

07-644-CD
Wanda Russell vs James Devlin et al

WANDA RUSSELL,
Plaintiff

v.

JAMES E. DEVLIN, M.D.; MARK W.
MALONEY, D.O.; DRMC PRIMARY
CARE ASSOCIATES; SANAA HELMI,
M.D.; THOMAS J. BRADLEY, M.D.;
BRADFORD BOBRIN, M.D.; DUBOIS
REGIONAL MEDICAL CENTER a/k/a
DUBOIS REGIONAL MEDICAL
CENTER WEST a/d/b/a DRMC
BEHAVIORAL UNIT a/k/a DRMC EAST
BEHAVIORAL UNIT a/k/a DRMC
BEHAVIORAL HEALTH OUTPATIENT
CLINIC,

Defendants

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY,

RECEIVED
PENNSYLVANIA

NOV 26 2007

Court Administrator's
Office
NO. 07-644-CD

CIVIL ACTION - LAW

JURY TRIAL DEMANDED

**BRIEF IN SUPPORT OF PRELIMINARY OBJECTIONS
OF DEFENDANT MARK W. MALONEY, D.O.
TO PLAINTIFF'S AMENDED COMPLAINT**

I. Factual and Procedural Background

This is a medical malpractice case commenced by plaintiff Wanda Russell on or about April 24, 2007. The gravamen of plaintiff's professional negligence claims against defendant Dr. Maloney as described in the Original Complaint is that Dr. Maloney allegedly failed to timely diagnose and treat an evolving or "stuttering" stroke on December 5 and 6, 2005. See Complaint, ¶¶84 (a-z).

Defendant Mark W. Maloney, D.O. (hereinafter "defendant Dr. Maloney") had been plaintiff Wanda Russell's primary physician for a number of years prior to the events in question. It is alleged that on December 4, 2005, plaintiff came to the Dubois Regional Medical Center emergency room with various complaints, including left sided weakness and

speech changes. See Complaint, ¶25. She was admitted to the hospital to the service of her primary care physician, Dr. Maloney.

Defendant Dr. Devlin, who was covering for Dr. Maloney, saw the plaintiff on December 4, 2005. See Complaint, ¶29. Defendant Dr. Maloney first saw the plaintiff in the hospital on December 5, 2005. See Complaint, ¶39.

Plaintiff alleges that defendant Dr. Maloney incorrectly and negligently attributed the plaintiff's presentation and symptomatology to "depression," which led him to seek a psychiatric consult with defendant Dr. Helmi (a psychiatrist) on December 5, 2005. See Complaint, ¶¶39-41. This ultimately resulted in plaintiff's voluntary transfer to the Dubois Regional Behavioral Health Unit at 2:00 a.m. on December 6, 2005. See Complaint, ¶¶45-50.

After a psychiatric examination performed by defendant Dr. Bradley in the morning of December 6, 2005, the plaintiff was transferred back to defendant Dr. Maloney's service at Dubois Regional Medical Center on the afternoon of December 6, 2005. See Complaint, ¶¶64 and 68. Dr. Maloney then ordered a neurology consult and an MRI, which lead to a diagnosis of a cerebro-vascular accident on December 7, 2005. See Complaint, ¶¶70-73.

The original Complaint was based solely on theories of alleged professional negligence, and did not claim punitive damages, nor allege that the subject medical care was reckless. See Original Complaint, Count II.

On or about June 6, 2007, defendant Dr. Helmi filed an answer with new matter in which defendant Dr. Helmi alleged, *inter alia*, that defendant Dr. Maloney described plaintiff as "suicidal" when the two physicians spoke regarding defendant Dr. Maloney's psychiatric consult request of December 5, 2005.

Defendant Dr. Maloney filed an Answer with New Matter on or about August 20, 2007. Subsequently, all parties consented to Dr. Maloney filing an Amended New Matter, which was

then filed on or about October 11, 2007. Dr. Maloney's Amended New Matter raised any and all defenses afforded by the Mental Health Procedures Act, which generally requires proof of gross negligence by the physician to establish liability, if the statute is found to apply to the facts and circumstances of the case.

Plaintiff next filed a Motion for Leave to File an Amended Complaint. Plaintiff's motion was granted by Court Order dated October 26, 2007. Plaintiff then filed the Amended Complaint on November 1, 2007.

Although plaintiff has not highlighted the amendments/revisions contained within the voluminous Amended Complaint, it appears that the only new factual allegation as to defendant Dr. Maloney is the addition of Dr. Helmi's allegation that Dr. Maloney described plaintiff as "suicidal" when the two physicians spoke on December 5, 2005. Plaintiff not only claims this was an inaccurate and negligent description of plaintiff's symptoms, but now also claims that Dr. Maloney's communication was "reckless" and somehow amounted to a "misrepresentation" of plaintiff's condition. See Amended Complaint, ¶40.

The other new language plaintiff has added to the Amended Complaint are allegations which now characterize factual allegations previously pled in the original Complaint as "negligence," as "gross negligence" and/or "recklessness." See e.g. Amended Complaint, ¶¶39, 40, and 41. For example, plaintiff now characterizes Dr. Maloney's initial request for a psychiatric consult and the communications between Dr. Maloney and Dr. Helmi as "reckless." Id.

Additionally, and apparently based on the newly inserted language described above, plaintiff has added a claim for punitive damages against all defendants in the Wherefore clause at the end of the Amended Complaint. Defendant Dr. Maloney respectfully submits that plaintiff has failed to plead facts sufficient to support a claim for punitive damages, as a matter

of law. Defendant Dr. Maloney has filed preliminary objections regarding plaintiff's claim for punitive damages, and this memorandum of law is submitted in support thereof.

II. Question Presented

WHETHER PLAINTIFF WANDA RUSSELL HAS FAILED TO ALLEGE FACTS SUFFICIENT TO SUPPORT A CLAIM FOR PUNITIVE DAMAGES AS TO DEFENDANT DR. MALONEY, AS A MATTER OF LAW?

(Suggested Answer in the Affirmative.)

III. Discussion

"Punitive damages may be awarded for conduct that is the result of the health care providers' willful or wanton conduct or reckless indifference to the right of others." 40 P.S. §1303.505(a). Punitive damages will not be awarded for ordinary negligence or even gross negligence. See Slappo v. J's Dev. Assoc., Inc., 791 A.2d 409, 417 (Pa.Super. 2002). Punitive damages are permitted only in cases of outrageous behavior, which is conduct that shows an evil motive or reckless indifference to the rights of others. Id.

"Wanton conduct requires a state of mind in which the tortfeasor realizes the danger to the plaintiff and disregards it to such a degree that 'there is at least a willingness to inflict injury, a conscious indifference to the perpetuation of the wrong.'" See Dean v. Community Medical Center, 46 Pa. D&C.4th, at 345 citing Lewis v. Miller, 374 Pa.Super. 515, 520, 543 A.2d 590, 592 (1988). See Tyree v. City of Pittsburgh, 669 A.2d 487, 491, n. 4 (Pa.Cmmwlth. 1995). "Reckless indifference 'means that the actor has intentionally done an act of an unreasonable character, in disregard to a known risk to him or so obvious that he must be taken to have been aware of it, and so great as to make it highly probable that harm would follow.'" See Dean v. Community Medical Center, 46 Pa. D&C.4th, at 345 citing McClellan v. Health

Maintenance Organization of PA, 413 Pa.Super. 128, 145, 604 A.2d 1053, 1061 (1992), app. denied, 532 Pa. 664, 616 A.2d 985 (1992). See also Hall v. Jackson, 2001 Pa.Super. 334, p31, 788 A.2d 390, 403 (In order for conduct to be considered reckless it must involve an easily perceptible danger of death or substantial physical harm, and the probability that it will so result must be substantially greater than is required for ordinary negligence.) “Punitive damages may not be awarded for misconduct which constitutes ordinary negligence such as inadvertence, mistake and errors of judgment.” McDaniel v. Merck, Sharp and Dohme, 533 A.2d 436, 447 (Pa.Super. 1987).

Plaintiff did not make a claim for punitive damages in the original complaint. The original Complaint was based on a claim of professional negligence, and included the same operative facts as alleged in the Amended Complaint. It appears that the only new “fact” alleged by plaintiff in the Amended Complaint regarding defendant Dr. Maloney concerns Dr. Helmi’s allegation that Dr. Maloney described Wanda Russell as “suicidal” when Dr. Maloney discussed a psychiatric consult with Dr. Helmi on December 5, 2005. This information was known to the plaintiff at the time the original complaint was prepared. See Complaint, Exhibit A. Although this information was originally pled as “negligence,” plaintiff now claims that Dr. Maloney’s comments were “reckless” and somehow amounted to a “misrepresentation” of plaintiff’s condition. See Amended Complaint, ¶40.

In several other paragraphs of the Amended Complaint, plaintiff has added the characterizations of “gross negligence” and/or “reckless” to describe various factual allegations previously pled in the original Complaint. See Amended Complaint, ¶¶39-41. For example, plaintiff now characterizes Dr. Maloney’s initial request for a psychiatric consult as “reckless,” whereas the original Complaint described said action as negligence. See Amended Complaint, ¶39.

“A demurrer admits all well-pleaded material facts set forth in the Complaint, as well as all inferences reasonably deducible from those facts.” Dean v. Community Medical Center, 46 Pa. D&C.4th 334, 341 (2000) citing Lowther v. Roxborough Memorial Hospital, 1999 Pa.Super. 225, 738 A.2d 480, 489 (Pa.Super. 1999). However, a Court need not accept the pleader’s conclusions of law, unwarranted inferences from facts, opinions, or argumentative allegations. Dean v. Community Medical Center, 46 Pa. D&C.4th 334, 341 (2000) citing Wiernik v. PHH US Mortgage Corp., 1999 Pa.Super. 193, 736 A.2d 616, 619 (Pa.Super. 1999).

For purposes of these preliminary objections only, even if it is believed that Dr. Maloney mistakenly or inaccurately conveyed the plaintiff’s symptomatology as alleged by the plaintiff (which is specifically denied by defendant Dr. Maloney), such a scenario is one of negligence, or arguably gross negligence. There are no facts, however, to suggest that this alleged error and/or miscommunication between plaintiff’s treating physician and a consulting psychiatrist somehow rose to the unlikely level of a “reckless indifference” to plaintiff’s rights, or even a “misrepresentation” of the facts as defined by Pennsylvania law. Indeed, the communication occurred in the context of attempting to diagnose and arrange appropriate care for the plaintiff, because Dr. Maloney suspected a psychiatric issue based upon his examination of the plaintiff.

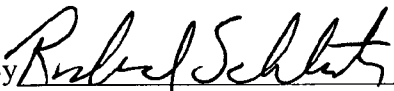
The facts pled by plaintiff do not describe outrageous conduct or a reckless indifference to the rights of plaintiff Wanda Russell by defendant Dr. Maloney, and in fact, illustrate that Dr. Maloney made conscientious efforts to involve appropriate specialists and diagnose his long-time patient’s complaints. In fact, Dr. Maloney re-admitted the plaintiff to his service on December 6, 2005, and her condition was diagnosed as a result of the neuro consult and MRI ordered by Dr. Maloney that day. Plaintiff’s counsel’s artful characterizations of the facts and communications between the defendant physicians should not (and cannot) convert an

otherwise straight-forward claim of alleged professional negligence into a claim for punitive damages.

Accordingly, defendant Dr. Maloney respectfully requests that plaintiff's claim for punitive damages be dismissed and stricken from the Amended Complaint.

Respectfully submitted,

McCORMICK LAW FIRM

By 

David R. Bahl, Esquire

I.D. No. 10347

Richard F. Schluter, Esquire

I.D. No. 79672

Attorneys for Defendant

Mark W. Maloney, D.O.

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I, RICHARD F. SCHLUTER, ESQUIRE, hereby certify that I have served a copy of the
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to Plaintiff's Amended Complaint, upon the following, this 20th day of November, 2007, as
follows:

UNITED STATES MAIL, POSTAGE PREPAID:

Thomas R. Kline, Esquire
Mark A. Hoffman, Esquire
Kline & Specter, PC
The Nineteenth Floor
1525 Locust Street
Philadelphia, PA 19102

Darryl Slimak, Esquire
McQuaide Blasko
811 University Drive
State College, PA 16801

M. Brian O'Connor, Esquire
Gaca, Matis, Baum & Rizza, PC
444 Liberty Avenue, Suite 300
Pittsburgh, PA 15222

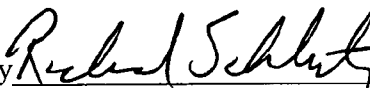
Lynn E. Bell, Esquire
Davies, McFarland & Carroll, PC
One Gateway Center, 10th Floor
Pittsburgh, PA 15222-1416

John L. McIntyre, Esquire
McIntyre, Dugas, Hartye & Schmitt
Post Office Box 533
Hollidaysburg, PA 16648-0533

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

DRMC Primary Care Associates
Medical Arts Building, Suite 200
145 Hospital Avenue
DuBois, PA 15801

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835 West Fourth Street
Williamsport, PA 17701
(570) 326-5131

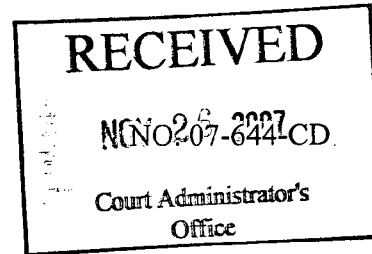
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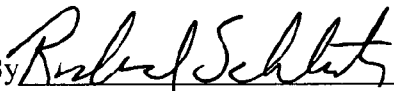
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McQuaide Blasko
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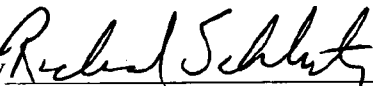
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John L. McIntyre, Esquire
McIntyre, Dugas, Hartye & Schmitt
Post Office Box 533
Hollidaysburg, PA 16648-0533

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

DRMC Primary Care Associates
Medical Arts Building, Suite 200
145 Hospital Avenue
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Defendant Dr. Devlin, who was covering for Dr. Maloney, saw the plaintiff on December 4, 2005. See Complaint, ¶29. Defendant Dr. Maloney first saw the plaintiff in the hospital on December 5, 2005. See Complaint, ¶39.

Plaintiff alleges that defendant Dr. Maloney incorrectly and negligently attributed the plaintiff's presentation and symptomatology to "depression," which led him to seek a psychiatric consult with defendant Dr. Helmi (a psychiatrist) on December 5, 2005. See Complaint, ¶¶39-41. This ultimately resulted in plaintiff's voluntary transfer to the Dubois Regional Behavioral Health Unit at 2:00 a.m. on December 6, 2005. See Complaint, ¶¶45-50.

After a psychiatric examination performed by defendant Dr. Bradley in the morning of December 6, 2005, the plaintiff was transferred back to defendant Dr. Maloney's service at Dubois Regional Medical Center on the afternoon of December 6, 2005. See Complaint, ¶¶64 and 68. Dr. Maloney then ordered a neurology consult and an MRI, which lead to a diagnosis of a cerebro-vascular accident on December 7, 2005. See Complaint, ¶¶70-73.

The original Complaint was based solely on theories of alleged professional negligence, and did not claim punitive damages, nor allege that the subject medical care was reckless. See Original Complaint, Count II.

On or about June 6, 2007, defendant Dr. Helmi filed an answer with new matter in which defendant Dr. Helmi alleged, *inter alia*, that defendant Dr. Maloney described plaintiff as "suicidal" when the two physicians spoke regarding defendant Dr. Maloney's psychiatric consult request of December 5, 2005.

Defendant Dr. Maloney filed an Answer with New Matter on or about August 20, 2007. Subsequently, all parties consented to Dr. Maloney filing an Amended New Matter, which was

then filed on or about October 11, 2007. Dr. Maloney's Amended New Matter raised any and all defenses afforded by the Mental Health Procedures Act, which generally requires proof of gross negligence by the physician to establish liability, if the statute is found to apply to the facts and circumstances of the case.

Plaintiff next filed a Motion for Leave to File an Amended Complaint. Plaintiff's motion was granted by Court Order dated October 26, 2007. Plaintiff then filed the Amended Complaint on November 1, 2007.

Although plaintiff has not highlighted the amendments/revisions contained within the voluminous Amended Complaint, it appears that the only new factual allegation as to defendant Dr. Maloney is the addition of Dr. Helmi's allegation that Dr. Maloney described plaintiff as "suicidal" when the two physicians spoke on December 5, 2005. Plaintiff not only claims this was an inaccurate and negligent description of plaintiff's symptoms, but now also claims that Dr. Maloney's communication was "reckless" and somehow amounted to a "misrepresentation" of plaintiff's condition. See Amended Complaint, ¶40.

The other new language plaintiff has added to the Amended Complaint are allegations which now characterize factual allegations previously pled in the original Complaint as "negligence," as "gross negligence" and/or "recklessness." See e.g. Amended Complaint, ¶¶39, 40, and 41. For example, plaintiff now characterizes Dr. Maloney's initial request for a psychiatric consult and the communications between Dr. Maloney and Dr. Helmi as "reckless." Id.

Additionally, and apparently based on the newly inserted language described above, plaintiff has added a claim for punitive damages against all defendants in the Wherefore clause at the end of the Amended Complaint. Defendant Dr. Maloney respectfully submits that plaintiff has failed to plead facts sufficient to support a claim for punitive damages, as a matter

of law. Defendant Dr. Maloney has filed preliminary objections regarding plaintiff's claim for punitive damages, and this memorandum of law is submitted in support thereof.

II. Question Presented

WHETHER PLAINTIFF WANDA RUSSELL HAS FAILED TO ALLEGE FACTS SUFFICIENT TO SUPPORT A CLAIM FOR PUNITIVE DAMAGES AS TO DEFENDANT DR. MALONEY, AS A MATTER OF LAW?

(Suggested Answer in the Affirmative.)

III. Discussion

"Punitive damages may be awarded for conduct that is the result of the health care providers' willful or wanton conduct or reckless indifference to the right of others." 40 P.S. §1303.505(a). Punitive damages will not be awarded for ordinary negligence or even gross negligence. See Slappo v. J's Dev. Assoc., Inc., 791 A.2d 409, 417 (Pa.Super. 2002). Punitive damages are permitted only in cases of outrageous behavior, which is conduct that shows an evil motive or reckless indifference to the rights of others. Id.

"Wanton conduct requires a state of mind in which the tortfeasor realizes the danger to the plaintiff and disregards it to such a degree that 'there is at least a willingness to inflict injury, a conscious indifference to the perpetuation of the wrong.'" See Dean v. Community Medical Center, 46 Pa. D&C.4th, at 345 citing Lewis v. Miller, 374 Pa.Super. 515, 520, 543 A.2d 590, 592 (1988). See Tyree v. City of Pittsburgh, 669 A.2d 487, 491, n. 4 (Pa.Cmmwlth. 1995). "Reckless indifference 'means that the actor has intentionally done an act of an unreasonable character, in disregard to a known risk to him or so obvious that he must be taken to have been aware of it, and so great as to make it highly probable that harm would follow.'" See Dean v. Community Medical Center, 46 Pa. D&C.4th, at 345 citing McClellan v. Health

Maintenance Organization of PA, 413 Pa.Super. 128, 145, 604 A.2d 1053, 1061 (1992), app. denied, 532 Pa. 664, 616 A.2d 985 (1992). See also Hall v. Jackson, 2001 Pa.Super. 334, p31, 788 A.2d 390, 403 (In order for conduct to be considered reckless it must involve an easily perceptible danger of death or substantial physical harm, and the probability that it will so result must be substantially greater than is required for ordinary negligence.) "Punitive damages may not be awarded for misconduct which constitutes ordinary negligence such as inadvertence, mistake and errors of judgment." McDaniel v. Merck, Sharp and Dohme, 533 A.2d 436, 447 (Pa.Super. 1987).

Plaintiff did not make a claim for punitive damages in the original complaint. The original Complaint was based on a claim of professional negligence, and included the same operative facts as alleged in the Amended Complaint. It appears that the only new "fact" alleged by plaintiff in the Amended Complaint regarding defendant Dr. Maloney concerns Dr. Helmi's allegation that Dr. Maloney described Wanda Russell as "suicidal" when Dr. Maloney discussed a psychiatric consult with Dr. Helmi on December 5, 2005. This information was known to the plaintiff at the time the original complaint was prepared. See Complaint, Exhibit A. Although this information was originally pled as "negligence," plaintiff now claims that Dr. Maloney's comments were "reckless" and somehow amounted to a "misrepresentation" of plaintiff's condition. See Amended Complaint, ¶40.

In several other paragraphs of the Amended Complaint, plaintiff has added the characterizations of "gross negligence" and/or "reckless" to describe various factual allegations previously pled in the original Complaint. See Amended Complaint, ¶¶39-41. For example, plaintiff now characterizes Dr. Maloney's initial request for a psychiatric consult as "reckless," whereas the original Complaint described said action as negligence. See Amended Complaint,

¶39.

“A demurrer admits all well-pleaded material facts set forth in the Complaint, as well as all inferences reasonably deducible from those facts.” Dean v. Community Medical Center, 46 Pa. D&C.4th 334, 341 (2000) citing Lowther v. Roxborough Memorial Hospital, 1999 Pa.Super. 225, 738 A.2d 480, 489 (Pa.Super. 1999). However, a Court need not accept the pleader’s conclusions of law, unwarranted inferences from facts, opinions, or argumentative allegations. Dean v. Community Medical Center, 46 Pa. D&C.4th 334, 341 (2000) citing Wiernik v. PHH US Mortgage Corp., 1999 Pa.Super. 193, 736 A.2d 616, 619 (Pa.Super. 1999).

For purposes of these preliminary objections only, even if it is believed that Dr. Maloney mistakenly or inaccurately conveyed the plaintiff’s symptomatology as alleged by the plaintiff (which is specifically denied by defendant Dr. Maloney), such a scenario is one of negligence, or arguably gross negligence. There are no facts, however, to suggest that this alleged error and/or miscommunication between plaintiff’s treating physician and a consulting psychiatrist somehow rose to the unlikely level of a “reckless indifference” to plaintiff’s rights, or even a “misrepresentation” of the facts as defined by Pennsylvania law. Indeed, the communication occurred in the context of attempting to diagnose and arrange appropriate care for the plaintiff, because Dr. Maloney suspected a psychiatric issue based upon his examination of the plaintiff.

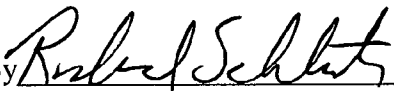
The facts pled by plaintiff do not describe outrageous conduct or a reckless indifference to the rights of plaintiff Wanda Russell by defendant Dr. Maloney, and in fact, illustrate that Dr. Maloney made conscientious efforts to involve appropriate specialists and diagnose his long-time patient’s complaints. In fact, Dr. Maloney re-admitted the plaintiff to his service on December 6, 2005, and her condition was diagnosed as a result of the neuro consult and MRI ordered by Dr. Maloney that day. Plaintiff’s counsel’s artful characterizations of the facts and communications between the defendant physicians should not (and cannot) convert an

otherwise straight-forward claim of alleged professional negligence into a claim for punitive damages.

Accordingly, defendant Dr. Maloney respectfully requests that plaintiff's claim for punitive damages be dismissed and stricken from the Amended Complaint.

Respectfully submitted,

McCORMICK LAW FIRM

By 

David R. Bahl, Esquire

I.D. No. 10347

Richard F. Schluter, Esquire

I.D. No. 79672

Attorneys for Defendant

Mark W. Maloney, D.O.

WANDA RUSSELL,
Plaintiff

v.

JAMES E. DEVLIN, M.D.; MARK W.
MALONEY, D.O.; DRMC PRIMARY
CARE ASSOCIATES; SANAA HELMI,
M.D.; THOMAS J. BRADLEY, M.D.;
BRADFORD BOBRIN, M.D.; DUBOIS
REGIONAL MEDICAL CENTER a/k/a
DUBOIS REGIONAL MEDICAL
CENTER WEST a/d/b/a DRMC
BEHAVIORAL UNIT a/k/a DRMC EAST
BEHAVIORAL UNIT a/k/a DRMC
BEHAVIORAL HEALTH OUTPATIENT
CLINIC,

Defendants

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY,
PENNSYLVANIA

NO. 07-644-CD

CIVIL ACTION - LAW

JURY TRIAL DEMANDED

CERTIFICATE OF SERVICE

I, RICHARD F. SCHLUTER, ESQUIRE, hereby certify that I have served a copy of the
Foregoing *Brief In Support of Preliminary Objections of Defendant Mark W. Maloney, D.O.*
to Plaintiff's Amended Complaint, upon the following, this 20th day of November, 2007, as
follows:

UNITED STATES MAIL, POSTAGE PREPAID:

Thomas R. Kline, Esquire
Mark A. Hoffman, Esquire
Kline & Specter, PC
The Nineteenth Floor
1525 Locust Street
Philadelphia, PA 19102

Darryl Slimak, Esquire
McQuaide Blasko
811 University Drive
State College, PA 16801

M. Brian O'Connor, Esquire
Gaca, Matis, Baum & Rizza, PC
444 Liberty Avenue, Suite 300
Pittsburgh, PA 15222

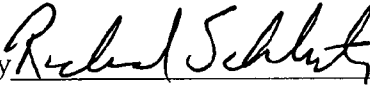
Lynn E. Bell, Esquire
Davies, McFarland & Carroll, PC
One Gateway Center, 10th Floor
Pittsburgh, PA 15222-1416

John L. McIntyre, Esquire
McIntyre, Dugas, Hartye & Schmitt
Post Office Box 533
Hollidaysburg, PA 16648-0533

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

DRMC Primary Care Associates
Medical Arts Building, Suite 200
145 Hospital Avenue
DuBois, PA 15801

McCORMICK LAW FIRM

By 

David R. Bahl, Esquire
I.D. No. 10347
Richard F. Schluter, Esquire
I.D. No. 79672
Attorneys for Defendant
Mark W. Maloney, D.O.

835 West Fourth Street
Williamsport, PA 17701
(570) 326-5131

Medical Professional Liability Action

Date	Selected Items	Judge
4/24/2007	New Case Filed.	No Judge
	X Filing: Civil Action Complaint. Paid by: Hoffman, Mark A. Esq (atty of plff) Receipt number: 1918708 Dated: 4/24/2007 Amount: \$85.00 (Check) 1CC Atty and 8 CC shff.	No Judge
	X Certificate of Merit of Drs. Devlin, Maloney, Helmi, Bradley and Bobrin, and the psychiatric nursing staff and the DuBois Regional Medical Center and its affiliated or associated entities as captioned above, filed by s/ Mark A. Hoffman Esq.	No Judge
5/10/2007	X Praecipe For Entry of Appearance, enter appearance of John L. McIntyre, Esquire, on behalf of DuBois Regional Medical Center a/k/a DuBois Regional Medical Center West a/d/b/a DRMC Behavioral Unit a/k/a DRMC East Behavioral Unit a/d/a DRMC Behavioral Health Outpatient Clinic. Filed by s/ John L. McIntyre, Esquire. No CC	No Judge
	X Praecipe For Entry of Appearance, enter appearance of Darryl R. Slimak, Esquire, on behalf of Defendant Sanaa Helmi, M.D. Filed by s/ Darryl R. Slimak, Esquire. No CC	No Judge
5/14/2007	X Praecipe For Entry of Appearance, filed on behalf of Bradford Bobrin, M.D., enter appearance of Lynn E. Bell, Esquire. Filed by s/ Lynn E. Bell, Esquire. No CC	No Judge
	X Praecipe For Entry of Appearance, filed on behalf of James E. Devlin, M.D., enter appearance of M. Brian O'Connor, Esquire. No CC	No Judge
5/17/2007	X Praecipe for Appearance, filed. Would you kindly enter my appearance on behalf of the Defendant, Thomas J. Bradley M.D. in the above-captioned matter, filed by s/ Christopher C. Rulis Esq. NO CC.	No Judge
5/18/2007	X Praecipe For Entry of Appearance, filed on behalf of defendant Mark W. Maloney, D.O., enter appearance of David R. Bahl, Esquire, and Richard F. Schluter, Esquire. Filed by s/ David R. Bahl, Esquire. No CC	No Judge
5/23/2007	X Filing: Praecipe fo Reinstate Complaint, Paid by: Hoffman, Mark A. (attorney for Russell, Wanda) Receipt number: 1919106 Dated: 05/23/2007 Amount: \$7.00 (Check) Filed by s/ Mark A. Hoffman, Esquire. 1CC & 1 Reinstated Complaint to Atty	No Judge
5/24/2007	X Certificate of Service, filed. That a true and correct copy of the Defendant Dr. Sanaa Helmi's Expert Interrogatories and Request for Production of Documents Directed to Plaintiff in the above-captioned matter was mailed on this 23rd day of May 2007 to Thomas R. Kline Esq., Mark A. Hoffman Esq., Matthew Brian O'Connor Esq., David R. Bahl Esq., Lynn Bell Esq., and John McIntyre Esq., filed by s/ Darryl R. Slimak Esq. No CC.	No Judge
6/7/2007	X Defendant Dr. Sanaa Helmi's Answer with New Matter to Plaintiff's Complaint, filed by s/ Darryl R. Slimak Esq.	No Judge
6/21/2007	X Plaintiff's Reply to the New Matter of Defendant, Dr. Sanaa Helmi, filed by s/ Mark A. Hoffman, Esquire. 1CC to Atty.	No Judge
6/22/2007	X Filing: Praecipe to Reinstate /Complaint Paid by: Kline & Specter Receipt number: 1919507 Dated: 06/22/2007 Amount: \$7.00 (Check) 1 Cert. with reinstated complaint to Atty.	No Judge
6/29/2007	X Notice of Service, filed. That on the 28th day of June 2007, Defendants, DuBois Regional Medical Center, served Interrogatories and Request for Production of Documents Directed to Plaintiff, dated June 28, 2007 to Mark A. Hoffman Esq., filed by s/ John L. McIntyre Esq. No CC.	No Judge

Date: 1/21/2010

Clearfield County Court of Common Pleas

User: LMILLER

Time: 11:02 AM

ROA Report

Page 2 of 5

Case: 2007-00644-CD

Current Judge: Fredric Joseph Ammerman

Wanda Russell vs. James E. Devlin MD, et al

Medical Professional Liability Action

Date	Selected Items	Judge
7/23/2007	X Filing: Praeipe to Reinstate Complaint, Paid by: Kline & Specter, P.C. X Receipt number: 1919903 Dated: 07/23/2007 Amount: \$7.00 (Check) 1 Cert. To Atty. with reinstated Complaint.	No Judge
8/6/2007	X Answer, filed by s/ M. Brian O'Connor, Esquire. No CC	No Judge
8/17/2007	X Filing: Praeipe to Reinstate Complaint Paid by: Hoffman, Mark A. X (attorney for Russell, Wanda) Receipt number: 1920293 Dated: 08/17/2007 Amount: \$7.00 (Check) Filed by s/ Mark A. Hoffman, Esquire. 1CC & 1 Compl. Reinstated to Atty.	No Judge
8/20/2007	X Notice to Plead, and Answer of Defendant Mark W. Maloney, D.O. to Plaintiff's Complaint With New Matter, filed by s/ Richard F. Schluter, Esquire. No CC	No Judge
8/27/2007	X Answer and New Matter filed. By s/ Lynn E. Bell, Esquire. No CC	No Judge
8/30/2007	X Dr. Helmi's Reply to Dr. Bobrin's New Matter, filed by s/ Darryl R. Slimak, Esquire. no CC	No Judge
9/6/2007	X Plaintiff's Reply to The New Matter of Defendant, Mark Maloney, D.O. Filed by s/ Royce W. Smith, Esquire. No CC	No Judge
	X Plaintiff's Reply to The New Matter of Defendant, Bradford Bobrin, M.D., filed by s/ Royce W. Smith, Esquire. No CC	No Judge
9/10/2007	X Certificate of Service, filed. That a true and correct copy of the Defendant Dr. Sanaa Helmi's Request to Plaintiff for Production of Expert Reports in the above captioned matter was mailed on this 7th day of September 2007 to Mark A. Hoffman Esq., David R. Bahl Esq., Matthew Brian O'Connor Esq., Lynn Bell Esq., John McIntyre Esq., Christopher C. Rulis Esq., filed by s/ Darryl R. Slimak Esq. No CC.	No Judge
	X Notice of Service of Discovery Requests, filed. That Defendant, Thomas J. Bradley MD's Interrogatories and Request for Production of Documents Directed to Plaintiff, were served upon Mark A. Hoffman Esq. and a true and correct copy upon David R. Bahl Esq., DRMC Primary Care Associates, M. Brian O'Connor Esq., Lynn Bell Esq., John McIntyre Esq. and Darryl R. Slimak Esq. on September 5, 2007, filed by s/ Janet K. Meub Esq. No CC.	No Judge
	X Answer and New Matter filed by s/ Janet K. Meub Esq. No CC.	No Judge
10/11/2007	X Stipulation of All Parties to Allow Amended New Matter of Defendant Mark W. Maloney, D.O., filed by s/ Darryl Slimak, Esquire. No CC	No Judge
10/12/2007	X Notice to Plead, Amended New Matter of Defendant Mark W. Maloney, D.O. to Plaintiff's Complaint, filed by Atty. Schluter	No Judge
10/25/2007	X Plaintiff's Motion to Amend the Complaint Pursuant to Pennsylvania Rules of Civil Procedure Number 1033, filed by s/Mark A. Hoffman, Esq. One CC Attorney Hoffman	No Judge
	X Praeipe for Expedited Disposition, filed by s/Mark A. Hoffman, Esq. No CC	No Judge
	X Plaintiff's Motion to Amend the Complaint Pursuant to Pennsylvania Rules of Civil Procedure Number 1003, filed by s/ Mark A. Hoffman Es. 1CC atty.	No Judge
10/26/2007	X Order, this 26th day of Oct., 2007, upon consideration of Plaintiff's Motion to Amend the Complaint, it is Ordered that said Motion is Granted. Plaintiff may file an Amended Civil Action Complaint consistent with Said Motion. By The Court, /s/ Fredric J. Ammerman, Pres. Judge. 3CC Atty. Hoffman	Fredric Joseph Ammerman

Medical Professional Liability Action

Date	Selected Items	Judge
11/1/2007	X Amended Civil Action Complaint, filed by s/ Mark A. Hoffman, Esquire. 2CC Atty.	No Judge
11/5/2007	X Certificate of Service, filed. Served a copy of the foregoing Responses of Defendants Mark W. Maloney DO to Plaintiffs' Expert Witness Interrogatories this 2nd day of November 2007 to Thomas R. Kline Esq., Mark A. Hoffman Esq., Darryl Slimak Esq., M. Brian O'Connor Esq., Lynn E. Bell Esq., John L. McIntyre Esq., Christopher C. Rulis Esq., DRMC Primary Care Associates, filed by s/ Richard F. Schluter Esq. No CC.	No Judge
	X Certificate of Service, filed. Served a copy of the foregoing Responses of Defendant Mark W. Maloney DO to Plaintiffs' Interrogatories and Request for Production of Documents this 2nd day of November 2007 to Thomas R. Kline Esq., Mark A. Hoffman Esq., Darryl Slimak Esq., M. Brian O'Connor Esq., Lynn E. Bell Esq., John L. McIntyre Esq., Christopher C. Rulis Esq., filed by s/ Richard F. Schluter Esq. No CC.	No Judge
	X Certificate of Service, filed. Served a copy of the foregoing Responses of Defendant Mark W. Maloney D.O. to Plaintiff's Insurance Interrogatories and Request for Production of Documents on this 2nd day of November 2007 to Thomas R. Kline Esq., Mark A. Hoffman Esq., Darryl Slimak Esq., M. Brian O'Connor Esq., Lynn E. Bell Esq., John L. McIntyre Esq., Christopher C. Rulis Esq., and DRMC Primary Care Associates, filed by s/ Richard F. Schluter Esq. NO CC	Fredric Joseph Ammerman
11/15/2007	X Notice of Service: Defendant, Thomas J. Bradley, M.D.'s Answers to Interrogatories and Request for Production of Documents, Answers to Insurance Interrogatories, and Answers to Expert Interrogatories and Request for Production of Documents, were served upon Mark A. Hoffman, Esquire, via facsimile on Nov. 13, 2007. A copy was served upon the following via facsimile on Nov. 13, 2007: David R. Bahl, Esquire; DRMC Primary Care Associates; M. Brian O'Connor, Esquire; Lynn Bell, Esquire; John McIntyre, Esquire; and Darryl R. Slimak, Esquire. Filed by s/ Janet K. Meub, Esquire. No CC	No Judge
11/20/2007	X Sheriff Return, April 30, 2007 Sheriff of Jefferson County was deputized. May 11, 2007 at 11:15 am Served the within Complaint on James E. Devlin MD. May 1, 2007 at 10:35 am Served the within Complaint on Mark W. Maloney D.O. by handing to Brenda Lingenfelter. May 1, 2007 at 10:35 am Served the within Complaint on DRMC Primary Care Associates by handing to Brenda Lingenfelter. May 1, 2007 at 10:42 am Served the within Complaint on Sanaa Helmi M.D. by handing to Deborah Wain. May 1, 2007 at 10:10 am Served the within Complaint on Thomas J. Bradley M.D. by handing to Marjorie A. Smith. May 1, 2007 at 10:42 am Served the within Complaint on Bradford Bobrin M.D. by handing to Deborah Wain. May 1, 2007 at 10:42 am Served the within Complaint on DuBois Regional Medical Center by handing to Deborah Wain. So Answers, Chester A. Hawkins, Sheriff by s/Marilyn Hamm Shff Hawkins costs pd by Kline \$148.43 Jefferson Co. costs pd by Kline \$37.46	No Judge
11/21/2007	X Preliminary Objections of Defendant Mark W. Maloney D.O. to Plaintiff's Amended Complaint, filed by s/ Richard F. Schluter Esq. 3CC Atty.	No Judge

Medical Professional Liability Action

Date	Selected Items	Judge
11/21/2007	☒ Certificate of Service, filed. That a true and correct copy of the Defendant Dr. Helmi's Answers to Plaintiff's Interrogatories and Request for Production of Documents in the above-captioned matter was mailed by regular mail on this 20th day of November 2007 to Thomas R. Kline Esq., Mark A. Hoffman Esq., John L. McIntyre Esq., M. Brian O'Connor Esq., Lynn E. Bell Esq., Christopher C. Rulis Esq., and David R. Bahl Esq., filed by s/ Darryl R. Slimak Esq. No CC.	No Judge
	☒ Certificate of Service, filed. That a true and correct copy of the Defendant Dr. Helmi's Answers to Plaintiff's Expert Witness Interrogatories in the above-captioned matter was mail by regular mail on this 20th day of November 2007 to Thomas R. Kline Esq., Mark A. Hoffman Esq., John L. McIntyre Esq., M. Brian O'Connor Esq., Lynn E. Bell Esq., Christopher C. Rulis Esq., and David R. Bahl Esq., filed by s/ Darryl R. Slimak Esq. No CC.	No Judge
	☒ Certificate of Service, filed. That a true and correct copy of the Defendant Dr. Helmi's Answers to Insurance Interrogatories and Request for Production of Documents in the above-captioned matter was mailed by regular mail on this 20th day of November 2007 to Thomas R. Kline Esq., Mark A. Hoffman Esq., John L. McIntyre Esq., M. Brian O'Connor Esq., Lynn E. Bell Esq., Christopher C. Rulis Esq., David R. Bahl Esq., filed by s/ Darryl R. Slimak Esq. No CC.	No Judge
11/26/2007	☒ Defendant Dr. Helmi's Preliminary Objections to Plaintiff's Amended Complaint, filed by s/Darryl R. Slimak No CC	No Judge
	☒ Praecipe for Briefing Schedule, filed by s/Darryl R. Slimak No CC	No Judge
11/28/2007	☒ Praecipe For Briefing Schedule, filed by s/ Richard F. Schluter, Esquire. No CC	No Judge
11/29/2007	☒ Preliminary Objections to Plaintiff's Amended Complaint, filed by s/ John L. McIntyre, Esquire. No CC	No Judge
11/30/2007	☒ Notice of Service of Answers to Plaintiff's Insurance Interrogatories, Answers to Plaintiff's Expert Witness Interrogatories and Answers to Plaintiff's Interrogatories and Request for Production to Mark A. Hoffman Esq., filed by John L. McIntyre Esq. No CC.	No Judge
12/3/2007	☒ Acceptance of Service, filed. I accept service of the Civil Action Amended Complaint on behalf of Defendant, Bradford Bobrin M.D. and certify that I am authorized to do so, filed by s/ Lynn E. Bell Esq. No CC.	No Judge
	☒ Acceptance of Service, filed. I Accept service of the Civil Action Amended Complaint on behalf of Defendant, James E. Delvin M.D. and certify that I am authorized to do so, filed by s/ M. Brian O'Connor Esq. No CC.	No Judge
	☒ Acceptance of Service, filed. I accept service of the Civil Action Amended Complaint on behalf of Defendant, Mark W. Maloney M.D. and certify that I am authorized to do so, filed by s/ David R. Bahl Esq. No CC.	No Judge
	☒ Preliminary Objections to Plaintiff's Amended Complaint, filed by s/ Christopher C. Rulis, Esquire. No CC	No Judge
	☒ Acceptance of Service, filed. I accept service of the Civil Action Amended Complaint on behalf of Defendants, DuBois Regional Medical Center a/k/a DuBois Regional Medical Center a/k/a DuBois Regional Medical Center West a/d/b/a DRMC Behavioral Unit a/k/a DRMC East Behavioral Unit a/k/a DRMC Behavioral Outpatient Clinic and certify that I am authorized to do so, filed by s/ John L. McIntyre Esq. No CC.	No Judge

Medical Professional Liability Action

Date	Selected Items	Judge
12/3/2007	☒ Praeipce For Briefing Schedule, filed b/ Christopher C. Rulis, Esquire. No CC	No Judge
	☒ Acceptance of Service, filed. I accept service of the Civil Action Amended Complaint on behalf of Defendant, Sanaa Helmi M.D. and certify that I am authorized to do so, filed by s/ Darryl R. Slimak Esq. No CC.	No Judge
	☒ Acceptance of Service, filed. I accept service of the Civil Action Amended Complaint on behalf of Defendant, Thomas J. Bradley M.D. and certify that I am authorized to do so, filed by s/ Christopher C. Rulis Esq. No CC.	No Judge
	☒ Preliminary Objections on Behalf of Dr. Bobrin to Plaintiff's Amended Complaint, filed by s/ Lynn E. Bell, Esquire, and A. Michael Gianantonio, Esquire. No CC	No Judge
	☒ Praeipce For Argument Date on Preliminary Objections Pursuant to Rule 211, filed by s/ Lynn E. Bell, Esquire, and A. Michael Gianantonio, Esquire. No CC	No Judge
12/4/2007 missing →	Rule, this 3rd day of Dec., 2007, a Rule is granted. Rule returnable on the 15th day of Jan., 2008, at 10:00 a.m. in Courtroom 1. By the court, /s/ Fredric J. Ammerman, Pres. Judge. 3CC Atty. McIntyre	Fredric Joseph Ammerman
12/5/2007	☒ Notice of Service, on the 3rd day of Dec., 2007, discovery responses listed below served upon all known counsel of record, via U.S. Mail: 1. Answers and Responses to Plaintiff's Interrogatories and Request for Production of Documents; 2. Answers to Plaintiff's Expert Witness Interrogatories; and 3. Answers and Responses to Plaintiff Insurance Interrogatories and Request for Production of Documents. Filed by s/ Lynn E. Bell, Esquire, A. Michael Gianantonio, Esquire. No CC	Fredric Joseph Ammerman
12/6/2007	☒ Second Amended Civil Action Complaint, filed by Atty. Hoffman 2 Cert. to Atty.	Fredric Joseph Ammerman
	☒ Certificate of Merit, filed by Atty. Hoffman 1 Cert. to Atty.	Fredric Joseph Ammerman
	☒ Proposed Scheduling Order for Argument Dat on Preliminary Objections, filed by Atty. Bell ? no cert. copies.	Fredric Joseph Ammerman
	☒ Scheduling Order, filed 1 Cert. to Atty.	Fredric Joseph Ammerman
	☒ NOW, this 6th day of Dec., 2007, argument shall be held on January 15, 2008.	
12/10/2007	☒ Certificate of Service, filed. Served a true and correct copy of the attached Rule Returnable on behalf of defendant, DuBois Regional Medical center a/k/a DuBois Regional Medical Center West a/d/b/a DRMC Behavioral Unit a/k/a DRMC East Behavioral Unit a/k/a DRMC Behavioral Health Outpatient Clinic was mailed postage paid on the 7th day of December 2007 to Mark A. Hoffman Esq., David R. Bahl Esq., M. Brian O'Connor Esq., Darryl Sminak Esq., Christopher C. Rulis Esq., and Lynn E. Bell Esq., filed by s/ John L. McIntyre Esq. No CC.	Fredric Joseph Ammerman
12/12/2007	☒ Preliminary Objections to Plaintiff's Amended Complaint, filed by Atty. O'Connor on behalf of James E. Devlin, M.D. No cert. copies.	Fredric Joseph Ammerman
12/24/2007	☒ Praeipce for Briefing Schedule, filed by Atty. Schluter 2 Cert. to Atty.	Fredric Joseph Ammerman
	☒ Preliminary Objections, filed by Atty. Schluter 2 Cert. to Atty.	Fredric Joseph Ammerman
12/27/2007	☒ Praeipce for Briefing Schedule, filed by Atty. Slimak no c/c	Fredric Joseph Ammerman
	☒ Preliminary Objections, filed by Atty. Slimak no c/c	Fredric Joseph Ammerman

Medical Professional Liability Action

Date		Judge
1/2/2008	X Preliminary Objections to Plaintiff's Second Amended Complaint, filed by s/ Laura O. Burke, Esquire. No CC	Fredric Joseph Ammerman
1/7/2008	X Preliminary Objections on Behalf of Dr. Bobrin to Plaintiff's Second Amended Complaint, filed by s/ A. Michael Gianantonio, Esquire. No CC	Fredric Joseph Ammerman
	X Praecipe for Argument Date On Preliminary Objections Pursuant to Rule 211, filed by A. Michael Gianantonio, Esquire. No CC	Fredric Joseph Ammerman
	X Order, this 7th day of Jan., 2008, Oral argument upon the Preliminary Objections will be held on Jan. 15, 2008, at 10:00 a.m. in Courtroom 1. by The court, /s/ Fredric J. Ammerman, Pres. Judge. 4CC Atty. Burke	Fredric Joseph Ammerman
	X Certificate of Merit, filed by s/ Mark A. Hoffman, Esquire. 1CC Atty.	Fredric Joseph Ammerman
	X Third Amended Civil Action Complaint, filed by s/ Mark A. Hoffman, Esquire. 1CC Atty.	Fredric Joseph Ammerman
1/8/2008	X Scheduling Order, NOW, this 8th day of Jan., 2008, upon consideration of Defendant's Bradford Bobrin, M.D., Praecipe for Argument Date on Preliminary Objections, it is Ordered that argument shall be held on Jan. 15, 2008, at 10:00 a.m. in Courtroom 1. By The Court, /s/ Fredric J. Ammerman, Pres. Judge. 4CC Atty. Bell	Fredric Joseph Ammerman
1/14/2008	X Praecipe For Briefing Schedule, filed by s/ Christopher C. Rulis, Esquire. no CC	Fredric Joseph Ammerman
	X Preliminary Objections to Plaintiff's Second Amended Complaint, filed by s/ Christopher C. Rulis, Esquire. No CC	Fredric Joseph Ammerman
	X Praecipe For Briefing Schedule, filed by s/ Christopher C. Rulis, Esquire. No CC	Fredric Joseph Ammerman
	X Preliminary Objections to Plaintiff's Third Amended Complaint, filed by s/ Christopher C. Rulis, Esquire. No CC	Fredric Joseph Ammerman
	X Order, this 11th day of Jan., 2007, upon consideration of Plaintiff's Third Amended Civil Action Complaint, the Argument Date scheduled for Jan. 15, 2008 is Cancelled. Another Argument Date will be set following receipt of Preliminary Objections to the Third Amended Complaint. by The court, /s/ Fredric J. Ammerman, Pres. Judge. 1CC Attys: M. Hoffman, M. Brian O'Connor, D. Bahl & R. Schluter, Slimak, Rulis, Bell, McIntyre & Burke; 1CC DRMC Primary Care Assoc., 145 Hospital Ave. Ste 200, DuBois, PA 15801	Fredric Joseph Ammerman
	X Praecipe to Substitute Verification, filed by s/ Mark A. Hoffman, Esquire. No CC	Fredric Joseph Ammerman
1/29/2008	X Praecipe for Argument Date and Briefing Schedule, filed by Atty. Bahl on behalf of Mark W. Maloney, M.D. 1 Cert. to Atty.	Fredric Joseph Ammerman
	X Preliminary Objections to Third Amended Complaint, filed by Atty. Bahl on behalf of Mark W. Maloney, M.D. 1 Cert. to Atty.	Fredric Joseph Ammerman
1/30/2008	X Certificate Prerequisite to Service of a Subpoena Pursuant to Pa.R.C.P. 4009.22, filed by s/ David Bahl Esq. 1CC MCS Group.	Fredric Joseph Ammerman
1/31/2008	X Certificate of Merit, filed by Atty. Hoffman 1 Cert. to Atty.	Fredric Joseph Ammerman
	X Fourth Amended Complaint, filed by Atty. Hoffman, 2 Cert. to Atty.	Fredric Joseph Ammerman
2/6/2008	X Rule Returnable, this 29th day of Jan., 2008, a Rule is granted. Rule returnable on the 7th day of April, 2008, at 9:15 a.m. in Courtroom 1. By The Court, /s/ Fredric J. Ammerman, Pres. Judge. 1CC to Atty.	Fredric Joseph Ammerman

Medical Professional Liability Action

Date		Judge
2/6/2008	✓ X Scheduling Order, this 29th day of Jan., 2008, upon consideration of the Praeipce for Argument Date and Briefing Schedule on Preliminary Objections of Defendant Mark W. Maloney, M.D., it is Ordered that argument shall be held on April 7, 2008, at 9:15 am. in Courtroom 1. By The Court, /s/ Fredric J. Ammerman, Pres. Judge. 1CC to Atty.	Fredric Joseph Ammerman
2/7/2008	✓ X Praeipce to Substitute Verification, filed by s/ Mark A. Hoffman, Esquire. No CC	Fredric Joseph Ammerman
2/11/2008	✓ X Preliminary Objections and Brief in Support on Behalf of Dr. Bobrin to Plaintiff's Fourth Amended Complaint, filed by s/Lauren R. Ames, Esq. No CC	Fredric Joseph Ammerman
	✓ X Praeipce for Argument Date on Preliminary Objections to Plaintiff's Fourth Amended Complaint Pursuant to Local Rule 211, filed by s/Lauren R. Ames, Esq. No CC	Fredric Joseph Ammerman
2/12/2008	✓ X Preliminary Objections to Plaintiff's Fourth Amended Complaint, filed by s/Marisa L. Farrone, Esq. No CC	Fredric Joseph Ammerman
	✓ X Praeipce for Briefing Schedule, filed by s/Marisa L. Farrone, Esq. No CC	Fredric Joseph Ammerman
2/13/2008	✓ X Scheduling Order, NOW, this 12th day of Feb., 2008, upon consideration of Defendant's Bradford Bobrin, M.D., Praeipce for Argument Date on Preliminary Objections to Plaintiff's fourth amended Complaint, it is Ordered that argument shall be held on april 7, 2008 at 9:15 a.m. in Courtroom 1. By The Court, /s/ Fredric J. Ammerman, Pres. Judge. 4CC Atty. Ames	Fredric Joseph Ammerman
2/15/2008	✓ X Stipulation, Plaintiffs, through their attorneys, hereby stipulate they are not making claims for punitive damages against defendant, James E. Devlin, M.D. at the present time. Filed by s/ M. Brian O'Connor, Esquire. No CC	Fredric Joseph Ammerman
2/29/2008	✓ X Stipulation, Plaintiff and Defendant Bradford Bobrin, M.D. , hereby stipulate and agree as follows: (see original). Filed by s/ Lauren R. Ames, Esquire. No CC	Fredric Joseph Ammerman
3/10/2008	✓ X Praeipce to Withdraw Preliminary Objections to Plaintiff's Fourth Amended Complaint, filed by Atty. Farrone no cert. copies.	Fredric Joseph Ammerman
3/28/2008	✓ X Answer And New Matter to Plaintiff's Fourth amended Complaint, filed by s/ Marissa Farrone, Esquire. No CC	Fredric Joseph Ammerman
3/31/2008	✓ X Praeipce to Withdraw Preliminary Objections of Defendant Mark W. Maloney, D.O., filed by s/ Richard F. Schluter, Esquire. 1CC Atty. Schluter	Fredric Joseph Ammerman
	✓ X Answer And New Matter to Plaintiff's Fourth Amended Complaint, filed by s/ John L. McIntyre, Esquire. no CC	Fredric Joseph Ammerman
4/7/2008	✓ X Plaintiff's Reply to The New Matter of Defendant DuBois Regional Medical Center a/k/a DuBois Regional Medical Center West a/d/b/a DRMC Behavioral Unit a/k/a DRMC East Behavioral Unit a/k/a DRMC Behavioral Health Outpatient Clinic, filed by s/ Mark A. Hoffman, Esquire. No CC	Fredric Joseph Ammerman
	✓ X Plaintiff's Reply to The New Matter of Defendant, Thomas J. Bradley, M.D., filed by s/ Mark A. Hoffman, Esquire. No CC	Fredric Joseph Ammerman
4/21/2008	✓ X Notice of Service, filed. That on the 18th day of April 2008, Served Request for Production of Documents Directed to Plaintiff, dated April 18, 2008 via first class mail to Mark A. Hoffman Esq., filed by s/ John L. McIntyre Esq. No CC.	Fredric Joseph Ammerman

Medical Professional Liability Action

Date		Judge
4/24/2008	✓ X Acceptance of Service, filed. I accept service of the Civil Action Fourth Amended Complaint on behalf of Defendants, DuBois Regional Medical Center, a/k/a DuBois Regional Medical Center, a/k/a DuBois Regional Medical Center West a/d/b/a DRMC Behavioral Unit a/k/a DRMC East Behavioral Unit a/k/a DRMC Behavioral Outpatient Clinic also Stipulation as to DRMC-applies to 4th Am Complaint, filed by s/ John L. McIntyre Esq. 1CC Atty.	Fredric Joseph Ammerman
	✓ X Acceptance of Service, filed. I accept service of the Civil Action Fourth Amended Complaint on behalf of Defendant, Thomas J. Bradley M.D. and certify that I am authorized to do so, filed by s/ Christopher C. Rulis Esq. 1CC Atty.	Fredric Joseph Ammerman
4/30/2008	✓ X Defendant Dr. Sanaa Helmi's Answer with New Matter to Plaintiff's Fourth Amended Complaint, filed by s/ Darryl R. Slimak, Esquire. No CC	Fredric Joseph Ammerman
5/9/2008	✓ X Plaintiff's Reply to The New Matter of Defendant, Dr. Sanaa Helmi to Plaintiff's Fourth Amended Complaint, filed by s/ Mark A. Hoffman, Esquire. No CC	Fredric Joseph Ammerman
5/12/2008	✓ X Answer and New Matter to Fourth Amended Complaint, filed by s/ Lynn E. Bell Esq. No CC.	Fredric Joseph Ammerman
5/22/2008	✓ X Plaintiff's Reply to The New Matter of Defendant, Bradford Bobrin, M.D. to Plaintiff's Fourth Amended Complaint, filed by s/ Mark A. Hoffman, Esquire. No CC	Fredric Joseph Ammerman
6/11/2008	✓ X Answer And New Matter to Plaintiff's Fourth Amended Complaint, filed by s/ Brian O' Connor, Esquire. no CC	Fredric Joseph Ammerman
6/20/2008	✓ X Plaintiff's Reply to the New Matter of Defendant, James E. Devlin, M.D., filed by s/ Mark A. Hoffman, Esquire. 1CC to Atty.	Fredric Joseph Ammerman
6/27/2008	✓ X Certificate Prerequisite to Service of a Subpoena Pursuant to Pa.R.C.P. 4009.22, filed by s/ Mark Hoffman, Esquire. 1CC MCS	Fredric Joseph Ammerman
7/16/2008	✓ X Answer of Defendant Mark W. Maloney, D.O., to Plaintiff's Fourth Amended Complaint with New Matter, filed by s/ Richard F. Schluter, Esquire. No CC	Fredric Joseph Ammerman
7/21/2008	✓ X Notice of Service, That Defendant's Thomas J. Bradley M.D.'s Request for Production of Expert Reports Directed to Plaintiff, was served via first class mail on July 17, 2008 to Thomas R. Kline Esq., Mark A. Hoffman Esq., Darryl R. Slimak Esq., M. Brian O'Commor Esq., David R. Bahl Esq., Lynn E. Bell Esq., John McIntyre Esq., filed by s/ Janet K. Meub Esq. No CC.	Fredric Joseph Ammerman
7/24/2008	✓ X Plaintiff's Reply to The New Matter of Defendant, Mark Maloney, D.O., filed by s/ Mark A. Hoffman, Esquire. 1CC Atty. Hoffman	Fredric Joseph Ammerman
8/7/2008	✓ X Request to Plaintiff For Production of Expert Reports, filed by s/ Lynn E. Bell, Esquire. No CC	Fredric Joseph Ammerman
8/12/2008	✓ X Notice of Service of Answers to Plaintiff's Supplemental Interrogatories Directed to Defendant, DuBois Regional Medical Center dated June 30, 2008 on the 11th day of August to Mark A. Hoffman Esq., filed by s/ John L. McIntyre Esq. No CC.	Fredric Joseph Ammerman
4/2/2009	✓ X Notice of Service of Defendant's Expert Report, filed. Hereby certifies a copy of defendant's expert rpt was served via first class mail this 1st day of April 2009 upon Thomas R. Klin Esq., filed by s. Janet K. Meub Esq. No CC.	Fredric Joseph Ammerman
4/20/2009	✓ X Notice of Service, filed. Hereby certifies a copy of Defendant's expert reports were served via first class U S Mail postage paid this 17th day of April 2009 upon Thomas R. Kline Esq., filed by s/ Lynn E. Bell Esq. No CC.	Fredric Joseph Ammerman

Medical Professional Liability Action

Date		Judge
4/27/2009	✓ X Notice of Service, filed. Served a true and correct copy of the foregoing Notice of Service by first class mail this 23rd day of April 2009 to Mark A. Hoffman Esq., David R. Bahl Esq., Darryl R. Slimak Esq., John McIntyre Esq. and Christopher C. Ruis Esq., filed by s/ M. Brian O'Conner Esq. No CC.	Fredric Joseph Ammerman
5/1/2009	✓ X Defendant Dr. Helmi's Motion for Summary Judgment, filed by s/ Darryl R. Slimak, Esquire. No CC	Fredric Joseph Ammerman
5/5/2009	✓ X Rule to Show Cause, AND NOW, this 5th day of May 2009, the Plaintiff is directed to show cause, if any she has, why Defendant Dr. Helmi's Motion for Summary Judgment should not be granted. This Rule is returned for Answer within 20 days and argument is scheduled for the 15th day of June 2009 at 2:30 pm in Courtroom No. 1. BY THE COURT: /s/ Fredric J. Ammerman, P. Judge. 1CC Atty.	Fredric Joseph Ammerman
5/8/2009	✓ X Certificate of Service, filed. That a true and correct copy of the Rule to Show Cause Regarding Defendant Dr. Helmi's Motion for Summary Judgment was mail by regular mail on this 7th day of May 2009 to Mark A. Hoffman Esq., David R. Bahl Esq. Matthew Brian O'Connor Esq., Lynn Bell Esq., John McIntyre Esq., Christopher C. Rulis Esq., filed by s/ Darryl R. Slimak Esq. No CC.	Fredric Joseph Ammerman
5/15/2009	✓ X Notice of Service, filed. Served a true and correct copy of the foregoing Notice of Service of Expert Report of Kevin M. Kelly MD by first class mail this 13th day of May 2009 to Thomas R. Kline Esq., & Mark A. Hoffman Esq., David R. Bahl Esq., Darryl R. Slimak Esq., Lynn Bell Esq., John McIntyre Esq., and Christopher C. Rulis Esq., filed by s/ M. Brian O'Connor Esq. No CC.	Fredric Joseph Ammerman
5/18/2009	✓ X Order AND NOW, this 15th day of May 2009, upon the request of Mark A. Hoffman Esquire, counsel for the Plaintiff; it is the ORDER of this Court that a status conference in the above-captioned matter shall be held on the 2nd day of July 2009 in Chambers at 11:00 a.m. BY THE COURT: /s/ Fredric J. Ammerman, P. Judge. 1CC Attys: M. Hoffman, M. Brian O'Connor, D. Bahl/Richard Schluter, D. Slimak, C. Rulis/Marissa Farrone, L. Bell, J. McIntyre/Laura O. Burke and 1CC DRMC Primary Care Associates @ 145 Hospital Ave., Ste. 200, DuBois, PA 15801	Fredric Joseph Ammerman
5/19/2009	✓ X Plaintiff's Response to Defendant, Dr. Helmi's Motion for Summary Judgment and Plaintiff's Cross Motion to Compel the Production of Expert reports On Behalf of Defendants, Mark W. Maloney, D.O. and Dubois Regional Medical Center, filed by Atty. Hoffman 1 Cert. to Atty.	Fredric Joseph Ammerman

Medical Professional Liability Action

Date		Judge
6/9/2009	Order, this 5th day of June, 2009, it is Ordered that Argument on Dr. Helmi's Motion for Summary Judgment is rescheduled to the 13th day of August, 2009 at 2:30 p.m. in Courtroom 1. Argument on Plaintiff's Motion to Compel the Production of Expert Reports is scheduled for the 15th day of June, 2009 at 2:30 p.m. in Courtroom 1. The Status Conference scheduled for July 2, 2009 remains unchanged. By The Court, /s/ Fredric J. Ammerman, Pres. Judge. 1CC Attys: Hoffman O'Connor McIntyre/Burke Bell Rulis/Farrone Bahl/Schluter Slimak 1CC to: DRMC Primary Care Assoc 145 Hospital, Ave., Ste 200 DuBois, PA 15801	Fredric Joseph Ammerman
6/17/2009	Order, this 16th day of June, 2009, it is Ordered that Defendants Mark W. Maloney, D.O. and the DuBois Regional Medical Center shall serve on all parties to this action their defense expert reports on or before 30 days from the date of this Order. After that date, these Defendants shall be precluded from serving expert reports. By The Court, /s/ Fredric J. Ammerman, Pres. Judge. 1CC Attys; Mark A. Hoffman, M. Brian O' Connor, David Bahl/Richard Schluter, Darryl Slimak, Christopher Rulis/Marissa Farrone, Lynn Bell, John McIntyre /Laura Burke; 1CC DRMC Primary Care Associates, Ste. 200, 145 Hospital Ave., DuBois PA 15801	Fredric Joseph Ammerman
7/14/2009	Order, this 13th day of July, 2009, it is Ordered that Defendant's deadline for expert reports shall be extended to Aug. 15, 2009 for medical causation and damage opinions. The deadline for standard of care expert opinions shall remain as previously ordered. By The Court, /s/ Fredric J. Ammerman, President Judge. 1CC Atty. Burke Order, this 14th day of July: Jury Selection will be held on Jan. 5, 2010 at 9:00 a.m. in Courtroom 1. Jury Trial is scheduled for March 1, 2, 3, 4, 5, 8, 9, 10, 11, 12, 15 and 16, 2010, at 9:00 a.m. (see original). Argument on all Motions or Petition is scheduled for the 25th day of Jan. , 2010 at 1:30 p.m. in Courtroom 1. By The Court, /s/ Fredric J. Ammerman, Pres. Judge. 1CC to: Mark A. Hoffman, Esq. m. Brian O'Connor, Esq. David R. Bahl, Esq. DRMC Primay Care Associates Darryl R. Slimak, Esq. Christopher C. Rulis, Esq. Lynn E. Bell, Esq. John L. McIntyre, Esquire	Fredric Joseph Ammerman
8/10/2009	Stipulation and Consent to Entry of Summary Judgment Dismissal of all Claims Against Sanaa Helmi, M.C., filed by Atty. Slimak no cert. copie.s	Fredric Joseph Ammerman

Medical Professional Liability Action

Date		Judge
8/10/2009	✓ X Response, filed by Atty. Bahl 1 Cert. to Atty. Response to the Motion for Summary Judgment of Defendant Sanaa Helmi, M.D. by stating that Defendant Dr. Maloney does not oppose the said Motion for the relief requested therein.	Fredric Joseph Ammerman
8/11/2009	✓ X Order, this 11th day of August, 2009, summary judgment in favor of Dr. Sanaa Helmi is GRANTED and all claims against her are DISMISSED, with prejudice. By The Court, /s/ Fredric J. Ammerman, Pres. Judge. 3CC Atty. Slimak	Fredric Joseph Ammerman
12/3/2009	✓ X Notice of Deposition of Darlene Nortum, filed by s/ John L. McIntyre, Esquire. no CC	Fredric Joseph Ammerman
	✓ X Notice of Deposition of Rochelle Russell, filed by s/ John L. McIntyre, Esquire. No CC	Fredric Joseph Ammerman

12-30-09 X Motion in Limine to Exclude Expert Testimony

1-4-10 X Motion in Limine to Precluding Evidence of Left Bradley's history of substance Abuse & Licensing issues

1-19-10 X Pils Response in Opposition to the motion in Limine to Preclude Expert testimony

1-19-10 X Pils Response without opposition to the Motion in Limine Precluding Evidence of Left Bradley's ^{history} ~~history~~ of substance Abuse & License suspension.

1-19-10 X Pre-trial order 1-14-10

1-22-10 X Supplemental Pre-trial Narrative Filed on behalf of DuBois Regional medical Center

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY
PENNSYLVANIA

WANDA RUSSELL
(Plaintiff)

426 North Michael Street
(Street Address)

Saint Mary's, PA 15857
(City, State ZIP)

VS.

JAMES E. DEVLIN, M.D.
(Defendant)

1100 Main Street
(Street Address)

Brockway, PA 15824
(City, State ZIP)

(Additional Defendants
Continued on attached sheet)

CIVIL ACTION

6-23-07 Document
Reinstated/~~Reissued~~ to Sheriff/Attorney
for service.

Wanda Russell
Deputy Prothonotary

No. 07-644-CD

Type of Case: Medical Malpractice

Type of Pleading: Civil Action Complaint

Filed on Behalf of:

Plaintiff, Wanda Russell
(Plaintiff/Defendant)

FILED pd \$85.00
m/12:10pm ICC ATTY
APR 24 2007 8cc SHC

William A. Shaw
Prothonotary/Clerk of Courts

Thomas R. Kline, Esq. Mark A. Hoffman, Esq.
(Filed by)

Kline & Specter, P.C.,
1525 Locust Street, The Nineteenth Floor
Philadelphia, PA 19102
(Address)

215-772-1000 phone/215-772-1359 fax
(Phone)

Wanda Russell
(Signature)

June 22, 2007 Document
Reinstated/~~Reissued~~ to Sheriff/Attorney
for service.
Wanda Russell
Deputy Prothonotary

May 23, 2007 Document
Reinstated/~~Reissued~~ to Sheriff/Attorney
for service.
William A. Shaw GK
Deputy Prothonotary

Aug 17, 2007 Document
Reinstated/~~Reissued~~ to Sheriff/Attorney
for service.
William A. Shaw GK
Deputy Prothonotary

(Continued from coversheet)

and	:
MARK W. MALONEY, D.O.	:
DRMC Primary Care Associates	:
Medical Arts Building	:
Suite 200	:
145 Hospital Avenue	:
DuBois, Pennsylvania 15801	:
and	:
DRMC PRIMARY CARE	:
ASSOCIATES	:
Medical Arts Building	:
Suite 200	:
145 Hospital Avenue	:
DuBois, Pennsylvania 15801	:
and	:
SANAA HELMI, M.D.	:
Behavioral Health Outpatient Clinic	:
DRMC East Unit	:
Maple Avenue	:
DuBois, Pennsylvania 15801	:
ans	:
THOMAS J. BRADLEY, M.D.	:
701 Sunflower Drive	:
DuBois, Pennsylvania 15801	:
and	:
BRADFORD BOBRIN, M.D.	:
Behavioral Health Outpatient Clinic	:
DRMC East Unit	:
Maple Avenue	:
DuBois, Pennsylvania 15801	:
and	:
DuBOIS REGIONAL MEDICAL	:
CENTER a/ka DuBOIS REGIONAL	:
MEDICAL CENTER WEST	:
a/d/b/a DRMC BEHAVIORAL	:
UNIT a/k/a DRMC EAST BEHAVIORAL	:
UNIT a/k/a DRMC BEHAVIORAL	:
HEALTH OUTPATIENT CLINIC	:
c/o Office of Risk Management	:
100 Hospital Avenue	:
DuBois, Pennsylvania 15801	:
Defendants.	:

KLINE & SPECTER

A Professional Corporation

By: THOMAS R. KLINE, ESQUIRE
MARK A. HOFFMAN, ESQUIRE
ROYCE W. SMITH, ESQUIRE

Attorney ID Nos.: 28895/ 84443/201295
The Nineteenth Floor
1525 Locust Street
Philadelphia, Pennsylvania 19102
(215) 772-1000

Attorneys for Plaintiff

WANDA RUSSELL
426 North Michael Street
Saint Mary's, Pennsylvania 15857
Plaintiff,

**COURT OF COMMON PLEAS
COUNTY OF CLEARFIELD**

DOCKET NO.

v.

JAMES E. DEVLIN, M.D.
1100 Main Street
Brockway, Pennsylvania 15824
and

MARK W. MALONEY, D.O.
DRMC Primary Care Associates
Medical Arts Building
Suite 200
145 Hospital Avenue
DuBois, Pennsylvania 15801
and

DRMC PRIMARY CARE
ASSOCIATES
Medical Arts Building
Suite 200
145 Hospital Avenue
DuBois, Pennsylvania 15801
and

SANAA HELMI, M.D.
Behavioral Health Outpatient Clinic
DRMC East Unit
Maple Avenue
DuBois, Pennsylvania 15801
ans

THOMAS J. BRADLEY, M.D.
701 Sunflower Drive
DuBois, Pennsylvania 15801
and

BRADFORD BOBRIN, M.D.
 Behavioral Health Outpatient Clinic
 DRMC East Unit
 Maple Avenue
 DuBois, Pennsylvania 15801
 and
 DuBOIS REGIONAL MEDICAL
 CENTER a/ka DuBOIS REGIONAL
 MEDICAL CENTER WEST
 a/d/b/a DRMC BEHAVIORAL
 UNIT a/k/a DRMC EAST BEHAVIORAL
 UNIT a/k/a DRMC BEHAVIORAL
 HEALTH OUTPATIENT CLINIC
 c/o Office of Risk Management
 100 Hospital Avenue
 DuBois, Pennsylvania 15801
 Defendants.

NOTICE

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

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER.

IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.

COURT ADMINISTRATOR
 Clearfield County Courthouse
 Second and Market Streets
 Clearfield, PA 16830
 814-765-2641, Ext. (5982)

ADVISO

Le han demandado a usted en la corte. Si usted quiere defenderse de estas demandas expuestas en las paginas siguientes, usted tiene veinte (20) dias de plazo al partir de la fecha de la demanda y la notificacion. Hace falta asentar una comparencia escrita o en persona o con un abogado y entregar a la corte en forma escrita sus defensas o sus objeciones a las demandas en contra de su persona. Sea avisado que si usted no se defiende, la corte tomara medidas y puede continuar la demanda en contra suya sin previo aviso o notificacion. Ademas, la corte pueda decidir a favor del demandante y requiere que usted cumpla con todas las provisiones de esta demanda. Usted puede perder dinero o sus propiedades u otros derechos importantes para usted.

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

ESTA OFICINA LO PUEDE PROPORCIONAR CON INFORMACION ACERCA DE EMPLEAR A UN ABOGADO. SI USTED NO PUEDE PROPORCIONAR PARA EMPLEAR UN ABOGADO, ESTA OFICINA PUEDE SER CAPAZ DE PROPORCIONARLO CON INFORMACION ACERCA DE LAS AGENCIAS QUE PUEDEN OFRECER LOS SERVICIOS LEGALES A PERSONAS ELEGIBLES EN UN HONORARIO REDUCIDO NINGUN HONORARIO.

COURT ADMINISTRATOR
 Clearfield County Courthouse
 Second and Market Streets
 Clearfield, PA 16830
 814-765-2641, Ext. (5982)

CIVIL ACTION COMPLAINT

Plaintiff, Wanda Russell, by and through her undersigned attorneys, Kline & Specter, P.C., herein complains of the above-captioned defendants as follows:

PARTIES

1. Plaintiff Wanda Russell is an adult citizen and a resident of the Commonwealth of Pennsylvania, residing at 426 North Michael Street, Saint Mary's, Pennsylvania 15857. Wanda Russell was born on September 19, 1958.

2. Defendant James E. Devlin, M.D. ["Dr. Devlin"] was, at all times material hereto, a duly licensed physician in the Commonwealth of Pennsylvania, specializing in the medical field of family medicine, who maintained a professional office, business or corporate office, or place of medical practice at 1100 Main Street, Brockway, Pennsylvania 15824. A Certificate of Merit pursuant to Pa.R.C.P. No. 1042.1 regarding the treatment, practice, or work of this defendant is attached hereto as Exhibit "A."

3. Defendant Mark W. Maloney, D.O. ["Dr. Maloney"] was, at all times material hereto, a duly licensed osteopathic physician in the Commonwealth of Pennsylvania, specializing in the medical field of family medicine, who maintained a professional office, business or corporate office, or place of medical practice at DRMC Primary Care Associates, Medical Arts Building, Suite 200, 145 Hospital Avenue, DuBois, Pennsylvania 15801. A Certificate of Merit pursuant to Pa.R.C.P. No. 1042.1 regarding the treatment, practice, or work of this defendant is attached hereto as Exhibit "A."

4. Defendant DRMC Primary Care Associates was, at all times material hereto, a

corporation, professional corporation, professional association, professional partnership, or other jural entity organized according to and existing under the laws of the Commonwealth of Pennsylvania, with an office location and place of business at Medical Arts Building, Suite 200, 145 Hospital Avenue, DuBois, Pennsylvania 15801. A Certificate of Merit pursuant to Pa.R.C.P. No. 1042.1 regarding the treatment, practice, or work of this defendant is attached hereto as Exhibit "A."

5. At all times material hereto, Dr. Maloney and/or Dr. Devlin were agents, servants, and/or employees of DRMC Primary Care Associates, and were acting within the scope of their agency, master-servant, and/or employment relationships with DRMC Primary Care Associates while providing medical care and treatment to Wanda Russell. Accordingly, DRMC Primary Care Associates is liable for the negligent acts and/or omissions of Dr. Devlin and/or Dr. Maloney under theories of agency, master-servant, respondeat superior, and/or right of control.

6. Dr. Devlin was providing medical service or family practice service "coverage" or "cross-coverage" for Dr. Maloney, while providing medical care and treatment to Wanda Russell on or about December 4 and 5, 2005. Accordingly, Dr. Maloney is liable for the negligent acts and/or omissions of Dr. Devlin under theories of agency, master-servant or borrowed servant, respondeat superior, and/or right of control.

7. Dr. Devlin was providing "coverage" or "cross-coverage" for Dr. Maloney's family practice group or association, DRMC Primary Care Associates, while providing medical care and treatment to Wanda Russell, on or about December 4 and 5, 2005. Accordingly, DRMC Primary Care Associates is liable for the negligent acts and/or omissions of Dr. Devlin under theories of agency, master-servant or borrowed servant, respondeat superior, and/or right of control.

8. Defendant Sanaa Helmi, M.D. ["Dr. Helmi"] was, at all times material hereto, a duly

licensed physician in the Commonwealth of Pennsylvania, specializing in the medical field of psychiatry, who maintained a professional office, business or corporate office, or place of medical practice at Behavioral Health Outpatient Clinic, DRMC East Unit, Maple Avenue, DuBois, Pennsylvania 15801. A Certificate of Merit pursuant to Pa.R.C.P. No. 1042.1 regarding the treatment, practice, or work of this defendant is attached hereto as Exhibit "A."

9. Defendant Thomas J. Bradley, M.D. ["Dr. Bradley"] was, at all times material hereto, a duly licensed physician in the Commonwealth of Pennsylvania, specializing in the medical field of psychiatry, who maintained a professional office, business or corporate office, or place of medical practice at 701 Sunflower Drive, DuBois, Pennsylvania 15801. A Certificate of Merit pursuant to Pa.R.C.P. No. 1042.1 regarding the treatment, practice, or work of this defendant is attached hereto as Exhibit "A."

10. Defendant Bradford Bobrin, M.D. ["Dr. Bobrin"] was, at all times material hereto, a duly licensed physician in the Commonwealth of Pennsylvania, specializing in the medical field of psychiatry, who maintained a professional office, business or corporate office, or place of medical practice at Behavioral Health Outpatient Clinic, DRMC East Unit, Maple Avenue, DuBois, Pennsylvania 15801. A Certificate of Merit pursuant to Pa.R.C.P. No. 1042.1 regarding the treatment, practice, or work of this defendant is attached hereto as Exhibit "A."

11. Defendant DuBois Regional Medical Center a/k/a/ DuBois Regional Medical Center West a/d/b/a DRMC Behavioral Unit a/k/a DRMC East Behavioral Unit a/k/a DRMC Behavioral Health Outpatient Clinic [referred to in various paragraphs as either the "DuBois Regional Medical Center" or the "DRMC Behavioral Unit" or the "DuBois Regional Medical Center West"] is a corporation or other jural entity organized according to and existing under the laws of the

Commonwealth of Pennsylvania which owns, operates, and maintains a hospital, health care facility, and provider of health care services based at 100 Hospital Avenue, DuBois, Pennsylvania 15801.

The DRMC Behavioral Unit a/k/a DRMC East Behavioral Unit a/k/a DRMC East Behavioral Unit a/k/a DRMC Behavioral Health Outpatient Clinic is a psychiatric unit located within the East Unit of the DuBois Regional Medical Center. A Certificate of Merit pursuant to Pa.R.C.P. No. 1042.1 regarding the treatment, practice, or work of this defendant is attached hereto as Exhibit "A."

12. At all times material hereto, Dr. Devlin, Dr. Maloney, Dr. Helmi, Dr. Bradley, and Dr. Bobrin were actual or ostensible agents, servants, and/or employees of the DuBois Regional Medical Center and/or the DRMC Behavioral Unit, and were acting within the scope of their agency, master-servant, and/or employment relationship with the DuBois Regional Medical Center, and its affiliated or associated entities as captioned above, while providing medical care and treatment to Wanda Russell. Accordingly, the DuBois Regional Medical Center, and its affiliated or associated entities as captioned above, are liable for the negligent acts and/or omissions of Dr. Devlin, Dr. Maloney, Dr. Helmi, Dr. Bradley, and Dr. Bobrin under theories of agency, master-servant, respondeat superior, and/or right of control.

13. At all times material hereto, the DuBois Regional Medical Center and the DRMC Behavioral Unit were acting by and through their actual agents or ostensible agents, servants, and/or employees, Dr. Devlin, Dr. Maloney, Dr. Helmi, Dr. Bradley, and Dr. Bobrin, as well as the nurses who provided psychiatric nursing care and evaluation to Wanda Russell during her hospitalization in the DRMC Behavioral Unit. The identities of these nurses, whose signatures are illegible on the "Behavioral Health Services Daily Notes" and extension notes, attached hereto as Exhibit "B," are fully known to the DuBois Regional Medical Center and the DRMC Behavioral Unit, and presently

unknown to Plaintiff because of the illegible nature, or absence of, their signatures. The identities of these nurses is the subject matter of further discovery by the Plaintiff during the course of this litigation. Accordingly, DuBois Regional Medical Center is liable for the negligent acts and/or omissions of these aforementioned named and as yet specifically identified, see Exhibit "B," actual or ostensible agents, servants, and/or employees which occurred in the course of providing medical and nursing care to Wanda Russell, under theories of agency, master-servant, respondeat superior, and/or right of control.

14. Venue in this action is properly laid in Clearfield County, Pennsylvania pursuant to the Amendatory Order of the Supreme Court of Pennsylvania dated March 5, 2003, No. 381, Civil Procedural Rules, Docket No. 5, which amended the Pennsylvania Rules of Civil Procedure No.1006.

FACTS GIVING RISE TO CLAIMS OF NEGLIGENCE

15. On December 3, 2005, Wanda Russell presented to the Emergency Department at the DuBois Regional Medical Center via wheelchair with complaints of, among other things, bilateral arm weakness and dark vision.

16. On December 3, 2005, Wanda Russell was evaluated by Patrick Shilata, D.O. in the Emergency Department at the DuBois Regional Medical Center.

17. On December 3, 2005, Wanda Russell had a known history of hypertension and insulin dependent diabetes mellitus. These co-morbid conditions were known to the nursing staff and physician who evaluated and treated Wanda Russell in the Emergency Department on December 3, 2005, and were recorded in the DuBois Regional Medical Center Emergency Department medical record of Wanda Russell.

18. On December 3, 2005, Wanda Russell was able to ambulate, but complained of feeling off balance.

19. On December 3, 2005, during her evaluation in the DuBois Regional Medical Center Emergency Department, Wanda Russell had performed on her, among other things, an electrocardiogram, a basic metabolic panel, a urine analysis with microscopic examination, and an unenhanced head CT scan. All test results were interpreted as "normal" except for an elevated blood sugar (196 mg/dl; normal = 70 to 110 mg/dl).

20. On December 3, 2005, Wanda Russell was discharged from the Emergency Department at the Dubois Regional Medical Center with the diagnosis: "Impression: weakness, Transient Ischemic Attack (TIA), Diabetes Mellitus, Type I."

21. On December 3, 2005, Wanda Russell was discharged from the Emergency Department at the Dubois Regional Medical Center with instructions on transient ischemic attack and diabetes mellitus, and she was given a four (4) day work release. Wanda Russell was additionally instructed to follow-up with Dr. Maloney, her primary care physician, in three (3) to four (4) days.

22. On December 4, 2005, Wanda Russell presented to the Emergency Department at the DuBois Regional Medical Center via wheelchair with complaints of, among other things, left-sided weakness and inability to walk.

23. On December 4, 2005, Wanda Russell's sister signed the DuBois Regional Medical Center "Consent for Treatment" as Wanda Russell's patient representative, and on Wanda Russell's behalf, because Wanda Russell had weakness on writing and slurred speech. The "Consent for Treatment" was signed at or about 0938 hours on December 4, 2005.

24. On December 4, 2005, Wanda Russell was evaluated by Jeffrey Elias, D.O. ["Dr. Elias"] in the Emergency Department at the DuBois Regional Medical Center.

25. On December 4, 2005, Dr. Elias performed a neurological examination on Wanda Russell in the Emergency Department at the DuBois Regional Medical Center, and found, among other things, that Wanda Russell had a facial droop and diminished motor strength in the left arm (2/5) and left leg (2/5). The "Review of Systems" performed by Dr. Elias was positive for gait disturbance, speech changes, and weakness in the left arm and leg.

26. On December 4, 2005, Dr. Elias formulated a plan that Wanda Russell be admitted "to medical, for Maloney, Mark W. with a primary ED diagnosis of CVA (stroke) non-hemorrhagic." A summary of the Emergency Department evaluation of Wanda Russell was faxed to Wanda Russell's primary care physician, Dr. Maloney.

27. On December 4, 2005, Dr. Devlin evaluated Wanda Russell in the Emergency Department at the DuBois Regional Medical Center. At the time, Dr. Devlin was covering or cross-covering for Dr. Maloney and DRMC Primary Care Associates.

28. On December 4, 2005, Dr. Devlin admitted Wanda Russell to the DuBois Regional Medical Center for neuro-checks and observation. At the time of admission, Dr. Devlin doubted that Wanda Russell had, or was experiencing, a transient ischemic attack, and recorded this belief in his "History and Physical Examination," stating, among other things: "History of some left sided weakness, questionable TIA. Clinically, at this time it is doubtful but with the history we will go ahead and make the patient an observation."

29. On December 4, 2005, Wanda Russell was admitted to Dr. Maloney's service at the DuBois Regional Medical Center, with Dr. Devlin covering.

30. On December 4, 2005, Dr. Devlin did not obtain, or order to be obtained or provided, a neurology consultation for Wanda Russell.

31. On December 4, 2005, Dr. Devlin did not have performed, or order to be performed, an MRI scan of the head or an MRA on Wanda Russell.

32. On December 5, 2005, an unenhanced head CT scan was performed on Wanda Russell for the diagnosis of left-sided weakness, and was interpreted as "normal."

33. On December 5, 2005, bilateral carotid duplex sonograms were performed on Wanda Russell for the indication of left-sided weakness. This study demonstrated approximately 50 percent stenosis of the right internal carotid artery and 50 to 69 percent stenosis of the left internal carotid artery. Bilateral carotid plaque was also demonstrated on the sonogram.

34. An aortic arch and four vessel cerebral angiogram was not performed on Wanda Russell on December 5, 2005.

35. A head MRI or MRA was not performed on Wanda Russell on December 5, 2005.

36. A neurology consult was not obtained for or performed on Wanda Russell on December 5, 2005.

37. Wanda Russell continued to have intermittent left-sided weakness on December 5, 2005.

38. Wanda Russell had slurred speech and a "left facial droop of the mouth" on December 5, 2005.

39. On December 5, 2005, at or between the hours of approximately 1900 and 2000 hours, Dr. Maloney evaluated Wanda Russell at the DuBois Regional Medical Center, and informed Wanda Russell that her loss of mobility was due to depression.

40. On December 5, 2005, Dr. Maloney consulted Dr. Helmi concerning the admission of Wanda Russell to the DRMC Behavioral Unit, and reported to Dr. Helmi that "he was unable to find any medical problems" with respect to Wanda Russell.

41. On December 5, 2005, during the telephone consultation between Dr. Maloney and Dr. Helmi, according to Dr. Maloney, Dr. Helmi made the recommendation that Wanda Russell be admitted to the DRMC Behavior Unit for psychiatric treatment.

42. Dr. Helmi did not perform a history, psychiatric evaluation, or physical examination on Wanda Russell on December 5, 2005. Dr. Helmi did not physically see or speak with Wanda Russell on December 5 or 6, 2005.

43. On December 5, 2005, at or about 2040 hours, Dr. Maloney gave a "telephone order" to Brenda L. Slappy, R.N., to "Transfer to psych unit tonight."

44. On December 5, 2005, Wanda Russell was asked to sign, and did sign, an "Initial Evaluation and Treatment Plan," which outlined a "Description of Proposed Treatment Plan" and a "Description of Proposed Restrictions and Restraints." This form was not completed and signed by a physician.

45. On December 5, 2005, Wanda Russell was asked to sign, and did sign, a "Consent for Voluntary Inpatient Treatment."

46. The "Consent for Voluntary Inpatient Treatment" set forth the following "Instructions":

Before signing this form, your treatment should be explained to you and you must be given a copy of the Patient's Bill of Rights, the report of your initial evaluation and the proposed treatment plan must be completed and signed by you and the physician.

47. On December 6, 2005, Wanda Russell was not given a copy of the DuBois Regional Medical Center Patient's Bill of Rights.

48. On December 6, 2005, Wanda Russell was not given a copy of her initial evaluation.

49. On December 6, 2005, Wanda Russell was not given a copy of the proposed treatment plan which should have been completed and signed by her and a physician. Dr. Helmi, who made the decision to admit Wanda Russell to the psychiatric unit, did not explain the proposed treatment plan or sign the "Description of Proposed Treatment Plan" and "Description of Proposed Restrictions and Restraints."

50. On December 6, 2005, at or about 0200 hours, Wanda Russell was admitted to the DRMC Behavioral Unit by Kim Hendricks, R.N. ["Nurse Hendricks"], onto Dr. Bobrin's Service.

51. On December 6, 2005, at no time prior to, or at the time of her admission at 0200 hours to the DRMC Behavioral Unit, was Wanda Russell evaluated by a psychiatrist, including Dr. Bradley, Dr. Bobrin, or Dr. Helmi.

52. On December 6, 2005, at or about 0200 hours, Wanda Russell told Nurse Hendricks that "she was lied to about coming here for an admission from her family" and reported "she is unable to use left arm and leg. Patient complains of not wanting to stay."

53. On December 6, 2005, at or about 0330 hours, Wanda Russell fell out of bed in the DRMC Behavioral Unit.

54. On December 6, 2005, at or about 0643 hours, Dr. Bradley performed a history and physical examination on Wanda Russell. Dr. Bradley obtained a history of present illness, among other things, as follows:

Wanda is a 47-year-old woman who had been readmitted to the

West division for left sided weakness. She had had a workup that included a normal CT of the head. She was discharged and re-presented to the ER with nervousness and I guess there was a question regarding the extent of the left sided weakness present and the fact it was noted that the person was under a lot of stress. She is hypertensive, hyperlipidemic, and an insulin dependent diabetic. I guess she was persuaded to be transferred to the psyche unit.

55. On December 6, 2005, during his physical examination of Wanda Russell, Dr. Bradley found, among other things, "There is some left upper extremity weakness and facial asymmetry" that was "hard to evaluate since she is so anxious."

56. On December 6, 2005, at the time Dr. Bradley initially evaluated Wanda Russell, Dr. Bradley formulated and initiated the plan that "the patient is admitted for psyche evaluation and treatment."

57. On December 6, 2005, at the time of his initial evaluation, Dr. Bradley did not transfer Wanda Russell back to a medical unit for evaluation of her left sided weakness or facial asymmetry.

58. On December 6, 2005, at the time of his initial evaluation, Dr. Bradley did not obtain, or order to be obtained, a neurology consultation for Wanda Russell.

59. On December 6, 2005, at the time of his initial evaluation, Dr. Bradley did not have performed, or order to be performed, an MRI scan of the head or MRA on Wanda Russell.

60. On December 6, 2005, at the time of his initial evaluation, Dr. Bradley did not diagnose Wanda Russell as having an evolving or "stuttering" cerebrovascular accident.

61. On December 6, 2005, the nursing staff from the DRMC Behavioral Unit attempted to contact Dr. Helmi at 0955 hours, first by beeper and eventually by cell phone, seeking information

about Wanda Russell.

62. On December 6, 2005, at or about 0955 hours, Dr. Helmi informed the DRMC Behavioral Unit nurse, whose illegible signature appears at Exhibit "B" at page 3, by telephone "that she didn't remember the patient and asked where she came from."

63. On December 6, 2005, at or about 1005 hours, Dr. Helmi informed the nurse whose illegible signature appears at Exhibit "B" at page 3, by telephone that "she did not make the recommendation-Dr. Maloney asked for the admission and she agreed on the basis that the patient is suicidal."

64. On December 6, 2005, at or before 1028 hours, Dr. Bobrin evaluated Wanda Russell at the DRMC Behavioral Unit, and during the "Initial Evaluation/Mental Status Examination/Discharge Summary" report preparation, described that, among other things:

She describes being scared about her arm and leg. She awoke on Friday with trouble with her left arm and it has gotten worse since then. Her family said that this is true as well. She can stand as she demonstrates to me but has trouble lifting up her arm, not even able to brush her hair. She woke up and fell and has had two falls here on the unit and so she initially came in because scans x two do not show any signs of ischemia or infarct.

65. On December 6, 2005, Dr. Bobrin, at or before 1028 hours, Dr. Bobrin found that Wanda Russell exhibited no signs of "suicidal or homicidal ideations" on the mental status examination.

66. On December 6, 2005, at or before 1028 hours, Dr. Bobrin assessed Wanda Russell as follows

This is a 47-year-old with some mild depressive symptoms and acute onset of depressive mood after having stroke-like symptoms which has continued. Although it was thought that her

neurologic signs were out of proportion to her neurological symptoms, she does seem to have flaccid paralysis of the left arm and left droop of smile. With no gross infarct, there might be some infarct on brainstem or internal capsule. Will need MRI and neuro consult.

67. On December 6, 2005, at or before 1028 hours, Dr. Bobrin formulated a plan for Wanda Russell that included, among other things, "to transfer her back over to medicine where she will receive neuro consult and MRI, continue medical care. I do not think she needs acute psychiatric care at this time."

68. On December 6, 2005, at or about 1700 hours, Wanda Russell was readmitted by Dr. Maloney under his care to the DuBois Regional Medical Center West.

69. On December 6, 2005, on or before 1700 hours, Dr. Maloney performed a "History and Physical Examination" on Wanda Russell, and described Wanda Russell's admission to "the Adult Mental Health Unit," stating:

When she arrived there, Wanda apparently rescinded her voluntary admission, noting that she did not wish to be there. This was supported by her family, and today, secondary to reported falls in the Adult Mental Health Unit. I have requested that Wanda be returned for further evaluation in the observation status setting.

70. On December 6, 2005, Dr. Maloney ordered an MRI study to be performed on Wanda Russell on the following morning, and a neurology consultation to be performed by Ruediger Katz, M.D. ["Dr. Katz"].

71. On December 6, 2005, during his evaluation of Wanda Russell at or before 1916 hours, Dr. Katz found that Wanda Russell had multiple risk factors for cerebral ischemia.

72. On December 6, 2005, during his neurologic examination of Wanda Russell at or

before 1916 hours, Dr. Katz found, among other things, that Wanda Russell had a lower left facial droop, 0/5 strength in her left arm, and 3/5 strength in her left leg.

73. On December 7, 2005, an unenhanced MRI of the brain was performed on Wanda Russell at the DuBois Regional Medical Center, which demonstrated a “well circumscribed lesion of right basal ganglia suggestive of a subacute or chronic lacunar infarct. Very small lacunar infarct in the left basal ganglia.”

74. On December 8, 2005, John J. Ahn, M.D. performed a cardiology consultation on Wanda Russell, and diagnosed Wanda Russell as an “unfortunate 47-year-old female who has suffered a CVA.”

75. On December 8, 2005, Lynn Myers, M.D. [“Dr. Myers”], a rehabilitation medicine specialist, evaluated Wanda Russell, and found that:

The patient is an appropriate candidate for admission to the inpatient rehabilitation unit to address deficits and functional mobility and self care skills related to her recent CVA with left hemiparesis.

76. On December 9, 2005, Wanda Russell was transferred to the Physiatry Unit for inpatient rehabilitation at the DRMC Inpatient Rehabilitation Programs on the service of Dr. Myers.

77. The negligence of all defendants, jointly and severally, as set forth with specificity in the Counts below, directly and proximately caused, and increased the risk of harm of, the cerebrovascular accident suffered by Wanda Russell.

78. The negligence of all defendants, jointly and severally, as set forth with specificity in the Counts below, directly and proximately caused, and increased the risk of harm of, the neurologic injuries, impairments, and deficits suffered by Wanda Russell.

79. The negligence of all defendants, jointly and severally, as set forth with specificity in the Counts below, directly and proximately caused, and increased the risk of harm of, the following injuries and damages:

- a. irreversible cerebral ischemia;
- b. cerebrovascular accident;
- c. cerebral dysfunction;
- d. cognitive impairment;
- e. motor impairment;
- f. neurological impairment and injury;
- g. humiliation;
- h. embarrassment;
- i. anxiety and fright;
- j. pain and suffering;
- k. disfigurement;
- l. loss of life's pleasures;
- m. economic damages; and,
- n. medical expenses.

80. Wanda Russell suffered, and continues to suffer, grave neurologic and medical injuries, impairments, and deficits which were caused by, and whose risk of harm was increased by, the negligent conduct of defendants, jointly and severally, as more fully set forth with specificity in the Counts below.

COUNT I-NEGLIGENCE
(Plaintiff v. Dr. Devlin)

81. The previous paragraphs are herein incorporated by reference as though fully set forth.

82. The negligent conduct of Dr. Delvin during his medical evaluation, care, and treatment of Wanda Russell consisted of the following:

- a. failure to properly, timely, and adequately evaluate a patient with a diagnosis of transient ischemic attack;
- b. failure to properly, timely, and adequately evaluate a patient with a diagnosis of cerebrovascular accident;
- c. failure to properly, timely, and adequately evaluate a patient with fluctuating neurologic signs and symptoms;
- d. failure to properly and timely obtain the consultative services of a neurologist or specialist in neurology;
- e. failure to properly and timely obtain cerebral imaging with an MRI scan and/or MRA;
- f. failure to properly, timely, and adequately evaluate a patient with acute neurologic signs and symptoms;
- g. failure to timely, properly, and adequately evaluate, diagnose, and treat a “stuttering” stroke;
- h. failure to provide appropriate management and treatment of acute neurologic signs and symptoms;
- i. failure to provide appropriate, adequate, and timely monitoring of a patient

- with a deteriorating neurologic status;
- j. failure to properly, timely, and adequately evaluate a patient with acute deteriorating neurologic status;
 - k. failure to provide appropriate management of an evolving cerebrovascular accident;
 - l. failure to provide appropriate, adequate, and timely monitoring of a patient with a signs and symptoms of an evolving cerebrovascular accident or neurologic crisis;
 - m. failure to properly, timely, and adequately evaluate a patient with signs and symptoms of an evolving neurologic dysfunction;
 - n. failure to obtain appropriate, adequate, and timely neuro-radiologic evaluation; and,
 - o. failure to properly, timely, and adequately recognize and appreciate signs and symptoms of evolving neurologic dysfunction.

COUNT II-NEGLIGENCE
(Plaintiff v. Dr. Maloney)

83. The previous paragraphs are herein incorporated by reference as though fully set forth.
84. The negligent conduct of Dr. Delvin during his medical evaluation, care, and treatment of Wanda Russell consisted of the following:

- a. failure to properly, timely, and adequately evaluate a patient with a diagnosis of transient ischemic attack;
- b. failure to properly, timely, and adequately evaluate a patient with a diagnosis

- of cerebrovascular accident;
- c. failure to properly, timely, and adequately evaluate a patient with fluctuating neurologic signs and symptoms;
 - d. failure to properly and timely obtain the consultative services of a neurologist or specialist in neurology;
 - e. failure to properly and timely obtain cerebral imaging with an MRI scan and/or MRA;
 - f. failure to properly, timely, and adequately evaluate a patient with acute neurologic signs and symptoms;
 - g. failure to timely, properly, and adequately evaluate, diagnose, and treat a “stuttering” stroke;
 - h. failure to provide appropriate management and treatment of acute neurologic signs and symptoms;
 - i. failure to provide appropriate, adequate, and timely monitoring of a patient with a deteriorating neurologic status;
 - j. failure to properly, timely, and adequately evaluate a patient with acute deteriorating neurologic status;
 - k. failure to provide appropriate management of a cerebrovascular accident;
 - l. failure to provide appropriate, adequate, and timely monitoring of a patient with a signs and symptoms of an evolving cerebrovascular accident or neurologic crisis;
 - m. failure to properly, timely, and adequately evaluate a patient with signs and

symptoms of an evolving neurologic dysfunction;

- n. failure to provide appropriate, adequate, and timely neuro-radiologic evaluation;
- o. failure to provide timely, appropriate, and adequate medical evaluation prior to transfer to a psychiatric unit;
- p. failure to provide timely, appropriate, and adequate neurologic and neuro-radiologic evaluation prior to transfer to a psychiatric unit;
- q. failure to provide timely, appropriate, and adequate psychiatric and psychologic evaluation prior to transfer to a psychiatric unit;
- r. failure to obtain timely, appropriate, and adequate medical evaluation prior to transfer to a psychiatric unit;
- s. failure to obtain timely, appropriate, and adequate psychiatric and psychologic evaluation prior to transfer to a psychiatric unit;
- t. failure to take an adequate and appropriate medical history;
- u. failure to take an adequate and appropriate psychiatric and psychological history;
- v. failure to take an adequate and appropriate medical care and treatment during hospitalization in a psychiatric unit;
- w. failure to effect a timely transfer from the psychiatric unit back to the medical unit;
- x. failure to effect a timely transfer from the psychiatric unit back to the medical unit for neurologic evaluation and treatment;

- y. failure to provide timely, adequate, and appropriate management of a stroke;
and,
- z. failure to properly, timely, and adequately recognize and appreciate signs and
symptoms of evolving neurologic dysfunction.

COUNT III-NEGLIGENCE
(Plaintiff v. Dr. Helmi)

85. The previous paragraphs are herein incorporated by reference as though fully set forth.

86. The negligent conduct of Dr. Helmi during her evaluation, care, and treatment of Wanda Russell consisted of the following:

- a. failure to properly, timely, and adequately evaluate a patient with a diagnosis
of transient ischemic attack;
- b. failure to properly, timely, and adequately evaluate a patient with a diagnosis
of cerebrovascular accident;
- c.. failure to properly, timely, and adequately evaluate a patient with fluctuating
neurologic signs and symptoms;
- d. failure to properly and timely obtain the consultative services of a neurologist
or specialist in neurology;
- e. failure to properly and timely obtain cerebral imaging with an MRI scan or
MRA;
- f. failure to properly, timely, and adequately evaluate a patient with acute

- neurologic signs and symptoms;
- g. failure to timely, properly, and adequately evaluate, diagnose, and treat a “stuttering” stroke;
 - h. failure to provide appropriate management and treatment of acute neurologic signs and symptoms;
 - i. failure to provide appropriate, adequate, and timely monitoring of a patient with a deteriorating neurologic status;
 - j. failure to properly, timely, and adequately evaluate a patient with acute deteriorating neurologic status;
 - k. failure to provide appropriate management of an evolving cerebrovascular accident or neurologic crisis;
 - l. failure to provide appropriate, adequate, and timely monitoring of a patient with a signs and symptoms of an evolving cerebrovascular accident;
 - m. failure to properly, timely, and adequately evaluate a patient with signs and symptoms of an evolving neurologic dysfunction;
 - n. failure to provide appropriate, adequate, and timely neuro-radiologic evaluation;
 - o. failure to provide timely, appropriate, and adequate medical evaluation prior to transfer to a psychiatric unit;
 - p. failure to provide timely, appropriate, and adequate neurologic and neuro-radiologic evaluation prior to transfer to a psychiatric unit;
 - q. failure to provide timely, appropriate, and adequate psychiatric and

- psychologic evaluation prior to transfer to a psychiatric unit;
- r. failure to perform a timely, adequate, or appropriate psychiatric history prior to transfer to a psychiatric unit;
 - s. failure to obtain timely, appropriate, and adequate medical evaluation prior to transfer to a psychiatric unit;
 - t. failure to obtain timely, appropriate, and adequate psychiatric and psychologic evaluation prior to transfer to a psychiatric unit;
 - u. failure to perform an adequate and appropriate medical history;
 - v. failure to perform any medical history, psychiatric history, or physical examination prior to or at the time of transfer to a psychiatric unit;
 - w. failure to see, evaluate, or speak with the patient prior to transfer to a psychiatric unit;
 - x. failure to effect a timely transfer from the psychiatric unit back to the medical unit;
 - y. failure to evaluate falls in the psychiatric unit; and,
 - z. failure to re-evaluate the medical status and or psychiatric status of the patient following transfer to the psychiatric unit.

COUNT IV-NEGLIGENCE
(Plaintiff v. Dr. Bradley)

87. The previous paragraphs are herein incorporated by reference as though fully set forth.

88. The negligent conduct of Dr. Bradley during his medical evaluation, care, and

treatment of Wanda Russell consisted of the following:

- a. failure to properly, timely, and adequately evaluate a patient with a diagnosis of transient ischemic attack;
- b. failure to properly, timely, and adequately evaluate a patient with a diagnosis of cerebrovascular accident;
- c. failure to properly, timely, and adequately evaluate a patient with fluctuating neurologic signs and symptoms;
- d. failure to properly and timely obtain the consultative services of a neurologist or specialist in neurology;
- e. failure to properly and timely obtain cerebral imaging with an MRI scan and/or MRA;
- f. failure to properly, timely, and adequately evaluate a patient with acute neurologic signs and symptoms;
- g. failure to timely, properly, and adequately evaluate, diagnose, and treat a "stuttering" stroke;
- h. failure to provide appropriate management and treatment of acute neurologic signs and symptoms;
- i. failure to provide appropriate, adequate, and timely monitoring of a patient with a deteriorating neurologic status;
- j. failure to properly, timely, and adequately evaluate a patient with acute deteriorating neurologic status;
- k. failure to provide appropriate management of an evolving cerebrovascular

accident or neurologic crisis;

- l. failure to provide appropriate, adequate, and timely monitoring of a patient with a signs and symptoms of an evolving cerebrovascular accident;
- m. failure to properly, timely, and adequately evaluate a patient with signs and symptoms of an evolving neurologic dysfunction;
- n. failure to provide appropriate, adequate, and timely neuro-radiologic evaluation;
- o. failure to provide timely, appropriate, and adequate medical evaluation prior to transfer to a psychiatric unit;
- p. failure to provide timely, appropriate, and adequate neurologic and neuro-radiologic evaluation prior to transfer to a psychiatric unit;
- q. failure to provide timely, appropriate, and adequate psychiatric and psychologic evaluation prior to transfer to a psychiatric unit;
- r. failure to perform a timely, adequate, or appropriate psychiatric history prior to transfer to a psychiatric unit;
- s. failure to obtain timely, appropriate, and adequate medical evaluation prior to transfer to a psychiatric unit;
- t. failure to obtain timely, appropriate, and adequate psychiatric and psychologic evaluation prior to transfer to a psychiatric unit;
- u. failure to perform an adequate and appropriate medical history;
- v. failure to see or speak with the patient prior to transfer to a psychiatric unit;
- w. failure to effect a timely transfer from the psychiatric unit back to the medical

unit;

- x. failure to evaluate falls in the psychiatric unit; and,
- y. failure to re-evaluate the medical status following transfer to the psychiatric unit.

COUNT IV-NEGLIGENCE
(Plaintiff v. Dr. Bobrin)

89. The previous paragraphs are herein incorporated by reference as though fully set forth.

90. The negligent conduct of Dr. Bobrin during his medical evaluation, care, and treatment of Wanda Russell consisted of the following:

- a. failure to properly, timely, and adequately evaluate a patient with a diagnosis of transient ischemic attack;
- b. failure to properly, timely, and adequately evaluate a patient with a diagnosis of cerebrovascular accident;
- c. failure to properly, timely, and adequately evaluate a patient with fluctuating neurologic signs and symptoms;
- d. failure to properly and timely obtain the consultative services of a neurologist or specialist in neurology;
- e. failure to properly and timely obtain cerebral imaging with an MRI scan and/or MRA;
- f. failure to properly, timely, and adequately evaluate a patient with acute neurologic signs and symptoms;
- g. failure to timely, properly, and adequately evaluate, diagnose, and treat a

“stuttering” stroke;

- h. failure to provide appropriate management and treatment of acute neurologic signs and symptoms;
- i. failure to provide appropriate, adequate, and timely monitoring of a patient with a deteriorating neurologic status;
- j. failure to properly, timely, and adequately evaluate a patient with acute deteriorating neurologic status;
- k. failure to provide appropriate management of an evolving cerebrovascular accident or neurologic crisis;
- l. failure to provide appropriate, adequate, and timely monitoring of a patient with a signs and symptoms of an evolving cerebrovascular accident;
- m. failure to properly, timely, and adequately evaluate a patient with signs and symptoms of an evolving neurologic dysfunction;
- n. failure to provide appropriate, adequate, and timely neuro-radiologic evaluation;
- o. failure to provide timely, appropriate, and adequate medical evaluation prior to transfer to a psychiatric unit;
- p. failure to provide timely, appropriate, and adequate neurologic and neuro-radiologic evaluation prior to transfer to a psychiatric unit;
- q. failure to provide timely, appropriate, and adequate psychiatric and psychologic evaluation prior to transfer to a psychiatric unit;
- r. failure to perform a timely, adequate, or appropriate psychiatric history prior

to transfer to a psychiatric unit;

- s. failure to obtain timely, appropriate, and adequate medical evaluation prior to transfer to a psychiatric unit;
- t. failure to obtain timely, appropriate, and adequate psychiatric and psychologic evaluation prior to transfer to a psychiatric unit;
- u. failure to perform an adequate and appropriate medical history;
- v. failure to see or speak with the patient prior to transfer to a psychiatric unit;
- w. failure to effect a timely transfer from the psychiatric unit back to the medical unit;
- x. failure to evaluate falls in the psychiatric unit; and,
- y. failure to re-evaluate the medical status following transfer to the psychiatric unit.

COUNT V-VICARIOUS AND CORPORATE (DIRECT) NEGLIGENCE
**(Plaintiff v. DuBois Regional Medical Center a/k/a/
DuBois Regional Medical Center West a/d/b/a DRMC Behavioral Unit a/k/a
DRMC East Behavioral Unit a/k/a DRMC Behavioral Health Outpatient Clinic)**

91. The previous paragraphs are herein incorporated by reference as though fully set forth.

92. At all times material hereto, DuBois Regional Medical Center a/k/a/ DuBois Regional Medical Center West a/d/b/a DRMC Behavioral Unit a/k/a DRMC East Behavioral Unit a/k/a DRMC Behavioral Health Outpatient Clinic was acting by and through its actual agents, ostensible agents, servants, and/or employees, including Dr. Maloney, Devlin, Helmi, Bradley, and Bobrin, and the nursing staff who provided nursing care and treatment to Wanda Russell during her hospitalization in the DRMC Behavioral Unit, whose identities are partially set forth in Exhibit "B."

These actual agents, ostensible agents, servants, and/or employees provided medical care and treatment to Wanda Russell while acting within the scope of their medical and nursing duties. Accordingly, the DuBois Regional Medical Center a/k/a/ DuBois Regional Medical Center West a/d/b/a DRMC Behavioral Unit a/k/a DRMC East Behavioral Unit a/k/a DRMC Behavioral Health Outpatient Clinic is vicariously and derivatively liable for the negligent acts and omissions of these actual agents, ostensible agents, servants, and/or employees under theories of agency, master-servant, respondeat superior, and/or right of control.

93. The Dubois Regional Medical Center is liable for the conduct of the nurses who provided psychiatric nursing care to Wanda Russell on the DRMC Behavioral Unit on December 5 to 6, 2005, whose identities are partially set forth in Exhibit "B," and whose negligence consisted of:

- a. failure to report falls in a patient exhibiting neurologic impairment to a physician at the time the falls occurred;
- b. failure to report neurologic signs and symptoms to the physician staff;
- c. failure to obtain appropriate psychiatric evaluation at the time the patient arrived on the psychiatric unit;
- d. failure to insure that the protocol for psychiatric unit was adhered to and followed, including provision of the Patient's Bill of Rights and the report of initial evaluation and the proposed treatment plan completed and signed by the patient and the physician;
- e. failure to obtain medical evaluation for signs and symptoms during the nursing evaluation of the patient of evolving neurologic dysfunction;

- f. failure to timely, appropriately, and adequately notify the physician medical staff of evolving of neurologic signs and symptoms;
- g. failure to provide appropriate nursing, monitoring and care to a patient with evolving and shifting neurologic signs and symptoms; and,
- h. failure to provide adequate, appropriate, and timely nursing care in the setting of shifting neurologic signs and symptoms.

94. In addition, pursuant to the decision of the Supreme Court of Pennsylvania in Thompson v. Nason, 591 A.2d 703 (1991) and its progeny of case law, at all relevant times hereto, DuBois Regional Medical Center a/k/a/ DuBois Regional Medical Center West a/d/b/a DRMC Behavioral Unit a/k/a DRMC East Behavioral Unit a/k/a DRMC Behavioral Health Outpatient Clinic owed non-delegable duties directly to Wanda Russell which included:

- a. a duty to use reasonable care in the maintenance of safe and adequate facilities and equipment;
- b. a duty to select and retain only competent physicians;
- c. a duty to oversee all persons who practice medicine within its walls as to patient care; and,
- d. a duty to formulate, adopt, and enforce adequate rules and policies to ensure quality care for the patients.

95. The corporate (direct) negligence of the DuBois Regional Medical Center a/k/a/ DuBois Regional Medical Center West a/d/b/a DRMC Behavioral Unit a/k/a DRMC East Behavioral Unit a/k/a DRMC Behavioral Health Outpatient Clinic arising out of the medical evaluation, care, and treatment of Wanda Russell consisted of the following:

- a. failure to select and retain only competent physicians proficient in the recognition, evaluation, and management of transient ischemic attack, neurologic dysfunction, evolving cerebrovascular accident, and “stuttering” stroke;
- b. failure to select and retain only competent physicians proficient in the recognition, evaluation, and management of psychiatric and psychosomatic illness;
- c. failure to select and retain only competent physicians proficient in the recognition, evaluation, and management of conversion reaction;
- d. failure to select and retain only competent physicians proficient in the recognition, evaluation, and management of evolving neurologic injury;
- e. failure to select and retain only competent physicians proficient in the recognition, evaluation, and management of cerebral ischemia and associated risk factors;
- f. failure to select and retain only competent physicians proficient in the recognition, evaluation, and management of deteriorating neurologic status;
- g. failure to select and retain only competent physicians proficient in the recognition, evaluation, and management evolving stroke symptoms;
- h. failure to select and retain only competent physicians proficient in the recognition, evaluation, and management of patients within a psychiatric unit;
- i. failure to select and retain only competent physicians proficient in the recognition, evaluation, and management of fluctuating neurologic signs and

symptoms;

- j. failure to select and retain only competent physicians proficient in the evaluation patients prior to voluntary transfer to a psychiatric unit;
- k. failure to formulate, adopt, and/or enforce adequate rules and policies with respect to evaluation of patients prior to transfer to a psychiatric unit, including evaluation by a psychiatrist;
- l. failure to formulate, adopt, and/or enforce adequate rules and policies with respect to the evaluation, re-evaluation, and management of patients admitted to a psychiatric unit with fluctuating neurologic signs and symptoms;
- m. failure to formulate, adopt, and/or enforce adequate rules and policies with respect to the timely evaluation of patients admitted to the psychiatric unit;
- n. failure to formulate, adopt, and/or enforce adequate rules and policies with respect to the reporting and evaluation of falls by the nursing staff in the psychiatric unit;
- o. failure to formulate, adopt, and/or enforce adequate rules and policies with respect to the transfer of patients with acute medical emergencies out of the psychiatric unit;
- p. failure to formulate, adopt, and/or enforce adequate rules and policies with respect to holding patients with acute medical complaints within the confines of the psychiatric unit;
- q. failure to formulate, adopt, and/or enforce adequate rules and policies with respect to holding patients with acute neurologic complaints and falls within

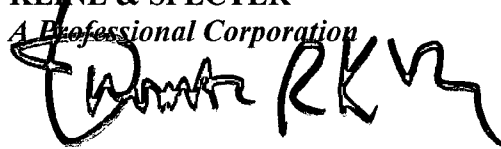
the confines of the psychiatric unit;

- r. failure to formulate, adopt, and/or enforce adequate rules and policies with respect to obtaining timely transfer of a patient with signs and symptoms of an evolving stroke to a medical unit from the psychiatric unit;
- s. failure to oversee all persons who practice medicine within its walls as to patient care to ensure that an appropriate psychiatric evaluation by a psychiatrist occurs prior to the transfer of a patient to a psychiatric unit;
- t. failure to oversee all persons who practice medicine within its walls as to patient care to ensure that an appropriate medical evaluation occurs prior to the transfer of a patient to a psychiatric unit;
- u. failure to oversee all persons who practice medicine within its walls as to patient care to ensure that an appropriate medical evaluation occurs at the time of transfer of a patient to a psychiatric unit; and,
- v. failure to oversee all persons who practice medicine within its walls as to patient care to ensure that an appropriate psychiatric evaluation occurs at the time of transfer of a patient to a psychiatric unit.

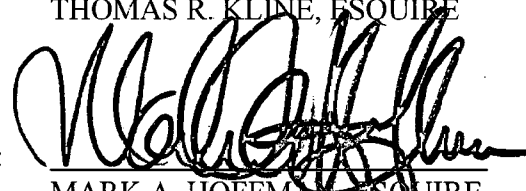
WHEREFORE, Plaintiff Wanda Russell claims damages against all defendants, jointly and severally, including all damages cognizable under Pennsylvania law for the causes of action set forth in the Civil Action Complaint, in an amount in excess of the prevailing arbitration limits, exclusive of pre-judgment interest and post-judgment interest and costs.

KLINE & SPECTER
A Professional Corporation

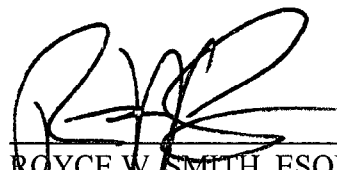
By:


THOMAS R. KLINE, ESQUIRE

By:


MARK A. HOFFMAN, ESQUIRE

By:


ROYCE W. SMITH, ESQUIRE

Date:



KLINE & SPECTER

A Professional Corporation

By: THOMAS R. KLINE, ESQUIRE
MARK A. HOFFMAN, ESQUIRE
ROYCE W. SMITH, ESQUIRE

Attorney ID Nos.: 28895/ 84443/201295

The Nineteenth Floor

1525 Locust Street

Philadelphia, Pennsylvania 19102

(215) 772-1000

Attorneys for Plaintiff

WANDA RUSSELL

426 North Michael Street

Saint Mary's, Pennsylvania 15857

Plaintiff,

v.

JAMES E. DEVLIN, M.D. and

MARK W. MALONEY, D.O. and

DRMC PRIMARY CARE

ASSOCIATES and

SANAA HELMI, M.D. and

THOMAS J. BRADLEY, M.D. and

BRADFORD BOBRIN, M.D. and

DuBOIS REGIONAL MEDICAL

CENTER a/ka DuBOIS REGIONAL

MEDICAL CENTER WEST

a/d/b/a DRMC BEHAVIORAL

UNIT a/k/a DRMC EAST BEHAVIORAL

UNIT a/k/a DRMC BEHAVIORAL

HEALTH OUTPATIENT CLINIC

Defendants.

COURT OF COMMON PLEAS

COUNTY OF CLEARFIELD

DOCKET NO.

FILED

m/12:10pm

APR 24 2007

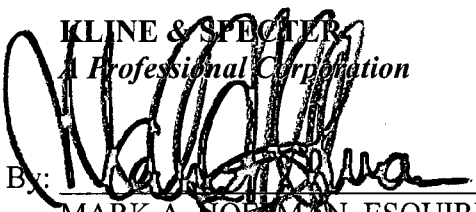
William A. Shaw,
Prothonotary/Clerk of Courts

CERTIFICATES OF MERIT

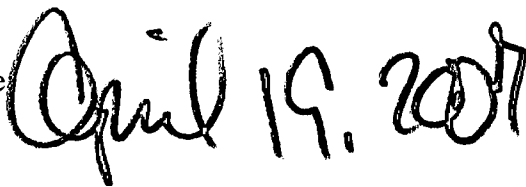
I, Mark A. Hoffman, Esquire, am an attorney for the plaintiff in the above-captioned matter.

Pursuant to Pa.R.C.P. No. 1042.1, I hereby certify appropriate licensed professionals have provided me with written statements stating that there exists a reasonable basis and probability to conclude that the care, skill, or knowledge exercised or exhibited by Drs. Devlin, Maloney, Helmi, Bradley, and Bobrin, and the psychiatric nursing staff, and the DuBois Regional Medical Center and its

affiliated or associated entities as captioned above, with respect to the treatment, practice, or work that is the subject of this Civil Action Complaint, fell outside of acceptable professional and institutional standards, and that such conduct was a substantial factor in causing injuries, or bringing about harm, to Wanda Russell. I further certify that there are additional claims which are based on allegations that licensed professionals for whom the hospital-defendant, DuBois Regional Medical Center and its affiliated or associated entities as captioned above, and/or DRMC Primary Care, and/or both, are responsible and derivatively or vicariously liable deviated from accepted professional standards of medical care, and caused the aforementioned injuries and harm. I additionally certify that appropriate licensed professionals have supplied written statements to me concluding that there exists a reasonable basis and probability that the DuBois Regional Medical Center, and its affiliated or associated entities as captioned above, deviated from accepted standards of institutional care, giving rise to claims of direct (corporate) negligence pursuant to the decision of the Supreme Court of Pennsylvania in Thompson v. Nason, 591 A.2d 703 (1991) and its progeny of case law. The licensed professionals who have provided me with these written statements have also concluded that the aforementioned deviations from accepted standards of medical and institutional care on the part of the individual named licensed professional, corporate, and hospital defendants was a substantial factor causing, or increasing the risk of harm, to Wanda Russell.

KLINE & SPECTER
A Professional Corporation
By: 
MARK A. HOFFMAN, ESQUIRE
Attorneys for Plaintiff

Date



Behavioral Health Services Daily Notes Extension
Date 12/16/05

3218 47Y MH 0114-01 MH
RUSSELL, WANDA
BOBRIN, BRADFORD
09/19/58 F 12/06/05
0534000768 UP


Sticker

12/16/05 8:20am - Pt's sister Darlene Nortum called and I spoke to her. According to Darlene, she was in to visit her sister last evening. Dr. Malony came in at 7 or 8 pm to talk to the pt. he told her that he feels her loss of mobility is due to depression. He did not say anything about coming to Mental Health. She did not say anything suicidal or hopeless. Darlene said she tried to talk to Dr. Malony about how soon her sister would be PIC but he said he was busy. Darlene does not feel her sister should be at Mental Health.

8:50am - I spoke to the secretary ^{sue} @ Dr. Maloney's office & she was unable to give me any information. Dr. Maloney called off today & she would not be talking to him until late this afternoon.

9:00am - I spoke to Joan on 3rd floor about the Pt. She told me that she was told that Dr. Maloney was afraid she would hurt herself. Apparently, Pt was requesting disability & Dr. Maloney said he couldn't do that. At that point he felt she wasn't safe.

9:20am Pt's sister Darlene called again & asked

Behavioral Health Services Daily Notes Extension
Date 12/16/05

353218 47Y MH 0114-01 MH
RUSSELL, WANDA
BOBRIN, BRADFORD
09/19/58 F 12/06/05
0534000768 UP


Sticker

if she could come now to visit her sister + talk with us.

9:35am Tracey from 3rd floor called + asked me what the situation is. Neither her or anyone else knew specific information on the Pt.

9:45am Dr. Maloney called and spoke to me. He feels the pt is going to stop taking her meds although she did not state that. He reports that she's going through a lot of stress - a divorce & bankruptcy. He said that she was admitted for left sided weakness. Nurses reported to Dr. Maloney that they observed her using her left arm & and eating when she thought no one was looking. He was unable to find any medical problems. He spoke to Dr. Helmi & according to him it was her recommendation that she be admitted + tx be started. I then handed the phone to UR for them to collect information.

9:55am I had already beeped Dr. Helmi twice & she had not returned my call yet. I thought her beeper may be off so I called her cell phone. She answered + I asked if she had any information on the pt. She said

Behavioral Health Services Daily Notes Extension
Date 12/6/05

053218 47Y MH 01 MH
RUSSELL, WANDA
BOBRIN, BRADFORD
09/19/58 F 12/06/05
0534000768 UP


Sticker

that she didn't remember the pt + asked where she came from, I stated 3rd floor - She said she was c-pts & would have to return my call.

10:05 am - Dr. Helmi returned my call, I asked her the information regarding the pt. She was under the impression that the pt was severely depressed + actively suicidal. She did not make the recommendation - Dr. Maloney asked for the admission and she agreed on the basis that the pt is suicidal. She will support our decision at this point. *Britt & Bowler*

VERIFICATION

I, WANDA RUSSELL, plaintiff in this civil action, hereby verify that the within Civil Action Complaint is based upon first-hand information, and upon information furnished to my counsel and obtained by him in the course of counsel's investigation of this lawsuit and the facts involved. The language of the document is that of counsel and not my own: To the extent that the contents of the document are based upon information furnished to counsel and obtained by him during the course of this lawsuit and counsel's investigation of the facts giving rise to this lawsuit, I have relied upon counsel in taking this verification. All statements are founded upon reasonable belief. This verification is made subject to the penalties of 18 Pa.C.S. §4904 relating to unsworn falsification to authorities.

Wanda Russell

Wanda Russell

Date: 4/19/07

FILED

APR 24 2007

William A. Shaw
Prothonotary/Clerk of Courts

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

WANDA RUSSELL,

Plaintiff

vs.

JAMES E. DEVLIN, M.D., MARK W.
MALONE, D.O., DRMC PRIMARY CARE
ASSOCIATES, SANAA HELMI, M.D.,
THOMAS J. BRADLEY, M.D., BRADFORD
BOBRIN, M.D., and DUBOIS REGIONAL
MEDICAL CENTER a/k/a DUBOIS
REGIONAL MEDICAL CENTER WEST
a/d/b/a DRMC BEHAVIORAL UNIT a/k/a
DRMC EAST BEHAVIORAL UNIT a/k/a
DRMC BEHAVIORAL HEALTH
OUTPATIENT UNIT,

Defendants

No. 07-644-CD

ISSUE:

PRAECIPE FOR APPEARANCE

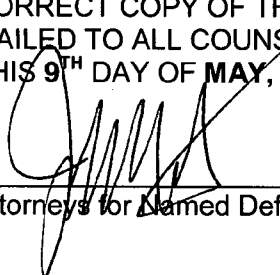
Filed on behalf of Defendant,
DUBOIS REGIONAL MEDICAL
CENTER a/k/a DUBOIS REGIONAL
MEDICAL CENTER WEST a/d/b/a
DRMC BEHAVIORAL UNIT a/k/a
DRMC EAST BEHAVIORAL UNIT
a/k/a DRMC BEHAVIORAL HEALTH
OUTPATIENT CLINIC

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

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

JURY TRIAL DEMANDED

I HEREBY CERTIFY THAT A TRUE AND
CORRECT COPY OF THE WITHIN WAS
MAILED TO ALL COUNSEL OF RECORD
THIS 9TH DAY OF MAY, 2007.


Attorneys for Named Defendant

FILED
MAY 10 2007
noce
CH

William A. Shaw
Prothonotary/Clerk of Courts

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

WANDA RUSSELL,

Plaintiff

vs.

JAMES E. DEVLIN, M.D., MARK W.
MALONE, D.O., DRMC PRIMARY CARE
ASSOCIATES, SANAA HELMI, M.D.,
THOMAS J. BRADLEY, M.D., BRADFORD
BOBRIN, M.D., and DUBOIS REGIONAL
MEDICAL CENTER a/k/a DUBOIS
REGIONAL MEDICAL CENTER WEST
a/d/b/a DRMC BEHAVIORAL UNIT a/k/a
DRMC EAST BEHAVIORAL UNIT a/k/a
DRMC BEHAVIORAL HEALTH
OUTPATIENT UNIT,

Defendants

No. 07-644-CD

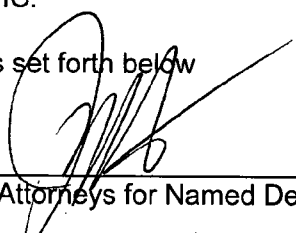
JURY TRIAL DEMANDED

PRAECIPE FOR APPEARANCE

TO: PROTHONOTARY

Enter my Appearance on behalf of Defendant, DUBOIS REGIONAL MEDICAL
CENTER a/k/a DUBOIS REGIONAL MEDICAL CENTER WEST a/d/b/a DRMC
BEHAVIORAL UNIT a/k/a DRMC EAST BEHAVIORAL UNIT a/k/a DRMC
BEHAVIORAL HEALTH OUTPATIENT CLINIC.

Papers may be served at the address set forth below


Attorneys for Named Defendant

MCINTYRE, HARTYE & SCHMITT

John L. McIntyre, Esquire

PA I.D. #28015

P.O. Box 533

Hollidaysburg, PA 16648-0533

PH: (814) 696-3581

FAX: (814) 696-9399

Date: May 9, 2007

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

WANDA RUSSELL,

Plaintiff,

vs.

JAMES E. DEVLIN, M.D., MARK W.
MALONEY, D.O., DRMC PRIMARY CARE
ASSOCIATES, SANAA HELMI, M.D.,
THOMAS J. BRADLEY, M.D., BRADFORD
BOBRIN, M.D., DuBOIS REGIONAL MEDICAL
CENTER WEST a/d/b/a/ DRMC
BEHAVIORAL UNIT a/k/a/ DRMC EAST
BEHAVIORAL HEALTH OUTPATIENT
CLINIC,

Defendants.

*Medical Professional Liability
Action*

Docket No: 07 - 644 - C.D.

Type of Pleading:
Praecipe for Entry of Appearance

File on Behalf of Defendant
Sanaa Helmi, M.D.

Counsel of Record for This Party
Darryl R. Slimak, Esquire
Pa. Supreme Court I.D. #41695

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

FILED NO
M110:5464 CC
MAY 10 2007 (GK)

William A. Shaw
Prothonotary/Clerk of Courts

Counsel for Plaintiff

Thomas R. Kline, Esquire

Mark A. Hoffman, Esquire

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

WANDA RUSSELL,

Plaintiff,

vs.

JAMES E. DEVLIN, M.D., MARK W.
MALONEY, D.O., DRMC PRIMARY CARE
ASSOCIATES, SANAA HELMI, M.D.,
THOMAS J. BRADLEY, M.D., BRADFORD
BOBRIN, M.D., DuBOIS REGIONAL MEDICAL
CENTER WEST a/d/b/a/ DRMC
BEHAVIORAL UNIT a/k/a/ DRMC EAST
BEHAVIORAL HEALTH OUTPATIENT
CLINIC,

Defendants.

*Medical Professional Liability
Action*

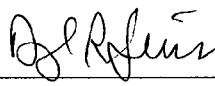
Docket No: 07 - 644 - C.D.

PRAECIPE FOR ENTRY OF APPEARANCE

TO THE PROTHONOTARY:

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

McQUAIDE, BLASKO,
FLEMING & FAULKNER, INC.

By: 
Darryl R. Slimak, Esquire
Attorneys for Defendant
811 University Drive
State College, PA 16801
(814) 238-4926
Fax: (814) 238-9624

Dated: May 9, 2007

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

WANDA RUSSELL,

Plaintiff,

vs.

JAMES E. DEVLIN, M.D., MARK W.
MALONEY, D.O., DRMC PRIMARY CARE
ASSOCIATES, SANAA HELMI, M.D.,
THOMAS J. BRADLEY, M.D., BRADFORD
BOBRIN, M.D., DuBOIS REGIONAL MEDICAL
CENTER WEST a/d/b/a/ DRMC
BEHAVIORAL UNIT a/k/a/ DRMC EAST
BEHAVIORAL HEALTH OUTPATIENT
CLINIC,

Defendants.

*Medical Professional Liability
Action*

Docket No: 07 - 644 - C.D.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the Praeceptum for Entry of Appearance on Behalf of Defendant Sanaa Helmi, M.D., in the above-captioned matter was mailed by regular mail, postage prepaid, at the Post Office, State College, Pennsylvania, on this 9th day of May, 2007, to the attorney(s) of record:

Thomas R. Kline, Esquire
Mark A. Hoffman, Esquire
Kline & Specter, P.C.
1525 Locust Street 19th Floor
Philadelphia, PA 19102

Mark W. Maloney, D.O.
DRMC Primary Care Associates
Medical Arts Building Suite 200
145 Hospital Avenue
DuBois, PA 15801

Thomas J. Bradley, M.D.
701 Sunflower Drive
DuBois, PA 15801

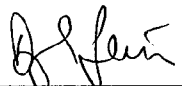
DuBois Regional Medical Center
Office of Risk Management
100 Hospital Avenue
DuBois, PA 15801

James A. Devlin, M.D.
1100 Main Street
Brockway, PA 15824

DRMC Primary Care Associates
Medical Arts Building Suite 200
145 Hospital Avenue
DuBois, PA 15801

Bradford Bobrin, M.D.
Behavioral Health Outpatient Clinic
DRMC East Unit
Maple Avenue
DuBois, PA 15801

McQUAIDE, BLASKO,
FLEMING & FAULKNER, INC.

By: 
Darryl R. Slimak
Attorneys for Defendant
811 University Drive
State College, PA 16801
(814) 238-4926
Fax: (814) 238-9624

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

WANDA RUSSELL,

CIVIL ACTION

Plaintiff,

vs.

No.: 07-644-CD

JAMES E. DEVLIN, M.D., MARK W.
MALONEY, D.O., DRMC PRIMARY
CARE ASSOCIATES, SANAA HELMI,
M.D., THOMAS J. BRADLEY, M.D.,
BRADFORD BOBRIN, M.D., DUBOIS
REGIONAL MEDICAL CENTER a/k/a
DUBOIS REGIONAL MEDICAL
CENTER WEST a/d/b/a DRMC
BEHAVIORAL UNIT a/k/a DRMC EAST
BEHAVIORAL UNIT a/k/a DRMC
BEHAVIORAL HEALTH OUTPATIENT
CLINIC,

PRAECIPE FOR APPEARANCE

Defendants.

Filed on Behalf of this Party:

Bradford Bobrin, M.D., One of the
Defendants

Counsel of Record for this Party:

Lynn E. Bell, Esquire
Pa I.D. #38588

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

JURY TRIAL DEMANDED

(412) 281-0737

FILED *NP CC*
mjl: 06/07
MAY 14 2007 *(GR)*

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

WANDA RUSSELL,	)	CIVIL ACTION
	)	
Plaintiff,	)	
	)	
vs.	)	No.: 07-644-CD
	)	
JAMES E. DEVLIN, M.D., MARK W.	)	
MALONEY, D.O., DRMC PRIMARY	)	
CARE ASSOCIATES, SANAA HELMI,	)	
M.D., THOMAS J. BRADLEY, M.D.,	)	
BRADFORD BOBRIN, M.D., DUBOIS	)	
REGIONAL MEDICAL CENTER a/k/a	)	
DUBOIS REGIONAL MEDICAL	)	
CENTER WEST a/d/b/a DRMC	)	
BEHAVIORAL UNIT a/k/a DRMC EAST	)	
BEHAVIORAL UNIT a/k/a DRMC	)	
BEHAVIORAL HEALTH OUTPATIENT	)	
CLINIC,	)	
	)	
Defendants.	)	

PRAECIPE FOR APPEARANCE

TO: WILLIAM SHAW, CLERK OF COURTS

PLEASE ENTER MY APPEARANCE, Lynn E. Bell, Esquire, Pa I.D. #38588
in the above captioned matter on behalf of Bradford Bobrin, M.D., one of the Defendants.

JURY TRIAL DEMANDED.

Davies McFarland & Carroll, P.C.

By: Lynn E. Bell / DC
Lynn E. Bell, Esquire
Attorneys for Bradford Bobrin, M.D.,
One of the Defendants

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that I served the foregoing document to all counsel of record in the following manner on the 11th day of May, 2007:

Via Facsimile	_____
Via Hand Delivery	_____
Via First Class U.S. Mail	_____✓_____
Via Overnight Mail	_____
Via Certified Mail/ Return Receipt Request	_____

Thomas R. Kline, Esquire
Mark A. Hoffman, Esquire
Kline & Specter, P.C.
1525 Locust Street, 19th Floor
Philadelphia, PA 19102

Attorneys for Plaintiff

James E. Devlin, M.D.
1100 Main Street
Brockway, PA 15824

Mark W. Maloney, D.O.
DRMC Primary Care Associates
Medical Arts Building; Suite 200
145 Hospital Avenue
DuBois, PA 15801

DRMC Primary Care Associates
Medical Arts Building; Suite 200
145 Hospital Avenue
DuBois, PA 15801

Sanaa Helmi, M.D.
Behavioral Health Outpatient Clinic
DRMC East Unit
Maple Avenue
DuBois, PA 15801

Thomas J. Bradley, M.D.
701 Sunflower Drive
DuBois, PA 15801

DuBois Regional Medical Center
Office of Risk Management
100 Hospital Avenue
DuBois, PA 15801

DAVIES, McFARLAND & CARROLL, P.C.

By:

Lynn E. Bell/DIC

Lynn E. Bell, Esquire
Attorneys for Bradford Bobrin, M.D.,
One of the Defendants

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

WANDA RUSSELL,

Plaintiff,

vs.

JAMES E. DEVLIN, M.D.; MARK W.
MALONEY, D.O.; DRMC PRIMARY CARE
ASSOCIATES; SANAA HELMI, M.D.;
THOMAS J. BRADLEY, M.D.;
BRADFORD BOBRIN, M.D.; DUBOIS
REGIONAL MEDICAL CENTER a/k/a
DUBOIS REGIONAL MEDICAL CENTER
WEST a/d/b/a DRMC BEHAVIORAL
UNIT a/k/a DRMC EAST BEHAVIORAL
UNIT a/k/a DRMC BEHAVIORAL
HEALTH OUTPATIENT CLINIC,

Defendants.

CIVIL DIVISION

No. 07-644-CD

Code:

Issue No:

PRAECIPE FOR APPEARANCE

Filed on behalf of James E. Devlin,
M.D., Defendant

Counsel of Record for This Party:

M. Brian O'Connor, Esquire
PA I.D. 56795

MATIS BAUM RIZZA O'CONNOR
Firm #983
Four Gateway Center
444 Liberty Avenue, Suite 300
Pittsburgh, PA 15222

(412) 338-4750

FILED
mll:05/51 NO CC
MAY 14 2007
(60)

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

WANDA RUSSELL,	)	CIVIL DIVISION
	)	
Plaintiff,	)	No. 07-644-CD
	)	
vs.	)	
	)	
JAMES E. DEVLIN, M.D.; MARK W.	)	
MALONEY, D.O.; DRMC PRIMARY CARE	)	
ASSOCIATES; SANAA HELMI, M.D.;	)	
THOMAS J. BRADLEY, M.D.;	)	
BRADFORD BOBRIN, M.D.; DUBOIS	)	
REGIONAL MEDICAL CENTER a/k/a	)	
DUBOIS REGIONAL MEDICAL CENTER	)	
WEST a/d/b/a DRMC BEHAVIORAL	)	
UNIT a/k/a DRMC EAST BEHAVIORAL	)	
UNIT a/k/a DRMC BEHAVIORAL	)	
HEALTH OUTPATIENT CLINIC,	)	
	)	
Defendants.	)	

PRAECIPE FOR APPEARANCE

To: William A. Shaw, Prothonotary and Clerk of Courts

Kindly enter our appearance on behalf of James E. Devlin, M.D., Defendant, in the above captioned case.

This case will be handled by M. Brian O'Connor, Esquire.

MATIS BAUM RIZZA O'CONNOR

By: 
M. Brian O'Connor, Esquire
PA ID 56795
Attorneys for James E. Devlin, M.D.,
Defendant

Four Gateway Center
444 Liberty Avenue
Suite 300
Pittsburgh, PA 15222
(412) 338-4750

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that I served a true and correct copy of the foregoing
PRAECIPE FOR APPEARANCE upon all counsel of record by United States, First-class mail,
postage prepaid, this 10th day of May, 2007.

Thomas R. Kline, Esquire
Mark A. Hoffman, Esquire
Kline & Specter, P.C.
1525 Locust Street
Philadelphia, PA 19102

MATIS BAUM RIZZA O'CONNOR


M. Brian O'Connor

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

WANDA RUSSELL

CIVIL DIVISION

Plaintiff,

No: 07-644 CD

v.

JAMES E. DEVLIN, M.D., MARK W.
MALONEY, D.O., DRMC PRIMARY CARE
ASSOCIATES, SANAA HELMI, M.D.,
THOMAS J. BRADLEY, M.D., BRADFORD
BOBRIN, M.D. and DUBOIS REGIONAL
MEDICAL CENTER WEST a/d/b/a DRMC
BEHAVIORAL UNIT a/k/a DRMC BEHAVIORAL
UNIT a/k/a DRMC EAST BEHAVIORAL UNIT
a/k/a DRMC BEHAVIORAL HEALTH
OUTPATIENT CLINIC

**PRAECIPE FOR
APPEARANCE**

Filed on Behalf of
Defendant::

Thomas J. Bradley, M.D.

Defendants.

Counsel of Record:

Christopher C. Rulis, Esquire

O'BRIEN RULIS &
BOCHICCHIO, LLC
555 Grant Street
Suite 120
Pittsburgh, PA 15219
(412) 904-5214

JURY TRIAL DEMANDED

FILED NO CC
MAY 17 2007

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

WANDA RUSSELL

No: 07-644 - CD

Plaintiff,

v.

JAMES E. DEVLIN, M.D., MARK W.
MALONEY, D.O., DRMC PRIMARY CARE
ASSOCIATES, SANAA HELMI, M.D.,
THOMAS J. BRADLEY, M.D., BRADFORD
BOBRIN, M.D. and DUBOIS REGIONAL
MEDICAL CENTER WEST a/d/b/a DRMC
BEHAVIORAL UNIT a/k/a DRMC BEHAVIORAL
UNIT a/k/a DRMC EAST BEHAVIORAL UNIT
a/k/a DRMC BEHAVIORAL HEALTH
OUTPATIENT CLINIC

Defendants.

PRAECIPE FOR APPEARANCE

TO THE PROTHONOTARY:

Would you kindly enter my appearance on behalf of the Defendant, **Thomas J.**

Bradley, M.D. in the above-captioned matter.

O'BRIEN, RULIS & BOCHICCHIO, LLC



Christopher C. Rulis, Esquire
Counsel for Defendant,
Thomas J. Bradley, M.D.

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that a true and correct copy of the within
PRAECIPE FOR APPEARANCE was mailed by United States Mail on this 14th day of
May, 2007, to the following:

Thomas R. Kline, Esquire
Kline & Specter, P.C.
1525 Locust Street, 19th Floor
Philadelphia, PA 19102

Christopher C. Rulis, Esquire
O'BRIEN, RULIS & BOCHICCHIO, LLC

William A. Shaw
Prothonotary/Clerk of Courts

MAY 17 2007

FILED

WANDA RUSSELL,
Plaintiff

v.

JAMES E. DEVLIN, M.D.; MARK W.
MALONEY, D.O.; DRMC PRIMARY
CARE ASSOCIATES; SANAA HELMI,
M.D.; THOMAS J. BRADLEY, M.D.;
BRADFORD BOBRIN, M.D.; DUBOIS
REGIONAL MEDICAL CENTER a/k/a
DUBOIS REGIONAL MEDICAL
CENTER WEST a/d/b/a DRMC
BEHAVIORAL UNIT a/k/a DRMC EAST
BEHAVIORAL UNIT a/k/a DRMC
BEHAVIORAL HEALTH OUTPATIENT
CLINIC,

Defendants

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY,
PENNSYLVANIA

NO. 07-644-CD

CIVIL ACTION - LAW

JURY TRIAL DEMANDED

PRAECIPE FOR ENTRY OF APPEARANCE

TO THE PROTHONOTARY:

Please enter our appearance on behalf of defendant Mark W. Maloney, D.O. in the
above-referenced matter.

McCORMICK LAW FIRM

By David R. Bahl

David R. Bahl, Esquire

I.D. No. 10347

Richard F. Schluter, Esquire

I.D. No. 79672

Attorneys for Defendant

Mark W. Maloney, D.O.

Date: 5/16/07

cc: Thomas R. Kline, Esquire /
Mark A. Hoffman, Esquire

Darryl Slimak, Esquire

M. Brian O'Connor, Esquire

Lynn E. Bell, Esquire

John L. McIntyre, Esquire

DRMC Primary Care Associates

Thomas J. Bradley, M.D.

McCORMICK LAW FIRM
835 W. FOURTH ST.
WILLIAMSPORT, PA.

FILED NOCC
MAY 18 2007 CR

William A. Shaw
Prothonotary/Clerk of Courts

KLINE & SPECTER

A Professional Corporation

By: THOMAS R. KLINE, ESQUIRE
MARK A. HOFFMAN, ESQUIRE
ROYCE W. SMITH, ESQUIRE

Attorney ID Nos.: 28895/ 84443/201295

The Nineteenth Floor

1525 Locust Street

Philadelphia, Pennsylvania 19102

(215) 772-1000

Attorneys for Plaintiff

WANDA RUSSELL

**COURT OF COMMON PLEAS
COUNTY OF CLEARFIELD**

v.

DOCKET NO. 07-644-CD

JAMES E. DEVLIN, M.D. and
MARK W. MALONEY, D.O. and
DRMC PRIMARY CARE ASSOCIATES
and SANAA HELMI, M.D. and
THOMAS J. BRADLEY, M.D. and
BRADFORD BOBRIN, M.D. and
DuBOIS REGIONAL MEDICAL
CENTER a/ka DuBOIS REGIONAL
MEDICAL CENTER WEST
a/d/b/a DRMC BEHAVIORAL
UNIT a/k/a DRMC EAST BEHAVIORAL
UNIT a/k/a DRMC BEHAVIORAL
HEALTH OUTPATIENT CLINIC
Defendants.

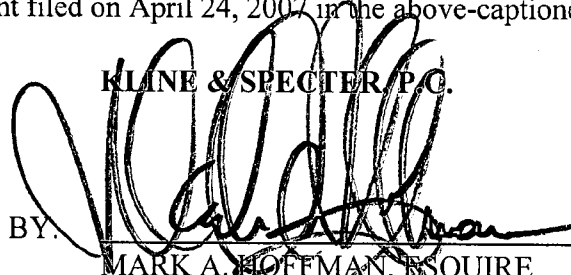
FILED *Atty. fee 87.00*
M/10:54/CD
MAY 23 2007 *ICCD-1*
Reinstated
William A. Shaw
Prothonotary/Clerk of Courts *Complaint*
to Atty
ER

PRAECIPE TO REINSTATE COMPLAINT

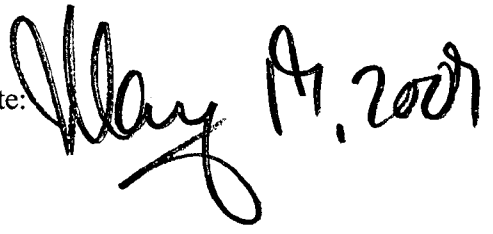
TO THE PROTHONOTARY:

Kindly reinstate the Complaint filed on April 24, 2007 in the above-captioned matter.

KLINE & SPECTER P.C.

BY: 

MARK A. HOFFMAN, ESQUIRE
Attorney for Plaintiff

Date: 

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY
PENNSYLVANIA

WANDA RUSSELL
(Plaintiff)

426 North Michael Street
(Street Address)

Saint Mary's, PA 15857
(City, State ZIP)

VS.

JAMES E. DEVLIN, M.D.
(Defendant)

1100 Main Street
(Street Address)

Brockway, PA 15824
(City, State ZIP)

(Additional Defendants
Continued on attached sheet)

CIVIL ACTION

No. 07-644-CD

Type of Case: Medical Malpractice

Type of Pleading: Civil Action Complaint

Filed on Behalf of:

Plaintiff, Wanda Russell
(Plaintiff/Defendant)

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

APR 24 2007

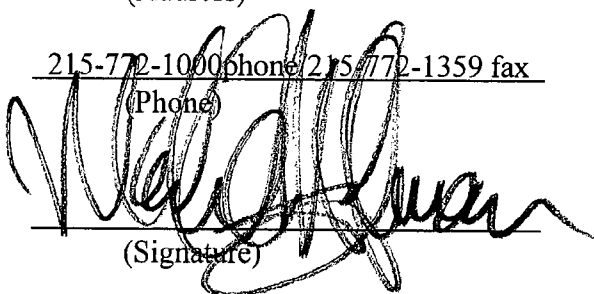
Attest.

William A. Shaw
Prothonotary/
Clerk of Courts

Thomas R. Kline, Esq. Mark A. Hoffman, Esq.
(Filed by)

Kline & Specter, P.C.,
1525 Locust Street, The Nineteenth Floor
Philadelphia, PA 19102
(Address)

215-772-1000 phone 215-772-1359 fax
(Phone)


(Signature)

(Continued from coversheet)

and	:
MARK W. MALONEY, D.O.	:
DRMC Primary Care Associates	:
Medical Arts Building	:
Suite 200	:
145 Hospital Avenue	:
DuBois, Pennsylvania 15801	:
and	:
DRMC PRIMARY CARE	:
ASSOCIATES	:
Medical Arts Building	:
Suite 200	:
145 Hospital Avenue	:
DuBois, Pennsylvania 15801	:
and	:
SANAA HELMI, M.D.	:
Behavioral Health Outpatient Clinic	:
DRMC East Unit	:
Maple Avenue	:
DuBois, Pennsylvania 15801	:
ans	:
THOMAS J. BRADLEY, M.D.	:
701 Sunflower Drive	:
DuBois, Pennsylvania 15801	:
and	:
BRADFORD BOBRIN, M.D.	:
Behavioral Health Outpatient Clinic	:
DRMC East Unit	:
Maple Avenue	:
DuBois, Pennsylvania 15801	:
and	:
DuBOIS REGIONAL MEDICAL	:
CENTER a/ka DuBOIS REGIONAL	:
MEDICAL CENTER WEST	:
a/d/b/a DRMC BEHAVIORAL	:
UNIT a/k/a DRMC EAST BEHAVIORAL	:
UNIT a/k/a DRMC BEHAVIORAL	:
HEALTH OUTPATIENT CLINIC	:
c/o Office of Risk Management	:
100 Hospital Avenue	:
DuBois, Pennsylvania 15801	:
Defendants.	:

KLINE & SPECTER

A Professional Corporation

By: THOMAS R. KLINE, ESQUIRE
MARK A. HOFFMAN, ESQUIRE
ROYCE W. SMITH, ESQUIRE

Attorney ID Nos.: 28895/ 84443/201295

The Nineteenth Floor

1525 Locust Street

Philadelphia, Pennsylvania 19102

(215) 772-1000

Attorneys for Plaintiff

WANDA RUSSELL

426 North Michael Street

Saint Mary's, Pennsylvania 15857

Plaintiff,

v.

JAMES E. DEVLIN, M.D.

1100 Main Street

Brockway, Pennsylvania 15824

and

MARK W. MALONEY, D.O.

DRMC Primary Care Associates

Medical Arts Building

Suite 200

145 Hospital Avenue

DuBois, Pennsylvania 15801

and

DRMC PRIMARY CARE

ASSOCIATES

Medical Arts Building

Suite 200

145 Hospital Avenue

DuBois, Pennsylvania 15801

and

SANAA HELMI, M.D.

Behavioral Health Outpatient Clinic

DRMC East Unit

Maple Avenue

DuBois, Pennsylvania 15801

ans

THOMAS J. BRADLEY, M.D.

701 Sunflower Drive

DuBois, Pennsylvania 15801

and

**COURT OF COMMON PLEAS
COUNTY OF CLEARFIELD**

DOCKET NO.

BRADFORD BOBRIN, M.D. :
 Behavioral Health Outpatient Clinic :
 DRMC East Unit :
 Maple Avenue :
 DuBois, Pennsylvania 15801 :
 and :
 DuBOIS REGIONAL MEDICAL :
 CENTER a/ka DuBOIS REGIONAL :
 MEDICAL CENTER WEST :
 a/d/b/a DRMC BEHAVIORAL :
 UNIT a/k/a DRMC EAST BEHAVIORAL :
 UNIT a/k/a DRMC BEHAVIORAL :
 HEALTH OUTPATIENT CLINIC :
 c/o Office of Risk Management :
 100 Hospital Avenue :
 DuBois, Pennsylvania 15801 :
 Defendants. :

NOTICE

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

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER.

IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.

COURT ADMINISTRATOR
 Clearfield County Courthouse
 Second and Market Streets
 Clearfield, PA 16830
 814-765-2641, Ext. (5982)

ADVISO

Le han demandado a usted en la corte. Si usted quiere defenderse de estas demandas expuestas en las paginas siguientes, usted tiene veinte (20) dias de plazo al partir de la fecha de la demanda y la notificacion. Hace falta asentar una comparencia escrita o en persona o con un abogado y entregar a la corte en forma escrita sus defensas o sus objeciones a las demandas en contra de su persona. Sea avisado que si usted no se defiende, la corte tomara medidas y puede continuar la demanda en contra suya sin previo aviso o notificacion. Ademias, la corte pueda decidir a favor del demandante y requiere que usted cumpla con todas las provisiones de esta demanda. Usted puede perder dinero o sus propiedades u otros derechos importantes para usted.

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

ESTA OFICINA LO PUEDE PROPORCIONAR CON INFORMACION ACERCA DE EMPLEAR A UN ABOGADO. SI USTED NO PUEDE PROPORCIONAR PARA EMPLEAR UN ABOGADO, ESTA OFICINA PUEDE SER CAPAZ DE PROPORCIONARLO CON INFORMACION ACERCA DE LAS AGENCIAS QUE PUEDEN OFRECER LOS SERVICIOS LEGALES A PERSONAS ELEGIBLES EN UN HONORARIO REDUCIDO NINGUN HONORARIO.

COURT ADMINISTRATOR
 Clearfield County Courthouse
 Second and Market Streets
 Clearfield, PA 16830
 814-765-2641, Ext. (5982)

CIVIL ACTION COMPLAINT

Plaintiff, Wanda Russell, by and through her undersigned attorneys, Kline & Specter, P.C., herein complains of the above-captioned defendants as follows:

PARTIES

1. Plaintiff Wanda Russell is an adult citizen and a resident of the Commonwealth of Pennsylvania, residing at 426 North Michael Street, Saint Mary's, Pennsylvania 15857. Wanda Russell was born on September 19, 1958.

2. Defendant James E. Devlin, M.D. ["Dr. Devlin"] was, at all times material hereto, a duly licensed physician in the Commonwealth of Pennsylvania, specializing in the medical field of family medicine, who maintained a professional office, business or corporate office, or place of medical practice at 1100 Main Street, Brockway, Pennsylvania 15824. A Certificate of Merit pursuant to Pa.R.C.P. No. 1042.1 regarding the treatment, practice, or work of this defendant is attached hereto as Exhibit "A."

3. Defendant Mark W. Maloney, D.O. ["Dr. Maloney"] was, at all times material hereto, a duly licensed osteopathic physician in the Commonwealth of Pennsylvania, specializing in the medical field of family medicine, who maintained a professional office, business or corporate office, or place of medical practice at DRMC Primary Care Associates, Medical Arts Building, Suite 200, 145 Hospital Avenue, DuBois, Pennsylvania 15801. A Certificate of Merit pursuant to Pa.R.C.P. No. 1042.1 regarding the treatment, practice, or work of this defendant is attached hereto as Exhibit "A."

4. Defendant DRMC Primary Care Associates was, at all times material hereto, a

corporation, professional corporation, professional association, professional partnership, or other jural entity organized according to and existing under the laws of the Commonwealth of Pennsylvania, with an office location and place of business at Medical Arts Building, Suite 200, 145 Hospital Avenue, DuBois, Pennsylvania 15801. A Certificate of Merit pursuant to Pa.R.C.P. No. 1042.1 regarding the treatment, practice, or work of this defendant is attached hereto as Exhibit "A."

5. At all times material hereto, Dr. Maloney and/or Dr. Devlin were agents, servants, and/or employees of DRMC Primary Care Associates, and were acting within the scope of their agency, master-servant, and/or employment relationships with DRMC Primary Care Associates while providing medical care and treatment to Wanda Russell. Accordingly, DRMC Primary Care Associates is liable for the negligent acts and/or omissions of Dr. Devlin and/or Dr. Maloney under theories of agency, master-servant, respondeat superior, and/or right of control.

6. Dr. Devlin was providing medical service or family practice service "coverage" or "cross-coverage" for Dr. Maloney, while providing medical care and treatment to Wanda Russell on or about December 4 and 5, 2005. Accordingly, Dr. Maloney is liable for the negligent acts and/or omissions of Dr. Devlin under theories of agency, master-servant or borrowed servant, respondeat superior, and/or right of control.

7. Dr. Devlin was providing "coverage" or "cross-coverage" for Dr. Maloney's family practice group or association, DRMC Primary Care Associates, while providing medical care and treatment to Wanda Russell, on or about December 4 and 5, 2005. Accordingly, DRMC Primary Care Associates is liable for the negligent acts and/or omissions of Dr. Devlin under theories of agency, master-servant or borrowed servant, respondeat superior, and/or right of control.

8. Defendant Sanaa Helmi, M.D. ["Dr. Helmi"] was, at all times material hereto, a duly

licensed physician in the Commonwealth of Pennsylvania, specializing in the medical field of psychiatry, who maintained a professional office, business or corporate office, or place of medical practice at Behavioral Health Outpatient Clinic, DRMC East Unit, Maple Avenue, DuBois, Pennsylvania 15801. A Certificate of Merit pursuant to Pa.R.C.P. No. 1042.1 regarding the treatment, practice, or work of this defendant is attached hereto as Exhibit "A."

9. Defendant Thomas J. Bradley, M.D. ["Dr. Bradley"] was, at all times material hereto, a duly licensed physician in the Commonwealth of Pennsylvania, specializing in the medical field of psychiatry, who maintained a professional office, business or corporate office, or place of medical practice at 701 Sunflower Drive, DuBois, Pennsylvania 15801. A Certificate of Merit pursuant to Pa.R.C.P. No. 1042.1 regarding the treatment, practice, or work of this defendant is attached hereto as Exhibit "A."

10. Defendant Bradford Bobrin, M.D. ["Dr. Bobrin"] was, at all times material hereto, a duly licensed physician in the Commonwealth of Pennsylvania, specializing in the medical field of psychiatry, who maintained a professional office, business or corporate office, or place of medical practice at Behavioral Health Outpatient Clinic, DRMC East Unit, Maple Avenue, DuBois, Pennsylvania 15801. A Certificate of Merit pursuant to Pa.R.C.P. No. 1042.1 regarding the treatment, practice, or work of this defendant is attached hereto as Exhibit "A."

11. Defendant DuBois Regional Medical Center a/k/a/ DuBois Regional Medical Center West a/d/b/a DRMC Behavioral Unit a/k/a DRMC East Behavioral Unit a/k/a DRMC Behavioral Health Outpatient Clinic [referred to in various paragraphs as either the "DuBois Regional Medical Center" or the "DRMC Behavioral Unit" or the "DuBois Regional Medical Center West"] is a corporation or other jural entity organized according to and existing under the laws of the

Commonwealth of Pennsylvania which owns, operates, and maintains a hospital, health care facility, and provider of health care services based at 100 Hospital Avenue, DuBois, Pennsylvania 15801.

The DRMC Behavioral Unit a/k/a DRMC East Behavioral Unit a/k/a DRMC East Behavioral Unit a/k/a DRMC Behavioral Health Outpatient Clinic is a psychiatric unit located within the East Unit of the DuBois Regional Medical Center. A Certificate of Merit pursuant to Pa.R.C.P. No. 1042.1 regarding the treatment, practice, or work of this defendant is attached hereto as Exhibit "A."

12. At all times material hereto, Dr. Devlin, Dr. Maloney, Dr. Helmi, Dr. Bradley, and Dr. Bobrin were actual or ostensible agents, servants, and/or employees of the DuBois Regional Medical Center and/or the DRMC Behavioral Unit, and were acting within the scope of their agency, master-servant, and/or employment relationship with the DuBois Regional Medical Center, and its affiliated or associated entities as captioned above, while providing medical care and treatment to Wanda Russell. Accordingly, the DuBois Regional Medical Center, and its affiliated or associated entities as captioned above, are liable for the negligent acts and/or omissions of Dr. Devlin, Dr. Maloney, Dr. Helmi, Dr. Bradley, and Dr. Bobrin under theories of agency, master-servant, respondeat superior, and/or right of control.

13. At all times material hereto, the DuBois Regional Medical Center and the DRMC Behavioral Unit were acting by and through their actual agents or ostensible agents, servants, and/or employees, Dr. Devlin, Dr. Maloney, Dr. Helmi, Dr. Bradley, and Dr. Bobrin, as well as the nurses who provided psychiatric nursing care and evaluation to Wanda Russell during her hospitalization in the DRMC Behavioral Unit. The identities of these nurses, whose signatures are illegible on the "Behavioral Health Services Daily Notes" and extension notes, attached hereto as Exhibit "B," are fully known to the DuBois Regional Medical Center and the DRMC Behavioral Unit, and presently

unknown to Plaintiff because of the illegible nature, or absence of, their signatures. The identities of these nurses is the subject matter of further discovery by the Plaintiff during the course of this litigation. Accordingly, DuBois Regional Medical Center is liable for the negligent acts and/or omissions of these aforementioned named and as yet specifically identified, see Exhibit "B," actual or ostensible agents, servants, and/or employees which occurred in the course of providing medical and nursing care to Wanda Russell, under theories of agency, master-servant, respondeat superior, and/or right of control.

14. Venue in this action is properly laid in Clearfield County, Pennsylvania pursuant to the Amendatory Order of the Supreme Court of Pennsylvania dated March 5, 2003, No. 381, Civil Procedural Rules, Docket No. 5, which amended the Pennsylvania Rules of Civil Procedure No.1006.

FACTS GIVING RISE TO CLAIMS OF NEGLIGENCE

15. On December 3, 2005, Wanda Russell presented to the Emergency Department at the DuBois Regional Medical Center via wheelchair with complaints of, among other things, bilateral arm weakness and dark vision.

16. On December 3, 2005, Wanda Russell was evaluated by Patrick Shilata, D.O. in the Emergency Department at the DuBois Regional Medical Center.

17. On December 3, 2005, Wanda Russell had a known history of hypertension and insulin dependent diabetes mellitus. These co-morbid conditions were known to the nursing staff and physician who evaluated and treated Wanda Russell in the Emergency Department on December 3, 2005, and were recorded in the DuBois Regional Medical Center Emergency Department medical record of Wanda Russell.

18. On December 3, 2005, Wanda Russell was able to ambulate, but complained of feeling off balance.

19. On December 3, 2005, during her evaluation in the DuBois Regional Medical Center Emergency Department, Wanda Russell had performed on her, among other things, an electrocardiogram, a basic metabolic panel, a urine analysis with microscopic examination, and an unenhanced head CT scan. All test results were interpreted as "normal" except for an elevated blood sugar (196 mg/dl; normal = 70 to 110 mg/dl).

20. On December 3, 2005, Wanda Russell was discharged from the Emergency Department at the Dubois Regional Medical Center with the diagnosis: "Impression: weakness, Transient Ischemic Attack (TIA), Diabetes Mellitus, Type I."

21. On December 3, 2005, Wanda Russell was discharged from the Emergency Department at the Dubois Regional Medical Center with instructions on transient ischemic attack and diabetes mellitus, and she was given a four (4) day work release. Wanda Russell was additionally instructed to follow-up with Dr. Maloney, her primary care physician, in three (3) to four (4) days.

22. On December 4, 2005, Wanda Russell presented to the Emergency Department at the DuBois Regional Medical Center via wheelchair with complaints of, among other things, left-sided weakness and inability to walk.

23. On December 4, 2005, Wanda Russell's sister signed the DuBois Regional Medical Center "Consent for Treatment" as Wanda Russell's patient representative, and on Wanda Russell's behalf, because Wanda Russell had weakness on writing and slurred speech. The "Consent for Treatment" was signed at or about 0938 hours on December 4, 2005.

24. On December 4, 2005, Wanda Russell was evaluated by Jeffrey Elias, D.O. ["Dr. Elias"] in the Emergency Department at the DuBois Regional Medical Center.

25. On December 4, 2005, Dr. Elias performed a neurological examination on Wanda Russell in the Emergency Department at the DuBois Regional Medical Center, and found, among other things, that Wanda Russell had a facial droop and diminished motor strength in the left arm (2/5) and left leg (2/5). The "Review of Systems" performed by Dr. Elias was positive for gait disturbance, speech changes, and weakness in the left arm and leg.

26. On December 4, 2005, Dr. Elias formulated a plan that Wanda Russell be admitted "to medical, for Maloney, Mark W. with a primary ED diagnosis of CVA (stroke) non-hemorrhagic." A summary of the Emergency Department evaluation of Wanda Russell was faxed to Wanda Russell's primary care physician, Dr. Maloney.

27. On December 4, 2005, Dr. Devlin evaluated Wanda Russell in the Emergency Department at the DuBois Regional Medical Center. At the time, Dr. Devlin was covering or cross-covering for Dr. Maloney and DRMC Primary Care Associates.

28. On December 4, 2005, Dr. Devlin admitted Wanda Russell to the DuBois Regional Medical Center for neuro-checks and observation. At the time of admission, Dr. Devlin doubted that Wanda Russell had, or was experiencing, a transient ischemic attack, and recorded this belief in his "History and Physical Examination," stating, among other things: "History of some left sided weakness, questionable TIA. Clinically, at this time it is doubtful but with the history we will go ahead and make the patient an observation."

29. On December 4, 2005, Wanda Russell was admitted to Dr. Maloney's service at the DuBois Regional Medical Center, with Dr. Devlin covering.

30. On December 4, 2005, Dr. Devlin did not obtain, or order to be obtained or provided, a neurology consultation for Wanda Russell.

31. On December 4, 2005, Dr. Devlin did not have performed, or order to be performed, an MRI scan of the head or an MRA on Wanda Russell.

32. On December 5, 2005, an unenhanced head CT scan was performed on Wanda Russell for the diagnosis of left-sided weakness, and was interpreted as "normal."

33. On December 5, 2005, bilateral carotid duplex sonograms were performed on Wanda Russell for the indication of left-sided weakness. This study demonstrated approximately 50 percent stenosis of the right internal carotid artery and 50 to 69 percent stenosis of the left internal carotid artery. Bilateral carotid plaque was also demonstrated on the sonogram.

34. An aortic arch and four vessel cerebral angiogram was not performed on Wanda Russell on December 5, 2005.

35. A head MRI or MRA was not performed on Wanda Russell on December 5, 2005.

36. A neurology consult was not obtained for or performed on Wanda Russell on December 5, 2005.

37. Wanda Russell continued to have intermittent left-sided weakness on December 5, 2005.

38. Wanda Russell had slurred speech and a "left facial droop of the mouth" on December 5, 2005.

39. On December 5, 2005, at or between the hours of approximately 1900 and 2000 hours, Dr. Maloney evaluated Wanda Russell at the DuBois Regional Medical Center, and informed Wanda Russell that her loss of mobility was due to depression.

40. On December 5, 2005, Dr. Maloney consulted Dr. Helmi concerning the admission of Wanda Russell to the DRMC Behavioral Unit, and reported to Dr. Helmi that “he was unable to find any medical problems” with respect to Wanda Russell.

41. On December 5, 2005, during the telephone consultation between Dr. Maloney and Dr. Helmi, according to Dr. Maloney, Dr. Helmi made the recommendation that Wanda Russell be admitted to the DRMC Behavior Unit for psychiatric treatment.

42. Dr. Helmi did not perform a history, psychiatric evaluation, or physical examination on Wanda Russell on December 5, 2005. Dr. Helmi did not physically see or speak with Wanda Russell on December 5 or 6, 2005.

43. On December 5, 2005, at or about 2040 hours, Dr. Maloney gave a “telephone order” to Brenda L. Slappy, R.N., to “Transfer to psych unit tonight.”

44. On December 5, 2005, Wanda Russell was asked to sign, and did sign, an “Initial Evaluation and Treatment Plan,” which outlined a “Description of Proposed Treatment Plan” and a “Description of Proposed Restrictions and Restraints.” This form was not completed and signed by a physician.

45. On December 5, 2005, Wanda Russell was asked to sign, and did sign, a “Consent for Voluntary Inpatient Treatment.”

46. The “Consent for Voluntary Inpatient Treatment” set forth the following “Instructions”:

Before signing this form, your treatment should be explained to you and you must be given a copy of the Patient’s Bill of Rights, the report of your initial evaluation and the proposed treatment plan must be completed and signed by you and the physician.

47. On December 6, 2005, Wanda Russell was not given a copy of the DuBois Regional Medical Center Patient's Bill of Rights.

48. On December 6, 2005, Wanda Russell was not given a copy of her initial evaluation.

49. On December 6, 2005, Wanda Russell was not given a copy of the proposed treatment plan which should have been completed and signed by her and a physician. Dr. Helmi, who made the decision to admit Wanda Russell to the psychiatric unit, did not explain the proposed treatment plan or sign the "Description of Proposed Treatment Plan" and "Description of Proposed Restrictions and Restraints."

50. On December 6, 2005, at or about 0200 hours, Wanda Russell was admitted to the DRMC Behavioral Unit by Kim Hendricks, R.N. ["Nurse Hendricks"], onto Dr. Bobrin's Service.

51. On December 6, 2005, at no time prior to, or at the time of her admission at 0200 hours to the DRMC Behavioral Unit, was Wanda Russell evaluated by a psychiatrist, including Dr. Bradley, Dr. Bobrin, or Dr. Helmi.

52. On December 6, 2005, at or about 0200 hours, Wanda Russell told Nurse Hendricks that "she was lied to about coming here for an admission from her family" and reported "she is unable to use left arm and leg. Patient complains of not wanting to stay."

53. On December 6, 2005, at or about 0330 hours, Wanda Russell fell out of bed in the DRMC Behavioral Unit.

54. On December 6, 2005, at or about 0643 hours, Dr. Bradley performed a history and physical examination on Wanda Russell. Dr. Bradley obtained a history of present illness, among other things, as follows:

Wanda is a 47-year-old woman who had been readmitted to the

West division for left sided weakness. She had had a workup that included a normal CT of the head. She was discharged and re-presented to the ER with nervousness and I guess there was a question regarding the extent of the left sided weakness present and the fact it was noted that the person was under a lot of stress. She is hypertensive, hyperlipidemic, and an insulin dependent diabetic. I guess she was persuaded to be transferred to the psyche unit.

55. On December 6, 2005, during his physical examination of Wanda Russell, Dr. Bradley found, among other things, "There is some left upper extremity weakness and facial asymmetry" that was "hard to evaluate since she is so anxious."

56. On December 6, 2005, at the time Dr. Bradley initially evaluated Wanda Russell, Dr. Bradley formulated and initiated the plan that "the patient is admitted for psyche evaluation and treatment."

57. On December 6, 2005, at the time of his initial evaluation, Dr. Bradley did not transfer Wanda Russell back to a medical unit for evaluation of her left sided weakness or facial asymmetry.

58. On December 6, 2005, at the time of his initial evaluation, Dr. Bradley did not obtain, or order to be obtained, a neurology consultation for Wanda Russell.

59. On December 6, 2005, at the time of his initial evaluation, Dr. Bradley did not have performed, or order to be performed, an MRI scan of the head or MRA on Wanda Russell.

60. On December 6, 2005, at the time of his initial evaluation, Dr. Bradley did not diagnose Wanda Russell as having an evolving or "stuttering" cerebrovascular accident.

61. On December 6, 2005, the nursing staff from the DRMC Behavioral Unit attempted to contact Dr. Helmi at 0955 hours, first by beeper and eventually by cell phone, seeking information

about Wanda Russell.

62. On December 6, 2005, at or about 0955 hours, Dr. Helmi informed the DRMC Behavioral Unit nurse, whose illegible signature appears at Exhibit "B" at page 3, by telephone "that she didn't remember the patient and asked where she came from."

63. On December 6, 2005, at or about 1005 hours, Dr. Helmi informed the nurse whose illegible signature appears at Exhibit "B" at page 3, by telephone that "she did not make the recommendation-Dr. Maloney asked for the admission and she agreed on the basis that the patient is suicidal."

64. On December 6, 2005, at or before 1028 hours, Dr. Bobrin evaluated Wanda Russell at the DRMC Behavioral Unit, and during the "Initial Evaluation/Mental Status Examination/Discharge Summary" report preparation, described that, among other things:

She describes being scared about her arm and leg. She awoke on Friday with trouble with her left arm and it has gotten worse since then. Her family said that this is true as well. She can stand as she demonstrates to me but has trouble lifting up her arm, not even able to brush her hair. She woke up and fell and has had two falls here on the unit and so she initially came in because scans x two do not show any signs of ischemia or infarct.

65. On December 6, 2005, Dr. Bobrin, at or before 1028 hours, Dr. Bobrin found that Wanda Russell exhibited no signs of "suicidal or homicidal ideations" on the mental status examination.

66. On December 6, 2005, at or before 1028 hours, Dr. Bobrin assessed Wanda Russell as follows

This is a 47-year-old with some mild depressive symptoms and acute onset of depressive mood after having stroke-like symptoms which has continued. Although it was thought that her

neurologic signs were out of proportion to her neurological symptoms, she does seem to have flaccid paralysis of the left arm and left droop of smile. With no gross infarct, there might be some infarct on brainstem or internal capsule. Will need MRI and neuro consult.

67. On December 6, 2005, at or before 1028 hours, Dr. Bobrin formulated a plan for Wanda Russell that included, among other things, "to transfer her back over to medicine where she will receive neuro consult and MRI, continue medical care. I do not think she needs acute psychiatric care at this time."

68. On December 6, 2005, at or about 1700 hours, Wanda Russell was readmitted by Dr. Maloney under his care to the DuBois Regional Medical Center West.

69. On December 6, 2005, on or before 1700 hours, Dr. Maloney performed a "History and Physical Examination" on Wanda Russell, and described Wanda Russell's admission to "the Adult Mental Health Unit," stating:

When she arrived there, Wanda apparently rescinded her voluntary admission, noting that she did not wish to be there. This was supported by her family, and today, secondary to reported falls in the Adult Mental Health Unit. I have requested that Wanda be returned for further evaluation in the observation status setting.

70. On December 6, 2005, Dr. Maloney ordered an MRI study to be performed on Wanda Russell on the following morning, and a neurology consultation to be performed by Ruediger Katz, M.D. ["Dr. Katz"].

71. On December 6, 2005, during his evaluation of Wanda Russell at or before 1916 hours, Dr. Katz found that Wanda Russell had multiple risk factors for cerebral ischemia.

72. On December 6, 2005, during his neurologic examination of Wanda Russell at or

before 1916 hours, Dr. Katz found, among other things, that Wanda Russell had a lower left facial droop, 0/5 strength in her left arm, and 3/5 strength in her left leg.

73. On December 7, 2005, an unenhanced MRI of the brain was performed on Wanda Russell at the DuBois Regional Medical Center, which demonstrated a “well circumscribed lesion of right basal ganglia suggestive of a subacute or chronic lacunar infarct. Very small lacunar infarct in the left basal ganglia.”

74. On December 8, 2005, John J. Ahn, M.D. performed a cardiology consultation on Wanda Russell, and diagnosed Wanda Russell as an “unfortunate 47-year-old female who has suffered a CVA.”

75. On December 8, 2005, Lynn Myers, M.D. [“Dr. Myers”], a rehabilitation medicine specialist, evaluated Wanda Russell, and found that:

The patient is an appropriate candidate for admission to the inpatient rehabilitation unit to address deficits and functional mobility and self care skills related to her recent CVA with left hemiparesis.

76. On December 9, 2005, Wanda Russell was transferred to the Physiatry Unit for inpatient rehabilitation at the DRMC Inpatient Rehabilitation Programs on the service of Dr. Myers.

77. The negligence of all defendants, jointly and severally, as set forth with specificity in the Counts below, directly and proximately caused, and increased the risk of harm of, the cerebrovascular accident suffered by Wanda Russell.

78. The negligence of all defendants, jointly and severally, as set forth with specificity in the Counts below, directly and proximately caused, and increased the risk of harm of, the neurologic injuries, impairments, and deficits suffered by Wanda Russell.

79. The negligence of all defendants, jointly and severally, as set forth with specificity in the Counts below, directly and proximately caused, and increased the risk of harm of, the following injuries and damages:

- a. irreversible cerebral ischemia;
- b. cerebrovascular accident;
- c. cerebral dysfunction;
- d. cognitive impairment;
- e. motor impairment;
- f. neurological impairment and injury;
- g. humiliation;
- h. embarrassment;
- i. anxiety and fright;
- j. pain and suffering;
- k. disfigurement;
- l. loss of life's pleasures;
- m. economic damages; and,
- n. medical expenses.

80. Wanda Russell suffered, and continues to suffer, grave neurologic and medical injuries, impairments, and deficits which were caused by, and whose risk of harm was increased by, the negligent conduct of defendants, jointly and severally, as more fully set forth with specificity in the Counts below.

COUNT I-NEGLIGENCE
(Plaintiff v. Dr. Devlin)

81. The previous paragraphs are herein incorporated by reference as though fully set forth.

82. The negligent conduct of Dr. Delvin during his medical evaluation, care, and treatment of Wanda Russell consisted of the following:

- a. failure to properly, timely, and adequately evaluate a patient with a diagnosis of transient ischemic attack;
- b. failure to properly, timely, and adequately evaluate a patient with a diagnosis of cerebrovascular accident;
- c. failure to properly, timely, and adequately evaluate a patient with fluctuating neurologic signs and symptoms;
- d. failure to properly and timely obtain the consultative services of a neurologist or specialist in neurology;
- e. failure to properly and timely obtain cerebral imaging with an MRI scan and/or MRA;
- f. failure to properly, timely, and adequately evaluate a patient with acute neurologic signs and symptoms;
- g. failure to timely, properly, and adequately evaluate, diagnose, and treat a “stuttering” stroke;
- h. failure to provide appropriate management and treatment of acute neurologic signs and symptoms;
- i. failure to provide appropriate, adequate, and timely monitoring of a patient

- with a deteriorating neurologic status;
- j. failure to properly, timely, and adequately evaluate a patient with acute deteriorating neurologic status;
- k. failure to provide appropriate management of an evolving cerebrovascular accident;
- l. failure to provide appropriate, adequate, and timely monitoring of a patient with a signs and symptoms of an evolving cerebrovascular accident or neurologic crisis;
- m. failure to properly, timely, and adequately evaluate a patient with signs and symptoms of an evolving neurologic dysfunction;
- n. failure to obtain appropriate, adequate, and timely neuro-radiologic evaluation; and,
- o. failure to properly, timely, and adequately recognize and appreciate signs and symptoms of evolving neurologic dysfunction.

COUNT II-NEGLIGENCE
(Plaintiff v. Dr. Maloney)

- 83. The previous paragraphs are herein incorporated by reference as though fully set forth.
- 84. The negligent conduct of Dr. Delvin during his medical evaluation, care, and treatment of Wanda Russell consisted of the following:

- a. failure to properly, timely, and adequately evaluate a patient with a diagnosis of transient ischemic attack;
- b. failure to properly, timely, and adequately evaluate a patient with a diagnosis

- of cerebrovascular accident;
- c. failure to properly, timely, and adequately evaluate a patient with fluctuating neurologic signs and symptoms;
 - d. failure to properly and timely obtain the consultative services of a neurologist or specialist in neurology;
 - e. failure to properly and timely obtain cerebral imaging with an MRI scan and/or MRA;
 - f. failure to properly, timely, and adequately evaluate a patient with acute neurologic signs and symptoms;
 - g. failure to timely, properly, and adequately evaluate, diagnose, and treat a “stuttering” stroke;
 - h. failure to provide appropriate management and treatment of acute neurologic signs and symptoms;
 - i. failure to provide appropriate, adequate, and timely monitoring of a patient with a deteriorating neurologic status;
 - j. failure to properly, timely, and adequately evaluate a patient with acute deteriorating neurologic status;
 - k. failure to provide appropriate management of a cerebrovascular accident;
 - l. failure to provide appropriate, adequate, and timely monitoring of a patient with a signs and symptoms of an evolving cerebrovascular accident or neurologic crisis;
 - m. failure to properly, timely, and adequately evaluate a patient with signs and

symptoms of an evolving neurologic dysfunction;

- n. failure to provide appropriate, adequate, and timely neuro-radiologic evaluation;
- o. failure to provide timely, appropriate, and adequate medical evaluation prior to transfer to a psychiatric unit;
- p. failure to provide timely, appropriate, and adequate neurologic and neuro-radiologic evaluation prior to transfer to a psychiatric unit;
- q. failure to provide timely, appropriate, and adequate psychiatric and psychologic evaluation prior to transfer to a psychiatric unit;
- r. failure to obtain timely, appropriate, and adequate medical evaluation prior to transfer to a psychiatric unit;
- s. failure to obtain timely, appropriate, and adequate psychiatric and psychologic evaluation prior to transfer to a psychiatric unit;
- t. failure to take an adequate and appropriate medical history;
- u. failure to take an adequate and appropriate psychiatric and psychological history;
- v. failure to take an adequate and appropriate medical care and treatment during hospitalization in a psychiatric unit;
- w. failure to effect a timely transfer from the psychiatric unit back to the medical unit;
- x. failure to effect a timely transfer from the psychiatric unit back to the medical unit for neurologic evaluation and treatment;

- y. failure to provide timely, adequate, and appropriate management of a stroke;
and,
- z. failure to properly, timely, and adequately recognize and appreciate signs and symptoms of evolving neurologic dysfunction.

COUNT III-NEGLIGENCE
(Plaintiff v. Dr. Helmi)

85. The previous paragraphs are herein incorporated by reference as though fully set forth.

86. The negligent conduct of Dr. Helmi during her evaluation, care, and treatment of Wanda Russell consisted of the following:

- a. failure to properly, timely, and adequately evaluate a patient with a diagnosis of transient ischemic attack;
- b. failure to properly, timely, and adequately evaluate a patient with a diagnosis of cerebrovascular accident;
- c. failure to properly, timely, and adequately evaluate a patient with fluctuating neurologic signs and symptoms;
- d. failure to properly and timely obtain the consultative services of a neurologist or specialist in neurology;
- e. failure to properly and timely obtain cerebral imaging with an MRI scan or MRA;
- f. failure to properly, timely, and adequately evaluate a patient with acute

- neurologic signs and symptoms;
- g. failure to timely, properly, and adequately evaluate, diagnose, and treat a “stuttering” stroke;
 - h. failure to provide appropriate management and treatment of acute neurologic signs and symptoms;
 - i. failure to provide appropriate, adequate, and timely monitoring of a patient with a deteriorating neurologic status;
 - j. failure to properly, timely, and adequately evaluate a patient with acute deteriorating neurologic status;
 - k. failure to provide appropriate management of an evolving cerebrovascular accident or neurologic crisis;
 - l. failure to provide appropriate, adequate, and timely monitoring of a patient with a signs and symptoms of an evolving cerebrovascular accident;
 - m. failure to properly, timely, and adequately evaluate a patient with signs and symptoms of an evolving neurologic dysfunction;
 - n. failure to provide appropriate, adequate, and timely neuro-radiologic evaluation;
 - o. failure to provide timely, appropriate, and adequate medical evaluation prior to transfer to a psychiatric unit;
 - p. failure to provide timely, appropriate, and adequate neurologic and neuro-radiologic evaluation prior to transfer to a psychiatric unit;
 - q. failure to provide timely, appropriate, and adequate psychiatric and

- psychologic evaluation prior to transfer to a psychiatric unit;
- r. failure to perform a timely, adequate, or appropriate psychiatric history prior to transfer to a psychiatric unit;
 - s. failure to obtain timely, appropriate, and adequate medical evaluation prior to transfer to a psychiatric unit;
 - t. failure to obtain timely, appropriate, and adequate psychiatric and psychologic evaluation prior to transfer to a psychiatric unit;
 - u. failure to perform an adequate and appropriate medical history;
 - v. failure to perform any medical history, psychiatric history, or physical examination prior to or at the time of transfer to a psychiatric unit;
 - w. failure to see, evaluate, or speak with the patient prior to transfer to a psychiatric unit;
 - x. failure to effect a timely transfer from the psychiatric unit back to the medical unit;
 - y. failure to evaluate falls in the psychiatric unit; and,
 - z. failure to re-evaluate the medical status and or psychiatric status of the patient following transfer to the psychiatric unit.

COUNT IV-NEGLIGENCE
(Plaintiff v. Dr. Bradley)

87. The previous paragraphs are herein incorporated by reference as though fully set forth.
88. The negligent conduct of Dr. Bradley during his medical evaluation, care, and

treatment of Wanda Russell consisted of the following:

- a. failure to properly, timely, and adequately evaluate a patient with a diagnosis of transient ischemic attack;
- b. failure to properly, timely, and adequately evaluate a patient with a diagnosis of cerebrovascular accident;
- c. failure to properly, timely, and adequately evaluate a patient with fluctuating neurologic signs and symptoms;
- d. failure to properly and timely obtain the consultative services of a neurologist or specialist in neurology;
- e. failure to properly and timely obtain cerebral imaging with an MRI scan and/or MRA;
- f. failure to properly, timely, and adequately evaluate a patient with acute neurologic signs and symptoms;
- g. failure to timely, properly, and adequately evaluate, diagnose, and treat a “stuttering” stroke;
- h. failure to provide appropriate management and treatment of acute neurologic signs and symptoms;
- i. failure to provide appropriate, adequate, and timely monitoring of a patient with a deteriorating neurologic status;
- j. failure to properly, timely, and adequately evaluate a patient with acute deteriorating neurologic status;
- k. failure to provide appropriate management of an evolving cerebrovascular

accident or neurologic crisis;

- l. failure to provide appropriate, adequate, and timely monitoring of a patient with a signs and symptoms of an evolving cerebrovascular accident;
- m. failure to properly, timely, and adequately evaluate a patient with signs and symptoms of an evolving neurologic dysfunction;
- n. failure to provide appropriate, adequate, and timely neuro-radiologic evaluation;
- o. failure to provide timely, appropriate, and adequate medical evaluation prior to transfer to a psychiatric unit;
- p. failure to provide timely, appropriate, and adequate neurologic and neuro-radiologic evaluation prior to transfer to a psychiatric unit;
- q. failure to provide timely, appropriate, and adequate psychiatric and psychologic evaluation prior to transfer to a psychiatric unit;
- r. failure to perform a timely, adequate, or appropriate psychiatric history prior to transfer to a psychiatric unit;
- s. failure to obtain timely, appropriate, and adequate medical evaluation prior to transfer to a psychiatric unit;
- t. failure to obtain timely, appropriate, and adequate psychiatric and psychologic evaluation prior to transfer to a psychiatric unit;
- u. failure to perform an adequate and appropriate medical history;
- v. failure to see or speak with the patient prior to transfer to a psychiatric unit;
- w. failure to effect a timely transfer from the psychiatric unit back to the medical

- unit;
- x. failure to evaluate falls in the psychiatric unit; and,
- y. failure to re-evaluate the medical status following transfer to the psychiatric unit.

COUNT IV-NEGLIGENCE
(Plaintiff v. Dr. Bobrin)

89. The previous paragraphs are herein incorporated by reference as though fully set forth.

90. The negligent conduct of Dr. Bobrin during his medical evaluation, care, and treatment of Wanda Russell consisted of the following:

- a. failure to properly, timely, and adequately evaluate a patient with a diagnosis of transient ischemic attack;
- b. failure to properly, timely, and adequately evaluate a patient with a diagnosis of cerebrovascular accident;
- c. failure to properly, timely, and adequately evaluate a patient with fluctuating neurologic signs and symptoms;
- d. failure to properly and timely obtain the consultative services of a neurologist or specialist in neurology;
- e. failure to properly and timely obtain cerebral imaging with an MRI scan and/or MRA;
- f. failure to properly, timely, and adequately evaluate a patient with acute neurologic signs and symptoms;
- g. failure to timely, properly, and adequately evaluate, diagnose, and treat a

- “stuttering” stroke;
- h. failure to provide appropriate management and treatment of acute neurologic signs and symptoms;
 - i. failure to provide appropriate, adequate, and timely monitoring of a patient with a deteriorating neurologic status;
 - j. failure to properly, timely, and adequately evaluate a patient with acute deteriorating neurologic status;
 - k. failure to provide appropriate management of an evolving cerebrovascular accident or neurologic crisis;
 - l. failure to provide appropriate, adequate, and timely monitoring of a patient with a signs and symptoms of an evolving cerebrovascular accident;
 - m. failure to properly, timely, and adequately evaluate a patient with signs and symptoms of an evolving neurologic dysfunction;
 - n. failure to provide appropriate, adequate, and timely neuro-radiologic evaluation;
 - o. failure to provide timely, appropriate, and adequate medical evaluation prior to transfer to a psychiatric unit;
 - p. failure to provide timely, appropriate, and adequate neurologic and neuro-radiologic evaluation prior to transfer to a psychiatric unit;
 - q. failure to provide timely, appropriate, and adequate psychiatric and psychologic evaluation prior to transfer to a psychiatric unit;
 - r. failure to perform a timely, adequate, or appropriate psychiatric history prior

- to transfer to a psychiatric unit;
- s. failure to obtain timely, appropriate, and adequate medical evaluation prior to transfer to a psychiatric unit;
 - t. failure to obtain timely, appropriate, and adequate psychiatric and psychologic evaluation prior to transfer to a psychiatric unit;
 - u. failure to perform an adequate and appropriate medical history;
 - v. failure to see or speak with the patient prior to transfer to a psychiatric unit;
 - w. failure to effect a timely transfer from the psychiatric unit back to the medical unit;
 - x. failure to evaluate falls in the psychiatric unit; and,
 - y. failure to re-evaluate the medical status following transfer to the psychiatric unit.

COUNT V-VICARIOUS AND CORPORATE (DIRECT) NEGLIGENCE
**(Plaintiff v. DuBois Regional Medical Center a/k/a/
DuBois Regional Medical Center West a/d/b/a DRMC Behavioral Unit a/k/a
DRMC East Behavioral Unit a/k/a DRMC Behavioral Health Outpatient Clinic)**

91. The previous paragraphs are herein incorporated by reference as though fully set forth.
92. At all times material hereto, DuBois Regional Medical Center a/k/a/ DuBois Regional Medical Center West a/d/b/a DRMC Behavioral Unit a/k/a DRMC East Behavioral Unit a/k/a DRMC Behavioral Health Outpatient Clinic was acting by and through its actual agents, ostensible agents, servants, and/or employees, including Dr. Maloney, Devlin, Helmi, Bradley, and Bobrin, and the nursing staff who provided nursing care and treatment to Wanda Russell during her hospitalization in the DRMC Behavioral Unit, whose identities are partially set forth in Exhibit "B."

These actual agents, ostensible agents, servants, and/or employees provided medical care and treatment to Wanda Russell while acting within the scope of their medical and nursing duties. Accordingly, the DuBois Regional Medical Center a/k/a/ DuBois Regional Medical Center West a/d/b/a DRMC Behavioral Unit a/k/a DRMC East Behavioral Unit a/k/a DRMC Behavioral Health Outpatient Clinic is vicariously and derivatively liable for the negligent acts and omissions of these actual agents, ostensible agents, servants, and/or employees under theories of agency, master-servant, respondeat superior, and/or right of control.

93. The Dubois Regional Medical Center is liable for the conduct of the nurses who provided psychiatric nursing care to Wanda Russell on the DRMC Behavioral Unit on December 5 to 6, 2005, whose identities are partially set forth in Exhibit "B," and whose negligence consisted of:

- a. failure to report falls in a patient exhibiting neurologic impairment to a physician at the time the falls occurred;
- b. failure to report neurologic signs and symptoms to the physician staff;
- c. failure to obtain appropriate psychiatric evaluation at the time the patient arrived on the psychiatric unit;
- d. failure to insure that the protocol for psychiatric unit was adhered to and followed, including provision of the Patient's Bill of Rights and the report of initial evaluation and the proposed treatment plan completed and signed by the patient and the physician;
- e. failure to obtain medical evaluation for signs and symptoms during the nursing evaluation of the patient of evolving neurologic dysfunction;

- f. failure to timely, appropriately, and adequately notify the physician medical staff of evolving of neurologic signs and symptoms;
- g. failure to provide appropriate nursing, monitoring and care to a patient with evolving and shifting neurologic signs and symptoms; and,
- h. failure to provide adequate, appropriate, and timely nursing care in the setting of shifting neurologic signs and symptoms.

94. In addition, pursuant to the decision of the Supreme Court of Pennsylvania in Thompson v. Nason, 591 A.2d 703 (1991) and its progeny of case law, at all relevant times hereto, DuBois Regional Medical Center a/k/a/ DuBois Regional Medical Center West a/d/b/a DRMC Behavioral Unit a/k/a DRMC East Behavioral Unit a/k/a DRMC Behavioral Health Outpatient Clinic owed non-delegable duties directly to Wanda Russell which included:

- a. a duty to use reasonable care in the maintenance of safe and adequate facilities and equipment;
- b. a duty to select and retain only competent physicians;
- c. a duty to oversee all persons who practice medicine within its walls as to patient care; and,
- d. a duty to formulate, adopt, and enforce adequate rules and policies to ensure quality care for the patients.

95. The corporate (direct) negligence of the DuBois Regional Medical Center a/k/a/ DuBois Regional Medical Center West a/d/b/a DRMC Behavioral Unit a/k/a DRMC East Behavioral Unit a/k/a DRMC Behavioral Health Outpatient Clinic arising out of the medical evaluation, care, and treatment of Wanda Russell consisted of the following:

- a. failure to select and retain only competent physicians proficient in the recognition, evaluation, and management of transient ischemic attack, neurologic dysfunction, evolving cerebrovascular accident, and “stuttering” stroke;
- b. failure to select and retain only competent physicians proficient in the recognition, evaluation, and management of psychiatric and psychosomatic illness;
- c. failure to select and retain only competent physicians proficient in the recognition, evaluation, and management of conversion reaction;
- d. failure to select and retain only competent physicians proficient in the recognition, evaluation, and management of evolving neurologic injury;
- e. failure to select and retain only competent physicians proficient in the recognition, evaluation, and management of cerebral ischemia and associated risk factors;
- f. failure to select and retain only competent physicians proficient in the recognition, evaluation, and management of deteriorating neurologic status;
- g. failure to select and retain only competent physicians proficient in the recognition, evaluation, and management evolving stroke symptoms;
- h. failure to select and retain only competent physicians proficient in the recognition, evaluation, and management of patients within a psychiatric unit;
- i. failure to select and retain only competent physicians proficient in the recognition, evaluation, and management of fluctuating neurologic signs and

symptoms;

- j. failure to select and retain only competent physicians proficient in the evaluation patients prior to voluntary transfer to a psychiatric unit;
- k. failure to formulate, adopt, and/or enforce adequate rules and policies with respect to evaluation of patients prior to transfer to a psychiatric unit, including evaluation by a psychiatrist;
- l. failure to formulate, adopt, and/or enforce adequate rules and policies with respect to the evaluation, re-evaluation, and management of patients admitted to a psychiatric unit with fluctuating neurologic signs and symptoms;
- m. failure to formulate, adopt, and/or enforce adequate rules and policies with respect to the timely evaluation of patients admitted to the psychiatric unit;
- n. failure to formulate, adopt, and/or enforce adequate rules and policies with respect to the reporting and evaluation of falls by the nursing staff in the psychiatric unit;
- o. failure to formulate, adopt, and/or enforce adequate rules and policies with respect to the transfer of patients with acute medical emergencies out of the psychiatric unit;
- p. failure to formulate, adopt, and/or enforce adequate rules and policies with respect to holding patients with acute medical complaints within the confines of the psychiatric unit;
- q. failure to formulate, adopt, and/or enforce adequate rules and policies with respect to holding patients with acute neurologic complaints and falls within

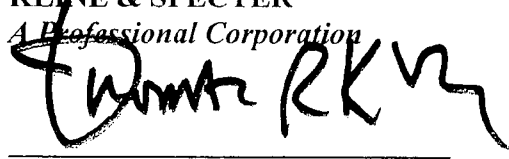
the confines of the psychiatric unit;

- r. failure to formulate, adopt, and/or enforce adequate rules and policies with respect to obtaining timely transfer of a patient with signs and symptoms of an evolving stroke to a medical unit from the psychiatric unit;
- s. failure to oversee all persons who practice medicine within its walls as to patient care to ensure that an appropriate psychiatric evaluation by a psychiatrist occurs prior to the transfer of a patient to a psychiatric unit;
- t. failure to oversee all persons who practice medicine within its walls as to patient care to ensure that an appropriate medical evaluation occurs prior to the transfer of a patient to a psychiatric unit;
- u. failure to oversee all persons who practice medicine within its walls as to patient care to ensure that an appropriate medical evaluation occurs at the time of transfer of a patient to a psychiatric unit; and,
- v. failure to oversee all persons who practice medicine within its walls as to patient care to ensure that an appropriate psychiatric evaluation occurs at the time of transfer of a patient to a psychiatric unit.

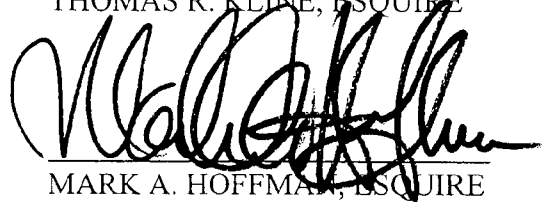
WHEREFORE, Plaintiff Wanda Russell claims damages against all defendants, jointly and severally, including all damages cognizable under Pennsylvania law for the causes of action set forth in the Civil Action Complaint, in an amount in excess of the prevailing arbitration limits, exclusive of pre-judgment interest and post-judgment interest and costs.

KLINE & SPECTER
A Professional Corporation

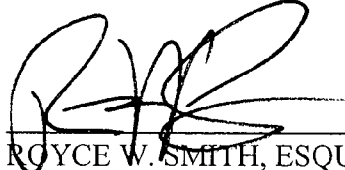
By:


THOMAS R. KLINE, ESQUIRE

By:


MARK A. HOFFMAN, ESQUIRE

By:


ROYCE W. SMITH, ESQUIRE

Date:

KLINE & SPECTER

A Professional Corporation

By: THOMAS R. KLINE, ESQUIRE
MARK A. HOFFMAN, ESQUIRE
ROYCE W. SMITH, ESQUIRE

Attorney ID Nos.: 28895/ 84443/201295

The Nineteenth Floor

1525 Locust Street

Philadelphia, Pennsylvania 19102

(215) 772-1000

Attorneys for Plaintiff

WANDA RUSSELL

426 North Michael Street

Saint Mary's, Pennsylvania 15857

Plaintiff,

v.

JAMES E. DEVLIN, M.D. and

MARK W. MALONEY, D.O. and

DRMC PRIMARY CARE

ASSOCIATES and

SANAA HELMI, M.D. and

THOMAS J. BRADLEY, M.D. and

BRADFORD BOBRIN, M.D. and

DuBOIS REGIONAL MEDICAL

CENTER a/ka DuBOIS REGIONAL

MEDICAL CENTER WEST

a/d/b/a DRMC BEHAVIORAL

UNIT a/k/a DRMC EAST BEHAVIORAL

UNIT a/k/a DRMC BEHAVIORAL

HEALTH OUTPATIENT CLINIC

Defendants.

COURT OF COMMON PLEAS

COUNTY OF CLEARFIELD

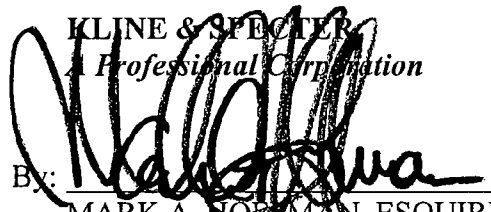
DOCKET NO.

CERTIFICATES OF MERIT

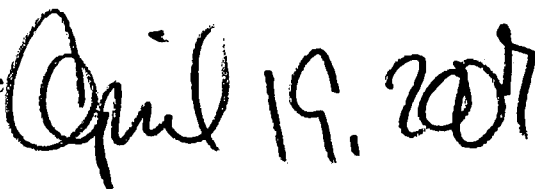
I, Mark A. Hoffman, Esquire, am an attorney for the plaintiff in the above-captioned matter.

Pursuant to Pa.R.C.P. No. 1042.1, I hereby certify appropriate licensed professionals have provided me with written statements stating that there exists a reasonable basis and probability to conclude that the care, skill, or knowledge exercised or exhibited by Drs. Devlin, Maloney, Helmi, Bradley, and Bobrin, and the psychiatric nursing staff, and the DuBois Regional Medical Center and its

affiliated or associated entities as captioned above, with respect to the treatment, practice, or work that is the subject of this Civil Action Complaint, fell outside of acceptable professional and institutional standards, and that such conduct was a substantial factor in causing injuries, or bringing about harm, to Wanda Russell. I further certify that there are additional claims which are based on allegations that licensed professionals for whom the hospital-defendant, DuBois Regional Medical Center and its affiliated or associated entities as captioned above, and/or DRMC Primary Care, and/or both, are responsible and derivatively or vicariously liable deviated from accepted professional standards of medical care, and caused the aforementioned injuries and harm. I additionally certify that appropriate licensed professionals have supplied written statements to me concluding that there exists a reasonable basis and probability that the DuBois Regional Medical Center, and its affiliated or associated entities as captioned above, deviated from accepted standards of institutional care, giving rise to claims of direct (corporate) negligence pursuant to the decision of the Supreme Court of Pennsylvania in Thompson v. Nason, 591 A.2d 703 (1991) and its progeny of case law. The licensed professionals who have provided me with these written statements have also concluded that the aforementioned deviations from accepted standards of medical and institutional care on the part of the individual named licensed professional, corporate, and hospital defendants was a substantial factor causing, or increasing the risk of harm, to Wanda Russell.

KLINE & SPECTER
A Professional Corporation
By: 
MARK A. HOFFMAN, ESQUIRE
Attorneys for Plaintiff

Date



Behavioral Health Services Daily Notes Extension
Date 12/16/05

3218 47Y MH 0114-01 MH
RUSSELL, WANDA
BOBRIN, BRADFORD
09/19/58 F 12/06/05
0534000768 UP


Sticker

12/16/05 8:20am - Pt's sister, Darlene, Nortum called and I spoke to her. According to Darlene, she was in to visit her sister last evening. Dr. Malony came in at 7 or 8 pm to talk to the pt. he told her that he feels her loss of mobility is due to depression. He did not say anything about coming to Mental Health. She did not say anything suicidal or hopeless. Darlene said she tried to talk to Dr. Malony about how soon her sister would be PIC but he said he was busy. Darlene does not feel her sister should be at Mental Health.

8:50am - I spoke to the secretary ^{Sue} @ Dr. Maloney's office & she was unable to give me any information. Dr. Maloney called off today + she would not be talking to him until late this afternoon.

9:00am - I spoke to Joan on 3rd floor about the Pt. She told me that she was told that Dr. Maloney was afraid she would hurt herself. Apparently, Pt was requesting disability & Dr. Maloney said he couldn't do that. At that point he felt she wasn't safe.

9:20am Pt's sister Darlene called again & asked

353218 47Y MH 0114-01 MH
RUSSELL, WANDA
BOBRIN, BRADFORD
09/19/58 F 12/06/05
0534000768 UP



Behavioral Health Services Daily Notes Extension
Date 12 / 6 / 05

Sticker

if she could come now to visit her sister + talk with us.

9:35am Tracey from 3rd floor called + asked me what the situation is. Neither her or anyone else knew specific information on the Pt.

9:45am Dr. Maloney called and spoke to me. He feels the pt is going to stop taking her meds although she did not state that. He reports that she's going through a lot of stress - a divorce & bankruptcy. He said that she was admitted for left sided weakness. Nurses reported to Dr. Maloney that they observed her using her left arm & eating when she thought no one was looking. He was unable to find any medical problems. He spoke to Dr. Helmi & according to him it was her recommendation that she be admitted + tx be started.

I then handed the phone to UR for them to collect information.

9:55am I had already beeped Dr. Helmi twice & she had not returned my call yet. I thought her beeper may be off so I called her cell phone. She answered + I asked if she had any information on the pt. She said

Behavioral Health Services Daily Notes Extension
Date 12/4/05

053218 47Y MH 01 MH
RUSSELL, WANDA
BOBRIN, BRADFORD
09/19/58 F 12/06/05
0534000768 UP

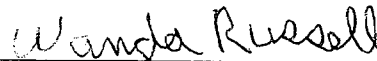

Sticker

that she didn't remember the pt + asked where she came from, I stated 3rd floor - she said she was c-pts & would have to return my call.

10:05 am - Dr. Helmi returned my call, I asked her the information regarding the pt. She was under the impression that the pt was severely depressed + actively suicidal. She did not make the recommendation - Dr. Maloney asked for the admission and she agreed on the basis that the pt is suicidal. She will support our decision at this point. Brittge Boule Jr

VERIFICATION

I, WANDA RUSSELL, plaintiff in this civil action, hereby verify that the within Civil Action Complaint is based upon first-hand information, and upon information furnished to my counsel and obtained by him in the course of counsel's investigation of this lawsuit and the facts involved. The language of the document is that of counsel and not my own. To the extent that the contents of the document are based upon information furnished to counsel and obtained by him during the course of this lawsuit and counsel's investigation of the facts giving rise to this lawsuit, I have relied upon counsel in taking this verification. All statements are founded upon reasonable belief. This verification is made subject to the penalties of 18 Pa.C.S. §4904 relating to unsworn falsification to authorities.



Wanda Russell

Date: 4/19/07

FILED NO
MAY 24 2007
William A. Shaw
Prothonotary/Clerk of Courts

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

WANDA RUSSELL,
Plaintiff,
vs.
JAMES E. DEVLIN, M.D., MARK W.
MALONEY, D.O., DRMC PRIMARY CARE
ASSOCIATES, SANAA HELMI, M.D.,
THOMAS J. BRADLEY, M.D., BRADFORD
BOBRIN, M.D., DuBOIS REGIONAL MEDICAL
CENTER WEST a/d/b/a/ DRMC
BEHAVIORAL UNIT a/k/a/ DRMC EAST
BEHAVIORAL HEALTH OUTPATIENT
CLINIC,
Defendants.

*Medical Professional Liability
Action*

Docket No: 07 - 644 - C.D.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the Defendant Dr. Sanaa Helmi's Expert Interrogatories and Request for Production of Documents Directed to Plaintiff in the above-captioned matter was mailed by regular mail, postage prepaid, at the Post Office, State College, Pennsylvania, on this 23rd day of May, 2007, to the attorney(s)/party(ies) of record:
Thomas R. Kline, Esquire

Mark A. Hoffman, Esquire
Kline & Specter, P.C.
1525 Locust Street 19th Floor
Philadelphia, PA 19102

Matthew Brian O'Connor, Esquire
Gaca Matis Baum & Rizza PC
444 Liberty Ave Ste 300
Pittsburgh, PA 15222

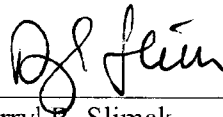
David R. Bahl, Esquire
McCormick Law Firm
835 West Fourth Street
PO Box 577
Williamsport, PA 17701-5801

Lynn Bell, Esquire
Davies, McFarland & Carroll, P.C.
Tenth Floor One Gateway Center
Pittsburgh, PA 15222-1416

John McIntyre, Esquire
McIntyre Hartye & Schmitt
PO Box 533
Hollidaysburg, PA 16648-0533

McQUAIDE, BLASKO,
FLEMING & FAULKNER, INC.

By: _____



Darryl R. Slimak
Attorneys for Defendant
SANAA HELMI, M.D.
811 University Drive
State College, PA 16801
(814) 238-4926
Fax: (814) 238-9624

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

WANDA RUSSELL,

Plaintiff,

vs.

JAMES E. DEVLIN, M.D., MARK W.
MALONEY, D.O., DRMC PRIMARY CARE
ASSOCIATES, SANAA HELMI, M.D.,
THOMAS J. BRADLEY, M.D., BRADFORD
BOBRIN, M.D., DuBOIS REGIONAL MEDICAL
CENTER WEST a/d/b/a/ DRMC
BEHAVIORAL UNIT a/k/a/ DRMC EAST
BEHAVIORAL HEALTH OUTPATIENT
CLINIC,

Defendants.

*Medical Professional Liability
Action*

Docket No: 07 - 644 - C.D.

Type of Pleading:
***Defendant Dr. Sanaa Helmi's
Answer with New Matter to
Plaintiff's Complaint***

File on Behalf of Defendant
Sanaa Helmi, M.D.

Counsel of Record for This Party
Darryl R. Slimak, Esquire
Pa. Supreme Court I.D. #41695

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

Counsel for Plaintiff
***Thomas R. Kline, Esquire
Mark A. Hoffman, Esquire***

JURY TRIAL DEMANDED

FILED
m/10:25 am
JUN 07 2007
(5)

William A. Shaw
Prothonotary/Clerk of Courts

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

WANDA RUSSELL,	:	
	:	
Plaintiff,	:	<i>Medical Professional Liability</i>
	:	<i>Action</i>
	:	
vs.	:	Docket No: 07 - 644 - C.D.
	:	
JAMES E. DEVLIN, M.D., MARK W.	:	
MALONEY, D.O., DRMC PRIMARY CARE	:	
ASSOCIATES, SANAA HELMI, M.D.,	:	JURY TRIAL DEMANDED
THOMAS J. BRADLEY, M.D., BRADFORD	:	
BOBRIN, M.D., DuBOIS REGIONAL MEDICAL	:	
CENTER WEST a/d/b/a/ DRMC	:	
BEHAVIORAL UNIT a/k/a/ DRMC EAST	:	
BEHAVIORAL HEALTH OUTPATIENT	:	
CLINIC,	:	
	:	
Defendants.	:	
	:	

DEFENDANT DR. SANAA HELMI'S ANSWER
WITH NEW MATTER TO PLAINTIFF'S COMPLAINT

AND NOW comes Defendant, SANAA HELMI, M.D., by and through her attorneys,
McQuaide, Blasko, Fleming & Faulkner, Inc., and responds to the Plaintiff's Complaint as
follows:

1. The averments of Complaint paragraph 1 are admitted pending further
investigation and discovery in that they are presently believed to likely be correct.

2-4. The averments of Complaint paragraphs 2 through 4, inclusive, are admitted as to the facts contained therein and the attachment of the Certificate of Merit but not as to the legal allegations thereof, which are specifically denied.

5. The averments of Complaint paragraph 5 appear to be directed to Defendants other than answering Defendant and therefore no response thereto is required under the Rules of Civil Procedure. Furthermore, same appear to be legal conclusions to which no further or more specific response is required.

6-7 The averments of Complaint paragraphs 6 and 7 appear to be directed against Defendants other than answering Defendant and therefore no response thereto is required under the Rules of Civil Procedure. Moreover, same appear to contain legal conclusions which do not require a response by answering Defendant.

8. The factual averments of Complaint paragraph 8 are admitted but the allegations of the attached Certificate of Merit are specifically denied.

9-11. The averments of Complaints paragraphs 9 through 11, inclusive, are admitted as to the facts contained therein and the attachment of the Certificate of Merit but not as to the allegations thereof, which are specifically denied.

12-13. The averments of Complaint paragraphs 12 and 13 appear to be directed to Defendants other than answering Defendant and therefore no response thereto is required under the Rules of Civil Procedure. Furthermore, same appear to be legal conclusions to which no further or more specific response is required.

14. Admitted venue is proper.

15-39. The averments of Complaint paragraphs 15 through 39, inclusive, are denied as stated in that same appear to be Plaintiff's selective attempted summary of medical records and events and do not fully and completely set forth the facts and circumstances as set forth in the applicable medical chart and/or as occurred. The applicable records speak for themselves as to their contents. Moreover, said averments are deemed denied pursuant to and consistent with Pa. R.C.P. No. 1029(e), and in that answering Defendant was not involved in the patient's care at the times referenced and did not create said records and thus is presently not in a position to confirm or refute their accuracy, or Plaintiff's allegations, subject to further investigation and discovery in this matter.

40-42. The averments of Complaint paragraphs 40 through 42, inclusive, appear to consist of Plaintiff's selective and inaccurate attempted summarization of the medical records and events and are therefore denied as stated. By way of further response, it is averred that Dr. Maloney spoke with Dr. Helmi by telephone on the night of December 5, 2005 at which time he advised Dr. Helmi that he had concluded the patient was severely depressed and suicidal but medically stable, and thus he wanted the patient admitted to the DRMC Behavioral Unit for which Dr. Helmi was then on call. Based on those representations as the on-call psychiatrist, Dr. Helmi authorized the admission of Wanda Russell to the Behavioral Health Unit which assigned the patient to the service of Dr. Bobrin. The records indicate the patient was not physically admitted into the Behavioral Unit until December 6, 2005, at or about 2:00 a.m., and was placed under observation protocols and such orders by Dr. Helmi as are reflected in the chart records, which were given in advance of the patient's transfer. Initial assessment was initiated by the nursing staff. Dr. Helmi was not advised or aware of the patient's actual arrival on the unit until after 8:00 a.m. when Dr. Helmi was off call and the patient was under Dr. Bobrin's service.

Under the circumstances, Dr. Helmi was not in a position to nor would the standard of care require her to perform a history, psychiatric evaluation, physical examination, or have other contact with Wanda Russell.

43-49. The averments of Complaint paragraphs 43 through 49, inclusive, constitute a selective and incomplete and thus inaccurate attempted summary of the medical records and events which were not prepared by nor involve Dr. Helmi, and thus after reasonable investigation, answering Defendant is without knowledge or information sufficient to form a belief as to the truth of same and therefore same are deemed denied. Moreover, certain allegations appear to be incorrect per review of the records. For example, the Consent for Voluntary Treatment form appears to have been signed at some point on December 6th, not December 5th as alleged. The averments are further denied as stated in that based on information and belief, and various entries in the records, Dr. Maloney and/or hospital nursing staff in the Behavioral Health Unit and/or others explained the initial treatment and the patient's Bill of Rights to Ms. Russell. The averments are further denied as stated regarding Dr. Helmi for the reasons indicated in the preceding paragraphs hereof, and in that Plaintiff's averments are otherwise misleading as stated.

50-60. The averments of Complaint paragraphs 50 through 60, inclusive, constitute a selective and incomplete and thus inaccurate attempted summary of the medical records and events which were not prepared by and did not involve Dr. Helmi, and in that after reasonable investigation, answering Defendant is without knowledge or information sufficient to form a belief as to the truth of same, and therefore same are deemed denied. Furthermore, said averments constitute factual or legal conclusions which answering Defendant specifically denies as something Plaintiff alleges she should have done, for the reasons stated elsewhere herein. For

the reasons stated in the preceding paragraphs hereof, it is correct that Dr. Helmi did not personally evaluate Ms. Russell prior to her admission to the Behavioral Health Unit, albeit it is noted that the records and/or Complaint allegations reflect examination by Dr. Maloney and others prior to transfer and Dr. Bradley after transfer, as well as nursing staff and others.

61. The averments of Complaint paragraph 61 are denied as stated as same constitute an incomplete attempt at summarization of the medical records references to contact with Dr. Helmi at or about said time. It is agreed that Dr. Helmi was contacted by cell phone pertaining to Wanda Russell. Dr. Helmi does not presently recall any attempts to contact her by beeper at 0955 hours on December 6, 2005.

62. The averments of Complaint paragraph 62 are denied as stated in that same does not fully and accurately state Dr. Helmi's discussion with the nurse at that time. It is correct that at that point Dr. Helmi asked for additional information from the caller to refresh her recollection of Ms. Russell, who she had not met.

63. The averments of Complaint paragraph 63 are denied as stated as same constitute an inaccurate and incomplete attempted summarization by Plaintiff of the applicable medical records and facts. Furthermore, the chart note referred to is confusing as stated. Dr. Helmi indicated in the telephone call at or about 1005 hours that she authorized the admission to the Behavioral Health Unit based on representations by Dr. Maloney that the patient was severely depressed and suicidal, but medically stable.

64-80. The averments of Complaint paragraphs 64 through 80, inclusive, are denied as legal and/or factual conclusions set forth against Defendants other than answering Defendant and therefore no response thereto is required under the Rules of Civil Procedure. The averments also constitute a selective and incomplete and thus inaccurate attempted summary of the medical

records and events which were not prepared by nor involve Dr. Helmi, and thus after reasonable investigation, answering Defendant is without knowledge or information sufficient to form a belief as to the truth of same and therefore same are deemed denied. As regards Dr. Helmi, said legal conclusions are specifically denied as at no time was Dr. Helmi negligent or the cause of harm to Plaintiff, and after reasonable investigation, answering Defendant is presently without knowledge or information sufficient to form a belief as to the truth of the averments of alleged injuries and damages.

COUNT I - NEGLIGENCE
Plaintiff v. Dr. Devlin

81-82. The averments of Complaint paragraphs 81 and 82 are directed against a Defendant other than answering Defendant and therefore no response thereto is required under the Rules of Civil Procedure.

COUNT II - NEGLIGENCE
Plaintiff v. Dr. Maloney

83-84. The averments of Complaint paragraphs 83 and 84 are directed against a Defendant other than answering Defendant and therefore no response thereto is required under the Rules of Civil Procedure.

COUNT III - NEGLIGENCE
Plaintiff v. Dr. Helmi

85. In response to the averments of Complaint paragraph 85, Answering Defendant incorporates herein by reference her foregoing responses as though set forth at length.

86. The averments of Complaint paragraph 86 are specifically denied, pursuant to and consistent with Pa.R.C.P. No. 1029(e). To the contrary, at all times Dr. Helmi exercised reasonable and proper skill, care and judgment under the circumstances then and there existing.

Dr. Helmi's foregoing averments are hereby incorporated herein by reference, in further response to said allegations.

COUNT IV - NEGLIGENCE

Plaintiff v. Dr. Bradley

87-88. The averments of Complaint paragraphs 87 and 88 are directed against a Defendant other than answering Defendant and therefore no response thereto is required under the Rules of Civil Procedure.

COUNT IV [sic] - NEGLIGENCE

Plaintiff v. Dr. Bobrin

89-90. The averments of Complaint paragraphs 89 and 90 are directed against a Defendant other than answering Defendant and therefore no response thereto is required under the Rules of Civil Procedure.

COUNT V - VICARIOUS AND CORPORATE (DIRECT) NEGLIGENCE

**Plaintiff v. DuBois Regional Medical Center a/k/a Dubois Regional Medical Center West
a/d/b/a DRMC Behavioral Unit a/k/a DRMC East Behavioral Unit a/k/a/ DRMC
Behavioral Health Outpatient Clinic)**

91-95. The averments of Complaint paragraphs 91 through 95 are directed against a Defendant other than answering Defendant and therefore no response thereto is required under the Rules of Civil Procedure.

WHEREFORE, answering Defendant Dr. Sanaa Helmi respectfully requests entry of judgment in her favor and that Plaintiff's claim be dismissed, with prejudice.

NEW MATTER

96. Answering Defendant hereby raises and seeks to preserve all immunities, defenses, and limitations of liability of the Healthcare Services Malpractice Act, 40 P.S. § 1301 *et. seq*, and the M-CARE Act, 40 P.S. §1303.101, *et seq*, insofar as applicable hereto.

97. Answering Defendant hereby raises and seeks to preserve all immunities, defenses, and limitations of liability that are set forth in the Mental Health Procedures Act, 50 P.S. §7101, including but not limited to those at 50 P.S. §7114(a).

98. Plaintiff's Complaint fails to state a claim against answering Defendant upon which relief can be granted.

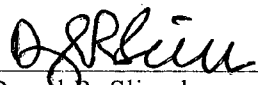
99. By way of further response to the Complaint, answering Defendant incorporates herein by reference her foregoing responses to the Complaint as though set forth in full.

WHEREFORE, answering Defendant Dr. Sanaa Helmi respectfully requests entry of judgment in her favor and that Plaintiff's claim be dismissed, with prejudice.

Respectfully submitted,

McQUAIDE, BLASKO,
FLEMING & FAULKNER, INC.

By: _____


Darryl R. Slimak
Attorneys for Defendant
SANAA HELMI, M.D.
811 University Drive
State College, PA 16801
(814) 238-4926
Fax: (814) 238-9624

Dated: June 6, 2007

Russell v. Devlin, et al

VERIFICATION

The undersigned verifies that she is authorized to make this verification on her own behalf; and that the statements made in the foregoing **DEFENDANT DR. SANAA HELMI'S ANSWER WITH NEW MATTER TO PLAINTIFF'S COMPLAINT** are true and correct to the best of his knowledge, information and belief. I understand that false statements herein are subject to the penalties of 18 Pa. C.S.A. §4904, related to unsworn falsification to authority.

A handwritten signature in cursive script, appearing to read 'Sanaa Helmi', written over a horizontal line.

Sanaa Helmi, M.D.

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

WANDA RUSSELL,

Plaintiff,

vs.

JAMES E. DEVLIN, M.D., MARK W.
MALONEY, D.O., DRMC PRIMARY CARE
ASSOCIATES, SANAA HELMI, M.D.,
THOMAS J. BRADLEY, M.D., BRADFORD
BOBRIN, M.D., DuBOIS REGIONAL MEDICAL
CENTER WEST a/d/b/a/ DRMC
BEHAVIORAL UNIT a/k/a/ DRMC EAST
BEHAVIORAL HEALTH OUTPATIENT
CLINIC,

Defendants.

*Medical Professional Liability
Action*

Docket No: 07 - 644 - C.D.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the Defendant Dr. Sanaa Helmi's Answer with New Matter to Plaintiff's Complaint in the above-captioned matter was mailed by regular mail, postage prepaid, at the Post Office, State College, Pennsylvania, on this 6th day of June, 2007, to the attorney(s)/parties of record:

Thomas R. Kline, Esquire
Mark A. Hoffman, Esquire
Kline & Specter, P.C.
1525 Locust Street 19th Floor
Philadelphia, PA 19102

Matthew Brian O'Connor, Esquire
Gaca Matis Baum & Rizza PC
444 Liberty Ave Ste 300
Pittsburgh, PA 15222

David R. Bahl, Esquire
McCormick Law Firm
835 West Fourth Street
PO Box 577
Williamsport, PA 17701-5801

Lynn Bell, Esquire
Davies, McFarland & Carroll, P.C.
Tenth Floor One Gateway Center
Pittsburgh, PA 15222-1416

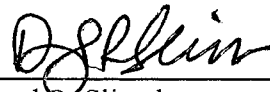
John McIntyre, Esquire
McIntyre Hartye & Schmitt
PO Box 533
Hollidaysburg, PA 16648-0533

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

DRMC Primary Care Associates
Medical Arts Building Suite 200
145 Hospital Drive
DuBois, PA 15801

McQUAIDE, BLASKO,
FLEMING & FAULKNER, INC.

By: _____



Darryl R. Slimak
Attorneys for Defendant
SANAA HELMI, M.D.
811 University Drive
State College, PA 16801
(814) 238-4926
Fax: (814) 238-9624

KLINE & SPECTER

A Professional Corporation

By: THOMAS R. KLINE, ESQUIRE
MARK A. HOFFMAN, ESQUIRE
ROYCE W. SMITH, ESQUIRE

Attorney ID Nos.: 28895/ 84443/201295

The Nineteenth Floor

1525 Locust Street

Philadelphia, Pennsylvania 19102

(215) 772-1000

Attorneys for Plaintiff

WANDA RUSSELL

**COURT OF COMMON PLEAS
COUNTY OF CLEARFIELD**

: v. :

JAMES E. DEVLIN, M.D. and
MARK W. MALONEY, D.O. and
DRMC PRIMARY CARE ASSOCIATES
and SANAA HELMI, M.D. and
THOMAS J. BRADLEY, M.D. and
BRADFORD BOBRIN, M.D. and
DuBOIS REGIONAL MEDICAL
CENTER a/ka DuBOIS REGIONAL
MEDICAL CENTER WEST
a/d/b/a DRMC BEHAVIORAL
UNIT a/k/a DRMC EAST BEHAVIORAL
UNIT a/k/a DRMC BEHAVIORAL
HEALTH OUTPATIENT CLINIC
Defendants.

DOCKET NO. 07-644-CD

**PLAINTIFF'S REPLY TO THE NEW MATTER OF
DEFENDANT, DR. SANAA HELMI**

Plaintiff, Wanda Russell, by and through her undersigned counsel, Kline & Specter, P.C.,
herein replies to the New Matter of Defendant, Dr. Sanaa Helmi as follows:

96-99. The allegations and statements set forth by Answering Defendant Dr. Sanaa Helmi
in paragraphs 96 to 99 inclusive of her New Matter are conclusions of law which require no reply.

FILED

JUN 21 2007

M/11:30/

William A. Shaw

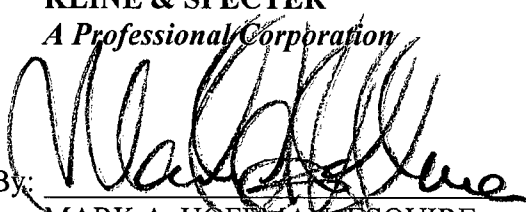
Prothonotary/Clerk of Courts

1 CERT TO ATT

WHEREFORE, Plaintiff respectfully requests that this Court deny the prayer of Answering Defendant for entry of judgment in her favor with dismissal of Plaintiff's claims.

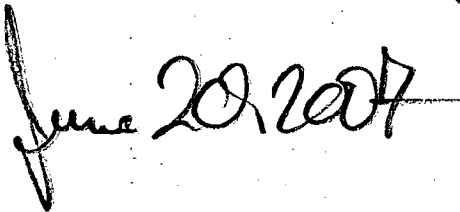
Respectfully submitted,

KLINE & SPECTER
A Professional Corporation

By: 

MARK A. HOFFMAN, ESQUIRE
Attorneys for Plaintiff

Date:



KLINE & SPECTER

A Professional Corporation

By: THOMAS R. KLINE, ESQUIRE
MARK A. HOFFMAN, ESQUIRE
ROYCE W. SMITH, ESQUIRE

Attorney ID Nos.: 28895/ 84443/201295

The Nineteenth Floor

1525 Locust Street

Philadelphia, Pennsylvania 19102

(215) 772-1000

Attorneys for Plaintiff

WANDA RUSSELL

**COURT OF COMMON PLEAS
COUNTY OF CLEARFIELD**

v.

JAMES E. DEVLIN, M.D. and
MARK W. MALONEY, D.O. and
DRMC PRIMARY CARE ASSOCIATES
and SANAA HELMI, M.D. and
THOMAS J. BRADLEY, M.D. and
BRADFORD BOBRIN, M.D. and
DuBOIS REGIONAL MEDICAL
CENTER a/ka DuBOIS REGIONAL
MEDICAL CENTER WEST
a/d/b/a DRMC BEHAVIORAL
UNIT a/k/a DRMC EAST BEHAVIORAL
UNIT a/k/a DRMC BEHAVIORAL
HEALTH OUTPATIENT CLINIC
Defendants.

DOCKET NO. 07-644-CD

CERTIFICATE OF SERVICE

I, MARK A. HOFFMAN, ESQUIRE, hereby certify that a true and correct copy of the **Plaintiff's Reply to the New Matter of Defendant Dr. Sanaa Helmi**, was served via **First Class Mail** on the following individuals:

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

Darryl R. Slimak, Esquire
McQuaide Blasko
811 University Drive
State College, PA 16801-6699

M. Brian O'Connor, Esquire
Matis, Brum, Rizza, O'Connor
Four Gateway Center
444 Liberty Avenue
Suite 300
Pittsburgh, PA 15222

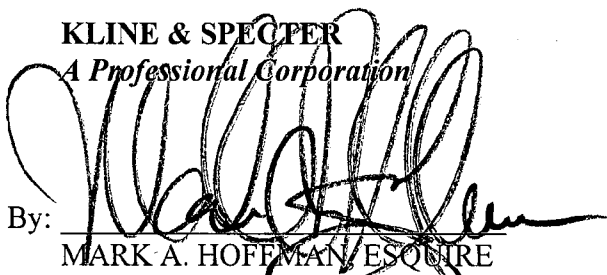
Lynn E. Bell, Esquire
Davies, McFarland & Carroll, P.C.
The Tenth Floor
One Gateway Center
Pittsburgh, PA 15222-1416

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

David R. Bahl, Esquire
Richard F. Schluter, Esquire
McCormick Law Firm
835 West Fourth Street
Williamsport, PA 17701

Respectfully submitted,

KLINE & SPECTER
A Professional Corporation

By: 

MARK A. HOFFMAN, ESQUIRE
Attorneys for Plaintiff

Date:

June 20th, 2007

William A. Shaw
Prothonotary/Clerk of Courts

JUN 21 2007

FILED

KLINE & SPECTER

A Professional Corporation

By: THOMAS R. KLINE, ESQUIRE
MARK A. HOFFMAN, ESQUIRE
ROYCE W. SMITH, ESQUIRE

Attorney ID Nos.: 28895/ 84443/201295
The Nineteenth Floor
1525 Locust Street
Philadelphia, Pennsylvania 19102
(215) 772-1000

FILED

JUN 22 2007

William A. Shaw
Prothonotary/Clerk of Courts
REINSTATED TO
Army

Attorneys for Plaintiff

WANDA RUSSELL

**COURT OF COMMON PLEAS
COUNTY OF CLEARFIELD**

v.

DOCKET NO. 07-644-CD

JAMES E. DEVLIN, M.D. and
MARK W. MALONEY, D.O. and
DRMC PRIMARY CARE ASSOCIATES
and SANAA HELMI, M.D. and
THOMAS J. BRADLEY, M.D. and
BRADFORD BOBRIN, M.D. and
DuBOIS REGIONAL MEDICAL
CENTER a/ka DuBOIS REGIONAL
MEDICAL CENTER WEST
a/d/b/a DRMC BEHAVIORAL
UNIT a/k/a DRMC EAST BEHAVIORAL
UNIT a/k/a DRMC BEHAVIORAL
HEALTH OUTPATIENT CLINIC
Defendants.

PRAECIPE TO REINSTATE COMPLAINT

TO THE PROTHONOTARY:

Kindly reinstate the Complaint filed on April 24, 2007 in the above-captioned matter.

KLINE & SPECTER, P.C.

BY:

MARK A. HOFFMAN, ESQUIRE

Attorney for Plaintiff

Date:

June 21, 2007

KLINE & SPECTER

A Professional Corporation

By: THOMAS R. KLINE, ESQUIRE
MARK A. HOFFMAN, ESQUIRE
ROYCE W. SMITH, ESQUIRE

Attorney ID Nos.: 28895/ 84443/201295

The Nineteenth Floor

1525 Locust Street

Philadelphia, Pennsylvania 19102

(215) 772-1000

Attorneys for Plaintiff

WANDA RUSSELL

**COURT OF COMMON PLEAS
COUNTY OF CLEARFIELD**

v.

DOCKET NO. 07-644-CD

JAMES E. DEVLIN, M.D. and
MARK W. MALONEY, D.O. and
DRMC PRIMARY CARE ASSOCIATES
and SANAA HELMI, M.D. and
THOMAS J. BRADLEY, M.D. and
BRADFORD BOBRIN, M.D. and
DuBOIS REGIONAL MEDICAL
CENTER a/ka DuBOIS REGIONAL
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a/d/b/a DRMC BEHAVIORAL
UNIT a/k/a DRMC EAST BEHAVIORAL
UNIT a/k/a DRMC BEHAVIORAL
HEALTH OUTPATIENT CLINIC
Defendants.

June 22, 2007 Document
Reinstated/~~Reinstated~~ to Sheriff/Attorney
for service.

[Signature]
Deputy Prothonotary

PRAECIPE TO REINSTATE COMPLAINT

TO THE PROTHONOTARY:

Kindly reinstate the Complaint filed on April 24, 2007 in the above-captioned matter.

KLINE & SPECTER, P.C.

BY:

[Signature]
MARK A. HOFFMAN, ESQUIRE

Attorney for Plaintiff

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

Date:

May 17, 2007

MAY 23 2007

[Signature]
Prothonotary/
Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY
PENNSYLVANIA

WANDA RUSSELL
(Plaintiff)

426 North Michael Street
(Street Address)

Saint Mary's, PA 15857
(City, State ZIP)

VS.

JAMES E. DEVLIN, M.D.
(Defendant)

1100 Main Street
(Street Address)

Brockway, PA 15824
(City, State ZIP)

(Additional Defendants
Continued on attached sheet)

CIVIL ACTION

No. 07-644-CD

Type of Case: Medical Malpractice

Type of Pleading: Civil Action Complaint

Filed on Behalf of:

Plaintiff, Wanda Russell
(Plaintiff/Defendant)

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

APR 24 2007

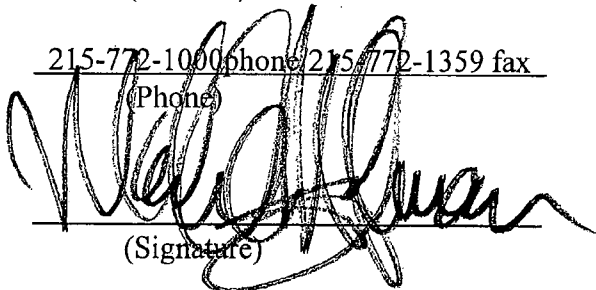
Attest.

William A. Shaw
Prothonotary/
Clerk of Courts

Thomas R. Kline, Esq. Mark A. Hoffman, Esq.
(Filed by)

Kline & Specter, P.C.,
1525 Locust Street, The Nineteenth Floor
Philadelphia, PA 19102
(Address)

215-772-1000 phone 215-772-1359 fax
(Phone)


(Signature)

5-23-07 Document
Reinstated/ ~~Reinstated~~ to ~~Sherry~~ Attorney
for service. *William A. Shaw*

~~Prothonotary~~ Prothonotary

(Continued from coversheet)

and	:
MARK W. MALONEY, D.O.	:
DRMC Primary Care Associates	:
Medical Arts Building	:
Suite 200	:
145 Hospital Avenue	:
DuBois, Pennsylvania 15801	:
and	:
DRMC PRIMARY CARE	:
ASSOCIATES	:
Medical Arts Building	:
Suite 200	:
145 Hospital Avenue	:
DuBois, Pennsylvania 15801	:
and	:
SANAA HELMI, M.D.	:
Behavioral Health Outpatient Clinic	:
DRMC East Unit	:
Maple Avenue	:
DuBois, Pennsylvania 15801	:
ans	:
THOMAS J. BRADLEY, M.D.	:
701 Sunflower Drive	:
DuBois, Pennsylvania 15801	:
and	:
BRADFORD BOBRIN, M.D.	:
Behavioral Health Outpatient Clinic	:
DRMC East Unit	:
Maple Avenue	:
DuBois, Pennsylvania 15801	:
and	:
DuBOIS REGIONAL MEDICAL	:
CENTER a/ka DuBOIS REGIONAL	:
MEDICAL CENTER WEST	:
a/d/b/a DRMC BEHAVIORAL	:
UNIT a/k/a DRMC EAST BEHAVIORAL	:
UNIT a/k/a DRMC BEHAVIORAL	:
HEALTH OUTPATIENT CLINIC	:
c/o Office of Risk Management	:
100 Hospital Avenue	:
DuBois, Pennsylvania 15801	:
Defendants.	:

KLINE & SPECTER

A Professional Corporation

By: THOMAS R. KLINE, ESQUIRE
MARK A. HOFFMAN, ESQUIRE
ROYCE W. SMITH, ESQUIRE

Attorney ID Nos.: 28895/ 84443/201295

The Nineteenth Floor

1525 Locust Street

Philadelphia, Pennsylvania 19102

(215) 772-1000

Attorneys for Plaintiff

WANDA RUSSELL

426 North Michael Street

Saint Mary's, Pennsylvania 15857

Plaintiff,

v.

JAMES E. DEVLIN, M.D.

1100 Main Street

Brockway, Pennsylvania 15824

and

MARK W. MALONEY, D.O.

DRMC Primary Care Associates

Medical Arts Building

Suite 200

145 Hospital Avenue

DuBois, Pennsylvania 15801

and

DRMC PRIMARY CARE

ASSOCIATES

Medical Arts Building

Suite 200

145 Hospital Avenue

DuBois, Pennsylvania 15801

and

SANAA HELMI, M.D.

Behavioral Health Outpatient Clinic

DRMC East Unit

Maple Avenue

DuBois, Pennsylvania 15801

ans

THOMAS J. BRADLEY, M.D.

701 Sunflower Drive

DuBois, Pennsylvania 15801

and

**COURT OF COMMON PLEAS
COUNTY OF CLEARFIELD**

DOCKET NO.

BRADFORD BOBRIN, M.D. :
 Behavioral Health Outpatient Clinic :
 DRMC East Unit :
 Maple Avenue :
 DuBois, Pennsylvania 15801 :
 and :
 DuBOIS REGIONAL MEDICAL :
 CENTER a/ka DuBOIS REGIONAL :
 MEDICAL CENTER WEST :
 a/d/b/a DRMC BEHAVIORAL :
 UNIT a/k/a DRMC EAST BEHAVIORAL :
 UNIT a/k/a DRMC BEHAVIORAL :
 HEALTH OUTPATIENT CLINIC :
 c/o Office of Risk Management :
 100 Hospital Avenue :
 DuBois, Pennsylvania 15801 :
 Defendants. :

NOTICE

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

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER.

IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.

COURT ADMINISTRATOR
 Clearfield County Courthouse
 Second and Market Streets
 Clearfield, PA 16830
 814-765-2641, Ext. (5982)

ADVISO

Le han demandado a usted en la corte. Si usted quiere defenderse de estas demandas expuestas en las paginas siguientes, usted tiene veinte (20) dias de plazo al partir de la fecha de la demanda y la notificacion. Hace falta asentar una comparencia escrita o en persona o con un abogado y entregar a la corte en forma escrita sus defensas o sus objeciones a las demandas en contra de su persona. Sea avisado que si usted no se defiende, la corte tomara medidas y puede continuar la demanda en contra suya sin previo aviso o notificacion. Ademias, la corte pueda decidir a favor del demandante y requiere que usted cumpla con todas las provisiones de esta demanda. Usted puede perder dinero o sus propiedades u otros derechos importantes para usted.

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

ESTA OFICINA LO PUEDE PROPORCIONAR CON INFORMACION ACERCA DE EMPLEAR A UN ABOGADO. SI USTED NO PUEDE PROPORCIONAR PARA EMPLEAR UN ABOGADO, ESTA OFICINA PUEDE SER CAPAZ DE PROPORCIONARLO CON INFORMACION ACERCA DE LAS AGENCIAS QUE PUEDEN OFRECER LOS SERVICIOS LEGALES A PERSONAS ELEGIBLES EN UN HONORARIO REDUCIDO NINGUN HONORARIO.

COURT ADMINISTRATOR
 Clearfield County Courthouse
 Second and Market Streets
 Clearfield, PA 16830
 814-765-2641, Ext. (5982)

CIVIL ACTION COMPLAINT

Plaintiff, Wanda Russell, by and through her undersigned attorneys, Kline & Specter, P.C., herein complains of the above-captioned defendants as follows:

PARTIES

1. Plaintiff Wanda Russell is an adult citizen and a resident of the Commonwealth of Pennsylvania, residing at 426 North Michael Street, Saint Mary's, Pennsylvania 15857. Wanda Russell was born on September 19, 1958.

2. Defendant James E. Devlin, M.D. ["Dr. Devlin"] was, at all times material hereto, a duly licensed physician in the Commonwealth of Pennsylvania, specializing in the medical field of family medicine, who maintained a professional office, business or corporate office, or place of medical practice at 1100 Main Street, Brockway, Pennsylvania 15824. A Certificate of Merit pursuant to Pa.R.C.P. No. 1042.1 regarding the treatment, practice, or work of this defendant is attached hereto as Exhibit "A."

3. Defendant Mark W. Maloney, D.O. ["Dr. Maloney"] was, at all times material hereto, a duly licensed osteopathic physician in the Commonwealth of Pennsylvania, specializing in the medical field of family medicine, who maintained a professional office, business or corporate office, or place of medical practice at DRMC Primary Care Associates, Medical Arts Building, Suite 200, 145 Hospital Avenue, DuBois, Pennsylvania 15801. A Certificate of Merit pursuant to Pa.R.C.P. No. 1042.1 regarding the treatment, practice, or work of this defendant is attached hereto as Exhibit "A."

4. Defendant DRMC Primary Care Associates was, at all times material hereto, a

corporation, professional corporation, professional association, professional partnership, or other jural entity organized according to and existing under the laws of the Commonwealth of Pennsylvania, with an office location and place of business at Medical Arts Building, Suite 200, 145 Hospital Avenue, DuBois, Pennsylvania 15801. A Certificate of Merit pursuant to Pa.R.C.P. No. 1042.1 regarding the treatment, practice, or work of this defendant is attached hereto as Exhibit "A."

5. At all times material hereto, Dr. Maloney and/or Dr. Devlin were agents, servants, and/or employees of DRMC Primary Care Associates, and were acting within the scope of their agency, master-servant, and/or employment relationships with DRMC Primary Care Associates while providing medical care and treatment to Wanda Russell. Accordingly, DRMC Primary Care Associates is liable for the negligent acts and/or omissions of Dr. Devlin and/or Dr. Maloney under theories of agency, master-servant, respondeat superior, and/or right of control.

6. Dr. Devlin was providing medical service or family practice service "coverage" or "cross-coverage" for Dr. Maloney, while providing medical care and treatment to Wanda Russell on or about December 4 and 5, 2005. Accordingly, Dr. Maloney is liable for the negligent acts and/or omissions of Dr. Devlin under theories of agency, master-servant or borrowed servant, respondeat superior, and/or right of control.

7. Dr. Devlin was providing "coverage" or "cross-coverage" for Dr. Maloney's family practice group or association, DRMC Primary Care Associates, while providing medical care and treatment to Wanda Russell, on or about December 4 and 5, 2005. Accordingly, DRMC Primary Care Associates is liable for the negligent acts and/or omissions of Dr. Devlin under theories of agency, master-servant or borrowed servant, respondeat superior, and/or right of control.

8. Defendant Sanaa Helmi, M.D. ["Dr. Helmi"] was, at all times material hereto, a duly

licensed physician in the Commonwealth of Pennsylvania, specializing in the medical field of psychiatry, who maintained a professional office, business or corporate office, or place of medical practice at Behavioral Health Outpatient Clinic, DRMC East Unit, Maple Avenue, DuBois, Pennsylvania 15801. A Certificate of Merit pursuant to Pa.R.C.P. No. 1042.1 regarding the treatment, practice, or work of this defendant is attached hereto as Exhibit "A."

9. Defendant Thomas J. Bradley, M.D. ["Dr. Bradley"] was, at all times material hereto, a duly licensed physician in the Commonwealth of Pennsylvania, specializing in the medical field of psychiatry, who maintained a professional office, business or corporate office, or place of medical practice at 701 Sunflower Drive, DuBois, Pennsylvania 15801. A Certificate of Merit pursuant to Pa.R.C.P. No. 1042.1 regarding the treatment, practice, or work of this defendant is attached hereto as Exhibit "A."

10. Defendant Bradford Bobrin, M.D. ["Dr. Bobrin"] was, at all times material hereto, a duly licensed physician in the Commonwealth of Pennsylvania, specializing in the medical field of psychiatry, who maintained a professional office, business or corporate office, or place of medical practice at Behavioral Health Outpatient Clinic, DRMC East Unit, Maple Avenue, DuBois, Pennsylvania 15801. A Certificate of Merit pursuant to Pa.R.C.P. No. 1042.1 regarding the treatment, practice, or work of this defendant is attached hereto as Exhibit "A."

11. Defendant DuBois Regional Medical Center a/k/a/ DuBois Regional Medical Center West a/d/b/a DRMC Behavioral Unit a/k/a DRMC East Behavioral Unit a/k/a DRMC Behavioral Health Outpatient Clinic [referred to in various paragraphs as either the "DuBois Regional Medical Center" or the "DRMC Behavioral Unit" or the "DuBois Regional Medical Center West"] is a corporation or other jural entity organized according to and existing under the laws of the

Commonwealth of Pennsylvania which owns, operates, and maintains a hospital, health care facility, and provider of health care services based at 100 Hospital Avenue, DuBois, Pennsylvania 15801.

The DRMC Behavioral Unit a/k/a DRMC East Behavioral Unit a/k/a DRMC East Behavioral Unit a/k/a DRMC Behavioral Health Outpatient Clinic is a psychiatric unit located within the East Unit of the DuBois Regional Medical Center. A Certificate of Merit pursuant to Pa.R.C.P. No. 1042.1 regarding the treatment, practice, or work of this defendant is attached hereto as Exhibit "A."

