attached hereto.

Respectfully submitted,

  
\_\_\_\_\_  
David R. Johnson, Esquire

Sworn to and subscribed before me  
this 12<sup>th</sup> day of September 2006.

Patricia J. Nicpon  
Notary Public



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

Margaret Hudsick

Vs.

Case No. 2006-01304-CD

DuBois Regional Medical Center,  
Gary Ott MD, James P. Cherry MD,  
and Larry Schachter MD

RULE TO FILE COMPLAINT

TO: Margaret Hudsick

YOU ARE HEREBY RULED to file a Complaint in the above-captioned matter within twenty (20) days from service hereof, or a judgment of non pros may be entered against you.



William A. Shaw, Prothonotary

Dated: September 1, 2006

**SENDER: COMPLETE THIS SECTION**

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

**1. Article Addressed to:**

Lisa Smith Presta, Esq.  
100 State St., Ste 700  
Erie, PA 16507-1459

**COMPLETE THIS SECTION ON DELIVERY****A. Signature****X**

*[Signature]*

☐ Agent☒ Addressee**B. Received by (Printed Name)**

*[Signature]*

**C. Date of Delivery**

*9/8/9*

**D. Is delivery address different from item 1?** ☐ Yes

If YES, enter delivery address below:

☐ No**3. Service Type**☒ Certified Mail☐ Express Mail☐ Registered☐ Return Receipt for Merchandise☐ Insured Mail☐ C.O.D.**4. Restricted Delivery? (Extra Fee)**☐ Yes**2. Article Number**

(Transfer from service label)

7003 1010 0004 8798 6309

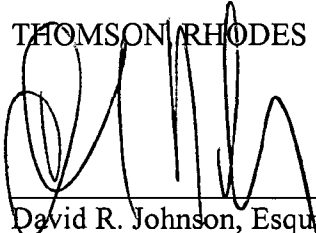
CERTIFICATION OF SERVICE

I hereby certify that a true and correct copy of the within AFFIDAVIT OF SERVICE OF RULE FOR COMPLAINT has been served upon the following counsel of record and same placed in the U.S. mails on this 12<sup>th</sup> day of Sept, 2006:

Lisa Smith Presta, Esquire  
MacDonald, Illig, Jones & Britton  
100 State Street, Suite 700  
Erie, PA 16507-1459

Respectfully submitted,

THOMSON RHODES & COWIE, P.C.

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

**FILED**  
**SEP 14 2006**  
Prothonotary/Clerk of Courts  
William A. Shaw

MARGARET HUDSICK,  
Plaintiff

v.

DUBOIS REGIONAL MEDICAL  
CENTER, GARY OTT, M.D., JAMES P.  
CHERRY, M.D. and LARRY  
SCHACHTER, M.D.  
Defendants

) IN THE COURT OF COMMON PLEAS OF  
) CLEARFIELD COUNTY, PENNSYLVANIA  
)  
) MEDICAL PROFESSIONAL LIABILITY  
) ACTION  
)  
) JURY TRIAL REQUESTED  
)  
) NO. 2006-1304 CD

**PRAECIPE TO REISSUE WRIT OF SUMMONS**

To: Prothonotary (Civil) Division  
Clearfield County

Please reissue the Writ of Summons upon James P. Cherry, M.D. and forward the Writ to  
the Clearfield County Sheriff's Office for original service.

Respectfully submitted,



Lisa Smith Presta  
MacDONALD, ILLIG, JONES & BRITTON LLP  
100 State Street, Suite 700  
Erie, Pennsylvania 16507-1459  
(814) 870-7650

Attorneys for Plaintiff  
Margaret Hudsick

977146

**FILED**

SEP 21 2006

William A. Shaw  
Prothonotary/Clerk of Courts

1 SENT TO ATT

REISSUED WRIT

TO SHERIFF



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

**SUMMONS**

**Margaret Hudsick**

**Vs.**

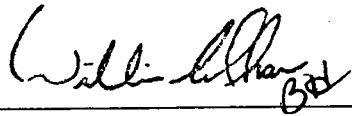
**NO.: 2006-01304-CD**

**DuBois Regional Medical Center  
Gary Ott, MD  
James P. Cherry, MD  
Larry Schachter, MD**


**TO: DUBOIS REGIONAL MEDICAL CENTER  
GARY OTT MD  
JAMES P. CHERRY MD  
LARRY SCHACHTER MD**

To the above named Defendant(s) you are hereby notified that the above named Plaintiff(s) has/have commenced a Civil Action against you.

Date: 08/15/2006

  
\_\_\_\_\_  
William A. Shaw  
Prothonotary

Issuing Attorney:  
Lisa Smith Presta  
100 State Street, Ste. 700  
Erie, PA 16507-1459  
(814) 870-7650

SEP. 21, 2006 Document  
Reinstated/Reissued to Sheriff/Attorney  
for service.  
  
\_\_\_\_\_  
Deputy Prothonotary

**FILED**

**SEP 21 2006**

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

MARGARET HUDSICK,  
Plaintiff

v.

DUBOIS REGIONAL MEDICAL  
CENTER, GARY OTT, M.D., JAMES P.  
CHERRY, M.D. and LARRY  
SCHACHTER, M.D.,  
Defendants

) IN THE COURT OF COMMON PLEAS OF  
) CLEARFIELD COUNTY, PENNSYLVANIA  
)  
) MEDICAL PROFESSIONAL LIABILITY  
) ACTION  
)  
) JURY TRIAL REQUESTED  
)  
)  
) NO. 2006 - 01304 CD

**FILED** *no ce*  
*ml:kl*  
SEP 26 2006 *(S)*

William A. Shaw  
Prothonotary/Clerk of Courts

**COMPLAINT**

Plaintiff MARGARET HUDSICK, by and through her attorneys, MacDonald Illig Jones  
& Britton LLP, files the following Complaint:

1. Plaintiff Margaret Hudsick is an adult individual presently residing at 2350 South Avenue B, Apartment 214, Yuma, Arizona 85364.
2. Defendant DuBois Regional Medical Center is believed and therefore averred to be a corporation duly organized and existing under the laws of the Commonwealth of Pennsylvania with a principal place of business at 100 Hospital Avenue, DuBois, Pennsylvania 15801.
3. Defendant Gary Ott, M.D. is believed and therefore averred to be a doctor of medicine licensed to practice medicine in the Commonwealth of Pennsylvania with an office located at 145 Hospital Avenue, DuBois, Pennsylvania 15801.

4. Defendant James P. Cherry, M.D. is believed and therefore averred to be a doctor of medicine licensed to practice medicine in the Commonwealth of Pennsylvania with an office located at 145 Hospital Avenue, DuBois, Pennsylvania 15801.

5. Defendant Larry Schachter, M.D. is believed and therefore averred to be a doctor of medicine licensed to practice medicine in the Commonwealth of Pennsylvania with an office located at 145 Hospital Avenue, DuBois, Pennsylvania 15801.

6. At all times material to the events set forth in this Complaint, plaintiff Margaret Hudsick was in the care and treatment of defendants DuBois Regional Medical Center, Gary Ott, M.D., James P. Cherry, M.D. and Larry Schachter, M.D., individually, jointly and/or severally, through their agents, servants and/or employees, all of whom were acting within the course and scope of their employment and/or agency.

7. At all times material to the events set forth in this Complaint, defendant DuBois Regional Medical Center extended admitting and/or surgical operating privileges to defendants Gary Ott, M.D., James P. Cherry, M.D. and Larry Schachter, M.D. Defendants Ott, Cherry and Schachter were acting within the scope of those admitting and/or surgical operating privileges at the time they rendered surgical treatment and care to plaintiff Margaret Hudsick.

8. On or about February 7, 2002, plaintiff Margaret Hudsick underwent surgery performed by defendant Larry Schachter, M.D. at DuBois Regional Medical Center for the excision of internal and external hemorrhoids. Agents, servants and/or employees of defendant DuBois Regional Medical Center, including nursing staff, assisted Dr. Schachter in performing the procedure on Ms. Hudsick.

9. On or about October 30, 2002, plaintiff Margaret Hudsick, underwent a total vaginal hysterectomy and anterior colporrhaphy performed by defendant Gary Ott, M.D. at

DuBois Regional Medical Center. Agents, servants and/or employees of defendant DuBois Regional Medical Center, including nursing staff, assisted Dr. Ott in performing the procedure on Ms. Hudsick.

10. On or about October 30, 2002, plaintiff Margaret Hudsick also underwent a tension free vaginal tape placement for a traction cystocele performed by defendant James P. Cherry, M.D. at DuBois Regional Medical Center. Agents, servants and/or employees of defendant DuBois Regional Medical Center, including nursing staff, assisted Dr. Cherry in performing the procedure on Ms. Hudsick.

11. Following the surgical procedures undergone on October 30, 2002, plaintiff Hudsick developed abdominal and intestinal pain and illness, and continued to experience periodic abdominal and intestinal pain and illness throughout 2002, 2003 and 2004.

12. On August 14, 2004, Ms. Hudsick discovered a gauze-type sponge partially protruding from her rectum.

13. On August 14, 2004, Ms. Hudsick presented to the Emergency Department of DuBois Regional Medical Center with complaints of lower abdominal pain and the presence of a gauze-type sponge partially protruding from her rectum.

14. On the same date, partial excision of the sponge was performed, and radiological studies confirmed the presence of a radiopaque tracer in Ms. Hudsick's pelvis. Ms. Hudsick then underwent removal of the remainder of the sponge, and subsequently, a rigid sigmoidoscopy.

15. The rigid sigmoidoscopy, performed by Eric Lundgren, M.D., revealed an eleven to twelve centimeter area of darkish tissue and granulation tissue, indicating that the retained surgical sponge had eroded through and into the rectum over time.

16. While acting within the course and scope of their employment and/or agency, one or more of the defendants and/or the defendants' agents, servants and/or employees failed to timely and properly remove, and ensure the removal of, all surgical sponges from plaintiff Hudsick's body during the February 2002 and/or October 2002 surgical procedures at issue.

17. As a direct and proximate result of the defendants' failure to timely and properly remove, and ensure the removal of, all surgical sponges from plaintiff Hudsick's body, Ms. Hudsick has suffered and continues to suffer the following injuries and damages:

- (a) Chronic abdominal pain, cramping and illness;
- (b) Chronic diarrhea;
- (c) Punctate calcification in the right anrenal gland;
- (d) Pericardial effusion;
- (e) Abdominal wall defects and hernia;
- (f) Weight loss;
- (g) Physical and emotional pain and suffering;
- (h) Anxiety and depression;
- (i) Loss of trust and confidence in others, particularly health care providers; and,
- (j) Humiliation, embarrassment and inconvenience.

18. As a direct and proximate result of the defendants' failure to timely and properly remove, and ensure the removal of, all surgical sponges from plaintiff Hudsick's body, Ms. Hudsick has incurred and will continue to incur past, present and future expenses for medical care and treatment.

**COUNT I**  
**NEGLIGENCE**  
**MARGARET HUDSICK v. DUBOIS REGIONAL MEDICAL CENTER**

19. Plaintiff Hudsick incorporates Paragraphs 1 through 18 above as though set forth at length herein.

20. While acting within the course and scope of their employment and/or agency, one or more of the agents, servants and/or employees of defendant DuBois Regional Medical Center was negligent in failing to timely and properly remove, and/or ensure the removal of, all surgical sponges from plaintiff Hudsick's body during the February 2002 and/or October 2002 surgical procedures at issue.

21. The failure to timely and properly remove, and ensure the removal of, all surgical sponges from plaintiff Hudsick's body occurred while plaintiff Hudsick was under the exclusive control of the defendants and does not ordinarily occur in the absence of negligence, for which defendants DuBois Regional Medical Center is liable to Ms. Hudsick under the doctrine of *res ipsa loquitor*.

22. Defendant DuBois Regional Medical Center is vicariously liable, individually, jointly and/or severally, for the negligent failure of its agents, servants and/or employees, including nursing staff, to timely and properly remove, and ensure the removal of, all surgical sponges from plaintiff Hudsick's body during the February 2002 and/or October 2002 surgical procedures at issue.

23. Defendant DuBois Regional Medical Center is liable, individually, jointly and/or severally, for its negligent failure to properly select, place, educate, train and supervise its agents,

servants and/or employees in the proper policies, procedures and techniques for the removal of surgical sponges.

24. Defendant DuBois Regional Medical Center is liable, individually, jointly and/or severally, for its negligent failure to devise, require and implement accepted and approved medical, hospital, surgical and/or nursing techniques, standards, practices and/or procedures to prevent the retention of a surgical sponge.

25. Defendant DuBois Regional Medical Center is liable, individually, jointly and/or severally, for its negligent failure to timely monitor and/or discover the retention of a surgical sponge in plaintiff Hudsick's body during or following the February 2002 and/or October 2002 surgical procedures at issue.

26. Defendant DuBois Regional Medical Center is vicariously liable, individually, jointly and/or severally, for the negligent failure of Gary Ott, M.D. to timely and properly remove, and ensure the removal of, all surgical sponges from plaintiff Hudsick's body while acting within the scope of his agency, ostensible agency, servant and/or employment relationship with DuBois Regional Medical Center, which held Dr. Ott out as a member of its medical staff entitled to the privilege of admitting patients and providing surgical care and treatment to them there.

27. Defendant DuBois Regional Medical Center is vicariously liable, individually, jointly and/or severally, for the negligent failure of James Cherry, M.D. to timely and properly remove, and ensure the removal of, all surgical sponges from plaintiff Hudsick's body while acting within the scope of his agency, ostensible agency, servant and/or employment relationship with DuBois Regional Medical Center, which held Dr. Cherry out as a member of its medical



staff entitled to the privilege of admitting patients and providing surgical care and treatment to them there.

28. Defendant DuBois Regional Medical Center is vicariously liable, individually, jointly and/or severally, for the negligent failure of Larry Schachter, M.D. to timely and properly remove, and ensure the removal of, all surgical sponges from plaintiff Hudsick's body while acting within the scope of his agency, ostensible agency, servant and/or employment relationship with DuBois Regional Medical Center, which held Dr. Schachter out as a member of its medical staff entitled to the privilege of admitting patients and providing surgical care and treatment to them there.

29. As a direct and proximate result of the negligence of defendant DuBois Regional Medical Center and its agents, servants and/or employees, plaintiff Hudsick has suffered and will continue to suffer the injuries and damages set forth in Paragraphs 17 and 18 of this Complaint.

WHEREFORE, plaintiff Margaret Hudsick respectfully requests that this Honorable Court enter judgment in her favor and against defendant DuBois Regional Medical Center in an amount in excess of \$20,000.00 plus interest and costs of suit.

**COUNT II**  
**NEGLIGENCE**  
**MARGARET HUDSICK v. GARY OTT, M.D.**

30. Plaintiff Hudsick incorporates Paragraphs 1 through 29 above as though set forth at length herein.

31. At all times relevant to the events set forth in this Complaint, defendant Gary Ott, M.D. held himself out to the public as a health care provider, doctor of medicine and surgeon who possessed the requisite skill and knowledge of his medical specialty, obstetrics and gynecology.

32. While acting within the course and scope of his employment and/or agency as one of plaintiff Hudsick's treating physicians, defendant Ott was negligent in failing to timely and properly remove, and/or ensure the removal of, all surgical sponges from plaintiff Hudsick's body during the October 2002 surgical procedures at issue.

33. The failure to timely and properly remove, and ensure the removal of, all surgical sponges from plaintiff Hudsick's body occurred while plaintiff Hudsick was under the exclusive control of the defendants and does not ordinarily occur in the absence of negligence, for which defendant Ott is liable to Ms. Hudsick under the doctrine of *res ipsa loquitor*.

34. Defendant Ott is liable, individually, jointly and/or severally, for his negligent failure to timely and properly remove, and/or ensure the removal of, all surgical sponges from plaintiff Hudsick's body during the October 2002 surgical procedures at issue.

35. Defendant Ott is liable, individually, jointly and/or severally, for his negligent failure to properly select, place, educate, train and supervise his agents, servants and/or employees in the proper policies, procedures and techniques for the removal of surgical sponges.

36. Defendant Ott is liable, individually, jointly and/or severally, for his negligent failure to require and implement accepted and approved medical, hospital, surgical and/or nursing techniques, standards, practices and/or procedures to prevent the retention of a surgical sponge.

37. Defendant Ott is liable, individually, jointly and/or severally, for his negligent failure to timely monitor and/or discover the retention of a surgical sponge in plaintiff Hudsick's body during or following the October 2002 surgical procedures at issue.

38. Defendant Ott is liable, individually, jointly and/or severally, for his negligent failure to adequately and appropriately supervise and monitor defendant James Cherry, M.D., the nursing staff, surgical staff and/or other personnel during the October 2002 surgical procedures at issue.

39. As a direct and proximate result of the negligence of defendant Ott and his agents, servants and/or employees, plaintiff Hudsick has suffered and will continue to suffer the injuries and damages set forth in Paragraphs 17 and 18 of this Complaint.

WHEREFORE, plaintiff Margaret Hudsick respectfully requests that this Honorable Court enter judgment in her favor and against defendant Gary Ott, M.D. in an amount in excess of \$20,000.00 plus interest and costs of suit.

**COUNT III**  
**NEGLIGENCE**  
**MARGARET HUDSICK v. JAMES P. CHERRY, M.D.**

40. Plaintiff Hudsick incorporates Paragraphs 1 through 39 above as though set forth at length herein.

41. At all times relevant to the events set forth in this Complaint, defendant James P. Cherry, M.D. held himself out to the public as a health care provider, doctor of medicine and surgeon who possessed the requisite skill and knowledge of his medical specialty, urology.

42. While acting within the course and scope of his employment and/or agency as one of plaintiff Hudsick's treating physicians, defendant Cherry was negligent in failing to timely and properly remove, and/or ensure the removal of, all surgical sponges from plaintiff Hudsick's body during the October 2002 surgical procedures at issue.

43. The failure to timely and properly remove, and ensure the removal of, all surgical sponges from plaintiff Hudsick's body occurred while plaintiff Hudsick was under the exclusive control of the defendants and does not ordinarily occur in the absence of negligence, for which defendant Cherry is liable to Ms. Hudsick under the doctrine of *res ipsa loquitur*.

44. Defendant Cherry is liable, individually, jointly and/or severally, for his negligent failure to timely and properly remove, and/or ensure the removal of, all surgical sponges from plaintiff Hudsick's body during the October 2002 surgical procedures at issue.

45. Defendant Cherry is liable, individually, jointly and/or severally, for his negligent failure to properly select, place, educate, train and supervise his agents, servants and/or employees in the proper policies, procedures and techniques for the removal of surgical sponges.

46. Defendant Cherry is liable, individually, jointly and/or severally, for his negligent failure to require and implement accepted and approved medical, hospital, surgical and/or nursing techniques, standards, practices and/or procedures to prevent the retention of a surgical sponge.

47. Defendant Cherry is liable, individually, jointly and/or severally, for his negligent failure to timely monitor and/or discover the retention of a surgical sponge in plaintiff Hudsick's body during or following the October 2002 surgical procedures at issue.

48. Defendant Cherry is liable, individually, jointly and/or severally, for his negligent failure to adequately and appropriately supervise and monitor defendant Gary Ott, M.D., the

nursing staff, surgical staff and/or other personnel during the October 2002 surgical procedures at issue.

