

07-619-CD
Derek Prebble al vs George Kosco

Derek Prebble vs George Kosco et al
2007-619-CD

IN THE COURT OF COMMON PLEAS OF CLEARFIELD, COUNTY PENNSYLVANIA

DEREK PREBBLE, a minor, by and through his parents and natural guardians, LAVINA and GERALD PREBBLE, and LAVINA and GERALD PREBBLE, individually,

Plaintiffs,

vs.

GEORGE KOSCO, M.D., ROBERT BORON, M.D., DuBOIS RADIOLOGY, INC. and DuBOIS REGIONAL MEDICAL CENTER,

Defendants.

CIVIL ACTION – MEDICAL PROFESSIONAL LIABILITY ACTION

Case No.: ~~06-745-CD~~
07-6019-CD

Code: 007

COMPLAINT

Filed on behalf of PLAINTIFF

Counsel for PLAINTIFF:

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

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

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

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

JURY TRIAL DEMANDED

FILED Atty pol. \$5.00
3/12/44/01
APR 20 2001 4CC Sheriff
(CN)

William A. Shaw
Prothonotary/Clerk of Courts

NOTICE TO DEFEND

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

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

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

IN THE COURT OF COMMON PLEAS OF CLEARFIELD, COUNTY PENNSYLVANIA

COMPLAINT

1. Plaintiff, Derek K. Prebble, a minor, (hereinafter referred to as "Minor-Plaintiff"), is the son of Plaintiffs, Lavina and Gerald Prebble, (hereinafter referred to as "Parent-Plaintiffs"). Plaintiffs are residents of Clearfield County, Pennsylvania.

2. Defendant George Kosco, M.D. (hereinafter "Defendant Kosco"), is an adult individual who at all times relevant to the matters set forth in this Complaint, practiced medicine in Clearfield County, Pennsylvania.

3. At all times relevant to the matters set forth in this Complaint, Defendant Kosco was licensed as a physician in the Commonwealth of Pennsylvania engaged in the practice of medicine, specializing in radiology in Clearfield County, Pennsylvania.

4. Defendant Robert Boron, M.D. (hereinafter "Defendant Boron"), is an adult individual who at all times relevant to the matters set forth in this Complaint practiced medicine in Clearfield County, Pennsylvania.

5. At all times relevant to the matters set forth in this Complaint, Defendant Boron was licensed as a physician in the Commonwealth of Pennsylvania engaged in the practice of medicine, specializing in radiology in Clearfield County, Pennsylvania.

6. DuBois Radiology, Inc. is a corporation or other entity chartered and existing under the laws of the Commonwealth of Pennsylvania with a principal place of business in Clearfield County, Pennsylvania.

7. At all times relevant to the matters set forth in this Complaint, Defendant DuBois Radiology was regularly engaged in providing professional medical services within Clearfield County.

8. At all times relevant to the matters set forth in this Complaint, Defendant, DuBois Regional Medical Center (hereinafter "Defendant-hospital") was a corporation or other entity chartered and existing under the laws of the Commonwealth of Pennsylvania with a principal place of business in Clearfield County, Pennsylvania.

9. At all times relevant to the matters set forth in this Complaint, Defendant-hospital was regularly engaged in providing professional medical services within Clearfield County, Pennsylvania.

10. At all times relevant to the matters set forth in this Complaint, Defendant DuBois Radiology employed technicians and physicians, including Defendants Kosco and Boron to perform, read and interpret x-rays performed on Minor-Plaintiff.

11. At all times relevant to the matters set forth in this Complaint, Defendant-hospital employed technicians and physicians, and/or physical groups, including Defendants Kosco, Boron and Defendant, DuBois Radiology, to perform, read and interpret x-rays performed on Minor-Plaintiff.

12. At all times relevant to the matters set forth in this Complaint, said hospital technicians, physicians and/or employees, including Defendants Kosco and Boron, were the agents, servants, ostensible agents and/or employees of Defendant-hospital and were acting within the course and scope of said agency and/or employment.

13. At all times relevant to the matters set forth in this Complaint, the technicians, physicians and/or employees, including Defendants Kosco and Boron, were the agents, servants, ostensible agents and/or employees of Defendant, DuBois Radiology, and were acting within the course and scope of said agency and/or employment.

14. On September 30, 2002, Minor-Plaintiff fell and injured his right wrist. Thereafter, he was taken to Defendant-hospital for evaluation of his right wrist pain.

15. On September 30, 2002, a right wrist x-ray was performed at Defendant-hospital and interpreted by Defendant Kosco as showing no evidence of a fracture or dislocation.

16. Plaintiffs were informed that the September 30, 2002 x-ray showed no evidence of a fracture or dislocation. As such, Minor-Plaintiff was diagnosed with a sprain, and instructed to elevate the right wrist, apply an ace wrap to the wrist and contact his primary care physician with any problems or concerns. Minor-Plaintiff was then discharged from Defendant-hospital.

17. On October 2, 2002, Minor-Plaintiff presented to his primary care physician with complaints of constant pain in the right wrist, swelling and bruising.

18. On October 9, 2002, Minor-Plaintiff again presented to his primary care physician complaining of pain and swelling.

19. Minor-Plaintiff was sent to Defendant-hospital for another x-ray of his right wrist which was read and interpreted by Defendant Boron who identified a "faint radiolucent line through the mid aspect of the navicular bone" but attributed this finding to "artifact." Thereafter, Minor-Plaintiff's right wrist was placed in a splint and he was diagnosed with torn ligaments.

20. In or about January 2006, Minor-Plaintiff was required to partake in weight lifting in gym class. Upon Minor-Plaintiff attempting to lift 25 pounds, he experienced extreme pain in his right wrist, as well as a tearing feeling when he moved his right hand.

21. Minor-Plaintiff presented to his primary care physician who diagnosed Minor-Plaintiff with a right wrist sprain and sent him to Defendant-hospital for an x-ray.

22. On January 14, 2006, x-rays were performed on Minor-Plaintiff's right and left forearms. The studies were read and interpreted by Dr. Ali Shah. Dr. Shah found an irregularity in the navicular carpal bone and recommended radiographs of the right wrist with special views of the navicular bone.

23. On January 17, 2006 Minor-Plaintiff's right wrist was again x-rayed. The films were read and interpreted by Dr. Shah who found a healed fracture of the navicular carpal bone and ordered a MRI to rule out avascular necrosis.

24. On February 1, 2006 Minor-Plaintiff underwent a MRI of the right wrist which was performed at Defendant-hospital and interpreted by Dr. Alajaji who found a sclerotic healing fracture.

25. Thereafter, Minor-Plaintiff was referred to William C. Hagberg, M.D., an orthopedic surgeon.

26. On February 20, 2006, Minor-Plaintiff underwent a CT scan of the right wrist which revealed evidence of a non-union fracture at the base of his navicular carpal bone.

27. On April 19, 2006, Minor-Plaintiff underwent arthroscopic surgery with triangular fibrocartilage complex debridement, skeletal fixation of the right scaphoid with a screw placement, and a fluoroscopic examination of the right wrist.

28. The occurrence of the non-union of the fracture of Minor-Plaintiff's right wrist and the complications therefrom, which are described more fully hereafter, were the direct and proximate result of the negligence and carelessness of Defendants and their agents, servants, ostensible agents and/or employees in the failure to diagnose the presence of a right wrist fracture in September and October of 2002.

29. The sole and proximate cause of the foregoing occurrences was the negligence of Defendants and their agents, servants, ostensible agents and/or employees as herein set forth.

30. Defendant Kosco, Defendant-hospital, and their agents, servants, ostensible agents and/or employees were negligent in some or all of the following particulars:

- a. in subjecting Minor-Plaintiff to a nearly four year delay in the diagnosis of a right wrist fracture;
- b. in failing to notify and/or communicate with Minor-Plaintiff's primary care physician regarding the need for Minor-Plaintiff to be evaluated and/or treated by an orthopedic surgeon following Minor-Plaintiff's September 30, 2002 x-ray when Defendant knew or should have known that at the time Minor-Plaintiff presented for said x-ray he was suffering from a fracture of the navicular carpal bone;
- c. in failing to order and/or recommend additional diagnostic studies be performed upon Minor-Plaintiff, including a CT scan or MRI following Minor-Plaintiff's September 30, 2002 x-ray;
- d. in failing to entertain in defendants' differential diagnosis fracture of the navicular carpal area of Minor-Plaintiff's wrist;

- e. in failing to properly interpret the x-ray of Minor-Plaintiff's right wrist performed on September 30, 2002;
- f. in failing to diagnose the fracture in Minor-Plaintiff's wrist as it was apparent on the x-ray film taken on September 30, 2002;
- g. in failing to observe abnormalities in Minor-Plaintiff's right wrist as were apparent on Minor-Plaintiff's September 30, 2002 x-ray which clearly demonstrated a fracture; and
- h. in failing to appreciate and negligently and incorrectly stating on Minor-Plaintiff's right wrist x-ray report that there was no fracture when Defendants knew or should have known that Minor-Plaintiff was indeed suffering a fracture of the right wrist.

31. Defendant Boron, Defendant-hospital, and their agents, servants, ostensible agents and/or employees were negligent in some or all of the following particulars:

- a. in subjecting Minor-Plaintiff to a nearly four year delay in the diagnosis of a right wrist fracture;
- b. in failing to notify and/or communicate with Minor-Plaintiff's primary care physician regarding the need for Minor-Plaintiff to be evaluated and/or treated by an orthopedic surgeon following Minor-Plaintiff's October 9, 2002 x-ray when Defendant knew or should have known that at the time Minor-Plaintiff presented for said x-ray he was suffering from a fracture of the navicular carpal bone;
- c. in failing to order and/or recommend additional diagnostic studies be performed upon Minor-Plaintiff, including a CT scan or MRI following Minor-Plaintiff's October 9, 2002 x-ray;
- d. in failing to entertain in defendants' differential diagnosis fracture of the navicular carpal area of Minor-Plaintiff's wrist;
- e. in failing to properly interpret the x-ray of Minor-Plaintiff's right wrist performed on October 9, 2002;
- f. in failing to diagnose the fracture in Minor-Plaintiff's wrist as it was apparent on the x-ray film taken on October 9, 2002;
- g. in failing to observe abnormalities in Minor-Plaintiff's right wrist as were apparent on Minor-Plaintiff's October 9, 2002 x-ray which clearly demonstrated a fracture; and

h. in failing to appreciate and negligently and incorrectly stating on Minor-Plaintiff's right wrist x-ray report that there was no fracture when Defendants knew or should have known that Minor-Plaintiff was indeed suffering a fracture of the right wrist.

32. As a direct and proximate result of the negligence, carelessness, and other tortious conduct of Defendants, their agents, servants, ostensible agents and/or employees, Minor-Plaintiff was forced to undergo arthroscopic surgery on his right wrist with triangular fibrocartilage complex debridement, skeletal fixation of the right scaphoid, with a screw placement, and a fluoroscopic examination of the right wrist.

33. Minor-Plaintiff has suffered pain and damage to his tissues, bones and other structure of his right arm. Some or all of these injuries may be permanent in nature.

34. As a direct and proximate result of the Defendants and their agents, servants, ostensible agents and/or employees, Minor-Plaintiff was caused to endure great physical pain, suffering and inconvenience, and will suffer the same in the future.

35. Minor-Plaintiff was forced to submit to medical, surgical and therapeutic treatment and may be forced to submit to the same in the future.

36. Minor-Plaintiff has suffered scars and the embarrassment and humiliation associated therewith.

37. Minor-Plaintiff's earning capacity has been seriously and permanently impaired.

WHEREFORE, Plaintiffs claim damages against the Defendants in a sum in excess of the arbitral limits of this court and demands a trial by jury.

COUNT II

**LAVINA and GERAL PREBBLE v. GEORGE KOSCO, M.D.,
ROBERT BORON, M.D., DuBOIS RADIOLOGY, INC. and DuBOIS REGIONAL
MEDICAL CENTER
(Loss of Consortium)**

38. Plaintiffs incorporate by reference and make a part of this Count all the paragraphs set forth above.

39. As a further result of the conduct of Defendants and their agents, ostensible agents, servants and/or employees as set forth above, Parent-Plaintiffs have suffered the loss of consortium, services, society and companionship of their child, Derek Prebble, and will suffer similar loss in the future.

40. As a further result of the conduct of Defendants and their agents, ostensible agents, servants and/or employees as set forth above, Parent-Plaintiffs have been forced to expend large sums of money for doctors, hospital and other items necessary for their child's proper care and treatment, and may be forced to expend similar sums for like items in the future

41. As a further result of the conduct of Defendants, their agents, servants, ostensible agents and/or employees, Parent-Plaintiffs have been forced to miss work and have suffered the loss of substantial sums of money that they would have otherwise earned.

WHEREFORE, Plaintiffs claim damages from Defendants in a sum in excess of the arbitral limits of this court and demands a jury trial.

ROSEN LOUIK & PERRY, P.C.

By: 
Neil R. Rosen, Esquire
Elizabeth L. Jenkins, Esquire
Attorneys for Plaintiffs

VERIFICATION

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

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

Date: 4-16-07

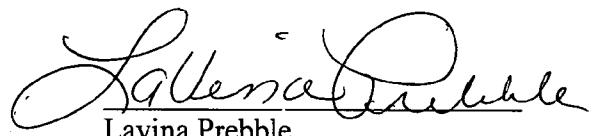
Gerald Prebble
Gerald Prebble

VERIFICATION

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

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

Date: 4-16-07



Lavina Prebble
Lavina Prebble

FILED

APR 20 2007

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD, COUNTY
PENNSYLVANIA

DEREK PREBBLE, a minor, by and through his parents and natural guardians, LAVINA and GERALD PREBBLE, and LAVINA and GERALD PREBBLE, in their own right,

Plaintiffs,

vs.

GEORGE KOSCO, M.D., ROBERT BORON, M.D., DuBOIS RADIOLOGY, INC. and DuBOIS REGIONAL MEDICAL CENTER,

Defendants.

CIVIL ACTION – MEDICAL PROFESSIONAL LIABILITY ACTION

Case No.: ~~06-745-CD~~
07-619-CD

Code: 007

CERTIFICATE OF MERIT DuBOIS REGIONAL MEDICAL CENTER

Filed on behalf of PLAINTIFF

Counsel for PLAINTIFF:

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

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

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

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

JURY TRIAL DEMANDED

FILED
APR 20 2007
12:44 PM
M/12/07
Clerk of Courts
iCC Sheriff

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD, COUNTY
PENNSYLVANIA

DEREK PREBBLE, a minor, by and through his parents and natural guardians, LAVINA and GERALD PREBBLE, and LAVINA and GERALD PREBBLE, in their own right,

1 CIVIL ACTION – MEDICAL
2 PROFESSIONAL LIABILITY
3 ACTION
4
5 No.

Plaintiffs,

•

vs.

1

GEORGE KOSCO, M.D., ROBERT
BORON, M.D., DuBOIS RADIOLOGY,
INC. and DuBOIS REGIONAL
MEDICAL CENTER.

• • • •

Defendants.

1

**CERTIFICATE OF MERIT
DuBOIS REGIONAL MEDICAL CENTER**

I, ELIZABETH L. JENKINS, ESQUIRE, certify that the claim that this
Defendant:

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

OR

that the claim that this Defendant deviated from 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;

OR

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

ROSEN LOUIK & PERRY, P.C.

By: 

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

IN THE COURT OF COMMON PLEAS OF CLEARFIELD, COUNTY PENNSYLVANIA

DEREK PREBBLE, a minor, by and through his parents and natural guardians, LAVINA and GERALD PREBBLE, and LAVINA and GERALD PREBBLE, in their own right,

Plaintiffs,

vs.

GEORGE KOSCO, M.D., ROBERT BORON, M.D., DuBOIS RADIOLOGY, INC. and DuBOIS REGIONAL MEDICAL CENTER,

Defendants.

CIVIL ACTION - MEDICAL PROFESSIONAL LIABILITY ACTION

Case No.: ~~06-74180~~
07-609-CD

Code: 007

**CERTIFICATE OF MERIT OF
ROBERT BORON, M.D.**

Filed on behalf of PLAINTIFF

Counsel for PLAINTIFF:

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

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

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

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

JURY TRIAL DEMANDED

FILED *1CC Sheriff*
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APR 20 2001 *cm*
William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD, COUNTY PENNSYLVANIA

DEREK PREBBLE, a minor, by and through his parents and natural guardians, LAVINA and GERALD PREBBLE, and LAVINA and GERALD PREBBLE, in their own right,

1 CIVIL ACTION – MEDICAL
2 PROFESSIONAL LIABILITY
3 ACTION
4
5 No.

Plaintiffs,

•

VS.

◆

GEORGE KOSCO, M.D., ROBERT
BORON, M.D., DuBOIS RADIOLOGY,
INC. and DuBOIS REGIONAL
MEDICAL CENTER.

• • •

Defendants.

2

**CERTIFICATE OF MERIT OF
ROBERT BORON, M.D.**

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

OR

that the claim that this Defendant deviated from 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;

OR

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

ROSEN LOUIK & PERRY, P.C.

By: 

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

FILED

APR 20 2007

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD, COUNTY PENNSYLVANIA

DEREK PREBBLE, a minor, by and through his parents and natural guardians, LAVINA and GERALD PREBBLE, and LAVINA and GERALD PREBBLE, in their own right,

Plaintiffs,

vs.

GEORGE KOSCO, M.D., ROBERT BORON, M.D., DuBOIS RADIOLOGY, INC. and DuBOIS REGIONAL MEDICAL CENTER,

Defendants.

CIVIL ACTION - MEDICAL PROFESSIONAL LIABILITY ACTION

07-609-CJ
Case No.: 06-743-ED

Code: 007

**CERTIFICATE OF MERIT OF
GEORGE KOSCO, M.D.**

Filed on behalf of PLAINTIFF

Counsel for PLAINTIFF:

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

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

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

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

JURY TRIAL DEMANDED

FILED *CC Sheriff*

*1/19/44 BY
APR 20 2007*

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD, COUNTY PENNSYLVANIA

DEREK PREBBLE, a minor, by and through his parents and natural guardians, LAVINA and GERALD PREBBLE, and LAVINA and GERALD PREBBLE, in their own right,

1 CIVIL ACTION – MEDICAL
2 PROFESSIONAL LIABILITY
3 ACTION
4
5 No.

Plaintiffs,

vs.

GEORGE KOSCO, M.D., ROBERT
BORON, M.D., DuBOIS RADIOLOGY,
INC. and DuBOIS REGIONAL
MEDICAL CENTER,

Defendants.

**CERTIFICATE OF MERIT OF
GEORGE KOSCO, M.D.**

I, ELIZABETH L. JENKINS, ESQUIRE, certify that the claim that this Defendant:

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

OR

that the claim that this Defendant deviated from 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;

OR

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

ROSEN LOUIK & PERRY, P.C.

By: 

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

IN THE COURT OF COMMON PLEAS OF CLEARFIELD, COUNTY
PENNSYLVANIA

DEREK PREBBLE, a minor, by and
through his parents and natural guardians,
LAVINA and GERALD PREBBLE, and
LAVINA and GERALD PREBBLE, in
their own right,

Plaintiffs,

vs.

GEORGE KOSCO, M.D., ROBERT
BORON, M.D., DuBOIS RADIOLOGY,
INC. and DuBOIS REGIONAL
MEDICAL CENTER,

Defendants.

CIVIL ACTION – MEDICAL
PROFESSIONAL LIABILITY ACTION

07-69-CD

Case No.: 06-745-CD

Code: 007

**CERTIFICATE OF MERIT DuBOIS
RADIOLOGY, INC.**

Filed on behalf of PLAINTIFF

Counsel for PLAINTIFF:

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

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

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

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

JURY TRIAL DEMANDED

FILED
MAY 10 2007
APR 20 2007
35

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD, COUNTY
PENNSYLVANIA

DEREK PREBBLE, a minor, by and through his parents and natural guardians, LAVINA and GERALD PREBBLE, and LAVINA and GERALD PREBBLE, in their own right,

1 CIVIL ACTION – MEDICAL
2 PROFESSIONAL LIABILITY
3 ACTION
4
5 No

Plaintiffs,

VS.

GEORGE KOSCO, M.D., ROBERT
BORON, M.D., DuBOIS RADIOLOGY,
INC. and DuBOIS REGIONAL
MEDICAL CENTER.

Defendants.

**CERTIFICATE OF MERIT
DuBOIS RADIOLOGY, INC.**

I, ELIZABETH L. JENKINS, ESQUIRE, certify that the claim that this
Defendant:

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

OR

✓ that the claim that this Defendant deviated from 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;

OR

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

ROSEN LOUIK & PERRY, P.C.

By: 

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

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

DEREK PREBBLE, a minor, by and through his parents and natural guardians,	)	CIVIL ACTION - MEDICAL PROFESSIONAL LIABILITY ACTION
LAVINA and GERALD PREBBLE, and)	
LAVINA and GERALD PREBBLE, in their own right,)	
	)	Case No. 07-619-CD
Plaintiffs,	)	JURY TRIAL DEMANDED
)	
v.	)	Type of Pleading: Entry of Appearance
GEORGE KOSCO, M.D., ROBERT BORON, M.D., DUBOIS RADIOLOGY, INC. and DUBOIS REGIONAL MEDICAL CENTER,	)	Filed on Behalf of Defendant George M. Kosco, M.D.
)	
Defendants.	)	Counsel of Record for the Party Tracey G. Benson, Esq. Pa. I.D. No. 34984
)	
	)	MILLER, KISTLER, CAMPBELL, MILLER, WILLIAMS & BENSON, INC. 124 N. Allegheny Street Bellefonte, PA 16823 (814) 355-5474 (814) 355-5340 - Fax

FILED ICC Atty
m/12/05 cm Benson.
MAY 07 2007
un

William A. Shaw
Prothonotary/Clerk of Courts

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

DEREK PREBBLE, a minor, by and)
through his parents and natural guardians,)
LAVINA and GERALD PREBBLE, and)
LAVINA and GERALD PREBBLE, in)
their own right,)
Plaintiffs,)
v.)
GEORGE KOSCO, M.D., ROBERT)
BORON, M.D., DUBOIS RADIOLOGY,)
INC. and DUBOIS REGIONAL)
MEDICAL CENTER,)
Defendants.)

Civil Action No. 07-619-CD

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing **Praecipe for Entry of Appearance**, was hereby served by depositing the same within the custody of the United States Postal Service, First Class, postage prepaid, addressed as follows:

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

MILLER, KISTLER, CAMPBELL,
MILLER, WILLIAMS & BENSON INC.

By: Tracey G. Benson
Tracey G. Benson

Dated: May 4, 2007

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DEREK PREBBLE, a minor, by and
through his parents and natural guardians,
LAVINA and GERALD PREBBLE, and
LAVINA and GERALD PREBBLE,
individually,

Plaintiffs,

vs.

GEORGE KOSCO, M.D., ROBERT
BORON, M.D., DuBOIS RADIOLOGY,
INC. and DuBOIS REGIONAL MEDICAL
CENTER,

Defendants.

CIVIL DIVISION

No. 07-619-CD

Issue No.

PRELIMINARY OBJECTIONS

Code: 007

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

Counsel of Record for This Party:

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

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

THOMSON, RHODES & COWIE, P.C.
Firm #720

1010 Two Chatham Center
Pittsburgh, PA 15219

(412) 232-3400

FILED
MAY 14 2007
Atty
Korinski
William A. Shaw
Prothonotary/Clerk of Courts
(6K)

PRELIMINARY OBJECTIONS

AND NOW, comes DuBois Regional Medical Center ("DRMC"), one of the defendants, and files the following preliminary objections in the nature of a demurrer to plaintiffs' complaint.

1. This is a professional liability action wherein parent-plaintiffs seek the recovery of personal injury damages arising out of medical treatment afforded to minor-plaintiff at DRMC in 2002. Such medical treatment included the taking and interpretation of radiographs of minor-plaintiff's right wrist. It is plaintiffs' contention that minor-plaintiff did not receive an appropriate diagnosis in 2002, that this alleged mis-diagnosis was not discovered until 2006, and that minor-plaintiff has thus sustained permanent injury stemming from a delay in diagnosis and treatment.

2. In Count II of the complaint, parent-plaintiffs bring a cause of action sounding in "loss of consortium" for, *inter alia*, the loss of their son's "services, society and companionship." See, Complaint, ¶ 39.

Demurrer: Parents of an Injured Minor Cannot Recover Loss of Consortium Damages Under the Common Law

3. For almost a century, the law of this Commonwealth has disallowed claims brought by the parents of injured children for loss of consortium type damages. Settled law limits such claims to spouses.

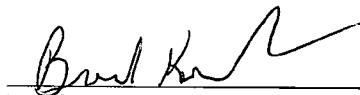
4. Pursuant to Quinn v. Pittsburgh, 90 A. 353 (Pa. 1914), a parent may not make a claim for the loss of a child's comfort, society and companionship.

5. Accordingly, since there is no legal basis on which Count II of the complaint can be premised, this Court must dismiss it and the loss of consortium claim brought by plaintiffs.

WHEREFORE, DuBois Regional Medical Center ("DRMC"), one of the defendants, respectfully requests that this Honorable Court grant its preliminary objections to Count II of the complaint and enter the attached Order dismissing this Count.

Respectfully Submitted,

THOMSON, RHODES & COWIE, P.C.



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

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the within document was served upon all counsel of record by United States, first class, postage pre-paid mail this 14th day of May, 2007:

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

THOMSON, RHODES & COWIE, P.C.

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

FILED
MAY 14 2007

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DEREK PREBBLE, a minor, by and
through his parents and natural guardians,
LAVINA and GERALD PREBBLE, and
LAVINA and GERALD PREBBLE,
individually,

CIVIL DIVISION

No. 07-619-CD

Plaintiffs,

vs.

GEORGE KOSCO, M.D., ROBERT
BORON, M.D., DuBOIS RADIOLOGY,
INC. and DuBOIS REGIONAL MEDICAL
CENTER,

Defendants.

ORDER OF COURT

AND NOW, on this _____ day of _____, 2007, it is
hereby ORDERED, ADJUDGED and DECREED that the Preliminary Objections filed by
DuBois Regional Medical Center, one of the defendants, to the complaint are hereby
GRANTED.

Count II of the complaint is hereby dismissed.

BY THE COURT:

_____, P.J.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

DEREK PREBBLE, a minor, by and
through his parents and natural guardians,
LAVINA and GERALD PREBBLE, and
LAVINA and GERALD PREBBLE,
individually,

Plaintiffs,

vs.

GEORGE KOSCO, M.D., ROBERT
BORON, M.D., DuBOIS RADIOLOGY,
INC. and DuBOIS REGIONAL MEDICAL
CENTER,

Defendants.

CIVIL DIVISION

No. 07-6019-CD

Issue No.

PRAECIPE FOR APPEARANCE

Code: 007

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

Counsel of Record for This Party:

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

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

(412) 232-3400

FILED
MAY 14 2007
NOCC
GK

William A. Shaw
Prothonotary/Clerk of Courts

PRAECIPE FOR APPEARANCE

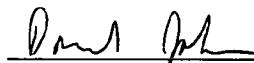
TO THE PROTHONOTARY OF CLEARFIELD COUNTY:

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

JURY TRIAL DEMANDED.

Respectfully submitted,

THOMSON, RHODES & COWIE, P.C.



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

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the within document was served upon all counsel of record by United States, first class, postage pre-paid mail this 11th day of May, 2007:

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

THOMSON, RHODES & COWIE, P.C.



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

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DEREK PREBBLE, a minor, by and
through his parents and natural guardians,
LAVINA and GERALD PREBBLE, and
LAVINA and GERALD PREBBLE,
individually,

CIVIL DIVISION

No. 07-619-CD

Plaintiffs,

vs.

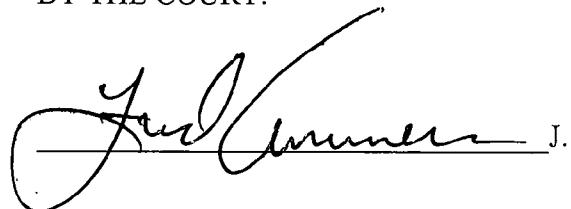
GEORGE KOSCO, M.D., ROBERT
BORON, M.D., DuBOIS RADIOLOGY,
INC. and DuBOIS REGIONAL MEDICAL
CENTER,

Defendants.

ORDER OF COURT

AND NOW on this 15 day of May, 2007, it is hereby
ORDERED, ADJUGED and DECREED that oral argument on defendants' motion for summary
judgment is scheduled for the 8th day of June, 2007, at
11:00 a.m. before Judge Ammerman in Courtroom No. 1 of the
Clearfield County Courthouse.

BY THE COURT:



FILED
MAY 15 2007
cc: Amy Korinski
GW

William A. Shaw
Prothonotary/Clerk of Courts

FILED

MAY 15 2007

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

DATE: 5/15/07

You are responsible for serving all appropriate parties.