12. At all times material hereto, Dr. Devlin, Dr. Maloney, Dr. Helmi, Dr. Bradley, and Dr. Bobrin were actual or ostensible agents, servants, and/or employees of the DuBois Regional Medical Center and/or the DRMC Behavioral Unit, and were acting within the scope of their agency, master-servant, and/or employment relationship with the DuBois Regional Medical Center, and its affiliated or associated entities as captioned above, while providing medical care and treatment to Wanda Russell. Accordingly, the DuBois Regional Medical Center, and its affiliated or associated entities as captioned above, are liable for the negligent acts and/or omissions of Dr. Devlin, Dr. Maloney, Dr. Helmi, Dr. Bradley, and Dr. Bobrin under theories of agency, master-servant, respondeat superior, and/or right of control.

13. At all times material hereto, the DuBois Regional Medical Center and the DRMC Behavioral Unit were acting by and through their actual agents or ostensible agents, servants, and/or employees, Dr. Devlin, Dr. Maloney, Dr. Helmi, Dr. Bradley, and Dr. Bobrin, as well as the nurses who provided psychiatric nursing care and evaluation to Wanda Russell during her hospitalization in the DRMC Behavioral Unit. The identities of these nurses, whose signatures are illegible on the "Behavioral Health Services Daily Notes" and extension notes, attached hereto as Exhibit "B," are fully known to the DuBois Regional Medical Center and the DRMC Behavioral Unit, and presently

unknown to Plaintiff because of the illegible nature, or absence of, their signatures. The identities of these nurses is the subject matter of further discovery by the Plaintiff during the course of this litigation. Accordingly, DuBois Regional Medical Center is liable for the negligent acts and/or omissions of these aforementioned named and as yet specifically identified, see Exhibit "B," actual or ostensible agents, servants, and/or employees which occurred in the course of providing medical and nursing care to Wanda Russell, under theories of agency, master-servant, respondeat superior, and/or right of control.

14. Venue in this action is properly laid in Clearfield County, Pennsylvania pursuant to the Amendatory Order of the Supreme Court of Pennsylvania dated March 5, 2003, No. 381, Civil Procedural Rules, Docket No. 5, which amended the Pennsylvania Rules of Civil Procedure No.1006.

FACTS GIVING RISE TO CLAIMS OF NEGLIGENCE

15. On December 3, 2005, Wanda Russell presented to the Emergency Department at the DuBois Regional Medical Center via wheelchair with complaints of, among other things, bilateral arm weakness and dark vision.

16. On December 3, 2005, Wanda Russell was evaluated by Patrick Shilata, D.O. in the Emergency Department at the DuBois Regional Medical Center.

17. On December 3, 2005, Wanda Russell had a known history of hypertension and insulin dependent diabetes mellitus. These co-morbid conditions were known to the nursing staff and physician who evaluated and treated Wanda Russell in the Emergency Department on December 3, 2005, and were recorded in the DuBois Regional Medical Center Emergency Department medical record of Wanda Russell.

18. On December 3, 2005, Wanda Russell was able to ambulate, but complained of feeling off balance.

19. On December 3, 2005, during her evaluation in the DuBois Regional Medical Center Emergency Department, Wanda Russell had performed on her, among other things, an electrocardiogram, a basic metabolic panel, a urine analysis with microscopic examination, and an unenhanced head CT scan. All test results were interpreted as "normal" except for an elevated blood sugar (196 mg/dl; normal = 70 to 110 mg/dl).

20. On December 3, 2005, Wanda Russell was discharged from the Emergency Department at the Dubois Regional Medical Center with the diagnosis: "Impression: weakness, Transient Ischemic Attack (TIA), Diabetes Mellitus, Type I."

21. On December 3, 2005, Wanda Russell was discharged from the Emergency Department at the Dubois Regional Medical Center with instructions on transient ischemic attack and diabetes mellitus, and she was given a four (4) day work release. Wanda Russell was additionally instructed to follow-up with Dr. Maloney, her primary care physician, in three (3) to four (4) days.

22. On December 4, 2005, Wanda Russell presented to the Emergency Department at the DuBois Regional Medical Center via wheelchair with complaints of, among other things, left-sided weakness and inability to walk.

23. On December 4, 2005, Wanda Russell's sister signed the DuBois Regional Medical Center "Consent for Treatment" as Wanda Russell's patient representative, and on Wanda Russell's behalf, because Wanda Russell had weakness on writing and slurred speech. The "Consent for Treatment" was signed at or about 0938 hours on December 4, 2005.

24. On December 4, 2005, Wanda Russell was evaluated by Jeffrey Elias, D.O. ["Dr. Elias"] in the Emergency Department at the DuBois Regional Medical Center.

25. On December 4, 2005, Dr. Elias performed a neurological examination on Wanda Russell in the Emergency Department at the DuBois Regional Medical Center, and found, among other things, that Wanda Russell had a facial droop and diminished motor strength in the left arm (2/5) and left leg (2/5). The "Review of Systems" performed by Dr. Elias was positive for gait disturbance, speech changes, and weakness in the left arm and leg.

26. On December 4, 2005, Dr. Elias formulated a plan that Wanda Russell be admitted "to medical, for Maloney, Mark W. with a primary ED diagnosis of CVA (stroke) non-hemorrhagic." A summary of the Emergency Department evaluation of Wanda Russell was faxed to Wanda Russell's primary care physician, Dr. Maloney.

27. On December 4, 2005, Dr. Devlin evaluated Wanda Russell in the Emergency Department at the DuBois Regional Medical Center. At the time, Dr. Devlin was covering or cross-covering for Dr. Maloney and DRMC Primary Care Associates.

28. On December 4, 2005, Dr. Devlin admitted Wanda Russell to the DuBois Regional Medical Center for neuro-checks and observation. At the time of admission, Dr. Devlin doubted that Wanda Russell had, or was experiencing, a transient ischemic attack, and recorded this belief in his "History and Physical Examination," stating, among other things: "History of some left sided weakness, questionable TIA. Clinically, at this time it is doubtful but with the history we will go ahead and make the patient an observation."

29. On December 4, 2005, Wanda Russell was admitted to Dr. Maloney's service at the DuBois Regional Medical Center, with Dr. Devlin covering.

30. On December 4, 2005, Dr. Devlin did not obtain, or order to be obtained or provided, a neurology consultation for Wanda Russell.

31. On December 4, 2005, Dr. Devlin did not have performed, or order to be performed, an MRI scan of the head or an MRA on Wanda Russell.

32. On December 5, 2005, an unenhanced head CT scan was performed on Wanda Russell for the diagnosis of left-sided weakness, and was interpreted as "normal."

33. On December 5, 2005, bilateral carotid duplex sonograms were performed on Wanda Russell for the indication of left-sided weakness. This study demonstrated approximately 50 percent stenosis of the right internal carotid artery and 50 to 69 percent stenosis of the left internal carotid artery. Bilateral carotid plaque was also demonstrated on the sonogram.

34. An aortic arch and four vessel cerebral angiogram was not performed on Wanda Russell on December 5, 2005.

35. A head MRI or MRA was not performed on Wanda Russell on December 5, 2005.

36. A neurology consult was not obtained for or performed on Wanda Russell on December 5, 2005.

37. Wanda Russell continued to have intermittent left-sided weakness on December 5, 2005.

38. Wanda Russell had slurred speech and a "left facial droop of the mouth" on December 5, 2005.

39. On December 5, 2005, at or between the hours of approximately 1900 and 2000 hours, Dr. Maloney evaluated Wanda Russell at the DuBois Regional Medical Center, and informed Wanda Russell that her loss of mobility was due to depression.

40. On December 5, 2005, Dr. Maloney consulted Dr. Helmi concerning the admission of Wanda Russell to the DRMC Behavioral Unit, and reported to Dr. Helmi that "he was unable to find any medical problems" with respect to Wanda Russell.

41. On December 5, 2005, during the telephone consultation between Dr. Maloney and Dr. Helmi, according to Dr. Maloney, Dr. Helmi made the recommendation that Wanda Russell be admitted to the DRMC Behavior Unit for psychiatric treatment.

42. Dr. Helmi did not perform a history, psychiatric evaluation, or physical examination on Wanda Russell on December 5, 2005. Dr. Helmi did not physically see or speak with Wanda Russell on December 5 or 6, 2005.

43. On December 5, 2005, at or about 2040 hours, Dr. Maloney gave a "telephone order" to Brenda L. Slappy, R.N., to "Transfer to psych unit tonight."

44. On December 5, 2005, Wanda Russell was asked to sign, and did sign, an "Initial Evaluation and Treatment Plan," which outlined a "Description of Proposed Treatment Plan" and a "Description of Proposed Restrictions and Restraints." This form was not completed and signed by a physician.

45. On December 5, 2005, Wanda Russell was asked to sign, and did sign, a "Consent for Voluntary Inpatient Treatment."

46. The "Consent for Voluntary Inpatient Treatment" set forth the following "Instructions":

Before signing this form, your treatment should be explained to you and you must be given a copy of the Patient's Bill of Rights, the report of your initial evaluation and the proposed treatment plan must be completed and signed by you and the physician.

47. On December 6, 2005, Wanda Russell was not given a copy of the DuBois Regional Medical Center Patient's Bill of Rights.

48. On December 6, 2005, Wanda Russell was not given a copy of her initial evaluation.

49. On December 6, 2005, Wanda Russell was not given a copy of the proposed treatment plan which should have been completed and signed by her and a physician. Dr. Helmi, who made the decision to admit Wanda Russell to the psychiatric unit, did not explain the proposed treatment plan or sign the "Description of Proposed Treatment Plan" and "Description of Proposed Restrictions and Restraints."

50. On December 6, 2005, at or about 0200 hours, Wanda Russell was admitted to the DRMC Behavioral Unit by Kim Hendricks, R.N. ["Nurse Hendricks"], onto Dr. Bobrin's Service.

51. On December 6, 2005, at no time prior to, or at the time of her admission at 0200 hours to the DRMC Behavioral Unit, was Wanda Russell evaluated by a psychiatrist, including Dr. Bradley, Dr. Bobrin, or Dr. Helmi.

52. On December 6, 2005, at or about 0200 hours, Wanda Russell told Nurse Hendricks that "she was lied to about coming here for an admission from her family" and reported "she is unable to use left arm and leg. Patient complains of not wanting to stay."

53. On December 6, 2005, at or about 0330 hours, Wanda Russell fell out of bed in the DRMC Behavioral Unit.

54. On December 6, 2005, at or about 0643 hours, Dr. Bradley performed a history and physical examination on Wanda Russell. Dr. Bradley obtained a history of present illness, among other things, as follows:

Wanda is a 47-year-old woman who had been readmitted to the

West division for left sided weakness. She had had a workup that included a normal CT of the head. She was discharged and re-presented to the ER with nervousness and I guess there was a question regarding the extent of the left sided weakness present and the fact it was noted that the person was under a lot of stress. She is hypertensive, hyperlipidemic, and an insulin dependent diabetic. I guess she was persuaded to be transferred to the psyche unit.

55. On December 6, 2005, during his physical examination of Wanda Russell, Dr. Bradley found, among other things, "There is some left upper extremity weakness and facial asymmetry" that was "hard to evaluate since she is so anxious."

56. On December 6, 2005, at the time Dr. Bradley initially evaluated Wanda Russell, Dr. Bradley formulated and initiated the plan that "the patient is admitted for psyche evaluation and treatment."

57. On December 6, 2005, at the time of his initial evaluation, Dr. Bradley did not transfer Wanda Russell back to a medical unit for evaluation of her left sided weakness or facial asymmetry.

58. On December 6, 2005, at the time of his initial evaluation, Dr. Bradley did not obtain, or order to be obtained, a neurology consultation for Wanda Russell.

59. On December 6, 2005, at the time of his initial evaluation, Dr. Bradley did not have performed, or order to be performed, an MRI scan of the head or MRA on Wanda Russell.

60. On December 6, 2005, at the time of his initial evaluation, Dr. Bradley did not diagnose Wanda Russell as having an evolving or "stuttering" cerebrovascular accident.

61. On December 6, 2005, the nursing staff from the DRMC Behavioral Unit attempted to contact Dr. Helmi at 0955 hours, first by beeper and eventually by cell phone, seeking information

about Wanda Russell.

62. On December 6, 2005, at or about 0955 hours, Dr. Helmi informed the DRMC Behavioral Unit nurse, whose illegible signature appears at Exhibit "B" at page 3, by telephone "that she didn't remember the patient and asked where she came from."

63. On December 6, 2005, at or about 1005 hours, Dr. Helmi informed the nurse whose illegible signature appears at Exhibit "B" at page 3, by telephone that "she did not make the recommendation-Dr. Maloney asked for the admission and she agreed on the basis that the patient is suicidal."

64. On December 6, 2005, at or before 1028 hours, Dr. Bobrin evaluated Wanda Russell at the DRMC Behavioral Unit, and during the "Initial Evaluation/Mental Status Examination/Discharge Summary" report preparation, described that, among other things:

She describes being scared about her arm and leg. She awoke on Friday with trouble with her left arm and it has gotten worse since then. Her family said that this is true as well. She can stand as she demonstrates to me but has trouble lifting up her arm, not even able to brush her hair. She woke up and fell and has had two falls here on the unit and so she initially came in because scans x two do not show any signs of ischemia or infarct.

65. On December 6, 2005, Dr. Bobrin, at or before 1028 hours, Dr. Bobrin found that Wanda Russell exhibited no signs of "suicidal or homicidal ideations" on the mental status examination.

66. On December 6, 2005, at or before 1028 hours, Dr. Bobrin assessed Wanda Russell as follows

This is a 47-year-old with some mild depressive symptoms and acute onset of depressive mood after having stroke-like symptoms which has continued. Although it was thought that her

neurologic signs were out of proportion to her neurological symptoms, she does seem to have flaccid paralysis of the left arm and left droop of smile. With no gross infarct, there might be some infarct on brainstem or internal capsule. Will need MRI and neuro consult.

67. On December 6, 2005, at or before 1028 hours, Dr. Bobrin formulated a plan for Wanda Russell that included, among other things, "to transfer her back over to medicine where she will receive neuro consult and MRI, continue medical care. I do not think she needs acute psychiatric care at this time."

68. On December 6, 2005, at or about 1700 hours, Wanda Russell was readmitted by Dr. Maloney under his care to the DuBois Regional Medical Center West.

69. On December 6, 2005, on or before 1700 hours, Dr. Maloney performed a "History and Physical Examination" on Wanda Russell, and described Wanda Russell's admission to "the Adult Mental Health Unit," stating:

When she arrived there, Wanda apparently rescinded her voluntary admission, noting that she did not wish to be there. This was supported by her family, and today, secondary to reported falls in the Adult Mental Health Unit. I have requested that Wanda be returned for further evaluation in the observation status setting.

70. On December 6, 2005, Dr. Maloney ordered an MRI study to be performed on Wanda Russell on the following morning, and a neurology consultation to be performed by Ruediger Katz, M.D. ["Dr. Katz"].

71. On December 6, 2005, during his evaluation of Wanda Russell at or before 1916 hours, Dr. Katz found that Wanda Russell had multiple risk factors for cerebral ischemia.

72. On December 6, 2005, during his neurologic examination of Wanda Russell at or

before 1916 hours, Dr. Katz found, among other things, that Wanda Russell had a lower left facial droop, 0/5 strength in her left arm, and 3/5 strength in her left leg.

73. On December 7, 2005, an unenhanced MRI of the brain was performed on Wanda Russell at the DuBois Regional Medical Center, which demonstrated a “well circumscribed lesion of right basal ganglia suggestive of a subacute or chronic lacunar infarct. Very small lacunar infarct in the left basal ganglia.”

74. On December 8, 2005, John J. Ahn, M.D. performed a cardiology consultation on Wanda Russell, and diagnosed Wanda Russell as an “unfortunate 47-year-old female who has suffered a CVA.”

75. On December 8, 2005, Lynn Myers, M.D. [“Dr. Myers”], a rehabilitation medicine specialist, evaluated Wanda Russell, and found that:

The patient is an appropriate candidate for admission to the inpatient rehabilitation unit to address deficits and functional mobility and self care skills related to her recent CVA with left hemiparesis.

76. On December 9, 2005, Wanda Russell was transferred to the Physiatry Unit for inpatient rehabilitation at the DRMC Inpatient Rehabilitation Programs on the service of Dr. Myers.

77. The negligence of all defendants, jointly and severally, as set forth with specificity in the Counts below, directly and proximately caused, and increased the risk of harm of, the cerebrovascular accident suffered by Wanda Russell.

78. The negligence of all defendants, jointly and severally, as set forth with specificity in the Counts below, directly and proximately caused, and increased the risk of harm of, the neurologic injuries, impairments, and deficits suffered by Wanda Russell.

79. The negligence of all defendants, jointly and severally, as set forth with specificity in the Counts below, directly and proximately caused, and increased the risk of harm of, the following injuries and damages:

- a. irreversible cerebral ischemia;
- b. cerebrovascular accident;
- c. cerebral dysfunction;
- d. cognitive impairment;
- e. motor impairment;
- f. neurological impairment and injury;
- g. humiliation;
- h. embarrassment;
- i. anxiety and fright;
- j. pain and suffering;
- k. disfigurement;
- l. loss of life's pleasures;
- m. economic damages; and,
- n. medical expenses.

80. Wanda Russell suffered, and continues to suffer, grave neurologic and medical injuries, impairments, and deficits which were caused by, and whose risk of harm was increased by, the negligent conduct of defendants, jointly and severally, as more fully set forth with specificity in the Counts below.

COUNT I-NEGLIGENCE
(Plaintiff v. Dr. Devlin)

81. The previous paragraphs are herein incorporated by reference as though fully set forth.

82. The negligent conduct of Dr. Delvin during his medical evaluation, care, and treatment of Wanda Russell consisted of the following:

- a. failure to properly, timely, and adequately evaluate a patient with a diagnosis of transient ischemic attack;
- b. failure to properly, timely, and adequately evaluate a patient with a diagnosis of cerebrovascular accident;
- c. failure to properly, timely, and adequately evaluate a patient with fluctuating neurologic signs and symptoms;
- d. failure to properly and timely obtain the consultative services of a neurologist or specialist in neurology;
- e. failure to properly and timely obtain cerebral imaging with an MRI scan and/or MRA;
- f. failure to properly, timely, and adequately evaluate a patient with acute neurologic signs and symptoms;
- g. failure to timely, properly, and adequately evaluate, diagnose, and treat a “stuttering” stroke;
- h. failure to provide appropriate management and treatment of acute neurologic signs and symptoms;
- i. failure to provide appropriate, adequate, and timely monitoring of a patient

with a deteriorating neurologic status;

- j. failure to properly, timely, and adequately evaluate a patient with acute deteriorating neurologic status;
- k. failure to provide appropriate management of an evolving cerebrovascular accident;
- l. failure to provide appropriate, adequate, and timely monitoring of a patient with a signs and symptoms of an evolving cerebrovascular accident or neurologic crisis;
- m. failure to properly, timely, and adequately evaluate a patient with signs and symptoms of an evolving neurologic dysfunction;
- n. failure to obtain appropriate, adequate, and timely neuro-radiologic evaluation; and,
- o. failure to properly, timely, and adequately recognize and appreciate signs and symptoms of evolving neurologic dysfunction.

COUNT II-NEGLIGENCE
(Plaintiff v. Dr. Maloney)

83. The previous paragraphs are herein incorporated by reference as though fully set forth.

84. The negligent conduct of Dr. Delvin during his medical evaluation, care, and treatment of Wanda Russell consisted of the following:

- a. failure to properly, timely, and adequately evaluate a patient with a diagnosis of transient ischemic attack;
- b. failure to properly, timely, and adequately evaluate a patient with a diagnosis

- of cerebrovascular accident;
- c. failure to properly, timely, and adequately evaluate a patient with fluctuating neurologic signs and symptoms;
 - d. failure to properly and timely obtain the consultative services of a neurologist or specialist in neurology;
 - e. failure to properly and timely obtain cerebral imaging with an MRI scan and/or MRA;
 - f. failure to properly, timely, and adequately evaluate a patient with acute neurologic signs and symptoms;
 - g. failure to timely, properly, and adequately evaluate, diagnose, and treat a “stuttering” stroke;
 - h. failure to provide appropriate management and treatment of acute neurologic signs and symptoms;
 - i. failure to provide appropriate, adequate, and timely monitoring of a patient with a deteriorating neurologic status;
 - j. failure to properly, timely, and adequately evaluate a patient with acute deteriorating neurologic status;
 - k. failure to provide appropriate management of a cerebrovascular accident;
 - l. failure to provide appropriate, adequate, and timely monitoring of a patient with a signs and symptoms of an evolving cerebrovascular accident or neurologic crisis;
 - m. failure to properly, timely, and adequately evaluate a patient with signs and

symptoms of an evolving neurologic dysfunction;

- n. failure to provide appropriate, adequate, and timely neuro-radiologic evaluation;
- o. failure to provide timely, appropriate, and adequate medical evaluation prior to transfer to a psychiatric unit;
- p. failure to provide timely, appropriate, and adequate neurologic and neuro-radiologic evaluation prior to transfer to a psychiatric unit;
- q. failure to provide timely, appropriate, and adequate psychiatric and psychologic evaluation prior to transfer to a psychiatric unit;
- r. failure to obtain timely, appropriate, and adequate medical evaluation prior to transfer to a psychiatric unit;
- s. failure to obtain timely, appropriate, and adequate psychiatric and psychologic evaluation prior to transfer to a psychiatric unit;
- t. failure to take an adequate and appropriate medical history;
- u. failure to take an adequate and appropriate psychiatric and psychological history;
- v. failure to take an adequate and appropriate medical care and treatment during hospitalization in a psychiatric unit;
- w. failure to effect a timely transfer from the psychiatric unit back to the medical unit;
- x. failure to effect a timely transfer from the psychiatric unit back to the medical unit for neurologic evaluation and treatment;

- y. failure to provide timely, adequate, and appropriate management of a stroke;
and,
- z. failure to properly, timely, and adequately recognize and appreciate signs and symptoms of evolving neurologic dysfunction.

COUNT III-NEGLIGENCE
(Plaintiff v. Dr. Helmi)

85. The previous paragraphs are herein incorporated by reference as though fully set forth.

86. The negligent conduct of Dr. Helmi during her evaluation, care, and treatment of Wanda Russell consisted of the following:

- a. failure to properly, timely, and adequately evaluate a patient with a diagnosis of transient ischemic attack;
- b. failure to properly, timely, and adequately evaluate a patient with a diagnosis of cerebrovascular accident;
- c. failure to properly, timely, and adequately evaluate a patient with fluctuating neurologic signs and symptoms;
- d. failure to properly and timely obtain the consultative services of a neurologist or specialist in neurology;
- e. failure to properly and timely obtain cerebral imaging with an MRI scan or MRA;
- f. failure to properly, timely, and adequately evaluate a patient with acute

neurologic signs and symptoms;

- g. failure to timely, properly, and adequately evaluate, diagnose, and treat a “stuttering” stroke;
- h. failure to provide appropriate management and treatment of acute neurologic signs and symptoms;
- i. failure to provide appropriate, adequate, and timely monitoring of a patient with a deteriorating neurologic status;
- j. failure to properly, timely, and adequately evaluate a patient with acute deteriorating neurologic status;
- k. failure to provide appropriate management of an evolving cerebrovascular accident or neurologic crisis;
- l. failure to provide appropriate, adequate, and timely monitoring of a patient with a signs and symptoms of an evolving cerebrovascular accident;
- m. failure to properly, timely, and adequately evaluate a patient with signs and symptoms of an evolving neurologic dysfunction;
- n. failure to provide appropriate, adequate, and timely neuro-radiologic evaluation;
- o. failure to provide timely, appropriate, and adequate medical evaluation prior to transfer to a psychiatric unit;
- p. failure to provide timely, appropriate, and adequate neurologic and neuro-radiologic evaluation prior to transfer to a psychiatric unit;
- q. failure to provide timely, appropriate, and adequate psychiatric and

- psychologic evaluation prior to transfer to a psychiatric unit;
- r. failure to perform a timely, adequate, or appropriate psychiatric history prior to transfer to a psychiatric unit;
 - s. failure to obtain timely, appropriate, and adequate medical evaluation prior to transfer to a psychiatric unit;
 - t. failure to obtain timely, appropriate, and adequate psychiatric and psychologic evaluation prior to transfer to a psychiatric unit;
 - u. failure to perform an adequate and appropriate medical history;
 - v. failure to perform any medical history, psychiatric history, or physical examination prior to or at the time of transfer to a psychiatric unit;
 - w. failure to see, evaluate, or speak with the patient prior to transfer to a psychiatric unit;
 - x. failure to effect a timely transfer from the psychiatric unit back to the medical unit;
 - y. failure to evaluate falls in the psychiatric unit; and,
 - z. failure to re-evaluate the medical status and or psychiatric status of the patient following transfer to the psychiatric unit.

COUNT IV-NEGLIGENCE
(Plaintiff v. Dr. Bradley)

87. The previous paragraphs are herein incorporated by reference as though fully set forth.
88. The negligent conduct of Dr. Bradley during his medical evaluation, care, and

treatment of Wanda Russell consisted of the following:

- a. failure to properly, timely, and adequately evaluate a patient with a diagnosis of transient ischemic attack;
- b. failure to properly, timely, and adequately evaluate a patient with a diagnosis of cerebrovascular accident;
- c. failure to properly, timely, and adequately evaluate a patient with fluctuating neurologic signs and symptoms;
- d. failure to properly and timely obtain the consultative services of a neurologist or specialist in neurology;
- e. failure to properly and timely obtain cerebral imaging with an MRI scan and/or MRA;
- f. failure to properly, timely, and adequately evaluate a patient with acute neurologic signs and symptoms;
- g. failure to timely, properly, and adequately evaluate, diagnose, and treat a "stuttering" stroke;
- h. failure to provide appropriate management and treatment of acute neurologic signs and symptoms;
- i. failure to provide appropriate, adequate, and timely monitoring of a patient with a deteriorating neurologic status;
- j. failure to properly, timely, and adequately evaluate a patient with acute deteriorating neurologic status;
- k. failure to provide appropriate management of an evolving cerebrovascular

accident or neurologic crisis;

- l. failure to provide appropriate, adequate, and timely monitoring of a patient with a signs and symptoms of an evolving cerebrovascular accident;
- m. failure to properly, timely, and adequately evaluate a patient with signs and symptoms of an evolving neurologic dysfunction;
- n. failure to provide appropriate, adequate, and timely neuro-radiologic evaluation;
- o. failure to provide timely, appropriate, and adequate medical evaluation prior to transfer to a psychiatric unit;
- p. failure to provide timely, appropriate, and adequate neurologic and neuro-radiologic evaluation prior to transfer to a psychiatric unit;
- q. failure to provide timely, appropriate, and adequate psychiatric and psychologic evaluation prior to transfer to a psychiatric unit;
- r. failure to perform a timely, adequate, or appropriate psychiatric history prior to transfer to a psychiatric unit;
- s. failure to obtain timely, appropriate, and adequate medical evaluation prior to transfer to a psychiatric unit;
- t. failure to obtain timely, appropriate, and adequate psychiatric and psychologic evaluation prior to transfer to a psychiatric unit;
- u. failure to perform an adequate and appropriate medical history;
- v. failure to see or speak with the patient prior to transfer to a psychiatric unit;
- w. failure to effect a timely transfer from the psychiatric unit back to the medical

unit;

- x. failure to evaluate falls in the psychiatric unit; and,
- y. failure to re-evaluate the medical status following transfer to the psychiatric unit.

COUNT IV-NEGLIGENCE
(Plaintiff v. Dr. Bobrin)

89. The previous paragraphs are herein incorporated by reference as though fully set forth.

90. The negligent conduct of Dr. Bobrin during his medical evaluation, care, and treatment of Wanda Russell consisted of the following:

- a. failure to properly, timely, and adequately evaluate a patient with a diagnosis of transient ischemic attack;
- b. failure to properly, timely, and adequately evaluate a patient with a diagnosis of cerebrovascular accident;
- c. failure to properly, timely, and adequately evaluate a patient with fluctuating neurologic signs and symptoms;
- d. failure to properly and timely obtain the consultative services of a neurologist or specialist in neurology;
- e. failure to properly and timely obtain cerebral imaging with an MRI scan and/or MRA;
- f. failure to properly, timely, and adequately evaluate a patient with acute neurologic signs and symptoms;
- g. failure to timely, properly, and adequately evaluate, diagnose, and treat a

“stuttering” stroke;

- h. failure to provide appropriate management and treatment of acute neurologic signs and symptoms;
- i. failure to provide appropriate, adequate, and timely monitoring of a patient with a deteriorating neurologic status;
- j. failure to properly, timely, and adequately evaluate a patient with acute deteriorating neurologic status;
- k. failure to provide appropriate management of an evolving cerebrovascular accident or neurologic crisis;
- l. failure to provide appropriate, adequate, and timely monitoring of a patient with a signs and symptoms of an evolving cerebrovascular accident;
- m. failure to properly, timely, and adequately evaluate a patient with signs and symptoms of an evolving neurologic dysfunction;
- n. failure to provide appropriate, adequate, and timely neuro-radiologic evaluation;
- o. failure to provide timely, appropriate, and adequate medical evaluation prior to transfer to a psychiatric unit;
- p. failure to provide timely, appropriate, and adequate neurologic and neuro-radiologic evaluation prior to transfer to a psychiatric unit;
- q. failure to provide timely, appropriate, and adequate psychiatric and psychologic evaluation prior to transfer to a psychiatric unit;
- r. failure to perform a timely, adequate, or appropriate psychiatric history prior

- to transfer to a psychiatric unit;
- s. failure to obtain timely, appropriate, and adequate medical evaluation prior to transfer to a psychiatric unit;
 - t. failure to obtain timely, appropriate, and adequate psychiatric and psychologic evaluation prior to transfer to a psychiatric unit;
 - u. failure to perform an adequate and appropriate medical history;
 - v. failure to see or speak with the patient prior to transfer to a psychiatric unit;
 - w. failure to effect a timely transfer from the psychiatric unit back to the medical unit;
 - x. failure to evaluate falls in the psychiatric unit; and,
 - y. failure to re-evaluate the medical status following transfer to the psychiatric unit.

COUNT V-VICARIOUS AND CORPORATE (DIRECT) NEGLIGENCE
**(Plaintiff v. DuBois Regional Medical Center a/k/a/
DuBois Regional Medical Center West a/d/b/a DRMC Behavioral Unit a/k/a
DRMC East Behavioral Unit a/k/a DRMC Behavioral Health Outpatient Clinic)**

91. The previous paragraphs are herein incorporated by reference as though fully set forth.
92. At all times material hereto, DuBois Regional Medical Center a/k/a/ DuBois Regional Medical Center West a/d/b/a DRMC Behavioral Unit a/k/a DRMC East Behavioral Unit a/k/a DRMC Behavioral Health Outpatient Clinic was acting by and through its actual agents, ostensible agents, servants, and/or employees, including Dr. Maloney, Devlin, Helmi, Bradley, and Bobrin, and the nursing staff who provided nursing care and treatment to Wanda Russell during her hospitalization in the DRMC Behavioral Unit, whose identities are partially set forth in Exhibit "B."

These actual agents, ostensible agents, servants, and/or employees provided medical care and treatment to Wanda Russell while acting within the scope of their medical and nursing duties. Accordingly, the DuBois Regional Medical Center a/k/a/ DuBois Regional Medical Center West a/d/b/a DRMC Behavioral Unit a/k/a DRMC East Behavioral Unit a/k/a DRMC Behavioral Health Outpatient Clinic is vicariously and derivatively liable for the negligent acts and omissions of these actual agents, ostensible agents, servants, and/or employees under theories of agency, master-servant, respondeat superior, and/or right of control.

93. The Dubois Regional Medical Center is liable for the conduct of the nurses who provided psychiatric nursing care to Wanda Russell on the DRMC Behavioral Unit on December 5 to 6, 2005, whose identities are partially set forth in Exhibit "B," and whose negligence consisted of:

- a. failure to report falls in a patient exhibiting neurologic impairment to a physician at the time the falls occurred;
- b. failure to report neurologic signs and symptoms to the physician staff;
- c. failure to obtain appropriate psychiatric evaluation at the time the patient arrived on the psychiatric unit;
- d. failure to insure that the protocol for psychiatric unit was adhered to and followed, including provision of the Patient's Bill of Rights and the report of initial evaluation and the proposed treatment plan completed and signed by the patient and the physician;
- e. failure to obtain medical evaluation for signs and symptoms during the nursing evaluation of the patient of evolving neurologic dysfunction;

- f. failure to timely, appropriately, and adequately notify the physician medical staff of evolving of neurologic signs and symptoms;
- g. failure to provide appropriate nursing, monitoring and care to a patient with evolving and shifting neurologic signs and symptoms; and,
- h. failure to provide adequate, appropriate, and timely nursing care in the setting of shifting neurologic signs and symptoms.

94. In addition, pursuant to the decision of the Supreme Court of Pennsylvania in Thompson v. Nason, 591 A.2d 703 (1991) and its progeny of case law, at all relevant times hereto, DuBois Regional Medical Center a/k/a/ DuBois Regional Medical Center West a/d/b/a DRMC Behavioral Unit a/k/a DRMC East Behavioral Unit a/k/a DRMC Behavioral Health Outpatient Clinic owed non-delegable duties directly to Wanda Russell which included:

- a. a duty to use reasonable care in the maintenance of safe and adequate facilities and equipment;
- b. a duty to select and retain only competent physicians;
- c. a duty to oversee all persons who practice medicine within its walls as to patient care; and,
- d. a duty to formulate, adopt, and enforce adequate rules and policies to ensure quality care for the patients.

95. The corporate (direct) negligence of the DuBois Regional Medical Center a/k/a/ DuBois Regional Medical Center West a/d/b/a DRMC Behavioral Unit a/k/a DRMC East Behavioral Unit a/k/a DRMC Behavioral Health Outpatient Clinic arising out of the medical evaluation, care, and treatment of Wanda Russell consisted of the following:

- a. failure to select and retain only competent physicians proficient in the recognition, evaluation, and management of transient ischemic attack, neurologic dysfunction, evolving cerebrovascular accident, and “stuttering” stroke;
- b. failure to select and retain only competent physicians proficient in the recognition, evaluation, and management of psychiatric and psychosomatic illness;
- c. failure to select and retain only competent physicians proficient in the recognition, evaluation, and management of conversion reaction;
- d. failure to select and retain only competent physicians proficient in the recognition, evaluation, and management of evolving neurologic injury;
- e. failure to select and retain only competent physicians proficient in the recognition, evaluation, and management of cerebral ischemia and associated risk factors;
- f. failure to select and retain only competent physicians proficient in the recognition, evaluation, and management of deteriorating neurologic status;
- g. failure to select and retain only competent physicians proficient in the recognition, evaluation, and management evolving stroke symptoms;
- h. failure to select and retain only competent physicians proficient in the recognition, evaluation, and management of patients within a psychiatric unit;
- i. failure to select and retain only competent physicians proficient in the recognition, evaluation, and management of fluctuating neurologic signs and

symptoms;

- j. failure to select and retain only competent physicians proficient in the evaluation patients prior to voluntary transfer to a psychiatric unit;
- k. failure to formulate, adopt, and/or enforce adequate rules and policies with respect to evaluation of patients prior to transfer to a psychiatric unit, including evaluation by a psychiatrist;
- l. failure to formulate, adopt, and/or enforce adequate rules and policies with respect to the evaluation, re-evaluation, and management of patients admitted to a psychiatric unit with fluctuating neurologic signs and symptoms;
- m. failure to formulate, adopt, and/or enforce adequate rules and policies with respect to the timely evaluation of patients admitted to the psychiatric unit;
- n. failure to formulate, adopt, and/or enforce adequate rules and policies with respect to the reporting and evaluation of falls by the nursing staff in the psychiatric unit;
- o. failure to formulate, adopt, and/or enforce adequate rules and policies with respect to the transfer of patients with acute medical emergencies out of the psychiatric unit;
- p. failure to formulate, adopt, and/or enforce adequate rules and policies with respect to holding patients with acute medical complaints within the confines of the psychiatric unit;
- q. failure to formulate, adopt, and/or enforce adequate rules and policies with respect to holding patients with acute neurologic complaints and falls within

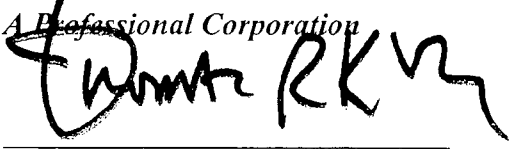
the confines of the psychiatric unit;

- r. failure to formulate, adopt, and/or enforce adequate rules and policies with respect to obtaining timely transfer of a patient with signs and symptoms of an evolving stroke to a medical unit from the psychiatric unit;
- s. failure to oversee all persons who practice medicine within its walls as to patient care to ensure that an appropriate psychiatric evaluation by a psychiatrist occurs prior to the transfer of a patient to a psychiatric unit;
- t. failure to oversee all persons who practice medicine within its walls as to patient care to ensure that an appropriate medical evaluation occurs prior to the transfer of a patient to a psychiatric unit;
- u. failure to oversee all persons who practice medicine within its walls as to patient care to ensure that an appropriate medical evaluation occurs at the time of transfer of a patient to a psychiatric unit; and,
- v. failure to oversee all persons who practice medicine within its walls as to patient care to ensure that an appropriate psychiatric evaluation occurs at the time of transfer of a patient to a psychiatric unit.

WHEREFORE, Plaintiff Wanda Russell claims damages against all defendants, jointly and severally, including all damages cognizable under Pennsylvania law for the causes of action set forth in the Civil Action Complaint, in an amount in excess of the prevailing arbitration limits, exclusive of pre-judgment interest and post-judgment interest and costs.

KLINE & SPECTER
A Professional Corporation

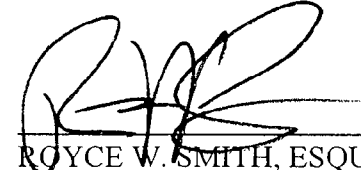
By:


THOMAS R. KLINE, ESQUIRE

By:


MARK A. HOFFMAN, ESQUIRE

By:


ROYCE W. SMITH, ESQUIRE

Date:

KLINE & SPECTER

A Professional Corporation

By: THOMAS R. KLINE, ESQUIRE
MARK A. HOFFMAN, ESQUIRE
ROYCE W. SMITH, ESQUIRE

Attorney ID Nos.: 28895/ 84443/201295

The Nineteenth Floor

1525 Locust Street

Philadelphia, Pennsylvania 19102

(215) 772-1000

Attorneys for Plaintiff

WANDA RUSSELL

426 North Michael Street

Saint Mary's, Pennsylvania 15857

Plaintiff,

v.

JAMES E. DEVLIN, M.D. and

MARK W. MALONEY, D.O. and

DRMC PRIMARY CARE

ASSOCIATES and

SANAA HELMI, M.D. and

THOMAS J. BRADLEY, M.D. and

BRADFORD BOBRIN, M.D. and

DuBOIS REGIONAL MEDICAL

CENTER a/ka DuBOIS REGIONAL

MEDICAL CENTER WEST

a/d/b/a DRMC BEHAVIORAL

UNIT a/k/a DRMC EAST BEHAVIORAL

UNIT a/k/a DRMC BEHAVIORAL

HEALTH OUTPATIENT CLINIC

Defendants.

**COURT OF COMMON PLEAS
COUNTY OF CLEARFIELD**

DOCKET NO.

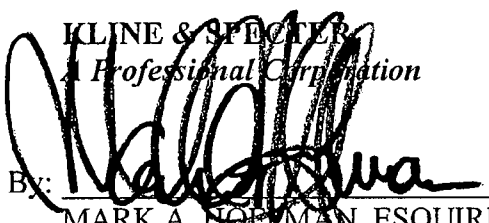
CERTIFICATES OF MERIT

I, Mark A. Hoffman, Esquire, am an attorney for the plaintiff in the above-captioned matter.

Pursuant to Pa.R.C.P. No. 1042.1, I hereby certify appropriate licensed professionals have provided me with written statements stating that there exists a reasonable basis and probability to conclude that the care, skill, or knowledge exercised or exhibited by Drs. Devlin, Maloney, Helmi, Bradley, and Bobrin, and the psychiatric nursing staff, and the DuBois Regional Medical Center and its

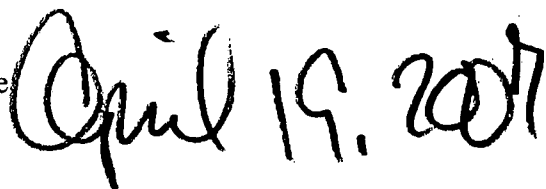
affiliated or associated entities as captioned above, with respect to the treatment, practice, or work that is the subject of this Civil Action Complaint, fell outside of acceptable professional and institutional standards, and that such conduct was a substantial factor in causing injuries, or bringing about harm, to Wanda Russell. I further certify that there are additional claims which are based on allegations that licensed professionals for whom the hospital-defendant, DuBois Regional Medical Center and its affiliated or associated entities as captioned above, and/or DRMC Primary Care, and/or both, are responsible and derivatively or vicariously liable deviated from accepted professional standards of medical care, and caused the aforementioned injuries and harm. I additionally certify that appropriate licensed professionals have supplied written statements to me concluding that there exists a reasonable basis and probability that the DuBois Regional Medical Center, and its affiliated or associated entities as captioned above, deviated from accepted standards of institutional care, giving rise to claims of direct (corporate) negligence pursuant to the decision of the Supreme Court of Pennsylvania in Thompson v. Nason, 591 A.2d 703 (1991) and its progeny of case law. The licensed professionals who have provided me with these written statements have also concluded that the aforementioned deviations from accepted standards of medical and institutional care on the part of the individual named licensed professional, corporate, and hospital defendants was a substantial factor causing, or increasing the risk of harm, to Wanda Russell.

KLINE & SPECTER
A Professional Corporation

By: 

MARK A. HOFFMAN, ESQUIRE
Attorneys for Plaintiff

Date



Behavioral Health Services Daily Notes Extension
Date 12/16/05

3218 47Y MH 0114-01 MH
RUSSELL, WANDA
BOBRIN, BRADFORD
09/19/58 F 12/06/05
0534000768 UP


Sticker

12/16/05 8:20am - Pt's sister Darlene Nortum called and I spoke to her. According to Darlene, she was in to visit her sister last evening. Dr. Maloney came in at 7 or 8pm to talk to the pt. he told her that he feels her loss of mobility is due to depression. He did not say anything about coming to Mental Health. She did not say anything suicidal or hopeless. Darlene said she tried to talk to Dr. Maloney about how soon her sister would be PIC but he said he was busy. Darlene does not feel her sister should be at Mental Health.

8:50am - I spoke to the secretary ^{sue} @ Dr. Maloney's office & she was unable to give me any information. Dr. Maloney called off today & she would not be talking to him until late this afternoon.

9:00am - I spoke to Joan on 3rd floor about the Pt. She told me that she was told that Dr. Maloney was afraid she would hurt herself. Apparently, Pt was requesting disability & Dr. Maloney said he couldn't do that. At that point he felt she wasn't safe.

9:20am Pt's sister Darlene called again & asked

353218 47Y MH 0114-01 MH
RUSSELL, WANDA
BOBRIN, BRADFORD
09/19/58 F 12/06/05
0534000768 UP


Behavioral Health Services Daily Notes Extension

Date 12/16/05

Sticker

if she could come now to visit her sister + talk with us.

9:35am Tracey from 3rd floor called + asked me what the situation is. Neither her or anyone else knew specific information on the Pt.

9:45am Dr. Maloney called and spoke to me. He feels the pt is going to stop taking her meds although she did not state that. He reports that she's going through a lot of stress - a divorce & bankruptcy. He said that she was admitted for left sided weakness. Nurses reported to Dr. Maloney that they observed her using her left arm & and eating when she thought no one was looking. He was unable to find any medical problems. He spoke to Dr. Helmi & according to him it was her recommendation that she be admitted + tx be started.

I then handed the phone to UR for them to collect information.

9:55am I had already beeped Dr. Helmi twice & she had not returned my call yet. I thought her beeper may be off so I called her cell phone. She answered + I asked if she had any information on the pt. She said

Behavioral Health Services Daily Notes Extension

Date 12/4/05

053218 47Y MH 001 MH
RUSSELL, WANDA
BOBRIN, BRADFORD
09/19/58 F 12/06/05
0534000768 UP


Sticker

that she didn't remember the pt + asked where she came from, I stated 3rd floor - she said she was c-pts & would have to return my call.

10:05 am - Dr. Helmi returned my call, I asked her the information regarding the pt. She was under the impression that the pt was severely depressed + actively suicidal. She did not make the recommendation - Dr. Maloney asked for the admission and she agreed on the basis that the pt is suicidal. She will support our decision at this point. *Brittge Bowler Jr*

VERIFICATION

I, WANDA RUSSELL, plaintiff in this civil action, hereby verify that the within Civil Action Complaint is based upon first-hand information, and upon information furnished to my counsel and obtained by him in the course of counsel's investigation of this lawsuit and the facts involved. The language of the document is that of counsel and not my own. To the extent that the contents of the document are based upon information furnished to counsel and obtained by him during the course of this lawsuit and counsel's investigation of the facts giving rise to this lawsuit, I have relied upon counsel in taking this verification. All statements are founded upon reasonable belief. This verification is made subject to the penalties of 18 Pa.C.S. §4904 relating to unsworn falsification to authorities.

Wanda Russell

Wanda Russell

Date: 4/19/07

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

WANDA RUSSELL,

Plaintiff

vs.

JAMES E. DEVLIN, M.D., MARK W.
MALONE, D.O., DRMC PRIMARY CARE
ASSOCIATES, SANAA HELMI, M.D.,
THOMAS J. BRADLEY, M.D., BRADFORD
BOBRIN, M.D., and DUBOIS REGIONAL
MEDICAL CENTER a/k/a DUBOIS
REGIONAL MEDICAL CENTER WEST
a/d/b/a DRMC BEHAVIORAL UNIT a/k/a
DRMC EAST BEHAVIORAL UNIT a/k/a
DRMC BEHAVIORAL HEALTH
OUTPATIENT UNIT,

Defendants

No. 07-644-CD

ISSUE:

NOTICE OF SERVICE OF
INTERROGATORIES AND
REQUEST FOR PRODUCTION
OF DOCUMENTS DIRECTED TO
PLAINTIFFS, DATED: 06/28/07

Filed on behalf of Defendant,
DUBOIS REGIONAL MEDICAL
CENTER a/k/a DUBOIS REGIONAL
MEDICAL CENTER WEST a/d/b/a
DRMC BEHAVIORAL UNIT a/k/a
DRMC EAST BEHAVIORAL UNIT
a/k/a DRMC BEHAVIORAL HEALTH
OUTPATIENT CLINIC

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

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

JURY TRIAL DEMANDED

I HEREBY CERTIFY THAT A TRUE AND
CORRECT COPY OF THE WITHIN WAS
MAILED TO ALL COUNSEL OF RECORD
THIS 28TH DAY OF JUNE, 2007.

John L. McIntyre/esq
Attorneys for Named Defendant

FILED

JUN 29 2007

William A. Shaw
Prothonotary/Clerk of Courts

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

WANDA RUSSELL,

: No. 07-644-CD

Plaintiff

vs.

JAMES E. DEVLIN, M.D., MARK W.
MALONE, D.O., DRMC PRIMARY CARE
ASSOCIATES, SANAA HELMI, M.D.,
THOMAS J. BRADLEY, M.D., BRADFORD
BOBRIN, M.D., and DUBOIS REGIONAL
MEDICAL CENTER a/k/a DUBOIS
REGIONAL MEDICAL CENTER WEST
a/d/b/a DRMC BEHAVIORAL UNIT a/k/a
DRMC EAST BEHAVIORAL UNIT a/k/a
DRMC BEHAVIORAL HEALTH
OUTPATIENT UNIT,

Defendants

: JURY TRIAL DEMANDED

**NOTICE OF SERVICE OF INTERROGATORIES
AND REQUEST FOR PRODUCTION OF DOCUMENTS
DIRECTED TO PLAINTIFFS DATED: 06/28/07**

TO: PROTHONOTARY

You are hereby notified that on the 28TH day of June, 2007, Defendants, DuBOIS REGIONAL MEDICAL CENTER, served Interrogatories and Request for Production of Documents Directed to Plaintiff Dated, June 28, 2007, by mailing the original of same via First Class U.S. Mail, postage prepaid, addressed to the following:

Mark A. Hoffman, Esquire
Kline & Specter, P.C.
1525 Locust Street, 19th Floor
Philadelphia, PA 19102

McINTYRE, HARTYE & SCHMITT

John L. McIntyre / csm

Attorney for Defendants,
DuBOIS REGIONAL MEDICAL CENTER

John L. McIntyre, Esquire
PA I.D. No. 28015
P. O. Box 533
Hollidaysburg, PA 16648-0533
(814) 696-3581

KLINE & SPECTER

A Professional Corporation

By: THOMAS R. KLINE, ESQUIRE
MARK A. HOFFMAN, ESQUIRE
ROYCE W. SMITH, ESQUIRE

Attorney ID Nos.: 28895/ 84443/201295
The Nineteenth Floor
1525 Locust Street
Philadelphia, Pennsylvania 19102
(215) 772-1000

Attorneys for Plaintiff

FILED

JUL 23 2007

W/11:15/0

William A. Shaw
Prothonotary/Clerk of Courts

1 CEW/PRIMINARY
COMPLAINTS

ATTN

WANDA RUSSELL

**COURT OF COMMON PLEAS
COUNTY OF CLEARFIELD**

v.

DOCKET NO. 07-644-CD

JAMES E. DEVLIN, M.D. and
MARK W. MALONEY, D.O. and
DRMC PRIMARY CARE ASSOCIATES
and SANAA HELMI, M.D. and
THOMAS J. BRADLEY, M.D. and
BRADFORD BOBRIN, M.D. and
DuBOIS REGIONAL MEDICAL
CENTER a/ka DuBOIS REGIONAL
MEDICAL CENTER WEST
a/d/b/a DRMC BEHAVIORAL
UNIT a/k/a DRMC EAST BEHAVIORAL
UNIT a/k/a DRMC BEHAVIORAL
HEALTH OUTPATIENT CLINIC
Defendants.

PRAECIPE TO REINSTATE COMPLAINT

TO THE PROTHONOTARY:

Kindly reinstate the Complaint filed on April 24, 2007 in the above-captioned matter.

KLINE & SPECTER, P.C.

BY:

MARK A. HOFFMAN, ESQUIRE
Attorney for Plaintiff

Date: July 19, 2007

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

KLINE & SPECTER

A Professional Corporation

By: THOMAS R. KLINE, ESQUIRE
MARK A. HOFFMAN, ESQUIRE
ROYCE W. SMITH, ESQUIRE

Attorney ID Nos.: 28895/ 84443/201295

The Nineteenth Floor

1525 Locust Street

Philadelphia, Pennsylvania 19102

(215) 772-1000

JUN 22 2007

Attest.

William H. Brown
Prothonotary/
Clerk of Courts

Attorneys for Plaintiff

WANDA RUSSELL

COURT OF COMMON PLEAS
COUNTY OF CLEARFIELD

v.

JAMES E. DEVLIN, M.D. and
MARK W. MALONEY, D.O. and
DRMC PRIMARY CARE ASSOCIATES
and SANAA HELMI, M.D. and
THOMAS J. BRADLEY, M.D. and
BRADFORD BOBRIN, M.D. and
DuBOIS REGIONAL MEDICAL
CENTER a/ka DuBOIS REGIONAL
MEDICAL CENTER WEST
a/d/b/a DRMC BEHAVIORAL
UNIT a/k/a DRMC EAST BEHAVIORAL
UNIT a/k/a DRMC BEHAVIORAL
HEALTH OUTPATIENT CLINIC
Defendants.

DOCKET NO. 07-644-CD

PRAECIPE TO REINSTATE COMPLAINT

TO THE PROTHONOTARY:

Kindly reinstate the Complaint filed on April 24, 2007 in the above-captioned matter.

KLINE & SPECTER, P.C.

BY:

Mark A. Hoffman
MARK A. HOFFMAN, ESQUIRE
Attorney for Plaintiff

Date:

June 21, 2007

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

KLINE & SPECTER

A Professional Corporation

By: THOMAS R. KLINE, ESQUIRE
MARK A. HOFFMAN, ESQUIRE
ROYCE W. SMITH, ESQUIRE

Attorney ID Nos.: 28895/ 84443/201295
The Nineteenth Floor
1525 Locust Street
Philadelphia, Pennsylvania 19102
(215) 772-1000

JUN 22 2007

Attest.

William A. Brown
Prothonotary/
Clerk of Courts

Attorneys for Plaintiff

WANDA RUSSELL

COURT OF COMMON PLEAS
COUNTY OF CLEARFIELD

v.

DOCKET NO. 07-644-CD

JAMES E. DEVLIN, M.D. and
MARK W. MALONEY, D.O. and
DRMC PRIMARY CARE ASSOCIATES
and SANAA HELMI, M.D. and
THOMAS J. BRADLEY, M.D. and
BRADFORD BOBRIN, M.D. and
DuBOIS REGIONAL MEDICAL
CENTER a/ka DuBOIS REGIONAL
MEDICAL CENTER WEST
a/d/b/a DRMC BEHAVIORAL
UNIT a/k/a DRMC EAST BEHAVIORAL
UNIT a/k/a DRMC BEHAVIORAL
HEALTH OUTPATIENT CLINIC
Defendants.

JUNE 22, 2007 Document
Reinstated/Reissued to Sheriff/Attorney
for service.

William A. Brown
Deputy Prothonotary

PRAECIPE TO REINSTATE COMPLAINT

TO THE PROTHONOTARY:

Kindly reinstate the Complaint filed on April 24, 2007 in the above-captioned matter.

KLINE & SPECTER, P.C.

BY:

Mark A. Hoffman
MARK A. HOFFMAN, ESQUIRE
Attorney for Plaintiff

Date:

May 17, 2007

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

MAY 23 2007

William A. Brown
Prothonotary/
Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY
PENNSYLVANIA

7-23-07 Document
Reinstated/Reissued to Sheriff/Attorney
for service.

WANDA RUSSELL
(Plaintiff)

CIVIL ACTION

[Signature]
Deputy Prothonotary

426 North Michael Street
(Street Address)

No. 07-644-CD

Saint Mary's, PA 15857
(City, State ZIP)

Type of Case: Medical Malpractice

Type of Pleading: Civil Action Complaint

VS.

Filed on Behalf of:

JAMES E. DEVLIN, M.D.
(Defendant)

Plaintiff, Wanda Russell
(Plaintiff/Defendant)

1100 Main Street
(Street Address)

Brockway, PA 15824
(City, State ZIP)

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

APR 24 2007

(Additional Defendants
Continued on attached sheet)

Attest.

William L. Shaw
Prothonotary/
Clerk of Courts

Thomas R. Kline, Esq. Mark A. Hoffman, Esq.
(Filed by)

Kline & Specter, P.C.,
1525 Locust Street, The Nineteenth Floor
Philadelphia, PA 19102
(Address)

215-772-1000 phone 215-772-1359 fax
(Phone)

[Signature]
(Signature)

5-23-07 Document
Reinstated/Reissued to Sheriff/Attorney
for service.

[Signature]
Deputy Prothonotary

(Continued from coversheet)

and	:
MARK W. MALONEY, D.O.	:
DRMC Primary Care Associates	:
Medical Arts Building	:
Suite 200	:
145 Hospital Avenue	:
DuBois, Pennsylvania 15801	:
and	:
DRMC PRIMARY CARE	:
ASSOCIATES	:
Medical Arts Building	:
Suite 200	:
145 Hospital Avenue	:
DuBois, Pennsylvania 15801	:
and	:
SANAA HELMI, M.D.	:
Behavioral Health Outpatient Clinic	:
DRMC East Unit	:
Maple Avenue	:
DuBois, Pennsylvania 15801	:
ans	:
THOMAS J. BRADLEY, M.D.	:
701 Sunflower Drive	:
DuBois, Pennsylvania 15801	:
and	:
BRADFORD BOBRIN, M.D.	:
Behavioral Health Outpatient Clinic	:
DRMC East Unit	:
Maple Avenue	:
DuBois, Pennsylvania 15801	:
and	:
DuBOIS REGIONAL MEDICAL	:
CENTER a/ka DuBOIS REGIONAL	:
MEDICAL CENTER WEST	:
a/d/b/a DRMC BEHAVIORAL	:
UNIT a/k/a DRMC EAST BEHAVIORAL	:
UNIT a/k/a DRMC BEHAVIORAL	:
HEALTH OUTPATIENT CLINIC	:
c/o Office of Risk Management	:
100 Hospital Avenue	:
DuBois, Pennsylvania 15801	:
Defendants.	:

KLINE & SPECTER

A Professional Corporation

By: THOMAS R. KLINE, ESQUIRE
MARK A. HOFFMAN, ESQUIRE
ROYCE W. SMITH, ESQUIRE

Attorney ID Nos.: 28895/ 84443/201295

The Nineteenth Floor

1525 Locust Street

Philadelphia, Pennsylvania 19102

(215) 772-1000

Attorneys for Plaintiff

WANDA RUSSELL

426 North Michael Street

Saint Mary's, Pennsylvania 15857

Plaintiff,

v.

JAMES E. DEVLIN, M.D.

1100 Main Street

Brockway, Pennsylvania 15824

and

MARK W. MALONEY, D.O.

DRMC Primary Care Associates

Medical Arts Building

Suite 200

145 Hospital Avenue

DuBois, Pennsylvania 15801

and

DRMC PRIMARY CARE

ASSOCIATES

Medical Arts Building

Suite 200

145 Hospital Avenue

DuBois, Pennsylvania 15801

and

SANAA HELMI, M.D.

Behavioral Health Outpatient Clinic

DRMC East Unit

Maple Avenue

DuBois, Pennsylvania 15801

ans

THOMAS J. BRADLEY, M.D.

701 Sunflower Drive

DuBois, Pennsylvania 15801

and

**COURT OF COMMON PLEAS
COUNTY OF CLEARFIELD**

DOCKET NO.

BRADFORD BOBRIN, M.D.
 Behavioral Health Outpatient Clinic
 DRMC East Unit
 Maple Avenue
 DuBois, Pennsylvania 15801
 and
 DuBOIS REGIONAL MEDICAL
 CENTER a/ka DuBOIS REGIONAL
 MEDICAL CENTER WEST
 a/d/b/a DRMC BEHAVIORAL
 UNIT a/k/a DRMC EAST BEHAVIORAL
 UNIT a/k/a DRMC BEHAVIORAL
 HEALTH OUTPATIENT CLINIC
 c/o Office of Risk Management
 100 Hospital Avenue
 DuBois, Pennsylvania 15801
 Defendants.

NOTICE

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

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER.

IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.

COURT ADMINISTRATOR
 Clearfield County Courthouse
 Second and Market Streets
 Clearfield, PA 16830
 814-765-2641, Ext. (5982)

ADVISOR

Le han demandado a usted en la corte. Si usted quiere defenderse de estas demandas expuestas en las paginas siguientes, usted tiene veinte (20) dias de plazo al partir de la fecha de la demanda y la notificacion. Hace falta asentar una comparencia escrita o en persona o con un abogado y entregar a la corte en forma escrita sus defensas o sus objeciones a las demandas en contra de su persona. Sea avisado que si usted no se defiende, la corte tomara medidas y puede continuar la demanda en contra suya sin previo aviso o notificacion. Ademias, la corte pueda decidir a favor del demandante y requiere que usted cumpla con todas las provisiones de esta demanda. Usted puede perder dinero o sus propiedades u otros derechos importantes para usted.

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

ESTA OFICINA LO PUEDE PROPORCIONAR CON INFORMACION ACERCA DE EMPLEAR A UN ABOGADO. SI USTED NO PUEDE PROPORCIONAR PARA EMPLEAR UN ABOGADO, ESTA OFICINA PUEDE SER CAPAZ DE PROPORCIONARLO CON INFORMACION ACERCA DE LAS AGENCIAS QUE PUEDEN OFRECER LOS SERVICIOS LEGALES A PERSONAS ELEGIBLES EN UN HONORARIO REDUCIDO NINGUN HONORARIO.

COURT ADMINISTRATOR
 Clearfield County Courthouse
 Second and Market Streets
 Clearfield, PA 16830
 814-765-2641, Ext. (5982)

CIVIL ACTION COMPLAINT

Plaintiff, Wanda Russell, by and through her undersigned attorneys, Kline & Specter, P.C., herein complains of the above-captioned defendants as follows:

PARTIES

1. Plaintiff Wanda Russell is an adult citizen and a resident of the Commonwealth of Pennsylvania, residing at 426 North Michael Street, Saint Mary's, Pennsylvania 15857. Wanda Russell was born on September 19, 1958.

2. Defendant James E. Devlin, M.D. ["Dr. Devlin"] was, at all times material hereto, a duly licensed physician in the Commonwealth of Pennsylvania, specializing in the medical field of family medicine, who maintained a professional office, business or corporate office, or place of medical practice at 1100 Main Street, Brockway, Pennsylvania 15824. A Certificate of Merit pursuant to Pa.R.C.P. No. 1042.1 regarding the treatment, practice, or work of this defendant is attached hereto as Exhibit "A."

3. Defendant Mark W. Maloney, D.O. ["Dr. Maloney"] was, at all times material hereto, a duly licensed osteopathic physician in the Commonwealth of Pennsylvania, specializing in the medical field of family medicine, who maintained a professional office, business or corporate office, or place of medical practice at DRMC Primary Care Associates, Medical Arts Building, Suite 200, 145 Hospital Avenue, DuBois, Pennsylvania 15801. A Certificate of Merit pursuant to Pa.R.C.P. No. 1042.1 regarding the treatment, practice, or work of this defendant is attached hereto as Exhibit "A."

4. Defendant DRMC Primary Care Associates was, at all times material hereto, a

corporation, professional corporation, professional association, professional partnership, or other jural entity organized according to and existing under the laws of the Commonwealth of Pennsylvania, with an office location and place of business at Medical Arts Building, Suite 200, 145 Hospital Avenue, DuBois, Pennsylvania 15801. A Certificate of Merit pursuant to Pa.R.C.P. No. 1042.1 regarding the treatment, practice, or work of this defendant is attached hereto as Exhibit "A."

5. At all times material hereto, Dr. Maloney and/or Dr. Devlin were agents, servants, and/or employees of DRMC Primary Care Associates, and were acting within the scope of their agency, master-servant, and/or employment relationships with DRMC Primary Care Associates while providing medical care and treatment to Wanda Russell. Accordingly, DRMC Primary Care Associates is liable for the negligent acts and/or omissions of Dr. Devlin and/or Dr. Maloney under theories of agency, master-servant, respondeat superior, and/or right of control.

6. Dr. Devlin was providing medical service or family practice service "coverage" or "cross-coverage" for Dr. Maloney, while providing medical care and treatment to Wanda Russell on or about December 4 and 5, 2005. Accordingly, Dr. Maloney is liable for the negligent acts and/or omissions of Dr. Devlin under theories of agency, master-servant or borrowed servant, respondeat superior, and/or right of control.

7. Dr. Devlin was providing "coverage" or "cross-coverage" for Dr. Maloney's family practice group or association, DRMC Primary Care Associates, while providing medical care and treatment to Wanda Russell, on or about December 4 and 5, 2005. Accordingly, DRMC Primary Care Associates is liable for the negligent acts and/or omissions of Dr. Devlin under theories of agency, master-servant or borrowed servant, respondeat superior, and/or right of control.

8. Defendant Sanaa Helmi, M.D. ["Dr. Helmi"] was, at all times material hereto, a duly

licensed physician in the Commonwealth of Pennsylvania, specializing in the medical field of psychiatry, who maintained a professional office, business or corporate office, or place of medical practice at Behavioral Health Outpatient Clinic, DRMC East Unit, Maple Avenue, DuBois, Pennsylvania 15801. A Certificate of Merit pursuant to Pa.R.C.P. No. 1042.1 regarding the treatment, practice, or work of this defendant is attached hereto as Exhibit "A."

9. Defendant Thomas J. Bradley, M.D. ["Dr. Bradley"] was, at all times material hereto, a duly licensed physician in the Commonwealth of Pennsylvania, specializing in the medical field of psychiatry, who maintained a professional office, business or corporate office, or place of medical practice at 701 Sunflower Drive, DuBois, Pennsylvania 15801. A Certificate of Merit pursuant to Pa.R.C.P. No. 1042.1 regarding the treatment, practice, or work of this defendant is attached hereto as Exhibit "A."

10. Defendant Bradford Bobrin, M.D. ["Dr. Bobrin"] was, at all times material hereto, a duly licensed physician in the Commonwealth of Pennsylvania, specializing in the medical field of psychiatry, who maintained a professional office, business or corporate office, or place of medical practice at Behavioral Health Outpatient Clinic, DRMC East Unit, Maple Avenue, DuBois, Pennsylvania 15801. A Certificate of Merit pursuant to Pa.R.C.P. No. 1042.1 regarding the treatment, practice, or work of this defendant is attached hereto as Exhibit "A."

11. Defendant DuBois Regional Medical Center a/k/a/ DuBois Regional Medical Center West a/d/b/a DRMC Behavioral Unit a/k/a DRMC East Behavioral Unit a/k/a DRMC Behavioral Health Outpatient Clinic [referred to in various paragraphs as either the "DuBois Regional Medical Center" or the "DRMC Behavioral Unit" or the "DuBois Regional Medical Center West"] is a corporation or other jural entity organized according to and existing under the laws of the

Commonwealth of Pennsylvania which owns, operates, and maintains a hospital, health care facility, and provider of health care services based at 100 Hospital Avenue, DuBois, Pennsylvania 15801.

The DRMC Behavioral Unit a/k/a DRMC East Behavioral Unit a/k/a DRMC East Behavioral Unit a/k/a DRMC Behavioral Health Outpatient Clinic is a psychiatric unit located within the East Unit of the DuBois Regional Medical Center. A Certificate of Merit pursuant to Pa.R.C.P. No. 1042.1 regarding the treatment, practice, or work of this defendant is attached hereto as Exhibit "A."

12. At all times material hereto, Dr. Devlin, Dr. Maloney, Dr. Helmi, Dr. Bradley, and Dr. Bobrin were actual or ostensible agents, servants, and/or employees of the DuBois Regional Medical Center and/or the DRMC Behavioral Unit, and were acting within the scope of their agency, master-servant, and/or employment relationship with the DuBois Regional Medical Center, and its affiliated or associated entities as captioned above, while providing medical care and treatment to Wanda Russell. Accordingly, the DuBois Regional Medical Center, and its affiliated or associated entities as captioned above, are liable for the negligent acts and/or omissions of Dr. Devlin, Dr. Maloney, Dr. Helmi, Dr. Bradley, and Dr. Bobrin under theories of agency, master-servant, respondeat superior, and/or right of control.

13. At all times material hereto, the DuBois Regional Medical Center and the DRMC Behavioral Unit were acting by and through their actual agents or ostensible agents, servants, and/or employees, Dr. Devlin, Dr. Maloney, Dr. Helmi, Dr. Bradley, and Dr. Bobrin, as well as the nurses who provided psychiatric nursing care and evaluation to Wanda Russell during her hospitalization in the DRMC Behavioral Unit. The identities of these nurses, whose signatures are illegible on the "Behavioral Health Services Daily Notes" and extension notes, attached hereto as Exhibit "B," are fully known to the DuBois Regional Medical Center and the DRMC Behavioral Unit, and presently

unknown to Plaintiff because of the illegible nature, or absence of, their signatures. The identities of these nurses is the subject matter of further discovery by the Plaintiff during the course of this litigation. Accordingly, DuBois Regional Medical Center is liable for the negligent acts and/or omissions of these aforementioned named and as yet specifically identified, see Exhibit "B," actual or ostensible agents, servants, and/or employees which occurred in the course of providing medical and nursing care to Wanda Russell, under theories of agency, master-servant, respondeat superior, and/or right of control.

14. Venue in this action is properly laid in Clearfield County, Pennsylvania pursuant to the Amendatory Order of the Supreme Court of Pennsylvania dated March 5, 2003, No. 381, Civil Procedural Rules, Docket No. 5, which amended the Pennsylvania Rules of Civil Procedure No.1006.

FACTS GIVING RISE TO CLAIMS OF NEGLIGENCE

15. On December 3, 2005, Wanda Russell presented to the Emergency Department at the DuBois Regional Medical Center via wheelchair with complaints of, among other things, bilateral arm weakness and dark vision.

16. On December 3, 2005, Wanda Russell was evaluated by Patrick Shilata, D.O. in the Emergency Department at the DuBois Regional Medical Center.

17. On December 3, 2005, Wanda Russell had a known history of hypertension and insulin dependent diabetes mellitus. These co-morbid conditions were known to the nursing staff and physician who evaluated and treated Wanda Russell in the Emergency Department on December 3, 2005, and were recorded in the DuBois Regional Medical Center Emergency Department medical record of Wanda Russell.

18. On December 3, 2005, Wanda Russell was able to ambulate, but complained of feeling off balance.

19. On December 3, 2005, during her evaluation in the DuBois Regional Medical Center Emergency Department, Wanda Russell had performed on her, among other things, an electrocardiogram, a basic metabolic panel, a urine analysis with microscopic examination, and an unenhanced head CT scan. All test results were interpreted as "normal" except for an elevated blood sugar (196 mg/dl; normal = 70 to 110 mg/dl).

20. On December 3, 2005, Wanda Russell was discharged from the Emergency Department at the Dubois Regional Medical Center with the diagnosis: "Impression: weakness, Transient Ischemic Attack (TIA), Diabetes Mellitus, Type I."

21. On December 3, 2005, Wanda Russell was discharged from the Emergency Department at the Dubois Regional Medical Center with instructions on transient ischemic attack and diabetes mellitus, and she was given a four (4) day work release. Wanda Russell was additionally instructed to follow-up with Dr. Maloney, her primary care physician, in three (3) to four (4) days.

22. On December 4, 2005, Wanda Russell presented to the Emergency Department at the DuBois Regional Medical Center via wheelchair with complaints of, among other things, left-sided weakness and inability to walk.

23. On December 4, 2005, Wanda Russell's sister signed the DuBois Regional Medical Center "Consent for Treatment" as Wanda Russell's patient representative, and on Wanda Russell's behalf, because Wanda Russell had weakness on writing and slurred speech. The "Consent for Treatment" was signed at or about 0938 hours on December 4, 2005.

24. On December 4, 2005, Wanda Russell was evaluated by Jeffrey Elias, D.O. ["Dr. Elias"] in the Emergency Department at the DuBois Regional Medical Center.

25. On December 4, 2005, Dr. Elias performed a neurological examination on Wanda Russell in the Emergency Department at the DuBois Regional Medical Center, and found, among other things, that Wanda Russell had a facial droop and diminished motor strength in the left arm (2/5) and left leg (2/5). The "Review of Systems" performed by Dr. Elias was positive for gait disturbance, speech changes, and weakness in the left arm and leg.

26. On December 4, 2005, Dr. Elias formulated a plan that Wanda Russell be admitted "to medical, for Maloney, Mark W. with a primary ED diagnosis of CVA (stroke) non-hemorrhagic." A summary of the Emergency Department evaluation of Wanda Russell was faxed to Wanda Russell's primary care physician, Dr. Maloney.

27. On December 4, 2005, Dr. Devlin evaluated Wanda Russell in the Emergency Department at the DuBois Regional Medical Center. At the time, Dr. Devlin was covering or cross-covering for Dr. Maloney and DRMC Primary Care Associates.

28. On December 4, 2005, Dr. Devlin admitted Wanda Russell to the DuBois Regional Medical Center for neuro-checks and observation. At the time of admission, Dr. Devlin doubted that Wanda Russell had, or was experiencing, a transient ischemic attack, and recorded this belief in his "History and Physical Examination," stating, among other things: "History of some left sided weakness, questionable TIA. Clinically, at this time it is doubtful but with the history we will go ahead and make the patient an observation."

29. On December 4, 2005, Wanda Russell was admitted to Dr. Maloney's service at the DuBois Regional Medical Center, with Dr. Devlin covering.

30. On December 4, 2005, Dr. Devlin did not obtain, or order to be obtained or provided, a neurology consultation for Wanda Russell.

31. On December 4, 2005, Dr. Devlin did not have performed, or order to be performed, an MRI scan of the head or an MRA on Wanda Russell.

32. On December 5, 2005, an unenhanced head CT scan was performed on Wanda Russell for the diagnosis of left-sided weakness, and was interpreted as "normal."

33. On December 5, 2005, bilateral carotid duplex sonograms were performed on Wanda Russell for the indication of left-sided weakness. This study demonstrated approximately 50 percent stenosis of the right internal carotid artery and 50 to 69 percent stenosis of the left internal carotid artery. Bilateral carotid plaque was also demonstrated on the sonogram.

34. An aortic arch and four vessel cerebral angiogram was not performed on Wanda Russell on December 5, 2005.

35. A head MRI or MRA was not performed on Wanda Russell on December 5, 2005.

36. A neurology consult was not obtained for or performed on Wanda Russell on December 5, 2005.

37. Wanda Russell continued to have intermittent left-sided weakness on December 5, 2005.

38. Wanda Russell had slurred speech and a "left facial droop of the mouth" on December 5, 2005.

39. On December 5, 2005, at or between the hours of approximately 1900 and 2000 hours, Dr. Maloney evaluated Wanda Russell at the DuBois Regional Medical Center, and informed Wanda Russell that her loss of mobility was due to depression.

40. On December 5, 2005, Dr. Maloney consulted Dr. Helmi concerning the admission of Wanda Russell to the DRMC Behavioral Unit, and reported to Dr. Helmi that "he was unable to find any medical problems" with respect to Wanda Russell.

41. On December 5, 2005, during the telephone consultation between Dr. Maloney and Dr. Helmi, according to Dr. Maloney, Dr. Helmi made the recommendation that Wanda Russell be admitted to the DRMC Behavior Unit for psychiatric treatment.

42. Dr. Helmi did not perform a history, psychiatric evaluation, or physical examination on Wanda Russell on December 5, 2005. Dr. Helmi did not physically see or speak with Wanda Russell on December 5 or 6, 2005.

43. On December 5, 2005, at or about 2040 hours, Dr. Maloney gave a "telephone order" to Brenda L. Slappy, R.N., to "Transfer to psych unit tonight."

44. On December 5, 2005, Wanda Russell was asked to sign, and did sign, an "Initial Evaluation and Treatment Plan," which outlined a "Description of Proposed Treatment Plan" and a "Description of Proposed Restrictions and Restraints." This form was not completed and signed by a physician.

45. On December 5, 2005, Wanda Russell was asked to sign, and did sign, a "Consent for Voluntary Inpatient Treatment."

46. The "Consent for Voluntary Inpatient Treatment" set forth the following "Instructions":

Before signing this form, your treatment should be explained to you and you must be given a copy of the Patient's Bill of Rights, the report of your initial evaluation and the proposed treatment plan must be completed and signed by you and the physician.

47. On December 6, 2005, Wanda Russell was not given a copy of the DuBois Regional Medical Center Patient's Bill of Rights.

48. On December 6, 2005, Wanda Russell was not given a copy of her initial evaluation.

49. On December 6, 2005, Wanda Russell was not given a copy of the proposed treatment plan which should have been completed and signed by her and a physician. Dr. Helmi, who made the decision to admit Wanda Russell to the psychiatric unit, did not explain the proposed treatment plan or sign the "Description of Proposed Treatment Plan" and "Description of Proposed Restrictions and Restraints."

50. On December 6, 2005, at or about 0200 hours, Wanda Russell was admitted to the DRMC Behavioral Unit by Kim Hendricks, R.N. ["Nurse Hendricks"], onto Dr. Bobrin's Service.

51. On December 6, 2005, at no time prior to, or at the time of her admission at 0200 hours to the DRMC Behavioral Unit, was Wanda Russell evaluated by a psychiatrist, including Dr. Bradley, Dr. Bobrin, or Dr. Helmi.

52. On December 6, 2005, at or about 0200 hours, Wanda Russell told Nurse Hendricks that "she was lied to about coming here for an admission from her family" and reported "she is unable to use left arm and leg. Patient complains of not wanting to stay."

53. On December 6, 2005, at or about 0330 hours, Wanda Russell fell out of bed in the DRMC Behavioral Unit.

54. On December 6, 2005, at or about 0643 hours, Dr. Bradley performed a history and physical examination on Wanda Russell. Dr. Bradley obtained a history of present illness, among other things, as follows:

Wanda is a 47-year-old woman who had been readmitted to the

West division for left sided weakness. She had had a workup that included a normal CT of the head. She was discharged and re-presented to the ER with nervousness and I guess there was a question regarding the extent of the left sided weakness present and the fact it was noted that the person was under a lot of stress. She is hypertensive, hyperlipidemic, and an insulin dependent diabetic. I guess she was persuaded to be transferred to the psyche unit.

55. On December 6, 2005, during his physical examination of Wanda Russell, Dr. Bradley found, among other things, "There is some left upper extremity weakness and facial asymmetry" that was "hard to evaluate since she is so anxious."

56. On December 6, 2005, at the time Dr. Bradley initially evaluated Wanda Russell, Dr. Bradley formulated and initiated the plan that "the patient is admitted for psyche evaluation and treatment."

57. On December 6, 2005, at the time of his initial evaluation, Dr. Bradley did not transfer Wanda Russell back to a medical unit for evaluation of her left sided weakness or facial asymmetry.

58. On December 6, 2005, at the time of his initial evaluation, Dr. Bradley did not obtain, or order to be obtained, a neurology consultation for Wanda Russell.

59. On December 6, 2005, at the time of his initial evaluation, Dr. Bradley did not have performed, or order to be performed, an MRI scan of the head or MRA on Wanda Russell.

60. On December 6, 2005, at the time of his initial evaluation, Dr. Bradley did not diagnose Wanda Russell as having an evolving or "stuttering" cerebrovascular accident.

61. On December 6, 2005, the nursing staff from the DRMC Behavioral Unit attempted to contact Dr. Helmi at 0955 hours, first by beeper and eventually by cell phone, seeking information

about Wanda Russell.

62. On December 6, 2005, at or about 0955 hours, Dr. Helmi informed the DRMC Behavioral Unit nurse, whose illegible signature appears at Exhibit "B" at page 3, by telephone "that she didn't remember the patient and asked where she came from."

63. On December 6, 2005, at or about 1005 hours, Dr. Helmi informed the nurse whose illegible signature appears at Exhibit "B" at page 3, by telephone that "she did not make the recommendation-Dr. Maloney asked for the admission and she agreed on the basis that the patient is suicidal."

64. On December 6, 2005, at or before 1028 hours, Dr. Bobrin evaluated Wanda Russell at the DRMC Behavioral Unit, and during the "Initial Evaluation/Mental Status Examination/Discharge Summary" report preparation, described that, among other things:

She describes being scared about her arm and leg. She awoke on Friday with trouble with her left arm and it has gotten worse since then. Her family said that this is true as well. She can stand as she demonstrates to me but has trouble lifting up her arm, not even able to brush her hair. She woke up and fell and has had two falls here on the unit and so she initially came in because scans x two do not show any signs of ischemia or infarct.

65. On December 6, 2005, Dr. Bobrin, at or before 1028 hours, Dr. Bobrin found that Wanda Russell exhibited no signs of "suicidal or homicidal ideations" on the mental status examination.

66. On December 6, 2005, at or before 1028 hours, Dr. Bobrin assessed Wanda Russell as follows

This is a 47-year-old with some mild depressive symptoms and acute onset of depressive mood after having stroke-like symptoms which has continued. Although it was thought that her

neurologic signs were out of proportion to her neurological symptoms, she does seem to have flaccid paralysis of the left arm and left droop of smile. With no gross infarct, there might be some infarct on brainstem or internal capsule. Will need MRI and neuro consult.

67. On December 6, 2005, at or before 1028 hours, Dr. Bobrin formulated a plan for Wanda Russell that included, among other things, "to transfer her back over to medicine where she will receive neuro consult and MRI, continue medical care. I do not think she needs acute psychiatric care at this time."

68. On December 6, 2005, at or about 1700 hours, Wanda Russell was readmitted by Dr. Maloney under his care to the DuBois Regional Medical Center West.

69. On December 6, 2005, on or before 1700 hours, Dr. Maloney performed a "History and Physical Examination" on Wanda Russell, and described Wanda Russell's admission to "the Adult Mental Health Unit," stating:

When she arrived there, Wanda apparently rescinded her voluntary admission, noting that she did not wish to be there. This was supported by her family, and today, secondary to reported falls in the Adult Mental Health Unit. I have requested that Wanda be returned for further evaluation in the observation status setting.

70. On December 6, 2005, Dr. Maloney ordered an MRI study to be performed on Wanda Russell on the following morning, and a neurology consultation to be performed by Ruediger Katz, M.D. ["Dr. Katz"].

71. On December 6, 2005, during his evaluation of Wanda Russell at or before 1916 hours, Dr. Katz found that Wanda Russell had multiple risk factors for cerebral ischemia.

72. On December 6, 2005, during his neurologic examination of Wanda Russell at or

before 1916 hours, Dr. Katz found, among other things, that Wanda Russell had a lower left facial droop, 0/5 strength in her left arm, and 3/5 strength in her left leg.

73. On December 7, 2005, an unenhanced MRI of the brain was performed on Wanda Russell at the DuBois Regional Medical Center, which demonstrated a “well circumscribed lesion of right basal ganglia suggestive of a subacute or chronic lacunar infarct. Very small lacunar infarct in the left basal ganglia.”

74. On December 8, 2005, John J. Ahn, M.D. performed a cardiology consultation on Wanda Russell, and diagnosed Wanda Russell as an “unfortunate 47-year-old female who has suffered a CVA.”

75. On December 8, 2005, Lynn Myers, M.D. [“Dr. Myers”], a rehabilitation medicine specialist, evaluated Wanda Russell, and found that:

The patient is an appropriate candidate for admission to the inpatient rehabilitation unit to address deficits and functional mobility and self care skills related to her recent CVA with left hemiparesis.

76. On December 9, 2005, Wanda Russell was transferred to the Physiatry Unit for inpatient rehabilitation at the DRMC Inpatient Rehabilitation Programs on the service of Dr. Myers.

77. The negligence of all defendants, jointly and severally, as set forth with specificity in the Counts below, directly and proximately caused, and increased the risk of harm of, the cerebrovascular accident suffered by Wanda Russell.

78. The negligence of all defendants, jointly and severally, as set forth with specificity in the Counts below, directly and proximately caused, and increased the risk of harm of, the neurologic injuries, impairments, and deficits suffered by Wanda Russell.

79. The negligence of all defendants, jointly and severally, as set forth with specificity in the Counts below, directly and proximately caused, and increased the risk of harm of, the following injuries and damages:

- a. irreversible cerebral ischemia;
- b. cerebrovascular accident;
- c. cerebral dysfunction;
- d. cognitive impairment;
- e. motor impairment;
- f. neurological impairment and injury;
- g. humiliation;
- h. embarrassment;
- i. anxiety and fright;
- j. pain and suffering;
- k. disfigurement;
- l. loss of life's pleasures;
- m. economic damages; and,
- n. medical expenses.

80. Wanda Russell suffered, and continues to suffer, grave neurologic and medical injuries, impairments, and deficits which were caused by, and whose risk of harm was increased by, the negligent conduct of defendants, jointly and severally, as more fully set forth with specificity in the Counts below.

COUNT I-NEGLIGENCE
(Plaintiff v. Dr. Devlin)

81. The previous paragraphs are herein incorporated by reference as though fully set forth.

82. The negligent conduct of Dr. Delvin during his medical evaluation, care, and treatment of Wanda Russell consisted of the following:

- a. failure to properly, timely, and adequately evaluate a patient with a diagnosis of transient ischemic attack;
- b. failure to properly, timely, and adequately evaluate a patient with a diagnosis of cerebrovascular accident;
- c. failure to properly, timely, and adequately evaluate a patient with fluctuating neurologic signs and symptoms;
- d. failure to properly and timely obtain the consultative services of a neurologist or specialist in neurology;
- e. failure to properly and timely obtain cerebral imaging with an MRI scan and/or MRA;
- f. failure to properly, timely, and adequately evaluate a patient with acute neurologic signs and symptoms;
- g. failure to timely, properly, and adequately evaluate, diagnose, and treat a "stuttering" stroke;
- h. failure to provide appropriate management and treatment of acute neurologic signs and symptoms;
- i. failure to provide appropriate, adequate, and timely monitoring of a patient

- with a deteriorating neurologic status;
- j. failure to properly, timely, and adequately evaluate a patient with acute deteriorating neurologic status;
 - k. failure to provide appropriate management of an evolving cerebrovascular accident;
 - l. failure to provide appropriate, adequate, and timely monitoring of a patient with a signs and symptoms of an evolving cerebrovascular accident or neurologic crisis;
 - m. failure to properly, timely, and adequately evaluate a patient with signs and symptoms of an evolving neurologic dysfunction;
 - n. failure to obtain appropriate, adequate, and timely neuro-radiologic evaluation; and,
 - o. failure to properly, timely, and adequately recognize and appreciate signs and symptoms of evolving neurologic dysfunction.

COUNT II-NEGLIGENCE
(Plaintiff v. Dr. Maloney)

83. The previous paragraphs are herein incorporated by reference as though fully set forth.

84. The negligent conduct of Dr. Delvin during his medical evaluation, care, and treatment of Wanda Russell consisted of the following:

- a. failure to properly, timely, and adequately evaluate a patient with a diagnosis of transient ischemic attack;
- b. failure to properly, timely, and adequately evaluate a patient with a diagnosis

- of cerebrovascular accident;
- c. failure to properly, timely, and adequately evaluate a patient with fluctuating neurologic signs and symptoms;
 - d. failure to properly and timely obtain the consultative services of a neurologist or specialist in neurology;
 - e. failure to properly and timely obtain cerebral imaging with an MRI scan and/or MRA;
 - f. failure to properly, timely, and adequately evaluate a patient with acute neurologic signs and symptoms;
 - g. failure to timely, properly, and adequately evaluate, diagnose, and treat a “stuttering” stroke;
 - h. failure to provide appropriate management and treatment of acute neurologic signs and symptoms;
 - i. failure to provide appropriate, adequate, and timely monitoring of a patient with a deteriorating neurologic status;
 - j. failure to properly, timely, and adequately evaluate a patient with acute deteriorating neurologic status;
 - k. failure to provide appropriate management of a cerebrovascular accident;
 - l. failure to provide appropriate, adequate, and timely monitoring of a patient with a signs and symptoms of an evolving cerebrovascular accident or neurologic crisis;
 - m. failure to properly, timely, and adequately evaluate a patient with signs and

symptoms of an evolving neurologic dysfunction;

- n. failure to provide appropriate, adequate, and timely neuro-radiologic evaluation;
- o. failure to provide timely, appropriate, and adequate medical evaluation prior to transfer to a psychiatric unit;
- p. failure to provide timely, appropriate, and adequate neurologic and neuro-radiologic evaluation prior to transfer to a psychiatric unit;
- q. failure to provide timely, appropriate, and adequate psychiatric and psychologic evaluation prior to transfer to a psychiatric unit;
- r. failure to obtain timely, appropriate, and adequate medical evaluation prior to transfer to a psychiatric unit;
- s. failure to obtain timely, appropriate, and adequate psychiatric and psychologic evaluation prior to transfer to a psychiatric unit;
- t. failure to take an adequate and appropriate medical history;
- u. failure to take an adequate and appropriate psychiatric and psychological history;
- v. failure to take an adequate and appropriate medical care and treatment during hospitalization in a psychiatric unit;
- w. failure to effect a timely transfer from the psychiatric unit back to the medical unit;
- x. failure to effect a timely transfer from the psychiatric unit back to the medical unit for neurologic evaluation and treatment;

- y. failure to provide timely, adequate, and appropriate management of a stroke;
and,
- z. failure to properly, timely, and adequately recognize and appreciate signs and symptoms of evolving neurologic dysfunction.

COUNT III-NEGLIGENCE
(Plaintiff v. Dr. Helmi)

85. The previous paragraphs are herein incorporated by reference as though fully set forth.

86. The negligent conduct of Dr. Helmi during her evaluation, care, and treatment of Wanda Russell consisted of the following:

- a. failure to properly, timely, and adequately evaluate a patient with a diagnosis of transient ischemic attack;
- b. failure to properly, timely, and adequately evaluate a patient with a diagnosis of cerebrovascular accident;
- c. failure to properly, timely, and adequately evaluate a patient with fluctuating neurologic signs and symptoms;
- d. failure to properly and timely obtain the consultative services of a neurologist or specialist in neurology;
- e. failure to properly and timely obtain cerebral imaging with an MRI scan or MRA;
- f. failure to properly, timely, and adequately evaluate a patient with acute

- neurologic signs and symptoms;
- g. failure to timely, properly, and adequately evaluate, diagnose, and treat a “stuttering” stroke;
 - h. failure to provide appropriate management and treatment of acute neurologic signs and symptoms;
 - i. failure to provide appropriate, adequate, and timely monitoring of a patient with a deteriorating neurologic status;
 - j. failure to properly, timely, and adequately evaluate a patient with acute deteriorating neurologic status;
 - k. failure to provide appropriate management of an evolving cerebrovascular accident or neurologic crisis;
 - l. failure to provide appropriate, adequate, and timely monitoring of a patient with a signs and symptoms of an evolving cerebrovascular accident;
 - m. failure to properly, timely, and adequately evaluate a patient with signs and symptoms of an evolving neurologic dysfunction;
 - n. failure to provide appropriate, adequate, and timely neuro-radiologic evaluation;
 - o. failure to provide timely, appropriate, and adequate medical evaluation prior to transfer to a psychiatric unit;
 - p. failure to provide timely, appropriate, and adequate neurologic and neuro-radiologic evaluation prior to transfer to a psychiatric unit;
 - q. failure to provide timely, appropriate, and adequate psychiatric and

- psychologic evaluation prior to transfer to a psychiatric unit;
- r. failure to perform a timely, adequate, or appropriate psychiatric history prior to transfer to a psychiatric unit;
 - s. failure to obtain timely, appropriate, and adequate medical evaluation prior to transfer to a psychiatric unit;
 - t. failure to obtain timely, appropriate, and adequate psychiatric and psychologic evaluation prior to transfer to a psychiatric unit;
 - u. failure to perform an adequate and appropriate medical history;
 - v. failure to perform any medical history, psychiatric history, or physical examination prior to or at the time of transfer to a psychiatric unit;
 - w. failure to see, evaluate, or speak with the patient prior to transfer to a psychiatric unit;
 - x. failure to effect a timely transfer from the psychiatric unit back to the medical unit;
 - y. failure to evaluate falls in the psychiatric unit; and,
 - z. failure to re-evaluate the medical status and or psychiatric status of the patient following transfer to the psychiatric unit.

COUNT IV-NEGLIGENCE
(Plaintiff v. Dr. Bradley)

87. The previous paragraphs are herein incorporated by reference as though fully set forth.
88. The negligent conduct of Dr. Bradley during his medical evaluation, care, and

treatment of Wanda Russell consisted of the following:

- a. failure to properly, timely, and adequately evaluate a patient with a diagnosis of transient ischemic attack;
- b. failure to properly, timely, and adequately evaluate a patient with a diagnosis of cerebrovascular accident;
- c. failure to properly, timely, and adequately evaluate a patient with fluctuating neurologic signs and symptoms;
- d. failure to properly and timely obtain the consultative services of a neurologist or specialist in neurology;
- e. failure to properly and timely obtain cerebral imaging with an MRI scan and/or MRA;
- f. failure to properly, timely, and adequately evaluate a patient with acute neurologic signs and symptoms;
- g. failure to timely, properly, and adequately evaluate, diagnose, and treat a “stuttering” stroke;
- h. failure to provide appropriate management and treatment of acute neurologic signs and symptoms;
- i. failure to provide appropriate, adequate, and timely monitoring of a patient with a deteriorating neurologic status;
- j. failure to properly, timely, and adequately evaluate a patient with acute deteriorating neurologic status;
- k. failure to provide appropriate management of an evolving cerebrovascular

accident or neurologic crisis;

- l. failure to provide appropriate, adequate, and timely monitoring of a patient with a signs and symptoms of an evolving cerebrovascular accident;
- m. failure to properly, timely, and adequately evaluate a patient with signs and symptoms of an evolving neurologic dysfunction;
- n. failure to provide appropriate, adequate, and timely neuro-radiologic evaluation;
- o. failure to provide timely, appropriate, and adequate medical evaluation prior to transfer to a psychiatric unit;
- p. failure to provide timely, appropriate, and adequate neurologic and neuro-radiologic evaluation prior to transfer to a psychiatric unit;
- q. failure to provide timely, appropriate, and adequate psychiatric and psychologic evaluation prior to transfer to a psychiatric unit;
- r. failure to perform a timely, adequate, or appropriate psychiatric history prior to transfer to a psychiatric unit;
- s. failure to obtain timely, appropriate, and adequate medical evaluation prior to transfer to a psychiatric unit;
- t. failure to obtain timely, appropriate, and adequate psychiatric and psychologic evaluation prior to transfer to a psychiatric unit;
- u. failure to perform an adequate and appropriate medical history;
- v. failure to see or speak with the patient prior to transfer to a psychiatric unit;
- w. failure to effect a timely transfer from the psychiatric unit back to the medical

unit;

- x. failure to evaluate falls in the psychiatric unit; and,
- y. failure to re-evaluate the medical status following transfer to the psychiatric unit.

COUNT IV-NEGLIGENCE
(Plaintiff v. Dr. Bobrin)

89. The previous paragraphs are herein incorporated by reference as though fully set forth.

90. The negligent conduct of Dr. Bobrin during his medical evaluation, care, and treatment of Wanda Russell consisted of the following:

- a. failure to properly, timely, and adequately evaluate a patient with a diagnosis of transient ischemic attack;
- b. failure to properly, timely, and adequately evaluate a patient with a diagnosis of cerebrovascular accident;
- c. failure to properly, timely, and adequately evaluate a patient with fluctuating neurologic signs and symptoms;
- d. failure to properly and timely obtain the consultative services of a neurologist or specialist in neurology;
- e. failure to properly and timely obtain cerebral imaging with an MRI scan and/or MRA;
- f. failure to properly, timely, and adequately evaluate a patient with acute neurologic signs and symptoms;
- g. failure to timely, properly, and adequately evaluate, diagnose, and treat a

“stuttering” stroke;

- h. failure to provide appropriate management and treatment of acute neurologic signs and symptoms;
- i. failure to provide appropriate, adequate, and timely monitoring of a patient with a deteriorating neurologic status;
- j. failure to properly, timely, and adequately evaluate a patient with acute deteriorating neurologic status;
- k. failure to provide appropriate management of an evolving cerebrovascular accident or neurologic crisis;
- l. failure to provide appropriate, adequate, and timely monitoring of a patient with a signs and symptoms of an evolving cerebrovascular accident;
- m. failure to properly, timely, and adequately evaluate a patient with signs and symptoms of an evolving neurologic dysfunction;
- n. failure to provide appropriate, adequate, and timely neuro-radiologic evaluation;
- o. failure to provide timely, appropriate, and adequate medical evaluation prior to transfer to a psychiatric unit;
- p. failure to provide timely, appropriate, and adequate neurologic and neuro-radiologic evaluation prior to transfer to a psychiatric unit;
- q. failure to provide timely, appropriate, and adequate psychiatric and psychologic evaluation prior to transfer to a psychiatric unit;
- r. failure to perform a timely, adequate, or appropriate psychiatric history prior

- to transfer to a psychiatric unit;
- s. failure to obtain timely, appropriate, and adequate medical evaluation prior to transfer to a psychiatric unit;
 - t. failure to obtain timely, appropriate, and adequate psychiatric and psychologic evaluation prior to transfer to a psychiatric unit;
 - u. failure to perform an adequate and appropriate medical history;
 - v. failure to see or speak with the patient prior to transfer to a psychiatric unit;
 - w. failure to effect a timely transfer from the psychiatric unit back to the medical unit;
 - x. failure to evaluate falls in the psychiatric unit; and,
 - y. failure to re-evaluate the medical status following transfer to the psychiatric unit.

COUNT V-VICARIOUS AND CORPORATE (DIRECT) NEGLIGENCE
**(Plaintiff v. DuBois Regional Medical Center a/k/a/
DuBois Regional Medical Center West a/d/b/a DRMC Behavioral Unit a/k/a
DRMC East Behavioral Unit a/k/a DRMC Behavioral Health Outpatient Clinic)**

91. The previous paragraphs are herein incorporated by reference as though fully set forth.
92. At all times material hereto, DuBois Regional Medical Center a/k/a/ DuBois Regional Medical Center West a/d/b/a DRMC Behavioral Unit a/k/a DRMC East Behavioral Unit a/k/a DRMC Behavioral Health Outpatient Clinic was acting by and through its actual agents, ostensible agents, servants, and/or employees, including Dr. Maloney, Devlin, Helmi, Bradley, and Bobrin, and the nursing staff who provided nursing care and treatment to Wanda Russell during her hospitalization in the DRMC Behavioral Unit, whose identities are partially set forth in Exhibit "B."

These actual agents, ostensible agents, servants, and/or employees provided medical care and treatment to Wanda Russell while acting within the scope of their medical and nursing duties. Accordingly, the DuBois Regional Medical Center a/k/a/ DuBois Regional Medical Center West a/d/b/a DRMC Behavioral Unit a/k/a DRMC East Behavioral Unit a/k/a DRMC Behavioral Health Outpatient Clinic is vicariously and derivatively liable for the negligent acts and omissions of these actual agents, ostensible agents, servants, and/or employees under theories of agency, master-servant, respondeat superior, and/or right of control.

93. The Dubois Regional Medical Center is liable for the conduct of the nurses who provided psychiatric nursing care to Wanda Russell on the DRMC Behavioral Unit on December 5 to 6, 2005, whose identities are partially set forth in Exhibit "B," and whose negligence consisted of:

- a. failure to report falls in a patient exhibiting neurologic impairment to a physician at the time the falls occurred;
- b. failure to report neurologic signs and symptoms to the physician staff;
- c. failure to obtain appropriate psychiatric evaluation at the time the patient arrived on the psychiatric unit;
- d. failure to insure that the protocol for psychiatric unit was adhered to and followed, including provision of the Patient's Bill of Rights and the report of initial evaluation and the proposed treatment plan completed and signed by the patient and the physician;
- e. failure to obtain medical evaluation for signs and symptoms during the nursing evaluation of the patient of evolving neurologic dysfunction;

- f. failure to timely, appropriately, and adequately notify the physician medical staff of evolving of neurologic signs and symptoms;
- g. failure to provide appropriate nursing, monitoring and care to a patient with evolving and shifting neurologic signs and symptoms; and,
- h. failure to provide adequate, appropriate, and timely nursing care in the setting of shifting neurologic signs and symptoms.

94. In addition, pursuant to the decision of the Supreme Court of Pennsylvania in Thompson v. Nason, 591 A.2d 703 (1991) and its progeny of case law, at all relevant times hereto, DuBois Regional Medical Center a/k/a/ DuBois Regional Medical Center West a/d/b/a DRMC Behavioral Unit a/k/a DRMC East Behavioral Unit a/k/a DRMC Behavioral Health Outpatient Clinic owed non-delegable duties directly to Wanda Russell which included:

- a. a duty to use reasonable care in the maintenance of safe and adequate facilities and equipment;
- b. a duty to select and retain only competent physicians;
- c. a duty to oversee all persons who practice medicine within its walls as to patient care; and,
- d. a duty to formulate, adopt, and enforce adequate rules and policies to ensure quality care for the patients.

95. The corporate (direct) negligence of the DuBois Regional Medical Center a/k/a/ DuBois Regional Medical Center West a/d/b/a DRMC Behavioral Unit a/k/a DRMC East Behavioral Unit a/k/a DRMC Behavioral Health Outpatient Clinic arising out of the medical evaluation, care, and treatment of Wanda Russell consisted of the following:

symptoms;

- j. failure to select and retain only competent physicians proficient in the evaluation patients prior to voluntary transfer to a psychiatric unit;
- k. failure to formulate, adopt, and/or enforce adequate rules and policies with respect to evaluation of patients prior to transfer to a psychiatric unit, including evaluation by a psychiatrist;
- l. failure to formulate, adopt, and/or enforce adequate rules and policies with respect to the evaluation, re-evaluation, and management of patients admitted to a psychiatric unit with fluctuating neurologic signs and symptoms;
- m. failure to formulate, adopt, and/or enforce adequate rules and policies with respect to the timely evaluation of patients admitted to the psychiatric unit;
- n. failure to formulate, adopt, and/or enforce adequate rules and policies with respect to the reporting and evaluation of falls by the nursing staff in the psychiatric unit;
- o. failure to formulate, adopt, and/or enforce adequate rules and policies with respect to the transfer of patients with acute medical emergencies out of the psychiatric unit;
- p. failure to formulate, adopt, and/or enforce adequate rules and policies with respect to holding patients with acute medical complaints within the confines of the psychiatric unit;
- q. failure to formulate, adopt, and/or enforce adequate rules and policies with respect to holding patients with acute neurologic complaints and falls within

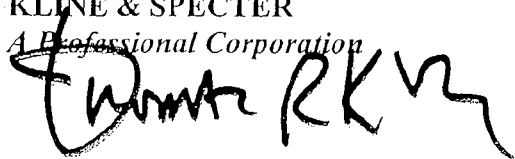
the confines of the psychiatric unit;

- r. failure to formulate, adopt, and/or enforce adequate rules and policies with respect to obtaining timely transfer of a patient with signs and symptoms of an evolving stroke to a medical unit from the psychiatric unit;
- s. failure to oversee all persons who practice medicine within its walls as to patient care to ensure that an appropriate psychiatric evaluation by a psychiatrist occurs prior to the transfer of a patient to a psychiatric unit;
- t. failure to oversee all persons who practice medicine within its walls as to patient care to ensure that an appropriate medical evaluation occurs prior to the transfer of a patient to a psychiatric unit;
- u. failure to oversee all persons who practice medicine within its walls as to patient care to ensure that an appropriate medical evaluation occurs at the time of transfer of a patient to a psychiatric unit; and,
- v. failure to oversee all persons who practice medicine within its walls as to patient care to ensure that an appropriate psychiatric evaluation occurs at the time of transfer of a patient to a psychiatric unit.

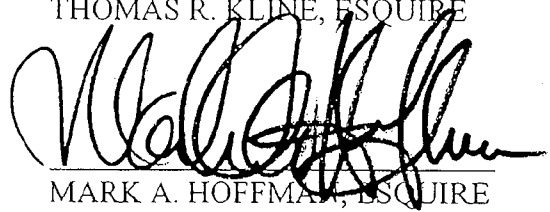
WHEREFORE, Plaintiff Wanda Russell claims damages against all defendants, jointly and severally, including all damages cognizable under Pennsylvania law for the causes of action set forth in the Civil Action Complaint, in an amount in excess of the prevailing arbitration limits, exclusive of pre-judgment interest and post-judgment interest and costs.

KLINE & SPECTER
A Professional Corporation

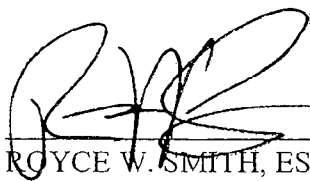
By:


THOMAS R. KLINE, ESQUIRE

By:


MARK A. HOFFMAN, ESQUIRE

By:


ROYCE W. SMITH, ESQUIRE

Date:

KLINE & SPECTER*A Professional Corporation*

By: THOMAS R. KLINE, ESQUIRE
MARK A. HOFFMAN, ESQUIRE
ROYCE W. SMITH, ESQUIRE

Attorney ID Nos.: 28895/ 84443/201295

The Nineteenth Floor

1525 Locust Street

Philadelphia, Pennsylvania 19102

(215) 772-1000

Attorneys for Plaintiff

WANDA RUSSELL

426 North Michael Street

Saint Mary's, Pennsylvania 15857

Plaintiff,

v.

JAMES E. DEVLIN, M.D. and

MARK W. MALONEY, D.O. and

DRMC PRIMARY CARE

ASSOCIATES and

SANAA HELMI, M.D. and

THOMAS J. BRADLEY, M.D. and

BRADFORD BOBRIN, M.D. and

DuBOIS REGIONAL MEDICAL

CENTER a/ka DuBOIS REGIONAL

MEDICAL CENTER WEST

a/d/b/a DRMC BEHAVIORAL

UNIT a/k/a DRMC EAST BEHAVIORAL

UNIT a/k/a DRMC BEHAVIORAL

HEALTH OUTPATIENT CLINIC

Defendants.

COURT OF COMMON PLEAS
COUNTY OF CLEARFIELD

DOCKET NO.

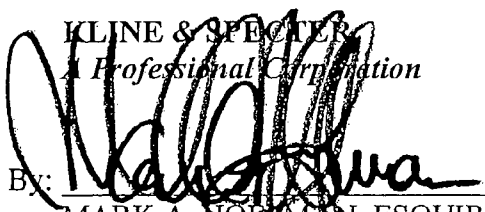
CERTIFICATES OF MERIT

I, Mark A. Hoffman, Esquire, am an attorney for the plaintiff in the above-captioned matter.

Pursuant to Pa.R.C.P. No. 1042.1, I hereby certify appropriate licensed professionals have provided me with written statements stating that there exists a reasonable basis and probability to conclude that the care, skill, or knowledge exercised or exhibited by Drs. Devlin, Maloney, Helmi, Bradley, and Bobrin, and the psychiatric nursing staff, and the DuBois Regional Medical Center and its

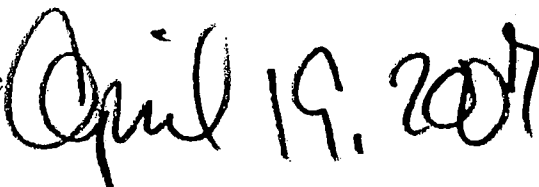
affiliated or associated entities as captioned above, with respect to the treatment, practice, or work that is the subject of this Civil Action Complaint, fell outside of acceptable professional and institutional standards, and that such conduct was a substantial factor in causing injuries, or bringing about harm, to Wanda Russell. I further certify that there are additional claims which are based on allegations that licensed professionals for whom the hospital-defendant, DuBois Regional Medical Center and its affiliated or associated entities as captioned above, and/or DRMC Primary Care, and/or both, are responsible and derivatively or vicariously liable deviated from accepted professional standards of medical care, and caused the aforementioned injuries and harm. I additionally certify that appropriate licensed professionals have supplied written statements to me concluding that there exists a reasonable basis and probability that the DuBois Regional Medical Center, and its affiliated or associated entities as captioned above, deviated from accepted standards of institutional care, giving rise to claims of direct (corporate) negligence pursuant to the decision of the Supreme Court of Pennsylvania in Thompson v. Nason, 591 A.2d 703 (1991) and its progeny of case law. The licensed professionals who have provided me with these written statements have also concluded that the aforementioned deviations from accepted standards of medical and institutional care on the part of the individual named licensed professional, corporate, and hospital defendants was a substantial factor causing, or increasing the risk of harm, to Wanda Russell.

KLINE & SPECTER
A Professional Corporation

By: 

MARK A. HOFFMAN, ESQUIRE
Attorneys for Plaintiff

Date



Behavioral Health Services Daily Notes Extension

Date 12/16/05

3218 47Y MH 0114-01 MH
RUSSELL, WANDA
BOBRIN, BRADFORD
09/19/58 F 12/06/05
0534000768 UP


Sticker

12/16/05 8:20am - Pt's sister, Darlene, Nortum called and I spoke to her. According to Darlene, she was in to visit her sister last evening. Dr. Malony came in at 7 or 8pm to talk to the pt. he told her that he feels her loss of mobility is due to depression. He did not say anything about coming to Mental Health. She did not say anything suicidal or hopeless. Darlene said she tried to talk to Dr. Malony about how soon her sister would be PIC but he said he was busy. Darlene does not feel her sister should be at Mental Health.

8:50am - I spoke to the secretary ^{sue} @ Dr. Maloney's office & she was unable to give me any information. Dr. Maloney called off today + she would not be talking to him until late this afternoon.

9:00am - I spoke to Joan on 3rd floor about the Pt. She told me that she was told that Dr. Maloney was afraid she would hurt herself. Apparently, Pt was requesting disability & Dr. Maloney said he couldn't do that. At that point he felt she wasn't safe.

9:20am Pt's sister Darlene called again & asked

Behavioral Health Services Daily Notes Extension

Date 12/6/05

353218 47Y MH 0114-01 MH
RUSSELL, WANDA
BOBRIN, BRADFORD
09/19/58 F 12/06/05
0534000768 UP



Sticker

if she could come now to visit her sister + talk with us.

9:35am Tracey from 3rd floor called + asked me what the situation is. Neither her or anyone else knew specific information on the Pt.

9:45am Dr. Maloney called and spoke to me. He feels the pt is going to stop taking her meds although she did not state that. He reports that she's going through a lot of stress - a divorce, bankruptcy. He said that she was admitted for left sided weakness. Nurses reported to Dr. Maloney that they observed her using her left arm + and eating when she thought no one was looking. He was unable to find any medical problems. He spoke to Dr. Helmi + according to him it was her recommendation that she be admitted + tx be started.

I then handed the phone to UR for them to collect information.

9:55am I had already beeped Dr. Helmi twice, + she had not returned my call yet. I thought her beeper may be off so I called her cell phone. She answered + I asked if she had any information on the pt. She said,

Behavioral Health Services Daily Notes Extension
Date 12/6/05

053218 47Y MH 01 MH
RUSSELL, WANDA
BOBRIN, BRADFORD
09/19/58 F 12/06/05
0534000768 UP



Sticker

that she didn't remember the pt + asked where she came from, I stated 3rd floor - She said she was c-pts & would have to return my call.

10:05 am - Dr. Helmi returned my call, I asked her the information regarding the pt. She was under the impression that the pt was severely depressed + actively suicidal. She did not make the recommendation - Dr. Maloney asked for the admission and she agreed on the basis that the pt is suicidal. She will support our decision at this point. Brittge Bowler Jr

VERIFICATION

I, WANDA RUSSELL, plaintiff in this civil action, hereby verify that the within Civil Action Complaint is based upon first-hand information, and upon information furnished to my counsel and obtained by him in the course of counsel's investigation of this lawsuit and the facts involved. The language of the document is that of counsel and not my own. To the extent that the contents of the document are based upon information furnished to counsel and obtained by him during the course of this lawsuit and counsel's investigation of the facts giving rise to this lawsuit, I have relied upon counsel in taking this verification. All statements are founded upon reasonable belief. This verification is made subject to the penalties of 18 Pa.C.S. §4904 relating to unsworn falsification to authorities.

Wanda Russell

Wanda Russell

Date: 4/19/07

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

WANDA RUSSELL,

Plaintiff,

vs.

JAMES E. DEVLIN, M.D.; MARK W.
MALONEY, D.O.; DRMC PRIMARY
CARE ASSOCIATES; SANAA HELMI,
M.D.; THOMAS J. BRADLEY, M.D.;
BRADFORD BOBRIN, M.D.; DUBOIS
REGIONAL MEDICAL CENTER a/k/a
DUBOIS REGIONAL MEDICAL CENTER
WEST a/d/b/a DRMC BEHAVIORAL
UNIT a/k/a DRMC EAST BEHAVIORAL
UNIT a/k/a DRMC BEHAVIORAL
HEALTH OUTPATIENT CLINIC,

Defendants.

CIVIL DIVISION

No. 07-644-CD

Code:

Issue No:

ANSWER

Filed on behalf of James E. Devlin,
M.D., Defendant

Counsel of Record for This Party:

M. Brian O'Connor, Esquire
PA I.D. 56795

MATIS BAUM RIZZA O'CONNOR
Firm #983
Four Gateway Center
444 Liberty Avenue, Suite 300
Pittsburgh, PA 15222

(412) 338-4750

FILED
m 12:56 PM No ec
AUG 06 2007 (6K)

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

WANDA RUSSELL,	)	CIVIL DIVISION
	)	
Plaintiff,	)	No. 07-644-CD
	)	
vs.	)	
	)	
JAMES E. DEVLIN, M.D.; MARK W.	)	
MALONEY, D.O.; DRMC PRIMARY	)	
CARE ASSOCIATES; SANAA HELMI,	)	
M.D.; THOMAS J. BRADLEY, M.D.;	)	
BRADFORD BOBRIN, M.D.; DUBOIS	)	
REGIONAL MEDICAL CENTER a/k/a	)	
DUBOIS REGIONAL MEDICAL CENTER	)	
WEST a/d/b/a DRMC BEHAVIORAL	)	
UNIT a/k/a DRMC EAST BEHAVIORAL	)	
UNITa/k/a DRMC BEHAVIORAL	)	
HEALTH OUTPATIENT CLINIC,	)	
	)	
Defendants.	)	
	)	

ANSWER

James E. Devlin, M.D., defendant, by his attorneys, Matis Baum Rizza O'Connor, files the following Answer to Plaintiff's Complaint:

1. If any factual allegations in the Complaint are not responded to in the following paragraphs, after reasonable investigation, defendant is without knowledge or information sufficient to form a belief as to the truth of said allegations.

2. Each paragraph of this Answer incorporates by reference all of the other paragraphs of the Answer.

3. Paragraphs 1 and 2 are admitted.

4. Paragraphs 3, 4, 8, 9, 10, 11 and 13 are directed to other defendants and responses thereto are not required of this defendant.

5. Paragraph 5 states conclusions of law to which no response is required. To the extent an Answer is required it is specifically denied that Dr. Devlin was an agent, servant, or employee of DRMC Primary Care Associates.

6. Paragraph 6 is admitted in part and denied in part. The first sentence of paragraph 6 is admitted. The second sentence of paragraph 6 states a conclusion of law to

which no response is required. To the extent a response is required, it is specifically denied that Dr. Devlin was an agent servant or employee of Dr. Malone.

7. Paragraph 7 is admitted in part and denied in part. The first sentence of paragraph 7 is admitted. The second sentence of paragraph 7 states a conclusion of law to which no response is required. To the extent said paragraph implies that Dr. Devlin was negligent and to the extent said paragraph implies that Dr. Devlin was an agent, servant or employee of DRMC Primary Care Associations said sentence is denied.

8. Paragraph 12 states conclusions of law to which no response is required. To the extent a response is required, it is specifically denied that Dr. Devlin was an agent, servant or employee of DuBois Regional Medical Center and/or the DRMC Behavior Unit.

9. Paragraph 14 states a conclusion of law to which no response is required.

10. After reasonable investigation, defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraphs 15 through 21 and 32 through 76.

11. The allegations in paragraphs 22 through 31 are admitted insofar as said allegations are consistent with complete recordations in the medical records which are incorporated by reference. Insofar as said allegations are inconsistent with, contrary to, or not recorded in the medical records, after reasonable investigation, defendant is without knowledge or information sufficient to form a belief as to the truth of said allegations.

12. Paragraphs 77 through 80 are denied.

COUNT I – NEGLIGENCE
(Plaintiff v. Dr. Devlin)

13. In response to paragraph 81, defendant incorporates by reference the paragraphs of this Answer which respond to the paragraphs incorporated in paragraph 81.

14. Paragraph 82 is denied.

COUNT II – NEGLIGENCE
(Plaintiff v. Dr. Maloney)

15. In response to paragraph 83, defendant incorporates by reference the paragraphs of this Answer which respond to the paragraphs incorporated in paragraph 83.

16. The allegations in paragraph 84 is directed to another defendant and responses thereto are not required of this defendant. To the extent said paragraph implies that Dr. Devlin was negligent said paragraph is denied.

COUNT III – NEGLIGENCE
(Plaintiff v. Dr. Helmi)

17. In response to paragraph 85, defendant incorporates by reference the paragraphs of this Answer which respond to the paragraphs incorporated in paragraph 85.

18. The allegations in paragraph 86 are directed to another defendant and responses thereto are not required of this defendant. To the extent said paragraph implies that Dr. Devlin was negligent said paragraph is denied.

COUNT IV – NEGLIGENCE
(Plaintiff v. Dr. Bradley)

19. In response to paragraph 87, defendant incorporates by reference the paragraphs of this Answer which respond to the paragraphs incorporated in paragraph 87.

20. The allegations in paragraph 88 are directed to another defendant and responses thereto are not required of this defendant. To the extent said paragraph implies that Dr. Devlin was negligent said paragraph is denied.

COUNT IV – NEGLIGENCE
(Plaintiff v. Dr. Bobrin)

21. In response to paragraph 89, defendant incorporates by reference the paragraphs of this Answer which respond to the paragraphs incorporated in paragraph 89.

22. The allegations in paragraph 90 are directed to another defendant and responses thereto are not required of this defendant. To the extent said paragraph implies that Dr. Devlin was negligent said paragraph is denied.

COUNT V – VICARIOUS AND CORPORATE (DIRECT) NEGLIGENCE
(Plaintiff v. DuBois Regional Medical Center a/k/a
DuBois Regional Medical Center West a/d/b/a
DRMC Behavior Unit a/k/a DRMC East Behavior Unit
a/k/a DRMC Behavior Health Outpatient Clinic)

23. In response to paragraph 91, defendant incorporates by reference the paragraphs of this Answer which respond to the paragraphs incorporated in paragraph 91.

24. The allegations in paragraph 92 are directed to another defendant and responses thereto are not required of this defendant. To the extent said paragraph implies that Dr. Devlin was negligent said paragraph is denied.

25. Paragraphs 93, 94 and 95 are directed to other defendants and responses thereto are not required of this defendant. To the extent said paragraphs imply that Dr. Devlin was negligent, said paragraphs are denied.

WHEREFORE, defendant denies any liability to plaintiffs and demands judgment.

Jury trial demanded.

MATIS BAUM RIZZA O'CONNOR

By: M. Brian O'Connor
M. Brian O'Connor, Esquire
PA ID 56795
Attorneys for Defendant James E. Devlin,
M.D.

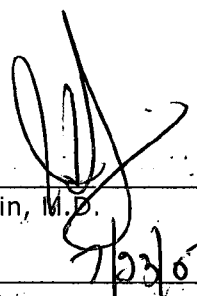
Matis Baum Rizza O'Connor
Four Gateway Center
444 Liberty Avenue
Suite 300
Pittsburgh, PA 15222
(412) 338-4750

26.28529

VERIFICATION

I, James E. Devlin, M.D., have read the foregoing Answer. The statements therein are correct to the best of my personal knowledge or information and belief.

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



James E. Devlin, M.D.

Date: 7/23/07

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that I served a true and correct copy of the foregoing Answer upon all counsel of record by United States, First-class mail, postage prepaid, this 3rd day of August, 2007.

Thomas R. Kline, Esquire
Mark A. Hoffman, Esquire
Kline & Specter, P.C.
1525 Locust Street
Philadelphia, PA 19102

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

Lynn E. Bell, Esquire
Davies McFarland & Carroll, P.C.
The Tenth Floor
One Gateway Center
Pittsburgh, PA 15222-1416

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

David R. Bahl, Esquire
Richard F. Schluter, Esquire
McCormick Law Firm
835 West Fourth Street
Williamsport, PA 17701

Darryl R. Slimak, Esquire
McQuaid Blasko
811 University Drive
State College, PA 16801-6699

MATIS BAUM RIZZA O'CONNOR

M. Brian O'Connor
M. Brian O'Connor

KLINE & SPECTER

A Professional Corporation

By: THOMAS R. KLINE, ESQUIRE
MARK A. HOFFMAN, ESQUIRE
ROYCE W. SMITH, ESQUIRE

Attorney ID Nos.: 28895/ 84443/201295
The Nineteenth Floor
1525 Locust Street
Philadelphia, Pennsylvania 19102
(215) 772-1000

Attorneys for Plaintiff

WANDA RUSSELL

v.

JAMES E. DEVLIN, M.D. and
MARK W. MALONEY, D.O. and
DRMC PRIMARY CARE ASSOCIATES
and SANAA HELMI, M.D. and
THOMAS J. BRADLEY, M.D. and
BRADFORD BOBRIN, M.D. and
DuBOIS REGIONAL MEDICAL
CENTER a/ka DuBOIS REGIONAL
MEDICAL CENTER WEST
a/d/b/a DRMC BEHAVIORAL
UNIT a/k/a DRMC EAST BEHAVIORAL
UNIT a/k/a DRMC BEHAVIORAL
HEALTH OUTPATIENT CLINIC
Defendants.

**COURT OF COMMON PLEAS
COUNTY OF CLEARFIELD**

DOCKET NO. 07-644-CD

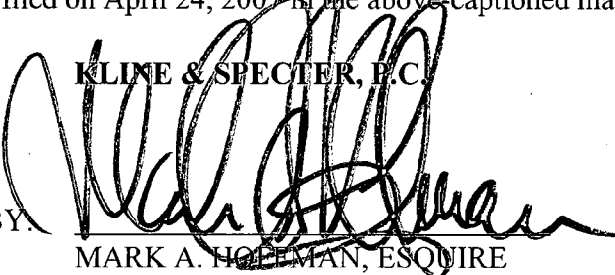
PRAECIPE TO REINSTATE COMPLAINT

TO THE PROTHONOTARY:

Kindly reinstate the Complaint filed on April 24, 2007 in the above-captioned matter.

KLINE & SPECTER, P.C.

BY:


MARK A. HOFFMAN, ESQUIRE
Attorney for Plaintiff

Date: August 16, 2007

FILED
m/11/16/07
AUG 17 2007
William A. Shaw
Prothonotary/Clerk of Courts
1cc 01
Compl. Reinstated
to Atty
Atty Ad. 7.00
(6c)

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY
PENNSYLVANIA

WANDA RUSSELL
(Plaintiff)

426 North Michael Street
(Street Address)

Saint Mary's, PA 15857
(City, State ZIP)

VS.

JAMES E. DEVLIN, M.D.
(Defendant)

1100 Main Street
(Street Address)

Brockway, PA 15824
(City, State ZIP)

(Additional Defendants
Continued on attached sheet)

CIVIL ACTION

No. 07-644-CD

Type of Case: Medical Malpractice

Type of Pleading: Civil Action Complaint

Filed on Behalf of:

Plaintiff, Wanda Russell
(Plaintiff/Defendant)

7-23-07 Document
Reinstated/Reissued to Sheriff/Attorney
for service.

[Signature]
Deputy Prothonotary

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

APR 24 2007

Attest.

[Signature]
Prothonotary/
Clerk of Courts

Thomas R. Kline, Esq. Mark A. Hoffman, Esq.
(Filed by)

Kline & Specter, P.C.,
1525 Locust Street, The Nineteenth Floor
Philadelphia, PA 19102
(Address)

215-772-1000 phone 215-772-1359 fax
(Phone)

[Signature]
(Signature)

5-23-07 Document
Reinstated/Reissued to Sheriff/Attorney
for service.

[Signature]
Deputy Prothonotary

(Continued from coversheet)

and

MARK W. MALONEY, D.O.
DRMC Primary Care Associates
Medical Arts Building
Suite 200
145 Hospital Avenue
DuBois, Pennsylvania 15801

and

DRMC PRIMARY CARE
ASSOCIATES
Medical Arts Building
Suite 200
145 Hospital Avenue
DuBois, Pennsylvania 15801

and

SANAA HELMI, M.D.
Behavioral Health Outpatient Clinic
DRMC East Unit
Maple Avenue
DuBois, Pennsylvania 15801

ans

THOMAS J. BRADLEY, M.D.
701 Sunflower Drive
DuBois, Pennsylvania 15801

and

BRADFORD BOBRIN, M.D.
Behavioral Health Outpatient Clinic
DRMC East Unit
Maple Avenue
DuBois, Pennsylvania 15801

and

DuBOIS REGIONAL MEDICAL
CENTER a/ka DuBOIS REGIONAL
MEDICAL CENTER WEST
a/d/b/a DRMC BEHAVIORAL
UNIT a/k/a DRMC EAST BEHAVIORAL
UNIT a/k/a DRMC BEHAVIORAL
HEALTH OUTPATIENT CLINIC
c/o Office of Risk Management
100 Hospital Avenue
DuBois, Pennsylvania 15801

Defendants.

KLINE & SPECTER

A Professional Corporation

By: THOMAS R. KLINE, ESQUIRE
MARK A. HOFFMAN, ESQUIRE
ROYCE W. SMITH, ESQUIRE

Attorney ID Nos.: 28895/ 84443/201295

The Nineteenth Floor

1525 Locust Street

Philadelphia, Pennsylvania 19102

(215) 772-1000

Attorneys for Plaintiff

WANDA RUSSELL

426 North Michael Street

Saint Mary's, Pennsylvania 15857

Plaintiff,

v.

JAMES E. DEVLIN, M.D.

1100 Main Street

Brockway, Pennsylvania 15824

and

MARK W. MALONEY, D.O.

DRMC Primary Care Associates

Medical Arts Building

Suite 200

145 Hospital Avenue

DuBois, Pennsylvania 15801

and

DRMC PRIMARY CARE

ASSOCIATES

Medical Arts Building

Suite 200

145 Hospital Avenue

DuBois, Pennsylvania 15801

and

SANAA HELMI, M.D.

Behavioral Health Outpatient Clinic

DRMC East Unit

Maple Avenue

DuBois, Pennsylvania 15801

ans

THOMAS J. BRADLEY, M.D.

701 Sunflower Drive

DuBois, Pennsylvania 15801

and

COURT OF COMMON PLEAS
COUNTY OF CLEARFIELD

DOCKET NO.

BRADFORD BOBRIN, M.D.
 Behavioral Health Outpatient Clinic
 DRMC East Unit
 Maple Avenue
 DuBois, Pennsylvania 15801
 and
 DuBOIS REGIONAL MEDICAL
 CENTER a/ka DuBOIS REGIONAL
 MEDICAL CENTER WEST
 a/d/b/a DRMC BEHAVIORAL
 UNIT a/k/a DRMC EAST BEHAVIORAL
 UNIT a/k/a DRMC BEHAVIORAL
 HEALTH OUTPATIENT CLINIC
 c/o Office of Risk Management
 100 Hospital Avenue
 DuBois, Pennsylvania 15801
 Defendants.

NOTICE

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

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER.

IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.

COURT ADMINISTRATOR
 Clearfield County Courthouse
 Second and Market Streets
 Clearfield, PA 16830
 814-765-2641, Ext. (5982)

ADVISO

Le han demandado a usted en la corte. Si usted quiere defenderse de estas demandas expuestas en las paginas siguientes, usted tiene veinte (20) dias de plazo al partir de la fecha de la demanda y la notificacion. Hace falta asentar una comparencia escrita o en persona o con un abogado y entregar a la corte en forma escrita sus defensas o sus objeciones a las demandas en contra de su persona. Sea avisado que si usted no se defiende, la corte tomara medidas y puede continuar la demanda en contra suya sin previo aviso o notificacion. Ademas, la corte pueda decidir a favor del demandante y requiere que usted cumpla con todas las provisiones de esta demanda. Usted puede perder dinero o sus propiedades u otros derechos importantes para usted.

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

ESTA OFICINA LO PUEDE PROPORCIONAR CON INFORMACION ACERCA DE EMPLEAR A UN ABOGADO. SI USTED NO PUEDE PROPORCIONAR PARA EMPLEAR UN ABOGADO, ESTA OFICINA PUEDE SER CAPAZ DE PROPORCIONARLO CON INFORMACION ACERCA DE LAS AGENCIAS QUE PUEDEN OFRECER LOS SERVICIOS LEGALES A PERSONAS ELEGIBLES EN UN HONORARIO REDUCIDO NINGUN HONORARIO.

COURT ADMINISTRATOR
 Clearfield County Courthouse
 Second and Market Streets
 Clearfield, PA 16830
 814-765-2641, Ext. (5982)

CIVIL ACTION COMPLAINT

Plaintiff, Wanda Russell, by and through her undersigned attorneys, Kline & Specter, P.C., herein complains of the above-captioned defendants as follows:

PARTIES

1. Plaintiff Wanda Russell is an adult citizen and a resident of the Commonwealth of Pennsylvania, residing at 426 North Michael Street, Saint Mary's, Pennsylvania 15857. Wanda Russell was born on September 19, 1958.

2. Defendant James E. Devlin, M.D. ["Dr. Devlin"] was, at all times material hereto, a duly licensed physician in the Commonwealth of Pennsylvania, specializing in the medical field of family medicine, who maintained a professional office, business or corporate office, or place of medical practice at 1100 Main Street, Brockway, Pennsylvania 15824. A Certificate of Merit pursuant to Pa.R.C.P. No. 1042.1 regarding the treatment, practice, or work of this defendant is attached hereto as Exhibit "A."

3. Defendant Mark W. Maloney, D.O. ["Dr. Maloney"] was, at all times material hereto, a duly licensed osteopathic physician in the Commonwealth of Pennsylvania, specializing in the medical field of family medicine, who maintained a professional office, business or corporate office, or place of medical practice at DRMC Primary Care Associates, Medical Arts Building, Suite 200, 145 Hospital Avenue, DuBois, Pennsylvania 15801. A Certificate of Merit pursuant to Pa.R.C.P. No. 1042.1 regarding the treatment, practice, or work of this defendant is attached hereto as Exhibit "A."

4. Defendant DRMC Primary Care Associates was, at all times material hereto, a

corporation, professional corporation, professional association, professional partnership, or other jural entity organized according to and existing under the laws of the Commonwealth of Pennsylvania, with an office location and place of business at Medical Arts Building, Suite 200, 145 Hospital Avenue, DuBois, Pennsylvania 15801. A Certificate of Merit pursuant to Pa.R.C.P. No. 1042.1 regarding the treatment, practice, or work of this defendant is attached hereto as Exhibit "A."

5. At all times material hereto, Dr. Maloney and/or Dr. Devlin were agents, servants, and/or employees of DRMC Primary Care Associates, and were acting within the scope of their agency, master-servant, and/or employment relationships with DRMC Primary Care Associates while providing medical care and treatment to Wanda Russell. Accordingly, DRMC Primary Care Associates is liable for the negligent acts and/or omissions of Dr. Devlin and/or Dr. Maloney under theories of agency, master-servant, respondeat superior, and/or right of control.

6. Dr. Devlin was providing medical service or family practice service "coverage" or "cross-coverage" for Dr. Maloney, while providing medical care and treatment to Wanda Russell on or about December 4 and 5, 2005. Accordingly, Dr. Maloney is liable for the negligent acts and/or omissions of Dr. Devlin under theories of agency, master-servant or borrowed servant, respondeat superior, and/or right of control.

7. Dr. Devlin was providing "coverage" or "cross-coverage" for Dr. Maloney's family practice group or association, DRMC Primary Care Associates, while providing medical care and treatment to Wanda Russell, on or about December 4 and 5, 2005. Accordingly, DRMC Primary Care Associates is liable for the negligent acts and/or omissions of Dr. Devlin under theories of agency, master-servant or borrowed servant, respondeat superior, and/or right of control.

8. Defendant Sanaa Helmi, M.D. ["Dr. Helmi"] was, at all times material hereto, a duly

licensed physician in the Commonwealth of Pennsylvania, specializing in the medical field of psychiatry, who maintained a professional office, business or corporate office, or place of medical practice at Behavioral Health Outpatient Clinic, DRMC East Unit, Maple Avenue, DuBois, Pennsylvania 15801. A Certificate of Merit pursuant to Pa.R.C.P. No. 1042.1 regarding the treatment, practice, or work of this defendant is attached hereto as Exhibit "A."

9. Defendant Thomas J. Bradley, M.D. ["Dr. Bradley"] was, at all times material hereto, a duly licensed physician in the Commonwealth of Pennsylvania, specializing in the medical field of psychiatry, who maintained a professional office, business or corporate office, or place of medical practice at 701 Sunflower Drive, DuBois, Pennsylvania 15801. A Certificate of Merit pursuant to Pa.R.C.P. No. 1042.1 regarding the treatment, practice, or work of this defendant is attached hereto as Exhibit "A."

10. Defendant Bradford Bobrin, M.D. ["Dr. Bobrin"] was, at all times material hereto, a duly licensed physician in the Commonwealth of Pennsylvania, specializing in the medical field of psychiatry, who maintained a professional office, business or corporate office, or place of medical practice at Behavioral Health Outpatient Clinic, DRMC East Unit, Maple Avenue, DuBois, Pennsylvania 15801. A Certificate of Merit pursuant to Pa.R.C.P. No. 1042.1 regarding the treatment, practice, or work of this defendant is attached hereto as Exhibit "A."

11. Defendant DuBois Regional Medical Center a/k/a/ DuBois Regional Medical Center West a/d/b/a DRMC Behavioral Unit a/k/a DRMC East Behavioral Unit a/k/a DRMC Behavioral Health Outpatient Clinic [referred to in various paragraphs as either the "DuBois Regional Medical Center" or the "DRMC Behavioral Unit" or the "DuBois Regional Medical Center West"] is a corporation or other jural entity organized according to and existing under the laws of the

Commonwealth of Pennsylvania which owns, operates, and maintains a hospital, health care facility, and provider of health care services based at 100 Hospital Avenue, DuBois, Pennsylvania 15801.

The DRMC Behavioral Unit a/k/a DRMC East Behavioral Unit a/k/a DRMC East Behavioral Unit a/k/a DRMC Behavioral Health Outpatient Clinic is a psychiatric unit located within the East Unit of the DuBois Regional Medical Center. A Certificate of Merit pursuant to Pa.R.C.P. No. 1042.1 regarding the treatment, practice, or work of this defendant is attached hereto as Exhibit "A."

12. At all times material hereto, Dr. Devlin, Dr. Maloney, Dr. Helmi, Dr. Bradley, and Dr. Bobrin were actual or ostensible agents, servants, and/or employees of the DuBois Regional Medical Center and/or the DRMC Behavioral Unit, and were acting within the scope of their agency, master-servant, and/or employment relationship with the DuBois Regional Medical Center, and its affiliated or associated entities as captioned above, while providing medical care and treatment to Wanda Russell. Accordingly, the DuBois Regional Medical Center, and its affiliated or associated entities as captioned above, are liable for the negligent acts and/or omissions of Dr. Devlin, Dr. Maloney, Dr. Helmi, Dr. Bradley, and Dr. Bobrin under theories of agency, master-servant, respondeat superior, and/or right of control.

13. At all times material hereto, the DuBois Regional Medical Center and the DRMC Behavioral Unit were acting by and through their actual agents or ostensible agents, servants, and/or employees, Dr. Devlin, Dr. Maloney, Dr. Helmi, Dr. Bradley, and Dr. Bobrin, as well as the nurses who provided psychiatric nursing care and evaluation to Wanda Russell during her hospitalization in the DRMC Behavioral Unit. The identities of these nurses, whose signatures are illegible on the "Behavioral Health Services Daily Notes" and extension notes, attached hereto as Exhibit "B," are fully known to the DuBois Regional Medical Center and the DRMC Behavioral Unit, and presently

unknown to Plaintiff because of the illegible nature, or absence of, their signatures. The identities of these nurses is the subject matter of further discovery by the Plaintiff during the course of this litigation. Accordingly, DuBois Regional Medical Center is liable for the negligent acts and/or omissions of these aforementioned named and as yet specifically identified, see Exhibit "B," actual or ostensible agents, servants, and/or employees which occurred in the course of providing medical and nursing care to Wanda Russell, under theories of agency, master-servant, respondeat superior, and/or right of control.

14. Venue in this action is properly laid in Clearfield County, Pennsylvania pursuant to the Amendatory Order of the Supreme Court of Pennsylvania dated March 5, 2003, No. 381, Civil Procedural Rules, Docket No. 5, which amended the Pennsylvania Rules of Civil Procedure No.1006.

FACTS GIVING RISE TO CLAIMS OF NEGLIGENCE

15. On December 3, 2005, Wanda Russell presented to the Emergency Department at the DuBois Regional Medical Center via wheelchair with complaints of, among other things, bilateral arm weakness and dark vision.

16. On December 3, 2005, Wanda Russell was evaluated by Patrick Shilata, D.O. in the Emergency Department at the DuBois Regional Medical Center.

17. On December 3, 2005, Wanda Russell had a known history of hypertension and insulin dependent diabetes mellitus. These co-morbid conditions were known to the nursing staff and physician who evaluated and treated Wanda Russell in the Emergency Department on December 3, 2005, and were recorded in the DuBois Regional Medical Center Emergency Department medical record of Wanda Russell.

18. On December 3, 2005, Wanda Russell was able to ambulate, but complained of feeling off balance.

19. On December 3, 2005, during her evaluation in the DuBois Regional Medical Center Emergency Department, Wanda Russell had performed on her, among other things, an electrocardiogram, a basic metabolic panel, a urine analysis with microscopic examination, and an unenhanced head CT scan. All test results were interpreted as "normal" except for an elevated blood sugar (196 mg/dl; normal = 70 to 110 mg/dl).

20. On December 3, 2005, Wanda Russell was discharged from the Emergency Department at the Dubois Regional Medical Center with the diagnosis: "Impression: weakness, Transient Ischemic Attack (TIA), Diabetes Mellitus, Type I."

21. On December 3, 2005, Wanda Russell was discharged from the Emergency Department at the Dubois Regional Medical Center with instructions on transient ischemic attack and diabetes mellitus, and she was given a four (4) day work release. Wanda Russell was additionally instructed to follow-up with Dr. Maloney, her primary care physician, in three (3) to four (4) days.

22. On December 4, 2005, Wanda Russell presented to the Emergency Department at the DuBois Regional Medical Center via wheelchair with complaints of, among other things, left-sided weakness and inability to walk.

23. On December 4, 2005, Wanda Russell's sister signed the DuBois Regional Medical Center "Consent for Treatment" as Wanda Russell's patient representative, and on Wanda Russell's behalf, because Wanda Russell had weakness on writing and slurred speech. The "Consent for Treatment" was signed at or about 0938 hours on December 4, 2005.

24. On December 4, 2005, Wanda Russell was evaluated by Jeffrey Elias, D.O. ["Dr. Elias"] in the Emergency Department at the DuBois Regional Medical Center.

25. On December 4, 2005, Dr. Elias performed a neurological examination on Wanda Russell in the Emergency Department at the DuBois Regional Medical Center, and found, among other things, that Wanda Russell had a facial droop and diminished motor strength in the left arm (2/5) and left leg (2/5). The "Review of Systems" performed by Dr. Elias was positive for gait disturbance, speech changes, and weakness in the left arm and leg.

26. On December 4, 2005, Dr. Elias formulated a plan that Wanda Russell be admitted "to medical, for Maloney, Mark W. with a primary ED diagnosis of CVA (stroke) non-hemorrhagic." A summary of the Emergency Department evaluation of Wanda Russell was faxed to Wanda Russell's primary care physician, Dr. Maloney.

27. On December 4, 2005, Dr. Devlin evaluated Wanda Russell in the Emergency Department at the DuBois Regional Medical Center. At the time, Dr. Devlin was covering or cross-covering for Dr. Maloney and DRMC Primary Care Associates.

28. On December 4, 2005, Dr. Devlin admitted Wanda Russell to the DuBois Regional Medical Center for neuro-checks and observation. At the time of admission, Dr. Devlin doubted that Wanda Russell had, or was experiencing, a transient ischemic attack, and recorded this belief in his "History and Physical Examination," stating, among other things: "History of some left sided weakness, questionable TIA. Clinically, at this time it is doubtful but with the history we will go ahead and make the patient an observation."

29. On December 4, 2005, Wanda Russell was admitted to Dr. Maloney's service at the DuBois Regional Medical Center, with Dr. Devlin covering.

30. On December 4, 2005, Dr. Devlin did not obtain, or order to be obtained or provided, a neurology consultation for Wanda Russell.

31. On December 4, 2005, Dr. Devlin did not have performed, or order to be performed, an MRI scan of the head or an MRA on Wanda Russell.

32. On December 5, 2005, an unenhanced head CT scan was performed on Wanda Russell for the diagnosis of left-sided weakness, and was interpreted as "normal."

33. On December 5, 2005, bilateral carotid duplex sonograms were performed on Wanda Russell for the indication of left-sided weakness. This study demonstrated approximately 50 percent stenosis of the right internal carotid artery and 50 to 69 percent stenosis of the left internal carotid artery. Bilateral carotid plaque was also demonstrated on the sonogram.

34. An aortic arch and four vessel cerebral angiogram was not performed on Wanda Russell on December 5, 2005.

35. A head MRI or MRA was not performed on Wanda Russell on December 5, 2005.

36. A neurology consult was not obtained for or performed on Wanda Russell on December 5, 2005.

37. Wanda Russell continued to have intermittent left-sided weakness on December 5, 2005.

38. Wanda Russell had slurred speech and a "left facial droop of the mouth" on December 5, 2005.

39. On December 5, 2005, at or between the hours of approximately 1900 and 2000 hours, Dr. Maloney evaluated Wanda Russell at the DuBois Regional Medical Center, and informed Wanda Russell that her loss of mobility was due to depression.

40. On December 5, 2005, Dr. Maloney consulted Dr. Helmi concerning the admission of Wanda Russell to the DRMC Behavioral Unit, and reported to Dr. Helmi that "he was unable to find any medical problems" with respect to Wanda Russell.

41. On December 5, 2005, during the telephone consultation between Dr. Maloney and Dr. Helmi, according to Dr. Maloney, Dr. Helmi made the recommendation that Wanda Russell be admitted to the DRMC Behavior Unit for psychiatric treatment.

42. Dr. Helmi did not perform a history, psychiatric evaluation, or physical examination on Wanda Russell on December 5, 2005. Dr. Helmi did not physically see or speak with Wanda Russell on December 5 or 6, 2005.

43. On December 5, 2005, at or about 2040 hours, Dr. Maloney gave a "telephone order" to Brenda L. Slappy, R.N., to "Transfer to psych unit tonight."

44. On December 5, 2005, Wanda Russell was asked to sign, and did sign, an "Initial Evaluation and Treatment Plan," which outlined a "Description of Proposed Treatment Plan" and a "Description of Proposed Restrictions and Restraints." This form was not completed and signed by a physician.

45. On December 5, 2005, Wanda Russell was asked to sign, and did sign, a "Consent for Voluntary Inpatient Treatment."

46. The "Consent for Voluntary Inpatient Treatment" set forth the following "Instructions":

Before signing this form, your treatment should be explained to you and you must be given a copy of the Patient's Bill of Rights, the report of your initial evaluation and the proposed treatment plan must be completed and signed by you and the physician.

47. On December 6, 2005, Wanda Russell was not given a copy of the DuBois Regional Medical Center Patient's Bill of Rights.

48. On December 6, 2005, Wanda Russell was not given a copy of her initial evaluation.

49. On December 6, 2005, Wanda Russell was not given a copy of the proposed treatment plan which should have been completed and signed by her and a physician. Dr. Helmi, who made the decision to admit Wanda Russell to the psychiatric unit, did not explain the proposed treatment plan or sign the "Description of Proposed Treatment Plan" and "Description of Proposed Restrictions and Restraints."

50. On December 6, 2005, at or about 0200 hours, Wanda Russell was admitted to the DRMC Behavioral Unit by Kim Hendricks, R.N. ["Nurse Hendricks"], onto Dr. Bobrin's Service.

51. On December 6, 2005, at no time prior to, or at the time of her admission at 0200 hours to the DRMC Behavioral Unit, was Wanda Russell evaluated by a psychiatrist, including Dr. Bradley, Dr. Bobrin, or Dr. Helmi.

52. On December 6, 2005, at or about 0200 hours, Wanda Russell told Nurse Hendricks that "she was lied to about coming here for an admission from her family" and reported "she is unable to use left arm and leg. Patient complains of not wanting to stay."

53. On December 6, 2005, at or about 0330 hours, Wanda Russell fell out of bed in the DRMC Behavioral Unit.

54. On December 6, 2005, at or about 0643 hours, Dr. Bradley performed a history and physical examination on Wanda Russell. Dr. Bradley obtained a history of present illness, among other things, as follows:

Wanda is a 47-year-old woman who had been readmitted to the

West division for left sided weakness. She had had a workup that included a normal CT of the head. She was discharged and re-presented to the ER with nervousness and I guess there was a question regarding the extent of the left sided weakness present and the fact it was noted that the person was under a lot of stress. She is hypertensive, hyperlipidemic, and an insulin dependent diabetic. I guess she was persuaded to be transferred to the psyche unit.

55. On December 6, 2005, during his physical examination of Wanda Russell, Dr. Bradley found, among other things, "There is some left upper extremity weakness and facial asymmetry" that was "hard to evaluate since she is so anxious."

56. On December 6, 2005, at the time Dr. Bradley initially evaluated Wanda Russell, Dr. Bradley formulated and initiated the plan that "the patient is admitted for psyche evaluation and treatment."

57. On December 6, 2005, at the time of his initial evaluation, Dr. Bradley did not transfer Wanda Russell back to a medical unit for evaluation of her left sided weakness or facial asymmetry.

58. On December 6, 2005, at the time of his initial evaluation, Dr. Bradley did not obtain, or order to be obtained, a neurology consultation for Wanda Russell.

59. On December 6, 2005, at the time of his initial evaluation, Dr. Bradley did not have performed, or order to be performed, an MRI scan of the head or MRA on Wanda Russell.

60. On December 6, 2005, at the time of his initial evaluation, Dr. Bradley did not diagnose Wanda Russell as having an evolving or "stuttering" cerebrovascular accident.

61. On December 6, 2005, the nursing staff from the DRMC Behavioral Unit attempted to contact Dr. Helmi at 0955 hours, first by beeper and eventually by cell phone, seeking information

about Wanda Russell.

62. On December 6, 2005, at or about 0955 hours, Dr. Helmi informed the DRMC Behavioral Unit nurse, whose illegible signature appears at Exhibit "B" at page 3, by telephone "that she didn't remember the patient and asked where she came from."

63. On December 6, 2005, at or about 1005 hours, Dr. Helmi informed the nurse whose illegible signature appears at Exhibit "B" at page 3, by telephone that "she did not make the recommendation-Dr. Maloney asked for the admission and she agreed on the basis that the patient is suicidal."

64. On December 6, 2005, at or before 1028 hours, Dr. Bobrin evaluated Wanda Russell at the DRMC Behavioral Unit, and during the "Initial Evaluation/Mental Status Examination/Discharge Summary" report preparation, described that, among other things:

She describes being scared about her arm and leg. She awoke on Friday with trouble with her left arm and it has gotten worse since then. Her family said that this is true as well. She can stand as she demonstrates to me but has trouble lifting up her arm, not even able to brush her hair. She woke up and fell and has had two falls here on the unit and so she initially came in because scans x two do not show any signs of ischemia or infarct.

65. On December 6, 2005, Dr. Bobrin, at or before 1028 hours, Dr. Bobrin found that Wanda Russell exhibited no signs of "suicidal or homicidal ideations" on the mental status examination.

66. On December 6, 2005, at or before 1028 hours, Dr. Bobrin assessed Wanda Russell as follows

This is a 47-year-old with some mild depressive symptoms and acute onset of depressive mood after having stroke-like symptoms which has continued. Although it was thought that her

neurologic signs were out of proportion to her neurological symptoms, she does seem to have flaccid paralysis of the left arm and left droop of smile. With no gross infarct, there might be some infarct on brainstem or internal capsule. Will need MRI and neuro consult.

67. On December 6, 2005, at or before 1028 hours, Dr. Bobrin formulated a plan for Wanda Russell that included, among other things, "to transfer her back over to medicine where she will receive neuro consult and MRI, continue medical care. I do not think she needs acute psychiatric care at this time."

68. On December 6, 2005, at or about 1700 hours, Wanda Russell was readmitted by Dr. Maloney under his care to the DuBois Regional Medical Center West.

69. On December 6, 2005, on or before 1700 hours, Dr. Maloney performed a "History and Physical Examination" on Wanda Russell, and described Wanda Russell's admission to "the Adult Mental Health Unit," stating:

When she arrived there, Wanda apparently rescinded her voluntary admission, noting that she did not wish to be there. This was supported by her family, and today, secondary to reported falls in the Adult Mental Health Unit. I have requested that Wanda be returned for further evaluation in the observation status setting.

70. On December 6, 2005, Dr. Maloney ordered an MRI study to be performed on Wanda Russell on the following morning, and a neurology consultation to be performed by Ruediger Katz, M.D. ["Dr. Katz"].

71. On December 6, 2005, during his evaluation of Wanda Russell at or before 1916 hours, Dr. Katz found that Wanda Russell had multiple risk factors for cerebral ischemia.

72. On December 6, 2005, during his neurologic examination of Wanda Russell at or

before 1916 hours, Dr. Katz found, among other things, that Wanda Russell had a lower left facial droop, 0/5 strength in her left arm, and 3/5 strength in her left leg.

73. On December 7, 2005, an unenhanced MRI of the brain was performed on Wanda Russell at the DuBois Regional Medical Center, which demonstrated a “well circumscribed lesion of right basal ganglia suggestive of a subacute or chronic lacunar infarct. Very small lacunar infarct in the left basal ganglia.”

74. On December 8, 2005, John J. Ahn, M.D. performed a cardiology consultation on Wanda Russell, and diagnosed Wanda Russell as an “unfortunate 47-year-old female who has suffered a CVA.”

75. On December 8, 2005, Lynn Myers, M.D. [“Dr. Myers”], a rehabilitation medicine specialist, evaluated Wanda Russell, and found that:

The patient is an appropriate candidate for admission to the inpatient rehabilitation unit to address deficits and functional mobility and self care skills related to her recent CVA with left hemiparesis.

76. On December 9, 2005, Wanda Russell was transferred to the Physiatry Unit for inpatient rehabilitation at the DRMC Inpatient Rehabilitation Programs on the service of Dr. Myers.

77. The negligence of all defendants, jointly and severally, as set forth with specificity in the Counts below, directly and proximately caused, and increased the risk of harm of, the cerebrovascular accident suffered by Wanda Russell.

78. The negligence of all defendants, jointly and severally, as set forth with specificity in the Counts below, directly and proximately caused, and increased the risk of harm of, the neurologic injuries, impairments, and deficits suffered by Wanda Russell.

79. The negligence of all defendants, jointly and severally, as set forth with specificity in the Counts below, directly and proximately caused, and increased the risk of harm of, the following injuries and damages:

- a. irreversible cerebral ischemia;
- b. cerebrovascular accident;
- c. cerebral dysfunction;
- d. cognitive impairment;
- e. motor impairment;
- f. neurological impairment and injury;
- g. humiliation;
- h. embarrassment;
- i. anxiety and fright;
- j. pain and suffering;
- k. disfigurement;
- l. loss of life's pleasures;
- m. economic damages; and,
- n. medical expenses.

80. Wanda Russell suffered, and continues to suffer, grave neurologic and medical injuries, impairments, and deficits which were caused by, and whose risk of harm was increased by, the negligent conduct of defendants, jointly and severally, as more fully set forth with specificity in the Counts below.

COUNT I- NEGLIGENCE
(Plaintiff v. Dr. Devlin)

81. The previous paragraphs are herein incorporated by reference as though fully set forth.

82. The negligent conduct of Dr. Delvin during his medical evaluation, care, and treatment of Wanda Russell consisted of the following:

- a. failure to properly, timely, and adequately evaluate a patient with a diagnosis of transient ischemic attack;
- b. failure to properly, timely, and adequately evaluate a patient with a diagnosis of cerebrovascular accident;
- c. failure to properly, timely, and adequately evaluate a patient with fluctuating neurologic signs and symptoms;
- d. failure to properly and timely obtain the consultative services of a neurologist or specialist in neurology;
- e. failure to properly and timely obtain cerebral imaging with an MRI scan and/or MRA;
- f. failure to properly, timely, and adequately evaluate a patient with acute neurologic signs and symptoms;
- g. failure to timely, properly, and adequately evaluate, diagnose, and treat a “stuttering” stroke;
- h. failure to provide appropriate management and treatment of acute neurologic signs and symptoms;
- i. failure to provide appropriate, adequate, and timely monitoring of a patient

- with a deteriorating neurologic status;
- j. failure to properly, timely, and adequately evaluate a patient with acute deteriorating neurologic status;
 - k. failure to provide appropriate management of an evolving cerebrovascular accident;
 - l. failure to provide appropriate, adequate, and timely monitoring of a patient with a signs and symptoms of an evolving cerebrovascular accident or neurologic crisis;
 - m. failure to properly, timely, and adequately evaluate a patient with signs and symptoms of an evolving neurologic dysfunction;
 - n. failure to obtain appropriate, adequate, and timely neuro-radiologic evaluation; and,
 - o. failure to properly, timely, and adequately recognize and appreciate signs and symptoms of evolving neurologic dysfunction.

COUNT II-NEGLIGENCE
(Plaintiff v. Dr. Maloney)

83. The previous paragraphs are herein incorporated by reference as though fully set forth.

84. The negligent conduct of Dr. Delvin during his medical evaluation, care, and treatment of Wanda Russell consisted of the following:

- a. failure to properly, timely, and adequately evaluate a patient with a diagnosis of transient ischemic attack;
- b. failure to properly, timely, and adequately evaluate a patient with a diagnosis

- of cerebrovascular accident;
- c. failure to properly, timely, and adequately evaluate a patient with fluctuating neurologic signs and symptoms;
 - d. failure to properly and timely obtain the consultative services of a neurologist or specialist in neurology;
 - e. failure to properly and timely obtain cerebral imaging with an MRI scan and/or MRA;
 - f. failure to properly, timely, and adequately evaluate a patient with acute neurologic signs and symptoms;
 - g. failure to timely, properly, and adequately evaluate, diagnose, and treat a “stuttering” stroke;
 - h. failure to provide appropriate management and treatment of acute neurologic signs and symptoms;
 - i. failure to provide appropriate, adequate, and timely monitoring of a patient with a deteriorating neurologic status;
 - j. failure to properly, timely, and adequately evaluate a patient with acute deteriorating neurologic status;
 - k. failure to provide appropriate management of a cerebrovascular accident;
 - l. failure to provide appropriate, adequate, and timely monitoring of a patient with a signs and symptoms of an evolving cerebrovascular accident or neurologic crisis;
 - m. failure to properly, timely, and adequately evaluate a patient with signs and

symptoms of an evolving neurologic dysfunction;

- n. failure to provide appropriate, adequate, and timely neuro-radiologic evaluation;
- o. failure to provide timely, appropriate, and adequate medical evaluation prior to transfer to a psychiatric unit;
- p. failure to provide timely, appropriate, and adequate neurologic and neuro-radiologic evaluation prior to transfer to a psychiatric unit;
- q. failure to provide timely, appropriate, and adequate psychiatric and psychologic evaluation prior to transfer to a psychiatric unit;
- r. failure to obtain timely, appropriate, and adequate medical evaluation prior to transfer to a psychiatric unit;
- s. failure to obtain timely, appropriate, and adequate psychiatric and psychologic evaluation prior to transfer to a psychiatric unit;
- t. failure to take an adequate and appropriate medical history;
- u. failure to take an adequate and appropriate psychiatric and psychological history;
- v. failure to take an adequate and appropriate medical care and treatment during hospitalization in a psychiatric unit;
- w. failure to effect a timely transfer from the psychiatric unit back to the medical unit;
- x. failure to effect a timely transfer from the psychiatric unit back to the medical unit for neurologic evaluation and treatment;

- y. failure to provide timely, adequate, and appropriate management of a stroke;
and,
- z. failure to properly, timely, and adequately recognize and appreciate signs and symptoms of evolving neurologic dysfunction.

COUNT III-NEGLIGENCE
(Plaintiff v. Dr. Helmi)

85. The previous paragraphs are herein incorporated by reference as though fully set forth.

86. The negligent conduct of Dr. Helmi during her evaluation, care, and treatment of Wanda Russell consisted of the following:

- a. failure to properly, timely, and adequately evaluate a patient with a diagnosis of transient ischemic attack;
- b. failure to properly, timely, and adequately evaluate a patient with a diagnosis of cerebrovascular accident;
- c. failure to properly, timely, and adequately evaluate a patient with fluctuating neurologic signs and symptoms;
- d. failure to properly and timely obtain the consultative services of a neurologist or specialist in neurology;
- e. failure to properly and timely obtain cerebral imaging with an MRI scan or MRA;
- f. failure to properly, timely, and adequately evaluate a patient with acute

- neurologic signs and symptoms;
- g. failure to timely, properly, and adequately evaluate, diagnose, and treat a “stuttering” stroke;
 - h. failure to provide appropriate management and treatment of acute neurologic signs and symptoms;
 - i. failure to provide appropriate, adequate, and timely monitoring of a patient with a deteriorating neurologic status;
 - j. failure to properly, timely, and adequately evaluate a patient with acute deteriorating neurologic status;
 - k. failure to provide appropriate management of an evolving cerebrovascular accident or neurologic crisis;
 - l. failure to provide appropriate, adequate, and timely monitoring of a patient with a signs and symptoms of an evolving cerebrovascular accident;
 - m. failure to properly, timely, and adequately evaluate a patient with signs and symptoms of an evolving neurologic dysfunction;
 - n. failure to provide appropriate, adequate, and timely neuro-radiologic evaluation;
 - o. failure to provide timely, appropriate, and adequate medical evaluation prior to transfer to a psychiatric unit;
 - p. failure to provide timely, appropriate, and adequate neurologic and neuro-radiologic evaluation prior to transfer to a psychiatric unit;
 - q. failure to provide timely, appropriate, and adequate psychiatric and

- psychologic evaluation prior to transfer to a psychiatric unit;
- r. failure to perform a timely, adequate, or appropriate psychiatric history prior to transfer to a psychiatric unit;
 - s. failure to obtain timely, appropriate, and adequate medical evaluation prior to transfer to a psychiatric unit;
 - t. failure to obtain timely, appropriate, and adequate psychiatric and psychologic evaluation prior to transfer to a psychiatric unit;
 - u. failure to perform an adequate and appropriate medical history;
 - v. failure to perform any medical history, psychiatric history, or physical examination prior to or at the time of transfer to a psychiatric unit;
 - w. failure to see, evaluate, or speak with the patient prior to transfer to a psychiatric unit;
 - x. failure to effect a timely transfer from the psychiatric unit back to the medical unit;
 - y. failure to evaluate falls in the psychiatric unit; and,
 - z. failure to re-evaluate the medical status and or psychiatric status of the patient following transfer to the psychiatric unit.

COUNT IV-NEGLIGENCE
(Plaintiff v. Dr. Bradley)

87. The previous paragraphs are herein incorporated by reference as though fully set forth.
88. The negligent conduct of Dr. Bradley during his medical evaluation, care, and

treatment of Wanda Russell consisted of the following:

- a. failure to properly, timely, and adequately evaluate a patient with a diagnosis of transient ischemic attack;
- b. failure to properly, timely, and adequately evaluate a patient with a diagnosis of cerebrovascular accident;
- c. failure to properly, timely, and adequately evaluate a patient with fluctuating neurologic signs and symptoms;
- d. failure to properly and timely obtain the consultative services of a neurologist or specialist in neurology;
- e. failure to properly and timely obtain cerebral imaging with an MRI scan and/or MRA;
- f. failure to properly, timely, and adequately evaluate a patient with acute neurologic signs and symptoms;
- g. failure to timely, properly, and adequately evaluate, diagnose, and treat a "stuttering" stroke;
- h. failure to provide appropriate management and treatment of acute neurologic signs and symptoms;
- i. failure to provide appropriate, adequate, and timely monitoring of a patient with a deteriorating neurologic status;
- j. failure to properly, timely, and adequately evaluate a patient with acute deteriorating neurologic status;
- k. failure to provide appropriate management of an evolving cerebrovascular

accident or neurologic crisis;

- l. failure to provide appropriate, adequate, and timely monitoring of a patient with a signs and symptoms of an evolving cerebrovascular accident;
- m. failure to properly, timely, and adequately evaluate a patient with signs and symptoms of an evolving neurologic dysfunction;
- n. failure to provide appropriate, adequate, and timely neuro-radiologic evaluation;
- o. failure to provide timely, appropriate, and adequate medical evaluation prior to transfer to a psychiatric unit;
- p. failure to provide timely, appropriate, and adequate neurologic and neuro-radiologic evaluation prior to transfer to a psychiatric unit;
- q. failure to provide timely, appropriate, and adequate psychiatric and psychologic evaluation prior to transfer to a psychiatric unit;
- r. failure to perform a timely, adequate, or appropriate psychiatric history prior to transfer to a psychiatric unit;
- s. failure to obtain timely, appropriate, and adequate medical evaluation prior to transfer to a psychiatric unit;
- t. failure to obtain timely, appropriate, and adequate psychiatric and psychologic evaluation prior to transfer to a psychiatric unit;
- u. failure to perform an adequate and appropriate medical history;
- v. failure to see or speak with the patient prior to transfer to a psychiatric unit;
- w. failure to effect a timely transfer from the psychiatric unit back to the medical

unit;

- x. failure to evaluate falls in the psychiatric unit; and,
- y. failure to re-evaluate the medical status following transfer to the psychiatric unit.

COUNT IV-NEGLIGENCE
(Plaintiff v. Dr. Bobrin)

89. The previous paragraphs are herein incorporated by reference as though fully set forth.

90. The negligent conduct of Dr. Bobrin during his medical evaluation, care, and treatment of Wanda Russell consisted of the following:

- a. failure to properly, timely, and adequately evaluate a patient with a diagnosis of transient ischemic attack;
- b. failure to properly, timely, and adequately evaluate a patient with a diagnosis of cerebrovascular accident;
- c. failure to properly, timely, and adequately evaluate a patient with fluctuating neurologic signs and symptoms;
- d. failure to properly and timely obtain the consultative services of a neurologist or specialist in neurology;
- e. failure to properly and timely obtain cerebral imaging with an MRI scan and/or MRA;
- f. failure to properly, timely, and adequately evaluate a patient with acute neurologic signs and symptoms;
- g. failure to timely, properly, and adequately evaluate, diagnose, and treat a

“stuttering” stroke;

- h. failure to provide appropriate management and treatment of acute neurologic signs and symptoms;
- i. failure to provide appropriate, adequate, and timely monitoring of a patient with a deteriorating neurologic status;
- j. failure to properly, timely, and adequately evaluate a patient with acute deteriorating neurologic status;
- k. failure to provide appropriate management of an evolving cerebrovascular accident or neurologic crisis;
- l. failure to provide appropriate, adequate, and timely monitoring of a patient with a signs and symptoms of an evolving cerebrovascular accident;
- m. failure to properly, timely, and adequately evaluate a patient with signs and symptoms of an evolving neurologic dysfunction;
- n. failure to provide appropriate, adequate, and timely neuro-radiologic evaluation;
- o. failure to provide timely, appropriate, and adequate medical evaluation prior to transfer to a psychiatric unit;
- p. failure to provide timely, appropriate, and adequate neurologic and neuro-radiologic evaluation prior to transfer to a psychiatric unit;
- q. failure to provide timely, appropriate, and adequate psychiatric and psychologic evaluation prior to transfer to a psychiatric unit;
- r. failure to perform a timely, adequate, or appropriate psychiatric history prior

- to transfer to a psychiatric unit;
- s. failure to obtain timely, appropriate, and adequate medical evaluation prior to transfer to a psychiatric unit;
 - t. failure to obtain timely, appropriate, and adequate psychiatric and psychologic evaluation prior to transfer to a psychiatric unit;
 - u. failure to perform an adequate and appropriate medical history;
 - v. failure to see or speak with the patient prior to transfer to a psychiatric unit;
 - w. failure to effect a timely transfer from the psychiatric unit back to the medical unit;
 - x. failure to evaluate falls in the psychiatric unit; and,
 - y. failure to re-evaluate the medical status following transfer to the psychiatric unit.

COUNT V-VICARIOUS AND CORPORATE (DIRECT) NEGLIGENCE
**(Plaintiff v. DuBois Regional Medical Center a/k/a/
DuBois Regional Medical Center West a/d/b/a DRMC Behavioral Unit a/k/a
DRMC East Behavioral Unit a/k/a DRMC Behavioral Health Outpatient Clinic)**

91. The previous paragraphs are herein incorporated by reference as though fully set forth.
92. At all times material hereto, DuBois Regional Medical Center a/k/a/ DuBois Regional Medical Center West a/d/b/a DRMC Behavioral Unit a/k/a DRMC East Behavioral Unit a/k/a DRMC Behavioral Health Outpatient Clinic was acting by and through its actual agents, ostensible agents, servants, and/or employees, including Dr. Maloney, Devlin, Helmi, Bradley, and Bobrin, and the nursing staff who provided nursing care and treatment to Wanda Russell during her hospitalization in the DRMC Behavioral Unit, whose identities are partially set forth in Exhibit "B."

These actual agents, ostensible agents, servants, and/or employees provided medical care and treatment to Wanda Russell while acting within the scope of their medical and nursing duties. Accordingly, the DuBois Regional Medical Center a/k/a/ DuBois Regional Medical Center West a/d/b/a DRMC Behavioral Unit a/k/a DRMC East Behavioral Unit a/k/a DRMC Behavioral Health Outpatient Clinic is vicariously and derivatively liable for the negligent acts and omissions of these actual agents, ostensible agents, servants, and/or employees under theories of agency, master-servant, respondeat superior, and/or right of control.

93. The Dubois Regional Medical Center is liable for the conduct of the nurses who provided psychiatric nursing care to Wanda Russell on the DRMC Behavioral Unit on December 5 to 6, 2005, whose identities are partially set forth in Exhibit "B," and whose negligence consisted of:

- a. failure to report falls in a patient exhibiting neurologic impairment to a physician at the time the falls occurred;
- b. failure to report neurologic signs and symptoms to the physician staff;
- c. failure to obtain appropriate psychiatric evaluation at the time the patient arrived on the psychiatric unit;
- d. failure to insure that the protocol for psychiatric unit was adhered to and followed, including provision of the Patient's Bill of Rights and the report of initial evaluation and the proposed treatment plan completed and signed by the patient and the physician;
- e. failure to obtain medical evaluation for signs and symptoms during the nursing evaluation of the patient of evolving neurologic dysfunction;

- f. failure to timely, appropriately, and adequately notify the physician medical staff of evolving of neurologic signs and symptoms;
- g. failure to provide appropriate nursing, monitoring and care to a patient with evolving and shifting neurologic signs and symptoms; and,
- h. failure to provide adequate, appropriate, and timely nursing care in the setting of shifting neurologic signs and symptoms.

94. In addition, pursuant to the decision of the Supreme Court of Pennsylvania in Thompson v. Nason, 591 A.2d 703 (1991) and its progeny of case law, at all relevant times hereto, DuBois Regional Medical Center a/k/a/ DuBois Regional Medical Center West a/d/b/a DRMC Behavioral Unit a/k/a DRMC East Behavioral Unit a/k/a DRMC Behavioral Health Outpatient Clinic owed non-delegable duties directly to Wanda Russell which included:

- a. a duty to use reasonable care in the maintenance of safe and adequate facilities and equipment;
- b. a duty to select and retain only competent physicians;
- c. a duty to oversee all persons who practice medicine within its walls as to patient care; and,
- d. a duty to formulate, adopt, and enforce adequate rules and policies to ensure quality care for the patients.

95. The corporate (direct) negligence of the DuBois Regional Medical Center a/k/a/ DuBois Regional Medical Center West a/d/b/a DRMC Behavioral Unit a/k/a DRMC East Behavioral Unit a/k/a DRMC Behavioral Health Outpatient Clinic arising out of the medical evaluation, care, and treatment of Wanda Russell consisted of the following:

symptoms;

- j. failure to select and retain only competent physicians proficient in the evaluation patients prior to voluntary transfer to a psychiatric unit;
- k. failure to formulate, adopt, and/or enforce adequate rules and policies with respect to evaluation of patients prior to transfer to a psychiatric unit, including evaluation by a psychiatrist;
- l. failure to formulate, adopt, and/or enforce adequate rules and policies with respect to the evaluation, re-evaluation, and management of patients admitted to a psychiatric unit with fluctuating neurologic signs and symptoms;
- m. failure to formulate, adopt, and/or enforce adequate rules and policies with respect to the timely evaluation of patients admitted to the psychiatric unit;
- n. failure to formulate, adopt, and/or enforce adequate rules and policies with respect to the reporting and evaluation of falls by the nursing staff in the psychiatric unit;
- o. failure to formulate, adopt, and/or enforce adequate rules and policies with respect to the transfer of patients with acute medical emergencies out of the psychiatric unit;
- p. failure to formulate, adopt, and/or enforce adequate rules and policies with respect to holding patients with acute medical complaints within the confines of the psychiatric unit;
- q. failure to formulate, adopt, and/or enforce adequate rules and policies with respect to holding patients with acute neurologic complaints and falls within

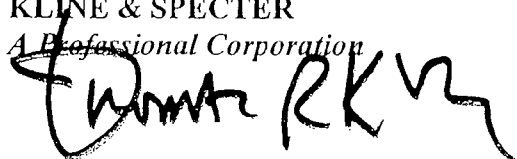
the confines of the psychiatric unit;

- r. failure to formulate, adopt, and/or enforce adequate rules and policies with respect to obtaining timely transfer of a patient with signs and symptoms of an evolving stroke to a medical unit from the psychiatric unit;
- s. failure to oversee all persons who practice medicine within its walls as to patient care to ensure that an appropriate psychiatric evaluation by a psychiatrist occurs prior to the transfer of a patient to a psychiatric unit;
- t. failure to oversee all persons who practice medicine within its walls as to patient care to ensure that an appropriate medical evaluation occurs prior to the transfer of a patient to a psychiatric unit;
- u. failure to oversee all persons who practice medicine within its walls as to patient care to ensure that an appropriate medical evaluation occurs at the time of transfer of a patient to a psychiatric unit; and,
- v. failure to oversee all persons who practice medicine within its walls as to patient care to ensure that an appropriate psychiatric evaluation occurs at the time of transfer of a patient to a psychiatric unit.

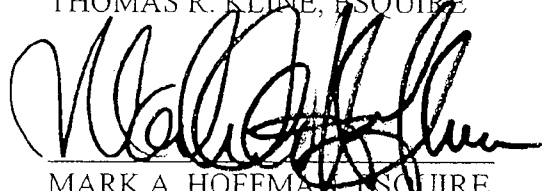
WHEREFORE, Plaintiff Wanda Russell claims damages against all defendants, jointly and severally, including all damages cognizable under Pennsylvania law for the causes of action set forth in the Civil Action Complaint, in an amount in excess of the prevailing arbitration limits, exclusive of pre-judgment interest and post-judgment interest and costs.

KLINE & SPECTER
A Professional Corporation

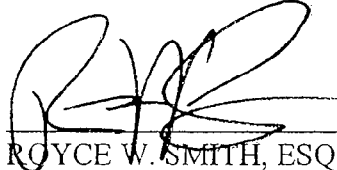
By:


THOMAS R. KLINE, ESQUIRE

By:


MARK A. HOFFMAN, ESQUIRE

By:


ROYCE W. SMITH, ESQUIRE

Date:

KLINE & SPECTER*A Professional Corporation*

By: THOMAS R. KLINE, ESQUIRE
MARK A. HOFFMAN, ESQUIRE
ROYCE W. SMITH, ESQUIRE

Attorney ID Nos.: 28895/ 84443/201295

The Nineteenth Floor

1525 Locust Street

Philadelphia, Pennsylvania 19102

(215) 772-1000

Attorneys for Plaintiff

WANDA RUSSELL

426 North Michael Street

Saint Mary's, Pennsylvania 15857

Plaintiff,

v.

JAMES E. DEVLIN, M.D. and

MARK W. MALONEY, D.O. and

DRMC PRIMARY CARE

ASSOCIATES and

SANAA HELMI, M.D. and

THOMAS J. BRADLEY, M.D. and

BRADFORD BOBRIN, M.D. and

DuBOIS REGIONAL MEDICAL

CENTER a/ka DuBOIS REGIONAL

MEDICAL CENTER WEST

a/d/b/a DRMC BEHAVIORAL

UNIT a/k/a DRMC EAST BEHAVIORAL

UNIT a/k/a DRMC BEHAVIORAL

HEALTH OUTPATIENT CLINIC

Defendants.

COURT OF COMMON PLEAS

COUNTY OF CLEARFIELD

DOCKET NO.

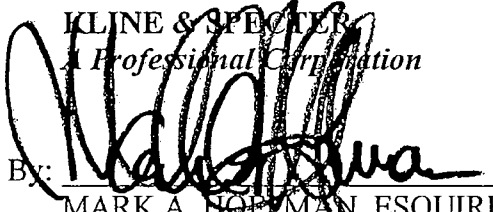
CERTIFICATES OF MERIT

I, Mark A. Hoffman, Esquire, am an attorney for the plaintiff in the above-captioned matter.

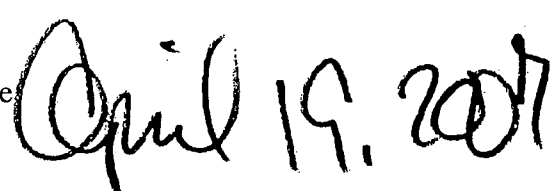
Pursuant to Pa.R.C.P. No. 1042.1, I hereby certify appropriate licensed professionals have provided me with written statements stating that there exists a reasonable basis and probability to conclude that the care, skill, or knowledge exercised or exhibited by Drs. Devlin, Maloney, Helmi, Bradley, and Bobrin, and the psychiatric nursing staff, and the DuBois Regional Medical Center and its

affiliated or associated entities as captioned above, with respect to the treatment, practice, or work that is the subject of this Civil Action Complaint, fell outside of acceptable professional and institutional standards, and that such conduct was a substantial factor in causing injuries, or bringing about harm, to Wanda Russell. I further certify that there are additional claims which are based on allegations that licensed professionals for whom the hospital-defendant, DuBois Regional Medical Center and its affiliated or associated entities as captioned above, and/or DRMC Primary Care, and/or both, are responsible and derivatively or vicariously liable deviated from accepted professional standards of medical care, and caused the aforementioned injuries and harm. I additionally certify that appropriate licensed professionals have supplied written statements to me concluding that there exists a reasonable basis and probability that the DuBois Regional Medical Center, and its affiliated or associated entities as captioned above, deviated from accepted standards of institutional care, giving rise to claims of direct (corporate) negligence pursuant to the decision of the Supreme Court of Pennsylvania in Thompson v. Nason, 591 A.2d 703 (1991) and its progeny of case law. The licensed professionals who have provided me with these written statements have also concluded that the aforementioned deviations from accepted standards of medical and institutional care on the part of the individual named licensed professional, corporate, and hospital defendants was a substantial factor causing, or increasing the risk of harm, to Wanda Russell.

KLINE & SPECTER
A Professional Corporation

By: 

MARK A. HOFFMAN, ESQUIRE
Attorneys for Plaintiff

Date: 

Behavioral Health Services Daily Notes Extension

Date 12/16/05

3218 47Y MH 0114-01 MH
RUSSELL, WANDA
BOBRIN, BRADFORD
09/19/58 F 12/06/05
0534000768 UP


Sticker

12/16/05 8:20am - Pt's sister, Darlene, Nortum called and I spoke to her. According to Darlene, she was in to visit her sister last evening. Dr. Malony came in at 7 or 8pm to talk to the pt. he told her that he feels her loss of mobility is due to depression. He did not say anything about coming to Mental Health. She did not say anything suicidal or hopeless. Darlene said she tried to talk to Dr. Malony about how soon her sister would be PIC but he said he was busy. Darlene does not feel her sister should be at Mental Health.

8:50am - I spoke to the secretary ^{sue} @ Dr. Maloney's office & she was unable to give me any information. Dr. Maloney called off today + she would not be talking to him until late this afternoon.

9:00am - I spoke to Joan on 3rd floor about the Pt. She told me that she was told that Dr. Maloney was afraid she would hurt herself. Apparently, Pt was requesting disability & Dr. Maloney said he couldn't do that. At that point he felt she wasn't safe.

9:20am Pt's sister Darlene called again & asked

Behavioral Health Services Daily Notes Extension

Date 12/16/05

353218 47Y MH 0114-01 MH
RUSSELL, WANDA
BOBRIN, BRADFORD
09/19/58 F 12/06/05
0534000768 UP



Sticker

if she could come now to visit her sister + talk with us.

9:35am Tracey from 3rd floor called + asked me what the situation is. Neither her or anyone else knew specific information on the Pt.

9:45am Dr. Maloney called and spoke to me. He feels the pt is going to stop taking her meds although she did not state that. He reports that she's going through a lot of stress - a divorce & bankruptcy. He said that she was admitted for left sided weakness. Nurses reported to Dr. Maloney that they observed her using her left arm & eating when she thought no one was looking. He was unable to find any medical problems. He spoke to Dr. Helmi & according to him it was her recommendation that she be admitted + tx be started.

I then handed the phone to UR for them to collect information.

9:55am I had already beeped Dr. Helmi twice, & she had not returned my call yet. I thought her beeper may be off so I called her cell phone. She answered + I asked if she had any information on the pt. She said

Behavioral Health Services Daily Notes Extension
Date 12/6/05

053218 47Y MH 001 MH
RUSSELL, WANDA
BOBRIN, BRADFORD
09/19/58 F 12/06/05
0534000768
UP

Sticker

that she didn't remember the pt + asked where she came from, I stated 3rd floor - She said she was c. pts & would have to return my call.

10:05 am - Dr. Helmi returned my call, I asked her the information regarding the pt. She was under the impression that the pt was severely depressed + actively suicidal. She did not make the recommendation - Dr. Maloney asked for the admission and she agreed on the basis that the pt is suicidal. She will support our decision at this point. *Brittge Boule Jr*

VERIFICATION

I, WANDA RUSSELL, plaintiff in this civil action, hereby verify that the within Civil Action Complaint is based upon first-hand information, and upon information furnished to my counsel and obtained by him in the course of counsel's investigation of this lawsuit and the facts involved. The language of the document is that of counsel and not my own. To the extent that the contents of the document are based upon information furnished to counsel and obtained by him during the course of this lawsuit and counsel's investigation of the facts giving rise to this lawsuit, I have relied upon counsel in taking this verification. All statements are founded upon reasonable belief. This verification is made subject to the penalties of 18 Pa.C.S. §4904 relating to unsworn falsification to authorities.

Wanda Russell

Wanda Russell

Date: 4/19/07

WANDA RUSSELL,
Plaintiff

v.

JAMES E. DEVLIN, M.D.; MARK W.
MALONEY, D.O.; DRMC PRIMARY
CARE ASSOCIATES; SANAA HELMI,
M.D.; THOMAS J. BRADLEY, M.D.;
BRADFORD BOBRIN, M.D.; DUBOIS
REGIONAL MEDICAL CENTER a/k/a
DUBOIS REGIONAL MEDICAL
CENTER WEST a/d/b/a DRMC
BEHAVIORAL UNIT a/k/a DRMC EAST
BEHAVIORAL UNIT a/k/a DRMC
BEHAVIORAL HEALTH OUTPATIENT
CLINIC,

Defendants

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY,
PENNSYLVANIA

NO. 07-644-CD

CIVIL ACTION - LAW

JURY TRIAL DEMANDED

NOTICE TO PLEAD

TO: PLAINTIFF WANDA RUSSELL
c/o Thomas R. Kline, Esquire
Mark A. Hoffman, Esquire
Kline & Specter, PC
The Nineteenth Floor
1525 Locust Street
Philadelphia, PA 19102

FILED *no cc*
m 10:55 AM
AUG 20 2007 *GV*

William A. Shaw
Prothonotary/Clerk of Courts

YOU ARE HEREBY NOTIFIED to file a written response to the enclosed *Answer of Defendant Mark Maloney, D.O. to Plaintiff's Complaint with New Matter*, within twenty (20) days from service hereof or a judgment may be entered against you.

Respectfully submitted,

McCORMICK LAW FIRM

By *Richard Schluter*

David R. Bahl, Esquire

I.D. No. 10347

Richard F. Schluter, Esquire

I.D. No. 79672

Attorneys for Defendant

Mark W. Maloney, D.O.

WANDA RUSSELL,
Plaintiff

v.

JAMES E. DEVLIN, M.D.; MARK W.
MALONEY, D.O.; DRMC PRIMARY
CARE ASSOCIATES; SANAA HELMI,
M.D.; THOMAS J. BRADLEY, M.D.;
BRADFORD BOBRIN, M.D.; DUBOIS
REGIONAL MEDICAL CENTER a/k/a
DUBOIS REGIONAL MEDICAL
CENTER WEST a/d/b/a DRMC
BEHAVIORAL UNIT a/k/a DRMC EAST
BEHAVIORAL UNIT a/k/a DRMC
BEHAVIORAL HEALTH OUTPATIENT
CLINIC,

Defendants

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY,
PENNSYLVANIA

NO. 07-644-CD

CIVIL ACTION - LAW

JURY TRIAL DEMANDED

**ANSWER OF DEFENDANT MARK W. MALONEY, D.O.
TO PLAINTIFF'S COMPLAINT WITH NEW MATTER**

AND NOW comes defendant Mark W. Maloney, D.O., by and through his attorneys,
McCormick Law Firm, and answers plaintiff's complaint as follows:

Parties

1. Admitted in part and denied in part. It is admitted that plaintiff Wanda Russell is an adult. The answering defendant is without knowledge or information sufficient to form a belief as to the truth of the remainder of this averment, and it is therefore, denied. Proof thereof is demanded at trial.

2. This averment is directed to a party other than the answering defendant, and therefore, no responsive pleading is required.

3. Admitted.

4. This averment is directed to a party other than the answering defendant, and therefore, no responsive pleading is required.

5. Denied. To the contrary, defendant Dr. Maloney was an employee of defendant Dubois Regional Medical Center. It is specifically denied that defendant Dr. Maloney was negligent at any pertinent time, and plaintiff's allegations regarding alleged vicarious liability are denied as conclusions of law and pursuant to Pa.R.C.P. 1029(e). Strict proof thereof is demanded at trial.

6. Denied. Plaintiff's characterizations of the relationship between defendant Dr. Maloney and defendant Dr. Devlin relative to the care and treatment of plaintiff are specifically denied pursuant to Pa.R.C.P. 1029(e). Moreover, plaintiff's allegations regarding an alleged master-servant relationship and/or *respondeat superior* liability are denied as conclusions of law. Strict proof thereof is demanded at trial.

7. Denied. Plaintiff's characterizations of the relationship between defendant Dr. Devlin and defendant DRMC Primary Care Associates and/or defendant Dr. Maloney relative to the care and treatment of plaintiff are specifically denied pursuant to Pa.R.C.P. 1029(e). Moreover, plaintiff's allegations regarding an alleged master-servant relationship and/or *respondeat superior* liability are denied as conclusions of law. Strict proof thereof is demanded at trial.

8-10. These averments are directed to a party other than the answering defendant, and therefore, no responsive pleading is required. To the extent a response is required, these averments are denied pursuant to Pa.R.C.P. 1029(e). Strict proof thereof is demanded at trial.

11. Admitted in part and denied in part. This averment is directed to a party other than the answering defendant, and therefore, no responsive pleading is required. To the extent a response is required, this averment is denied pursuant to Pa.R.C.P. 1029(e). Strict proof

thereof is demanded at trial. By way of further response, it is admitted that DRMC Behavioral Health Unit is a psychiatric unit located within the east unit of the Dubois Regional Medical Center, based on defendant's information and belief.

12. Admitted in part and denied in part. It is admitted that defendant Dr. Maloney was an employee of defendant Dubois Regional Medical Center. The remainder of this averment is denied as a conclusion of law.

13. Denied. This averment is directed to a party other than the answering defendant, and thus, no responsive pleading is required. To the extent a response is required, it is admitted that defendant Dr. Maloney was an employee of defendant Dubois Regional Medical Center. The answering defendant does not have knowledge of the employment and/or relationships between the other parties and individuals referenced in said averment, and therefore, those allegations are denied. Strict proof thereof is demanded at trial.

14. Denied as a legal conclusion.

Facts Giving Rise to Claims of Negligence

15. Admitted in part and denied in part. It is admitted that the records indicate that plaintiff Wanda Russell was seen in the emergency department of Dubois Regional Medical Center on or about December 3, 2005. Plaintiff's characterizations and/or selective references to the medical records are denied pursuant to Pa.R.C.P. 1029(e). The records are in writing, and speak for themselves. Specific proof thereof is demanded at trial.

16. Admitted, based on the records.

17-18. Denied. Plaintiff's characterizations and/or selective references to the medical records are denied pursuant to Pa.R.C.P. 1029(e). The records are in writing, and speak for themselves. Proof thereof is demanded at trial.

19. Denied. Plaintiff's characterizations and/or selective references to the medical records are denied pursuant to Pa.R.C.P. 1029(e). Moreover, reference is made to the medical records with respect to the testing and examination of the plaintiff on or about December 3, 2005. Proof thereof is demanded at trial.

20-21. Admitted in part and denied in part. It is admitted that the records indicate plaintiff Wanda Russell was discharged from the emergency room of Dubois Regional Medical Center on December 3, 2005. The remainder of this averment is denied pursuant to Pa.R.C.P. 1029(e). Reference is made to the medical records regarding plaintiff's care and treatment, and diagnosis on December 3, 2005. Strict proof thereof is demanded at trial.

22. Admitted in part and denied in part. It is admitted that plaintiff Wanda Russell presented to the emergency department of Dubois Regional Medical Center on December 4, 2005. Plaintiff's selective description and/or characterization of plaintiff's condition and/or reference to the medical records are denied pursuant to Pa.R.C.P. 1029(e). Moreover, specific reference is made to the medical records regarding the presentation and symptomatology of plaintiff on December 4, 2005. Strict proof thereof is demanded at trial.

23. Denied as stated. Reference is made to the medical records, with specific reference to the consent for treatment form, which is in writing and speaks for itself.

24. Admitted. Moreover, reference is made to the medical records of December 4, 2005 regarding the care and treatment of plaintiff.

25-26. Denied. Plaintiff's selective summary and/or references to the medical records are denied pursuant to Pa.R.C.P. 1029(e). Moreover, reference is made to the medical records, which are in writing, regarding plaintiff's presentation, symptoms, examination, and treatment. Strict proof thereof is demanded at trial.

27. Denied. This averment is denied pursuant to Pa.R.C.P. 1029(e). Strict proof thereof is demanded at trial.

28. Denied. Plaintiff's selective summary and/or references to the medical records are denied pursuant to Pa.R.C.P. 1029(e). Moreover, reference is made to the medical records of December 4, 2005, which are in writing, regarding Dr. Devlin's evaluation and findings. Strict proof thereof is demanded at trial.

29. It is admitted that plaintiff Wanda Russell was admitted to Dubois Regional Medical Center on December 4, 2005.

30-31. Denied. This averment is denied pursuant to Pa.R.C.P. 1029(e). Reference is made to the medical records of December 4, 2005, with specific reference to the entries of Dr. Devlin. Strict proof thereof is demanded at trial.

32. Admitted in part and denied in part. It is admitted that an unenhanced head CT scan was performed on December 5, 2005, based on the records. Plaintiff's characterization, action and/or summary of the records are denied pursuant to Pa.R.C.P. 1029(e). Strict proof is demanded at trial.

33. Denied. Plaintiff's selective summary and/or references to the medical records are denied pursuant to Pa.R.C.P. 1029(e). Reference is made to the medical records of December 5, 2005, which are in writing, and speak for themselves. Strict proof thereof is demanded at trial.

34-36. Admitted based on the records.

37-38. Denied. This averment is denied pursuant to Pa.R.C.P. 1029(e). Moreover, reference is made to the medical records of December 5, 2005, which are in writing, and speak for themselves. Strict proof thereof is demanded at trial.

39. Admitted in part and denied in part. It is admitted that defendant Dr. Maloney evaluated plaintiff Wanda Russell on December 5, 2005. The remainder of this averment is denied pursuant to Pa.R.C.P. 1029(e). Reference is made to the medical records of December 5, 2005. Specific proof of said averments is demanded at trial.

40. Admitted in part and denied in part. It is admitted that defendant Dr. Maloney consulted Dr. Helmi on December 5, 2005 regarding plaintiff Wanda Russell. The remainder of this averment is denied pursuant to Pa.R.C.P. 1029(e). Specific reference is made to the medical records of December 5, 2005. Strict proof thereof is demanded at trial.

41-42. Denied. Plaintiff's selective summary and/or references to the medical records are denied pursuant to Pa.R.C.P. 1029(e). Strict proof thereof is demanded at trial.

43. Admitted in part and denied in part. It is admitted that defendant Dr. Maloney ordered the plaintiff's transfer to the psychiatric unit for evaluation based on his telephone conversation with defendant Dr. Helmi. The remainder of this averment is denied pursuant to Pa.R.C.P. 1029(e). Moreover, reference is made to the medical records of December 5, 2005. Strict proof thereof is demanded at trial.

44. Denied. Defendant Dr. Maloney does not have knowledge of the alleged conversations with plaintiff, and therefore, this averment is denied pursuant to Pa.R.C.P. 1029(e). Reference is also made to the medical records, which are in writing and speak for themselves. Strict proof thereof is demanded at trial.

45-46. Admitted in part and denied as stated. Admitted that plaintiff signed a Consent for Voluntary Treatment. The remainder of these allegations are denied pursuant to Pa.R.C.P. 1029(e). Reference is also made to the medical records, with specific reference to the Consent for Voluntary Inpatient Treatment, which is in writing, and therefore speaks for itself.

47-49. Denied. The answering defendant is without knowledge or information sufficient to form a belief as to the truth of this averment, and it is therefore, denied. Strict proof thereof is demanded at trial.

50. Admitted in part and denied in part. It is admitted that plaintiff Wanda Russell was admitted to the DRMC Behavioral Unit. The answering defendant is without knowledge or information sufficient to admit or deny the remainder of this averment, and it is therefore, denied. Moreover, reference is made to the records which speak for themselves. Strict proof thereof is demanded at trial.

51. Denied. The answering defendant is without knowledge or information sufficient to form a belief as to the truth of this averment, and it is therefore, denied. Strict proof thereof is demanded at trial.

52. Denied. The answering defendant is without knowledge or information sufficient to admit or deny the truth of this averment regarding the alleged conversations between a nurse and plaintiff. Moreover, to the extent plaintiff references medical records in this averment, the averment is denied pursuant to Pa.R.C.P. 1029(e). The medical records are in writing, and speak for themselves. Strict proof thereof is demanded at trial.

53. Admitted in part and denied in part. It is admitted that plaintiff Wanda Russell reportedly fell while in the DRMC Behavioral Unit. The answering defendant is without knowledge or information sufficient to admit or deny the remainder of this averment, and it is therefore, denied. Strict proof thereof is demanded at trial.

54-60. Denied. These averments are denied pursuant to Pa.R.C.P. 1029(e). Moreover, to the extent these averments reference the medical records, the medical records are in writing, and therefore, speak for themselves.

61-62. Denied. The answering defendant is without knowledge or information sufficient to form a belief as to the truth of these averments, and they are therefore, denied. Proof thereof is demanded at trial.

63. Denied. The answering defendant is without knowledge or information sufficient to form a belief as to the truth of this averment regarding Dr. Helmi's comments, and they are therefore, denied. Additionally, the characterizations and/or summary of Dr. Maloney's alleged comments are denied pursuant to Pa.R.C.P. 1029(e). Strict proof thereof is demanded at trial.

64-67. Denied. This averment is denied pursuant to Pa.R.C.P. 1029(e). Moreover, to the extent the medical records are referenced, the records are in writing, and therefore speak for themselves. Strict proof thereof is demanded at trial.

68. Admitted.

69. Denied. Plaintiff's select reference and/or description to the medical record are denied pursuant to Pa.R.C.P. 1029(e). The medical records are in writing, and speak for themselves. Strict proof thereof is demanded at trial.

70. Denied. Plaintiff's selective reference and description of defendant Dr. Maloney's orders and/or care are denied pursuant to Pa.R.C.P. 1029(e). Reference is made to the medical records, which are in writing, and speak for themselves. Strict proof thereof is demanded at trial.

71-72. Denied. This averment is denied pursuant to Pa.R.C.P. 1029(e). Reference is also made to the medical records of December 6, 2005, with specific reference to the records of Dr. Katz. Strict proof thereof is demanded at trial.

73. Admitted in part and denied in part. It is admitted that an unenhanced MRI of the brain was performed on December 5, 2005. The remainder of this averment is denied pursuant

to Pa.R.C.P. 1029(e). Reference is also made to the medical records of December 7, 2005, with specific reference to the report of the MRI. Strict proof thereof is demanded at trial.

74. Denied. This averment is denied pursuant to Pa.R.C.P. 1029(e). Moreover, reference is made to the records of December 8, 2005, with specific reference to the records of Dr. Ahn. Strict proof thereof is demanded at trial.

75. Denied. This averment is denied pursuant to Pa.R.C.P. 1029(e). Moreover, reference is made to the records of December 8, 2005, with specific reference to the records of Dr. Myers. Strict proof thereof is demanded at trial.

76. Admitted, based on the records.

77-80. Denied. To the contrary, defendant Dr. Maloney acted reasonably and met the applicable standard of care at all relevant times. It is specifically denied that any alleged negligence of defendant Dr. Maloney caused and/or increased the risk of harm to plaintiff. Strict proof to the contrary is demanded at trial. Additionally, it is specifically denied that plaintiff Wanda Russell suffered any harm and/or injuries as a result of any allegedly negligent conduct of defendant Dr. Maloney. Strict proof thereof is demanded at trial.

Count I – Negligence

Plaintiff v. Dr. Devlin

81. The responses and averments in paragraphs 1 through 80 above are incorporated by reference as if fully set forth.

82 (a-o). These averments are directed to a party other than the answering defendant, and therefore, no responsive pleading is required. To the extent a response is required, these averments are denied pursuant to Pa.R.C.P. 1029(e). Defendant Dr. Maloney acted reasonably and met the applicable standard of care at all pertinent times. Proof to the contrary is demanded at trial.

Count II – Negligence
Plaintiff v. Dr. Maloney

83. The responses and averments in paragraphs 1 through 82 above are incorporated by reference as if fully set forth.

84. Denied. To the contrary, defendant Dr. Maloney acted reasonably and met the applicable standard of care at all pertinent times in his medical evaluation, care and treatment of plaintiff Wanda Russell. Moreover, the following are:

(a-z) Denied. These averments are denied pursuant to Pa.R.C.P. 1029(e). To the contrary, defendant Dr. Maloney provided appropriate and timely medical evaluation, care, and treatment of plaintiff Wanda Russell at all pertinent times. Strict proof to the contrary is demanded at trial.

Count III – Negligence
Plaintiff v. Dr. Helmi

85. The responses and averments in paragraphs 1 through 84 above are incorporated by reference as if fully set forth.

86 (a-z). These averments are directed to a party other than the answering defendant, and therefore, no responsive pleading is required. To the extent a response is required, these averments are denied pursuant to Pa.R.C.P. 1029(e). Defendant Dr. Maloney acted reasonably and met the applicable standard of care at all pertinent times. Proof to the contrary is demanded at trial.

Count IV – Negligence

Plaintiff v. Dr. Bradley

87. The responses and averments in paragraphs 1 through 86 above are incorporated by reference as if fully set forth.

88 (a-y). These averments are directed to a party other than the answering defendant, and therefore, no responsive pleading is required. To the extent a response is required, these averments are denied pursuant to Pa.R.C.P. 1029(e). Defendant Dr. Maloney acted reasonably and met the applicable standard of care at all pertinent times. Proof to the contrary is demanded at trial.

Count IV (sic) - Negligence

Plaintiff v. Dr. Bobrin

89. The responses and averments in paragraphs 1 through 88 above are incorporated by reference as if fully set forth.

90 (a-y). These averments are directed to a party other than the answering defendant, and therefore, no responsive pleading is required. To the extent a response is required, these averments are denied pursuant to Pa.R.C.P. 1029(e). Defendant Dr. Maloney acted reasonably and met the applicable standard of care at all pertinent times. Proof to the contrary is demanded at trial.

Count V (sic) – Vicarious Liability and Corporate (Direct) Negligence

Plaintiff v. Dubois Regional Medical Center a/k/a Dubois Regional Medical Center West a/d/b/a DRMC Behavioral Unit a/k/a DRMC East Behavioral Unit a/k/a DRMC Behavioral Health Outpatient Clinic

91. The responses and averments in paragraphs 1 through 90 above are incorporated by reference as if fully set forth.

92. This averment is directed to a party other than the answering defendant, and therefore, no responsive pleading is required. To the extent a response is required, this averment is denied pursuant to Pa.R.C.P. 1029(e). At all pertinent times, defendant Dr. Maloney was employed by DRMC Primary Care Associates. Strict proof to the contrary is demanded at trial.

93-95. These averments are directed to a party other than the answering defendant, and therefore, no responsive pleading is required. To the extent a response is required, these averments are denied pursuant to Pa.R.C.P. 1029(e). Moreover, defendant Dr. Maloney acted reasonably and met the applicable standard of care at all pertinent times. Strict proof to the contrary is demanded at trial.

WHEREFORE, defendant Mark W. Maloney, D.O. respectfully requests that this Honorable Court dismiss plaintiff's complaint, and enter judgment in favor of defendant Dr. Maloney, together with costs according to law.

NEW MATTER

96. There was no negligence or other actionable conduct committed by or on the part of defendant Mark W. Maloney, D.O., and plaintiff's complaint fails to state a cause of action against him.

97. To the extent that defendant is considered to be a healthcare provider, he is neither a guarantor nor warrantor of a cure.

98. Any acts and/or omissions of the answering defendant alleged to constitute negligence, were not substantial causes or factors of the injuries/damages alleged by the plaintiff.

99. All care and treatment rendered to plaintiff by defendant Dr. Maloney was appropriate, reasonable, and met the applicable medical standard of care. Plaintiff's alleged injuries and losses, if any, were not caused by the negligence of, or on the part of, the answering defendant.

100. The answering defendant raises any and all defenses, immunities and limitations afforded by the Pennsylvania MCare Act of 2002.

101. Plaintiff's claims may be barred, in whole or in part, by the applicable statute of limitations, to the extent discovery may disclose such facts.

102. Any acts and/or omissions of the answering defendant alleged to constitute negligence, or other breach of legal duty, did not increase the risk of harm to plaintiff's decedent.

103. To the extent plaintiff proves causally related damages, all of which are denied, plaintiff's alleged damages were caused solely or primarily by, and are the unpreventable result of, plaintiff's medical condition.

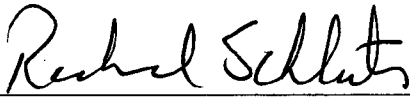
104. To the extent plaintiff proves causally related damages, all of which are denied, plaintiff's alleged damages were the result of conditions and/or conduct of others over whom defendant had no control, nor duty to control.

105. Plaintiff's claims for injuries and/or damages are barred or limited by the plaintiff's voluntary assumption of a known risk.

WHEREFORE, defendant Dr. Maloney respectfully requests that this Honorable Court dismiss plaintiff's complaint, and enter judgment in his favor and against plaintiff, together with costs according to law.

Respectfully submitted,

McCORMICK LAW FIRM

By 

David R. Bahl, Esquire

I.D. No. 10347

Richard F. Schluter, Esquire

I.D. No. 79672

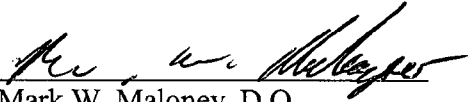
Attorneys for Defendant

Mark W. Maloney, D.O.

835 West Fourth Street
Williamsport, PA 17701
(570) 326-5131

VERIFICATION

I, **MARK W. MALONEY, D.O.**, verify that the facts set forth in the foregoing *Answer and New Matter of Defendant Mark W. Maloney D.O. to Plaintiff's Complaint*, are true and correct to the best of my knowledge, information and belief. I understand that the statements therein are made subject to the penalties of 18 Pa.C.S. §4904 relating to unsworn falsification to authorities.



Mark W. Maloney, D.O.

Date: 6/21/07

WANDA RUSSELL,
Plaintiff

v.

JAMES E. DEVLIN, M.D.; MARK W.
MALONEY, D.O.; DRMC PRIMARY
CARE ASSOCIATES; SANAA HELMI,
M.D.; THOMAS J. BRADLEY, M.D.;
BRADFORD BOBRIN, M.D.; DUBOIS
REGIONAL MEDICAL CENTER a/k/a
DUBOIS REGIONAL MEDICAL
CENTER WEST a/d/b/a DRMC
BEHAVIORAL UNIT a/k/a DRMC EAST
BEHAVIORAL UNIT a/k/a DRMC
BEHAVIORAL HEALTH OUTPATIENT
CLINIC,

Defendants

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY,
PENNSYLVANIA

NO. 07-644-CD

CIVIL ACTION - LAW

JURY TRIAL DEMANDED

CERTIFICATE OF SERVICE

I, RICHARD F. SCHLUTER, ESQUIRE, hereby certify that I have served a copy of the
foregoing *Answer and New Matter of Defendant Mark W. Maloney, D.O. to Plaintiff's*

Complaint, upon the following, this 17th day of August, 2006, as follows:

UNITED STATES MAIL, POSTAGE PREPAID:

Thomas R. Kline, Esquire
Mark A. Hoffman, Esquire
Kline & Specter, PC
The Nineteenth Floor
1525 Locust Street
Philadelphia, PA 19102

Darryl Slimak, Esquire
McQuaide Blasko
811 University Drive
State College, PA 16801

M. Brian O'Connor, Esquire
Gaca, Matis, Baum & Rizza, PC
444 Liberty Avenue, Suite 300
Pittsburgh, PA 15222

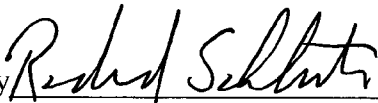
Lynn E. Bell, Esquire
Davies, McFarland & Carroll, PC
One Gateway Center, 10th Floor
Pittsburgh, PA 15222-1416

John L. McIntyre, Esquire
McIntyre, Dugas, Hartye & Schmitt
Post Office Box 533
Hollidaysburg, PA 16648-0533

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

DRMC Primary Care Associates
Medical Arts Building, Suite 200
145 Hospital Avenue
DuBois, PA 15801

McCORMICK LAW FIRM

By 

David R. Bahl, Esquire
I.D. No. 10347
Richard F. Schluter, Esquire
I.D. No. 79672
Attorneys for Defendant
Mark W. Maloney, D.O.

835 West Fourth Street
Williamsport, PA 17701
(570) 326-5131

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

WANDA RUSSELL,

Plaintiff,

vs.

CIVIL ACTION

No.: 07-644-CD

FILED *NO CC*
m/j:11:11/2007
AUG 27 2007 *CR*

William A. Shaw
Prothonotary/Clerk of Courts

JAMES E. DEVLIN, M.D., MARK W.
MALONEY, D.O., DRMC PRIMARY
CARE ASSOCIATES, SANAA HELMI,
M.D., THOMAS J. BRADLEY, M.D.,
BRADFORD BOBRIN, M.D., DUBOIS
REGIONAL MEDICAL CENTER a/k/a
DUBOIS REGIONAL MEDICAL
CENTER WEST a/d/b/a DRMC
BEHAVIORAL UNIT a/k/a DRMC EAST
BEHAVIORAL UNIT a/k/a DRMC
BEHAVIORAL HEALTH OUTPATIENT
CLINIC,

Defendants.

ANSWER AND NEW MATTER

TO: ALL PARTIES

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

DAVIES, McFARLAND & CARROLL, P.C.

By: *Lynn E. Bell*
Lynn E. Bell, Esquire

Filed on Behalf of this Party:

Bradford Bobrin, M.D., One of the
Defendants

Counsel of Record for this Party:

Lynn E. Bell, Esquire
Pa I.D. #38588

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

(412) 281-0737

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

WANDA RUSSELL,	)	CIVIL ACTION
	)	
Plaintiff,	)	
	)	
vs.	)	No.: 07-644-CD
	)	
JAMES E. DEVLIN, M.D., MARK W.	)	
MALONEY, D.O., DRMC PRIMARY	)	
CARE ASSOCIATES, SANAA HELMI,	)	
M.D., THOMAS J. BRADLEY, M.D.,	)	
BRADFORD BOBRIN, M.D., DUBOIS	)	
REGIONAL MEDICAL CENTER a/k/a	)	
DUBOIS REGIONAL MEDICAL	)	
CENTER WEST a/d/b/a DRMC	)	
BEHAVIORAL UNIT a/k/a DRMC EAST	)	
BEHAVIORAL UNIT a/k/a DRMC	)	
BEHAVIORAL HEALTH OUTPATIENT	)	
CLINIC,	)	
	)	
Defendants.	)	

ANSWER AND NEW MATTER

AND NOW, comes the Defendant, Bradford Bobrin, M.D., by and through his attorneys, Davies, McFarland & Carroll, P.C., and files with within Answer and New Matter, stating as follows:

1. After a reasonable investigation, Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 1 of the Complaint.
2. The averments of Paragraphs 2 through 9 of the Complaint are directed to co-Defendants to which no response is required.

3. The averments of Paragraph 10 of the Complaint are admitted in part and denied in part. It is denied that Exhibit A attached to the Complaint entitled Certificate of Merit is a valid Certificate of Merit as to Dr. Bobrin or that statements made therein are true and accurate. The remainder of the averments of Paragraph 10 of the Complaint are admitted.

4. The averments of Paragraph 11 of the Complaint are directed to co-Defendants to which no response is required.

5. The averments of Paragraph 12 through 13 of the Complaint contain conclusions of law and are directed to co-Defendants to which no response is required. To the extent a response may be required, Defendant denies that he was the actual or ostensible agent, servant, and/or employee of DuBois Regional Medical Center and the DRMC Behavioral Unit.

6. The averments of Paragraph 14 of the Complaint are legal conclusions to which no response is required.

7. The averments of Paragraphs 15 through 64, 68-76 are denied in accordance with Pennsylvania Rule of Civil Procedure 1029, Defendant demanding strict proof thereof at the time of trial. Dr. Bobrin was not a participate in Plaintiff's medical care during the times set forth.

8. Paragraphs 65-67 are admitted in part and denied in part. The statements attributed to Dr. Bobrin in these paragraphs do not reflect his full evaluation of Plaintiff.

9. The averments of Paragraphs 77 through 80 of the Complaint are legal conclusions to which no response is required. To the extent a response may be required, the averments of Paragraphs 77 through 80 are denied in accordance with Pennsylvania

Rule of Civil Procedure 1029, Defendant demanding strict proof thereof at the time of trial.

WHEREFORE, Defendant Bradford Bobrin, M.D. hereby demands that the claims against him be dismissed and that judgment be entered in his favor.

COUNT I

NEGLIGENCE-PLAINTIFF V. DR. DEVLIN

10. In response to Paragraph 81 of the Complaint, Defendant incorporates Paragraphs 1 through 9 of his Answer and New Matter to Complaint as though fully set forth at length herein.

11. The averments of Paragraph 82 of the Complaint and its subparagraphs are directed to co-Defendants to which no response is required.

WHEREFORE, Defendant Bradford Bobrin, M.D. hereby demands that the claims against him be dismissed and that judgment be entered in his favor.

COUNT II

NEGLIGENCE-PLAINTIFF V. DR. MALONEY

12. In response to Paragraph 83 of the Complaint, Defendant incorporates Paragraphs 1 through 11 of his Answer and New Matter to Complaint as though fully set forth at length herein.

13. The averments of Paragraph 84 of the Complaint and its subparagraphs are directed to co-Defendants to which no response is required.

WHEREFORE, Defendant Bradford Bobrin, M.D. hereby demands that the claims against him be dismissed and that judgment be entered in his favor.

COUNT III

NEGLIGENCE-PLAINTIFF V. DR. HELMI

14. In response to Paragraph 85 of the Complaint, Defendant incorporates Paragraphs 1 through 13 of his Answer and New Matter to Complaint as though fully set forth at length herein.

15. The averments of Paragraph 86 of the Complaint and its subparagraphs are directed to co-Defendants to which no response is required.

WHEREFORE, Defendant Bradford Bobrin, M.D. hereby demands that the claims against him be dismissed and that judgment be entered in his favor.

COUNT IV

NEGLIGENCE-PLAINTIFF V. DR. BRADLEY

16. In response to Paragraph 87 of the Complaint, Defendant incorporates Paragraphs 1 through 15 of his Answer and New Matter to Complaint as though fully set forth at length herein.

17. The averments of Paragraph 88 of the Complaint and its subparagraphs are directed to co-Defendants to which no response is required.

WHEREFORE, Defendant Bradford Bobrin, M.D. hereby demands that the claims against him be dismissed and that judgment be entered in his favor.

COUNT IV (SECOND COUNT IV)

NEGLIGENCE-PLAINTIFF V. DR. BOBRIN

18. In response to Paragraph 89 of the Complaint, Defendant incorporates Paragraphs 1 through 17 of his Answer and New Matter to Complaint as though fully set forth at length herein.

19. The averments of Paragraph 90 of the Complaint and its subparagraphs are denied in accordance with Pennsylvania Rule of Civil Procedure 1029, Defendant demanding strict proof thereof at the time of trial.

WHEREFORE, Defendant Bradford Bobrin, M.D. hereby demands that the claims against him be dismissed and that judgment be entered in his favor.

COUNT V

VICARIOUS AND CORPORATE (DIRECT) NEGLIGENCE -PLAINTIFF V.
DUBOISE REGIONAL MEDICAL CENTER A/K/A DUBOIS REGIONAL MEDICAL
CENTER WEST A/D/B/A DRMC BEHAVIORAL UNIT A/K/A DRMC EAST
BEHAVIORAL UNIT A/K/A DRMC BEHAVIORAL HEALTH OUTPATIENT
CLINIC

20. In response to Paragraph 91 of the Complaint, Defendant incorporates Paragraphs 1 through 19 of his Answer and New Matter to Complaint as though fully set forth at length herein.

21. The averments of Paragraphs 92 through 95 and their subparagraphs of the Complaint conclusions of law and are directed to co-Defendants to which no response is required. To the extent a response may be required, Defendant denies that he was the actual or ostensible agent, servant, and/or employee of DuBois Regional Medical Center and the DRMC Behavioral Unit. By way of further response, to the extent a response may be required, the remaining averments are denied in accordance with Pennsylvania

Rule of Civil Procedure 1029, Defendant demanding strict proof thereof at the time of trial.

WHEREFORE, Defendant Bradford Bobrin, M.D. hereby demands that the claims against him be dismissed and that judgment be entered in his favor.

NEW MATTER

22. Defendant incorporates Paragraphs 1 through 21 of its Answer to the Complaint.

23. Defendant hereby asserts the affirmative defense of the statute of limitations. Plaintiff's stroke was diagnosed on December 7, 2005 and suit was not filed until April 24, 2007. The discovery rule is not applicable.

24. Plaintiffs' Complaint fails to state a claim upon which relief may be granted as to Defendant.

25. Plaintiffs' comparative negligence, contributory negligence and/or assumption of the risk, are a complete and/or partial defense to the entirety of Plaintiff's Complaint.

26. The damages and injuries allegedly sustained by Plaintiffs were not proximately caused by Defendant.

27. If Plaintiffs sustained any injuries or damages, said injuries and damages were solely and exclusively caused by circumstances over which Defendant did not have any control and/or responsibility and/or by supervening, intervening and/or independent causes over which Defendant did not have any control.

28. Plaintiffs' injuries and damages were the result of a pre-existing condition.

29. If Plaintiffs sustained injuries as alleged, which are denied, Plaintiffs' injuries were caused by persons, entities, occurrences, instrumentalities or events unrelated to and not under the control of Defendant.

30. Defendant asserts all defenses and limitations on damages which are available to him under the Medical Care Availability and Reduction of Error Act.

31. In the event it is determined that Plaintiffs failed to obtain an appropriate Certificate of Merit, Defendant requests dismissal of this Complaint.

32. Defendant hereby gives notice he intends to rely upon such other and further affirmative defenses as may become available and apparent in discovery in this matter.

33. Defendant claims the affirmative defense of qualified immunity pursuant to the Mental Health Procedures Act 50 PS § 7114.

34. Immunity is available to Defendant pursuant to the Mental Health Procedures Act.

35. Defendant is entitled to immunity under 50 PS § 7114(a) for any psychiatric or medical care provided to the patient during the admission and treatment in question.

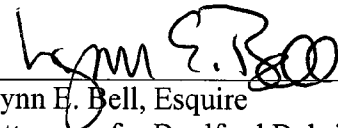
36. Defendant is entitled to immunity for all treatment related to Mrs. Russell pursuant to 50 PS § 7104; 50 PS § 7114 and any and all other provisions of the Mental Health Mental Procedures Act.

37. Defendant hereby asserts all other defenses available under the Mental Health Procedures Act.

JURY TRIAL DEMANDED

Davies McFarland & Carroll, P.C.

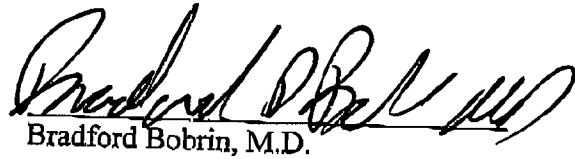
By: _____


Lynn E. Bell, Esquire
Attorneys for Bradford Bobrin, M.D.,
One of the Defendants

VERIFICATION

I, *Bradford Bobrin, M.D.*, have read the foregoing *Answer and New Matter*. The statements therein are correct to the best of my personal knowledge or information and belief.

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


Bradford Bobrin, M.D.

Date: 8/22/07

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that I served the foregoing document to all counsel of record in the following manner on the 23rd day of Aug, 2007:

Via Facsimile	_____
Via Hand Delivery	_____
Via First Class U.S. Mail	☒
Via Overnight Mail	_____
Via Certified Mail/ Return Receipt Request	_____

Thomas R. Kline, Esquire
Mark A. Hoffman, Esquire
Kline & Specter, P.C.
1525 Locust Street,
19th Floor
Philadelphia, PA 19102

Attorneys for Plaintiff

DAVIES, McFARLAND & CARROLL, P.C.

By:



Lynn E. Bell, Esquire
Attorneys for Bradford Bobrin, M.D.,
One of the Defendants

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

WANDA RUSSELL,

Plaintiff,

vs.

JAMES E. DEVLIN, M.D., MARK W.
MALONEY, D.O., DRMC PRIMARY CARE
ASSOCIATES, SANAA HELMI, M.D.,
THOMAS J. BRADLEY, M.D., BRADFORD
BOBRIN, M.D., DuBOIS REGIONAL MEDICAL
CENTER WEST a/d/b/a/ DRMC
BEHAVIORAL UNIT a/k/a/ DRMC EAST
BEHAVIORAL HEALTH OUTPATIENT
CLINIC,

Defendants.

*Medical Professional Liability
Action*

Docket No: 07 - 644 - C.D.

Type of Pleading:
*Dr. Helmi's Reply to Dr. Bobrin's
New Matter*

Filed on Behalf of Defendant
Sanaa Helmi, M.D.

Counsel for Record for This Party
Darryl R. Slimak, Esquire
Pa. Supreme Court I.D. #41695

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

Counsel for Plaintiff
Thomas R. Kline, Esquire
Mark A. Hoffman, Esquire

JURY TRIAL DEMANDED

FILED ^{NCC}
m/j 11/13/01
AUG 30 2007 (CR)

William A. Shaw
Prothonotary/Clerk of Courts

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

WANDA RUSSELL,

Plaintiff,

vs.

JAMES E. DEVLIN, M.D., MARK W.
MALONEY, D.O., DRMC PRIMARY CARE
ASSOCIATES, SANAA HELMI, M.D.,
THOMAS J. BRADLEY, M.D., BRADFORD
BOBRIN, M.D., DuBOIS REGIONAL MEDICAL
CENTER WEST a/d/b/a/ DRMC
BEHAVIORAL UNIT a/k/a/ DRMC EAST
BEHAVIORAL HEALTH OUTPATIENT
CLINIC,

Defendants.

*Medical Professional Liability
Action*

Docket No: 07 - 644 - C.D.

JURY TRIAL DEMANDED

DR. HELMI'S REPLY TO DR. BOBRIN'S NEW MATTER

22-37. In response to these averments, answering Defendant Dr. Helmi incorporates her Answer and New Matter as though set forth at length. No further or more specific response appears required under the Rules of Civil Procedure as the averments appear to constitute legal conclusions and/or statements of Dr. Bobrin's legal contentions.

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

WANDA RUSSELL,

Plaintiff,

vs.

JAMES E. DEVLIN, M.D., MARK W.
MALONEY, D.O., DRMC PRIMARY CARE
ASSOCIATES, SANAA HELMI, M.D.,
THOMAS J. BRADLEY, M.D., BRADFORD
BOBRIN, M.D., DuBOIS REGIONAL MEDICAL
CENTER WEST a/d/b/a/ DRMC
BEHAVIORAL UNIT a/k/a/ DRMC EAST
BEHAVIORAL HEALTH OUTPATIENT
CLINIC,

Defendants.

*Medical Professional Liability
Action*

Docket No: 07 - 644 - C.D.

JURY TRIAL DEMANDED

DR. HELMI'S REPLY TO DR. BOBRIN'S NEW MATTER

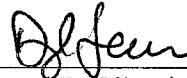
22-37. In response to these averments, answering Defendant Dr. Helmi incorporates her Answer and New Matter as though set forth at length. No further or more specific response appears required under the Rules of Civil Procedure as the averments appear to constitute legal conclusions and/or statements of Dr. Bobrin's legal contentions.

WHEREFORE, answering Defendant Dr. Sanaa Helmi respectfully requests entry of judgment in her favor and that Plaintiff's claim be dismissed, with prejudice.

Respectfully submitted,

McQUAIDE, BLASKO,
FLEMING & FAULKNER, INC.

By: _____



Darryl R. Slimak
Attorneys for Defendant
SANAA HELMI, M.D.
811 University Drive
State College, PA 16801
(814) 238-4926
Fax: (814) 238-9624

Dated: August 29, 2007

VERIFICATION

Darryl R. Slimak, hereby verifies that he is the Attorney of Record for Defendant Sanaa Helmi, M.D. in the foregoing action, and as such, he is authorized to make this Affidavit on her behalf, and that the facts set forth in the foregoing DR. HELMI'S REPLY TO DR. BOBRIN'S NEW MATTER are true and correct to the best of his information, knowledge and belief. This verification is made by the attorney of record instead of the Defendant in that the pleading is based on a pleading previously verified by the client, and the additional and/or changed averments are statements of legal defenses and/or facts within the undersigned's personal knowledge and belief. This Verification is hereby made subject to the penalties of 18 Pa.C.S.A. §4904 relating to unsworn falsification to authorities.



Darryl R. Slimak

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

WANDA RUSSELL,

Plaintiff,

vs.

JAMES E. DEVLIN, M.D., MARK W.
MALONEY, D.O., DRMC PRIMARY CARE
ASSOCIATES, SANAA HELMI, M.D.,
THOMAS J. BRADLEY, M.D., BRADFORD
BOBRIN, M.D., DuBOIS REGIONAL MEDICAL
CENTER WEST a/d/b/a/ DRMC
BEHAVIORAL UNIT a/k/a/ DRMC EAST
BEHAVIORAL HEALTH OUTPATIENT
CLINIC,

Defendants.

*Medical Professional Liability
Action*

Docket No: 07 - 644 - C.D.

JURY TRIAL DEMANDED

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the Dr. Helmi's Reply to Dr. Bobrin's New Matter in the above-captioned matter was mailed by regular mail, postage prepaid, at the Post Office, State College, Pennsylvania, on this 29th day of August, 2007, to the attorney(s) of record:

Thomas R. Kline, Esquire
Mark A. Hoffman, Esquire
Kline & Specter, P.C.
1525 Locust Street 19th Floor
Philadelphia, PA 19102

Matthew Brian O'Connor, Esquire
Gaca Matis Baum & Rizza PC
444 Liberty Ave Ste 300
Pittsburgh, PA 15222

David R. Bahl, Esquire
McCormick Law Firm
835 West Fourth Street
PO Box 577
Williamsport, PA 17701-5801

Lynn Bell, Esquire
Davies, McFarland & Carroll, P.C.
Tenth Floor One Gateway Center
Pittsburgh, PA 15222-1416

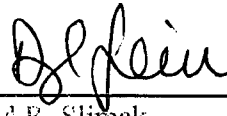
John McIntyre, Esquire
McIntyre Hartye & Schmitt
PO Box 533
Hollidaysburg, PA 16648-0533

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

DRMC Primary Care Associates
Medical Arts Building Suite 200
145 Hospital Drive
DuBois, PA 15801

McQUAIDE, BLASKO,
FLEMING & FAULKNER, INC.

By: _____



Darryl R. Slimak
Attorneys for Defendant
SANAA HELMI, M.D.
811 University Drive
State College, PA 16801
(814) 238-4926
Fax: (814) 238-9624

FILED No. cc
m 11:00/81
SEP 06 2007
(6P)

William A. Shaw
Prothonotary/Clerk of Courts

KLINE & SPECTER

A Professional Corporation

By: THOMAS R. KLINE, ESQUIRE
MARK A. HOFFMAN, ESQUIRE
ROYCE W. SMITH, ESQUIRE

Attorney ID Nos.: 28895/ 84443/201295

The Nineteenth Floor

1525 Locust Street

Philadelphia, Pennsylvania 19102

(215) 772-1000

Attorneys for Plaintiff

WANDA RUSSELL

**COURT OF COMMON PLEAS
COUNTY OF CLEARFIELD**

v.

JAMES E. DEVLIN, M.D. and
MARK W. MALONEY, D.O. and
DRMC PRIMARY CARE ASSOCIATES
and SANAA HELMI, M.D. and
THOMAS J. BRADLEY, M.D. and
BRADFORD BOBRIN, M.D. and
DUBOIS REGIONAL MEDICAL
CENTER a/ka DuBOIS REGIONAL
MEDICAL CENTER WEST
a/d/b/a DRMC BEHAVIORAL
UNIT a/k/a DRMC EAST BEHAVIORAL
UNIT a/k/a DRMC BEHAVIORAL
HEALTH OUTPATIENT CLINIC
Defendants.

DOCKET NO. 07-644-CD

**PLAINTIFF'S REPLY TO THE NEW MATTER OF
DEFENDANT, MARK MALONEY, D.O.**

Plaintiff, Wanda Russell, by and through her undersigned counsel, Kline & Specter, P.C.,
herein replies to the New Matter of Answering Defendant, Mark Maloney, D.O., as follows:

96. The allegations set forth in paragraph 96 of Answering Defendant's New Matter are
conclusions of law to which no response is required. It is specifically denied that "There is no

negligence or other actionable conduct committed by or on the part of defendant Mark W. Maloney, D.O., and plaintiff's complaint fails to state a cause of action against him."

97. The allegations set forth in paragraph 97 of Answering Defendant's New Matter are conclusions of law to which no response is required. It is specifically denied that "To the extent that defendant is considered to be a healthcare provider, he is neither a guarantor nor warrantor of a cure."

98. The allegations set forth in paragraph 98 of Answering Defendant's New Matter are conclusions of law to which no response is required. It is specifically denied that "Any acts and/or admissions of the answering defendant alleged to constitute negligence, were not substantial causes or factors of the injuries/damages alleged by plaintiff."

99. The allegations set forth in paragraph 99 of Answering Defendant's New Matter are conclusions of law to which no response is required. It is specifically denied that "All care and treatment rendered to plaintiff by defendant Dr. Maloney was appropriate, reasonable and met the applicable standard of care. Plaintiff's alleged injuries and losses, if any, were not caused by the negligence of, or on the part of, the answering defendant."

100. The allegations set forth in paragraph 100 of Answering Defendant's New Matter are conclusions of law to which no response is required. It is specifically denied that "The answering defendant raises any and all defenses, immunities and limitations afforded by the Pennsylvania MCare Act of 2002."

101. The allegations set forth in paragraph 101 of Answering Defendant's New Matter are conclusions of law to which no response is required. It is specifically denied that "Plaintiff's claims may be barred, in whole or in part, by the applicable statute of limitations, to the extent discovery may disclose such facts."

102. The allegations set forth in paragraph 102 of Answering Defendant's New Matter are conclusions of law to which no response is required. It is specifically denied that "Any acts or omissions of the answering defendant alleged to constitute negligence, or other breach of legal duty, did not increase the risk of harm to plaintiff's decedent."

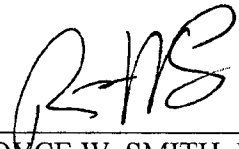
103. The allegations set forth in paragraph 103 of Answering Defendant's New Matter are conclusions of law to which no response is required. It is specifically denied that "To the extent plaintiff proves causally related damages, all of which are denied, plaintiff's alleged damages were caused solely or primarily by, and are the preventable result of, plaintiff's medical condition."

104. The allegations set forth in paragraph 104 of Answering Defendant's New Matter are conclusions of law to which no response is required. It is specifically denied that "To the extent plaintiff proves causally related damages were the result of conditions and/or conduct of others over whom defendant had no control, nor duty to control."

105. The allegations set forth in paragraph 105 of Answering Defendant's New Matter are conclusions of law to which no response is required. It is specifically denied that "Plaintiff's claims for injuries and/or damages are barred or limited by the plaintiff's voluntary assumption of a known risk."

Respectfully submitted,

KLINE & SPECTER
A Professional Corporation

By: 

ROYCE W. SMITH, ESQUIRE
Attorneys for Plaintiff

Date: 09/05/07

KLINE & SPECTER

A Professional Corporation

By: THOMAS R. KLINE, ESQUIRE
MARK A. HOFFMAN, ESQUIRE
ROYCE W. SMITH, ESQUIRE

Attorney ID Nos.: 28895/ 84443/201295

The Nineteenth Floor
1525 Locust Street
Philadelphia, Pennsylvania 19102
(215) 772-1000

Attorneys for Plaintiff

WANDA RUSSELL

v.

JAMES E. DEVLIN, M.D. and
MARK W. MALONEY, D.O. and
DRMC PRIMARY CARE ASSOCIATES
and SANAA HELMI, M.D. and
THOMAS J. BRADLEY, M.D. and
BRADFORD BOBRIN, M.D. and
DuBOIS REGIONAL MEDICAL
CENTER a/ka DuBOIS REGIONAL
MEDICAL CENTER WEST
a/d/b/a DRMC BEHAVIORAL
UNIT a/k/a DRMC EAST BEHAVIORAL
UNIT a/k/a DRMC BEHAVIORAL
HEALTH OUTPATIENT CLINIC
Defendants.

**COURT OF COMMON PLEAS
COUNTY OF CLEARFIELD**

DOCKET NO. 07-644-CD

CERTIFICATE OF SERVICE

I, ROYCE W. SMITH, ESQUIRE, hereby certify that a true and correct copy of the **Plaintiff's Reply to the New Matter of Defendant Dr. Bradford Bobrin**, was served via **First Class Mail** on the following individuals:

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

Darryl R. Slimak, Esquire
McQuaide Blasko
811 University Drive
State College, PA 16801-6699

M. Brian O'Connor, Esquire
Matis, Brum, Rizza, O'Connor
Four Gateway Center
444 Liberty Avenue

Suite 300
Pittsburgh, PA 15222

Lynn E. Bell, Esquire
Davies, McFarland & Carroll, P.C.
The Tenth Floor
One Gateway Center
Pittsburgh, PA 15222-1416

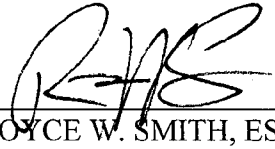
Christopher C. Rulis, Esquire
O'Brien, Rulis & Bochicchio, LLC
555 Grant Street
Suite 120
Pittsburgh, PA 15219

David R. Bahl, Esquire
Richard F. Schluter, Esquire
McCormick Law Firm
835 West Fourth Street
Williamsport, PA 17701

Respectfully submitted,

KLINE & SPECTER
A Professional Corporation

By: _____


ROYCE W. SMITH, ESQUIRE
Attorneys for Plaintiff

Date: _____

09/05/07

FILED

SEP 06 2007

William A. Shaw
Prothonotary/Clerk of Courts

[Handwritten signature]

11/20/11

FILED No. CC
m 11:00 AM
SEP 06 2007
GK

William A. Shaw
Prothonotary/Clerk of Courts

KLINE & SPECTER

A Professional Corporation

By: THOMAS R. KLINE, ESQUIRE
MARK A. HOFFMAN, ESQUIRE
ROYCE W. SMITH, ESQUIRE

Attorney ID Nos.: 28895/ 84443/201295

The Nineteenth Floor

1525 Locust Street

Philadelphia, Pennsylvania 19102

(215) 772-1000

Attorneys for Plaintiff

WANDA RUSSELL

**COURT OF COMMON PLEAS
COUNTY OF CLEARFIELD**

v.

JAMES E. DEVLIN, M.D. and
MARK W. MALONEY, D.O. and
DRMC PRIMARY CARE ASSOCIATES
and SANAA HELMI, M.D. and
THOMAS J. BRADLEY, M.D. and
BRADFORD BOBRIN, M.D. and
DuBOIS REGIONAL MEDICAL
CENTER a/ka DuBOIS REGIONAL
MEDICAL CENTER WEST
a/d/b/a DRMC BEHAVIORAL
UNIT a/k/a DRMC EAST BEHAVIORAL
UNIT a/k/a DRMC BEHAVIORAL
HEALTH OUTPATIENT CLINIC
Defendants.

DOCKET NO. 07-644-CD

**PLAINTIFF'S REPLY TO THE NEW MATTER OF
DEFENDANT, BRADFORD BOBRIN, M.D.**

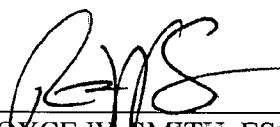
Plaintiff, Wanda Russell, by and through her undersigned counsel, Kline & Specter, P.C.,
herein replies to the New Matter of Answering Defendant, Bradford Bobrin, M.D. as follows:

22-37. The allegations set forth in paragraphs 22 to 37 inclusive of Answering Defendant's
New Matter are conclusions of law to which no response is required. It is specifically denied that

the Plaintiff's injuries were the result of a pre-existing condition.

Respectfully submitted,

KLINE & SPECTER
A Professional Corporation

By: 

ROYCE W. SMITH, ESQUIRE
Attorneys for Plaintiff

Date:

09/05/07

KLINE & SPECTER

A Professional Corporation

By: THOMAS R. KLINE, ESQUIRE
MARK A. HOFFMAN, ESQUIRE
ROYCE W. SMITH, ESQUIRE

Attorney ID Nos.: 28895/ 84443/201295

The Nineteenth Floor

1525 Locust Street

Philadelphia, Pennsylvania 19102

(215) 772-1000

Attorneys for Plaintiff

WANDA RUSSELL

**COURT OF COMMON PLEAS
COUNTY OF CLEARFIELD**

v.

JAMES E. DEVLIN, M.D. and
MARK W. MALONEY, D.O. and
DRMC PRIMARY CARE ASSOCIATES
and SANAA HELMI, M.D. and
THOMAS J. BRADLEY, M.D. and
BRADFORD BOBRIN, M.D. and
DuBOIS REGIONAL MEDICAL
CENTER a/ka DuBOIS REGIONAL
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a/d/b/a DRMC BEHAVIORAL
UNIT a/k/a DRMC EAST BEHAVIORAL
UNIT a/k/a DRMC BEHAVIORAL
HEALTH OUTPATIENT CLINIC
Defendants.

DOCKET NO. 07-644-CD

CERTIFICATE OF SERVICE

I, ROYCE W. SMITH, ESQUIRE, hereby certify that a true and correct copy of the **Plaintiff's Reply to the New Matter of Defendant Dr. Bradford Bobrin**, was served via **First Class Mail** on the following individuals:

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

Darryl R. Slimak, Esquire
McQuaide Blasko
811 University Drive
State College, PA 16801-6699

M. Brian O'Connor, Esquire
Matis, Brum, Rizza, O'Connor
Four Gateway Center
444 Liberty Avenue
Suite 300
Pittsburgh, PA 15222

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

Lynn E. Bell, Esquire
Davies, McFarland & Carroll, P.C.
The Tenth Floor
One Gateway Center
Pittsburgh, PA 15222-1416

David R. Bahl, Esquire
Richard F. Schluter, Esquire
McCormick Law Firm
835 West Fourth Street
Williamsport, PA 17701

Respectfully submitted,

KLINE & SPECTER
A Professional Corporation

By: 

ROYCE W. SMITH, ESQUIRE
Attorneys for Plaintiff

Date: 

FILED No CC.

m/jl:18um
SEP 10 2007

William A. Shaw
Prothonotary/Clerk of Courts

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

WANDA RUSSELL,

Plaintiff,

vs.

JAMES E. DEVLIN, M.D., MARK W.
MALONEY, D.O., DRMC PRIMARY CARE
ASSOCIATES, SANAA HELMI, M.D.,
THOMAS J. BRADLEY, M.D., BRADFORD
BOBRIN, M.D., DuBOIS REGIONAL MEDICAL
CENTER WEST a/d/b/a/ DRMC
BEHAVIORAL UNIT a/k/a/ DRMC EAST
BEHAVIORAL HEALTH OUTPATIENT
CLINIC,

Defendants.

*Medical Professional Liability
Action*

Docket No: 07 - 644 - C.D.

JURY TRIAL DEMANDED

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the Defendant Dr. Sanaa Helmi's Request to Plaintiff for Production of Expert Reports in the above-captioned matter was mailed by regular mail, postage prepaid, at the Post Office, State College, Pennsylvania, on this 7th day of September, 2007, to the attorney(s) of record:

Mark A. Hoffman, Esquire
Kline & Specter, P.C.
1525 Locust Street 19th Floor
Philadelphia, PA 19102

David R. Bahl, Esquire
McCormick Law Firm
835 West Fourth Street
PO Box 577
Williamsport, PA 17701-5801

Matthew Brian O'Connor, Esquire
Gaca Matis Baum & Rizza PC
444 Liberty Ave Ste 300
Pittsburgh, PA 15222

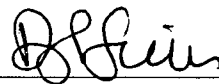
Lynn Bell, Esquire
Davies, McFarland & Carroll, P.C.
Tenth Floor One Gateway Center
Pittsburgh, PA 15222-1416

John McIntyre, Esquire
McIntyre, Hartye & Schmitt
PO Box 533
Hollidaysburg, PA 16648-0533

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

McQUAIDE, BLASKO, SCHWARTZ,
FLEMING & FAULKNER, INC.

By: _____



Attorneys for Defendant

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

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

WANDA RUSSELL,

Plaintiff,

vs.

JAMES E. DEVLIN, M.D. and MARK
W. MALONEY, D.O. and DRMC
PRIMARY CARE ASSOCIATES and
SANAA HELMI, M.D. and THOMAS J.
BRADLEY, M.D. and BRADFORD
BOBRIN, M.D. and DUBOIS
REGIONAL MEDICAL CENTER a/k/a
DUBOIS REGIONAL MEDICAL
CENTER WEST a/d/b/a DRMC
BEHAVIORAL UNIT a/k/a DRMC
EAST BEHAVIORAL UNIT a/k/a
DRMC BEHAVIORAL HEALTH
OUTPATIENT CLINIC,

Defendants.

CIVIL DIVISION

CASE NO: 07-644-CD

Type of Pleading:

**NOTICE OF SERVICE
OF DISCOVERY REQUESTS**

Filed on behalf of Defendant:

Thomas J. Bradley, M.D.

Counsel of record for these parties:

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 NoCC
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SEP 10 2007
William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

WANDA RUSSELL,

Plaintiff,

vs.

JAMES E. DEVLIN, M.D., et al.

Defendants.

CIVIL DIVISION

CASE NO: 07-644-CD

NOTICE OF SERVICE

I hereby certify that Defendant, Thomas J. Bradley, M.D.'s Interrogatories and Request for Production of Documents Directed to Plaintiff, were served upon Mark A. Hoffman, Esquire, Kline & Specter, P.C. The Nineteenth Floor, 1525 Locust Street, Philadelphia, PA 19102, via first class mail, postage prepaid on September 5, 2007.

A true and correct copy was served upon the following via first class mail, September 5, 2007:

David R. Bahl, Esquire
McCormick Law Firm
835 West Fourth Street
Williamsport, PA 17701

DRMC Primary Care Associates
Medical Arts Building, Suite 200
145 Hospital Drive
DuBois, PA 15801

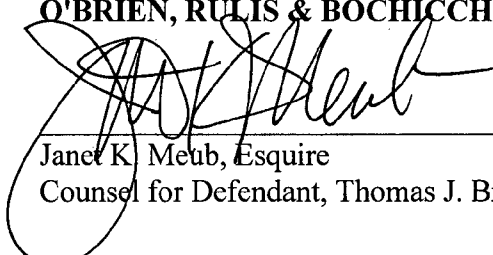
M. Brian O'Connor, Esquire
Matis Baum, Rizza & O'Connor, PC
444 Liberty Avenue
Suite 300
Pittsburgh, PA 15222

Lynn Bell, Esquire
Davis, McFarland & Carroll, P.C.
Tenth Floor, One Gateway Center
Pittsburgh, PA 15222

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

Darryl R. Slimak, Esquire
McQuaide, Blasko, Fleming &
Faulkner, Inc.
811 University Drive
State College, PA 16801

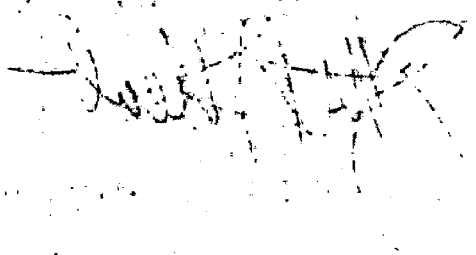
O'BRIEN, RULIS & BOCHICCHIO, LLC


Janet K. Meub, Esquire
Counsel for Defendant, Thomas J. Bradley, M.D.

FILED

SEP 10 2007

William A. Shaw
Prothonotary/Clerk of Courts

A handwritten signature in dark ink, appearing to read "Shaw", is located in the bottom left corner of the page. The signature is stylized and somewhat cursive.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

WANDA RUSSELL,

Plaintiff,

vs.

JAMES E. DEVLIN, M.D. and MARK W.
MALONEY, D.O. and DRMC PRIMARY
CARE ASSOCIATES and SANAA
HELM, M.D. and THOMAS J.
BRADLEY, M.D. and BRADFORD
BOBRIN, M.D. and DUBOIS REGIONAL
MEDICAL CENTER a/k/a DUBOIS
REGIONAL MEDICAL CENTER WEST
a/d/b/a DRMC BEHAVIORAL UNIT a/k/a
DRMC EAST BEHAVIORAL UNIT a/k/a
DRMC BEHAVIORAL HEALTH
OUTPATIENT CLINIC,

Defendants.

CIVIL DIVISION

CASE NO: 07-644-CD

Type of Pleading:

**ANSWER AND
NEW MATTER**

Filed on behalf of Defendant:
Thomas J. Bradley, M.D.

Counsel of record for these
parties:

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 Noce

m/11:15am
SEP 10 2007

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

WANDA RUSSELL,

Plaintiff,

vs.

JAMES E. DEVLIN, M.D., et al.

Defendants.

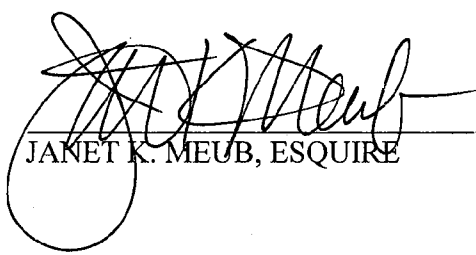
CIVIL DIVISION

CASE NO: 07-644-CD

NOTICE TO PLEAD

TO: PLAINTIFF

You are hereby notified to file a written response to this Answer and New Matter to Plaintiff's Complaint within twenty (20) days of service hereof or a judgment may be entered against you.


JANET K. MEUB, ESQUIRE

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

WANDA RUSSELL,	:	CIVIL DIVISION
	:	
Plaintiff,	:	CASE NO: 07-644-CD
	:	
vs.	:	
	:	
JAMES E. DEVLIN, M.D., et al.	:	
	:	
Defendants.	:	

ANSWER AND NEW MATTER

Defendant, THOMAS J. BRADLEY, M.D. ("Defendant Bradley"), by and through his counsel, O'BRIEN RULIS & BOCHICCHIO, LLC, files the following Answer and New Matter to Plaintiff's Complaint:

PARTIES

1. Denied. After reasonable investigation, Defendant Bradley is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations set forth in Paragraph 1 of plaintiffs' Complaint. Accordingly, the same are denied and strict proof thereof is demanded at time of trial.

2-8. Paragraph Nos. 2 through 8 of plaintiff's Complaint are directed to parties other than this defendant; therefore, no response is necessary.

9. Admitted in part and denied in part. It is admitted that Defendant Bradley was at all material times a duly licensed physician in the Commonwealth of Pennsylvania who

maintained a professional office at 701 Sunflower Drive, DuBois, Pennsylvania 15801. It is denied that defendant specializes in psychiatry. Defendant Bradley is a family medicine physician. The remaining allegations contained in Paragraph 9 are denied.

10-11. Paragraph Nos. 10 and 11 of plaintiff's Complaint are directed to parties other than this defendant; therefore, no response is necessary.

12-13. Denied. Defendant Bradley was at all relevant times an independent contractor. Defendant Bradley specifically denies all allegations of agency, ostensible agency, master-servant, employment relationship, respondeat superior, right of control, and negligence. Defendant Bradley is without knowledge or information sufficient to form a belief as to the truth or falsity of the remaining allegations contained in Paragraph Nos. 12 and 13 of plaintiff's Complaint. The same are therefore denied and strict proof is demanded at the time of trial.

14. Paragraph 14 of plaintiff's Complaint contains conclusions of law to which no response is required.

FACTS GIVING RISE TO CLAIMS OF NEGLIGENCE

15-53. Denied. Defendant Bradley is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in Paragraph Nos. 15 through 53 of plaintiff's Complaint. Further, defendant denies all allegations contained in Paragraphs 15 through 53 that are inconsistent with, or incomplete as compared to, the pertinent DuBois Regional Medical Center medical records.

54. Admitted in part and denied in part. The allegations contained in Paragraph 54 of plaintiff's Complaint are denied to the extent that they are inconsistent with, or incomplete compared to, pertinent Dubois Regional Medical Center medical records.

55. Admitted.

56. Denied as stated. Defendant Bradley evaluated plaintiff on one occasion. It is admitted that Dr. Bradley's plan was to admit the plaintiff for "psyche evaluation and treatment."

57. Denied as stated. Defendant Bradley evaluated the plaintiff on one occasion. It is admitted that he did not transfer plaintiff back to a medical unit for evaluation of her left sided weakness or facial droop.

58. Denied as stated. Defendant Bradley evaluated the plaintiff on one occasion. It is admitted that Defendant Bradley did not order, or order to be obtained, a neurology consult.

59. Denied as stated. Defendant Bradley evaluated the plaintiff on one occasion. It is admitted that Defendant Bradley did not have an MRI performed or order an MRI to be performed on plaintiff.

60. Denied as stated. Defendant Bradley evaluated the plaintiff on one occasion. It is admitted that Defendant Bradley did not diagnose plaintiff with a "stuttering" cerebrovascular accident.

61-76. Denied. Defendant Bradley is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in Paragraph Nos. 61 through 76 of plaintiff's Complaint. Further, defendant denies all allegations contained in Paragraphs 61 through 76 that are inconsistent with, or incomplete as compared to, the pertinent DuBois Regional Medical Center medical records.

77-80. Denied. Defendant Bradley denies all allegations of negligence contained in Paragraph Nos. 77 through 80 of plaintiff's Complaint.

