

07-1420-CD
Amer Khouri vs Cifa Hospital

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

AMER S. KHOURI, an
individual,

Plaintiff,

v.

Clearfield Hospital, a
nonprofit corporation,
Defendant.

* No. 2007-1420- CD

* Type of Pleading:

* **COMPLAINT**

* Filed on behalf of:

* Plaintiff

* Counsel of Record for
this party:

* James A. Naddeo, Esq.

* Pa I.D. 06820

*

* Trudy G. Lumadue, Esq.

* Pa I.D. 202049

* NADDEO & LEWIS, LLC.

* 207 E. Market Street

* P.O. Box 552

* Clearfield, PA 16830

* (814) 765-1601

Dated: September 4, 2007

October 3, 2007 Document
Reinstated/Reissued to Sheriff/Attorney
for service.

William A. Shaw
Deputy Prothonotary

FILED

6 11:08 AM 6K

SEP 4 2007

cc to Atty

William A. Shaw
Prothonotary/Clerk of Courts

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

AMER S. KHOURI, an
individual,

Plaintiff,

v.

*

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*

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No. - - CD

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Clearfield Hospital, a
nonprofit corporation,

Defendant.

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 OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

Court Administrator
Clearfield County Courthouse
Market and Second Streets
Clearfield, PA 16830

(814) 765-2641, ext. 5982

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

AMER S. KHOURI, an *
individual, *
Plaintiff, *
*
v. * No. - - - CD
*
*
*
Clearfield Hospital, a *
nonprofit corporation, *
Defendant. *

COMPLAINT

NOW COMES the Plaintiff, Amer S. Khouri, and by his attorney, James A. Naddeo, Esquire, sets forth the following:

1. That the Plaintiff, Amer S. Khouri, is an adult individual who resides at 108 Elizabeth Street, Clearfield, Pennsylvania, 16830.

2. That the Defendant, Clearfield Hospital, is a nonprofit corporation and has a principal place of business at 809 Turnpike Avenue, Clearfield, Pennsylvania 16830.

3. That Plaintiff at the times herein mentioned and since his birth, has been a person of good name, credit and reputation, having a credible and good business and professional reputation as a physician and a law abiding citizen and was deservedly enjoying the esteem and good opinion of diverse persons.

4. That on or about November 7, 2005, Plaintiff and Defendant entered into a Physician Employment Agreement

(hereinafter "Agreement"). A true and correct copy of said Agreement is attached hereto as Exhibit "A."

5. That pursuant to the Agreement Plaintiff provided services as a physician at the Clearfield Hospital as agreed from January 1, 2006 through January 31, 2007.

6. That on or about February 1, 2007, Clearfield Hospital terminated its contract with Plaintiff, and thereby terminated Plaintiff's employment. A true and correct copy of said termination letter is attached hereto as Exhibit "B."

7. That the termination by Defendant was effective immediately and came to Plaintiff without any prior notification thereof.

COUNT I - BREACH OF CONTRACT - FAILURE TO
GIVE 90-DAYS NOTICE OR PAYMENT IN LIEU THEREOF

8. Plaintiff incorporates by reference Paragraphs one through seven above as if set forth in full herein.

9. That the Agreement between Plaintiff and Defendant provides at Section 14(b) certain circumstances where the Plaintiff might be terminated immediately and without notice.

10. That the circumstances to be met in Section 14(b) of the Agreement to allow for an immediate termination more specifically are that a formal criminal indictment or charge of certain named charges must have been brought against the

physicain and/or that the physician's participation in Federal Health Programs have been terminated or precluded.

11. That at the time the Hospital terminated Plaintiff without notice, no criminal charge or indictment had been brought against the Plaintiff and Plaintiff's participation in Federal Health Programs had not be terminated or precluded.

12. That Defendant had no cause to terminate Plaintiff immediately and without notice.

13. That pursuant to Section 14(a) of the Agreement, the Agreement could be terminated by either party for any reason, so long as ninety days written notice (or payment in lieu thereof by the Hospital) was given to the other party.