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

Plaintiff(s) Plaintiff(s) Attorney Other

Defendant(s) Defendant(s) Attorney

Special Instructions:

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY
PENNSYLVANIA

DEREK PREBBLE, a minor, by and through his parents and natural guardians, LAVINA and GERALD PREBBLE; and LAVINA and GERALD PREBBLE, individually,

Plaintiffs,

vs.

GEORGE KOSCO, M.D.; ROBERT BORON, M.D.; DuBOIS RADIOLOGY, INC.; and DuBOIS REGIONAL MEDICAL CENTER,

Defendants.

CIVIL ACTION—MEDICAL
PROFESSIONAL LIABILITY ACTION

Case No.: 07-619-CD

**PLAINTIFFS' RESPONSE TO
PRELIMINARY OBJECTIONS OF
DEFENDANT, DuBOIS REGIONAL
MEDICAL CENTER**

Filed on behalf of PLAINTIFFS

Counsel for PLAINTIFFS:

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

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

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

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

JURY TRIAL DEMANDED

FILED
MAY 31 2007
No. 49304
cc
GK

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DEREK PREBBLE, a minor, by and	)	CIVIL ACTION—MEDICAL
through his parents and natural guardians,	)	PROFESSIONAL LIABILITY ACTION
LAVINA and GERALD PREBBLE; and)	
LAVINA and GERALD PREBBLE,)	
individually,)	
)	
Plaintiffs,)	
)	
vs.	)	Case No.: 07-619-CD
)	
GEORGE KOSCO, M.D.; ROBERT)	
BORON, M.D.; DuBOIS RADIOLOGY,)	
INC.; and DuBOIS REGIONAL)	
MEDICAL CENTER,)	
)	
Defendants.)	

PLAINTIFFS' RESPONSE TO PRELIMINARY OBJECTIONS OF DEFENDANT,
DuBOIS REGIONAL MEDICAL CENTER

AND NOW, come Plaintiffs, Derek Prebble, a minor, by and through his parents and natural guardians, Lavina and Gerald Prebble; and Lavina and Gerald Prebble, individually (“Plaintiffs”), by and through their attorneys, ROSEN LOUIK & PERRY, P.C., and file the following Response to Preliminary Objections of Defendant, DuBois Regional Medical Center (“Defendant DuBois Regional”), and in support thereof, aver as follows:

1. Admitted.
2. Admitted.
3. Denied. Defendant DuBois Regional has mis-stated the current laws of the

Commonwealth of Pennsylvania with respect to a parent’s ability to recover damages individually as a result of personal injury to their child. Specifically, Defendant DuBois Regional, cites Quinn v. Pittsburgh, 243 Pa. 521, 90 A. 353 (1914), claiming that a parent may not make a claim for the

loss of a child's comfort, society and companionship. Quinn, however, merely states that a parent does not have the right to recover for the loss of companionship of an injured child.

4. Pennsylvania law permits the parents of a minor child as individuals to maintain an action claiming damages for personal injury to their minor child, not resulting in death, for "hospital and medical bills and expenses incurred because of the injury and for loss of services of the child until he is twenty-one years old." Discovich v. Chestnut Ridge Transp. Co., et al., 369 Pa. 228, 85 A.2d 122, citing In Re Mikasinovich, 110 Pa.Super. 252, 168 A. 506.

5. Accordingly, Plaintiffs are entitled to assert a claim for loss of consortium in their Complaint. Further, if the Court deems necessary, Plaintiffs request the opportunity to amend their Complaint deleting the word "companionship" from Count II.

WHEREFORE, Plaintiffs respectfully request this Honorable Court **DENY** Defendant DuBois Regional's Preliminary Objections to Court II of Plaintiffs' Complaint.

Respectfully submitted,

ROSEN LOUIK & PERRY, P.C.

By: 

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

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DEREK PREBBLE, a minor, by and	)	CIVIL ACTION—MEDICAL
through his parents and natural guardians,	)	PROFESSIONAL LIABILITY ACTION
LAVINA and GERALD PREBBLE; and)	
LAVINA and GERALD PREBBLE,)	
individually,)	
)	
Plaintiffs,)	
)	
vs.	)	Case No.: 07-619-CD
)	
GEORGE KOSCO, M.D.; ROBERT)	
BORON, M.D.; DuBOIS RADIOLOGY,)	
INC.; and DuBOIS REGIONAL)	
MEDICAL CENTER,)	
)	
Defendants.)	

ORDER

AND NOW, this ____ day of _____, 2007, it is hereby **ORDERED, ADJUDGED** and **DECREEED** that Defendant, DuBois Regional Medical Center's, Preliminary Objections are hereby **DENIED**.

BY THE COURT:

J.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the within PLAINTIFFS' RESPONSE TO PRELIMINARY OBJECTIONS OF DEFENDANT, DuBOIS REGIONAL MEDICAL CENTER, was served upon all counsel of record by United States first-class mail, postage prepaid, or hand delivery, on the 29th day of May, 2007, as follows:

Joseph Colavecchi, Esquire
Colavecchi & Colavecchi
221 East Market Street
P.O. Box 131
Clearfield, PA 16830
(Attorneys for Defendant, Dr. Boron)

Tracey G. Benson, Esquire
Miller Kistler Campbell Miller Williams & Benson
124 North Allegheny Street
Bellefonte, PA 16823-1695
(Attorneys for Defendant, Kosco)

David R. Johnson, Esquire
Brad R. Korinski, Esquire
Thomson Rhodes & Cowie, P.C.
1010 Two Chatham Center
Pittsburgh, PA 15219
(Attorneys for Defendant, DuBois Regional)

DuBois Radiology, Inc.
145 Hospital Avenue, Suite 205
DuBois, PA 15801

ROSEN LOUIK & PERRY, P.C.

By: 

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

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DEREK PREBBLE, a minor, by and through his parents and natural guardians, LAVINA and GERALD PREBBLE, and LAVINA and GERALD PREBBLE, in their own right,

Plaintiffs,

vs.

GEORGE KOSCO, M.D., ROBERT BORON, M.D, DuBOIS RADIOLOGY, INC. and DuBOIS REGIONAL MEDICAL CENTER,

Defendants.

CIVIL DIVISION – Medical Professional Liability Action

No. 07-619-CD

PRELIMINARY OBJECTIONS AND BRIEF IN SUPPORT

Filed on behalf of Robert Boron, M.D., one of the Defendants

Counsel of record for this party:

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

Lauren R. Ames, Esquire
PA I.D. #89270

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

412-281-0737

JURY TRIAL DEMANDED

FILED *WOS/* NOCC
JUN 06 2007 *GW*

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DEREK PREBBLE, a minor, by and through his parents and natural guardians, LAVINA and GERALD PREBBLE, and LAVINA and GERALD PREBBLE, in their own right,

CIVIL DIVISION – Medical Professional Liability Action
No. 07-619-CD

Plaintiffs,

vs.

GEORGE KOSCO, M.D., ROBERT BORON, M.D, DuBOIS RADIOLOGY, INC. and DuBOIS REGIONAL MEDICAL CENTER,

Defendants.

PRELIMINARY OBJECTIONS

And now, comes the Defendant, Robert Boron, M.D., by through and his attorneys, Davies, McFarland & Carroll, P.C., and file the following Preliminary Objections, stating as follows:

1. Plaintiffs filed the within medical malpractice action.

DEMURRER

2. The second count of the Complaint asserts claims on behalf of Derek Prebble's parents, Lavina and Gerald Prebble, in their own right for the loss of their son's consortium, services, society and companionship, for past and future medical expenses, and for their own lost work.

3. However, damages for loss of consortium are available only to spouses, and do not include a parent's loss of society and companionship of her child. See Cleveland v. Johns-Manville Corp., 547 Pa. 402, 690 A.2d 1146, 1149 (1997) (claim for loss of consortium arises from marital relationship); Quinn v. Pittsburgh, 243 Pa. 521, 90 A. 353, 354 (1914) (only spouse

may recover for loss of companionship). See also Department of Public Welfare v. Schultz, 579 Pa. 164, 168, 855 A.2d 753, 755 (Pa. 2004) (“Damages for loss of consortium are available only to spouses, and do not include a parent’s loss of society and companionship of her child.”).

4. Thus, Count II fails as a matter of law, and it should be stricken from the Complaint.

WHEREFORE, Defendant requests that this Honorable Court sustain his Preliminary Objections.

JURY TRIAL DEMANDED ON ALL COUNTS.

DAVIES, McFARLAND & CARROLL, P.C.

By: _____



Daniel P. Carroll, Esquire
Lauren R. Ames, Esquire
Attorneys for Defendant,
Robert Boron, M.D.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DEREK PREBBLE, a minor, by and through his parents and natural guardians, LAVINA and GERALD PREBBLE, and LAVINA and GERALD PREBBLE, in their own right,

CIVIL DIVISION – Medical Professional Liability Action

No. 07-619-CD

Plaintiffs,

vs.

GEORGE KOSCO, M.D., ROBERT BORON, M.D., DuBOIS RADIOLOGY, INC. and DuBOIS REGIONAL MEDICAL CENTER,

Defendants.

BRIEF IN SUPPORT OF PRELIMINARY OBJECTIONS

And now, comes the Defendant, Robert Boron, M.D., by through and his attorneys, Davies, McFarland & Carroll, P.C., and file the following Brief in Support of Preliminary Objections, stating as follows:

BACKGROUND

Plaintiffs filed the within medical malpractice action. The second count of the Complaint asserts claims on behalf of Derek Prebble's parents, Lavina and Gerald Prebble, in their own right for the loss of their son's consortium, services, society and companionship, for past and future medical expenses, and for their own lost work.

ARGUMENT

DEMURRER, A PARENT DOES NOT HAVE A CLAIM FOR LOSS OF CONSORTIUM FOR A CHILD

Damages for loss of consortium are available only to spouses, and do not include a parent's loss of society and companionship of her child. See Cleveland v. Johns-Manville Corp., 547 Pa. 402, 690 A.2d 1146, 1149 (1997) (claim for loss of consortium arises from marital {D0271255:1})

relationship); Quinn v. Pittsburgh, 243 Pa. 521, 90 A. 353, 354 (1914) (only spouse may recover for loss of companionship). See also Department of Public Welfare v. Schultz, 579 Pa. 164, 168, 855 A.2d 753, 755 (Pa. 2004) (“Damages for loss of consortium are available only to spouses, and do not include a parent's loss of society and companionship of her child.”). There is no loss of consortium between a parent and child. Schroeder v. Ear, Nose and Throat Associates of Lehigh Valley, 383 Pa. Super. 440, 444, 557 A.2d 21, 22 - 23 (Pa. Super. 1989).

In Schroeder, the appellants were the parents of a fetus which was aborted during the course of medical treatment for the mother. There, holding that the parents had put forth no cause of action for loss of consortium for child, the Superior Court stated:

We conclude that because there is no constitutional mandate compelling us to recognize a cause of action for loss of filial consortium, because there is presently no legal basis for allowing the cause of action, because there is no general or growing consensus that such a cause of action should be established, and because to allow such a cause of action is a policy determination which can most thoroughly and representatively be considered by the legislature, **we do not recognize a parent's cause of action for loss of a child's consortium due to tortious interference of a third party.**

Schroeder v. Ear, Nose and Throat Associates of Lehigh Valley, Inc. 383 Pa. Super. 440, 444, 557 A.2d 21, 22 - 23 (Pa. Super. 1989).

WHEREFORE, Defendant requests that this Honorable Court sustain his Preliminary Objections.

DAVIES, McFARLAND & CARROLL, P.C.

By:


Daniel P. Carroll, Esquire
Lauren R. Ames, Esquire
Attorneys for Defendant,
Robert Boron, M.D.

FILED

JUN 06 2007

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

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DEREK PREBBLE, a minor, by and
through his parents and natural guardians,
LAVINA and GERALD PREBBLE, and
LAVINA and GERALD PREBBLE, in
their own right,

CIVIL DIVISION – Medical Professional
Liability Action

No. 07-619-CD

Plaintiffs,

vs.

GEORGE KOSCO, M.D., ROBERT
BORON, M.D, DuBOIS RADIOLOGY,
INC. and DuBOIS REGIONAL
MEDICAL CENTER,

Defendants.

ORDER OF COURT

AND NOW, this _____ day of _____, 2007, it is hereby ORDERED that
Defendant's Preliminary Objections are hereby sustained. Count II for loss of consortium is
stricken from the Complaint.

BY THE COURT:

_____, J.

CA

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

DEREK PREBBLE, a minor, by and through his parents and natural guardians, LAVINA and GERALD PREBBLE; and LAVINA and GERALD PREBBLE, individually,

Plaintiffs,

vs.

GEORGE KOSCO, M.D.; ROBERT BORON, M.D.; DuBOIS RADIOLOGY, INC.; and DuBOIS REGIONAL MEDICAL CENTER,

Defendants.

CIVIL ACTION—MEDICAL
PROFESSIONAL LIABILITY ACTION

Case No.: 07-619-CD

**STIPULATION TO AMEND COUNT II
OF PLAINTIFFS' COMPLAINT**

Filed on behalf of PLAINTIFFS

Counsel for PLAINTIFFS:

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

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

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

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

JURY TRIAL DEMANDED

FILED
MAY 16 2007 NOCC
JUN 07 2007 (4K)

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DEREK PREBBLE, a minor, by and) CIVIL ACTION—MEDICAL
through his parents and natural guardians,) PROFESSIONAL LIABILITY ACTION
LAVINA and GERALD PREBBLE; and)
LAVINA and GERALD PREBBLE,)
individually,)
Plaintiffs,)
vs.) Case No.: 07-619-CD
GEORGE KOSCO, M.D.; ROBERT)
BORON, M.D.; DuBOIS RADIOLOGY,)
INC.; and DuBOIS REGIONAL)
MEDICAL CENTER,)
Defendants.)

STIPULATION TO AMEND COUNT II OF PLAINTIFFS' COMPLAINT

AND NOW, comes Plaintiffs, Derek Prebble, a minor, by and through his parents and natural guardians, Lavina and Gerald Prebble; and Lavina and Gerald Prebble, individually ("Plaintiffs"), by and through their counsel, ROSEN LOUIK & PERRY, P.C., together with Defendant, DuBois Regional Medical Center ("Defendant DuBois Regional"), by and through their counsel, THOMSON RHODES & COWIE, P.C., and hereby stipulate to amend COUNT II of Plaintiffs' Complaint, filed on or about April 20, 2007, by substituting COUNT II, attached hereto and made a part hereof.

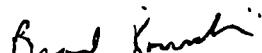
CONSENTED TO:

ROSEN LOUIK & PERRY, P.C.

By: 

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

THOMSON RHODES & COWIE, P.C.

By: 

David R. Johnson, Esquire
Brad R. Korinski, Esquire
Attorneys for Defendant, DuBois Regional

COUNT II

LAVINA and GERALD PREBBLE v. GEORGE KOSCO, M.D.; ROBERT BORON, M.D.; DuBOIS RADIOLOGY, INC.; and DuBOIS REGIONAL MEDICAL CENTER

38. Plaintiffs incorporate by reference and make a part of this Count all the paragraphs set forth above.

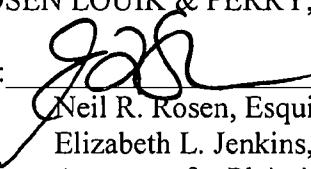
39. As a further result of the conduct of Defendants and their agents, ostensible agents, servants and/or employees as set forth above, Parent-Plaintiffs have suffered the loss of services of their child, Derek Prebble, and will suffer similar loss in the future.

40. As a further result of the conduct of Defendants and their agents, ostensible agents, servants and/or employees as set forth above, Parent-Plaintiffs have been forced to expend large sums of money for doctors, hospital and other items necessary for their child's proper care and treatment, and may be forced to expend similar sums for like items in the future.

41. As a further result of the conduct of Defendants, their agents, servants, ostensible agents and/or employees, Parent-Plaintiffs have been forced to miss work and have suffered the loss of substantial sums of money that they would have otherwise earned.

WHEREFORE, Plaintiffs claim damages from Defendants in a sum in excess of the arbitral limits of this court and demands a jury trial.

ROSEN LOUIK & PERRY, P.C.

By: 

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

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the within STIPULATION TO AMEND COUNT II OF PLAINTIFFS' COMPLAINT, was served upon all counsel of record by United States first-class mail, postage prepaid, or hand delivery, on the 6th day of June, 2007, as follows:

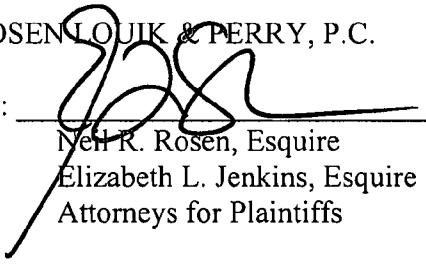
Daniel P. Carroll, Esquire
Davies McFarland & Carroll, P.C.
One Gateway Center, 10th Floor
420 Fort Duquesne Boulevard
Pittsburgh, PA 15222
(Attys. for Defendant, Dr. Boron)

Tracey G. Benson, Esquire
Miller Kistler Campbell Miller Williams & Benson
124 North Allegheny Street
Bellefonte, PA 16823-1695
(Attys. for Defendant, Dr. Kosco)

David R. Johnson, Esquire
Brad R. Korinski, Esquire
Thomson Rhodes & Cowie, P.C.
1010 Two Chatham Center
Pittsburgh, PA 15219
(Attys. for Defendant, DuBois Regional)

DuBois Radiology, Inc.
145 Hospital Avenue, Suite 205
DuBois, PA 15801

ROSENLOUIK & PERRY, P.C.

By: 

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

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DEREK PREBBLE, a minor, by and through his parents and natural guardians, LAVINA and GERALD PREBBLE, and LAVINA and GERALD PREBBLE, in their own right,

Plaintiffs

vs.

GEORGE KOSCO, M.D., ROBERT BORON, M.D., DuBOIS RADIOLOGY, INC. and DuBOIS REGIONAL MEDICAL CENTER

Defendants

CIVIL DIVISION – Medical Professional Liability Action

No. 07-619-CD

PRAECIPE FOR APPEARANCE

Filed on behalf of Robert Boron, 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

JURY TRIAL DEMANDED

{D0166408:1}

FILED NOCC
M110764
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William A. Shaw
Prothonotary/Clerk of Courts
6K

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

DEREK PREBBLE, a minor, by and	)	Medical Professional Liability
through his parents and natural guardians,	)	Action
LAVINA and GERALD PREBBLE, and)	
LAVINA and GERALD PREBBLE, in)	
their own right,)	
Plaintiffs	)	07-619-CD
)	
vs.)	
)	
GEORGE KOSCO, M.D., ROBERT)	
BORON, M.D., DuBOIS RADIOLOGY)	
INC. and DuBOIS REGIONAL MEDICAL)	
CENTER,)	
Defendants)	

PRAECLYPE FOR APPEARANCE

To: Prothonotary of Clearfield County

Kindly enter our appearance on behalf of Robert Boron, 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, P. C.

By:



Daniel P. Carroll, Esquire
Attorneys for Defendant,
Robert Boron, M.D.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the PRAECIPE FOR APPEARANCE on behalf of defendant, Robert Boron, M.D., has been served on the following persons by first-class mail, postage prepaid the 29th day of May, 2007.

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

Tracey G. Benson, Esquire
Miller, Kistler, Campbell, Miller,
Williams & Benson, Inc.
124 N. Allegheny Street
Bellefonte, PA 16823-1643

David R. Johnson, Esquire
Thomson, Rhodes & Cowie, P.C.
Two Chatham Center, Suite 1010
112 Washington Place
Pittsburgh, PA 15219-3499

DAVIES, McFARLAND & CARROLL, P. C.

By:



Daniel P. Carroll, Esquire
Attorneys for Defendant,
Robert Boron, M.D.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DEREK PREBBLE, a minor, by and
through his parents and natural
guardians, LAVINA and GERALD
PREBBLE, and LAVINA and GERALD
PREBBLE, in their own right,

Plaintiffs,

vs.

GEORGE KOSCO, M.D.; ROBERT
BORON, M.D.; DUBOIS RADIOLOGY,
INC.; and DUBOIS REGIONAL
MEDICAL CENTER,,

Defendants.

CIVIL DIVISION

No. 07-619-CD

Code No. 007

**PRAECIPE FOR ENTRY OF
APPEARANCE**

Filed on Behalf of Defendant, DUBOIS
RADIOLOGY, INC.

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.
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JUN 07 2007
WAS

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DEREK PREBBLE, a minor, by and through his parents and natural guardians, LAVINA and GERALD PREBBLE, and LAVINA and GERALD PREBBLE, in their own right,

Plaintiffs,
vs.

GEORGE KOSCO, M.D.; ROBERT BORON, M.D.; DUBOIS RADIOLOGY, INC.; and DUBOIS REGIONAL MEDICAL CENTER,,

Defendants.

CIVIL DIVISION

No. 07-619-CD

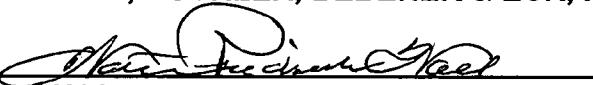
JURY TRIAL DEMANDED

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, DuBois Radiology, Inc., in the above-captioned action.

MEYER, DARRAGH, BUCKLER, BEBENEK & ECK, PLLC

BY:



WALTER FREDRICK WALL, ESQUIRE

Counsel for Defendant, DuBois Radiology, Inc.
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 **6th day of June, 2007**, I have served the foregoing Praeclipe for Entry of Appearance on behalf of Defendant, DuBois Radiology, Inc., 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:

Neil R. Rosen, Esquire
Rosen Louik & Perry, P.C.
437 Grant St.
Suite 200
The Frick Building
Pittsburgh, PA 15219-6003

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

Tracey Benson, Esquire
Miller, Kistler, Campbell, Miller, Williams & Benson, Inc.
720 South Atherton Street
State College, PA 16801

Dan 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, DuBois Radiology, Inc.
120 Lakemont Park Boulevard
Altoona, PA 16602
Phone No.: (814) 941-4600
ID # 23657

IN THE COURT OF COMMON PLEASE OF CLEARFIELD COUNTY,
PENNSYLVANIA

Derek Prebble, a minor, by and through
his parents and natural guardians,
Lavin and Gerald Prebble, and
Lavina and Gerald Prebble,
individually,

Plaintiffs,

v.

George Kosco, M.D., Robert Boror,
M.D., DuBois Radiology, Inc. and
Du Bois Regional Medical Center,

Defendants.

CIVIL ACTION – MEDICAL
PROFESSIONAL LIABILITY
ACTION

Case No: 07-619-CD

Code: 007

PRAECIPE FOR APPEARANCE

Filed on behalf of:

Robert Boron, M.D.

Counsel of Record for this party:

Christopher C. Rulis, Esquire
PA ID# 34886

Janet K. Meub, Esquire
PA ID# 88724

O'BRIEN RULIS & BOCHICCHIO,
LLC
555 Grant Street, Suite 120
Pittsburgh, PA 15219

JURY TRIAL DEMANDED

412-904-5214

FILED No CC
m/11:55 am
JUN 18 2007
LS

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEASE OF CLEARFIELD COUNTY,
PENNSYLVANIA

Derek Prebble, a minor, by and through
his parents and natural guardians,
Lavin and Gerald Prebble, and
Lavina and Gerald Prebble,
individually,

CIVIL ACTION – MEDICAL
PROFESSIONAL LIABILITY
ACTION

Case No: 07-619-CD

Plaintiffs,

v.

George Kosco, M.D., Robert Boron,
M.D., DuBois Radiology, Inc. and
Du Bois Regional Medical Center,

Defendants.

PRAECIPE FOR APPEARANCE

TO: Prothonotary of Clearfield County

Kindly enter our appearance on behalf of Defendant, Robert Boron, M.D. in the
above-referenced matter.

O'BRIEN RULIS & BOCHICCHIO, LLC



Christopher C. Rulis

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that a true and correct copy of the within
DEFENDANT'S PRAECIPE FOR APPEARANCE was mailed by United States
Mail on this 13 day of June, 2007, to the following:

Neil Rosen, Esquire
Rosen Louik & Perry, P.C.
Suite 200, The Frick Building
437 Grant Street
Pittsburgh, PA 15219

Tracey G. Benson, Esquire
Miller Kistler Campbell Miller
Williams & Benson, Inc.
124 N. Allegheny Street
Bellefonte, PA 16823

Walter F. Wall, Esquire
Meyer Darraugh
120 Lakemont Park Blvd.
Altoona, PA 16602

David R. Johnson, Esquire
Thomson Rhodes & Cowier
Two Chatham Center
112 Washington Place, 10th Floor
Pittsburgh, PA 15219

Daniel P. Carroll, Esquire
Davies, McFarland & Carroll, P.C.
One Gateway Center, 10th Floor
Pittsburgh, PA 15222

O'BRIEN RULIS & BOCHICCHIO, LLC



Christopher C. Rulis
Counsel for Dr. Boron

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DEREK PREBBLE, a minor, by and through his parents and natural guardians, LAVINA and GERALD PREBBLE, and LAVINA and GERALD PREBBLE, in their own right,

Plaintiffs,
vs.

GEORGE KOSCO, M.D., ROBERT BORON, M.D, DuBOIS RADIOLOGY, INC. and DuBOIS REGIONAL MEDICAL CENTER,

Defendants.

CIVIL DIVISION – Medical Professional Liability Action
No. 07-619-CD

PRAECIPE FOR WITHDRAWAL OF APPEARANCE

Filed on behalf of Robert Boron, M.D., one of the Defendants

Counsel of record for this party:

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

Lauren R. Ames, Esquire
PA I.D. #89270

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

412-281-0737

JURY TRIAL DEMANDED

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JUN 27 2001
copy to
William A. Shaw
Prothonotary/Clerk of Courts CIA

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

DEREK PREBBLE, a minor, by and	)	Medical Professional Liability
through his parents and natural guardians,	)	Action
LAVINA and GERALD PREBBLE, and)	
LAVINA and GERALD PREBBLE, in)	
their own right,)	
Plaintiffs	)	07-619-CD
)	
vs.)	
)	
GEORGE KOSCO, M.D., ROBERT)	
BORON, M.D., DuBOIS RADIOLOGY)	
INC. and DuBOIS REGIONAL MEDICAL)	
CENTER,)	
Defendants)	

PRAECIPE FOR WITHDRAWAL OF APPEARANCE

To: Prothonotary of Clearfield County

Kindly withdraw our appearance on behalf of Robert Boron, 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, P. C.

By:



Daniel P. Carroll, Esquire
Attorneys for Defendant,
Robert Boron, M.D.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the Praeclipe for Withdrawal of Appearance on behalf of defendant, Robert Boron, M.D., has been served on the following persons by first-class mail, postage prepaid the _____ day of June, 2007.

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

Tracey G. Benson, Esquire
Miller, Kistler, Campbell, Miller,
Williams & Benson, Inc.
124 N. Allegheny Street
Bellefonte, PA 16823-1643

David R. Johnson, Esquire
Thomson, Rhodes & Cowie, P.C.
Two Chatham Center, Suite 1010
112 Washington Place
Pittsburgh, PA 15219-3499

Christopher C. Rulis, Esquire
O'Brien, Rulis & Bochicchio, LLC
555 Grant Street, Suite 120
Pittsburgh, PA 15219

DAVIES, McFARLAND & CARROLL, P. C.

By:



Daniel P. Carroll, Esquire
Attorneys for Defendant,
Robert Boron, M.D.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DEREK PREBBLE, a minor, by and through his parents and natural guardians, LAVINA and GERALD PREBBLE, and LAVINA and GERALD PREBBLE, individually,

Plaintiffs,

vs.

GEORGE KOSKO, M.D., ROBERT BORON, M.D. DuBOIS RADIOLOGY, INC. and DuBOIS REGIONAL MEDICAL CENTER,

Defendants.

CIVIL ACTION – MEDICAL PROFESSIONAL LIABILITY ACTION

NO.: GD07-619CD

**PRAECIPE FOR SUBSTITUTION
OF APPEARANCE**

Filed on Behalf of Defendant, George Kosko, M.D.

Counsel of Record For This Party:

Samuel H. Foreman, Esquire
PA I.D. #38057
Email: sforeman@wglaw.com

Two Gateway Center, Suite 1450
603 Stanwix Street
Pittsburgh, PA 15222
Phone: (412) 281-4541
Fax: (412) 281-4547

FILED *no cc*
M 12:33 P.M.
JUL 05 2007 *copy to CIA*
William A. Shaw
Prothonotary/Clerk of Courts
BS

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DEREK PREBBLE, a minor, by and through) CIVIL DIVISION
his parents and natural guardians, LAVINA)
and GERALD PREBBLE, and LAVINA and) NO.: GD07-619CD
GERALD PREBBLE, individually,)
)
Plaintiffs,)
)
vs.)
)
GEORGE KOSKO, M.D., ROBERT)
BORON, M.D. DuBOIS RADIOLOGY,)
INC. and DuBOIS REGIONAL MEDICAL)
CENIER,)
)
Defendants.)
)
)
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)
)
)
)

PRAECIPE FOR SUBSTITUTION OF APPEARANCE

TO: PROTHONOTARY

Kindly substitute the Appearance of Tracey Benson, Esquire and the law firm of Miller, Kistler, Campbell for the Appearance of Samuel H. Foreman, Esquire and the law firm of Weber Gallagher Simpson Stapleton Fires & Newby LLP, on behalf of Defendant, George M. Kosko, M.D., in the above-captioned action.