49. As a direct and proximate result of the negligence of defendant Cherry, his agents, servants and/or employees, plaintiff Hudsick has suffered and will continue to suffer the injuries and damages set forth in Paragraphs 17 and 18 of this Complaint.

WHEREFORE, plaintiff Margaret Hudsick respectfully requests that this Honorable Court enter judgment in her favor and against defendant James Cherry, M.D. in an amount in excess of \$20,000.00 plus interest and costs of suit.

**COUNT IV  
NEGLIGENCE  
MARGARET HUDSICK v. LARRY SCHACHTER, M.D.**

50. Plaintiff Hudsick incorporates Paragraphs 1 through 49 above as though set forth at length herein.

51. At all times relevant to the events set forth in this Complaint, defendant Larry Schachter, M.D. held himself out to the public as a health care provider, doctor of medicine and surgeon who possessed the requisite skill and knowledge of his medical specialty.

52. While acting within the course and scope of his employment and/or agency as one of plaintiff Hudsick's treating physicians, defendant Schachter was negligent in failing to timely and properly remove, and/or ensure the removal of, all surgical sponges from plaintiff Hudsick's body during the February 2002 surgical procedure at issue.

53. The failure to timely and properly remove, and ensure the removal of, all surgical sponges from plaintiff Hudsick's body occurred while plaintiff Hudsick was under the exclusive control of the defendants and does not ordinarily occur in the absence of negligence, for which defendant Schachter is liable to Ms. Hudsick under the doctrine of *res ipsa loquitur*.

54. Defendant Schachter is liable, individually, jointly and/or severally, for his negligent failure to timely and properly remove, and/or ensure the removal of, all surgical sponges from plaintiff Hudsick's body during the February 2002 surgical procedure at issue.

55. Defendant Schachter is liable, individually, jointly and/or severally, for his negligent failure to properly select, place, educate, train and supervise his agents, servants and/or employees in the proper policies, procedures and techniques for the removal of surgical sponges.

56. Defendant Schachter is liable, individually, jointly and/or severally, for his negligent failure to require and implement accepted and approved medical, hospital, surgical and/or nursing techniques, standards, practices and/or procedures to prevent the retention of a surgical sponge.

57. Defendant Schachter is liable, individually, jointly and/or severally, for his negligent failure to timely monitor and/or discover the retention of a surgical sponge in plaintiff Hudsick's body during or following the February 2002 surgical procedure at issue.

58. Defendant Schachter is liable, individually, jointly and/or severally, for his negligent failure to adequately and appropriately supervise and monitor the nursing staff, surgical staff and/or other personnel during the February 2002 surgical procedure at issue.

59. As a direct and proximate result of the negligence of defendant Schachter, his agents, servants and/or employees, plaintiff Hudsick has suffered and will continue to suffer the injuries and damages set forth in Paragraphs 17 and 18 of this Complaint.

WHEREFORE, plaintiff Margaret Hudsick respectfully requests that this Honorable Court enter judgment in her favor and against defendant Larry Schachter, M.D. in an amount in excess of \$20,000.00 plus interest and costs of suit.

**A JURY OF TWELVE IS HEREBY REQUESTED.**

Respectfully submitted,



Lisa Smith Presta  
Pa Bar ID No. 65527  
Marissa A. Savastana  
Pa Bar ID No. 91201  
MacDONALD, ILLIG, JONES & BRITTON LLP  
100 State Street, Suite 700  
Erie, Pennsylvania 16507-1459  
(814) 870-7656

Attorneys for Plaintiff,  
Margaret Hudsick

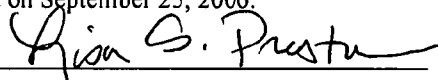
976029

**NOTICE TO PLEAD**

To Defendants:  
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.

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of this document was served upon all other parties appearing of record by United States First Class Mail sent on September 25, 2006.



MARGARET HUDSICK,  
Plaintiff

v.

DUBOIS REGIONAL MEDICAL  
CENTER, GARY OTT, M.D., JAMES P.  
CHERRY, M.D. and LARRY  
SCHACHTER, M.D.,  
Defendants

) IN THE COURT OF COMMON PLEAS OF  
) CLEARFIELD COUNTY, PENNSYLVANIA  
)  
) MEDICAL PROFESSIONAL LIABILITY  
) ACTION  
)  
) JURY TRIAL REQUESTED  
)  
)  
) NO. 2006 - 01304 CD

**VERIFICATION**

On this 25th day of September, Lisa Smith Presta, Esquire, the undersigned, states that she is the attorney for the plaintiff, Margaret Hudsick, and that she is authorized to make this Verification on behalf of the plaintiff, that the facts set forth in the foregoing Complaint are true and correct, not of her own knowledge, but from information supplied to her, that the purpose of this Verification is to expedite the litigation, and that a Verification of the plaintiff will be supplied if demanded, all subject to the penalties of 18 Pa.C.S.A. § 4904 relating to unsworn falsification to authorities.



Lisa Smith Presta



**FILED**

**SEP 26 2006**

William A. Shaw  
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

MARGARET HUDSICK,	:	CIVIL DIVISION – MEDICAL PROFESSIONAL
Plaintiff,	:	LIABILITY ACTION
	:	
v.	:	No. 2006-01304 CD
	:	
DUBOIS REGIONAL MEDICAL CENTER,:	:	Issue No.
GARY OTT, M.D., JAMES P. CHERRY,:	:	
M.D., and LARRY SCHACHTER, M.D.,	:	<b>PRAECIPE FOR APPEARANCE</b>
	:	
Defendants.	:	Code: 007

Filed on behalf of Defendant, JAMES P.  
CHERRY, M.D.

Counsel of record for this party:

Terry C. Cavanaugh, Esq.  
PA. I.D. #16702

WHITE AND WILLIAMS LLP  
Firm #683  
1001 Frick Building  
Pittsburgh, PA 15219

(412) 566-3520

**JURY TRIAL DEMANDED**

FILED <sup>NO CC</sup>  
OCT 16 2006

William A. Shaw  
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

MARGARET HUDSICK,

Plaintiff,

vs.

DUBOIS REGIONAL MEDICAL  
CENTER, GARY OTT, M.D., JAMES  
P. CHERRY, M.D., and LARRY  
SCHACHTER, M.D.,

Defendants.

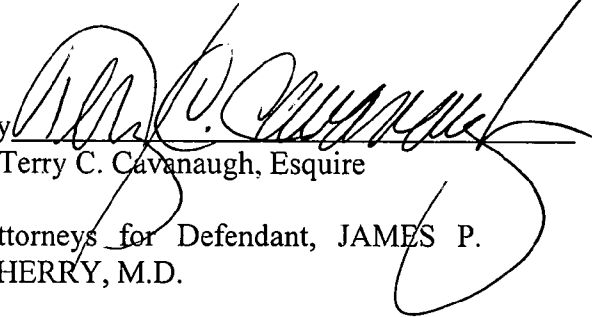
: NO. 2006-01304 CD  
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**PRAECIPE FOR APPEARANCE**

TO: PROTHONOTARY

Kindly enter my Appearance on behalf of one of the Defendants, JAMES  
P. CHERRY, M.D., ONLY, in the above-captioned case.

WHITE AND WILLIAMS LLP

By   
Terry C. Cavanaugh, Esquire

Attorneys for Defendant, JAMES P.  
CHERRY, M.D.

**CERTIFICATE OF SERVICE**

I, Terry C. Cavanaugh, Esquire, hereby certify that true and correct copies of the foregoing ~~PRAECIPE FOR APPEARANCE~~ have been served this 12<sup>th</sup> day of October, 2006, by U.S. first-class mail, postage prepaid, to counsel of record listed below:

Lisa Smith Presta, Esquire  
MacDonald, Illig, Jones & Britton LLP  
100 State Street, Suite 700  
Erie, PA 16507-1459  
**(Counsel for Plaintiff)**

David Johnson, Esquire  
Thomson, Rhodes & Cowie  
Suite 1010 Two Chatham Center  
Pittsburgh, PA 15219  
**(Counsel for Co-Defendant Dubois Regional Medical Center)**

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

Larry Schachter, M.D.  
145 Hospital Avenue  
DuBois, PA 15801

WHITE AND WILLIAMS LLP

By

  
Terry C. Cavanaugh, Esquire

Attorneys for Defendant, JAMES P. CHERRY,  
M.D.

MARGARET HUDSICK,  
Plaintiff

v.

DUBOIS REGIONAL MEDICAL  
CENTER, GARY OTT, M.D., JAMES P.  
CHERRY, M.D. and LARRY  
SCHACHTER, M.D.,  
Defendants

) IN THE COURT OF COMMON PLEAS OF  
) CLEARFIELD COUNTY, PENNSYLVANIA  
)  
) MEDICAL PROFESSIONAL LIABILITY  
) ACTION  
)  
) JURY TRIAL REQUESTED  
)  
)  
) NO. 2006 - 01304 CD

**VERIFICATION**

I, MARGARET HUDSICK, hereby depose and state that I am the plaintiff herein, and that the averments set forth in the Complaint are true and correct to the best of my knowledge, information and belief. This Verification is made subject to the penalties of 18 Pa.C.S.A. § 4904 relating to intentional falsification to authorities.

  
Margaret Hudson

FILED <sup>NO</sup> CC  
OCT 16 2006

William A. Shaw  
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

MARGARET HUDSICK,

Plaintiff,

v.

DUBOIS REGIONAL MEDICAL CENTER,  
GARY OTT, M.D., JAMES P. CHERRY,  
M.D. and LARRY SCHACHTER, M.D.,

Defendants.

CIVIL DIVISION – MEDICAL  
PROFESSIONAL LIABILITY ACTION

No. 2006-01304 CD

Issue No.

**NOTICE OF SERVICE OF FIRST SET  
OF INTERROGATORIES DIRECTED  
TO PLAINTIFF AND FIRST REQUEST  
FOR PRODUCTION OF DOCUMENTS  
DIRECTED TO PLAINTIFF FILED ON  
BEHALF OF DEFENDANT,  
JAMES P. CHERRY, M.D.**

Code: 007

Filed on behalf of Defendant, JAMES P.  
CHERRY, M.D.

Counsel of record for this party:

Terry C. Cavanaugh, Esquire  
PA. I.D. #16702

WHITE AND WILLIAMS LLP  
Firm #683  
1001 Frick Building  
Pittsburgh, PA 15219

(412) 566-3520

**JURY TRIAL DEMANDED**

FILED  
MIT: 3/2/06  
OCT 16 2006  
NO CC  
(initials)

William A. Shaw  
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

MARGARET HUDSICK,

CIVIL DIVISION – MEDICAL  
PROFESSIONAL LIABILITY ACTION

Plaintiff,

No. 2006-01304 CD

v.

Issue No.

DUBOIS REGIONAL MEDICAL CENTER,  
GARY OTT, M.D., JAMES P. CHERRY,  
M.D. and LARRY SCHACHTER, M.D.,

Defendants.

**NOTICE OF SERVICE OF FIRST SET OF INTERROGATORIES AND FIRST  
REQUEST FOR PRODUCTION OF DOCUMENTS DIRECTED TO PLAINTIFF  
FILED ON BEHALF OF DEFENDANT JAMES P. CHERRY, M.D.**

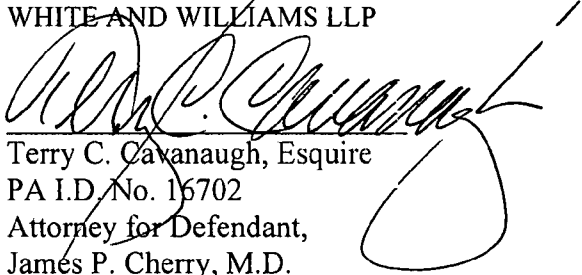
TO: PROTHONOTARY

Notice is hereby given that on the 12<sup>th</sup> day of October, 2006, the original First Set of Interrogatories and First Request for Production of Documents Directed to Plaintiff were served upon Plaintiff's counsel by Defendant, James P. Cherry, M.D. via United States mail, first class, postage prepaid, and said First Set of Interrogatories and First Request for Production of Documents contained this Notice to the Plaintiff to respond to the same within thirty (30) days.

Respectfully submitted:

WHITE AND WILLIAMS LLP

By:

  
Terry C. Cavanaugh, Esquire  
PA I.D. No. 16702  
Attorney for Defendant,  
James P. Cherry, M.D.

White and Williams LLP  
Firm No. 683  
The Frick Building  
437 Grant Street, Suite 1001  
Pittsburgh, PA 15219  
412-566-3520



FILED

OCT 16 2006

William A. Shaw  
Prothonotary/Clerk of Courts

FILED NO CC  
OCT 17 2006  
William A. Shaw  
Prothonotary/Clerk of Courts

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

MARGARET HUDSICK,

Plaintiff,

vs.

DUBOIS REGIONAL MEDICAL CENTER,  
GARY OTT, M.D., JAMES P. CHERRY, M.D.,  
LARRY SCHACHTER, M.D.,

Defendants.


)  
) Civil Action-Medical Professional  
) Liability Action  
)  
) No. 2006-01301 CD  
)  
) JURY TRIAL DEMANDED  
)  
)  
)  
)

NOTICE TO PLEAD

TO: Plaintiff

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

McQUAIDE, BLASKO,  
FLEMING & FAULKNER, INC.

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

Dated: 

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

MARGARET HUDSICK,	)	
	)	
Plaintiff,	)	Civil Action-Medical Professional
	)	Liability Action
	)	
vs.	)	No. 2006-01304 CD
	)	
DUBOIS REGIONAL MEDICAL CENTER,	)	JURY TRIAL DEMANDED
GARY OTT, M.D., JAMES P. CHERRY, M.D.,	)	
LARRY SCHACHTER, M.D.,	)	
	)	
Defendants.	)	

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

1. The averments of Paragraph 1 are denied in that Answering Defendant, after reasonable investigation, is without sufficient knowledge or information to form a belief as to the truth of the averments.
2. The averments of Paragraph 2 are directed to a Defendant other than Answering Defendant, and, thus no response is required under the Pennsylvania Rules of Civil Procedure.
3. Paragraph 3 is admitted.
4. The averments of Paragraph 4 are directed to a Defendant other than Answering Defendant, and, thus no response is required under the Pennsylvania Rules of Civil Procedure.
5. The averments of Paragraph 5 are directed to a Defendant other than Answering Defendant, and, thus no response is required under the Pennsylvania Rules of Civil Procedure.
6. Paragraph 6 is denied. At no time relevant to Plaintiff's alleged cause of action was the Answering Defendant jointly and/or severally acting with the other named Defendants, and, nor were there any agents, servants and/or employees of the Answering Defendant acting on his behalf or within the scope of any employment and/or any agency of the Answering

Defendant. At all times relevant to the alleged cause of action, the Answering Defendant was acting individually and independent of the Co-Defendants or the unidentified agents, servants, or employees.

7. Paragraph 7 to the extent that it alleges Answering Defendant had admitting and surgical privileges at the DRMC is admitted. The Answering Defendant was performing within the appropriate privileges and standard of care. As to the remainder of the averments of Paragraph 7, they are directed to other Defendants to which a response is not required under the Pennsylvania Rules of Civil Procedure.

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

9. It is admitted that on October 30, 2002, the Answering Defendant performed a total vaginal hysterectomy and anterior colporrhaphy on the Plaintiff. The remainder of the averments of Paragraph 9 are denied to the extent there is any inference that the unidentified agents, servants or employees of Defendant DuBois Regional Medical Center were agents, servants or employees of Answering Defendant or acting within the course of their employment of Answering Defendant. At all times relevant to Plaintiff's alleged cause of action, Answering Defendant was an independent contractor, having no control or right of control over unidentified agents, servants or employees.

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

11. The averments of Paragraph 11 are denied in that Answering Defendant, after reasonable investigation, is without sufficient information to form a belief as to the truth of the averments.

12. The averments of Paragraph 12 are denied in that Answering Defendant, after reasonable investigation, is without sufficient knowledge or information to form a belief as to the truth of the averments.

13. The averments of Paragraph 13 are denied as stated, for the reason that it inaccurately refers to August 14, 2004 as the date of presentation to the Emergency Room of the DuBois Regional Medical Center.

14. Paragraph 14 to the extent that it refers to August 14, 2004 as the date of removal of the sponge and radiographic studies are inaccurate and contrary to the medical records of August 19, 2004. While Paragraph 14 to some extent references the medical records, the averments do not reflect the context in which medical treatment was performed, and, are denied.

15. Paragraph 15 is denied as stated. In response, the reported consultation by Eric C. Lundgren, M.D. dated August 19, 2004 is by this reference incorporated herein.

16. Paragraph 16 is a statement of Plaintiff's legal position and contains conclusions of law to which a response is unnecessary. To an extent a response is necessary, it is denied that the Answering Defendant or any of the alleged unidentified agents, servants and/or employees failed to timely and properly remove any and all surgical sponges from the Plaintiff during the October 2002 surgical procedure. Further, at no time relevant to Plaintiff's alleged cause of action was Answering Defendant involved in any surgical procedure during February, 2002.

17. Paragraph 17 to the extent it avers that Answering Defendant failed to timely and properly remove the surgical sponge from Plaintiff is denied, and, the averments of Paragraph 16 of this Answer are incorporated herein. As to the remainder of the allegations of Paragraph 17, they are denied in that Answering Defendant, after reasonable investigation is without sufficient knowledge or information to form a belief as to the truth of the same.

18. Paragraph 18 is a statement of Plaintiff's legal position and contains conclusions of law to which a response is unnecessary. To an extent a response is necessary, the averments of Paragraphs 16 and 17 of this Answer are incorporated herein.

**COUNT I**  
**NEGLIGENCE**  
**MARGARET HUDSICK V. DUBOIS REGIONAL MEDICAL CENTER**

19. Paragraph 19 simply incorporates by reference other paragraphs for which no separate response is required, and, is directed to a Defendant other than Answering Defendant.

20. The averments of Paragraph 20 are directed to a Defendant other than Answering Defendant, and, thus no response is required under the Pennsylvania Rules of Civil Procedure.

21. Paragraph 21 to the extent that it alleges that Plaintiff Hudsick was under the exclusive control of the "defendants" includes the Answering Defendant is denied. At all times relevant to Plaintiff's alleged cause of action, the Answering Defendant complied with the appropriate standard in the care and treatment of the Plaintiff.

22. The averments of Paragraph 22 are directed to a Defendant other than Answering Defendant, and, thus no response is required under the Pennsylvania Rules of Civil Procedure.

23. The averments of Paragraph 23 are directed to a Defendant other than Answering Defendant, and, thus no response is required under the Pennsylvania Rules of Civil Procedure.

24. The averments of Paragraph 24 are directed to a Defendant other than Answering Defendant, and, thus no response is required under the Pennsylvania Rules of Civil Procedure.

25. The averments of Paragraph 25 are directed to a Defendant other than Answering Defendant, and, thus no response is required under the Pennsylvania Rules of Civil Procedure.

26. The averments of Paragraph 26 are denied for the reason that the Answering Defendant at all times relevant to Plaintiff's alleged cause of action complied with the standard

of care, and, in further response, the Answering Defendant hereby incorporates the Plaintiff's medical records of Plaintiff's admission to the DuBois Regional Medical Center on October 30, 2002, at which time the Answering Defendant was acting as an independent contractor, and, not by or through any unidentified agents, servants or employees.