14. That Defendant failed to give Plaintiff ninety days written notice and by its own admission terminated Plaintiff on February 1, 2007, "effective immediately" and that Defendant failed to give payment in lieu of the ninety days written notice requirement. See Exhibit B.

15. That said immediate termination by Defendant where the provisions in the contract were not met to allow for such and its failure to make payment in lieu of the agreed upon ninety day notice constitutes a breach of contract by the Defendant.

16. That Plaintiff expected to be given ninety days written notice prior to being terminated when an immediate

termination had not been agreed to under the terms of the contract or Plaintiff expected to be given pay in lieu of notice as provided for in Section 14(a) of the Agreement.

17. That as a result of Defendant's failure to give ninety days written notice or payment in lieu thereof, Plaintiff was denied and refused his employment and his salary (or pay) during said ninety days.

18. That Defendant is liable to Plaintiff for payment of the prorated value of 90-days of his annual salary (i.e. \$440,000.00) plus \$1500.00 per month (or per 30 days). See Section 6(a) of the Agreement.

WHEREFORE, Plaintiff, Amer S. Khouri, demands judgement against Defendant and in his favor in the amount of \$114,500.00 (One hundred fourteen thousand) dollars with costs and interest thereon.

COUNT II - BREACH OF CONTRACT (BONUS)

19. Plaintiff incorporates by reference Paragraphs one through eighteen above as if set forth in full herein.

20. That pursuant to Section 6(b) which details the bonus arrangement between Plaintiff and Defendant, Plaintiff was due a bonus of \$175,000.00 "each year that the number of visits exceeds certain average monthly thresholds." See Exhibit A.

21. That Plaintiff met the required average monthly thresholds as agreed upon and was due a bonus of \$175,000.00 for the 2006 calendar year.

22. That Defendant failed to pay to Plaintiff \$175,000.00 as agreed upon and instead paid to Plaintiff \$125,000.00.

23. That pursuant to Section 6(a) of the Agreement Defendant is liable to Plaintiff for the difference between what Plaintiff is owed (\$175,000.00) and what Plaintiff was paid (\$125,000.00); in particular Defendant owes Plaintiff the sum of \$50,000.00.

24. That Defendant fails and refuses to pay Plaintiff the amount due as described in paragraph 23.

WHEREFORE, Plaintiff, Amer S. Khouri, demands judgement against Defendant and in his favor in the amount of \$50,000.00 (Fifty thousand) dollars with costs and interest thereon.

COUNT III - DEFAMATION/EQUITABLE RELIEF

25. Plaintiff incorporates by reference Paragraphs one through twenty-four above as if set forth in full herein.

26. That on or about February 13, 2007, Clearfield Hospital, by and through its employee, Jerrie A. Fida, did make an adverse report to the National Practitioner Data Bank in writing. A true and correct copy of said Adverse Action Report is attached hereto as Exhibit "C."

27. That the following statements were made by the Defendant in the adverse report as described in paragraph twenty-seven, "Dr. Khouri was employed by Clearfield Hospital. His employment was terminated because, in the opinion of the hospital, he mishandled pain medications that came into his possession or that were returned to him by patients at his direction and failed to discontinue this practice after he was advised verbally and in writing that it would not be tolerated. Pursuant to his employment contract, his medical staff appointment and clinical privileges at the hospital automatically terminated as a result of the termination of his employment." See Exhibit C, Page 2, "Reasons for Action Taken."

28. That the accusation of mishandling pain medication could constitute criminal conduct and by making said statement Defendant did impart to Plaintiff that he was acting in a criminal and loathsome manner.

29. That the statements made by the Defendant about the Plaintiff as described in paragraph twenty-seven were published to the National Practitioner Data Bank maintained by United States Department of Health and Human Services and other entities.

30. That the National Practitioner Data Bank is openly accessible by the public, in particular entities which register therewith for query and review.