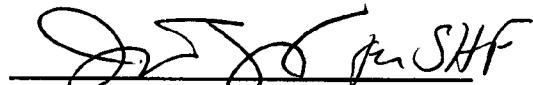
Respectfully submitted,

MILLER KISTLER CAMPBELL



Tracey Benson, Esquire

WEBER GALLAGHER SIMPSON
STAPLETON FIRES & NEWBY LLP

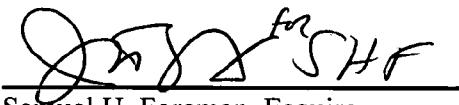


Samuel H. Foreman, Esquire

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing PRAECIPE FOR SUBSTITUTION OF APPEARANCE has been served by first class U.S. mail, postage prepaid, this 2nd day of July, 2007, upon the following parties:

Neil Rosen
Rosen, Louik & Perry
Frick Building, Suite 200,
437 Grant Street
Pittsburgh PA, 15219



Samuel H. Foreman, Esquire

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

Derek Prebble, a minor, by and through
his parents and natural guardians,
Lavin and Gerald Prebble, and
Lavina and Gerald Prebble,
individually

CIVIL ACTION – MEDICAL
PROFESSIONAL LIABILITY
ACTION

Case No. 07-619-CD

Plaintiffs

Code: 007

v.

George Kosco, M.D., Robert Boron, M.D.
DuBois Radiology, Inc. and
DuBois Regional Medical Center

JURY TRIAL DEMANDED

Defendants

PRAECIPE FOR WITHDRAWAL OF APPEARANCE

TO: Prothonotary of Clearfield County

Kindly withdrawal our appearance on behalf of Defendant DuBois Regional Medical Center.

Thomson, Rhodes & Cowie, P.C.

By:

David R. Johnson, Esquire

PA I.D. #26409

Brad Korinski, Esquire

PA I.D. 86831

PRAECIPE FOR ENTRY OF APPEARANCE

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

JURY TRIAL DEMANDED.

RAWLE & HENDERSON, LLP.

By:

John J. Snyder, Esquire

Attorney I.D. No. 22751

Deborah Baird, Esquire

Attorney I.D. No. 44502

The Widener Building

1339 Chestnut Street, 16th Floor

Philadelphia, PA 19107

Telephone: (215) 575-4200

FILED
M 10 12 2007 NO CC
JUL 09 2007 Copy to
William A. Shaw
Prothonotary/Clerk of Courts
CIA
CJA
CJA

CERTIFICATE OF SERVICE

I, Deborah S. Baird, Esquire, attorney for defendant, DuBois Regional Medical Center do hereby certify that a true and correct copy of the Withdrawal/Entry of Appearance was sent to the following parties by First Class, U.S. Mail on the date below:

David R. Johnson, Esquire
Thomson Rhodes & Cowier
Two Chatham Center
112 Washington Place, 10th Floor
Pittsburgh, PA 15219

Neil Rosen, Esquire
Rosen Louik & Perry, P.C.
Suite 200, The Frick Building
437 Grant Street
Pittsburgh, PA 15219

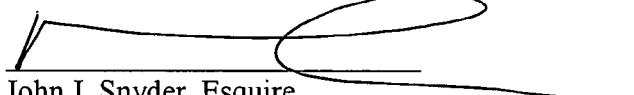
Tracey G. Benson, Esquire
Miller Kistler Campbell Miller
Williams & Benson, Inc.
124 N. Allegheny Street
Bellefonte, PA 16823

Walter F. Wall, Esquire
Meyer Darraugh
120 Lakemont Park Blvd.
Altoona, PA 16602

Daniel P. Carroll, Esquire
Lauren R. Ames, Esquire
Davies, McFarland & Carroll, P.C.
One Gateway Center, 10th Floor
Pittsburgh, PA 15222

Christopher C. Rulis, Esquire
O'Brien Rulis & Bochicchio, LLC
555 Grant Street, Suite 120
Pittsburgh, PA 15219

Dated: 7-3-07



John J. Snyder, Esquire
Deborah S. Baird, Esquire
Attorneys for Defendant,
DuBois Regional Medical Center

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

DEREK PREBBLE, a minor, by and
through his parents and natural
guardians, LAVINA and GERALD
PREBBLE, and LAVINA and
GERALD PREBBLE, individually,

Plaintiffs,

vs.

GEORGE KOSCO, M.D.; ROBERT
BORON, M.D., DuBOIS REGIONAL
MEDICAL CENTER,

Defendants.

CIVIL DIVISION – Medical
Professional Liability Action

Case No. 07-619-CD

**PRELIMINARY OBJECTIONS
AND BRIEF IN SUPPORT**

Filed on behalf of Defendant:
Robert Boron, M.D.

Counsel of record for this party:

Christopher C. Rulis, Esquire
PA I.D. # 34886

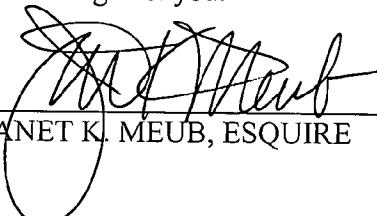
Janet K. Meub, Esquire
PA I.D. # 88724

O'BRIEN, RULIS &
BOCHICCHIO, LLC
555 Grant Street, Suite 120
Pittsburgh, PA 15219
(412) 566-1717

JURY TRIAL DEMANDED

To: Plaintiffs

You are hereby required to
plead to the within Preliminary
Objections to Plaintiff's Complaint
within twenty (20) days of the date of
service hereof or a judgment may be
entered against you.



JANET K. MEUB, ESQUIRE

FILED
M 10:53 AM
JUL 11 2007
NO CC
GR

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

DEREK PREBBLE, et al., : CIVIL DIVISION – Medical
Plaintiffs, : Professional Liability Action
vs. : Case No. 07-619-CD
GEORGE KOSCO, M.D., et al., : (412) 566-1717
Defendants. : JURY TRIAL DEMANDED
:

PRELIMINARY OBJECTIONS

Defendant, ROBERT BORON, M.D., by and through counsel, O'BRIEN RULIS & BOCHICCHIO, LLC, files the following Preliminary Objections to plaintiff's Complaint:

1. Plaintiffs have filed the within medical malpractice action against defendant radiologists, Robert Boron, M.D. and George Kosco, M.D., and DuBois Regional Medical Center, alleging that the defendants failed to diagnose and treat plaintiff-minor's right wrist fracture in September 2002.
2. Plaintiffs allege that as a result of a four year delay in diagnosis, minor plaintiff was forced to undergo "arthroscopic surgery of his right wrist with triangular fibrocartilage complex debridement, skeletal fixation of the right scaphoid, with a screw placement, and a fluoroscopic examination of the right wrist." (Complaint, ¶ 32).

DEMURRER – Pa.R.C.P. 1028(a)(4)

4. Defendant incorporates by reference Paragraph 1 and 3 above as if fully set forth herein.
5. Pennsylvania Rule of Civil Procedure 1028(a)(4) provides that a defendant may move to strike a Complaint for legal insufficiency.

6. Count II of plaintiffs' Complaint asserts a cause of action for loss of filial consortium in that plaintiff-parents, Lavina and Gerald Prebble, seek damages for the loss of services, society and companionship of their child, minor-plaintiff Derek Prebble.

7. Pennsylvania law does not recognize filial consortium as a legal cause of action. Schroeder v. Ear, Nose and Throat Assoc. of Lehigh Valley, Inc., 557 A.2d 21 (Pa. Super. 1989).

WHEREFORE, defendant, Robert Boron, M.D., respectfully requests that Count II be dismissed from this case with prejudice.

O'BRIEN, RULIS & BOCHICCHIO, LLC



Christopher C. Rulis, Esquire
Janet K. Meub, Esquire
Counsel for Defendant,
Robert Boron, M.D.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

DEREK PREBBLE, et al., : CIVIL DIVISION – Medical
Plaintiffs, : Professional Liability Action
vs. : Case No. 07-619-CD
GEORGE KOSCO, M.D., et al., : (412) 566-1717
Defendants. : JURY TRIAL DEMANDED
: :
:

PRELIMINARY OBJECTIONS

Defendant, ROBERT BORON, M.D., by and through counsel, O'BRIEN RULIS & BOCHICCHIO, LLC, files the following Brief in Support of Preliminary Objections:

I. Facts

Minor-plaintiff, Derek Prebble, fell and injured his right wrist on September 30, 2002. He presented to defendant DuBois Regional Medical Center (“the hospital”) where a right wrist x-ray was performed. Co-defendant, George M. Kosco, M.D. (“Dr. Kosco”), interpreted the x-ray as showing no evidence of a fracture or dislocation. Minor-plaintiff was diagnosed with a sprain, instructed to elevate his wrist and apply an ace wrap. Upon discharge, he was directed to contact his primary care physician should he have any problems.

Plaintiffs’ allege that on October 2, 2002, minor-plaintiff presented to his primary care physician with complaints of constant pain in his right wrist, swelling and bruising. He returned a second time to his primary care physician on October 9, 2002 with complaints of pain and swelling, and was sent to defendant hospital for another x-ray.

Defendant Robert Boron, M.D., who interpreted the October 9, 2002 x-ray, identified a “faint radiolucent line through the mid aspect of the navicular bone” but attributed this finding to “artifact.” Minor-plaintiff was diagnosed with torn ligaments and placed in a splint.

Four years later, in January 2006, minor-plaintiff was required to participate in weight-lifting exercises in gym class. Lifting a twenty-five pound weight, minor-plaintiff experienced a sharp pain and tearing in his right wrist. Minor-plaintiff’s primary care doctor sent him for x-rays. A January 14, 2006 x-ray interpreted by Dr. Ali Shah revealed “an irregularity in the navicular carpal bone” . Dr. Shah ordered radiographs of the right wrist with special views of the navicular bone. New films reviewed and interpreted by Dr. Shah on January 17, 2006, revealed a healed fracture of the navicular carpal bone. A subsequent MRI found a sclerotic healing fracture.

Plaintiffs allege that the defendant radiologists misinterpreted the 2002 x-rays and that as a result the fracture never fully healed requiring “arthroscopic surgery with triangular fibrocartilage complex debridement, skeletal fixation of the right scaphoid with a screw placement, and fluoroscopic examination of the right wrist.

Plaintiffs filed the instant medical malpractice action on April 20, 2007, seeking damages for pain and suffering, compensatory damages, and loss of filial consortium.

II. Argument

Count II of plaintiffs’ Complaint asserts a cause of action for loss of filial consortium in that plaintiff-parents, Lavina and Gerald Prebble, seek damages for the loss of services, society and comfort of their child, minor-plaintiff Derek Prebble. Pennsylvania law does not recognize filial consortium as a legal cause of action.

Schroeder v. Ear, Nose and Throat Assoc. of Lehigh Valley, Inc., 557 A.2d 21 (Pa. Super. 1989).

The Pennsylvania Supreme Court first stated in Quinn v. City of Pittsburgh, 90 A. 353 (Pa. 1914), that claims for loss of consortium are limited to spouses and do not extend to the loss of a child's consortium. The law remains unchanged. See e.g. Schroeder v. Ear, Nose and Throat Assoc., 557 A.2d 21 (Pa. Super 1989), appeal denied, 567 A.2d 653 (Pa. 1989); Brower by Brower v. City of Philadelphia, 557 A.2d 48 (Pa. Cmwlth. 1989), appeal denied, 575 A.2d 569 (Pa. 1990).

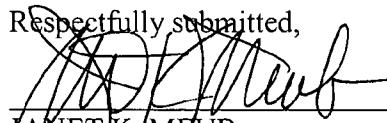
In Schroeder, *supra*, the Pennsylvania Superior Court reasoned as follows:

We conclude that because there is no constitutional mandate compelling us to recognize a cause of action for loss of filial consortium, because there is presently no legal basis for allowing the cause of action, because there is no general or growing consensus that such a cause of action should be established, and because to allow such a cause of action is a policy determination which can most thoroughly and representatively be considered by the legislature, we do not recognize a parent's cause of action for loss of a child's consortium due to tortious interference of a third party.

Id., 557 A.2d at 23, paraphrasing Steiner by Steiner v. Bell Telephone Co., 517 A.2d 1348, 1357 (Pa. Super. 1986), aff'd, 540 A.2d 266 (Pa. 1988).

III. Conclusion

Pennsylvania recognizes no claim for loss of filial consortium. Therefore, defendant Robert Boron, M.D.'s Preliminary Objections to plaintiffs' Complaint should be sustained and Count II should be dismissed as to all defendants with prejudice.

Respectfully submitted,


JANET K. MEUB
Counsel for Defendant Robert Boron, M.D.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

DEREK PREBBLE, et al., : CIVIL DIVISION – Medical
Plaintiffs, : Professional Liability Action
vs. : Case No. 07-619-CD
GEORGE KOSCO, M.D., et al., : (412) 566-1717
Defendants. : JURY TRIAL DEMANDED
: .

ORDER OF COURT

AND NOW, this ____ day of _____, 2007, upon consideration of defendant Robert Boron, M.D.'s Preliminary Objections, briefs in support, briefs in opposition, and oral argument, it is hereby ORDERED, ADJUDGED and DECREED that said Preliminary Objections are SUSTAINED. Count II of plaintiffs' Complaint is dismissed with prejudice.

BY THE COURT:

_____, J.

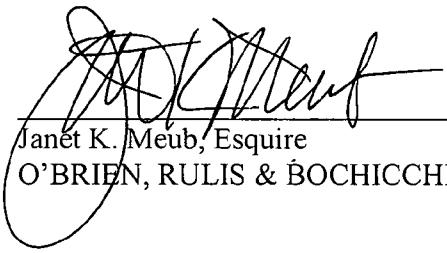
CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that a true and correct copy of the within **PRELIMINARY OBJECTIONS and BRIEF IN SUPPORT** has been served via first class United States mail, postage prepaid, on this 2nd day of July, 2007, upon the following counsel of record:

Neil R. Rosen, Esquire
Elizabeth L. Jenkins, Esquire
ROSEN LOUIK & PERRY, P.C.
Suite 200, The Frick Building
437 Grant Street
Pittsburgh, PA 15219
(counsel for plaintiffs)

Tracey G. Benson, Esquire
MILLER KISTLER CAMPBELL MILLER
WILLIAMS & BENSON, INC.
124 N. Allegheny Street
Bellefonte, PA 16823
(Counsel for George M. Kosco, M.D.)

David R. Johnson, Esquire
THOMSON RHODES & COWIE, P.C.
Two Chatham Center
112 Washington Place, 10th Floor
Pittsburgh, PA 15219
(Counsel for DuBois Regional Medical Center)


Janet K. Meub, Esquire
O'BRIEN, RULIS & BOCHICCHIO, LLC

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

DEREK PREBBLE, a minor, by and
through his parents and natural
guardians, LAVINA and GERALD
PREBBLE, and LAVINA and
GERALD PREBBLE, individually,

Plaintiffs,

vs.

GEORGE KOSCO, M.D.; ROBERT
BORON, M.D., DuBOIS REGIONAL
MEDICAL CENTER,

Defendants.

CIVIL DIVISION – Medical
Professional Liability Action

Case No. 07-619-CD

**PRAECIPE FOR ORAL
ARGUMENT**

Filed on behalf of Defendant:
Robert Boron, M.D.

Counsel of record for this party:

Christopher C. Rulis, Esquire
PA I.D. # 34886

Janet K. Meub, Esquire
PA I.D. # 88724

O'BRIEN, RULIS &
BOCHICCHIO, LLC
555 Grant Street, Suite 120
Pittsburgh, PA 15219
(412) 566-1717

JURY TRIAL DEMANDED

FILED
MTO: 5/3/07
JUL 11 2007
NO CC
6K

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

DEREK PREBBLE, et al., : CIVIL DIVISION – Medical
Plaintiffs, : Professional Liability Action
vs. : Case No. 07-619-CD
GEORGE KOSCO, M.D., et al., : (412) 566-1717
Defendants. : JURY TRIAL DEMANDED

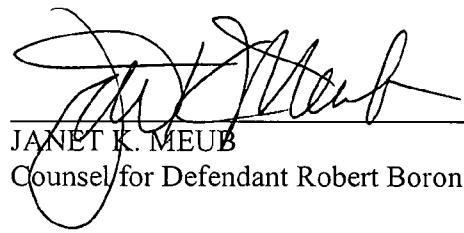
PRAECIPE FOR ORAL ARGUMENT

TO THE COURT ADMINISTRATOR:

Kindly schedule oral argument of Defendant Robert Boron, M.D.'s Preliminary
Objections to plaintiffs' Complaint for the next available argument date.

Respectfully submitted,

O'BRIEN, RULIS & BOCHICCHIO, LLC



JANET K. MEUB

Counsel for Defendant Robert Boron, M.D.

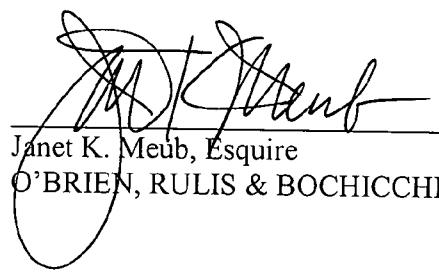
CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that a true and correct copy of the within **PRAECIPE FOR ORAL ARGUMENT** has been served via first class United States mail, postage prepaid, on this 2nd day of July, 2007, upon the following counsel of record:

Neil R. Rosen, Esquire
Elizabeth L. Jenkins, Esquire
ROSEN LOUIK & PERRY, P.C.
Suite 200, The Frick Building
437 Grant Street
Pittsburgh, PA 15219
(counsel for plaintiffs)

Tracey G. Benson, Esquire
MILLER KISTLER CAMPBELL MILLER
WILLIAMS & BENSON, INC.
124 N. Allegheny Street
Bellefonte, PA 16823
(Counsel for George M. Kosco, M.D.)

David R. Johnson, Esquire
THOMSON RHODES & COWIE, P.C.
Two Chatham Center
112 Washington Place, 10th Floor
Pittsburgh, PA 15219
(Counsel for DuBois Regional Medical Center)


Janet K. Meub, Esquire
O'BRIEN, RULIS & BOCHICCHIO, LLC

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

DEREK PREBBLE, et al., : CIVIL DIVISION – Medical
Plaintiffs, : Professional Liability Action
vs. : Case No. 07-619-CD
GEORGE KOSCO, M.D., et al., : (412) 566-1717
Defendants. : JURY TRIAL DEMANDED

SCHEDULING ORDER

AND NOW, upon Praeclipe for Argument, is hereby ORDERED that oral argument on defendant Robert Boron, M.D.'s Preliminary Objections is scheduled for the _____ day of _____, 2007, at ____ a.m./p.m. before the Honorable _____.

BY THE COURT:

_____, J.

UA

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

DEREK PREBBLE, a minor, by and
through his parents and natural
guardians, LAVINA and GERALD
PREBBLE, and LAVINA and
GERALD PREBBLE, individually,

Plaintiffs,

vs.

GEORGE KOSCO, M.D.; ROBERT
BORON, M.D., DuBOIS REGIONAL
MEDICAL CENTER,

Defendants.

CIVIL DIVISION – Medical
Professional Liability Action

Case No. 07-619-CD

**PRAEICE FOR WITHDRAWAL
OF PRELIMINARY OBJECTIONS**

Filed on behalf of Defendant:
Robert Boron, M.D.

Counsel of record for this party:

Christopher C. Rulis, Esquire
PA I.D. # 34886

Janet K. Meub, Esquire
PA I.D. # 88724

O'BRIEN, RULIS &
BOCHICCHIO, LLC
555 Grant Street, Suite 120
Pittsburgh, PA 15219
(412) 566-1717

JURY TRIAL DEMANDED

FILED
M 10 3 2007
JUL 12 2007
NOCC
6R

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

DEREK PREBBLE, et al., : CIVIL DIVISION – Medical
Plaintiffs, : Professional Liability Action
vs. : Case No. 07-619-CD
GEORGE KOSCO, M.D., et al., : (412) 566-1717
Defendants. : JURY TRIAL DEMANDED

PRAECIPE FOR WITHDRAWAL OF PRELIMINARY OBJECTIONS

TO THE COURT ADMINISTRATOR:

Kindly withdraw Defendant Robert Boron, M.D.'s Preliminary Objections to
Plaintiffs' Complaint filed with the Court on July 2, 2007.

Respectfully submitted,

O'BRIEN, RULIS & BOCHICCHIO, LLC



JANET K. MEUB
Counsel for Defendant Robert Boron, M.D.

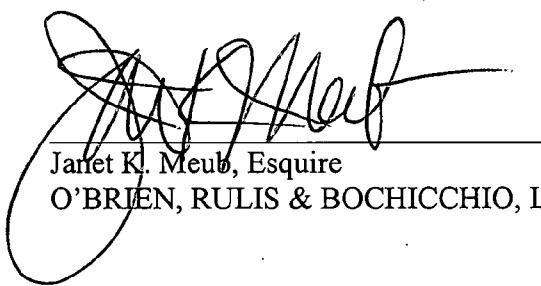
CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that a true and correct copy of the within
PRAECIPE FOR WITHDRAWL OF PRELIMINARY OBJECTIONS has been
served via first class United States mail, postage prepaid, on this 10th day of
July, 2007, upon the following counsel of record:

Neil R. Rosen, Esquire
Elizabeth L. Jenkins, Esquire
ROSEN LOUIK & PERRY, P.C.
Suite 200, The Frick Building
437 Grant Street
Pittsburgh, PA 15219
(counsel for plaintiffs)

Tracey G. Benson, Esquire
MILLER KISTLER CAMPBELL MILLER
WILLIAMS & BENSON, INC.
124 N. Allegheny Street
Bellefonte, PA 16823
(Counsel for George M. Kosco, M.D.)

David R. Johnson, Esquire
THOMSON RHODES & COWIE, P.C.
Two Chatham Center
112 Washington Place, 10th Floor
Pittsburgh, PA 15219
(Counsel for DuBois Regional Medical Center)


Janet K. Meub, Esquire
O'BRIEN, RULIS & BOCHICCHIO, LLC

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DEREK PREBBLE, a minor, by and through his parents and natural guardians, LAVINA and GERALD PREBBLE, and LAVINA and GERALD PREBBLE, in their own right,

Plaintiffs,
vs.

GEORGE KOSCO, M.D.; ROBERT BORON, M.D.; DUBOIS RADIOLOGY, INC.; and DUBOIS REGIONAL MEDICAL CENTER,,

Defendants.

CIVIL DIVISION

No. 07-619-CD

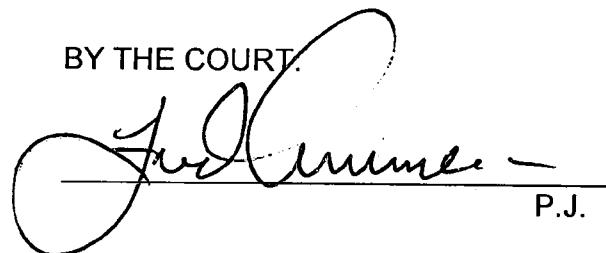
JURY TRIAL DEMANDED

ORDER OF COURT

NOW THIS 12 day of September, 2007 based upon the Stipulation of Counsel of Record attached hereto as Addendum A1 and in accordance with the Pennsylvania Rule of Civil Procedure 229, the Court does hereby ORDER, DIRECT and DECREE:

1. Defendant, DuBois Radiologists, Inc., a Professional Corporation, is hereby dismissed as a party in the above-captioned matter.
2. The Prothonotary is directed to strike DuBois Radiologists, Inc., from the caption herein.
3. The case will proceed as to the remaining Defendants.

BY THE COURT



P.J.

FILED *lcc*
010:55 AM Atty Wall
SEP 13 2007
66

William A. Shaw
Prothonotary/Clerk of Courts

DATE 9/13/07

X You are responsible for serving all appropriate parties.

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

 Plaintiff(s) Plaintiff(s) Attorney Other

 Defendant(s) Defendant(s) Attorney

 Special Instructions:

FILED

SEP 13 2007

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DEREK PREBBLE, a minor, by and through his parents and natural guardians, LAVINA and GERALD PREBBLE, and LAVINA and GERALD PREBBLE, in their own right,

Plaintiffs,

vs.

GEORGE KOSCO, M.D.; ROBERT BORON, M.D.; DUBOIS RADIOLOGY, INC.; and DUBOIS REGIONAL MEDICAL CENTER,,

Defendants.

CIVIL DIVISION

No. 07-619-CD

Code No. 007

STIPULATION OF COUNSEL

Filed on Behalf of Defendant, DUBOIS RADIOLOGY, INC.

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

ADDENDUM A1

FILED NO
09-5564 CC
SEP 13 2007

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DEREK PREBBLE, a minor, by and through his parents and natural guardians, LAVINA and GERALD PREBBLE, and LAVINA and GERALD PREBBLE, in their own right,

Plaintiffs,
vs.

GEORGE KOSCO, M.D.; ROBERT BORON, M.D.; DUBOIS RADIOLOGY, INC.; and DUBOIS REGIONAL MEDICAL CENTER,,

Defendants.

CIVIL DIVISION

No. 07-619-CD

JURY TRIAL DEMANDED

STIPULATION OF COUNSEL

NOW COMES the Undersigned, Counsel of Record in the above-captioned matter and state as follows:

1. The above captioned matter was commenced by the filing of a Complaint on or about April 20, 2007.
2. Defendant, DuBois Radiologist, Inc., a Professional Corporation has executed an Affidavit setting forth that there is no insurance coverage applicable to the allegations set forth in the Complaint, a copy of which is attached hereto as Exhibit 1.
3. As a result and pursuant to Pennsylvania Rule of Civil Procedure 229, Counsel for the Plaintiffs has agreed to dismiss Defendant, DuBois Radiologist, Inc., a Professional Corporation from this action.

4. The parties hereto, by their signature below, Stipulate as to the dismissal of all claims against DuBois Radiologists, Inc., it's officers, directors, agents, servants and employees other than those allegations specifically directed at Defendants George M. Kosco, M.D. and Robert Boron, M.D. in the above captioned matter; with this matter to proceed as to the remaining parties.

5. It is agreed that the signature pages hereto may be individually executed and attached hereto to form an original.

BY: 
NEIL R. ROSEN, ESQUIRE
Counsel for Plaintiffs

BY: 
TRACEY BENSON, ESQUIRE
Counsel for Defendant, George M. Kosco, M.D.
Substitution of Counsel
See Attached

BY: 
DAVID JOHNSON, ESQUIRE
Counsel for Defendant, DuBois Regional Medical Center
Substitution of Counsel
See Attached

BY: 
DANIEL P. CARROLL, ESQUIRE
Counsel for Defendant, Robert Boron, M.D.
Substitution of Counsel
See Attached

BY: 
WALTER FREDRICK WALL, ESQUIRE
Counsel for Defendant, DuBois Radiology, Inc.

4. The parties hereto, by their signature below, Stipulate as to the dismissal of all claims against DuBois Radiologists, Inc., it's officers, directors, agents, servants and employees other than those allegations specifically directed at Defendants George M. Kosco, M.D. and Robert Boron, M.D. in the above captioned matter; with this matter to proceed as to the remaining parties.

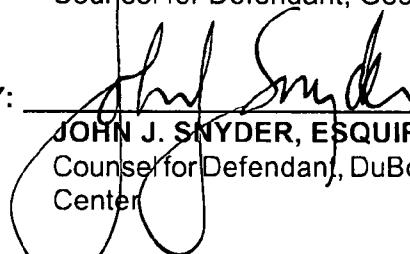
5. It is agreed that the signature pages hereto may be individually executed and attached hereto to form an original.

BY: _____

NEIL R. ROSEN, ESQUIRE
Counsel for Plaintiffs

BY: _____

SAMUEL H. FOREMAN, ESQUIRE
Counsel for Defendant, George M. Kosco, M.D.

BY: 

JOHN J. SNYDER, ESQUIRE
Counsel for Defendant, DuBois Regional Medical Center

BY: _____

CHRISTOPHER C. RULIS, ESQUIRE
Counsel for Defendant, Robert Boron, M.D.

BY: _____

WALTER FREDRICK WALL, ESQUIRE
Counsel for Defendant, DuBois Radiology, Inc.

4. The parties hereto, by their signature below, Stipulate as to the dismissal of all claims against DuBois Radiologists, Inc., its officers, directors, agents, servants and employees other than those allegations specifically directed at Defendants George M. Kosco, M.D. and Robert Boron, M.D. in the above captioned matter; with this matter to proceed as to the remaining parties.