COUNT I - NEGLIGENCE
(Plaintiff v. Dr. Devlin)

81. Defendant, THOMAS J. BRADLEY, M.D., incorporates his responses and affirmative averments contained in Paragraph Nos. 1 through 80 of this Answer as if fully set forth herein.

82 (a) – (o). Paragraph Nos. 82 (a) - (o) of plaintiff's Complaint are directed to a party other than this defendant; therefore, no response is necessary.

WHEREFORE, defendant, THOMAS J. BRADLEY, M.D., demands judgment in his favor and against the plaintiff.

COUNT II - NEGLIGENCE
(Plaintiff v. Dr. Maloney)

83. Defendant, THOMAS J. BRADLEY, M.D., incorporates his responses and affirmative averments contained in Paragraph Nos. 1 through 82, including subparagraphs, of this Answer as if fully set forth herein.

84 (a) – (z). Paragraph Nos. 84 (a) - (z) of plaintiff's Complaint are directed to a party other than this defendant; therefore, no response is necessary.

WHEREFORE, defendant, THOMAS J. BRADLEY, M.D., demands judgment in his favor and against the plaintiff.

COUNT III - NEGLIGENCE
(Plaintiff v. Dr. Helmi)

85. Defendant, THOMAS J. BRADLEY, M.D., incorporates his responses and affirmative averments contained in Paragraph Nos. 1 through 84, including subparagraphs, of this Answer as if fully set forth herein.

86 (a) – (z). Paragraph Nos. 86 (a) - (z) of plaintiff's Complaint are directed to a party other than this defendant; therefore, no response is necessary.

WHEREFORE, defendant, THOMAS J. BRADLEY, M.D., demands judgment in his favor and against the plaintiff.

COUNT IV - NEGLIGENCE
(Plaintiff v. Dr. Bradley)

87. Defendant, THOMAS J. BRADLEY, M.D., incorporates his responses and affirmative averments contained in Paragraph Nos. 1 through 86, including subparagraphs, of this Answer as if fully set forth herein.

88 (a) – (y). Denied. Defendant Bradley denies all allegations of negligence contained in Paragraph Nos. 88 (a) – (y). Therefore, strict proof is demanded at the time of trial.

WHEREFORE, defendant, THOMAS J. BRADLEY, M.D., demands judgment in his favor and against the Plaintiff.

COUNT V – NEGLIGENCE (erroneously numbered Count IV)
(Plaintiff v. Dr. Bobrin)

89. Defendant, THOMAS J. BRADLEY, M.D., incorporates his responses and affirmative averments contained in Paragraph Nos. 1 through 88, including subparagraphs, of this Answer as if fully set forth herein.

90 (a) – (z). Paragraph Nos. 90 (a) - (y) of plaintiff's Complaint are directed to a party other than this defendant; therefore, no response is necessary.

WHEREFORE, defendant, THOMAS J. BRADLEY, M.D., demands judgment in his favor and against the plaintiff.

COUNT VI- NEGLIGENCE (erroneously numbered Count V)
(Plaintiff v. DuBois Regional Medical Center a/k/a
DuBois Regional Medical Center West a/d/b/a DRMC Behavioral Unit a/k/a DRMC East
Behavioral Unit a/k/a DRMC Behavioral Outpatient Clinic)

91. Defendant, THOMAS J. BRADLEY, M.D., incorporates his responses and affirmative averments contained in Paragraph Nos. 1 through 90, including subparagraphs, of this Answer as if fully set forth herein.

92. Denied. Defendant Bradley is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in Paragraph No. 92 of plaintiff's Complaint. The same are therefore denied and strict proof is demanded at the time of trial. Defendant Bradley further objects to all allegations of agency, ostensible agency, servitude, and/or employment.

93 (a) – (h). Paragraph Nos. 93 (a) through (h) of plaintiff's Complaint are directed to a party other than this defendant; therefore, no response is necessary.

94 (a) – (d). Paragraph Nos. 94 (a) through (d) of plaintiff's Complaint are directed to a party other than this defendant; therefore, no response is necessary.

95 (a) – (v). Paragraph Nos. 95 (a) through (v) of plaintiff's Complaint are directed to a party other than this defendant. The same are therefore denied and strict proof is demanded at the time of trial.

WHEREFORE, defendant, THOMAS J. BRADLEY, M.D., demands judgment in his favor and against the plaintiff.

NEW MATTER

96. Defendant, THOMAS J. BRADLEY, M.D., incorporates his responses and affirmative averments set forth in Paragraph Nos. 1 through 95, including all subparagraphs therein, of this Answer, as if same were set forth at length herein.

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

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

99. To the extent justified by the facts developed in discovery and/or the evidence introduced at the time of trial, Defendant Bradley avers that the conduct of others not a party to this action and/or factors beyond the control of these defendants caused or contributed to the alleged injuries and/or damages of plaintiffs.

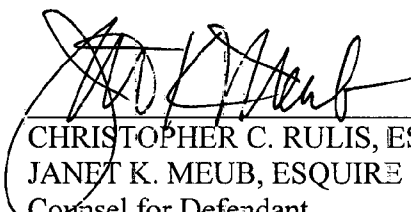
100. To the extent justified by the facts developed in discovery and/or the evidence introduced at the time of trial, Defendant Bradley avers that the conduct of other actors beyond his control caused or contributed to the plaintiffs' alleged injuries and/or damages.

101. If, at the time of trial, it is established that plaintiff 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 Bradley pleads assumption of the risk as an affirmative defense.

102. If, at the time of trial, it is established that plaintiff 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 Bradley pleads such contributory and/or comparative negligence as an affirmative defense.

O'BRIEN, RULIS & BOCHICCHIO, LLC

By:



CHRISTOPHER C. RULIS, ESQUIRE
JANET K. MEUB, ESQUIRE
Counsel for Defendant
Thomas J. Bradley, M.D.

VERIFICATION

I, THOMAS BRADLEY, 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 Pa. C.S.A. §4904, relating to unsworn falsification to authorities.

Date:

5/27/07

By:

Thomas Bradley MD

Thomas Bradley, M.D.

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that a true and correct copy of the within **ANSWER AND NEW MATTER** has been served via first class United States mail, postage prepaid, on this 4th day of September, 2007, upon the following counsel of record:

Thomas R. Kline, Esquire
Mark A. Hoffman, Esquire
Royce W. Smith, Esquire
KLINE & SPECTER, P.C.
The Nineteenth Floor
1525 Locust Street
Philadelphia, PA 19102
(Counsel for Plaintiffs)

Darryl R. Slimak, Esquire
McQuaide, Blasko, Fleming & Faulkner, Inc.
811 University Drive
State College, PA 16801

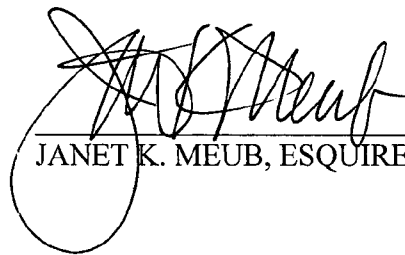
Matthew Brian O'Connor, Esquire
Gaca Matis Baum & Rizza PC
444 Liberty Avenue
Suite 300
Pittsburgh, PA 15222

David R. Bahl, Esquire
McCormick Law Firm
835 West Fourth Street
P.O. Box 577
Williamsport, PA 17701

Lynn Bell, Esquire
Davis, McFarland & Carroll, P.C.
Tenth Floor, One Gateway Center
Pittsburgh, PA 15222

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

DRMC Primary Care Associates
Medical Arts Building, Suite 200
145 Hospital Drive
DuBois, PA 15801



JANET K. MEUB, ESQUIRE

[Faint, illegible handwritten text]

FILED

SEP 10 2007

William A. Shaw
Prothonotary/Clerk of Courts

WANDA RUSSELL,
Plaintiff

v.

JAMES E. DEVLIN, M.D.; MARK W.
MALONEY, D.O.; DRMC PRIMARY
CARE ASSOCIATES; SANAA HELMI,
M.D.; THOMAS J. BRADLEY, M.D.;
BRADFORD BOBRIN, M.D.; DUBOIS
REGIONAL MEDICAL CENTER a/k/a
DUBOIS REGIONAL MEDICAL
CENTER WEST a/d/b/a DRMC
BEHAVIORAL UNIT a/k/a DRMC EAST
BEHAVIORAL UNIT a/k/a DRMC
BEHAVIORAL HEALTH OUTPATIENT
CLINIC,
Defendants

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY,
PENNSYLVANIA

NO. 07-644-CD

CIVIL ACTION - LAW

JURY TRIAL DEMANDED

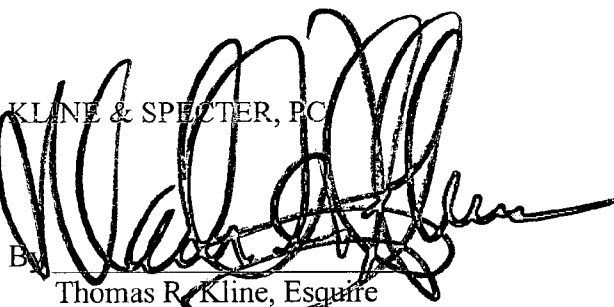
**STIPULATION OF ALL PARTIES TO ALLOW AMENDED NEW
MATTER OF DEFENDANT MARK W. MALONEY, D.O.**

AND NOW, come all parties, through their counsel, and stipulate and agree that
defendant Mark W. Maloney, D.O. may file an amended new matter which is attached as
Exhibit "A."

Date:

9/10/07

KLINE & SPECTER, PC

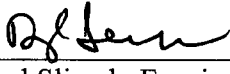


Thomas R. Kline, Esquire
Mark A. Hoffman, Esquire
Attorney for Plaintiffs

FILED NO CC
m 12:37 PM
OCT 11 2007 (6K)

William A. Shaw
Prothonotary/Clerk of Courts

McQUAIDE BLASKO

By 
Darryl Slimak, Esquire
Attorney for Defendant
Sanaa Helmi, M.D.

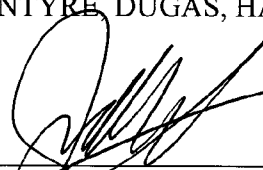
Date: 9-7-2007

GACA, MATIS, BAUM & RIZZA, PC

By M. Brian O'Connor
M. Brian O'Connor, Esquire
Attorney for Defendant
James E. Devlin, M.D.

Date:

McINTYRE, DUGAS, HARTYE & SCHMITT

By 

John L. McIntyre, Esquire

Attorney for Defendants

Dubois Regional Medical Center

a/k/a Dubois Regional Medical Center

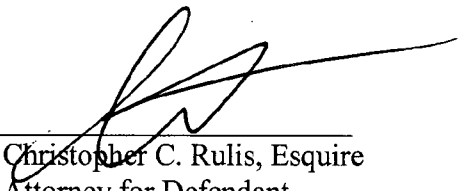
West a/d/b/a DRMC Behavioral Unit

a/k/a DRMC East Behavioral Unit a/k/a

DRMC Behavioral Health Outpatient Clinic

Date: 9-11-07

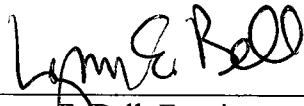
O'BRIEN, RULIS, BOCHICCHIO & SOSSO, LLC

By 

Christopher C. Rulis, Esquire
Attorney for Defendant
Thomas J. Bradley, M.D.

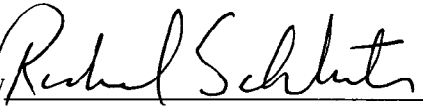
Date:

DAVIES, MCFARLAND & CARROLL, PC

By 
Lynn E. Bell, Esquire
Attorney for Defendant
Bradford Bobrin, M.D.

Date:

McCORMICK LAW FIRM

By 

David R. Bahl, Esquire

I.D. No. 10347

Richard F. Schluter, Esquire

I.D. No. 79672

Attorneys for Defendant

Mark W. Maloney, D.O.

Date:

WANDA RUSSELL,
Plaintiff

v.

JAMES E. DEVLIN, M.D.; MARK W.
MALONEY, D.O.; DRMC PRIMARY
CARE ASSOCIATES; SANAA HELMI,
M.D.; THOMAS J. BRADLEY, M.D.;
BRADFORD BOBRIN, M.D.; DUBOIS
REGIONAL MEDICAL CENTER a/k/a
DUBOIS REGIONAL MEDICAL
CENTER WEST a/d/b/a DRMC
BEHAVIORAL UNIT a/k/a DRMC EAST
BEHAVIORAL UNIT a/k/a DRMC
BEHAVIORAL HEALTH OUTPATIENT
CLINIC,

Defendants

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY,
PENNSYLVANIA

NO. 07-644-CD

CIVIL ACTION - LAW

JURY TRIAL DEMANDED

NOTICE TO PLEAD

TO: PLAINTIFF WANDA RUSSELL
c/o Thomas R. Kline, Esquire
Mark A. Hoffman, Esquire
Kline & Specter, PC
The Nineteenth Floor
1525 Locust Street
Philadelphia, PA 19102

YOU ARE HEREBY NOTIFIED to file a written response to the enclosed *Amended*
New Matter of Defendant Mark Maloney, D.O. to Plaintiff's Complaint, within twenty (20)
days from service hereof or a judgment may be entered against you.

Respectfully submitted,

McCORMICK LAW FIRM

By 

David R. Bahl, Esquire

I.D. No. 10347

Richard F. Schluter, Esquire

I.D. No. 79672

Attorneys for Defendant

Mark W. Maloney, D.O.

Exhibit "A"

WANDA RUSSELL,
Plaintiff

v.

JAMES E. DEVLIN, M.D.; MARK W.
MALONEY, D.O.; DRMC PRIMARY
CARE ASSOCIATES; SANAA HELMI,
M.D.; THOMAS J. BRADLEY, M.D.;
BRADFORD BOBRIN, M.D.; DUBOIS
REGIONAL MEDICAL CENTER a/k/a
DUBOIS REGIONAL MEDICAL
CENTER WEST a/d/b/a DRMC
BEHAVIORAL UNIT a/k/a DRMC EAST
BEHAVIORAL UNIT a/k/a DRMC
BEHAVIORAL HEALTH OUTPATIENT
CLINIC,
Defendants

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY,
PENNSYLVANIA

NO. 07-644-CD

CIVIL ACTION - LAW

JURY TRIAL DEMANDED

**AMENDED NEW MATTER OF
DEFENDANT MARK W. MALONEY, D.O.
TO PLAINTIFF'S COMPLAINT**

96. There was no negligence or other actionable conduct committed by or on the part of defendant Mark W. Maloney, D.O., and plaintiff's complaint fails to state a cause of action against him.

97. To the extent that defendant is considered to be a healthcare provider, he is neither a guarantor nor warrantor of a cure.

98. Any acts and/or omissions of the answering defendant alleged to constitute negligence, were not substantial causes or factors of the injuries/damages alleged by the plaintiff.

99. All care and treatment rendered to plaintiff by defendant Dr. Maloney was appropriate, reasonable, and met the applicable medical standard of care. Plaintiff's alleged

injuries and losses, if any, were not caused by the negligence of, or on the part of, the answering defendant.

100. The answering defendant raises any and all defenses, immunities and limitations afforded by the Pennsylvania MCare Act of 2002.

101. Plaintiff's claims may be barred, in whole or in part, by the applicable statute of limitations, to the extent discovery may disclose such facts.

102. Any acts and/or omissions of the answering defendant alleged to constitute negligence, or other breach of legal duty, did not increase the risk of harm to plaintiff's decedent.

103. To the extent plaintiff proves causally related damages, all of which are denied, plaintiff's alleged damages were caused solely or primarily by, and are the unpreventable result of, plaintiff's medical condition.

104. To the extent plaintiff proves causally related damages, all of which are denied, plaintiff's alleged damages were the result of conditions and/or conduct of others over whom defendant had no control, nor duty to control.

105. Plaintiff's claims for injuries and/or damages are barred or limited by the plaintiff's voluntary assumption of a known risk.

106. Defendant Dr. Maloney claims the affirmative defense of quality immunity pursuant to the Mental Health Procedures Act, 50 P.S. §7114(a).

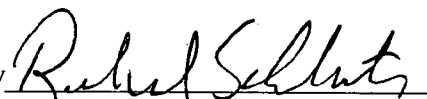
107. It is believed, and therefore averred, that the defense of immunity may be available to defendant Dr. Maloney pursuant to the Mental Health Procedures Act, and under the facts and circumstances of this case.

108. Defendant Dr. Maloney hereby raises and asserts any and all other defenses available to him under the Mental Health Procedures Act.

WHEREFORE, defendant Dr. Maloney respectfully requests that this Honorable Court dismiss plaintiff's complaint, and enter judgment in his favor and against plaintiff, together with costs according to law.

Respectfully submitted,

McCORMICK LAW FIRM

By 

David R. Bahl, Esquire

I.D. No. 10347

Richard F. Schluter, Esquire

I.D. No. 79672

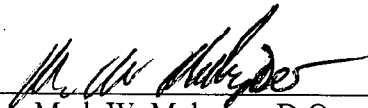
Attorneys for Defendant

Mark W. Maloney, D.O.

835 West Fourth Street
Williamsport, PA 17701
(570) 326-5131

VERIFICATION

I, **MARK W. MALONEY, D.O.**, verify that the facts set forth in the foregoing *Amended New Matter of Defendant Mark W. Maloney D.O. to Plaintiff's Complaint*, are true and correct to the best of my knowledge, information and belief. I understand that the statements therein are made subject to the penalties of 18 Pa.C.S. §4904 relating to unsworn falsification to authorities.



Mark W. Maloney, D.O.

Date: 9/2/07

WANDA RUSSELL,
Plaintiff

v.

JAMES E. DEVLIN, M.D.; MARK W.
MALONEY, D.O.; DRMC PRIMARY
CARE ASSOCIATES; SANAA HELMI,
M.D.; THOMAS J. BRADLEY, M.D.;
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BEHAVIORAL UNIT a/k/a DRMC EAST
BEHAVIORAL UNIT a/k/a DRMC
BEHAVIORAL HEALTH OUTPATIENT
CLINIC,

Defendants

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY,
PENNSYLVANIA

NO. 07-644-CD

CIVIL ACTION - LAW

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NOTICE TO PLEAD

TO: PLAINTIFF WANDA RUSSELL
c/o Thomas R. Kline, Esquire
Mark A. Hoffman, Esquire
Kline & Specter, PC
The Nineteenth Floor
1525 Locust Street
Philadelphia, PA 19102

FILED
OCT 12 2007
12:05 PM
William A. Shaw
Prothonotary/Clerk of Courts
WAS

YOU ARE HEREBY NOTIFIED to file a written response to the enclosed *Amended*
New Matter of Defendant Mark Maloney, D.O. to Plaintiff's Complaint, within twenty (20)
days from service hereof or a judgment may be entered against you.

Respectfully submitted,

McCORMICK LAW FIRM

By Richard F. Schluter
David R. Bahl, Esquire
I.D. No. 10347
Richard F. Schluter, Esquire
I.D. No. 79672
Attorneys for Defendant
Mark W. Maloney, D.O.

WANDA RUSSELL,
Plaintiff

v.

JAMES E. DEVLIN, M.D.; MARK W.
MALONEY, D.O.; DRMC PRIMARY
CARE ASSOCIATES; SANAA HELMI,
M.D.; THOMAS J. BRADLEY, M.D.;
BRADFORD BOBRIN, M.D.; DUBOIS
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BEHAVIORAL HEALTH OUTPATIENT
CLINIC,

Defendants

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY,
PENNSYLVANIA

NO. 07-644-CD

CIVIL ACTION - LAW

JURY TRIAL DEMANDED

**AMENDED NEW MATTER OF
DEFENDANT MARK W. MALONEY, D.O.
TO PLAINTIFF'S COMPLAINT**

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97. To the extent that defendant is considered to be a healthcare provider, he is neither a guarantor nor warrantor of a cure.

98. Any acts and/or omissions of the answering defendant alleged to constitute negligence, were not substantial causes or factors of the injuries/damages alleged by the plaintiff.

99. All care and treatment rendered to plaintiff by defendant Dr. Maloney was appropriate, reasonable, and met the applicable medical standard of care. Plaintiff's alleged

injuries and losses, if any, were not caused by the negligence of, or on the part of, the answering defendant.

100. The answering defendant raises any and all defenses, immunities and limitations afforded by the Pennsylvania MCare Act of 2002.

101. Plaintiff's claims may be barred, in whole or in part, by the applicable statute of limitations, to the extent discovery may disclose such facts.

102. Any acts and/or omissions of the answering defendant alleged to constitute negligence, or other breach of legal duty, did not increase the risk of harm to plaintiff's decedent.

103. To the extent plaintiff proves causally related damages, all of which are denied, plaintiff's alleged damages were caused solely or primarily by, and are the unpreventable result of, plaintiff's medical condition.

104. To the extent plaintiff proves causally related damages, all of which are denied, plaintiff's alleged damages were the result of conditions and/or conduct of others over whom defendant had no control, nor duty to control.

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106. Defendant Dr. Maloney claims the affirmative defense of quality immunity pursuant to the Mental Health Procedures Act, 50 P.S. §7114(a).

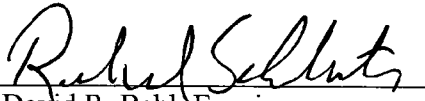
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108. Defendant Dr. Maloney hereby raises and asserts any and all other defenses available to him under the Mental Health Procedures Act.

WHEREFORE, defendant Dr. Maloney respectfully requests that this Honorable Court dismiss plaintiff's complaint, and enter judgment in his favor and against plaintiff, together with costs according to law.

Respectfully submitted,

McCORMICK LAW FIRM

By 

David R. Bahl, Esquire

I.D. No. 10347

Richard F. Schluter, Esquire

I.D. No. 79672

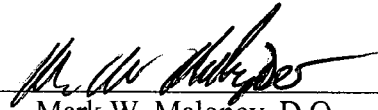
Attorneys for Defendant

Mark W. Maloney, D.O.

835 West Fourth Street
Williamsport, PA 17701
(570) 326-5131

VERIFICATION

I, **MARK W. MALONEY, D.O.**, verify that the facts set forth in the foregoing *Amended New Matter of Defendant Mark W. Maloney D.O. to Plaintiff's Complaint*, are true and correct to the best of my knowledge, information and belief. I understand that the statements therein are made subject to the penalties of 18 Pa.C.S. §4904 relating to unsworn falsification to authorities.



Mark W. Maloney, D.O.

Date: 9/2/07

WANDA RUSSELL,
Plaintiff

v.

JAMES E. DEVLIN, M.D.; MARK W.
MALONEY, D.O.; DRMC PRIMARY
CARE ASSOCIATES; SANAA HELMI,
M.D.; THOMAS J. BRADLEY, M.D.;
BRADFORD BOBRIN, M.D.; DUBOIS
REGIONAL MEDICAL CENTER a/k/a
DUBOIS REGIONAL MEDICAL
CENTER WEST a/d/b/a DRMC
BEHAVIORAL UNIT a/k/a DRMC EAST
BEHAVIORAL UNIT a/k/a DRMC
BEHAVIORAL HEALTH OUTPATIENT
CLINIC,
Defendants

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY,
PENNSYLVANIA

NO. 07-644-CD

CIVIL ACTION - LAW

JURY TRIAL DEMANDED

CERTIFICATE OF SERVICE

I, RICHARD F. SCHLUTER, ESQUIRE, hereby certify that I have served a copy of the
foregoing *Amended New Matter of Defendant Mark W. Maloney D.O. to Plaintiff's*
Complaint, upon the following, this 10th day of October, 2007, as follows:

UNITED STATES MAIL, POSTAGE PREPAID:

Thomas R. Kline, Esquire
Mark A. Hoffman, Esquire
Kline & Specter, PC
The Nineteenth Floor
1525 Locust Street
Philadelphia, PA 19102

Darryl Slimak, Esquire
McQuaide Blasko
811 University Drive
State College, PA 16801

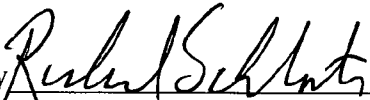
M. Brian O'Connor, Esquire
Gaca, Matis, Baum & Rizza, PC
444 Liberty Avenue, Suite 300
Pittsburgh, PA 15222

Lynn E. Bell, Esquire
Davies, McFarland & Carroll, PC
One Gateway Center, 10th Floor
Pittsburgh, PA 15222-1416

John L. McIntyre, Esquire
McIntyre, Dugas, Hartye & Schmitt
Post Office Box 533
Hollidaysburg, PA 16648-0533

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

McCORMICK LAW FIRM

By 

David R. Bahl, Esquire

I.D. No. 10347

Richard F. Schluter, Esquire

I.D. No. 79672

Attorneys for Defendant

Mark W. Maloney, D.O.

835 West Fourth Street
Williamsport, PA 17701
(570) 326-5131

FILED
m 11213101 Amy
OCT 25 2007 Hoffman

William A. Shaw
Prothonotary/Clerk of Courts

KLINE & SPECTER

A Professional Corporation

By: THOMAS R. KLINE, ESQUIRE
MARK A. HOFFMAN, ESQUIRE
ROYCE W. SMITH, ESQUIRE

Attorney ID Nos.: 28895/ 84443/201295

The Nineteenth Floor

1525 Locust Street

Philadelphia, Pennsylvania 19102

(215) 772-1000

Attorneys for Plaintiff

WANDA RUSSELL

**COURT OF COMMON PLEAS
COUNTY OF CLEARFIELD**

v.

JAMES E. DEVLIN, M.D. and
MARK W. MALONEY, D.O. and
DRMC PRIMARY CARE ASSOCIATES
and SANAA HELMI, M.D. and
THOMAS J. BRADLEY, M.D. and
BRADFORD BOBRIN, M.D. and
DuBOIS REGIONAL MEDICAL
CENTER a/ka DuBOIS REGIONAL
MEDICAL CENTER WEST
a/d/b/a DRMC BEHAVIORAL
UNIT a/k/a DRMC EAST BEHAVIORAL
UNIT a/k/a DRMC BEHAVIORAL
HEALTH OUTPATIENT CLINIC
Defendants.

DOCKET NO. 07-644-CD

**PLAINTIFF'S REPLY TO THE AMENDED
NEW MATTER OF DEFENDANT, MARK MALONEY, D.O.**

Plaintiff, Wanda Russell, by and through her undersigned counsel, Kline & Specter, P.C.,
herein replies to the Amended New Matter of Defendant, Mark Maloney, D.O. ["Answering
Defendant"], as follows:

96. The allegation set forth in paragraph 96 of Answering Defendant's Amended

New Matter is a conclusion of law to which no reply is required. By way of further reply, Answering Defendant was negligent, grossly negligent, and reckless in his care and treatment of the Plaintiff, and acted in disregard to the rights, safety, and well-being of the Plaintiff.

97. The allegation set forth in paragraph 97 of Answering Defendant's Amended New Matter is a conclusion of law to which no reply is required.

98. The allegation set forth in paragraph 98 of Answering Defendant's Amended New Matter is a conclusion of law to which no reply is required. Plaintiff herein incorporates her response set forth in paragraph 96, supra.

99. The allegation set forth in paragraph 99 of Answering Defendant's Amended New Matter is a conclusion of law to which no reply is required. By way of further reply, the injuries and losses, in whole or in part, were caused by the negligence, gross negligence, and recklessness of the Answering Defendant. By way of additional reply, Plaintiff herein incorporates her response set forth in paragraph 96, supra.

100. The allegation set forth in paragraph 100 of Answering Defendant's Amended New Matter is a conclusion of law to which no reply is required.

101. The allegation set forth in paragraph 101 of Answering Defendant's Amended New Matter is a conclusion of law to which no reply is required.

102. The allegation set forth in paragraph 100 of Answering Defendant's Amended New Matter is a conclusion of law to which no reply is required.

103. The allegation set forth in paragraph 100 of Answering Defendant's Amended New Matter is a conclusion of law to which no reply is required. By way of further reply, it is specifically denied that Plaintiff's damages were caused solely or primarily by, and are the unpreventable result of, Plaintiff's medical condition.

104. The allegation set forth in paragraph 104 of Answering Defendant's Amended New Matter is a conclusion of law to which no reply is required.

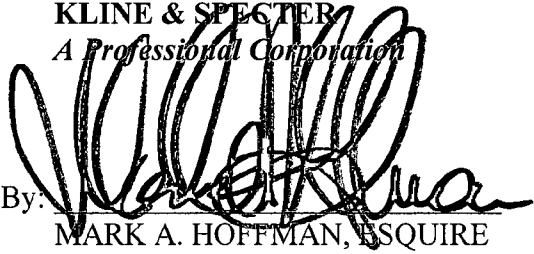
105. The allegation set forth in paragraph 105 of Answering Defendant's Amended New Matter are conclusions of law to which no replies are required. By way of further response, Answering Defendant, and others, failed to conform their conduct to the strictures set forth in the Mental Health Procedures Act, 50 P.S. §7101 et seq. during the care and treatment which was provided to the Plaintiff. By way of additional reply, Answering Defendant's conduct was grossly negligent and reckless in his care and treatment of the Plaintiff, and does not fall within the civil and criminal immunities set forth in the Mental Health Procedures Act, 50 P.S. §7114. By way of further additional reply, Plaintiff herein incorporates her response set forth in paragraph 96, supra.

106-108. The allegations set forth in paragraphs 106 to 108, inclusive, of Answering Defendant's Amended New Matter is a conclusion of law to which no reply is required.

WHEREFORE, Plaintiff respectfully requests that this Honorable Court deny Answering Defendant's prayer for relief.

Respectfully submitted,

KLINE & SPECTER
A Professional Corporation

By: 

MARK A. HOFFMAN, ESQUIRE
Attorneys for Plaintiff

Date:



KLINE & SPECTER

A Professional Corporation

By: THOMAS R. KLINE, ESQUIRE
MARK A. HOFFMAN, ESQUIRE
ROYCE W. SMITH, ESQUIRE

Attorney ID Nos.: 28895/ 84443/201295

The Nineteenth Floor

1525 Locust Street

Philadelphia, Pennsylvania 19102

(215) 772-1000

Attorneys for Plaintiff

WANDA RUSSELL

:

COURT OF COMMON PLEAS

:

COUNTY OF CLEARFIELD

:

v.

:

JAMES E. DEVLIN, M.D., et al

:

DOCKET NO. 07-644-CD

Defendants.

:

CERTIFICATE OF SERVICE

I, MARK A. HOFFMAN, ESQUIRE, hereby certify that a true and correct copy of the **Plaintiff's Reply to the Amended New Matter of Defendant, Mark W. Maloney, D.O.**, was served via **First Class Mail** on the following individuals:

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

Darryl R. Slimak, Esquire
McQuaide Blasko
811 University Drive
State College, PA 16801-6699

M. Brian O'Connor, Esquire
Matis, Brum, Rizza, O'Connor
Four Gateway Center
444 Liberty Avenue
Suite 300
Pittsburgh, PA 15222

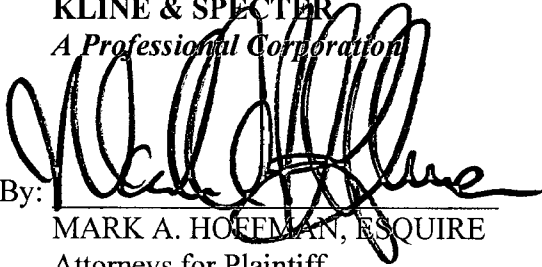
Lynn E. Bell, Esquire
Davies, McFarland & Carroll, P.C.
The Tenth Floor
One Gateway Center
Pittsburgh, PA 15222-1416

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

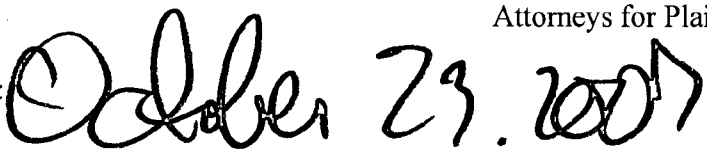
David R. Bahl, Esquire
Richard F. Schluter, Esquire
McCormick Law Firm
835 West Fourth Street
Williamsport, PA 17701

KLINE & SPECTER
A Professional Corporation

By:


MARK A. HOFFMAN, ESQUIRE
Attorneys for Plaintiff

Date:



FILED

OCT 25 2007

William A. Shaw
Prothonotary/Clerk of Courts

KLINE & SPECTER

A Professional Corporation

By: THOMAS R. KLINE, ESQUIRE
MARK A. HOFFMAN, ESQUIRE
ROYCE W. SMITH, ESQUIRE

Attorney ID Nos.: 28895/ 84443/201295

The Nineteenth Floor
1525 Locust Street
Philadelphia, Pennsylvania 19102
(215) 772-1000

Attorneys for Plaintiff

WANDA RUSSELL

**COURT OF COMMON PLEAS
COUNTY OF CLEARFIELD**

v.

DOCKET NO. 07-644-CD

DuBOIS REGIONAL MEDICAL
CENTER, et al

Defendants.

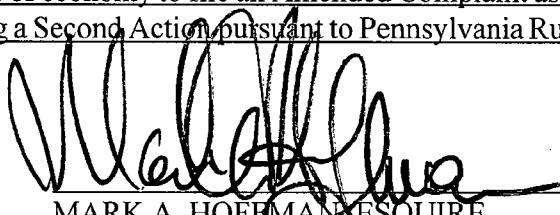
PRAECIPE

TO THE COURT ADMINISTRATOR:

Expedited Disposition of attached motion is requested for the following reasons:

William A. Shaw
Prothonotary/Clerk of Courts

Statute of limitations runs on December 5, 2007 and new causes of action are raised in the Amended Complaint. It is in the interests of economy to file an Amended Complaint as opposed to discontinuing the present action and filing a Second Action pursuant to Pennsylvania Rules of Civil Procedure Number 229 and 231.


MARK A. HOFFMAN, ESQUIRE
Attorneys for Plaintiff

FOR COURT ADMINISTRATOR ACTION ONLY:

_____ MOTION OR PETITION ASSIGNED TO JUDGE

_____ COUNSEL FOR MOVING PARTY NOTIFIED OF JUDICIAL ASSIGNMENT

FILED

OCT 25 2007

FILED

OCT 25 2007

William A. Shaw
Prothonotary/Clerk of Courts

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KLINE & SPECTER

A Professional Corporation

By: THOMAS R. KLINE, ESQUIRE
MARK A. HOFFMAN, ESQUIRE
ROYCE W. SMITH, ESQUIRE

Attorney ID Nos.: 28895/ 84443/201295
The Nineteenth Floor
1525 Locust Street
Philadelphia, Pennsylvania 19102
(215) 772-1000

Attorneys for Plaintiff

WANDA RUSSELL
Plaintiff

**COURT OF COMMON PLEAS
COUNTY OF CLEARFIELD**

v.

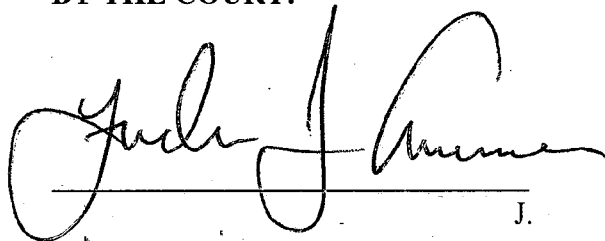
JAMES E. DEVLIN, M.D. et al.
Defendants.

DOCKET NO. 07-644-CD

ORDER

AND NOW, this 26th day of October, 2007, upon consideration of Plaintiff's Motion to Amend the Complaint Pursuant to Pennsylvania Rules of Civil Procedure Number 1033, and any Response thereto, it is hereby **ORDERED** and **DECREED** that said Motion is **GRANTED**. Plaintiff may file an Amended Civil Action Complaint consistent with Said Motion.

BY THE COURT:


J.

FILED
OCT 26 2007

William A. Shaw
Prothonotary/Clerk of Courts

3cc
0115761
Atty Hoffman
CK

15

DATE: 10/26/07

☒ 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:

FILED

OCT 26 2007

William A. Shaw
Prothonotary/Clerk of Courts

KLINE & SPECTER

A Professional Corporation

By: THOMAS R. KLINE, ESQUIRE
MARK A. HOFFMAN, ESQUIRE
ROYCE W. SMITH, ESQUIRE

Attorney ID Nos.: 28895/ 84443/201295

The Nineteenth Floor
1525 Locust Street
Philadelphia, Pennsylvania 19102
(215) 772-1000

FILED ^{icc}

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OCT 25 2007

^{WAS}
William A. Shaw
Prothonotary/Clerk of Courts

Attorneys for Plaintiff

WANDA RUSSELL	:	COURT OF COMMON PLEAS
Plaintiff	:	COUNTY OF CLEARFIELD
v.	:	
JAMES E. DEVLIN, M.D. et al.	:	DOCKET NO. 07-644-CD
Defendants.	:	

PLAINTIFF'S MOTION TO AMEND THE COMPLAINT
PURSUANT TO PENNSYLVANIA RULES OF CIVIL PROCEDURE NUMBER 1033

Plaintiff, Wanda Russell, by and through her undersigned counsel, hereby respectfully submits to this Honorable Court Plaintiff's Motion to Amend the Complaint Pursuant to Pennsylvania Rules of Civil Procedure Number 1033. In support thereof, Plaintiff incorporates the attached Memorandum of Law as though fully set forth herein, and states the following:

1. This professional malpractice action sounding in medical negligence arises out of the care and treatment rendered to Wanda Russell by the above-captioned defendants in December of 2005.

2. The averred negligent, grossly negligent, and/or reckless conduct of all defendants, jointly and severally, in their management of Wanda Russell's evolving cerebrovascular accident (stroke) was a substantial factor, and increased the risk of harm, of her neurologic impairment and deficits.

3. This action was commenced by way of a Civil Action Complaint filed in the Court of Common Pleas, Clearfield County, on April 24, 2007. See Exhibit "A."

4. Pennsylvania Rules of Civil Procedure Number 1033 provides, in relevant part:

A party...by leave of court, may at anytime change the form of action, correct the name of a party or amend the pleading. The amended pleading may aver transactions or occurrences which have happened before or after the filing of the original pleading, even though they give rise to a new cause of action or defense.

5. Leave to amend pleading lies within sound discretion of the trial court, and the right to amend should be liberally granted at any stage of the proceedings unless there is an error of law or resulting prejudice to an adverse party. Werner v. Zazyczny, 681 A.2d 1331 (Pa. 1996); see also Beckner v. Copeland Corp., 785 A.2d 1003 (Pa.Super.Ct. 2001) (holding that amendments to pleadings should be liberally granted to secure a determination of cases on their merits whenever possible). Amendments are to be liberally permitted by the court except where surprise or prejudice to the other party will result, or where the amendment is against a positive rule of law. Burger v. Borough of Ingram, 697 A.2d 1037 (Cmwlth. 1997).

6. By way of this motion, Plaintiff seeks to amend the complaint to conform to transactions and occurrences which occurred before the filing of the original pleading.

7. Accordingly, Plaintiff now requests leave of Court to file an Amended Civil Action Complaint, the form of which is attached hereto as Exhibit "B."

8. The amendments set forth in the Amended Civil Action Complaint, see Exhibit "B," do not create surprise or prejudice to the other parties. The amendments are not against a positive rule of law.

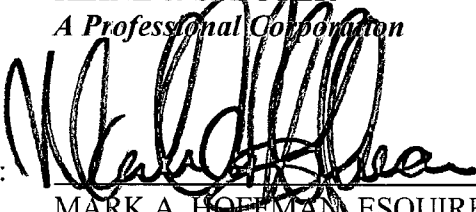
9. The statute of limitations for this action does not run until December 5, 2007. No depositions have been thus far been taken in this action.

WHEREFORE, Plaintiff respectfully requests that this Honorable Court grant her Motion to Amend the Complaint Pursuant to Pennsylvania Rules of Civil Procedure Number 1033, and enter

the attached form of Order granting said relief consistent with her motion.

Respectfully submitted,

KLINE & SPECTER
A Professional Corporation

By: 

MARK A. HOFFMAN, ESQUIRE
Attorneys for Plaintiff

Date:

October 23, 2007

KLINE & SPECTER

A Professional Corporation

By: THOMAS R. KLINE, ESQUIRE
MARK A. HOFFMAN, ESQUIRE
ROYCE W. SMITH, ESQUIRE

Attorney ID Nos.: 28895/ 84443/201295

The Nineteenth Floor

1525 Locust Street

Philadelphia, Pennsylvania 19102

(215) 772-1000

RECEIVED

OCT 26 2007

Court Administrator's
Office

Attorneys for Plaintiff

WANDA RUSSELL

Plaintiff

v.

JAMES E. DEVLIN, M.D. et al.

Defendants.

:
:
:
:
:

COURT OF COMMON PLEAS

COUNTY OF CLEARFIELD

DOCKET NO. 07-644-CD

**MEMORANDUM OF LAW IN SUPPORT OF
PLAINTIFF'S MOTION TO AMEND THE COMPLAINT
PURSUANT TO PENNSYLVANIA RULES OF CIVIL PROCEDURE NUMBER 1033**

I. BRIEF STATEMENT OF THIS FACTS

This professional malpractice action sounding in medical negligence arises out of the care and treatment rendered to Wanda Russell by the above-captioned defendants in December of 2005. The averred negligent, grossly negligent, and/or reckless conduct of all defendants, jointly and severally, in their management of Wanda Russell's evolving cerebrovascular accident (stroke) was a substantial factor, and increased the risk of harm, of her neurologic impairment and deficits. This action was commenced by way of a Civil Action Complaint filed in the Court of Common Pleas, Clearfield County, on April 24, 2007. See Exhibit "A."

II. LEGAL ARGUMENT

Pennsylvania Rules of Civil Procedure Number 1033 provides, in relevant part:

A party...by leave of court, may at anytime change the form of action, correct the name of a party or amend the pleading. The amended pleading may aver transactions or occurrences which have happened before or after the filing of the original pleading, even though they give rise to a new cause of action or

defense.

It is well-settled law that leave to amend a pleading lies within sound discretion of the trial court, and that the right to amend a pleading should be liberally granted at any stage of proceedings absent an error of law or resulting prejudice to adverse party. Werner v. Zazyczny, 681 A.2d 1331 (Pa. 1996); see also Beckner v. Copeland Corp., 785 A.2d 1003 (Pa.Super.Ct. 2001) (holding that amendments to pleadings should be liberally granted to secure a determination of cases on their merits whenever possible). Amendments are to be liberally permitted except where surprise or prejudice to the other party will result, or where the amendment is against a positive rule of law. Burger v. Borough of Ingram, 697 A.2d 1037 (Cmwlth. 1997).

In the case at bar, Plaintiff seeks to amend the Civil Action Complaint to conform to transactions and occurrences which occurred before the filing of the original pleading. The amendments set forth in the Amended Civil Action Complaint, attached hereto as Exhibit "B," do not create surprise or prejudice to the other parties. The amendments are not against a positive rule of law. The statute of limitations for this action does not run until December 5, 2007. No depositions have been taken thus far in this action. Accordingly, this Court should grant Plaintiff's request for leave to file an Amended Civil Action Complaint.

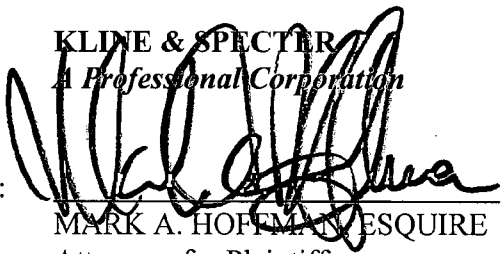
III. CONCLUSION

For all the foregoing reasons, Plaintiff respectfully requests that this Honorable Court grant Plaintiff's Motion to Amend the Complaint Pursuant to Pennsylvania Rules of Civil Procedure Number 1033, and enter the attached form of Order consistent with her motion.

Respectfully submitted,

KLINE & SPECTER
A Professional Corporation

By:


MARK A. HOFFMAN, ESQUIRE
Attorneys for Plaintiff

Date:

October 23, 2007

KLINE & SPECTER

A Professional Corporation

By: THOMAS R. KLINE, ESQUIRE
MARK A. HOFFMAN, ESQUIRE
ROYCE W. SMITH, ESQUIRE

Attorney ID Nos.: 28895/ 84443/201295

The Nineteenth Floor

1525 Locust Street

Philadelphia, Pennsylvania 19102

(215) 772-1000

Attorneys for Plaintiff

WANDA RUSSELL

:
:
:
:
:
:
:

**COURT OF COMMON PLEAS
COUNTY OF CLEARFIELD**

v.

JAMES E. DEVLIN, M.D., et al
Defendants.

DOCKET NO. 07-644-CD

CERTIFICATE OF SERVICE

I, MARK A. HOFFMAN, ESQUIRE, do hereby certify that a true and correct copy of the foregoing **Plaintiff's Motion to Amend the Complaint Pursuant to Pennsylvania Rules of Civil Procedure Number 1033** was mailed on this date **VIA FIRST CLASS MAIL**, postage prepaid, to the following:

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

Darryl R. Slimak, Esquire
McQuaide Blasko
811 University Drive
State College, PA 16801-6699

M. Brian O'Connor, Esquire
Matis, Brum, Rizza, O'Connor
Four Gateway Center
444 Liberty Avenue
Suite 300
Pittsburgh, PA 15222

Lynn E. Bell, Esquire
Davies, McFarland & Carroll, P.C.
The Tenth Floor
One Gateway Center
Pittsburgh, PA 15222-1416

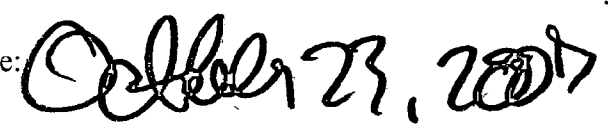
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555 Grant Street
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Pittsburgh, PA 15219

David R. Bahl, Esquire
Richard F. Schluter, Esquire
McCormick Law Firm
835 West Fourth Street
Williamsport, PA 17701

KLINE & SPECTER
A Professional Corporation

By: 

MARK A. HOFFMAN, ESQUIRE
Attorneys for Plaintiff

Date: 

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY
PENNSYLVANIA

WANDA RUSSELL
(Plaintiff)

426 North Michael Street
(Street Address)

Saint Mary's, PA 15857
(City, State ZIP)

VS.

JAMES E. DEVLIN, M.D.
(Defendant)

1100 Main Street
(Street Address)

Brockway, PA 15824
(City, State ZIP)

(Additional Defendants
Continued on attached sheet)

CIVIL ACTION

No. 07-644-CD

Type of Case: Medical Malpractice

Type of Pleading: Civil Action Complaint

Filed on Behalf of:

Plaintiff, Wanda Russell
(Plaintiff/Defendant)

7-23-07 Document
Reinstated/Reissued to Sheriff/Attorney
for service.

[Signature]
Deputy Prothonotary

8/17/07 Document
Reinstated/Reissued to Sheriff/Attorney
for service.

[Signature]
Deputy Prothonotary

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

APR 24 2007

Attest.

[Signature]
Prothonotary/
Clerk of Courts

Thomas R. Kline, Esq. Mark A. Hoffman, Esq.
(Filed by)

Kline & Specter, P.C.,
1525 Locust Street, The Nineteenth Floor
Philadelphia, PA 19102
(Address)

215-772-1000 phone 215-772-1359 fax
(Phone)

[Signature]
(Signature)

5-23-07 Document
Reinstated/Reissued to Sheriff/Attorney
for service.

[Signature]
Deputy Prothonotary

(Continued from coversheet)

and

MARK W. MALONEY, D.O.
DRMC Primary Care Associates
Medical Arts Building
Suite 200
145 Hospital Avenue
DuBois, Pennsylvania 15801

and

DRMC PRIMARY CARE
ASSOCIATES
Medical Arts Building
Suite 200

145 Hospital Avenue
DuBois, Pennsylvania 15801

and

SANAA HELMI, M.D.
Behavioral Health Outpatient Clinic
DRMC East Unit
Maple Avenue
DuBois, Pennsylvania 15801

ans

THOMAS J. BRADLEY, M.D.
701 Sunflower Drive
DuBois, Pennsylvania 15801

and

BRADFORD BOBRIN, M.D.
Behavioral Health Outpatient Clinic
DRMC East Unit
Maple Avenue
DuBois, Pennsylvania 15801

and

DuBOIS REGIONAL MEDICAL
CENTER a/ka DuBOIS REGIONAL
MEDICAL CENTER WEST
a/d/b/a DRMC BEHAVIORAL
UNIT a/k/a DRMC EAST BEHAVIORAL
UNIT a/k/a DRMC BEHAVIORAL
HEALTH OUTPATIENT CLINIC
c/o Office of Risk Management
100 Hospital Avenue
DuBois, Pennsylvania 15801

Defendants.

KLINE & SPECTER

A Professional Corporation

By: THOMAS R. KLINE, ESQUIRE
MARK A. HOFFMAN, ESQUIRE
ROYCE W. SMITH, ESQUIRE

Attorney ID Nos.: 28895/ 84443/201295

The Nineteenth Floor

1525 Locust Street

Philadelphia, Pennsylvania 19102

(215) 772-1000

Attorneys for Plaintiff

WANDA RUSSELL

426 North Michael Street

Saint Mary's, Pennsylvania 15857

Plaintiff,

v.

JAMES E. DEVLIN, M.D.

1100 Main Street

Brockway, Pennsylvania 15824

and

MARK W. MALONEY, D.O.

DRMC Primary Care Associates

Medical Arts Building

Suite 200

145 Hospital Avenue

DuBois, Pennsylvania 15801

and

DRMC PRIMARY CARE

ASSOCIATES

Medical Arts Building

Suite 200

145 Hospital Avenue

DuBois, Pennsylvania 15801

and

SANAA HELMI, M.D.

Behavioral Health Outpatient Clinic

DRMC East Unit

Maple Avenue

DuBois, Pennsylvania 15801

ans

THOMAS J. BRADLEY, M.D.

701 Sunflower Drive

DuBois, Pennsylvania 15801

and

COURT OF COMMON PLEAS

COUNTY OF CLEARFIELD

DOCKET NO.

BRADFORD BOBRIN, M.D.
 Behavioral Health Outpatient Clinic
 DRMC East Unit
 Maple Avenue
 DuBois, Pennsylvania 15801
 and
 DuBOIS REGIONAL MEDICAL
 CENTER a/ka DuBOIS REGIONAL
 MEDICAL CENTER WEST
 a/d/b/a DRMC BEHAVIORAL
 UNIT a/k/a DRMC EAST BEHAVIORAL
 UNIT a/k/a DRMC BEHAVIORAL
 HEALTH OUTPATIENT CLINIC
 c/o Office of Risk Management
 100 Hospital Avenue
 DuBois, Pennsylvania 15801
 Defendants.

NOTICE

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

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER.

IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.

COURT ADMINISTRATOR
 Clearfield County Courthouse
 Second and Market Streets
 Clearfield, PA 16830
 814-765-2641, Ext. (5982)

ADVISOR

Le han demandado a usted en la corte. Si usted quiere defenderse de estas demandas expuestas en las paginas siguientes, usted tiene veinte (20) dias de plazo al partir de la fecha de la demanda y la notificacion. Hace falta asentar una comparencia escrita o en persona o con un abogado y entregar a la corte en forma escrita sus defensas o sus objeciones a las demandas en contra de su persona. Sea avisado que si usted no se defiende, la corte tomara medidas y puede continuar la demanda en contra suya sin previo aviso o notificacion. Ademias, la corte pueda decidir a favor del demandante y requiere que usted cumpla con todas las provisiones de esta demanda. Usted puede perder dinero o sus propiedades u otros derechos importantes para usted.

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

ESTA OFICINA LO PUEDE PROPORCIONAR CON INFORMACION ACERCA DE EMPLEAR A UN ABOGADO. SI USTED NO PUEDE PROPORCIONAR PARA EMPLEAR UN ABOGADO, ESTA OFICINA PUEDE SER CAPAZ DE PROPORCIONARLO CON INFORMACION ACERCA DE LAS AGENCIAS QUE PUEDEN OFRECER LOS SERVICIOS LEGALES A PERSONAS ELEGIBLES EN UN HONORARIO REDUCIDO NINGUN HONORARIO.

COURT ADMINISTRATOR
 Clearfield County Courthouse
 Second and Market Streets
 Clearfield, PA 16830
 814-765-2641, Ext. (5982)

CIVIL ACTION COMPLAINT

Plaintiff, Wanda Russell, by and through her undersigned attorneys, Kline & Specter, P.C., herein complains of the above-captioned defendants as follows:

PARTIES

1. Plaintiff Wanda Russell is an adult citizen and a resident of the Commonwealth of Pennsylvania, residing at 426 North Michael Street, Saint Mary's, Pennsylvania 15857. Wanda Russell was born on September 19, 1958.

2. Defendant James E. Devlin, M.D. ["Dr. Devlin"] was, at all times material hereto, a duly licensed physician in the Commonwealth of Pennsylvania, specializing in the medical field of family medicine, who maintained a professional office, business or corporate office, or place of medical practice at 1100 Main Street, Brockway, Pennsylvania 15824. A Certificate of Merit pursuant to Pa.R.C.P. No. 1042.1 regarding the treatment, practice, or work of this defendant is attached hereto as Exhibit "A."

3. Defendant Mark W. Maloney, D.O. ["Dr. Maloney"] was, at all times material hereto, a duly licensed osteopathic physician in the Commonwealth of Pennsylvania, specializing in the medical field of family medicine, who maintained a professional office, business or corporate office, or place of medical practice at DRMC Primary Care Associates, Medical Arts Building, Suite 200, 145 Hospital Avenue, DuBois, Pennsylvania 15801. A Certificate of Merit pursuant to Pa.R.C.P. No. 1042.1 regarding the treatment, practice, or work of this defendant is attached hereto as Exhibit "A."

4. Defendant DRMC Primary Care Associates was, at all times material hereto, a

corporation, professional corporation, professional association, professional partnership, or other jural entity organized according to and existing under the laws of the Commonwealth of Pennsylvania, with an office location and place of business at Medical Arts Building, Suite 200, 145 Hospital Avenue, DuBois, Pennsylvania 15801. A Certificate of Merit pursuant to Pa.R.C.P. No. 1042.1 regarding the treatment, practice, or work of this defendant is attached hereto as Exhibit "A."

5. At all times material hereto, Dr. Maloney and/or Dr. Devlin were agents, servants, and/or employees of DRMC Primary Care Associates, and were acting within the scope of their agency, master-servant, and/or employment relationships with DRMC Primary Care Associates while providing medical care and treatment to Wanda Russell. Accordingly, DRMC Primary Care Associates is liable for the negligent acts and/or omissions of Dr. Devlin and/or Dr. Maloney under theories of agency, master-servant, respondeat superior, and/or right of control.

6. Dr. Devlin was providing medical service or family practice service "coverage" or "cross-coverage" for Dr. Maloney, while providing medical care and treatment to Wanda Russell on or about December 4 and 5, 2005. Accordingly, Dr. Maloney is liable for the negligent acts and/or omissions of Dr. Devlin under theories of agency, master-servant or borrowed servant, respondeat superior, and/or right of control.

7. Dr. Devlin was providing "coverage" or "cross-coverage" for Dr. Maloney's family practice group or association, DRMC Primary Care Associates, while providing medical care and treatment to Wanda Russell, on or about December 4 and 5, 2005. Accordingly, DRMC Primary Care Associates is liable for the negligent acts and/or omissions of Dr. Devlin under theories of agency, master-servant or borrowed servant, respondeat superior, and/or right of control.

8. Defendant Sanaa Helmi, M.D. ["Dr. Helmi"] was, at all times material hereto, a duly

licensed physician in the Commonwealth of Pennsylvania, specializing in the medical field of psychiatry, who maintained a professional office, business or corporate office, or place of medical practice at Behavioral Health Outpatient Clinic, DRMC East Unit, Maple Avenue, DuBois, Pennsylvania 15801. A Certificate of Merit pursuant to Pa.R.C.P. No. 1042.1 regarding the treatment, practice, or work of this defendant is attached hereto as Exhibit "A."

9. Defendant Thomas J. Bradley, M.D. ["Dr. Bradley"] was, at all times material hereto, a duly licensed physician in the Commonwealth of Pennsylvania, specializing in the medical field of psychiatry, who maintained a professional office, business or corporate office, or place of medical practice at 701 Sunflower Drive, DuBois, Pennsylvania 15801. A Certificate of Merit pursuant to Pa.R.C.P. No. 1042.1 regarding the treatment, practice, or work of this defendant is attached hereto as Exhibit "A."

10. Defendant Bradford Bobrin, M.D. ["Dr. Bobrin"] was, at all times material hereto, a duly licensed physician in the Commonwealth of Pennsylvania, specializing in the medical field of psychiatry, who maintained a professional office, business or corporate office, or place of medical practice at Behavioral Health Outpatient Clinic, DRMC East Unit, Maple Avenue, DuBois, Pennsylvania 15801. A Certificate of Merit pursuant to Pa.R.C.P. No. 1042.1 regarding the treatment, practice, or work of this defendant is attached hereto as Exhibit "A."

11. Defendant DuBois Regional Medical Center a/k/a/ DuBois Regional Medical Center West a/d/b/a DRMC Behavioral Unit a/k/a DRMC East Behavioral Unit a/k/a DRMC Behavioral Health Outpatient Clinic [referred to in various paragraphs as either the "DuBois Regional Medical Center" or the "DRMC Behavioral Unit" or the "DuBois Regional Medical Center West"] is a corporation or other jural entity organized according to and existing under the laws of the

Commonwealth of Pennsylvania which owns, operates, and maintains a hospital, health care facility, and provider of health care services based at 100 Hospital Avenue, DuBois, Pennsylvania 15801.

The DRMC Behavioral Unit a/k/a DRMC East Behavioral Unit a/k/a DRMC East Behavioral Unit a/k/a DRMC Behavioral Health Outpatient Clinic is a psychiatric unit located within the East Unit of the DuBois Regional Medical Center. A Certificate of Merit pursuant to Pa.R.C.P. No. 1042.1 regarding the treatment, practice, or work of this defendant is attached hereto as Exhibit "A."

12. At all times material hereto, Dr. Devlin, Dr. Maloney, Dr. Helmi, Dr. Bradley, and Dr. Bobrin were actual or ostensible agents, servants, and/or employees of the DuBois Regional Medical Center and/or the DRMC Behavioral Unit, and were acting within the scope of their agency, master-servant, and/or employment relationship with the DuBois Regional Medical Center, and its affiliated or associated entities as captioned above, while providing medical care and treatment to Wanda Russell. Accordingly, the DuBois Regional Medical Center, and its affiliated or associated entities as captioned above, are liable for the negligent acts and/or omissions of Dr. Devlin, Dr. Maloney, Dr. Helmi, Dr. Bradley, and Dr. Bobrin under theories of agency, master-servant, respondeat superior, and/or right of control.

13. At all times material hereto, the DuBois Regional Medical Center and the DRMC Behavioral Unit were acting by and through their actual agents or ostensible agents, servants, and/or employees, Dr. Devlin, Dr. Maloney, Dr. Helmi, Dr. Bradley, and Dr. Bobrin, as well as the nurses who provided psychiatric nursing care and evaluation to Wanda Russell during her hospitalization in the DRMC Behavioral Unit. The identities of these nurses, whose signatures are illegible on the "Behavioral Health Services Daily Notes" and extension notes, attached hereto as Exhibit "B," are fully known to the DuBois Regional Medical Center and the DRMC Behavioral Unit, and presently

unknown to Plaintiff because of the illegible nature, or absence of, their signatures. The identities of these nurses is the subject matter of further discovery by the Plaintiff during the course of this litigation. Accordingly, DuBois Regional Medical Center is liable for the negligent acts and/or omissions of these aforementioned named and as yet specifically identified, see Exhibit "B," actual or ostensible agents, servants, and/or employees which occurred in the course of providing medical and nursing care to Wanda Russell, under theories of agency, master-servant, respondeat superior, and/or right of control.

14. Venue in this action is properly laid in Clearfield County, Pennsylvania pursuant to the Amendatory Order of the Supreme Court of Pennsylvania dated March 5, 2003, No. 381, Civil Procedural Rules, Docket No. 5, which amended the Pennsylvania Rules of Civil Procedure No.1006.

FACTS GIVING RISE TO CLAIMS OF NEGLIGENCE

15. On December 3, 2005, Wanda Russell presented to the Emergency Department at the DuBois Regional Medical Center via wheelchair with complaints of, among other things, bilateral arm weakness and dark vision.

16. On December 3, 2005, Wanda Russell was evaluated by Patrick Shilata, D.O. in the Emergency Department at the DuBois Regional Medical Center.

17. On December 3, 2005, Wanda Russell had a known history of hypertension and insulin dependent diabetes mellitus. These co-morbid conditions were known to the nursing staff and physician who evaluated and treated Wanda Russell in the Emergency Department on December 3, 2005, and were recorded in the DuBois Regional Medical Center Emergency Department medical record of Wanda Russell.

18. On December 3, 2005, Wanda Russell was able to ambulate, but complained of feeling off balance.

19. On December 3, 2005, during her evaluation in the DuBois Regional Medical Center Emergency Department, Wanda Russell had performed on her, among other things, an electrocardiogram, a basic metabolic panel, a urine analysis with microscopic examination, and an unenhanced head CT scan. All test results were interpreted as "normal" except for an elevated blood sugar (196 mg/dl; normal = 70 to 110 mg/dl).

20. On December 3, 2005, Wanda Russell was discharged from the Emergency Department at the Dubois Regional Medical Center with the diagnosis: "Impression: weakness, Transient Ischemic Attack (TIA), Diabetes Mellitus, Type I."

21. On December 3, 2005, Wanda Russell was discharged from the Emergency Department at the Dubois Regional Medical Center with instructions on transient ischemic attack and diabetes mellitus, and she was given a four (4) day work release. Wanda Russell was additionally instructed to follow-up with Dr. Maloney, her primary care physician, in three (3) to four (4) days.

22. On December 4, 2005, Wanda Russell presented to the Emergency Department at the DuBois Regional Medical Center via wheelchair with complaints of, among other things, left-sided weakness and inability to walk.

23. On December 4, 2005, Wanda Russell's sister signed the DuBois Regional Medical Center "Consent for Treatment" as Wanda Russell's patient representative, and on Wanda Russell's behalf, because Wanda Russell had weakness on writing and slurred speech. The "Consent for Treatment" was signed at or about 0938 hours on December 4, 2005.

24. On December 4, 2005, Wanda Russell was evaluated by Jeffrey Elias, D.O. ["Dr. Elias"] in the Emergency Department at the DuBois Regional Medical Center.

25. On December 4, 2005, Dr. Elias performed a neurological examination on Wanda Russell in the Emergency Department at the DuBois Regional Medical Center, and found, among other things, that Wanda Russell had a facial droop and diminished motor strength in the left arm (2/5) and left leg (2/5). The "Review of Systems" performed by Dr. Elias was positive for gait disturbance, speech changes, and weakness in the left arm and leg.

26. On December 4, 2005, Dr. Elias formulated a plan that Wanda Russell be admitted "to medical, for Maloney, Mark W. with a primary ED diagnosis of CVA (stroke) non-hemorrhagic." A summary of the Emergency Department evaluation of Wanda Russell was faxed to Wanda Russell's primary care physician, Dr. Maloney.

27. On December 4, 2005, Dr. Devlin evaluated Wanda Russell in the Emergency Department at the DuBois Regional Medical Center. At the time, Dr. Devlin was covering or cross-covering for Dr. Maloney and DRMC Primary Care Associates.

28. On December 4, 2005, Dr. Devlin admitted Wanda Russell to the DuBois Regional Medical Center for neuro-checks and observation. At the time of admission, Dr. Devlin doubted that Wanda Russell had, or was experiencing, a transient ischemic attack, and recorded this belief in his "History and Physical Examination," stating, among other things: "History of some left sided weakness, questionable TIA. Clinically, at this time it is doubtful but with the history we will go ahead and make the patient an observation."

29. On December 4, 2005, Wanda Russell was admitted to Dr. Maloney's service at the DuBois Regional Medical Center, with Dr. Devlin covering.

30. On December 4, 2005, Dr. Devlin did not obtain, or order to be obtained or provided, a neurology consultation for Wanda Russell.

31. On December 4, 2005, Dr. Devlin did not have performed, or order to be performed, an MRI scan of the head or an MRA on Wanda Russell.

32. On December 5, 2005, an unenhanced head CT scan was performed on Wanda Russell for the diagnosis of left-sided weakness, and was interpreted as "normal."

33. On December 5, 2005, bilateral carotid duplex sonograms were performed on Wanda Russell for the indication of left-sided weakness. This study demonstrated approximately 50 percent stenosis of the right internal carotid artery and 50 to 69 percent stenosis of the left internal carotid artery. Bilateral carotid plaque was also demonstrated on the sonogram.

34. An aortic arch and four vessel cerebral angiogram was not performed on Wanda Russell on December 5, 2005.

35. A head MRI or MRA was not performed on Wanda Russell on December 5, 2005.

36. A neurology consult was not obtained for or performed on Wanda Russell on December 5, 2005.

37. Wanda Russell continued to have intermittent left-sided weakness on December 5, 2005.

38. Wanda Russell had slurred speech and a "left facial droop of the mouth" on December 5, 2005.

39. On December 5, 2005, at or between the hours of approximately 1900 and 2000 hours, Dr. Maloney evaluated Wanda Russell at the DuBois Regional Medical Center, and informed Wanda Russell that her loss of mobility was due to depression.

40. On December 5, 2005, Dr. Maloney consulted Dr. Helmi concerning the admission of Wanda Russell to the DRMC Behavioral Unit, and reported to Dr. Helmi that "he was unable to find any medical problems" with respect to Wanda Russell.

41. On December 5, 2005, during the telephone consultation between Dr. Maloney and Dr. Helmi, according to Dr. Maloney, Dr. Helmi made the recommendation that Wanda Russell be admitted to the DRMC Behavior Unit for psychiatric treatment.

42. Dr. Helmi did not perform a history, psychiatric evaluation, or physical examination on Wanda Russell on December 5, 2005. Dr. Helmi did not physically see or speak with Wanda Russell on December 5 or 6, 2005.

43. On December 5, 2005, at or about 2040 hours, Dr. Maloney gave a "telephone order" to Brenda L. Slappy, R.N., to "Transfer to psych unit tonight."

44. On December 5, 2005, Wanda Russell was asked to sign, and did sign, an "Initial Evaluation and Treatment Plan," which outlined a "Description of Proposed Treatment Plan" and a "Description of Proposed Restrictions and Restraints." This form was not completed and signed by a physician.

45. On December 5, 2005, Wanda Russell was asked to sign, and did sign, a "Consent for Voluntary Inpatient Treatment."

46. The "Consent for Voluntary Inpatient Treatment" set forth the following "Instructions":

Before signing this form, your treatment should be explained to you and you must be given a copy of the Patient's Bill of Rights, the report of your initial evaluation and the proposed treatment plan must be completed and signed by you and the physician.

47. On December 6, 2005, Wanda Russell was not given a copy of the DuBois Regional Medical Center Patient's Bill of Rights.

48. On December 6, 2005, Wanda Russell was not given a copy of her initial evaluation.

49. On December 6, 2005, Wanda Russell was not given a copy of the proposed treatment plan which should have been completed and signed by her and a physician. Dr. Helmi, who made the decision to admit Wanda Russell to the psychiatric unit, did not explain the proposed treatment plan or sign the "Description of Proposed Treatment Plan" and "Description of Proposed Restrictions and Restraints."

50. On December 6, 2005, at or about 0200 hours, Wanda Russell was admitted to the DRMC Behavioral Unit by Kim Hendricks, R.N. ["Nurse Hendricks"], onto Dr. Bobrin's Service.

51. On December 6, 2005, at no time prior to, or at the time of her admission at 0200 hours to the DRMC Behavioral Unit, was Wanda Russell evaluated by a psychiatrist, including Dr. Bradley, Dr. Bobrin, or Dr. Helmi.

52. On December 6, 2005, at or about 0200 hours, Wanda Russell told Nurse Hendricks that "she was lied to about coming here for an admission from her family" and reported "she is unable to use left arm and leg. Patient complains of not wanting to stay."

53. On December 6, 2005, at or about 0330 hours, Wanda Russell fell out of bed in the DRMC Behavioral Unit.

54. On December 6, 2005, at or about 0643 hours, Dr. Bradley performed a history and physical examination on Wanda Russell. Dr. Bradley obtained a history of present illness, among other things, as follows:

Wanda is a 47-year-old woman who had been readmitted to the

West division for left sided weakness. She had had a workup that included a normal CT of the head. She was discharged and re-presented to the ER with nervousness and I guess there was a question regarding the extent of the left sided weakness present and the fact it was noted that the person was under a lot of stress. She is hypertensive, hyperlipidemic, and an insulin dependent diabetic. I guess she was persuaded to be transferred to the psyche unit.

55. On December 6, 2005, during his physical examination of Wanda Russell, Dr. Bradley found, among other things, "There is some left upper extremity weakness and facial asymmetry" that was "hard to evaluate since she is so anxious."

56. On December 6, 2005, at the time Dr. Bradley initially evaluated Wanda Russell, Dr. Bradley formulated and initiated the plan that "the patient is admitted for psyche evaluation and treatment."

57. On December 6, 2005, at the time of his initial evaluation, Dr. Bradley did not transfer Wanda Russell back to a medical unit for evaluation of her left sided weakness or facial asymmetry.

58. On December 6, 2005, at the time of his initial evaluation, Dr. Bradley did not obtain, or order to be obtained, a neurology consultation for Wanda Russell.

59. On December 6, 2005, at the time of his initial evaluation, Dr. Bradley did not have performed, or order to be performed, an MRI scan of the head or MRA on Wanda Russell.

60. On December 6, 2005, at the time of his initial evaluation, Dr. Bradley did not diagnose Wanda Russell as having an evolving or "stuttering" cerebrovascular accident.

61. On December 6, 2005, the nursing staff from the DRMC Behavioral Unit attempted to contact Dr. Helmi at 0955 hours, first by beeper and eventually by cell phone, seeking information

about Wanda Russell.

62. On December 6, 2005, at or about 0955 hours, Dr. Helmi informed the DRMC Behavioral Unit nurse, whose illegible signature appears at Exhibit "B" at page 3, by telephone "that she didn't remember the patient and asked where she came from."

63. On December 6, 2005, at or about 1005 hours, Dr. Helmi informed the nurse whose illegible signature appears at Exhibit "B" at page 3, by telephone that "she did not make the recommendation-Dr. Maloney asked for the admission and she agreed on the basis that the patient is suicidal."

64. On December 6, 2005, at or before 1028 hours, Dr. Bobrin evaluated Wanda Russell at the DRMC Behavioral Unit, and during the "Initial Evaluation/Mental Status Examination/Discharge Summary" report preparation, described that, among other things:

She describes being scared about her arm and leg. She awoke on Friday with trouble with her left arm and it has gotten worse since then. Her family said that this is true as well. She can stand as she demonstrates to me but has trouble lifting up her arm, not even able to brush her hair. She woke up and fell and has had two falls here on the unit and so she initially came in because scans x two do not show any signs of ischemia or infarct.

65. On December 6, 2005, Dr. Bobrin, at or before 1028 hours, Dr. Bobrin found that Wanda Russell exhibited no signs of "suicidal or homicidal ideations" on the mental status examination.

66. On December 6, 2005, at or before 1028 hours, Dr. Bobrin assessed Wanda Russell as follows

This is a 47-year-old with some mild depressive symptoms and acute onset of depressive mood after having stroke-like symptoms which has continued. Although it was thought that her

neurologic signs were out of proportion to her neurological symptoms, she does seem to have flaccid paralysis of the left arm and left droop of smile. With no gross infarct, there might be some infarct on brainstem or internal capsule. Will need MRI and neuro consult.

67. On December 6, 2005, at or before 1028 hours, Dr. Bobrin formulated a plan for Wanda Russell that included, among other things, "to transfer her back over to medicine where she will receive neuro consult and MRI, continue medical care. I do not think she needs acute psychiatric care at this time."

68. On December 6, 2005, at or about 1700 hours, Wanda Russell was readmitted by Dr. Maloney under his care to the DuBois Regional Medical Center West.

69. On December 6, 2005, on or before 1700 hours, Dr. Maloney performed a "History and Physical Examination" on Wanda Russell, and described Wanda Russell's admission to "the Adult Mental Health Unit," stating:

When she arrived there, Wanda apparently rescinded her voluntary admission, noting that she did not wish to be there. This was supported by her family, and today, secondary to reported falls in the Adult Mental Health Unit. I have requested that Wanda be returned for further evaluation in the observation status setting.

70. On December 6, 2005, Dr. Maloney ordered an MRI study to be performed on Wanda Russell on the following morning, and a neurology consultation to be performed by Ruediger Katz, M.D. ["Dr. Katz"].

71. On December 6, 2005, during his evaluation of Wanda Russell at or before 1916 hours, Dr. Katz found that Wanda Russell had multiple risk factors for cerebral ischemia.

72. On December 6, 2005, during his neurologic examination of Wanda Russell at or

before 1916 hours, Dr. Katz found, among other things, that Wanda Russell had a lower left facial droop, 0/5 strength in her left arm, and 3/5 strength in her left leg.

73. On December 7, 2005, an unenhanced MRI of the brain was performed on Wanda Russell at the DuBois Regional Medical Center, which demonstrated a “well circumscribed lesion of right basal ganglia suggestive of a subacute or chronic lacunar infarct. Very small lacunar infarct in the left basal ganglia.”

74. On December 8, 2005, John J. Ahn, M.D. performed a cardiology consultation on Wanda Russell, and diagnosed Wanda Russell as an “unfortunate 47-year-old female who has suffered a CVA.”

75. On December 8, 2005, Lynn Myers, M.D. [“Dr. Myers”], a rehabilitation medicine specialist, evaluated Wanda Russell, and found that:

The patient is an appropriate candidate for admission to the inpatient rehabilitation unit to address deficits and functional mobility and self care skills related to her recent CVA with left hemiparesis.

76. On December 9, 2005, Wanda Russell was transferred to the Physiatry Unit for inpatient rehabilitation at the DRMC Inpatient Rehabilitation Programs on the service of Dr. Myers.

77. The negligence of all defendants, jointly and severally, as set forth with specificity in the Counts below, directly and proximately caused, and increased the risk of harm of, the cerebrovascular accident suffered by Wanda Russell.

78. The negligence of all defendants, jointly and severally, as set forth with specificity in the Counts below, directly and proximately caused, and increased the risk of harm of, the neurologic injuries, impairments, and deficits suffered by Wanda Russell.

79. The negligence of all defendants, jointly and severally, as set forth with specificity in the Counts below, directly and proximately caused, and increased the risk of harm of, the following injuries and damages:

- a. irreversible cerebral ischemia;
- b. cerebrovascular accident;
- c. cerebral dysfunction;
- d. cognitive impairment;
- e. motor impairment;
- f. neurological impairment and injury;
- g. humiliation;
- h. embarrassment;
- i. anxiety and fright;
- j. pain and suffering;
- k. disfigurement;
- l. loss of life's pleasures;
- m. economic damages; and,
- n. medical expenses.

80. Wanda Russell suffered, and continues to suffer, grave neurologic and medical injuries, impairments, and deficits which were caused by, and whose risk of harm was increased by, the negligent conduct of defendants, jointly and severally, as more fully set forth with specificity in the Counts below.

COUNT I- NEGLIGENCE
(Plaintiff v. Dr. Devlin)

81. The previous paragraphs are herein incorporated by reference as though fully set forth.

82. The negligent conduct of Dr. Delvin during his medical evaluation, care, and treatment of Wanda Russell consisted of the following:

- a. failure to properly, timely, and adequately evaluate a patient with a diagnosis of transient ischemic attack;
- b. failure to properly, timely, and adequately evaluate a patient with a diagnosis of cerebrovascular accident;
- c. failure to properly, timely, and adequately evaluate a patient with fluctuating neurologic signs and symptoms;
- d. failure to properly and timely obtain the consultative services of a neurologist or specialist in neurology;
- e. failure to properly and timely obtain cerebral imaging with an MRI scan and/or MRA;
- f. failure to properly, timely, and adequately evaluate a patient with acute neurologic signs and symptoms;
- g. failure to timely, properly, and adequately evaluate, diagnose, and treat a "stuttering" stroke;
- h. failure to provide appropriate management and treatment of acute neurologic signs and symptoms;
- i. failure to provide appropriate, adequate, and timely monitoring of a patient

- with a deteriorating neurologic status;
- j. failure to properly, timely, and adequately evaluate a patient with acute deteriorating neurologic status;
 - k. failure to provide appropriate management of an evolving cerebrovascular accident;
 - l. failure to provide appropriate, adequate, and timely monitoring of a patient with a signs and symptoms of an evolving cerebrovascular accident or neurologic crisis;
 - m. failure to properly, timely, and adequately evaluate a patient with signs and symptoms of an evolving neurologic dysfunction;
 - n. failure to obtain appropriate, adequate, and timely neuro-radiologic evaluation; and,
 - o. failure to properly, timely, and adequately recognize and appreciate signs and symptoms of evolving neurologic dysfunction.

COUNT II-NEGLIGENCE
(Plaintiff v. Dr. Maloney)

83. The previous paragraphs are herein incorporated by reference as though fully set forth.

84. The negligent conduct of Dr. Delvin during his medical evaluation, care, and treatment of Wanda Russell consisted of the following:

- a. failure to properly, timely, and adequately evaluate a patient with a diagnosis of transient ischemic attack;
- b. failure to properly, timely, and adequately evaluate a patient with a diagnosis

- of cerebrovascular accident;
- c. failure to properly, timely, and adequately evaluate a patient with fluctuating neurologic signs and symptoms;
 - d. failure to properly and timely obtain the consultative services of a neurologist or specialist in neurology;
 - e. failure to properly and timely obtain cerebral imaging with an MRI scan and/or MRA;
 - f. failure to properly, timely, and adequately evaluate a patient with acute neurologic signs and symptoms;
 - g. failure to timely, properly, and adequately evaluate, diagnose, and treat a “stuttering” stroke;
 - h. failure to provide appropriate management and treatment of acute neurologic signs and symptoms;
 - i. failure to provide appropriate, adequate, and timely monitoring of a patient with a deteriorating neurologic status;
 - j. failure to properly, timely, and adequately evaluate a patient with acute deteriorating neurologic status;
 - k. failure to provide appropriate management of a cerebrovascular accident;
 - l. failure to provide appropriate, adequate, and timely monitoring of a patient with a signs and symptoms of an evolving cerebrovascular accident or neurologic crisis;
 - m. failure to properly, timely, and adequately evaluate a patient with signs and

- symptoms of an evolving neurologic dysfunction;
- n. failure to provide appropriate, adequate, and timely neuro-radiologic evaluation;
 - o. failure to provide timely, appropriate, and adequate medical evaluation prior to transfer to a psychiatric unit;
 - p. failure to provide timely, appropriate, and adequate neurologic and neuro-radiologic evaluation prior to transfer to a psychiatric unit;
 - q. failure to provide timely, appropriate, and adequate psychiatric and psychologic evaluation prior to transfer to a psychiatric unit;
 - r. failure to obtain timely, appropriate, and adequate medical evaluation prior to transfer to a psychiatric unit;
 - s. failure to obtain timely, appropriate, and adequate psychiatric and psychologic evaluation prior to transfer to a psychiatric unit;
 - t. failure to take an adequate and appropriate medical history;
 - u. failure to take an adequate and appropriate psychiatric and psychological history;
 - v. failure to take an adequate and appropriate medical care and treatment during hospitalization in a psychiatric unit;
 - w. failure to effect a timely transfer from the psychiatric unit back to the medical unit;
 - x. failure to effect a timely transfer from the psychiatric unit back to the medical unit for neurologic evaluation and treatment;

- y. failure to provide timely, adequate, and appropriate management of a stroke;
and,
- z. failure to properly, timely, and adequately recognize and appreciate signs and symptoms of evolving neurologic dysfunction.

COUNT III-NEGLIGENCE
(Plaintiff v. Dr. Helmi)

85. The previous paragraphs are herein incorporated by reference as though fully set forth.

86. The negligent conduct of Dr. Helmi during her evaluation, care, and treatment of Wanda Russell consisted of the following:

- a. failure to properly, timely, and adequately evaluate a patient with a diagnosis of transient ischemic attack;
- b. failure to properly, timely, and adequately evaluate a patient with a diagnosis of cerebrovascular accident;
- c. failure to properly, timely, and adequately evaluate a patient with fluctuating neurologic signs and symptoms;
- d. failure to properly and timely obtain the consultative services of a neurologist or specialist in neurology;
- e. failure to properly and timely obtain cerebral imaging with an MRI scan or MRA;
- f. failure to properly, timely, and adequately evaluate a patient with acute

neurologic signs and symptoms;

- g. failure to timely, properly, and adequately evaluate, diagnose, and treat a “stuttering” stroke;
- h. failure to provide appropriate management and treatment of acute neurologic signs and symptoms;
- i. failure to provide appropriate, adequate, and timely monitoring of a patient with a deteriorating neurologic status;
- j. failure to properly, timely, and adequately evaluate a patient with acute deteriorating neurologic status;
- k. failure to provide appropriate management of an evolving cerebrovascular accident or neurologic crisis;
- l. failure to provide appropriate, adequate, and timely monitoring of a patient with a signs and symptoms of an evolving cerebrovascular accident;
- m. failure to properly, timely, and adequately evaluate a patient with signs and symptoms of an evolving neurologic dysfunction;
- n. failure to provide appropriate, adequate, and timely neuro-radiologic evaluation;
- o. failure to provide timely, appropriate, and adequate medical evaluation prior to transfer to a psychiatric unit;
- p. failure to provide timely, appropriate, and adequate neurologic and neuro-radiologic evaluation prior to transfer to a psychiatric unit;
- q. failure to provide timely, appropriate, and adequate psychiatric and

- psychologic evaluation prior to transfer to a psychiatric unit;
- r. failure to perform a timely, adequate, or appropriate psychiatric history prior to transfer to a psychiatric unit;
 - s. failure to obtain timely, appropriate, and adequate medical evaluation prior to transfer to a psychiatric unit;
 - t. failure to obtain timely, appropriate, and adequate psychiatric and psychologic evaluation prior to transfer to a psychiatric unit;
 - u. failure to perform an adequate and appropriate medical history;
 - v. failure to perform any medical history, psychiatric history, or physical examination prior to or at the time of transfer to a psychiatric unit;
 - w. failure to see, evaluate, or speak with the patient prior to transfer to a psychiatric unit;
 - x. failure to effect a timely transfer from the psychiatric unit back to the medical unit;
 - y. failure to evaluate falls in the psychiatric unit; and,
 - z. failure to re-evaluate the medical status and or psychiatric status of the patient following transfer to the psychiatric unit.

COUNT IV-NEGLIGENCE
(Plaintiff v. Dr. Bradley)

87. The previous paragraphs are herein incorporated by reference as though fully set forth.
88. The negligent conduct of Dr. Bradley during his medical evaluation, care, and

treatment of Wanda Russell consisted of the following:

- a. failure to properly, timely, and adequately evaluate a patient with a diagnosis of transient ischemic attack;
- b. failure to properly, timely, and adequately evaluate a patient with a diagnosis of cerebrovascular accident;
- c. failure to properly, timely, and adequately evaluate a patient with fluctuating neurologic signs and symptoms;
- d. failure to properly and timely obtain the consultative services of a neurologist or specialist in neurology;
- e. failure to properly and timely obtain cerebral imaging with an MRI scan and/or MRA;
- f. failure to properly, timely, and adequately evaluate a patient with acute neurologic signs and symptoms;
- g. failure to timely, properly, and adequately evaluate, diagnose, and treat a "stuttering" stroke;
- h. failure to provide appropriate management and treatment of acute neurologic signs and symptoms;
- i. failure to provide appropriate, adequate, and timely monitoring of a patient with a deteriorating neurologic status;
- j. failure to properly, timely, and adequately evaluate a patient with acute deteriorating neurologic status;
- k. failure to provide appropriate management of an evolving cerebrovascular

accident or neurologic crisis;

- l. failure to provide appropriate, adequate, and timely monitoring of a patient with a signs and symptoms of an evolving cerebrovascular accident;
- m. failure to properly, timely, and adequately evaluate a patient with signs and symptoms of an evolving neurologic dysfunction;
- n. failure to provide appropriate, adequate, and timely neuro-radiologic evaluation;
- o. failure to provide timely, appropriate, and adequate medical evaluation prior to transfer to a psychiatric unit;
- p. failure to provide timely, appropriate, and adequate neurologic and neuro-radiologic evaluation prior to transfer to a psychiatric unit;
- q. failure to provide timely, appropriate, and adequate psychiatric and psychologic evaluation prior to transfer to a psychiatric unit;
- r. failure to perform a timely, adequate, or appropriate psychiatric history prior to transfer to a psychiatric unit;
- s. failure to obtain timely, appropriate, and adequate medical evaluation prior to transfer to a psychiatric unit;
- t. failure to obtain timely, appropriate, and adequate psychiatric and psychologic evaluation prior to transfer to a psychiatric unit;
- u. failure to perform an adequate and appropriate medical history;
- v. failure to see or speak with the patient prior to transfer to a psychiatric unit;
- w. failure to effect a timely transfer from the psychiatric unit back to the medical

unit;

- x. failure to evaluate falls in the psychiatric unit; and,
- y. failure to re-evaluate the medical status following transfer to the psychiatric unit.

COUNT IV-NEGLIGENCE
(Plaintiff v. Dr. Bobrin)

89. The previous paragraphs are herein incorporated by reference as though fully set forth.

90. The negligent conduct of Dr. Bobrin during his medical evaluation, care, and treatment of Wanda Russell consisted of the following:

- a. failure to properly, timely, and adequately evaluate a patient with a diagnosis of transient ischemic attack;
- b. failure to properly, timely, and adequately evaluate a patient with a diagnosis of cerebrovascular accident;
- c. failure to properly, timely, and adequately evaluate a patient with fluctuating neurologic signs and symptoms;
- d. failure to properly and timely obtain the consultative services of a neurologist or specialist in neurology;
- e. failure to properly and timely obtain cerebral imaging with an MRI scan and/or MRA;
- f. failure to properly, timely, and adequately evaluate a patient with acute neurologic signs and symptoms;
- g. failure to timely, properly, and adequately evaluate, diagnose, and treat a

“stuttering” stroke;

- h. failure to provide appropriate management and treatment of acute neurologic signs and symptoms;
- i. failure to provide appropriate, adequate, and timely monitoring of a patient with a deteriorating neurologic status;
- j. failure to properly, timely, and adequately evaluate a patient with acute deteriorating neurologic status;
- k. failure to provide appropriate management of an evolving cerebrovascular accident or neurologic crisis;
- l. failure to provide appropriate, adequate, and timely monitoring of a patient with a signs and symptoms of an evolving cerebrovascular accident;
- m. failure to properly, timely, and adequately evaluate a patient with signs and symptoms of an evolving neurologic dysfunction;
- n. failure to provide appropriate, adequate, and timely neuro-radiologic evaluation;
- o. failure to provide timely, appropriate, and adequate medical evaluation prior to transfer to a psychiatric unit;
- p. failure to provide timely, appropriate, and adequate neurologic and neuro-radiologic evaluation prior to transfer to a psychiatric unit;
- q. failure to provide timely, appropriate, and adequate psychiatric and psychologic evaluation prior to transfer to a psychiatric unit;
- r. failure to perform a timely, adequate, or appropriate psychiatric history prior

- to transfer to a psychiatric unit;
- s. failure to obtain timely, appropriate, and adequate medical evaluation prior to transfer to a psychiatric unit;
 - t. failure to obtain timely, appropriate, and adequate psychiatric and psychologic evaluation prior to transfer to a psychiatric unit;
 - u. failure to perform an adequate and appropriate medical history;
 - v. failure to see or speak with the patient prior to transfer to a psychiatric unit;
 - w. failure to effect a timely transfer from the psychiatric unit back to the medical unit;
 - x. failure to evaluate falls in the psychiatric unit; and,
 - y. failure to re-evaluate the medical status following transfer to the psychiatric unit.

COUNT V-VICARIOUS AND CORPORATE (DIRECT) NEGLIGENCE
**(Plaintiff v. DuBois Regional Medical Center a/k/a/
DuBois Regional Medical Center West a/d/b/a DRMC Behavioral Unit a/k/a
DRMC East Behavioral Unit a/k/a DRMC Behavioral Health Outpatient Clinic)**

91. The previous paragraphs are herein incorporated by reference as though fully set forth.

92. At all times material hereto, DuBois Regional Medical Center a/k/a/ DuBois Regional Medical Center West a/d/b/a DRMC Behavioral Unit a/k/a DRMC East Behavioral Unit a/k/a DRMC Behavioral Health Outpatient Clinic was acting by and through its actual agents, ostensible agents, servants, and/or employees, including Dr. Maloney, Devlin, Helmi, Bradley, and Bobrin, and the nursing staff who provided nursing care and treatment to Wanda Russell during her hospitalization in the DRMC Behavioral Unit, whose identities are partially set forth in Exhibit "B."

These actual agents, ostensible agents, servants, and/or employees provided medical care and treatment to Wanda Russell while acting within the scope of their medical and nursing duties. Accordingly, the DuBois Regional Medical Center a/k/a/ DuBois Regional Medical Center West a/d/b/a DRMC Behavioral Unit a/k/a DRMC East Behavioral Unit a/k/a DRMC Behavioral Health Outpatient Clinic is vicariously and derivatively liable for the negligent acts and omissions of these actual agents, ostensible agents, servants, and/or employees under theories of agency, master-servant, respondeat superior, and/or right of control.

93. The Dubois Regional Medical Center is liable for the conduct of the nurses who provided psychiatric nursing care to Wanda Russell on the DRMC Behavioral Unit on December 5 to 6, 2005, whose identities are partially set forth in Exhibit "B," and whose negligence consisted of:

- a. failure to report falls in a patient exhibiting neurologic impairment to a physician at the time the falls occurred;
- b. failure to report neurologic signs and symptoms to the physician staff;
- c. failure to obtain appropriate psychiatric evaluation at the time the patient arrived on the psychiatric unit;
- d. failure to insure that the protocol for psychiatric unit was adhered to and followed, including provision of the Patient's Bill of Rights and the report of initial evaluation and the proposed treatment plan completed and signed by the patient and the physician;
- e. failure to obtain medical evaluation for signs and symptoms during the nursing evaluation of the patient of evolving neurologic dysfunction;

- f. failure to timely, appropriately, and adequately notify the physician medical staff of evolving of neurologic signs and symptoms;
- g. failure to provide appropriate nursing, monitoring and care to a patient with evolving and shifting neurologic signs and symptoms; and,
- h. failure to provide adequate, appropriate, and timely nursing care in the setting of shifting neurologic signs and symptoms.

94. In addition, pursuant to the decision of the Supreme Court of Pennsylvania in Thompson v. Nason, 591 A.2d 703 (1991) and its progeny of case law, at all relevant times hereto, DuBois Regional Medical Center a/k/a/ DuBois Regional Medical Center West a/d/b/a DRMC Behavioral Unit a/k/a DRMC East Behavioral Unit a/k/a DRMC Behavioral Health Outpatient Clinic owed non-delegable duties directly to Wanda Russell which included:

- a. a duty to use reasonable care in the maintenance of safe and adequate facilities and equipment;
- b. a duty to select and retain only competent physicians;
- c. a duty to oversee all persons who practice medicine within its walls as to patient care; and,
- d. a duty to formulate, adopt, and enforce adequate rules and policies to ensure quality care for the patients.

95. The corporate (direct) negligence of the DuBois Regional Medical Center a/k/a/ DuBois Regional Medical Center West a/d/b/a DRMC Behavioral Unit a/k/a DRMC East Behavioral Unit a/k/a DRMC Behavioral Health Outpatient Clinic arising out of the medical evaluation, care, and treatment of Wanda Russell consisted of the following:

symptoms;

- j. failure to select and retain only competent physicians proficient in the evaluation patients prior to voluntary transfer to a psychiatric unit;
- k. failure to formulate, adopt, and/or enforce adequate rules and policies with respect to evaluation of patients prior to transfer to a psychiatric unit, including evaluation by a psychiatrist;
- l. failure to formulate, adopt, and/or enforce adequate rules and policies with respect to the evaluation, re-evaluation, and management of patients admitted to a psychiatric unit with fluctuating neurologic signs and symptoms;
- m. failure to formulate, adopt, and/or enforce adequate rules and policies with respect to the timely evaluation of patients admitted to the psychiatric unit;
- n. failure to formulate, adopt, and/or enforce adequate rules and policies with respect to the reporting and evaluation of falls by the nursing staff in the psychiatric unit;
- o. failure to formulate, adopt, and/or enforce adequate rules and policies with respect to the transfer of patients with acute medical emergencies out of the psychiatric unit;
- p. failure to formulate, adopt, and/or enforce adequate rules and policies with respect to holding patients with acute medical complaints within the confines of the psychiatric unit;
- q. failure to formulate, adopt, and/or enforce adequate rules and policies with respect to holding patients with acute neurologic complaints and falls within

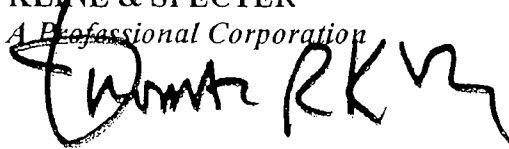
the confines of the psychiatric unit;

- r. failure to formulate, adopt, and/or enforce adequate rules and policies with respect to obtaining timely transfer of a patient with signs and symptoms of an evolving stroke to a medical unit from the psychiatric unit;
- s. failure to oversee all persons who practice medicine within its walls as to patient care to ensure that an appropriate psychiatric evaluation by a psychiatrist occurs prior to the transfer of a patient to a psychiatric unit;
- t. failure to oversee all persons who practice medicine within its walls as to patient care to ensure that an appropriate medical evaluation occurs prior to the transfer of a patient to a psychiatric unit;
- u. failure to oversee all persons who practice medicine within its walls as to patient care to ensure that an appropriate medical evaluation occurs at the time of transfer of a patient to a psychiatric unit; and,
- v. failure to oversee all persons who practice medicine within its walls as to patient care to ensure that an appropriate psychiatric evaluation occurs at the time of transfer of a patient to a psychiatric unit.

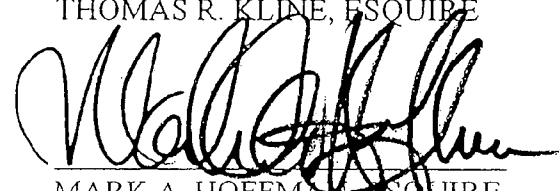
WHEREFORE, Plaintiff Wanda Russell claims damages against all defendants, jointly and severally, including all damages cognizable under Pennsylvania law for the causes of action set forth in the Civil Action Complaint, in an amount in excess of the prevailing arbitration limits, exclusive of pre-judgment interest and post-judgment interest and costs.

KLINE & SPECTER
A Professional Corporation

By:


THOMAS R. KLINE, ESQUIRE

By:


MARK A. HOFFMAN, ESQUIRE

By:


ROYCE W. SMITH, ESQUIRE

Date:

EXHIBIT “A”

KLINE & SPECTER

A Professional Corporation

By: THOMAS R. KLINE, ESQUIRE
MARK A. HOFFMAN, ESQUIRE
ROYCE W. SMITH, ESQUIRE

Attorney ID Nos.: 28895/ 84443/201295

The Nineteenth Floor

1525 Locust Street

Philadelphia, Pennsylvania 19102

(215) 772-1000

Attorneys for Plaintiff

WANDA RUSSELL

426 North Michael Street

Saint Mary's, Pennsylvania 15857

Plaintiff,

v.

JAMES E. DEVLIN, M.D. and

MARK W. MALONEY, D.O. and

DRMC PRIMARY CARE

ASSOCIATES and

SANAA HELMI, M.D. and

THOMAS J. BRADLEY, M.D. and

BRADFORD BOBRIN, M.D. and

DuBOIS REGIONAL MEDICAL

CENTER a/ka DuBOIS REGIONAL

MEDICAL CENTER WEST

a/d/b/a DRMC BEHAVIORAL

UNIT a/k/a DRMC EAST BEHAVIORAL

UNIT a/k/a DRMC BEHAVIORAL

HEALTH OUTPATIENT CLINIC

Defendants.

COURT OF COMMON PLEAS

COUNTY OF CLEARFIELD

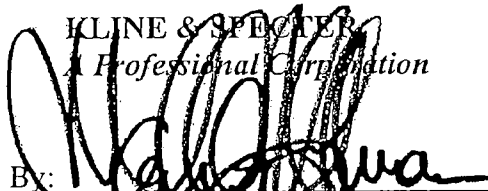
DOCKET NO.

CERTIFICATES OF MERIT

I, Mark A. Hoffman, Esquire, am an attorney for the plaintiff in the above-captioned matter.

Pursuant to Pa.R.C.P. No. 1042.1, I hereby certify appropriate licensed professionals have provided me with written statements stating that there exists a reasonable basis and probability to conclude that the care, skill, or knowledge exercised or exhibited by Drs. Devlin, Maloney, Helmi, Bradley, and Bobrin, and the psychiatric nursing staff, and the DuBois Regional Medical Center and its

affiliated or associated entities as captioned above, with respect to the treatment, practice, or work that is the subject of this Civil Action Complaint, fell outside of acceptable professional and institutional standards, and that such conduct was a substantial factor in causing injuries, or bringing about harm, to Wanda Russell. I further certify that there are additional claims which are based on allegations that licensed professionals for whom the hospital-defendant, DuBois Regional Medical Center and its affiliated or associated entities as captioned above, and/or DRMC Primary Care, and/or both, are responsible and derivatively or vicariously liable deviated from accepted professional standards of medical care, and caused the aforementioned injuries and harm. I additionally certify that appropriate licensed professionals have supplied written statements to me concluding that there exists a reasonable basis and probability that the DuBois Regional Medical Center, and its affiliated or associated entities as captioned above, deviated from accepted standards of institutional care, giving rise to claims of direct (corporate) negligence pursuant to the decision of the Supreme Court of Pennsylvania in Thompson v. Nason, 591 A.2d 703 (1991) and its progeny of case law. The licensed professionals who have provided me with these written statements have also concluded that the aforementioned deviations from accepted standards of medical and institutional care on the part of the individual named licensed professional, corporate, and hospital defendants was a substantial factor causing, or increasing the risk of harm, to Wanda Russell.

KLINE & SPECTER
A Professional Corporation
By: 
MARK A. HOFFMAN, ESQUIRE
Attorneys for Plaintiff

Date

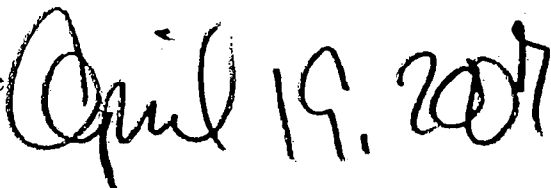


EXHIBIT “B”

Behavioral Health Services Daily Notes Extension

Date 12/16/05

3218 47Y MH 0114-01 MH

RUSSELL, WANDA

BOBRIN, BRADFORD

09/19/58 F 12/06/05

0534000768

UP



Sticker

12/16/05 8:20am - Pt's sister Darlene Nortum called and I spoke to her. According to Darlene, she was in to visit her sister last evening. Dr. Maloney came in at 7 or 8pm to talk to the pt. he told her that he feels her loss of mobility is due to depression. He did not say anything about coming to Mental Health. She did not say anything suicidal or hopeless. Darlene said she tried to talk to Dr. Maloney about how soon her sister would be PIC but he said he was busy. Darlene does not feel her sister should be at Mental Health.

8:50am - I spoke to the secretary ^{Sue} @ Dr. Maloney's office & she was unable to give me any information. Dr. Maloney called off today + she would not be talking to him until late this afternoon.

9:00am - I spoke to Joan on 3rd floor about the Pt. She told me that she was told that Dr. Maloney was afraid she would hurt herself. Apparently, Pt was requesting disability & Dr. Maloney said he couldn't do that. At that point he felt she wasn't safe.

9:20am Pt's sister Darlene called again & asked

353218 47Y MH 0114-01 MH
RUSSELL, WANDA
BOBRIN, BRADFORD
09/19/58 F 12/06/05
0534000768 UP



Behavioral Health Services Daily Notes Extension
Date 12/6/05

Sticker

if she could come now to visit her sister + talk with us.

9:35am Tracey from 3rd floor called + asked me what the situation is. Neither her or anyone else knew specific information on the pt.

9:45am Dr. Maloney called and spoke to me. He feels the pt is going to stop taking her meds although she did not state that. He reports that she's going through a lot of stress - a divorce & bankruptcy. He said that she was admitted for left sided weakness. Nurses reported to Dr. Maloney that they observed her using her left arm & and eating when she thought no one was looking. He was unable to find any medical problems. He spoke to Dr. Helmi & according to him it was her recommendation that she be admitted + tx be started.

I then handed the phone to UR for them to collect information.

9:55am I had already beeped Dr. Helmi twice, & she had not returned my call yet. I thought her beeper may be off so I called her cell phone. She answered + I asked if she had any information on the pt. She said

53218 47Y MH 01 MH
RUSSELL, WANDA
BOBRIN, BRADFORD
09/19/58 F 12/06/05
0534000768 UP


Behavioral Health Services Daily Notes Extension
Date 12/6/05

Sticker

that she didn't remember the pt + asked where she came from, I stated 3rd floor - She said she was c-pts & would have to return my call.

10:05am - Dr. Helmi returned my call, I asked her the information regarding the pt. She was under the impression that the pt was severely depressed + actively suicidal. She did not make the recommendation - Dr. Maloney asked for the admission and she agreed on the basis that the pt is suicidal. She will support our decision at this point. *Brittge Boule*

VERIFICATION

I, WANDA RUSSELL, plaintiff in this civil action, hereby verify that the within Civil Action Complaint is based upon first-hand information, and upon information furnished to my counsel and obtained by him in the course of counsel's investigation of this lawsuit and the facts involved. The language of the document is that of counsel and not my own. To the extent that the contents of the document are based upon information furnished to counsel and obtained by him during the course of this lawsuit and counsel's investigation of the facts giving rise to this lawsuit, I have relied upon counsel in taking this verification. All statements are founded upon reasonable belief. This verification is made subject to the penalties of 18 Pa.C.S. §4904 relating to unsworn falsification to authorities.



Wanda Russell

Date: 4/19/07

KLINE & SPECTER

A Professional Corporation

By: THOMAS R. KLINE, ESQUIRE
MARK A. HOFFMAN, ESQUIRE
ROYCE W. SMITH, ESQUIRE

Attorney ID Nos.: 28895/ 84443/201295

The Nineteenth Floor
1525 Locust Street
Philadelphia, Pennsylvania 19102
(215) 772-1000

Attorneys for Plaintiff

WANDA RUSSELL
426 North Michael Street
Saint Mary's, Pennsylvania 15857
Plaintiff,

**COURT OF COMMON PLEAS
COUNTY OF CLEARFIELD**

DOCKET NO. 07-644-CD

v.

JAMES E. DEVLIN, M.D.

1100 Main Street
Brockway, Pennsylvania 15824
and

MARK W. MALONEY, D.O.
DRMC Primary Care Associates
Medical Arts Building
Suite 200

145 Hospital Avenue
DuBois, Pennsylvania 15801
and

DRMC PRIMARY CARE
ASSOCIATES
Medical Arts Building
Suite 200

145 Hospital Avenue
DuBois, Pennsylvania 15801
and

SANAA HELMI, M.D.
Behavioral Health Outpatient Clinic
DRMC East Unit
Maple Avenue

DuBois, Pennsylvania 15801
ans

THOMAS J. BRADLEY, M.D.
701 Sunflower Drive
DuBois, Pennsylvania 15801
and

BRADFORD BOBRIN, M.D. :
 Behavioral Health Outpatient Clinic :
 DRMC East Unit :
 Maple Avenue :
 DuBois, Pennsylvania 15801 :
 and :
 DuBOIS REGIONAL MEDICAL :
 CENTER a/ka DuBOIS REGIONAL :
 MEDICAL CENTER WEST :
 a/d/b/a DRMC BEHAVIORAL :
 UNIT a/k/a DRMC EAST BEHAVIORAL :
 UNIT a/k/a DRMC BEHAVIORAL :
 HEALTH OUTPATIENT CLINIC :
 c/o Office of Risk Management :
 100 Hospital Avenue :
 DuBois, Pennsylvania 15801 :
 Defendants. :

NOTICE

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

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER.

IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.

COURT ADMINISTRATOR
 Clearfield County Courthouse
 Second and Market Streets
 Clearfield, PA 16830
 814-765-2641, Ext. (5982)

ADVISOR

Le han demandado a usted en la corte. Si usted quiere defenderse de estas demandas expuestas en las paginas siguientes, usted tiene veinte (20) dias de plazo al partir de la fecha de la demanda y la notificacion. Hace falta asentar una comparencia escrita o en persona o con un abogado y entregar a la corte en forma escrita sus defensas o sus objeciones a las demandas en contra de su persona. Sea avisado que si usted no se defiende, la corte tomara medidas y puede continuar la demanda en contra suya sin previo aviso o notificacion. Ademas, la corte pueda decidir a favor del demandante y requiere que usted cumpla con todas las provisiones de esta demanda. Usted puede perder dinero o sus propiedades u otros derechos importantes para usted.

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

ESTA OFICINA LO PUEDE PROPORCIONAR CON INFORMACION ACERCA DE EMPLEAR A UN ABOGADO. SI USTED NO PUEDE PROPORCIONAR PARA EMPLEAR UN ABOGADO, ESTA OFICINA PUEDE SER CAPAZ DE PROPORCIONARLO CON INFORMACION ACERCA DE LAS AGENCIAS QUE PUEDEN OFRECER LOS SERVICIOS LEGALES A PERSONAS ELEGIBLES EN UN HONORARIO REDUCIDO NINGUN HONORARIO.

COURT ADMINISTRATOR
 Clearfield County Courthouse
 Second and Market Streets
 Clearfield, PA 16830
 814-765-2641, Ext. (5982)

AMENDED CIVIL ACTION COMPLAINT

Plaintiff, Wanda Russell, by and through her undersigned attorneys, Kline & Specter, P.C., herein complains of the above-captioned defendants as follows:

1. Plaintiff Wanda Russell is an adult citizen and a resident of the Commonwealth of Pennsylvania, residing at 426 North Michael Street, Saint Mary's, Pennsylvania 15857. Wanda Russell was born on September 19, 1958.

2. Defendant James E. Devlin, M.D. ["Dr. Devlin"] was, at all times material hereto, a duly licensed physician in the Commonwealth of Pennsylvania, specializing in the medical field of family medicine, who maintained a professional office, business or corporate office, or place of medical practice at 1100 Main Street, Brockway, Pennsylvania 15824. A Certificate of Merit pursuant to Pa.R.C.P. No. 1042.1 regarding the treatment, practice, or work of this defendant is attached hereto as Exhibit "A."

3. Defendant Mark W. Maloney, D.O. ["Dr. Maloney"] was, at all times material hereto, a duly licensed osteopathic physician in the Commonwealth of Pennsylvania, specializing in the medical field of family medicine, who maintained a professional office, business or corporate office, or place of medical practice at DRMC Primary Care Associates, Medical Arts Building, Suite 200, 145 Hospital Avenue, DuBois, Pennsylvania 15801. A Certificate of Merit pursuant to Pa.R.C.P. No. 1042.1 regarding the treatment, practice, or work of this defendant is attached hereto as Exhibit "A."

4. Defendant DRMC Primary Care Associates was, at all times material hereto, a corporation, professional corporation, professional association, professional partnership, or other jurial entity organized according to and existing under the laws of the Commonwealth of

Pennsylvania, with an office location and place of business at Medical Arts Building, Suite 200, 145 Hospital Avenue, DuBois, Pennsylvania 15801. A Certificate of Merit pursuant to Pa.R.C.P. No. 1042.1 regarding the treatment, practice, or work of this defendant is attached hereto as Exhibit "A."

5. At all times material hereto, Dr. Maloney and/or Dr. Devlin were agents, servants, and/or employees of DRMC Primary Care Associates, and were acting within the scope of their agency, master-servant, and/or employment relationships with DRMC Primary Care Associates while providing medical care and treatment to Wanda Russell. Accordingly, DRMC Primary Care Associates is liable for the negligent, grossly negligent, and/or reckless acts and/or omissions of Dr. Devlin and/or Dr. Maloney under theories of agency, master-servant, respondeat superior, and/or right of control.

6. Dr. Devlin was providing medical service or family practice service "coverage" or "cross-coverage" for Dr. Maloney, while providing medical care and treatment to Wanda Russell on or about December 4 and 5, 2005. Accordingly, Dr. Maloney is liable for the negligent acts and/or omissions of Dr. Devlin under theories of agency, master-servant or borrowed servant, respondeat superior, and/or right of control.

7. Dr. Devlin was providing "coverage" or "cross-coverage" for Dr. Maloney's family practice group or association, DRMC Primary Care Associates, while providing medical care and treatment to Wanda Russell, on or about December 4 and 5, 2005. Accordingly, DRMC Primary Care Associates is liable for the negligent acts and/or omissions of Dr. Devlin under theories of agency, master-servant or borrowed servant, respondeat superior, and/or right of control.

8. Defendant Sanaa Helmi, M.D. ["Dr. Helmi"] was, at all times material hereto, a duly licensed physician in the Commonwealth of Pennsylvania, specializing in the medical field of

psychiatry, who maintained a professional office, business or corporate office, or place of medical practice at Behavioral Health Outpatient Clinic, DRMC East Unit, Maple Avenue, DuBois, Pennsylvania 15801. A Certificate of Merit pursuant to Pa.R.C.P. No. 1042.1 regarding the treatment, practice, or work of this defendant is attached hereto as Exhibit "A."

9. Defendant Thomas J. Bradley, M.D. ["Dr. Bradley"] was, at all times material hereto, a duly licensed physician in the Commonwealth of Pennsylvania, specializing in the medical field of psychiatry, who maintained a professional office, business or corporate office, or place of medical practice at 701 Sunflower Drive, DuBois, Pennsylvania 15801. A Certificate of Merit pursuant to Pa.R.C.P. No. 1042.1 regarding the treatment, practice, or work of this defendant is attached hereto as Exhibit "A."

10. Defendant Bradford Bobrin, M.D. ["Dr. Bobrin"] was, at all times material hereto, a duly licensed physician in the Commonwealth of Pennsylvania, specializing in the medical field of psychiatry, who maintained a professional office, business or corporate office, or place of medical practice at Behavioral Health Outpatient Clinic, DRMC East Unit, Maple Avenue, DuBois, Pennsylvania 15801. A Certificate of Merit pursuant to Pa.R.C.P. No. 1042.1 regarding the treatment, practice, or work of this defendant is attached hereto as Exhibit "A."

11. Defendant DuBois Regional Medical Center a/k/a/ DuBois Regional Medical Center West a/d/b/a DRMC Behavioral Unit a/k/a DRMC East Behavioral Unit a/k/a DRMC Behavioral Health Outpatient Clinic [referred to in various paragraphs as either the "DuBois Regional Medical Center" or the "DRMC Behavioral Unit" or the "DuBois Regional Medical Center West"] is a corporation or other jural entity organized according to and existing under the laws of the Commonwealth of Pennsylvania which owns, operates, and maintains a hospital, health care facility,

and provider of health care services based at 100 Hospital Avenue, DuBois, Pennsylvania 15801.

The DRMC Behavioral Unit a/k/a DRMC East Behavioral Unit a/k/a DRMC East Behavioral Unit a/k/a DRMC Behavioral Health Outpatient Clinic is a psychiatric unit located within the East Unit of the DuBois Regional Medical Center. A Certificate of Merit pursuant to Pa.R.C.P. No. 1042.1 regarding the treatment, practice, or work of this defendant is attached hereto as Exhibit "A."

12. At all times material hereto, Dr. Devlin, Dr. Maloney, Dr. Helmi, Dr. Bradley, and Dr. Bobrin were actual or ostensible agents, servants, and/or employees of the DuBois Regional Medical Center and/or the DRMC Behavioral Unit, and were acting within the scope of their agency, master-servant, and/or employment relationship with the DuBois Regional Medical Center, and its affiliated or associated entities as captioned above, while providing medical care and treatment to Wanda Russell. Accordingly, the DuBois Regional Medical Center, and its affiliated or associated entities as captioned above, are liable for the negligent, grossly negligent, and/or reckless acts and/or omissions of Dr. Devlin, Dr. Maloney, Dr. Helmi, Dr. Bradley, and Dr. Bobrin under theories of agency, master-servant, respondeat superior, and/or right of control.

13. At all times material hereto, the DuBois Regional Medical Center and the DRMC Behavioral Unit were acting by and through their actual agents or ostensible agents, servants, and/or employees, Dr. Devlin, Dr. Maloney, Dr. Helmi, Dr. Bradley, and Dr. Bobrin, as well as the nurses who provided psychiatric nursing care and evaluation to Wanda Russell during her hospitalization in the DRMC Behavioral Unit. The identities of these nurses, whose signatures are illegible on the "Behavioral Health Services Daily Notes" and extension notes, attached hereto as Exhibit "B," are fully known to the DuBois Regional Medical Center and the DRMC Behavioral Unit, and presently unknown to Plaintiff because of the illegible nature, or absence of, their signatures. The identities

of these nurses is the subject matter of further discovery by the Plaintiff during the course of this litigation. Accordingly, DuBois Regional Medical Center is liable for the negligent, grossly negligent, and/or reckless acts and/or omissions of these aforementioned named and as yet specifically identified, see Exhibit "B," actual or ostensible agents, servants, and/or employees which occurred in the course of providing medical and nursing care to Wanda Russell, under theories of agency, master-servant, respondeat superior, and/or right of control.

14. Venue in this action is properly laid in Clearfield County, Pennsylvania pursuant to the Amendatory Order of the Supreme Court of Pennsylvania dated March 5, 2003, No. 381, Civil Procedural Rules, Docket No. 5, which amended the Pennsylvania Rules of Civil Procedure No.1006.

15. On December 3, 2005, Wanda Russell presented to the Emergency Department at the DuBois Regional Medical Center via wheelchair with complaints of, among other things, bilateral arm weakness and dark vision.

16. On December 3, 2005, Wanda Russell was evaluated by Patrick Shilata, D.O. in the Emergency Department at the DuBois Regional Medical Center.

17. On December 3, 2005, Wanda Russell had a known history of hypertension and insulin dependent diabetes mellitus. These co-morbid conditions were known to the nursing staff and physician who evaluated and treated Wanda Russell in the Emergency Department on December 3, 2005, and were recorded in the DuBois Regional Medical Center Emergency Department medical record of Wanda Russell.

18. On December 3, 2005, Wanda Russell was able to ambulate, but complained of feeling off balance.

19. On December 3, 2005, during her evaluation in the DuBois Regional Medical Center Emergency Department, Wanda Russell had performed on her, among other things, an electrocardiogram, a basic metabolic panel, a urine analysis with microscopic examination, and an unenhanced head CT scan. All test results were interpreted as “normal” except for an elevated blood sugar (196 mg/dl; normal = 70 to 110 mg/dl).

20. On December 3, 2005, Wanda Russell was discharged from the Emergency Department at the Dubois Regional Medical Center with the diagnosis: “Impression: weakness, Transient Ischemic Attack (TIA), Diabetes Mellitus, Type I.”

21. On December 3, 2005, Wanda Russell was discharged from the Emergency Department at the Dubois Regional Medical Center with instructions on transient ischemic attack and diabetes mellitus, and she was given a four (4) day work release. Wanda Russell was additionally instructed to follow-up with Dr. Maloney, her primary care physician, in three (3) to four (4) days.

22. On December 4, 2005, Wanda Russell presented to the Emergency Department at the DuBois Regional Medical Center via wheelchair with complaints of, among other things, left-sided weakness and inability to walk.

23. On December 4, 2005, Wanda Russell’s sister signed the DuBois Regional Medical Center “Consent for Treatment” as Wanda Russell’s patient representative, and on Wanda Russell’s behalf, because Wanda Russell had weakness on writing and slurred speech. The “Consent for Treatment” was signed at or about 0938 hours on December 4, 2005.

24. On December 4, 2005, Wanda Russell was evaluated by Jeffrey Elias, D.O. [“Dr. Elias”] in the Emergency Department at the DuBois Regional Medical Center.

25. On December 4, 2005, Dr. Elias performed a neurological examination on Wanda Russell in the Emergency Department at the DuBois Regional Medical Center, and found, among other things, that Wanda Russell had a facial droop and diminished motor strength in the left arm (2/5) and left leg (2/5). The "Review of Systems" performed by Dr. Elias was positive for gait disturbance, speech changes, and weakness in the left arm and leg.

26. On December 4, 2005, Dr. Elias formulated a plan that Wanda Russell be admitted "to medical, for Maloney, Mark W. with a primary ED diagnosis of CVA (stroke) non-hemorrhagic." A summary of the Emergency Department evaluation of Wanda Russell was faxed to Wanda Russell's primary care physician, Dr. Maloney.

27. On December 4, 2005, Dr. Devlin evaluated Wanda Russell in the Emergency Department at the DuBois Regional Medical Center. At the time, Dr. Devlin was covering or cross-covering for Dr. Maloney and DRMC Primary Care Associates.

28. On December 4, 2005, Dr. Devlin admitted Wanda Russell to the DuBois Regional Medical Center for neuro-checks and observation. At the time of admission, Dr. Devlin doubted that Wanda Russell had, or was experiencing, a transient ischemic attack, and recorded this belief in his "History and Physical Examination," stating, among other things: "History of some left sided weakness, questionable TIA. Clinically, at this time it is doubtful but with the history we will go ahead and make the patient an observation."

29. On December 4, 2005, Wanda Russell was admitted to Dr. Maloney's service at the DuBois Regional Medical Center, with Dr. Devlin covering.

30. On December 4, 2005, Dr. Devlin did not obtain, or order to be obtained or provided, a neurology consultation for Wanda Russell.

31. On December 4, 2005, Dr. Devlin did not have performed, or order to be performed, an MRI scan of the head or an MRA on Wanda Russell.

32. On December 5, 2005, an unenhanced head CT scan was performed on Wanda Russell for the diagnosis of left-sided weakness, and was interpreted as "normal."

33. On December 5, 2005, bilateral carotid duplex sonograms were performed on Wanda Russell for the indication of left-sided weakness. This study demonstrated approximately 50 percent stenosis of the right internal carotid artery and 50 to 69 percent stenosis of the left internal carotid artery. Bilateral carotid plaque was also demonstrated on the sonogram.

34. An aortic arch and four vessel cerebral angiogram was not performed on Wanda Russell on December 5, 2005.

35. A head MRI or MRA was not performed on Wanda Russell on December 5, 2005.

36. A neurology consult was not obtained for or performed on Wanda Russell on December 5, 2005.

37. Wanda Russell continued to have intermittent left-sided weakness on December 5, 2005.

38. Wanda Russell had slurred speech and a "left facial droop of the mouth" on December 5, 2005.

39. On December 5, 2005, at or between the hours of approximately 1900 and 2000 hours, Dr. Maloney evaluated Wanda Russell at the DuBois Regional Medical Center, and informed Wanda Russell that her loss of mobility was due to depression. Dr. Maloney, who is neither a neurologist or a psychiatrist, offered a psychiatric diagnosis to explain objective neurologic symptoms, in reckless disregard to the safety and well-being of Wanda Russell.

40. On December 5, 2005, Dr. Maloney consulted Dr. Helmi concerning the admission of Wanda Russell to the DRMC Behavioral Unit, and reported to Dr. Helmi that "he was unable to find any medical problems" with respect to Wanda Russell, and that Wanda Russell was "suicidal." This was a misrepresentation of Wanda Russell's medical status, offered in wanton disregard for the medical signs and symptoms of impending cerebrovascular accident which Wanda Russell was exhibiting at that time.

41. On December 5, 2005, during the telephone consultation between Dr. Maloney and Dr. Helmi, according to Dr. Maloney, Dr. Helmi made the recommendation that Wanda Russell be admitted to the DRMC Behavior Unit for psychiatric treatment. The medical and psychiatric status of Wanda Russell was misrepresented to Dr. Helmi by Dr. Maloney, in wanton disregard for the medical signs and symptoms of impending cerebrovascular accident which Wanda Russell was exhibiting. Dr. Maloney's actions were grossly negligent, and contemplated in disregard for the safety and well-being of Wanda Russell.

42. Dr. Helmi did not perform a history, psychiatric evaluation, or physical examination on Wanda Russell on December 5, 2005, or physically see or speak with Wanda Russell on December 5 or 6, 2005, despite a purported diagnosis of being "suicidal." Dr. Helmi acted in a grossly negligent and/or reckless manner, in total disregard for the safety and well-being of Wanda Russell, by failing to examine and evaluate a patient whom she believed was "suicidal."

43. On December 5, 2005, at or about 2040 hours, Dr. Maloney gave a "telephone order" to Brenda L. Slappy, R.N., to "Transfer to psych unit tonight."

44. On December 5, 2005, Wanda Russell was asked to sign, and did sign, an "Initial Evaluation and Treatment Plan," which outlined a "Description of Proposed Treatment Plan" and

a "Description of Proposed Restrictions and Restraints." This form was not completed and signed by a physician, in reckless disregard to the rights, safety, and well-being of Wanda Russell.

45. On December 5, 2005, Wanda Russell was asked to sign, and did sign, a "Consent for Voluntary Inpatient Treatment."

46. The "Consent for Voluntary Inpatient Treatment" set forth the following "Instructions":

Before signing this form, your treatment should be explained to you and you must be given a copy of the Patient's Bill of Rights, the report of your initial evaluation and the proposed treatment plan must be completed and signed by you and the physician.

47. On December 6, 2005, Wanda Russell was not given a copy of the DuBois Regional Medical Center Patient's Bill of Rights by any physician or health care provider who was providing care and treatment to Wanda Russell, in reckless disregard to the institutional obligations set forth by the DuBois Medical Center to protect the rights of patients such as Wanda Russell.

48. On December 6, 2005, Wanda Russell was not given a copy of her initial evaluation by any physician providing care and treatment to Wanda Russell, in reckless disregard to the institutional obligations set forth by the DuBois Medical Center to protect the rights, safety, and well-being of Wanda Russell.

49. On December 6, 2005, Wanda Russell was not given a copy of the proposed treatment plan, which should have been completed and signed by her and a physician. Dr. Helmi, who made the decision to admit Wanda Russell to the psychiatric unit, did not explain the proposed treatment plan to Wanda Russell, who was deemed to be "suicidal," nor did Dr. Helmi sign the "Description of Proposed Treatment Plan" and "Description of Proposed Restrictions and Restraints." Dr.

Helmi's conduct was grossly negligent and/or undertaken in reckless disregard to the institutional obligations set forth by the DuBois Medical Center to protect the rights, safety, and well-being of Wanda Russell.

50. On December 6, 2005, at or about 0200 hours, Wanda Russell was admitted to the DRMC Behavioral Unit by Kim Hendricks, R.N. ["Nurse Hendricks"], onto Dr. Bobrin's Service.

51. On December 6, 2005, at no time prior to, or at the time of her admission at 0200 hours to the DRMC Behavioral Unit, was Wanda Russell evaluated by a psychiatrist, including Dr. Bradley, Dr. Bobrin, or Dr. Helmi, in wanton and willful disregard for the safety and well-being of Wanda Russell, and the institutional obligations set forth by the DuBois Medical Center to protect the rights, safety, and well-being of Wanda Russell.

52. On December 6, 2005, at or about 0200 hours, Wanda Russell told Nurse Hendricks that "she was lied to about coming here for an admission from her family" and reported "she is unable to use left arm and leg. Patient complains of not wanting to stay." The nursing staff at the DRMC Behavioral Unit ignored these complaints by Wanda Russell, and in wanton and willful disregard for Wanda Russell's safety and well-being, failed to inform any physician about these complaints at or about the time they were offered by Wanda Russell.

53. On December 6, 2005, at or about 0330 hours, Wanda Russell fell out of bed in the DRMC Behavioral Unit. The nursing staff at the DRMC Behavioral Unit, in wanton and willful disregard for Wanda Russell's safety and well-being, failed to inform any physician about this event at or about the time it occurred.

54. On December 6, 2005, at or about 0643 hours, Dr. Bradley performed a history and physical examination on Wanda Russell. Dr. Bradley obtained a history of present illness, among

other things, as follows:

Wanda is a 47-year-old woman who had been readmitted to the West division for left sided weakness. She had had a workup that included a normal CT of the head. She was discharged and re-presented to the ER with nervousness and I guess there was a question regarding the extent of the left sided weakness present and the fact it was noted that the person was under a lot of stress. She is hypertensive, hyperlipidemic, and an insulin dependent diabetic. I guess she was persuaded to be transferred to the psyche unit.

Dr. Bradley's "guesses" about Wanda Russell's medical evaluation and medical condition, which included a prior recent diagnosis of transient ischemic attack and cerebrovascular accident, offered in the face of objective neurologic signs and symptoms, were grossly negligent and/or reckless.

55. On December 6, 2005, during his physical examination of Wanda Russell, Dr. Bradley found, among other things, "There is some left upper extremity weakness and facial asymmetry" that was "hard to evaluate since she is so anxious." The failure to obtain a neurologic evaluation and diagnostic testing in the face of objective neurologic signs and symptoms was grossly negligent and/or reckless.

56. On December 6, 2005, at the time Dr. Bradley initially evaluated Wanda Russell, Dr. Bradley formulated and initiated the plan that "the patient is admitted for psyche evaluation and treatment." The failure to obtain a neurologic evaluation and diagnostic testing in the face of objective neurologic signs and symptoms was grossly negligent and/or reckless. Dr. Bradley knew that Wanda Russell was exhibiting objective neurologic signs and symptoms, and acted in reckless disregard to the safety and well-being of Wanda Russell by failing to obtain appropriate and timely evaluation of these signs and symptoms.

57. On December 6, 2005, at the time of his initial evaluation, Dr. Bradley did not

transfer Wanda Russell back to a medical unit for evaluation of her left sided weakness and facial asymmetry. The failure to transfer Wanda Russell to the medical unit for neurologic evaluation and diagnostic workup in the face of objective neurologic signs and symptoms which were obvious to Dr. Bradley was grossly negligent and/or reckless.

58. On December 6, 2005, at the time of his initial evaluation, Dr. Bradley did not obtain, or order to be obtained, a neurology consultation for Wanda Russell. The failure to obtain a neurologic evaluation and diagnostic testing in the face of objective neurologic signs and symptoms was grossly negligent and/or reckless.

59. On December 6, 2005, at the time of his initial evaluation, Dr. Bradley did not have performed, or order to be performed, an MRI scan of the head or MRA on Wanda Russell. The failure to obtain a neurologic evaluation and diagnostic testing in the face of objective neurologic signs and symptoms was grossly negligent and/or reckless.

60. On December 6, 2005, at the time of his initial evaluation, Dr. Bradley did not diagnose Wanda Russell as having an evolving or "stuttering" cerebrovascular accident. Dr. Bradley abandoned his patient on the DRMC Behavioral Unit without initiating or recommending further neurologic evaluation or diagnostic testing, with actual knowledge of objective neurologic deficits. The failure to perform or order to be performed these evaluations and tests was grossly negligent, and/or in reckless disregard for the safety and well-being of Wanda Russell.

61. On December 6, 2005, the nursing staff from the DRMC Behavioral Unit attempted to contact Dr. Helmi at 0955 hours, first by beeper, and eventually by cell phone, seeking information about Wanda Russell.

62. On December 6, 2005, at or about 0955 hours, Dr. Helmi informed the DRMC

Behavioral Unit nurse, whose illegible signature appears at Exhibit "B" at page 3, by telephone "that she didn't remember the patient and asked where she came from." Dr. Helmi had never seen, spoken with, evaluated, or otherwise initiated any treatment or diagnostic testing from the time of admission of Wanda Russell to the DRMC Behavioral Unit, and was not informed overnight of the neurologic findings or fall which Wanda Russell was or had experienced.

63. On December 6, 2005, at or about 1005 hours, Dr. Helmi informed the nurse, whose illegible signature appears at Exhibit "B" at page 3, by telephone that "she did not make the recommendation-Dr. Maloney asked for the admission and she agreed on the basis that the patient is suicidal." Dr. Maloney misrepresented the medical and psychiatric status of Wanda Russell to Dr. Helmi, in reckless disregard for the safety and well-being of Wanda Russell. Dr. Helmi's failure to evaluate a patient deemed "suicidal," or to inform herself of the patient's medical condition or the prior diagnosis of transient ischemic attack and cerebrovascular accident, was grossly negligent and/or reckless.

64. On December 6, 2005, at or before 1028 hours, Dr. Bobrin evaluated Wanda Russell at the DRMC Behavioral Unit, and during the "Initial Evaluation/Mental Status Examination/Discharge Summary" report preparation, described that, among other things:

She describes being scared about her arm and leg. She awoke on Friday with trouble with her left arm and it has gotten worse since then. Her family said that this is true as well. She can stand as she demonstrates to me but has trouble lifting up her arm, not even able to brush her hair. She woke up and fell and has had two falls here on the unit and so she initially came in because scans x two do not show any signs of ischemia or infarct.

65. On December 6, 2005, Dr. Bobrin, at or before 1028 hours, Dr. Bobrin found that Wanda Russell exhibited no signs of "suicidal or homicidal ideations" on the mental status

examination, contrary to what had been previously misrepresented by Dr. Maloney.

66. On December 6, 2005, at or before 1028 hours, Dr. Bobrin assessed Wanda Russell as follows

This is a 47-year-old with some mild depressive symptoms and acute onset of depressive mood after having stroke-like symptoms which has continued. Although it was thought that her neurologic signs were out of proportion to her neurological symptoms, she does seem to have flaccid paralysis of the left arm and left droop of smile. With no gross infarct, there might be some infarct on brainstem or internal capsule. Will need MRI and neuro consult.

67. On December 6, 2005, at or before 1028 hours, Dr. Bobrin formulated a plan for Wanda Russell that included, among other things, "to transfer her back over to medicine where she will receive neuro consult and MRI, continue medical care. I do not think she needs acute psychiatric care at this time." The failure to obtain an MRI and neurology consultation prior to Wanda Russell's transfer to the DRMC Behavioral Unit was grossly negligent and/or reckless. The acceptance in transfer of Wanda Russell to the DRMC Behavioral Unit by Dr. Helmi was grossly negligent, and in reckless disregard to the objective neurologic signs and symptoms exhibited by Wanda Russell prior to transfer. The failure to obtain emergent evaluation of Wanda Russell by Dr. Bobrin, who recognized that Wanda Russell may be experiencing a stroke, was grossly negligent and/or reckless.

68. On December 6, 2005, at or about 1700 hours, more than 7 hours after Dr. Bobrin recognized that Wanda Russell may be experiencing a stroke, Wanda Russell was readmitted by Dr. Maloney under his care to the DuBois Regional Medical Center West. The failure to obtain emergent evaluation of Wanda Russell by Dr. Bobrin, at or about 1028 hours that day, in the face

of actual knowledge that Wanda Russell may be experiencing a stroke, was grossly negligent and/or reckless.

69. On December 6, 2005, on or before 1700 hours, Dr. Maloney performed a "History and Physical Examination" on Wanda Russell, and described Wanda Russell's admission to "the Adult Mental Health Unit," stating:

When she arrived there, Wanda apparently rescinded her voluntary admission, noting that she did not wish to be there. This was supported by her family, and today, secondary to reported falls in the Adult Mental Health Unit. I have requested that Wanda be returned for further evaluation in the observation status setting.

70. On December 6, 2005, Dr. Maloney ordered an MRI study to be performed on Wanda Russell on the following morning, and a neurology consultation to be performed by Ruediger Katz, M.D. ["Dr. Katz"].

71. On December 6, 2005, during his evaluation of Wanda Russell at or before 1916 hours, Dr. Katz found that Wanda Russell had multiple risk factors for cerebral ischemia.

72. On December 6, 2005, during his neurologic examination of Wanda Russell at or before 1916 hours, Dr. Katz found, among other things, that Wanda Russell had a lower left facial droop, 0/5 strength in her left arm, and 3/5 strength in her left leg.

73. On December 7, 2005, an unenhanced MRI of the brain was performed on Wanda Russell at the DuBois Regional Medical Center, which demonstrated a "well circumscribed lesion of right basal ganglia suggestive of a subacute or chronic lacunar infarct. Very small lacunar infarct in the left basal ganglia."

74. On December 8, 2005, John J. Ahn, M.D. performed a cardiology consultation on

Wanda Russell, and diagnosed Wanda Russell as an “unfortunate 47-year-old female who has suffered a CVA.”

75. On December 8, 2005, Lynn Myers, M.D. [“Dr. Myers”], a rehabilitation medicine specialist; evaluated Wanda Russell; and found that:

The patient is an appropriate candidate for admission to the inpatient rehabilitation unit to address deficits and functional mobility and self care skills related to her recent CVA with left hemiparesis.

76. On December 9, 2005, Wanda Russell was transferred to the Psychiatry Unit for inpatient rehabilitation at the DRMC Inpatient Rehabilitation Programs on the service of Dr. Myers.

77. The negligence, gross negligence, and/or recklessness of all defendants, jointly and severally, as set forth with specificity in the paragraphs above and the Counts below, directly and proximately caused, and increased the risk of harm of, the cerebrovascular accident suffered by Wanda Russell.

78. The negligence, gross negligence, and/or recklessness of all defendants, jointly and severally, as set forth with specificity in the paragraphs above and the Counts below, directly and proximately caused, and increased the risk of harm of, the neurologic injuries, impairments, and deficits suffered by Wanda Russell.

79. The negligence, gross negligence, and/or recklessness of all defendants, jointly and severally, as set forth with specificity in the paragraphs above and the Counts below, directly and proximately caused, and increased the risk of harm of, the following injuries and damages:

- a. irreversible cerebral ischemia;
- b. cerebrovascular accident;

- c. cerebral dysfunction;
- d. cognitive impairment;
- e. motor impairment;
- f. neurological impairment and injury;
- g. humiliation;
- h. embarrassment;
- i. anxiety and fright;
- j. pain and suffering;
- k. disfigurement;
- l. loss of life's pleasures;
- m. economic damages; and,
- n. medical expenses.

80. Wanda Russell suffered, and continues to suffer, grave neurologic and medical injuries, impairments, and deficits which were caused by, and whose risk of harm was increased by, the negligent, grossly negligent, and/or reckless conduct of the defendants, jointly and severally, as more fully set forth with specificity in the paragraphs above and the Counts below.

COUNT I-NEGLIGENCE
(Plaintiff v. Dr. Devlin)

81. The previous paragraphs are herein incorporated by reference as though fully set forth.

82. The negligent conduct of Dr. Delvin during his medical evaluation, care, and treatment of Wanda Russell consisted of the following:

- a. failure to properly, timely, and adequately evaluate a patient with a diagnosis

- of transient ischemic attack;
- b. failure to properly, timely, and adequately evaluate a patient with a diagnosis of cerebrovascular accident;
- c. failure to properly, timely, and adequately evaluate a patient with fluctuating neurologic signs and symptoms;
- d. failure to properly and timely obtain the consultative services of a neurologist or specialist in neurology;
- e. failure to properly and timely obtain cerebral imaging with an MRI scan and/or MRA;
- f. failure to properly, timely, and adequately evaluate a patient with acute neurologic signs and symptoms;
- g. failure to timely, properly, and adequately evaluate, diagnose, and treat a “stuttering” stroke;
- h. failure to provide appropriate management and treatment of acute neurologic signs and symptoms;
- i. failure to provide appropriate, adequate, and timely monitoring of a patient with a deteriorating neurologic status;
- j. failure to properly, timely, and adequately evaluate a patient with acute deteriorating neurologic status;
- k. failure to provide appropriate management of an evolving cerebrovascular accident;
- l. failure to provide appropriate, adequate, and timely monitoring of a patient

with a signs and symptoms of an evolving cerebrovascular accident or neurologic crisis;

- m. failure to properly, timely, and adequately evaluate a patient with signs and symptoms of an evolving neurologic dysfunction;
- n. failure to obtain appropriate, adequate, and timely neuro-radiologic evaluation; and,
- o. failure to properly, timely, and adequately recognize and appreciate signs and symptoms of evolving neurologic dysfunction.

COUNT II-NEGLIGENCE, GROSS NEGLIGENCE, AND RECKLESSNESS
(Plaintiff v. Dr. Maloney)

83. The previous paragraphs, including all allegations of negligence, gross negligence, and recklessness, are herein incorporated by reference as though fully set forth.

84. The negligent, grossly negligent, and/or reckless conduct of Dr. Delvin during his evaluation, care, and treatment of Wanda Russell consisted of the following:

- a. failure to properly, timely, and adequately evaluate a patient with a diagnosis of transient ischemic attack, in the face of objective signs and symptoms of neurologic deficit;
- b. failure to properly, timely, and adequately evaluate a patient with a diagnosis of cerebrovascular accident, in the face of objective signs and symptoms of neurologic deficit;
- c. failure to properly, timely, and adequately evaluate a patient with fluctuating neurologic signs and symptoms, in the face of objective signs and symptoms

of neurologic deficit;

- d. failure to properly and timely obtain the consultative services of a neurologist or specialist in neurology, in the face of objective signs and symptoms of neurologic deficit;
- e. failure to properly and timely obtain cerebral imaging with an MRI scan and/or MRA, in the face of objective signs and symptoms of neurologic deficit;
- f. failure to properly, timely, and adequately evaluate a patient with acute neurologic signs and symptoms, with actual knowledge of a diagnosis of transient ischemic attack and cerebrovascular accident;
- g. failure to timely, properly, and adequately evaluate, diagnose, and treat a “stuttering” stroke, in the face of neurologic signs and symptoms, and with actual knowledge of a diagnosis of transient ischemic attack and cerebrovascular accident;
- h. failure to provide appropriate management and treatment of acute neurologic signs and symptoms, in the face of neurologic signs and symptoms, and with actual knowledge of a diagnosis of transient ischemic attack and cerebrovascular accident;
- i. failure to provide appropriate, adequate, and timely monitoring of a patient with a deteriorating neurologic status;
- j. failure to properly, timely, and adequately evaluate a patient with acute deteriorating neurologic status, in the face of neurologic signs and symptoms,

- and with actual knowledge of a diagnosis of transient ischemic attack and cerebrovascular accident;
- k. failure to provide appropriate management of a cerebrovascular accident;
 - l. failure to provide appropriate, adequate, and timely monitoring of a patient with a signs and symptoms of an evolving cerebrovascular accident or neurologic crisis, in the face of neurologic signs and symptoms, and with actual knowledge of a diagnosis of transient ischemic attack and cerebrovascular accident;
 - m. failure to properly, timely, and adequately evaluate a patient with signs and symptoms of an evolving neurologic dysfunction, in the face of neurologic signs and symptoms, and with actual knowledge of a diagnosis of transient ischemic attack and cerebrovascular accident;
 - n. failure to provide appropriate, adequate, and timely neuro-radiologic evaluation, in the face of neurologic signs and symptoms, and with actual knowledge of a diagnosis of transient ischemic attack and cerebrovascular accident;
 - o. failure to provide timely, appropriate, and adequate medical evaluation prior to transfer to a psychiatric unit, in the face of neurologic signs and symptoms, and with actual knowledge of a diagnosis of transient ischemic attack and cerebrovascular accident;
 - p. failure to provide timely, appropriate, and adequate neurologic and neuro-radiologic evaluation prior to transfer to a psychiatric unit, in the face of

- neurologic signs and symptoms, and with actual knowledge of a diagnosis of transient ischemic attack and cerebrovascular accident;
- q. failure to provide timely, appropriate, and adequate psychiatric and psychologic evaluation prior to transfer to a psychiatric unit, in the face of neurologic signs and symptoms, and with actual knowledge of a diagnosis of transient ischemic attack and cerebrovascular accident;
 - r. failure to obtain timely, appropriate, and adequate medical evaluation prior to transfer to a psychiatric unit, in the face of neurologic signs and symptoms, and with actual knowledge of a diagnosis of transient ischemic attack and cerebrovascular accident;
 - s. misrepresentation of the medical status of the patient to the accepting psychiatrist in the DRMC Behavioral Unit, in the face of neurologic signs and symptoms, and with actual knowledge of a diagnosis of transient ischemic attack and cerebrovascular accident;
 - t. misrepresentation of the psychological and psychiatric status of the patient to the accepting psychiatrist in the DRMC Behavioral Unit, in the face of neurologic signs and symptoms, and with actual knowledge of a diagnosis of transient ischemic attack and cerebrovascular accident;
 - u. failure to take an adequate and appropriate psychiatric and psychological history, in the face of neurologic signs and symptoms, and with actual knowledge of a diagnosis of transient ischemic attack and cerebrovascular accident;

- v. failure to take an adequate and appropriate medical care and psychiatric history prior to hospitalization in the DRMC Behavioral Unit, in the face of neurologic signs and symptoms, and with actual knowledge of a diagnosis of transient ischemic attack and cerebrovascular accident;
- w. failure to effect a timely transfer from the psychiatric unit back to the medical unit, in the face of actual knowledge that the patient was acutely deteriorating in her neurologic status, and required emergent neurologic consultation and diagnostic testing and treatment;
- x. failure to effect a timely transfer from the psychiatric unit back to the medical unit for neurologic evaluation and treatment, in the face of actual knowledge that the patient was acutely deteriorating in her neurologic status;
- y. failure to provide timely, adequate, and appropriate management of a stroke, in the face of actual knowledge that the patient was acutely deteriorating in her neurologic status; and,
- z. failure to properly, timely, and adequately recognize and appreciate signs and symptoms of evolving neurologic dysfunction, in the face of a diagnosis of transient ischemic attack and cerebrovascular accident, and in the setting of objective neurologic signs and symptoms.

COUNT III-NEGLIGENCE, GROSS NEGLIGENCE, AND RECKLESSNESS
(Plaintiff v. Dr. Helmi)

85. The previous paragraphs, including all allegations of negligence, gross negligence,

and recklessness, are herein incorporated by reference as though fully set forth.

86. The negligent, grossly negligent, and/or reckless conduct of Dr. Helmi during her evaluation, care, and treatment of Wanda Russell consisted of the following:

- a. failure to properly, timely, and adequately evaluate a patient with a diagnosis of transient ischemic attack, in the face of objective signs and symptoms of neurologic deficit;
- b. failure to properly, timely, and adequately evaluate a patient with a diagnosis of cerebrovascular accident, in the face of objective signs and symptoms of neurologic deficit;
- c. failure to properly, timely, and adequately evaluate a patient with fluctuating neurologic signs and symptoms, in the face of objective signs and symptoms of neurologic deficit;
- d. failure to properly and timely obtain the consultative services of a neurologist or specialist in neurology, in the face of objective signs and symptoms of neurologic deficit;
- e. failure to properly and timely obtain cerebral imaging with an MRI scan and/or MRA, in the face of objective signs and symptoms of neurologic deficit;
- f. failure to properly, timely, and adequately evaluate a patient with acute neurologic signs and symptoms, in the setting of a diagnosis of transient ischemic attack and cerebrovascular accident;
- g. failure to timely, properly, and adequately evaluate, diagnose, and treat a

“stuttering” stroke, in the setting of a diagnosis of transient ischemic attack and cerebrovascular accident;

- h. failure to provide appropriate management and treatment of acute neurologic signs and symptoms, in the setting of a diagnosis of transient ischemic attack and cerebrovascular accident;
- i. failure to provide appropriate, adequate, and timely monitoring of a patient with a deteriorating neurologic status;
- j. failure to properly, timely, and adequately evaluate a patient with acute deteriorating neurologic status, in the face of neurologic signs and symptoms, and in the setting of a diagnosis of transient ischemic attack and cerebrovascular accident;
- k. failure to provide appropriate management of a cerebrovascular accident;
- l. failure to provide appropriate, adequate, and timely monitoring of a patient with a signs and symptoms of an evolving cerebrovascular accident or neurologic crisis, in the face of neurologic signs and symptoms, and in the setting of a diagnosis of transient ischemic attack and cerebrovascular accident;
- m. failure to properly, timely, and adequately evaluate a patient with signs and symptoms of an evolving neurologic dysfunction, in the face of neurologic signs and symptoms, and in the setting of a diagnosis of transient ischemic attack and cerebrovascular accident;
- n. failure to provide appropriate, adequate, and timely neuro-radiologic

- evaluation, in the face of neurologic signs and symptoms, and in the setting of a diagnosis of transient ischemic attack and cerebrovascular accident;
- o. failure to ensure timely, appropriate, and adequate medical evaluation prior to transfer to a psychiatric unit, in the setting of a diagnosis of transient ischemic attack and cerebrovascular accident;
 - p. failure to provide timely, appropriate, and adequate neurologic and neuro-radiologic evaluation prior to transfer to a psychiatric unit, in the face of neurologic signs and symptoms, and in the setting of a diagnosis of transient ischemic attack and cerebrovascular accident;
 - q. failure to provide timely, appropriate, and adequate psychiatric and psychological evaluation prior to transfer to a psychiatric unit, in the face of neurologic signs and symptoms, and with actual knowledge of these signs and symptoms;
 - r. failure to obtain timely, appropriate, and adequate medical evaluation prior to transfer to a psychiatric unit, in the face of neurologic signs and symptoms, and with actual knowledge of a diagnosis of these signs and symptoms and the diagnosis of transient ischemic attack and cerebrovascular accident;
 - s. failure to evaluate the medical status of a patient deemed "suicidal";
 - t. failure to take an adequate and appropriate psychiatric and psychological history, in the face of neurologic signs and symptoms, and with actual knowledge of a diagnosis of transient ischemic attack and cerebrovascular accident;

- u. failure to take an adequate and appropriate medical care and psychiatric history during hospitalization in the DRMC Behavioral Unit, in the face of neurologic signs and symptoms, and with actual knowledge of a diagnosis of transient ischemic attack and cerebrovascular accident;
- v. failure to effect a timely transfer from the psychiatric unit back to the medical unit, in the face of actual knowledge that the patient was acutely deteriorating in her neurologic status, and required emergent neurologic consultation and diagnostic testing and treatment;
- w. failure to effect a timely transfer from the psychiatric unit back to the medical unit for neurologic evaluation and treatment, in the face of actual knowledge that the patient was acutely deteriorating in her neurologic status;
- x. failure to provide timely, adequate, and appropriate management of a stroke, in the face of actual knowledge that the patient was acutely deteriorating in her neurologic status; and,
- y. failure to properly, timely, and adequately recognize and appreciate signs and symptoms of evolving neurologic dysfunction, in the face of a diagnosis of transient ischemic attack and cerebrovascular accident, and in the setting of objective neurologic signs and symptoms.

COUNT IV-NEGLIGENCE, GROSS NEGLIGENCE, AND RECKLESSNESS
(Plaintiff v. Dr. Bradley)

87. The previous paragraphs, including all allegations of negligence, gross negligence, and recklessness, are herein incorporated by reference as though fully set forth.

88. The negligent, grossly negligent, and/or reckless conduct of Dr. Bradley during his evaluation, care, and treatment of Wanda Russell consisted of the following:

- a. failure to properly, timely, and adequately evaluate a patient with a diagnosis of transient ischemic attack, in the face of objective signs and symptoms of neurologic deficit;
- b. failure to properly, timely, and adequately evaluate a patient with a diagnosis of cerebrovascular accident, in the face of objective signs and symptoms of neurologic deficit;
- c. failure to properly, timely, and adequately evaluate a patient with fluctuating neurologic signs and symptoms, in the face of objective signs and symptoms of neurologic deficit;
- d. failure to properly and timely obtain the consultative services of a neurologist or specialist in neurology, in the face of objective signs and symptoms of neurologic deficit;
- e. failure to properly and timely obtain cerebral imaging with an MRI scan and/or MRA, in the face of objective signs and symptoms of neurologic deficit;
- f. failure to properly, timely, and adequately evaluate a patient with acute neurologic signs and symptoms, in the setting of a diagnosis of transient ischemic attack and cerebrovascular accident;
- g. failure to timely, properly, and adequately evaluate, diagnose, and treat a “stuttering” stroke, in the setting of a diagnosis of transient ischemic attack

- and cerebrovascular accident;
- h. failure to provide appropriate management and treatment of acute neurologic signs and symptoms, in the setting of a diagnosis of transient ischemic attack and cerebrovascular accident;
- i. failure to provide appropriate, adequate, and timely monitoring of a patient with a deteriorating neurologic status;
- j. failure to properly, timely, and adequately evaluate a patient with acute deteriorating neurologic status, in the face of neurologic signs and symptoms, and in the setting of a diagnosis of transient ischemic attack and cerebrovascular accident;
- k. failure to provide appropriate management of a cerebrovascular accident;
- l. failure to provide appropriate, adequate, and timely monitoring of a patient with a signs and symptoms of an evolving cerebrovascular accident or neurologic crisis, in the face of neurologic signs and symptoms, and in the setting of a diagnosis of transient ischemic attack and cerebrovascular accident;
- m. failure to properly, timely, and adequately evaluate a patient with signs and symptoms of an evolving neurologic dysfunction, in the face of neurologic signs and symptoms, and in the setting of a diagnosis of transient ischemic attack and cerebrovascular accident;
- n. failure to provide appropriate, adequate, and timely neuro-radiologic evaluation, in the face of neurologic signs and symptoms, and in the setting

- of a diagnosis of transient ischemic attack and cerebrovascular accident;
- o. failure to ensure timely, appropriate, and adequate medical evaluation prior to transfer to a psychiatric unit, in the setting of a diagnosis of transient ischemic attack and cerebrovascular accident;
 - p. failure to provide timely, appropriate, and adequate neurologic and neuro-radiologic evaluation prior to transfer to a psychiatric unit, in the face of neurologic signs and symptoms, and in the setting of a diagnosis of transient ischemic attack and cerebrovascular accident;
 - q. failure to provide timely, appropriate, and adequate psychiatric and psychologic evaluation prior to transfer to a psychiatric unit, in the face of neurologic signs and symptoms, and with actual knowledge of these signs and symptoms;
 - r. failure to obtain timely, appropriate, and adequate medical evaluation prior to transfer to a psychiatric unit, in the face of neurologic signs and symptoms, and with actual knowledge of a diagnosis of these signs and symptoms and the diagnosis of transient ischemic attack and cerebrovascular accident;
 - s. failure to evaluate the medical status of a patient deemed "suicidal";
 - t. failure to take an adequate and appropriate psychiatric and psychological history, in the face of neurologic signs and symptoms, and with actual knowledge of a diagnosis of transient ischemic attack and cerebrovascular accident;
 - u. failure to take an adequate and appropriate medical care and psychiatric

history during hospitalization in the DRMC Behavioral Unit, in the face of neurologic signs and symptoms, and with actual knowledge of a diagnosis of transient ischemic attack and cerebrovascular accident;

- v. failure to effect a timely transfer from the psychiatric unit back to the medical unit, in the face of actual knowledge that the patient was acutely deteriorating in her neurologic status, and required emergent neurologic consultation and diagnostic testing and treatment;
- w. failure to effect a timely transfer from the psychiatric unit back to the medical unit for neurologic evaluation and treatment, in the face of actual knowledge that the patient was acutely deteriorating in her neurologic status;
- x. failure to provide timely, adequate, and appropriate management of a stroke, in the face of actual knowledge that the patient was acutely deteriorating in her neurologic status; and,
- y. failure to properly, timely, and adequately recognize and appreciate signs and symptoms of evolving neurologic dysfunction, in the face of a diagnosis of transient ischemic attack and cerebrovascular accident, and in the setting of objective neurologic signs and symptoms.

COUNT V-NEGLIGENCE, GROSS NEGLIGENCE, AND RECKLESSNESS
(Plaintiff v. Dr. Bobrin)

89. The previous paragraphs, including all allegations of negligence, gross, negligence, and recklessness, are herein incorporated by reference as though fully set forth.

90. The negligent, grossly negligent, and/or reckless conduct of Dr. Bobrin during his

evaluation, care, and treatment of Wanda Russell consisted of the following:

- a. failure to properly, timely, and adequately evaluate a patient with a diagnosis of transient ischemic attack, in the face of objective signs and symptoms of neurologic deficit;
- b. failure to properly, timely, and adequately evaluate a patient with a diagnosis of cerebrovascular accident, in the face of objective signs and symptoms of neurologic deficit;
- c. failure to properly, timely, and adequately evaluate a patient with fluctuating neurologic signs and symptoms, in the face of objective signs and symptoms of neurologic deficit;
- d. failure to properly and timely obtain the consultative services of a neurologist or specialist in neurology, in the face of objective signs and symptoms of neurologic deficit;
- e. failure to properly and timely obtain cerebral imaging with an MRI scan and/or MRA, in the face of objective signs and symptoms of neurologic deficit;
- f. failure to properly, timely, and adequately evaluate a patient with acute neurologic signs and symptoms, in the setting of a diagnosis of transient ischemic attack and cerebrovascular accident;
- g. failure to timely, properly, and adequately evaluate, diagnose, and treat a “stuttering” stroke, in the setting of a diagnosis of transient ischemic attack and cerebrovascular accident;

- h. failure to provide appropriate management and treatment of acute neurologic signs and symptoms, in the setting of a diagnosis of transient ischemic attack and cerebrovascular accident;
- i. failure to provide appropriate, adequate, and timely monitoring of a patient with a deteriorating neurologic status;
- j. failure to properly, timely, and adequately evaluate a patient with acute deteriorating neurologic status, in the face of neurologic signs and symptoms, and in the setting of a diagnosis of transient ischemic attack and cerebrovascular accident;
- k. failure to provide appropriate management of a cerebrovascular accident;
- l. failure to provide appropriate, adequate, and timely monitoring of a patient with a signs and symptoms of an evolving cerebrovascular accident or neurologic crisis, in the face of neurologic signs and symptoms, and in the setting of a diagnosis of transient ischemic attack and cerebrovascular accident;
- m. failure to properly, timely, and adequately evaluate a patient with signs and symptoms of an evolving neurologic dysfunction, in the face of neurologic signs and symptoms, and in the setting of a diagnosis of transient ischemic attack and cerebrovascular accident;
- n. failure to provide appropriate, adequate, and timely neuro-radiologic evaluation, in the face of neurologic signs and symptoms, and in the setting of a diagnosis of transient ischemic attack and cerebrovascular accident;

- o. failure to ensure timely, appropriate, and adequate medical evaluation prior to transfer to a psychiatric unit, in the setting of a diagnosis of transient ischemic attack and cerebrovascular accident;
- p. failure to provide timely, appropriate, and adequate neurologic and neuro-radiologic evaluation prior to transfer to a psychiatric unit, in the face of neurologic signs and symptoms, and in the setting of a diagnosis of transient ischemic attack and cerebrovascular accident;
- q. failure to provide timely, appropriate, and adequate psychiatric and psychologic evaluation prior to transfer to a psychiatric unit, in the face of neurologic signs and symptoms, and with actual knowledge of these signs and symptoms;
- r. failure to obtain timely, appropriate, and adequate medical evaluation prior to transfer to a psychiatric unit, in the face of neurologic signs and symptoms, and with actual knowledge of a diagnosis of these signs and symptoms and the diagnosis of transient ischemic attack and cerebrovascular accident;
- s. failure to evaluate the medical status of a patient deemed “suicidal”;
- t. failure to take an adequate and appropriate psychiatric and psychological history, in the face of neurologic signs and symptoms, and with actual knowledge of a diagnosis of transient ischemic attack and cerebrovascular accident;
- u. failure to take an adequate and appropriate medical care and psychiatric history during hospitalization in the DRMC Behavioral Unit, in the face of

neurologic signs and symptoms, and with actual knowledge of a diagnosis of transient ischemic attack and cerebrovascular accident;

- v. failure to effect a timely transfer from the psychiatric unit back to the medical unit, in the face of actual knowledge that the patient was acutely deteriorating in her neurologic status, and required emergent neurologic consultation and diagnostic testing and treatment;
- w. failure to effect a timely transfer from the psychiatric unit back to the medical unit for neurologic evaluation and treatment, in the face of actual knowledge that the patient was acutely deteriorating in her neurologic status;
- x. failure to provide timely, adequate, and appropriate management of a stroke, in the face of actual knowledge that the patient was acutely deteriorating in her neurologic status; and,
- y. failure to properly, timely, and adequately recognize and appreciate signs and symptoms of evolving neurologic dysfunction, in the face of a diagnosis of transient ischemic attack and cerebrovascular accident, and in the setting of objective neurologic signs and symptoms.

**COUNT V-VICARIOUS LIABILITY FOR THE NEGLIGENCE, GROSS
NEGLIGENCE, AND RECKLESSNESS OF AGENTS
AND CORPORATE (DIRECT) NEGLIGENCE**
**(Plaintiff v. DuBois Regional Medical Center a/k/a/
DuBois Regional Medical Center West a/d/b/a DRMC Behavioral Unit a/k/a
DRMC East Behavioral Unit a/k/a DRMC Behavioral Health Outpatient Clinic)**

91. The previous paragraphs, including all allegations of negligence, gross negligence, and recklessness, are herein incorporated by reference as though fully set forth.

92. At all times material hereto, DuBois Regional Medical Center a/k/a/ DuBois Regional Medical Center West a/d/b/a DRMC Behavioral Unit a/k/a DRMC East Behavioral Unit a/k/a DRMC Behavioral Health Outpatient Clinic was acting by and through its actual agents, ostensible agents, servants, and/or employees, including Dr. Maloney, Devlin, Helmi, Bradley, and Bobrin, and the nursing staff who provided nursing care and treatment to Wanda Russell during her hospitalization in the DRMC Behavioral Unit, whose identities are partially set forth in Exhibit "B." These actual agents, ostensible agents, servants, and/or employees provided medical care and treatment to Wanda Russell while acting within the scope of their medical and nursing duties. Accordingly, the DuBois Regional Medical Center a/k/a/ DuBois Regional Medical Center West a/d/b/a DRMC Behavioral Unit a/k/a DRMC East Behavioral Unit a/k/a DRMC Behavioral Health Outpatient Clinic is vicariously and derivatively liable for the negligent, grossly negligent, and/or reckless acts and omissions of these actual agents, ostensible agents, servants, and/or employees under theories of agency, master-servant, respondeat superior, and/or right of control.

93. The Dubois Regional Medical Center is liable for the conduct of the nurses who provided psychiatric nursing care to Wanda Russell on the DRMC Behavioral Unit on December 5 to 6, 2005, whose identities are partially set forth in Exhibit "B," and whose negligent, grossly negligent, and/or reckless conduct consisted of:

- a. failure to report falls in a patient exhibiting neurologic impairment to a physician at the time the falls occurred, in disregard to the safety and well-being of the patient;
- b. failure to report neurologic signs and symptoms to the physician staff, in disregard to the safety and well-being of the patient;

- c. failure to obtain appropriate psychiatric evaluation at the time the patient arrived on the psychiatric unit, in disregard to the rights, safety, and well-being of the patient and contrary to the policies and procedures of the DRMC Unit;
- d. failure to insure that the protocol for psychiatric unit was adhered to and followed, including provision of the Patient's Bill of Rights and the report of initial evaluation and the proposed treatment plan completed and signed by the patient and the physician, in disregard to the rights, safety, and well-being of the patient and contrary to the policies and procedures of the DRMC Unit;
- e. failure to obtain medical evaluation for signs and symptoms during the nursing evaluation of the patient of evolving neurologic dysfunction;
- f. failure to timely, appropriately, and adequately notify the physician medical staff of evolving of neurologic signs and symptoms, in disregard to the safety and well-being of the patient;
- g. failure to provide appropriate nursing, monitoring and care to a patient with evolving and shifting neurologic signs and symptoms, in disregard to the safety and well-being of the patient; and,
- h. failure to provide adequate, appropriate, and timely nursing care in the setting of shifting neurologic signs and symptoms, in disregard to the safety and well-being of the patient.

94. In addition, pursuant to the decision of the Supreme Court of Pennsylvania in

Thompson v. Nason, 591 A.2d 703 (1991) and its progeny of case law, at all relevant times hereto, DuBois Regional Medical Center a/k/a/ DuBois Regional Medical Center West a/d/b/a DRMC Behavioral Unit a/k/a DRMC East Behavioral Unit a/k/a DRMC Behavioral Health Outpatient Clinic owed non-delegable duties directly to Wanda Russell which included:

- a. a duty to use reasonable care in the maintenance of safe and adequate facilities and equipment;
- b. a duty to select and retain only competent physicians;
- c. a duty to oversee all persons who practice medicine within its walls as to patient care; and,
- d. a duty to formulate, adopt, and enforce adequate rules and policies to ensure quality care for the patients.

95. The corporate (direct) negligence of the DuBois Regional Medical Center a/k/a/ DuBois Regional Medical Center West a/d/b/a DRMC Behavioral Unit a/k/a DRMC East Behavioral Unit a/k/a DRMC Behavioral Health Outpatient Clinic arising out of the medical evaluation, care, and treatment of Wanda Russell consisted of the following:

- a. failure to select and retain only competent physicians proficient in the recognition, evaluation, and management of transient ischemic attack, neurologic dysfunction, evolving cerebrovascular accident, and “stuttering” stroke;
- b. failure to select and retain only competent physicians proficient in the recognition, evaluation, and management of psychiatric illness;
- c. failure to select and retain only competent physicians proficient in the

- recognition, evaluation, and neurologic signs and symptoms;
- d. failure to select and retain only competent physicians proficient in the recognition, evaluation, and management of evolving neurologic injury;
 - e. failure to select and retain only competent physicians proficient in the recognition, evaluation, and management of cerebral ischemia and associated risk factors;
 - f. failure to select and retain only competent physicians proficient in the recognition, evaluation, and management of deteriorating neurologic status;
 - g. failure to select and retain only competent physicians proficient in the recognition, evaluation, and management evolving stroke symptoms;
 - h. failure to select and retain only competent physicians proficient in the recognition, evaluation, and management of patients within a psychiatric unit;
 - i. failure to select and retain only competent physicians proficient in the recognition, evaluation, and management of fluctuating neurologic signs and symptoms;
 - j. failure to select and retain only competent physicians proficient in the evaluation patients prior to voluntary transfer to a psychiatric unit;
 - k. failure to formulate, adopt, and/or enforce adequate rules and policies with respect to evaluation of patients prior to transfer to a psychiatric unit, including evaluation by a psychiatrist;
 - l. failure to formulate, adopt, and/or enforce adequate rules and policies with respect to the evaluation, re-evaluation, and management of patients admitted

- to a psychiatric unit with fluctuating neurologic signs and symptoms;
- m. failure to formulate, adopt, and/or enforce adequate rules and policies with respect to the timely evaluation of patients admitted to the psychiatric unit;
 - n. failure to formulate, adopt, and/or enforce adequate rules and policies with respect to the reporting and evaluation of falls by the nursing staff in the psychiatric unit;
 - o. failure to formulate, adopt, and/or enforce adequate rules and policies with respect to the transfer of patients with acute medical emergencies out of the psychiatric unit;
 - p. failure to formulate, adopt, and/or enforce adequate rules and policies with respect to holding patients with acute medical complaints, acute neurologic complaints, and falls within the confines of the psychiatric unit;
 - q. failure to formulate, adopt, and/or enforce adequate rules and policies with respect to the reporting of acute medical signs and symptoms, and falls, by the nursing staff to the attending medical staff;
 - r. failure to formulate, adopt, and/or enforce adequate rules and policies with respect to obtaining timely transfer of a patient with signs and symptoms of an evolving stroke to a medical unit from the psychiatric unit;
 - s. failure to oversee all persons who practice medicine within its walls as to patient care to ensure that an appropriate psychiatric evaluation by a psychiatrist occurs prior to the transfer of a patient to a psychiatric unit;
 - t. failure to oversee all persons who practice medicine within its walls as to

patient care to ensure that an appropriate medical evaluation occurs prior to the transfer of a patient to a psychiatric unit;

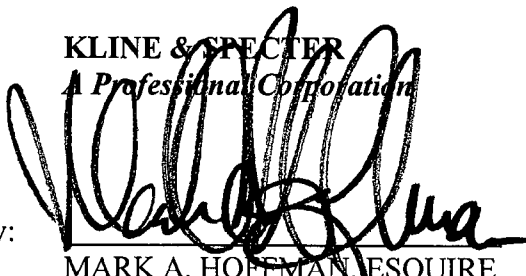
u. failure to oversee all persons who practice medicine within its walls as to patient care to ensure that an appropriate medical evaluation occurs at the time of transfer of a patient to a psychiatric unit;

v. failure to oversee all persons who practice medicine within its walls as to patient care to ensure that an appropriate psychiatric evaluation occurs at the time of transfer of a patient to a psychiatric unit.

WHEREFORE, Plaintiff Wanda Russell claims damages against all defendants, jointly and severally, including all damages cognizable under Pennsylvania law, to include both compensatory and punitive damages, for the causes of action set forth in the Civil Action Complaint, in an amount in excess of the prevailing arbitration limits, exclusive of pre-judgment interest and post-judgment interest and costs.

KLINE & SPECTER
A Professional Corporation

By:


MARK A. HOFFMAN, ESQUIRE
Attorneys for Plaintiff

Date:

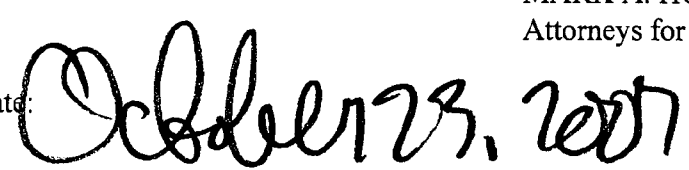


EXHIBIT "A"

KLINE & SPECTER

A Professional Corporation

By: THOMAS R. KLINE, ESQUIRE
MARK A. HOFFMAN, ESQUIRE
ROYCE W. SMITH, ESQUIRE

Attorney ID Nos.: 28895/ 84443/201295

The Nineteenth Floor

1525 Locust Street

Philadelphia, Pennsylvania 19102

(215) 772-1000

Attorneys for Plaintiff

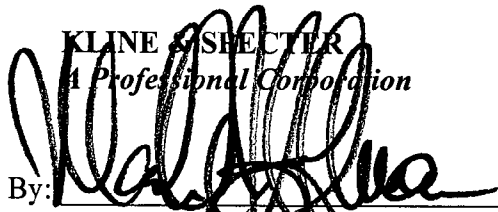
WANDA RUSSELL	:	COURT OF COMMON PLEAS
426 North Michael Street	:	COUNTY OF CLEARFIELD
Saint Mary's, Pennsylvania 15857	:	
Plaintiff,	:	DOCKET NO. 07-644-CV
v.	:	
JAMES E. DEVLIN, M.D. and	:	
MARK W. MALONEY, D.O. and	:	
DRMC PRIMARY CARE	:	
ASSOCIATES and	:	
SANAA HELMI, M.D. and	:	
THOMAS J. BRADLEY, M.D. and	:	
BRADFORD BOBRIN, M.D. and	:	
DuBOIS REGIONAL MEDICAL	:	
CENTER a/ka DuBOIS REGIONAL	:	
MEDICAL CENTER WEST	:	
a/d/b/a DRMC BEHAVIORAL	:	
UNIT a/k/a DRMC EAST BEHAVIORAL	:	
UNIT a/k/a DRMC BEHAVIORAL	:	
HEALTH OUTPATIENT CLINIC	:	
Defendants.	:	

CERTIFICATES OF MERIT

I, Mark A. Hoffman, Esquire, am an attorney for the plaintiff in the above-captioned matter.

Pursuant to Pa.R.C.P. No. 1042.1, I hereby certify appropriate licensed professionals have provided me with written statements stating that there exists a reasonable basis and probability to conclude that the care, skill, or knowledge exercised or exhibited by Drs. Devlin, Maloney, Helmi, Bradley, and Bobrin, and the psychiatric nursing staff, and the DuBois Regional Medical Center and its affiliated or associated entities as captioned above, with respect to the treatment, practice, or work

that is the subject of this Civil Action Complaint, fell outside of acceptable professional and institutional standards, and in addition to being negligent, was grossly negligent and/or reckless in its scope, and that such conduct was a substantial factor in causing injuries, or bringing about harm, to Wanda Russell. I further certify that there are additional claims which are based on allegations that licensed professionals for whom the hospital-defendant, DuBois Regional Medical Center and its affiliated or associated entities as captioned above, and/or DRMC Primary Care, and/or both, are responsible and derivatively or vicariously liable deviated from accepted professional standards of medical care, and caused the aforementioned injuries and harm. I additionally certify that appropriate licensed professionals have supplied written statements to me concluding that there exists a reasonable basis and probability that the DuBois Regional Medical Center, and its affiliated or associated entities as captioned above, deviated from accepted standards of institutional care, giving rise to claims of direct (corporate) negligence pursuant to the decision of the Supreme Court of Pennsylvania in Thompson v. Nason, 591 A.2d 703 (1991) and its progeny of case law. The licensed professionals who have provided me with these written statements have also concluded that the aforementioned deviations from accepted standards of medical and institutional care on the part of the individual named licensed professional, corporate, and hospital defendants was a substantial factor causing, or increasing the risk of harm, to Wanda Russell.

KLINE & SPECTER
A Professional Corporation
By: 
MARK A. HOFFMAN, ESQUIRE
Attorneys for Plaintiff

Date:

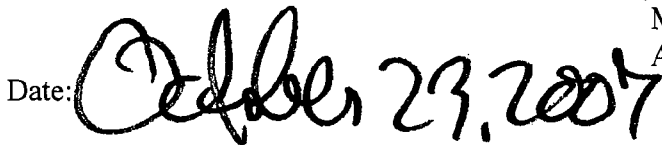
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EXHIBIT “B”

3218 47Y MH 0114-01 MH
RUSSELL, WANDA
BOBRIN, BRADFORD
09/19/58 F 12/06/05
0534000768 UP



Behavioral Health Services Daily Notes Extension

Date 12/16/05

Sticker

12/16/05 8:20am - Pt's sister Darlene Nortum called and I spoke to her. According to Darlene, she was in to visit her sister last evening. Dr. Malony came in at 7 or 8pm to talk to the pt. he told her that he feels her loss of mobility is due to depression. He did not say anything about coming to Mental Health. She did not say anything suicidal or hopeless. Darlene said she tried to talk to Dr. Malony about how soon her sister would be PIC but he said he was busy. Darlene does not feel her sister should be at Mental Health.

8:50am - I spoke to the secretary ^{Sue} @ Dr. Maloney's office & she was unable to give me any information. Dr. Maloney called off today & she would not be talking to him until late this afternoon.

9:00am - I spoke to Joan on 3rd floor about the Pt. She told me that she was told that Dr. Maloney was afraid she would hurt herself. Apparently, Pt was requesting disability & Dr. Maloney said he couldn't do that. At that point he felt she wasn't safe.

9:20am Pt's sister Darlene called again & asked

353218 47Y MH 0114-01 MH
RUSSELL, WANDA
BOBRIN, BRADFORD
09/19/58 F 12/06/06
0534000768 UP



Behavioral Health Services Daily Notes Extension
Date 12/16/05

Sticker

if she could come now to visit her sister + talk with us.

9:35am Tracey from 3rd floor called + asked me what the situation is. Neither her or anyone else knew specific information on the Pt.

9:45am Dr. Maloney called and spoke to me. He feels the pt is going to stop taking her meds although she did not state that. He reports that she's going through a lot of stress - a divorce & bankruptcy. He said that she was admitted for left sided weakness. Nurses reported to Dr. Maloney that they observed her using her left arm & eating when she thought no one was looking. He was unable to find any medical problems. He spoke to Dr. Helmi & according to him it was her recommendation that she be admitted + tx be started.

I then handed the phone to UR for them to collect information.

9:55am I had already beeped Dr. Helmi twice, & she had not returned my call yet. I thought her beeper may be off so I called her cell phone. She answered + I asked if she had any information on the pt. She said

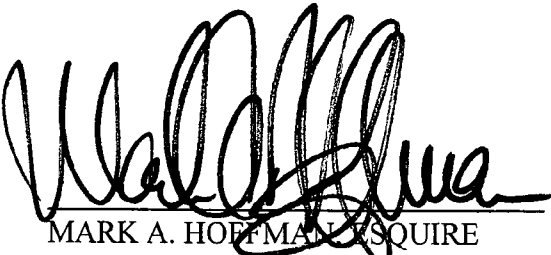
Behavioral Health Services Daily Notes Extension
Date 12/6/05

that she didn't remember the pt + asked where she came from, I stated 3rd floor - she said she was c- pts & would have to return my call.

return my call.
10:05 am - Dr. Helmi returned my call, I asked her the information regarding the pt. She was under the impression that the pt was severely depressed + actively suicidal. She did not make the recommendation - Dr. Maloney asked for the admission and she agreed on the basis that the pt is suicidal. She will support our decision at this point. Brittge Bowler Jr

VERIFICATION

I, MARK A. HOFFMAN, ESQUIRE, hereby state that I am the attorney for the plaintiff and that the facts set forth in the foregoing pleading are true and correct. I understand that false statements made herein are subject to the penalties of 18 Pa. C.S.A. § 4904 relating to unsworn falsification to authorities.


MARK A. HOFFMAN, ESQUIRE
Attorney for Plaintiff

Date:

October 23, 2007

KLINE & SPECTER

A Professional Corporation

By: THOMAS R. KLINE, ESQUIRE
MARK A. HOFFMAN, ESQUIRE
ROYCE W. SMITH, ESQUIRE

Attorney ID Nos.: 28895/ 84443/201295

The Nineteenth Floor
1525 Locust Street
Philadelphia, Pennsylvania 19102
(215) 772-1000

FILED

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

2 cent to KAT

(6K)

Attorneys for Plaintiff

WANDA RUSSELL
426 North Michael Street
Saint Mary's, Pennsylvania 15857
Plaintiff,

v.

JAMES E. DEVLIN, M.D.
1100 Main Street
Brockway, Pennsylvania 15824
and

MARK W. MALONEY, D.O.
DRMC Primary Care Associates
Medical Arts Building
Suite 200
145 Hospital Avenue
DuBois, Pennsylvania 15801
and

DRMC PRIMARY CARE
ASSOCIATES
Medical Arts Building
Suite 200
145 Hospital Avenue
DuBois, Pennsylvania 15801
and

SANAA HELMI, M.D.
Behavioral Health Outpatient Clinic
DRMC East Unit
Maple Avenue
DuBois, Pennsylvania 15801
ans

THOMAS J. BRADLEY, M.D.
701 Sunflower Drive
DuBois, Pennsylvania 15801
and

**COURT OF COMMON PLEAS
COUNTY OF CLEARFIELD**

DOCKET NO. 07-644-CD

BRADFORD BOBRIN, M.D. :
 Behavioral Health Outpatient Clinic :
 DRMC East Unit :
 Maple Avenue :
 DuBois, Pennsylvania 15801 :
 and :
 DUBOIS REGIONAL MEDICAL :
 CENTER a/ka DuBOIS REGIONAL :
 MEDICAL CENTER WEST :
 a/d/b/a DRMC BEHAVIORAL :
 UNIT a/k/a DRMC EAST BEHAVIORAL :
 UNIT a/k/a DRMC BEHAVIORAL :
 HEALTH OUTPATIENT CLINIC :
 c/o Office of Risk Management :
 100 Hospital Avenue :
 DuBois, Pennsylvania 15801 :
 Defendants. :

NOTICE

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

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER.

IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.

COURT ADMINISTRATOR
 Clearfield County Courthouse
 Second and Market Streets
 Clearfield, PA 16830
 814-765-2641, Ext. (5982)

ADVISORIO

Le han demandado a usted en la corte. Si usted quiere defenderse de estas demandas expuestas en las paginas siguientes, usted tiene veinte (20) dias de plazo al partir de la fecha de la demanda y la notificacion. Hace falta asentar una comparencia escrita o en persona o con un abogado y entregar a la corte en forma escrita sus defensas o sus objeciones a las demandas en contra de su persona. Sea avisado que si usted no se defiende, la corte tomara medidas y puede continuar la demanda en contra suya sin previo aviso o notificacion. Además, la corte pueda decidir a favor del demandante y requiere que usted cumpla con todas las provisiones de esta demanda. Usted puede perder dinero o sus propiedades u otros derechos importantes para usted.

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

ESTA OFICINA LO PUEDE PROPORCIONAR CON INFORMACION ACERCA DE EMPLEAR A UN ABOGADO. SI USTED NO PUEDE PROPORCIONAR PARA EMPLEAR UN ABOGADO, ESTA OFICINA PUEDE SER CAPAZ DE PROPORCIONARLO CON INFORMACION ACERCA DE LAS AGENCIAS QUE PUEDEN OFRECER LOS SERVICIOS LEGALES A PERSONAS ELEGIBLES EN UN HONORARIO REDUCIDO NINGUN HONORARIO.

COURT ADMINISTRATOR
 Clearfield County Courthouse
 Second and Market Streets
 Clearfield, PA 16830
 814-765-2641, Ext. (5982)

AMENDED CIVIL ACTION COMPLAINT

Plaintiff, Wanda Russell, by and through her undersigned attorneys, Kline & Specter, P.C., herein complains of the above-captioned defendants as follows:

1. Plaintiff Wanda Russell is an adult citizen and a resident of the Commonwealth of Pennsylvania, residing at 426 North Michael Street, Saint Mary's, Pennsylvania 15857. Wanda Russell was born on September 19, 1958.

2. Defendant James E. Devlin, M.D. ["Dr. Devlin"] was, at all times material hereto, a duly licensed physician in the Commonwealth of Pennsylvania, specializing in the medical field of family medicine, who maintained a professional office, business or corporate office, or place of medical practice at 1100 Main Street, Brockway, Pennsylvania 15824. A Certificate of Merit pursuant to Pa.R.C.P. No. 1042.1 regarding the treatment, practice, or work of this defendant is attached hereto as Exhibit "A."

3. Defendant Mark W. Maloney, D.O. ["Dr. Maloney"] was, at all times material hereto, a duly licensed osteopathic physician in the Commonwealth of Pennsylvania, specializing in the medical field of family medicine, who maintained a professional office, business or corporate office, or place of medical practice at DRMC Primary Care Associates, Medical Arts Building, Suite 200, 145 Hospital Avenue, DuBois, Pennsylvania 15801. A Certificate of Merit pursuant to Pa.R.C.P. No. 1042.1 regarding the treatment, practice, or work of this defendant is attached hereto as Exhibit "A."

4. Defendant DRMC Primary Care Associates was, at all times material hereto, a corporation, professional corporation, professional association, professional partnership, or other jural entity organized according to and existing under the laws of the Commonwealth of

Pennsylvania, with an office location and place of business at Medical Arts Building, Suite 200, 145 Hospital Avenue, DuBois, Pennsylvania 15801. A Certificate of Merit pursuant to Pa.R.C.P. No. 1042.1 regarding the treatment, practice, or work of this defendant is attached hereto as Exhibit "A."

5. At all times material hereto, Dr. Maloney and/or Dr. Devlin were agents, servants, and/or employees of DRMC Primary Care Associates, and were acting within the scope of their agency, master-servant, and/or employment relationships with DRMC Primary Care Associates while providing medical care and treatment to Wanda Russell. Accordingly, DRMC Primary Care Associates is liable for the negligent, grossly negligent, and/or reckless acts and/or omissions of Dr. Devlin and/or Dr. Maloney under theories of agency, master-servant, respondeat superior, and/or right of control.

6. Dr. Devlin was providing medical service or family practice service "coverage" or "cross-coverage" for Dr. Maloney, while providing medical care and treatment to Wanda Russell on or about December 4 and 5, 2005. Accordingly, Dr. Maloney is liable for the negligent acts and/or omissions of Dr. Devlin under theories of agency, master-servant or borrowed servant, respondeat superior, and/or right of control.

7. Dr. Devlin was providing "coverage" or "cross-coverage" for Dr. Maloney's family practice group or association, DRMC Primary Care Associates, while providing medical care and treatment to Wanda Russell, on or about December 4 and 5, 2005. Accordingly, DRMC Primary Care Associates is liable for the negligent acts and/or omissions of Dr. Devlin under theories of agency, master-servant or borrowed servant, respondeat superior, and/or right of control.

8. Defendant Sanaa Helmi, M.D. ["Dr. Helmi"] was, at all times material hereto, a duly licensed physician in the Commonwealth of Pennsylvania, specializing in the medical field of

psychiatry, who maintained a professional office, business or corporate office, or place of medical practice at Behavioral Health Outpatient Clinic, DRMC East Unit, Maple Avenue, DuBois, Pennsylvania 15801. A Certificate of Merit pursuant to Pa.R.C.P. No. 1042.1 regarding the treatment, practice, or work of this defendant is attached hereto as Exhibit "A."

9. Defendant Thomas J. Bradley, M.D. ["Dr. Bradley"] was, at all times material hereto, a duly licensed physician in the Commonwealth of Pennsylvania, specializing in the medical field of psychiatry, who maintained a professional office, business or corporate office, or place of medical practice at 701 Sunflower Drive, DuBois, Pennsylvania 15801. A Certificate of Merit pursuant to Pa.R.C.P. No. 1042.1 regarding the treatment, practice, or work of this defendant is attached hereto as Exhibit "A."

10. Defendant Bradford Bobrin, M.D. ["Dr. Bobrin"] was, at all times material hereto, a duly licensed physician in the Commonwealth of Pennsylvania, specializing in the medical field of psychiatry, who maintained a professional office, business or corporate office, or place of medical practice at Behavioral Health Outpatient Clinic, DRMC East Unit, Maple Avenue, DuBois, Pennsylvania 15801. A Certificate of Merit pursuant to Pa.R.C.P. No. 1042.1 regarding the treatment, practice, or work of this defendant is attached hereto as Exhibit "A."

11. Defendant DuBois Regional Medical Center a/k/a/ DuBois Regional Medical Center West a/d/b/a DRMC Behavioral Unit a/k/a DRMC East Behavioral Unit a/k/a DRMC Behavioral Health Outpatient Clinic [referred to in various paragraphs as either the "DuBois Regional Medical Center" or the "DRMC Behavioral Unit" or the "DuBois Regional Medical Center West"] is a corporation or other jural entity organized according to and existing under the laws of the Commonwealth of Pennsylvania which owns, operates, and maintains a hospital, health care facility,

and provider of health care services based at 100 Hospital Avenue, DuBois, Pennsylvania 15801.

The DRMC Behavioral Unit a/k/a DRMC East Behavioral Unit a/k/a DRMC East Behavioral Unit a/k/a DRMC Behavioral Health Outpatient Clinic is a psychiatric unit located within the East Unit of the DuBois Regional Medical Center. A Certificate of Merit pursuant to Pa.R.C.P. No. 1042.1 regarding the treatment, practice, or work of this defendant is attached hereto as Exhibit "A."

12. At all times material hereto, Dr. Devlin, Dr. Maloney, Dr. Helmi, Dr. Bradley, and Dr. Bobrin were actual or ostensible agents, servants, and/or employees of the DuBois Regional Medical Center and/or the DRMC Behavioral Unit, and were acting within the scope of their agency, master-servant, and/or employment relationship with the DuBois Regional Medical Center, and its affiliated or associated entities as captioned above, while providing medical care and treatment to Wanda Russell. Accordingly, the DuBois Regional Medical Center, and its affiliated or associated entities as captioned above, are liable for the negligent, grossly negligent, and/or reckless acts and/or omissions of Dr. Devlin, Dr. Maloney, Dr. Helmi, Dr. Bradley, and Dr. Bobrin under theories of agency, master-servant, respondeat superior, and/or right of control.

13. At all times material hereto, the DuBois Regional Medical Center and the DRMC Behavioral Unit were acting by and through their actual agents or ostensible agents, servants, and/or employees, Dr. Devlin, Dr. Maloney, Dr. Helmi, Dr. Bradley, and Dr. Bobrin, as well as the nurses who provided psychiatric nursing care and evaluation to Wanda Russell during her hospitalization in the DRMC Behavioral Unit. The identities of these nurses, whose signatures are illegible on the "Behavioral Health Services Daily Notes" and extension notes, attached hereto as Exhibit "B," are fully known to the DuBois Regional Medical Center and the DRMC Behavioral Unit, and presently unknown to Plaintiff because of the illegible nature, or absence of, their signatures. The identities

of these nurses is the subject matter of further discovery by the Plaintiff during the course of this litigation. Accordingly, DuBois Regional Medical Center is liable for the negligent, grossly negligent, and/or reckless acts and/or omissions of these aforementioned named and as yet specifically identified, see Exhibit "B," actual or ostensible agents, servants, and/or employees which occurred in the course of providing medical and nursing care to Wanda Russell, under theories of agency, master-servant, respondeat superior, and/or right of control.

14. Venue in this action is properly laid in Clearfield County, Pennsylvania pursuant to the Amendatory Order of the Supreme Court of Pennsylvania dated March 5, 2003, No. 381, Civil Procedural Rules, Docket No. 5, which amended the Pennsylvania Rules of Civil Procedure No.1006.

15. On December 3, 2005, Wanda Russell presented to the Emergency Department at the DuBois Regional Medical Center via wheelchair with complaints of, among other things, bilateral arm weakness and dark vision.

16. On December 3, 2005, Wanda Russell was evaluated by Patrick Shilata, D.O. in the Emergency Department at the DuBois Regional Medical Center.

17. On December 3, 2005, Wanda Russell had a known history of hypertension and insulin dependent diabetes mellitus. These co-morbid conditions were known to the nursing staff and physician who evaluated and treated Wanda Russell in the Emergency Department on December 3, 2005, and were recorded in the DuBois Regional Medical Center Emergency Department medical record of Wanda Russell.

18. On December 3, 2005, Wanda Russell was able to ambulate, but complained of feeling off balance.

19. On December 3, 2005, during her evaluation in the DuBois Regional Medical Center Emergency Department, Wanda Russell had performed on her, among other things, an electrocardiogram, a basic metabolic panel, a urine analysis with microscopic examination, and an unenhanced head CT scan. All test results were interpreted as "normal" except for an elevated blood sugar (196 mg/dl; normal = 70 to 110 mg/dl).

20. On December 3, 2005, Wanda Russell was discharged from the Emergency Department at the Dubois Regional Medical Center with the diagnosis: "Impression: weakness, Transient Ischemic Attack (TIA), Diabetes Mellitus, Type I."

21. On December 3, 2005, Wanda Russell was discharged from the Emergency Department at the Dubois Regional Medical Center with instructions on transient ischemic attack and diabetes mellitus, and she was given a four (4) day work release. Wanda Russell was additionally instructed to follow-up with Dr. Maloney, her primary care physician, in three (3) to four (4) days.

22. On December 4, 2005, Wanda Russell presented to the Emergency Department at the DuBois Regional Medical Center via wheelchair with complaints of, among other things, left-sided weakness and inability to walk.

23. On December 4, 2005, Wanda Russell's sister signed the DuBois Regional Medical Center "Consent for Treatment" as Wanda Russell's patient representative, and on Wanda Russell's behalf, because Wanda Russell had weakness on writing and slurred speech. The "Consent for Treatment" was signed at or about 0938 hours on December 4, 2005.

24. On December 4, 2005, Wanda Russell was evaluated by Jeffrey Elias, D.O. ["Dr. Elias"] in the Emergency Department at the DuBois Regional Medical Center.

25. On December 4, 2005, Dr. Elias performed a neurological examination on Wanda Russell in the Emergency Department at the DuBois Regional Medical Center, and found, among other things, that Wanda Russell had a facial droop and diminished motor strength in the left arm (2/5) and left leg (2/5). The "Review of Systems" performed by Dr. Elias was positive for gait disturbance, speech changes, and weakness in the left arm and leg.

26. On December 4, 2005, Dr. Elias formulated a plan that Wanda Russell be admitted "to medical, for Maloney, Mark W. with a primary ED diagnosis of CVA (stroke) non-hemorrhagic." A summary of the Emergency Department evaluation of Wanda Russell was faxed to Wanda Russell's primary care physician, Dr. Maloney.

27. On December 4, 2005, Dr. Devlin evaluated Wanda Russell in the Emergency Department at the DuBois Regional Medical Center. At the time, Dr. Devlin was covering or cross-covering for Dr. Maloney and DRMC Primary Care Associates.

28. On December 4, 2005, Dr. Devlin admitted Wanda Russell to the DuBois Regional Medical Center for neuro-checks and observation. At the time of admission, Dr. Devlin doubted that Wanda Russell had, or was experiencing, a transient ischemic attack, and recorded this belief in his "History and Physical Examination," stating, among other things: "History of some left sided weakness, questionable TIA. Clinically, at this time it is doubtful but with the history we will go ahead and make the patient an observation."

29. On December 4, 2005, Wanda Russell was admitted to Dr. Maloney's service at the DuBois Regional Medical Center, with Dr. Devlin covering.

30. On December 4, 2005, Dr. Devlin did not obtain, or order to be obtained or provided, a neurology consultation for Wanda Russell.

31. On December 4, 2005, Dr. Devlin did not have performed, or order to be performed, an MRI scan of the head or an MRA on Wanda Russell.

32. On December 5, 2005, an unenhanced head CT scan was performed on Wanda Russell for the diagnosis of left-sided weakness, and was interpreted as "normal."

33. On December 5, 2005, bilateral carotid duplex sonograms were performed on Wanda Russell for the indication of left-sided weakness. This study demonstrated approximately 50 percent stenosis of the right internal carotid artery and 50 to 69 percent stenosis of the left internal carotid artery. Bilateral carotid plaque was also demonstrated on the sonogram.

34. An aortic arch and four vessel cerebral angiogram was not performed on Wanda Russell on December 5, 2005.

35. A head MRI or MRA was not performed on Wanda Russell on December 5, 2005.

36. A neurology consult was not obtained for or performed on Wanda Russell on December 5, 2005.

37. Wanda Russell continued to have intermittent left-sided weakness on December 5, 2005.

38. Wanda Russell had slurred speech and a "left facial droop of the mouth" on December 5, 2005.

39. On December 5, 2005, at or between the hours of approximately 1900 and 2000 hours, Dr. Maloney evaluated Wanda Russell at the DuBois Regional Medical Center, and informed Wanda Russell that her loss of mobility was due to depression. Dr. Maloney, who is neither a neurologist or a psychiatrist, offered a psychiatric diagnosis to explain objective neurologic symptoms, in reckless disregard to the safety and well-being of Wanda Russell.

40. On December 5, 2005, Dr. Maloney consulted Dr. Helmi concerning the admission of Wanda Russell to the DRMC Behavioral Unit, and reported to Dr. Helmi that “he was unable to find any medical problems” with respect to Wanda Russell, and that Wanda Russell was “suicidal.” This was a misrepresentation of Wanda Russell’s medical status, offered in wanton disregard for the medical signs and symptoms of impending cerebrovascular accident which Wanda Russell was exhibiting at that time.

41. On December 5, 2005, during the telephone consultation between Dr. Maloney and Dr. Helmi, according to Dr. Maloney, Dr. Helmi made the recommendation that Wanda Russell be admitted to the DRMC Behavior Unit for psychiatric treatment. The medical and psychiatric status of Wanda Russell was misrepresented to Dr. Helmi by Dr. Maloney, in wanton disregard for the medical signs and symptoms of impending cerebrovascular accident which Wanda Russell was exhibiting. Dr. Maloney’s actions were grossly negligent, and contemplated in disregard for the safety and well-being of Wanda Russell.

42. Dr. Helmi did not perform a history, psychiatric evaluation, or physical examination on Wanda Russell on December 5, 2005, or physically see or speak with Wanda Russell on December 5 or 6, 2005, despite a purported diagnosis of being “suicidal.” Dr. Helmi acted in a grossly negligent and/or reckless manner, in total disregard for the safety and well-being of Wanda Russell, by failing to examine and evaluate a patient whom she believed was “suicidal.”

43. On December 5, 2005, at or about 2040 hours, Dr. Maloney gave a “telephone order” to Brenda L. Slappy, R.N., to “Transfer to psych unit tonight.”

44. On December 5, 2005, Wanda Russell was asked to sign, and did sign, an “Initial Evaluation and Treatment Plan,” which outlined a “Description of Proposed Treatment Plan” and

a "Description of Proposed Restrictions and Restraints." This form was not completed and signed by a physician, in reckless disregard to the rights, safety, and well-being of Wanda Russell.

45. On December 5, 2005, Wanda Russell was asked to sign, and did sign, a "Consent for Voluntary Inpatient Treatment."

46. The "Consent for Voluntary Inpatient Treatment" set forth the following "Instructions":

Before signing this form, your treatment should be explained to you and you must be given a copy of the Patient's Bill of Rights, the report of your initial evaluation and the proposed treatment plan must be completed and signed by you and the physician.

47. On December 6, 2005, Wanda Russell was not given a copy of the DuBois Regional Medical Center Patient's Bill of Rights by any physician or health care provider who was providing care and treatment to Wanda Russell, in reckless disregard to the institutional obligations set forth by the DuBois Medical Center to protect the rights of patients such as Wanda Russell.

48. On December 6, 2005, Wanda Russell was not given a copy of her initial evaluation by any physician providing care and treatment to Wanda Russell, in reckless disregard to the institutional obligations set forth by the DuBois Medical Center to protect the rights, safety, and well-being of Wanda Russell.

49. On December 6, 2005, Wanda Russell was not given a copy of the proposed treatment plan, which should have been completed and signed by her and a physician. Dr. Helmi, who made the decision to admit Wanda Russell to the psychiatric unit, did not explain the proposed treatment plan to Wanda Russell, who was deemed to be "suicidal," nor did Dr. Helmi sign the "Description of Proposed Treatment Plan" and "Description of Proposed Restrictions and Restraints." Dr.

Helmi's conduct was grossly negligent and/or undertaken in reckless disregard to the institutional obligations set forth by the DuBois Medical Center to protect the rights, safety, and well-being of Wanda Russell.

50. On December 6, 2005, at or about 0200 hours, Wanda Russell was admitted to the DRMC Behavioral Unit by Kim Hendricks, R.N. ["Nurse Hendricks"], onto Dr. Bobrin's Service.

51. On December 6, 2005, at no time prior to, or at the time of her admission at 0200 hours to the DRMC Behavioral Unit, was Wanda Russell evaluated by a psychiatrist, including Dr. Bradley, Dr. Bobrin, or Dr. Helmi, in wanton and willful disregard for the safety and well-being of Wanda Russell, and the institutional obligations set forth by the DuBois Medical Center to protect the rights, safety, and well-being of Wanda Russell.

52. On December 6, 2005, at or about 0200 hours, Wanda Russell told Nurse Hendricks that "she was lied to about coming here for an admission from her family" and reported "she is unable to use left arm and leg. Patient complains of not wanting to stay." The nursing staff at the DRMC Behavioral Unit ignored these complaints by Wanda Russell, and in wanton and willful disregard for Wanda Russell's safety and well-being, failed to inform any physician about these complaints at or about the time they were offered by Wanda Russell.

53. On December 6, 2005, at or about 0330 hours, Wanda Russell fell out of bed in the DRMC Behavioral Unit. The nursing staff at the DRMC Behavioral Unit, in wanton and willful disregard for Wanda Russell's safety and well-being, failed to inform any physician about this event at or about the time it occurred.

54. On December 6, 2005, at or about 0643 hours, Dr. Bradley performed a history and physical examination on Wanda Russell. Dr. Bradley obtained a history of present illness, among

other things, as follows:

Wanda is a 47-year-old woman who had been readmitted to the West division for left sided weakness. She had had a workup that included a normal CT of the head. She was discharged and re-presented to the ER with nervousness and I guess there was a question regarding the extent of the left sided weakness present and the fact it was noted that the person was under a lot of stress. She is hypertensive, hyperlipidemic, and an insulin dependent diabetic. I guess she was persuaded to be transferred to the psyche unit.

Dr. Bradley's "guesses" about Wanda Russell's medical evaluation and medical condition, which included a prior recent diagnosis of transient ischemic attack and cerebrovascular accident, offered in the face of objective neurologic signs and symptoms, were grossly negligent and/or reckless.

55. On December 6, 2005, during his physical examination of Wanda Russell, Dr. Bradley found, among other things, "There is some left upper extremity weakness and facial asymmetry" that was "hard to evaluate since she is so anxious." The failure to obtain a neurologic evaluation and diagnostic testing in the face of objective neurologic signs and symptoms was grossly negligent and/or reckless.

56. On December 6, 2005, at the time Dr. Bradley initially evaluated Wanda Russell, Dr. Bradley formulated and initiated the plan that "the patient is admitted for psyche evaluation and treatment." The failure to obtain a neurologic evaluation and diagnostic testing in the face of objective neurologic signs and symptoms was grossly negligent and/or reckless. Dr. Bradley knew that Wanda Russell was exhibiting objective neurologic signs and symptoms, and acted in reckless disregard to the safety and well-being of Wanda Russell by failing to obtain appropriate and timely evaluation of these signs and symptoms.

57. On December 6, 2005, at the time of his initial evaluation, Dr. Bradley did not

transfer Wanda Russell back to a medical unit for evaluation of her left sided weakness and facial asymmetry. The failure to transfer Wanda Russell to the medical unit for neurologic evaluation and diagnostic workup in the face of objective neurologic signs and symptoms which were obvious to Dr. Bradley was grossly negligent and/or reckless.

58. On December 6, 2005, at the time of his initial evaluation, Dr. Bradley did not obtain, or order to be obtained, a neurology consultation for Wanda Russell. The failure to obtain a neurologic evaluation and diagnostic testing in the face of objective neurologic signs and symptoms was grossly negligent and/or reckless.

59. On December 6, 2005, at the time of his initial evaluation, Dr. Bradley did not have performed, or order to be performed, an MRI scan of the head or MRA on Wanda Russell. The failure to obtain a neurologic evaluation and diagnostic testing in the face of objective neurologic signs and symptoms was grossly negligent and/or reckless.

60. On December 6, 2005, at the time of his initial evaluation, Dr. Bradley did not diagnose Wanda Russell as having an evolving or "stuttering" cerebrovascular accident. Dr. Bradley abandoned his patient on the DRMC Behavioral Unit without initiating or recommending further neurologic evaluation or diagnostic testing, with actual knowledge of objective neurologic deficits. The failure to perform or order to be performed these evaluations and tests was grossly negligent, and/or in reckless disregard for the safety and well-being of Wanda Russell.

61. On December 6, 2005, the nursing staff from the DRMC Behavioral Unit attempted to contact Dr. Helmi at 0955 hours, first by beeper, and eventually by cell phone, seeking information about Wanda Russell.

62. On December 6, 2005, at or about 0955 hours, Dr. Helmi informed the DRMC

Behavioral Unit nurse, whose illegible signature appears at Exhibit "B" at page 3, by telephone "that she didn't remember the patient and asked where she came from." Dr. Helmi had never seen, spoken with, evaluated, or otherwise initiated any treatment or diagnostic testing from the time of admission of Wanda Russell to the DRMC Behavioral Unit, and was not informed overnight of the neurologic findings or fall which Wanda Russell was or had experienced.

63. On December 6, 2005, at or about 1005 hours, Dr. Helmi informed the nurse, whose illegible signature appears at Exhibit "B" at page 3, by telephone that "she did not make the recommendation-Dr. Maloney asked for the admission and she agreed on the basis that the patient is suicidal." Dr. Maloney misrepresented the medical and psychiatric status of Wanda Russell to Dr. Helmi, in reckless disregard for the safety and well-being of Wanda Russell. Dr. Helmi's failure to evaluate a patient deemed "suicidal," or to inform herself of the patient's medical condition or the prior diagnosis of transient ischemic attack and cerebrovascular accident, was grossly negligent and/or reckless.

64. On December 6, 2005, at or before 1028 hours, Dr. Bobrin evaluated Wanda Russell at the DRMC Behavioral Unit, and during the "Initial Evaluation/Mental Status Examination/Discharge Summary" report preparation, described that, among other things:

She describes being scared about her arm and leg. She awoke on Friday with trouble with her left arm and it has gotten worse since then. Her family said that this is true as well. She can stand as she demonstrates to me but has trouble lifting up her arm, not even able to brush her hair. She woke up and fell and has had two falls here on the unit and so she initially came in because scans x two do not show any signs of ischemia or infarct.

65. On December 6, 2005, Dr. Bobrin, at or before 1028 hours, Dr. Bobrin found that Wanda Russell exhibited no signs of "suicidal or homicidal ideations" on the mental status

examination, contrary to what had been previously misrepresented by Dr. Maloney.

66. On December 6, 2005, at or before 1028 hours, Dr. Bobrin assessed Wanda Russell as follows

This is a 47-year-old with some mild depressive symptoms and acute onset of depressive mood after having stroke-like symptoms which has continued. Although it was thought that her neurologic signs were out of proportion to her neurological symptoms, she does seem to have flaccid paralysis of the left arm and left droop of smile. With no gross infarct, there might be some infarct on brainstem or internal capsule. Will need MRI and neuro consult.

67. On December 6, 2005, at or before 1028 hours, Dr. Bobrin formulated a plan for Wanda Russell that included, among other things, "to transfer her back over to medicine where she will receive neuro consult and MRI, continue medical care. I do not think she needs acute psychiatric care at this time." The failure to obtain an MRI and neurology consultation prior to Wanda Russell's transfer to the DRMC Behavioral Unit was grossly negligent and/or reckless. The acceptance in transfer of Wanda Russell to the DRMC Behavioral Unit by Dr. Helmi was grossly negligent, and in reckless disregard to the objective neurologic signs and symptoms exhibited by Wanda Russell prior to transfer. The failure to obtain emergent evaluation of Wanda Russell by Dr. Bobrin, who recognized that Wanda Russell may be experiencing a stroke, was grossly negligent and/or reckless.

68. On December 6, 2005, at or about 1700 hours, more than 7 hours after Dr. Bobrin recognized that Wanda Russell may be experiencing a stroke, Wanda Russell was readmitted by Dr. Maloney under his care to the DuBois Regional Medical Center West. The failure to obtain emergent evaluation of Wanda Russell by Dr. Bobrin, at or about 1028 hours that day, in the face

of actual knowledge that Wanda Russell may be experiencing a stroke, was grossly negligent and/or reckless.

69. On December 6, 2005, on or before 1700 hours, Dr. Maloney performed a “History and Physical Examination” on Wanda Russell, and described Wanda Russell’s admission to “the Adult Mental Health Unit,” stating:

When she arrived there, Wanda apparently rescinded her voluntary admission, noting that she did not wish to be there. This was supported by her family, and today, secondary to reported falls in the Adult Mental Health Unit. I have requested that Wanda be returned for further evaluation in the observation status setting.

70. On December 6, 2005, Dr. Maloney ordered an MRI study to be performed on Wanda Russell on the following morning, and a neurology consultation to be performed by Ruediger Katz, M.D. [“Dr. Katz”].

71. On December 6, 2005, during his evaluation of Wanda Russell at or before 1916 hours, Dr. Katz found that Wanda Russell had multiple risk factors for cerebral ischemia.

72. On December 6, 2005, during his neurologic examination of Wanda Russell at or before 1916 hours, Dr. Katz found, among other things, that Wanda Russell had a lower left facial droop, 0/5 strength in her left arm, and 3/5 strength in her left leg.

73. On December 7, 2005, an unenhanced MRI of the brain was performed on Wanda Russell at the DuBois Regional Medical Center, which demonstrated a “well circumscribed lesion of right basal ganglia suggestive of a subacute or chronic lacunar infarct. Very small lacunar infarct in the left basal ganglia.”

74. On December 8, 2005, John J. Ahn, M.D. performed a cardiology consultation on

Wanda Russell, and diagnosed Wanda Russell as an “unfortunate 47-year-old female who has suffered a CVA.”

75. On December 8, 2005, Lynn Myers, M.D. [“Dr. Myers”], a rehabilitation medicine specialist, evaluated Wanda Russell, and found that:

The patient is an appropriate candidate for admission to the inpatient rehabilitation unit to address deficits and functional mobility and self care skills related to her recent CVA with left hemiparesis.

76. On December 9, 2005, Wanda Russell was transferred to the Physiatry Unit for inpatient rehabilitation at the DRMC Inpatient Rehabilitation Programs on the service of Dr. Myers.

77. The negligence, gross negligence, and/or recklessness of all defendants, jointly and severally, as set forth with specificity in the paragraphs above and the Counts below, directly and proximately caused, and increased the risk of harm of, the cerebrovascular accident suffered by Wanda Russell.

78. The negligence, gross negligence, and/or recklessness of all defendants, jointly and severally, as set forth with specificity in the paragraphs above and the Counts below, directly and proximately caused, and increased the risk of harm of, the neurologic injuries, impairments, and deficits suffered by Wanda Russell.

79. The negligence, gross negligence, and/or recklessness of all defendants, jointly and severally, as set forth with specificity in the paragraphs above and the Counts below, directly and proximately caused, and increased the risk of harm of, the following injuries and damages:

- a. irreversible cerebral ischemia;
- b. cerebrovascular accident;

- c. cerebral dysfunction;
- d. cognitive impairment;
- e. motor impairment;
- f. neurological impairment and injury;
- g. humiliation;
- h. embarrassment;
- i. anxiety and fright;
- j. pain and suffering;
- k. disfigurement;
- l. loss of life's pleasures;
- m. economic damages; and,
- n. medical expenses.

80. Wanda Russell suffered, and continues to suffer, grave neurologic and medical injuries, impairments, and deficits which were caused by, and whose risk of harm was increased by, the negligent, grossly negligent, and/or reckless conduct of the defendants, jointly and severally, as more fully set forth with specificity in the paragraphs above and the Counts below.

COUNT I-NEGLIGENCE
(Plaintiff v. Dr. Devlin)

81. The previous paragraphs are herein incorporated by reference as though fully set forth.

82. The negligent conduct of Dr. Delvin during his medical evaluation, care, and treatment of Wanda Russell consisted of the following:

- a. failure to properly, timely, and adequately evaluate a patient with a diagnosis

- of transient ischemic attack;
- b. failure to properly, timely, and adequately evaluate a patient with a diagnosis of cerebrovascular accident;
 - c. failure to properly, timely, and adequately evaluate a patient with fluctuating neurologic signs and symptoms;
 - d. failure to properly and timely obtain the consultative services of a neurologist or specialist in neurology;
 - e. failure to properly and timely obtain cerebral imaging with an MRI scan and/or MRA;
 - f. failure to properly, timely, and adequately evaluate a patient with acute neurologic signs and symptoms;
 - g. failure to timely, properly, and adequately evaluate, diagnose, and treat a “stuttering” stroke;
 - h. failure to provide appropriate management and treatment of acute neurologic signs and symptoms;
 - i. failure to provide appropriate, adequate, and timely monitoring of a patient with a deteriorating neurologic status;
 - j. failure to properly, timely, and adequately evaluate a patient with acute deteriorating neurologic status;
 - k. failure to provide appropriate management of an evolving cerebrovascular accident;
 - l. failure to provide appropriate, adequate, and timely monitoring of a patient

with a signs and symptoms of an evolving cerebrovascular accident or neurologic crisis;

- m. failure to properly, timely, and adequately evaluate a patient with signs and symptoms of an evolving neurologic dysfunction;
- n. failure to obtain appropriate, adequate, and timely neuro-radiologic evaluation; and,
- o. failure to properly, timely, and adequately recognize and appreciate signs and symptoms of evolving neurologic dysfunction.

COUNT II-NEGLIGENCE, GROSS NEGLIGENCE, AND RECKLESSNESS
(Plaintiff v. Dr. Maloney)

83. The previous paragraphs, including all allegations of negligence, gross negligence, and recklessness, are herein incorporated by reference as though fully set forth.

84. The negligent, grossly negligent, and/or reckless conduct of Dr. Delvin during his evaluation, care, and treatment of Wanda Russell consisted of the following:

- a. failure to properly, timely, and adequately evaluate a patient with a diagnosis of transient ischemic attack, in the face of objective signs and symptoms of neurologic deficit;
- b. failure to properly, timely, and adequately evaluate a patient with a diagnosis of cerebrovascular accident, in the face of objective signs and symptoms of neurologic deficit;
- c. failure to properly, timely, and adequately evaluate a patient with fluctuating neurologic signs and symptoms, in the face of objective signs and symptoms

of neurologic deficit;

- d. failure to properly and timely obtain the consultative services of a neurologist or specialist in neurology, in the face of objective signs and symptoms of neurologic deficit;
- e. failure to properly and timely obtain cerebral imaging with an MRI scan and/or MRA, in the face of objective signs and symptoms of neurologic deficit;
- f. failure to properly, timely, and adequately evaluate a patient with acute neurologic signs and symptoms, with actual knowledge of a diagnosis of transient ischemic attack and cerebrovascular accident;
- g. failure to timely, properly, and adequately evaluate, diagnose, and treat a “stuttering” stroke, in the face of neurologic signs and symptoms, and with actual knowledge of a diagnosis of transient ischemic attack and cerebrovascular accident;
- h. failure to provide appropriate management and treatment of acute neurologic signs and symptoms, in the face of neurologic signs and symptoms, and with actual knowledge of a diagnosis of transient ischemic attack and cerebrovascular accident;
- i. failure to provide appropriate, adequate, and timely monitoring of a patient with a deteriorating neurologic status;
- j. failure to properly, timely, and adequately evaluate a patient with acute deteriorating neurologic status, in the face of neurologic signs and symptoms,

and with actual knowledge of a diagnosis of transient ischemic attack and cerebrovascular accident;

- k. failure to provide appropriate management of a cerebrovascular accident;
- l. failure to provide appropriate, adequate, and timely monitoring of a patient with a signs and symptoms of an evolving cerebrovascular accident or neurologic crisis, in the face of neurologic signs and symptoms, and with actual knowledge of a diagnosis of transient ischemic attack and cerebrovascular accident;
- m. failure to properly, timely, and adequately evaluate a patient with signs and symptoms of an evolving neurologic dysfunction, in the face of neurologic signs and symptoms, and with actual knowledge of a diagnosis of transient ischemic attack and cerebrovascular accident;
- n. failure to provide appropriate, adequate, and timely neuro-radiologic evaluation, in the face of neurologic signs and symptoms, and with actual knowledge of a diagnosis of transient ischemic attack and cerebrovascular accident;
- o. failure to provide timely, appropriate, and adequate medical evaluation prior to transfer to a psychiatric unit, in the face of neurologic signs and symptoms, and with actual knowledge of a diagnosis of transient ischemic attack and cerebrovascular accident;
- p. failure to provide timely, appropriate, and adequate neurologic and neuro-radiologic evaluation prior to transfer to a psychiatric unit, in the face of

neurologic signs and symptoms, and with actual knowledge of a diagnosis of transient ischemic attack and cerebrovascular accident;

- q. failure to provide timely, appropriate, and adequate psychiatric and psychologic evaluation prior to transfer to a psychiatric unit, in the face of neurologic signs and symptoms, and with actual knowledge of a diagnosis of transient ischemic attack and cerebrovascular accident;
- r. failure to obtain timely, appropriate, and adequate medical evaluation prior to transfer to a psychiatric unit, in the face of neurologic signs and symptoms, and with actual knowledge of a diagnosis of transient ischemic attack and cerebrovascular accident;
- s. misrepresentation of the medical status of the patient to the accepting psychiatrist in the DRMC Behavioral Unit, in the face of neurologic signs and symptoms, and with actual knowledge of a diagnosis of transient ischemic attack and cerebrovascular accident;
- t. misrepresentation of the psychological and psychiatric status of the patient to the accepting psychiatrist in the DRMC Behavioral Unit, in the face of neurologic signs and symptoms, and with actual knowledge of a diagnosis of transient ischemic attack and cerebrovascular accident;
- u. failure to take an adequate and appropriate psychiatric and psychological history, in the face of neurologic signs and symptoms, and with actual knowledge of a diagnosis of transient ischemic attack and cerebrovascular accident;

- v. failure to take an adequate and appropriate medical care and psychiatric history prior to hospitalization in the DRMC Behavioral Unit, in the face of neurologic signs and symptoms, and with actual knowledge of a diagnosis of transient ischemic attack and cerebrovascular accident;
- w. failure to effect a timely transfer from the psychiatric unit back to the medical unit, in the face of actual knowledge that the patient was acutely deteriorating in her neurologic status, and required emergent neurologic consultation and diagnostic testing and treatment;
- x. failure to effect a timely transfer from the psychiatric unit back to the medical unit for neurologic evaluation and treatment, in the face of actual knowledge that the patient was acutely deteriorating in her neurologic status;
- y. failure to provide timely, adequate, and appropriate management of a stroke, in the face of actual knowledge that the patient was acutely deteriorating in her neurologic status; and,
- z. failure to properly, timely, and adequately recognize and appreciate signs and symptoms of evolving neurologic dysfunction, in the face of a diagnosis of transient ischemic attack and cerebrovascular accident, and in the setting of objective neurologic signs and symptoms.

COUNT III-NEGLIGENCE, GROSS NEGLIGENCE, AND RECKLESSNESS
(Plaintiff v. Dr. Helmi)

85. The previous paragraphs, including all allegations of negligence, gross negligence,

and recklessness, are herein incorporated by reference as though fully set forth.

86. The negligent, grossly negligent, and/or reckless conduct of Dr. Helmi during her evaluation, care, and treatment of Wanda Russell consisted of the following:

- a. failure to properly, timely, and adequately evaluate a patient with a diagnosis of transient ischemic attack, in the face of objective signs and symptoms of neurologic deficit;
- b. failure to properly, timely, and adequately evaluate a patient with a diagnosis of cerebrovascular accident, in the face of objective signs and symptoms of neurologic deficit;
- c. failure to properly, timely, and adequately evaluate a patient with fluctuating neurologic signs and symptoms, in the face of objective signs and symptoms of neurologic deficit;
- d. failure to properly and timely obtain the consultative services of a neurologist or specialist in neurology, in the face of objective signs and symptoms of neurologic deficit;
- e. failure to properly and timely obtain cerebral imaging with an MRI scan and/or MRA, in the face of objective signs and symptoms of neurologic deficit;
- f. failure to properly, timely, and adequately evaluate a patient with acute neurologic signs and symptoms, in the setting of a diagnosis of transient ischemic attack and cerebrovascular accident;
- g. failure to timely, properly, and adequately evaluate, diagnose, and treat a

- “stuttering” stroke, in the setting of a diagnosis of transient ischemic attack and cerebrovascular accident;
- h. failure to provide appropriate management and treatment of acute neurologic signs and symptoms, in the setting of a diagnosis of transient ischemic attack and cerebrovascular accident;
 - i. failure to provide appropriate, adequate, and timely monitoring of a patient with a deteriorating neurologic status;
 - j. failure to properly, timely, and adequately evaluate a patient with acute deteriorating neurologic status, in the face of neurologic signs and symptoms, and in the setting of a diagnosis of transient ischemic attack and cerebrovascular accident;
 - k. failure to provide appropriate management of a cerebrovascular accident;
 - l. failure to provide appropriate, adequate, and timely monitoring of a patient with a signs and symptoms of an evolving cerebrovascular accident or neurologic crisis, in the face of neurologic signs and symptoms, and in the setting of a diagnosis of transient ischemic attack and cerebrovascular accident;
 - m. failure to properly, timely, and adequately evaluate a patient with signs and symptoms of an evolving neurologic dysfunction, in the face of neurologic signs and symptoms, and in the setting of a diagnosis of transient ischemic attack and cerebrovascular accident;
 - n. failure to provide appropriate, adequate, and timely neuro-radiologic

- evaluation, in the face of neurologic signs and symptoms, and in the setting of a diagnosis of transient ischemic attack and cerebrovascular accident;
- o. failure to ensure timely, appropriate, and adequate medical evaluation prior to transfer to a psychiatric unit, in the setting of a diagnosis of transient ischemic attack and cerebrovascular accident;
 - p. failure to provide timely, appropriate, and adequate neurologic and neuro-radiologic evaluation prior to transfer to a psychiatric unit, in the face of neurologic signs and symptoms, and in the setting of a diagnosis of transient ischemic attack and cerebrovascular accident;
 - q. failure to provide timely, appropriate, and adequate psychiatric and psychologic evaluation prior to transfer to a psychiatric unit, in the face of neurologic signs and symptoms, and with actual knowledge of these signs and symptoms;
 - r. failure to obtain timely, appropriate, and adequate medical evaluation prior to transfer to a psychiatric unit, in the face of neurologic signs and symptoms, and with actual knowledge of a diagnosis of these signs and symptoms and the diagnosis of transient ischemic attack and cerebrovascular accident;
 - s. failure to evaluate the medical status of a patient deemed “suicidal”;
 - t. failure to take an adequate and appropriate psychiatric and psychological history, in the face of neurologic signs and symptoms, and with actual knowledge of a diagnosis of transient ischemic attack and cerebrovascular accident;

- u. failure to take an adequate and appropriate medical care and psychiatric history during hospitalization in the DRMC Behavioral Unit, in the face of neurologic signs and symptoms, and with actual knowledge of a diagnosis of transient ischemic attack and cerebrovascular accident;
- v. failure to effect a timely transfer from the psychiatric unit back to the medical unit, in the face of actual knowledge that the patient was acutely deteriorating in her neurologic status, and required emergent neurologic consultation and diagnostic testing and treatment;
- w. failure to effect a timely transfer from the psychiatric unit back to the medical unit for neurologic evaluation and treatment, in the face of actual knowledge that the patient was acutely deteriorating in her neurologic status;
- x. failure to provide timely, adequate, and appropriate management of a stroke, in the face of actual knowledge that the patient was acutely deteriorating in her neurologic status; and,
- y. failure to properly, timely, and adequately recognize and appreciate signs and symptoms of evolving neurologic dysfunction, in the face of a diagnosis of transient ischemic attack and cerebrovascular accident, and in the setting of objective neurologic signs and symptoms.

COUNT IV-NEGLIGENCE, GROSS NEGLIGENCE, AND RECKLESSNESS
(Plaintiff v. Dr. Bradley)

87. The previous paragraphs, including all allegations of negligence, gross negligence, and recklessness, are herein incorporated by reference as though fully set forth.

88. The negligent, grossly negligent, and/or reckless conduct of Dr. Bradley during his evaluation, care, and treatment of Wanda Russell consisted of the following:

- a. failure to properly, timely, and adequately evaluate a patient with a diagnosis of transient ischemic attack, in the face of objective signs and symptoms of neurologic deficit;
- b. failure to properly, timely, and adequately evaluate a patient with a diagnosis of cerebrovascular accident, in the face of objective signs and symptoms of neurologic deficit;
- c. failure to properly, timely, and adequately evaluate a patient with fluctuating neurologic signs and symptoms, in the face of objective signs and symptoms of neurologic deficit;
- d. failure to properly and timely obtain the consultative services of a neurologist or specialist in neurology, in the face of objective signs and symptoms of neurologic deficit;
- e. failure to properly and timely obtain cerebral imaging with an MRI scan and/or MRA, in the face of objective signs and symptoms of neurologic deficit;
- f. failure to properly, timely, and adequately evaluate a patient with acute neurologic signs and symptoms, in the setting of a diagnosis of transient ischemic attack and cerebrovascular accident;
- g. failure to timely, properly, and adequately evaluate, diagnose, and treat a “stuttering” stroke, in the setting of a diagnosis of transient ischemic attack

and cerebrovascular accident;

- h. failure to provide appropriate management and treatment of acute neurologic signs and symptoms, in the setting of a diagnosis of transient ischemic attack and cerebrovascular accident;
- i. failure to provide appropriate, adequate, and timely monitoring of a patient with a deteriorating neurologic status;
- j. failure to properly, timely, and adequately evaluate a patient with acute deteriorating neurologic status, in the face of neurologic signs and symptoms, and in the setting of a diagnosis of transient ischemic attack and cerebrovascular accident;
- k. failure to provide appropriate management of a cerebrovascular accident;
- l. failure to provide appropriate, adequate, and timely monitoring of a patient with a signs and symptoms of an evolving cerebrovascular accident or neurologic crisis, in the face of neurologic signs and symptoms, and in the setting of a diagnosis of transient ischemic attack and cerebrovascular accident;
- m. failure to properly, timely, and adequately evaluate a patient with signs and symptoms of an evolving neurologic dysfunction, in the face of neurologic signs and symptoms, and in the setting of a diagnosis of transient ischemic attack and cerebrovascular accident;
- n. failure to provide appropriate, adequate, and timely neuro-radiologic evaluation, in the face of neurologic signs and symptoms, and in the setting

- of a diagnosis of transient ischemic attack and cerebrovascular accident;
- o. failure to ensure timely, appropriate, and adequate medical evaluation prior to transfer to a psychiatric unit, in the setting of a diagnosis of transient ischemic attack and cerebrovascular accident;
 - p. failure to provide timely, appropriate, and adequate neurologic and neuro-radiologic evaluation prior to transfer to a psychiatric unit, in the face of neurologic signs and symptoms, and in the setting of a diagnosis of transient ischemic attack and cerebrovascular accident;
 - q. failure to provide timely, appropriate, and adequate psychiatric and psychologic evaluation prior to transfer to a psychiatric unit, in the face of neurologic signs and symptoms, and with actual knowledge of these signs and symptoms;
 - r. failure to obtain timely, appropriate, and adequate medical evaluation prior to transfer to a psychiatric unit, in the face of neurologic signs and symptoms, and with actual knowledge of a diagnosis of these signs and symptoms and the diagnosis of transient ischemic attack and cerebrovascular accident;
 - s. failure to evaluate the medical status of a patient deemed “suicidal”;
 - t. failure to take an adequate and appropriate psychiatric and psychological history, in the face of neurologic signs and symptoms, and with actual knowledge of a diagnosis of transient ischemic attack and cerebrovascular accident;
 - u. failure to take an adequate and appropriate medical care and psychiatric

- history during hospitalization in the DRMC Behavioral Unit, in the face of neurologic signs and symptoms, and with actual knowledge of a diagnosis of transient ischemic attack and cerebrovascular accident;
- v. failure to effect a timely transfer from the psychiatric unit back to the medical unit, in the face of actual knowledge that the patient was acutely deteriorating in her neurologic status, and required emergent neurologic consultation and diagnostic testing and treatment;
 - w. failure to effect a timely transfer from the psychiatric unit back to the medical unit for neurologic evaluation and treatment, in the face of actual knowledge that the patient was acutely deteriorating in her neurologic status;
 - x. failure to provide timely, adequate, and appropriate management of a stroke, in the face of actual knowledge that the patient was acutely deteriorating in her neurologic status; and,
 - y. failure to properly, timely, and adequately recognize and appreciate signs and symptoms of evolving neurologic dysfunction, in the face of a diagnosis of transient ischemic attack and cerebrovascular accident, and in the setting of objective neurologic signs and symptoms.

COUNT V-NEGLIGENCE, GROSS NEGLIGENCE, AND RECKLESSNESS
(Plaintiff v. Dr. Bobrin)

89. The previous paragraphs, including all allegations of negligence, gross negligence, and recklessness, are herein incorporated by reference as though fully set forth.

90. The negligent, grossly negligent, and/or reckless conduct of Dr. Bobrin during his

evaluation, care, and treatment of Wanda Russell consisted of the following:

- a. failure to properly, timely, and adequately evaluate a patient with a diagnosis of transient ischemic attack, in the face of objective signs and symptoms of neurologic deficit;
- b. failure to properly, timely, and adequately evaluate a patient with a diagnosis of cerebrovascular accident, in the face of objective signs and symptoms of neurologic deficit;
- c. failure to properly, timely, and adequately evaluate a patient with fluctuating neurologic signs and symptoms, in the face of objective signs and symptoms of neurologic deficit;
- d. failure to properly and timely obtain the consultative services of a neurologist or specialist in neurology, in the face of objective signs and symptoms of neurologic deficit;
- e. failure to properly and timely obtain cerebral imaging with an MRI scan and/or MRA, in the face of objective signs and symptoms of neurologic deficit;
- f. failure to properly, timely, and adequately evaluate a patient with acute neurologic signs and symptoms, in the setting of a diagnosis of transient ischemic attack and cerebrovascular accident;
- g. failure to timely, properly, and adequately evaluate, diagnose, and treat a “stuttering” stroke, in the setting of a diagnosis of transient ischemic attack and cerebrovascular accident;

- h. failure to provide appropriate management and treatment of acute neurologic signs and symptoms, in the setting of a diagnosis of transient ischemic attack and cerebrovascular accident;
- i. failure to provide appropriate, adequate, and timely monitoring of a patient with a deteriorating neurologic status;
- j. failure to properly, timely, and adequately evaluate a patient with acute deteriorating neurologic status, in the face of neurologic signs and symptoms, and in the setting of a diagnosis of transient ischemic attack and cerebrovascular accident;
- k. failure to provide appropriate management of a cerebrovascular accident;
- l. failure to provide appropriate, adequate, and timely monitoring of a patient with a signs and symptoms of an evolving cerebrovascular accident or neurologic crisis, in the face of neurologic signs and symptoms, and in the setting of a diagnosis of transient ischemic attack and cerebrovascular accident;
- m. failure to properly, timely, and adequately evaluate a patient with signs and symptoms of an evolving neurologic dysfunction, in the face of neurologic signs and symptoms, and in the setting of a diagnosis of transient ischemic attack and cerebrovascular accident;
- n. failure to provide appropriate, adequate, and timely neuro-radiologic evaluation, in the face of neurologic signs and symptoms, and in the setting of a diagnosis of transient ischemic attack and cerebrovascular accident;

- o. failure to ensure timely, appropriate, and adequate medical evaluation prior to transfer to a psychiatric unit, in the setting of a diagnosis of transient ischemic attack and cerebrovascular accident;
- p. failure to provide timely, appropriate, and adequate neurologic and neuro-radiologic evaluation prior to transfer to a psychiatric unit, in the face of neurologic signs and symptoms, and in the setting of a diagnosis of transient ischemic attack and cerebrovascular accident;
- q. failure to provide timely, appropriate, and adequate psychiatric and psychologic evaluation prior to transfer to a psychiatric unit, in the face of neurologic signs and symptoms, and with actual knowledge of these signs and symptoms;
- r. failure to obtain timely, appropriate, and adequate medical evaluation prior to transfer to a psychiatric unit, in the face of neurologic signs and symptoms, and with actual knowledge of a diagnosis of these signs and symptoms and the diagnosis of transient ischemic attack and cerebrovascular accident;
- s. failure to evaluate the medical status of a patient deemed “suicidal”;
- t. failure to take an adequate and appropriate psychiatric and psychological history, in the face of neurologic signs and symptoms, and with actual knowledge of a diagnosis of transient ischemic attack and cerebrovascular accident;
- u. failure to take an adequate and appropriate medical care and psychiatric history during hospitalization in the DRMC Behavioral Unit, in the face of

- neurologic signs and symptoms, and with actual knowledge of a diagnosis of transient ischemic attack and cerebrovascular accident;
- v. failure to effect a timely transfer from the psychiatric unit back to the medical unit, in the face of actual knowledge that the patient was acutely deteriorating in her neurologic status, and required emergent neurologic consultation and diagnostic testing and treatment;
 - w. failure to effect a timely transfer from the psychiatric unit back to the medical unit for neurologic evaluation and treatment, in the face of actual knowledge that the patient was acutely deteriorating in her neurologic status;
 - x. failure to provide timely, adequate, and appropriate management of a stroke, in the face of actual knowledge that the patient was acutely deteriorating in her neurologic status; and,
 - y. failure to properly, timely, and adequately recognize and appreciate signs and symptoms of evolving neurologic dysfunction, in the face of a diagnosis of transient ischemic attack and cerebrovascular accident, and in the setting of objective neurologic signs and symptoms.

**COUNT V-VICARIOUS LIABILITY FOR THE NEGLIGENCE, GROSS
NEGLIGENCE, AND RECKLESSNESS OF AGENTS
AND CORPORATE (DIRECT) NEGLIGENCE**
**(Plaintiff v. DuBois Regional Medical Center a/k/a/
DuBois Regional Medical Center West a/d/b/a DRMC Behavioral Unit a/k/a
DRMC East Behavioral Unit a/k/a DRMC Behavioral Health Outpatient Clinic)**

91. The previous paragraphs, including all allegations of negligence, gross negligence, and recklessness, are herein incorporated by reference as though fully set forth.

92. At all times material hereto, DuBois Regional Medical Center a/k/a/ DuBois Regional Medical Center West a/d/b/a DRMC Behavioral Unit a/k/a DRMC East Behavioral Unit a/k/a DRMC Behavioral Health Outpatient Clinic was acting by and through its actual agents, ostensible agents, servants, and/or employees, including Dr. Maloney, Devlin, Helmi, Bradley, and Bobrin, and the nursing staff who provided nursing care and treatment to Wanda Russell during her hospitalization in the DRMC Behavioral Unit, whose identities are partially set forth in Exhibit "B." These actual agents, ostensible agents, servants, and/or employees provided medical care and treatment to Wanda Russell while acting within the scope of their medical and nursing duties. Accordingly, the DuBois Regional Medical Center a/k/a/ DuBois Regional Medical Center West a/d/b/a DRMC Behavioral Unit a/k/a DRMC East Behavioral Unit a/k/a DRMC Behavioral Health Outpatient Clinic is vicariously and derivatively liable for the negligent, grossly negligent, and/or reckless acts and omissions of these actual agents, ostensible agents, servants, and/or employees under theories of agency, master-servant, respondeat superior, and/or right of control.

93. The Dubois Regional Medical Center is liable for the conduct of the nurses who provided psychiatric nursing care to Wanda Russell on the DRMC Behavioral Unit on December 5 to 6, 2005, whose identities are partially set forth in Exhibit "B," and whose negligent, grossly negligent, and/or reckless conduct consisted of:

- a. failure to report falls in a patient exhibiting neurologic impairment to a physician at the time the falls occurred, in disregard to the safety and well-being of the patient;
- b. failure to report neurologic signs and symptoms to the physician staff, in disregard to the safety and well-being of the patient;

- c. failure to obtain appropriate psychiatric evaluation at the time the patient arrived on the psychiatric unit, in disregard to the rights, safety, and well-being of the patient and contrary to the policies and procedures of the DRMC Unit;
- d. failure to insure that the protocol for psychiatric unit was adhered to and followed, including provision of the Patient's Bill of Rights and the report of initial evaluation and the proposed treatment plan completed and signed by the patient and the physician, in disregard to the rights, safety, and well-being of the patient and contrary to the policies and procedures of the DRMC Unit;
- e. failure to obtain medical evaluation for signs and symptoms during the nursing evaluation of the patient of evolving neurologic dysfunction;
- f. failure to timely, appropriately, and adequately notify the physician medical staff of evolving of neurologic signs and symptoms, in disregard to the safety and well-being of the patient;
- g. failure to provide appropriate nursing, monitoring and care to a patient with evolving and shifting neurologic signs and symptoms, in disregard to the safety and well-being of the patient; and,
- h. failure to provide adequate, appropriate, and timely nursing care in the setting of shifting neurologic signs and symptoms, in disregard to the safety and well-being of the patient.

94. In addition, pursuant to the decision of the Supreme Court of Pennsylvania in

Thompson v. Nason, 591 A.2d 703 (1991) and its progeny of case law, at all relevant times hereto, DuBois Regional Medical Center a/k/a/ DuBois Regional Medical Center West a/d/b/a DRMC Behavioral Unit a/k/a DRMC East Behavioral Unit a/k/a DRMC Behavioral Health Outpatient Clinic owed non-delegable duties directly to Wanda Russell which included:

- a. a duty to use reasonable care in the maintenance of safe and adequate facilities and equipment;
- b. a duty to select and retain only competent physicians;
- c. a duty to oversee all persons who practice medicine within its walls as to patient care; and,
- d. a duty to formulate, adopt, and enforce adequate rules and policies to ensure quality care for the patients.

95. The corporate (direct) negligence of the DuBois Regional Medical Center a/k/a/ DuBois Regional Medical Center West a/d/b/a DRMC Behavioral Unit a/k/a DRMC East Behavioral Unit a/k/a DRMC Behavioral Health Outpatient Clinic arising out of the medical evaluation, care, and treatment of Wanda Russell consisted of the following:

- a. failure to select and retain only competent physicians proficient in the recognition, evaluation, and management of transient ischemic attack, neurologic dysfunction, evolving cerebrovascular accident, and “stuttering” stroke;
- b. failure to select and retain only competent physicians proficient in the recognition, evaluation, and management of psychiatric illness;
- c. failure to select and retain only competent physicians proficient in the

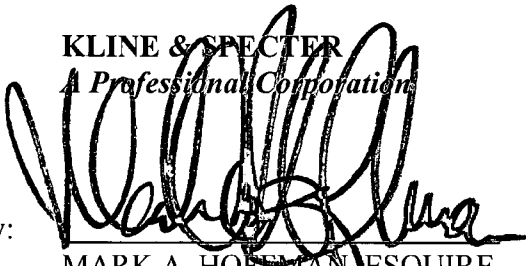
- recognition, evaluation, and neurologic signs and symptoms;
- d. failure to select and retain only competent physicians proficient in the recognition, evaluation, and management of evolving neurologic injury;
 - e. failure to select and retain only competent physicians proficient in the recognition, evaluation, and management of cerebral ischemia and associated risk factors;
 - f. failure to select and retain only competent physicians proficient in the recognition, evaluation, and management of deteriorating neurologic status;
 - g. failure to select and retain only competent physicians proficient in the recognition, evaluation, and management evolving stroke symptoms;
 - h. failure to select and retain only competent physicians proficient in the recognition, evaluation, and management of patients within a psychiatric unit;
 - i. failure to select and retain only competent physicians proficient in the recognition, evaluation, and management of fluctuating neurologic signs and symptoms;
 - j. failure to select and retain only competent physicians proficient in the evaluation patients prior to voluntary transfer to a psychiatric unit;
 - k. failure to formulate, adopt, and/or enforce adequate rules and policies with respect to evaluation of patients prior to transfer to a psychiatric unit, including evaluation by a psychiatrist;
 - l. failure to formulate, adopt, and/or enforce adequate rules and policies with respect to the evaluation, re-evaluation, and management of patients admitted

- to a psychiatric unit with fluctuating neurologic signs and symptoms;
- m. failure to formulate, adopt, and/or enforce adequate rules and policies with respect to the timely evaluation of patients admitted to the psychiatric unit;
 - n. failure to formulate, adopt, and/or enforce adequate rules and policies with respect to the reporting and evaluation of falls by the nursing staff in the psychiatric unit;
 - o. failure to formulate, adopt, and/or enforce adequate rules and policies with respect to the transfer of patients with acute medical emergencies out of the psychiatric unit;
 - p. failure to formulate, adopt, and/or enforce adequate rules and policies with respect to holding patients with acute medical complaints, acute neurologic complaints, and falls within the confines of the psychiatric unit;
 - q. failure to formulate, adopt, and/or enforce adequate rules and policies with respect to the reporting of acute medical signs and symptoms, and falls, by the nursing staff to the attending medical staff;
 - r. failure to formulate, adopt, and/or enforce adequate rules and policies with respect to obtaining timely transfer of a patient with signs and symptoms of an evolving stroke to a medical unit from the psychiatric unit;
 - s. failure to oversee all persons who practice medicine within its walls as to patient care to ensure that an appropriate psychiatric evaluation by a psychiatrist occurs prior to the transfer of a patient to a psychiatric unit;
 - t. failure to oversee all persons who practice medicine within its walls as to

patient care to ensure that an appropriate medical evaluation occurs prior to the transfer of a patient to a psychiatric unit;

- u. failure to oversee all persons who practice medicine within its walls as to patient care to ensure that an appropriate medical evaluation occurs at the time of transfer of a patient to a psychiatric unit;
- v. failure to oversee all persons who practice medicine within its walls as to patient care to ensure that an appropriate psychiatric evaluation occurs at the time of transfer of a patient to a psychiatric unit.

WHEREFORE, Plaintiff Wanda Russell claims damages against all defendants, jointly and severally, including all damages cognizable under Pennsylvania law, to include both compensatory and punitive damages, for the causes of action set forth in the Civil Action Complaint, in an amount in excess of the prevailing arbitration limits, exclusive of pre-judgment interest and post-judgment interest and costs.

KLINE & SPECTER
A Professional Corporation
By: 
MARK A. HOFFMAN, ESQUIRE
Attorneys for Plaintiff

Date:

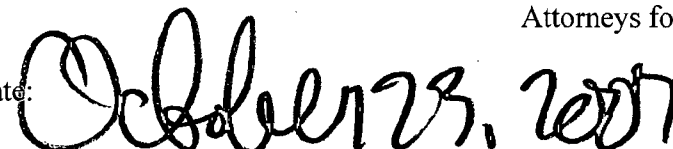


EXHIBIT "A"

KLINE & SPECTER

A Professional Corporation

By: THOMAS R. KLINE, ESQUIRE
MARK A. HOFFMAN, ESQUIRE
ROYCE W. SMITH, ESQUIRE

Attorney ID Nos.: 28895/ 84443/201295

The Nineteenth Floor

1525 Locust Street

Philadelphia, Pennsylvania 19102

(215) 772-1000

Attorneys for Plaintiff

WANDA RUSSELL

426 North Michael Street

Saint Mary's, Pennsylvania 15857

Plaintiff,

v.

JAMES E. DEVLIN, M.D. and

MARK W. MALONEY, D.O. and

DRMC PRIMARY CARE

ASSOCIATES and

SANAA HELMI, M.D. and

THOMAS J. BRADLEY, M.D. and

BRADFORD BOBRIN, M.D. and

DuBOIS REGIONAL MEDICAL

CENTER a/ka DuBOIS REGIONAL

MEDICAL CENTER WEST

a/d/b/a DRMC BEHAVIORAL

UNIT a/k/a DRMC EAST BEHAVIORAL

UNIT a/k/a DRMC BEHAVIORAL

HEALTH OUTPATIENT CLINIC

Defendants.

COURT OF COMMON PLEAS

COUNTY OF CLEARFIELD

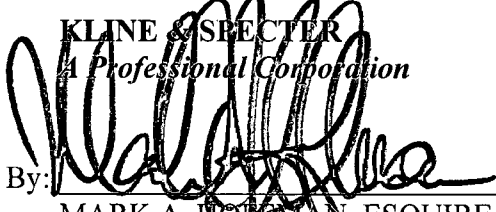
DOCKET NO. 07-644-CV

CERTIFICATES OF MERIT

I, Mark A. Hoffman, Esquire, am an attorney for the plaintiff in the above-captioned matter.

Pursuant to Pa.R.C.P. No. 1042.1, I hereby certify appropriate licensed professionals have provided me with written statements stating that there exists a reasonable basis and probability to conclude that the care, skill, or knowledge exercised or exhibited by Drs. Devlin, Maloney, Helmi, Bradley, and Bobrin, and the psychiatric nursing staff, and the DuBois Regional Medical Center and its affiliated or associated entities as captioned above, with respect to the treatment, practice, or work

that is the subject of this Civil Action Complaint, fell outside of acceptable professional and institutional standards, and in addition to being negligent, was grossly negligent and/or reckless in its scope, and that such conduct was a substantial factor in causing injuries, or bringing about harm, to Wanda Russell. I further certify that there are additional claims which are based on allegations that licensed professionals for whom the hospital-defendant, DuBois Regional Medical Center and its affiliated or associated entities as captioned above, and/or DRMC Primary Care, and/or both, are responsible and derivatively or vicariously liable deviated from accepted professional standards of medical care, and caused the aforementioned injuries and harm. I additionally certify that appropriate licensed professionals have supplied written statements to me concluding that there exists a reasonable basis and probability that the DuBois Regional Medical Center, and its affiliated or associated entities as captioned above, deviated from accepted standards of institutional care, giving rise to claims of direct (corporate) negligence pursuant to the decision of the Supreme Court of Pennsylvania in Thompson v. Nason, 591 A.2d 703 (1991) and its progeny of case law. The licensed professionals who have provided me with these written statements have also concluded that the aforementioned deviations from accepted standards of medical and institutional care on the part of the individual named licensed professional, corporate, and hospital defendants was a substantial factor causing, or increasing the risk of harm, to Wanda Russell.

KLINE & SPECTER
A Professional Corporation
By: 
MARK A. HOFFMAN, ESQUIRE
Attorneys for Plaintiff

Date:

 October 23, 2007

EXHIBIT “B”

Behavioral Health Services Daily Notes Extension
Date 12/16/05

33218 47Y MH 0114-01 MH
RUSSELL, WANDA
BOBRIN, BRADFORD
09/19/58 F 12/06/05
0534000768 UP


Sticker

12/16/05 8:20am - Pt's sister Darlene Nortum called and I spoke to her. According to Darlene, she was in to visit her sister last evening. Dr. Malony came in at 7 or 8 pm to talk to the pt. he told her that he feels her loss of mobility is due to depression. He did not say anything about coming to Mental Health. She did not say anything suicidal or hopeless. Darlene said she tried to talk to Dr. Malony about how soon her sister would be PIC but he said he was busy. Darlene does not feel her sister should be at Mental Health.

8:50am - I spoke to the secretary ^{sue} @ Dr. Maloney's office & she was unable to give me any information. Dr. Maloney called off today & she would not be talking to him until late this afternoon.

9:00am - I spoke to Joan on 3rd floor about the Pt. She told me that she was told that Dr. Maloney was afraid she would hurt herself. Apparently, Pt was requesting disability & Dr. Maloney said he couldn't do that. At that point he felt she wasn't safe.

9:20am Pt's sister Darlene called again & asked

353218 47Y MH 0114-01 MH
RUSSELL, WANDA
BOBRIN, BRADFORD
09/19/58 F 12/06/05
0534000768 UP



Behavioral Health Services Daily Notes Extension
Date 12/16/05

Sticker

if she could come now to visit her sister + talk with us.

9:35am Tracey from 3rd floor called + asked me what the situation is. Neither her or anyone else knew specific information on the Pt.

9:45am Dr. Maloney called and spoke to me. He feels the pt is going to stop taking her meds although she did not state that. He reports that she's going through a lot of stress - a divorce & bankruptcy. He said that she was admitted for left sided weakness. Nurses reported to Dr. Maloney that they observed her using her left arm & eating when she thought no one was looking. He was unable to find any medical problems. He spoke to Dr. Helmi & according to him it was her recommendation that she be admitted + tx be started.

I then handed the phone to UR for them to collect information.

9:55am I had already beeped Dr. Helmi twice, & she had not returned my call yet. I thought her beeper may be off so I called her cell phone. She answered + I asked if she had any information on the pt. She said,

053218 47Y MH 01 MH
RUSSELL, WANDA
BOBRIN, BRADFORD
09/19/58 F 12/06/05
0534000768 UP


Behavioral Health Services Daily Notes Extension
Date 12/6/05

Sticker

that she didn't remember the pt + asked
where she came from, I stated 3rd floor -
She said she was c-pts & would have to
return my call.

10⁰⁵am - Dr. Helmi returned my call, I asked
her the information regarding the pt. She
was under the impression that the pt
was severely depressed + actively suicidal.
She did not make the recommendation -
Dr. Maloney asked for the admission and
she agreed on the basis that the pt
is suicidal. She will support our decision
at this point. *Brittge Bower Jr*

VERIFICATION

I, MARK A. HOFFMAN, ESQUIRE, hereby state that I am the attorney for the plaintiff and that the facts set forth in the foregoing pleading are true and correct. I understand that false statements made herein are subject to the penalties of 18 Pa. C.S.A. § 4904 relating to unsworn falsification to authorities.


MARK A. HOFFMAN, ESQUIRE
Attorney for Plaintiff

Date:

October 23, 2007

WANDA RUSSELL,
Plaintiff

v.