27. The averments of Paragraph 27 are directed to a Defendant other than Answering Defendant, and, thus no response is required under the Pennsylvania Rules of Civil Procedure.

28. The averments of Paragraph 28 are directed to a Defendant other than Answering Defendant, and, thus no response is required under the Pennsylvania Rules of Civil Procedure.

29. Paragraph 29 is a statement of Plaintiff's legal position and sets forth legal conclusions to which a response is not necessary.

WHEREFORE, it is requested that Count I of the Complaint be dismissed .

**COUNT II**  
**NEGLIGENCE**  
**MARGARET HUDSICK V. GARY OTT, M.D.**

30. Paragraph 30 solely incorporates by reference other paragraphs for which no separate response is required. To the extent that any additional response is deemed necessary, Answering Defendant incorporates by this reference his Answers to those paragraphs which have been incorporated by the Plaintiff.

31. Paragraph 31 is admitted

32. Paragraph 32 is denied as stated. In further response, the medical records of the Plaintiff's admission to the DuBois Regional Medical Center on October 30, 2002 are incorporated herein. Further, the averments are denied per Pa.R.C.P. 1029(e).

33. Paragraph 33 to the extent that it alleges that Plaintiff Hudsick was under the exclusive control of the "defendants" includes the Answering Defendant is denied. At all times



relevant to the operative procedure of October 30, 2002, the Answering Defendant complied with the appropriate standard in the care and treatment of the Plaintiff.

34. Paragraph 34 is denied, and, in response, the medical records of the Plaintiff for the admission to DuBois Regional Medical Center on October 30, 2002 are by this reference incorporated herein. Further, the averments of Paragraph 34 are denied as per Pa.R.C.P. 1029(e).

35. Paragraph 35 is denied. At all times relevant to Plaintiff's alleged cause of action, the Answering Defendant acted appropriately and within the standard of care as an independent contractor, and, there were no agents, servants and/or employees of the Answering Defendant involved or acting within a course of any employment of the Answering Defendant. Paragraph 35 is denied for the further reasons that after reasonable investigation, Answering Defendant has insufficient knowledge or information to form a belief as the truth of such averments because Paragraph 35 fails to identify the alleged agents, servants, and/or employees or the alleged policies, procedures, and techniques referred therein. In addition, the Paragraph is denied as per Pa. R.C.P. 1029(e).

36. Paragraph 36 is denied in that Answering Defendant was at all times relevant to Plaintiff's alleged cause of action acting as an independent contractor with no control or right of control over any of the Hospital, surgical or nursing techniques, standards, practices or procedures. Further, the averments are denied as per Pa.R.C.P. 1029(e), and, after reasonable investigation, Answering Defendant has insufficient knowledge or information to form a belief as to the truth of the averments because none of the alleged nursing techniques, standards, practices and procedures are specifically alleged or identified.

37. The averments of Paragraph 37 are denied, and, the medical records of the Plaintiff's admission to the DuBois Regional Medical Center of October 30, 2002 are by this

reference incorporated herein in response thereto. In further response, the averments are denied as per Pa.R.C.P. 1029(e).

38. Paragraph 38 is denied. At all times relevant to Plaintiff's cause of action, Answering Defendant was an independent contractor having no control or right of control over any other physicians, nursing staff, surgical staff, or other personnel during the October, 2002 surgical procedures, and, as such would not be individually, jointly or severally or otherwise responsible.

39. Paragraph 39 is a statement of Plaintiff's legal position and contains conclusions of law to which a response is not necessary.

WHEREFORE, it is requested that Count II be dismissed with prejudice.

**COUNT III**  
**NEGLIGENCE**  
**MARGARET HUDSICK V. JAMES P. CHERRY, M.D.**

40. Paragraph 40 incorporates by reference other paragraphs for which no separate response is required. However, to the extent that any additional response is deemed necessary, Answering Defendant incorporates by this reference his Answers to those paragraphs which have been incorporated by the Plaintiff.

41. The averments of Paragraph 41 are directed to a Defendant other than Answering Defendant and thus no response is required under the Pennsylvania Rules of Civil Procedure.

42. The averments of Paragraph 42 are directed to a Defendant other than Answering Defendant and thus no response is required under the Pennsylvania Rules of Civil Procedure.

43. Paragraph 43 to the extent that it alleges that Plaintiff Hudsick was under the exclusive control of the "defendants" which includes the Answering Defendant is denied. At all

times relevant, the Answering Defendant complied with the appropriate standard in the care and treatment of the Plaintiff.

44. The averments of Paragraph 44 are directed to a Defendant other than Answering Defendant and thus no response is required under the Pennsylvania Rules of Civil Procedure.

45. The averments of Paragraph 45 are directed to a Defendant other than Answering Defendant and thus no response is required under the Pennsylvania Rules of Civil Procedure.

46. The averments of Paragraph 46 are directed to a Defendant other than Answering Defendant and thus no response is required under the Pennsylvania Rules of Civil Procedure.

47. The averments of Paragraph 47 are directed to a Defendant other than Answering Defendant and thus no response is required under the Pennsylvania Rules of Civil Procedure.

48. Paragraph 48 is denied in that at all times relevant to Plaintiff's alleged cause of action, the Answering Defendant was acting as an independent contractor and not through any agents, servants, or employees.

49. Paragraph 49 is a statement of Plaintiff's legal position and contains conclusions of law to which a response is not necessary.

WHEREFORE, it is requested that Count III be dismissed with prejudice.

**COUNT IV**  
**NEGLIGENCE**  
**MARGARET HUDSICK V. LARRY SCHACHTER, M.D.**

50. Paragraph 50 incorporates by reference other paragraphs for which no separate response is required. However, to the extent that any additional response is deemed necessary, Answering Defendant incorporates by this reference his Answers to those paragraphs which have been incorporated by the Plaintiff.

51. The averments of Paragraph 51 are directed to a Defendant other than Answering Defendant and thus no response is required under the Pennsylvania Rules of Civil Procedure.

52. The averments of Paragraph 52 are directed to a Defendant other than Answering Defendant and thus no response is required under the Pennsylvania Rules of Civil Procedure.

53. Paragraph 53 to the extent that it alleges that Plaintiff Hudsick was under the exclusive control of the “defendants” includes the Answering Defendant is denied. At all times relevant to Plaintiff’s alleged cause of action and procedure, the Answering Defendant complied with the appropriate standard in the care and treatment of the Plaintiff.

54. The averments of Paragraph 54 are directed to a Defendant other than Answering Defendant and thus no response is required under the Pennsylvania Rules of Civil Procedure.

55. The averments of Paragraph 55 are directed to a Defendant other than Answering Defendant and thus no response is required under the Pennsylvania Rules of Civil Procedure.

56. The averments of Paragraph 56 are directed to a Defendant other than Answering Defendant and thus no response is required under the Pennsylvania Rules of Civil Procedure.

57. The averments of Paragraph 57 are directed to a Defendant other than Answering Defendant and thus no response is required under the Pennsylvania Rules of Civil Procedure.

58. The averments of Paragraph 58 are directed to a Defendant other than Answering Defendant and thus no response is required under the Pennsylvania Rules of Civil Procedure.

59. Paragraph 59 is a statement of Plaintiff’s legal position and contains conclusions of law to which a response is not necessary.

WHEREFORE, it is requested the Count IV be dismissed.

**NEW MATTER**

60. Answering Defendant hereby incorporates Paragraphs 1 through 59, inclusive, of this Answer with New Matter as though the same are fully set forth herein.

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

62. The Defendant has not committed any negligence or other actionable conduct toward Plaintiff, and, the action should be dismissed.

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

64. Answering Defendant was not at any time relevant to Plaintiff's cause of action an employee of any other Defendant, but rather was acting as an independent contractor.

65. At all times relevant to Plaintiff's alleged cause of action, the Answering Defendant had no control or right of control over any other healthcare providers.

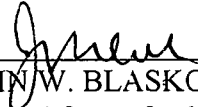
66. The Plaintiff's alleged cause of action is barred by the applicable statute of limitation within which a lawsuit may be filed from the date of the cause of action, which allegedly occurred on October 30, 2002.

67. In absence of a special contract in writing, Answering Defendant is neither a warrantor or guarantor of a cure. This provision is pleaded as an affirmative defense insofar as there is no special contract in writing.

WHEREFORE, it is requested that the Plaintiff's Complaint be dismissed with prejudice.

McQUAIDE, BLASKO, FLEMING,  
& FAULKNER, INC.

BY

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


Dated

October 16, 2006

Hudsick vs. Ott

VERIFICATION

The undersigned verifies that as a Defendant, he is authorized to make this verification in the within action; and that the Answer with New Matter to Plaintiff's Complaint is true and correct to the best of his knowledge, information and belief. I understand that false statements herein are subject to the penalties of 18 Pa. C.S.A. §4904, related to unsworn falsification to authority.



GARY D. OTT, M.D.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

MARGARET HUDSICK,	)	
	)	Civil Action-Medical Professional
Plaintiff,	)	Liability Action.
	)	
vs.	)	No. 2006-01304 CD
	)	
DUBOIS REGIONAL MEDICAL CENTER,	)	JURY TRIAL DEMANDED
GARY OTT, M.D., JAMES P. CHERRY, M.D.,	)	
LARRY SCHACHTER, M.D.,	)	
	)	
Defendants.	)	

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of Defendant Gary D. Ott, M.D.'s Answer with New Matter to Plaintiff's Complaint, in the above-captioned matter was mailed by regular mail, postage prepaid, at the Post Office, State College, Pennsylvania, on this 16<sup>th</sup> day of October, 2006, to the attorney(s) of record:

Lisa Smith Presta, Esquire  
MacDonald, Illig, Jones & Britton  
100 State Street, Suite 700  
Erie, PA 16507

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

Terry C. Cavanaugh, Esquire  
White and Williams, LLP  
The Frick Building  
437 Grant Street, Suite 1001  
Pittsburgh, PA 15219

McQUAIDE, BLASKO,  
FLEMING & FAULKNER, INC.

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

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



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

MARGARET HUDSICK,

Plaintiff,

vs.

DUBOIS REGIONAL MEDICAL CENTER,  
GARY OTT, M.D. JAMES P. CHERRY, M.D.,  
LARRY SCHACHTER, M.D.,

Defendants.

Civil Action-Medical Professional  
Liability Action

No. 2006-01304 CD

JURY TRIAL DEMANDED

**CERTIFICATE OF SERVICE**

I hereby certify that and true and correct copy of Defendant's Notice of Intent to  
Subpoena regarding Dr. Lundgren and Dr. Kruszewski, in the above-referenced matter was  
mailed by regular mail, first class, through Litigation Solutions on the 11th day of October, 2006  
to the following attorneys of record:

Lisa Smith Presta, Esquire  
MacDonald, Illig, Jones & Britton  
100 State Street, Suite 700  
Erie, PA 16507

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

Terry C. Cavanaugh, Esquire  
1001 Frick Building  
Pittsburgh, PA 15219  
(copy provided 10/17/06)

McQUAIDE, BLASKO,  
FLEMING & FAULKNER, INC.

By: 

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

**FILED**

OCT 18 2006  
w/124510  
William A. Shaw  
Prothonotary/Clerk of Court  
w/ C/C

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

MARGARET HUDSICK,

Plaintiff,

vs.

DUBOIS REGIONAL MEDICAL CENTER,  
GARY OTT, M., JAMES P. CHERRY, M. D. &  
LARRY SCHACHTER, M. D.,

Defendants.

Docket No: 2006-01304 CD

***Medical Professional Liability  
Action***

Type of Pleading  
***CERTIFICATE PREREQUISITE  
TO SERVICE OF A SUBPOENA***

Filed on Behalf of Defendant  
***Gary Ott, M. D.***

**FILED**

NOV 06 2006

11:40 AM  
William A. Shaw  
Prothonotary/Clerk of Courts

Counsel of Record for These Parties

***John W. Blasko, Esquire***


Pa. Supreme Court I.D. #6787

McQuaide, Blasko, Fleming &  
Faulkner, Inc.

811 University  
State College, PA 16801  
(814) 238-4926  
Fax: (814) 238-9624

Counsel for Adverse Party

***Lisa Smith Presta, Esquire***

  
John W. Blasko, Esquire

**COMMONWEALTH OF PENNSYLVANIA  
COUNTY OF CLEARFIELD**

Margaret Hudsick

Court of Common Pleas-  
Civil Division

vs.

DuBois Regional Medical Center, Gary Ott, M. D., James P.  
Cherry, M. D., Larry Schachter, M. D.

Case Number: 2006-  
01304 CD

**CERTIFICATE PREREQUISITE TO THE SERVICE OF A SUBPOENA  
PURSUANT TO RULE 4009.22**

As a prerequisite to service of a subpoena for documents and things pursuant to Rule 4009.22, Litigation Solutions, Inc. ('LSI') on behalf of John Blasko, Esquire of McQuaide Blasko certifies that:

- (1) A notice of intent to serve the subpoena with a copy of the subpoena attached thereto was mailed or delivered to each party at least twenty days prior to the date on which the subpoena is sought to be served;
- (2) A copy of the notice of intent, including the proposed subpoena, is attached to this certificate;
- (3) No objection to the subpoena has been received, and;
- (4) The subpoena which will be served is identical to the subpoena which is attached to the notice of intent to serve the subpoena.

Date: 10/31/2006

Litigation Solutions, Inc. on behalf of  
John Blasko, Esquire of McQuaide Blasko  
Attorney for the Defense

CC:  
John Blasko, Esquire  
McQuaide Blasko  
811 University Drive  
State College PA 16801

## PENNSYLVANIA COURT OF COMMON PLEAS

## COUNTY OF CLEARFIELD

Margaret Hudsick

vs.

Court of Common Pleas-  
Civil DivisionDuBois Regional Medical Center, Gary Ott, M. D., James P. Cherry, M.  
D., Larry Schachter, M. D.

2006-01304 CD

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

Provider:

Record Type:

Eric Lundgren  
Mary KruszewskiAll available  
Medical

TO: Lisa Smith Presta, Esquire

note: please see enclosed list of all other interested counsel

Litigation Solutions, Inc. ('LSI') on behalf of John Blasko, Esquire intends to serve a subpoena identical to the one that is attached to this notice. You have twenty (20) days from the date listed below in which to file of record and serve upon the undersigned an objection to the subpoena. If the twenty day notice period is waived or if no objection is made, then the subpoena may be served.

Date of Issue: 10/11/2006

Litigation Solutions, Inc. on  
behalf of:

CC: John Blasko, Esquire - Court of Common Pleas-Civil Division

John Blasko, Esquire  
Defense*McQuaide Blasko - State College*

If you have any questions regarding this matter, please contact:  
Litigation Solutions, Inc. (412.263.5656)  
Brentwood Towne Centre  
101 Towne Square Way, Suite 251  
Pittsburgh, PA 15227

**COUNSEL LISTING FOR MARGARET HUDSICK VS. DUBOIS REGIONAL MEDICAL CENTER,  
GARY OTT, M. D., JAMES P. CHERRY, M. D., LARRY SCHACHTER, M. D.**

**County of Clearfield Court of Common Pleas-Civil Division**

Counsel	Firm	Counsel Type
Presta, Esquire, Lisa Smith 814-870-7600 (ph) 814-484-4647 (fx)	100 State Street Suite 700 Erie PA 16507	Opposing Counsel
Johnson, Esquire, David 412-232-3400 (ph) 412-232-3498 (fx)	1010 Two Chatham Center Pittsburgh PA 15219	Other
Cavanaugh, Terry C. 412-566-3520	437 Grant St, 1001 Frick Building, Pittsburg, PA 15219	Other

COMMONWEALTH OF PENNSYLVANIA  
COUNTY OF CLEARFIELD

Margaret Hudsick  
Plaintiff(s)

\*

Vs.

\*

No. 2006-01304-CD

DuBois Regional Medical Center  
Gary Ott MD  
James P. Cherry MD  
Larry Schachter MD  
Defendant(s)

\*

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

TO: Mary Kruszewski

(Name of Person or Entity)

Within twenty (20) days after service of this subpoena, you are ordered by the Court to  
produce the following documents or things:

PLEASE SEE ATTACHED RIDER

SEND TO: 101 Towne Square Way Suite 251 Pittsburgh PA 15227  
(Address)

You may deliver or mail legible copies of the documents or produce things requested by  
this subpoena, together with the certificate of compliance, to the party making this request at the  
address listed above. You have the right to seek in advance the reasonable cost of preparing the  
copies or producing the things sought.

If you fail to produce the documents or things required by this subpoena within twenty  
(20) days after its service, the party serving this subpoena may seek a court order compelling you  
to comply with it.


THIS SUBPOENA WAS ISSUED AT THE REQUEST OF THE FOLLOWING PERSON:

NAME: John Blasko, Esquire  
ADDRESS: 811 University Drive  
State College PA 16801  
TELEPHONE: 814-238-4926  
SUPREME COURT ID # 6787  
ATTORNEY FOR: Defendant

BY THE COURT:

William A. Shaw  
Prothonotary/Clerk, Civil Division

DATE: Thursday, October 05, 2006  
Seal of the Court

  
Deputy

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

**Rider to Subpoena**

**Explanation of Required Documents and Things**

**TO: CUSTODIAN OF RECORDS FOR:**

Dr. Mary Kruszewski  
190 West Park Avenue  
DuBois PA 15801  
Attention: Dr. Kruszewski

Subject: Hudsick, Margaret A.  
SS#: 207-28-9690  
Date of Birth: 6/21/1936

**Requested Items:**

Please remit: a complete copy of any and all medical records, from 6/21/1936 to Present, including records, charts, test results, reports, correspondence, office notes, and computerized records \*\*\*INCLUDING. BUT NOT LIMITED TO, TREATMENT RECORDS, WELLNESS CLINIC TREATMENT, WEIGHT CLINIC TREATMENT, ETC.\*\*\*

COMMONWEALTH OF PENNSYLVANIA  
COUNTY OF CLEARFIELD

Margaret Hudsick  
Plaintiff(s)

Vs.

DuBois Regional Medical Center  
Gary Ott MD  
James P. Cherry MD  
Larry Schachter MD  
Defendant(s)

\*

\*

\*

No. 2006-01304-CD

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

TO: Eric Lundgren

(Name of Person or Entity)

Within twenty (20) days after service of this subpoena, you are ordered by the Court to  
produce the following documents or things:

PLEASE SEE ATTACHED RIDER

SEND TO: 101 Towne Square Way Suite 251 Pittsburgh PA 15227  
(Address)

You may deliver or mail legible copies of the documents or produce things requested by  
this subpoena, together with the certificate of compliance, to the party making this request at the  
address listed above. You have the right to seek in advance the reasonable cost of preparing the  
copies or producing the things sought.

If you fail to produce the documents or things required by this subpoena within twenty  
(20) days after its service, the party serving this subpoena may seek a court order compelling you  
to comply with it.

