

06-1356-CD  
Albert Hamm et al vs George Mosch MD et al

2006-1356-CD  
Albert Hamm et al vs George Mosch et al

Date: 1/21/2010

**Clearfield County Court of Common Pleas**

User: LMILLER

Time: 10:29 AM

**ROA Report**

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Case: 2006-01356-CD

Current Judge: Fredric Joseph Ammerman

Albert Hamm, et alvs. George C. Mosch, II, M.D., et al

**Medical Professional Liability Action**

Date		Judge
8/23/2006	New Case Filed.	No Judge
	✓ Filing: Civil Complaint Medical Malpractice Complaint. Paid by: Shollenberger & Januzzi, LLP Receipt number: 1915269 Dated: 8/23/2006 Amount: \$85.00 (Check) 5 Cert. to Sheriff. 2 Cert. to Atty.	No Judge
	✓ Certificate of Merit (as to Clearfield Family Medicine), filed by Atty. Shollenberger 5 Cert. to Sheriff 2 Cert. to Atty.	No Judge
	✓ Certificate of Merit (as to Clearfield Hospital), filed by Atty. Shollenberger 5 Cert. to Sheriff 2 Cert. to Atty.	No Judge
	✓ Certificate of Merit (as to Rodolfo S. Polintan, M.D.) filed by Atty. Shollenberger 5 Cert. to Shff. 2 Cert. to Atty.	No Judge
	✓ Certificate of Merit (as to Gordon Penner Clark, M.D.) filed by Atty. Shollenberger 5 Cert. to Shff. 2 Cert. to Atty.	No Judge
	✓ Certificate of Merit (as to George C. Mosch II, M.D.) filed by Atty. Shollenberger 5 Cert. to Sheriff 2 Cert. to Atty.	No Judge
8/30/2006	✓ Sheriff Return, August 24, 2006 at 3:05 pm Served the Complaint; Certificate of Merit; Request & Interrog. on George C. Mosch II M.D. August 24, 2006 at 3:05 pm Served the within Complaint; Certificate of Merit; Request & Interrog. on Clearfield Family Medicine. August 28, 2006 at 10:57 am Served the within Complaint; Certificate of Merit; Request & Interrog. on Rodolfo S. Polintan M.D. F.A.C.S. August 28, 2006 at 10:57 am Served the within Complaint; Certificate of Merit; Request & Interrog. on Gordon Penner Clark M.D. August 28, 2006 at 10:57 am Served the within Complaint; Certificate of Merit; Request & Interrog. on Clearfield Hospital. So Answers, Chester A. Hawkins, Sheriff by s/Marilyn Hamm Shff Hawkins costs pd by Shollenberger \$96.39	No Judge
9/8/2006	✓ Praeclipe for Appearance, filed. Enter my Appearance on behalf of Defendants, Gordon Penner Clark M.D. and Clearfield Hospital, filed by s/ Frank J. Hartye Esq. NO CC.	No Judge
9/14/2006	✓ Praeclipe For Entry of Appearance, filed by Atty. Carroll. Enter appearance of Dainel P. Carroll on behalf of Geroge G. Mosch, II, M.D.	No Judge
9/15/2006	✓ Praeclipe For Entry of Appearance, filed by Atty. Wall no cert. copies. Please enter the appearance of Walter Fredrick Wall, Esq. as counsel of record on behalf of Defendant Rodolfo S. Polintan, M.D.	No Judge
10/6/2006	✓ Notice of Service of Answers to Plaintiff's First Set of Interrogatories Addressed to Defendant, Gordon Penner Clark and Response to Plaintiff's First Request for Production of Documents Addressed to Defendant, Gordon Penner Clark, filed by s/ Frank J. Hartye Esq. No CC.	No Judge
10/12/2006	✓ Notice of Service of Answers to Plaintiff's First Set of Interrogatories Addressed to Defendant, Clearfield Hospital and Response to Plaintiff's First Request for Production of Documents Addressed to Defendant, Clearfield Hospital, filed by s/ Frank J. Hartye Esq. No CC.	No Judge
	✓ Answer and New Matter to Plaintiffs' Complaint, filed by s/ Frank J. Hartye Esq. No CC.	No Judge
10/30/2006	✓ Plaintiffs' Reply to Defendants' Answer with New Matter to Plaintiffs' Complaint, filed by s/ Timothy A. Shollenberger Esq. 5CC Atty.	No Judge

Current Judge: Fredric Joseph Ammerman  
Albert Hamm, et alvs. George C. Mosch, II, M.D., et al

Medical Professional Liability Action

Date	Judge
10/30/2006 ✓ Certificate of Service, filed. That on this 27th day of October 2006, served the foregoing Answers to Plaintiff's First Set of Interrogatories Addressed to Defendant, Rodolfo S. Polintan on behalf of Defendant, Rodolfo S. Polintan M.D. upon Timothy Shollenberger Esq., Frank Hartye Esq., Daniel P. Carroll Esq., and Clearfield Family Medicine, filed by s/ Walter Frederick Wall Esq. NO CC.	No Judge
✓ Certificate of Service, filed. That on this 27th day of October 2006, served the foregoing Response to Plaintiff's First Request for Production of Documents Addressed to Defendant, Rodolfo S. Polintan on behalf of Defendant Rodolfo S. Polintan M.D. on Timothy Shollenberger Esq., Frank Hartye Esq., Daniel P. Carroll Esq. and Clearfield Family Medicine, filed by s/ Walter F. Wall Esq. No CC.	No Judge
11/13/2006 ✓ Praeclipe for Appearance, filed. Kindly enter our appearance on behalf of Clearfield Family Medicine Associates, incorrectly designated as Clearfield Family Medicine Defendant in the above captioned case, filed by s/ Daniel P. Carroll Esq.	No Judge
✓ Notice of Service of Interrogatories and Request for Production of Documents Directed to Plaintiffs Dated November 9, 2006 to Timothy A. Schollenberger Esq., filed by s/ Frank J. Hartye Esq. No CC.	No Judge
11/27/2006 ✓ Answer and New Matter filed by s/ Walter Frederick Wall Esq. No CC.	No Judge
12/1/2006 ✓ Certificate of Service, filed. That on the 29th day of November 2006 a true and correct copy of the Interrogatories Directed to Plaintiffs on behalf of Defendant Rodolfo S. Polintan M.D. was served upon Timothy Shollenberger Esq., Frank Hartye Esq and Daniel P. Carroll Esq., filed by s/ Walter Frederick Wall Esq. No CC.	No Judge
✓ Certificate of Service, filed. That on the 29th day of November 2006 a true and correct copy of the Request for Production of Documents Directed to Plaintiffs on behalf of Defendant, Radolfo S. Polintan M.D. was served on Timothy Shollenberger Esq., Frank Hartye Esq and Daniel P. Carroll Esq., filed by s/ Walter Frederick Wall Esq. No CC.	No Judge
12/4/2006 ✓ Plaintiffs' Reply to New Matter of Defendant Rodolfo S. Polintan M.D., filed by s/ Timothy A. Shollenberger Esq. 3CC Atty Shollenberger.	No Judge
12/21/2006 ✓ Answer and New Matter filed by s/ Daniel P. Carroll Esq. No CC.	No Judge
✓ Notice of Service of Answers to Plaintiffs' First Set of Interrogatories Directed to Clearfield Family Medicine and Responses to Plaintiffs' First Request for Production directed to George C. Mosch II M.D., filed by s/ Daniel P. Carroll Esq. NO CC.	No Judge
1/8/2007 ✓ Plaintiffs' Reply to Defendants' Answer with New Matter to Plaintiffs' Complaint, filed by s/ Timothy A. Shollenberger Esq. 5 CC Atty.	No Judge
1/16/2007 ✓ Notice of Depositions of Plaintiffs, filed by s/ Walter Frederick Wall Esq. No CC.	No Judge
2/23/2007 ✓ Certificate of Service, filed. That on the 22nd day of February 2007, a true and correct copy of the Defendant's Request to Plaintiffs for production of Expert Reports on behalf of Defendant, Rodolfo S. Palintan M.D. was served upon Timothy Shollenberger Esq., Daniel P. Carroll Esq and Frank Hartye Esq., filed by s/ Walter Fredrick Wall Esq. No CC.	No Judge
3/1/2007 ✓ Motion to Compel, filed by Atty. Wall no cert. copies.	No Judge

Current Judge: Fredric Joseph Ammerman

Albert Hamm, et alvs. George C. Mosch, II, M.D., et al

## Medical Professional Liability Action

Date	Judge
3/2/2007	✓ Rule, NOW, this 2nd day of March, 2007, a Rule is issued upon Plaintiffs. Rule Returnable the 20th day of March, 2007, at 3:00 p.m. Courtroom 1. By The Court, /s/ Fredric J. Ammerman, Judge. 1CC to Atty.
3/8/2007	✓ Certificate Prerequisite to Service of a Subpoena Pursuant to Pa.R.C.P. 4009.22, filed by s/ Timothy A. Shollenberger Esq. (In Re: Milton S. Hershey Medical Center) No CC.
	✓ Certificate of Service, filed. That on this 7th day of March 2007, served the foregoing Rule Returnable on the Motion to Compel on behalf of Defendant, Rodolfo S. Polintan MD., upon all counsel/parties of record by mailing a true and correct copy to Timothy Shollenberger Esq., Frank Hartye Esq., and Daniel P. Carroll Esq., filed by s/ Walter Fredrick Wall Esq. No CC.
3/14/2007	✓ Praeclipe to Withdraw Motion to Compel Discovery, filed by Atty. Wall no cert. copies.
3/26/2007	✓ Entry of Appearance, enter appearance of Ralph Mazer, Esquire, on behalf of Plaintiffs Albert Hamm and Barbara Hamm. 4CC Atty.
8/6/2007	✓ Stipulation for Extension of Deadlines Prescribed by PA. R.C.P. 1042.28 , filed by Atty. Shollenberger 1 Cert. to Atty.
8/15/2007	✓ Motion in Limine, filed by s/Laura O. Burke, Esq. No CC
10/11/2007	✓ Praeclipe for Withdrawal / Enter Appearance filed. Withdraw appearance of Walter Fredrick Wall as counsel for Defendant Rodolfo S. Polintan, M.D. and enter Paula A. Koczan, Esq. as counsel for Defendant Polintan, M.D.
10/15/2007	✓ Certificate of Service, filed. That on this 12th day of October 2007, served the foregoing Praeclipe to Withdraw/Entry of Appearance on behalf of Defendant, Rodolfo S. Polintan M.D., by mailing a true and correct copy by first class mail to Timothy Shollenberger Esq., Frank Hartye Esq., Daniel P. Carroll Esq. and John Blasko, filed by s/ Walter Frederick Wall Esq. No CC.
2/19/2008	✓ Certificate of Service, filed. This 14th day of February 2007, hereby certify that a true and correct copy of the foregoing Plaintiffs' Response to defendant Politan's Request for Production of Expert Reports has been served via US mail on Frank J. Hartye Esq., Daniel P. Carroll Esq., Paula A. Koczan Esq., and John Blasko Esq. filed by s/ Adam T. Wolfe Esq. 1CC Atty.
3/2/2009	✓ Certificate of Service, this 23rd day of Feb., 2009, a copy of the Plaintiffs' Request to Defendant Rodolfo S. Politan, M.D. for Production of Expert Reports has been served upon Frank J. Hartye, Esquire, Daniel P. Carroll, Esquire, and Paula A. Koczan, esquire, by U.S. Mail. Filed by s/ Timothy A. Shollenberger, Esquire. No CC
3/6/2009	✓ Certificate of Service, filed. This 3rd day March 2009, that a true and correct copy of the foregoing Plaintiffs' Request to Defendant George C. Mosch II MD for Production of Expert Reports has been served via U.S. Mail to Frank J. Hartye Esq., Daniel P. Carroll Esq., and Paula A. Koczan Esq., filed by s/ Timothy A. Shollenberger Esq. No CC.
	✓ Certificate of Service, filed. This 3rd day of March 2009, that a true and correct copy of the foregoing Plaintiffs' Request to Defendant Clearfield Family Medicine Associates for Production of Expert Reports has been served via U.S. Mail to Frank J. Hartye Esq., Daniel P. Carroll Esq., and Paula A. Koczan Esq., filed by s/ Timothy A. Shollenberger Esq. NO CC.

Current Judge: Fredric Joseph Ammerman  
Albert Hamm, et al vs. George C. Mosch, II, M.D., et al

Medical Professional Liability Action

Date	Judge
5/8/2009 ✓ X Response to Plaintiffs' Request to Defendants George C. Mosch, II M.D. and Clearfield Family Medicine Associates for Production of Expert Reports, filed by s/ Daniel P. Carroll Esq. No CC.	Fredric Joseph Ammerman
5/13/2009 ✓ X Reply to Plaintiffs' Request For Production of Expert Reports, filed by s/ Frank J. Hartye, Esquire. No CC	Fredric Joseph Ammerman
11/13/2009 ✓ X Certificate of Readiness for Jury Trial, filed by s/ Timothy A. Shollenberger, Fredric Joseph Ammerman Esquire. 1CC Atty. Wolfe	Fredric Joseph Ammerman
✓ X Certificate of Service, filed. This 12th day of November 2009 served the foregoing Plaintiff's Supplemental Answers to Interrogatories of Defendant Polintan and Clark by United States mail, postage paid to Frank J. Hartye Esq., Daniel P. Carroll Esq., and Paula A. Koczan Esq., filed by s/ Timothy A. Schollenberger Esq. 1CC Atty Wolfe.	Fredric Joseph Ammerman
12/14/2009 ✓ X Order, this 11th day of December 2009, it is the Order of the Court that a pre-trial conference shall be and is hereby scheduled for Thursday, January 28, 2010 at 1:00 pm in Hearing Room #3 with Senior Judge, Charles C. Brown Jr., Specially Presiding. Additionally, Jury selection in this matter shall be and is hereby scheduled for April 1, 2010 at 9:00 in Courtroom No. 1. BY THE COURT: /s/ Fredric J. Ammerman, P. Judge. 1CC Atty: Shollenberger/Wolfe, R. Mazer, Carroll, Hartye, and Koczan.	Fredric Joseph Ammerman
12/21/2009 ✓ X Motion for Continuance of Pre-Trial Conference, filed by Atty. Buchanan no cert. copies.	Fredric Joseph Ammerman
12/23/2009 ✓ X Order, this 22nd day of Dec., 2009, Motion for Continuance is Granted. Pre-Trial Conference is continued until the 25th of Jan., 2010 at 10:00 a.m. By The Court, /s/ Charles C. Brown, Jr., Sr. Judge. 2CC Atty. Buchanan	Charles C. Brown Jr.

Date: 7/15/2010  
Time: 01:41 PM  
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**Clearfield County Court of Common Pleas**  
**ROA Report**  
**Case: 2006-01356-CD**  
**Current Judge: Charles E. Brown**

User: LMILLER

Albert Hamm, et alvs. George C. Mosch, II, M.D. et al

**Medical Professional Liability Action**

Date	Selected Items	Judge
1/27/2010	<input checked="" type="checkbox"/> Order, this 25th of Jan., 2010, after Pretrial conference, it is Ordered: 1. Jury Selection shall occur at 9:00 a.m. on July 22, 2010 in Courtroom 1. 2. The trial of this case shall take place during the weeks of Oct. 4 and 11, 2010. The Trial shall begin on Oct. 4th at 9:00 a.m. 3. Discovery shall be completed by April 1, 2010. 4. Plaintiffs' counsel shall identify all experts to be called to testify and transmit to counsel for Defendants said expert's CV and report by 4:00 p.m. on April 30, 2010. 5. Defendants' counsel shall identify all experts to be called to testify at trial and transmit to counsel for Plaintiffs said expert's CV and report by 4:00 p.m. June 1, 2010. 6. Motions in Limine regarding the experts' testimony on the subject of standard of care must be filed with the Court by 4:00 p.m. on Aug. 16, 2010. By The Court, /s/ Charles C. Brown, Jr., Senior Judge Specially Presiding 1CC Atty's: Shollenberger R. Mazer D. Carroll F. Hartye P. Koczan	Charles C. Brown Jr.
2/11/2010	<input checked="" type="checkbox"/> Certificate of Service, this 8th of Feb., 2010, a copy of the Request for Admissions has been served upon Paul A. Koczan, Esquire, by U.S. Mail. filed by s/ Timothy A. Shollenberger, Esquire. 1 CC to Atty. <input checked="" type="checkbox"/> Certificate of Service, this 8th of Feb., 2010, a copy of the Request for Admissions has been served upon Daniel P. Carroll, Esquire, by U.S. Mail. filed by s/ Timothy A. Shollenberger, Esquire. 1 CC to Atty. <input checked="" type="checkbox"/> Certificate of Service, this 8th of Feb., 2010, a copy of the Request for Admissions has been served upon Frank J. Hartye, Esquire, by U.S. Mail. filed by s/ Timothy A. Shollenberger, Esquire. 1 CC to Atty.	Fredric Joseph Ammerman
3/8/2010	<input checked="" type="checkbox"/> Responses to Plaintiffs' Request for Admissions, filed by s/ Daniel P. Carroll, Esquire. NO CC	Fredric Joseph Ammerman
3/10/2010	<input checked="" type="checkbox"/> Notice of Service of Responses to Plaintiffs' Requests for Admissions of Defendant Rodolfo S. Polintan M.D. have been served upon Albert Hamm and Barbara Hamm by first class mail to Plaintiffs' Counsel, Timothy A. Shollenberger on March 8, 2010, filed by s/ Paula A. Koczan Esq. No CC.	Fredric Joseph Ammerman
3/11/2010	<input checked="" type="checkbox"/> Responses to Plaintiffs' Request For Admissions, filed by s/ Frank J. Hartye, Fredric Joseph Ammerman Esquire. No CC	Fredric Joseph Ammerman
3/15/2010	Transcript of Proceedings, filed. Jury Pretrial Conference, held before the Honorable Charles C. Brown, Jr., Senior Judge on Jan. 25, 2010.	Fredric Joseph Ammerman
4/19/2010	<input checked="" type="checkbox"/> Stipulation Regarding Discovery Deadlines, filed by s/ Timothy A. Shollenberger, Esquire 4CC Atty. Shollenberger <input checked="" type="checkbox"/> Motion to Determine The sufficiency of Responses to Requests For Admission Pursuant to PA. R.C.P. 4014(c), filed by s/ Adam T. Wolfe, Esquire. No CC	Fredric Joseph Ammerman
4/23/2010	<input checked="" type="checkbox"/> Reply to Plaintiffs' Motion to Determine the Sufficiency of Responses to Requests for Admission Pursuant to PA.R.C.P. 4014(c), filed by s/ Frank J. Hartye Esq. No CC.	Fredric Joseph Ammerman

in. pose  
pp 212

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

Amanda Sue Reams,  
Plaintiff

vs.  
Michael James Stuller,  
Defendant

\*  
\*  
\* No.: 2010- 1187 -CD

\*  
\* Type of Case: Custody

\*  
\* Type of Pleading: Emergency  
Petition for Special Relief

\*  
\* Filed on Behalf of: Plaintiff

\*  
\* Counsel of Record for this Party:  
Katherine M. Forcey, Esquire

\*  
\* Supreme Court No.: 95110

\*  
\* MidPenn Legal Services  
211 East Locust Street  
Clearfield, PA 16830  
(814) 765-9646  
Fax: (814) 765-1396

FILED 3CC  
07/09/2010 Atty Forcey  
JUL 09 2010

William A. Shaw  
Prothonotary/Clerk of Courts

Date: 7/15/2010

**Clearfield County Court of Common Pleas**

User: LMILLER

Time: 01:41 PM

**ROA Report**

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Case: 2006-01356-CD

Current Judge: Charles E. Brown

Albert Hamm, et alvs. George C. Mosch, II, M.D, et al

**Medical Professional Liability Action**

Date	Selected Items	Judge
4/28/2010	✓ Reply to Motion to Determine Sufficiency of Responses to Requests For Admission Pursuant to Pa. R.C.P. 4014(c), filed by s/ Daniel P. Carroll, Esquire. No CC	Fredric Joseph Ammerman
5/3/2010	Reply to Plaintiff's Motion to Determine the Sufficiency of Responses to Request for Admissions Pursuant to PA R. C. P. 4014(c), filed by Atty. Koczan no cert. copies.	Fredric Joseph Ammerman
5/12/2010	✓ Order, this 19th of April, 2010, upon consideration of all parties Stipulation Regarding discovery guidelines, it is Ordered: (see original for details). By The Court, /s/ Fredric J. Ammerman, Pres. Judge. 1CC to Atty: Shollenberger Hartye Mazer Carrol	Charles C. Brown Jr.
6/17/2010	✓ Order this 17th day of June 2010 upon consideration of Plaintiffs' Motion to Determine the Sufficiency of Responses to Request for Admission, this Court determines as follows: Defendants' answers and responses to Plaintiff's Requests for Admission are sufficient. Therefore, the request for an order, as set forth in Plaintiffs' Motion, against each defendant in DENIED. BY THE COURT; /s/ Charles C. Brown Jr. S.J. 1CC Judge Brown and 1CC Atty: Shollenberger, Mazer, Hartye, Koczan and Carrol.	Charles E. Brown
7/2/2010	✓ Motion to Dismiss Defendants, Gordon Penner Clark MD and Clearfield Hospital, filed s/ Frank J. Hartye Esq. No CC.	Charles E. Brown

7-15-10 ✓ order dated 7-13-10  
7-14-10 ✓ order dated 7-19-10  
7-20-10 ✓ order of court 7-12-10

FILED

SHOLLENBERGER & JANUZZI, LLP  
2225 Millennium Way  
Enola, PA 17025  
Telephone Number: (717) 728-3200  
Fax Number: (717) 728-3400  
Attorneys for Plaintiffs

AUG 23 2006  
m 11:50 AM  
William A. Shaw  
Prothonotary/Clerk of Courts  
5 cent to Staff.  
2 cent to Atty

ALBERT HAMM and BARBARA HAMM,  
husband and wife,

IN THE COURT OF COMMON PLEAS  
CLEARFIELD COUNTY

Plaintiffs

NO. 2006-1356-CO

vs.

GEORGE C. MOSCH II, M.D., GORDON  
PENNER CLARK, M.D.,  
RODOLFO S. POLINTAN, M.D.;  
CLEARFIELD FAMILY MEDICINE; and  
CLEARFIELD HOSPITAL,

CIVIL ACTION - LAW  
JURY TRIAL DEMANDED

Defendants

### NOTICE

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

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER. IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCE FEE OR NO FEE.

**NOTICE TO DEFEND:**  
**(Office to be listed on notice, per local rule of court)**

David S. Meholic, Court Administrator  
Clearfield County Courthouse  
230 East Market Street  
Clearfield, PA 16830  
(814) 765-2641 – Ext. 5982

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**LEGAL SERVICE OFFICE:**

MidPenn Legal Services, Inc.  
211-1/2 East Locust Street  
Clearfield, PA 16830  
(800)-326-9177

**LAWYER REFERRAL SERVICE:**

PA Lawyer Referral Service  
Pennsylvania Bar Association  
P.O. Box 186  
Harrisburg, PA 17108  
(800) 692-7375

**SHOLLENBERGER & JANUZZI, LLP**

2225 Millennium Way

Enola, PA 17025

Telephone Number: (717) 728-3200

Fax Number: (717) 728-3400

Attorneys for Plaintiffs

ALBERT HAMM and BARBARA HAMM,  
husband and wife,

Plaintiffs

vs.

GEORGE C. MOSCH II, M.D.,  
GORDON PENNER CLARK, M.D.,  
RODOLFO S. POLINTAN, M.D.;  
CLEARFIELD FAMILY MEDICINE; and  
CLEARFIELD HOSPITAL,

Defendants

IN THE COURT OF COMMON PLEAS  
CLEARFIELD COUNTY, PENNSYLVANIA

NO. \_\_\_\_\_

CIVIL ACTION - LAW  
JURY TRIAL DEMANDED

**NOTICIA**

LE HAN DEMANDADO A USTED EN LA CORTE. Si usted quiere defenderse de estas demandas expuestas en las paginas siguientes, usted tiene veinte (20) dias de plazo al partir de la fecha de la demanda y la notificacion. Usted debe presentar una apariencia escrita o en persona o por abogado y archivar en la corte en forma escrita sus defensas o sus objeciones a las demandas en contra de su persona. Sea avisado que si usted no se defiende, la corte tomaro medidas y puede entrar una orden contra usted sin previo aviso o notificacion y por cualquier queja o alivio que es pedido en la peticion do demanda. usted puede perder dinero o sus propiedades o otros derechos importantes para usted.

LLEVE ESTA DEMANDA A UN ABOGADO IMMEDIATAMENTE. SI NO TIENE ABOGADO O SI NO TIENE EL DINERO SUFFICIENTE DE PAGAR TAL SERVICIO, VAYA EN PERSONA O LLAME POR TELEFONO A LA OFICINA CUYA DIRECCION SE ENCUENTRA ESCRITA ABAJO PARA AVERIGUAR DONDE SE PUEDE CONSEGUIR ASISTENCIA LEGAL.

**NOTICE TO DEFEND:**  
**(Office to be listed on notice, per local rule of court)**

David S. Meholic, Court Administrator  
Clearfield County Courthouse  
230 East Market Street  
Clearfield, PA 16830  
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**LEGAL SERVICE OFFICE:**

MidPenn Legal Services, Inc.  
211-1/2 East Locust Street  
Clearfield, PA 16830  
(800)-326-9177

**LAWYER REFERRAL SERVICE:**

PA Lawyer Referral Service  
Pennsylvania Bar Association  
P.O. Box 186  
Harrisburg, PA 17108  
(800) 692-7375

**S**HOLLENBERGER & J<sup>A</sup>NUZZI, LLP

2225 Millennium Way

Enola, PA 17025

Telephone Number: (717) 728-3200

Fax Number: (717) 728-3400

Attorneys for Plaintiffs

ALBERT HAMM and BARBARA HAMM,  
husband and wife,

Plaintiffs

vs.

GEORGE C. MOSCH, II, M.D.,  
GORDON PENNER CLARK, M.D.,  
RODOLFO S. POLINTAN, M.D.;  
CLEARFIELD FAMILY MEDICINE; and  
CLEARFIELD HOSPITAL,

Defendants

IN THE COURT OF COMMON PLEAS  
CLEARFIELD COUNTY, PENNSYLVANIA

NO. \_\_\_\_\_

CIVIL ACTION - LAW  
JURY TRIAL DEMANDED

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**MEDICAL MALPRACTICE COMPLAINT**

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AND NOW COME the Plaintiffs, ALBERT HAMM and BARBARA HAMM, husband and wife, by the through their attorneys, Shollenberger & Januzzi, LLP, and respectfully represent the following:

## FACTS APPLICABLE TO ALL COUNTS

1. The Plaintiffs, ALBERT HAMM and BARBARA HAMM, are adult individuals who currently reside at 222 Leavy Avenue, Apt. #201, Clearfield, Clearfield County, Pennsylvania 16830.
2. The Plaintiffs are husband and wife, having been married on November 19, 1966.
3. The Defendant, GEORGE C. MOSCH, II, M.D., (hereinafter referred to as "DR. MOSCH") is a licensed medical physician providing care and treatment in the field of family medicine, having been assigned License No. MD039056L. Upon information and belief, Dr. Mosch was at all times herein relevant an agent and/or employee of Clearfield Family Medicine. Plaintiff is asserting a professional liability claim against Dr. Mosch.
4. The Defendant, CLEARFIELD FAMILY MEDICINE, is a Pennsylvania non-stock, non-profit corporation and is engaged in providing health and human care services to the public with its principal place of business at 502 Park Avenue, Clearfield, Clearfield County, Pennsylvania 16830. Plaintiffs are asserting a professional liability claim against Clearfield Family Medicine.
5. The Defendant, RODOLFO S. POLINTAN, M.D., F.A.C.S. (hereinafter referred to as "Dr. Polintan") is a licensed medical physician and surgeon providing care and treatment in the field of orthopedic surgery, having been assigned License No. MD022179E. Plaintiffs are asserting a professional liability claim against Dr. Polintan.

6. The Defendant, GORDON PENNER CLARK, M.D. (hereinafter referred to as "Dr. Clark") is a licensed medical physician and surgeon providing care and treatment in the fields of Emergency Medicine and Pediatrics, having been assigned License No. MD017321E. Plaintiffs are asserting a professional liability claim against Dr. Clark.

7. The Defendant, CLEARFIELD HOSPITAL, is a subsidiary of Clearfield Area Health Services, and is a private, not for profit acute care hospital and engaged in providing health and human care services to the public with its principal place of business being located at 809 Turnpike Avenue, Clearfield, Clearfield County, Pennsylvania 16830. Plaintiff is asserting a professional liability claim against Clearfield Hospital.

8. On December 20, 2004, the Plaintiff, ALBERT HAMM, was seen by Dr. Mosch for left knee pain. At that visit, Dr. Mosch injected Cortisone into Plaintiff's left knee. No vital signs were assessed or recorded, and no x-rays of the left knee/leg were obtained.

9. On December 27, 2004, the Plaintiff, ALBERT HAMM, was again seen by Dr. Mosch with continuing complaints of left knee pain. In his records, Dr. Mosch indicates that the "left knee injection last week did not help." Dr. Mosch injected Plaintiff's left knee with a second dose of Cortisone. No vital signs were taken.

10. X-ray results of the Plaintiff Albert Hamm's left knee dated December 27, 2004, indicated severe osteoarthritis and a small knee joint effusion.

11. On December 29, 2004, Plaintiff, ALBERT HAMM, called Dr. Mosch's office to report that the injection did not help and that he could not walk. He also reported that he was using crutches. Plaintiff was not seen or evaluated by Dr. Mosch on that day, but instead was referred to Dr. Nartatez to be seen on January 5, 2005.

12. On December 30, 2004, at approximately 11:50 p.m., the Plaintiff, ALBERT HAMM, requested emergency transport to the Clearfield Hospital with complaints of severe left knee/leg pain. He advised the EMS crew that he thought he might have a clot. Swelling of both legs was reported by the EMS crew, citing swelling in the left leg to be worse than the swelling in the right leg. The EMS crew further reported that the Plaintiff was using crutches and was not able to walk.

13. On December 31, 2004, at approximately 12:12 a.m., the Plaintiff, ALBERT HAMM, arrived at the Emergency Department of Clearfield Hospital and was placed under the care of Dr. Clark. Plaintiff was reported to have "massive pitting edema" to both legs, left greater than right, and positive pedal pulses via Venous Doppler. The Plaintiff was reporting a pain level of 10/10 on a scale of 0-10, and was febrile with a temperature reported to be 38.1 degrees Celsius (100.5 degrees Fahrenheit) Dr. Clark ordered several doses of narcotic pain medicine and an anti-emetic. No x-rays or MRI's of the left knee/leg were ordered or performed. No consultation with an orthopedic specialist or infectious disease specialist was requested. Dr. Clark discharged the Plaintiff later that morning with pain pills and orders to follow-up with his family doctor as soon as possible.

14. On January 1, 2005, the Plaintiff, ALBERT HAMM, was admitted to Clearfield Hospital under Dr. Mosch's care because of his complaints of severe, increasing swelling and unrelenting pain. Dr. Mosch's admitting diagnosis included "possible early phlebitis and peripheral edema." The Plaintiff, ALBERT HAMM, was started on IV type antibiotics. No x-rays or MRI's of the left knee/leg were obtained. No other radiologic or radiographic studies were done to evaluate Plaintiff's left knee or leg on January 1<sup>st</sup>, 2<sup>nd</sup> or 3<sup>rd</sup>.

15. From January 1, 2005 until January 4, 2005, the Plaintiff had a low grade fever on and off and continued to complain of severe pain requiring him to frequently take Morphine, Dilaudid and other narcotic pain medications. Until the morning of January 4, 2005, no x-rays or MRI's of the left knee/leg were obtained. No consultations were ordered for an orthopedic evaluation or an infectious disease specialist, and no arthrocentesis was performed until January 4, 2005. The Plaintiff Hamm's white blood count (WBC) went from 8.8 K/uL upon admission to 16.3 K/uL on the morning of January 4, 2005.

16. On January 4, 2005, Dr. Mosch ordered an orthopedic consultation with Dr. Polintan. An x-ray and MRI of the left knee were finally obtained, as well as an arthrocentesis for fluid analysis. The x-rays showed abnormal extensive gas in the soft tissues of the knee, behind the knee, and in front of the knee below the knee joint. The x-rays were read to be suggestive of gas gangrene. The MRI was read to show severe osteoarthritis of the left knee joint and probable mild changes of vascular necrosis of the femoral condyle medial aspects. The fluid analysis from the arthrocentesis showed purulent, brown fluid with over 322,000

WBC's per uL. The gram stain performed on the fluid showed many WBC's and gram positive cocci in pairs and chains. Dr. Polintan dictated that he would do surgery the next day, upon further discussion with Dr. Mosch and the anesthesiologist. He also reports the possibility of transferring the patient to a tertiary hospital because his "condition is extremely poor." Dr. Polintan further indicates that the Plaintiff, ALBERT HAMM, was an extremely poor surgical risk and recommended transport to a hospital where there is an infectious disease specialist.

17. On January 5, 2006, the Plaintiff, ALBERT HAMM, continued to have severe left leg/knee pain extending to his thigh and down the length of his calf, which required him to take narcotic pain medications. A second Venous Doppler study was done to rule out a blood clot in his legs. Dr. Polintan documents on January 4, 2005 that he would repeat the knee x-ray and Venous Doppler on January 5, 2005, but there is no documentation that indicates that another x-ray was performed on this date. The Venous Doppler was reportedly negative for blood clots. Dr. Mosch charted in his Progress Note on that date that the Plaintiff's cardiac status has been stable and that he is anticipating Dr. Polintan to perform the arthroscopic surgery on this date.

18. On January 5, 2005, both Dr. Polintan and Dr. Mosch indicate that they were going to consult with one another regarding the decision to delay surgical management of the Plaintiff, but there is nothing in the records explaining the basis for their decision to delay surgery.

19. On January 6, 2005, at approximately 18:00 hours, Plaintiff, ALBERT HAMM, was transferred to Hershey Medical Center via the Clearfield EMS.

20. Plaintiff Hamm was admitted to the Hershey Medical Center where he remained as an inpatient from January 6, 2005 until his discharge on March 15, 2005, when he was transferred to Select Specialties Hospital.

21. During his inpatient hospitalization, the Plaintiff, Albert Hamm, underwent the following surgical procedures:

- (a) January 7, 2005: Arthrotomy, open irrigation and debridement of the left knee;
- (b) January 9, 2005: Open irrigation and debridement of left knee;
- (c) January 16, 2005: Irrigation and debridement of left knee; Vac dressing placement; placement of antibiotic beads'
- (d) January 20, 2005: Open irrigation and debridement of left knee; open irrigation and debridement of the left calf; Vac dressing placement;
- (e) January 27, 2005: Left knee open irrigation and debridement with Vac dressing application; Left calf open irrigation and debridement; and application of external fixation to the left leg;
- (f) February 24, 2005: open irrigation and debridement of left calf abscess and Vac dressing change of the left knee;
- (g) March 11, 2005: Irrigation and debridement of the interior knee wound and

medial knee/calf wound, split thickness skin graph to anterior knee wound; removal of full thickness eschar and primary closure; and Vac dressing to anterior knee wound and media knee/calf wound.

22. Plaintiff, Albert Hamm, eventually required an above knee amputation of his left lower extremity.

23. As a result of the liability producing conduct of the Defendants named herein, the Plaintiff, Albert Hamm, has or may incur medical bills and expenses for his care and treatment from December 31, 2004 to the time of trial that are not covered by a private or public benefit or gratuity that he received prior to trial other than a source set forth at 40 P.S. Section 1303.51(d) for which damages are claimed.

24. As a result of the liability producing conduct of the Defendants named herein, the Plaintiff, Albert Hamm, has or may incur lost earnings from December 30, 2004 to the time of the trial that are not covered by a private or public benefit or gratuity that he received prior to trial other than a source set forth at 40 P.S. Section 1303.51(d) for which damages are claimed.

25. As a result of the liability producing conduct of the Defendants named herein, the aforesaid injuries that the Plaintiff, Albert Hamm, has now and in the future will incur a loss of earning capacity for which damages are claimed.

26. As a result of the liability producing conduct of the Defendants named herein, the Plaintiff, Albert Hamm, has sustained a terminate diminution in his ability to enjoy life and life's pleasures for which damages are claimed.

27. As a result of the liability producing conduct of the Defendants named herein, the Plaintiff, Albert Hamm, has undergone, and in the future, will undergo great physical and emotional pain and suffering, for which damages are claimed.

28. As a result of the liability producing conduct of the Defendants named herein, the Plaintiff, Albert Hamm, has sustained scarring and disfigurement for which damages are claimed.

29. As a result of the liability producing conduct of the Defendants named herein, the Plaintiff, Albert Hamm, will suffer a loss of future earnings and earning capacity for which damages are claimed.

30. As a result of the liability producing conduct of the Defendants named herein, the Plaintiff, Albert Hamm, has or will incur medical bills from the date of trial onward for which damages are claimed.

31. Due to the negligent medical care and treatment provided to the Plaintiff, Albert Hamm, by Defendants named herein, as will be more particularly set forth below, the Plaintiff, Albert Hamm, suffered significant irreversible damage to his left lower extremity which lead to more extensive surgical management, prolonged rehabilitation, and eventual below knee amputation.

#### **COUNT I**

#### **ALBERT HAMM vs. GEORGE C. MOSCH, II, M.D. AND CLEARFIELD FAMILY MEDICINE**

32. Paragraphs 1 through 31 of the Plaintiffs' Complaint are incorporated by reference herein as if set forth in full.

33. Dr. Mosch, individually and acting as the ostensible and/or actual agent and employee of the Clearfield Family Medicine, rendered negligent medical treatment in the following particulars:

- (a) Took an inadequate history on January 1, 2005 to find out whether the Plaintiff's pain and swelling had started in the left knee;
- (b) Fails to document that he evaluated the Plaintiff's left knee from January 1<sup>st</sup> to January 3<sup>rd</sup>, 2005;
- (c) Does not discuss an infection in the admitting history and physical examination;
- (d) His Progress Notes of January 2<sup>nd</sup> and 3<sup>rd</sup>, 2005 contain no discussion of a differential diagnosis of left leg pain and swelling;
- (e) Failed to assess or examine the Plaintiff, Albert Hamm, on December 29, 2004, when he called with severe left knee pain and loss of range of motion following a Cortisone injection on December 27, 2004;
- (f) Failed to recognize the signs and symptoms of a potentially septic joint;
- (g) Failed to order appropriate diagnostic tests, such as an x-ray and MRI of the left knee on January 1, 2005, January 2, 2005, and January 3, 2005;
- (h) Failed to make an appropriate diagnosis of the septic left knee on January 1, 2005, January 2, 2005, and January 3, 2005;

- (i) Failed to order an appropriate physician consultation, including that with an infectious disease specialist and/or orthopedic specialist in a timely fashion;
- (j) Failed to effect emergent transfer to a tertiary facility upon learning of the Plaintiff Albert Hamm's septic arthritis and gas gangrene.

34. The negligent medical care and treatment described above led to a delay in diagnosis and delayed treatment of the Plaintiff Albert Hamm's left knee joint infection, thereby increasing the risk that irreversible complications would develop in the infected joint.

WHEREFORE, the Plaintiff, Albert Hamm, demands judgment in his favor and against the Defendants, GEORGE C. MOSCH, II, M.D.. and CLEARFIELD FAMILY MEDICINE for compensatory damages in excess of the amount requiring compulsory arbitration.

## COUNT II

### **ALBERT HAMM, PLAINTIFF vs. GORDON PENNER CLARK, M.D. AND CLEARFIELD HOSPITAL**

35. Paragraphs 1 through 34 of the Plaintiffs' Complaint are incorporated herein by reference as if set forth in full.

36. Defendant, Gordon Penn Clark, M.D., individually and acting as the ostensible and/or actual agent and employee of Clearfield Hospital, rendered negligent medical treatment to the Plaintiff, ALBERT HAMM, in the following particulars:

- (a) Missed the diagnosis of Septic Joint on December 30, 2004, despite the fact that Plaintiff, ALBERT HAMM, presented with fever, increased swelling and pain in a joint in which he had received a steroid injection just two (2) days before;
- (b) Failed to document and/or perform a complete and adequate assessment of the Plaintiff, ALBERT HAMM, in the Emergency Department on December 30, 2004;
- (c) Failed to order appropriate treatment, such as an x-ray and/or MRI of the left knee on December 30, 2004;
- (d) Failed to order appropriate physician consultations, including an orthopedic consult and a consult with an infectious disease specialist on December 30, 2004.
- (e) Failed to recognize the signs and symptoms of a potentially infected and/or septic joint, including fever, massive pitting edema to the affected leg and severe joint pain;
- (f) Failed to recognize that the Plaintiff presented to the Emergency Department in a febrile condition in that he documented that the patient had no fever, when in fact the Plaintiff, ALBERT HAMM, presented to the

Emergency Department with a temperature of 38.1 degrees Celsius, and 100.5 degrees Fahrenheit; and

(g) Failed to order appropriate medication, such as a regimen of antibiotic therapy prior to discharging the Plaintiff, ALBERT HAMM, on December 30, 2004.

37. The negligent medical care and treatment described above led to a delay in Diagnosis and delayed treatment of the Plaintiff Albert Hamm's left knee joint infection, thereby increasing the risk that irreversible complications would develop in the infected joint.

WHEREFORE, the Plaintiff, Albert Hamm, demands judgment in his favor and against the Defendants, GEORGE PENNER CLARK, M.D., and CLEARFIELD HOSPITAL for compensatory damages in excess of the amount requiring compulsory arbitration.

### COUNT III

#### **ALBERT HAMM, PLAINTIFF, vs. RUDOLFO S. POLINTAN, M.D. AND CLEARFIELD HOSPITAL**

38. Paragraphs 1 through 37 of the Plaintiffs' Complaint are incorporated by reference herein as if set forth in full.

39. Defendant, RUDOLFO S. POLINTAN, M.D., individually, and acting as the ostensible agent of the Clearfield Hospital rendered negligent medical treatment to the Plaintiff, ALBERT HAMM, in the following particulars:

- (a) After recognizing that the Plaintiff, ALBERT HAMM, had a septic joint, he failed to treat the Plaintiff emergently for an irrigation and debridement;
- (b) Failed to effect emergent transfer to a tertiary facility; and
- (c) Failed to maintain an accurate and complete medical record as evidenced by an inadequate documentation on January 5, 2005, regarding surgical plan of care or status of transfer to a tertiary facility.

40. The negligent medical care and treatment described above led to a delay in diagnosis and delayed treatment of the Plaintiff Albert Hamm's left knee joint infection, thereby increasing the risk that irreversible complications would develop in the infected joint.

WHEREFORE, the Plaintiff, Albert Hamm, demands judgment in his favor and against the Defendant, RODOLFO S. POLINTAN, M.D. and CLEARFIELD HOSPITAL for compensatory damages in excess of the amount requiring compulsory arbitration.

#### **COUNT IV**

**BARBARA HAMM, Plaintiff, vs. GEORGE C. MOSCH, II, M.D.,  
GORDON PENNER CLARK, M.D., and RODOLFO S. POLINTAN, M.D.;  
CLEARFIELD FAMILY MEDICINE AND CLEARFIELD HOSPITAL**

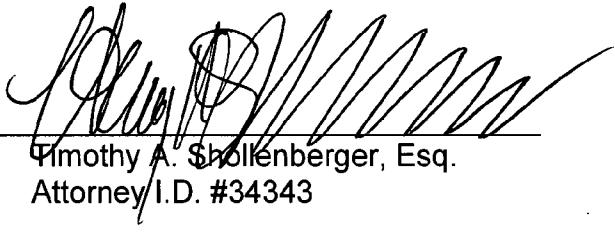
41. Paragraphs 1 through 40 of the Plaintiffs' Complaint are incorporated herein by reference and made a part hereof as if set forth in full.

42. As a further result of the injuries sustained by her husband, Plaintiff, ALBERT HAMM, the Plaintiff, BARBARA HAMM, has been and will be deprived of the assistance, companionship, consortium, and society of her husband, all of which has been and will be to a great detriment and loss.

WHEREFORE, the Plaintiff, BARBARA HAMM, demands judgment against the Defendants, GEORGE C. MOSCH, II, M.D., GORDON PENNER CLARK, M.D., and RODOLFO S. POLINTAN, M.D., CLEARFIELD FAMILY MEDICINE and CLEARFIELD HOSPITAL for compensatory damages in an amount in excess of the amount requiring compulsory arbitration.

Respectfully submitted,

SHOLLENBERGER & JANUZZI, LLP

By: 

Timothy A. Shollenberger, Esq.  
Attorney I.D. #34343

Dated: 8. 14. 06

SHOLLENBERGER & JANUZZI, LLP  
2225 Millennium Way  
Enola, PA 17025  
Telephone Number: (717) 728-3200  
Fax Number: (717) 728-3400  
Attorneys for Plaintiffs

ALBERT HAMM and BARBARA HAMM,  
husband and wife,

Plaintiffs

vs.

GEORGE C. MOSCH II, M.D., GORDON  
PENNER CLARK, M.D.,  
RODOLFO S. POLINTAN, M.D.;  
CLEARFIELD FAMILY MEDICINE; and  
CLEARFIELD HOSPITAL,

Defendants

FILED

AUG 23 2006

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William A. Shaw

Prothonotary/Clerk of Courts

5 Cents to Sheriff

2 Cents to Attorney

IN THE COURT OF COMMON PLEAS  
CLEARFIELD COUNTY

NO. 2006-1356-CD

CIVIL ACTION - LAW  
JURY TRIAL DEMANDED

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**CERTIFICATE OF MERIT (as to Clearfield Family Medicine)**

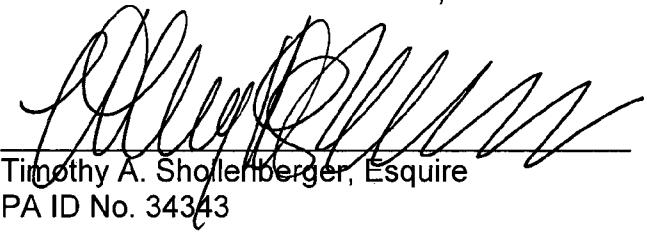
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I, Timothy A. Shollenberger, Esquire, certify that the claim that this Defendant deviated from an acceptable professional standard is based solely on allegations that other licensed professionals for whom this Defendant is responsible deviated from an acceptable professional standard and an appropriate licensed professional has supplied a written statement to the undersigned that there is a basis to conclude that the care, skill or knowledge exercised or exhibited by the other licensed professionals in the treatment, practice or work that is the subject of the complaint, fell outside acceptable professional standards and that such conduct was a cause in bringing about the harm.

Respectfully submitted,

SHOLLENBERGER & JANUZZI, LLP

Date: 08.14.06

  
\_\_\_\_\_  
Timothy A. Shollenberger, Esquire  
PA ID No. 34343

FILED

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William A. Shaw  
Prothonotary/Clerk of Courts

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**S**HOLLENBERGER & J<sup>A</sup>NUZZI, LLP  
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Telephone Number: (717) 728-3200  
Fax Number: (717) 728-3400  
Attorneys for Plaintiffs

ALBERT HAMM and BARBARA HAMM,  
husband and wife,

Plaintiffs

vs.

GEORGE C. MOSCH II, M.D., GORDON  
PENNER CLARK, M.D.,  
RODOLFO S. POLINTAN, M.D.;  
CLEARFIELD FAMILY MEDICINE; and  
CLEARFIELD HOSPITAL,

Defendants

IN THE COURT OF COMMON PLEAS  
CLEARFIELD COUNTY

NO. 2006-1356-CO

CIVIL ACTION - LAW  
JURY TRIAL DEMANDED

---

**CERTIFICATE OF MERIT (as to Clearfield Hospital)**

---

I, Timothy A. Shollenberger, Esquire, certify that the claim that this Defendant deviated from an acceptable professional standard is based solely on allegations that other licensed professionals for whom this Defendant is responsible deviated from an acceptable professional standard and an appropriate licensed professional has supplied a written statement to the undersigned that there is a basis to conclude that the care, skill or knowledge exercised or exhibited by the other licensed professionals in the treatment, practice or work that is the subject of the complaint, fell outside acceptable professional standards and that such conduct was a cause in bringing about the harm.

Respectfully submitted,

SHOLLENBERGER & JANUZZI, LLP

Date: 8.14.06

  
\_\_\_\_\_  
Timothy A. Shollenberger, Esquire  
PA ID No. 34343

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Enola, PA 17025  
Telephone Number: (717) 728-3200  
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Attorneys for Plaintiffs

ALBERT HAMM and BARBARA HAMM,  
husband and wife,

Plaintiffs

vs.

GEORGE C. MOSCH II, M.D., GORDON  
PENNER CLARK, M.D.,  
RODOLFO S. POLINTAN, M.D.;  
CLEARFIELD FAMILY MEDICINE; and  
CLEARFIELD HOSPITAL,

Defendants

**FILED**

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William A. Shaw  
Prothonotary/Clerk of Courts  
5 Cents to Shff

IN THE COURT OF COMMON PLEAS  
CLEARFIELD COUNTY *2 Cents to Attys*

NO. 2006-1356-CO

CIVIL ACTION - LAW  
JURY TRIAL DEMANDED

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**CERTIFICATE OF MERIT (as to Rodolfo S. Polintan, M.D.)**

---

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

Respectfully submitted,

SHOLLENBERGER & JANUZZI, LLP



Timothy A. Shollenberger, Esquire  
PA ID No. 34343

Date: 8.14.06

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Telephone Number: (717) 728-3200  
Fax Number: (717) 728-3400  
Attorneys for Plaintiffs

**FILED**

**AUG 23 2006**

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William A. Shaw  
Prothonotary/Clerk of Courts  
5 cent to Shff  
2 cent to Atty

ALBERT HAMM and BARBARA HAMM,  
husband and wife,

IN THE COURT OF COMMON PLEAS  
CLEARFIELD COUNTY

Plaintiffs

vs.

GEORGE C. MOSCH II, M.D., GORDON  
PENNER CLARK, M.D.,  
RODOLFO S. POLINTAN, M.D.;  
CLEARFIELD FAMILY MEDICINE; and  
CLEARFIELD HOSPITAL,

CIVIL ACTION - LAW  
JURY TRIAL DEMANDED

Defendants

---

**CERTIFICATE OF MERIT (as to Gordon Penner Clark, M.D.)**

---

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

Respectfully submitted,

SHOLLENBERGER & JANUZZI, LLP

Date: 8.14.06

  
Timothy A. Shollenberger, Esquire  
PA ID No. 34343

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Telephone Number: (717) 728-3200  
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Attorneys for Plaintiffs

ALBERT HAMM and BARBARA HAMM,  
husband and wife,

Plaintiffs

vs.

GEORGE C. MOSCH II, M.D., GORDON  
PENNER CLARK, M.D.,  
RODOLFO S. POLINTAN, M.D.;  
CLEARFIELD FAMILY MEDICINE; and  
CLEARFIELD HOSPITAL,

Defendants

IN THE COURT OF COMMON PLEAS  
CLEARFIELD COUNTY

NO. 2006-1356-CO

CIVIL ACTION - LAW  
JURY TRIAL DEMANDED

---

**CERTIFICATE OF MERIT (as to George C. Mosch II, M.D.)**

---

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

Respectfully submitted,

SHOLLENBERGER & JANUZZI, LLP



Date: 8.14.06

Timothy A. Shollenberger, Esquire  
PA ID No. 34343



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Please reply to Enola Office

TIMOTHY A. SHOLLENBERGER

KARL J. JANUZZI

ADAM T. WOLFE

Writer's Direct Email: [lketterer@sholljanlaw.com](mailto:lketterer@sholljanlaw.com)

HARRISBURG OFFICE

4811 JONESTOWN RD

SUITE 221

HARRISBURG, PA 17109

(Do not send mail to this address)

(717) 671-6400

FAX (717) 671-4900

August 14, 2006

Prothonotary of Clearfield County  
230 East Market Street  
Clearfield, PA 16830

***RE: Albert Hamm, et al v. Clearfield Hospital, et al.***

Dear Sir or Madam:

Enclosed please find the following:

1. Original and seven (7) copies of a Complaint. Please file the original, forward five (5) time-stamped copies to the Sheriff for service, and return a time-stamped copy to our office in the envelope provided.
2. Plaintiff's Interrogatories to Defendant, and Plaintiff's Request for Production of Documents, one set for each Defendant. Please forward to the Sheriff, along with the time-stamped Complaints, for service on the Defendants. DO NOT FILE THESE DOCUMENTS. PLEASE HANDWRITE THE DOCKET NUMBER ON THE INTERROGATORIES AND REQUEST FOR PRODUCTION OF DOCUMENTS.
3. Sheriff's Instructions. Please forward to the Sheriff with the above-referenced documents.
4. Check in the amount of \$85.00 payable to the Prothonotary for filing fees.
5. Check in the amount of \$100.00 payable to the Clearfield County Sheriff for costs of service. Please forward to the Sheriff with the above-mentioned documents.
6. The original and seven (7) copies of Certificate of Merits for all defendants. Please file the original, forward five (5) time-stamped copies to the Sheriff for service, and return a time-stamped copy to our office in the enclosed envelope.

*NOT  
FILED  
IN*

Page 2  
August 14, 2006  
Re: Albert Hamim

Thank you for your kind assistance. If you should have any questions or concerns, please contact me.

Very truly yours,

*Lisa Ketterer*

Lisa Ketterer, Legal Secretary to  
Timothy A. Shollenberger

enclosures

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET # 101860  
NO: 06-1356-CD  
SERVICE # 1 OF 5  
COMPLAINT;CERTIFICATE OF

MERIT;REQUEST&INTERROG.

PLAINTIFF: ALBERT HAMM and BARBARA HAMM  
vs.  
DEFENDANT: GEORGE C. MOSCH II, M.D. al

**SHERIFF RETURN**

---

NOW, August 24, 2006 AT 3:05 PM SERVED THE WITHIN COMPLAINT;CERTIFICATE OF MERIT;REQUEST&INTERROG. ON GEORGE C. MOSCH, II, M.D DEFENDANT AT 502 PARK AVENUE, CLEARFIELD, CLEARFIELD COUNTY, PENNSYLVANIA, BY HANDING TO SUSAN MOSCH, WIFE A TRUE AND ATTESTED COPY OF THE ORIGINAL COMPLAINT;CERTIFICATE OF MERIT;REQUEST&INTERROG. AND MADE KNOWN THE CONTENTS THEREOF.

SERVED BY: HUNTER /

**FILED**

AUG 30 2006  
012215/JS  
William A. Shaw  
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET # 101860  
NO: 06-1356-CD  
SERVICE # 2 OF 5  
COMPLAINT;CERTIFICATE OF

MERIT;REQUEST&INTERROG.

PLAINTIFF: ALBERT HAMM and BARBARA HAMM  
vs.  
DEFENDANT: GEORGE C. MOSCH II, M.D. al

SHERIFF RETURN

---

NOW, August 24, 2006 AT 3:05 PM SERVED THE WITHIN COMPLAINT;CERTIFICATE OF MERIT;REQUEST&INTERROG. ON CLEARFIELD FAMILY MEDICINE DEFENDANT AT 502 PARK AVENUE, CLEARFIELD, CLEARFIELD COUNTY, PENNSYLVANIA, BY HANDING TO SUSAN MOSCH, RECEPTIONIST A TRUE AND ATTESTED COPY OF THE ORIGINAL COMPLAINT;CERTIFICATE OF MERIT;REQUEST&INTERROG. AND MADE KNOWN THE CONTENTS THEREOF.