JAMES E. DEVLIN, M.D.; MARK W.
MALONEY, D.O.; DRMC PRIMARY
CARE ASSOCIATES; SANAA HELMI,
M.D.; THOMAS J. BRADLEY, M.D.;
BRADFORD BOBRIN, M.D.; DUBOIS
REGIONAL MEDICAL CENTER a/k/a
DUBOIS REGIONAL MEDICAL
CENTER WEST a/d/b/a DRMC
BEHAVIORAL UNIT a/k/a DRMC EAST
BEHAVIORAL UNIT a/k/a DRMC
BEHAVIORAL HEALTH OUTPATIENT
CLINIC,

Defendants

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY,
PENNSYLVANIA

NO. 07-644-CD

CIVIL ACTION - LAW

JURY TRIAL DEMANDED

CERTIFICATE OF SERVICE

I, RICHARD F. SCHLUTER, ESQUIRE, hereby certify that I have served a copy of the
foregoing *Responses of Defendant Mark W. Maloney, D.O. to Plaintiffs' Expert Witness*

Interrogatories, upon the following, this 2nd day of November, 2007, as follows:

UNITED STATES MAIL, POSTAGE PREPAID:

Thomas R. Kline, Esquire
Mark A. Hoffman, Esquire
Kline & Specter, PC
The Nineteenth Floor
1525 Locust Street
Philadelphia, PA 19102

Darryl Slimak, Esquire
McQuaide Blasko
811 University Drive
State College, PA 16801

M. Brian O'Connor, Esquire
Gaca, Matis, Baum & Rizza, PC
444 Liberty Avenue, Suite 300
Pittsburgh, PA 15222

McCORMICK LAW FIRM
835 W. FOURTH ST.
WILLIAMSPORT, PA.

FILED NO CC
NOV 05 2007
12:48 PM
CLERK

William A. Shaw
Prothonotary/Clerk of Courts

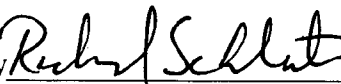
Lynn E. Bell, Esquire
Davies, McFarland & Carroll, PC
One Gateway Center, 10th Floor
Pittsburgh, PA 15222-1416

John L. McIntyre, Esquire
McIntyre, Dugas, Hartye & Schmitt
Post Office Box 533
Hollidaysburg, PA 16648-0533

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

DRMC Primary Care Associates
Medical Arts Building, Suite 200
145 Hospital Avenue
DuBois, PA 15801

McCORMICK LAW FIRM

By 

David R. Bahl, Esquire

I.D. No. 10347

Richard F. Schluter, Esquire

I.D. No. 79672

Attorneys for Defendant

Mark W. Maloney, D.O.

835 West Fourth Street
Williamsport, PA 17701
(570) 326-5131

WANDA RUSSELL,
Plaintiff

v.

JAMES E. DEVLIN, M.D.; MARK W.
MALONEY, D.O.; DRMC PRIMARY
CARE ASSOCIATES; SANAA HELMI,
M.D.; THOMAS J. BRADLEY, M.D.;
BRADFORD BOBRIN, M.D.; DUBOIS
REGIONAL MEDICAL CENTER a/k/a
DUBOIS REGIONAL MEDICAL
CENTER WEST a/d/b/a DRMC
BEHAVIORAL UNIT a/k/a DRMC EAST
BEHAVIORAL UNIT a/k/a DRMC
BEHAVIORAL HEALTH OUTPATIENT
CLINIC,
Defendants

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY,
PENNSYLVANIA

NO. 07-644-CD

CIVIL ACTION - LAW

JURY TRIAL DEMANDED

CERTIFICATE OF SERVICE

I, RICHARD F. SCHLUTER, ESQUIRE, hereby certify that I have served a copy of the foregoing *Responses of Defendant Mark W. Maloney, D.O. to Plaintiffs' Interrogatories and Request for Production of Documents*, upon the following, this 2nd day of November, 2007, as follows:

UNITED STATES MAIL, POSTAGE PREPAID:

Thomas R. Kline, Esquire
Mark A. Hoffman, Esquire
Kline & Specter, PC
The Nineteenth Floor
1525 Locust Street
Philadelphia, PA 19102

Darryl Slimak, Esquire
McQuaide Blasko
811 University Drive
State College, PA 16801

FILED *no cc*
m/12/18/07
NOV 05 2007

William A. Shaw
Prothonotary/Clerk of Courts

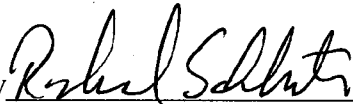
M. Brian O'Connor, Esquire
Gaca, Matis, Baum & Rizza, PC
444 Liberty Avenue, Suite 300
Pittsburgh, PA 15222

Lynn E. Bell, Esquire
Davies, McFarland & Carroll, PC
One Gateway Center, 10th Floor
Pittsburgh, PA 15222-1416

John L. McIntyre, Esquire
McIntyre, Dugas, Hartye & Schmitt
Post Office Box 533
Hollidaysburg, PA 16648-0533

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

McCORMICK LAW FIRM

By 

David R. Bahl, Esquire

I.D. No. 10347

Richard F. Schluter, Esquire

I.D. No. 79672

Attorneys for Defendant

Mark W. Maloney, D.O.

835 West Fourth Street
Williamsport, PA 17701
(570) 326-5131

WANDA RUSSELL,
Plaintiff

v.

JAMES E. DEVLIN, M.D.; MARK W.
MALONEY, D.O.; DRMC PRIMARY
CARE ASSOCIATES; SANAA HELMI,
M.D.; THOMAS J. BRADLEY, M.D.;
BRADFORD BOBRIN, M.D.; DUBOIS
REGIONAL MEDICAL CENTER a/k/a
DUBOIS REGIONAL MEDICAL
CENTER WEST a/d/b/a DRMC
BEHAVIORAL UNIT a/k/a DRMC EAST
BEHAVIORAL UNIT a/k/a DRMC
BEHAVIORAL HEALTH OUTPATIENT
CLINIC,

Defendants

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY,
PENNSYLVANIA

NO. 07-644-CD

CIVIL ACTION - LAW

JURY TRIAL DEMANDED

CERTIFICATE OF SERVICE

I, RICHARD F. SCHLUTER, ESQUIRE, hereby certify that I have served a copy of the
foregoing *Responses of Defendant Mark W. Maloney, D.O. to Plaintiffs' Insurance
Interrogatories and Request for Production of Documents*, upon the following, this 2nd day
of November, 2007, as follows:

UNITED STATES MAIL, POSTAGE PREPAID:

Thomas R. Kline, Esquire
Mark A. Hoffman, Esquire
Kline & Specter, PC
The Nineteenth Floor
1525 Locust Street
Philadelphia, PA 19102

Darryl Slimak, Esquire
McQuaide Blasko
811 University Drive
State College, PA 16801

McCORMICK LAW FIRM
835 W. FOURTH ST.
WILLIAMSPORT, PA.

FILED ^{NOCC}
11/2/07
NOV 05 2007
LM

William A. Shaw
Prothonotary/Clerk of Courts

M. Brian O'Connor, Esquire
Gaca, Matis, Baum & Rizza, PC
444 Liberty Avenue, Suite 300
Pittsburgh, PA 15222

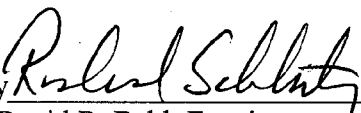
Lynn E. Bell, Esquire
Davies, McFarland & Carroll, PC
One Gateway Center, 10th Floor
Pittsburgh, PA 15222-1416

John L. McIntyre, Esquire
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Post Office Box 533
Hollidaysburg, PA 16648-0533

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

DRMC Primary Care Associates
Medical Arts Building, Suite 200
145 Hospital Avenue
DuBois, PA 15801

McCORMICK LAW FIRM

By 

David R. Bahl, Esquire
I.D. No. 10347
Richard F. Schluter, Esquire
I.D. No. 79672
Attorneys for Defendant
Mark W. Maloney, D.O.

835 West Fourth Street
Williamsport, PA 17701
(570) 326-5131

FILED

NOV 15 2007

M/10/11/07 (6K)
William A. Shaw
Prothonotary/Clerk of Courts

No C/C

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

WANDA RUSSELL,

Plaintiff,

vs.

JAMES E. DEVLIN, M.D. and MARK
W. MALONEY, D.O. and DRMC
PRIMARY CARE ASSOCIATES and
SANAA HELMI, M.D. and THOMAS J.
BRADLEY, M.D. and BRADFORD
BOBRIN, M.D. and DUBOIS
REGIONAL MEDICAL CENTER a/k/a
DUBOIS REGIONAL MEDICAL
CENTER WEST a/d/b/a DRMC
BEHAVIORAL UNIT a/k/a DRMC
EAST BEHAVIORAL UNIT a/k/a
DRMC BEHAVIORAL HEALTH
OUTPATIENT CLINIC,

Defendants.

CIVIL DIVISION

CASE NO: 07-644-CD

Type of Pleading:

**NOTICE OF SERVICE
DEFENDANT'S RESPONSES
TO PLAINTIFF'S DISCOVERY
REQUESTS**

Filed on behalf of Defendant:

Thomas J. Bradley, M.D.

Counsel of record for these parties:

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

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

WANDA RUSSELL,

Plaintiff,

vs.

JAMES E. DEVLIN, M.D., et al.

Defendants.

CIVIL DIVISION

CASE NO: 07-644-CD

NOTICE OF SERVICE

I hereby certify that Defendant, Thomas J. Bradley, M.D.'s Answers to Interrogatories and Request for Production of Documents, Answers to Insurance Interrogatories, and Answers to Expert Interrogatories and Request for Production of Documents, were served upon Mark A. Hoffman, Esquire, Kline & Specter, P.C. The Nineteenth Floor, 1525 Locust Street, Philadelphia, PA 19102, via facsimile on November 13, 2007.

A true and correct copy was served upon the following via facsimile on November 13, 2007:

David R. Bahl, Esquire
McCormick Law Firm
835 West Fourth Street
Williamsport, PA 17701

DRMC Primary Care Associates
Medical Arts Building, Suite 200
145 Hospital Drive
DuBois, PA 15801

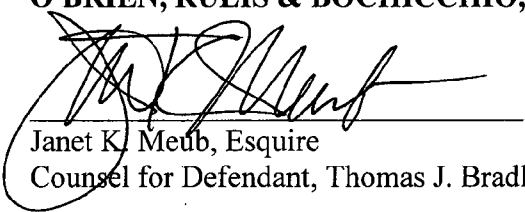
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Matis Baum, Rizza & O'Connor, PC
444 Liberty Avenue
Suite 300
Pittsburgh, PA 15222

Lynn Bell, Esquire
Davis, McFarland & Carroll, P.C.
Tenth Floor, One Gateway Center
Pittsburgh, PA 15222

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

Darryl R. Slimak, Esquire
McQuaide, Blasko, Fleming &
Faulkner, Inc.
811 University Drive
State College, PA 16801

O'BRIEN, RULIS & BOCHICCHIO, LLC


Janet K. Mett, Esquire

Counsel for Defendant, Thomas J. Bradley, M.D.

Prothonotary/Clerk of Courts
William A. Shaw

NOV 15 2007

FILED

RECEIVED
NOV 15 2007

RECEIVED
NOV 15 2007

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET # 102724
NO: 07-644-CD
SERVICE # 1 OF 7
COMPLAINT

PLAINTIFF: WANDA RUSSELL
vs.
DEFENDANT: JAMES E. DEVLIN, M.D. al

SHERIFF RETURN

NOW, April 30, 2007, SHERIFF OF JEFFERSON COUNTY WAS DEPUTIZED BY CHESTER A. HAWKINS, SHERIFF OF CLEARFIELD COUNTY TO SERVE THE WITHIN COMPLAINT ON JAMES E. DEVLIN, M.D..

NOW, May 11, 2007 AT 11:15 AM SERVED THE WITHIN COMPLAINT ON JAMES E. DEVLIN, M.D., DEFENDANT. THE RETURN OF JEFFERSON COUNTY IS HERETO ATTACHED AND MADE PART OF THIS RETURN.

FILED

013:41/301
NOV 20 2007

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET # 102724
NO: 07-644-CD
SERVICE # 2 OF 7
COMPLAINT

PLAINTIFF: WANDA RUSSELL
vs.
DEFENDANT: JAMES E. DEVLIN, M.D. al

SHERIFF RETURN

NOW, May 01, 2007 AT 10:35 AM SERVED THE WITHIN COMPLAINT ON MARK W. MALONEY, D.O. DEFENDANT AT MEDICAL ARTS BLDG., STE. 200, 145 HOSPITAL AVE, DUBOIS, CLEARFIELD COUNTY, PENNSYLVANIA, BY HANDING TO BRENDA LINGENFELTER, RECEPTIONIST A TRUE AND ATTESTED COPY OF THE ORIGINAL COMPLAINT AND MADE KNOWN THE CONTENTS THEREOF.

SERVED BY: NEVLING / COUDRIET

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET # 102724
NO: 07-644-CD
SERVICE # 3 OF 7
COMPLAINT

PLAINTIFF: WANDA RUSSELL
vs.
DEFENDANT: JAMES E. DEVLIN, M.D. al

SHERIFF RETURN

NOW, May 01, 2007 AT 10:35 AM SERVED THE WITHIN COMPLAINT ON DRMC PRIMARY CARE ASSOCIATES DEFENDANT AT MEDICAL ARTS BLDG., STE. 200, 145 HOSPITAL AVE, DUBOIS, CLEARFIELD COUNTY, PENNSYLVANIA, BY HANDING TO BRENDA LINGENFELTER, RECEPTIONIST A TRUE AND ATTESTED COPY OF THE ORIGINAL COMPLAINT AND MADE KNOWN THE CONTENTS THEREOF.

SERVED BY: NEVLING / COUDRIET

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET # 102724
NO: 07-644-CD
SERVICE # 4 OF 7
COMPLAINT

PLAINTIFF: WANDA RUSSELL
vs.
DEFENDANT: JAMES E. DEVLIN, M.D. al

SHERIFF RETURN

NOW, May 01, 2007 AT 10:42 AM SERVED THE WITHIN COMPLAINT ON SANAA HELMI, M.D. DEFENDANT AT D.R.M.C., 100 HOSPITAL AVE., DUBOIS, CLEARFIELD COUNTY, PENNSYLVANIA, BY HANDING TO DEBORAH WAIN, SECRETARY/RISK MANAGEMENT A TRUE AND ATTESTED COPY OF THE ORIGINAL COMPLAINT AND MADE KNOWN THE CONTENTS THEREOF.

SERVED BY: NEVLING / COUDRIET

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET # 102724
NO: 07-644-CD
SERVICE # 5 OF 7
COMPLAINT

PLAINTIFF: WANDA RUSSELL
vs.
DEFENDANT: JAMES E. DEVLIN, M.D. al

SHERIFF RETURN

NOW, May 01, 2007 AT 10:10 AM SERVED THE WITHIN COMPLAINT ON THOMAS J. BRADLEY, M.D. DEFENDANT AT 701 SUNFLOWER DRIVE, DUBOIS, CLEARFIELD COUNTY, PENNSYLVANIA, BY HANDING TO MARJORIE A. SMITH, RECEPTIONIST A TRUE AND ATTESTED COPY OF THE ORIGINAL COMPLAINT AND MADE KNOWN THE CONTENTS THEREOF.

SERVED BY: NEVLING / COUDRIET

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET # 102724
NO: 07-644-CD
SERVICE # 6 OF 7
COMPLAINT

PLAINTIFF: WANDA RUSSELL
vs.
DEFENDANT: JAMES E. DEVLIN, M.D. al

SHERIFF RETURN

NOW, May 01, 2007 AT 10:42 AM SERVED THE WITHIN COMPLAINT ON BRADFORD BOBRIN, M.D. DEFENDANT AT D.R. .C., 100 HOSPITAL AVE., DUBOIS, CLEARFIELD COUNTY, PENNSYLVANIA, BY HANDING TO DEBORAH WAIN, SECRETARY/RISK MANAGEMENT A TRUE AND ATTESTED COPY OF THE ORIGINAL COMPLAINT AND MADE KNOWN THE CONTENTS THEREOF.

SERVED BY: NEVLING / COUDRIET

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET # 102724
NO: 07-644-CD
SERVICE # 7 OF 7
COMPLAINT

PLAINTIFF: WANDA RUSSELL
vs.
DEFENDANT: JAMES E. DEVLIN, M.D. et al

SHERIFF RETURN

NOW, May 01, 2007 AT 10:42 AM SERVED THE WITHIN COMPLAINT ON DUBOIS REGIONAL MEDICAL CENTER DEFENDANT AT 100 HOSPITAL AVE., DUBOIS, CLEARFIELD COUNTY, PENNSYLVANIA, BY HANDING TO DEBORAH WAIN, SECRETARY/RISK MANAGEMENT A TRUE AND ATTESTED COPY OF THE ORIGINAL COMPLAINT AND MADE KNOWN THE CONTENTS THEREOF.

SERVED BY: NEVLING / COUDRIET

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET # 102724
NO: 07-644-CD
SERVICES 7
COMPLAINT

PLAINTIFF: WANDA RUSSELL
vs.
DEFENDANT: JAMES E. DEVLIN, M.D. al

SHERIFF RETURN

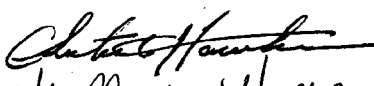
RETURN COSTS

Description	Paid By	CHECK #	AMOUNT
SURCHARGE	KLINE	66344	70.00
SHERIFF HAWKINS	KLINE	66344	30.00
SHERIFF HAWKINS	Kline	70921	48.43
JEFFERSON CO.	KLINE	N/A	37.46

Sworn to Before Me This

_____ Day of _____ 2007

So Answers,


by Marilyn Hamer
Chester A. Hawkins
Sheriff

No. 07-644 C.D.

Personally appeared before me, Harry Dunkle, Deputy for Thomas A. Demko, Sheriff of Jefferson County, Pennsylvania, who according to law deposes and says that on May 11, 2007 at 11:15 o'clock A.M. served the Notice and Complaint upon JAMES E. DEVLIN, M.D., Defendant, at the address of 1100 Main Street, Borough of Brockway, County of Jefferson, State of Pennsylvania, by handing to Christine Nichols, Secretary and adult person in charge at time of service, a true copy of the Notice and Complaint and by making known to her the contents thereof.

Advance Costs Received:	\$125.00	
My Costs:	35.46	Paid
Prothy:	2.00	
Total Costs:	37.46	
REFUNDED:	\$ 87.54	

Sworn and subscribed

to before me this

day of

By

My Commission Expires the
1st Monday, January 2010

So Answers,

Harry Dunkle Deputy
Thomas A. Demko Sheriff

JEFFERSON COUNTY, PENNSYLVANIA

COPY

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY
PENNSYLVANIA

WANDA RUSSELL
(Plaintiff)

426 North Michael Street
(Street Address)

Saint Mary's, PA 15857
(City, State ZIP)

VS.

JAMES E. DEVLIN, M.D.
(Defendant)

1100 Main Street
(Street Address)

Brockway, PA 15824
(City, State ZIP)

(Additional Defendants
Continued on attached sheet)

CIVIL ACTION

No. 07-644-CP

Type of Case: Medical Malpractice

Type of Pleading: Civil Action Complaint

Filed on Behalf of:

Plaintiff, Wanda Russell
(Plaintiff/Defendant)

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

APR 24 2007

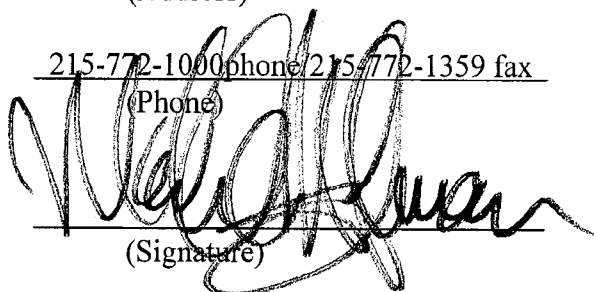
Attest.

William A. Shaw
Prothonotary/
Clerk of Courts

Thomas R. Kline, Esq. Mark A. Hoffman, Esq.
(Filed by)

Kline & Specter, P.C.,
1525 Locust Street, The Nineteenth Floor
Philadelphia, PA 19102
(Address)

215-772-1000 phone / 215-772-1359 fax
(Phone)


(Signature)

(Continued from coversheet)

and	:
MARK W. MALONEY, D.O.	:
DRMC Primary Care Associates	:
Medical Arts Building	:
Suite 200	:
145 Hospital Avenue	:
DuBois, Pennsylvania 15801	:
and	:
DRMC PRIMARY CARE	:
ASSOCIATES	:
Medical Arts Building	:
Suite 200	:
145 Hospital Avenue	:
DuBois, Pennsylvania 15801	:
and	:
SANAA HELMI, M.D.	:
Behavioral Health Outpatient Clinic	:
DRMC East Unit	:
Maple Avenue	:
DuBois, Pennsylvania 15801	:
ans	:
THOMAS J. BRADLEY, M.D.	:
701 Sunflower Drive	:
DuBois, Pennsylvania 15801	:
and	:
BRADFORD BOBRIN, M.D.	:
Behavioral Health Outpatient Clinic	:
DRMC East Unit	:
Maple Avenue	:
DuBois, Pennsylvania 15801	:
and	:
DuBOIS REGIONAL MEDICAL	:
CENTER a/ka DuBOIS REGIONAL	:
MEDICAL CENTER WEST	:
a/d/b/a DRMC BEHAVIORAL	:
UNIT a/k/a DRMC EAST BEHAVIORAL	:
UNIT a/k/a DRMC BEHAVIORAL	:
HEALTH OUTPATIENT CLINIC	:
c/o Office of Risk Management	:
100 Hospital Avenue	:
DuBois, Pennsylvania 15801	:
Defendants.	:

KLINE & SPECTER

A Professional Corporation

By: THOMAS R. KLINE, ESQUIRE
MARK A. HOFFMAN, ESQUIRE
ROYCE W. SMITH, ESQUIRE

Attorney ID Nos.: 28895/ 84443/201295

The Nineteenth Floor

1525 Locust Street

Philadelphia, Pennsylvania 19102

(215) 772-1000

Attorneys for Plaintiff

WANDA RUSSELL

426 North Michael Street

Saint Mary's, Pennsylvania 15857

Plaintiff,

v.

JAMES E. DEVLIN, M.D.

1100 Main Street

Brockway, Pennsylvania 15824

and

MARK W. MALONEY, D.O.

DRMC Primary Care Associates

Medical Arts Building

Suite 200

145 Hospital Avenue

DuBois, Pennsylvania 15801

and

DRMC PRIMARY CARE

ASSOCIATES

Medical Arts Building

Suite 200

145 Hospital Avenue

DuBois, Pennsylvania 15801

and

SANAA HELMI, M.D.

Behavioral Health Outpatient Clinic

DRMC East Unit

Maple Avenue

DuBois, Pennsylvania 15801

ans

THOMAS J. BRADLEY, M.D.

701 Sunflower Drive

DuBois, Pennsylvania 15801

and

**COURT OF COMMON PLEAS
COUNTY OF CLEARFIELD**

DOCKET NO.

BRADFORD BOBRIN, M.D. :
 Behavioral Health Outpatient Clinic :
 DRMC East Unit :
 Maple Avenue :
 DuBois, Pennsylvania 15801 :
 and :
 DuBOIS REGIONAL MEDICAL :
 CENTER a/ka DuBOIS REGIONAL :
 MEDICAL CENTER WEST :
 a/d/b/a DRMC BEHAVIORAL :
 UNIT a/k/a DRMC EAST BEHAVIORAL :
 UNIT a/k/a DRMC BEHAVIORAL :
 HEALTH OUTPATIENT CLINIC :
 c/o Office of Risk Management :
 100 Hospital Avenue :
 DuBois, Pennsylvania 15801 :
 Defendants. :

NOTICE

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

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER.

IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.

COURT ADMINISTRATOR
 Clearfield County Courthouse
 Second and Market Streets
 Clearfield, PA 16830
 814-765-2641, Ext. (5982)

ADVISORIO

Le han demandado a usted en la corte. Si usted quiere defenderse de estas demandas expuestas en las paginas siguientes, usted tiene veinte (20) dias de plazo al partir de la fecha de la demanda y la notificacion. Hace falta asentar una comparencia escrita o en persona o con un abogado y entregar a la corte en forma escrita sus defensas o sus objeciones a las demandas en contra de su persona. Sea avisado que si usted no se defiende, la corte tomara medidas y puede continuar la demanda en contra suya sin previo aviso o notificacion. Ademas, la corte pueda decidir a favor del demandante y requiere que usted cumpla con todas las provisiones de esta demanda. Usted puede perder dinero o sus propiedades u otros derechos importantes para usted.

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

ESTA OFICINA LO PUEDE PROPORCIONAR CON INFORMACION ACERCA DE EMPLEAR A UN ABOGADO. SI USTED NO PUEDE PROPORCIONAR PARA EMPLEAR UN ABOGADO, ESTA OFICINA PUEDE SER CAPAZ DE PROPORCIONARLO CON INFORMACION ACERCA DE LAS AGENCIAS QUE PUEDEN OFRECER LOS SERVICIOS LEGALES A PERSONAS ELEGIBLES EN UN HONORARIO REDUCIDO NINGUN HONORARIO.

COURT ADMINISTRATOR
 Clearfield County Courthouse
 Second and Market Streets
 Clearfield, PA 16830
 814-765-2641, Ext. (5982)

CIVIL ACTION COMPLAINT

Plaintiff, Wanda Russell, by and through her undersigned attorneys, Kline & Specter, P.C., herein complains of the above-captioned defendants as follows:

PARTIES

1. Plaintiff Wanda Russell is an adult citizen and a resident of the Commonwealth of Pennsylvania, residing at 426 North Michael Street, Saint Mary's, Pennsylvania 15857. Wanda Russell was born on September 19, 1958.

2. Defendant James E. Devlin, M.D. ["Dr. Devlin"] was, at all times material hereto, a duly licensed physician in the Commonwealth of Pennsylvania, specializing in the medical field of family medicine, who maintained a professional office, business or corporate office, or place of medical practice at 1100 Main Street, Brockway, Pennsylvania 15824. A Certificate of Merit pursuant to Pa.R.C.P. No. 1042.1 regarding the treatment, practice, or work of this defendant is attached hereto as Exhibit "A."

3. Defendant Mark W. Maloney, D.O. ["Dr. Maloney"] was, at all times material hereto, a duly licensed osteopathic physician in the Commonwealth of Pennsylvania, specializing in the medical field of family medicine, who maintained a professional office, business or corporate office, or place of medical practice at DRMC Primary Care Associates, Medical Arts Building, Suite 200, 145 Hospital Avenue, DuBois, Pennsylvania 15801. A Certificate of Merit pursuant to Pa.R.C.P. No. 1042.1 regarding the treatment, practice, or work of this defendant is attached hereto as Exhibit "A."

4. Defendant DRMC Primary Care Associates was, at all times material hereto, a

corporation, professional corporation, professional association, professional partnership, or other jural entity organized according to and existing under the laws of the Commonwealth of Pennsylvania, with an office location and place of business at Medical Arts Building, Suite 200, 145 Hospital Avenue, DuBois, Pennsylvania 15801. A Certificate of Merit pursuant to Pa.R.C.P. No. 1042.1 regarding the treatment, practice, or work of this defendant is attached hereto as Exhibit "A."

5. At all times material hereto, Dr. Maloney and/or Dr. Devlin were agents, servants, and/or employees of DRMC Primary Care Associates, and were acting within the scope of their agency, master-servant, and/or employment relationships with DRMC Primary Care Associates while providing medical care and treatment to Wanda Russell. Accordingly, DRMC Primary Care Associates is liable for the negligent acts and/or omissions of Dr. Devlin and/or Dr. Maloney under theories of agency, master-servant, respondeat superior, and/or right of control.

6. Dr. Devlin was providing medical service or family practice service "coverage" or "cross-coverage" for Dr. Maloney, while providing medical care and treatment to Wanda Russell on or about December 4 and 5, 2005. Accordingly, Dr. Maloney is liable for the negligent acts and/or omissions of Dr. Devlin under theories of agency, master-servant or borrowed servant, respondeat superior, and/or right of control.

7. Dr. Devlin was providing "coverage" or "cross-coverage" for Dr. Maloney's family practice group or association, DRMC Primary Care Associates, while providing medical care and treatment to Wanda Russell, on or about December 4 and 5, 2005. Accordingly, DRMC Primary Care Associates is liable for the negligent acts and/or omissions of Dr. Devlin under theories of agency, master-servant or borrowed servant, respondeat superior, and/or right of control.

8. Defendant Sanaa Helmi, M.D. ["Dr. Helmi"] was, at all times material hereto, a duly

licensed physician in the Commonwealth of Pennsylvania, specializing in the medical field of psychiatry, who maintained a professional office, business or corporate office, or place of medical practice at Behavioral Health Outpatient Clinic, DRMC East Unit, Maple Avenue, DuBois, Pennsylvania 15801. A Certificate of Merit pursuant to Pa.R.C.P. No. 1042.1 regarding the treatment, practice, or work of this defendant is attached hereto as Exhibit "A."

9. Defendant Thomas J. Bradley, M.D. ["Dr. Bradley"] was, at all times material hereto, a duly licensed physician in the Commonwealth of Pennsylvania, specializing in the medical field of psychiatry, who maintained a professional office, business or corporate office, or place of medical practice at 701 Sunflower Drive, DuBois, Pennsylvania 15801. A Certificate of Merit pursuant to Pa.R.C.P. No. 1042.1 regarding the treatment, practice, or work of this defendant is attached hereto as Exhibit "A."

10. Defendant Bradford Bobrin, M.D. ["Dr. Bobrin"] was, at all times material hereto, a duly licensed physician in the Commonwealth of Pennsylvania, specializing in the medical field of psychiatry, who maintained a professional office, business or corporate office, or place of medical practice at Behavioral Health Outpatient Clinic, DRMC East Unit, Maple Avenue, DuBois, Pennsylvania 15801. A Certificate of Merit pursuant to Pa.R.C.P. No. 1042.1 regarding the treatment, practice, or work of this defendant is attached hereto as Exhibit "A."

11. Defendant DuBois Regional Medical Center a/k/a/ DuBois Regional Medical Center West a/d/b/a DRMC Behavioral Unit a/k/a DRMC East Behavioral Unit a/k/a DRMC Behavioral Health Outpatient Clinic [referred to in various paragraphs as either the "DuBois Regional Medical Center" or the "DRMC Behavioral Unit" or the "DuBois Regional Medical Center West"] is a corporation or other jural entity organized according to and existing under the laws of the

Commonwealth of Pennsylvania which owns, operates, and maintains a hospital, health care facility, and provider of health care services based at 100 Hospital Avenue, DuBois, Pennsylvania 15801.

The DRMC Behavioral Unit a/k/a DRMC East Behavioral Unit a/k/a DRMC East Behavioral Unit a/k/a DRMC Behavioral Health Outpatient Clinic is a psychiatric unit located within the East Unit of the DuBois Regional Medical Center. A Certificate of Merit pursuant to Pa.R.C.P. No. 1042.1 regarding the treatment, practice, or work of this defendant is attached hereto as Exhibit "A."

12. At all times material hereto, Dr. Devlin, Dr. Maloney, Dr. Helmi, Dr. Bradley, and Dr. Bobrin were actual or ostensible agents, servants, and/or employees of the DuBois Regional Medical Center and/or the DRMC Behavioral Unit, and were acting within the scope of their agency, master-servant, and/or employment relationship with the DuBois Regional Medical Center, and its affiliated or associated entities as captioned above, while providing medical care and treatment to Wanda Russell. Accordingly, the DuBois Regional Medical Center, and its affiliated or associated entities as captioned above, are liable for the negligent acts and/or omissions of Dr. Devlin, Dr. Maloney, Dr. Helmi, Dr. Bradley, and Dr. Bobrin under theories of agency, master-servant, respondeat superior, and/or right of control.

13. At all times material hereto, the DuBois Regional Medical Center and the DRMC Behavioral Unit were acting by and through their actual agents or ostensible agents, servants, and/or employees, Dr. Devlin, Dr. Maloney, Dr. Helmi, Dr. Bradley, and Dr. Bobrin, as well as the nurses who provided psychiatric nursing care and evaluation to Wanda Russell during her hospitalization in the DRMC Behavioral Unit. The identities of these nurses, whose signatures are illegible on the "Behavioral Health Services Daily Notes" and extension notes, attached hereto as Exhibit "B," are fully known to the DuBois Regional Medical Center and the DRMC Behavioral Unit, and presently

unknown to Plaintiff because of the illegible nature, or absence of, their signatures. The identities of these nurses is the subject matter of further discovery by the Plaintiff during the course of this litigation. Accordingly, DuBois Regional Medical Center is liable for the negligent acts and/or omissions of these aforementioned named and as yet specifically identified, see Exhibit "B," actual or ostensible agents, servants, and/or employees which occurred in the course of providing medical and nursing care to Wanda Russell, under theories of agency, master-servant, respondeat superior, and/or right of control.

14. Venue in this action is properly laid in Clearfield County, Pennsylvania pursuant to the Amendatory Order of the Supreme Court of Pennsylvania dated March 5, 2003, No. 381, Civil Procedural Rules, Docket No. 5, which amended the Pennsylvania Rules of Civil Procedure No.1006.

FACTS GIVING RISE TO CLAIMS OF NEGLIGENCE

15. On December 3, 2005, Wanda Russell presented to the Emergency Department at the DuBois Regional Medical Center via wheelchair with complaints of, among other things, bilateral arm weakness and dark vision.

16. On December 3, 2005, Wanda Russell was evaluated by Patrick Shilata, D.O. in the Emergency Department at the DuBois Regional Medical Center.

17. On December 3, 2005, Wanda Russell had a known history of hypertension and insulin dependent diabetes mellitus. These co-morbid conditions were known to the nursing staff and physician who evaluated and treated Wanda Russell in the Emergency Department on December 3, 2005, and were recorded in the DuBois Regional Medical Center Emergency Department medical record of Wanda Russell.

18. On December 3, 2005, Wanda Russell was able to ambulate, but complained of feeling off balance.

19. On December 3, 2005, during her evaluation in the DuBois Regional Medical Center Emergency Department, Wanda Russell had performed on her, among other things, an electrocardiogram, a basic metabolic panel, a urine analysis with microscopic examination, and an unenhanced head CT scan. All test results were interpreted as "normal" except for an elevated blood sugar (196 mg/dl; normal = 70 to 110 mg/dl).

20. On December 3, 2005, Wanda Russell was discharged from the Emergency Department at the Dubois Regional Medical Center with the diagnosis: "Impression: weakness, Transient Ischemic Attack (TIA), Diabetes Mellitus, Type I."

21. On December 3, 2005, Wanda Russell was discharged from the Emergency Department at the Dubois Regional Medical Center with instructions on transient ischemic attack and diabetes mellitus, and she was given a four (4) day work release. Wanda Russell was additionally instructed to follow-up with Dr. Maloney, her primary care physician, in three (3) to four (4) days.

22. On December 4, 2005, Wanda Russell presented to the Emergency Department at the DuBois Regional Medical Center via wheelchair with complaints of, among other things, left-sided weakness and inability to walk.

23. On December 4, 2005, Wanda Russell's sister signed the DuBois Regional Medical Center "Consent for Treatment" as Wanda Russell's patient representative, and on Wanda Russell's behalf, because Wanda Russell had weakness on writing and slurred speech. The "Consent for Treatment" was signed at or about 0938 hours on December 4, 2005.

24. On December 4, 2005, Wanda Russell was evaluated by Jeffrey Elias, D.O. ["Dr. Elias"] in the Emergency Department at the DuBois Regional Medical Center.

25. On December 4, 2005, Dr. Elias performed a neurological examination on Wanda Russell in the Emergency Department at the DuBois Regional Medical Center, and found, among other things, that Wanda Russell had a facial droop and diminished motor strength in the left arm (2/5) and left leg (2/5). The "Review of Systems" performed by Dr. Elias was positive for gait disturbance, speech changes, and weakness in the left arm and leg.

26. On December 4, 2005, Dr. Elias formulated a plan that Wanda Russell be admitted "to medical, for Maloney, Mark W. with a primary ED diagnosis of CVA (stroke) non-hemorrhagic." A summary of the Emergency Department evaluation of Wanda Russell was faxed to Wanda Russell's primary care physician, Dr. Maloney.

27. On December 4, 2005, Dr. Devlin evaluated Wanda Russell in the Emergency Department at the DuBois Regional Medical Center. At the time, Dr. Devlin was covering or cross-covering for Dr. Maloney and DRMC Primary Care Associates.

28. On December 4, 2005, Dr. Devlin admitted Wanda Russell to the DuBois Regional Medical Center for neuro-checks and observation. At the time of admission, Dr. Devlin doubted that Wanda Russell had, or was experiencing, a transient ischemic attack, and recorded this belief in his "History and Physical Examination," stating, among other things: "History of some left sided weakness, questionable TIA. Clinically, at this time it is doubtful but with the history we will go ahead and make the patient an observation."

29. On December 4, 2005, Wanda Russell was admitted to Dr. Maloney's service at the DuBois Regional Medical Center, with Dr. Devlin covering.

30. On December 4, 2005, Dr. Devlin did not obtain, or order to be obtained or provided, a neurology consultation for Wanda Russell.

31. On December 4, 2005, Dr. Devlin did not have performed, or order to be performed, an MRI scan of the head or an MRA on Wanda Russell.

32. On December 5, 2005, an unenhanced head CT scan was performed on Wanda Russell for the diagnosis of left-sided weakness, and was interpreted as "normal."

33. On December 5, 2005, bilateral carotid duplex sonograms were performed on Wanda Russell for the indication of left-sided weakness. This study demonstrated approximately 50 percent stenosis of the right internal carotid artery and 50 to 69 percent stenosis of the left internal carotid artery. Bilateral carotid plaque was also demonstrated on the sonogram.

34. An aortic arch and four vessel cerebral angiogram was not performed on Wanda Russell on December 5, 2005.

35. A head MRI or MRA was not performed on Wanda Russell on December 5, 2005.

36. A neurology consult was not obtained for or performed on Wanda Russell on December 5, 2005.

37. Wanda Russell continued to have intermittent left-sided weakness on December 5, 2005.

38. Wanda Russell had slurred speech and a "left facial droop of the mouth" on December 5, 2005.

39. On December 5, 2005, at or between the hours of approximately 1900 and 2000 hours, Dr. Maloney evaluated Wanda Russell at the DuBois Regional Medical Center, and informed Wanda Russell that her loss of mobility was due to depression.

40. On December 5, 2005, Dr. Maloney consulted Dr. Helmi concerning the admission of Wanda Russell to the DRMC Behavioral Unit, and reported to Dr. Helmi that “he was unable to find any medical problems” with respect to Wanda Russell.

41. On December 5, 2005, during the telephone consultation between Dr. Maloney and Dr. Helmi, according to Dr. Maloney, Dr. Helmi made the recommendation that Wanda Russell be admitted to the DRMC Behavior Unit for psychiatric treatment.

42. Dr. Helmi did not perform a history, psychiatric evaluation, or physical examination on Wanda Russell on December 5, 2005. Dr. Helmi did not physically see or speak with Wanda Russell on December 5 or 6, 2005.

43. On December 5, 2005, at or about 2040 hours, Dr. Maloney gave a “telephone order” to Brenda L. Slappy, R.N., to “Transfer to psych unit tonight.”

44. On December 5, 2005, Wanda Russell was asked to sign, and did sign, an “Initial Evaluation and Treatment Plan,” which outlined a “Description of Proposed Treatment Plan” and a “Description of Proposed Restrictions and Restraints.” This form was not completed and signed by a physician.

45. On December 5, 2005, Wanda Russell was asked to sign, and did sign, a “Consent for Voluntary Inpatient Treatment.”

46. The “Consent for Voluntary Inpatient Treatment” set forth the following “Instructions”:

Before signing this form, your treatment should be explained to you and you must be given a copy of the Patient’s Bill of Rights, the report of your initial evaluation and the proposed treatment plan must be completed and signed by you and the physician.

47. On December 6, 2005, Wanda Russell was not given a copy of the DuBois Regional Medical Center Patient's Bill of Rights.

48. On December 6, 2005, Wanda Russell was not given a copy of her initial evaluation.

49. On December 6, 2005, Wanda Russell was not given a copy of the proposed treatment plan which should have been completed and signed by her and a physician. Dr. Helmi, who made the decision to admit Wanda Russell to the psychiatric unit, did not explain the proposed treatment plan or sign the "Description of Proposed Treatment Plan" and "Description of Proposed Restrictions and Restraints."

50. On December 6, 2005, at or about 0200 hours, Wanda Russell was admitted to the DRMC Behavioral Unit by Kim Hendricks, R.N. ["Nurse Hendricks"], onto Dr. Bobrin's Service.

51. On December 6, 2005, at no time prior to, or at the time of her admission at 0200 hours to the DRMC Behavioral Unit, was Wanda Russell evaluated by a psychiatrist, including Dr. Bradley, Dr. Bobrin, or Dr. Helmi.

52. On December 6, 2005, at or about 0200 hours, Wanda Russell told Nurse Hendricks that "she was lied to about coming here for an admission from her family" and reported "she is unable to use left arm and leg. Patient complains of not wanting to stay."

53. On December 6, 2005, at or about 0330 hours, Wanda Russell fell out of bed in the DRMC Behavioral Unit.

54. On December 6, 2005, at or about 0643 hours, Dr. Bradley performed a history and physical examination on Wanda Russell. Dr. Bradley obtained a history of present illness, among other things, as follows:

Wanda is a 47-year-old woman who had been readmitted to the

West division for left sided weakness. She had had a workup that included a normal CT of the head. She was discharged and re-presented to the ER with nervousness and I guess there was a question regarding the extent of the left sided weakness present and the fact it was noted that the person was under a lot of stress. She is hypertensive, hyperlipidemic, and an insulin dependent diabetic. I guess she was persuaded to be transferred to the psyche unit.

55. On December 6, 2005, during his physical examination of Wanda Russell, Dr. Bradley found, among other things, "There is some left upper extremity weakness and facial asymmetry" that was "hard to evaluate since she is so anxious."

56. On December 6, 2005, at the time Dr. Bradley initially evaluated Wanda Russell, Dr. Bradley formulated and initiated the plan that "the patient is admitted for psyche evaluation and treatment."

57. On December 6, 2005, at the time of his initial evaluation, Dr. Bradley did not transfer Wanda Russell back to a medical unit for evaluation of her left sided weakness or facial asymmetry.

58. On December 6, 2005, at the time of his initial evaluation, Dr. Bradley did not obtain, or order to be obtained, a neurology consultation for Wanda Russell.

59. On December 6, 2005, at the time of his initial evaluation, Dr. Bradley did not have performed, or order to be performed, an MRI scan of the head or MRA on Wanda Russell.

60. On December 6, 2005, at the time of his initial evaluation, Dr. Bradley did not diagnose Wanda Russell as having an evolving or "stuttering" cerebrovascular accident.

61. On December 6, 2005, the nursing staff from the DRMC Behavioral Unit attempted to contact Dr. Helmi at 0955 hours, first by beeper and eventually by cell phone, seeking information

about Wanda Russell.

62. On December 6, 2005, at or about 0955 hours, Dr. Helmi informed the DRMC Behavioral Unit nurse, whose illegible signature appears at Exhibit "B" at page 3, by telephone "that she didn't remember the patient and asked where she came from."

63. On December 6, 2005, at or about 1005 hours, Dr. Helmi informed the nurse whose illegible signature appears at Exhibit "B" at page 3, by telephone that "she did not make the recommendation-Dr. Maloney asked for the admission and she agreed on the basis that the patient is suicidal."

64. On December 6, 2005, at or before 1028 hours, Dr. Bobrin evaluated Wanda Russell at the DRMC Behavioral Unit, and during the "Initial Evaluation/Mental Status Examination/Discharge Summary" report preparation, described that, among other things:

She describes being scared about her arm and leg. She awoke on Friday with trouble with her left arm and it has gotten worse since then. Her family said that this is true as well. She can stand as she demonstrates to me but has trouble lifting up her arm, not even able to brush her hair. She woke up and fell and has had two falls here on the unit and so she initially came in because scans x two do not show any signs of ischemia or infarct.

65. On December 6, 2005, Dr. Bobrin, at or before 1028 hours, Dr. Bobrin found that Wanda Russell exhibited no signs of "suicidal or homicidal ideations" on the mental status examination.

66. On December 6, 2005, at or before 1028 hours, Dr. Bobrin assessed Wanda Russell as follows

This is a 47-year-old with some mild depressive symptoms and acute onset of depressive mood after having stroke-like symptoms which has continued. Although it was thought that her

neurologic signs were out of proportion to her neurological symptoms, she does seem to have flaccid paralysis of the left arm and left droop of smile. With no gross infarct, there might be some infarct on brainstem or internal capsule. Will need MRI and neuro consult.

67. On December 6, 2005, at or before 1028 hours, Dr. Bobrin formulated a plan for Wanda Russell that included, among other things, "to transfer her back over to medicine where she will receive neuro consult and MRI, continue medical care. I do not think she needs acute psychiatric care at this time."

68. On December 6, 2005, at or about 1700 hours, Wanda Russell was readmitted by Dr. Maloney under his care to the DuBois Regional Medical Center West.

69. On December 6, 2005, on or before 1700 hours, Dr. Maloney performed a "History and Physical Examination" on Wanda Russell, and described Wanda Russell's admission to "the Adult Mental Health Unit," stating:

When she arrived there, Wanda apparently rescinded her voluntary admission, noting that she did not wish to be there. This was supported by her family, and today, secondary to reported falls in the Adult Mental Health Unit. I have requested that Wanda be returned for further evaluation in the observation status setting.

70. On December 6, 2005, Dr. Maloney ordered an MRI study to be performed on Wanda Russell on the following morning, and a neurology consultation to be performed by Ruediger Katz, M.D. ["Dr. Katz"].

71. On December 6, 2005, during his evaluation of Wanda Russell at or before 1916 hours, Dr. Katz found that Wanda Russell had multiple risk factors for cerebral ischemia.

72. On December 6, 2005, during his neurologic examination of Wanda Russell at or

before 1916 hours, Dr. Katz found, among other things, that Wanda Russell had a lower left facial droop, 0/5 strength in her left arm, and 3/5 strength in her left leg.

73. On December 7, 2005, an unenhanced MRI of the brain was performed on Wanda Russell at the DuBois Regional Medical Center, which demonstrated a “well circumscribed lesion of right basal ganglia suggestive of a subacute or chronic lacunar infarct. Very small lacunar infarct in the left basal ganglia.”

74. On December 8, 2005, John J. Ahn, M.D. performed a cardiology consultation on Wanda Russell, and diagnosed Wanda Russell as an “unfortunate 47-year-old female who has suffered a CVA.”

75. On December 8, 2005, Lynn Myers, M.D. [“Dr. Myers”], a rehabilitation medicine specialist, evaluated Wanda Russell, and found that:

The patient is an appropriate candidate for admission to the inpatient rehabilitation unit to address deficits and functional mobility and self care skills related to her recent CVA with left hemiparesis.

76. On December 9, 2005, Wanda Russell was transferred to the Physiatry Unit for inpatient rehabilitation at the DRMC Inpatient Rehabilitation Programs on the service of Dr. Myers.

77. The negligence of all defendants, jointly and severally, as set forth with specificity in the Counts below, directly and proximately caused, and increased the risk of harm of, the cerebrovascular accident suffered by Wanda Russell.

78. The negligence of all defendants, jointly and severally, as set forth with specificity in the Counts below, directly and proximately caused, and increased the risk of harm of, the neurologic injuries, impairments, and deficits suffered by Wanda Russell.

79. The negligence of all defendants, jointly and severally, as set forth with specificity in the Counts below, directly and proximately caused, and increased the risk of harm of, the following injuries and damages:

- a. irreversible cerebral ischemia;
- b. cerebrovascular accident;
- c. cerebral dysfunction;
- d. cognitive impairment;
- e. motor impairment;
- f. neurological impairment and injury;
- g. humiliation;
- h. embarrassment;
- i. anxiety and fright;
- j. pain and suffering;
- k. disfigurement;
- l. loss of life's pleasures;
- m. economic damages; and,
- n. medical expenses.

80. Wanda Russell suffered, and continues to suffer, grave neurologic and medical injuries, impairments, and deficits which were caused by, and whose risk of harm was increased by, the negligent conduct of defendants, jointly and severally, as more fully set forth with specificity in the Counts below.

COUNT I-NEGLIGENCE
(Plaintiff v. Dr. Devlin)

81. The previous paragraphs are herein incorporated by reference as though fully set forth.

82. The negligent conduct of Dr. Delvin during his medical evaluation, care, and treatment of Wanda Russell consisted of the following:

- a. failure to properly, timely, and adequately evaluate a patient with a diagnosis of transient ischemic attack;
- b. failure to properly, timely, and adequately evaluate a patient with a diagnosis of cerebrovascular accident;
- c. failure to properly, timely, and adequately evaluate a patient with fluctuating neurologic signs and symptoms;
- d. failure to properly and timely obtain the consultative services of a neurologist or specialist in neurology;
- e. failure to properly and timely obtain cerebral imaging with an MRI scan and/or MRA;
- f. failure to properly, timely, and adequately evaluate a patient with acute neurologic signs and symptoms;
- g. failure to timely, properly, and adequately evaluate, diagnose, and treat a “stuttering” stroke;
- h. failure to provide appropriate management and treatment of acute neurologic signs and symptoms;
- i. failure to provide appropriate, adequate, and timely monitoring of a patient

- with a deteriorating neurologic status;
- j. failure to properly, timely, and adequately evaluate a patient with acute deteriorating neurologic status;
 - k. failure to provide appropriate management of an evolving cerebrovascular accident;
 - l. failure to provide appropriate, adequate, and timely monitoring of a patient with a signs and symptoms of an evolving cerebrovascular accident or neurologic crisis;
 - m. failure to properly, timely, and adequately evaluate a patient with signs and symptoms of an evolving neurologic dysfunction;
 - n. failure to obtain appropriate, adequate, and timely neuro-radiologic evaluation; and,
 - o. failure to properly, timely, and adequately recognize and appreciate signs and symptoms of evolving neurologic dysfunction.

COUNT II-NEGLIGENCE
(Plaintiff v. Dr. Maloney)

83. The previous paragraphs are herein incorporated by reference as though fully set forth.
84. The negligent conduct of Dr. Delvin during his medical evaluation, care, and treatment of Wanda Russell consisted of the following:
- a. failure to properly, timely, and adequately evaluate a patient with a diagnosis of transient ischemic attack;
 - b. failure to properly, timely, and adequately evaluate a patient with a diagnosis

- of cerebrovascular accident;
- c. failure to properly, timely, and adequately evaluate a patient with fluctuating neurologic signs and symptoms;
 - d. failure to properly and timely obtain the consultative services of a neurologist or specialist in neurology;
 - e. failure to properly and timely obtain cerebral imaging with an MRI scan and/or MRA;
 - f. failure to properly, timely, and adequately evaluate a patient with acute neurologic signs and symptoms;
 - g. failure to timely, properly, and adequately evaluate, diagnose, and treat a “stuttering” stroke;
 - h. failure to provide appropriate management and treatment of acute neurologic signs and symptoms;
 - i. failure to provide appropriate, adequate, and timely monitoring of a patient with a deteriorating neurologic status;
 - j. failure to properly, timely, and adequately evaluate a patient with acute deteriorating neurologic status;
 - k. failure to provide appropriate management of a cerebrovascular accident;
 - l. failure to provide appropriate, adequate, and timely monitoring of a patient with a signs and symptoms of an evolving cerebrovascular accident or neurologic crisis;
 - m. failure to properly, timely, and adequately evaluate a patient with signs and

symptoms of an evolving neurologic dysfunction;

- n. failure to provide appropriate, adequate, and timely neuro-radiologic evaluation;
- o. failure to provide timely, appropriate, and adequate medical evaluation prior to transfer to a psychiatric unit;
- p. failure to provide timely, appropriate, and adequate neurologic and neuro-radiologic evaluation prior to transfer to a psychiatric unit;
- q. failure to provide timely, appropriate, and adequate psychiatric and psychologic evaluation prior to transfer to a psychiatric unit;
- r. failure to obtain timely, appropriate, and adequate medical evaluation prior to transfer to a psychiatric unit;
- s. failure to obtain timely, appropriate, and adequate psychiatric and psychologic evaluation prior to transfer to a psychiatric unit;
- t. failure to take an adequate and appropriate medical history;
- u. failure to take an adequate and appropriate psychiatric and psychological history;
- v. failure to take an adequate and appropriate medical care and treatment during hospitalization in a psychiatric unit;
- w. failure to effect a timely transfer from the psychiatric unit back to the medical unit;
- x. failure to effect a timely transfer from the psychiatric unit back to the medical unit for neurologic evaluation and treatment;

- y. failure to provide timely, adequate, and appropriate management of a stroke;
and,
- z. failure to properly, timely, and adequately recognize and appreciate signs and symptoms of evolving neurologic dysfunction.

COUNT III-NEGLIGENCE
(Plaintiff v. Dr. Helmi)

85. The previous paragraphs are herein incorporated by reference as though fully set forth.

86. The negligent conduct of Dr. Helmi during her evaluation, care, and treatment of Wanda Russell consisted of the following:

- a. failure to properly, timely, and adequately evaluate a patient with a diagnosis of transient ischemic attack;
- b. failure to properly, timely, and adequately evaluate a patient with a diagnosis of cerebrovascular accident;
- c. failure to properly, timely, and adequately evaluate a patient with fluctuating neurologic signs and symptoms;
- d. failure to properly and timely obtain the consultative services of a neurologist or specialist in neurology;
- e. failure to properly and timely obtain cerebral imaging with an MRI scan or MRA;
- f. failure to properly, timely, and adequately evaluate a patient with acute

- neurologic signs and symptoms;
- g. failure to timely, properly, and adequately evaluate, diagnose, and treat a “stuttering” stroke;
 - h. failure to provide appropriate management and treatment of acute neurologic signs and symptoms;
 - i. failure to provide appropriate, adequate, and timely monitoring of a patient with a deteriorating neurologic status;
 - j. failure to properly, timely, and adequately evaluate a patient with acute deteriorating neurologic status;
 - k. failure to provide appropriate management of an evolving cerebrovascular accident or neurologic crisis;
 - l. failure to provide appropriate, adequate, and timely monitoring of a patient with a signs and symptoms of an evolving cerebrovascular accident;
 - m. failure to properly, timely, and adequately evaluate a patient with signs and symptoms of an evolving neurologic dysfunction;
 - n. failure to provide appropriate, adequate, and timely neuro-radiologic evaluation;
 - o. failure to provide timely, appropriate, and adequate medical evaluation prior to transfer to a psychiatric unit;
 - p. failure to provide timely, appropriate, and adequate neurologic and neuro-radiologic evaluation prior to transfer to a psychiatric unit;
 - q. failure to provide timely, appropriate, and adequate psychiatric and

- psychologic evaluation prior to transfer to a psychiatric unit;
- r. failure to perform a timely, adequate, or appropriate psychiatric history prior to transfer to a psychiatric unit;
 - s. failure to obtain timely, appropriate, and adequate medical evaluation prior to transfer to a psychiatric unit;
 - t. failure to obtain timely, appropriate, and adequate psychiatric and psychologic evaluation prior to transfer to a psychiatric unit;
 - u. failure to perform an adequate and appropriate medical history;
 - v. failure to perform any medical history, psychiatric history, or physical examination prior to or at the time of transfer to a psychiatric unit;
 - w. failure to see, evaluate, or speak with the patient prior to transfer to a psychiatric unit;
 - x. failure to effect a timely transfer from the psychiatric unit back to the medical unit;
 - y. failure to evaluate falls in the psychiatric unit; and,
 - z. failure to re-evaluate the medical status and or psychiatric status of the patient following transfer to the psychiatric unit.

COUNT IV-NEGLIGENCE
(Plaintiff v. Dr. Bradley)

87. The previous paragraphs are herein incorporated by reference as though fully set forth.
88. The negligent conduct of Dr. Bradley during his medical evaluation, care, and

treatment of Wanda Russell consisted of the following:

- a. failure to properly, timely, and adequately evaluate a patient with a diagnosis of transient ischemic attack;
- b. failure to properly, timely, and adequately evaluate a patient with a diagnosis of cerebrovascular accident;
- c. failure to properly, timely, and adequately evaluate a patient with fluctuating neurologic signs and symptoms;
- d. failure to properly and timely obtain the consultative services of a neurologist or specialist in neurology;
- e. failure to properly and timely obtain cerebral imaging with an MRI scan and/or MRA;
- f. failure to properly, timely, and adequately evaluate a patient with acute neurologic signs and symptoms;
- g. failure to timely, properly, and adequately evaluate, diagnose, and treat a “stuttering” stroke;
- h. failure to provide appropriate management and treatment of acute neurologic signs and symptoms;
- i. failure to provide appropriate, adequate, and timely monitoring of a patient with a deteriorating neurologic status;
- j. failure to properly, timely, and adequately evaluate a patient with acute deteriorating neurologic status;
- k. failure to provide appropriate management of an evolving cerebrovascular

accident or neurologic crisis;

- l. failure to provide appropriate, adequate, and timely monitoring of a patient with a signs and symptoms of an evolving cerebrovascular accident;
- m. failure to properly, timely, and adequately evaluate a patient with signs and symptoms of an evolving neurologic dysfunction;
- n. failure to provide appropriate, adequate, and timely neuro-radiologic evaluation;
- o. failure to provide timely, appropriate, and adequate medical evaluation prior to transfer to a psychiatric unit;
- p. failure to provide timely, appropriate, and adequate neurologic and neuro-radiologic evaluation prior to transfer to a psychiatric unit;
- q. failure to provide timely, appropriate, and adequate psychiatric and psychologic evaluation prior to transfer to a psychiatric unit;
- r. failure to perform a timely, adequate, or appropriate psychiatric history prior to transfer to a psychiatric unit;
- s. failure to obtain timely, appropriate, and adequate medical evaluation prior to transfer to a psychiatric unit;
- t. failure to obtain timely, appropriate, and adequate psychiatric and psychologic evaluation prior to transfer to a psychiatric unit;
- u. failure to perform an adequate and appropriate medical history;
- v. failure to see or speak with the patient prior to transfer to a psychiatric unit;
- w. failure to effect a timely transfer from the psychiatric unit back to the medical

unit;

- x. failure to evaluate falls in the psychiatric unit; and,
- y. failure to re-evaluate the medical status following transfer to the psychiatric unit.

COUNT IV-NEGLIGENCE
(Plaintiff v. Dr. Bobrin)

89. The previous paragraphs are herein incorporated by reference as though fully set forth.

90. The negligent conduct of Dr. Bobrin during his medical evaluation, care, and treatment of Wanda Russell consisted of the following:

- a. failure to properly, timely, and adequately evaluate a patient with a diagnosis of transient ischemic attack;
- b. failure to properly, timely, and adequately evaluate a patient with a diagnosis of cerebrovascular accident;
- c. failure to properly, timely, and adequately evaluate a patient with fluctuating neurologic signs and symptoms;
- d. failure to properly and timely obtain the consultative services of a neurologist or specialist in neurology;
- e. failure to properly and timely obtain cerebral imaging with an MRI scan and/or MRA;
- f. failure to properly, timely, and adequately evaluate a patient with acute neurologic signs and symptoms;
- g. failure to timely, properly, and adequately evaluate, diagnose, and treat a

“stuttering” stroke;

- h. failure to provide appropriate management and treatment of acute neurologic signs and symptoms;
- i. failure to provide appropriate, adequate, and timely monitoring of a patient with a deteriorating neurologic status;
- j. failure to properly, timely, and adequately evaluate a patient with acute deteriorating neurologic status;
- k. failure to provide appropriate management of an evolving cerebrovascular accident or neurologic crisis;
- l. failure to provide appropriate, adequate, and timely monitoring of a patient with a signs and symptoms of an evolving cerebrovascular accident;
- m. failure to properly, timely, and adequately evaluate a patient with signs and symptoms of an evolving neurologic dysfunction;
- n. failure to provide appropriate, adequate, and timely neuro-radiologic evaluation;
- o. failure to provide timely, appropriate, and adequate medical evaluation prior to transfer to a psychiatric unit;
- p. failure to provide timely, appropriate, and adequate neurologic and neuro-radiologic evaluation prior to transfer to a psychiatric unit;
- q. failure to provide timely, appropriate, and adequate psychiatric and psychologic evaluation prior to transfer to a psychiatric unit;
- r. failure to perform a timely, adequate, or appropriate psychiatric history prior

- to transfer to a psychiatric unit;
- s. failure to obtain timely, appropriate, and adequate medical evaluation prior to transfer to a psychiatric unit;
 - t. failure to obtain timely, appropriate, and adequate psychiatric and psychologic evaluation prior to transfer to a psychiatric unit;
 - u. failure to perform an adequate and appropriate medical history;
 - v. failure to see or speak with the patient prior to transfer to a psychiatric unit;
 - w. failure to effect a timely transfer from the psychiatric unit back to the medical unit;
 - x. failure to evaluate falls in the psychiatric unit; and,
 - y. failure to re-evaluate the medical status following transfer to the psychiatric unit.

COUNT V-VICARIOUS AND CORPORATE (DIRECT) NEGLIGENCE
**(Plaintiff v. DuBois Regional Medical Center a/k/a/
DuBois Regional Medical Center West a/d/b/a DRMC Behavioral Unit a/k/a
DRMC East Behavioral Unit a/k/a DRMC Behavioral Health Outpatient Clinic)**

91. The previous paragraphs are herein incorporated by reference as though fully set forth.
92. At all times material hereto, DuBois Regional Medical Center a/k/a/ DuBois Regional Medical Center West a/d/b/a DRMC Behavioral Unit a/k/a DRMC East Behavioral Unit a/k/a DRMC Behavioral Health Outpatient Clinic was acting by and through its actual agents, ostensible agents, servants, and/or employees, including Dr. Maloney, Devlin, Helmi, Bradley, and Bobrin, and the nursing staff who provided nursing care and treatment to Wanda Russell during her hospitalization in the DRMC Behavioral Unit, whose identities are partially set forth in Exhibit "B."

These actual agents, ostensible agents, servants, and/or employees provided medical care and treatment to Wanda Russell while acting within the scope of their medical and nursing duties. Accordingly, the DuBois Regional Medical Center a/k/a/ DuBois Regional Medical Center West a/d/b/a DRMC Behavioral Unit a/k/a DRMC East Behavioral Unit a/k/a DRMC Behavioral Health Outpatient Clinic is vicariously and derivatively liable for the negligent acts and omissions of these actual agents, ostensible agents, servants, and/or employees under theories of agency, master-servant, respondeat superior, and/or right of control.

93. The Dubois Regional Medical Center is liable for the conduct of the nurses who provided psychiatric nursing care to Wanda Russell on the DRMC Behavioral Unit on December 5 to 6, 2005, whose identities are partially set forth in Exhibit "B," and whose negligence consisted of:

- a. failure to report falls in a patient exhibiting neurologic impairment to a physician at the time the falls occurred;
- b. failure to report neurologic signs and symptoms to the physician staff;
- c. failure to obtain appropriate psychiatric evaluation at the time the patient arrived on the psychiatric unit;
- d. failure to insure that the protocol for psychiatric unit was adhered to and followed, including provision of the Patient's Bill of Rights and the report of initial evaluation and the proposed treatment plan completed and signed by the patient and the physician;
- e. failure to obtain medical evaluation for signs and symptoms during the nursing evaluation of the patient of evolving neurologic dysfunction;

- f. failure to timely, appropriately, and adequately notify the physician medical staff of evolving of neurologic signs and symptoms;
- g. failure to provide appropriate nursing, monitoring and care to a patient with evolving and shifting neurologic signs and symptoms; and,
- h. failure to provide adequate, appropriate, and timely nursing care in the setting of shifting neurologic signs and symptoms.

94. In addition, pursuant to the decision of the Supreme Court of Pennsylvania in Thompson v. Nason, 591 A.2d 703 (1991) and its progeny of case law, at all relevant times hereto, DuBois Regional Medical Center a/k/a/ DuBois Regional Medical Center West a/d/b/a DRMC Behavioral Unit a/k/a DRMC East Behavioral Unit a/k/a DRMC Behavioral Health Outpatient Clinic owed non-delegable duties directly to Wanda Russell which included:

- a. a duty to use reasonable care in the maintenance of safe and adequate facilities and equipment;
- b. a duty to select and retain only competent physicians;
- c. a duty to oversee all persons who practice medicine within its walls as to patient care; and,
- d. a duty to formulate, adopt, and enforce adequate rules and policies to ensure quality care for the patients.

95. The corporate (direct) negligence of the DuBois Regional Medical Center a/k/a/ DuBois Regional Medical Center West a/d/b/a DRMC Behavioral Unit a/k/a DRMC East Behavioral Unit a/k/a DRMC Behavioral Health Outpatient Clinic arising out of the medical evaluation, care, and treatment of Wanda Russell consisted of the following:

- a. failure to select and retain only competent physicians proficient in the recognition, evaluation, and management of transient ischemic attack, neurologic dysfunction, evolving cerebrovascular accident, and “stuttering” stroke;
- b. failure to select and retain only competent physicians proficient in the recognition, evaluation, and management of psychiatric and psychosomatic illness;
- c. failure to select and retain only competent physicians proficient in the recognition, evaluation, and management of conversion reaction;
- d. failure to select and retain only competent physicians proficient in the recognition, evaluation, and management of evolving neurologic injury;
- e. failure to select and retain only competent physicians proficient in the recognition, evaluation, and management of cerebral ischemia and associated risk factors;
- f. failure to select and retain only competent physicians proficient in the recognition, evaluation, and management of deteriorating neurologic status;
- g. failure to select and retain only competent physicians proficient in the recognition, evaluation, and management evolving stroke symptoms;
- h. failure to select and retain only competent physicians proficient in the recognition, evaluation, and management of patients within a psychiatric unit;
- i. failure to select and retain only competent physicians proficient in the recognition, evaluation, and management of fluctuating neurologic signs and

symptoms;

- j. failure to select and retain only competent physicians proficient in the evaluation patients prior to voluntary transfer to a psychiatric unit;
- k. failure to formulate, adopt, and/or enforce adequate rules and policies with respect to evaluation of patients prior to transfer to a psychiatric unit, including evaluation by a psychiatrist;
- l. failure to formulate, adopt, and/or enforce adequate rules and policies with respect to the evaluation, re-evaluation, and management of patients admitted to a psychiatric unit with fluctuating neurologic signs and symptoms;
- m. failure to formulate, adopt, and/or enforce adequate rules and policies with respect to the timely evaluation of patients admitted to the psychiatric unit;
- n. failure to formulate, adopt, and/or enforce adequate rules and policies with respect to the reporting and evaluation of falls by the nursing staff in the psychiatric unit;
- o. failure to formulate, adopt, and/or enforce adequate rules and policies with respect to the transfer of patients with acute medical emergencies out of the psychiatric unit;
- p. failure to formulate, adopt, and/or enforce adequate rules and policies with respect to holding patients with acute medical complaints within the confines of the psychiatric unit;
- q. failure to formulate, adopt, and/or enforce adequate rules and policies with respect to holding patients with acute neurologic complaints and falls within

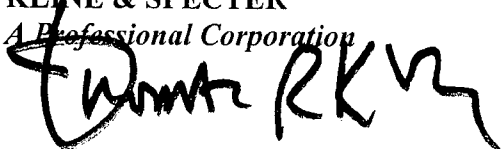
the confines of the psychiatric unit;

- r. failure to formulate, adopt, and/or enforce adequate rules and policies with respect to obtaining timely transfer of a patient with signs and symptoms of an evolving stroke to a medical unit from the psychiatric unit;
- s. failure to oversee all persons who practice medicine within its walls as to patient care to ensure that an appropriate psychiatric evaluation by a psychiatrist occurs prior to the transfer of a patient to a psychiatric unit;
- t. failure to oversee all persons who practice medicine within its walls as to patient care to ensure that an appropriate medical evaluation occurs prior to the transfer of a patient to a psychiatric unit;
- u. failure to oversee all persons who practice medicine within its walls as to patient care to ensure that an appropriate medical evaluation occurs at the time of transfer of a patient to a psychiatric unit; and,
- v. failure to oversee all persons who practice medicine within its walls as to patient care to ensure that an appropriate psychiatric evaluation occurs at the time of transfer of a patient to a psychiatric unit.

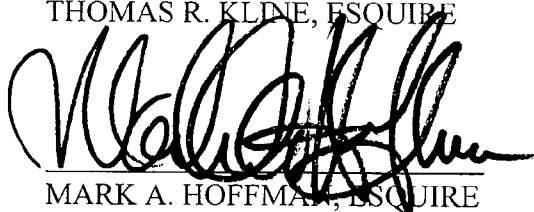
8
WHEREFORE, Plaintiff Wanda Russell claims damages against all defendants, jointly and severally, including all damages cognizable under Pennsylvania law for the causes of action set forth in the Civil Action Complaint, in an amount in excess of the prevailing arbitration limits, exclusive of pre-judgment interest and post-judgment interest and costs.

KLINE & SPECTER
A Professional Corporation

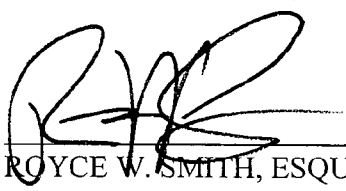
By:


THOMAS R. KLINE, ESQUIRE

By:


MARK A. HOFFMAN, ESQUIRE

By:


ROYCE W. SMITH, ESQUIRE

Date:



KLINE & SPECTER

A Professional Corporation

By: THOMAS R. KLINE, ESQUIRE
MARK A. HOFFMAN, ESQUIRE
ROYCE W. SMITH, ESQUIRE

Attorney ID Nos.: 28895/ 84443/201295

The Nineteenth Floor

1525 Locust Street

Philadelphia, Pennsylvania 19102

(215) 772-1000

Attorneys for Plaintiff

WANDA RUSSELL

426 North Michael Street

Saint Mary's, Pennsylvania 15857

Plaintiff,

v.

JAMES E. DEVLIN, M.D. and

MARK W. MALONEY, D.O. and

DRMC PRIMARY CARE

ASSOCIATES and

SANAA HELMI, M.D. and

THOMAS J. BRADLEY, M.D. and

BRADFORD BOBRIN, M.D. and

DuBOIS REGIONAL MEDICAL

CENTER a/ka DuBOIS REGIONAL

MEDICAL CENTER WEST

a/d/b/a DRMC BEHAVIORAL

UNIT a/k/a DRMC EAST BEHAVIORAL

UNIT a/k/a DRMC BEHAVIORAL

HEALTH OUTPATIENT CLINIC

Defendants.

COURT OF COMMON PLEAS
COUNTY OF CLEARFIELD

DOCKET NO.

CERTIFICATES OF MERIT

I, Mark A. Hoffman, Esquire, am an attorney for the plaintiff in the above-captioned matter. Pursuant to Pa.R.C.P. No. 1042.1, I hereby certify appropriate licensed professionals have provided me with written statements stating that there exists a reasonable basis and probability to conclude that the care, skill, or knowledge exercised or exhibited by Drs. Devlin, Maloney, Helmi, Bradley, and Bobrin, and the psychiatric nursing staff, and the DuBois Regional Medical Center and its

affiliated or associated entities as captioned above, with respect to the treatment, practice, or work that is the subject of this Civil Action Complaint, fell outside of acceptable professional and institutional standards, and that such conduct was a substantial factor in causing injuries, or bringing about harm, to Wanda Russell. I further certify that there are additional claims which are based on allegations that licensed professionals for whom the hospital-defendant, DuBois Regional Medical Center and its affiliated or associated entities as captioned above, and/or DRMC Primary Care, and/or both, are responsible and derivatively or vicariously liable deviated from accepted professional standards of medical care, and caused the aforementioned injuries and harm. I additionally certify that appropriate licensed professionals have supplied written statements to me concluding that there exists a reasonable basis and probability that the DuBois Regional Medical Center, and its affiliated or associated entities as captioned above, deviated from accepted standards of institutional care, giving rise to claims of direct (corporate) negligence pursuant to the decision of the Supreme Court of Pennsylvania in Thompson v. Nason, 591 A.2d 703 (1991) and its progeny of case law. The licensed professionals who have provided me with these written statements have also concluded that the aforementioned deviations from accepted standards of medical and institutional care on the part of the individual named licensed professional, corporate, and hospital defendants was a substantial factor causing, or increasing the risk of harm, to Wanda Russell.

KLINE & SPECTER
A Professional Corporation

By:

MARK A. HOFFMAN, ESQUIRE
Attorneys for Plaintiff

Date

April 19, 2007

Behavioral Health Services Daily Notes Extension

Date 12/16/05

3218 47Y MH 0114-01 MH
RUSSELL, WANDA
BOBRIN, BRADFORD
09/19/58 F 12/06/05
0534000768 UP


Sticker

12/16/05 8:20am - Pt's sister, Darlene Nortum called and I spoke to her. According to Darlene, she was in to visit her sister last evening. Dr. Maloney came in at 7 or 8 pm to talk to the pt. he told her that he feels her loss of mobility is due to depression. He did not say anything about coming to Mental Health. She did not say anything suicidal or hopeless. Darlene said she tried to talk to Dr. Maloney about how soon her sister would be PIC but he said he was busy. Darlene does not feel her sister should be at Mental Health.

8:50am - I spoke to the secretary ^{sue} @ Dr. Maloney's office & she was unable to give me any information. Dr. Maloney called off today + she would not be talking to him until late this afternoon.

9:00am - I spoke to Joan on 3rd floor about the Pt. She told me that she was told that Dr. Maloney was afraid she would hurt herself. Apparently, Pt was requesting disability & Dr. Maloney said he couldn't do that. At that point he felt she wasn't safe.

9:20am Pt's sister Darlene called again & asked

Behavioral Health Services Daily Notes Extension
Date 12/16/05

353218 47Y MH 0114-01 MH
RUSSELL, WANDA
BOBRIN, BRADFORD
09/19/58 F 12/06/05
0534000768 UP



Sticker

if she could come now to visit her sister + talk with us.

9:35am Tracey from 3rd floor called + asked me what the situation is. Neither her or anyone else knew specific information on the Pt.

9:45am Dr. Maloney called and spoke to me. He feels the pt is going to stop taking her meds although she did not state that. He reports that she's going through a lot of stress - a divorce & bankruptcy. He said that she was admitted for left sided weakness. Nurses reported to Dr. Maloney that they observed her using her left arm & eating when she thought no one was looking. He was unable to find any medical problems. He spoke to Dr. Helmi & according to him it was her recommendation that she be admitted + tx be started.

I then handed the phone to UR for them to collect information.

9:55am I had already beeped Dr. Helmi twice & she had not returned my call yet. I thought her beeper may be off so I called her cell phone. She answered + I asked if she had any information on the pt. She said

Sticker

that she didn't remember the pt + asked where she came from, I stated 3rd floor - she said she was c. pts & would have to return my call.

return my call.
10:05 am - Dr. Helmi returned my call, I asked her the information regarding the pt. She was under the impression that the pt was severely depressed + actively suicidal. She did not make the recommendation - Dr. Maloney asked for the admission and she agreed on the basis that the pt is suicidal. She will support our decision at this point. Britt & Bower

VERIFICATION

I, WANDA RUSSELL, plaintiff in this civil action, hereby verify that the within Civil Action Complaint is based upon first-hand information, and upon information furnished to my counsel and obtained by him in the course of counsel's investigation of this lawsuit and the facts involved. The language of the document is that of counsel and not my own. To the extent that the contents of the document are based upon information furnished to counsel and obtained by him during the course of this lawsuit and counsel's investigation of the facts giving rise to this lawsuit, I have relied upon counsel in taking this verification. All statements are founded upon reasonable belief. This verification is made subject to the penalties of 18 Pa.C.S. §4904 relating to unsworn falsification to authorities.

Wanda Russell

Wanda Russell

Date: 4/19/07

WANDA RUSSELL,
Plaintiff

v.

JAMES E. DEVLIN, M.D.; MARK W.
MALONEY, D.O.; DRMC PRIMARY
CARE ASSOCIATES; SANAA HELMI,
M.D.; THOMAS J. BRADLEY, M.D.;
BRADFORD BOBRIN, M.D.; DUBOIS
REGIONAL MEDICAL CENTER a/k/a
DUBOIS REGIONAL MEDICAL
CENTER WEST a/d/b/a DRMC
BEHAVIORAL UNIT a/k/a DRMC EAST
BEHAVIORAL UNIT a/k/a DRMC
BEHAVIORAL HEALTH OUTPATIENT
CLINIC,

Defendants

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY,
PENNSYLVANIA

NO. 07-644-CD

CIVIL ACTION - LAW

JURY TRIAL DEMANDED

**PRELIMINARY OBJECTIONS OF
DEFENDANT MARK W. MALONEY, D.O.
TO PLAINTIFF'S AMENDED COMPLAINT**

FILED 3CC AM
m/2:30 um
NOV 21 2007 um
William A. Shaw
Prothonotary/Clerk of Courts

AND NOW comes defendant Mark W. Maloney, D.O., by his attorneys, McCormick
Law Firm, and preliminarily objects to plaintiff's amended complaint as follows:

1. This medical malpractice case was commenced by complaint filed by plaintiff
Wanda Russell on or about April 24, 2007.
2. The gravamen of plaintiff's professional negligence claims against defendant Dr.
Maloney as described in the Original Complaint is that Dr. Maloney allegedly failed to timely
diagnose and treat an evolving or "stuttering" stroke on December 5 and 6, 2005. See
Complaint, Count II.
3. Plaintiff came to the Dubois Regional Medical Center emergency room on
Saturday, December 4, 2005. She was admitted to the service of her primary care physician,
defendant Dr. Mark Maloney.

4. Defendant Dr. Devlin, who was covering for Dr. Maloney, saw the plaintiff on December 4, 2005. Defendant Dr. Maloney first saw the plaintiff in the hospital on December 5, 2005.

5. Regarding the claims asserted against defendant Dr. Maloney in the Complaint, plaintiff alleged that on December 5, 2005, defendant Dr. Maloney incorrectly attributed the plaintiff's presentation and symptomatology to "depression," which led Dr. Maloney to seek a psychiatric consult with defendant Dr. Helmi (a psychiatrist) on December 5, 2005, and ultimately resulted in plaintiff's voluntary transfer to the Dubois Regional Behavioral Health Unit at 2:00 a.m. on December 6, 2005.

6. After a psychiatric examination by defendant Dr. Bradley on December 6, 2005, the plaintiff was transferred back to defendant Dr. Maloney's service at Dubois Regional Medical Center on the afternoon of December 6, 2005.

7. Dr. Maloney saw plaintiff on December 6, 2005 upon he return to Dubois Regional Medical Center and ordered a neurology consult and an MRI, which led to a diagnosis of a cerebrovascular accident on December 7, 2005.

8. The original Complaint was based solely on a theory of alleged negligence, and did not claim punitive damages. The only count against defendant Dr. Maloney was entitled, "Count II – Negligence." See Complaint, Count II.

9. On or about June 6, 2007, defendant Dr. Helmi filed an answer with new matter, in which defendant Dr. Helmi claimed that defendant Dr. Maloney described plaintiff as "suicidal" when the physicians spoke regarding defendant Dr. Maloney's psychiatric consult request.

10. Defendant Dr. Maloney filed an Answer with New Matter on or about August 20, 2007.

11. Subsequently, all parties consented to Dr. Maloney filing an Amended New Matter, which was filed on or about October 11, 2007. Dr. Maloney's Amended New Matter raised any and all defenses afforded by the Mental Health Procedures Act, which requires proof of gross negligence to establish liability, if the statute is found to apply to the facts and circumstances of the case.

12. Plaintiff next filed a Motion for Leave to File an Amended Complaint. Plaintiff's motion was granted by Order dated October 26, 2007.

13. Plaintiff filed the Amended Complaint on or about November 1, 2007.

14. Plaintiff has not highlighted the amendments/revisions contained within the voluminous Amended Complaint. It appears, however, that the only new factual allegation added as to defendant Dr. Maloney is Dr. Helmi's claim that Dr. Maloney allegedly described plaintiff as "suicidal" to Dr. Helmi. Plaintiff not only claims this was an inaccurate and negligent description of plaintiff's symptoms, but now also claims that Dr. Maloney's communication was "reckless" and somehow amounted to a "misrepresentation" of plaintiff's condition. See ¶40.

15. The other new language plaintiff has added to the Amended Complaint are allegations which now characterize factual allegations previously pled as "negligence" in the original Complaint, as "gross negligence" and/or "recklessness." For example, plaintiff now characterizes Dr. Maloney's request for a psychiatric consult as "reckless." See Amended Complaint, ¶39.

16. Additionally, and apparently based on the newly inserted language described above, plaintiff has added a claim for punitive damages against all defendants in the "catch-all" Wherefore clause at the end of the Amended Complaint.

17. "Punitive damages may be awarded for conduct that is the result of the health care providers' willful or wanton conduct or reckless indifference to the rights of others." 40 P.S. §1303.505(a).

18. Punitive damages will not be awarded for ordinary negligence or even gross negligence. See Slappo v. J's Dev. Assoc., Inc., 791 A.2d 409, 417 (Pa.Super. 2002). Punitive damages are permitted only in cases of outrageous behavior, which is conduct that shows an evil motive or reckless indifference to the rights of others. Id.

19. For purposes of preliminary objections only, even if it is believed that Dr. Maloney did not accurately convey the plaintiff's symptomatology to the psychiatrist as alleged by plaintiffs, such a scenario is one of negligence, or arguably, gross negligence. There are no facts, however, to suggest that this alleged error and/or miscommunication between physicians somehow rose to the unlikely level of a "reckless indifference" to plaintiff's rights, or a "misrepresentation" as defined by Pennsylvania law

20. The facts pled in Plaintiff's Amended Complaint do not describe outrageous conduct or a reckless indifference for the rights of plaintiff Wanda Russell by defendant Dr. Maloney at any time.

21. Plaintiff has failed to state a claim in support of punitive damages as to defendant Dr. Maloney, as a matter of law.

22. Defendant Dr. Maloney respectfully requests that plaintiff's claim for punitive damages be dismissed and stricken from the Amended Complaint.

23. A Brief in Support of Defendant's Preliminary Objections to the Amended Complaint is filed contemporaneously with this Motion.

WHEREFORE, defendant Mark W. Maloney, D.O. respectfully requests this Honorable Court to sustain his preliminary objections, and dismiss plaintiff's claims for punitive damages.

Respectfully submitted,

McCORMICK LAW FIRM

By 

David R. Bahl, Esquire

I.D. No. 10347

Richard F. Schluter, Esquire

I.D. No. 79672

Attorneys for Defendant

Mark W. Maloney, D.O.

835 West Fourth Street
Williamsport, PA 17701
(570) 326-5131

WANDA RUSSELL,
Plaintiff

v.

JAMES E. DEVLIN, M.D.; MARK W.
MALONEY, D.O.; DRMC PRIMARY
CARE ASSOCIATES; SANAA HELMI,
M.D.; THOMAS J. BRADLEY, M.D.;
BRADFORD BOBRIN, M.D.; DUBOIS
REGIONAL MEDICAL CENTER a/k/a
DUBOIS REGIONAL MEDICAL
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BEHAVIORAL UNIT a/k/a DRMC EAST
BEHAVIORAL UNIT a/k/a DRMC
BEHAVIORAL HEALTH OUTPATIENT
CLINIC,

Defendants

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY,
PENNSYLVANIA

NO. 07-644-CD

CIVIL ACTION - LAW

JURY TRIAL DEMANDED

CERTIFICATE OF SERVICE

I, RICHARD F. SCHLUTER, ESQUIRE, hereby certify that I have served a copy of the
Foregoing *Preliminary Objections of Defendant Mark W. Maloney, D.O. to Plaintiff's*
Amended Complaint, upon the following, this 20th day of November, 2007, as follows:

UNITED STATES MAIL, POSTAGE PREPAID:

Thomas R. Kline, Esquire
Mark A. Hoffman, Esquire
Kline & Specter, PC
The Nineteenth Floor
1525 Locust Street
Philadelphia, PA 19102

Darryl Slimak, Esquire
McQuaide Blasko
811 University Drive
State College, PA 16801

M. Brian O'Connor, Esquire
Gaca, Matis, Baum & Rizza, PC
444 Liberty Avenue, Suite 300
Pittsburgh, PA 15222

Lynn E. Bell, Esquire
Davies, McFarland & Carroll, PC
One Gateway Center, 10th Floor
Pittsburgh, PA 15222-1416

John L. McIntyre, Esquire
McIntyre, Dugas, Hartye & Schmitt
Post Office Box 533
Hollidaysburg, PA 16648-0533

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

DRMC Primary Care Associates
Medical Arts Building, Suite 200
145 Hospital Avenue
DuBois, PA 15801

McCORMICK LAW FIRM

By 

David R. Bahl, Esquire
I.D. No. 10347
Richard F. Schluter, Esquire
I.D. No. 79672
Attorneys for Defendant
Mark W. Maloney, D.O.

835 West Fourth Street
Williamsport, PA 17701
(570) 326-5131

WANDA RUSSELL,
Plaintiff

v.

JAMES E. DEVLIN, M.D.; MARK W.
MALONEY, D.O.; DRMC PRIMARY
CARE ASSOCIATES; SANAA HELMI,
M.D.; THOMAS J. BRADLEY, M.D.;
BRADFORD BOBRIN, M.D.; DUBOIS
REGIONAL MEDICAL CENTER a/k/a
DUBOIS REGIONAL MEDICAL
CENTER WEST a/d/b/a DRMC
BEHAVIORAL UNIT a/k/a DRMC EAST
BEHAVIORAL UNIT a/k/a DRMC
BEHAVIORAL HEALTH OUTPATIENT
CLINIC,

Defendants

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY,
PENNSYLVANIA

NO. 07-644-CD

CIVIL ACTION - LAW

JURY TRIAL DEMANDED

ORDER

AND NOW, this ____ day of _____, 2007, upon consideration of the Preliminary Objections of Defendant Mark W. Maloney, D.O., and plaintiff's response thereto, said preliminary objections are sustained. Plaintiff's claim for punitive damages against defendant Dr. Maloney is dismissed. Defendant Dr. Maloney shall file an answer to Plaintiff's Amended Complaint within 20 days of this Order.

By the Court,

J.

cc: Thomas R. Kline, Esquire /
Mark A. Hoffman, Esquire
Darryl Slimak, Esquire
M. Brian O'Connor, Esquire
Lynn E. Bell, Esquire
John L. McIntyre, Esquire
Christopher C. Rulis, Esquire
David R. Bahl, Esquire /
Richard F. Schluter, Esquire

FILED

NOV 21 2007
m/10:50
William A. Shaw
Prothonotary/Clerk of Courts
No 9/C

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

WANDA RUSSELL,

Plaintiff,

vs.

JAMES E. DEVLIN, M.D., MARK W.
MALONEY, D.O., DRMC PRIMARY CARE
ASSOCIATES, SANAA HELMI, M.D.,
THOMAS J. BRADLEY, M.D., BRADFORD
BOBRIN, M.D., DuBOIS REGIONAL MEDICAL
CENTER WEST a/d/b/a/ DRMC
BEHAVIORAL UNIT a/k/a/ DRMC EAST
BEHAVIORAL HEALTH OUTPATIENT
CLINIC,

Defendants.

*Medical Professional Liability
Action*

Docket No: 07 - 644 - C.D.

JURY TRIAL DEMANDED

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the Defendant Dr. Helmi's Answers to
Plaintiff's Interrogatories and Request for Production of Documents in the above-captioned
matter was mailed by regular mail, postage prepaid, at the Post Office, State College,
Pennsylvania, on this 20th day of November, 2007, to the attorney(s) of record:

Thomas R. Kline, Esquire
Mark A. Hoffman, Esquire
Kline & Specter
The Nineteenth Floor
1525 Locust Street
Philadelphia, PA 19102

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

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Matis, Brum, Rizza, O'Connor
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Pittsburgh, PA 15222

Lynn E. Bell, Esquire
Davies, McFarland & Carroll, P.C.
The Tenth Floor
One Gateway Center
Pittsburgh, PA 15222-1416

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

David R. Bahl, Esquire
McCormick Law Firm
835 West Fourth Street
Williamsport, PA 1701

McQUAIDE, BLASKO,
FLEMING & FAULKNER, INC.

By: _____



Darryl R. Slimak
Attorneys for Defendant
SANAA HELMI, M.D.
811 University Drive
State College, PA 16801
(814) 238-4926
Fax: (814) 238-9624

FILED

NOV 21 2007
W (10:50/15)
William A. Shaw
Prothonotary/Clerk of Court
W. C. K.

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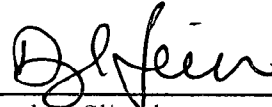
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FLEMING & FAULKNER, INC.

By: _____



Darryl R. Slimak
Attorneys for Defendant
SANAA HELMI, M.D.
811 University Drive
State College, PA 16801
(814) 238-4926
Fax: (814) 238-9624

FILED

NOV 21 2007

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William A. Shaw
Prothonotary/Clerk of Courts

no c/c

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

WANDA RUSSELL,

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vs.

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*Medical Professional Liability
Action*

Docket No: 07 - 644 - C.D.

JURY TRIAL DEMANDED

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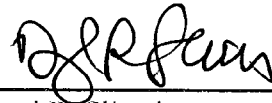
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McQUAIDE, BLASKO,
FLEMING & FAULKNER, INC.

By: _____



Darryl R. Slimak
Attorneys for Defendant
SANAA HELMI, M.D.
811 University Drive
State College, PA 16801
(814) 238-4926
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IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
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BEHAVIORAL HEALTH OUTPATIENT
CLINIC,

Defendants.

*Medical Professional Liability
Action*

Docket No: 07 - 644 - C.D.

JURY TRIAL DEMANDED

PROPOSED ORDER

AND NOW, this _____ day of _____, 200__, upon consideration Defendant
Dr. Helmi's Preliminary Objections to strike Plaintiff's punitive damages claim, it is hereby
Ordered and Decreed that said Preliminary Objections are SUSTAINED. All claims for punitive
damages against Dr. Helmi are hereby STRICKEN, with prejudice.

BY THE COURT:

_____, J.

FILED NO CC
m/11:15/61
NOV 26 2007

WAS
William A. Shaw
Prothonotary/Clerk of Courts

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

WANDA RUSSELL,

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JAMES E. DEVLIN, M.D., MARK W.
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CLINIC,

Defendants.

*Medical Professional Liability
Action*

Docket No: 07 - 644 - C.D.

Type of Pleading:
*Defendant Dr. Helmi's
Preliminary Objections to
Plaintiff's Amended Complaint*

Filed on Behalf of Defendant
Sanaa Helmi, M.D.

Counsel for Record for This Party
Darryl R. Slimak, Esquire
Pa. Supreme Court I.D. #41695

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

Counsel for Plaintiff
Thomas R. Kline, Esquire
Mark A. Hoffman, Esquire

JURY TRIAL DEMANDED

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
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WANDA RUSSELL,

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Docket No: 07 - 644 - C.D.

JURY TRIAL DEMANDED

DEFENDANT DR. HELMI'S PRELIMINARY OBJECTIONS
TO PLAINTIFF'S AMENDED COMPLAINT

AND NOW comes Defendant, SANAA HELMI, M.D., by and through her attorneys,
McQuaide, Blasko, Fleming & Faulkner, Inc., and responds to Plaintiff's Amended Complaint
with the following Preliminary Objections:

1. The instant professional liability medical malpractice action relates to care or lack thereof by various named Defendants (a hospital and specialists in internal medicine, family practice, emergency medicine, and psychiatry) for purportedly not diagnosing the Plaintiff with a so-called "stuttering stroke" also known as a "T.I.A." or transient ischemic attack, and temporarily treating Plaintiff in the DuBois Regional Medical Center Behavioral Health Unit before retransferring her to the Hospital's Medical Unit where the proper diagnosis of her medical condition was confirmed and further treatment undertaken. *See* Amended Complaint allegations, generally.

2. Moving Defendant, Dr. Sanaa Helmi, is a psychiatrist who had no actual or direct contact with Plaintiff Wanda Russell during the time frame at issue. *Id.*

3. As regards the allegations against Dr. Helmi, the Amended Complaint alleges, e.g., at paragraph 39 that Defendant family practice physician Dr. Maloney initially evaluated Ms. Russell and diagnosed her condition in his medical judgment as due to **depression**.

4. In Amended Complaint paragraph 40, Plaintiff alleges that Dr. Maloney then consulted Dr. Helmi concerning admission of his patient to the DRMC Behavioral Health Unit and reported to Dr. Helmi that "he was unable to find any medical problems" and that Wanda Russell was "suicidal." It is specifically alleged in the Plaintiff's Amended Complaint that **"this was a misrepresentation (by Dr. Maloney) of Wanda Russell's medical status offered in wanton disregard for the medical signs and symptoms of impending cerebrovascular accident which Wanda Russell was exhibiting at that time."** (parenthetical supplied for clarity)

5. It is further alleged by Plaintiff in paragraph 41 that during the telephone conversation between Dr. Maloney and Dr. Helmi, Dr. Maloney contends Dr. Helmi

recommended that Wanda Russell thus be admitted to the DRMC Behavioral Health Unit for psychiatric treatment. Plaintiff reiterates that **“the medical and psychiatric status of Wanda Russell was misrepresented to Dr. Helmi by Dr. Maloney, in wanton disregard for the medical signs and symptoms of impending cerebrovascular accident which Wanda Russell was exhibiting. Dr. Maloney’s actions were grossly negligent, and contemplated in disregard for the safety and well-being of Wanda Russell.”**

6. In paragraph 42 it is then merely alleged that Dr Helmi did not “perform a history, psychiatric evaluation or physical examination on Wanda Russell on December 5, 2005, or physically see or speak with Wanda Russell on December 5 or 6, 2005, despite a purported diagnosis of being ‘suicidal’.” Plaintiff’s Amended Complaint then alleges in boilerplate and conclusory language that this was supposedly “grossly negligent and/or reckless manner, in total disregard for the safety and well-being of Wanda Russell, by failing to examine and evaluate a patient whom she believed was ‘suicidal’.”

7. It must be kept in mind that this case does not concern a suicide, but rather, issues of whether the transient ischemic attack Plaintiff allegedly experienced was temporarily misdiagnosed as a psychiatric disturbance during a period of inpatient hospitalization. *See* Amended Complaint allegations generally.

8. In additional allegations of the Amended Complaint, it is indicated that Dr. Maloney gave the order to transfer the patient to the psychiatric unit that night. *See* ¶43. In paragraph 49 it is merely alleged that Dr. Helmi “who made the decision to admit Wanda Russell to the psych unit, did not explain the proposed treatment plan to Wanda Russell, who was deemed to be ‘suicidal,’ nor did Dr. Helmi sign the ‘Description of Proposed Treatment Plan’ and ‘Description of Proposed Restrictions and Restraints’.” This is coupled with an additional

boilerplate allegation that such conduct was supposedly “grossly negligent and/or undertaken in reckless disregard to the institutional obligations set forth by DuBois Medical Center to protect the rights, safety, and well-being of Wanda Russell.”

9. Despite the earlier Amended Complaint allegations which perhaps suggest that there was an extended period of time when the patient was not seen by a physician, in paragraph 54 Plaintiff's Amended Complaint admits that Plaintiff was in the psychiatric unit for only 4½ hours, from 2:00 a.m. December 5, 2005 until December 6, 2005 at or about 0643 hours, when Dr. Bradley (the medical physician on the Mental Health Unit), did perform a history and physical examination on Wanda Russell. Paragraphs 55-57 go on to allege that Dr. Bradley made various neurological findings during his physical examination of the patient and, based thereon, should have obtained a neurologic evaluation and diagnostic testing, and he should have at that time thus transferred Ms. Russell back to the Medical Unit for evaluation of left-sided weakness and facial asymmetry.

10. It was further alleged that Dr. Bradley should have diagnosed Wanda Russell as having an evolving or “stuttering” cerebrovascular accident, and purportedly abandoned his patient on the Behavioral Unit without initiating or recommending further neurologic evaluation or testing, despite purported knowledge of objective neurological deficits. See ¶60.

11. In Amended Complaint paragraph 62 it is acknowledged that Dr. Helmi had never seen, spoke with or evaluated or otherwise initiated any treatment or diagnostic testing at the time of admission of Wanda Russell to the DRMC Behavioral Health Unit **and was not informed overnight of the neurologic findings or falls which Wanda Russell had experienced.**

12. In Amended Complaint paragraph 63 it is further alleged by Plaintiff that it was documented in the medical chart that Dr. Helmi had not made the recommendation for admission to the psychiatric unit, but “Dr. Maloney asked for the admission and she agreed on the basis that the patient is suicidal. **Dr. Maloney misrepresented the medical and psychiatric status of Wanda Russell to Dr. Helmi**, in reckless disregard for the safety and well-being of Wanda Russell.” It is contended that Dr. Helmi should have “evaluated the patient’s being suicidal or should have informed herself of the patient’s medical condition or the prior diagnosis of transient ischemic attack or cerebrovascular accident, and thus was (purportedly) grossly negligent and/or reckless.”

13. In further allegations it is noted that by 10:28 a.m. on December 6, 2005 another psychiatrist, co-Defendant Dr. Bobrin, had evaluated Wanda Russell and determined that she should be referred back to the Medical Unit because he concluded that she did not have signs of “suicidal or homicidal ideations, . . . **contrary to what had been previously misrepresented by Dr. Maloney**.” See ¶¶65-67.

14. In Amended Complaint paragraph 68 it is conceded that by 1700 hours (5:00 p.m.) on December 6, 2005, Wanda Russell was readmitted by Dr. Maloney to the DuBois Regional Medical Center West and further work-up of her condition and care was rendered which allegedly confirmed the Plaintiff had at some point incurred a “very small lacunar infarct of the left basal ganglia” and a “lesion of the right basal ganglia suggestive of a subacute or chronic lacunar infarct.” See, e.g., ¶73.

15. Count III is the sole Count of the Amended Complaint which contains allegations of “negligence, gross negligence and reckless” against Dr. Helmi, *inter alia*, for “failure to properly, timely and adequately evaluate a patient with a diagnosis of transient ischemic attack,

in the face of objective signs and symptoms of neurologic deficit.” The balance of the allegations of Amended Complaint paragraph 86 set forth additional details of how this purportedly should have been done with further testing or referrals to other specialists.

16. At page 44 of the Amended Complaint, after the five Counts containing 95 paragraphs with multiple subparagraphs are set forth against the various Defendants, Plaintiff sets forth a generic, catch-all “Wherefore” clause requesting not only compensatory damages but also “punitive damages” against all Defendants.

17. However, as a matter of law, Plaintiff’s Amended Complaint fails to set forth material facts sufficient to make out a *prima facie* cause of action for punitive damages **against Dr. Helmi**, such that the prayer of the “Wherefore” clause seeking punitive damages against Dr. Helmi as well as the other Defendants must be dismissed, with prejudice, as to Dr. Helmi.

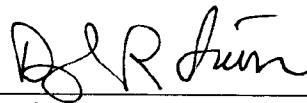
18. As a matter of law and per 40 P.S. §1303.505(b) of the MCARE Act, “[a] showing of gross negligence is insufficient to support an award of punitive damages.” Rather, Plaintiff must allege facts which demonstrate that the particular health care provider’s conduct was “unwillful or wanton conduct or reckless indifference to the rights of others.” Here boilerplate and conclusory allegations that alleged conduct is “grossly negligent or reckless” are insufficient. MCARE specifically provides that “gross negligence is **insufficient** to support an award of punitive damages” (emphasis supplied). Case law explains that punitive damages may not be awarded for ordinary negligence such as “inadvertence, mistake and errors in judgment.” The health care provider’s actions must be “outrageous”, because of evil motive or reckless indifference to the rights of a patient under circumstances that disregard a risk so obvious and so great as to make it highly probable that harm would follow.

WHEREFORE, Defendant Dr. Helmi respectfully requests this Honorable Court grant her Preliminary Objections and that the boilerplate claim for punitive damages which appears to be inclusive of the claims against her, be dismissed with prejudice.

Respectfully submitted,

McQUAIDE, BLASKO,
FLEMING & FAULKNER, INC.

By: _____



Darryl R. Slimak
Attorneys for Defendant
SANAA HELMI, M.D.
811 University Drive
State College, PA 16801
(814) 238-4926
Fax: (814) 238-9624

Dated: 11-21-2007

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Docket No: 07 - 644 - C.D.

JURY TRIAL DEMANDED

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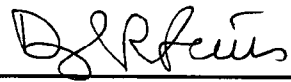
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FLEMING & FAULKNER, INC.

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Attorneys for Defendant
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FILED
NOV 26 2007
William A. Shaw
Prothonotary/Clerk of Courts

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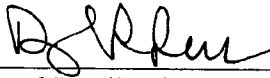
PRAECIPE FOR BRIEFING SCHEDULE

TO THE PROTHONOTARY AND COURT ADMINISTRATOR:

In accordance with Clearfield County Rule of Court 211, please establish a briefing schedule with respect to Defendant Dr. Helmi's Preliminary Objections to Plaintiff's Amended Complaint, and list this matter for oral argument.

Respectfully submitted,

McQUAIDE, BLASKO,
FLEMING & FAULKNER, INC.

By: 
Darryl R. Slimak

Attorneys for Defendant
SANAA HELMI, M.D.
811 University Drive
State College, PA 16801
(814) 238-4926
Fax: (814) 238-9624

Dated: 11-21-2007

WANDA RUSSELL,
Plaintiff

v.

JAMES E. DEVLIN, M.D.; MARK W.
MALONEY, D.O.; DRMC PRIMARY
CARE ASSOCIATES; SANAA HELMI,
M.D.; THOMAS J. BRADLEY, M.D.;
BRADFORD BOBRIN, M.D.; DUBOIS
REGIONAL MEDICAL CENTER a/k/a
DUBOIS REGIONAL MEDICAL
CENTER WEST a/d/b/a DRMC
BEHAVIORAL UNIT a/k/a DRMC EAST
BEHAVIORAL UNIT a/k/a DRMC
BEHAVIORAL HEALTH OUTPATIENT
CLINIC,

Defendants

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY,
PENNSYLVANIA

NO. 07-644-CD

CIVIL ACTION - LAW

JURY TRIAL DEMANDED

PRAECIPE FOR BRIEFING SCHEDULE

To The Prothonotary And Court Administrator:

In accordance with Clearfield County Rule of Court 211, please establish a briefing
schedule with respect to the Preliminary Objections of Defendant Mark W. Maloney, D.O. to
Plaintiff's Amended Complaint, and list this matter for oral argument.

Respectfully submitted,

McCORMICK LAW FIRM

By Richard Schluter

David R. Bahl, Esquire

I.D. No. 10347

Richard F. Schluter, Esquire

I.D. No. 79672

Attorneys for Defendant

Mark W. Maloney, D.O.

Date: 11/26/07

McCORMICK LAW FIRM
835 W. FOURTH ST.
WILLIAMSPORT, PA.

FILED
m/10:35 AM
NOV 28 2007
cc
(64)

William A. Shaw
Prothonotary/Clerk of Courts

cc: Thomas R. Kline, Esquire /
Mark A. Hoffman, Esquire
Darryl Slimak, Esquire
M. Brian O'Connor, Esquire
Lynn E. Bell, Esquire
John L. McIntyre, Esquire
Christopher C. Rulis, Esquire
David R. Bahl, Esquire /
Richard F. Schluter, Esquire

CA

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

WANDA RUSSELL,

Plaintiff

vs.

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ASSOCIATES, SANAA HELMI, M.D.,
THOMAS J. BRADLEY, M.D., BRADFORD
BOBRIN, M.D., and DUBOIS REGIONAL
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REGIONAL MEDICAL CENTER WEST
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DRMC EAST BEHAVIORAL UNIT a/k/a
DRMC BEHAVIORAL HEALTH
OUTPATIENT CLINIC,

Defendants

No. 07-644-CD

ISSUE:

PRELIMINARY OBJECTIONS TO
PLAINTIFF'S AMENDED COMPLAINT

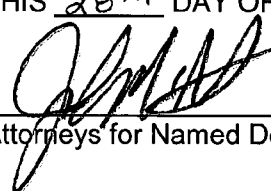
Filed on behalf of Defendant,
DUBOIS REGIONAL MEDICAL
CENTER a/k/a DUBOIS REGIONAL
MEDICAL CENTER WEST a/d/b/a
DRMC BEHAVIORAL UNIT a/k/a
DRMC EAST BEHAVIORAL UNIT
a/k/a DRMC BEHAVIORAL HEALTH
OUTPATIENT CLINIC

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

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

JURY TRIAL DEMANDED

I HEREBY CERTIFY THAT A TRUE AND
CORRECT COPY OF THE WITHIN WAS
MAILED TO ALL COUNSEL OF RECORD.
THIS 28th DAY OF **NOVEMBER, 2007.**


Attorneys for Named Defendant

FILED NO CC
m/10:30 AM
NOV 29 2007
GR

William A. Shaw
Prothonotary/Clerk of Courts

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

WANDA RUSSELL,

Plaintiff

vs.

JAMES E. DEVLIN, M.D., MARK W.
MALONE, D.O., DRMC PRIMARY CARE
ASSOCIATES, SANAA HELMI, M.D.,
THOMAS J. BRADLEY, M.D., BRADFORD
BOBRIN, M.D., and DUBOIS REGIONAL
MEDICAL CENTER a/k/a DUBOIS
REGIONAL MEDICAL CENTER WEST
a/d/b/a DRMC BEHAVIORAL UNIT a/k/a
DRMC EAST BEHAVIORAL UNIT a/k/a
DRMC BEHAVIORAL HEALTH
OUTPATIENT CLINIC,

Defendants

No. 07-644-CD

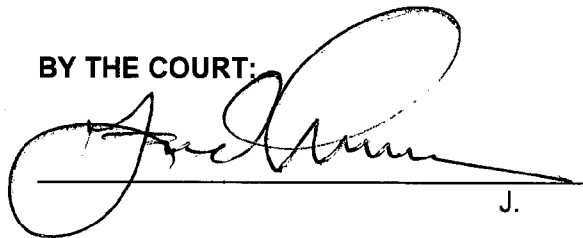
JURY TRIAL DEMANDED

RULE RETURNABLE

AND NOW, this 3rd day of December, 2007, a Rule is
hereby granted to show cause why the Preliminary Objections to Plaintiff's Amended
Complaint on behalf of Defendant, Dubois Regional Medical Center a/k/a DuBois
Regional Medical Center West a/d/b/a DRMC Behavioral Unit a/k/a DRMC East
Behavioral Unit a/k/a DRMC Behavioral Health Outpatient Clinic, should not be granted.

This Rule is returnable on the 15th day of January, 2008, at
10:00 (a.m.) p.m. in Courtroom No. 1.

BY THE COURT:



J.

FILED

DEC 04 2007

William A. Shaw
Prothonotary/Clerk of Courts

FILED

DEC 04 2007

William A. Shaw
Prothonotary/Clerk of Courts

DATE: 12/4/07

☒ 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
CIVIL DIVISION**

WANDA RUSSELL,

Plaintiff

vs.

JAMES E. DEVLIN, M.D., MARK W.
MALONE, D.O., DRMC PRIMARY CARE
ASSOCIATES, SANAA HELMI, M.D.,
THOMAS J. BRADLEY, M.D., BRADFORD
BOBRIN, M.D., and DUBOIS REGIONAL
MEDICAL CENTER a/k/a DUBOIS
REGIONAL MEDICAL CENTER WEST
a/d/b/a DRMC BEHAVIORAL UNIT a/k/a
DRMC EAST BEHAVIORAL UNIT a/k/a
DRMC BEHAVIORAL HEALTH
OUTPATIENT CLINIC,

Defendants

No. 07-644-CD

JURY TRIAL DEMANDED

ORDER OF COURT

AND NOW, this _____ day of _____, 2007, upon
consideration of the Preliminary Objections of DuBois Regional Medical Center a/k/a
DuBois Regional Medical Center West a/d/b/a DRMC Behavioral Unit a/k/a DRMC East
Behavioral Unit a/k/a DRMC Behavioral Health Outpatient Clinic, it is hereby ORDERED
AND DECREED that said Preliminary Objections are sustained. All claims for punitive
damages against DuBois Regional Medical Center a/k/a DuBois Regional Medical
Center West a/d/b/a DRMC Behavioral Unit a/k/a DRMC East Behavioral Unit a/k/a
DRMC Behavioral Health Outpatient Clinic are stricken with prejudice.

BY THE COURT:

J.

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

WANDA RUSSELL,

Plaintiff

vs.

JAMES E. DEVLIN, M.D., MARK W.
MALONE, D.O., DRMC PRIMARY CARE
ASSOCIATES, SANAA HELMI, M.D.,
THOMAS J. BRADLEY, M.D., BRADFORD
BOBRIN, M.D., and DUBOIS REGIONAL
MEDICAL CENTER a/k/a DUBOIS
REGIONAL MEDICAL CENTER WEST
a/d/b/a DRMC BEHAVIORAL UNIT a/k/a
DRMC EAST BEHAVIORAL UNIT a/k/a
DRMC BEHAVIORAL HEALTH
OUTPATIENT CLINIC,

Defendants

No. 07-644-CD

JURY TRIAL DEMANDED

PRELIMINARY OBJECTIONS TO PLAINTIFF'S AMENDED COMPLAINT

AND NOW, comes the Defendant, DUBOIS REGIONAL MEDICAL CENTER
a/k/a DUBOIS REGIONAL MEDICAL CENTER WEST a/d/b/a DRMC BEHAVIORAL
UNIT a/k/a DRMC EAST BEHAVIORAL UNIT a/k/a DRMC BEHAVIORAL HEALTH
OUTPATIENT CLINIC (hereinafter "DuBois Regional Medical Center") and files the
within Preliminary Objections to plaintiff's Amended Complaint and in support sets forth
the following:

1. This is a medical malpractice action which was filed against the above
defendants and a number of physicians on behalf of Wanda Russell.
2. The plaintiff initially filed a Complaint against all of the defendants on or
about April 24, 2007.

3. Subsequently, plaintiff filed an Amended Complaint and a copy was received on or about November 13, 2007.
4. In the **initial Complaint**, the plaintiff alleges negligence on the part of DRMC and its agents, servants or employees.
5. The alleged asserted negligence occurred during the admission of Wanda Russell of December 4, 2005.
6. The plaintiff's Amended Complaint contains a claim for punitive damages.
7. The Amended Complaint contains the same allegations of negligence, as the original Complaint, however plaintiff's counsel adds language that the conduct constituted "gross negligence" or "reckless conduct".
8. The plaintiff's Amended Complaint does not contain any factual averments to support a claim for punitive damages.
9. The plaintiff's Complaint does not contain a valid cause of action for punitive damages for the alleged vicarious liability of the physicians who were on DRMC's staff.

DEMURRER

DuBois Regional Medical Center files the within Demurrer seeking to have the claim for punitive damages dismissed and in support sets forth:

10. Plaintiff's Complaint does not contain any specific facts upon which to base a claim for punitive damages.
11. The sole count against DRMC is Count V. A review of the allegations reveals that they are identical to the allegations of negligence in the original Complaint.
12. Plaintiff has added in her Amended Complaint language that the actions of the agents, servants or employees of DRMC constituted "gross negligence" or "reckless disregard" for patient safety.

13. Count V contains nothing more than conclusions of law, insofar as any claim for punitive damages is concerned.

14. Under the MCARE Act, DuBois Regional Medical Center cannot be held liable for punitive damages for the acts of agents or employees.

15. Count V does not contain adequate facts to support a claim for punitive damages.

WHEREFORE, the Defendant, DuBois Regional Medical Center, respectfully requests that the Court enter an order sustaining the Demurrer and dismissing all claims for punitive damages against this hospital.

MOTION TO STRIKE

16. In the alternative, in the event the Court does not grant the Preliminary Objections in the nature of a Demurrer, DuBois Regional Medical Center respectfully requests that the Court order the plaintiff to file an Amended Complaint setting forth sufficient and specific facts to warrant a claim for punitive damages.

17. In the alternative, DuBois Regional Medical Center also requests that the Court strike all claims and references to "gross negligence" and "reckless disregard" as it pertains to the agents and employees of DuBois Regional Medical Center.

18. The above allegations constitute nothing more than legal conclusions and are contrary to the PA Rules of Civil Procedure and the applicable case law.

19. The above averments constitute scandalous and impertinent matter and should be stricken with prejudice as to DuBois Regional Medical Center.

WHEREFORE, the Defendant, DuBois Regional Medical Center, in the alternative, respectfully requests that the allegations of "gross negligence" and "reckless disregard" be stricken from the plaintiff's Complaint or in the alternative, that plaintiff be required to file an Amended Complaint setting forth specific facts in support of a valid claim for punitive damages.

Respectfully submitted,

McINTYRE, HARTYE & SCHMITT

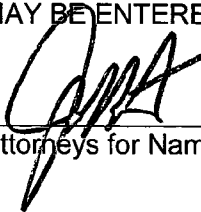
By 

Attorneys for Defendant,
DUBOIS REGIONAL MEDICAL
CENTER a/k/a DUBOIS REGIONAL
MEDICAL CENTER WEST a/d/b/a
DRMC BEHAVIORAL UNIT a/k/a
DRMC EAST BEHAVIORAL UNIT
a/k/a DRMC BEHAVIORAL HEALTH
OUTPATIENT CLINIC

John L. McIntyre, Esquire
PA I.D. #28015
P.O. Box 533
Hollidaysburg, PA 16648
(814) 696-3581

TO: PLAINTIFF

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


Attorneys for Named Defendant

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

WANDA RUSSELL,

Plaintiff

vs.

JAMES E. DEVLIN, M.D., MARK W.
MALONE, D.O., DRMC PRIMARY CARE
ASSOCIATES, SANAA HELMI, M.D.,
THOMAS J. BRADLEY, M.D., BRADFORD
BOBRIN, M.D., and DUBOIS REGIONAL
MEDICAL CENTER a/k/a DUBOIS
REGIONAL MEDICAL CENTER WEST
a/d/b/a DRMC BEHAVIORAL UNIT a/k/a
DRMC EAST BEHAVIORAL UNIT a/k/a
DRMC BEHAVIORAL HEALTH
OUTPATIENT CLINIC,

Defendants

No. 07-644-CD

ISSUE:

NOTICE OF SERVICE OF ANSWERS
TO PLAINTIFF'S INSURANCE
INTERROGATORIES, ANSWERS TO
PLAINTIFF'S EXPERT WITNESS
INTERROGATORIES and ANSWERS
TO PLAINTIFF'S INTERROGATORIES
AND REQUEST FOR PRODUCTION

Filed on behalf of Defendant,
DUBOIS REGIONAL MEDICAL
CENTER a/k/a DUBOIS REGIONAL
MEDICAL CENTER WEST a/d/b/a
DRMC BEHAVIORAL UNIT a/k/a
DRMC EAST BEHAVIORAL UNIT
a/k/a DRMC BEHAVIORAL HEALTH
OUTPATIENT CLINIC

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

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

JURY TRIAL DEMANDED

I HEREBY CERTIFY THAT A TRUE AND
CORRECT COPY OF THE WITHIN WAS
MAILED TO ALL COUNSEL OF RECORD
THIS 28TH DAY OF NOVEMBER, 2007.

Attorneys for Named Defendant

FILED No CC
MT 12:34 PM
NOV 30 2007
William A. Shaw
Prothonotary/Clerk of Courts

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

WANDA RUSSELL,

Plaintiff

vs.

JAMES E. DEVLIN, M.D., MARK W.
MALONE, D.O., DRMC PRIMARY CARE
ASSOCIATES, SANAA HELMI, M.D.,
THOMAS J. BRADLEY, M.D., BRADFORD
BOBRIN, M.D., and DUBOIS REGIONAL
MEDICAL CENTER a/k/a DUBOIS
REGIONAL MEDICAL CENTER WEST
a/d/b/a DRMC BEHAVIORAL UNIT a/k/a
DRMC EAST BEHAVIORAL UNIT a/k/a
DRMC BEHAVIORAL HEALTH
OUTPATIENT CLINIC,

Defendants

No. 07-644-CD

JURY TRIAL DEMANDED

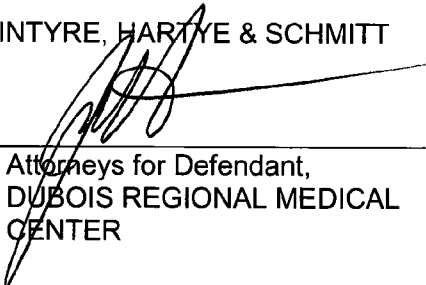
**NOTICE OF SERVICE OF ANSWERS TO PLAINTIFF'S
EXPERT WITNESS INTERROGATORIES, ANSWERS TO PLAINTIFF'S
INSURANCE INTERROGATORIES AND ANSWERS TO PLAINTIFF'S
INTERROGATORIES AND REQUEST FOR PRODUCTION OF DOCUMENTS**

TO: PROTHONOTARY

You are hereby notified that on the 28th day of November, 2007, Defendant,
DUBOIS REGIONAL MEDICAL CENTER a/k/a DUBOIS REGIONAL MEDICAL
CENTER WEST a/d/b/a DRMC BEHAVIORAL UNIT a/k/a DRMC EAST BEHAVIORAL
UNIT a/k/a DRMC BEHAVIORAL HEALTH OUTPATIENT CLINIC, served Answers to
Plaintiff's Expert Witness Interrogatories, Answers to Plaintiff's Insurance Interrogatories
and Answers to Plaintiff's Interrogatories and Request for Production of Documents by
mailing the originals of same via First Class U.S. Mail, postage prepaid, addressed to
the following:

Mark A. Hoffman, Esquire
Kline & Specter, P.C.
1525 Locust Street, 19th Floor
Philadelphia, PA 19102

McINTYRE, HARTY & SCHMITT

By 

Attorneys for Defendant,
DUBOIS REGIONAL MEDICAL
CENTER

John L. McIntyre, Esquire
PA I.D. #28015
P.O. Box 533
Hollidaysburg, PA 16648
(814) 696-3581

KLINE & SPECTER

A Professional Corporation

By: THOMAS R. KLINE, ESQUIRE
MARK A. HOFFMAN, ESQUIRE
ROYCE W. SMITH, ESQUIRE

Attorney ID Nos.: 28895/ 84443/201295

The Nineteenth Floor
1525 Locust Street
Philadelphia, Pennsylvania 19102
(215) 772-1000

FILED

DEC 03 2007

William A. Shaw
Prothonotary/Clerk of Courts

Attorneys for Plaintiff

WANDA RUSSELL

**COURT OF COMMON PLEAS
COUNTY OF CLEARFIELD**

v.

DOCKET NO. 07-644-CD

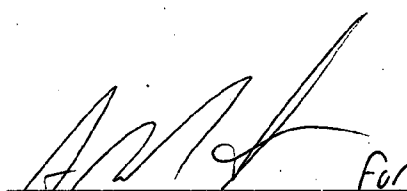
JAMES E. DEVLIN, M.D. and
MARK W. MALONEY, D.O. and
DRMC PRIMARY CARE ASSOCIATES
and SANAA HELMI, M.D. and
THOMAS J. BRADLEY, M.D. and
BRADFORD BOBRIN, M.D. and
DuBOIS REGIONAL MEDICAL
CENTER a/ka DuBOIS REGIONAL
MEDICAL CENTER WEST
a/d/b/a DRMC BEHAVIORAL
UNIT a/k/a DRMC EAST BEHAVIORAL
UNIT a/k/a DRMC BEHAVIORAL
HEALTH OUTPATIENT CLINIC
Defendants.

ACCEPTANCE OF SERVICE

I accept service of the Civil Action Amended Complaint on behalf of Defendant, Bradford
Bobrin, M.D. and certify that I am authorized to do so.

Date:

11/27/07


Lynn E. Bell, Esquire
Davies, McFarland & Carroll, P.C.
The Tenth Floor
One Gateway Center
Pittsburgh, PA 15222-1416
Counsel for Bradford Bobrin, M.D.

FILED

DEC 03 2007

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS, PHILADELPHIA COUNTY

COMMONWEALTH OF PENNSYLVANIA
vs.
[illegible]
[illegible]

KLINE & SPECTER*A Professional Corporation*By: THOMAS R. KLINE, ESQUIRE
MARK A. HOFFMAN, ESQUIRE
ROYCE W. SMITH, ESQUIRE

Attorney ID Nos.: 28895/ 84443/201295

The Nineteenth Floor
1525 Locust Street
Philadelphia, Pennsylvania 19102
(215) 772-1000**FILED** *no cc*
mtt:0431
DEC 03 2007William A. Shaw
Prothonotary/Clerk of CourtsAttorneys for Plaintiff

WANDA RUSSELL

**COURT OF COMMON PLEAS
COUNTY OF CLEARFIELD**

v.

DOCKET NO. 07-644-CDJAMES E. DEVLIN, M.D. and
MARK W. MALONEY, D.O. and
DRMC PRIMARY CARE ASSOCIATES
and SANAA HELMI, M.D. and
THOMAS J. BRADLEY, M.D. and
BRADFORD BOBRIN, M.D. and
DuBOIS REGIONAL MEDICAL
CENTER a/ka DuBOIS REGIONAL
MEDICAL CENTER WEST
a/d/b/a DRMC BEHAVIORAL
UNIT a/k/a DRMC EAST BEHAVIORAL
UNIT a/k/a DRMC BEHAVIORAL
HEALTH OUTPATIENT CLINIC
Defendants.**ACCEPTANCE OF SERVICE**

I accept service of the Civil Action Amended Complaint on behalf of Defendant, James E. Devlin, M.D. and certify that I am authorized to do so.

Date:

11/26/07M. Brian O'Connor, Esquire
Matis, Brum, Rizza, O'Connor
Four Gateway Center
444 Liberty Avenue
Suite 300
Pittsburgh, PA 15222
Counsel for Defendant, James E. Devlin, M.D.

KLINE & SPECTER

A Professional Corporation

By: THOMAS R. KLINE, ESQUIRE
MARK A. HOFFMAN, ESQUIRE
ROYCE W. SMITH, ESQUIRE

Attorney ID Nos.: 28895/ 84443/201295

The Nineteenth Floor
1525 Locust Street
Philadelphia, Pennsylvania 19102
(215) 772-1000

FILED NO CC
M 11:04 AM
DEC 03 2007

William A. Shaw
Prothonotary/Clerk of Courts

Attorneys for Plaintiff

WANDA RUSSELL

v.

**COURT OF COMMON PLEAS
COUNTY OF CLEARFIELD**

JAMES E. DEVLIN, M.D. and
MARK W. MALONEY, D.O. and
DRMC PRIMARY CARE ASSOCIATES
and SANAA HELMI, M.D. and
THOMAS J. BRADLEY, M.D. and
BRADFORD BOBRIN, M.D. and
DuBOIS REGIONAL MEDICAL
CENTER a/ka DuBOIS REGIONAL
MEDICAL CENTER WEST
a/d/b/a DRMC BEHAVIORAL
UNIT a/k/a DRMC EAST BEHAVIORAL
UNIT a/k/a DRMC BEHAVIORAL
HEALTH OUTPATIENT CLINIC
Defendants.

DOCKET NO. 07-644-CD

ACCEPTANCE OF SERVICE

I accept service of the Civil Action Amended Complaint on behalf of Defendant, Mark W. Maloney, M.D. and certify that I am authorized to do so.

Date:

Nov 13, 07

David R Bahl

David R. Bahl, Esquire
Richard F. Schluter, Esquire
McCormick Law Firm
835 West Fourth Street
Williamsport, PA 17701
Counsel for Defendant, Mark W. Maloney, D.O.

DEC 03 2007

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

WANDA RUSSELL,

Plaintiff,

vs.

JAMES E. DEVLIN, M.D. and MARK
W. MALONEY, D.O. and DRMC
PRIMARY CARE ASSOCIATES and
SANAA HELMI, M.D. and THOMAS
J. BRADLEY, M.D. and BRADFORD
BOBRIN, M.D. and DUBOIS
REGIONAL MEDICAL CENTER
a/k/a DUBOIS REGIONAL MEDICAL
CENTER WEST a/d/b/a DRMC
BEHAVIORAL UNIT a/k/a DRMC
EAST BEHAVIORAL UNIT a/k/a
DRMC BEHAVIORAL HEALTH
OUTPATIENT CLINIC,

Defendants.

CIVIL DIVISION

CASE NO: 07-644-CD

Type of Pleading:

**PRELIMINARY OBJECTIONS-
TO PLAINTIFF'S AMENDED
COMPLAINT**

Filed on behalf of Defendant:

Thomas J. Bradley, 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/10:53
DEC 03 2007
No CC
CR

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

WANDA RUSSELL,

Plaintiff,

vs.

JAMES E. DEVLIN, M.D. and MARK
W. MALONEY, D.O. and DRMC
PRIMARY CARE ASSOCIATES and
SANAA HELMI, M.D. and THOMAS J.
BRADLEY, M.D. and BRADFORD
BOBRIN, M.D. and DUBOIS
REGIONAL MEDICAL CENTER a/k/a
DUBOIS REGIONAL MEDICAL
CENTER WEST a/d/b/a DRMC
BEHAVIORAL UNIT a/k/a DRMC
EAST BEHAVIORAL UNIT a/k/a
DRMC BEHAVIORAL HEALTH
OUTPATIENT CLINIC,

Defendants.

CIVIL DIVISION

CASE NO: 07-644-CD

PRELIMINARY OBJECTIONS TO PLAINTIFF'S AMENDED COMPLAINT

Defendant, Thomas J. Bradley, M.D., by and through his counsel, O'Brien, Rulis & Bochicchio, LLC, and Christopher C. Rulis, Esquire, files the following Preliminary Objections to Plaintiff's Amended Complaint in support whereof it is averred as follows:

1. Plaintiff filed a Complaint in this medical malpractice action against Dr. Bradley and other named defendants, on April 24, 2007. Plaintiff essentially alleged that Dr. Bradley, along with all other defendants, was negligent in failing to timely diagnose and treat her transient ischemic attack (TIA).

2. The Complaint also alleged that, during her admission to Dubois Regional Medical Center (hereinafter "DRMC"), at the direction of Plaintiff's primary care physician, Defendant Dr. Maloney, Plaintiff was briefly transferred to DRMC's Behavioral Unit, where she temporarily received evaluation and/or treatment before being re-transferred to DRMC's medical unit

3. The Complaint alleges that, while on the DRMC Behavioral Unit, Dr. Bradley took a history and physical from Plaintiff, and performed a physical examination of Plaintiff.

4. It is alleged that, as a result of all defendants' negligence, Plaintiff experienced cerebral ischemia, neurological impairment, pain and suffering, humiliation, and anxiety, and monetary losses.

5. On October 23, 2007, Plaintiff filed a Motion to Amend the Complaint, which the Court granted by Order dated October 26, 2007.

6. Plaintiff's Amended Complaint now contains allegations of gross negligence and/or recklessness against all defendants, and requests the imposition of punitive damages.

Motion to Strike Pursuant to Pa.R.C.P. §1028(a)(3)

(Factual Insufficiency)

7. The MCARE Act clearly states that a "showing of gross negligence is insufficient to support an award of punitive damages." 40 P.S. §1303.505 (b). Rather, punitive damages are proper only where the health care provider acted willfully, wantonly, or with reckless indifference. Id. at §1303.505 (a).

8. Case law is also clear that neither negligence *nor* gross negligence are sufficient degrees of culpability to warrant the imposition of punitive damages. Takes v. Metropolitan Edison Company, 440 Pa. Super. 101, 655 A.2d 138 (1995).

9. Moreover, Pennsylvania courts have consistently held that punitive damages will only be awarded to punish conduct “that is so outrageous as to rise to a level of intentional, willful, wanton and reckless conduct.” Abdie vs. Riddle Memorial Hospital, 589 A.2d 1143 (Pa. Super. 1981).

10. Recklessness or reckless indifference sufficient for purposes of alleging a claim for punitive damages has been described as “where the actor knows, or has reason to know . . . of facts which create a high degree of risk of physical harm to another, and *deliberately* proceeds to act, or fails to act, in conscious disregard of, or indifference to, that risk.” SHV Coal vs. Continental Grain Company, 587 A.2d 702 (Pa. 1991).

11. Thus, even if Dr. Bradley’s conduct was found to be “grossly negligent,” punitive damages would not be appropriate under Pennsylvania law.

12. The allegations contained within Plaintiff’s Amended Complaint fail to approach the standard for recklessness in regard to Dr. Bradley’s conduct. That is, Plaintiff alleges no conduct on Dr. Bradley’s part which is so outrageous as to demonstrate complete disregard of a risk, or conscious indifference of consequences, to Plaintiff.

13. Of note, Dr. Bradley’s contact with Plaintiff was very limited, and each of the allegations against Dr. Bradley are based upon one (1) short examination of Plaintiff. Indeed, Dr. Bradley has only one (1) note in the medical records, based upon the history and physical he took from Plaintiff, as well as his brief physical examination of Plaintiff.

14. Paragraph 87 of Plaintiff’s Amended Complaint merely alleges generally that Dr. Bradley was negligent, grossly negligent, and/or reckless in his care and treatment of Plaintiff.

15. In particular, Paragraph 54 of Plaintiff’s Amended Complaint alleges that Dr. Bradley’s conjectures about Plaintiff’s medical condition, contained in his note, were grossly negligent and/or reckless. Paragraph 55 of the Complaint also states that Dr. Bradley noted it was difficult to perform

an examination of Plaintiff's upper extremity weakness and facial asymmetry, due to her severe anxiety. The facts alleged in Paragraphs 54 and 55 do not support a claim of willful and reckless conduct.

16. Paragraph 57 characterizes Dr. Bradley's failure to re-transfer Plaintiff to a medical unit in the face of neurologic symptoms obvious to Dr. Bradley, as grossly negligent and/or reckless. However, Plaintiff has alleged no facts indicating either that Dr. Bradley had authority to transfer Plaintiff to another unit, or that Dr. Bradley, a family physician, in fact interpreted Plaintiff's symptoms as neurologic.

17. Paragraphs 56, 58 and 59 further characterize Dr. Bradley's failure to have diagnostic testing, an MRI, or an MRA performed as grossly negligent and/or reckless, in light of obvious neurologic symptoms. This allegation, if true, supports mere ordinary negligence, despite the superfluous addition of the language "gross negligence and/or recklessness."

18. Paragraph 60 of Plaintiff's Amended Complaint alleges that Dr. Bradley "abandoned" his patient on the Behavioral Unit without recommending further neurologic evaluation or testing, with actual knowledge of objective neurologic deficits. Dr. Bradley's involvement with patients on the DRMC behavioral unit is inherently limited in nature. Dr. Bradley was not the attending physician, and Plaintiff was being cared for in a hospital setting. Therefore, Plaintiff's characterization of Dr. Bradley's actions towards her as "abandon[ment]" is purely gratuitous.

19. The facts alleged here, such as the failure to timely obtain neurological tests, and the failure to correctly diagnose Plaintiff with an evolving cerebrovascular accident, would constitute, if true, mere ordinary negligence. Such alleged facts do not evidence the vital component of reckless conduct: the state of mind of the defendant.

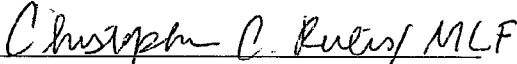
20. Therefore, Plaintiff has failed to set forth factual allegations necessary to support a conclusion that moving Defendant acted recklessly, outrageously, wantonly or willfully.

21. As Plaintiff has failed to plead facts sufficient to support a claim for punitive damages, this moving Defendant's preliminary objections should properly be granted pursuant Pa.R.C.P. §1028(a)(3)

WHEREFORE, Defendant, Thomas J. Bradley M.D. , respectfully requests that this Honorable Court grant the within Preliminary Objections and strike portions of Plaintiff's Amended Complaint alleging gross negligence and/or recklessness on the part of defendant Dr. Bradley, and that it further strike Plaintiff's request for punitive damages as regards defendant Dr. Bradley.

Respectfully Submitted,

O'BRIEN RULIS & BOCHICCHIO, LLC


Christopher C. Rulis, Esquire
Counsel for Defendant
Thomas J. Bradley, M.D.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

WANDA RUSSELL,

Plaintiff,

vs.

JAMES E. DEVLIN, M.D. and MARK
W. MALONEY, D.O. and DRMC
PRIMARY CARE ASSOCIATES and
SANAA HELMI, M.D. and THOMAS
J. BRADLEY, M.D. and BRADFORD
BOBRIN, M.D. and DUBOIS
REGIONAL MEDICAL CENTER a/k/a
DUBOIS REGIONAL MEDICAL
CENTER WEST a/d/b/a DRMC
BEHAVIORAL UNIT a/k/a DRMC
EAST BEHAVIORAL UNIT a/k/a
DRMC BEHAVIORAL HEALTH
OUTPATIENT CLINIC,

Defendants.

CIVIL DIVISION

CASE NO: 07-644-CD

**BRIEF IN SUPPORT OF
PRELIMINARY OBJECTIONS TO
PLAINTIFF'S AMENDED
COMPLAINT**

Filed on behalf of Defendant:

Thomas J. Bradley, M.D.

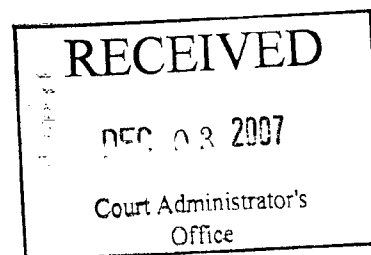
Counsel of record for this party:

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



IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

WANDA RUSSELL,

Plaintiff,

vs.

JAMES E. DEVLIN, M.D. and MARK
W. MALONEY, D.O. and DRMC
PRIMARY CARE ASSOCIATES and
SANAA HELMI, M.D. and THOMAS J.
BRADLEY, M.D. and BRADFORD
BOBRIN, M.D. and DUBOIS
REGIONAL MEDICAL CENTER a/k/a
DUBOIS REGIONAL MEDICAL
CENTER WEST a/d/b/a DRMC
BEHAVIORAL UNIT a/k/a DRMC
EAST BEHAVIORAL UNIT a/k/a
DRMC BEHAVIORAL HEALTH
OUTPATIENT CLINIC,

Defendants.

CIVIL DIVISION

CASE NO: 07-644-CD

BRIEF IN SUPPORT OF PRELIMINARY OBJECTIONS

I. ISSUE

Does Plaintiff's Amended Complaint, which alleges gross negligence and/or recklessness on the part of defendant Dr. Bradley, fail to state a claim on the basis of which punitive damages may be awarded?

Proposed Answer: Yes.

II. FACTUAL BACKGROUND

Plaintiff filed her original Complaint in this medical malpractice action against Dr. Bradley and other named defendants, on April 24, 2007. Counsel for Dr. Bradley entered his

appearance in this matter on May 14, 2007. The original Complaint alleged that Dr. Bradley, along with other defendants, was negligent in failing to timely diagnose and treat her transient ischemic attack (TIA). The Complaint also alleged that, during her admission to Dubois Regional Medical Center (hereinafter "DRMC"), Plaintiff was briefly transferred to the DRMC Behavioral Unit, at the direction of Plaintiff's primary care physician, defendant Dr. Maloney. While at the Behavioral Unit, she temporarily received evaluation and/or treatment before being re-transferred to a medical unit. The Complaint alleges that, while on the DRMC Behavioral Unit, Dr. Bradley took a history and physical from Plaintiff, and performed a physical examination of Plaintiff. It is alleged that, as a result of all defendants' negligence, Plaintiff experienced cerebral ischemia, neurological impairment, pain and suffering, humiliation, and anxiety, and monetary losses

The original Complaint was based in negligence; however, it did not allege gross negligence and/or recklessness, nor did it claim punitive damages as to any defendant. Subsequently, Plaintiff filed a Motion to Amend the Complaint; said Motion was granted by order of the Court on October 26, 2007.

In regard to Dr. Bradley, Paragraph 88 of the original Complaint alleged multiple deficiencies in the care provided to Plaintiff. The alleged negligence included: failure to properly, timely, and adequately evaluate a patient with a diagnosis of transient ischemic attack; failure to properly, timely, and adequately evaluate a patient with a diagnosis of cerebrovascular accident; failure to properly, timely, and adequately evaluate a patient with fluctuating neurologic signs and symptoms; and others.

Paragraph 87 of the Amended Complaint does not purport to add any additional allegations of negligent conduct vis-à-vis Dr. Bradley. The sole change to Paragraph 87 is that it

now classifies Dr. Bradley's conduct as "negligent, *grossly negligent, and/or reckless*." (emphasis added). The lettered allegations now state, for example, that Dr. Bradley acted as he did "in the face of objective signs and symptoms of neurologic deficit." No new facts are alleged in any part of the Amended Complaint; the only alteration is the addition of the above-quoted—or similar—language.

Paragraph 54 of the Amended Complaint also alleges that the conclusions Dr. Bradley drew as to Plaintiff's medical condition, were grossly negligent and/or reckless. Paragraph 55 of the Amended Complaint further alleges that Dr. Bradley's "failure to obtain a neurologic examination in the face of objective neurological signs and symptoms was grossly negligent and/or reckless." Paragraph 56 likewise states that Dr. Bradley's failure to obtain evaluation of Plaintiff's signs and symptoms constituted reckless disregard. Further, Paragraph 57 alleges that Dr. Bradley's failure to transfer Plaintiff to the medical unit from the psychiatric unit was grossly negligent and/or reckless. Similarly, Paragraphs 58—60 claim that Dr. Bradley's failure to have neurologic evaluations and diagnostic testing performed on Plaintiff was grossly negligent and/or reckless.

Finally, the "Wherefore" clause of the Amended Complaint now additionally requests punitive damages from all defendants, presumably based upon Plaintiff's new characterization of the medical care she received as grossly negligent and/or reckless.

III. ARGUMENT

Pennsylvania is a fact pleading jurisdiction. Pa.R.C.P. §1019(a). As such, a Complaint should formulate the issues by fully summarizing the material facts which are necessary to support a plaintiff's claim. Baker v. Rangos, 229 Pa. Super 33, 324 A.2d 498 (1974). The

Pennsylvania Rules of Procedure thus recognize that a defendant's preliminary objections may be granted based upon the factual insufficiency of a Complaint. Pa.R.C.P. §1028(3)

The Plaintiff is asserting a claim against this Defendant for punitive damages premised upon gross negligence and/or recklessness. The MCARE Act provides that a "showing of gross negligence is insufficient to support an award of punitive damages." 40 P.S. §1303.505 (b) (emphasis added). Instead, punitive damages are proper only where the health care provider acted willfully, wantonly, or with reckless indifference. *Id.* at §1303.505 (a).

Case law also firmly establishes that punitive damages will only be awarded to punish conduct that is "so outrageous as to rise to the level of intentional, willful, wanton or reckless conduct.: Abadie v. Riddle Memorial Hospital, 404 Pa. Super 8, 589 A.2d 1143 (1991). It is equally well-recognized that punitive damages will not be awarded to the Plaintiff for injuries sustained which were the result of the defendant's mere ordinary negligence. *Id.* In fact, the Restatement Second of Torts Section 908(2), Definition of Punitive Damages, which the Pennsylvania Supreme Court has adopted, provides as follows:

Punitive damages may be awarded for conduct that is outrageous, because of the Defendant's evil motive or his reckless indifference to the rights of others. In assessing punitive damages, the trier of fact can properly consider the character of the Defendant's act, the nature and extent of the harm to the Plaintiff, that the Defendant caused or intended to cause, and the wealth of the Defendant.

(*See also* Feld v. Merriam, 506 Pa. 383, 485 A.2d 742 (1984)). In Feld, the court, after quoting the Restatement Second, emphasized that, "[t]he state of mind of the actor is *vital*. The act, or the failure to act, *must* be intentional, reckless or malicious." *Id.* (emphases added). For recklessness to be sufficiently pled to support a claim for punitive damages, the Courts have recognized that facts must demonstrate that "the actor knows, or has reason to know . . . of facts which create a high degree of risk and physical harm to another and deliberately proceeds to act,

or fails to act, in conscious disregard of, or indifference to, that risk.” SHV Coal v. Continental Grain Company, 526 Pa. 489, 587 A.2d. 702 (1991) (quoting Martin v. Johns-Manville Corporation, 508 Pa. 154, 170-173, 494 A.2d 1098 (1985)).

The mere pleading of outrageous conduct fails to satisfy the requirement of stating facts which, if proven, would form a basis for a jury to conclude that the conduct was such that an award for punitive damages is warranted. Brownawell v. Brian, 40 D&C 3d 604, 606 (1985) (citing Evans v. Phila. Transportation Co., 418 Pa. 567, 212 A.2d 440 (1965)).

In Witchey v. Lisi, 17 D&C 3d 131, 133 (1980), the Court sustained Preliminary Objections to the Plaintiff’s claim for punitive damages and stated:

There are no facts alleged in Plaintiff’s Complaint which would give rise to an inference that defendant[s’] ...conduct rose to the level of evil motive or reckless indifference to the rights of others as opposed to mere negligence for which punitive damages or exemplary damages cannot be awarded.

Pennsylvania does not permit punitive damages for mere inadvertence, mistake, errors of judgment and the like, which, of course, constitute ordinary negligence. The allegation of “recklessness” must contain facts tending to show more than the mere commission of the underlying tort. Brownawell, 40 D&C 3d at 606.

It is well-settled in this Commonwealth that punitive damages will lie only in cases about outrageous behavior where the Defendants’ egregious conduct shows either an evil motive or reckless indifference to the rights of others. See Takes v. Metropolitan Edison Company, 440 Pa. Super. 101, 655 A.2d 138 (1995). In Takes, the Superior Court outlined the requirements for punitive damages as follows:

Neither mere negligence, *or even gross negligence*, shows sufficient culpability to justify a punitive damage award. [Citation omitted.] Rather, [p]unitive

damages are proper when a person's actions are of such an outrageous nature as to demonstrate intentional, willful, wanton or reckless conduct.

Id. at 146. [emphasis added] [Citation omitted].

In the instant matter, Plaintiff has not pled evil motive or intentional conduct on the part of Dr. Bradley and, as such, she has not alleged behavior which constitutes "recklessness." Further, Plaintiff's Amended Complaint fails to delineate which, if any, facts support her claim for recklessness, as is required under Pennsylvania law. Indeed, as detailed below, there are *no* facts in the Plaintiff's Complaint which support the conclusion that the moving defendant's conduct was outrageous or reckless. The Plaintiff's amended characterization of the moving Defendant's actions as grossly negligent and/or reckless is needless and unjustifiable. As such, punitive damages are impermissible under Pennsylvania law.

For instance, Paragraph 54 of Plaintiff's Amended Complaint alleges that Dr. Bradley's conjectures as to Plaintiff's medical condition, contained in the sole notation in the medical records for which he is responsible, were grossly negligent and/or reckless. However, the language quoted from Bradley's note demonstrates he acted on the clinical picture presented to him, namely a normal CT scan of Plaintiff's head taken prior to her transfer, and the fact that Plaintiff's physician had transferred her to the Behavioral Unit from a medical unit of the hospital. Paragraph 55 of the Complaint also states that Dr. Bradley noted it was difficult to perform an examination of Plaintiff's upper extremity weakness and facial asymmetry, due to her severe anxiety. Furthermore, Paragraph 53 of the Amended Complaint states that Plaintiff fell out of bed, but the nursing staff did not inform any physician (including Dr. Bradley) of this fact.

Paragraph 57 characterizes Dr. Bradley's failure to re-transfer Plaintiff to a medical unit in the face of neurologic symptoms obvious to Dr. Bradley, as grossly negligent and/or reckless.

However, Plaintiff has alleged no facts indicating either that Dr. Bradley had authority to transfer Plaintiff to another unit, or that Dr. Bradley, a family physician, interpreted Plaintiff's symptoms as neurologic in nature. Paragraphs 56, 58, and 59 also allege that Dr. Bradley's failure to have diagnostic testing and/or an MRI or MRA performed was grossly negligent and/or reckless, in light of obvious neurologic symptoms. This allegation, if true, supports mere ordinary negligence, despite the superfluous addition of the language "gross negligence and/or recklessness."

Paragraph 60 of Plaintiff's Amended Complaint alleges that Dr. Bradley "abandoned" his patient on the Behavioral Unit without recommending further neurologic evaluation or testing, with actual knowledge of objective neurologic deficits. Dr. Bradley's involvement with patients on the DRMC behavioral unit is inherently restricted in nature. Dr. Bradley was not the attending physician, and Plaintiff was being cared for in a hospital setting. Therefore, Plaintiff's characterization of Dr. Bradley's limited contact with her as "abandon[ment]" is purely gratuitous.

The type of facts alleged by Plaintiff in her Amended Complaint would constitute, if true, mere ordinary negligence. Such facts would not evidence the vital component of reckless conduct: the state of mind of the defendant. Plaintiff has failed to set forth any factual allegations necessary to support a conclusion that Dr. Bradley acted recklessly, outrageously, wantonly or willfully. As noted above, allegations of "gross negligence" do not support punitive damages under Pennsylvania law. Thus, even if Dr. Bradley's conduct was found to be "grossly negligent," punitive damages would not be appropriate under Pennsylvania law.

Punitive damages are certainly inappropriate in this case and contrary to law. Therefore, the "Wherefore" clause of the Amended Complaint requesting punitive damages should properly

be stricken as to Dr. Bradley; further, all allegations of recklessness relating to Dr. Bradley, which are contained within paragraphs 54—60, paragraph 88, and/or any other paragraphs of Plaintiff's Amended Complaint, should also properly be stricken.

IV. CONCLUSION

For the reasons set forth above, Defendant Dr. Bradley respectfully requests the Honorable Court grant his Preliminary Objections to Plaintiff's Amended Complaint.

Respectfully submitted,

O'BRIEN, RULIS & BOCHICCHIO, LLC

By: Christopher C. Rulis / MUF
Christopher C. Rulis, Esquire
Attorney for Defendant
Thomas J. Bradley, M.D.

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that a true and correct copy of the within **BRIEF IN SUPPORT OF PRELIMINARY OBJECTIONS** has been served via first class United States mail, postage prepaid, on this 30th day of November, 2007 to the following counsel of record:

Thomas R. Kline, Esquire
Kline & Specter, P.C.
1525 Locust Street, 19th Floor
Philadelphia, PA 19102

M. Brian O'Connor, Esquire
Gaca Matis Baum & Rizza PC
444 Liberty Avenue, Suite 300
Pittsburgh, PA 15222

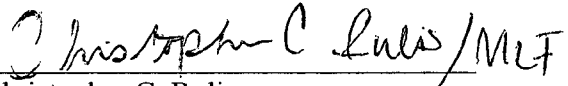
David R. Bahl, Esquire
McCormick Law Firm
835 West Fourth Street
P.O. Box 577
Williamsport, PA 17701

Lynn Bell, Esquire
Davis, McFarland & Carroll, P.C.
Tenth Floor, One Gateway Center
Pittsburgh, PA 15222

Darryl R. Slimak, Esquire
McQuaide, Blasko, Fleming & Faulkner, Inc.
811 University Drive
State College, PA 16801

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

O'BRIEN, RULIS & BOCHICCHIO, LLC


Christopher C. Rulis
Counsel for Defendant
Thomas J. Bradley, M.D.

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that a true and correct copy of the within **PRELIMINARY OBJECTIONS** has been served via first class United States mail, postage prepaid, on this 30th day of November, 2007 to the following counsel of record:

Thomas R. Kline, Esquire
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1525 Locust Street, 19th Floor
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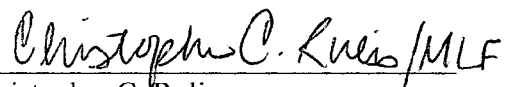
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O'BRIEN, RULIS & BOCHICCHIO, LLC



Christopher C. Rulis
Counsel for Defendant
Thomas J. Bradley, M.D.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

WANDA RUSSELL,

Plaintiff,

vs.

JAMES E. DEVLIN, M.D. and MARK
W. MALONEY, D.O. and DRMC
PRIMARY CARE ASSOCIATES and
SANAA HELMI, M.D. and THOMAS J.
BRADLEY, M.D. and BRADFORD
BOBRIN, M.D. and DUBOIS
REGIONAL MEDICAL CENTER a/k/a
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BEHAVIORAL UNIT a/k/a DRMC
EAST BEHAVIORAL UNIT a/k/a
DRMC BEHAVIORAL HEALTH
OUTPATIENT CLINIC,

Defendants.

CIVIL DIVISION

CASE NO: 07-644-CD

ORDER OF COURT

AND NOW, this _____ day of _____, 2007, upon consideration of Defendant Thomas J. Bradley, M.D.'s Preliminary Objections, said objections are granted. All references to gross negligence and/or recklessness are stricken from Plaintiff's Amended Complaint, as is the claim for punitive damages.

By the Court:

_____, J.

~~FILED~~

~~DEC 03 2007~~

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

KLINE & SPECTER

A Professional Corporation

By: THOMAS R. KLINE, ESQUIRE
MARK A. HOFFMAN, ESQUIRE
ROYCE W. SMITH, ESQUIRE

Attorney ID Nos.: 28895/ 84443/201295

The Nineteenth Floor

1525 Locust Street

Philadelphia, Pennsylvania 19102

(215) 772-1000

FILED *no cc*
DEC 03 2007

William A. Shaw
Prothonotary/Clerk of Courts

Attorneys for Plaintiff

WANDA RUSSELL

**COURT OF COMMON PLEAS
COUNTY OF CLEARFIELD**

v.

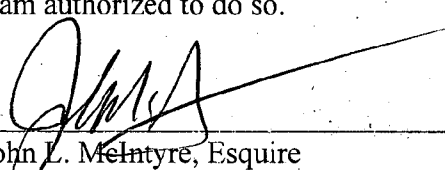
DOCKET NO. 07-644-CD

JAMES E. DEVLIN, M.D. and
MARK W. MALONEY, D.O. and
DRMC PRIMARY CARE ASSOCIATES
and SANAA HELMI, M.D. and
THOMAS J. BRADLEY, M.D. and
BRADFORD BOBRIN, M.D. and
DuBOIS REGIONAL MEDICAL
CENTER a/ka DuBOIS REGIONAL
MEDICAL CENTER WEST
a/d/b/a DRMC BEHAVIORAL
UNIT a/k/a DRMC EAST BEHAVIORAL
UNIT a/k/a DRMC BEHAVIORAL
HEALTH OUTPATIENT CLINIC
Defendants.

ACCEPTANCE OF SERVICE

I accept service of the Civil Action Amended Complaint on behalf of Defendants, DuBois Regional Medical Center, a/k/a DuBois Regional Medical Center, a/k/a DuBois Regional Medical Center West a/d/b/a DRMC Behavioral Unit a/k/a DRMC East Behavioral Unit a/k/a DRMC Behavioral Outpatient Clinic and certify that I am authorized to do so.

Date: 21 ST NOV 2007


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

Counsel for Defendant, DuBois Regional Medical Center, a/k/a DuBois Regional Medical Center a/k/a DuBois Regional Medical Center West a/d/b/a/ DRMC Behavioral Unit a/k/a DRMC East Behavioral Unit a/k/a DRMC Behavioral Outpatient Clinic

FILED

DEC 03 2007

William A. Shaw
Prothonotary/Clerk of Courts

Page No. 12

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

WANDA RUSSELL,

Plaintiff,

vs.

JAMES E. DEVLIN, M.D. and MARK
W. MALONEY, D.O. and DRMC
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SANAA HELMI, M.D. and THOMAS J.
BRADLEY, M.D. and BRADFORD
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BEHAVIORAL UNIT a/k/a DRMC
EAST BEHAVIORAL UNIT a/k/a
DRMC BEHAVIORAL HEALTH
OUTPATIENT CLINIC,

Defendants.

CIVIL DIVISION

CASE NO: 07-644-CD

Type of Pleading:

**PRAECIPE FOR BRIEFING
SCHEDULE**

Filed on behalf of Defendant:

Thomas J. Bradley, 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

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William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

WANDA RUSSELL,

Plaintiff,

vs.

JAMES E. DEVLIN, M.D. and MARK
W. MALONEY, D.O. and DRMC
PRIMARY CARE ASSOCIATES and
SANAA HELMI, M.D. and THOMAS J.
BRADLEY, M.D. and BRADFORD
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EAST BEHAVIORAL UNIT a/k/a
DRMC BEHAVIORAL HEALTH
OUTPATIENT CLINIC,

Defendants.

CIVIL DIVISION

CASE NO: 07-644-CD

PRAECIPE FOR BRIEFING SCHEDULE

TO: THE PROTHONOTARY AND COURT ADMINISTRATOR:

In accordance with Clearfield County Rule Of Court 211, please establish a briefing schedule with respect to Defendant Thomas J. Bradley, M.D.'s Preliminary Objections to Plaintiff's Amended Complaint, and list this matter for oral argument.

Respectfully submitted,

O'BRIEN, RULIS & BOCHICCHIO, LLC

By Christopher C. Rulis
Christopher C. Rulis, Esquire
Counsel for Defendant,
Thomas J. Bradley, M.D.

KLINE & SPECTER

A Professional Corporation

By: THOMAS R. KLINE, ESQUIRE
MARK A. HOFFMAN, ESQUIRE
ROYCE W. SMITH, ESQUIRE

Attorney ID Nos.: 28895/ 84443/201295

The Nineteenth Floor

1525 Locust Street

Philadelphia, Pennsylvania 19102

(215) 772-1000

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DEC 03 2007 

William A. Shaw
Prothonotary/Clerk of Courts

Attorneys for Plaintiff

WANDA RUSSELL

**COURT OF COMMON PLEAS
COUNTY OF CLEARFIELD**

v.

DOCKET NO. 07-644-CD

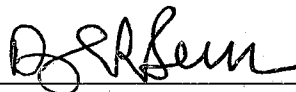
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UNIT a/k/a DRMC EAST BEHAVIORAL
UNIT a/k/a DRMC BEHAVIORAL
HEALTH OUTPATIENT CLINIC
Defendants.

ACCEPTANCE OF SERVICE

I accept service of the Civil Action Amended Complaint on behalf of Defendant, Sanaa Helmi, M.D. and certify that I am authorized to do so.

Date:

11/13/2007



Darryl R. Slimak, Esquire

McQuaide Blasko

811 University Drive

State College, PA 16801-6699

Counsel for Defendant, Sanaa Helmi, M.D.

FILED

DEC 03 2007

William A. Shaw
Prothonotary/Clerk of Courts

WILLIAM A. SHAW

Prothonotary/Clerk of Courts
17th Floor, 1000 Bankers Building
Philadelphia, PA 19103

WILLIAM A. SHAW

Prothonotary/Clerk of Courts
17th Floor, 1000 Bankers Building
Philadelphia, PA 19103

KLINE & SPECTER

A Professional Corporation

By: THOMAS R. KLINE, ESQUIRE
MARK A. HOFFMAN, ESQUIRE
ROYCE W. SMITH, ESQUIRE

Attorney ID Nos.: 28895/ 84443/201295

The Nineteenth Floor
1525 Locust Street
Philadelphia, Pennsylvania 19102
(215) 772-1000

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DEC 03 2007

William A. Shaw
Prothonotary/Clerk of Courts

Attorneys for Plaintiff

WANDA RUSSELL

**COURT OF COMMON PLEAS
COUNTY OF CLEARFIELD**

v.

JAMES E. DEVLIN, M.D. and
MARK W. MALONEY, D.O. and
DRMC PRIMARY CARE ASSOCIATES
and SANAA HELMI, M.D. and
THOMAS J. BRADLEY, M.D. and
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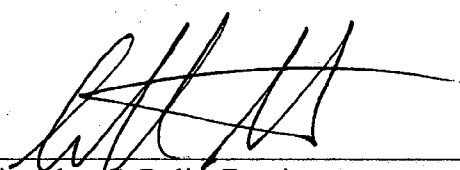
ACCEPTANCE OF SERVICE

I accept service of the Civil Action Amended Complaint on behalf of Defendant, Thomas J.

Bradley, M.D. and certify that I am authorized to do so.

Date:

11/15/07


Christopher C. Rulis, Esquire
O'Brien, Rulis & Bochicchio, LLC
555 Grant Street
Suite 120
Pittsburgh, PA 15219
Counsel for Defendant, Thomas J. Bradley, M.D.

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FILED

DEC 03 2007

William A. Shaw
Prothonotary/Clerk of Courts

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

WANDA RUSSELL,

Plaintiff,

v.

JAMES E. DEVLIN, M.D., MARK W.
MALONEY, D.O., DRMC PRIMARY
CARE ASSOCIATES, SANAA HELMI,
M.D., THOMAS J. BRADLEY, M.D.,
BRADFORD BOBRIN, M.D., DUBOIS
REGIONAL MEDICAL CENTER a/k/a
DUBOIS REGIONAL MEDICAL
CENTER WEST a/d/b/a DRMC
BEHAVIORAL UNIT a/k/a DRMC EAST
BEHAVIORAL UNIT a/k/a DRMC
BEHAVIORAL HEALTH OUTPATIENT
CLINIC,

Defendants.

CIVIL ACTION

No.: 07-644-CD

**PRELIMINARY OBJECTIONS
ON BEHALF OF DR. BOBRIN
TO PLAINTIFF'S AMENDED
COMPLAINT**

Served on Behalf of this Party:

Bradford Bobrin, M.D.

Counsel of Record for this Party:

LYNN E. BELL, ESQUIRE
Pa. I.D. No.: 38588

A. MICHAEL GIANANTONIO, ESQ.
Pa. I.D. No.: 89120

DAVIES McFARLAND &
CARROLL, P.C.
One Gateway Center; 10th Floor
Pittsburgh, PA 15222

(412) 281-0737

JURY TRIAL DEMANDED

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

WANDA RUSSELL,

CIVIL ACTION

Plaintiff,

No.: 07-644-CD

v.

JAMES E. DEVLIN, M.D., MARK W.
MALONEY, D.O., DRMC PRIMARY
CARE ASSOCIATES, SANAA HELMI,
M.D., THOMAS J. BRADLEY, M.D.,
BRADFORD BOBRIN, M.D., DUBOIS
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BEHAVIORAL UNIT a/k/a DRMC EAST
BEHAVIORAL UNIT a/k/a DRMC
BEHAVIORAL HEALTH OUTPATIENT
CLINIC,

Defendants.

**PRELIMINARY OBJECTIONS ON BEHALF OF DR. BOBRIN
TO PLAINTIFF'S AMENDED COMPLAINT**

AND NOW, comes Defendant, Bradford Bobrin, M.D. ("Dr. Bobrin"), by and through his undersigned attorneys, Davies, McFarland & Carroll, P.C., and states as follows in Support of his Preliminary Objections to Plaintiff's Amended Complaint:

1. The within medical negligence civil action was initiated by the filing of Plaintiff's Complaint on April 24, 2007. The Complaint averred Dr. Bobrin was negligent with respect to Plaintiff's care and treatment.
2. On October 23, 2007, Plaintiff's filed a Motion to Amend their Complaint.
3. The Motion was granted and, the Amended Complaint was served on November 9, 2007.

4. As compared to the original Complaint, the Amended Complaint attempts to assert a cause of action against Dr. Bobrin for gross negligence and recklessness in addition to negligence.

5. To that end, as explored below, several new allegations not found in the original pleading are in the Amended Complaint.

6. As a result of these allegations, Plaintiff makes a claim for relief in the nature of punitive damages in her *ad danum* clause.

7. For the reasons that follow below, Dr. Bobrin now files Preliminary Objections in the nature of a Motion to Strike to Plaintiff's Amended Complaint.

MOTION TO STRIKE-PUNITIVE DAMAGES

8. Where the allegations of a complaint in trespass detail alleged conduct of a defendant that is negligent, it is not sufficient in order to support a claim for punitive damages merely to allege that conduct was wanton, reckless or grossly negligent. *Smith v. Brown*, 283 Pa. Super. 116, 423 A.2d 743 (1980).

9. The MCARE Act section 505 provides "A showing of gross negligence is insufficient to support an award of punitive damages."

10. A claim of "negligence" does not give rise to punitive damages. *Feld v. Merriam*, 506 Pa. 383, 485 A.2d 742 (1982), *McKeeman v. Corestates Bank, N.A.* 751 A.2d 655 (Pa. Super. 2000).

11. Pennsylvania Supreme Court case law makes it clear that "punitive damages are an 'extreme remedy' available in only the most exceptional matters." *Phillips v. Cricket Lighters*, 584 Pa. 179, 188, 883 A.2d 439, 445 (2005).

12. An essential fact needed to plead a claim for punitive damages is that defendant's conduct must have been outrageous. Outrageous conduct is an "an act done with a bad motive or with reckless indifference to the interest of others." *Focht v. Rabada*, 217 Pa. Super. 35, 268 A.2d 157 (1970) citing Section 908(b) of the Restatement (Second) of Torts. "Reckless indifference to the interest of others," or as it is sometimes referred to "wanton misconduct" means that "the actor has **intentionally** done an act of an unreasonable character in disregard of risk known to him or so obvious that he must be taken to have been aware of it, and so great as to make it highly probable that harm will follow." *Evans v. Philadelphia Transportation Co.*, 418 Pa. 567, 212 A.2d 440 (1965).

13. In pleading, to substantiate a claim for punitive damages, it must clearly appear the conduct of the defendant was not merely tortious or wrongful, but that it reached level of being outrageous. *Id.* See also, *McKeeman v. Corestates Bank, N.A.*, 751 A.2d 655 (Pa. Super. 2000).

14. Plaintiff avers she presented to the DuBois Regional Medical Center ("DRMC") on December 3, 2005, complaining of bilateral arm weakness and dark vision. See, Plaintiff's Amd. Compl. at ¶ 15.

15. She was released on the same date with a diagnosis of, *inter alia*, a transient ischemic attack ("TIA"). *Id.* at ¶ 20.

16. Plaintiff eventually returned to DRMC where she admitted to the care of Dr. Maloney with a primary emergency department diagnosis of cerebrovascular attack ("CVA"); according the Amended Complaint, she was treated by Dr. Devlin who admitted her for neuron-checks and observation. *Id.* at ¶¶ 26-28.

17. After undergoing several diagnostic evaluations on December 5, 2005, Plaintiff was evaluated by Dr. Maloney who, according to Plaintiff, informed her that her loss of mobility was due to depression. *Id.* at ¶¶ 32-39.

18. Plaintiff continues by alleging Dr. Maloney “misrepresented” Plaintiff’s medical status to Dr. Helmi and offered his opinion that she was suicidal; based upon this alleged misrepresentation, Plaintiff states Dr. Helmi recommended Plaintiff’s admission to the DRMC Behavior Unit for psychiatric treatment without first performing an evaluation. *Id.* at ¶¶ 40-42.

19. Plaintiff was admitted the DRMC Behavior Unit at 2:00 a.m. on December 6, 2005 and she was seen by Dr. Bradley at 6:45 a.m. that morning; Plaintiff alleged Dr. Bradley was “grossly negligent” and “reckless” for not obtaining a neurologic evaluation. *Id.* at ¶¶ 54-55, 58-60.

20. With respect to this Defendant, Plaintiff alleges Dr. Bobrin evaluated her on December 6, 2005 at approximately 10:30 a.m.—two days after her initial admission to DRMC, but did not find any signs of homicidal or suicidal ideations. *Id.* at ¶¶ 64-65.

21. Instead, Dr. Bobrin formulated a plan for Plaintiff that included a transfer back to medicine to receive a neurologic consultation and MRI; he did not believe she needed psychiatric care. *Id.* at ¶¶ 66-67.

22. Despite the fact that Dr. Bobrin performed those actions that Plaintiff alleges all other treating physicians failed to do, Plaintiff baldly asserts Dr. Bobrin was “grossly negligent” and/or “reckless.” *Id.* at ¶¶ 66-68.

23. In further support of these allegations, under Count V of the Amended Complaint, Plaintiff again baldly asserts numerous allegations as to why Dr. Bobrin’s care was grossly negligent and/or reckless; interestingly, the allegations raise averments of nothing more than

mere negligence at best.

24. For instance, Plaintiff asserts Dr. Bobrin was “grossly negligent” and/or “reckless” for: his failure to diagnose TIA in the face of objective signs and symptoms of neurologic deficit; his failure to adequately evaluate a patient with acute neurologic signs in the face of objective signs and symptoms of neurologic deficit; or, his failure to properly, timely, and adequately evaluate a patient with signs and symptoms of an evolving neurologic dysfunction, in the face of objective signs and symptoms of neurologic deficit. *Id.* at ¶¶ 90(a), (f) and (m).

25. These allegations do not allege actual intentional, willful, wanton, or reckless conduct on behalf of the Defendants. Rather Plaintiff avers facts conceivably amounting to inadvertence, mistake, errors of judgment and the like, which constitute ordinary negligence.

26. Moreover, throughout her pleading, Plaintiff raises allegations that the various Defendants failed to perform the necessary medical tests or realize Plaintiff did not need psychiatric treatment; nevertheless Plaintiff admits Dr. Bobrin took these steps when others failed to do so.

27. Yet even in light of this recognition Plaintiff still expects this Court to find that Dr. Bobrin acted in a manner warranting the imposition of punitive damages.

28. For the reasons stated above, it is clear that Plaintiff raises claims for nothing more than ordinary negligence and request for punitive damages should be stricken as a matter of law.

WHEREFORE, Defendant, Bradford Bobrin, M.D., respectfully requests that this Honorable Court enter an Order striking Plaintiff’s allegations of gross negligence and recklessness, and Plaintiff’s request for punitive damages.

JURY TRIAL DEMANDED

DAVIES McFARLAND & CARROLL,
P.C.

By: 

LYNN E. BELL, ESQUIRE

A. MICHAEL GIANANTONIO, ESQ.

Attorneys for Bradford Bobrin, M.D.

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

WANDA RUSSELL,

CIVIL ACTION

Plaintiff,

No.: 07-644-CD

v.

JAMES E. DEVLIN, M.D., MARK W.
MALONEY, D.O., DRMC PRIMARY
CARE ASSOCIATES, SANAA HELMI,
M.D., THOMAS J. BRADLEY, M.D.,
BRADFORD BOBRIN, M.D., DUBOIS
REGIONAL MEDICAL CENTER a/k/a
DUBOIS REGIONAL MEDICAL
CENTER WEST a/d/b/a DRMC
BEHAVIORAL UNIT a/k/a DRMC EAST
BEHAVIORAL UNIT a/k/a DRMC
BEHAVIORAL HEALTH OUTPATIENT
CLINIC,

Defendants.

ORDER OF COURT

AND NOW, this ____ day of _____, 200____, upon consideration of Defendant's, Bradford Bobrin, M.D., Preliminary Objections to Plaintiff's Amended Complaint, and after entertaining appropriate argument thereon, it is hereby ORDERED, ADJUDGED and DECREED that said Preliminary Objections are GRANTED, and Plaintiff's claim for punitive damages against Dr. Bobrin is dismissed with prejudice.

J.

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that I served the foregoing document to all counsel of record in the following manner on the 28th day of November, 2007:

Via Facsimile	_____
Via Hand Delivery	_____
Via First Class U.S. Mail	_____ X
Via Overnight Mail	_____
Via Certified Mail/ Return Receipt Request	_____

Thomas R. Kline, Esquire
Mark A. Hoffman, Esquire
Kline & Specter, P.C.
1525 Locust Street,
19th Floor
Philadelphia, PA 19102

Attorneys for Plaintiff

Daryl Slimak, Esquire
McQuaide Blasko
811 University Drive
State College, PA 16801

M. Brian O'Connor, Esquire
Matis Baum Rizza & O'Connor, P.C.
444 Liberty Avenue; Suite 300
Pittsburgh, PA 15222

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

M. Brian O'Connor, Esquire
Gaca, Matis, Baum & Rizza, P.C.
444 Liberty Avenue; Suite 300
Pittsburgh, PA 15222

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

David R. Bahl, Esquire
Richard F. Schluter, Esquire
McCormick Law Firm
835 West Fourth Street
P.O. Box 577
Williamsport PA 17703

Attorney for Dr. Mark W. Maloney

DAVIES McFARLAND & CARROLL,
P.C.

By:


LYNN E. BELL, ESQUIRE
A. MICHAEL GIANANTONIO, ESQ.

Attorneys for Bradford Bobrin, M.D.

CA

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

WANDA RUSSELL,

Plaintiff,

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BEHAVIORAL UNIT a/k/a DRMC EAST
BEHAVIORAL UNIT a/k/a DRMC
BEHAVIORAL HEALTH OUTPATIENT
CLINIC,

Defendants.

CIVIL ACTION

No.: 07-644-CD

**PRAECIPE FOR ARGUMENT
DATE ON PRELIMINARY
OBJECTIONS PURSUANT TO
RULE 211**

Served on Behalf of this Party:

Bradford Bobrin, M.D.

Counsel of Record for this Party:

LYNN E. BELL, ESQUIRE
Pa. I.D. No.: 38588

A. MICHAEL GIANANTONIO, ESQ.
Pa. I.D. No.: 89120

DAVIES McFARLAND &
CARROLL, P.C.
One Gateway Center; 10th Floor
Pittsburgh, PA 15222

(412) 281-0737

JURY TRIAL DEMANDED

FILED NO
m/11:21:31
DEC 03 2007 (GK)

William A. Shaw
Prothonotary/Clerk of Courts

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

WANDA RUSSELL,

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Plaintiff,

No.: 07-644-CD

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JAMES E. DEVLIN, M.D., MARK W.
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CLINIC,

Defendants.

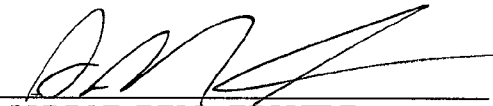
**PRAECIPE FOR ARGUMENT DATE ON PRELIMINARY
OBJECTIONS PURSUANT TO RULE 211**

To: William A. Shaw, Prothonotary

Pursuant to Local Rule 211, Defendant, Bradford Bobrin, M.D., respectfully requests that
the Court assign an argument date for his Preliminary Objections.

JURY TRIAL DEMANDED

DAVIES McFARLAND & CARROLL,
P.C.

By: 

LYNN E. BELL, ESQUIRE
A. MICHAEL GIANANTONIO, ESQ.

Attorneys for Bradford Bobrin, M.D.

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that I served the foregoing document to all counsel of record in the following manner on the 28th day of November, 2007:

Via Facsimile	_____
Via Hand Delivery	_____
Via First Class U.S. Mail	_____ X _____
Via Overnight Mail	_____
Via Certified Mail/ Return Receipt Request	_____

Thomas R. Kline, Esquire
Mark A. Hoffman, Esquire
Kline & Specter, P.C.
1525 Locust Street
19th Floor
Philadelphia, PA 19102

Attorneys for Plaintiff

Daryl Slimak, Esquire
McQuaide Blasko
811 University Drive
State College, PA 16801

M. Brian O'Connor, Esquire
Matis Baum Rizza & O'Connor, P.C.
444 Liberty Avenue; Suite 300
Pittsburgh, PA 15222

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

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Gaca, Matis, Baum & Rizza, P.C.
444 Liberty Avenue; Suite 300
Pittsburgh, PA 15222

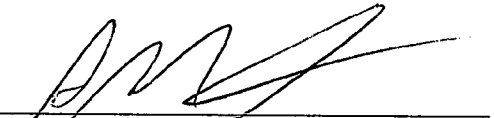
Christopher C. Rulis, Esquire
O'Brien, Rulis, Bochicchio & Sosso, LLC.
555 Grant Street, Suite 120
Pittsburgh, PA 15219

David R. Bahl, Esquire
Richard F. Schluter, Esquire
McCormick Law Firm
835 West Fourth Street
P.O. Box 577
Williamsport PA 17703

Attorney for Dr. Mark W. Maloney

DAVIES McFARLAND & CARROLL,
P.C.

By:

A handwritten signature in black ink, appearing to be 'Lynn E. Bell', written over a horizontal line.

LYNN E. BELL, ESQUIRE
A. MICHAEL GIANANTONIO, ESQ.

Attorneys for Bradford Bobrin, M.D.

FILED

DEC 05 2007

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

NO C/L *GR*

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

WANDA RUSSELL,

Plaintiff,

v.

JAMES E. DEVLIN, M.D., MARK W.
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M.D., THOMAS J. BRADLEY, M.D.,
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BEHAVIORAL UNIT a/k/a DRMC
BEHAVIORAL HEALTH OUTPATIENT
CLINIC,

Defendants.

CIVIL ACTION

No.: 07-644-CD

NOTICE OF SERVICE

Served on Behalf of this Party:

Bradford Bobrin, M.D.

Counsel of Record for this Party:

LYNN E. BELL, ESQUIRE

Pa. I.D. No.: 38588

A. MICHAEL GIANANTONIO, ESQ.

Pa. I.D. No.: 89120

DAVIES McFARLAND &

CARROLL, P.C.

One Gateway Center; 10th Floor
Pittsburgh, PA 15222

(412) 281-0737

JURY TRIAL DEMANDED

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

WANDA RUSSELL,

CIVIL ACTION

Plaintiff,

No.: 07-644-CD

v.

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M.D., THOMAS J. BRADLEY, M.D.,
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CLINIC,

Defendants.

NOTICE OF SERVICE

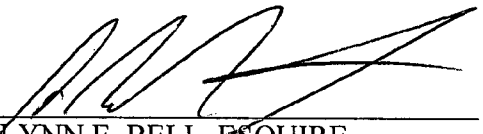
TO: William Shaw, Prothonotary

PLEASE TAKE NOTICE that on the 3rd day of December, 2007, the undersigned
served discovery responses listed below to all known counsel of record, via U.S. Mail, postage
prepaid:

1. Answers and Responses to Plaintiff's Interrogatories and Request for Production
of Documents;
2. Answers to Plaintiff's Expert Witness Interrogatories; and
3. Answers and Responses to Plaintiff Insurance Interrogatories and Request for
Production of Documents

JURY TRIAL DEMANDED

DAVIES McFARLAND & CARROLL,
P.C.

By: 
LYNN E. BELL, ESQUIRE
A. MICHAEL GIANANTONIO, ESQ.

Attorneys for Bradford Bobrin, M.D.

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that I served the foregoing document to all counsel of record in the following manner on the 3^d day of December, 2007:

Via Facsimile	_____
Via Hand Delivery	_____
Via First Class U.S. Mail	_____ X
Via Overnight Mail	_____
Via Certified Mail/ Return Receipt Request	_____

Thomas R. Kline, Esquire
Mark A. Hoffman, Esquire
Kline & Specter, P.C.
1525 Locust Street
19th Floor
Philadelphia, PA 19102

Attorneys for Plaintiff

Daryl Slimak, Esquire
McQuaide Blasko
811 University Drive
State College, PA 16801

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Matis Baum Rizza & O'Connor, P.C.
444 Liberty Avenue; Suite 300
Pittsburgh, PA 15222

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

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Pittsburgh, PA 15219

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Attorney for Dr. Mark W. Maloney

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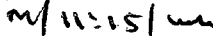
KLINE & SPECTER
A Professional Corporation

By: THOMAS R. KLINE, ESQUIRE
MARK A. HOFFMAN, ESQUIRE
ROYCE W. SMITH, ESQUIRE

Attorney ID Nos.: 28895/ 84443/201295
The Nineteenth Floor
1525 Locust Street
Philadelphia, Pennsylvania 19102
(215) 772-1000

FILED 

DEC 06 2007


William A. Shaw
Prothonotary/Clerk of Courts

2 Cent. Att.

Attorneys for Plaintiff

WANDA RUSSELL
426 North Michael Street
Saint Mary's, Pennsylvania 15857
Plaintiff,

v.

JAMES E. DEVLIN, M.D.
1100 Main Street
Brockway, Pennsylvania 15824
and

MARK W. MALONEY, D.O.
DRMC Primary Care Associates
Medical Arts Building
Suite 200

145 Hospital Avenue
DuBois, Pennsylvania 15801
and

DRMC PRIMARY CARE
ASSOCIATES
Medical Arts Building
Suite 200

145 Hospital Avenue
DuBois, Pennsylvania 15801
and

SANAA HELMI, M.D.
Behavioral Health Outpatient Clinic
DRMC East Unit
Maple Avenue
DuBois, Pennsylvania 15801

ans

THOMAS J. BRADLEY, M.D.
701 Sunflower Drive
DuBois, Pennsylvania 15801
and

COURT OF COMMON PLEAS
COUNTY OF CLEARFIELD

DOCKET NO. 07-644-CD

BRADFORD BOBRIN, M.D.
Behavioral Health Outpatient Clinic
DRMC East Unit
Maple Avenue
DuBois, Pennsylvania 15801
and
DuBOIS REGIONAL MEDICAL
CENTER a/ka DuBOIS REGIONAL
MEDICAL CENTER WEST
a/d/b/a DRMC BEHAVIORAL
UNIT a/k/a DRMC EAST BEHAVIORAL
UNIT a/k/a DRMC BEHAVIORAL
HEALTH OUTPATIENT CLINIC
c/o Office of Risk Management
100 Hospital Avenue
DuBois, Pennsylvania 15801
Defendants.

NOTICE

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

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER.

IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.

COURT ADMINISTRATOR
Clearfield County Courthouse
Second and Market Streets
Clearfield, PA 16830
814-765-2641, Ext. (5982)

ADVISO

Le han demandado a usted en la corte. Si usted quiere defenderse de estas demandas expuestas en las paginas siguientes, usted tiene veinte (20) dias de plazo al partir de la fecha de la demanda y la notificacion. Hace falta asentar una comparencia escrita o en persona o con un abogado y entregar a la corte en forma escrita sus defensas o sus objeciones a las demandas en contra de su persona. Sea avisado que si usted no se defiende, la corte tomara medidas y puede continuar la demanda en contra suya sin previo aviso o notificacion. Ademias, la corte pueda decidir a favor del demandante y requiere que usted cumpla con todas las provisiones de esta demanda. Usted puede perder dinero o sus propiedades u otros derechos importantes para usted.

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

ESTA OFICINA LO PUEDE PROPORCIONAR CON INFORMACION ACERCA DE EMPLEAR A UN ABOGADO. SI USTED NO PUEDE PROPORCIONAR PARA EMPLEAR UN ABOGADO, ESTA OFICINA PUEDE SER CAPAZ DE PROPORCIONARLO CON INFORMACION ACERCA DE LAS AGENCIAS QUE PUEDEN OFRECER LOS SERVICIOS LEGALES A PERSONAS ELEGIBLES EN UN HONORARIO REDUCIDO NINGUN HONORARIO.

COURT ADMINISTRATOR
Clearfield County Courthouse
Second and Market Streets
Clearfield, PA 16830
814-765-2641, Ext. (5982)

SECOND AMENDED CIVIL ACTION COMPLAINT

Plaintiff, Wanda Russell, by and through her undersigned attorneys, Kline & Specter, P.C., in response to the Preliminary Objections filed on behalf of Defendants Mark W. Maloney, D.O. and Sanaa Helmi, M.D., herein files with this Court her Second Amended Complaint, as of right, and complains of the above-captioned defendants as follows:

1. Plaintiff Wanda Russell is an adult citizen and a resident of the Commonwealth of Pennsylvania, residing at 426 North Michael Street, Saint Mary's, Pennsylvania 15857. Wanda Russell was born on September 19, 1958.

2. Defendant James E. Devlin, M.D. ["Dr. Devlin"] was, at all times material hereto, a duly licensed physician in the Commonwealth of Pennsylvania, specializing in the medical field of family medicine, who maintained a professional office, business or corporate office, or place of medical practice at 1100 Main Street, Brockway, Pennsylvania 15824. A Certificate of Merit pursuant to Pa.R.C.P. No. 1042.1 regarding the treatment, practice, or work of this defendant is attached hereto as Exhibit "A."

3. Defendant Mark W. Maloney, D.O. ["Dr. Maloney"] was, at all times material hereto, a duly licensed osteopathic physician in the Commonwealth of Pennsylvania, specializing in the medical field of family medicine, who maintained a professional office, business or corporate office, or place of medical practice at DRMC Primary Care Associates, Medical Arts Building, Suite 200, 145 Hospital Avenue, DuBois, Pennsylvania 15801. A Certificate of Merit pursuant to Pa.R.C.P. No. 1042.1 regarding the treatment, practice, or work of this defendant is attached hereto as Exhibit "A."

4. Defendant DRMC Primary Care Associates was, at all times material hereto, a corporation, professional corporation, professional association, professional partnership, or other jural entity organized according to and existing under the laws of the Commonwealth of Pennsylvania, with an office location and place of business at Medical Arts Building, Suite 200, 145 Hospital Avenue, DuBois, Pennsylvania 15801. A Certificate of Merit pursuant to Pa.R.C.P. No. 1042.1 regarding the treatment, practice, or work of this defendant is attached hereto as Exhibit "A."

5. At all times material hereto, Dr. Maloney and/or Dr. Devlin were agents, servants, and/or employees of DRMC Primary Care Associates, and were acting within the scope of their agency, master-servant, and/or employment relationships with DRMC Primary Care Associates while providing medical care and treatment to Wanda Russell. Accordingly, DRMC Primary Care Associates is liable for the negligent, grossly negligent, and/or reckless acts and/or omissions of Dr. Devlin and/or Dr. Maloney under theories of agency, master-servant, respondeat superior, and/or right of control.

6. Dr. Devlin was providing medical service or family practice service "coverage" or "cross-coverage" for Dr. Maloney, while providing medical care and treatment to Wanda Russell on or about December 4 and 5, 2005. Accordingly, Dr. Maloney is liable for the negligent acts and/or omissions of Dr. Devlin under theories of agency, master-servant or borrowed servant, respondeat superior, and/or right of control.

7. Dr. Devlin was providing "coverage" or "cross-coverage" for Dr. Maloney's family practice group or association, DRMC Primary Care Associates, while providing medical care and treatment to Wanda Russell, on or about December 4 and 5, 2005. Accordingly, DRMC Primary Care Associates is liable for the negligent acts and/or omissions of Dr. Devlin under theories of

agency, master-servant or borrowed servant, respondeat superior, and/or right of control.

8. Defendant Sanaa Helmi, M.D. ["Dr. Helmi"] was, at all times material hereto, a duly licensed physician in the Commonwealth of Pennsylvania, specializing in the medical field of psychiatry, who maintained a professional office, business or corporate office, or place of medical practice at Behavioral Health Outpatient Clinic, DRMC East Unit, Maple Avenue, DuBois, Pennsylvania 15801. A Certificate of Merit pursuant to Pa.R.C.P. No. 1042.1 regarding the treatment, practice, or work of this defendant is attached hereto as Exhibit "A."

9. Defendant Thomas J. Bradley, M.D. ["Dr. Bradley"] was, at all times material hereto, a duly licensed physician in the Commonwealth of Pennsylvania, specializing in the medical field of family medicine, who maintained a professional office, business or corporate office, or place of medical practice at 701 Sunflower Drive, DuBois, Pennsylvania 15801. At all times material hereto, Dr. Bradley was under contract with the DuBois Regional Medical Center to perform admission history and physical examinations on patients, including Wanda Russell, admitted to the DRMC East Unit. A Certificate of Merit pursuant to Pa.R.C.P. No. 1042.1 regarding the treatment, practice, or work of this defendant is attached hereto as Exhibit "A."

10. Defendant Bradford Bobrin, M.D. ["Dr. Bobrin"] was, at all times material hereto, a duly licensed physician in the Commonwealth of Pennsylvania, specializing in the medical field of psychiatry, who maintained a professional office, business or corporate office, or place of medical practice at Behavioral Health Outpatient Clinic, DRMC East Unit, Maple Avenue, DuBois, Pennsylvania 15801. A Certificate of Merit pursuant to Pa.R.C.P. No. 1042.1 regarding the treatment, practice, or work of this defendant is attached hereto as Exhibit "A."

11. Defendant DuBois Regional Medical Center a/k/a/ DuBois Regional Medical Center

West a/d/b/a DRMC Behavioral Unit a/k/a DRMC East Behavioral Unit a/k/a DRMC Behavioral Health Outpatient Clinic [referred to in various paragraphs as either the "DuBois Regional Medical Center" or the "DRMC Behavioral Unit" or the "DuBois Regional Medical Center West"] is a corporation or other jural entity organized according to and existing under the laws of the Commonwealth of Pennsylvania which owns, operates, and maintains a hospital, health care facility, and provider of health care services based at 100 Hospital Avenue, DuBois, Pennsylvania 15801. The DRMC Behavioral Unit a/k/a DRMC East Behavioral Unit a/k/a DRMC East Behavioral Unit a/k/a DRMC Behavioral Health Outpatient Clinic is a psychiatric unit located within the East Unit of the DuBois Regional Medical Center. A Certificate of Merit pursuant to Pa.R.C.P. No. 1042.1 regarding the treatment, practice, or work of this defendant is attached hereto as Exhibit "A."

12. At all times material hereto, Dr. Devlin, Dr. Maloney, Dr. Helmi, Dr. Bradley, and Dr. Bobrin were actual or ostensible agents, servants, and/or employees of the DuBois Regional Medical Center and/or the DRMC Behavioral Unit, and were acting within the scope of their agency, master-servant, and/or employment relationship with the DuBois Regional Medical Center, and its affiliated or associated entities as captioned above, while providing medical care and treatment to Wanda Russell. Accordingly, the DuBois Regional Medical Center, and its affiliated or associated entities as captioned above, are liable for the negligent, grossly negligent, and/or reckless acts and/or omissions of Dr. Devlin, Dr. Maloney, Dr. Helmi, Dr. Bradley, and Dr. Bobrin under theories of agency, master-servant, respondeat superior, and/or right of control.

13. At all times material hereto, the DuBois Regional Medical Center and the DRMC Behavioral Unit were acting by and through their actual agents or ostensible agents, servants, and/or employees, Dr. Devlin, Dr. Maloney, Dr. Helmi, Dr. Bradley, and Dr. Bobrin, as well as the nurses

who provided psychiatric nursing care and evaluation to Wanda Russell during her hospitalization in the DRMC Behavioral Unit. The identities of these nurses, whose signatures are illegible on the "Behavioral Health Services Daily Notes" and extension notes, attached hereto as Exhibit "B," are fully known to the DuBois Regional Medical Center and the DRMC Behavioral Unit, and presently unknown to Plaintiff because of the illegible nature, or absence of, their signatures. The identities of these nurses is the subject matter of further discovery by the Plaintiff during the course of this litigation. Accordingly, DuBois Regional Medical Center is liable for the negligent, grossly negligent, and/or reckless acts and/or omissions of these aforementioned named and as yet specifically identified, see Exhibit "B," actual or ostensible agents, servants, and/or employees which occurred in the course of providing medical and nursing care to Wanda Russell, under theories of agency, master-servant, respondeat superior, and/or right of control.

14. Venue in this action is properly laid in Clearfield County, Pennsylvania pursuant to the Amendatory Order of the Supreme Court of Pennsylvania dated March 5, 2003, No. 381, Civil Procedural Rules, Docket No. 5, which amended the Pennsylvania Rules of Civil Procedure No.1006.

15. On December 3, 2005, Wanda Russell presented to the Emergency Department at the DuBois Regional Medical Center via wheelchair with complaints of, among other things, bilateral arm weakness and dark vision.

16. On December 3, 2005, Wanda Russell was evaluated by Patrick Shilata, D.O. in the Emergency Department at the DuBois Regional Medical Center.

17. On December 3, 2005, Wanda Russell had a known history of hypertension and insulin dependent diabetes mellitus. These co-morbid conditions were known to the nursing staff

and physician who evaluated and treated Wanda Russell in the Emergency Department on December 3, 2005, and were recorded in the DuBois Regional Medical Center Emergency Department medical record of Wanda Russell.

18. On December 3, 2005, Wanda Russell was able to ambulate, but complained of feeling off balance.

19. On December 3, 2005, during her evaluation in the DuBois Regional Medical Center Emergency Department, Wanda Russell had performed on her, among other things, an electrocardiogram, a basic metabolic panel, a urine analysis with microscopic examination, and an unenhanced head CT scan. All test results were interpreted as "normal" except for an elevated blood sugar (196 mg/dl; normal = 70 to 110 mg/dl).

20. On December 3, 2005, Wanda Russell was discharged from the Emergency Department at the DuBois Regional Medical Center with the diagnosis: "Impression: weakness, Transient Ischemic Attack (TIA), Diabetes Mellitus, Type I."

21. On December 3, 2005, Wanda Russell was discharged from the Emergency Department at the DuBois Regional Medical Center with instructions on transient ischemic attack and diabetes mellitus, and she was given a four (4) day work release. Wanda Russell was additionally instructed to follow-up with Dr. Maloney, her primary care physician, in three (3) to four (4) days.

22. On December 4, 2005, Wanda Russell presented to the Emergency Department at the DuBois Regional Medical Center via wheelchair with complaints of, among other things, left-sided weakness and inability to walk.

23. On December 4, 2005, Wanda Russell's sister signed the DuBois Regional Medical

Center "Consent for Treatment" as Wanda Russell's patient representative, and on Wanda Russell's behalf, because Wanda Russell had weakness on writing and slurred speech. The "Consent for Treatment" was signed at or about 0938 hours on December 4, 2005.

24. On December 4, 2005, Wanda Russell was evaluated by Jeffrey Elias, D.O. ["Dr. Elias"] in the Emergency Department at the DuBois Regional Medical Center.

25. On December 4, 2005, Dr. Elias performed a neurological examination on Wanda Russell in the Emergency Department at the DuBois Regional Medical Center, and found, among other things, that Wanda Russell had a facial droop and diminished motor strength in the left arm (2/5) and left leg (2/5). The "Review of Systems" performed by Dr. Elias was positive for gait disturbance, speech changes, and weakness in the left arm and leg.

26. On December 4, 2005, Dr. Elias formulated a plan that Wanda Russell be admitted "to medical, for Maloney, Mark W. with a primary ED diagnosis of CVA (stroke) non-hemorrhagic." A summary of the Emergency Department evaluation of Wanda Russell was faxed to Wanda Russell's primary care physician, Dr. Maloney.

27. On December 4, 2005, Dr. Devlin evaluated Wanda Russell in the Emergency Department at the DuBois Regional Medical Center. At the time, Dr. Devlin was covering or cross-covering for Dr. Maloney and DRMC Primary Care Associates.

28. On December 4, 2005, Dr. Devlin admitted Wanda Russell to the DuBois Regional Medical Center for neuro-checks and observation. At the time of admission, Dr. Devlin doubted that Wanda Russell had, or was experiencing, a transient ischemic attack, and recorded this belief in his "History and Physical Examination," stating, among other things: "History of some left sided weakness, questionable TIA. Clinically, at this time it is doubtful but with the history we will go

ahead and make the patient an observation.”

29. On December 4, 2005, Wanda Russell was admitted to Dr. Maloney’s service at the DuBois Regional Medical Center, with Dr. Devlin covering.

30. On December 4, 2005, Dr. Devlin did not obtain, or order to be obtained or provided, a neurology consultation for Wanda Russell.

31. On December 4, 2005, Dr. Devlin did not have performed, or order to be performed, an MRI scan of the head or an MRA on Wanda Russell.

32. On December 5, 2005, an unenhanced head CT scan was performed on Wanda Russell for the diagnosis of left-sided weakness, and was interpreted as “normal.”

33. On December 5, 2005, bilateral carotid duplex sonograms were performed on Wanda Russell for the indication of left-sided weakness. This study demonstrated approximately 50 percent stenosis of the right internal carotid artery and 50 to 69 percent stenosis of the left internal carotid artery. Bilateral carotid plaque was also demonstrated on the sonogram.

34. An aortic arch and four vessel cerebral angiogram was not performed on Wanda Russell on December 5, 2005.

35. A head MRI or MRA was not performed on Wanda Russell on December 5, 2005.

36. A neurology consult was not obtained for or performed on Wanda Russell on December 5, 2005.

37. Wanda Russell continued to have intermittent left-sided weakness on December 5, 2005.

38. Wanda Russell had slurred speech and a “left facial droop of the mouth” on December 5, 2005.

39. On December 5, 2005, at or between the hours of approximately 1900 and 2000 hours, Dr. Maloney evaluated Wanda Russell at the DuBois Regional Medical Center, and informed Wanda Russell that her loss of mobility was due to depression. Dr. Maloney, who is neither a neurologist or a psychiatrist, offered a psychiatric diagnosis to explain objective neurologic symptoms, in reckless disregard to the safety and well-being of Wanda Russell.

40. On December 5, 2005, Dr. Maloney knew and understood that TIA and CVA were neurologic conditions which carried the risk, when present, of severe, debilitating, and irreversible sequelae.

41. On December 5, 2005, Dr. Maloney knew and understood that the Dubois Regional Medical Center was not a "Stroke Center" and did not have a "Stroke Team."

42. On December 5, 2005, Dr. Maloney knew and understood that Wanda Russell was having symptoms of slurred speech.

43. On December 5, 2005, Dr. Maloney knew and understood that Wanda Russell was having signs of a facial droop.

44. On December 5, 2005, Dr. Maloney knew and understood that Wanda Russell had been given the diagnoses of TIA and CVA within the preceding approximately 48 hour period in time.

45. On December 5, 2005, Dr. Maloney knew and understood that TIA and CVA were neurologic conditions which carried the risk, when present, of severe, debilitating, and irreversible sequelae.

46. On December 5, 2005, Dr. Maloney knew and understood that he did not have the training, skill, knowledge, or experience in the field of psychiatry to diagnose conversion reaction

disorders or other psychiatric diagnoses from the Diagnostic and Statistic Manual of Mental Disorders.

47. On December 5, 2005, Dr. Maloney consulted Dr. Helmi by telephone concerning the admission of Wanda Russell to the DRMC Behavioral Unit, and reported to Dr. Helmi that "he was unable to find any medical problems" with respect to Wanda Russell, and that Wanda Russell was "suicidal."

48. On December 5, 2005, Dr. Maloney misrepresented the medical and neurologic condition of Wanda Russell's medical status to Dr. Helmi, offered in reckless and wanton disregard for the objective neurologic and medical signs and symptoms of an impending cerebrovascular accident which Wanda Russell was exhibiting at that time, and which had been confirmed by other physicians.

49. On December 5, 2005, during the telephone consultation between Dr. Maloney and Dr. Helmi, according to Dr. Maloney, Dr. Helmi made the recommendation that Wanda Russell be admitted to the DRMC Behavior Unit for psychiatric treatment. The medical and psychiatric status of Wanda Russell was misrepresented to Dr. Helmi by Dr. Maloney, in reckless and wanton disregard for the objective neurologic and medical signs and symptoms of an impending cerebrovascular accident which Wanda Russell was exhibiting at that time, and which had been confirmed by other physicians.

50. Immediately following the telephone conversation with Dr. Maloney, Dr. Helmi did not perform a psychiatric history, psychiatric evaluation, or physical examination of Wanda Russell on December 5, 2005, or physically see or speak with Wanda Russell on December 5 or 6, 2005, despite a purported diagnosis of "suicidal." Dr. Helmi acted in a grossly negligent and/or reckless

manner, in total disregard for the safety and well-being of Wanda Russell, by failing to examine and evaluate a patient whom she believed was "suicidal." Dr. Helmi never examined Wanda Russell at any time during Wanda Russell's acute admission to the DRMC Behavioral Unit, even in the face of information provided to Dr. Helmi by the nursing staff that Wanda Russell was evolving a neurologic emergency.

51. On December 5, 2005, at or about 2040 hours, Dr. Maloney gave a "telephone order" to Brenda L. Slappy, R.N., to "Transfer to psych unit tonight."

52. On December 5, 2005, Wanda Russell was asked to sign, and did sign, an "Initial Evaluation and Treatment Plan," which outlined a "Description of Proposed Treatment Plan" and a "Description of Proposed Restrictions and Restraints." This form was not completed and signed by a physician, in reckless disregard to the rights, safety, and well-being of Wanda Russell.

53. On December 5, 2005, Wanda Russell was asked to sign, and did sign, a "Consent for Voluntary Inpatient Treatment."

54. The "Consent for Voluntary Inpatient Treatment" set forth the following "Instructions":

Before signing this form, your treatment should be explained to you and you must be given a copy of the Patient's Bill of Rights, the report of your initial evaluation and the proposed treatment plan must be completed and signed by you and the physician.

55. On December 6, 2005, Wanda Russell was not given a copy of the DuBois Regional Medical Center Patient's Bill of Rights by any physician or health care provider who was providing care and treatment to Wanda Russell, in reckless disregard to the institutional obligations set forth by the DuBois Medical Center to protect the rights of patients such as Wanda Russell.

56. On December 6, 2005, Wanda Russell was not given a copy of her initial evaluation by any physician providing care and treatment to Wanda Russell, in reckless disregard to the institutional obligations set forth by the DuBois Medical Center to protect the rights, safety, and well-being of Wanda Russell.

57. On December 6, 2005, Wanda Russell was not given a copy of the proposed treatment plan, which should have been completed and signed by her and a physician. Dr. Helmi, who made, and subsequently then denied that she made, the decision to admit Wanda Russell to the psychiatric unit, did not explain the proposed treatment plan to Wanda Russell, who was deemed to be "suicidal," nor did Dr. Helmi sign the "Description of Proposed Treatment Plan" and "Description of Proposed Restrictions and Restraints."

58. Dr. Helmi's conduct was grossly negligent and/or undertaken in reckless disregard to the institutional obligations set forth by the DuBois Medical Center to protect the rights, safety, and well-being of Wanda Russell. Dr. Helmi never evaluated Wanda Russell at any point during Wanda Russell's admission to the DRMC Behavioral Unit.

59. On December 6, 2005, at or about 0200 hours, Wanda Russell was admitted to the DRMC Behavioral Unit by Kim Hendricks, R.N. ["Nurse Hendricks"], onto Dr. Bobrin's Service.

60. On December 6, 2005, at no time prior to, or at the time of her admission at 0200 hours to the DRMC Behavioral Unit, was Wanda Russell evaluated by a psychiatrist, including Dr. Bradley, Dr. Bobrin, or Dr. Helmi, in wanton and willful disregard for the safety and well-being of Wanda Russell, and the institutional obligations set forth by the DuBois Medical Center to protect the rights, safety, and well-being of Wanda Russell.

61. On December 6, 2005, at or about 0200 hours, Wanda Russell told Nurse Hendricks

that "she was lied to about coming here for an admission from her family" and reported "she is unable to use left arm and leg. Patient complains of not wanting to stay." The nursing staff at the DRMC Behavioral Unit ignored these complaints by Wanda Russell, and in wanton and willful disregard for Wanda Russell's safety and well-being, and failed to inform any physician about these complaints at or about the time they were offered by Wanda Russell.

62. On December 6, 2005, at or about 0330 hours, Wanda Russell fell out of bed in the DRMC Behavioral Unit. The nursing staff at the DRMC Behavioral Unit, in wanton and willful disregard for Wanda Russell's safety and well-being, failed to inform any physician about this event at or about the time it occurred, and about Wanda Russell's stated inability to use her left arm and leg.

63. On December 6, 2005, at or about 0643 hours, Dr. Bradley performed a history and physical examination on Wanda Russell. Dr. Bradley obtained a history of present illness, among other things, as follows:

Wanda is a 47-year-old woman who had been readmitted to the West division for left sided weakness. She had had a workup that included a normal CT of the head. She was discharged and re-presented to the ER with nervousness and I guess there was a question regarding the extent of the left sided weakness present and the fact it was noted that the person was under a lot of stress. She is hypertensive, hyperlipidemic, and an insulin dependent diabetic. I guess she was persuaded to be transferred to the psyche unit.

Dr. Bradley's "guesses" about Wanda Russell's medical evaluation and medical condition, which included a prior recent diagnosis of transient ischemic attack and cerebrovascular accident, offered in the face of objective neurologic signs and symptoms, were grossly negligent and/or reckless. Dr. Bradley was not qualified to determine whether Wanda Russell's complaints were based upon

evolving central nervous system injury or stroke, versus an underlying psychological or psychiatric condition.

64. On December 6, 2005, during his physical examination of Wanda Russell, Dr. Bradley found, among other things, "There is some left upper extremity weakness and facial asymmetry" that was "hard to evaluate since she is so anxious." The failure to obtain a neurologic evaluation and diagnostic testing in the face of objective neurologic signs and symptoms was grossly negligent and/or reckless.

65. On December 6, 2005, at the time Dr. Bradley initially evaluated Wanda Russell, Dr. Bradley formulated and initiated the plan that "the patient is admitted for psyche evaluation and treatment." The failure to obtain a neurologic evaluation and diagnostic testing in the face of objective neurologic signs and symptoms was grossly negligent and/or reckless. Dr. Bradley knew that Wanda Russell was exhibiting objective neurologic signs and symptoms, and acted in reckless disregard to the safety and well-being of Wanda Russell by failing to obtain appropriate and timely evaluation of these signs and symptoms, where Dr. Bradley, himself, was not qualified to make such an assessment regarding the etiology of Wanda Russell's symptoms.

66. On December 6, 2005, at the time of his initial evaluation, Dr. Bradley did not transfer Wanda Russell back to a medical unit for evaluation of her left sided weakness and facial asymmetry. The failure to transfer Wanda Russell to the medical unit for neurologic evaluation and diagnostic workup in the face of objective neurologic signs and symptoms which were obvious to Dr. Bradley was grossly negligent and/or reckless.

67. On December 6, 2005, at the time of his initial evaluation, Dr. Bradley did not obtain, or order to be obtained, a neurology consultation for Wanda Russell. The failure to obtain a

neurologic evaluation and diagnostic testing in the face of objective neurologic signs and symptoms was grossly negligent and/or reckless.

68. On December 6, 2005, at the time of his initial evaluation, Dr. Bradley did not have performed, or order to be performed, an MRI scan of the head or MRA on Wanda Russell. The failure to obtain a neurologic evaluation and diagnostic testing in the face of objective neurologic signs and symptoms was grossly negligent and/or reckless.

69. On December 6, 2005, at the time of his initial evaluation, Dr. Bradley did not diagnose Wanda Russell as having an evolving or “stuttering” cerebrovascular accident. Dr. Bradley abandoned his patient on the DRMC Behavioral Unit without initiating or recommending further neurologic evaluation or diagnostic testing, with actual knowledge of objective neurologic deficits. The failure to perform or order to be performed these evaluations and tests was grossly negligent, and/or in reckless disregard for the safety and well-being of Wanda Russell.

70. On December 6, 2005, Dr. Bradley knew and understood that TIA and CVA were neurologic conditions which carried the risk, when present, of severe, debilitating, and irreversible sequelae.

71. On December 6, 2005, Dr. Bradley knew and understood that the Dubois Regional Medical Center was not a “Stroke Center” and did not have a “Stroke Team.”

72. On December 6, 2005, the nursing staff from the DRMC Behavioral Unit attempted to contact Dr. Helmi at 0955 hours, first by beeper, and eventually by cell phone, seeking information about Wanda Russell and her status as a patient in the DRMC Behavioral Unit.

73. On December 6, 2005, at or about 0955 hours, Dr. Helmi informed the DRMC Behavioral Unit nurse, whose illegible signature appears at Exhibit “B” at page 3, by telephone, “that

she [Dr. Helmi] didn't remember the patient and asked where she came from." Dr. Helmi had never seen, spoken with, evaluated, or otherwise initiated any treatment or diagnostic testing from the time of admission of Wanda Russell to the DRMC Behavioral Unit, despite accepting Wanda Russell to the DRMC Behavioral Unit as a patient in transfer approximately 9 to 12 hours earlier, and did not inform herself or in any manner concerning the status of, or check on the overnight condition of, Wanda Russell, which included the presence of evolving neurologic findings and a fall which Wanda Russell had experienced in the DRMC Behavioral Unit.

74. On December 6, 2005, at or about 1005 hours, Dr. Helmi informed the nurse, whose illegible signature appears at Exhibit "B" at page 3, by telephone, that "she [Dr. Helmi] did not make the recommendation-Dr. Maloney asked for the admission and she agreed on the basis that the patient is suicidal." Dr. Helmi's failure to evaluate a patient deemed "suicidal," to inform herself of the patient's medical condition overnight, or to examine any of Wanda Russell's medical or psychiatric history and the prior diagnoses of transient ischemic attack and cerebrovascular accident, was grossly negligent and/or reckless.

75. On December 6, 2005, at or before 1028 hours, Dr. Bobrin evaluated Wanda Russell at the DRMC Behavioral Unit, and in the "Initial Evaluation/Mental Status Examination/Discharge Summary" report, described that, among other things:

She describes being scared about her arm and leg. She awoke on Friday with trouble with her left arm and it has gotten worse since then. Her family said that this is true as well. She can stand as she demonstrates to me but has trouble lifting up her arm, not even able to brush her hair. She woke up and fell and has had two falls here on the unit and so she initially came in because scans x two do not show any signs of ischemia or infarct.

76. On December 6, 2005, Dr. Bobrin, at or before 1028 hours, Dr. Bobrin found that

Wanda Russell exhibited no signs of "suicidal or homicidal ideations" on the mental status examination, contrary to what had been previously misrepresented by Dr. Maloney and never determined by Dr. Helmi at the time of admission.

77. On December 6, 2005, at or before 1028 hours, Dr. Bobrin assessed Wanda Russell status and condition, and found:

This is a 47-year-old with some mild depressive symptoms and acute onset of depressive mood after having stroke-like symptoms which has continued. Although it was thought that her neurologic signs were out of proportion to her neurological symptoms, she does seem to have flaccid paralysis of the left arm and left droop of smile. With no gross infarct, there might be some infarct on brainstem or internal capsule. Will need MRI and neuro consult.

78. On December 6, 2005, Dr. Bobrin knew and understood that Wanda Russell was manifesting signs and symptoms of an acute stroke, and in reckless and wanton disregard of this knowledge, failed to immediately transfer Wanda Russell to a medical unit, "stroke center," or to the care of a "stroke team."

79. On December 6, 2005, Dr. Bobrin knew and understood that TIA and CVA were neurologic conditions which carried the risk, when present, of severe, debilitating, and irreversible sequelae.

80. On December 6, 2005, Dr. Bobrin knew and understood that the Dubois Regional Medical Center was not a "Stroke Center" and did not have a "Stroke Team."

81. On December 6, 2005, Dr. Bobrin knew and understood that an acute stroke is a neurological emergency.

82. On December 6, 2005, at or before 1028 hours, Dr. Bobrin formulated a plan for

Wanda Russell that included, among other things, "to transfer her back over to medicine where she will receive neuro consult and MRI, continue medical care. I do not think she needs acute psychiatric care at this time."

83. On December 6, 2005, Dr. Bobrin did not obtain an emergency MRI and neurology consultation prior to Wanda Russell's transfer to the DRMC Behavioral Unit, in reckless disregard to the emergent status of Wanda Russell's neurologic condition.

84. On December 6, 2005, at or about 1700 hours, more than 7 hours after Dr. Bradley and Dr. Bobrin recognized that Wanda Russell was manifesting objective neurologic signs of a neurologic emergency, Wanda Russell was readmitted by Dr. Maloney under his care to the DuBois Regional Medical Center West. The failure to obtain emergent evaluation of Wanda Russell by Dr. Bobrin, and Dr. Bradley during the morning hours of that day, in the face of actual knowledge that Wanda Russell was manifesting objective signs of a neurologic crisis unexplained by psychiatric disease, was grossly negligent and/or reckless.

85. On December 6, 2005, on or before 1700 hours, Dr. Maloney performed a "History and Physical Examination" on Wanda Russell, and described Wanda Russell's admission to "the Adult Mental Health Unit," stating:

When she arrived there, Wanda apparently rescinded her voluntary admission, noting that she did not wish to be there. This was supported by her family, and today, secondary to reported falls in the Adult Mental Health Unit. I have requested that Wanda be returned for further evaluation in the observation status setting.

86. On December 6, 2005, Dr. Maloney ordered an MRI study to be performed on Wanda Russell on the following morning, and a neurology consultation to be performed by Ruediger Katz,

M.D. ["Dr. Katz"].

87. On December 6, 2005, during his evaluation of Wanda Russell at or before 1916 hours, Dr. Katz found that Wanda Russell had multiple risk factors for cerebral ischemia.

88. On December 6, 2005, during his neurologic examination of Wanda Russell at or before 1916 hours, Dr. Katz found, among other things, that Wanda Russell had a lower left facial droop, 0/5 strength in her left arm, and 3/5 strength in her left leg. At that time, Wanda Russell had a completed stroke.

89. On December 7, 2005, an unenhanced MRI of the brain was performed on Wanda Russell at the DuBois Regional Medical Center, which demonstrated a "well-circumscribed lesion of right basal ganglia suggestive of a subacute or chronic lacunar infarct. Very small lacunar infarct in the left basal ganglia."

90. On December 8, 2005, John J. Ahn, M.D. performed a cardiology consultation on Wanda Russell, and diagnosed Wanda Russell as an "unfortunate 47-year-old female who has suffered a CVA."

91. On December 8, 2005, Lynn Myers, M.D. ["Dr. Myers"], a rehabilitation medicine specialist, evaluated Wanda Russell, and found that:

The patient is an appropriate candidate for admission to the inpatient rehabilitation unit to address deficits and functional mobility and self care skills related to her recent CVA with left hemiparesis.

92. On December 9, 2005, Wanda Russell was transferred to the Physiatry Unit for inpatient rehabilitation at the DRMC Inpatient Rehabilitation Programs on the service of Dr. Myers.

93. The negligence, gross negligence, and/or recklessness of all defendants, jointly and

severally, as set forth with specificity in the paragraphs above and the Counts below, directly and proximately caused, and increased the risk of harm of, the cerebrovascular accident suffered by Wanda Russell.

94. The negligence, gross negligence, and/or recklessness of all defendants, jointly and severally, as set forth with specificity in the paragraphs above and the Counts below, directly and proximately caused, and increased the risk of harm of, the neurologic injuries, impairments, and deficits suffered by Wanda Russell.

95. The negligence, gross negligence, and/or recklessness of all defendants, jointly and severally, as set forth with specificity in the paragraphs above and the Counts below, directly and proximately caused, and increased the risk of harm of, the following injuries and damages:

- a. irreversible cerebral ischemia;
- b. cerebrovascular accident;
- c. cerebral dysfunction;
- d. cognitive impairment;
- e. motor impairment;
- f. neurological impairment and injury;
- g. humiliation;
- h. embarrassment;
- i. anxiety and fright;
- j. pain and suffering;
- k. disfigurement;
- l. loss of life's pleasures;

- m. economic damages; and,
- n. medical expenses.

96. Wanda Russell suffered, and continues to suffer, grave neurologic and medical injuries, impairments, and deficits which were caused by, and whose risk of harm was increased by, the negligent, grossly negligent, and/or reckless conduct of the defendants, jointly and severally, as more fully set forth with specificity in the paragraphs above and the Counts below.

COUNT I- NEGLIGENCE
(Plaintiff v. Dr. Devlin)

97. The previous paragraphs are herein incorporated by reference as though fully set forth.

98. The negligent conduct of Dr. Delvin during his medical evaluation, care, and treatment of Wanda Russell consisted of the following:

- a. failure to properly, timely, and adequately evaluate a patient with a diagnosis of transient ischemic attack;
- b. failure to properly, timely, and adequately evaluate a patient with a diagnosis of cerebrovascular accident;
- c. failure to properly, timely, and adequately evaluate a patient with fluctuating neurologic signs and symptoms;
- d. failure to properly and timely obtain the consultative services of a neurologist or specialist in neurology;
- e. failure to properly and timely obtain cerebral imaging with an MRI scan and/or MRA;
- f. failure to properly, timely, and adequately evaluate a patient with acute

neurologic signs and symptoms;

- g. failure to timely, properly, and adequately evaluate, diagnose, and treat a “stuttering” stroke;
- h. failure to provide appropriate management and treatment of acute neurologic signs and symptoms;
- i. failure to provide appropriate, adequate, and timely monitoring of a patient with a deteriorating neurologic status;
- j. failure to properly, timely, and adequately evaluate a patient with acute deteriorating neurologic status;
- k. failure to provide appropriate management of an evolving cerebrovascular accident;
- l. failure to provide appropriate, adequate, and timely monitoring of a patient with a signs and symptoms of an evolving cerebrovascular accident or neurologic crisis;
- m. failure to properly, timely, and adequately evaluate a patient with signs and symptoms of an evolving neurologic dysfunction;
- n. failure to obtain appropriate, adequate, and timely neuro-radiologic evaluation; and,
- o. failure to properly, timely, and adequately recognize and appreciate signs and symptoms of evolving neurologic dysfunction.

COUNT II-NEGLIGENCE, GROSS NEGLIGENCE, AND RECKLESSNESS
(Plaintiff v. Dr. Maloney)

99. The previous paragraphs, including all allegations of negligence, gross, negligence, and recklessness, are herein incorporated by reference as though fully set forth.

100. The negligent, grossly negligent, and/or reckless conduct of Dr. Delvin during his evaluation, care, and treatment of Wanda Russell consisted of the following:

- a. failure to properly, timely, and adequately evaluate a patient with a diagnosis of transient ischemic attack, in the face of objective signs and symptoms of neurologic deficit;
- b. failure to properly, timely, and adequately evaluate a patient with a diagnosis of cerebrovascular accident, in the face of objective signs and symptoms of neurologic deficit;
- c. failure to properly, timely, and adequately evaluate a patient with fluctuating neurologic signs and symptoms, in the face of objective signs and symptoms of neurologic deficit;
- d. failure to properly and timely obtain the consultative services of a neurologist or specialist in neurology, in the face of objective signs and symptoms of neurologic deficit;
- e. failure to properly and timely obtain cerebral imaging with an MRI scan and/or MRA, in the face of objective signs and symptoms of neurologic deficit;

- f. failure to properly, timely, and adequately evaluate a patient with acute neurologic signs and symptoms, with actual knowledge of a diagnosis of transient ischemic attack and cerebrovascular accident;
- g. failure to timely, properly, and adequately evaluate, diagnose, and treat a “stuttering” stroke, in the face of neurologic signs and symptoms, and with actual knowledge of a diagnosis of transient ischemic attack and cerebrovascular accident;
- h. failure to provide appropriate management and treatment of acute neurologic signs and symptoms, in the face of neurologic signs and symptoms, and with actual knowledge of a diagnosis of transient ischemic attack and cerebrovascular accident;
- i. failure to provide appropriate, adequate, and timely monitoring of a patient with a deteriorating neurologic status;
- j. failure to properly, timely, and adequately evaluate a patient with acute deteriorating neurologic status, in the face of neurologic signs and symptoms, and with actual knowledge of a diagnosis of transient ischemic attack and cerebrovascular accident;
- k. failure to provide appropriate management of a cerebrovascular accident;
- l. failure to provide appropriate, adequate, and timely monitoring of a patient with a signs and symptoms of an evolving cerebrovascular accident or neurologic crisis, in the face of neurologic signs and symptoms, and with actual knowledge of a diagnosis of transient ischemic attack and

cerebrovascular accident;

- m. failure to properly, timely, and adequately evaluate a patient with signs and symptoms of an evolving neurologic dysfunction, in the face of neurologic signs and symptoms, and with actual knowledge of a diagnosis of transient ischemic attack and cerebrovascular accident;
- n. failure to provide appropriate, adequate, and timely neuro-radiologic evaluation, in the face of neurologic signs and symptoms, and with actual knowledge of a diagnosis of transient ischemic attack and cerebrovascular accident;
- o. failure to provide timely, appropriate, and adequate medical evaluation prior to transfer to a psychiatric unit, in the face of neurologic signs and symptoms, and with actual knowledge of a diagnosis of transient ischemic attack and cerebrovascular accident;
- p. failure to provide timely, appropriate, and adequate neurologic and neuro-radiologic evaluation prior to transfer to a psychiatric unit, in the face of neurologic signs and symptoms, and with actual knowledge of a diagnosis of transient ischemic attack and cerebrovascular accident;
- q. failure to provide timely, appropriate, and adequate psychiatric and psychologic evaluation prior to transfer to a psychiatric unit, in the face of neurologic signs and symptoms, and with actual knowledge of a diagnosis of transient ischemic attack and cerebrovascular accident;
- r. failure to obtain timely, appropriate, and adequate medical evaluation prior

- to transfer to a psychiatric unit, in the face of neurologic signs and symptoms, and with actual knowledge of a diagnosis of transient ischemic attack and cerebrovascular accident;
- s. misrepresentation of the medical status of the patient to the accepting psychiatrist in the DRMC Behavioral Unit, in the face of neurologic signs and symptoms, and with actual knowledge of a diagnosis of transient ischemic attack and cerebrovascular accident;
 - t. misrepresentation of the psychological and psychiatric status of the patient to the accepting psychiatrist in the DRMC Behavioral Unit, in the face of neurologic signs and symptoms, and with actual knowledge of a diagnosis of transient ischemic attack and cerebrovascular accident;
 - u. failure to take an adequate and appropriate psychiatric and psychological history, in the face of neurologic signs and symptoms, and with actual knowledge of a diagnosis of transient ischemic attack and cerebrovascular accident;
 - v. failure to take an adequate and appropriate medical care and psychiatric history prior to hospitalization in the DRMC Behavioral Unit, in the face of neurologic signs and symptoms, and with actual knowledge of a diagnosis of transient ischemic attack and cerebrovascular accident;
 - w. failure to effect a timely transfer from the psychiatric unit back to the medical unit, in the face of actual knowledge that the patient was acutely deteriorating in her neurologic status, and required emergent neurologic consultation and

- diagnostic testing and treatment;
- x. failure to effect a timely transfer from the psychiatric unit back to the medical unit for neurologic evaluation and treatment, in the face of actual knowledge that the patient was acutely deteriorating in her neurologic status;
 - y. failure to provide timely, adequate, and appropriate management of a stroke, in the face of actual knowledge that the patient was acutely deteriorating in her neurologic status;
 - z. failure to properly, timely, and adequately recognize and appreciate signs and symptoms of evolving neurologic dysfunction, in the face of a diagnosis of transient ischemic attack and cerebrovascular accident, and in the setting of objective neurologic signs and symptoms;
 - aa. rendering a psychiatric diagnosis of conversion reaction without appropriate skill, knowledge, training, and experience in the field of psychology and psychiatry;
 - bb. rendering a psychological and/or psychiatric explanation for objective neurologic symptoms without appropriately obtaining appropriate consultative evaluation; and,
 - cc. failure to timely transfer the patient to a "stroke center."

COUNT III-NEGLIGENCE, GROSS NEGLIGENCE, AND RECKLESSNESS
(Plaintiff v. Dr. Helmi)

101. The previous paragraphs, including all allegations of negligence, gross, negligence,

and recklessness, are herein incorporated by reference as though fully set forth.

102. The negligent, grossly negligent, and/or reckless conduct of Dr. Helmi during her evaluation, care, and treatment of Wanda Russell consisted of the following:

- a. failure to properly, timely, and adequately evaluate a patient with a diagnosis of transient ischemic attack, in the face of objective signs and symptoms of neurologic deficit;
- b. failure to properly, timely, and adequately evaluate a patient with a diagnosis of cerebrovascular accident, in the face of objective signs and symptoms of neurologic deficit;
- c. failure to properly, timely, and adequately evaluate a patient with fluctuating neurologic signs and symptoms, in the face of objective signs and symptoms of neurologic deficit;
- d. failure to properly and timely obtain the consultative services of a neurologist or specialist in neurology, in the face of objective signs and symptoms of neurologic deficit;
- e. failure to properly and timely obtain cerebral imaging with an MRI scan and/or MRA, in the face of objective signs and symptoms of neurologic deficit;
- f. failure to properly, timely, and adequately evaluate a patient with acute neurologic signs and symptoms, in the setting of a diagnosis of transient ischemic attack and cerebrovascular accident;
- g. failure to timely, properly, and adequately evaluate, diagnose, and treat a

- “stuttering” stroke, in the setting of a diagnosis of transient ischemic attack and cerebrovascular accident;
- h. failure to provide appropriate management and treatment of acute neurologic signs and symptoms, in the setting of a diagnosis of transient ischemic attack and cerebrovascular accident;
 - i. failure to provide appropriate, adequate, and timely monitoring of a patient with a deteriorating neurologic status;
 - j. failure to properly, timely, and adequately evaluate a patient with acute deteriorating neurologic status, in the face of neurologic signs and symptoms, and in the setting of a diagnosis of transient ischemic attack and cerebrovascular accident;
 - k. failure to provide appropriate management of a cerebrovascular accident;
 - l. failure to provide appropriate, adequate, and timely monitoring of a patient with a signs and symptoms of an evolving cerebrovascular accident or neurologic crisis, in the face of neurologic signs and symptoms, and in the setting of a diagnosis of transient ischemic attack and cerebrovascular accident;
 - m. failure to properly, timely, and adequately evaluate a patient with signs and symptoms of an evolving neurologic dysfunction, in the face of neurologic signs and symptoms, and in the setting of a diagnosis of transient ischemic attack and cerebrovascular accident;
 - n. failure to provide appropriate, adequate, and timely neuro-radiologic

- evaluation, in the face of neurologic signs and symptoms, and in the setting of a diagnosis of transient ischemic attack and cerebrovascular accident;
- o. failure to ensure timely, appropriate, and adequate medical evaluation prior to transfer to a psychiatric unit, in the setting of a diagnosis of transient ischemic attack and cerebrovascular accident;
 - p. failure to provide timely, appropriate, and adequate neurologic and neuro-radiologic evaluation prior to transfer to a psychiatric unit, in the face of neurologic signs and symptoms, and in the setting of a diagnosis of transient ischemic attack and cerebrovascular accident;
 - q. failure to provide timely, appropriate, and adequate psychiatric and psychologic evaluation prior to transfer to a psychiatric unit, in the face of neurologic signs and symptoms, and with actual knowledge of these signs and symptoms;
 - r. failure to obtain timely, appropriate, and adequate medical evaluation prior to transfer to a psychiatric unit, in the face of neurologic signs and symptoms, and with actual knowledge of a diagnosis of these signs and symptoms and the diagnosis of transient ischemic attack and cerebrovascular accident;
 - s. failure to evaluate the medical status of a patient deemed "suicidal";
 - t. failure to take an adequate and appropriate psychiatric and psychological history, in the face of neurologic signs and symptoms, and with actual knowledge of a diagnosis of transient ischemic attack and cerebrovascular accident;

- u. failure to take an adequate and appropriate medical care and psychiatric history during hospitalization in the DRMC Behavioral Unit, in the face of neurologic signs and symptoms, and with actual knowledge of a diagnosis of transient ischemic attack and cerebrovascular accident;
- v. failure to effect a timely transfer from the psychiatric unit back to the medical unit, in the face of actual knowledge that the patient was acutely deteriorating in her neurologic status, and required emergent neurologic consultation and diagnostic testing and treatment;
- w. failure to effect a timely transfer from the psychiatric unit back to the medical unit for neurologic evaluation and treatment, in the face of actual knowledge that the patient was acutely deteriorating in her neurologic status;
- x. failure to provide timely, adequate, and appropriate management of a stroke, in the face of actual knowledge that the patient was acutely deteriorating in her neurologic status; and,
- y. failure to properly, timely, and adequately recognize and appreciate signs and symptoms of evolving neurologic dysfunction, in the face of a diagnosis of transient ischemic attack and cerebrovascular accident, and in the setting of objective neurologic signs and symptoms.

COUNT IV-NEGLIGENCE, GROSS NEGLIGENCE, AND RECKLESSNESS
(Plaintiff v. Dr. Bradley)

103. The previous paragraphs, including all allegations of negligence, gross, negligence, and recklessness, are herein incorporated by reference as though fully set forth.

104. The negligent, grossly negligent, and/or reckless conduct of Dr. Bradley during his evaluation, care, and treatment of Wanda Russell consisted of the following:

- a. failure to properly, timely, and adequately evaluate a patient with a diagnosis of transient ischemic attack, in the face of objective signs and symptoms of neurologic deficit;
- b. failure to properly, timely, and adequately evaluate a patient with a diagnosis of cerebrovascular accident, in the face of objective signs and symptoms of neurologic deficit;
- c. failure to properly, timely, and adequately evaluate a patient with fluctuating neurologic signs and symptoms, in the face of objective signs and symptoms of neurologic deficit;
- d. failure to properly and timely obtain the consultative services of a neurologist or specialist in neurology, in the face of objective signs and symptoms of neurologic deficit;
- e. failure to properly and timely obtain cerebral imaging with an MRI scan and/or MRA, in the face of objective signs and symptoms of neurologic deficit;
- f. failure to properly, timely, and adequately evaluate a patient with acute neurologic signs and symptoms, in the setting of a diagnosis of transient ischemic attack and cerebrovascular accident;
- g. failure to timely, properly, and adequately evaluate, diagnose, and treat a “stuttering” stroke, in the setting of a diagnosis of transient ischemic attack

- and cerebrovascular accident;
- h. failure to provide appropriate management and treatment of acute neurologic signs and symptoms, in the setting of a diagnosis of transient ischemic attack and cerebrovascular accident;
 - i. failure to provide appropriate, adequate, and timely monitoring of a patient with a deteriorating neurologic status;
 - j. failure to properly, timely, and adequately evaluate a patient with acute deteriorating neurologic status, in the face of neurologic signs and symptoms, and in the setting of a diagnosis of transient ischemic attack and cerebrovascular accident;
 - k. failure to provide appropriate management of a cerebrovascular accident;
 - l. failure to provide appropriate, adequate, and timely monitoring of a patient with a signs and symptoms of an evolving cerebrovascular accident or neurologic crisis, in the face of neurologic signs and symptoms, and in the setting of a diagnosis of transient ischemic attack and cerebrovascular accident;
 - m. failure to properly, timely, and adequately evaluate a patient with signs and symptoms of an evolving neurologic dysfunction, in the face of neurologic signs and symptoms, and in the setting of a diagnosis of transient ischemic attack and cerebrovascular accident;
 - n. failure to provide appropriate, adequate, and timely neuro-radiologic evaluation, in the face of neurologic signs and symptoms, and in the setting

- of a diagnosis of transient ischemic attack and cerebrovascular accident;
- o. failure to ensure timely, appropriate, and adequate medical evaluation prior to transfer to a psychiatric unit, in the setting of a diagnosis of transient ischemic attack and cerebrovascular accident;
 - p. failure to provide timely, appropriate, and adequate neurologic and neuro-radiologic evaluation prior to transfer to a psychiatric unit, in the face of neurologic signs and symptoms, and in the setting of a diagnosis of transient ischemic attack and cerebrovascular accident;
 - q. failure to provide timely, appropriate, and adequate psychiatric and psychologic evaluation prior to transfer to a psychiatric unit, in the face of neurologic signs and symptoms, and with actual knowledge of these signs and symptoms;
 - r. failure to obtain timely, appropriate, and adequate medical evaluation prior to transfer to a psychiatric unit, in the face of neurologic signs and symptoms, and with actual knowledge of a diagnosis of these signs and symptoms and the diagnosis of transient ischemic attack and cerebrovascular accident;
 - s. failure to evaluate the medical status of a patient deemed "suicidal";
 - t. failure to take an adequate and appropriate psychiatric and psychological history, in the face of neurologic signs and symptoms, and with actual knowledge of a diagnosis of transient ischemic attack and cerebrovascular accident;
 - u. failure to take an adequate and appropriate medical care and psychiatric

history during hospitalization in the DRMC Behavioral Unit, in the face of neurologic signs and symptoms, and with actual knowledge of a diagnosis of transient ischemic attack and cerebrovascular accident;

- v. failure to effect a timely transfer from the psychiatric unit back to the medical unit, in the face of actual knowledge that the patient was acutely deteriorating in her neurologic status, and required emergent neurologic consultation and diagnostic testing and treatment;
- w. failure to effect a timely transfer from the psychiatric unit back to the medical unit for neurologic evaluation and treatment, in the face of actual knowledge that the patient was acutely deteriorating in her neurologic status;
- x. failure to provide timely, adequate, and appropriate management of a stroke, in the face of actual knowledge that the patient was acutely deteriorating in her neurologic status;
- y. failure to properly, timely, and adequately recognize and appreciate signs and symptoms of evolving neurologic dysfunction, in the face of a diagnosis of transient ischemic attack and cerebrovascular accident, and in the setting of objective neurologic signs and symptoms;
- aa. rendering a psychiatric diagnosis of conversion reaction without appropriate skill, knowledge, training, and experience in the field of psychology and psychiatry;
- bb. rendering a psychological and/or psychiatric explanation for objective neurologic symptoms without appropriately obtaining appropriate

consultative evaluation; and,

- cc. failure to timely transfer the patient to a “stroke center.”

COUNT V-NEGLIGENCE, GROSS NEGLIGENCE, AND RECKLESSNESS
(Plaintiff v. Dr. Bobrin)

105. The previous paragraphs, including all allegations of negligence, gross, negligence, and recklessness, are herein incorporated by reference as though fully set forth.

106. The negligent, grossly negligent, and/or reckless conduct of Dr. Bobrin during his evaluation, care, and treatment of Wanda Russell consisted of the following:

- a. failure to properly, timely, and adequately evaluate a patient with a diagnosis of transient ischemic attack, in the face of objective signs and symptoms of neurologic deficit;
- b. failure to properly, timely, and adequately evaluate a patient with a diagnosis of cerebrovascular accident, in the face of objective signs and symptoms of neurologic deficit;
- c. failure to properly, timely, and adequately evaluate a patient with fluctuating neurologic signs and symptoms, in the face of objective signs and symptoms of neurologic deficit;
- d. failure to properly and timely obtain the consultative services of a neurologist or specialist in neurology, in the face of objective signs and symptoms of neurologic deficit;
- e. failure to properly and timely obtain cerebral imaging with an MRI scan and/or MRA, in the face of objective signs and symptoms of neurologic

deficit;

- f. failure to properly, timely, and adequately evaluate a patient with acute neurologic signs and symptoms, in the setting of a diagnosis of transient ischemic attack and cerebrovascular accident;
- g. failure to timely, properly, and adequately evaluate, diagnose, and treat a “stuttering” stroke, in the setting of a diagnosis of transient ischemic attack and cerebrovascular accident;
- h. failure to provide appropriate management and treatment of acute neurologic signs and symptoms, in the setting of a diagnosis of transient ischemic attack and cerebrovascular accident;
- i. failure to provide appropriate, adequate, and timely monitoring of a patient with a deteriorating neurologic status;
- j. failure to properly, timely, and adequately evaluate a patient with acute deteriorating neurologic status, in the face of neurologic signs and symptoms, and in the setting of a diagnosis of transient ischemic attack and cerebrovascular accident;
- k. failure to provide appropriate management of a cerebrovascular accident;
- l. failure to provide appropriate, adequate, and timely monitoring of a patient with a signs and symptoms of an evolving cerebrovascular accident or neurologic crisis, in the face of neurologic signs and symptoms, and in the setting of a diagnosis of transient ischemic attack and cerebrovascular accident;

- m. failure to properly, timely, and adequately evaluate a patient with signs and symptoms of an evolving neurologic dysfunction, in the face of neurologic signs and symptoms, and in the setting of a diagnosis of transient ischemic attack and cerebrovascular accident;
- n. failure to provide appropriate, adequate, and timely neuro-radiologic evaluation, in the face of neurologic signs and symptoms, and in the setting of a diagnosis of transient ischemic attack and cerebrovascular accident;
- o. failure to ensure timely, appropriate, and adequate medical evaluation prior to transfer to a psychiatric unit, in the setting of a diagnosis of transient ischemic attack and cerebrovascular accident;
- p. failure to provide timely, appropriate, and adequate neurologic and neuro-radiologic evaluation prior to transfer to a psychiatric unit, in the face of neurologic signs and symptoms, and in the setting of a diagnosis of transient ischemic attack and cerebrovascular accident;
- q. failure to provide timely, appropriate, and adequate psychiatric and psychologic evaluation prior to transfer to a psychiatric unit, in the face of neurologic signs and symptoms, and with actual knowledge of these signs and symptoms;
- r. failure to obtain timely, appropriate, and adequate medical evaluation prior to transfer to a psychiatric unit, in the face of neurologic signs and symptoms, and with actual knowledge of a diagnosis of these signs and symptoms and the diagnosis of transient ischemic attack and cerebrovascular accident;

- s. failure to evaluate the of the medical status of a patient deemed “suicidal”;
- t. failure to take an adequate and appropriate psychiatric and psychological history, in the face of neurologic signs and symptoms, and with actual knowledge of a diagnosis of transient ischemic attack and cerebrovascular accident;
- u. failure to take an adequate and appropriate medical care and psychiatric history during hospitalization in the DRMC Behavioral Unit, in the face of neurologic signs and symptoms, and with actual knowledge of a diagnosis of transient ischemic attack and cerebrovascular accident;
- v. failure to effect a timely transfer from the psychiatric unit back to the medical unit, in the face of actual knowledge that the patient was acutely deteriorating in her neurologic status, and required emergent neurologic consultation and diagnostic testing and treatment;
- w. failure to effect a timely transfer from the psychiatric unit back to the medical unit for neurologic evaluation and treatment, in the face of actual knowledge that the patient was acutely deteriorating in her neurologic status;
- x. failure to provide timely, adequate, and appropriate management of a stroke, in the face of actual knowledge that the patient was acutely deteriorating in her neurologic status;
- y. failure to properly, timely, and adequately recognize and appreciate signs and symptoms of evolving neurologic dysfunction, in the face of a diagnosis of transient ischemic attack and cerebrovascular accident, and in the setting of

objective neurologic signs and symptoms.

- z. maintaining a patient in a psychiatric unit with the actual knowledge of signs and symptoms of a neurologic emergency;
- aa. maintaining a patient in a psychiatric unit with the actual knowledge of signs and symptoms of an evolving stroke;
- bb. maintaining a patient in a psychiatric unit with the actual knowledge that time is of the essence in treating a stroke;
- cc. maintaining a patient in a psychiatric unit with the actual knowledge that the patient's neurologic signs and symptoms are not the result of psychiatric illness; and,
- dd. maintaining a patient in a psychiatric unit with the actual knowledge that the patient is neither suicidal, as previously represented by Dr. Maloney and Dr. Helmi, and is manifesting neurologic signs and symptoms that bear no relationship to an underlying psychiatric diagnosis.

**COUNT V-VICARIOUS LIABILITY FOR THE NEGLIGENCE, GROSS
NEGLIGENCE, AND RECKLESSNESS OF AGENTS
AND CORPORATE (DIRECT) NEGLIGENCE**
**(Plaintiff v. DuBois Regional Medical Center a/k/a/
DuBois Regional Medical Center West a/d/b/a DRMC Behavioral Unit a/k/a
DRMC East Behavioral Unit a/k/a DRMC Behavioral Health Outpatient Clinic)**

107. The previous paragraphs, including all allegations of negligence, gross, negligence, and recklessness, are herein incorporated by reference as though fully set forth.

108. At all times material hereto, DuBois Regional Medical Center a/k/a/ DuBois Regional Medical Center West a/d/b/a DRMC Behavioral Unit a/k/a DRMC East Behavioral Unit a/k/a

DRMC Behavioral Health Outpatient Clinic was acting by and through its actual agents, ostensible agents, servants, and/or employees, including Dr. Maloney, Devlin, Helmi, Bradley, and Bobrin, and the nursing staff who provided nursing care and treatment to Wanda Russell during her hospitalization in the DRMC Behavioral Unit, whose identities are partially set forth in Exhibit "B." These actual agents, ostensible agents, servants, and/or employees provided medical care and treatment to Wanda Russell while acting within the scope of their medical and nursing duties. Accordingly, the DuBois Regional Medical Center a/k/a/ DuBois Regional Medical Center West a/d/b/a DRMC Behavioral Unit a/k/a DRMC East Behavioral Unit a/k/a DRMC Behavioral Health Outpatient Clinic is vicariously and derivatively liable for the negligent, grossly negligent, and/or reckless acts and omissions of these actual agents, ostensible agents, servants, and/or employees under theories of agency, master-servant, respondeat superior, and/or right of control.

109. The Dubois Regional Medical Center is liable for the conduct of the nurses who provided psychiatric nursing care to Wanda Russell on the DRMC Behavioral Unit on December 5 to 6, 2005, whose identities are partially set forth in Exhibit "B," and whose negligent, grossly negligent, and/or reckless conduct consisted of:

- a. failure to report falls in a patient exhibiting neurologic impairment to a physician at the time the falls occurred, in disregard to the safety and well-being of the patient;
- b. failure to report neurologic signs and symptoms to the physician staff, in disregard to the safety and well-being of the patient;
- c. failure to obtain appropriate psychiatric evaluation at the time the patient arrived on the psychiatric unit, in disregard to the rights, safety, and well-

being of the patient and contrary to the policies and procedures of the DRMC Unit;

- d. failure to insure that the protocol for psychiatric unit was adhered to and followed, including provision of the Patient's Bill of Rights and the report of initial evaluation and the proposed treatment plan completed and signed by the patient and the physician, in disregard to the rights, safety, and well-being of the patient and contrary to the policies and procedures of the DRMC Unit;
- e. failure to obtain medical evaluation for signs and symptoms during the nursing evaluation of the patient of evolving neurologic dysfunction;
- f. failure to timely, appropriately, and adequately notify the physician medical staff of evolving of neurologic signs and symptoms, in disregard to the safety and well-being of the patient;
- g. failure to provide appropriate nursing, monitoring and care to a patient with evolving and shifting neurologic signs and symptoms, in disregard to the safety and well-being of the patient;
- h. failure to provide adequate, appropriate, and timely nursing care in the setting of shifting neurologic signs and symptoms, in disregard to the safety and well-being of the patient;
- i. intentionally and willfully failing to report evolving neurologic signs and symptoms to the physician staff; and,
- j. intentionally and willfully ignoring a patient's pleas for medical care,

including statements that the patient is experiencing signs and symptoms of an evolving neurologic emergency.

110. In addition, pursuant to the decision of the Supreme Court of Pennsylvania in Thompson v. Nason, 591 A.2d 703 (1991) and its progeny of case law, at all relevant times hereto, DuBois Regional Medical Center a/k/a/ DuBois Regional Medical Center West a/d/b/a DRMC Behavioral Unit a/k/a DRMC East Behavioral Unit a/k/a DRMC Behavioral Health Outpatient Clinic owed non-delegable duties directly to Wanda Russell which included:

- a. a duty to use reasonable care in the maintenance of safe and adequate facilities and equipment;
- b. a duty to select and retain only competent physicians;
- c. a duty to oversee all persons who practice medicine within its walls as to patient care; and,
- d. a duty to formulate, adopt, and enforce adequate rules and policies to ensure quality care for the patients.

111. The corporate (direct) negligence of the DuBois Regional Medical Center a/k/a/ DuBois Regional Medical Center West a/d/b/a DRMC Behavioral Unit a/k/a DRMC East Behavioral Unit a/k/a DRMC Behavioral Health Outpatient Clinic arising out of the medical evaluation, care, and treatment of Wanda Russell consisted of the following:

- a. failure to select and retain only competent physicians proficient in the recognition, evaluation, and management of transient ischemic attack, neurologic dysfunction, evolving cerebrovascular accident, and “stuttering” stroke;

- b. failure to select and retain only competent physicians proficient in the recognition, evaluation, and management of psychiatric illness;
- c. failure to select and retain only competent physicians proficient in the recognition, evaluation, and neurologic signs and symptoms;
- d. failure to select and retain only competent physicians proficient in the recognition, evaluation, and management of evolving neurologic injury;
- e. failure to select and retain only competent physicians proficient in the recognition, evaluation, and management of cerebral ischemia and associated risk factors;
- f. failure to select and retain only competent physicians proficient in the recognition, evaluation, and management of deteriorating neurologic status;
- g. failure to select and retain only competent physicians proficient in the recognition, evaluation, and management evolving stroke symptoms;
- h. failure to select and retain only competent physicians proficient in the recognition, evaluation, and management of patients within a psychiatric unit;
- i. failure to select and retain only competent physicians proficient in the recognition, evaluation, and management of fluctuating neurologic signs and symptoms;
- j. failure to select and retain only competent physicians proficient in the evaluation patients prior to voluntary transfer to a psychiatric unit;
- k. failure to formulate, adopt, and/or enforce adequate rules and policies with respect to evaluation of patients prior to transfer to a psychiatric unit,

including evaluation by a psychiatrist;

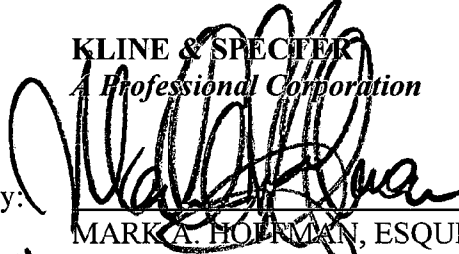
- l. failure to formulate, adopt, and/or enforce adequate rules and policies with respect to the evaluation, re-evaluation, and management of patients admitted to a psychiatric unit with fluctuating neurologic signs and symptoms;
- m. failure to formulate, adopt, and/or enforce adequate rules and policies with respect to the timely evaluation of patients admitted to the psychiatric unit;
- n. failure to formulate, adopt, and/or enforce adequate rules and policies with respect to the reporting and evaluation of falls by the nursing staff in the psychiatric unit;
- o. failure to formulate, adopt, and/or enforce adequate rules and policies with respect to the transfer of patients with acute medical emergencies out of the psychiatric unit;
- p. failure to formulate, adopt, and/or enforce adequate rules and policies with respect to holding patients with acute medical complaints, acute neurologic complaints, and falls within the confines of the psychiatric unit;
- q. failure to formulate, adopt, and/or enforce adequate rules and policies with respect to the reporting of acute medical signs and symptoms, and falls, by the nursing staff to the attending medical staff;
- r. failure to formulate, adopt, and/or enforce adequate rules and policies with respect to obtaining timely transfer of a patient with signs and symptoms of an evolving stroke to a medical unit from the psychiatric unit;
- s. failure to oversee all persons who practice medicine within its walls as to

patient care to ensure that an appropriate psychiatric evaluation by a psychiatrist occurs prior to the transfer of a patient to a psychiatric unit;

- t. failure to oversee all persons who practice medicine within its walls as to patient care to ensure that an appropriate medical evaluation occurs prior to the transfer of a patient to a psychiatric unit;
- u. failure to oversee all persons who practice medicine within its walls as to patient care to ensure that an appropriate medical evaluation occurs at the time of transfer of a patient to a psychiatric unit;
- v. failure to oversee all persons who practice medicine within its walls as to patient care to ensure that an appropriate psychiatric evaluation occurs at the time of transfer of a patient to a psychiatric unit.

WHEREFORE, Plaintiff Wanda Russell claims damages against all defendants, jointly and severally, including all damages cognizable under Pennsylvania law, to include both compensatory as to Dr. Devlin and the Dubois Regional Medical Center and its affiliated units (corporate negligence claim), and punitive damages as to Dr. Maloney, Dr. Helmi, Dr. Bradley, Dr. Bobrin, and the nursing staff of the DRMC Behavioral Unit, for the causes of action set forth in this Second Amended Civil Action Complaint, in an amount in excess of the prevailing arbitration limits, exclusive of pre-judgment interest and post-judgment interest and costs.