31. That all entities and professionals which might employ or seek to employ the Plaintiff are eligible to register with the National Practitioner Data Bank and query and review the information published by Defendant about the Plaintiff.

32. That the statements made by Defendant about the Plaintiff as described in paragraph twenty-seven intended to and did convey to the readers thereof, either directly or by implication, that plaintiff was engaged in the misuse and mishandling of pain medication which implied criminal activity, loathsome conduct and serious shortcomings in Plaintiff's business activity and blackened his professional character and business reputation as a whole.

33. That the statements made by the Defendant about the Plaintiff as described in paragraph twenty-seven are wholly false.

34. That at the time of the publication of the report, the Defendant knew or should have known that its statements contained therein were untrue and Defendant published them either intentionally and maliciously, or with reckless disregard for their truth or falsity, or negligently or carelessly.

35. As a result of the Defendant's action, Plaintiff is unable to obtain gainful employment as those who would employ Plaintiff utilize the National Practitioner Data Bank to research prospective employees.

36. That Plaintiff has no adequate remedy at law.
37. That in order to make Plaintiff whole the Defendant must be ordered to rescind and retract its adverse report regarding the Plaintiff.
38. That this order will require little to no supervision or intervention by the Court and is easily enforced.

WHEREFORE, Plaintiff, Amer S. Khouri, demands judgment against Defendant and respectfully requests this Court to issue an Order directing Defendant, Clearfield Hospital to rescind and retract the adverse report it made to National Practitioner Data Bank regarding Plaintiff.

COUNT IV - DEFAMATION/DAMAGES

39. Plaintiff incorporates by reference paragraphs one through thirty-eight above as if set forth in full herein.
40. That as a result of Defendant's libel, the Plaintiff has been and is greatly injured in his good name, professional and business reputation, credit and character all of which has been to his great financial loss and damage.
41. As a result of the Defendant's action, Plaintiff is unable to obtain gainful employment as those who would employ Plaintiff utilize the National Practitioner Data Bank to research prospective employees.
42. As a result of the Defendant's libel, many persons who, before and at the time of the Defendant's libel, had been

used and accustomed to dealing with the Plaintiff in his business and professional capacity as an oncologist and physician and who otherwise would have continued so to deal with the Plaintiff, have, since the time of the Defendant's libel, wholly neglected and refused to continue to do business with the Plaintiff, to the latter's great special financial loss and damage.

WHEREFORE, Plaintiff, Amer S. Khouri, demands judgement against Defendant and in his favor in an amount in excess of \$25,000.00 (Twenty-five thousand) dollars with costs and interest thereon.

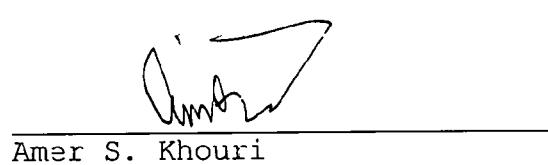
NADDEO & LEWIS, LLC

By


James A. Naddeo
Attorney for Plaintiff

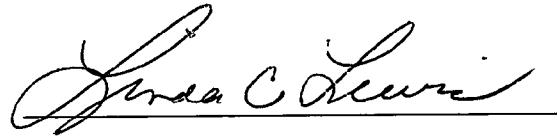
COMMONWEALTH OF PENNSYLVANIA)
ss.
COUNTY OF CLEARFIELD)

Before me, the undersigned officer, personally appeared AMER S. KHOURI, who being duly sworn according to law, deposes and states that the facts set forth in the foregoing Complaint are true and correct to the best of his knowledge, information and belief.



Amer S. Khouri

SWORN and SUBSCRIBED before me this 6th day of August, 2007.



COMMONWEALTH OF PENNSYLVANIA

Notarial Seal
Linda C. Lewis, Notary Public
Clearfield Borough, Clearfield County
My Commission Expires July 25, 2011

PHYSICIAN EMPLOYMENT AGREEMENT

BY AND BETWEEN

CLEARFIELD HOSPITAL, a nonprofit corporation (hereinafter called "the Hospital" or "Employer"),

A N D

AMER S. KHOURI, MD, currently residing at 108 Elizabeth Street, Clearfield, Pennsylvania 16830 (hereinafter called "the Physician" or "Employee").