THIS SUBPOENA WAS ISSUED AT THE REQUEST OF THE FOLLOWING PERSON:

NAME: John Blasko, Esquire  
ADDRESS: 811 University Drive  
State College PA 16801  
TELEPHONE: 814-238-4926  
SUPREME COURT ID # 6787  
ATTORNEY FOR: Defendant

BY THE COURT:

William A. Shaw  
Prothonotary/Clerk, Civil Division

DATE: Thursday, October 05, 2006  
Seal of the Court

  
Deputy

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



**Rider to Subpoena****Explanation of Required Documents and Things****TO: CUSTODIAN OF RECORDS FOR:**

Dr. Eric Lundgren  
505 S. Main Street  
DuBois PA 15801  
Attention: Dr. Lundgren

Subject: Hudsick, Margaret A.  
SS#: 207-28-9690  
Date of Birth: 6/21/1936

**Requested Items:**

Please remit: a complete copy of any and all documents in your possession regarding the above-named patient, including but not limited to:

- Medical records (charts, test results, reports, correspondence, office notes) FROM 6/21/1936 TO PRESENT
- Billing records ONLY FROM 2002 TO PRESENT

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET # 101942  
NO: 06-1304-CD  
SERVICE # 1 OF 1  
SUMMONS

PLAINTIFF: MARGARET HUDSICK

vs.

DEFENDANT: DUBOIS REGIONAL MEDICAL CENTER al  
JAMES P. CHERRY, MD

SHERIFF RETURN

NOW, September 29, 2006 AT 10:10 AM SERVED THE WITHIN SUMMONS ON JAMES P. CHERRY, MD  
DEFENDANT AT 145 HOSPITAL AVE., DUBOIS, CLEARFIELD COUNTY, PENNSYLVANIA, BY HANDING TO  
GREG VOLPE, DIRECTOR RISK MANAGEMENT A TRUE AND ATTESTED COPY OF THE ORIGINAL SUMMONS  
AND MADE KNOWN THE CONTENTS THEREOF.

SERVED BY: COUDRIET / NEVLING


PURPOSE	VENDOR	CHECK #	AMOUNT
SURCHARGE	MACDONALD	108858	10.00
SHERIFF HAWKINS	MACDONALD	108858	34.91

Sworn to Before Me This

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

\_\_\_\_\_

So Answers,

  
Chester A. Hawkins  
Sheriff

**FILED**  
NOV 13 2006  
0/2-30/6  
William A. Shaw  
Prothonotary/Clerk of Courts

**FILED**  
NOV 13 2006  
William A. Shaw  
Prothonotary/Clerk of Courts

MARGARET HUDSICK,  
Plaintiff

v.

DUBOIS REGIONAL MEDICAL  
CENTER, GARY OTT, M.D., JAMES P.  
CHERRY, M.D. and LARRY  
SCHACHTER, M.D.,  
Defendants

) IN THE COURT OF COMMON PLEAS OF  
) CLEARFIELD COUNTY, PENNSYLVANIA  
)  
) MEDICAL PROFESSIONAL LIABILITY  
) ACTION  
)  
) JURY TRIAL REQUESTED  
)  
)  
) NO. 2006 - 01304 CD

**FILED** *no cc*  
*m 11:18 AM*  
NOV 22 2006 *(S)*

William A. Shaw  
Prothonotary/Clerk of Courts

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

Plaintiff Margaret Hudsick, by and through her attorneys, MacDonald, Illig, Jones & Britton LLP, files the following Certificate of Merit as to Defendant DuBois Regional Medical Center pursuant to Pennsylvania Rule of Civil Procedure 1042.3:

The claim that defendant DuBois Regional Medical Center deviated from an acceptable professional standard is based upon allegations that licensed professionals for whom this defendant was and is responsible deviated from acceptable professional standards, and an appropriate licensed professional has supplied a written statement to the undersigned that there is a basis to conclude that the care, skill, or knowledge exercised or exhibited by the other professionals in the treatment, practice or work that is the subject of the Complaint fell outside acceptable professional standards and that such conduct was a cause in bringing about harm to plaintiff Margaret Hudsick.

Respectfully submitted,



---

Lisa Smith Presta  
Pa Bar ID No. 65527  
Marissa A. Savastana  
Pa Bar ID No. 91201  
MacDONALD, ILLIG, JONES & BRITTON LLP  
100 State Street, Suite 700  
Erie, Pennsylvania 16507-1459  
(814) 870-7656

Attorneys for Plaintiff,  
Margaret Hudsick

CERTIFICATE OF SERVICE

I hereby certify that a copy of this document  
was served upon all other parties appearing  
of record by Overnight Mail sent on  
November 21, 2006.



---

**FILED**

**NOV 22 2006**

William A. Shaw  
Prothonotary/Clerk of Courts

MARGARET HUDSICK,  
Plaintiff

v.

DUBOIS REGIONAL MEDICAL  
CENTER, GARY OTT, M.D., JAMES P.  
CHERRY, M.D. and LARRY  
SCHACHTER, M.D.,  
Defendants

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

) MEDICAL PROFESSIONAL LIABILITY  
) ACTION  
)

) JURY TRIAL REQUESTED  
)

) NO. 2006 - <sup>1304</sup>~~13004~~ CD  
)

**FILED** *no cc*  
*MT 11:18 AM*  
NOV 22 2006 *(S)*

William A. Shaw  
Prothonotary/Clerk of Courts

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

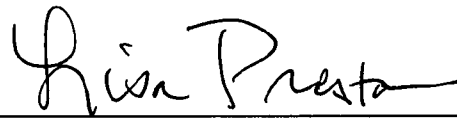
Plaintiff Margaret Hudsick, by and through her attorneys, MacDonald, Illig, Jones & Britton LLP, files the following Certificate of Merit as to Defendant Gary Ott, M.D. pursuant to Pennsylvania Rule of Civil Procedure 1042.3:

1. 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 defendant Gary Ott, M.D. 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 harm to plaintiff Margaret Hudsick; and/or

2. The claim that defendant Gary Ott, M.D. deviated from an acceptable professional standard is based upon allegations that other licensed professionals for whom this defendant was and is responsible deviated from acceptable professional standards, and an appropriate licensed professional has supplied a written statement to the undersigned that there is

a basis to conclude that the care, skill, or knowledge exercised or exhibited by the other professionals in the treatment, practice or work that is the subject of the Complaint fell outside acceptable professional standards and that such conduct was a cause in bringing about harm to plaintiff Margaret Hudsick.

Respectfully submitted,



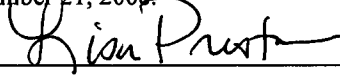
---

Lisa Smith Presta  
Pa Bar ID No. 65527  
Marissa A. Savastana  
Pa Bar ID No. 91201  
MacDONALD, ILLIG, JONES & BRITTON LLP  
100 State Street, Suite 700  
Erie, Pennsylvania 16507-1459  
(814) 870-7656

Attorneys for Plaintiff,  
Margaret Hudsick

CERTIFICATE OF SERVICE

I hereby certify that a copy of this document was served upon all other parties appearing of record by Overnight Mail sent on November 21, 2006.





MARGARET HUDSICK,  
Plaintiff

v.

DUBOIS REGIONAL MEDICAL  
CENTER, GARY OTT, M.D., JAMES P.  
CHERRY, M.D. and LARRY  
SCHACHTER, M.D.,  
Defendants

) IN THE COURT OF COMMON PLEAS OF  
) CLEARFIELD COUNTY, PENNSYLVANIA  
)  
) MEDICAL PROFESSIONAL LIABILITY  
) ACTION  
)  
) JURY TRIAL REQUESTED  
)  
)  
) NO. 2006 - 1304 CD

FILED  
NOV 22 2006

William A. Shaw  
Prothonotary/Clerk of Courts

**CERTIFICATE OF MERIT**  
**AS TO DEFENDANT JAMES P. CHERRY, M.D.**

Plaintiff Margaret Hudsick, by and through her attorneys, MacDonald, Illig, Jones & Britton LLP, files the following Certificate of Merit as to Defendant James P. Cherry, M.D. pursuant to Pennsylvania Rule of Civil Procedure 1042.3:

1. 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 defendant James P. Cherry, M.D. 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 harm to plaintiff Margaret Hudsick; and/or

2. The claim that defendant James P. Cherry, M.D. Center deviated from an acceptable professional standard is based upon allegations that other licensed professionals for whom this defendant was and is responsible deviated from acceptable professional standards, and an appropriate licensed professional has supplied a written statement to the undersigned that

there is a basis to conclude that the care, skill, or knowledge exercised or exhibited by the other professionals in the treatment, practice or work that is the subject of the Complaint fell outside acceptable professional standards and that such conduct was a cause in bringing about harm to plaintiff Margaret Hudsick.

Respectfully submitted,



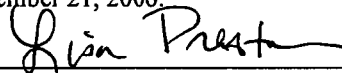
---

Lisa Smith Presta  
Pa Bar ID No. 65527  
Marissa A. Savastana  
Pa Bar ID No. 91201  
MacDONALD, ILLIG, JONES & BRITTON LLP  
100 State Street, Suite 700  
Erie, Pennsylvania 16507-1459  
(814) 870-7656

Attorneys for Plaintiff,  
Margaret Hudsick

CERTIFICATE OF SERVICE

I hereby certify that a copy of this document was served upon all other parties appearing of record by Overnight Mail sent on November 21, 2006.



**FILED**

**NOV 22 2006**

William A. Shaw  
Prothonotary/Clerk of Courts

HUDSICK,  
Plaintiff

v.

DUBOIS REGIONAL MEDICAL  
CENTER, GARY OTT, M.D.,  
JAMES P. CHERRY, M.D. and  
LARRY SCHACHTER, M.D.,  
Defendants

) IN THE COURT OF COMMON PLEAS OF  
) CLEARFIELD COUNTY, PENNSYLVANIA  
)  
) MEDICAL PROFESSIONAL LIABILITY  
) ACTION  
)  
) JURY TRIAL REQUESTED  
)  
) NO. 2006-1304 CD

**FILED**  
NOV 22 2006  
m 11:18 AM  
cc

William A. Shaw  
Prothonotary/Clerk of Courts

**PLAINTIFF'S REPLY TO  
NEW MATTER OF DEFENDANT GARY OTT, M.D.**

Plaintiff Margaret Hudsick, by and through her attorneys, MacDonald, Illig, Jones & Britton LLP, files the following Reply to New Matter of Defendant Gary Ott, M.D.:

1. The averments contained in Paragraphs 1 through 59 of plaintiff Hudsick's Complaint are incorporated by reference as though set forth at length herein.

2. Paragraph 61 of defendant Ott's New Matter states conclusions of law to which no response is required.

3. Paragraph 62 of defendant Ott's New Matter is denied, and strict proof is demanded at time of trial. In further response, plaintiff Hudsick incorporates the averments contained in Paragraphs 1 through 59 of the Complaint as if set forth at length herein.

4. Paragraph 63 of defendant Ott's New Matter is denied, and strict proof is demanded at time of trial. In further response, plaintiff Hudsick incorporates the averments contained in Paragraphs 1 through 59 of the Complaint as though set forth at length herein.

5. Paragraph 64 of defendant Ott's New Matter states conclusions of law to which no response is required. To the extent a response is required, Paragraph 64 is denied in that after reasonable investigation, plaintiff Hudsick is without knowledge or information sufficient to form a belief as to the truth of the averments, and strict proof is demanded at time of trial.

6. Paragraph 65 of defendant Ott's New Matter is specifically denied. It is specifically denied that at all times relevant to plaintiff's alleged cause of action, defendant Ott had no control or right of control over any other healthcare providers. To the contrary, defendant Ott, as an operating surgeon, is liable for any and all negligence that causes harm to his patient during the course of the surgery or surgeries at issue.

7. Paragraph 66 of defendant Ott's New Matter states conclusions of law to which no response is required. To the extent a response is required, Paragraph 66 is denied. In further response, the discovery rule applies to toll the statute of limitations, and plaintiff Hudsick incorporates the averments contained in Paragraphs 1 through 59 of the Complaint as though set forth at length herein.

8. Paragraph 67 of defendant Ott's New Matter states conclusions of law to which no response is required.

WHEREFORE, plaintiff Margaret Hudsick respectfully requests that this Honorable Court enter judgment in her favor and against defendant Gary Ott, M.D. in an amount in excess of \$20,000.00, plus interest and costs of suit.

**A JURY OF TWELVE IS HEREBY REQUESTED.**

Respectfully submitted,



---

Lisa Smith Presta  
Pa. Bar ID No. 65527  
MacDONALD, ILLIG, JONES & BRITTON LLP  
100 State Street, Suite 700  
Erie, Pennsylvania 16507-1459  
(814) 870-7656

Attorneys for Plaintiff  
Margaret Hudsick

CERTIFICATE OF SERVICE

I hereby certify that a copy of this document  
was served upon all other parties appearing  
of record by Overnight Mail sent on  
November 21, 2006.



---

**FILED**

**NOV 22 2006**

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

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

MARGARET HUDSICK,

Plaintiff,

v.

DUBOIS REGIONAL MEDICAL CENTER,

GARY OTT, M.D., JAMES P. CHERRY,

M.D., and LARRY SCHACHTER, M.D.,

Defendants.

CIVIL DIVISION – MEDICAL PROFESSIONAL  
LIABILITY ACTION

No. 2006-01304 CD

Issue No.

**ANSWER AND NEW MATTER TO  
PLAINTIFF'S COMPLAINT**

Code: 007

Filed on behalf of Defendant, JAMES P.  
CHERRY, M.D.

Counsel of record for this party:

Terry C. Cavanaugh, Esq.  
PA. I.D. #16702

WHITE AND WILLIAMS LLP  
Firm #683  
1001 Frick Building  
Pittsburgh, PA 15219

(412) 566-3520

**NOTICE TO PLEAD**

TO: Plaintiff

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

By

**JURY TRIAL DEMANDED**

**FILED**

DEC 14 2006

William A. Shaw  
Prothonotary/Clerk of Courts



IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

MARGARET HUDSICK,	:	NO. 2006-01304 CD
	:	
Plaintiff,	:	
	:	
vs.	:	
	:	
DUBOIS REGIONAL MEDICAL	:	
CENTER, GARY OTT, M.D., JAMES	:	
P. CHERRY, M.D., and LARRY	:	
SCHACHTER, M.D.,	:	
	:	
Defendants.	:	

**ANSWER AND NEW MATTER TO PLAINTIFF'S COMPLAINT**

AND NOW comes the Defendant, JAMES P. CHERRY, M.D., by and through his attorneys, WHITE AND WILLIAMS LLP and TERRY C. CAVANAUGH, ESQUIRE, and files the within Answer and New Matter to Plaintiff's Complaint asserting and setting forth as follows:

1. At this time and after reasonable investigation, this Defendant is without sufficient information or knowledge upon which to base the truth or falsity of the averments set forth in paragraph 1 of Plaintiff's Complaint. Accordingly, the same are denied and strict proof thereof is demanded at the time of trial.

2. The averments set forth in paragraph 2 of Plaintiff's Complaint are directed toward a Defendant other than this answering Defendant. Accordingly, no response is necessary.

3. The averments set forth in paragraph 3 of Plaintiff's Complaint are directed toward a Defendant other than this answering Defendant. Accordingly, no response is necessary.

4. The averments set forth in paragraph 4 of Plaintiff's Complaint are admitted.

5. The averments set forth in paragraph 5 of Plaintiff's Complaint are directed toward a Defendant other than this answering Defendant. Accordingly, no response is necessary.

6. The averments set forth in paragraph 6 of Plaintiff's Complaint constitute conclusions of law to which no response is necessary. To the extent that a response is necessary, said averments are specifically denied and strict proof thereof is demanded at the time of trial.

7. The averments set forth in paragraph 7 of Plaintiff's Complaint are admitted to the extent that answering Defendant had admitting and surgical privileges at DuBois Regional Medical Center. By way of further response, the answering Defendant was performing within the appropriate privileges and standard of care. As to the remainder of the averments set forth in paragraph 7, they are directed toward Defendants other than this answering Defendant. Accordingly, no response is necessary.

8. The averments set forth in paragraph 8 of Plaintiff's Complaint are directed toward a defendant other than this answering Defendant. Accordingly, no response is necessary.

9. The averments set forth in paragraph 9 of Plaintiff's Complaint are generally denied. By way of further answer thereto, the answering Defendant avers that Plaintiff's medical records speak for themselves and to the extent that the averments set forth in paragraph 9 differ, do not accurately reflect and/or exceed the scope of Plaintiff's medical records, said averments are specifically denied.

10. The averments set forth in paragraph 10 of Plaintiff's Complaint are admitted to the extent that answering Defendant performed a tension free vaginal tape placement for stress urinary incontinence on Plaintiff at DuBois Regional Medical Center. The remainder of the averments set forth in paragraph 10 of Plaintiff's Complaint are denied to the extent that there is any inference that the unidentified agents, servants or employees of Defendant DuBois Regional Medical Center were agents, servants or employees of answering Defendant or acting within the course of their employment of answering Defendant. At all times relevant to Plaintiff's alleged cause of action, answering Defendant was an independent contractor, having no control or right of control over unidentified agents, servants or employees.

11. At this time and after reasonable investigation, this Defendant is without sufficient information or knowledge upon which to base the truth or falsity of the averments set forth in paragraph 11 of Plaintiff's Complaint. Accordingly, the same are denied and strict proof thereof is demanded at the time of trial.

12. At this time and after reasonable investigation, this Defendant is without sufficient information or knowledge upon which to base the truth or falsity of the averments set forth in paragraph 12 of Plaintiff's Complaint. Accordingly, the same are denied and strict proof thereof is demanded at the time of trial.

13. The averments set forth in paragraph 13 of Plaintiff's Complaint are generally denied. By way of further answer thereto, the answering Defendant avers that Plaintiff's medical records speak for themselves and to the extent that the averments set forth in paragraph 13 differ, do not accurately reflect and/or exceed the scope of Plaintiff's medical records, said averments are specifically denied.

14. The averments set forth in paragraph 14 of Plaintiff's Complaint are generally denied. By way of further answer thereto, the answering Defendant avers that Plaintiff's medical records speak for themselves and to the extent that the averments set forth in paragraph 14 differ, do not accurately reflect and/or exceed the scope of Plaintiff's medical records, said averments are specifically denied.

15. The averments set forth in paragraph 15 of Plaintiff's Complaint are generally denied. By way of further answer thereto, the answering Defendant avers that Plaintiff's medical records speak for themselves and to the extent that the averments set forth in paragraph 15 differ, do not accurately reflect and/or exceed the scope of Plaintiff's medical records, said averments are specifically denied.

16. The averments set forth in paragraph 16 of Plaintiff's Complaint constitute conclusions of law to which no response is necessary. To the extent that a response is necessary, said averments are specifically denied and strict proof thereof is demanded at

the time of trial. By way of further response, it is specifically denied that the answering Defendant or any of the alleged unidentified agents, servants and/or employees failed to timely and properly remove any and all surgical sponges from Plaintiff during the October 2002 surgical procedure at issue. Dr. Cherry did not utilize any surgical sponge during his procedure.

17. At this time and after reasonable investigation, this Defendant is without sufficient information or knowledge upon which to base the truth or falsity of the averments set forth in paragraph 17 of Plaintiff's Complaint. Accordingly, the same are denied and strict proof thereof is demanded at the time of trial.

18. The averments set forth in paragraph 18 of Plaintiff's Complaint constitute conclusions of law to which no response is necessary. To the extent that a response is necessary, said averments are specifically denied and strict proof thereof is demanded at the time of trial.