SERVED BY: HUNTER /

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET # 101860  
NO: 06-1356-CD  
SERVICE # 3 OF 5  
COMPLAINT;CERTIFICATE OF

MERIT;REQUEST&INTERROG.

PLAINTIFF: ALBERT HAMM and BARBARA HAMM  
vs.  
DEFENDANT: GEORGE C. MOSCH II, M.D. al

**SHERIFF RETURN**

---

NOW, August 28, 2006 AT 10:57 AM SERVED THE WITHIN COMPLAINT;CERTIFICATE OF  
MERIT;REQUEST&INTERROG. ON RODOLFO S. POLINTAN, M.D., F.A.C.S. DEFENDANT AT CLEARFIELD  
HOSPITAL, 809 TURNPIKE AVE., CLEARFIELD, CLEARFIELD COUNTY, PENNSYLVANIA, BY HANDING TO JON  
STEEN, V.P./SUPPORT SERVICES A TRUE AND ATTESTED COPY OF THE ORIGINAL  
COMPLAINT;CERTIFICATE OF MERIT;REQUEST&INTERROG. AND MADE KNOWN THE CONTENTS THEREOF.

SERVED BY: HUNTER /

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET # 101860  
NO: 06-1356-CD  
SERVICE # 4 OF 5  
COMPLAINT;CERTIFICATE OF

MERIT;REQUEST&INTERROG.

PLAINTIFF: ALBERT HAMM and BARBARA HAMM  
vs.  
DEFENDANT: GEORGE C. MOSCH II, M.D. al

**SHERIFF RETURN**

---

NOW, August 28, 2006 AT 10:57 AM SERVED THE WITHIN COMPLAINT;CERTIFICATE OF MERIT;REQUEST&INTERROG. ON GORDON PENNER CLARK, M.D. DEFENDANT AT CLEARFIELD HOSPITAL, 809 TURNPIKE AVE., CLEARFIELD, CLEARFIELD COUNTY, PENNSYLVANIA, BY HANDING TO JON STEEN, V.P./SUPPORT SERVICES A TRUE AND ATTESTED COPY OF THE ORIGINAL COMPLAINT;CERTIFICATE OF MERIT;REQUEST&INTERROG. AND MADE KNOWN THE CONTENTS THEREOF.

SERVED BY: HUNTER / DEHAVEN

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET # 101860  
NO: 06-1356-CD  
SERVICE # 5 OF 5  
COMPLAINT;CERTIFICATE OF

MERIT;REQUEST&INTERROG.

PLAINTIFF: ALBERT HAMM and BARBARA HAMM  
vs.  
DEFENDANT: GEORGE C. MOSCH II, M.D. al

**SHERIFF RETURN**

---

NOW, August 28, 2006 AT 10:57 AM SERVED THE WITHIN COMPLAINT;CERTIFICATE OF MERIT;REQUEST&INTERROG. ON CLEARFIELD HOSPITAL DEFENDANT AT CLEARFIELD AREA HEALTH SERVICES, 809 TURNPIKE, CLEARFIELD, CLEARFIELD COUNTY, PENNSYLVANIA, BY HANDING TO JON STEEN, V.P./SUPPORT SERVICES A TRUE AND ATTESTED COPY OF THE ORIGINAL COMPLAINT;CERTIFICATE OF MERIT;REQUEST&INTERROG. AND MADE KNOWN THE CONTENTS THEREOF.

SERVED BY: HUNTER / DEHAVEN

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET # 101860  
NO: 06-1356-CD  
SERVICES 5  
COMPLAINT;CERTIFICATE OF

MERIT;REQUEST&INTERROG.

PLAINTIFF: ALBERT HAMM and BARBARA HAMM  
vs.

DEFENDANT: GEORGE C. MOSCH II, M.D. al

**SHERIFF RETURN**

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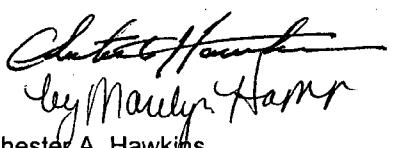
**RETURN COSTS**

Description	Paid By	CHECK #	AMOUNT
SURCHARGE	SHOLLENBERGER	10497	50.00
SHERIFF HAWKINS	SHOLLENBERGER	10497	46.39

Sworn to Before Me This

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

So Answers,

  
Chester A. Hawkins  
Sheriff

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

ALBERT HAMM and BARBARA HAMM,  
husband and wife,

No. 2006 – 1356 CD

ISSUE:  
PRAECIPE FOR APPEARANCE

Plaintiffs

vs.

GEORGE C. MOSCH, II, M.D.,  
GORDON PENNER CLARK, M.D.,  
RODOLFO S. POLINTAN, M.D.,  
CLEARFIELD FAMILY MEDICINE and  
CLEARFIELD HOSPITAL,

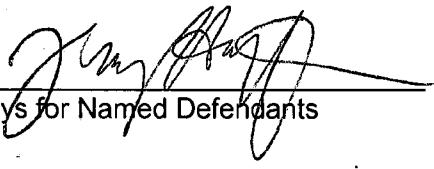
Filed on behalf of Defendants,  
GORDON PENNER CLARK, M.D. and  
CLEARFIELD HOSPITAL

Counsel of Record:  
Frank J. Hartye, Esquire  
PA I.D. #25568

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

JURY TRIAL DEMANDED

I HEREBY CERTIFY THAT A TRUE AND  
CORRECT COPY OF THE WITHIN WAS  
MAILED TO ALL COUNSEL OF RECORD  
THIS 6<sup>TH</sup> DAY OF SEPTEMBER, 2006.

  
Attorneys for Named Defendants

FILED  
M 11/20/06  
SEP 08 2006  
NO C  
S

William A. Shaw  
Prothonotary/Clerk of Courts

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

ALBERT HAMM and BARBARA HAMM, : No. 2006 – 1356 CD  
husband and wife,

Plaintiffs

vs.

GEORGE C. MOSCH, II, M.D.,  
GORDON PENNER CLARK, M.D.,  
RODOLFO S. POLINTAN, M.D.,  
CLEARFIELD FAMILY MEDICINE and  
CLEARFIELD HOSPITAL,

Defendants

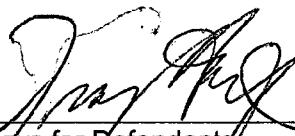
JURY TRIAL DEMANDED

**PRAECIPE FOR APPEARANCE**

TO: PROTHONOTARY

Enter my Appearance on behalf of Defendants, GORDON PENNER CLARK,  
M.D. and CLEARFIELD HOSPITAL.

Papers may be served at the address set forth below.



\_\_\_\_\_  
Attorneys for Defendants,  
GORDON PENNER CLARK, M.D. and  
CLEARFIELD HOSPITAL

**McINTYRE, HARTYE & SCHMITT**

Frank J. Hartye, Esquire  
PA I.D. #25568  
P.O. Box 533  
Hollidaysburg, PA 16648-0533  
PH: (814) 696-3581  
FAX: (814) 696-9399

Date: September 6, 2006

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

ALBERT HAMM and BARBARA HAMM,  
husband and wife,

Plaintiffs

vs.

GEORGE G. MOSCH II, M.D., GORDON  
PENNER CLARK, M.D., RODOLFO S.  
POLINTAN, M.D., CLEARFIELD  
FAMILY MEDICINE and CLEARFIELD  
HOSPITAL,

Defendants

CIVIL ACTION – MEDICAL  
PROFESSIONAL LIABILITY ACTION

No. 2006 – 1356 - CD

**PRAECIPE FOR APPEARANCE**

Filed on behalf of George G. Mosch, II,  
M.D., one of the defendants

Counsel of record for this party:

Daniel P. Carroll, Esquire  
PA I.D. #20601

Davies, McFarland & Carroll, P.C.  
Firm #281  
One Gateway Center  
Tenth Floor  
Pittsburgh, PA 15222

412-281-0737

**FILED**

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

No. 4/C

copy to C/A

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

ALBERT HAMM and BARBARA HAMM,  
husband and wife, )  
Plaintiffs )  
vs. )  
GEORGE C. MOSCH, II, M.D., GORDON )  
PENNER CLARK, M.D., RODOLFO S. )  
POLINTAN, M.D., CLEARFIELD FAMILY )  
MEDICINE and CLEARFIELD HOSPITAL, )  
Defendants )  
No. 2006 - 1356 -CD

## PRAECIPE FOR APPEARANCE

To: William A. Shaw, Prothonotary

Kindly enter our appearance on behalf of George C. Mosch, II, M.D., Defendant in the above captioned case.

Daniel P. Carroll, Esquire, PA ID #20601, will handle this case.

## **JURY TRIAL DEMANDED.**

Davies, McFarland Carroll, PC

By: Daniel P. Carroll  
Daniel P. Carroll, Esquire  
PA ID #20601  
Attorney for Defendant,  
George C. Mosch, II, M.D.

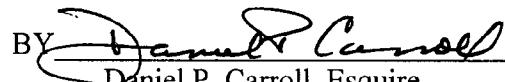
**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the PRAECIPE FOR APPEARANCE on behalf of defendant, George C. Mosch, II, M.D., has been served on the following persons by first-class mail, postage prepaid this 11th day of September, 2006.

Timothy A. Shollenberger, Esquire  
Shollenberger & Januzzi, LLP  
2225 Millennium Way  
Enola, PA 17025

Frank Hartye, Esquire  
McIntyre, Hartye & Schmitt  
P.O. Box 533  
Hollidaysburg, PA 16648

DAVIES, McFARLAND & CARROLL, P.C.

BY   
\_\_\_\_\_  
Daniel P. Carroll, Esquire  
Attorney for Defendant,  
George C. Mosch, II, M.D.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

ALBERT HAMM and BARBARA HAMM, CIVIL DIVISION  
husband and wife,

Plaintiffs,

vs.

GEORGE C. MOSCH, II, M.D.;  
GORDON PENNER CLARK, M.D.;  
RODOLFO S. POLINTAN, M.D.;  
CLEARFIELD FAMILY MEDICINE; and  
CLEARFIELD HOSPITAL,

Defendants.

No. 2006 - 1356 - CD

**PRAECIPE FOR ENTRY OF  
APPEARANCE**

Filed on Behalf of Defendant, Rodolfo S. Polintan, M.D.

Counsel of Record for this Party:

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

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

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

JURY TRIAL DEMANDED

**FILED**

SEP 15 2006

William A. Shaw  
Prothonotary/Clerk of Courts

No 4C

COPY TO C/A

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

ALBERT HAMM and BARBARA HAMM,  
husband and wife,

Plaintiffs,

vs.

GEORGE C. MOSCH, II, M.D.;  
GORDON PENNER CLARK, M.D.;  
RODOLFO S. POLINTAN, M.D.;  
CLEARFIELD FAMILY MEDICINE; and  
CLEARFIELD HOSPITAL,

Defendants.

CIVIL DIVISION

No. 2006 - 1356 - CD

JURY TRIAL DEMANDED

**PRAECIPE FOR ENTRY OF APPEARANCE**

Please enter the appearance of WALTER FREDRICK WALL, ESQUIRE of the law firm of MEYER, DARRAGH, BUCKLER, BEBENEK & ECK, PLLC, as counsel of record on behalf of Defendant, Rodolfo S. Polintan, M.D., in the above-captioned action.

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

BY: 

**WALTER FREDRICK WALL, ESQUIRE**

Counsel for Defendant, Rodolfo S. Polintan, M.D.  
120 Lakemont Park Boulevard  
Altoona, PA 16602  
Phone No.: (814) 941-4600  
ID # 23657

**CERTIFICATE OF SERVICE**

TO THE PROTHONOTARY:

I, Walter Fredrick Wall, Esquire, of the law firm of MEYER, DARRAGH, BUCKLER, BEBENEK & ECK, PLLC, hereby certify that on this **13<sup>th</sup> day of September, 2006**, I have served the foregoing Praeclipe for Entry of Appearance on behalf of Defendant, Rodolfo S. Polintan, M.D., upon all counsel/parties of record, by mailing a true and correct copy of same by United States first class mail, postage prepaid as follows:

Timothy Shollenberger, Esquire  
Shollenberger & Januzzi  
2225 Millennium Way  
Enola, PA 17025

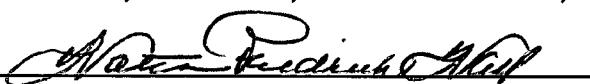
Frank Hartye, Esquire  
McIntyre, Hartye & Schmitt  
PO Box 533  
Hollidaysburg, PA 16648

George C. Mosch, II, M.D.  
Clearfield Family Medicine  
502 Park Avenue  
Clearfield, PA 16830

Clearfield Family Medicine  
502 Park Avenue  
Clearfield, PA 16830

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

BY:

  
**WALTER FREDRICK WALL, ESQUIRE**  
Counsel for Defendant, Rodolfo S. Polintan, M.D.  
120 Lakemont Park Boulevard  
Altoona, PA 16602  
Phone No.: (814) 941-4600  
ID # 23657

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

ALBERT HAMM and BARBARA HAMM,  
husband and wife,

Plaintiffs

vs.

GEORGE C. MOSCH, II, M.D.,  
GORDON PENNER CLARK, M.D.,  
RODOLFO S. POLINTAN, M.D.,  
CLEARFIELD FAMILY MEDICINE and  
CLEARFIELD HOSPITAL,

Defendants

: No. 2006 - 1356 CD

ISSUE:

NOTICE OF SERVICE OF ANSWERS  
TO PLAINTIFF'S FIRST SET OF  
INTERROGATORIES ADDRESSED TO  
DEFENDANT, GORDON PENNER  
CLARK and RESPONSE TO  
PLAINTIFF'S FIRST REQUEST FOR  
PRODUCTION OF DOCUMENTS  
ADDRESSED TO DEFENDANT,  
GORDON PENNER CLARK

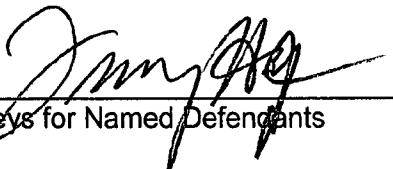
Filed on behalf of Defendants,  
GORDON PENNER CLARK, M.D. and  
CLEARFIELD HOSPITAL

Counsel of Record:  
Frank J. Hartye, Esquire  
PA I.D. #25568

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

JURY TRIAL DEMANDED

I HEREBY CERTIFY THAT A TRUE AND  
CORRECT COPY OF THE WITHIN WAS  
MAILED TO ALL COUNSEL OF RECORD  
THIS 4TH DAY OF OCTOBER, 2006.

  
\_\_\_\_\_  
Attorneys for Named Defendants

FILED <sup>NO CC</sup>  
OCT 18 2006  
OCT 06 2006

William A. Shaw  
Prothonotary/Clerk of Courts

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

ALBERT HAMM and BARBARA HAMM, : No. 2006 – 1356 CD  
husband and wife,

Plaintiffs

vs.

GEORGE C. MOSCH, II, M.D.,  
GORDON PENNER CLARK, M.D.,  
RODOLFO S. POLINTAN, M.D.,  
CLEARFIELD FAMILY MEDICINE and  
CLEARFIELD HOSPITAL,

Defendants

JURY TRIAL DEMANDED

**NOTICE OF SERVICE OF ANSWERS TO PLAINTIFF'S FIRST SET OF  
INTERROGATORIES ADDRESSED TO DEFENDANT, GORDON PENNER CLARK  
and RESPONSES TO PLAINTIFF'S FIRST REQUEST FOR PRODUCTION OF  
DOCUMENTS ADDRESSED TO DEFENDANT, GORDON PENNER CLARK**

**TO: PROTHONOTARY**

You are hereby notified that on the 4<sup>th</sup> day of October, 2006, Defendants,  
Clearfield Hospital and Gordon Penner Clark, MD, served Answers to Plaintiff's First Set  
of Interrogatories Addressed to Defendant, Gordon Penner Clark and Responses to  
Plaintiff's First Request for Production of Documents Addressed to Defendant, Gordon  
Penner Clark on the Plaintiff by mailing the original of same via First Class U.S. Mail,  
postage prepaid, addressed to the following:

Timothy A. Shollenberger, Esquire  
Shollenberger & Januzzi, LLP  
2225 Millennium Way  
Enola, PA 17025

McINTYRE, HARTYE & SCHMITT

By



Atorneys for Defendants,  
Clearfield Hospital and  
Gordon Penner Clark, M.D.

**Frank J. Hartye, Esquire**  
PA I.D. #25568  
P.O. Box 533  
Hollidaysburg, PA 16648  
(814) 696-3581  
(814) 696-9399 - Fax

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

ALBERT HAMM and BARBARA HAMM,  
husband and wife,

: No. 2006 - 1356 CD

Plaintiffs

ISSUE:

NOTICE OF SERVICE OF ANSWERS  
TO PLAINTIFF'S FIRST SET OF  
INTERROGATORIES ADDRESSED TO  
DEFENDANT, CLEARFIELD  
HOSPITAL and RESPONSE TO  
PLAINTIFF'S FIRST REQUEST FOR  
PRODUCTION OF DOCUMENTS  
ADDRESSED TO DEFENDANT,  
CLEARFIELD HOSPITAL

vs.

GEORGE C. MOSCH, II, M.D.  
GORDON PENNER CLARK, M.D.  
RODOLFO S. POLINTAN, M.D.,  
CLEARFIELD FAMILY MEDICINE and  
CLEARFIELD HOSPITAL,

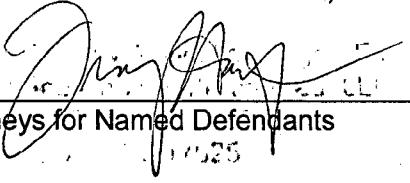
Filed on behalf of Defendants,  
GORDON PENNER CLARK, M.D. and  
CLEARFIELD HOSPITAL

Counsel of Record:  
Frank J. Hartye, Esquire  
PA I.D. #25568

McINTYRE, HARTYE & SCHMITT  
P.O. Box 533, Suite 200  
Hollidaysburg, PA 16648  
(814) 696-3581

JURY TRIAL DEMANDED

I HEREBY CERTIFY THAT A TRUE AND  
CORRECT COPY OF THE WITHIN WAS  
MAILED TO ALL COUNSEL OF RECORD  
THIS 10TH DAY OF OCTOBER, 2006.

  
\_\_\_\_\_  
Attnorneys for Named Defendants

FILED NO CC  
OCT 12 2006  
WAS

William A. Shaw  
Prothonotary/Clerk of Courts

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

ALBERT HAMM and BARBARA HAMM, : No. 2006 – 1356 CD  
husband and wife,

Plaintiffs

vs.

GEORGE C. MOSCH, II, M.D.,  
GORDON PENNER CLARK, M.D.,  
RODOLFO S. POLINTAN, M.D.,  
CLEARFIELD FAMILY MEDICINE and  
CLEARFIELD HOSPITAL,

Defendants

JURY TRIAL DEMANDED

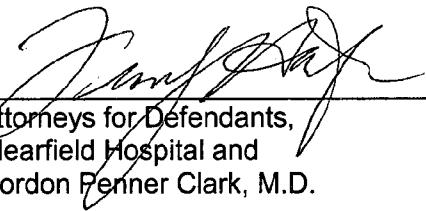
**NOTICE OF SERVICE OF ANSWERS TO PLAINTIFF'S FIRST SET OF  
INTERROGATORIES ADDRESSED TO DEFENDANT, CLEARFIELD HOSPITAL and  
RESPONSES TO PLAINTIFF'S FIRST REQUEST FOR PRODUCTION OF  
DOCUMENTS ADDRESSED TO DEFENDANT, CLEARFIELD HOSPITAL**

**TO: PROTHONOTARY**

You are hereby notified that on the 10<sup>th</sup> day of **October, 2006**, Defendants,  
Clearfield Hospital and Gordon Penner Clark, MD, served Answers to Plaintiff's First Set  
of Interrogatories Addressed to Defendant, Clearfield Hospital and Responses to  
Plaintiff's First Request for Production of Documents Addressed to Defendant, Clearfield  
Hospital on the Plaintiff by mailing the original of same via First Class U.S. Mail, postage  
prepaid, addressed to the following:

Timothy A. Shollenberger, Esquire  
Shollenberger & Januzzi, LLP  
2225 Millennium Way  
Enola, PA 17025

McINTYRE, HARTYE & SCHMITT

By 

Attorneys for Defendants,  
Clearfield Hospital and  
Gordon Penner Clark, M.D.

**Frank J. Hartye, Esquire**  
**PA I.D. #25568**  
**P.O. Box 533**  
**Hollidaysburg, PA 16648**  
**(814) 696-3581**  
**(814) 696-9399 - Fax**

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

ALBERT HAMM and BARBARA HAMM,  
husband and wife,

No. 2006 - 1356 CD

ISSUE:

ANSWER AND NEW MATTER TO  
PLAINTIFFS' COMPLAINT

Plaintiffs

vs.

GEORGE C. MOSCH, II, M.D.,  
GORDON PENNER CLARK, M.D.,  
RODOLFO S. POLINTAN, M.D.,  
CLEARFIELD FAMILY MEDICINE and  
CLEARFIELD HOSPITAL,

Filed on behalf of Defendants,  
GORDON PENNER CLARK, M.D. and  
CLEARFIELD HOSPITAL

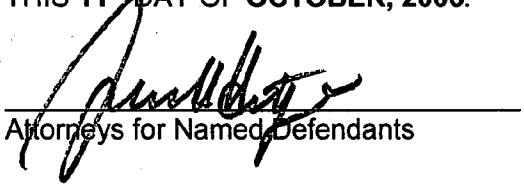
Defendants

Counsel of Record:  
Frank J. Hartye, Esquire  
PA I.D. #25568

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

JURY TRIAL DEMANDED

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

  
\_\_\_\_\_  
Attorneys for Named Defendants

FILED NO CC  
M 11:43 AM  
OCT 12 2006  
(LN)

William A. Shaw  
Prothonotary/Clerk of Courts

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

ALBERT HAMM and BARBARA HAMM, : No. 2006 - 1356 CD  
husband and wife,

Plaintiffs

vs.

GEORGE C. MOSCH, II, M.D.,  
GORDON PENNER CLARK, M.D.,  
RODOLFO S. POLINTAN, M.D.,  
CLEARFIELD FAMILY MEDICINE and  
CLEARFIELD HOSPITAL,

Defendants

JURY TRIAL DEMANDED

ANSWER AND NEW MATTER TO PLAINTIFFS' COMPLAINT

AND NOW, come Defendants, GORDON PENNER CLARK, M.D. and  
CLEARFIELD HOSPITAL, by through their attorneys, MCINTYRE, HARTYE &  
SCHMITT, and file the following Answer and New Matter to Plaintiffs' Complaint:

1. The allegations contained in Paragraph No. 1 are true to the best of Defendants' knowledge.
2. After reasonable investigation, Defendants are without sufficient knowledge or information as to the truth of these averments, and therefore, they are denied as stated.
- 3-5. The allegations contained in Paragraph Nos. 3 through 5 are not directed to answering Defendants and no further response is required.
6. Admitted, except all assertions of professional liability are denied.
7. It is admitted that Clearfield Hospital is a not-for-profit acute care hospital, providing health care services to the public with its main business address at 809 Turnpike Avenue, Clearfield, PA. All claims of professional liability are denied.

8-9. After reasonable investigation, Defendants are without sufficient knowledge or information as to the truth of these averments, and therefore, they are denied as stated.

10. It is admitted that an x-ray of Albert Hamm's left knee dated December 27, 2004, was taken and read at Clearfield Hospital and the report of Dr. Coren indicated severe osteoarthritis and small knee joint effusion. In addition, the report indicated asymmetric joint space narrowing with osteophyte formation.

11-12. After reasonable investigation, Defendants are without sufficient knowledge or information as to the truth of these averments, and therefore, they are denied as stated.

13. It is admitted that on December 31, 2004, shortly after midnight, Plaintiff arrived at the emergency department at Clearfield Hospital and was seen by Dr. Clark. The remaining allegations contained in Paragraph No. 13 incompletely summarize the care and treatment provided as well as the patient's complaint and condition, and therefore, the remaining allegations are denied to the extent that they are incomplete or out of context.

14. It is admitted that on January 1, 2005, Albert Hamm, was admitted to Clearfield Hospital by Dr. Mosch, as more specifically set forth in the patient's chart for his admission. The remaining allegations are incomplete and do not accurately summarize the care and treatment provided, and therefore, they are denied as stated.

15-19. It is admitted that from January 1, 2005 through January 6, 2005, that Albert Hamm was a patient at Clearfield Hospital. It is admitted that Dr. Mosch was his admitting physician and that Dr. Polintan was consulted. The remaining allegations contained in these paragraphs are admitted to the extent that they are consistent with the admission record of Albert Hamm and they are denied to the extent that they are

inconsistent with the records of this admission or are incomplete. As to specific conversations of Dr. Polintan or Dr. Mosch, after reasonable investigation, Defendants are without sufficient knowledge or information as to the truth of these averments, and therefore, they are denied. Finally, it is admitted that the patient was transferred to Hershey Medical Center on January 6, 2005.

20-22. After reasonable investigation, Defendants are without sufficient knowledge or information as to the truth of these averments, and therefore, they are denied.

23-31. The allegations contained in Paragraph Nos. 23 through 31 are denied. It is denied that Dr. Clark, Clearfield Hospital or any of its agents, servants or employees were negligent or careless in any manner. It is further denied that any action or inaction on the part of Dr. Clark or Clearfield Hospital or any of their agents, servants or employees either caused or contributed to the alleged injuries and damages set forth, and therefore, all of the allegations contained in Paragraph Nos. 23 through 31 are denied.

#### **COUNT I**

##### **ALBERT HAMM vs. GEORGE C. MOSCH, II, M.D. AND CLEARFIELD FAMILY MEDICINE**

32-34. The allegations contained in Paragraph Nos. 32 through 34 are not directed to answering Defendants, and therefore, no further response is required.

#### **COUNT II**

##### **ALBERT HAMM, PLAINTIFF vs. GORDON PENNER CLARK, M.D. AND CLEARFIELD HOSPITAL**

35. Defendants incorporate by reference previous paragraphs of the within Answer and New Matter as though the same were set forth herein at length.

36. It is denied that Gordon Penner Clark, M.D., or Clearfield Hospital or any of its agents, servants or employees were negligent in providing medical treatment to

Albert Hamm. To the contrary, all care provided by Dr. Clark and Clearfield Hospital was proper, appropriate and met the standard of care. It is denied that any action or inaction on the part of Dr. Clark or Clearfield Hospital or any of its agents, servants or employees either caused or contributed to the alleged injuries and damages set forth in Plaintiffs' Complaint, and therefore, all of the allegations contained in Paragraph No. 36 and the sub-paragraphs thereof are specifically denied and strict proof thereof is demanded at the time of trial.

37. Denied. It is denied that Dr. Clark or Clearfield Hospital or any of its agents, servants or employees provided negligent medical care or treatment. It is denied that their care and treatment in any way led to a delay in diagnosis or a delay in treatment causing injury to the Plaintiff. To the contrary, all care provided by Dr. Clark, Clearfield Hospital and its agents, servants or employees was proper, appropriate and met the applicable standard of care. Therefore, all of the allegations in this paragraph are denied.

WHEREFORE, Defendants, George Penner Clark, M.D. and Clearfield Hospital, demand judgment in their favor with costs of suit awarded to Defendants.

### COUNT III

#### **ALBERT HAMM, PLAINTIFF vs. RUDOLFO S. POLINTAN, M.D. AND CLEARFIELD HOSPITAL**

38. Defendants incorporate by reference previous paragraphs of the within Answer and New Matter as though the same were set forth herein at length.

39. It is denied that Rudolfo S. Polintan, M.D. was an actual or ostensible agent, servant or employee of Clearfield Hospital. It is denied that Plaintiffs' Complaint sets forth a cause of action upon which relief can be granted in that the Complaint fails to set forth any facts to support a claim of agency. As a result, all of the allegations contained in Paragraph No. 39 are denied.

40. The allegations contained in Paragraph No. 40 are denied as they may apply to Clearfield Hospital. It is denied that Dr. Polintan was an actual or ostensible agent, servant or employee of Clearfield Hospital.

WHEREFORE, Defendants demand judgment in their favor with costs of suit awarded to Defendants.

**COUNT IV**

**BARBARA HAMM, PLAINTIFF vs. GEORGE C. MOSCH, II, M.D.,  
GORDON PENNER CLARK, M.D. and RODOLFO S. POLINTAN, M.D.;  
CLEARFIELD FAMILY MEDICINE AND CLEARFIELD HOSPITAL**

41. Defendants incorporate by reference previous paragraphs of the within Answer and New Matter as though the same were set forth herein at length.

42. Denied. It is denied that Gordon Penner Clark, M.D. or Clearfield Hospital or any of its agents, servants or employees were negligent or careless in any manner. It is further denied that any action or inaction on their part either caused or contributed to the alleged injuries and damages set forth, and therefore, all of the allegations contained in Paragraph No. 42 are denied.

WHEREFORE, Defendants, George Penner Clark, M.D. and Clearfield Hospital, demand judgment in their favor with costs of suit awarded to Defendants

**NEW MATTER**

By way of further and more complete answer, Defendants aver the following New Matter:

43. All injuries and damages suffered by the Plaintiff are the direct, sole and proximate result of pre-existing medical conditions and not as a result of a violation of the standard of care.

44. To the extent Plaintiffs establish a right to recover, the alleged injuries and damages were the direct result of the conduct of others over whom these Defendants had neither the ability nor attempted to exercise control.

45. Defendants hereby affirmatively plead all bars, rights and limitations pursuant to the Health Care Services Malpractice Act, 40 P.S. § 1301.103, et seq.

46. Defendants hereby affirmatively plead all bars, rights and limitations pursuant to the Medical Care Availability and Reduction of Error (MCARE) Act, 40 P.S. § 1300, et seq.

WHEREFORE, Defendants demand judgment in their favor with costs of suit awarded to Defendants.

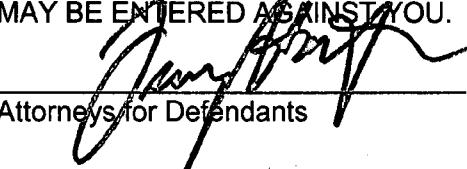


\_\_\_\_\_  
Attorneys for Defendants,  
GORDON PENNER CLARK, M.D. and  
CLEARFIELD HOSPITAL

**McINTYRE, HARTYE & SCHMITT**  
Frank J. Hartye, Esquire  
PA I.D. #25568  
P.O. Box 533  
Hollidaysburg, PA 16648-0533  
PH: (814) 696-3581  
FAX: (814) 696-9399

**TO: WITHIN NAMED PARTIES**

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



\_\_\_\_\_  
Attorneys for Defendants

VERIFICATION

I, GORDON PENNER CLARK, M.D., am one of the defendants in this action. In that capacity I am represented by counsel. I have furnished to my counsel factual information upon which the foregoing **ANSWER AND NEW MATTER TO PLAINTIFFS' COMPLAINT** is based. To the extent that it is based on the factual information provided to counsel, I verify that those facts are true and correct to the best of my knowledge, information and belief. However, the language is that of counsel and, to the extent that it goes beyond the factual information which I have provided to counsel, I have relied upon counsel in making this verification.

I understand that false statements herein are made subject to the penalties of 18 Pa.C.S. Section 4904, relating to unsworn falsifications to authorities.

*Gordon Penner Clark M.D.*  
Gordon Penner Clark, M.D.

Date: 9/28/06

CHT 045 MH

## **VERIFICATION**

I, Jon Steen, Vice President of Human Resources of CLEARFIELD HOSPITAL do hereby verify that I have read the foregoing **ANSWER AND NEW MATTER TO PLAINTIFFS' COMPLAINT**. The statements therein are correct to the best of my personal knowledge or information and belief.

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

## **CLEARFIELD HOSPITAL**

~~Jon Steen~~  
Vice President of Human Resources

Date: 10/6/06

**S**HOLLENBERGER & J<sup>A</sup>NUZZI, LLP  
2225 Millennium Way  
Enola, PA 17025  
Telephone Number: (717) 728-3200  
Fax Number: (717) 728-3400  
Attorneys for Plaintiffs

**FILED**  
M 11/2/57/06  
OCT 30 2006  
Atty  
S

William A. Shaw  
Prothonotary/Clerk of Courts

ALBERT HAMM and BARBARA HAMM,  
husband and wife,

IN THE COURT OF COMMON PLEAS  
CLEARFIELD COUNTY

Plaintiffs

NO. 2006-1356-CD

vs.

GEORGE C. MOSCH II, M.D., GORDON  
PENNER CLARK, M.D.,  
RODOLFO S. POLINTAN, M.D.;  
CLEARFIELD FAMILY MEDICINE; and  
CLEARFIELD HOSPITAL,

CIVIL ACTION - LAW  
JURY TRIAL DEMANDED

Defendants

---

**PLAINTIFFS' REPLY TO DEFENDANTS' ANSWER WITH NEW MATTER  
TO PLAINTIFFS' COMPLAINT**

---

AND NOW COMES THE PLAINTIFFS, **ALBERT HAMM AND BARBARA HAMM**, husband and wife, by and through their attorney, SHOLLENBERGER AND JANUZZI, LLP, files their Reply to New Matter of Defendants **GEORGE C. MOSCH II, M.D., GORDON PENNER CLARK, M.C., RODOLFO S. POLINTAN, M.D., CLEARFIELD FAMILY MEDICINE AND CLEARFIELD HOSPITAL** (hereinafter "Defendants"), and, in support thereof, respectfully represents the following:

43. Said averment is denied pursuant to Pa. R.C.P. 1029(e).
44. This averment is directed to a party other than the Plaintiff and, therefore, requires no answers by them.

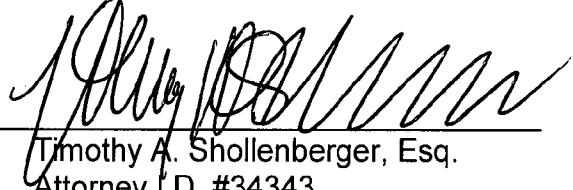
45. The above referenced averment is a conclusion of law to which no answer is required. To the extent an answer is required; same is denied pursuant to Pa. R.C.P. 1029(e).

46. The above referenced averment is a conclusion of law to which no answer is required. To the extent an answer is required; same is denied pursuant to Pa. R.C.P. 1029(e).

WHEREFORE, the Plaintiffs respectfully requests that the Defendants' New Matter be dismissed and judgment entered in favor of the Plaintiffs as a matter of law.

Respectfully submitted,

SHOLLENBERGER & JANUZZI, LLP

By: 

Timothy A. Shollenberger, Esq.  
Attorney I.D. #34343

Dated: 10.25.06

**S**HOLLENBERGER & **J**ANUZZI, LLP  
2225 Millennium Way  
Enola, PA 17025  
Telephone Number: (717) 728-3200  
Fax Number: (717) 728-3400  
Attorneys for Plaintiffs

ALBERT HAMM and BARBARA HAMM,  
husband and wife,

Plaintiffs

vs.

GEORGE C. MOSCH II, M.D., GORDON  
PENNER CLARK, M.D.,  
RODOLFO S. POLINTAN, M.D.;  
CLEARFIELD FAMILY MEDICINE; and  
CLEARFIELD HOSPITAL,

Defendants

IN THE COURT OF COMMON PLEAS  
CLEARFIELD COUNTY

NO. 2006-1356-CD

CIVIL ACTION - LAW  
JURY TRIAL DEMANDED

---

**CERTIFICATE OF SERVICE**

---

And now, this 25 day of October, 2006, I hereby certify that a true and correct copy of the foregoing document has been served upon the following via U.S. Mail:

Frank J. Hartye, Esquire  
**McINTYRE, HARTYE & SCHMITT**  
P.O. Box 533  
Hollidaysburg, PA 16648-0533

***Counsel for Defendants Gordon Penner Clark, M.D.  
and Clearfield Hospital***

Daniel P. Carroll, Esquire  
Firm #281  
One Gateway Center  
Tenth Floor  
Pittsburgh, PA 15222

***Counsel for Defendant, George C. Mosch, II, M.D.***

Walter Frederick Wall, Esquire  
120 Lakemont Park Blvd.  
Altoona, PA 16602

***Counsel for Defendant, Rodolfo S. Polintan, M.D.***

Clearfield Family Medicine  
502 Park Avenue  
Clearfield, Pennsylvania 16830

SHOLLENBERGER & JANUZZI, LLP

By:   
Timothy A. Shollenberger, Esq.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

ALBERT HAMM and BARBARA HAMM,  
husband and wife,

Plaintiffs,

vs.

GEORGE C. MOSCH, II, M.D.;  
GORDON PENNER CLARK, M.D.;  
RODOLFO S. POLINTAN, M.D.;  
CLEARFIELD FAMILY MEDICINE; and  
CLEARFIELD HOSPITAL,

Defendants.

CIVIL DIVISION

No. 2006 - 1356 - CD

JURY TRIAL DEMANDED

CERTIFICATE OF SERVICE

TO THE PROTHONOTARY:

I, Walter Fredrick Wall, Esquire, of the law firm of MEYER, DARRAGH, BUCKLER, BEBENEK & ECK, PLLC, hereby certify that on this **27th day of October, 2006**, I have served the foregoing Answers to Plaintiff's First Set of Interrogatories Addressed to Defendant, Rodolfo S. Polintan on behalf of Defendant, Rodolfo S. Polintan, M.D., upon all counsel/parties of record, by mailing a true and correct copy of same by United States first class mail, postage prepaid as follows:

Timothy Shollenberger, Esquire  
Shollenberger & Januzzi  
2225 Millennium Way  
Enola, PA 17025

Frank Hartye, Esquire  
McIntyre, Hartye & Schmitt  
PO Box 533  
Hollidaysburg, PA 16648

Daniel P. Carroll, Esquire  
Davies, McFarland & Carroll, P.C.  
One Gateway Center  
Tenth Floor  
Pittsburgh, PA 15222

FILED NO CL  
11/11/45 LM  
OCT 30 2006 JF

William A. Shaw  
Prothonotary/Clerk of Courts

Clearfield Family Medicine  
502 Park Avenue  
Clearfield, PA 16830

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

BY: 

**WALTER FREDRICK WALL, ESQUIRE**  
Counsel for Defendant, Rodolfo S. Polintan, M.D.  
120 Lakemont Park Boulevard  
Altoona, PA 16602  
Phone No.: (814) 941-4600  
ID # 23657

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

ALBERT HAMM and BARBARA HAMM,  
husband and wife,

Plaintiffs,

vs.

GEORGE C. MOSCH, II, M.D.;  
GORDON PENNER CLARK, M.D.;  
RODOLFO S. POLINTAN, M.D.;  
CLEARFIELD FAMILY MEDICINE; and  
CLEARFIELD HOSPITAL,

Defendants.

CIVIL DIVISION

No. 2006 - 1356 - CD

JURY TRIAL DEMANDED

**CERTIFICATE OF SERVICE**

TO THE PROTHONOTARY:

I, Walter Fredrick Wall, Esquire, of the law firm of MEYER, DARRAGH, BUCKLER, BEBENEK & ECK, PLLC, hereby certify that on this **27th day of October, 2006**, I have served the foregoing Response to Plaintiff's First Request for Production of Documents Addressed to Defendant, Rodolfo S. Polintan on behalf of Defendant, Rodolfo S. Polintan, M.D., upon all counsel/parties of record, by mailing a true and correct copy of same by United States first class mail, postage prepaid as follows:

Timothy Shollenberger, Esquire  
Shollenberger & Januzzi  
2225 Millennium Way  
Enola, PA 17025

Frank Hartye, Esquire  
McIntyre, Hartye & Schmitt  
PO Box 533  
Hollidaysburg, PA 16648

Daniel P. Carroll, Esquire  
Davies, McFarland & Carroll, P.C.  
One Gateway Center  
Tenth Floor  
Pittsburgh, PA 15222

FILED  
M 11:45 am  
OCT 30 2006  
CLERK  
NCC

William A. Shaw  
Prothonotary/Clerk of Courts

Clearfield Family Medicine  
502 Park Avenue  
Clearfield, PA 16830

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

BY:

  
**WALTER FREDRICK WALL, ESQUIRE**

Counsel for Defendant, Rodolfo S. Polintan, M.D.  
120 Lakemont Park Boulevard  
Altoona, PA 16602  
Phone No.: (814) 941-4600  
ID # 23657



www.mdbbe.com

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

Attorneys-at-Law

120 Lakemont Park Boulevard ♦ Altoona, PA 16602

Phone: (814) 941-4600 ♦ Fax: (814) 941-4605

**Walter F. Wall**  
Attorney at Law

**Telephone:** (814) 941-4600, Ext. 120

October 27, 2006

Prothonotary  
Clearfield County Courthouse  
230 East Market Street  
Clearfield, PA 16830

RE: Hamm v. Mosch, II, M.D., et al.  
No. 2006-1356-CD  
Court of Common Pleas of Clearfield County  
My File: MSI-110779

Dear Prothonotary:

Please file of record the enclosed Certificates of Service of Answers to Plaintiff's First Set of Interrogatories and Responses to Plaintiffs First Request for Production of Documents Addressed to Defendant, Rodolfo S. Polintan, M.D., on behalf of Defendant, Rodolfo S. Polintan, M.D., in the above-captioned matter. By copy of this letter, a true and correct copy has been forwarded to all parties/counsel of record.

Thank you for your time and attention to the within.

Yours very truly,



WALTER FREDRICK WALL

WFW/msp  
Enclosure

cc: Timothy Shollenberger, Esquire (w/encl.)  
Frank Hartye, Esquire (w/encl.)  
Daniel P. Carroll, Esquire (w/encl.)

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

ALBERT HAMM and BARBARA HAMM,  
husband and wife,

Plaintiffs

vs.

GEORGE G. MOSCH II, M.D., GORDON  
PENNER CLARK, M.D., RODOLFO S.  
POLINTAN, M.D., CLEARFIELD  
FAMILY MEDICINE and CLEARFIELD  
HOSPITAL,

Defendants

**JURY TRIAL DEMANDED**

CIVIL ACTION – MEDICAL  
PROFESSIONAL LIABILITY ACTION

No. 2006 – 1356 - CD

**PRAECIPE FOR APPEARANCE**

Filed on behalf of Clearfield Family  
Medicine Associates, incorrectly designated  
as Clearfield Family Medicine

Counsel of record for this party:

Daniel P. Carroll, Esquire  
PA I.D. #20601

Davies, McFarland & Carroll, P.C.  
Firm #281  
One Gateway Center  
Tenth Floor  
Pittsburgh, PA 15222

412-281-0737

FILED No. CC  
11/12:00 AM  
NOV 13 2006  
S

William A. Shaw  
Prothonotary/Clerk of Courts

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

ALBERT HAMM and BARBARA HAMM,  
husband and wife, )  
Plaintiffs )  
vs. )  
GEORGE C. MOSCH, II, M.D., GORDON )  
PENNER CLARK, M.D., RODOLFO S. )  
POLINTAN, M.D., CLEARFIELD FAMILY )  
MEDICINE and CLEARFIELD HOSPITAL, )  
Defendants )  
No. 2006 - 1356 -CD

## PRAECIPE FOR APPEARANCE

To: William A. Shaw, Prothonotary

Kindly enter our appearance on behalf of Clearfield Family Medicine Associates, incorrectly designated as Clearfield Family Medicine, Defendant in the above captioned case.

Daniel P. Carroll, Esquire, PA ID #20601, will handle this case.

## **JURY TRIAL DEMANDED.**

Davies, McFarland Carroll, PC

By: Daniel P. Carroll  
Daniel P. Carroll, Esquire  
PA ID #20601  
Attorney for Defendant,  
Clearfield Family Medicine Associates,  
incorrectly designated as Clearfield  
Family Medicine

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the PRAECIPE FOR APPEARANCE on behalf of defendant, Clearfield Family Medicine Associates, incorrectly designated as Clearfield Family Medicine, has been served on the following persons by first-class mail, postage prepaid this 8th day of November, 2006.

Timothy A. Shollenberger, Esquire  
Shollenberger & Januzzi, LLP  
2225 Millennium Way  
Enola, PA 17025

Frank Hartye, Esquire  
McIntyre, Hartye & Schmitt  
P.O. Box 533  
Hollidaysburg, PA 16648

Walter Fredrick Wall, Esquire  
Meyer Darragh Buckler Bebenek & Eck, P.L.L.C.  
120 Lakemont Park Boulevard  
Altoona, PA 16602

DAVIES, McFARLAND & CARROLL, P.C.

BY

  
\_\_\_\_\_  
Daniel P. Carroll, Esquire  
Attorney for Defendant,  
Clearfield Family Medicine Associates,  
incorrectly designated as Clearfield  
Family Medicine

DAVIES, McFARLAND & CARROLL, P.C.  
ATTORNEYS AT LAW

THE TENTH FLOOR, ONE GATEWAY CENTER  
PITTSBURGH, PENNSYLVANIA 15222-1416  
(412) 281-0737  
Fax (412) 261-7251

DANIEL P. CARROLL  
Direct Dial: (412) 338-4714  
E-Mail: dcarroll@dmcp.com

November 3, 2006

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

RE: Hamm v. Mosch  
No. 2006 – 1356 – CD

Dear Mr. Shaw:

Enclosed for filing please find a Praecept for Appearance on behalf of defendant Clearfield Family Medicine Associates, incorrectly designated as Clearfield Family Medicine in the above noted matter. Kindly date stamp the extra cover sheet enclosed and return same to me in the self-addressed, stamped envelope. Thank you for your attention to this matter.

Very truly yours,



Daniel P. Carroll

DPC/jlc

Enclosure

cc: Timothy A. Shollenberger, Esquire (w/enc.)  
Frank Hartye, Esquire (w/enc.)  
Walter Fredrick Wall, Esquire (w/enc.)

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

ALBERT HAMM and BARBARA HAMM,  
husband and wife,

No. 2006 - 1356 CD

Plaintiffs

ISSUE:

Notice of Service of Interrogatories and  
Request for Production of Documents  
Directed to Plaintiffs Dated November 9,  
2006

vs.

GEORGE C. MOSCH, II, M.D.,  
GORDON PENNER CLARK, M.D.,  
RODOLFO S. POLINTAN, M.D.,  
CLEARFIELD FAMILY MEDICINE and  
CLEARFIELD HOSPITAL,

Defendants

Filed on behalf of Defendants,  
GORDON PENNER CLARK, M.D. and  
CLEARFIELD HOSPITAL

Counsel of Record:  
Frank J. Hartye, Esquire  
PA I.D. #25568

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

JURY TRIAL DEMANDED

I HEREBY CERTIFY THAT A TRUE AND  
CORRECT COPY OF THE WITHIN WAS  
MAILED TO ALL COUNSEL OF RECORD  
THIS 9TH DAY OF NOVEMBER, 2006.

  
Attorneys for Named Defendants

FILED NOCC  
M 11:00 AM  
NOV 13 2006

William A. Shaw  
Prothonotary/Clerk of Courts

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

ALBERT HAMM and BARBARA HAMM, : No. 2006 - 1356 CD  
husband and wife,

Plaintiffs

VS.

GEORGE C. MOSCH, II, M.D.,  
GORDON PENNER CLARK, M.D.,  
RODOLFO S. POLINTAN, M.D.,  
CLEARFIELD FAMILY MEDICINE and  
CLEARFIELD HOSPITAL,

Defendants

JURY TRIAL DEMANDED

**NOTICE OF SERVICE OF INTERROGATORIES**  
**AND REQUEST FOR PRODUCTION OF DOCUMENTS**  
**DIRECTED TO PLAINTIFFS DATED NOVEMBER 9, 2006**

TO: PROTHONOTARY

You are hereby notified that on the 9<sup>TH</sup> day of November, 2006, Defendants,  
GORDON PENNER CLARK, M.D. and CLEARFIELD HOSPITAL, served Interrogatories  
and Request for Production of Documents Directed to Plaintiffs Dated November 9,  
2006, by mailing the original of same via First Class U.S. Mail, postage prepaid,  
addressed to the following:

Timothy A. Shollenberger, Esquire  
Shollenberger & Januzzi, LLP  
2225 Millennium Way  
Enola, PA 17025

McINTYRE, HARTYE & SCHMITT

  
\_\_\_\_\_  
Attorney for Defendants

Frank J. Hartye, Esquire  
PA I.D. No. 25568  
P. O. Box 533  
Hollidaysburg, PA 16648-0533  
(814) 696-3581

**MH&S**  
McIntyre, Hartye & Schmitt  
LAW OFFICES

November 9, 2006

Our Reference: CHT 045 MH

Office of the Prothonotary  
Court of Common Pleas of  
Clearfield County  
Courthouse  
230 E. Market Street  
Clearfield, PA 16830

Re: Albert Hamm and Barbara Hamm, husband and wife vs.  
George C. Mosch, II, M.D., Gordon Penner Clark, M.D.,  
Rodolfo S. Polintan, M.D.; Clearfield Family Medicine,  
and Clearfield Hospital  
No. 2006 – 1356 (Clearfield Co.)

Dear Prothonotary:

Kindly file the enclosed **Notice of Service of Interrogatories and Request for Production of Documents Directed to Plaintiffs Dated November 9, 2006** on behalf of Defendants, Clearfield Hospital and Gordon Penner Clark, M.D., in the above matter.

Thank you.

Very truly yours,



Frank J. Hartye

FJH:slh  
Enclosure

cc: Timothy A. Shollenberger, Esquire  
Walter F. Wall, Esquire  
Dan Carroll, Esquire  
(all w/enclosure)

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

ALBERT HAMM and BARBARA HAMM,  
husband and wife,

Plaintiffs,

vs.

GEORGE C. MOSCH, II, M.D.;  
GORDON PENNER CLARK, M.D.;  
RODOLFO S. POLINTAN, M.D.;  
CLEARFIELD FAMILY MEDICINE; and  
CLEARFIELD HOSPITAL,

Defendants.

CIVIL DIVISION

No. 2006 - 1356 - CD

**ANSWER & NEW MATTER**

Filed on Behalf of Defendant, Rodolfo S.  
Polintan, M.D.

Counsel of Record for this Party:

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

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

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

**JURY TRIAL DEMANDED**

FILED NO CC  
NOV 27 2006  
M 11-04-2006

William A. Shaw  
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

ALBERT HAMM and BARBARA HAMM,  
husband and wife,

Plaintiffs,

vs.

GEORGE C. MOSCH, II, M.D.;  
GORDON PENNER CLARK, M.D.;  
RODOLFO S. POLINTAN, M.D.;  
CLEARFIELD FAMILY MEDICINE; and  
CLEARFIELD HOSPITAL,

Defendants.

CIVIL DIVISION

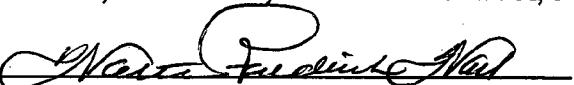
No. 2006 - 1356 - CD

JURY TRIAL DEMANDED

**NOTICE TO PLEAD**

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

MEYER, DARRAGH, BUCKLER, BEBENEK & ECK, PLLC

BY: 

**WALTER FREDRICK WALL, ESQUIRE**

Counsel for Defendant, Rodolfo S. Polintan, M.D.  
120 Lakemont Park Boulevard  
Altoona, PA 16602  
Phone No.: (814) 941-4600  
ID # 23657

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

ALBERT HAMM and BARBARA HAMM,  
husband and wife,

Plaintiffs,

vs.

GEORGE C. MOSCH, II, M.D.;  
GORDON PENNER CLARK, M.D.;  
RODOLFO S. POLINTAN, M.D.;  
CLEARFIELD FAMILY MEDICINE; and  
CLEARFIELD HOSPITAL,

Defendants.

CIVIL DIVISION

No. 2006 - 1356 - CD

JURY TRIAL DEMANDED

**ANSWER & NEW MATTER**

NOW COMES the Defendant, Rodolfo S. Polintan, M.D., by and through his counsel, MEYER, DARRAGH, BUCKLER, BEBENEK & ECK, PLLC and files this Answer and New Matter to Plaintiffs' Complaint of which the following is a statement:

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

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

3-4. Neither admitted nor denied in that said allegations are directed to a party other than this answering Defendant.

5. Admitted.

6-7. Neither admitted nor denied in that said allegations are directed to a party other than this answering Defendant.

8-12. Denied in that after reasonable investigation, this Defendant lacks information sufficient upon which to form an opinion in regard to the truth of same. Strict proof of same is demanded at the time of trial.

13-15. Denied in that after reasonable investigation, this Defendant lacks information sufficient upon which to form an opinion in regard to the truth of same. Strict proof of same is demanded at the time of trial.

16. It is admitted that on January 4, 2005, a consultation was requested of this Defendant and thereafter performed. As to the allegations concerning the consultation report dictated by Dr. Polintan, same are admitted. However, by way of further response, the entire contents of the Consultation Report are incorporated herein by reference thereto as if the same were set forth at length. It is specifically denied that at the time alleged, that the interpretation of the x-ray ordered by Dr. Polintan was available on the chart.

17. Denied as stated. It is admitted that a second venous doppler study was done to rule out a blood clot in his legs. It is admitted that during the evening hours of January 4, 2005, Dr. Polintan noted that he would repeat the knee x-ray and venous doppler study on January 5<sup>th</sup>. However, early on the morning of January 5<sup>th</sup>, based upon the patient's condition, Dr. Polintan recommended transfer to a tertiary care center. The remaining allegations are addressed to a party other than this answering Defendant.

18. It is admitted that on January 5<sup>th</sup> both Dr. Polintan and Dr. Mosch indicated that they were going to consult with one another regarding the decision to delay surgical management of the Plaintiff and it is further averred that on the morning of January 5<sup>th</sup>, the consult occurred and Defendant Dr. Polintan recommended the patient be transferred to a tertiary care center.

19. Admitted.

20. It is admitted that Plaintiff Hamm was admitted to Hershey Medical Center on January 6, 2005. The remaining allegations are denied in that after reasonable investigation, this Defendant lacks information sufficient upon which to form an opinion in regard to the truth of same. Strict proof of same is demanded at the time of trial.

21-22. Denied in that after reasonable investigation, this Defendant lacks information sufficient upon which to form an opinion in regard to the truth of same. Strict proof of same is demanded at the time of trial.

23-31. All allegations of negligent medical care by this Defendant are denied as conclusions of law and for reasons set forth above and hereinafter all of which are incorporated herein by reference thereto as if same were set forth at length. All allegations of damages and/or injuries are denied in that after reasonable investigation, this Defendant lacks information sufficient upon which to form an opinion in regard to the truth of same. Strict proof of same is demanded at the time of trial.

**COUNT I**

**Albert Hamm, Plaintiff vs. George Mosch, II, M.D. and Clearfield Family Practice**

32-34. Neither admitted nor denied in that said allegations are directed to a party other than this answering Defendant.

**COUNT II**

**Albert Hamm, Plaintiff vs. Gordon Penner Clark, M.D. and Clearfield Hospital**

35-37. Neither admitted nor denied in that said allegations are directed to a party other than this answering Defendant.