WITNESSETH:

WHEREAS, the Hospital is organized for the purpose of providing health care services; and

WHEREAS, the Physician is a licensed physician capable of providing the services required by this Agreement;

NOW THEREFORE, in consideration of the mutual covenants herein contained and intending to be legally bound hereby, the parties hereto agree as follows:

Section 1. Employment

Hospital hereby employs the Physician for the full-time practice of Oncology-Hematology in Clearfield, Pennsylvania, and the Physician hereby accepts such employment upon the terms and conditions set forth below. The Physician represents that he is not a party to any agreement, written or oral, that would impair or prevent his performance pursuant to this Agreement.

Section 2. Term

- (a) The Physician's employment, pursuant to this Agreement, shall commence on January 1, 2006, and shall continue for a period of three (3) years, until December 31, 2008, unless terminated sooner as provided herein. The terms of this

Exhibit "A"

Agreement will only be open to renegotiation by both parties no later than 90 days prior to the end of the then current term.

Section 3. Provision of Services by Physician

- (a) The Physician is hereby employed by the Hospital to provide medical services (Oncology-Hematology) to patients who present themselves at the facility for such services and to such other patients who may be assigned to him by the Hospital.
- (b) The Physician's employment by the Hospital shall be full-time and exclusive and so long as the Physician is employed by the Hospital, the Physician will devote all of his business time and attention and his best efforts, skill and ability to his position with the Hospital
- (c) The Physician shall perform such other duties and responsibilities as may be assigned to him from time to time by the President of the hospital or the President's designee.
- (d) Full-time employment shall consist of the Physician maintaining patient office hours for at least thirty six (36) hours each week. The Physician shall also spend such additional time as necessary to attend to hospital patients, perform administrative duties hereunder, and fulfill medical staff obligations required as a result of the Physician's appointment to the Active Medical Staff of Clearfield Hospital.
- (e) The Physician shall function as the Medical Director of the Hospice Program of Clearfield Hospital. The Medical Director is responsible for the overall medical component of the Hospice patient's plan of care. The Employee will act as the medical resource to team members and service area physicians concerning pain control and symptom management; will assist in the development and evaluation of patient plan of care; and will co-certify patient's terminal condition. The Physician must complete a monthly time-study documenting at least twelve (12) hours per month to these duties. (See attached Chief of Service Time Log)

- (f) The Physician shall make himself available for call ten days during any given month.
- (g) In all matters related to the discharge responsibilities under the term of this Agreement, the Physician shall be responsible to the President of the Hospital or the President's designee.

Section 4. Facilities and Personnel

The Hospital shall furnish the Physician with office space, equipment and personnel as the Hospital deems to be reasonably necessary for the performance of the Physician's duties hereunder. Billing for professional services rendered by the Physician for services defined in this Agreement shall be the responsibility of the Hospital.

Section 5. Professional Liability Insurance

The Hospital will provide professional liability insurance with tail coverage for the Physician in such minimum amounts as may be required by law or in such higher amounts as may be deemed necessary or desirable by the Hospital.

Section 6. Compensation will be replaced in its entirety as follows:

- (a.) Effective January 1, 2006, for all services rendered by the Physician as an Employee of the Hospital, the Hospital as the Employer shall pay the Physician a salary of Four Hundred Thirty Thousand Dollars (\$430,000.) per annum, in accordance with general payroll policies of the Hospital. Effective January 1, 2007, the Physician shall receive an annual salary of Four Hundred Forty Thousand Dollars, (\$440,000.), and effective January 1, 2008, the Physician shall receive an annual salary of Four Hundred Fifty Thousand Dollars, (\$450,000.). Additionally the Physician Shall receive an amount of \$1,500 per month for duties performed as the Medical Director of the Hospice Program.
- (b.) Bonus: The Hospital will pay to the Physician a bonus of up to One Hundred Seventy Five Thousand Dollars (\$175,000) each year that the number of visits exceeds certain average monthly thresholds. The bonus will be paid within 30 days of the end of the contract year. A detailed listing of monthly visits will be provided to the Physician.