KLINE & SPECTER
A Professional Corporation

By: 

MARK A. HOLZMAN, ESQUIRE

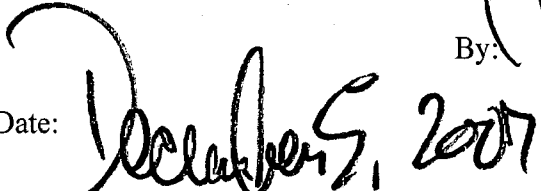
Date: 

EXHIBIT “A”

KLINE & SPECTER

A Professional Corporation

By: THOMAS R. KLINE, ESQUIRE
MARK A. HOFFMAN, ESQUIRE
ROYCE W. SMITH, ESQUIRE

Attorney ID Nos.: 28895/ 84443/201295

The Nineteenth Floor
1525 Locust Street
Philadelphia, Pennsylvania 19102
(215) 772-1000

Attorneys for Plaintiff

WANDA RUSSELL	:	COURT OF COMMON PLEAS
Plaintiff,	:	COUNTY OF CLEARFIELD
v.	:	
JAMES E. DEVLIN, M.D. and	:	DOCKET NO. 07-644-CD
MARK W. MALONEY, D.O. and	:	
DRMC PRIMARY CARE	:	
ASSOCIATES and	:	
SANAA HELMI, M.D. and	:	
THOMAS J. BRADLEY, M.D. and	:	
BRADFORD BOBRIN, M.D. and	:	
DuBOIS REGIONAL MEDICAL	:	
CENTER a/ka DuBOIS REGIONAL	:	
MEDICAL CENTER WEST	:	
a/d/b/a DRMC BEHAVIORAL	:	
UNIT a/k/a DRMC EAST BEHAVIORAL	:	
UNIT a/k/a DRMC BEHAVIORAL	:	
HEALTH OUTPATIENT CLINIC	:	
Defendants.	:	

CERTIFICATES OF MERIT

I, Mark A. Hoffman, Esquire, am an attorney for the plaintiff in the above-captioned matter.

Pursuant to Pa.R.C.P. No. 1042.1, I hereby certify appropriate licensed professionals have provided me with written statements stating that there exists a reasonable basis and probability to conclude that the care, skill, or knowledge exercised or exhibited by Drs. Devlin, Maloney, Helmi, Bradley, and Bobrin, and the psychiatric nursing staff, and the DuBois Regional Medical Center and its affiliated or associated entities as captioned above, with respect to the treatment, practice, or work that is the subject of this Civil Action Complaint, fell outside of acceptable professional and

institutional standards, and in addition to being negligent, was grossly negligent and/or reckless in its scope, and that such conduct was a substantial factor in causing injuries, or bringing about harm, to Wanda Russell. I further certify that there are additional claims which are based on allegations that licensed professionals for whom the hospital-defendant, DuBois Regional Medical Center and its affiliated or associated entities as captioned above, and/or DRMC Primary Care, and/or both, are responsible and derivatively or vicariously liable deviated from accepted professional standards of medical care, and caused the aforementioned injuries and harm. I additionally certify that appropriate licensed professionals have supplied written statements to me concluding that there exists a reasonable basis and probability that the DuBois Regional Medical Center, and its affiliated or associated entities as captioned above, deviated from accepted standards of institutional care, giving rise to claims of direct (corporate) negligence pursuant to the decision of the Supreme Court of Pennsylvania in Thompson v. Nason, 591 A.2d 703 (1991) and its progeny of case law. The licensed professionals who have provided me with these written statements have also concluded that the aforementioned deviations from accepted standards of medical and institutional care on the part of the individual named licensed professional, corporate, and hospital defendants was a substantial factor causing, or increasing the risk of harm, to Wanda Russell.

KLING & SPECTER
A Professional Corporation

By:

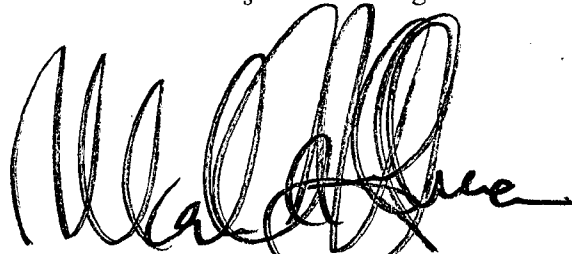
MARK A. HOFFMAN, ESQUIRE
Attorneys for Plaintiff

Date:

December 5, 2017

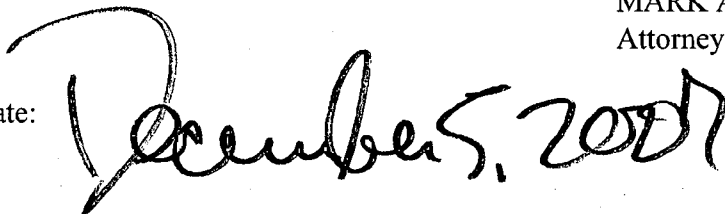
VERIFICATION

I, MARK A. HOFFMAN, ESQUIRE, hereby state that I am the attorney for the plaintiff and that the facts set forth in the foregoing pleading are true and correct. I understand that false statements made herein are subject to the penalties of 18 Pa. C.S.A. § 4904 relating to unsworn falsification to authorities.

A large, stylized handwritten signature in black ink, appearing to read 'Mark A. Hoffman'.

MARK A. HOFFMAN, ESQUIRE
Attorney for Plaintiff

Date:

A handwritten date in black ink, written as 'December 5, 2007'.

FILED
JAN 11 2008

REC 08 JAN

KLINE & SPECTER

A Professional Corporation

By: THOMAS R. KLINE, ESQUIRE
MARK A. HOFFMAN, ESQUIRE
ROYCE W. SMITH, ESQUIRE

Attorney ID Nos.: 28895/ 84443/201295

The Nineteenth Floor
1525 Locust Street
Philadelphia, Pennsylvania 19102
(215) 772-1000

FILED

DEC 06 2007

W.A.S. 12/15/07
William A. Shaw
Prothonotary/Clerk of Courts
1 CENT. TO ARTS

Attorneys for Plaintiff

WANDA RUSSELL

Plaintiff,

v.

JAMES E. DEVLIN, M.D. and
MARK W. MALONEY, D.O. and
DRMC PRIMARY CARE
ASSOCIATES and
SANAA HELMI, M.D. and
THOMAS J. BRADLEY, M.D. and
BRADFORD BOBRIN, M.D. and
DuBOIS REGIONAL MEDICAL
CENTER a/ka DuBOIS REGIONAL
MEDICAL CENTER WEST
a/d/b/a DRMC BEHAVIORAL
UNIT a/k/a DRMC EAST BEHAVIORAL
UNIT a/k/a DRMC BEHAVIORAL
HEALTH OUTPATIENT CLINIC

Defendants.

**COURT OF COMMON PLEAS
COUNTY OF CLEARFIELD**

DOCKET NO. 07-644-CD

CERTIFICATES OF MERIT

I, Mark A. Hoffman, Esquire, am an attorney for the plaintiff in the above-captioned matter.

Pursuant to Pa.R.C.P. No. 1042.1, I hereby certify appropriate licensed professionals have provided me with written statements stating that there exists a reasonable basis and probability to conclude that the care, skill, or knowledge exercised or exhibited by Drs. Devlin, Maloney, Helmi, Bradley, and Bobrin, and the psychiatric nursing staff, and the DuBois Regional Medical Center and its affiliated or associated entities as captioned above, with respect to the treatment, practice, or work that is the subject of this Civil Action Complaint, fell outside of acceptable professional and

institutional standards, and in addition to being negligent, was grossly negligent and/or reckless in its scope, and that such conduct was a substantial factor in causing injuries, or bringing about harm, to Wanda Russell. I further certify that there are additional claims which are based on allegations that licensed professionals for whom the hospital-defendant, DuBois Regional Medical Center and its affiliated or associated entities as captioned above, and/or DRMC Primary Care, and/or both, are responsible and derivatively or vicariously liable deviated from accepted professional standards of medical care, and caused the aforementioned injuries and harm. I additionally certify that appropriate licensed professionals have supplied written statements to me concluding that there exists a reasonable basis and probability that the DuBois Regional Medical Center, and its affiliated or associated entities as captioned above, deviated from accepted standards of institutional care, giving rise to claims of direct (corporate) negligence pursuant to the decision of the Supreme Court of Pennsylvania in Thompson v. Nason, 591 A.2d 703 (1991) and its progeny of case law. The licensed professionals who have provided me with these written statements have also concluded that the aforementioned deviations from accepted standards of medical and institutional care on the part of the individual named licensed professional, corporate, and hospital defendants was a substantial factor causing, or increasing the risk of harm, to Wanda Russell.

KLINE & SPECTER
A Professional Corporation

By:

MARK A. HOFFMAN, ESQUIRE
Attorneys for Plaintiff

Date:

December 5, 2007

JA

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA

WANDA RUSSELL,

Plaintiff,

v.

JAMES E. DEVLIN, M.D., MARK W.
MALONEY, D.O., DRMC PRIMARY
CARE ASSOCIATES, SANAA HELMI,
M.D., THOMAS J. BRADLEY, M.D.,
BRADFORD BOBRIN, M.D., DUBOIS
REGIONAL MEDICAL CENTER a/k/a
DUBOIS REGIONAL MEDICAL
CENTER WEST a/d/b/a DRMC
BEHAVIORAL UNIT a/k/a DRMC EAST
BEHAVIORAL UNIT a/k/a DRMC
BEHAVIORAL HEALTH OUTPATIENT
CLINIC,

Defendants.

CIVIL ACTION

No.: 07-644-CD

**PROPOSED SCHEDULING
ORDER FOR ARGUMENT DATE
ON PRELIMINARY
OBJECTIONS**

Served on Behalf of this Party:

Bradford Bobrin, M.D.

Counsel of Record for this Party:

LYNN E. BELL, ESQUIRE
Pa. I.D. No.: 38588

A. MICHAEL GIANANTONIO, ESQ.
Pa. I.D. No.: 89120

DAVIES McFARLAND &
CARROLL, P.C.
One Gateway Center; 10th Floor
Pittsburgh, PA 15222

(412) 281-0737

JURY TRIAL DEMANDED

FILED
DEC 06 2007
01/31/2014
William A. Shaw
Prothonotary/Clerk of Courts
No. 07-644-CD

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA

WANDA RUSSELL,

Plaintiff,

CIVIL ACTION

No.: 07-644-CD

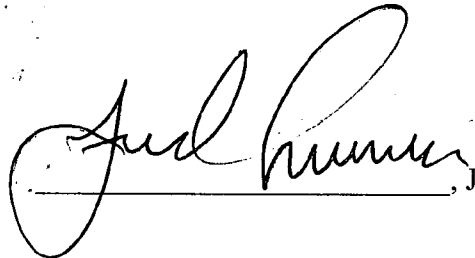
v.

JAMES E. DEVLIN, M.D., MARK W.
MALONEY, D.O., DRMC PRIMARY
CARE ASSOCIATES, SANAA HELMI,
M.D., THOMAS J. BRADLEY, M.D.,
BRADFORD BOBRIN, M.D., DUBOIS
REGIONAL MEDICAL CENTER a/k/a
DUBOIS REGIONAL MEDICAL
CENTER WEST a/d/b/a DRMC
BEHAVIORAL UNIT a/k/a DRMC EAST
BEHAVIORAL UNIT a/k/a DRMC
BEHAVIORAL HEALTH OUTPATIENT
CLINIC,

Defendants.

SCHEDULING ORDER

AND NOW, this 6th day of Dec, 2007, upon consideration of
Defendant's, Bradford Bobrin, M.D., Praeipce for Argument Date on Preliminary Objections, it
is hereby ordered that argument shall be held on January 15, 2008, at
10:00 Am. in Courtroom No. 1 of the Clearfield County Courthouse,
Clearfield, Pennsylvania. Notice of the entry of this order shall be provided to all parties by the
moving party.



FILED 
DEC 06 2007
01:31:20/wn
William A. Shaw
Prothonotary/Clerk of Courts
1000 70 Ave

FILED
DEC 06 2007
Prothonotary/Clerk of Courts
William A. Shaw

DATE: 12-7-07
You are responsible for serving all accompanying parties.
The Prothonotary's office has provided services to the following parties:
Plaintiff(s) _____ Plaintiff(s) Attorney _____
Defendant(s) _____ Defendant(s) Attorney _____
Special Instructions: _____

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that I served the foregoing document to all counsel of record in the following manner on the 4th day of December, 2007:

Via Facsimile	_____
Via Hand Delivery	_____
Via First Class U.S. Mail	_____ X _____
Via Overnight Mail	_____
Via Certified Mail/ Return Receipt Request	_____

Thomas R. Kline, Esquire
Mark A. Hoffman, Esquire
Kline & Specter, P.C.
1525 Locust Street
19th Floor
Philadelphia, PA 19102

Attorneys for Plaintiff

Daryl Slimak, Esquire
McQuaide Blasko
811 University Drive
State College, PA 16801

M. Brian O'Connor, Esquire
Matis Baum Rizza & O'Connor, P.C.
444 Liberty Avenue; Suite 300
Pittsburgh, PA 15222

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

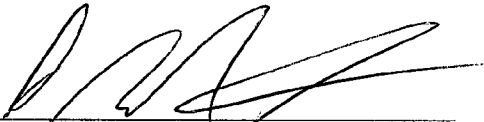
Christopher C. Rulis, Esquire
O'Brien, Rulis, Bochicchio & Soso, LLC.
555 Grant Street, Suite 120
Pittsburgh, PA 15219

David R. Bahl, Esquire
Richard F. Schluter, Esquire
McCormick Law Firm
835 West Fourth Street
P.O. Box 577
Williamsport PA 17703

Attorney for Dr. Mark W. Maloney

DAVIES McFARLAND & CARROLL,
P.C.

By:



LYNN E. BELL, ESQUIRE
A. MICHAEL GIANANTONIO, ESQ.

Attorneys for Bradford Bobrin, M.D.

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

WANDA RUSSELL,

Plaintiff

vs.

JAMES E. DEVLIN, M.D., MARK W.
MALONE, D.O., DRMC PRIMARY CARE
ASSOCIATES, SANAA HELMI, M.D.,
THOMAS J. BRADLEY, M.D., BRADFORD
BOBRIN, M.D., and DUBOIS REGIONAL
MEDICAL CENTER a/k/a DUBOIS
REGIONAL MEDICAL CENTER WEST
a/d/b/a DRMC BEHAVIORAL UNIT a/k/a
DRMC EAST BEHAVIORAL UNIT a/k/a
DRMC BEHAVIORAL HEALTH
OUTPATIENT CLINIC,

Defendants

No. 07-644-CD

ISSUE:

CERTIFICATE OF SERVICE OF
RULE RETURNABLE

Filed on behalf of Defendant,
DUBOIS REGIONAL MEDICAL
CENTER a/k/a DUBOIS REGIONAL
MEDICAL CENTER WEST a/d/b/a
DRMC BEHAVIORAL UNIT a/k/a
DRMC EAST BEHAVIORAL UNIT
a/k/a DRMC BEHAVIORAL HEALTH
OUTPATIENT CLINIC

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

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

JURY TRIAL DEMANDED

I HEREBY CERTIFY THAT A TRUE AND
CORRECT COPY OF THE WITHIN WAS
MAILED TO ALL COUNSEL OF RECORD
THIS 7th DAY OF DECEMBER, 2007.

Attorneys for Named Defendant

FILED ^{NO CC}
DEC 10 2007

William A. Shaw
Prothonotary/Clerk of Courts

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

WANDA RUSSELL,

Plaintiff

vs.

JAMES E. DEVLIN, M.D., MARK W.
MALONE, D.O., DRMC PRIMARY CARE
ASSOCIATES, SANAA HELMI, M.D.,
THOMAS J. BRADLEY, M.D., BRADFORD
BOBRIN, M.D., and DUBOIS REGIONAL
MEDICAL CENTER a/k/a DUBOIS
REGIONAL MEDICAL CENTER WEST
a/d/b/a DRMC BEHAVIORAL UNIT a/k/a
DRMC EAST BEHAVIORAL UNIT a/k/a
DRMC BEHAVIORAL HEALTH
OUTPATIENT CLINIC,

Defendants

No. 07-644-CD

JURY TRIAL DEMANDED

CERTIFICATE OF SERVICE

I, John L. McIntyre, Esquire, hereby certify that I have served a true and correct copy of the attached **Rule Returnable** on behalf of Defendant, Dubois Regional medical Center a/k/a DuBois Regional Medical Center West a/d/b/a DRMC Behavioral Unit a/k/a DRMC East Behavioral Unit a/k/a DRMC Behavioral health Outpatient Clinic, on the following persons by placing the same in the U.S. Mail, postage prepaid, on the 7th day of December, 2007:

Mark A. Hoffman, Esquire
Kline & Specter, P.C.
1525 Locust Street, 19th Floor
Philadelphia, PA 19102
(Counsel for Plaintiff)

David R. Bahl, Esquire
McCORMICK LAW FIRM
835 W. Fourth Street
Williamsport, PA 17701
(Counsel for Defendant, Dr. Maloney)

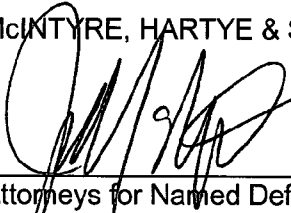
M. Brian O'Connor, Esquire
Matis, Baum, Rizza & O'Connor
Four Gateway Center
444 Liberty Avenue, Suite 300
Pittsburgh, PA 15222
(Counsel for Defendant, Dr. Devlin)

Darryl Slimak, Esquire
McQUAIDE, BLASKO
811 University Drive
State College, PA 16801-6699
(Counsel for Defendant, Dr. Helmi)

Christopher C. Rulis, Esquire
O'Brien, Rulis & Bochicchio
555 Grant Street – Suite 120
Pittsburgh, PA 15219
(Counsel for Defendant, Dr. Bradley)

Lynn E. Bell, Esquire
Davies, McFarland & Carroll, P.C.
One Gateway Center, 10th Floor
Pittsburgh, PA 15222
(Counsel for Defendant, Dr. Bobrin)

McINTYRE, HARTYE & SCHMITT



Attorneys for Named Defendant

John L. McIntyre, Esquire
PA. ID. No. 28015
P.O. Box 533
Hollidaysburg, PA 16648
814/696-3581

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

WANDA RUSSELL,

Plaintiff

vs.

JAMES E. DEVLIN, M.D., MARK W.
MALONE, D.O., DRMC PRIMARY CARE
ASSOCIATES, SANAA HELMI, M.D.,
THOMAS J. BRADLEY, M.D., BRADFORD
BOBRIN, M.D., and DUBOIS REGIONAL
MEDICAL CENTER a/k/a DUBOIS
REGIONAL MEDICAL CENTER WEST
a/d/b/a DRMC BEHAVIORAL UNIT a/k/a
DRMC EAST BEHAVIORAL UNIT a/k/a
DRMC BEHAVIORAL HEALTH
OUTPATIENT CLINIC,

Defendants

No. 07-644-CD

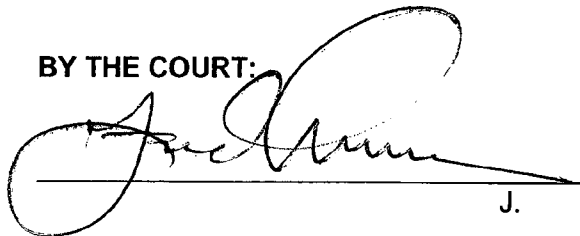
JURY TRIAL DEMANDED

RULE RETURNABLE

AND NOW, this 3rd day of December, 2007, a Rule is
hereby granted to show cause why the Preliminary Objections to Plaintiff's Amended
Complaint on behalf of Defendant, Dubois Regional Medical Center a/k/a DuBois
Regional Medical Center West a/d/b/a DRMC Behavioral Unit a/k/a DRMC East
Behavioral Unit a/k/a DRMC Behavioral Health Outpatient Clinic, should not be granted.

This Rule is returnable on the 15th day of January, 2008, at
10:00 (a.m.)/p.m. in Courtroom No. 1.

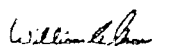
BY THE COURT:


J.

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

DEC 04 2007

Attest.


Prothonotary/
Clerk of Courts

FILED

DEC 12 2007

William A. Shaw
Prothonotary/Clerk of Courts
NO COURT COPIES

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

WANDA RUSSELL,

Plaintiff,

vs.

JAMES E. DEVLIN, M.D.; MARK W.
MALONEY, D.O.; DRMC PRIMARY
CARE ASSOCIATES; SANAA HELMI,
M.D.; THOMAS J. BRADLEY, M.D.;
BRADFORD BOBRIN, M.D.; DUBOIS
REGIONAL MEDICAL CENTER a/k/a
DUBOIS REGIONAL MEDICAL CENTER
WEST a/d/b/a DRMC BEHAVIORAL
UNIT a/k/a DRMC EAST BEHAVIORAL
UNIT a/k/a DRMC BEHAVIORAL
HEALTH OUTPATIENT CLINIC,

Defendants.

CIVIL DIVISION

No. 07-644-CD

Code:

Issue No:

**PRELIMINARY OBJECTIONS TO
PLAINTIFF'S AMENDED
COMPLAINT**

Filed on behalf of James E. Devlin,
M.D., Defendant

Counsel of Record for This Party:

M. Brian O'Connor, Esquire
PA I.D. 56795

MATIS BAUM RIZZA O'CONNOR
Firm #983
444 Liberty Avenue, Suite 300
Pittsburgh, PA 15222
(412) 338-4750

JURY TRIAL DEMANDED

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

WANDA RUSSELL,

Plaintiff,

vs.

JAMES E. DEVLIN, M.D.; MARK W.
MALONEY, D.O.; DRMC PRIMARY
CARE ASSOCIATES; SANAA HELMI,
M.D.; THOMAS J. BRADLEY, M.D.;
BRADFORD BOBRIN, M.D.; DUBOIS
REGIONAL MEDICAL CENTER a/k/a
DUBOIS REGIONAL MEDICAL CENTER
WEST a/d/b/a DRMC BEHAVIORAL
UNIT a/k/a DRMC EAST BEHAVIORAL
UNIT a/k/a DRMC BEHAVIORAL
HEALTH OUTPATIENT CLINIC,

Defendants.

CIVIL DIVISION

No. 07-644-CD

PRELIMINARY OBJECTIONS TO PLAINTIFF'S AMENDED COMPLAINT

AND NOW, comes Defendant, James E. Devlin, M.D., by and through his attorneys, Matis Baum Rizza O'Connor, and files the following Preliminary Objections to Plaintiff's Amended Complaint in support whereof it is averred as follows:

1. The within medical negligence action was initiated by the filing of Plaintiff's Complaint on April 24, 2007. The initial Complaint alleged that Dr. Devlin, along with several other named Defendants, was negligent in failing to timely diagnose and treat Plaintiff during her admission at Dubois Regional Medical Center on December 4, 2005.

2. The Complaint alleges that on December 4, 2005, Dr. Devlin evaluated the Plaintiff in the Emergency Department. At that time, Dr. Devlin was covering for co-Defendant, Dr. Maloney.

3. On December 4, 2005, Dr. Devlin admitted Plaintiff to the Dubois Regional Medical Center for neuro-checks and observation. At the time of admission, Dr. Devlin performed a history and physical examination stating, "Questionable TIA."

4. On December 5, 2005, Dr. Maloney took over the care and treatment of Plaintiff.

5. It is alleged that the Defendants failed to timely diagnose and treat Plaintiff's stroke. More specifically, Plaintiff claims Dr. Devlin failed to properly, timely and adequately diagnose and treat symptoms of transient ischemic attack (TIA), failed to properly monitor the patient, and failed to obtain appropriate and timely testing and evaluation (Plaintiff's Amended Complaint ¶ 82(a-o)).

6. The Amended Complaint contains the same allegations of negligence as the original Complaint. However, the Amended Complaint attempts to assert a cause of action against Dr. Devlin for gross negligence and recklessness in addition to negligence.

7. As a result of these allegations, Plaintiff makes a claim for relief in the nature of punitive damages.

8. The Amended Complaint does not contain any factual averments to support a claim for punitive damages.

Motion to Strike Punitive Damages Pursuant to Pa.R.C.P. § 1028(a)(3)

9. As a matter of law, Plaintiff's Amended Complaint fails to set forth material facts sufficient to make out a prima facie cause of action for punitive damages against Dr. Devlin.

10. The MCARE Act specifically provides that "gross negligence is insufficient support in award for punitive damages." Rather, the Complaint must allege facts that demonstrate that the particular healthcare provider's conduct was "willful or wanton conduct or reckless indifference to the rights of others."

11. Case law also explains that a claim of negligence does not give rise to punitive damages. *Feld v. Mariam*, 485 A.2d 742 (Pa. 1982).

12. Pennsylvania Supreme Court case law is clear that "punitive damages are an extreme remedy available only in the most exceptional matters." *Phillips v. Cricket Lighters*, 883 A.2d 439, 445 (Pa. 2005). To support a claim for punitive damages it must be shown that "the actor has intentionally done an act of unreasonable character in disregard of risks known to him or so obvious as he must be taken to have been aware of

it, and so great as to make it highly probable that harm will follow." *Evans v. Philadelphia Transportation Company*, 212 A.2d 440 (Pa. 1965).

13. Moreover, Pennsylvania Courts have consistently held that punitive damages will only be awarded to punish conduct "that is so outrageous as to rise to a level of intentional, willful, wanton and reckless conduct." *Abdie v. Riddle Memorial Hospital*, 589 A.2d 1143 (Pa. Super. 1981).

14. Thus, even if Dr. Devlin's conduct was found to be negligent or even grossly negligent, punitive damages would not be appropriate under Pennsylvania law.

15. According to Plaintiff's Amended Complaint, Plaintiff presented herself to the Dubois Regional Medical Center ("DRMC") on December 3, 2005, complaining of bilateral arm weakness and dark vision. (Plaintiff's Amended Complaint at ¶ 15).

16. On December 3, 2005, Plaintiff was discharged from the Emergency Department at DRMC with a diagnosis of transient ischemic attack (TIA). (Plaintiff's Amended Complaint at ¶ 20).

17. On December 4, Plaintiff presented at the Emergency Department at DRMC with complaints of left-sided weakness and inability to walk. (Plaintiff's Amended Complaint at ¶ 22).

18. Dr. Devlin evaluated and treated the Plaintiff on December 4, 2005, in the Emergency Department. He then admitted her for neuro-checks and observation on that date. (Plaintiff's Amended Complaint at ¶¶ 26-28).

19. On December 5, 2005, Plaintiff was transferred to the services of Dr. Maloney. Dr. Devlin had no further contact with the Plaintiff.

20. The Complaint alleges that Dr. Devlin failed to properly, timely and adequately evaluate and diagnose the Plaintiff (Plaintiff's Amended Complaint at ¶ 82 (a-o)).

21. These allegations do not allege actual intentional, willful, wanton or reckless conduct on behalf of the Defendant. Plaintiff alleges no conduct which is so outrageous as

to demonstrate complete disregard of a risk or conscious indifference of consequences to the Plaintiff.

22. Dr. Devlin's conduct with the Plaintiff was very limited. Dr. Devlin saw the patient only once. At that time, he performed a history and physical and admitted the patient for further observation.

23. Therefore, Plaintiff has failed to set forth the factual allegations necessary to support a conclusion that the moving Defendant acted reckless, outrageously, wantonly or willfully.

24. As Plaintiff has failed to plead facts sufficient to support a claim for punitive damages, this moving Defendant's Preliminary Objection should be properly granted pursuant to Pa.R.C.P. § 1028(a)(3).

WHEREFORE, Defendant, James E. Devlin, M.D., respectfully requests that this Honorable Court enter an Order striking portions of Plaintiff's Amended Complaint alleging gross negligence and/or recklessness on the part of Defendant, Dr. Devlin, and that it further strike Plaintiff's request for punitive damages.

MATIS BAUM RIZZA O'CONNOR

By 
M. Brian O'Connor, Esquire
PA ID 56795

Tara B. Stevens, Esquire
PA ID 203705

Attorneys for James E. Devlin, M.D.,
Defendant

Matis Baum Rizza O'Connor
Four Gateway Center
444 Liberty Avenue
Suite 300
Pittsburgh, PA 15222
(412) 338-4750

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that I served a true and correct copy of the foregoing Preliminary Objections to Plaintiff's Amended Complaint upon all counsel of record by United States, First-class mail, postage prepaid, this 10 day of December, 2007.

Thomas R. Kline, Esquire
Mark A. Hoffman, Esquire
Kline & Specter, P.C.
1525 Locust Street
Philadelphia, PA 19102

David R. Bahl, Esquire
McCormick Law Firm
835 West Fourth Street
P.O. Box 577
Williamsport, PA 17701

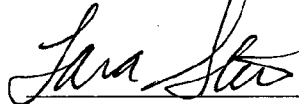
Darryl R. Slimak, Esquire
McQuaide, Blasko, Fleming & Faulkner, Inc.
811 University Drive
State College, PA 16801

Lynn Bell, Esquire
Davis, McFarland & Carroll, P.C.
Tenth Floor, One Gateway Center
Pittsburgh, PA 15222

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

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

MATIS BAUM RIZZA O'CONNOR



Tara B. Stevens, Esquire

FILED

DEC 12 2007

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

_____ J.

FILED

DEC 24 2007

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA

WANDA RUSSELL,

Plaintiff

CIVIL DIVISION

v.

CASE NO. 07-644-CD

JAMES E. DEVLIN, M.D.; MARK W.
MALONEY, D.O.; DRMC PRIMARY
CARE ASSOCIATES; SANAA HELMI,
M.D.; THOMAS J. BRADLEY, M.D.;
BRADFORD BOBRIN, M.D.; DUBOIS
REGIONAL MEDICAL CENTER a/k/a
DUBOIS REGIONAL MEDICAL
CENTER WEST a/d/b/a DRMC
BEHAVIORAL UNIT a/k/a DRMC EAST
BEHAVIORAL UNIT a/k/a DRMC
BEHAVIORAL HEALTH OUTPATIENT
CLINIC,

Defendants

Type of Pleading:

**PRAECIPE FOR
BRIEFING SCHEDULE**

Filed on behalf of Defendant:

Mark W. Maloney, M.D.

Counsel of record for this party:

David R. Bahl, Esquire
Pa. I.D. No. 10347

Richard F. Schluter, Esquire
Pa. I.D. No. 79672

McCORMICK LAW FIRM
835 West Fourth Street
Williamsport, PA 17701
(570) 326-5131

JURY TRIAL DEMANDED

WANDA RUSSELL,
Plaintiff

v.

JAMES E. DEVLIN, M.D.; MARK W.
MALONEY, D.O.; DRMC PRIMARY
CARE ASSOCIATES; SANAA HELMI,
M.D.; THOMAS J. BRADLEY, M.D.;
BRADFORD BOBRIN, M.D.; DUBOIS
REGIONAL MEDICAL CENTER a/k/a
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CENTER WEST a/d/b/a DRMC
BEHAVIORAL UNIT a/k/a DRMC EAST
BEHAVIORAL UNIT a/k/a DRMC
BEHAVIORAL HEALTH OUTPATIENT
CLINIC,

Defendants

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY,
PENNSYLVANIA

NO. 07-644-CD

CIVIL ACTION - LAW

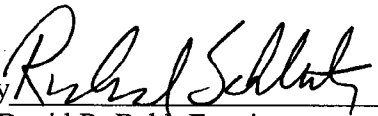
JURY TRIAL DEMANDED

PRAECIPE FOR BRIEFING SCHEDULE

TO THE PROTHONOTARY AND COURT ADMINISTRATOR:

In accordance with Clearfield County Rule of Court 211, please establish a briefing schedule with respect of Defendant Mark W. Maloney, M.D.'s Preliminary Objections to Plaintiff's Second Amended Complaint, and list this matter for oral argument.

McCORMICK LAW FIRM

By 

David R. Bahl, Esquire

I.D. No. 10347

Richard F. Schluter, Esquire

I.D. No. 79672

Attorneys for Defendant

Mark W. Maloney, D.O.

835 West Fourth Street
Williamsport, PA 17701
(570) 326-5131

VA

FILED

DEC 24 2007

William A. Shaw

Prothonotary/Clerk of Courts

2 sent to H.H.

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA

WANDA RUSSELL,
Plaintiff

CIVIL DIVISION

v.

CASE NO. 07-644-CD

JAMES E. DEVLIN, M.D.; MARK W.
MALONEY, D.O.; DRMC PRIMARY
CARE ASSOCIATES; SANAA HELMI,
M.D.; THOMAS J. BRADLEY, M.D.;
BRADFORD BOBRIN, M.D.; DUBOIS
REGIONAL MEDICAL CENTER a/k/a
DUBOIS REGIONAL MEDICAL
CENTER WEST a/d/b/a DRMC
BEHAVIORAL UNIT a/k/a DRMC EAST
BEHAVIORAL UNIT a/k/a DRMC
BEHAVIORAL HEALTH OUTPATIENT
CLINIC,

Defendants

Type of Pleading:

PRELIMINARY OBJECTIONS

Filed on behalf of Defendant:

Mark W. Maloney, M.D.

Counsel of record for this party:

David R. Bahl, Esquire
Pa. I.D. No. 10347

Richard F. Schluter, Esquire
Pa. I.D. No. 79672

McCORMICK LAW FIRM
835 West Fourth Street
Williamsport, PA 17701
(570) 326-5131

JURY TRIAL DEMANDED

WANDA RUSSELL,
Plaintiff

v.

JAMES E. DEVLIN, M.D.; MARK W.
MALONEY, D.O.; DRMC PRIMARY
CARE ASSOCIATES; SANAA HELMI,
M.D.; THOMAS J. BRADLEY, M.D.;
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BEHAVIORAL UNIT a/k/a DRMC EAST
BEHAVIORAL UNIT a/k/a DRMC
BEHAVIORAL HEALTH OUTPATIENT
CLINIC,

Defendants

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY,
PENNSYLVANIA

NO. 07-644-CD

CIVIL ACTION - LAW

JURY TRIAL DEMANDED

RULE RETURNABLE

AND NOW, this ____ day of _____, 200__, a Rule is hereby granted to
show cause why the Preliminary Objections of Defendant Mark W. Maloney, D.O. to
Plaintiff's Second Amended Complaint, should not be granted.

This Rule is returnable on the ____ day of _____, 200__, at
_____ a.m./p.m. in Courtroom No. ____ of the Clearfield County Courthouse,
Clearfield, Pennsylvania.

By the Court,

J.

cc: Thomas R. Kline, Esquire /
Mark A. Hoffman, Esquire
Darryl Slimak, Esquire
M. Brian O'Connor, Esquire
Lynn E. Bell, Esquire
John L. McIntyre, Esquire
Christopher C. Rulis, Esquire
David R. Bahl, Esquire /
Richard F. Schluter, Esquire

WANDA RUSSELL,
Plaintiff

v.

JAMES E. DEVLIN, M.D.; MARK W.
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BEHAVIORAL HEALTH OUTPATIENT
CLINIC,
Defendants

IN THE COURT OF COMMON PLEAS
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NO. 07-644-CD

CIVIL ACTION - LAW

JURY TRIAL DEMANDED

ORDER

AND NOW, this ____ day of _____, 200__, upon consideration of the Preliminary Objections of Defendant Mark W. Maloney, D.O. to Plaintiff's Second Amended Complaint, and plaintiff's response thereto, said preliminary objections are sustained. Plaintiff's claim for punitive damages against defendant Dr. Maloney and all allegations of recklessness are dismissed and stricken from the complaint. Defendant Dr. Maloney shall file an answer to Plaintiff's Second Amended Complaint within 20 days of this Order.

By the Court,

J.

cc: Thomas R. Kline, Esquire /
Mark A. Hoffman, Esquire
Darryl Slimak, Esquire
M. Brian O'Connor, Esquire
Lynn E. Bell, Esquire
John L. McIntyre, Esquire
Christopher C. Rulis, Esquire
David R. Bahl, Esquire /
Richard F. Schluter, Esquire

WANDA RUSSELL,
Plaintiff

v.

JAMES E. DEVLIN, M.D.; MARK W.
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BEHAVIORAL UNIT a/k/a DRMC EAST
BEHAVIORAL UNIT a/k/a DRMC
BEHAVIORAL HEALTH OUTPATIENT
CLINIC,

Defendants

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY,
PENNSYLVANIA

NO. 07-644-CD

CIVIL ACTION - LAW

JURY TRIAL DEMANDED

**PRELIMINARY OBJECTIONS OF
DEFENDANT MARK W. MALONEY, D.O.
TO PLAINTIFF'S SECOND AMENDED COMPLAINT**

AND NOW comes defendant Mark W. Maloney, D.O., by his attorneys, McCormick Law Firm, and preliminarily objects to plaintiff's second amended complaint as follows:

1. This medical malpractice case was commenced by complaint filed by plaintiff Wanda Russell on or about April 24, 2007.
2. The gravamen of plaintiff's professional negligence claims against defendant Dr. Maloney as described in the Original Complaint is that Dr. Maloney allegedly failed to timely diagnose and treat an evolving or "stuttering" stroke on December 5 and 6, 2005. See Complaint, Count II.
3. Plaintiff came to the Dubois Regional Medical Center emergency room on Saturday, December 4, 2005. She was admitted to the service of her primary care physician, defendant Dr. Mark Maloney.

4. Defendant Dr. Devlin, who was covering for Dr. Maloney, saw the plaintiff on December 4, 2005. Defendant Dr. Maloney first saw the plaintiff in the hospital on December 5, 2005.

5. Regarding the claims asserted against defendant Dr. Maloney in the original Complaint, plaintiff alleged that on December 5, 2005, defendant Dr. Maloney incorrectly attributed the plaintiff's presentation and symptomatology to "depression," which led Dr. Maloney to seek a psychiatric consult with defendant Dr. Helmi (a psychiatrist) on December 5, 2005, and ultimately resulted in plaintiff's voluntary transfer to the Dubois Regional Behavioral Health Unit at 2:00 a.m. on December 6, 2005.

6. Plaintiff was physically examined by a physician (defendant Thomas J. Bradley, M.D.) at 6:43 a.m. in the Behavioral Unit. Dr. Bradley found that the plaintiff was difficult to evaluate "sine she is so anxious" and confirmed the patient's admission for psych evaluation and treatment. See Plaintiff's Second Amended Complaint, ¶64.

7. Subsequently, after a psychiatric examination by defendant Dr. Bradley on December 6, 2005, the plaintiff was transferred back to defendant Dr. Maloney's service at Dubois Regional Medical Center on the afternoon of December 6, 2005.

8. Dr. Maloney saw plaintiff on December 6, 2005 upon her return to Dubois Regional Medical Center and ordered a neurology consult and an MRI, which led to a diagnosis of a cerebrovascular accident on December 7, 2005.

9. The original Complaint was based solely on a theory of alleged professional negligence, and did not claim punitive damages. The only count against defendant Dr. Maloney was entitled, "Count II – Negligence." See Complaint, Count II.

10. On or about June 6, 2007, defendant Dr. Helmi filed an answer with new matter, in which defendant Dr. Helmi claimed that defendant Dr. Maloney described plaintiff as

“suicidal” when the physicians spoke regarding defendant Dr. Maloney’s psychiatric consult request.

11. Defendant Dr. Maloney filed an Answer with New Matter on or about August 20, 2007.

12. Subsequently, all parties consented to Dr. Maloney filing an Amended New Matter, which was filed on or about October 11, 2007. Dr. Maloney’s Amended New Matter raised any and all defenses afforded by the Mental Health Procedures Act, which requires proof of gross negligence to establish liability, if the statute is found to apply to the facts and circumstances of the case.

13. Plaintiff next filed a Motion for Leave to File an Amended Complaint. Plaintiff’s motion was granted by Order dated October 26, 2007.

14. Plaintiff filed the Amended Complaint on or about November 1, 2007.

15. The only new factual allegation added as to defendant Dr. Maloney was Dr. Helmi’s claim that Dr. Maloney allegedly described plaintiff as “suicidal” to Dr. Helmi. Plaintiff claimed that Dr. Maloney inaccurately and negligently described plaintiff’s symptoms, and also claimed that Dr. Maloney’s communication was “reckless” and somehow amounted to a “misrepresentation” of plaintiff’s condition. See ¶40.

16. Plaintiff also added to the Amended Complaint allegations which characterized factual allegations previously pled as “negligence” in the original Complaint, as “gross negligence” and/or “recklessness.” For example, plaintiff characterized Dr. Maloney’s request for a psychiatric consult as “reckless.” See Amended Complaint, ¶39.

17. Additionally, and apparently based on the newly inserted language described above, plaintiff added a claim for punitive damages against all defendants in the “catch-all” Wherefore clause at the end of the Amended Complaint.

18. Defendant Dr. Maloney filed preliminary objections to the punitive damages claim asserted in the Amended Complaint.

19. Multiple co-defendants also filed preliminary objections to the punitive damages claim.

20. On or about December 6, 2007, plaintiff filed a Second Amended Complaint.

21. Regarding the allegations concerning Dr. Maloney, plaintiff has added paragraphs 40-46.

22. Paragraphs 40-45 focus on plaintiff's claim that Dr. Maloney failed to recognize alleged signs and symptoms of stroke when he sought a psychiatric consult in an effort to diagnose plaintiff's condition on December 5, 2005.

23. Paragraph 46 merely states that Dr. Maloney did not have the psychiatric expertise to diagnose a mental disorder (which is, of course, why he consulted and involved a psychiatrist).

24. In short, these new paragraphs do not change the underlying facts outlined in the complaint to wit: that Dr. Maloney actively pursued a diagnosis and treatment of plaintiff's condition which, in his medical judgment, was appropriate at the time. His consultation with a psychiatrist (Dr. Helmi) and transfer to the behavioral unit to facilitate that involvement was based on Dr. Maloney's medical judgment as a result of his examination and direct interaction with the patient.

25. "Punitive damages may be awarded for conduct that is the result of the health care providers' willful or wanton conduct or reckless indifference to the rights of others." 40 P.S. §1303.505(a).

26. Punitive damages will not be awarded for ordinary negligence or even gross negligence. See Slappo v. J's Dev. Assoc., Inc., 791 A.2d 409, 417 (Pa.Super. 2002). Punitive

damages are permitted only in cases of outrageous behavior, which is conduct that shows an evil motive or reckless indifference to the rights of others. Id.

27. For purposes of these preliminary objections only, even if it is believed that Dr. Maloney did not suspect the correct medical diagnosis, and/or did not accurately convey the plaintiff's symptomatology to the consulting psychiatrist, as alleged by plaintiffs, such a scenario is one of negligence, or arguably, gross negligence. There are no facts, however, to suggest that this alleged error of professional judgment and/or miscommunication between physicians somehow rose to the unlikely level of a "reckless indifference" to Ms. Russell's rights, or a "misrepresentation" as defined by Pennsylvania law

28. The facts pled in Plaintiff's Second Amended Complaint do not describe outrageous conduct or a reckless indifference for the rights of plaintiff Wanda Russell by her physician, defendant Dr. Maloney, at any time.

29. Plaintiff has failed to allege facts sufficient to support a claim of punitive damages as to defendant Dr. Maloney, as a matter of law.

30. Defendant Dr. Maloney respectfully requests that plaintiff's claim for punitive damages and allegations of recklessness be dismissed and stricken from the Second Amended Complaint.

WHEREFORE, defendant Mark W. Maloney, D.O. respectfully requests this Honorable Court to sustain his preliminary objections, and dismiss plaintiff's claims for punitive damages and strike all allegations of recklessness from the Second Amended Complaint.

Respectfully submitted,

McCORMICK LAW FIRM

By Richard Schluter

David R. Bahl, Esquire

I.D. No. 10347

Richard F. Schluter, Esquire

I.D. No. 79672

Attorneys for Defendant

Mark W. Maloney, D.O.

835 West Fourth Street
Williamsport, PA 17701
(570) 326-5131

WANDA RUSSELL,
Plaintiff

v.

JAMES E. DEVLIN, M.D.; MARK W.
MALONEY, D.O.; DRMC PRIMARY
CARE ASSOCIATES; SANAA HELMI,
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CLINIC,
Defendants

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY,
PENNSYLVANIA

NO. 07-644-CD

CIVIL ACTION - LAW

JURY TRIAL DEMANDED

CERTIFICATE OF SERVICE

I, RICHARD F. SCHLUTER, ESQUIRE, hereby certify that I have served a copy of the
Foregoing *Preliminary Objections of Defendant Mark W. Maloney, D.O. to Plaintiff's*
Second Amended Complaint, upon the following, this 21st day of December, 2007, as
follows:

UNITED STATES MAIL, POSTAGE PREPAID:

Mark A. Hoffman, Esquire
Kline & Specter, PC
The Nineteenth Floor
1525 Locust Street
Philadelphia, PA 19102

Darryl Slimak, Esquire
McQuaide Blasko
811 University Drive
State College, PA 16801

M. Brian O'Connor, Esquire
Gaca, Matis, Baum & Rizza, PC
444 Liberty Avenue, Suite 300
Pittsburgh, PA 15222

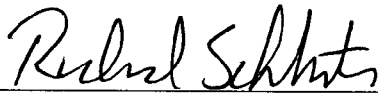
Lynn E. Bell, Esquire
Davies, McFarland & Carroll, PC
One Gateway Center, 10th Floor
Pittsburgh, PA 15222-1416

John L. McIntyre, Esquire
McIntyre, Dugas, Hartye & Schmitt
Post Office Box 533
Hollidaysburg, PA 16648-0533

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

DRMC Primary Care Associates
Medical Arts Building, Suite 200
145 Hospital Avenue
DuBois, PA 15801

McCORMICK LAW FIRM

By 

David R. Bahl, Esquire
I.D. No. 10347
Richard F. Schluter, Esquire
I.D. No. 79672
Attorneys for Defendant
Mark W. Maloney, D.O.

835 West Fourth Street
Williamsport, PA 17701
(570) 326-5131

FILED

DEC 27 2007

M/11:00
William A. Shaw
Prothonotary/Clerk of Courts
No. C/C

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

WANDA RUSSELL,

Plaintiff,

vs.

JAMES E. DEVLIN, M.D., MARK W.
MALONEY, D.O., DRMC PRIMARY CARE
ASSOCIATES, SANAA HELMI, M.D.,
THOMAS J. BRADLEY, M.D., BRADFORD
BOBRIN, M.D., DuBOIS REGIONAL MEDICAL
CENTER WEST a/d/b/a/ DRMC
BEHAVIORAL UNIT a/k/a/ DRMC EAST
BEHAVIORAL HEALTH OUTPATIENT
CLINIC,

Defendants.

*Medical Professional Liability
Action*

Docket No: 07 - 644 - C.D.

JURY TRIAL DEMANDED

PRAECIPE FOR BRIEFING SCHEDULE

TO THE PROTHONOTARY AND COURT ADMINISTRATOR:

In accordance with Clearfield County Rule of Court 211, please establish a briefing schedule with respect to Defendant Dr. Helmi's Preliminary Objections to Plaintiff's Second Amended Complaint, and list this matter for oral argument.

Respectfully submitted,

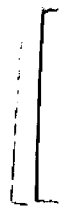
McQUAIDE, BLASKO,
FLEMING & FAULKNER, INC.

By: _____



Darryl R. Slimak
Attorneys for Defendant
SANAA HELMI, M.D.
811 University Drive
State College, PA 16801
(814) 238-4926
Fax: (814) 238-9624

Dated: December 26, 2007



FILED

DEC 27 2007

William A. Shaw
Prothonotary/Clerk of Courts
no c/c

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

WANDA RUSSELL,

Plaintiff,

vs.

JAMES E. DEVLIN, M.D., MARK W.
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ASSOCIATES, SANAA HELMI, M.D.,
THOMAS J. BRADLEY, M.D., BRADFORD
BOBRIN, M.D., DuBOIS REGIONAL MEDICAL
CENTER WEST a/d/b/a/ DRMC
BEHAVIORAL UNIT a/k/a/ DRMC EAST
BEHAVIORAL HEALTH OUTPATIENT
CLINIC,

Defendants.

*Medical Professional Liability
Action*

Docket No: 07 - 644 - C.D.

Type of Pleading:
*Defendant Dr. Helmi's
Preliminary Objections to
Plaintiff's Second Amended
Complaint*

Filed on Behalf of Defendant
Sanaa Helmi, M.D.

Counsel for Record for This Party
Darryl R. Slimak, Esquire
Pa. Supreme Court I.D. #41695

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

Counsel for Plaintiff
*Thomas R. Kline, Esquire
Mark A. Hoffman, Esquire*

JURY TRIAL DEMANDED

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

WANDA RUSSELL,

Plaintiff,

vs.

JAMES E. DEVLIN, M.D., MARK W.
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ASSOCIATES, SANAA HELMI, M.D.,
THOMAS J. BRADLEY, M.D., BRADFORD
BOBRIN, M.D., DuBOIS REGIONAL MEDICAL
CENTER WEST a/d/b/a/ DRMC
BEHAVIORAL UNIT a/k/a/ DRMC EAST
BEHAVIORAL HEALTH OUTPATIENT
CLINIC,

Defendants.

*Medical Professional Liability
Action*

Docket No: 07 - 644 - C.D.

JURY TRIAL DEMANDED

DEFENDANT DR. HELMI'S PRELIMINARY OBJECTIONS
TO PLAINTIFF'S SECOND AMENDED COMPLAINT

AND NOW comes Defendant, SANAA HELMI, M.D., by and through her attorneys,
McQuaide, Blasko, Fleming & Faulkner, Inc., and responds to Plaintiff's Second Amended
Complaint with the following Preliminary Objections:

1. The instant professional liability medical malpractice action relates to care or lack thereof by various named Defendants (a hospital and specialists in internal medicine, family practice, emergency medicine, and psychiatry) for purportedly not diagnosing the Plaintiff with a so-called “stuttering stroke” also known as a “TIA” or transient ischemic attack, and temporarily treating Plaintiff in the DuBois Regional Medical Center Behavioral Health Unit before retransferring her to the Hospital’s Medical Unit where the proper diagnosis of her medical condition was confirmed and further treatment undertaken. *See* Second Amended Complaint allegations, generally.

2. Defendant Dr. Sanaa Helmi is a psychiatrist who had no actual or direct contact with Plaintiff Wanda Russell during the time frame at issue. *Id.*

3. As regards the allegations against Dr. Helmi, the Second Amended Complaint alleges, e.g., at paragraph 39, that Defendant family practice physician Dr. Maloney initially evaluated Ms. Russell and diagnosed her condition in his medical judgment as due to **depression.**

4. As regards family physician Dr. Maloney’s diagnosis that Ms. Russell’s condition was “depression,” Plaintiff’s Second Amended Complaint further avers at paragraphs 40 to 47 that Dr. Maloney knew and understood that Plaintiff had been previously diagnosed with TIA and CVA (cerebrovascular accident/stroke condition) and had ongoing symptoms of same.

5. In Plaintiff’s Second Amended Complaint at paragraph 47, Plaintiff specifically alleges that Dr. Maloney then consulted Dr. Helmi concerning admission of his patient to the DRMC Behavioral Health Unit and Dr. Maloney reported to Dr. Helmi that “**he was unable to find any medical problems**” **and** that Wanda Russell was “**suicidal.**” It is further specifically alleged in the Plaintiff’s Second Amended Complaint at paragraph 48, and repeated in paragraph

49, that Dr. Maloney “misrepresented Wanda Russell’s medical status to Dr. Helmi . . . in reckless and wanton disregard for the objective neurologic and medical signs and symptoms of impending cerebrovascular accident which Wanda Russell was exhibiting at that time,” and which had been confirmed by other physicians.

6. It is further alleged by Plaintiff in paragraph 49 that during the telephone conversation between Dr. Maloney and Dr. Helmi wherein Dr. Maloney misrepresented Ms. Russell’s condition, Dr. Helmi thus recommended that Wanda Russell be admitted to the DRMC Behavioral Health Unit for psychiatric treatment.

7. In paragraph 50 it is then merely alleged that “immediately following the telephone conversation with Dr. Maloney, Dr Helmi did not “perform a psychiatric history, psychiatric evaluation, or physical examination on Wanda Russell on December 5, 2005, or physically see or speak with Wanda Russell on December 5 or 6, 2005, despite a purported diagnosis of being ‘suicidal’.” Plaintiff’s Second Amended Complaint then alleges in boilerplate and conclusory language that this was supposedly “grossly negligent and/or reckless manner, in total disregard for the safety and well-being of Wanda Russell, by failing to examine and evaluate a patient whom she believed was ‘suicidal’.”

8. It must be kept in mind that this case does **not** concern a suicide, but rather, issues of whether the transient ischemic attack Plaintiff allegedly experienced was temporarily misdiagnosed and/or mistreated as a psychiatric disturbance **during a continuous inpatient hospitalization**. See Second Amended Complaint allegations generally.

9. The Second Amended Complaint then goes on to allege in paragraph 50 that “Dr. Helmi never examined Wanda Russell at any time during Wanda Russell’s acute admission to

the DRMC Behavioral Unit, even in the face of information provided to Dr. Helmi by nursing staff that Wanda Russell was evolving a neurological emergency.”

10. In paragraphs 58 and 59, Plaintiffs concede that when the patient was first and actually admitted to the psych unit at 0200 hours, the Plaintiff was admitted to the service of psychiatrist Defendant Dr. Bobrin — not that of Dr. Helmi whose only involvement had been a telephone call in which Plaintiff herself contends that Dr. Maloney **misrepresented** to Dr. Helmi that the Plaintiff was suicidal and in fact **had no medical problems**. (See also ¶¶47-49).

11. In paragraphs 59, 61 and 62, Plaintiff herself further contends that upon admission to the psych unit during this ongoing hospitalization at 2:00 a.m. and thereafter, **a Nurse Hendricks was with the Plaintiff patient and** despite knowledge of the patient’s neurologic problems with her arm and leg, and not wanting to stay on the unit, and a fall out of bed in the unit, **“failed to inform any physician** about this event at or about the time it occurred. . . .” See also, infra at ¶14 of these Preliminary Objections, regarding other similar averments of the Second Amended Complaint.

12. In additional allegations of the Second Amended Complaint, it is indicated that **Dr. Maloney** gave the order to transfer the patient to the psychiatric unit **that night**. See ¶51. In paragraph 57 it is merely alleged that Dr. Helmi “who made and then subsequently denied that she made the decision to admit Wanda Russell to the psych unit, did not explain the proposed treatment plan to Wanda Russell, who was deemed to be ‘suicidal,’ nor did Dr. Helmi sign the ‘Description of Proposed Treatment Plan’ and ‘Description of Proposed Restrictions and Restraints’.” This is coupled with an additional boilerplate allegation in paragraph 58 that such conduct was supposedly “grossly negligent and/or undertaken in reckless disregard to the

institutional obligations set forth by DuBois Medical Center to protect the rights, safety, and well-being of Wanda Russell.”

13. Paragraphs 59, 63, and 65 of Plaintiff’s Second Amended Complaint admit that Plaintiff was in the psychiatric unit for only 4½ hours, from 2:00 a.m. until at or about 0643 hours, on December 6, 2005 when Dr. Bradley (the medical physician on the Mental Health Unit) did perform a history and physical examination on Wanda Russell. In paragraph 65, Plaintiff alleges that the medical physician “formulated and initiated the plan that the patient is admitted for psych evaluation and treatment.” Paragraphs 63-69 go on to allege that because family medical specialist Dr. Bradley had made various neurological findings during his physical examination of the patient, he should have instead obtained a neurologic evaluation and diagnostic testing, and he should have at that time thus transferred Ms. Russell back to the Medical Unit for further evaluation of her left-sided weakness and facial asymmetry and/or have diagnosed Plaintiff with “an evolving or stuttering cerebrovascular accident.”

14. In paragraphs 42, 44, 57, 58, 60, 73 and 74, it is acknowledged that Dr. Helmi had never seen, spoken to, evaluated, or otherwise initiated any treatment or diagnostic testing at the time of admission of Wanda Russell to the DRMC Behavioral Health Unit on Dr. Bobrin’s service **and** **was not** informed overnight of the neurologic findings or falls which Wanda Russell had experienced.

15. In Second Amended Complaint paragraph 74, it is further alleged by Plaintiff that it was documented in the medical chart that Dr. Helmi had **not** made the recommendation for admission to the psychiatric unit, but “Dr. Maloney asked for the admission and she agreed on the basis that the patient is suicidal,” which Plaintiff previously alleged had been **misrepresented** to Dr. Helmi by Dr. Maloney in reckless disregard for the safety and well-being

of Wanda Russell.” It is contended that Dr. Helmi should have “evaluated a patient deemed suicidal, to inform herself of the patient’s medical condition overnight, or to examine any of Wanda Russell’s medical or psychiatric history and the prior diagnosis of transient ischemic attack or cerebrovascular accident, and was (purportedly) grossly negligent and/or reckless.”

16. It is further alleged in paragraph 73, that the next morning at 9:55 a.m., Dr. Helmi did not recall accepting the patient in transfer and “did not inform herself” or “check on the overnight condition of Wanda Russell”

17. However, in further allegations it is noted that “**at or before 10:28 a.m.**” on December 6, 2005 another psychiatrist, co-Defendant Dr. Bobrin, **had** evaluated Wanda Russell and determined that she should be referred back to the Medical Unit because he concluded that she did not have signs of “suicidal or homicidal ideations, . . . **contrary to what had been previously misrepresented by Dr. Maloney.** . . .” See ¶¶75-77, 82. As noted previously, Plaintiff’s Second Amended Complaint itself states at paragraphs 58 and 59, that the patient was admitted to the psychiatric unit on the service of Dr Bobrin when she first arrived at 2:00 a.m. (*See supra*, ¶10 of the instant Preliminary Objections).

18. In Second Amended Complaint paragraph 84 it is conceded that by 1700 hours (5:00 p.m.) on December 6, 2005, which was “more than 7 hours after Dr. Bradley and Dr. Bobrin recognized that Wanda Russell was manifesting objective neurological signs of a neurologic emergency,” Wanda Russell was readmitted by Dr. Maloney to the DuBois Regional Medical Center West and further work-up of her condition and care was rendered which allegedly confirmed the Plaintiff had at some point incurred a “very small lacunar infarct of the left basal ganglia” and a “lesion of the right basal ganglia suggestive of a subacute or chronic lacunar infarct,” diagnosed as a “CVA” *See, e.g.*, ¶¶ 89-90.

19. Count III, consisting of paragraphs 101 and 102, is the sole Count of the Second Amended Complaint which contains allegations of “negligence, gross negligence and reckless” against Dr. Helmi, *inter alia*, for “failure to properly, timely and adequately evaluate a patient with a diagnosis of transient ischemic attack, in the face of objective signs and symptoms of neurologic deficit.” The balance of the allegations of Second Amended Complaint paragraph 102 set forth additional details of how this purportedly should have been done with further testing or referrals to other specialists.

20. The allegations of paragraph 102 of Count III set forth against Dr. Helmi are by and large the exact same boilerplate allegations set forth against Dr. Maloney and all the other Defendant physicians.

21. At page 48 of the Second Amended Complaint, after the five Counts containing 111 paragraphs with multiple subparagraphs are set forth against the various Defendants, Plaintiff sets forth a generic, catch-all “Wherefore” clause requesting not only compensatory damages but also “punitive damages” against Dr. Helmi as well as Dr. Maloney, Dr. Bradley, Dr. Bobrin and the DRMC nursing staff.

22. However, as a matter of law, Plaintiff’s Second Amended Complaint fails to set forth material facts sufficient to make out a *prima facie* cause of action for punitive damages **against Dr. Helmi**, such that the prayer of the “Wherefore” clause seeking punitive damages against Dr. Helmi must be dismissed, with prejudice, as to Dr. Helmi.

23. As a matter of law and per 40 P.S. §1303.505(b) of the MCARE Act, “[a] showing of gross negligence is insufficient to support an award of punitive damages.” Rather, Plaintiff must allege **facts** which demonstrate that the particular health care provider’s conduct constituted “**willful or wanton conduct or reckless indifference** to the rights of others.” Here

boilerplate and conclusory allegations that alleged conduct is “grossly negligent or reckless” are insufficient. Moreover, MCARE specifically provides that “gross negligence is **insufficient** to support an award of punitive damages” (emphasis supplied). Case law explains that punitive damages may not be awarded for ordinary negligence such as “inadvertence, mistake and errors in judgment.” The health care provider’s actions **must be “outrageous”**, because of **evil motive** or **reckless indifference** to the rights of a patient **under circumstances that disregard a risk so obvious and so great as to make it highly probable that harm would follow.**

24. There are **no** factual allegations setting forth an evil motive for Dr. Helmi to mistreat Plaintiff.

25. There are **no** allegations demonstrating a reckless indifference to the rights of the patient under circumstances that disregard a risk so obvious and so great as to make it highly probable that harm would follow.

26. There are **no** factual allegations amounting to “outrageous” misconduct on the part of Dr. Helmi.

27. To the contrary, the Second Amended Complaint allegations at most set forth facts that might establish ordinary negligence or perhaps gross negligence at worst.

28. In summary, the Plaintiff’s Second Amended Complaint alleges that a licensed specialist family physician Dr. Maloney determined in his professional judgment that the patient was suicidal and had had depression and needed psychiatric evaluation, and misrepresented to Dr. Helmi that the patient had no medical problems. The patient was at all times maintained as an inpatient in the hospital. Psychiatrist Dr. Helmi did not have direct contact with the patient who was admitted to the service of psychiatrist Dr. Bobrin when she first arrived at the psych unit at 2:00 a.m., and seen and evaluated first by a psychiatric nurse and then by medical

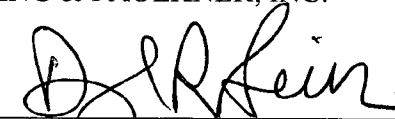
physician specialist Dr. Bradley by 6:43 a.m., who concluded that a psychiatric evaluation was appropriate until psychiatrist Dr. Bobrin evaluated the patient before 10:28 a.m. and felt transfer back to the medical unit was appropriate. The staff did not contact Dr. Helmi to advise of her of the patient's condition in the interim.

WHEREFORE, Defendant Dr. Helmi respectfully requests this Honorable Court grant her Preliminary Objections and that the boilerplate claim for punitive damages which appears to be inclusive of the claims against her, be dismissed with prejudice.

Respectfully submitted,

McQUAIDE, BLASKO,
FLEMING & FAULKNER, INC.

By: _____



Darryl R. Slimak
Attorneys for Defendant
SANAA HELMI, M.D.
811 University Drive
State College, PA 16801
(814) 238-4926
Fax: (814) 238-9624

Dated: December 26, 2007

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

WANDA RUSSELL,

Plaintiff,

vs.

JAMES E. DEVLIN, M.D., MARK W.
MALONEY, D.O., DRMC PRIMARY CARE
ASSOCIATES, SANAA HELMI, M.D.,
THOMAS J. BRADLEY, M.D., BRADFORD
BOBRIN, M.D., DuBOIS REGIONAL MEDICAL
CENTER WEST a/d/b/a/ DRMC
BEHAVIORAL UNIT a/k/a/ DRMC EAST
BEHAVIORAL HEALTH OUTPATIENT
CLINIC,

Defendants.

*Medical Professional Liability
Action*

Docket No: 07 - 644 - C.D.

JURY TRIAL DEMANDED

PROPOSED ORDER

AND NOW, this _____ day of _____, 200__, upon consideration Defendant Dr. Helmi's Preliminary Objections to strike Plaintiff's punitive damages claim in the Second Amended Complaint, it is hereby Ordered and Decreed that said Preliminary Objections are SUSTAINED. All claims for punitive damages against Dr. Helmi are hereby STRICKEN, with prejudice.

BY THE COURT:

_____, J.

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

WANDA RUSSELL,

Plaintiff,

vs.

JAMES E. DEVLIN, M.D., MARK W.
MALONEY, D.O., DRMC PRIMARY CARE
ASSOCIATES, SANAA HELMI, M.D.,
THOMAS J. BRADLEY, M.D., BRADFORD
BOBRIN, M.D., DuBOIS REGIONAL MEDICAL
CENTER WEST a/d/b/a/ DRMC
BEHAVIORAL UNIT a/k/a/ DRMC EAST
BEHAVIORAL HEALTH OUTPATIENT
CLINIC,

Defendants.

*Medical Professional Liability
Action*

Docket No: 07 - 644 - C.D.

JURY TRIAL DEMANDED

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the Defendant Dr. Helmi's Preliminary
Objections to Plaintiff's Second Amended Complaint in the above-captioned matter was mailed
by regular mail, postage prepaid, at the Post Office, State College, Pennsylvania, on this 26th day
of December, 2007, to the attorney(s) of record:

Thomas R. Kline, Esquire
Mark A. Hoffman, Esquire
Kline & Specter
The Nineteenth Floor
1525 Locust Street
Philadelphia, PA 19102

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

M. Brian O'Connor, Esquire
Matis, Brum, Rizza, O'Connor
Four Gateway Center
444 Liberty Avenue Suite 300
Pittsburgh, PA 15222

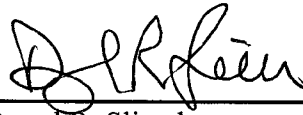
Lynn E. Bell, Esquire
Davies, McFarland & Carroll, P.C.
The Tenth Floor
One Gateway Center
Pittsburgh, PA 15222-1416

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

David R. Bahl, Esquire
McCormick Law Firm
835 West Fourth Street
Williamsport, PA 1701

McQUAIDE, BLASKO,
FLEMING & FAULKNER, INC.

By: _____


Darryl R. Slimak
Attorneys for Defendant
SANAA HELMI, M.D.
811 University Drive
State College, PA 16801
(814) 238-4926
Fax: (814) 238-9624

CA

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

WANDA RUSSELL,

Plaintiff

vs.

JAMES E. DEVLIN, M.D., MARK W.
MALONE, D.O., DRMC PRIMARY CARE
ASSOCIATES, SANAA HELMI, M.D.,
THOMAS J. BRADLEY, M.D., BRADFORD
BOBRIN, M.D., and DUBOIS REGIONAL
MEDICAL CENTER a/k/a DUBOIS
REGIONAL MEDICAL CENTER WEST
a/d/b/a DRMC BEHAVIORAL UNIT a/k/a
DRMC EAST BEHAVIORAL UNIT a/k/a
DRMC BEHAVIORAL HEALTH
OUTPATIENT CLINIC,

Defendants

No. 07-644-CD

ISSUE:

PRELIMINARY OBJECTIONS TO
PLAINTIFF'S SECOND AMENDED
COMPLAINT

Filed on behalf of Defendant,
DUBOIS REGIONAL MEDICAL
CENTER a/k/a DUBOIS REGIONAL
MEDICAL CENTER WEST a/d/b/a
DRMC BEHAVIORAL UNIT a/k/a
DRMC EAST BEHAVIORAL UNIT
a/k/a DRMC BEHAVIORAL HEALTH
OUTPATIENT CLINIC

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

Laura O. Burke, Esquire
PA I.D. #200595
McINTYRE, HARTYE & SCHMITT
P.O. Box 533
Hollidaysburg, PA 16648
(814) 696-3581

JURY TRIAL DEMANDED

I HEREBY CERTIFY THAT A TRUE AND
CORRECT COPY OF THE WITHIN WAS
MAILED TO ALL COUNSEL OF RECORD
THIS 31st DAY OF DECEMBER, 2007.

Laura O. Burke

Attorneys for Named Defendant

FILED No CC.
m/11:30 am
JAN 02 2008

William A. Shaw
Prothonotary/Clerk of Courts

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

WANDA RUSSELL,	:	No. 07-644-CD
	:	
Plaintiff	:	
	:	
vs.	:	
	:	
JAMES E. DEVLIN, M.D., MARK W.	:	
MALONE, D.O., DRMC PRIMARY CARE	:	
ASSOCIATES, SANAA HELMI, M.D.,	:	
THOMAS J. BRADLEY, M.D., BRADFORD	:	
BOBRIN, M.D., and DUBOIS REGIONAL	:	
MEDICAL CENTER a/k/a DUBOIS	:	
REGIONAL MEDICAL CENTER WEST	:	
a/d/b/a DRMC BEHAVIORAL UNIT a/k/a	:	
DRMC EAST BEHAVIORAL UNIT a/k/a	:	
DRMC BEHAVIORAL HEALTH	:	
OUTPATIENT CLINIC,	:	
	:	
Defendants	:	JURY TRIAL DEMANDED

PRAECIPE FOR ARGUMENT LIST

TO: PROTHONOTARY

Kindly list the above-captioned matter on the next available argument list. The matter to be argued is Preliminary Objections to Plaintiff's Second Amended Complaint filed on behalf of defendant, Dubois Regional Medical Center a/k/a DuBois Regional Medical Center West a/d/b/a DRMC Behavioral Unit a/k/a DRMC East Behavioral Unit a/k/a DRMC Behavioral Health Outpatient Clinic.

Respectfully submitted,

McINTYRE, HARTYE & SCHMITT

By Laura O. Burke

Attorneys for Defendant,
DUBOIS REGIONAL MEDICAL
CENTER a/k/a DUBOIS REGIONAL
MEDICAL CENTER WEST a/d/b/a
DRMC BEHAVIORAL UNIT a/k/a
DRMC EAST BEHAVIORAL UNIT
a/k/a DRMC BEHAVIORAL HEALTH
OUTPATIENT CLINIC

John L. McIntyre, Esquire
PA I.D. #28015
Laura O. Burke, Esquire
PA I.D. #200595
P.O. Box 533
Hollidaysburg, PA 16648
(814) 696-3581

**IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PA
CIVIL ACTION**

WILLIAM A. EMIGH, III,

Plaintiff,

vs.

TRACEY A. McCARTNEY and
DAVID WEITOISH,

Defendants.

No. 2006-00901-CD

JURY TRIAL DEMANDED

ORDER

AND NOW, this _____ day of _____, 2008, upon consideration of the Preliminary Objections to Plaintiff's Second Amended Complaint filed on behalf of defendant, Dubois Regional Medical Center a/k/a DuBois Regional Medical Center West a/d/b/a DRMC Behavioral Unit a/k/a DRMC East Behavioral Unit a/k/a DRMC Behavioral Health Outpatient Clinic, and any response thereto, it is hereby ORDERED as follows:

1. Oral argument upon the Preliminary Objections will be held on _____, _____, 2008, at _____ M. in Courtroom No. _____ of the Clearfield County Courthouse in Clearfield, Pennsylvania.
2. Plaintiff/Respondent shall file a response concerning the issues raised in the Preliminary Objections on or before _____, 2008.
3. Notice of the entry of this Order shall be served by ~~the Prothonotary~~
the Moving Party.

BY THE COURT,

J.

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

WANDA RUSSELL,

Plaintiff

vs.

JAMES E. DEVLIN, M.D., MARK W.
MALONE, D.O., DRMC PRIMARY CARE
ASSOCIATES, SANAA HELMI, M.D.,
THOMAS J. BRADLEY, M.D., BRADFORD
BOBRIN, M.D., and DUBOIS REGIONAL
MEDICAL CENTER a/k/a DUBOIS
REGIONAL MEDICAL CENTER WEST
a/d/b/a DRMC BEHAVIORAL UNIT a/k/a
DRMC EAST BEHAVIORAL UNIT a/k/a
DRMC BEHAVIORAL HEALTH
OUTPATIENT CLINIC,

Defendants

No. 07-644-CD

JURY TRIAL DEMANDED

ORDER OF COURT

AND NOW, this _____ day of _____, 2008, upon
consideration of the Preliminary Objections of DuBois Regional Medical Center a/k/a
DuBois Regional Medical Center West a/d/b/a DRMC Behavioral Unit a/k/a DRMC East
Behavioral Unit a/k/a DRMC Behavioral Health Outpatient Clinic, it is hereby ORDERED
AND DECREED that said Preliminary Objections are sustained. All claims for punitive
damages against DuBois Regional Medical Center a/k/a DuBois Regional Medical
Center West a/d/b/a DRMC Behavioral Unit a/k/a DRMC East Behavioral Unit a/k/a
DRMC Behavioral Health Outpatient Clinic are stricken with prejudice.

BY THE COURT:

J.

1. This is a medical malpractice action which was filed against the above defendants and a number of physicians on behalf of Wanda Russell.
2. The plaintiff initially filed a Complaint against all of the defendants on or about April 24, 2007.
3. Subsequently, plaintiff filed an Amended Complaint and a copy was received on or about November 13, 2007.

4. DuBois Regional Medical Center filed preliminary objections to the Amended Complaint on or about November 28, 2007.

5. The plaintiff filed a Second Amended Complaint on or about December 12, 2007.

6. In the Amended Complaint the plaintiff alleges negligence on the part of DuBois Regional Medical Center and its agents, servants or employees based on both vicarious and corporate liability.

7. The alleged asserted negligence occurred during the admission of Wanda Russell of December 4, 2005.

8. The **Second** Amended Complaint contains a claim for punitive damages against DuBois Regional Medical Center.

9. The **Second** Amended Complaint contains the same allegations of negligence against DuBois Regional Medical Center as the Amended Complaint, with only two added paragraphs that include language alleging intentional and willful actions. See Paragraphs 109 (i) and (j) of the Second Amended Complaint.

10. The **Second** Amended Complaint still contains the language objected to in DuBois Regional Medical Center's preliminary objections to the Amended Complaint in that it contains conclusory statements that DuBois Regional Medical Center or employees of DuBois Regional Medical Center were "grossly negligent" or engaged in "reckless conduct." See Paragraph 109 of the Second Amended Complaint.

11. The **Second** Amended Complaint does not contain any factual averments to support a claim for punitive damages against DuBois Regional Medical Center on a basis of corporate liability.

12. The **Second** Amended Complaint does not contain any factual averments to support a claim for punitive damages against DuBois Regional Medical Center on a basis of vicarious liability.

DEMURRER

DuBois Regional Medical Center files the within Demurrer seeking to have the claim for punitive damages dismissed and in support sets forth:

13. Plaintiff's Complaint does not contain any specific facts upon which to base a claim for punitive damages.

14. The sole count against DuBois Regional Medical Center is Count V. A review of the allegations reveals that the only additions to Count V from the Amended Complaint are Paragraphs 109 (i) and (j) which characterize certain actions as intentional and willful without setting forth factual averments in support of that characterization.

15. The **Second** Amended Complaint still contains language previously objected to that the actions of the agents, servants, or employees of DuBois Regional Medical Center constituted "gross negligence" or "reckless disregard" for patient safety. This language is not supported by any factual averments.

16. Count V contains nothing more than conclusions of law, insofar as any claim for punitive damages is concerned.

17. Under the MCARE Act, DuBois Regional Medical Center cannot be held liable for punitive damages for the acts of agents or employees.

18. Count V does not contain adequate facts to support a claim for punitive damages.

WHEREFORE, the Defendant, DuBois Regional Medical Center, respectfully requests that the Court enter an order sustaining the Demurrer and dismissing all claims for punitive damages against this hospital.

MOTION TO STRIKE

19. In the alternative, in the event the Court does not grant the Preliminary Objections in the nature of a Demurrer, DuBois Regional Medical Center respectfully

requests that the Court order the plaintiff to file a Third Amended Complaint setting forth sufficient and specific facts to warrant a claim for punitive damages.

20. In the alternative, DuBois Regional Medical Center also requests that the Court strike all claims and references to "gross negligence" and "reckless disregard" as it pertains to the agents and employees of DuBois Regional Medical Center.

21. The above allegations constitute nothing more than legal conclusions and are contrary to the PA Rules of Civil Procedure and the applicable case law.

22. The above averments constitute scandalous and impertinent matter and should be stricken with prejudice as to DuBois Regional Medical Center.

WHEREFORE, the Defendant, DuBois Regional Medical Center, in the alternative, respectfully requests that the allegations of "gross negligence" and "reckless disregard" be stricken from the plaintiff's Complaint or in the alternative, that plaintiff be required to file a Third Amended Complaint setting forth specific facts in support of a valid claim for punitive damages.

Respectfully submitted,

McINTYRE, HARTYE & SCHMITT

By Laura O. Burke

Attorneys for Defendant,
DUBOIS REGIONAL MEDICAL
CENTER a/k/a DUBOIS REGIONAL
MEDICAL CENTER WEST a/d/b/a
DRMC BEHAVIORAL UNIT a/k/a
DRMC EAST BEHAVIORAL UNIT
a/k/a DRMC BEHAVIORAL HEALTH
OUTPATIENT CLINIC

John L. McIntyre, Esquire
PA I.D. #28015
Laura O. Burke, Esquire
PA I.D. #200595
P.O. Box 533
Hollidaysburg, PA 16648
(814) 696-3581

TO: PLAINTIFF

YOU ARE HEREBY NOTIFIED TO FILE
A WRITTEN RESPONSE TO THE
ENCLOSED **PRELIMINARY OBJECTIONS**
TO PLAINTIFF'S SECOND AMENDED COMPLAINT
WITHIN TWENTY (20) DAYS FROM
SERVICE HEREOF OR A JUDGMENT
MAY BE ENTERED AGAINST YOU.

Laura O. Butler
Attorneys for Named Defendant

CA

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

WANDA RUSSELL,

Plaintiff,

v.

JAMES E. DEVLIN, M.D., MARK W.
MALONEY, D.O., DRMC PRIMARY
CARE ASSOCIATES, SANAA HELMI,
M.D., THOMAS J. BRADLEY, M.D.,
BRADFORD BOBRIN, M.D., DUBOIS
REGIONAL MEDICAL CENTER a/k/a
DUBOIS REGIONAL MEDICAL
CENTER WEST a/d/b/a DRMC
BEHAVIORAL UNIT a/k/a DRMC EAST
BEHAVIORAL UNIT a/k/a DRMC
BEHAVIORAL HEALTH OUTPATIENT
CLINIC,

Defendants.

CIVIL ACTION

No.: 07-644-CD

**PRELIMINARY OBJECTIONS
ON BEHALF OF DR. BOBRIN
TO PLAINTIFF'S SECOND
AMENDED COMPLAINT**

Filed on Behalf of this Party:

Bradford Bobrin, M.D.

Counsel of Record for this Party:

LYNN E. BELL, ESQUIRE
Pa. I.D. No.: 38588

A. MICHAEL GIANANTONIO, ESQ.
Pa. I.D. No.: 89120

DAVIES McFARLAND &
CARROLL, P.C.
One Gateway Center; 10th Floor
Pittsburgh, PA 15222

(412) 281-0737

JURY TRIAL DEMANDED

FILED NOCC
2/12/44/04
JAN 07 2008
William A. Shaw
Prothonotary/Clerk of Courts

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

WANDA RUSSELL,

CIVIL ACTION

Plaintiff,

No.: 07-644-CD

v.

JAMES E. DEVLIN, M.D., MARK W.
MALONEY, D.O., DRMC PRIMARY
CARE ASSOCIATES, SANAA HELMI,
M.D., THOMAS J. BRADLEY, M.D.,
BRADFORD BOBRIN, M.D., DUBOIS
REGIONAL MEDICAL CENTER a/k/a
DUBOIS REGIONAL MEDICAL
CENTER WEST a/d/b/a DRMC
BEHAVIORAL UNIT a/k/a DRMC EAST
BEHAVIORAL UNIT a/k/a DRMC
BEHAVIORAL HEALTH OUTPATIENT
CLINIC,

Defendants.

**PRELIMINARY OBJECTIONS ON BEHALF OF DR. BOBRIN
TO PLAINTIFF'S SECOND AMENDED COMPLAINT**

AND NOW, comes Defendant, Bradford Bobrin, M.D. ("Dr. Bobrin"), by and through his undersigned attorneys, Davies, McFarland & Carroll, P.C., and states as follows in Support of his Preliminary Objections to Plaintiff's Second Amended Complaint:

1. The within medical negligence civil action was initiated by the filing of Plaintiff's Complaint on April 24, 2007. The Complaint averred Dr. Bobrin was negligent with respect to Plaintiff's care and treatment.

2. On October 23, 2007, Plaintiff's filed a Motion to Amend their Complaint.

3. The Motion was granted and, the Amended Complaint was served on November 9, 2007.

4. As compared to the original Complaint, the Amended Complaint attempted to assert a cause of action against Dr. Bobrin for gross negligence and recklessness in addition to negligence.

5. To that end, several new allegations not found in the original pleading were in the Amended Complaint.

6. As a result of these allegations, Plaintiff made a claim for relief in the nature of punitive damages in her *ad danum* clause.

7. As a result Dr. Bobrin and several other Defendants filed Preliminary Objections to Plaintiff's Amended Complaint.

8. On December 6, 2007, Plaintiff filed a Second Amended Complaint, namely in response to Preliminary Objections filed by Drs. Maloney and Helmi.

9. Again, several new allegations not previously contained within the original or amended Complaint are found within this pleading.

10. These allegations are an attempt to amplify the allegations found in the Amended Complaint so that Plaintiff can pursue her claim for punitive damages.

11. For the reasons that follow below, Plaintiff's allegations still fall below the standard necessary to seek such redress, and should be stricken as a matter of law.

MOTION TO STRIKE-PUNITIVE DAMAGES

12. Where the allegations of a complaint in trespass detail alleged conduct of a defendant that is negligent, it is not sufficient in order to support a claim for punitive damages merely to allege that conduct was wanton, reckless or grossly negligent. *Smith v. Brown*, 283 Pa. Super. 116, 423 A.2d 743 (1980).

13. The MCARE Act section 505 provides “A showing of gross negligence is insufficient to support an award of punitive damages.”

14. A claim of “negligence” does not give rise to punitive damages. *Feld v. Merriam*, 506 Pa. 383, 485 A.2d 742 (1982), *McKeeman v. Corestates Bank, N.A.* 751 A.2d 655 (Pa. Super. 2000).

15. Pennsylvania Supreme Court case law makes it clear that “punitive damages are an ‘extreme remedy’ available in only the most exceptional matters.” *Phillips v. Cricket Lighters*, 584 Pa. 179, 188, 883 A.2d 439, 445 (2005).

16. An essential fact needed to plead a claim for punitive damages is that defendant’s conduct must have been outrageous. Outrageous conduct is an “an act done with a bad motive or with reckless indifference to the interest of others.” *Focht v. Rabada*, 217 Pa. Super. 35, 268 A.2d 157 (1970) citing Section 908(b) of the Restatement (Second) of Torts. “Reckless indifference to the interest of others,” or as it is some times referred to “wanton misconduct” means that “the actor has **intentionally** done an act of an unreasonable character in disregard of risk known to him or so obvious that he must be taken to have been aware of it, and so great as to make it highly probable that harm will follow.” *Evans v. Philadelphia Transportation Co.*, 418 Pa. 567, 212 A.2d 440 (1965).

17. In pleading, to substantiate a claim for punitive damages, it must clearly appear the conduct of the defendant was not merely tortious or wrongful, but that it reached level of being outrageous. *Id.* See also, *McKeeman v. Corestates Bank, N.A.*, 751 A.2d 655 (Pa. Super. 2000).

18. Plaintiff avers she presented to the DuBois Regional Medical Center (“DRMC”) on December 3, 2005, complaining of bilateral arm weakness and dark vision. See, Plaintiff’s

Second Amd. Compl. at ¶ 15.

19. She was released on the same date with a diagnosis of, *inter alia*, a transient ischemic attack (“TIA”). *Id.* at ¶ 20.

20. Plaintiff eventually returned to DRMC where she admitted to the care of Dr. Maloney with a primary emergency department diagnosis of cerebrovascular attack (“CVA”); according the Second Amended Complaint, she was treated by Dr. Devlin who admitted her for neuron-checks and observation. *Id.* at ¶¶ 26-28.

21. After undergoing several diagnostic evaluations on December 5, 2005, Plaintiff was evaluated by Dr. Maloney who, according to Plaintiff, informed her that her loss of mobility was due to depression. *Id.* at ¶¶ 32-39.

22. Plaintiff continues by alleging Dr. Maloney “misrepresented” Plaintiff’s medical status to Dr. Helmi and offered his opinion that she was suicidal; based upon this alleged misrepresentation, Plaintiff states Dr. Helmi recommended Plaintiff’s admission to the DRMC Behavior Unit for psychiatric treatment without first performing an evaluation. *Id.* at ¶¶ 47-49.

23. Plaintiff was admitted the DRMC Behavior Unit at 2:00 a.m. on December 6, 2005 and she was seen by Dr. Bradley at 6:45 a.m. that morning; Plaintiff alleged Dr. Bradley was “grossly negligent” and “reckless” for not obtaining a neurologic evaluation. *Id.* at ¶¶ 59, 64.

24. With respect to this Defendant, Plaintiff alleges Dr. Bobrin evaluated her on December 6, 2005 at approximately 10:30 a.m.—two days after her initial admission to DRMC, but did not find any signs of homicidal or suicidal ideations. *Id.* at ¶¶ 75-76.

25. Instead, Dr. Bobrin formulated a plan for Plaintiff that included a transfer back to medicine to receive a neurologic consultation and MRI; he did not believe she needed psychiatric

care. *Id.* at ¶ 82.

26. In its most recent iteration, Plaintiff Second Complaint adds the allegations that Dr. Bobrin failed to act accordingly due to the manifestations of symptoms associated with a stroke. *Id.* at ¶¶ 78-81.

27. Despite the fact that Dr. Bobrin performed those actions that Plaintiff alleges all other treating physicians failed to do insofar as he recommended Plaintiff be seen for further neurologic evaluation, Plaintiff baldly asserts Dr. Bobrin was “grossly negligent” and/or “reckless.”

28. In further support of these allegations, under Count V of the Second Amended Complaint, Plaintiff again baldly asserts numerous allegations as to why Dr. Bobrin’s care was grossly negligent and/or reckless; interestingly, the allegations raise averments of nothing more than mere negligence at best.

29. For instance, Plaintiff asserts Dr. Bobrin was “grossly negligent” and/or “reckless” for: his failure to diagnose TIA in the face of objective signs and symptoms of neurologic deficit; his failure to provide appropriate management of CVA; or, maintaining Plaintiff in a psychiatric unit with actual knowledge of symptomology consistent with a stroke. *Id.* at ¶¶ 106(a), (k) and (z).

30. These additional allegations combined with those previously contained in the First Amended Complaint do not allege actual intentional, willful, wanton, or reckless conduct on behalf of the Defendants. Rather Plaintiff avers facts conceivably amounting to inadvertence, mistake, errors of judgment and the like, which constitute ordinary negligence.

31. Moreover, throughout her pleading, Plaintiff raises allegations that the various Defendants failed to perform the necessary medical tests or realize Plaintiff did not need

psychiatric treatment; nevertheless Plaintiff admits Dr. Bobrin took these steps when others failed to do so.

32. Yet even in light of this recognition Plaintiff still expects this Court to find that Dr. Bobrin acted in a manner warranting the imposition of punitive damages.

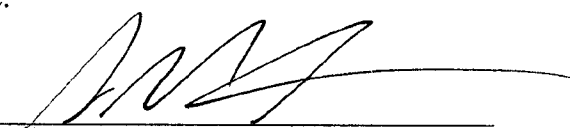
33. For the reasons stated above, it is clear that Plaintiff raises claims for nothing more than ordinary negligence and request for punitive damages should be stricken as a matter of law.

WHEREFORE, Defendant, Bradford Bobrin, M.D., respectfully requests that this Honorable Court enter an Order striking Plaintiff's allegations of gross negligence and recklessness, and Plaintiff's request for punitive damages.

JURY TRIAL DEMANDED

Respectfully submitted,

DAVIES McFARLAND & CARROLL,
P.C.

By: 

LYNN E. BELL, ESQUIRE
A. MICHAEL GIANANTONIO, ESQ.

Attorneys for Bradford Bobrin, M.D.

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

WANDA RUSSELL,

CIVIL ACTION

Plaintiff,

No.: 07-644-CD

v.

JAMES E. DEVLIN, M.D., MARK W.
MALONEY, D.O., DRMC PRIMARY
CARE ASSOCIATES, SANAA HELMI,
M.D., THOMAS J. BRADLEY, M.D.,
BRADFORD BOBRIN, M.D., DUBOIS
REGIONAL MEDICAL CENTER a/k/a
DUBOIS REGIONAL MEDICAL
CENTER WEST a/d/b/a DRMC
BEHAVIORAL UNIT a/k/a DRMC EAST
BEHAVIORAL UNIT a/k/a DRMC
BEHAVIORAL HEALTH OUTPATIENT
CLINIC,

Defendants.

ORDER OF COURT

AND NOW, this ____ day of _____, 2008, upon consideration of Defendant's, Bradford Bobrin, M.D., Preliminary Objections to Plaintiff's Second Amended Complaint, and after entertaining appropriate argument thereon, it is hereby ORDERED, ADJUDGED and DECREED that said Preliminary Objections are GRANTED, and Plaintiff's claim for punitive damages against Dr. Bobrin is dismissed with prejudice.

J.

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that I served the foregoing document to all counsel of record in the following manner on the 3rd day of January, 2008:

Via Facsimile	_____
Via Hand Delivery	_____
Via First Class U.S. Mail	_____ X _____
Via Overnight Mail	_____
Via Certified Mail/ Return Receipt Request	_____

Thomas R. Kline, Esquire
Mark A. Hoffman, Esquire
Kline & Specter, P.C.
1525 Locust Street,
19th Floor
Philadelphia, PA 19102

Attorneys for Plaintiff

Daryl Slimak, Esquire
McQuaide Blasko
811 University Drive
State College, PA 16801

M. Brian O'Connor, Esquire
Matis Baum Rizza & O'Connor, P.C.
444 Liberty Avenue; Suite 300
Pittsburgh, PA 15222

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

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

David R. Bahl, Esquire
Richard F. Schluter, Esquire
McCormick Law Firm
835 West Fourth Street
P.O. Box 577
Williamsport PA 17703

Attorney for Dr. Mark W. Maloney

DAVIES McFARLAND & CARROLL,
P.C.

By:

A handwritten signature in black ink, appearing to be 'Lynn E. Bell', written over a horizontal line.

LYNN E. BELL, ESQUIRE
A. MICHAEL GIANANTONIO, ESQ.

Attorneys for Bradford Bobrin, M.D.

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA

WANDA RUSSELL,

Plaintiff,

v.

JAMES E. DEVLIN, M.D., MARK W.
MALONEY, D.O., DRMC PRIMARY
CARE ASSOCIATES, SANAA HELMI,
M.D., THOMAS J. BRADLEY, M.D.,
BRADFORD BOBRIN, M.D., DUBOIS
REGIONAL MEDICAL CENTER a/k/a
DUBOIS REGIONAL MEDICAL
CENTER WEST a/d/b/a DRMC
BEHAVIORAL UNIT a/k/a DRMC EAST
BEHAVIORAL UNIT a/k/a DRMC
BEHAVIORAL HEALTH OUTPATIENT
CLINIC,

Defendants.

CIVIL ACTION

No.: 07-644-CD

**PRAECIPE FOR ARGUMENT
DATE ON PRELIMINARY
OBJECTIONS PURSUANT TO
RULE 211**

Filed on Behalf of this Party:

Bradford Bobrin, M.D.

Counsel of Record for this Party:

LYNN E. BELL, ESQUIRE
Pa. I.D. No.: 38588

A. MICHAEL GIANANTONIO, ESQ.
Pa. I.D. No.: 89120

DAVIES McFARLAND &
CARROLL, P.C.
One Gateway Center; 10th Floor
Pittsburgh, PA 15222

(412) 281-0737

JURY TRIAL DEMANDED

FILED *no cc*
mjl 12:44 PM
JAN 07 2008 *(6K)*

William A. Shaw
Prothonotary/Clerk of Courts

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

WANDA RUSSELL,

CIVIL ACTION

Plaintiff,

No.: 07-644-CD

v.

JAMES E. DEVLIN, M.D., MARK W.
MALONEY, D.O., DRMC PRIMARY
CARE ASSOCIATES, SANAA HELMI,
M.D., THOMAS J. BRADLEY, M.D.,
BRADFORD BOBRIN, M.D., DUBOIS
REGIONAL MEDICAL CENTER a/k/a
DUBOIS REGIONAL MEDICAL
CENTER WEST a/d/b/a DRMC
BEHAVIORAL UNIT a/k/a DRMC EAST
BEHAVIORAL UNIT a/k/a DRMC
BEHAVIORAL HEALTH OUTPATIENT
CLINIC,

Defendants.

**PRAECIPE FOR ARGUMENT DATE ON PRELIMINARY
OBJECTIONS PURSUANT TO RULE 211**

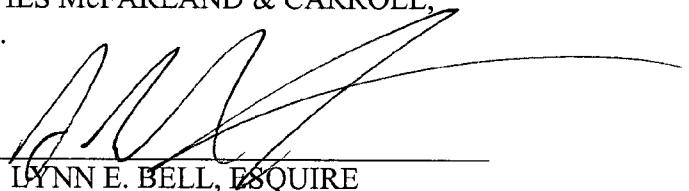
To: William A. Shaw, Prothonotary

Pursuant to Local Rule 211, Defendant, Bradford Bobrin, M.D., respectfully requests that the Court assign an argument date for his Preliminary Objections.

JURY TRIAL DEMANDED

Respectfully submitted,

DAVIES McFARLAND & CARROLL,
P.C.

By: 

LYNN E. BELL, ESQUIRE
A. MICHAEL GIANANTONIO, ESQ.

Attorneys for Bradford Bobrin, M.D.

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that I served the foregoing document to all counsel of record in the following manner on the 3rd day of January, 2008:

Via Facsimile	_____
Via Hand Delivery	_____
Via First Class U.S. Mail	_____ X _____
Via Overnight Mail	_____
Via Certified Mail/ Return Receipt Request	_____

Thomas R. Kline, Esquire
Mark A. Hoffman, Esquire
Kline & Specter, P.C.
1525 Locust Street
19th Floor
Philadelphia, PA 19102

Attorneys for Plaintiff

Daryl Slimak, Esquire
McQuaide Blasko
811 University Drive
State College, PA 16801

M. Brian O'Connor, Esquire
Matis Baum Rizza & O'Connor, P.C.
444 Liberty Avenue; Suite 300
Pittsburgh, PA 15222

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

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

David R. Bahl, Esquire
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McCormick Law Firm
835 West Fourth Street
P.O. Box 577
Williamsport PA 17703

Attorney for Dr. Mark W. Maloney

DAVIES McFARLAND & CARROLL,
P.C.

By: 

LYNN E. BELL, ESQUIRE

A. MICHAEL GIANANTONIO, ESQ.

Attorneys for Bradford Bobrin, M.D.

CA

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

WANDA RUSSELL,
Plaintiff

No. 07-644-CD

vs.

JAMES E. DEVLIN, M.D., MARK W.
MALONE, D.O., DRMC PRIMARY CARE
ASSOCIATES, SANAA HELMI, M.D.,
THOMAS J. BRADLEY, M.D., BRADFORD
BOBRIN, M.D., and DUBOIS REGIONAL
MEDICAL CENTER a/k/a DUBOIS
REGIONAL MEDICAL CENTER WEST
a/d/b/a DRMC BEHAVIORAL UNIT a/k/a
DRMC EAST BEHAVIORAL UNIT a/k/a
DRMC BEHAVIORAL HEALTH
OUTPATIENT CLINIC,

Defendants

JURY TRIAL DEMANDED

ORDER

AND NOW, this 7 day of January, 2008, upon
consideration of the Preliminary Objections to Plaintiff's Second Amended Complaint
filed on behalf of defendant, Dubois Regional Medical Center a/k/a DuBois Regional
Medical Center West a/d/b/a DRMC Behavioral Unit a/k/a DRMC East Behavioral Unit
a/k/a DRMC Behavioral Health Outpatient Clinic, and any response thereto, it is hereby
ORDERED as follows:

1. Oral argument upon the Preliminary Objections will be held on January
15, 2008, at 10:00 A. M. in Courtroom No. 1 of the
Clearfield County Courthouse in Clearfield, Pennsylvania.
2. Plaintiff/Respondent shall file a response concerning the issues raised in the
Preliminary Objections on or before _____, 2008.
3. Notice of the entry of this Order shall be served by the counsel.

BY THE COURT


J.

FILED

014:00601
JAN 07 2008

4CC
Atty Burke

William A. Shaw
Prothonotary/Clerk of Courts

(60)

KLINE & SPECTER

A Professional Corporation

By: THOMAS R. KLINE, ESQUIRE
MARK A. HOFFMAN, ESQUIRE
ROYCE W. SMITH, ESQUIRE

Attorney ID Nos.: 28895/84443/201295

The Nineteenth Floor

1525 Locust Street

Philadelphia, Pennsylvania 19102

(215) 772-1000

Attorneys for Plaintiff

WANDA RUSSELL

426 North Michael Street

Saint Mary's, Pennsylvania 15857

Plaintiff,

v.

JAMES E. DEVLIN, M.D. and

MARK W. MALONEY, D.O. and

DRMC PRIMARY CARE

ASSOCIATES and

SANAA HELMI, M.D. and

THOMAS J. BRADLEY, M.D. and

BRADFORD BOBRIN, M.D. and

DuBOIS REGIONAL MEDICAL

CENTER a/ka DuBOIS REGIONAL

MEDICAL CENTER WEST

a/d/b/a DRMC BEHAVIORAL

UNIT a/k/a DRMC EAST BEHAVIORAL

UNIT a/k/a DRMC BEHAVIORAL

HEALTH OUTPATIENT CLINIC

Defendants.

**COURT OF COMMON PLEAS
COUNTY OF CLEARFIELD**

DOCKET NO.

07-644-CD

FILED ICC
m/jl:aleb/Atty
JAN 07 2008

William A. Shaw
Prothonotary/Clerk of Courts

CK

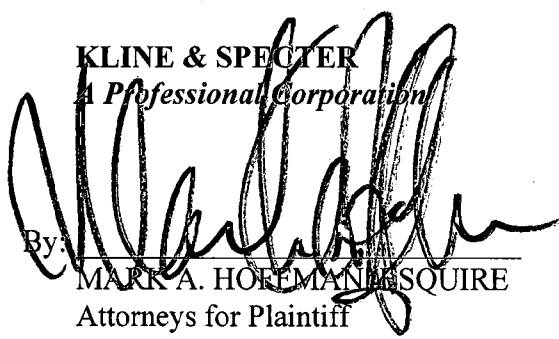
CERTIFICATES OF MERIT

I, Mark A. Hoffman, Esquire, am an attorney for the plaintiff in the above-captioned matter.

Pursuant to Pa.R.C.P. No. 1042.1, I hereby certify appropriate licensed professionals have provided me with written statements stating that there exists a reasonable basis and probability to conclude that the care, skill, or knowledge exercised or exhibited by Drs. Devlin, Maloney, Helmi, Bradley, and Bobrin, and the psychiatric nursing staff, and the DuBois Regional Medical Center and its affiliated or associated entities as captioned above, with respect to the treatment, practice, or work

that is the subject of this Civil Action Complaint, fell outside of acceptable professional and institutional standards, and in addition to being negligent, was grossly negligent and/or reckless in its scope, and that such conduct was a substantial factor in causing injuries, or bringing about harm, to Wanda Russell. I further certify that there are additional claims which are based on allegations that licensed professionals for whom the hospital-defendant, DuBois Regional Medical Center and its affiliated or associated entities as captioned above, and/or DRMC Primary Care, and/or both, are responsible and derivatively or vicariously liable deviated from accepted professional standards of medical care, and caused the aforementioned injuries and harm. I additionally certify that appropriate licensed professionals have supplied written statements to me concluding that there exists a reasonable basis and probability that the DuBois Regional Medical Center, and its affiliated or associated entities as captioned above, deviated from accepted standards of institutional care, giving rise to claims of direct (corporate) negligence pursuant to the decision of the Supreme Court of Pennsylvania in Thompson v. Nason, 591 A.2d 703 (1991) and its progeny of case law. The licensed professionals who have provided me with these written statements have also concluded that the aforementioned deviations from accepted standards of medical and institutional care on the part of the individual named licensed professional, corporate, and hospital defendants was a substantial factor causing, or increasing the risk of harm, to Wanda Russell.

KLINE & SPECTER
A Professional Corporation

By: 

MARK A. HORKMAN ESQUIRE
Attorneys for Plaintiff

Date: January 4, 2008

KLINE & SPECTER

A Professional Corporation

By: THOMAS R. KLINE, ESQUIRE
MARK A. HOFFMAN, ESQUIRE
ROYCE W. SMITH, ESQUIRE

Attorney ID Nos.: 28895/84443/201295

The Nineteenth Floor
1525 Locust Street
Philadelphia, Pennsylvania 19102
(215) 772-1000

FILED

JAN 07 2008

William A. Shaw
Prothonotary/Clerk of Courts

Attorneys for Plaintiff

WANDA RUSSELL
426 North Michael Street
Saint Mary's, Pennsylvania 15857
Plaintiff,

v.

JAMES E. DEVLIN, M.D.
1100 Main Street
Brockway, Pennsylvania 15824
and

MARK W. MALONEY, D.O.
DRMC Primary Care Associates
Medical Arts Building
Suite 200
145 Hospital Avenue
DuBois, Pennsylvania 15801
and

DRMC PRIMARY CARE
ASSOCIATES
Medical Arts Building
Suite 200
145 Hospital Avenue
DuBois, Pennsylvania 15801
and

SANAA HELMI, M.D.
Behavioral Health Outpatient Clinic
DRMC East Unit
Maple Avenue
DuBois, Pennsylvania 15801
ans

THOMAS J. BRADLEY, M.D.
701 Sunflower Drive
DuBois, Pennsylvania 15801
and

**COURT OF COMMON PLEAS
COUNTY OF CLEARFIELD**

DOCKET NO. 07-644-CD

BRADFORD BOBRIN, M.D.
Behavioral Health Outpatient Clinic
DRMC East Unit
Maple Avenue
DuBois, Pennsylvania 15801
and
DuBOIS REGIONAL MEDICAL
CENTER a/ka DuBOIS REGIONAL
MEDICAL CENTER WEST
a/d/b/a DRMC BEHAVIORAL
UNIT a/k/a DRMC EAST BEHAVIORAL
UNIT a/k/a DRMC BEHAVIORAL
HEALTH OUTPATIENT CLINIC
c/o Office of Risk Management
100 Hospital Avenue
DuBois, Pennsylvania 15801
Defendants.

NOTICE

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

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER.

IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.

COURT ADMINISTRATOR
Clearfield County Courthouse
Second and Market Streets
Clearfield, PA 16830
814-765-2641, Ext. (5982)

ADVISOR

Le han demandado a usted en la corte. Si usted quiere defenderse de estas demandas expuestas en las paginas siguientes, usted tiene veinte (20) dias de plazo al partir de la fecha de la demanda y la notificacion. Hace falta asentar una comparencia escrita o en persona o con un abogado y entregar a la corte en forma escrita sus defensas o sus objeciones a las demandas en contra de su persona. Sea avisado que si usted no se defiende, la corte tomara medidas y puede continuar la demanda en contra suya sin previo aviso o notificacion. Ademias, la corte pueda decidir a favor del demandante y requiere que usted cumpla con todas las provisiones de esta demanda. Usted puede perder dinero o sus propiedades u otros derechos importantes para usted.

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

ESTA OFICINA LO PUEDE PROPORCIONAR CON INFORMACION ACERCA DE EMPLEAR A UN ABOGADO. SI USTED NO PUEDE PROPORCIONAR PARA EMPLEAR UN ABOGADO, ESTA OFICINA PUEDE SER CAPAZ DE PROPORCIONARLO CON INFORMACION ACERCA DE LAS AGENCIAS QUE PUEDEN OFRECER LOS SERVICIOS LEGALES A PERSONAS ELEGIBLES EN UN HONORARIO REDUCIDO NINGUN HONORARIO.

COURT ADMINISTRATOR
Clearfield County Courthouse
Second and Market Streets
Clearfield, PA 16830
814-765-2641, Ext. (5982)

THIRD AMENDED CIVIL ACTION COMPLAINT

Plaintiff, Wanda Russell, by and through her undersigned attorneys, Kline & Specter, P.C., in response to the Preliminary Objections filed on behalf of Defendants Mark W. Maloney, D.O. and Sanaa Helmi, M.D. to Plaintiff's Second Amended Complaint, herein files with this Court her Third Amended Complaint, as of right, pursuant to Pennsylvania Rules of Civil Procedure Number 1028(c)(1), and complains of the above-captioned defendants as follows:

1. Plaintiff Wanda Russell is an adult citizen and a resident of the Commonwealth of Pennsylvania, residing at 426 North Michael Street, Saint Mary's, Pennsylvania 15857. Wanda Russell was born on September 19, 1958.

2. Defendant James E. Devlin, M.D. ["Dr. Devlin"] was, at all times material hereto, a duly licensed physician in the Commonwealth of Pennsylvania, specializing in the medical field of family medicine, who maintained a professional office, business or corporate office, or place of medical practice at 1100 Main Street, Brockway, Pennsylvania 15824. A Certificate of Merit pursuant to Pa.R.C.P. No. 1042.1 regarding the treatment, practice, or work of this defendant is attached hereto as Exhibit "A."

3. Defendant Mark W. Maloney, D.O. ["Dr. Maloney"] was, at all times material hereto, a duly licensed osteopathic physician in the Commonwealth of Pennsylvania, specializing in the medical field of family medicine, who maintained a professional office, business or corporate office, or place of medical practice at DRMC Primary Care Associates, Medical Arts Building, Suite 200, 145 Hospital Avenue, DuBois, Pennsylvania 15801. A Certificate of Merit pursuant to Pa.R.C.P. No. 1042.1 regarding the treatment, practice, or work of this defendant is attached hereto as Exhibit

"A."

4. Defendant DRMC Primary Care Associates was, at all times material hereto, a corporation, professional corporation, professional association, professional partnership, or other jural entity organized according to and existing under the laws of the Commonwealth of Pennsylvania, with an office location and place of business at Medical Arts Building, Suite 200, 145 Hospital Avenue, DuBois, Pennsylvania 15801. A Certificate of Merit pursuant to Pa.R.C.P. No. 1042.1 regarding the treatment, practice, or work of this defendant is attached hereto as Exhibit "A."

5. At all times material hereto, Dr. Maloney and/or Dr. Devlin were agents, servants, and/or employees of DRMC Primary Care Associates, and were acting within the scope of their agency, master-servant, and/or employment relationships with DRMC Primary Care Associates while providing medical care and treatment to Wanda Russell. Accordingly, DRMC Primary Care Associates is liable for the negligent, grossly negligent, and/or reckless acts and/or omissions of Dr. Devlin and/or Dr. Maloney under theories of agency, master-servant, respondeat superior, and/or right of control.

6. Dr. Devlin was providing medical service or family practice service "coverage" or "cross-coverage" for Dr. Maloney, while providing medical care and treatment to Wanda Russell on or about December 4 and 5, 2005. Accordingly, Dr. Maloney is liable for the negligent acts and/or omissions of Dr. Devlin under theories of agency, master-servant or borrowed servant, respondeat superior, and/or right of control.

7. Dr. Devlin was providing "coverage" or "cross-coverage" for Dr. Maloney's family practice group or association, DRMC Primary Care Associates, while providing medical care and treatment to Wanda Russell, on or about December 4 and 5, 2005. Accordingly, DRMC Primary

Care Associates is liable for the negligent acts and/or omissions of Dr. Devlin under theories of agency, master-servant or borrowed servant, respondeat superior, and/or right of control.

8. Defendant Sanaa Helmi, M.D. ["Dr. Helmi"] was, at all times material hereto, a duly licensed physician in the Commonwealth of Pennsylvania, specializing in the medical field of psychiatry, who maintained a professional office, business or corporate office, or place of medical practice at Behavioral Health Outpatient Clinic, DRMC East Unit, Maple Avenue, DuBois, Pennsylvania 15801. A Certificate of Merit pursuant to Pa.R.C.P. No. 1042.1 regarding the treatment, practice, or work of this defendant is attached hereto as Exhibit "A."

9. Defendant Thomas J. Bradley, M.D. ["Dr. Bradley"] was, at all times material hereto, a duly licensed physician in the Commonwealth of Pennsylvania, specializing in the medical field of family medicine, who maintained a professional office, business or corporate office, or place of medical practice at 701 Sunflower Drive, DuBois, Pennsylvania 15801. At all times material hereto, Dr. Bradley was under contract with the DuBois Regional Medical Center to perform admission history and physical examinations on patients, including Wanda Russell, admitted to the DRMC East Unit. A Certificate of Merit pursuant to Pa.R.C.P. No. 1042.1 regarding the treatment, practice, or work of this defendant is attached hereto as Exhibit "A."

10. Defendant Bradford Bobrin, M.D. ["Dr. Bobrin"] was, at all times material hereto, a duly licensed physician in the Commonwealth of Pennsylvania, specializing in the medical field of psychiatry, who maintained a professional office, business or corporate office, or place of medical practice at Behavioral Health Outpatient Clinic, DRMC East Unit, Maple Avenue, DuBois, Pennsylvania 15801. A Certificate of Merit pursuant to Pa.R.C.P. No. 1042.1 regarding the treatment, practice, or work of this defendant is attached hereto as Exhibit "A."

11. Defendant DuBois Regional Medical Center a/k/a/ DuBois Regional Medical Center West a/d/b/a DRMC Behavioral Unit a/k/a DRMC East Behavioral Unit a/k/a DRMC Behavioral Health Outpatient Clinic [referred to in various paragraphs as either the "DuBois Regional Medical Center" or the "DRMC Behavioral Unit" or the "DuBois Regional Medical Center West"] is a corporation or other jural entity organized according to and existing under the laws of the Commonwealth of Pennsylvania which owns, operates, and maintains a hospital, health care facility, and provider of health care services based at 100 Hospital Avenue, DuBois, Pennsylvania 15801.

The DRMC Behavioral Unit a/k/a DRMC East Behavioral Unit a/k/a DRMC East Behavioral Unit a/k/a DRMC Behavioral Health Outpatient Clinic is a psychiatric unit located within the East Unit of the DuBois Regional Medical Center. A Certificate of Merit pursuant to Pa.R.C.P. No. 1042.1 regarding the treatment, practice, or work of this defendant is attached hereto as Exhibit "A."

12. At all times material hereto, Dr. Devlin, Dr. Maloney, Dr. Helmi, Dr. Bradley, and Dr. Bobrin were actual or ostensible agents, servants, and/or employees of the DuBois Regional Medical Center and/or the DRMC Behavioral Unit, and were acting within the scope of their agency, master-servant, and/or employment relationship with the DuBois Regional Medical Center, and its affiliated or associated entities as captioned above, while providing medical care and treatment to Wanda Russell. Accordingly, the DuBois Regional Medical Center, and its affiliated or associated entities as captioned above, are liable for the negligent, grossly negligent, and/or reckless acts and/or omissions of Dr. Devlin, Dr. Maloney, Dr. Helmi, Dr. Bradley, and Dr. Bobrin under theories of agency, master-servant, respondeat superior, and/or right of control.

13. At all times material hereto, the DuBois Regional Medical Center and the DRMC Behavioral Unit were acting by and through their actual agents or ostensible agents, servants, and/or

employees, Dr. Devlin, Dr. Maloney, Dr. Helmi, Dr. Bradley, and Dr. Bobrin, as well as the nurses who provided psychiatric nursing care and evaluation to Wanda Russell during her hospitalization in the DRMC Behavioral Unit. The identities of these nurses, whose signatures are illegible on the "Behavioral Health Services Daily Notes" and extension notes, attached hereto as Exhibit "B,"¹ are fully known to the DuBois Regional Medical Center and the DRMC Behavioral Unit, and presently unknown to Plaintiff because of the illegible nature, or absence of, their signatures. The identities of these nurses is the subject matter of further discovery by the Plaintiff during the course of this litigation. Accordingly, DuBois Regional Medical Center is liable for the negligent, grossly negligent, and/or reckless acts and/or omissions of these aforementioned named and as yet specifically identified, see Exhibit "B," actual or ostensible agents, servants, and/or employees which occurred in the course of providing medical and nursing care to Wanda Russell, under theories of agency, master-servant, respondeat superior, and/or right of control.

14. Venue in this action is properly laid in Clearfield County, Pennsylvania pursuant to the Amendatory Order of the Supreme Court of Pennsylvania dated March 5, 2003, No. 381, Civil Procedural Rules, Docket No. 5, which amended the Pennsylvania Rules of Civil Procedure No.1006.

15. On December 3, 2005, Wanda Russell presented to the Emergency Department at the

¹Pursuant to the Pennsylvania Rules of Civil Procedure Number 1019(I), which states, in relevant part, "[w]hen any claim or defense is based upon a writing, the pleader shall attach a copy of the writing, or the material part thereof to the pleading....," plaintiffs attach hereto as Exhibit "B," and fully incorporate herein, by reference, the "Behavioral Health Services Daily Notes" and the description of events set forth therein. A Certificate of Merit pursuant to Pennsylvania Rules of Civil Procedure Number 1042.1 regarding the treatment, practice, or work of these defendants is attached hereto as Exhibit "A."

DuBois Regional Medical Center via wheelchair with complaints of, among other things, bilateral arm weakness and dark vision.

16. On December 3, 2005, Wanda Russell was evaluated by Patrick Shilata, D.O. in the Emergency Department at the DuBois Regional Medical Center.

17. On December 3, 2005, Wanda Russell had a known history of hypertension and insulin dependent diabetes mellitus. These co-morbid conditions were known to the nursing staff and physician or physicians who evaluated and treated Wanda Russell in the Emergency Department on December 3, 2005, were recorded in the DuBois Regional Medical Center Emergency Department medical record of Wanda Russell.

18. Dr. Devlin, Dr. Maloney, Dr. Helmi, Dr. Bradley, and Dr. Bobrin knew, at all times material to this action, that hypertension and diabetes mellitus were risk factors for stroke and/or transient ischemic attack.

19. On December 3, 2005, Wanda Russell was able to ambulate, but complained of feeling off balance. Dr. Devlin, Dr. Maloney, Dr. Helmi, Dr. Bradley, and Dr. Bobrin knew, at all times material to this action, that gait unsteadiness and ataxia were neurologic symptoms of possible stroke and/or transient ischemic attack.

20. On December 3, 2005, during her evaluation in the DuBois Regional Medical Center Emergency Department, Wanda Russell had performed on her, among other things, an electrocardiogram, a basic metabolic panel, a urine analysis with microscopic examination, and an unenhanced head CT scan. All test results were interpreted as "normal" except for an elevated blood sugar (196 mg/dl; normal = 70 to 110 mg/dl).

21. On December 3, 2005, Wanda Russell was discharged from the Emergency

Department at the Dubois Regional Medical Center with the diagnosis: "Impression: weakness, Transient Ischemic Attack (TIA), Diabetes Mellitus, Type I."

22. On December 3, 2005, Wanda Russell was discharged from the Emergency Department at the Dubois Regional Medical Center with instructions concerning transient ischemic attack and diabetes mellitus, and she was given a four (4) day work release. Wanda Russell was additionally instructed to follow-up with Dr. Maloney, her primary care physician, in three (3) to four (4) days, for further evaluation of the transient ischemic attack and diabetes mellitus.

23. On December 4, 2005, Wanda Russell presented to the Emergency Department at the DuBois Regional Medical Center via wheelchair with complaints of, among other things, left-sided weakness and inability to walk.

24. Dr. Devlin, Dr. Maloney, Dr. Helmi, Dr. Bradley, and Dr. Bobrin knew, at all times material to this action, that hemiparesis and gait disturbance were neurologic signs and symptoms of stroke and/or transient ischemic attack.

25. On December 4, 2005, Wanda Russell's sister signed the DuBois Regional Medical Center "Consent for Treatment" as Wanda Russell's patient representative, and on Wanda Russell's behalf, because Wanda Russell had weakness on writing and slurred speech. The "Consent for Treatment" was signed at or about 0938 hours on December 4, 2005.

26. Dr. Devlin, Dr. Maloney, Dr. Helmi, Dr. Bradley, and Dr. Bobrin knew, at all times material to this action, that dysarthria and hemiparesis were neurologic signs and symptoms of stroke and/or transient ischemic attack.

27. On December 4, 2005, Wanda Russell was evaluated by Jeffrey Elias, D.O. ["Dr. Elias"] in the Emergency Department at the DuBois Regional Medical Center.

28. On December 4, 2005, Dr. Elias performed a neurological examination on Wanda Russell in the Emergency Department at the DuBois Regional Medical Center, and found, among other things, that Wanda Russell had a facial droop and diminished motor strength in the left arm (2/5) and left leg (2/5). The "Review of Systems" performed by Dr. Elias was positive for gait disturbance, speech changes, and weakness in the left arm and leg.

29. Dr. Devlin, Dr. Maloney, Dr. Helmi, Dr. Bradley, and Dr. Bobrin knew, at all times material to this action, that facial asymmetry, facial droop, and unilateral loss of the nasolabial fold were neurologic signs and symptoms of stroke and/or transient ischemic attack.

30. On December 4, 2005, Dr. Elias formulated a plan that Wanda Russell be admitted "to medical, for Maloney, Mark W. with a primary ED diagnosis of CVA (stroke) non-hemorrhagic." A summary of the Emergency Department evaluation of Wanda Russell was faxed to Wanda Russell's primary care physician, Dr. Maloney.

31. Dr. Devlin, Dr. Maloney, Dr. Helmi, Dr. Bradley, and Dr. Bobrin knew, at all times material to this action, that Dr. Elais had diagnosed Wanda Russell as having or evolving an ischemic (non-hemorrhagic) stroke.

32. Dr. Devlin, Dr. Maloney, Dr. Helmi, Dr. Bradley, and Dr. Bobrin knew, at all times material to this action, that a negative or normal cerebral CT scan does not rule in or rule out an ischemic stroke or transient ischemic attack, and that the primary use of a cerebral CT scan during the diagnosis of stroke is to rule out a hemorrhagic stroke premonitory to acute stroke treatment with thrombolytic agents.

33. On December 4, 2005, Dr. Devlin evaluated Wanda Russell in the Emergency Department at the DuBois Regional Medical Center. At the time, Dr. Devlin was covering or cross-

covering for Dr. Maloney and DRMC Primary Care Associates.

34. On December 4, 2005, Dr. Devlin admitted Wanda Russell to the DuBois Regional Medical Center for neuro-checks and observation. At the time of admission, Dr. Devlin doubted that Wanda Russell had, or was experiencing, a transient ischemic attack, and recorded this belief in his "History and Physical Examination," stating, among other things: "History of some left sided weakness, questionable TIA. Clinically, at this time it is doubtful but with the history we will go ahead and make the patient an observation."

35. On December 4, 2005, Wanda Russell was admitted to Dr. Maloney's service at the DuBois Regional Medical Center, with Dr. Devlin covering.

36. On December 4, 2005, Dr. Devlin did not obtain, or order to be obtained or provided, a neurology consultation for Wanda Russell.

37. Dr. Devlin, Dr. Maloney, Dr. Helmi, Dr. Bradley, and Dr. Bobrin knew, at all times material to this action, that Dr. Devlin and Dr. Maloney were not neurologists, did not hold themselves out as neurologists, did not perform a residency or fellowship in neurology, and did not hold board certification in the specialty or subspecialty of neurology.

38. On December 4, 2005, Dr. Devlin did not have performed, or order to be performed, an MRI scan of the head or an MRA on Wanda Russell.

39. Dr. Devlin, Dr. Maloney, Dr. Helmi, Dr. Bradley, and Dr. Bobrin knew, at all times material to this action, that a cranial MRI or MRA was a more sensitive test for the presence of an ischemic stroke or intracranial cerebrovascular disease.

40. On December 5, 2005, an unenhanced head CT scan was performed on Wanda Russell for the diagnosis of left-sided weakness, and was interpreted as "normal."

41. On December 5, 2005, bilateral carotid duplex sonograms were performed on Wanda Russell for the indication of left-sided weakness. This study demonstrated approximately 50 percent stenosis of the right internal carotid artery and 50 to 69 percent stenosis of the left internal carotid artery. Bilateral carotid plaque was also demonstrated on the sonogram.

42. On December 5, 2005, Dr. Maloney did not order an aortic arch and four vessel cerebral angiogram to be performed on Wanda Russell, with actual knowledge that Wanda Russell was exhibiting acute neurologic symptoms.

43. On December 5, 2005, Dr. Maloney did not obtain a vascular surgical consultation for Wanda Russell, with actual knowledge that Wanda Russell was exhibiting acute neurologic symptoms referable to cerebrovascular disease.

44. On December 5, 2005, Dr. Maloney did not order a cranial MRI or MRA to be performed on Wanda Russell, in the face of actual knowledge that (a) Wanda Russell was exhibiting acute neurologic symptoms; (b) Wanda Russell had underlying co-morbid medical diagnoses which placed her at risk for a stroke or transient ischemic attack; and, (c) a "normal" CT scan does not rule out an ischemic cerebral infarction or transient ischemic attack.

45. On December 5, 2005, Dr. Maloney did not order a neurology consultation to be performed on Wanda Russell, in the face of actual knowledge that (a) Wanda Russell was exhibiting acute neurologic symptoms; (b) Wanda Russell had underlying co-morbid medical diagnoses which placed her at risk for a stroke or transient ischemic attack; and, (c) a "normal" CT scan does not rule out an ischemic cerebral infarction or transient ischemic attack.

46. Wanda Russell continued to have intermittent left-sided weakness on December 5, 2005. Dr. Maloney was aware of these on-going neurologic symptoms, and had actual knowledge

that hemiparesis is a sign and/or symptoms of stroke and/or transient ischemic attack.

47. Wanda Russell had slurred speech and a "left facial droop of the mouth" on December 5, 2005. Dr. Maloney was aware of these on-going neurologic symptoms, and had actual knowledge that a facial droop, facial asymmetry, loss of the nasolabial fold, and dysarthria are signs and/or symptoms of stroke and/or transient ischemic attack.

48. On December 5, 2005, at or between the hours of approximately 1900 and 2000 hours, Dr. Maloney evaluated Wanda Russell at the DuBois Regional Medical Center, and informed Wanda Russell that her loss of mobility was due to depression.

49. At all times material hereto, Dr. Maloney was not a psychiatrist, did not hold himself out as a psychiatrist, had not performed either a residency or fellowship in the fields of psychiatry or psychology, did not have privileges at the DuBois Regional Medical Center to practice psychiatry within the four wall of the hospital, and was not qualified to make the diagnosis of conversion reaction. Dr. Maloney attempted to explain Wanda Russell's objective neurologic signs and symptoms, in reckless disregard to the safety and well-being of Wanda Russell, without the benefit of a full neurologic work-up or evaluation, or psychiatric work-up or evaluation.

50. On December 5, 2005, Dr. Maloney knew and understood that transient ischemic attack and stroke-in-evolution present with intermittent neurologic signs and symptoms, and were neurologic conditions which carried the risk of severe, debilitating, and irreversible neurologic, functional, and cognitive sequelae.

51. On December 5, 2005, Dr. Maloney knew and understood that the Dubois Regional Medical Center was not a "Stroke Center," did not have a "Stroke Team," and did not have the capacity for obtaining an acute neurologic consultation for patients transferred to the DRMC

Behavioral Unit.

52. On December 5, 2005, Dr. Maloney knew and understood that Wanda Russell was having intermittent symptoms of slurred speech.

53. On December 5, 2005, Dr. Maloney knew and understood that Wanda Russell was having signs of a facial droop.

54. On December 5, 2005, Dr. Maloney knew and understood that Wanda Russell had been given the diagnoses of transient ischemic attack and cerebrovascular accident within the preceding approximately 48 hour period of time by physicians at the DuBois Regional Medical Center, based upon observed and recorded objective neurologic signs and symptoms.

55. On December 5, 2005, Dr. Maloney knew and understood that transient ischemic attack and cerebrovascular accident were neurologic conditions which carried the risk of severe, debilitating, and irreversible neurologic, functional, and cognitive sequelae when not appropriately diagnosed and timely treated.

56. On December 5, 2005, Dr. Maloney knew and understood that he did not have the training, skill, knowledge, or experience in the field of psychiatry to diagnose conversion reaction disorders or other psychiatric diagnoses which are catalogued in the Diagnostic and Statistic Manual of Mental Disorders.

57. On December 5, 2005, Dr. Maloney consulted Dr. Helmi by telephone concerning the admission of Wanda Russell to the DRMC Behavioral Unit, and reported to Dr. Helmi that "he was unable to find any medical problems" with respect to Wanda Russell, and that Wanda Russell was "suicidal."

58. On December 5, 2005, Dr. Maloney misrepresented the medical and neurologic

condition of Wanda Russell's medical status to Dr. Helmi, without any documentation in Wanda Russell's medical record that she was suicidal, in reckless and wanton disregard for the objective neurologic and medical signs and symptoms of an impending cerebrovascular accident which Wanda Russell was exhibiting at that time, and which had been observed and confirmed by other physicians at the DuBois Regional Medical Center.

59. On December 5, 2005, during the telephone consultation between Dr. Maloney and Dr. Helmi, according to Dr. Maloney, Dr. Helmi made the recommendation that Wanda Russell be admitted to the DRMC Behavior Unit for psychiatric treatment. The medical and psychiatric status of Wanda Russell was misrepresented to Dr. Helmi by Dr. Maloney, in reckless and wanton disregard for the objective neurologic and medical signs and symptoms of an impending cerebrovascular accident which Wanda Russell was exhibiting at that time, and which had been confirmed by other physicians.

60. Immediately following the telephone conversation with Dr. Maloney, Dr. Helmi did not perform a psychiatric history, psychiatric evaluation, or physical examination of Wanda Russell on December 5, 2005, or physically see or speak with Wanda Russell on December 5 or 6, 2005, despite a purported diagnosis of "suicidal." Dr. Helmi acted in a grossly negligent and/or reckless manner, in total disregard for the safety and well-being of Wanda Russell, by failing to examine and evaluate a patient whom she believed or was told was "suicidal."

61. At all time material hereto, Dr. Helmi never examined Wanda Russell, despite accepting Wanda Russell's transfer to the DRMC Behavioral Unit and despite information provided to Dr. Helmi by the nursing staff that Wanda Russell was evolving a neurologic emergency overnight in the DRMC Behavioral Unit.

62. On December 5, 2005, at or about 2040 hours, Dr. Maloney gave a "telephone order" to Brenda L. Slappy, R.N., to "Transfer to psych unit tonight." Dr. Maloney made no entries in the medical record stating that Wanda Russell was suicidal, or presented a threat of self-harm, or that Wanda Russell had made any statements to him that she was threatening self-harm.

63. On December 5, 2005, Wanda Russell was asked to sign, and did sign, an "Initial Evaluation and Treatment Plan," which outlined a "Description of Proposed Treatment Plan" and a "Description of Proposed Restrictions and Restraints." This form was not completed and signed by a physician, in reckless disregard to the rights, safety, and well-being of Wanda Russell.

64. On December 5, 2005, Wanda Russell was asked to sign, and did sign, a "Consent for Voluntary Inpatient Treatment."

65. The "Consent for Voluntary Inpatient Treatment" set forth the following "Instructions":

Before signing this form, your treatment should be explained to you and you must be given a copy of the Patient's Bill of Rights, the report of your initial evaluation and the proposed treatment plan must be completed and signed by you and the physician.

66. On December 6, 2005, Wanda Russell was not given a copy of the DuBois Regional Medical Center Patient's Bill of Rights by any physician or health care provider who was providing care and treatment to Wanda Russell, in reckless disregard to the institutional obligations set forth by the DuBois Medical Center to protect the rights of patients such as Wanda Russell. Dr. Maloney did not provide Wanda Russell with a Dubois Regional Medical Center Patient's Bill of Rights, and did not explain to Wanda Russell her proposed treatment plan.

67. On December 6, 2005, Wanda Russell was not given a copy of her initial evaluation

by any physician providing care and treatment to Wanda Russell, in reckless disregard to the institutional obligations set forth by the DuBois Medical Center to protect the rights, safety, and well-being of Wanda Russell. Specifically, neither Dr. Maloney nor Dr. Helmi provided Wanda Russell with this information.

68. On December 6, 2005, Wanda Russell was not given a copy of the proposed treatment plan, which should have been completed and signed by her and a physician. Specifically, Dr. Helmi, who made, and then subsequently denied that she made, the decision to admit Wanda Russell to the psychiatric unit, did not explain any proposed treatment plan to Wanda Russell.

69. Dr. Helmi's conduct was grossly negligent and/or undertaken in reckless disregard to the institutional obligations set forth by the DuBois Medical Center to protect the rights, safety, and well-being of Wanda Russell. Dr. Helmi never evaluated Wanda Russell at any point during Wanda Russell's admission to the DRMC Behavioral Unit, despite information provided to her by the nursing staff that Wanda Russell was not suicidal, and was evolving a neurologic crisis. See Exhibit "B."

70. On December 6, 2005, at or about 0200 hours, Wanda Russell was admitted to the DRMC Behavioral Unit by Kim Hendricks, R.N. ["Nurse Hendricks"], onto Dr. Bobrin's Service, under the transfer acceptance by Dr. Helmi.

71. On December 6, 2005, at no time prior to, or at the time of her admission at 0200 hours to the DRMC Behavioral Unit, was Wanda Russell evaluated by a psychiatrist or DRMC Unit admitting physician, including Dr. Bradley, Dr. Bobrin, or Dr. Helmi, in wanton and willful disregard for the safety and well-being of Wanda Russell and the institutional obligations set forth by the DuBois Medical Center to protect the rights, safety, and well-being of Wanda Russell and

patients similarly situated.

72. On December 6, 2005, at or about 0200 hours, Wanda Russell told Nurse Hendricks that “she was lied to about coming here for an admission from her family” and reported “she is unable to use left arm and leg. Patient complains of not wanting to stay.”

73. Upon information and belief, the nursing staff at the DRMC Behavioral Unit ignored these complaints by Wanda Russell, and in wanton and willful disregard for Wanda Russell’s safety and well-being, failed to report them to Dr. Bobrin or Dr. Helmi.

74. In the alternative, the nursing staff at the DRMC Behavioral Unit reported these complaints by Wanda Russell to Dr. Bobrin and/or Dr. Helmi, and these physicians acted in wanton and willful disregard for Wanda Russell’s safety and well-being by failing to appropriately evaluate Wanda Russell at the time.

75. On December 6, 2005, at or about 0330 hours, Wanda Russell fell out of bed in the DRMC Behavioral Unit.

76. On December 6, 2005, at or about 0330 hours, upon information and belief, the nursing staff at the DRMC Behavioral Unit, in wanton and willful disregard for Wanda Russell’s safety and well-being, failed to inform any physician about this event at or about the time it occurred, and about Wanda Russell’s stated inability to use her left arm and leg.

77. In the alternative, on December 6, 2005, at or about 0330 hours, the nursing staff at the DRMC Behavioral Unit reported Wanda Russell’s fall and associated symptoms of hemiparesis to Dr. Bobrin and/or Dr. Helmi, and these physicians acted in wanton and willful disregard for Wanda Russell’s safety and well-being by failing to appropriately evaluate Wanda Russell at the time.

78. On December 6, 2005, at or about 0643 hours, Dr. Bradley performed a history and physical examination on Wanda Russell. Dr. Bradley obtained a history of present illness, among other things, as follows:

Wanda is a 47-year-old woman who had been readmitted to the West division for left sided weakness. She had had a workup that included a normal CT of the head. She was discharged and re-presented to the ER with nervousness and I guess there was a question regarding the extent of the left sided weakness present and the fact it was noted that the person was under a lot of stress. She is hypertensive, hyperlipidemic, and an insulin dependent diabetic. I guess she was persuaded to be transferred to the psyche unit.

Dr. Bradley's "guesses" about Wanda Russell's medical evaluation and medical condition, which included prior recent diagnoses of transient ischemic attack and cerebrovascular accident, offered in the face of objective neurologic signs and symptoms, were grossly negligent and/or reckless. At the time, Dr. Bradley was not qualified to determine whether Wanda Russell's complaints were based upon evolving central nervous system injury or stroke, versus an underlying psychological or psychiatric condition.

79. On December 6, 2005, during his physical examination of Wanda Russell, Dr. Bradley found, among other things, "There is some left upper extremity weakness and facial asymmetry" that was "hard to evaluate since she is so anxious." The failure to obtain a neurologic evaluation and diagnostic testing in the face of objective neurologic signs and symptoms was grossly negligent and/or reckless.

80. On December 6, 2005, at the time Dr. Bradley initially evaluated Wanda Russell, Dr. Bradley formulated and initiated the plan that "the patient is admitted for psyche evaluation and treatment."

81. On December 6, 2005, at all times material hereto, the failure to obtain a neurologic evaluation and diagnostic testing in the face of objective neurologic signs and symptoms was grossly negligent and/or reckless.

82. On December 6, 2005, at all times material hereto, Dr. Bradley knew that Wanda Russell was exhibiting objective neurologic signs and symptoms, and acted in reckless disregard to the safety and well-being of Wanda Russell by failing to obtain appropriate and timely evaluation of these signs and symptoms, when Dr. Bradley, himself, knew that he was not qualified to make an assessment as to whether these signs and symptoms were related to a psychiatric etiology.

83. On December 6, 2005, at the time of his initial evaluation, Dr. Bradley did not transfer Wanda Russell back to a medical unit for evaluation of her left sided weakness and facial asymmetry. The failure to transfer Wanda Russell to the medical unit for neurologic evaluation and diagnostic workup in the face of objective neurologic signs and symptoms, which were obvious to Dr. Bradley, was grossly negligent and/or reckless.

84. On December 6, 2005, at the time of his initial evaluation, Dr. Bradley did not obtain, or order to be obtained, a neurology consultation for Wanda Russell. The failure to obtain a neurologic evaluation and diagnostic testing in the face of objective neurologic signs and symptoms was grossly negligent and/or reckless.

85. At all times material hereto, the neurologists practicing at the DuBois Regional Medical Center did not, or would not, perform neurological consultations on patients housed in the DRMC Behavioral Unit. In order to obtain an emergency neurologic evaluation of Wanda Russell on December 6, 2005, she required immediate transport back to a medical unit at the DuBois Regional Medical Center.

86. On December 6, 2005, at the time of his initial evaluation, Dr. Bradley did not have performed, or order to be performed, an MRI scan of the head or MRA on Wanda Russell. The failure rapidly transfer Wanda Russell back to a medical unit at the DuBois Regional Medical Center; and, to obtain a neurologic evaluation and diagnostic testing in the face of objective neurologic signs and symptoms, was grossly negligent and/or reckless.

87. On December 6, 2005, at the time of his initial evaluation, Dr. Bradley did not diagnose Wanda Russell as having an evolving or “stuttering” cerebrovascular accident or a transient ischemic attack.

88. On December 6, 2005, Dr. Bradley established a “doctor-patient” relationship with Wanda Russell while performing his contractual duties on behalf of the DuBois Regional Medical Center to examine Wanda Russell during her psychiatric intake to the DRMC Behavioral Unit, and then abandoned his patient without initiating or recommending further neurologic evaluation or diagnostic testing, with actual knowledge of Wanda Russell’s objective neurologic deficits. The failure to perform or order to be performed these evaluations and tests was grossly negligent, and/or in reckless disregard for the safety and well-being of Wanda Russell, and in grossly negligent disregard of his contractual duties to the hospital to screen and evaluate patients, such as Wanda Russell, for medical findings at the time of admission to the DRMC Behavioral Unit.

89. On December 6, 2005, Dr. Bradley knew and understood that transient ischemic attack and cerebrovascular accident were neurologic conditions which carried the risk of severe, debilitating, and irreversible neurologic, functional, and cognitive sequelae.

90. On December 6, 2005, Dr. Bradley knew and understood that the Dubois Regional Medical Center was not a “Stroke Center” and did not have a “Stroke Team.”

91. On December 6, 2005, the nursing staff from the DRMC Behavioral Unit attempted to contact Dr. Helmi at 0955 hours, first by beeper, and eventually by cell phone, seeking information about Wanda Russell and her status as a patient on the DRMC Behavioral Unit. See Exhibit "B."

92. On December 6, 2005, at or about 0955 hours, Dr. Helmi informed the DRMC Behavioral Unit nurse, whose illegible signature appears at Exhibit "B" at page 3, by telephone, "that she [Dr. Helmi] didn't remember the patient and asked where she came from."

93. At all times material hereto, Dr. Helmi manifested such gross negligence and reckless disregard for her patient that even as of 0955 hours on the morning of December 6, 2005, having accepted the patient in transfer to the DRMC Unit, Dr. Helmi had never seen, spoken with, evaluated, or otherwise initiated any treatment or diagnostic testing on Wanda Russell up to that time.

94. At all times material hereto, despite accepting Wanda Russell to the DRMC Behavioral Unit as a patient in transfer approximately 9 to 12 hours earlier, and being informed of Wanda Russell's objective neurologic findings and falls overnight, Dr. Helmi failed to ever evaluate or examine Wanda Russell, or to initiate the timely work-up and treatment of Wanda Russell's evolving stroke.

95. On December 6, 2005, at or about 1005 hours, Dr. Helmi informed the nurse, whose illegible signature appears at Exhibit "B" at page 3, by telephone, that "she [Dr. Helmi] did not make the recommendation-Dr. Maloney asked for the admission and she agreed on the basis that the patient is suicidal." Dr. Helmi's failure to evaluate a patient deemed "suicidal," to inform herself of the patient's medical condition overnight, or to examine any of Wanda Russell's medical or

psychiatric history and the prior diagnoses of transient ischemic attack and cerebrovascular accident, was grossly negligent and/or reckless.

96. On December 6, 2005, at or before 1028 hours, Dr. Bobrin evaluated Wanda Russell at the DRMC Behavioral Unit, and in the "Initial Evaluation/Mental Status Examination/Discharge Summary" report, described that, among other things:

She describes being scared about her arm and leg. She awoke on Friday with trouble with her left arm and it has gotten worse since then. Her family said that this is true as well. She can stand as she demonstrates to me but has trouble lifting up her arm, not even able to brush her hair. She woke up and fell and has had two falls here on the unit and so she initially came in because scans x two do not show any signs of ischemia or infarct.

97. On December 6, 2005, Dr. Bobrin, at or before 1028 hours, Dr. Bobrin found that Wanda Russell exhibited no signs of "suicidal or homicidal ideations" on the mental status examination, contrary to what had been previously misrepresented by Dr. Maloney.

98. On December 6, 2005, at or before 1028 hours, Dr. Bobrin assessed Wanda Russell status and condition, and found:

This is a 47-year-old with some mild depressive symptoms and acute onset of depressive mood after having stroke-like symptoms which has continued. Although it was thought that her neurologic signs were out of proportion to her neurological symptoms, she does seem to have flaccid paralysis of the left arm and left droop of smile. With no gross infarct, there might be some infarct on brainstem or internal capsule. Will need MRI and neuro consult.

99. On December 6, 2005, Dr. Bobrin knew and understood that Wanda Russell was manifesting signs and symptoms of an acute stroke, and in reckless and wanton disregard of this knowledge, failed to immediately transfer Wanda Russell to a medical unit, "stroke center," or to

the care of a "stroke team."

100. On December 6, 2005, Dr. Bobrin knew and understood that TIA and CVA were neurologic conditions which carried the risk, when present, of severe, debilitating, and irreversible sequelae.

101. On December 6, 2005, Dr. Bobrin knew and understood that the Dubois Regional Medical Center was not a "Stroke Center" and did not have a "Stroke Team."

102. On December 6, 2005, Dr. Bobrin knew and understood that an acute stroke is a neurological emergency.

103. On December 6, 2005, at or before 1028 hours, Dr. Bobrin formulated a plan for Wanda Russell that included, among other things, "to transfer her back over to medicine where she will receive neuro consult and MRI, continue medical care. I do not think she needs acute psychiatric care at this time."

104. On December 6, 2005, Dr. Bobrin did not obtain an emergency transfer of Wanda Russell back to the medical unit at the DuBois Regional Medical Center; or, the performance of an emergency MRI; or, an emergency neurology consultation, prior to Wanda Russell's transfer to the DRMC Behavioral Unit later that day, in reckless disregard to the urgent/emergent status of Wanda Russell's neurologic condition, and the knowledge that "time is of the essence" in the evaluation and treatment of a stroke according to the guidelines of the American Heart Association and the American Stroke Association, whose guidelines and standards are herein incorporated by reference.

105. On December 6, 2005, at or about 1700 hours, more than 7 hours after Dr. Bradley and Dr. Bobrin recognized that Wanda Russell was manifesting objective neurologic signs of a neurologic emergency, Wanda Russell was readmitted by Dr. Maloney under his care to the DuBois

Regional Medical Center West.

106. On December 6, 2005, the failure to obtain emergent evaluation of Wanda Russell by Dr. Maloney, Dr. Bobrin, and Dr. Bradley during the morning hours of that day, in the face of actual knowledge that Wanda Russell was manifesting objective signs of a neurologic crisis unexplained by psychiatric disease, was grossly negligent and/or reckless.

107. On December 6, 2005, on or before 1700 hours, Dr. Maloney performed a "History and Physical Examination" on Wanda Russell, and described Wanda Russell's admission to "the Adult Mental Health Unit," stating:

When she arrived there, Wanda apparently rescinded her voluntary admission, noting that she did not wish to be there. This was supported by her family, and today, secondary to reported falls in the Adult Mental Health Unit. I have requested that Wanda be returned for further evaluation in the observation status setting.

108. On December 6, 2005, Dr. Maloney ordered an MRI study to be performed on Wanda Russell on the following morning, and a neurology consultation to be performed by Ruediger Katz, M.D. ["Dr. Katz"].

109. On December 6, 2005, during his evaluation of Wanda Russell at or before 1916 hours, Dr. Katz found that Wanda Russell had multiple risk factors for cerebral ischemia.

110. On December 6, 2005, during his neurologic examination of Wanda Russell at or before 1916 hours, Dr. Katz found, among other things, that Wanda Russell had a lower left facial droop, 0/5 strength in her left arm, and 3/5 strength in her left leg. At that time, Wanda Russell had a completed stroke.

111. On December 7, 2005, an unenhanced MRI of the brain was performed on Wanda

Russell at the DuBois Regional Medical Center, which demonstrated a “well circumscribed lesion of right basal ganglia suggestive of a subacute or chronic lacunar infarct. Very small lacunar infarct in the left basal ganglia.”

112. On December 8, 2005, John J. Ahn, M.D. performed a cardiology consultation on Wanda Russell, and diagnosed Wanda Russell as an “unfortunate 47-year-old female who has suffered a CVA.”

113. Wanda Russell suffered a cerebrovascular accident during her admission to the DuBois Regional Medical Center while under the care of Dr. Devlin, Dr. Maloney, Dr. Bradley, Dr. Bobrin, and Dr. Helmi, and was never treated with thrombolytic agents by these physicians.

114. On December 8, 2005, Lynn Myers, M.D. [“Dr. Myers”], a rehabilitation medicine specialist, evaluated Wanda Russell, and found that:

The patient is an appropriate candidate for admission to the inpatient rehabilitation unit to address deficits and functional mobility and self care skills related to her recent CVA with left hemiparesis.

115. On December 9, 2005, Wanda Russell was transferred to the Physiatry Unit for inpatient rehabilitation at the DRMC Inpatient Rehabilitation Programs on the service of Dr. Myers.

116. The negligence, gross negligence, and/or recklessness of all defendants, jointly and severally, as set forth with specificity in the paragraphs above and the Counts below, directly and proximately caused, and increased the risk of harm of, the cerebrovascular accident suffered by Wanda Russell.

117. The negligence, gross negligence, and/or recklessness of all defendants, jointly and severally, as set forth with specificity in the paragraphs above and the Counts below, directly and

proximately caused, and increased the risk of harm of, the neurologic injuries, impairments, and deficits suffered by Wanda Russell.

118. The negligence, gross negligence, and/or recklessness of all defendants, jointly and severally, as set forth with specificity in the paragraphs above and the Counts below, directly and proximately caused, and increased the risk of harm of, the following injuries and damages:

- a. irreversible cerebral ischemia;
- b. cerebrovascular accident;
- c. cerebral dysfunction;
- d. cognitive impairment;
- e. motor impairment;
- f. neurological impairment and injury;
- g. humiliation;
- h. embarrassment;
- i. anxiety and fright;
- j. pain and suffering;
- k. disfigurement;
- l. loss of life's pleasures;
- m. economic damages; and,
- n. medical expenses.

119. Wanda Russell suffered, and continues to suffer, grave neurologic and medical injuries, impairments, and deficits which were caused by, and whose risk of harm was increased by, the negligent, grossly negligent, and/or reckless conduct of the defendants, jointly and severally, as

more fully set forth with specificity in the paragraphs above and the Counts below.

COUNT I- NEGLIGENCE
(Plaintiff v. Dr. Devlin)

120. The previous paragraphs are herein incorporated by reference as though fully set forth.

121. The negligent conduct of Dr. Delvin during his medical evaluation, care, and treatment of Wanda Russell consisted of the following:

- a. failure to properly, timely, and adequately evaluate a patient with a diagnosis of transient ischemic attack;
- b. failure to properly, timely, and adequately evaluate a patient with a diagnosis of cerebrovascular accident;
- c. failure to properly, timely, and adequately evaluate a patient with fluctuating neurologic signs and symptoms;
- d. failure to properly and timely obtain the consultative services of a neurologist or specialist in neurology;
- e. failure to properly and timely obtain cerebral imaging with an MRI scan and/or MRA;
- f. failure to properly, timely, and adequately evaluate a patient with acute neurologic signs and symptoms;
- g. failure to timely, properly, and adequately evaluate, diagnose, and treat a “stuttering” stroke;
- h. failure to provide appropriate management and treatment of acute neurologic signs and symptoms;

- i. failure to provide appropriate, adequate, and timely monitoring of a patient with a deteriorating neurologic status;
- j. failure to properly, timely, and adequately evaluate a patient with acute deteriorating neurologic status;
- k. failure to provide appropriate management of an evolving cerebrovascular accident;
- l. failure to provide appropriate, adequate, and timely monitoring of a patient with a signs and symptoms of an evolving cerebrovascular accident or neurologic crisis;
- m. failure to properly, timely, and adequately evaluate a patient with signs and symptoms of an evolving neurologic dysfunction;
- n. failure to obtain appropriate, adequate, and timely neuro-radiologic evaluation; and,
- o. failure to properly, timely, and adequately recognize and appreciate signs and symptoms of evolving neurologic dysfunction.

COUNT II-NEGLIGENCE, GROSS NEGLIGENCE, AND RECKLESSNESS
(Plaintiff v. Dr. Maloney)

122. The previous paragraphs, including all allegations of negligence, gross, negligence, and recklessness, are herein incorporated by reference as though fully set forth.

123. The negligent, grossly negligent, and/or reckless conduct of Dr. Delvin during his evaluation, care, and treatment of Wanda Russell consisted of the following:

- a. failure to properly, timely, and adequately evaluate a patient with a diagnosis

of transient ischemic attack, in the face of objective signs and symptoms of neurologic deficit;

- b. failure to properly, timely, and adequately evaluate a patient with a diagnosis of cerebrovascular accident, in the face of objective signs and symptoms of neurologic deficit;
- c. failure to properly, timely, and adequately evaluate a patient with fluctuating neurologic signs and symptoms, in the face of objective signs and symptoms of neurologic deficit;
- d. failure to properly and timely obtain the consultative services of a neurologist or specialist in neurology, in the face of objective signs and symptoms of neurologic deficit;
- e. failure to properly and timely obtain cerebral imaging with an MRI scan and/or MRA, in the face of objective signs and symptoms of neurologic deficit;
- f. failure to properly, timely, and adequately evaluate a patient with acute neurologic signs and symptoms, with actual knowledge of a diagnosis of transient ischemic attack and cerebrovascular accident;
- g. failure to timely, properly, and adequately evaluate, diagnose, and treat a “stuttering” stroke, in the face of neurologic signs and symptoms, and with actual knowledge of a diagnosis of transient ischemic attack and cerebrovascular accident;
- h. failure to provide appropriate management and treatment of acute neurologic

signs and symptoms, in the face of neurologic signs and symptoms, and with actual knowledge of a diagnosis of transient ischemic attack and cerebrovascular accident;

- i. failure to provide appropriate, adequate, and timely monitoring of a patient with a deteriorating neurologic status;
- j. failure to properly, timely, and adequately evaluate a patient with acute deteriorating neurologic status, in the face of neurologic signs and symptoms, and with actual knowledge of a diagnosis of transient ischemic attack and cerebrovascular accident;
- k. failure to provide appropriate management of a cerebrovascular accident;
- l. failure to provide appropriate, adequate, and timely monitoring of a patient with a signs and symptoms of an evolving cerebrovascular accident or neurologic crisis, in the face of neurologic signs and symptoms, and with actual knowledge of a diagnosis of transient ischemic attack and cerebrovascular accident;
- m. failure to properly, timely, and adequately evaluate a patient with signs and symptoms of an evolving neurologic dysfunction, in the face of neurologic signs and symptoms, and with actual knowledge of a diagnosis of transient ischemic attack and cerebrovascular accident;
- n. failure to provide appropriate, adequate, and timely neuro-radiologic evaluation, in the face of neurologic signs and symptoms, and with actual knowledge of a diagnosis of transient ischemic attack and cerebrovascular

accident;

- o. failure to provide timely, appropriate, and adequate medical evaluation prior to transfer to a psychiatric unit, in the face of neurologic signs and symptoms, and with actual knowledge of a diagnosis of transient ischemic attack and cerebrovascular accident;
- p. failure to provide timely, appropriate, and adequate neurologic and neuro-radiologic evaluation prior to transfer to a psychiatric unit, in the face of neurologic signs and symptoms, and with actual knowledge of a diagnosis of transient ischemic attack and cerebrovascular accident;
- q. failure to provide timely, appropriate, and adequate psychiatric and psychologic evaluation prior to transfer to a psychiatric unit, in the face of neurologic signs and symptoms, and with actual knowledge of a diagnosis of transient ischemic attack and cerebrovascular accident;
- r. failure to obtain timely, appropriate, and adequate medical evaluation prior to transfer to a psychiatric unit, in the face of neurologic signs and symptoms, and with actual knowledge of a diagnosis of transient ischemic attack and cerebrovascular accident;
- s. misrepresentation of the medical status of the patient to the accepting psychiatrist in the DRMC Behavioral Unit, in the face of neurologic signs and symptoms, and with actual knowledge of a diagnosis of transient ischemic attack and cerebrovascular accident;
- t. misrepresentation of the psychological and psychiatric status of the patient to

the accepting psychiatrist in the DRMC Behavioral Unit, in the face of neurologic signs and symptoms, and with actual knowledge of a diagnosis of transient ischemic attack and cerebrovascular accident;

- u. failure to take an adequate and appropriate psychiatric and psychological history, in the face of neurologic signs and symptoms, and with actual knowledge of a diagnosis of transient ischemic attack and cerebrovascular accident;
- v. failure to take an adequate and appropriate medical care and psychiatric history prior to hospitalization in the DRMC Behavioral Unit, in the face of neurologic signs and symptoms, and with actual knowledge of a diagnosis of transient ischemic attack and cerebrovascular accident;
- w. failure to effect a timely transfer from the psychiatric unit back to the medical unit, in the face of actual knowledge that the patient was acutely deteriorating in her neurologic status, and required emergent neurologic consultation and diagnostic testing and treatment;
- x. failure to effect a timely transfer from the psychiatric unit back to the medical unit for neurologic evaluation and treatment, in the face of actual knowledge that the patient was acutely deteriorating in her neurologic status;
- y. failure to provide timely, adequate, and appropriate management of a stroke, in the face of actual knowledge that the patient was acutely deteriorating in her neurologic status;
- z. failure to properly, timely, and adequately recognize and appreciate signs and

symptoms of evolving neurologic dysfunction, in the face of a diagnosis of transient ischemic attack and cerebrovascular accident, and in the setting of objective neurologic signs and symptoms;

- aa. rendering a psychiatric diagnosis of conversion reaction without appropriate skill, knowledge, training, and experience in the field of psychology and psychiatry;
- bb. rendering a psychological and/or psychiatric explanation for objective neurologic symptoms without appropriate obtaining appropriate consultative evaluation; and,
- cc. failure to timely transfer the patient to a “stroke center.”

COUNT III-NEGLIGENCE, GROSS NEGLIGENCE, AND RECKLESSNESS
(Plaintiff v. Dr. Helmi)

124. The previous paragraphs, including all allegations of negligence, gross, negligence, and recklessness, are herein incorporated by reference as though fully set forth.

125. The negligent, grossly negligent, and/or reckless conduct of Dr. Helmi during her evaluation, care, and treatment of Wanda Russell consisted of the following:

- a. failure to properly, timely, and adequately evaluate a patient with a diagnosis of transient ischemic attack, in the face of objective signs and symptoms of neurologic deficit;
- b. failure to properly, timely, and adequately evaluate a patient with a diagnosis of cerebrovascular accident, in the face of objective signs and symptoms of

neurologic deficit;

- c. failure to properly, timely, and adequately evaluate a patient with fluctuating neurologic signs and symptoms, in the face of objective signs and symptoms of neurologic deficit;
- d. failure to properly and timely obtain the consultative services of a neurologist or specialist in neurology, in the face of objective signs and symptoms of neurologic deficit;
- e. failure to properly and timely obtain cerebral imaging with an MRI scan and/or MRA, in the face of objective signs and symptoms of neurologic deficit;
- f. failure to properly, timely, and adequately evaluate a patient with acute neurologic signs and symptoms, in the setting of a diagnosis of transient ischemic attack and cerebrovascular accident;
- g. failure to timely, properly, and adequately evaluate, diagnose, and treat a “stuttering” stroke, in the setting of a diagnosis of transient ischemic attack and cerebrovascular accident;
- h. failure to provide appropriate management and treatment of acute neurologic signs and symptoms, in the setting of a diagnosis of transient ischemic attack and cerebrovascular accident;
- i. failure to provide appropriate, adequate, and timely monitoring of a patient with a deteriorating neurologic status;
- j. failure to properly, timely, and adequately evaluate a patient with acute

deteriorating neurologic status, in the face of neurologic signs and symptoms, and in the setting of a diagnosis of transient ischemic attack and cerebrovascular accident;

- k. failure to provide appropriate management of a cerebrovascular accident;
- l. failure to provide appropriate, adequate, and timely monitoring of a patient with a signs and symptoms of an evolving cerebrovascular accident or neurologic crisis, in the face of neurologic signs and symptoms, and in the setting of a diagnosis of transient ischemic attack and cerebrovascular accident;
- m. failure to properly, timely, and adequately evaluate a patient with signs and symptoms of an evolving neurologic dysfunction, in the face of neurologic signs and symptoms, and in the setting of a diagnosis of transient ischemic attack and cerebrovascular accident;
- n. failure to provide appropriate, adequate, and timely neuro-radiologic evaluation, in the face of neurologic signs and symptoms, and in the setting of a diagnosis of transient ischemic attack and cerebrovascular accident;
- o. failure to ensure timely, appropriate, and adequate medical evaluation prior to transfer to a psychiatric unit, in the setting of a diagnosis of transient ischemic attack and cerebrovascular accident;
- p. failure to provide timely, appropriate, and adequate neurologic and neuro-radiologic evaluation prior to transfer to a psychiatric unit, in the face of neurologic signs and symptoms, and in the setting of a diagnosis of transient

ischemic attack and cerebrovascular accident;

- q. failure to provide timely, appropriate, and adequate psychiatric and psychologic evaluation prior to transfer to a psychiatric unit, in the face of neurologic signs and symptoms, and with actual knowledge of these signs and symptoms;
- r. failure to obtain timely, appropriate, and adequate medical evaluation prior to transfer to a psychiatric unit, in the face of neurologic signs and symptoms, and with actual knowledge of a diagnosis of these signs and symptoms and the diagnosis of transient ischemic attack and cerebrovascular accident;
- s. failure to evaluate the of the medical status of a patient deemed "suicidal";
- t. failure to take an adequate and appropriate psychiatric and psychological history, in the face of neurologic signs and symptoms, and with actual knowledge of a diagnosis of transient ischemic attack and cerebrovascular accident;
- u. failure to take an adequate and appropriate medical care and psychiatric history during hospitalization in the DRMC Behavioral Unit, in the face of neurologic signs and symptoms, and with actual knowledge of a diagnosis of transient ischemic attack and cerebrovascular accident;
- v. failure to effect a timely transfer from the psychiatric unit back to the medical unit, in the face of actual knowledge that the patient was acutely deteriorating in her neurologic status, and required emergent neurologic consultation and diagnostic testing and treatment;

- w. failure to effect a timely transfer from the psychiatric unit back to the medical unit for neurologic evaluation and treatment, in the face of actual knowledge that the patient was acutely deteriorating in her neurologic status;
- x. failure to provide timely, adequate, and appropriate management of a stroke, in the face of actual knowledge that the patient was acutely deteriorating in her neurologic status; and,
- y. failure to properly, timely, and adequately recognize and appreciate signs and symptoms of evolving neurologic dysfunction, in the face of a diagnosis of transient ischemic attack and cerebrovascular accident, and in the setting of objective neurologic signs and symptoms.

COUNT IV-NEGLIGENCE, GROSS NEGLIGENCE, AND RECKLESSNESS
(Plaintiff v. Dr. Bradley)

126. The previous paragraphs, including all allegations of negligence, gross, negligence, and recklessness, are herein incorporated by reference as though fully set forth.

127. The negligent, grossly negligent, and/or reckless conduct of Dr. Bradley during his evaluation, care, and treatment of Wanda Russell consisted of the following:

- a. failure to properly, timely, and adequately evaluate a patient with a diagnosis of transient ischemic attack, in the face of objective signs and symptoms of neurologic deficit;
- b. failure to properly, timely, and adequately evaluate a patient with a diagnosis of cerebrovascular accident, in the face of objective signs and symptoms of neurologic deficit;

- c. failure to properly, timely, and adequately evaluate a patient with fluctuating neurologic signs and symptoms, in the face of objective signs and symptoms of neurologic deficit;
- d. failure to properly and timely obtain the consultative services of a neurologist or specialist in neurology, in the face of objective signs and symptoms of neurologic deficit;
- e. failure to properly and timely obtain cerebral imaging with an MRI scan and/or MRA, in the face of objective signs and symptoms of neurologic deficit;
- f. failure to properly, timely, and adequately evaluate a patient with acute neurologic signs and symptoms, in the setting of a diagnosis of transient ischemic attack and cerebrovascular accident;
- g. failure to timely, properly, and adequately evaluate, diagnose, and treat a “stuttering” stroke, in the setting of a diagnosis of transient ischemic attack and cerebrovascular accident;
- h. failure to provide appropriate management and treatment of acute neurologic signs and symptoms, in the setting of a diagnosis of transient ischemic attack and cerebrovascular accident;
- i. failure to provide appropriate, adequate, and timely monitoring of a patient with a deteriorating neurologic status;
- j. failure to properly, timely, and adequately evaluate a patient with acute deteriorating neurologic status, in the face of neurologic signs and symptoms,

and in the setting of a diagnosis of transient ischemic attack and cerebrovascular accident;

- k. failure to provide appropriate management of a cerebrovascular accident;
- l. failure to provide appropriate, adequate, and timely monitoring of a patient with a signs and symptoms of an evolving cerebrovascular accident or neurologic crisis, in the face of neurologic signs and symptoms, and in the setting of a diagnosis of transient ischemic attack and cerebrovascular accident;
- m. failure to properly, timely, and adequately evaluate a patient with signs and symptoms of an evolving neurologic dysfunction, in the face of neurologic signs and symptoms, and in the setting of a diagnosis of transient ischemic attack and cerebrovascular accident;
- n. failure to provide appropriate, adequate, and timely neuro-radiologic evaluation, in the face of neurologic signs and symptoms, and in the setting of a diagnosis of transient ischemic attack and cerebrovascular accident;
- o. failure to ensure timely, appropriate, and adequate medical evaluation prior to transfer to a psychiatric unit, in the setting of a diagnosis of transient ischemic attack and cerebrovascular accident;
- p. failure to provide timely, appropriate, and adequate neurologic and neuro-radiologic evaluation prior to transfer to a psychiatric unit, in the face of neurologic signs and symptoms, and in the setting of a diagnosis of transient ischemic attack and cerebrovascular accident;

- q. failure to provide timely, appropriate, and adequate psychiatric and psychologic evaluation prior to transfer to a psychiatric unit, in the face of neurologic signs and symptoms, and with actual knowledge of these signs and symptoms;
- r. failure to obtain timely, appropriate, and adequate medical evaluation prior to transfer to a psychiatric unit, in the face of neurologic signs and symptoms, and with actual knowledge of a diagnosis of these signs and symptoms and the diagnosis of transient ischemic attack and cerebrovascular accident;
- s. failure to evaluate the of the medical status of a patient deemed “suicidal”;
- t. failure to take an adequate and appropriate psychiatric and psychological history, in the face of neurologic signs and symptoms, and with actual knowledge of a diagnosis of transient ischemic attack and cerebrovascular accident;
- u. failure to take an adequate and appropriate medical care and psychiatric history during hospitalization in the DRMC Behavioral Unit, in the face of neurologic signs and symptoms, and with actual knowledge of a diagnosis of transient ischemic attack and cerebrovascular accident;
- v. failure to effect a timely transfer from the psychiatric unit back to the medical unit, in the face of actual knowledge that the patient was acutely deteriorating in her neurologic status, and required emergent neurologic consultation and diagnostic testing and treatment;
- w. failure to effect a timely transfer from the psychiatric unit back to the medical

unit for neurologic evaluation and treatment, in the face of actual knowledge that the patient was acutely deteriorating in her neurologic status;

- x. failure to provide timely, adequate, and appropriate management of a stroke, in the face of actual knowledge that the patient was acutely deteriorating in her neurologic status;
- y. failure to properly, timely, and adequately recognize and appreciate signs and symptoms of evolving neurologic dysfunction, in the face of a diagnosis of transient ischemic attack and cerebrovascular accident, and in the setting of objective neurologic signs and symptoms;
- aa. rendering a psychiatric diagnosis of conversion reaction without appropriate skill, knowledge, training, and experience in the field of psychology and psychiatry;
- bb. rendering a psychological and/or psychiatric explanation for objective neurologic symptoms without appropriate obtaining appropriate consultative evaluation; and,
- cc. failure to timely transfer the patient to a "stroke center."

COUNT V-NEGLIGENCE, GROSS NEGLIGENCE, AND RECKLESSNESS
(Plaintiff v. Dr. Bobrin)

128. The previous paragraphs, including all allegations of negligence, gross, negligence, and recklessness, are herein incorporated by reference as though fully set forth.

129. The negligent, grossly negligent, and/or reckless conduct of Dr. Bobrin during his evaluation, care, and treatment of Wanda Russell consisted of the following:

- a. failure to properly, timely, and adequately evaluate a patient with a diagnosis of transient ischemic attack, in the face of objective signs and symptoms of neurologic deficit;
- b. failure to properly, timely, and adequately evaluate a patient with a diagnosis of cerebrovascular accident, in the face of objective signs and symptoms of neurologic deficit;
- c. failure to properly, timely, and adequately evaluate a patient with fluctuating neurologic signs and symptoms, in the face of objective signs and symptoms of neurologic deficit;
- d. failure to properly and timely obtain the consultative services of a neurologist or specialist in neurology, in the face of objective signs and symptoms of neurologic deficit;
- e. failure to properly and timely obtain cerebral imaging with an MRI scan and/or MRA, in the face of objective signs and symptoms of neurologic deficit;
- f. failure to properly, timely, and adequately evaluate a patient with acute neurologic signs and symptoms, in the setting of a diagnosis of transient ischemic attack and cerebrovascular accident;
- g. failure to timely, properly, and adequately evaluate, diagnose, and treat a “stuttering” stroke, in the setting of a diagnosis of transient ischemic attack and cerebrovascular accident;
- h. failure to provide appropriate management and treatment of acute neurologic

signs and symptoms, in the setting of a diagnosis of transient ischemic attack and cerebrovascular accident;

- i. failure to provide appropriate, adequate, and timely monitoring of a patient with a deteriorating neurologic status;
- j. failure to properly, timely, and adequately evaluate a patient with acute deteriorating neurologic status, in the face of neurologic signs and symptoms, and in the setting of a diagnosis of transient ischemic attack and cerebrovascular accident;
- k. failure to provide appropriate management of a cerebrovascular accident;
- l. failure to provide appropriate, adequate, and timely monitoring of a patient with a signs and symptoms of an evolving cerebrovascular accident or neurologic crisis, in the face of neurologic signs and symptoms, and in the setting of a diagnosis of transient ischemic attack and cerebrovascular accident;
- m. failure to properly, timely, and adequately evaluate a patient with signs and symptoms of an evolving neurologic dysfunction, in the face of neurologic signs and symptoms, and in the setting of a diagnosis of transient ischemic attack and cerebrovascular accident;
- n. failure to provide appropriate, adequate, and timely neuro-radiologic evaluation, in the face of neurologic signs and symptoms, and in the setting of a diagnosis of transient ischemic attack and cerebrovascular accident;
- o. failure to ensure timely, appropriate, and adequate medical evaluation prior

- to transfer to a psychiatric unit, in the setting of a diagnosis of transient ischemic attack and cerebrovascular accident;
- p. failure to provide timely, appropriate, and adequate neurologic and neuro-radiologic evaluation prior to transfer to a psychiatric unit, in the face of neurologic signs and symptoms, and in the setting of a diagnosis of transient ischemic attack and cerebrovascular accident;
 - q. failure to provide timely, appropriate, and adequate psychiatric and psychologic evaluation prior to transfer to a psychiatric unit, in the face of neurologic signs and symptoms, and with actual knowledge of these signs and symptoms;
 - r. failure to obtain timely, appropriate, and adequate medical evaluation prior to transfer to a psychiatric unit, in the face of neurologic signs and symptoms, and with actual knowledge of a diagnosis of these signs and symptoms and the diagnosis of transient ischemic attack and cerebrovascular accident;
 - s. failure to evaluate the medical status of a patient deemed "suicidal";
 - t. failure to take an adequate and appropriate psychiatric and psychological history, in the face of neurologic signs and symptoms, and with actual knowledge of a diagnosis of transient ischemic attack and cerebrovascular accident;
 - u. failure to take an adequate and appropriate medical care and psychiatric history during hospitalization in the DRMC Behavioral Unit, in the face of neurologic signs and symptoms, and with actual knowledge of a diagnosis of

- transient ischemic attack and cerebrovascular accident;
- v. failure to effect a timely transfer from the psychiatric unit back to the medical unit, in the face of actual knowledge that the patient was acutely deteriorating in her neurologic status, and required emergent neurologic consultation and diagnostic testing and treatment;
 - w. failure to effect a timely transfer from the psychiatric unit back to the medical unit for neurologic evaluation and treatment, in the face of actual knowledge that the patient was acutely deteriorating in her neurologic status;
 - x. failure to provide timely, adequate, and appropriate management of a stroke, in the face of actual knowledge that the patient was acutely deteriorating in her neurologic status;
 - y. failure to properly, timely, and adequately recognize and appreciate signs and symptoms of evolving neurologic dysfunction, in the face of a diagnosis of transient ischemic attack and cerebrovascular accident, and in the setting of objective neurologic signs and symptoms.
 - z. maintaining a patient in a psychiatric unit with the actual knowledge of signs and symptoms of a neurologic emergency;
 - aa. maintaining a patient in a psychiatric unit with the actual knowledge of signs and symptoms of an evolving stroke;
 - bb. maintaining a patient in a psychiatric unit with the actual knowledge that time is of the essence in treating a stroke;
 - cc. maintaining a patient in a psychiatric unit with the actual knowledge that the

patient's neurologic signs and symptoms are not the result of psychiatric illness; and,

- dd. maintaining a patient in a psychiatric unit with the actual knowledge that the patient is neither suicidal, as previously represented by Dr. Maloney and Dr. Helmi, and is manifesting neurologic signs and symptoms that bear no relationship to an underlying psychiatric diagnosis.

COUNT V-VICARIOUS LIABILITY FOR THE NEGLIGENCE, GROSS NEGLIGENCE, AND RECKLESSNESS OF AGENTS AND CORPORATE (DIRECT) NEGLIGENCE
(Plaintiff v. DuBois Regional Medical Center a/k/a/ DuBois Regional Medical Center West a/d/b/a DRMC Behavioral Unit a/k/a DRMC East Behavioral Unit a/k/a DRMC Behavioral Health Outpatient Clinic)

130. The previous paragraphs, including all allegations of negligence, gross, negligence, and recklessness, are herein incorporated by reference as though fully set forth.

131. At all times material hereto, DuBois Regional Medical Center a/k/a/ DuBois Regional Medical Center West a/d/b/a DRMC Behavioral Unit a/k/a DRMC East Behavioral Unit a/k/a DRMC Behavioral Health Outpatient Clinic was acting by and through its actual agents, ostensible agents, servants, and/or employees, including Dr. Maloney, Devlin, Helmi, Bradley, and Bobrin, and the nursing staff who provided nursing care and treatment to Wanda Russell during her hospitalization in the DRMC Behavioral Unit, whose identities are partially set forth in Exhibit "B." These actual agents, ostensible agents, servants, and/or employees provided medical care and treatment to Wanda Russell while acting within the scope of their medical and nursing duties. Accordingly, the DuBois Regional Medical Center a/k/a/ DuBois Regional Medical Center West a/d/b/a DRMC Behavioral Unit a/k/a DRMC East Behavioral Unit a/k/a DRMC Behavioral Health

Outpatient Clinic is vicariously and derivatively liable for the negligent, grossly negligent, and/or reckless acts and omissions of these actual agents, ostensible agents, servants, and/or employees under theories of agency, master-servant, respondeat superior, and/or right of control.

132. The Dubois Regional Medical Center is liable for the conduct of the nurses who provided psychiatric nursing care to Wanda Russell on the DRMC Behavioral Unit on December 5 to 6, 2005, whose identities are partially set forth in Exhibit "B," and whose negligent, grossly negligent, and/or reckless conduct consisted of:

- a. failure to report falls in a patient exhibiting neurologic impairment to a physician at the time the falls occurred, in disregard to the safety and well-being of the patient;
- b. failure to report neurologic signs and symptoms to the physician staff, in disregard to the safety and well-being of the patient;
- c. failure to obtain appropriate psychiatric evaluation at the time the patient arrived on the psychiatric unit, in disregard to the rights, safety, and well-being of the patient and contrary to the policies and procedures of the DRMC Unit;
- d. failure to insure that the protocol for psychiatric unit was adhered to and followed, including provision of the Patient's Bill of Rights and the report of initial evaluation and the proposed treatment plan completed and signed by the patient and the physician, in disregard to the rights, safety, and well-being of the patient and contrary to the policies and procedures of the DRMC Unit;

- e. failure to obtain medical evaluation for signs and symptoms during the nursing evaluation of the patient of evolving neurologic dysfunction;
- f. failure to timely, appropriately, and adequately notify the physician medical staff of evolving of neurologic signs and symptoms, in disregard to the safety and well-being of the patient;
- g. failure to provide appropriate nursing, monitoring and care to a patient with evolving and shifting neurologic signs and symptoms, in disregard to the safety and well-being of the patient;
- h. failure to provide adequate, appropriate, and timely nursing care in the setting of shifting neurologic signs and symptoms, in disregard to the safety and well-being of the patient;
- i. intentionally and willfully failing to report evolving neurologic signs and symptoms to the physician staff;
- j. intentionally and willfully failing to insure that evolving neurologic signs and symptoms are evaluated by the physician staff, including the onsite evaluation by a physician of a patient with evolving neurologic signs and symptoms and falls; and,
- k. intentionally and willfully ignoring a patient's pleas for medical care, including statements that the patient is experiencing signs and symptoms of an evolving neurologic emergency.

133. In addition, pursuant to the decision of the Supreme Court of Pennsylvania in Thompson v. Nason, 591 A.2d 703 (1991) and its progeny of case law, at all relevant times hereto,

DuBois Regional Medical Center a/k/a/ DuBois Regional Medical Center West a/d/b/a DRMC Behavioral Unit a/k/a DRMC East Behavioral Unit a/k/a DRMC Behavioral Health Outpatient Clinic owed non-delegable duties directly to Wanda Russell which included:

- a. a duty to use reasonable care in the maintenance of safe and adequate facilities and equipment;
- b. a duty to select and retain only competent physicians;
- c. a duty to oversee all persons who practice medicine within its walls as to patient care; and,
- d. a duty to formulate, adopt, and enforce adequate rules and policies to ensure quality care for the patients.

134. The corporate (direct) negligence of the DuBois Regional Medical Center a/k/a/ DuBois Regional Medical Center West a/d/b/a DRMC Behavioral Unit a/k/a DRMC East Behavioral Unit a/k/a DRMC Behavioral Health Outpatient Clinic arising out of the medical evaluation, care, and treatment of Wanda Russell, of which the hospital had actual or constructive knowledge, and knew, or should have known, consisted of the following:

- a. failure to select and retain only competent physicians proficient in the recognition, evaluation, and management of transient ischemic attack, neurologic dysfunction, evolving cerebrovascular accident, and "stuttering" stroke;
- b. failure to select and retain only competent physicians proficient in the recognition, evaluation, and management of psychiatric illness;
- c. failure to select and retain only competent physicians proficient in the

recognition, evaluation, and neurologic signs and symptoms;

- d. failure to select and retain only competent physicians proficient in the recognition, evaluation, and management of evolving neurologic injury;
- e. failure to select and retain only competent physicians proficient in the recognition, evaluation, and management of cerebral ischemia and associated risk factors;
- f. failure to select and retain only competent physicians proficient in the recognition, evaluation, and management of deteriorating neurologic status;
- g. failure to select and retain only competent physicians proficient in the recognition, evaluation, and management evolving stroke symptoms;
- h. failure to select and retain only competent physicians proficient in the recognition, evaluation, and management of patients within a psychiatric unit;
- i. failure to select and retain only competent physicians proficient in the recognition, evaluation, and management of fluctuating neurologic signs and symptoms;
- j. failure to select and retain only competent physicians proficient in the evaluation patients prior to voluntary transfer to a psychiatric unit;
- k. failure to formulate, adopt, and/or enforce adequate rules and policies with respect to evaluation of patients prior to transfer to a psychiatric unit, including evaluation by a psychiatrist;
- l. failure to formulate, adopt, and/or enforce adequate rules and policies with respect to the evaluation, re-evaluation, and management of patients admitted

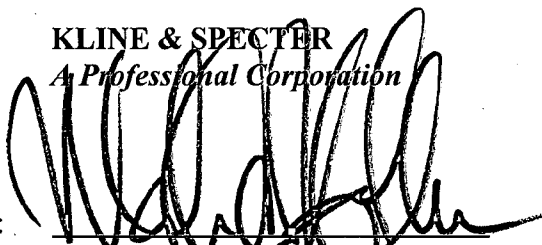
- to a psychiatric unit with fluctuating neurologic signs and symptoms;
- m. failure to formulate, adopt, and/or enforce adequate rules and policies with respect to the timely evaluation of patients admitted to the psychiatric unit;
 - n. failure to formulate, adopt, and/or enforce adequate rules and policies with respect to the reporting and evaluation of falls by the nursing staff in the psychiatric unit;
 - o. failure to formulate, adopt, and/or enforce adequate rules and policies with respect to the transfer of patients with acute medical emergencies out of the psychiatric unit;
 - p. failure to formulate, adopt, and/or enforce adequate rules and policies with respect to holding patients with acute medical complaints, acute neurologic complaints, and falls within the confines of the psychiatric unit;
 - q. failure to formulate, adopt, and/or enforce adequate rules and policies with respect to the reporting of acute medical signs and symptoms, and falls, by the nursing staff to the attending medical staff;
 - r. failure to formulate, adopt, and/or enforce adequate rules and policies with respect to obtaining timely transfer of a patient with signs and symptoms of an evolving stroke to a medical unit from the psychiatric unit;
 - s. failure to oversee all persons who practice medicine within its walls as to patient care to ensure that an appropriate psychiatric evaluation by a psychiatrist occurs prior to the transfer of a patient to a psychiatric unit;
 - t. failure to oversee all persons who practice medicine within its walls as to

patient care to ensure that an appropriate medical evaluation occurs prior to the transfer of a patient to a psychiatric unit;

- u. failure to oversee all persons who practice medicine within its walls as to patient care to ensure that an appropriate medical evaluation occurs at the time of transfer of a patient to a psychiatric unit; and,
- v. failure to oversee all persons who practice medicine within its walls as to patient care to ensure that an appropriate psychiatric evaluation occurs at the time of transfer of a patient to a psychiatric unit.

WHEREFORE, Plaintiff Wanda Russell claims damages against all defendants, jointly and severally, including all damages cognizable under Pennsylvania law, to include both compensatory as to Dr. Devlin, Dr. Maloney, Dr. Helmi, Dr. Bradley, Dr. Bobrin, the nursing staff of the DRMC Behavioral Unit, and the Dubois Regional Medical Center and its affiliated units (corporate negligence claim), as well as punitive damages as to Dr. Maloney, Dr. Bradley, Dr. Bobrin, and the nursing staff of the DRMC Behavioral Unit, for the causes of action set forth in this Third Amended Civil Action Complaint, in an amount in excess of the prevailing arbitration limits, exclusive of pre-judgment interest and post-judgment interest and costs.

KLINE & SPECTER
A Professional Corporation

By: 
MARK A. HOFFMAN, ESQUIRE
Attorneys for Plaintiff

Date: January 4, 2008

EXHIBIT "A"

KLINE & SPECTER

A Professional Corporation

By: THOMAS R. KLINE, ESQUIRE
MARK A. HOFFMAN, ESQUIRE
ROYCE W. SMITH, ESQUIRE

Attorney ID Nos.: 28895/84443/201295

The Nineteenth Floor

1525 Locust Street

Philadelphia, Pennsylvania 19102

(215) 772-1000

Attorneys for Plaintiff

WANDA RUSSELL

426 North Michael Street

Saint Mary's, Pennsylvania 15857

Plaintiff,

v.

JAMES E. DEVLIN, M.D. and

MARK W. MALONEY, D.O. and

DRMC PRIMARY CARE

ASSOCIATES and

SANAA HELMI, M.D. and

THOMAS J. BRADLEY, M.D. and

BRADFORD BOBRIN, M.D. and

DuBOIS REGIONAL MEDICAL

CENTER a/ka DuBOIS REGIONAL

MEDICAL CENTER WEST

a/d/b/a DRMC BEHAVIORAL

UNIT a/k/a DRMC EAST BEHAVIORAL

UNIT a/k/a DRMC BEHAVIORAL

HEALTH OUTPATIENT CLINIC

Defendants.

COURT OF COMMON PLEAS

COUNTY OF CLEARFIELD

DOCKET NO.

CERTIFICATES OF MERIT

I, Mark A. Hoffman, Esquire, am an attorney for the plaintiff in the above-captioned matter.

Pursuant to Pa.R.C.P. No. 1042.1, I hereby certify appropriate licensed professionals have provided

me with written statements stating that there exists a reasonable basis and probability to conclude

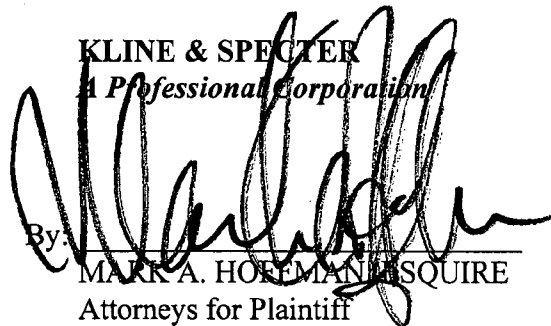
that the care, skill, or knowledge exercised or exhibited by Drs. Devlin, Maloney, Helmi, Bradley,

and Bobrin, and the psychiatric nursing staff, and the DuBois Regional Medical Center and its

affiliated or associated entities as captioned above, with respect to the treatment, practice, or work

that is the subject of this Civil Action Complaint, fell outside of acceptable professional and institutional standards, and in addition to being negligent, was grossly negligent and/or reckless in its scope, and that such conduct was a substantial factor in causing injuries, or bringing about harm, to Wanda Russell. I further certify that there are additional claims which are based on allegations that licensed professionals for whom the hospital-defendant, DuBois Regional Medical Center and its affiliated or associated entities as captioned above, and/or DRMC Primary Care, and/or both, are responsible and derivatively or vicariously liable deviated from accepted professional standards of medical care, and caused the aforementioned injuries and harm. I additionally certify that appropriate licensed professionals have supplied written statements to me concluding that there exists a reasonable basis and probability that the DuBois Regional Medical Center, and its affiliated or associated entities as captioned above, deviated from accepted standards of institutional care, giving rise to claims of direct (corporate) negligence pursuant to the decision of the Supreme Court of Pennsylvania in Thompson v. Nason, 591 A.2d 703 (1991) and its progeny of case law. The licensed professionals who have provided me with these written statements have also concluded that the aforementioned deviations from accepted standards of medical and institutional care on the part of the individual named licensed professional, corporate, and hospital defendants was a substantial factor causing, or increasing the risk of harm, to Wanda Russell.

KLINE & SPECTER
A Professional Corporation

By: 
MARK A. HOFFMANN ESQUIRE
Attorneys for Plaintiff

Date: January 4, 2008

EXHIBIT “B”

Behavioral Health Services Daily Notes Extension
Date 12/16/05

3218 47Y MH 0114-01 MH
RUSSELL, WANDA
BOBRIN, BRADFORD
09/19/58 F 12/06/05
0534000768 UP


Sticker

12/16/05 8:20am - Pt's sister Darlene Nortum called and I spoke to her. According to Darlene, she was in to visit her sister last evening. Dr. Maloney came in at 7 or 8pm to talk to the pt. he told her that he feels her loss of mobility is due to depression. He did not say anything about coming to Mental Health. She did not say anything suicidal or hopeless. Darlene said she tried to talk to Dr. Maloney about how soon her sister would be PIC but he said he was busy. Darlene does not feel her sister should be at Mental Health.

8:50am - I spoke to the secretary ^{sue} @ Dr. Maloney's office & she was unable to give me any information. Dr. Maloney called off today & she would not be talking to him until late this afternoon.

9:00am - I spoke to Joan on 3rd floor about the Pt. She told me that she was told that Dr. Maloney was afraid she would hurt herself. Apparently, Pt was requesting disability & Dr. Maloney said he couldn't do that. At that point he felt she wasn't safe.

9:20am Pt's sister Darlene called again & asked

353218 47Y MH 0114-01 MH
RUSSELL, WANDA
BOBRIN, BRADFORD
09/19/58 F 12/06/06
0534000768 UP



Behavioral Health Services Daily Notes Extension
Date 12/16/05

Sticker

if she could come now to visit her sister + talk with us.

9:35am Tracey from 3rd floor called + asked me what the situation is. Neither her or anyone else knew specific information on the pt.

9:45am Dr. Maloney called and spoke to me. He feels the pt is going to stop taking her meds although she did not state that. He reports that she's going through a lot of stress - a divorce & bankruptcy. He said that she was admitted for left sided weakness. Nurses reported to Dr. Maloney that they observed her using her left arm & and eating when she thought no one was looking. He was unable to find any medical problems. He spoke to Dr. Helmi & according to him it was her recommendation that she be admitted + tx be started.

I then handed the phone to UR for them to collect information.

9:55am I had already beeped Dr. Helmi twice, & she had not returned my call yet. I thought her beeper may be off so I called her cell phone. She answered + I asked if she had any information on the pt. She said

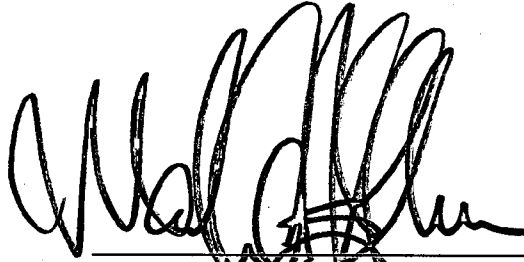
Behavioral Health Services Daily Notes Extension
Date 12/6/05

that she didn't remember the pt + asked where she came from, I stated 3rd floor - she said she was c-pts & would have to return my call.

return my call.
10:05 am - Dr. Helmi returned my call, I asked her the information regarding the pt. She was under the impression that the pt was severely depressed + actively suicidal. She did not make the recommendation - Dr. Maloney asked for the admission and she agreed on the basis that the pt is suicidal. She will support our decision at this point.  Britta & Boule

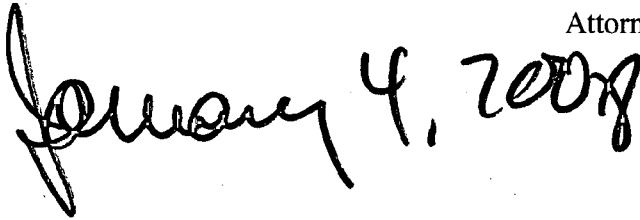
VERIFICATION

I, MARK A. HOFFMAN, ESQUIRE, hereby state that I am the attorney for the plaintiff and that the facts set forth in the foregoing pleading are true and correct. I understand that false statements made herein are subject to the penalties of 18 Pa. C.S.A. § 4904 relating to unsworn falsification to authorities.

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

MARK A. HOFFMAN, ESQUIRE
Attorney for Plaintiff

Date:

A handwritten date in black ink, written as 'January 4, 2008'.

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA

WANDA RUSSELL,

Plaintiff,

v.

JAMES E. DEVLIN, M.D., MARK W.
MALONEY, D.O., DRMC PRIMARY
CARE ASSOCIATES, SANAA HELMI,
M.D., THOMAS J. BRADLEY, M.D.,
BRADFORD BOBRIN, M.D., DUBOIS
REGIONAL MEDICAL CENTER a/k/a
DUBOIS REGIONAL MEDICAL
CENTER WEST a/d/b/a DRMC
BEHAVIORAL UNIT a/k/a DRMC EAST
BEHAVIORAL UNIT a/k/a DRMC
BEHAVIORAL HEALTH OUTPATIENT
CLINIC,

Defendants.

CIVIL ACTION

No.: 07-644-CD

**PROPOSED SCHEDULING
ORDER**

Filed on Behalf of this Party:

Bradford Bobrin, M.D.

Counsel of Record for this Party:

LYNN E. BELL, ESQUIRE

Pa. I.D. No.: 38588

A. MICHAEL GIANANTONIO, ESQ.

Pa. I.D. No.: 89120

DAVIES McFARLAND &
CARROLL, P.C.

One Gateway Center; 10th Floor
Pittsburgh, PA 15222

JURY TRIAL DEMANDED

(412) 281-0737

FILED

01/25/08
JAN 08 2008

4CC
Lynn Bell

(62)

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA

WANDA RUSSELL,

CIVIL ACTION

Plaintiff,

No.: 07-644-CD

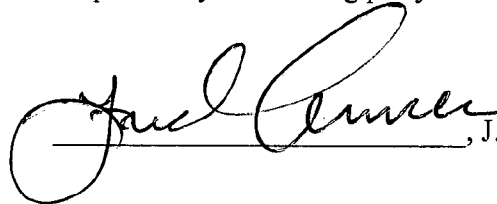
v.

JAMES E. DEVLIN, M.D., MARK W.
MALONEY, D.O., DRMC PRIMARY
CARE ASSOCIATES, SANAA HELMI,
M.D., THOMAS J. BRADLEY, M.D.,
BRADFORD BOBRIN, M.D., DUBOIS
REGIONAL MEDICAL CENTER a/k/a
DUBOIS REGIONAL MEDICAL
CENTER WEST a/d/b/a DRMC
BEHAVIORAL UNIT a/k/a DRMC EAST
BEHAVIORAL UNIT a/k/a DRMC
BEHAVIORAL HEALTH OUTPATIENT
CLINIC,

Defendants.

SCHEDULING ORDER

AND NOW, this 8 day of Jan, 2008, upon consideration of
Defendant's, Bradford Bobrin, M.D., Praeipce for Argument Date on Preliminary Objections, it
is hereby ordered that argument shall be held on January 15, 2008, at 10:00
a.m. in Courtroom No. 1 of the Clearfield County Courthouse, Clearfield, Pennsylvania.
Notice of the entry of this order shall be provided to all parties by the moving party.


_____, J.

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that I served the foregoing document to all counsel of record in the following manner on the 3rd day of January, 2008:

Via Facsimile	_____
Via Hand Delivery	_____
Via First Class U.S. Mail	_____ X _____
Via Overnight Mail	_____
Via Certified Mail/ Return Receipt Request	_____

Thomas R. Kline, Esquire
Mark A. Hoffman, Esquire
Kline & Specter, P.C.
1525 Locust Street
19th Floor
Philadelphia, PA 19102

Attorneys for Plaintiff

Daryl Slimak, Esquire
McQuaide Blasko
811 University Drive
State College, PA 16801

M. Brian O'Connor, Esquire
Matis Baum Rizza & O'Connor, P.C.
444 Liberty Avenue; Suite 300
Pittsburgh, PA 15222

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

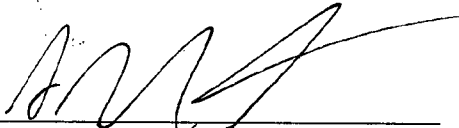
Christopher C. Rulis, Esquire
O'Brien, Rulis, Bochicchio & Sosso, LLC.
555 Grant Street, Suite 120
Pittsburgh, PA 15219

David R. Bahl, Esquire
Richard F. Schluter, Esquire
McCormick Law Firm
835 West Fourth Street
P.O. Box 577
Williamsport PA 17703

Attorney for Dr. Mark W. Maloney

DAVIES McFARLAND & CARROLL,
P.C.

By:



LYNN E. BELL, ESQUIRE

A. MICHAEL GIANANTONIO, ESQ.

Attorneys for Bradford Bobrin, M.D.

FILED

JAN 08 2008

William A. Shaw
Prothonotary/Clerk of Courts

DATE: 1/8/08

☒ 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:

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

WANDA RUSSELL,

Plaintiff,

vs.

JAMES E. DEVLIN, M.D. and MARK
W. MALONEY, D.O. and DRMC
PRIMARY CARE ASSOCIATES and
SANAA HELMI, M.D. and THOMAS J.
BRADLEY, M.D. and BRADFORD
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REGIONAL MEDICAL CENTER a/k/a
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BEHAVIORAL UNIT a/k/a DRMC
EAST BEHAVIORAL UNIT a/k/a
DRMC BEHAVIORAL HEALTH
OUTPATIENT CLINIC,

Defendants.

CIVIL DIVISION

CASE NO: 07-644-CD

Type of Pleading:

**PRAECIPE FOR BRIEFING
SCHEDULE**

Filed on behalf of Defendant:

Thomas J. Bradley, 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) 11.09.07
JAN 14 2008 @

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

WANDA RUSSELL,

Plaintiff,

vs.

JAMES E. DEVLIN, M.D. and MARK
W. MALONEY, D.O. and DRMC
PRIMARY CARE ASSOCIATES and
SANAA HELMI, M.D. and THOMAS J.
BRADLEY, M.D. and BRADFORD
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REGIONAL MEDICAL CENTER a/k/a
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BEHAVIORAL UNIT a/k/a DRMC
EAST BEHAVIORAL UNIT a/k/a
DRMC BEHAVIORAL HEALTH
OUTPATIENT CLINIC,

Defendants.

CIVIL DIVISION

CASE NO: 07-644-CD

PRAECIPE FOR BRIEFING SCHEDULE

TO: THE PROTHONOTARY AND COURT ADMINISTRATOR:

In accordance with Clearfield County Rule Of Court 211, please establish a briefing schedule with respect to Defendant Thomas J. Bradley, M.D.'s Preliminary Objections to Plaintiff's Second Amended Complaint, and list this matter for oral argument.

Respectfully submitted,

O'BRIEN, RULIS & BOCHICCHIO, LLC

By CCR by M. Fan
Christopher C. Rulis, Esquire
Counsel for Defendant,
Thomas J. Bradley, M.D.

FILED

JAN 14 2008

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

WANDA RUSSELL,

Plaintiff,

vs.

JAMES E. DEVLIN, M.D. and MARK
W. MALONEY, D.O. and DRMC
PRIMARY CARE ASSOCIATES and
SANAA HELMI, M.D. and THOMAS
J. BRADLEY, M.D. and BRADFORD
BOBRIN, M.D. and DUBOIS
REGIONAL MEDICAL CENTER
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BEHAVIORAL UNIT a/k/a DRMC
EAST BEHAVIORAL UNIT a/k/a
DRMC BEHAVIORAL HEALTH
OUTPATIENT CLINIC,

Defendants.

CIVIL DIVISION

CASE NO: 07-644-CD

Type of Pleading:

**PRELIMINARY OBJECTIONS
TO PLAINTIFF'S SECOND
AMENDED COMPLAINT**

Filed on behalf of Defendant:

Thomas J. Bradley, 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/11.09/SD
JAN 14 2008
npcc
(6K)

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

WANDA RUSSELL,	:	CIVIL DIVISION
	:	
Plaintiff,	:	CASE NO: 07-644-CD
	:	
vs.	:	
	:	
JAMES E. DEVLIN, M.D. and MARK	:	
W. MALONEY, D.O. and DRMC	:	
PRIMARY CARE ASSOCIATES and	:	
SANAA HELMI, M.D. and THOMAS J.	:	
BRADLEY, M.D. and BRADFORD	:	
BOBRIN, M.D. and DUBOIS	:	
REGIONAL MEDICAL CENTER a/k/a	:	
DUBOIS REGIONAL MEDICAL	:	
CENTER WEST a/d/b/a DRMC	:	
BEHAVIORAL UNIT a/k/a DRMC	:	
EAST BEHAVIORAL UNIT a/k/a	:	
DRMC BEHAVIORAL HEALTH	:	
OUTPATIENT CLINIC,	:	
	:	
Defendants.	:	

PRELIMINARY OBJECTIONS TO PLAINTIFF'S SECOND AMENDED COMPLAINT

Defendant, Thomas J. Bradley, M.D., by and through his counsel, O'Brien, Rulis & Bochicchio, LLC, and Christopher C. Rulis, Esquire, files the following Preliminary Objections to Plaintiff's Second Amended Complaint. In support thereof, it is averred as follows:

1. Plaintiff filed a Complaint in this medical malpractice action against Dr. Bradley and other named defendants, on April 24, 2007. Plaintiff essentially alleged that Dr. Bradley, along with all other defendants, was negligent in failing to timely diagnose and treat her suspected transient ischemic attack (TIA).

2. The Complaint also alleged that, during her admission to Dubois Regional Medical Center (hereinafter "DRMC"), and at the direction of Plaintiff's primary care physician, Defendant Dr. Maloney, Plaintiff was briefly transferred to DRMC's Behavioral Unit, where she temporarily received evaluation and/or treatment before being re-transferred to DRMC's medical unit

3. The Complaint alleges that, while on the DRMC Behavioral Unit, Dr. Bradley took a history and physical from Plaintiff, and performed a physical examination of Plaintiff.

4. It is alleged that, as a result of all defendants' negligence, Plaintiff experienced cerebral ischemia, neurological impairment, pain and suffering, humiliation, and anxiety, and monetary losses.

5. On October 23, 2007, Plaintiff filed a Motion to Amend the Complaint, which the Court granted by Order dated October 26, 2007.

6. Plaintiff's Amended Complaint contained allegations of gross negligence and/or recklessness against all defendants, and requested the imposition of punitive damages.

7. Dr. Bradley timely filed Preliminary Objections to Plaintiff's Amended Complaint, which are incorporated herein by reference. Dr. Bradley's Preliminary Objections and Supporting Brief are attached hereto as Exhibit "A."

8. On or about December 6, 2007, Plaintiff filed a Second Amended Complaint in which the following changes were made to the Amended Complaint in regard to Dr. Bradley:

a. Paragraph 9 of the Second Amended Complaint alleges that Dr. Bradley was under contract with DRMC to perform admission history and physical examinations on patients.

b. Paragraph 62 now alleges that the nursing staff failed to inform any physician about Plaintiff's self-reported inability to use her left leg and arm.

c. Paragraph 63 alleges that Dr. Bradley was not qualified to determine whether Plaintiff's complaints were due to a psychological condition versus an evolving stroke and/or central nervous system injury.

d. Paragraph 65 avers that Dr. Bradley knew Plaintiff was exhibiting objective neurological signs and symptoms, and acted in reckless disregard by failing to obtain appropriate evaluation of said symptoms, where he was not qualified to determine the etiology of the same.

e. Paragraph 70 alleges that Dr. Bradley knew that TIA and CVA were neurologic conditions which could put a patient at risk of severe and irreversible sequelae.

f. Paragraph 71 alleges that Dr. Bradley knew and understood that DRMC was not a "stroke center" and had no "stroke team."

g. Count IV, which is directed against Dr. Bradley, now additionally alleges that Dr. Bradley was negligent, grossly negligent, and or reckless in: rendering a psychiatric diagnosis without appropriate training in the fields of psychology and psychiatry; rendering a psychiatric and/or psychological explanation for neurologic symptoms without obtaining a consultation; and, failure to timely transfer Plaintiff to a "stroke center."

Motion to Strike Pursuant to Pa.R.C.P. §1028(a)(3)

(Factual Insufficiency)

9. The MCARE Act clearly states that a "showing of gross negligence is insufficient to support an award of punitive damages." 40 P.S. §1303.505 (b). Rather, punitive damages are proper only where the health care provider acted willfully, wantonly, or with reckless indifference. *Id.* at §1303.505 (a).

8. Case law is also clear that neither negligence *nor* gross negligence are sufficient degrees of culpability to warrant the imposition of punitive damages. Takes v. Metropolitan Edison Company, 655 A.2d 138 (Pa. Super. 1995).

9. Moreover, Pennsylvania courts have consistently held that punitive damages will only be awarded to punish conduct “that is so outrageous as to rise to a level of intentional, willful, wanton and reckless conduct.” Abdie vs. Riddle Memorial Hospital, 589 A.2d 1143 (Pa. Super. 1981).

10. Recklessness or reckless indifference sufficient for purposes of alleging a claim for punitive damages has been described as “where the actor knows, or has reason to know . . . of facts which create a high degree of risk of physical harm to another, and *deliberately* proceeds to act, or fails to act, in conscious disregard of, or indifference to, that risk.” SHV Coal vs. Continental Grain Company, 587 A.2d 702 (Pa. 1991).

11. Thus, even if Dr. Bradley’s conduct was found to be “grossly negligent,” punitive damages would not be appropriate under Pennsylvania law.

12. The allegations contained within Plaintiff’s Second Amended Complaint continue to fail to approach the standard for recklessness in regard to Dr. Bradley’s conduct. That is, Plaintiff has not alleged any conduct on Dr. Bradley’s part, different from her allegations in the Amended Complaint, which is so outrageous as to demonstrate complete disregard of a risk, or conscious indifference of consequences, to Plaintiff.

14. The allegation in Paragraph 9 of the Second Amended Complaint that Dr. Bradley was under contract with DRMC to perform history and physical examinations, even if true, does not support an action in negligence, let alone recklessness.

15. Paragraph 63 does not introduce any new or different allegations of negligence, but contests Dr. Bradley’s qualifications to determine the etiology of Plaintiff’s complaints.

16. Paragraph 65 alleges that Dr. Bradley should have had Plaintiff evaluated where he was not qualified to determine the underlying cause of her complaints. However, even if assumed to be true, Plaintiff does not allege Dr. Bradley's failure to have Plaintiff further evaluated was performed with an evil motive, or was otherwise a deliberate attempt to harm Plaintiff.

17. Paragraph 70 states that Dr. Bradley was aware that "TIA and CVA were neurological conditions with potentially severe and debilitating consequences." This allegation, even if taken as true, does not evidence a knowing or deliberate state of mind on Dr. Bradley's part *in regard to Plaintiff's complaints or treatment*.

18. Similarly, Paragraph 71 alleges that Dr. Bradley knew and understood that DRMC was not a "stroke center" with a "stroke team." Again, this alleged general knowledge does not equate with an intention to harm or recklessness in Plaintiff's particular case.

19. Count IV, Paragraphs 104aa. and bb., alleges Dr. Bradley was "negligent, grossly negligent, and/or reckless" in reaching a psychiatric diagnosis for neurologic symptoms, without appropriate specialty in the field of psychology and psychiatry. Dr. Bradley's note in regard to his examination of Plaintiff does not render a psychiatric diagnosis. However, assuming Dr. Bradley did reach a psychiatric diagnosis, the rendering of a diagnosis which falls outside of a physician's specialty area does not demonstrate the type of willful or intentional disregard for a patient's health necessary to support a claim for punitive damages.

20. Finally, Count IV, Paragraph 104 cc. states that Dr. Bradley was "negligent, grossly negligent, and/or reckless" in failing to transfer Plaintiff to a stroke center. However, Plaintiff does not allege that Dr. Bradley was aware Plaintiff was suffering or had suffered a stroke, or that Dr. Bradley knew Plaintiff could only get adequate treatment for her condition at a stroke center. This allegation does not evidence reckless conduct on the part of Dr. Bradley.

19. Thus, the majority of allegations in Plaintiff's Second Amended Complaint, such as Dr. Bradley's failure to have Plaintiff's condition further evaluated, would constitute, if true, mere ordinary negligence. Other facts, such as Dr. Bradley's knowledge that TIA and CVA were potentially devastating conditions, simply do not support an action in negligence at all. Such alleged facts certainly do not evidence the vital component of reckless conduct: the state of mind of the defendant.

20. Therefore, Plaintiff has failed to set forth factual allegations necessary to support a conclusion that moving Defendant acted recklessly, outrageously, wantonly or willfully.

21. As Plaintiff has failed to plead facts sufficient to support a claim for punitive damages, this moving Defendant's preliminary objections to the *Second* Amended Complaint should properly be granted pursuant to Pa.R.C.P. §1028(a)(3)

WHEREFORE, Defendant, Thomas J. Bradley M.D. , respectfully requests that this Honorable Court grant the within Preliminary Objections to Plaintiff's Second Amended Complaint, and strike all portions of Plaintiff's Second Amended Complaint alleging gross negligence and/or recklessness on the part of defendant Dr. Bradley, and that it further strike Plaintiff's request for punitive damages as regards defendant Dr. Bradley.

Respectfully Submitted,

O'BRIEN RULIS & BOCHICCHIO, LLC



Christopher C. Rulis, Esquire
Counsel for Defendant
Thomas J. Bradley, M.D.

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that a true and correct copy of the within **PRELIMINARY OBJECTIONS TO PLAINTIFF'S SECOND AMENDED COMPLAINT** has been served via first class United States mail, postage prepaid, on this 7 day of June, 2008 to the following counsel of record:

Thomas R. Kline, Esquire
Kline & Specter, P.C.
1525 Locust Street, 19th Floor
Philadelphia, PA 19102

M. Brian O'Connor, Esquire
Gaca Matis Baum & Rizza PC
444 Liberty Avenue, Suite 300
Pittsburgh, PA 15222

David R. Bahl, Esquire
McCormick Law Firm
835 West Fourth Street
P.O. Box 577
Williamsport, PA 17701

Lynn Bell, Esquire
Davis, McFarland & Carroll, P.C.
Tenth Floor, One Gateway Center
Pittsburgh, PA 15222

Darryl R. Slimak, Esquire
McQuaide, Blasko, Fleming & Faulkner, Inc.
811 University Drive
State College, PA 16801

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

O'BRIEN, RULIS & BOCHICCHIO, LLC



Christopher C. Rulis
Counsel for Defendant
Thomas J. Bradley, M.D.

FILED

JAN 14 2008

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

WANDA RUSSELL,

Plaintiff,

vs.

JAMES E. DEVLIN, M.D. and MARK
W. MALONEY, D.O. and DRMC
PRIMARY CARE ASSOCIATES and
SANAA HELMI, M.D. and THOMAS J.
BRADLEY, M.D. and BRADFORD
BOBRIN, M.D. and DUBOIS
REGIONAL MEDICAL CENTER a/k/a
DUBOIS REGIONAL MEDICAL
CENTER WEST a/d/b/a DRMC
BEHAVIORAL UNIT a/k/a DRMC
EAST BEHAVIORAL UNIT a/k/a
DRMC BEHAVIORAL HEALTH
OUTPATIENT CLINIC,

Defendants.

CIVIL DIVISION

CASE NO: 07-644-CD

ORDER OF COURT

AND NOW, this _____ day of _____, 2008, upon consideration of Defendant Thomas J. Bradley, M.D.'s Preliminary Objections to Plaintiff's Second Amended Complaint, said objections are granted. All references to gross negligence and/or recklessness are stricken from Plaintiff's Second Amended Complaint, as is the claim for punitive damages.

By the Court:

_____, J.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

WANDA RUSSELL,

Plaintiff,

vs.

JAMES E. DEVLIN, M.D. and MARK
W. MALONEY, D.O. and DRMC
PRIMARY CARE ASSOCIATES and
SANAA HELMI, M.D. and THOMAS J.
BRADLEY, M.D. and BRADFORD
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REGIONAL MEDICAL CENTER a/k/a
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BEHAVIORAL UNIT a/k/a DRMC
EAST BEHAVIORAL UNIT a/k/a
DRMC BEHAVIORAL HEALTH
OUTPATIENT CLINIC,

Defendants.

CIVIL DIVISION

CASE NO: 07-644-CD

Type of Pleading:

**PRAECIPE FOR BRIEFING
SCHEDULE**

Filed on behalf of Defendant:

Thomas J. Bradley, 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
JAN 14 2008
(6K)

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

WANDA RUSSELL,

Plaintiff,

vs.

JAMES E. DEVLIN, M.D. and MARK
W. MALONEY, D.O. and DRMC
PRIMARY CARE ASSOCIATES and
SANAA HELMI, M.D. and THOMAS J.
BRADLEY, M.D. and BRADFORD
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EAST BEHAVIORAL UNIT a/k/a
DRMC BEHAVIORAL HEALTH
OUTPATIENT CLINIC,

Defendants.

CIVIL DIVISION

CASE NO: 07-644-CD

PRAECIPE FOR BRIEFING SCHEDULE

TO: THE PROTHONOTARY AND COURT ADMINISTRATOR:

In accordance with Clearfield County Rule Of Court 211, please establish a briefing schedule with respect to Defendant Thomas J. Bradley, M.D.'s Preliminary Objections to Plaintiff's Third Amended Complaint, and list this matter for oral argument.

Respectfully submitted,

O'BRIEN, RULIS & BOCHICCHIO, LLC

By



Christopher C. Rulis, Esquire
Counsel for Defendant,
Thomas J. Bradley, M.D.

LA

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

WANDA RUSSELL,

Plaintiff,

vs.

JAMES E. DEVLIN, M.D. and MARK
W. MALONEY, D.O. and DRMC
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J. BRADLEY, M.D. and BRADFORD
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REGIONAL MEDICAL CENTER
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BEHAVIORAL UNIT a/k/a DRMC
EAST BEHAVIORAL UNIT a/k/a
DRMC BEHAVIORAL HEALTH
OUTPATIENT CLINIC,

Defendants.

CIVIL DIVISION

CASE NO: 07-644-CD

Type of Pleading:

**PRELIMINARY OBJECTIONS
TO PLAINTIFF'S THIRD
AMENDED COMPLAINT**

Filed on behalf of Defendant:

Thomas J. Bradley, 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 NOCC
JAN 14 2008
(GK)

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

WANDA RUSSELL,

Plaintiff,

vs.

JAMES E. DEVLIN, M.D. and MARK
W. MALONEY, D.O. and DRMC
PRIMARY CARE ASSOCIATES and
SANAA HELMI, M.D. and THOMAS J.
BRADLEY, M.D. and BRADFORD
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BEHAVIORAL UNIT a/k/a DRMC
EAST BEHAVIORAL UNIT a/k/a
DRMC BEHAVIORAL HEALTH
OUTPATIENT CLINIC,

Defendants.

CIVIL DIVISION

CASE NO: 07-644-CD

PRELIMINARY OBJECTIONS TO PLAINTIFF'S THIRD AMENDED COMPLAINT

Defendant, Thomas J. Bradley, M.D., by and through his counsel, O'Brien, Rulis & Bochicchio, LLC, and Christopher C. Rulis, Esquire, files the following Preliminary Objections to Plaintiff's Third Amended Complaint. In support thereof, it is averred as follows:

1. Plaintiff filed a Complaint in this medical malpractice action against Dr. Bradley and other named defendants, on April 24, 2007. Plaintiff essentially alleged that Dr. Bradley, along with all other defendants, was negligent in failing to timely diagnose and treat Plaintiff's suspected transient ischemic attack (TIA).

2. The Complaint also alleged that, during her admission to Dubois Regional Medical Center (hereinafter "DRMC"), and at the direction of Plaintiff's primary care physician, Defendant Dr. Maloney, Plaintiff was briefly transferred to DRMC's Behavioral Unit, where she temporarily received evaluation and/or treatment before being re-transferred to DRMC's medical unit

3. The Complaint alleges that, while on the DRMC Behavioral Unit, Dr. Bradley took a history and physical from Plaintiff, and performed a physical examination of Plaintiff.

4. It is alleged that, as a result of all defendants' negligence, Plaintiff experienced cerebral ischemia, neurological impairment, pain and suffering, humiliation and anxiety, and monetary losses.

5. On October 23, 2007, Plaintiff filed a Motion to Amend the Complaint, which the Court granted by Order dated October 26, 2007.

6. Plaintiff's Amended Complaint contained allegations of gross negligence and/or recklessness against all defendants, and requested the imposition of punitive damages.

7. Dr. Bradley timely filed Preliminary Objections to Plaintiff's Amended Complaint, which are incorporated herein by reference.

8. On or about December 6, 2007, Plaintiff filed a Second Amended Complaint in which additional changes were made to the Amended Complaint in regard to Dr. Bradley. Dr. Bradley filed Preliminary Objections to Plaintiff's Second Amended Complaint, which are incorporated herein by reference.

9. On or about January 4, 2008, Plaintiff filed a Third Amended Complaint in this matter, again revising her allegations against Dr. Bradley. In relevant part, the amendments were as follows:

a. Paragraph 18 of the Third Amended Complaint alleges that Dr. Bradley knew that hypertension and diabetes mellitus were risk factors for stroke and/or TIA.

b. Paragraph 19 now alleges that Dr. Bradley was aware that unsteadiness and ataxia were neurologic symptoms of possible stroke and/or TIA.

c. Paragraph 24 alleges that Dr. Bradley knew that hemiparesis and gait disturbance were neurological signs of a stroke and/or TIA.

d. Paragraph 26 avers that Dr. Bradley knew that dysarthria and hemiparesis were symptoms of stroke and/or TIA.

e. Paragraph 29 of the Third Amended Complaint now charges that Dr. Bradley knew that facial asymmetry, facial droop, and unilateral loss of the nasolabial fold were symptoms of stroke and/or TIA.

f. Paragraph 37 alleges that Dr. Bradley knew that co-defendants Drs. Devlin and Maloney were not neurologists.

g. Paragraph 39 now asserts Dr. Bradley knew that a cranial MRI or a cranial MRA was a “more sensitive” test for ischemic stroke or intracranial cerebrovascular disease.

h. Paragraph 88 of the Third Amended Complaint asserts that Dr. Bradley established a “doctor-patient relationship” with Plaintiff while performing his contractual duties with DRMC, and then “abandoned” her without performing or recommending further neurological testing. It again alleges that Dr. Bradley acted with gross negligence and/or reckless disregard for Plaintiff’s safety in failing to have such tests performed. Paragraph 88 also alleges that Dr. Bradley acted in “grossly negligent disregard” of his contractual duties to the hospital to screen and evaluate patients.

i. Paragraph 106 now alleges that Dr. Bradley acted with gross negligence and/or recklessness in failing to obtain “emergent evaluation” of Plaintiff on the morning of December 6, 2005, and that he had actual knowledge that Plaintiff was manifesting objective signs of a neurologic crisis unexplained by psychiatric disease.

j. The Third Amended Complaint makes no changes to the specific charges contained within “Count IV – Negligence, Gross Negligence, and Recklessness (Plaintiff v. Dr. Bradley).”

Motion to Strike Pursuant to Pa.R.C.P. §1028(a)(3)

(Factual Insufficiency)

10. The MCARE Act clearly states that a “showing of gross negligence is insufficient to support an award of punitive damages.” 40 P.S. §1303.505 (b). Punitive damages are proper only where the health care provider acted willfully, wantonly, or with reckless indifference. Id. at §1303.505 (a).

11. Case law is also clear that neither negligence *nor* gross negligence are sufficient degrees of culpability to warrant the imposition of punitive damages. Takes v. Metropolitan Edison Company, 655 A.2d 138 (Pa. Super. 1995).

12. Moreover, Pennsylvania courts have consistently held that punitive damages will only be awarded to punish conduct “that is so outrageous as to rise to a level of intentional, willful, wanton and reckless conduct.” Abdie vs. Riddle Memorial Hospital, 589 A.2d 1143 (Pa. Super. 1981).

13. Recklessness or reckless indifference sufficient for purposes of alleging a claim for punitive damages has been described as follows: “where the actor knows, or has reason to know . . . of facts which create a high degree of risk of physical harm to another, and *deliberately* proceeds to act, or fails to act, in conscious disregard of, or indifference to, that risk.” SHV Coal vs. Continental Grain Company, 587 A.2d 702 (Pa. 1991).

14. Thus, those allegations which characterize Dr. Bradley’s conduct as “grossly negligent,” even if true, are insufficient to support an award of punitive damages under Pennsylvania law.

15. Furthermore, the allegations contained within Plaintiff's Third Amended Complaint continue to fail to fulfill the criteria for recklessness in regard to Dr. Bradley's conduct. That is, Plaintiff has not alleged any conduct on Dr. Bradley's part, different from her allegations in the Amended Complaint or in the Second Amended Complaint, which is so outrageous as to demonstrate complete disregard of a risk, or conscious indifference of consequences, to Plaintiff.

16. Paragraphs 18, 19, 24, 26, and 29 of Plaintiff's Third Amended Complaint simply relate to Dr. Bradley's medical knowledge. For instance, Paragraph 18 of the Third Amended Complaint alleges that Dr. Bradley knew that hypertension and diabetes mellitus were risk factors for stroke and/or TIA; Paragraph 24 alleges that Dr. Bradley knew that hemiparesis and gait disturbance were neurological signs of a stroke and/or TIA. However, none of these allegations specifically address Plaintiff's case. Plaintiff does not allege that Dr. Bradley observed hemiparesis or gait disturbance on Plaintiff's part; nor does she allege that Dr. Bradley was aware Plaintiff suffered from hypertension or diabetes mellitus. Thus, these allegations, even if true, do not constitute recklessness; indeed they do not constitute mere ordinary negligence,

17. Similarly, Paragraph 37 of the Third Amended Complaint now alleges Dr. Bradley was aware that Drs. Devlin and Maloney were not neurologists. Again, this allegation addresses solely Dr. Bradley's knowledge, not Plaintiff's particular situation. Plaintiff does not allege that Dr. Bradley knew Plaintiff had not been evaluated by another neurologist or that these were the only two (2) doctors with whom Plaintiff had treated. Therefore, even if the facts contained in this allegation is true, they are insufficient to show recklessness or even ordinary negligence.

18. Paragraph 39 now asserts Dr. Bradley knew that a cranial MRI or a cranial MRA was a "more sensitive" test for ischemic stroke or intracranial cerebrovascular disease. Once more, this allegation relates to Dr. Bradley's general knowledge of diagnostic testing, and has no bearing on

Plaintiff's circumstances. Dr. Bradley's brief note does not indicate, and Plaintiff does not allege, that Dr. Bradley was aware Plaintiff had not previously undergone an MRI or MRA at the DRMC medical unit. Assuming such an allegation is true, it is insufficient to constitute reckless indifference.

19. Paragraph 88 of Plaintiff's Third Amended Complaint is almost identical to Paragraph 69 of Plaintiff's Second Amended Complaint, aside from the new allegation that Dr. Bradley established a "doctor-patient relationship" with Plaintiff.¹ Again, assuming it is true that Dr. Bradley and Plaintiff had a "doctor-patient" relationship, this fact would not render Dr. Bradley's actions reckless. Plaintiff does not allege that Dr. Bradley was solely responsible for Plaintiff's care or that he was aware Plaintiff would not be seen by another physician at DRMC in the imminent future. Again, the characterization of Dr. Bradley's behavior towards Plaintiff as "abandon[ment]" is purely gratuitous in this context.

20. Paragraph 88 purports that Dr. Bradley's treatment of Plaintiff constitutes "grossly negligent disregard of his contractual duties to the hospital." No recklessness is alleged in this regard. Under the MCARE Act, gross negligence is insufficient to support an award for punitive damages; therefore, even if the allegation is true, punitive damages would be improper.

21. Paragraph 106 asserts that Dr. Bradley acted with gross negligence and/or recklessness in failing to obtain "emergent evaluation" of Plaintiff, in the face of actual knowledge that Plaintiff was manifesting objective signs of a neurologic crisis unexplained by psychiatric disease. However, Plaintiff does not allege that Dr. Bradley knew Plaintiff was suffering from TIA as opposed to some other medical condition. Again, Plaintiff does not allege Dr. Bradley was aware Plaintiff had not had a recent neurological evaluation while on the DRMC medical unit. Failure to obtain an "emergent

¹ Paragraph 88 of the Third Amended Complaint also eliminates the allegation that Dr. Bradley did not diagnose Plaintiff with a "stuttering" cerebrovascular accident.

evaluation” to rule out TIA does not show intent to harm or indifference on the part of Dr. Bradley. Such a failure would constitute, if true, mere ordinary negligence.

22. Thus, the majority of allegations in Plaintiff’s Third Amended Complaint, such as Dr. Bradley’s alleged failure to have Plaintiff’s condition further evaluated, would constitute, if true, mere ordinary negligence. Other allegations, such as those concerning Dr. Bradley’s medical knowledge, simply do not support an action in negligence at all. Such alleged facts certainly do not evidence the vital component of reckless conduct: the state of mind of the defendant.

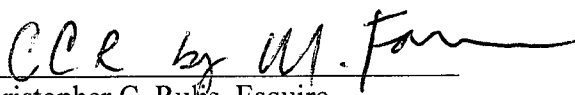
23. Therefore, Plaintiff has failed to set forth factual allegations necessary to support a conclusion that moving Defendant acted recklessly, outrageously, wantonly or willfully.

24. As Plaintiff has failed to plead facts sufficient to support a claim for punitive damages, this moving Defendant’s Preliminary Objections to the Third Amended Complaint should properly be granted pursuant to Pa.R.C.P. §1028(a)(3).

WHEREFORE, Defendant, Thomas J. Bradley M.D. , respectfully requests that this Honorable Court grant the within Preliminary Objections to Plaintiff’s Third Amended Complaint, and strike all portions of Plaintiff’s Third Amended Complaint alleging gross negligence and/or recklessness on the part of defendant Dr. Bradley, and that it further strike Plaintiff’s request for punitive damages as regards defendant Dr. Bradley.

Respectfully Submitted,

O’BRIEN, RULIS & BOCHICCHIO, LLC



Christopher C. Rulis, Esquire
Counsel for Defendant
Thomas J. Bradley, M.D.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

WANDA RUSSELL,

Plaintiff,

vs.

JAMES E. DEVLIN, M.D. and MARK
W. MALONEY, D.O. and DRMC
PRIMARY CARE ASSOCIATES and
SANAA HELMI, M.D. and THOMAS J.
BRADLEY, M.D. and BRADFORD
BOBRIN, M.D. and DUBOIS
REGIONAL MEDICAL CENTER a/k/a
DUBOIS REGIONAL MEDICAL
CENTER WEST a/d/b/a DRMC
BEHAVIORAL UNIT a/k/a DRMC
EAST BEHAVIORAL UNIT a/k/a
DRMC BEHAVIORAL HEALTH
OUTPATIENT CLINIC,

Defendants.

CIVIL DIVISION

CASE NO: 07-644-CD

ORDER OF COURT

AND NOW, this _____ day of _____, 2008, upon consideration of Defendant Thomas J. Bradley, M.D.'s Preliminary Objections to Plaintiff's Third Amended Complaint, said objections are granted. All references to gross negligence and/or recklessness are stricken from Plaintiff's Third Amended Complaint, as is the claim for punitive damages.

By the Court:

_____, J.

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that a true and correct copy of the within **PRELIMINARY OBJECTIONS TO PLAINTIFF'S THIRD AMENDED COMPLAINT** has been served via first class United States mail, postage prepaid, on this 11 day of January, 2008 to the following counsel of record:

Thomas R. Kline, Esquire
Kline & Specter, P.C.
1525 Locust Street, 19th Floor
Philadelphia, PA 19102

M. Brian O'Connor, Esquire
Gaca Matis Baum & Rizza PC
444 Liberty Avenue, Suite 300
Pittsburgh, PA 15222

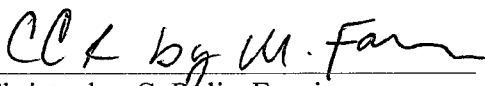
David R. Bahl, Esquire
McCormick Law Firm
835 West Fourth Street
P.O. Box 577
Williamsport, PA 17701

Lynn Bell, Esquire
Davis, McFarland & Carroll, P.C.
Tenth Floor, One Gateway Center
Pittsburgh, PA 15222

Darryl R. Slimak, Esquire
McQuaide, Blasko, Fleming & Faulkner, Inc.
811 University Drive
State College, PA 16801

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

O'BRIEN, RULIS & BOCHICCHIO, LLC



Christopher C. Rulis, Esquire
Counsel for Defendant
Thomas J. Bradley, M.D.

FILED

JAN 14 2008

William A. Shaw
Prothonotary/Clerk of Courts

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

WANDA RUSSELL,

Plaintiff,

v.

No. 2007-644-CD

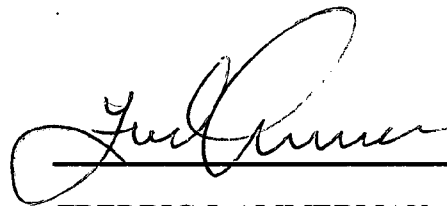
JAMES E. DEVLIN, M.D., MARK W.
MALONEY, D.O., DRMC PRIMARY
CARE ASSOCIATES, SANAA HELMI,
M.D., THOMAS J. BRADLEY, M.D.,
BRADFORD BOBRIN, M.D., DUBOIS
REGIONAL MEDICAL CENTER a/k/a
DUBOIS REGIONAL MEDICAL
CENTER WEST a/d/b/a DRMC
BEHAVIORAL UNIT a/k/a DRMC EAST
BEHAVIORAL UNIT a/k/a DRMC
BEHAVIORAL HEALTH OUTPATIENT
CLINIC,

Defendants

ORDER

NOW, this 11th day of January, 2007, upon consideration of Plaintiff's Third Amended Civil Action Complaint, the Argument Date scheduled for January 15, 2008, at 10 a.m. in Courtroom No. 1 is HEREBY CANCELLED. Another Argument Date will be set following receipt of Preliminary Objections to the Third Amended Complaint.

BY THE COURT:



FREDRIC J. AMMERMAN

President Judge

FILED

01/14/08
JAN 14 2008

ICC Atty's:

M. Hoffman
M. Brian O'Connor
D. Bahl & R. Sehluter

William A. Shaw
Prothonotary/Clerk of Courts

1cc DRMC Primary Care
145 Hospital Ave.
Ste. 200
Dubois, PA 15801

Slimak
Rulis
Bell

McIntyre & Burke

(612)

FILED

JAN 14 2008

William A. Shaw
Prothonotary/Clerk of Courts

DATE: 1/14/08

☐ You are responsible for serving all appropriate parties.

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

Plaintiff(s) ☒ Defendant(s) ☒
Attorney ☒ Plaintiff(s) Attorney ☐ Other ☒
Defendant(s) ☒ Defendant(s) Attorney ☐

☐ Special Instructions:

KLINE & SPECTER

A Professional Corporation

By: THOMAS R. KLINE, ESQUIRE
MARK A. HOFFMAN, ESQUIRE
ROYCE W. SMITH, ESQUIRE

Attorney ID Nos.: 28895/ 84443/201295

The Nineteenth Floor

1525 Locust Street

Philadelphia, Pennsylvania 19102

(215) 772-1000

FILED *NO cc*
11:11 AM
JAN 14 2008 *GR*

William A. Shaw
Prothonotary/Clerk of Courts

Attorneys for Plaintiff

WANDA RUSSELL

**COURT OF COMMON PLEAS
COUNTY OF CLEARFIELD**

v.

DOCKET NO. 07-644-CD

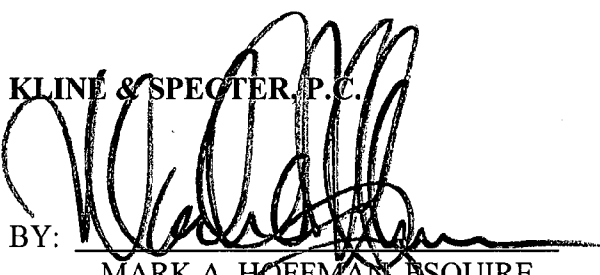
JAMES E. DEVLIN, M.D. and
MARK W. MALONEY, D.O. and
DRMC PRIMARY CARE ASSOCIATES
and SANAA HELMI, M.D. and
THOMAS J. BRADLEY, M.D. and
BRADFORD BOBRIN, M.D. and
DuBOIS REGIONAL MEDICAL
CENTER a/ka DuBOIS REGIONAL
MEDICAL CENTER WEST
a/d/b/a DRMC BEHAVIORAL
UNIT a/k/a DRMC EAST BEHAVIORAL
UNIT a/k/a DRMC BEHAVIORAL
HEALTH OUTPATIENT CLINIC
Defendants.

PRAECIPE TO SUBSTITUTE VERIFICATION

TO THE PROTHONOTARY:

Kindly substitute the attached Verification executed by Wanda Russell for the verification attached to Plaintiff's Third Amended Complaint filed on January 7, 2008.

KLINE & SPECTER, P.C.

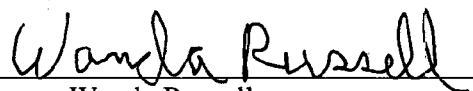
BY: 

MARK A. HOFFMAN, ESQUIRE
Attorney for Plaintiff

DATE: January 11, 2008

VERIFICATION

I, WANDA RUSSELL, plaintiff in this civil action, hereby verify that the within Third Amended Complaint is based upon first-hand information, and upon information furnished to my counsel and obtained by him in the course of counsel's investigation of this lawsuit and the facts involved. The language of the document is that of counsel and not my own. To the extent that the contents of the document are based upon information furnished to counsel and obtained by him during the course of this lawsuit and counsel's investigation of the facts giving rise to this lawsuit, I have relied upon counsel in taking this verification. All statements are founded upon reasonable belief. This verification is made subject to the penalties of 18 Pa.C.S. §4904 relating to unsworn falsification to authorities.


Wanda Russell

Date:

1/11/08

FILED

JAN 14 2008

William A. Shaw
Prothonotary/Clerk of Courts

LA

FILED

JAN 29 2008

in 11:45/w

William A. Shaw
Prothonotary/Clerk of Courts

1 chg to Attc

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA

WANDA RUSSELL,
Plaintiff

CIVIL DIVISION

v.

CASE NO. 07-644-CD

JAMES E. DEVLIN, M.D.; MARK W.
MALONEY, D.O.; DRMC PRIMARY
CARE ASSOCIATES; SANAA HELMI,
M.D.; THOMAS J. BRADLEY, M.D.;
BRADFORD BOBRIN, M.D.; DUBOIS
REGIONAL MEDICAL CENTER a/k/a
DUBOIS REGIONAL MEDICAL
CENTER WEST a/d/b/a DRMC
BEHAVIORAL UNIT a/k/a DRMC EAST
BEHAVIORAL UNIT a/k/a DRMC
BEHAVIORAL HEALTH OUTPATIENT
CLINIC,

Defendants

Type of Pleading:

**PRAECIPE FOR
ARGUMENT DATE AND
BRIEFING SCHEDULE**

Filed on behalf of Defendant:

Mark W. Maloney, M.D.

Counsel of record for this party:

David R. Bahl, Esquire
Pa. I.D. No. 10347

Richard F. Schluter, Esquire
Pa. I.D. No. 79672

McCORMICK LAW FIRM
835 West Fourth Street
Williamsport, PA 17701
(570) 326-5131

JURY TRIAL DEMANDED

WANDA RUSSELL,
Plaintiff

v.

JAMES E. DEVLIN, M.D.; MARK W.
MALONEY, D.O.; DRMC PRIMARY
CARE ASSOCIATES; SANAA HELMI,
M.D.; THOMAS J. BRADLEY, M.D.;
BRADFORD BOBRIN, M.D.; DUBOIS
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BEHAVIORAL UNIT a/k/a DRMC EAST
BEHAVIORAL UNIT a/k/a DRMC
BEHAVIORAL HEALTH OUTPATIENT
CLINIC,

Defendants

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY,
PENNSYLVANIA

NO. 07-644-CD

CIVIL ACTION - LAW

JURY TRIAL DEMANDED

**PRAECIPE FOR ARGUMENT DATE
AND BRIEFING SCHEDULE**

TO THE PROTHONOTARY:

Kindly schedule this matter for argument, and briefing by the parties.

McCORMICK LAW FIRM

By 

David R. Bahl, Esquire

I.D. No. 10347

Richard F. Schluter, Esquire

I.D. No. 79672

Attorneys for Defendant

Mark W. Maloney, D.O.

Date: 1/28/08

cc: Thomas R. Kline, Esquire /
Mark A. Hoffman, Esquire
Darryl Slimak, Esquire
M. Brian O'Connor, Esquire
Lynn E. Bell, Esquire
John L. McIntyre, Esquire
Christopher C. Rulis, Esquire

WANDA RUSSELL,
Plaintiff

v.

JAMES E. DEVLIN, M.D.; MARK W.
MALONEY, D.O.; DRMC PRIMARY
CARE ASSOCIATES; SANAA HELMI,
M.D.; THOMAS J. BRADLEY, M.D.;
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BEHAVIORAL HEALTH OUTPATIENT
CLINIC,
Defendants

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY,
PENNSYLVANIA

NO. 07-644-CD

CIVIL ACTION - LAW

JURY TRIAL DEMANDED

CERTIFICATE OF SERVICE

I, RICHARD F. SCHLUTER, ESQUIRE, hereby certify that I have served a copy of the
Foregoing *Praecipe for Argument Date and Briefing Schedule*, upon the following, this 28th

day of January, 2008, as follows:

UNITED STATES MAIL, POSTAGE PREPAID:

Mark A. Hoffman, Esquire
Kline & Specter, PC
The Nineteenth Floor
1525 Locust Street
Philadelphia, PA 19102

Darryl Slimak, Esquire
McQuaide Blasko
811 University Drive
State College, PA 16801

M. Brian O'Connor, Esquire
Gaca, Matis, Baum & Rizza, PC
444 Liberty Avenue, Suite 300
Pittsburgh, PA 15222

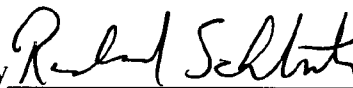
Lynn E. Bell, Esquire
Davies, McFarland & Carroll, PC
One Gateway Center, 10th Floor
Pittsburgh, PA 15222-1416

John L. McIntyre, Esquire
McIntyre, Dugas, Hartye & Schmitt
Post Office Box 533
Hollidaysburg, PA 16648-0533

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

DRMC Primary Care Associates
Medical Arts Building, Suite 200
145 Hospital Avenue
DuBois, PA 15801

McCORMICK LAW FIRM

By 

David R. Bahl, Esquire
I.D. No. 10347
Richard F. Schluter, Esquire
I.D. No. 79672
Attorneys for Defendant
Mark W. Maloney, D.O.

835 West Fourth Street
Williamsport, PA 17701
(570) 326-5131

FILED

JAN 29 2008

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William A. Shaw
Prothonotary/Clerk of Courts

1 cent. to Appr

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA

WANDA RUSSELL,

Plaintiff

CIVIL DIVISION

v.

CASE NO. 07-644-CD

JAMES E. DEVLIN, M.D.; MARK W.
MALONEY, D.O.; DRMC PRIMARY
CARE ASSOCIATES; SANAA HELMI,
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BEHAVIORAL UNIT a/k/a DRMC EAST
BEHAVIORAL UNIT a/k/a DRMC
BEHAVIORAL HEALTH OUTPATIENT
CLINIC,

Defendants

Type of Pleading:

**PRELIMINARY OBJECTIONS
TO THIRD AMENDED
COMPLAINT**

Filed on behalf of Defendant:

Mark W. Maloney, M.D.

Counsel of record for this party:

David R. Bahl, Esquire
Pa. I.D. No. 10347

Richard F. Schluter, Esquire
Pa. I.D. No. 79672

McCORMICK LAW FIRM
835 West Fourth Street
Williamsport, PA 17701
(570) 326-5131

JURY TRIAL DEMANDED

WANDA RUSSELL,
Plaintiff

v.

JAMES E. DEVLIN, M.D.; MARK W.
MALONEY, D.O.; DRMC PRIMARY
CARE ASSOCIATES; SANAA HELMI,
M.D.; THOMAS J. BRADLEY, M.D.;
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BEHAVIORAL UNIT a/k/a DRMC EAST
BEHAVIORAL UNIT a/k/a DRMC
BEHAVIORAL HEALTH OUTPATIENT
CLINIC,

Defendants

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY,
PENNSYLVANIA

NO. 07-644-CD

CIVIL ACTION - LAW

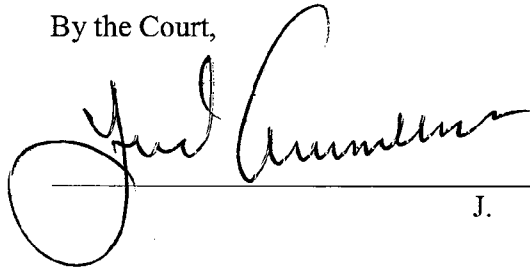
JURY TRIAL DEMANDED

RULE RETURNABLE

AND NOW, this 29th day of January, 2008, a Rule is hereby granted to
show cause why the Preliminary Objections of Defendant Mark W. Maloney, D.O. to
Plaintiff's Third Amended Complaint, should not be granted.

This Rule is returnable on the 7th day of April, 2008, at
9:15 a.m. p.m. in Courtroom No. 1 of the Clearfield County Courthouse,
Clearfield, Pennsylvania.

By the Court,


J.

cc: Thomas R. Kline, Esquire /
Mark A. Hoffman, Esquire
Darryl Slimak, Esquire
M. Brian O'Connor, Esquire
Lynn E. Bell, Esquire
John L. McIntyre, Esquire
Christopher C. Rulis, Esquire
David R. Bahl, Esquire /
Richard F. Schluter, Esquire

FILED

FEB 06 2008

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William A. Shaw
Prothonotary/Clerk of Courts

1 CENT TO ATT

FILED

FEB 06 2008

William A. Shaw
Prothonotary/Clerk of Courts

WANDA RUSSELL,
Plaintiff

v.

JAMES E. DEVLIN, M.D.; MARK W.
MALONEY, D.O.; DRMC PRIMARY
CARE ASSOCIATES; SANAA HELMI,
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BEHAVIORAL UNIT a/k/a DRMC
BEHAVIORAL HEALTH OUTPATIENT
CLINIC,
Defendants

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY,
PENNSYLVANIA

NO. 07-644-CD

CIVIL ACTION - LAW

JURY TRIAL DEMANDED

ORDER

AND NOW, this ____ day of _____, 2008, upon consideration of the Preliminary Objections of Defendant Mark W. Maloney, D.O. to Plaintiff's Third Amended Complaint, and plaintiff's response thereto, said preliminary objections are sustained. Plaintiff's claim for punitive damages against defendant Dr. Maloney and all allegations of recklessness are dismissed and stricken from the complaint. Defendant Dr. Maloney shall file an answer to Plaintiff's Third Amended Complaint within 20 days of this Order.

By the Court,

J.

cc: Thomas R. Kline, Esquire /
Mark A. Hoffman, Esquire
Darryl Slimak, Esquire
M. Brian O'Connor, Esquire
Lynn E. Bell, Esquire
John L. McIntyre, Esquire
Christopher C. Rulis, Esquire
David R. Bahl, Esquire /
Richard F. Schluter, Esquire

WANDA RUSSELL,
Plaintiff

v.

JAMES E. DEVLIN, M.D.; MARK W.
MALONEY, D.O.; DRMC PRIMARY
CARE ASSOCIATES; SANAA HELMI,
M.D.; THOMAS J. BRADLEY, M.D.;
BRADFORD BOBRIN, M.D.; DUBOIS
REGIONAL MEDICAL CENTER a/k/a
DUBOIS REGIONAL MEDICAL
CENTER WEST a/d/b/a DRMC
BEHAVIORAL UNIT a/k/a DRMC EAST
BEHAVIORAL UNIT a/k/a DRMC
BEHAVIORAL HEALTH OUTPATIENT
CLINIC,
Defendants

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY,
PENNSYLVANIA

NO. 07-644-CD

CIVIL ACTION - LAW

JURY TRIAL DEMANDED

**PRELIMINARY OBJECTIONS OF
DEFENDANT MARK W. MALONEY, D.O.
TO PLAINTIFF'S THIRD AMENDED COMPLAINT**

AND NOW comes defendant Mark W. Maloney, D.O., by his attorneys, McCormick Law Firm, and preliminarily objects to plaintiff's third amended complaint as follows:

1. This medical malpractice case was commenced by complaint filed by plaintiff Wanda Russell on or about April 24, 2007.
2. The gravamen of plaintiff's professional negligence claims against defendant Dr. Maloney are that Dr. Maloney allegedly failed to timely diagnose and treat an evolving or "stuttering" stroke on December 5 and 6, 2005. See Complaint, Count II.
3. Plaintiff came to the Dubois Regional Medical Center emergency room on Saturday, December 4, 2005. She was admitted to the service of her primary care physician, defendant Dr. Mark Maloney.

4. Defendant Dr. Devlin, who was covering for Dr. Maloney, examined the plaintiff on December 4, 2005. After examining her, Dr. Devlin doubted that plaintiff Wanda Russell had, or was experiencing, a transient ischemic attack. See Complaint, ¶28.

5. An unenhanced head CT Scan was then performed on December 5, 2005, which was interpreted as “normal.” See Complaint, ¶32.

6. Defendant Dr. Maloney first saw the plaintiff in the hospital in the evening of December 5, 2005. See Complaint, ¶39.

7. Plaintiff alleges that on December 5, 2005, defendant Dr. Maloney incorrectly attributed the plaintiff’s presentation and symptomatology to “depression,” which led Dr. Maloney to seek a psychiatric consult with defendant Dr. Helmi (a psychiatrist), and ultimately resulted in plaintiff’s voluntary transfer and admission to the Dubois Regional Behavioral Health Unit at 2:00 a.m. on December 6, 2005. See Complaint, ¶¶39 and 45.

8. Defendant Thomas J. Bradley, M.D. performed a history and physical examination of the plaintiff at 6:43 a.m. in the Behavioral Unit. Dr. Bradley found, *inter alia*, that the plaintiff was “hard to evaluate since she is so anxious.” See Complaint, ¶¶54-56.

9. A psychiatric examination was performed by defendant Dr. Bobrin later in the morning of December 6, 2005, and the plaintiff was subsequently transferred back to defendant Dr. Maloney’s service at Dubois Regional Medical Center on the afternoon of December 6, 2005.. See Complaint, ¶¶64-68.

10. Dr. Maloney saw plaintiff on December 6, 2005 upon her return to Dubois Regional Medical Center and ordered a neurology consult and an MRI, which led to a diagnosis of a cerebrovascular accident on December 7, 2005. See Complaint, ¶¶69-73.

11. The original Complaint was based solely on a theory of alleged professional negligence, and did not claim punitive damages. The general facts of the complaint were

presented in the section "Facts Giving Rise to Claims of Negligence." Complaint, p. 7.

Moreover, the only count against defendant Dr. Maloney was entitled, "Count II – Negligence." See Complaint, Count II.

12. On or about June 6, 2007, defendant Dr. Helmi filed an answer with new matter, in which defendant Dr. Helmi claimed, *inter alia*, that defendant Dr. Maloney described plaintiff as "suicidal" when the physicians spoke regarding defendant Dr. Maloney's psychiatric consult request.

13. Defendant Dr. Maloney filed an Answer with New Matter on or about August 20, 2007.

14. Subsequently, all parties consented to Dr. Maloney filing an Amended New Matter, which was filed on or about October 11, 2007. Dr. Maloney's Amended New Matter raised any and all defenses afforded by the Mental Health Procedures Act, which requires proof of gross negligence to establish liability, if the statute is found to apply to the facts and circumstances of the case.

15. Plaintiff next filed a Motion for Leave to File an Amended Complaint. Plaintiff's motion was granted by Order dated October 26, 2007.

16. Plaintiff filed the Amended Complaint on or about November 1, 2007.

17. The only new factual allegation added as to defendant Dr. Maloney was Dr. Helmi's claim that Dr. Maloney allegedly described plaintiff as "suicidal" to Dr. Helmi. Plaintiff claimed that Dr. Maloney inaccurately and negligently described plaintiff's symptoms, and also claimed that Dr. Maloney's communication was "reckless" and somehow amounted to a "misrepresentation" of plaintiff's condition. See Amended Complaint, ¶40.

18. Plaintiff also added to the Amended Complaint allegations which characterized factual allegations previously pled as "negligence" in the original Complaint, as "gross

negligence” and/or “recklessness.” For example, plaintiff characterized Dr. Maloney’s request for a psychiatric consult as “reckless.” See Amended Complaint, ¶39.

19. Additionally, and apparently based on the newly inserted language described above, plaintiff added a claim for punitive damages against all defendants in the “catch-all” Wherefore clause at the end of the Amended Complaint.

20. Defendant Dr. Maloney filed preliminary objections to the punitive damages claim asserted in the Amended Complaint.

21. Multiple co-defendants also filed preliminary objections to the punitive damages claim.

20. On or about December 6, 2007, plaintiff filed a Second Amended Complaint, to which plaintiff added paragraphs 40-46 regarding the allegations against Dr. Maloney.

21. Paragraphs 40-45 concerned Dr. Maloney’s alleged medical knowledge and the alleged presence of stroke symptomatology when he sought a psychiatric consult with Dr. Helmi in an effort to diagnose plaintiff’s condition on December 5, 2005. See Second Amended Complaint, ¶¶40-45.

22. Paragraph 46 merely stated that Dr. Maloney did not have the psychiatric expertise to diagnose a mental disorder (which is, of course, why he consulted and involved a psychiatrist). See Second Amended Complaint, ¶46.

23. His consultation with a psychiatrist (Dr. Helmi) and transfer to the behavioral unit to facilitate that involvement and care was based on Dr. Maloney’s medical judgment as a result of his examination and direct interaction with the patient.

24. In short, the new paragraphs inserted into the Second Amended Complaint did not change the underlying facts outlined as a negligence claim in the original complaint, to wit: that Dr. Maloney actively pursued a diagnosis and treatment of plaintiff’s condition.

25. Defendant Dr. Maloney filed preliminary objections to the punitive damages claim asserted in the Second Amended Complaint.

26. Plaintiff then filed a Third Amended Complaint on or about January 7, 2008.

27. Plaintiff has inserted various new allegations throughout the factual background regarding Dr. Maloney's alleged medical knowledge and training. See Third Amended Complaint, ¶¶29, 31, 32, 37, 39, and 42-59.

28. Again, plaintiff alleges that she was exhibiting signs and symptoms of a cerebrovascular accident, and defendant Dr. Maloney allegedly failed initially to recognize those signs and symptoms as being related to a CVA, and instead, associated said symptomatology with a psychiatric event. See Third Amended Complaint.

29. Plaintiff concedes that the physician who treated plaintiff immediately prior to Dr. Maloney, defendant Dr. Devlin, doubted plaintiff was experiencing a TIA; and, a CAT Scan of the head performed on December 5, 2005, prior to Dr. Maloney seeing the patient, was interpreted as "normal." See Third Amended Complaint, ¶¶34-40.