**COUNT III**

**Albert Hamm, Plaintiff vs. Rodolfo S. Polintan, M.D. and Clearfield Hospital**

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

39. It is denied that this Defendant Rodolfo S. Polintan, M.D. , was an agent, servant and employee and it is further denied that he was an ostensible agent for Defendant Clearfield Hospital and, on the contrary, at all times , this Defendant was an independent professional. All allegations of negligence are denied for reasons set forth above and hereinafter all of which are incorporated herein by reference thereto as if same were set forth at length and as conclusions of law. Strict proof of same is demanded at the time of trial.

40. Denied as conclusions of law. Strict proof of same is demanded at the time of trial.

WHEREFORE, Defendant, Rodolfo S. Polintan, M.D., prays that Plaintiff's Complaint be dismissed.

**COUNT IV**

**Barbara Hamm, Plaintiff vs. George C. Mosch, II, M.D., Gordon Penner Clark, M.D.**

**Rodolfo S. Polintan, M.D., Clearfield Family Medicine and Clearfield Hospital**

41-42. Denied for reasons set forth above all of which are incorporated herein by reference thereto as if same were set forth at length.

WHEREFORE, Defendant, Rodolfo S. Polintan, M.D., prays that Plaintiff's Complaint be dismissed.

**NEW MATTER**

43. All defenses, bars and limitations pursuant to the Medical Care Availability and Reduction of Error Act of March 2002, 40 P.S. § 1301.101, et seq. are affirmatively pled herein.

44. Any all injuries suffered by the Plaintiff are the direct, sole and proximate result of preexisting conditions over which this Defendant had no control.

45. Any injuries and/or damages suffered by the Plaintiffs are the direct, sole and proximate result of superceding intervening causes.

WHEREFORE, Defendant, Rodolfo S. Polintan, M.D., prays that Plaintiffs' Complaint be dismissed.

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

BY:   
**WALTER FREDRICK WALL, ESQUIRE**  
Counsel for Defendant, Rodolfo S. Polintan, M.D.  
120 Lakemont Park Boulevard  
Altoona, PA 16602  
Phone No.: (814) 941-4600  
ID # 23657

VERIFICATION

I, Rodolfo S. Polintan, M.D., do hereby verify that I have read the foregoing ANSWER AND NEW MATTER. The statements therein are true and correct to the best of my knowledge as to part, and based upon information and belief as to the rest.

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



RODOLFO S. POLINTAN, M.D.

DATE: 11/17/06

**CERTIFICATE OF SERVICE**

TO THE PROTHONOTARY:

I, Walter Fredrick Wall, Esquire, of the law firm of MEYER, DARRAGH, BUCKLER, BEBENEK & ECK, PLLC, hereby certify that on this **21<sup>st</sup> day of November, 2006**, I have served the foregoing Answer & New Matter on behalf of Defendant, Rodolfo S. Polintan, M.D., upon all counsel/parties of record, by mailing a true and correct copy of same by United States first class mail, postage prepaid as follows:

Timothy Shollenberger, Esquire  
Shollenberger & Januzzi  
2225 Millennium Way  
Enola, PA 17025

Frank Hartye, Esquire  
McIntyre, Hartye & Schmitt  
PO Box 533  
Hollidaysburg, PA 16648

Daniel P. Carroll, Esquire  
Davies, McFarland & Carroll, P.C.  
One Gateway Center  
Tenth Floor  
Pittsburgh, PA 15222

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

BY:   
**WALTER FREDRICK WALL, ESQUIRE**  
Counsel for Defendant, Rodolfo S. Polintan, M.D.  
120 Lakemont Park Boulevard  
Altoona, PA 16602  
Phone No.: (814) 941-4600  
ID # 23657

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

ALBERT HAMM and BARBARA HAMM,  
husband and wife,

Plaintiffs,

vs.

GEORGE C. MOSCH, II, M.D.; GORDON  
PENNER CLARK, M.D.; RODOLFO S.  
POLINTAN, M.D.; CLEARFIELD FAMILY  
MEDICINE; and CLEARFIELD  
HOSPITAL,

Defendants.

CIVIL DIVISION

No. 2006 - 1356 - CD

FILED NO CC  
COURT OF COMMON PLEAS  
DEC 01 2006  
S

William A. Shaw  
Prothonotary/Clerk of Courts

JURY TRIAL DEMANDED

CERTIFICATE OF SERVICE

I, WALTER F. WALL, ESQUIRE, of the Law Firm of MEYER, DARRAGH, BUCKLER, BEBENEK & ECK, hereby certify that on the 29th day of November, 2006, a true and correct copy of the Interrogatories Directed to Plaintiffs on behalf of Defendant, Rodolfo S. Polintan, M.D., was served upon Counsel for Plaintiffs, with a copy to all Counsel of Record by U.S. Mail, postage prepaid, addressed as follows:

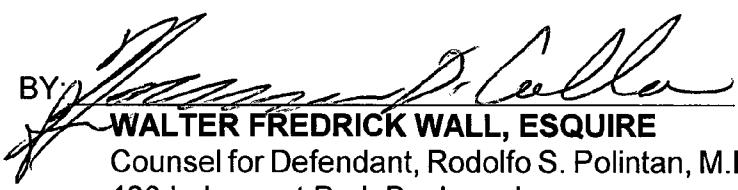
Timothy Shollenberger, Esquire  
Shollenberger & Januzzi  
2225 Millennium Way  
Enola, PA 17025

Frank Hartye, Esquire  
McIntyre, Hartye & Schmitt  
PO Box 533  
Hollidaysburg, PA 16648

Daniel P. Carroll, Esquire  
Davies, McFarland & Carroll, P.C.  
One Gateway Center  
Tenth Floor  
Pittsburgh, PA 15222

MEYER, DARRAGH, BUCKLER, BEBENEK & ECK, PLLC

BY:

  
**WALTER FREDRICK WALL, ESQUIRE**

Counsel for Defendant, Rodolfo S. Polintan, M.D.  
120 Lakemont Park Boulevard  
Altoona, PA 16602  
(814) 941-4600  
I.D. #23657

**FILED**

**DEC 01 2006**

William A. Shaw  
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

ALBERT HAMM and BARBARA HAMM,  
husband and wife,

Plaintiffs,

vs.

GEORGE C. MOSCH, II, M.D.;  
GORDON PENNER CLARK, M.D.;  
RODOLFO S. POLINTAN, M.D.;  
CLEARFIELD FAMILY MEDICINE; and  
CLEARFIELD HOSPITAL,

Defendants.

CIVIL DIVISION

No. 2006 - 1356 - CD

FILED *mti:4/6/07*  
DEC 01 2006 *§*

William A. Shaw  
Prothonotary/Clerk of Courts

JURY TRIAL DEMANDED

**CERTIFICATE OF SERVICE**

I, WALTER F. WALL, ESQUIRE, of the Law Firm of MEYER, DARRAGH, BUCKLER, BEBENEK & ECK, hereby certify that on the 29th day of November, 2006, a true and correct copy of the Request for Production of Documents Directed to Plaintiffs on behalf of Defendant, Rodolfo S. Polintan, M.D., was served upon Counsel for Plaintiffs, with a copy to all Counsel of Record by U.S. Mail, postage prepaid, addressed as follows:

Timothy Shollenberger, Esquire  
Shollenberger & Januzzi  
2225 Millennium Way  
Enola, PA 17025

Frank Hartye, Esquire  
McIntyre, Hartye & Schmitt  
PO Box 533  
Hollidaysburg, PA 16648

Daniel P. Carroll, Esquire  
Davies, McFarland & Carroll, P.C.  
One Gateway Center  
Tenth Floor  
Pittsburgh, PA 15222

MEYER, DARRAGH, BUCKLER, BEBENEK & ECK, PLLC

BY:

*Walter F. Wall*  
**WALTER FREDRICK WALL, ESQUIRE**

Counsel for Defendant, Rodolfo S. Polintan, M.D.  
120 Lakemont Park Boulevard  
Altoona, PA 16602  
(814) 941-4600  
I.D. #23657

**SHOLLENBERGER & JANUZZI, LLP**  
2225 Millennium Way  
Enola, PA 17025  
Telephone Number: (717) 728-3200  
Fax Number: (717) 728-3400  
Attorneys for Plaintiffs

FILED *3CC*  
6/11/04 AM Atty  
DEC 04 2008 Shollenberger

William A. Shaw  
Prothonotary/Clerk of Courts

ALBERT HAMM and BARBARA HAMM,  
husband and wife,

Plaintiffs

vs.

GEORGE C. MOSCH II, M.D., GORDON  
PENNER CLARK, M.D.,  
RODOLFO S. POLINTAN, M.D.;  
CLEARFIELD FAMILY MEDICINE; and  
CLEARFIELD HOSPITAL,

Defendants

IN THE COURT OF COMMON PLEAS  
CLEARFIELD COUNTY

NO. 2006-1356-CD

CIVIL ACTION - LAW  
JURY TRIAL DEMANDED

---

**PLAINTIFFS' REPLY TO NEW MATTER OF DEFENDANT RODOLFO S.  
POLINTAN, M.D.**

---

AND NOW COMES THE PLAINTIFFS, ALBERT HAMM AND BARBARA  
HAMM, by and through their attorney, SHOLLENBERGER AND JANUZZI, LLP,  
files their Reply to New Matter of Defendant, RODOLFO S. POLINTAN, M.D.  
(hereinafter "Defendant(s)"), and, in support thereof, respectfully represents the  
following:

43. The above referenced averment is a conclusion of law to which no  
answer is required. To the extent an answer is required; same is denied  
pursuant to Pa. R.C.P. 1029(e).

44. The above referenced averment is a conclusion of law to which no answer is required. To the extent an answer is required; same is denied pursuant to Pa. R.C.P. 1029(e).

45. The above referenced averment is a conclusion of law to which no answer is required. To the extent an answer is required; same is denied pursuant to Pa. R.C.P. 1029(e).

WHEREFORE, the Plaintiffs respectfully requests that the Defendant's New Matter be dismissed and judgment entered in favor of the Plaintiffs as a matter of law.

Respectfully submitted,

SHOLLENBERGER & JANUZZI, LLP

By:



Timothy A. Shollenberger, Esq.  
Attorney I.D. #34343

Dated: Nov. 30, 2006

G:\TIM CASE FILES- OPEN\Hamm, Albert\Pleadings\11 30 06 Ans NM [lk].doc

**SHOLLENBERGER & JANUZZI, LLP**

2225 Millennium Way

Enola, PA 17025

Telephone Number: (717) 728-3200

Fax Number: (717) 728-3400

Attorneys for Plaintiffs

ALBERT HAMM and BARBARA HAMM,  
husband and wife,

Plaintiffs

vs.

GEORGE C. MOSCH II, M.D., GORDON  
PENNER CLARK, M.D.,  
RODOLFO S. POLINTAN, M.D.;  
CLEARFIELD FAMILY MEDICINE; and  
CLEARFIELD HOSPITAL,

Defendants

IN THE COURT OF COMMON PLEAS  
CLEARFIELD COUNTY

NO. 2006-1356-CD

CIVIL ACTION - LAW  
JURY TRIAL DEMANDED

---

**CERTIFICATE OF SERVICE**

---

AND NOW this 30<sup>th</sup> day of November, 2006, I hereby certify that I  
have served the foregoing document by forwarding a true and correct copy of  
same in the United States mail, postage prepaid,  
addressed to:

Frank J. Hartye, Esquire  
**McINTYRE, HARTYE & SCHMITT**  
P.O. Box 533  
Hollidaysburg, PA 16648-0533

*Counsel for Defendants Gordon Penner Clark, M.D.  
and Clearfield Hospital*

Daniel P. Carroll, Esquire  
Firm #281  
One Gateway Center  
Tenth Floor  
Pittsburgh, PA 15222

***Counsel for Defendant, George C. Mosch, II, M.D.  
and Clearfield Family Medicine Associates, incorrectly  
designated as Clearfield Family Medicine***

Walter Frederick Wall, Esquire  
120 Lakemont Park Blvd.  
Altoona, PA 16602

***Counsel for Defendant, Rodolfo S. Polintan, M.D.***

Respectfully submitted,  
SHOLLENBERGER & JANUZZI, LLP



---

Timothy A. Shollenberger, Esq.  
Attorney I.D. #34343

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

ALBERT HAMM and BARBARA HAMM,  
husband and wife,

Plaintiffs

vs.

GEORGE G. MOSCH II, M.D., GORDON  
PENNER CLARK, M.D., RODOLFO S.  
POLINTAN, M.D., CLEARFIELD  
FAMILY MEDICINE and CLEARFIELD  
HOSPITAL,

Defendants

**JURY TRIAL DEMANDED**

CIVIL ACTION – MEDICAL  
PROFESSIONAL LIABILITY ACTION

No. 2006 – 1356 - CD

**ANSWER AND NEW MATTER**

Filed on behalf of George C. Mosch, II,  
M.D. and Clearfield Family Medicine  
Associates, incorrectly designated as  
Clearfield Family Medicine, two of the  
Defendants

Counsel of record for this party:

Daniel P. Carroll, Esquire  
PA I.D. #20601

Davies, McFarland & Carroll, P.C.  
Firm #281  
One Gateway Center  
Tenth Floor  
Pittsburgh, PA 15222

412-281-0737

TO All Parties  
YOU ARE HEREBY NOTIFIED TO PLEAD  
TO THE ENCLOSED Answer + New Matter  
WITHIN TWENTY (20) DAYS FROM  
SERVICE HEREOF OR A DEFAULT JUDGEMENT MAY BE  
ENTERED AGAINST YOU.

DAVIES, MCFARLAND & CARROLL, P.C.  
BY 31 Daniel P. Carroll  
ATTORNEYS FOR

FILED NO CC  
M/T/08/06  
DEC 21 2006

William A. Shaw  
Prothonotary/Clerk of Courts

## ANSWER AND NEW MATTER

And now, come defendants, George C. Mosch, III, M.D., and Clearfield Family Medicine Associates, incorrectly identified as Clearfield Family Medicine, by their attorneys, Davies, McFarland & Carroll, P.C., and file the following Answer and New Matter and in support thereof aver as follows:

1. The averments of paragraph 1 of plaintiffs' Complaint are admitted.
2. These defendants, after a reasonable investigation, are without sufficient information or knowledge to form a belief as to the truth of this averments.
3. The averments of paragraph 3 of plaintiffs' Complaint are admitted.
4. In response to paragraph 4 of plaintiffs' Complaint, Clearfield Family Medicine Associates, incorrectly identified as Clearfield Family Medicine, is a partnership with its principal place of business at 502 and 504 Park Avenue, Clearfield, Clearfield County, Pennsylvania.
- 5-7. The averments of paragraphs 5, 6 and 7 of plaintiffs' Complaint are directed to the co-defendants and therefore no response is required of these defendants.
- 8-19. The averments of paragraphs 8 through 19 of plaintiffs' Complaint are denied in accordance with Pennsylvania Rule of Civil Procedure 1029(e).
- 20-22. In response to paragraphs 20, 21 and 22 of plaintiffs' Complaint, these defendants, after a reasonable investigation, are without sufficient information or knowledge to form a belief as to the truth of said averments.
- 23-31. The averments of paragraphs 23 through 31 of plaintiffs' Complaint are denied in accordance with Pennsylvania Rule of Civil Procedure 1029(e).

## **COUNT I**

### **ALBERT HAMM VS. GEORGE C. MOSCH, II, M.D. AND CLEARFIELD FAMILY PRACTICE**

32. In response to paragraph 32 of plaintiffs' Complaint, these defendants incorporate paragraphs 1 through 31 of their Answer and New Matter as though fully set forth at length herein.

33-34. The averments of paragraph 33 and its subdivisions and paragraph 34 of plaintiffs' Complaint are denied in accordance with Pennsylvania Rule of Civil Procedure 1029(e).

WHEREFORE, defendants, George C. Mosch, II, M.D. and Clearfield Family Medicine, hereby demand that the claims against them be dismissed and that judgment be entered in their behalf.

## **COUNT II**

### **ALBERT HAMM V. GORDON PENNER CLARK, M.D. AND CLEARFIELD HOSPITAL**

35. In response to paragraph 35 of plaintiffs' Complaint, these defendants incorporate paragraphs 1 through 34 of their Answer and New Matter as though fully set forth at length herein.

36-37. The averments of paragraphs 36 and 37 of plaintiffs' Complaint are directed to co-defendants and therefore no response is required of these defendants.

WHEREFORE, defendants, George C. Mosch, II, M.D. and Clearfield Family Medicine, hereby demand that the claims against them be dismissed and that judgment be entered in their behalf.

### **COUNT III**

#### **ALBERT HAMM V. RUDOLFO S. POLINTAN, M.D. AND CLEARFIELD HOSPITAL**

38. In response to paragraph 38 of plaintiffs' Complaint, these defendants incorporate paragraphs 1 through 37 of their Answer and New Matter as though fully set forth at length herein.

39-40. The averments of paragraphs 39 and 40 of plaintiffs' Complaint are directed to co-defendants and therefore no response is required of these defendants.

WHEREFORE, defendants, George C. Mosch, II, M.D. and Clearfield Family Medicine, hereby demand that the claims against them be dismissed and that judgment be entered in their behalf.

### **COUNT IV**

#### **BARBARA HAMM V. GEORGE C. MOSCH, II, M.D., GORDON PENNER CLARK, M.D., RUDOLFO S. POLINTAN, M.D., CLEARFIELD FAMILY MEDICINE and CLEARFIELD HOSPITAL**

41. In response to paragraph 41 of plaintiffs' Complaint, these defendants incorporate paragraphs 1 through 40 of their Answer and New Matter as though fully set forth at length herein.

42. The averments of paragraph 42 of plaintiffs' Complaint are denied in accordance with Pennsylvania Rule of Civil Procedure 1029(e).

WHEREFORE, defendants, George C. Mosch, II, M.D. and Clearfield Family Medicine, hereby demand that the claims against them be dismissed and that judgment be entered in their behalf.

### **NEW MATTER**

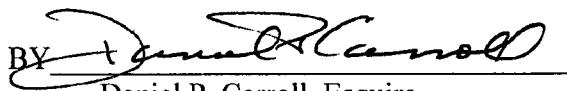
43. These defendants plead all the bars, rights and limitations pursuant to the Medical Care Availability and Reduction of Error Act (Mcare Act), 40 P.S. §1300, et seq.

43. These defendants plead all bars, rights and limitations pursuant to the Health Care Services Malpractice Act, 40 P.S. §1301.103 et seq.

WHEREFORE, defendants, George C. Mosch, II, M.D. and Clearfield Family Medicine, hereby demand that the claims against them be dismissed and that judgment be entered in their behalf.

**JURY TRIAL DEMANDED.**

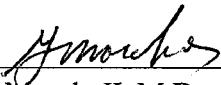
DAVIES, McFARLAND & CARROLL, P.C.

BY 

Daniel P. Carroll, Esquire  
Attorney for Defendants,  
George C. Mosch, II, M.D. and  
Clearfield Family Medicine Associates,  
incorrectly designated as Clearfield  
Family Medicine

**VERIFICATION**

Now comes, George C. Mosch, II, M.D., who verifies that the facts contained in the within ANSWER AND NEW MATTER are true upon his personal knowledge or information and belief. This verification is made subject to the penalties of 18 Pa.C.S. §4904, relating to unsworn falsification to authorities, which provides for criminal penalties if a person with intent to mislead makes a written false statement which he does not believe to be true.

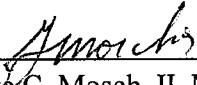
  
\_\_\_\_\_  
George C. Mosch, II, M.D.

Date: 11/21/06

**VERIFICATION**

Now comes, George C. Mosch, II, M.D., who, verifies that he is

\_\_\_\_\_ of Clearfield Family Medicine Associates, incorrectly  
designated as Clearfield Family Medicine, that he is authorized to make this verification on its  
behalf and that the facts contained in the within ANSWER AND NEW MATTER are true upon  
personal knowledge or information and belief. This verification is subject to the penalties of 18  
Pa.C.S. §4904, relating to unsworn falsification to authorities, which provides for criminal  
penalties if a person with intent to mislead makes a written false statement which he does not  
believe to be true.

  
\_\_\_\_\_  
George C. Mosch, II, M.D.

DATE: 11/21/06

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the ANSWER AND NEW MATTER on behalf of defendants, George C. Mosch, II, M.D. and Clearfield Family Medicine Associates, incorrectly designated as Clearfield Family Medicine, has been served on the following persons by first-class mail, postage prepaid this 19th day of December, 2006.

Timothy A. Shollenberger, Esquire  
Shollenberger & Januzzi, LLP  
2225 Millennium Way  
Enola, PA 17025

Frank Hartye, Esquire  
McIntyre, Hartye & Schmitt  
P.O. Box 533  
Hollidaysburg, PA 16648

Walter Fredrick Wall, Esquire  
Meyer Darragh Buckler Bebenek & Eck, P.L.L.C.  
120 Lakemont Park Boulevard  
Altoona, PA 16602

DAVIES, McFARLAND & CARROLL, P.C.

BY   
Daniel P. Carroll, Esquire  
Attorney for Defendants,  
George C. Mosch, II, M.D. and  
Clearfield Family Medicine Associates,  
incorrectly designated as Clearfield  
Family Medicine

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

ALBERT HAMM and BARBARA HAMM,  
husband and wife,

Plaintiffs

vs.

GEORGE G. MOSCH II, M.D., GORDON  
PENNER CLARK, M.D., RODOLFO S.  
POLINTAN, M.D., CLEARFIELD  
FAMILY MEDICINE and CLEARFIELD  
HOSPITAL,

Defendants

**JURY TRIAL DEMANDED**

CIVIL ACTION – MEDICAL  
PROFESSIONAL LIABILITY ACTION

No. 2006 – 1356 - CD

**NOTICE OF SERVICE OF ANSWERS  
TO PLAINTIFFS' FIRST SET OF  
INTERROGATORIES DIRECTED TO  
CLEARFIELD FAMILY MEDICINE  
AND RESPONSES TO PLAINTIFFS'  
FIRST REQUEST FOR PRODUCTION  
DIRECTED TO GEORGE C. MOSCH,  
II, M.D.**

Filed on behalf of George C. Mosch, II,  
M.D. and Clearfield Family Medicine  
Associates, incorrectly designated as  
Clearfield Family Medicine, two of the  
Defendants

Counsel of record for this party:

Daniel P. Carroll, Esquire  
PA I.D. #20601

Davies, McFarland & Carroll, P.C.  
Firm #281  
One Gateway Center  
Tenth Floor  
Pittsburgh, PA 15222

412-281-0737

FILED  
6/1/08/2006  
DEC 21 2006  
S  
no cc

William A. Shaw  
Prothonotary/Clerk of Courts

NOTICE OF SERVICE OF  
ANSWERS TO INTERROGATORIES  
DIRECTED TO CLEARFIELD FAMILY MEDICINE  
AND  
RESPONSES TO REQUEST FOR PRODUCTION OF  
DOCUMENTS DIRECTED TO GEORGE C. MOSCH, II, M.D.

TO: PROTHONOTARY OF CLEARFIELD COUNTY

Please take notice that on the 19/11 day of December, 2006 we served **Answers to Plaintiffs' First Set of Interrogatories Directed to Clearfield Family Medicine and Responses to Plaintiffs' First Request for Production of Documents Directed to George C. Mosch, II, M.D.** upon: Timothy A. Shollenberger, Esquire, Shollenberger & Januzzi, LLP, 2225 Millennium Way, Enola, PA 17025 by first-class mail, postage prepaid.

DAVIES, McFARLAND & CARROLL, P.C.

BY

  
Daniel P. Carroll, Esquire  
Attorney for Defendants,  
George C. Mosch, II, M.D. and Clearfield  
Family Medicine Associates, incorrectly  
designated as Clearfield Family  
Medicine

**S**HOLLENBERGER & J<sup>A</sup>NUZZI, LLP  
2225 Millennium Way  
Enola, PA 17025  
Telephone Number: (717) 728-3200  
Fax Number: (717) 728-3400  
Attorneys for Plaintiffs

FILED *5cc*  
7/1/2007 Atty  
JAN 08 2007  
*ES*

William A. Shaw  
Prothonotary/Clerk of Courts

ALBERT HAMM and BARBARA HAMM,  
husband and wife,

Plaintiffs

vs.

GEORGE C. MOSCH II, M.D., GORDON  
PENNER CLARK, M.D.,  
RODOLFO S. POLINTAN, M.D.;  
CLEARFIELD FAMILY MEDICINE; and  
CLEARFIELD HOSPITAL,

Defendants

IN THE COURT OF COMMON PLEAS  
CLEARFIELD COUNTY

NO. 2006-1356-CD

CIVIL ACTION - LAW  
JURY TRIAL DEMANDED

---

**PLAINTIFFS' REPLY TO DEFENDANTS' ANSWER WITH NEW MATTER  
TO PLAINTIFFS' COMPLAINT**

---

AND NOW COMES THE PLAINTIFFS, **ALBERT HAMM AND BARBARA HAMM**, husband and wife, by and through their attorney, SHOLLENBERGER AND JANUZZI, LLP, files their Reply to New Matter of Defendants **GEORGE C. MOSCH II, M.D.** and **CLEARFIELD FAMILY MEDICINE** (hereinafter "Defendants"), and, in support thereof, respectfully represents the following:

Paragraphs 1 through 42 of the Plaintiff's Complaint are incorporated herein by reference as if set forth in full.

43. The above referenced averment is a conclusion of law to which no answer is required. To the extent an answer is required; same is denied pursuant to Pa. R.C.P. 1029(e).

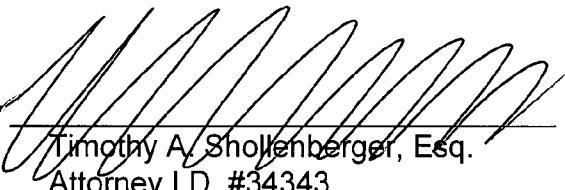
44. The above referenced averment is a conclusion of law to which no answer is required. To the extent an answer is required; same is denied pursuant to Pa. R.C.P. 1029(e).

WHEREFORE, the Plaintiffs respectfully request that the Defendants' New Matter be dismissed and judgment entered in favor of the Plaintiffs as a matter of law.

Respectfully submitted,

SHOLLENBERGER & JANUZZI, LLP

By:

  
Timothy A. Shollenberger, Esq.  
Attorney I.D. #34343

Dated: 1.3.07

**S**HOLLENBERGER & **J**ANUZZI, LLP

2225 Millennium Way

Enola, PA 17025

Telephone Number: (717) 728-3200

Fax Number: (717) 728-3400

Attorneys for Plaintiffs

ALBERT HAMM and BARBARA HAMM,  
husband and wife,

Plaintiffs

vs.

GEORGE C. MOSCH II, M.D., GORDON  
PENNER CLARK, M.D.,  
RODOLFO S. POLINTAN, M.D.;  
CLEARFIELD FAMILY MEDICINE; and  
CLEARFIELD HOSPITAL,

Defendants

IN THE COURT OF COMMON PLEAS  
CLEARFIELD COUNTY

NO. 2006-1356-CD

CIVIL ACTION - LAW  
JURY TRIAL DEMANDED

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**CERTIFICATE OF SERVICE**

---

And now, this 4th day of January, 2007, I hereby certify that a true and correct copy of the foregoing document has been served upon the following via U.S. Mail:

Frank J. Hartye, Esquire  
**McINTYRE, HARTYE & SCHMITT**  
P.O. Box 533  
Hollidaysburg, PA 16648-0533

***Counsel for Defendants Gordon Penner Clark, M.D.  
and Clearfield Hospital***

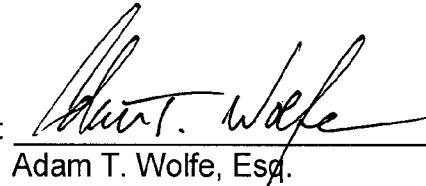
Daniel P. Carroll, Esquire  
Firm #281  
One Gateway Center  
Tenth Floor  
Pittsburgh, PA 15222

***Counsel for Defendant, George C. Mosch, II, M.D.  
and Clearfield Family Medicine Associates, incorrectly  
designated as Clearfield Family Medicine***

Walter Frederick Wall, Esquire  
120 Lakemont Park Blvd.  
Altoona, PA 16602

***Counsel for Defendant, Rodolfo S. Polintan, M.D.***

SHOLLENBERGER & JANUZZI, LLP

By:   
Adam T. Wolfe, Esq.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

ALBERT HAMM and BARBARA HAMM, CIVIL DIVISION  
husband and wife,

Plaintiffs,

vs.

GEORGE C. MOSCH, II, M.D.;  
GORDON PENNER CLARK, M.D.;  
RODOLFO S. POLINTAN, M.D.;  
CLEARFIELD FAMILY MEDICINE; and  
CLEARFIELD HOSPITAL,

Defendants.

No. 2006 - 1356 - CD

**NOTICE OF DEPOSITIONS OF  
PLAINTIFFS**

Filed on Behalf of Defendant, Rodolfo S.  
Polintan, M.D.

Counsel of Record for this Party:

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

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

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

JURY TRIAL DEMANDED

FILED NOCC  
M 10/5/06  
JAN 16 2007  
WM

William A. Shaw  
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

ALBERT HAMM and BARBARA HAMM,  
husband and wife,

Plaintiffs,

vs.

GEORGE C. MOSCH, II, M.D.;  
GORDON PENNER CLARK, M.D.;  
RODOLFO S. POLINTAN, M.D.;  
CLEARFIELD FAMILY MEDICINE; and  
CLEARFIELD HOSPITAL,

Defendants.

CIVIL DIVISION

No. 2006 - 1356 - CD

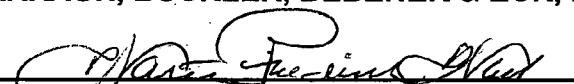
JURY TRIAL DEMANDED

**NOTICE OF DEPOSITIONS**

TO: ALBERT HAMM and BARBARA HAMM, Plaintiffs  
c/o Timothy Shollenberger, Esquire  
Shollenberger & Januzzi  
2225 Millennium Way  
Enola, PA 17025

PLEASE TAKE NOTICE that the depositions of ALBERT HAMM and BARBARA HAMM, Plaintiffs, will be taken for the purpose of discovery and for use at trial, pursuant to Rule 4007.1 et seq. of the PA Rules of Civil Procedure, as amended, before an Official Court Reporter on April 13, 2007 commencing at 9 o'clock a.m. at the Clearfield Hospital, 3<sup>rd</sup> Floor Conference Room, 809 Turnpike Avenue, Clearfield, Pennsylvania at which time and place you are invited to appear and take such part as shall be fitting and proper.

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

BY: 

**WALTER FREDRICK WALL, ESQUIRE**

Counsel for Defendant, Rodolfo S. Polintan, M.D.  
120 Lakemont Park Boulevard  
Altoona, PA 16602  
Phone No.: (814) 941-4600  
ID # 23657

cc: Sargent's Court Reporting Service  
210 Main Street  
Johnstown, PA 15901

**CERTIFICATE OF SERVICE**

TO THE PROTHONOTARY:

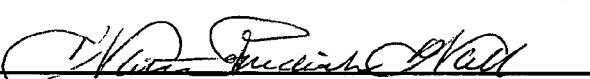
I, Walter Fredrick Wall, Esquire, of the law firm of MEYER, DARRAGH, BUCKLER, BEBENEK & ECK, PLLC, hereby certify that on this **12<sup>th</sup> day of January, 2007**, I have served the foregoing Notice of Deposition of Plaintiffs, on behalf of Defendant, Rodolfo S. Polintan, M.D., upon all counsel/parties of record, by mailing a true and correct copy of same by United States first class mail, postage prepaid as follows:

Timothy Shollenberger, Esquire  
Shollenberger & Januzzi  
2225 Millennium Way  
Enola, PA 17025

Frank Hartye, Esquire  
McIntyre, Hartye & Schmitt  
PO Box 533  
Hollidaysburg, PA 16648

Daniel P. Carroll, Esquire  
Davies, McFarland & Carroll, P.C.  
One Gateway Center  
Tenth Floor  
Pittsburgh, PA 15222

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

BY: 

**WALTER FREDRICK WALL, ESQUIRE**

Counsel for Defendant, Rodolfo S. Polintan, M.D.  
120 Lakemont Park Boulevard  
Altoona, PA 16602  
Phone No.: (814) 941-4600  
ID # 23657

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

ALBERT HAMM and BARBARA HAMM,  
husband and wife,

CIVIL DIVISION

No. 2006 - 1356 - CD

Plaintiffs,

vs.

GEORGE C. MOSCH, II, M.D.;  
GORDON PENNER CLARK, M.D.;  
RODOLFO S. POLINTAN, M.D.;  
CLEARFIELD FAMILY MEDICINE; and  
CLEARFIELD HOSPITAL,

Defendants.

JURY TRIAL DEMANDED

**CERTIFICATE OF SERVICE**

I, WALTER F. WALL, ESQUIRE, of the Law Firm of MEYER, DARRAGH, BUCKLER, BEBENEK & ECK, hereby certify that on the **22<sup>nd</sup> day of February, 2007**, a true and correct copy of the Defendant's Request to Plaintiffs for Production of Expert Reports on behalf of Defendant, Rodolfo S. Polintan, M.D., was served upon Counsel for Plaintiffs, with a copy to all Counsel of Record by U.S. Mail, postage prepaid, addressed as follows:

Timothy Shollenberger, Esquire  
Shollenberger & Januzzi  
2225 Millennium Way  
Enola, PA 17025

Frank Hartye, Esquire  
McIntyre, Hartye & Schmitt  
PO Box 533  
Hollidaysburg, PA 16648

Daniel P. Carroll, Esquire  
Davies, McFarland & Carroll, P.C.  
One Gateway Center  
Tenth Floor  
Pittsburgh, PA 15222

MEYER, DARRAGH, BUCKLER, BEBENEK & ECK, PLLC

BY:

*Walter F. Wall*

**WALTER FREDRICK WALL, ESQUIRE**

Counsel for Defendant, Rodolfo S. Polintan, M.D.  
120 Lakemont Park Boulevard  
Altoona, PA 16602  
(814) 941-4600  
I.D. #23657

**FILED**  
mjh/lb  
FEB 23 2007  
S

William A. Shaw  
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

ALBERT HAMM and BARBARA HAMM,  
husband and wife,

Plaintiffs,

vs.

GEORGE C. MOSCH, II, M.D.;  
GORDON PENNER CLARK, M.D.;  
RODOLFO S. POLINTAN, M.D.;  
CLEARFIELD FAMILY MEDICINE; and  
CLEARFIELD HOSPITAL,

Defendants.

CIVIL DIVISION

No. 2006 - 1356 - CD

**MOTION TO COMPEL**

Filed on Behalf of Defendant, Rodolfo S.  
Polintan, M.D.

Counsel of Record for this Party:

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

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

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

JURY TRIAL DEMANDED

FILED *(Signature)*

MAR 01 2007

*W:SS/*

William A. Shaw

Prothonotary/Clerk of Courts

No. C/C

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

ALBERT HAMM and BARBARA HAMM,  
husband and wife,

Plaintiffs,

vs.

GEORGE C. MOSCH, II, M.D.;  
GORDON PENNER CLARK, M.D.;  
RODOLFO S. POLINTAN, M.D.;  
CLEARFIELD FAMILY MEDICINE; and  
CLEARFIELD HOSPITAL,

Defendants.

CIVIL DIVISION

No. 2006 - 1356 - CD

JURY TRIAL DEMANDED

**ORDER OF COURT**

NOW THIS \_\_\_\_\_ day of \_\_\_\_\_, 2007, upon consideration of the  
within Motion to Compel Discovery, it is hereby ORDERED, DIRECTED and DECREED  
that Plaintiffs shall file full and complete answers to Defendant Polintan's Interrogatories  
and Request for Production of Documents, specifically including the medical records for  
the period between January 2005 and June 17, 2005, within fifteen (15) days of the date  
of this Order or suffer such further sanctions as deemed appropriate by this Court.

BY THE COURT:

---

J.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

ALBERT HAMM and BARBARA HAMM,  
husband and wife,

Plaintiffs,

vs.

GEORGE C. MOSCH, II, M.D.;  
GORDON PENNER CLARK, M.D.;  
RODOLFO S. POLINTAN, M.D.;  
CLEARFIELD FAMILY MEDICINE; and  
CLEARFIELD HOSPITAL,

Defendants.

CIVIL DIVISION

No. 2006 - 1356 - CD

JURY TRIAL DEMANDED

RULE

NOW THIS 2<sup>nd</sup> day of March, 2007, a Rule is hereby issued upon  
Plaintiffs to show cause, if any there should be, why the Motion to Compel of Defendant,  
Rodolfo S. Polintan, M.D., should not be granted.

Said Rule Returnable the 20<sup>th</sup> day of March, 2007, at 3:00 o'clock,  
9.m., Courtroom No. 1, Clearfield County Courthouse, Clearfield, Pennsylvania.

  
J.

FILED

MAR 02 2007

13:45 (C)  
William A. Shaw

Prothonotary/Clerk of Courts

1 cent to her

Prosecutor/Clerk of Courts  
William A Shaw

MAR 02 2007

**FILED**

Special Instructions:

Defendant(s)  Plaintiff(s) Attorney

Plaintiff(s)  Plaintiff(s) Attorney  Other

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

You are responsible for serving all appropriate parties.

DATE: 3-2-07

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

ALBERT HAMM and BARBARA HAMM,  
husband and wife,

Plaintiffs,

vs.

GEORGE C. MOSCH, II, M.D.;  
GORDON PENNER CLARK, M.D.;  
RODOLFO S. POLINTAN, M.D.;  
CLEARFIELD FAMILY MEDICINE; and  
CLEARFIELD HOSPITAL,

Defendants.

CIVIL DIVISION

No. 2006 - 1356 - CD

JURY TRIAL DEMANDED

**MOTION TO COMPEL**

NOW COMES the Defendant, Rodolfo S. Polintan, M.D., by and through his counsel, MEYER, DARRAGH, BUCKLER, BEBENEK & ECK, PLLC and files this Motion to Compel of which the following is a statement:

1. Plaintiffs commenced this professional liability action by filing their Complaint on or about August 23, 2006.
2. This Defendant served upon the Plaintiffs Interrogatories directed to Plaintiffs and a Request for Production of Documents by mailing first class, pre-paid postage on or about November 29, 2006 directed to:

Albert and Barbara Hamm  
c/o Timothy Shollenberger, Esquire  
Shollenberger & Januzzi  
2225 Millennium Way  
Enola, PA 17025

3. On or about January 29, 2007, counsel for this Defendant received partial and incomplete discovery responses to the Request for Production of Documents and Interrogatories.

4. Plaintiffs claim that they do not have a large volume of medical records from the time Defendant, Dr. Polintan last saw the patient in early January 2005 until the amputation of the patient's left lower leg on June 17, 2005.

5. Plaintiffs assert liability against this Defendant as a result of a consult while the patient was at Clearfield Hospital over a 24 hour period in early January, 2005. The allegations are that because Dr. Polintan delayed surgery at that time, the Plaintiff patient ultimately suffered the amputation of his left lower leg.

6. Plaintiff patient was transferred from Clearfield Hospital on January 6, 2005 to Hershey Medical Center until March 15, 2005. Plaintiff patient was at some point in time thereafter at Select Special Unit Holy Spirit Hospital. On April 21, 2005, Plaintiff patient was at Philipsburg Hospital. Plaintiff patient was at the Mount Laurel Nursing Home and Rehab Center for an extended period of time. Plaintiff patient was to Clearfield Hospital and, at least, once to DRMC where he was discharged on June 10, 2005. Plaintiff patient was seen in the interim by Dr. Kara Kozloski, either in DuBois or in Clearfield Hospital.

7. The medical records from January 5, 2005 until the amputation operation at Hershey Medical Center are necessary to Defendant Dr. Polintan's defense of this case. The failure to provide the same is highly prejudicial to the defense of the case. Such records must be reviewed to discern any alleged causal relationship between Dr. Polintan's consult on January 5, 2005 and the June 17, 2005 amputation.

8. Attorney Shollenberger assured defense counsel that the outstanding discovery and, in particular, the June Hershey Medical Center records, as to the amputation, would be provided by January 31, 2007.

9. The discovery responses did not provide the above referenced medical records. The HIPAA medical authorizations attached to Defendant's Request for Production were not completed and returned as part of Plaintiffs' discovery responses.

10. Interrogatories 1-12 and 22 sought responses as to both Plaintiffs, but received answers as to only one Plaintiff.

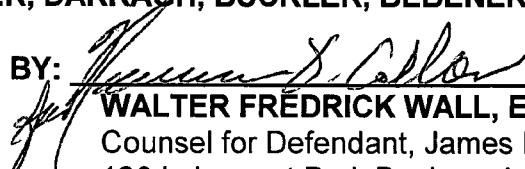
11. Interrogatories 43-51 sought responses as to any statements to Plaintiffs by treating physicians and should have been completely and fully answered. Plaintiff's counsel interposed objections presumably based upon a status of liability experts.

12. All Interrogatories should be fully and completely answered without objection.

13. Plaintiff's refusal and/or failure to completely respond to the Request for Production of Documents and to completely and fully answer the Interrogatories is prejudicial to this Defendant's ability to defend against the claims asserted in Plaintiffs' Complaint.

WHEREFORE, Defendant, Rodolfo S. Polintan, M.D., respectfully requests this Court enter an Order directing Plaintiffs to file full and complete Answers to this Defendant's Interrogatories and Request for Production of Documents within fifteen (15) days.

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

BY: 

**WALTER FRÉDRICK WALL, ESQUIRE**

Counsel for Defendant, James H. Vreeland, M.D.  
120 Lakemont Park Boulevard  
Altoona, PA 16602  
Phone No. (814) 941-4600  
PA I.D. #23657

**CERTIFICATE OF SERVICE**

TO THE PROTHONOTARY:

I, Walter Fredrick Wall, Esquire, of the law firm of MEYER, DARRAGH, BUCKLER, BEBENEK & ECK, PLLC, hereby certify that on this **28<sup>th</sup> day of February, 2007**, I have served the foregoing Motion to Compel Discovery on behalf of Defendant, Rodolfo S. Polintan, M.D., upon all counsel/parties of record, by mailing a true and correct copy of same by United States first class mail, postage prepaid as follows:

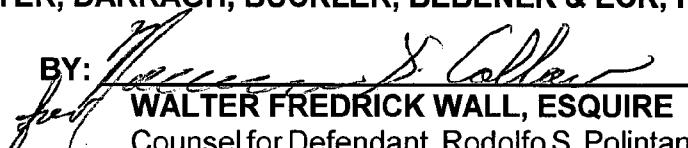
Timothy Shollenberger, Esquire  
Shollenberger & Januzzi  
2225 Millennium Way  
Enola, PA 17025

Frank Hartye, Esquire  
McIntyre, Hartye & Schmitt  
PO Box 533  
Hollidaysburg, PA 16648

Daniel P. Carroll, Esquire  
Davies, McFarland & Carroll, P.C.  
One Gateway Center  
Tenth Floor  
Pittsburgh, PA 15222

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

BY:

  
**WALTER FREDRICK WALL, ESQUIRE**

Counsel for Defendant, Rodolfo S. Polintan, M.D.  
120 Lakemont Park Boulevard  
Altoona, PA 16602  
Phone No.: (814) 941-4600  
ID # 23657

**S**HOLLENBERGER & J<sup>A</sup>NUZZI, LLP  
2225 Millennium Way  
Enola, PA 17025  
Telephone Number: (717) 728-3200  
Fax Number: (717) 728-3400  
Attorneys for Plaintiffs

FILED  
M 7 12 5 2001  
MAR 08 2001  
S

William A. Shaw  
Prothonotary/Clerk of Courts

ALBERT HAMM and BARBARA HAMM,  
husband and wife,

IN THE COURT OF COMMON PLEAS  
CLEARFIELD COUNTY

Plaintiffs

NO. 2006 – 1356 CD

vs.

GEORGE C. MOSCH II, M.D., GORDON  
PENNER CLARK, M.D.,  
RODOLFO S. POLINTAN, M.D.;  
CLEARFIELD FAMILY MEDICINE; and  
CLEARFIELD HOSPITAL,

CIVIL ACTION - LAW  
JURY TRIAL DEMANDED

Defendants

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

As a prerequisite to serve of a subpoena for documents and things  
pursuant to Rule 4009.22, Plaintiff certifies that:

- 1) Counsel for Plaintiffs contacted counsel for each defendant and represented that they intend to serve a subpoena upon the Hershey Medical Center to obtain medical records for Plaintiff, Albert Hamm for dates of 1/1/2005-3/6/2007.
- 2) All counsel waived the twenty (20) day advance notice pursuant to the note following Pa.R.C.P. 4009.22.

Date: 3. 6. 07

  
Timothy A. Shollenberger, Esquire  
I.D. #34348  
Attorney for Plaintiffs

**S**HOLLENBERGER & J<sup>A</sup>NUZZI, LLP

2225 Millennium Way

Enola, PA 17025

Telephone Number: (717) 728-3200

Fax Number: (717) 728-3400

Attorneys for Plaintiffs

ALBERT HAMM and BARBARA HAMM,  
husband and wife,

Plaintiffs

vs.

GEORGE C. MOSCH II, M.D., GORDON  
PENNER CLARK, M.D.,  
RODOLFO S. POLINTAN, M.D.;  
CLEARFIELD FAMILY MEDICINE; and  
CLEARFIELD HOSPITAL,

Defendants

IN THE COURT OF COMMON PLEAS  
CLEARFIELD COUNTY

NO. 2006 – 1356 CD

CIVIL ACTION - LAW  
JURY TRIAL DEMANDED

**NOTICE**

TO: Milton S. Hershey Medical Center  
Health Information Services  
P.O. Box 850  
Hershey, PA 17033

**YOU ARE REQUIRED TO COMPLETE THE FOLLOWING CERTIFICATE OF  
COMPLIANCE WHEN PRODUCING DOCUMENTS OR THINGS PURSUANT  
TO THE SUBPEONA**

***CERTIFICATE OF COMPLIANCE WITH SUBPEONA TO PRODUCE DOCUMENTS  
OR THINGS PURSUANT TO RULE 4009.22***

I, \_\_\_\_\_, certify to the best of my  
knowledge, information and belief that all documents or things required to be produced  
pursuant to the subpoena issued on \_\_\_\_\_ (date of  
subpoena) have been produced.

Date: \_\_\_\_\_ By: \_\_\_\_\_  
G:\TIM CASE FILES- OPEN\Hamm, Albert\Discovery\030607 Notice to HMC for records w subpoena [tas].doc

COMMONWEALTH OF PENNSYLVANIA  
COUNTY OF CLEARFIELD

Albert Hamm

\*

Barbara Hamm

Plaintiff(s)

Vs.

\*

No. 2006-01356-CD

George C. Mosch, II, M.D

\*

Gordon Penner Clark, M.D.

Rodolfo S. Polintan, M.D.

Clearfield Family Medicine

Clearfield Hospital

Defendant(s)

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

TO: Milton S. Hershey Medical Center  
(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:  
Any and all medical records pertaining to Albert Hamm for dates of  
service 1/1/2005 to 3/6/2007

(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: Timothy A. Shollenberger, Esquire

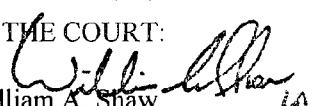
ADDRESS: 2225 Millennium Way  
Enola, PA 17025

TELEPHONE: 717-728-3200

SUPREME COURT ID # 34343

ATTORNEY FOR: Plaintiffs

BY THE COURT:

  
William A. Shaw  
Prothonotary/Clerk, Civil Division

DATE: Monday, March 05, 2007

Seal of the Court

Deputy

PENNSTATE

 Milton S. Hershey Medical Center  
College of Medicine

The Milton S. Hershey  
Medical Center

AUTHORIZATION FOR RELEASE OF  
HOSPITAL RECORDS

Health Information Services, P.O. Box 850, Hershey, Pennsylvania 17033

Name of Patient ALBERT W. LANN Social Security # 159-36-8731

Date of birth 7/1/45 Medical Record Number \_\_\_\_\_ Phone # (814) 265-6483

THIS AUTHORIZATION WILL NOT BE ACCEPTED UNLESS ALL ITEMS ARE COMPLETED.  
THE INFORMATION BEING DISCLOSED MAY INCLUDE HIV/AIDS, DRUG/ALCOHOL ABUSE & MENTAL  
HEALTH DATA.

I HEREBY AUTHORIZE HERSHEY MEDICAL CENTER/UNIVERSITY HOSPITAL TO  
A. RELEASE TO  OR  B. RECEIVE FROM  
(Circle One)

Shollenberger & Januzzi LLP

(Name of authorized person, agency, institution, or other)

2225 Millennium Way

Enola

PA

17025

(Street)

(City)

(State)

(Zip Code)

Reason for Request: Legal suit

Type of information to be released consists of:

DISCHARGE DATE(S)  OUTPATIENT VISIT DATE(S)

Discharge Summary (ies)  History + Physical  Operative Report \_\_\_\_\_

Diagnostic Test(s) \_\_\_\_\_ Indicate Type of Test & Date

Other (please specify) for dates of service 1-1-05 to 3-5-07

This consent is subject to revocation at any time except to the extent that the person who is to make the disclosure has already taken action in reliance on it. If you wish to revoke this authorization, you must do so in writing to the address at the top of this form, to the attention of the HMC Privacy Officer. If not previously revoked, this consent will terminate ninety (90) days from the date of signature. Failure to sign this form will not impact your right to receive care at Hershey Medical Center. Neither our treatment nor your payment is conditioned upon your signature on this form.

I hereby release the provider of said records from any legal responsibility or liability in connection with the release of the records indicated and herein.

Albert W. Lannan  
Signature of Patient or Representative

3-5-07

Date

(Relationship if signed by other than Patient)

Witnessed  MUST BE SIGNED

726-3202  
PHONE

**Note to recipient of information:** This information has been disclosed to you from the records protected by Pennsylvania Law. Pennsylvania Law prohibits you from making any further disclosure of this information unless further disclosure is expressly permitted by the written consent of the person to whom it pertains.

**S**HOLLENBERGER & **J**ANUZZI, LLP  
2225 Millennium Way  
Enola, PA 17025  
Telephone Number: (717) 728-3200  
Fax Number: (717) 728-3400  
Attorneys for Plaintiffs

ALBERT HAMM and BARBARA HAMM,  
husband and wife,

Plaintiffs

vs.

GEORGE C. MOSCH II, M.D., GORDON  
PENNER CLARK, M.D.,  
RODOLFO S. POLINTAN, M.D.;  
CLEARFIELD FAMILY MEDICINE; and  
CLEARFIELD HOSPITAL,

Defendants

IN THE COURT OF COMMON PLEAS  
CLEARFIELD COUNTY

NO. 2006 – 1356 CD

CIVIL ACTION - LAW  
JURY TRIAL DEMANDED

---

**CERTIFICATE OF SERVICE**

---

AND NOW, this 6<sup>th</sup> day of March, 2007, I  
hereby certify that I have served the foregoing document to the following by  
depositing a true and correct copy of same in the United States mail, postage  
prepaid, addressed to:

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

***Counsel for Defendants Gordon Penner Clark, M.D.  
and Clearfield Hospital***

Daniel P. Carroll, Esquire  
Firm #281  
One Gateway Center  
Tenth Floor  
Pittsburgh, PA 15222

***Counsel for Defendant, George C. Mosch, II, M.D.  
and Clearfield Family Medicine Associates, incorrectly  
designated as Clearfield Family Medicine***

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

***Counsel for Defendant, Rodolfo S. Polintan, M.D.***

SHOLLENBERGER & JANUZZI, LLP

By: 

Timothy A. Shollenberger, Esq.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

ALBERT HAMM and BARBARA HAMM, husband  
and wife,

Plaintiffs,

vs.

GEORGE C. MOSCH, II, M.D.; GORDON  
PENNER CLARK, M.D.; RODOLFO S.  
POLINTAN, M.D.; CLEARFIELD FAMILY  
MEDICINE; and CLEARFIELD HOSPITAL,

Defendants.

CIVIL DIVISION

No. 2006 - 1356 - CD

FILED

MAR 08 2007

William A. Shaw  
Prothonotary/Clerk of Courts

JURY TRIAL DEMANDED

**CERTIFICATE OF SERVICE**

TO THE PROTHONOTARY:

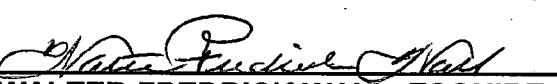
I, Walter Fredrick Wall, Esquire, of the law firm of MEYER, DARRAGH, BUCKLER, BEBENEK & ECK, PLLC, hereby certify that on this **7<sup>th</sup> day of March, 2007**, I have served the foregoing Rule Returnable on the Motion to Compel on behalf of Defendant, Rodolfo S. Polintan, M.D., upon all counsel/parties of record, by mailing a true and correct copy of same by United States first class mail, postage prepaid as follows:

Timothy Shollenberger, Esquire  
Shollenberger & Januzzi  
2225 Millennium Way  
Enola, PA 17025

Frank Hartye, Esquire  
McIntyre, Hartye & Schmitt  
PO Box 533  
Hollidaysburg, PA 16648

Daniel P. Carroll, Esquire  
Davies, McFarland & Carroll, P.C.  
One Gateway Center  
Tenth Floor  
Pittsburgh, PA 15222

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

BY: 

**WALTER FREDRICK WALL, ESQUIRE**  
Counsel for Defendant, Rodolfo S. Polintan, M.D.  
120 Lakemont Park Boulevard  
Altoona, PA 16602  
Phone No.: (814) 941-4600  
ID # 23657

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

ALBERT HAMM and BARBARA HAMM,  
husband and wife,

Plaintiffs,

vs.

GEORGE C. MOSCH, II, M.D.;  
GORDON PENNER CLARK, M.D.;  
RODOLFO S. POLINTAN, M.D.;  
CLEARFIELD FAMILY MEDICINE; and  
CLEARFIELD HOSPITAL,

Defendants.

CIVIL DIVISION

No. 2006 - 1356 - CD

JURY TRIAL DEMANDED

RULE

NOW THIS 2<sup>nd</sup> day of MARCH, 2007, a Rule is hereby issued upon  
Plaintiffs to show cause, if any there should be, why the Motion to Compel of Defendant,  
Rodolfo S. Polintan, M.D., should not be granted.

Said Rule Returnable the 20<sup>th</sup> day of MARCH, 2007, at 3:00 o'clock,  
9.m., Courtroom No. 1, Clearfield County Courthouse, Clearfield, Pennsylvania.

/S/ Fredric J Ammerman

J.

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

MAR 02 2007

Attest.

*William L. Lewis*  
Prothonotary/  
Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

ALBERT HAMM and BARBARA HAMM,  
husband and wife,

Plaintiffs,

vs.

GEORGE C. MOSCH, II, M.D.;  
GORDON PENNER CLARK, M.D.;  
RODOLFO S. POLINTAN, M.D.;  
CLEARFIELD FAMILY MEDICINE; and  
CLEARFIELD HOSPITAL,

Defendants.

CIVIL DIVISION

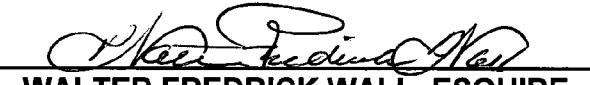
No. 2006 - 1356 - CD

JURY TRIAL DEMANDED

**PRAECIPE TO WITHDRAW MOTION TO COMPEL DISCOVERY**

Kindly withdraw the Motion to Compel Discovery currently scheduled for hearing on  
March 20, 2007 at 3:00 p.m. in that it has been resolved.