5. It is agreed that the signature pages hereto may be individually executed and attached hereto to form an original.

BY:

NEIL R. ROSEN, ESQUIRE
Counsel for Plaintiffs

BY: John Doe

SAMUEL H. FOREMAN, ESQUIRE
Counsel for Defendant, George M. Kosco, M.D.

BY:

JOHN J. SNYDER, ESQUIRE
Counsel for Defendant, DuBois Regional Medical Center

BY:

CHRISTOPHER C. RULIS, ESQUIRE
Counsel for Defendant, Robert Boron, M.D.

BY:

WALTER FREDRICK WALL, ESQUIRE
Counsel for Defendant, DuBois Radiology, Inc.

4. The parties hereto, by their signature below, Stipulate as to the dismissal of all claims against DuBois Radiologists, Inc., its officers, directors, agents, servants and employees other than those allegations specifically directed at Defendants George M. Kosco, M.D. and Robert Boron, M.D. in the above captioned matter; with this matter to proceed as to the remaining parties.

5. It is agreed that the signature pages hereto may be individually executed and attached hereto to form an original.

BY: _____
NEIL R. ROSEN, ESQUIRE
Counsel for Plaintiffs

BY: _____
SAMUEL H. FOREMAN, ESQUIRE
Counsel for Defendant, George M. Kosco, M.D.

BY: _____
JOHN J. SNYDER, ESQUIRE
Counsel for Defendant, DuBois Regional Medical Center

BY: _____
CHRISTOPHER C. RULIS, ESQUIRE
Counsel for Defendant, Robert Boron, M.D.

BY: _____
WALTER FREDRICK WALL, ESQUIRE
Counsel for Defendant, DuBois Radiology, Inc.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DEREK PREBBLE, a minor, by and through his parents and natural guardians, LAVINA and GERALD PREBBLE, and LAVINA and GERALD PREBBLE, in their own right,

Plaintiffs,

vs.

GEORGE KOSCO, M.D.; ROBERT BORON, M.D.; DUBOIS RADIOLOGY, INC.; and DUBOIS REGIONAL MEDICAL CENTER.,

Defendants.

CIVIL DIVISION

No. 07-619-CD

Code No. 007

AFFIDAVIT

Filed on Behalf of Defendant, DUBOIS RADIOLOGY, INC.

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

EXHIBIT

tabbed

"1"

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DEREK PREBBLE, a minor, by and through his parents and natural guardians, LAVINA and GERALD PREBBLE, and LAVINA and GERALD PREBBLE, in their own right,

Plaintiffs,
vs.

GEORGE KOSCO, M.D.; ROBERT BORON, M.D.; DUBOIS RADIOLOGY, INC.; and DUBOIS REGIONAL MEDICAL CENTER,,

Defendants.

CIVIL DIVISION

No. 07-619-CD

JURY TRIAL DEMANDED

AFFIDAVIT

NOW COMES Ghazanfar A. Shah, M.D. and after being administered an oath, states as follows:

1. I, Ghazanfar A. Shah, M.D., am the President and Secretary and the Majority Shareholder in the Professional Corporation, DuBois Radiologists, Inc. (identified as DuBois Radiology, Inc., in the above caption).
2. The Complaint filed in this matter alleges liability on the basis of actions and/or inactions taken by employees of DuBois Radiologists, Inc., during the time frame of September 30, 2002 through October 9, 2002.
3. DuBois Radiologists, Inc., did not carry Professional Liability coverage at the time of the alleged incidents or at any time subsequent thereto that provides coverage in response to these allegations directed at DuBois Radiologists, Inc.
4. DuBois Radiologists, Inc., has no other assets other than office furniture, including computers and related furnishings and, at any given time, accounts receivables.

5. DuBois Radiologists, Inc., does not own any diagnostic equipment utilized in the practice of radiology.



Ghazanfar A. Shah, M.D.
President/Secretary of DuBois Radiologists, Inc.

Sworn to and subscribed to before me
this 18th day of May, 2007.



Deborah A. Wain
NOTARY PUBLIC

COMMONWEALTH OF PENNSYLVANIA

Notarial Seal
Deborah A. Wain, Notary Public
City Of DuBois, Clearfield County
My Commission Expires Dec. 26, 2010

Pennsylvania Association of Notaries

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DEREK PREBBLE, a minor, by and through his parents and natural guardians, LAVINA and GERALD PREBBLE, and LAVINA and GERALD PREBBLE, in their own right,

Plaintiffs,
vs.

GEORGE KOSCO, M.D.; ROBERT BORON, M.D.; DUBOIS RADIOLOGY, INC.; and DUBOIS REGIONAL MEDICAL CENTER,,

Defendants.

CIVIL DIVISION

No. 07-619-CD

FILED

SEP 21 2007

by 10:30 am

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 **20th day of September, 2007**, I have served a certified copy of the Order of Court of September 12, 2007 dismissing Defendant, DuBois Radiology, Inc., as a party in the above-captioned matter 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:

Neil R. Rosen, Esquire
Rosen Louik & Perry, P.C.
437 Grant St.
Suite 200
The Frick Building
Pittsburgh, PA 15219-6003

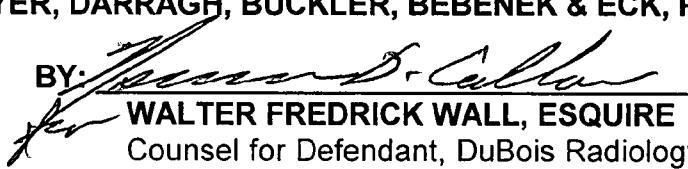
Samuel H. Foreman, Esquire
2 Gateway Center
Suite 1450
603 Stanwix Street
Pittsburgh, PA 15222

John J. Snyder, Esquire and
Deborah Baird, Esquire
1339 Chestnut Street
16th Floor
Philadelphia, PA 19107

Christopher C. Rulis, Esquire
O'Brien, Rulis & Bochiccio, LLC
555 Grant Street
Suite 120
Pittsburgh, PA 15219

MEYER, DARRAGH, BUCKLER, BEBENEK & ECK, PLLC

BY:


WALTER FREDRICK WALL, ESQUIRE

Counsel for Defendant, DuBois Radiology, Inc.
120 Lakemont Park Boulevard
Altoona, PA 16602
Phone No.: (814) 941-4600
ID # 23657

William A Shaw
Prothonotary/Clerk of Courts

SEP 21 2007

FILED

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET # 102714
NO: 07-619-CD
SERVICE # 1 OF 4
COMPLAINT & CERTIFICATE OF MERIT

PLAINTIFF: DEREK PREBBLE, A MINOR, BY & THROUGH HIS PARENTS & NATURAL GUARDIANS, LAVINA & GERALD PREBBLE al

vs.

DEFENDANT: GEORGE KOSCO, M.D., ROBERT BORON, M.D., DUBOIS RADIOLOGY ,INC. AND DUBOIS REGIONAL MEDICAL CENTER

SHERIFF RETURN

NOW, April 24, 2007 AT 11:30 AM SERVED THE WITHIN COMPLAINT & CERTIFICATE OF MERIT ON GEORGE KOSCO, M.D. DEFENDANT AT 100 HOSPITAL AVE., DUBOIS, CLEARFIELD COUNTY, PENNSYLVANIA, BY HANDING TO GREG VOLPE, RISK MANAGEMENT A TRUE AND ATTESTED COPY OF THE ORIGINAL COMPLAINT & CERTIFICATE OF MERIT AND MADE KNOWN THE CONTENTS THEREOF.

SERVED BY: COUDRIET / NEVLING

FILED No CC
O/11:40 cm
SEP 26 2007
WS

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET # 102714
NO: 07-619-CD
SERVICE # 2 OF 4
COMPLAINT & CERTIFICATE OF MERIT

PLAINTIFF: DEREK PREBBLE, A MINOR, BY & THROUGH HIS PARENTS & NATURAL GUARDIANS, LAVINA & GERALD PREBBLE al

vs.

DEFENDANT: GEORGE KOSCO, M.D., ROBERT BORON, M.D., DUBOIS RADIOLOGY ,INC. AND DUBOIS REGIONAL MEDICAL CENTER

SHERIFF RETURN

NOW, May 01, 2007 AT 11:00 AM SERVED THE WITHIN COMPLAINT & CERTIFICATE OF MERIT ON ROBERT BORON, M.D., c/o DuBois Regional Medical Center DEFENDANT AT 127 W. PAULINE DRIVE, CLEARFIELD, CLEARFIELD COUNTY, PENNSYLVANIA, BY HANDING TO ROBET BORON, M.D., DEFENDANT A TRUE AND ATTESTED COPY OF THE ORIGINAL COMPLAINT & CERTIFICATE OF MERIT AND MADE KNOWN THE CONTENTS THEREOF.

SERVED BY: HUNTER /

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET # 102714
NO: 07-619-CD
SERVICE # 3 OF 4
COMPLAINT & CERTIFICATE OF MERIT

PLAINTIFF: DEREK PREBBLE, A MINOR, BY & THROUGH HIS PARENTS & NATURAL GUARDIANS, LAVINA & GERALD PREBBLE al

vs.

DEFENDANT: GEORGE KOSCO, M.D., ROBERT BORON, M.D., DUBOIS RADIOLOGY ,INC. AND DUBOIS REGIONAL MEDICAL CENTER

SHERIFF RETURN

NOW, April 24, 2007 AT 11:30 AM SERVED THE WITHIN COMPLAINT & CERTIFICATE OF MERIT ON DUBOIS REGIONAL MEDICAL CENTER Attn: Legal Dept.

ATTN: LEGAL DEPT. DEFENDANT AT 100 HOSPITAL AVE, DUBOIS, CLEARFIELD COUNTY, PENNSYLVANIA, BY HANDING TO GREG VOLPE, RISK MANAGEMENT A TRUE AND ATTESTED COPY OF THE ORIGINAL COMPLAINT & CERTIFICATE OF MERIT AND MADE KNOWN THE CONTENTS THEREOF.

SERVED BY: COUDRIET / NEVLING

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET # 102714
NO: 07-619-CD
SERVICE # 4 OF 4
COMPLAINT & CERTIFICATE OF MERIT

PLAINTIFF: DEREK PREBBLE, A MINOR, BY & THROUGH HIS PARENTS & NATURAL GUARDIANS, LAVINA & GERALD PREBBLE al

vs.

DEFENDANT: GEORGE KOSCO, M.D., ROBERT BORON, M.D., DUBOIS RADIOLOGY, INC. AND DUBOIS REGIONAL MEDICAL CENTER

SHERIFF RETURN

NOW, April 24, 2007 AT 11:30 AM SERVED THE WITHIN COMPLAINT & CERTIFICATE OF MERIT ON DUBOIS RADIOLOGY, INC. DEFENDANT AT 100 HOSPITAL AVE., DUBOIS, CLEARFIELD COUNTY, PENNSYLVANIA, BY HANDING TO GREG VOLPE, RISK MANAGEMENT A TRUE AND ATTESTED COPY OF THE ORIGINAL COMPLAINT & CERTIFICATE OF MERIT AND MADE KNOWN THE CONTENTS THEREOF.

SERVED BY: COUDRIET / NEVLING

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET # 102714
NO: 07-619-CD
SERVICES 4
COMPLAINT & CERTIFICATE OF MERIT

PLAINTIFF: DEREK PREBBLE, A MINOR, BY & THROUGH HIS PARENTS & NATURAL GUARDIANS, LAVINA & GERALD PREBBLE al

vs.

DEFENDANT: GEORGE KOSCO, M.D., ROBERT BORON, M.D., DUBOIS RADIOLOGY ,INC. AND DUBOIS REGIONAL MEDICAL CENTER

SHERIFF RETURN

RETURN COSTS

Description	Paid By	CHECK #	AMOUNT
SURCHARGE	ROSEN	2838	40.00
SHERIFF HAWKINS	ROSEN	2838	56.43

Sworn to Before Me This

So Answers,

____ Day of _____ 2007


Chester A. Hawkins
Sheriff

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DEREK PREBBLE, a minor, by and through his parents and natural guardians, LAVINA and GERALD PREBBLE, and LAVINA and GERALD PREBBLE, individually,

Plaintiffs,

vs.

GEORGE KOSCO, M.D., ROBERT BORON, M.D., DuBOIS RADIOLOGY, INC. and DuBOIS REGIONAL MEDICAL CENTER

Defendants.

CIVIL DIVISION

NO: 07-619-CD

**NOTICE OF SERVICE OF
DEFENDANTS' FIRST SET OF
DISCOVERY REQUESTS
DIRECTED TO THE PLAINTIFFS**

Filed on behalf of George Kosco, M.D.

Counsel of Record for George Kosco, M.D.:

Samuel H. Foreman, Esquire
PA I.D. #77096

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
11/12/2007 NO ce
OCT 19 2007
LM

William A. Shaw
Prothonotary/Clerk of Courts

JURY TRIAL DEMANDED

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DEREK PREBBLE, a minor, by and) CIVIL DIVISION
through his parents and natural guardians,)
LAVINA and GERALD PREBBLE, and) NO: 07-619-CD
LAVINA and GERALD PREBBLE,)
individually,)

Plaintiffs,)
vs.)

GEORGE KOSCO, M.D., ROBERT)
BORON, M.D., DuBOIS RADIOLOGY,)
INC. and DuBOIS REGIONAL)
MEDICAL CENTER)

Defendants.

NOTICE OF SERVICE OF DEFENDANTS' FIRST SET OF DISCOVERY REQUESTS
DIRECTED TO THE PLAINTIFFS

Defendant, Dr. George Kosco, by and through his attorneys, Samuel H. Foreman, Esquire and the law firm of Weber Gallagher Simpson Stapleton Fires & Newby LLP, hereby notify the Court that their First Set of Interrogatories and First Request for Production of Documents have been served upon the Plaintiff, Derek Prebble, a Minor, by and through his Parents and Natural Guardians, Lavina and Gerald Prebble, and Lavina and Gerald Prebble, Individually, by mailing the originals of same to Plaintiffs' counsel, Neil Rosen, Esquire and Elizabeth L. Jenkins, Esquire, Rosen Louick & Perry, Suite 200, The Frick Building, Tenth Floor, 437 Grant Street, Pittsburgh, Pennsylvania on October 17th, 2007.

Respectfully submitted,

WEBER GALLAGHER SIMPSON
STAPLETON FIRES & NEWBY LLP

By:



Samuel H. Foreman, Esquire
Attorneys for Defendant, Dr. George Kosco

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing **NOTICE OF SERVICE OF DEFENDANTS' FIRST SET OF DISCOVERY REQUESTS DIRECTED TO THE PLAINTIFFS** has been served by first class U.S. mail, postage prepaid, this 17th day of October, 2007, upon the following parties:

Neil R. Rosen, Esquire
Elizabeth L. Jenkins, Esquire
ROSEN LOUIK & PERRY, P.C.
Suite 200, The Frick Building
437 Grant Street
Pittsburgh, PA 15219
Counsel for Plaintiffs

Christopher C. Rulis, Esquire
O'Brien Rulis & Bochicchio, LLC
555 Grant Street, Suite 120
Pittsburgh, PA 15219
Counsel for Defendant, Dr. Boron



Samuel H. Foreman, Esquire

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

DEREK PREBBLE, a minor, by and
through his parents and natural
guardians, LAVINA and GERALD
PREBBLE, and LAVINA and
GERALD PREBBLE, individually,

Plaintiffs,

vs.

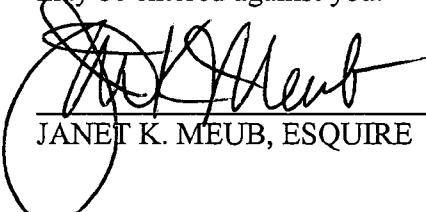
GEORGE KOSCO, M.D.; ROBERT
BORON, M.D., DuBOIS REGIONAL
MEDICAL CENTER,

Defendants.

NOTICE TO PLEAD

To: Plaintiffs

You are hereby required to
plead to the within Answer & New
Matter within twenty (20) days of the
date of service hereof or a judgment
may be entered against you.



JANET K. MEUB, ESQUIRE

CIVIL DIVISION – Medical
Professional Liability Action

Case No. 07-619-CD

ANSWER & NEW MATTER

Filed on behalf of Defendant:
Robert Boron, M.D.

Counsel of record for this party:

Christopher C. Rulis, Esquire
PA I.D. # 34886

Janet K. Meub, Esquire
PA I.D. # 88724

O'BRIEN, RULIS &
BOCHICCHIO, LLC
555 Grant Street, Suite 120
Pittsburgh, PA 15219
(412) 566-1717

JURY TRIAL DEMANDED

FILED
Oct 19 2007
no cc
GK

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

DEREK PREBBLE, et al., : CIVIL DIVISION – Medical
Plaintiffs, : Professional Liability Action
vs. : Case No. 07-619-CD
GEORGE KOSCO, M.D., et al., : (412) 566-1717
Defendants. : JURY TRIAL DEMANDED
: :
:

ANSWER

Defendant, ROBERT BORON, M.D. (“Defendant Boron”), by and through counsel, O’BRIEN RULIS & BOCHICCHIO, LLC, files the following Answer to plaintiff’s Complaint:

1. Denied. Defendant Boron is without knowledge or information sufficient to form a belief as to the truth of falsity of the allegations contained in paragraph 1 of plaintiffs’ Complaint. The same are therefore denied, and strict proof is demanded at the time of trial.

2-3. The allegations contained in paragraphs 2 and 3 of plaintiffs’ Complaint are directed to a party other than the answering defendant; therefore, no response is necessary.

4. Admitted.

5. Admitted.

6 - 9. The allegations contained in paragraphs 6 through 9 of plaintiffs’ Complaint are directed to a party other than the answering defendant; therefore, no response is necessary.

10. Admitted.

11. Admitted in part and denied in part. It is admitted that DuBois Regional Medical Center contracted with DuBois Radiology to read and interpret x-rays performed on the public, including minor-plaintiff. Defendant Boron is without knowledge or information sufficient to form a belief as to the balance of the allegations contained in paragraph 11 of plaintiffs' Complaint. The same are therefore denied and strict proof is demanded at the time of trial.

12. Denied. The allegations contained in paragraph 12 of plaintiffs' Complaint are denied. Defendant Boron specifically denies all allegations of agency, ostensible agency, employment and servitude.

13. Admitted in part and denied in part. Defendant Boron admits that he was an employee of DuBois Radiology. Defendant is without knowledge or information sufficient to form a belief as to the truth or falsity of the balance of the allegations contained in paragraph 13 of plaintiffs' Complaint. The same are therefore denied and strict proof is demanded at the time of trial.

14 - 19. Denied. Defendant Boron denies the allegations contained in paragraphs 14 through 19 of plaintiffs' Complaint to the extent that they are incomplete as compared to, or inconsistent with, the medical records of DuBois Regional Medical Center.

20 - 27. Denied. Defendant Boron is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraphs 20 through 27 of plaintiffs' Complaint. The same are therefore denied, and strict proof is demanded at the time of trial.

28 - 29. Denied. Defendant Boron specifically denies all allegations of negligence.

30 (a) – (h). Paragraph 30 (a) – (h) of plaintiffs' Complaint is directed to another defendant; therefore, no response is required.

31 (a) – (h). Denied. Defendant Boron denies the allegations contained in paragraph 31 (a) through (h) of plaintiffs' Complaint. Defendant Boron specifically denies all allegations of negligence, agency, ostensible agency, employment, and servitude.

32. Denied. The allegations contained in paragraph 32 of plaintiffs' Complaint are denied. Defendant Boron specifically denies all allegations of negligence.

33. Denied. Defendant Boron is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 33 of plaintiffs' Complaint. The same are therefore denied and strict proof is demanded at the time of trial.

34. Denied. Defendant Boron denies the allegations contained in paragraph 34 of plaintiffs' Complaint. Defendant Boron specifically denies all allegations of negligence, agency, ostensible agency, employment and/or servitude.

35-36. Denied. Defendant Boron is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraphs 35 and 36 of plaintiffs' Complaint. Therefore, the same are denied and strict proof is demanded at the time of trial.

37. Denied. Defendant Boron is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 37 of plaintiffs' Complaint. The same are therefore denied and strict proof is demanded at the time of trial.

WHEREFORE, Defendant, ROBERT BORON, M.D., requests judgment in his favor and against the plaintiffs.

COUNT II

LAVINA and GERALD PREBBLE v. GEORGE KOSCO, M.D.; ROBERT BORON, M.D.; and DUBOIS REGIONAL MEDICAL CENTER

38. Defendant, ROBERT BORON, M.D., incorporates by reference his responses and affirmative averments contained in paragraphs 1 through 37 of this Answer as if fully set forth herein.

39-41. Denied. Defendant Boron specifically denies all allegations of negligence, agency, ostensible agency, employment and/or servitude contained in paragraphs 39 through 41 of plaintiffs' Complaint.

WHEREFORE, defendant, ROBERT BORON, M.D., respectfully requests judgment in his favor and against the plaintiffs.

NEW MATTER

42. Defendant, ROBERT BORON, M.D., incorporates his responses and affirmative averments set forth in Paragraphs 1 through 41, including all subparagraphs therein, of this Answer, as if the same were set forth at length herein.

43. Plaintiffs' claims are barred by any and all applicable statutes of limitation under Pennsylvania law.

44. Plaintiffs failed to mitigate damages, as such may be shown by the evidence developed in discovery or introduced at the time of trial.

45. To the extent justified by the facts developed in discovery and/or the evidence introduced at the time of trial, Defendant Boron avers that the conduct of others

not a party to this action and/or factors beyond the control of Defendant caused or contributed to the alleged injuries and/or damages of plaintiffs.

46. To the extent justified by the facts developed in discovery and/or the evidence introduced at the time of trial, Defendant Boron avers that the conduct of other actors beyond his control caused or contributed to the plaintiffs' alleged injuries and/or damages.

47. If, at the time of trial, it is established that plaintiffs caused or contributed to the injuries and conditions alleged herein by failing to provide an accurate and thorough medical history and/or failing to obtain medical treatment or recommended medical treatment, then Defendant Boron pleads assumption of the risk as an affirmative defense.

48. If, at the time of trial, it is established that plaintiffs caused or contributed to the injuries and conditions alleged herein by failing to provide accurate and thorough medical history and/or failing to obtain medical treatment or recommended medical treatment, then Defendant Boron pleads such contributory and/or comparative negligence as an affirmative defense.

Respectfully submitted,

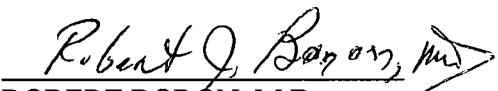
O'BRIEN RULIS & BOCHICCHIO, LLC

By:

Janet K. Meub, Esquire
Counsel for Defendant,
Robert Boron, M.D.

VERIFICATION

I, ROBERT BORON, M.D., verify that the statements made in the foregoing **ANSWER AND NEW MATTER** are true and correct to the best my knowledge, information and belief. I understand that these averments of fact are made subject to the penalties of 18 Purdons Consolidated Statutes §4904, relating to unsworn falsification to authorities.


ROBERT BORON, M.D.

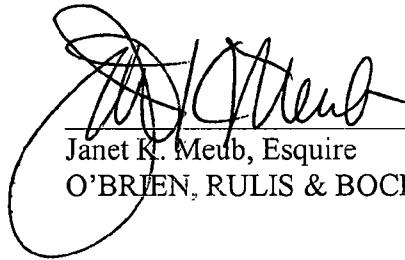
CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that a true and correct copy of the within **ANSWER & NEW MATTER** has been served via first class United States mail, postage prepaid, on this 16th day of October, 2007, upon the following counsel of record:

Neil R. Rosen, Esquire
Elizabeth L. Jenkins, Esquire
ROSEN LOUIK & PERRY, P.C.
Suite 200, The Frick Building
437 Grant Street
Pittsburgh, PA 15219
(counsel for plaintiffs)

Samuel H. Foreman, Esquire
Weber Gallagher Simpson Stepleton
Fires & Newby, LLP
Two Gateway Center
603 Stanwix Street, Suite 1450
Pittsburgh, PA 15222
(Counsel for George M. Kosco, M.D.)

David R. Johnson, Esquire
THOMSON RHODES & COWIE, P.C.
Two Chatham Center
112 Washington Place, 10th Floor
Pittsburgh, PA 15219
(Counsel for DuBois Regional Medical Center)


Janet R. Meub, Esquire
O'BRIEN, RULIS & BOCHICCHIO, LLC

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

Derek Prebble, a minor, by and through
his parents and natural guardians,
Lavin and Gerald Prebble, and
Lavina and Gerald Prebble,
individually,

Plaintiffs,

v.

George Kosco, M.D., Robert Boron,
M.D. and DuBois Regional Medical
Center,

Defendants.

CIVIL ACTION – MEDICAL
PROFESSIONAL LIABILITY
ACTION

Case No: 07-619-CD

Code: 007

NOTICE OF SERVICE OF
DISCOVERY REQUESTS TO
PLAINTIFF

Filed on behalf of:

Robert Boron, M.D.

Counsel of Record for this party:

Christopher C. Rulis, Esquire
PA ID# 34886

Janet K. Meub, Esquire
PA ID# 88724

O'BRIEN RULIS & BOCHICCHIO,
LLC
555 Grant Street, Suite 120
Pittsburgh, PA 15219

412-904-5214

JURY TRIAL DEMANDED

FILED
OCT 22 2007
n/11:40a
William A. Shaw
Prothonotary/Clerk of Courts
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COPY

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

Derek Prebble, a minor, by and through
his parents and natural guardians,
Lavin and Gerald Prebble, and
Lavina and Gerald Prebble,
individually,

CIVIL ACTION – MEDICAL
PROFESSIONAL LIABILITY
ACTION

Case No: 07-619-CD

Plaintiffs,

v.

George Kosco, M.D., Robert Boron,
M.D. and DuBois Regional Medical
Center,

Defendants.

**NOTICE OF SERVICE OF INTERROGATORIES AND REQUEST
FOR PRODUCTION OF DOCUMENTS DIRECTED TO PLAINTIFF**

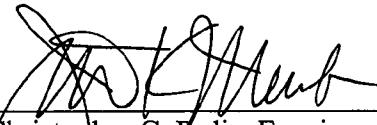
I hereby certify that Defendant, Robert Boron, M.D.'s Interrogatories and Request for Production of Documents, were served upon the following individuals via first class mail, postage prepaid on October 18, 2007.

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

David R. Johnson, Esquire
Thomson Rhodes & Cowie
Two Chatham Center
112 Washington Place, 10th Floor
Pittsburgh, PA 15219

Samuel H. Foreman, Esquire
Weber Gallagher Simpson Stapleton
Fires & Newby, LLP
Two Gateway Center
603 Stanwix Street, Suite 1450
Pittsburgh, PA 15222

O'BRIEN RULIS & BOCHICCHIO, LLC


Christopher C. Rulis, Esquire
Janet K. Meub, Esquire
Counsel for Robert Boron, MD

William A. Shaw
Prothonotary Clerk of Courts

OCT 22 2001

FILED

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

DEREK PREBBLE, a minor, by and through his parents and natural guardians, LAVINA and GERALD PREBBLE; and LAVINA and GERALD PREBBLE, individually,

Plaintiffs,

vs.

GEORGE KOSCO, M.D.; ROBERT BORON, M.D.; DuBOIS RADIOLOGY, INC.; and DuBOIS REGIONAL MEDICAL CENTER,

Defendants.

**CIVIL ACTION—MEDICAL
PROFESSIONAL LIABILITY ACTION**

Case No.: 07-619-CD

**PLAINTIFFS' REPLY TO NEW
MATTER OF DEFENDANT, ROBERT
BORON, M.D.**

Filed on behalf of PLAINTIFFS

Counsel for PLAINTIFFS:

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

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

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

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

JURY TRIAL DEMANDED

FILED *mc*
3 11 2007
OCT 26 2007
William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DEREK PREBBLE, a minor, by and	)	CIVIL ACTION—MEDICAL
through his parents and natural guardians,	)	PROFESSIONAL LIABILITY ACTION
LAVINA and GERALD PREBBLE; and)	
LAVINA and GERALD PREBBLE,)	
individually,)	
)	
Plaintiffs,)	
)	
vs.	)	Case No.: 07-619-CD
)	
GEORGE KOSCO, M.D.; ROBERT)	
BORON, M.D.; DuBOIS RADIOLOGY,)	
INC.; and DuBOIS REGIONAL)	
MEDICAL CENTER,)	
)	
Defendants.)	

PLAINTIFFS' REPLY TO NEW MATTER OF DEFENDANT, ROBERT BORON, M.D.

AND NOW, come plaintiffs, Derek Prebble, a minor, by and through his parents and natural guardians, Lavina and Gerald Prebble and Lavina and Gerald Prebble, individually (“Plaintiffs”), by and through their undersigned counsel, ROSEN LOUIK & PERRY, P.C., and file the following Reply to New Matter contained in the “Answer and New Matter” filed on behalf of Defendant, Robert Boron, M.D. (“Defendant Boron”):

42. The allegation contained in paragraph re of Defendant Boron’s New Matter is an incorporation paragraph, and therefore, no response is necessary.