### **COUNT I – NEGLIGENCE**

#### **Margaret Hudsick v. DuBois Regional Medical Center**

19. Paragraphs 1 through 18 of the foregoing Answer are hereby incorporated as though more fully set forth herein and at length.

20. The averments set forth in Paragraph 20 of Plaintiff's Complaint are directed toward a Defendant other than this answering Defendant. Accordingly, no response is necessary. To the extent that a response is necessary, said averments are generally denied.

21. The averments set forth in Paragraph 21 of Plaintiff's Complaint are directed toward a Defendant other than this answering Defendant. Accordingly, no response is necessary. To the extent that a response is necessary, said averments are generally denied. By way of further answer thereto, to the extent that the averments set forth in paragraph 21 allege that Plaintiff was under the exclusive control of the "Defendants" includes the answering Defendant is denied.

22. The averments set forth in paragraph 22 of Plaintiff's Complaint are directed toward a Defendant other than this answering Defendant. Accordingly, no response is necessary. To the extent that a response is necessary, said averments are generally denied.

23. The averments set forth in paragraph 23 of Plaintiff's Complaint are directed toward a Defendant other than this answering Defendant. Accordingly, no response is necessary. To the extent that a response is necessary, said averments are generally denied.

24. The averments set forth in paragraph 24 of Plaintiff's Complaint are directed toward a Defendant other than this answering Defendant. Accordingly, no response is necessary. To the extent that a response is necessary, said averments are generally denied.

25. The averments set forth in paragraph 25 of Plaintiff's Complaint are directed toward a Defendant other than this answering Defendant. Accordingly, no response is necessary. To the extent that a response is necessary, said averments are generally denied.

26. The averments set forth in paragraph 26 of Plaintiff's Complaint are directed toward a Defendant other than this answering Defendant. Accordingly, no response is necessary. To the extent that a response is necessary, said averments are generally denied.

27. The averments set forth in paragraph 27 of Plaintiff's Complaint constitute conclusions of law to which no response is required. To the extent a response is deemed necessary, said averments are specifically denied and strict proof thereof is demanded at the time of trial. By way of further answer thereto, it is specifically denied that the answering Defendant or his alleged unidentified agents, servants or employees, were in any way negligent, reckless or careless in rendering medical care to Plaintiff. To the contrary, the medical services provided by answering Defendant and its personnel were at all times appropriate and skillfully rendered in accordance with the application standards of care in the medical community. According, strict proof of each and every act and/or failure to act is demanded at the time of trial.

28. The averments set forth in paragraph 28 of Plaintiff's Complaint are directed toward a Defendant other than this answering Defendant. Accordingly, no response is necessary. To the extent that a response is necessary, said averments are generally denied.

29. The averments set forth in paragraph 29 of Plaintiff's Complaint constitute conclusions of law to which no response is necessary. To the extent that a response is necessary, said averments are generally denied and strict proof thereof is demanded at the time of trial.

WHEREFORE, the Defendant, James P. Cherry, M.D., denies that he is indebted in any sum whatsoever to the Plaintiff and demands judgment in his favor and costs assessed against the Plaintiff.

**JURY TRIAL DEMANDED.**

**COUNT II – NEGLIGENCE**

**Margaret Hudsick v. Gary Ott, M.D.**

30. Paragraphs 1 through 29 of the foregoing Answer are hereby incorporated as though more fully set forth herein and at length.

31. The averments set forth in paragraph 31 of Plaintiff's Complaint are directed toward a Defendant other than this answering Defendant. Accordingly, no response is necessary. To the extent that a response is necessary, said averments are generally denied.

32. The averments set forth in paragraph 32 of Plaintiff's Complaint are directed toward a Defendant other than this answering Defendant. Accordingly, no response is necessary. To the extent that a response is necessary, said averments are generally denied.

33. The averments set forth in Paragraph 33 of Plaintiff's Complaint are directed toward a Defendant other than this answering Defendant. Accordingly, no response is necessary. To the extent that a response is necessary, said averments are generally denied. By way of further answer thereto, to the extent that the averments set



forth in paragraph 33 allege that Plaintiff was under the exclusive control of the "Defendants" includes the answering Defendant is denied.

34. The averments set forth in Paragraph 34 of Plaintiff's Complaint are directed toward a Defendant other than this answering Defendant. Accordingly, no response is necessary. To the extent that a response is necessary, said averments are generally denied.

35. The averments set forth in Paragraph 35 of Plaintiff's Complaint are directed toward a Defendant other than this answering Defendant. Accordingly, no response is necessary. To the extent that a response is necessary, said averments are generally denied.

36. The averments set forth in Paragraph 36 of Plaintiff's Complaint are directed toward a Defendant other than this answering Defendant. Accordingly, no response is necessary. To the extent that a response is necessary, said averments are generally denied.

37. The averments set forth in Paragraph 37 of Plaintiff's Complaint are directed toward a Defendant other than this answering Defendant. Accordingly, no response is necessary. To the extent that a response is necessary, said averments are generally denied.

38. The averments set forth in Paragraph 38 of Plaintiff's Complaint are directed toward a Defendant other than this answering Defendant. Accordingly, no response is necessary. To the extent that a response is necessary, said averments are

generally denied. By way of further answer thereto, it is specifically denied that the answering Defendant or persons who were his agents, servants or employees, were in any way negligent, reckless or careless in rendering medical care to Plaintiff. To the contrary, the medical services provided by the answering Defendant and his personnel were at all times appropriate and skillfully rendered in accordance with the application standards of care in the medical community. Accordingly, strict proof of each and every act and/or failure to act is demanded at the time of trial.

39. The averments set forth in paragraph 39 of Plaintiff's Complaint constitute conclusions of law to which no response is required. To the extent a response is deemed necessary, said averments are specifically denied and strict proof thereof is demanded at the time of trial. By way of further answer thereto, it is specifically denied that the answering Defendant or persons who were his agents, servants or employees, were in any way negligent, reckless or careless in rendering medical care to Plaintiff. To the contrary, the medical services provided by the answering Defendant and his personnel were at all times appropriate and skillfully rendered in accordance with the application standards of care in the medical community. Accordingly, strict proof of each and every act and/or failure to act is demanded at the time of trial.

WHEREFORE, the Defendant, James P. Cherry, M.D., denies that he is indebted in any sum whatsoever to the Plaintiff and demands judgment in his favor and costs assessed against the Plaintiff.

**JURY TRIAL DEMANDED.**

**COUNT III – NEGLIGENCE**

**Margaret Hudsick v. James P. Cherry, M.D.**

40. Paragraphs 1 through 39 of the foregoing Answer are hereby incorporated as though more fully set forth herein and at length.

41. The averments set forth in paragraph 41 of Plaintiff's Complaint are admitted.

42. The averments set forth in paragraph 42 of Plaintiff's Complaint constitute conclusions of law to which no response is required. To the extent a response is deemed necessary, said averments are specifically denied and strict proof thereof is demanded at the time of trial. By way of further answer thereto, it is specifically denied that the answering Defendant or persons who were his agents, servants or employees, were in any way negligent, reckless or careless in rendering medical care to Plaintiff. To the contrary, the medical services provided by the answering Defendant and his personnel were at all times appropriate and skillfully rendered in accordance with the application standards of care in the medical community. Accordingly, strict proof of each and every act and/or failure to act is demanded at the time of trial.

43. The averments set forth in paragraph 43 of Plaintiff's Complaint constitute conclusions of law to which no response is required. To the extent a response is deemed necessary, said averments are specifically denied and strict proof thereof is demanded at the time of trial. By way of further answer thereto, it is specifically denied that the answering Defendant or persons who were his agents, servants or employees, were in any

way negligent, reckless or careless in rendering medical care to Plaintiff. To the contrary, the medical services provided by the answering Defendant and his personnel were at all times appropriate and skillfully rendered in accordance with the application standards of care in the medical community. Accordingly, strict proof of each and every act and/or failure to act is demanded at the time of trial.

44. The averments set forth in paragraph 44 of Plaintiff's Complaint constitute conclusions of law to which no response is required. To the extent a response is deemed necessary, said averments are specifically denied and strict proof thereof is demanded at the time of trial. By way of further answer thereto, it is specifically denied that the answering Defendant or persons who were his agents, servants or employees, were in any way negligent, reckless or careless in rendering medical care to Plaintiff. To the contrary, the medical services provided by the answering Defendant and his personnel were at all times appropriate and skillfully rendered in accordance with the application standards of care in the medical community. Accordingly, strict proof of each and every act and/or failure to act is demanded at the time of trial.

45. The averments set forth in paragraph 45 of Plaintiff's Complaint constitute conclusions of law to which no response is required. To the extent a response is deemed necessary, said averments are specifically denied and strict proof thereof is demanded at the time of trial. By way of further answer thereto, it is specifically denied that the answering Defendant or persons who were his agents, servants or employees, were in any way negligent, reckless or careless in rendering medical care to Plaintiff. To the contrary, the medical services provided by the answering Defendant and his personnel were at all times appropriate and skillfully rendered in accordance with the application

standards of care in the medical community. Accordingly, strict proof of each and every act and/or failure to act is demanded at the time of trial.

46. The averments set forth in paragraph 46 of Plaintiff's Complaint constitute conclusions of law to which no response is required. To the extent a response is deemed necessary, said averments are specifically denied and strict proof thereof is demanded at the time of trial. By way of further answer thereto, it is specifically denied that the answering Defendant or persons who were his agents, servants or employees, were in any way negligent, reckless or careless in rendering medical care to Plaintiff. To the contrary, the medical services provided by the answering Defendant and his personnel were at all times appropriate and skillfully rendered in accordance with the application standards of care in the medical community. Accordingly, strict proof of each and every act and/or failure to act is demanded at the time of trial.

47. The averments set forth in paragraph 47 of Plaintiff's Complaint constitute conclusions of law to which no response is required. To the extent a response is deemed necessary, said averments are specifically denied and strict proof thereof is demanded at the time of trial. By way of further answer thereto, it is specifically denied that the answering Defendant or persons who were his agents, servants or employees, were in any way negligent, reckless or careless in rendering medical care to Plaintiff. To the contrary, the medical services provided by the answering Defendant and his personnel were at all times appropriate and skillfully rendered in accordance with the application standards of care in the medical community. Accordingly, strict proof of each and every act and/or failure to act is demanded at the time of trial.

48. The averments set forth in paragraph 48 of Plaintiff's Complaint constitute conclusions of law to which no response is required. To the extent a response is deemed necessary, said averments are specifically denied and strict proof thereof is demanded at the time of trial. By way of further answer thereto, it is specifically denied that the answering Defendant or persons who were his agents, servants or employees, were in any way negligent, reckless or careless in rendering medical care to Plaintiff. To the contrary, the medical services provided by the answering Defendant and his personnel were at all times appropriate and skillfully rendered in accordance with the application standards of care in the medical community. Accordingly, strict proof of each and every act and/or failure to act is demanded at the time of trial.

49. The averments set forth in paragraph 49 of Plaintiff's Complaint constitute conclusions of law to which no response is required. To the extent a response is deemed necessary, said averments are specifically denied and strict proof thereof is demanded at the time of trial. By way of further answer thereto, it is specifically denied that the answering Defendant or persons who were his agents, servants or employees, were in any way negligent, reckless or careless in rendering medical care to Plaintiff. To the contrary, the medical services provided by the answering Defendant and his personnel were at all times appropriate and skillfully rendered in accordance with the application standards of care in the medical community. Accordingly, strict proof of each and every act and/or failure to act is demanded at the time of trial.

WHEREFORE, the Defendant, James P. Cherry, M.D., denies that he is indebted in any sum whatsoever to the Plaintiff and demands judgment in his favor and costs assessed against the Plaintiff.

**JURY TRIAL DEMANDED.**

**COUNT IV – NEGLIGENCE**

**Margaret Hudsick v. Larry Schachter, M.D.**

50. Paragraphs 1 through 49 of the foregoing Answer are hereby incorporated as though more fully set forth herein and at length.

51. The averments set forth in paragraph 51 of Plaintiff's Complaint are directed toward a Defendant other than this answering Defendant. Accordingly, no response is necessary. To the extent that a response is necessary, said averments are generally denied.

52. The averments set forth in paragraph 52 of Plaintiff's Complaint are directed toward a Defendant other than this answering Defendant. Accordingly, no response is necessary. To the extent that a response is necessary, said averments are generally denied.

53. The averments set forth in Paragraph 53 of Plaintiff's Complaint are directed toward a Defendant other than this answering Defendant. Accordingly, no response is necessary. To the extent that a response is necessary, said averments are generally denied. By way of further answer thereto, to the extent that the averments set forth in paragraph 53 allege that Plaintiff was under the exclusive control of the "Defendants" includes the answering Defendant is denied.

54. The averments set forth in paragraph 54 of Plaintiff's Complaint are directed toward a Defendant other than this answering Defendant. Accordingly, no response is necessary. To the extent that a response is necessary, said averments are generally denied.

55. The averments set forth in paragraph 55 of Plaintiff's Complaint are directed toward a Defendant other than this answering Defendant. Accordingly, no response is necessary. To the extent that a response is necessary, said averments are generally denied.

56. The averments set forth in paragraph 56 of Plaintiff's Complaint are directed toward a Defendant other than this answering Defendant. Accordingly, no response is necessary. To the extent that a response is necessary, said averments are generally denied.

57. The averments set forth in paragraph 57 of Plaintiff's Complaint are directed toward a Defendant other than this answering Defendant. Accordingly, no response is necessary. To the extent that a response is necessary, said averments are generally denied.

58. The averments set forth in paragraph 58 of Plaintiff's Complaint are directed toward a Defendant other than this answering Defendant. Accordingly, no response is necessary. To the extent that a response is necessary, said averments are generally denied.



59. The averments set forth in paragraph 59 of Plaintiff's Complaint constitute conclusions of law to which no response is necessary. To the extent that a response is necessary, said averments are generally denied and strict proof thereof is demanded at the time of trial.

WHEREFORE, the Defendant, James P. Cherry, M.D., denies that he is indebted in any sum whatsoever to the Plaintiff and demands judgment in his favor and costs assessed against the Plaintiff.

**JURY TRIAL DEMANDED.**

**NEW MATTER**

60. Dr. Cherry did not utilize any surgical sponges during his procedure, nor did he place or count any surgical sponges during the procedure performed by Dr. Ott.

61. Section 606 of the Health Care Services Malpractice Act Of Pennsylvania, 40 P.S. § 1301.606 provides that "In the absence of a special contract in writing, a health care provider is neither a warrantor nor a guarantor of a cure." This provision is pled as an affirmative defense insofar as there is no special contract in writing in this case.

62. This answering Defendant raises all affirmative defenses set forth or available as a result of the provisions in the Health Care Services Malpractice Act Of Pennsylvania, 40 P.S. § 1301 *et seq.* as well as the Medical Care Availability And Reduction Of Error Act, 40 P.S. § 1303 *et seq.*

63. The Plaintiff's Complaint fails to state any cause of action against this answering Defendant.

64. This answering Defendant pleads the doctrine of intervening and superseding causes as affirmative defenses.

65. This answering Defendant pleads "payment" as an affirmative defense to the extent that any amount less than the amount billed for medical services to the Plaintiff after the alleged incident was accepted as payment in full.

66. This answering Defendant is not liable for any pre-existing medical conditions which caused the claimed injuries and/or damages.

67. Any claim which Plaintiff may make regarding entitlement to damages for delay is barred on the grounds that such a claim, or its source of authorization, is violative of the due process requirements of the United States and Pennsylvania Constitutions.

68. At all times material hereto this action, the care and treatment rendered to the Plaintiff by the answering Defendant was skillful, appropriate and in accordance with the applicable standards of care in the medical community.

69. This answering Defendant pleads the statute of limitations as a total and/or partial bar to Plaintiff's claims against this Defendant.

70. At all times material hereto this action, this answering Defendant had no control or right of control over any other health care providers.

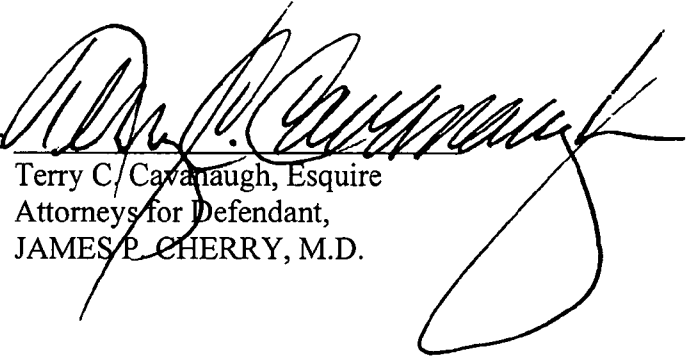
WHEREFORE, the Defendant, James P. Cherry, M.D., denies that he is indebted in any sum whatsoever to the Plaintiff and demands judgment in his favor and costs assessed against the Plaintiff.

**JURY TRIAL DEMANDED.**

Respectfully submitted,

WHITE AND WILLIAMS LLP

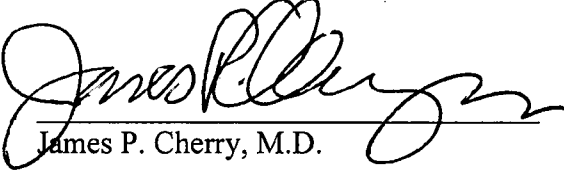
BY

  
Terry C. Cavanaugh, Esquire  
Attorneys for Defendant,  
JAMES P. CHERRY, M.D.

**VERIFICATION**

I, James P. Cherry, M.D., verify that the facts contained in the foregoing Answer and New Matter to Plaintiff's Complaint are true and correct to the best of my knowledge, information and belief. I understand that false statements herein are made subject to the penalties of 18 Pa.C.S.A. Section 4904 relating to unsworn falsification to authorities.

Dated: 11/28/06

  
James P. Cherry, M.D.

**CERTIFICATE OF SERVICE**

I, TERRY C. CAVANAUGH, ESQUIRE, hereby certify that true and correct copies of the foregoing ANSWER AND NEW MATTER TO PLAINTIFF'S COMPLAINT have been served this 15<sup>th</sup> day of December, 2006, by U.S. first-class mail, postage prepaid, to counsel of record listed below:

Lisa Smith Presta, Esquire  
MacDonald, Illig, Jones & Britton LLP  
100 State Street, Suite 700  
Erie, PA 16507-1459  
**(Counsel for Plaintiff)**

David Johnson, Esquire  
Thomson, Rhodes & Cowie  
Suite 1010 Two Chatham Center  
Pittsburgh, PA 15219  
**(Counsel for Co-Defendant Dubois Regional Medical Center)**

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

Larry Schachter, M.D.  
145 Hospital Avenue  
DuBois, PA 15801

WHITE AND WILLIAMS LLP

By 

Terry C. Cavanaugh, Esquire  
Attorneys for Defendant,  
JAMES P. CHERRY, M.D.

**FILED**  
DEC 14 2006  
William A. Shaw  
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

MARGARET HUDSICK,

Plaintiff,

vs.