MEYER, DARRAGH, BUCKLER, BEBENEK & ECK, PLLC

BY: 

WALTER FREDRICK WALL, ESQUIRE

Counsel for Defendant, Rodolfo S. Polintan, M.D.  
120 Lakemont Park Boulevard  
Altoona, PA 16602  
Phone No.: (814) 941-4600  
ID # 23657

FILED

MAR 14 2007

11:00 AM  
William A. Shaw  
Prothonotary/Clerk of Courts  
ncc/c

**CERTIFICATE OF SERVICE**

TO THE PROTHONOTARY:

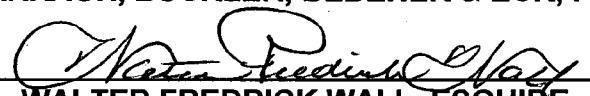
I, Walter Fredrick Wall, Esquire, of the law firm of MEYER, DARRAGH, BUCKLER, BEBENEK & ECK, PLLC, hereby certify that on this **13<sup>th</sup> day of March, 2007**, I have served the foregoing Motion to Withdraw Motion to Compel Discovery on behalf of Defendant, Rodolfo S. Polintan, M.D., upon all counsel/parties of record, by mailing a true and correct copy of same by United States first class mail, postage prepaid as follows:

Timothy Shollenberger, Esquire  
Shollenberger & Januzzi  
2225 Millennium Way  
Enola, PA 17025

Frank Hartye, Esquire  
McIntyre, Hartye & Schmitt  
PO Box 533  
Hollidaysburg, PA 16648

Daniel P. Carroll, Esquire  
Davies, McFarland & Carroll, P.C.  
One Gateway Center  
Tenth Floor  
Pittsburgh, PA 15222

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

BY: 

**WALTER FREDRICK WALL, ESQUIRE**  
Counsel for Defendant, Rodolfo S. Polintan, M.D.  
120 Lakemont Park Boulevard  
Altoona, PA 16602  
Phone No.: (814) 941-4600  
ID # 23657

**SHOLLENBERGER & JANUZZI, LLP**

2225 Millennium Way

Enola, PA 17025

Telephone Number: (717) 728-3200

Fax Number: (717) 728-3400

Attorneys for Plaintiffs

ALBERT HAMM and BARBARA HAMM,  
husband and wife,

Plaintiffs

vs.

GEORGE C. MOSCH II, M.D., GORDON  
PENNER CLARK, M.D.,  
RODOLFO S. POLINTAN, M.D.;  
CLEARFIELD FAMILY MEDICINE; and  
CLEARFIELD HOSPITAL,

Defendants

IN THE COURT OF COMMON PLEAS  
CLEARFIELD COUNTY

NO. 2006-1356-CD

CIVIL ACTION - LAW  
JURY TRIAL DEMANDED

**ENTRY OF APPEARANCE**

TO THE PROTHONOTARY:

Kindly enter the appearance of the undersigned as counsel on behalf of  
the Plaintiffs, Albert Hamm and Barbara Hamm, with respect to the above  
referenced matter.

Respectfully Submitted,



Ralph Mazer, Esquire  
31 West Ashland Street  
Doylestown, PA 18901  
215-489-5022  
215-489-5088 (fax)  
email: [r.s.mazer@att.net](mailto:r.s.mazer@att.net)  
PA ID # 66229

**FILED** 4cc  
m/12/2007 AMY  
MAR 26 2007

William A. Shaw  
Prothonotary/Clerk of Courts  
Copy to CJA  
66229

**S**HOLLENBERGER & J<sup>A</sup>NUZZI, LLP

2225 Millennium Way

Enola, PA 17025

Telephone Number: (717) 728-3200

Fax Number: (717) 728-3400

Attorneys for Plaintiffs

ALBERT HAMM and BARBARA HAMM,  
husband and wife,

Plaintiffs

vs.

GEORGE C. MOSCH II, M.D., GORDON  
PENNER CLARK, M.D.,

RODOLFO S. POLINTAN, M.D.;  
CLEARFIELD FAMILY MEDICINE; and  
CLEARFIELD HOSPITAL,

Defendants

IN THE COURT OF COMMON PLEAS  
CLEARFIELD COUNTY

NO. 2006-1356-CD

CIVIL ACTION - LAW  
JURY TRIAL DEMANDED

---

**CERTIFICATE OF SERVICE**

---

And now, this 21<sup>st</sup> day of March, 2007, I hereby certify that a true and correct copy of the foregoing Entry of Appearance of Ralph Mazer, Esquire has been served upon the following via U.S. Mail:

Frank J. Hartye, Esquire  
**McINTYRE, HARTYE & SCHMITT**  
P.O. Box 533  
Hollidaysburg, PA 16648-0533

***Counsel for Defendants Gordon Penner Clark, M.D.  
and Clearfield Hospital***

Daniel P. Carroll, Esquire  
Firm #281  
One Gateway Center  
Tenth Floor  
Pittsburgh, PA 15222

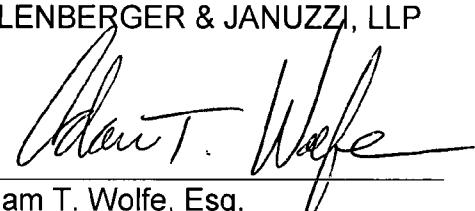
***Counsel for Defendant, George C. Mosch, II, M.D.  
and Clearfield Family Medicine Associates, incorrectly  
designated as Clearfield Family Medicine***

Walter Frederick Wall, Esquire  
120 Lakemont Park Blvd.  
Altoona, PA 16602

***Counsel for Defendant, Rodolfo S. Polintan, M.D.***

SHOLLENBERGER & JANUZZI, LLP

By:

  
Adam T. Wolfe, Esq.

FILED

**S**HOLLENBERGER & J<sup>A</sup>NUZZI, LLP  
2225 Millennium Way  
Enola, PA 17025  
Telephone Number: (717) 728-3200  
Fax Number: (717) 728-3400  
Attorneys for Plaintiffs

AUG 06 2007  
M/ 11:50/2  
William A. Shaw  
Prothonotary/Clerk of Courts

1 CERT TO  
ATTU  
Shaw

ALBERT HAMM and BARBARA HAMM,  
husband and wife,

IN THE COURT OF COMMON PLEAS *Shaw*  
CLEARFIELD COUNTY

Plaintiffs

NO. 2006-1356-CD

vs.

GEORGE C. MOSCH II, M.D., GORDON  
PENNER CLARK, M.D.,  
RODOLFO S. POLINTAN, M.D.;  
CLEARFIELD FAMILY MEDICINE  
ASSOCIATES; and  
CLEARFIELD HOSPITAL,

CIVIL ACTION - LAW  
JURY TRIAL DEMANDED

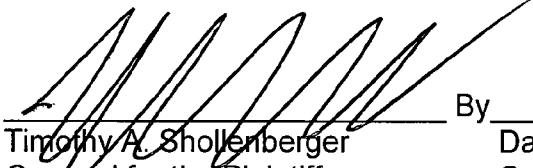
Defendants

STIPULATION FOR EXTENSION OF DEADLINES PRESCRIBED BY PA. R.C.P.  
1042.28

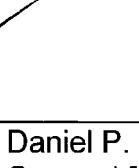
The parties to this action hereby stipulate and agree as follows:

1. The Plaintiffs need not furnish expert reports, pursuant to PA. R.C.P. 1042.28, to Defendant, RODOLFO S. POLINTAN, on or before August 21, 2007.
2. No later than sixty (60) days following the deposition of Defendant, RODOLFO S. POLINTAN, Plaintiffs shall furnish to Defendant, RODOLFO S. POLINTAN, expert reports summarizing the expert testimony that will be offered by that Plaintiffs to support their claims against Defendant, RODOLFO S. POLINTAN.

SHOLLENBERGER & JANUZZI, LLP DAVIES, McFARLAND & CARROLL, P.C.

By: 

Timothy A. Shollenberger  
Counsel for the Plaintiffs

By: 

Daniel P. Carroll  
Counsel for Defendants George C.  
Mosch, II, M.D. and Clearfield  
Family Medicine Associates

MCINTYRE, HARTYE & SCHMITT

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

By: 

Frank J. Hartye  
Counsel for Defendants Gordon  
Penner Clark, M.D. and  
Clearfield Hospital

By: 

Walter Frederick Wall  
Counsel for Defendant Roldolfo S.  
Polintan, M.D.

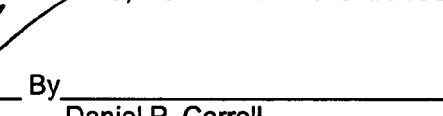
will be offered by that Plaintiffs to support their claims against Defendant,  
RODOLFO S. POLINTAN.

SHOLLENBERGER & JANUZZI, LLP DAVIES, McFARLAND & CARROLL, P.C.

By:

  
Timothy A. Shollenberger  
Counsel for the Plaintiffs

By:

  
Daniel P. Carroll  
Counsel for Defendants George C.  
Mosch, II, M.D. and Clearfield  
Family Medicine Associates

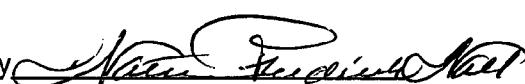
McINTYRE, HARTYE & SCHMITT

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

By:

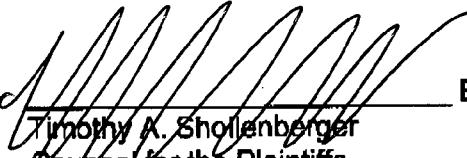
  
Frank J. Hartye  
Counsel for Defendants Gordon  
Penner Clark, M.D. and  
Clearfield Hospital

By:

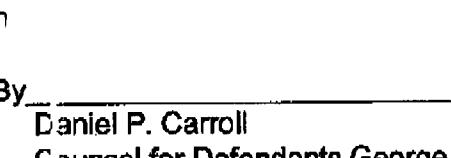
  
Walter Frederick Wall  
Counsel for Defendant Roldolfo S.  
Polintan, M.D.

will be offered by that Plaintiffs to support their claims against Defendant,  
RODOLFO S. POLINTAN.

SHOLLENBERGER & JANUZZI, LLP DAV ES, McFARLAND & CARROLL, P.C.

By: 

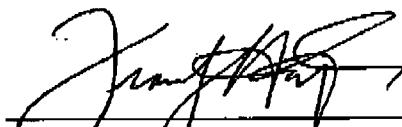
Timothy A. Shollenberger  
Counsel for the Plaintiffs

By: 

Daniel P. Carroll  
Counsel for Defendants George C.  
Moscch, II, M.D. and Clearfield  
Family Medicine Associates

MCINTYRE, HARTYE & SCHMITT

MEYER DARRAGH BUCKLER  
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By: 

Frank J. Hartye  
Counsel for Defendants Gordon  
Penner Clark, M.D. and  
Clearfield Hospital

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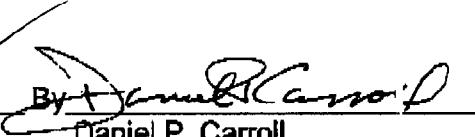
Walter Frederick Wall  
Counsel for Defendant Roldolfo S.  
Pollntan, M.D.

will be offered by that Plaintiffs to support their claims against Defendant,  
RODOLFO S. POLINTAN.

SHOLLENBERGER & JANUZZI, LLP DAVIES, McFARLAND & CARROLL, P.C.

By: 

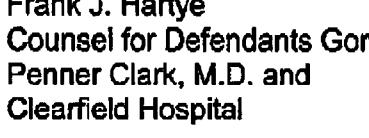
Timothy A. Shollenberger  
Counsel for the Plaintiffs

By: 

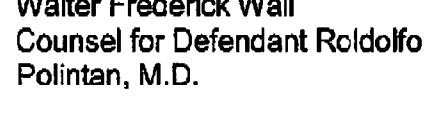
Daniel P. Carroll  
Counsel for Defendants George C.  
Mosch, II, M.D. and Clearfield  
Family Medicine Associates

MCINTYRE, HARTYE & SCHMITT

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

By: 

Frank J. Hartye  
Counsel for Defendants Gordon  
Penner Clark, M.D. and  
Clearfield Hospital

By: 

Walter Frederick Wall  
Counsel for Defendant Roldolfo S.  
Polintan, M.D.

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

ALBERT HAMM and BARBARA HAMM,  
husband and wife,

: No. 2006 – 1356 CD

: ISSUE:

: Motion in Limine.

Plaintiffs

vs.

GEORGE C. MOSCH, II, M.D.,  
GORDON PENNER CLARK, M.D.,  
RODOLFO S. POLINTAN, M.D.,  
CLEARFIELD FAMILY MEDICINE and  
CLEARFIELD HOSPITAL,

: Filed on behalf of Defendants,  
GORDON PENNER CLARK, M.D. and  
CLEARFIELD HOSPITAL

: Counsel of Record:  
Frank J. Hartye, Esquire  
PA I.D. #25568

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

Defendants

: JURY TRIAL DEMANDED

I HEREBY CERTIFY THAT A TRUE AND  
CORRECT COPY OF THE WITHIN WAS  
MAILED TO ALL COUNSEL OF RECORD  
THIS 14TH DAY OF AUGUST, 2007.

Laura O. Butler  
Attorneys for Named Defendants

FILED  
m/10/2007  
AUG 15 2007  
NOCC  
William A. Shaw  
Prothonotary/Clerk of Courts

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

ALBERT HAMM and BARBARA HAMM, : No. 2006 – 1356 CD  
husband and wife,

Plaintiffs

vs.

GEORGE C. MOSCH, II, M.D.,  
GORDON PENNER CLARK, M.D.,  
RODOLFO S. POLINTAN, M.D.,  
CLEARFIELD FAMILY MEDICINE and  
CLEARFIELD HOSPITAL,

Defendants

JURY TRIAL DEMANDED

**ORDER OF COURT**

AND NOW, this \_\_\_\_ day of \_\_\_\_\_, 2007, this matter having come  
before the court for consideration of defendants', GORDON PENNER CLARK, M.D. and  
CLEARFIELD HOSPITAL, Motion in Limine, it is hereby ORDERED, DIRECTED, and  
DECREEED, that the Motion in Limine is GRANTED and the plaintiffs are hereby  
precluded from making any argument regarding or presenting any evidence or testimony  
about Dr. Clark's prior conviction for tax evasion.

BY THE COURT:

---

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

ALBERT HAMM and BARBARA HAMM, : No. 2006 – 1356 CD  
husband and wife,

Plaintiffs

vs.

GEORGE C. MOSCH, II, M.D.,  
GORDON PENNER CLARK, M.D.,  
RODOLFO S. POLINTAN, M.D.,  
CLEARFIELD FAMILY MEDICINE and  
CLEARFIELD HOSPITAL,

Defendants

JURY TRIAL DEMANDED

**MOTION IN LIMINE**

AND NOW, come defendants, GORDON PENNER CLARK, M.D. and  
CLEARFIELD HOSPITAL, by and through their attorneys, MCINTYRE, HARTYE &  
SCHMITT, and file the following Motion in Limine to preclude evidence of a prior  
conviction:

1. Plaintiffs commenced this professional liability action by filing a Complaint on or about August 23, 2006.
2. The parties have been engaging in discovery, including the taking of depositions.
3. The videotape deposition of defendant, Gordon Penner Clark, M.D. was taken by plaintiffs on June 4, 2007.
4. During the deposition of Dr. Clark, plaintiffs' counsel questioned Dr. Clark regarding the circumstances of a conviction of tax evasion, which took place in 1992. See partial copy of the deposition transcript of Dr. Clark, attached hereto as "Exhibit A."

5. At the time of the deposition, counsel for Dr. Clark placed an objection on the record to use of the conviction for any purpose at trial.

6. PA. R.E. 609(b) provides that evidence of a conviction is not admissible for impeachment if a period of more than 10 years has elapsed since the date of the conviction or of the release of the witness from the confinement imposed for that conviction, whichever is the later date, unless the court determines, in the interests of justice, that the probative value of the conviction substantially outweighs its prejudicial effect.

7. Dr. Clark's conviction and subsequent confinement occurred more than 15 years ago. It was related to alleged activities occurring during the 1980's.

8. The probative value of this conviction is low due to the amount of time that has passed, the lack of relation to the allegations of the instant case, and Dr. Clark's lack of any other criminal background.

9. This evidence would be highly prejudicial to Dr. Clark because it casts dispersion on his character without discrediting him as an untruthful person with respect to the allegations of this case.

WHEREFORE, defendants, GORDON PENNER CLARK, M.D. and CLEARFIELD HOSPITAL, respectfully request that this court issue a finding that the probative value of Dr. Clark's conviction is substantially outweighed by its prejudicial effect and enter an Order precluding the plaintiffs from presenting any evidence or argument regarding the conviction at the time of trial.

Respectfully submitted,

MCINTYRE, HARTYE & SCHMITT

Laura O. Burke

Attorney for Defendants

Gordon Penner Clark, M.D. and  
Clearfield Hospital

LAURA O. BURKE, ESQUIRE

PA. ID. No. 200595

FRANK J. HARTYE, ESQUIRE

PA. ID. No. 25568

P.O. Box 533

Hollidaysburg, PA 16648

814/696-3581

1 that consisted of?  
 2 **A It consisted of part-time -- when I was in**  
 3 **practice in pediatrics and also when I was at**  
 4 **Children's Hospital in Michigan, I worked exclusively**  
 5 **in the emergency department.**

6 **Q** How much of that time was spent doing adult  
 7 emergency medicine, if any?

8 **A Probably half.**

9 **Q** Probably half. Have you had any formal  
 10 training in adult emergency medicine?

11 **A Many courses that I've taken in**  
 12 **preparation.**

13 **Q** What courses were they?

14 **A There was a series of courses of**  
 15 **orthopedics, psychiatry, cardiology, pulmonology, and**  
 16 **other subspecialties of emergency medicine.**

17 **Q** And where did you take those courses?

18 **A They were offered through -- well, the**  
 19 **series I took was a comprehensive review of emergency**  
 20 **medicine which was -- is no longer in existence, it**  
 21 **was a private corporation.**

22 **Q** What was the name of the corporation?

23 **A I don't know.**

24 **Q** So you didn't get this training at a  
 25 university then; it was some private company?

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1 **A Oh, these are all -- these are all by**  
 2 **university professors and -- yes, oh, yes.**

3 **Q** Was there a university that was giving this  
 4 program?

5 **A Sponsored it, no, no.**

6 **Q** And, again, you don't know the name or  
 7 address of this company?

8 **A It's no longer in existence. This was an**  
 9 **organization designed to -- for training for people**  
 10 **who had been doing emergency medicine for years and**  
 11 **years in the community, to get them up for special**  
 12 **skills.**

13 **Q** And how long --

14 **A For example, for example, I would take a**  
 15 **course in slip lab work, I would take a course in**  
 16 **orthopedics, casting, et cetera.**

17 **Q** Do you have any of the course materials  
 18 from these -- from any of these courses?

19 **A With me, no.**

20 **Q** No. Well, do you have them in your  
 21 possession anywhere, can you obtain them?

22 **A No.**

23 **Q** And what year did you --

24 **A Well, it would have**  
 25 **would say from a period of '8**

1 **MR. HARTYE: We've produced -- I might as**  
 2 **well get to it now. We've produced documentation**  
 3 **concerning a prior federal conviction which was in**  
 4 **1992, the -- as he's going to testify to here. His**  
 5 **license was, I guess, suspended while**  
 6 **he was incarcerated during that period of time. And**  
 7 **since we are well beyond the ten years of**  
 8 **admissibility, I'm objecting to any of this for**  
 9 **purposes of trial. We'll get into it a little bit,**  
 10 **but we're not going into great detail since I think**  
 11 **the law is very clear, over ten years and you don't**  
 12 **get there so --**

13 **MR. MAZER: We have at this -- that's a**  
 14 **matter that will be determined at the trial. At the**  
 15 **moment this is a discovery deposition; I have a right**  
 16 **to ask those questions. You can object and make a**  
 17 **continuing objection and then we'll let a judge**  
 18 **decide how much of it is admissible.**

19 **MR. SHOLLENBERGER: I'm just going to add**  
 20 **something here, if I may.**

21 **MR. HARTYE: Sure.**

22 **MR. SHOLLENBERGER: Pennsylvania Rule of**  
 23 **Evidence 609 says that the court does have the**  
 24 **discretion to allow in convictions that are greater**  
 25 **than ten years and in order to -- for the court to**

BORING COURT REPORTING

(814) 364-1793

EXHIBIT

A

<p style="text-align: center;">13</p> <p>1 assess whether or not this evidence should come in, 2 we need to ask these questions and then the court can 3 make their judgment. But if you look at the Rule of 4 Evidence, it very clearly states that the court can 5 exercise its discretion with regards to crim in falsi 6 on the last section.</p> <p>7 THE WITNESS; Excuse me, what was that?</p> <p>8 MR. SHOLLENBERGER: Crimins falsi, sir.</p> <p>9 THE WITNESS: What are you --</p> <p>10 MR. SHOLLENBERGER: C-R-I-M-I-N-S, Falsi.</p> <p>11 Crimes that go to truth or falsehood. So we need to 12 ask some questions about these things so we can 13 develop a record.</p> <p>14 MR. HARTYE: I understand.</p> <p>15 MR. SHOLLENBERGER: Okay? Just so you 16 know.</p> <p>17 MR. HARTYE: Yeah, I understand.</p> <p>18 MR. SHOLLENBERGER: All right. Go ahead.</p> <p>19 THE VIDEOGRAPHER: On the record, 11:24.</p> <p>20 BY MR. MAZER:</p> <p>21 Q Now, Doctor, you were about to tell us the 22 circumstances surrounding the suspension of your 23 license.</p> <p>24 A Yes. I was convicted of tax evasion and 25 served four and a half months at a federal prison</p>	<p style="text-align: center;">15</p> <p>1 of pediatrics in Seneca, Pennsylvania, from the years 2 '80 -- 1984 till 1987, I believe.</p> <p>3 Q And did this conviction have anything to do 4 with an application for school loans?</p> <p>5 A That was a -- oh, what's the term for it?</p> <p>6 Supplementary indictment or --</p> <p>7 THE WITNESS: Maybe you can help me, Frank.</p> <p>8 You know what I mean?</p> <p>9 MR. MAZER: Well, no, he -- you have to 10 answer.</p> <p>11 THE WITNESS: Well, secondary -- secondary 12 indictment leading from the first.</p> <p>13 BY MR. MAZER:</p> <p>14 Q Well, tell me what that -- what that 15 involved, tell me --</p> <p>16 A Well, the -- as far as school for my 17 daughters, they -- the school loans and aid were 18 predicated on tax returns. Since the tax returns 19 were considered to be false, the loans were also 20 false, falsely obtained. Is that satisfactory?</p> <p>21 Q Thank you. Have you had -- ever received 22 any treatment for drug or alcohol abuse?</p> <p>23 A No, never.</p> <p>24 Q Who is your current employer?</p> <p>25 A Clearfield Hospital.</p>
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<p style="text-align: center;">14</p> <p>1 camp in McKean, Pennsylvania, or McKean County, and 2 then six months in a halfway house in Erie during 3 which time I was allowed to work except for the time 4 I was in, so my license was essentially suspended 5 from January through the middle of May in 1992.</p> <p>6 Q Now, did you satisfactorily complete all of 7 your sentence?</p> <p>8 A Oh, yes.</p> <p>9 Q All the requirements of the sentence 10 were --</p> <p>11 A Yes.</p> <p>12 Q -- completed? And would you briefly tell 13 me the circumstances of the allegations against you 14 with regards to the tax evasion?</p> <p>15 A I'm not sure -- I don't understand the 16 question, sir.</p> <p>17 Q You were charged with tax evasion --</p> <p>18 A Correct.</p> <p>19 Q -- correct?</p> <p>20 A Yes, I was convicted.</p> <p>21 Q What were the circumstances, tell me what 22 happened with regard to that, what did they say you 23 did?</p> <p>24 A Oh, they said I underreported income and 25 overstated expenses when I was in my private practice</p>	<p style="text-align: center;">16</p> <p>1 Q And at the time of this case that is the 2 subject of this lawsuit, who was your employer?</p> <p>3 A Well, you know, it -- the investigation 4 took -- went on for a period of time so I actually 5 had two employers. I had one at Brookville Hospital 6 and was also working at Corry Hospital.</p> <p>7 Q All right.</p> <p>8 MR. HARTYE: Excuse me, Doctor, I think 9 he's talking about this lawsuit here, this Mr. Hamm 10 --</p> <p>11 THE WITNESS: Oh.</p> <p>12 MR. HARTYE: -- when you treated him in 13 '04.</p> <p>14 MR. MAZER: Yes.</p> <p>15 THE WITNESS: Oh, you switched the question 16 there on me.</p> <p>17 MR. MAZER: I apologize for that.</p> <p>18 THE WITNESS: Clearfield Hospital.</p> <p>19 BY MR. MAZER:</p> <p>20 Q What experience, if any, have you had in 21 the diagnosis of infected knee joints in an 22 Insulin-dependent diabetic as part of your emergency 23 medical training?</p> <p>24 A Have I had any specific training in this?</p> <p>25 Q Yes.</p>
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1 Q. Did he discuss with you the fact  
 2 that maybe you needed to be admitted to  
 3 do a workup or something along those  
 4 lines?  
 5 A. No.  
 6 Q. So then the second injection is  
 7 on the 27th, how long did that last  
 8 before ---?  
 9 A. Oh, it never done no good.  
 10 Q. Okay, so your wife then called  
 11 back at some point?  
 12 A. Yeah, she probably called back  
 13 and told them it didn't help.  
 14 Q. I think when you were speaking  
 15 with Attorney Wall you were talking  
 16 about on the 29th which would be like  
 17 two days later, an indication that it  
 18 didn't help and that you needed to use  
 19 crutches by that point?  
 20 A. Yeah.  
 21 Q. Okay, does that sound right?  
 22 A. That sounds right.  
 23 Q. After the second injection you  
 24 needed to use crutches?  
 25 A. Yes, I did.

1 Q. All right. At that point after  
 2 that callback, what was your  
 3 understanding, if any, as to what the  
 4 game plan was?  
 5 A. I had no idea what was going on  
 6 at that time.  
 7 Q. All right. You had your wife  
 8 call Dr. Mosch's office to talk to him  
 9 about the fact that you were still  
 10 having pain?  
 11 A. I believe so, yes.  
 12 Q. Okay. She calls. Do you recall  
 13 what she told you about what he said?  
 14 A. No, I don't at this time. I  
 15 can't remember.  
 16 Q. You don't remember any plan at  
 17 that point on what it was that you were  
 18 going to do, go back for another shot,  
 19 go to see somebody else?  
 20 A. No, there wasn't. I don't think  
 21 there was any plan at that time.  
 22 Q. And then on the 31st there was a  
 23 call to the ambulance people to take  
 24 you to the hospital.  
 25 A. Right.

1 Q. And did you ask your wife to  
 2 make that call?  
 3 A. Yes, I did.  
 4 Q. And she would have made that  
 5 call?  
 6 A. Yes, she made it.  
 7 Q. Okay. And as far as that goes,  
 8 did either you or your wife to your  
 9 recollection tell the ambulance people  
 10 that you thought you may have some kind  
 11 of clot going on in your leg?  
 12 A. Yes.  
 13 Q. Was that --- you would have told  
 14 them that?  
 15 A. It was probably me that told  
 16 them.  
 17 Q. Okay. And had you had a clot in  
 18 your leg before?  
 19 A. No, I never had trouble with  
 20 them.  
 21 Q. Have you heard about such things  
 22 where people get clots in their legs?  
 23 A. Oh my wife has a lot of trouble  
 24 with them.  
 25 Q. All right, your wife had

1 problems with them. Have you ever  
 2 heard of DVT?  
 3 A. DVT?  
 4 Q. Yeah.  
 5 A. No.  
 6 Q. Okay. So your wife had trouble  
 7 with clots in her leg before so you  
 8 were aware that that's a problem?  
 9 A. Oh, my yes.  
 10 Q. And that it's something that  
 11 needs attention right away?  
 12 A. Oh, my yes.  
 13 Q. And that it can be painful, too?  
 14 A. Yeah.  
 15 Q. All right. And you thought you  
 16 may have had that and so that's why you  
 17 had the ambulance called?  
 18 A. I thought maybe I could have  
 19 because I wasn't sure what was wrong.  
 20 Q. All right. Why the ambulance  
 21 and not have your wife drive you down?  
 22 A. Well at the time we had a small  
 23 car and I couldn't get into it.  
 24 Q. All right. So when they show up  
 25 you're basically sitting on the couch

<p style="text-align: right;">Page 126</p> <p>1   <b>in the living room?</b>  2   A. Right.  3   <b>Q. And then ---.</b>  4   A. Well I believe I was laying down  5   when they come.  6   <b>Q. All right. And you told them</b>  7   <b>what the problem was?</b>  8   A. Yes.  9   <b>Q. You told them you thought you</b>  10   <b>may have a clot?</b>  11   A. I believe that's what ---.  12   <b>Q. And you want to get to the</b>  13   <b>hospital?</b>  14   A. Yeah.  15   <b>Q. All right. When you get to the</b>  16   <b>hospital do you recall talking to Dr.</b>  17   <b>Clark, the emergency room physician?</b>  18   A. I remember a doctor being there  19   but I wasn't sure who it was, whether  20   it was Dr. Clark or, you know, another  21   physician.  22   <b>Q. Do you know Dr. Clark? Do you</b>  23   <b>know what he looks like, anything like</b>  24   <b>that today?</b>  25   A. No, I don't.</p>	<p style="text-align: right;">Page 128</p> <p>1   A. No, I don't.  2   <b>Q. A couple hours, several hours?</b>  3   A. To tell you the truth I can't.  4   They had me doped, they were giving me  5   something to, you know, you're not  6   thinking straight.  7   <b>Q. All right. Do you recall that</b>  8   <b>you went at late at night, maybe around</b>  9   <b>midnight to the emergency department or</b>  10   <b>you don't remember?</b>  11   A. I'm not sure about that.  12   <b>Q. All right. Do you remember when</b>  13   <b>you were released to go back home?</b>  14   A. I think it was either the next  15   day or a couple days later. I'm not  16   sure about that.  17   <b>Q. All right. Do you remember any</b>  18   <b>conversations with Dr. Clark as to what</b>  19   <b>he thought your condition was or what</b>  20   <b>the plan was?</b>  21   A. I believe Dr. Clark said  22   something to me but I don't remember  23   what it was or what they was going to  24   do.  25   <b>Q. The records reflect that you</b></p>
<p style="text-align: right;">Page 127</p> <p>1   <b>Q. All right. Have you seen his</b>  2   <b>name as far as the records in this</b>  3   <b>case?</b>  4   A. I've seen his name like name in  5   the paper and different things.  6   <b>Q. All right. Do you remember what</b>  7   <b>you would have told Dr. Clark that day,</b>  8   <b>what your problem was or what your</b>  9   <b>complaints were?</b>  10   A. Other than my left knee was  11   bothering me. That's why I was there,  12   for my left knee.  13   <b>Q. All right. Do you remember</b>  14   <b>being taken to x-ray?</b>  15   A. No, I don't.  16   <b>Q. You don't?</b>  17   A. No.  18   <b>Q. Do you remember being told</b>  19   <b>anything about what the x-ray showed?</b>  20   A. Well, in the things we got it  21   said that I had x-rays taken and the  22   x-rays didn't show anything.  23   <b>Q. Okay. Do you have any</b>  24   <b>recollection of how long you were in</b>  25   <b>the emergency department on the 31st?</b></p>	<p style="text-align: right;">Page 129</p> <p>1   <b>were to follow up with your family</b>  2   <b>doctor and I guess that would be Dr.</b>  3   <b>Mosch ---.</b>  4   A. Yeah, Dr. Mosch.  5   <b>Q. --- as soon as possible.</b>  6   A. Yeah.  7   <b>Q. Do you recall whether a phone</b>  8   <b>call was made to Dr. Mosch that same</b>  9   <b>day on the 31st after you got out or</b>  10   <b>was it the next day, January 1st?</b>  11   A. I'm not sure about that.  12   <b>Q. Okay. Do you recall if any</b>  13   <b>other doctors were called between your</b>  14   <b>emergency room visit and when you were</b>  15   <b>admitted on January 1?</b>  16   A. Well they keep on telling me  17   about Dr. Polintan and as far as I'm  18   concerned I never talked to Dr.  19   Polintan.  20   <b>Q. Okay. But I'm talking about</b>  21   <b>before you got admitted by Dr. Mosch to</b>  22   <b>the hospital on January 1, did you make</b>  23   <b>---?</b>  24   A. No, I don't believe I did, I  25   never seen no other ones.</p>

1 2:49 p.m.  
 2 BY MR. MAZER:  
 3 Q Is that when your first saw this patient?  
 4 A No, it would be afterwards, of course.  
 5 Q When did you first see Mr. Hamm?  
 6 A I don't precisely know exactly when I saw  
 7 him, if you're talking about a specific time.  
 8 Q No. Is it -- I just need to know the best  
 9 approximation. Is this the first time you'd ever  
 10 seen Mr. Hamm, had you treated him on any other prior  
 11 occasions?  
 12 A Oh, no, sir.  
 13 Q And you took a history?  
 14 A Yes.  
 15 Q And what did you learn?  
 16 A I learned that the patient had a long  
 17 history of arthritis of the left knee. He was a  
 18 diabetic who was being controlled with insulin and he  
 19 had some swelling and tenderness of the left lower  
 20 leg. He had also been having a history of increased  
 21 thirst and increased urine for the past week. The  
 22 pain in the knee had been ongoing and he had had  
 23 trouble walking on the leg because of pain. He --  
 24 there was a concern from his wife that he may have  
 25 had a blood clot and they were specifically worried

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1 A It consisted of the complete assessment of  
 2 the patient starting with his constitutional  
 3 appearance, and I noted at the time he appeared  
 4 moderately dehydrated. There was nothing wrong with  
 5 his pupils; they were equally round and reactive to  
 6 light. The ears were normal, the nose was normal,  
 7 and the -- the mouth and throat were normal. The  
 8 trachea was in the midline, the neck was supple and  
 9 was not tender to palpation. The heart showed a  
 10 regular rate and rhythm, no -- no problems with his  
 11 cardiac rhythm, there were no murmurs. And his  
 12 respiratory rate were normal -- was normal and there  
 13 were no rales on either base. The abdomen was  
 14 normal.  
 15 I did not do a rectal exam. I usually  
 16 don't do a rectal exam unless there's a specific  
 17 indication for doing it such as painful defecation or  
 18 a history of dark stools or black stools and -- but  
 19 his urinary system was normal. He did have marked  
 20 pitting edema of both lower extremities and the left  
 21 leg was more swollen than the right and there was  
 22 some tenderness over the tibial tuberosity and some  
 23 pain on passive movement of this leg. The  
 24 neurological was intact and the psychological  
 25 examination was normal.

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1 about a blood clot of the leg.  
 2 Q Well, tell me what the wife had to say to  
 3 you; tell me what she said.  
 4 A Well, the wife wasn't there.  
 5 Q Oh, okay.  
 6 A I'm told.  
 7 Q Well, then how do you know that it was the  
 8 wife then that had the concern of the blood clot?  
 9 A The patient related it.  
 10 Q And do you remember what he said?  
 11 A No.  
 12 Q What else did he tell you?  
 13 A He had told me that he had had no fever or  
 14 unexpected weight change or feeling poorly. He had  
 15 no visual changes, no hearing changes. He had no  
 16 chest pain even though he had a long history of coro  
 17 -- of coronary artery disease.  
 18 He had no cough or respiratory distress, no nausea,  
 19 vomiting, or diarrhea. He told me he did have  
 20 chronic renal disease secondary to his diabetes, no  
 21 headache or weakness and no skin rash.  
 22 Q All right. After he gave you his history,  
 23 what did you do next?  
 24 A Did a physical examination.  
 25 Q And what did that consist of?

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1 Q And what did -- did you determine a cause  
 2 of his pitting edema?  
 3 A I wasn't exactly sure, frankly. It can be  
 4 due from a number of reasons. In this particular  
 5 case, because there was an inequality between the two  
 6 legs and the amount of edema, we always think of a  
 7 deep vein thrombosis, which is typical -- typically  
 8 unilateral as opposed to both -- both sides.  
 9 Q Did you think of anything else besides a  
 10 thrombophlebitis?  
 11 A Congestive heart failure can do this.  
 12 Sometimes it's dependent edema associate and obesity  
 13 can also lead to brawny thickening and edema of both  
 14 lower extremities.  
 15 Q Did you consider anything else?  
 16 A No.  
 17 Q Okay. Now, it also says that the -- there  
 18 was marked tenderness over the tibial tuberosity.  
 19 A Yeah.  
 20 Q What significance, if any, did you  
 21 attribute to that?  
 22 A I wasn't sure. The man had had a history  
 23 of chronic arthritis and he had been  
 24 treated -- being treated by his prim  
 25 a long period of time and I -- if I ga

EXHIBIT

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1 significance to this, I would have thought it would  
 2 be part of his chronic arthritic condition, and that  
 3 also includes the pain in his knee.

4 Q Did you consider any other diagnosis other  
 5 than osteoarthritis?

6 A No, I did not.

7 Q It also goes on to say that he complains of  
 8 severe pain on passive movement of the knee. What  
 9 significance, if any, did you attribute to that?

10 A Again, his osteoarthritis.

11 Q And did you consider any other diagnosis?

12 A No, I did not.

13 Q What did you do after that?

14 A I ordered some laboratory work and found  
 15 that his white blood count was 5,500 which is within  
 16 the normal range. Hemoglobin was 11.6. Coagulation  
 17 studies were normal. The test called a d-Dymer is  
 18 some -- frequently used as an indicator of deep vein  
 19 thrombosis and it was elevated three times the normal  
 20 range. And I also did a comprehensive metabolic  
 21 panel which showed he had hyperglycemia. His blood  
 22 sugar which should have been in the 65 to 99  
 23 milligram per deciliter range was 447. His sodium  
 24 was markedly low, his potassium was elevated. His  
 25 chloride was low. And his kidney function showed

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1 evidence of his chronic renal disease in addition to  
 2 dehydration. He also had low albumin and one of his  
 3 liver function tests was elevated. I wasn't really  
 4 sure how to interpret that particular finding.

5 The -- I also did ketones which is a test  
 6 to determine whether the patient has diabetic  
 7 ketoacidosis, whether he's running an acidosis which  
 8 is a more urgent and it's a more serious condition  
 9 than just having high blood sugar in a diabetic. And  
 10 he did not have any ketones so -- and so I -- from  
 11 that I implied that he was not acidotic.

12 He also had a blood gas which showed his pH  
 13 to be 7.36, which was within the normal range. And  
 14 from this I interpreted that his -- his diabetes was  
 15 poor, was under poor control, but that the only  
 16 manifestations at the time of my visit were that he  
 17 was dehydrated and, therefore, I treated him with IV  
 18 fluids.

19 I also reviewed his x-rays that had been  
 20 taken a few days before and they showed extensive  
 21 arthritis and I did not -- I did not repeat these.

22 Q And why didn't you repeat the x-rays?

23 A X-rays that have been done within a few  
 24 days of each other are not -- are not usually  
 25 productive.

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1 Q And what else did you do?

2 A Are you talking about therapy now, sir?

3 Q If you've concluded -- is that all the  
 4 diagnostic tests you did, didn't you --

5 A Oh, yes, I did, yeah, I did, I did Doppler  
 6 studies of his lower legs.

7 Q Tell me about that.

8 A I did Doppler studies of his veins -- of  
 9 extremity veins bilaterally and they showed no  
 10 evidence of deep vein thrombosis of his legs.

11 Q Then what did you do?

12 A Then I treated him for his pain and I  
 13 treated him for his dehydration.

14 Q And by treating him for his pain you gave  
 15 him injections of Demerol, is that correct?

16 A Demerol, yes.

17 Q And Phenergan?

18 A Phenergan, yes.

19 Q And you did that twice during the night?

20 A Yes.

21 Q And what else did you do?

22 A I also treated his dehydration with  
 23 intravenous fluids which was appropriate. I gave him  
 24 two liters and then -- and I also gave him some  
 25 insulin intravenously. I gave him three liters,

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1 excuse me, and some intravenous insulin.

2 Q And then what did you do?

3 A Well, then I waited to see him, how he was  
 4 improving clinically and he seemed -- he was  
 5 improving clinically. He was a little bit sleepy  
 6 from the Demerol. He appeared considerably improved  
 7 and I discharged him with instructions to see his  
 8 private doctor as soon as possible, preferably the  
 9 next day.

10 Q Now, what was your diagnosis when you  
 11 discharged him?

12 A Yeah, diabetes mellitus with  
 13 manifestations, arthritis, and dehydration.

14 Q Now you say that you reviewed his -- you  
 15 reviewed his x-rays. Did you actually look at the  
 16 films or did you --

17 A Yes.

18 Q -- read a report?

19 A No, I looked at the films.

20 Q And these films were where?

21 A In the hospital.

22 Q In the hospital. And did you show them to  
 23 a radiologist or did you look at them yourself?

24 A I looked at it myself. It was 2:30 at  
 25 night -- in the morning.

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IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

ALBERT HAMM and BARBARA HAMM,  
husband and wife,

Plaintiffs,

vs.

GEORGE C. MOSCH, II, M.D.;  
GORDON PENNER CLARK, M.D.;  
RODOLFO S. POLINTAN, M.D.;  
CLEARFIELD FAMILY MEDICINE; and  
CLEARFIELD HOSPITAL,

Defendants.

CIVIL DIVISION

No. 2006 - 1356 - CD

JURY TRIAL DEMANDED

FILED  
M 10/5/01  
OCT 10 2001  
Copy to  
William A. Shaw  
Prothonotary/Clerk of Courts

**PRAECIPE TO WITHDRAW/ENTER APPEARANCE**

TO THE PROTHONOTARY:

Please withdraw the appearance of Walter Fredrick Wall, Esquire, as counsel for Defendant, Rodolfo S. Polintan, M.D., in the above-captioned matter.

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

BY: *Walter Fredrick Wall*

WALTER FREDRICK WALL, ESQUIRE  
120 Lakemont Park Boulevard  
Altoona, PA 16602  
Phone No.: (814) 941-4600  
ID # 23657

TO THE PROTHONOTARY:

Please enter my appearance as counsel for Defendant, Rodolfo S. Polintan, M.D., in the above-captioned matter.

**WEBER GELLAGHER SIMPSON STAPLETON  
FIRES & NEWBY, LLP**

BY: *Paula A. Koczan*

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I.D. #46932

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

ALBERT HAMM and BARBARA HAMM, husband  
and wife,

Plaintiffs,  
vs.

GEORGE C. MOSCH, II, M.D.; GORDON  
PENNER CLARK, M.D.; RODOLFO S.  
POLINTAN, M.D.; CLEARFIELD FAMILY  
MEDICINE; and CLEARFIELD HOSPITAL,

Defendants.

CIVIL DIVISION

No. 2006 - 1356 - CD

FILED  
M/15/07  
OCT 15 2007  
S

William A. Shaw  
Prothonotary/Clerk of Courts

JURY TRIAL DEMANDED

**CERTIFICATE OF SERVICE**

TO THE PROTHONOTARY:

I, Walter Fredrick Wall, Esquire, of the law firm of MEYER, DARRAGH, BUCKLER, BEBENEK & ECK, PLLC, hereby certify that on this **12<sup>th</sup> day of October, 2007**, I have served the foregoing Praeclipe to Withdraw/Entry of Appearance on behalf of Defendant, Rodolfo S. Polintan, M.D., upon all counsel/parties of record, by mailing a true and correct copy of same by United States first class mail, postage prepaid as follows:

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OCT 15 2007

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husband and wife,

Plaintiffs

vs.

GEORGE C. MOSCH II, M.D., GORDON  
PENNER CLARK, M.D.,  
RODOLFO S. POLINTAN, M.D.;  
CLEARFIELD FAMILY MEDICINE; and  
CLEARFIELD HOSPITAL,

Defendants

IN THE COURT OF COMMON PLEAS  
CLEARFIELD COUNTY

NO. 2006-1356-CD

CIVIL ACTION – MEDICAL  
PROFESSIONAL LIABILITY ACTION

**CERTIFICATE OF SERVICE**

And now, this 14<sup>th</sup> day of February 2007, I hereby certify that a true and correct copy of the foregoing Plaintiffs' Response to Defendant Politan's Request for Production of Expert Reports has been served upon the following via U.S.

Mail:

Frank J. Hartye, Esquire  
McIntyre, Hartye & Schmitt  
P.O. Box 533  
Hollidaysburg, PA 16648-0533  
**Counsel for Defendants Gordon Penner Clark, M.D.  
and Clearfield Hospital**

FILED  
m/12:00pm  
FEB 19 2008  
W.A. Shaw  
Clerk of Courts

William A. Shaw  
Prothonotary/Clerk of Courts

Daniel P. Carroll, Esquire

Firm #281

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and Clearfield Family Medicine Associates, incorrectly  
designated as Clearfield Family Medicine***

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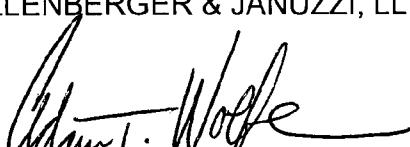
***Counsel for Defendant, Rodolfo S. Polintan, M.D.***

John Blasko, Esquire

811 University Drive

State College, PA 16801

SHOLLENBERGER & JANUZZI, LLP

By: 

Adam T. Wolfe, Esq.

**S**HOLLENBERGER & J<sup>A</sup>NUZZI, LLP  
2225 Millennium Way  
Enola, PA 17025  
Telephone Number: (717) 728-3200  
Fax Number: (717) 728-3400  
Attorneys for Plaintiffs

ALBERT HAMM and BARBARA HAMM,  
husband and wife,

Plaintiffs

vs.

GEORGE C. MOSCH II, M.D., GORDON  
PENNER CLARK, M.D.,  
RODOLFO S. POLINTAN, M.D.;  
CLEARFIELD FAMILY MEDICINE; and  
CLEARFIELD HOSPITAL,

Defendants

IN THE COURT OF COMMON PLEAS  
CLEARFIELD COUNTY

NO. 2006-1356-CD

CIVIL ACTION, - MEDICAL  
PROFESSIONAL LIABILITY ACTION

**FILED**  
M 10:50 AM  
MAR 02 2009  
S William A. Shaw  
Prothonotary/Clerk of Courts  
60

**CERTIFICATE OF SERVICE**

And now, this 23<sup>rd</sup> day of February 2009, I hereby certify that a true and correct copy of the foregoing Plaintiffs' Request to Defendant Rodolfo S. Politan, M.D. for Production of Expert Reports has been served upon the following via U.S. Mail:

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Attorneys for Plaintiffs

3  
**FILED** <sup>no</sup>  
M 11:08 AM  
MAR 06 2009  
William A. Shaw  
Prothonotary/Clerk of Courts

ALBERT HAMM and BARBARA HAMM,  
husband and wife,

Plaintiffs

vs.

GEORGE C. MOSCH II, M.D., GORDON  
PENNER CLARK, M.D.,  
RODOLFO S. POLINTAN, M.D.;  
CLEARFIELD FAMILY MEDICINE; and  
CLEARFIELD HOSPITAL,

Defendants

IN THE COURT OF COMMON PLEAS  
CLEARFIELD COUNTY

NO. 2006-1356-CD

CIVIL ACTION – MEDICAL  
PROFESSIONAL LIABILITY ACTION

**CERTIFICATE OF SERVICE**

And now, this 3<sup>rd</sup> day of March 2009, I hereby certify that a true and correct copy of the foregoing Plaintiffs' Request to Defendant George C. Mosch, II, M.D. for Production of Expert Reports has been served upon the following via U.S. Mail:

Frank J. Hartye, Esquire  
McIntyre, Hartye & Schmitt  
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SHOLLENBERGER & JANUZZI, LLP

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Timothy A. Shollenberger

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Attorneys for Plaintiffs

5 **FILED**  
M 11 08 09  
MAR 06 2009  
William A. Shaw  
Prothonotary/Clerk of Courts  
JW

ALBERT HAMM and BARBARA HAMM,  
husband and wife,

IN THE COURT OF COMMON PLEAS  
CLEARFIELD COUNTY

Plaintiffs

NO. 2006-1356-CD

vs.

GEORGE C. MOSCH II, M.D., GORDON  
PENNER CLARK, M.D.,  
RODOLFO S. POLINTAN, M.D.;  
CLEARFIELD FAMILY MEDICINE; and  
CLEARFIELD HOSPITAL,

CIVIL ACTION – MEDICAL  
PROFESSIONAL LIABILITY ACTION

Defendants

**CERTIFICATE OF SERVICE**

And now, this 3<sup>rd</sup> day of March 2009, I hereby certify that a true and correct copy of the foregoing Plaintiffs' Request to Defendant Clearfield Family Medicine Associates for Production of Expert Reports has been served upon the following via U.S. Mail:

Frank J. Hartye, Esquire  
McIntyre, Hartye & Schmitt  
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Hollidaysburg, PA 16648-0533  
***Counsel for Defendants Gordon Penner Clark, M.D.  
and Clearfield Hospital***

Daniel P. Carroll, Esquire

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designated as Clearfield Family Medicine***

Paula A. Koczan, Esquire

Weber Gallagher Simpson Stapleton

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603 Stanwix Street

Pittsburgh, PA 15222

***Counsel for Defendant, Rodolfo S. Polintan, M.D.***

SHOLLENBERGER & JANUZZI, LLP

By:

\_\_\_\_\_  
Timothy A. Shollenberger

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

ALBERT HAMM and BARBARA HAMM,  
husband and wife,

Plaintiffs

vs.

GEORGE G. MOSCH II, M.D., GORDON  
PENNER CLARK, M.D., RODOLFO S.  
POLINTAN, M.D., CLEARFIELD  
FAMILY MEDICINE and CLEARFIELD  
HOSPITAL,

Defendants

**JURY TRIAL DEMANDED**

CIVIL ACTION – MEDICAL  
PROFESSIONAL LIABILITY ACTION

No. 2006 – 1356 - CD

**RESPONSE TO  
PLAINTIFFS' REQUEST TO  
DEFENDANTS GEORGE C. MOSCH,  
II, M.D. AND CLEARFIELD FAMILY  
MEDICINE ASSOCIATES FOR  
PRODUCTION OF EXPERT REPORTS**

Filed on behalf of George C. Mosch, II,  
M.D. and Clearfield Family Medicine  
Associates, incorrectly designated as  
Clearfield Family Medicine, two of the  
Defendants

Counsel of record for this party:

Daniel P. Carroll, Esquire  
PA I.D. #20601

Davies, McFarland & Carroll, P.C.  
Firm #281  
One Gateway Center  
Tenth Floor  
Pittsburgh, PA 15222

412-281-0737

*S*  
**FILED**  
MAY 13 2006 NO. 1356 CC  
MAY 08 2006  
*WS*

William A. Shaw  
Prothonotary/Clerk of Courts

**RESPONSE TO  
PLAINTIFFS' REQUEST TO DEFENDANT  
GEORGE C. MOSCH, II., M.D. AND CLEARFIELD  
FAMILY MEDICINE ASSOCIATES FOR  
PRODUCTION OF EXPERT REPORTS**

And now, come defendants, George C. Mosch, III, M.D., and Clearfield Family Medicine Associates, incorrectly identified as Clearfield Family Medicine, by their attorneys, Davies, McFarland & Carroll, P.C., and file the Response to Plaintiffs' Request for Production of Expert Reports:

1. Richard D. Bruehlman, M.D.  
Renaissance Family Practice  
5548 Route 8  
Gibsonia, PA 15044  
(Report dated March 3, 2008 attached)
2. Richard E. Pontzer, M.D.  
137 Freeport Road  
Pittsburgh, PA 15215  
(Report dated May 4, 2009 attached).

DAVIES, McFARLAND & CARROLL, P.C.

BY   
Daniel P. Carroll, Esquire  
Attorneys for Defendants  
George C. Mosch, II, M.D. and  
Clearfield Family Medicine Associates

March 3, 2008

Renaissance Family Practice  
5548 Route 8  
Gibsonia, PA 15044

Maria L. Mead, R.N.  
Davies McFarland and Carroll  
The Tenth Floor, One Gateway Center  
Pittsburgh, PA 15222-1416

RE: Hamm v. Mosch  
Your File # 109310

Dear Ms. Mead:

At your request, I have reviewed materials pertaining to the matter of Hamm v. Mosch. These documents included Plaintiff's complaint, various medical records for Albert Hamm, copies of the 1/4/05 x-ray and MRI of Mr. Hamm's left knee, and transcripts of the depositions of Albert Hamm, Barbara Hamm, Gordon P. Clark, M.D., Rudolfo Polintan, M.D. and George C. Mosch, II, M.D. I also reviewed the 5/15/06 report of Plaintiff's expert Robert Shively, M.D., an orthopedic surgeon. You have asked me to render an opinion as to whether Dr. Mosch met applicable standards of care for a family physician during his care of Mr. Hamm, with attention to the Clearfield Hospital admission of 1/1/05 to 1/6/05.

Albert Hamm (born 7/1/45) first became a patient of George C. Mosch, M.D. in 1993. Mr. Hamm had an extensive medical problem list that included coronary artery disease resulting in myocardial infarction and eventually requiring coronary artery bypass surgery, congestive heart failure due to left ventricular systolic dysfunction, insulin-requiring type 2 diabetes, diabetic nephropathy and renal insufficiency aggravated by non-steroidal anti-inflammatory drugs, hypertension, hyperlipidemia, Reiter's syndrome, degenerative joint disease, peptic ulcer disease, inflammatory bowel disease, chronic otitis media, cellulitis of the right and left leg, psoriatic vs. rheumatoid arthritis, and degenerative joint disease of the knees. In addition to Dr. Mosch, Mr. Hamm sought the care of various specialists including 3 different rheumatologists, a cardiologist, a nephrologist and a podiatrist.

To relieve pain from the degenerative and inflammatory arthritis of the left knee, Dr. Mosch injected Mr. Hamm's left knee on 9/28/04. Mr. Hamm returned for a corticosteroid injection in the left knee on 12/20/04, but per Dr. Mosch's note one week later this "only helped partially". On 12/27/04 Dr. Mosch performed corticosteroid injection of the left knee via a different approach and ordered x-rays. The x-rays of the left knee obtained 12/27/04 revealed severe osteoarthritis and a small joint effusion.

In the late evening hours of 12/30/04, Mr. Hamm summoned Clearfield EMS to take him to the emergency room for evaluation of left leg pain and swelling. Gordon P. Clark, M.D. evaluated him in the early morning hours of 12/31/04. Mr. Hamm complained of pain and swelling of the left knee and left leg, inability to walk because of pain, polyuria and polydipsia. His exam was notable for findings of edema of both legs, left greater than right, with tenderness over the left tibial tuberosity and severe pain on passive motion of the left knee. His temperature was initially 38.1 C (100.6 F) but later returned to the normal range. Laboratory studies reviewed by Dr. Clark included an arterial blood gas (ABG) which revealed a normal pH, a complete blood count (CBC) that included a normal white blood cell count and serum chemistries which showed glucose of 447 mg/dl, potassium of 5.7 mg/dl, blood urea nitrogen (BUN) of 51 mg/dl and creatinine of 2.1 mg/dl. D-dimer was elevated but an ultrasound examination of the deep venous system of the lower extremities was negative for deep venous thrombosis. Dr. Clark treated Mr. Hamm with intravenous fluids, intravenous regular human insulin, and intramuscular and intravenous meperidine (Demerol) then discharged him with instructions to follow up with his primary care physician.