43. The allegation contained in paragraph 43 of Defendant Boron’s New Matter is a conclusion of law to which no response is necessary.

44. The allegation contained in paragraph 44 of Defendant Boron’s New Matter is a conclusion of law to which no response is necessary.

45. The allegation contained in paragraph 45 of Defendant Boron's New Matter is a conclusion of law to which no response is necessary.

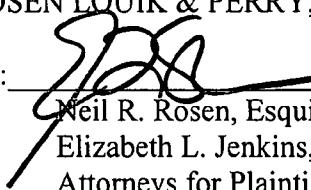
46. The allegation contained in paragraph 46 of Defendant Boron's New Matter is a conclusion of law to which no response is necessary.

47. The allegation contained in paragraph 47 of Defendant Boron's New Matter is a conclusion of law to which no response is necessary.

48. The allegation contained in paragraph 48 of Defendant Boron's New Matter is a conclusion of law to which no response is necessary.

WHEREFORE, Plaintiffs request that judgment be entered in their favor as stated in Plaintiffs' Amended Complaint.

ROSEN LOUIK & PERRY, P.C.

By: 

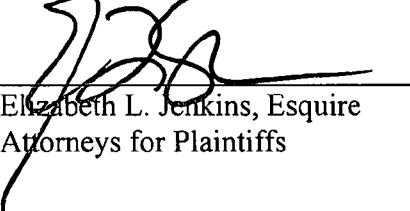
Neil R. Rosen, Esquire
Elizabeth L. Jenkins, Esquire
Attorneys for Plaintiffs

VERIFICATION

I, ELIZABETH L. JENKINS, ESQ., have read the foregoing PLAINTIFFS' REPLY TO NEW MATTER OF DEFENDANT, ROBERT BORON, M.D. The averments and/or denials contained therein are true and correct to the best of my personal knowledge or information and belief.

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

Date: October 22, 2007


Elizabeth L. Jenkins, Esquire
Attorneys for Plaintiffs

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the within PLAINTIFFS' REPLY TO NEW MATTER OF DEFENDANT, ROBERT BORON, M.D., was served upon all counsel of record by United States first-class mail, postage prepaid, or hand delivery, on the 23rd day of October, 2007, as follows:

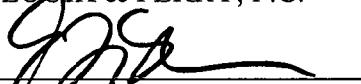
Walter F. Wall, Esquire
Meyer Darragh Buckler
Bebenek & Eck, P.L.L.C.
120 Lakemont Park Boulevard
Altoona, PA 16602
(Counsel for DuBois Radiology)

Christopher C. Rulis, Esquire
Janet K. Meub, Esquire
O'Brien Rulis & Bochicchio, LLC
555 Grant Street, Suite 120
Pittsburgh, PA 15219
(Counsel for Dr. Boron)

Samuel H. Foreman, Esquire
Weber Gallagher Simpson
Stapleton Fires & Newby, LLP
Two Gateway Center, Suite 1450
603 Stanwix Street
Pittsburgh, PA 15222
(Counsel for Dr. Kosco)

John J. Snyder, Esquire
Deborah S. Baird, Esquire
Rawle & Henderson, LLP
The Widener Building, 16th Floor
1339 Chestnut Street
Philadelphia, PA 19107
(Counsel for DuBois Regional)

ROSEN LOHICK & PERRY, P.C.

By: 

Neil K. Rosen, Esquire
Elizabeth L. Jenkins, Esquire
Attorneys for Plaintiffs

CERTIFICATE

ORIGINAL

PREREQUISITE TO SERVICE OF A SUBPOENA

PURSUANT TO RULE 4009.22

IN THE MATTER OF:

COURT OF COMMON PLEAS

DEREK PREBBLE, A MINOR, ET AL

TERM,
CLEARFIELD

-VS-

CASE NO: 07-619-CD

DUBOID REGIONAL MEDICAL CENTER, ET AL

AS a prerequisite to service of a subpoena for documents and things pursuant to Rule 4009.22

MCS on behalf of JOHN SNYDER, ESQ.
certifies that

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

DATE: 11/26/2007

John Snyder, Esq.
JOHN SNYDER, ESQ.
Attorney for DEFENDANT

FILED NO CC
M110:41(BA)
DEC 03 2007 (6K)

William A. Shaw
Prothonotary/Clerk of Courts

COMMONWEALTH OF PENNSYLVANIA

COUNTY OF CLEARFIELD

IN THE MATTER OF:

COURT OF COMMON PLEAS

DEREK PREBBLE, A MINOR, ET AL

TERM,

-VS-

CASE NO: 07-619-CD

DUBOID REGIONAL MEDICAL CENTER, ET AL

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

UPMC HEALTH PLAN	INSURANCE
W. JOHN SIAR, M.D.	MEDICAL RECORDS
DRMC ORTHOPAEDICS	MEDICAL RECORDS
WILLIAM HAGBERG, M.D.	MEDICAL RECORDS

TO: NEIL ROSEN, ESQ., PLAINTIFF COUNSEL
TRACEY G. BENSON, ESQ.
DANIEL P. CARROL, ESQ
CHRISTOPHER C. RULIS, ESQ.

MCS on behalf of JOHN SNYDER, ESQ. intends to serve a subpoena identical to the one that is attached to this notice. You have twenty (20) days from the date listed below in which to file of record and serve upon the undersigned an objection to the subpoena. If the twenty day notice period is waived or if no objection is made, then the subpoena may be served. Complete copies of any reproduced records may be ordered at your expense by completing the attached counsel card and returning same to MCS or by contacting our local MCS office.

DATE: 11/05/2007

MCS on behalf of

JOHN SNYDER, ESQ.
Attorney for DEFENDANT

CC: JOHN SNYDER, ESQ.

- 447,067

Any questions regarding this matter, contact

THE MCS GROUP INC.
1601 MARKET STREET
#800
PHILADELPHIA, PA 19103
(215) 246-0900
DE02-0378484 60743-C01

COMMONWEALTH OF PENNSYLVANIA
COUNTY OF CLEARFIELD

Derek Prebble
Lavina Prebble
Gerald Prebble
Plaintiff(s)

Vs.

*

No. 2007-00619-CD

George Kosco MD
Robert Boron MD
DuBois Regional Medical Center
Defendant(s)

*

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

TO: CUSTODIAN OF RECORDS FOR: UPMC HEALTH PLAN
(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:

SEE ATTACHED

MCS GROUP INC, 1601 MARKET ST, STE 800, PHILA PA 19103

(Address)

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

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

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

NAME: JOHN SNYDER, ESQ.

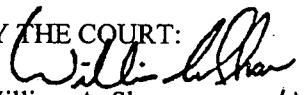
ADDRESS: THE WIDENER BLDG, ONE SO. PENN SQ.
PHILA PA 19107

TELEPHONE: (215) 246-0900

SUPREME COURT ID #

ATTORNEY FOR: DEFENDANT

BY THE COURT:


William A. Shaw Um
Prothonotary/Clerk, Civil Division

11/26/2007

DATE: Friday, November 02, 2007

Seal of the Court

Deputy

EXPLANATION OF REQUIRED RECORDS

TO: CUSTODIAN OF RECORDS FOR:

UPMC HEALTH PLAN
112 WASHINGTON PLACE

PITTSBURGH, PA 15219

RE: 60743
DEREK PREBBLE

Prior approval is required for fees in excess of \$150.00 for hospitals, \$100.00 for all other providers.

ID #00104964002

Any and all insurance records and PIP files, including but not limited to medical reports and/or records, claims, any and all correspondence, documentation supporting plaintiff's claim, payments including dates of payments, payee and reasons for payments, including any and all such items as may be stored in a computer database or otherwise in electronic form, pertaining to:

Dates Requested: up to and including the present.
Subject : DEREK PREBBLE

Social Security #: XXX-XX-4269
Date of Birth: 11-01-1989

ORIGINAL

CERTIFICATE

PREREQUISITE TO SERVICE OF A SUBPOENA

PURSUANT TO RULE 4009.22

IN THE MATTER OF:

DEREK PREBBLE, A MINOR, ET AL

COURT OF COMMON PLEAS

TERM,
CLEARFIELD

-VS-

CASE NO: 07-619-CD

DUBOID REGIONAL MEDICAL CENTER, ET AL

As a prerequisite to service of a subpoena for documents and things pursuant to Rule 4009.22

MCS on behalf of JOHN SNYDER, ESQ.
certifies that

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

DATE: 11/26/2007

John Snyder, Esq.
MCS on behalf of
JOHN SNYDER, ESQ.
Attorney for DEFENDANT

COMMONWEALTH OF PENNSYLVANIA
COUNTY OF CLEARFIELD

IN THE MATTER OF:

COURT OF COMMON PLEAS

DEREK PREBBLE, A MINOR, ET AL

TERM,

-VS-

CASE NO: 07-619-CD

DUBOID REGIONAL MEDICAL CENTER, ET AL

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

UPMC HEALTH PLAN	INSURANCE
W. JOHN SIAR, M.D.	MEDICAL RECORDS
DRMC ORTHOPAEDICS	MEDICAL RECORDS
WILLIAM HAGBERG, M.D.	MEDICAL RECORDS

TO: TRACEY G. BENSON, ESQ.
NEIL ROSEN, ESQ., PLAINTIFF COUNSEL
DANIEL P. CARROL, ESQ
CHRISTOPHER C. RULIS, ESQ.

MCS on behalf of JOHN SNYDER, ESQ. intends to serve a subpoena identical to the one that is attached to this notice. You have twenty (20) days from the date listed below in which to file of record and serve upon the undersigned an objection to the subpoena. If the twenty day notice period is waived or if no objection is made, then the subpoena may be served. Complete copies of any reproduced records may be ordered at your expense by completing the attached counsel card and returning same to MCS or by contacting our local MCS office.

DATE: 11/05/2007

MCS on behalf of

JOHN SNYDER, ESQ.
Attorney for DEFENDANT

CC: JOHN SNYDER, ESQ.

- 447,067

-

Any questions regarding this matter, contact

THE MCS GROUP INC.
1601 MARKET STREET
#800
PHILADELPHIA, PA 19103
(215) 246-0900
DE02-0378485 60743-C02

COMMONWEALTH OF PENNSYLVANIA
COUNTY OF CLEARFIELD

Derek Prebble
Lavina Prebble
Gerald Prebble
Plaintiff(s)

Vs.

*

No. 2007-00619-CD

George Kosco MD
Robert Boron MD
DuBois Regional Medical Center
Defendant(s)

*

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

TO: CUSTODIAN OF RECORDS FOR: W. JOHN SIAR, M.D.
(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:

SEE ATTACHED

MCS GROUP INC., 1601 MARKET ST., STE 800, PHILA PA 19103

(Address)

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

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

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

NAME: JOHN SNYDER, ESQ.
ADDRESS: THE WIDENER BLDG, ONE SO. PENN SQ.
PHILA PA 19107

TELEPHONE: (215) 246-0900
SUPREME COURT ID #
ATTORNEY FOR: DEFENDANT

BY THE COURT:


William A. Shaw
Prothonotary/Clerk, Civil Division

11/26/2007
DATE: Friday, November 02, 2007
Seal of the Court

Deputy

EXPLANATION OF REQUIRED RECORDS

TO: CUSTODIAN OF RECORDS FOR:

W. JOHN SIAR, M.D.
GATEWAY AREA MED. ASSOCS.
P.O. BOX 348

DUBOIS, PA 15801

RE: 60743
DEREK PREBBLE

Prior approval is required for fees in excess of \$150.00 for hospitals, \$100.00 for all other providers.

Entire medical file, including but not limited to any and all records, correspondence to and from the consulting and treating physicians, files, memoranda, handwritten notes, history and physical reports, medication/prescription records, including any and all such items as may be stored in a computer database or otherwise in electronic form, relating to any examination, diagnosis or treatment pertaining to:

Dates Requested: up to and including the present.
Subject : DEREK PREBBLE

Social Security #: XXX-XX-4269
Date of Birth: 11-01-1989

ORIGINAL

CERTIFICATE

PREREQUISITE TO SERVICE OF A SUBPOENA

PURSUANT TO RULE 4009.22

IN THE MATTER OF:

COURT OF COMMON PLEAS

DEREK PREBBLE, A MINOR, ET AL

TERM,
CLEARFIELD

-VS-

CASE NO: 07-619-CD

DUBOID REGIONAL MEDICAL CENTER, ET AL

As a prerequisite to service of a subpoena for documents and things pursuant to Rule 4009.22

MCS on behalf of JOHN SNYDER, ESQ.
certifies that

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

DATE: 11/26/2007

15/ MCS on behalf of
John Snyder, Esq.
JOHN SNYDER, ESQ.
Attorney for DEFENDANT

COMMONWEALTH OF PENNSYLVANIA
COUNTY OF CLEARFIELD

IN THE MATTER OF:

COURT OF COMMON PLEAS

DEREK PREBBLE, A MINOR, ET AL

TERM,

-VS-

CASE NO: 07-619-CD

DUBOID REGIONAL MEDICAL CENTER, ET AL

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

UPMC HEALTH PLAN	INSURANCE
W. JOHN SIAR, M.D.	MEDICAL RECORDS
DRMC ORTHOPAEDICS	MEDICAL RECORDS
WILLIAM HAGBERG, M.D.	MEDICAL RECORDS

TO: DANIEL P. CARROL, ESQ
NEIL ROSEN, ESQ., PLAINTIFF COUNSEL
TRACEY G. BENSON, ESQ.
CHRISTOPHER C. RULIS, ESQ.

MCS on behalf of JOHN SNYDER, ESQ. intends to serve a subpoena identical to the one that is attached to this notice. You have twenty (20) days from the date listed below in which to file of record and serve upon the undersigned an objection to the subpoena. If the twenty day notice period is waived or if no objection is made, then the subpoena may be served. Complete copies of any reproduced records may be ordered at your expense by completing the attached counsel card and returning same to MCS or by contacting our local MCS office.

DATE: 11/05/2007

MCS on behalf of

JOHN SNYDER, ESQ.
Attorney for DEFENDANT

CC: JOHN SNYDER, ESQ.

- 447,067

-

Any questions regarding this matter, contact

THE MCS GROUP INC.
1601 MARKET STREET
#800
PHILADELPHIA, PA 19103
(215) 246-0900
DE02-0378486 60743-C03

COMMONWEALTH OF PENNSYLVANIA
COUNTY OF CLEARFIELD

Derek Prebble

Lavina Prebble

Gerald Prebble

Plaintiff(s)

Vs.

*

No. 2007-00619-CD

George Kosco MD

*

Robert Boron MD

*

DuBois Regional Medical Center

Defendant(s)

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

TO: CUSTODIAN OF RECORDS FOR: DRMC ORTHOPAEDICS
(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:

SEE ATTACHED

MCS GROUP INC, 1601 MARKET ST, STE 800, PHILA PA 19103

(Address)

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

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

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

NAME: JOHN SNYDER, ESQ.

ADDRESS: THE WIDENER BLDG, ONE SO. PENN SQ.
PHILA PA 19107

TELEPHONE: (215)246-0900

SUPREME COURT ID #

ATTORNEY FOR: DEFENDANT

BY THE COURT:


William A. Shaw W.A.S.
Prothonotary/Clerk, Civil Division

11/26/2007

DATE: Friday, November 02, 2007

Seal of the Court

Deputy

EXPLANATION OF REQUIRED RECORDS

TO: CUSTODIAN OF RECORDS FOR:

DRMC ORTHOPAEDICS
145 HOSPITAL AVENUE
SUITE 311

DUBOIS, PA 15801

RE: 60743
DEREK PREBBLE

Prior approval is required for fees in excess of \$150.00 for hospitals, \$100.00 for all other providers.

Entire medical file, including but not limited to any and all records, correspondence to and from the consulting and treating physicians, files, memoranda, handwritten notes, history and physical reports, medication/prescription records, including any and all such items as may be stored in a computer database or otherwise in electronic form, relating to any examination, diagnosis or treatment pertaining to:

Dates Requested: up to and including the present.
Subject : DEREK PREBBLE

Social Security #: XXX-XX-4269
Date of Birth: 11-01-1989

CERTIFICATE

ORIGINAL

PREREQUISITE TO SERVICE OF A SUBPOENA

PURSUANT TO RULE 4009.22

IN THE MATTER OF:

COURT OF COMMON PLEAS

DEREK PREBBLE, A MINOR, ET AL

TERM,
CLEARFIELD

-VS-

CASE NO: 07-619-CD

DUBOID REGIONAL MEDICAL CENTER, ET AL

As a prerequisite to service of a subpoena for documents and things pursuant to Rule 4009.22

MCS on behalf of JOHN SNYDER, ESQ.
certifies that

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

DATE: 11/26/2007

/s/ MCS on behalf of
JOHN SNYDER, ESQ.
John Snyder, Esq.
Attorney for DEFENDANT

COMMONWEALTH OF PENNSYLVANIA
COUNTY OF CLEARFIELD

IN THE MATTER OF:

COURT OF COMMON PLEAS

DEREK PREBBLE, A MINOR, ET AL

TERM,

-VS-

CASE NO: 07-619-CD

DUBOID REGIONAL MEDICAL CENTER, ET AL

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

UPMC HEALTH PLAN	INSURANCE
W. JOHN SIAR, M.D.	MEDICAL RECORDS
DRMC ORTHOPAEDICS	MEDICAL RECORDS
WILLIAM HAGBERG, M.D.	MEDICAL RECORDS

TO: CHRISTOPHER C. RULIS, ESQ.
NEIL ROSEN, ESQ., PLAINTIFF COUNSEL
TRACEY G. BENSON, ESQ.
DANIEL P. CARROL, ESQ

MCS on behalf of JOHN SNYDER, ESQ. intends to serve a subpoena identical to the one that is attached to this notice. You have twenty (20) days from the date listed below in which to file of record and serve upon the undersigned an objection to the subpoena. If the twenty day notice period is waived or if no objection is made, then the subpoena may be served. Complete copies of any reproduced records may be ordered at your expense by completing the attached counsel card and returning same to MCS or by contacting our local MCS office.

DATE: 11/05/2007

MCS on behalf of
JOHN SNYDER, ESQ.
Attorney for DEFENDANT

CC: JOHN SNYDER, ESQ.

- 447,067

Any questions regarding this matter, contact

THE MCS GROUP INC.
1601 MARKET STREET
#800
PHILADELPHIA, PA 19103
(215) 246-0900
DE02-0378487 60743-C04

COMMONWEALTH OF PENNSYLVANIA
COUNTY OF CLEARFIELD

Derek Prebble

*

Lavina Prebble

*

Gerald Prebble

*

Plaintiff(s)

Vs.

*

No. 2007-00619-CD

George Kosco MD

*

Robert Boron MD

*

DuBois Regional Medical Center

Defendant(s)

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

TO: CUSTODIAN OF RECORDS FOR: WILLIAM HAGBERG, M.D.
(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:

SEE ATTACHED

MCS GROUP INC, 1601 MARKET ST, STE 800, PHILA PA 19103

(Address)

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

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

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

NAME: JOHN SNYDER, ESQ.

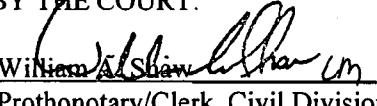
ADDRESS: THE WIDENER BLDG, ONE SO. PENN SQ.
PHILA PA 19107

TELEPHONE: (215) 246-0900

SUPREME COURT ID #

ATTORNEY FOR: DEFENDANT

BY THE COURT:


William A. Shaw, Clerk
Prothonotary/Clerk, Civil Division

11/26/2007

DATE: Friday, November 02, 2007

Seal of the Court

Deputy

EXPLANATION OF REQUIRED RECORDS

TO: CUSTODIAN OF RECORDS FOR:

WILLIAM HAGBERG, M.D.
6001 STONEWOOD DRIVE

WEXFORD, PA 15090

RE: 60743
DEREK PREBBLE

Prior approval is required for fees in excess of \$150.00 for hospitals, \$100.00 for all other providers.

Entire medical file, including but not limited to any and all records, correspondence to and from the consulting and treating physicians, files, memoranda, handwritten notes, history and physical reports, medication/prescription records, including any and all such items as may be stored in a computer database or otherwise in electronic form, relating to any examination, diagnosis or treatment pertaining to:

**Dates Requested: up to and including the present.
Subject : DEREK PREBBLE**

**Social Security #: XXX-XX-4269
Date of Birth: 11-01-1989**

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

Derek Prebble, a minor, by and through
his parents and natural guardians,
Lavin and Gerald Prebble, and
Lavina and Gerald Prebble,
individually

Plaintiffs

v.

George Kosco, M.D., Robert Boron, M.D.
DuBois Radiology, Inc. and
DuBois Regional Medical Center

Defendants

CIVIL ACTION – MEDICAL
PROFESSIONAL LIABILITY
ACTION

Case No. 07-619-CD

Code: 007

JURY TRIAL DEMANDED

FILED NOCC
MARCH 06 2008
Clerk

William A. Shaw
Prothonotary/Clerk of Courts

Copy to
CJA

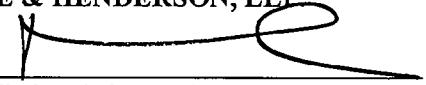
PRAECIPE FOR WITHDRAWAL OF APPEARANCE

TO: Prothonotary of Clearfield County

Kindly withdrawal my appearance on behalf of Defendant DuBois Regional Medical Center.

RAWLE & HENDERSON, LLP

By:


Deborah S. Baird, Esquire
Attorney I.D. No. 44502
The Widener Building
1339 Chestnut Street, 16th Floor
Philadelphia, PA 19107
Telephone: (215) 575-4200

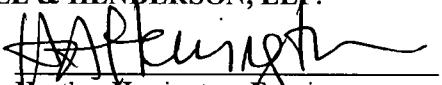
PRAECIPE FOR ENTRY OF APPEARANCE

Kindly enter my appearance on behalf of Defendant DuBois Regional Medical Center,
one of the Defendants.

JURY TRIAL DEMANDED.

RAWLE & HENDERSON, LLP.

By:


Heather Herrington, Esquire
Attorney I.D. No. 92579
The Widener Building
1339 Chestnut Street, 16th Floor
Philadelphia, PA 19107
Telephone: (215) 575-4200

CERTIFICATE OF SERVICE

I, Heather Herrington, Esquire, attorney for defendant, DuBois Regional Medical Center do hereby certify that a true and correct copy of the Withdrawal/Entry of Appearance was sent to the following parties by First Class, U.S. Mail on the date below:

David R. Johnson, Esquire
Thomson Rhodes & Cowier
Two Chatham Center
112 Washington Place, 10th Floor
Pittsburgh, PA 15219

Neil Rosen, Esquire
Rosen Louik & Perry, P.C.
Suite 200, The Frick Building
437 Grant Street
Pittsburgh, PA 15219

Tracey G. Benson, Esquire
Miller Kistler Campbell Miller
Williams & Benson, Inc.
124 N. Allegheny Street
Bellefonte, PA 16823

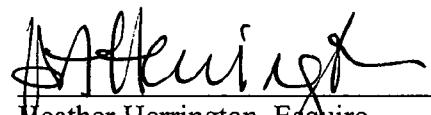
Walter F. Wall, Esquire
Meyer Darraugh
120 Lakemont Park Blvd.
Altoona, PA 16602

Daniel P. Carroll, Esquire
Lauren R. Ames, Esquire
Davies, McFarland & Carroll, P.C.
One Gateway Center, 10th Floor
Pittsburgh, PA 15222

Samuel H. Foreman, Esquire
Weber Gallagher Simpson
Stapleton Fires & Newby, LLP
Two Gateway Center
603 Stanwix Street
Suite 1450
Pittsburgh PA 15222

Christopher C. Rulis, Esquire
O'Brien Rulis & Bochicchio, LLC
555 Grant Street, Suite 120
Pittsburgh, PA 15219

Dated: 3/4/08



Heather Herrington, Esquire
Attorney for Defendant,
DuBois Regional Medical Center

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

DEREK PREBBLE, a minor, by and
through his parents and natural
guardians, LAVINA and GERALD
PREBBLE, and LAVINA and
GERALD PREBBLE, individually,

Plaintiffs,

vs.

GEORGE KOSCO, M.D.; ROBERT
BORON, M.D., DuBOIS REGIONAL
MEDICAL CENTER,

Defendants.

CIVIL DIVISION – Medical
Professional Liability Action

Case No. 07-619-CD

**NOTICE OF SERVICE OF
REQUEST FOR PRODUCTION
OF EXPERT REPORTS**

Filed on behalf of Defendant:
Robert Boron, M.D.

Counsel of record for this party:

Christopher C. Rulis, Esquire
PA I.D. # 34886

Janet K. Meub, Esquire
PA I.D. # 88724

O'BRIEN, RULIS &
BOCHICCHIO, LLC
555 Grant Street, Suite 120
Pittsburgh, PA 15219
(412) 566-1717

JURY TRIAL DEMANDED

FILED NO CC
M 10:59 AM
MAR 11 2008
WM
William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

DEREK PREBBLE, et al., : CIVIL DIVISION – Medical
Plaintiffs, : Professional Liability Action
vs. : Case No. 07-619-CD
GEORGE KOSCO, M.D., et al., : (412) 566-1717
Defendants. : JURY TRIAL DEMANDED
: :
:

NOTICE OF SERVICE OF
REQUEST FOR PRODUCTION OF EXPERT REPORTS

I hereby certify that Defendant, Robert Boron, M.D.'s Request for Production of Expert Reports, was served, via first class mail to the following individuals on March 12, 2008:

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

Heather Herrington, Esquire
Rawle & Henderson
The Widener Building
1339 Chestnut Street, 16th Floor
Philadelphia, PA 19107

Samuel H. Foreman, Esquire
Weber Gallagher Simpson Stapleton
Fires & Newby, LLP
Two Gateway Center
603 Stanwix Street, Suite 1450
Pittsburgh, PA 15222

O'BRIEN RULIS & BOCHICCHIO,
LLC


Christopher C. Rulis, Esquire
Janet K. Meub, Esquire
Counsel for Robert Boron, MD

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DEREK PREBBLE, a minor, by and
through his parents and natural
guardians, LAVINA and GERALD
PREBBLE, and LAVINA and
GERALD PREBBLE, individually,

NO: 07-619-CD

Plaintiffs,

**ANSWER AND NEW MATTER TO
PLAINTIFFS' COMPLAINT**

vs.

GEORGE KOSCO, M.D., ROBERT
BORON, M.D., DuBOIS
RADIOLOGY, INC. and DuBOIS
REGIONAL MEDICAL CENTER

Filed on behalf of George Kosco, M.D.,

Counsel of Record for George Kosco, M.D.:

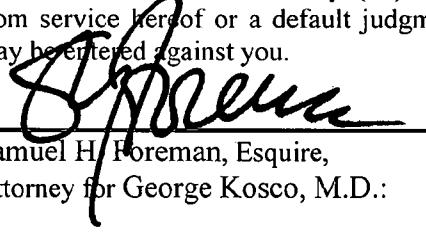
Samuel H. Foreman, Esquire
PA I.D. #77096

Defendants.

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

To: Plaintiff

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



Samuel H. Foreman, Esquire,
Attorney for George Kosco, M.D.:

JURY TRIAL DEMANDED

FILED ^{Doc.}
3/11/05 am
JUN 23 2008


William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DEREK PREBBLE, a minor, by and
through his parents and natural
guardians, LAVINA and GERALD
PREBBLE, and LAVINA and
GERALD PREBBLE, individually,

CIVIL DIVISION

NO: 07-619-CD

Plaintiffs,

vs.

GEORGE KOSCO, M.D., ROBERT
BORON, M.D., DuBOIS
RADIOLOGY, INC. and DuBOIS
REGIONAL MEDICAL CENTER

Defendants.

ANSWER AND NEW MATTER TO PLAINTIFFS' COMPLAINT

AND NOW, comes the Defendant George Kosco, M.D., by and through his attorneys, Samuel H. Foreman, Esquire and the law firm of Weber Gallagher Simpson Stapleton Fires & Newby, LLP files the following Answer and New Matter and in support thereof avers as follows:

1. After a reasonable investigation, the Defendant is without sufficient knowledge or information to form a belief as to the truth or falsity of the averments set forth within paragraph 1 of Plaintiffs' Complaint. The same are therefore denied.

2.-3. The allegations contained within paragraphs 2 and 3 of Plaintiffs' Complaint are admitted.

4., 5. The Defendant is without sufficient information to form a belief as to the

truth or falsity of the averments set forth within paragraphs 4 and 5 of Plaintiffs' Complaint. The same are therefore denied.

6., 7. By Stipulation, DuBois Radiology has been dropped from the Complaint, and, upon information and belief, no response is required for paragraphs 6 and 7.

8. – 13. The Defendant is without sufficient information to form a belief as to the truth or falsity of the averments set forth within paragraphs 8 through 13 of Plaintiffs' Complaint. The same are therefore denied.