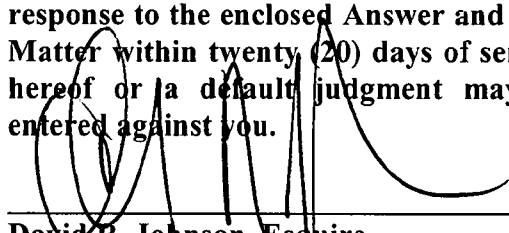
DUBOIS REGIONAL MEDICAL  
CENTER, GARY OTT, MD, JAMES P.  
CHERRY, MD, LARRY SCHACHTER,  
MD,

Defendants.

**NOTICE TO PLEAD**

**TO THE PLAINTIFFS:**

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

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

CIVIL DIVISION

No. 2006-01304-CD

Issue No.

**ANSWER AND NEW MATTER**

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

Counsel of Record for This Party:

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

Brad R. Korinski, Esquire  
PA I.D. # 86831

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

(412) 232-3400

**FILED**

JAN 03 2007  
m/11:50  
William A. Shaw  
Prothonotary/Clerk of Courts  
No 46

ANSWER AND NEW MATTER

NOW COMES, DuBois Regional Medical Center, one of the defendants, by their attorneys, Thomson, Rhodes & Cowie, P.C., and files the following answer and new matter in response to plaintiff's complaint.

ANSWER

1. Defendant is advised and therefore believes and avers that the Pennsylvania Rules of Civil Procedure do not require it to set forth its answers and defenses except as stated below.

2. If and to the extent that any factual averments in the complaint are not responded to in the paragraphs which follow, said allegations are denied for the reason that, after a reasonable investigation, this defendant lacks sufficient information or knowledge upon which to form a belief as to the truth of the averments therein.

3. Each of the paragraphs of this answer should be read so as to incorporate by reference each of the other paragraphs of this answer.

4. The following paragraphs are denied for the reason that, after a reasonable investigation, this defendant has insufficient information or knowledge to form a belief as to the truth of the averments therein: 1, 11, 12, and any averment concerning the alleged damages suffered by plaintiff as set forth in paragraphs 17, 18, 29, 39, 49 and 59 and any of their sub-paragraphs.

5. Paragraph 2 of the complaint is admitted in part; denied in part. Defendant DuBois Regional Medical Center is a not-for-profit corporation organized and operating as such under the laws of the Commonwealth of Pennsylvania, to the extent



that this paragraph suggests otherwise, it is denied. The remainder of this paragraph is admitted.

6. Paragraphs 3, 4 and 5 of the complaint refer solely to other defendants for which reason no response is required.

7. Paragraph 6 of the complaint is admitted in part; denied in part. It is admitted that, during the dates specified in the complaint, plaintiff was receiving medical care by the healthcare providers so identified. However, the remainder of this paragraph pertaining to the employment and/or agency of any of the identified or referred to healthcare providers is denied. By way of further response, Dr. Ott, Dr. Cherry and Dr. Schachter were not agents, servants or employees of DuBois Regional Medical Center.

8. Paragraph 7 of the complaint is admitted in part; denied in part. It is admitted that DuBois Regional Medical Center extended privileges to Drs. Ott, Cherry and Schachter and that these physicians acted within the scope of those privileges in rendering treatment to the plaintiff. However, any suggestion, statement or implication that the mere extending of privileges to the co-defendant physicians can give rise to any liability on the part DuBois Regional Medical Center for the matters alleged in the complaint is denied.

9. The first sentences of paragraphs 8, 9 and 10 of the complaint are denied for the reason that they incompletely, inaccurately and/or misleadingly describe events which occurred. While these paragraphs to some extent extract or reference words or phrases from the medical records, they do not reflect the context in which the notes were made and they ignore other words and phrases necessary to give fair meaning to the referenced language. The remaining sentences of paragraphs 8, 9 and 10 of the complaint

are denied for the reason that, after a reasonable investigation, this defendant has insufficient information or knowledge to form a belief as to the truth of the averments therein as plaintiff has not identified the purported agents, servants and/or employees referenced in these paragraphs.

10. Paragraphs 13, 14 and 15 of the complaint are denied for the reason that they incompletely, inaccurately and/or misleadingly describe events which occurred. While these paragraphs to some extent extract or reference works or phrases from the medical records, they do not reflect the context in which the notes were made and they ignore other words and phrases necessary to give fair meaning to the referenced language.

11. Paragraphs 16, 17 and 18 of the complaint set forth conclusions of law to which no response is required. However, if any response is deemed necessary, this defendant has insufficient information or knowledge to form a belief as to the truth of averments inasmuch as the purported agents, servants and/or employees of the defendants referenced in these paragraphs are not identified. Further, if any other response is necessary, these paragraphs are denied.

12. Paragraphs 19, 30, 40 and 50 of the complaint solely incorporate by reference other paragraphs for which no separate response is required. However, to the extent that any additional response is deemed necessary, defendant incorporates by reference its answer to those paragraphs which have been incorporated by plaintiff.

14. Paragraphs 20, 22, and 29 of the complaint constitute conclusions of law to which no further response is required. In addition, all allegations of agency set forth in these paragraphs and sub-paragraphs are denied for the reason that, after a reasonable

investigation, this defendant has insufficient information or knowledge to form a belief as to the truth of the averments because the paragraphs do not identify the alleged agents, servants and/or employees. If, nonetheless, any further response is deemed necessary, these paragraphs are denied.

15. Paragraph 21 of the complaint concerning the purported applicability of the legal doctrine of *res ipsa loquitor* constitutes a conclusion of law to which no response is required. If, nonetheless, a response is deemed necessary, this paragraph is denied.

16. Paragraphs 23, 24 and 25 of the complaint constitute conclusions of law to which no further response is required. If, nonetheless, any further response is deemed necessary, these paragraphs are denied.

17. The allegations of agency involving Dr. Ott, Dr. Cherry and Dr. Schachter are denied as set forth in paragraphs 26, 27 and 28 of the complaint because Dr. Ott, Dr. Cherry and Dr. Schachter were not agents, servants or employees of DuBois Regional Medical Center, and DuBois Regional Medical Center at no time held these physicians out to the public as such. The remaining allegations of paragraphs 26, 27 and 28 of the complaint constitute conclusions of law to which no response is required. However, if any response is deemed necessary to these paragraphs, each of the paragraphs are denied.

18. Paragraphs 31, 32, 33, 34, 35, 36, 37, 38, 39, 41, 42, 43, 44, 45, 46, 47, 48, 49, 51, 52, 53, 54, 55, 56, 57, 58 and 59 of the complaint refer solely to other defendants for which reason no response is required. These paragraphs also constitute conclusions of law, for which additional reason no response is required. If, nonetheless, a response is deemed necessary, these paragraphs are denied.

WHEREFORE, plaintiff's complaint should be dismissed and judgment should be entered in favor of this defendant.

NEW MATTER

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

20. This defendant pleads the applicability of the Pennsylvania Comparative Negligence Statute as an affirmative defense.

21. While denying all negligence and all liability, this defendant avers that, if found to have been negligent in any respect, any liability resulting there-from would be diminished or barred by operation of the Pennsylvania Comparative Negligence Statute.

22. Plaintiff's complaint fails to state any cause of action against this defendant.

23. Defendant pleads the doctrines of intervening and superdseding causes as affirmative defenses.

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

25. Defendant is not liable for any pre-existing medical conditions which caused the claimed injuries and/or damages.

26. To the extent that evidence develops during discovery to demonstrate the application of the two schools of thought doctrine, defendant pleads that doctrine as providing a complete defense for any alleged negligence or malpractice.

27. Defendant raises all affirmative defenses set forth or available as a result of the provisions of House Bill 1802 which became Pennsylvania law in 2002.

28. To the extent plaintiff bases her claim in whole or in part on any act occurring more than two years prior to the filing of this lawsuit, the claims are barred by the applicable statute of limitations, which is plead as an affirmative defense.

29. Defendant pleads all applicable statutes of limitations as affirmative defenses.

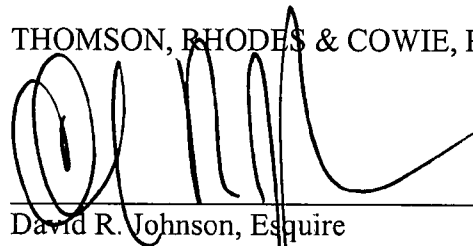
30. If and to the extent that plaintiffs' claims were not filed within the time limitation imposed by law, said lawsuit is barred by all applicable statutes of limitation.

WHEREFORE, plaintiff's complaint should be dismissed and judgment should be entered in favor of this defendant.

JURY TRIAL DEMANDED

Respectfully Submitted,

THOMSON, RHODES & COWIE, P.C.

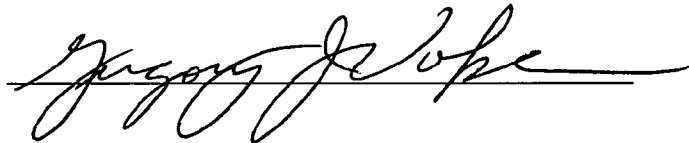
A handwritten signature in black ink, appearing to be 'DJ', is written over a horizontal line.

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

VERIFICATION

I, GREGORY J. VOLPE in the capacity of  
Director of Risk Mgt. at DuBois Regional Medical Ctr have  
read the foregoing **Answer and New Matter**. The statements therein are correct to the  
best of my personal knowledge or information and belief.

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



Date: 12-14-06

CERTIFICATION OF SERVICE

I hereby certify that a true and correct copy of the within document has been served upon the following counsel of record and same placed in the U.S. Mails on this

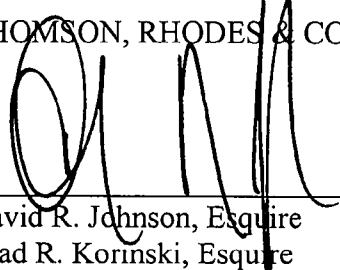
28<sup>th</sup> day of December, 2006:

Lisa Smith Presta, Esquire  
MacDonald, Illig, Jones & Britton  
100 State Street, Suite 700  
Erie, PA 16507-1459  
(Counsel for plaintiff)

Terry C. Cavanaugh, Esquire  
White & Williams, LLP  
437 Grant Street, Suite 1001  
Pittsburgh, PA 15219  
(Counsel for James P. Cherry, M.D.)

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

THOMSON, RHODES & COWIE, P.C.



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

Prothonotary/Clerk of Courts  
William A. Shaw

JAN 03 2007

FILED



IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

MARGARET HUDSICK,

CIVIL DIVISION

Plaintiff,

No. 2006-C1304-CD

vs.

Issue No.

DUBOIS REGIONAL MEDICAL  
CENTER, GARY OTT, MD, JAMES P.  
CHERRY, MD, LARRY SCHACHTER,  
MD,

Defendants.

ORDER OF COURT

AND NOW on this 26 day of Jan, 2007, it is hereby  
ORDERED, ADJUGED and DECREED that oral argument on defendant's motion to compel is  
scheduled for the 16<sup>th</sup> day of February, 2007, at 11:00 (a.m./p.m.)  
before Judge Ammerman in Courtroom No. 1 of the Clearfield County  
Courthouse.

BY THE COURT:

John R. Ammerman J.

FILED ICC ATTY Oliver  
01:43pm  
JAN 26 2007 (GR)

William A. Shaw  
Prothonotary/Clerk of Courts

DATE: 1-26-2007

☒ You are responsible for serving all appropriate parties.

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

☐ Plaintiff(s) ☐ Plaintiff(s) Attorney ☐ Other

☐ Defendant(s) ☐ Defendant(s) Attorney

☐ Special Instructions:

**FILED**

**JAN 26 2007**

William A. Shaw  
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

MARGARET HUDSICK,

Plaintiff,

vs.

DUBOIS REGIONAL MEDICAL  
CENTER, GARY OTT, MD, JAMES F.  
CHERRY, MD, LARRY SCHACHTER,  
MD,

Defendants.

CIVIL DIVISION

No. 2006-01304-CD

Issue No.

MOTION TO COMPEL

Filed on behalf of DuBois Regional Medical  
Center

Counsel of Record for This Party:

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

Jeanette E. Oliver, Esquire  
PA I.D. #201336

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

(412) 232-3400

**FILED**

JAN 24 2007

ml 11:30  
William A. Shaw  
Prothonotary/Clerk of Courts

no c/c

MOTION TO COMPEL

NOW COMES DuBois Regional Medical Center, one of the defendants, by its attorneys, Thomson, Rhodes & Cowie, P.C., and files the following motion to compel and, in support thereof, state as follows:

1. On October 4, 2006, defendant served upon plaintiff's counsel a first set of interrogatories and first request for production of documents.
2. To date, plaintiff has failed to respond to these discovery requests in violation of the Pennsylvania Rules of Civil Procedure.
3. Plaintiff's responses to discovery are necessary in order for this defendant to properly prepare this case for trial.

WHEREFORE, defendant respectfully requests this Honorable Court issue an order directing plaintiff to provide full and complete responses to defendant's first interrogatories and request for production, within thirty (30) days or suffer such sanctions as this court may impose.

Respectfully submitted,

THOMSON, RHODES & COWIE, P.C.



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

CERTIFICATION OF SERVICE

I hereby certify that a true and correct copy of the within document has been served upon the following counsel of record and same placed in the U.S. Mails on this 22nd day of

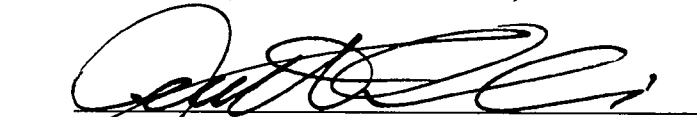
Jan, 2007:

Lisa Smith Presta, Esquire  
MacDonald, Illig, Jones & Britton  
100 State Street, Suite 700  
Erie, PA 16507-1459  
(Counsel for plaintiff)

Terry C. Cavanaugh, Esquire  
White & Williams, LLP  
437 Grant Street, Suite 1001  
Pittsburgh, PA 15219  
(Counsel for James P. Cherry, M.D.)

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

THOMSON, RHODES & COWIE, P.C.



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

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

MARGARET HUDSICK,

CIVIL DIVISION

Plaintiff,

No. 2006-01304-CD

vs.

DUBOIS REGIONAL MEDICAL  
CENTER, GARY OTT, MD, JAMES P.  
CHERRY, MD, LARRY SCHACHTER,  
MD,

Defendants.

ORDER OF COURT

AND NOW, on this \_\_\_\_ day of \_\_\_\_\_, 2007, it is hereby ORDERED,  
ADJUDGED and DECREED that defendant's motion to compel is hereby GRANTED. Plaintiff  
shall provide full and complete responses to defendant's first interrogatories and request for  
production, within thirty (30) days or suffer such sanctions as this court may impose.

BY THE COURT:

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

William A. Shaw  
Prothonotary/Clerk of Courts

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

MARGARET HUDSICK,	)	
	)	Civil Action-Medical Professional
Plaintiff,	)	Liability Action
	)	
vs.	)	No. 2006-01304 CD
	)	
DUBOIS REGIONAL MEDICAL CENTER,	)	JURY TRIAL DEMANDED
GARY OTT, M.D., JAMES P. CHERRY, M.D.,	)	
LARRY SCHACHTER, M.D.,	)	
	)	
Defendants.	)	

**CERTIFICATE OF SERVICE**

I hereby certify that the Answers, Responses and Objections to Plaintiffs' Interrogatories, and Requests for Production of Documents directed to Defendant Gary Ott, M.D. (First Set), in the above-captioned matter was mailed by regular mail, postage prepaid, at the Post Office, State College, Pennsylvania, on this 12<sup>th</sup> day of February, 2007, to the attorney(s) of record:

Original

Lisa Smith Presta, Esquire  
MacDonald, Illig, Jones & Britton  
100 State Street, Suite 700  
Erie, PA 16507

Copy

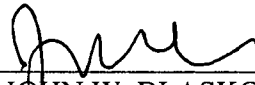
David R. Johnson, Esquire  
1010 Two Chatham Center  
Pittsburgh, PA 15219

Copy

Terry C. Cavanaugh, Esquire  
1001 Frick Building  
Pittsburgh, PA 15219

McQUAIDE, BLASKO,  
FLEMING & FAULKNER, INC.

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

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



FILED

FEB 13 2007

WILLIAM A. SMITH  
PRODUCTION OFFICE OF CARS

CA

**FILED**

FEB 20 2007

my 1:55 / w  
William A. Shaw  
Prothonotary/Clerk of Courts  
no c/c

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

MARGARET HUDSICK,

CIVIL DIVISION

Plaintiff,

No. 2006-01304-CD

vs.

Issue No.

DUBOIS REGIONAL MEDICAL  
CENTER, GARY OTT, MD, JAMES P.  
CHERRY, MD, LARRY SCHACHTER,  
MD,

PRAECIPE TO WITHDRAW MOTION TO  
COMPEL

Defendants.

Filed on behalf of DuBois Regional Medical  
Center

Counsel of Record for This Party:

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

Jeanette E. Oliver, Esquire  
PA I.D. #201336

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

(412) 232-3400

PRAECIPE TO WITHDRAW MOTION TO COMPEL

TO: PROTHONOTARY

Kindly withdraw defendant's motion to compel scheduled for Friday February 16,  
2007 at 11:00 a.m. before Judge Ammerman.

Respectfully submitted,

THOMSON, RHODES & COWIE, P.C.

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

David R. Johnson, Esquire

Jeanette E. Oliver, Esquire

Attorneys for DuBois Regional Medical  
Center, one of the defendants.

CERTIFICATION OF SERVICE

I hereby certify that a true and correct copy of the within document has been served upon the following counsel of record and same placed in the U.S. Mails on this

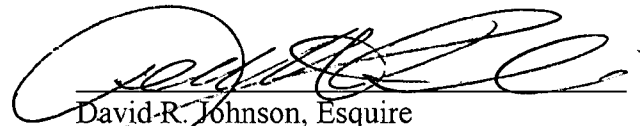
16<sup>th</sup> day of February, 2007:

Lisa Smith Presta, Esquire  
MacDonald, Illig, Jones & Britton  
100 State Street, Suite 700  
Erie, PA 16507-1459  
(Counsel for plaintiff)

Terry C. Cavanaugh, Esquire  
White & Williams, LLP  
437 Grant Street, Suite 1001  
Pittsburgh PA 15219  
(Counsel for James F. Cherry, M.D.)

John W. Blasko, Esquire  
McQuaice & Blasko  
811 University Drive  
State College, PA 16801  
(Counsel for Gary Ott, M.D.)

THOMSON, RHODES & COWIE, P.C.

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

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

MARGARET HUDSICK,

Plaintiff,

v.

DUBOIS REGIONAL MEDICAL CENTER,  
GARY OTT, M.D., JAMES P. CHERRY,  
M.D., and LARRY SCHACHTER, M.D.,

Defendants.

: CIVIL DIVISION – MEDICAL PROFESSIONAL  
: LIABILITY ACTION

: No. 2006-01304 CD

: Issue No.

: **NOTICE OF SERVICE OF ANSWERS  
: TO PLAINTIFF'S INTERROGATORIES  
: AND REQUESTS FOR PRODUCTION  
: OF DOCUMENTS DIRECTED TO  
: DEFENDANT JAMES P. CHERRY, M.D.  
: (FIRST SET)**

Code: 007

Filed on behalf of Defendant, JAMES P.  
CHERRY, M.D.