Mr. Hamm called Dr. Mosch on 1/1/05 with complaints of persistent left leg discomfort. Dr. Mosch admitted him to the Clearfield Hospital on the same day and completed a history and physical. Mr. Hamm was afebrile on admission. Lab testing on 1/1/05 included a CBC revealed a normal white blood cell count of 8,800, erythrocyte sedimentation rate elevated to 95 mm/hr, A1c of 10.9% and serum chemistries with elevated potassium (6.0 mg/dl), BUN (56 mg/dl), creatinine (2.0 mg/dl) and glucose (354 mg/dl). Dr. Mosch ordered treatments that included subcutaneous enoxaparin (Lovenox), subcutaneous insulin glargine (Lantus) and insulin lispro (Humalog), intravenous hydrocortisone (Solucortef) and intravenous cefazolin (Ancef) 2 grams every 8 hours.

On 1/2/05, Mr. Hamm had a series of imaging studies. Ultrasound imaging of the abdomen, pelvis and retroperitoneum revealed an enlarged prostate and an abdominal aortic aneurysm measuring 4.0 cm. CT scanning confirmed the abdominal aortic aneurysm and showed left lower lobe atelectasis or pneumonia with a small pleural fluid collection. Lab work showed an improved creatinine but a rising potassium level. Dr. Mosch ordered sodium polystyrene sulfonate (Kayexalate) and that Mr. Hamm to be moved to a telemetry bed for cardiac monitoring. He also increased the dose of Lantus and Humalog insulin and ordered additional lab work. Mr. Hamm remained afebrile on 1/2/05.

Per Dr. Mosch's 1/3/05 note, Mr. Hamm complained of "much pain" of the left knee. Dr. Mosch ordered a variety of studies including additional lab work, an echocardiogram, a chest x-ray and an MRI of the left knee. For the first time, Mr. Hamm's white blood cell count was elevated and he developed a low-grade fever (38 C). Dr. Mosch continued treatment with intravenous cefazolin, increased the Lantus insulin dosing and added intravenous morphine for pain control.

On 1/4/05, Dr. Mosch noted that Mr. Hamm was afebrile. The note of his exam of Mr. Hamm's left leg indicated that it was "sore, swollen red & hot but better than

yesterday." Dr. Mosch's diagnosis was "septic arthritis/cellulitis". He noted that the MRI of the knee had been completed but that the interpretation was pending. Dr. Mosch ordered an orthopedic consult from Dr. Nartatez, who deferred to the on-call orthopedic surgeon Rudolfo Polintan, M.D. The MRI report stated that Mr. Hamm had "severe advanced degenerative osteoarthritis of the knee" with "probable mild changes of avascular necrosis of the femoral condyle". Dr. Polintan ordered an x-ray of the left knee which revealed extensive gas in the soft tissues about the knee suggestive of gas gangrene. He then performed arthrocentesis of the left knee which yielded 30 cc of purulent synovial fluid. In his 1/4/05 dictated consult, Dr. Polintan stated that he would perform operative debridement of the left knee the following day but also indicated that he would discuss the situation with Dr. Mosch in the morning and that "maybe transfer to a tertiary hospital is better for the patient."

On 1/5/05, Dr. Polintan elected not to take Mr. Hamm to the operating room. Upon learning this, Dr. Mosch made immediate efforts to arrange transfer to a tertiary care facility. Per his deposition transcript (pages 56 to 66), Dr. Mosch contacted a variety of tertiary care hospitals including those in Altoona and Pittsburgh. He ordered transfer of Mr. Hamm to Geisinger Medical Center but because of bed availability he was not accepted for transfer that day. Dr. Mosch ordered intravenous gentamycin in addition to the intravenous cefazolin. Additional studies completed on 1/5/05 included repeat lower extremity venous ultrasound (again negative for deep venous thrombosis) and arterial ultrasound (no occlusive arterial disease).

On 1/6/05, Dr. Mosch noted that Mr. Hamm "has been accepted for transfer to GMC but weather & bed availability has been problematic." His physical exam findings were outlined in the same note. Later that day Mr. Hamm was transferred to Hershey Medical Center and in the early morning hours of 1/7/05 he had operative debridement of the left knee.

Mr. Hamm's medical and surgical treatment after 1/6/05 is not at issue in this matter and so a detailed discussion of this is beyond the scope of my report. Mr. Hamm required multiple surgical debridements of the left knee and soft tissues of the leg and eventually had an above the knee amputation.

Plaintiff's allegations are outlined in their complaint. Their expert, orthopedic surgeon Dr. Robert Shively completed his report on 5/15/06, before the depositions of Drs. Mosch and Polintan had been taken. Perhaps that is why he erroneously concluded that "Dr. Mosch apparently recommended that Mr. Hamm be transferred to another institution." In fact, Dr. Polintan's decision not to do surgery on 1/5/05 prompted Dr. Mosch's efforts to transfer Mr. Hamm. Dr. Shively further opines "In my opinion, Dr. George Mosch departed from the standard of care in his failure to recognize a septic left knee. Given the history of recent injections and the development of fever, pain and swelling, associated with a white count of 16,000 and a sedimentation rate of 95, it certainly should have indicated to him that a septic joint was a distinct possibility."

I disagree with the conclusions of Dr. Shively. My review of the records that you have provided to me indicate that Dr. Mosch acted as a prudent, conscientious family physician and met applicable standards of care in his treatment of Mr. Hamm.

Dr. Mosch appropriately admitted Mr. Hamm to his service at Clearfield Hospital on 1/1/05, performed a focused but thorough physical examination, and ordered appropriate laboratory and imaging studies in an effort to clarify the diagnosis. In his report, Dr. Shively does not indicate a timeline for the development of the findings which he uses to criticize Dr. Mosch. Mr. Hamm did not manifest a fever until late in the day on 1/3/05, over 48 hours after admission. The initial white blood cell count was normal, with the elevation not appearing until 1/3/05. An elevated sedimentation rate is a non-specific indicator of inflammation from a variety of causes including rheumatologic, thromboembolic, neoplastic and infectious etiologies. Though septic arthritis is a known complication of intra-articular injection of corticosteroids, it is rare.

Dr. Mosch ordered an MRI of the left knee on 1/3/05. The radiologist interpreted this study, completed on 1/4/05, as showing severe degenerative changes and avascular necrosis but made no mention of the possibility of septic arthritis or gas gangrene. Therefore I believe it was highly unlikely that an MRI obtained earlier in the hospitalization would have lead to an early diagnosis of septic arthritis. Based on the progression of physical exam findings, and before the MRI report was available, Dr. Mosch ordered orthopedic consultation on 1/4/05.

Dr. Shively fails to note that Dr. Mosch ordered high-dosed intravenous cefazolin for Mr. Hamm on 1/1/05. This antibiotic is effective against most community-acquired organisms that cause cellulitis and septic arthritis. On 1/5/05, when Dr. Mosch learned that the x-rays revealed gas gangrene and that Dr. Polintan would not take Mr. Hamm to the operating room, he prudently broadened antibiotic coverage by adding intravenous gentamycin to the treatment regimen. I believe it was within the scope of practice and the standard of care for Dr. Mosch to manage the antibiotic treatment prior to transfer, as no infectious disease consultant was on the medical staff at Clearfield Hospital.

Upon learning that Dr. Polintan had decided not to take Mr. Hamm to the operating room, Dr. Mosch worked diligently to arrange transfer to tertiary care. My review of the records and deposition transcripts leads me to the conclusion that circumstances beyond the control of Dr. Mosch prevented this transfer from occurring until 1/6/05.

In his report, Dr. Shively provides only a cursory discussion of the multiple medical problems facing Mr. Hamm. These co-morbidities were major contributors to the ultimate outcome but were in no way the fault of Dr. Mosch, who along with multiple specialists worked diligently for years to mitigate them.

In summary, after review of the documents that you have provided me, I disagree with the conclusions reached by Plaintiffs and their expert. Dr. Mosch acted as a prudent, conscientious family physician in his care of Mr. Hamm including the care rendered

during the 1/1/05 to 1/6/05 Clearfield Hospital admission. He ordered appropriate laboratory work, imaging studies and antibiotic treatment in a timely fashion. He also appropriately ordered orthopedic consultation. Dr. Polintan's decisions that he would not take Mr. Hamm to the operating room at Clearfield Hospital and that he would be better served by surgical care at a tertiary care hospital were beyond the scope of family medicine. Dr. Mosch arranged for transfer to tertiary care in as timely a manner as circumstances allowed. I render these opinions within a reasonable degree of medical certainty.

Sincerely,

A handwritten signature in black ink, appearing to read "R. Bruehlman, M.D." The signature is fluid and cursive, with "R." and "Bruehlman" connected by a single stroke, and "M.D." in a smaller, more formal script to the right.

Richard D. Bruehlman, M.D., F.A.A.F.P.

Office Hours By Appointment



Joseph M. Romano, M.D.  
Raymond E. Pontzer, M.D.

INFECTIOUS DISEASE SPECIALISTS

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May 4, 2009

Daniel P. Carroll, Esq.  
Davies, McFarland & Carroll, P.C.  
One Gateway Center  
The Tenth Floor  
Pittsburgh, PA 15222-1416

RE: Hamm v. Mosch  
File # 109310

Dear Mr. Carroll,

This letter is in response to your request for an opinion regarding the above-mentioned case from my perspective as an infectious diseases specialist. I have had the opportunity to review the following documents:

Plaintiff's complaint  
Medical records from Clearfield, Hershey, Philipsburg, DuBois and Holy Spirit Hospitals  
Medical records from Dr. Mosch's office  
Depositions from Drs. Mosch, Clark, Polintan  
Depositions from Mr. and Mrs. Hamm

Mr. Hamm's complaint is regarding care given to him by Dr. Mosch during late 2004 and early 2005 related to an infection in his left leg and knee. At that time, Mr. Hamm was 59 years old. He had been under the care of Dr. Mosch, a board-certified family practitioner, since at least the early 1990's. Mr. Hamm had multiple medical conditions, including poorly controlled insulin-dependent diabetes mellitus, inflammatory polyarthritis, chronic leg edema, coronary artery disease, previous myocardial infarction and chronic obesity. Additionally, he had a history of peptic ulcer disease, dyslipidemia, hypertension, chronic renal insufficiency, and previous episodes of cellulitis of his legs. Past surgical history included a CABG procedure. He also had a remote history of cigarette smoking.

From review of Dr. Mosch's office records, Mr. Hamm had experienced several episodes of lower extremity cellulitis, tendonitis and bursitis of both lower extremities. In addition, he had chronic osteoarthritis of both knees. He was hospitalized in August 2001 at Clearfield Hospital with cellulitis of the left leg secondary to *Staphylococcus aureus* and associated fever. In August 2003, he was treated for cellulitis of the right leg with associated fever. Additionally, he had required multiple Intraarticular injections of corticosteroid medication in his left knee. Also of significance is the fact that Mr. Hamm had a prolonged history of chronically elevated erythrocyte sedimentation rates (sedrate), making this laboratory test less useful in making the diagnosis of infection.

On 12/20/04, Mr. Hamm presented to Dr. Mosch's office complaining of increased left knee pain. Intraarticular steroid and lidocaine was administered. His knee pain continued and he received a second intraarticular medication injection on 12/27/04. At this time, Dr. Mosch explained to Mr. Hamm that he would need to perform a further evaluation of the knee, which included a complete left knee x-ray series. Those radiographs revealed severe osteoarthritis and a small knee joint effusion.

Because of persistent left leg and knee pain, Mr. Hamm presented to the Clearfield Hospital ER early on 12/31/04. The EMS report indicates that his major complaint was "left leg pain from his knee down to his toes". This symptom, along with being "much more swollen than usual", had reportedly been ongoing for three weeks. In the emergency department, he was evaluated by Dr. Clark, who diagnosed left knee arthritis and dehydration/hyperglycemia. His white blood cell count (WBC) was normal at 5500. A venous sonogram test was negative for deep venous thrombosis.

Because of persistent left leg pain, Dr. Mosch referred Mr. Hamm for admission to Clearfield Hospital on the following day, 1/1/05, for treatment of probable cellulitis and possible phlebitis. His left leg was reported as having +3 edema from mid thigh to the foot. He was begun on antibiotic therapy with high dose cefazolin. He was afebrile at that time and his WBC was normal at 8800.

During the first two hospital days he remained afebrile. Multiple examiners commented on the lack of heat or erythema on 1/2/05. Additionally, Dr. Mosch recorded decreased swelling and color on that day. On 1/3/05, the nurse recorded that left leg was pain-free when at rest. This finding would be atypical for deep necrotizing soft tissue/joint infection, where the pain is usually constant and quite severe.

Later on 1/3/05 and early on 1/4/05, Mr. Hamm's condition appeared to worsen with a marked increase in pain and new onset of increased heat and erythema about his left leg. His first inpatient fever was measured on 1/3/05 at 100.4. An orthopedic consultation was performed on 1/4/05 by Dr. Polintan. The diagnosis of left knee infection was made by an arthrocentesis on that day.

Dr. Polintan did not feel that he could safely do a surgical debridement of the knee at Clearfield Hospital and therefore recommended transfer to a tertiary care facility. Multiple extenuating circumstances, including a snowstorm, delayed Mr. Hamm's transfer to a facility where this surgery could be done, despite a high level of effort put forth by Dr. Mosch to timely facilitate his transfer. On 1/6, Mr. Hamm was transported to Hershey Medical Center, where the surgical care, coupled with the input of infectious diseases specialists, could be offered.

Based upon careful review of the records available to me, I find it difficult to fault Dr. Mosch in not making the diagnosis of an infected knee joint prior to January 4, 2005. The clinical presentation had many features that were not typical for a usual joint infection. The absence of fever and leukocytosis during the early part of the hospital course would be unusual with bacterial joint infections. The description of severe edema encompassing almost the entire leg is also not a common finding with joint infections. Mr. Hamm's clinical presentation at his 1/1/05 admission appeared to be consistent with

the diagnosis of cellulitis of the leg, which he had experienced on multiple occasions in the past.

The changes in Mr. Hamm's symptoms, that developed later in the day 1/3/05 and into 1/4/05, were more typical for joint infection. It was at this time, that Dr. Mosch requested an orthopedic evaluation. When Dr. Polintan reported that he could not perform the necessary surgery, Dr. Mosch then made great effort to transfer Mr. Hamm to a facility where this could be done as soon as possible.

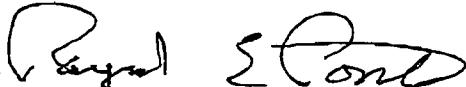
Although Mr. Hamm did eventually prove to have an infected knee, his clinical presentation was not typical for this disease. The reported indolent onset of symptoms, lasting up to three weeks, is unusual for bacterial joint infections, especially with aggressive gas-forming organisms as seen in this instance. Additionally, the absence of both fever and leukocytosis early in the hospital course are atypical for acute necrotizing joint and soft tissue infections such as occurred in this patient. Also, the nurses report that Mr. Hamm was at times reasonably comfortable, sometimes without any pain at rest. This would again be uncommon with this type of infection.

Finally, I believe that Dr. Mosch's prolonged relationship with Mr. Hamm, extending over ten years and including multiple episodes of lower extremity infections, should be taken into account. This history puts him in a good position to determine the type and severity of his patient's disease process, since he would be quite familiar with his baseline examination and that seen with previous episodes of infection, such as cellulitis.

In view of the many clinical features that were atypical for severe, necrotizing joint infection, that eventually manifested itself in this case, I can find no fault with the care and clinical judgments made by Dr. Mosch in this case. He followed his patient closely, both prior to and subsequent to admission. Many of the clinical features were suggestive for uncomplicated cellulitis and there was reported clinical improvement on the patient's second hospital day. As soon as the patient began to clinically deteriorate, Dr. Mosch appropriately requested assistance from an orthopedic surgeon. As noted above, he then made great effort to transfer the patient to a tertiary care facility when the surgeon (Dr. Polintan) felt that he was incapable of performing the needed debridement procedure at Clearfield Hospital.

Thank you for allowing me to review this case. All of the medial opinions expressed in this report are held within a reasonable degree of medical certainty.

Sincerely,



Raymond E. Pontzer, M.D., F.A.C.P.  
Clinical Associate Professor of Medicine  
University of Pittsburgh School of Medicine

Chief, Infectious Diseases  
UPMC St. Margaret Hospital

**CERTIFICATE OF SERVICE**

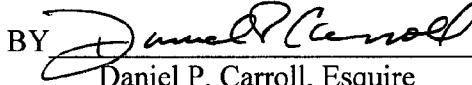
I hereby certify that a true and correct copy of the RESPONSE TO PLAINTIFFS' REQUEST FOR PRODUCTION OF EXPERT REPORTS on behalf of defendants, George C. Mosch, II, M.D. and Clearfield Family Medicine Associates, incorrectly designated as Clearfield Family Medicine, has been served on the following persons by first-class mail, postage prepaid this 6th day of May, 2009.

Timothy A. Shollenberger, Esquire  
Shollenberger & Januzzi, LLP  
2225 Millennium Way  
Enola, PA 17025

Frank Hartye, Esquire  
McIntyre, Hartye & Schmitt  
P.O. Box 533  
Hollidaysburg, PA 16648

Paula A. Koczan, Esquire  
Weber Gallagher Simpson Stapleton Fires & Newby, LLP  
Two Gateway Center, Suite 1450  
Pittsburgh, PA 15222

DAVIES, McFARLAND & CARROLL, P.C.

BY   
\_\_\_\_\_  
Daniel P. Carroll, Esquire  
Attorney for Defendants,  
George C. Mosch, II, M.D. and  
Clearfield Family Medicine Associates,  
incorrectly designated as Clearfield  
Family Medicine

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

ALBERT HAMM and BARBARA HAMM,  
husband and wife,

..... No. 2006 – 1356 CD

ISSUE:

REPLY TO PLAINTIFFS' REQUEST  
FOR PRODUCTION OF EXPERT  
REPORTS

Plaintiffs

vs.

GEORGE C. MOSCH, II, M.D.,  
GORDON PENNER CLARK, M.D.,  
RODOLFO S. POLINTAN, M.D.,  
CLEARFIELD FAMILY MEDICINE and  
CLEARFIELD HOSPITAL,

..... Filed on behalf of Defendants,  
GORDON PENNER CLARK, M.D. and  
CLEARFIELD HOSPITAL

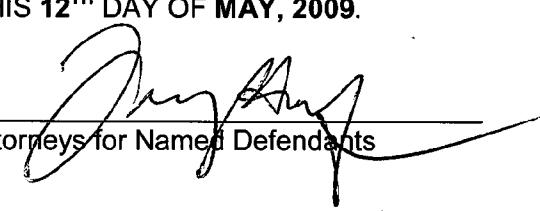
..... Counsel of Record:  
Frank J. Hartye, Esquire  
PA I.D. #25568

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

Defendants

..... JURY TRIAL DEMANDED

I HEREBY CERTIFY THAT A TRUE AND  
CORRECT COPY OF THE WITHIN WAS  
MAILED TO ALL COUNSEL OF RECORD  
THIS 12<sup>TH</sup> DAY OF MAY, 2009.

  
Attorneys for Named Defendants

FILED No CC.  
MAY 13 2009 610

William A. Shaw  
Prothonotary/Clerk of Courts

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

ALBERT HAMM and BARBARA HAMM, : No. 2006 – 1356 CD  
husband and wife,

Plaintiffs

vs.

GEORGE C. MOSCH, II, M.D.,  
GORDON PENNER CLARK, M.D.,  
RODOLFO S. POLINTAN, M.D.,  
CLEARFIELD FAMILY MEDICINE and  
CLEARFIELD HOSPITAL,

Defendants

JURY TRIAL DEMANDED

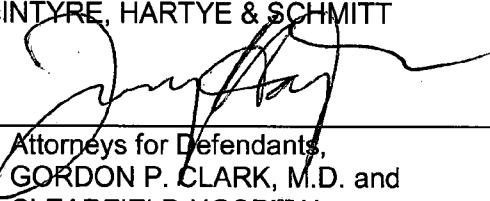
**REPLY OF DEFENDANTS, GORDON P. CLARK, M.D. AND  
CLEARFIELD HOSPITAL, TO PLAINTIFFS' REQUEST  
FOR PRODUCTION OF EXPERT REPORTS**

1. Report of Thomas Doyle, M.D. dated May 6, 2009 attached hereto with

Curriculum Vitae.

McINTYRE, HARTYE & SCHMITT

By

  
Attnorneys for Defendants,  
GORDON P. CLARK, M.D. and  
CLEARFIELD HOSPITAL

Frank J. Hartye, Esquire  
PA I.D. #25568  
P.O. Box 533  
Hollidaysburg, PA 16648  
(814) 696-3581

**Thomas A Doyle, MD  
448 Woodland Rd.  
Sewickley, PA 15143  
(412) 741-0689  
tomdoy@aol.com**

**May 6, 2009**

**Laura Burke  
McIntyre, Hartye & Schmitt  
PO Box 533  
Hollidaysburg, PA 16648-0533**

**Dear Ms. Burke,**

**Per your request I have reviewed the following materials regarding the case of  
Albert Hamm vs. Dr. Clark et al. (No. 2006-1356 Clearfield County):**

**Plaintiff's complaint  
Clearfield Hospital records from 12/31/2004  
Records of Dr. Mosch from 12/27/2004  
Deposition transcripts of both plaintiffs  
Deposition transcript of Dr. Clark  
Deposition transcript of Dr. Mosch**

**To summarize the case briefly, Albert Hamm had chronic problems with knee pain and arthritis which began to flare again approximately three weeks before he went to Clearfield Hospital emergency department on December 31, 2004. He was seen by his primary care physician, Dr. Mosch, on December 20, 2004 and had a cortisone shot placed in his left knee. On December 27th he saw Dr. Mosch again and had another injection and xrays were taken which showed severe osteoarthritis. Just before midnight on December 30th Mr. Hamm called for an ambulance to take him to the emergency department because he was worried he might have a blood clot.**

**Once there, the patient was seen by Dr. Clark, who performed a thorough evaluation, ruled out a DVT and treated his hyperglycemia and diabetic complications and arthritis pain and discharged him to follow up with Dr. Mosch. The next day, January 1, 2005, the patient called Dr. Mosch with continued pain and so was admitted to Clearfield Hospital. On January 4th Dr. Mosch became suspicious of septic arthritis and consulted an orthopedist. From there the patient had a complicated course, requiring multiple surgical debridements and procedures eventually resulting in lower leg amputation.**

You have asked me to assess the care rendered in the emergency department on December 31, 2004. In my opinion, Dr. Clark did an exemplary job in his evaluation and treatment of Mr. Hamm. He performed a thorough history and physical, addressed the patient's main complaint by ruling out a DVT by doppler ultrasound, treated his pain and went well beyond the issue of knee pain by assessing the patient's metabolic status related to his diabetes with extensive laboratory testing. He treated Mr. Hamm's hyperglycemia and relative hyponatremia with appropriate administration of IV fluids and insulin and discharged him in improved condition (in terms of both his pain and diabetic complications) with instructions for close follow up with Dr. Mosch.

Obviously the issue at hand is whether Dr. Clark somehow missed an opportunity to diagnose and/or treat septic arthritis in Mr. Hamm. The medical records clearly indicate that he did not. There were insufficient signs and symptoms of septic arthritis upon his presentation to the emergency department to warrant any evaluation not done by Dr. Clark. In particular, the patient did not have redness or warmth of the knee. He did not have an elevated white blood cell count nor any signs of acidosis on his ABG and chemistry panel. His temperature was normal throughout most of his stay and was normal at discharge without the use of any antipyretics. (It would be interesting to know whether he had a fever on January 1 when he was admitted.)

Further xrays were not indicated since he had films only days before and no change in his symptoms and no report of trauma. He had a longstanding history of arthritic knee problems so there was no reason for Dr. Clark to suspect that Mr. Hamm's knee pain was caused by anything else. An MRI was not indicated (or likely available) in the setting of the emergency department after midnight for a chronic painful condition. It is clear that the physical findings on December 31st were strikingly different than on January 4th, when Dr. Mosch first called for an orthopedic consult for the possibility of a septic joint. In his deposition Dr. Mosch states "That was not the same knee that was there on the first of January."

There was no indication for Dr. Clark to perform an arthrocentesis since the patient did not show local signs of septic arthritis at that time. Arthrocentesis is painful and can cause complications such as vascular or nerve injury and infection (as evidenced in this case) and should not be undertaken lightly. There was no reason to obtain a stat orthopedic consult since the patient's knee problem was chronic and showed all signs of being likely due to osteoarthritis. There was no indication for a stat infectious disease consult since there was no sign of any infectious process at all with the exception of a single reading of a low-grade fever (38.1 degrees Celsius) which normalized without treatment and remained normal seven hours later at discharge. The pressing issues that night were whether or not the patient had a deep venous thrombosis and also the various metabolic issues associated with his diabetes. These were addressed adroitly by Dr. Clark.

In my opinion, to a reasonable degree of medical certainty, Dr. Clark clearly met the standard of care for the evaluation and treatment of Mr. Hamm in the emergency department on December 31, 2004.

Thank you for consulting me on this case. If you have further questions or  
desire additional information, please feel free to call me.

Sincerely,

A handwritten signature in black ink, appearing to read "Doyle".

Thomas A. Doyle, MD

Thomas A. Doyle, MD  
448 Woodland Rd.  
Sewickley, PA 15143  
(412) 741-0689

Curriculum Vitae

Education

Undergraduate: Princeton University, Princeton, NJ, AB Geology 1985.  
National Merit scholarship award winner.

Medical School: Columbia University College of Physicians and Surgeons,  
New York, NY, MD 1989.

Internship: University of Pittsburgh, Montefiore Hospital, Pittsburgh, PA  
1989-1990.

Residency: Georgetown -- George Washington University Joint Residency in  
Emergency Medicine, Washington, DC 1990-1993.

Board Certification

Board Certified by American Board of Emergency Medicine 1994  
(Certification is current).

Professional Practice

Heritage Valley Health System, Sewickley Valley Hospital Emergency  
Department, Sewickley, PA, Staff Physician 1993-Present (full-time).

Allegheny General Hospital Emergency Department, Pittsburgh, PA, Staff  
Physician, 1997-1998 (occasional shifts).

The Medical Center, Beaver, PA Emergency Department, Staff Physician  
1994-1997 (occasional shifts).

References

Available upon request.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY PENNSYLVANIA

CM  
ALBERT HAMM and BARBARA HAMM  
husband and wife, CIVIL ACTION  
(Plaintiff)

222 Leavy Avenue, Apt. 201  
(Street Address)

Clearfield, PA 16830  
(City, State ZIP)

No. 2006-1356-CD

Type of Case: Medical Malpractice

Type of Pleading: Civil Trial Listing/  
Certificate of Readiness

VS.

GEORGE C. MOSCH, II, M.D.  
(Defendant)

Filed on Behalf of:

Plaintiff  
(Plaintiff/Defendant)

502 Park Avenue  
(Street Address)

Clearfield, PA 16830  
(City, State ZIP)  
and

GORDON PENNER CLARK, M.D.  
Clearfield Hospital

809 Turnpike Avenue  
Clearfield, PA 16830  
and

RODOLFO S. POLINTAN, M.D.  
Clearfield Hospital

809 Turnpike Avenue  
Clearfield, PA 16830  
and

CLEARFIELD FAMILY MEDICINE  
502 Park Avenue

Clearfield, PA 16830  
and

CLEARFIELD HOSPITAL  
Clearfield Area Health Services  
809 Turnpike Avenue

Clearfield, PA 16830

FILED ICC  
NOV 13 2009 Atty  
S William A. Shaw  
Prothonotary/Clerk of Courts 60  
Wolfe

Timothy A. Shollenberger, Esquire and  
Adam T. Wolfe, Esquire  
(Filed by)

Shollenberger & Januzzi, LLP  
2225 Millennium Way  
Enola, PA 17025  
(Address)

717-728-3200  
(Phone)

  
(Signature)

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

Civil Trial Listing/Certificate of Readiness

Plaintiff(s): ALBERT HAMM and BARBARA HAMM, husband and wife,

Case Number: 2006-1356-CD

Defendant(s): GEORGE C. MOSCH, II, M.D.,  
GORDON PENNER CLARK, M.D.,  
RODOLFO S. POLINTAN, M.D.,  
CLEARFIELD FAMILY MEDICINE ASSOCIATES, and  
CLEARFIELD HOSPITAL

To the Prothonotary:

Arbitration Limit: \_\_\_\_\_

Type Trial Requested: X Jury

Non-Jury

Estimated Trial Time: Ten (10) days Arbitration

Jury Demand Filed By: Plaintiff

Date Jury Demand Filed: August 23, 2006

Please place the above-captioned case on the trial list. I certify that all discovery in the case has been completed; all necessary parties and witnesses are available; serious settlement negotiations have been conducted; the case is ready in all respects for trial, and a copy of this Certificate has been served upon all counsel of record and upon all parties of record who are not represented by counsel.



(Signature)

11.13.09

(Date)

For the Plaintiff: Timothy A. Shollenberger, Esq. 717-728-3200 Telephone Number  
Daniel P. Carroll, Esquire 412-261-7251

For the Defendant: Paula A. Koczan, Esquire 412-281-4547 Telephone Number  
Frank J. Hartye, Esquire 814-696-9399

For Additional Defendant: \_\_\_\_\_ Telephone Number

Certification of Current Address for all parties or counsel of record:

Name:	Address:	Firm #281	City/State/Zip:	15222
<u>Daniel P. Carroll, Esquire</u>	<u>One Gateway Ctr.</u>		<u>Pittsburgh, PA</u>	<u>15222</u>
<u>Paula A. Koczan, Esquire</u>	<u>603 Stanwix St.</u>		<u>Pittsburgh, PA</u>	<u>15222</u>
<u>Frank J. Hartye, Esq.</u>	<u>P.O. Box 533</u>		<u>Hollidaysburg, PA</u>	<u>16648</u>
Name:	Address:		City/State/Zip:	
Name:	Address:		City/State/Zip:	
Name:	Address:		City/State/Zip:	

FILED

NOV 13 2009

William A. Shaw  
Prothonotary/Clerk of Courts

20.01.11

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**S**HOLLENBERGER & J<sup>A</sup>NUZZI, LLP  
2225 Millennium Way  
Enola, PA 17025  
Telephone Number: (717) 728-3200  
Fax Number: (717) 728-3400  
Attorneys for Plaintiffs

ALBERT HAMM and BARBARA HAMM,  
husband and wife,

Plaintiffs

vs.

GEORGE C. MOSCH II, M.D., GORDON  
PENNER CLARK, M.D.,  
RODOLFO S. POLINTAN, M.D.;  
CLEARFIELD FAMILY MEDICINE; and  
CLEARFIELD HOSPITAL,

Defendants

IN THE COURT OF COMMON PLEAS  
CLEARFIELD COUNTY

NO. 2006 – 1356 CD

CIVIL ACTION - LAW  
JURY TRIAL DEMANDED

**CERTIFICATE OF SERVICE**

AND NOW, this 12<sup>th</sup> day of November 2009, I hereby certify that I have served the foregoing Plaintiffs' Supplemental Answers to Interrogatories of Defendant Polintan and Clark to the following by depositing a true and correct copy of same in the United States mail, postage prepaid, addressed to:

Frank J. Hartye, Esquire  
McIntyre, Hartye & Schmitt  
P.O. Box 533  
Hollidaysburg, PA 16648-0533  
**Counsel for Defendants Gordon Penner Clark, M.D.  
and Clearfield Hospital**

Daniel P. Carroll, Esquire  
Firm #281  
One Gateway Center  
Tenth Floor  
Pittsburgh, PA 15222

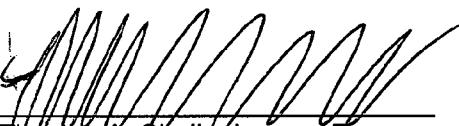
***Counsel for Defendant, George C. Mosch, II, M.D.  
and Clearfield Family Medicine Associates, incorrectly  
designated as Clearfield Family Medicine***

Paula A. Koczan, Esquire  
Weber Gallagher Simpson Stapleton  
Fires & Newby, LLP  
2 Gateway Centre, Suite 1450  
603 Stanwix Street  
Pittsburgh, PA 15222

***Counsel for Defendant, Rodolfo S. Polintan, M.D.***

SHOLLENBERGER & JANUZZI, LLP

By:



Timothy A. Shollenberger, Esq.

G:\TIM CASE FILES- OPEN\Hamm, Albert\Discovery\2009\111009 P supp ans and resp to D clark CH and polint dis req  
[jc].doc

**FILED**

NOV 13 2009

William A. Shaw  
Prothonotary/Clerk of Courts

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

ALBERT HAMM and BARBARA HAMM :  
husband and wife, :  
vs. : No. 06-1356-CD  
GEORGE C. MOSCH, II, M.D., GORDON :  
PENNER CLARK, M.D., RODOLFO S. :  
POLINTAN, M.D., CLEARFIELD FAMILY :  
MEDICINE ASSOCIATES, and :  
CLEARFIELD HOSPITAL :

O R D E R

AND NOW, this 11<sup>th</sup> day of December, 2009, it is the Order of  
the Court that a pre-trial conference in the above-captioned matter shall be and is  
hereby scheduled for Thursday, January 28, 2010 at 1:00 P.M. in Hearing Room  
#3, Clearfield County Courthouse, Clearfield, PA, with Senior Judge, Charles C.  
Brown, Jr., Specially Presiding,

Additionally, Jury Selection in this matter shall be and is hereby  
scheduled for April 1, 2010 at 9:00 a.m. in Courtroom No. 1 of the Clearfield  
County Courthouse, Clearfield, Pennsylvania.

BY THE COURT:



FREDRIC J. AMMERMAN  
President Judge

FILED 100  
01018/01  
DEC 14 2009 Shollenberger/Wife  
William A. Shaw R. Mazer  
Prothonotary/Clerk of Courts Castro Hartley  
Koczan

**FILED**

**DEC 14 2009**

William A. Shaw  
Prothonotary/Clerk of Courts

DATE: 12/14/09

       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

ALBERT HAMM and BARBARA HAMM,  
husband and wife,

Plaintiffs,

v.

GEORGE C. MOSCH II, M.D., GORDON  
PENNER CLARK, M.D., RODOLFO S.  
POLINTAN, M.D., CLEARFIELD FAMILY  
MEDICINE and CLEARFIELD HOSPITAL,

Defendants.

: CIVIL DIVISION

: NO: 2006-1356 - CD

: **MOTION FOR CONTINUANCE OF  
PRE-TRIAL CONFERENCE**

: Filed on behalf of Defendant  
: Rodolfo S. Polintan, M.D.

: Counsel of Record for this Party

: Paula A. Koczan  
: PA I.D. 46932

: William M. Buchanan  
: PA I.D. 202843

: WEBER GALLAGHER SIMPSON  
: STAPLETON FIRES & NEWBY LLP  
: Firm #594  
: 2 Gateway Center  
: Suite 1450  
: Pittsburgh, PA 15222  
: Phone: (412) 281-4541  
: Fax: (412) 281-4547

*PA*  
**FILED**

*DEC 21 2009*  
*m1:50/c*  
William A. Shaw  
Prothonotary/Clerk of Courts

*No C/C*

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

ALBERT HAMM and BARBARA HAMM, : CIVIL DIVISION  
husband and wife, :  
: NO: 2006-1356-CD

Plaintiffs,

v.

GEORGE C. MOSCH II, M.D., GORDON :  
PENNER CLARK, M.D., RODOLFO S. :  
POLINTAN, M.D., CLEARFIELD FAMILY :  
MEDICINE and CLEARFIELD HOSPITAL,

Defendants.

**MOTION FOR CONTINUANCE OF PRE-TRIAL CONFERENCE**

AND NOW comes the Defendant, Rodolfo S. Polintan, M.D., by and through his counsel Paula A. Koczan, Esquire and the law firm of Weber Gallagher Simpson Stapleton Fires & Newby LLP, and files the following Motion for Continuance of Pre-Trial Conference:

1. Plaintiffs initiated this medical malpractice case by Complaint on or about August 23, 2006. Plaintiffs allege that Dr. Polintan and the other defendants were negligent in their treatment of Plaintiff-Husband's septic left knee which eventually required amputation.

2. On December 11, 2009, this Honorable Court scheduled a Pre-Trial Conference for January 28, 2010 at 1:00 p.m.

3. Trial counsel for Dr. Polintan, Paula A. Koczan, Esquire, is scheduled to begin trial in Allegheny County on January 28, 2010 in the medical malpractice action of Sharp et al. v. Heck et al. at docket number GD-08-001308. Trial in that case has been scheduled since September 11, 2009. A true and correct copy of the trial list is attached as Exhibit A.

4. Dr. Polintan would be greatly prejudiced if his trial counsel could not participate in this Pre-Trial Conference because of a conflict with the trial date in Allegheny County.

WHEREFORE the Defendant, Rodolfo S. Polintan, M.D., respectfully requests that this Honorable Court continue the Pre-Trial Conference scheduled in this matter on January 28, 2010 to a date in early February 2010.

Respectfully submitted,

**WEBER GALLAGHER SIMPSON  
STAPLETON FIRES & NEWBY, LLP**

By: 

Paula A. Koczan, Esquire  
William M. Buchanan, Esquire  
Attorneys for Defendant, Rodolfo S.  
Polintan, M.D.

**CERTIFICATE OF SERVICE**

I, the undersigned, hereby swear that on this 17th day of December, 2009, I served a true and correct copy of the Defendant's Motion for Continuance of Pre-Trial Conference on the following parties by facsimile:

Frank J. Hartye, Esquire  
McIntyre, Hartye & Schmitt  
P.O. Box 533  
Hollidaysburg, PA 16648  
(Counsel for Dr. Clark and Clearfield Hospital)

Daniel P. Carroll, Esquire  
Davies McFarland & Carroll, P.C.  
One Gateway Center, Floor 10  
Pittsburgh, PA 15222  
(Counsel for Dr. Mosch and Clearfield Family Medicine Associates)

Timothy Shollenberger, Esquire  
Shollenberger & Januzzi  
2225 Millennium Way  
Enola, PA 17025  
(Counsel for Plaintiffs)

The Honorable Judge Ammerman  
Clearfield County Courthouse  
230 E. Market Street  
Clearfield, PA 16830

  
William M. Buchanan



IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

ALBERT HAMM and BARBARA HAMM, : CIVIL DIVISION  
husband and wife, :  
Plaintiffs : NO: 2006-1356-CD

Plaintiffs,

V.

GEORGE C. MOSCH II, M.D., GORDON  
PENNER CLARK, M.D., RODOLFO S.  
POLINTAN, M.D., CLEARFIELD FAMILY  
MEDICINE and CLEARFIELD HOSPITAL.

## Defendants.

## ORDER

AND NOW, this 22d day of December, 2009, upon consideration of Defendant Polintan's Motion for Continuance of Pre-Trial Conference, it is hereby ORDERED that the motion is GRANTED. The Pre-Trial Conference in the above-captioned case which was scheduled for Thursday, January 28, 2010 at 1:00 p.m. is continued until the 25<sup>th</sup> day of January, 2010 at 10:00 A.M..

BY THE COURT:

~~Fredric J. Ammerman  
President Judge~~

Charles C. Brown, Jr.  
Sr. Judge

FILED 2ce  
01/01/09 BOL Atty Buchanan  
DEC 23 2009

William A. Shaw  
Prothonotary/Clerk of Courts (60)

**FILED**

**DEC 23 2009**

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

DATE: 12/23/09

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  
01/20/2010  
JAN 27 2010

William A. Shaw  
Prothonotary/Clerk of Courts  
ICC Atty's:

Shollenberger  
R. Mazer  
J. Carroll  
F. Hartje  
P. Kaczan

(60)

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

ALBERT HAMM AND BARBARA HAMM )  
)  
)  
VS. ) NO. 06-1356-CD  
)  
)  
GEORGE C. MOSCH II, M.D., )  
)  
GORDON PENNER CLARK, M.D., )  
)  
RODOLFO S. POLINTAN, M.D., )  
)  
CLEARFIELD FAMILY MEDICINE )  
)  
ASSOCIATION and )  
)  
CLEARFIELD HOSPITAL )

O R D E R

NOW this 25th day of January, 2010, after  
Pretrial Conference involving the attorneys for the parties  
in the above-captioned case, and upon agreement of said  
attorneys, it is ORDERED as follows:

1. Jury Selection shall occur at 9:00 a.m. on  
Thursday, July 22, 2010, in Courtroom No. 1, Clearfield  
County Courthouse, Clearfield, Pennsylvania.
2. The trial of this case shall take place  
during the weeks of October 4 and 11, 2010, in the Clearfield  
County Courthouse. The trial shall begin on October 4th at

9:00 a.m.

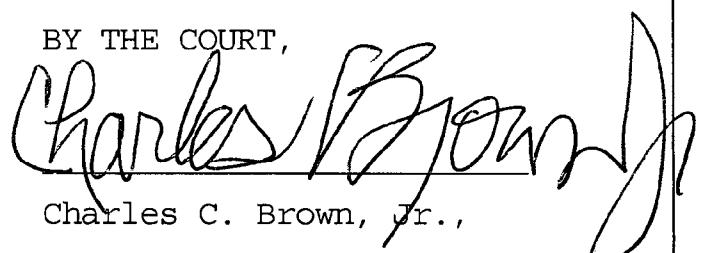
3. Discovery shall be completed by April 1, 2010.

4. Plaintiffs' counsel shall identify (if not already identified) all experts to be called to testify at the trial in this case, and transmit to counsel for Defendants said expert's CV and report by 4:00 p.m. on April 30, 2010.

5. Defendants' counsel shall identify (if not already identified) all experts to be called to testify at trial in this case, and transmit to counsel for Plaintiffs said expert's CV and report by 4:00 p.m. on June 1, 2010.

6. Motions In Limine regarding the experts' testimony on the subject of standard of care must be filed with the Court by 4:00 p.m. on August 16, 2010.

BY THE COURT,



Charles C. Brown, Jr.,

Senior Judge

Specially Presiding

**FILED**

JAN 27 2010

William A. Shaw  
Prothonotary/Clerk of Courts

DATE: 1/27/10

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

FEB 11 2010  
m 10:30a  
William A. Shaw  
Prothonotary/Clerk of Courts

I came to Agm  
(60)

**S**HOLLENBERGER & J<sup>A</sup>NUZZI, LLP  
2225 Millennium Way  
Enola, PA 17025  
Telephone Number: (717) 728-3200  
Fax Number: (717) 728-3400  
Attorneys for Plaintiffs

ALBERT HAMM and BARBARA HAMM,  
husband and wife,

Plaintiffs

vs.

GEORGE C. MOSCH II, M.D., GORDON  
PENNER CLARK, M.D.,  
RODOLFO S. POLINTAN, M.D.;  
CLEARFIELD FAMILY MEDICINE  
ASSOCIATES; and  
CLEARFIELD HOSPITAL,

Defendants

IN THE COURT OF COMMON PLEAS  
CLEARFIELD COUNTY

NO. 2006-1356-CD

CIVIL ACTION - LAW  
JURY TRIAL DEMANDED

**CERTIFICATE OF SERVICE**

And now, this 8<sup>th</sup> day of February 2010, I hereby certify that a true and correct copy of the foregoing Request for Admissions has been served upon the following via U.S. Mail:

Paula A. Koczan, Esquire  
Weber Gallagher Simpson Stapleton, Fires & Newby, LLP  
2 Gateway Centre, Suite 1450  
603 Stanwix Street  
Pittsburgh, PA 15222  
*Counsel for Defendant, Rodolfo S. Polintan, M.D.*

SHOLLENBERGER & JANUZZI, LLP

By:

  
Timothy A. Shollenberger, Esquire

FILED

FEB 11 2010

William A. Shaw  
Prothonotary/Clerk of Courts

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Attorneys for Plaintiffs

ALBERT HAMM and BARBARA HAMM,  
husband and wife,

Plaintiffs

vs.

GEORGE C. MOSCH II, M.D., GORDON  
PENNER CLARK, M.D.,  
RODOLFO S. POLINTAN, M.D.;  
CLEARFIELD FAMILY MEDICINE  
ASSOCIATES; and  
CLEARFIELD HOSPITAL,

Defendants

IN THE COURT OF COMMON PLEAS  
CLEARFIELD COUNTY

NO. 2006-1356-CD

CIVIL ACTION - LAW  
JURY TRIAL DEMANDED

FILED  
in 10:70k (6)  
FEB 11 2010  
i cert to Rev  
William A. Shaw  
Prothonotary/Clerk of Courts

**CERTIFICATE OF SERVICE**

And now, this 8<sup>th</sup> day of February 2010, I hereby certify that a true and correct copy of the foregoing Request for Admissions has been served upon the following via U.S. Mail:

Daniel P. Carroll, Esquire  
Firm #281  
One Gateway Center, Tenth Floor  
Pittsburgh, PA 15222  
*Counsel for Defendant, George C. Mosch, II, M.D.  
and Clearfield Family Medicine Associates, incorrectly  
designated as Clearfield Family Medicine*

SHOLLENBERGER & JANUZZI, LLP

By:

*Timothy A. Shollenberger, Esquire*

FILED  
FEB 11 2010

William A. Shaw  
Prothonotary/Clerk of Courts

# FILED

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FEB 11 2010

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Prothonotary/Clerk of Courts

1 copy to Plaintiff

ALBERT HAMM and BARBARA HAMM,  
husband and wife,

IN THE COURT OF COMMON PLEAS  
CLEARFIELD COUNTY

Plaintiffs

vs.

GEORGE C. MOSCH II, M.D., GORDON  
PENNER CLARK, M.D.,  
RODOLFO S. POLINTAN, M.D.;  
CLEARFIELD FAMILY MEDICINE  
ASSOCIATES; and  
CLEARFIELD HOSPITAL,

NO. 2006-1356-CD

CIVIL ACTION - LAW  
JURY TRIAL DEMANDED

Defendants

## CERTIFICATE OF SERVICE

And now, this 8<sup>th</sup> day of February 2010, I hereby certify that a true and correct copy of the foregoing Request for Admissions has been served upon the following via U.S. Mail:

Frank J. Hartye, Esquire  
McIntyre, Hartye & Schmitt  
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Hollidaysburg, PA 16648-0533  
**Counsel for Defendants Gordon Penner Clark, M.D.  
and Clearfield Hospital**

SHOLLENBERGER & J<sup>A</sup>NUZZI, LLP

By:

Timothy A. Shollenberger, Esquire

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

ALBERT HAMM and BARBARA HAMM,  
husband and wife,

Plaintiffs

vs.

GEORGE G. MOSCH II, M.D., GORDON  
PENNER CLARK, M.D., RODOLFO S.  
POLINTAN, M.D., CLEARFIELD  
FAMILY MEDICINE and CLEARFIELD  
HOSPITAL,

Defendants

CIVIL ACTION – MEDICAL  
PROFESSIONAL LIABILITY ACTION

No. 2006 – 1356 - CD

**RESPONSES TO PLAINTIFFS'  
REQUEST FOR ADMISSIONS**

Filed on behalf of George C. Mosch, II,  
M.D. and Clearfield Family Medicine  
Associates, incorrectly designated as  
Clearfield Family Medicine, two of the  
Defendants

**JURY TRIAL DEMANDED**

Counsel of record for this party:

Daniel P. Carroll, Esquire  
PA I.D. #20601

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412-281-0737

FILED No CC.  
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William A. Shaw  
Prothonotary/Clerk of Courts

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

ALBERT HAMM and BARBARA HAMM, )  
husband and wife, )  
Plaintiffs )  
vs. ) No. 2006 – 1356 – CD  
)  
GEORGE G. MOSCH II, M.D., GORDON )  
PENNER CLARK, M.D., RODOLFO S. )  
POLINTAN, M.D., CLEARFIELD FAMILY )  
MEDICINE and CLEARFIELD HOSPITAL, )  
)  
Defendants )

**RESPONSES TO PLAINTIFFS' REQUEST FOR ADMISSIONS  
TO DEFENDANTS GEORGE C. MOSCH, II, M.D.  
AND CLEARFIELD FAMILY MEDICINE ASSOCIATES**

1. On December 20, 2004, using a 27 gauge needle, George Mosch, M.D. injects 1 cc of Depo-Medrol, 1 cc of Lidocaine and 1 cc of Sarapin into the anteromedial aspect of the left knee of Albert Hamm. [Bates stamped records page 001.]

Admit \_\_\_\_\_ Deny \_\_\_\_\_

**RESPONSE:** This admission is denied stated as it is incomplete. The full note for December 20, 2004 as recorded in the office record of Dr. Mosch and marked as Bates stamped records page 001 reads as follows:

**“After scrubbing with Betadine using aseptic technique a small Lidocaine bleb was used and then a 27 gauge needle was used to inject 1 cc of Depo-Medrol and 1 cc of Lidocaine and 1 cc of Sarapin into the anteromedial left knee. Covered with sterile dressing.”**

2. On December 27, 2004, using a 27 gauge needle, George Mosch, M.D. injects 1 cc of Depo-Medrol, 1 cc of Lidocaine and 1 cc of Sarapin into the anteromedial aspect of the left knee of Albert Hamm. [Bates stamped records page 001.]

Admit \_\_\_\_\_ Deny \_\_\_\_\_

**RESPONSE:** This admission is denied as stated as it is incomplete. The full note for December 27, 2004 as recorded in the office records of Dr. Mosch and marked as Bates stamped records page 001 reads as follows:

**“PROBLEM: Pain in the knees. S/P: Left knee is getting worse. Last injection put in the anteromedial left knee only helped partially and he wants**

another injection. I explained to him that we will have to start a workup on the knee. I did inject it with 1 cc of Depo-Medrol and 1 cc of Sarapin and 1 cc of Lidocaine in the anterolateral aspect of the knee using a 27 gauge needle with aseptic technique after numbing with Lidocaine. Get left knee series complete. Presently off work with health and accident disability."

3. An injection of the kind given to Albert Hamm by George Mosch, M.D. on December 20<sup>th</sup> and 27<sup>th</sup> can produce a septic knee joint. [Clark Deposition p. 44 lines 12 to 14.]

Admit \_\_\_\_\_ Deny \_\_\_\_\_

**RESPONSE:** This defendant cannot admit or deny this admission as Dr. Mosch was not present for the deposition of Dr. Clark. Dr. Clark's deposition, page 44, lines 12 to 14 read as follows:

**“Q. And is it fair to say that an injection into the knee can produce a septic joint?**  
**A. That's possible.”**

4. On December 27, 2004, plain x-rays of Albert Hamm's left knee were read to show severe osteoarthritis, with asymmetric joint space narrowing and osteophyte formation. Knee joint effusion is also found to be present. The radiologist's impression of these films is severe osteoarthritis and small knee joint effusion. [Bates stamped records page 003.]

Admit \_\_\_\_\_ Deny \_\_\_\_\_

**RESPONSE:** Cannot admit or deny as this defendant was not present when these alleged events occurred. It is admitted only that the report marked as Bates stamped records page 003 contains a report which in part contains the following:

**“Reading DR: Alfred B. Coren, M.D.  
Electronically signed: Alfred B. Coren, M.D.  
Transcribed: par Dec 27 2004 2:15 p.m.  
FULL RESULT: Severe osteoarthritis is seen with asymmetric joint space narrowing and osteophyte formation. Knee joint effusion is present. The bones are osteoporotic. No fractures are seen. Vascular clips are noted.  
IMPRESSION: Severe osteoarthritis. Small knee joint effusion.”**

5. On December 30, 2004 at 23:50, Albert Hamm was examined by an Emergency Medical Technician who notes his chief complaint to be pain and swelling of the left knee. The EMT also records that Mr. Hamm tells him that he is unable to walk at all. [Bates stamped records page 004.]

Admit \_\_\_\_\_

Deny \_\_\_\_\_

**RESPONSE:** Cannot admit or deny as this defendant was not present when these alleged events occurred. It is admitted that Bates stamped records page 004 in part contains the following:

**Chief Complaint (Category: Pain)** Pain and swelling in left knee. History of Present Illness. Pt states that he has had this ongoing pain and swelling in his left knee for the past 3 weeks or so. Pt states that he feels he may have a blood clot. Pt states that he is unable to walk at all and has been using the crutches he has to get around.

6. On December 31, 2004 at 00:02, Albert Hamm arrives at the Emergency Department of the Clearfield Hospital and comes under the care of Gordon Clark, M.D. [Bates stamped records page 004.]

Admit \_\_\_\_\_

Deny \_\_\_\_\_

**RESPONSE:** Cannot admit or deny as this defendant was not present at Clearfield Hospital at that time. It is admitted only that Bates stamped records page 004 in part contains the following:

**At Rec:** 00:02.

**Available:** 00:02.

**Rec. MD:** Dr. Clark.

7. On December 31, 2004 at 00:12, Albert Hamm's chief complaint includes severe left knee pain. At that time, he has massive pitting edema of both lower extremities, left greater than right, pulses that cannot be palpated in both of his feet, an inability to move his lower extremities and an edematous left leg. [Bates stamped records page 008.]

Admit \_\_\_\_\_

Deny \_\_\_\_\_

**RESPONSE:** Cannot admit or deny as this defendant was not present at the time and place this information was obtained. However, it is admitted Bates stamped records page 008 contains the following:

**Chief complaint/quote:** Severe pain left knee started this past weekend. Patient says that he has had pain in left knee for years and has also had

**cortisone shots in that knee. Pain much worse now. Rating pain 10/10. Pt has massive pitting edema of both lower extremities. L > R. Unable to palpate pulses in both feet. +bilateral pulses with Doppler.**

8. On December 31, 2004 at 00:16, Albert Hamm's temperature is 38.1 degrees Celsius. [Bates stamped records page 013.]

Admit \_\_\_\_\_ Deny \_\_\_\_\_

**RESPONSE: Cannot admit or deny as this defendant was not present when this admission may have occurred. It is admitted Bates stamped records page 013 contains in part the following: 12/31/2004 00:16 Temp(C) 38.1.**

9. On December 31, 2004 at 00:16, there is massive pitting edema of Albert Hamm's lower extremities. [Bates stamped records page 009.]

Admit \_\_\_\_\_ Deny \_\_\_\_\_

**RESPONSE: Cannot admit or deny as this defendant was not present when these alleged events occurred. It is admitted Bates stamped records page 009 in part contains the following information:**

**CARDIOVASCULAR Edema: (+) Description of Edema: There is massive pitting edema of the lower extremities. Notes: <TLP 12-31-2004 00:30>L>R.**

10. On December 31, 2004 at 01:45, Albert Hamm's temperature is 37.2 degrees Celsius. [Bates stamped records page 013.]

Admit \_\_\_\_\_ Deny \_\_\_\_\_

**RESPONSE: Cannot admit or deny as this defendant was not present when these alleged events occurred. It is admitted Bates stamped records page 013 in part contains the following information: 12/31/2004 01:45 Temp(C) 37.2.**

11. On December 31, 2004 at 03:08, Dr. Clark records that the venous Doppler study of Albert Hamm's left lower extremity shows no evidence of keep vein thrombosis and that his Blood sugar is 447 milligrams per deciliter. [Bates stamped records page 018.]