14. The allegations contained within paragraph 14 of Plaintiffs' Complaint are admitted in part and denied in part. It is admitted that on September 30, 2002, Plaintiff Derek Prebble was presented to DuBois Regional Hospital with various complaints, the nature and extent of which are more fully and accurately set forth within DuBois Regional Hospital's office records, which records speak for themselves. Any allegations to the contrary are hereby denied.

15. The allegations contained within paragraph 15 of Plaintiffs' Complaint are admitted in part and denied in part. It is admitted that on September 30, 2002 Dr. Kosco interpreted a right wrist X-Ray and made certain diagnoses and recommendations, the nature and extent of which are more fully and accurately set forth in the hospital records, which records speak for themselves. Any allegations to the contrary are hereby denied.

16. Defendant is without sufficient information to form a belief as to the truth of the allegations of the corresponding paragraph of Plaintiff's Complaint. It is admitted that Plaintiff Derrek Prebble was discharged from DuBois Regional Medical Center. Defendant otherwise denies the allegations of paragraph 16 of Plaintiffs' Complaint.

17.-27. After a reasonable investigation, Defendant Kosco is without sufficient knowledge or information to form a belief as to the truth and falsity of the averments set forth

within paragraphs 17, 18, 19, 20, 21, 22, 23, 24, 25, 26 and 27 of Plaintiffs' Complaint. The same are therefore denied.

28.-29. The allegations within paragraphs 28 and 29 of plaintiff's Complaint are denied.

30. The allegations contained within paragraph 30 and its subparagraphs are denied. On the contrary, Defendant Kosco avers that all times pertinent hereto, he acted in a careful and competent fashion with all the care and skill normally exercised by physicians practicing in his specialty under the same or similar circumstances. Defendant otherwise denies the allegations of this paragraph of Plaintiffs' Complaint.

31. Defendant Kosco is without sufficient knowledge or information to form a belief as to the truth or falsity of the averments set forth within paragraph 31 and its subparagraphs of Plaintiffs' Complaint. The same are therefore denied.

32. The allegations within paragraph 32 of Plaintiffs' Complaint are denied.

33. After a reasonable investigation, Defendant Kosco is without sufficient knowledge or information to form a belief as to the truth and falsity of the averments set forth within paragraph 33 and its subparagraphs of Plaintiffs' Complaint. The same are therefore denied.

34.-37. The allegations within paragraphs 34, 35, 36 and 37 of Plaintiffs' Complaint are denied.

WHEREFORE, Defendant, George Kosco, M.D., denies that he is liable to Plaintiffs for any sum or sums whatsoever and demand the entry of judgment in his favor.

COUNT I – LOSS OF CONSORTIUM
LAVINA and GERALD PREBBLE vs. GEORGE KOSCO, M.D.

38. The Defendant incorporates herein by reference his answers to paragraphs 1 through 37 above as though the same are set forth at length therein.

39-41. The Defendant declines to respond to the averments contained within paragraphs 39, 40 and 41 of Plaintiffs' Complaint, as the same contain conclusions of law to which no response is required. To the extent that a response may be deemed necessary, after a reasonable investigation, the Defendant is without sufficient knowledge or information to form a belief as to the truth or falsity of said averments. The same are therefore denied.

WHEREFORE, Defendant, George Kosco, M.D., denies that he is liable to Plaintiffs in any sum or sums whatsoever and demands the entry of judgment in his favor.

NEW MATTER

AND NOW comes the defendant, George Kosco, M.D., and files the following New Matter averring as follows:

1. If Plaintiffs sustained the injuries or damages alleged in their Complaint, which are denied, then it is averred that said injuries or damages were caused by the operation of nature, and not by any acts or omissions on the part of this Defendant.

2. If Plaintiffs sustained the injuries or damages alleged in their Complaint, which are denied, it is averred that said injuries or damages were not caused or contributed to by any conduct on the part of Dr. Kosco. To the extent that such injuries or damages were caused or contributed to by the conduct of persons, firms, or corporations over which this Defendant had

no control, nor right nor duty to control, this Defendant is not responsible for nor liable for said injuries or damages.

3. If Plaintiffs sustained the injuries or damages alleged in their Complaint, which are denied, then said injuries or damages were caused by the superseding or intervening negligence of others.

4. Defendant Kosco incorporates by reference paragraphs 1 through 41 of this Answer as if fully set forth herein.

5. Plaintiffs' Complaint fails to state a claim upon which relief can be granted.

6. Plaintiffs' Complaint is barred by the applicable statute of limitations.

7. Defendant Kosco pleads the affirmative defense of comparative negligence to the extent that the evidence demonstrates that Plaintiffs acted in a manner or failed to act in a reasonable and prudent manner or in a manner harmful to Plaintiffs' health and welfare.

8. To the extent the evidence shows Plaintiffs failed to mitigate their damages, these Defendants plead failure to mitigate damages as an affirmative defense.

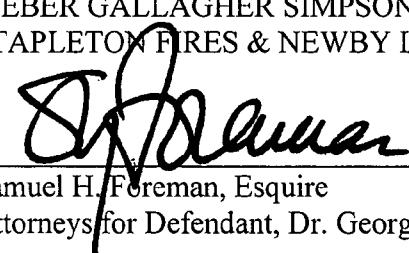
9. Section 105 of the MCare Act, 40 P.S. §1303.105 provides that in "the absence of a special contract in writing, a healthcare provider is neither a warrantor nor a guarantor of a cure." This provision is pleaded as an affirmative defense insofar as there was no contract in writing in this case.

10. Defendant Kosco raises all affirmative defenses set forth or available as a result of Medical Care Availability and Reduction of Error Act, 40 P.S. §1303 *et seq.*

WHEREFORE, Defendant, George Kosco, M.D., denies that he is liable to Plaintiffs for any sum or sums whatsoever and demands the entry of judgment in his behalf.

Respectfully submitted,

WEBER GALLAGHER SIMPSON
STAPLETON FIRES & NEWBY LLP

By: 

Samuel H. Foreman, Esquire
Attorneys for Defendant, Dr. George Kosco

VERIFICATION

I, George Kosco, M.D., hereby verify that the statements set forth in the foregoing ANSWER AND NEW MATTER are true and correct to the best of my knowledge, information and belief.

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

Date: 6/19/08
George Kosco, M.D.

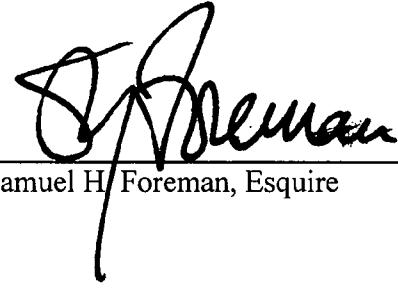
CERTIFICATE OF SERVICE

I hereby certify that the foregoing ANSWER AND NEW MATTER was served via United States mail, first class, postage prepaid, this 19th day of June, 2008, on the following:

Neil R. Rosen, Esquire
ROSEN LOUIK & PERRY, P.C.
Suite 200, The Frick Building
437 Grant Street
Pittsburgh, PA 15219

Christopher C. Rulis, Esquire
O'Brien Rulis & Bochicchio, LLC
555 Grant Street, Suite 120
Pittsburgh, PA 15219

Heather Herrington, Esquire
RAWLE & HENDERSON, LLP
The Widener Building
1339 Chestnut Street, 16th Floor
Philadelphia, PA 19107



Samuel H. Foreman, Esquire

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

DEREK PREBBLE, A MINOR,
BY AND THROUGH HIS PARENTS : CIVIL ACTION - MEDICAL
AND NATURAL GUARDIANS, : PROFESSIONAL LIABILITY
LAVINA AND GERALD PREBBLE, : ACTION
AND
LAVINA AND GERALD PREBBLE, :
INDIVIDUALLY :
PLAINTIFFS : CASE NO. 07-619-CD
V. : CODE: 007
GEORGE KOSCO, M.D., : ANSWER OF DUBOIS
ROBERT BORON, M.D., : REGIONAL MEDICAL CENTER
AND DUBOIS REGIONAL MEDICAL : TO PLAINTIFFS'
CENTER : COMPLAINT AS AMENDED
BY STIPULATION
DEFENDANTS :
:

FILED
m/w:50
JUN 25 2008
1 copy to RPA
William A. Shaw
Prothonotary/Clerk of Courts
GR

COUNSEL FOR DUBOIS REGIONAL
MEDICAL CENTER

Heather A. Herrington, Esquire
Pa. I.D. No. 92579

John J. Snyder, Esquire
Pa. I.D. No. 22751

RAWLE & HENDERSON, LLP.

The Widener Building
1339 Chestnut Street, 16th Floor
Philadelphia, PA 19107
(215) 575-4200

JURY TRIAL DEMANDED

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

DEREK PREBBLE, A MINOR, BY AND THROUGH HIS PARENTS AND NATURAL GUARDIANS, LAVINA AND GERALD PREBBLE, AND LAVINA AND GERALD PREBBLE, INDIVIDUALLY	:	CIVIL ACTION – MEDICAL PROFESSIONAL LIABILITY ACTION
	:	
PLAINTIFFS	:	CASE NO. 07-619-CD
	:	
V.	:	
	:	
GEORGE KOSCO, M.D., ROBERT BORON, M.D., AND DUBOIS REGIONAL MEDICAL CENTER	:	
DEFENDANTS	:	

ANSWER OF DEFENDANT DUBOIS REGIONAL MEDICAL CENTER TO
PLAINTIFFS' AMENDED COMPLAINT¹

1. After reasonable investigation, defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in this paragraph. Thus, said allegations are denied and strict proof thereof is demanded at trial.
2. The allegations set forth in these paragraphs are not directed to answering defendant and accordingly, no answer is required.
3. The allegations set forth in these paragraphs are not directed to answering defendant and accordingly, no answer is required.
4. The allegations set forth in these paragraphs are not directed to answering defendant and accordingly, no answer is required.

¹ Please note that former defendant, Dubois Radiology Inc. was dismissed as a party by stipulation on September 13, 2007 and has been omitted from the caption.

5. The allegations set forth in these paragraphs are not directed to answering defendant and accordingly, no answer is required.

6. The allegations set forth in these paragraphs are not directed to answering defendant and accordingly, no answer is required.

7. The allegations set forth in these paragraphs are not directed to answering defendant and accordingly, no answer is required.

8. Admitted.

9. Admitted.

10. The allegations set forth in these paragraphs are not directed to answering defendant and accordingly, no answer is required.

11. Denied. All allegations of agency, ostensible agency and servitude are specifically denied.

12. The allegations in this paragraph of the Complaint constitute conclusions of law to which no response is required under the Rules of Civil Procedure. Strict proof of same will be required at the time of trial. To the extent an answer is required, answering defendants deny any and all allegations of negligence, carelessness, and/or recklessness. All allegations of agency are denied inasmuch as the purported agents, servants, workmen and/or employees have not been identified. It is also specifically denied that Drs. Kosco and Boron were or are the ostensible agents, servants, workmen and/or employees of Answering Defendant.

13. Admitted in part and denied in part. Admitted only that Drs. Kosco and Boron were employees of DuBois Radiology. All other allegations constitute conclusions of law to which no response is required under the Rules of Civil Procedure. Strict proof of same will be required at the time of trial.

14. Plaintiff's course of care and treatment is as set forth in the medical records relevant to this case. To the extent that the allegations contained in the Complaint are inconsistent with, differ from or are contrary to said records, those allegations are specifically denied and strict proof thereof is demanded at trial, if relevant. Furthermore, allegations contained in those paragraphs are denied and deemed at issue pursuant to Pennsylvania Rule of Civil Procedure 1029(e).

15. Plaintiff's course of care and treatment is as set forth in the medical records relevant to this case. To the extent that the allegations contained in the Complaint are inconsistent with, differ from or are contrary to said records, those allegations are specifically denied and strict proof thereof is demanded at trial, if relevant. Furthermore, allegations contained in those paragraphs are denied and deemed at issue pursuant to Pennsylvania Rule of Civil Procedure 1029(e).

16. Plaintiff's course of care and treatment is as set forth in the medical records relevant to this case. To the extent that the allegations contained in the Complaint are inconsistent with, differ from or are contrary to said records, those allegations are specifically denied and strict proof thereof is demanded at trial, if relevant. Furthermore, allegations contained in those paragraphs are denied and deemed at issue pursuant to Pennsylvania Rule of Civil Procedure 1029(e).

17. Plaintiff's course of care and treatment is as set forth in the medical records relevant to this case. To the extent that the allegations contained in the Complaint are inconsistent with, differ from or are contrary to said records, those allegations are specifically denied and strict proof thereof is demanded at trial, if relevant. Furthermore, allegations

contained in those paragraphs are denied and deemed at issue pursuant to Pennsylvania Rule of Civil Procedure 1029(e).

18. Plaintiff's course of care and treatment is as set forth in the medical records relevant to this case. To the extent that the allegations contained in the Complaint are inconsistent with, differ from or are contrary to said records, those allegations are specifically denied and strict proof thereof is demanded at trial, if relevant. Furthermore, allegations contained in those paragraphs are denied and deemed at issue pursuant to Pennsylvania Rule of Civil Procedure 1029(e).

19. Plaintiff's course of care and treatment is as set forth in the medical records relevant to this case. To the extent that the allegations contained in the Complaint are inconsistent with, differ from or are contrary to said records, those allegations are specifically denied and strict proof thereof is demanded at trial, if relevant. Furthermore, allegations contained in those paragraphs are denied and deemed at issue pursuant to Pennsylvania Rule of Civil Procedure 1029(e).

20. After reasonable investigation, Answering Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in this paragraph. Thus, said allegations are denied and strict proof thereof is demanded at trial.

21. Plaintiff's course of care and treatment is as set forth in the medical records relevant to this case. To the extent that the allegations contained in the Complaint are inconsistent with, differ from or are contrary to said records, those allegations are specifically denied and strict proof thereof is demanded at trial, if relevant. Furthermore, allegations contained in those paragraphs are denied and deemed at issue pursuant to Pennsylvania Rule of Civil Procedure 1029(e).

22. Plaintiff's course of care and treatment is as set forth in the medical records relevant to this case. To the extent that the allegations contained in the Complaint are inconsistent with, differ from or are contrary to said records, those allegations are specifically denied and strict proof thereof is demanded at trial, if relevant. Furthermore, allegations contained in those paragraphs are denied and deemed at issue pursuant to Pennsylvania Rule of Civil Procedure 1029(e).

23. Plaintiff's course of care and treatment is as set forth in the medical records relevant to this case. To the extent that the allegations contained in the Complaint are inconsistent with, differ from or are contrary to said records, those allegations are specifically denied and strict proof thereof is demanded at trial, if relevant. Furthermore, allegations contained in those paragraphs are denied and deemed at issue pursuant to Pennsylvania Rule of Civil Procedure 1029(e).

24. Plaintiff's course of care and treatment is as set forth in the medical records relevant to this case. To the extent that the allegations contained in the Complaint are inconsistent with, differ from or are contrary to said records, those allegations are specifically denied and strict proof thereof is demanded at trial, if relevant. Furthermore, allegations contained in those paragraphs are denied and deemed at issue pursuant to Pennsylvania Rule of Civil Procedure 1029(e).

25. Plaintiff's course of care and treatment is as set forth in the medical records relevant to this case. To the extent that the allegations contained in the Complaint are inconsistent with, differ from or are contrary to said records, those allegations are specifically denied and strict proof thereof is demanded at trial, if relevant. Furthermore, allegations

contained in those paragraphs are denied and deemed at issue pursuant to Pennsylvania Rule of Civil Procedure 1029(e).

26. Plaintiff's course of care and treatment is as set forth in the medical records relevant to this case. To the extent that the allegations contained in the Complaint are inconsistent with, differ from or are contrary to said records, those allegations are specifically denied and strict proof thereof is demanded at trial, if relevant. Furthermore, allegations contained in those paragraphs are denied and deemed at issue pursuant to Pennsylvania Rule of Civil Procedure 1029(e).

27. Plaintiff's course of care and treatment is as set forth in the medical records relevant to this case. To the extent that the allegations contained in the Complaint are inconsistent with, differ from or are contrary to said records, those allegations are specifically denied and strict proof thereof is demanded at trial, if relevant. Furthermore, allegations contained in those paragraphs are denied and deemed at issue pursuant to Pennsylvania Rule of Civil Procedure 1029(e).

28. The allegations in this paragraph of the Complaint constitute conclusions of law to which no response is required under the Rules of Civil Procedure. Strict proof of same will be required at the time of trial. To the extent an answer is required, answering defendant denies any and all allegations of negligence, carelessness, and/or recklessness. All allegations of agency are denied inasmuch as the purported agents, servants, workmen and/or employees have not been identified. It is also specifically denied that Drs. Kosco and Boron were or are the ostensible agents, servants, workmen and/or employees of Answering Defendant.

29. The allegations in this paragraph of the Complaint constitute conclusions of law to which no response is required under the Rules of Civil Procedure. Strict proof of same will be

required at the time of trial. To the extent an answer is required, Answering Defendant denies any and all allegations of negligence, carelessness, and/or recklessness. All allegations of agency are denied inasmuch as the purported agents, servants, workmen and/or employees have not been identified. It is also specifically denied that Drs. Kosco and Boron were or are the ostensible agents, servants, workmen and/or employees of Answering Defendant.

30(a) – (h). Denied. Answering Defendant specifically denies any and all allegations of negligence, carelessness, and/or recklessness. All allegations of agency are specifically denied inasmuch as the purported agents, servants, workmen and/or employees have not been identified. It is also specifically denied that Dr. Kosco was or is the ostensible agent, servant, workman and/or employee of Answering Defendant.

31(a) – (h). Denied. Answering Defendant specifically denies any and all allegations of negligence, carelessness, and/or recklessness. All allegations of agency are specifically denied inasmuch as the purported agents, servants, workmen and/or employees have not been identified. It is also specifically denied that Dr. Boron was or is the ostensible agent, servant, workman and/or employee of Answering Defendant.

32. The allegations in this paragraph of the Complaint constitute conclusions of law to which no response is required under the Rules of Civil Procedure. Strict proof of same will be required at the time of trial. To the extent an answer is required, Answering Defendant denies any and all allegations of negligence, carelessness, and/or recklessness. All allegations of agency are denied inasmuch as the purported agents, servants, workmen and/or employees have not been identified. It is also specifically denied that Drs. Kosco and Boron were or are the ostensible agents, servants, workmen and/or employees of Answering Defendant.

33. Plaintiff's course of care and treatment is as set forth in the medical records relevant to this case. To the extent that the allegations contained in the Complaint are inconsistent with, differ from or are contrary to said records, those allegations are specifically denied and strict proof thereof is demanded at trial, if relevant. Furthermore, allegations contained in those paragraphs are denied and deemed at issue pursuant to Pennsylvania Rule of Civil Procedure 1029(e).

34. The allegations in this paragraph of the Complaint constitute conclusions of law to which no response is required under the Rules of Civil Procedure. Strict proof of same will be required at the time of trial. To the extent an answer is required, Answering Defendant denies any and all allegations of negligence, carelessness, and/or recklessness. All allegations of agency are denied inasmuch as the purported agents, servants, workmen and/or employees have not been identified. It is also specifically denied that Drs. Kosco and Boron were or are the ostensible agents, servants, workmen and/or employees of Answering Defendant.

35. Plaintiff's course of care and treatment is as set forth in the medical records relevant to this case. To the extent that the allegations contained in the Complaint are inconsistent with, differ from or are contrary to said records, those allegations are specifically denied and strict proof thereof is demanded at trial, if relevant. Furthermore, allegations contained in those paragraphs are denied and deemed at issue pursuant to Pennsylvania Rule of Civil Procedure 1029(e).

36. Plaintiff's course of care and treatment is as set forth in the medical records relevant to this case. To the extent that the allegations contained in the Complaint are inconsistent with, differ from or are contrary to said records, those allegations are specifically denied and strict proof thereof is demanded at trial, if relevant. Furthermore, allegations

contained in those paragraphs are denied and deemed at issue pursuant to Pennsylvania Rule of Civil Procedure 1029(e).

37. After reasonable investigation, defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in this paragraph. Thus, said allegations are denied and strict proof thereof is demanded at trial.

WHEREFORE, Answering Defendant, DuBois Regional Medical Center, requests that this Court enter judgment in favor of Answering Defendant and against Plaintiffs.

COUNT II²

38. Answering Defendant incorporates by reference paragraphs one (1) through thirty-seven (37) as if fully set forth herein.

39. The allegations in this paragraph of the Complaint constitute conclusions of law to which no response is required under the Rules of Civil Procedure. Strict proof of same will be required at the time of trial. To the extent an answer is required, Answering Defendant denies any and all allegations of negligence, carelessness, and/or recklessness. All allegations of agency are denied inasmuch as the purported agents, servants, workmen and/or employees have not been identified. It is also specifically denied that Drs. Kosco and Boron were or are the ostensible agents, servants, workmen and/or employees of Answering Defendant.

40. The allegations in this paragraph of the Complaint constitute conclusions of law to which no response is required under the Rules of Civil Procedure. Strict proof of same will be required at the time of trial. To the extent an answer is required, Answering Defendant denies any and all allegations of negligence, carelessness, and/or recklessness. All allegations of agency are denied inasmuch as the purported agents, servants, workmen and/or employees have

² Answering defendant is responding to Plaintiff's Count II as amended and filed by way of stipulation on June 7, 2007.

not been identified. It is also specifically denied that Drs. Kosco and Boron were or are the ostensible agents, servants, workmen and/or employees of Answering Defendant.

41. The allegations in this paragraph of the Complaint constitute conclusions of law to which no response is required under the Rules of Civil Procedure. Strict proof of same will be required at the time of trial. To the extent an answer is required, Answering Defendant denies any and all allegations of negligence, carelessness, and/or recklessness. All allegations of agency are denied inasmuch as the purported agents, servants, workmen and/or employees have not been identified. It is also specifically denied that Drs. Kosco and Boron were or are the ostensible agents, servants, workmen and/or employees of Answering Defendant.

WHEREFORE, Answering Defendant, DuBois Regional Medical Center, requests that this Court enter judgment in favor of Answering Defendant and against Plaintiffs.

NEW MATTER

42. The Complaint, in whole or in part, fails to state a cause of action upon which relief can be granted.

43. Any acts or omissions by the Answering Defendant alleged to constitute negligence were not substantial causes or factors of the subject incident and/or did not result in the injuries and/or losses alleged.

44. Plaintiffs' claims are barred by operation of the applicable statute of limitations.

45. If plaintiffs sustained the injuries alleged, which injuries are specifically denied, said injuries may have been the result of the negligent or careless acts and/or omissions of plaintiff and/or other persons and/or entities over whom answering defendant exercised no control.

46. Plaintiffs' claims, if any, are barred by the applicable statute of limitations.

47. Plaintiffs' claim, if any, is barred by contributory negligence.

48. Plaintiffs' claim, if any, must be limited or eliminated in accordance with the Pennsylvania Comparative Negligence Statute.

49. The Answering Defendant hereby raises the provisions of 606 of the Act, III, The Health Care Services Malpractice Act, as an affirmative defense and that there was no special writing between the parties and thus, there were no warranties, guarantees or promises of cure.

50. The negligent acts or omissions of other individuals and/or entities may have caused damage and/or injuries alleged to have been sustained by the Plaintiffs.

51. The Plaintiffs may have assumed the risk. The Plaintiffs may have been contributory negligent.

52. If the Plaintiffs sustained injuries and damages, as alleged, said allegations being specifically denied, then said injuries were caused by the Plaintiffs and/or their agents for failure to exercise reasonable care, under the circumstances, and, therefore, the Plaintiff's claims are entirely barred and/or reduced under the provisions of the Pennsylvania Comparative Negligence Statute, 42 Pa. C.S.A., Section 7102 et seq.

53. Nothing done or omitted to be done by Answering Defendant was the proximate cause of the injuries of the Plaintiffs.

54. The allegations of the Complaint do not state a claim against the Answering Defendant, which would authorize or entitle Plaintiffs to recover punitive or exemplary damages.

55. To the extent to which it may be applied to his matter, Pa. R.C.P. 238 is unconstitutional. However, if there is a judicial determination that Pa. R.C.P. 238 is constitutional, any liability for interest imposed by the Rule should be suspended during any period of time in which Plaintiffs failed to convey a reasonable settlement figure or delayed in

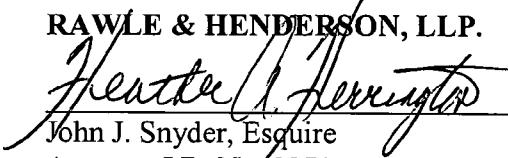
responding to discovery requests. Liability for any interest under the rule should also be suspended during any period of time in which the Court failed to deal with Pre-Trial Motions or otherwise properly schedule the trial of this matter.

56. Answering Defendant avers all defenses available under the M-Care Statute to which Answering Defendant is entitled.

57. Plaintiffs' claim as to ostensible agency fails as a matter of law.

58. Plaintiffs' claims fail as Doctors Kosco and Boron are not the actual or ostensible agents, servants, workmen and/or employees of Answering Defendant.

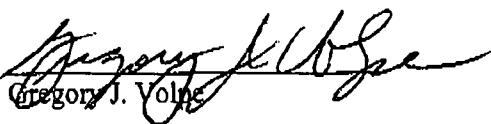
RAWLE & HENDERSON, LLP.

By: 

John J. Snyder, Esquire
Attorney I.D. No. 22751
Heather A. Herrington, Esquire
Attorney I.D. No. 92579
The Widener Building
1339 Chestnut Street, 16th Floor
Philadelphia, PA 19107
Telephone: (215) 575-4200

VERIFICATION

Gregory J. Volpe verifies that he is authorized to make this verification on behalf of Defendant, DuBois Regional Medical Center, and that the facts set forth in the foregoing Answer to Plaintiffs' Amended Complaint is true and correct to the best of his information, knowledge and belief. It is understood that the statements therein are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.


Gregory J. Volpe

Date: June 23, 2008

CERTIFICATION OF SERVICE

I hereby certify that on today's date I served a true and correct copy of the foregoing Answer and New Matter to Plaintiffs' Amended Complaint, via first-class mail, postage prepaid, upon all interest parties of record, addressed as follows:

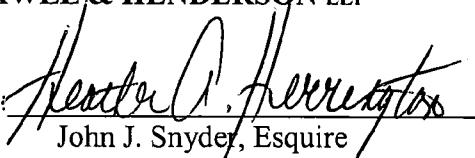
Neil Rosen, Esquire
Rosen Louik & Perry, P.C.
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437 Grant Street
Pittsburgh, PA 15219

Christopher C. Rulis, Esquire
Janet Meub, Esquire
O'Brien Rulis & Bochicchio, LLC
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Samuel H. Foreman, Esquire
Weber Gallagher Simpson
Stapleton Fires & Newby, LLP
Two Gateway Center
603 Stanwix Street
Suite 1450
Pittsburgh PA 15222

RAWLE & HENDERSON LLP

By:


John J. Snyder, Esquire
Heather A. Herrington, Esquire
Attorneys for Defendant,
Dubois Regional Medical Center

DATED 6/23/08

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY
PENNSYLVANIA

DEREK PREBBLE, a minor, by and through
his parents and natural guardians, LAVINA
and GERALD PREBBLE; and LAVINA and
GERALD PREBBLE, individually,

Plaintiffs,

vs.

GEORGE KOSCO, M.D.; ROBERT
BORON, M.D.; and DuBOIS REGIONAL
MEDICAL CENTER,

Defendants.

CIVIL ACTION—MEDICAL
PROFESSIONAL LIABILITY ACTION

Case No.: 07-619-CD

**PLAINTIFFS' REPLY TO NEW
MATTER OF DEFENDANT GEORGE
KOSCO, M.D.**

Filed on behalf of PLAINTIFFS

Counsel for PLAINTIFFS:

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

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

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

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

JURY TRIAL DEMANDED

FILED
M 11/13/2011 NO
JUN 26 2008 CC
610

William A. Shaw
Prothonotary/Clerk of Courts

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

DEREK PREBBLE, a minor, by and through his parents and natural guardians, LAVINA and GERALD PREBBLE; and LAVINA and GERALD PREBBLE, individually,	)	CIVIL ACTION—MEDICAL PROFESSIONAL LIABILITY ACTION
)	
Plaintiffs,)	
)	
vs.	)	Case No.: 07-619-CD
)	
GEORGE KOSCO, M.D.; ROBERT BORON, M.D.; and DuBOIS REGIONAL MEDICAL CENTER,)	
)	
Defendants.)	

**PLAINTIFFS' REPLY TO NEW MATTER OF DEFENDANT, GEORGE
KOSCO, M.D.**

AND NOW, come plaintiffs, Derek Prebble, a minor, by and through his parents and natural guardians, Lavina and Gerald Prebble and Lavina and Gerald Prebble, individually (“Plaintiffs”), by and through their undersigned counsel, ROSEN LOUIK & PERRY, P.C., and file the following Reply to New Matter contained in the “Answer and New Matter” filed on behalf of Defendant, George Kosco, M.D. (“Defendant Kosco”):

1. The allegation contained in paragraph 1 of Defendant Kosco’s New Matter is a conclusion of law to which no response is necessary.
2. The allegation contained in paragraph 2 of Defendant Kosco’s New Matter is a conclusion of law to which no response is necessary.
3. The allegation contained in paragraph 3 of Defendant Kosco’s New Matter is a conclusion of law to which no response is necessary.
4. The allegation contained in paragraph 4 of Defendant Kosco’s New Matter

is an incorporation paragraph, and therefore, no response is necessary.