Counsel of record for this party:

Terry C. Cavanaugh, Esq.  
PA. I.D. #16702

WHITE AND WILLIAMS LLP  
Firm #683  
1001 Frick Building  
Pittsburgh, PA 15219

(412) 566-3520

**JURY TRIAL DEMANDED**

**FILED** NO CC  
m/12:34/24  
FEB 21 2007  
(5)

William A. Shaw  
Prothonotary/Clerk of Courts

MARGARET HUDSICK,

Plaintiff,

v.

DUBOIS REGIONAL MEDICAL CENTER,

GARY OTT, M.D., JAMES P. CHERRY,

M.D., and LARRY SCHACHTER, M.D.,

Defendants.

: CIVIL DIVISION – MEDICAL PROFESSIONAL  
: LIABILITY ACTION

: No. 2006-01304 CD

: Issue No.

**NOTICE OF SERVICE OF ANSWERS TO PLAINTIFF'S INTERROGATORIES  
AND REQUESTS FOR PRODUCTION OF DOCUMENTS DIRECTED TO  
DEFENDANT JAMES P. CHERRY, M.D. (FIRST SET)**

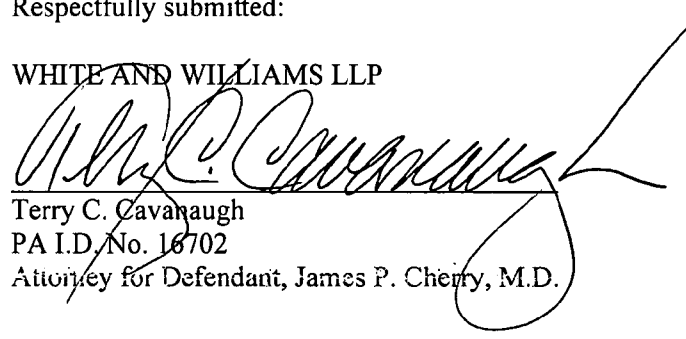
TO: PROTHONOTARY

Notice is hereby given that on the 19<sup>th</sup> day of February 2007, the original Answers to Plaintiff's Interrogatories and Request for Production of Documents Directed to Defendant James P. Cherry, M.D. (First Set) were served upon Plaintiff's counsel and all other counsel of record by Defendant, James P. Cherry, M.D., via United States mail, first class, postage prepaid.

Respectfully submitted:

WHITE AND WILLIAMS LLP

By:

  
Terry C. Cavanaugh

PA I.D. No. 16702

Attorney for Defendant, James P. Cherry, M.D.

White and Williams LLP

Firm No. 683

The Frick Building

437 Grant Street, Suite 1001

Pittsburgh, PA 15219

412-566-3520

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY  
PENNSYLVANIA

**MARGARET HUDSICK**

Plaintiff,

v.

**DUBOIS REGIONAL MEDICAL  
CENTER, GARY OTT, M.D.,  
JAMES P. CHERRY, M.D. and  
LARRY SCHACHTER, M.D.**

Defendant.

CIVIL DIVISION

No. 2006-01304-CD

**ENTRY OF APPEARANCE**

**Filed on behalf of:**

Defendant Larry Schachter, M.D.

**Counsel of Record for this Party:**

Peter J. Taylor, Esquire  
PA I.D. No. 26506

Murphy Taylor, L.L.C.  
Firm I.D. No. 625

326 Third Avenue  
Pittsburgh, PA 15222  
(412) 255-0200

**JURY TRIAL DEMANDED**

**FILED**

**MAY 07 2007**

*m* 8:30/4 (6K)  
William A. Shaw  
Prothonotary/Clerk of Courts

*PO CANT COPY*

*COPY TO 40*

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY  
PENNSYLVANIA

MARGARET HUDSICK,

CIVIL DIVISION

Plaintiff,

No. 2006-01304-CD

v.

DUBOIS REGIONAL MEDICAL CENTER,  
GARY OTT, M.D., JAMES P. CHERRY, M.D.  
and LARRY SCHACHTER, M.D.,

Defendants.

**ENTRY OF APPEARANCE**

TO: PROTHONOTARY

Kindly enter my Appearance on behalf of Defendant, LARRY SCHACHTER,  
M.D., only, in the within litigation.

**JURY TRIAL DEMANDED**

Respectfully submitted,

MURPHY TAYLOR, L.L.C.

By

  
Peter J. Taylor, Esquire  
Attorney for Defendant Schacter, M.D.

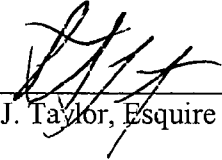


**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and correct copy of the within **ENTRY OF APPEARANCE** has been forwarded to counsel of record as follows by hand delivery, by messenger, or by First Class United States Mail on this 3 day of May 2007.

Lisa Smith Presta, Esquire  
100 State Street, Suite 700  
Erie, PA 16507-1459

*(Attorney for Plaintiff)*

  
\_\_\_\_\_  
Peter J. Taylor, Esquire

William A. Shaw  
Prothonotary/Clerk of Courts

MAY 07 2007

FILED

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

MARGARET HUDSICK,

Plaintiff,

No. 2006-01304 CD

v.

DUBOIS REGIONAL MEDICAL CENTER,  
GARY OTT, M.D., JAMES P. CHERRY,  
M.D., and LARRY SCHACHTER, M.D.,

Defendants.

**NOTICE OF DEPOSITIONS**

Code: 007

Filed on behalf of Defendant, JAMES P.  
CHERRY, M.D.

Counsel of record for this party:

Terry C. Cavanaugh, Esq.  
PA. I.D. #16702

WHITE AND WILLIAMS LLP  
Firm #683  
1001 Frick Building  
Pittsburgh, PA 15219

(412) 566-3520

**JURY TRIAL DEMANDED**

**NOTICE OF DEPOSITIONS**

TO: Lisa Smith Presta, Esquire  
MacDonald, Illig, Jones & Britton LLP  
100 State Street, Suite 700  
Erie, PA 16507-1459

TAKE NOTICE that the deposition of the Plaintiff, MARGARET HUDSICK, will be taken for the purposes of discovery and for use at trial pursuant to Rules 4007, *et seq.*, of the Pennsylvania Rules of Civil Procedure, as amended, before a Notary Public duly authorized by law to administer oaths, on **Friday, August 3, 2007, commencing at 10:30 A.M.**, the deposition of the Plaintiff's Daughters, ELIZABETH CARMELLA (**11:30 A.M.**) and DIANE KUTSKEL (**12:30 P.M.**), at the DuBois Regional Medical Center, 100 Hospital Avenue, DuBois, PA 15801, at which time and place you are invited to appear and take such part as shall be fitting and proper.

The scope and purpose of the deposition is to inquire into the facts, causes and results of the incident in suit, including the identity and whereabouts of witnesses.

Respectfully submitted,

WHITE AND WILLIAMS LLP

By   
Terry C. Cavanaugh, Esquire

Attorneys for Defendant, JAMES P.  
CHERRY, M.D.

**CERTIFICATE OF SERVICE**

I, Terry C. Cavanaugh, Esquire, hereby certify that true and correct copies of the foregoing NOTICE OF DEPOSITIONS have been served this 28<sup>th</sup> day of June, 2007, by U.S. first-class mail, postage prepaid, to counsel of record listed below:

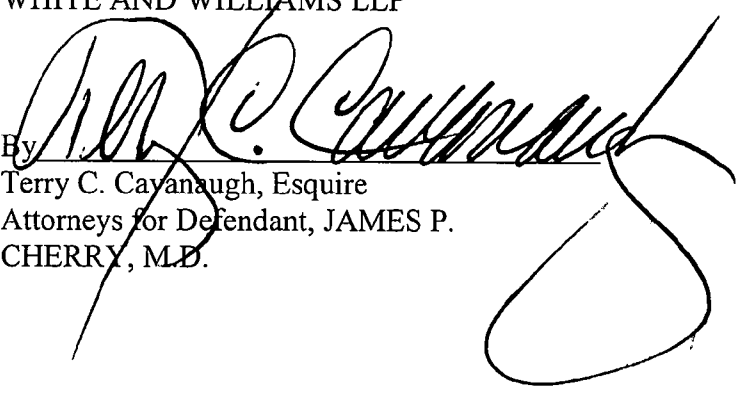
Lisa Smith Presta, Esquire  
MacDonald, Illig, Jones & Britton LLP  
100 State Street, Suite 700  
Erie, PA 16507  
**(Counsel for Plaintiff)**

David R. Johnson, Esquire  
Thomson, Rhodes & Cowie  
Suite 1010, Two Chatham Center  
Pittsburgh, PA 15219  
**(Counsel for Defendant DuBois Regional Medical Center)**

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

Peter Taylor, Esquire  
Murphy Taylor, LLP  
326 Third Avenue  
Pittsburgh, PA 15222  
**(Counsel for Defendant Larry Schachter, M.D.)**

WHITE AND WILLIAMS LLP

By   
Terry C. Cavanaugh, Esquire  
Attorneys for Defendant, JAMES P.  
CHERRY, M.D.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY  
PENNSYLVANIA

MARGARET HUDSICK

CIVIL DIVISION

Plaintiff,

No. 2006-01304-CD

v.

DUBOIS REGIONAL MEDICAL  
CENTER, GARY OTT, M.D.,  
JAMES P. CHERRY, M.D. and  
LARRY SCHACHTER, M.D.

**PRAECIPE FOR ENTRY OF  
JUDGMENT OF NON PROS  
PURSUANT TO RULE 1042.6**

Defendant.

**Filed on behalf of:**  
Defendant Larry Schachter, M.D.

**Counsel of Record for this Party:**

Peter J. Taylor, Esquire  
PA I.D. No. 26506

Murphy Taylor, L.L.C.  
Firm I.D. No. 625

326 Third Avenue  
Pittsburgh, PA 15222  
(412) 255-0200

**JURY TRIAL DEMANDED**

**FILED** *Atty pd. 20.00*

*m/s: 20/21*  
JUL 13 2007

William A. Shaw  
Prothonotary/Clerk of Courts

*Notice to  
Attys: Cavanaugh  
Blasko  
Presta*

*(CW)*

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY  
PENNSYLVANIA

MARGARET HUDSICK,

CIVIL DIVISION

Plaintiff,

No. 2006-01304-CD

v.

DUBOIS REGIONAL MEDICAL CENTER,  
GARY OTT, M.D., JAMES P. CHERRY, M.D.  
and LARRY SCHACHTER, M.D.,

Defendants.

**PRAECIPE FOR ENTRY OF JUDGMENT OF NON PROS**  
**PURSUANT TO RULE 1042.6**

TO: PROTHONOTARY

Enter judgment of Non Pros against Margaret Hudsick in the professional liability claim against Larry Schachter, M.D., in the above captioned matter.


I, the undersigned, certify that the Plaintiff named above, has asserted a professional liability claim against the Defendant named above who is a licensed professional, that no Certificate of Merit has been filed within the time required by Pa.R.C.P. 1042.3 and that there is no Motion to extend the time for filing the certificate pending before the court.

Date: 7/9/07

Respectfully submitted,

MURPHY TAYLOR, L.L.C.

By

  
Peter J. Taylor, Esquire  
Attorney for Defendant Schacter, M.D.

**CERTIFICATE OF SERVICE**

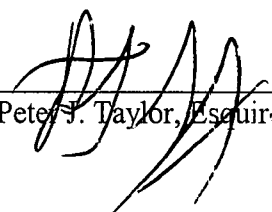
The undersigned hereby certifies that a true and correct copy of the within **PRAECIPE FOR ENTRY OF JUDGMENT OF NON PROS PURSUANT TO RULE 1042.6** has been forwarded to counsel of record as follows by hand delivery, by messenger, or by First Class United States Mail on this 9 day of July 2007.

Lisa Smith Presta, Esquire  
100 State Street, Suite 700  
Erie, PA 16507-1459

John W. Blasko, Esquire  
McQUAIDE, BLASKO, SCHWARTZ,  
FLEMING & FAULKNER, INC.  
811 University Drive  
State College, PA 16801-6699

Terry C. Cavanaugh, Esquire  
WHITE & WILLIAMS, LLP  
Frick Building  
437 Grant Street, Suite 1001  
Pittsburgh, PA 15219

David R. Johnson, Esquire  
THOMSON RHODES & COWIE, PC  
Two Chatham Center  
112 Washington Place, 10<sup>th</sup> Floor  
Pittsburgh, PA 15219

  
\_\_\_\_\_  
Peter J. Taylor, Esquire



**FILED**

**JUL 13 2007**

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

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA  
NON PROS

COPY

Margaret Hudsick  
Plaintiff

Vs.

No. 2006-01304-CD

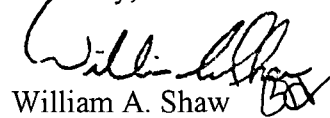
DuBois Regional Medical Center, Gary Ott MD,  
James P. Cherry MD, Larry Schachter MD  
Defendant

TO: Margaret Hudsick :

Notice is hereby given that a judgment of non-pros has been entered in the above captioned matter pursuant to Praecipe dated July 13, 2007.

Judgment entered of record July 13, 2007.

Sincerely,



William A. Shaw

Prothonotary

Enclosures

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

MARGARET HUDSICK,

Plaintiff,

No. 2006-01304 CD

v.

DUBOIS REGIONAL MEDICAL CENTER,  
GARY OTT, M.D., JAMES P. CHERRY,  
M.D., and LARRY SCHACHTER, M.D.,

Defendants.

**REVISED NOTICE OF DEPOSITIONS**

Code: 007

Filed on behalf of Defendant, JAMES P.  
CHERRY, M.D.

Counsel of record for this party:

Terry C. Cavanaugh, Esq.  
PA. I.D. #16702

WHITE AND WILLIAMS LLP  
Firm #683  
1001 Frick Building  
Pittsburgh, PA 15219

(412) 566-3520

**JURY TRIAL DEMANDED**

**FILED** Doc.  
mll:2006  
SEP 10 2007 

William A. Shaw  
Prothonotary/Clerk of Courts

**REVISED NOTICE OF DEPOSITIONS**

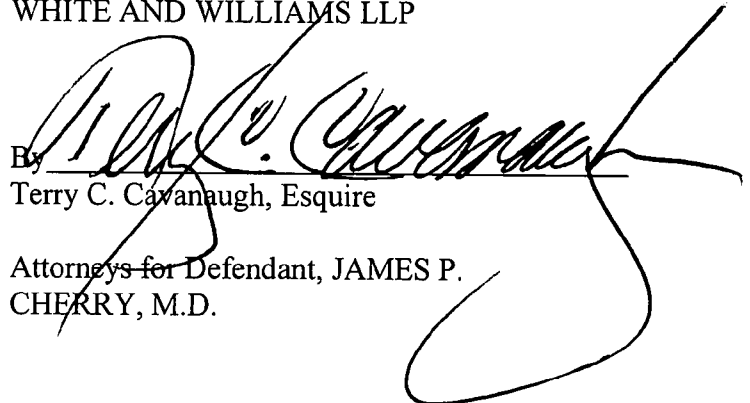
TO: Lisa Smith Presta, Esquire  
MacDonald, Illig, Jones & Britton LLP  
100 State Street, Suite 700  
Erie, PA 16507-1459

TAKE NOTICE that the deposition of the Plaintiff, MARGARET HUDSICK, will be taken for the purposes of discovery and for use at trial pursuant to Rules 4007, *et seq.*, of the Pennsylvania Rules of Civil Procedure, as amended, before a Notary Public duly authorized by law to administer oaths, on **Wednesday, October 3, 2007, commencing at 10:30 A.M.**, the deposition of the Plaintiff's Daughters, ELIZABETH CARMELLA (11:30 A.M.) and DIANE KUTSKEL (12:30 P.M.), at the offices of White and Williams LLP, Suite 1001, The Frick Building, Pittsburgh, PA 15219, at which time and place you are invited to appear and take such part as shall be fitting and proper.

The scope and purpose of the deposition is to inquire into the facts, causes and results of the incident in suit, including the identity and whereabouts of witnesses.

Respectfully submitted,

WHITE AND WILLIAMS LLP

By   
Terry C. Cavanaugh, Esquire

Attorneys for Defendant, JAMES P.  
CHERRY, M.D.

**CERTIFICATE OF SERVICE**

I, Terry C. Cavanaugh, Esquire, hereby certify that true and correct copies  
of the foregoing REVISED NOTICE OF DEPOSITIONS have been served this 4th  
day of September, 2007, by U.S. first-class mail, postage prepaid, to counsel of record  
listed below:

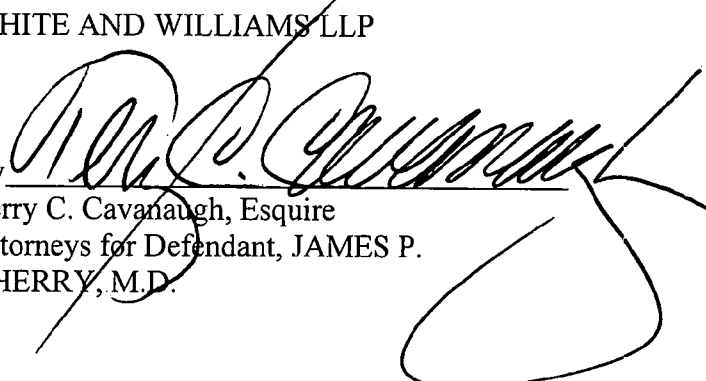
Lisa Smith Presta, Esquire  
MacDonald, Illig, Jones & Britton LLP  
100 State Street, Suite 700  
Erie, PA 16507  
**(Counsel for Plaintiff)**

David R. Johnson, Esquire  
Thomson, Rhodes & Cowie  
Suite 1010, Two Chatham Center  
Pittsburgh, PA 15219  
**(Counsel for Defendant DuBois Regional Medical Center)**

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

Peter Taylor, Esquire  
Murphy Taylor, LLP  
326 Third Avenue  
Pittsburgh, PA 15222  
**(Counsel for Defendant Larry Schachter, M.D.)**

WHITE AND WILLIAMS LLP

By   
Terry C. Cavanaugh, Esquire  
Attorneys for Defendant, JAMES P.  
CHERRY, M.D.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

MARGARET HUDSICK,

Plaintiff,

vs.

DUBOIS REGIONAL MEDICAL CENTER,  
GARY OTT, MD, and JAMES P. CHERRY,  
MD

Defendants.

CIVIL DIVISION

No. 2006-01304-CD

Issue No.

MOTION TO COMPEL DEPOSITION OF  
PLAINTIFF AND WITNESSES UNDER  
PLAINTIFF'S CONTROL

Filed on behalf of DuBois Regional Medical  
Center

Counsel of Record for This Party:

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

Brad R. Korinski, Esquire  
PA I.D. #86831

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

(412) 232-3400

FILED  
MT 12:43 PM  
FEB 01 2008  
NOC  
cc  
612  
William A. Shaw  
Prothonotary/Clerk of Courts

MOTION TO COMPEL

NOW COMES DuBois Regional Medical Center, one of the defendants, by its attorneys, Thomson, Rhodes & Cowie, P.C., and files the following motion to compel deposition of plaintiff and witnesses under plaintiff's control and, in support thereof, state as follows:

1. This is a professional liability case filed in 2006 arising out of medical/surgical care plaintiff received at DuBois Regional Medical Center ("DRMC") on February 7, 2002 and October 20, 2002. It is plaintiff's contention that, during one of these procedures, defendants allowed a surgical sponge to be left in the area of her rectum. Plaintiff did not ascertain the presence of this sponge August 14, 2004, almost two years later.