Admit \_\_\_\_\_ Deny \_\_\_\_\_

**RESPONSE: Cannot admit or deny as this defendant was not present when these alleged events occurred. It is admitted the Bates stamped records page 018 records in part:**

**Progress Note: Venous Doppler shows no evidence of DVT. BS is 447 with reactive hyponatremia, and relative hyperkalemia. GPC 12/31/04 02:58.**

12. On December 31, 2004 at 06:40, Albert Hamm's temperature is 36.5 degrees Celsius. [Bates stamped records page 013.]

Admit \_\_\_\_\_

Deny \_\_\_\_\_

**RESPONSE:** Cannot admit or deny as this defendant was not present when this alleged event occurred. After review of Bates stamped records page 013 this defendant is unable to locate on this record a temperature recorded at 6:40 on December 31, 2004.

13. On December 31, 2004 at 7:40, Albert Hamm takes four steps for Dr. Clark. [Bates stamped records page 010.]

Admit \_\_\_\_\_

Deny \_\_\_\_\_

**RESPONSE:** Cannot admit or deny as this defendant was not present when these alleged events occurred. Bates stamped records page 010 does record in part:

**Notes:** Took 4 steps for Dr. Clark to observe.

14. On December 31, 2004 at 07:40, Albert Hamm's lower extremities are edematous, with the left lower extremity much more edematous than the right. Mr. Hamm complains of pain in the left lower extremity with weight bearing or movement. [Bates stamped records page 010.]

Admit \_\_\_\_\_

Deny \_\_\_\_\_

**RESPONSE:** Cannot admit or deny as this defendant was not present when these alleged events occurred. The Bates stamped records page 010 in part records:

**Pt's lower ext bilat are edematous. LLE much more edematous than R. Pt c/o of pain in LLE with weight bearing or movement.**

15. On December 31, 2004 at 07:40, Dr. Clark concludes that Albert Hamm should be readied for discharge. [Bates stamped records page 010.]

Admit \_\_\_\_\_

Deny \_\_\_\_\_

**RESPONSE:** Cannot admit or deny as this defendant was not present when these alleged events took place. Bates stamped records page 010 in part records:

**Notes:** Readied for discharge per Dr. Clark's orders.

16. On December 31, 2004 at 07:46, Albert Hamm is discharged from the Clearfield Hospital Emergency Department on orders from Gordon Clark, M.D. [Bates stamped records page 019.]

Admit \_\_\_\_\_

Deny \_\_\_\_\_

**RESPONSE: Cannot admit or deny as this defendant was not present when these alleged events occurred. Bates stamped records page 019 does state in part:**

**Disposition – Discharge from ED:  
Patient released 12/31/2004 07:46**

17. Prior to ordering Albert Hamm's discharge from the Emergency Department of the Clearfield Hospital on December 31, 2004, Dr. Clark knows that Albert Hamm's temperature is recorded as 38.1 degrees Celsius at 00:16.

Admit \_\_\_\_\_

Deny \_\_\_\_\_

**RESPONSE: Cannot admit or deny as this defendant was not present when these alleged events occurred.**

18. Prior to ordering Albert Hamm's discharge from the Emergency Department of the Clearfield Hospital on December 31, 2004, Dr. Clark knows that Albert Hamm is an insulin dependent diabetic. [Clark Deposition p. 25 lines 17 to 18.]

Admit \_\_\_\_\_

Deny \_\_\_\_\_

**RESPONSE: Cannot admit or deny as this defendant was not present for the deposition of Dr. Clark. Dr. Clark's deposition, page 25, lines 17 to 18 read as follows:**

**“A. I learned that the patient had a long history of arthritis of the left knee. He was a diabetic who was being controlled with insulin and he had some swelling and tenderness of the left lower leg . . .”**

19. Prior to ordering Albert Hamm's discharge from the Emergency Department of the Clearfield Hospital on December 31, 2004, Dr. Clark knows that Albert Hamm's lab studies show that Albert Hamm's blood sugar level while at the Emergency Department is measured to be 447 milligrams per deciliter while it should have been in the range of 65 to 99 milligrams per deciliter. [Clark Deposition p. 29 lines 20 to 22.]

Admit \_\_\_\_\_ Deny \_\_\_\_\_

**RESPONSE: Cannot admit or deny as this defendant was not present for the deposition of Dr. Clark. Clark's deposition, page 29, lines 20 to 22 read as follows:**

**"A ... And I also did a comprehensive metabolic panel which showed he had hyperglycemia. His blood sugar which should have been in the 65 to 99 milligram per deciliter range was 447."**

20. Prior to ordering Albert Hamm's discharge from the Emergency Department of the Clearfield Hospital on December 31, 2004, Dr. Clark knows that Albert Hamm has marked pitting edema of his left leg, that the left leg is more swollen than the right, is tender over the tibial tuberosity and painful on passive motion. [Clark Deposition p. 27 lines 19 to 25.]

Admit \_\_\_\_\_ Deny \_\_\_\_\_

**RESPONSE: Cannot admit or deny as this defendant was not present for the deposition of Dr. Clark. Clark deposition, page 27, lines 19 to 25 read as follows:**

**"A. ... He did have marked pitting edema of both lower extremities and the left leg was more swollen than the right and there was some tenderness over the tibial tuberosity and some pain on passive movement of this leg. The neurological was intact and the psychological examination was normal."**

21. Prior to ordering Albert Hamm's discharge from the Emergency Department of the Clearfield Hospital on December 31, 2004, Dr. Clark does not perform an arthrocentesis of the joint space in and around Albert Hamm's left knee.

Admit \_\_\_\_\_ Deny \_\_\_\_\_

**RESPONSE: Cannot admit or deny as this defendant was not present when these alleged events occurred.**

22. Prior to December 31, 2004, Dr. Clark is taught that an arthrocentesis is a proper diagnostic test to perform on a patient who has an infected knee. [Clark Deposition p. 38 lines 1 to 7.]

Admit \_\_\_\_\_ Deny \_\_\_\_\_

**RESPONSE: Cannot admit or deny as this defendant was not present for the deposition of Dr. Clark. Clark's deposition, page 38, lines 1 to 9 read as follows:**

**“Q. And what tests were you trained to perform to determine whether or not a patient has an infected knee?**  
**A. If I suspected an infected knee?**  
**Q. Yes.**  
**A. The diagnostic tests.**  
**Q. And that would be an arthrocentesis, is that correct?**  
**A. Yes.”**

23. Prior to December 31, 2004, Dr. Clark knew how to perform an arthrocentesis. [Clark Deposition p. 38 lines 10 to 11.]

Admit \_\_\_\_\_ Deny \_\_\_\_\_

**RESPONSE: Cannot admit or deny as this defendant was not present for the deposition of Dr. Clark. Clark deposition, page 38, lines 10 to 11 read as follows:**

**“Q. And do you know how to perform that?**  
**A. Yes, I do.”**

24. Prior to December 31, 2004, Dr. Clark performed 30 to 40 arthrocenteses of a knee. [Clark Deposition p. 39 lines 6 to 13.]

Admit \_\_\_\_\_ Deny \_\_\_\_\_

**RESPONSE: Cannot admit or deny as this defendant was not present for the deposition of Dr. Clark. Clark deposition, page 39, lines 6 to 19 read as follows:**

**“Q. And how many times have you performed an arthrocenteses of the knee, if you have?**  
**A. Oh, yes, I have. I would say – in my career you mean?**  
**Q. Un-huh.**  
**A. I would say –**  
**Q. Prior to 2004?**  
**A. – 30 to 40 of them. Not always diagnostic arthrocentesis, sometimes they would be done to remove blood. For example, if someone had a, you know, a ruptured cruciate ligament in the knee from an injury or**

**something, you can be – you can do an arthrocentesis to take – to take blood out to relieve pain.”**

25. Prior to December 31, 2004, Dr. Clark knows that an elevated temperature is one of the signs of an infection of a knee. [Clark Deposition p. 39 lines 20 to 24.]

Admit \_\_\_\_\_

Deny \_\_\_\_\_

**RESPONSE: Cannot admit or deny as this defendant was not present for the deposition of Dr. Clark. Clark deposition, page 39, lines 20 to 24 read as follows:**

“Q. Is an elevated temperature one of the signs of an infection?  
A. Yes.  
Q. And does that occur in an infected knee?  
A. It can.”

26. Prior to December 31, 2004, Dr. Clark knows that a mildly elevated temperature is a sign of infection for a diabetic. [Clark Deposition p. 40 lines 2 to 4.]

Admit \_\_\_\_\_

Deny \_\_\_\_\_

**RESPONSE: Cannot admit or deny as this defendant was not present for the deposition of Dr. Clark. Clark deposition, page 40, lines 2 to 4 read as follows: “**

Q. Can you have a mildly elevated temperature in an infected knee in a diabetic?  
A. Yes.”

27. Prior to ordering Albert Hamm’s discharge from the Emergency Department of the Clearfield Hospital on December 31, 2004, Dr. Clark does not consider an infection of the left knee in his differential diagnosis because he believes there is no reason to think Albert Hamm has an infected knee. [Clark Deposition p. 34 lines 22 to 24.]

Admit \_\_\_\_\_

Deny \_\_\_\_\_

**RESPONSE: Cannot admit or deny as this defendant was not present for the deposition of Dr. Clark. Clark deposition, page 34, lines 22 to 24 read as follows:**

“Q. Did you consider an infection of the knee in your differential diagnosis?  
A. No, I saw no reason to think that.”

28. Prior to ordering Albert Hamm's discharge from the Emergency Department of the Clearfield Hospital on December 31, 2004, Dr. Clark believes there is no reason to perform an arthrocentesis of the joint space in and around Albert Hamm's left knee.

Admit \_\_\_\_\_

Deny \_\_\_\_\_

**RESPONSE: Cannot admit or deny as this defendant was not present when these alleged events occurred.**

29. Prior to ordering Albert Hamm's discharge from the Emergency Department of the Clearfield Hospital on December 31, 2004, Dr. Clark rules out thrombophlebitis as the cause of the swelling in Mr. Hamm's left leg. [Clark Deposition p. 34 lines 7 to 12.]

Admit \_\_\_\_\_

Deny \_\_\_\_\_

**RESPONSE: Cannot admit or deny as this defendant was not present for the deposition of Dr. Clark. Clark deposition, page 34, lines 7 to 12 read as follows:**

**“Q. When you discharged Mr. Hamm, had you ruled out thrombophlebitis as a cause of his swelling?**

**A. Pretty much so. I think by standard of care measures, yes, this is a negative venous Doppler examination essentially ruled out thrombophlebitis, yes.”**

30. Gas in the tissues of an insulin dependent diabetic with a joint infection can occur in as little as 24 hours. [Clark deposition p. 48 lines 5 to 8.]

Admit \_\_\_\_\_

Deny \_\_\_\_\_

**RESPONSE: Cannot admit or deny as this defendant was not present for the deposition of Dr. Clark. Clark deposition, page 48, lines 5 to 8 read as follows:**

**“Q. Is it fair to say that gas in the tissues in a diabetic with a knee joint infection can occur in as little as 24 hours?**

**A. Yes.”**

31. Dr. Clark does not x-ray Albert Hamm's left knee while Mr. Hamm is under Dr. Clark's care at the Clearfield Hospital Emergency Department on December 31, 2004 because an x-ray of his left knee had been done on December 27<sup>th</sup> and Dr. Clark thought it was not necessary to repeat it. [Clark deposition page 47 line 16 to page 48 line 4.]

Admit \_\_\_\_\_

Deny \_\_\_\_\_

**RESPONSE: Cannot admit or deny as this defendant was not present for the deposition of Dr. Clark. Clark deposition, page 47, line 16 to page 48, line 4 reads as follows:**

**“Q. Now, you had previously said that an x-ray taken three days before, a few days before you had seen the patient, would not have shown anything new and that was the reason you didn't repeat the x-ray, is that a fair –**

**Mr. Wall: Objection to the form of the question.**

**Q. Is that a fair representation of what you had to say?**

**A. Not, not – not really. I think what I meant to say is that the appropriate test had been done a day or two before and it was not necessary to repeat this.”**

32. Prior to ordering Albert Hamm's discharge from the Emergency Department of the Clearfield Hospital on December 31, 2004, Dr. Clark could have, but did not, consult with an orthopedic surgeon. [Clark deposition p. 52 lines 3 to 11.]

Admit \_\_\_\_\_

Deny \_\_\_\_\_

**RESPONSE: Cannot admit or deny as this defendant was not present for the deposition of Dr. Clark. Clark deposition, page 52, lines 4 to 14 read as follows:**

**“Q. Could you have consulted with an orthopedic surgeon about Mr. Hamm's knee on the day that you saw him?**

**A. Well, we always have an orthopedist on call.**

**Q. And did you consult with an orthopedic surgeon on that day?**

**A. No.**

**Q. And why not?**

**A. Because I thought his complaints were not related to his knee.”**

33. Dr. Clark does not have an opinion as to whether the left knee infection of Albert Hamm that is diagnosed while Mr. Hamm is an inpatient at the Clearfield Hospital from January 1, 2005 to January 6, 2005 is or is not present when Mr. Hamm is under the care of Dr. Clark at the Emergency Department of the Clearfield Hospital on December 31, 2004. [Clark deposition p. 57 line 19 to p. 58 line 4.]

Admit \_\_\_\_\_ Deny \_\_\_\_\_

**RESPONSE:** Cannot admit or deny as this defendant was not present for the deposition of Dr. Clark. Clark deposition, page 57, line 19 to page 58, line 9 read as follows:

“Q. Do you have opinion as to whether that infection was present when you saw Mr. Hamm?  
A. No.  
Q. No, you do not have an opinion?  
A. (Witness nods head.)  
Mr. Wall: I’m sorry, I didn’t hear your answer, sir.  
The Witness: No.  
Q. Do you agree that it was –  
A. No, I don’t have an opinion.  
Q. Okay. Do you agree that it was a deviation from the “standard of care” for you to fail to refer this patient, Mr. Hamm, to an orthopedic surgeon to evaluate his knee?  
A. No, I don’t agree.”

34. On January 1, 2005 at 12:01, Albert Hamm is admitted to the Clearfield Hospital by George Mosch, M.D. [Bates stamped records page 029 and 033.]

Admit \_\_\_\_\_ Deny \_\_\_\_\_

**RESPONSE:** Denied as stated. It is admitted the Clearfield Hospital record on Bates stamped records page 029 records on January 1, 2005 at 12:01 Albert Hamm was admitted to the Clearfield Hospital and Dr. George C. Mosch was the admitting doctor.

35. Prior to admitting Albert Hamm to the Clearfield Hospital on January 1, 2005, George Mosch knows that Mr. Hamm is an insulin dependent diabetic.

Admit \_\_\_\_\_ Deny \_\_\_\_\_

**RESPONSE:** It is admitted prior to January 1, 2005 Dr. Mosch knew Mr. Hamm was an insulin dependent diabetic.

36. On January 1, 2005 Dr. Mosch dictates a History and Physical for Albert Hamm which he signs on January 2, 2005. [Bates stamped records page 034.]

Admit \_\_\_\_\_ Deny \_\_\_\_\_

**RESPONSE: Denied as stated. It is admitted Bates stamped records page 034 is a copy of the Clearfield Hospital record which is page 2 and indicates at the bottom:**

**“D: 01/01/2005. T: 01/02/2005. GCM/map.**

**It is also admitted this Bates stamped records page 034 reflects Dr. Mosch’s signature to the right of the word “Signature”. This record does not reflect the date the signature of Dr. Mosch was placed on this page of the record.**

37. In the History and Physical that he dictates on January 1, 2005, Dr. Mosch records that in the last 24 hours, Albert Hamm’s left leg begins to swell considerably with much edema with loss of the contours of the left ankle, that he experiences increasing pain of an 8 on a scale of 10 and that the pain is unrelenting even though he has been taking Aspirin, Aleve and Ibuprofen. [Bates stamped records page 033.]

Admit \_\_\_\_\_ Deny \_\_\_\_\_

**RESPONSE: Denied as stated. It is admitted in the History section of Bates stamped records page 033, paragraph 2, it is recorded**

**“In the last 24 hours his leg began to swell considerably with much edema and losing the contours of his ankle and developing an increasing pain, which was eight on a scale of zero to ten. He has been taking Aspirin, Aleve and Ibuprofen as well for this pain which has been unrelenting. For the increasing swelling and pain at the left leg he came to the hospital Emergency Room in the last 48 hours and had Doppler studies of the left leg which he reports were negative. He called me today stating his left leg was worsening and I would admit him to the hospital with direct admission.”**

38. In the History and Physical that he dictates on January 1, 2005, Dr. Mosch records that in the last 48 hours Mr. Hamm’s left leg begins to swell in general with increasing pain in the soft tissues and muscles behind the knee and extending up into the left thigh medially and possibly posteriorly and down the left calf down to the ankle. [Bates stamped records page 033.]

Admit \_\_\_\_\_ Deny \_\_\_\_\_

**RESPONSE: Denied as stated. In the paragraph one of this History which is recorded on Bates stamped records page 033 it states in part:**

**“The patient is a 59 year old white male who is diabetic with ASHD and a history of CABG times three in 1996. He presented with severe arthritis of**

his left leg to Dr. Nartatez in the recent past and followed up with me and he has received in the last three weeks two injections of Corticosteroid into the left knee. The internal left knee seemed of poor response to these injections indeed in the last 48 hours his left leg in general began to swell and to have increasing pain in the soft tissues and muscles behind the knee and extending up to the left thigh medial and posteriorly and down the left calf down to the ankle."

39. The swelling in the muscle behind the knee and extending up into the left thigh, medially and posteriorly and down the left calf down to the ankle is a sign of infection. [Polintan deposition page 22 lines 17-25.]

Admit \_\_\_\_\_ Deny \_\_\_\_\_

**RESPONSE:** Cannot admit or deny as this defendant was not present for the deposition of Dr. Polintan. Polintan deposition, page 21, lines 17 through page 22, line 25 reads as follows:

"Q. ...where Dr. Mosch states that his left leg in general began to swell and had increasing pain in the soft tissues and muscles behind the knee extending up into the left thigh, medially and posteriorly down the calf down to the ankle. How did that, if it did, indicate to you that this patient had an infection of the left knee?

A. That sentence doesn't really indicate that there's an infection.

Q. It did not?

A. It did not sir.

Q. Did the pitting edema indicate to you that the patient could have an infection?

A. The pitting edema could be coming from many causes.

Q. And was one of those causes an infection of the knee?

A. It could.

Q. Okay. Why do you believe that the swelling was not an indication of the infection of the left leg?

A. I don't believe I said it's not an indication. It's one of the findings when you have an infection.

Q. Okay. Then, perhaps I misunderstood. Is the swelling that I referred to earlier from the muscle behind the knee and extending up into the left thigh, medially and posteriorly and down the left calf down to the ankle, is that an indication of an infection of the left knee?

A. As I said before, it's one of the signs.

Q. One of the signs?

A. Right sir."

40. In the History and Physical, Dr. Mosch records that Mr. Hamm's sedimentation rate is markedly elevated at 95, his blood sugar level is 354 and his white cell count is 9,000. [Bates stamped records page 033.]

Admit \_\_\_\_\_

Deny \_\_\_\_\_

**RESPONSE: Denied as stated. Bates stamped records page 033, in paragraph three under the section marked History, the record reads as follows:**

**"It should be noted on his admission that his sodium is 131, potassium 6.0, glucose 354, BUN 56, creatinine 2.0, sed rate is markedly elevated at 95. His white blood cell count is 9,000, hemoglobin 11.5, platelets 147,000. His hemoglobin A1C is 10.9. He has a history diabetes and has used insulin in the past in the most recent months."**

41. In the History and Physical, Dr. Mosch records that on exam, Mr. Hamm has 3+ pitting edema of the entire left lower leg from the mid thigh down including the foot and that the right leg has only trace edema. [Bates stamped records page 034.]

Admit \_\_\_\_\_

Deny \_\_\_\_\_

**RESPONSE: Denied as stated as incomplete. Bates stamped records page 034, in the section marked Extremities, the record reflects:**

**"3+ pitting edema of the entire left lower leg from the mid thigh down including the foot. Pulses in the feet are excellent. No fungal changes of the toenails. The right leg has trace edema. Previous examinations have shown increasing tendency for swelling of the left leg as well."**

42. In the History and Physical, the only diagnosis with respect to Mr. Hamm's left lower extremity that Dr. Mosch lists is "Left swollen leg with possible early phlebitis and peripheral edema and possible phlebothrombosis." [Bates stamped records page 034.]

Admit \_\_\_\_\_

Deny \_\_\_\_\_

**RESPONSE: Denied as stated as incomplete. On Bates stamped records page 034, under Assessment, the record states:**

1. Left swollen leg with possible early phlebitis and peripheral edema.
2. History of ASHD.
3. ASHVD.
4. Possible phlebothrombosis.
5. History of CABG.
6. Diabetes mellitus, uncontrolled.
7. Electrolyte imbalance.
8. Metabolic syndrome."

43. In the History and Physical, Dr. Mosch records a plan of treatment, none of which is directed to the diagnoses with respect to Albert Hamm's left lower extremity. [Bates stamped records page 034.]

Admit \_\_\_\_\_

Deny \_\_\_\_\_

**RESPONSE: Denied. On Bates stamped records page 034 the Plan as recorded is:**

**"He is admitted. We will put him on insulin coverage and restart his insulin through Lantus and Humalog system. Because of his sodium potassium imbalance and relative adrenal insufficiency, we will give him Solu-Cortef to start and hydrate with sodium chloride solution 0.9%."**

**As part of the admission plan please also refer to orders of Dr. Mosch beginning on Bates stamped records page 00105, 00106 and continuing as indicated in the medical records.**

44. On January 1<sup>st</sup>, 2005 at 13:35, Albert Hamm's blood sugar level is 354 milligrams per deciliter. [Bates stamped records page 065.]

Admit \_\_\_\_\_

Deny \_\_\_\_\_

**RESPONSE: Denied as stated. It is admitted Bates stamped records page 065 does read General Chemistry collected 01/01/05 13:35 glucose 354.**

45. On January 2<sup>nd</sup>, 2005 at 06:15, Albert Hamm's blood sugar level is 357 milligrams per deciliter. [Bates stamped records page 065.]

Admit \_\_\_\_\_

Deny \_\_\_\_\_

**RESPONSE: Denied as stated. It is admitted Bates stamped records page 065 records General Chemistry collected 01/02/05 06:15 glucose 357.**

46. On January 3<sup>rd</sup>, 2005 at 22:00, Albert Hamm's blood sugar level is 311 milligrams per deciliter. [Bates stamped records page 064.]

Admit \_\_\_\_\_

Deny \_\_\_\_\_

**RESPONSE: Denied as stated. It is admitted Bates stamped records page 064 records General Chemistry collected on 01/03/05 06:15 glucose 311.**

47. On January 3, 2005 at 22:00, Albert Hamm's temperature is 38 degrees Celsius. [Bates stamped records page 055.]

Admit \_\_\_\_\_ Deny \_\_\_\_\_

**RESPONSE: Denied as stated. It is admitted Bates stamped records page 055 records a temperature of 38 degrees Celsius only at 22:00 on January 3, 2005.**

48. On January 4<sup>th</sup> at 06:15 , Albert Hamm's blood sugar level is 293 milligrams per deciliter. [Bates stamped records page 064.]

Admit \_\_\_\_\_ Deny \_\_\_\_\_

**RESPONSE: Denied as stated. It is admitted Bates stamped records page 064 records General Chemistry collected on 01/0405 06:15 glucose 293.**

49. On January 4<sup>th</sup>, 2005 at 15:00, Dr. Mosch writes an order for a consult with Dr. Nartatez. (Mosch Deposition p. 38 lines 1-10 and p. 79 lines 5-16.]

Admit \_\_\_\_\_ Deny \_\_\_\_\_

**RESPONSE: It is admitted on January 4, 2005 at approximately 15:00 Dr. Mosch wrote an order for a consult with Nartatez.**

50. Dr. Nartatez is an orthopedic surgeon.

Admit \_\_\_\_\_ Deny \_\_\_\_\_

51. Dr. Mosch makes the referral to Dr. Nartatez because he is concerned that Albert Hamm may have septic arthritis. [Mosch Deposition p. 36 lines 10-13 and page 37 lines 4-23.]

Admit \_\_\_\_\_ Deny \_\_\_\_\_

**RESPONSE: Denied as stated. Mosch deposition, page 36, lines 10-13 state as follows:**

**“Q. Why did you request a consult with Dr. Polintan?  
A. Because at that point I was concerned that the patient may have septic arthritis.”**

In addition, Mosch deposition, page 37, lines 3-23 read as follows:

“A. My consult actually was to Dr. Nartatez.  
Q. How do you know that?  
A. Because I – in the orders, under the order section.  
Q. All right. So you’re saying there’s something in the physicians’ orders?  
A. That’s correct.  
Q. In this packet that I gave you, I’m telling you that the physicians’ orders start at Page 105 and they continue --  
A. Yes.  
Q. – to Page 114. Please look through those pages and tell me what evidence you saw in the physicians’ orders that led you to that – to state that you referred this patient to Dr. Nartatez.  
A. Okay. On Page 111 on the top, there’s a referral, consult Dr. Nartatez concerning left knee swelling, question mark, septic.  
Q. Do you know – now, that looks to be on 1/4/05.  
A. That’s correct.”

52. George Mosch, M.D. does not suspect that Albert Hamm has a septic left knee until he orders the consult with Dr. Nartatez on the afternoon of January 4, 2005.

Admit \_\_\_\_\_ Deny \_\_\_\_\_

**RESPONSE:** Denied as stated. Dr. Mosch’s deposition, page 40, lines 2 to 25 and page 41, lines 1 to 3 reads as follows:

“Q. Okay. Now, why did you wait until 3:00 or thereabouts on 1/4/05 to request a consult with an orthopedic surgeon?  
A. It was that morning or that afternoon where I saw the patient that the possibility of septic arthritis came to the head, in my opinion.  
Q. And was – when you “it came to a head”, that implies to me, was there some evidence of septic arthritis before that point?  
A. To be specific in reviewing the chart and applying my best memory to the situation, it appears that the patient’s condition markedly worsened on the evening of the 3rd where for the first time nurse’s notes consistent with the fever, the patient had subsequent to that would show that the knee was now becoming more localized, that there was heat, redness and more pain, that now in making my rounds, that was in the evening of the 3rd, the following day I would make my rounds and as I’m running a very busy family medicine practice here, I made the rounds in the afternoon which is my prerogative and in reviewing the whole chart and the situation, and examining the patient, I found a clear difference in what had happened overnight.  
Q. Okay.  
A. That was not the same knee that was there on the 1st of January.”

53. On January 4<sup>th</sup>, 2005 at 15:45, Dr. Nartatez gives a verbal order that the orthopedic surgeon then on call at the Clearfield Hospital should perform the consultative examination of Albert Hamm. [Bates stamped records page 111 and Deposition of Dr. Mosch page 39 lines 14-23.]

Admit \_\_\_\_\_

Deny \_\_\_\_\_

**RESPONSE: Denied as stated. Deposition of Dr. Mosch, page 39, lines 14-23 read as follows:**

**“A. I’m on Page 111, the nurse, as I said, somewhere around 1530 hours or thereabouts called Dr. Nartatez to notify him of my consult and clearly he called back suggesting that we call the doctor on call for orthopedics saying that he would not be available and refer – deferring there.**

**Q. And I think you’re referring to the progress --- excuse me, the physician order that’s dated 1/4/05, 1545 being the time?**

**A. That’s correct.”**

54. On January 4<sup>th</sup>, 2005 at 15:45, the orthopedic surgeon on call at the Clearfield Hospital is Rodolpho Polintan, M.D. [Mosch Deposition p. 39 line 24 to p. 40 line 1.]

Admit \_\_\_\_\_

Deny \_\_\_\_\_

**RESPONSE: It is admitted Mosch deposition, page 39, line 24 to page 40, line 1 reads as follows:**

**“Q. Okay. All right. And who was the orthopedic surgeon on call, Dr. Polintan?**

**A. Dr. Polintan.”**

55. On January 4<sup>th</sup>, 2005, Rodolpho Polintan, M.D. sees Albert Hamm and dictates a Consultation Report. [Bates stamped records page 057 and 058.]

Admit \_\_\_\_\_

Deny \_\_\_\_\_

**RESPONSE: Denied as stated as this defendant was not present when these alleged events occurred. However, Bates stamped records, page 057 and page 058 read in part as follows:**

**Consultation Report.**  
**Consulting Physician: Rodolfo S. Polintan, M.D.**  
**Attending Physician: George C. Mosch, M.D.**  
**Date of Consultation: 01/04/2005.**

56. In the Consultation Report, Dr. Polintan notes the reason for the consultation as "Evaluation of the left knee for possible septic joint." [Bates stamped records page 057.]

Admit \_\_\_\_\_

Deny \_\_\_\_\_

**RESPONSE:** Denied as stated as being incomplete. Bates stamped records page 057 states in part:

**"Reason for Consultation: Evaluation of the left knee for possible septic joint."**

57. In the Consultation Report, Dr. Polintan notes that there is marked edema of the left lower extremity from the thigh down to the toes, moderate effusion of the left knee, varus deformity and significant tenderness on the knee and decreased range of motion. He cannot palpate the pedal pulses. All of these findings are indications that Mr. Hamm has an infected left knee. [Bates stamped records page 057 and Polintan deposition page 23 lines 5-19.]

Admit \_\_\_\_\_

Deny \_\_\_\_\_

**RESPONSE:** Cannot admit or deny this defendant was not present when these alleged events occurred or for the deposition of Dr. Polintan. Polintan deposition, page 23, lines 5-25 and page 24, lines 1-5 read as follows:

**Q.** Okay. Going back to your note of January 4th, Page 57, 58 and 59, would you tell me what it was that you found on that day that indicated to you that Albert Hamm could have a septic left knee?

**A.** From my examination?

**Q.** Yes, yes, sir.

**A.** The patient had low grade fever. He appears to be chronically ill. There is marked edema of the left lower extremity from the thigh down to the toes. He has moderate effusion of the left knee, varus deformity and significant tenderness on the knee, decreased range of motion. No obvious instability. I could not palpate the dorsalis pedis pulses.

**Q.** Would you explain how each of those factors, why each of those factors would indicate to you that the patient had the possibility of an infected left knee?

**A.** The patient had low grade fever. He appears to be sick, very sick and then that there's a localized – I mean, there's an effusion of the joint and tenderness, so that – an indication that there is something going on on the joint and one of the possibility is infection or it could be just plain arthritis."

58. In the Consultation Report, Dr. Polintan notes that Mr. Hamm needs surgical management for the left knee, debridement either arthroscopically or by arthrotomy. He notes that he is planning on doing surgery the next day, January 5, 2005, but will discuss this with Dr. Mosch on the morning of the 5<sup>th</sup> and with the anesthesiologist as well. [Bates stamped records page 058.]

Admit \_\_\_\_\_ Deny \_\_\_\_\_

**RESPONSE:** Cannot admit or deny as this defendant was not present when these alleged events occurred. Bates stamped records, page 058 indicate in the Plan and Recommendation that it is recorded as follows:

**“The patient needs surgical management for the left knee. Debridement either arthroscopically or through an arthrotomy incision. I discussed this situation with the patient and with the wife on the phone. Prognosis is extremely poor because of the constellation of problems.”**

**“I will be planning to do this surgery tomorrow, however, I will discuss this patient again with Dr. Mosch in the morning. Since his condition is extremely poor, I will discuss this with the anesthesiologist also and maybe a transfer to a tertiary hospital is better for the patient. I will discuss this with the anesthesiologist and with Dr. Mosch in the morning. Meanwhile, we’ll keep him NPO and do an x-ray of the left knee and in the morning we’ll repeat the venous Doppler ultrasound and also do the arterial Doppler on both legs.”**

59. In the Consultation Report, Dr. Polintan orders an x-ray of Albert Hamm’s left knee. [Bates stamped records page 058.]

Admit \_\_\_\_\_ Deny \_\_\_\_\_

**RESPONSE:** Cannot admit or deny as this defendant was not present when these alleged events occurred. Bates stamped records page 058 in Plan and Recommendation the record states,

**“...Meanwhile, we’ll keep him NPO and do an x-ray of the left knee and in the morning we’ll repeat venous Doppler ultrasound and also do the arterial Doppler on both legs.”**

60. On January 4<sup>th</sup>, 2005, in the presence of Dr. Polintan, Albert Hamm signs a consent form permitting Dr. Polintan to perform an excisional debridement and irrigation of the left knee using either an arthroscope or arthrotomy. [Bates stamped records page 147.]

Admit \_\_\_\_\_

Deny \_\_\_\_\_

**RESPONSE: Cannot admit or deny as this defendant was not present when these alleged events occurred. It is admitted Bates stamped records page 147 is a Clearfield Hospital form entitled Consent to Procedure(s) and The Rendering of Other Medical Services.**

61. On January 4<sup>th</sup>, 2005 at 17:50, Dr. Polintan performs an arthrocentesis of Mr. Hamm's left knee, draining 30 cc of tan colored fluid which is sent for testing. Dr. Polintan also explains to Mr. Hamm the need for surgery. [Bates stamped records page 130.]

Admit \_\_\_\_\_

Deny \_\_\_\_\_

**RESPONSE: Cannot admit or deny as this defendant was not present when these alleged events occurred. The Bates stamped record page 130 referred in this Request for Admission appears to be a nurse's note on 1/4/05 at 1750 which reads as follows:**

**“Dr. Polintan visits and drains 30 cc tan colored fluid from left knee. Sent for testing. Pt complains of increased pain, no relief from pain med earlier. Dr. Polintan explains to pt need to take to OR tomorrow.”**

62. Dr. Polintan describes the arthrocentesis that he performed on January 4<sup>th</sup>, 2005 at 17:50 as follows: “Under sterile technique with Betadine which is an antiseptic and without any local anesthesia I introduced a needle in the knee joint and aspirated it.” [Polintan deposition page 26 lines 19-22.]

Admit \_\_\_\_\_

Deny \_\_\_\_\_

**RESPONSE: Cannot admit or deny as this defendant was not present when these alleged events occurred or for the deposition of Dr. Polintan. Polintan deposition, page 26, lines 14-22 read as follows:**

**“Q. Okay. Now, you did perform an arthrocentesis of the left knee on January 4th, is that correct?**

**A. Yes sir.**

**Q. And would you describe what you did?**

**A. Under sterile technique with Betadine which is an antiseptic and without any local anesthesia I introduced a needle in the knee joint and aspirated it.”**

63. An aspiration is pulling fluid out from inside a joint. [Polintan deposition p. 26 lines 23-25.]

Admit   X   Deny \_\_\_\_\_

64. If the skin is intact and there is no lesion present then there is no contraindication to sticking a needle into skin or a joint that could be infected. [Polintan deposition p. 28 lines 4-9.]

Admit \_\_\_\_\_ Deny \_\_\_\_\_

**RESPONSE:** Cannot admit or deny as this defendant was not present when these alleged events occurred or for the deposition of Dr. Polintan. Polintan deposition, page 28, lines 4-9 read as follows:

“Q. Okay. Are there any contraindications to sticking a needle into skin or a joint that could be infected?

A. Yes – um, as far as if the joint and the skin is intact and there’s no lesion, there’s no contraindication, sir.”

65. When Dr. Polintan examines Mr. Hamm’s left knee on January 4<sup>th</sup>, 2005, he sees no lesion where he is going to insert the needle. [Polintan deposition p. 28 lines 17-25.]

Admit \_\_\_\_\_ Deny \_\_\_\_\_

**RESPONSE:** Cannot admit or deny as this defendant was not present when these alleged events occurred or for the deposition of Dr. Polintan. Polintan deposition, page 28, page 10 through 15 read as follows:

“Q. So when you examined Mr. Hamm’s knee on January 4th, 2005, you didn’t see any lesions or any other contraindications to performing arthrocentesis on that knee?

A. I didn’t see any lesion where I’m going to put the needle in.”

66. It is very important to perform an arthrocentesis when making a diagnosis of an infected knee joint. [Polintan deposition p. 28 line 23 to p. 29 line 2.]

Admit \_\_\_\_\_ Deny \_\_\_\_\_

**RESPONSE:** Cannot admit or deny as this defendant was not present when these alleged events occurred or for the deposition of Dr. Polintan. Polintan deposition, page 28, line 23 to page 29, line 2 read as follows:

**“Q. And is an arthrocentesis a procedure that is considered essential to making a diagnosis of an infected knee joint?**

**A. It is very important to do an arthrocentesis, yes, sir.”**

67. An arthrocentesis is a safe and accepted procedure that can safely be performed when a physician has reason to believe that the knee could be infected. [Polintan deposition p. 29 lines 10-15.]

Admit \_\_\_\_\_ Deny \_\_\_\_\_

**RESPONSE: Cannot admit or deny as this defendant was not present when these alleged events occurred or for the deposition of Dr. Polintan. Polintan deposition, page 29, lines 10-15 read as follows:**

**“Q. All right. Is it fair to say that an arthrocentesis of the knee joint is a safe and accepted procedure that is necessary to perform when a physician has reason to believe that the knee could be infected?**

**A. Yes sir.”**

68. When he aspirates Albert Hamm’s left knee, Dr. Polintan extracts purulent material which indicates to him a highly presumptive diagnosis of a septic joint. [Polintan deposition p. 30 lines 11-13.]

Admit \_\_\_\_\_ Deny \_\_\_\_\_

**RESPONSE: Cannot admit or deny as this defendant was not present when these alleged events occurred or for the deposition of Dr. Polintan. Polintan deposition, page 30, lines 7-13 read as follows:**

**“Q. Now, go through the section of your note on January 4th where you state that the patient needs surgical management of the left knee. What did you mean by that?**

**A. When I aspirated the knee joint, I obtained a purulent material, which indicates to me, a highly presumptive diagnosis of septic joint.”**

69. On December 4, 2005, Dr. Polintan concludes that Albert Hamm’s left knee needs to be treated with multiple modalities, including IV antibiotics and cleaning out the joint either arthroscopically or by opening it up. [Polintan deposition p. 30 lines 14-21.]

Admit \_\_\_\_\_ Deny \_\_\_\_\_

**RESPONSE: Cannot admit or deny as this defendant was not present when these alleged events occurred or for the deposition of Dr. Polintan. Polintan deposition, page 30, lines 14-21 read as follows:**

**“Q. And – well, that tells me what you found, but when you said you planned on – that the patient needs surgical management for the left knee, what did you mean by that?**

**A. Infected joint, especially the knee, you have to treat them with multiple modalities, not only with IV antibiotic but also to clean the joint, open it or do it arthroscopically.”**

70. Mr. Hamm's infected left knee could not be sufficiently treated with antibiotics alone. [Polintan deposition p. 32 lines 15-18.]

Admit \_\_\_\_\_

Deny \_\_\_\_\_

**RESPONSE: Cannot admit or deny as this defendant was not present when these alleged events occurred or for the deposition of Dr. Polintan. Polintan deposition, page 32, lines 15-18 read as follows:**

**“Q. And is it fair to say that antibiotics alone would not have been sufficient to treat Mr. Hamm's septic knee?**

**A. Accurate, sir.”**

71. In a knee that is being treated with antibiotics but has not been surgically treated, the bacteria that are present in the knee will continue to destroy healthy tissue, continue spread into the bloodstream and cause septicemia and perhaps be fatal. [Polintan deposition p. 32 line 25 to page 33 line 7.]

Admit \_\_\_\_\_

Deny \_\_\_\_\_

**RESPONSE: Cannot admit or deny as this defendant was not present when these alleged events occurred or for the deposition of Dr. Polintan. Polintan deposition, page 32, line 22 to page 33, line 7 read as follows:**

**“Q. And even while antibiotics are being administered, the bacteria that is present in a knee that has not been surgically treated, can they continue to destroy portions of that knee?**

**A. Yes, sir.**

**Q. And can they continue to spread into the bloodstream and cause a septicemia?**

**A. Yes, sir.**

**Q. And can they continue to produce, perhaps, even a fatal condition for the patient?**

**A. Yes, sir.”**

72. Dr. Polintan concludes that Albert Hamm requires surgery on his left knee within 48 hours of January 4<sup>th</sup>, 2005 at 18:00. [Polintan deposition p. 35 lines 4-16.]

Admit \_\_\_\_\_

Deny \_\_\_\_\_

**RESPONSE:** Cannot admit or deny as this defendant was not present when these alleged events occurred or for the deposition of Dr. Polintan. Polintan deposition, page 35, lines 4-22 read as follows:

“Q. You then stated that you were planning to do this surgery tomorrow morning, which would be January 5th, 2005. Why did you originally want to do the surgery on January 5th, 2005?

A. When I saw Mr. Hamm, it was like around 6:00 p.m., sir, and since we – I don’t think the operating room in the Clearfield Hospital would allow me to operate at like midnight.

Q. Did you feel that Mr. Hamm needed emergent surgery on January 4, 2005?

A. I won’t call emergent, sir, it’s urgent.

Q. When you say urgent, what does that mean?

A. Urgent means it could be within 48 hours.

Q. Why do you believe it could have been within 48 hours.

A. I’ve treated septic joint in the past, not many, but you have to make sure that the patient is in good condition enough to withstand the stress of the surgery.”

73. Going in and actually opening up the joint and removing the infected material from the joint is an essential treatment for an infected knee. [Polintan deposition p. 31 lines 9-14.]

Admit \_\_\_\_\_

Deny \_\_\_\_\_

**RESPONSE:** Cannot admit or deny as this defendant was not present when the alleged events occurred or for the deposition of Dr. Polintan. Polintan deposition, page 31, lines 5-14 read as follows:

“Q. So going in and actually opening up the joint and removing the infected material from that joint, is that one of the essential treatments for an infected knee?

A. Yes sir.

Q. And washing out the knee once you’ve done that with antibiotic solution or sterile solution, what is called, I believe, a lavage, is that also an essential part of treating an infected knee joint?

A. Yes sir.”

74. Washing out the knee with antibiotic solution or sterile solution is an essential part of treating an infected left knee. [Polintan deposition p. 31 lines 10-14.]

Admit \_\_\_\_\_ Deny \_\_\_\_\_

**RESPONSE:** Cannot admit or deny as this defendant was not present when these alleged events occurred or for the deposition of Dr. Polintan. Polintan deposition, page 31, lines 10-14 read as follows:

**“Q.** And washing out the knee once you've done that with antibiotic solution or sterile solution, what is called, I believe, a lavage is that also an essential part of treating an infected knee joint?  
**A.** Yes, sir.”

75. Debridement of the infected tissue is an essential part of treating an infected knee. [Polintan deposition p. 31 lines 15-18.]

Admit \_\_\_\_\_ Deny \_\_\_\_\_

**RESPONSE:** Cannot admit or deny as this defendant was not present when these alleged events occurred or for the deposition of Dr. Polintan. Polintan deposition, page 31, lines 15-18 read as follows:

**“Q.** And is debridement of the infection, of the infected tissue an essential part of treating an infected knee?  
**A.** Yes, sir.”

76. The surgery that Dr. Polintan plans to perform on Albert Hamm's left knee includes opening the joint and removing infected material, washing out the joint and debridement of the infected tissue. [Polintan deposition p. 32 lines 7-14.]

Admit \_\_\_\_\_ Deny \_\_\_\_\_

**RESPONSE:** Cannot admit or deny as this defendant was not present when these alleged events occurred or for the deposition of Dr. Polintan. Polintan deposition, page 32, lines 7-14 read as follows:

**“Q.** Yes. Perhaps I'll make it a little bit more clear. When you say that the patient needs surgical management of the left knee, were you referring to opening up the knee surgically, removing the infected tissue, washing out the infected tissue and debriding away infected material; is that what you meant?  
**A.** Yes, sir.

77. On December 4, 2005, Dr. Polintan concludes that Mr. Hamm's left knee is infected.

Admit \_\_\_\_\_ Deny \_\_\_\_\_

**RESPONSE: Cannot admit or deny as this defendant is not aware Dr. Polintan saw Mr. Hamm on December 4, 2005.**

78. On December 4, 2005, Dr. Polintan concludes that Mr. Hamm's left knee cannot be treated with IV antibiotics alone.

Admit \_\_\_\_\_ Deny \_\_\_\_\_

**RESPONSE: Cannot admit or deny as this defendant is not aware Dr. Polintan saw Mr. Hamm on December 4, 2005.**

79. On January 4, 2005 at 18:25, the Operative Permit for the surgery Dr. Polintan plans to perform is explained to Albert Hamm. [Bates stamped records page 130.]

Admit \_\_\_\_\_ Deny \_\_\_\_\_

**RESPONSE: Cannot admit or deny as this defendant was not present when these alleged events occurred. Bates stamped records page 130 appears to be the nurse's notes which state in part: on January 4, 2005 1825 OR permit explained including complications. Verbalized understanding. OR permit signed by patient.**

80. On January 4, 2005 at 18:52, the x-rays of Albert Hamm's left knee ordered by Dr. Polintan are taken. [Bates stamped records page 088.]

Admit \_\_\_\_\_ Deny \_\_\_\_\_

**RESPONSE: Cannot admit or deny as this defendant was not present when these alleged events occurred. Bates stamped records page 088 is a Clearfield Hospital Imaging Department form which in part states: 01/04/2005 Knee 1 or 2 Views Left. Procedure Ended 01/04/2005 :18:52.**

81. On January 4<sup>th</sup>, 2005 at 19:42, the Gram Stain report shows no epithelial cells, many white blood cells and occasional gram stain positive cocci in pairs and chains. [Bates stamped records page 069.] [Polintan deposition p. 48 line 24 to p. 49 line 1.]

Admit \_\_\_\_\_

Deny \_\_\_\_\_

**RESPONSE: Cannot admit or deny as this defendant was not present when these alleged events occurred or for the deposition of Dr. Polintan. Bates stamped records page 069 indicates in part:**

**Gram Stain 01/04/05 No Epith's, Many WBC's, Occasional Gram Positive Cocci In Pairs and Chains. Final 01/04/05 19:42.**

**Polintan deposition, page 48, line 20 to page 49, line 1 read as follows:**

**“Q. Now, do you know if a gram stain was performed from the fluid that was obtained on January 4th, 2006?**

**A. Yes, sir.**

**Q. And what did that show?**

**A. It showed no epithelials, many WBC, occasional gram positive cocci in pairs and chains.”**

82. Dr. Polintan is not aware of the results of the Gram Stain report until January 6, 2005. [Polintan deposition p. 49 lines 7-9.]

Admit \_\_\_\_\_

Deny \_\_\_\_\_

**RESPONSE: Cannot admit or deny as this defendant was not present when these alleged events occurred or for the deposition of Dr. Polintan. Polintan deposition, page 49, lines 7-9 read as follows:**

**“Q. Where you aware of that finding before January 6th?**

**A. No sir.**

83. On January 4<sup>th</sup>, 2005 at 05:00, Albert Hamm is not allowed to eat or drink because of the planned surgical debridement of his left knee to be performed by Dr. Polintan. [Bates stamped records page 132.]

Admit \_\_\_\_\_

Deny \_\_\_\_\_

**RESPONSE: Cannot admit or deny as this defendant was not present when these alleged events occurred. Bates stamped records page 132 appears to be a nurse's note but this defendant is unable to locate a notation on 132 with reference to January 4, 2005 at 5:00 p.m.**

84. On January 5, 2005 at 06:00, Albert Hamm's blood sugar level is 219 milligrams per deciliter. [Bates stamped records page 064.]

Admit \_\_\_\_\_ Deny \_\_\_\_\_

**RESPONSE:** Cannot admit or deny as this defendant was not present when these alleged events occurred. Bates stamped records page 064 records in part General Chemistry collected 01/05/05 06:00 glucose 219.

85. On January 5, 2005 at 10:00 Albert Hamm's temperature is 37.9 degrees Celsius. [Bates stamped records page 055.]

Admit \_\_\_\_\_ Deny \_\_\_\_\_

**RESPONSE:** Cannot admit or deny as this defendant was not present when these alleged events occurred. Bates stamped records page 055 appears in part to record Albert Hamm's temperatures on January 5, 2005.

86. The x-rays of the left knee of Albert Hamm taken on January 4, 2005 at 18:52 are read by Richard G. Williams, M.D. on January 4, 2005 and his x-ray report is transcribed on January 5, 2005 at 11:19. [Bates stamped records page 088.]

Admit \_\_\_\_\_ Deny \_\_\_\_\_

**RESPONSE:** Cannot admit or deny as this defendant was not present when these alleged events occurred. Bates stamped records page 088 is a report from the Clearfield Hospital Imaging Department which indicates in part as follows:

**“01/04/2005 Knee 1 or 2 Views Left 73560. Procedure Ended: 01/04/05 18:52. Initials: JP JEN.**

**Full Result: Abnormal extensive gas is present in the soft tissues of the knee, behind the knee and anterior to the knee and below the level of the knee joint space. The findings are suggestive of gas gangrene.**

**Reading DR: Richard G. Williams, M.D.**

**Electronically Signed: Richard G. Williams, M.D.**

**Transcribed: map Jan 5 2005 11:19AM”**

87. Dr. Williams concludes that the x-ray of the left knee of Albert Hamm taken on January 4, 2005 at 18:52 reveals that abnormal extensive gas is present in the soft tissues of the knee, behind the knee, anterior to the knee and below the level of the knee joint space. [Bates stamped records page 088.]

Admit \_\_\_\_\_

Deny \_\_\_\_\_

**RESPONSE:** Cannot admit or deny as this defendant was not present when these alleged events occurred. Bates stamped records page 088 is a report from the Clearfield Hospital Imaging Department which indicates in part as follows:

**“01/04/2005 Knee 1 or 2 Views Left 73560. Procedure Ended: 01/04/05 18:52. Initials: JP JEN.**

**Full Result:** Abnormal extensive gas is present in the soft tissues of the knee, behind the knee and anterior to the knee and below the level of the knee joint space. The findings are suggestive of gas gangrene.

**Reading DR:** Richard G. Williams, M.D.

**Electronically Signed:** Richard G. Williams, M.D.

**Transcribed:** map Jan 5 2005 11:19AM”

88. Dr. Williams concludes that the findings on the x-ray of the left knee of Albert Hamm taken on January 4, 2005 at 18:52 are suggestive of gas gangrene. [Bates stamped records page 088.]

Admit \_\_\_\_\_

Deny \_\_\_\_\_

**RESPONSE:** Cannot admit or deny as this defendant was not present when these alleged events occurred. Bates stamped records page 088 is a report from the Clearfield Hospital Imaging Department which indicates in part as follows:

**“01/04/2005 Knee 1 or 2 Views Left 73560. Procedure Ended: 01/04/05 18:52. Initials: JP JEN.**

**Full Result:** Abnormal extensive gas is present in the soft tissues of the knee, behind the knee and anterior to the knee and below the level of the knee joint space. The findings are suggestive of gas gangrene.

**Reading DR:** Richard G. Williams, M.D.

**Electronically Signed:** Richard G. Williams, M.D.

**Transcribed:** map Jan 5 2005 11:19AM”

89. Shortly after 08:00 on the morning of January 5, 2005, Dr. Polintan informs Dr. Mosch that he will not operate on Albert Hamm's left knee as planned and that Dr. Mosch should arrange for an emergent transfer of Mr. Hamm to another facility. [Mosch deposition p. 51 lines 8-11.]

Admit \_\_\_\_\_

Deny \_\_\_\_\_

**RESPONSE: Denied as stated. Mosch deposition, page 51, lines 8-11 read as follows:**

**"A. What I remember is that Dr. Polintan had made the decision that he felt that Mr. Hamm was too serious a surgical risk to be done at our small hospital."**

**Mosch deposition, page 53, lines 24 to Page 54, line 4 read as follows:**

**"Q. The discussion we were referring to was the one that occurred on 1/5/05.**

**A. I can say it was in the morning, that's the best I know.**

**Q. Okay. Where did it take place?**

**A. I believe that was in the hospital."**

90. Dr. Polintan does not review the x-rays of the left knee performed on January 4, 2005 at 18:52 or the transcribed x-ray report dictated by Dr. Williams prior to deciding that he will not go forward with the planned surgery. [Polintan deposition p. 42 lines 4 to p. 43 line 9.]

Admit \_\_\_\_\_

Deny \_\_\_\_\_

**RESPONSE: Cannot admit or deny as this defendant was not present when these alleged events occurred or for the deposition of Dr. Polintan. Polintan deposition, page 42, line 4 to page 43, line 9 read as follows:**

**"Q. And did you review the films that were taken of the left knee after you ordered that study?**

**A. I looked at the chart. Those x-rays were taken after I dictated my consultation. They took the x-ray around 7:00 p.m. that night, so I did not see them.**

**Q. You didn't see them on – but did you come into the hospital the next day, on the 5th?**

**A. Yes sir.**

**Q. And did you look at the x-rays on that day?**

**A. I don't think so, sir.**

**Q. And why not?**

**A. Because I went directly to the floor to see Mr. Hamm and make the decision to recommend to Dr. Mosch to have him transferred as soon as possible.**

Q. Didn't you want to know whether those x-rays showed that Mr. Hamm' knee was in any particular danger that would require surgery more immediate than what you had planned?

A. I do, sir, but I thought it's better to see the patient myself, look at the chart and make the decision.

Q. Without looking at the x-ray?

A. Without looking at the x-ray.

Q. So you had no knowledge at all of what those x-rays actually showed?

A. Not at that time, sir.

Q. Did you read the x-ray report on that day?

A. I believe I read it next day, sir.

Q. On the 6th?

A. Yes, sir."

91. Dr. Polintan does not read the x-ray of the left knee of Albert Hamm taken on January 4<sup>th</sup>, 2005 at 18:52 until January 6<sup>th</sup>, 2005. [Polintan deposition p. 43 lines 12-15.]

Admit \_\_\_\_\_ Deny \_\_\_\_\_

**REPOONSE:** Cannot admit or deny as this defendant was not present when these alleged events occurred or for the deposition of Dr. Polintan. Polintan deposition, page 43, lines 12-15 read as follows:

"Q. On January 6th. And did you make a note anywhere on January 6th that you read the x-ray report?

A. No, sir."

92. Dr. Polintan does not read the x-ray of Albert Hamm's left knee taken on January 4<sup>th</sup>, 2005 at 18:52 because once he decides to transfer Mr. Hamm, Dr. Polintan believes it does not matter if there are new findings on the x-ray. [Polintan deposition p. 43 lines 16-20.]

Admit \_\_\_\_\_ Deny \_\_\_\_\_

**RESPONSE:** Cannot admit or deny as this defendant was not present when these alleged events occurred or for the deposition of Dr. Polintan. Polintan deposition, page 43, lines 16-20 read as follows:

"Q. And why not?

A. Because we made the decision already to transfer the patient, sir, and doesn't make any difference now whether there's some other findings on that x-ray or not."

93. Dr. Polintan does not consult with the anesthesiologist before informing Dr. Mosch that he is not going to perform the surgery on Albert Hamm as planned. [Polintan deposition p. 38 lines 2-4.]

Admit \_\_\_\_\_ Deny \_\_\_\_\_

**RESPONSE:** Cannot admit or deny as this defendant was not present when these alleged events occurred or for the deposition of Dr. Polintan. Polintan deposition, page 38, lines 2-4 read as follows:

**“Q. Now, did you actually have discussion with the anesthesiologist?**  
**A. No, sir.”**

94. On morning of January 5, 2005, Dr. Mosch calls Geisinger Medical Center asking if they will take Albert Hamm as a patient. [Mosch deposition p. 62 lines 5-7.]