5. The allegation contained in paragraph 5 of Defendant Kosco's New Matter is a conclusion of law to which no response is necessary.

6. The allegation contained in paragraph 6 of Defendant Kosco's New Matter is a conclusion of law to which no response is necessary.

7. The allegation contained in paragraph 7 of Defendant Kosco's New Matter is a conclusion of law to which no response is necessary.

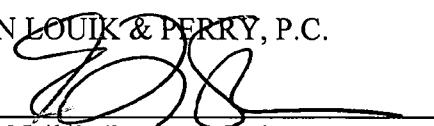
8. The allegation contained in paragraph 8 of Defendant Kosco's New Matter is a conclusion of law to which no response is necessary.

9. The allegation contained in paragraph 9 of Defendant Kosco's New Matter is a conclusion of law to which no response is necessary.

10. The allegation contained in paragraph 10 of Defendant Kosco's New Matter is a conclusion of law to which no response is necessary.

WHEREFORE, Plaintiffs request that judgment be entered in their favor as stated in Plaintiffs' Amended Complaint.

ROSEN LOUIK & PERRY, P.C.

By: 

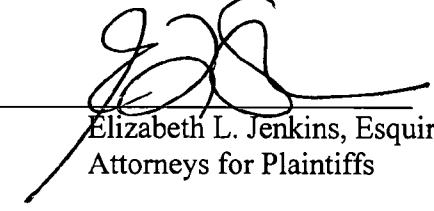
Neil R. Rosen, Esquire
Elizabeth L. Jenkins, Esquire
Attorneys for Plaintiffs

VERIFICATION

I, ELIZABETH L. JENKINS, ESQ., have read the foregoing PLAINTIFFS' REPLY TO NEW MATTER OF DEFENDANT, GEORGE KOSCO, M.D. The averments and/or denials contained therein are true and correct to the best of my personal knowledge or information and belief.

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

Date: June 24, 2008


Elizabeth L. Jenkins, Esquire
Attorneys for Plaintiffs

CERTIFICATE OF SERVICE

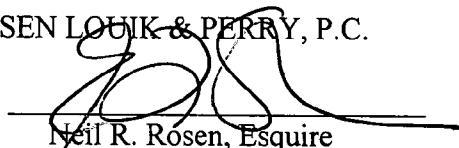
I hereby certify that a true and correct copy of the within PLAINTIFFS' REPLY TO NEW MATTER OF DEFENDANT, ROBERT BORON, M.D., was served upon all counsel of record by United States first-class mail, postage prepaid, or hand delivery, on the 24th day of June, 2008, as follows:

Samuel H. Foreman, Esquire
Weber Gallagher Simpson
Stapleton Fires & Newby, LLP
Two Gateway Center, Suite 1450
603 Stanwix Street
Pittsburgh, PA 15222
(Counsel for Dr. Kosco)

Christopher C. Rulis, Esquire
Janet K. Meub, Esquire
O'Brien Rulis & Bochicchio, LLC
555 Grant Street, Suite 120
Pittsburgh, PA 15219
(Counsel for Dr. Boron)

Heather A. Herrington, Esquire
Rawle & Henderson, LLP
The Widener Building, 16th Floor
1339 Chestnut Street
Philadelphia, PA 19107
(Counsel for DuBois Regional)

ROSEN LOUK & PERRY, P.C.

By: 

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

FILED

JUN 30 2008

6/5/08
William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY
PENNSYLVANIA

DEREK PREBBLE, a minor, by and through
his parents and natural guardians, LAVINA
and GERALD PREBBLE; and LAVINA and
GERALD PREBBLE, individually,

Plaintiffs,

vs.

GEORGE KOSCO, M.D.; ROBERT
BORON, M.D.; and DuBOIS REGIONAL
MEDICAL CENTER,

Defendants.

CIVIL ACTION—MEDICAL
PROFESSIONAL LIABILITY ACTION

Case No.: 07-619-CD

**PLAINTIFFS' REPLY TO NEW
MATTER OF DEFENDANT DUBOIS
REGIONAL MEDICAL CENTER**

Filed on behalf of PLAINTIFFS

Counsel for PLAINTIFFS:

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

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

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

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

JURY TRIAL DEMANDED

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

DEREK PREBBLE, a minor, by and through his parents and natural guardians,	)	CIVIL ACTION—MEDICAL PROFESSIONAL LIABILITY ACTION
LAVINA and GERALD PREBBLE; and)	
LAVINA and GERALD PREBBLE, individually,)	
)	
Plaintiffs,)	
)	
vs.	)	Case No.: 07-619-CD
)	
GEORGE KOSCO, M.D.; ROBERT BORON, M.D.; and DuBOIS REGIONAL MEDICAL CENTER,)	
)	
Defendants.)	

**PLAINTIFFS' REPLY TO NEW MATTER OF DEFENDANT, DUBOIS
REGIONAL MEDICAL CENTER**

AND NOW, come plaintiffs, Derek Prebble, a minor, by and through his parents and natural guardians, Lavina and Gerald Prebble and Lavina and Gerald Prebble, individually (“Plaintiffs”), by and through their undersigned counsel, ROSEN LOUIK & PERRY, P.C., and file the following Reply to New Matter contained in the “Answer and New Matter” filed on behalf of Defendant, Dubois Regional Medical Center. (“Defendant”):

42. The allegation contained in paragraph 42 of Defendant’s New Matter is a conclusion of law to which no response is necessary.

43. The allegation contained in paragraph 43 of Defendant’s New Matter is a conclusion of law to which no response is necessary.

44. The allegation contained in paragraph 44 of Defendant’s New Matter is a conclusion of law to which no response is necessary.

46. The allegation contained in paragraph 46 of Defendant's New Matter is redundant. Further, it is a conclusion of law to which no response is necessary.

47. The allegation contained in paragraph 47 of Defendant's New Matter is a conclusion of law to which no response is necessary.

48. The allegation contained in paragraph 48 of Defendant's New Matter is a conclusion of law to which no response is necessary.

49. The allegation contained in paragraph 49 of Defendant's New Matter is a conclusion of law to which no response is necessary.

50. The allegation contained in paragraph 50 of Defendant's New Matter is a conclusion of law to which no response is necessary.

51. The allegation contained in paragraph 51 of Defendant's New Matter is a conclusion of law to which no response is necessary.

52. The allegation contained in paragraph 52 of Defendant's New Matter is a conclusion of law to which no response is necessary.

53. The allegation contained in paragraph 53 of Defendant's New Matter is a conclusion of law to which no response is necessary.

54. The allegation contained in paragraph 54 of Defendant's New Matter is a conclusion of law to which no response is necessary.

55. The allegation contained in paragraph 55 of Defendant's New Matter is a conclusion of law to which no response is necessary.

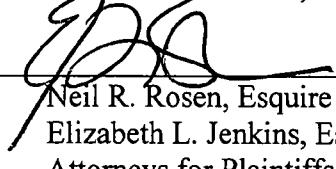
56. The allegation contained in paragraph 56 of Defendant's New Matter is a conclusion of law to which no response is necessary.

57. The allegation contained in paragraph 57 of Defendant's New Matter is a conclusion of law to which no response is necessary.

58. The allegation contained in paragraph 58 of Defendant's New Matter is a conclusion of law to which no response is necessary.

WHEREFORE, Plaintiffs request that judgment be entered in their favor as stated in Plaintiffs' Amended Complaint.

ROSEN LOUIK & PERRY, P.C.

By: 

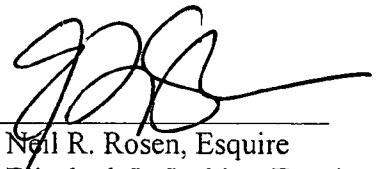
Neil R. Rosen, Esquire
Elizabeth L. Jenkins, Esquire
Attorneys for Plaintiffs

VERIFICATION

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

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

Date: June __, 2008



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

CERTIFICATE OF SERVICE

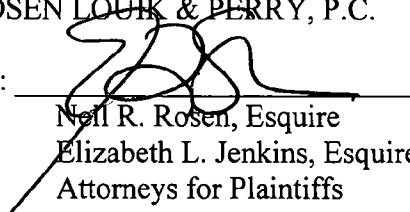
I hereby certify that a true and correct copy of the within PLAINTIFFS' REPLY TO NEW MATTER OF DEFENDANT, DUBOIS REGIONAL MEDICAL CENTER was served upon all counsel of record by United States first-class mail, postage prepaid, or hand delivery, on the th day of June, 2008, as follows:

Samuel H. Foreman, Esquire
Weber Gallagher Simpson
Stapleton Fires & Newby, LLP
Two Gateway Center, Suite 1450
603 Stanwix Street
Pittsburgh, PA 15222
(Counsel for Dr. Kosco)

Christopher C. Rulis, Esquire
Janet K. Meub, Esquire
O'Brien Rulis & Bochicchio, LLC
555 Grant Street, Suite 120
Pittsburgh, PA 15219
(Counsel for Dr. Boron)

Heather A. Herrington, Esquire
Rawle & Henderson, LLP
The Widener Building, 16th Floor
1339 Chestnut Street
Philadelphia, PA 19107
(Counsel for DuBois Regional)

ROSEN LOUIK & PERRY, P.C.

By: 

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

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY
PENNSYLVANIA

DEREK PREBBLE, a minor, by and through
his parents and natural guardians, LAVINA
and GERALD PREBBLE; and LAVINA and
GERALD PREBBLE, individually,

Plaintiffs,

vs.

GEORGE KOSCO, M.D.; ROBERT
BORON, M.D.; and DuBOIS REGIONAL
MEDICAL CENTER,

Defendants.

CIVIL ACTION—MEDICAL
PROFESSIONAL LIABILITY ACTION

Case No.: 07-619-CD

**PLAINTIFFS' OBJECTION TO
SUBPOENA PURSUANT TO RULE
4009.21**

Filed on behalf of PLAINTIFFS

Counsel for PLAINTIFFS:

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

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

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

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

JURY TRIAL DEMANDED

FILED NO CC.
M 10:30 AM
JUL 03 2008
WAS

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

DEREK PREBBLE, a minor, by and)
through his parents and natural guardians,)
LAVINA and GERALD PREBBLE; and)
LAVINA and GERALD PREBBLE,)
individually,)
Plaintiffs,)
vs.)
GEORGE KOSCO, M.D.; ROBERT)
BORON, M.D.; and DuBOIS REGIONAL)
MEDICAL CENTER,)
Defendants.)

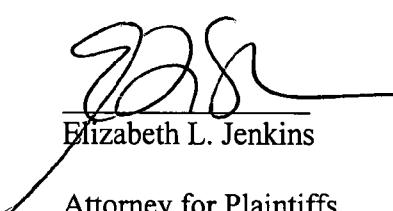
CIVIL ACTION—MEDICAL
PROFESSIONAL LIABILITY ACTION

Case No.: 07-619-CD

OBJECTIONS TO SUBPOENA PURSUANT TO RULE 4009.21

Plaintiffs object to the proposed subpoena that is attached to these objections for the following reasons: The records being sought contain privileged information that is in no way relevant to the pending action. To the extent that portions of said records are discoverable, Plaintiffs will provide the same upon receipt of the records by Plaintiffs.

July 1, 2008


Elizabeth L. Jenkins

Attorney for Plaintiffs

CERTIFICATE OF SERVICE

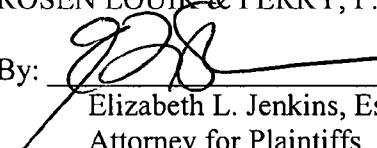
I hereby certify that a true and correct copy of the within PLAINTIFFS' OBJECTIONS TO SUBPOENA PURSUANT TO RULE 4009.21 was served upon all counsel of record by United States first-class mail, postage prepaid, or hand delivery, on the 1st day of July, 2008, as follows:

Samuel H. Foreman, Esquire
Weber Gallagher Simpson
Stapleton Fires & Newby, LLP
Two Gateway Center, Suite 1450
603 Stanwix Street
Pittsburgh, PA 15222
(Counsel for Dr. Kosco)

Christopher C. Rulis, Esquire
Janet K. Meub, Esquire
O'Brien Rulis & Bochicchio, LLC
555 Grant Street, Suite 120
Pittsburgh, PA 15219
(Counsel for Dr. Boron)

Heather A. Herrington, Esquire
Rawle & Henderson, LLP
The Widener Building, 16th Floor
1339 Chestnut Street
Philadelphia, PA 19107
(Counsel for DuBois Regional)

ROSEN LOUIK & PERRY, P.C.

By: 

Elizabeth L. Jenkins, Esquire
Attorney for Plaintiffs

COMMONWEALTH OF PENNSYLVANIA
COUNTY OF CLEARFIELD

IN THE MATTER OF:

COURT OF COMMON PLEAS

DEREK PREBBLE, A MINOR, ET AL

TERM,

-VS-

CASE NO: 07-619-CD

DUBOID REGIONAL MEDICAL CENTER, ET AL

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

SYKESVILLE ELEMENTARY SCHOOL	SCHOLASTIC
DUBOIS AREA MIDDLE SCHOOL	SCHOLASTIC
DUBOIS HIGH SCHOOL	SCHOLASTIC
JEFF TECH	SCHOLASTIC

TO: SAMUEL FOREMAN, ESQ.

NEIL ROSEN, ESQ., PLAINTIFF COUNSEL
TRACEY G. BENSON, ESQ.
CHRISTOPHER C. RULIS, ESQ.

MCS on behalf of JOHN SNYDER, ESQ. intends to serve a subpoena identical to the one that is attached to this notice. You have twenty (20) days from the date listed below in which to file of record and serve upon the undersigned an objection to the subpoena. If the twenty day notice period is waived or if no objection is made, then the subpoena may be served. Complete copies of any reproduced records may be ordered at your expense by completing the attached counsel card and returning same to MCS or by contacting our local MCS office.

DATE: 06/24/2008

MCS on behalf of

JOHN SNYDER, ESQ.

Attorney for DEFENDANT

CC: JOHN SNYDER, ESQ.

- 447,067

SAMUEL FOREMAN, ESQ.
603 STANWIX STREET
Any questions regarding this matter, contact
PITTSBURGH, PA 15222

THE MCS GROUP INC.

1601 MARKET STREET

#800

PHILADELPHIA, PA 19103

DE0220396244-060743-C05

COMMONWEALTH OF PENNSYLVANIA
COUNTY OF CLEARFIELD

Derek Prebble
Lavina Prebble
Gerald Prebble
Plaintiff(s)

Vs.

*

No. 2007-00619-CD

George Kosco MD
Robert Boron MD
DuBois Regional Medical Center
Defendant(s)

*

*

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

TO: CUSTODIAN OF RECORDS FOR: DUBOIS HIGH SCHOOL
(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:

SEE ATTACHED

MCS GROUP INC, 1601 MARKET ST, STE 800, PHILA PA 19103

(Address)

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

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

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

NAME: JOHN SNYDER, ESQ.

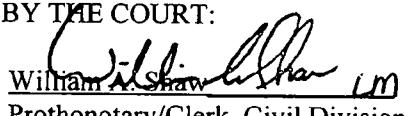
ADDRESS: THE WIDENER BLDG, ONE SO. PENN SQ
PHILA PA 19107

TELEPHONE: (215) 246-0900

SUPREME COURT ID #

ATTORNEY FOR: DEFENDANT

BY THE COURT:


William A. Shaw, Jr.
Prothonotary/Clerk, Civil Division

7/14/2008
DATE: Thursday, June 19, 2008

Seal of the Court

Deputy

EXPLANATION OF REQUIRED RECORDS

TO: CUSTODIAN OF RECORDS FOR:

DUBOIS HIGH SCHOOL
425 ORIENT AVENUE

DUBOIS, PA 15801

RE: 60743
DEREK PREBBLE

Prior approval is required for fees in excess of \$150.00 for hospitals, \$100.00 for all other providers.

Entire scholastic file, including but not limited to files, memoranda, correspondence, notes, records relating to attendance, student history and/or transfers, grades, merits, awards, disciplinary, medical/physicals, including any and all such items as may be stored in a computer database or otherwise in electronic form, pertaining to:

Dates Requested: up to and including the present.
Subject : DEREK PREBBLE

Social Security #: XXX-XX-4269
Date of Birth: 11-01-1989

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

DEREK PREBBLE, a minor, by and through his parents and natural guardians, LAVINA and GERALD PREBBLE; and LAVINA and GERALD PREBBLE, individually,

Plaintiffs,

vs.

GEORGE KOSCO, M.D.; ROBERT BORON, M.D.; and DuBOIS REGIONAL MEDICAL CENTER,

Defendants.

**CIVIL ACTION—MEDICAL
PROFESSIONAL LIABILITY ACTION**

Case No.: 07-619-CD

**PLAINTIFFS' OBJECTION TO
SUBPOENA PURSUANT TO RULE
4009.21**

Filed on behalf of PLAINTIFFS

Counsel for PLAINTIFFS:

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

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

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

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

JURY TRIAL DEMANDED

FILED No CC.
m 10:30am
JUL 03 2008 *[Signature]*

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

DEREK PREBBLE, a minor, by and)
through his parents and natural guardians,)
LAVINA and GERALD PREBBLE; and)
LAVINA and GERALD PREBBLE,)
individually,)
Plaintiffs,)
vs.)
GEORGE KOSCO, M.D.; ROBERT)
BORON, M.D.; and DuBOIS REGIONAL)
MEDICAL CENTER,)
Defendants.)

**CIVIL ACTION—MEDICAL
PROFESSIONAL LIABILITY ACTION**

Case No.: 07-619-CD

OBJECTIONS TO SUBPOENA PURSUANT TO RULE 4009.21

Plaintiffs object to the proposed subpoena that is attached to these objections for the following reasons: The records being sought contain privileged information that is in no way relevant to the pending action. To the extent that portions of said records are discoverable, Plaintiffs will provide the same upon receipt of the records by Plaintiffs.

July 1, 2008


Elizabeth L. Jenkins

Attorney for Plaintiffs

CERTIFICATE OF SERVICE

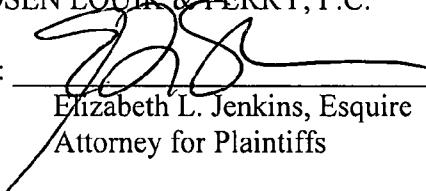
I hereby certify that a true and correct copy of the within PLAINTIFFS' OBJECTIONS TO SUBPOENA PURSUANT TO RULE 4009.21 was served upon all counsel of record by United States first-class mail, postage prepaid, or hand delivery, on the 1st day of July, 2008, as follows:

Samuel H. Foreman, Esquire
Weber Gallagher Simpson
Stapleton Fires & Newby, LLP
Two Gateway Center, Suite 1450
603 Stanwix Street
Pittsburgh, PA 15222
(Counsel for Dr. Kosco)

Christopher C. Rulis, Esquire
Janet K. Meub, Esquire
O'Brien Rulis & Bochicchio, LLC
555 Grant Street, Suite 120
Pittsburgh, PA 15219
(Counsel for Dr. Boron)

Heather A. Herrington, Esquire
Rawle & Henderson, LLP
The Widener Building, 16th Floor
1339 Chestnut Street
Philadelphia, PA 19107
(Counsel for DuBois Regional)

ROSEN LOUIK & PERRY, P.C.

By: 

Elizabeth L. Jenkins, Esquire
Attorney for Plaintiffs

COMMONWEALTH OF PENNSYLVANIA
COUNTY OF CLEARFIELD

IN THE MATTER OF:

COURT OF COMMON PLEAS

DEREK PREBBLE, A MINOR, ET AL

TERM,

-VS-

CASE NO: 07-619-CD

DUBOIS REGIONAL MEDICAL CENTER, ET AL

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

SYKESVILLE ELEMENTARY SCHOOL	SCHOLASTIC
DUBOIS AREA MIDDLE SCHOOL	SCHOLASTIC
DUBOIS HIGH SCHOOL	SCHOLASTIC
JEFF TECH	SCHOLASTIC

TO: CHRISTOPHER C. RULIS, ESQ.
NEIL ROSEN, ESQ., PLAINTIFF COUNSEL
TRACEY G. BENSON, ESQ.
SAMUEL FOREMAN, ESQ.

MCS on behalf of JOHN SNYDER, ESQ. intends to serve a subpoena identical to the one that is attached to this notice. You have twenty (20) days from the date listed below in which to file of record and serve upon the undersigned an objection to the subpoena. If the twenty day notice period is waived or if no objection is made, then the subpoena may be served. Complete copies of any reproduced records may be ordered at your expense by completing the attached counsel card and returning same to MCS or by contacting our local MCS office.

DATE: 06/24/2008

MCS on behalf of

JOHN SNYDER, ESQ.
Attorney for DEFENDANT

CC: JOHN SNYDER, ESQ. - 447,067

CHRISTOPHER C. RULIS, ESQ.
555 GRANT STREET
Any questions regarding this matter, contact
PITTSBURGH, PA 15219

THE MCS GROUP INC.
1601 MARKET STREET
#800
PHILADELPHIA, PA 19103
DE0220596218-600743-C04

COMMONWEALTH OF PENNSYLVANIA
COUNTY OF CLEARFIELD

Derek Prebble
Lavina Prebble
Gerald Prebble
Plaintiff(s)

Vs.

*

No. 2007-00619-CD

George Kosco MD
Robert Boron MD
DuBois Regional Medical Center
Defendant(s)

*

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

TO: CUSTODIAN OF RECORDS FOR: DUBOIS AREA MIDDLE SCHOOL
(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:

SEE ATTACHED

MCS GROUP INC, 1601 MARKET ST, STE 800, PHILA PA 19103

(Address)

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

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

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

NAME: JOHN SNYDER, ESQ.

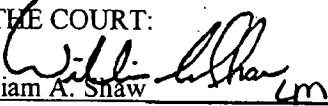
ADDRESS: THE WIDENER BLDG, ONE SO. PENN SQ
PHILA PA 19107

TELEPHONE: (215) 246-0900

SUPREME COURT ID #

ATTORNEY FOR: DEFENDANT

BY THE COURT:


William A. Shaw

Prothonotary/Clerk, Civil Division

7/14/2008

DATE: Thursday, June 19, 2008

Seal of the Court

Deputy

EXPLANATION OF REQUIRED RECORDS

TO: CUSTODIAN OF RECORDS FOR:

DUBOIS AREA MIDDLE SCHOOL
404 LIBERTY BLVD.

DUBOIS, PA 15801

RE: 60743
DEREK PREBBLE

Prior approval is required for fees in excess of \$150.00 for hospitals, \$100.00 for all other providers.

Entire scholastic file, including but not limited to files, memoranda, correspondence, notes, records relating to attendance, student history and/or transfers, grades, merits, awards, disciplinary, medical/physicals, including any and all such items as may be stored in a computer database or otherwise in electronic form, pertaining to:

Dates Requested: up to and including the present.
Subject : DEREK PREBBLE

Social Security #: XXX-XX-4269
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**IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY
PENNSYLVANIA**

DEREK PREBBLE, a minor, by and through his parents and natural guardians, LAVINA and GERALD PREBBLE; and LAVINA and GERALD PREBBLE, individually,

CIVIL ACTION—MEDICAL
PROFESSIONAL LIABILITY ACTION

Case No.: 07-619-CD

Plaintiffs,

vs.

GEORGE KOSCO, M.D.; ROBERT BORON, M.D.; and DuBOIS REGIONAL MEDICAL CENTER,

**PLAINTIFFS' OBJECTION TO
SUBPOENA PURSUANT TO RULE
4009.21**

Filed on behalf of PLAINTIFFS

Defendants.

Counsel for PLAINTIFFS:

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

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

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

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

JURY TRIAL DEMANDED

FILED NOCC.
10.30 cm
JUL 03 2008
WAS

William A. Shaw
Prothonotary/Clerk of Courts

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

OBJECTIONS TO SUBPOENA PURSUANT TO RULE 4009.21

Plaintiffs object to the proposed subpoena that is attached to these objections for the following reasons: The records being sought contain privileged information that is in no way relevant to the pending action. To the extent that portions of said records are discoverable, Plaintiffs will provide the same upon receipt of the records by Plaintiffs.

July 1, 2008

Elizabeth L. Jenkins

Attorney for Plaintiffs

CERTIFICATE OF SERVICE

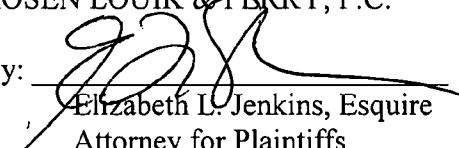
I hereby certify that a true and correct copy of the within PLAINTIFFS' OBJECTIONS TO SUBPOENA PURSUANT TO RULE 4009.21 was served upon all counsel of record by United States first-class mail, postage prepaid, or hand delivery, on the 1st day of July, 2008, as follows:

Samuel H. Foreman, Esquire
Weber Gallagher Simpson
Stapleton Fires & Newby, LLP
Two Gateway Center, Suite 1450
603 Stanwix Street
Pittsburgh, PA 15222
(Counsel for Dr. Kosco)

Christopher C. Rulis, Esquire
Janet K. Meub, Esquire
O'Brien Rulis & Bochicchio, LLC
555 Grant Street, Suite 120
Pittsburgh, PA 15219
(Counsel for Dr. Boron)

Heather A. Herrington, Esquire
Rawle & Henderson, LLP
The Widener Building, 16th Floor
1339 Chestnut Street
Philadelphia, PA 19107
(Counsel for DuBois Regional)

ROSEN LOUIK & PERRY, P.C.

By: 

Elizabeth L. Jenkins, Esquire
Attorney for Plaintiffs

COMMONWEALTH OF PENNSYLVANIA
COUNTY OF CLEARFIELD

IN THE MATTER OF:

COURT OF COMMON PLEAS

DEREK PREBBLE, A MINOR, ET AL

TERM,

-VS-

CASE NO: 07-619-CD

DUBOIS REGIONAL MEDICAL CENTER, ET AL

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

SYKESVILLE ELEMENTARY SCHOOL	SCHOLASTIC
DUBOIS AREA MIDDLE SCHOOL	SCHOLASTIC
DUBOIS HIGH SCHOOL	SCHOLASTIC
JEFF TECH	SCHOLASTIC

TO: TRACEY G. BENSON, ESQ.
NEIL ROSEN, ESQ., PLAINTIFF COUNSEL
CHRISTOPHER C. RULIS, ESQ.
SAMUEL FOREMAN, ESQ.

MCS on behalf of JOHN SNYDER, ESQ. intends to serve a subpoena identical to the one that is attached to this notice. You have twenty (20) days from the date listed below in which to file of record and serve upon the undersigned an objection to the subpoena. If the twenty day notice period is waived or if no objection is made, then the subpoena may be served. Complete copies of any reproduced records may be ordered at your expense by completing the attached counsel card and returning same to MCS or by contacting our local MCS office.

DATE: 06/24/2008

MCS on behalf of

JOHN SNYDER, ESQ.
Attorney for DEFENDANT

CC: JOHN SNYDER, ESQ.

- 447,067

TRACEY G. BENSON, ESQ.
124 NORTH ALLEGHENY ST.
Any questions regarding this matter, contact
BELLEFONTE, PA 16823

THE MCS GROUP INC.
1601 MARKET STREET
#800
PHILADELPHIA, PA 19103
DE0220596248-060743-C02

COMMONWEALTH OF PENNSYLVANIA
COUNTY OF CLEARFIELD

Derek Prebble
Lavina Prebble
Gerald Prebble
Plaintiff(s)

Vs.

*

No. 2007-00619-CD

George Kosco MD
Robert Boron MD
DuBois Regional Medical Center
Defendant(s)

*

*

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

TO: CUSTODIAN OF RECORDS FOR: SYKESVILLE ELEMENTARY SCHOOL
(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:

SEE ATTACHED

MCS GROUP INC, 1601 MARKET ST, STE 800, PHILA PA 19103

(Address)

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

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

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

NAME: JOHN SNYDER, ESQ.

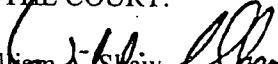
ADDRESS: THE WIDENER BLDG, ONE SO. PENN SQ
PHILA PA 19107

TELEPHONE: (215) 246-0900

SUPREME COURT ID #

ATTORNEY FOR: DEFENDANT

BY THE COURT:


William A. Shanahan
Prothonotary/Clerk, Civil Division

7/14/2008

DATE: Thursday, June 19, 2008

Seal of the Court

Deputy

EXPLANATION OF REQUIRED RECORDS

TO: CUSTODIAN OF RECORDS FOR:

SYKESVILLE ELEMENTARY SCHOOL
1100 SYKESVILLE SCHOOL RD

REYNOLDSVILLE, PA 15851

RE: 60743
DEREK PREBBLE

Prior approval is required for fees in excess of \$150.00 for hospitals, \$100.00 for all other providers.