30. Plaintiff even concedes that the physician who examined the plaintiff next after Dr. Maloney, defendant Dr. Bradley, documented that the plaintiff was "hard to evaluate since she is so anxious" when examined in the Behavioral Health Unit in the morning of December 6, 2005. See Third Amended Complaint, ¶79.

31. The allegations of negligence asserted against defendant Dr. Maloney are grounded in defendant Dr. Maloney's efforts to diagnose and treat plaintiff's complaints and symptomatology, including seeking consultation from a medical specialist such as defendant Dr. Helmi.

32. Although plaintiff may now challenge or criticize defendant Dr. Maloney's medical judgment and decision-making, an error in judgment by a physician does not

automatically give rise to liability in Pennsylvania. Smith v. Yohe, 412 Pa. 94, 100, 194 A.2d 167, 171 (1963); Havasy v. Resnick, 415 Pa.Super. 480, 500, 602 A.2d 1326, 1336 (1988).

33. When viewed in their complete context, the actions of Dr. Maloney as described by plaintiff do not in any way suggest the evil motive or the reckless state of mind required to support a claim for punitive damages in Pennsylvania. To the contrary, the facts as pled by the plaintiff herself demonstrate that defendant Dr. Maloney was acting to diagnose and treat the plaintiff in consultation with a medical specialist.

34. At most, the plaintiff's allegations color a claim of negligence.

35. "Punitive damages may be awarded for conduct that is the result of the health care providers' willful or wanton conduct or reckless indifference to the rights of others." 40 P.S. §1303.505(a).

36. Punitive damages will not be awarded for ordinary negligence or even gross negligence. See Slappo v. J's Dev. Assoc., Inc., 791 A.2d 409, 417 (Pa.Super. 2002). Punitive damages are permitted only in cases of outrageous behavior, which is conduct that shows an evil motive or reckless indifference to the rights of others. Id.

37. The facts pled in Plaintiff's Third Amended Complaint do not describe outrageous conduct or a reckless indifference for the rights of plaintiff Wanda Russell by her physician, defendant Dr. Maloney, at any time.

38. Plaintiff has failed to allege facts sufficient to support a claim of punitive damages as to defendant Dr. Maloney, as a matter of law.

39. Defendant Dr. Maloney respectfully requests that plaintiff's claim for punitive damages and allegations of recklessness be dismissed and stricken from the Third Amended Complaint.

WHEREFORE, defendant Mark W. Maloney, D.O. respectfully requests this Honorable Court to sustain his preliminary objections, and dismiss plaintiff's claims for punitive damages and strike all allegations of recklessness from the Third Amended Complaint.

Respectfully submitted,

McCORMICK LAW FIRM

By 

David R. Bahl, Esquire

I.D. No. 10347

Richard F. Schluter, Esquire

I.D. No. 79672

Attorneys for Defendant

Mark W. Maloney, D.O.

835 West Fourth Street
Williamsport, PA 17701
(570) 326-5131

WANDA RUSSELL,
Plaintiff

v.

JAMES E. DEVLIN, M.D.; MARK W.
MALONEY, D.O.; DRMC PRIMARY
CARE ASSOCIATES; SANAA HELMI,
M.D.; THOMAS J. BRADLEY, M.D.;
BRADFORD BOBRIN, M.D.; DUBOIS
REGIONAL MEDICAL CENTER a/k/a
DUBOIS REGIONAL MEDICAL
CENTER WEST a/d/b/a DRMC
BEHAVIORAL UNIT a/k/a DRMC EAST
BEHAVIORAL UNIT a/k/a DRMC
BEHAVIORAL HEALTH OUTPATIENT
CLINIC,

Defendants

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY,
PENNSYLVANIA

NO. 07-644-CD

CIVIL ACTION - LAW

JURY TRIAL DEMANDED

CERTIFICATE OF SERVICE

I, RICHARD F. SCHLUTER, ESQUIRE, hereby certify that I have served a copy of the
Foregoing *Preliminary Objections of Defendant Mark W. Maloney, D.O. to Plaintiff's Third
Amended Complaint*, upon the following, this 28th day of January, 2008, as follows:

UNITED STATES MAIL, POSTAGE PREPAID:

Mark A. Hoffman, Esquire
Kline & Specter, PC
The Nineteenth Floor
1525 Locust Street
Philadelphia, PA 19102

Darryl Slimak, Esquire
McQuaide Blasko
811 University Drive
State College, PA 16801

M. Brian O'Connor, Esquire
Gaca, Matis, Baum & Rizza, PC
444 Liberty Avenue, Suite 300
Pittsburgh, PA 15222

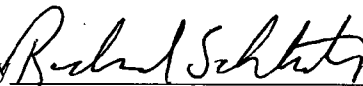
Lynn E. Bell, Esquire
Davies, McFarland & Carroll, PC
One Gateway Center, 10th Floor
Pittsburgh, PA 15222-1416

John L. McIntyre, Esquire
McIntyre, Dugas, Hartye & Schmitt
Post Office Box 533
Hollidaysburg, PA 16648-0533

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

DRMC Primary Care Associates
Medical Arts Building, Suite 200
145 Hospital Avenue
DuBois, PA 15801

McCORMICK LAW FIRM

By 

David R. Bahl, Esquire

I.D. No. 10347

Richard F. Schluter, Esquire

I.D. No. 79672

Attorneys for Defendant

Mark W. Maloney, D.O.

835 West Fourth Street
Williamsport, PA 17701
(570) 326-5131

CERTIFICATE

ORIGINAL

PREREQUISITE TO SERVICE OF A SUBPOENA

PURSUANT TO RULE 4009.22

IN THE MATTER OF:

WANDA RUSSELL

-VS-

JAMES DEVLIN, M.D., ET AL

COURT OF COMMON PLEAS

TERM,
CLEARFIELD

CASE NO: 07-644-CD

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

FILED 100
m/12.00am mcs Group
JAN 30 2008

MCS on behalf of DAVID BAHL, ESQ.
certifies that

William A. Shaw
Prothonotary/Clerk of Courts

- (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: 01/28/2008

1st MCS on behalf of
David Bahl, Esq.
Attorney for DEFENDANT

COMMONWEALTH OF PENNSYLVANIA

COUNTY OF CLEARFIELD

IN THE MATTER OF:

COURT OF COMMON PLEAS

WANDA RUSSELL

TERM,

-VS-

CASE NO: 07-644-CD

JAMES DEVLIN, M.D., ET AL

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

PRABHU VIJAY, M.D.	MEDICAL
GRETCHEN M. PLATT, M.D.	MEDICAL
SUMMIT REHABILITATION ASSOC.	MEDICAL

TO: THOMAS R. KLINE, ESQ., PLAINTIFF COUNSEL

[note: see enclosed list of all other interested counsel]

MCS on behalf of DAVID BAHL, 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: 01/08/2008

MCS on behalf of

DAVID BAHL, ESQ.
Attorney for DEFENDANT

CC: DAVID BAHL, ESQ.

- 07-644-CD

Any questions regarding this matter, contact

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

COUNSEL NAME	FIRM NAME	REL
THOMAS R. KLINE, ESQ.	KLINE & SPECTER	OPPOSING
DARRYL SLIMAK, ESQUIRE	MCQUAIDE, BLASKO, ET AL	OTHER
BRIAN O'CONNOR, ESQ.	GACA, MATIS, ET AL	OTHER
LYNN BELL, ESQUIRE	DAVIES, MCFARLAND & CARROLL	OTHER
JOHN L. MCINTYRE, ESQ.	MCINTYRE, DUGAS, ET AL	OTHER
CHRISTOPHER C. RULIS, ESQ.	O'BRIEN, RULIS, ET AL	OTHER

COMMONWEALTH OF PENNSYLVANIA
COUNTY OF CLEARFIELD

Wanda Russell
Plaintiff(s)

Vs.

James E. Devlin MD, Mark W. Maloney DO
DRMC Primary Care Associates;
Sanaa Helmi MD; Thomas J. Bradley MD
Bradford Bobrin MD; DuBois Regional
Medical Center; DuBois Regional Medical
Center West; DRMC Behavioral Unit
DRMC East Behavioral Unit
DRMC Behavioral Health Outpatient Clinic
Defendant(s)

No. 2007-00644-CD

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

TO: CUSTODIAN OF RECORDS FOR: PRABHU VIJAY, 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)

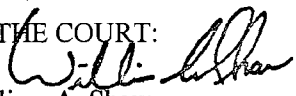
You may deliver or mail legible copies of the documents or produce things requested by
this subpoena, together with the certificate of compliance, to the party making this request at the
address listed above. You have the right to seek in advance the reasonable cost of preparing the
copies or producing 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: DAVID BAHL, ESQ.
ADDRESS: 835 W. 4TH STREET
WILLIAMSPORT, PA 17701
TELEPHONE: (215) 246-0900
SUPREME COURT ID # _____
ATTORNEY FOR: DEPENDANT

BY THE COURT:


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

1/28/2008
DATE: Friday, January 04, 2008
Seal of the Court

Deputy

We request any and all records from whatsoever time frame up to and including the present. These records should include, but not be limited to, office chart entries, memoranda, progress notes, telephone messages, correspondence of whatsoever nature, consultations, histories and physicals, laboratory reports, pathology reports, x-ray/CAT Scans/MRI reports and films, discharge summaries, prescriptions, billing information, any and all medical information, and documentation from any source or entity, of any nature whatsoever. This includes your records, and any records in your possession involving medical care provided by any other health care providers, to:

Name: Wanda Russell
Address: 426 North Michael Street
St. Marys, PA 15857

DOB: 9/19/58
SS#: 161-52-7308

EXPLANATION OF REQUIRED RECORDS

TO: CUSTODIAN OF RECORDS FOR:

PRABHU VIJAY, M.D.
761 JOHNSONBURG RD.
STE 110

ST. MARYS, PA 15857

RE: 37719
WANDA RUSSELL

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

SEE ATTACHED

Dates Requested: up to and including the present.

Subject : WANDA RUSSELL

426 N. MICHAEL STREET, ST. MARYS, PA 15857

Social Security #: XXX-XX-7308

Date of Birth: 09-19-1958

CERTIFICATE
PREREQUISITE TO SERVICE OF A SUBPOENA
PURSUANT TO RULE 4009.22

ORIGINAL

IN THE MATTER OF:

COURT OF COMMON PLEAS

WANDA RUSSELL

TERM,
CLEARFIELD

-VS-

CASE NO: 07-644-CD

JAMES DEVLIN, M.D., ET AL

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

MCS on behalf of DAVID BAHL, 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: 01/28/2008

14 MCS on behalf of
David Bahl, Esq.
Attorney for DEFENDANT

COMMONWEALTH OF PENNSYLVANIA

COUNTY OF CLEARFIELD

IN THE MATTER OF:

COURT OF COMMON PLEAS

WANDA RUSSELL

TERM,

-VS-

CASE NO: 07-644-CD

JAMES DEVLIN, M.D., ET AL

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

PRABHU VIJAY, M.D.	MEDICAL
GRETCHEN M. PLATT, M.D.	MEDICAL
SUMMIT REHABILITATION ASSOC.	MEDICAL

TO: BRIAN O'CONNOR, ESQ.

[note: see enclosed list of all other interested counsel]
MCS on behalf of DAVID BAHL, 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: 01/08/2008

MCS on behalf of

DAVID BAHL, ESQ.
Attorney for DEFENDANT

CC: DAVID BAHL, ESQ.

- 07-644-CD
-

Any questions regarding this matter, contact

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

>>> COUNSEL LIST <<<

PAGE: 1

COUNSEL NAME	FIRM NAME	REL
THOMAS R. KLINE, ESQ.	KLINE & SPECTER	OPPOSING
DARRYL SLIMAK, ESQUIRE	MCQUAIDE, BLASKO, ET AL	OTHER
BRIAN O'CONNOR, ESQ.	GACA, MATIS, ET AL	OTHER
LYNN BELL, ESQUIRE	DAVIES, MCFARLAND & CARROLL	OTHER
JOHN L. MCINTYRE, ESQ.	MCINTYRE, DUGAS, ET AL	OTHER
CHRISTOPHER C. RULIS, ESQ.	O'BRIEN, RULIS, ET AL	OTHER

COMMONWEALTH OF PENNSYLVANIA
COUNTY OF CLEARFIELD

Wanda Russell
Plaintiff(s)

Vs.

James E. Devlin MD, Mark W. Maloney DO
DRMC Primary Care Associates;
Sanaa Helmi MD; Thomas J. Bradley MD
Bradford Bobrin MD; DuBois Regional
Medical Center; DuBois Regional Medical
Center West; DRMC Behavioral Unit
DRMC East Behavioral Unit
DRMC Behavioral Health Outpatient Clinic
Defendant(s)

No. 2007-00644-CD

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

TO: CUSTODIAN OF RECORDS FOR: GRETCHEN M. PLATT, 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)

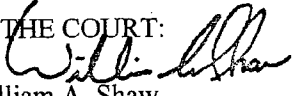
You may deliver or mail legible copies of the documents or produce things requested by
this subpoena, together with the certificate of compliance, to the party making this request at the
address listed above. You have the right to seek in advance the reasonable cost of preparing the
copies or producing 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: DAVID BAHL, ESQ.
ADDRESS: 835 W. 4TH STREET
WILLIAMSPORT, PA 17701
TELEPHONE: (215) 246-0900
SUPREME COURT ID # _____
ATTORNEY FOR: DEFENDANT

BY THE COURT:


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

1/28/2008
DATE: Friday, January 04, 2008
Seal of the Court

Deputy

We request any and all records from whatsoever time frame up to and including the present. These records should include, but not be limited to, office chart entries, memoranda, progress notes, telephone messages, correspondence of whatsoever nature, consultations, histories and physicals, laboratory reports, pathology reports, x-ray/CAT Scans/MRI reports and films, discharge summaries, prescriptions, billing information, any and all medical information, and documentation from any source or entity, of any nature whatsoever. This includes your records, and any records in your possession involving medical care provided by any other health care providers, to:

Name: Wanda Russell
Address: 426 North Michael Street
St. Marys, PA 15857

DOB: 9/19/58
SS#: 161-52-7308

EXPLANATION OF REQUIRED RECORDS

TO: CUSTODIAN OF RECORDS FOR:

GRETCHEN M. PLATT, M.D.
111 COBB ST.

JOHNSONBURG, PA 15845

RE: 37719
WANDA RUSSELL

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

SEE ATTACHED

Dates Requested: up to and including the present.

Subject : WANDA RUSSELL

426 N. MICHAEL STREET, ST. MARYS, PA 15857

Social Security #: XXX-XX-7308

Date of Birth: 09-19-1958

CERTIFICATE

ORIGINAL

PREREQUISITE TO SERVICE OF A SUBPOENA

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IN THE MATTER OF:

COURT OF COMMON PLEAS

WANDA RUSSELL

TERM,
CLEARFIELD

-VS-

CASE NO: 07-644-CD

JAMES DEVLIN, M.D., ET AL

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

MCS on behalf of DAVID BAHL, 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,
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DATE: 01/28/2008

151 MCS on behalf of

David Bahl, Esq.

Attorney for DEFENDANT

COMMONWEALTH OF PENNSYLVANIA

COUNTY OF CLEARFIELD

IN THE MATTER OF:

COURT OF COMMON PLEAS

WANDA RUSSELL

TERM,

-VS-

CASE NO: 07-644-CD

JAMES DEVLIN, M.D., ET AL

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

PRABHU VIJAY, M.D.	MEDICAL
GRETCHEN M. PLATT, M.D.	MEDICAL
SUMMIT REHABILITATION ASSOC.	MEDICAL

TO: DARRYL SLIMAK, ESQUIRE

[note: see enclosed list of all other interested counsel]
MCS on behalf of DAVID BAHL, 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: 01/08/2008

MCS on behalf of

DAVID BAHL, ESQ.
Attorney for DEFENDANT

CC: DAVID BAHL, ESQ.

- 07-644-CD
-

Any questions regarding this matter, contact

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

COUNSEL NAME	FIRM NAME	REL
THOMAS R. KLINE, ESQ.	KLINE & SPECTER	OPPOSING
DARRYL SLIMAK, ESQUIRE	MCQUAIDE, BLASKO, ET AL	OTHER
BRIAN O'CONNOR, ESQ.	GACA, MATIS, ET AL	OTHER
LYNN BELL, ESQUIRE	DAVIES, MCFARLAND & CARROLL	OTHER
JOHN L. MCINTYRE, ESQ.	MCINTYRE, DUGAS, ET AL	OTHER
CHRISTOPHER C. RULIS, ESQ.	O'BRIEN, RULIS, ET AL	OTHER

COMMONWEALTH OF PENNSYLVANIA
COUNTY OF CLEARFIELD

Wanda Russell
Plaintiff(s)

*

Vs.

*

No. 2007-00644-CD

*

James E. Devlin MD, Mark W. Maloney DO
DRMC Primary Care Associates;
Sanaa Helmi MD; Thomas J. Bradley MD
Bradford Bobrin MD; DuBois Regional
Medical Center; DuBois Regional Medical
Center West; DRMC Behavioral Unit
DRMC East Behavioral Unit
DRMC Behavioral Health Outpatient Clinic
Defendant(s)

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

TO: CUSTODIAN OF RECORDS FOR: SUMMIT REHABILITATION ASSOC.

(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: DAVID BAHL, ESQ.

ADDRESS: 835 W. 4TH STREET

WILLIAMSPORT, PA 17701

TELEPHONE: (215) 246-0900

SUPREME COURT ID # _____

ATTORNEY FOR: DEFENDANT

BY THE COURT:


William A. Shaw
Prothonotary/Clerk, Civil Division

1/28/2008
DATE: Friday, January 04, 2008
Seal of the Court

Deputy

We request any and all records from August 23, 2007 up to and including the present. These records should include, but not be limited to, office chart entries, memoranda, progress notes, telephone messages, correspondence of whatsoever nature, consultations, histories and physicals, laboratory reports, pathology reports, x-ray/CAT Scans/MRI reports and films, discharge summaries, prescriptions, billing information, any and all medical information, and documentation from any source or entity, of any nature whatsoever. This includes your records, and any records in your possession involving medical care provided by any other health care providers, to:

Name: Wanda Russell
Address: 426 North Michael Street
St. Marys, PA 15857

DOB: 9/19/58
SS#: 161-52-7308

EXPLANATION OF REQUIRED RECORDS

TO: CUSTODIAN OF RECORDS FOR:

SUMMIT REHABILITATION ASSOC.
145 HOSPITAL DRIVE
SUITE 300

DUBOIS, PA 15801

RE: 37719
WANDA RUSSELL

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

SEE ATTACHED

Dates Requested: from: 08-23-2007 to the present.

Subject : WANDA RUSSELL

426 N. MICHAEL STREET, ST. MARYS, PA 15857

Social Security #: XXX-XX-7308

Date of Birth: 09-19-1958

KLINE & SPECTER

A Professional Corporation

By: THOMAS R. KLINE, ESQUIRE
MARK A. HOFFMAN, ESQUIRE
ROYCE W. SMITH, ESQUIRE

Attorney ID Nos.: 28895/84443/201295

The Nineteenth Floor
1525 Locust Street
Philadelphia, Pennsylvania 19102
(215) 772-1000

FILED

JAN 31 2008

William A. Shaw
Prothonotary/Clerk of Courts

1 cent to Att

Attorneys for Plaintiff

WANDA RUSSELL
426 North Michael Street
Saint Mary's, Pennsylvania 15857
Plaintiff,

**COURT OF COMMON PLEAS
COUNTY OF CLEARFIELD**

DOCKET NO. 07-644-CD

v.

JAMES E. DEVLIN, M.D. and
MARK W. MALONEY, D.O. and
DRMC PRIMARY CARE
ASSOCIATES and
SANAA HELMI, M.D. and
THOMAS J. BRADLEY, M.D. and
BRADFORD BOBRIN, M.D. and
DuBOIS REGIONAL MEDICAL
CENTER a/ka DuBOIS REGIONAL
MEDICAL CENTER WEST
a/d/b/a DRMC BEHAVIORAL
UNIT a/k/a DRMC EAST BEHAVIORAL
UNIT a/k/a DRMC BEHAVIORAL
HEALTH OUTPATIENT CLINIC
Defendants.

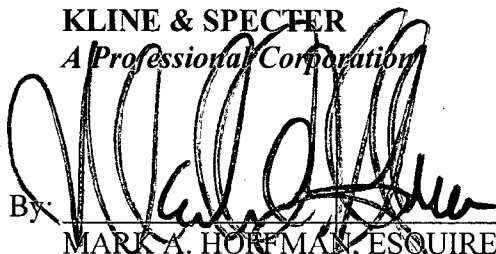
CERTIFICATES OF MERIT

I, Mark A. Hoffman, Esquire, am an attorney for the plaintiff in the above-captioned matter. Pursuant to Pa.R.C.P. No. 1042.1, I hereby certify appropriate licensed professionals have provided me with written statements stating that there exists a reasonable basis and probability to conclude that the care, skill, or knowledge exercised or exhibited by Drs. Devlin, Maloney, Helmi, Bradley, and Bobrin, and the psychiatric nursing staff, and the DuBois Regional Medical Center and its affiliated or associated entities as captioned above, with respect to the treatment, practice, or work

that is the subject of this Civil Action Complaint, fell outside of acceptable professional and institutional standards, and in addition to being negligent, was grossly negligent and/or reckless in its scope, and that such conduct was a substantial factor in causing injuries, or bringing about harm, to Wanda Russell. I further certify that there are additional claims which are based on allegations that licensed professionals for whom the hospital-defendant, DuBois Regional Medical Center and its affiliated or associated entities as captioned above, and/or DRMC Primary Care, and/or both, are responsible and derivatively or vicariously liable deviated from accepted professional standards of medical care, and caused the aforementioned injuries and harm. I additionally certify that appropriate licensed professionals have supplied written statements to me concluding that there exists a reasonable basis and probability that the DuBois Regional Medical Center, and its affiliated or associated entities as captioned above, deviated from accepted standards of institutional care, giving rise to claims of direct (corporate) negligence pursuant to the decision of the Supreme Court of Pennsylvania in Thompson v. Nason, 591 A.2d 703 (1991) and its progeny of case law. The licensed professionals who have provided me with these written statements have also concluded that the aforementioned deviations from accepted standards of medical and institutional care on the part of the individual named licensed professional, corporate, and hospital defendants was a substantial factor causing, or increasing the risk of harm, to Wanda Russell.

KLINE & SPECTER

A Professional Corporation

By: 

MARK A. HOFFMAN, ESQUIRE

Attorneys for Plaintiff

Date: January 30, 2008

FILED

JAN 31 2005

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

KLINE & SPECTER

A Professional Corporation

By: THOMAS R. KLINE, ESQUIRE
MARK A. HOFFMAN, ESQUIRE
ROYCE W. SMITH, ESQUIRE

Attorney ID Nos.: 28895/84443/201295

The Nineteenth Floor
1525 Locust Street
Philadelphia, Pennsylvania 19102
(215) 772-1000

FILED

JAN 31 2008

m/12:20 h

William A. Shaw
Prothonotary/Clerk of Courts

2 CENTS TO ATTORNEY

Attorneys for Plaintiff

WANDA RUSSELL
426 North Michael Street
Saint Mary's, Pennsylvania 15857
Plaintiff,

v.

JAMES E. DEVLIN, M.D.
1100 Main Street
Brockway, Pennsylvania 15824
and

MARK W. MALONEY, D.O.
DRMC Primary Care Associates
Medical Arts Building
Suite 200
145 Hospital Avenue
DuBois, Pennsylvania 15801
and

DRMC PRIMARY CARE
ASSOCIATES
Medical Arts Building
Suite 200
145 Hospital Avenue
DuBois, Pennsylvania 15801
and

SANAA HELMI, M.D.
Behavioral Health Outpatient Clinic
DRMC East Unit
Maple Avenue
DuBois, Pennsylvania 15801
ans

THOMAS J. BRADLEY, M.D.
701 Sunflower Drive
DuBois, Pennsylvania 15801
and

**COURT OF COMMON PLEAS
COUNTY OF CLEARFIELD**

DOCKET NO. 07-644-CD

BRADFORD BOBRIN, M.D.
 Behavioral Health Outpatient Clinic
 DRMC East Unit
 Maple Avenue
 DuBois, Pennsylvania 15801
 and
 DuBOIS REGIONAL MEDICAL
 CENTER a/ka DuBOIS REGIONAL
 MEDICAL CENTER WEST
 a/d/b/a DRMC BEHAVIORAL
 UNIT a/k/a DRMC EAST BEHAVIORAL
 UNIT a/k/a DRMC BEHAVIORAL
 HEALTH OUTPATIENT CLINIC
 c/o Office of Risk Management
 100 Hospital Avenue
 DuBois, Pennsylvania 15801
 Defendants.

NOTICE

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

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER.

IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.

COURT ADMINISTRATOR
 Clearfield County Courthouse
 Second and Market Streets
 Clearfield, PA 16830
 814-765-2641, Ext. (5982)

ADVISO

Le han demandado a usted en la corte. Si usted quiere defenderse de estas demandas expuestas en las paginas siguientes, usted tiene veinte (20) dias de plazo al partir de la fecha de la demanda y la notificacion. Hace falta asentar una comparencia escrita o en persona o con un abogado y entregar a la corte en forma escrita sus defensas o sus objeciones a las demandas en contra de su persona. Sea avisado que si usted no se defiende, la corte tomara medidas y puede continuar la demanda en contra suya sin previo aviso o notificacion. Ademias, la corte pueda decidir a favor del demandante y requiere que usted cumpla con todas las provisiones de esta demanda. Usted puede perder dinero o sus propiedades u otros derechos importantes para usted.

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

ESTA OFICINA LO PUEDE PROPORCIONAR CON INFORMACION ACERCA DE EMPLEAR A UN ABOGADO. SI USTED NO PUEDE PROPORCIONAR PARA EMPLEAR UN ABOGADO, ESTA OFICINA PUEDE SER CAPAZ DE PROPORCIONARLO CON INFORMACION ACERCA DE LAS AGENCIAS QUE PUEDEN OFRECER LOS SERVICIOS LEGALES A PERSONAS ELEGIBLES EN UN HONORARIO REDUCIDO NINGUN HONORARIO.

COURT ADMINISTRATOR
 Clearfield County Courthouse
 Second and Market Streets
 Clearfield, PA 16830
 814-765-2641, Ext. (5982)

FOURTH AMENDED CIVIL ACTION COMPLAINT

Plaintiff, Wanda Russell, by and through her undersigned attorneys, Kline & Specter, P.C., in response to the Preliminary Objections filed on behalf of Defendant, Thomas J. Bradley, D.O. to Plaintiff's Third Amended Complaint, herein files with this Court her Fourth Amended Complaint, as of right, pursuant to Pennsylvania Rules of Civil Procedure Number 1028(c)(1). Plaintiff incorporates by reference as though fully set forth herein, and attaches hereto as Exhibit "A," the deposition transcript of Thomas J. Bradley, D.O., from the deposition taken November 14, 2007, pursuant to Pa.R.C.P. No.1019(i),¹ and complains of the above-captioned defendants as follows:

1. Plaintiff, Wanda Russell, is an adult citizen and a resident of the Commonwealth of Pennsylvania, residing at 426 North Michael Street, Saint Mary's, Pennsylvania 15857. Wanda Russell was born on September 19, 1958.

2. Defendant, James E. Devlin, M.D. ["Dr. Devlin"], was, at all times material hereto, a duly licensed physician in the Commonwealth of Pennsylvania, specializing in the medical field of family medicine, who maintained a professional office, business or corporate office, or place of medical practice at 1100 Main Street, Brockway, Pennsylvania 15824. A Certificate of Merit pursuant to Pa.R.C.P. No. 1042.1 regarding the treatment, practice, or work of this defendant is attached hereto as Exhibit "B."

3. Defendant, Mark W. Maloney, D.O. ["Dr. Maloney"], was, at all times material

¹Pa.R.C.P. No.1019(i), states, in relevant part, "[w]hen any claim or defense is based upon a writing, the pleader shall attach a copy of the writing, or the material part thereof to the pleading."

hereto, a duly licensed osteopathic physician in the Commonwealth of Pennsylvania, specializing in the medical field of family medicine, who maintained a professional office, business or corporate office, or place of medical practice at DRMC Primary Care Associates, Medical Arts Building, Suite 200, 145 Hospital Avenue, DuBois, Pennsylvania 15801. A Certificate of Merit pursuant to Pa.R.C.P. No. 1042.1 regarding the treatment, practice, or work of this defendant is attached hereto as Exhibit "B."

4. Defendant, DRMC Primary Care Associates, was, at all times material hereto, a corporation, professional corporation, professional association, professional partnership, or other jural entity organized according to and existing under the laws of the Commonwealth of Pennsylvania, with an office location and place of business at Medical Arts Building, Suite 200, 145 Hospital Avenue, DuBois, Pennsylvania 15801. A Certificate of Merit pursuant to Pa.R.C.P. No. 1042.1 regarding the treatment, practice, or work of this defendant is attached hereto as Exhibit "B."

5. At all times material hereto, Dr. Maloney and/or Dr. Devlin were agents, servants, and/or employees of DRMC Primary Care Associates, and were acting within the scope of their agency, master-servant, and/or employment relationships with DRMC Primary Care Associates while providing medical care and treatment to Wanda Russell. Accordingly, DRMC Primary Care Associates is liable for the negligent, grossly negligent, and/or reckless acts and/or omissions of Dr. Devlin and/or Dr. Maloney under theories of agency, master-servant, respondeat superior, and/or right of control.

6. Dr. Devlin was providing medical service or family practice service "coverage" or "cross-coverage" for Dr. Maloney, while providing medical care and treatment to Wanda Russell on or about December 4 and 5, 2005. Accordingly, Dr. Maloney is liable for the negligent acts and/or

omissions of Dr. Devlin under theories of agency, master-servant or borrowed servant, respondeat superior, and/or right of control.

7. Dr. Devlin was providing “coverage” or “cross-coverage” for Dr. Maloney’s family practice group or association, DRMC Primary Care Associates, while providing medical care and treatment to Wanda Russell, on or about December 4 and 5, 2005. Accordingly, DRMC Primary Care Associates is liable for the negligent acts and/or omissions of Dr. Devlin under theories of agency, master-servant or borrowed servant, respondeat superior, and/or right of control.

8. Defendant, Sanaa Helmi, M.D. [“Dr. Helmi”], was, at all times material hereto, a duly licensed physician in the Commonwealth of Pennsylvania, specializing in the medical field of psychiatry, who maintained a professional office, business or corporate office, or place of medical practice at Behavioral Health Outpatient Clinic, DRMC East Unit, Maple Avenue, DuBois, Pennsylvania 15801. A Certificate of Merit pursuant to Pa.R.C.P. No. 1042.1 regarding the treatment, practice, or work of this defendant is attached hereto as Exhibit “B.”

9. Defendant, Thomas J. Bradley, M.D. [“Dr. Bradley”], was, at all times material hereto, a duly licensed physician in the Commonwealth of Pennsylvania, specializing in the medical field of family medicine, who maintained a professional office, business or corporate office, or place of medical practice at 701 Sunflower Drive, DuBois, Pennsylvania 15801. At all times material hereto, Dr. Bradley was under contract with the DuBois Regional Medical Center to perform admission history and physical examinations on patients, including Wanda Russell, admitted to the DRMC East Unit. A Certificate of Merit pursuant to Pa.R.C.P. No. 1042.1 regarding the treatment, practice, or work of this defendant is attached hereto as Exhibit “B.”

10. At all times material hereto, Dr. Bradley considered that he worked for the hospital,

and was paid checks by the hospital payable to his professional corporation, Thomas J. Bradley, M.D., P.C. The aforementioned contract with the DuBois Regional Medical Center was entered into on or about 1994 or thereabouts between Dr. Bradley and John Sutika, who was then Vice President of Finance at the DuBois Regional Medical Center. Bradley Depo. at 17 to 21, Exhibit "A."

11. At all times material hereto, Dr. Bradley did not state to Wanda Russell, or otherwise identify himself to patients, as a physician who did not work for the DuBois Regional Medical Center. Bradley Depo. at 22, Exhibit "A."

12. Defendant, Bradford Bobrin, M.D. ["Dr. Bobrin"], was, at all times material hereto, a duly licensed physician in the Commonwealth of Pennsylvania, specializing in the medical field of psychiatry, who maintained a professional office, business or corporate office, or place of medical practice at Behavioral Health Outpatient Clinic, DRMC East Unit, Maple Avenue, DuBois, Pennsylvania 15801. A Certificate of Merit pursuant to Pa.R.C.P. No. 1042.1 regarding the treatment, practice, or work of this defendant is attached hereto as Exhibit "B."

13. Defendant, DuBois Regional Medical Center a/k/a/ DuBois Regional Medical Center West a/d/b/a DRMC Behavioral Unit a/k/a DRMC East Behavioral Unit a/k/a DRMC Behavioral Health Outpatient Clinic [referred to in various paragraphs as either the "DuBois Regional Medical Center" or the "DRMC Behavioral Unit" or the "DuBois Regional Medical Center West"], is a corporation or other jural entity organized according to and existing under the laws of the Commonwealth of Pennsylvania which owns, operates, and maintains a hospital, health care facility, and provider of health care services based at 100 Hospital Avenue, DuBois, Pennsylvania 15801. The DRMC Behavioral Unit a/k/a DRMC East Behavioral Unit a/k/a DRMC East Behavioral Unit a/k/a DRMC Behavioral Health Outpatient Clinic is a psychiatric unit located within the East Unit

of the DuBois Regional Medical Center. A Certificate of Merit pursuant to Pa.R.C.P. No. 1042.1 regarding the treatment, practice, or work of this defendant is attached hereto as Exhibit "B."

14. At all times material hereto, Dr. Devlin, Dr. Maloney, Dr. Helmi, Dr. Bradley, and Dr. Bobrin were actual or ostensible agents, servants, and/or employees of the DuBois Regional Medical Center and/or the DRMC Behavioral Unit, and were acting within the scope of their agency, master-servant, and/or employment relationship with the DuBois Regional Medical Center, and its affiliated or associated entities as captioned above, while providing medical care and treatment to Wanda Russell. Accordingly, the DuBois Regional Medical Center, and its affiliated or associated entities as captioned above, are liable for the negligent, grossly negligent, and/or reckless acts and/or omissions of Dr. Devlin, Dr. Maloney, Dr. Helmi, Dr. Bradley, and Dr. Bobrin under theories of agency, master-servant, respondeat superior, and/or right of control.

15. At all times material hereto, the DuBois Regional Medical Center and the DRMC Behavioral Unit were acting by and through their actual agents or ostensible agents, servants, and/or employees, Dr. Devlin, Dr. Maloney, Dr. Helmi, Dr. Bradley, and Dr. Bobrin, as well as the nurses who provided psychiatric nursing care and evaluation to Wanda Russell during her hospitalization in the DRMC Behavioral Unit. The identities of these nurses, whose signatures are illegible on the "Behavioral Health Services Daily Notes" and extension notes, attached hereto as Exhibit "C,"² are fully known to the DuBois Regional Medical Center and the DRMC Behavioral Unit, and presently unknown to Plaintiff because of the illegible nature, or absence of, their signatures. The identities

²Pursuant to Pa.R.C.P. No. 1019(i), supra at n. 1, plaintiff attaches hereto as Exhibit "C," and fully incorporates herein by reference, the "Behavioral Health Services Daily Notes" and the description of events set forth therein. A Certificate of Merit pursuant to Pa.R.C.P. No. 1042.1 regarding the treatment, practice, or work of these defendants is attached hereto as Exhibit "B."

of these nurses is the subject matter of further discovery by the Plaintiff during the course of this litigation. Accordingly, DuBois Regional Medical Center is liable for the negligent, grossly negligent, and/or reckless acts and/or omissions of these aforementioned named and as yet specifically identified, see Exhibit "C," actual or ostensible agents, servants, and/or employees which occurred in the course of providing medical and nursing care to Wanda Russell, under theories of agency, master-servant, respondeat superior, and/or right of control.

16. Venue in this action is properly laid in Clearfield County, Pennsylvania pursuant to the Amendatory Order of the Supreme Court of Pennsylvania dated March 5, 2003, No. 381, Civil Procedural Rules, Docket No. 5, which amended the Pennsylvania Rules of Civil Procedure No.1006.

17. On December 3, 2005, Wanda Russell presented to the Emergency Department at the DuBois Regional Medical Center via wheelchair with complaints of, among other things, bilateral arm weakness and dark vision.

18. On December 3, 2005, Wanda Russell was evaluated by Patrick Shilata, D.O. in the Emergency Department at the DuBois Regional Medical Center.

19. On December 3, 2005, Wanda Russell had a known history of hypertension and insulin dependent diabetes mellitus. These co-morbid conditions were known to the nursing staff and physician or physicians who evaluated and treated Wanda Russell in the Emergency Department on December 3, 2005, were recorded in the DuBois Regional Medical Center Emergency Department medical record of Wanda Russell.

20. Dr. Devlin, Dr. Maloney, Dr. Helmi, Dr. Bradley, and Dr. Bobrin knew, at all times material to this action, that hypertension and diabetes mellitus were risk factors for stroke and/or

transient ischemic attack.

21. Dr. Bradley knew and understood, at all times material to this action, that hypertension and diabetes mellitus, among other things, were risk factors for stroke. Bradley Depo. at 40-41, Exhibit "A."

22. On December 3, 2005, Wanda Russell was able to ambulate, but complained to health care providers that she felt off balance. Dr. Devlin, Dr. Maloney, Dr. Helmi, Dr. Bradley, and Dr. Bobrin knew, at all times material to this action, that gait unsteadiness and ataxia were neurologic symptoms of possible stroke and/or transient ischemic attack.

23. Dr. Bradley knew and understood, at all times material hereto, that gait unsteadiness, disturbances, and ataxia were abnormal neurologic symptoms indicative of a possible stroke or evolving stroke. Bradley Depo. at 109-116, Exhibit "A."

24. On December 3, 2005, during her evaluation in the DuBois Regional Medical Center Emergency Department, Wanda Russell had performed on her, among other things, an electrocardiogram, a basic metabolic panel, a urine analysis with microscopic examination, and an unenhanced head CT scan. All test results were interpreted as "normal" except for an elevated blood sugar (196 mg/dl; normal = 70 to 110 mg/dl).

25. On December 3, 2005, Wanda Russell was discharged from the Emergency Department at the Dubois Regional Medical Center with the diagnosis: "Impression: weakness, Transient Ischemic Attack (TIA), Diabetes Mellitus, Type I."

26. On December 3, 2005, Wanda Russell was discharged from the Emergency Department at the Dubois Regional Medical Center with instructions concerning transient ischemic attack and diabetes mellitus, and she was given a four (4) day work release. Wanda Russell was

additionally instructed to follow-up with Dr. Maloney, her primary care physician, in three (3) to four (4) days, for further evaluation of the transient ischemic attack and diabetes mellitus.

27. On December 4, 2005, Wanda Russell presented to the Emergency Department at the DuBois Regional Medical Center via wheelchair with complaints of, among other things, left-sided weakness and inability to walk.

28. Dr. Devlin, Dr. Maloney, Dr. Helmi, Dr. Bradley, and Dr. Bobrin knew, at all times material to this action, that hemiparesis and gait disturbance were neurologic signs and symptoms of stroke and/or transient ischemic attack.

29. On December 4, 2005, Wanda Russell's sister signed the DuBois Regional Medical Center "Consent for Treatment" as Wanda Russell's patient representative, and on Wanda Russell's behalf, because Wanda Russell had weakness on writing and slurred speech. The "Consent for Treatment" was signed at or about 0938 hours on December 4, 2005.

30. Dr. Devlin, Dr. Maloney, Dr. Helmi, Dr. Bradley, and Dr. Bobrin knew, at all times material to this action, that dysarthria and hemiparesis were neurologic signs and symptoms of stroke and/or transient ischemic attack.

31. On December 4, 2005, Wanda Russell was evaluated by Jeffrey Elias, D.O. ["Dr. Elias"] in the Emergency Department at the DuBois Regional Medical Center.

32. On December 4, 2005, Dr. Elias performed a neurological examination on Wanda Russell in the Emergency Department at the DuBois Regional Medical Center, and found, among other things, that Wanda Russell had a facial droop and diminished motor strength in the left arm (2/5) and left leg (2/5). The "Review of Systems" performed by Dr. Elias was positive for gait disturbance, speech changes, and weakness in the left arm and leg.

33. Dr. Devlin, Dr. Maloney, Dr. Helmi, Dr. Bradley, and Dr. Bobrin knew, at all times material to this action, that facial asymmetry, facial droop, and unilateral loss of the nasolabial fold were neurologic signs and symptoms of stroke and/or transient ischemic attack.

34. Dr. Bradley knew and understood, at all times material hereto, that facial asymmetry, facial droop, and unilateral loss of the nasolabial fold were abnormal neurologic signs and symptoms. Bradley Depo. at 111, Exhibit "A."

35. On December 4, 2005, Dr. Elias formulated a plan that Wanda Russell be admitted "to medical, for Maloney, Mark W. with a primary ED diagnosis of CVA (stroke) non-hemorrhagic." A summary of the Emergency Department evaluation of Wanda Russell was faxed to Wanda Russell's primary care physician, Dr. Maloney.

36. Dr. Devlin, Dr. Maloney, Dr. Helmi, Dr. Bradley, and Dr. Bobrin knew, at all times material to this action, that Dr. Elais had diagnosed Wanda Russell as having or evolving an ischemic (non-hemorrhagic) stroke.

37. Dr. Devlin, Dr. Maloney, Dr. Helmi, Dr. Bradley, and Dr. Bobrin knew, at all times material to this action, that a negative or normal cerebral CT scan does not rule in or rule out an ischemic stroke or transient ischemic attack, and that the primary use of a cerebral CT scan during the diagnosis of stroke is to rule out a hemorrhagic stroke premonitory to acute stroke treatment with thrombolytic agents.

38. On December 4, 2005, Dr. Devlin evaluated Wanda Russell in the Emergency Department at the DuBois Regional Medical Center. At the time, Dr. Devlin was covering or cross-covering for Dr. Maloney and DRMC Primary Care Associates.

39. On December 4, 2005, Dr. Devlin admitted Wanda Russell to the DuBois Regional

Medical Center for neuro-checks and observation. At the time of admission, Dr. Devlin doubted that Wanda Russell had, or was experiencing, a transient ischemic attack, and recorded this belief in his "History and Physical Examination," stating, among other things: "History of some left sided weakness, questionable TIA. Clinically, at this time it is doubtful but with the history we will go ahead and make the patient an observation."

40. On December 4, 2005, Wanda Russell was admitted to Dr. Maloney's service at the DuBois Regional Medical Center, with Dr. Devlin covering.

41. On December 4, 2005, Dr. Devlin did not obtain, or order to be obtained or provided, a neurology consultation for Wanda Russell.

42. Dr. Devlin, Dr. Maloney, Dr. Helmi, Dr. Bradley, and Dr. Bobrin knew, at all times material to this action, that Dr. Devlin and Dr. Maloney were not neurologists, did not hold themselves out as neurologists, did not perform a residency or fellowship in neurology, and did not hold board certification in the specialty or subspecialty of neurology.

43. At all times material hereto, Dr. Bradley did not hold himself out to Wanda Russell, or patients in general, as a neurologist. Bradley Depo. at 120, Exhibit "A."

44. On December 4, 2005, Dr. Devlin did not have performed, or order to be performed, an MRI scan of the head or an MRA on Wanda Russell.

45. Dr. Devlin, Dr. Maloney, Dr. Helmi, Dr. Bradley, and Dr. Bobrin knew, at all times material to this action, that a cranial MRI or MRA was a more sensitive test for the presence of an ischemic stroke or intracranial cerebrovascular disease.

46. On December 5, 2005, an unenhanced head CT scan was performed on Wanda Russell for the diagnosis of left-sided weakness, and was interpreted as "normal."

47. On December 5, 2005, bilateral carotid duplex sonograms were performed on Wanda Russell for the indication of left-sided weakness. This study demonstrated approximately 50 percent stenosis of the right internal carotid artery and 50 to 69 percent stenosis of the left internal carotid artery. Bilateral carotid plaque was also demonstrated on the sonogram.

48. On December 5, 2005, Dr. Maloney did not order an aortic arch and four vessel cerebral angiogram to be performed on Wanda Russell, with actual knowledge that Wanda Russell was exhibiting acute neurologic symptoms.

49. On December 5, 2005, Dr. Maloney did not obtain a vascular surgical consultation for Wanda Russell, with actual knowledge that Wanda Russell was exhibiting acute neurologic symptoms referable to cerebrovascular disease.

50. On December 5, 2005, Dr. Maloney did not order a cranial MRI or MRA to be performed on Wanda Russell, in the face of actual knowledge that (a) Wanda Russell was exhibiting acute neurologic symptoms; (b) Wanda Russell had underlying co-morbid medical diagnoses which placed her at risk for a stroke or transient ischemic attack; and, (c) a "normal" CT scan does not rule out an ischemic cerebral infarction or transient ischemic attack.

51. On December 5, 2005, Dr. Maloney did not order a neurology consultation to be performed on Wanda Russell, in the face of actual knowledge that (a) Wanda Russell was exhibiting acute neurologic symptoms; (b) Wanda Russell had underlying co-morbid medical diagnoses which placed her at risk for a stroke or transient ischemic attack; and, (c) a "normal" CT scan does not rule out an ischemic cerebral infarction or transient ischemic attack.

52. Wanda Russell continued to have intermittent left-sided weakness on December 5, 2005. Dr. Maloney was aware of these on-going neurologic symptoms, and had actual knowledge

that hemiparesis is a sign and/or symptoms of stroke and/or transient ischemic attack.

53. Wanda Russell had slurred speech and a "left facial droop of the mouth" on December 5, 2005. Dr. Maloney was aware of these on-going neurologic symptoms, and had actual knowledge that a facial droop, facial asymmetry, loss of the nasolabial fold, and dysarthria are signs and/or symptoms of stroke and/or transient ischemic attack.

54. On December 5, 2005, at or between the hours of approximately 1900 and 2000 hours, Dr. Maloney evaluated Wanda Russell at the DuBois Regional Medical Center, and informed Wanda Russell that her loss of mobility was due to depression.

55. At all times material hereto, Dr. Maloney was not a psychiatrist, did not hold himself out as a psychiatrist, had not performed either a residency or fellowship in the fields of psychiatry or psychology, did not have privileges at the DuBois Regional Medical Center to practice psychiatry within the four wall of the hospital, and was not qualified to make the diagnosis of conversion reaction. Dr. Maloney attempted to explain Wanda Russell's objective neurologic signs and symptoms, in reckless disregard to the safety and well-being of Wanda Russell, without the benefit of a full neurologic work-up or evaluation, or psychiatric work-up or evaluation.

56. On December 5, 2005, Dr. Maloney knew and understood that transient ischemic attack and stroke-in-evolution present with intermittent neurologic signs and symptoms, and were neurologic conditions which carried the risk of severe, debilitating, and irreversible neurologic, functional, and cognitive sequelae.

57. On December 5, 2005, Dr. Maloney knew and understood that the Dubois Regional Medical Center was not a "Stroke Center," did not have a "Stroke Team," and did not have the capacity for obtaining an acute neurologic consultation for patients transferred to the DRMC

Behavioral Unit.

58. On December 5, 2005, Dr. Maloney knew and understood that Wanda Russell was having intermittent symptoms of slurred speech.

59. On December 5, 2005, Dr. Maloney knew and understood that Wanda Russell was having signs of a facial droop.

60. On December 5, 2005, Dr. Maloney knew and understood that Wanda Russell had been given the diagnoses of transient ischemic attack and cerebrovascular accident within the preceding approximately 48 hour period of time by physicians at the DuBois Regional Medical Center, based upon observed and recorded objective neurologic signs and symptoms.

61. On December 5, 2005, Dr. Maloney knew and understood that transient ischemic attack and cerebrovascular accident were neurologic conditions which carried the risk of severe, debilitating, and irreversible neurologic, functional, and cognitive sequelae when not appropriately diagnosed and timely treated.

62. On December 5, 2005, Dr. Maloney knew and understood that he did not have the training, skill, knowledge, or experience in the field of psychiatry to diagnose conversion reaction disorders or other psychiatric diagnoses which are catalogued in the Diagnostic and Statistic Manual of Mental Disorders.

63. On December 5, 2005, Dr. Maloney consulted Dr. Helmi by telephone concerning the admission of Wanda Russell to the DRMC Behavioral Unit, and reported to Dr. Helmi that "he was unable to find any medical problems" with respect to Wanda Russell, and that Wanda Russell was "suicidal."

64. On December 5, 2005, Dr. Maloney misrepresented the medical and neurologic

condition of Wanda Russell's medical status to Dr. Helmi, without any documentation in Wanda Russell's medical record that she was suicidal, in reckless and wanton disregard for the objective neurologic and medical signs and symptoms of an impending cerebrovascular accident which Wanda Russell was exhibiting at that time, and which had been observed and confirmed by other physicians at the DuBois Regional Medical Center.

65. On December 5, 2005, during the telephone consultation between Dr. Maloney and Dr. Helmi, according to Dr. Maloney, Dr. Helmi made the recommendation that Wanda Russell be admitted to the DRMC Behavior Unit for psychiatric treatment. The medical and psychiatric status of Wanda Russell was misrepresented to Dr. Helmi by Dr. Maloney, in reckless and wanton disregard for the objective neurologic and medical signs and symptoms of an impending cerebrovascular accident which Wanda Russell was exhibiting at that time, and which had been confirmed by other physicians.

66. Immediately following the telephone conversation with Dr. Maloney, Dr. Helmi did not perform a psychiatric history, psychiatric evaluation, or physical examination of Wanda Russell on December 5, 2005, or physically see or speak with Wanda Russell on December 5 or 6, 2005, despite a purported diagnosis of "suicidal." Dr. Helmi acted in a grossly negligent and/or reckless manner, in total disregard for the safety and well-being of Wanda Russell, by failing to examine and evaluate a patient whom she believed or was told was "suicidal."

67. At all time material hereto, Dr. Helmi never examined Wanda Russell, despite accepting Wanda Russell's transfer to the DRMC Behavioral Unit and despite information provided to Dr. Helmi by the nursing staff that Wanda Russell was evolving a neurologic emergency overnight in the DRMC Behavioral Unit.

68. On December 5, 2005, at or about 2040 hours, Dr. Maloney gave a "telephone order" to Brenda L. Slappy, R.N., to "Transfer to psych unit tonight." Dr. Maloney made no entries in the medical record stating that Wanda Russell was suicidal, or that Wanda Russell presented any threat of self-harm, or that Wanda Russell had made any statements to him that she was threatening self-harm or injury.

69. On December 5, 2005, Wanda Russell was asked to sign, and did sign, an "Initial Evaluation and Treatment Plan," which outlined a "Description of Proposed Treatment Plan" and a "Description of Proposed Restrictions and Restraints." This form was not completed and signed by a physician, in reckless disregard to the rights, safety, and well-being of Wanda Russell.

70. On December 5, 2005, Wanda Russell was asked to sign, and did sign, a "Consent for Voluntary Inpatient Treatment."

71. The "Consent for Voluntary Inpatient Treatment" set forth the following "Instructions":

Before signing this form, your treatment should be explained to you and you must be given a copy of the Patient's Bill of Rights, the report of your initial evaluation and the proposed treatment plan must be completed and signed by you and the physician.

72. On December 6, 2005, Wanda Russell was not given a copy of the DuBois Regional Medical Center Patient's Bill of Rights by any physician or health care provider who was providing care and treatment to Wanda Russell, in reckless disregard to the institutional obligations set forth by the DuBois Medical Center to protect the rights of patients such as Wanda Russell. Dr. Maloney did not provide Wanda Russell with a Dubois Regional Medical Center Patient's Bill of Rights, and did not explain to Wanda Russell her proposed treatment plan.

73. On December 6, 2005, Wanda Russell was not given a copy of her initial evaluation by any physician providing care and treatment to Wanda Russell, in reckless disregard to the institutional obligations set forth by the DuBois Medical Center to protect the rights, safety, and well-being of Wanda Russell. Specifically, neither Dr. Maloney nor Dr. Helmi provided Wanda Russell with this information.

74. On December 6, 2005, Wanda Russell was not given a copy of the proposed treatment plan, which should have been completed and signed by her and a physician. Specifically, Dr. Helmi, who apparently made the decision to have Wanda Russell transferred to the DRMC Behavioral Unit, and then subsequently denied that she made the decision to admit Wanda Russell to the DRMC Behavioral Unit, see Exhibit "C," did not explain any proposed treatment plan to Wanda Russell, or ever have a conversation with Wanda Russell concerning any aspect of her psychiatric diagnosis or proposed care.

75. Dr. Helmi's conduct was grossly negligent and/or undertaken in reckless disregard to the institutional obligations set forth by the DuBois Medical Center to protect the rights, safety, and well-being of Wanda Russell. Dr. Helmi never evaluated Wanda Russell at any point during Wanda Russell's admission to the DRMC Behavioral Unit, despite information provided to her by the nursing staff that Wanda Russell was not suicidal, and was evolving a neurologic crisis. See Exhibit "C."

76. On December 6, 2005, at or about 0200 hours, Wanda Russell was admitted to the DRMC Behavioral Unit by Kim Hendricks, R.N. ["Nurse Hendricks"], onto Dr. Bobrin's Service, under the transfer acceptance by Dr. Helmi.

77. On December 6, 2005, at no time prior to, or at the time of her admission at 0200

hours to the DRMC Behavioral Unit, was Wanda Russell evaluated by a psychiatrist or DRMC Unit admitting physician, including Dr. Bradley, Dr. Bobrin, or Dr. Helmi, in wanton and willful disregard for the safety and well-being of Wanda Russell and the institutional obligations set forth by the DuBois Medical Center to protect the rights, safety, and well-being of Wanda Russell and patients similarly situated.

78. On December 6, 2005, at or about 0200 hours, Wanda Russell told Nurse Hendricks that "she was lied to about coming here for an admission from her family" and reported that "she is unable to use left arm and leg. Patient complains of not wanting to stay."

79. Upon information and belief, the nursing staff at the DRMC Behavioral Unit ignored these complaints by Wanda Russell, and in wanton and willful disregard for Wanda Russell's safety and well-being, failed to report them to Dr. Bobrin or Dr. Helmi.

80. In the alternative, the nursing staff at the DRMC Behavioral Unit reported these complaints by Wanda Russell to Dr. Bobrin and/or Dr. Helmi, and these physicians acted in wanton and willful disregard for Wanda Russell's safety and well-being by failing to appropriately evaluate Wanda Russell at the time.

81. At all times material hereto, the nursing staff on the DRMC Behavioral Unit knew and understood that extremity dysfunction, and inability to use one's arms and legs, are potential neurologic findings indicating a neurologic abnormality such as stroke or TIA.

82. On December 6, 2005, at or about 0330 hours, Wanda Russell fell out of bed while on the DRMC Behavioral Unit.

83. On December 6, 2005, at or about 0330 hours, upon information and belief, the nursing staff at the DRMC Behavioral Unit, in wanton and willful disregard for Wanda Russell's

safety and well-being, failed to inform any physician about this event at or about the time it occurred, and about Wanda Russell's stated inability to use her left arm and leg.

84. In the alternative, on December 6, 2005, at or about 0330 hours, the nursing staff at the DRMC Behavioral Unit reported Wanda Russell's fall and associated symptoms of hemiparesis to Dr. Bobrin and/or Dr. Helmi, and these physicians acted in wanton and willful disregard for Wanda Russell's safety and well-being by failing to appropriately evaluate Wanda Russell at the time.

85. On December 6, 2005, at or about 0643 hours, Dr. Bradley performed a history and physical examination on Wanda Russell. Dr. Bradley obtained a history of present illness, among other things, as follows:

Wanda is a 47-year-old woman who had been readmitted to the West division for left sided weakness. She had had a workup that included a normal CT of the head. She was discharged and re-presented to the ER with nervousness and I guess there was a question regarding the extent of the left sided weakness present and the fact it was noted that the person was under a lot of stress. She is hypertensive, hyperlipidemic, and an insulin dependent diabetic. I guess she was persuaded to be transferred to the psyche unit.

Bradley Depo. at Depo. Exhibit 3, Exhibit "A."

86. At all times material hereto, Dr. Bradley was not qualified, and did not judge himself to be qualified, to determine whether Wanda Russell's complaints were based upon an evolving central nervous system injury or stroke, versus an underlying psychological or psychiatric condition.

Bradley Depo. at 121-122, Exhibit "A."

87. On December 6, 2005, during his physical examination of Wanda Russell, Dr. Bradley found, among other things, "There is some left upper extremity weakness and facial

asymmetry” that was “hard to evaluate since she is so anxious.” The failure to obtain a neurologic evaluation and diagnostic testing in the face of objective neurologic signs and symptoms was grossly negligent and/or reckless. Bradley Depo. at 118-119; and, Depo. Exhibit 3, Exhibit “A.”

88. On December 6, 2005, at the time Dr. Bradley initially evaluated Wanda Russell, Dr. Bradley formulated and initiated the plan that “the patient is admitted for psyche evaluation and treatment.”

89. On December 6, 2005, at all times material hereto, the failure to obtain a neurologic evaluation and diagnostic testing in the face of objective neurologic signs and symptoms was grossly negligent and/or reckless.

90. On December 6, 2005, at all times material hereto, Dr. Bradley knew that Wanda Russell was exhibiting objective neurologic signs and symptoms, Bradley Depo. at 118-119, Exhibit “A,” and acted in reckless disregard to the safety and well-being of Wanda Russell by failing to obtain appropriate and timely evaluation of these signs and symptoms, when Dr. Bradley, himself, knew that he was not qualified to make an assessment as to whether these signs and symptoms were related to a psychiatric etiology.

91. On December 6, 2005, at the time of his initial evaluation, Dr. Bradley did not transfer Wanda Russell back to a medical unit for evaluation of her left sided weakness and facial asymmetry. The failure to transfer Wanda Russell to the medical unit for neurologic evaluation and diagnostic workup in the face of objective neurologic signs and symptoms, which were obvious to Dr. Bradley, was grossly negligent and/or reckless.

92. On December 6, 2005, at the time of his initial evaluation, Dr. Bradley did not obtain, or order to be obtained, a neurology consultation for Wanda Russell. The failure to obtain a

neurologic evaluation and diagnostic testing in the face of objective neurologic signs and symptoms was grossly negligent and/or reckless.

93. At all times material hereto, the neurologists practicing at the DuBois Regional Medical Center did not, or would not, perform neurological consultations on patients housed in the DRMC Behavioral Unit. In order to obtain an emergency neurologic evaluation of Wanda Russell on December 6, 2005, she required immediate transport back to a medical unit at the DuBois Regional Medical Center.

94. On December 6, 2005, at the time of his initial evaluation, Dr. Bradley did not have performed, or order to be performed, an MRI scan of the head or MRA on Wanda Russell. The failure rapidly transfer Wanda Russell back to a medical unit at the DuBois Regional Medical Center; and, to obtain a neurologic evaluation and diagnostic testing in the face of objective neurologic signs and symptoms, was grossly negligent and/or reckless.

95. On December 6, 2005, at the time of his initial evaluation, Dr. Bradley did not diagnose Wanda Russell as having an evolving or "stuttering" cerebrovascular accident or a transient ischemic attack.

96. On December 6, 2005, Dr. Bradley knew and understood that transient ischemic attack and cerebrovascular accident were neurologic conditions which carried the risk of severe, debilitating, and irreversible neurologic, functional, and cognitive sequelae.

97. On December 6, 2005, Dr. Bradley knew and understood that the Dubois Regional Medical Center was not a "Stroke Center" and did not have a "Stroke Team." Bradley Depo. at 28-29, Exhibit "A."

98. On December 5, 2005, Dr. Bradley did not order a cranial MRI or MRA to be

performed on Wanda Russell, in the face of actual knowledge that (a) Wanda Russell was exhibiting acute neurologic signs and symptoms; (b) Wanda Russell had underlying co-morbid medical diagnoses which placed her at risk for a stroke or transient ischemic attack; and, (c) a "normal" CT scan does not rule out an ischemic cerebral infarction or transient ischemic attack. Bradley Depo. at 44-46, Exhibit "A."

99. On December 6, 2005, the nursing staff from the DRMC Behavioral Unit attempted to contact Dr. Helmi at 0955 hours, first by beeper, and eventually by cell phone, seeking information about Wanda Russell and her status as a patient on the DRMC Behavioral Unit. See Exhibit "C."

100. On December 6, 2005, at or about 0955 hours, Dr. Helmi informed the DRMC Behavioral Unit nurse, whose illegible signature appears at Exhibit "C" at page 3, by telephone, "that she [Dr. Helmi] didn't remember the patient and asked where she came from."

101. At all times material hereto, Dr. Helmi manifested such gross negligence and reckless disregard for her patient that even as of 0955 hours on the morning of December 6, 2005, having accepted the patient in transfer to the DRMC Unit, Dr. Helmi had never seen, spoken with, evaluated, or otherwise initiated any treatment or diagnostic testing on Wanda Russell up to that time.

102. At all times material hereto, despite accepting Wanda Russell to the DRMC Behavioral Unit as a patient in transfer approximately 9 to 12 hours earlier, and being informed of Wanda Russell's objective neurologic findings and falls overnight, Dr. Helmi failed to ever evaluate or examine Wanda Russell, or to initiate the timely work-up and treatment of Wanda Russell's evolving stroke.

103. On December 6, 2005, at or about 1005 hours, Dr. Helmi informed the nurse, whose illegible signature appears at Exhibit "C" at page 3, by telephone, that "she [Dr. Helmi] did not make the recommendation-Dr. Maloney asked for the admission and she agreed on the basis that the patient is suicidal." Dr. Helmi's failure to evaluate a patient deemed "suicidal," to inform herself of the patient's medical condition overnight, or to examine any of Wanda Russell's medical or psychiatric history and the prior diagnoses of transient ischemic attack and cerebrovascular accident, was grossly negligent and/or reckless.

104. On December 6, 2005, at or before 1028 hours, Dr. Bobrin evaluated Wanda Russell at the DRMC Behavioral Unit, and in the "Initial Evaluation/Mental Status Examination/Discharge Summary" report, described that, among other things:

She describes being scared about her arm and leg. She awoke on Friday with trouble with her left arm and it has gotten worse since then. Her family said that this is true as well. She can stand as she demonstrates to me but has trouble lifting up her arm, not even able to brush her hair. She woke up and fell and has had two falls here on the unit and so she initially came in because scans x [times] two do not show any signs of ischemia or infarct.

105. On December 6, 2005, Dr. Bobrin, at or before 1028 hours, Dr. Bobrin found that Wanda Russell exhibited no signs of "suicidal or homicidal ideations" on the mental status examination, contrary to what had been previously misrepresented by Dr. Maloney.

106. On December 6, 2005, at or before 1028 hours, Dr. Bobrin assessed Wanda Russell status and condition, and found:

This is a 47-year-old with some mild depressive symptoms and acute onset of depressive mood after having stroke-like symptoms which has continued. Although it was thought that her neurologic signs were out of proportion to her neurological

symptoms, she does seem to have flaccid paralysis of the left arm and left droop of smile. With no gross infarct, there might be some infarct on brainstem or internal capsule. Will need MRI and neuro consult.

107. On December 6, 2005, Dr. Bobrin knew and understood that Wanda Russell was manifesting signs and symptoms of an acute stroke, and in reckless and wanton disregard of this knowledge, failed to immediately transfer Wanda Russell to a medical unit, "stroke center," or to the care of a "stroke team."

108. On December 6, 2005, Dr. Bobrin knew and understood that TIA and CVA were neurologic conditions which carried the risk, when present, of severe, debilitating, and irreversible sequelae.

109. On December 6, 2005, Dr. Bobrin knew and understood that the Dubois Regional Medical Center was not a "Stroke Center" and did not have a "Stroke Team."

110. On December 6, 2005, Dr. Bobrin knew and understood that an acute stroke is a neurological emergency.

111. On December 6, 2005, at or before 1028 hours, Dr. Bobrin formulated a plan for Wanda Russell that included, among other things, "to transfer her back over to medicine where she will receive neuro consult and MRI, continue medical care. I do not think she needs acute psychiatric care at this time."

112. On December 6, 2005, Dr. Bobrin did not obtain an emergency transfer of Wanda Russell back to the medical unit at the DuBois Regional Medical Center; or, the performance of an emergency MRI; or, an emergency neurology consultation, prior to Wanda Russell's transfer to the DRMC Behavioral Unit later that day, in reckless disregard to the urgent/emergent status of Wanda

Russell's neurologic condition, and the knowledge that "time is of the essence" in the evaluation and treatment of a stroke according to the guidelines of the American Heart Association and the American Stroke Association, whose guidelines and standards are herein incorporated by reference.

113. On December 6, 2005, at or about 1700 hours, more than 7 hours after Dr. Bradley and Dr. Bobrin recognized that Wanda Russell was manifesting objective neurologic signs of a neurologic emergency, Wanda Russell was readmitted by Dr. Maloney under his care to the DuBois Regional Medical Center West.

114. On December 6, 2005, the failure to obtain emergent evaluation of Wanda Russell by Dr. Maloney, Dr. Bobrin, and Dr. Bradley during the morning hours of that day, in the face of actual knowledge that Wanda Russell was manifesting objective signs of a neurologic crisis unexplained by psychiatric disease, was grossly negligent and/or reckless.

115. On December 6, 2005, on or before 1700 hours, Dr. Maloney performed a "History and Physical Examination" on Wanda Russell, and described Wanda Russell's admission to "the Adult Mental Health Unit," stating:

When she arrived there, Wanda apparently rescinded her voluntary admission, noting that she did not wish to be there. This was supported by her family, and today, secondary to reported falls in the Adult Mental Health Unit. I have requested that Wanda be returned for further evaluation in the observation status setting.

116. On December 6, 2005, Dr. Maloney ordered an MRI study to be performed on Wanda Russell on the following morning, and a neurology consultation to be performed by Ruediger Katz, M.D. ["Dr. Katz"].

117. On December 6, 2005, during his evaluation of Wanda Russell at or before 1916

hours, Dr. Katz found that Wanda Russell had multiple risk factors for cerebral ischemia.

118. On December 6, 2005, during his neurologic examination of Wanda Russell at or before 1916 hours, Dr. Katz found, among other things, that Wanda Russell had a lower left facial droop, 0/5 strength in her left arm, and 3/5 strength in her left leg. At that time, Wanda Russell had a completed stroke.

119. On December 7, 2005, an unenhanced MRI of the brain was performed on Wanda Russell at the DuBois Regional Medical Center, which demonstrated a "well circumscribed lesion of right basal ganglia suggestive of a subacute or chronic lacunar infarct. Very small lacunar infarct in the left basal ganglia."

120. On December 8, 2005, John J. Ahn, M.D. performed a cardiology consultation on Wanda Russell, and diagnosed Wanda Russell as an "unfortunate 47-year-old female who has suffered a CVA."

121. Wanda Russell suffered a cerebrovascular accident during her admission to the DuBois Regional Medical Center while under the care of Dr. Devlin, Dr. Maloney, Dr. Bradley, Dr. Bobrin, and Dr. Helmi, and was never treated with thrombolytic agents by these physicians.

122. On December 8, 2005, Lynn Myers, M.D. ["Dr. Myers"], a rehabilitation medicine specialist, evaluated Wanda Russell, and found that:

The patient is an appropriate candidate for admission to the inpatient rehabilitation unit to address deficits and functional mobility and self care skills related to her recent CVA with left hemiparesis.

123. On December 9, 2005, Wanda Russell was transferred to the Physiatry Unit for inpatient rehabilitation at the DRMC Inpatient Rehabilitation Programs on the service of Dr. Myers.

124. The negligence, gross negligence, and/or recklessness of all defendants, jointly and severally, as set forth with specificity in the paragraphs above and the Counts below, directly and proximately caused, and increased the risk of harm of, the cerebrovascular accident suffered by Wanda Russell.

125. The negligence, gross negligence, and/or recklessness of all defendants, jointly and severally, as set forth with specificity in the paragraphs above and the Counts below, directly and proximately caused, and increased the risk of harm of, the neurologic injuries, impairments, and deficits suffered by Wanda Russell.

126. The negligence, gross negligence, and/or recklessness of all defendants, jointly and severally, as set forth with specificity in the paragraphs above and the Counts below, directly and proximately caused, and increased the risk of harm of, the following injuries and damages:

- a. irreversible cerebral ischemia;
- b. cerebrovascular accident;
- c. cerebral dysfunction;
- d. cognitive impairment;
- e. motor impairment;
- f. neurological impairment and injury;
- g. humiliation;
- h. embarrassment;
- i. anxiety and fright;
- j. pain and suffering;
- k. disfigurement;

- l. loss of life's pleasures;
- m. economic damages; and,
- n. medical expenses.

127. Wanda Russell suffered, and continues to suffer, grave neurologic and medical injuries, impairments, and deficits which were caused by, and whose risk of harm was increased by, the negligent, grossly negligent, and/or reckless conduct of the defendants, jointly and severally, as more fully set forth with specificity in the paragraphs above and the Counts below.

COUNT I-NEGLIGENCE
(Plaintiff v. Dr. Devlin)

128. The previous paragraphs are herein incorporated by reference as though fully set forth.

129. The negligent conduct of Dr. Delvin during his medical evaluation, care, and treatment of Wanda Russell consisted of the following:

- a. failure to properly, timely, and adequately evaluate a patient with a diagnosis of transient ischemic attack;
- b. failure to properly, timely, and adequately evaluate a patient with a diagnosis of cerebrovascular accident;
- c. failure to properly, timely, and adequately evaluate a patient with fluctuating neurologic signs and symptoms;
- d. failure to properly and timely obtain the consultative services of a neurologist or specialist in neurology;
- e. failure to properly and timely obtain cerebral imaging with an MRI scan and/or MRA;

- f. failure to properly, timely, and adequately evaluate a patient with acute neurologic signs and symptoms;
- g. failure to timely, properly, and adequately evaluate, diagnose, and treat a “stuttering” stroke;
- h. failure to provide appropriate management and treatment of acute neurologic signs and symptoms;
- i. failure to provide appropriate, adequate, and timely monitoring of a patient with a deteriorating neurologic status;
- j. failure to properly, timely, and adequately evaluate a patient with acute deteriorating neurologic status;
- k. failure to provide appropriate management of an evolving cerebrovascular accident;
- l. failure to provide appropriate, adequate, and timely monitoring of a patient with a signs and symptoms of an evolving cerebrovascular accident or neurologic crisis;
- m. failure to properly, timely, and adequately evaluate a patient with signs and symptoms of an evolving neurologic dysfunction;
- n. failure to obtain appropriate, adequate, and timely neuro-radiologic evaluation; and,
- o. failure to properly, timely, and adequately recognize and appreciate signs and symptoms of evolving neurologic dysfunction.

COUNT II-NEGLIGENCE, GROSS NEGLIGENCE, AND RECKLESSNESS
(Plaintiff v. Dr. Maloney)

130. The previous paragraphs, including all allegations of negligence, gross negligence, and recklessness, are herein incorporated by reference as though fully set forth.

131. The negligent, grossly negligent, and/or reckless conduct of Dr. Delvin during his evaluation, care, and treatment of Wanda Russell consisted of the following:

- a. failure to properly, timely, and adequately evaluate a patient with a diagnosis of transient ischemic attack, in the face of objective signs and symptoms of neurologic deficit;
- b. failure to properly, timely, and adequately evaluate a patient with a diagnosis of cerebrovascular accident, in the face of objective signs and symptoms of neurologic deficit;
- c. failure to properly, timely, and adequately evaluate a patient with fluctuating neurologic signs and symptoms, in the face of objective signs and symptoms of neurologic deficit;
- d. failure to properly and timely obtain the consultative services of a neurologist or specialist in neurology, in the face of objective signs and symptoms of neurologic deficit;
- e. failure to properly and timely obtain cerebral imaging with an MRI scan and/or MRA, in the face of objective signs and symptoms of neurologic deficit;
- f. failure to properly, timely, and adequately evaluate a patient with acute

- neurologic signs and symptoms, with actual knowledge of a diagnosis of transient ischemic attack and cerebrovascular accident;
- g. failure to timely, properly, and adequately evaluate, diagnose, and treat a “stuttering” stroke, in the face of neurologic signs and symptoms, and with actual knowledge of a diagnosis of transient ischemic attack and cerebrovascular accident;
 - h. failure to provide appropriate management and treatment of acute neurologic signs and symptoms, in the face of neurologic signs and symptoms, and with actual knowledge of a diagnosis of transient ischemic attack and cerebrovascular accident;
 - i. failure to provide appropriate, adequate, and timely monitoring of a patient with a deteriorating neurologic status;
 - j. failure to properly, timely, and adequately evaluate a patient with acute deteriorating neurologic status, in the face of neurologic signs and symptoms, and with actual knowledge of a diagnosis of transient ischemic attack and cerebrovascular accident;
 - k. failure to provide appropriate management of a cerebrovascular accident;
 - l. failure to provide appropriate, adequate, and timely monitoring of a patient with a signs and symptoms of an evolving cerebrovascular accident or neurologic crisis, in the face of neurologic signs and symptoms, and with actual knowledge of a diagnosis of transient ischemic attack and cerebrovascular accident;

- m. failure to properly, timely, and adequately evaluate a patient with signs and symptoms of an evolving neurologic dysfunction, in the face of neurologic signs and symptoms, and with actual knowledge of a diagnosis of transient ischemic attack and cerebrovascular accident;
- n. failure to provide appropriate, adequate, and timely neuro-radiologic evaluation, in the face of neurologic signs and symptoms, and with actual knowledge of a diagnosis of transient ischemic attack and cerebrovascular accident;
- o. failure to provide timely, appropriate, and adequate medical evaluation prior to transfer to a psychiatric unit, in the face of neurologic signs and symptoms, and with actual knowledge of a diagnosis of transient ischemic attack and cerebrovascular accident;
- p. failure to provide timely, appropriate, and adequate neurologic and neuro-radiologic evaluation prior to transfer to a psychiatric unit, in the face of neurologic signs and symptoms, and with actual knowledge of a diagnosis of transient ischemic attack and cerebrovascular accident;
- q. failure to provide timely, appropriate, and adequate psychiatric and psychologic evaluation prior to transfer to a psychiatric unit, in the face of neurologic signs and symptoms, and with actual knowledge of a diagnosis of transient ischemic attack and cerebrovascular accident;
- r. failure to obtain timely, appropriate, and adequate medical evaluation prior to transfer to a psychiatric unit, in the face of neurologic signs and symptoms,

and with actual knowledge of a diagnosis of transient ischemic attack and cerebrovascular accident;

- s. misrepresentation of the medical status of the patient to the accepting psychiatrist in the DRMC Behavioral Unit, in the face of neurologic signs and symptoms, and with actual knowledge of a diagnosis of transient ischemic attack and cerebrovascular accident;
- t. misrepresentation of the psychological and psychiatric status of the patient to the accepting psychiatrist in the DRMC Behavioral Unit, in the face of neurologic signs and symptoms, and with actual knowledge of a diagnosis of transient ischemic attack and cerebrovascular accident;
- u. failure to take an adequate and appropriate psychiatric and psychological history, in the face of neurologic signs and symptoms, and with actual knowledge of a diagnosis of transient ischemic attack and cerebrovascular accident;
- v. failure to take an adequate and appropriate medical care and psychiatric history prior to hospitalization in the DRMC Behavioral Unit, in the face of neurologic signs and symptoms, and with actual knowledge of a diagnosis of transient ischemic attack and cerebrovascular accident;
- w. failure to effect a timely transfer from the psychiatric unit back to the medical unit, in the face of actual knowledge that the patient was acutely deteriorating in her neurologic status, and required emergent neurologic consultation and diagnostic testing and treatment;

- x. failure to effect a timely transfer from the psychiatric unit back to the medical unit for neurologic evaluation and treatment, in the face of actual knowledge that the patient was acutely deteriorating in her neurologic status;
- y. failure to provide timely, adequate, and appropriate management of a stroke, in the face of actual knowledge that the patient was acutely deteriorating in her neurologic status;
- z. failure to properly, timely, and adequately recognize and appreciate signs and symptoms of evolving neurologic dysfunction, in the face of a diagnosis of transient ischemic attack and cerebrovascular accident, and in the setting of objective neurologic signs and symptoms;
- aa. rendering a psychiatric diagnosis of conversion reaction without appropriate skill, knowledge, training, and experience in the field of psychology and psychiatry;
- bb. rendering a psychological and/or psychiatric explanation for objective neurologic symptoms without appropriate obtaining appropriate consultative evaluation; and,
- cc. failure to timely transfer the patient to a "stroke center."

COUNT III-NEGLIGENCE, GROSS NEGLIGENCE, AND RECKLESSNESS
(Plaintiff v. Dr. Helmi)

132. The previous paragraphs, including all allegations of negligence, gross, negligence, and recklessness, are herein incorporated by reference as though fully set forth.

133. The negligent, grossly negligent, and/or reckless conduct of Dr. Helmi during her evaluation, care, and treatment of Wanda Russell consisted of the following:

- a. failure to properly, timely, and adequately evaluate a patient with a diagnosis of transient ischemic attack, in the face of objective signs and symptoms of neurologic deficit;
- b. failure to properly, timely, and adequately evaluate a patient with a diagnosis of cerebrovascular accident, in the face of objective signs and symptoms of neurologic deficit;
- c. failure to properly, timely, and adequately evaluate a patient with fluctuating neurologic signs and symptoms, in the face of objective signs and symptoms of neurologic deficit;
- d. failure to properly and timely obtain the consultative services of a neurologist or specialist in neurology, in the face of objective signs and symptoms of neurologic deficit;
- e. failure to properly and timely obtain cerebral imaging with an MRI scan and/or MRA, in the face of objective signs and symptoms of neurologic deficit;
- f. failure to properly, timely, and adequately evaluate a patient with acute neurologic signs and symptoms, in the setting of a diagnosis of transient ischemic attack and cerebrovascular accident;
- g. failure to timely, properly, and adequately evaluate, diagnose, and treat a "stuttering" stroke, in the setting of a diagnosis of transient ischemic attack

- and cerebrovascular accident;
- h. failure to provide appropriate management and treatment of acute neurologic signs and symptoms, in the setting of a diagnosis of transient ischemic attack and cerebrovascular accident;
 - i. failure to provide appropriate, adequate, and timely monitoring of a patient with a deteriorating neurologic status;
 - j. failure to properly, timely, and adequately evaluate a patient with acute deteriorating neurologic status, in the face of neurologic signs and symptoms, and in the setting of a diagnosis of transient ischemic attack and cerebrovascular accident;
 - k. failure to provide appropriate management of a cerebrovascular accident;
 - l. failure to provide appropriate, adequate, and timely monitoring of a patient with a signs and symptoms of an evolving cerebrovascular accident or neurologic crisis, in the face of neurologic signs and symptoms, and in the setting of a diagnosis of transient ischemic attack and cerebrovascular accident;
 - m. failure to properly, timely, and adequately evaluate a patient with signs and symptoms of an evolving neurologic dysfunction, in the face of neurologic signs and symptoms, and in the setting of a diagnosis of transient ischemic attack and cerebrovascular accident;
 - n. failure to provide appropriate, adequate, and timely neuro-radiologic evaluation, in the face of neurologic signs and symptoms, and in the setting

- of a diagnosis of transient ischemic attack and cerebrovascular accident;
- o. failure to ensure timely, appropriate, and adequate medical evaluation prior to transfer to a psychiatric unit, in the setting of a diagnosis of transient ischemic attack and cerebrovascular accident;
 - p. failure to provide timely, appropriate, and adequate neurologic and neuro-radiologic evaluation prior to transfer to a psychiatric unit, in the face of neurologic signs and symptoms, and in the setting of a diagnosis of transient ischemic attack and cerebrovascular accident;
 - q. failure to provide timely, appropriate, and adequate psychiatric and psychologic evaluation prior to transfer to a psychiatric unit, in the face of neurologic signs and symptoms, and with actual knowledge of these signs and symptoms;
 - r. failure to obtain timely, appropriate, and adequate medical evaluation prior to transfer to a psychiatric unit, in the face of neurologic signs and symptoms, and with actual knowledge of a diagnosis of these signs and symptoms and the diagnosis of transient ischemic attack and cerebrovascular accident;
 - s. failure to evaluate the of the medical status of a patient deemed "suicidal";
 - t. failure to take an adequate and appropriate psychiatric and psychological history, in the face of neurologic signs and symptoms, and with actual knowledge of a diagnosis of transient ischemic attack and cerebrovascular accident;
 - u. failure to take an adequate and appropriate medical care and psychiatric

- history during hospitalization in the DRMC Behavioral Unit, in the face of neurologic signs and symptoms, and with actual knowledge of a diagnosis of transient ischemic attack and cerebrovascular accident;
- v. failure to effect a timely transfer from the psychiatric unit back to the medical unit, in the face of actual knowledge that the patient was acutely deteriorating in her neurologic status, and required emergent neurologic consultation and diagnostic testing and treatment;
 - w. failure to effect a timely transfer from the psychiatric unit back to the medical unit for neurologic evaluation and treatment, in the face of actual knowledge that the patient was acutely deteriorating in her neurologic status;
 - x. failure to provide timely, adequate, and appropriate management of a stroke, in the face of actual knowledge that the patient was acutely deteriorating in her neurologic status; and,
 - y. failure to properly, timely, and adequately recognize and appreciate signs and symptoms of evolving neurologic dysfunction, in the face of a diagnosis of transient ischemic attack and cerebrovascular accident, and in the setting of objective neurologic signs and symptoms.

COUNT IV-NEGLIGENCE, GROSS NEGLIGENCE, AND RECKLESSNESS
(Plaintiff v. Dr. Bradley)

134. The previous paragraphs, including all allegations of negligence, gross, negligence, and recklessness, are herein incorporated by reference as though fully set forth.

135. The negligent, grossly negligent, and/or reckless conduct of Dr. Bradley during his

evaluation, care, and treatment of Wanda Russell consisted of the following:

- a. failure to properly, timely, and adequately evaluate a patient with a diagnosis of transient ischemic attack, in the face of objective signs and symptoms of neurologic deficit;
- b. failure to properly, timely, and adequately evaluate a patient with a diagnosis of cerebrovascular accident, in the face of objective signs and symptoms of neurologic deficit;
- c. failure to properly, timely, and adequately evaluate a patient with fluctuating neurologic signs and symptoms, in the face of objective signs and symptoms of neurologic deficit;
- d. failure to properly and timely obtain the consultative services of a neurologist or specialist in neurology, in the face of objective signs and symptoms of neurologic deficit;
- e. failure to properly and timely obtain cerebral imaging with an MRI scan and/or MRA, in the face of objective signs and symptoms of neurologic deficit;
- f. failure to properly, timely, and adequately evaluate a patient with acute neurologic signs and symptoms, in the setting of a diagnosis of transient ischemic attack and cerebrovascular accident;
- g. failure to timely, properly, and adequately evaluate, diagnose, and treat a "stuttering" stroke, in the setting of a diagnosis of transient ischemic attack and cerebrovascular accident;

- h. failure to provide appropriate management and treatment of acute neurologic signs and symptoms, in the setting of a diagnosis of transient ischemic attack and cerebrovascular accident;
- i. failure to provide appropriate, adequate, and timely monitoring of a patient with a deteriorating neurologic status;
- j. failure to properly, timely, and adequately evaluate a patient with acute deteriorating neurologic status, in the face of neurologic signs and symptoms, and in the setting of a diagnosis of transient ischemic attack and cerebrovascular accident;
- k. failure to provide appropriate management of a cerebrovascular accident;
- l. failure to provide appropriate, adequate, and timely monitoring of a patient with a signs and symptoms of an evolving cerebrovascular accident or neurologic crisis, in the face of neurologic signs and symptoms, and in the setting of a diagnosis of transient ischemic attack and cerebrovascular accident;
- m. failure to properly, timely, and adequately evaluate a patient with signs and symptoms of an evolving neurologic dysfunction, in the face of neurologic signs and symptoms, and in the setting of a diagnosis of transient ischemic attack and cerebrovascular accident;
- n. failure to provide appropriate, adequate, and timely neuro-radiologic evaluation, in the face of neurologic signs and symptoms, and in the setting of a diagnosis of transient ischemic attack and cerebrovascular accident;

- o. failure to ensure timely, appropriate, and adequate medical evaluation prior to transfer to a psychiatric unit, in the setting of a diagnosis of transient ischemic attack and cerebrovascular accident;
- p. failure to provide timely, appropriate, and adequate neurologic and neuro-radiologic evaluation prior to transfer to a psychiatric unit, in the face of neurologic signs and symptoms, and in the setting of a diagnosis of transient ischemic attack and cerebrovascular accident;
- q. failure to provide timely, appropriate, and adequate psychiatric and psychologic evaluation prior to transfer to a psychiatric unit, in the face of neurologic signs and symptoms, and with actual knowledge of these signs and symptoms;
- r. failure to obtain timely, appropriate, and adequate medical evaluation prior to transfer to a psychiatric unit, in the face of neurologic signs and symptoms, and with actual knowledge of a diagnosis of these signs and symptoms and the diagnosis of transient ischemic attack and cerebrovascular accident;
- s. failure to evaluate the of the medical status of a patient deemed "suicidal";
- t. failure to take an adequate and appropriate psychiatric and psychological history, in the face of neurologic signs and symptoms, and with actual knowledge of a diagnosis of transient ischemic attack and cerebrovascular accident;
- u. failure to take an adequate and appropriate medical care and psychiatric history during hospitalization in the DRMC Behavioral Unit, in the face of

- neurologic signs and symptoms, and with actual knowledge of a diagnosis of transient ischemic attack and cerebrovascular accident;
- v. failure to effect a timely transfer from the psychiatric unit back to the medical unit, in the face of actual knowledge that the patient was acutely deteriorating in her neurologic status, and required emergent neurologic consultation and diagnostic testing and treatment;
 - w. failure to effect a timely transfer from the psychiatric unit back to the medical unit for neurologic evaluation and treatment, in the face of actual knowledge that the patient was acutely deteriorating in her neurologic status;
 - x. failure to provide timely, adequate, and appropriate management of a stroke, in the face of actual knowledge that the patient was acutely deteriorating in her neurologic status;
 - y. failure to properly, timely, and adequately recognize and appreciate signs and symptoms of evolving neurologic dysfunction, in the face of a diagnosis of transient ischemic attack and cerebrovascular accident, and in the setting of objective neurologic signs and symptoms;
 - aa. rendering a psychiatric diagnosis of conversion reaction without appropriate skill, knowledge, training, and experience in the field of psychology and psychiatry;
 - bb. rendering a psychological and/or psychiatric explanation for objective neurologic symptoms without appropriate obtaining appropriate consultative evaluation; and,

cc. failure to timely transfer the patient to a "stroke center."

COUNT V-NEGLIGENCE, GROSS NEGLIGENCE, AND RECKLESSNESS
(Plaintiff v. Dr. Bobrin)

136. The previous paragraphs, including all allegations of negligence, gross, negligence, and recklessness, are herein incorporated by reference as though fully set forth.

137. The negligent, grossly negligent, and/or reckless conduct of Dr. Bobrin during his evaluation, care, and treatment of Wanda Russell consisted of the following:

- a. failure to properly, timely, and adequately evaluate a patient with a diagnosis of transient ischemic attack, in the face of objective signs and symptoms of neurologic deficit;
- b. failure to properly, timely, and adequately evaluate a patient with a diagnosis of cerebrovascular accident, in the face of objective signs and symptoms of neurologic deficit;
- c. failure to properly, timely, and adequately evaluate a patient with fluctuating neurologic signs and symptoms, in the face of objective signs and symptoms of neurologic deficit;
- d. failure to properly and timely obtain the consultative services of a neurologist or specialist in neurology, in the face of objective signs and symptoms of neurologic deficit;
- e. failure to properly and timely obtain cerebral imaging with an MRI scan and/or MRA, in the face of objective signs and symptoms of neurologic deficit;

- f. failure to properly, timely, and adequately evaluate a patient with acute neurologic signs and symptoms, in the setting of a diagnosis of transient ischemic attack and cerebrovascular accident;
- g. failure to timely, properly, and adequately evaluate, diagnose, and treat a "stuttering" stroke, in the setting of a diagnosis of transient ischemic attack and cerebrovascular accident;
- h. failure to provide appropriate management and treatment of acute neurologic signs and symptoms, in the setting of a diagnosis of transient ischemic attack and cerebrovascular accident;
- i. failure to provide appropriate, adequate, and timely monitoring of a patient with a deteriorating neurologic status;
- j. failure to properly, timely, and adequately evaluate a patient with acute deteriorating neurologic status, in the face of neurologic signs and symptoms, and in the setting of a diagnosis of transient ischemic attack and cerebrovascular accident;
- k. failure to provide appropriate management of a cerebrovascular accident;
- l. failure to provide appropriate, adequate, and timely monitoring of a patient with a signs and symptoms of an evolving cerebrovascular accident or neurologic crisis, in the face of neurologic signs and symptoms, and in the setting of a diagnosis of transient ischemic attack and cerebrovascular accident;
- m. failure to properly, timely, and adequately evaluate a patient with signs and

symptoms of an evolving neurologic dysfunction, in the face of neurologic signs and symptoms, and in the setting of a diagnosis of transient ischemic attack and cerebrovascular accident;

- n. failure to provide appropriate, adequate, and timely neuro-radiologic evaluation, in the face of neurologic signs and symptoms, and in the setting of a diagnosis of transient ischemic attack and cerebrovascular accident;
- o. failure to ensure timely, appropriate, and adequate medical evaluation prior to transfer to a psychiatric unit, in the setting of a diagnosis of transient ischemic attack and cerebrovascular accident;
- p. failure to provide timely, appropriate, and adequate neurologic and neuro-radiologic evaluation prior to transfer to a psychiatric unit, in the face of neurologic signs and symptoms, and in the setting of a diagnosis of transient ischemic attack and cerebrovascular accident;
- q. failure to provide timely, appropriate, and adequate psychiatric and psychologic evaluation prior to transfer to a psychiatric unit, in the face of neurologic signs and symptoms, and with actual knowledge of these signs and symptoms;
- r. failure to obtain timely, appropriate, and adequate medical evaluation prior to transfer to a psychiatric unit, in the face of neurologic signs and symptoms, and with actual knowledge of a diagnosis of these signs and symptoms and the diagnosis of transient ischemic attack and cerebrovascular accident;
- s. failure to evaluate the of the medical status of a patient deemed "suicidal";

- t. failure to take an adequate and appropriate psychiatric and psychological history, in the face of neurologic signs and symptoms, and with actual knowledge of a diagnosis of transient ischemic attack and cerebrovascular accident;
- u. failure to take an adequate and appropriate medical care and psychiatric history during hospitalization in the DRMC Behavioral Unit, in the face of neurologic signs and symptoms, and with actual knowledge of a diagnosis of transient ischemic attack and cerebrovascular accident;
- v. failure to effect a timely transfer from the psychiatric unit back to the medical unit, in the face of actual knowledge that the patient was acutely deteriorating in her neurologic status, and required emergent neurologic consultation and diagnostic testing and treatment;
- w. failure to effect a timely transfer from the psychiatric unit back to the medical unit for neurologic evaluation and treatment, in the face of actual knowledge that the patient was acutely deteriorating in her neurologic status;
- x. failure to provide timely, adequate, and appropriate management of a stroke, in the face of actual knowledge that the patient was acutely deteriorating in her neurologic status;
- y. failure to properly, timely, and adequately recognize and appreciate signs and symptoms of evolving neurologic dysfunction, in the face of a diagnosis of transient ischemic attack and cerebrovascular accident, and in the setting of objective neurologic signs and symptoms.

- z. maintaining a patient in a psychiatric unit with the actual knowledge of signs and symptoms of a neurologic emergency;
- aa. maintaining a patient in a psychiatric unit with the actual knowledge of signs and symptoms of an evolving stroke;
- bb. maintaining a patient in a psychiatric unit with the actual knowledge that time is of the essence in treating a stroke;
- cc. maintaining a patient in a psychiatric unit with the actual knowledge that the patient's neurologic signs and symptoms are not the result of psychiatric illness; and,
- dd. maintaining a patient in a psychiatric unit with the actual knowledge that the patient is neither suicidal, as previously represented by Dr. Maloney and Dr. Helmi, and is manifesting neurologic signs and symptoms that bear no relationship to an underlying psychiatric diagnosis.

**COUNT V-VICARIOUS LIABILITY FOR THE NEGLIGENCE, GROSS
NEGLECTANCE, AND RECKLESSNESS OF AGENTS
AND CORPORATE (DIRECT) NEGLIGENCE**
**(Plaintiff v. DuBois Regional Medical Center a/k/a/
DuBois Regional Medical Center West a/d/b/a DRMC Behavioral Unit a/k/a
DRMC East Behavioral Unit a/k/a DRMC Behavioral Health Outpatient Clinic)**

138. The previous paragraphs, including all allegations of negligence, gross, negligence, and recklessness, are herein incorporated by reference as though fully set forth.

139. At all times material hereto, DuBois Regional Medical Center a/k/a/ DuBois Regional Medical Center West a/d/b/a DRMC Behavioral Unit a/k/a DRMC East Behavioral Unit a/k/a DRMC Behavioral Health Outpatient Clinic was acting by and through its actual agents, ostensible

agents, servants, and/or employees, including Dr. Maloney, Devlin, Helmi, Bradley, and Bobrin, and the nursing staff who provided nursing care and treatment to Wanda Russell during her hospitalization in the DRMC Behavioral Unit, whose identities are partially set forth in Exhibit "C." These actual agents, ostensible agents, servants, and/or employees provided medical care and treatment to Wanda Russell while acting within the scope of their medical and nursing duties. Accordingly, the DuBois Regional Medical Center a/k/a/ DuBois Regional Medical Center West a/d/b/a DRMC Behavioral Unit a/k/a DRMC East Behavioral Unit a/k/a DRMC Behavioral Health Outpatient Clinic is vicariously and derivatively liable for the negligent, grossly negligent, and/or reckless acts and omissions of these actual agents, ostensible agents, servants, and/or employees under theories of agency, master-servant, respondeat superior, and/or right of control.

140. The Dubois Regional Medical Center is liable for the conduct of the nurses who provided psychiatric nursing care to Wanda Russell on the DRMC Behavioral Unit on December 5 to 6, 2005, whose identities are partially set forth in Exhibit "C," and whose negligent, grossly negligent, and/or reckless conduct consisted of:

- a. failure to report falls in a patient exhibiting neurologic impairment to a physician at the time the falls occurred, in disregard to the safety and well-being of the patient;
- b. failure to report neurologic signs and symptoms to the physician staff, in disregard to the safety and well-being of the patient;
- c. failure to obtain appropriate psychiatric evaluation at the time the patient arrived on the psychiatric unit, in disregard to the rights, safety, and well-being of the patient and contrary to the policies and procedures of the DRMC

Unit;

- d. failure to insure that the protocol for psychiatric unit was adhered to and followed, including provision of the Patient's Bill of Rights and the report of initial evaluation and the proposed treatment plan completed and signed by the patient and the physician, in disregard to the rights, safety, and well-being of the patient and contrary to the policies and procedures of the DRMC

Unit;

- e. failure to obtain medical evaluation for signs and symptoms during the nursing evaluation of the patient of evolving neurologic dysfunction;
- f. failure to timely, appropriately, and adequately notify the physician medical staff of evolving of neurologic signs and symptoms, in disregard to the safety and well-being of the patient;
- g. failure to provide appropriate nursing, monitoring and care to a patient with evolving and shifting neurologic signs and symptoms, in disregard to the safety and well-being of the patient;
- h. failure to provide adequate, appropriate, and timely nursing care in the setting of shifting neurologic signs and symptoms, in disregard to the safety and well-being of the patient;
- i. intentionally and willfully failing to report evolving neurologic signs and symptoms to the physician staff;
- j. intentionally and willfully failing to insure that evolving neurologic signs and symptoms are evaluated by the physician staff, including the onsite evaluation

by a physician of a patient with evolving neurologic signs and symptoms and falls; and,

- k. intentionally and willfully ignoring a patient's pleas for medical care, including statements that the patient is experiencing signs and symptoms of an evolving neurologic emergency.

141. In addition, pursuant to the decision of the Supreme Court of Pennsylvania in Thompson v. Nason, 591 A.2d 703 (1991) and its progeny of case law, at all relevant times hereto, DuBois Regional Medical Center a/k/a/ DuBois Regional Medical Center West a/d/b/a DRMC Behavioral Unit a/k/a DRMC East Behavioral Unit a/k/a DRMC Behavioral Health Outpatient Clinic owed non-delegable duties directly to Wanda Russell which included:

- a. a duty to use reasonable care in the maintenance of safe and adequate facilities and equipment;
- b. a duty to select and retain only competent physicians;
- c. a duty to oversee all persons who practice medicine within its walls as to patient care; and,
- d. a duty to formulate, adopt, and enforce adequate rules and policies to ensure quality care for the patients.

142. The corporate (direct) negligence of the DuBois Regional Medical Center a/k/a/ DuBois Regional Medical Center West a/d/b/a DRMC Behavioral Unit a/k/a DRMC East Behavioral Unit a/k/a DRMC Behavioral Health Outpatient Clinic arising out of the medical evaluation, care, and treatment of Wanda Russell, of which the hospital had actual or constructive knowledge, and knew, or should have known, consisted of the following:

- a. failure to select and retain only competent physicians proficient in the recognition, evaluation, and management of transient ischemic attack, neurologic dysfunction, evolving cerebrovascular accident, and “stuttering” stroke;
- b. failure to select and retain only competent physicians proficient in the recognition, evaluation, and management of psychiatric illness;
- c. failure to select and retain only competent physicians proficient in the recognition, evaluation, and neurologic signs and symptoms;
- d. failure to select and retain only competent physicians proficient in the recognition, evaluation, and management of evolving neurologic injury;
- e. failure to select and retain only competent physicians proficient in the recognition, evaluation, and management of cerebral ischemia and associated risk factors;
- f. failure to select and retain only competent physicians proficient in the recognition, evaluation, and management of deteriorating neurologic status;
- g. failure to select and retain only competent physicians proficient in the recognition, evaluation, and management evolving stroke symptoms;
- h. failure to select and retain only competent physicians proficient in the recognition, evaluation, and management of patients within a psychiatric unit;
- i. failure to select and retain only competent physicians proficient in the recognition, evaluation, and management of fluctuating neurologic signs and symptoms;

- j. failure to select and retain only competent physicians proficient in the evaluation patients prior to voluntary transfer to a psychiatric unit;
- k. failure to formulate, adopt, and/or enforce adequate rules and policies with respect to evaluation of patients prior to transfer to a psychiatric unit, including evaluation by a psychiatrist;
- l. failure to formulate, adopt, and/or enforce adequate rules and policies with respect to the evaluation, re-evaluation, and management of patients admitted to a psychiatric unit with fluctuating neurologic signs and symptoms;
- m. failure to formulate, adopt, and/or enforce adequate rules and policies with respect to the timely evaluation of patients admitted to the psychiatric unit;
- n. failure to formulate, adopt, and/or enforce adequate rules and policies with respect to the reporting and evaluation of falls by the nursing staff in the psychiatric unit;
- o. failure to formulate, adopt, and/or enforce adequate rules and policies with respect to the transfer of patients with acute medical emergencies out of the psychiatric unit;
- p. failure to formulate, adopt, and/or enforce adequate rules and policies with respect to holding patients with acute medical complaints, acute neurologic complaints, and falls within the confines of the psychiatric unit;
- q. failure to formulate, adopt, and/or enforce adequate rules and policies with respect to the reporting of acute medical signs and symptoms, and falls, by the nursing staff to the attending medical staff;

- r. failure to formulate, adopt, and/or enforce adequate rules and policies with respect to obtaining timely transfer of a patient with signs and symptoms of an evolving stroke to a medical unit from the psychiatric unit;
- s. failure to oversee all persons who practice medicine within its walls as to patient care to ensure that an appropriate psychiatric evaluation by a psychiatrist occurs prior to the transfer of a patient to a psychiatric unit;
- t. failure to oversee all persons who practice medicine within its walls as to patient care to ensure that an appropriate medical evaluation occurs prior to the transfer of a patient to a psychiatric unit;
- u. failure to oversee all persons who practice medicine within its walls as to patient care to ensure that an appropriate medical evaluation occurs at the time of transfer of a patient to a psychiatric unit; and,
- v. failure to oversee all persons who practice medicine within its walls as to patient care to ensure that an appropriate psychiatric evaluation occurs at the time of transfer of a patient to a psychiatric unit.

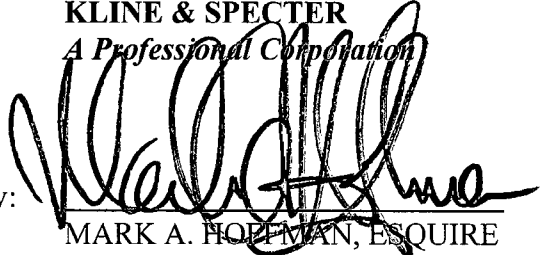
WHEREFORE, Plaintiff Wanda Russell claims damages against all defendants, jointly and severally, including all damages cognizable under Pennsylvania law, to include compensatory as to Dr. Devlin, Dr. Maloney, Dr. Helmi, Dr. Bradley, Dr. Bobrin, the nursing staff of the DRMC Behavioral Unit, and the Dubois Regional Medical Center and its affiliated units (corporate negligence claim) in an amount in excess of the prevailing arbitration limits, exclusive of pre-judgment interest and post-judgment interest and costs, and retains the right, pursuant to Pa.R.C.P. No. 1033 and case law relating to amendments to pleading, to amend this ad damnum clause, at any time up to and including trial, to pray for punitive damages against any and all defendants herein,

on the material facts and causes of action set forth in this Fourth Amended Civil Action Complaint,.

KLINE & SPECTER

A Professional Corporation

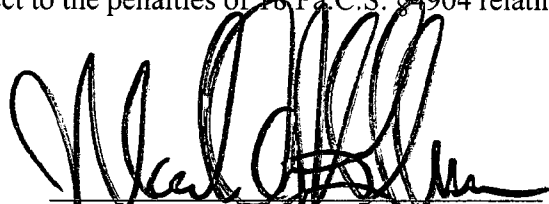
By:


MARK A. HOFFMAN, ESQUIRE
Attorneys for Plaintiff

Date: January 30, 2008

VERIFICATION

I, **MARK A. HOFFMAN, ESQUIRE**, as duty appointed counsel to, and representative of, Plaintiff, Wanda Russell, do hereby verify, on behalf of Plaintiff, Wanda Russell, that the statements made in the foregoing Fourth Amended Civil Action Complaint are true and correct to the best of my knowledge, information, and belief. This knowledge, information, and belief is based upon my diligent investigation of the subject matter of this action, and the discovery taken to this point in time. I make this verification subject to Pa.R.C.P. No. 1023.1, relating to the signing of documents and representations made to the court; and, subject to the penalties of 18 Pa.C.S. §4904 relating to unsworn falsification to authorities.


MARK A. HOFFMAN, ESQUIRE

Date: January 30, 2008



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**Transcript of the Testimony of Thomas J. Bradley,
M.D.**

Date: November 14, 2007

Case: Wanda Russell v. James E. Devlin, M.D., et al.

Printed On: December 6, 2007

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

* * * * *

WANDA RUSSELL,	*
Plaintiff	* Docket No.
vs.	* 07-664-CD
JAMES E. DEVLIN, M.D.	*
and MARK W. MALONEY, D.O.	*
and DRMC PRIMARY CARE	*
ASSOCIATES and SANAA	*
HELMI, M.D. and THOMAS J.	*
BRADLEY, M.D and BRADFORD	*
BOBRIN, M.D. and DUBOIS	*
REGIONAL MEDICAL CENTER	*
a/k/a DUBOIS REGIONAL	*
MEDICAL CENTER WEST	*
a/d/b/a DRMC BEHAVIORAL	*

DEPOSITION OF
THOMAS J. BRADLEY, M.D.

November 14, 2007

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Page 2 1 UNIT a/k/a DRMC EAST * 2 BEHAVIORAL UNIT a/k/a * 3 DRMC BEHAVIORAL HEALTH * 4 OUTPATIENT CLINIC, * 5 Defendants * 6 * 7 * * * * * 8 9 DEPOSITION OF 10 THOMAS J. BRADLEY, M.D. 11 November 14, 2007 12 13 14 15 16 17 18 19 20 21 22 23 24 25	Page 4 1 A P P E A R A N C E S 2 3 MARK A. HOFFMAN, ESQUIRE 4 Kline & Specter 5 1525 Locust Street 6 Philadelphia, PA 19102 7 COUNSEL FOR PLAINTIFF 8 9 JOHN L. MCINTYRE, ESQUIRE 10 McIntyre, Hartye & Schmitt 11 P.O. Box 533 12 Hollidaysburg, PA 16648 13 COUNSEL FOR DEFENDANT, DUBOIS 14 REGIONAL MEDICAL CENTER a/k/a DUBOIS 15 REGIONAL MEDICAL CENTER WEST a/d/b/a 16 DRMC BEHAVIORAL UNIT a/k/a DRMC EAST 17 BEHAVIORAL UNIT a/k/a DRMC 18 BEHAVIORAL OUTPATIENT CLINIC 19 20 DARRYL R. SLIMAK, ESQUIRE 21 McQuaide Blasko 22 811 University Drive 23 State College, PA 16801-6699 24 COUNSEL FOR DEFENDANT, SANAA HELMI, 25 M.D.
Page 3 1 DEPOSITION 2 OF 3 THOMAS J. BRADLEY, M.D., taken on 4 behalf of the Plaintiff herein, 5 pursuant to the Rules of Civil 6 Procedure, taken before me, the 7 undersigned, Rhonda K. Thorpe, a Court 8 Reporter and Notary Public in and for 9 the Commonwealth of Pennsylvania, at 10 the offices of Dubois Hospital Home 11 Health Building, 100 Hospital Drive, 12 Second Floor, Dubois, Pennsylvania, on 13 Wednesday, November 14, 2007 beginning 14 at 10:20 a.m. 15 16 17 18 19 20 21 22 23 24 25	Page 5 1 A P P E A R A N C E S (cont.) 2 3 DAVID R. BAHL, ESQUIRE 4 McCormick Law Firm 5 835 West Fourth Street 6 P.O. Box 577 7 Williamsport, PA 17701 8 COUNSEL FOR DEFENDANT, MARK W. 9 MALONEY, D.O. 10 11 BRIAN O'CONNOR, ESQUIRE 12 Matis, Brum, Rizza, O'Connor 13 Four Gateway Center 14 444 Liberty Avenue, Suite 300 15 Pittsburgh, PA 15222 16 COUNSEL FOR DEFENDANT, JAMES E. 17 DEVLIN, M.D. 18 19 CHRISTOPHER C. RULIS, ESQUIRE 20 O'Brien, Rulis & Bochicchio, LLC 21 555 Grant Street, Suite 120 22 Pittsburgh, PA 15219 23 COUNSEL FOR DEFENDANT, THOMAS J. 24 BRADLEY, M.D. 25

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1 **PROCEEDINGS**
2 _____
3 THOMAS J. BRADLEY, M.D., HAVING FIRST
4 BEEN DULY SWORN, TESTIFIED AS FOLLOWS:
5 _____
6 ATTORNEY HOFFMAN:
7 Do you want the usual
8 stipulations?
9 ATTORNEY BAHL:
10 Yes.
11 ATTORNEY HOFFMAN:
12 Do you want the Doctor to
13 read and sign his deposition?
14 ATTORNEY BAHL:
15 Yes.
16 **EXAMINATION**
17 BY ATTORNEY HOFFMAN:
18 Q. Good morning, Dr. Bradley.
19 A. Hi.
20 Q. My name's Mark Hoffman. I'm an
21 attorney with a law firm in
22 Philadelphia called Kline and Specter.
23 And I represent the interest of Wanda
24 Russell in a lawsuit that's being
25 brought against you and a number of

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1 other physicians and healthcare
2 entities and so forth. Have you ever
3 had your deposition taken before?
4 A. Yes.
5 Q. On how many occasions, sir,
6 approximately?
7 A. Seven or eight of them.
8 Q. We'll come back to that in a
9 second, but I'd like to give you a list
10 of instructions that'll hopefully make
11 the process go smoothly and
12 expeditiously for you. If you don't
13 hear a question that I ask, or you
14 don't understand a question that I ask
15 you should let me know. The one piece
16 of legal advice I'll give you today,
17 Dr. Bradley, is don't answer a question
18 unless you're sure you know what I'm
19 asking you. Okay? You should feel
20 free to pin me down if I'm not clear in
21 what I'm saying.
22 There is a court reporter who's
23 going to write down all of the
24 discussion, questions, answers that
25 take place in this room today. And

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1 from that in the presence of the court
2 report flow a couple of instructions.
3 One is that all of your answers need to
4 be in the form of a verbal response so
5 if you nod your head or shrug your
6 shoulders somebody, likely me, is going
7 to say is that a yes? Is that a no?
8 Something to that effect.
9 Second, it's important for you
10 to wait for me to finish my question.
11 In the course of conversation we often
12 anticipate what somebody's going to ask
13 after they've asked half to three-
14 quarters of the question. And then we
15 begin to answer. It always works in
16 normal conversation but it doesn't work
17 when you want a transcript in which
18 you're actually able to identify what
19 the question is and what the answer is.
20 So if I cut you off and say I'm not
21 done with my question it's not to be
22 rude, or short, or curt with you. It's
23 just to have a nice written record for
24 you, and for me, and for everybody else
25 in this room as to what the question

Page 13

1 was and what the answer was. And in
2 the spirit of reciprocity if you sense
3 that I've not afforded you an
4 opportunity or a full opportunity to
5 provide the answer that you think is
6 responsive to my question and I start
7 to ask you another question, you should
8 feel free to say I'm not done with my
9 answer. And then I will stop my
10 question and, within certain limits,
11 you'll be allowed to give whatever
12 answer you think is fully and
13 completely responsive to my question.
14 There will almost undoubtedly be
15 a number of objections lodged here.
16 Maybe there won't be. Who knows?
17 Depends how artful I am in my question
18 asking, but you should wait for the
19 people to give whatever objection they
20 want to give. And unless your attorney
21 instructs you not to answer a question
22 after there's an objection, you can
23 answer the question. We don't want you
24 to guess. We don't want you to
25 speculate in terms of what your answer

4 (Pages 10 to 13)

Page 14

1 is, or should be, or would be. If you
2 can give a reasonable estimate in terms
3 of something that is response to the
4 question that's okay for you to tell
5 me, you know, that's an estimate or a
6 reasonable estimate. If it's just
7 going to be a frank guess at something
8 I don't want you to do that. If you
9 don't know the answer to a question
10 that I've asked, just tell me you don't
11 know, and we'll move on.
12 If you need a break at any point
13 you should let me know. I'm happy to
14 accommodate whatever breaks you might
15 require. I don't know if you're
16 carrying a beeper. If that should go
17 off and you happen to need to respond
18 to that just feel free to let me know.
19 I am not going to review for you all of
20 the uses of depositions at trials that
21 are Rules of Evidence and Rules of
22 Civil Procedure that your attorney, in
23 his free time, he can review all of
24 those rules. As Rule 40-20 if you want
25 to pin him down to the uses of

Page 15

1 depositions at trial. But there are
2 uses of depositions. One of the uses
3 that I will tell you about you are a
4 party. So that your deposition
5 transcript could basically subject to
6 objection be read to the jury. But
7 another use if I could conceivably put
8 your deposition to, is if you give an
9 answer at trial that's different than
10 something you say hear today, you can
11 be confronted with that and asked to
12 account why two sets of testimony both
13 offered under oath differ from one
14 another. There are lots of other uses.
15 And I'm not going to review them all
16 with you. Do you have any questions
17 concerning those instructions?
18 A. No.
19 Q. Can you tell me what is your
20 full name, sir?
21 A. Thomas Joseph Bradley.
22 Q. You are a medical doctor; is
23 that correct?
24 A. Yes.
25 Q. We're going to be talking about

Page 16

1 events that took place in December of
2 2005. To state the obvious you were a
3 medical doctor at that time as well; is
4 that correct?
5 A. Yes.
6 Q. Who was your employer in
7 December of 2005?
8 A. I was self-employed as a family
9 physician. And I was under contract
10 with the hospital, Dubois Regional
11 Medical Center, to do histories, do
12 physicals in the psychiatric unit.
13 Q. You say you were self-employed.
14 Was there some type of a corporate
15 entity or partnership or an association
16 that you worked for?
17 A. I was incorporated as a solo
18 practitioner.
19 Q. What was the name of your
20 corporation?
21 A. Thomas J. Bradley, M.D., PC.
22 Q. Where is that corporation
23 located? What was the address in 2005?
24 A. 701 Sunflower Drive.
25 Q. And what city is that?

Page 17

1 A. Dubois.
2 Q. Is that your home or is that
3 your office?
4 A. That was my office.
5 Q. Do you own the building that
6 that office is in?
7 A. No.
8 Q. You rent space in a building?
9 A. Yes.
10 Q. Any other offices that you have?
11 A. No.
12 Q. Now you said you were under
13 contract with the hospital to do
14 histories and physicals in the
15 psychiatric unit; is that correct?
16 A. Yes.
17 Q. How long has that contract been
18 in existence?
19 A. It was actually a verbal
20 contract, and it had been in existence
21 about 13 years.
22 Q. When you say it was a verbal
23 contract who was the contract actually
24 made with?
25 A. The CEO of Dubois Regional

5 (Pages 14 to 17)

Page 18

1 Medical Center through John ---. Well,
 2 I guess through John Sutika.
 3 **Q. How do you spell John Sutika?**
 4 A. S-U-T-I-K-A.
 5 **Q. And who is John Sutika?**
 6 A. John's the vice president for
 7 finance for the Medical Center.
 8 **Q. Is he presently the vice**
 9 **president of finance?**
 10 A. Yes.
 11 **Q. And was he the vice president of**
 12 **finance back 16 years ago when you**
 13 **actually entered into this arrangement?**
 14 **ATTORNEY RULIS:**
 15 I think he said 13.
 16 A. I think he was, yes.
 17 **BY ATTORNEY HOFFMAN:**
 18 **Q. Now you said that the contract**
 19 **was entered into through John Sutika.**
 20 **What does that mean?**
 21 A. There was no written contract.
 22 I was paid a certain amount monthly.
 23 **Q. When you say you were ---. Were**
 24 **is in the past tense, so is that**
 25 **contract still in existence?**

Page 19

1 A. Not presently.
 2 **Q. When did that contract stop?**
 3 A. January 2007.
 4 **Q. Why did it stop?**
 5 A. 'Cause I stopped practicing for
 6 a time.
 7 **Q. When you say you stopped, you**
 8 **stopped practicing medicine?**
 9 A. Yes.
 10 **Q. You told me that there were ---**
 11 **I guess there were paychecks that came**
 12 **from the hospital under this contract;**
 13 **is that right?**
 14 **ATTORNEY MCINTYRE:**
 15 Objection to form.
 16 **BY ATTORNEY HOFFMAN:**
 17 **Q. Well, did somebody receive**
 18 **checks from the hospital under this**
 19 **contract?**
 20 A. Yes.
 21 **Q. Who were the checks made out to?**
 22 A. To me.
 23 **Q. To you in your personal capacity**
 24 **or to you as Thomas J. Bradley, M.D.,**
 25 **PC?**

Page 20

1 A. To M.D., PC.
 2 **Q. Under this contract with the**
 3 **hospital were there certain terms of**
 4 **your employment with them that you**
 5 **understood?**
 6 **ATTORNEY MCINTYRE:**
 7 Still object to the form
 8 of the question.
 9 A. To do history and physicals on
 10 all admissions to inpatient mental
 11 health.
 12 **BY ATTORNEY HOFFMAN:**
 13 **Q. When you say all patients I**
 14 **don't envision that you worked 24 hours**
 15 **a day, seven days a week. Were there**
 16 **hours you were contractual employment**
 17 **with the hospital?**
 18 A. There weren't fixed hours.
 19 **ATTORNEY MCINTYRE:**
 20 Objection to the form.
 21 **BY ATTORNEY HOFFMAN:**
 22 **Q. What benefits, if any, did you**
 23 **receive from the hospital?**
 24 A. The amount?
 25 **Q. No. I'm not asking about the**

Page 21

1 amount that you were paid, but did you
 2 receive any other benefits from the
 3 hospital?
 4 A. No.
 5 **Q. When you performed histories and**
 6 **physicals on --- these are patients**
 7 **that were being admitted to the, I**
 8 **think it's called the DRMC East; is**
 9 **that right?**
 10 A. Yes.
 11 **Q. It's a behavioral unit; is that**
 12 **what it is? Or psychiatric unit?**
 13 A. Yes.
 14 **Q. When you did histories and**
 15 **physicals on these patients that were**
 16 **being admitted did you identify**
 17 **yourself as someone who worked for**
 18 **Thomas J. Bradley, M.D., PC?**
 19 A. I identified myself as Dr.
 20 Bradley to the patients.
 21 **Q. Do you wear a white coat at the**
 22 **hospital?**
 23 A. No.
 24 **Q. Do you wear a name badge at the**
 25 **hospital?**

6 (Pages 18 to 21)

Page 22

1 A. Actually, no.
 2 Q. Did you ever tell these patients
 3 as a general matter that you don't work
 4 for the hospital?
 5 A. No.
 6 Q. Did you ---
 7 A. I don't recall ever being asked.
 8 Q. Did you consider that you worked
 9 for the hospital?
 10 A. Yes.
 11 Q. Now you said you stopped
 12 practicing medicine for a period of
 13 time. I don't want to get into too
 14 much depth on this. Can you just give
 15 me some general idea as to why you
 16 stopped?
 17 A. I went into drug and alcohol
 18 rehab.
 19 Q. You could've even just said
 20 health reasons. I would've accepted
 21 that.
 22 A. I'm sorry.
 23 Q. No, that's fine. I don't mean
 24 to embarrass you here today Or to make
 25 light of that issue; okay? Just so

Page 23

1 that you understand that.
 2 A. Can I rescind it?
 3 Q. If you want. I don't know if
 4 you can rescind it. But I want you to
 5 know I'm not going to ask anymore
 6 questions about it; all right?
 7 A. Okay.
 8 Q. I'd like to just briefly go
 9 through your Curriculum Vitae with you.
 10 I've marked a copy of it as Exhibit
 11 One. I'm going to give you a copy of
 12 that, Dr. Bradley.
 13 (Deposition Exhibit One
 14 marked for
 15 identification.)
 16 BY ATTORNEY HOFFMAN:
 17 Q. I'd just ask you to have a look
 18 at that. Can you tell me as of what
 19 date that CV would be considered
 20 current?
 21 A. It was January 28th, 2007.
 22 Q. On this Curriculum Vitae there
 23 are no publications listed. Is that
 24 because you have no publications?
 25 A. Yes.

Page 24

1 Q. And in terms of your Board
 2 Certification, you're listed as Board
 3 Certified by the American Board of
 4 Family Physicians from 1980 to present.
 5 Do I take that to mean that there has
 6 been no requirement for you to re-
 7 certify in ---?
 8 A. I'm certified through 2008.
 9 Q. Did you re-certify at some point
 10 then.
 11 A. Every seven years.
 12 Q. You identified ---. I think if
 13 I would look at we were probably
 14 talking about the same contractual
 15 relationship that you had with the
 16 hospital, but there's --- under your
 17 hospital affiliation 1993 to present
 18 the medial liaison, inpatient
 19 behavioral health and that's including
 20 adult and adolescent, and drug and
 21 alcohol rehabilitative services. Was
 22 that the contractual position that you
 23 understood that you held at the
 24 hospital?
 25 A. Yes. I never had a formal

Page 25

1 title.
 2 Q. But you put down a formal title.
 3 A. My secretary thought she should
 4 put something. That's as good as
 5 anything.
 6 Q You're also listed as a staff
 7 physician from 1980 until ---. Did you
 8 resign from the medical staff here. Or
 9 did you put it into some hiatus status?
 10 A. According to the bylaws I
 11 resigned that for six months of
 12 inactivity.
 13 Q. You're listed as a staff
 14 physician. Did you have admitting
 15 privileges here independent of the
 16 contractual work that you did? By here
 17 I mean at Dubois.
 18 A. No.
 19 Q. It's pronounced Dubois. You can
 20 tell I'm not from these parts. In
 21 Dubois Regional Medical Center. So you
 22 had a full practice here at the
 23 hospital as well as your duties under
 24 this contract; is that correct?
 25 A. Yes.

7 (Pages 22 to 25)

1 ATTORNEY RULIS:
 2 Except I don't know that
 3 he said that he had admitting
 4 privileges under the contract
 5 meaning ---.
 6 ATTORNEY HOFFMAN:
 7 No, he didn't have
 8 admitting. He said he just
 9 histories and physicals.
 10 ATTORNEY RULIS:
 11 Right.
 12 ATTORNEY HOFFMAN:
 13 That's not admitting
 14 patients.
 15 ATTORNEY RULIS:
 16 Correct. So I object to
 17 the form as well as.
 18 ATTORNEY HOFFMAN:
 19 Okay.
 20 BY ATTORNEY HOFFMAN:
 21 Q. You're also the ---. You were
 22 listed here as the chairman of the
 23 Pharmacy and Therapeutics Committee.
 24 Do you see that, sir?
 25 A. Yes.

1 Q. What was the Pharmacy and ---?
 2 What is the Pharmacy and Therapeutics
 3 Committee?
 4 A. For the most part we would
 5 review formulary, the drugs that are
 6 available for use or dispensing by the
 7 hospital. And we would also review
 8 medication errors.
 9 Q. Anything else that that
 10 committee functioned to do?
 11 A. We'd discuss general pharmacy
 12 policy at the hospital.
 13 Q. In terms of the formulary at
 14 this hospital is TPA on the formulary
 15 at the hospital?
 16 A. Yes.
 17 Q. How long, as you understand, has
 18 TPA been on the formulary?
 19 Approximately.
 20 A. Ten years.
 21 Q. You have a family practice; is
 22 that correct?
 23 A. Yes.
 24 Q. In terms of the spectrum of your
 25 practice do you take care of patients

1 with underlying neurological diseases?
 2 A. Yes.
 3 Q. Do you ever acutely take care of
 4 stroke patients?
 5 A. Yes.
 6 Q. Have you ever used TPA in your
 7 practice in taking care of stroke
 8 patients?
 9 A. No.
 10 Q. Is the Dubois Medical Center a
 11 stroke center?
 12 A. No.
 13 Q. Is there a stroke center within
 14 this region that patients are referred
 15 to acutely when they present with
 16 stroke?
 17 A. There's one at the University of
 18 Pittsburgh.
 19 Q. Have you ever personally sent a
 20 patient with a stroke to the University
 21 of Pittsburgh for treatment?
 22 A. No.
 23 Q. Is there ---. I'm sorry. Did
 24 you have something?
 25 A. One time when someone had a

1 massive stroke with the guidance of
 2 subspecialists we transferred a patient
 3 to the University of Pittsburgh.
 4 Q. When you say with the guidance
 5 of subspecialists, what does that
 6 phrase mean?
 7 A. Neurologist.
 8 Q. Is there a stroke team at the
 9 Dubois Medical Center?
 10 A. Not that I'm aware of.
 11 Q. Are you familiar with the
 12 concept of stroke teams?
 13 A. Yes, vaguely.
 14 Q. Are you familiar with the
 15 concept of stroke centers?
 16 A. Yes.
 17 Q. What is your understanding what
 18 a stroke center is? Or what was your
 19 understanding back in 2005 as to what a
 20 stroke center is?
 21 A. I would think the major role is
 22 very early intervention when a stroke
 23 is beginning.
 24 Q. Back in 2005 were you aware of
 25 early intervention for the treatment of

1 stroke?
 2 A. Yes.
 3 Q. I keep saying back in 2005 like
 4 it's ancient history or something.
 5 We're talking a couple of years ago.
 6 What were you aware of at the time in
 7 terms of the modalities that were being
 8 used for the early intervention in
 9 stroke patients?
 10 A. Subject to extremely rigorous
 11 inclusion criteria. And within a
 12 window of time from the onset of
 13 symptoms TPA could be administered.
 14 Q. This was knowledge you had in
 15 2005. You talked about rigorous
 16 inclusion criteria. What did you
 17 understand to be the rigorous inclusion
 18 criteria that you just referred to?
 19 A. As I recall the person has to be
 20 treated within six hours of the first
 21 onset of symptoms. There were other
 22 things.
 23 Q. What other things?
 24 A. Patient can't be having a known
 25 brain hemorrhage.

1 Q. Anything else?
 2 A. The patient can't have had any
 3 surgery of any kind that's the least
 4 bit invasive and even skin surgery or
 5 deep intramuscular injections within a
 6 certain timeframe previously although I
 7 don't remember what that was. And if a
 8 person had incomplete stroke and had
 9 any symptoms that disqualified them for
 10 this intervention. There was also age
 11 criteria and other medical criteria.
 12 Q. Do you know what those criteria
 13 are or are you simply aware that there
 14 were criteria out there?
 15 A. They were what I've said. I
 16 could tell you how the system worked in
 17 practice.
 18 Q. Well, that would be helpful.
 19 A. The person pretty much would
 20 present to the emergency room with
 21 evolving symptoms. And if they
 22 appeared to meet the criteria, someone
 23 would call a physician at the stroke
 24 center. Usually the emergency room
 25 physician. Almost always the emergency

1 room physician. And they would give
 2 the patient history as well as
 3 objective findings which would include
 4 imaging. And the few times I was
 5 involved in that the patients weren't
 6 sent to Pittsburgh because the criteria
 7 were so rigorous.
 8 Q. Back in 2005 were you familiar
 9 with the concept of a TIA, or transient
 10 ischemic attack?
 11 A. Yes.
 12 Q. What was your understanding of
 13 what a TIA was?
 14 A. TIA is usually described
 15 transient neurologic symptoms or loss
 16 of function lasting less than 24 hours.
 17 Q. You told me a few minutes ago
 18 how the --- I think you said, how the
 19 system generally works when a patient
 20 presents with a stroke or stroke-like
 21 symptoms. Is that what we were
 22 discussing?
 23 A. Yes.
 24 Q. Was there a written policy or
 25 procedure at the hospital covering that

1 type of systemic response?
 2 A. If there was it would've been
 3 --- it would've applied to emergency
 4 room regs. And I'm not aware of one.
 5 Q. You're not aware of any
 6 regulations concerning the emergency
 7 room positions. Is that what you're
 8 telling us?
 9 ATTORNEY SLIMAK:
 10 Objection. Form.
 11 BY ATTORNEY HOFFMAN:
 12 Q. How about for family
 13 practitioners or internists who see
 14 patients in the emergency room with
 15 neurologic symptoms? Was there a
 16 written policy or procedure within the
 17 hospital for those types of physicians?
 18 A. Not that I'm aware of.
 19 Q. Was there any written police or
 20 procedure for obtaining a neurology
 21 consultation on patients who present
 22 with neurologic symptoms to the
 23 emergency department?
 24 A. No.
 25 Q. Were there any policies or

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1 procedures for inpatients who exhibit
2 neurological signs or symptoms while
3 they are hospitalized at the Dubois
4 Medical Center?
5 A. No.
6 Q. You told me earlier that you
7 were a family practitioner at this
8 hospital. Is there a department or a
9 division of family practice or family
10 medicine within the hospital?
11 A. No.
12 Q. Is there someone that you would
13 identify as being a chief of family
14 medicine at the hospital or the
15 chairman of family medicine at the
16 hospital?
17 A. No.
18 Q. Is there a training program in
19 family medicine or family practice at
20 the Dubois Medical Center?
21 A. No.
22 Q. Do residents, or fellows, or
23 medical students rotate through the
24 Dubois Regional Medical Center for any
25 educational programs?

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1 A. Yes.
2 Q. Let me break down my question.
3 First, do they rotate through the
4 family practice service or services at
5 Dubois Medical Center?
6 A. Some of them rotate with an
7 individual family physician or
8 internist.
9 Q. When you say some what are we
10 ---? Are we talking about resident, or
11 medical student, or fellow? What level
12 of person are we talking about?
13 A. The medical students.
14 Q. Where do these medical students
15 rotate from?
16 A. Their origin. Where they're
17 from.
18 Q. Yes, what institution do they
19 rotate from?
20 A. Any of a great number of
21 institutions.
22 Q. Can you give me ---?
23 ATTORNEY RULIS:
24 Can you give him some
25 examples maybe?

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1 A. Temple University Medical
2 School, Jefferson Medical College in
3 Philadelphia, Lake Erie osteopathic
4 facility. I'm not sure of its formal
5 name.
6 BY ATTORNEY HOFFMAN:
7 Q. During the time that you were
8 practicing here at the Dubois Regional
9 Medical Center did you have students
10 rotating with you?
11 A. I had, but probably not after
12 1985 or '87.
13 Q. Was there any type of formal
14 curriculum here at the hospital that
15 was set forth for these students that
16 were rotating throughout?
17 A. Not that I know of.
18 Q. Was there a journal club, grand
19 rounds? Any type of organized
20 educational activity like that?
21 A. Yes.
22 Q. What types of organized
23 activities were there?
24 A. There was a tumor committee.
25 And, as I recall, there was a kind of

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1 grand rounds. There may have been
2 things I wasn't aware of.
3 Q. Does the hospital have a
4 library?
5 A. Yes.
6 Q. Were there books in the library
7 in the area of family medicine for
8 these students or ---
9 A. Yes.
10 Q. --- faculty to go to? What
11 books? What books in family medicine
12 does the library have?
13 A. As I recall and I haven't been
14 there in a while, there were at least
15 two family practice texts.
16 Q. What are the names of the
17 textbooks?
18 A. I don't know.
19 Q. There's a book, I think, by
20 Marquell (phonetic)? Are you familiar
21 with that book?
22 A. No.
23 Q. How about in your office? Do
24 you have textbooks in your office?
25 A. Yes.

10 (Pages 34 to 37)

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1 **Q. What textbooks of family**
 2 **practice do you have in your office?**
 3 A. I have one, but I don't remember
 4 the name. Harrison's Internal
 5 Medicine.
 6 **Q. Any other textbooks?**
 7 A. Quite a number. I can't
 8 remember the names.
 9 **Q. How about in neurology? Do you**
 10 **have Dietz and Merritts' (phonetic)**
 11 **textbook of neurology?**
 12 A. No.
 13 **Q. Do you have any textbooks of**
 14 **neurology in your office?**
 15 A. I have Neurology for the House
 16 Officer.
 17 **Q. In looking at your CV, Dr.**
 18 **Bradley, are you certified in Basic**
 19 **Life Support, BLS?**
 20 A. Yes.
 21 **Q. How about in Advanced Cardiac**
 22 **Life Support or ACLS?**
 23 A. No.
 24 **Q. Have you ever been ACLS**
 25 **certified?**

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1 A. No.
 2 **Q. Looking at the organizations**
 3 **that you list -- actually don't list**
 4 **any --. Just the American Board of**
 5 **Family Physicians. Do you belong to**
 6 **any professional organizations?**
 7 A. I belong to the Pennsylvania
 8 Medical Society.
 9 **Q. Any other organizations?**
 10 A. None that I can think of.
 11 **Q. How long have you been a member**
 12 **of the Pennsylvania Medical Society?**
 13 A. Eighteen (18) years.
 14 **Q. From what you told me --. Are**
 15 **you a solo practitioner, or do you have**
 16 **partners, or --?**
 17 A. I'm a solo practitioner.
 18 **Q. Have you always been a solo**
 19 **practitioner?**
 20 A. Yes.
 21 **Q. In your office do you keep any**
 22 **type of information packets, or**
 23 **circulars, fliers that have information**
 24 **for patients? By that I mean the**
 25 **American Stroke Association has fliers**

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1 for people to recognize the signs of
 2 stroke. The American Heart Association
 3 has recognized the signs of heart
 4 attack. There are various fliers that
 5 talk about screening mammography or
 6 screening colonoscopy. Do you keep any
 7 type of patient information of that
 8 nature in your office available to the
 9 patients?
 10 A. We keep quite a lot of the
 11 literature on various medical issues in
 12 our waiting room. Nursing in the
 13 office always saw to that. So I
 14 couldn't tell you specifically if there
 15 was one on stroke.
 16 **Q. If we know, I say that in a**
 17 **collective we know, and we knew back in**
 18 **2005 that there are a number of risk**
 19 **factors for stroke; correct?**
 20 A. Yes.
 21 **Q. What did you understand back in**
 22 **2005 to be the stroke risk factors?**
 23 A. Primarily hypertension,
 24 hyperlipidemia, diabetes mellitus,
 25 known vascular disease to include

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1 peripheral vascular disease and
 2 coronary artery disease.
 3 **Q. You don't want to leave smoking**
 4 **off of there.**
 5 A. Smoking, yeah. And needless to
 6 say, cerebrovascular disease.
 7 **Q. When you say cerebrovascular**
 8 **disease what does that entail?**
 9 A. Atherosclerosis involving the
 10 carotid and vertebral arteries and the
 11 arteries in the brain.
 12 **Q. Any other risk factors?**
 13 A. There's something called
 14 hypercoagulability atrial fibrillation.
 15 And certain cardiac valvular diseases.
 16 **Q. Does that complete the list?**
 17 A. Yes.
 18 **Q. We know from the medical records**
 19 **that there is a -- there are**
 20 **neurologists on call at the Dubois**
 21 **Regional Medical Center; is that**
 22 **correct?**
 23 A. Yes.
 24 **Q. Is that a 24-hour-a-day, 7-day-**
 25 **a-week availability for neurological**

11 (Pages 38 to 41)

1 consultations?
 2 A. It is. Except for at times when
 3 we only have one neurologist and he
 4 goes out of town.
 5 Q. And what happens during those
 6 times he does?
 7 A. He has nurse practitioners, I
 8 believe, or P.A.s, I'm not sure, or
 9 physician extenders, who can provide
 10 help in general with a patient that is
 11 known to the neurologic service.
 12 Otherwise, we would rely on outside
 13 sources.
 14 Q. In terms of the ---. And again,
 15 I'm talking in the 2005 time window.
 16 But in terms of the availability of
 17 various types of cerebral imaging
 18 studies in the Dubois Regional Medical
 19 Center we know from the records that CT
 20 scans were performed on Wanda Russell.
 21 Is there a 24-hour-a-day, 7-day-a-week
 22 availability of CT scan services from
 23 the radiology department at Dubois?
 24 A. Yes.
 25 Q. What was your understanding back

1 in 2005 of the uses for CT scanning in
 2 patients suspected of a stroke?
 3 ATTORNEY RULIS:
 4 I'm sorry. I object to
 5 the form uses. Can you be a
 6 little more specific?
 7 ATTORNEY HOFFMAN:
 8 Well, let me ask him.
 9 BY ATTORNEY HOFFMAN:
 10 Q. Do you understand my question?
 11 A. Please rephrase.
 12 Q. Okay. Happy to rephrase. In
 13 terms of patients with suspected stroke
 14 symptoms in whom a CT scan is obtained,
 15 first question, what was your
 16 understanding as to the purpose? And
 17 by that I mean is the purpose to rule
 18 in a stroke when a CT scan is obtained
 19 acutely on a patient with stroke
 20 symptoms?
 21 A. Yes.
 22 Q. Okay. Now does ---? Back in
 23 2005 your understanding, does an
 24 ischemic stroke immediately become
 25 evident or would it immediately be

1 discernable, as you understood it, on a
 2 CT scan performed in a patient with
 3 acute neurologic symptoms, in whom one
 4 suspects a stroke?
 5 A. It depends on the time of the
 6 onset of the symptoms and the degree of
 7 the ischemia.
 8 Q. Did you have an understanding
 9 back in 2005 that a --- acutely, a
 10 patient who acutely presents with
 11 neurologic symptoms acutely the purpose
 12 of a CT scan was to differentiate out
 13 of the mix hemorrhagic strokes?
 14 A. That was a primary purpose.
 15 Q. Did you have an understanding
 16 that it can take up to 72 hours for an
 17 ischemic stroke on an un-enhanced CT
 18 scan to evolve in terms of being
 19 visible on a CT scan?
 20 A. I thought it was 24-48 hours.
 21 Q. Let's nail down what your
 22 understanding was. Did you have an
 23 understanding, back in 2005, that it
 24 could take from 24 to 48 hours for an
 25 ischemic stroke to evolve from an

1 un-enhanced CT scan to be visible on an
 2 un-enhanced CT scan, in other words?
 3 A. My understanding was that if
 4 less than 24 hours had gone by and the
 5 scan was negative you could not say
 6 that the stroke was ruled out.
 7 Q. Now we talked about an incident
 8 a while ago called a transient ischemic
 9 attack. I think you defined it for me
 10 as transient neurological symptoms that
 11 last for less than 24 hours. Was that
 12 your definition?
 13 A. Yes.
 14 Q. In terms of the findings on a CT
 15 scan for a TIA, or a transient ischemic
 16 attack, did you have an understanding
 17 back in 2005 that in the setting of a
 18 TIA that the CT scan would be normal?
 19 A. Yes, it would be normal except
 20 for whatever else might be there.
 21 Q. Sure. But in terms of the
 22 findings specific to a TIA. I think
 23 we're talking about basically the same
 24 thing. Obviously, there might be old
 25 findings on a CT scan unrelated to

1 anything having to do with a TIA. But
 2 specific to the TIA itself, did you
 3 have an understanding that TIAs do not
 4 have any manifestations on a CT scan?
 5 A. Yes.
 6 Q. Did you also have an
 7 understanding that a TIA, or TIAs, were
 8 symptoms that were premonitory to a
 9 stroke?
 10 A. Yes.
 11 Q. Now we're talking about the
 12 radiology department. And I believe
 13 you told me that CT scans were
 14 available on a 7-day-a-week, 24-hour-a-
 15 day basis; correct?
 16 A. Yes.
 17 Q. How about MRI scans?
 18 A. For years since the introduction
 19 of that technology to the Medical
 20 Center MRI scans were only available
 21 Monday through Friday during the
 22 daylight and afternoon hours.
 23 Subsequently, they became available at
 24 other hours, but I don't recall when
 25 that happened.

1 Q. I'd like to focus on 2005.
 2 Were they available 24-hours-a-day,
 3 7-days-a-week in 2005?
 4 A. I don't remember.
 5 Q. Is the MRI scanner that's used
 6 at this hospital, and by use I'm
 7 talking again about 2005. Just assume
 8 that when I ask you these questions I'm
 9 talking about 2005 so I don't have to
 10 keep repeating that. Was the MRI
 11 scanner that was being used at the
 12 Dubois Regional Medical Center, was it
 13 on the campus of the medical center or
 14 remote from the campus of the medical
 15 center?
 16 A. As I recall it was adjacent.
 17 Q. Is the Interventional Radiology
 18 Department at Dubois Medical Center?
 19 A. No.
 20 Q. Is there a capacity or a
 21 capability to do arteriography,
 22 arteriography with stenting, regional
 23 TPA treatment, those types of
 24 interventions?
 25 A. Yes.

1 Q. Where is that capability at
 2 Dubois?
 3 A. In the cardiac cath lab and in
 4 the radiology department.
 5 Q. I'd like to discuss a little bit
 6 of geography with you, okay? There is
 7 ---. As I understand it there's the
 8 Dubois Regional Medical Center. Then
 9 there's an entity called Dubois East
 10 and another one called Dubois West; is
 11 that correct?
 12 A. Yes.
 13 Q. And that was the arrangement
 14 back in 2005 as well. And as I
 15 understand it your --- at least your
 16 contractual duties with the hospital
 17 were confined to the Dubois East part
 18 of the Medical Center; is that right?
 19 A. Yes.
 20 Q. What is Dubois Medical Center
 21 East?
 22 A. It's a hospital referred to as
 23 the East Campus located a mile and a
 24 half away, roughly, which houses
 25 inpatient psychiatric services.

1 Q. It's a mile and a half away.
 2 When there are transfers of patients
 3 from, like Wanda Russell, from the DRMC
 4 West to the DRMC East how, as a general
 5 matter, do they get from point A to
 6 point B?
 7 A. By ambulance.
 8 Q. Does the hospital have its own
 9 ambulance service that transports these
 10 patients or do they call an outside,
 11 independent transport service?
 12 A. They call independent ambulance
 13 services.
 14 Q. When a patient is transferred,
 15 like Wanda Russell, in the middle of
 16 the night ---. We know that she was
 17 transported, I believe, around 1:30 or
 18 2:00 in the morning. Does that agree
 19 with your understanding? We'll get to
 20 what you reviewed and so forth. But
 21 does that, at least, agree with your
 22 general understanding as to the time of
 23 her transport?
 24 A. Yes.
 25 Q. At the 1:30, 2:00 in the morning

1 hour then a decision would be made for
 2 her to be transported over to the DRMC
 3 East from DRMC West; correct?
 4 A. Yes.
 5 Q. And then an ambulance would be
 6 called. She'd be put in an ambulance
 7 and brought over to the behavioral
 8 unit; is that correct?
 9 Q. Yes.
 10 Q. Who, then, from the physicians
 11 staff at that hour of night comes in,
 12 if anybody, to do an admitting history
 13 physical examination on the patient?
 14 A. They wouldn't have.
 15 Q. Are there in-hospital physicians
 16 in the DRMC East wing or East Campus?
 17 A. No.
 18 Q. When there is an incident that
 19 occurs during the overnight hours in
 20 the DRMC East unit, say as an example a
 21 patient falls out of bed, patient slips
 22 in the hallway, is there a policy or
 23 procedure whereby the nursing staff
 24 notified a physician on-call for the
 25 unit concerning these events?

1 A. Yes.
 2 ATTORNEY MCINTYRE:
 3 Objection to the form.
 4 BY ATTORNEY HOFFMAN:
 5 Q. Who is the physician that the
 6 nursing staff would notify of these
 7 events?
 8 A. The psychiatrist on call.
 9 Q. In terms of your
 10 responsibilities under this contractual
 11 arrangement, were you on-call for acute
 12 incidents that occur within the DRMC
 13 East wing or, as I understand it, were
 14 you the person who, I use the word
 15 simply in the best possible light, were
 16 you the person who simply did the
 17 admission, history, and physical on the
 18 patient?
 19 A. Yes.
 20 Q. Yes?
 21 A. I did the admission, history,
 22 and physical on the patient. I was not
 23 on-call.
 24 Q. And by that, I mean, when a
 25 patient would have an acute episode of

1 some sort, atrial fibrillation,
 2 complaint of chest pain, and that type
 3 of incident in the middle of the night
 4 at the DRMC East unit, you would not be
 5 the person, as I understand it, that
 6 would be called. It would be the
 7 psychiatrist on call for the unit that
 8 night; is that correct?
 9 A. Yes.
 10 Q. Now in terms of the call
 11 schedule for the DRMC East unit, are
 12 you familiar with how the psychiatric
 13 and psychiatrist call schedule works in
 14 the unit back in 2005?
 15 A. Yes.
 16 Q. Can you tell me was there a --
 17 one psychiatrist on call for the unit
 18 or many psychiatrists on call for the
 19 unit? How was that arranged?
 20 A. My recollection is that one
 21 psychiatrist was on-call for a week.
 22 Q. And when you say on-call for a
 23 week were they continuously on-call to
 24 cover that unit for the week as you
 25 understood it?

1 A. That's how I understood it.
 2 Q. The patients that were housed in
 3 the DRMC East, or the behavioral unit,
 4 were there --- was there any
 5 differentiation between private
 6 patients versus ward patients? Do you
 7 understand my question?
 8 A. Yes.
 9 Q. What was your understanding?
 10 A. All patients were regarded
 11 equally.
 12 Q. And so they were all patients
 13 under the covering. Was there one
 14 covering service for the behavioral
 15 unit?
 16 A. The psychiatrist who were doing
 17 inpatient adult care, there might be
 18 three, would take admissions and order.
 19 Q. As you understood, were those
 20 psychiatrists all part of the same
 21 practice?
 22 A. They were all hospital-employed.
 23 Q. So there was one practice,
 24 basically, the hospital practice?
 25 A. I suppose.

1 ATTORNEY MCINTYRE:
 2 Objection to the form.
 3 BY ATTORNEY HOFFMAN:
 4 **Q. Is there any policy or procedure**
 5 **concerning the acute evaluation of**
 6 **patients that would deem to be suicidal**
 7 **that were admitted to the DRMC East?**
 8 **In other words, was there a policy for**
 9 **them to be acutely evaluated by a**
 10 **psychiatrist when they were admitted to**
 11 **the hospital?**
 12 ATTORNEY SLIMAK:
 13 Object to the form of the
 14 question.
 15 ATTORNEY BAHL:
 16 Same.
 17 A. No.
 18 BY ATTORNEY HOFFMAN:
 19 **Q. Were there specific policies and**
 20 **procedures for the management of**
 21 **suicidal patients at the DRMC East?**
 22 A. There were suicide precautions
 23 throughout the unit.
 24 **Q. Is there a written policy or**
 25 **procedure that you had seen concerning**

1 **suicide precautions?**
 2 A. There's something called suicide
 3 watch which I believe is a written
 4 procedure.
 5 **Q. You say you believe it's a**
 6 **written procedure? Where have you seen**
 7 **it? Is there a log, or a folder, or a**
 8 **loose leaf book, or some kind of bound**
 9 **edition of policies and procedures that**
 10 **you've actually seen over at the DRMC**
 11 **East?**
 12 A. I've never seen it.
 13 **Q. And what are those ---? What is**
 14 **a suicide watch?**
 15 A. As far as I remember it involves
 16 closer patient monitoring. Even to the
 17 point of one-on-one nursing and there
 18 is a seclusion room. But I don't
 19 remember if that was used for suicidal
 20 patients.
 21 **Q. When suicidal patients were**
 22 **admitted to the DRMC East was there a**
 23 **notification-type procedure from the**
 24 **nursing staff to the attending**
 25 **psychiatric staff concerning those**

1 **admissions?**
 2 A. The psychiatrist was called for
 3 all additions. And the nurse would
 4 give a nursing report. The patient had
 5 also almost always been cleared by the
 6 emergency room.
 7 **Q. When you say cleared by the**
 8 **emergency room, what does that mean?**
 9 A. Every person admitted through
 10 the emergency room to the inpatient
 11 mental health unit was seen and
 12 evaluated by a physician.
 13 **Q. Would that also hold true for**
 14 **patients that are admitted from the**
 15 **DRMC West to the DRMC East?**
 16 A. Those patients had an attending
 17 physician.
 18 **Q. Was it then the expectation that**
 19 **the attending physician would clear**
 20 **them medically? They'd then be**
 21 **transferred over to the DRMC East from**
 22 **the DRMC West?**
 23 A. Yes.
 24 **Q. You're familiar with a type of**
 25 **nursing order written by a physician**

1 **called neuro checks. Are you familiar**
 2 **with those?**
 3 A. Yes.
 4 **Q. What is a neuro check?**
 5 A. It's a procedure whereby certain
 6 signs and symptoms, vital signs are
 7 recorded by nursing they'd prescribe in
 8 short type intervals.
 9 **Q. What are the nature of those?**
 10 You said certain signs and symptoms.
 11 **What are they? You've order neuro**
 12 **checks on patients; correct?**
 13 A. Yes.
 14 **Q. What is it that you expect**
 15 **nurses to look at and to record when**
 16 **you order those types of neuro checks?**
 17 A. To look at the patient's
 18 cognitive status, their pupils and they
 19 assess motor and sensory systems for
 20 deficits, deep tendon reflexes. In
 21 instances they might also assess
 22 balance.
 23 **Q. How about gait?**
 24 A. And the gait. And ask about
 25 visual symptoms, perhaps. They may not

1 always do gait.
 2 **Q. In terms of ordering the neuro**
 3 **checks, are those ever ordered --- or**
 4 **were those ever ordered over at the**
 5 **DRMC East wing?**
 6 A. I don't recall them ever being
 7 ordered.
 8 **Q. Is that because you, as someone**
 9 **who has performed work in that unit**
 10 **for, what, 13-year period? Is that**
 11 **because you would not expect a patient**
 12 **who is neurologically unstable to be**
 13 **transported over to the DRMC East?**
 14 A. Yes.
 15 **Q. The nursing staff at the DRMC**
 16 **East unit, are those psychiatric**
 17 **nurses?**
 18 A. They are certified psychiatric
 19 nurses, LPNs, aides, and psychological
 20 personnel.
 21 **Q. When a patient is admitted in**
 22 **the middle of the night like Wanda**
 23 **Russell was, who writes the admitting**
 24 **orders on that patient to DRMC East?**
 25 A. There might be written orders

1 from the emergency physician. And
 2 there are real orders from the
 3 psychiatrist on call. There also might
 4 be orders written by the attending
 5 physician.
 6 **Q. When you say orders written by**
 7 **an attending physician do you mean that**
 8 **orders might come with a patient over**
 9 **to the DRMC East that are written by**
 10 **the attending physician over at the**
 11 **DRMC West?**
 12 A. Are we only referring to ER
 13 transfers?
 14 **Q. No. I'm mostly concerned, cards**
 15 **face up on the table, a transfer from**
 16 **the DRMC West to the DRMC East. So**
 17 **that's where my focus really is.**
 18 A. Well, there has to, at least, be
 19 a transfer order. There might be
 20 others.
 21 **Q. As a general matter, would**
 22 **orders be written by a DRMC West**
 23 **physician concerning what is supposed**
 24 **to be done by the nursing staff over at**
 25 **the DRMC East? Would orders come over**

1 **with a patient from West to East?**
 2 A. There would be nursing report
 3 nurse-to-nurse. The attending
 4 physician may order the patient's
 5 medication and any other treatments or
 6 entities related to medical status of
 7 the patient.
 8 **Q. I'd like to just change gears a**
 9 **little bit and talk about the**
 10 **decisionry that goes into admitting a**
 11 **patient to the behavioral unit. Who is**
 12 **the arbiter, if you will, or the**
 13 **gatekeeper, if you will of who gets**
 14 **into the DRMC East unit?**
 15 A. The psychiatrist on call.
 16 ATTORNEY SLIMAK:
 17 Object to the form.
 18 SHORT BREAK TAKEN
 19 PREVIOUS QUESTION READ BACK
 20 BY ATTORNEY HOFFMAN:
 21 **Q. If I understand your answer, Dr.**
 22 **Bradley, to my last question, the**
 23 **decision as to whether a patient will**
 24 **or will not be admitted to the**
 25 **behavioral unit, or the DRMC East unit,**

1 **rests with the psychiatrist on call at**
 2 **the time the admission is requested; is**
 3 **that correct?**
 4 A. Yes.
 5 ATTORNEY SLIMAK:
 6 Objection to form.
 7 BY ATTORNEY HOFFMAN:
 8 **Q. Is there some -- been some**
 9 **expectation when a patient is admitted**
 10 **in the middle of the night that a full**
 11 **psychiatric evaluation will be**
 12 **performed by a mental healthcare**
 13 **provider in some specified time window?**
 14 A. There's a psychologist on call
 15 in the 24 -- actually present 24 hours
 16 a day.
 17 **Q. When a patient is transferred**
 18 **over to the behavioral unit from the**
 19 **West campus, does the full chart of the**
 20 **patient that's been accumulated over on**
 21 **the West campus then accompany the**
 22 **patient over to the East campus?**
 23 A. Yes.
 24 **Q. And by that I mean, just to be a**
 25 **little more focused now, when you as**

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1 the individual --- you came in that
 2 morning, as I understand it, and
 3 performed a complete history and a
 4 physical examination on Wanda Russell;
 5 is that correct?
 6 A. Yes.
 7 Q. Did you have, at the time you
 8 performed your examination, the ER
 9 record from December 4, 2005, the
 10 complete in-hospital record recognizing
 11 that certain things might have not been
 12 dictated, obviously, but the in-house
 13 record as it stood at the time of the
 14 transit, did you have all of those
 15 documents in front of you when you
 16 performed your history and physical?
 17 A. I don't remember.
 18 Q. Would that be the kind ---?
 19 Would those be the kinds of documents
 20 that you would review when you
 21 performed a history and a physical
 22 examination on a patient such as Wanda
 23 Russell?
 24 A. Yes.
 25 Q. How would it be that you were

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1 notified or would be notified that
 2 there is a patient over at the DRMC
 3 East unit that needed your services in
 4 terms of performing a history and
 5 physical examination?
 6 A. I came to the unit every morning
 7 around 6:30.
 8 Q. We've established that there are
 9 neurologists present at the Dubois
 10 Regional Center that do consultations,
 11 I think you told me, on a 7-day-a-week,
 12 24-hour-a-day basis unless there's some
 13 reason they're out of town. Are those
 14 neurologists available to come over to
 15 the DRMC East campus as well as to the
 16 West campus?
 17 A. No.
 18 Q. What do you base that answer on?
 19 Why do you say they're not available to
 20 come over?
 21 A. I've never known them to come
 22 over.
 23 Q. Have you ever consulted them
 24 ---? Have you ever consulted a
 25 neurologist from the DRMC East unit and

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1 been told no, I'm not going to come
 2 over to see a patient there or anything
 3 to that effect?
 4 A. No.
 5 Q. Was there a policy or procedure
 6 in effect that stated that if you
 7 wanted those types of consultative
 8 services such as a cardiologist or a
 9 neurologist that you would then need to
 10 transfer the patient back over to the
 11 DRMC West campus to obtain those
 12 services?
 13 A. That was the reality. Whether
 14 it was a policy or not, I don't know.
 15 Q. At the beginning of this
 16 deposition I asked you if you'd ever
 17 been deposed before. And I'm going to
 18 get just a little bit into it. Not in
 19 too much depth. And I think you told
 20 me you've been deposed about seven
 21 times. Is that accurate?
 22 A. Yes.
 23 Q. Were all of those depositions in
 24 cases that have all --- that involved
 25 at least accusations or allegations of

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1 medical malpractice?
 2 A. Two of them were.
 3 Q. Did they involve you as the
 4 defendant?
 5 A. Yes.
 6 Q. Have those cases since resolved
 7 themselves?
 8 A. They were both dropped.
 9 Q. That leaves five cases. That
 10 leaves a number of possibilities. One
 11 is that you were deposed as ---. Have
 12 you ever been a Defendant in a non-
 13 medical malpractice case?
 14 A. No, I'm referring to Workers'
 15 Comp hearings.
 16 Q. Were those other four --- other
 17 five depositions in which you testified
 18 as either a fact witness, would that be
 19 accurate, in a Workers' Comp case? Or
 20 were you an expert in a Workers' Comp
 21 hearings?
 22 A. No, that's fact witness.
 23 Q. Have you ever worked as a
 24 medical/legal expert for attorneys to
 25 render medical/legal opinions?

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1 A. No.
 2 **Q. Did you ever testify in a trial**
 3 **or at a trial? I'm not talking about a**
 4 **Workers' Comp hearing now but a trial.**
 5 A. Yes, once.
 6 **Q. What was the nature of why you**
 7 **were testifying at the trial? Were you**
 8 **a fact witness? Were you the**
 9 **Defendant?**
 10 A. I was a fact witness.
 11 **Q. Was it a medical malpractice**
 12 **trial or some other type of trial?**
 13 A. Medical malpractice trial.
 14 **Q. Obviously against other**
 15 **physicians and not against yourself?**
 16 A. Yes.
 17 **Q. In terms of today's deposition**
 18 **— we'll start with today's**
 19 **deposition. Now I'm interested in what**
 20 **you reviewed for today's deposition.**
 21 **And I'm going to break it down into a**
 22 **number of different categories. First**
 23 **of all, did you review any of the legal**
 24 **documents, the complaint, the answers**
 25 **to the complaint, the Answers to**

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1 **Interrogatories. Did you review any of**
 2 **those documents?**
 3 A. I looked briefly at the answers.
 4 **Q. All right. The answers to what**
 5 **the complaint or the —?**
 6 A. Yes, answers to the complaint.
 7 **Q. Was there any answer to the**
 8 **complaint that you would like to change**
 9 **as you sit here today?**
 10 A. I don't remember.
 11 **Q. Did you review any hospital**
 12 **policies or procedures?**
 13 A. No.
 14 **Q. Did you review any medical**
 15 **literature and by that I mean any**
 16 **textbooks in preparation for today's**
 17 **deposition?**
 18 A. No.
 19 **Q. Any journal articles, any**
 20 **abstracts, any monographs, anything of**
 21 **that nature?**
 22 A. It happens that in the last
 23 three or four months that I had an
 24 audio digest program that concerned,
 25 among other things, cerebrovascular

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1 disease.
 2 **Q. Did you re-listen to it for**
 3 **today's deposition or in anticipation**
 4 **of today's deposition?**
 5 A. No. No. No. With it comes a
 6 document that's sort of a
 7 transcription. In this case I read the
 8 transcription. One of several that
 9 I've looked over or listened to over
 10 the past few months.
 11 **Q. Do you belong to some audio**
 12 **digest service that on a monthly basis**
 13 **sends you sort of a topic of the month**
 14 **or a flavor of the week tape?**
 15 A. Yes. I order Digest Family
 16 Practice. For a time I received Audio
 17 Digest Internal Medicine in 2006.
 18 2007.
 19 **Q. The one you reviewed was Audio**
 20 **Digest. Was it a family practice?**
 21 A. Family practice, yes.
 22 **Q. Who was the presenter on the**
 23 **audio digest?**
 24 A. I don't remember.
 25 **Q. Was it someone you identified as**

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1 **being a family practitioner?**
 2 A. No. He would have been a
 3 subspecialist.
 4 **Q. Give me what specialty was the**
 5 **subspecialist in.**
 6 A. Neurology.
 7 **Q. This was a subspecialist in**
 8 **neurology, but it was a service —.**
 9 **It was an educational service that was**
 10 **being provided to family practitioners;**
 11 **is that correct?**
 12 A. Yes.
 13 **Q. Who is the publisher, if you**
 14 **will? Who do you order these tapes**
 15 **from? Where do they come from?**
 16 A. Audio Digest Foundation.
 17 **Q. Where are they located? What**
 18 **city?**
 19 A. I don't know.
 20 **Q. The tape is an hour, two hours?**
 21 A. They're generally an hour or so.
 22 **Q. The topic of this tape you've**
 23 **identified it as cerebrovascular**
 24 **disease. But I'd like to break it down**
 25 **a little bit. Did it deal with the**

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1 signs and symptoms of cerebrovascular 2 disease? 3 A. Not really. 4 Q. Did it deal with the evaluation 5 with the diagnostic workup of patients 6 with suspected cerebrovascular disease? 7 A. Yeah. 8 Q. Did it deal with the treatment 9 of patients with cerebrovascular 10 disease? 11 A. Yes. 12 Q. In terms ---. You defined for 13 me some, I think you called it, rigid 14 or rigorous inclusion and exclusion 15 criteria that we previously talked 16 about using tissue, plasma as an 17 activating factor. Was there a 18 discussion of those criteria on this 19 tape as well? 20 A. Yes. 21 Q. Was there any discussion as to 22 the success rates in the use of these 23 types of interventions? In other 24 words, did they quote any type of 25 stroke study, these large multi-	1 It's the portal to the National Library 2 of Medicine. 3 A. Yes. 4 Q. Did you do any literature 5 searches or online searches concerning 6 any aspect of this case? Either the 7 medical care that was provided to Wanda 8 Russell or any legal issues for that 9 matter? 10 A. No. 11 Q. Did you go to any websites such 12 as the American Heart Association, 13 American Stroke Association, just as 14 examples, are websites that contain 15 various types of guidelines. Did you 16 go to any of those websites? 17 A. No. 18 Q. When you were served with the 19 complaint, that's the document that 20 says welcome to the lawsuit basically. 21 A. Yeah. 22 OFF RECORD DISCUSSION 23 BY ATTORNEY HOFFMAN: 24 Q. It's a document that informs you 25 that you're being sued. And I'm going
Page 71	Page 73
1 institutional studies that have been 2 done over the past few years? 3 A. As I recall, it did a combined 4 review of several centers looking to 5 see what the ratio was if people 6 benefited from people who received TPA 7 to their detriment. 8 Q. Did the tape discuss something 9 called the NIH stroke score? Are you 10 familiar with that? 11 A. No. 12 Q. Did the tape discuss the stroke 13 score? 14 A. I don't remember. 15 Q. Any other medical literature, or 16 journal article, or anything else that 17 you reviewed in anticipation or in 18 preparation for today's deposition? 19 A. I didn't review anything in 20 preparation for today's deposition. I 21 happened to have read ---. 22 Q. You happened to have looked at 23 that. Did you do any literature 24 searches? There's something called --- 25 are you familiar with Entrez PubMed?	1 to just backtrack in a general way. 2 Did you do any literature search ---? 3 I'm just going to --- one big sentence. 4 Did you look anything up in the medical 5 literature concerning any of the 6 aspects of what was in the complaint in 7 the medical allegations? 8 A. No. 9 Q. When you were provided ---. Let 10 me just bracket it now. It looks like 11 you provided care in a very narrow 12 window of time to Wanda Russell. It 13 looks like the morning of I think it 14 was December 6th, 2005; is that 15 correct? 16 A. Yes. 17 Q. You saw her for how long a 18 period of time? 19 A. Twenty (20) minutes to 25 20 minutes. 21 Q. Prior to that point in time had 22 you ever seen Wanda Russell before? 23 A. Not to my knowledge. 24 Q. Did you know of the existence, 25 if you will, of Wanda Russell as a

19 (Pages 70 to 73)

1 patient at the Dubois Medical Center or
 2 within the practice of Dr. Maloney?
 3 A. No.
 4 Q. Following that 20-minute
 5 encounter with Wanda Russell, did you
 6 have any occasion to subsequently see
 7 her at any point in time during either
 8 that day or during that
 9 hospitalization?
 10 A. I don't remember.
 11 Q. If you followed your normal
 12 course of practice ---. As I
 13 understand your responsibilities it was
 14 to perform a history and physical
 15 examination and not necessarily to
 16 provide patient care; is that correct?
 17 A. Yes.
 18 Q. Did you write any orders on her?
 19 A. No.
 20 Q. Did you seek any consultations
 21 concerning her?
 22 A. I don't remember.
 23 Q. Did you speak with any other
 24 physician about her?
 25 A. I don't remember.

1 Q. If you had followed your usual
 2 practice would you have spoken with the
 3 psychiatrist who was on call for the
 4 unit that day concerning your findings
 5 on Wanda Russell?
 6 A. Possibly.
 7 Q. Possibly meaning you don't know
 8 one way or the other whether you spoke
 9 to the doctor ---
 10 A. Right. I just don't remember.
 11 Q. --- the psychiatrist on call?
 12 We're going to get to your note here in
 13 a little while, but as a general
 14 question when you saw ---. You
 15 reviewed her note; is that correct?
 16 Yes? Is that a yes? Did you review
 17 your patient note from December 6th,
 18 2005?
 19 A. Yes.
 20 Q. Did you review any of the other
 21 medical records?
 22 A. I looked briefly at Dr. Devlin's
 23 H&P, and the emergency room records of
 24 December 3rd and December 4th.
 25 Q. When you wrote your note what

1 medical records did you consult in the
 2 preparation of your H&P of Wanda
 3 Russell on December 6th, 2005?
 4 A. I don't remember.
 5 Q. We'll get to your note in a
 6 little while. Did you have a belief at
 7 the time you were clinically evaluating
 8 Wanda Russell on December 6th, 2005
 9 that she had a stroke?
 10 A. I don't remember.
 11 Q. Did you have a belief at that
 12 time you were evaluating Wanda Russell
 13 on December 6th, 2005 that she had
 14 objective neurologic findings?
 15 A. I was aware of that.
 16 Q. And by findings I mean your
 17 findings.
 18 ATTORNEY RULIS:
 19 You have to answer yes or
 20 no.
 21 A. Yeah.
 22 BY ATTORNEY HOFFMAN:
 23 Q. We'll look at your note. I
 24 just ---.
 25 A. I don't remember.

1 Q. We'll look at your note. I
 2 mean, we'll see if that doesn't help
 3 you remember.
 4 A. Okay.
 5 Q. Would it be fair to say that
 6 after December 6th, 2005 you had no
 7 further contact with this patient?
 8 A. Yes.
 9 Q. Were you asked by anyone aside
 10 from your lawyer, including your lawyer
 11 to prepare a narrative of events
 12 concerning what happened on December
 13 6th, 2005?
 14 A. No.
 15 Q. Did you prepare any type of ---?
 16 I forget what's in ---. Setting aside
 17 what's in the medical records. But did
 18 you personally prepare any narrative of
 19 events? Just a description of the
 20 events of what happened on December 6th
 21 in terms of your interaction or
 22 anyone's interaction with Wanda
 23 Russell?
 24 A. No, because I don't remember.
 25 Q. Well, that tells what you don't

1 remember. But my question's a little
 2 bit different. I mean ---. If we
 3 would go to your computer or some
 4 personal file at your house or at your
 5 office would there be a document
 6 entitled Wanda Russell or something to
 7 that effect just setting forth your
 8 interactions with her or your
 9 recollection of the events of that day?
 10 A. No.
 11 Q. Now aside from your Board, did
 12 anybody interview you from the hospital
 13 concerning the events of December 6th,
 14 2005?
 15 A. No.
 16 Q. There are a number of Defendants
 17 in this lawsuit. And I just want to
 18 ask you about any discussions that
 19 you've had with any of these folks
 20 concerning either A) the lawsuit
 21 itself, or B) the medical care and
 22 treatment that Wanda Russell received
 23 at the Dubois Regional Medical Center.
 24 And by that I'm talking about
 25 discussions that took place after the

1 initiation of the lawsuit. Do you have
 2 my question in mind, first of all, what
 3 I'm going to be focusing on?
 4 A. No, in fact, I haven't.
 5 Q. Okay. Let me rephrase that.
 6 I'm going to ask you about ---.
 7 ATTORNEY RULIS:
 8 I think he answered ---.
 9 I think he understood the
 10 question and answered it. But
 11 you can rephrase it if you want.
 12 ATTORNEY HOFFMAN:
 13 I thought he didn't
 14 understand my question. My
 15 question was do you understand
 16 my question, and he said no.
 17 And that's where the confusion
 18 ---.
 19 BY ATTORNEY HOFFMAN:
 20 Q. So you understood my question,
 21 and your answer is that you've not had
 22 any discussions after the initiation of
 23 the lawsuit with any of the other
 24 Defendants; is that correct?
 25 A. That's correct.

1 Q. And that would include
 2 discussions about either A) the
 3 lawsuit, or B) the medical care; is
 4 that right?
 5 A. Right.
 6 Q. Have you had any discussions
 7 with any healthcare providers beyond
 8 the four walls --- well, let's step
 9 back. Have you had any discussions
 10 with any healthcare providers within
 11 the four walls, who work within the
 12 four walls of the Dubois Regional
 13 Medical Center, that are not Defendants
 14 in this action?
 15 A. No.
 16 Q. Have you had any discussions
 17 with any healthcare providers ---
 18 A. No.
 19 Q. --- outside of ---. You got to
 20 let me finish my question.
 21 A. Okay. Sorry.
 22 Q. Had any discussions with any
 23 other healthcare providers --- again
 24 I'm talking about either the lawsuit or
 25 the medical care that was provided to

1 Wanda Russell. Have you had any
 2 discussions with any healthcare
 3 providers outside of the Dubois
 4 Regional Medical Center concerning any
 5 aspect of either of those two things
 6 that I've mentioned?
 7 A. No.
 8 Q. Have you discussed it with
 9 anybody else setting aside your lawyer?
 10 A. I discussed it with my wife.
 11 Q. I don't want to know what you
 12 discussed with your wife. Have you
 13 been interviewed by any of the other
 14 lawyers in this law firm or anybody
 15 who's identified themselves as being
 16 from the law firms of these lawyers?
 17 A. No.
 18 Q. Have you ever been represented
 19 by the lawyers --- any of the lawyers
 20 in this law firm or any of their law
 21 firms?
 22 A. None of the lawyers. I'm not
 23 sure about the firms.
 24 Q. You focused a little bit on the
 25 materials that you reviewed for the

1 deposition. You told me you looked at
 2 the complaint. And the answer to the
 3 complaint, as well. You looked at
 4 that. You looked at your note from
 5 December 6th, 2005. You looked at Dr.
 6 Devlin's admission note; is that right?
 7 A. I don't remember. I might have.
 8 Q. We know that Wanda Russell spent
 9 some amount of time less than 24 hours
 10 at the DRMC unit; correct?
 11 A. Yes.
 12 Q. There were a number of other
 13 notes prepared in that unit,
 14 specifically nursing notes. Did you
 15 read through the nursing notes?
 16 A. No.
 17 Q. Wanda Russell was admitted there
 18 under something called a 201 Admission.
 19 Are you aware of that?
 20 A. Yes.
 21 Q. What is a 201 Admission?
 22 A. A 201 Admission is a voluntary
 23 commitment to the mental health center,
 24 the inpatient mental health unit with
 25 the understanding or agreement to spend

1 a minimum of 72 hours there.
 2 Q. At the time the patient signs up
 3 for this ---. It's voluntary. So the
 4 patient agrees to it; correct?
 5 A. Yes.
 6 Q. And the patient is then
 7 presented with some type of a document
 8 that says you agree to stay here for 72
 9 hours; is that right?
 10 A. Yes.
 11 Q. Is there anyone who makes an
 12 assessment that the patient is stable
 13 enough to stay over at the DRMC unit
 14 for the 72 hour period?
 15 A. Do you mean medically stable?
 16 Q. Medically stable enough.
 17 A. It'd be either the ER physician
 18 or the attending physician.
 19 Q. Who is it that actually hands
 20 the paper to the patient and requests
 21 their signature on the 201 Admission
 22 form?
 23 A. Probably the psychologist on
 24 duty.
 25 Q. There's something called the

1 Patient Bill of Rights. I think we
 2 actually have a copy floating
 3 around ---
 4 ATTORNEY MCINTYRE:
 5 We did.
 6 BY ATTORNEY HOFFMAN:
 7 Q. --- here in the room.
 8 ATTORNEY MCINTYRE:
 9 There's a copy for the
 10 record and there's a copy for
 11 the Doctor to look at.
 12 ATTORNEY HOFFMAN:
 13 Can I mark your copy as
 14 Exhibit Two?
 15 ATTORNEY MCINTYRE:
 16 Okay.
 17 (Deposition Exhibit Two
 18 marked for
 19 identification.)
 20 BY ATTORNEY HOFFMAN:
 21 Q. We've marked as Exhibit Two a
 22 document called the Patient Bill of
 23 Rights. There are only ten Bill of
 24 Rights in the Constitution but here you
 25 have it looks like 22. So you get more

1 rights here at the Dubois Medical
 2 Center than you do in America. Are you
 3 familiar with the document, sir?
 4 A. I guess I haven't looked at it
 5 for years.
 6 Q. What is your understanding as to
 7 how this document is used with respect
 8 to a patient?
 9 A. The patients are given this upon
 10 admission and they're entitled, if
 11 there are violations of the edicts, to
 12 seek --- or to complain.
 13 Q. I didn't catch your last phrase.
 14 A. This one tells the patient or
 15 the people who are the patient's
 16 caregivers to lodge complaints.
 17 Q. Is this document supposed to be
 18 reviewed with the patient when they're
 19 admitted to the DRMC East unit?
 20 A. I believe so.
 21 Q. Who do you understand to be the
 22 person who would review such a document
 23 with the patient?
 24 A. Either the on-call psychiatric
 25 worker or the nurse assigned to the

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1 patient.
2 **Q. Is the document actually**
3 **supposed to be reviewed with the**
4 **patient?**
5 A. I think so.
6 **Q. Do you know a nurse named Kim**
7 **Hendricks?**
8 A. No.
9 **Q. There is another nurse whose**
10 **name is identified in the chart. I'm**
11 **just going to show their signature.**
12 **ATTORNEY RULIS:**
13 Do you want to give us an
14 idea what entry we're talking
15 about?
16 **ATTORNEY HOFFMAN:**
17 Yeah. It's a nursing
18 note from the DRMC Behavioral
19 Unit. It's from 12/06/05. It's
20 at the end of a long nursing
21 narrative that goes from ---.
22 I'm not going to mark it, but it
23 goes from 12/06/05 at 8:20 a.m.
24 to 12/06/05 at about 9:55 a.m.
25 **ATTORNEY MCINTYRE:**

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1 Mark, is that the
2 document attached to the
3 complaint?
4 **ATTORNEY HOFFMAN:**
5 Yes, it is. I think it's
6 that signature at the bottom.
7 **BY ATTORNEY HOFFMAN:**
8 **Q. Do you recognize that signature?**
9 A. No.
10 **Q. When a patient signs in, signs**
11 **the 72 hour admission, is there any**
12 **mechanism for a patient to rescind that**
13 **72 hour agreement?**
14 A. I don't know.
15 **Q. If a patient ---. When a**
16 **patient arrives or if the patient, like**
17 **Wanda Russell, arrived there and**
18 **changes her mind about wanting to be**
19 **there is there some mechanism by which**
20 **her revised desires can be acted upon?**
21 **ATTORNEY RULIS:**
22 I think he's answered it.
23 I'd object as asked and
24 answered. He can answer again.
25 A. The psychologist --- or

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1 psychiatrist would --- will shorten the
2 commitment.
3 **BY ATTORNEY HOFFMAN:**
4 **Q. One of the rights listed**
5 **here ---.**
6 **ATTORNEY RULIS:**
7 What number?
8 **ATTORNEY HOFFMAN:**
9 It's number 22.
10 **BY ATTORNEY HOFFMAN:**
11 **Q. Which is the right to be**
12 **informed of your rights. Are you**
13 **familiar with that right?**
14 A. Yes.
15 **Q. If a patient changes their mind**
16 **about being hospitalized acutely at the**
17 **DRMC East unit do they have a right to**
18 **see their physician and to have their**
19 **circumstances over there reviewed**
20 **immediately?**
21 A. Yes. I don't know about the
22 immediately, but yes.
23 **Q. If one of the concerns that a**
24 **patient has over the DRMC East unit**
25 **concerns their actual physical**

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1 **condition, their medical condition, do**
2 **they have a right to be seen by an**
3 **internist or family practitioner**
4 **immediately?**
5 A. Yes.
6 **ATTORNEY MCINTYRE:**
7 Object to the form.
8 A. Yes.
9 **BY ATTORNEY HOFFMAN:**
10 **Q. When you came in on the morning**
11 **of December 6th, 2005 you told me you**
12 **generally are in around 6:30 in the**
13 **morning; is that correct?**
14 A. Yes.
15 **Q. And you spent, I think you said,**
16 **about 20 minutes in with the patient;**
17 **is that right?**
18 A. Twenty (20), 25.
19 **Q. Twenty (20) or 25 minutes with**
20 **the patient. I will mark as an exhibit**
21 **a copy of your note as Exhibit Three.**
22 **(Deposition Exhibit Three**
23 **marked for**
24 **identification.)**
25 **BY ATTORNEY HOFFMAN:**

23 (Pages 86 to 89)

1 Q. This is a note that was dictated
 2 by Thomas Bradley. And there is a ---.
 3 And I'll show it to you in a second.
 4 But there's a d, a dictated notation on
 5 these that generally I think reflect
 6 the time that it was dictated; is that
 7 right?
 8 A. Yes.
 9 Q. And this is a 6:43 which I think
 10 agrees with ---
 11 A. Roughly.
 12 Q. --- your general timing of when
 13 you come into the hospital. And do you
 14 as a matter of course dictate these
 15 notes right after you perform your
 16 history and physical examination?
 17 A. Yes.
 18 Q. This is a note. It's entitled
 19 History and Physical Examination from
 20 the Dubois Regional Medical Center for
 21 Wanda Russell performed by Dr. Thomas
 22 Bradley. And then it says
 23 authenticated by Thomas J. Bradley.
 24 What does that mean?
 25 A. That means I signed it either

1 physically or electronically.
 2 Q. The date involving ---. Is that
 3 your note, Dr. Bradley?
 4 A. Yes.
 5 Q. At the time you dictated that
 6 note, Dr. Bradley, there already were a
 7 number of documents in the medical
 8 record that had been prepared, filled
 9 out prior to your getting to the
 10 hospital; is that correct?
 11 A. Yes.
 12 Q. One of the documents that had
 13 been filled out were some orders; is
 14 that correct?
 15 A. There would be orders.
 16 Q. Well, let's look at your note
 17 and we'll figure out what it is that
 18 you had the benefit of when you ---
 19 what information you had. In your note
 20 you talk about, first of all, the
 21 admission date. See that?
 22 A. Yeah.
 23 Q. And that was 12/6/05; right?
 24 A. Yes.
 25 Q. You knew when you came in that

1 morning that she had arrived in the
 2 unit at approximately 2:00 in the
 3 morning?
 4 A. I can't remember.
 5 Q. Would that be the kind of
 6 information you would know?
 7 A. Yes.
 8 Q. Then you went out and you set
 9 forth a history of her present illness;
 10 is that right?
 11 A. Yes.
 12 Q. You knew that she was ---. You
 13 knew her age. She was 47 years old;
 14 correct?
 15 A. Yes.
 16 Q. And you knew that she had been
 17 re-admitted to the West division for
 18 left-sided weakness; is that right?
 19 A. That was presumably my
 20 understanding at the time I did the
 21 dictation.
 22 Q. What did you base that
 23 understanding on?
 24 A. There were two ER notes.
 25 Q. And when you say there were two

1 ER notes one was from 12/3; is that
 2 correct?
 3 A. Yeah.
 4 Q. The other one was from 12/4; is
 5 that correct?
 6 A. Yes.
 7 Q. The one from 12/3, or December
 8 3rd, 2005, in her discharge diagnosis
 9 was transient ischemic attack or TIA;
 10 is that correct?
 11 ATTORNEY RULIS:
 12 Well, could you ---? He
 13 doesn't have the benefit of a
 14 note in front of him. He has no
 15 recollection of the patient.
 16 ATTORNEY HOFFMAN:
 17 Okay. We've got to ---.
 18 We'll dig them out.
 19 ATTORNEY RULIS:
 20 Well, you don't have to
 21 dig them out, but ---.
 22 ATTORNEY HOFFMAN:
 23 Well, no. We'll dig them
 24 out and we'll get them in front
 25 of him.

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1 ATTORNEY RULIS:
 2 It just depends on how
 3 detailed you're going to go
 4 into ---.
 5 ATTORNEY RULIS:
 6 I'm going to give very
 7 detailed ---.
 8 ATTORNEY RULIS:
 9 Well, then, show him the
 10 note.
 11 ATTORNEY HOFFMAN:
 12 No problem. No problem.
 13 BY ATTORNEY HOFFMAN:
 14 Q. Now when you say you had two ER
 15 notes in front of you ---. We'll mark
 16 first your December 3rd note.
 17 ATTORNEY HOFFMAN:
 18 And that will be Exhibit
 19 Four.
 20 (Deposition Exhibit Four
 21 marked for
 22 identification.)
 23 BY ATTORNEY HOFFMAN:
 24 Q. The December 3rd note, it's
 25 marked as Exhibit Four. As I

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1 understand it, that is one of the
 2 documents ---. When you prepared your
 3 admission history and physical
 4 admission that was one of the notes
 5 that you had in front of you; correct?
 6 A. I don't remember.
 7 Q. I figured you would say that.
 8 The other note that you identified that
 9 you had in front of you as two
 10 emergency room notes is from December
 11 4th.
 12 ATTORNEY HOFFMAN:
 13 And I'm going to mark the
 14 December 4th, 2005 emergency
 15 room notes as Exhibit Five.
 16 (Deposition Exhibit Five
 17 marked for
 18 identification.)
 19 BY ATTORNEY HOFFMAN:
 20 Q. How many pages ---? Can you
 21 just count how many pages is Exhibit
 22 Four?
 23 A. There's five total.
 24 Q. Okay. There are five total
 25 pages. Seven total pages just as I

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1 have them Exhibit Five. When you came
 2 into the hospital that 6:30 hour on ---
 3 at or about 6:30 on December 6th, 2005
 4 what other physicians were present on
 5 the DRMC East unit that you spoke with
 6 about this patient?
 7 A. I don't remember.
 8 Q. Did you have a discussion with
 9 Dr. Maloney at any point concerning
 10 your findings on physical examination?
 11 A. I don't remember.
 12 Q. Now we're going through your
 13 note and we're trying to assess where
 14 certain pieces of information in this
 15 note came from. By the way, over at
 16 DRMC East unit, you were the first
 17 physician over there to see this
 18 patient; correct?
 19 A. Probably.
 20 Q. Well, do you know whether any
 21 other physicians came in between 2:00
 22 in the morning and 6:30 in the morning
 23 to see Wanda Russell?
 24 A. I don't know.
 25 Q. Did you see any notes in the

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1 chart that any other physician had come
 2 to the bedside to evaluate Wanda
 3 Russell?
 4 A. Since I don't remember, no.
 5 Q. Did you make any notations in
 6 your note here that any other physician
 7 had come over to the DRMC East unit to
 8 see Wanda Russell?
 9 A. No.
 10 Q. In terms of this history, you
 11 talked about a re-admission to the West
 12 division for left-sided weakness. And
 13 I believe you told me in some general
 14 way that information came from notes
 15 that were in front of you from
 16 emergency room visits; is that correct?
 17 A. I can only infer that I at least
 18 saw Dr. Devlin's history and physical.
 19 Q. And you wrote that she had a
 20 workup that included a normal CT of the
 21 head. See that?
 22 A. Yes.
 23 Q. Did you go look at the CT scans?
 24 A. No.
 25 Q. She was discharged and

25 (Pages 94 to 97)

1 represented to the emergency room with
 2 nervousness. Where did you get that
 3 history that she came to the emergency
 4 department with nervousness?
 5 A. I don't remember.
 6 Q. And then you say I guess there
 7 was a question with regard to the
 8 extent of the left-sided weakness
 9 present and the fact that it was noted
 10 that the person was under a lot of
 11 stress. Where did you get that history
 12 from?
 13 A. It could've come from various
 14 places, but I don't remember.
 15 Q. Did you interview the nursing
 16 staff when you came in in the morning
 17 to find out what had happened with this
 18 patient between the hours of 2:00 in
 19 the morning and 6:30 in the morning?
 20 A. I don't remember.
 21 Q. You knew that she was
 22 hypertensive; correct?
 23 A. Yes.
 24 Q. You knew that she had
 25 hyperlipidemia; correct?

1 A. Yes.
 2 Q. You knew that she was an
 3 insulin-dependent diabetic; correct?
 4 A. Yes.
 5 Q. When you saw the history of
 6 left-sided weakness and at least three
 7 of the risk factors for stroke did the
 8 possibility that she had a stroke enter
 9 your mind when you saw her that
 10 morning?
 11 A. I don't remember.
 12 Q. Then you say I guess she was
 13 persuaded to be transferred to the
 14 psych unit. Who did you understand
 15 persuaded Wanda Russell to go to the
 16 psych unit?
 17 A. Probably the on-call
 18 psychologist.
 19 Q. Did you say psychologist or
 20 psychiatrist?
 21 A. Psychologist.
 22 Q. Was it your understanding then
 23 that somebody from the DRMC East unit,
 24 the psychologist on call, went over to
 25 the DRMC West campus and persuaded

1 Wanda Russell that she needed to be
 2 admitted to the East campus?
 3 A. I don't remember. I infer that.
 4 Q. When you saw her that morning
 5 did you know that she was on some type
 6 of suicide watch?
 7 A. I don't remember.
 8 Q. Did you believe she was
 9 suicidal?
 10 A. I don't remember.
 11 Q. Then you've listed her
 12 medications including insulin; correct?
 13 A. Yes.
 14 Q. Past medical history, past
 15 surgical history, and her social
 16 history; correct?
 17 A. Yes.
 18 Q. Then you refer to Dr. Devlin's
 19 H&P.
 20 A. Yes.
 21 Q. Correct? So you had Dr.
 22 Devlin's H&P in front of you at the
 23 time that you performed your
 24 evaluation.
 25 ATTORNEY RULIS:

1 You have to answer. I
 2 think that was a question.
 3 A. Yes.
 4 ATTORNEY RULIS:
 5 Okay.
 6 BY ATTORNEY HOFFMAN:
 7 Q. Let's back up a little bit.
 8 Who's Dr. Devlin? Who did you
 9 understand Dr. Devlin to be?
 10 A. Dr. Devlin was a family
 11 practitioner on the medical staff at
 12 Dubois Regional Medical Center.
 13 Q. What was your understanding as
 14 to the relationship between Dr. Devlin
 15 and Wanda Russell?
 16 A. Probably he was the on-call
 17 physician for Dr. Maloney on December
 18 4th.
 19 Q. Was it your understanding that
 20 Wanda Russell was a patient of Dr.
 21 Maloney in terms of her long-term
 22 follow up prior to that admission and
 23 that Dr. Devlin was covering in some
 24 way for Dr. Maloney when he wrote the
 25 history and physical examination?

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1 A. Once again, that's what I infer.
2 Q. Did you have a conversation with
3 Dr. Devlin concerning Mrs. Russell?
4 A. I don't remember. I think not.
5 ATTORNEY HOFFMAN:
6 Why don't we take a quick
7 break? I'm going to just find
8 Dr. Devlin's note.
9 SHORT BREAK TAKEN
10 PREVIOUS QUESTION READ BACK
11 BY ATTORNEY HOFFMAN:
12 Q. In your note -- let's look if
13 we can identify Dr. Devlin's history
14 and physical is the document that you
15 had referred to in preparing your
16 history and physical; is that correct?
17 A. Yes.
18 Q When you prepared your history
19 and physical did you read through the
20 entirety of Dr. Devlin's note?
21 A. I don't know.
22 Q. Okay. Well, let's look at Dr.
23 Devlin's note.
24 ATTORNEY HOFFMAN:
25 We're going to mark that

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1 as Exhibit Six.
2 (Deposition Exhibit Six
3 marked for
4 identification.)
5 BY ATTORNEY HOFFMAN:
6 Q. It's a two-page document
7 dictation by Dr. James ---.
8 A. Dr. James Devlin.
9 Q. Now in Dr. Devlin's note --
10 just to kind of go through at least the
11 kind of information --. The whole
12 note was available to you; right?
13 A. Yeah.
14 Q. So just to look at the
15 information that was, at least,
16 available to you when you were
17 preparing your note in terms of what
18 Dr. Devlin had written almost 48 hours
19 earlier; correct?
20 A. Yes.
21 Q. You knew that the patient had
22 complaints of left-sided weakness;
23 correct?
24 A. Yes.
25 Q. And, in fact, those were

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1 complaints that, I believe, you also
2 ascertained during your examination;
3 correct?
4 A. The exam indicates that I saw
5 the signs.
6 Q. At that time that Dr. Devlin
7 performed his neurological evaluation,
8 again this information that would've
9 been available to you, he talks about
10 examination at the time showed
11 questionable left-handed weakness in
12 comparison to the right. That was
13 information that you had available to
14 you; correct?
15 A. It would have been available.
16 Q. And her neurological examination
17 at that time was otherwise
18 unremarkable; correct?
19 A. When I did my H&P?
20 Q. Yes. No.
21 ATTORNEY RULIS:
22 No, wait.
23 BY ATTORNEY HOFFMAN:
24 Q. When you looked at this note
25 ---. You learned from reviewing Dr.

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1 Devlin's note that at the time Dr.
2 Devlin examined her, at least in terms
3 of Dr. Devlin's examination, he
4 described some left-handed weaknesses
5 in comparison to the right and that her
6 neuro exam was otherwise unremarkable.
7 That was information that you had at
8 the time.
9 A. It would've been present.
10 Q. The other pieces of information
11 that you would've had under the review
12 of systems, I'm not going to go through
13 this whole note with you. You can
14 breathe a sigh of relief. But under
15 the review of systems at the time she
16 denied any history of slurred speech or
17 visual problems. That was information
18 that, at least, you knew that Dr.
19 Devlin had obtained; correct?
20 A. I don't remember.
21 Q. Information that would've been
22 available to you?
23 A. Yes.
24 Q. And to look at Dr. Devlin's
25 neurological findings, this is

27 (Pages 102 to 105)

1 information that would've been
2 available to you that the patient may
3 have a mild decrease in left grip as
4 compared to right. That was
5 information that at least was available
6 to you in terms of his neurological
7 findings; correct?
8 A. Yes.
9 Q. And then his impression was that
10 there was a history of some left-sided
11 weakness, questionable TIA.
12 Clinically, at this time, it is
13 doubtful, but with the history we will
14 go ahead and make the patient an
15 observation; correct?
16 A. That's what it says.
17 Q. The patient was observed in the
18 hospital.
19 A. Yes.
20 Q. Did you have the results or did
21 you seek to ascertain the results of
22 the neuro checks that had been
23 performed on Wanda Russell during her
24 period of observation?
25 A. I don't remember.

1 Q. Was that information that
2 would've been sent over to you, or at
3 least over for your review, at the time
4 of her transfer from West to East?
5 A. Probably.
6 Q. Let me just try to ask you kind
7 of a logistical question. We have a
8 chart here that's been identified as
9 Wanda Russell's medical record. Does
10 that entire chart travel with the
11 patient from unit to unit?
12 A. I don't recall if the chart in
13 its entirety always came over.
14 Q. Is there a separate chart for
15 DRMC East versus one for DRMC West or
16 is it all one chart?
17 A. It's separate.
18 ATTORNEY HOFFMAN:
19 I'm going to mark the
20 vital signs sheets as Exhibit
21 Seven. These are vital sign
22 sheets. There are 11 pages of
23 them for Wanda Russell. I'm
24 going to hand you all seven
25 pages.

1 (Deposition Exhibit Seven
2 marked for
3 identification.)
4 OFF RECORD DISCUSSION
5 BY ATTORNEY HOFFMAN:
6 Q. Let me just ask you about these
7 vital sign sheets. We talked a little
8 bit earlier about something called
9 neuro checks; correct?
10 A. Yes.
11 Q. Are these the kind of sheets
12 ---? Are these the sheets that are
13 used, at least in part, for neuro
14 checks?
15 A. Yes.
16 Q. Okay. When we look at ---. And
17 there's pages 1 through 11. So I'm
18 just going to refer to them. They're
19 paginated at the bottom. There's a
20 heading on, say, look at page two. See
21 that?
22 A. Yes.
23 Q. There's some denomination
24 called, or heading called neurological;
25 correct?

1 A. Yes.
2 Q. And then you read ---. I think
3 it looks like you read down, right?
4 Has lost of consciousness, motor
5 strength on the left. And then they
6 have papillary reaction. Then eye
7 opening. Then best motor response.
8 Best verbal response. Nuchal rigidity,
9 neuro interventions. Do you see that?
10 A. Yes.
11 Q. Are those ---? When we talk
12 about neuro checks is that what we're
13 talking about, what's listed on these
14 headings?
15 A. Yes.
16 Q. So, for example, at 2:00 in the
17 afternoon on 12/04, this was December
18 4th, 2005. It talks about left palmar
19 grasp being weak. See that?
20 A. Yes.
21 Q. And best verbal response,
22 slurred speech. Do you see that
23 understand but slurred?
24 A. Yes.
25 Q. Those are abnormal neurological

1 findings?
 2 A. Yes.
 3 Q. Okay. And then as we see it, I
 4 think, 20:10, we have pretty much the
 5 same findings; correct?
 6 A. Yes.
 7 Q. And the same thing at 00:00.
 8 That's, I guess, midnight?
 9 A. Yes.
 10 Q. And then at 4:15 in the morning;
 11 right?
 12 A. Yes.
 13 Q. Then as we go over the next
 14 page, it talks about musculoskeletal.
 15 Remember we talked about gait? You had
 16 identified gait as being one of the
 17 neurological findings.
 18 A. Yes.
 19 Q. How is that described at 14:00
 20 and at 20:10.
 21 A. Staggering.
 22 Q. Her left leg strength is weak;
 23 correct?
 24 A. Let's see.
 25 Q. Muscle. It says muscle tone

1 left leg weak.
 2 A. Yes.
 3 Q. Then it talks about something
 4 called facial droop. What does that
 5 refer to?
 6 A. That means the facial muscles
 7 aren't innervated for one of any
 8 variety of reasons.
 9 Q. Guess so. But it means she has
 10 a problem with her seventh cranial
 11 nerve; correct? They innervate the
 12 muscles of facial expression.
 13 A. That could be.
 14 Q. And when we look at her face she
 15 has an asymmetry on the left side, lost
 16 of nasal labial fold on the left side
 17 generally. That's what a facial droop
 18 is; correct?
 19 A. Yes.
 20 Q. And she had it both at 14:00 and
 21 20:10 hours; correct?
 22 A. Yes.
 23 Q. And then as we move forward in
 24 time to 12/5. We're into the next day
 25 now; right?

1 A. Right.
 2 ATTORNEY RULIS:
 3 What time?
 4 ATTORNEY HOFFMAN:
 5 Oh, I'm sorry. December
 6 5, 2005 looking at 8:00 a.m.
 7 'cause there's a neurological
 8 heading at the top.
 9 A. 8:00 a.m.?
 10 BY ATTORNEY HOFFMAN:
 11 Q. I'll be more diligent in
 12 identifying the page numbers twice.
 13 A. Yeah, that'd be good.
 14 Q. Okay?
 15 A. All right.
 16 Q. On page six it talks about the
 17 left palmar grasp is weak; right?
 18 A. Yes.
 19 Q. Her speech is understandable but
 20 slurred; correct?
 21 A. Yes.
 22 Q. And when those same findings are
 23 present at 9:15 at night or 21:15;
 24 correct? 21:15 is 9:15.
 25 A. Yes.

1 Q. Then if you go to the next page,
 2 page seven. Looking at her gait she
 3 has a staggering gait listed at 08:00.
 4 A. Yes.
 5 Q. Then a staggering gait listed at
 6 21:15 or 9:15 at night; right?
 7 A. Yes.
 8 Q. And the left leg, again, is
 9 described as weak?
 10 A. Yes.
 11 Q. And on the next page, page
 12 eight, under her activity it's listed
 13 as gait is unsteady; right? And she
 14 has BRP. Those are bathroom
 15 privileges?
 16 A. We're on page eight, huh?
 17 Q. Correct. See under activity it
 18 says gait unsteady?
 19 A. Okay. Hold on. Okay.
 20 ATTORNEY RULIS:
 21 What time are we at?
 22 ATTORNEY HOFFMAN:
 23 I'm looking at 08:00 on
 24 12/5.
 25 ATTORNEY RULIS:

1 Oh, okay.
 2 ATTORNEY HOFFMAN:
 3 It's under activities of
 4 daily living. It says 08:00,
 5 gait unsteady. We're on the
 6 same page so to speak?
 7 ATTORNEY RULIS:
 8 And what time?
 9 ATTORNEY HOFFMAN:
 10 08:00.
 11 ATTORNEY RULIS:
 12 08:00. All right. It
 13 does.
 14 ATTORNEY HOFFMAN:
 15 Okay.
 16 BY ATTORNEY HOFFMAN:
 17 Q. There's a denomination called
 18 activities of daily living. And it
 19 talks about activities as gait
 20 unsteady; correct? Do you see that?
 21 Well, it's small. Old guys like us
 22 have trouble seeing.
 23 ATTORNEY RULIS:
 24 See it? Okay.
 25 BY ATTORNEY HOFFMAN:

1 Q. Gait is unsteady. And then it
 2 says fall precautions? Do you see
 3 that?
 4 A. Yes.
 5 Q. It talks about a call light and
 6 so forth. And her gait is still listed
 7 as unsteady at 09:00 and at 21:15
 8 hours; correct?
 9 A. Yes.
 10 Q. And then as we get to page nine
 11 there's an entry at --- it's listed as
 12 12/05/05. It's 17:14. That's 5:14 in
 13 the afternoon. It says progress note.
 14 Patient condition unchanged since a.m.
 15 assessment. Neuro's unchanged. Left
 16 arm still very weak. And left leg
 17 slightly weak giving her an unsteady
 18 gait. She has no problems with
 19 swallowing, will monitor. Did I read
 20 that correctly?
 21 A. Yes.
 22 Q. And then going forward to page
 23 11. It is the last page. It's
 24 12/6/05, December 6th, 2005 at 1:25
 25 a.m. there's a discharge or transfer or

1 death note; correct?
 2 A. Yes.
 3 Q. It says patient transferred to
 4 psych unit as per order. Belongings
 5 with patient. Chart copied and
 6 enclosed in lockbox, sent with patient.
 7 See that?
 8 A. Yes.
 9 Q. My question for you then is
 10 would these nursing notes that come
 11 over with the patient in the chart
 12 copied, and locked box category?
 13 A. Probably.
 14 Q. Were you aware of the results of
 15 these neuro checks at the time that you
 16 saw the patient?
 17 A. I don't remember.
 18 Q. And now for your note.
 19 ATTORNEY RULIS:
 20 Hold on. That's ---.
 21 OFF RECORD DISCUSSION
 22 BY ATTORNEY HOFFMAN:
 23 Q. In your note you talked about,
 24 and I'm not going to read it to you
 25 because you can read probably better

1 than I can. But she appeared anxious
 2 to you; is that correct?
 3 A. According to the H&P.
 4 Q. According to what you saw and
 5 you assessed her as being anxious;
 6 right?
 7 A. Yes.
 8 Q. You also assessed that she had
 9 slight facial dissymmetry. See that?
 10 A. Dissymmetry, yes.
 11 Q. On terms of your neurological
 12 examination noted that there is some
 13 left upper extremity weakness and
 14 facial asymmetry as stated; correct?
 15 A. Yes.
 16 Q. And it is hard to evaluate since
 17 she is so anxious; is that correct?
 18 A. Yes.
 19 Q. What was your understanding as
 20 to why she was on a psych unit to begin
 21 with?
 22 A. I don't remember.
 23 Q. In your history and physical you
 24 talk about anxiety; correct?
 25 A. Yes.

1 Q. Did you attribute that anxiety
2 to any particular aspect of her
3 examination or her mental status? What
4 did you attribute her anxiety to?
5 A. I don't remember, sir. I can't
6 —. I just don't remember.
7 Q. And you talked about probable
8 depression. See that?
9 A. Yes.
10 Q. What did you attribute her
11 depression to? Or probable depression
12 to?
13 A. I don't remember.
14 Q. And you say multiple stress
15 orders. What does that mean?
16 A. Life's events and conditions
17 which can produce anxiety.
18 Q. After you saw Wanda Russell ---
19 You found ---. You had neurologic
20 findings when you examined her that
21 were abnormal; correct?
22 A. Yes.
23 Q. You also had a history of the
24 possibility of ongoing neurologic
25 findings; correct?

1 A. According to these documents.
2 Q. Did you then request a neurology
3 consultation?
4 A. I don't remember.
5 Q. Did you ascertain from anyone
6 who had been previously involved in the
7 care of this patient whether she had
8 been evaluated by a neurologist?
9 A. I don't remember.
10 Q. Did you in your note reference
11 any type of evaluation by anyone from
12 the neurology service?
13 A. No, according to the document.
14 Q. Did you see in Dr. Devlin's note
15 that you had reviewed in preparing your
16 note any reference by Dr. Devlin that
17 he had consulted a neurologist?
18 A. I don't remember.
19 ATTORNEY RULIS:
20 I think he asked if you
21 see it in his note.
22 A. I don't see it there.
23 BY ATTORNEY HOFFMAN:
24 Q. You knew when you saw Wanda
25 Russell that Dr. Devlin's not a

1 neurologist, right?
2 A. Yes.
3 Q. And you don't hold yourself out
4 as a neurologist either, correct?
5 A. No.
6 Q. The patient was admitted to Dr.
7 Bobrin's service.
8 A. Yes.
9 Q. What was your expectation as to
10 when Dr. Bobrin was going to come in
11 and evaluate this patient? When you
12 were there it was 6:30 in the morning.
13 Dr. Bobrin wasn't in the hospital at
14 that time, was he?
15 A. No.
16 Q. And when did you have a belief
17 that he was going to come and decide
18 what was psychologically wrong with
19 this patient, if anything?
20 A. Well, his custom would be to
21 come around 8:00 in the morning. But
22 it would vary.
23 Q. When you say it would vary, how
24 much could it vary?
25 A. It would be earlier sometimes.

1 Q. Did you try to contact him? Did
2 you contact Dr. Bobrin to inform him
3 that you had found an objective
4 neurological finding in this patient
5 that, in your belief, were objective in
6 nature?
7 A. I don't remember.
8 Q. Did you have the belief that her
9 neurological findings as documented by
10 you were based upon anxiety?
11 A. I don't remember.
12 Q. Did you consider yourself
13 capable at the time in deciding whether
14 physical manifestations --- that the
15 physical manifestations that you found
16 as objective neurological findings were
17 attributable to underlying psychiatric
18 illness?
19 A. Could you rephrase, please?
20 Q. Yes. Did you consider yourself,
21 at the time you saw her, to be
22 qualified to make an assessment as to
23 whether whatever hard and fast physical
24 findings you found in terms of her
25 neurological status, that those were

1 based on some form of underlying
2 psychiatric illness?
3 A. I wasn't confident to make that
4 judgment.
5 Q. Did you have any awareness at
6 the time that you saw Wanda Russell
7 that Dr. Maloney had attributed her
8 neurological findings or her loss of
9 mobility to depression?
10 A. I don't remember.
11 ATTORNEY RULIS:
12 Mark, I may have to take
13 a five minute phone call at
14 1:30. It's a very, very
15 important phone call.
16 ATTORNEY HOFFMAN:
17 That's fine.
18 OFF RECORD DISCUSSION
19 BY ATTORNEY HOFFMAN:
20 Q. Who's Dr. Helmi?
21 A. Dr. Helmi is a psychiatrist
22 employed by Dubois Regional Medical
23 Center.
24 Q. Where does Dr. Helmi presently
25 practice, if you know? Is she still at

1 Dubois?
2 A. As far as I know.
3 Q. Did there come a time when you
4 were ---? I know I talked about did
5 there come a time during her
6 hospitalization in the December-January
7 time window or hospitalizations in that
8 time window, did there come a time when
9 you had learned that she had had a
10 stroke?
11 A. No. I don't remember.
12 Q. Was your first notification that
13 your --- that Mrs. Russell had had a
14 stroke? Did that notification come
15 when you got a copy of the complaint?
16 A. Yes.
17 Q. We know from the record that Dr.
18 Bobrin subsequently came to the
19 hospital to examine Wanda Russell.
20 There's a note dictated by him. It
21 looks like it was dictated on December
22 6th, 2005 at 10:28 p.m. he's listed.
23 There is a p. Do you know what time
24 Dr. Bobrin got to the hospital and saw
25 Mrs. Russell?

1 ATTORNEY GARGER:
2 Just note my objection to
3 the form.
4 ATTORNEY HOFFMAN:
5 What are you objecting
6 to?
7 ATTORNEY GARGER:
8 The characterization
9 preceding that the p meant that
10 he got there in p.m., and I
11 don't know that you know that or
12 I know that. I mean they say
13 that, but you're interpreting
14 it.
15 ATTORNEY HOFFMAN:
16 Okay.
17 ATTORNEY GARGER:
18 Your interpretation.
19 ATTORNEY HOFFMAN:
20 All right.
21 BY ATTORNEY HOFFMAN:
22 Q. Well, let's look at your note,
23 Doctor, and see if we can't figure out
24 what a.m./p.m. is in your note. Do you
25 have your note in front of you? See on

1 the ---? Is your note Exhibit Three,
2 Doctor?
3 A. I don't know.
4 Q. Yeah. What is your
5 understanding as to what that a stands
6 for?
7 A. A.M.
8 Q. A.M. That means in the ante
9 meridiem ---
10 A. Ante meridiem, yeah.
11 Q. --- or morning. Okay. And then
12 when you see a p on these notes, what
13 is your understanding as to what a p
14 stands for when it's next to a time?
15 A. It would be between noon and
16 midnight.
17 Q. The post meridiem.
18 A. Yeah.
19 Q. You've been at the Dubois
20 Medical Center as a staff physician
21 since 1988?
22 A. '80.
23 Q. 1980? So that's 27 years. In
24 27 years you've probably looked at how
25 many consultation notes or dictated

1 history and physicals or dictated
 2 discharge summaries?
 3 A. Thousands.
 4 Q. Thousands. And are you familiar
 5 with the dictation system at the Dubois
 6 Medical Center?
 7 A. Yes.
 8 Q. And that notation that d stands
 9 for dictated; correct?
 10 A. Yes.
 11 Q. And the next one is the date and
 12 the time; correct?
 13 A. Yes.
 14 Q. And then t means transcribed,
 15 right?
 16 A. Yes.
 17 Q. And that gives, again, a date
 18 and a time; right?
 19 A. Yes.
 20 Q. I understand that you did not
 21 call Dr. Bobrin; correct?
 22 A. I don't remember.
 23 Q. How about the flip side of that
 24 question? Did Dr. Bobrin contact you
 25 as a family practitioner who has done a

1 history and physical on this woman who,
 2 as I read your note, found objective
 3 neurological findings. Did he call you
 4 up and say, excuse me, Dr. Bradley,
 5 what do you think about this patient
 6 and these findings?
 7 A. I don't remember.
 8 Q. Did you identify yourself as the
 9 person who Dr. Bobrin would reach out
 10 to? I mean, you were the person ---.
 11 He would've known, right, that you were
 12 the guy who does the histories and the
 13 physicals?
 14 ATTORNEY BAHL:
 15 I'm going to object to
 16 the form.
 17 ATTORNEY HOFFMAN:
 18 Okay.
 19 BY ATTORNEY HOFFMAN:
 20 Q. Dr. Bobrin knows ---. You've
 21 worked with him before; right?
 22 A. Yes.
 23 Q. Do you have any reason to
 24 believe that he doesn't know that you
 25 come over there as someone contracted

1 by the hospital to do history and
 2 physicals on his patients?
 3 ATTORNEY SLIMAK:
 4 Objection to the form.
 5 BY ATTORNEY HOFFMAN:
 6 Q. Does he know?
 7 A. Yes.
 8 Q. What do you base that knowledge
 9 ---? Why do you say he knows that?
 10 A. Interaction from the unit over
 11 several years.
 12 Q. There's no hidden ---? You
 13 don't disguise the fact that you're
 14 coming over there to histories and
 15 physicals on the psychiatric patients;
 16 right?
 17 A. No.
 18 Q. You leave a note in the chart on
 19 each one of these patients that you've
 20 done a history and a physical; right?
 21 Is there anybody else, by the way,
 22 that's contracted, as far as you know,
 23 in this 2005 time window to do what you
 24 do?
 25 A. Oh, yeah. It's subcontracted to

1 physicians assistant to do them on
 2 Mondays and Fridays.
 3 Q. Was this a Monday or a Friday?
 4 A. Probably not.
 5 Q. And as you understood, would be
 6 generally known that on Mondays and
 7 Fridays a P.A. would be coming over
 8 there to do histories and physicals and
 9 on the other days you would be coming
 10 over there to do them?
 11 A. Yes, that was known.
 12 Q. Is it also generally known
 13 throughout the hospital that you, sir,
 14 are a Board-Certified family
 15 practitioner?
 16 A. I assume so.
 17 Q. Now getting back to my original
 18 question. Did Dr. Bobrin reach out to
 19 you that someone that, as a matter of
 20 course, would've been there to do a
 21 history and a physical examination on
 22 Wanda Russell to ask you your opinions
 23 about what was wrong with this patient?
 24 ATTORNEY GARGER:
 25 Object to the form.

1 Asked and answered.
 2 A. I don't remember.
 3 BY ATTORNEY HOFFMAN:
 4 Q. Would you have made some kind of
 5 a notation somewhere if Dr. Bobrin had
 6 reached out to you to ask you about a
 7 patient that you had done the H&P on?
 8 A. I might.
 9 ATTORNEY GARGER:
 10 Objection to form.
 11 ATTORNEY HOFFMAN:
 12 Didn't ask and answer
 13 that one.
 14 ATTORNEY GARGER:
 15 You asked him a different
 16 question?
 17 ATTORNEY HOFFMAN:
 18 Right. Okay.
 19 ATTORNEY GARGER:
 20 Was not different in the
 21 form. It was different in the
 22 response you were asking.
 23 PREVIOUS QUESTION READ BACK
 24 BY ATTORNEY HOFFMAN:
 25 Q. Now on December 6th, was any

1 information passed along to you about
 2 the patient falling on the unit?
 3 A. I don't remember.
 4 Q. Did you ask the patient if she
 5 had fallen at all?
 6 A. I don't remember.
 7 Q. Did the nurses tell you that the
 8 patient had fallen?
 9 A. I don't remember.
 10 Q. When you come onto the unit as a
 11 general matter do you have any
 12 interaction with the nursing staff
 13 where you go and ask the nursing staff
 14 what's up with Wanda Russell? Can you
 15 give me some information about how
 16 she's done overnight? Something to
 17 that effect?
 18 A. Yes. They volunteer any
 19 concerns they have.
 20 Q. Are there vital sign sheets that
 21 are kept in the --- on the unit?
 22 A. Yes, there --- yes.
 23 Q. As a general matter do you go
 24 and look at these vital sign sheets?
 25 A. Sometimes.

1 Q. Do you have the original chart
 2 there?
 3 A. Yes.
 4 ATTORNEY MCINTYRE:
 5 No. We have the West
 6 chart.
 7 BY ATTORNEY HOFFMAN:
 8 Q. Did you make a notation in your
 9 note about her vital signs at all?
 10 A. No.
 11 Q. As a general matter, part of
 12 taking a --- of doing a history and a
 13 physical examination is to obtain vital
 14 signs as well, correct?
 15 A. Yes.
 16 Q. Did you make any assessment when
 17 you saw Wanda Russell that she was a
 18 danger to herself?
 19 A. I don't recall. But according
 20 to my documentation it wasn't --- she
 21 wasn't.
 22 Q. Did you have any contact with
 23 Wanda Russell's family?
 24 A. I don't remember.
 25 Q. One of the issues mentioned in

1 her evaluation over at the DRMC East
 2 was that she had not received any
 3 insurance pre-certification. Were you
 4 aware of that?
 5 A. No, probably not. I don't
 6 remember.
 7 Q. As a general matter, after you
 8 finish doing your histories and
 9 physicals when you would come in at
 10 6:30 in the morning would you then
 11 leave the unit? Or would you stay
 12 there they remainder of the day? Where
 13 was your primary base of operation as a
 14 general matter?
 15 A. I'd stay there usually two to
 16 two and a half hours and then go about
 17 the rest of my business.
 18 Q. When you say the rest of your
 19 business was your ---? What was your
 20 pattern practice back in 2005?
 21 Primarily an office based practice, Dr.
 22 Bradley?
 23 A. I had patients, also inpatients.
 24 Q. Those inpatients were separate
 25 from the East patients; correct? By

1 these I mean the ones that you would do
2 under contract history and physicals
3 on?

4 A. Yes.

5 Q. Once you would do those
6 histories and physical examinations
7 they were no longer your responsibility
8 to look after; is that correct?

9 A. Yes.

10 Q. I don't have anymore questions
11 for you. Maybe these gentlemen do.

12 *****

13
14 DEPOSITION CONCLUDED AT 1:40 P.M.

15 *****
16
17
18
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24
25

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1 COMMONWEALTH OF PENNSYLVANIA)
2 COUNTY OF CLEARFIELD)
3

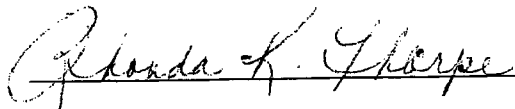
4 C E R T I F I C A T E
5

6 I, Rhonda K. Thorpe, a Notary Public in and
7 for the Commonwealth of Pennsylvania, do hereby
8 certify:
9

10 That the witness whose testimony appears in
11 the foregoing deposition, was duly sworn by me on
12 said date and that the transcribed deposition of
13 said witness is a true record of the testimony
14 given by said witness;

15 That the proceeding is herein recorded fully
16 and accurately;

17 That I am neither attorney nor counsel for,
18 nor related to any of the parties to the action in
19 which these depositions were taken, and further
20 that I am not a relative of any attorney or
21 counsel employed by the parties hereto, or
22 financially interested in this action.

23 
24 Rhonda K. Thorpe, Reporter
25

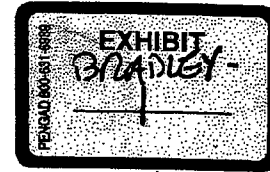
NOTARIAL SEAL
RHONDA K. THORPE, Notary Public
Clearfield, Clearfield County, PA
My Commission Expires July 11, 2009

[illegible]

PHILADELPHIA, PA
WILKES-BARRE, PA
OIL CITY, PA
SOMERSET, PA
CLEARFIELD, PA
CHARLESTON, WV

CURRICULUM VITAE

Thomas J. Bradley, M.D.



PRIVATE PRACTICE, Family Physician 1980 - PRESENT

Thomas J. Bradley, M.D., P.C.
Phebe Reed Tyler Bldg.
701 Sunflower Drive., Ste. 1
DuBois, PA 15801

Phone: (814) 375-0600
FAX: (814) 375-0458

HOSPITAL AFFILIATION:

DuBois Regional Medical Center
DuBois, PA 15801

Staff physician 1980 - present

1996-2002: Medical Executive Committee

1993-present: Medical Liaison, Inpatient Behavioral Health
(including Adult and Adolescent and D&A Rehabilitative Services)

1986-1990 and 1994-2000: Chairman, Pharmacy and Therapeutics Committee

BOARD CERTIFICATION:

American Board of Family Physicians
1980-present

EDUCATION AND TRAINING:

1969-1973 **HAVERFORD COLLEGE**
Haverford, PA

B.S. Biology with Honors
B.S. Psychology

1972-1977 **PENN STATE SCHOOL OF MEDICINE at HERSHEY, PA**
M.D.

1976-1980 **FAMILY PRACTICE RESIDENCY**
Shadyside Hospital
Pittsburgh, PA

Patient Bill of Rights

- 1) A patient has the right to respectful care given by competent personnel.
- 2) A patient has the right, upon request, to be given the name of his attending physician, the names of all other physicians directly participating in his care, and the names and functions of other health care persons having direct contact with the patient.
- 3) A patient has the right to every consideration of his privacy concerning his own medical care program. Case discussion, consultation, examination, and treatment are considered confidential and should be conducted discreetly.
- 4) A patient has the right to have all records pertaining to his medical care treated as confidential except as otherwise provided by law or third party contractual arrangements.
- 5) A patient has the right to know what hospital rules and regulations apply to his conduct as a patient.
- 6) The patient has the right to expect emergency procedures to be implemented without unnecessary delay.
- 7) The patient has the right to good quality care and high professional standards that are continually maintained and reviewed.
- 8) The patient has the right to full information in layman's terms concerning his diagnosis, treatment, and prognosis, including information about alternative treatments and possible complications. When it is not medically advisable to give such information to the patient, the information shall be given on his behalf to the patient's next of kin or other appropriate person.
- 9) Except for emergencies, the physician must obtain the necessary informed consent prior to the start of any procedure or treatment or both. Informed consent is defined in section 103 of the Health Care Services Malpractice Act (40 P.S. 1301.103).
- 10) A patient, or, in the event the patient is unable to give informed consent, a legally responsible party has the right to be advised when a physician is considering the patient as a part of a medical care research program or donor program, and the patient, or legally responsible party, must give informed consent prior to actual participation in such a program. A patient, or legally responsible party, may, at any time, refuse to continue in such program to which he has previously given informed consent.

CONTINUED ON BACK



11) A patient has the right to refuse any drugs, treatment, or procedure offered by the hospital, to the extent permitted by law, and a physician shall inform the patient of the medical consequences of the patient's refusal of any drugs, treatment, or procedure.

12) A patient has the right to assistance in obtaining consultation with another physician at the patient's request and own expense.

13) A patient has the right to medical and nursing services without discrimination based upon race, color, religion, sex, sexual preference, national origin, or source of payment.

14) The patient who does not speak English should have access, when possible, to an interpreter.

15) The hospital shall provide the patient, upon request, access to all information contained in his medical record unless access is specifically restricted by the attending physician for medical reasons or is prohibited by law.

16) The patient has the right to expect good management techniques to be implemented within the hospital which consider effective use of the time of the patient and to avoid the personal discomfort of the patient.

17) When medically permissible, a patient may be transferred to another facility only after he or his next of kin or other legally responsible representative has received complete information and an explanation concerning the needs for and alternatives to such a transfer. The institution to which the patient is to be transferred must first have accepted the patient for transfer.

18) The patient has the right to examine and receive a detailed explanation of his bill.

19) The patient has a right to full information and counseling on the availability of known financial resources for his health care.

20) A patient has the right to expect that the health care facility will provide a mechanism whereby he is informed upon discharge of his continuing health care requirements following discharge and the means for meeting them.

21) A patient cannot be denied the right of access to an individual or agency who is authorized to act on his behalf to assert or protect the rights set out in this section.

22) A patient has the right to be informed of his rights at the earliest possible moment in the course of his hospitalization.

HISTORY AND PHYSICAL EXAMINATION
DuBois Regional Medical Center
DuBois, Pennsylvania

PATIENT NAME: RUSSELL, WANDA 0534000768 - 000353218 0114

ADMISSION DATE: 12/06/05 to Dr. Bobrin's service.

HISTORY OF PRESENT ILLNESS: Wanda is a 47 -year-old woman who had been readmitted to the West division for left sided weakness. She had had a workup that included a normal CT of the head. She was discharged and re-presented to the ER with nervousness and I guess there was a question regarding the extent of left sided weakness present and the fact it was noted that the person was under a lot of stress. She is hypertensive, hyperlipidemic, and an insulin dependent diabetic. I guess she was persuaded to be transferred to the psyche unit.

ALLERGIES: Sulfa.

MEDICATIONS: HydroDIURIL 12.5 daily; Accupril 20 daily; Synthroid 0.15 daily. She is on a regimen of Lantus 52 units daily, Humalog 75/25 15 units b.i.d.

PAST MEDICAL HISTORY: Remarkable for the diabetes and the above mentioned problems, she has had chest pain with a normal catheterization.

PAST SURGICAL HISTORY: Cholecystectomy, two C-sections, and tubal ligation.

SOCIAL HISTORY: She has been working up until now at Wal-Mart in St. Marys as a cashier. She is undergoing divorce and bankruptcy and she is upset about her weight.

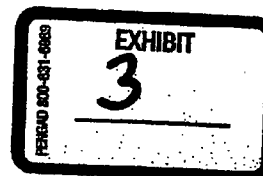
FAMILY HISTORY/ REVIEW OF SYSTEMS: As per Dr. Devlin's H&P. She has chronic low back pain.

PHYSICAL EXAMINATION: GENERAL: This is a woman appearing stated age. She is overweight who is anxious. SKIN: Reveals no lesions. HEENT: There is a slight facial dyssymmetry. NECK: Reveals no masses. LUNGS: Clear. HEART: Reveals regular rhythm without murmur. ABDOMEN: Rounded, nontender, and hard to evaluate but it is not exquisitely tender. EXTREMITIES: Symmetric without edema. NEUROLOGIC: There is some left upper extremity weakness and facial asymmetry as stated. It is hard to evaluate since she is so anxious.

IMPRESSION:

1. Anxiety.
2. Probable depression.
3. Multiple stressors.
4. Type 2 insulin dependent diabetes mellitus.
5. Exogenously overweight.

PLAN: The patient is admitted for psyche evaluation and treatment.



D: 12/06/2005 6:43 A
T: 12/06/2005 6:54 A TB/cw
Document No: 568879
Job/Tape ID: 000393859

Thomas Bradley, MD

cc:

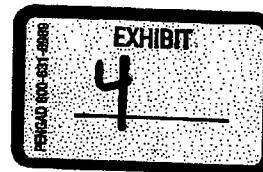
Authenticated by Thomas J. Bradley, MD On 5/31/06 8:49:07 AM

Bed

Private MD: Maloney

ps

- **Hospitalizations:** Patient was seen recently at DuBois Regional Medical Center for similar complaints, was discharged from DRMC November 29, 2005..



ps

PS

DS

Physician Documentation Con't.

Time	Order name	Complete Time	Interpretation	Staff
12:34	EKG	12:35	normal ekg	ps
12:34	EKG (RN)	12:35		
12:35	CBC w/diff	14:29	normal	ps
12:35	Basic Metabolic Panel	14:29	sugar slightly elevated otherwise normal	ps
12:45	UA with Micro	14:29	esst normal findings	ps
12:46	Ct-Head Unenhanced	13:46	normal	ps

Vital Signs:

Time	B/P	Pulse	Resp	Temp	Pulse Ox	Weight	Height	Pain	Staff
12:24	180/76 LAO- (auto/reg)	88 LA	22	97.8(O)	100% on R/A	247Lbs / 112.02Kg (R)	5 ft 3 in. (160.02 cm) (R)	0/10	mdl
12:36								3/10	mdl

Disposition Summary:

14:41 Problem is an acute exacerbation. Symptoms are resolvedare unchangedhave worsenedhave improved. ps

Impression: Weakness, Transient Ischemic Attack (TIA), Diabetes Mellitus, Type I.
Patient discharged to Home/Self Care in Unchanged condition with instructions on
Diabetes Mellitus, Transient Ischemic Attack TIA, & a Work Release 4 Days. Follow
up: Prvt MD 3-4 days(MALONEY, MARK W). Custom instructions: continue meds as
prescribed . off work 4 days . recheck with pcp next week..

Corrections:

12:34 12:24 EKG done by ED staff.

dmk dmk

353218 0533700112 12/03/05
 RUSSELL,WANDA ER
 F 47Y 09/19/58
 MCANDREW,JOSEPH
 MALONEY,MARK W
 1 10/19/05 11/19/05 12/19/05 01/19/06 02/19/06 03/19/06 04/19/06 05/19/06 06/19/06 07/19/06 08/19/06 09/19/06 10/19/06 11/19/06 12/19/06 01/19/07 02/19/07 03/19/07 04/19/07 05/19/07 06/19/07 07/19/07 08/19/07 09/19/07 10/19/07 11/19/07 12/19/07 01/19/08 02/19/08 03/19/08 04/19/08 05/19/08 06/19/08 07/19/08 08/19/08 09/19/08 10/19/08 11/19/08 12/19/08 01/19/09 02/19/09 03/19/09 04/19/09 05/19/09 06/19/09 07/19/09 08/19/09 09/19/09 10/19/09 11/19/09 12/19/09 01/19/10 02/19/10 03/19/10 04/19/10 05/19/10 06/19/10 07/19/10 08/19/10 09/19/10 10/19/10 11/19/10 12/19/10 01/19/11 02/19/11 03/19/11 04/19/11 05/19/11 06/19/11 07/19/11 08/19/11 09/19/11 10/19/11 11/19/11 12/19/11 01/19/12 02/19/12 03/19/12 04/19/12 05/19/12 06/19/12 07/19/12 08/19/12 09/19/12 10/19/12 11/19/12 12/19/12 01/19/13 02/19/13 03/19/13 04/19/13 05/19/13 06/19/13 07/19/13 08/19/13 09/19/13 10/19/13 11/19/13 12/19/13 01/19/14 02/19/14 03/19/14 04/19/14 05/19/14 06/19/14 07/19/14 08/19/14 09/19/14 10/19/14 11/19/14 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Physician Documentation Con't.

Orders:

Time	Order name	Type	Order by	Ordered for
12:34	EKG	Written	ps	ps
12:34	EKG (RN)	Written	ps	ps
12:35	CBC w/diff	Written	ps	ps
12:35	Basic Metabolic Panel	Written	ps	ps
12:45	UA with Micro	Written	ps	ps
12:46	Ct-Head Unenhanced	Written	ps	ps

Signatures:

Shilala, Patrick
Long, Gina
Kessler, Dawn

DO ps
RN gml
dmk

Leadbetter, Mitzie
Truman, Jacqueline
Wolfel, Anne

RN mdl
RN jst
amw

353218 0533700112 12/03/05
RUSSELL, WANDA ER
F 47Y 09/19/58
MCANDREW, JOSEPH
MALONEY, MARK W
I HAVE BEEN WITH YOU SINCE YOU WERE BORN

Name: Wanda Russell

Print Time: 12/3/2005 15:05:43

MRN: 000353218
Account#: 0533700112
Page 3 of 3

KLINE & SPECTER

A Professional Corporation

By: THOMAS R. KLINE, ESQUIRE
MARK A. HOFFMAN, ESQUIRE
ROYCE W. SMITH, ESQUIRE

Attorney ID Nos.: 28895/84443/201295

The Nineteenth Floor

1525 Locust Street

Philadelphia, Pennsylvania 19102

(215) 772-1000

Attorneys for Plaintiff

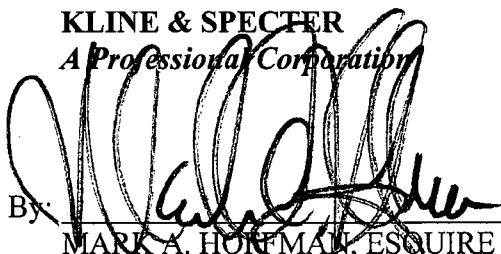
WANDA RUSSELL	:	COURT OF COMMON PLEAS
426 North Michael Street	:	COUNTY OF CLEARFIELD
Saint Mary's, Pennsylvania 15857	:	
Plaintiff,	:	DOCKET NO. 07-644-CD
v.	:	
JAMES E. DEVLIN, M.D. and	:	
MARK W. MALONEY, D.O. and	:	
DRMC PRIMARY CARE	:	
ASSOCIATES and	:	
SANAA HELMI, M.D. and	:	
THOMAS J. BRADLEY, M.D. and	:	
BRADFORD BOBRIN, M.D. and	:	
DuBOIS REGIONAL MEDICAL	:	
CENTER a/ka DuBOIS REGIONAL	:	
MEDICAL CENTER WEST	:	
a/d/b/a DRMC BEHAVIORAL	:	
UNIT a/k/a DRMC EAST BEHAVIORAL	:	
UNIT a/k/a DRMC BEHAVIORAL	:	
HEALTH OUTPATIENT CLINIC	:	
Defendants.	:	

CERTIFICATES OF MERIT

I, Mark A. Hoffman, Esquire, am an attorney for the plaintiff in the above-captioned matter.

Pursuant to Pa.R.C.P. No. 1042.1, I hereby certify appropriate licensed professionals have provided me with written statements stating that there exists a reasonable basis and probability to conclude that the care, skill, or knowledge exercised or exhibited by Drs. Devlin, Maloney, Helmi, Bradley, and Bobrin, and the psychiatric nursing staff, and the DuBois Regional Medical Center and its affiliated or associated entities as captioned above, with respect to the treatment, practice, or work

that is the subject of this Civil Action Complaint, fell outside of acceptable professional and institutional standards, and in addition to being negligent, was grossly negligent and/or reckless in its scope, and that such conduct was a substantial factor in causing injuries, or bringing about harm, to Wanda Russell. I further certify that there are additional claims which are based on allegations that licensed professionals for whom the hospital-defendant, DuBois Regional Medical Center and its affiliated or associated entities as captioned above, and/or DRMC Primary Care, and/or both, are responsible and derivatively or vicariously liable deviated from accepted professional standards of medical care, and caused the aforementioned injuries and harm. I additionally certify that appropriate licensed professionals have supplied written statements to me concluding that there exists a reasonable basis and probability that the DuBois Regional Medical Center, and its affiliated or associated entities as captioned above, deviated from accepted standards of institutional care, giving rise to claims of direct (corporate) negligence pursuant to the decision of the Supreme Court of Pennsylvania in Thompson v. Nason, 591 A.2d 703 (1991) and its progeny of case law. The licensed professionals who have provided me with these written statements have also concluded that the aforementioned deviations from accepted standards of medical and institutional care on the part of the individual named licensed professional, corporate, and hospital defendants was a substantial factor causing, or increasing the risk of harm, to Wanda Russell.

KLINE & SPECTER
A Professional Corporation

By: MARK A. HOFFMAN, ESQUIRE
Attorneys for Plaintiff

Date: January 30, 2008

Behavioral Health Services Daily Notes Extension

Date 12/16/05

3218 47Y MH 0114-01 MH
RUSSELL, WANDA
BOBRIN, BRADFORD
09/19/58 F 12/06/05
0534000768 UP



Sticker

12/16/05 8:20am - Pt's sister Darlene Nortum called and I spoke to her. According to Darlene, she was in to visit her sister last evening. Dr. Maloney came in at 7 or 8pm to talk to the pt. he told her that he feels her loss of mobility is due to depression. He did not say anything about coming to Mental Health. She did not say anything suicidal or hopeless. Darlene said she tried to talk to Dr. Maloney about how soon her sister would be PIC but he said he was busy. Darlene does not feel her sister should be at Mental Health.

8:50am - I spoke to the secretary ^{sue} @ Dr. Maloney's office & she was unable to give me any information. Dr. Maloney called off today & she would not be talking to him until late this afternoon.

9:00am - I spoke to Joan on 3rd floor about the Pt. She told me that she was told that Dr. Maloney was afraid she would hurt herself. Apparently, Pt was requesting disability & Dr. Maloney said he couldn't do that. At that point he felt she wasn't safe.

9:20am Pt's sister Darlene called again & asked

Behavioral Health Services Daily Notes Extension
Date 12/16/05

353218 47Y MH 0114-01 MH
RUSSELL, WANDA
BOBRIN, BRADFORD
09/19/58 F 12/06/05
0534000768 UP



Sticker

if she could come now to visit her sister + talk with us.

9:35am Tracey from 3rd floor called + asked me what the situation is. Neither her or anyone else knew specific information on the pt.

9:45am Dr. Maloney called and spoke to me. He feels the pt is going to stop taking her meds although she did not state that. He reports that she's going through a lot of stress - a divorce & bankruptcy. He said that she was admitted for left sided weakness. Nurses reported to Dr. Maloney that they observed her using her left arm & and eating when she thought no one was looking. He was unable to find any medical problems. He spoke to Dr. Helmi & according to him it was her recommendation that she be admitted + tx be started.

I then handed the phone to UR for them to collect information.

9:55am I had already beeped Dr. Helmi twice, & she had not returned my call yet. I thought her beeper may be off so I called her cell phone. She answered + I asked if she had any information on the pt. She said,

053218 47Y MH 0001
RUSSELL, WANDA
BOBRIN, BRADFORD
09/19/58 F 12/06/05
0534000788

Behavioral Health Services Daily Notes Extension
Date 12/6/05

Sticker

that she didn't remember the pt + asked where she came from, I stated 3rd floor - she said she was c. pts & would have to return my call.

return my call.
10:05 am - Dr. Helmi returned my call, I asked her the information regarding the pt. She was under the impression that the pt was severely depressed + actively suicidal. She did not make the recommendation - Dr. Maloney asked for the admission and she agreed on the basis that the pt is suicidal. She will support our decision at this point.

Nurse's Notes Con't

Observations:

12:21 Patient arrived in ED. Patient moved to Waiting.	mdl
12:31 Jacqueline Truman RN is Primary Nurse. Patient moved to ER14. Patient visited by Gina Long RN.	gml
12:33 Patrick Shilala DO is Attending Physician.	ps
12:45 Patient name changed from Wanda^^Russell to Wanda^""^Russell.	EDMS
12:46 Patient visited by Patrick Shilala DO.	ps
13:05 Patient moved to CT Scan.	gml
13:36 Patient visited by Dawn Kessler.	dmk
13:55 Patient visited by Jacqueline Truman RN.	jst
14:05 Patient visited by Jacqueline Truman RN.	jst
14:13 Patient visited by Dawn Kessler.	dmk
14:36 MARK W MALONEY MD is Referral Physician.	ps
14:50 ED physician to see patient. <u>in to see pt. monitor o2 and saline lock d/c pt to be discharged, home with sister.</u>	jst

Interventions:

12:35 Cardiac monitor on. Pulse ox on. NIBP on. family support offered.	mdl
12:50 EKG done per protocol. Performed by ED Staff.	jst
14:13 Warm blanket given. Assisted to bedside commode.	dmk
14:20 Diet: <u>patient given coffee with the consent of Dr. Shilala.</u>	dmk

Outcome:

14:38 Discharge ordered by MD.	ps
14:59 Patient left the ED.	jst

Signatures:

Shilala, Patrick	DO	ps	Leadbetter, Mitzie	RN	mdl
Long, Gina	RN	gml	Truman, Jacqueline	RN	jst
Kessler, Dawn		dmk	Wolfel, Anne		amw

Corrections:

12:34 12:24 EKG done by ED staff.	dmk	dmk
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353218 0533700112 12/03/05
 RUSSELL, WANDA ER
 F 47Y 09/19/58
 MCANDREW, JOSEPH
 MALONEY, MARK W
 I HAVE BEEN REVIEWED AND THE RESULTS ARE AS FOLLOWS

Name: Wanda Russell

Print Time: 12/3/2005 15:05:29

MRN: 000353218
 Account#: 0533700112

Page 2 of 2

Bed ER5

Private MD: MALONEY, MARK W

12/04 This 47 years old Caucasian Female presents to ER via Wheelchair with complaints of Weakness, left je
09:29 sided weakness.

- **Social history:** Lives with significant other and with children at home.. Speaks fluent English..

353218 47Y MH 0114-01 MH
RUSSELL, WANDA
BOBRIN, BRADFORD
09/19/58 F 12/06/05
0534000788 UP

09:29 Constitutional: Negative for fever, chills, and weight loss ENT: Negative for injury, pain, and discharge Neck: je
Negative for injury, pain, and swelling Cardiovascular: Negative for chest pain, palpitations, and edema
Respiratory: Negative for shortness of breath, and cough, Abdomen/GI: Negative for abdominal pain,
nausea, vomiting, diarrhea, and constipation MS/Extremity: Negative for injury and deformity Skin: Negative
for injury, rash, and discoloration. Back: Positive for pain at rest. Neuro: Positive for gait disturbance,
speech changes, weakness, of the left arm and left leg. all other reviewed systems are negative.

09:30 Eyes: PERLL, EOMI. Lids and lashes normal. Normal conjunctiva. No scleral icterus. No periorbital edema, redness, or swelling. ENT: Nares patent. No nasal discharge, no septal abnormalities noted. Tympanic membranes are normal and external auditory canals are clear. Oropharynx with no redness, swelling, or masses, exudates, or evidence of obstruction, uvula midline. Mucous membranes moist. Phonation normal Neck: Trachea midline, no thyromegaly or masses palpated and no cervical lymphadenopathy. Supple, full range of motion without nuchal rigidity, or vertebral point tenderness. No Meningismus Respiratory: Lungs have equal breath sounds bilaterally, clear to auscultation and percussion. No rales, rhonchi or wheezes noted. No increased work of breathing, no retractions or nasal flaring Chest/Vaxilla: Chest non-tender to palpation; equal chest rise with respiration; no crepitus to palpation. No axillary lymphadenopathy, masses, or tenderness Cardiovascular: Normal heart sounds with no murmurs, rubs, or gallop. Normal PMI. No JVD. No pulse deficits. Abdomen/GI: Abdomen is soft, non-tender in all quadrants, non-distended without palpable masses. No guarding, rigidity or rebound. Bowel sounds are present. No bruits auscultated Skin: Pink, warm, and dry with good turgor. Capillary refill <2 seconds. No cyanosis, pallor, rash, or edema. Constitutional: The patient appears alert, awake, anxious, obviously ill. Head/face: Exam is negative for obvious evidence of injury or deformity, contusion, deformity, swelling, tenderness, Noted is. Neuro: Orientation: appropriate for stated age, to person, place & time. Mentation: appropriate for stated age, lucid, able to follow commands, slow to respond, Cranial nerves: Facial droop noted on left, with forehead spared. Cerebellar function: unable to test, Motor/peripheral: Strength is 2/5 in left arm and left leg. Sensation: no obvious gross deficits, Is normal. Gait: not tested.

MDM:



vif

Physician Documentation Con't.

09:31 Data reviewed: vital signs, nurses notes, and I generally agree with what is written. Counseling: I had a detailed discussion with the patient and/or guardian regarding: the historical points, exam findings, and any diagnostic results supporting the discharge/admit diagnosis, lab results, radiology results. je

11:17 Physician consultation: Dr. Devlin was contacted at 11:00, and will see patient in ED. je

Time	Order name	Complete Time	Interpretation	Staff
09:28	EKG	10:08		
09:28	EKG (RN)	10:11		
09:28	IV SALINE LOCK	10:26		
09:28	BLOOD SUGAR (FINGER STICK)	10:53		
10:51	Culture Urine			
09:28	CBC w/diff	11:16	unremarkable	je
09:28	Basic Metabolic Panel.	11:16	hyperglycemic	je
09:28	Troponin I	11:16	normal	je
09:28	PT/PTT Profile	11:16	normal	je
10:51	UA with Micro	11:16	hyperglycemia	je
09:28	Xr-Chest Pa & Lateral	11:19	poor insp effort, nad	je
09:28	Ct-Head Unenhanced	12:09	Negative per radiology	je

ECG:

11:17 Rate is 63 beats/min. Rhythm is regular. Axis is Normal. PR interval is normal. QRS interval is normal. QT interval is normal. No ST changes noted. T waves are Normal. Clinical impression: Normal ECG and No evidence of ischemia. je

Point of Care:

10:56 Blood Glucose 244

vlf

Vital Signs:

Time	B/P	Pulse	Resp	Temp	Pulse Ox	Weight	Pain	Staff
09:36	174/61 O~	83	20		99% on R/A			vlf
09:39				97.1(O)				vlf

Disposition Summary:

12:03 Problem is new. Symptoms are unchanged. je

Plan for admission to Medical, for MALONEY, MARK W with a preliminary ED diagnosis of CVA (Stroke) Non-Hemorrhagic. Summary was faxed to primary care physician.

353218 47Y MH 0114-01 MH
 RUSSELL,WANDA
 BOBRIN,BRADFORD
 09/19/58 F 12/06/05
 0534000768
 UP

Name: Wanda Russell

Print Time: 12/4/2005 13:04:37

MRN: 000353218
 Account#: 0533800105
 Page 2 of 3

Orders:

Time	Order name	Type	Order by	Ordered for
09:28	EKG	Written	je	je
09:28	EKG (RN)	Written	je	je
09:28	IV SALINE LOCK	Written	je	je
09:28	BLOOD SUGAR (FINGER STICK)	Written	je	je
10:51	Culture Urine	Written	vlf	je
09:28	CBC w/diff	Written	je	je
09:28	Basic Metabolic Panel.	Written	je	je
09:28	Troponin I	Written	je	je
09:28	PT/PTT Profile	Written	je	je
10:51	UA with Micro	Written	vlf	je
09:28	Xr-Chest Pa & Lateral	Written	je	je
09:28	Ct-Head Unenhanced	Written	je	je

Signatures:

Elias, Jeffrey
Wallace, Teri
Kessler, Dawn

DO je
RN tkw
dmk

France, Vicki
Patterson, Sharon

RN vlf
slp

353218 47Y MH 0114-01 MH
RUSSELL,WANDA
BOBRIN,BRADFORD
09/19/58 F 12/06/05
0534000768 UP

Name: Wanda Russell

Print Time: 12/4/2005 13:04:37

MRN: 000353218
Account#: 0533800105
Page 3 of 3

Nurse's Notes

Name: Wanda Russell

Age: 47 years Sex: Female DOB: 09/19/1958

Arrival Date: 12/04/2005 Time: 09:12

Bed ER5

DuBois Regional Medical Center

Emergency Department

MRN: 000353218

Account#: 0533800105

Private MD: MALONEY, MARK W

Presentation:

12/04
09:12 Method of Arrival: Wheelchair, Acuity: Emergent.

tkw

09:13 left sided weakness, unable to walk. Arrived with sister. Care prior to arrival: see yest.

tkw

09:35 Care prior to arrival: None.

vlf

Historical:

- Allergies: sulfa;
- Home Meds:
 1. Quinapril HCl PO 20mg every morning;
 2. Quinapril HCl PO 15 units qd;
 3. Hydrochlorothiazide PO 12.5;
 4. Levoxyl PO 150mg qd;
 5. * Medications Unknown 81mgqd;
 6. Humalog Sub-Q;
 7. * Medications Unknown;
 8. Lantus Sub-Q 52 units;
 9. Aspirin PO;
- PMHx: Diabetes - IDDM; Hypertension;
- Social history: Lives with significant other and with children at home.. Speaks fluent English..

Screening:

10:27 Discharge Planning:

vlf

No identified needs.

Functional Assessment:

No identified needs.

Nutritional screening:

No identified needs.

Pastoral Care:

No identified needs.

Suspected Abuse:

No identified needs.

Fall risk

At risk due to back pain from herniated disc.