Admit \_\_\_\_\_ Deny \_\_\_\_\_

**RESPONSE:** Denied as stated. Bates stamped records, page 113 is a Physician's Orders sheet. On 1/5/05 11:20 orders are “Transfer to GMC – service of Dr. Mark Lentz (Internal Medicine). Verbal Order Dr. Mosch.”

**Mosch deposition, page 62, lines 5-7 read as follows:**

**“Q. And was it your understanding that Mr Hamm was going to be transferred to Geisinger?**  
**A. Yes, it was.”**

**In addition, Dr. Mosch called Altoona, Pittsburgh (either Allegheny or UPMC) and then Hershey Medical Center.**

95. By 11:20 on January 5, 2005, Dr. Mosch knows that Geisinger will take Albert Hamm as a patient. [Mosch deposition p. 62 lines 5-7 and Bates stamped records page 113.]

Admit \_\_\_\_\_ Deny \_\_\_\_\_

**RESPONSE:** Denied as stated. Mosch deposition, page 62, lines 5-7 read as follows:

**“Q. And was it your understanding that Mr Hamm was going to be transferred to Geisinger?**  
**A. Yes, it was.”**

**Bates stamped records page 113 is a Physician's Orders sheet. On 1/5/05 11:20 it is recorded, “Transfer to GMC – service of Dr. Mark Lentz (Internal Medicine). Verbal Order Dr. Mosch.”**

96. On January 5, 2005 at 13:00, Dr. Mosch signs a Transfer Form authorizing Albert Hamm's transfer to the Geisinger Medical Center. [Bates stamped records page 152.]

Admit \_\_\_\_\_ Deny \_\_\_\_\_

**RESPONSE: Denied as stated. Bates stamped record page 152 is a record from Clearfield Hospital entitled Transfer Form Physician Certification and Authorization. It is signed by Dr. Mosch and date and time indicated is 1/5/05 1300.**

97. On January 5, 2005 at 13:00, Albert Hamm signs a Consent for transfer to the Geisinger Medical Center. [Bates stamped records page 152.]

Admit \_\_\_\_\_ Deny \_\_\_\_\_

**RESPONSE: Denied as stated. Bates stamped records page 152 is a record from Clearfield Hospital entitled Transfer Form Physician Certification and Authorization. On the signature of patient line it is recorded "X Albert W. Hamm BEA"**

98. On January 5, 2005 at 13:35, Dr. Mosch is in Albert Hamm's hospital room as plans are being made to transfer Mr. Hamm to the Geisinger Medical Center. At this time, Mr. Hamm signs papers consenting to the transfer to Geisinger by the Clearfield EMS and his belongings are sent home with his wife, Barbara Hamm. [Bates stamped records page 133.]

Admit \_\_\_\_\_ Deny \_\_\_\_\_

**RESPONSE: Denied as stated. Bates stamped records page 133 which is nursing progress note and records in part as follows: 1/5/05 1335 "Dr. Mosch in, plans are being made to transfer patient to GMC. Consents signed – ambulance paper signed – belongings set home with wife. Awaiting bed confirmation."**

99. On January 5, 2005 at 16:00, a representative of Geisinger calls the Nurse on duty and informs her that the transfer is scheduled for January 6, 2005 and that bed number confirmation will be called by Geisinger in the a.m. [Bates stamped records page 133.]

Admit \_\_\_\_\_ Deny \_\_\_\_\_

**RESPONSE: Denied as stated. Bates stamped records page 133 is copy of nursing progress record. On 1/5/05 at 1600 it is recorded in part as follows: "Call received from GMC – Transfer is scheduled for 01/06/05. Bed number confirmation will be called by GMC in AM."**

100. Sometime between 16:00 and 124:00 on January 5, 2005, Dr. Mosch learns that Geisinger Medical Center cannot accept Albert Hamm as a patient until the morning of January 6, 2005. [Mosch deposition p. 62 lines 20-22.]

Admit \_\_\_\_\_

Deny \_\_\_\_\_

**RESPONSE** Denied as stated. Mosch deposition, page 62, lines 20-22 read as follows:

**“Finally, the notes will show that they said, okay, we’ll – we can’t take him now, we’ll take in the morning.**

**Q. Do you find that to be acceptable?**

**A. No I did not.”**

101. Dr. Mosch does not order Albert Hamm’s transfer to the Geisinger Medical Center as planned on the morning of January 6, 2005 because he believes that Mr. Hamm requires a more urgent transfer. [Mosch deposition p. 62 line 23 to page 63 line 4.]

Admit \_\_\_\_\_

Deny \_\_\_\_\_

**RESPONSE:** Denied as stated. Mosch deposition, page 62, line 23 to page 63, line 4 read as follows:

**“Q. Did you find that to be acceptable?**

**A. No, I did not.**

**Q. Why not?**

**A. Because I felt that there was – we needed a more urgent transfer.**

**Q. Why?**

**A. Because the patient had a septic knee.”**

102. At no time prior to Albert Hamm’s discharge from the Clearfield Hospital on January 6, 2005, Dr. Mosch does not inform Dr. Polintan of his decision to keep Albert Hamm at the Clearfield Hospital in lieu of transferring him to the Geisinger Medical Center on the morning of January 6, 2005.

Admit \_\_\_\_\_

Deny \_\_\_\_\_

**RESPONSE:** Denied as stated: Mosch’s deposition page 63, lines 5-23 read as follows:

**“Q. Well, if you knew the patient was urgent and in need of urgent transfer and he had a septic knee, did you inform Dr. Polintan of the difficulty that you were having transferring Mr. Hamm to a tertiary hospital?**

**A. No.**

**Q. Why not?**

**A. It was a moot point. Dr. Polintan did not evidently feel comfortable doing the procedure at our hospital and I was in the process of getting**

Mr. Hamm somewhere or other to get this thing done as soon as possible.

Q. But when you started to have obstacles with respect to doing that, did it occur to you to change your course of action in terms of the treatment plan that was ongoing for Mr. Hamm?

A. My – the patient was placed on an additional antibiotic in the form of Gentamicin, I think the record will show.”

103. From the time that he first learns that Dr. Polintan does not intend to perform the surgery on Albert Hamm’s left knee until Albert Hamm’s discharge from the Clearfield Hospital on January 6, 2005, the only change that Dr. Mosch makes to his treatment plan for Mr. Hamm’s septic left knee is to add a 180 mg IV of Gentamicin. This order is written at 20:10 on January 5, 2005. [Bates stamped records page 114 and Mosch deposition p. 63 line 17 to p. 64 line 24.]

Admit \_\_\_\_\_ Deny \_\_\_\_\_

**RESPONSE:** Denied as stated. Mosch deposition, page 63, line 17 to page 64, line 22 read as follows:

“Q. But when you started to have obstacles with respect to doing that, did it occur to you to change your course of action in terms of the treatment plan that was ongoing for Mr. Hamm?

A. My – the patient was placed on an additional antibiotic in the form of Gentamicin, I think the record will show.”

Q. Can you show me where in the record, please?

A. Certainly. At 1/5/05 your Page 114.

Q. Yes, sir. Is that Gentamicin?

A. That’s correct.

Q. Other than placing him on the Gentamicin, did you make any other changes to your treatment plan from the time you first learned that Dr. Polintan was not going to do the surgery until the time he was ultimately transferred to the Hershey Medical Center?

A. Yes, actually, because there was a delay at that point, the patient needed to eat, so I gave him – I allowed him to go back to his diet and put him back on Lovinox which he had been since he was admitted.

Q. That’s an antithrombotic, isn’t it?

A. That’s correct.

Q. And you had discontinued the Lovinox at one point, did you not?

A. Yes, I did.

Q. I assume that was in anticipation of him having surgery.

A. That’s correct.”

Bates stamped records page 114 is a Physician’s Orders which reads 1/5/05 2010 “180 mg IV gentamicin IV q 8 hours. Peak and trough level gentamicin after 3rd dose. Verbal Order Dr. Mosch 1/5/05 2010.”

104. There is no reference in the medical records of the care and treatment of Albert Hamm which documents that Dr. Mosch calls the Hershey Medical Center on January 5, 2005 to secure Mr. Hamm's transfer to that facility as he claims in his video deposition. [Mosch deposition p. 65 line 25 to p. 66 line 17.]

Admit \_\_\_\_\_

Deny \_\_\_\_\_

**RESPONSE:** Denied as stated. Mosch deposition, page 65, line 19 to page 66, line 17 read as follows:

“Q. And who did you call then?  
A. I think that's the point when I called Hershey Medical Center.  
Q. Okay. And I believe that's documented in the chart when you placed that call, isn't it?  
A. I'm – I'm sure it is, yet.  
Q. Question on the table will be this, can you tell me when you placed – first called Hershey Medical Center to attempt to transfer Mr. Hamm there?  
A. Well, I can – I'm very confident that it was on the 5th.  
Q. Okay. Can you tell me at what time of day or at what point in the day?  
A. I don't recall anything that actually says what time that occurred. That may very well have been from my office, but I don't think there's documentation as to – unless you can bring that to my attention, I don't remember that.  
Q. I thin there's only a reference to you making arrangements for him to go to Hershey in the record, but it doesn't really tell us what time. I think it's on the 6th.  
A. Yes.”

105. On January 6, 2005, at 16:30, Dr. Mosch visits Albert Hamm in his hospital room and arranges Mr. Hamm's transfer to the Hershey Medical Center. [Bates stamped records page 136.]

Admit \_\_\_\_\_

Deny \_\_\_\_\_

**RESPONSE:** Denied as stated. Bates stamped records page 136 is a nurse's progress note and it records in part as follows: 1/6/05 1630 Dr. Mosch visits. Sets up transfer to Hershey Medical Center. Chart copied. EMS notified.

106. Dr. Mosch does not contact or order anyone to contact the Hershey Medical Center for the purpose of securing Albert Hamm's transfer to that facility until 16:30 on January 6, 2005.

Admit \_\_\_\_\_

Deny \_\_\_\_\_

**RESPONSE: Denied.** Mosch deposition, page 65, line 25 to page 66, line 5 reads as follows:

**“Q. Question on the table will be this, can you tell me when you placed – first called Hershey Medical Center to attempt to transfer Mr. Hamm there?**

**A. Well, I can – I’m very confident that it was on the 5th.”**

107. There is no reference in the medical records of the care and treatment of Albert Hamm which documents any attempts by Dr. Mosch or any other person to contact the Hershey Medical Center on January 6, 2005 to secure Mr. Hamm's transfer to that facility prior to 16:30 on that day.

Admit \_\_\_\_\_

Deny \_\_\_\_\_

**RESPONSE: Denied as stated. Based on this defendant’s review at this time of their copy of the Clearfield Hospital records, the nurse’s notation of 1/6/05 indicates that by at least 1630 “Dr. Mosch visits. Sets up transfer to Hershey Medical Center. Chart copied. EMS notified.”**

108. On January 6, 2005 at 18:00, Albert Hamm is discharged from the Clearfield Hospital. [Bates stamped records page 136.]

Admit \_\_\_\_\_

Deny \_\_\_\_\_

**RESPONSE: Cannot admit or deny as this defendant was not present when these alleged events occurred. Bates stamped records page 136 nurse’s note records in part on 1/6/05 as follows: “1800 Patient D/c’d via Clearfield EMS to Hershey medical Center.”**

109. On January 5, 2005 at 22:00 Mr. Hamm's temperature is 37.4 degrees Celsius. [Bates stamped records page 055.]

Admit \_\_\_\_\_

Deny \_\_\_\_\_

**RESPONSE: Cannot admit or deny as this defendant was not present when these alleged events occurred. Bates stamped records page 055 does record in part temperature readings from 1/1/05 to 1/5/05.**

110. On January 6<sup>th</sup> at 06:25, Albert Hamm's blood sugar level is 229 milligrams per deciliter. [Bates stamped records page 064.]

Admit \_\_\_\_\_ Deny \_\_\_\_\_

**RESPONSE: Cannot admit or deny as this defendant was not present when these alleged events occurred. Bates stamped records page 064 does indicate in part blood tests from 1/2/05 to 1/6/05.**

111. Dr. Polintan did not read the x-ray of Albert Hamm's left knee that he ordered on January 4, 2005 prior to making his decision to cancel the incision, drainage and debridement of Albert Hamm's left knee.

Admit \_\_\_\_\_ Deny \_\_\_\_\_

**RESPONSE: Cannot admit or deny as this defendant was not present when these alleged events occurred or for the deposition of Dr. Polintan. Please refer to previous responses to these Request for Admissions.**

112. Dr. Polintan never inquired of Dr. Mosch as to the results of his efforts to transfer Albert Hamm to another facility.

Admit \_\_\_\_\_ Deny \_\_\_\_\_

**RESPONSE: Cannot admit or deny as stated. Dr. Mosch can only admit that he does not recall any such inquiry prior to 1/6/05.**

113. During his in patient stay at the Clearfield Hospital from December 31, 2004 to January 6, 2005, Albert Hamm's left knee is neither incised, drained nor débrided.

Admit X Deny \_\_\_\_\_

**RESPONSE:**

114. Prior to January 4, 2005, Dr. Mosch performed hundreds of arthrocenteses. [Mosch deposition p. 41 lines 8-12.]

Admit   X  

Deny \_\_\_\_\_

**RESPONSE:**

115. From January 1<sup>st</sup> to January 4<sup>th</sup>, 2005, Dr. Mosch does not order an x-ray of Albert Hamm's left knee. [Mosch deposition p. 44 lines 20-24.]

Admit \_\_\_\_\_

Deny \_\_\_\_\_

**RESPONSE: Denied as stated. Mosch deposition, page 44, lines 20-24 read as follows:**

**“Q. Let me just rephrase. Was a plain x-ray of Mr. Hamm's left knee ordered from the time of his admission on 1/1/05 to the time Dr. Polintan did his consultation on 1/4/05?**

**A. No, but I can qualify.”**

116. On January 4, 2005, Drs. Mosch and Polintan do not discuss the possibility of transferring Mr. Hamm to another hospital where there is an infectious disease specialist. [Mosch deposition p. 49 lines 7-17 and p. 50 lines 6-12.]

Admit \_\_\_\_\_

Deny \_\_\_\_\_

**RESPONSE: Denied as stated. Mosch deposition, page 49, lines 7-17 and page 50, lines 6-12 read as follows:**

**“Q. Did you discuss transferring Mr. Hamm to a tertiary hospital on 1/4/05, discuss it, without regard to what you were going to do, did the subject come up?**

**A. I don't recall.**

**Q. All right.**

**A. I will qualify.**

**Q. You may.**

**A. And I will say that I don't believe we did, because I was in full expectation of a surgical procedure being done the next morning.**

**Q. But now that you've read that note, does that refresh your recollection as to whether or not on January 4, 2005 Dr. Polintan and you discussed transferring Mr. Hamm to a tertiary hospital where there is an infectious specialist?**

**A. To the best of my recollection, I do not remember that.”**

117. Gas gangrene can progress to severe destruction of the knee tissue within 12 hours. [Polintan deposition p. 45 lines 18-23.]

Admit \_\_\_\_\_

Deny \_\_\_\_\_

**RESPONSE:** Cannot admit or deny as this defendant was not present for the deposition of Dr. Polintan. Polintan deposition, page 45, lines 18-23 read as follows:

**“Q. Is it fair to say that gas gangrene in a patient’s knee can progress to severe destruction of the knee within as little as 12 hours; is that fair to say?**

**A. Yes, sir. I agree with you. It’s fatal within 48 hours.”**

118. Gas gangrene, if left untreated, can be fatal within 48 hours. [Polintan deposition p. 45 lines 22-23.]

Admit \_\_\_\_\_

Deny \_\_\_\_\_

**RESPONSE:** Cannot admit or deny as this defendant was not present for the deposition of Dr. Polintan. Polintan deposition, page 45, lines 18-23 read as follows:

**“Q. Is it fair to say that gas gangrene in a patient’s knee can progress to severe destruction of the knee within as little as 12 hours; is that fair to say?**

**A. Yes, sir. I agree with you. It’s fatal within 48 hours.”**

119. On January 4, 2005, Dr. Polintan knows that gas gangrene, if left untreated, within a 12 hour period can create severe destruction of the knee such that amputation would be required. [Polintan deposition p. 47 lines 7-12.]

Admit \_\_\_\_\_

Deny \_\_\_\_\_

**RESPONSE:** Cannot admit or deny as this defendant was not present when these alleged events occurred or for the deposition of Dr. Polintan. Polintan deposition, page 47, lines 7-12 read as follows:

**“Q. Did you know it to be true in the period of January 4th, 2005 to January 6, 2005 that gas gangrene if not treated within a 12 hour period could create severe destruction of the knee such that an amputation would be required.**

**A. It could.”**

120. Once Dr. Polintan informs Dr. Mosch that he is not going forward with the planned surgery on Albert Hamm's left knee, Dr. Polintan stops monitoring Mr. Hamm's progress. [Polintan deposition page 50 line 22 to page 51 line 3.]

Admit \_\_\_\_\_

Deny \_\_\_\_\_

**RESPONSE: Cannot admit or deny as this defendant was not present for the deposition of Dr. Polintan. Polintan deposition, page 50, line 22 to page 51, line 3 read as follows:**

**“Q. Now, why didn’t you monitor Mr. Hamm or did you monitor Mr. Hamm at all on January 5th and January 6th, 2005?**

**A. After I talked to Dr. Mosch to transfer the patient as soon as possible, he took care of the entire care of Mr. Hamm. I don’t think I can really help Dr. Mosch at that point in time.”**

121. Dr. Mosch never tells Dr. Polintan to stop monitoring Mr. Hamm. [Polintan deposition p. 51 lines 4-7.]

Admit \_\_\_\_\_

Deny \_\_\_\_\_

**RESPONSE: Cannot admit or deny as this defendant was not present for the deposition of Dr. Polintan. Polintan deposition, page 51, lines 4-7 read as follows:**

**“Q. Did Dr. Mosch tell you that he didn’t want you to continue to follow Mr. Hamm on January 5th and January 6th of 2005?**

**A. He did not say that, sir.”**

122. On the morning of January 5, 2005, Dr. Polintan informs Dr. Mosch that Albert Hamm requires an emergent transfer to another hospital. [Polintan deposition p. 56 line 20 to p. 57 line 2.]

Admit \_\_\_\_\_

Deny \_\_\_\_\_

**RESPONSE: Cannot admit or deny as this defendant was not present for the deposition of Dr. Polintan. Polintan deposition, page 56, line 20 to page 57, line 2 read as follows:**

**“Q. I’m asking you specifically if you informed Dr. Mosch whether or not Mr. Hamm required an emergent transfer.**

**A. I believe I said that sir.**

**Q. You did tell Dr. Mosch that?**

**A. I believe so.**

**Q. When do you believe you told him that?**

**A. Oh, the morning of the 5th.”**

123. An emergent transfer is a transfer as soon as possible, within 6 hours. [Polintan deposition p. 56 lines 8-11.]

Admit \_\_\_\_\_

Deny \_\_\_\_\_

**RESPONSE:** Cannot admit or deny as stated as this defendant was not present for the deposition of Dr. Polintan. Polintan deposition, page 56, lines 8-11 read as follows:

**“Q. What is the difference between an emergent transfer and an elective transfer?”**

**A. The emergent transfer, a soon as possible, within six hours. Elective, it could wait a few days.”**

124. On January 6, 2005, Dr. Polintan knows that Mr. Hamm is still at the Clearfield Hospital. [Polintan deposition p. 57 lines 9-15.]

Admit \_\_\_\_\_

Deny \_\_\_\_\_

**RESPONSE:** Cannot admit or deny as stated as this defendant was not present for the deposition of Dr. Polintan. Polintan deposition, page 57, line 3-25 read as follows:

**“Q. Now, were you aware on January 5th that there were weather problems that may have interfered with the transfer of Mr. Hamm to a tertiary facility, were you aware that?”**

**A. He told me, Dr. Mosch told me that on the 6th, sir.**

**Q. Did you make any attempt between January 5th and the time the patient was transferred on January 6th to find out if Dr. Mosch had, in fact, been able to make the transfer of Mr. Hamm?**

**A. I remember that I saw him in the hospital on the 6th and I asked him what's going on and he said he got problems transferring Mr. Hamm.**

**Q. Did you make any other attempt other than – was that just a causal meeting?**

**A. Yes, sir.**

**Q. Did you make any other attempt on – did you make any attempt at all on January 5th to find out if Dr. Mosch was able to successfully transfer Mr. Hamm to a tertiary care facility?**

**A. I believed that he was doing his best, but I was not able to talk to him again after that until the 6th.”**

125. A septic joint in the lower extremity in an insulin dependent diabetic is a medical emergency. [Clark deposition p. 45 lines 2 to 6.]

Admit \_\_\_\_\_ Deny \_\_\_\_\_

**RESPONSE:** Cannot admit or deny as this defendant was not present when these alleged events occurred or for the deposition of Dr. Clark. Clark deposition, page 45, lines 2 to 6 read as follows:

**Q.** In your training as an E.R. physician, were you taught that a septic joint in the lower extremity of an insulin-dependent diabetic is a medical emergency?  
**A.** Yes, I would say yes."

126. On January 3<sup>rd</sup>, 2005 at 21:00, Albert Hamm's left leg is warm and reddened. [Bates stamped records page 129.]

Admit \_\_\_\_\_ Deny \_\_\_\_\_

**RESPONSE:** Cannot admit or deny as this defendant was not present when these alleged events occurred. Bates stamped records page 129 is a nursing progress record from 1/3/05 1940 through 1/4/05 0030.

127. On January 3<sup>rd</sup>, 2005 at 00:30, Albert Hamm's left leg is reddened and warm to the touch. [Bates stamped records page 129.]

Admit \_\_\_\_\_ Deny \_\_\_\_\_

**RESPONSE:** Cannot admit or deny as stated as this defendant was not present when these alleged events occurred. Bates stamped records page 129 is a nursing progress record from 1/3/05 1940 through 1/4/05 0030.

128. On January 4<sup>th</sup>, 2005 at 16:20, Albert Hamm's left leg is pinkish in color and warm to the touch. [Bates stamped records page 130.]

Admit \_\_\_\_\_ Deny \_\_\_\_\_

**RESPONSE:** Cannot admit or deny as this defendant was not present when these alleged events occurred. Bates stamped records page 130 is the nursing progress record from 1/4/05 0750 to 1/4/05 1900-late entry.

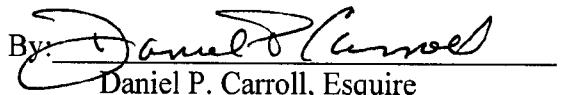
129. On January 2<sup>nd</sup>, 2005, Albert Hamm's left leg is slightly red in color. [Bates stamped records page 148.]

Admit \_\_\_\_\_

Deny \_\_\_\_\_

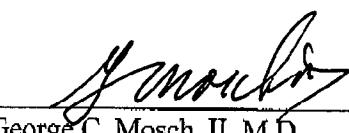
**RESPONSE:** Cannot admit or deny as stated as this defendant was not present when these alleged events occurred. Bates stamped records page 148 is a Clearfield Hospital Department of Nursing record entitled Summation at Transfer Form.

Davies, McFarland & Carroll, P.C.

By:   
Daniel P. Carroll, Esquire  
Attorneys for Defendant,  
George C. Mosch, II, M.D. and  
Clearfield Family Medicine Associates

VERIFICATION

Now comes, George C. Mosch, II, M.D., who verifies that the facts contained in the within RESPONSES TO PLAINTIFFS' REQUEST FOR ADMISSIONS are true upon his personal knowledge or information and belief. This verification is made subject to the penalties of 18 Pa.C.S. §4904, relating to unsworn falsification to authorities, which provides for criminal penalties if a person with intent to mislead makes a written false statement which he does not believe to be true.

  
George C. Mosch, II, M.D.Date: 3/4/10

**CERTIFICATE OF SERVICE**

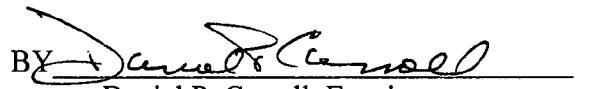
I hereby certify that a true and correct copy of the RESPONSES TO PLAINTIFFS' REQUEST FOR ADMISSIONS on behalf of defendants, George C. Mosch, II, M.D. and Clearfield Family Medicine Associates, incorrectly designated as Clearfield Family Medicine, has been served on the following persons by first-class mail, postage prepaid this 5th day of March, 2010.

Timothy A. Shollenberger, Esquire  
Shollenberger & Januzzi, LLP  
2225 Millennium Way  
Enola, PA 17025

Frank Hartye, Esquire  
McIntyre, Hartye & Schmitt  
P.O. Box 533  
Hollidaysburg, PA 16648

Paula A. Koczan, Esquire  
Weber Gallagher Simpson Stapleton Fires & Newby, LLP  
Two Gateway Center, Suite 1450  
Pittsburgh, PA 15222

DAVIES, McFARLAND & CARROLL, P.C.

BY   
Daniel P. Carroll, Esquire  
Attorney for Defendants,  
George C. Mosch, II, M.D. and  
Clearfield Family Medicine Associates,  
incorrectly designated as Clearfield  
Family Medicine

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

ALBERT HAMM and BARBARA HAMM,  
husband and wife,

Plaintiffs,

vs.

GEORGE C. MOSCH II, M.D., GORDON  
PENNER CLARK, M.D., RODOLFO S.  
POLINTAN, M.D., CLEARFIELD FAMILY  
MEDICINE and CLEARFIELD HOSPITAL,

Defendants.

CIVIL DIVISION

NO: 2006-1356 - CD

**NOTICE OF SERVICE OF  
RESPONSES TO PLAINTIFFS'  
REQUESTS FOR ADMISSIONS  
OF DEFENDANT, RODOLFO S.  
POLINTAN, M.D.**

Filed on Behalf of Defendant, Rodolfo  
S. Polintan, M.D.

Counsel of Record for This Party:

Paula A. Koczan, Esquire  
PA I.D. #46932

William M. Buchanan, Esquire  
PA I.D. #202843

WEBER GALLAGHER SIMPSON  
STAPLETON FIRES & NEWBY LLP  
Firm #594  
Two Gateway Center, Suite 1450  
603 Stanwix Street  
Pittsburgh, PA 15222  
Phone: (412) 281-4541  
Fax: (412) 281-4547

FILED  
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LIA  
William A. Shaw  
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

ALBERT HAMM and BARBARA HAMM, ) CIVIL DIVISION  
husband and wife, )  
 ) NO: 2006-1356-CD  
Plaintiffs, )  
 )  
vs. )  
 )  
GEORGE C. MOSCH II, M.D., GORDON )  
PENNER CLARK, M.D., RODOLFO S. )  
POLINTAN, M.D., CLEARFIELD )  
FAMILY MEDICINE and CLEARFIELD )  
HOSPITAL, )  
 )  
Defendants. )

**NOTICE OF SERVICE OF RESPONSES TO PLAINTIFFS' REQUESTS FOR  
ADMISSIONS OF DEFENDANT, RODOLFO S. POLINTAN, M.D.**

Defendant, Rodolfo S. Polintan, M.D., by and through his counsel, Paula A. Koczan, Esquire and the law firm of Weber Gallagher Simpson Stapleton Fires & Newby LLP, hereby notifies the Court that his Responses to Plaintiffs' Requests for Admissions have been served upon the Plaintiffs, Albert Hamm and Barbara Hamm, husband and wife, by mailing the originals of same by first class U.S. mail to Plaintiffs' counsel, Timothy A. Shollenberger, Esquire, Shollenberger & Januzzi, 2225 Millennium Way, Enola, PA 17025 on March 8, 2010.

Respectfully submitted,

WEBER GALLAGHER SIMPSON  
STAPLETON FIRES & NEWBY LLP

By:

  
Paula A. Koczan, Esquire  
Attorneys for Defendant Polintan

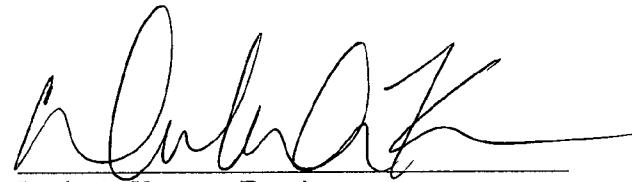
**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing NOTICE OF SERVICE has been served by first class U.S. mail, postage prepaid, this 8th day of March, 2010, upon the following parties:

Timothy Shollenberger, Esquire  
Shollenberger & Januzzi  
2225 Millennium Way  
Enola, PA 17025  
(Counsel for Plaintiffs)

Frank J. Hartye, Esquire  
McIntyre, Hartye & Schmitt  
P.O. Box 533  
Hollidaysburg, PA 16648  
(Counsel for Dr. Clark and Clearfield Hospital)

Daniel P. Carroll, Esquire  
Davies McFarland & Carroll, P.C.  
One Gateway Center, Floor 10  
Pittsburgh, PA 15222  
(Counsel for Dr. Mosch and Clearfield Family Medicine Associates)



Paula A. Koczan, Esquire

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

ALBERT HAMM and BARBARA HAMM,  
husband and wife,

: No. 2006 - 1356 CD

: ISSUE:  
RESPONSES TO PLAINTIFFS'  
REQUEST FOR ADMISSIONS

Plaintiffs

vs.

GEORGE C. MOSCH, II, M.D.,  
GORDON PENNER CLARK, M.D.,  
RODOLFO S. POLINTAN, M.D.,  
CLEARFIELD FAMILY MEDICINE and  
CLEARFIELD HOSPITAL,

: Filed on behalf of Defendants,  
GORDON PENNER CLARK, M.D. and  
CLEARFIELD HOSPITAL

: Counsel of Record:  
Frank J. Hartye, Esquire  
PA I.D. #25568

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

: JURY TRIAL DEMANDED

I HEREBY CERTIFY THAT A TRUE AND  
CORRECT COPY OF THE WITHIN WAS  
MAILED TO ALL COUNSEL OF RECORD  
THIS / DAY OF March, 2010.

  
\_\_\_\_\_  
Atorneys for Named Defendants

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

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

ALBERT HAMM and BARBARA HAMM, : No. 2006 - 1356 CD  
husband and wife,

Plaintiffs

vs.

GEORGE C. MOSCH, II, M.D.,  
GORDON PENNER CLARK, M.D.,  
RODOLFO S. POLINTAN, M.D.,  
CLEARFIELD FAMILY MEDICINE and  
CLEARFIELD HOSPITAL,

Defendants

JURY TRIAL DEMANDED

**RESPONSES TO PLAINTIFF'S REQUEST FOR ADMISSIONS**

1. Admitted.
2. Admitted.
3. Admitted.
4. Admitted.
5. Denied. This is an inaccurate representation of the history given to the EMT by the plaintiff.
6. Denied. For correct time see Clearfield Hospital record and deposition of Dr. Clark.
7. Denied. This is an incomplete and inaccurate representation of the history and physical.
8. Admitted.
9. The time is denied. It is admitted that Nurse Tracie Parks records this statement in her assessment.
10. Admitted.

11. The time is denied as stated. The remainder incompletely sets forth what Dr. Clark recorded.

12. Admitted for the time of 06:44.

13. Denied as stated. It is admitted that Dr. Clark observed the patient take four steps.

14. Admitted.

15. Admitted.

16. Admitted.

17. Denied as an incomplete statement of what occurred. The temperature was normal during the same visit.

18. Admitted.

19. Admitted.

20. Admitted.

21. Admitted.

22. Admitted.

23. Admitted.

24. Admitted.

25. Denied. Dr. Clark testified a mildly elevated temperature "can" be a sign of infection.

26. Denied. Dr. Clark testified that elevation in temperature "can" be a sign of infection.

27. Admitted.

28. Admitted.

29. Admitted.

30. Admitted.

31. Admitted.

32. Admitted.

33. Denied as stated. At the time of the treatment, Dr. Clark did not believe the knee was infected. See deposition, page 34 and following.

34. Admitted.

35. Not applicable to defendants.

36. Admitted.

37. Admitted.

38. Admitted.

39. Denied. See Dr. Polintan deposition, pages 19-20.

40. Admitted.

41. Admitted.

42. Not applicable to defendants.

43. Not applicable to defendants.

44. Admitted.

45. Admitted.

46. Admitted.

47. Admitted.

48. Admitted.

49. Not applicable to defendants.

50. Admitted.

51. Not applicable to defendants.

52. Not applicable to defendants.

53. It is admitted that there was a phone order by Dr. Nartatez.

54. Admitted.

55. Admitted.

56. Admitted.

57. Denied as stated.
58. Denied as stated.
59. Admitted.
60. Not applicable to defendants.
61. Admitted.
62. It is admitted that this was the testimony of Dr. Polintan.
63. It is admitted that this was the testimony of Dr. Polintan.
64. Denied as stated in that it is an overly broad statement.
65. Admitted that this was the testimony of Dr. Polintan.
66. Denied as stated in that it is overly broad.
67. Admitted that this was the testimony of Dr. Polintan.
68. Admitted that this was the testimony of Dr. Polintan.
69. Admitted that this was the testimony of Dr. Polintan.
70. Admitted that this was the testimony of Dr. Polintan.
71. Admitted that this was the testimony of Dr. Polintan.
72. Admitted that this was the testimony of Dr. Polintan.
73. Admitted that this was the testimony of Dr. Polintan.
74. Admitted that this was the testimony of Dr. Polintan.
75. Admitted that this was the testimony of Dr. Polintan.
76. Admitted that this was the testimony of Dr. Polintan.
77. Not applicable to defendants.
78. Not applicable to defendants.
79. Admitted that the permit was signed on behalf of Albert Hamm.
80. Admitted.
81. Admitted that this was the testimony of Dr. Polintan.
82. Denied as stated.

83. Denied. Dr. Polintan placed an order for the patient to be NPO after midnight.

84. Admitted.

85. Admitted.

86. Admitted.

87. Admitted that this statement is in the report of Dr. Williams.

88. Admitted that this statement is in the report of Dr. Williams.

89. Admitted that Dr. Mosch testified concerning a discussion. Defendants have no knowledge of the precise time.

90. Admitted that this was the testimony of Dr. Polintan.

91. Admitted that this was the testimony of Dr. Polintan.

92. Admitted that this was the testimony of Dr. Polintan.

93. Admitted that this was the testimony of Dr. Polintan.

94. Admitted that this was the testimony of Dr. Mosch.

95. Admitted that this was the testimony of Dr. Mosch.

96. Admitted.

97. Admitted that a consent was signed on behalf of Albert Hamm.

98. Admitted that by 13:35 these things had occurred.

99. Admitted.

100. Admitted.

101. Not applicable to defendants.

102. Not applicable to defendants.

103. Denied according to the deposition of Dr. Mosch.

104. Denied as stated.

105. Admitted.

106. Not applicable to defendants.

107. Denied as stated.
108. Admitted.
109. Admitted.
110. Admitted.
111. See answer to 90.
112. Not applicable to defendants.
113. Admitted.
114. Admitted that this was the testimony of Dr. Mosch.
115. Admitted that this was the testimony of Dr. Mosch.
116. Denied as stated.
117. Admitted that this was the testimony of Dr. Polintan.
118. Admitted that this was the testimony of Dr. Polintan.
119. Admitted that this was the testimony of Dr. Polintan.
120. Admitted that this was the testimony of Dr. Polintan.
121. Admitted that this was the testimony of Dr. Polintan.
122. Admitted that this was the testimony of Dr. Polintan.
123. Admitted that this was the testimony of Dr. Polintan.
124. Admitted that this was the testimony of Dr. Polintan.
125. Admitted that this was the testimony of Dr. Clark.
126. Admitted that this was the nurse's assessment at that time.
127. Denied that there was any such entry at that time.
128. Admitted that this was the assessment of the nurse at that time.

129. Admitted that this was the assessment of the nurse at that time.

Respectfully submitted,

MCINTYRE, HARTYE, SCHMITT &  
SOSNOWSKI

By 

Attorneys for Defendants  
GORDON PENNER CLARK, M.D. and  
CLEARFIELD HOSPITAL

Frank J. Hartye, Esquire  
PA I.D. #25568  
P.O. Box 533  
Hollidaysburg, PA 16648  
(814) 696-3581

VERIFICATION

I, GORDON PENNER CLARK, M.D., am one of the defendants in this action. In that capacity I am represented by counsel. I have furnished to my counsel factual information upon which the foregoing **RESPONSES TO PLAINTIFFS' REQUEST FOR ADMISSIONS** is based. To the extent that it is based on the factual information provided to counsel, I verify that those facts are true and correct to the best of my knowledge, information and belief. However, the language is that of counsel and, to the extent that it goes beyond the factual information which I have provided to counsel, I have relied upon counsel in making this verification.

I understand that false statements herein are made subject to the penalties of 18 Pa.C.S. Section 4904, relating to unsworn falsifications to authorities.

Gordon S. Clark M.D.  
Gordon Penner Clark, M.D.

Date: 3/11/10

ALBERT HAMM and BARBARA HAMM,  
husband and wife,

Plaintiffs

vs.

GEORGE C. MOSCH II, M.D., GORDON  
PENNER CLARK, M.D.,  
RODOLFO S. POLINTAN, M.D.;  
CLEARFIELD FAMILY MEDICINE  
ASSOCIATES; and  
CLEARFIELD HOSPITAL,

Defendants

IN THE COURT OF COMMON PLEAS  
CLEARFIELD COUNTY

NO. 2006-1356-CD

CIVIL ACTION - LAW  
JURY TRIAL DEMANDED

FILED  
APR 19 2010

William A. Shaw  
Prothonotary/Clerk of Courts

4CC Atty  
Shollenberger  
AO

#### STIPULATION REGARDING DISCOVERY DEADLINES

AND NOW, this 15<sup>th</sup> day of April, 2010, the parties,

through their respective counsel, do hereby stipulate and agree to the following  
modifications to the Court's Order of January 25, 2010 establishing certain  
deadlines for the completion of discovery:

1. Plaintiffs' counsel shall identify (if not already identified) all experts to be called to testify at trial in this case, and transmit to counsel for Defendant's said expert's CV and report by 4:00 p.m. on Tuesday, June 1, 2010.
2. Defendants' counsel shall identify (if not already identified) all experts to be called to testify at trial in this case, and transmit to counsel for Defendant's said expert's CV and report by 4:00 p.m. on Thursday, July 1, 2010.

Original misfiled

3. Discovery shall be completed by April 30, 2010, except that Plaintiffs shall have the right to take the discovery depositions of the following individuals on or after that date should counsel not be able to schedule them at their mutual convenience by April 30<sup>th</sup>:

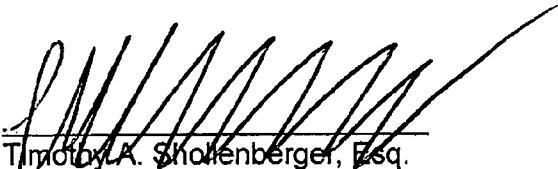
- a. Patricia Neeper, RN
- b. Kelly Woodel, RN
- c. Kimberly Smolko, RN
- d. Rebecca Lee, RN
- e. Rose Heiltner
- f. Colleen Gephart
- g. Corrine Zaux
- h. Barb Jones, LPN
- i. Janet Narehood
- j. Linda Weitoish
- k. receptionist or other employees with knowledge of Dr. Mosch's efforts to transfer Plaintiff Albert Hamm to another hospital or medical center or medical facility from January 3<sup>rd</sup>, 2005 to January 6<sup>th</sup>, 2005.

4. On or before April 30, 2010, Defendant Mosch will produce for inspection and copying his appointment calendar or other record or document showing time that he spent at his medical office seeing patients from January 2nd to January 6<sup>th</sup>, 2005. Counsel for the Defendant shall redact any and all patient names to protect their privacy.

5. Counsel for Defendants Clark and Clearfield Hospital will make available for inspection and copying the original hospital chart for Albert Hamm from January 1st, 2005 to January 6<sup>th</sup>, 2005.

6. Counsel for Defendant Mosch will make available for inspection and copying the original medical chart of Dr. Mosch and Clearfield Family Medicine Associates.

SHOLLENBERGER & JANUZZI, LLP

By: 

Timothy A. Shollenberger, Esq.  
Counsel for the Plaintiffs

DAVIES, McFARLAND & CARROLL, P.C.

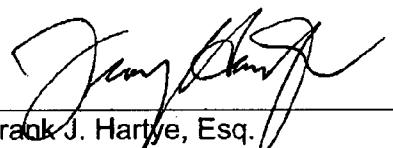
By:

Daniel P. Carroll

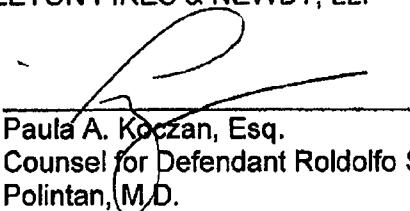
Daniel P. Carroll, Esq.  
Counsel for Defendants George C,  
Mosch, II, M.D. and Clearfield  
Family Medicine Associates

McINTYRE, HARTYE & SCHMITT

By:

  
Frank J. Hartye, Esq.  
Counsel for Defendants Gordon  
Penner Clark, M.D. and  
Clearfield Hospital

WEBER GELLAGHER SIMPSON  
STAPLETON FIRES & NEWBY, LLP

By: 

Paula A. Koczan, Esq.  
Counsel for Defendant Roldolfo S.  
Polintan, M.D.

**S**HOLLENBERGER & JANUZZI, LLP

2225 Millennium Way

Enola, PA 17025

Telephone Number: (717) 728-3200

Fax Number: (717) 728-3400

Attorneys for Plaintiffs

ALBERT HAMM and BARBARA HAMM,  
husband and wife,

Plaintiffs

vs.

GEORGE C. MOSCH II, M.D., GORDON  
PENNER CLARK, M.D.,  
RODOLFO S. POLINTAN, M.D.;  
CLEARFIELD FAMILY MEDICINE; and  
CLEARFIELD HOSPITAL,

Defendants

IN THE COURT OF COMMON PLEAS  
CLEARFIELD COUNTY

NO. 2006 – 1356 CD

CIVIL ACTION - LAW  
JURY TRIAL DEMANDED

**CERTIFICATE OF SERVICE**

AND NOW, this 15<sup>th</sup> day of April, 2010, I hereby certify that I have served the foregoing Stipulation Regarding Discovery Deadlines to the following by depositing a true and correct copy of same in the United States mail, postage prepaid, addressed to:

Frank J. Hartye, Esquire  
McIntyre, Hartye & Schmitt  
P.O. Box 533  
Hollidaysburg, PA 16648-0533  
**Counsel for Defendants Gordon Penner Clark, M.D.  
and Clearfield Hospital**

Daniel P. Carroll, Esquire  
Firm #281  
One Gateway Center  
Tenth Floor  
Pittsburgh, PA 15222

**Counsel for Defendant, George C. Mosch, II, M.D.  
and Clearfield Family Medicine Associates, incorrectly  
designated as Clearfield Family Medicine**

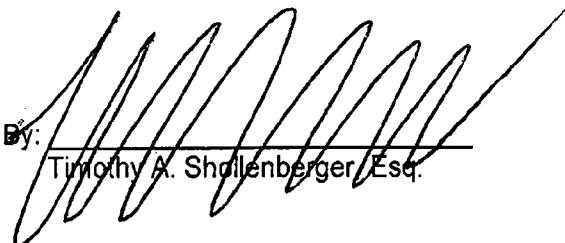
Paula A. Koczan, Esquire  
Weber Gallagher Simpson Stapleton  
Fires & Newby, LLP  
2 Gateway Centre, Suite 1450  
603 Stanwix Street  
Pittsburgh, PA 15222

*Counsel for Defendant, Rodolfo S. Polintan, M.D.*

SHOLLENBERGER & JANUZZI, LLP

By:

Timothy A. Shollenberger, Esq.

A handwritten signature in black ink, appearing to read "Timothy A. Shollenberger, Esq.", is written over a horizontal line. The signature is fluid and cursive, with a large, stylized 'T' at the beginning.

ALBERT HAMM and BARBARA HAMM,  
husband and wife,

Plaintiffs

vs.

GEORGE C. MOSCH II, M.D., GORDON  
PENNER CLARK, M.D.,  
RODOLFO S. POLINTAN, M.D.;  
CLEARFIELD FAMILY MEDICINE  
ASSOCIATES; and  
CLEARFIELD HOSPITAL,

Defendants

IN THE COURT OF COMMON PLEAS  
CLEARFIELD COUNTY

NO. 2006-1356-CD

CIVIL ACTION - LAW  
JURY TRIAL DEMANDED

## ORDER

AND NOW, this \_\_\_\_\_ day of \_\_\_\_\_, 2010, upon consideration of  
all parties Stipulation Regarding discovery Deadlines, IT IS HEREBY ORDERED,

1. Plaintiffs' counsel shall identify (if not already identified) all experts  
to be called to testify at trial in this case, and transmit to counsel for Defendant's  
said expert's CV and report by 4:00 p.m. on Tuesday, June 1, 2010.

2. Defendants' counsel shall identify (if not already identified) all  
experts to be called to testify at trial in this case, and transmit to counsel for  
Defendant's said expert's CV and report by 4:00 p.m. on Thursday, July 1, 2010.

3. Discovery shall be completed by April 30, 2010, except that  
Plaintiffs shall have the right to take the discovery depositions as listed in the  
April 8, 2010 Stipulation Regarding Discovery Deadlines.

4. On or before April 30, 2010, Defendant Mosch will produce for inspection and copying his appointment calendar or other record or document showing time that he spent at his medical office seeing patients from January 2nd to January 6<sup>th</sup>, 2005. Counsel for the Defendant shall redact any and all patient names to protect their privacy.

5. Counsel for Defendants Clark and Clearfield Hospital will make available for inspection and copying the original hospital chart for Albert Hamm from January 1st, 2005 to January 6<sup>th</sup>, 2005.

6. Counsel for Defendant Mosch will make available for inspection and copying the original medical chart of Dr. Mosch and Clearfield Family Medicine Associates.

BY THE COURT:

---

Charles C. Brown, Jr.,  
Senior Judge  
Specially Presiding

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

ALBERT HAMM and BARBARA HAMM,  
husband and wife,

: No. 2006 – 1356 CD

Plaintiffs

: ISSUE:  
REPLY TO PLAINTIFFS' MOTION TO  
DETERMINE THE SUFFICIENCY OF  
RESPONSES TO REQUESTS FOR  
ADMISSION PURSUANT TO PA.  
R.C.P. 4014(c)

vs.

GEORGE C. MOSCH, II, M.D.,  
GORDON PENNER CLARK, M.D.,  
RODOLFO S. POLINTAN, M.D.,  
CLEARFIELD FAMILY MEDICINE and  
CLEARFIELD HOSPITAL,

: Filed on behalf of Defendants,  
GORDON PENNER CLARK, M.D. and  
CLEARFIELD HOSPITAL

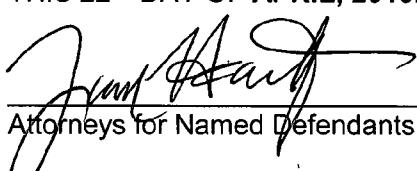
Defendants

: Counsel of Record:  
Frank J. Hartye, Esquire  
PA I.D. #25568

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

: JURY TRIAL DEMANDED

I HEREBY CERTIFY THAT A TRUE AND  
CORRECT COPY OF THE WITHIN WAS  
MAILED TO ALL COUNSEL OF RECORD  
THIS 22<sup>nd</sup> DAY OF APRIL, 2010.

  
\_\_\_\_\_  
Attorneys for Named Defendants

FILED  
M 10 5 2010  
APR 23 2010  
NO  
S  
William A. Shaw  
Prothonotary/Clerk of Courts

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

ALBERT HAMM and BARBARA HAMM, : No. 2006 – 1356 CD  
husband and wife,

Plaintiffs

vs.

GEORGE C. MOSCH, II, M.D.,  
GORDON PENNER CLARK, M.D.,  
RODOLFO S. POLINTAN, M.D.,  
CLEARFIELD FAMILY MEDICINE and  
CLEARFIELD HOSPITAL,

Defendants

JURY TRIAL DEMANDED

**REPLY TO PLAINTIFFS' MOTION TO DETERMINE THE  
SUFFICIENCY OF RESPONSES TO REQUESTS FOR  
ADMISSION PURSUANT TO PA. R.C.P. 4014(c)**

AND NOW, come the Defendants, GORDON PENNER CLARK, M.D. and  
CLEARFIELD HOSPITAL, by and through their attorneys, MCINTYRE, HARTYE,  
SCHMITT & SOSNOWSKI, and file the following Reply to Plaintiffs' Motion to Determine  
Sufficiency of Responses to Requests for Admission.

1-5. Admitted.

6. Admitted in part and denied in part. It is admitted that plaintiffs filed 129  
Request for Admissions based upon excerpts of portions of the medical record of the  
defendant physician. The remaining allegations are denied as stated.

7. This response is not directed to answering defendant.

8. It is admitted that Dr. Clark provided adequate answers and responses to  
a majority of the requests; in addition, Dr. Clark believes that he provided adequate  
answers and responses to all of the requests and all allegations to the contrary are  
denied.

9. It is denied that the letter of March 10, 2010 addresses the responses of Dr. Clark. The letter clearly reflects that Dr. Clark's responses had not yet been received by plaintiff.

10. It is admitted that counsel for Dr. Mosch and Dr. Polintan responded to plaintiffs' letter. It is denied that Dr. Clark's counsel did not respond. Defense counsel sent a letter dated March 12<sup>th</sup> indicating that defendant did not receive the requests until March 16<sup>th</sup> and that the responses would be received by the plaintiffs within 30 days of that date. Responses of Dr. Clark and Clearfield Hospital were sent to the Prothonotary on March 11, 2010.

11-13. Defendants have complied with Pa. R.C.P. 4014.

14. These allegations are not directed to answering defendants.

15. The allegations in paragraph 15 are not directed to answering defendants.

16. The allegations contained in paragraph 16 are not directed to answering defendants.

17. These allegations are denied.

9. Denied the time but admitted that Nurse Tracie Parks recorded the statement in her assessment. Dr. Clark's assessment which occurred later documented "marked pitting edema". As a result the response by Dr. Clark is accurate and complete.

11. Response to #11 was that the time was denied but the rest of the statement incompletely sets forth what Dr. Clark recorded in his note. The portion cited in request #11 is one-half of a sentence recorded by Dr. Clark. Therefore this response by Dr. Clark is accurate.

13. The medical record indicates "took four steps for Dr. Clark to observe". Request for Admission #13 stated "Albert Hamm takes four steps for Dr. Clark" but leaves out the rest. The response of Dr. Clark is to deny the statement and indicate that Dr. Clark admits to observing the patient walking four steps. This response is accurate and complete.

17. Request #17 states that Dr. Clark knew Mr. Hamm's temperature at 00:16 was 38.1 at the time he discharged him from the Emergency Department. Dr. Clark has already admitted in Request #12 that at 6:40 a.m., closer in time to the actual discharge that Mr. Hamm's temperature was 36.5 (normal). Dr. Clark's response was denying it as an incomplete statement of what occurred and indicating that the temperature was normal during the same visit. As a result, at the time of discharge, Dr. Clark knew not only that the temperature had been recorded as 38.1 shortly after midnight but six hours later, without any medication to address the temperature, it went to normal at 6:40 a.m., an hour or so prior to actually being discharged. As a result the response of Dr. Clark is accurate and complete.

33. The request begins "Dr. Clark does not have an opinion" as to whether Mr. Hamm had a left knee infection when Dr. Clark saw him in the Emergency Department. Dr. Clark's response was that at the time of the treatment Dr. Clark did not believe the knee was infected and refers to page 34 of his deposition. Dr. Clark did indicate that in hindsight he could not tell whether the knee was infected or not at the time of the emergency room visit; however Dr. Clark's opinion in 2009 as to what occurred in 2004 is not relevant to the facts which occurred in 2004 and is not a proper subject for a Request for Admission. Therefore the response of Dr. Clark to this request is accurate and complete.

Request Nos. 64, 65, 73, 74 and 75 all relate to the deposition of Dr. Polintan. All were admitted by Dr. Clark as being the testimony of Dr. Polintan except No. 64 which is denied as being an overly broad statement without any reference to the plaintiff in this case. As a result Dr. Clark cannot give any more specific response.

104 and 107. These Requests relate to reference in medical records about phone calls made by Dr. Mosch. Dr. Mosch had indicated in his deposition that phone calls were being made from his private office and he was not certain whether or not there were any handwritten notes concerning phone calls made by either him or his staff. Based upon those general statements, Dr. Clark denied these statements. Neither of these statements is directed to Dr. Clark himself and therefore he has no personal knowledge one way or another of the events referred to.

18-19. Dr. Clark and Clearfield Hospital have complied with Pennsylvania Rule of Civil Procedure 4014 for the reasons set forth above.

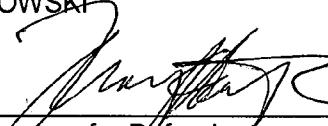
20. It is admitted that defendants do not concur with plaintiffs' Motion.

WHEREFORE, Defendants, Gordon Penner Clark, M.D. and Clearfield Hospital, request this Honorable Court to deny and dismiss plaintiffs' Motion as directed to Dr. Clark and Clearfield Hospital.

Respectfully submitted,

McINTYRE, HARTYE, SCHMITT &  
SOSNOWSKI

By

  
Atorneys for Defendants,  
GORDON PENNER CLARK, M.D. and  
CLEARFIELD HOSPITAL

Frank J. Hartye, Esquire  
PA I.D. #25568  
P.O. Box 533  
Hollidaysburg, PA 16648  
(814) 696-3581

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

ALBERT HAMM and BARBARA HAMM,  
husband and wife,

Plaintiffs

vs.

GEORGE G. MOSCH II, M.D., GORDON  
PENNER CLARK, M.D., RODOLFO S.  
POLINTAN, M.D., CLEARFIELD  
FAMILY MEDICINE and CLEARFIELD  
HOSPITAL,

Defendants

**JURY TRIAL DEMANDED**

CIVIL ACTION – MEDICAL  
PROFESSIONAL LIABILITY ACTION

No. 2006 – 1356 - CD

**REPLY TO MOTION TO DETERMINE  
SUFFICIENCY OF RESPONSES TO  
REQUESTS FOR ADMISSION  
PURSUANT TO Pa.R.C.P. 4014(c)**

Filed on behalf of George C. Mosch, II,  
M.D. and Clearfield Family Medicine  
Associates, incorrectly designated as  
Clearfield Family Medicine, two of the  
Defendants

Counsel of record for this party:

Daniel P. Carroll, Esquire  
PA I.D. #20601

Davies, McFarland & Carroll, P.C.  
Firm #281  
One Gateway Center  
Tenth Floor  
Pittsburgh, PA 15222

412-281-0737

*original record  
in Court Annex  
office*

**FILED**  
310:4231  
APR 28 2010  
S No  
William A. Shaw  
Prothonotary/Clerk of Courts  
CC  
(60)

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

ALBERT HAMM and BARBARA HAMM, )  
husband and wife, )  
Plaintiffs )  
vs. ) No. 2006 – 1356 – CD  
)  
GEORGE G. MOSCH II, M.D., GORDON )  
PENNER CLARK, M.D., RODOLFO S. )  
POLINTAN, M.D., CLEARFIELD FAMILY )  
MEDICINE and CLEARFIELD HOSPITAL, )  
)  
Defendants )

**REPLY TO**  
**MOTION TO DETERMINE THE SUFFICIENCY OF RESPONSES TO**  
**REQUESTS FOR ADMISSION PURSUANT TO Pa.R.C.P. 4014(c)**

And now, come defendant, George C. Mosch, III, M.D., by his attorneys, Davies, McFarland & Carroll, P.C., and file the following Reply to Motion to Determine the Sufficiency of Responses to Requests for Admission Pursuant to Pa.R.C.P. 4014(c):

1-5. The averments of paragraphs 1 through 5 of plaintiffs' Motion are admitted.