Entire scholastic file, including but not limited to files, memoranda, correspondence, notes, records relating to attendance, student history and/or transfers, grades, merits, awards, disciplinary, medical/physicals, including any and all such items as may be stored in a computer database or otherwise in electronic form, pertaining to:

Dates Requested: up to and including 99-09-9999.
Subject : DEREK PREBBLE

Social Security #: XXX-XX-4269
Date of Birth: 11-01-1989

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY
PENNSYLVANIA

DEREK PREBBLE, a minor, by and through
his parents and natural guardians, LAVINA
and GERALD PREBBLE; and LAVINA and
GERALD PREBBLE, individually,

CIVIL ACTION—MEDICAL
PROFESSIONAL LIABILITY ACTION

Case No.: 07-619-CD

Plaintiffs,

vs.

GEORGE KOSCO, M.D.; ROBERT
BORON, M.D.; and DuBOIS REGIONAL
MEDICAL CENTER,

**PLAINTIFFS' OBJECTION TO
SUBPOENA PURSUANT TO RULE
4009.21**

Filed on behalf of PLAINTIFFS

Counsel for PLAINTIFFS:

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

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

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

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

JURY TRIAL DEMANDED

FILED No CC
by 10:30 am
JUL 03 2008
William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

DEREK PREBBLE, a minor, by and)
through his parents and natural guardians,)
LAVINA and GERALD PREBBLE; and)
LAVINA and GERALD PREBBLE,)
individually,)
Plaintiffs,)
vs.)
GEORGE KOSCO, M.D.; ROBERT)
BORON, M.D.; and DuBOIS REGIONAL)
MEDICAL CENTER,)
Defendants.)

**CIVIL ACTION—MEDICAL
PROFESSIONAL LIABILITY ACTION**

Case No.: 07-619-CD

OBJECTIONS TO SUBPOENA PURSUANT TO RULE 4009.21

Plaintiffs object to the proposed subpoena that is attached to these objections for the following reasons: The records being sought contain privileged information that is in no way relevant to the pending action. To the extent that portions of said records are discoverable, Plaintiffs will provide the same upon receipt of the records by Plaintiffs.

July 1, 2008



Elizabeth L. Jenkins

Attorney for Plaintiffs

CERTIFICATE OF SERVICE

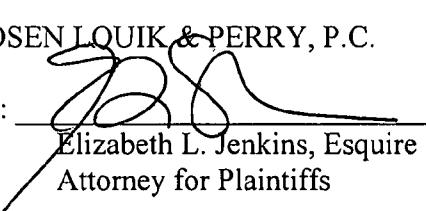
I hereby certify that a true and correct copy of the within PLAINTIFFS' OBJECTIONS TO SUBPOENA PURSUANT TO RULE 4009.21 was served upon all counsel of record by United States first-class mail, postage prepaid, or hand delivery, on the 1st day of July, 2008, as follows:

Samuel H. Foreman, Esquire
Weber Gallagher Simpson
Stapleton Fires & Newby, LLP
Two Gateway Center, Suite 1450
603 Stanwix Street
Pittsburgh, PA 15222
(Counsel for Dr. Kosco)

Christopher C. Rulis, Esquire
Janet K. Meub, Esquire
O'Brien Rulis & Bochicchio, LLC
555 Grant Street, Suite 120
Pittsburgh, PA 15219
(Counsel for Dr. Boron)

Heather A. Herrington, Esquire
Rawle & Henderson, LLP
The Widener Building, 16th Floor
1339 Chestnut Street
Philadelphia, PA 19107
(Counsel for DuBois Regional)

ROSEN LOUIK & PERRY, P.C.

By: 

Elizabeth L. Jenkins, Esquire
Attorney for Plaintiffs

COMMONWEALTH OF PENNSYLVANIA
COUNTY OF CLEARFIELD

IN THE MATTER OF:

COURT OF COMMON PLEAS

DEREK PREBBLE, A MINOR, ET AL

TERM,

-VS-

CASE NO: 07-619-CD

DUBOIS REGIONAL MEDICAL CENTER, ET AL

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

SYKESVILLE ELEMENTARY SCHOOL	SCHOLASTIC
DUBOIS AREA MIDDLE SCHOOL	SCHOLASTIC
DUBOIS HIGH SCHOOL	SCHOLASTIC
JEFF TECH	SCHOLASTIC

TO: NEIL ROSEN, ESQ., PLAINTIFF COUNSEL
TRACEY G. BENSON, ESQ.
CHRISTOPHER C. RULIS, ESQ.
SAMUEL FOREMAN, ESQ.

MCS on behalf of JOHN SNYDER, ESQ. intends to serve a subpoena identical to the one that is attached to this notice. You have twenty (20) days from the date listed below in which to file of record and serve upon the undersigned an objection to the subpoena. If the twenty day notice period is waived or if no objection is made, then the subpoena may be served. Complete copies of any reproduced records may be ordered at your expense by completing the attached counsel card and returning same to MCS or by contacting our local MCS office.

DATE: 06/24/2008

MCS on behalf of

JOHN SNYDER, ESQ.
Attorney for DEFENDANT

CC: JOHN SNYDER, ESQ. - 447,067

NEIL ROSEN, ESQ.
THE FRICK BUILDING
Any ~~GRANTIS~~ regarding this matter, contact
PITTSBURGH, PA 15219

THE MCS GROUP INC.
1601 MARKET STREET
#800
PHILADELPHIA, PA 19103
DE0220896245-060743-C01

COMMONWEALTH OF PENNSYLVANIA
COUNTY OF CLEARFIELD

Derek Prebble
Lavina Prebble
Gerald Prebble
Plaintiff(s)

Vs.

*

George Kosco MD
Robert Boron MD
DuBois Regional Medical Center
Defendant(s)

*

No. 2007-00619-CD

*

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

TO: CUSTODIAN OF RECORDS FOR: JEFF TECH
(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:

SEE ATTACHED

MCS GROUP INC, 1601 MARKET ST, STE 800, PHILA PA 19103

(Address)

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

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

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

NAME: JOHN SNYDER, ESQ.

ADDRESS: THE WIDENER BLDG, ONE SO. PENN SQ
PHILA PA 19107

TELEPHONE: (215) 246-0900

SUPREME COURT ID #

ATTORNEY FOR: DEFENDANT

BY THE COURT:


William A. Shaw
Prothonotary/Clerk, Civil Division

7/14/2008

DATE: Thursday, June 19, 2008

Seal of the Court

Deputy

EXPLANATION OF REQUIRED RECORDS

TO: CUSTODIAN OF RECORDS FOR:

JEFF TECH
576 VO TECH ROAD

REYNOLDSVILLE, PA 15851

RE: 60743
DEREK PREBBLE

Prior approval is required for fees in excess of \$150.00 for hospitals, \$100.00 for all other providers.

Entire scholastic file, including but not limited to files, memoranda, correspondence, notes, records relating to attendance, student history and/or transfers, grades, merits, awards, disciplinary, medical/physicals, including any and all such items as may be stored in a computer database or otherwise in electronic form, pertaining to:

Dates Requested: up to and including the present.
Subject : DEREK PREBBLE

Social Security #: XXX-XX-4269
Date of Birth: 11-01-1989

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

DEREK PREBBLE, A MINOR,
BY AND THROUGH HIS PARENTS
AND NATURAL GUARDIANS,
LAVINA AND GERALD PREBBLE,
AND
LAVINA AND GERALD PREBBLE,
INDIVIDUALLY

PLAINTIFFS

v.

GEORGE KOSCO, M.D.,
ROBERT BORON, M.D.,
AND DUBOIS REGIONAL MEDICAL
CENTER

DEFENDANTS

CIVIL ACTION - MEDICAL
PROFESSIONAL LIABILITY
ACTION

FILED

CASE NO. 07-619-CD

CODE: 007

JUL 21 2008
m 10:15 AM (60)
William A. Shaw
Prothonotary/Clerk of Courts
1 cent to ATR

PRAECIPE TO SUBSTITUTE
VERIFICATION

COUNSEL FOR DUBOIS
REGIONAL MEDICAL CENTER

Heather A. Herrington, Esquire
Pa. I.D. No. 92579
John J. Snyder, Esquire
Pa. I.D. No. 22751

RAWLE & HENDERSON, LLP.
The Widener Building
1339 Chestnut Street, 16th Floor
Philadelphia, PA 19107
(215) 575-4200

JURY TRIAL DEMANDED

PRAECIPE TO SUBSTITUTE VERIFICATION

TO: Prothonotary of Clearfield County:

Kindly substitute the within Verification of Gregory J. Volpe for the Verification
appended to the Answer to Plaintiffs' Amended Complaint with New Matter filed on

behalf of Defendant, DuBois Regional Medical Center, in the above-captioned case on
June 25, 2008.

Respectfully submitted,

RAWLE & HENDERSON LLP

By:


John J. Snyder, Esquire

Heather A. Herrington, Esquire

Attorneys for Defendant

DuBois Regional Medical Center

Date: 7/16/08

CERTIFICATE OF SERVICE

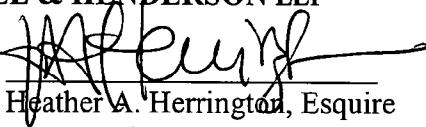
I hereby certify that a true and correct copy of the foregoing Praeclipe to Substitute the Verification of Defendant, DuBois Regional Medical Center, to its Answer to Plaintiffs' Amended Complaint with New Matter were sent by first-class United States mail, postage prepaid, to the following listed below.

Neil Rosen, Esquire
Rosen Louik & Perry, P.C.
Suite 200, The Frick Building
437 Grant Street
Pittsburgh, PA 15219
412-281-4200
Attorney for Plaintiffs

Christopher C. Rulis, Esquire
Janet Meub, Esquire
O'Brien Rulis & Bochicchio, LLC
555 Grant Street, Suite 120
Pittsburgh, PA 15219
412-904-5214
Attorney for Defendant,
Robert Boron, M.D.

Samuel H. Foreman, Esquire
Weber Gallagher Simpson
Stapleton Fires & Newby, LLP
Two Gateway Center
603 Stanwix Street
Suite 1450
Pittsburgh PA 15222
412-281-4541
412-281-4547 (FAX)
Attorney for Dr. Kosco

RAWLE & HENDERSON LLP

By: 

Heather A. Herrington, Esquire
Attorney for Defendant
DuBois Regional Medical Center

Dated: July 16, 2008

VERIFICATION

Gregory J. Volpe verifies that he is authorized to make this verification on behalf of Defendant, DuBois Regional Medical Center, and that the facts set forth in the foregoing Answer to Plaintiffs' Amended Complaint is true and correct to the best of his information, knowledge and belief. It is understood that the statements therein are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.


Gregory J. Volpe

Date:  June 23, 2008

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY
PENNSYLVANIA

DEREK PREBBLE, a minor, by and through his parents and natural guardians, LAVINA and GERALD PREBBLE; and LAVINA and GERALD PREBBLE, individually,

Plaintiffs,

vs.

GEORGE KOSCO, M.D.; ROBERT BORON, M.D.; and DuBOIS REGIONAL MEDICAL CENTER,

Defendants.

CIVIL ACTION—MEDICAL PROFESSIONAL LIABILITY ACTION

Case No.: 07-619-CD

PLAINTIFFS' NOTICE OF SERVICE OF REQUEST TO DEFENDANT DUBOIS REGIONAL MEDICAL CENTER FOR PRODUCTION OF EXPERT REPORTS

Filed on behalf of PLAINTIFFS

Counsel for PLAINTIFFS:

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

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

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

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

JURY TRIAL DEMANDED

FILED NO CC

M 110:43 PM
AUG 07 2009

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

DEREK PREBBLE, a minor, by and	)	CIVIL ACTION—MEDICAL
through his parents and natural guardians,	)	PROFESSIONAL LIABILITY ACTION
LAVINA and GERALD PREBBLE; and)	
LAVINA and GERALD PREBBLE,)	
individually,)	
)	
Plaintiffs,)	
)	
vs.	)	Case No.: 07-619-CD
)	
GEORGE KOSCO, M.D.; ROBERT)	
BORON, M.D.; and DuBOIS REGIONAL)	
MEDICAL CENTER,)	
)	
Defendants.)	

**PLAINTIFFS' NOTICE OF SERVICE OF REQUEST TO DEFENDANT DUBOIS
REGIONAL MEDICAL CENTER FOR PRODUCTION OF EXPERT REPORTS**

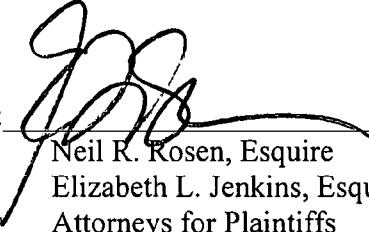
I, ELIZABETH L. JENKINS, ESQUIRE, hereby certify that pursuant to Pa.R.C.P. No. 1042.26(b) and Local Rule #4003.5, Plaintiffs' Request to Defendant DuBois Regional Medical Center for Production of Expert Reports was forwarded to counsel for Defendant via United States first-class mail, postage pre-paid, hand delivery or facsimile on the 4th day of August, 2009, as follows:

Christopher C. Rulis, Esquire
O'Brien Rulis & Bochicchio, LLC
555 Grant Street, Suite 120
Pittsburgh, PA 15219
(Attorneys for Robert J. Boron, M.D.)

Samuel H. Foreman, Esquire
Weber Gallagher Simpson
Stapleton Fires & Newby, LLP
Two Gateway Center, Suite 1450
603 Stanwix Street
Pittsburgh, PA 15222
(Attorneys for George M. Kosco, M.D.)

Heather A. Herrington, Esquire
Rawle & Henderson, LLP
The Widener Building, 16th Floor
1339 Chestnut Street
Philadelphia, PA 19107
(Attorneys for DuBois Regional Medical Center)

ROSEN LOUIK & PERRY, P.C.

By: 

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

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY
PENNSYLVANIA

DEREK PREBBLE, a minor, by and through his parents and natural guardians, LAVINA and GERALD PREBBLE; and LAVINA and GERALD PREBBLE, individually,

Plaintiffs,

vs.

GEORGE KOSCO, M.D.; ROBERT BORON, M.D.; and DuBOIS REGIONAL MEDICAL CENTER,

Defendants.

CIVIL ACTION—MEDICAL PROFESSIONAL LIABILITY ACTION

Case No.: 07-619-CD

PLAINTIFFS' NOTICE OF SERVICE OF REQUEST TO DEFENDANT GEORGE M. KOSCO, M.D. FOR PRODUCTION OF EXPERT REPORTS

Filed on behalf of PLAINTIFFS

Counsel for PLAINTIFFS:

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

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

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

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

JURY TRIAL DEMANDED

FILED
M 10:43 AM
AUG 07 2008
NO CC
S

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

DEREK PREBBLE, a minor, by and	)	CIVIL ACTION—MEDICAL
through his parents and natural guardians,	)	PROFESSIONAL LIABILITY ACTION
LAVINA and GERALD PREBBLE; and)	
LAVINA and GERALD PREBBLE,)	
individually,)	
)	
Plaintiffs,)	
)	
vs.	)	Case No.: 07-619-CD
)	
GEORGE KOSCO, M.D.; ROBERT)	
BORON, M.D.; and DuBOIS REGIONAL)	
MEDICAL CENTER,)	
)	
Defendants.)	

PLAINTIFFS' NOTICE OF SERVICE OF REQUEST TO DEFENDANT
GEORGE M. KOSCO, M.D. FOR PRODUCTION OF EXPERT REPORTS

I, ELIZABETH L. JENKINS, ESQUIRE, hereby certify that pursuant to Pa.R.C.P. No. 1042.26(b) and Local Rule #4003.5, Plaintiffs' Request to Defendant George M. Kosco, M.D. for Production of Expert Reports was forwarded to counsel for Defendant via United States first-class mail, postage pre-paid, hand delivery or facsimile on the 4th day of August, 2009, as follows:

Christopher C. Rulis, Esquire
O'Brien Rulis & Bochicchio, LLC
555 Grant Street, Suite 120
Pittsburgh, PA 15219
(Attorneys for Robert J. Boron, M.D.)

Samuel H. Foreman, Esquire
Weber Gallagher Simpson
Stapleton Fires & Newby, LLP
Two Gateway Center, Suite 1450
603 Stanwix Street
Pittsburgh, PA 15222
(Attorneys for George M. Kosco, M.D.)

Heather A. Herrington, Esquire
Rawle & Henderson, LLP
The Widener Building, 16th Floor
1339 Chestnut Street
Philadelphia, PA 19107
(Attorneys for DuBois Regional Medical Center)

ROSEN LOUIK & PERRY, P.C.

By: 

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

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY
PENNSYLVANIA

DEREK PREBBLE, a minor, by and through his parents and natural guardians, LAVINA and GERALD PREBBLE; and LAVINA and GERALD PREBBLE, individually,

Plaintiffs,

vs.

GEORGE KOSCO, M.D.; ROBERT BORON, M.D.; and DuBOIS REGIONAL MEDICAL CENTER,

Defendants.

CIVIL ACTION—MEDICAL PROFESSIONAL LIABILITY ACTION

Case No.: 07-619-CD

PLAINTIFFS' NOTICE OF SERVICE OF REQUEST TO DEFENDANT ROBERT. J. BORON, M.D. FOR PRODUCTION OF EXPERT REPORTS

Filed on behalf of PLAINTIFFS

Counsel for PLAINTIFFS:

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

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

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

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

JURY TRIAL DEMANDED

FILED
M10:4384
AUG 07 2009
NO CC

5
William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

DEREK PREBBLE, a minor, by and	)	CIVIL ACTION—MEDICAL
through his parents and natural guardians,	)	PROFESSIONAL LIABILITY ACTION
LAVINA and GERALD PREBBLE; and)	
LAVINA and GERALD PREBBLE,)	
individually,)	
)	
Plaintiffs,)	
)	
vs.	)	Case No.: 07-619-CD
)	
GEORGE KOSCO, M.D.; ROBERT)	
BORON, M.D.; and DuBOIS REGIONAL)	
MEDICAL CENTER,)	
)	
Defendants.)	

PLAINTIFFS' NOTICE OF SERVICE OF REQUEST TO DEFENDANT
ROBERT J. BORON, M.D. FOR PRODUCTION OF EXPERT REPORTS

I, ELIZABETH L. JENKINS, ESQUIRE, hereby certify that pursuant to Pa.R.C.P. No. 1042.26(b) and Local Rule #4003.5, Plaintiffs' Request to Defendant Robert J. Boron, M.D. for Production of Expert Reports was forwarded to counsel for Defendant via United States first-class mail, postage pre-paid, hand delivery or facsimile on the 4th day of August 2009, as follows:

Christopher C. Rulis, Esquire
O'Brien Rulis & Bochicchio, LLC
555 Grant Street, Suite 120
Pittsburgh, PA 15219
(Attorneys for Robert J. Boron, M.D.)

Samuel H. Foreman, Esquire
Weber Gallagher Simpson
Stapleton Fires & Newby, LLP
Two Gateway Center, Suite 1450
603 Stanwix Street
Pittsburgh, PA 15222
(Attorneys for George M. Kosco, M.D.)

Heather A. Herrington, Esquire
Rawle & Henderson, LLP
The Widener Building, 16th Floor
1339 Chestnut Street
Philadelphia, PA 19107
(Attorneys for DuBois Regional Medical Center)

ROSEN LOUIK & PERRY, P.C.

By: 

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

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

**DEREK PREBBLE, A MINOR,
BY AND THROUGH HIS PARENTS
AND NATURAL GUARDIANS,
LAVINA AND GERALD PREBBLE,
AND
LAVINA AND GERALD PREBBLE,
INDIVIDUALLY**

PLAINTIFFS

v.

**GEORGE KOSCO, M.D.,
ROBERT BORON, M.D.,
AND DUBOIS REGIONAL MEDICAL
CENTER**

DEFENDANTS

**CIVIL ACTION – MEDICAL
PROFESSIONAL LIABILITY
ACTION**

CASE NO. 07-619-CD

CODE: 007

STIPULATION TO DISMISS

**COUNSEL FOR DUBOIS
REGIONAL MEDICAL CENTER**

Heather A. Herrington, Esquire
Pa. I.D. No. 92579
John J. Snyder, Esquire
Pa. I.D. No. 22751
RAWLE & HENDERSON, LLP.
The Widener Building
1339 Chestnut Street, 16th Floor
Philadelphia, PA 19107
(215) 575-4200

STIPULATION TO DISMISS

It is hereby Stipulated and Agreed among the undersigned counsel that Defendant, Dubois Regional Medical Center, shall be voluntarily dismissed from the above matter. This Stipulation may be executed in counterparts, the sum of which shall constitute a valid original.

By:


 Neil R. Rosen, Esquire
 Elizabeth L. Jenkins, Esquire
 ROSEN LOUIK & PERRY, P.C.
 Counsel for Plaintiffs

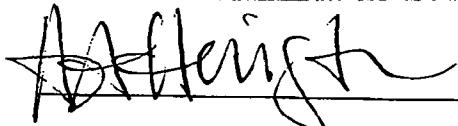
Date: 9/7/10

S
FILED
 3/11/39/2011
 SEP 09 2010
 NO CC
 William A. Shan
 Prothonotary/Clerk of Courts
 (13)

By: _____

Date: _____

Neil R. Rosen, Esquire
Elizabeth L. Jenkins, Esquire
ROSEN LOUIK & PERRY, P.C.
Counsel for Plaintiffs

By: Date: 8/23/10

Heather Herrington, Esq.
Jack Snyder, Esq.
RAWLE & HENDERSON LLP
Counsel for Defendant DRMC

By: 

Date: _____

Marissa Andreen, Esq.
Christopher Rulis, Esq.
O'Brien, Rulis & Bochicchio, LLC
Counsel for Defendant Dr. Boron

By: _____

Date: _____

Deborah A. Kane, Esq.
Samuel H. Foreman, Esquire
Weber Gallagher Simpson
Counsel for Defendant Dr. Kosco

By: _____

Date: _____

Neil R. Rosen, Esquire
Elizabeth L. Jenkins, Esquire
ROSEN LOUIK & PERRY, P.C.
Counsel for Plaintiffs

By: Date: 8/23/10

Heather Herrington, Esq.
Jack Snyder, Esq.
RAWLE & HENDERSON LLP
Counsel for Defendant DRMC

By: _____

Date: _____

Marissa Andreen, Esq.
Christopher Rulis, Esq.
O'Brien, Rulis & Bochicchio, LLC
Counsel for Defendant Dr. Boron

By: Date: 8/31/10

Deborah A. Kane, Esq.
Samuel H. Foreman, Esquire
Weber Gallagher Simpson
Counsel for Defendant Dr. Kosco

FILED
SEP 09 2010
William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY
PENNSYLVANIA

DEREK PREBBLE, a minor, by and through
his parents and natural guardians, LAVINA
and GERALD PREBBLE; and LAVINA and
GERALD PREBBLE, individually,

Plaintiffs,

vs.

GEORGE KOSCO, M.D.; ROBERT
BORON, M.D.; and DuBOIS REGIONAL
MEDICAL CENTER,

Defendants.

CIVIL ACTION—MEDICAL
PROFESSIONAL LIABILITY ACTION

Case No.: 07-619-CD

**PLAINTIFFS' SUGGESTION OF
MAJORITY**

Filed on behalf of PLAINTIFFS

Counsel for PLAINTIFFS:

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

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

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

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

JURY TRIAL DEMANDED

FILED *NO CC*
S *11/2/36 BY*
SEP 24 2010 *W*
William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DEREK PREBBLE, a minor, by and)	CIVIL ACTION—MEDICAL PROFESSIONAL LIABILITY ACTION
through his parents and natural guardians,)	
LAVINA and GERALD PREBBLE; and)	
LAVINA and GERALD PREBBLE,)	
individually, •)	
)	Case No.: 07-619-CD
Plaintiffs,)	
)	
vs.)	
)	Case No.: 07-619-CD
GEORGE KOSCO, M.D.; ROBERT)	
BORON, M.D.; and DuBOIS REGIONAL)	
MEDICAL CENTER,)	
)	Case No.: 07-619-CD
Defendants.)	

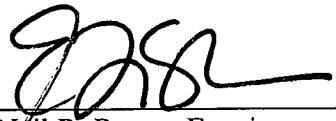
PLAINTIFFS' SUGGESTION OF MAJORITY

AND NOW, come Plaintiffs, Derek Prebble, a minor, by and through his parents and natural guardians, Lavina and Gerald Prebble; and Lavina and Gerald Prebble, individually (“Plaintiffs”), by and through their attorneys, ROSEN LOUIK & PERRY, P.C., and file this Suggestion of Majority, averring as follows:

1. In this Civil Action, Plaintiffs are seeking to recover damages based upon personal injuries sustained by Derek Prebble.
2. When this Civil Action was commenced on or about April 20, 2007 by filing a Complaint in Civil Action, Derek Prebble was a minor (DOB 11/01/1989).
3. As of November 1, 2007, Derek Prebble turned eighteen years of age, attaining the age of majority in Pennsylvania, thereby removing all legal disabilities attendant to minor children.

Respectfully submitted,

ROSEN LOUIK & PERRY, P.C.



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

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the within PLAINTIFFS' SUGGESTION OF MAJORITY was served upon all counsel of record by United States first-class mail, postage prepaid, or hand delivery, on the 21st day of September, 2010, as follows:

Samuel H. Foreman, Esquire
Weber Gallagher Simpson
Stapleton Fires & Newby, LLP
Two Gateway Center, Suite 1450
603 Stanwix Street
Pittsburgh, PA 15222
(Counsel for Dr. Kosco)

Christopher C. Rulis, Esquire
Janet K. Meub, Esquire
O'Brien Rulis & Bochicchio, LLC
555 Grant Street, Suite 120
Pittsburgh, PA 15219
(Counsel for Dr. Boron)

Heather A. Herrington, Esquire
Rawle & Henderson, LLP
The Widener Building, 16th Floor
1339 Chestnut Street
Philadelphia, PA 19107
(Counsel for DuBois Regional)

ROSEN LOUIK & PERRY, P.C.

By: 

Neil R. Rosen, Esquire
Elizabeth L. Jenkins, Esquire
Attorney for Plaintiffs

FILED

SEP 24 2010

William A. Straw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY
PENNSYLVANIA

DEREK PREBBLE, a minor, by and through his parents and natural guardians, LAVINA and GERALD PREBBLE; and LAVINA and GERALD PREBBLE, individually,

Plaintiffs,

vs.

GEORGE KOSCO, M.D.; ROBERT BORON, M.D.; and DuBOIS REGIONAL MEDICAL CENTER,

Defendants.

CIVIL ACTION—MEDICAL PROFESSIONAL LIABILITY ACTION

Case No.: 07-619-CD

**PRAECLYPE TO SETTLE AND
DISCONTINUE**

Filed on behalf of PLAINTIFFS

Counsel for PLAINTIFFS:

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

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

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

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

JURY TRIAL DEMANDED

FILED
MILLION
S JAN 14 2011
NOCC
William A. Shaw
Prothonotary/Clerk of Courts
Copy to CIA
(60)

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

DEREK PREBBLE, a minor, by and) CIVIL ACTION—MEDICAL
through his parents and natural guardians,) PROFESSIONAL LIABILITY ACTION
LAVINA and GERALD PREBBLE; and)
LAVINA and GERALD PREBBLE,)
individually,)
Plaintiffs,)
vs.) Case No.: 07-619-CD
GEORGE KOSCO, M.D.; ROBERT)
BORON, M.D.; and DUBOIS REGIONAL)
MEDICAL CENTER,)
Defendants.)

PRAECIPE TO SETTLE AND DISCONTINUE

TO: PROTHONOTARY

KINDLY dismiss and mark this case Settled and Discontinued on the Court docket, on behalf of the Plaintiffs, in connection with the above-captioned matter.

ROSEN LOUIK & PERRY, P.C.

January 12, 2011

By: 

Neil R. Rosen, Esquire

Elizabeth L. Jenkins, Esquire
Attorneys for Plaintiffs

CERTIFICATE OF SERVICE

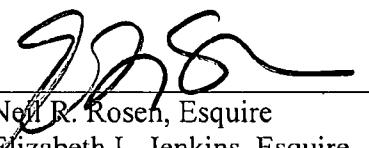
I hereby certify that a true and correct copy of the within PRAECIPE TO
SETTLE AND DISCNTINUE was served upon all counsel of record by United States
first-class mail, post prepaid, facsimile or hand-delivery, on the 12 day of January, 2011,
as follows:

Samuel H. Foreman, Esquire
Weber Gallagher Simpson
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(Counsel for Dr. Kosco)

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(Counsel for DuBois Regional)

ROSEN LOUIK & PERRY, P.C.

By: 

Neil R. Rosen, Esquire
Elizabeth L. Jenkins, Esquire
Attorney for Plaintiffs

FILED

JAN 14 2011

William A. Shaw,
Prothonotary/Clerk of Courts