Vital Signs:

Time	B/P	Pulse	Resp	Temp	Pulse Ox	Weight	Pain	Staff
09:36	174/61 O-	83	20		99% on R/A			vlf
09:39				97.1(O)				vlf

Neuro Vital Signs:

10:28 GCS: 15,

vlf

Tri. Assess:

09:36 General:

vlf

10:29 General: Appears in no apparent distress, obese, Behavior is alert, cooperative, blunted/flat.

vlf

Assessment:

10:29 Problem List: Knowledge deficit: related to homecare instructions. Pain: Complains of pain in low back area Pain began 2-3 days ago past herniated disc diagnosed years ago. Cardiovascular: No deficits noted. Rhythm is sinus rhythm. Respiratory: Breath sounds are clear bilaterally. General: General: Neuro: Reports headache in right temporal area - behind right eye. weakness in left sided weakness - left upper extremity. she was seen in ER yesterday and sent home. Today, she has left sided weakness which she states makes her unsteady on her feet. Feels that she has had a stroke.

vlf

10:57 General: Reports increased stress and difficulty going through a divorce. Problems with children at home. Patient is now crying and upset after talking with ex-spouse on phone call. Talked with patient and reassurance given. Patient agreeable to face to face to discuss recent stressors and possible outpatient follow-up.

vlf

12:13 Other: physician orders is attached.

slp

12:15 ECG/EKG is attached.

slp

Procedure:

353218 47Y MH 0114-01 MH
RUSSELL, WANDA
BOBRIN, BRADFORD
09/19/58 F 12/06/05
0534000768 UP
1 10000 20000 30000 40000 50000 60000 70000 80000 90000 100000

Nurse's Notes Con't

09:20 O2 via nasal cannula 2 Liters. tkw
 09:38 Procedures Done: No physician assisted procedures done. Labs drawn. Sent per order to lab. Inserted vlf
 peripheral IV: 20 gauge in left hand. Missed attempts: 18 gauge in right wrist. O2 via nasal cannula 2 Liters.
 10:02 Ct-Head Unenhanced Sent , Xr-Chest Pa & Lateral Sent. dmk
 10:05 EKG done. dmk
 10:55 Urine collected. Clean catch specimen. vlf

Point of Care:
 10:56 Blood Glucose 244

Observations:

09:12 Patient arrived in ED. Patient moved to Waiting. tkw
 09:19 Patricia Milford RN is Primary Nurse. Patient moved to ER5. Patient visited by Teri Wallace RN. tkw
 09:24 Dr. Jeffrey Elias DO is Attending Physician. Patient visited by Dr. Jeffrey Elias DO. je
 09:29 Patient visited by Dr. Jeffrey Elias DO. je
 09:37 Patient name changed from wanda^^russell to Wanda^^^Russell. EDMS
 09:44 Vicki France RN is Primary Nurse. dmk
 10:02 Patient moved to CT Scan. dmk
 10:05 Patient moved to CT Scan. vlf
 10:14 Patient moved to Main Rad. vlf
 10:39 Patient moved to ER5. Patient visited by Vicki France RN. vlf
 11:00 Resting quietly. Appears tearful. vlf
 11:13 Private physician to see patient. Dr. Devlin. vlf
 11:24 No apparent distress. Resting quietly. Patient is quiet at present with sister in room. Seen by Dr. Devlin and plan to admit patient. Face to Face evaluation cancelled per Dr. Devlin. Awaiting bed assignment. vlf
 11:30 Patient visited by Vicki France RN. vlf
 11:58 Patient visited by Vicki France RN. vlf
 12:02 MARK W MALONEY MD is Admitting Physician. je
 12:56 No apparent distress. Resting quietly. Awaiting disposition. admission to 3rd floor. vlf
 13:02 Patient report called to 3rd floor RN receiving patient for admit. Patient moved to room. 307B. vlf

Interventions:

09:19 Placed in gown. Bed in low position. Call light in reach. Side rails up X2. Head of bed elevated. Cardiac monitor on. Pulse ox on. NIBP on. tkw
 10:59 Visitors limited. Lights dimmed. Verbal reassurance given. Pillow given. family support offered. Notified ED physician of increased crying and stress and patient wish for face to face evaluation. vlf

Outcome:

12:03 Admit ordered by MD. je
 13:03 Admitted to 3RD Floor. Condition: stable. Instructed on admission process and orders. vlf

Signatures:

Elias, Jeffrey	DO	je	France, Vicki	RN	vlf
Wallace, Teri	RN	tkw	Patterson, Sharon		slp
Kessler, Dawn		dmk			

Name: Wanda Russell

Print Time: 12/4/2005 13:04:26

MRN: 000353218
 Account#: 0533800105
 Page 2 of 3

Nurse's Notes Con't

Corrections:

10:35 40:25 Patient moved to CT Scan.

vlf vlf

353218 47Y MH 0114-01 MH
RUSSELL, WANDA
BOBRIN, BRADFORD
09/19/88 F 12/06/05
0534000768 UP



Name: Wanda Russell

Print Time: 12/4/2005 13:04:26

MRN: 000353218
Account#: 0533800105
Page 3 of 3

Triage Note**Name:** Wanda Russell**Age:** 47 years **Sex:** Female **DOB:** 09/19/1958**Arrival Date:** 12/04/2005 **Time:** 09:12

353218 47Y MH 0114-01 MH

RUSSELL, WANDA

BOBRIN, BRADFORD

09/19/58 F 12/06/05

0534000768

UP

DuRois Regional Medical Center**Emergency Department****Private MD:** MALONEY, MARK W**Presentation:**

12/04

09:12 **Method of Arrival:** Wheelchair, **Acuity:** Emergent.

tkw

09:13 left sided weakness, unable to walk. Arrived with sister. Care prior to arrival: see yest.

tkw

09:35 Care prior to arrival: None.

vlf

Historical:• **Allergies:** sulfa;• **Home Meds:**

1. Quinapril HCl PO 20mg every morning;

2. Quinapril HCl PO 15 units qd;

3. Hydrochlorothiazide PO 12.5;

4. Levoxyl PO 150mg qd;

5. * Medications Unknown 81mgqd;

6. Humalog Sub-Q;

7. * Medications Unknown;

8. Lantus Sub-Q 52 units;

9. Aspirin PO;

• **PMHx:** Diabetes - IDDM; Hypertension;• **Social history:** Lives with significant other and with children at home.. Speaks fluent English..**Screening:**10:27 **Discharge Planning:**

No identified needs.

vlf

Functional Assessment:

No identified needs.

Nutritional screening:

No identified needs.

Pastoral Care:

No identified needs.

Suspected Abuse:

No identified needs.

Fall riskAt risk due to back pain from herniated disc.**Vital Signs:**

Time	B/P	Pulse	Resp	Temp	Pulse Ox	Weight	Pain	Staff
09:36	174/61 O-	83	20		99% on R/A			vlf
09:39				97.1(O)				vlf

Tri. Assess:09:36 **General:**

vlf

10:29 **General:** Appears in no apparent distress, obese, Behavior is alert, cooperative, blunted/flat.

vlf

Interventions:

09:19 Placed in gown. Bed in low position. Call light in reach. Side rails up X2. Head of bed elevated. Cardiac monitor on. Pulse ox on. NIBP on.

tkw

10:59 Visitors limited. Lights dimmed. Verbal reassurance given. Pillow given. family support offered. Notified ED physician of increased crying and stress and patient wish for face to face evaluation.

vlf

Point of Care:

10:56 Blood Glucose 244

vlf

Signatures:

Elias, Jeffrey

DO je

France, Vicki

RN vlf

Wallace, Teri

RN tkw

Patterson, Sharon

slp

Kessler, Dawn

dmk

HISTORY AND PHYSICAL EXAMINATION
DuBois Regional Medical Center
DuBois, Pennsylvania



PATIENT NAME: RUSSELL, WANDA 0533700112 - 000353218

Admission date is 12/04/05.

HISTORY OF PRESENT ILLNESS: The patient is a 47-year-old female. The patient recently was discharged from DRMC. Apparently she was complaining of some left weakness yesterday and presented to the emergency room. Workup at that time was unremarkable as well as a CT. The patient was discharged. Today, she states she still has a little weakness and had some back pain and presented to the emergency room. The patient was noted to be very anxious and upset. She apparently is also going through the process of a divorce. Examination at that time showed questionable left handed weakness in comparison to the right. Neuro exam was otherwise unremarkable. Because of the patient's presentation and history, the decision was made to admit her for observation and further evaluation.

PAST MEDICAL HISTORY: The patient does have a previous history of type 2 diabetes requiring insulin, morbid obesity, hypertension, hypothyroidism, hypercholesterolemia, diabetic peripheral neuropathy, previous history of some nonspecific chest pain. She did undergo a catheterization which was normal.

PAST SURGICAL HISTORY: Previous C section, catheterization, cholecystectomy, tubal ligation.

ALLERGIES: Sulfa.

MEDICATIONS: Hydrochlorothiazide 12.5 q day, Levoxyl 0.15 q day, Accupril 20 mg daily, Humalog 75/25 at 15 units b.i.d., Lantus 52 units q. h.s.

PAST MEDICAL HISTORY: Pertinent for diabetes.

SOCIAL HISTORY: The patient presently is employed at Wal-Mart in St. Marys. No tobacco use. Occasional alcohol use. She does live with her children. She is presently going through a divorce and bankruptcy. She states that she had been under increased emotional distress because of the circumstances.

REVIEW OF SYSTEMS: The patient is complaining occasionally of some left hand weakness. Denies any history of slurred speech or visual problems at present. Cardiovascular is unremarkable. Respiratory, unremarkable. GI is negative. GU is negative. Endocrine, she does have a history of thyroid disease and diabetes. The patient is also complaining of some lower back discomfort.

PHYSICAL EXAMINATION: **REVIEW OF SYSTEMS:** GU: Has had a history of some abdominal cramping and loose stools times two days. She has had nausea but denies any history of any emesis. GU: Negative. **ENDOCRINE:** Does have a history of insulin dependent diabetes and thyroid disease. States that her blood sugar has been up recently with her illness. **CARDIAC:** No orthopnea, PND, claudication, palpitation, peripheral edema. **RESPIRATORY:** No recent

URI symptoms, hemoptysis, or cough. PHYSICAL EXAMINATION: Vital signs are stable. Carotids are 2/4 bilaterally without bruits. HEART: Regular rate and rhythm without murmur. Normal S1 and S2. No S3 or S4. LUNGS: Clear bilaterally. EXTREMITIES: Pulses are equal bilaterally in all 4 extremities. There is no cyanosis, clubbing or edema. NEUROLOGICAL: Cranial nerves II-XII are intact. Reflexes are equal bilaterally. There are no sensory changes noted. The patient may have a mild decrease in left grip compared to the right.

IMPRESSION:

1. History of some left sided weakness, questionable TIA. Clinically, at this time it is doubtful but with the history we will go ahead and make the patient an observation. Neurochecks obtained. Echocardiogram and carotid ultrasound. The patient is advised to continue on aspirin.
2. History of diabetes. Continue present medications and monitor.

D: 12/04/2005 11:43 A
T: 12/04/2005 12:08 P JD/nb
Document No: 568375
Job/Tape ID: 000393084

James Devlin, MD

cc: James Devlin, MD
Authenticated by James E. Devlin, MD On 12/08/05 7:31:27 AM



RUSSELL, WANDA
 DuBois Regional Medical Center 7.5 SP2
 DRMC Discharge Report v3.1
 FROM: 12/04/05 08:31 TO: 12/06/05 04:11
 ROOM: *3070-02* ADM: 12/04/05 09:37
 AGE: 47Y SEX: F DO: MALONEY, MARK W
 UOI: 0519/1958 IL: 0533800105 MH: 000353218
 REQUESTED: 12/07/05 01:48

Page: 1

VITAL SIGNS	12/04			12/05		
Vital Signs	14:00	16:15	20:00	00:00	07:00	09:00
pt identificatn						name
TEMP #1	97.7F		97.5F	97.5F		96F oral
PULSE #1	80		73	77		80
RESPIRATIONS	20		16	18		20
BP #1	106/60		135/72	119/55		114/82
O2 saturation			89% on room air			96% on room air
WGHT	247lb					
HGHT	63in					
accucheck		83mg/dl			121mg/dl	
breakfast %						
lunch %						
BP equipment			dynamap	dynamap		
CARE PROVIDERS	AE	AE	LKH	LKH	LKH	JRL

12/05/05 07:00 accucheck(LKH): No insulin coverage required.

VITAL SIGNS	12/05					
Vital Signs	13:15	15:00	16:25	20:00	21:00	21:15
pt identificatn		name				
		DOB				
TEMP #1		97.7F		98.1F		
PULSE #1		80		72		
RESPIRATIONS		20		22		
BP #1		130/70		130/70		
accucheck		183mg/dl			163mg/dl	163mg/dl
insulin		16unit(s) humulin 70/30				
breakfast %	100%					
lunch %	100%					
dinner %			100%			
CARE PROVIDERS	JRL	CC*	JRL	BLS	MJC	BLS

12/05/05 16:00 accucheck(CC): notified LPN of accucheck

12/05/05 21:00 accucheck(MJC): Notified RN Brenda

VITAL SIGNS	12/06
Vital Signs	07:15
TEMP #1	98.4F
PULSE #1	70
RESPIRATIONS	20
BP #1	124/64
CARE PROVIDERS	BLS

COCHRAN, MARGARET J(MJC)HCA
 HOLLENBAUGH, LORI K(LKH)LPN

CONRAD, CLAIRE A(CC)HCA
 ROBERTSON LUTHER, JAN R(JRL)LPN

EAMIGH, AMY E(AE)RN
 SLOPPY, BRENDA L(BLS)RN

CONTINUED

RUSSELL, WANDA
 ROOM: *3070-02*

MR: 000353218 ID: 0533800105 DOB: 09/19/1958 - DRMC Discharge Report v

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PERM

RUSSELL, WANDA
 DuBois Regional Medical Center 7.5 SP2
 DRMC Discharge Report V3.1
 FROM: 12/04/05 00:31 TO: 12/04/05 04:11
 ROOM: *3070-02* ADM: 12/04/05 08:37
 AGE: 47Y SEX: F DO: MALONEY, MARK W
 UOB: 09/19/1958 HJ: 0533800105 MH: 000353218
 REQUESTED: 12/07/05 01:48

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ASSESS/INTERVENT	12/04	12/05
Admission Data	13:41	04:00
Informant	patient	
Current PPV	no	
CARE PROVIDERS	AE	
Neurological	13:41	04:15
LOC	alert awake	alert awake
Motor strength		
L palmar grasp	weak	weak
Pupil reaction		
Both pupils	brisk	brisk
Opens eyes	spontaneous	spontaneous
Best motor respn	obeys command purposeful	obeys command purposeful
best verb	understandable slurred	understandable slurred
Nuchal rigidity	absent	absent
neuro interventions	safety precaution	
CARE PROVIDERS	AE	BLS
Respiratory	13:41	04:15
Sound/breathing	normal	normal
Breath sounds		
All lobes	clear equal	clear equal
Resp pattern	Regular even unlabored	Regular even unlabored
Cough	absent	absent
Resp intv resp		tolerated
Resp skin color	pink	pink
Resp Intervent		cough/deep brth
CARE PROVIDERS	AE	BLS
Cardiovascular	13:41	04:15
Assessment	WNL	WNL
Radial		
Pulses		palpable
Pedal		
Pulses		palpable
Edema		
bilat pedal		moderate
Fatigue/cardio	mild	mild
Heart rate		Regular
Current measures	no (cont w/assmt)	
Existing risks	age > 40 years obesity	
Total # risk fctrs	2	
CARE PROVIDERS	AE	BLS

EAMIGH, AMY E(AE)RN

SLOPPY, BRENDA L(BLS)RN

CONTINUED

RUSSELL, WANDA
 ROOM: *3070-02*

MR: 000353218 ID: 0533800105 DOB: 09/19/1958 - DRMC Discharge Report v
 Page: 2

TERM

RUSSELL, WANDA
 DuBois Regional Medical Center 7.5 SP2
 DRMC Discharge Report v3.1
 FROM: 12/04/05 04:34 TO: 12/06/05 04:11
 ROOM: *3070-02* ADM: 12/04/05 09:37
 AGE: 47Y SEX: F DO: MALONEY, MARK W
 UOB: 09/19/1958 LU: 0533800105 MH: 000353218
 REQUESTED: 12/07/05 01:48

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ASSESS/INTERVENT	12/04	12/05
Gastrointestinal	13:41	14:00
Assessment	WNL	WNL
Bowel sounds		
all quads		active
Abdomen		soft non-tender obese
ADA	1800cal	1800cal
CARE PROVIDERS	AE	LKH BLS
Rectal/Urinary	13:41	14:00
Assessment	WNL	WNL
Urine color/odor		
Voiding urine	clear yellow	clear yellow
CARE PROVIDERS	AE	BLS
Musculoskeletal	13:41	14:00
Gait	staggering	staggering
Fatigue/cardio	mild	mild
GMS	adequate	adequate
muscle tone		
L leg	weak	weak
muscle strg		
L leg	good	good
motion		
L leg	full ROM	full ROM
facial droop	left side	left side
CARE PROVIDERS	AE	BLS
Skin	13:41	14:00
Assessment	WNL	WNL
Skin condition		warm dry
sensory perceptn	4 no impairment	
moisture	4 rarely moist	
activity	3 walks occasion	
mobility	3 slight limited	
nutrition	4 excellent	
friction & shear	2 potential prob	
braden total scr	>16 no action	
CARE PROVIDERS	AE	BLS
Psychosocial	13:41	14:00
psychosocial	appropriate pleasant	appropriate pleasant
psycho intervntn	listen encourage expres	
CARE PROVIDERS	AE	BLS

EAMIGH, AMY E(AE)RN

HOLLENBAUGH, LORI K(LKH)LPN

SLOPPY, BRENDA L(BLS)RN

RUSSELL, WANDA
 ROOM: *3070-02*

CONTINUED
 MR: 000353218 ID: 0533800105 DOB: 09/19/1958 - DRMC Discharge Report v
 Page: 3

PERM

RUSSELL, WANDA
 DuBois Regional Medical Center 7.5 SP2
 DRMC Discharge Report v3.1
 FROM: 12/04/05 09:21/ TO: 12/04/05 04:11
 ROOM: *3070-02* ADM: 12/04/05 08:37
 AGE: 47Y SEX: F DO: MALONEY, MARK W
 DOB: 09/19/1958 IL: 0533800105 MH: 000353218
 REQUESTED: 12/07/05 01:48

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ASSESS/INTERVENT	12/04			12/05		
psychosocial	13:41	14:00	20:00	20:10	00:00	04:15
cultural beliefs	wont impact care					
religion beliefs	wont impact care					
finance barrier	wont impact care					
CARE PROVIDERS	AE					
Pain	13:41	14:00	20:00	20:10	00:00	04:15
pain present		no		no		
CARE PROVIDERS		AE		BLS		
12/04/05 20:10 pain present(BLS): denies pain at time of assessment						
Peripheral IV	13:41	14:00	20:00	20:10	00:00	04:15
Site 1						
IV line		patent iv lock flush/protocol		patent iv lock flush/protocol		
placement/method				left hand		
CARE PROVIDERS		AE		BLS		
Activity Daily Liv	13:41	14:00	20:00	20:10	00:00	04:15
activity		bedrest BSC		bedrest BSC		
safety		fall precautions call light pt checked rails up x 2 bed low	fall precautions call light pt checked rails up x 2 bed low	fall precautions call light pt checked rails up x 2 bed low bed sensor on		
ADA		1800cal	1800cal	1800cal		
Activity						
Independent	all ad's					
wrist bands		identification allergy	identification allergy	identification allergy		
adls interventions			teaching done			
CARE PROVIDERS	AE	AE	LKH	BLS		
12/04/05 20:00 adls interventions(LKH): instructed pt regarding use of call light; verbalized understanding						
Notes Fall Risk	13:41	14:00	20:00	20:10	00:00	04:15
Hx of fall		yes 25		yes 25		
Scndry dx/meds		Level II 10		Level II 10		
Ambulatory Aid		Level I 0		Level I 0		
IV thrpy/IV lock		yes 20		yes 20		
Gait/Transfer		Level II 10		Level I 0		
Mental Status		no 0		yes 15		
Total Score		65		70		
Risk level		High risk >50		High risk >50		
Lw fall risk mers		call light bed low 2 upper rails up		call light bed low 2 upper rails up		
CARE PROVIDERS		AE		BLS		

EAMIGH, AMY E(AE)RN

HOLLENBAUGH, LORI K(LKH)LPN

SLOPPY, BRENDA L(BLS)RN

CONTINUED

RUSSELL, WANDA
 ROOM: *3070-02*

MR: 000353218 ID: 0533800105 DOB: 09/19/1958 - DRMC Discharge Report v

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PERM

RUSSELL, WANDA
 DuBois Regional Medical Center 7.5 BP2
 DRMC Discharge Report v3.1
 FROM: 12/04/05 04:31 TO: 12/08/05 04:11
 ROOM: *3070-02* ADM: 12/04/05 08:37
 AGE: 47Y SEX: F DO: MALONEY, MARK W
 UOI: 09/19/1958 ILX: 0533800105 MHT: 000353218
 REQUESTED: 12/07/05 01:48

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ASSESS/INTERVENT	12/04				12/05	
Merse Fall Risk Cont	13:41	14:00	20:00	20:15	04:00	04:15
		items in reach Envir safety chk adequate light non-skid footwear glasses/amb&trsf		items in reach Envir safety chk adequate light non-skid footwear glasses/amb&trsf		
Mid fall risk mers		blue band on pt blue dot/kardex door sign orient/surrounding ast w/BS commode		blue band on pt blue dot/kardex door sign orient/surrounding ast w/BS commode		
Hg Fall risk mers		ast w/all ambul hourly checks		ast w/all ambul hourly checks		
CARE PROVIDERS		AE		BLS		
Pt progress	13:41	14:00	20:00	20:15	00:30	04:15
progress note						
Pt Identificatin	13:41	14:00	20:00	20:15	00:30	04:15
pt Identificatin				name DOB		
CARE PROVIDERS				BLS		

EAMIGH, AMY E(AE)RN

SLOPPY, BRENDA L(BLS)RN

CONTINUED

RUSSELL, WANDA
 ROOM: *3070-02*

MR: 000353218 ID: 0533800105 DOB: 09/19/1958 - DRMC Discharge Report v
 Page: 5

PERM

RUSSELL, WANDA
 DuBois Regional Medical Center 7.5 SP2
 DRMC Discharge Report v3.1
 FROM: 12/04/05 06:37 TO: 12/04/05 04:11
 ROOM: *3070-02* ADM: 12/04/05 08:37
 AGE: 47Y SEX: F DO: MALONEY, MARK W
 UOB: 08/19/1958 IL: 0533800105 MH: 000353218
 REQUESTED: 12/07/05 01:48

Page: 6

ASSESS/INTERVENT	12/05					
Neurological	08:15	08:00	08:00	17:14	20:35	21:15
Assessment		WNL except				WNL except
LOC		alert awake				alert awake
Motor strength						
L palmar grasp		weak				weak
Pupil reaction						
Both pupils		brisk				brisk
Opens eyes		spontaneous				spontaneous
Best motor respn		obeys command purposeful				obeys command purposeful
best verb		understandable slurred				understandable slurred
Nuchal rigidity		absent				absent
CARE PROVIDERS		JDL				BLS
Neuromuscular	08:15	09:00	09:00	17:14	20:36	21:15
Assessment		WNL except				WNL except
CARE PROVIDERS		JDL				BLS
Respiratory	08:15	09:00	09:00	17:14	20:36	21:15
Assessment		WNL				WNL
Sound/breathing		normal				normal
Breath sounds						
All lobes		clear equal				clear equal
Resp pattern		Regular even unlabored				Regular even unlabored
Cough		absent				absent
Resp intv resp						tolerated
Resp skin color		pink				pink
Resp intervent						cough/deep brth
CARE PROVIDERS		JDL				BLS
Cardiovascular	08:15	09:00	09:00	17:14	20:36	21:15
Assessment		WNL				WNL
Radial						
Pulses		palpable				palpable
Pedal						
Pulses		palpable				palpable
Edema						
bilat pedal		moderate				moderate
Fatigue/cardio		mild				mild
Heart rate		Regular				Regular
CARE PROVIDERS		JDL				BLS

LOCKWOOD, JOAN D(JDL)RN

SLOPPY, BRENDA L(BLS)RN

CONTINUED

RUSSELL, WANDA
 ROOM: *3070-02*

MR: 000353218 ID: 0533800105 DOB: 09/19/1958 - DRMC Discharge Report v
 Page: 6

PERM

RUSSELL, WANDA
 DuBois Regional Medical Center 7.5 SP2
 DRMC Discharge Report v3.1
 FROM: 12/04/05 08:31 TO: 12/04/05 04:11
 ROOM: *3070-02* ADM: 12/04/05 08:37
 AGE: 47Y SEX: F DO: MALONEY, MARK W
 UOB: 08/19/1958 IL: 0533800105 MH: 000353218
 REQUESTED: 12/07/05 01:48

Page: 7

ASSESS/INTERVENT	12/05					
Gastrointestinal	06:15	08:00	08:00	17:14	20:35	21:15
Assessment		WNL				WNL
Bowel sounds						
all quads		active				active
Abdomen		soft non-tender obese				soft non-tender obese
Feeding		assist	assist			assist
ADA		1800cal	1800cal			1800cal
CARE PROVIDERS		JDL	JRL			BLS
Renal/Urinary	06:15	08:00	08:00	17:14	20:35	21:15
Assessment		WNL				WNL
Urine color/odor						
Voiding urine		clear yellow				clear yellow
CARE PROVIDERS		JDL				BLS
Musculoskeletal	06:15	08:00	08:00	17:14	20:35	21:15
Assessment		WNL except				WNL except
Gait		staggering				staggering
Fatigue/cardio		mild				mild
CMS		adequate				adequate
muscle tone						
L leg		weak				weak
muscle strg						
L leg		good				good
motion						
L leg		full ROM				full ROM
facial droop		left side				left side
CARE PROVIDERS		JDL				BLS
Skin	06:15	08:00	08:00	17:14	20:35	21:15
Assessment		WNL				WNL
Skin condition		warm dry				warm dry
sensory perceptn		3 slight limited				
moisture		4 rarely moist				
activity		3 walks occasion				
mobility		3 slight limited				
nutrition		3 adequate				
friction & shear		2 potential prob				
braden total scr		>16 no action				
CARE PROVIDERS		JDL				BLS
Psychosocial	06:15	08:00	08:00	17:14	20:35	21:15
psychosocial		appropriate pleasant				appropriate pleasant
CARE PROVIDERS		JDL				BLS

LOCKWOOD, JOAN D(JDL)RN

ROBERTSON LUTHER, JAN R(JRL)LPN

SLOPPY, BRENDA L(BLS)RN

CONTINUED

RUSSELL, WANDA
 ROOM: *3070-02*

MR: 000353218 ID: 0533800105 DOB: 09/19/1958 - DRMC Discharge Report v
 Page: 7

PERM

RUSSELL, WANDA
 DuBois Regional Medical Center 7.5 SP2
 DRMC Discharge Report v3.1
 FROM: 12/04/05 08:31 TO: 12/06/05 04:11
 ROOM: *3070-02* ADM: 12/04/05 08:37
 AGE: 47Y SEX: F DO: MALONEY, MARK W
 JOB: 09/19/1958 IL: 0533800105 MHI: 000353218
 REQUESTED: 12/07/05 01:48

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ASSESS/INTERVENT	12/05					
	08:15	08:00	09:00	17:14	20:35	21:15
Pain						
pain present		no				no
CARE PROVIDERS		JDL				BLS
12/05/05 21:15 pain present(BLS): denies pain at time of assessment						
Peripheral IV	08:15	08:00	09:00	17:14	20:35	21:15
Site 1						
IV line		patent iv lock flush/protocol				patent iv lock flush/protocol
placement/method		left hand				left hand
CARE PROVIDERS		JDL				BLS
Active Daily Liv	08:15	08:00	09:00	17:14	20:35	21:15
hygiene		assist bath skin care oral care am care	assist bath skin care oral care am care			
activity		gait unsteady BRP	gait unsteady BRP (modified)			gait unsteady BRP
safety		fall precautions call light pt checked rails up x 2 bed low	fall precautions call light pt checked rails up x 2 bed low			fall precautions call light pt checked rails up x 2 bed low
Feeding		assist	assist			assist
ADA		1800cal	1800cal			1800cal
wrist bands		identification	identification			identification
CARE PROVIDERS		JDL	JRL			BLS
Morse Fall Risk	08:15	08:00	09:00	17:14	20:35	21:15
Hx of fall		yes 25				yes 25
Scndry dx/meds		Level II 10				Level II 10
Ambulatory Aid		Level II 15				Level I 0
IV thrpy/IV lock		yes 20				yes 20
Gait/Transfer		Level II 10				Level I 0
Mental Status		no 0				yes 15
Total Score		80				70
Risk level		High risk >50				High risk >50
Lw fall risk mers		call light bed low 2 upper rails up items in reach Envir safety chk adequate light nonskid footwear glasses/amb&trf				call light bed low 2 upper rails up items in reach Envir safety chk adequate light nonskid footwear glasses/amb&trf
Mid fall risk mers		blue band on pt blue dot/kardex door sign orient/surrounding				blue band on pt blue dot/kardex door sign orient/surrounding
CARE PROVIDERS		JDL				BLS

LOCKWOOD, JOAN D(DL)RN

ROBERTSON LUTHER, JAN R(JRL)LPN

SLOPPY, BRENDA L(BLS)RN

CONTINUED

RUSSELL, WANDA
 ROOM: *3070-02*

MR: 000353218 ID: 0533800105 DOB: 09/19/1958 - DRMC Discharge Report v

Page: 8

PRN

RUSSELL, WANDA
 DuBois Regional Medical Center 7.5 SP2
 DRMC Discharge Report v3.1
 FROM: 12/04/05 08:37 TO: 12/08/05 04:11
 ROOM: *3070-02* ADM: 12/04/05 08:37
 AGE: 47Y SEX: F DO: MALONEY, MARK W
 UOB: 09/18/1958 ID: 0533800105 MH: 000353218
 REQUESTED: 12/07/05 01:48

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ASSESS/INTERVENT	12/05					
Morse Fall Risk-Cont.	08:15	08:00	08:00	17:14	20:35	21:15
		eat w/BS commode				eat w/BS commode
Hg Fall risk mare		eat w/all ambul hourly checks				eat w/all ambul hourly checks
CARE PROVIDERS		JDL				BLS
Pt progress	08:15	08:00	09:00	17:14	20:35	21:15
progress note		&			&	
CARE PROVIDERS	BLS -			JDL		
12/05/05 08:15 progress note(BLS): Patient resting well, neuro checks unchanged from prior assessment, denies pain.						
12/05/05 17:14 progress note(JDL): pt. condition unchanged since am assessment. neuro's unchanged. left arm still very weak and left leg slightly weak giving her an unsteady gait. she has no problems with swallowing. will monitor.						
Comments	08:15	08:00	09:00	17:14	20:35	21:15
Comments 1					(modified)	&
CARE PROVIDERS					BLS	
12/05/05 20:35 Comments 1(BLS): Dr. Maloney called in and gave order to transfer patient to Psych unit. orders repeated and verified.						
Pt Identification	08:15	08:00	09:00	17:14	20:35	21:15
pt Identification						name DOB
CARE PROVIDERS						BLS

LOCKWOOD, JOAN D(JDL)RN

SLOPPY, BRENDA L(BLS)RN

CONTINUED

RUSSELL, WANDA
 ROOM: *3070-02*

MR: 000353218 ID: 0533800105 DOB: 09/18/1958 - DRMC Discharge Report v
 Page: 9

PERM

RUSSELL, WANDA
 DuBois Regional Medical Center 7.5 8P2
 DRMC Discharge Report v3.1
 FROM: 12/04/05 00:30 TO: 12/04/05 04:11
 ROOM: *3070-02* ADM: 12/04/05 00:37
 AGE: 47Y SEX: F DO: MALONEY, MARK W
 UOI: 09/19/1958 IJ: 0533800105 MHT: 000353218
 REQUESTED: 12/07/05 01:48

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ASSESS/INTERVENT	12/05		
Peripheral IV	00:50	01:25	01:30
Site 1			
IV line			iv lock DC/cath intact (modified) &
CARE PROVIDERS			BLS
12/06/05 01:30 IV line(BLS): lock d/c'd prior to transfer to psych pressure dressing applied			
Pt progress	00:50	01:25	01:30
progress note			&
CARE PROVIDERS		BLS	
12/06/05 01:25 progress note(BLS): Patient alert and oriented, denies pain, left arm and leg weak, no change from previous assessment			
Comments	00:50	01:25	01:30
Comments 1		&	&
CARE PROVIDERS	BLS	BLS	

12/06/05 00:50 Comments 1(BLS): Patient receiving psych evaluation at this time.

12/06/05 01:25 Comments 1(BLS): Report called to Psych unit, EMS here to pick up patient, belongings with patient.

SWING BED CHARTIN No Data

RESPIRATORY CARE	12/04			12/05		
Resp Assessment	14:00	20:00	20:10	08:00	09:00	21:15
Cough	absent		absent	absent		absent
Resp skin color	pink		pink	pink		pink
Resp pattern	Regular even unlabored		Regular even unlabored	Regular even unlabored		Regular even unlabored
CARE PROVIDERS	AE		BLS	JDL		BLS
Oxygen Flowrate	14:00	20:00	20:10	08:00	09:00	21:15
O2 saturation		95% on room air			95% on room air	
CARE PROVIDERS		LKH			JRL	

THERAPY REPORT No Data

SOCIAL SERVICES	12/05	
Nutritional Serv	08:17	14:23
screen nutr risk	risk seen complt	
reason for asses	fail nutr screen	
narrative		&
CARE PROVIDERS	EAB	DJT

12/05/05 14:23 narrative(DJT): Pt was initially assessed on 11/30. (attached) Pt was discharged and readmitted with back pain, weakness and difficulty walking. Will monitor per policy.

BOYER, ELIZABETH A(EAB)Hospital E
 LOCKWOOD, JOAN D(JDL)RN
 THOMSON, DONNA J(DJT)Hospital E

EAMIGH, AMY E(AE)RN
 ROBERTSONLUTHER, JAN R(JRL)LPN

HOLLENBAUGH, LORI K(LKH)LPN
 SLOPPY, BRENDA L(BLS)RN

CONTINUED

RUSSELL, WANDA
 ROOM: *3070-02*

MR: 000353218 ID: 0533800105 DOB: 09/19/1958 - DRMC Discharge Report v

Page: 10

PERM

RUSSELL, WANDA
 DuBols Regional Medical Center 7.5 SP2
 DRMC Discharge Report V3.1
 FROM: 12/04/05 08:24/ TO: 12/08/05 04:11
 ROOM: *3070-02* ADM: 12/04/05 08:37
 AGE: 47Y SEX: F DO: MALONEY, MARK W
 UDH: 09/19/1958 IL: 0533800105 MHT: 000353218
 REQUESTED: 12/07/05 01:48

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DISCHARGE DATA	12/06
Discharge/Death	01:25
DC/transf/death	belongings w/ pt family/so aware other
DC assessment	no chng lct asmt see progress nte VS stable condition stable
Braden Scale DC	>16 no action
Pres ulcer on DC	not on d/c hosp
CARE PROVIDERS	BLS

12/06/05 01:25 DC/transf/death(BLS): Patient transferred to Psych unit as per order, belongings with patient, chart copied and enclosed in locked case, sent with patient.

SLOPPY, BRENDA L(BLS)RN

LAST PAGE

RUSSELL, WANDA
 ROOM: *3070-02*

MR: 000353218 ID: 0533800105 DOB: 09/19/1958 - DRMC Discharge Report v
 Page: 11



FILED

FEB 06 2008

013140/W
William A. Shaw
Prothonotary/Clerk of Courts

1 cert to App
(GK)

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA

WANDA RUSSELL,

Plaintiff

CIVIL DIVISION

v.

CASE NO. 07-644-CD

Type of Pleading:

**PROPOSED
SCHEDULING ORDER**

JAMES E. DEVLIN, M.D.; MARK W.
MALONEY, D.O.; DRMC PRIMARY
CARE ASSOCIATES; SANAA HELMI,
M.D.; THOMAS J. BRADLEY, M.D.;
BRADFORD BOBRIN, M.D.; DUBOIS
REGIONAL MEDICAL CENTER a/k/a
DUBOIS REGIONAL MEDICAL
CENTER WEST a/d/b/a DRMC
BEHAVIORAL UNIT a/k/a DRMC EAST
BEHAVIORAL UNIT a/k/a DRMC
BEHAVIORAL HEALTH OUTPATIENT
CLINIC,

Defendants

Filed on behalf of Defendant:

Mark W. Maloney, M.D.

Counsel of record for this party:

David R. Bahl, Esquire
Pa. I.D. No. 10347

Richard F. Schluter, Esquire
Pa. I.D. No. 79672

McCORMICK LAW FIRM
835 West Fourth Street
Williamsport, PA 17701
(570) 326-5131

JURY TRIAL DEMANDED

WANDA RUSSELL,
Plaintiff

v.

JAMES E. DEVLIN, M.D.; MARK W.
MALONEY, D.O.; DRMC PRIMARY
CARE ASSOCIATES; SANAA HELMI,
M.D.; THOMAS J. BRADLEY, M.D.;
BRADFORD BOBRIN, M.D.; DUBOIS
REGIONAL MEDICAL CENTER a/k/a
DUBOIS REGIONAL MEDICAL
CENTER WEST a/d/b/a DRMC
BEHAVIORAL UNIT a/k/a DRMC EAST
BEHAVIORAL UNIT a/k/a DRMC
BEHAVIORAL HEALTH OUTPATIENT
CLINIC,

Defendants

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY,
PENNSYLVANIA

NO. 07-644-CD

CIVIL ACTION - LAW

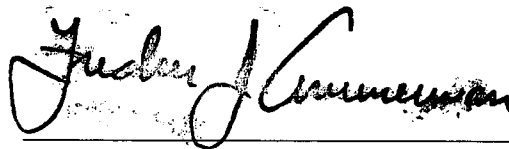
JURY TRIAL DEMANDED

SCHEDULING ORDER

AND NOW this 29th day of January, 2008, upon consideration of the
Praecipe for Argument Date and Briefing Schedule on Preliminary Objections of Defendant
Mark W. Maloney, M.D., it is hereby ordered that argument shall be held on April 7,
2008, at 9:15 a.m./p.m. in Courtroom No. 1 of the Clearfield County Courthouse,
Clearfield, Pennsylvania.

The moving party shall file a brief in support of the preliminary objections on or before
_____, 2008. Plaintiff/Responding party shall file a response and brief on or before
_____, 2008.

By the Court,



J.

WANDA RUSSELL,
Plaintiff

v.

JAMES E. DEVLIN, M.D.; MARK W.
MALONEY, D.O.; DRMC PRIMARY
CARE ASSOCIATES; SANAA HELMI,
M.D.; THOMAS J. BRADLEY, M.D.;
BRADFORD BOBRIN, M.D.; DUBOIS
REGIONAL MEDICAL CENTER a/k/a
DUBOIS REGIONAL MEDICAL
CENTER WEST a/d/b/a DRMC
BEHAVIORAL UNIT a/k/a DRMC EAST
BEHAVIORAL UNIT a/k/a DRMC
BEHAVIORAL HEALTH OUTPATIENT
CLINIC,

Defendants

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY,
PENNSYLVANIA

NO. 07-644-CD

CIVIL ACTION - LAW

JURY TRIAL DEMANDED

CERTIFICATE OF SERVICE

I, RICHARD F. SCHLUTER, ESQUIRE, hereby certify that I have served a copy of the
Foregoing *Proposed Scheduling Order*, upon the following, this 28th day of January,
2008, as follows:

UNITED STATES MAIL, POSTAGE PREPAID:

Mark A. Hoffman, Esquire
Kline & Specter, PC
The Nineteenth Floor
1525 Locust Street
Philadelphia, PA 19102

Darryl Slimak, Esquire
McQuaide Blasko
811 University Drive
State College, PA 16801

M. Brian O'Connor, Esquire
Gaca, Matis, Baum & Rizza, PC
444 Liberty Avenue, Suite 300
Pittsburgh, PA 15222

Lynn E. Bell, Esquire
Davies, McFarland & Carroll, PC
One Gateway Center, 10th Floor
Pittsburgh, PA 15222-1416

John L. McIntyre, Esquire
McIntyre, Dugas, Hartye & Schmitt
Post Office Box 533
Hollidaysburg, PA 16648-0533

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

DRMC Primary Care Associates
Medical Arts Building, Suite 200
145 Hospital Avenue
DuBois, PA 15801

McCORMICK LAW FIRM

By 

David R. Bahl, Esquire

I.D. No. 10347

Richard F. Schluter, Esquire

I.D. No. 79672

Attorneys for Defendant

Mark W. Maloney, D.O.

835 West Fourth Street
Williamsport, PA 17701
(570) 326-5131

KLINE & SPECTER
A Professional Corporation

By: THOMAS R. KLINE, ESQUIRE
MARK A. HOFFMAN, ESQUIRE
ROYCE W. SMITH, ESQUIRE

Attorney ID Nos.: 28895/ 84443/201295
The Nineteenth Floor
1525 Locust Street
Philadelphia, Pennsylvania 19102
(215) 772-1000

Attorneys for Plaintiff

WANDA RUSSELL

COURT OF COMMON PLEAS
COUNTY OF CLEARFIELD

v.

DOCKET NO. 07-644-CD

JAMES E. DEVLIN, M.D. and
MARK W. MALONEY, D.O. and
DRMC PRIMARY CARE ASSOCIATES
and SANAA HELM, M.D. and
THOMAS J. BRADLEY, M.D. and
BRADFORD BOBRIN, M.D. and
DuBOIS REGIONAL MEDICAL
CENTER a/ka DuBOIS REGIONAL
MEDICAL CENTER WEST
a/d/b/a DRMC BEHAVIORAL
UNIT a/k/a DRMC EAST BEHAVIORAL
UNIT a/k/a DRMC BEHAVIORAL
HEALTH OUTPATIENT CLINIC
Defendants.

FILED *NO ce*
m 11:27/08
FEB 07 2008 *GR*

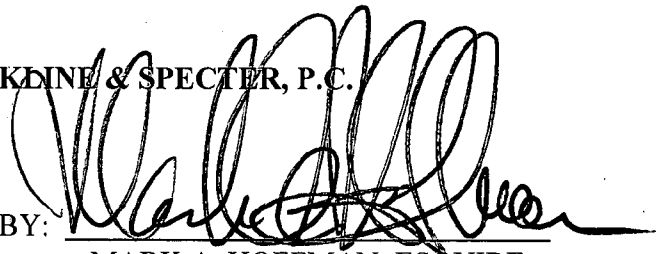
William A. Shaw
Prothonotary/Clerk of Courts

PRAECIPE TO SUBSTITUTE VERIFICATION

TO THE PROTHONOTARY:

Kindly substitute the attached Verification executed by Wanda Russell for the verification
attached to Plaintiff's Fourth Amended Complaint filed on January 31, 2008.

KLINE & SPECTER, P.C.

BY: 

MARK A. HOFFMAN, ESQUIRE
Attorney for Plaintiff

DATE: February 5, 2008

VERIFICATION

I, WANDA RUSSELL, plaintiff in this civil action, hereby verify that the within Fourth Amended Complaint is based upon first-hand information, and upon information furnished to my counsel and obtained by him in the course of counsel's investigation of this lawsuit and the facts involved. The language of the document is that of counsel and not my own. To the extent that the contents of the document are based upon information furnished to counsel and obtained by him during the course of this lawsuit and counsel's investigation of the facts giving rise to this lawsuit, I have relied upon counsel in taking this verification. All statements are founded upon reasonable belief. This verification is made subject to the penalties of 18 Pa.C.S. §4904 relating to unsworn falsification to authorities.

Wanda Russell

Wanda Russell

Date:

2/5/08

LA

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

WANDA RUSSELL,

CIVIL ACTION

Plaintiff,

vs.

No.: 07-644-CD

JAMES E. DEVLIN, M.D., MARK W.
MALONEY, D.O., DRMC PRIMARY
CARE ASSOCIATES, SANAA HELMI,
M.D., THOMAS J. BRADLEY, M.D.,
BRADFORD BOBRIN, M.D., DUBOIS
REGIONAL MEDICAL CENTER a/k/a
DUBOIS REGIONAL MEDICAL
CENTER WEST a/d/b/a DRMC
BEHAVIORAL UNIT a/k/a DRMC EAST
BEHAVIORAL UNIT a/k/a DRMC
BEHAVIORAL HEALTH OUTPATIENT
CLINIC,

Defendants.

**PRELIMINARY OBJECTIONS
AND BRIEF IN SUPPORT ON
BEHALF OF DR. BOBRIN TO
PLAINTIFF'S FOURTH
AMENDED COMPLAINT**

Filed on Behalf of this Party:

Bradford Bobrin, M.D., One of the
Defendants

Counsel of Record for this Party:

Lynn E. Bell, Esquire
PA I.D. #38588

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

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

(412) 281-0737

JURY TRIAL DEMANDED

FILED *no cc*
m/12:33:01
FEB 11 2008

WAS
William A. Shaw
Prothonotary/Clerk of Courts

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

WANDA RUSSELL,

CIVIL ACTION

Plaintiff,

No.: 07-644-CD

v.

JAMES E. DEVLIN, M.D., MARK W.
MALONEY, D.O., DRMC PRIMARY
CARE ASSOCIATES, SANAA HELMI,
M.D., THOMAS J. BRADLEY, M.D.,
BRADFORD BOBRIN, M.D., DUBOIS
REGIONAL MEDICAL CENTER a/k/a
DUBOIS REGIONAL MEDICAL
CENTER WEST a/d/b/a DRMC
BEHAVIORAL UNIT a/k/a DRMC EAST
BEHAVIORAL UNIT a/k/a DRMC
BEHAVIORAL HEALTH OUTPATIENT
CLINIC,

Defendants.

**PRELIMINARY OBJECTIONS ON BEHALF OF DR. BOBRIN
TO PLAINTIFF'S FOURTH AMENDED COMPLAINT**

AND NOW, comes Defendant, Bradford Bobrin, M.D. ("Dr. Bobrin"), by and through his undersigned attorneys, Davies, McFarland & Carroll, P.C., and files the within Preliminary Objections to Plaintiff's Fourth Amended Complaint, stating as follows:

1. In the within medical negligence civil action, Plaintiff filed a Complaint on April 24, 2007. The Complaint averred Dr. Bobrin, and other Defendants, were negligent with respect to Plaintiff's care and treatment concerning diagnosis and treatment of an alleged stroke.
2. This case apparently involves medical treatment from December 3, 2005 to December 7, 2005.
3. On August 27, 2007, Defendant filed an Answer and New Matter. Defendant's New Matter pled immunity under the Mental Health Procedures Act. Defendant Dr. Bobrin is a

psychiatrist. According to Plaintiff's Fourth Amended Complaint, Dr. Bobrin first saw the Plaintiff in the psychiatric unit of Dubois Regional Medical Center (hereinafter "DRMC") on December 6, 2005, at which time he ordered that he she be transferred back to the medicine service, and would receive a neuro consult, MRI, and continued medical care. (Fourth Amended Complaint, Paragraph 111).

4. On October 23, 2007, Plaintiff filed a Motion to Amend their Complaint, and attached her proposed Amended Complaint, so that Plaintiff could assert a claim for "gross negligence" and "recklessness", and request and punitive damages as to all Defendants.

5. The Motion was granted, and the Amended Complaint was served on November 9, 2007.

6. Since then, Plaintiff has filed Second, Third and Fourth Amended Complaints, adding new allegations as compared to the First Amended Complaint, without seeking leave of court.

7. As compared to the original Complaint, the Amended Complaint attempted to assert causes of action against Dr. Bobrin and the other Defendants for gross negligence and recklessness, in addition to negligence, and a request for punitive damages. Several new allegations not found in the original pleading were in the Amended Complaint.

8. Dr. Bobrin and several other Defendants filed Preliminary Objections to Plaintiff's Amended Complaint.

9. On December 6, 2007, Plaintiff filed a Second Amended Complaint without seeking leave of Court.

10. Again, new allegations not previously contained within the original or Amended Complaint were contained in the Second Amended Complaint. Those allegations were an

attempt to pursue a claim for “gross negligence” and “recklessness”, and a request for punitive damages.

11. Again, Dr. Bobrin and several other Defendants filed Preliminary Objections to the Second Amended Complaint.

12. On January 7, 2008, Plaintiff filed a Third Amended Complaint after the statute of limitations. Again, the Third Amended Complaint contained allegations not previously raised.

13. On February 6, 2008, Defendant received Plaintiff’s *Fourth* Amended Complaint, which was apparently filed on January 31, 2008, after the statute of limitations. This Fourth Amended Complaint also contains claims of negligence, “gross negligence”, and “recklessness” against Dr. Bobrin, and the other Defendants, as well as a request for punitive damages.

14. Defendant now files Preliminary Objections to Plaintiff’s Fourth Amended Complaint. Plaintiff’s claim for punitive damages should be stricken as a failure to conform to law, as well as claims and allegations of “recklessness” and “gross negligence.”

**MOTION TO STRIKE-PUNITIVE DAMAGES
“RECKLESSNESS” AND “GROSS NEGLIGENCE”**

15. All punitive damages as to Defendant should be stricken from the Fourth Amended Complaint on the basis that Plaintiff improperly attempts to assert punitive damages for allegations relating to general medical malpractice. There are no factual allegations that Dr. Bobrin actually knowingly, recklessly, or willfully violated the treatment standard.

16. The Fourth Amended Complaint does not allege actual intentional, willful, wanton, or reckless conduct on behalf of the Dr. Bobrin. Rather, Plaintiff avers facts conceivably amounting to inadvertence, mistake, errors of judgment and the like, which constitute ordinary negligence

17. Where the allegations of a complaint in trespass detail alleged conduct of a

defendant that is negligent, it is not sufficient in order to support a claim for punitive damages merely to allege that conduct was wanton, reckless or grossly negligent. Smith v. Brown, 283 Pa. Super. 116, 423 A.2d 743 (1980).

18. A claim of “negligence” does not give rise to punitive damages. Feld v. Merriam, 506 Pa. 383, 485 A.2d 742 (1982), McKeeman v. Corestates Bank, N.A., 751 A.2d 655 (Pa. Super. 2000).

19. The MCARE Act section 505 provides “A showing of gross negligence is insufficient to support an award of punitive damages.” 40 P.S. § 1303.505(b).

20. Thus, even a plaintiff avers actions amounting “gross negligence”, a plaintiff is not necessarily entitled to assert a claim for punitive damages.

21. Pennsylvania Supreme Court case law makes it clear that “punitive damages are an ‘extreme remedy’ available in only the most exceptional matters.” Phillips v. Cricket Lighters, 584 Pa. 179, 188, 883 A.2d 439, 445 (2005).

22. An essential fact needed to plead a claim for punitive damages is that defendant’s conduct must have been outrageous. Outrageous conduct is an “an act done with a bad motive or with reckless indifference to the interest of others.” Focht v. Rabada, 217 Pa. Super. 35, 268 A.2d 157 (1970) citing Section 908(b) of the Restatement (Second) of Torts. “Reckless indifference to the interest of others,” or as it is some times referred to “wanton misconduct” means that “the actor has **intentionally** done an act of an unreasonable character in disregard of risk known to him or so obvious that he must be taken to have been aware of it, and so great as to make it highly probable that harm will follow.” Evans v. Philadelphia Transportation Co., 418 Pa. 567, 212 A.2d 440 (1965).

23. In pleading, to substantiate a claim for punitive damages, it must clearly appear

the conduct of the defendant was not merely tortious or wrongful, but that it reached level of being outrageous. *Id.* See also, McKeeman v. Corestates Bank, N.A., 751 A.2d 655 (Pa. Super. 2000).

24. The more recent allegations in Plaintiff's Fourth Amended Complaint merely relate to Dr. Bobrin's medical knowledge such as "[t]he Defendant doctors, including Dr. Bobrin, knew hypertension and diabetes mellitus were risk factors for stroke and/or TIA." However, such related allegations do not amount to intentional acts done with a bad motive, rather, they conceivably amount to inadvertence, mistake, errors of judgment and the like

25. These additional allegations, combined with those previously contained in the several other Amended Complaints, do not allege actual intentional, willful, wanton, or reckless conduct on behalf of the Defendants.

26. In fact, the Fourth Amended Complaint avers that when Dr. Bobrin first saw the patient on December 6, 2005, he did order that she be transferred back to the medicine service, and would receive a neuro consult, MRI, and continued medical care. (Fourth Amended Complaint, Paragraph 111).

27. As to Dr. Bobrin, Count V of the Fourth Amended Complaint contains a bald assertion that Dr. Bobrin's care was grossly negligent and/or reckless.

28. However, Plaintiff avers facts conceivably amounting to inadvertence, mistake, errors of judgment and the like, which constitute ordinary negligence.

29. As such, all claims for punitive damages against this Defendant must be stricken with prejudice. Further, all allegations of "gross negligence" and "recklessness" should be stricken with prejudice.

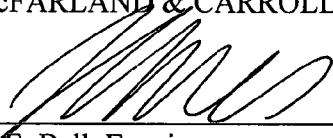
WHEREFORE, Defendant, Bradford Bobrin, M.D., respectfully requests that this Honorable Court enter an Order striking Plaintiff's allegations of gross negligence and recklessness, and Plaintiff's request for punitive damages.

JURY TRIAL DEMANDED

Respectfully submitted,

DAVIES, McFARLAND & CARROLL, P.C.

By: _____


Lynn E. Bell, Esquire
Lauren R. Ames, Esquire
Attorneys for Bradford Bobrin, M.D.,
One of the Defendants

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

WANDA RUSSELL,

CIVIL ACTION

Plaintiff,

No.: 07-644-CD

v.

JAMES E. DEVLIN, M.D., MARK W.
MALONEY, D.O., DRMC PRIMARY
CARE ASSOCIATES, SANAA HELMI,
M.D., THOMAS J. BRADLEY, M.D.,
BRADFORD BOBRIN, M.D., DUBOIS
REGIONAL MEDICAL CENTER a/k/a
DUBOIS REGIONAL MEDICAL
CENTER WEST a/d/b/a DRMC
BEHAVIORAL UNIT a/k/a DRMC EAST
BEHAVIORAL UNIT a/k/a DRMC
BEHAVIORAL HEALTH OUTPATIENT
CLINIC,

Defendants.

**BRIEF IN SUPPORT OF PRELIMINARY OBJECTIONS
ON BEHALF OF DR. BOBRIN
TO PLAINTIFF'S FOURTH AMENDED COMPLAINT**

AND NOW, comes Defendant, Bradford Bobrin, M.D. ("Dr. Bobrin"), by and through his undersigned attorneys, Davies, McFarland & Carroll, P.C., and files the within Brief in Support Preliminary Objections to Plaintiff's Fourth Amended Complaint, stating as follows:

BACKGROUND

In the within medical negligence civil action, Plaintiff filed a Complaint on April 24, 2007. The Complaint averred Dr. Bobrin, and other Defendants, were negligent with respect to Plaintiff's care and treatment concerning diagnosis and treatment of an alleged stroke.

This case apparently involves medical treatment from December 3, 2005 to December 7, 2005.

On August 27, 2007, Defendant filed an Answer and New Matter. Defendant's New Matter pled immunity under the Mental Health Procedures Act. Defendant Dr. Bobrin is a psychiatrist. According to Plaintiff's Fourth Amended Complaint, Dr. Bobrin first saw the Plaintiff in the psychiatric unit of Dubois Regional Medical Center (hereinafter "DRMC") on December 6, 2005, at which time he ordered that he she be transferred back to the medicine service, and would receive a neuro consult, MRI, and continued medical care. (Fourth Amended Complaint, Paragraph 111).

On October 23, 2007, Plaintiff filed a Motion to Amend their Complaint, and attached her proposed Amended Complaint, so that Plaintiff could assert a claim for "gross negligence" and "recklessness", and request and punitive damages as to all Defendants. The Motion was granted, and the Amended Complaint was served on November 9, 2007.

Since then, Plaintiff has filed Second, Third and Fourth Amended Complaints, adding new allegations as compared to the First Amended Complaint, without seeking leave of court.

As compared to the original Complaint, the Amended Complaint attempted to assert causes of action against Dr. Bobrin and the other Defendants for gross negligence and recklessness, in addition to negligence, and a request for punitive damages. Several new allegations not found in the original pleading were in the Amended Complaint. Dr. Bobrin and several other Defendants filed Preliminary Objections to Plaintiff's Amended Complaint.

On December 6, 2007, Plaintiff filed a Second Amended Complaint. Again, new allegations not previously contained within the original or Amended Complaint were contained in the Second Amended Complaint. Those allegations were an attempt to pursue a claim for "gross negligence" and "recklessness", and a request for punitive damages. Again, Dr. Bobrin and several other Defendants filed Preliminary Objections to the Second Amended Complaint.

On January 7, 2008, Plaintiff filed a Third Amended Complaint. Again, the Third Amended Complaint contained allegations not previously raised.

On February 6, 2008, Defendant received Plaintiff's *Fourth* Amended Complaint, which was apparently filed on January 31, 2008, containing claims of negligence, "gross negligence", and "recklessness" against Dr. Bobrin, and the other Defendants, as well as a request for punitive damages. Defendant now files Preliminary Objections to Plaintiff's Fourth Amended Complaint. Plaintiff's claim for punitive damages should be stricken as a failure to conform to law.

ARGUMENT
MOTION TO STRIKE PUNITIVE DAMAGES
PUNITIVE DAMAGES ARE NOT APPLICABLE
MOTION TO STRIKE ALLEGATIONS AND CLAIMS
OF "RECKLESSNESS" AND "GROSS NEGLIGENCE"

The claims for punitive damages should be stricken on the basis Plaintiff fails to allege facts that could potentially support a claim for punitive damages against Defendant. All claims of punitive damages should be stricken from the Third Amended Complaint on the basis that Plaintiff improperly attempts to assert punitive damages for allegations relating to general medical malpractice for providing medical care below the standard of care. There are no factual allegations that Dr. Bobrin actually knowingly, recklessly, or willfully violated the standard of care.

Pennsylvania has adopted the guidelines of §908 of the Restatement (Second) of Torts regarding the imposition of punitive damages. Feld v. Merriam, 506 Pa. 383, 485 A.2d 742 (1982). An essential fact needed to plead a claim for punitive damages is that the defendant's conduct must have been outrageous. Outrageous conduct is an "act done with a bad motive or with a reckless indifference to the interests of others." Focht v. Rabada, 217 Pa. Super. 35, 268 A.2d 157 (1970), citing comment (b) to §908 of the Restatement (Second) of Torts. "Reckless

indifference to the interests of others", or as it is sometimes referred to, "wanton misconduct" means that "the actor has intentionally done an act of an unreasonable character in disregard of a risk known to him or so obvious that he must be taken to have been aware of it, and so great as to make it highly probable that harm would follow." Evans v. Philadelphia Transportation Company, 418 Pa. 567, 212 A.2d 440 (1965).

In Feld, the Supreme Court of Pennsylvania emphasized that "[t]he state of mind of the actor is vital. The act, or the failure to act, must be intentional, reckless or malicious." Feld v. Merriam, 217 Pa. Super. 35, 268 A.2d 157 (1970)

Section 908(b) of the Restatement (Second) of Torts provides that "punitive damages are not awarded for mere inadvertence, mistake, errors of judgment and the like, which constitute ordinary negligence." Section 908(b) states that punitive damages can be awarded "only for conduct for which this remedy is appropriate -- which is to say conduct involving some element of outrage similar to that usually found in crime." Where the allegations of a complaint in trespass detail alleged conduct of a defendant which is negligent, it is not sufficient in order to support a claim for punitive damages merely to allege that conduct was wanton, reckless or grossly negligent. Smith v. Brown, 283 Pa. Super. 116, 423 A.2d 743 (1980). In pleading, to substantiate a claim for punitive damages, it must clearly appear that the conduct of the defendant was not merely tortious or wrongful, but that it reached a level of being outrageous. *Id.*

The Fourth Amended Complaint does not allege actual intentional, willful, wanton, or reckless conduct on behalf of the Dr. Bobrin. Rather, Plaintiffs aver facts conceivably amounting to inadvertence, mistake, errors of judgment and the like, which constitute ordinary negligence.

The more recent allegations in Plaintiff's Fourth Amended Complaint merely relate to Dr. Bobrin's medical knowledge such as "[t]he Defendant doctors, including Dr. Bobrin, knew hypertension and diabetes mellitus were risk factors for stroke and/or TIA." However, such related allegations do not amount to intentional acts done with a bad motive, rather, they conceivably amount to inadvertence, mistake, errors of judgment and the like

These additional allegations, combined with those previously contained in the several other Amended Complaints, do not allege actual intentional, willful, wanton, or reckless conduct on behalf of the Defendants.

In fact, the Fourth Amended Complaint avers that when Dr. Bobrin first saw the patient on December 6, 2005, he did order that she be transferred back to the medicine service, and would receive a neuro consult, MRI, and continued medical care. (Fourth Amended Complaint, Paragraph 111).

As to Dr. Bobrin, Count V of the Fourth Amended Complaint contains a bald assertion that Dr. Bobrin's care was grossly negligent and/or reckless. However, Plaintiff avers facts conceivably amounting to inadvertence, mistake, errors of judgment and the like, which constitute ordinary negligence.

Where the allegations of a complaint in trespass detail alleged conduct of a defendant that is negligent, it is not sufficient in order to support a claim for punitive damages merely to allege that conduct was wanton, reckless or grossly negligent. Smith v. Brown, 283 Pa. Super. 116, 423 A.2d 743 (1980).

The MCARE Act section 505 provides "A showing of gross negligence is insufficient to support an award of punitive damages." Thus, even a plaintiff avers actions amounting "gross negligence", a plaintiff is not necessarily entitled to assert a claim for punitive damages.

A claim of "negligence" does not give rise to punitive damages. Feld v. Merriam, 506 Pa. 383, 485 A.2d 742 (1982), McKeeman v. Corestates Bank, N.A., 751 A.2d 655 (Pa. Super. 2000).

Pennsylvania Supreme Court case law makes it clear that "punitive damages are an 'extreme remedy' available in only the most exceptional matters." Phillips v. Cricket Lighters, 584 Pa. 179, 188, 883 A.2d 439, 445 (2005).

In pleading, to substantiate a claim for punitive damages, it must clearly appear the conduct of the defendant was not merely tortious or wrongful, but that it reached level of being outrageous. *Id.* See also, McKeeman v. Corestates Bank, N.A., 751 A.2d 655 (Pa. Super. 2000).

For the reasons stated above, Plaintiff alleges claims for nothing more than conceivably ordinary negligence, and her request for punitive damages should be stricken for failing to conform to law.

WHEREFORE, Defendant, Bradford Bobrin, M.D., respectfully requests that this Honorable Court enter an Order striking Plaintiff's allegations of gross negligence and recklessness, and Plaintiff's request for punitive damages.

JURY TRIAL DEMANDED

Respectfully submitted,

DAVIES, McFARLAND & CARROLL, P.C.

By: _____


Lynn E. Bell, Esquire
Lauren R. Ames, Esquire
Attorneys for Bradford Bobrin, M.D.,
One of the Defendants

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that I served the foregoing document to all counsel of record
via U.S. Mail on the 7th day of February 2008:

Thomas R. Kline, Esquire
Mark A. Hoffman, Esquire
Kline & Specter, P.C.
1525 Locust Street, 19th Floor
Philadelphia, PA 19102

Attorneys for Plaintiff

Daryl Slimak, Esquire
McQuaide Blasko
811 University Drive
State College, PA 16801

M. Brian O'Connor, Esquire
Matis Baum Rizza & O'Connor, P.C.
444 Liberty Avenue; Suite 300
Pittsburgh, PA 15222

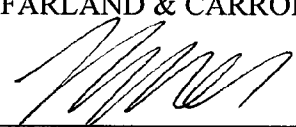
John L. McIntyre, Esquire
McIntyre Dugas Hartye & Schmitt
P.O. Box 533
Hollidaysburg, PA 16648-0533

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

David R. Bahl, Esquire
Richard F. Schluter, Esquire
McCormick Law Firm
835 West Fourth Street
Williamsport PA 17703

Attorney for Dr. Mark W. Maloney

DAVIES, McFARLAND & CARROLL, P.C.

By: 

Lynn E. Bell, Esquire
Lauren R. Ames, Esquire
Attorneys for Bradford Bobrin, M.D.,
One of the Defendants

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

WANDA RUSSELL,

CIVIL ACTION

Plaintiff,

No.: 07-644-CD

v.

JAMES E. DEVLIN, M.D., MARK W.
MALONEY, D.O., DRMC PRIMARY
CARE ASSOCIATES, SANAA HELMI,
M.D., THOMAS J. BRADLEY, M.D.,
BRADFORD BOBRIN, M.D., DUBOIS
REGIONAL MEDICAL CENTER a/k/a
DUBOIS REGIONAL MEDICAL
CENTER WEST a/d/b/a DRMC
BEHAVIORAL UNIT a/k/a DRMC EAST
BEHAVIORAL UNIT a/k/a DRMC
BEHAVIORAL HEALTH OUTPATIENT
CLINIC,

Defendants.

ORDER OF COURT

AND NOW, this ____ day of _____, 2008, upon consideration of Defendant's, Bradford Bobrin, M.D.'s, Preliminary Objections to Plaintiff's Fourth Amended Complaint, it is hereby ORDERED, ADJUDGED and DECREED that said Preliminary Objections are GRANTED, and Plaintiff's claim for punitive damages against Dr. Bobrin is stricken with prejudice. It is further ordered that claims and allegations of "gross negligence" and "recklessness" are stricken from the Fourth Amended Complaint with prejudice.

_____. J.

CA

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

WANDA RUSSELL,

CIVIL ACTION

Plaintiff,

vs.

No.: 07-644-CD

JAMES E. DEVLIN, M.D., MARK W.
MALONEY, D.O., DRMC PRIMARY
CARE ASSOCIATES, SANAA HELMI,
M.D., THOMAS J. BRADLEY, M.D.,
BRADFORD BOBRIN, M.D., DUBOIS
REGIONAL MEDICAL CENTER a/k/a
DUBOIS REGIONAL MEDICAL
CENTER WEST a/d/b/a DRMC
BEHAVIORAL UNIT a/k/a DRMC EAST
BEHAVIORAL UNIT a/k/a DRMC
BEHAVIORAL HEALTH OUTPATIENT
CLINIC,

Defendants.

**PRAECIPE FOR ARGUMENT
DATE ON PRELIMINARY
OBJECTIONS TO PLAINTIFF'S
FOURTH AMENDED
COMPLAINT PURSUANT TO
LOCAL RULE 211**

Filed on Behalf of this Party:

Bradford Bobrin, M.D., One of the
Defendants

Counsel of Record for this Party:

Lynn E. Bell, Esquire
PA I.D. #38588

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

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

(412) 281-0737

JURY TRIAL DEMANDED

FILED *NO CC*

m/12:33
FEB 11 2008

WAS
William A. Shaw
Prothonotary/Clerk of Courts

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

WANDA RUSSELL,

CIVIL ACTION

Plaintiff,

No.: 07-644-CD

v.

JAMES E. DEVLIN, M.D., MARK W.
MALONEY, D.O., DRMC PRIMARY
CARE ASSOCIATES, SANAA HELMI,
M.D., THOMAS J. BRADLEY, M.D.,
BRADFORD BOBRIN, M.D., DUBOIS
REGIONAL MEDICAL CENTER a/k/a
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BEHAVIORAL UNIT a/k/a DRMC EAST
BEHAVIORAL UNIT a/k/a DRMC
BEHAVIORAL HEALTH OUTPATIENT
CLINIC,

Defendants.

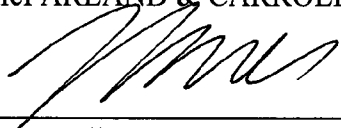
**PRAECIPE FOR ARGUMENT DATE ON PRELIMINARY OBJECTIONS TO
PLAINTIFF'S FOURTH AMENDED COMPLAINT PURSUANT TO LOCAL RULE 211**

To: William A. Shaw, Prothonotary

Pursuant to Local Rule 211, Defendant, Bradford Bobrin, M.D., respectfully requests that the Court assign an argument date for his Preliminary Objections to Plaintiff's Fourth Amended Complaint.

JURY TRIAL DEMANDED

DAVIES, McFARLAND & CARROLL, P.C.

By: 

Lynn E. Bell, Esquire
Lauren R. Ames, Esquire
Attorneys for Bradford Bobrin, M.D.,
One of the Defendants

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that I served the foregoing document to all counsel of record
via U.S. Mail on the 7th day of February 2008:

Thomas R. Kline, Esquire
Mark A. Hoffman, Esquire
Kline & Specter, P.C.
1525 Locust Street, 19th Floor
Philadelphia, PA 19102

Attorneys for Plaintiff

Daryl Slimak, Esquire
McQuaide Blasko
811 University Drive
State College, PA 16801

M. Brian O'Connor, Esquire
Matis Baum Rizza & O'Connor, P.C.
444 Liberty Avenue; Suite 300
Pittsburgh, PA 15222

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

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

David R. Bahl, Esquire
Richard F. Schluter, Esquire
McCormick Law Firm
835 West Fourth Street
Williamsport PA 17703

Attorney for Dr. Mark W. Maloney

DAVIES, McFARLAND & CARROLL, P.C.

By: 

Lynn E. Bell, Esquire
Lauren R. Ames, Esquire
Attorneys for Bradford Bobrin, M.D.,
One of the Defendants

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

WANDA RUSSELL,

Plaintiff,

vs.

JAMES E. DEVLIN, M.D. and MARK
W. MALONEY, D.O. and DRMC
PRIMARY CARE ASSOCIATES and
SANAA HELMI, M.D. and THOMAS
J. BRADLEY, M.D. and BRADFORD
BOBRIN, M.D. and DUBOIS
REGIONAL MEDICAL CENTER
a/k/a DUBOIS REGIONAL MEDICAL
CENTER WEST a/d/b/a DRMC
BEHAVIORAL UNIT a/k/a DRMC
EAST BEHAVIORAL UNIT a/k/a
DRMC BEHAVIORAL HEALTH
OUTPATIENT CLINIC,

Defendants.

CIVIL DIVISION

CASE NO: 07-644-CD

Type of Pleading:

**PRELIMINARY OBJECTIONS
TO PLAINTIFF'S FOURTH
AMENDED COMPLAINT**

Filed on behalf of Defendant:

Thomas J. Bradley, M.D.

Counsel of record for this party:

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

Marisa L. Farrone, Esquire
PA I.D. # 204882

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

JURY TRIAL DEMANDED

FILED NO
M 10:41 AM
FEB 12 2008
William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

WANDA RUSSELL,	:	CIVIL DIVISION
	:	
Plaintiff,	:	CASE NO: 07-644-CD
	:	
vs.	:	
	:	
JAMES E. DEVLIN, M.D. and MARK	:	
W. MALONEY, D.O. and DRMC	:	
PRIMARY CARE ASSOCIATES and	:	
SANAA HELMI, M.D. and THOMAS J.	:	
BRADLEY, M.D. and BRADFORD	:	
BOBRIN, M.D. and DUBOIS	:	
REGIONAL MEDICAL CENTER a/k/a	:	
DUBOIS REGIONAL MEDICAL	:	
CENTER WEST a/d/b/a DRMC	:	
BEHAVIORAL UNIT a/k/a DRMC	:	
EAST BEHAVIORAL UNIT a/k/a	:	
DRMC BEHAVIORAL HEALTH	:	
OUTPATIENT CLINIC,	:	
	:	
Defendants.	:	

PRELIMINARY OBJECTIONS TO PLAINTIFF'S FOURTH AMENDED COMPLAINT

Defendant, Thomas J. Bradley, M.D., by and through his counsel, O'Brien, Rulis & Bochicchio, LLC, and Christopher C. Rulis, Esquire, files the following Preliminary Objections to Plaintiff's Fourth Amended Complaint. In support thereof, it is averred as follows:

1. Plaintiff filed a Complaint in this medical malpractice action against Dr. Bradley and other named defendants, on April 24, 2007. Plaintiff essentially alleged that Dr. Bradley, along with all other defendants, was negligent in failing to timely diagnose and treat Plaintiff's suspected transient ischemic attack (TIA).

2. The Complaint also alleged that, during her admission to Dubois Regional Medical Center (hereinafter "DRMC"), and at the direction of Plaintiff's primary care physician, Defendant Dr. Maloney, Plaintiff was briefly transferred to DRMC's Behavioral Unit, where she temporarily received evaluation and/or treatment before being re-transferred to DRMC's medical unit

3. The Complaint alleges that, while on the DRMC Behavioral Unit, Dr. Bradley took a history and physical from Plaintiff, and performed a physical examination of Plaintiff.

4. It is alleged that, as a result of all defendants' negligence, Plaintiff experienced cerebral ischemia, neurological impairment, pain and suffering, humiliation and anxiety, and monetary losses.

5. On October 23, 2007, Plaintiff filed a Motion to Amend the Complaint, which the Court granted by Order dated October 26, 2007.

6. Plaintiff's Amended Complaint contained allegations of gross negligence and/or recklessness against all defendants, and requested the imposition of punitive damages.

7. Dr. Bradley timely filed Preliminary Objections to Plaintiff's Amended Complaint, which are incorporated herein by reference.

8. On or about December 6, 2007, Plaintiff filed a Second Amended Complaint in which additional changes were made to the Amended Complaint in regard to Dr. Bradley. Dr. Bradley filed Preliminary Objections to Plaintiff's Second Amended Complaint, which are incorporated herein by reference.

9. On or about January 4, 2008, Plaintiff filed a Third Amended Complaint in this matter, again revising her allegations against Dr. Bradley. Dr. Bradley once more timely filed Preliminary Objections to Plaintiff's Third Amended Complaint, and the same are also incorporated herein by reference.

10. On or about January 31, 2008, Plaintiff filed her Fourth Amended Complaint, setting forth no new factual allegations against Dr. Bradley, but simply references the transcript of Dr. Bradley's deposition testimony, attached thereto as Exhibit "A." Plaintiff's Fourth Amended Complaint no longer requests punitive damages in its "Wherefore" clause, but reserves the right to amend the clause pursuant to the Pennsylvania Rules of Civil Procedure. However, the Fourth Amended Complaint continues to refer to Dr. Bradley's conduct as grossly negligent and/or reckless.

Motion to Strike Pursuant to Pa.R.C.P. §1028(a)(3) and §1028 (a)(4)

(Factual Insufficiency and Legal Insufficiency)

11. Pennsylvania courts have firmly established that recklessness is the standard of intent under which punitive damages are awarded: conduct, "so outrageous as to rise to the level of intentional, willful, wanton or *reckless* conduct. Abadie v. Riddle Memorial Hospital, 404 Pa. Super 8, 589 A.2d 1143 (1991) (emphasis added)

12. Case law is also clear that neither negligence *nor* gross negligence are sufficient degrees of culpability to warrant the imposition of punitive damages. Takes v. Metropolitan Edison Company, 655 A.2d 138 (Pa. Super. 1995).

12. Moreover, Pennsylvania courts have consistently held that punitive damages will only be awarded to punish conduct "that is so outrageous as to rise to a level of intentional, willful, wanton and *reckless* conduct." Abdie vs. Riddle Memorial Hospital, 589 A.2d 1143 (Pa. Super. 1981) (emphasis added).

13. Recklessness or reckless indifference sufficient for purposes of alleging a claim for punitive damages has been described as follows: "where the actor knows, or has reason to know . . . of facts which create a high degree of risk of physical harm to another, and *deliberately* proceeds to act,

or fails to act, in conscious disregard of, or indifference to, that risk.” SHV Coal vs. Continental Grain Company, 587 A.2d 702 (Pa. 1991).

14. Thus, those allegations which characterize Dr. Bradley’s conduct as “grossly negligent,” even if true, would be insufficient to support an award of punitive damages under Pennsylvania law.

15. Furthermore, the allegations contained within Plaintiff’s Fourth Amended Complaint continue to fail to fulfill the criteria for recklessness in regard to Dr. Bradley’s conduct. That is, Plaintiff has not alleged any conduct on Dr. Bradley’s part, different from her allegations in the Amended Complaint or in the Second Amended Complaint, which is so outrageous as to demonstrate complete disregard of a risk, or conscious indifference of consequences, to Plaintiff.

16. As in previous versions of Plaintiff’s Complaints, the allegations set forth in Plaintiff’s Fourth Amended Complaint, *even if true*, do not constitute the type of conduct which is legally sufficient to meet the high burden of reckless disregard or conscious indifference, to Plaintiff.

17. This deficit, present in each of Plaintiff’s prior Complaints, is not cured by the attachment of or reference to Dr. Bradley’s deposition testimony. Plaintiff does not set forth any new facts in her Fourth Amended Complaint. By reference to Dr. Bradley’s deposition transcript, Plaintiff seeks to introduce evidence to bolster her allegations, without remedying the central fault; that is, the allegations themselves are legally insufficient to rise to the level of recklessness.

18. Furthermore,. As advanced in Dr. Bradley’s Preliminary Objections to Plaintiff’s First, Second, and Third Amended Complaints, Plaintiff continues to fail to set forth specific facts which could support a claim for punitive damages.

23. As Plaintiff has failed to set forth specific factual allegations, as to Dr. Bradley, sufficient to show his conduct was grossly negligent and/or reckless, this moving Defendant’s

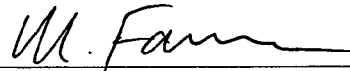
Preliminary Objections to the Fourth Amended Complaint should properly be granted pursuant to Pa.R.C.P. §1028(a)(3).

24. Moreover, as Plaintiff has failed to allege facts sufficient under Pennsylvania law to constitute gross negligence and/or recklessness, this moving Defendant's Preliminary Objections to the Fourth Amended Complaint should properly be granted pursuant to Pa.R.C.P. §1028(a)(4).

WHEREFORE, Defendant, Thomas J. Bradley M.D. , respectfully requests that this Honorable Court grant the within Preliminary Objections to Plaintiff's Fourth Amended Complaint, and strike all portions of Plaintiff's Fourth Amended Complaint alleging gross negligence and/or recklessness on the part of defendant Dr. Bradley.

Respectfully Submitted,

O'BRIEN, RULIS & BOCHICCHIO, LLC



Marissa L. Farrone, Esquire
Counsel for Defendant
Thomas J. Bradley, M.D.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

WANDA RUSSELL,

Plaintiff,

vs.

JAMES E. DEVLIN, M.D. and MARK
W. MALONEY, D.O. and DRMC
PRIMARY CARE ASSOCIATES and
SANAA HELMI, M.D. and THOMAS J.
BRADLEY, M.D. and BRADFORD
BOBRIN, M.D. and DUBOIS
REGIONAL MEDICAL CENTER a/k/a
DUBOIS REGIONAL MEDICAL
CENTER WEST a/d/b/a DRMC
BEHAVIORAL UNIT a/k/a DRMC
EAST BEHAVIORAL UNIT a/k/a
DRMC BEHAVIORAL HEALTH
OUTPATIENT CLINIC,

Defendants.

CIVIL DIVISION

CASE NO: 07-644-CD

ORDER OF COURT

AND NOW, this _____ day of _____, 2008, upon consideration of Defendant Thomas J. Bradley, M.D.'s Preliminary Objections to Plaintiff's Fourth Amended Complaint, said objections are granted. All references to gross negligence and/or recklessness are stricken from Plaintiff's Fourth Amended Complaint, as is the claim for punitive damages.

By the Court:

_____, J.

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that a true and correct copy of the within **PRELIMINARY OBJECTIONS TO PLAINTIFF'S FOURTH AMENDED COMPLIANT** has been served via first class United States mail, postage prepaid, on this 11 day of February 2008 to the following counsel of record:

Thomas R. Kline, Esquire
Kline & Specter, P.C.
1525 Locust Street, 19th Floor
Philadelphia, PA 19102

M. Brian O'Connor, Esquire
Gaca Matis Baum & Rizza PC
444 Liberty Avenue, Suite 300
Pittsburgh, PA 15222

David R. Bahl, Esquire
McCormick Law Firm
835 West Fourth Street
P.O. Box 577
Williamsport, PA 17701

Lynn Bell, Esquire
Davis, McFarland & Carroll, P.C.
Tenth Floor, One Gateway Center
Pittsburgh, PA 15222

Darryl R. Slimak, Esquire
McQuaide, Blasko, Fleming & Faulkner, Inc.
811 University Drive
State College, PA 16801

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

O'BRIEN, RULIS & BOCHICCHIO, LLC



Marissa L. Farrone, Esquire
Counsel for Defendant
Thomas J. Bradley, M.D.

FILED

FEB 12 2008

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

WANDA RUSSELL,

Plaintiff,

vs.

JAMES E. DEVLIN, M.D. and MARK
W. MALONEY, D.O. and DRMC
PRIMARY CARE ASSOCIATES and
SANAA HELMI, M.D. and THOMAS J.
BRADLEY, M.D. and BRADFORD
BOBRIN, M.D. and DUBOIS
REGIONAL MEDICAL CENTER a/k/a
DUBOIS REGIONAL MEDICAL
CENTER WEST a/d/b/a DRMC
BEHAVIORAL UNIT a/k/a DRMC
EAST BEHAVIORAL UNIT a/k/a
DRMC BEHAVIORAL HEALTH
OUTPATIENT CLINIC,

Defendants.

CIVIL DIVISION

CASE NO: 07-644-CD

Type of Pleading:

**PRAECIPE FOR BRIEFING
SCHEDULE**

Filed on behalf of Defendant:

Thomas J. Bradley, M.D.

Counsel of record for this party:

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

Marissa L. Farrone, Esquire
PA I.D. # 204882

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

JURY TRIAL DEMANDED

FILED *no cc*
M 10:41 AM
FEB 12 2008
William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

WANDA RUSSELL,

Plaintiff,

vs.

JAMES E. DEVLIN, M.D. and MARK
W. MALONEY, D.O. and DRMC
PRIMARY CARE ASSOCIATES and
SANAA HELMI, M.D. and THOMAS J.
BRADLEY, M.D. and BRADFORD
BOBRIN, M.D. and DUBOIS
REGIONAL MEDICAL CENTER a/k/a
DUBOIS REGIONAL MEDICAL
CENTER WEST a/d/b/a DRMC
BEHAVIORAL UNIT a/k/a DRMC
EAST BEHAVIORAL UNIT a/k/a
DRMC BEHAVIORAL HEALTH
OUTPATIENT CLINIC,

Defendants.

CIVIL DIVISION

CASE NO: 07-644-CD

PRAECIPE FOR BRIEFING SCHEDULE

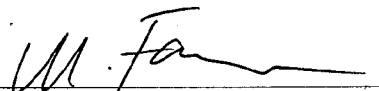
TO: THE PROTHONOTARY AND COURT ADMINISTRATOR:

In accordance with Clearfield County Rule of Court 211, please establish a briefing schedule with respect to Defendant Thomas J. Bradley, M.D.'s Preliminary Objections to Plaintiff's Fourth Amended Complaint, and list this matter for oral argument.

Respectfully submitted,

O'BRIEN, RULIS & BOCHICCHIO, LLC

By


Marissa L. Farrone, Esquire
Counsel for Defendant,
Thomas J. Bradley, M.D.

CA

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

WANDA RUSSELL,

CIVIL ACTION

Plaintiff,

vs.

No.: 07-644-CD

JAMES E. DEVLIN, M.D., MARK W.
MALONEY, D.O., DRMC PRIMARY
CARE ASSOCIATES, SANAA HELMI,
M.D., THOMAS J. BRADLEY, M.D.,
BRADFORD BOBRIN, M.D., DUBOIS
REGIONAL MEDICAL CENTER a/k/a
DUBOIS REGIONAL MEDICAL
CENTER WEST a/d/b/a DRMC
BEHAVIORAL UNIT a/k/a DRMC EAST
BEHAVIORAL UNIT a/k/a DRMC
BEHAVIORAL HEALTH OUTPATIENT
CLINIC,

Defendants.

**PROPOSED SCHEDULING
ORDER**

Filed on Behalf of this Party:

Bradford Bobrin, M.D., One of the
Defendants

Counsel of Record for this Party:

Lynn E. Bell, Esquire
PA I.D. #38588

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

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

(412) 281-0737

JURY TRIAL DEMANDED

FILED

012:285
FEB 12 2008

4cc
Atty Ames
CR

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

WANDA RUSSELL,

CIVIL ACTION

Plaintiff,

No.: 07-644-CD

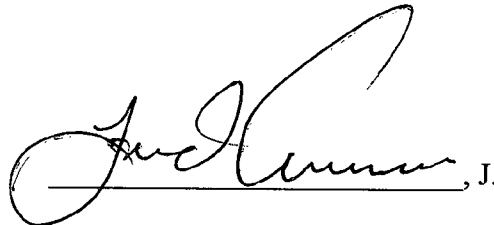
v.

JAMES E. DEVLIN, M.D., MARK W.
MALONEY, D.O., DRMC PRIMARY
CARE ASSOCIATES, SANAA HELMI,
M.D., THOMAS J. BRADLEY, M.D.,
BRADFORD BOBRIN, M.D., DUBOIS
REGIONAL MEDICAL CENTER a/k/a
DUBOIS REGIONAL MEDICAL
CENTER WEST a/d/b/a DRMC
BEHAVIORAL UNIT a/k/a DRMC EAST
BEHAVIORAL UNIT a/k/a DRMC
BEHAVIORAL HEALTH OUTPATIENT
CLINIC,

Defendants.

SCHEDULING ORDER

AND NOW, this 12 day of Feb, 2008, upon consideration of
Defendant's, Bradford Bobrin, M.D., Praeipce for Argument Date on Preliminary Objections to
Plaintiff's Fourth Amended Complaint, it is hereby ordered that argument shall be held on
April 7, 2008, at 9:15 a.m. in Courtroom No. 1 of the Clearfield
County Courthouse, Clearfield, Pennsylvania. Notice of the entry of this order shall be provided
to all parties by the moving party.

 J.

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that I served the foregoing document to all counsel of record
via U.S. Mail on the 7th day of February 2008:

Thomas R. Kline, Esquire
Mark A. Hoffman, Esquire
Kline & Specter, P.C.
1525 Locust Street, 19th Floor
Philadelphia, PA 19102

Attorneys for Plaintiff

Daryl Slimak, Esquire
McQuaide Blasko
811 University Drive
State College, PA 16801

M. Brian O'Connor, Esquire
Matis Baum Rizza & O'Connor, P.C.
444 Liberty Avenue; Suite 300
Pittsburgh, PA 15222

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

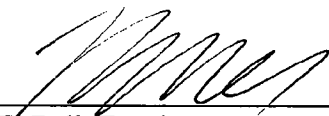
Christopher C. Rulis, Esquire
O'Brien, Rulis, Bochicchio & Sosso, LLC.
555 Grant Street, Suite 120
Pittsburgh, PA 15219

David R. Bahl, Esquire
Richard F. Schluter, Esquire
McCormick Law Firm
835 West Fourth Street
Williamsport PA 17703

Attorney for Dr. Mark W. Maloney

DAVIES, McFARLAND & CARROLL, P.C.

By: _____


Lynn E. Bell, Esquire
Lauren R. Ames, Esquire
Attorneys for Bradford Bobrin, M.D.,
One of the Defendants

FILED

FEB 12 2008

William A. Shaw
Prothonotary/Clerk of Courts

DATE: 2/12/08

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:

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

WANDA RUSSELL,

Plaintiff,

vs.

JAMES E. DEVLIN, M.D.; MARK W.
MALONEY, D.O.; DRMC PRIMARY
CARE ASSOCIATES; SANAA
HELMI, M.D.; THOMAS J.
BRADLEY, M.D.; BRADFORD
BOBRIN, M.D.; DUBOIS REGIONAL
MEDICAL CENTER a/k/a DUBOIS
REGIONAL MEDICAL CENTER
WEST a/d/b/a DRMC BEHAVIORAL
UNIT a/k/a DRMC EAST
BEHAVIORAL UNIT a/k/a DRMC
BEHAVIORAL HEALTH
OUTPATIENT CLINIC,

Defendants.

CIVIL DIVISION

No. 07-644-CD

Code:

Issue No:

STIPULATION

Filed on behalf of James E. Devlin,
M.D., Defendant

Counsel of Record for This Party:

M. Brian O'Connor, Esquire
PA I.D. 56795

MATIS BAUM RIZZA O'CONNOR
Firm #983
Four Gateway Center
444 Liberty Avenue, Suite 300
Pittsburgh, PA 15222

(412) 338-4750

FILED
m/ll:2/15/08 cc
FEB 15 2008 @

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

WANDA RUSSELL,

Plaintiff,

vs.

JAMES E. DEVLIN, M.D.; MARK W.
MALONEY, D.O.; DRMC PRIMARY
CARE ASSOCIATES; SANAA HELMI,
M.D.; THOMAS J. BRADLEY, M.D.;
BRADFORD BOBRIN, M.D.; DUBOIS
REGIONAL MEDICAL CENTER a/k/a
DUBOIS REGIONAL MEDICAL CENTER
WEST a/d/b/a DRMC BEHAVIORAL
UNIT a/k/a DRMC EAST BEHAVIORAL
UNIT a/k/a DRMC BEHAVIORAL
HEALTH OUTPATIENT CLINIC,

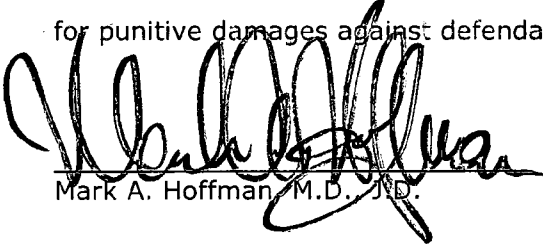
Defendants.

CIVIL DIVISION

No. 07-644-CD

STIPULATION

1. Plaintiffs, through their attorneys, hereby stipulate they are not making claims
for punitive damages against defendant, James E. Devlin, M.D. *at the present time.*


Mark A. Hoffman, M.D., J.D.


M. Brian O'Connor, Esquire

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that I served a true and correct copy of the foregoing Stipulation upon all counsel of record by United States, First-class mail, postage prepaid, this 13th day of February, 2008.

Thomas R. Kline, Esquire
Mark A. Hoffman, Esquire
Kline & Specter, P.C.
1525 Locust Street, 19th Floor
Philadelphia, PA 19102

David R. Bahl, Esquire
McCormick Law Firm
835 West Fourth Street
Williamsport, PA 17701

Darryl R. Slimak, Esquire
McQuaide, Blasko
811 University Drive
State College, PA 16801

Lynn Bell, Esquire
Davis, McFarland & Carroll, P.C.
One Gateway Center
420 Fort Duquesne Blvd., 10th Floor
Pittsburgh, PA 15222

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

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

MATIS BAUM RIZZA O'CONNOR


M. Brian O'Connor

FILED

FEB 15 2008

William A. Shaw
Prothonotary/Clerk of Courts

RECEIVED
FEB 15 2008
CLERK OF COURTS

LA

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

WANDA RUSSELL,

CIVIL ACTION

Plaintiff,

vs.

No.: 07-644-CD

JAMES E. DEVLIN, M.D., MARK W.
MALONEY, D.O., DRMC PRIMARY
CARE ASSOCIATES, SANAA HELMI,
M.D., THOMAS J. BRADLEY, M.D.,
BRADFORD BOBRIN, M.D., DUBOIS
REGIONAL MEDICAL CENTER a/k/a
DUBOIS REGIONAL MEDICAL
CENTER WEST a/d/b/a DRMC
BEHAVIORAL UNIT a/k/a DRMC EAST
BEHAVIORAL UNIT a/k/a DRMC
BEHAVIORAL HEALTH OUTPATIENT
CLINIC,

Defendants.

STIPULATION

Filed on Behalf of this Party:

Bradford Bobrin, M.D., One of the
Defendants

Counsel of Record for this Party:

Lynn E. Bell, Esquire
PA I.D. #38588

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

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

(412) 281-0737

JURY TRIAL DEMANDED

FILED *no cc*
m/ll.02/07
FEB 29 2008 *GD*

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

WANDA RUSSELL,

CIVIL ACTION

Plaintiff,

No.: 07-644-CD

v.

JAMES E. DEVLIN, M.D., MARK W.
MALONEY, D.O., DRMC PRIMARY
CARE ASSOCIATES, SANAA HELMI,
M.D., THOMAS J. BRADLEY, M.D.,
BRADFORD BOBRIN, M.D., DUBOIS
REGIONAL MEDICAL CENTER a/k/a
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CENTER WEST a/d/b/a DRMC
BEHAVIORAL UNIT a/k/a DRMC EAST
BEHAVIORAL UNIT a/k/a DRMC
BEHAVIORAL HEALTH OUTPATIENT
CLINIC,

Defendants.

STIPULATION

The Plaintiff and Defendant Bradford Bobrin, M.D., through their duly authorized and undersigned counsel, hereby stipulate and agree as follows:

- 1) Pursuant to the language of the Fourth Amended Complaint, Plaintiff is not seeking punitive damages at this time. The use of the terms "reckless" and "gross negligence" in the Fourth Amended Complaint are not meant to encompass a request for punitive damages; and

- 2) Upon filing of this signed stipulation, Defendant Bradford Bobrin, M.D. agrees to withdraw his Preliminary Objections to the Fourth Amended Complaint.

BY THE PARTIES:

Kline & Specter, P.C.

By:

Mark Hoffman, Esquire
Attorneys for Plaintiff

Davies McFarland & Carroll, P.C.

By:

Lauren R. Ames, Esquire
Attorneys for Defendant
Bradford Bobrin, M.D.

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that I served the foregoing document to all counsel of record
via U.S. Mail on the 19th day of February 2008:

Thomas R. Kline, Esquire
Mark A. Hoffman, Esquire
Kline & Specter, P.C.
1525 Locust Street, 19th Floor
Philadelphia, PA 19102

Attorneys for Plaintiff

Daryl Slimak, Esquire
McQuaide Blasko
811 University Drive
State College, PA 16801

M. Brian O'Connor, Esquire
Matis Baum Rizza & O'Connor, P.C.
444 Liberty Avenue, Suite 300
Pittsburgh, PA 15222

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

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

David R. Bahl, Esquire
Richard F. Schluter, Esquire
McCormick Law Firm
835 West Fourth Street
Williamsport, PA 17703

Attorney for Dr. Mark W. Maloney

DAVIES, McFARLAND & CARROLL, P.C.

By: _____


Lynn E. Bell, Esquire
Lauren R. Ames, Esquire
Attorneys for Bradford Bobrin, M.D.,
One of the Defendants

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

WANDA RUSSELL,

Plaintiff,

vs.

JAMES E. DEVLIN, M.D. and MARK
W. MALONEY, D.O. and DRMC
PRIMARY CARE ASSOCIATES and
SANAA HELMI, M.D. and THOMAS J.
BRADLEY, M.D. and BRADFORD
BOBRIN, M.D. and DUBOIS
REGIONAL MEDICAL CENTER a/k/a
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BEHAVIORAL UNIT a/k/a DRMC
EAST BEHAVIORAL UNIT a/k/a
DRMC BEHAVIORAL HEALTH
OUTPATIENT CLINIC,

Defendants.

CIVIL DIVISION

CASE NO: 07-644-CD

Type of Pleading:

**PRAECIPE TO WITHDRAW
PRELIMINARY OBJECTIONS TO
PLAINTIFF'S FOURTH
AMENDED COMPLAINT**

Filed on behalf of Defendant:

Thomas J. Bradley, M.D.

Counsel of record for this party:

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

Marissa L. Farrone, Esquire
PA I.D. # 204882

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

JURY TRIAL DEMANDED

FILED

MAR 10 2008

4/12/50/6

William A. Shaw
Prothonotary/Clerk of Courts

No 9/c

CA

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

WANDA RUSSELL,

Plaintiff,

vs.

JAMES E. DEVLIN, M.D. and MARK
W. MALONEY, D.O. and DRMC
PRIMARY CARE ASSOCIATES and
SANAA HELMI, M.D. and THOMAS
J. BRADLEY, M.D. and BRADFORD
BOBRIN, M.D. and DUBOIS
REGIONAL MEDICAL CENTER a/k/a
DUBOIS REGIONAL MEDICAL
CENTER WEST a/d/b/a DRMC
BEHAVIORAL UNIT a/k/a DRMC
EAST BEHAVIORAL UNIT a/k/a
DRMC BEHAVIORAL HEALTH
OUTPATIENT CLINIC,

Defendants.

CIVIL DIVISION

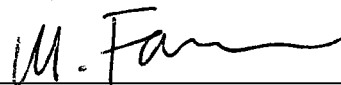
CASE NO: 07-644-CD

**PRAECIPE TO WITHDRAW PRELIMINARY OBJECTIONS
TO PLAINTIFF'S FOURTH AMENDED COMPLAINT**

TO: THE PROTHONOTARY AND COURT ADMINISTRATOR:

Please withdraw the Preliminary Objections to Plaintiff's Fourth Amended Complaint, filed by
Defendant Thomas J. Bradley, M.D., in this matter.

O'BRIEN, RULIS & BOCHICCHIO, LLC



Christopher C. Rulis, Esquire
Marissa L. Farrone, Esquire
Counsel for Defendant,
Thomas J. Bradley, M.D.

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that a true and correct copy of the within **PRAECIPE TO WITHDRAW PRELIMINARY OBJECTIONS TO PLAINTIFF'S FOURTH AMENDED COMPLAINT** was mailed by United States Mail on this 6th day of March, 2008, to the following:

Thomas R. Kline, Esquire
Kline & Specter, P.C.
1525 Locust Street, 19th Floor
Philadelphia, PA 19102

David R. Bahl, Esquire
McCormick Law Firm
835 West Fourth Street
P.O. Box 577
Williamsport, PA 17701

Darryl R. Slimak, Esquire
McQuaide, Blasko, Fleming & Faulkner, Inc.
811 University Drive
State College, PA 16801

M. Brian O'Connor, Esquire
Gaca Matis Baum & Rizza PC
444 Liberty Avenue
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Pittsburgh, PA 15222

Lynn Bell, Esquire
Davis, McFarland & Carroll, P.C.
Tenth Floor, One Gateway Center
Pittsburgh, PA 15222

DRMC Primary Care Associates
Medical Arts Building, Suite 200
145 Hospital Drive
DuBois, PA 15801

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

O'BRIEN, RULIS & BOCHICCHIO, LLC

A handwritten signature in cursive script, appearing to read "M. Farrone", positioned above a horizontal line.

Christopher C. Rulis, Esquire
Marissa L. Farrone, Esquire
Counsel for Defendant,
Thomas J. Bradley, M.D.

Prothonotary/Clerk of Courts
William A. Shaw

MAR 10 2008

FILED

FILED

MAR 28 2008

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

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

no C/C (610)

WANDA RUSSELL,

Plaintiff,

vs.

JAMES E. DEVLIN, M.D. and MARK W.
MALONEY, D.O. and DRMC PRIMARY
CARE ASSOCIATES and SANAA HELMI,
M.D. and THOMAS J. BRADLEY, M.D. and
BRADFORD BOBRIN, M.D. and DUBOIS
REGIONAL MEDICAL CENTER a/k/a
DUBOIS REGIONAL MEDICAL CENTER
WEST a/d/b/a DRMC BEHAVIORAL UNIT
a/k/a DRMC EAST BEHAVIORAL UNIT
a/k/a DRMC BEHAVIORAL HEALTH
OUTPATIENT CLINIC,

Defendants.

CIVIL DIVISION

CASE NO: 07-644-CD

Type of Pleading:

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

Filed on behalf of Defendant:
Thomas J. Bradley, M.D.

Counsel of record for this party:

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

Marissa L. Farrone, Esquire
PA I.D. # 204882

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

JURY TRIAL DEMANDED

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

WANDA RUSSELL,

Plaintiff,

vs.

JAMES E. DEVLIN, M.D., et al.

Defendants.

CIVIL DIVISION

CASE NO: 07-644-CD

NOTICE TO PLEAD

TO: Wanda Russell
c/o Thomas R. Kline, Esquire
Kline & Specter, P.C.
1525 Locust Street, 19th Floor
Philadelphia, PA 19102

You are hereby notified to file a written response to this Answer and New Matter to Plaintiff's Fourth Amended Complaint within twenty (20) days of service hereof or a judgment may be entered against you.



Marissa L. Farrone, Esquire
Christopher C. Rulis, Esquire
Counsel for Defendant Thomas J. Bradley, M.D.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

WANDA RUSSELL,	:	CIVIL DIVISION
	:	
Plaintiff,	:	CASE NO: 07-644-CD
	:	
vs.	:	
	:	
JAMES E. DEVLIN, M.D., et al.	:	
	:	
Defendants.	:	

ANSWER AND NEW MATTER

Defendant, THOMAS J. BRADLEY, M.D. (hereinafter "Defendant Bradley"), by and through his counsel, O'BRIEN, RULIS & BOCHICCHIO, LLC, files the following Answer and New Matter to Plaintiff's Fourth Amended Complaint:

ANSWER

PARTIES

1. Denied. After reasonable investigation, Defendant Bradley is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations set forth in Paragraph 1 of Plaintiff's Fourth Amended Complaint. Accordingly, the same are denied and strict proof thereof is demanded at time of trial.

2-8. Paragraph Nos. 2 through 8 of plaintiff's Fourth Amended Complaint are directed to parties other than this defendant; therefore, no response is necessary.

9. Admitted in part and denied in part. It is admitted that Defendant Bradley was at all material times a duly licensed physician in the Commonwealth of Pennsylvania who maintained a professional office at 701 Sunflower Drive, DuBois, Pennsylvania 15801, and who was at all times

material a family medicine physician. To the extent Paragraph 9 alleges that Defendant Bradley was under a written contract with the DuBois Regional Medical Center, the same is denied.

10. Admitted in part and denied in part. To the extent Paragraph 10 alleges that Defendant Bradley was under a written contract with the DuBois Regional Medical Center, the same is denied. Remaining allegations are admitted to the extent the same are not inconsistent with the deposition testimony of Defendant Bradley.

11. Admitted, to the extent the allegations contained in Paragraph 11 are not inconsistent with the deposition testimony of Defendant Bradley.

12-13. Paragraph Nos. 12 through 13 of plaintiff's Fourth Amended Complaint are directed to parties other than this defendant; therefore, no response is necessary.

14-15. Denied. Defendant Bradley was at all relevant times an independent contractor. Defendant Bradley specifically denies all allegations of agency, ostensible agency, master-servant, employment relationship, respondent superior, and/or right of control. Defendant Bradley further specifically denies any allegations of negligence, gross negligence, and/or recklessness as regards his conduct. Defendant Bradley is without knowledge or information sufficient to form a belief as to the truth or falsity of the remaining allegations contained in Paragraph Nos. 14 and 15 of plaintiff's Fourth Amended Complaint. The same are therefore denied and strict proof is demanded at the time of trial.

16. Paragraph 14 of plaintiff's Fourth Amended Complaint contains conclusions of law to which no response is required.

FACTS GIVING RISE TO CLAIMS OF NEGLIGENCE

17-19. Denied. Defendant Bradley is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in Paragraph Nos. 17 through 19 of plaintiff's Fourth Amended Complaint. Further, defendant denies all allegations contained in

Paragraphs 17 through 19 that are inconsistent with, or incomplete as compared to, the pertinent DuBois Regional Medical Center medical records.

20—23. Admitted in part and denied in part. The allegations contained in Paragraph Nos. 20 through 23 are denied to the extent they are inconsistent with, or incomplete compared to, Defendant Bradley's deposition testimony.

24—27. Admitted in part and denied in part. The allegations contained in Paragraph Nos. 24 through 27 of plaintiff's Fourth Amended Complaint are denied to the extent that they are inconsistent with, or incomplete compared to, pertinent Dubois Regional Medical Center medical records.

28. Admitted in part and denied in part. The allegations contained in Paragraph No. 28 are denied to the extent they are inconsistent with, or incomplete compared to, Defendant Bradley's deposition testimony.

29. Admitted in part and denied in part. The allegations contained in Paragraph No. 29 of plaintiff's Fourth Amended Complaint are denied to the extent that they are inconsistent with, or incomplete compared to, pertinent Dubois Regional Medical Center medical records.

30. Admitted in part and denied in part. The allegations contained in Paragraph No. 30 are denied to the extent they are inconsistent with, or incomplete compared to, Defendant Bradley's deposition testimony.

31-32. Admitted in part and denied in part. The allegations contained in Paragraph Nos. 31-32 of plaintiff's Fourth Amended Complaint are denied to the extent that they are inconsistent with, or incomplete compared to, pertinent Dubois Regional Medical Center medical records.

33-34. Admitted in part and denied in part. The allegations contained in Paragraph Nos. 33-34 are denied to the extent they are inconsistent with, or incomplete compared to, Defendant Bradley's deposition testimony.

35. Admitted in part and denied in part. The allegations contained in Paragraph No. 35 of plaintiff's Fourth Amended Complaint are denied to the extent that they are inconsistent with, or incomplete compared to, pertinent Dubois Regional Medical Center medical records.

36-37. Denied. Defendant Bradley is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in Paragraph Nos. 36 through 37 of plaintiff's Fourth Amended Complaint. Further, the allegations contained in Paragraph Nos. 36-37 of plaintiff's Fourth Amended Complaint are denied to the extent that they are inconsistent with, or incomplete compared to, Defendant Bradley's deposition testimony.

38-41. Admitted in part and denied in part. The allegations contained in Paragraph Nos. 38 through 41 of plaintiff's Fourth Amended Complaint are denied to the extent that they are inconsistent with, or incomplete compared to, pertinent Dubois Regional Medical Center medical records.

42. Denied. Defendant Bradley is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in Paragraph No. 42 of plaintiff's Fourth Amended Complaint. Therefore, the same are denied and strict proof is demanded at time of trial.

43. Denied. The allegations contained in Paragraph No. 43 of plaintiff's Fourth Amended Complaint are denied to the extent that they are inconsistent with, or incomplete compared to, Defendant Bradley's deposition testimony.

44. Admitted in part and denied in part. The allegations contained in Paragraph No. 44 of plaintiff's Fourth Amended Complaint are denied to the extent that they are inconsistent with, or incomplete compared to, pertinent Dubois Regional Medical Center medical records.

45. Denied. Defendant Bradley is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in Paragraph No. 45 of plaintiff's Fourth Amended Complaint. Accordingly, the same are denied and strict proof is demanded at time of trial.

46-47. Admitted in part and denied in part. The allegations contained in Paragraph Nos. 46 through 47 of plaintiff's Fourth Amended Complaint are denied to the extent that they are inconsistent with, or incomplete compared to, pertinent Dubois Regional Medical Center medical records.

48-76. Paragraph Nos. 48 through 76 of plaintiff's Fourth Amended Complaint are directed to parties other than this defendant; therefore, no response is necessary. To the extent a response is necessary, the allegations contained in Paragraph Nos. 48 through 76 of plaintiff's Fourth Amended Complaint are denied to the extent that they are inconsistent with, or incomplete compared to, pertinent Dubois Regional Medical Center medical records.

77. Denied. Defendant Bradley specifically denies any allegations that he acted negligently or with wanton and willful disregard at any time, as regards plaintiff. Furthermore, the allegations contained in Paragraph No. 77 of plaintiff's Fourth Amended Complaint are denied to the extent that they are inconsistent with, or incomplete compared to, pertinent Dubois Regional Medical Center medical records.

78-84. Paragraph Nos. 78 through 84 of plaintiff's Fourth Amended Complaint are directed to parties other than this defendant; therefore, no response is necessary. To the extent a response is necessary, the allegations contained in Paragraph Nos. 78 through 84 of plaintiff's Fourth Amended Complaint are denied to the extent that they are inconsistent with, or incomplete compared to, pertinent Dubois Regional Medical Center medical records.

85. Admitted in part and denied in part. Defendant Bradley specifically denies all allegations of negligence, gross negligence, and/or recklessness contained in Paragraph No. 87. It is admitted that Defendant Bradley performed a history and physical examination on Wanda Russell; that Defendant Bradley found some left upper extremity weakness and facial asymmetry which was difficult to evaluate due to plaintiff's anxiety; and that Defendant Bradley's note indicates plaintiff was

admitted for psyche evaluation and treatment. The remaining allegations contained in Paragraph Nos. 85 through 88 of plaintiff's Fourth Amended Complaint are denied to the extent that they are inconsistent with, or incomplete compared to, pertinent Dubois Regional Medical Center medical records and/or Defendant Bradley's deposition testimony.

89. Denied. To the extent the allegations contained in paragraph 89 of plaintiff's Fourth Amended Complaint may be directed to Defendant Bradley, Defendant Bradley specifically denies any negligence, gross negligence, and/or recklessness.

90. Denied. Defendant Bradley specifically denies any allegations of negligence, gross negligence, and/or reckless disregard. Defendant Bradley denies the remaining allegations contained in paragraph 90 of plaintiff's Fourth Amended Complaint, to the extent the same are inconsistent with, or incomplete compared to, pertinent Dubois Regional Medical Center medical records and/or Defendant Bradley's deposition testimony.

91. Denied. Defendant Bradley specifically denies any allegations of negligence, gross negligence, and/or recklessness. Defendant Bradley denies the remaining allegations contained in paragraph 91 of plaintiff's Fourth Amended Complaint, to the extent the same are inconsistent with, or incomplete compared to, pertinent Dubois Regional Medical Center medical records and/or Defendant Bradley's deposition testimony.

92. Denied. Defendant Bradley specifically denies any allegations of negligence, gross negligence, and/or recklessness. Defendant Bradley denies the remaining allegations contained in paragraph 92 of plaintiff's Fourth Amended Complaint, to the extent the same are inconsistent with, or incomplete compared to, pertinent Dubois Regional Medical Center medical records and/or Defendant Bradley's deposition testimony.

93. Denied. Defendant Bradley is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in Paragraph No. 93 of plaintiff's Fourth Amended Complaint. Accordingly, the same are denied and strict proof is demanded at time of trial.

94. Denied. Defendant Bradley specifically denies any allegations of negligence, gross negligence, and/or recklessness. Defendant Bradley denies the remaining allegations contained in paragraph 94 of plaintiff's Fourth Amended Complaint, to the extent the same are inconsistent with, or incomplete compared to, pertinent Dubois Regional Medical Center medical records and/or Defendant Bradley's deposition testimony.

95. Denied. Defendant Bradley denies the allegations contained in paragraph 95 of plaintiff's Fourth Amended Complaint, to the extent the same are inconsistent with, or incomplete compared to, pertinent Dubois Regional Medical Center medical records and/or Defendant Bradley's deposition testimony.

96. Denied. Defendant Bradley denies the allegations contained in paragraph 96 of plaintiff's Fourth Amended Complaint, to the extent the same are inconsistent with, or incomplete compared to, pertinent Dubois Regional Medical Center medical records and/or Defendant Bradley's deposition testimony.

97. Denied. Defendant Bradley denies the allegations contained in paragraph 97 of plaintiff's Fourth Amended Complaint, to the extent the same are inconsistent with, or incomplete compared to, pertinent Dubois Regional Medical Center medical records and/or Defendant Bradley's deposition testimony.

98. Denied. Defendant Bradley denies the allegations contained in paragraph 98 of plaintiff's Fourth Amended Complaint, to the extent the same are inconsistent with, or incomplete

compared to, pertinent Dubois Regional Medical Center medical records and/or Defendant Bradley's deposition testimony.

99-113. Paragraph Nos. 99 through 113 of plaintiff's Fourth Amended Complaint are directed to parties other than this defendant; therefore, no response is necessary. To the extent a response is necessary, the allegations contained in Paragraph Nos. 99 through 113 of plaintiff's Fourth Amended Complaint are denied to the extent that they are inconsistent with, or incomplete compared to, pertinent Dubois Regional Medical Center medical records.

114. Denied. Defendant Bradley specifically denies any negligence, gross negligence, and/or recklessness on his part. Furthermore, Defendant Bradley denies the allegations contained in paragraph 114 of plaintiff's Fourth Amended Complaint, to the extent the same are inconsistent with, or incomplete compared to, pertinent Dubois Regional Medical Center medical records and/or Defendant Bradley's deposition testimony.

115-120. Paragraph Nos. 115 through 120 of plaintiff's Fourth Amended Complaint are directed to parties other than this defendant; therefore, no response is necessary. To the extent a response is necessary, the allegations contained in Paragraph Nos. 115 through 120 of plaintiff's Fourth Amended Complaint are denied to the extent that they are inconsistent with, or incomplete compared to, pertinent Dubois Regional Medical Center medical records.

121. Denied. Defendant Bradley is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in Paragraph No. 121 of plaintiff's Fourth Amended Complaint. Accordingly, the same are denied and strict proof is demanded at time of trial. Furthermore, the allegations contained in Paragraph No. 121 of plaintiff's Fourth Amended Complaint are denied to the extent that they are inconsistent with, or incomplete compared to, pertinent Dubois Regional Medical Center medical records.

122-123. Denied. The allegations contained in Paragraph Nos. 122-123 of plaintiff's Fourth Amended Complaint are denied to the extent that they are inconsistent with, or incomplete compared to, pertinent Dubois Regional Medical Center medical records.

124. Denied. Defendant Bradley specifically denies all allegations of negligence, gross negligence, or recklessness on his part, which are contained within Paragraph No. 124. Defendant Bradley further denies that any of his conduct caused or increased the risk of harm to plaintiff.

125. Denied. Defendant Bradley specifically denies all allegations of negligence, gross negligence, or recklessness on his part, which are contained within Paragraph No. 125. Defendant Bradley further denies that any of his conduct caused or increased the risk of harm to plaintiff.

126. Denied. Defendant Bradley specifically denies all allegations of negligence, gross negligence, or recklessness on his part, which are contained within Paragraph No. 126. Defendant Bradley further denies that any of his conduct caused or increased the risk of harm to plaintiff.

127. Defendant Bradley specifically denies all allegations of negligence, gross negligence, or recklessness on his part contained within Paragraph No. 127. Defendant Bradley further denies that any of his conduct caused or increased the risk of harm to plaintiff. Defendant Bradley is without knowledge or information sufficient to form a belief as to the truth or falsity of the remaining allegations contained in Paragraph No. 127 of plaintiff's Fourth Amended Complaint. Accordingly, the same are denied and strict proof is demanded at time of trial.

COUNT I - NEGLIGENCE
(Plaintiff v. Dr. Devlin)

128. Defendant, THOMAS J. BRADLEY, M.D., incorporates his responses and affirmative averments contained in Paragraph Nos. 1 through 127 of this Answer as if fully set forth herein.

129. Paragraphs Nos. 129(a) through (o) of plaintiff's Fourth Amended Complaint are directed to a party other than this defendant; therefore, no response is necessary.

WHEREFORE, defendant, THOMAS J. BRADLEY, M.D., demands judgment in his favor and against the plaintiff.

COUNT II - NEGLIGENCE
(Plaintiff v. Dr. Maloney)

130. Defendant, THOMAS J. BRADLEY, M.D., incorporates his responses and affirmative averments contained in Paragraph Nos. 1 through 129 of this Answer as if fully set forth herein.

131. Paragraphs Nos. 131(a) through (cc) of plaintiff's Fourth Amended Complaint are directed to a party other than this defendant; therefore, no response is necessary.

WHEREFORE, defendant, THOMAS J. BRADLEY, M.D., demands judgment in his favor and against the plaintiff.

COUNT III - NEGLIGENCE
(Plaintiff v. Dr. Helmi)

132. Defendant, THOMAS J. BRADLEY, M.D., incorporates his responses and affirmative averments contained in Paragraph Nos. 1 through 131 of this Answer as if fully set forth herein.

133. Paragraphs Nos. 133(a) through (y) of plaintiff's Fourth Amended Complaint are directed to a party other than this defendant; therefore, no response is necessary.

WHEREFORE, defendant, THOMAS J. BRADLEY, M.D., demands judgment in his favor and against the plaintiff.

COUNT IV - NEGLIGENCE
(Plaintiff v. Dr. Bradley)

134. Defendant, THOMAS J. BRADLEY, M.D., incorporates his responses and affirmative averments contained in Paragraph Nos. 1 through 133 of this Answer as if fully set forth herein.

135. Denied. Defendant Bradley denies all allegations of negligence, gross negligence, and/or recklessness contained in Paragraph Nos. 135(a) – (cc). Therefore, strict proof is demanded at the time of trial.

WHEREFORE, defendant, THOMAS J. BRADLEY, M.D., demands judgment in his favor and against the Plaintiff.

COUNT V – NEGLIGENCE
(Plaintiff v. Dr. Bobrin)

136. Defendant, THOMAS J. BRADLEY, M.D., incorporates his responses and affirmative averments contained in Paragraph Nos. 1 through 135 of this Answer as if fully set forth herein.

137. Paragraphs Nos. 137(a) through (dd) of plaintiff's Fourth Amended Complaint are directed to a party other than this defendant; therefore, no response is necessary.

WHEREFORE, defendant, THOMAS J. BRADLEY, M.D., demands judgment in his favor and against the plaintiff.

COUNT VI- NEGLIGENCE (erroneously numbered Count V)

(Plaintiff v. DuBois Regional Medical Center a/k/a
DuBois Regional Medical Center West a/d/b/a DRMC Behavioral Unit a/k/a DRMC East Behavioral
Unit a/k/a DRMC Behavioral Outpatient Clinic)

138. Defendant, THOMAS J. BRADLEY, M.D., incorporates his responses and affirmative averments contained in Paragraph Nos. 1 through 137 of this Answer as if fully set forth herein.

139. Denied. Defendant Bradley is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in Paragraph No. 132 of plaintiff's Fourth Amended Complaint. The same are therefore denied and strict proof is demanded at the time of trial. Defendant Bradley further denies all allegations of agency, ostensible agency, servitude, and/or

employment. Defendant Bradley further specifically denies any allegations of negligence, gross negligence, and/or recklessness on his part.

140. Paragraph Nos. 140 (a) through (k) of plaintiff's Fourth Amended Complaint are directed to a party other than this defendant; therefore, no response is necessary.

141. Paragraph Nos. 141 (a) through (d) of plaintiff's Fourth Amended Complaint are directed to a party other than this defendant; therefore, no response is necessary.

142. Paragraph Nos. 142 (a) through (v) of plaintiff's Fourth Amended Complaint are directed to a party other than this defendant; therefore, no response is necessary.

WHEREFORE, defendant, THOMAS J. BRADLEY, M.D., demands judgment in his favor and against the plaintiff.

NEW MATTER

1. Defendant, THOMAS J. BRADLEY, M.D., incorporates his responses and affirmative averments set forth in Paragraph Nos. 1 through 142, including all subparagraphs therein, of this Answer, as if same were set forth at length herein.

2. To the extent plaintiff's claims are barred by any and all applicable statutes of limitation under Pennsylvania law, Defendant Bradley pleads such statutes as an affirmative defense.

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

4. To the extent justified by the facts developed in discovery and/or the evidence introduced at the time of trial, Defendant Bradley avers that the conduct of others not a party to this action and/or factors beyond his control caused or contributed to the alleged injuries and/or damages of plaintiff.

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

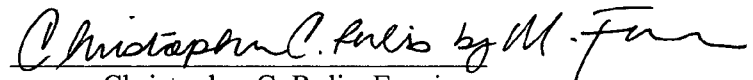
6. If, at the time of trial, it is established that plaintiff caused or contributed to the injuries and conditions alleged herein by failing to provide accurate and thorough medical history and/or failing to obtain or to cooperate with medical treatment or recommended medical treatment, then Defendant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

O'BRIEN, RULIS & BOCHICCHIO, LLC

By: 
Christopher C. Rulis, Esquire
Marissa L. Farrone, Esquire
Counsel for Defendant
Thomas J. Bradley, M.D.

VERIFICATION

I hereby certify that I am Counsel for the Defendant, Thomas J. Bradley, M.D., and further that the foregoing averments of fact in the foregoing **DEFENDANT'S ANSWERS AND NEW MATTER TO PLAINTIFF'S FOURTH AMENDED COMPLAINT** are true and correct and based upon my personal knowledge, information or belief. This verification is being furnished because the Defendant's verification cannot be obtained within the appropriate time for filing this Pleading. 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.


Christopher C. Rulis, Esquire
Counsel for Defendant,
Thomas J. Bradley, M.D.

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that a true and correct copy of the within **ANSWER AND NEW MATTER TO PLAINTIFF'S FOURTH AMENDED COMPLAINT** has been served via first class United States mail, postage prepaid, on this 25 day of March, 2008, upon the following counsel of record:

Thomas R. Kline, Esquire
Mark A. Hoffman, Esquire
Royce W. Smith, Esquire
KLINE & SPECTER, P.C.
The Nineteenth Floor
1525 Locust Street
Philadelphia, PA 19102

David R. Bahl, Esquire
McCormick Law Firm
835 West Fourth Street
P.O. Box 577
Williamsport, PA 17701

Darryl R. Slimak, Esquire
McQuaide, Blasko, Fleming & Faulkner, Inc.
811 University Drive
State College, PA 16801

Lynn Bell, Esquire
Davis, McFarland & Carroll, P.C.
Tenth Floor, One Gateway Center
Pittsburgh, PA 15222

Matthew Brian O'Connor, Esquire
Matis Baum & Rizza PC
444 Liberty Avenue
Suite 300
Pittsburgh, PA 15222

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



Christopher C. Rulis, Esquire
Marissa L. Farrone, Esquire
Counsel for Defendant Thomas J. Bradley, M.D.

FILED
MAR 28 2009
Prothonotary/Clerk of Courts
William A. Shaw

UP

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA

WANDA RUSSELL,
Plaintiff

CIVIL DIVISION

v.

CASE NO. 07-644-CD

JAMES E. DEVLIN, M.D.; MARK W.
MALONEY, D.O.; DRMC PRIMARY
CARE ASSOCIATES; SANAA HELMI,
M.D.; THOMAS J. BRADLEY, M.D.;
BRADFORD BOBRIN, M.D.; DUBOIS
REGIONAL MEDICAL CENTER a/k/a
DUBOIS REGIONAL MEDICAL
CENTER WEST a/d/b/a DRMC
BEHAVIORAL UNIT a/k/a DRMC EAST
BEHAVIORAL UNIT a/k/a DRMC
BEHAVIORAL HEALTH OUTPATIENT
CLINIC,

Defendants

Type of Pleading:

**PRAECIPE TO WITHDRAW
PRELIMINARY OBJECTIONS
OF DEFENDANT MARK W.
MALONEY, D.O.**

Filed on behalf of Defendant:

Mark W. Maloney, D.O.

Counsel of record for this party:

David R. Bahl, Esquire
Pa. I.D. No. 10347

Richard F. Schluter, Esquire
Pa. I.D. No. 79672

McCORMICK LAW FIRM
835 West Fourth Street
Williamsport, PA 17701
(570) 326-5131

JURY TRIAL DEMANDED

FILED ^{icc}
MAR 31 2008 Atty Schluter
(62)

William A. Shaw
Prothonotary/Clerk of Courts

WANDA RUSSELL,
Plaintiff

v.

JAMES E. DEVLIN, M.D.; MARK W.
MALONEY, D.O.; DRMC PRIMARY
CARE ASSOCIATES; SANAA HELMI,
M.D.; THOMAS J. BRADLEY, M.D.;
BRADFORD BOBRIN, M.D.; DUBOIS
REGIONAL MEDICAL CENTER a/k/a
DUBOIS REGIONAL MEDICAL
CENTER WEST a/d/b/a DRMC
BEHAVIORAL UNIT a/k/a DRMC EAST
BEHAVIORAL UNIT a/k/a DRMC
BEHAVIORAL HEALTH OUTPATIENT
CLINIC,

Defendants

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY,
PENNSYLVANIA

NO. 07-644-CD

CIVIL ACTION - LAW

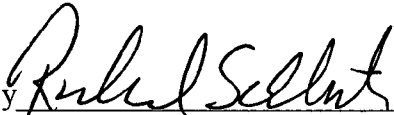
JURY TRIAL DEMANDED

**PRAECIPE TO WITHDRAW PRELIMINARY OBJECTIONS
OF DEFENDANT MARK W. MALONEY, D.O. TO
PLAINTIFF'S FOURTH AMENDED COMPLAINT**

TO THE PROTHONOTARY:

Kindly withdraw the preliminary objections of defendant Mark W. Maloney, D.O. to
Plaintiff's Fourth Amended Complaint, and cancel the argument scheduled for April 7, 2008 at
9:15 a.m. in Courtroom 1.

McCORMICK LAW FIRM

By 

David R. Bahl, Esquire

I.D. No. 10347

Richard F. Schluter, Esquire

I.D. No. 79672

Attorneys for Defendant

Mark W. Maloney, D.O.

Date: 3/28/08

cc: Thomas R. Kline, Esquire /
Mark A. Hoffman, Esquire
Darryl Slimak, Esquire
M. Brian O'Connor, Esquire
Lynn E. Bell, Esquire
John L. McIntyre, Esquire
Christopher C. Rulis, Esquire

WANDA RUSSELL,
Plaintiff

v.

JAMES E. DEVLIN, M.D.; MARK W.
MALONEY, D.O.; DRMC PRIMARY
CARE ASSOCIATES; SANAA HELMI,
M.D.; THOMAS J. BRADLEY, M.D.;
BRADFORD BOBRIN, M.D.; DUBOIS
REGIONAL MEDICAL CENTER a/k/a
DUBOIS REGIONAL MEDICAL
CENTER WEST a/d/b/a DRMC
BEHAVIORAL UNIT a/k/a DRMC EAST
BEHAVIORAL UNIT a/k/a DRMC
BEHAVIORAL HEALTH OUTPATIENT
CLINIC,

Defendants

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY,
PENNSYLVANIA

NO. 07-644-CD

CIVIL ACTION - LAW

JURY TRIAL DEMANDED

CERTIFICATE OF SERVICE

I, RICHARD F. SCHLUTER, ESQUIRE, hereby certify that I have served a copy of the

Foregoing *Praecepte to Withdraw Preliminary Objections of Defendant Mark W. Maloney,*

D.O., upon the following, this 28th day of March, 2008, as follows:

UNITED STATES MAIL, POSTAGE PREPAID:

Mark A. Hoffman, Esquire
Kline & Specter, PC
The Nineteenth Floor
1525 Locust Street
Philadelphia, PA 19102

Darryl Slimak, Esquire
McQuaide Blasko
811 University Drive
State College, PA 16801

M. Brian O'Connor, Esquire
Gaca, Matis, Baum & Rizza, PC
444 Liberty Avenue, Suite 300
Pittsburgh, PA 15222

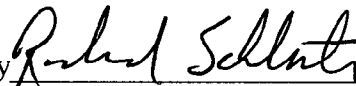
Lynn E. Bell, Esquire
Davies, McFarland & Carroll, PC
One Gateway Center, 10th Floor
Pittsburgh, PA 15222-1416

John L. McIntyre, Esquire
McIntyre, Dugas, Hartye & Schmitt
Post Office Box 533
Hollidaysburg, PA 16648-0533

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

DRMC Primary Care Associates
Medical Arts Building, Suite 200
145 Hospital Avenue
DuBois, PA 15801

McCORMICK LAW FIRM

By 

David R. Bahl, Esquire

I.D. No. 10347

Richard F. Schluter, Esquire

I.D. No. 79672

Attorneys for Defendant

Mark W. Maloney, D.O.

835 West Fourth Street
Williamsport, PA 17701
(570) 326-5131

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

WANDA RUSSELL,

Plaintiff

vs.

JAMES E. DEVLIN, M.D., MARK W.
MALONEY, D.O., DRMC PRIMARY CARE
ASSOCIATES, SANAA HELMI, M.D.,
THOMAS J. BRADLEY, M.D., BRADFORD
BOBRIN, M.D., and DUBOIS REGIONAL
MEDICAL CENTER a/k/a DUBOIS
REGIONAL MEDICAL CENTER WEST
a/d/b/a DRMC BEHAVIORAL UNIT a/k/a
DRMC EAST BEHAVIORAL UNIT a/k/a
DRMC BEHAVIORAL HEALTH
OUTPATIENT UNIT,

Defendants

No. 07-644-CD

ISSUE:

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

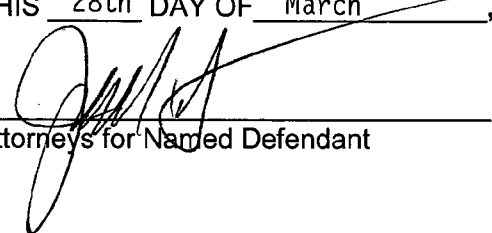
Filed on behalf of Defendant,
DUBOIS REGIONAL MEDICAL
CENTER a/k/a DUBOIS REGIONAL
MEDICAL CENTER WEST a/d/b/a
DRMC BEHAVIORAL UNIT a/k/a
DRMC EAST BEHAVIORAL UNIT
a/k/a DRMC BEHAVIORAL HEALTH
OUTPATIENT CLINIC

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

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

JURY TRIAL DEMANDED

I HEREBY CERTIFY THAT A TRUE AND
CORRECT COPY OF THE WITHIN WAS
MAILED TO ALL COUNSEL OF RECORD
THIS 28th DAY OF March, 2008.


Attorneys for Named Defendant

FILED NO cc
m11:01/62
MAR 31 2008 @

William A. Shaw
Prothonotary/Clerk of Courts

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

WANDA RUSSELL,

Plaintiff

vs.

JAMES E. DEVLIN, M.D., MARK W.
MALONEY, D.O., DRMC PRIMARY CARE
ASSOCIATES, SANAA HELMI, M.D.,
THOMAS J. BRADLEY, M.D., BRADFORD
BOBRIN, M.D., and DUBOIS REGIONAL
MEDICAL CENTER a/k/a DUBOIS
REGIONAL MEDICAL CENTER WEST
a/d/b/a DRMC BEHAVIORAL UNIT a/k/a
DRMC EAST BEHAVIORAL UNIT a/k/a
DRMC BEHAVIORAL HEALTH
OUTPATIENT UNIT,

Defendants

No. 07-644-CD

JURY TRIAL DEMANDED

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

AND NOW, comes the defendant, DUBOIS REGIONAL MEDICAL CENTER
a/k/a DUBOIS REGIONAL MEDICAL CENTER WEST a/d/b/a DRMC BEHAVIORAL
UNIT a/k/a DRMC EAST BEHAVIORAL UNIT a/k/a DRMC BEHAVIORAL HEALTH
OUTPATIENT CLINIC, and files the following Answer and New Matter to the Plaintiff's
Fourth Amended Complaint.

1. Admitted.

2-3. In response to Paragraphs 2 and 3, said averments are not directed to
this answering defendant; hence, no response is required.

4. Pursuant to the attached Stipulation, DRMC Primary Care Associates will
be deleted from the within case and DRMC will be substituted as the defendant.

5. In response to Paragraph 5, it is admitted that Dr. Maloney was an
employee of DRMC. It is denied that Dr. Devlin was an agent, servant or employee of

DRMC and strict proof of all allegations is demanded at trial. The remainder of the allegations constitute legal conclusions to which no response is required.

6-9. In response to Paragraphs 6-9 of the Complaint, said allegations are not directed to this answering defendant; hence, no response is required. Further, the remainder of said allegations are denied in accordance with Pa. R.C.P. 1029(e) and strict proof is demanded at trial.

10. In response to Paragraph 10, said allegations are denied in accordance with Pa. R.C.P. 1029(e) and strict proof is demanded at trial. It is admitted that in or about 1994 a contract was entered into between DRMC and Dr. Bradley.

11. In response to Paragraph 11, said allegation is not directed to this answering defendant, hence no response is required.

12. Admitted.

13. It is admitted that DuBois Regional Medical Center is a healthcare entity existing under the laws of the Commonwealth of Pennsylvania and that DRMC Behavioral Unit is a psychiatric unit located within the East Unit of the DuBois Regional Medical Center. The remainder of the allegations constitute legal conclusions to which no response is required. Further, the allegations are denied in accordance with Pa. R.C.P. 1029(e) and strict proof is demanded at trial.

14. In response to Paragraph 14, it is admitted that Dr. Maloney, Dr. Helmi and Dr. Bobrin were agents and/or employees of DuBois Regional Medical Center and/or DRMC Behavioral Unit. It is denied that Dr. Devlin and Dr. Bradley were agents, servants or employees, or ostensible agents, servants or employees of DuBois Regional Medical Center and/or DRMC Behavioral Unit. Strict proof of plaintiff's averments as to agency and employment of the named defendant physicians is demanded at the time of trial. As to the remainder of the allegations, it is denied that any of the agents, servants or employees of DRMC acted in a negligent, grossly negligent and/or reckless manner

and strict proof of said allegations is demanded at trial. See the Stipulation that withdraws all claims as to DRMC regarding reckless, willful or intentional conduct.

15. In response to Paragraph 15, it is again admitted that Dr. Maloney, Dr. Helmi and Dr. Bobrin, as well as the nurses who are identified on Exhibit "C" were agents and/or employees of DRMC Behavioral Unit and/or DuBois Regional Medical Center. It is denied that Dr. Devlin and/or Dr. Bradley were agents, servants or employees of DuBois Regional Medical Center and/or DRMC Behavioral Unit. As to any other persons that plaintiff alleges were agents, servants or employees or ostensible agents or employees, since no other individuals are named, DRMC cannot adequately respond and demands strict proof of the identity and all relationships pursuant to the PA Rules of Civil Procedure. Strict proof of all claims of employment and/or agency is demanded at trial. As to the remainder of the allegations regarding the liability of DuBois Regional Medical Center, the same constitutes a legal conclusion and strict proof of all claims of responsibility on behalf of DuBois Regional Medical Center is demanded at the time of trial. All allegations of reckless or willful conduct are withdrawn pursuant to the attached Stipulation. As to claims that any of the nurses or agents were negligent or grossly negligent, the same are denied in accordance with Pa. R.C.P. 1029(e) and strict proof is demanded at trial.

16. Admitted.

17-123. Paragraphs 17-123 in the Plaintiff's Fourth Amended Complaint are denied in accordance with Pa. R.C.P. 1029 (e). The averments contain selective portions of medical records and events and do not completely and fully set forth the circumstances pertaining to the care and treatment rendered to Wanda Russell.

The averments that are consistent with the medical records are admitted and the averments which are inconsistent with the medical records are denied and strict proof demanded at trial.

Further, insofar as the majority of the allegations pertain to specific notations and entries by the defendant physicians, the same are not directed to DuBois Regional Medical Center and no response is required. Strict proof of all allegations as contained in above paragraphs is demanded at the time of trial in accordance with the PA Rules of Civil Procedure.

In addition, all claims of intentional, willful, wanton or reckless conduct, as to DRMC, its nurses in the Behavioral Unit, and its agents are withdrawn pursuant to the attached Stipulation. As to any claims of negligence or gross negligence, these averments are denied pursuant to Pa. R.C.P. 1029(e) with strict proof being demanded at trial.

124-125. In response to Paragraphs 124-125 of the Plaintiff's Fourth Amended Complaint, it is specifically denied that DuBois Regional Medical Center, through its agents, servants or employees, was in anyway negligent or gross negligent or jointly or severally liable as alleged. These allegations constitute legal conclusions. Further, they are all denied in accordance with Pa. R.C.P. 1029(e). Strict proof is demanded at trial. As to the allegations that there was an increased risk of harm or that the asserted negligence caused the injuries, the same constitute legal conclusions. Strict proof of all claims of negligence and gross negligence is demanded at the time of trial, as well as injuries and causation.

126-127. In response to Paragraphs 126-127 of the Plaintiff's Fourth Amended Complaint, DuBois Regional Medical Center denies that Wanda Russell suffered any injuries as a result of negligence, gross negligence, individually, jointly or severally as a result of any of the defendants. The claim of reckless and willful conduct is withdrawn pursuant to the attached Stipulation. After reasonable investigation, this answering defendant is without sufficient knowledge or information so as to form a belief as to the

truth or falsity of the injuries and damages being claimed and strict proof of same is demanded at the time of trial, as well as causation.

COUNT I – NEGLIGENCE

(Plaintiff v. Dr. Devlin)

128-129. In response to Count I and Paragraphs 128–129, this answering defendant incorporates by reference, its prior answers to the Plaintiff's Fourth Amended Complaint as though the same were set forth at length. Further, the allegations contained are directed to another party and pursuant to the Pa. Rules of Civil Procedure no response is required.

WHEREFORE, Defendant, DuBois Regional Medical Center, a/k/a DuBois Regional Medical Center West a/d/b/a DRMC Behavioral Unit, a/k/a DRMC East Behavioral Unit, a/k/a DRMC Behavioral Health Out-Patient Clinic, respectfully requests that the Plaintiff's Complaint be dismissed with prejudice and judgment entered in its favor.

COUNT II – NEGLIGENCE, GROSS NEGLIGENCE, AND RECKLESSNESS

(Plaintiff v. Dr. Maloney)

130-131. In response to Count II and Paragraphs 130–131, this answering defendant incorporates by reference, its prior answers to the Plaintiff's Fourth Amended Complaint as though the same were set forth at length. Further, the allegations contained are directed to another party and pursuant to the Pa. Rules of Civil Procedure no response is required.

WHEREFORE, Defendant, DuBois Regional Medical Center, a/k/a DuBois Regional Medical Center West a/d/b/a DRMC Behavioral Unit, a/k/a DRMC East Behavioral Unit, a/k/a DRMC Behavioral Health Out-Patient Clinic, respectfully requests that the Plaintiff's Complaint be dismissed with prejudice and judgment entered in its favor.

COUNT III – NEGLIGENCE, GROSS NEGLIGENCE, AND RECKLESSNESS

(Plaintiff v. Dr. Helmi)

132-133. In response to Count III and Paragraphs 132-133, this answering defendant incorporates by reference, its prior answers to the Plaintiff's Fourth Amended Complaint as though the same were set forth at length. Further, the allegations contained are directed to another party and pursuant to the Pa. Rules of Civil Procedure no response is required.

WHEREFORE, Defendant, DuBois Regional Medical Center, a/k/a DuBois Regional Medical Center West a/d/b/a DRMC Behavioral Unit, a/k/a DRMC East Behavioral Unit, a/k/a DRMC Behavioral Health Out-Patient Clinic, respectfully requests that the Plaintiff's Complaint be dismissed with prejudice and judgment entered in its favor.

COUNT IV – NEGLIGENCE, GROSS NEGLIGENCE, AND RECKLESSNESS

(Plaintiff v. Dr. Bradley)

134-135. In response to Count IV and Paragraphs 134-135, this answering defendant incorporates by reference, its prior answers to the Plaintiff's Fourth Amended Complaint as though the same were set forth at length. Further, the allegations contained are directed to another party and pursuant to the Pa. Rules of Civil Procedure no response is required.

WHEREFORE, Defendant, DuBois Regional Medical Center, a/k/a DuBois Regional Medical Center West a/d/b/a DRMC Behavioral Unit, a/k/a DRMC East Behavioral Unit, a/k/a DRMC Behavioral Health Out-Patient Clinic, respectfully requests that the Plaintiff's Complaint be dismissed with prejudice and judgment entered in its favor.

COUNT V – NEGLIGENCE, GROSS NEGLIGENCE, AND RECKLESSNESS

(Plaintiff v. Dr. Bobrin)

136-137. In response to Count V and Paragraphs 136-137, this answering defendant incorporates by reference, its prior answers to the Plaintiff's Fourth Amended Complaint as though the same were set forth at length. Further, the allegations contained are directed to another party and pursuant to the Pa. Rules of Civil Procedure no response is required.

WHEREFORE, Defendant, DuBois Regional Medical Center, a/k/a DuBois Regional Medical Center West a/d/b/a DRMC Behavioral Unit, a/k/a DRMC East Behavioral Unit, a/k/a DRMC Behavioral Health Out-Patient Clinic, respectfully requests that the Plaintiff's Complaint be dismissed with prejudice and judgment entered in its favor.

**COUNT V – [sic] VICARIOUS LIABILITY FOR THE NEGLIGENCE, GROSS
NEGLIGENCE, AND RECKLESSNESS OF AGENTS
AND CORPORATE (DIRECT) NEGLIGENCE**

**(Plaintiff v. DuBois Regional Medical Center a/k/a
DuBois Regional Medical Center West a/d/b/a DRMC Behavioral Unit a/k/a
DRMC East Behavioral Unit a/k/a DRMC Behavioral Health Outpatient Clinic)**

138. In response to Paragraph 138, this answering defendant incorporates by reference, its prior answers to the Plaintiff's Fourth Amended Complaint as though the same were set forth at length.

139. In response to Paragraph 139, it is denied that this answering defendant was acting through any actions of Dr. Devlin and/or Bradley. It is admitted that the other physicians were agents, servants or employees and that the nursing staff were agents, servants or employees. Strict proof of all claims of employment and/or agency, as well as ostensible agency, is demanded at the time of trial. By way of further answer, this

answering defendant denies that it was negligent or grossly negligent in anyway or that any acts or omissions by any agents, servants or employees caused or contributed to the injuries claimed by Wanda Russell and strict proof of same is demanded at the time of trial. It is admitted that Exhibit "C" was prepared by the nursing staff in the DRMC Behavioral Unit. All claims of willful, wanton, or reckless acts are withdrawn pursuant to the attached Stipulation.

140. In response to Paragraph 140, it is admitted that nursing care was provided at the DRMC Behavioral Unit on December 5 and 6, 2005. All allegations as to reckless, willful, wanton or intentional conduct are withdrawn pursuant to the attached Stipulation. All allegations contained in Paragraph 140 and the subparagraphs, are denied in accordance with Pa. R.C.P. 1029(e) and strict proof is demanded at the time of trial. At all times, the nursing care provided to Wanda Russell was in accordance with the accepted standards then and there existing. Insofar as it is alleged that the conduct occurred on the Behavioral Health Unit, plaintiff is required pursuant to the Mental Health Practices Act to prove gross negligence. All of the nurses acted appropriately and their conduct did not constitute negligence or gross negligence with regard to care and treatment provided to Wanda Russell. Strict proof of all claims that the nurses on the Behavioral Unit acted in a negligent or grossly negligent manner with regard to Wanda Russell is demanded at the time of trial, as well as strict proof of causation and injuries.

141. In response to Paragraph 141, said allegations that corporate liability claims exist are denied as constituting legal conclusions to which no response is required. Insofar as a response is required, the allegations contained in subparagraphs a.-d. are denied in accordance with Pa. R.C.P. 1029(e) and strict proof of all claims of corporate negligence, causation, injuries and damages are demanded at the time of trial. In addition, pursuant to the attached Stipulation, the physicians who are referenced in Paragraphs 140 and 141 are limited to the defendant physicians. Strict proof of all

claims of corporate negligence as alleged in Paragraph 141 is demanded at the time of trial, as well as proof of causation, injuries and damages.

142. In response to Paragraph 142, said allegations that corporate liability claims exist are denied as constituting legal conclusions to which no response is required. Insofar as a response is required, the allegations contained in subparagraphs a.-v. are denied in accordance with Pa. R.C.P. 1029(e) and strict proof of all claims of corporate negligence, causation, injuries and damages are demanded at the time of trial. In addition, pursuant to the attached Stipulation, the physicians who are referenced in Paragraphs 141 and 142 are limited to the defendant physicians. At all times, DuBois Regional Medical Center acted appropriately with regard to the corporate handling of medical evaluation, care and treatment of Wanda Russell and provided competent physicians, competent staff and appropriately trained them in accordance with the appropriate standards of care. DuBois Regional Medical Center at all times had adequate rules and policies in place with regard to the care and treatment of patients such as Wanda Russell. Strict proof of all claims of corporate negligence as alleged in Paragraph 142 is demanded at the time of trial, as well as proof of causation, injuries and damages.

WHEREFORE, Defendant, DuBois Regional Medical Center, a/k/a DuBois Regional Medical Center West a/d/b/a DRMC Behavioral Unit, a/k/a DRMC East Behavioral Unit, a/k/a DRMC Behavioral Health Out-Patient Clinic, respectfully requests that the Plaintiff's Fourth Amended Complaint be dismissed with prejudice and judgment entered in its favor.

NEW MATTER

By way of further answer and in the nature of affirmative defenses, this answering defendant sets forth the following:

143. Insofar as discovery is yet to commence, it is believed, and therefore, averred that some or all of the plaintiff's claims are barred by the applicable statute of limitations.

144. The Plaintiff's Fourth Amended Complaint fails to state a claim upon which relief may be granted as to defendant, DuBois Regional Medical Center a/k/a DuBois Regional Medical Center West a/d/b/a DRMC Behavioral Unit a/k/a DRMC East Behavioral Unit a/k/a DRMC Behavioral Health Outpatient Clinic.

145. At the time of the incidents complained of in Plaintiff's Fourth Amended Complaint, Thomas J. Bradley, M.D. and James E. Devlin, M.D. were not agents, servants or employees of DuBois Regional Medical Center and to the contrary, were independent physicians.

146. At the time of the incidents complained of in the Plaintiff's Fourth Amended Complaint, DuBois Regional Medical Center did not hold out Thomas J. Bradley, M.D. and/or James E. Devlin, M.D. as ostensible agents, servants or employees.

147. This defendant asserts all defenses and limitations on damages under the Pennsylvania Health Care Medical Malpractice Act.

148. This defendant asserts all defenses and limitations on damages which are available under the Medical Care Availability and Reduction of Error Act.

149. In the event that it is determined that plaintiff failed to obtain an appropriate Certificate of Merit, this defendant requests dismissal of the within Fourth Amended Complaint.

150. This answering defendant is entitled to all of the defenses under the Mental Health Practices Act, 50 P.S. § 7114, including all immunities available for any psychiatric or medical care provided to the patient during the admission and treatment in question.

151. Plaintiff's claims may be barred, in whole or in part, by the applicable statute of limitations.

152. Attached hereto and made a part hereof and incorporated by reference is a Stipulation entered into between counsel for the plaintiff and counsel for this answering defendant and marked Exhibit "1".

153. Attached hereto and made a part hereof is a true and correct copy of said correspondence confirming the agreement of plaintiff's counsel that the Stipulation to the Third Amended Complaint applies to the Fourth Amended Complaint equally and with the same full force and effect. Said correspondence is marked Exhibit "2".

154. Pursuant to the attached Stipulation, all claims of willful, wanton and reckless care against DuBois Regional Medical Center, including a/k/a DuBois Regional Medical Center West a/d/b/a DRMC Behavioral Unit a/k/a DRMC East Behavioral Unit a/k/a DRMC Behavioral Health Outpatient Clinic, are withdrawn.

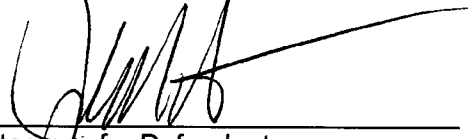
155. Further, DRMC Primary Care Associates is not a legal entity and is hereby dismissed from the within case and DuBois Regional Medical Center is substituted in its place.

WHEREFORE, Defendant, DuBois Regional Medical Center, a/k/a DuBois Regional Medical Center West a/d/b/a DRMC Behavioral Unit, a/k/a DRMC East Behavioral Unit, a/k/a DRMC Behavioral Health Out-Patient Clinic, respectfully requests

that the Plaintiff's Fourth Amended Complaint be dismissed with prejudice and judgment entered in its favor.

Respectfully submitted,

MCINTYRE, HARTYE & SCHMITT

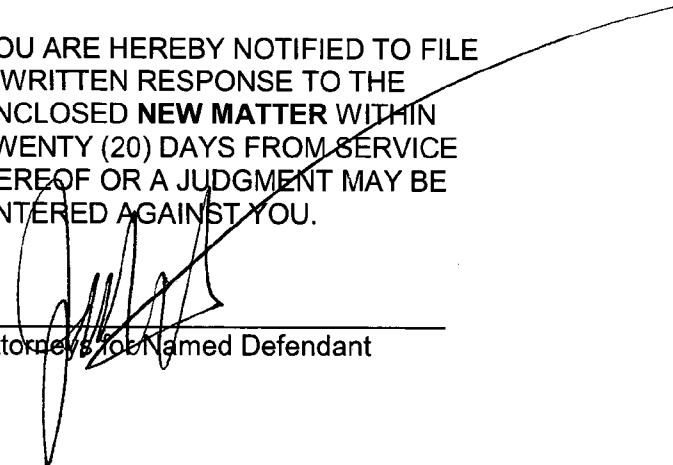


Attorneys for Defendant,
DuBois Regional Medical Center, a/k/a
DuBois Regional Medical Center West
a/d/b/a DRMC Behavioral Unit, a/k/a DRMC
East Behavioral Unit, a/k/a DRMC
Behavioral Health Out-Patient Clinic

John L. McIntyre, Esquire
PA I.D. #28015
P.O. Box 533
Hollidaysburg, PA 16648
(814) 696-3581

TO: PLAINTIFF

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



Attorneys for Named Defendant

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

WANDA RUSSELL,

Plaintiff

vs.

JAMES E. DEVLIN, M.D., MARK W.
MALONE, D.O., DRMC PRIMARY CARE
ASSOCIATES, SANAA HELMI, M.D.,
THOMAS J. BRADLEY, M.D., BRADFORD
BOBRIN, M.D., and DUBOIS REGIONAL
MEDICAL CENTER a/k/a DUBOIS
REGIONAL MEDICAL CENTER WEST
a/d/b/a DRMC BEHAVIORAL UNIT a/k/a
DRMC EAST BEHAVIORAL UNIT a/k/a
DRMC BEHAVIORAL HEALTH
OUTPATIENT UNIT,

Defendants

No. 07-644-CD

JURY TRIAL DEMANDED

STIPULATION AS TO THIRD AMENDED COMPLAINT

AND NOW, comes the plaintiff, WANDA RUSSELL and the defendant, DUBOIS REGIONAL MEDICAL CENTER, and enter into the following Stipulation As To Third Amended Complaint:

1. Plaintiff filed a lawsuit against numerous parties, including DRMC Primary Care Associates.
2. There is no such corporate or other entity known as DRMC Primary Care Associates.
3. DRMC Primary Care Associates is a part of DuBois Regional Medical Center.
4. DRMC Primary Care Associates will be dismissed and deleted from the caption.
5. Mark W. Malone, D.O. is and was an employee of DRMC.



6 Plaintiff asserts a claim for corporate liability in Paragraphs 133 and 134 of the Third Amended Complaint.

7. The corporate liability theory pertaining to a duty to select and retain only competent physicians applies only to those named physicians-defendants.

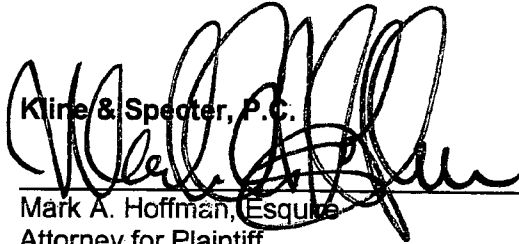
8. In Paragraph 134, sub-paragraphs s, t, u, and v of the Complaint, plaintiff alleges the failure to oversee "all persons" . . .

9. "All persons" will be deleted and will be replaced by "the physicians-defendants".

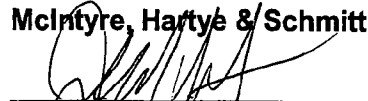
10. The Plaintiff will delete and withdraw all references of reckless, intentional or willful conduct on the part of DuBois Regional Medical Center, its agents, servants and employees.

11. The Plaintiff will, at this time, withdraw all claims for punitive damages against the nursing staff of the DRMC Behavioral Unit.

12. DuBois Regional Medical Center will not file Preliminary Objections and will file a response to the Plaintiff's Third Amended Complaint.


Kline & Specter, P.C.
Mark A. Hoffman, Esquire
Attorney for Plaintiff

McIntyre, Hartye & Schmitt


John L. McIntyre, Esquire
Attorney for Defendant,
DuBois Regional Medical Center



McIntyre, Hartye & Schmitt
LAW OFFICES

February 21, 2008

Our Reference: DRMC 008 MH

Mark A. Hoffman, Esquire
Kline & Specter, P.C.
1525 Locust Street, 19th Floor
Philadelphia, PA 19102

Re: Wanda Russell vs. James E. Devlin, M.D., Mark W. Maloney, D.O.,
DRMC Primary Care Associates, Sanaa Helmi, M.D., Thomas J.
Bradley, M.D., Bradford Bobrin, M.D., DuBois Regional Medical
Center a/k/a DuBois Regional Medical Center West a/d/b/a DRMC
Behavioral Unit a/k/a DRMC East Behavioral Unit a/k/a DRMC
Behavioral Health Outpatient Clinic
No. 2007-644-CD (Clearfield County)

Dear Mr. Hoffman:

I am writing to confirm that I received and have executed the Acceptance of Service of plaintiff's Fourth Amended Complaint on behalf of DuBois Regional Medical Center. Please note that I have confirmed that the Stipulation which you signed as to the Third Amended Complaint will also apply to the Fourth Amended Complaint. This agreement will allow us to move on and avoid having to file additional Preliminary Objections. Thank you.

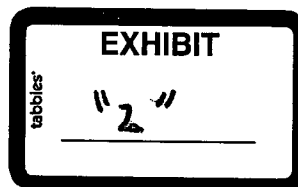
Very truly yours,

John L. McIntyre

JLM/eh
Enclosure

cc: Gregory J. Volpe, Risk Manager
DuBois Regional Medical Center

Gregory T. Goodman, JD, Sr. Attorney Examiner
Inservco Insurance Services, Inc.
Inservco Claim No. 2930026-01



VERIFICATION

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

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

DUBOIS REGIONAL MEDICAL CENTER


Gregory Volpe, Risk Manager

Date: March 12, 2008

KLINE & SPECTER

A Professional Corporation

By: THOMAS R. KLINE, ESQUIRE
MARK A. HOFFMAN, ESQUIRE
ROYCE W. SMITH, ESQUIRE

Attorney ID Nos.: 28895/ 84443/201295

The Nineteenth Floor
1525 Locust Street
Philadelphia, Pennsylvania 19102
(215) 772-1000

FILED *no cc*
7/11/14
APR 07 2008 *GR*

William A. Shaw
Prothonotary/Clerk of Courts

Attorneys for Plaintiff

WANDA RUSSELL

v.

JAMES E. DEVLIN, M.D. and
MARK W. MALONEY, D.O. and
DRMC PRIMARY CARE ASSOCIATES
and SANAA HELMI, M.D. and
THOMAS J. BRADLEY, M.D. and
BRADFORD BOBRIN, M.D. and
DuBOIS REGIONAL MEDICAL
CENTER a/ka DuBOIS REGIONAL
MEDICAL CENTER WEST
a/d/b/a DRMC BEHAVIORAL
UNIT a/k/a DRMC EAST BEHAVIORAL
UNIT a/k/a DRMC BEHAVIORAL
HEALTH OUTPATIENT CLINIC
Defendants.

**COURT OF COMMON PLEAS
COUNTY OF CLEARFIELD**

DOCKET NO. 07-644-CD

**PLAINTIFF'S REPLY TO THE NEW MATTER OF DEFENDANT DUBOIS
REGIONAL MEDICAL CENTER a/k/a DUBOIS REGIONAL MEDICAL CENTER
WEST a/d/b/a DRMC BEHAVIORAL UNIT a/k/a DRMC EAST BEHAVIORAL UNIT
a/k/a DRMC BEHAVIORAL HEALTH OUTPATIENT CLINIC**

AND NOW, comes the Plaintiff, Wanda Russell, by and through her undersigned counsel,
Kline & Specter, P.C., who herein replies to New Matter of Answering Defendants, as follows:

143-151. The averments set forth in paragraphs 143 to 151 inclusive of answering
Defendants' New Matter, are conclusions of law to which no replies are required.

152-154. Admitted in part and denied in part. Exhibits "1" and "2" attached to

Answering Defendants Answer and New Matter to Plaintiff's Fourth Amended Complaint are in writing, filed with the Court, and their contents are self-evident and speak for themselves. The contents of the Stipulation are admitted. It is denied that all claims of willful, wanton and reckless care are withdrawn. All references of reckless, intentional or willful conduct were deleted and withdrawn. All claims for punitive damages were withdrawn, without prejudice.

155. The allegation set forth in paragraph 155 of answering Defendants' New Matter is a conclusion of law to which no reply is required.

WHEREFORE, Plaintiff, Wanda Russell, respectfully requests that Answering Defendants' prayer for dismissal of Plaintiff's Fourth Amended Complaint be denied.

KLINE & SPECTER
A Professional Corporation

By:

THOMAS R. KLINE, ESQUIRE
MARK A. HOFFMAN, ESQUIRE
Attorneys for Plaintiffs

Date:

April 3, 2008

CERTIFICATE OF SERVICE

I, MARK A. HOFFMAN, ESQUIRE, hereby certify that a true and correct copy of the **Plaintiff's Reply to the New Matter of Defendant Dubois Regional Medical Center a/k/a Dubois Regional Medical Center West a/d/b/a Drmc Behavioral Unit a/k/a DRMC East Behavioral Unit a/k/a DRMC Behavioral Health Outpatient Clinic**, was served via first class U.S. mail on the following individuals:

John L. McIntyre, Esquire
McIntyre, Hartye & Schmitt
P.O. Box 533

Hollidaysburg, PA 16648

Counsel for Defendant, DuBois Regional Medical Center, a/k/a Dubois Regional Medical Center a/k/a DuBois Regional Medical Center West a/d/b/a/ DRMC Behavioral Unit a/k/a DRMC East Behavioral Unit a/k/a DRMC Behavioral Outpatient Clinic

Darryl R. Slimak, Esquire
McQuaide Blasko
811 University Drive

State College, PA 16801-6699

Counsel for Defendant, Sanaa Helmi, M.D.

M. Brian O'Connor, Esquire
Matis, Brum, Rizza, O'Connor
Four Gateway Center
444 Liberty Avenue, Suite 300
Pittsburgh, PA 15222

Counsel for Defendant, James E. Devlin, M.D.

Lynn E. Bell, Esquire
Davies, McFarland & Carroll, P.C.
The Tenth Floor, One Gateway Center
Pittsburgh, PA 15222-1416

Counsel for Bradford Bobrin, M.D.

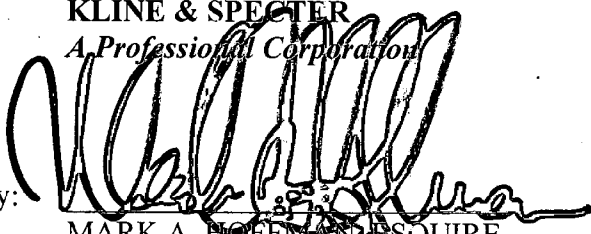
Christopher C. Rulis, Esquire
O'Brien, Rulis & Boichichio, LLC
555 Grant Street, Suite 120
Pittsburgh, PA 15219

Counsel for Defendant, Thomas J. Bradley, M.D.

David R. Bahl, Esquire
Richard F. Schluter, Esquire
McCormick Law Firm
835 West Fourth Street
Williamsport, PA 17701
Counsel for Defendant, Mark W. Maloney, D.O.

KLINE & SPECTER

A Professional Corporation

By: 

MARK A. HOFFMAN, ESQUIRE

Attorneys for Plaintiff

Date:

April 3, 2008

FILED

APR 07 2008

William A. Shaw
Prothonotary/Clerk of Courts

[Handwritten signature]

[Handwritten signature]

KLINE & SPECTER

A Professional Corporation

By: THOMAS R. KLINE, ESQUIRE
MARK A. HOFFMAN, ESQUIRE
ROYCE W. SMITH, ESQUIRE

Attorney ID Nos.: 28895/ 84443/201295

The Nineteenth Floor

1525 Locust Street

Philadelphia, Pennsylvania 19102

(215) 772-1000

FILED

APR 07 2008

William A. Shaw
Prothonotary/Clerk of Courts

Attorneys for Plaintiff

WANDA RUSSELL

**COURT OF COMMON PLEAS
COUNTY OF CLEARFIELD**

v.

JAMES E. DEVLIN, M.D. and
MARK W. MALONEY, D.O. and
DRMC PRIMARY CARE ASSOCIATES
and SANAA HELMI, M.D. and
THOMAS J. BRADLEY, M.D. and
BRADFORD BOBRIN, M.D. and
DuBOIS REGIONAL MEDICAL
CENTER a/ka DuBOIS REGIONAL
MEDICAL CENTER WEST
a/d/b/a DRMC BEHAVIORAL
UNIT a/k/a DRMC EAST BEHAVIORAL
UNIT a/k/a DRMC BEHAVIORAL
HEALTH OUTPATIENT CLINIC
Defendants.

DOCKET NO. 07-644-CD

**PLAINTIFF'S REPLY TO THE NEW MATTER OF
DEFENDANT, THOMAS J. BRADLEY, M.D.**

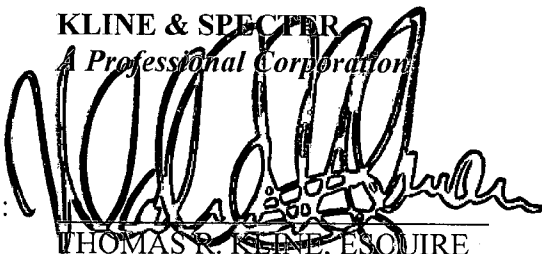
AND NOW, comes the Plaintiff, Wanda Russell, by and through her undersigned counsel,
Kline & Specter, P.C., who herein replies to New Matter of Answering Defendant, Thomas J.
Bradley, M.D. as follows:

1-6. The averments set forth in paragraphs 1 through 6 inclusive of answering Defendant's
New Matter are conclusions of law to which no replies are required.

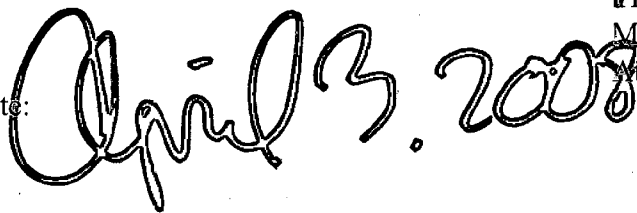
WHEREFORE, Plaintiff, Wanda Russell, respectfully requests that Answering Defendant's
New Matter be denied.

KLINE & SPECTER
A Professional Corporation

By:


THOMAS R. KLINE, ESQUIRE
MARK A. HOFFMAN, ESQUIRE
Attorneys for Plaintiffs

Date:



CERTIFICATE OF SERVICE

I, MARK A. HOFFMAN, ESQUIRE, hereby certify that a true and correct copy of the **Plaintiff's Reply to the New Matter of Defendant Thomas J. Bradley, M.D.**, was served via first class U.S. mail on the following individuals:

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

Counsel for Defendant, DuBois Regional Medical Center, a/k/a Dubois Regional Medical Center a/k/a DuBois Regional Medical Center West a/d/b/a/ DRMC Behavioral Unit a/k/a DRMC East Behavioral Unit a/k/a DRMC Behavioral Outpatient Clinic

Darryl R. Slimak, Esquire
McQuaide Blasko
811 University Drive
State College, PA 16801-6699
Counsel for Defendant, Sanaa Helmi, M.D.

M. Brian O'Connor, Esquire
Matis, Brum, Rizza, O'Connor
Four Gateway Center
444 Liberty Avenue, Suite 300
Pittsburgh, PA 15222
Counsel for Defendant, James E. Devlin, M.D.

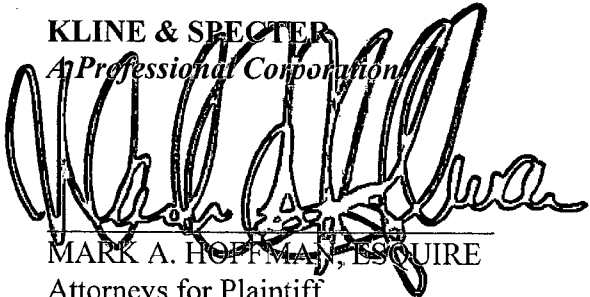
Lynn E. Bell, Esquire
Davies, McFarland & Carroll, P.C.
The Tenth Floor, One Gateway Center
Pittsburgh, PA 15222-1416
Counsel for Bradford Bobrin, M.D.

Christopher C. Rulis, Esquire
O'Brien, Rulis & Bochicchio, LLC
555 Grant Street, Suite 120
Pittsburgh, PA 15219
Counsel for Defendant, Thomas J. Bradley, M.D.

David R. Bahl, Esquire
Richard F. Schluter, Esquire
McCormick Law Firm
835 West Fourth Street
Williamsport, PA 17701
Counsel for Defendant, Mark W. Maloney, D.O.

KLINE & SPECTER
A Professional Corporation

By:


MARK A. HOFFMAN, ESQUIRE
Attorneys for Plaintiff

Date:

April 3, 2008

FILED

APR 07 2008

William A. Shaw
Prothonotary/Clerk of Courts

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

WANDA RUSSELL,

Plaintiff

vs.

JAMES E. DEVLIN, M.D., MARK W.
MALONE, D.O., DRMC PRIMARY CARE
ASSOCIATES, SANAA HELMI, M.D.,
THOMAS J. BRADLEY, M.D., BRADFORD
BOBRIN, M.D., and DUBOIS REGIONAL
MEDICAL CENTER a/k/a DUBOIS
REGIONAL MEDICAL CENTER WEST
a/d/b/a DRMC BEHAVIORAL UNIT a/k/a
DRMC EAST BEHAVIORAL UNIT a/k/a
DRMC BEHAVIORAL HEALTH
OUTPATIENT CLINIC,

Defendants

No. 07-644-CD

ISSUE:

NOTICE OF SERVICE OF
REQUEST FOR PRODUCTION
OF DOCUMENTS DIRECTED TO
PLAINTIFFS, DATED: 04/18/08

Filed on behalf of Defendant,
DUBOIS REGIONAL MEDICAL
CENTER a/k/a DUBOIS REGIONAL
MEDICAL CENTER WEST a/d/b/a
DRMC BEHAVIORAL UNIT a/k/a
DRMC EAST BEHAVIORAL UNIT
a/k/a DRMC BEHAVIORAL HEALTH
OUTPATIENT CLINIC

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

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

JURY TRIAL DEMANDED

I HEREBY CERTIFY THAT A TRUE AND
CORRECT COPY OF THE WITHIN WAS
MAILED TO ALL COUNSEL OF RECORD
THIS 18TH DAY OF APRIL, 2008.

John L. McIntyre / csm
Attorneys for Named Defendant

FILED No CC
m/11:45 am
APR 21 2008

William A. Shaw
Prothonotary/Clerk of Courts

McINTYRE, HARTYE & SCHMITT

John J. McIntyre / csm
Attorney for Defendants,
DuBOIS REGIONAL MEDICAL CENTER

John L. McIntyre, Esquire
PA I.D. No. 28015
P. O. Box 533
Hollidaysburg, PA 16648-0533
(814) 696-3581

KLINE & SPECTER

A Professional Corporation

By: THOMAS R. KLINE, ESQUIRE
MARK A. HOFFMAN, ESQUIRE
ROYCE W. SMITH, ESQUIRE

Attorney ID Nos.: 28895/ 84443/201295

The Nineteenth Floor

1525 Locust Street

Philadelphia, Pennsylvania 19102

(215) 772-1000

Attorneys for Plaintiff

WANDA RUSSELL

**COURT OF COMMON PLEAS
COUNTY OF CLEARFIELD**

v.

DOCKET NO. 07-644-CD

JAMES E. DEVLIN, M.D. and
MARK W. MALONEY, D.O. and
DRMC PRIMARY CARE ASSOCIATES
and SANAA HELMI, M.D. and
THOMAS J. BRADLEY, M.D. and
BRADFORD BOBRIN, M.D. and
DuBOIS REGIONAL MEDICAL
CENTER a/ka DuBOIS REGIONAL
MEDICAL CENTER WEST
a/d/b/a DRMC BEHAVIORAL
UNIT a/k/a DRMC EAST BEHAVIORAL
UNIT a/k/a DRMC BEHAVIORAL
HEALTH OUTPATIENT CLINIC
Defendants.

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APR 24 2008

William A. Shaw

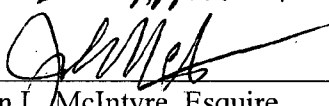
Prothonotary/Clerk of Courts

ACCEPTANCE OF SERVICE

I accept service of the Civil Action Fourth Amended Complaint on behalf of Defendants,
DuBois Regional Medical Center, a/k/a Dubois Regional Medical Center, a/k/a DuBois Regional
Medical Center West a/d/b/a DRMC Behavioral Unit a/k/a DRMC East Behavioral Unit a/k/a
DRMC Behavioral Outpatient Clinic and certify that I am authorized to do so.

ALSO - STIPULATION AS TO DRMC. - APPLIES TO 4th AM. COMPLAINT

Date: 2-12-08


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

**Counsel for Defendant, DuBois Regional Medical
Center, a/k/a Dubois Regional Medical Center a/k/a
DuBois Regional Medical Center West a/d/b/a/
DRMC Behavioral Unit a/k/a DRMC East
Behavioral Unit a/k/a DRMC Behavioral Outpatient
Clinic**

FILED

APR 24 2008

William A. Shaw
Prothonotary/Clerk of Courts

RECEIVED BY THE COURT - APR 24 2008 - 10:00 AM

KLINE & SPECTER

A Professional Corporation

By: THOMAS R. KLINE, ESQUIRE
MARK A. HOFFMAN, ESQUIRE
ROYCE W. SMITH, ESQUIRE

Attorney ID Nos.: 28895/ 84443/201295
The Nineteenth Floor
1525 Locust Street
Philadelphia, Pennsylvania 19102
(215) 772-1000

Attorneys for Plaintiff

WANDA RUSSELL

**COURT OF COMMON PLEAS
COUNTY OF CLEARFIELD**

v.

DOCKET NO. 07-644-CD

JAMES E. DEVLIN, M.D. and
MARK W. MALONEY, D.O. and
DRMC PRIMARY CARE ASSOCIATES
and SANAA HELMI, M.D. and
THOMAS J. BRADLEY, M.D. and
BRADFORD BOBRIN, M.D. and
DuBOIS REGIONAL MEDICAL
CENTER a/ka DuBOIS REGIONAL
MEDICAL CENTER WEST
a/d/b/a DRMC BEHAVIORAL
UNIT a/k/a DRMC EAST BEHAVIORAL
UNIT a/k/a DRMC BEHAVIORAL
HEALTH OUTPATIENT CLINIC
Defendants.

FILED ICC Atty
m/10:25 am
APR 24 2008

William A. Shaw
Prothonotary/Clerk of Courts

ACCEPTANCE OF SERVICE

I accept service of the Civil Action Fourth Amended Complaint on behalf of Defendant,

Thomas J. Bradley, M.D. and certify that I am authorized to do so.

Date: 02/07/08

Christopher C. Rulis
Christopher C. Rulis, Esquire
O'Brien, Rulis & Bochicchio, LLC
555 Grant Street
Suite 120
Pittsburgh, PA 15219
Counsel for Defendant, Thomas J. Bradley, M.D.

FILED

APR 24 2008

William A. Shaw
Prothonotary/Clerk of Courts

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APR 24 2008

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

WANDA RUSSELL,

Plaintiff,

vs.

JAMES E. DEVLIN, M.D., MARK W.
MALONEY, D.O., DRMC PRIMARY CARE
ASSOCIATES, SANAA HELMI, M.D.,
THOMAS J. BRADLEY, M.D., BRADFORD
BOBRIN, M.D., DuBOIS REGIONAL MEDICAL
CENTER WEST a/d/b/a/ DRMC
BEHAVIORAL UNIT a/k/a/ DRMC EAST
BEHAVIORAL HEALTH OUTPATIENT
CLINIC,

Defendants.

*Medical Professional Liability
Action*

Docket No: 07 - 644 - C.D.

Type of Pleading:
***Defendant Dr. Sanaa Helmi's
Answer with New Matter to
Plaintiff's Fourth Amended
Complaint***

Filed on Behalf of Defendant
Sanaa Helmi, M.D.

Counsel of Record for This Party
Darryl R. Slimak, Esquire
Pa. Supreme Court I.D. #41695

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

Counsel for Plaintiff
***Thomas R. Kline, Esquire
Mark A. Hoffman, Esquire***

JURY TRIAL DEMANDED

FILED *no cc*
mtl:0461
APR 30 2008 *@*
William A. Shaw
Prothonotary/Clerk of Courts

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

WANDA RUSSELL,

Plaintiff,

vs.

JAMES E. DEVLIN, M.D., MARK W.
MALONEY, D.O., DRMC PRIMARY CARE
ASSOCIATES, SANAA HELMI, M.D.,
THOMAS J. BRADLEY, M.D., BRADFORD
BOBRIN, M.D., DuBOIS REGIONAL MEDICAL
CENTER WEST a/d/b/a/ DRMC
BEHAVIORAL UNIT a/k/a/ DRMC EAST
BEHAVIORAL HEALTH OUTPATIENT
CLINIC,

Defendants.

*Medical Professional Liability
Action*

Docket No: 07 - 644 - C.D.

JURY TRIAL DEMANDED

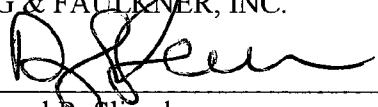
NOTICE TO PLEAD

TO: WANDA RUSSELL
c/o Mark A. Hoffman, Esquire

YOU ARE HEREBY notified to file a written response to the enclosed Answer
and New Matter within twenty (20) days from the date of service hereof or a judgment may be
entered against you

McQUAIDE, BLASKO,
FLEMING & FAULKNER, INC.

By: _____


Darryl R. Slimak
Attorney for Defendant
SANAA HELMI, M.D.
811 University Drive
State College, PA 16801
(814) 238-4926

Dated: April 29, 2008

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

WANDA RUSSELL,

Plaintiff,

vs.

JAMES E. DEVLIN, M.D., MARK W.
MALONEY, D.O., DRMC PRIMARY CARE
ASSOCIATES, SANAA HELMI, M.D.,
THOMAS J. BRADLEY, M.D., BRADFORD
BOBRIN, M.D., DuBOIS REGIONAL MEDICAL
CENTER WEST a/d/b/a/ DRMC
BEHAVIORAL UNIT a/k/a/ DRMC EAST
BEHAVIORAL HEALTH OUTPATIENT
CLINIC,

Defendants.

*Medical Professional Liability
Action*

Docket No: 07 - 644 - C.D.

JURY TRIAL DEMANDED

**DEFENDANT DR. SANAA HELMI'S ANSWER WITH NEW
MATTER TO PLAINTIFF'S FOURTH AMENDED COMPLAINT**

AND NOW comes Defendant, SANAA HELMI, M.D., by and through her attorneys,
McQuaide, Blasko, Fleming & Faulkner, Inc., and responds to the Plaintiff's Fourth Amended
Complaint as follows:

1. The averments of Fourth Amended Complaint paragraph 1 are admitted pending
further investigation and discovery in that they are presently believed to likely be correct.

2-4. Admitted in part, denied in part. The averments of Fourth Amended Complaint
paragraphs 2 through 4, inclusive, are admitted as to the facts contained therein and the

attachment of the Certificates of Merit but not as to the legal allegations thereof, to which no response is required under the Rules of Civil Procedure.

5-7. The averments of Fourth Amended Complaint paragraphs 5 through 7, inclusive, appear to be directed to Defendants other than answering Defendant and therefore no response thereto is required under the Rules of Civil Procedure. Furthermore, paragraphs 5 through 7, inclusive, appear to include legal conclusions to which no further or more specific response is required.

8. Admitted in part, denied in part. The factual averments of Fourth Amended Complaint paragraph 8 are admitted, but the allegations within the attached Certificate of Merit are specifically denied.

9. Admitted in part, denied in part. The averments of Fourth Amended Complaint paragraph 9 are admitted as to the facts contained therein and the attachment of the Certificates of Merit, but not as to the legal allegations thereof, to which no response is required under the Rules of Civil Procedure.

10-11. The averments of Fourth Amended Complaint paragraphs 10 and 11 appear to be directed to Defendants other than answering Defendant and therefore no response thereto is required under the Rules of Civil Procedure. Furthermore, paragraphs 10 through 11, inclusive, appear to include legal conclusions to which no further or more specific response is required.

12. Admitted in part, denied in part. The averments of Fourth Amended Complaint paragraph 12 are admitted as to the facts contained therein and the attachment of the Certificates of Merit, but not as to the legal allegations thereof, to which no response is required under the Rules of Civil Procedure.

13. Admitted in part, denied in part. The averments of Fourth Amended Complaint paragraph 13 are admitted as to the facts contained therein and the attachment of the Certificate of Merit, but not as to the legal allegations thereof, to which no response is required under the Rules of Civil Procedure.

14-15. The averments of Fourth Amended Complaint paragraphs 14 and 15 appear to be legal conclusions to which no further or more specific response is required. Furthermore, averments within paragraphs 14 and 15 appear to be directed at Defendants other than answering Defendant and therefore no response thereto is required under the Rules of Civil Procedure. As regards Dr. Helmi, it is admitted only that at the times at issue, she was employed by DuBois Regional Medical Center.

16. Admitted that venue is proper in Clearfield County, Pennsylvania.

17-19. The averments of Fourth Amended Complaint paragraphs 17 through 19, inclusive, are denied as stated in that same appear to be Plaintiff's selective attempted summary of medical records and events and do not fully and completely set forth the facts and circumstances as set forth in the applicable medical records and/or as occurred. The applicable records speak for themselves as to their contents. Moreover, said averments are deemed denied pursuant to and consistent with Pa.R.C.P. 1029(e), and in that answering Defendant was not involved in the patient's care at the times referenced and did not create said records and thus is presently not in a position to confirm or refute their accuracy, or Plaintiff's allegations, subject to further investigation and discovery in this matter.

20. To the extent directed at Dr. Helmi, the averments of Fourth Amended Complaint paragraph 20 are denied as stated in that material risk factors for stroke are dependent on various parameters.

21. The averments of Fourth Amended Complaint paragraphs 21 appear to be directed to a Defendant other than answering Defendant and therefore no response thereto is required under the Rules of Civil Procedure.

22. The averments of Fourth Amended Complaint paragraph 22 appear to consist of Plaintiff's selective and inaccurate attempted summary of the medical records and events, and are therefore denied as stated. Moreover, Dr. Helmi was not involved with the patient's care and treatment on the date indicated, and is thus, after reasonable investigation, without knowledge or information sufficient to form a belief as to the truth of said allegations and same are deemed denied.

23. The averments of Fourth Amended Complaint paragraphs 23 appear to be directed to a Defendant other than answering Defendant and therefore no response thereto is required under the Rules of Civil Procedure. Moreover, Dr. Helmi was not involved with the patient's care and treatment on the date indicated, and is thus, after reasonable investigation, without knowledge or information sufficient to form a belief as to the truth of said allegations and same are deemed denied.

24-27. The averments of Fourth Amended Complaint paragraphs 24 through 27, inclusive, are denied as stated in that same appear to be Plaintiff's selective attempted summary of medical records and events and do not fully and completely set forth the facts and circumstances as set forth in the applicable medical records and/or as occurred. The applicable records speak for themselves as to their contents. Moreover, said averments are deemed denied pursuant to and consistent with Pa.R.C.P. 1029(e), and in that answering Defendant was not involved in the patient's care at the times referenced and did not create said records and thus is

presently not in a position to confirm or refute their accuracy, or Plaintiff's allegations, subject to further investigation and discovery in this matter.

28. The averments of Fourth Amended Complaint paragraph 28 are denied as stated in that Dr. Helmi was not presented with evidence of or in a position to evaluate alleged hemiparesis, gait disturbance, or neurologic signs and symptoms of stroke or transient ischemic attack. Moreover, Dr. Helmi was not involved with the patient's care and treatment on the date indicated, and is thus, after reasonable investigation, without knowledge or information sufficient to form a belief as to the truth of said allegations and same are deemed denied.

29. The applicable records to which Plaintiff refers speak for themselves as to their contents. Moreover, said averments are deemed denied pursuant to and consistent with Pa.R.C.P. 1029(e), and in that answering Defendant was not involved in the patient's care at the times referenced and did not create said records and thus is presently not in a position to confirm or refute their accuracy, or Plaintiff's allegations, subject to further investigation and discovery in this matter.

30. The averments of Fourth Amended Complaint paragraph 30 are denied as stated in that Dr. Helmi was not presented with evidence of or in a position to evaluate alleged hemiparesis or dysarthria. Moreover, Dr. Helmi was not involved with the patient's care and treatment on the date indicated, and is thus, after reasonable investigation, without knowledge or information sufficient to form a belief as to the truth of said allegations and same are deemed denied.

31. The averments of Fourth Amended Complaint paragraph 31 appear to be directed to a Defendant other than answering Defendant and therefore no response thereto is required under the Rules of Civil Procedure.

32. The averments of Fourth Amended Complaint paragraphs 32 appear to be directed to a Defendant other than answering Defendant and therefore no response thereto is required under the Rules of Civil Procedure. By way of further response, the averments of Fourth Amended Complaint paragraph 32 are denied as stated in that same appear to be Plaintiff's selective attempted summary of medical records and events and do not fully and completely set forth the facts and circumstances as set forth in the applicable medical records and/or as occurred. The applicable records speak for themselves as to their contents.

33. The averments of Fourth Amended Complaint paragraph 33 are denied as stated in that Dr. Helmi was not presented with evidence of or in a position to evaluate alleged facial asymmetry, facial droop, unilateral loss of nasolabial fold, or neurologic signs and symptoms of stroke or transient ischemic attack. Moreover, Dr. Helmi was not involved with the patient's care and treatment on the date indicated, and is thus, after reasonable investigation, without knowledge or information sufficient to form a belief as to the truth of said allegations and same are deemed denied.

34. The averments of Fourth Amended Complaint paragraph 34 appear to be directed to a Defendant other than answering Defendant and therefore no response thereto is required under the Rules of Civil Procedure.

35. The averments of Fourth Amended Complaint paragraph 35 appear to be directed to a Defendant other than answering Defendant and therefore no response thereto is required under the Rules of Civil Procedure. By way of further response, the averments of Fourth Amended Complaint paragraph 35 are denied as stated in that same appear to be Plaintiff's selective attempted summary of medical records and events and do not fully and completely set forth the

facts and circumstances as set forth in the applicable medical records and/or as occurred. The applicable records speak for themselves as to their contents.

36. The averments of Fourth Amended Complaint paragraph 36 are specifically denied in that Dr. Helmi did not have such knowledge.

37. The averments of Fourth Amended Complaint paragraph 37 are denied as stated in that Dr. Helmi was not presented with evidence of or in a position to evaluate the negative or normal cerebral CT scan. Moreover, Dr. Helmi was not involved with the patient's care and treatment on the date indicated, and is thus, after reasonable investigation, without knowledge or information sufficient to form a belief as to the truth of said allegations and same are deemed denied.

38. The averments of Fourth Amended Complaint paragraph 38 appear to be directed to a Defendant other than answering Defendant and therefore no response thereto is required under the Rules of Civil Procedure.

39-41. The averments of Fourth Amended Complaint paragraphs 39 through 41, inclusive, appear to be directed to a Defendant other than answering Defendant and therefore no response thereto is required under the Rules of Civil Procedure. By way of further response, the averments of Fourth Amended Complaint paragraphs 39 through 41, inclusive, are denied as stated in that same appear to be Plaintiff's selective attempted summary of medical records and events and do not fully and completely set forth the facts and circumstances as set forth in the applicable medical records and/or as occurred. The applicable records speak for themselves as to their contents.

42. It is admitted that Dr. Helmi knew the Dr. Devlin and Dr. Maloney did not hold themselves out as neurologists. The averments are otherwise denied as stated in that after

reasonable investigation, Dr. Helmi is without knowledge or information sufficient to form a belief as to the truth of said allegations.

43-44. The averments of Fourth Amended Complaint paragraphs 43 through 44, inclusive, appear to be directed to a Defendant other than answering Defendant and therefore no response thereto is required under the Rules of Civil Procedure.

45. The averments of Fourth Amended Complaint paragraph 45 are denied as Dr. Helmi was not in a position to know that a cranial MRI or MRA was a more sensitive test for the presence of an ischemic stroke or intracranial cerebrovascular disease in the patient at issue.

46-62. The averments of Fourth Amended Complaint paragraphs 46 through 62, inclusive, are denied as stated in that same appear to be Plaintiff's selective attempted summary of medical records and events and do not fully and completely set forth the facts and circumstances as set forth in the applicable medical records and/or as occurred. The applicable records speak for themselves as to their contents. Moreover, said averments appear to be directed against Defendants other than answering Defendant and/or are deemed denied pursuant to and consistent with Pa.R.C.P. 1029(e), and in that answering Defendant was not involved in the patient's care at the times referenced and did not create said records and thus is presently not in a position to confirm or refute their accuracy, or Plaintiff's allegations, subject to further investigation and discovery in this matter.

63-67. The averments of Fourth Amended Complaint paragraphs 63 through 67, inclusive, appear to consist of Plaintiff's selective and inaccurate attempted summary of the medical records and events and are therefore denied as stated. By way of further response, it is averred that Dr. Maloney spoke with Dr. Helmi by telephone on the night of December 5, 2005 at which time he advised Dr. Helmi that he had concluded the patient was severely depressed and

suicidal but medically stable, and thus he wanted the patient admitted to the DRMC Behavioral Unit for which Dr. Helmi was then on call. Based upon those representations, Dr. Helmi, as the on-call psychiatrist, authorized the admission of Plaintiff to the Behavioral Health Unit which assigned the patient to the service of Dr. Bobrin. Whether said representations were misrepresentations is an issue subject to further investigation and discovery, but it is averred that at the time in question, Dr. Helmi had no reason to deem same to be misrepresentations.

By way of further response, the records indicate the patient was not physically admitted into the Behavioral Unit until December 6, 2005 at or about 2:00 a.m., and was placed under observation protocols and such orders by Dr. Helmi as are reflected in the chart records, which were given in advance of the patient's transfer. Initial assessment was initiated by the nursing staff. Dr. Helmi was not advised or aware of the patient's actual arrival on the unit until after 8:00 a.m. when Dr. Helmi was off call and the patient was under Dr. Bobrin's service. Under the circumstances, Dr. Helmi was not in a position to nor would the standard of care require her to perform a history, psychiatric evaluation, physical examination, or have other contact with Plaintiff.

68-73. The averments of Fourth Amended Complaint paragraphs 68 through 73, inclusive, constitute a selective and incomplete and thus inaccurate attempted summary of the medical records and events which were not prepared by and did not involve Dr. Helmi, and in that after reasonable investigation, answering Defendant is without knowledge or information sufficient to form a belief as to the truth of same, and therefore same are denied. Furthermore, said averments constitute factual and legal conclusions which answering Defendant specifically denies as something Plaintiff alleges she should have done, for the reasons stated elsewhere herein. For the reasons stated previously herein, Dr. Helmi did not personally evaluate Plaintiff

prior to her admission to the Behavioral Health Unit, albeit it is noted that the records and/or Complaint allegations reflect examination by Dr. Maloney and others prior to transfer and Dr. Bradley after transfer, as well as nursing staff and others.

74. The averments of Fourth Amended Complaint paragraph 74 are denied as stated in that under the circumstances, Dr. Helmi was not in a position to nor obligated to explain a proposed treatment plan to Wanda Russell as alleged, and she was not obligated or in a position to complete or sign any such proposed treatment plan.

75. The averments of Fourth Amended Complaint paragraph 75 are denied as stated in that same constitute factual and legal conclusions which answering Defendant specifically denies as something Plaintiff alleges she should have done, for the reasons stated elsewhere herein. By way of further response, at all times material and relevant hereto, answering Defendant exercised reasonable and proper skill, care and judgment under the circumstances then and there existing. Answering Defendant's foregoing averments are hereby incorporated herein by reference, in further response to said allegations.

76-77. The averments of Fourth Amended Complaint paragraphs 76 and 77 are denied as stated on the same bases set forth previously herein.

78-79. The averments of Fourth Amended Complaint paragraphs 78 and 79 appear to be directed to a Defendant other than answering Defendant and therefore no response thereto is required under the Rules of Civil Procedure. It is admitted only that no such alleged complaints were reported to Dr. Helmi.

80. The averments of Fourth Amended Complaint paragraph 80 are denied as stated or the reasons set forth previously herein, and in that same constitute factual and legal conclusions which answering Defendant specifically denies as something Plaintiff alleges she

should have done, for the reasons stated elsewhere herein. By way of further response, as regards answering Defendant, said legal conclusions are specifically denied as at no time was Dr. Helmi negligent or the cause of harm to Plaintiff. To the contrary, at all times material and relevant hereto, answering Defendant exercised reasonable and proper skill, care and judgment under the circumstances then and there existing. Answering Defendant's foregoing averments are hereby incorporated herein by reference, in further response to said allegations.

81. The averments of Fourth Amended Complaint paragraph 81 appear to be directed to a Defendant other than answering Defendant and therefore no response thereto is required under the Rules of Civil Procedure.

82. Answering Defendant is presently without knowledge or information sufficient to form a belief as to the truth of the averments of paragraph 82, and thus same are denied as stated. *See* prior responses.

83. The averments of Fourth Amended Complaint paragraph 83 appear to be directed to a Defendant other than answering Defendant and therefore no response thereto is required under the Rules of Civil Procedure.

84. The averments of Fourth Amended Complaint paragraph 84 are denied as stated in that same constitute factual and legal conclusions which answering Defendant specifically denies as something Plaintiff alleges she should have done, for the reasons stated elsewhere herein. By way of further response, it is averred that Dr. Helmi was not contacted or told of the information as alleged.

85-92. The averments of Fourth Amended Complaint paragraphs 85 through 92, inclusive, appear to be directed to a Defendant other than answering Defendant and therefore no response thereto is required under the Rules of Civil Procedure. By way of further response, the

averments of Fourth Amended Complaint paragraphs 85 through 92, inclusive, are denied as stated in that same appear to be Plaintiff's selective attempted summary of medical records and events and do not fully and completely set forth the facts and circumstances as set forth in the applicable medical records and/or as occurred. The applicable records speak for themselves as to their contents.

93. The averments of Fourth Amended Complaint paragraph 93 are denied as stated in that after reasonable investigation, answering Defendant is currently without knowledge or information sufficient to form a belief as regards the truth of same.

94-98. The averments of Fourth Amended Complaint paragraphs 94 through 99, inclusive, appear to be directed to a Defendant other than answering Defendant and therefore no response thereto is required under the Rules of Civil Procedure. By way of further response, the averments of Fourth Amended Complaint paragraphs 94 through 99, inclusive, are denied as stated in that same appear to be Plaintiff's selective attempted summary of medical records and events and do not fully and completely set forth the facts and circumstances as set forth in the applicable medical records and/or as occurred. The applicable records speak for themselves as to their contents.

99-100. The averments of Fourth Amended Complaint paragraphs 99 and 100 are denied as stated as same constitute an incomplete attempt at summarization of the medical records and references to contact with Dr. Helmi at or about said time. It is agreed that Dr. Helmi was contacted by cell phone pertaining to Wanda Russell, and initially did not immediately recall the contact she had had the night before regarding admission of the patient to the unit, and as she was seeing patients at that moment, needed to refresh her recollections regarding same. Dr. Helmi does not presently recall any attempts to contact her beeper at 0955 hours on December 6, 2005,

and would not have had a beeper with her at the time as she was seeing office patients and was not on call.

101-103. The averments of Fourth Amended Complaint paragraphs 101 through 103, inclusive, appear to consist of Plaintiff's selective and inaccurate attempted summary of the medical records and events and are therefore denied as stated. By way of further response, it is averred that Dr. Maloney spoke with Dr. Helmi by telephone on the night of December 5, 2005 at which time he advised Dr. Helmi that he had concluded the patient was severely depressed and suicidal but medically stable, and thus he wanted the patient admitted to the DRMC Behavioral Unit for which Dr. Helmi was then on call. Based upon those representations as the on-call psychiatrist, Dr. Helmi authorized the admission of Plaintiff to the Behavioral Health Unit which assigned the patient to the service of Dr. Bobrin.

The records indicate the patient was not physically admitted into the Behavioral Unit until December 6, 2005 at or about 2:00 a.m., and was placed under observation protocols and such orders by Dr. Helmi as are reflected in the chart records, which were given in advance of the patient's transfer. Initial assessment was initiated by the nursing staff. Dr. Helmi was not advised or aware of the patient's actual arrival on the unit until after 8:00 a.m. when Dr. Helmi was off call and the patient was under Dr. Bobrin's service. Under the circumstances, Dr. Helmi was not in a position to nor would the standard of care require her to perform a history, psychiatric evaluation, physical examination, or have other contact with Plaintiff.

By way of further response, said legal conclusions are specifically denied as at no time was Dr. Helmi negligent or the cause of harm to Plaintiff. To the contrary, at all times material and relevant hereto, answering Defendant exercised reasonable and proper skill, care and

judgment under the circumstances then and there existing. Answering Defendant's foregoing averments are hereby incorporated herein by reference, in further response to said allegations.

104-120. The averments of Fourth Amended Complaint paragraphs 104 through 120, inclusive, appear to be directed to a Defendant other than answering Defendant and therefore no response thereto is required under the Rules of Civil Procedure. By way of further response, the averments of Fourth Amended Complaint paragraphs 104 through 120, inclusive, are denied as stated in that same appear to be Plaintiff's selective attempted summary of medical records and events and do not fully and completely set forth the facts and circumstances as set forth in the applicable medical records and/or as occurred. The applicable records speak for themselves as to their contents.

121. The averments of Fourth Amended Complaint paragraph 121 are denied that Wanda Russell suffered a cerebrovascular accident during her admission to DRMC while under the care of Dr. Helmi, and proof of such allegation is demanded at the trial of this matter. See also, Dr. Helmi's prior responses as set forth herein.

122. The averments of Fourth Amended Complaint paragraph 122 appear to be directed to a Defendant other than answering Defendant and therefore no response thereto is required under the Rules of Civil Procedure. By way of further response, the averments of Fourth Amended Complaint paragraph 122 are denied as stated in that same appear to be Plaintiff's selective attempted summary of medical records and events and do not fully and completely set forth the facts and circumstances as set forth in the applicable medical records and/or as occurred. The applicable records speak for themselves as to their contents.

123. Dr. Helmi was not involved as regards the averments of Fourth Amended Complaint paragraph 123, and thus, same are denied consistent with Pennsylvania Rule of Civil Procedure

124-127. The averments of Fourth Amended Complaint paragraphs 124 through 127, inclusive, are deemed denied pursuant to and consistent with Pa.R.C.P. 1029(e). Furthermore, the averments of paragraphs 124 through 127, inclusive, to the extent they refer to Defendants other than answering Defendant, are denied as legal and/or factual conclusions to which no response is required. As regards, Dr. Helmi, said legal and/or factual conclusions are specifically denied as at no time was Dr. Helmi negligent or the cause of harm to Plaintiff, and after reasonable investigation, answering Defendant is presently without knowledge or information sufficient to form a belief as to the truth of the averments of alleged injuries and damages.

COUNT I - NEGLIGENCE
(Plaintiff v. Dr. Devlin)

128-129. The averments of Fourth Amended Complaint paragraphs 128 through 129, inclusive, are directed against a Defendant other than answering Defendant and therefore no response thereto is required under the Rules of Civil Procedure.

COUNT II - NEGLIGENCE, GROSS NEGLIGENCE, RECKLESSNESS
(Plaintiff v. Dr. Maloney)

130-131. The averments of Fourth Amended Complaint paragraphs 130 through 131, inclusive, are directed against a Defendant other than answering Defendant and therefore no response thereto is required under the Rules of Civil Procedure.

COUNT III - NEGLIGENCE, GROSS NEGLIGENCE, AND RECKLESSNESS
(Plaintiff v. Dr. Helmi)

132. In response to the averments of Fourth Amended Complaint paragraph 132, answering Defendant incorporates herein by reference her foregoing responses as though set forth at length.

133. The averments of Fourth Amended Complaint paragraph 133 are specifically denied, pursuant to and consistent with Pa.R.C.P. 1029(e). To the contrary, at all times material and relevant hereto, Dr. Helmi exercised reasonable and proper skill, care, and judgment under the circumstances then and there existing. Dr. Helmi's foregoing averments are hereby incorporated herein by reference, in further response to said allegations of paragraph 133.

COUNT IV - NEGLIGENCE, GROSS NEGLIGENCE, AND RECKLESSNESS
(Plaintiff v. Dr. Bradley)

134-135. The averments of Fourth Amended Complaint paragraphs 134 through 135, inclusive, are directed against a Defendant other than answering Defendant and therefore no response thereto is required under the Rules of Civil Procedure.

COUNT V - NEGLIGENCE, GROSS NEGLIGENCE, AND RECKLESSNESS
(Plaintiff v. Dr. Bobrin)

136-137. The averments of Fourth Amended Complaint paragraphs 136 through 137, inclusive, are directed against a Defendant other than answering Defendant and therefore no response thereto is required under the Rules of Civil Procedure.

**COUNT VI - VICARIOUS LIABILITY FOR THE NEGLIGENCE, GROSS
NEGLIGENCE, AND RECKLESSNESS OF AGENTS
AND CORPORATE (DIRECT) NEGLIGENCE**

**(Plaintiff v. DuBois Regional Medical Center a/k/a
DuBois Regional Medical Center West a/d/b/a DRMC Behavioral Unit a/k/a
DRMC East Behavioral Unit a/k/a DRMC Behavioral Health Outpatient Clinic)**

138-142. The averments of Fourth Amended Complaint paragraphs 138 through 142, inclusive, are directed against a Defendant other than answering Defendant and therefore no response thereto is required under the Rules of Civil Procedure.

WHEREFORE, answering Defendant Dr. Sanaa Helmi respectfully requests entry of judgment in her favor and that Plaintiff's claim be dismissed, with prejudice.

NEW MATTER

143. Answering Defendant hereby raises and seeks to preserve all immunities, defenses, and limitations of liability of the Healthcare Services Malpractice Act, 40 P.S. § 1301 *et seq.*, and the MCARE Act, 40 P.S. § 1303.101, *et seq.*, insofar as applicable hereto.

144. Answering Defendant hereby raises and seeks to preserve all immunities, defenses, and limitations of liability that are set forth in the Mental Health Procedures Act, 50 P.S. § 7101, including but not limited to those at 50 P.S. § 7114(a).

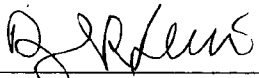
145. Plaintiff's Fourth Amended Complaint fails to state a claim against answering Defendant upon which relief can be granted.

146. Based on the Fourth Amended Complaint allegations and other representations of Plaintiff's counsel, it is understood that no punitive damage claims are currently pending or asserted as regards Defendant Dr. Helmi.

WHEREFORE, answering Defendant Dr. Sanaa Helmi respectfully requests entry of judgment in her favor and that Plaintiff's claim be dismissed, with prejudice.

Respectfully submitted,

McQUAIDE, BLASKO,
FLEMING & FAULKNER, INC.

By: 

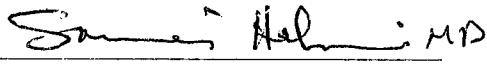
Darryl R. Slimak
Attorneys for Defendant
SANAA HELMI, M.D.
811 University Drive
State College, PA 16801
(814) 238-4926
Fax: (814) 238-9624

Dated: April 29, 2008

Wanda Russell v. Devlin, et al

VERIFICATION

The undersigned verifies that she is authorized to make this verification on her own behalf; and that the statements made in the foregoing **DEFENDANT DR. SANAA HELMI'S ANSWER WITH NEW MATTER TO PLAINTIFF'S FOURTH AMENDED COMPLAINT** are true and correct to the best of her knowledge, information, and belief. I understand that false statements herein are subject to the penalties of 18 Pa.C.S.A. § 4904, relating to unsworn falsification to authority.


Sanaa Helmi, M.D.

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

WANDA RUSSELL,

Plaintiff,

vs.

JAMES E. DEVLIN, M.D., MARK W.
MALONEY, D.O., DRMC PRIMARY CARE
ASSOCIATES, SANAA HELMI, M.D.,
THOMAS J. BRADLEY, M.D., BRADFORD
BOBRIN, M.D., DuBOIS REGIONAL MEDICAL
CENTER WEST a/d/b/a/ DRMC
BEHAVIORAL UNIT a/k/a/ DRMC EAST
BEHAVIORAL HEALTH OUTPATIENT
CLINIC,

Defendants.

*Medical Professional Liability
Action*

Docket No: 07 - 644 - C.D.

JURY TRIAL DEMANDED

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the Defendant Dr. Helmi's Answer with
New Matter to Plaintiff's Fourth Amended Complaint in the above-captioned matter was mailed
by regular mail, postage prepaid, at the Post Office, State College, Pennsylvania, on this
day of April 29, 2008, to the attorney(s) of record:

Mark A. Hoffman, Esquire
Kline & Specter, P.C.
1525 Locust Street 19th Floor
Philadelphia, PA 19102

David R. Bahl, Esquire
McCormick Law Firm
835 West Fourth Street
PO Box 577
Williamsport, PA 17701-5801

Matthew Brian O'Connor, Esquire
Gaca Matis Baum & Rizza PC
444 Liberty Ave Ste 300
Pittsburgh, PA 15222

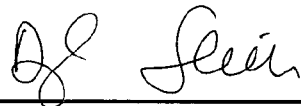
Lynn Bell, Esquire
Davies, McFarland & Carroll, P.C.
Tenth Floor One Gateway Center
Pittsburgh, PA 15222-1416

John McIntyre, Esquire
McIntyre Hartye & Schmitt
PO Box 533
Hollidaysburg, PA 16648-0533

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

McQUAIDE, BLASKO,
FLEMING & FAULKNER, INC.

By: _____



Darryl R. Slimak
Attorneys for
SANAA HELMI, M.D.
811 University Drive
State College, PA 16801
(814) 238-4926
Fax: (814) 238-9624

KLINE & SPECTER

A Professional Corporation

By: THOMAS R. KLINE, ESQUIRE
MARK A. HOFFMAN, ESQUIRE
ROYCE W. SMITH, ESQUIRE

Attorney ID Nos.: 28895/ 84443/201295

The Nineteenth Floor

1525 Locust Street

Philadelphia, Pennsylvania 19102

(215) 772-1000

FILED No CC
m 10:58 AM
MAY 09 2008 (CR)

William A. Shaw
Prothonotary/Clerk of Courts

Attorneys for Plaintiff

WANDA RUSSELL

**COURT OF COMMON PLEAS
COUNTY OF CLEARFIELD**

v.

JAMES E. DEVLIN, M.D. and
MARK W. MALONEY, D.O. and
DRMC PRIMARY CARE ASSOCIATES
and SANAA HELMI, M.D. and
THOMAS J. BRADLEY, M.D. and
BRADFORD BOBRIN, M.D. and
DuBOIS REGIONAL MEDICAL
CENTER a/ka DuBOIS REGIONAL
MEDICAL CENTER WEST
a/d/b/a DRMC BEHAVIORAL
UNIT a/k/a DRMC EAST BEHAVIORAL
UNIT a/k/a DRMC BEHAVIORAL
HEALTH OUTPATIENT CLINIC
Defendants.

DOCKET NO. 07-644-CD

**PLAINTIFF'S REPLY TO THE NEW MATTER OF DEFENDANT, DR. SANAA HELMI
TO PLAINTIFF'S FOURTH AMENDED COMPLAINT**

Plaintiff, Wanda Russell, by and through her undersigned counsel, Kline & Specter, P.C.,
herein replies to the New Matter of Defendant, Dr. Sanaa Helmi as follows:

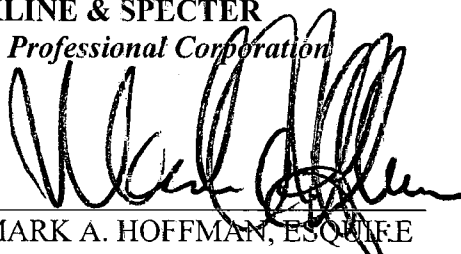
143-146. The allegations and statements set forth by Answering Defendant Dr. Sanaa
Helmi in paragraphs 143 to 146 inclusive of her New Matter are conclusions of law which require
no reply.

WHEREFORE, Plaintiff respectfully requests that this Court deny the prayer of Answering

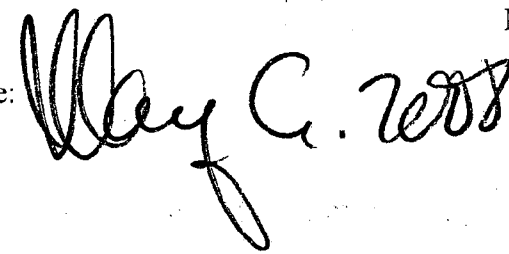
Defendant for entry of judgment in her favor with dismissal of Plaintiff's claims.

Respectfully submitted,

KLINE & SPECTER
A Professional Corporation

By: 

MARK A. HOFFMAN, ESQUIRE
Attorneys for Plaintiff

Date: 

KLINE & SPECTER

A Professional Corporation

By: THOMAS R. KLINE, ESQUIRE
MARK A. HOFFMAN, ESQUIRE
ROYCE W. SMITH, ESQUIRE

Attorney ID Nos.: 28895/ 84443/201295

The Nineteenth Floor

1525 Locust Street

Philadelphia, Pennsylvania 19102

(215) 772-1000

Attorneys for Plaintiff

WANDA RUSSELL

**COURT OF COMMON PLEAS
COUNTY OF CLEARFIELD**

v.

DOCKET NO. 07-644-CD

JAMES E. DEVLIN, M.D. and
MARK W. MALONEY, D.O. and
DRMC PRIMARY CARE ASSOCIATES
and SANAA HELMI, M.D. and
THOMAS J. BRADLEY, M.D. and
BRADFORD BOBRIN, M.D. and
DuBOIS REGIONAL MEDICAL
CENTER a/ka DuBOIS REGIONAL
MEDICAL CENTER WEST
a/d/b/a DRMC BEHAVIORAL
UNIT a/k/a DRMC EAST BEHAVIORAL
UNIT a/k/a DRMC BEHAVIORAL
HEALTH OUTPATIENT CLINIC
Defendants.

CERTIFICATE OF SERVICE

I, MARK A. HOFFMAN, ESQUIRE, hereby certify that a true and correct copy of the **Plaintiff's Reply to the New Matter of Defendant Dr. Sanaa Helmi to Plaintiff's Fourth Amended Complaint**, was served via **First Class Mail** on the following individuals:

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

Darryl R. Slimak, Esquire
McQuaide Blasko
811 University Drive
State College, PA 16801-6699

M. Brian O'Connor, Esquire
Matis, Brum, Rizza, O'Connor
Four Gateway Center
444 Liberty Avenue
Suite 300
Pittsburgh, PA 15222

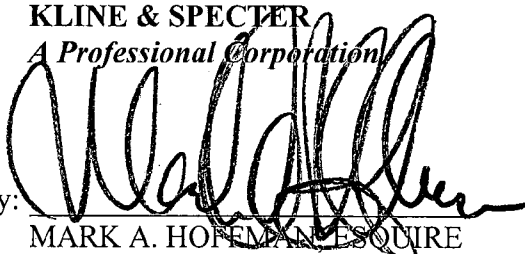
Christopher C. Rulis, Esquire
O'Brien, Rulis & Bochicchio, LLC
555 Grant Street
Suite 120
Pittsburgh, PA 15219

Lynn E. Bell, Esquire
Davies, McFarland & Carroll, P.C.
The Tenth Floor
One Gateway Center
Pittsburgh, PA 15222-1416

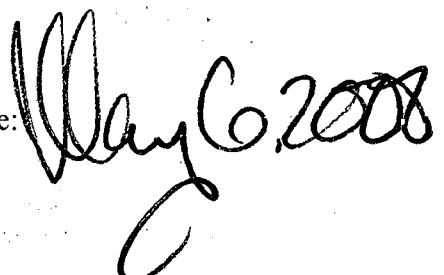
David R. Bahl, Esquire
Richard F. Schluter, Esquire
McCormick Law Firm
835 West Fourth Street
Williamsport, PA 17701

Respectfully submitted,

KLINE & SPECTER
A Professional Corporation

By: 

MARK A. HOFMANN, ESQUIRE
Attorneys for Plaintiff

Date: 

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

WANDA RUSSELL,

CIVIL ACTION

Plaintiff,

vs.

No.: 07-644-CD

JAMES E. DEVLIN, M.D., MARK W. MALONEY, D.O., DRMC PRIMARY CARE ASSOCIATES, SANAA HELMI, M.D., THOMAS J. BRADLEY, M.D., BRADFORD BOBRIN, M.D., DUBOIS REGIONAL MEDICAL CENTER a/k/a DUBOIS REGIONAL MEDICAL CENTER WEST a/d/b/a DRMC BEHAVIORAL UNIT a/k/a DRMC EAST BEHAVIORAL UNIT a/k/a DRMC BEHAVIORAL HEALTH OUTPATIENT CLINIC,

Defendants.

TO: PLAINTIFFS

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

DAVIES, MCFARLAND & CARROLL, P.C.

By: _____

[Signature]
Attorneys for Defendant,
Bradford Bobrin, M.D.

**ANSWER AND NEW MATTER TO
FOURTH AMENDED COMPLAINT**

Filed on Behalf of this Party:

Bradford Bobrin, M.D., One of the
Defendants

Counsel of Record for this Party:

Lynn E. Bell, Esquire
PA I.D. #38588

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

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

(412) 281-0737

JURY TRIAL DEMANDED

FILED No CC
m/11:50am
MAY 12 2008
[Signature]

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

WANDA RUSSELL,	)	CIVIL ACTION
	)	
Plaintiff,	)	
	)	
vs.	)	No.: 07-644-CD
	)	
JAMES E. DEVLIN, M.D., MARK W.	)	
MALONEY, D.O., DRMC PRIMARY	)	
CARE ASSOCIATES, SANAA HELMI,	)	
M.D., THOMAS J. BRADLEY, M.D.,	)	
BRADFORD BOBRIN, M.D., DUBOIS	)	
REGIONAL MEDICAL CENTER a/k/a	)	
DUBOIS REGIONAL MEDICAL	)	
CENTER WEST a/d/b/a DRMC	)	
BEHAVIORAL UNIT a/k/a DRMC EAST	)	
BEHAVIORAL UNIT a/k/a DRMC	)	
BEHAVIORAL HEALTH OUTPATIENT	)	
CLINIC,	)	
	)	
Defendants.	)	

ANSWER AND NEW MATTER TO FOURTH AMENDED COMPLAINT

AND NOW, comes the Defendant, Bradford Bobrin, M.D., by and through his attorneys, Davies, McFarland & Carroll, P.C., and files with within Answer and New Matter To Fourth Amended Complaint, stating as follows:

1. After a reasonable investigation, Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 1 of the Fourth Amended Complaint.

2-11. The averments of Paragraphs 2 through 11 of the Fourth Amended Complaint are directed to co-Defendants to which no response is required.

12. The averments of Paragraph 12 of the Fourth Amended Complaint are admitted in part and denied in part. It is denied that Exhibit B attached to the Fourth Amended Complaint

entitled Certificate of Merit is a valid Certificate of Merit as to Dr. Bobrin. The remainder of the averments of Paragraph 12 of the Fourth Amended Complaint are admitted.

13. The averments of Paragraph 13 of the Fourth Amended Complaint are directed to co-Defendants to which no response is required.

14-15. The averments of Paragraphs 14 through 15 of the Fourth Amended Complaint contain conclusions of law and are directed to co-Defendants to which no response is required. To the extent a response may be required, Defendant denies that he was the actual or ostensible agent, servant, and/or employee of DuBois Regional Medical Center and the DRMC Behavioral Unit. He was an employee of DuBois Regional Medical Center. All allegations of negligence, gross negligence or reckless are denied and placed at issue pursuant to Pa.R.C.P. 1029.

16. The averments of Paragraph 16 of the Fourth Amended Complaint are legal conclusions to which no response is required.

17-19, 24-27, 29, 31-32, 35, 38-41, 46-54, 68, 70-71. The averments of Paragraphs 17 through 19, 24 through 27, 29, 31 through 32, 35, 38 through 41, 46 through 54, 68, and 70 through 71 are denied in accordance with Pennsylvania Rule of Civil Procedure 1029, Defendant demanding strict proof thereof at the time of trial. Dr. Bobrin was not a participant in Plaintiff's medical care during the times set forth.

20, 22, 28, 30, 33, 36-37, 42, 45. The averments of Paragraphs 20, 22, 28, 30, 33, 36-37, 42 and 45 are denied in accordance with Pennsylvania Rule of Civil Procedure 1029, Defendant demanding strict proof thereof at the time of trial.

21, 23, 34, 43-44, 55-67, 69, 72-75. The averments of Paragraphs 21, 23, 34, 43-44, 55 though 67, 69, and 72 through 75 of the Fourth Amended Complaint are directed to co-Defendants to which no response is required.

76-78, 80-82, 84-85, 87-89, 93, 99-100. The averments of Paragraphs 76 through 78, 80 through 82, 84 through 85, 87 through 89, 93, and 99 through 100 of the Fourth Amended Complaint are denied in accordance with Pennsylvania Rule of Civil Procedure 1029, Defendant demanding strict proof thereof at the time of trial.

79, 83, 86, 90-92, 94-98, 101-103. The averments of Paragraphs 79, 83, 86, 90 through 92, 94 through 98, and 101 through 103 of the Fourth Amended Complaint are directed to co-Defendants to which no response is required.

104-106, 111. The averments of Paragraphs 104 through 106 are admitted in part and denied in part. The statements attributed to Dr. Bobrin in these paragraphs do not reflect his full evaluation of Plaintiff.

107-110, 112-114. The averments of Paragraphs 107 through 110, and 112 through 114 of the Fourth Amended Complaint are denied in accordance with Pennsylvania Rule of Civil Procedure 1029, Defendant demanding strict proof thereof at the time of trial.

115-123. The averments of Paragraphs 115 through 123 of the Fourth Amended Complaint are denied in accordance with Pennsylvania Rule of Civil Procedure 1029, Defendant demanding strict proof thereof at the time of trial.

124-127. The averments of Paragraphs 124 through 127 of the Fourth Amended Complaint are legal conclusions to which no response is required. To the extent a response may be required, the averments of Paragraphs 124 through 127 are denied in accordance with Pennsylvania Rule of Civil Procedure 1029, Defendant demanding strict proof thereof at the time of trial.

WHEREFORE, Defendant Bradford Bobrin, M.D. hereby demands that the claims against him be dismissed and that judgment be entered in his favor.

COUNT I

NEGLIGENCE-PLAINTIFF V. DR. DEVLIN

128. In response to Paragraph 128 of the Fourth Amended Complaint, Defendant incorporates Paragraphs 1 through 127 of his Answer and New Matter to Fourth Amended Complaint as though fully set forth at length herein.

129. The averments of Paragraph 129 of the Fourth Amended Complaint and its subparagraphs are directed to co-Defendants to which no response is required.

WHEREFORE, Defendant Bradford Bobrin, M.D. hereby demands that the claims against him be dismissed and that judgment be entered in his favor.

COUNT II

NEGLIGENCE, GROSS NEGLIGENCE, AND RECKLESSNESS
-PLAINTIFF V. DR. MALONEY

130. In response to Paragraph 130 of the Fourth Amended Complaint, Defendant incorporates Paragraphs 1 through 129 of his Answer and New Matter to Fourth Amended Complaint as though fully set forth at length herein.

131. The averments of Paragraph 131 of the Fourth Amended Complaint and its subparagraphs are directed to co-Defendants to which no response is required.

WHEREFORE, Defendant Bradford Bobrin, M.D. hereby demands that the claims against him be dismissed and that judgment be entered in his favor.

COUNT III

NEGLIGENCE, GROSS NEGLIGENCE AND RECKLESSNESS
-PLAINTIFF V. DR. HELMI

132. In response to Paragraph 132 of the Fourth Amended Complaint, Defendant incorporates Paragraphs 1 through 131 of his Answer and New Matter to Fourth Amended Complaint as though fully set forth at length herein.

133. The averments of Paragraph 133 of the Complaint and its subparagraphs are directed to co-Defendants to which no response is required.

WHEREFORE, Defendant Bradford Bobrin, M.D. hereby demands that the claims against him be dismissed and that judgment be entered in his favor.

COUNT IV

NEGLIGENCE, GROSS NEGLIGENCE AND RECKLESSNESS -PLAINTIFF V. DR. BRADLEY

134. In response to Paragraph 134 of the Fourth Amended Complaint, Defendant incorporates Paragraphs 1 through 133 of his Answer and New Matter to the Fourth Amended Complaint as though fully set forth at length herein.

135. The averments of Paragraph 135 of the Complaint and its subparagraphs are directed to co-Defendants to which no response is required.

WHEREFORE, Defendant Bradford Bobrin, M.D. hereby demands that the claims against him be dismissed and that judgment be entered in his favor.

COUNT V

NEGLIGENCE, GROSS NEGLIGENCE AND "RECKLESSNESS" -PLAINTIFF V. DR. BOBRIN

136. In response to Paragraph 136 of the Fourth Amended Complaint, Defendant incorporates Paragraphs 1 through 135 of his Answer and New Matter to the Fourth Amended Complaint as though fully set forth at length herein.

137. The averments of Paragraph 137 of the Fourth Amended Complaint and its subparagraphs are denied in accordance with Pennsylvania Rule of Civil Procedure 1029, Defendant demanding strict proof thereof at the time of trial.

WHEREFORE, Defendant Bradford Bobrin, M.D. hereby demands that the claims against him be dismissed and that judgment be entered in his favor.

COUNT V (SECOND COUNT V)

VICARIOUS AND CORPORATE (DIRECT) NEGLIGENCE -PLAINTIFF V. DUBOIS
REGIONAL MEDICAL CENTER A/K/A DUBOIS REGIONAL MEDICAL CENTER WEST
A/D/B/A DRMC BEHAVIORAL UNIT A/K/A DRMC EAST BEHAVIORAL UNIT A/K/A
DRMC BEHAVIORAL HEALTH OUTPATIENT CLINIC

138. In response to Paragraph 138 of the Fourth Amended Complaint, Defendant incorporates Paragraphs 1 through 137 of his Answer and New Matter to Fourth Amended Complaint as though fully set forth at length herein.

139. The averments of Paragraphs 139 through 142 and their subparagraphs of the Complaint conclusions of law and are directed to co-Defendants to which no response is required. To the extent a response may be required, Defendant was the employee of DuBois Regional Medical Center. By way of further response, to the extent a response may be required, the remaining averments are denied in accordance with Pennsylvania Rule of Civil Procedure 1029, Defendant demanding strict proof thereof at the time of trial.

WHEREFORE, Defendant Bradford Bobrin, M.D. hereby demands that the claims against him be dismissed and that judgment be entered in his favor.

NEW MATTER

140. Defendant incorporates Paragraphs 1 through 140 of his Answer to the Fourth Amended Complaint.

141. Defendant hereby asserts the affirmative defense of the statute of limitations. Plaintiff's condition was diagnosed on December 6 or December 7, 2005. The suit was not filed until April 24, 2007. The discovery rule is not applicable. The Third and Fourth Amended Complaints were filed after the statute of limitations.

142. Plaintiffs' Fourth Amended Complaint fails to state a claim upon which relief may be granted as to Defendant.

143. Plaintiffs' comparative negligence, contributory negligence and/or assumption of the risk, are a complete and/or partial defense to the entirety of Plaintiff's Fourth Amended Complaint.

144. The damages and injuries allegedly sustained by Plaintiffs were not proximately caused by Defendant.

145. If Plaintiffs sustained any injuries or damages, said injuries and damages were solely and exclusively caused by circumstances over which Defendant did not have any control and/or responsibility and/or by supervening, intervening and/or independent causes over which Defendant did not have any control.

146. Plaintiffs' injuries and damages were the result of a pre-existing condition.

147. If Plaintiffs sustained injuries as alleged, which are denied, Plaintiffs' injuries were caused by persons, entities, occurrences, instrumentalities or events unrelated to and not under the control of Defendant.

148. Defendant asserts all defenses and limitations on damages which are available to him under the Medical Care Availability and Reduction of Error Act.

149. In the event it is determined that Plaintiffs failed to obtain an appropriate Certificate of Merit, Defendant requests dismissal of this Complaint.

150. Defendant hereby gives notice he intends to rely upon such other and further affirmative defenses as may become available and apparent in discovery in this matter.

151. Defendant claims the affirmative defense of qualified immunity pursuant to the Mental Health Procedures Act 50 PS § 7114.

152. Immunity is available to Defendant pursuant to the Mental Health Procedures Act.

153. Defendant is entitled to immunity under 50 PS § 7114(a) for any psychiatric or medical care provided to the patient during the admission and treatment in question.

154. Defendant is entitled to immunity for all treatment related to Mrs. Russell pursuant to 50 PS § 7104; 50 PS § 7114 and any and all other provisions of the Mental Health Mental Procedures Act.

155. Defendant hereby asserts all other defenses available under the Mental Health Procedures Act.

JURY TRIAL DEMANDED

Davies McFarland & Carroll, P.C.

By: _____

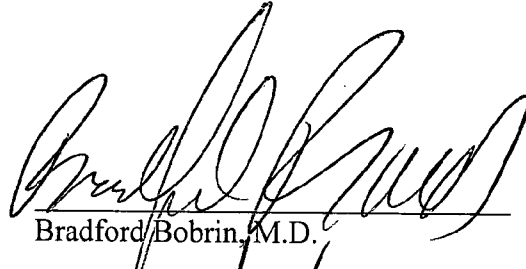


Lynn E. Bell, Esquire
Lauren R. Ames, Esquire
Attorneys for Bradford Bobrin, M.D.,
One of the Defendants

VERIFICATION

I, *Bradford Bobrin, M.D.*, have read the foregoing ANSWER AND NEW MATTER TO FOURTH AMENDED COMPLAINT. The statements therein are correct to the best of my personal knowledge or information and belief.

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



Bradford Bobrin, M.D.
Date: 4/13/08

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that I served the foregoing document to all counsel of record
via U.S. Mail on the 7th day of May, 2008:

Thomas R. Kline, Esquire
Mark A. Hoffman, Esquire
Kline & Specter, P.C.
1525 Locust Street, 19th Floor
Philadelphia, PA 19102

Attorneys for Plaintiff

Daryl Slimak, Esquire
McQuaide Blasko
811 University Drive
State College, PA 16801

M. Brian O'Connor, Esquire
Matis Baum Rizza & O'Connor, P.C.
444 Liberty Avenue; Suite 300
Pittsburgh, PA 15222

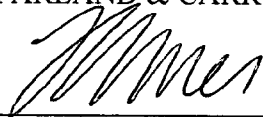
John L. McIntyre, Esquire
McIntyre Dugas Hartye & Schmitt
P.O. Box 533
Hollidaysburg, PA 16648-0533

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

David R. Bahl, Esquire
Richard F. Schluter, Esquire
McCormick Law Firm
835 West Fourth Street
Williamsport, PA 17703

Attorney for Dr. Mark W. Maloney

DAVIES, McFARLAND & CARROLL, P.C.

By: 

Lynn E. Bell, Esquire
Lauren R. Ames, Esquire
Attorneys for Bradford Bobrin, M.D.,
One of the Defendants

KLINE & SPECTER

A Professional Corporation

By: THOMAS R. KLINE, ESQUIRE
MARK A. HOFFMAN, ESQUIRE
ROYCE W. SMITH, ESQUIRE

Attorney ID Nos.: 28895/ 84443/201295

The Nineteenth Floor

1525 Locust Street

Philadelphia, Pennsylvania 19102

(215) 772-1000

FILED ^{NO CC}
MAY 22 2008

William A. Shaw
Prothonotary/Clerk of Courts

Attorneys for Plaintiff

WANDA RUSSELL

**COURT OF COMMON PLEAS
COUNTY OF CLEARFIELD**

v.

JAMES E. DEVLIN, M.D. and
MARK W. MALONEY, D.O. and
DRMC PRIMARY CARE ASSOCIATES
and SANAA HELMI, M.D. and
THOMAS J. BRADLEY, M.D. and
BRADFORD BOBRIN, M.D. and
DuBOIS REGIONAL MEDICAL
CENTER a/ka DuBOIS REGIONAL
MEDICAL CENTER WEST
a/d/b/a DRMC BEHAVIORAL
UNIT a/k/a DRMC EAST BEHAVIORAL
UNIT a/k/a DRMC BEHAVIORAL
HEALTH OUTPATIENT CLINIC
Defendants.

DOCKET NO. 07-644-CD

**PLAINTIFF'S REPLY TO THE NEW MATTER OF
DEFENDANT, BRADFORD BOBRIN, M.D. TO
PLAINTIFF'S FOURTH AMENDED COMPLAINT**

Plaintiff, Wanda Russell, by and through her undersigned counsel, Kline & Specter, P.C.,
herein replies to the New Matter of Answering Defendant, Bradford Bobrin, M.D. as follows:

140-155. The allegations set forth in paragraphs 140 to 155 inclusive of Answering
Defendant's New Matter are conclusions of law to which no response is required. It is specifically

denied that the Plaintiff's injuries were the result of a pre-existing condition.

Respectfully submitted,

KLINE & SPECTER
A Professional Corporation

By: Mark A. Hoffman / ESQUIRE
Attorneys for Plaintiff

Date: 5/20/05

KLINE & SPECTER

A Professional Corporation

By: THOMAS R. KLINE, ESQUIRE
MARK A. HOFFMAN, ESQUIRE
ROYCE W. SMITH, ESQUIRE

Attorney ID Nos.: 28895/ 84443/201295

The Nineteenth Floor

1525 Locust Street

Philadelphia, Pennsylvania 19102

(215) 772-1000

Attorneys for Plaintiff

WANDA RUSSELL

**COURT OF COMMON PLEAS
COUNTY OF CLEARFIELD**

v.

JAMES E. DEVLIN, M.D. and
MARK W. MALONEY, D.O. and
DRMC PRIMARY CARE ASSOCIATES
and SANAA HELMI, M.D. and
THOMAS J. BRADLEY, M.D. and
BRADFORD BOBRIN, M.D. and
DuBOIS REGIONAL MEDICAL
CENTER a/ka DuBOIS REGIONAL
MEDICAL CENTER WEST
a/d/b/a DRMC BEHAVIORAL
UNIT a/k/a DRMC EAST BEHAVIORAL
UNIT a/k/a DRMC BEHAVIORAL
HEALTH OUTPATIENT CLINIC
Defendants.

DOCKET NO. 07-644-CD

CERTIFICATE OF SERVICE

I, MARK A. HOFFMAN, ESQUIRE, hereby certify that a true and correct copy of the **Plaintiff's Reply to the New Matter of Defendant Dr. Bradford Bobrin to Plaintiff's Fourth Amended Complaint**, was served via **First Class Mail** on the following individuals:

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

Darryl R. Slimak, Esquire
McQuaide Blasko
811 University Drive
State College, PA 16801-6699

M. Brian O'Connor, Esquire
Matis, Brum, Rizza, O'Connor
Four Gateway Center
444 Liberty Avenue
Suite 300
Pittsburgh, PA 15222

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

Lynn E. Bell, Esquire
Davies, McFarland & Carroll, P.C.
The Tenth Floor
One Gateway Center
Pittsburgh, PA 15222-1416

David R. Bahl, Esquire
Richard F. Schluter, Esquire
McCormick Law Firm
835 West Fourth Street
Williamsport, PA 17701

Respectfully submitted,

KLINE & SPECTER
A Professional Corporation

By:


MARK A. HOFFMAN, ESQUIRE
Attorneys for Plaintiff

Date: 5/20/08

FILED

JUN 11 2008

n/11205/cw
William A. Shaw
Prothonotary/Clerk of Courts (SK)
NO 4c

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

WANDA RUSSELL,

Plaintiff,

vs.

JAMES E. DEVLIN, M.D.; MARK W.
MALONEY, D.O.; DRMC PRIMARY
CARE ASSOCIATES; SANAA HELMI,
M.D.; THOMAS J. BRADLEY, M.D.;
BRADFORD BOBRIN, M.D.; DUBOIS
REGIONAL MEDICAL CENTER a/k/a
DUBOIS REGIONAL MEDICAL CENTER
WEST a/d/b/a DRMC BEHAVIORAL
UNIT a/k/a DRMC EAST BEHAVIORAL
UNIT a/k/a DRMC BEHAVIORAL
HEALTH OUTPATIENT CLINIC,

Defendants.

CIVIL DIVISION

No. 07-644-CD

Code:

Issue No:

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

Filed on behalf of James E. Devlin,
M.D., Defendant

Counsel of Record for This Party:

M. Brian O'Connor, Esquire
PA I.D. 56795

MATIS BAUM RIZZA O'CONNOR
Firm #983
444 Liberty Avenue, Suite 300
Pittsburgh, PA 15222
(412) 338-4750

JURY TRIAL DEMANDED

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

WANDA RUSSELL,	)	CIVIL DIVISION
	)	
Plaintiff,	)	No. 07-644-CD
	)	
vs.	)	
	)	
JAMES E. DEVLIN, M.D.; MARK W.	)	
MALONEY, D.O.; DRMC PRIMARY	)	
CARE ASSOCIATES; SANAA HELMI,	)	
M.D.; THOMAS J. BRADLEY, M.D.;	)	
BRADFORD BOBRIN, M.D.; DUBOIS	)	
REGIONAL MEDICAL CENTER a/k/a	)	
DUBOIS REGIONAL MEDICAL CENTER	)	
WEST a/d/b/a DRMC BEHAVIORAL	)	
UNIT a/k/a DRMC EAST BEHAVIORAL	)	
UNIT a/k/a DRMC BEHAVIORAL	)	
HEALTH OUTPATIENT CLINIC,	)	
	)	
Defendants.	)	

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

AND NOW, comes the Defendant, James E. Devlin, M.D., by and through his attorneys, Matis Baum Rizza O'Connor, and files the within Answer and New Matter to Plaintiff's Fourth Amended Complaint:

1. If any factual allegations in the complaint are not responded to in the following paragraphs, after reasonable investigation, defendant is without knowledge or information sufficient to form a belief as to the truth of said allegations.
2. Each paragraph of this Answer and New Matter incorporates by reference all of the other paragraphs of the Answer and New Matter.
3. After reasonable investigation, defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraphs 1, 70-74, 76-84, 85, 87, 88, 99-100, 104-106, 113, 117-120, 122 and 123.
4. Paragraph 2 is admitted.
5. Paragraphs 3-4, 8-13, 15, 21, 23, 34, 43, 48-69, 75, 86, 89-98, 101-103, 107-112 and 114-116 are directed to other defendants and responses thereto are not required of this defendant.

6. Paragraph 5 states a conclusion of law to which no response is required. To the extent a response is required, it is denied that Dr. Devlin is an agent, servant or employee of DRMC Primary Care Associates.

7. Paragraph 6 is admitted in part and denied in part. It is admitted that Dr. Devlin was providing coverage for Dr. Maloney on or about December 4 and December 5, 2005. The remainder of the allegations in paragraph 6 state conclusions of law to which no response is required. To the extent said paragraph implies that Dr. Devlin was negligent, said paragraph is denied.

8. Paragraph 7 is admitted in part and denied in part. It is admitted that Dr. Devlin was providing coverage for Dr. Maloney on December 4 and December 5, 2005. The remainder of the allegations in paragraph 7 state conclusions of law to which no response is required. To the extent said paragraph implies that Dr. Devlin was negligent, said paragraph is denied.

9. Paragraph 14 is denied. Dr. Devlin is not an employee of Dubois Regional Medical Center.

10. Paragraph 16 states a legal conclusion to which no response is required. To the extent said paragraph implies that Dr. Devlin was negligent, said paragraph is denied.

11. The allegations in paragraphs 17-20, 22, 24-33, 35, 36-42 and 44-47 are admitted insofar as said allegations are consistent with complete recordations in the medical records which are incorporated by reference. Insofar as said allegations are inconsistent with, contrary to, or not recorded in the medical records, after reasonable investigation, defendant is without knowledge or information sufficient to form a belief as to the truth of said allegations.

12. The allegations in paragraphs 121, 124, 125, 126 and 127 are denied.

COUNT I - NEGLIGENCE

(Plaintiff v. Dr. Devlin)

13. In response to paragraph 128, defendant incorporates by reference the paragraphs of this Answer and New Matter which respond to the paragraphs incorporated in paragraph 128.

14. Paragraph 129 and its sub-paragraphs are denied.

COUNT II

15. Paragraphs 130 and 131 are directed to another defendant and responses thereto are not required of this defendant.

COUNT III

16. Paragraphs 132 and 133 are directed to another defendant and responses thereto are not required of this defendant.

COUNT IV

17. Paragraphs 134 and 135 are directed to another defendant and responses thereto are not required of this defendant.

COUNT V

18. Paragraphs 136 and 137 are directed to another defendant and responses thereto are not required of this defendant.

COUNT V - VICARIOUS LIABILITY

(Plaintiff v. Dubois Regional Medical Center)

19. In response to paragraph 138, defendant incorporates by reference the paragraphs of this Answer and New Matter which respond to the paragraphs incorporated in paragraph 138.

20. The allegations in paragraphs 139 and 140 are directed to another defendant and responses thereto are not required of this defendant. Furthermore, said allegations state conclusions of law to which no response is required. To the extent an answer is required and to the extent said paragraphs imply that Dr. Devlin was negligent, said

paragraphs are denied. It is further denied that Dr. Devlin was an agent, servant or employee of Dubois Regional Medical Center.

NEW MATTER

21. Plaintiff's claims are barred, or, in the alternative, limited by the provisions of the Medical Care Availability and Reduction of Error (MCARE) Act, 40 P.S. §1303.1001, *et seq.*

22. Any damages to which plaintiff might otherwise be entitled are barred, or, in the alternative, limited by the provisions of §§508-510 of the Medical Care Availability and Reduction of Error (MCARE) Act, 40 P.S. §1303.508-510.

WHEREFORE, defendant James E. Devlin, M.D., respectfully requests that judgment be entered in his favor and against Plaintiff with costs to be borne by plaintiff.

MATIS BAUM RIZZA O'CONNOR

By: Brian O'Connor
M. Brian O'Connor, Esquire
PA I.D. 56795
Attorneys for James E. Devlin, M.D.,
Defendant

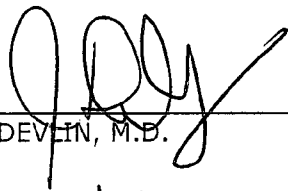
Matis Baum Rizza O'Connor
Four Gateway Center
444 Liberty Avenue, Suite 300
Pittsburgh, PA 15222
(412) 338-4750

26.28529

VERIFICATION

I, James E. Devlin, M.D., have read the foregoing Answer and New Matter to Plaintiff's Fourth Amended Complaint. The statements therein are correct to the best of my personal knowledge or information and belief.

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



JAMES E. DEVLIN, M.D.

Date: 6/2/08

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that I served a true and correct copy of the foregoing Answer and New Matter to Plaintiff's Fourth Amended Complaint upon all counsel of record by United States, First-class mail, postage prepaid, this 4th day of June, 2008.

Thomas R. Kline, Esquire
Mark A. Hoffman, Esquire
Kline & Specter, P.C.
1525 Locust Street, 19th Floor
Philadelphia, PA 19102

David R. Bahl, Esquire
McCormick Law Firm
835 West Fourth Street
Williamsport, PA 17701

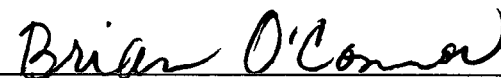
Darryl R. Slimak, Esquire
McQuaide, Blasko
811 University Drive
State College, PA 16801

Lynn Bell, Esquire
Davis, McFarland & Carroll, P.C.
One Gateway Center
420 Fort Duquesne Blvd., 10th Floor
Pittsburgh, PA 15222

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

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

MATIS BAUM RIZZA O'CONNOR



M. Brian O'Connor, Esquire

KLINE & SPECTER

A Professional Corporation

By: THOMAS R. KLINE, ESQUIRE
MARK A. HOFFMAN, ESQUIRE
ROYCE W. SMITH, ESQUIRE

Attorney ID Nos.: 28895/ 84443/201295
The Nineteenth Floor
1525 Locust Street
Philadelphia, Pennsylvania 19102
(215) 772-1000

FILED

JUN 20 2008

am / 11:20 / W
William A. Shaw
Prothonotary/Clerk of Courts
1 Clerk to App
(62)

Attorneys for Plaintiff

WANDA RUSSELL

**COURT OF COMMON PLEAS
COUNTY OF CLEARFIELD**

v.

JAMES E. DEVLIN, M.D. and
MARK W. MALONEY, D.O. and
DRMC PRIMARY CARE ASSOCIATES
and SANAA HELMI, M.D. and
THOMAS J. BRADLEY, M.D. and
BRADFORD BOBRIN, M.D. and
DuBOIS REGIONAL MEDICAL
CENTER a/ka DuBOIS REGIONAL
MEDICAL CENTER WEST
a/d/b/a DRMC BEHAVIORAL
UNIT a/k/a DRMC EAST BEHAVIORAL
UNIT a/k/a DRMC BEHAVIORAL
HEALTH OUTPATIENT CLINIC
Defendants.

DOCKET NO. 07-644-CD

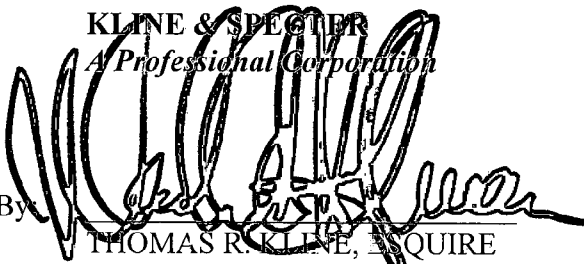
**PLAINTIFF'S REPLY TO THE NEW MATTER OF
DEFENDANT, JAMES E. DEVLIN, M.D.**

AND NOW, comes the Plaintiff, Wanda Russell, by and through her undersigned counsel,
Kline & Specter, P.C., herein replies to the New Matter of Answering Defendant as follows:

21-27. The allegations set forth in paragraphs 21 and 27, inclusive of Answering
Defendant's New Matter are conclusions of law which require no reply.

WHEREFORE, Plaintiff, Wanda Russell, respectfully requests that Answering Defendant's
New Matter be denied.

KLINE & SPECTER
A Professional Corporation

By 

THOMAS R. KLINE, ESQUIRE
MARK A. HOFFMAN, ESQUIRE
Attorneys for Plaintiffs

Date:

June 19, 2008

CERTIFICATE OF SERVICE

I, MARK A. HOFFMAN, ESQUIRE, hereby certify that a true and correct copy of the **Plaintiff's Reply to the New Matter of Defendant James E. Devlin, M.D.**, was served via first class U.S. mail on the following individuals:

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

Counsel for Defendant, DuBois Regional Medical Center, a/k/a Dubois Regional Medical Center a/k/a DuBois Regional Medical Center West a/d/b/a/ DRMC Behavioral Unit a/k/a DRMC East Behavioral Unit a/k/a DRMC Behavioral Outpatient Clinic

Darryl R. Slimak, Esquire
McQuaide Blasko
811 University Drive
State College, PA 16801-6699
Counsel for Defendant, Sanaa Heimi, M.D.

M. Brian O'Connor, Esquire
Matis, Brum, Rizza, O'Connor
Four Gateway Center
444 Liberty Avenue, Suite 300
Pittsburgh, PA 15222
Counsel for Defendant, James E. Devlin, M.D.

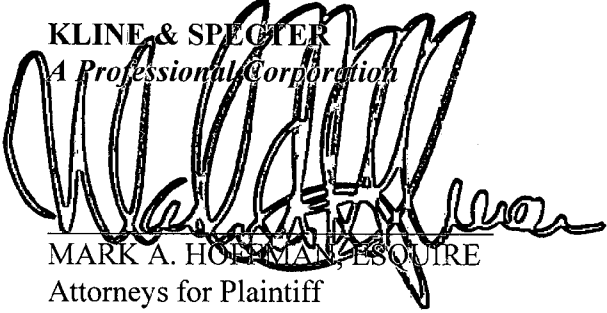
Lynn E. Bell, Esquire
Davies, McFarland & Carroll, P.C.
The Tenth Floor, One Gateway Center
Pittsburgh, PA 15222-1416
Counsel for Bradford Bobrin, M.D.

Christopher C. Rulis, Esquire
O'Brien, Rulis & Bochicchio, LLC
555 Grant Street, Suite 120
Pittsburgh, PA 15219
Counsel for Defendant, Thomas J. Bradley, M.D.

David R. Bahl, Esquire
Richard F. Schluter, Esquire
McCormick Law Firm
835 West Fourth Street
Williamsport, PA 17701
Counsel for Defendant, Mark W. Maloney, D.O.

KLINE & SPECTER
A Professional Corporation

By:


MARK A. HOFFMAN, ESQUIRE
Attorneys for Plaintiff

Date:

June 19, 2008

CERTIFICATE

PREREQUISITE TO SERVICE OF A SUBPOENA

PURSUANT TO RULE 4009.22

ORIGINAL

IN THE MATTER OF:

WANDA RUSSEL

-VS-

JAMES E. DEVLIN, M.D., ET AL

COURT OF COMMON PLEAS

TERM,
CLEARFIELD

CASE NO: 07-644-CD

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

MCS on behalf of MARK HOFFMAN, 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: 05/27/2008

MCS on behalf of
Mark Hoffman, Esq.
MARK HOFFMAN, ESQ.
Attorney for DEFENDANT

FILED
M 11:08 a.m. GK
JUN 27 2008 ICC MCS

COMMONWEALTH OF PENNSYLVANIA
COUNTY OF CLEARFIELD

IN THE MATTER OF:

WANDA RUSSEL

-VS-

JAMES E. DEVLIN, M.D., ET AL

COURT OF COMMON PLEAS

TERM,

CASE NO: 07-644-CD

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

ELK COUNTY MEDICAL CENTER

MEDICAL, BILLING, AND X-RAY(S)

TO: JOHN L. MCINTYRE, ESQ.

[note: see enclosed list of all other interested counsel]

MCS on behalf of MARK HOFFMAN, 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: 05/06/2008

MCS on behalf of

MARK HOFFMAN, ESQ.

Attorney for DEFENDANT

CC: MARK HOFFMAN, ESQ.

Any questions regarding this matter, contact

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

>>> COUNSEL LIST <<<

PAGE: 1

COUNSEL NAME	FIRM NAME	REL
JOHN L. MCINTYRE, ESQ.	PFAFF, MCINTYRE, ET AL	OTHER
DARRYL SLIMAK, ESQUIRE	MCQUAIDE, BLASKO, ET AL	OTHER
BRIAN O'CONNOR, ESQ.	GACA, MATIS, ET AL	OTHER
LYNN BELL, ESQUIRE	DAVIES, MCFARLAND & CARROLL	OTHER
CHRISTOPHER C. RULIS, ESQ.	O'BRIEN, RULIS, ET AL	OTHER
DAVID BAHL, ESQ.	MCCORMICK LAW FIRM	OTHER

COMMONWEALTH OF PENNSYLVANIA
COUNTY OF CLEARFIELD

Wanda Russell
Plaintiff(s)

Vs.

James E. Devlin MD and Mark W. Maloney DO
and DRMC Primary Care Associates and
Sanaa Helmi MD and Thomas J. Bradley MD
and Bradford Bobrin MD and
DuBois Regional Medical Center and
DuBois Regional Medical Center West and
DRMC Behavioral Unit and DRMC East
Behavioral Unit and DRMC Behavioral Health
Outpatient Clinic
Defendant(s)

No. 2007-00644-CD

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

TO: CUSTODIAN OF RECORDS FOR: ELK COUNTY MEDICAL CENTER

(Name of Person or Entity)

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

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: MARK HOFFMAN, ESQ.

ADDRESS: 1525 LOCUST ST, 19TH FLOOR

PHILA PA 19102

TELEPHONE: (215) 246-0900

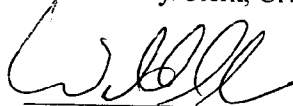
SUPREME COURT ID # _____

ATTORNEY FOR: DEFENDANT

BY THE COURT:

William A. Shaw

Prothonotary/Clerk, Civil Division



Deputy

5/27/2008
DATE: Friday, May 02, 2008
Seal of the Court

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

EXPLANATION OF REQUIRED RECORDS

TO: CUSTODIAN OF RECORDS FOR:

ELK COUNTY MEDICAL CENTER
94 HOSPITAL STREET

RIDGEWAY, PA 15853

RE: 75148
WANDA RUSSELL

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

INCLUDING ALL ADMISSIONS, IN/OUTPATIENT RECORDS & FILM INVENTORY
Entire medical, billing, and diagnostic file, including but not limited to any and all records, correspondence to and from the consulting and/or treating physicians, files, memoranda, handwritten notes, history and physical reports, medication/prescription records, medical billing and payment records, x-ray films and tests with subsequent reports, including any and all such items as may be stored in a computer database or otherwise in electronic form, relating to any examination, consultation, diagnosis, care or treatment pertaining to:

Dates Requested: up to and including the present.

Subject : WANDA RUSSELL

Social Security #: XXX-XX-1308

Date of Birth: 09-19-1958

WANDA RUSSELL,
Plaintiff

v.

JAMES E. DEVLIN, M.D.; MARK W.
MALONEY, D.O.; DRMC PRIMARY
CARE ASSOCIATES; SANAA HELMI,
M.D.; THOMAS J. BRADLEY, M.D.;
BRADFORD BOBRIN, M.D.; DUBOIS
REGIONAL MEDICAL CENTER a/k/a
DUBOIS REGIONAL MEDICAL
CENTER WEST a/d/b/a DRMC
BEHAVIORAL UNIT a/k/a DRMC EAST
BEHAVIORAL UNIT a/k/a DRMC
BEHAVIORAL HEALTH OUTPATIENT
CLINIC,

Defendants

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY,
PENNSYLVANIA

NO. 07-644-CD

CIVIL ACTION - LAW

JURY TRIAL DEMANDED

NOTICE TO PLEAD

TO: PLAINTIFF WANDA RUSSELL
c/o Thomas R. Kline, Esquire
Mark A. Hoffman, Esquire
Kline & Specter, PC
The Nineteenth Floor
1525 Locust Street
Philadelphia, PA 19102

YOU ARE HEREBY NOTIFIED to file a written response to the enclosed *Answer of Defendant Mark Maloney, D.O. to Plaintiff's Fourth Amended Complaint with New Matter*, within twenty (20) days from service hereof or a judgment may be entered against you.