2. Per the sponge allegedly left in or about her rectum, plaintiff, per her complaint, purports to have suffered the following injuries: (a) chronic abdominal pain; (b) diarrhea; (c) calcification of the right adrenal gland; (d) pericardial effusion; (e) abdominal wall defects and hernia; (f) weight loss; (g) emotional pain and suffering; (h) anxiety/depression; (i) loss of trust and confidence in others; (j) humiliation, embarrassment and inconvenience.

3. In her responses to discovery, plaintiff has identified her sister, Elizabeth Carmella, and daughter, Diane Kutskel, as witness who can substantiate the damage claims made in the complaint. Both of these witnesses are believed to reside in the Clearfield County area.

4. For the past year, defendants have made repeated entreaties to schedule the deposition of plaintiff and her witnesses. The depositions of Mrs. Hudsick, Elizabeth Carmella and Diane Kutskel were scheduled for October 3, 2007, but were cancelled at the request of plaintiff's counsel. These depositions


were not re-scheduled. By letter dated December 21, 2007, counsel for DRMC specifically requested alternative deposition dates. Because plaintiff's counsel has not responded to this letter, counsel for DRMC was left with no choice but to file this motion.

5. Plaintiff now resides in the state of Arizona. Defendants had been amenable to scheduling her deposition at her convenience when this litigation was filed. However, with the passage of time, plaintiff's recalcitrance in appearing for deposition has adversely inhibited the opportunity of defendant DRMC for the speedy resolution of a claim for which it contends is not liable, and for which plaintiff's damage claims are, at best, dubious.

WHEREFORE, defendant respectfully requests this Honorable Court to issue an order directing plaintiff to appear for deposition within twenty (20) calendar days, and to produce Elizabeth Carmella and Diane Kutschell for deposition within the same time frame, unless plaintiff stipulates that such witnesses are not within her ability to produce.

Respectfully submitted,

THOMSON, RHODES & COWIE, P.C.



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



CERTIFICATION OF SERVICE

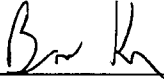
I hereby certify that a true and correct copy of the within document has been served upon the following counsel of record and same placed in the U.S. Mails on this 30<sup>th</sup> day of January, 2008:

Lisa Smith Presta, Esquire  
MacDonald, Illig, Jones & Britton  
100 State Street, Suite 700  
Erie, PA 16507-1459  
(Counsel for plaintiff)

Terry C. Cavanaugh, Esquire  
White & Williams, LLP  
437 Grant Street, Suite 1001  
Pittsburgh, PA 15219  
(Counsel for James P. Cherry, M.D.)

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

THOMSON, RHODES & COWIE, P.C.

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

FILED

FEB 01 2006

William A. Shaw  
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

MARGARET HUDSICK,

CIVIL DIVISION

Plaintiff,

No. 2006-01304-CD

vs.

DUEOIS REGIONAL MEDICAL CENTER,  
GARY OTT, MD and JAMES P. CHERRY,  
MD

Defendants.

ORDER OF COURT

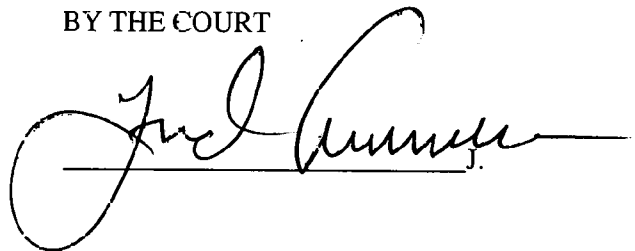
AND NOW, on this 4 day of Feb, <sup>2008 FJA</sup>~~2007~~, it is hereby ORDERED,

ADJUDGED and DECREED that DRMC's Motion to Compel Deposition of Plaintiff and Witnesses

Under Plaintiff's Control is hereby GRANTED. Plaintiff shall appear for deposition within <sup>thirty</sup>~~twenty~~ <sup>FJA</sup>  
(30) ~~20~~ calendar days or suffer such sanctions as this court may impose.

Plaintiff shall, subject to the same sanctions, produce Elizabeth Carmella and Diane Kutschell  
<sup>thirty (30) FJA</sup>  
for deposition within ~~twenty (20)~~ calendar days, unless plaintiff stipulates that such witnesses are not  
within her ability to produce.

BY THE COURT



FILED 3CC  
01/10/14/01  
FEB 04 2008 Atty Korinski

William A. Shaw  
Prothonotary/Clerk of Courts

OK

FILED

FEB 04 2008

William A. Shaw  
Prothonotary/Clerk of Courts

DATE: 2/4/08

☒ 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

MARGARET HUDSICK,

CIVIL DIVISION

Plaintiff,

No. 2006-01304-CD

vs.

Issue No.

DUBOIS REGIONAL MEDICAL  
CENTER, GARY OTT, MD, JAMES P.  
CHERRY, MD, LARRY SCHACHTER,  
MD,

Defendants.

ORDER OF COURT

AND NOW on this \_\_\_\_\_ day of \_\_\_\_\_, 2008, it is hereby  
ORDERED, ADJUGED and DECREED that oral argument on defendant's motion to compel is  
scheduled for the \_\_\_\_\_ day of \_\_\_\_\_, 2008, at \_\_\_\_\_ a.m./p.m.  
before Judge \_\_\_\_\_ in Courtroom No. \_\_\_\_\_ of the Clearfield County  
Courthouse.

BY THE COURT:

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

CM

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

MARGARET HUDSICK,

Plaintiff,

vs.

DUBOIS REGIONAL MEDICAL CENTER,  
GARY OTT, M.D., and JAMES P. CHERRY,  
M.D.,

Defendants.

CIVIL DIVISION – MEDICAL  
PROFESSIONAL LIABILITY ACTION

G.D. No.: 2006-01304

Issue No.

**STIPULATION TO DISCONTINUE AS  
TO LESS THAN ALL DEFENDANTS**

Filed on Behalf of Defendant,  
James P. Cherry, M.D.

Counsel of record for this party:

Terry C. Cavanaugh, Esquire  
PA I.D. #16702

C. Justin Conrad, Esquire  
PA I.D. #205697

WHITE AND WILLIAMS LLP  
Firm #683  
1001 Frick Building  
Pittsburgh, PA 15219

(412) 566-3520

**JURY TRIAL DEMANDED**

**FILED**  
m11:1230  
**APR 14 2008**

William A. Shaw  
Prothonotary/Clerk of Courts

icc Attys:  
Cavanaugh  
Blasko  
Korinski  
Presta

(envelopes provided by  
Atty Cavanaugh)

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

MARGARET HUDSICK,

Plaintiff,

vs.

DUBOIS REGIONAL MEDICAL CENTER,  
GARY OTT, M.D., and JAMES P. CHERRY,  
M.D.,

Defendants.

CIVIL DIVISION – MEDICAL  
PROFESSIONAL LIABILITY ACTION

G.D. No.: 2006-01304

Issue No.

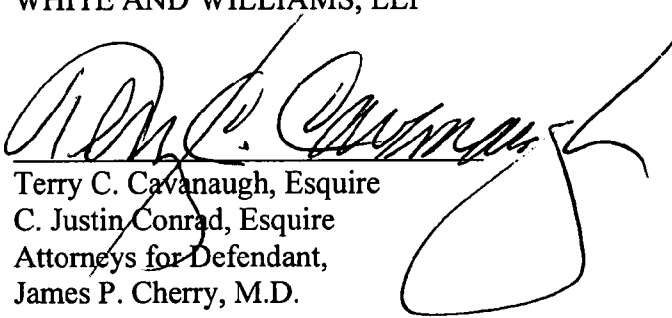
**STIPULATION TO DISCONTINUE AS TO LESS THAN ALL DEFENDANTS**

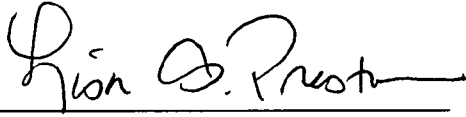
AND NOW COME ALL OF THE PARTIES HERETO, by and through their respective  
counsel, and hereby stipulate to discontinue the action as to JAMES P. CHERRY, M.D. from the  
above-captioned matter, with prejudice.

Respectfully submitted,

WHITE AND WILLIAMS, LLP

By:

  
Terry C. Cavanaugh, Esquire  
C. Justin Conrad, Esquire  
Attorneys for Defendant,  
James P. Cherry, M.D.

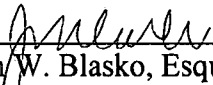
A handwritten signature in black ink, appearing to read "Lisa S. Presta", with a horizontal line drawn underneath it.

Lisa Smith Presta, Esquire  
MacDonald, Illig, Jones & Britton, LLP  
100 State Street, Suite 700  
Erie, PA 16507-1459  
(Counsel for Plaintiff)



Brad Korinski

Brad Korinski, Esquire  
Thomson, Rhodes & Cowie  
Suite 1010, Two Chatham Center  
Pittsburgh, PA 15219  
(Counsel for Dubois Regional Medical Center)



---

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

FILED

APR 14 2006

William A. Shaw  
Prothonotary/Clerk of Court

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

MARGARET HUDSICK,

Plaintiff,

vs.

DUBOIS REGIONAL MEDICAL CENTER,  
GARY OTT, M.D., and JAMES P. CHERRY,  
M.D.,

Defendants.

CIVIL DIVISION – MEDICAL  
PROFESSIONAL LIABILITY ACTION

G.D. No.: 2006-01304

Issue No.

**ORDER OF COURT**

AND NOW to-wit, this 15 day of April, 2008, upon consideration of the within Stipulation as to Less than All Defendants executed by counsel for all parties, it is hereby ORDERED, ADJUDGED and DECREED that Defendant, JAMES P. CHERRY, M.D., is hereby discontinued from this action, with prejudice.

It is further ORDERED and DECREED that the Prothonotary is directed to amend the caption to reflect the discontinuance of the action as to Defendant, JAMES P. CHERRY, M.D. and henceforth the caption will read:

FILED 1cc Atty's:  
019:10261 Cavanaugh  
APR 16 2008 Blasko  
William A. Shaw Korinski  
Prothonotary/Clerk of Courts Presta  
(62)

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

MARGARET HUDSICK,

Plaintiff,

vs.

DUBOIS REGIONAL MEDICAL CENTER,  
and GARY OTT, M.D.,

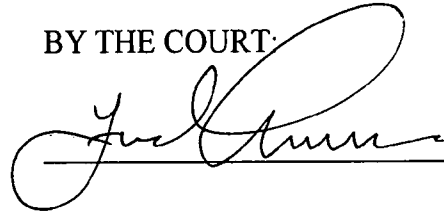
Defendants.

CIVIL DIVISION – MEDICAL  
PROFESSIONAL LIABILITY ACTION

G.D. No.: 2006-01304

Issue No.

BY THE COURT:

 J.

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

MARGARET HUDSICK,

Plaintiff,

vs.

DUBOIS REGIONAL MEDICAL CENTER,  
GARY OTT, M., JAMES P. CHERRY, M. D. &  
LARRY SCHACHTER, M. D.,

Defendants.

Docket No: 2006-01304 CD

***Medical Professional Liability  
Action***

Type of Pleading  
***Stipulation to Discontinue as to  
Less Than all Defendants***

Filed on Behalf of Defendant  
***Gary Ott, M. D.***

Counsel of Record for These Parties  
***John W. Blasko, Esquire***  
Pa. Supreme Court I.D. #6787

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

Counsel for Adverse Party  
***Lisa Smith Presta, Esquire***

**FILED** *no*  
*013:54/611* *CE*  
**APR 28 2008** *OK*

William A. Shaw  
Prothonotary/Clerk of Courts

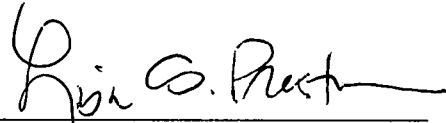
IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL DIVISION

MARGARET HUDSICK,	)	
	)	
Plaintiff,	)	Civil Action-Medical Professional
	)	Liability Action
	)	
vs.	)	No. 2005-01301 CD
	)	
DUBOIS REGIONAL MEDICAL CENTER,	)	JURY TRIAL DEMANDED
GARY OTT, M.D., JAMES P. CHERRY, M.D.,	)	
LARRY SCHACHTER, M.D.,	)	
	)	
Defendants.	)	

**STIPULATION TO DISCONTINUE AS TO**  
**LESS THAN ALL DEFENDANTS**

The parties hereto, by and through their counsel, Stipulate and Agree to Discontinue the  
Action as to Gary Ott, M.D., Defendant, from the above-captioned matter, with prejudice.

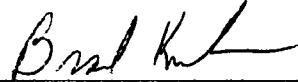
MacDonald, Illig, Jones & Britton



Lisa Smith Presta, Esquire  
Attorney for Plaintiff

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

Thomson, Rhodes & Cowie, P.C.

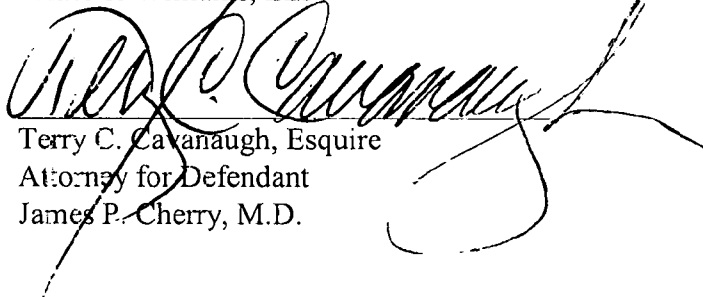
A handwritten signature in black ink, appearing to read "Brad Korinski", written over a horizontal line.

Brad R. Korinski, Esquire  
Attorneys for Defendant  
DuBois Regional Medical Center

Dated: March 10, 2008



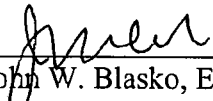
White & Williams, LLP

A large, stylized handwritten signature in black ink, likely belonging to Terry C. Cavanaugh, is written over the printed name and title.

Terry C. Cavanaugh, Esquire  
Attorney for Defendant  
James P. Cherry, M.D.

Date: 3-7-08

McQuaide, Blasko, Fleming & Faulkner, Inc.

  
\_\_\_\_\_  
John W. Blasko, Esquire  
Attorney for Defendant  
Garry Ott, M.D.

CA

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

MARGARET HUDSICK,

Plaintiff,

vs.

DUBOIS REGIONAL MEDICAL CENTER,  
GARY OTT, M.D., JAMES P. CHERRY, M.D.,  
LARRY SCHACHTER, M.D.,

Defendants.

Civil Action-Medical Professional  
Liability Action

No. 2006-<sup>1304</sup>~~01301~~ CD

JURY TRIAL DEMANDED

ORDER

AND NOW, this 28 day of April, 2008, upon consideration of the Stipulation as to less than all Defendants executed by counsel for all parties, it is hereby Ordered that the Defendant Gary Ott, M.D. is hereby DROPPED as a party to this action, with prejudice.

It is further Ordered that the Prothonotary is directed to amend the caption to reflect the discontinuance so that it shall read as follows:

Margaret Hudsick, Plaintiff vs. DuBois Regional Medical Center

BY THE COURT

FILED

013:55 1304  
APR 28 2008

William A. Shaw  
Prothonotary/Clerk of Courts

100 Amy Blasko  
Johnson  
Presta

Cavarough

(envelopes provided by Amy Blasko)

Proth -  
Note  
↓

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

MARGARET HUDSICK,  
Plaintiff

v.

DUBOIS REGIONAL MEDICAL  
CENTER, GARY OTT, M.D., JAMES P.  
CHERRY, M.D. and LARRY  
SCHACHTER, M.D.,  
Defendants

) IN THE COURT OF COMMON PLEAS OF  
) CLEARFIELD COUNTY, PENNSYLVANIA  
)  
) MEDICAL PROFESSIONAL LIABILITY  
) ACTION  
)  
) JURY TRIAL REQUESTED  
)  
)  
) NO. 2006 - <sup>1304</sup>~~13004~~ CD

**PRAECIPE AND POWER OF ATTORNEY FOR SATISFACTION AND/OR TERMINATION**

TO THE PROTHONOTARY/CLERK OF SAID COURT:

You are hereby authorized, empowered, and directed to enter, as indicated, the following on the records thereof:

- A. 1. \_\_\_\_\_ The within suit is Settled, Discontinued, Ended and costs paid.  
2.   X   The within suit is Settled, Discontinued, Ended WITH Prejudice and costs paid.  
3. \_\_\_\_\_ The within suit is Settled, Discontinued, Ended WITHOUT Prejudice and costs paid.

\* \* \* \* \*

- B. 1. \_\_\_\_\_ Satisfaction of the Award in the within suit is acknowledged.  
2. \_\_\_\_\_ Satisfaction of Judgment, with interest and costs, in the within matter is acknowledged.

\* \* \* \* \*

C. \_\_\_\_\_ Other:

DATE: 8/18/08

WITNESS (if signer is other than a  
registered attorney):

  
Signature of authorizing party

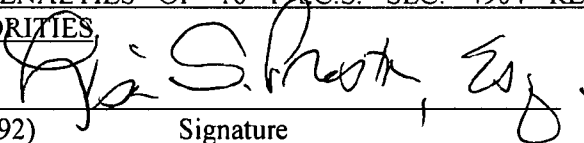
Lisa Smith Presta, Esquire

Type or print name of above signer

\_\_\_\_\_  
Attorney or Notary

**COST PAYMENT VERIFICATION**

I UNDERSTAND THAT THE ABOVE ACTION CANNOT BE FILED AND DOCKETED UNTIL ALL COSTS HAVE BEEN PAID, INCLUDING SHERIFF'S COSTS; AND HEREBY VERIFY THAT ALL COSTS HAVE BEEN PAID. I UNDERSTAND THAT FALSE STATEMENTS HEREIN ARE MADE SUBJECT TO THE PENALTIES OF 18 P.A.C.S. SEC. 4904 RELATING TO UNSWORN FALSIFICATION TO AUTHORITIES

  
(Rev. 4/92) Signature

1091591

**FILED** <sup>NOCC</sup>  
<sup>m/10:54</sup>  
AUG 20 2008 <sup>GW</sup>

William A. Shaw  
Prothonotary/Clerk of Courts

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

**CIVIL DIVISION**

**Margaret Hudsick**

**Vs.**

**No. 2006-01304-CD**

**DuBois Regional Medical Center,  
Gary Ott, M.D., James P. Cherry, M.D.,  
and Larry Schachter, M.D.**

**CERTIFICATE OF DISCONTINUATION**

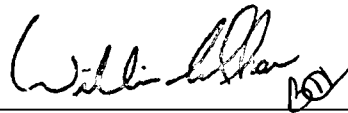
Commonwealth of PA  
County of Clearfield

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 August 20, 2008, marked:

Settled, Discontinued, and Ended with Prejudice

Record costs in the sum of \$112.00 have been paid in full.

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



\_\_\_\_\_  
William A. Shaw, Prothonotary