6. In response to paragraph 6 of plaintiffs' Motion, it is admitted the plaintiffs served on each defendant doctor a set of 129 Requests for Admission. It is further admitted, with very few exceptions, each Request merely restated what was already in the medical record and in the deposition transcript of the respective defendants. The remaining allegations are denied as stated.

7. The averments of paragraph 7 of plaintiffs' Motion are denied. To the contrary, Dr. Mosch provided timely and adequate responses to each of the Requests made of him. The remaining averments pertains to co-defendant Dr. Polintan and no response is required of this defendant.

8. This paragraph is directed to co-defendant Dr. Clark and no response is required of this defendant.

9. It is admitted counsel for plaintiffs forwarded a letter to counsel for Dr. Mosch dated March 10, 2010.

10. The averments of paragraph 10 are admitted insofar as Dr. Mosch sent a letter to counsel for plaintiffs explaining why they had adequately answered the responses to plaintiffs' Requests for Admission.

11-16. In response to paragraphs 11 through 16 of plaintiffs' Motion, this defendant avers that he has adequately responded to the Requests for Admission and in particular:

Request for Admission No. 1:

This refers to the office note of Dr. Mosch of December 20, 2004 to which he has responded by including the full note for that office visit. Dr. Mosch also testified in detail under oath regarding this office visit.

Request for Admission No. 2:

This refers to the office note of Dr. Mosch of December 27, 2004 to which he has responded by including the full note for that office visit. Dr. Mosch also testified in detail under oath regarding this office visit.

Request for Admission No. 3:

Refers to the deposition testimony of co-defendant, Dr. Clark.

Request for Admission No. 4:

Refers to events for which the defendant was not personally present nor did he perform. It refers to x-rays which this defendant did not read. This defendant did not prepare the x-ray report.

Request for Admission No. 30:

Refers to the deposition testimony of co-defendant, Dr. Clark.

Request for Admission No. 34:

Refers to when Mr. Hamm was admitted to the hospital. While Dr. Mosch was not present at that time, Dr. Mosch did admit that is what the Clearfield Hospital record indicates.

Request for Admission No. 36:

Refers to the History and Physical dictated by Dr. Mosch which is included in the Clearfield Hospital record. Dr. Mosch admitted that is what the record indicates.

Requests for Admission Nos 37 and 38:

Refer to specific language in the History & Physical which is part of the Clearfield Hospital record. Dr. Mosch admitted that is what the record indicates.

Requests for Admission No. 39:

Refers to deposition testimony of co-defendant Dr. Polintan.

Requests for Admission Nos. 40, 41, 42 and 43:

Refer to sections in the History & Physical dictated by Dr. Mosch which Dr. Mosch has admitted are included in the record of Clearfield Hospital.

Requests for Admission Nos. 44, 45, 46, 47 and 48:

Refer to laboratory reports or temperature readings which were performed by individuals other than Dr. Mosch. Dr. Mosch did admit these reports were contained in the record of Clearfield Hospital.

Requests for Admission Nos. 51, 52, 53 and 54:

Refer to testimony Dr. Mosch has already made at his deposition. Dr. Mosch responded by admitting to the specific excerpts of his deposition which he gave under oath at the time of his deposition.

Requests for Admission Nos. 64, 66, 67, 71, 73 and 75:

Refer to deposition testimony of co-defendant Dr. Polintan for which Dr. Mosch was not present.

Requests for Admission No. 84:

Refers to a laboratory result to which Dr. Mosch admitted was part of the record. Dr. Mosch did not perform the laboratory study.

Requests for Admission No. 85:

Refers to a temperature reading to which Dr. Mosch agreed was part of the record. Dr. Mosch did not take the temperature as indicated in this Request for Admission.

Requests for Admission No. 86:

Refers to an x-ray report taken and interpreted by Dr. Richard Williams on January 4, 2005. Dr. Mosch admitted the report is part of the Clearfield Hospital record. Dr. Mosch did not view the x-ray nor did he interpret it.

Requests for Admission No. 87:

Refers to an x-ray report taken and interpreted by Dr. Richard Williams on January 4, 2005. Dr. Mosch admitted the report is part of the Clearfield Hospital record. Dr. Mosch did not view the x-ray nor did he interpret it.

Requests for Admission No. 88:

Refers to an x-ray report taken and interpreted by Dr. Richard Williams on January 4, 2005. Dr. Mosch admitted the report is part of the Clearfield Hospital record. Dr. Mosch did not view the x-ray nor did he interpret it.

Requests for Admission No. 89:

In response to Request 89, Dr. Mosch denied the Request for Admission as stated and stated specifically what he had testified to regarding this topic in his deposition.

Requests for Admission Nos. 94 and 95:

Refers to Dr. Mosch's deposition testimony to which Dr. Mosch reiterated what he had testified to in his deposition.

Requests for Admission No. 96:

Dr. Mosch acknowledge the record entitled Transfer Form Physician Certificate and indicated it was signed by him and a date and time indicated. This was the best answer Dr. Mosch can give because he has no present recollection of signing the form at 13:00 on January 5, 2005.

Requests for Admission No. 97:

Refers to a Consent form signed by Mr. Hamm which is part of the Clearfield Hospital record.

Requests for Admission No. 98:

Refers to an item in the hospital record which is a nurse's progress note and not the note of Dr. Mosch. Dr. Mosch does admit that is contained in the record.

Requests for Admission No. 99:

Refers to a nurse's progress note. Dr. Mosch did not author the progress note. He did admit it was part of the record.

Requests for Admission Nos. 100, 101, 102, 103, 104, 105 and 106:

These Requests reiterate deposition testimony of Dr. Mosch to which Dr. Mosch admitted so testifying to under oath.

Requests for Admission No. 107:

This defendant did specifically respond to his review of the medical records.

Request for Admission No. 108:

Refers to a nurse's note and this defendant admitted that is what the nurse's note indicates. This defendant also stated he was not present at the time the note was recorded.

Request for Admission No. 109:

Refers to a temperature reading by a nurse. This defendant was not present when the temperature was recorded and he did not take the temperature.

Request for Admission No. 110:

Refers to a lab report, i.e., blood sugar level. This defendant was not present when the blood level was drawn nor did he perform the lab test.

Request for Admission No. 115:

Refers to an excerpt from Dr. Mosch's deposition to which he responded by reiterating what he had said in his deposition.

Request for Admission No. 116:

Refers to an excerpt from Dr. Mosch's deposition to which he responded by reiterating what he had said in his deposition.

Request for Admission No. 117:

Refers to the deposition testimony of co-defendant Dr. Polintan for which Dr. Mosch was not present. By way of response, this defendant reiterated the deposition testimony of Dr. Polintan.

Request for Admission No. 118:

Refers to the deposition testimony of co-defendant Dr. Polintan for which Dr. Mosch was not present. His deposition testimony however was reiterated by way of response.

Requests for Admission Nos. 121, 122 and 123:

Refers to deposition testimony of co-defendant Dr. Polintan for which Dr. Mosch was not present. By way of response this defendant reiterated the deposition testimony of Dr. Polintan.

Requests for Admission No. 125:

Refers to co-defendant Dr. Clark's testimony in which this defendant was not present for the deposition of Dr. Clark or his treatment. By way of response, the testimony of Dr. Clark referred to in the request was placed as an answer.

Requests for Admission Nos. 126, 127 and 128:

Refers to nurse's progress notes which are part of the Clearfield Hospital record. This defendant did not make the observations contained in the notes nor was he present when said observations were made.

17. The allegations in paragraph 17 of plaintiffs' Motion are directed to the co-defendant, Dr. Clark, and no response is required of this defendant.

18-19. The averments of paragraphs 18 and 19 of plaintiffs' Motion are denied. It is averred Dr. Mosch has complied with Pennsylvania Rule of Civil Procedure 4014 as previously indicated.

20. In response to paragraph 20 of plaintiffs' Motion, it is agreed for the reasons set forth this defendant does not concur with plaintiffs' Motion. After receipt of this Motion, counsel for this defendant again tried to resolve these discovery issues with plaintiffs' counsel but to no avail.

WHEREFORE, defendant, George C. Mosch, II, M.D., requests this Honorable Court  
deny and dismiss plaintiffs' Motion as directed to defendant, George C. Mosch, II, M.D.

DAVIES, McFARLAND & CARROLL, P.C.

BY



Daniel P. Carroll, Esquire  
Attorneys for Defendant,  
George C. Mosch, II, M.D.

**CERTIFICATE OF SERVICE**

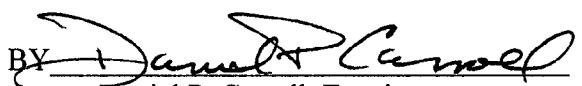
I hereby certify that a true and correct copy of the REPLY TO MOTION TO DETERMINE SUFFICIENCY OF RESPONSES TO REQUESTS FOR ADMISSION PURSUANT TO Pa.R.C.P. 4014(c) on behalf of defendants, George C. Mosch, II, M.D. and Clearfield Family Medicine Associates, incorrectly designated as Clearfield Family Medicine, has been served on the following persons by first-class mail, postage prepaid this 26th day of April, 2010.

Timothy A. Shollenberger, Esquire  
Shollenberger & Januzzi, LLP  
2225 Millennium Way  
Enola, PA 17025

Frank Hartye, Esquire  
McIntyre, Hartye, Schmitt & Sosnowski  
P.O. Box 533  
Hollidaysburg, PA 16648

Paula A. Koczan, Esquire  
Weber Gallagher Simpson Stapleton Fires & Newby, LLP  
Two Gateway Center, Suite 1450  
Pittsburgh, PA 15222

DAVIES, McFARLAND & CARROLL, P.C.

BY   
Daniel P. Carroll, Esquire  
Attorney for Defendants,  
George C. Mosch, II, M.D. and  
Clearfield Family Medicine Associates,  
incorrectly designated as Clearfield  
Family Medicine

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

ALBERT HAMM and BARBARA HAMM, husband and wife,	)	
	)	
Plaintiffs	)	
vs.	)	No. 2006 – 1356 – CD
	)	
GEORGE G. MOSCH II, M.D., GORDON PENNER CLARK, M.D., RODOLFO S.	)	
POLINTAN, M.D., CLEARFIELD FAMILY MEDICINE and CLEARFIELD HOSPITAL,	)	
	)	
Defendants	)	

**ORDER OF COURT**

And now, to wit, this \_\_\_\_\_ day of \_\_\_\_\_, 2010, after  
consideration of Plaintiffs' Motion to Determine Sufficiency of Responses to Request for  
Admissions Pursuant to Pa.R.C.P. 4012(c), it is hereby ORDERED, ADJUDGED AND  
DECREED that said Motion is denied.

BY THE COURT

---

J.

FILED *P*

*S May 03 2010*  
William A. Shaw  
Prothonotary/Clerk of Courts  
*No 21C*

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

ALBERT HAMM and BARBARA HAMM,  
husband and wife,

Plaintiffs,

vs.

GEORGE C. MOSCH II, M.D., GORDON  
PENNER CLARK, M.D., RODOLFO S.  
POLINTAN, M.D., CLEARFIELD FAMILY  
MEDICINE and CLEARFIELD HOSPITAL,

Defendants.

CIVIL DIVISION

NO: 2006-1356 - CD

**REPLY TO PLAINTIFF'S  
MOTION TO DETERMINE THE  
SUFFICIENCY OF RESPONSES  
TO REQUESTS FOR  
ADMISSIONS PURSUANT TO  
PA. R.C.P. 4014(C)**

Filed on Behalf of Defendant, Rodolfo  
S. Polintan, M.D.

Counsel of Record for This Party:

Paula A. Koczan, Esquire  
PA I.D. #46932

William M. Buchanan, Esquire  
PA I.D. #202843

WEBER GALLAGHER SIMPSON  
STAPLETON FIRES & NEWBY LLP  
Firm #594  
Two Gateway Center, Suite 1450  
603 Stanwix Street  
Pittsburgh, PA 15222  
Phone: (412) 281-4541  
Fax: (412) 281-4547

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

ALBERT HAMM and BARBARA HAMM, ) CIVIL DIVISION  
husband and wife, )  
Plaintiffs, ) NO: 2006-1356-CD  
vs. )  
GEORGE C. MOSCH II, M.D., GORDON )  
PENNER CLARK, M.D., RODOLFO S. )  
POLINTAN, M.D., CLEARFIELD )  
FAMILY MEDICINE and CLEARFIELD )  
HOSPITAL, )  
Defendants. )

**REPLY TO PLAINTIFF'S MOTION TO DETERMINE THE SUFFICIENCY OF  
RESPONSES TO REQUESTS FOR ADMISSIONS PURSUANT TO PA. R.C.P. 4014(C)**

AND NOW, comes Defendant, Rodolfo S. Polintan, M.D., by and through his counsel, Paula A. Koczan, Esquire and the law firm of Weber Gallagher Simpson Stapleton Fires & Newby LLP, and submits the following Reply to Plaintiff's Motion to Determine the Sufficiency of Responses to Requests for Admissions Pursuant to Pa. R.C.P. 4014(C):

1-5. Admitted,

6. Admitted in part and denied in part. It is admitted that each defendant was served with 129 Requests for Admission, and that these requests related to information that was already stated in the medical records or what had been testified to by the defendants. The remaining allegations are denied as stated.

7. Denied. To the contrary, Dr. Polintan provided sufficient responses to each of the requests for admission. In fact, the requests themselves were harassing and unnecessary. As to the allegations against Dr. Mosch, Dr. Polintan is not required to respond.

8. This paragraph pertains to the requests served on Dr. Clark and his responses, and

therefore no response by Dr. Polintan is required.

9. It is admitted that counsel for Dr. Polintan received the letter from plaintiff's counsel dated March 10, 2010.

10. The letters from counsel for Dr. Polintan and Dr. Mosch speak for themselves.

11-16. Dr. Polintan responds that he provided adequate responses to the Requests for Admission. With respect to the Requests that plaintiff demands amended answers, Dr. Polintan responds as follows:

Request for Admission Number 30, 125

This request refers to the testimony of Dr. Clark, which speaks for itself.

Request for Admission Number 54, 89, 116

This request refers to the testimony of Dr. Mosch, which speaks for itself.

Request for Admission Numbers 55-61, 79-81, 84, 86-88,

These requests refer to information contained in the medical records. Dr. Polintan admitted that what is referred to in the request is what the records indicate. Moreover, Dr. Polintan did not author many of the records referenced and did not himself perform the tests described (i.e. lab studies or x-ray reports). See for example:

- Request Nos. 57, 58 and 59: these requests merely repeat what the consultation report dictated by Dr. Polintan states. Dr. Polintan appropriately admitted what the report stated.
- Request Nos. 61 and 79 refer to a nursing progress notes that were not authored by Dr. Polintan.
- Request Nos. 81 and 84 refer to laboratory results of tests that were not performed or interpreted by Dr. Polintan. Dr. Polintan appropriately admitted what the test results stated.
- Request Nos. 86-88 refer to an x-ray that was taken and interpreted by others, not Dr. Polintan. Dr. Polintan appropriately admitted what the x-ray report stated.

Request for Admission Numbers 62-76, 82, 90-93, 111, 117-124

These requests ask Dr. Polintan to admit to his own testimony in his deposition. His

testimony is already an admission, and requiring him to "re-admit" what was stated is vexatious.

17. The allegations in this paragraph pertain to Dr. Clark, and therefore no response is required.

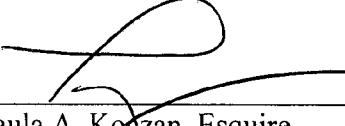
18-19. Denied. Dr. Polintan complied with the requirements of the rules of civil procedure with respect to his responses to plaintiff's requests for admission.

20. It is admitted that this defendant does not concur with plaintiff's motion. Aside from correspondence, counsel for Dr. Polintan is aware that counsel for Dr. Mosch attempted to discuss the issues with plaintiff's counsel, but that those discussions were ineffective.

Respectfully submitted,

WEBER GALLAGHER SIMPSON  
STAPLETON FIRES & NEWBY LLP

By:

  
Paula A. Kozan, Esquire  
Attorneys for Defendant Rodolfo S.  
Polintan, M.D.

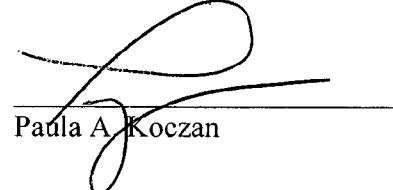
**CERTIFICATE OF SERVICE**

I, the undersigned, hereby swear that on this 29<sup>th</sup> day of April, 2010, I served a true and correct copy of the Defendant's Reply to Plaintiff's Motion to Determine the Sufficiency of Responses to Requests for Admissions Pursuant To Pa. R.C.P. 4014(C) on the following parties by first class mail, postage prepaid:

Frank J. Hartye, Esquire  
McIntyre, Hartye & Schmitt  
P.O. Box 533  
Hollidaysburg, PA 16648  
(Counsel for Dr. Clark and Clearfield Hospital)

Daniel P. Carroll, Esquire  
Davies McFarland & Carroll, P.C.  
One Gateway Center, Floor 10  
Pittsburgh, PA 15222  
(Counsel for Dr. Mosch and Clearfield Family Medicine Associates)

Timothy Shollenberger, Esquire  
Shollenberger & Januzzi  
2225 Millennium Way  
Enola, PA 17025  
(Counsel for Plaintiffs)



Paula A. Koczan

ALBERT HAMM and BARBARA HAMM,  
husband and wife,

Plaintiffs

vs.

GEORGE C. MOSCH II, M.D., GORDON  
PENNER CLARK, M.D.,  
RODOLFO S. POLINTAN, M.D.;  
CLEARFIELD FAMILY MEDICINE  
ASSOCIATES; and  
CLEARFIELD HOSPITAL,

Defendants

IN THE COURT OF COMMON PLEAS  
CLEARFIELD COUNTY

NO. 2006-1356-CD

CIVIL ACTION - LAW  
JURY TRIAL DEMANDED

## ORDER

AND NOW, this 19th day of April, 2010, upon consideration of  
all parties Stipulation Regarding discovery Deadlines, IT IS HEREBY ORDERED,

1. Plaintiffs' counsel shall identify (if not already identified) all experts  
to be called to testify at trial in this case, and transmit to counsel for Defendant's  
said expert's CV and report by 4:00 p.m. on Tuesday, June 1, 2010.

2. Defendants' counsel shall identify (if not already identified) all  
experts to be called to testify at trial in this case, and transmit to counsel for  
Defendant's said expert's CV and report by 4:00 p.m. on Thursday, July 1, 2010.

3. Discovery shall be completed by April 30, 2010, except that  
Plaintiffs shall have the right to take the discovery depositions as listed in the  
April 8, 2010 Stipulation Regarding Discovery Deadlines.

**FILED**  
01/15/2011  
MAY 12 2010

William A. Shaw  
Prothonotary/Clerk of Courts

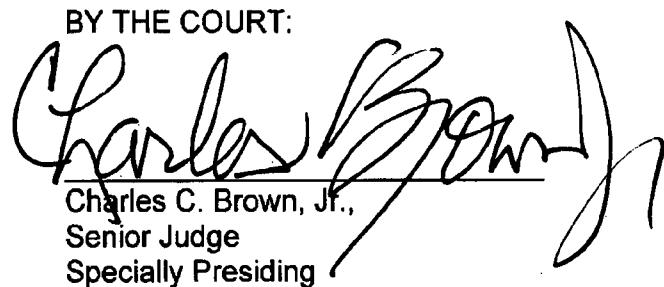
ICC Atlys: Koczan  
Shollenberger  
Hastyle  
Mazer (G)  
Castor

4. On or before April 30, 2010, Defendant Mosch will produce for inspection and copying his appointment calendar or other record or document showing time that he spent at his medical office seeing patients from January 2nd to January 6<sup>th</sup>, 2005. Counsel for the Defendant shall redact any and all patient names to protect their privacy.

5. Counsel for Defendants Clark and Clearfield Hospital will make available for inspection and copying the original hospital chart for Albert Hamm from January 1st, 2005 to January 6<sup>th</sup>, 2005.

6. Counsel for Defendant Mosch will make available for inspection and copying the original medical chart of Dr. Mosch and Clearfield Family Medicine Associates.

BY THE COURT:



Charles C. Brown, Jr.,  
Senior Judge  
Specially Presiding

**FILED**

**MAY 12 2010**

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

DATE: 5/12/10

You are responsible for serving all appropriate parties.

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

Plaintiff(s)  Plaintiff(s) Attorney  Other  
 Defendant(s)  Defendant(s) Attorney

Special Instructions:

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

ALBERT HAMM and BARBARA HAMM,  
husband and wife,

Plaintiffs

v.

2006-1356-CD

GEORGE C. MOSCH II, M.D., GORDON  
PENNER CLARK, M.D.,  
RODOLFO S. POLINTAN, M.D.;  
CLEARFIELD FAMILY MEDICINE; and  
CLEARFIELD HOSPITAL,

Defendants

ORDER

FILED  
02-4750  
S JUN 17 2010

William A. Shaw  
Prothonotary/Clerk of Courts

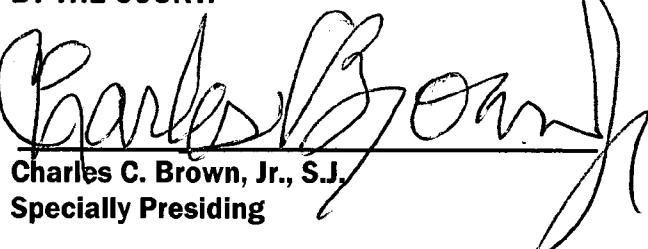
10C Judge Brown  
Atty Shollenberger  
Atty Maser  
Atty Hartye  
Atty Korzan  
Atty Carroll

NOW, this 17<sup>th</sup> day of June, 2010, upon consideration of Plaintiffs' Motion to Determine the Sufficiency of Responses to Requests for Admission addressed to all defendants and upon consideration of the replies of each defendant to said Motion, and after exhaustive review of the relevant pleadings, this Court determines as follows:

Defendants' answers and responses to Plaintiffs' Requests for Admission are sufficient.

Therefore, the request for an order, as set forth in Plaintiffs' Motion, against each defendant is DENIED.

BY THE COURT:

  
Charles C. Brown, Jr., S.J.  
Specially Presiding

cc: Attorney Shollenberger  
Attorney Hartye  
Attorney Korzan  
Attorney Carroll

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

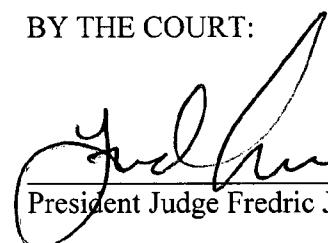
CA

ALBERT HAMM and BARBARA HAMM, :  
husband and wife :  
vs. : No. 2006-1356-CD  
GEORGE C. MOSCH, II, M.D., :  
RODOLFO S. POLINTAN, M.D. :  
and CLEARFIELD FAMILY MEDICINE :  
:

**ORDER**

AND NOW, this 13<sup>th</sup> day of July, 2010, it is the ORDER of the Court that a Settlement Conference in the above captioned matter shall be and is hereby scheduled for **Thursday, July 22, 2010 at 9:00 A.M.** in Hearing Room No. 3, before Senior Judge Charles C. Brown, Specially Presiding, Clearfield County Courthouse, Clearfield, PA. All parties must have a representative with settlement authority present, or be available via telephone, for this settlement conference.

BY THE COURT:

  
President Judge Fredric J. Ammerman

FILED  
07/15/2010  
S 60  
JUL 15 2010  
William A. Shaw  
Prothonotary/Clerk of Courts  
1CCAtys:

T. Shollenberger  
R. Mazer  
D. Carroll  
F. Hartye  
P. Koczan

**FILED**

JUL 15 2010

William A. Shaw  
Prothonotary/Clerk of Courts

DATE: 7/15/10

You are responsible for serving all appropriate parties.  
 The Prothonotary's office has provided service to the following parties:  
 Plaintiff(s)  Plaintiff(s) Attorney  Other  
 Defendant(s)  Defendant(s) Attorney  Other  
 Special Inspector(s)

CA

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

ALBERT HAMM and BARBARA HAMM, :  
husband and wife :  
: :  
vs. : No. 2006-1356-CD  
: :  
GEORGE C. MOSCH, II, M.D., :  
RODOLFO S. POLINTAN, M.D. :  
and CLEARFIELD FAMILY MEDICINE :  
:

**ORDER**

AND NOW, this 19<sup>th</sup> day of July, 2010, it is the ORDER of the Court that a Settlement Conference in the above captioned matter previously scheduled for Thursday, July 22, 2010 at 10:00 A.M. is hereby re-scheduled to begin at 9:00 AM in Hearing Room No. 3, before Senior Judge Charles C. Brown, Specially Presiding, Clearfield County Courthouse, Clearfield, PA. All parties must have a representative with settlement authority present, or be available via telephone, for this settlement conference.

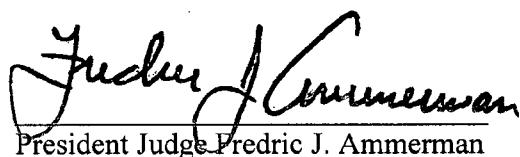
**FILED**

07/19/2010  
JUL 19 2010

(60)

William A. Shaw  
Prothonotary/Clerk of Courts  
ICC Attns: T. Shollenberger  
R. Mazer  
D. Carroll  
F. Hartley  
P. Koczan

BY THE COURT:

  
President Judge Fredric J. Ammerman

**FILED**

**JUL 19 2010**

William A. Shaw  
Prothonotary/Clerk of Courts

DATE: 7/19/10

You are responsible for serving all appropriate parties.  
 The Prothonotary's office has provided service to the following parties:  
 Plaintiff(s)  Plaintiff(s) Attorney  Other  
 Defendant(s)  Defendant(s) Attorney  Other  
 Special Instructions:

CA

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

ALBERT HAMM and BARBARA HAMM, : No. 2006 – 1356 CD  
husband and wife,

Plaintiffs

vs.

GEORGE C. MOSCH, II, M.D.,  
GORDON PENNER CLARK, M.D.,  
RODOLFO S. POLINTAN, M.D.,  
CLEARFIELD FAMILY MEDICINE and  
CLEARFIELD HOSPITAL,

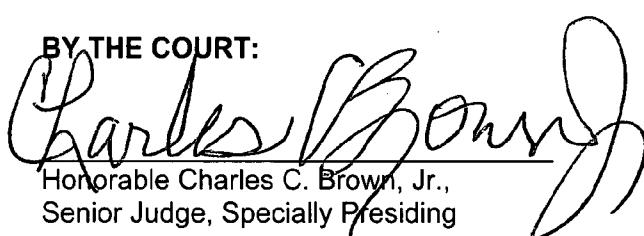
Defendants

JURY TRIAL DEMANDED

ORDER OF COURT

AND NOW, this 12th day of July, 2010, upon  
consideration of Defendants' Motion to Dismiss, it is hereby ORDERED, DIRECTED  
AND DECREED that a Discontinuance is hereby granted as to Gordon Penner Clark,  
M.D. and Clearfield Hospital, and their names shall be stricken from the caption of the  
case.

BY THE COURT:

  
Honorable Charles C. Brown, Jr.,  
Senior Judge, Specially Presiding

5 **FILED** 3CC  
07/20/2010 JUL 20 2010 *Atty Hartye*

William A. Shaw  
Prothonotary/Clerk of Courts

(66)

**FILED**

**JUL 20 2010**

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

DATE: 7/20/10

You are responsible for serving all appropriate parties.

The Probate/Clerk's Office has provided service to the following parties:

Plaintiff(s)  Plaintiff(s) Attorney  Other

Defendant(s)  Defendant(s) Attorney

Special Instructions:

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

ALBERT HAMM and BARBARA HAMM,  
husband and wife,

: No. 2006 - 1356 CD

Plaintiffs

: ISSUE:

: MOTION TO DISMISS PLAINTIFFS,  
GORDON PENNER CLARK, M.D. AND  
CLEARFIELD HOSPITAL

vs.

GEORGE C. MOSCH, II, M.D.,  
GORDON PENNER CLARK, M.D.,  
RODOLFO S. POLINTAN, M.D.,  
CLEARFIELD FAMILY MEDICINE and  
CLEARFIELD HOSPITAL,

: Filed on behalf of Defendants,  
GORDON PENNER CLARK, M.D. and  
CLEARFIELD HOSPITAL

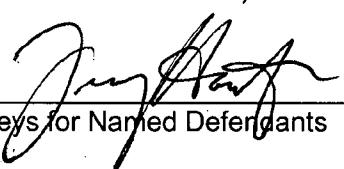
Defendants

: Counsel of Record:  
Frank J. Hartye, Esquire  
PA I.D. #25568

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

: JURY TRIAL DEMANDED

I HEREBY CERTIFY THAT A TRUE AND  
CORRECT COPY OF THE WITHIN WAS  
MAILED TO ALL COUNSEL OF RECORD  
THIS 30<sup>TH</sup> DAY OF JUNE, 2010.

  
\_\_\_\_\_  
Attorneys for Named Defendants

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

ALBERT HAMM and BARBARA HAMM, : No. 2006 – 1356 CD  
husband and wife, :

Plaintiffs :

vs. :

GEORGE C. MOSCH, II, M.D.,  
GORDON PENNER CLARK, M.D.,  
RODOLFO S. POLINTAN, M.D.,  
CLEARFIELD FAMILY MEDICINE and  
CLEARFIELD HOSPITAL, :

Defendants : JURY TRIAL DEMANDED

**MOTION TO DISMISS DEFENDANTS,  
GORDON PENNER CLARK, M.D. AND CLEARFIELD HOSPITAL**

AND NOW, come the Defendants, GORDON PENNER CLARK, M.D. and  
CLEARFIELD HOSPITAL, by and through their attorneys, MCINTYRE, HARTYE,  
SCHMITT & SOSNOWSKI, and file the following Motion to Dismiss.

1. Plaintiffs initiated the within medical professional negligence action by filing a Complaint in 2006.
2. By Order dated January 25, 2010, the Honorable Charles C. Brown, Jr., Senior Judge, Specially Presiding, entered an Order scheduling jury selection for June 22, 2010, trial for October 4, 2010, with expert reports due by plaintiffs on April 30 and reports from defendants by June 1, 2010.
3. Defendants, Clearfield Hospital and Gordon Penner Clark, M.D., have settled with the plaintiffs and plaintiffs have no objection to the dismissal of them from this lawsuit.
4. Defendants, George C. Mosch, II, M.D., Clearfield Family Medicine and Rodolfo S. Polintan, M.D., have all filed Answers with New Matter to the plaintiffs'

Complaint; however, none of the defendants have filed a Crossclaim against Gordon Penner Clark, M.D. or Clearfield Hospital.

5. Defendants, George C. Mosch, II, M.D., Clearfield Family Medicine and Rodolfo S. Polintan, M.D., have filed their expert reports as ordered by the Court. None of the expert reports filed by them allege a breach of the standard of care on behalf of either Gordon Penner Clark, M.D. or Clearfield Hospital.

WHEREFORE, Defendants, Gordon Penner Clark, M.D. and Clearfield Hospital, request this Honorable Court to discontinue this matter against them pursuant to Pennsylvania Rule of Civil Procedure 229(b)(2).

Respectfully submitted,

McINTYRE, HARTYE, SCHMITT &  
SOSNOWSKI

By 

Atorneys for Defendants,  
GORDON PENNER CLARK, M.D.  
and CLEARFIELD HOSPITAL

Frank J. Hartye, Esquire  
PA I.D. #25568  
P.O. Box 533  
Hollidaysburg, PA 16648  
(814) 696-3581

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

ALBERT HAMM and BARBARA HAMM, husband and wife,	:	CIVIL DIVISION
	:	NO: 2006-1356-CD
Plaintiffs,	:	
	:	
v.	:	
	:	
GEORGE C. MOSCH II, M.D., GORDON PENNER CLARK, M.D., RODOLFO S.	:	
POLINTAN, M.D., CLEARFIELD FAMILY MEDICINE and CLEARFIELD HOSPITAL,	:	
Defendants.	:	

**SCHEDULING ORDER**

AND NOW, to wit, this \_\_\_\_\_ day of September 2010, it is hereby ORDERED that argument on Defendant's Motion to Dismiss Less Than All Defendants and Amend Caption be placed for argument on \_\_\_\_\_, \_\_\_\_\_, 2010 at \_\_\_\_\_ a.m./p.m.

BY THE COURT:

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

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

ALBERT HAMM and BARBARA HAMM,  
husband and wife,

Plaintiffs,

v.

GEORGE C. MOSCH II, M.D., GORDON  
PENNER CLARK, M.D., RODOLFO S.  
POLINTAN, M.D., CLEARFIELD FAMILY  
MEDICINE and CLEARFIELD HOSPITAL,

Defendants.

: CIVIL DIVISION  
: NO: 2006-1356 - CD  
: Hon. Judge Charles C. Brown, Jr.  
:  
: **MOTION TO DISMISS LESS THAN  
ALL DEFENDANTS AND AMEND  
CAPTION**  
:  
: Filed on behalf of Defendant  
Rodolfo S. Polintan, M.D.  
:  
: Counsel of Record for this Party  
:  
: Paula A. Koczan  
PA I.D. 46932  
:  
: William M. Buchanan  
PA I.D. 202843  
:  
: WEBER GALLAGHER SIMPSON  
STAPLETON FIRES & NEWBY LLP  
Firm #594  
2 Gateway Center  
Suite 1450  
Pittsburgh, PA 15222  
Phone: (412) 281-4541  
Fax: (412) 281-4547

CA  
S FILED NO  
M 11/07/2010 CC  
SEP 10 2010 (60)  
William A. Shaw  
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

ALBERT HAMM and BARBARA HAMM, husband and wife,	:	CIVIL DIVISION
	:	
	:	NO: 2006-1356-CD
Plaintiffs,	:	
	:	
v.	:	
	:	
GEORGE C. MOSCH II, M.D., GORDON PENNER CLARK, M.D., RODOLFO S.	:	
POLINTAN, M.D., CLEARFIELD FAMILY MEDICINE and CLEARFIELD HOSPITAL,	:	
	:	
Defendants.	:	
	:	

**MOTION TO DISMISS LESS THAN ALL DEFENDANTS AND AMEND CAPTION**

AND NOW comes the Defendant, Rodolfo S. Polintan, M.D., by and through his attorney Paula A. Koczan, Esquire and the law firm of Weber Gallagher Simpson Stapleton Fires & Newby LLP, and files the following Motion to Dismiss Less Than All Defendants and Amend Caption, averring as follows:

1. Plaintiffs, Albert and Barbara Hamm, initiated this medical malpractice case by filing a Complaint in 2006.
2. On January 25, 2010, the Honorable Judge Charles C. Brown, Jr. entered an order scheduling trial in this matter to begin on October 4, 2010 and providing that all expert reports were to be filed by defendants no later than June 1, 2010.
3. On or about June 30, 2010, Plaintiffs settled their claims with Dr. Clark and Clearfield Hospital and the settling defendants filed a subsequent Motion to Dismiss which was granted.
4. Defendant, Rodolfo S. Polintan, M.D., has also settled with Plaintiffs.

5. Plaintiffs have no objection to the dismissal of Dr. Polintan from this lawsuit.
6. The remaining defendants, Dr. Mosch and Clearfield Family Medicine, filed an Answer and New Matter to Plaintiffs' Complaint but did not file a cross claim against Dr. Polintan. Further, these defendants did not provide expert reports alleging that Dr. Polintan breached the standard of care or that he is liable to them.

WHEREFORE the Defendant, Rodolfo S. Polintan, M.D., respectfully requests that this Honorable Court discontinue this matter against him pursuant to Pa. R.C.P. 229(b)(1) and strike his name from the caption of this case.

Respectfully submitted,

WEBER GALLAGHER SIMPSON  
STAPLETON FIRES & NEWBY LLP

By: 

Paula A. Koczan, Esquire  
Attorney for Defendant,  
Rodolfo S. Polintan, M.D.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

ALBERT HAMM and BARBARA HAMM, husband and wife,	:	CIVIL DIVISION
	:	
	:	NO: 2006-1356-CD
Plaintiffs,	:	
	:	
v.	:	
	:	
GEORGE C. MOSCH II, M.D., GORDON PENNER CLARK, M.D., RODOLFO S.	:	
POLINTAN, M.D., CLEARFIELD FAMILY MEDICINE and CLEARFIELD HOSPITAL,	:	
	:	
Defendants.	:	

**ORDER**

AND NOW, this \_\_\_\_\_ day of \_\_\_\_\_, 2010, upon consideration of Dr. Polintan's Motion to Dismiss Less Than All Defendants and Amend Caption, it is hereby ORDERED that Defendant's motion is GRANTED. A discontinuance is granted as to defendant Rodolfo S. Polintan, M.D. and his name shall be stricken from the caption of this case.

BY THE COURT:

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

**CERTIFICATE OF SERVICE**

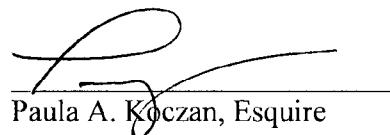
I, the undersigned, hereby swear that on this 8<sup>th</sup> day of September 2010, I served a true and correct copy of Defendant's Motion to Dismiss Less Than All Defendants and Amend Caption on the following persons by first class mail:

Frank J. Hartye, Esquire  
McIntyre, Hartye & Schmitt  
P.O. Box 533  
Hollidaysburg, PA 16648  
(Counsel for Dr. Clark and Clearfield Hospital)

Daniel P. Carroll, Esquire  
Davies McFarland & Carroll, P.C.  
One Gateway Center, Floor 10  
Pittsburgh, PA 15222  
(Counsel for Dr. Mosch and Clearfield Family Medicine Associates)

Timothy Shollenberger, Esquire  
Shollenberger & Januzzi  
2225 Millennium Way  
Enola, PA 17025  
(Counsel for Plaintiffs)

The Honorable Judge Charles C. Brown, Sr.  
Clearfield County Courthouse  
230 E. Market Street  
Clearfield, PA 16830



Paula A. Koczan, Esquire

Bill -

Since this case is  
settled, does this  
order just go into  
the file?

Sharon

## Transmission Report

Date/Time                    09-10-2010                    03:17:36 p.m.  
 Local ID 1                    8147657649  
 Local ID 2

Transmit Header Text  
 Local Name 1  
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COUNTY OF CLEARFIELD COURT ADMI

**This document : Confirmed  
 (reduced sample and details below)**  
**Document size : 8.5"x11"**

F. CORTEZ BELL, III, ESQUIRE  
 DISTRICT COURT ADMINISTRATOR

SHARON S. WHIPPLE  
 DEPUTY COURT ADMINISTRATOR

PHONE: 814-765-2641 x 5982  
 FAX: 814-765-7649  
 EMAIL: courtadmin@clearfieldco.org



OFFICE OF THE COURT ADMINISTRATOR  
 FORTY-SIXTH JUDICIAL DISTRICT OF PENNSYLVANIA  
 CLEARFIELD COUNTY COURTHOUSE  
 230 EAST MARKET STREET, SUITE 228  
 CLEARFIELD, PENNSYLVANIA 16830-2448

HON. FREDERIC J. ANMERRAN  
 PRESIDENT JUDGE

HON. PAUL E. CHERRY  
 JUDGE

HON. JOHN K. REILLY, JR.  
 SENIOR JUDGE

### **FACSIMILE COVERSHEET**

TO: JUDGE BROWN  
 FROM: SHARON S. WHIPPLE, Deputy Court Administrator  
 RE: HAMM v. MOSCH  
 DATE: 9-10-10  
 NUMBER OF PAGES (INCLUDING COVER PAGE): 7  
 FAX NUMBER: 814-355-8707

**COMMENTS:**

Judge Brown,

Attached is the Motion To Dismiss Less Than All Defendants And Amend Caption, as we discussed.

As always, If I can be of further help, you can give me a call at 814-765-2641 x 1300.

Thanks!

**CONFIDENTIALITY NOTICE:** The information contained in this communication is confidential, may be legally privileged, and is only intended for the use of the addressee. It is the property of Clearfield County Government and/or the Office of the Court Administrator. If you are not the intended recipient, you are hereby notified that any disclosure, copy, distribution, or use of the contents of this transmission, including all attachments, is strictly prohibited and may be unlawful. If you have received this communication in error, please notify me immediately by return fax or by calling me at (814) 765-2641 ext. 5982. You are also directed to destroy this communication and all copies thereof, including all attachments. Thank you.

Total Pages Scanned : 7

Total Pages Confirmed : 7

No.	Job	Remote Station	Start Time	Duration	Pages	Line	Mode	Job Type	Results
001	293	814 355 6707	03:15:06 p.m. 09-10-2010	00:01:53	7/7	1	EC	HS	CP14400

**Abbreviations:**

HS: Host send  
 HR: Host receive  
 WS: Waiting send

PL: Polled local  
 PR: Polled remote  
 MS: Mailbox save

MP: Mailbox print  
 CP: Completed  
 FA: Fail

TU: Terminated by user  
 TS: Terminated by system  
 RP: Report

G3: Group 3  
 EC: Error Correct

F. CORTEZ BELL, III, ESQUIRE  
DISTRICT COURT ADMINISTRATOR

SHARON S. WHIPPLE  
DEPUTY COURT ADMINISTRATOR

PHONE: 814-765-2641 x 5982  
FAX: 814-765-7649  
EMAIL: courtadmin@clearfieldco.org



HON. FREDRIC J. AMMERMAN  
PRESIDENT JUDGE

HON. PAUL E. CHERRY  
JUDGE

HON. JOHN K. REILLY, JR.  
SENIOR JUDGE

OFFICE OF THE COURT ADMINISTRATOR  
FORTY-SIXTH JUDICIAL DISTRICT OF PENNSYLVANIA  
CLEARFIELD COUNTY COURTHOUSE  
230 EAST MARKET STREET, SUITE 228  
CLEARFIELD, PENNSYLVANIA 16830-2448

## **FACSIMILE COVERSHEET**

**TO:** JUDGE BROWN

**FROM:** SHARON S. WHIPPLE, Deputy Court Administrator

**RE:** HAMM v. MOSCH

**DATE:** 9-10-10

**NUMBER OF PAGES (INCLUDING COVER PAGE):** 7

**FAX NUMBER:** 814-355-6707

**COMMENTS:**

Judge Brown,

Attached is the Motion To Dismiss Less Than All Defendants And Amend Caption, as we discussed.

As always, if I can be of further help, you can give me a call at 814-765-2641 x 1300.

Thanks!

A handwritten signature in black ink that reads "Sharon".

**CONFIDENTIALITY NOTICE:** The information contained in this communication is confidential, may be legally privileged, and is only intended for the use of the addressee. It is the property of Clearfield County Government and/or the Office of the Court Administrator. If you are not the intended recipient, you are hereby notified that any disclosure, copy, distribution, or use of the contents of this transmission, including all attachments, is strictly prohibited and may be unlawful. If you have received this communication in error, please notify me immediately by return fax or by calling me at (814) 765-2641 ext. 5982. You are also directed to destroy this communication and all copies thereof, including all attachments. Thank you.

**SHOLLENBERGER & JANUZZI, LLP**  
2225 Millennium Way  
Enola, PA 17025  
Telephone Number: (717) 728-3200  
Fax Number: (717) 728-3400  
Attorneys for Plaintiffs

ALBERT HAMM and BARBARA HAMM,  
husband and wife,

Plaintiffs

vs.

GEORGE C. MOSCH II, M.D., GORDON  
PENNER CLARK, M.D.,  
RODOLFO S. POLINTAN, M.D.;  
CLEARFIELD FAMILY MEDICINE  
ASSOCIATES; and  
CLEARFIELD HOSPITAL,

Defendants

IN THE COURT OF COMMON PLEAS  
CLEARFIELD COUNTY

NO. 2006-1356-CD

CIVIL ACTION - LAW  
JURY TRIAL DEMANDED

**PRAECEIPE TO DISCONTINUE**

TO THE PROTHONOTARY:

Please mark the above-captioned action settled, ended, and discontinued  
with prejudice.

Respectfully submitted,

**SHOLLENBERGER & JANUZZI, LLP**  
Attorneys for the Plaintiff

By:

Timothy A. Shollenberger, Esquire  
Attorney I.D. #34343

Date: 11.04.10

FILED ICC Atty  
Shollenberger  
m 11:37 AM  
NOV 08 2010  
Copy to c/a

William A. Shaw  
Prothonotary/Clerk of Courts

**S**HOLLENBERGER & J<sup>A</sup>NUZZI, LLP

2225 Millennium Way

Enola, PA 17025

Telephone Number: (717) 728-3200

Fax Number: (717) 728-3400

Attorneys for Plaintiffs

ALBERT HAMM and BARBARA HAMM,  
husband and wife,

Plaintiffs

vs.

GEORGE C. MOSCH II, M.D., GORDON  
PENNER CLARK, M.D.,  
RODOLFO S. POLINTAN, M.D.;  
CLEARFIELD FAMILY MEDICINE  
ASSOCIATES; and  
CLEARFIELD HOSPITAL,

Defendants

IN THE COURT OF COMMON PLEAS  
CLEARFIELD COUNTY

NO. 2006-1356-CD

CIVIL ACTION - LAW  
JURY TRIAL DEMANDED

**CERTIFICATE OF SERVICE**

AND NOW this 14th day of November, 2010, I hereby certify that I have served the following Praeclipe to Discontinue on the following by forwarding a true and correct copy of same in the United States mail, postage prepaid, addressed to:

Frank J. Hartye, Esquire  
McINTYRE, HARTYE & SCHMITT  
P.O. Box 533  
Hollidaysburg, PA 16648-0533

Daniel P. Carroll, Esquire  
Firm #281  
One Gateway Center  
Tenth Floor  
Pittsburgh, PA 15222

Paula A. Koczan, Esquire  
Weber Gallagher Simpson Stapleton  
Fires & Newby, LLP  
2 Gateway Centre, Suite 1450  
603 Stanwix Street  
Pittsburgh, PA 15222

SHOLLENBERGER & JANUZZI, LLP

By:

Timothy A. Shollenberger, Esquire

**H**HOLLENBERGER & JANUZZI, LLP  
2225 Millennium Way  
Enola, PA 17025  
Telephone Number: (717) 728-3200  
Fax Number: (717) 728-3400  
Attorneys for Plaintiffs

**FILED**

10:32 AM  
SEP 24 2010

William A. Shaw  
Prothonotary/Clerk of Courts

ALBERT HAMM and BARBARA HAMM,  
husband and wife,

Plaintiffs

vs.

GEORGE C. MOSCH II, M.D. and  
RODOLFO S. POLINTAN, M.D.;

Defendants

IN THE COURT OF COMMON PLEAS  
CLEARFIELD COUNTY

NO. 2006-1356-CD

CIVIL ACTION - LAW  
JURY TRIAL DEMANDED

**PLAINTIFFS MOTION IN LIMINE TO PRECLUDE DEFENDANT'S EXPERT  
FROM OFFERING EXPERT OPINIONS ON THE SUFFICIENCY OF DEFENDANT  
MOSCH'S EFFORTS TO TRANSFER PLAINTIFF HAMM TO ANOTHER  
FACILITY**

AND NOW, come the Plaintiffs, Albert and Barbara Hamm, by their attorneys,  
Shollenberger and Januzzi, LLP and do respectfully represent the following:

1. Trial of the above captioned medical professional liability claim is set to begin on  
Monday, October 4, 2010.

2. In their complaint, Plaintiffs allege that Defendant Mosch is negligent. One of the  
allegations is set forth as follows:

(j) Failed to effect emergent transfer to a tertiary facility upon learning of the  
Plaintiff Albert Hamm's septic arthritis and gas gangrene. Plaintiff's Amended  
Complaint, Paragraph 33 (j).

3. Defense expert Pontzer authored a report dated May 4, 2009 in which he writes:

"Multiple extenuating circumstances, including a snowstorm, delayed Mr. Hamm's transfer to a facility where this surgery could be done, despite a high level of effort put forth by Dr. Mosch to timely facilitate this transfer." Report page 2, paragraph 6.

"When Dr. Polintan reported that he could not perform the necessary surgery, Dr. Mosch then made great effort to transfer Mr. Hamm to a facility where [sic] this could be done as soon as possible." Report page 3, paragraph 1.

"As noted above, he [Dr. Mosch] then made great effort to transfer the patient to a tertiary care facility when the surgeon (Dr. Polintan) felt that he was incapable of performing the needed debridement procedure at Clearfield Hospital." Report page 3, paragraph 4.

4. Defense expert Bruehlman authored a report dated March 3, 2008 in which he writes:

"Upon learning that Dr. Polintan had decided not to take Mr. Hamm to the operating room, Dr. Mosch worked diligently to arrange transfer to tertiary care. My review of the records and deposition transcripts leads me to the conclusion that circumstances beyond the control of Dr. Mosch prevented this transfer from occurring until 1/6/05." Report page 4, paragraph 5.

"Dr. Mosch arranged for transfer to tertiary care in as timely a manner as circumstances allowed". Report page 5, paragraph 1.

5. Additional facts that will be elicited at trial will establish that a transfer to Geisinger Hospital was arranged for the morning of January 6, 2005. See Nursing Progress Record of 1/05/05, Bates stamped Medical Record page 133.

6. When asked why this transfer did not occur, Dr. Mosch testified as follows:

Q: Well, as we know, he [Mr. Hamm] was not transferred to Geisinger, do you know why he was not?

A: Yes.

Q: Why?

A: We—Geisinger accepted Mr. Hamm and stated that they would call us back with bed confirmation. We waited and waited and I recall and I'm not sure it's documented—but I recall well that we tried on in the afternoon to inquire how the bed situation was going and they gave us a confirmation again that they would be accepting him.

Finally, the notes will show that they said, okay, we'll --- we can't take him now, we'll take him in the morning.

Q: Did you find that to be acceptable?

A: No, I did not.

Q: Why not?

A: Because I felt that there was – we needed a more urgent transfer.

Q: Why?

A: Because the patient had a septic left knee. Deposition of Dr. Mosch, p. 62 line 8 to p. 63 line 4.

The office note documenting the transfer to Geisinger was charted on January 5, 2005 at 15:55 [3:55 p.m.].

7. There is no further record of any kind demonstrating efforts by Dr. Mosch to arrange for the transfer of Mr. Hamm from 15:55 on January 5, 2005 until January 6, 2005 at 16:30 [4:30 p.m.] ---- 24 hours and 35 minutes later--- when the following entry appears in the Nursing Progress Record:

"Dr. Mosch visits. Sets up transfer to Hershey Medical Center. Chart copied. EMS notified." Bates stamped records page 136.

8. Dr. Mosch first learned that Dr. Polintan was not going to perform the surgery on Mr. Hamm shortly after 08:00 on the morning of January 5, 2005. Deposition of Mosch, page 51, lines 8 to 11. Dr. Mosch's appointment calendar for that day reveals that he had a total of 18 office appointments, 13 between the hours of 7:45 a.m. and 11:15 a.m. and 5 between the hours of 1:45 p.m. and 3:00 p.m. On January 6, 2005, Dr. Mosch's office calendar reveals that he had only 5 appointments all between the hours of 8:15 a.m. and 10:30 a.m. Appointment calendars previously marked as "Kohan One".

9. Testimony will be presented from Karen Musser, a registered nurse and Mr. Hamm's sister, that she received an urgent phone call from a member of Mr. Hamm's family which caused her to make the drive from Harrisburg, Pennsylvania to the

Clearfield Hospital. Upon arriving at the hospital and seeing her brother's condition—she immediately became concerned—asking to and speaking with Dr. Mosch and then placing a call to Mr. Hamm's insurance company—and that within about 2 to 2 and a half hours after her arrival—things started to get moving and Bill was transferred to the Hershey Medical Center. Recorded Statement of Karen Musser.

10. Testimony will be elicited from Plaintiffs infectious disease expert, Dr. Finley, that a time period of even one hour could make a critical difference in the outcome for Mr. Hamm—given that he is a diabetic with gas present or suspected gas present in his joint. Dr. Polintan—when deposed while still a Defendant—admitted that gas gangrene, if left untreated, within a 12 hour period can create severe destruction of the knee such that amputation would be required. Polintan Deposition at page 47, lines 7 to 13 and that if left untreated can be fatal within 48 hours. Polintan deposition page 45 lines 22 to 23.

11. Plaintiff's allegation that Dr. Mosch was negligent in failing to expeditiously arrange for the transfer of Mr. Hamm to another facility is not an allegation about which scientific, technical or other specialized knowledge will assist the trier of fact to resolve it --- i.e. the jury does not need the help of an expert to resolve this issue because it is not beyond the knowledge possessed by a lay person.

12. If such testimony is heard by the jury, even in terms of an unresponsive answer to a question or as part of a question posed, a curative instruction will be an insufficient remedy.

13. Justice requires that this court enter a pretrial order that Defense experts are not permitted to offer an opinion as to whether the efforts of Dr. Mosch to transfer Mr. Hamm to another facility were or were not sufficient or amounted to an expeditious transfer.

WHEREFORE, the Plaintiffs, Albert and Barbara Hamm respectfully requests that the Honorable Judge Brown issue an Order precluding Defendant's experts from offering an opinion on the issue of whether or not Defendant George Mosch breached his duty of care to the Plaintiff Albert Hamm by failing to expeditiously transfer him to another facility.

SHOLLENBERGER & JANUZZI, LLP

By: 

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Date: September 23rd, 2010

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husband and wife,

Plaintiffs

vs.

GEORGE C. MOSCH II, M.D. and  
RODOLFO S. POLINTAN, M.D.;

Defendants

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**CERTIFICATE OF SERVICE**

And now, this 23rd day of September, 2010, I hereby certify that a true and correct copy of the foregoing Plaintiffs' Motion in Limine to Preclude Defendants Expert from Offering Expert Opinions on the Sufficiency of Defendant Mosch's Efforts to Transfer Plaintiff Hamm to another Facility and Plaintiffs' Brief in Support of Plaintiffs' Motion in Limine to Preclude Defendants Expert from Offering Expert Opinions on the Sufficiency of Defendant Mosch's Efforts to Transfer Plaintiff Hamm to another Facility has been served upon the following via U.S. Mail:

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*Counsel for Defendant, George C. Mosch, II, M.D.  
and Clearfield Family Medicine Associates, incorrectly  
designated as Clearfield Family Medicine*

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**ORDER**

AND NOW, this \_\_\_ day of September, 2010, this Court issues the following  
Order:

Plaintiff's Motion In Limine To Preclude Defendant's Expert From Offering Expert  
Opinions On The Sufficiency Of Defendant Mosch's Efforts To Transfer Plaintiff Hamm  
To Another Facility is GRANTED.

Defendant's experts shall not offer an opinion on the issue of whether or not  
Defendant George Mosch breached his duty of care to the Plaintiff Albert Hamm by  
failing to expeditiously transfer him to another facility. Defense counsel shall instruct  
Defendant's experts accordingly.

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BROWN, J.

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