Respectfully submitted,

McCORMICK LAW FIRM

By Richard Schluter

David R. Bahl, Esquire

I.D. No. 10347

Richard F. Schluter, Esquire

I.D. No. 79672

Attorneys for Defendant

Mark W. Maloney, D.O.

McCORMICK LAW FIRM
835 W. FOURTH ST.
WILLIAMSPORT, PA.

FILED NOCC
M 110-4461
JUL 16 2008 (610)

William A. Shaw
Prothonotary/Clerk of Courts

WANDA RUSSELL,
Plaintiff

v.

JAMES E. DEVLIN, M.D.; MARK W.
MALONEY, D.O.; DRMC PRIMARY
CARE ASSOCIATES; SANAA HELMI,
M.D.; THOMAS J. BRADLEY, M.D.;
BRADFORD BOBRIN, M.D.; DUBOIS
REGIONAL MEDICAL CENTER a/k/a
DUBOIS REGIONAL MEDICAL
CENTER WEST a/d/b/a DRMC
BEHAVIORAL UNIT a/k/a DRMC EAST
BEHAVIORAL UNIT a/k/a DRMC
BEHAVIORAL HEALTH OUTPATIENT
CLINIC,
Defendants

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY,
PENNSYLVANIA

NO. 07-644-CD

CIVIL ACTION - LAW

JURY TRIAL DEMANDED

**ANSWER OF DEFENDANT MARK W. MALONEY, D.O.
TO PLAINTIFF'S FOURTH AMENDED COMPLAINT WITH NEW MATTER**

AND NOW comes defendant Mark W. Maloney, D.O., by and through his attorneys,
McCormick Law Firm, and answers plaintiff's fourth amended complaint as follows:

Parties

1. Admitted in part and denied in part. It is admitted that plaintiff Wanda Russell is an adult. The answering defendant is without knowledge or information sufficient to form a belief as to the truth of the remainder of this averment, and it is therefore, denied. Proof thereof is demanded at trial.

2. This averment is directed to a party other than the answering defendant, and therefore, no responsive pleading is required.

3. Admitted.

4. This averment is directed to a party other than the answering defendant, and therefore, no responsive pleading is required.

5. Denied. To the contrary, defendant Dr. Maloney was an employee of defendant Dubois Regional Medical Center. It is specifically denied that defendant Dr. Maloney was negligent at any pertinent time, and plaintiff's allegations regarding alleged vicarious liability are denied as conclusions of law and pursuant to Pa.R.C.P. 1029(e). Strict proof thereof is demanded at trial.

6. Denied. Plaintiff's characterizations of the relationship between defendant Dr. Maloney and defendant Dr. Devlin relative to the care and treatment of plaintiff are specifically denied pursuant to Pa.R.C.P. 1029(e). Moreover, plaintiff's allegations regarding an alleged master-servant relationship and/or *respondeat superior* liability are denied as conclusions of law. Strict proof thereof is demanded at trial.

7. Denied. Plaintiff's characterizations of the relationship between defendant Dr. Devlin and defendant DRMC Primary Care Associates and/or defendant Dr. Maloney relative to the care and treatment of plaintiff are specifically denied pursuant to Pa.R.C.P. 1029(e). Moreover, plaintiff's allegations regarding an alleged master-servant relationship and/or *respondeat superior* liability are denied as conclusions of law. Strict proof thereof is demanded at trial.

8-12. These averments are directed to parties other than the answering defendant, and therefore, no responsive pleading is required. Moreover, defendant Dr. Maloney is without knowledge or information as to what another party allegedly said or did not say to the plaintiff. To the extent a response is required, these averments are denied pursuant to Pa.R.C.P. 1029(e). Strict proof thereof is demanded at trial.

13. Denied. This averment is directed to a party other than the answering defendant, and therefore, no responsive pleading is required. To the extent a response is required, this averment is denied pursuant to 1029(c). Strict proof thereof is demanded at trial.

14. Admitted in part and denied in part. It is admitted that defendant Dr. Maloney was an employee of defendant Dubois Regional Medical Center. The remainder of this averment is denied as a conclusion of law, and is further denied to the extent it is directed to parties other than the answering defendant. Strict proof thereof is demanded at trial.

15. Denied. This averment is directed to a party other than the answering defendant, and thus, no responsive pleading is required. To the extent a response is required, it is admitted that defendant Dr. Maloney was an employee of defendant Dubois Regional Medical Center. The answering defendant does not have knowledge of the employment status and/or relationships between the other parties and individuals referenced in said averment, and therefore, those allegations are denied. Strict proof thereof is demanded at trial.

16. Denied as a legal conclusion.

17. Admitted in part and denied in part. It is admitted that the records indicate that plaintiff Wanda Russell was seen in the emergency department of Dubois Regional Medical Center on or about December 3, 2005. Plaintiff's characterizations and/or selective references to the medical records are denied pursuant to Pa.R.C.P. 1029(e). Reference is made to the medical records which are in writing, and speak for themselves regarding plaintiff's presentation and care and treatment on December 3, 2005. Specific proof thereof is demanded at trial.

18. Admitted, based on the records.

19-26. Denied. Plaintiff's selection quotation and/or reference to the medical records and information are denied pursuant to Pa.R.C.P. 1029(e). The medical records are in writing, and therefore speak for themselves. Strict proof thereof is demanded at trial.

27. Admitted in part and denied in part. It is admitted that plaintiff presented to the emergency department at Dubois Regional Medical Center on December 4, 2005, based on the records. Plaintiff's selective references to the medical records are denied pursuant to Pa.R.C.P. 1029(e). The records are in writing, and speak for themselves. Strict proof thereof is demanded at trial.

28-38. Denied. Plaintiff's selection quotation and/or reference to the medical records and information are denied pursuant to Pa.R.C.P. 1029(e). The medical records are in writing, and therefore speak for themselves. Strict proof thereof is demanded at trial.

39. Admitted in part and denied in part. It is admitted that plaintiff Wanda Russell was admitted to Dubois Regional Medical Center by defendant Dr. Devlin on December 4, 2005. Plaintiff's selective references to the medical records are denied pursuant to Pa.R.C.P. 1029(e). Reference is further made to medical records which are in writing, and speak for themselves. Strict proof thereof is demanded at trial.

40. Admitted.

41. Denied as stated. Reference is made to the medical records, which are in writing and speak for themselves. Moreover, this averment is directed to a party other than the answering defendant, and it is denied pursuant to Pa.R.C.P. 1029(e). Strict proof thereof is demanded at trial.

42. Denied as stated. It is admitted that defendant Dr. Maloney was not a neurologist, nor did he hold himself out as a neurologist.

43-47. Denied. The averments are denied pursuant to Pa.R.C.P. 1029(e). Reference is made to the medical records, which are in writing, and speak for themselves. Strict proof is demanded at trial.

48-62. Admitted in part and denied in part. It is admitted that defendant Dr. Maloney saw and examined plaintiff Wanda Russell on December 5, 2005. The remainder of these averments are denied pursuant to Pa.R.C.P. 1029(e). The medical records are in writing, and therefore speak for themselves. Defendant Dr. Maloney acted appropriately, and met the applicable standard of care at all pertinent times. Strict proof to the contrary is demanded at trial.

63-65. Admitted in part and denied in part. It is admitted that defendant Dr. Maloney consulted defendant Dr. Helmi by telephone on or about December 5, 2005. The remainder of these averments are denied pursuant to Pa.R.C.P. 1029(e). It is further specifically denied that defendant Dr. Maloney misrepresented plaintiff's status at any time; and Dr. Maloney did not describe plaintiff as "suicidal." Defendant Dr. Maloney met the applicable standard of care at all pertinent times. Strict proof to the contrary is demanded at trial.

66-67. These averments are directed to a party other than the answering defendant, and therefore, no responsive pleading is required. To the extent a response is required, these averments are denied pursuant to Pa.R.C.P. 1029(e). Strict proof thereof is demanded at trial.

68. Admitted in part and denied in part. It is admitted that the decision to transfer plaintiff to the Behavioral Health unit was made on or about December 5, 2005. It is further admitted that defendant dr. Maloney did not chart that plaintiff was "suicidal." The remainder of this averment is denied pursuant to Pa.R.C.P. 1029(e). Strict proof thereof is demanded at trial.

69-112. Denied. These averments are denied pursuant to Pa.R.C.P. 1029(e). Plaintiff's selective reference to the medical records are denied. The medical records are in writing, and therefore speak for themselves. Furthermore, defendant Dr. Maloney acted reasonably and met the applicable standard of care at all pertinent times. Strict proof to the contrary is demanded at trial.

113-116. Admitted in part and denied in part. It is admitted that plaintiff Wanda Russell was readmitted to Dr. Maloney's service on December 6, 2005 at Dubois Regional Medical Center. It is further admitted that defendant Dr. Maloney examined plaintiff on December 6, 2005. The remainder of this averment is denied pursuant to Pa.R.C.P. 1029(e). The medical records are in writing, and therefore speak for themselves. Moreover, defendant Dr. Maloney acted reasonably and met the applicable standard of care at all pertinent times. Strict proof to the contrary is demanded at trial.

117-127. Denied. These averments are denied pursuant to Pa.R.C.P. 1029(e). The medical records are in writing, and therefore speak for themselves. Moreover, defendant Dr. Maloney acted reasonably and met the applicable standard of care at all pertinent times. It is specifically denied that plaintiff suffered any injury and/or damages as a result of any allegedly negligent conduct of defendant Dr. Maloney. Strict proof to the contrary is demanded at trial.

Count I – Negligence

Plaintiff v. Dr. Devlin

128. The averments and responses of paragraphs 1 through 127 are incorporated by reference as if fully set forth.

129(a-o). Denied. These averments are directed to a party other than the answering defendant, and therefore no responsive pleading is required. To the extent a response is

required, these averments are denied pursuant to Pa.R.C.P. 1029(e). Defendant Dr. Maloney acted appropriately and met the applicable standard of care at all pertinent times. Strict proof to the contrary is demanded at trial.

Count II – Negligence and Gross Negligence

Plaintiff v. Dr. Maloney

130. The averments and responses of paragraphs 1 through 129 are incorporated by reference as if fully set forth.

131 (a-cc). Denied. It is specifically denied that defendant Dr. Maloney was negligent and/or grossly negligent at any pertinent time. To the contrary, defendant Dr. Maloney acted reasonably and met the applicable standard of care at all pertinent times regarding his care and treatment of plaintiff Wanda Russell. Moreover, the following are:

(a-cc). Denied pursuant to Pa.R.C.P. 1029(e). To the contrary, defendant Dr. Maloney acted reasonably and

met the applicable standard of care at all pertinent times. Strict proof to the contrary is demanded at trial. It is further denied that plaintiff suffered any injuries and/or damages as a result of any allegedly negligent act or omission of defendant Dr. Maloney. Strict proof to the contrary is demanded at trial.

Count III – Negligence and Gross Negligence

Plaintiff v. Dr. Helmi

132. The averments and responses of paragraphs 1 through 131 are incorporated by reference as if fully set forth.

133(a-y). Denied. These averments are directed to a party other than the answering defendant, and therefore no responsive pleading is required. To the extent a response is required, these averments are denied pursuant to Pa.R.C.P. 1029(e). Defendant Dr. Maloney acted appropriately and met the applicable standard of care at all pertinent times. Strict proof to the contrary is demanded at trial.

Count IV – Negligence and Gross Negligence

Plaintiff v. Dr. Bradley

134. The averments and responses of paragraphs 1 through 133 are incorporated by reference as if fully set forth.

135(a-cc). Denied. These averments are directed to a party other than the answering defendant, and therefore no responsive pleading is required. To the extent a response is required, these averments are denied pursuant to Pa.R.C.P. 1029(e). Defendant Dr. Maloney acted appropriately and met the applicable standard of care at all pertinent times. Strict proof to the contrary is demanded at trial.

Count V – Negligence and Gross Negligence

Plaintiff v. Dr. Bobrin

136. The averments and responses of paragraphs 1 through 135 are incorporated by reference as if fully set forth.

137(a-dd). Denied. These averments are directed to a party other than the answering defendant, and therefore no responsive pleading is required. To the extent a response is required, these averments are denied pursuant to Pa.R.C.P. 1029(e). Defendant Dr. Maloney

acted appropriately and met the applicable standard of care at all pertinent times. Strict proof to the contrary is demanded at trial.

**Count V (sic) – Vicarious Liability for the Negligence and Gross
Negligence of Agents and Corporate (Direct) Negligence**

***Plaintiff v. Dubois Regional Medical Center a/k/a Dubois Regional
Medical Center West a/d/b/a DRMC Behavioral Unit a/k/a DRMC
East Behavioral Unit a/k/a DRMC Behavioral Health Outpatient Clinic***

138. The averments and responses of paragraphs 1 through 137 are incorporated by reference as if fully set forth.

139. Denied as a conclusion of law. Moreover, it is admitted that defendant Dr. Maloney was an employee of defendant Dubois Regional Medical Center at all pertinent times. Defendant Dr. Maloney does not have knowledge or information regarding the alleged employment and/or legal relationships of other parties. Strict proof thereof is demanded at trial.

140(a-k). Denied. These averments are directed to a party other than the answering defendant, and therefore no responsive pleading is required. To the extent a response is required, these averments are denied pursuant to Pa.R.C.P. 1029(e). Defendant Dr. Maloney acted appropriately and met the applicable standard of care at all pertinent times. Strict proof to the contrary is demanded at trial.

141. This averment is directed to a party other than the answering defendant, and therefore no responsive pleading is required. Moreover, this averment is denied as a legal conclusion.

142(a-v). Denied. These averments are directed to a party other than the answering defendant, and therefore no responsive pleading is required. To the extent a response is required, these averments are denied pursuant to Pa.R.C.P. 1029(e). Defendant Dr. Maloney

acted appropriately and met the applicable standard of care at all pertinent times. Strict proof to the contrary is demanded at trial.

WHEREFORE, defendant Dr. Maloney respectfully requests that this Honorable Court dismiss plaintiff's claims and enter judgment in his favor, and against the plaintiff, together with costs according to law.

NEW MATTER

143. There was no negligence or other actionable conduct committed by or on the part of defendant Mark W. Maloney, D.O., and Plaintiff's Fourth Amended Complaint fails to state a cause of action against him.

144. To the extent that defendant is considered to be a healthcare provider, he is neither a guarantor nor warrantor of a cure.

145. Any acts and/or omissions of the answering defendant alleged to constitute negligence, were not substantial causes or factors of the injuries/damages alleged by the plaintiff.

146. All care and treatment rendered to plaintiff by defendant Dr. Maloney was appropriate, reasonable, and met the applicable medical standard of care. Plaintiff's alleged injuries and losses, if any, were not caused by the negligence of, or on the part of, the answering defendant.

147. The answering defendant raises any and all defenses, immunities and limitations afforded by the Pennsylvania MCare Act of 2002.

148. Plaintiff's claims may be barred, in whole or in part, by the applicable statute of limitations, to the extent discovery may disclose such facts.

149. Any acts and/or omissions of the answering defendant alleged to constitute negligence, or other breach of legal duty, did not increase the risk of harm to plaintiff.

150. Plaintiff's alleged damages, all of which are denied, were caused solely or primarily by, and are the unpreventable result of, plaintiff's medical condition.

151. Plaintiff's alleged damages, all of which are denied, were the result of conditions and/or conduct of others over whom defendant had no control, nor duty to control.

152. It is believed, and therefore averred, that the defense of immunity may be available to defendant Dr. Maloney pursuant to the Mental Health Procedures Act, and under the facts and circumstances of this case.

153. Defendant Dr. Maloney hereby raises and asserts any and all other defenses available to him under the Mental Health Procedures Act.

154. Defendant Dr. Maloney claims the affirmative defense of qualified immunity pursuant to the Mental Health Procedures Act, 50 P.S. §7114(a).

155. At the time of the events which give rise to this case, defendant Dr. Maloney was an employee of Dubois Regional Medical Center. All other claims of agency and/or employment are denied, and strict proof thereof is demanded at trial.

156. The answering defendant asserts all defenses, requirements, and limitations on damages under the Pennsylvania Health Care Medical Malpractice Act.

157. The answering defendant asserts all defenses, requirements, and limitations on damages under the Medical Care Availability and Reduction of Error Act (MCare).

WHEREFORE, defendant Dr. Maloney respectfully requests that this Honorable Court dismiss plaintiff's fourth amended complaint, and enter judgment in his favor and against plaintiff, together with costs according to law.

Respectfully submitted,

McCORMICK LAW FIRM

By Richard Schluter

David R. Bahl, Esquire

I.D. No. 10347

Richard F. Schluter, Esquire

I.D. No. 79672

Attorneys for Defendant

Mark W. Maloney, D.O.

835 West Fourth Street
Williamsport, PA 17701
(570) 326-5131

VERIFICATION

I, **MARK W. MALONEY, D.O.**, verify that the facts set forth in the foregoing *Answer and New Matter of Defendant Mark W. Maloney D.O. to Plaintiff's Fourth Amended Complaint*, are true and correct to the best of my knowledge, information and belief. I understand that the statements therein are made subject to the penalties of 18 Pa.C.S. §4904 relating to unsworn falsification to authorities.


Mark W. Maloney, D.O.

Date: 25 July 2008

WANDA RUSSELL,
Plaintiff

v.

JAMES E. DEVLIN, M.D.; MARK W.
MALONEY, D.O.; DRMC PRIMARY
CARE ASSOCIATES; SANAA HELMI,
M.D.; THOMAS J. BRADLEY, M.D.;
BRADFORD BOBRIN, M.D.; DUBOIS
REGIONAL MEDICAL CENTER a/k/a
DUBOIS REGIONAL MEDICAL
CENTER WEST a/d/b/a DRMC
BEHAVIORAL UNIT a/k/a DRMC EAST
BEHAVIORAL UNIT a/k/a DRMC
BEHAVIORAL HEALTH OUTPATIENT
CLINIC,
Defendants

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY,
PENNSYLVANIA

NO. 07-644-CD

CIVIL ACTION - LAW

JURY TRIAL DEMANDED

CERTIFICATE OF SERVICE

I, RICHARD F. SCHLUTER, ESQUIRE, hereby certify that I have served a copy of the foregoing *Answer and New Matter of Defendant Mark W. Maloney, D.O. to Plaintiff's Fourth Amended Complaint*, upon the following, this 14th day of July, 2008, as follows:

UNITED STATES MAIL, POSTAGE PREPAID:

Thomas R. Kline, Esquire
Mark A. Hoffman, Esquire
Kline & Specter, PC
The Nineteenth Floor
1525 Locust Street
Philadelphia, PA 19102

Darryl Slimak, Esquire
McQuaide Blasko
811 University Drive
State College, PA 16801

M. Brian O'Connor, Esquire
Gaca, Matis, Baum & Rizza, PC
444 Liberty Avenue, Suite 300
Pittsburgh, PA 15222

Lynn E. Bell, Esquire
Davies, McFarland & Carroll, PC
One Gateway Center, 10th Floor
Pittsburgh, PA 15222-1416

John L. McIntyre, Esquire
McIntyre, Dugas, Hartye & Schmitt
Post Office Box 533
Hollidaysburg, PA 16648-0533

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

DRMC Primary Care Associates
Medical Arts Building, Suite 200
145 Hospital Avenue
DuBois, PA 15801

McCORMICK LAW FIRM

By Richard Schluter

David R. Bahl, Esquire

I.D. No. 10347

Richard F. Schluter, Esquire

I.D. No. 79672

Attorneys for Defendant

Mark W. Maloney, D.O.

835 West Fourth Street
Williamsport, PA 17701
(570) 326-5131

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

WANDA RUSSELL,

Plaintiff,

vs.

JAMES E. DEVLIN, M.D. and MARK
W. MALONEY, D.O. and DRMC
PRIMARY CARE ASSOCIATES and
SANAA HELMI, M.D. and THOMAS J.
BRADLEY, M.D. and BRADFORD
BOBRIN, M.D. and DUBOIS
REGIONAL MEDICAL CENTER a/k/a
DUBOIS REGIONAL MEDICAL
CENTER WEST a/d/b/a DRMC
BEHAVIORAL UNIT a/k/a DRMC
EAST BEHAVIORAL UNIT a/k/a
DRMC BEHAVIORAL HEALTH
OUTPATIENT CLINIC,

Defendants.

CIVIL DIVISION

CASE NO: 07-644-CD

Type of Pleading:

**NOTICE OF SERVICE OF
REQUEST FOR PRODUCTION
OF EXPERT REPORTS
DIRECTED TO PLAINTIFF**

Filed on behalf of Defendant:

Thomas J. Bradley, 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
JUL 21 2008
William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

WANDA RUSSELL,

Plaintiff,

vs.

JAMES E. DEVLIN, M.D., et al.

Defendants.

CIVIL DIVISION

CASE NO: 07-644-CD

NOTICE OF SERVICE

I hereby certify that Defendant, Thomas J. Bradley, M.D.'s Request for Production of Expert Reports Directed to Plaintiff, was served via U.S. Mail, first class, postage pre-paid on July 17, 2008, upon the following:

Thomas R. Kline, Esquire
Mark A. Hoffman, Esquire
Royce W. Smith, Esquire
KLINE & SPECTER, P.C.
The Nineteenth Floor
1525 Locust Street
Philadelphia, PA 19102

David R. Bahl, Esquire
McCormick Law Firm
835 West Fourth Street
P.O. Box 577
Williamsport, PA 17701

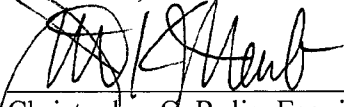
Darryl R. Slimak, Esquire
McQuaide, Blasko, Fleming & Faulkner, Inc.
811 University Drive
State College, PA 16801

Lynn E. Bell, Esquire
Davies, McFarland & Carroll, P.C.
The Tenth Floor, One Gateway Center
Pittsburgh, PA 15222

M. Brian O'Connor, Esquire
Matis, Baum, Rizza & O'Connor
Four Gateway Center
444 Liberty Avenue, Suite 300
Pittsburgh, PA 15222

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

O'BRIEN, RULIS & BOCHICCHIO, LLC



Christopher C. Rulis, Esquire
Janet K. Meub, Esquire
Counsel for Defendant,
Thomas J. Bradley, M.D.

KLINE & SPECTER

A Professional Corporation

By: THOMAS R. KLINE, ESQUIRE
MARK A. HOFFMAN, ESQUIRE
ROYCE W. SMITH, ESQUIRE

Attorney ID Nos.: 28895/ 84443/201295

The Nineteenth Floor

1525 Locust Street

Philadelphia, Pennsylvania 19102

(215) 772-1000

FILED

M 11:56 a.m. 6K

JUL 24 2008

William A. Shaw
Prothonotary/Clerk of Courts

icc Atty Hoffman

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Attorneys for Plaintiff

WANDA RUSSELL

v.

JAMES E. DEVLIN, M.D. and
MARK W. MALONEY, D.O. and
DRMC PRIMARY CARE ASSOCIATES
and SANAA HELMI, M.D. and
THOMAS J. BRADLEY, M.D. and
BRADFORD BOBRIN, M.D. and
DuBOIS REGIONAL MEDICAL
CENTER a/ka DuBOIS REGIONAL
MEDICAL CENTER WEST
a/d/b/a DRMC BEHAVIORAL
UNIT a/k/a DRMC EAST BEHAVIORAL
UNIT a/k/a DRMC BEHAVIORAL
HEALTH OUTPATIENT CLINIC
Defendants.

**COURT OF COMMON PLEAS
COUNTY OF CLEARFIELD**

DOCKET NO. 07-644-CD

**PLAINTIFF'S REPLY TO THE
NEW MATTER OF DEFENDANT, MARK MALONEY, D.O.**

Plaintiff, Wanda Russell, by and through her undersigned counsel, Kline & Specter, P.C., herein replies to the New Matter of Defendant, Mark Maloney, D.O. ["Answering Defendant"], as follows:

143-157. The allegations set forth in paragraphs 143 to 157 inclusive of the New Matter of Answering Defendant are conclusions of law to which no reply is required. By way of further response, Answering Defendants conduct was grossly negligent and reckless and indefensible under

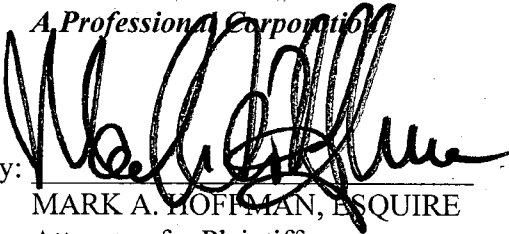
either the Medical Care Availability and Reduction of Error Act or the Mental Health Procedures Act.

WHEREFORE, Plaintiff respectfully requests that this Honorable Court deny Answering Defendant's prayer for dismissal of Plaintiff's Fourth Amended Complaint, as well as Answering Defendant's request on judgment in his favor and against Plaintiff, together with costs according to law.

Respectfully submitted,

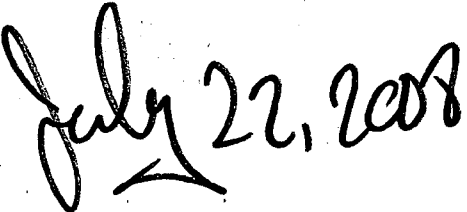
KLINE & SPECTER

A Professional Corporation

By: 

MARK A. HOFFMAN, ESQUIRE

Attorneys for Plaintiff

Date: 

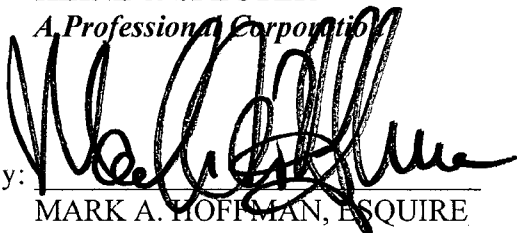
either the Medical Care Availability and Reduction of Error Act or the Mental Health Procedures Act.

WHEREFORE, Plaintiff respectfully requests that this Honorable Court deny Answering Defendant's prayer for dismissal of Plaintiff's Fourth Amended Complaint, as well as Answering Defendant's request on judgment in his favor and against Plaintiff, together with costs according to law.

Respectfully submitted,

KLINE & SPECTER

A Professional Corporation

By: 

MARK A. HOFFMAN, ESQUIRE
Attorneys for Plaintiff

Date:

July 22, 2008

KLINE & SPECTER

A Professional Corporation

By: THOMAS R. KLINE, ESQUIRE
MARK A. HOFFMAN, ESQUIRE
ROYCE W. SMITH, ESQUIRE

Attorney ID Nos.: 28895/ 84443/201295

The Nineteenth Floor

1525 Locust Street

Philadelphia, Pennsylvania 19102

(215) 772-1000

Attorneys for Plaintiff

WANDA RUSSELL

**COURT OF COMMON PLEAS
COUNTY OF CLEARFIELD**

v.

JAMES E. DEVLIN, M.D., et al
Defendants.

DOCKET NO. 07-644-CD

CERTIFICATE OF SERVICE

I, MARK A. HOFFMAN, ESQUIRE, hereby certify that a true and correct copy of the **Plaintiff's Reply to the New Matter of Defendant, Mark W. Maloney, D.O.**, was served via **First Class Mail** on the following individuals:

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

Darryl R. Slimak, Esquire
McQuaide Blasko
811 University Drive
State College, PA 16801-6699

M. Brian O'Connor, Esquire
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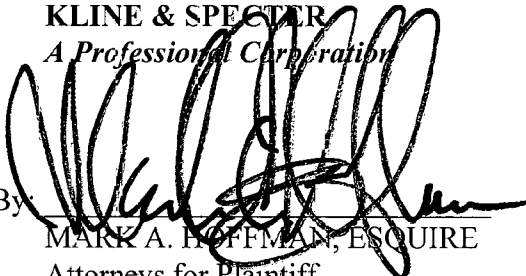
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555 Grant Street
Suite 120
Pittsburgh, PA 15219

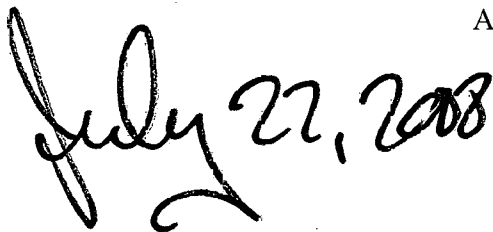
David R. Bahl, Esquire
Richard F. Schluter, Esquire
McCormick Law Firm
835 West Fourth Street
Williamsport, PA 17701

KLINE & SPECTER
A Professional Corporation

By


MARK A. HOFFMAN, ESQUIRE
Attorneys for Plaintiff

Date:



IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

WANDA RUSSELL,

CIVIL ACTION

Plaintiff,

vs.

No.: 07-644-CD

JAMES E. DEVLIN, M.D., MARK W.
MALONEY, D.O., DRMC PRIMARY
CARE ASSOCIATES, SANAA HELMI,
M.D., THOMAS J. BRADLEY, M.D.,
BRADFORD BOBRIN, M.D., DUBOIS
REGIONAL MEDICAL CENTER a/k/a
DUBOIS REGIONAL MEDICAL
CENTER WEST a/d/b/a DRMC
BEHAVIORAL UNIT a/k/a DRMC EAST
BEHAVIORAL UNIT a/k/a DRMC
BEHAVIORAL HEALTH OUTPATIENT
CLINIC,

**REQUEST TO PLAINTIFF FOR
PRODUCTION OF EXPERT REPORTS**

Defendants.

JURY TRIAL DEMANDED

Filed on Behalf of this Party:

Bradford Bobrin, M.D., One of the
Defendants

Counsel of Record for this Party:

Lynn E. Bell, Esquire
PA I.D. #38588

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

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

(412) 281-0737

FILED ^{NO}
m/12:54 ^{CC}
AUG 07 2008 (60)

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

WANDA RUSSELL,	)	CIVIL ACTION
	)	
Plaintiff,	)	
	)	
vs.	)	No.: 07-644-CD
	)	
JAMES E. DEVLIN, M.D., MARK W.	)	
MALONEY, D.O., DRMC PRIMARY	)	
CARE ASSOCIATES, SANAA HELMI,	)	
M.D., THOMAS J. BRADLEY, M.D.,	)	
BRADFORD BOBRIN, M.D., DUBOIS	)	
REGIONAL MEDICAL CENTER a/k/a	)	
DUBOIS REGIONAL MEDICAL	)	
CENTER WEST a/d/b/a DRMC	)	
BEHAVIORAL UNIT a/k/a DRMC EAST	)	
BEHAVIORAL UNIT a/k/a DRMC	)	
BEHAVIORAL HEALTH OUTPATIENT	)	
CLINIC,	)	
	)	
Defendants.	)	

REQUEST TO PLAINTIFF FOR PRODUCTION OF EXPERT REPORTS

NOW COMES, Bradford Bobrin, M.D., Defendants, by its attorneys, Davies
McFarland & Carroll, P.C., and files the following request to plaintiff for production of
expert reports requested by Rule 1042.28 (a)(1) of the Pennsylvania Rules of Civil
Procedure.

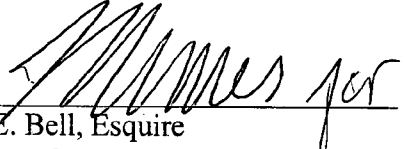
T0: Mark A. Hoffman, Esquire,
Counsel for Plaintiff

FROM: Lynn E. Bell, Esquire,
Counsel for Defendant, Bradford Bobrin, M.D.

Pursuant to Pennsylvania Rule of Civil Procedure 1042.28 (b) you are requested
within 180 days of service of this request to furnish to me, attorney for the defendant,

Bradford Bobrin, M.D., any and all expert reports summarizing the expert testimony that you will offer to support the claims of professional negligence that you have made against Defendant, Bradford Bobrin, M.D. You are required to serve copies of all expert reports on all parties.

Davies McFarland & Carroll, P.C.

By: 

Lynn E. Bell, Esquire
Attorneys for Bradford Bobrin, M.D.,
One of the Defendants

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that I served the foregoing document to all counsel of record via U.S. Mail on the 5th day of Aug, 2008:

Thomas R. Kline, Esquire
Mark A. Hoffman, Esquire
Kline & Specter, P.C.
1525 Locust Street, 19th Floor
Philadelphia, PA 19102

Attorneys for Plaintiff

Daryl Slimak, Esquire
McQuaide Blasko
811 University Drive
State College, PA 16801

Attorney for Sanaa Helmi, M.D.

M. Brian O'Connor, Esquire
Matis Baum Rizza & O'Connor, P.C.
444 Liberty Avenue; Suite 300
Pittsburgh, PA 15222

Attorney for James E. Devlin, M.D.

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

Attorney for DuBois Regional Medical Center

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

Attorney for Thomas J. Bradley, M.D.

David R. Bahl, Esquire
Richard F. Schluter, Esquire
McCormick Law Firm
835 West Fourth Street
Williamsport, PA 17703

Attorney for Dr. Mark W. Maloney

DAVIES, McFARLAND & CARROLL, P.C.

By: _____



Lynn E. Bell, Esquire
Lauren R. Ames, Esquire
Attorneys for Bradford Bobrin, M.D.,
One of the Defendants

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

WANDA RUSSELL,

Plaintiff

vs.

JAMES E. DEVLIN, M.D., MARK W.
MALONE, D.O., DRMC PRIMARY CARE
ASSOCIATES, SANAA HELMI, M.D.,
THOMAS J. BRADLEY, M.D., BRADFORD
BOBRIN, M.D., and DUBOIS REGIONAL
MEDICAL CENTER a/k/a DUBOIS
REGIONAL MEDICAL CENTER WEST
a/d/b/a DRMC BEHAVIORAL UNIT a/k/a
DRMC EAST BEHAVIORAL UNIT a/k/a
DRMC BEHAVIORAL HEALTH
OUTPATIENT CLINIC,

Defendants

No. 07-644-CD

ISSUE:

Notice of Service of Answers to
Plaintiff's Supplemental Interrogatories
directed to Defendant, DuBois Regional
Medical Center

Filed on behalf of Defendant,
DUBOIS REGIONAL MEDICAL
CENTER a/k/a DUBOIS REGIONAL
MEDICAL CENTER WEST a/d/b/a
DRMC BEHAVIORAL UNIT a/k/a
DRMC EAST BEHAVIORAL UNIT
a/k/a DRMC BEHAVIORAL HEALTH
OUTPATIENT CLINIC

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

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

JURY TRIAL DEMANDED

I HEREBY CERTIFY THAT A TRUE AND
CORRECT COPY OF THE WITHIN WAS
MAILED TO ALL COUNSEL OF RECORD
THIS 11th DAY OF August, 2008.

Attorneys for Named Defendant

FILED NO CC
m/10:50 AM
AUG 12 2008
LST

William A. Shaw
Prothonotary/Clerk of Courts

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

WANDA RUSSELL,

Plaintiff

vs.

JAMES E. DEVLIN, M.D., MARK W.
MALONE, D.O., DRMC PRIMARY CARE
ASSOCIATES, SANAA HELMI, M.D.,
THOMAS J. BRADLEY, M.D., BRADFORD
BOBRIN, M.D., and DUBOIS REGIONAL
MEDICAL CENTER a/k/a DUBOIS
REGIONAL MEDICAL CENTER WEST
a/d/b/a DRMC BEHAVIORAL UNIT a/k/a
DRMC EAST BEHAVIORAL UNIT a/k/a
DRMC BEHAVIORAL HEALTH
OUTPATIENT CLINIC,

Defendants

No. 07-644-CD

JURY TRIAL DEMANDED

**NOTICE OF SERVICE OF ANSWERS TO PLAINTIFF'S
SUPPLEMENTAL INTERROGATORIES DIRECTED TO DEFENDANT,
DUBOIS REGIONAL MEDICAL CENTER DATED JUNE 30, 2008**

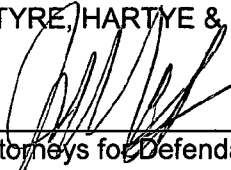
TO: PROTHONOTARY

You are hereby notified that on the 11th day of August, 2008, Defendant, DUBOIS REGIONAL MEDICAL CENTER a/k/a DUBOIS REGIONAL MEDICAL CENTER WEST a/d/b/a DRMC BEHAVIORAL UNIT a/k/a DRMC EAST BEHAVIORAL UNIT a/k/a DRMC BEHAVIORAL HEALTH OUTPATIENT CLINIC, served Answers to Plaintiff's Supplemental Interrogatories Directed to Defendant, DuBois Regional Medical Center, by mailing the originals of same via First Class U.S. Mail, postage prepaid, addressed to the following:

Mark A. Hoffman, Esquire
Kline & Specter, P.C.
1525 Locust Street, 19th Floor
Philadelphia, PA 19102

RE: No. 07 – 644 CD

McINTYRE, HARTYE & SCHMITT

By 

Attorneys for Defendant,
DUBOIS REGIONAL MEDICAL
CENTER

John L. McIntyre, Esquire
PA I.D. #28015
P.O. Box 533
Hollidaysburg, PA 16648
(814) 696-3581

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

WANDA RUSSELL,

Plaintiff,

vs.

JAMES E. DEVLIN, M.D. and MARK W.
MALONEY, D.O. and DRMC PRIMARY
CARE ASSOCIATES and SANAA
HELMI, M.D. and THOMAS J.
BRADLEY, M.D. and BRADFORD
BOBRIN, M.D. and DUBOIS REGIONAL
MEDICAL CENTER a/k/a DUBOIS
REGIONAL MEDICAL CENTER WEST
a/d/b/a DRMC BEHAVIORAL UNIT a/k/a
DRMC EAST BEHAVIORAL UNIT a/k/a
DRMC BEHAVIORAL HEALTH
OUTPATIENT CLINIC,

Defendants.

CIVIL DIVISION

CASE NO: 07-644-CD

Type of Pleading:

**NOTICE OF SERVICE OF
DEFENDANT'S EXPERT
REPORT**

Filed on behalf of Defendant:
Thomas J. Bradley, 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

APR 02 2008

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

WANDA RUSSELL,

Plaintiff,

vs.

JAMES E. DEVLIN, M.D., et al.

Defendants.

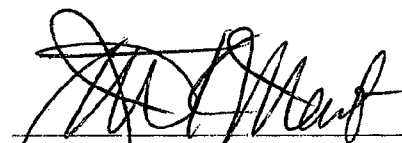
CIVIL DIVISION

CASE NO: 07-644-CD

NOTICE OF SERVICE OF DEFENDANT'S EXPERT REPORT

Defendant, THOMAS J. BRADLEY, M.D., by and through counsel, O'BRIEN, RULIS & BOCHICCHIO, LLC., hereby certifies a copy of defendant's expert report was served via first class U.S. mail, postage prepaid, this 1st day of April, 2009, upon Thomas R. Kline, Esquire, KLINE & SPECTER, P.C., 1525 Locust Street, 19th Floor, Philadelphia, PA 19102.

O'BRIEN, RULIS & BOCHICCHIO, LLC



Christopher C. Rulis, Esquire
Janet K. Meub, Esquire
Counsel for Defendant,
Thomas J. Bradley, M.D.

FILED

APR 02 2009

William A. Shaw
Prothonotary/Clerk of Courts

STATE OF PENNSYLVANIA
COUNTY OF [illegible]
[illegible]

FILED FOR [illegible]
[illegible]

[illegible]
[illegible]

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

WANDA RUSSELL,

CIVIL ACTION

Plaintiff,

vs.

No.: 07-644-CD

JAMES E. DEVLIN, M.D., MARK W.
MALONEY, D.O., DRMC PRIMARY
CARE ASSOCIATES, SANAA HELMI,
M.D., THOMAS J. BRADLEY, M.D.,
BRADFORD BOBRIN, M.D., DUBOIS
REGIONAL MEDICAL CENTER a/k/a
DUBOIS REGIONAL MEDICAL
CENTER WEST a/d/b/a DRMC
BEHAVIORAL UNIT a/k/a DRMC EAST
BEHAVIORAL UNIT a/k/a DRMC
BEHAVIORAL HEALTH OUTPATIENT
CLINIC,

**NOTICE OF SERVICE OF
DEFENDANT'S EXPERT REPORTS**

Defendants.

JURY TRIAL DEMANDED

Filed on Behalf of this Party:

Bradford Bobrin, M.D., One of the
Defendants

Counsel of Record for this Party:

Lynn E. Bell, Esquire
PA I.D. #38588

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

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

(412) 281-0737

5
FILED NO CC
APR 20 2009
William A. Shaw
Prothonotary/Clerk of Courts

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

WANDA RUSSELL,	)	CIVIL ACTION
	)	
Plaintiff,	)	No.: 07-644-CD
	)	
v.	)	
	)	
JAMES E. DEVLIN, M.D., MARK W.	)	
MALONEY, D.O., DRMC PRIMARY	)	
CARE ASSOCIATES, SANAA HELMI,	)	
M.D., THOMAS J. BRADLEY, M.D.,	)	
BRADFORD BOBRIN, M.D., DUBOIS	)	
REGIONAL MEDICAL CENTER a/k/a	)	
DUBOIS REGIONAL MEDICAL	)	
CENTER WEST a/d/b/a DRMC	)	
BEHAVIORAL UNIT a/k/a DRMC EAST	)	
BEHAVIORAL UNIT a/k/a DRMC	)	
BEHAVIORAL HEALTH OUTPATIENT	)	
CLINIC,	)	
	)	
Defendants.	)	

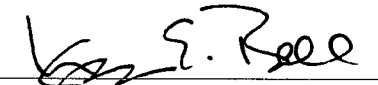
NOTICE OF SERVICE OF DEFENDANT'S EXPERT REPORTS

TO: William Shaw, Prothonotary

Defendant, Bradford Bobrin, M.D. by and through his counsel, Davies, McFarland & Carroll, P.C., hereby certifies a copy of Defendant's expert reports were served via first class U.S. Mail, postage prepaid, this 17th day of April, 2009, upon Thomas R. Kline, Esquire, Kline & Specter, P.C., 1525 Locust Street, 19th Floor, Philadelphia, PA, 19102.

DAVIES MCFARLAND & CARROLL, P.C.

By:



Lynn D. Bell, Esquire
Attorney for Bradford Bobrin,

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that I served the foregoing document to all counsel of record via U.S. Mail on the 17th day of April, 2009:

Thomas R. Kline, Esquire
Mark A. Hoffman, Esquire
Kline & Specter, P.C.
1525 Locust Street, 19th Floor
Philadelphia, PA 19102

Attorneys for Plaintiff

Daryl Slimak, Esquire
McQuaide Blasko
811 University Drive
State College, PA 16801

Attorney for Sanaa Helmi, M.D.

M. Brian O'Connor, Esquire
Matis Baum Rizza & O'Connor, P.C.
444 Liberty Avenue; Suite 300
Pittsburgh, PA 15222

Attorney for James E. Devlin, M.D.

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

Attorney for DuBois Regional Medical Center

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

Attorney for Thomas J. Bradley, M.D.

David R. Bahl, Esquire
Richard F. Schluter, Esquire
McCormick Law Firm
835 West Fourth Street
Williamsport, PA 17703

Attorney for Dr. Mark W. Maloney

DAVIES, McFARLAND & CARROLL, P.C.

By: 

Lynn E. Bell, Esquire

Lauren R. Ames, Esquire

Attorneys for Bradford Bobrin, M.D.,
One of the Defendants

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

WANDA RUSSELL,

Plaintiff,

vs.

JAMES E. DEVLIN, M.D.; MARK W.
MALONEY, D.O.; DRMC PRIMARY
CARE ASSOCIATES; SANAA HELMI,
M.D.; THOMAS J. BRADLEY, M.D.;
BRADFORD BOBRIN, M.D.; DUBOIS
REGIONAL MEDICAL CENTER a/k/a
DUBOIS REGIONAL MEDICAL CENTER
WEST a/d/b/a DRMC BEHAVIORAL
UNIT a/k/a DRMC EAST BEHAVIORAL
UNIT a/k/a DRMC BEHAVIORAL
HEALTH OUTPATIENT CLINIC,

Defendants.

CIVIL DIVISION

No. 07-644-CD

Code:

Issue No:

NOTICE OF SERVICE

Filed on behalf of James E. Devlin,
M.D., Defendant

Counsel of Record for This Party:

M. Brian O'Connor, Esquire
PA I.D. 56795

MATIS BAUM RIZZA O'CONNOR
Firm #983
444 Liberty Avenue, Suite 300
Pittsburgh, PA 15222
(412) 338-4750

JURY TRIAL DEMANDED

^SFILED NoCC.
m/1:52cm
APR 27 2009

William A. Shaw
Prothonotary/Clerk of Courts

By: Brian O'Connor
M. Brian O'Connor, Esquire
Attorneys for James E. Devlin, M.D.,
Defendant

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that I served a true and correct copy of the foregoing Notice of Service upon all counsel of record by United States, First-class mail, postage prepaid, this 23rd day of April, 2009.

Mark A. Hoffman, Esquire
Kline & Specter, P.C.
1525 Locust Street, 19th Floor
Philadelphia, PA 19102

David R. Bahl, Esquire
McCormick Law Firm
835 West Fourth Street
Williamsport, PA 17701

Darryl R. Slimak, Esquire
McQuaide, Blasko
811 University Drive
State College, PA 16801

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

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

MATIS BAUM RIZZA O'CONNOR



M. Brian O'Connor

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

WANDA RUSSELL,

Plaintiff,

vs.

JAMES E. DEVLIN, M.D., MARK W.
MALONEY, D.O., DRMC PRIMARY CARE
ASSOCIATES, SANAA HELMI, M.D.,
THOMAS J. BRADLEY, M.D., BRADFORD
BOBRIN, M.D., DuBOIS REGIONAL MEDICAL
CENTER WEST a/d/b/a/ DRMC
BEHAVIORAL UNIT a/k/a/ DRMC EAST
BEHAVIORAL HEALTH OUTPATIENT
CLINIC,

Defendants.

*Medical Professional Liability
Action*

Docket No: 07 - 644 - C.D.

Type of Pleading:
*Defendant Dr. Helmi's Motion
for Summary Judgment*

Filed on Behalf of Defendant
Sanaa Helmi, M.D.

Counsel for Record for This Party
Darryl R. Slimak, Esquire
Pa. Supreme Court I.D. #41695

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

Counsel for Plaintiff
Thomas R. Kline, Esquire
Mark A. Hoffman, Esquire

JURY TRIAL DEMANDED

FILED NO CC
MAY 01 2009
William A. Shaw
Prothonotary/Clerk of Courts

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

WANDA RUSSELL,

Plaintiff,

vs.

JAMES E. DEVLIN, M.D., MARK W.
MALONEY, D.O., DRMC PRIMARY CARE
ASSOCIATES, SANAA HELMI, M.D.,
THOMAS J. BRADLEY, M.D., BRADFORD
BOBRIN, M.D., DuBOIS REGIONAL MEDICAL
CENTER WEST a/d/b/a/ DRMC
BEHAVIORAL UNIT a/k/a/ DRMC EAST
BEHAVIORAL HEALTH OUTPATIENT
CLINIC,

Defendants.

*Medical Professional Liability
Action*

Docket No: 07 - 644 - C.D.

JURY TRIAL DEMANDED

ORDER

AND NOW this ____ day of _____, 2009, upon consideration of the Motion of
Dr. Helmi for Summary Judgment, it is hereby Ordered and Decreed that said Motion is
GRANTED. Summary judgment is hereby entered in favor of Dr. Helmi and against Plaintiff
and all Defendants, and Dr. Helmi is dismissed from this case, with prejudice.

BY THE COURT:

_____, J.

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

WANDA RUSSELL,

Plaintiff,

vs.

JAMES E. DEVLIN, M.D., MARK W.
MALONEY, D.O., DRMC PRIMARY CARE
ASSOCIATES, SANAA HELMI, M.D.,
THOMAS J. BRADLEY, M.D., BRADFORD
BOBRIN, M.D., DuBOIS REGIONAL MEDICAL
CENTER WEST a/d/b/a/ DRMC
BEHAVIORAL UNIT a/k/a/ DRMC EAST
BEHAVIORAL HEALTH OUTPATIENT
CLINIC,

Defendants.

*Medical Professional Liability
Action*

Docket No: 07 - 644 - C.D.

JURY TRIAL DEMANDED

DEFENDANT DR. HELMI'S MOTION FOR SUMMARY JUDGMENT

AND NOW comes Defendant, SANAA HELMI, M.D., by and through her attorneys,
McQuaide, Blasko, Fleming & Faulkner, Inc., and files the within Motion for Summary
Judgment as follows:

1. The instant action was commenced by the filing of a Complaint on April 24, 2007.

2. The allegations of the Complaint filed in this matter against DuBois Regional Medical Center and five physicians relate to the failure to diagnose and treat Plaintiff Wanda Russell for what she contends was an evolving stroke.

3. Due to the nature of the instant medical malpractice claim, reports from properly qualified experts must be produced which assert that Dr. Helmi allegedly violated the applicable standards of medical care in some respect, and that such negligence was a cause of harm to Plaintiff Russell. In the absence of same, Dr. Helmi is entitled to judgment in her favor as a matter of law.

4. It is believed that neither any of the co-Defendants nor Plaintiff will be offering any expert reports adverse to Defendant Dr. Helmi. Moreover, all the expert reports received to date from the Plaintiff and co-Defendants in this case in no way criticize Dr. Helmi for any alleged misdiagnosis or violations of any standards of care with regard to Ms. Russell's medical care and treatment.

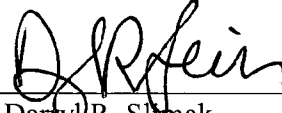
5. The Court's consideration of the instant motion will not delay the trial of this matter which has not yet been scheduled.

WHEREFORE, Defendant Dr. Helmi respectfully requests this Honorable Court grant her Motion for Summary Judgment, dismissing her from the case, with prejudice.

Respectfully submitted,

McQUAIDE, BLASKO,
FLEMING & FAULKNER, INC.

By: _____



Darryl R. Slinak

Attorney for Defendant

SANAA HELMI, M.D.

811 University Drive

State College, PA 16801

(814) 238-4926

Fax: (814) 238-9624

Dated: April 30, 2009

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

WANDA RUSSELL,

Plaintiff,

vs.

JAMES E. DEVLIN, M.D., MARK W.
MALONEY, D.O., DRMC PRIMARY CARE
ASSOCIATES, SANAA HELMI, M.D.,
THOMAS J. BRADLEY, M.D., BRADFORD
BOBRIN, M.D., DuBOIS REGIONAL MEDICAL
CENTER WEST a/d/b/a/ DRMC
BEHAVIORAL UNIT a/k/a/ DRMC EAST
BEHAVIORAL HEALTH OUTPATIENT
CLINIC,

Defendants.

*Medical Professional Liability
Action*

Docket No: 07 - 644 - C.D.

JURY TRIAL DEMANDED

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of Defendant Dr. Helmi's Motion for
Summary Judgment in the above-captioned matter was mailed by regular mail, postage prepaid,
at the Post Office, State College, Pennsylvania, on this 30th day of April, 2009, to the
attorney(s)/party(ies) of record:

Mark A. Hoffman, Esquire
Kline & Specter, P.C.
1525 Locust Street 19th Floor
Philadelphia, PA 19102

David R. Bahl, Esquire
McCormick Law Firm
835 West Fourth Street
PO Box 577
Williamsport, PA 17701-5801

Matthew Brian O'Connor, Esquire
Gaca Matis Baum & Rizza PC
444 Liberty Ave Ste 300
Pittsburgh, PA 15222

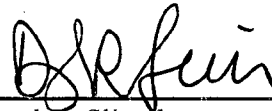
Lynn Bell, Esquire
Davies, McFarland & Carroll, P.C.
Tenth Floor One Gateway Center
Pittsburgh, PA 15222-1416

John McIntyre, Esquire
McIntyre Hartye & Schmitt
PO Box 533
Hollidaysburg, PA 16648-0533

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

McQUAIDE, BLASKO,
FLEMING & FAULKNER, INC.

By: _____



Darryl R. Slimak
Attorneys for Defendant
SANAA HELMI, M.D.
811 University Drive
State College, PA 16801
(814) 238-4926
Fax: (814) 238-9624

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until found

FILED

MAY 05 2009

William A. Shaw
Prothonotary/Clerk of Courts

1 cent to Ann

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

WANDA RUSSELL,

Plaintiff,

vs.

JAMES E. DEVLIN, M.D., MARK W.
MALONEY, D.O., DRMC PRIMARY CARE
ASSOCIATES, SANAA HELMI, M.D.,
THOMAS J. BRADLEY, M.D., BRADFORD
BOBRIN, M.D., DuBOIS REGIONAL MEDICAL
CENTER WEST a/d/b/a/ DRMC
BEHAVIORAL UNIT a/k/a/ DRMC EAST
BEHAVIORAL HEALTH OUTPATIENT
CLINIC,

Defendants.

Medical Professional Liability
Action

Docket No: 07 - 644 - C.D.

JURY TRIAL DEMANDED

Base
aryl
curts

RULE TO SHOW CAUSE

AND NOW, this 5th day of MAY, 2009, the Plaintiff is
directed to show cause, if any she has, why Defendant Dr. Helmi's Motion for Summary
Judgment should not be granted.

This Rule is returnable for Answer within 20 days and argument is scheduled for the
15th day of June, 2009, at 2:30 p.m. in Courtroom 1 of the
Clearfield County Courthouse, Clearfield, Pennsylvania.

BY THE COURT

[Signature]
J.

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

WANDA RUSSELL,

Plaintiff,

vs.

JAMES E. DEVLIN, M.D., MARK W.
MALONEY, D.O., DRMC PRIMARY CARE
ASSOCIATES, SANAA HELMI, M.D.,
THOMAS J. BRADLEY, M.D., BRADFORD
BOBRIN, M.D., DuBOIS REGIONAL MEDICAL
CENTER WEST a/d/b/a/ DRMC
BEHAVIORAL UNIT a/k/a/ DRMC EAST
BEHAVIORAL HEALTH OUTPATIENT
CLINIC,

Defendants.

*Medical Professional Liability
Action*

Docket No: 07 - 644 - C.D.

Type of Pleading:
*Certificate of Service Regarding
Service of Rule to Show Cause as to
Defendant Dr. Helmi's Motion for
Summary Judgment*

Filed on Behalf of Defendant
Sanaa Helmi, M.D.

Counsel for Record for This Party
Darryl R. Slimak, Esquire
Pa. Supreme Court I.D. #41695

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

Counsel for Plaintiff
Thomas R. Kline, Esquire
Mark A. Hoffman, Esquire

JURY TRIAL DEMANDED

FILED NO CC
MAY 08 2009
William A. Shaw
Prothonotary/Clerk of Courts

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

WANDA RUSSELL,

Plaintiff,

vs.

JAMES E. DEVLIN, M.D., MARK W.
MALONEY, D.O., DRMC PRIMARY CARE
ASSOCIATES, SANAA HELMI, M.D.,
THOMAS J. BRADLEY, M.D., BRADFORD
BOBRIN, M.D., DuBOIS REGIONAL MEDICAL
CENTER WEST a/d/b/a/ DRMC
BEHAVIORAL UNIT a/k/a/ DRMC EAST
BEHAVIORAL HEALTH OUTPATIENT
CLINIC,

Defendants.

*Medical Professional Liability
Action*

Docket No: 07 - 644 - C.D.

JURY TRIAL DEMANDED

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the Rule to Show Cause Regarding
Defendant Dr. Helmi's Motion for Summary Judgment in the above-captioned matter was mailed
by regular mail, postage prepaid, at the Post Office, State College, Pennsylvania, on this 7th day
of May, 2009, to the attorney(s)/party(ies) of record:

Mark A. Hoffman, Esquire
Kline & Specter, P.C.
1525 Locust Street 19th Floor
Philadelphia, PA 19102

David R. Bahl, Esquire
McCormick Law Firm
835 West Fourth Street
PO Box 577
Williamsport, PA 17701-5801

Matthew Brian O'Connor, Esquire
Gaca Matis Baum & Rizza PC
444 Liberty Ave Ste 300
Pittsburgh, PA 15222

Lynn Bell, Esquire
Davies, McFarland & Carroll, P.C.
Tenth Floor One Gateway Center
Pittsburgh, PA 15222-1416

John McIntyre, Esquire
McIntyre Hartye & Schmitt
PO Box 533
Hollidaysburg, PA 16648-0533

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

McQUAIDE, BLASKO,
FLEMING & FAULKNER, INC.

By: _____



Darryl R. Slimak
Attorneys for Defendant
SANAA HELMI, M.D.
811 University Drive
State College, PA 16801
(814) 238-4926
Fax: (814) 238-9624

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

WANDA RUSSELL,

Plaintiff,

vs.

JAMES E. DEVLIN, M.D., MARK W.
MALONEY, D.O., DRMC PRIMARY CARE
ASSOCIATES, SANAA HELMI, M.D.,
THOMAS J. BRADLEY, M.D., BRADFORD
BOBRIN, M.D., DuBOIS REGIONAL MEDICAL
CENTER WEST a/d/b/a/ DRMC
BEHAVIORAL UNIT a/k/a/ DRMC EAST
BEHAVIORAL HEALTH OUTPATIENT
CLINIC,

Defendants.

*Medical Professional Liability
Action*

Docket No: 07 - 644 - C.D.

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

MAY 05 2009

JURY TRIAL DEMANDED

Attest.

William
Prothon
Clerk of

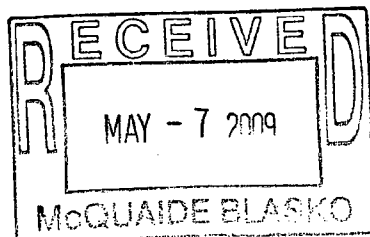
RULE TO SHOW CAUSE

AND NOW, this 5th day of MAY, 2009, the Plaintiff is
directed to show cause, if any she has, why Defendant Dr. Helmi's Motion for Summary
Judgment should not be granted.

This Rule is returnable for Answer within 20 days and argument is scheduled for the
15th day of June, 2009, at 2:30 p.m. in Courtroom 1 of the
Clearfield County Courthouse, Clearfield, Pennsylvania.

BY THE COURT

Frederick J. Cunningham
J.



FILED

MAY 15 2009

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

WANDA RUSSELL,

Plaintiff,

vs.

JAMES E. DEVLIN, M.D.; MARK W.
MALONEY, D.O.; DRMC PRIMARY
CARE ASSOCIATES; SANAA HELMI,
M.D.; THOMAS J. BRADLEY, M.D.;
BRADFORD BOBRIN, M.D.; DUBOIS
REGIONAL MEDICAL CENTER a/k/a
DUBOIS REGIONAL MEDICAL CENTER
WEST a/d/b/a DRMC BEHAVIORAL
UNIT a/k/a DRMC EAST BEHAVIORAL
UNIT a/k/a DRMC BEHAVIORAL
HEALTH OUTPATIENT CLINIC,

Defendants.

CIVIL DIVISION

No. 07-644-CD

Code:

Issue No:

NOTICE OF SERVICE

Filed on behalf of James E. Devlin,
M.D., Defendant

Counsel of Record for This Party:

M. Brian O'Connor, Esquire
PA I.D. 56795

MATIS BAUM RIZZA O'CONNOR
Firm #983
444 Liberty Avenue, Suite 300
Pittsburgh, PA 15222
(412) 338-4750

JURY TRIAL DEMANDED

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

WANDA RUSSELL,

Plaintiff,

vs.

JAMES E. DEVLIN, M.D.; MARK W.
MALONEY, D.O.; DRMC PRIMARY
CARE ASSOCIATES; SANAA HELMI,
M.D.; THOMAS J. BRADLEY, M.D.;
BRADFORD BOBRIN, M.D.; DUBOIS
REGIONAL MEDICAL CENTER a/k/a
DUBOIS REGIONAL MEDICAL CENTER
WEST a/d/b/a DRMC BEHAVIORAL
UNIT a/k/a DRMC EAST BEHAVIORAL
UNIT a/k/a DRMC BEHAVIORAL
HEALTH OUTPATIENT CLINIC,

Defendants.

CIVIL DIVISION

No. 07-644-CD

NOTICE OF SERVICE

NOTICE OF SERVICE OF INTERROGATORIES

TO: PROTHONOTARY OF CLEARFIELD COUNTY

Please take notice that on the 13th day of May, 2009, we served the expert report of Kevin M. Kelly, M.D., Ph.D., upon Wanda Russell's attorney, Mark A. Hoffman.

MATIS BAUM RIZZA O'CONNOR

By: Brian O'Connor
M. Brian O'Connor, Esquire
Attorneys for James E. Devlin, M.D.,
Defendant.

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that I served a true and correct copy of the foregoing Notice of Service of Expert Report of Kevin M. Kelly, M.D. upon all counsel of record by United States, First-class mail, postage prepaid, this 13th day of May, 2009.

Thomas R. Kline, Esquire
Mark A. Hoffman, Esquire
Kline & Specter, P.C.
1525 Locust Street, 19th Floor
Philadelphia, PA 19102

David R. Bahl, Esquire
McCormick Law Firm
835 West Fourth Street
Williamsport, PA 17701

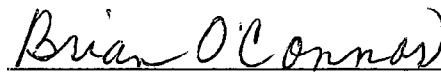
Darryl R. Slimak, Esquire
McQuaide, Blasko
811 University Drive
State College, PA 16801

Lynn Bell, Esquire
Davis, McFarland & Carroll, P.C.
One Gateway Center
420 Fort Duquesne Blvd., 10th Floor
Pittsburgh, PA 15222

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

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

MATIS BAUM RIZZA O'CONNOR



M. Brian O'Connor

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

WANDA RUSSELL,

Plaintiff

vs.

JAMES E. DEVLIN, M.D.; MARK W. MALONEY, D.O.;
DRMC PRIMARY CARE ASSOCIATES; SANAA HELMI, M.D.;
THOMAS J. BRADLEY, M.D.; BRANFORD BOBRIN, M.D.;
DRMC; DRMC WEST; DRMC BEHAVIORAL UNIT;
DRMC EAST BEHAVIORAL UNIT; and DRMC BEHAVIORAL
HEALTH OUTPATIENT CLINIC,

Defendants

*

*

*NO. 07-644-CD

*

*

*

*

*

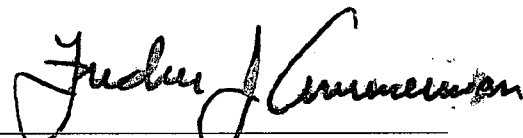
*

*

ORDER

AND NOW, this 15th day of May, 2009, upon the request of Mark A. Hoffman,
Esquire, counsel for the Plaintiff; it is the ORDER of this Court that a status conference
in the above-captioned matter shall be held on the 2nd day of July, 2009 in Chambers
at 11:00 a.m.

BY THE COURT,



FREDRIC J. AMMERMAN

President Judge

FILED

01/4/09
MAY 18 2009

William A. Shaw
Prothonotary/Clerk of Courts

Attys:
M. Hoffman
M. Brian O'Connor
D. Bahl/Richard Schluter
D. Shumak
C. Rulis/Marissa Farrone
L. Bell
J. McIntyre/Laura O'Burke

DRMC Primary Care Associates
145 Hospital Ave, Ste. 200
DuBois, PA 15801

FILED

MAY 18 2009

William A. Shaw
Prothonotary/Clerk of Courts

DATE: 5/18/09

☒ You are responsible for serving all appropriate parties.

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

Plaintiff(s) Demetrius Plaintiff(s) Attorney Other
Defendant(s) Demetrius Defendant(s) Attorney

 Special Instructions:

FILED

MAY 19 2009
m/11:20/w

William A. Shaw
Prothonotary/Clerk of Courts

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

1 cent to Att

WANDA RUSSELL,
Plaintiff,
v.

JAMES E. DEVLIN, M.D. and
MARK W. MALONEY, D.O. and
DRMC PRIMARY CARE ASSOCIATES
and SANAA HELMI, M.D. and
THOMAS J. BRADLEY, M.D. and
BRADFORD BOBRIN, M.D. and
DuBOIS REGIONAL MEDICAL
CENTER a/ka DuBOIS REGIONAL
MEDICAL CENTER WEST
a/d/b/a DRMC BEHAVIORAL
UNIT a/k/a DRMC EAST BEHAVIORAL
UNIT a/k/a DRMC BEHAVIORAL
HEALTH OUTPATIENT CLINIC,
Defendants.

COURT OF COMMON PLEAS
COUNTY OF CLEARFIELD

DOCKET No. 07-644-CD

Medical Professional Liability Action

JURY TRIAL DEMANDED

Type of Pleading:

Plaintiff's Response to Defendant,
Dr. Helmi's Motion for Summary
Judgment and Plaintiff's Cross Motion to
Compel the Production of Expert Reports
On Behalf of Defendants,
Mark W. Maloney, D.O. and
DuBois Regional Medical Center

Filed on Behalf of Plaintiff,
Wanda Russell

Counsel for Plaintiff

Thomas R. Kline, Esquire
Mark A. Hoffman, Esquire
Royce W. Smith, Esquire
Attorney ID Nos.: 28895/ 84443/201295

KLINE & SPECTER

A Professional Corporation

The Nineteenth Floor
1525 Locust Street
Philadelphia, Pennsylvania 19102
(215) 772-1000
(215) 772-1359 facsimile

KLINE & SPECTER

A Professional Corporation

By: THOMAS R. KLINE, ESQUIRE
MARK A. HOFFMAN, ESQUIRE
ROYCE W. SMITH, ESQUIRE

Attorney ID Nos.: 28895/ 84443/201295

The Nineteenth Floor

1525 Locust Street

Philadelphia, Pennsylvania 19102

(215) 772-1000

Attorneys for Plaintiff

WANDA RUSSELL,

Plaintiff,

v.

JAMES E. DEVLIN, M.D. and
MARK W. MALONEY, D.O. and
DRMC PRIMARY CARE ASSOCIATES
and SANAA HELMI, M.D. and
THOMAS J. BRADLEY, M.D. and
BRADFORD BOBRIN, M.D. and
DuBOIS REGIONAL MEDICAL
CENTER a/ka DuBOIS REGIONAL
MEDICAL CENTER WEST
a/d/b/a DRMC BEHAVIORAL
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UNIT a/k/a DRMC BEHAVIORAL
HEALTH OUTPATIENT CLINIC,
Defendants.

**COURT OF COMMON PLEAS
COUNTY OF CLEARFIELD**

DOCKET No. 07-644-CD

Medical Professional Liability Action

JURY TRIAL DEMANDED

**PLAINTIFF'S RESPONSE TO
DEFENDANT DR. HELMI'S MOTION FOR SUMMARY JUDGMENT
AND
PLAINTIFF'S CROSS MOTION TO COMPEL
THE PRODUCTION OF EXPERT REPORTS ON BEHALF OF DEFENDANTS,
MARK W. MALONEY, D.O. AND DuBOIS REGIONAL MEDICAL CENTER**

AND NOW, comes the Plaintiff, Wanda Russell, by and through her undersigned counsel, Kline & Specter, P.C., who herein files with this Honorable Court Plaintiff's Response to Defendant Dr. Helmi's Motion for Summary Judgment and Plaintiff's Cross Motion to Compel the Production of Expert Reports on Behalf of Defendants, Mark W. Maloney, D.O. and Dubois Regional Medical Center. Plaintiff states the following:

1-5. Admitted. By way of further response, Plaintiff has conducted diligent and exhaustive discovery in the medical negligence action arising out of the medical care and treatment provided to Plaintiff, Wanda Russell, at the DuBois Regional Medical Center. By way of a letter dated January 13, 2009, attached hereto as Exhibit "A," and in response to a previous demand for expert reports serviced upon Plaintiff's counsel by the defendants, Plaintiff served the following expert reports and accompanying curriculum vitae on all counsel:

- a. Curriculum Vitae and expert report of Paul Genecin, M.D. dated January 7, 2009;
- b. Curriculum Vitae and expert report of S. Ross Noble, M.D. dated January 5, 2009;
- c. Curriculum Vitae and life care plan of B.A. McGettigan, RN dated December 30, 2008;
- d. Curriculum Vitae and expert report of David L. Hopkins, ASA, MAAA dated January 9, 2009;
- e. Plaintiff's Answers to Expert Witness Interrogatories by William Ryan, M.D.; and,
- f. Plaintiff's Request to Defendants for Production of Expert Reports dated January 13, 2009.¹

Plaintiff's Request to Defendants for Production of Expert Reports dated January 13, 2009 is attached hereto as Exhibit "B." The defense expert reports were due on or before March 16, 2009. To date, defense expert reports have since been served on Plaintiff on behalf of some, but not all,

¹Plaintiff's Request to Defendants for Production of Expert Reports dated January 13, 2009 stated, inter alia that, "Pursuant to Pennsylvania Rule of Civil Procedure 1042.29(a)(2), you are requested within sixty (60) days of service of this request to furnish to us expert reports summarizing the expert testimony that you will offer to support your defenses to the claims of professional negligence that we have made against you."

of the parties. Notably, no expert reports have been produced on behalf of Defendants, Mark W. Maloney, D.O. and DuBois Regional Medical Center. All party-defendants have been deposed. Upon information and belief, only the depositions of two peripheral fact witnesses, Sharon Buerk and Dennis Evans, the brother and sister of Plaintiff, Wanda Russell, remain to be taken. These depositions, among other matters, are the subject of a letter dated May 13, 2009 from Plaintiff's counsel addressed to The Honorable Frederic J. Ammerman, attached hereto as Exhibit "C." At this time, Plaintiff opposes the entry of summary judgment on behalf of Defendant, Sanaa Helmi, M.D. ["Dr. Helmi"] as untimely. To cure this untimeliness, Plaintiff respectfully requests that, pursuant to Pennsylvania Rule of Civil Procedure 1042.31(a),² this Honorable Court compel the production of expert reports on behalf of Defendants, Mark W. Maloney, D.O. and DuBois Regional Medical Center prior to ruling on the summary judgment on behalf of Dr. Helmi presently before the Court, and that said summary judgment motion be disposed of after the production of these expert reports. This will best serve the interests of justice, and avoid unfair and manifestly unjust situation in which Dr. Maloney, the DuBois Regional Medical Center, or both then produce expert reports which lay the blame for Plaintiff's injuries at the feet of Dr. Helmi following entry of summary judgment on Dr. Helmi's behalf. The interests of justice require that Plaintiff have the opportunity to review the expert reports of Dr. Maloney and the DuBois Regional Medical Center before the entry of summary judgment on behalf of Dr. Helmi, and to obtain further expert opinion or review pursuant to

²Pennsylvania Rule of Civil Procedure 1042.31(a) states: "A party who has not received an expert report required to be produced under these rules may upon motion obtain a court order compelling the production of the report."

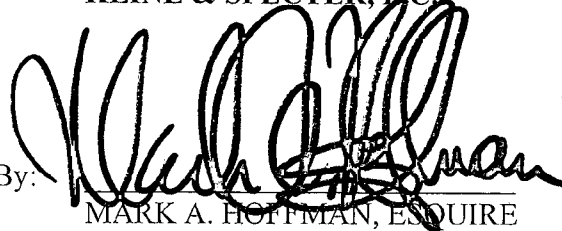
Pennsylvania Rule of Civil Procedure 1035.1.³

WHEREFORE, Plaintiff, Wanda Russell, respectfully requests that this Honorable Court defer ruling on Defendant Helmi's Motion for Summary Judgment prior to the production of all defense reports in this action. Plaintiff further respectfully requests that the Court enter the attached Order pursuant to Pennsylvania Rule of Civil Procedure 1042.31(a), compelling the expert reports on behalf of Defendants, Dr. Mark W. Maloney and the DuBois Regional Medical Center.

Respectfully submitted,

KLINE & SPECTER, P.C.

By:



MARK A. HOFFMAN, ESQUIRE

Date: May 18, 2009

³This Rule clearly contemplates that the Plaintiff be afforded the opportunity to respond to Dr. Helmi's motion for summary judgment, supplemented, if necessary, by expert reports addressing any issues raised in these reports as to the culpability of Dr. Helmi. Rule 1035.1 states that "the record" includes "reports signed by an expert witness that would, if filed, comply with Rule 4003.5(a)(1), whether or not the reports have been produced in response to interrogatories."

KLINE & SPECTER

A Professional Corporation

By: THOMAS R. KLINE, ESQUIRE
MARK A. HOFFMAN, ESQUIRE
ROYCE W. SMITH, ESQUIRE

Attorney ID Nos.: 28895/ 84443/201295

The Nineteenth Floor

1525 Locust Street

Philadelphia, Pennsylvania 19102

(215) 772-1000

Attorneys for Plaintiff

WANDA RUSSELL,

Plaintiff,

v.

JAMES E. DEVLIN, M.D. and

MARK W. MALONEY, D.O. and

DRMC PRIMARY CARE ASSOCIATES

and SANAA HELMI, M.D. and

THOMAS J. BRADLEY, M.D. and

BRADFORD BOBRIN, M.D. and

DuBOIS REGIONAL MEDICAL

CENTER a/ka DuBOIS REGIONAL

MEDICAL CENTER WEST

a/d/b/a DRMC BEHAVIORAL

UNIT a/k/a DRMC EAST BEHAVIORAL

UNIT a/k/a DRMC BEHAVIORAL

HEALTH OUTPATIENT CLINIC,

Defendants.

**COURT OF COMMON PLEAS
COUNTY OF CLEARFIELD**

DOCKET No. 07-644-CD

Medical Professional Liability Action

JURY TRIAL DEMANDED

**PLAINTIFF'S MEMORANDUM OF LAW
IN SUPPORT OF PLAINTIFF'S RESPONSE TO
DEFENDANT DR. HELMI'S MOTION FOR SUMMARY JUDGMENT
AND**

**PLAINTIFF'S CROSS MOTION TO COMPEL
THE PRODUCTION OF EXPERT REPORTS ON BEHALF OF DEFENDANTS,
MARK W. MALONEY, D.O. AND DuBOIS REGIONAL MEDICAL CENTER**

Plaintiff, Wanda Russell, by and through her undersigned counsel, Kline & Specter, P.C., herein submits to this Honorable Court Plaintiff's Memorandum of Law in Support of Response to Defendant Dr. Helmi's Motion for Summary Judgment and Plaintiff's Cross Motion to Compel the Production of Expert Reports on Behalf of Defendants, Mark W. Maloney, D.O. and Dubois

Regional Medical Center.

I. BRIEF SUMMARY OF THE CASE

This civil action, sounding in medical negligence, arises out of the medical care and treatment provided to the Plaintiff, Wanda Russell, at the DuBois Regional Medical Center from December 4 to 6, 2005. This action was commenced by way of a Civil Action Complaint filed on April 24, 2008. Subsequent amendments to the complaint followed. In summary, the Plaintiff alleges that a substantial delay in the appropriate diagnosis and management of an evolving cerebrovascular accident (stroke) caused her to suffer catastrophic, preventable, permanent neurologic injuries and disability.

The parties to this action have conducted diligent and exhaustive discovery. By way of a letter dated January 13, 2009, attached hereto as Exhibit "A," and in response to a previous demand for expert reports serviced upon Plaintiff's counsel by the defendants, Plaintiff served the following expert reports and accompanying curriculum vitae on all counsel:

- a. Curriculum Vitae and expert report of Paul Genecin, M.D. dated January 7, 2009;
- b. Curriculum Vitae and expert report of S. Ross Noble, M.D. dated January 5, 2009;
- c. Curriculum Vitae and life care plan of B.A. McGettigan, RN dated December 30, 2008;
- d. Curriculum Vitae and expert report of David L. Hopkins, ASA, MAAA dated January 9, 2009;
- e. Plaintiff's Answers to Expert Witness Interrogatories by William Ryan, M.D.; and,
- f. Plaintiff's Request to Defendants for Production of Expert

Reports dated January 13, 2009.¹

Plaintiff's Request to Defendants for Production of Expert Reports dated January 13, 2009 is attached hereto as Exhibit "B."

In the regard, pursuant to Pennsylvania Rule of Civil Procedure 1042.29(a)(2), all defense expert reports were due on or before March 16, 2009. To date, defense expert reports have since been served on Plaintiff on behalf of some, but not all, of the parties. Notably, no expert reports have been produced on behalf of Defendants, Mark W. Maloney, D.O. and DuBois Regional Medical Center.

All party-defendants have been deposed. The only the depositions remaining to be taken are those of two peripheral fact witnesses, Sharon Buerk and Dennis Evans, the brother and sister of the Plaintiff, Wanda Russell. These depositions, among other matters, are the subject of a letter dated May 13, 2009 from Plaintiff's counsel addressed to The Honorable Frederic J. Ammerman, attached hereto as Exhibit "C."

For the reasons set forth below, Plaintiff opposes the entry of summary judgment on behalf of Sanaa Helmi, M.D. ["Dr. Helmi"] at this juncture of the litigation, and until all expert reports have been served.

¹Plaintiff's Request to Defendants for Production of Expert Reports dated January 13, 2009 stated, inter alia that, "Pursuant to Pennsylvania Rule of Civil Procedure 1042.29(a)(2), you are requested within sixty (60) days of service of this request to furnish to us expert reports summarizing the expert testimony that you will offer to support your defenses to the claims of professional negligence that we have made against you."

II. LEGAL ARGUMENT

A. Defendant Dr. Helmi's Motion for Summary Judgment is Not Ripe for Consideration by the Court in the Absence of the Closure of the Time Window for Service of Defense Expert Reports.

Dr. Helmi's motion for summary judgment is not ripe for consideration, and should be deferred unless and until all defense expert reports are produced, or the window for production of these reports is closed. Therefore, Plaintiff opposes the entry of summary judgment on behalf of Dr. Helmi at this time.

To cure this untimeliness, Plaintiff respectfully requests that, pursuant to Pennsylvania Rule of Civil Procedure 1042.31(a),² this Honorable Court compel the production of expert reports on behalf of Defendants, Mark W. Maloney, D.O. and DuBois Regional Medical Center prior to ruling on the summary judgment on behalf of Dr. Helmi presently before the Court. Following the closure of the time window for defense expert reports, Dr. Helmi's summary judgment motion can be disposed of, with Plaintiff having the benefit of the full panoply of defenses in this case.

This will best serve the interests of justice, and avoid the unfair and manifestly unjust situation in which Dr. Maloney, the DuBois Regional Medical Center, or both, then produce expert reports which lay the blame for Plaintiff's injuries at the feet of Dr. Helmi after this defendant is dismissed from the action by way of an entry of summary judgment. The interests of justice require that Plaintiff have the opportunity to review the expert reports served on behalf of Dr. Maloney and the DuBois Regional Medical Center before the entry of summary judgment on behalf of Dr. Helmi. In this way, Plaintiff is then afforded the opportunity to obtain further expert opinion or review in

²Pennsylvania Rule of Civil Procedure 1042.31(a) states: "A party who has not received an expert report required to be produced under these rules may upon motion obtain a court order compelling the production of the report."

light of the opinions expressed by these experts, pursuant to Pennsylvania Rule of Civil Procedure 1035.1.³ Accordingly, this Court must defer ruling on the motion for summary judgment filed on behalf of Dr. Helmi until all expert reviews have been fully aired, and Plaintiff has had the opportunity to respond to these reports.

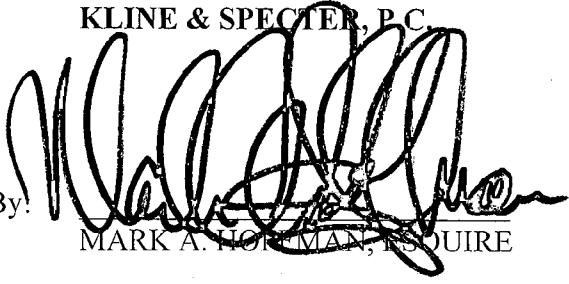
III. CONCLUSION

For the reasons set forth above, Plaintiff, Wanda Russell, respectfully requests that this Honorable Court defer ruling on Defendant Helmi's Motion for Summary Judgment prior to the production of all defense reports in this action. Plaintiff further respectfully requests that the Court enter the attached Order pursuant to Pennsylvania Rule of Civil Procedure 1042.31(a), compelling the expert reports on behalf of Defendants, D. Maloney and the DuBois Regional Medical Center.

Respectfully submitted,

KLINE & SPECTER, P.C.

By:


MARK A. HOFFMAN, ESQUIRE

Date: May 18, 2009

³This Rule clearly contemplates that the Plaintiff be afforded the opportunity to respond to Dr. Helmi's motion for summary judgment, supplemented, if necessary, by expert reports addressing any issues raised in these reports as to the culpability of Dr. Helmi. Rule 1035.1 states that "the record" includes "reports signed by an expert witness that would, if filed, comply with Rule 4003.5(a)(1), whether or not the reports have been produced in response to interrogatories."

CERTIFICATE OF SERVICE

I, MARK A. HOFFMAN, ESQUIRE, hereby certify that a true and correct copy of the **Plaintiff's Response to Defendant Dr. Helmi's Motion for Summary Judgment and Plaintiff's Cross Motion to Compel the Production of Expert Reports on Behalf of Defendants, Mark W. Maloney, D.O. and DuBois Regional Medical Center**, was served via first class U.S. mail on the following individuals:

John L. McIntyre, Esquire
McIntyre, Hartye & Schmitt
P.O. Box 533

Hollidaysburg, PA 16648

Counsel for Defendant, DuBois Regional Medical Center, a/k/a Dubois Regional Medical Center a/k/a DuBois Regional Medical Center West a/d/b/a/ DRMC Behavioral Unit a/k/a DRMC East Behavioral Unit a/k/a DRMC Behavioral Outpatient Clinic

Darryl R. Slimak, Esquire
McQuaide Blasko
811 University Drive
State College, PA 16801-6699

Counsel for Defendant, Sanaa Helmi, M.D.

M. Brian O'Connor, Esquire
Matis, Brum, Rizza, O'Connor
Four Gateway Center
444 Liberty Avenue, Suite 300
Pittsburgh, PA 15222

Counsel for Defendant, James E. Devlin, M.D.

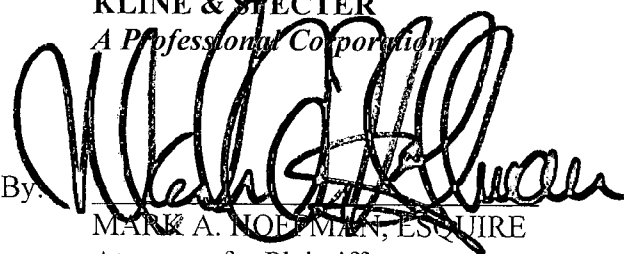
Lynn E. Bell, Esquire
Davies, McFarland & Carroll, P.C.
The Tenth Floor, One Gateway Center
Pittsburgh, PA 15222-1416

Counsel for Bradford Bobrin, M.D.

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

Counsel for Defendant, Thomas J. Bradley, M.D.

David R. Bahl, Esquire
Richard F. Schluter, Esquire
McCormick Law Firm
835 West Fourth Street
Williamsport, PA 17701
Counsel for Defendant, Mark W. Maloney, D.O.

KLINE & SPECTER
A Professional Corporation
By: 
MARK A. NOEFFMAN, ESQUIRE
Attorneys for Plaintiffs

Date: May 18, 2009

KLINE & SPECTER
A PROFESSIONAL CORPORATION
ATTORNEYS AT LAW
THE NINETEENTH FLOOR
1525 LOCUST STREET
PHILADELPHIA, PENNSYLVANIA 19102
WWW.KLINESPECTER.COM

MARK A. HOFFMAN, M.D., J.D., LL.M.

215-772-1000
FAX: 215-772-1359

MARK.HOFFMAN@KLINESPECTER.COM

January 13, 2009

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

Darryl R. Slimak, Esquire
McQuaide Blasko
811 University Drive
State College, PA 16801-6699

M. Brian O'Connor, Esquire
Matis, Brum, Rizza, O'Connor
Four Gateway Center
444 Liberty Avenue
Suite 300
Pittsburgh, PA 15222

Lynn E. Bell, Esquire
Davies, McFarland & Carroll, P.C.
The Tenth Floor
One Gateway Center
Pittsburgh, PA 15222-1416

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

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835 West Fourth Street
Williamsport, PA 17701

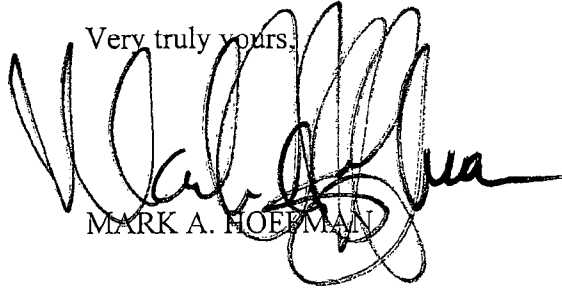
Re: *Russell v. DuBois Regional Medical Center, et al*
CCP Clearfield, No. 07-644-CD

Dear Counsel:

Enclosed please find the following:

1. Curriculum Vitae and expert report of Paul Genecin, M.D. dated January 7, 2009;
2. Curriculum Vitae and expert report of S. Ross Noble, M.D. dated January 5, 2009;
3. Curriculum Vitae and life care plan of B.A. McGettigan, RN dated December 30, 2008;

4. Curriculum Vitae and expert report of David L. Hopkins, ASA, MAAA dated January 9, 2009;
5. Plaintiff's Answers to Expert Witness Interrogatories by William Ryan, M.D.; and
6. Plaintiff's Request to Defendants for Production of Expert Reports dated January 13, 2009.

Very truly yours,

MARK A. HOEFMAN

MAH/aff
Enclosure

KLINE & SPECTER

A Professional Corporation

By: THOMAS R. KLINE, ESQUIRE
MARK A. HOFFMAN, ESQUIRE
ROYCE W. SMITH, ESQUIRE

Attorney ID Nos.: 28895/ 84443/201295

The Nineteenth Floor

1525 Locust Street

Philadelphia, Pennsylvania 19102

(215) 772-1000

Attorneys for Plaintiff

WANDA RUSSELL

**COURT OF COMMON PLEAS
COUNTY OF CLEARFIELD**

v.

JAMES E. DEVLIN, M.D. and
MARK W. MALONEY, D.O. and
DRMC PRIMARY CARE ASSOCIATES
and SANAA HELMI, M.D. and
THOMAS J. BRADLEY, M.D. and
BRADFORD BOBRIN, M.D. and
DUBOIS REGIONAL MEDICAL
CENTER a/ka DUBOIS REGIONAL
MEDICAL CENTER WEST
a/d/b/a DRMC BEHAVIORAL
UNIT a/k/a DRMC EAST BEHAVIORAL
UNIT a/k/a DRMC BEHAVIORAL
HEALTH OUTPATIENT CLINIC

DOCKET NO. 07-644-CD

Defendants.

**PLAINTIFF'S REQUEST TO DEFENDANTS
FOR PRODUCTION OF EXPERT REPORTS**

TO: Defendants, James E. Devlin, M.D., Mark W. Maloney, D.O., DRMC Primary Care Associates, Sanaa Helmi, M.D., Thomas J. Bradley, M.D., Bradford Bobrin, M.D., Dubois Regional Medical Center a/k/a Dubois Regional Medical Center West a/d/b/a DRMC Behavioral Unit a/k/a DRMC East Behavioral Unit a/k/a DRMC Behavioral Health Outpatient Clinic

FROM: Plaintiff, Wanda Russell

1. I, the Plaintiff named above, have furnished you, the Defendants named above, with expert reports summarizing the expert testimony that we will offer to support the claims of professional negligence that we have made against you.

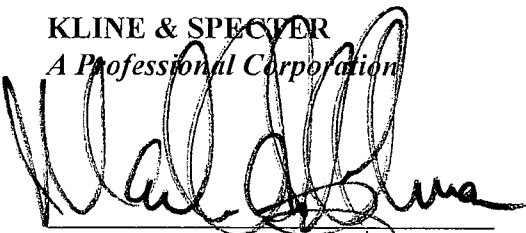
2. Pursuant to Pennsylvania Rule of Civil Procedure 1042.29(a)(2), you are requested within sixty (60) days of service of this request to furnish to us expert reports summarizing the expert testimony that you will offer to support your defenses to the claims of professional negligence that we have made against you.

3. If you have made claims against other parties pursuant to Pennsylvania Rule of Civil Procedure 2251 et. seq. governing the joinder of additional defendants, your expert reports are required also to summarize the expert testimony that you will offer in support of these claims against those other parties.

4. You are required to serve copies of all expert reports on all other parties.

KLINE & SPECTER
A Professional Corporation

By:


THOMAS R. KLINE, ESQUIRE
MARK A. HOFFMAN, ESQUIRE
ROYCE W. SMITH, ESQUIRE
Attorneys for Plaintiff

Date: January 13, 2009

CERTIFICATE OF SERVICE

I, MARK A. HOFFMAN, ESQUIRE, hereby certify that a true and correct copy of the Plaintiff's Request to Defendants for Production of Expert Reports, was served via first class U.S. mail on the following individuals:

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

Counsel for Defendant, DuBois Regional Medical Center, a/k/a Dubois Regional Medical Center a/k/a DuBois Regional Medical Center West a/d/b/a/ DRMC Behavioral Unit a/k/a DRMC East Behavioral Unit a/k/a DRMC Behavioral Outpatient Clinic

Darryl R. Slimak, Esquire
McQuaide Blasko
811 University Drive
State College, PA 16801-6699
Counsel for Defendant, Sanaa Helmi, M.D.

M. Brian O'Connor, Esquire
Matis, Brum, Rizza, O'Connor
Four Gateway Center
444 Liberty Avenue, Suite 300
Pittsburgh, PA 15222
Counsel for Defendant, James E. Devlin, M.D.

Lynn E. Bell, Esquire
Davies, McFarland & Carroll, P.C.
The Tenth Floor, One Gateway Center
Pittsburgh, PA 15222-1416
Counsel for Bradford Bobrin, M.D.

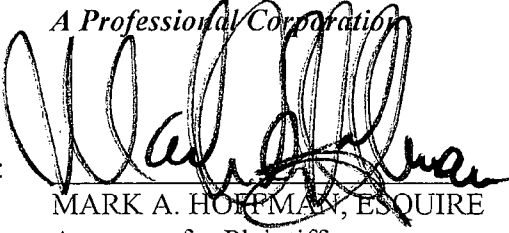
Christopher C. Rulis, Esquire
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555 Grant Street, Suite 120
Pittsburgh, PA 15219
Counsel for Defendant, Thomas J. Bradley, M.D.

David R. Bahl, Esquire
Richard F. Schluter, Esquire
McCormick Law Firm
835 West Fourth Street
Williamsport, PA 17701
Counsel for Defendant, Mark W. Maloney, D.O.

KLINE & SPECTER

A Professional Corporation

By:



MARK A. HOFFMAN, ESQUIRE
Attorneys for Plaintiffs

Date: January 13, 2009

KLINE & SPECTER

A PROFESSIONAL CORPORATION

ATTORNEYS AT LAW

THE NINETEENTH FLOOR

1525 LOCUST STREET

PHILADELPHIA, PENNSYLVANIA 19102

WWW.KLINESPECTER.COM

MARK A. HOFFMAN, M.D., J.D., LL.M.

215-772-1000

MARK.HOFFMAN@KLINESPECTER.COM

FAX: 215-772-1359

May 13, 2009

VIA FACSIMILE 814-765-7649

AND FIRST CLASS MAIL

The Honorable Frederic J. Ammerman
President Judge
Erie County Courthouse
230 E. Market Street
Clearfield, PA 16830

Re: Wanda Russell v. James Devlin, M.D., et al
Erie CCP, Docket No.: 07-644-CD

Dear Judge Ammerman:

We are writing to Your Honor to respectfully request a Case Management Conference for the purpose of assigning a trial date in the above-captioned action.

By way of background, this medical negligence action arises out of the medical care and treatment provided to the Plaintiff, Wanda Russell, at the DuBois Regional Medical Center from December 4 to 6, 2005. The Civil Action Complaint, filed on April 24, 2008, and subsequent amendments to the complaint, allege a substantial delay in the appropriate diagnosis and management of an evolving cerebrovascular accident (stroke), resulting in catastrophic and preventable neurologic injuries and disability. Despite a complete absence of any history of psychiatric illness, the Plaintiff's admitting physician, Dr. Mark Maloney, diagnosed Wanda Russell's objective and well documented neurologic signs and symptoms as "fabrication" (i.e. faking), and ordered her transfer to an off-site psychiatric unit under the guise of declaring her "suicidal." Once on the psychiatric unit, Wanda Russell evolved a completed, irreversible stroke. Of particular note, during deposition testimony, the nursing and other health care personnel on the psychiatric unit admitted that Wanda Russell had no obvious indications of psychiatric illness, and that she had been erroneously transferred to the psychiatric unit without meeting any of the requisite criteria for either

transfer or admission. It was clear to those health care providers on the psychiatric unit that Wanda Russell was manifesting the signs of a neurologic, and not psychiatric, emergency. Plaintiff was transferred back to the medical unit 12 hours following transfer. By that time, the treatment window for stroke sequella avoidance had closed.

Procedurally, Plaintiff's expert reports were served on January 13, 2009, together with a request for the production of defense expert reports pursuant to Pa. R.C.P. No. 1042. The defense expert reports were due on or before March 16, 2009. Defense expert reports have since been served on Plaintiff, and the deadline for any further reports has long since past. Therefore, no further reports should be forthcoming.

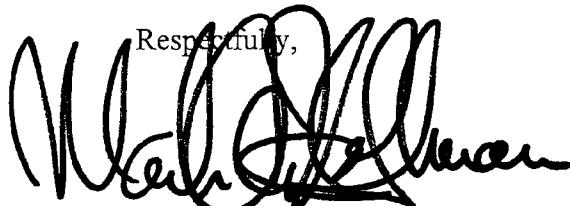
Plaintiff's discovery is complete. Defendants, however, persist in their insistence on deposing two additional fact witnesses: Sharon Buerk and Dennis Evans, who are the brother and sister of the Plaintiff. Defense counsel for Mark W. Maloney, D.O., David R. Bahl, Esquire, of The McCormick Law Firm, first noticed these depositions for April 21, 2008. They were subsequently cancelled by Lynne Bell, Esquire, defense counsel for Bradford Bobrin, M.D. The depositions were then rescheduled for July 11, 2008. The witnesses appeared for their depositions, but were not deposed that day due to the length of the Plaintiff's deposition scheduled for that same day.

These depositions were subsequently again noticed for June 19, 2009, and were cancelled by Attorney Bell's office due to defense counsel's unavailability. Renewed efforts to schedule these depositions have yielded dates now trending towards the end of the summer and into the early fall, owing to various defense counsel's unavailability for proposed dates.

The case is now trial-ready. The anticipated content of these peripheral depositions, which frankly, could have and should have been noticed and taken several months ago, (the identity and relationship of these individuals can hardly be claimed to be newly discovered), should not impede the assignment of a trial date. Plaintiff's counsel do not oppose these depositions, and has diligently been ready and available to attend them each time they have been noticed. However, Plaintiff's counsel do object to any further delay in certifying this action trial-ready, while depositions of remote substantive value to any claim or defense in this action are perpetually pushed into the future. Justice delayed is justice denied, and further delay is not warranted.

Accordingly, Plaintiff respectfully requests that Your Honor convene a case management conference to assign a trial date for this action.

Respectfully,

A handwritten signature in black ink, appearing to read 'Shanin Specter', written over the word 'Respectfully,'.

SHANIN SPECTER
MARK A. HOFFMAN

SS/MAH

(14)

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

WANDA RUSSELL,

Plaintiff

vs.

JAMES E. DEVLIN, M.D.; MARK W. MALONEY, D.O.;
DRMC PRIMARY CARE ASSOCIATES; SANAA HELMI, M.D.;
THOMAS J. BRADLEY, M.D.; BRANFORD BOBRIN, M.D.;
DRMC; DRMC WEST; DRMC BEHAVIORAL UNIT;
DRMC EAST BEHAVIORAL UNIT; and DRMC BEHAVIORAL
HEALTH OUTPATIENT CLINIC,

Defendants

*
*
*NO. 07-644-CD
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*

ORDER

AND NOW, this 5th day of June, 2009, it is the ORDER as follows:

1. Argument on Dr. Helmi's Motion for Summary Judgment scheduled for June 15, 2009 at 2:30 p.m. shall be and is hereby **rescheduled** to the **13th day of August, 2009 at 2:30 p.m.** in Courtroom No. 1 of the Clearfield County Courthouse, Clearfield, Pennsylvania;
2. Argument on Plaintiff's Motion to Compel the Production of Expert Reports shall be and is hereby **scheduled** for the **15th day of June, 2009 at 2:30 p.m.** in Courtroom No. 1 of the Clearfield County Courthouse.

The Status Conference scheduled for July 2, 2009 remains unchanged.

FILED
019:41301
JUN 09 2009

William A. Shaw
Prothonotary/Clerk of Courts

ICC Attys: Hoffman

O'Connor

McIntyre/Burke

Bell

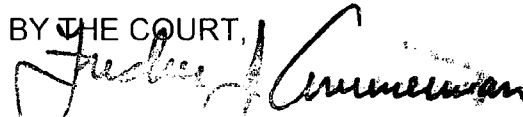
Reichl/Farrone

Baht/Schluter

Slimak

ICC DRMC Primary Case Assoc.
145 Hospital Ave, Ste 200
DuBois, PA 15801

BY THE COURT,



FREDRIC J. AMMERMAN

President Judge

FILED

JUN 09 2009

William A. Shaw
Prothonotary/Clerk of Courts

DATE: 06/19/09

 You are responsible for serving all appropriate parties.

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

Plaintiff(s) X Plaintiff(s) Attorney Other
 X Gene Primacy
Defendant(s) X Defendant(s) Attorney

 Special Instructions:

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

WANDA RUSSELL,

Plaintiff

vs.

JAMES E. DEVLIN, M.D.; MARK W. MALONEY, D.O.;
DRMC PRIMARY CARE ASSOCIATES; SANAA HELMI, M.D.;
THOMAS J. BRADLEY, M.D.; BRANFORD BOBRIN, M.D.;
DRMC; DRMC WEST; DRMC BEHAVIORAL UNIT;
DRMC EAST BEHAVIORAL UNIT; and DRMC BEHAVIORAL
HEALTH OUTPATIENT CLINIC,

Defendants

*
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*NO. 07-644-CD
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ORDER

AND NOW, this 16th day of June, 2009, the Court having been advised by Mark A. Hoffman, Esquire, counsel for the Plaintiff and Richard Schluter, Esquire, counsel for Defendants Mark W. Maloney, D.O. and DuBois Regional Medical Center that they are in agreement concerning the Plaintiff's Motion to Compel the Production of Expert Reports; it is the ORDER of this Court that Defendants Mark W. Maloney, D.O. and the DuBois Regional Medical Center shall serve on all parties to this action their defense expert reports on or before thirty (30) days from the date of this Order. After that date, these Defendants shall be precluded from serving expert reports.

FILED
019:29/30
JUN 17 2009

William A. Shaw
Prothonotary/Clerk of Courts

ICC Attys:

Mark A. Hoffman
m. Brian O'Connor
David Bahl/Richard Schluter
Darryl Slimak
Christopher Rulis/Marissa Farrone
Lynn Bell
John McIntyre/Laura Burke

ICC DRMC Primary Care Associates
Ste. 200, 145 Hospital Ave.
DuBois, PA 15801

BY THE COURT,

FREDRIC J. AMMERMAN
President Judge

FILED

JUN 17 2009

William A. Shaw
Prothonotary/Clerk of Courts

DATE: 6/17/09

X You are responsible for serving all appropriate parties.

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

Plaintiff(s) X
SPM C H. Mary Cope
Defendant(s) X Attorney Other
Defendant(s) Attorney

Special Instructions:

LA

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

WANDA RUSSELL,

No. 07-644-CD

Plaintiff

vs.

JAMES E. DEVLIN, M.D., MARK W.
MALONE, D.O., DRMC PRIMARY CARE
ASSOCIATES, SANAA HELMI, M.D.,
THOMAS J. BRADLEY, M.D., BRADFORD
BOBRIN, M.D., and DUBOIS REGIONAL
MEDICAL CENTER a/k/a DUBOIS
REGIONAL MEDICAL CENTER WEST
a/d/b/a DRMC BEHAVIORAL UNIT a/k/a
DRMC EAST BEHAVIORAL UNIT a/k/a
DRMC BEHAVIORAL HEALTH
OUTPATIENT CLINIC,

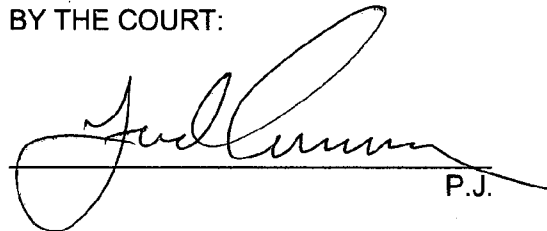
Defendants

JURY TRIAL DEMANDED

CONSENT ORDER

AND NOW, this 13 day of July, 2009, after agreement of
the parties, IT IS HEREBY ORDERED, DIRECTED AND DECREED that the
defendant's deadline for expert reports shall be extended to August 15, 2009, for
medical causation and damage opinions. The deadline for standard of care expert
opinions shall remain as previously ordered.

BY THE COURT:


P.J.

FILED

019-48501
JUL 14 2009

Atty Burke

William A. Shaw
Prothonotary/Clerk of Courts

(64)

FILED

JUL 14 2009

William A. Shaw
Prothonotary/Clerk of Courts

DATE: 7/14/09

☒ You are responsible for serving all appropriate parties.

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

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

☐ Defendant(s) ☐ Defendant(s) Attorney

☐ Special Instructions:

CA

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

WANDA RUSSELL,

Plaintiff

vs.

JAMES E. DEVLIN, M.D.; MARK W. MALONEY, D.O.;
DRMC PRIMARY CARE ASSOCIATES; SANAA HELMI, M.D.;
THOMAS J. BRADLEY, M.D.; BRANFORD BOBRIN, M.D.;
DRMC; DRMC WEST; DRMC BEHAVIORAL UNIT;
DRMC EAST BEHAVIORAL UNIT; and DRMC BEHAVIORAL
HEALTH OUTPATIENT CLINIC,

Defendants

*

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*NO. 07-644-CD

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William A. Shaw
Prothonotary/Clerk of Courts
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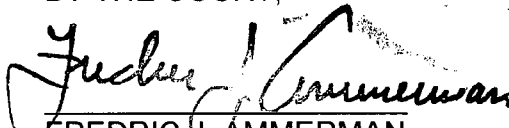
ORDER

NOW, this 14th day of July, 2009, following pre-trial conference with counsel for the parties as set forth above, it is the ORDER of this Court as follows:

1. Jury Selection will be held on January 5, 2010 commencing at 9:00 a.m. in Courtroom No. 1 of the Clearfield County Courthouse, Clearfield, Pennsylvania.
2. Jury Trial is hereby scheduled for March 1,2,3,4,5,8,9,10,11,12, 15 and 16, 2010, commencing at 9:00 a.m. in a location to be announced before a Specially Presiding Judge to be announced.
3. All depositions which are to be used for trial presentation purposes shall be completed by absolutely no later than sixty (60) days prior to the commencement of trial or the same will not be available for use at trial. A copy of the transcript of any such deposition(s) shall be provided to opposing counsel within no more than ten (10) days following completion of the deposition(s).
4. The written report of any expert who will testify at trial which has not previously been provided to opposing counsel shall be delivered within no more than sixty (60) days from this date. Failure to comply will result in the witness not being available for use at trial.

5. Any party making objections relative the testimony to be provided by any witness in the form of a deposition at the time of trial shall submit said objections to the Court, in writing, no later than forty-five (45) days prior to the commencement of trial. All objections shall reference specific page and line numbers within the deposition(s) in question along with that party's brief relative same. The opposing party shall file an Answer thereto and submit its brief in opposition to said objections no later than thirty (30) days prior to the commencement of trial.
6. Any party filing any Motion or Petition regarding limitation or exclusion of evidence or testimony to be presented at time of trial, including but not limited to Motions in Limine, shall file the same no more than sixty (60) days prior to the trial date. The party's Petition or Motion shall be accompanied by an appropriate brief. The responding party thereto shall file its Answer and submit appropriate response brief no later than forty-five (45) days prior to trial.
7. The parties hereby agree to the authenticity of any and all medical records and bills which were previously provided through the discovery process. No party shall be required to produce a Medical Records witness for purposes of authentication.
8. Argument on all Motions or Petitions is scheduled for the 25th day of January, 2010 at 1:30 p.m. in Courtroom No. 1 of the Clearfield County Courthouse, Clearfield, Pennsylvania.

BY THE COURT,


FREDRIC J. AMMERMAN
President Judge

FILED

JUL 14 2009

William A. Shaw
Prothonotary/Clerk of Courts

DATE: 7/14/09

___ You are responsible for serving all appropriate parties.

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

Plaintiff(s) X Plaintiff(s) Attorney ___ Other

Deane Primary Care

X Defendant(s) X Defendant(s) Attorney

___ Special Instructions:

07-644-CD

Wanda Russell vs. James E. Devlin, M.D. et al

ICC:

Mark A. Hoffman, Esq.
The Nineteenth Floor
1525 Locust Street
Philadelphia, PA 19102

M. Brian O'Connor, Esq.
444 Liberty Ave Ste 300
Pittsburgh, PA 15222

David R. Bahl, Esq.
Richard F. Schluter, Esq.
835 West Fourth St.
Williamsport, PA 17701

DRMC Primary Care Associates
Medical Arts Building
145 Hospital Ave., Ste. 200
DuBois, PA 15801

Darryl R. Slimak, Esq.
McQuaide Blasko
811 University Drive
State College, PA 16801

Christopher C. Rulis, Esq.
Marissa L. Farrone, Esq.
555 Grant St., Ste. 120
Pittsburgh, PA 15219

Lynn E. Bell, Esq.
One Gateway Center; 10th Floor
Pittsburgh, PA 15222

John L. McIntyre, Esq.
Laura O. Burke, Esq.
PO Box 533
Hollidaysburg, PA 16648

UA
FILED

AUG 10 2009

m/11:30/ *W*
William A. Shaw
Prothonotary/Clerk of Courts

no 9/

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

WANDA RUSSELL,

Plaintiff,

vs.

JAMES E. DEVLIN, M.D., MARK W.
MALONEY, D.O., DRMC PRIMARY CARE
ASSOCIATES, SANAA HELMI, M.D.,
THOMAS J. BRADLEY, M.D., BRADFORD
BOBRIN, M.D., DuBOIS REGIONAL MEDICAL
CENTER WEST a/d/b/a/ DRMC
BEHAVIORAL UNIT a/k/a/ DRMC EAST
BEHAVIORAL HEALTH OUTPATIENT
CLINIC,

Defendants.

*Medical Professional Liability
Action*

Docket No: 07 - 644 - C.D.

Type of Pleading:
*Stipulation and Consent to
Entry of Summary Judgment
Dismissal of all Claims Against
Sanaa Helmi, M.D., Only*

Filed on Behalf of Defendant
Sanaa Helmi, M.D.

Counsel for Record for This Party
Darryl R. Slimak, Esquire
Pa. Supreme Court I.D. #41695

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

Counsel for Plaintiff
Thomas R. Kline, Esquire
Mark A. Hoffman, Esquire

JURY TRIAL DEMANDED

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

WANDA RUSSELL,

Plaintiff,

vs.

JAMES E. DEVLIN, M.D., MARK W.
MALONEY, D.O., DRMC PRIMARY CARE
ASSOCIATES, SANAA HELMI, M.D.,
THOMAS J. BRADLEY, M.D., BRADFORD
BOBRIN, M.D., DuBOIS REGIONAL MEDICAL
CENTER WEST a/d/b/a/ DRMC
BEHAVIORAL UNIT a/k/a/ DRMC EAST
BEHAVIORAL HEALTH OUTPATIENT
CLINIC,

Defendants.

*Medical Professional Liability
Action*

Docket No: 07 - 644 - C.D.

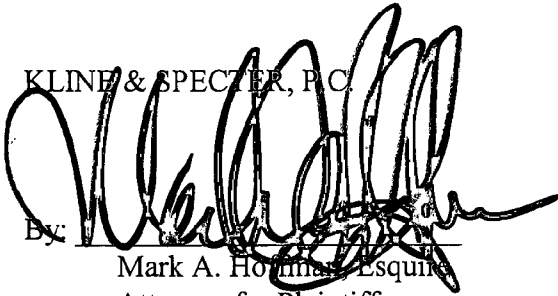
JURY TRIAL DEMANDED

**STIPULATION AND CONSENT TO ENTRY OF SUMMARY JUDGMENT
DISMISSAL OF ALL CLAIMS AGAINST DEFENDANT SANAA HELMI, M.D., ONLY**

AND NOW, the undersigned attorneys on behalf of their respective clients, being duly
authorized to do so, hereby Stipulate and Consent to the entry of an Order of Court granting

summary judgment dismissal of all claims against Defendant Sanaa Helmi, M.D., ONLY, with prejudice.

KLINE & SPECTER, P.C.

By: 

Mark A. Hommas, Esquire
Attorney for Plaintiff
Wanda Russell

McCORMICK LAW FIRM

By: _____

David R. Bahl, Esquire
Attorney for Defendant
Mark W. Maloney, D.O.

GACA, MATTIS, BAUM & RIZZA, P.C.

By: _____

Michael B. O'Connor, Esquire
Attorney for Defendant
James E. Devlin, M.D.

O'BRIEN, RULIS, BOCHICCHIO

By: _____

Christopher C. Rulis, Esquire
Attorney for Defendant
Thomas C. Bradley, M.D.

McQUAIDE, BLASKO,
FLEMING & FAULKNER, INC.

By: 

Darryl R. Slimak, Esquire
Attorney for Defendant
Sanaa Helmi, M.D.

McINTYRE, HARTYE & SCHMITT

By: _____

John L. McIntyre, Esquire
Attorney for Defendant
DuBois Regional Medical Center

DAVIES, McFARLAND & CARROLL, PC

By: _____

Lynn Bell, Esquire
Attorney for Defendant
Bradford Bobrin, M.D.

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

WANDA RUSSELL,

Plaintiff,

vs.

JAMES E. DEVLIN, M.D., MARK W.
MALONEY, D.O., DRMC PRIMARY CARE
ASSOCIATES, SANAA HELMI, M.D.,
THOMAS J. BRADLEY, M.D., BRADFORD
BOBRIN, M.D., DuBOIS REGIONAL MEDICAL
CENTER WEST a/d/b/a/ DRMC
BEHAVIORAL UNIT a/k/a/ DRMC EAST
BEHAVIORAL HEALTH OUTPATIENT
CLINIC,

Defendants.

*Medical Professional Liability
Action*

Docket No: 07 - 644 - C.D.

JURY TRIAL DEMANDED

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the Stipulation and Consent to Entry of
Summary Judgment Dismissal of all Claims Against Sanaa Helmi, M.D., Only in the above-
captioned matter was mailed by regular mail, postage prepaid, at the Post Office, State College,
Pennsylvania, on this 7th day of August, 2009, to the attorney(s)/party(ies) of record:

Mark A. Hoffman, Esquire
Kline & Specter, P.C.
1525 Locust Street 19th Floor
Philadelphia, PA 19102

David R. Bahl, Esquire
McCormick Law Firm
835 West Fourth Street
PO Box 577
Williamsport, PA 17701-5801

Matthew Brian O'Connor, Esquire
Gaca Matis Baum & Rizza PC
444 Liberty Ave Ste 300
Pittsburgh, PA 15222

Lynn Bell, Esquire
Davies, McFarland & Carroll, P.C.
Tenth Floor One Gateway Center
Pittsburgh, PA 15222-1416

John McIntyre, Esquire
McIntyre Hartye & Schmitt
PO Box 533
Hollidaysburg, PA 16648-0533

McQUAIDE, BLASKO,
FLEMING & FAULKNER, INC.

By: _____



Darryl R. Slimak
Attorneys for Defendant
SANAA HELMI, M.D.
811 University Drive
State College, PA 16801
(814) 238-4926
Fax: (814) 238-9624

WANDA RUSSELL,
Plaintiff

v.

JAMES E. DEVLIN, M.D.; MARK W.
MALONEY, D.O.; DRMC PRIMARY
CARE ASSOCIATES; SANAA HELMI,
M.D.; THOMAS J. BRADLEY, M.D.;
BRADFORD BOBRIN, M.D.; DUBOIS
REGIONAL MEDICAL CENTER WEST
a/d/b/a DRMC BEHAVIORAL UNIT a/k/a
DRMC EAST BEHAVIORAL HEALTH
OUTPATIENT CLINIC,
Defendants

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY,
PENNSYLVANIA

NO. 07-644-CD

CIVIL ACTION - LAW

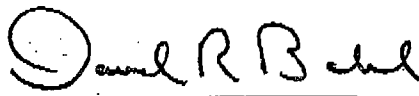
JURY TRIAL DEMANDED

**RESPONSE OF DEFENDANT MARK W. MALONEY,
D.O. TO MOTION FOR SUMMARY JUDGMENT
OF DEFENDANT SANAA HELMI, M.D.**

AND NOW, the undersigned attorneys, by and on behalf of defendant Mark W.
Maloney, D.O. respond to the Motion for Summary Judgment of Defendant Sanaa Helmi, M.D.
by stating that defendant Dr. Maloney does not oppose the said Motion or the relief requested
therein.

Respectfully submitted,

McCORMICK LAW FIRM

By 

David R. Bahl, Esquire

I.D. No. 10347

Richard F. Schluter, Esquire

I.D. No. 79672

Attorneys for Defendant

Mark W. Maloney, D.O.

835 West Fourth Street
Williamsport, PA 17701
(570) 326-5131

WANDA RUSSELL,
Plaintiff

v.

JAMES E. DEVLIN, M.D.; MARK W.
MALONEY, D.O.; DRMC PRIMARY
CARE ASSOCIATES; SANAA HELMI,
M.D.; THOMAS J. BRADLEY, M.D.;
BRADFORD BOBRIN, M.D.; DUBOIS
REGIONAL MEDICAL CENTER WEST
a/d/b/a DRMC BEHAVIORAL UNIT a/k/a
DRMC EAST BEHAVIORAL HEALTH
OUTPATIENT CLINIC,
Defendants

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY,
PENNSYLVANIA

NO. 07-644-CD

CIVIL ACTION - LAW

JURY TRIAL DEMANDED

CERTIFICATE OF SERVICE

I, DAVID R. BAHL, ESQUIRE, hereby certify that I have served a copy of the
foregoing *Response of Defendant Mark W. Maloney, D.O. to Motion for Summary Judgment*
of Defendant Sanaa Helmi, M.D., upon the following, this 7th day of August, 2009, as follows:

UNITED STATES MAIL, POSTAGE PREPAID:

Thomas R. Kline, Esquire
Mark A. Hoffman, Esquire
Kline & Specter, PC
The Nineteenth Floor
1525 Locust Street
Philadelphia, PA 19102

Darryl Slimak, Esquire
McQuaide Blasko
811 University Drive
State College, PA 16801

M. Brian O'Connor, Esquire
Gaca, Matis, Baum & Rizza, PC
444 Liberty Avenue, Suite 300
Pittsburgh, PA 15222

Lynn E. Bell, Esquire
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One Gateway Center, 10th Floor
Pittsburgh, PA 15222-1416

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McIntyre, Hartye & Schmitt
Post Office Box 533
Hollidaysburg, PA 16648-0533

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

McCORMICK LAW FIRM

By David R. Bahl

David R. Bahl, Esquire

I.D. No. 10347

Richard F. Schluter, Esquire

I.D. No. 79672

Attorneys for Defendant

Mark W. Maloney, D.O.

835 West Fourth Street
Williamsport, PA 17701
(570) 326-5131



McIntyre, Hartye & Schmitt
LAW OFFICES

August 11, 2009

Our Reference: DRMC 008 MH

Darryl Slimak, Esquire
McQUAIDE, BLASKO
811 University Drive
State College, PA 16801-6699

Re: Wanda Russell vs. James E. Devlin, M.D., Mark W. Maloney, D.O.,
DRMC Primary Care Associates, Sanaa Helmi, M.D., Thomas J.
Bradley, M.D., Bradford Bokrin, M.D., DuBois Regional Medical
Center a/k/a DuBois Regional Medical Center West a/d/b/a DRMC
Behavioral Unit a/k/a DRMC East Behavioral Unit a/k/a DRMC
Behavioral Health Outpatient Clinic
No. 2007-644-CD (Clearfield County)

Dear Darryl:

Here is my signed stipulation regarding the Motion for Summary Judgment.

Thank you.

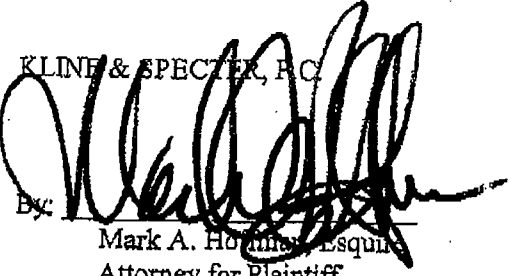
Very truly yours,

John L. McIntyre

JLM:slh
Enclosure

summary judgment dismissal of all claims against Defendant Sanaa Helmi, M.D., ONLY, with prejudice.

KLINE & SPECTER, P.C.

By: 

Mark A. Hornum, Esquire
Attorney for Plaintiff
Wanda Russell

McCORMICK LAW FIRM

By: _____

David R. Bahl, Esquire
Attorney for Defendant
Mark W. Maloney, D.O.

GACA, MATTIS, BAUM & RIZZA, P.C.

By: _____

Michael B. O'Connor, Esquire
Attorney for Defendant
James E. Devlin, M.D.

O'BRIEN, RULIS, BOCHICCHIO

By: _____

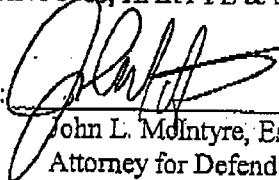
Christopher C. Rulis, Esquire
Attorney for Defendant
Thomas C. Bradley, M.D.

McQUAIDE, BLASKO,
FLEMING & FAULKNER, INC.

By: 

Darryl R. Slimak, Esquire
Attorney for Defendant
Sanaa Helmi, M.D.

McINTYRE, HARTYE & SCHMITT

By: 

John L. McIntyre, Esquire
Attorney for Defendant
DuBois Regional Medical Center

DAVIES, McFARLAND & CARROLL, PC

By: _____

Lynn Bell, Esquire
Attorney for Defendant
Bradford Bobrin, M.D.

WANDA RUSSELL,
Plaintiff

v.

JAMES E. DEVLIN, M.D.; MARK W.
MALONEY, D.O.; DRMC PRIMARY
CARE ASSOCIATES; SANAA HELMI,
M.D.; THOMAS J. BRADLEY, M.D.;
BRADFORD BOBRIN, M.D.; DUBOIS
REGIONAL MEDICAL CENTER WEST
a/d/b/a DRMC BEHAVIORAL UNIT a/k/a
DRMC EAST BEHAVIORAL HEALTH
OUTPATIENT CLINIC,
Defendants

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY,
PENNSYLVANIA

NO. 07-644-CD

CIVIL ACTION - LAW

JURY TRIAL DEMANDED

Paul
FILED

S **AUG 10 2009**

m/11:00 (u)
William A. Shaw
Prothonotary/Clerk of Courts

I went to Act

**RESPONSE OF DEFENDANT MARK W. MALONEY,
D.O. TO MOTION FOR SUMMARY JUDGMENT
OF DEFENDANT SANAA HELMI, M.D.**

AND NOW, the undersigned attorneys, by and on behalf of defendant Mark W.

Maloney, D.O. respond to the Motion for Summary Judgment of Defendant Sanaa Helmi, M.D.

by stating that defendant Dr. Maloney does not oppose the said Motion or the relief requested
therein.

Respectfully submitted,

McCORMICK LAW FIRM

By

David R Bahl

David R. Bahl, Esquire

I.D. No. 10347

Richard F. Schluter, Esquire

I.D. No. 79672

Attorneys for Defendant

Mark W. Maloney, D.O.

WANDA RUSSELL,
Plaintiff

v.

JAMES E. DEVLIN, M.D.; MARK W.
MALONEY, D.O.; DRMC PRIMARY
CARE ASSOCIATES; SANAA HELMI,
M.D.; THOMAS J. BRADLEY, M.D.;
BRADFORD BOBRIN, M.D.; DUBOIS
REGIONAL MEDICAL CENTER WEST
a/d/b/a DRMC BEHAVIORAL UNIT a/k/a
DRMC EAST BEHAVIORAL HEALTH
OUTPATIENT CLINIC,
Defendants

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY,
PENNSYLVANIA

NO. 07-644-CD

CIVIL ACTION - LAW

JURY TRIAL DEMANDED

CERTIFICATE OF SERVICE

I, DAVID R. BAHL, ESQUIRE, hereby certify that I have served a copy of the
foregoing *Response of Defendant Mark W. Maloney, D.O. to Motion for Summary Judgment*
of Defendant Sanaa Helmi, M.D., upon the following, this 7th day of August, 2009, as follows:

UNITED STATES MAIL, POSTAGE PREPAID:

Thomas R. Kline, Esquire
Mark A. Hoffman, Esquire
Kline & Specter, PC
The Nineteenth Floor
1525 Locust Street
Philadelphia, PA 19102

Darryl Slimak, Esquire
McQuaide Blasko
811 University Drive
State College, PA 16801

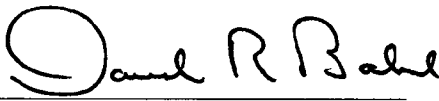
M. Brian O'Connor, Esquire
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444 Liberty Avenue, Suite 300
Pittsburgh, PA 15222

Lynn E. Bell, Esquire
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Pittsburgh, PA 15222-1416

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

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

McCORMICK LAW FIRM

By 

David R. Bahl, Esquire

I.D. No. 10347

Richard F. Schluter, Esquire

I.D. No. 79672

Attorneys for Defendant

Mark W. Maloney, D.O.

835 West Fourth Street
Williamsport, PA 17701
(570) 326-5131

CA

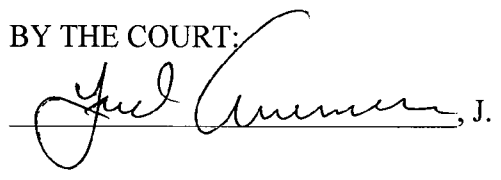
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AUG 11 2009
Any Skimark
610
William A. Shaw
Prothonotary/Clerk of Courts

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

WANDA RUSSELL,	:	
	:	<i>Medical Professional Liability</i>
Plaintiff,	:	<i>Action</i>
	:	
vs.	:	Docket No: 07 - 644 - C.D.
	:	
JAMES E. DEVLIN, M.D., MARK W.	:	
MALONEY, D.O., DRMC PRIMARY CARE	:	
ASSOCIATES, SANAA HELMI, M.D.,	:	
THOMAS J. BRADLEY, M.D., BRADFORD	:	
BOBRIN, M.D., DuBOIS REGIONAL MEDICAL	:	
CENTER WEST a/d/b/a/ DRMC	:	
BEHAVIORAL UNIT a/k/a/ DRMC EAST	:	JURY TRIAL DEMANDED
BEHAVIORAL HEALTH OUTPATIENT	:	
CLINIC,	:	
	:	
Defendants.	:	

ORDER

AND NOW, this 11 day of August, 2009, upon consideration of the Stipulation and Consent for Entry of Summary Judgment, signed by counsel for Plaintiff, and there being no objections from the co-Defendants, it is hereby Ordered and Decreed that summary judgment in favor of Dr. Sanaa Helmi is GRANTED and all claims against her are hereby DISMISSED, with prejudice.

BY THE COURT:
 J.

ORIGINAL

FILED

AUG 11 2009

William A. Shaw
Prothonotary/Clerk of Courts

DATE: 8/11/09

☒ You are responsible for serving all appropriate parties.
____ The Prothonotary's office has provided service to the following parties:
____ Plaintiff(s) ____ Plaintiff(s) Attorney ____ Other
____ Defendant(s) ____ Defendant(s) Attorney
____ Special Instructions:

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

WANDA RUSSELL,

Plaintiff

vs.

JAMES E. DEVLIN, M.D., MARK W.
MALONE, D.O., DRMC PRIMARY CARE
ASSOCIATES, SANAA HELMI, M.D.,
THOMAS J. BRADLEY, M.D., BRADFORD
BOBRIN, M.D., and DUBOIS REGIONAL
MEDICAL CENTER a/k/a DUBOIS
REGIONAL MEDICAL CENTER WEST
a/d/b/a DRMC BEHAVIORAL UNIT a/k/a
DRMC EAST BEHAVIORAL UNIT a/k/a
DRMC BEHAVIORAL HEALTH
OUTPATIENT CLINIC,

Defendants

No. 07-644-CD

ISSUE:

Notice of Deposition of
Darlene Nortum

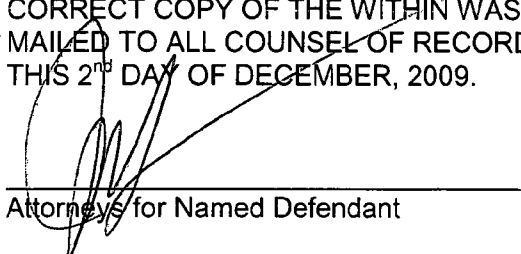
Filed on behalf of Defendant,
DUBOIS REGIONAL MEDICAL
CENTER a/k/a DUBOIS REGIONAL
MEDICAL CENTER WEST a/d/b/a
DRMC BEHAVIORAL UNIT a/k/a
DRMC EAST BEHAVIORAL UNIT
a/k/a DRMC BEHAVIORAL HEALTH
OUTPATIENT CLINIC

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

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

JURY TRIAL DEMANDED

I HEREBY CERTIFY THAT A TRUE AND
CORRECT COPY OF THE WITHIN WAS
MAILED TO ALL COUNSEL OF RECORD
THIS 2ND DAY OF DECEMBER, 2009.


Attorneys for Named Defendant

FILED *no cc*
mjj:0030
DEC 03 2009 *(610)*

William A. Shaw
Prothonotary/Clerk of Courts

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

WANDA RUSSELL,

Plaintiff

vs.

JAMES E. DEVLIN, M.D., MARK W.
MALONE, D.O., DRMC PRIMARY CARE
ASSOCIATES, SANAA HELMI, M.D.,
THOMAS J. BRADLEY, M.D., BRADFORD
BOBRIN, M.D., and DUBOIS REGIONAL
MEDICAL CENTER a/k/a DUBOIS
REGIONAL MEDICAL CENTER WEST
a/d/b/a DRMC BEHAVIORAL UNIT a/k/a
DRMC EAST BEHAVIORAL UNIT a/k/a
DRMC BEHAVIORAL HEALTH
OUTPATIENT CLINIC,

Defendants

No. 07-644-CD

JURY TRIAL DEMANDED

NOTICE OF DEPOSITION

TO: Darlene Nortum
c/o Mark A. Hoffman, Esquire
Kline & Specter, P.C.
1525 Locust Street, 19th Floor
Philadelphia, PA 19102

Richard S. Schluter, Esquire
McCORMICK LAW FIRM
835 West Fourth Street
Williamsport, PA 17701

M. Brian O'Connor, Esquire
Matis, Baum, Rizza & O'Connor
Four Gateway Center
444 Liberty Avenue, Suite 300
Pittsburgh, PA 15222

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

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

MLP Reporting, Inc.
413 North Vesper Street
Lock Haven, PA 17745

Please take notice that the deposition of **DARLENE NORTUM** shall be taken upon oral examination by an official Court Reporter at DuBois Regional Medical Center, 2nd Floor Home Health Building Conference Room, 100 Hospital Avenue, DuBois, PA, on the **21st** day of **JANUARY, 2010**, commencing at **11:00 a.m.**

The scope of said deposition testimony will include inquiry into all facts concerning the happening of the incident complained of and all other matters relevant to the issues raised in the case.

You are invited to attend and participate.

McINTYRE, HARTYE & SCHMITT

Attorney for Defendant

DUBOIS REGIONAL MEDICAL
CENTER a/k/a DUBOIS REGIONAL
MEDICAL CENTER WEST a/d/b/a
DRMC BEHAVIORAL UNIT a/k/a
DRMC EAST BEHAVIORAL UNIT
a/k/a DRMC BEHAVIORAL HEALTH
OUTPATIENT CLINIC

JOHN L. MCINTYRE, ESQUIRE
PA I.D. #28015
P.O. Box 533
Hollidaysburg, PA 16648-0533
(814) 696-3581

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

WANDA RUSSELL,

Plaintiff

vs.

JAMES E. DEVLIN, M.D., MARK W.
MALONE, D.O., DRMC PRIMARY CARE
ASSOCIATES, SANAA HELMI, M.D.,
THOMAS J. BRADLEY, M.D., BRADFORD
BOBRIN, M.D., and DUBOIS REGIONAL
MEDICAL CENTER a/k/a DUBOIS
REGIONAL MEDICAL CENTER WEST
a/d/b/a DRMC BEHAVIORAL UNIT a/k/a
DRMC EAST BEHAVIORAL UNIT a/k/a
DRMC BEHAVIORAL HEALTH
OUTPATIENT CLINIC,

Defendants

No. 07-644-CD

ISSUE:

Notice of Deposition of
Rochelle Russell

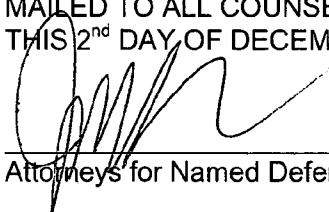
Filed on behalf of Defendant,
DUBOIS REGIONAL MEDICAL
CENTER a/k/a DUBOIS REGIONAL
MEDICAL CENTER WEST a/d/b/a
DRMC BEHAVIORAL UNIT a/k/a
DRMC EAST BEHAVIORAL UNIT
a/k/a DRMC BEHAVIORAL HEALTH
OUTPATIENT CLINIC

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

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

JURY TRIAL DEMANDED

I HEREBY CERTIFY THAT A TRUE AND
CORRECT COPY OF THE WITHIN WAS
MAILED TO ALL COUNSEL OF RECORD
THIS 2nd DAY OF DECEMBER, 2009.


Attorneys for Named Defendant

FILED *no cc*
mtw
DEC 03 2009 *GW*

William A. Shaw
Prothonotary/Clerk of Courts

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

WANDA RUSSELL,

Plaintiff

vs.

JAMES E. DEVLIN, M.D., MARK W.
MALONE, D.O., DRMC PRIMARY CARE
ASSOCIATES, SANAA HELMI, M.D.,
THOMAS J. BRADLEY, M.D., BRADFORD
BOBRIN, M.D., and DUBOIS REGIONAL
MEDICAL CENTER a/k/a DUBOIS
REGIONAL MEDICAL CENTER WEST
a/d/b/a DRMC BEHAVIORAL UNIT a/k/a
DRMC EAST BEHAVIORAL UNIT a/k/a
DRMC BEHAVIORAL HEALTH
OUTPATIENT CLINIC,

Defendants

No. 07-644-CD

ISSUE:

Notice of Deposition of
Rochelle Russell

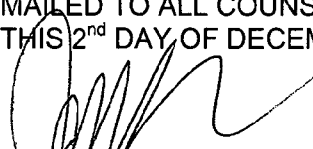
Filed on behalf of Defendant,
DUBOIS REGIONAL MEDICAL
CENTER a/k/a DUBOIS REGIONAL
MEDICAL CENTER WEST a/d/b/a
DRMC BEHAVIORAL UNIT a/k/a
DRMC EAST BEHAVIORAL UNIT
a/k/a DRMC BEHAVIORAL HEALTH
OUTPATIENT CLINIC

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

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

JURY TRIAL DEMANDED

I HEREBY CERTIFY THAT A TRUE AND
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MAILED TO ALL COUNSEL OF RECORD
THIS 2nd DAY OF DECEMBER, 2009.


Attorneys for Named Defendant

FILED

DEC 03 2009

William A. Shaw
Prothonotary/Clerk of Courts

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

WANDA RUSSELL,

Plaintiff

vs.

JAMES E. DEVLIN, M.D., MARK W.
MALONE, D.O., DRMC PRIMARY CARE
ASSOCIATES, SANAA HELMI, M.D.,
THOMAS J. BRADLEY, M.D., BRADFORD
BOBRIN, M.D., and DUBOIS REGIONAL
MEDICAL CENTER a/k/a DUBOIS
REGIONAL MEDICAL CENTER WEST
a/d/b/a DRMC BEHAVIORAL UNIT a/k/a
DRMC EAST BEHAVIORAL UNIT a/k/a
DRMC BEHAVIORAL HEALTH
OUTPATIENT CLINIC,

Defendants

No. 07-644-CD

JURY TRIAL DEMANDED

NOTICE OF DEPOSITION

TO: Rochelle Russell
c/o Mark A. Hoffman, Esquire
Kline & Specter, P.C.
1525 Locust Street, 19th Floor
Philadelphia, PA 19102

Richard S. Schluter, Esquire
McCORMICK LAW FIRM
835 West Fourth Street
Williamsport, PA 17701

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Matis, Baum, Rizza & O'Connor
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Pittsburgh, PA 15219

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

MLP Reporting, Inc.
413 North Vesper Street
Lock Haven, PA 17745

Please take notice that the deposition of **ROCHELLE RUSSELL** shall be taken upon oral examination by an official Court Reporter at DuBois Regional Medical Center, 2nd Floor Home Health Building Conference Room, 100 Hospital Avenue, DuBois, PA, on the **21st** day of **JANUARY, 2010**, commencing at **1:00 p.m.**

The scope of said deposition testimony will include inquiry into all facts concerning the happening of the incident complained of and all other matters relevant to the issues raised in the case.

You are invited to attend and participate.

McINTYRE, HARTYE & SCHMITT

Attorney for Defendant

DUBOIS REGIONAL MEDICAL
CENTER a/k/a DUBOIS REGIONAL
MEDICAL CENTER WEST a/d/b/a
DRMC BEHAVIORAL UNIT a/k/a
DRMC EAST BEHAVIORAL UNIT
a/k/a DRMC BEHAVIORAL HEALTH
OUTPATIENT CLINIC

JOHN L. MCINTYRE, ESQUIRE
PA I.D. #28015
P.O. Box 533
Hollidaysburg, PA 16648-0533
(814) 696-3581

ORIGINAL

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

WANDA RUSSELL,

Plaintiff

vs.

JAMES E. DEVLIN, M.D., MARK W.
MALONE, D.O., DRMC PRIMARY CARE
ASSOCIATES, SANAA HELMI, M.D.,
THOMAS J. BRADLEY, M.D., BRADFORD
BOBRIN, M.D., and DUBOIS REGIONAL
MEDICAL CENTER a/k/a DUBOIS
REGIONAL MEDICAL CENTER WEST
a/d/b/a DRMC BEHAVIORAL UNIT a/k/a
DRMC EAST BEHAVIORAL UNIT a/k/a
DRMC BEHAVIORAL HEALTH
OUTPATIENT CLINIC,

Defendants

No. 07-644-CD

ISSUE: MOTION IN LIMINE TO
EXCLUDE EXPERT TESTIMONY

Filed on behalf of Defendants,
DUBOIS REGIONAL MEDICAL
CENTER a/k/a DUBOIS REGIONAL
MEDICAL CENTER WEST a/d/b/a
DRMC BEHAVIORAL UNIT a/k/a
DRMC EAST BEHAVIORAL UNIT
a/k/a DRMC BEHAVIORAL HEALTH
OUTPATIENT CLINIC

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

Heather A. Harrington, Esquire
PA I.D. #62977

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

JURY TRIAL DEMANDED

I HEREBY CERTIFY THAT A TRUE AND
CORRECT COPY OF THE WITHIN WAS
MAILED TO ALL COUNSEL OF RECORD
THIS 30th DAY OF December, 2009.


Attorneys for Named Defendants

FILED

DEC 30 2009

William A. Shaw
Prothonotary/Clerk of Courts

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

WANDA RUSSELL,

Plaintiff

vs.

JAMES E. DEVLIN, M.D., MARK W.
MALONE, D.O., DRMC PRIMARY CARE
ASSOCIATES, SANAA HELMI, M.D.,
THOMAS J. BRADLEY, M.D., BRADFORD
BOBRIN, M.D., and DUBOIS REGIONAL
MEDICAL CENTER a/k/a DUBOIS
REGIONAL MEDICAL CENTER WEST
a/d/b/a DRMC BEHAVIORAL UNIT a/k/a
DRMC EAST BEHAVIORAL UNIT a/k/a
DRMC BEHAVIORAL HEALTH
OUTPATIENT CLINIC,

Defendants

No. 07-644-CD

JURY TRIAL DEMANDED

MOTION IN LIMINE TO EXCLUDE EXPERT TESTIMONY

AND NOW, come defendants DuBois Regional Medical Center, a/k/a DuBois Regional Medical Center West, a/d/b/a DRMC Behavioral Unit, a/k/a DRMC East Behavioral Unit, a/k/a DRMC Behavioral Health Outpatient Clinic, and file the within Motion to Exclude Expert Testimony, as follows:

1. Plaintiff has filed several Standard of Care expert reports in this matter.
2. Plaintiff has also filed Answers to Expert Witness Interrogatories in regard to testimony which will be offered by William D. Ryan, M.D. (A copy of the Interrogatories Answers are attached hereto, marked as Exhibit "A", and incorporated by reference).

3. In response to Interrogatory No. 2, at sub-paragraph (e), plaintiff notes that Dr. Ryan will offer testimony regarding imaging studies taken during the plaintiff's emergency room visits and hospitalization at DRMC in December and January of 2005.

4. Further, in answer to Interrogatory 2 (m) and (o), Dr. Ryan indicates that he will testify as to allegedly insufficient policies and procedures at DuBois Regional Medical Center regarding evaluation for and transfer of patients to the Behavioral Health Unit as well as evaluation of the patients while on the Unit.

5. Plaintiff has also provided the CV of Dr. Ryan which indicates that he is a family practice physician with an office based practice. (Dr. Ryan's CV is attached hereto, marked as Exhibit "B", and incorporated by reference).

6. Because we do not have a specific report from Dr. Ryan, it is difficult to determine what the doctor will exactly testify to in regard to various imaging studies or hospital policies.

7. However, to the extent that Dr. Ryan attempts to interpret actual radiology studies, as opposed to simply reiterating what the findings were by the radiologist who read the studies, such interpretations are beyond the scope of his expertise and should not be permitted at trial.

8. Further, as Dr. Ryan's practice since 1990 appears to be solely in an office and not as an attending physician for hospital patients, he is unqualified to testify to proper hospital policy and procedure in 2005.

9. Pennsylvania Rule of Evidence 702 states:

If scientific, technical or other specialized knowledge beyond that possessed by a layperson will assist the trier of fact to understand the evidence or determine a fact in issue, a witness qualified as an expert by knowledge, skill, experience, training or education may testify thereto in the form of an opinion or otherwise.

10. Determining expert witness qualifications in medical malpractice matters is governed by Medical Care Availability and Reduction of Error Act (MCARE) §1303.512-Expert Qualifications. Specifically, in sub-paragraph (c) Standard of Care, the statute states:

In addition to the requirements set forth in subsections (a) and (b), an expert testifying as to a physician's standard of care also **must** meet the following qualifications:

1. Be substantially familiar with the applicable standard of care for the specific care at issue as of the time of the alleged breach of the standard of care.
2. Practice in the same sub-specialties as the defendant physician or a sub-specialty which has a substantially similar standard of care for the specific care at issue, except as provided in sub-section (d) or (e).
3. In the event the defendant physician is certified by an approved board, be board-certified by the same or similar approved board, except as provided in sub-section (e). (Emphasis Added).

11. Clearly, by review of Dr. Ryan's Curriculum Vitae, he is not a radiologist nor does his CV indicate any specialized knowledge or experience in reading radiological studies. Further, as his practice is office based, he does not have the requisite expertise to offer opinions regarding hospital policy and procedure.

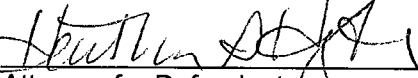
12. Therefore, to the extent that Dr. Ryan may attempt to interpret radiology films or offer opinions on hospital policy and procedure, he is not qualified to render such testimony and it should not be permitted at time of trial.

WHEREFORE, defendants DuBois Regional Medical Center, a/k/a DuBois Regional Medical Center West, a/d/b/a DRMC Behavioral Unit, a/k/a DRMC East Behavioral Unit, a/k/a DRMC Behavioral Health Outpatient Clinic, respectfully requests this Honorable Court limit the trial testimony of Dr. William D. Ryan and exclude any

radiological interpretations or testimony regarding hospital policy and procedure by Dr.
Ryan as outside his area of expertise.

Respectfully submitted,

McINTYRE, HARTYE & SCHMITT

BY: 
Attorney for Defendants
DuBois Regional Medical Center, a/k/a
DuBois Regional Medical Center West,
a/d/b/a DRMC Behavioral Unit, a/k/a
DRMC East Behavioral Unit, a/k/a
DRMC Behavioral Health Outpatient
Clinic

John L. McIntyre, Esquire
PA I.D. No. 28015
Heather A. Harrington, Esquire
PA I.D. No. 62977
P.O. Box 533
Hollidaysburg, PA 16648-0533
PH: (814) 696-3581
FAX: (814) 696-9399

KLINE & SPECTER

A Professional Corporation

By: THOMAS R. KLINE, ESQUIRE
MARK A. HOFFMAN, ESQUIRE
ROYCE W. SMITH, ESQUIRE

Attorney ID Nos.: 28895/84443/201295

The Nineteenth Floor

1525 Locust Street

Philadelphia, Pennsylvania 19102

(215) 772-1000

Attorneys for Plaintiff

WANDA RUSSELL

**COURT OF COMMON PLEAS
COUNTY OF CLEARFIELD**

v.

DOCKET NO. 07-644-CD

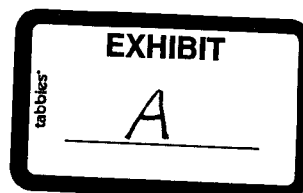
JAMES E. DEVLIN, M.D. and
MARK W. MALONEY, D.O. and
DRMC PRIMARY CARE ASSOCIATES
and SANAA HELMI, M.D. and
THOMAS J. BRADLEY, M.D. and
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UNIT a/k/a DRMC EAST BEHAVIORAL
UNIT a/k/a DRMC BEHAVIORAL
HEALTH OUTPATIENT CLINIC
Defendants.

**ANSWERS TO EXPERT WITNESS
INTERROGATORIES DIRECTED TO PLAINTIFF**

Plaintiff, Wanda Russell, by and through her undersigned attorneys, Kline & Specter, P.C., hereby serves on the above-captioned defendants her Answers to Expert Witness Interrogatories Directed to Plaintiff, signed and verified by the expert pursuant to Pa.R.C.P. No. 4003.5,¹ as

¹Pa.R.C.P. No. 4003.5 provides, in relevant part:

(a) Discovery of facts known and opinions held by an expert, otherwise



follows:

1. Identify, i.e., give the name, home address, business address, and telephone number, of each person whom you expect to call as an expert witness at the trial of this case, including all medical experts, economists, actuaries, statisticians, damage experts, accountants, or anyone else who would qualify as an expert.

The name, business and home address, and telephone numbers, occupation and area of medical specialization, and qualifications of William D. Ryan, M.D. ["Dr. Ryan"], is set forth in his curriculum vitae, attached hereto as Exhibit "A." His signature and verification with respect to the scope of his testimony and opinions, pursuant to Pa.R.C.P. No. 4003.5, appears below.

All other expert witnesses have been identified to defendants by way of expert reports or answers to expert witness interrogatories, along with their accompanying curriculum vitae. Further, Plaintiff anticipates eliciting expert testimony at trial from all defendants in this action. Their

discoverable under the provisions of Rule 4003.1 and acquired or developed in anticipation of litigation or for trial, may be obtained as follows:

(1) A party may through interrogatories require

- (a) any other party to identify each person whom the other party expects to call as an expert witness at trial and to state the subject matter on which the expert is expected to testify and
- (b) the other party to have each expert so identified state the substance of the facts and opinions to which the expert is expected to testify and a summary of the grounds for each opinion. The party answering the interrogatories may file as his or her answer a report of the expert or have the interrogatories answered by the expert. The answer or separate report shall be signed by the expert.

testimony will be consistent with the substance of their medical records, and/or their deposition testimony.

Additionally, Plaintiff anticipates eliciting expert testimony from agents, servants, and employees of the DuBois Regional Medical Center, including those agents, servants, and employees who have been deposed in this action, with respect to the statements and opinions offered at their depositions and/or in the medical records, as well as any and all health care providers who provided medical or nursing care and treatment to Wanda Russell at the

DuBois Regional Medical Center. These individuals consist of:

Patrick Shilala, D.O.
Jeffrey Elias, D.O.
Ruediger Kratz, M.D.
John J. Ahn, M.D.
Lynn Myers, M.D.
Gregory M. Martino, M.D.
George M. Kosco, M.D.
Jerjis T. Alajaji, M.D.

Plaintiff reserves the right to call as witnesses any other agent, servant, or employee of the DuBois Regional Medical Center at the time of trial.

2. State the subject matter on which each expert is expected to testify.

- (a) Dr. Ryan will offer testimony at trial regarding the medical and neurologic evaluation and treatment which should have been provided to Wanda Russell at the DuBois Regional Medical Center in December of 2005 by Drs. Devlin, Maloney, Bradley, and Bobrin during their care of Wanda Russell.
- (b) Dr. Ryan will offer testimony concerning the pathophysiology of cerebrovascular accidents (stroke), the signs and symptoms of transient

ischemic attack (TIA) and stroke.

- (c) Dr. Ryan will offer testimony concerning the standard of care for the evaluation of suspected stroke and crescendo TIA's, which should be practiced by any medical practitioner/clinician providing primary medical care and treatment to a patient with evolving neurologic signs and symptoms, irrespective of area of practice. Dr. Ryan will outline the stereotypic workup required for such a patient, relying, in part, on guidelines set forth by the American Heart Association, the American Stroke Association, and his knowledge, training, and experience.
- (d) Dr. Ryan will offer testimony concerning the treatment of crescendo TIA and evolving stroke symptomatology, including the use of thrombolytic agents, the rationale for the use of thrombolytic agents, the inclusion and exclusion criteria for the use of thrombolytic agents, and the timing for the use of thrombolytic agents.
- (e) Dr. Ryan will offer testimony concerning Wanda Russell's clinical course during her visits to, and hospitalization at, the DuBois Regional Medical Center in December and January of 2005, including the imaging studies which culminated in the diagnosis of an acute ischemic stroke.
- (f) Dr. Ryan will discuss the data on the use of thrombolytic agents in the treatment of acute ischemic stroke, including the timing of administration of thrombolytic agents.

- (g) Dr. Ryan will offer testimony on the timing of Wanda Russell's stroke, the window of opportunity which was available, and missed, for the use of thrombolytic agents for Wanda Russell, and the prognosis for recovery had Wanda Russell received timely treatment with a thrombolytic agent per the standard of care.
- (h) Dr. Ryan will offer testimony on the prognosis of stroke in general, and Wanda Russell's stroke in particular.
- (i) Dr. Ryan will offer testimony concerning the dangers of attributing objective neurologic signs and symptoms, even when intermittent, to a psychiatric diagnosis of histrionics, conversion reaction, or fabrication in the absence of a complete and thorough neurologic and psychiatric evaluation. Dr. Ryan will opine on the standard of care for the attribution of neurologic symptoms to psychiatric illness.

3. **Outline the facts and opinions to which each expert is expected to testify.**

- (a) Dr. Ryan has been provided with the following documents and materials for review. The content of these materials form, together with Dr. Ryan's knowledge, training, education, and experience, the basis for his opinions:

Records from:

DuBois Regional Medical Center East-Behavior Unit
DuBois Regional Medical Center-West
Elk County Regional Health Center
Dr. Mark Maloney
Dr. Rashmi Vijay
West Penn Orthopedics, Inc.
Howard Fugate, Jr., M.D. records
Northshore Clinical Associates

Donald H. Rudick, M.D.
Rite Aid Pharmacy
James DeMatties, M.D.
Gretchen Platt, M.D.
Lynn Myers, M.D.
Summit Rehabilitation Associates
Social Security Administration
DRMC Rheumatology Practice/Dr. V. Kim Newsome
DRMC records-May, 2007 to May, 2008
Radiologic studies and reports-Elk County Regional Health Center

Complaints and discovery answers

Depositions of:

Thomas Bradley, D.O.
Mark Maloney, D.O.
Kim Hendricks, R.N.
James Devlin, D.O.
Brittany Bowers
Sanaa Helmi, M.D.
Bradford Bobrin, M.D.
Brenda Sloppy, R.N.
Denise Huff
Wanda Russell (Plaintiff)

Expert report of:

Paul Genecin, M.D., F.A.C.P.

- (b) With respect to Dr. Genecin's report, Dr. Ryan agrees with the facts and opinions set forth in that report, and incorporates fully those facts and opinions, in total, into these interrogatory answers as his own. His testimony at trial will be consistent with that report, and the opinions expressed therein, as well as the additional opinions set forth in these interrogatory answers.
- (c) All of the opinions offered by Dr. Ryan are to a reasonable degree of medical certainty. His opinions at trial will be offered to the same degree of

reasonable medical certainty.

- (d) Based upon his review of the medical records from the DuBois Regional Medical Center from December 4 to 6, 2005, and the other materials listed above, Dr. Ryan will opine that Drs. Devlin, Maloney, Bradley, and Bobrin were grossly negligent in their evaluation, care, and treatment of Wanda Russell. These physicians ignored objective signs and symptoms of crescendo TIA's and/or a stroke-in-evolution. These physicians were aware of the objective neurologic signs and symptoms which had been observed in Wanda Russell and documented in the medical record, along with the proffered diagnoses of TIA and cerebrovascular accident, which had been previously rendered for this patient by other physicians on two consecutive days in the Emergency Department.
- (e) Drs. Devlin, Maloney, Bradley, and Bobrin physicians failed to initiate appropriate neurologic evaluation and imaging at any point in time during the window of evolving neurologic symptoms and potential treatment, with the actual knowledge that: (i) there was no "stroke team" at the DuBois Regional Medical Center; (ii) CT scan cannot and should not be relied upon for the diagnosis of an acute ischemic stroke; (iii) the patient had multiple, well documented, stroke risk factors; (iv) stroke is a serious, life-threatening condition with potentially devastating consequences for cognitive and motor function; (v) neurology consultation was available at the DuBois Regional Medical Center; (iv) TIA's present with fluctuating neurologic signs and symptoms; and, (vi) institutions with "stroke teams" were available to accept

this patient in transfer.

- (f) Based upon his review of the medical records and the depositions, Dr. Ryan will opine that Dr. Maloney was reckless in his decision to transfer Wanda Russell to the Behavioral Unit without a complete neurologic and psychiatric evaluation. Dr. Maloney deemed Wanda Russell to be suicidal, without any documented past or present evidence of suicidal ideation or threat of self-harm, and then misrepresented the status of this patient to the psychiatrist-on call, Dr. Helmi, to gain the admission of Wanda Russell to the Behavioral Unit.
- (g) The "neuro checks" which Dr. Maloney had ordered were consistently abnormal, despite alleged statements by the nursing staff that Wanda Russell manifested normal neurologic function when clandestinely observed. Reliance by Dr. Maloney of neurologic assessments of normal neurologic function by the nursing staff was reckless, because nurses are not permitted to make medical diagnoses.
- (h) On the physical examination which Dr. Maloney performed on December 5, 2005 on Wanda Russell, he observed objective neurologic findings of strength disparity between the right and left sides. Yet, he overrode his own objective observations and the findings on the "neuro checks" by deeming the patient neurologically intact and suitable for transfer to a psychiatric unit with the diagnosis of a psychiatric condition rendered by him. This was manifestly reckless, and in conscious disregard to the physical findings and previously rendered medical opinions in the Emergency Department and in-

patient medical records.

- (i) Dr. Maloney transferred the patient to the Behavioral Unit with actual knowledge that she was exhibiting fluctuating neurologic signs and symptoms, objective evidence on his own examination of abnormal neurologic findings, and with actual knowledge that these signs and symptoms could be premonitory to a stroke. Dr. Maloney gained the admission of his patient into the Behavioral Unit without appropriate psychiatric evaluation, and, as pointed out by Brittany Bowers at her deposition, without meeting the criteria for transfer. Dr. Maloney misrepresented both the medical and neurologic status of Wanda Russell to Dr. Sanaa Helmi, the psychiatrist on-call. This misrepresentation was discovered by the staff in the Behavioral Unit within 12 hours of her admission there, and her transfer back to the medical ward was then planned.
- (j) Based upon his review of the medical records and the depositions, Dr. Ryan will opine that Dr. Bradley observed and documented objective findings of severe neurologic dysfunction on his physical examination of Wanda Russell at approximately 6:53 am on the morning of December 6, 2005, and failed to order or initiate any meaningful care and treatment of this neurologic crisis. This was reckless on the part of Dr. Bradley, who simply completed his task of performing a history and physical examination, and walked away from this patient.
- (k) Dr. Ryan will opine that a "doctor-patient" relationship existed between Dr. Bradley and Wanda Russell.

- (l) Based upon his review of the medical records and the depositions, Dr. Ryan will opine that Dr. Bradley was reckless in his care of Wanda Russell by: (i) failing to communicate his physical findings of neurologic dysfunction to any other health care provider on either the psychiatry service or the medical service; (ii) failing to obtain a "stat" neurology consultation; and, (iii) failing to ensure that this patient received adequate and timely care for her evolving neurologic condition. Instead, Dr. Bradley simply performed a history and examination, and then walked away from the patient.
- (m) The hospital did not have appropriate safeguards in place to assure that Dr. Bradley understood his contractual role in the care of the Behavioral Unit patients, in order to provide a safe environment for the care of a patient, like Wanda Russell, who was manifesting acute signs of a serious, and potentially life- and limb-threatening, medical condition which required immediate attention.
- (n) Based upon his review of the medical records and the depositions, Dr. Ryan will opine that Dr. Bobrin was grossly negligent in his care of Wanda Russell. Dr. Bobrin recognized the nature of Wanda Russell's severe neurologic status, and failed to ensure that this patient received adequate and timely care for her evolving neurologic condition. Instead, Dr. Bobrin failed to offer any medical care, or consultative interventions, for Wanda Russell, and merely ordered that she be transferred back to the medical unit at DuBois Regional Medical Center. This transfer did not occur for approximately five hours after Dr. Bobrin's evaluation of Wanda Russell.

- (o) Based upon his review of the medical records and the depositions, Dr. Ryan will opine that the DuBois Regional Medical Center failed to provide strict policies and procedures for the appropriate evaluation of patients transferred to the Behavioral Unit, and the timely transfer of patients with suspected stroke or evolving stroke to a "stroke center" for the administration of thrombolytic or other stroke therapies.
- (p) Based upon his review of the medical records and the depositions, his knowledge of the medical literature on the use of thrombolytic agents, and his experience, and his review of the physical examination findings manifested by Wanda Russell throughout the period of December 4 to 6, 2005, Dr. Ryan will opine that there was a window of opportunity on December 5, 2005 up to approximately noon time on December 6, 2005, during which Wanda Russell would have benefitted from the timely neurologic evaluation and the administration of thrombolytic agents for the treatment of her evolving neurologic condition.
- (q) Dr. Ryan will opine that the failure by Dr. Devlin, Maloney, Bradley, and Bobrin to obtain the appropriate evaluation and treatment of Wanda Russell was a substantial factor in causing, or increasing the risk of harm of, Wanda Russell's neurologic injuries and present neurologic status and sequela.

Dr. Ryan hereby verifies and signs these Answers to Expert Interrogatories Directed to Plaintiff, pursuant to the Pennsylvania Rules of Civil Procedure, which relate to his opinions and trial testimony, and states that the facts and opinions expressed in these interrogatories are his alone, and not those of either counsel or plaintiff. Dr. Ryan acknowledges the assistance of plaintiff's

counsel and counsel's staff in the preparation, transcription, and formatting of these interrogatory answers, and further states that the opinions expressed herein, and the factual basis for these opinions, were formulated and prepared by him alone, based upon the materials that he reviewed in this matter, and his qualifications as an expert on the topics addressed.

By: William D. Ryan MD
William D. Ryan, M.D.

Date: 1-10-09

KLINE & SPECTER, P.C.

By: [Signature]
Mark A. Hoffman, Esquire

Date: 1/13/2009

William D. Ryan, M.D.
563 Cabot Hill Road
Bridgewater, New Jersey 08807
908-534-5198

Personal:

Birthdate: 3/15/55
Birthplace: Buffalo, New York
Marital status: Married to Linda Ryan, R.N.
Children: Whitney, Kelsey and Jonathan

Education:

Undergraduate: 1973-1977
Rutgers University
New Brunswick, New Jersey
B.A. Biology
Magna Cum Laude

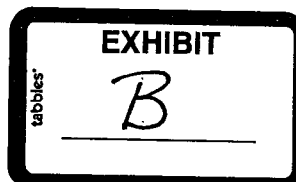
Medical School: 1977-1981
New Jersey College of Medicine and Dentistry
Newark, New Jersey
M.D. Degree
Magna Cum Laude
Alpha Omega Alpha Honor Society

Residency:

1981-1984
Overlook Hospital
Department of Family Practice
Summit, New Jersey

Licensure and Certification:

State of New Jersey, 1983-present
License # MA 041416
Diplomat American Academy of Family Physicians
1984. Recertified 1990, 1996, 2002



Professional Experience:

1982-1990 Immediate Medical Care Center, Parsippany, N.J.
Staff physician in Urgent Care Center

Medical Director
Center for Family Health, Whitehouse Station, New Jersey
Provides care and directs other physicians providing care for
patients in Primary Care Office

Association memberships and awards:

New Jersey Academy of Family Physicians
American Medical Association

Listed in Research Council of America's 2002-2003 Guide to America's Top
Family Physicians.

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

WANDA RUSSELL,	:	No. 07-644-CD
	:	
Plaintiff	:	
	:	
vs.	:	
	:	
JAMES E. DEVLIN, M.D., MARK W.	:	
MALONE, D.O., DRMC PRIMARY CARE	:	
ASSOCIATES, SANAA HELMI, M.D.,	:	
THOMAS J. BRADLEY, M.D., BRADFORD	:	
BOBRIN, M.D., and DUBOIS REGIONAL	:	
MEDICAL CENTER a/k/a DUBOIS	:	
REGIONAL MEDICAL CENTER WEST	:	
a/d/b/a DRMC BEHAVIORAL UNIT a/k/a	:	
DRMC EAST BEHAVIORAL UNIT a/k/a	:	
DRMC BEHAVIORAL HEALTH	:	
OUTPATIENT CLINIC,	:	
	:	
Defendants	:	JURY TRIAL DEMANDED

CERTIFICATE OF SERVICE

I, Heather A. Harrington, Esquire, hereby certify that I have served a true and correct copy of the foregoing Motion in Limine to Exclude Expert Testimony on behalf of defendants DuBois Regional Medical Center, a/k/a DuBois Regional Medical Center West, a/d/b/a DRMC Behavioral Unit, a/k/a DRMC East Behavioral Unit, a/k/a DRMC Behavioral Health Outpatient Clinic, on the following persons by placing the same in the U.S. Mail, postage prepaid, via Federal Express on the 30th day of December, 2009:

Mark A. Hoffman, Esquire
Kline & Specter, P.C.
1525 Locust Street, 19th Floor
Philadelphia, PA 19102
(Counsel for Plaintiff)

David R. Bahl, Esquire
Richard S. Schluter, Esquire
McCORMICK LAW FIRM
835 West Fourth Street
Williamsport, PA 17701
(Counsel for Defendant, Dr. Maloney)

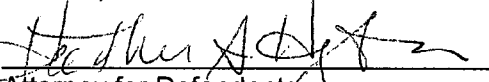
M. Brian O'Connor, Esquire
Matis, Baum, Rizza & O'Connor
Four Gateway Center
444 Liberty Avenue, Suite 300
Pittsburgh, PA 15222
(Counsel for Defendant, Dr. Devlin)

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

Lynn E. Bell, Esquire
Davies, McFarland & Carroll, P.C.
One Gateway Center, 10th Floor
Pittsburgh, PA 15222
(Counsel for Defendant, Dr. Bobrin)

Respectfully submitted,

McINTYRE, HARTYE & SCHMITT

BY: 
Attorney for Defendants

John L. McIntyre, Esquire
PA I.D. No. 28015

Heather A. Harrington, Esquire
PA I.D. No. 62977

P.O. Box 533
Hollidaysburg, PA 16648-0533
PH: (814) 696-3581
FAX: (814) 696-9399

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

WANDA RUSSELL,

Plaintiff,

vs.

JAMES E. DEVLIN, M.D. and MARK
W. MALONEY, D.O. and DRMC
PRIMARY CARE ASSOCIATES and
SANAA HELMI, M.D. and THOMAS J.
BRADLEY, M.D. and BRADFORD
BOBRIN, M.D. and DUBOIS
REGIONAL MEDICAL CENTER a/k/a
DUBOIS REGIONAL MEDICAL
CENTER WEST a/d/b/a DRMC
BEHAVIORAL UNIT a/k/a DRMC
EAST BEHAVIORAL UNIT a/k/a
DRMC BEHAVIORAL HEALTH
OUTPATIENT CLINIC,

Defendants.

CIVIL DIVISION

CASE NO: 07-644-CD

Type of Pleading:

**MOTION IN LIMINE
PRECLUDING EVIDENCE OF
DEFENDANT BRADLEY'S
HISTORY OF SUBSTANCE
ABUSE AND LICENSING ISSUES**

Filed on behalf of Defendant:

Thomas J. Bradley, 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

t: (412) 566-1717

f: (412) 904-5021

JURY TRIAL DEMANDED

FILED

m 1:24 p.m. EX
JAN 04 2010

NO CC

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William A. Shaw
Prothonotary/Clerk of Courts

(610)

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

WANDA RUSSELL,
Plaintiff,

vs.

JAMES E. DEVLIN, M.D., et al.,
Defendants.

CIVIL DIVISION
CASE NO. 07-644-CD

**MOTION IN LIMINE PRECLUDING EVIDENCE OF DEFENDANT BRADLEY'S
HISTORY OF SUBSTANCE ABUSE AND LICENSE SUSPENSION**

Defendant, THOMAS J. BRADLEY, M.D., by and through counsel, O'BRIEN, RULIS & BOCHICCHIO, LLC, files the following Motion In Limine Precluding Evidence Of Defendant Bradley's History of Substance Abuse and Licensing Issues:

1. This is an action in professional negligence in which plaintiff, Wanda Russell, alleges that all defendants failed to timely diagnose and treat her CVA (cerebrovascular accident) in early December 2005 while she was a patient at DuBois Regional Medical Center (DRMC), resulting in permanent mental and physical damages.
2. Defendant Dr. Bradley is a family medicine physician whose only professional contact with the plaintiff occurred on December 6, 2005, following her transfer to the DRMC Behavioral Unit. Dr. Bradley performed a history and physical examination of the plaintiff.
3. During Defendant Bradley's discovery deposition on November 14, 2007, he testified that he stopped practicing medicine for a period of time because "[he] went to drug and alcohol rehab." He resigned from the medical staff during those six months of inactivity pursuant to DRMC bylaws. See Thomas J. Bradley Deposition Transcript, pp. 22:11-18 and 25:6-12, attached hereto as Exhibit "A".

4. There is no proof of impairment at the time of the events that are the subject of this lawsuit.

5. It is anticipated that at the time of trial, plaintiff may seek to introduce evidence of Defendant Bradley's substance abuse treatment and temporary resignation from the medical staff at DRMC.

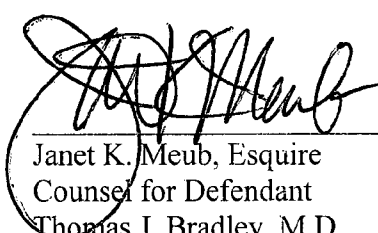
6. Defendant Bradley requests that this Honorable Court preclude the plaintiff from introducing evidence of his substance abuse history, substance abuse treatment, and any licensing or privileges issues related thereto on the grounds that such evidence is highly prejudicial and irrelevant.

6. Plaintiff has filed expert reports. Said expert reports contain no allegations that Dr. Bradley was impaired at the time of his December 6, 2005 examination and treatment of Mrs. Russell and/or that Dr. Bradley's care of plaintiff was impacted by any impairment.

WHEREFORE, Defendant, THOMAS J. BRADLEY, M.D., respectfully requests that this Honorable Court grant his Motion in Limine, precluding evidence of his substance abuse history, substance abuse treatment, or any licensing or credentialing issues related thereto, by signing the accompanying order.

Respectfully submitted,

O'BRIEN, RULIS & BOCHICCHIO, LLC



Janet K. Meub, Esquire
Counsel for Defendant
Thomas J. Bradley, M.D.

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

* * * * *

WANDA RUSSELL,

Plaintiff

vs.

JAMES E. DEVLIN, M.D.

and MARK W. MALONEY, D.O.

and DRMC PRIMARY CARE

ASSOCIATES and SANAA

HELMI, M.D. and THOMAS J.

BRADLEY, M.D and BRADFORD

BOBRIN, M.D. and DUBOIS

REGIONAL MEDICAL CENTER

a/k/a DUBOIS REGIONAL

MEDICAL CENTER WEST

a/d/b/a DRMC BEHAVIORAL

*
*
* Docket No.
* 07-664-CD

DEPOSITION OF

THOMAS J. BRADLEY, M.D.

November 14, 2007

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by the certifying agency.

Sargent's Co

DEFENDANT'S
EXHIBIT

A

Service, Inc.

08

1 A. Actually, no.

2 Q. Did you ever tell these patients
3 as a general matter that you don't work
4 for the hospital?

5 A. No.

6 Q. Did you ---.

7 A. I don't recall ever being asked.

8 Q. Did you consider that you worked
9 for the hospital?

10 A. Yes.

11 Q. Now you said you stopped
12 practicing medicine for a period of
13 time. I don't want to get into too
14 much depth on this. Can you just give
15 me some general idea as to why you
16 stopped?

17 A. I went into drug and alcohol
18 rehab.

19 Q. You could've even just said
20 health reasons. I would've accepted
21 that.

22 A. I'm sorry.

23 Q. No, that's fine. I don't mean
24 to embarrass you here today Or to make
25 light of that issue; okay? Just so

1 title.

2 Q. But you put down a formal title.

3 A. My secretary thought she should
4 put something. That's as good as
5 anything.

6 Q You're also listed as a staff
7 physician from 1980 until ---. Did you
8 resign from the medical staff here. Or
9 did you put it into some hiatus status?

10 A. According to the bylaws I
11 resigned that for six months of
12 inactivity.

13 Q. You're listed as a staff
14 physician. Did you have admitting
15 privileges here independent of the
16 contractual work that you did? By here
17 I mean at Dubois.

18 A. No.

19 Q. It's pronounced Dubois. You can
20 tell I'm not from these parts. In
21 Dubois Regional Medical Center. So you
22 had a full practice here at the
23 hospital as well as your duties under
24 this contract; is that correct?

25 A. Yes.

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that a true and correct copy of the within **MOTION IN LIMINE PRECLUDING EVIDENCE OF DEFENDANT BRADLEY'S HISTORY OF SUBSTANCE ABUSE AND LICENSING ISSUES** has been served via first class United States mail, postage prepaid, on this 30th day of December, 2009, upon the following counsel of record:

Mark A. Hoffman, Esquire
Kline & Specter, P.C.
The Nineteenth Floor
1525 Locust Street
Philadelphia, PA 19102

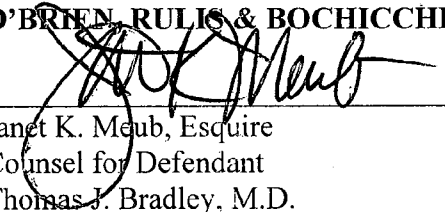
David R. Bahl, Esquire
Richard S. Schluter, Esquire
McCormick Law Firm
835 West Fourth Street
Williamsport, PA 17701

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

M. Brian O'Connor, Esquire
Matis, Baum, Rizza & O'Connor
Four Gateway Center
444 Liberty Avenue, Suite 300
Pittsburgh, PA 15222

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

O'BRIEN, RULIS & BOCHICCHIO, LLC



Janet K. Meub, Esquire
Counsel for Defendant
Thomas J. Bradley, M.D.

7/2/85, 10/1/85

**COURT OF COMMON PLEAS
COUNTY OF CLEARFIELD**

WANDA RUSSELL

Plaintiff,

v.

JAMES E. DEVLIN, M.D. and
MARK W. MALONEY, D.O. and
DRMC PRIMARY CARE ASSOCIATES
and SANAA HELMI, M.D. and
THOMAS J. BRADLEY, M.D. and
BRADFORD BOBRIN, M.D. and
DuBOIS REGIONAL MEDICAL
CENTER a/ka DuBOIS REGIONAL
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a/d/b/a DRMC BEHAVIORAL
UNIT a/k/a DRMC EAST BEHAVIORAL
UNIT a/k/a DRMC BEHAVIORAL
HEALTH OUTPATIENT CLINIC
Defendants.

DOCKET No. 07-644-CD

ORDER

AND NOW, this day of , 2010, upon consideration of the Motion in Limine to Preclude Expert Testimony, which was filed on behalf of DuBois Regional Medical Center a/ka DuBois Regional Medical Center West a/d/b/a DRMC Behavioral Unit a/k/a DRMC East Behavioral Unit a/k/a DRMC Behavioral Health Outpatient Clinic, and Plaintiff's Response in Opposition thereto, it is hereby **ORDERED** and **DECREED** that Said Motion in Limine is **DENIED**. The issues raised in the aforementioned Motion in Limine are not ripe for consideration at this time, and are preserved until the examination of William D. Ryan, M.D. on qualifications.

BY THE COURT:

J.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

WANDA RUSSELL

Plaintiff,

v.

JAMES E. DEVLIN, M.D. and
MARK W. MALONEY, D.O. and
DRMC PRIMARY CARE ASSOCIATES
and SANAA HELMI, M.D. and
THOMAS J. BRADLEY, M.D. and
BRADFORD BOBRIN, M.D. and
DuBOIS REGIONAL MEDICAL
CENTER a/ka DuBOIS REGIONAL
MEDICAL CENTER WEST
a/d/b/a DRMC BEHAVIORAL
UNIT a/k/a DRMC EAST BEHAVIORAL
UNIT a/k/a DRMC BEHAVIORAL
HEALTH OUTPATIENT CLINIC
Defendants.

CIVIL DIVISION

DOCKET No. 07-644-CD

Type of Pleading:

**PLAINTIFF'S RESPONSE IN
OPPOSITION TO THE MOTION
IN LIMINE TO PRECLUDE
EXPERT TESTIMONY**

Filed on behalf of Plaintiff,
Wanda Russell

Counsel of record for this party:

Mark A. Hoffman, Esquire
PA I.D. No. 84443

KLINE & SPECTER

A Professional Corporation

The Nineteenth Floor
1525 Locust Street
Philadelphia, Pennsylvania 19102
(215) 772-1000

FILED
JAN 19 2010

William A. Shaw
Prothonotary/Clerk of Courts

KLINE & SPECTER

A Professional Corporation

By: SHANIN SPECTER, ESQUIRE
MARK A. HOFFMAN, ESQUIRE
ROYCE W. SMITH, ESQUIRE

Attorney ID Nos.: 40928/84443/201295

The Nineteenth Floor

1525 Locust Street

Philadelphia, Pennsylvania 19102

(215) 772-1000

Attorneys for Plaintiff

WANDA RUSSELL

Plaintiff,

v.

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MARK W. MALONEY, D.O. and
DRMC PRIMARY CARE ASSOCIATES
and SANAA HELMI, M.D. and
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Defendants.

**COURT OF COMMON PLEAS
COUNTY OF CLEARFIELD**

DOCKET No. 07-644-CD

**PLAINTIFF'S RESPONSE IN OPPOSITION TO
THE MOTION *IN LIMINE* TO PRECLUDE EXPERT TESTIMONY**

Plaintiff, Wanda Russell, by and through her undersigned counsel, Kline & Specter, P.C., hereby submits to this Honorable Court Plaintiff's Response in Opposition to the Motion in Limine to Preclude Expert Testimony ["Defendants' Motion"], which was filed on behalf of DuBois Regional Medical Center a/ka DuBois Regional Medical Center West a/d/b/a DRMC Behavioral Unit a/k/a DRMC East Behavioral Unit a/k/a DRMC Behavioral Health Outpatient Clinic ["Moving

Defendants”]. Plaintiff incorporates, as though fully set forth herein, the accompanying Memorandum of Law in Support thereof, and responds in opposition as follows:

1-2. Admitted.

3-4. Admitted. By way of further response, the Answers to Expert Interrogatories Directed to Plaintiffs of William D. Ryan, M.D. [“Dr. Ryan”] dated January 10, 2009 [“Ryan Answers”], attached hereto as Exhibit “A,” are in writing, were served on all Defendants approximately one year ago, and should be read and interpreted in their totality. It is admitted that “Dr. Ryan will offer testimony regarding imaging studies taken during the plaintiff’s emergency room visits and hospitalization at DRMC in December and January of 2005.” Defendants’ Motion at ¶ 3. It is also admitted that Dr. Ryan “will testify as to allegedly insufficient policies and procedures at DuBois Regional Medical Center regarding evaluation for and transfer of patients to the Behavioral Health Unit as well as evaluation of the patients while on the Unit.” Id. at ¶ 4.

5. Denied. It is denied that Dr. Ryan’s practice has exclusively been office based.

6. Denied. Further, to whatever extent Moving Defendants claim that “it is difficult to determine what the doctor will exactly testify to in regard to various imaging studies or hospital policies,” Id. at ¶ 6, based upon interrogatory answers that have been in their possession for approximately a year, Moving Defendants were certainly capable of communicating with Plaintiff’s counsel to seek clarification of the scope of Dr. Ryan’s testimony. In the alternative, Moving Defendants could have served supplemental interrogatories in the regard. Moving Defendants did neither.

7-9. Denied. Dr. Ryan’s capacity to read, interpret, or otherwise determine the results of a radiologic study, or his ability to offer opinions concerning hospital policies and procedures, are a matter to be addressed when he is qualified as an expert witness at the time of trial, and not a de

jure or de facto determination based upon Moving Defendants' perception of Dr. Ryan's expertise. At trial, Moving Defendants will, as a matter of course, have the opportunity to cross-examine Dr. Ryan concerning his "scientific, technical or other specialized knowledge," PaRE 702, and to move this Court for relief based upon his qualifications to testify on these topics. See PaRE 104(a).

10-11. Denied. Moving Defendants' citation of and reliance upon the Medical Care Availability and Reduction of Error Act ["MCARE ACT"], § 1303.512, is thoroughly misplaced. The MCARE Act requires that "an expert testifying as to a physician's standard of care also must meet the following requirements." Defendants' Motion at ¶ 10. Clearly, by even the most superficial and cursory reading of the Ryan Answers, Dr. Ryan is not offering any testimony with respect to a radiologist's standard of care.

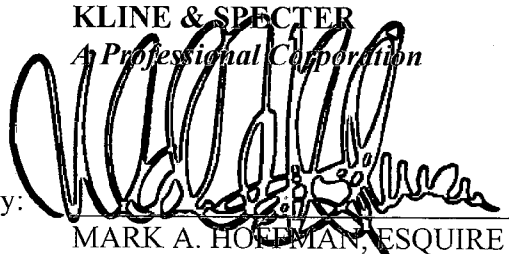
12. Denied. By way of further response, any motion to preclude or limit Dr. Ryan's testimony is not justiciable based upon the state of the record, and not ripe for consideration by the Court.

WHEREFORE, Plaintiff respectfully requests that this Honorable Court deny, as not ripe for consideration, the Motion in Limine to Preclude Expert Testimony. A form of Order accompanies this Response in Opposition..

Respectfully submitted,

KLINE & SPECTER
A Professional Corporation

By:


MARK A. HOFFMAN, ESQUIRE
Attorneys for Plaintiff

Date: January 15, 2010

KLINE & SPECTER

A Professional Corporation

By: MARK A. HOFFMAN, ESQUIRE

ROYCE W. SMITH, ESQUIRE

Attorney ID Nos.: 84443/201295

The Nineteenth Floor

1525 Locust Street

Philadelphia, Pennsylvania 19102

(215) 772-1000

Attorneys for Plaintiff

WANDA RUSSELL

Plaintiff,

v.

JAMES E. DEVLIN, M.D. and

MARK W. MALONEY, D.O. and

DRMC PRIMARY CARE ASSOCIATES

and SANAA HELMI, M.D. and

THOMAS J. BRADLEY, M.D. and

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HEALTH OUTPATIENT CLINIC

Defendants.

COURT OF COMMON PLEAS

COUNTY OF CLEARFIELD

DOCKET No. 07-644-CD

**MEMORANDUM OF LAW IN SUPPORT OF
PLAINTIFF'S RESPONSE IN OPPOSITION TO
THE MOTION *IN LIMINE* TO PRECLUDE EXPERT TESTIMONY**

I. MATTER BEFORE THE COURT

Presently before this Honorable Court is the Motion in Limine to Preclude Expert Testimony [“Defendants’ Motion”], which was filed on behalf of DuBois Regional Medical Center a/ka DuBois Regional Medical Center West a/d/b/a DRMC Behavioral Unit a/k/a DRMC East Behavioral Unit a/k/a DRMC Behavioral Health Outpatient Clinic [“Moving Defendants”].

II. QUESTION PRESENTED

Should the Court limit or preclude the expert medical testimony of Plaintiff’s liability expert,

William D. Ryan, M.D. ["Dr. Ryan"], based upon Moving Defendants perception of Dr. Ryan's qualifications, and their interpretation of the ambit of the Medical Care Availability and Reduction of Error Act ["MCARE ACT"], § 1303.512.

III. SUGGESTED RESPONSE

For the reasons set forth herein, the issues raised in Defendants' Motion are not ripe for consideration, and should be resolved at the time of trial during the qualification of Dr. Ryan as an expert witness.

IV. BRIEF STATEMENT OF FACTS

This personal injury action sounding in medical negligence arises out of the medical evaluation, care, and treatment provided to Wanda Russell by the above-captioned Defendants at the DuBois Regional Medical Center in early December of 2005. Wanda Russell presently suffers from irreversible neurologic injuries secondary to the negligent management of signs and symptoms of an evolving stroke. By way of a Civil Action Complaint filed on April 24, 2007, and subsequent amended complaints, Wanda Russell brings claims sounding in corporate (direct) negligence against the DuBois Regional Medical Center; and negligence, including gross negligence, against the individually named physician-Defendants.

Relevant to Defendants' Motion, Plaintiff served the Answers to Expert Interrogatories Directed to Plaintiffs of Dr. Ryan dated January 10, 2009 ["Ryan Answers"], attached hereto as Exhibit "A." In the Ryan Answers, Moving Defendants correctly note that Dr. Ryan "will offer testimony regarding imaging studies taken during the plaintiff's emergency room visits and hospitalization at DRMC in December and January of 2005," Defendants' Motion at ¶ 3; and, "will testify as to allegedly insufficient policies and procedures at DuBois Regional Medical Center regarding evaluation for and transfer of patients to the Behavioral Health Unit as well as evaluation

of the patients while on the Unit.” Id. at ¶ 4. Moving Defendants now seek to limit or preclude Dr. Ryan’s testimony concerning these topics. For the reasons set forth herein, Defendants’ Motion is not justiciable at this time.

V. LEGAL ARGUMENT

The issue of Dr. Ryan’s competency to read, interpret, or otherwise demonstrate the findings on radiologic studies; and, his expertise concerning hospital policies and procedures, is not ripe for this Court’s consideration. First, this Court should note that to whatever extent Moving Defendants claim that “it is difficult to determine what the doctor will exactly testify to in regard to various imaging studies or hospital policies,” Id. at ¶ 6, based upon a report that has been in their possession for a year, Moving Defendants were certainly capable of communicating with Plaintiff’s counsel seeking clarification of the scope of Dr. Ryan’s testimony; or, in the alternative, serving further interrogatories in this regard. Moving Defendants did neither. It is a waste of judicial resources and economy to simply file this motion absent any effort to clarify the issues raised.

Second, Dr. Ryan’s capacity to read, interpret, or otherwise determine the results of a radiologic study, or his ability to offer opinions concerning hospital policies and procedures, are a matter to be addressed when he is qualified as an expert witness at the time of trial, and not a de jure or de facto determination based upon Moving Defendants’ perception of Dr. Ryan’s expertise. At trial, Moving Defendants will, as a matter of course, have the opportunity to cross-examine Dr. Ryan concerning his “scientific, technical or other specialized knowledge,” PaRE 702, and to move this Court for relief based upon his qualifications to testify on these topics. See PaRE 104(a).

Finally, Moving Defendants’ citation of and reliance upon the Medical Care Availability and Reduction of Error Act [“MCARE ACT”], § 1303.512, is thoroughly misplaced. The statute requires that “an expert testifying as to a physician’s standard of care also must meet the following

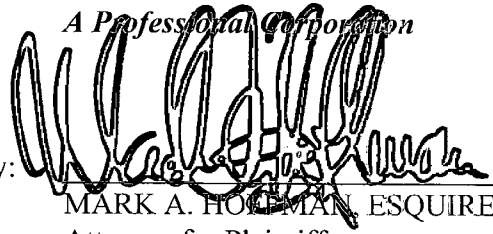
requirements.” Defendants’ Motion at ¶ 10. Clearly, by even the most superficial and cursory reading of the Ryan Answers, Dr. Ryan is not offering any testimony with respect to a radiologist’s standard of care. Accordingly, Defendants’ Motion to preclude or limit the scope of Dr. Ryan’s testimony is not justiciable based upon the state of the record, and is not ripe for the Court’s consideration at this time.

VI. CONCLUSION

For the reasons set forth herein, Defendants’ Motion to preclude or limit the scope of Dr. Ryan’s testimony must be denied. The issues raised therein are not justiciable based upon the state of the record, and are not ripe for the Court’s consideration at this time.

Respectfully submitted,

KLINE & SPECTER
A Professional Corporation

By: 

MARK A. HOFFMAN, ESQUIRE
Attorney for Plaintiff

Date: January 15, 2010

CERTIFICATE OF SERVICE

I, MARK A. HOFFMAN, ESQUIRE, hereby certify that a true and correct copy of the Plaintiff's Response in Opposition to the Motion in Limine to Preclude Expert Testimony, was served via first class U.S. mail on the following individuals:

John L. McIntyre, Esquire
McIntyre, Hartye & Schmitt
P.O. Box 533

Hollidaysburg, PA 16648

Counsel for Defendant, DuBois Regional Medical Center, a/k/a Dubois Regional Medical Center a/k/a DuBois Regional Medical Center West a/d/b/a/ DRMC Behavioral Unit a/k/a DRMC East Behavioral Unit a/k/a DRMC Behavioral Outpatient Clinic

Darryl R. Slimak, Esquire
McQuaide Blasko
811 University Drive
State College, PA 16801-6699

Counsel for Defendant, Sanaa Helmi, M.D.

M. Brian O'Connor, Esquire
Matis, Brum, Rizza, O'Connor
Four Gateway Center
444 Liberty Avenue, Suite 300
Pittsburgh, PA 15222

Counsel for Defendant, James E. Devlin, M.D.

Lynn E. Bell, Esquire
Davies, McFarland & Carroll, P.C.
The Tenth Floor, One Gateway Center
Pittsburgh, PA 15222-1416

Counsel for Bradford Bobrin, M.D.

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

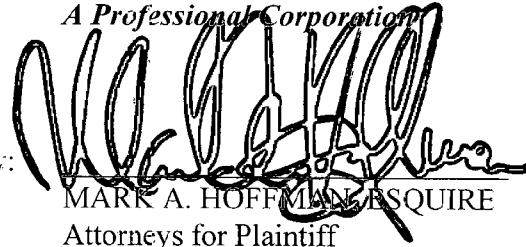
Counsel for Defendant, Thomas J. Bradley, M.D.

David R. Bahl, Esquire
Richard F. Schluter, Esquire
McCormick Law Firm
835 West Fourth Street
Williamsport, PA 17701
Counsel for Defendant, Mark W. Maloney, D.O.

KLINE & SPECTER

A Professional Corporation

By:

A large, stylized handwritten signature in black ink, appearing to read 'Mark A. Hoffman', is written over the printed name and title.

MARK A. HOFFMAN, ESQUIRE

Attorneys for Plaintiff

Date: January 15, 2010

KLINE & SPECTER

A Professional Corporation

By: THOMAS R. KLINE, ESQUIRE
MARK A. HOFFMAN, ESQUIRE
ROYCE W. SMITH, ESQUIRE

Attorney ID Nos.: 28895/84443/201295

The Nineteenth Floor

1525 Locust Street

Philadelphia, Pennsylvania 19102

(215) 772-1000

Attorneys for Plaintiff

WANDA RUSSELL

COURT OF COMMON PLEAS
COUNTY OF CLEARFIELD

v.

DOCKET NO. 07-644-CD

JAMES E. DEVLIN, M.D. and
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DRMC PRIMARY CARE ASSOCIATES
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UNIT a/k/a DRMC BEHAVIORAL
HEALTH OUTPATIENT CLINIC
Defendants.

**ANSWERS TO EXPERT WITNESS
INTERROGATORIES DIRECTED TO PLAINTIFF**

Plaintiff, Wanda Russell, by and through her undersigned attorneys, Kline & Specter, P.C., hereby serves on the above-captioned defendants her Answers to Expert Witness Interrogatories Directed to Plaintiff, signed and verified by the expert pursuant to Pa.R.C.P. No. 4003.5,¹ as

¹Pa.R.C.P. No. 4003.5 provides, in relevant part:

(a) Discovery of facts known and opinions held by an expert, otherwise

follows:

1. Identify, i.e., give the name, home address, business address, and telephone number, of each person whom you expect to call as an expert witness at the trial of this case, including all medical experts, economists, actuaries, statisticians, damage experts, accountants, or anyone else who would qualify as an expert.

The name, business and home address, and telephone numbers, occupation and area of medical specialization, and qualifications of William D. Ryan, M.D. ["Dr. Ryan"], is set forth in his curriculum vitae, attached hereto as Exhibit "A." His signature and verification with respect to the scope of his testimony and opinions, pursuant to Pa.R.C.P. No. 4003.5, appears below.

All other expert witnesses have been identified to defendants by way of expert reports or answers to expert witness interrogatories, along with their accompanying curriculum vitae. Further, Plaintiff anticipates eliciting expert testimony at trial from all defendants in this action. Their

discoverable under the provisions of Rule 4003.1 and acquired or developed in anticipation of litigation or for trial, may be obtained as follows:

(1) A party may through interrogatories require

- (a) any other party to identify each person whom the other party expects to call as an expert witness at trial and to state the subject matter on which the expert is expected to testify and
- (b) the other party to have each expert so identified state the substance of the facts and opinions to which the expert is expected to testify and a summary of the grounds for each opinion. The party answering the interrogatories may file as his or her answer a report of the expert or have the interrogatories answered by the expert. The answer or separate report shall be signed by the expert.

testimony will be consistent with the substance of their medical records, and/or their deposition testimony.

Additionally, Plaintiff anticipates eliciting expert testimony from agents, servants, and employees of the DuBois Regional Medical Center, including those agents, servants, and employees who have been deposed in this action, with respect to the statements and opinions offered at their depositions and/or in the medical records, as well as any and all health care providers who provided medical or nursing care and treatment to Wanda Russell at the

DuBois Regional Medical Center. These individuals consist of:

Patrick Shilala, D.O.
Jeffrey Elias, D.O.
Ruediger-Kratz, M.D.
John J. Ahn, M.D.
Lynn Myers, M.D.
Gregory M. Martino, M.D.
George M. Kosco, M.D.
Jerjis T. Alajaji, M.D.

Plaintiff reserves the right to call as witnesses any other agent, servant, or employee of the DuBois Regional Medical Center at the time of trial.

2. State the subject matter on which each expert is expected to testify.

- (a) Dr. Ryan will offer testimony at trial regarding the medical and neurologic evaluation and treatment which should have been provided to Wanda Russell at the DuBois Regional Medical Center in December of 2005 by Drs. Devlin, Maloney, Bradley, and Bobrin during their care of Wanda Russell.
- (b) Dr. Ryan will offer testimony concerning the pathophysiology of cerebrovascular accidents (stroke), the signs and symptoms of transient

ischemic attack (TIA) and stroke.

- (c) Dr. Ryan will offer testimony concerning the standard of care for the evaluation of suspected stroke and crescendo TIA's, which should be practiced by any medical practitioner/clinician providing primary medical care and treatment to a patient with evolving neurologic signs and symptoms, irrespective of area of practice. Dr. Ryan will outline the stereotypic workup required for such a patient, relying, in part, on guidelines set forth by the American Heart Association, the American Stroke Association, and his knowledge, training, and experience.
- (d) Dr. Ryan will offer testimony concerning the treatment of crescendo TIA and evolving stroke symptomatology, including the use of thrombolytic agents, the rationale for the use of thrombolytic agents, the inclusion and exclusion criteria for the use of thrombolytic agents, and the timing for the use of thrombolytic agents.
- (e) Dr. Ryan will offer testimony concerning Wanda Russell's clinical course during her visits to, and hospitalization at, the DuBois Regional Medical Center in December and January of 2005, including the imaging studies which culminated in the diagnosis of an acute ischemic stroke.
- (f) Dr. Ryan will discuss the data on the use of thrombolytic agents in the treatment of acute ischemic stroke, including the timing of administration of thrombolytic agents.

- (g) Dr. Ryan will offer testimony on the timing of Wanda Russell's stroke, the window of opportunity which was available, and missed, for the use of thrombolytic agents for Wanda Russell, and the prognosis for recovery had Wanda Russell received timely treatment with a thrombolytic agent per the standard of care.
- (h) Dr. Ryan will offer testimony on the prognosis of stroke in general, and Wanda Russell's stroke in particular.
- (i) Dr. Ryan will offer testimony concerning the dangers of attributing objective neurologic signs and symptoms, even when intermittent, to a psychiatric diagnosis of histrionics, conversion reaction, or fabrication in the absence of a complete and thorough neurologic and psychiatric evaluation. Dr. Ryan will opine on the standard of care for the attribution of neurologic symptoms to psychiatric illness.

3. Outline the facts and opinions to which each expert is expected to testify.

- (a) Dr. Ryan has been provided with the following documents and materials for review. The content of these materials form, together with Dr. Ryan's knowledge, training, education, and experience, the basis for his opinions:

Records from:

DuBois Regional Medical Center East-Behavior Unit
DuBois Regional Medical Center-West
Elk County Regional Health Center
Dr. Mark Maloney
Dr. Rashmi Vijay
West Penn Orthopedics, Inc.
Howard Fugate, Jr., M.D. records
Northshore Clinical Associates

Donald H. Rudick, M.D.
Rite Aid Pharmacy
James DeMatties, M.D.
Gretchen Platt, M.D.
Lynn Myers, M.D.
Summit Rehabilitation Associates
Social Security Administration
DRMC Rheumatology Practice/Dr. V. Kim Newsome
DRMC records-May, 2007 to May, 2008
Radiologic studies and reports-Elk County Regional Health Center

Complaints and discovery answers

Depositions of:

Thomas Bradley, D.O.
Mark Maloney, D.O.
Kim Hendricks, R.N.
James Devlin, D.O.
Brittany Bowers
Sanaa Helmi, M.D.
Bradford Bobrin, M.D.
Brenda Sloppy, R.N.
Denise Huff
Wanda Russell (Plaintiff)

Expert report of:

Paul Genecin, M.D., F.A.C.P.

- (b) With respect to Dr. Genecin's report, Dr. Ryan agrees with the facts and opinions set forth in that report, and incorporates fully those facts and opinions, in total, into these interrogatory answers as his own. His testimony at trial will be consistent with that report, and the opinions expressed therein, as well as the additional opinions set forth in these interrogatory answers.
- (c) All of the opinions offered by Dr. Ryan are to a reasonable degree of medical certainty. His opinions at trial will be offered to the same degree of

reasonable medical certainty.

- (d) Based upon his review of the medical records from the DuBois Regional Medical Center from December 4 to 6, 2005, and the other materials listed above, Dr. Ryan will opine that Drs. Devlin, Maloney, Bradley, and Bobrin were grossly negligent in their evaluation, care, and treatment of Wanda Russell. These physicians ignored objective signs and symptoms of crescendo TIA's and/or a stroke-in-evolution. These physicians were aware of the objective neurologic signs and symptoms which had been observed in Wanda Russell and documented in the medical record, along with the proffered diagnoses of TIA and cerebrovascular accident, which had been previously rendered for this patient by other physicians on two consecutive days in the Emergency Department.
- (e) Drs. Devlin, Maloney, Bradley, and Bobrin physicians failed to initiate appropriate neurologic evaluation and imaging at any point in time during the window of evolving neurologic symptoms and potential treatment, with the actual knowledge that: (i) there was no "stroke team" at the DuBois Regional Medical Center; (ii) CT scan cannot and should not be relied upon for the diagnosis of an acute ischemic stroke; (iii) the patient had multiple, well documented, stroke risk factors; (iv) stroke is a serious, life-threatening condition with potentially devastating consequences for cognitive and motor function; (v) neurology consultation was available at the DuBois Regional Medical Center; (iv) TIA's present with fluctuating neurologic signs and symptoms; and, (vi) institutions with "stroke teams" were available to accept

this patient in transfer.

- (f) Based upon his review of the medical records and the depositions, Dr. Ryan will opine that Dr. Maloney was reckless in his decision to transfer Wanda Russell to the Behavioral Unit without a complete neurologic and psychiatric evaluation. Dr. Maloney deemed Wanda Russell to be suicidal, without any documented past or present evidence of suicidal ideation or threat of self-harm, and then misrepresented the status of this patient to the psychiatrist-on call, Dr. Helmi, to gain the admission of Wanda Russell to the Behavioral Unit.
- (g) The "neuro checks" which Dr. Maloney had ordered were consistently abnormal, despite alleged statements by the nursing staff that Wanda Russell manifested normal neurologic function when clandestinely observed. Reliance by Dr. Maloney of neurologic assessments of normal neurologic function by the nursing staff was reckless, because nurses are not permitted to make medical diagnoses.
- (h) On the physical examination which Dr. Maloney performed on December 5, 2005 on Wanda Russell, he observed objective neurologic findings of strength disparity between the right and left sides. Yet, he overrode his own objective observations and the findings on the "neuro checks" by deeming the patient neurologically intact and suitable for transfer to a psychiatric unit with the diagnosis of a psychiatric condition rendered by him. This was manifestly reckless, and in conscious disregard to the physical findings and previously rendered medical opinions in the Emergency Department and in-

patient medical records.

- (i) Dr. Maloney transferred the patient to the Behavioral Unit with actual knowledge that she was exhibiting fluctuating neurologic signs and symptoms, objective evidence on his own examination of abnormal neurologic findings, and with actual knowledge that these signs and symptoms could be premonitory to a stroke. Dr. Maloney gained the admission of his patient into the Behavioral Unit without appropriate psychiatric evaluation, and, as pointed out by Brittany Bowers at her deposition, without meeting the criteria for transfer. Dr. Maloney misrepresented both the medical and neurologic status of Wanda Russell to Dr. Sanaa Helmi, the psychiatrist on-call. This misrepresentation was discovered by the staff in the Behavioral Unit within 12 hours of her admission there, and her transfer back to the medical ward was then planned.
- (j) Based upon his review of the medical records and the depositions, Dr. Ryan will opine that Dr. Bradley observed and documented objective findings of severe neurologic dysfunction on his physical examination of Wanda Russell at approximately 6:53 am on the morning of December 6, 2005, and failed to order or initiate any meaningful care and treatment of this neurologic crisis. This was reckless on the part of Dr. Bradley, who simply completed his task of performing a history and physical examination, and walked away from this patient.
- (k) Dr. Ryan will opine that a "doctor-patient" relationship existed between Dr. Bradley and Wanda Russell.

- (l) Based upon his review of the medical records and the depositions, Dr. Ryan will opine that Dr. Bradley was reckless in his care of Wanda Russell by: (i) failing to communicate his physical findings of neurologic dysfunction to any other health care provider on either the psychiatry service or the medical service; (ii) failing to obtain a "stat" neurology consultation; and, (iii) failing to ensure that this patient received adequate and timely care for her evolving neurologic condition. Instead, Dr. Bradley simply performed a history and examination, and then walked away from the patient.
- (m) The hospital did not have appropriate safeguards in place to assure that Dr. Bradley understood his contractual role in the care of the Behavioral Unit patients, in order to provide a safe environment for the care of a patient, like Wanda Russell, who was manifesting acute signs of a serious, and potentially life- and limb-threatening, medical condition which required immediate attention.
- (n) Based upon his review of the medical records and the depositions, Dr. Ryan will opine that Dr. Bobrin was grossly negligent in his care of Wanda Russell. Dr. Bobrin recognized the nature of Wanda Russell's severe neurologic status, and failed to ensure that this patient received adequate and timely care for her evolving neurologic condition. Instead, Dr. Bobrin failed to offer any medical care, or consultative interventions, for Wanda Russell, and merely ordered that she be transferred back to the medical unit at DuBois Regional Medical Center. This transfer did not occur for approximately five hours after Dr. Bobrin's evaluation of Wanda Russell.

- (o) Based upon his review of the medical records and the depositions, Dr. Ryan will opine that the DuBois Regional Medical Center failed to provide strict policies and procedures for the appropriate evaluation of patients transferred to the Behavioral Unit, and the timely transfer of patients with suspected stroke or evolving stroke to a "stroke center" for the administration of thrombolytic or other stroke therapies.
- (p) Based upon his review of the medical records and the depositions, his knowledge of the medical literature on the use of thrombolytic agents, and his experience, and his review of the physical examination findings manifested by Wanda Russell throughout the period of December 4 to 6, 2005, Dr. Ryan will opine that there was a window of opportunity on December 5, 2005 up to approximately noon time on December 6, 2005, during which Wanda Russell would have benefitted from the timely neurologic evaluation and the administration of thrombolytic agents for the treatment of her evolving neurologic condition.
- (q) Dr. Ryan will opine that the failure by Dr. Devlin, Maloney, Bradley, and Bobrin to obtain the appropriate evaluation and treatment of Wanda Russell was a substantial factor in causing, or increasing the risk of harm of, Wanda Russell's neurologic injuries and present neurologic status and sequella.

Dr. Ryan hereby verifies and signs these Answers to Expert Interrogatories Directed to Plaintiff, pursuant to the Pennsylvania Rules of Civil Procedure, which relate to his opinions and trial testimony, and states that the facts and opinions expressed in these interrogatories are his alone, and not those of either counsel or plaintiff. Dr. Ryan acknowledges the assistance of plaintiff's

counsel and counsel's staff in the preparation, transcription, and formatting of these interrogatory answers, and further states that the opinions expressed herein, and the factual basis for these opinions, were formulated and prepared by him alone, based upon the materials that he reviewed in this matter, and his qualifications as an expert on the topics addressed.

By: William D. Ryan M.D.
William D. Ryan, M.D.

Date: 1-10-09

KLINE & SPECTER, P.C.

By:

Mark A. Hoffman, Esquire
Mark A. Hoffman, Esquire

Date:

1/13/2009

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

WANDA RUSSELL

Plaintiff,

v.

JAMES E. DEVLIN, M.D. and
MARK W. MALONEY, D.O. and
DRMC PRIMARY CARE ASSOCIATES
and SANAA HELMI, M.D. and
THOMAS J. BRADLEY, M.D. and
BRADFORD BOBRIN, M.D. and
DuBOIS REGIONAL MEDICAL
CENTER a/ka DuBOIS REGIONAL
MEDICAL CENTER WEST
a/d/b/a DRMC BEHAVIORAL
UNIT a/k/a DRMC EAST BEHAVIORAL
UNIT a/k/a DRMC BEHAVIORAL
HEALTH OUTPATIENT CLINIC
Defendants.

CIVIL DIVISION

DOCKET No. 07-644-CD

Type of Pleading:

**PLAINTIFF'S RESPONSE WITHOUT
OPPOSITION TO THE MOTION
IN LIMINE PRECLUDING EVIDENCE
OF DEFENDANT BRADLEY'S
HISTORY OF SUBSTANCE ABUSE
AND LICENSE SUSPENSION**

Filed on behalf of Plaintiff,
Wanda Russell

Counsel of record for this party:

Mark A. Hoffman, Esquire
PA I.D. No. 84443

KLINE & SPECTER
A Professional Corporation

The Nineteenth Floor
1525 Locust Street
Philadelphia, Pennsylvania 19102
(215) 772-1000

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JAN 19 2010

William A. Shaw
Prothonotary/Clerk of Courts

(60)

KLINE & SPECTER

A Professional Corporation

By: SHANIN SPECTER, ESQUIRE
MARK A. HOFFMAN, ESQUIRE
ROYCE W. SMITH, ESQUIRE

Attorney ID Nos.: 40928/84443/201295
The Nineteenth Floor
1525 Locust Street
Philadelphia, Pennsylvania 19102
(215) 772-1000

Attorneys for Plaintiff

WANDA RUSSELL	:	COURT OF COMMON PLEAS
Plaintiff,	:	COUNTY OF CLEARFIELD
v.	:	
JAMES E. DEVLIN, M.D. and	:	DOCKET No. 07-644-CD
MARK W. MALONEY, D.O. and	:	
DRMC PRIMARY CARE ASSOCIATES	:	
and SANAA HELMI, M.D. and	:	
THOMAS J. BRADLEY, M.D. and	:	
BRADFORD BOBRIN, M.D. and	:	
DuBOIS REGIONAL MEDICAL	:	
CENTER a/ka DuBOIS REGIONAL	:	
MEDICAL CENTER WEST	:	
a/d/b/a DRMC BEHAVIORAL	:	
UNIT a/k/a DRMC EAST BEHAVIORAL	:	
UNIT a/k/a DRMC BEHAVIORAL	:	
HEALTH OUTPATIENT CLINIC	:	
Defendants.	:	

**PLAINTIFF'S RESPONSE WITHOUT OPPOSITION
TO THE MOTION *IN LIMINE* PRECLUDING EVIDENCE
OF DEFENDANT BRADLEY'S HISTORY OF
SUBSTANCE ABUSE AND LICENSE SUSPENSION**

Plaintiff, Wanda Russell, by and through her undersigned counsel, Kline & Specter, P.C., hereby submits to this Honorable Court Plaintiff's Response Without Opposition to the Motion in Limine Precluding Evidence of Defendant Bradley's History of Substance Abuse and License Suspension. Plaintiff states the following:

1-6. Moot by agreement of counsel. Plaintiff's counsel informed counsel for Defendant,

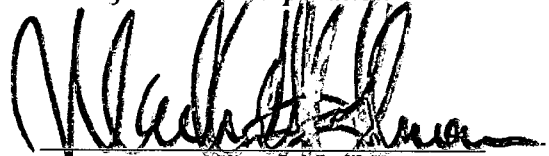
Thomas J. Bradley, M.D. ["Dr. Bradley"], at jury selection on January 5, 2010, that Plaintiff will not elicit or introduce any evidence at trial concerning Dr. Bradley's history of substance abuse, substance abuse treatment, or license suspension, or reference these events either during direct or cross-examination of any witness. Accordingly, this is moot by agreement of counsel.

WHEREFORE, Plaintiff respectfully informs this Honorable Court that Plaintiff does not oppose the Motion in Limine Precluding Evidence of Defendant Bradley's History of Substance Abuse and License Suspension. A form of Order is attached.

Respectfully submitted,

KLINE & SPECTER
A Professional Corporation

By:

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

MARK A. HOFFMAN, ESQUIRE
Attorneys for Plaintiff

Date: January 15, 2010

CERTIFICATE OF SERVICE

I, MARK A. HOFFMAN, ESQUIRE, hereby certify that a true and correct copy of the Plaintiff's Response Without Opposition to the Motion *in Limine* Precluding Evidence of Defendant Bradley's History of Substance Abuse and License Suspension, was served via first class U.S. mail on the following individuals:

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

Counsel for Defendant, DuBois Regional Medical Center, a/k/a Dubois Regional Medical Center a/k/a DuBois Regional Medical Center West a/d/b/a/ DRMC Behavioral Unit a/k/a DRMC East Behavioral Unit a/k/a DRMC Behavioral Outpatient Clinic

Darryl R. Slimak, Esquire
McQuaide Blasko
811 University Drive
State College, PA 16801-6699
Counsel for Defendant, Sanaa Helmi, M.D.

M. Brian O'Connor, Esquire
Matis, Brum, Rizza, O'Connor
Four Gateway Center
444 Liberty Avenue, Suite 300
Pittsburgh, PA 15222
Counsel for Defendant, James E. Devlin, M.D.

Lynn E. Bell, Esquire
Davies, McFarland & Carroll, P.C.
The Tenth Floor, One Gateway Center
Pittsburgh, PA 15222-1416
Counsel for Bradford Bobrin, M.D.

Christopher C. Rulis, Esquire
O'Brien, Rulis & Bochicchio, LLC
555 Grant Street, Suite 120
Pittsburgh, PA 15219
Counsel for Defendant, Thomas J. Bradley, M.D.

David R. Bahl, Esquire
Richard F. Schluter, Esquire
McCormick Law Firm
835 West Fourth Street
Williamsport, PA 17701
Counsel for Defendant, Mark W. Maloney, D.O.

KLINE & SPECTER
A Professional Corporation

By:

A handwritten signature in black ink, appearing to read 'Mark A. Hoffman', is written over a horizontal line.

MARK A. HOFFMAN, ESQUIRE
Attorneys for Plaintiff

Date: January 15, 2010

COURT OF COMMON PLEAS
COUNTY OF CLEARFIELD

WANDA RUSSELL	:	
	:	
Plaintiff,	:	DOCKET No. 07-644-CD
	:	
v.	:	
JAMES E. DEVLIN, M.D. and	:	
MARK W. MALONEY, D.O. and	:	
DRMC PRIMARY CARE ASSOCIATES	:	
and SANAA HELMI, M.D. and	:	
THOMAS J. BRADLEY, M.D. and	:	
BRADFORD BOBRIN, M.D. and	:	
DuBOIS REGIONAL MEDICAL	:	
CENTER a/ka DuBOIS REGIONAL	:	
MEDICAL CENTER WEST	:	
a/d/b/a DRMC BEHAVIORAL	:	
UNIT a/k/a DRMC EAST BEHAVIORAL	:	
UNIT a/k/a DRMC BEHAVIORAL	:	
HEALTH OUTPATIENT CLINIC	:	
Defendants.	:	

ORDER

AND NOW, this day of , 2010, upon consideration of Motion in Limine Precluding Evidence of Defendant Bradley's History of Substance Abuse and License Suspension, and Plaintiff's Response Without Opposition thereto, it is hereby **ORDERED** and **DECREED** that Said Motion in Limine is **MOOT, BY AGREEMENT**. Plaintiff shall not introduce or elicit evidence of, or make reference to, Dr. Bradley's history of substance abuse or license suspension at trial.

BY THE COURT:

J.

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

FILED

WANDA RUSSEL,
Plaintiff

vs.

No. 07-644-CD

JAMES E. DEVLIN, M.D., MARK W.
MALONE, D.O., DRMC PRIMARY CARE
ASSOCIATES, SANAA HELMI, M.D.,
THOMAS J. BRADLEY, M.D., BRADFORD
BOBRIN, M.D., and DUBOIS REGIONAL
MEDICAL CENTER a/k/a DUBOIS
REGIONAL MEDICAT CENTER WEST
a/d/b/a DRMC BEHAVIORAL UNIT a/k/a
DRMC BEHAVIORAL HEALTH
OUTPATIENT CLINIC,
Defendants

JAN 19 2010
01/11/10 (C)
William A. Shaw
Prothonotary/Clerk of Courts
COPIES SERVED
BY Judge Brown

PRE-TRIAL ORDER

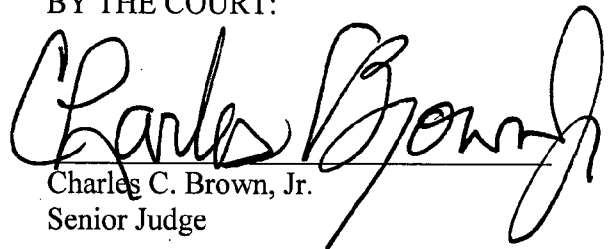
AND NOW, this 14th day of January, 2010, it is hereby **ORDERED** as follows:

1. A Pre-Trial Conference shall be held on **January 25, 2010**, beginning at **1:30 p.m.** in **Courtroom No. 1**, Clearfield County Courthouse, Clearfield, Pennsylvania. Pre-Trial briefs must be filed no later than 4:00 p.m. on January 21, 2010. In the event a pre-trial brief has been filed by a party prior to the conference held in July, 2009, a new pre-trial brief need not be filed. However, an updated pre-trial brief may be appropriate.
2. A conciliation conference shall be held immediately upon the conclusion of the pre-trial conference.

3. Following is a list of all those who must be present for the conferences
scheduled as set out in paragraphs 1 and 2 above:

- a. Trial counsel for all parties;
- b. All parties; and,
- c. Representatives, with settlement authority, of all insurance carriers,
insurers, et al., necessary for settlement of the above-captioned case.

BY THE COURT:



Charles C. Brown, Jr.
Senior Judge

Mark A. Hoffman, Esquire
David R. Bahl, Esquire
M. Brian O'Connor, Esquire
Christopher C. Rulis, Esquire
Lynn E. Bell, Esquire
John L. McIntyre, Esquire

William A Shaw
Prothonotary/Clerk of Courts

JAN 19 2010

FILED

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

WANDA RUSSELL,

Plaintiff,

vs.

JAMES E. DEVLIN, M.D., MARK W.
MALONEY, D.O., DRMC PRIMARY CARE
ASSOCIATES, SANAA HELMI, M.D.,
THOMAS J. BRADLEY, M.D., BRADFORD
BOBRIN, M.D., and DUBOIS REGIONAL
MEDICAL CENTER a/k/a DUBOIS
REGIONAL MEDICAL CENTER WEST
a/d/b/a DRMC BEHAVIORAL UNIT a/k/a
DRMC EAST BEHAVIORAL UNIT a/k/a
DRMC BEHAVIORAL HEALTH
OUTPATIENT CLINIC,

Defendants

No. 07-644-CD

ISSUE:

Supplemental Pre-Trial Narrative Filed
on Behalf of DuBois Regional Medical
Center

Filed on behalf of Defendant,
DUBOIS REGIONAL MEDICAL
CENTER a/k/a DUBOIS REGIONAL
MEDICAL CENTER WEST a/d/b/a
DRMC BEHAVIORAL UNIT a/k/a
DRMC EAST BEHAVIORAL UNIT
a/k/a DRMC BEHAVIORAL HEALTH
OUTPATIENT CLINIC

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

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

JURY TRIAL DEMANDED

I HEREBY CERTIFY THAT A TRUE AND
CORRECT COPY OF THE WITHIN WAS
EMAILED TO ALL COUNSEL OF RECORD
THIS 21st DAY OF January, 2010.

Attorneys for Named Defendant

9 **FILED** NOCC.
m/11/14km
JAN 22 2010 (60)

William A. Shaw
Prothonotary/Clerk of Courts

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

WANDA RUSSELL,

No. 07-644-CD

Plaintiff

vs.

JAMES E. DEVLIN, M.D., MARK W.
MALONEY, D.O., DRMC PRIMARY CARE
ASSOCIATES, SANAA HELMI, M.D.,
THOMAS J. BRADLEY, M.D., BRADFORD
BOBRIN, M.D., and DUBOIS REGIONAL
MEDICAL CENTER a/k/a DUBOIS
REGIONAL MEDICAL CENTER WEST
a/d/b/a DRMC BEHAVIORAL UNIT a/k/a
DRMC EAST BEHAVIORAL UNIT a/k/a
DRMC BEHAVIORAL HEALTH
OUTPATIENT CLINIC,

Defendants

JURY TRIAL DEMANDED

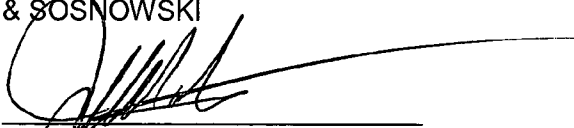
**SUPPLEMENTAL PRE-TRIAL NARRATIVE FILED ON BEHALF OF
DUBOIS REGIONAL MEDICAL CENTER**

AND NOW, comes defendant, DUBOIS REGIONAL MEDICAL CENTER, by and
through its counsel, MCINTYRE, HARTYE, SCHMITT & SOSNOWSKI, and files the
following Supplemental Pre-Trial Narrative.

EXPERTS

1. Douglas S. King, CPA, Pittsburgh, PA
See report attached to Pretrial Memorandum filed on behalf of Dr.
Bradford Bobrin, M.D.

MCINTYRE, HARTYE, SCHMITT
& SOSNOWSKI


Attorney for Defendant
DuBois Regional Medical Center
JOHN L. MCINTYRE, ESQUIRE
PA. ID. No. 28015
P.O. Box 533
Hollidaysburg, PA 16648
814/696-3581

KLINE & SPECTER

A Professional Corporation

By: MARK A. HOFFMAN, ESQUIRE

Attorney ID Nos.: 84122

The Nineteenth Floor

1525 Locust Street

Philadelphia, Pennsylvania 19102

(215) 772-1000

FILED

FEB 18 2010

William A. Shaw
Prothonotary/Clerk of Courts

1 cent to PCC

Attorneys for Plaintiff

WANDA RUSSELL

Plaintiff,

v.

JAMES E. DEVLIN, M.D. and MARK W.

MALONEY, D.O. and DRMC PRIMARY

CARE ASSOCIATES and SANAA HELMI, M.D.

THOMAS J. BRADLEY, M.D.

and BRADFORD BOBRIN, M.D. and

DuBOIS REGIONAL MEDICAL

CENTER A/K/A DuBOIS REGIONAL

MEDICAL CENTER WEST

A/D/B/A DRMC BEHAVIORAL

UNIT A/K/A DRMC EAST BEHAVIORAL

UNIT A/K/A DRMC BEHAVIORAL

HEALTH OUTPATIENT CLINIC,

Defendants.

**COURT OF COMMON PLEAS
CLEARFIELD COUNTY**

DOCKET NO. 07-644-CD

**PLAINTIFF'S MOTION FOR LEAVE OF COURT TO
AMEND THE *AD DAMNUM* CLAUSE OF THE FOURTH AMENDED CIVIL
ACTION COMPLAINT TO SEEK PUNITIVE DAMAGES AGAINST
DEFENDANTS, MARK W. MALONEY, D.O. AND THOMAS J. BRADLEY, M.D.**

Plaintiff, Wanda Russell, by and through her undersigned counsel, Kline & Specter, P.C., hereby moves this Honorable Court for leave of Court to amend the ad damnum clause of the Fourth Amended Civil Action Complaint to plead punitive damages against Defendants, Mark W. Maloney, D.O. ["Dr. Maloney"] and Thomas J. Bradley, M.D. ["Dr. Bradley"]. In support thereof, Plaintiff fully incorporates by reference the attached Memorandum of Law, and states the following:

1. This personal injury action sounding in medical negligence arises out of the medical evaluation, care, and treatment provided to Wanda Russell by the above-captioned Defendants at the

DuBois Regional Medical Center in early December of 2005.

2. On December 3, 2005, Wanda Russell, then 47 years old, presented to the Emergency Department at the DuBois Regional Medical Center with complaints of decreased blurred vision, dizziness, difficulty walking, and an episode of near loss of consciousness. She also complained of unilateral upper and lower extremity weakness. Following a negative neurological examination, and unremarkable CT scan of the brain, Wanda Russell was discharged home from the Emergency Department with the discharge impression: "Weakness, Transient Ischemic Attack (TIA), Diabetes Mellitus, Type I."

3. On the morning of December 4, 2005, Wanda Russell returned to the Emergency Department at the DuBois Regional Medical Center with complaints of left-sided weakness and an inability to walk. She informed the Emergency Department staff that she felt like she was having a stroke.

4. Based upon objective neurologic findings, including left-sided upper and lower extremity weakness, and CT scan which was negative for infarction or bleeding, she was admitted with the diagnosis of an acute, non-hemorrhagic, ischemic stroke.

5. Wanda Russell was initially admitted to the DuBois Regional Medical Center under the care of James Devlin, M.D. ["Dr. Devlin"] a physician covering for Dr. Maloney. At the time of admission, Dr. Devlin noted that Wanda Russell's complaints of weakness, and found during his physical examination that "the patient may have a mild decrease in left grip compared to the right." Dr. Devlin rendered the diagnosis of "questionable TIA. Clinically, at this time it is doubtful." Dr. Devlin placed Wanda Russell on "neurochecks."

6. On the morning of December 5, 2005, the second day of Wanda Russell's

hospitalization, her care was transferred to Dr. Maloney, her long-standing primary care physician. Dr. Maloney did not evaluate Wanda Russell until approximately 7:00 p.m. that day.

7. Nursing Notes from that morning reveal that Wanda Russell's "speech slightly slurred. Moves all extremities. Requires assistance to transfer." She was also found by the nursing staff to manifest left-sided weakness and a facial droop." She also exhibited unsteadiness on ambulation. Virtually every "neurologic check" performed on Wanda Russell by the nursing staff at the DuBois Regional Medical Center on December 4 and 5, 2005 found slurred speech, left-sided weakness, and a staggering or unsteady gait.

8. Despite an awareness of these neurologic findings, and Wanda Russell's prior Emergency Department visits and diagnoses, Dr. Maloney assessed that Wanda Russell was fabricating her illness. This assessment was primarily based on second-hand information, in which members of the nursing staff apparently observed Wanda Russell feeding herself, ambulating, and using her left arm.

9. Based upon this information, Dr. Maloney discontinued the "neurochecks," and requested a consultation by the psychiatry service for the diagnosis of "severe depressive episode/hysteria." Dr. Maloney had not ruled in or ruled out the presence of a stroke at that time, and had not obtained a cranial MRI or consultation with a neurologist.

10. At 2:00 a.m. on December 6, 2005, Wanda Russell was transported from the main campus of the DuBois Regional Medical Center to an off-site Behavioral Unit. At this time, neither a psychiatrist nor a neurologist had evaluated Wanda Russell. Additionally, Dr. Maloney apparently formulated an opinion that Wanda Russell was at risk for suicide or self-harm, and presented this

assessment to Dr. Sanaa Helmi, the on-call psychiatrist for the Behavioral Unit, as the reason for transfer in the middle of the night.¹

11. Dr. Helmi, the on-call psychiatrist who approved Wanda Russell's admission to the Behavioral Unit, testified at her deposition that she did not personally assess the patient, but instead relied upon Dr. Maloney's assessment that Wanda Russell's problems were psychiatric, as opposed to medical, in nature. Dr. Maloney, in fact, did not know the nature of Wanda Russell's condition, but did understand that a stroke is a medical emergency.

12. Despite Dr. Maloney's lack of understanding of the nature of Wanda Russell's condition, Wanda Russell was medically "cleared" for transfer by Dr. Maloney, who knew that Wanda Russell would be sent to a campus remote from the main hospital.

13. Dr. Helmi further testified that she was not informed of any of the patient's neurological findings, including the subsequent falls in the Behavioral Unit which Wanda Russell experienced during the early morning hours on December 6, 2005, shortly after her transfer.

14. Dr. Helmi's account of the reason for transfer to the Behavioral Unit; i.e., that Dr. Maloney initiated the transfer, is corroborated by a Ms. Brittany Bowers ["Ms. Bowers"], a therapist at the Behavioral Unit, who documented in the medical record that there was confusion concerning

¹There is disagreement in the medical records, and between the deposition testimony of members of the Behavioral Unit staff, Dr. Maloney, and Sanaa Helmi, M.D. ["Dr. Helmi"], the on-call psychiatrist who approved the transfer, concerning who actually recommended Wanda Russell's transfer to the Behavioral Unit. There is also disagreement about the information conveyed by Dr. Maloney to Dr. Helmi. It is undisputed that Dr. Maloney ordered Wanda Russell's transfer. It is also clear that Wanda Russell continued to manifest neurologic signs and symptoms at the time of the transfer, and that she was not evaluated by either a neurologist or psychiatrist prior to, or at the time of, her admission to the Behavioral Unit.

the reasons underlying Wanda Russell's transfer to the Behavior Unit. Ms. Bowers testified at her deposition that, in fact, that Wanda Russell did not meet the criteria for transfer.

15. Wanda Russell showed no evidence of suicidal ideation. Ms. Bowers did not believe, at the time, that Wanda Russell required psychiatric hospitalization. Ms. Bowers testified that she was unable to justify Wanda Russell's psychiatric admission based upon the presenting information, and that she did not believe that the transfer to the Behavioral Unit was appropriate.

16. The nurses who were responsible for Wanda Russell in the Behavioral Unit noted the patient had dysarthria, facial droop, left arm paralysis, and left leg weakness. Dr. Maloney testified that these symptoms were not present at the time he transferred the patient to the Behavioral Unit, although he was aware of the prior diagnosis of TIA.

17. Wanda Russell fell twice during the early morning hours of December 6, 2005 (at 2:30 a.m. and at 3:30 a.m.). No physician was notified of these falls, or the other neurologic findings.

18. Dr. Bradley, a family physician contracted by the DuBois Regional Medical Center to perform histories and physical examinations on patients transferred to the Behavioral Unit, evaluated Wanda Russell shortly before 7:00 a.m. on the morning of December 6, 2005.

19. Dr. Bradley's examination of Wanda Russell revealed left upper extremity weakness and facial asymmetry.

20. Dr. Bradley did not obtain a neurology consultation, nor did he immediately transfer the patient back to either the main campus at the DuBois Regional Medical Center; or, in the alternative, to a facility with a stroke team for further diagnostic work-up and medical management.

21. After completing his intake history and physical examination of Wanda Russell, Dr. Bradley did not inform any other physician of his significant findings on neurological examination.

22. The attending psychiatrist responsible for Wanda Russell's care in the Behavioral Unit, Bradford Bobrin, M.D. ["Dr. Bobrin"], evaluated Wanda Russell on the morning of December 6, 2005. Dr. Bobrin wrote in the medical record:

This is a 47-year-old with some mild depressive symptoms and acute onset of depressive mode after having stroke-like symptoms which have continued. Although it was thought that her neurological signs were out of proportion to her neurological symptoms, she does seem to have flaccid paralysis of the left arm and left droop of the smile. With no gross infarct, there might be some infarct on brainstem or internal capsule. Will need MRI and neuro consult.

23. A Nursing Note in the Behavior Unit recorded that Wanda Russell was unable to use her left arm. No immediate action was taken by way of an evaluation by a neurologist, cranial imaging, anticoagulation therapy, or transfer back to the medical unit at the DuBois Regional Medical Center; or, in the alternative, transfer to a facility with a stroke team.

24. Despite Dr. Maloney's knowledge on the morning of December 6, 2005, that Wanda Russell was experiencing falls and neurologic symptoms on the Behavioral Unit, Dr. Maloney made no attempt to expeditiously obtain Wanda Russell's transfer back to the medical unit for further neurological evaluation.

25. Eventually, during the late afternoon and early evening hours of December 6, 2005, Dr. Maloney readmitted Wanda Russell to his service at the main campus of the DuBois Regional Medical Center. By this time, no medical intervention to either avert or diminish the stroke effects was possible.

26. During his readmission evaluation, Dr. Maloney recorded the prior sequence of events

in an elaborate, exculpatory note, in which he described the patient as a “morbidly obese noncompliant female.” There is, however, no evidence that this patient failed to comply with any of the medical advice given to her during this admission to DuBois Regional Medical Center. Dr. Maloney further reasserted that Wanda Russell’s neurological symptoms abated when she was unobserved, although he never personally observed any of this alleged conduct himself.

27. In his physical assessment of the patient, Dr. Maloney verified an established left hemiparesis. This left hemiparesis was not present when Dr. Maloney evaluated Wanda Russell the preceding evening, prior to transfer to the Behavioral Unit.

28. Despite abundant documentation in Wanda Russell’s medical record to the contrary, Dr. Maloney testified at his deposition that Wanda Russell did not have significant neurological deficits or findings until after her transfer to the Behavioral Unit on December 6, 2005. This statement, in fact, demonstrates that while Wanda Russell had neurologic symptoms, they were more indicative of crescendo TIAs or an evolving stroke, which should have been recognized, evaluated, and treated with thrombolytic agents following transfer to a stroke center.

29. Following her readmission to medical unit at the DuBois Regional Medical Center, Wanda Russell was evaluated by a neurologist, Ruediger Kratz, M.D.[“Dr. Kratz”]. The history obtained by Dr. Kratz documents the objective findings noted in the medical records: intermittent left arm and leg weakness without sensory symptoms over several days. On examination, the neurologist noted slurred speech; a left lower facial droop; left arm weakness (strength 0/5) and left leg weakness (3/5); and an abnormal gait.

30. On December 7, 2005, a magnetic resonance arteriography and MRI scan corroborated the patient’s symptom complex as indicative of an acute stroke, demonstrating a

segment of flow void in the proximal right middle cerebral artery and a right basilar ganglion lacunar infarct. A very small lacunar infarct in the left basal ganglia was also noted.

31. On December 9, 2005, Wanda Russell was transferred to the rehabilitation unit at the DuBois Regional Medical Center, and was discharged on January 6, 2006. Wanda Russell has ongoing and permanent neurologic deficits.

32. This personal injury action was commenced by way of a Civil Action Complaint filed on April 24, 2007. Ongoing responsive pleadings and amended complaints culminated in Plaintiff's Fourth Amended Civil Action Complaint filed on or about January 31, 2008.

33. In her Fourth Amended Civil Action Complaint, attached hereto as Exhibit "A," Plaintiff sets forth, inter alia, claims against Dr. Maloney and Dr. Bradley sounding in recklessness.

34. The ad damnum clause of the Fourth Amended Civil Action Complaint states:

WHEREFORE, Plaintiff Wanda Russell claims damages against all defendants, jointly and severally, including all damages cognizable under Pennsylvania law, to include compensatory as to Dr. Devlin, Dr. Maloney, Dr. Helmi, Dr. Bradley, Dr. Bobrin, the nursing staff of the DRMC Behavioral Unit, and the Dubois Regional Medical Center and its affiliated units (corporate negligence claim) in an amount in excess of the prevailing arbitration limits, exclusive of pre-judgment interest and post-judgment interest and costs, and retains the right, pursuant to Pa.R.C.P. No. 1033 and case law relating to amendments to pleading, to amend this ad damnum clause, at any time up to and including trial, to pray for punitive damages against any and all defendants herein, on the material facts and causes of action set forth in this Fourth Amended Civil Action Complaint.

35. With respect to the conduct of Dr. Maloney, Plaintiff's medical expert, Paul Genecin, M.D. ["Dr. Genecin"], a primary care physician at Yale University in New Haven, Connecticut, states in his report dated January 7, 2009, attached hereto as Exhibit "B:"

Dr. Maloney's conduct was manifestly below accepted standards of care, and frankly reckless, in that he completely discounted Wanda Russell's past

medical history and risk factors for TIA and stroke, as well as the objective medical findings by a number of health care practitioners which documented intermittent and significant neurologic signs and symptoms. Instead, and with complete disregard for this patient's safety and well being, Dr. Maloney chose to accept the purported observations of the nursing staff that Wanda Russell's neurological deficits, which included a persistent facial droop, were factitious and a "fabrication." In essence, this patient was labeled a "faker" without the benefit of appropriate evaluation. Dr. Maloney's conduct in this regard was outrageous. Dr. Maloney made a psychiatric diagnosis of conversion reaction or histrionics coupled with potential suicidal depression, which he offered without either adequate neurologic or psychiatric evaluation, and which lead to the decision to transfer this patient to a remote Behavioral Unit in the middle of the night. This all occurred in the presence of on-going documentation of neurologic finds by the nursing staff, which were performed despite Dr. Maloney having discontinued her neurological checks. Wanda Russell required a neurology consultation on the morning on December 5, 2005, and certainly prior to the transfer to the Behavioral Unit. This transfer, even by the standards set forth on the Behavioral Unit, should never have occurred. She should have been evaluated by a neurologist and transferred to a stroke unit for appropriate evaluation and interventions. The patient was denied a significant and well-recognized opportunity for thrombolytic therapy, which was for all practical purposes, unavailable at DuBois Regional Medical Center. All of her physicians demonstrated a recognition that treatment with these agents is time sensitive, and that time is of the essence in the workup and treatment.

A patient, like Wanda Russell, with fluctuating but consistent left-sided facial droop, slurred speech, left arm and leg weakness and gait disturbance has a TIA or an evolving stroke syndrome until proven otherwise by appropriate neurologic evaluation and cerebral imaging. Likewise, these serious symptoms should never be attributed to psychiatric illness without thorough evaluation. Neurologic signs and symptoms can and do fluctuate and evolve over time; this is the very nature of a TIA, and particularly of crescendo TIA and evolving stroke. Therefore waxing and waning symptoms should not be ascribed to a hysterical conversion syndrome without an exhaustive work-up.

Moreover, as recognized by Wanda Russell's physicians, a significant number of patients with TIA and evolving stroke will not have positive findings on CT scan early in their course - and patients with TIA would not be expected to have radiographic findings. Thus, it is inappropriate to rule out cerebrovascular disease by relying on negative CT scans. A patient with focal neurological symptoms must be treated as a stroke patient even if psychiatric symptoms are also present. In fact, as was apparently true in

Wanda Russell's case given her expressions of concern about her physical condition at the time, Dr. Maloney should have considered whether his patient's perceived psychiatric issues were a consequence of her neurologic state. Also, a patient may have a stroke as well as psychiatric disease. It was reckless, and grossly below accepted standards of care, for Dr. Maloney to assume, that Wanda Russell's fluctuating neurologic symptoms, negative CT scans, and psychiatric symptoms effectively ruled out the presence of crescendo TIA's or an evolving stroke, and that she could be safely transferred to a psychiatric unit.

36. With respect to the conduct of Dr. Bradley, Dr. Genecin states in his report dated January 7, 2009, see Exhibit "B:"

The care provided to Wanda Russell by Dr. Bradley and Dr. Bobrin on the Behavioral Unit was below accepted standards of care, and particularly with respect to Dr. Bradley, reckless. It is apparent that Dr. Bradley was more interested in simply performing the history and physical examination than in providing any type of meaningful medical care to this patient. Dr. Bradley actually documented, on his examination, objective physical findings indicative of an evolving significant neurologic event. Yet, in total disregard to this patient's well-being, and grossly below the accepted standard of care, Dr. Bradley merely dictates his findings and leaves the patient's bedside. He did not inform anyone from the attending medical staff or psychiatric staff of his observations, nor does he initiate immediate transfer of this patient back to the medical unit for emergency evaluation. He did not obtain a neurology consultation, or initiate any type of work-up. His conduct was egregious, and increased the risk of harm of Wanda Russell's stroke and on-going/evolving neurologic injury.

37. Plaintiff now seeks leave of Court to amend the aforementioned ad damnum clause of her Fourth Amended Civil Action Complaint to request punitive damages.

38. "Pennsylvania has adopted section 908 of the Restatement (Second) of Torts as the rule of punitive damages." Mancini v. Yavorek, 2003 Pa. Dist. & Cnty. Dec. LEXIS 139 (Pa. County Ct. 2003) (citing Feld v. Merriam, 506 Pa. 383, 485 A.2d 742 (1984) citing Chambers v. Montgomery, 411 Pa. 339, 192 A.2d 355 (1963).

39. “Punitive damages may be awarded for conduct that is outrageous, because of the defendant’s evil motive or his reckless indifference to the rights of others.” Restatement (Second) of Torts § 908(2) (1979).

40. The punitive damages standard in medical malpractice actions has been codified in the Medical Care Availability and Reduction of Error Act [“MCare”], 40 P.S. § 1303.505 (2009).² “Punitive damages may be awarded for conduct that is the result of the health care provider’s willful or wanton conduct or reckless indifference to the rights of others.” Id. at (a).

41. Punitive damages are “awarded against a person to punish him for his outrageous conduct and to deter him and others like him from similar conduct in the future.” Restatement 2d of Torts § 908(1). See Kirkbride v. Lisbon Contractors, Inc., 512 Pa. 97, 555 A.2d 800, 803 (Pa. 1989); Hutchison v. Luddy, 582 Pa. 114 at 121, 870 A.2d 766 at 770 (Pa. 2005).

42. For the imposition of punitive damages, the Defendant’s mental state must be such that the act, or failure to act, was intentional, reckless or malicious. Hutchison v. Luddy, 582 Pa. 114 at 123, 870 A.2d 766 at 771 (Pa. 2005)(internal citations omitted).

43. A claim for punitive damages must be “supported by evidence sufficient to establish that (1) a defendant had a subjective appreciation of the risk of harm to which the plaintiff was exposed and that (2) he acted, or failed to act, as the case may be, in conscious disregard of that risk.” Id. 124, 772 (internal citations omitted).

44. An individual acts recklessly when the “actor knows, or has reason to know,... of facts which create a high degree of risk of physical harm to another, and deliberately proceeds to act,

²Sections 505 (a) and (b) of the MCare Act have been interpreted to be consistent with Pennsylvania case law on punitive damages. Wagner v. Onofrey, 2006 Pa. Dist. & Cnty. Dec. LEXIS 333 (Pa. County Ct. 2006).

or to fail to act, in conscious disregard of, or indifference to, that risk....” Blair v. Mehta, 2004 Pa. Dist. & Cnty. Dec. LEXIS 164 (Pa. County Ct. 2004)(citing Martin v. Johns-Manville Corp., 508 Pa. 154, 171, 494 A.2d 1088, 1097 (1985). Conduct manifests reckless indifference when it involves “an easily perceptible danger of death or substantial physical harm, and the probability that it will so result must be substantially greater than is required for ordinary negligence.” Mancini v. Yavorek, 2003 Pa. Dist. & Cnty. Dec. LEXIS 139 (Pa. County Ct. 2003) (citing Hall v. Jackson, 788 A.2d 390, 403 (Pa. Super. 2001).

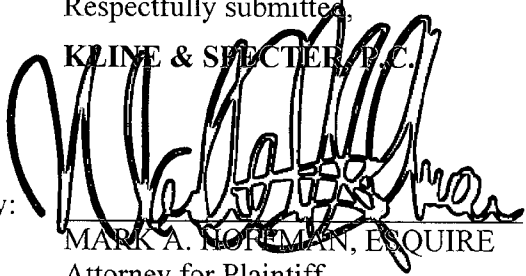
45. Under the facts at bar, and in light of the expert opinions offered in this case, this Court should allow Plaintiff to pursue a claim for punitive damages arising out of the reckless conduct of Dr. Maloney and Dr. Bradley. This request is consistent with the pleadings in this action, the fact adduced during discovery, and the Plaintiff’s expert opinions.

WHEREFORE, Plaintiff respectfully requests that this Honorable Court grant Plaintiff’s Motion for Leave of Court to Amend the Ad Damnum Clause of the Fourth Amended Civil Action Complaint to Seek Punitive Damages Against Defendants, Mark W. Maloney, D.O. and Thomas J. Bradley, M.D., and enter the attached form of Order.

Respectfully submitted,

KLINE & SPECTER, P.C.

By:


MARK A. NOEMAN, ESQUIRE
Attorney for Plaintiff

Date: February 13, 2010

FILED
FEB 18 2010
William A. Shaw
Prothonotary/Clerk of Courts

COURT OF COMMON PLEAS
COUNTY OF CLEARFIELD

WANDA RUSSELL	:	
	:	
Plaintiff,	:	DOCKET No. 07-644-CD
	:	
v.	:	
JAMES E. DEVLIN, M.D. and	:	
MARK W. MALONEY, D.O. and	:	
DRMC PRIMARY CARE ASSOCIATES	:	
and SANAA HELMI, M.D. and	:	
THOMAS J. BRADLEY, M.D. and	:	
BRADFORD BOBRIN, M.D. and	:	
DuBOIS REGIONAL MEDICAL	:	
CENTER a/ka DuBOIS REGIONAL	:	
MEDICAL CENTER WEST	:	
a/d/b/a DRMC BEHAVIORAL	:	
UNIT a/k/a DRMC EAST BEHAVIORAL	:	
UNIT a/k/a DRMC BEHAVIORAL	:	
HEALTH OUTPATIENT CLINIC	:	
Defendants.	:	

ORDER

AND NOW, this day of , 2010, upon consideration of the Motion for Leave of Court to Amend the Ad Damnum Clause of the Fourth Amended Civil Action Complaint to Seek Punitive Damages Against Defendants, Mark W. Maloney, D.O. and Thomas J. Bradley, M.D., and any response thereto, it is hereby **ORDERED** and **DECREED** that said Motion is **GRANTED**.

BY THE COURT:

J.

A.

**COURT OF COMMON PLEAS
COUNTY OF CLEARFIELD**

WANDA RUSSELL	:	
	:	
Plaintiff,	:	DOCKET No. 07-644-CD
	:	
v.	:	
JAMES E. DEVLIN, M.D. and	:	
MARK W. MALONEY, D.O. and	:	
DRMC PRIMARY CARE ASSOCIATES	:	
and SANAA HELMI, M.D. and	:	
THOMAS J. BRADLEY, M.D. and	:	
BRADFORD BOBRIN, M.D. and	:	
DuBOIS REGIONAL MEDICAL	:	
CENTER a/ka DuBOIS REGIONAL	:	
MEDICAL CENTER WEST	:	
a/d/b/a DRMC BEHAVIORAL	:	
UNIT a/k/a DRMC EAST BEHAVIORAL	:	
UNIT a/k/a DRMC BEHAVIORAL	:	
HEALTH OUTPATIENT CLINIC	:	
Defendants.	:	

FILED ^(E)

FEB 26 2010

0/9:05/a
William A. Shaw
Prothonotary/Clerk of CourtsSent COPIES TO
All Parties

CONSENT ORDER

AND NOW, this 23d day of February, 2010, upon review of the Consent Order submitted by the Plaintiff on behalf of all parties to the above-captioned action, it is hereby **ORDERED** and **DECREED** that this case is hereby globally settled.

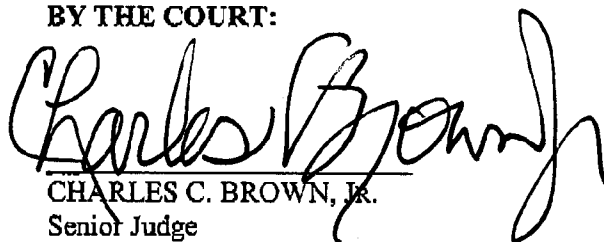
IT IS FURTHER ORDERED and **DECREED** that:

1. This settlement is confidential per the terms and conditions of the Release.
2. The Plaintiff shall satisfy, by way of payment, reduction, and/or compromise, any and all Commonwealth of Pennsylvania Department of Public Welfare and/or Medicare and/or other statutory liens that have been, or may be, asserted against the Plaintiff or the proceeds of this settlement.

3. The Plaintiff shall satisfy and otherwise comply with any requirement for a Medicare "Set-Aside" and/or statutory and/or regulatory provision or requirement regarding the protection of assets from these settlement proceeds for future medical care and treatment.

4. All parties agree that except for the MCARE Fund settlement proceeds, which shall be due to be paid to the Plaintiff on or about December 31, 2010, all other settlement proceeds shall be subject to the provisions of Pa.R.C.P. No. 229.1.

BY THE COURT:

A handwritten signature in black ink, appearing to read "Charles C. Brown, Jr.", is written over a horizontal line.

CHARLES C. BROWN, JR.
Senior Judge

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

WANDA RUSSELL,

Plaintiff,

vs.

CIVIL ACTION

No.: 07-644-CD

JAMES E. DEVLIN, M.D., MARK W.
MALONEY, D.O., DRMC PRIMARY
CARE ASSOCIATES, THOMAS J.
BRADLEY, M.D., BRADFORD
BOBRIN, M.D., DUBOIS REGIONAL
MEDICAL CENTER a/k/a DUBOIS
REGIONAL MEDICAL CENTER WEST
a/d/b/a DRMC BEHAVIORAL UNIT
a/k/a DRMC EAST BEHAVIORAL UNIT
a/k/a DRMC BEHAVIORAL HEALTH
OUTPATIENT CLINIC,

Defendants.

ORDER OF COURT

And now, this 26th day of February, 2010, IT IS HEREBY ORDERED,
ADJUDGED AND DECREED that the Motion to Discontinue Action Against Bradford Bobrin,
M.D. is hereby GRANTED and this action is hereby discontinued as to Bradford Bobrin, M.D.
with prejudice and it is further ORDERED that his name be removed from the caption.

BY THE COURT

Charles J. Bennett
Sr. Judge

FILED

01:0530
MAR 04 2010

William A. Shaw
Prothonotary/Clerk of Courts

100 Attys:
Hoffman
O'Connor
Bahl
Schluter
Slimak
Rulis
L. Bell
McIntyre

100 DRMC Primary Care Assoc.
145 Hospital Ave., Ste. 200
DuBois, PA 15801

(D0378189.1)3

FILED

MAR 04 2010

William A. Shaw
Prothonotary/Clerk of Courts

DATE: 3/4/10

 You are responsible for serving all appropriate parties.

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

 Plaintiff(s) X Plaintiff(s) Attorney Other

 X Defendant(s) X Defendant(s) Attorney

 Special Instructions:

KLINE & SPECTER

A Professional Corporation

By: THOMAS R. KLINE, ESQUIRE
MARK A. HOFFMAN, ESQUIRE
ROYCE W. SMITH, ESQUIRE

Attorney ID Nos.: 28895/ 84443/201295
The Nineteenth Floor
1525 Locust Street
Philadelphia, Pennsylvania 19102
(215) 772-1000

Attorneys for Plaintiff

WANDA RUSSELL

**COURT OF COMMON PLEAS
COUNTY OF CLEARFIELD**

v.

DOCKET NO. 07-644-CD

JAMES E. DEVLIN, M.D. and
MARK W. MALONEY, D.O. and
DRMC PRIMARY CARE ASSOCIATES
and SANAA HELMI, M.D. and
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UNIT a/k/a DRMC BEHAVIORAL
HEALTH OUTPATIENT CLINIC
Defendants.

FILED

MAR 31 2010

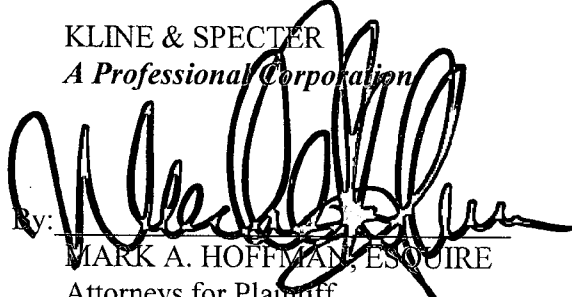
William A. Shaw
Prothonotary/Clerk of Courts

ORDER TO SETTLE, DISCONTINUE AND END

TO THE PROTHONOTARY:

Kindly mark the above-captioned matter settled, discontinued and ended.

KLINE & SPECTER
A Professional Corporation

By: 
MARK A. HOFFMAN, ESQUIRE
Attorneys for Plaintiff

Date: March 26, 2010

FILED

MAR 31 2010

William A. Shaw
Prothonotary/Clerk of Courts