The breakdown of visit thresholds and the amount of the bonus related to each category is as follows:

- i. If the average number of visits per month were between 200-249, the bonus paid to the Physician would be \$31,250.
- ii. If the average number of visits per month were between 250-299, the bonus paid to the Physician would be \$62,500.
- iii. If the average number of visits per month were between 300-374, the bonus paid to the Physician would be \$93,750.
- iv. If the average number of visits per month were between 375-424, the bonus paid to the Physician would be \$125,000.
- v. If the average number of visits per month were between 425-474, the bonus paid to the Physician would be \$150,000.
- vi. If the average number of visits per months exceeds 475, the bonus paid to the Physician would be \$175,000.

Section 7. Benefits

The Physician shall be entitled to employee benefits as outlined in Attachment A to this Agreement. Benefits and Employee's cost of benefits will be explained by the Human Resources Department.

Section 8. Third-Party Reimbursement Programs and Assignment Agreements

- (a) The Physician shall assign to the Hospital or its designees all rights they may now or hereafter possess to receive income, payment and/or reimbursement for any and all professional medical services rendered by him to patients at the Hospital while this Agreement is in effect.
- (b) The Physician shall execute such documents as may be necessary, desirable or requested by the Hospital (1) to effectuate said assignment with respect to public and private third-party reimbursement programs, and (2) to become a participating provider in third-party reimbursement programs. As used in this Agreement, the term "third-party reimbursement program" shall include, but not

be limited to, Pennsylvania Blue Shield, the federal Medicare program, the Pennsylvania Medical Assistance program and such other health maintenance organizations, preferred provider organizations, or private health insurance programs as the Hospital shall direct. The Physician may not terminate his participation in any third-party reimbursement program or change or terminate any assignment of benefits or payments from such programs to the Hospital without the express written consent of the Hospital.

- (c) The Physician may not become a participating provider in any third-party reimbursement program (other than the ones specifically referred to above) or individual practice association, physician hospital organization or any other provider network or organization without the express written consent of the Hospital.
- (d) Under no circumstances shall the Physician bill any patient or any public or private third-party reimbursement program for any services for which the Physician has been compensated pursuant to this Agreement. Any violation of any provision of this Section by the Physician shall permit the Hospital, at its option, to terminate this Agreement immediately.

Section 9. Medical Records

Every practitioner on the Medical Staff of Clearfield Hospital is responsible for completion of all of his/her medical record documentation prior to leaving the Medical Staff with exclusion of an emergency situation. Failure to do so is considered a direct violation of the Medical Staff Bylaws of Clearfield Hospital, which is reportable to the National Data Bank.

Section 10. Information and Records

The Physician shall not disclose information relating to the operations of the Hospital or its affiliates to persons other than the board or management of the Hospital or such governmental or private accreditation or licensing bodies or third-party reimbursement programs with whom the Hospital has directed or authorized the Physician to deal, unless the Hospital shall have given written consent for the release of information. The above shall be

deemed to include patients' records and all other information kept in the normal operation of the Hospital. Patient and other records connected with services provided by the Physician at the facility pursuant to this Agreement are and shall remain the property of the Hospital.

Section 11. Medical Staff Appointment and Clinical Privileges

- (a) The Physician shall maintain medical staff appointment and clinical privileges at Clearfield Hospital commensurate with the services that shall be performed pursuant to this Agreement. Application for the same shall be processed pursuant to the applicable bylaws and policies of the Hospital and its medical staff.
- (b) Said medical staff appointment and clinical privileges shall be incident to and coterminous with this Agreement and, upon the termination of this Agreement prior to its expiration date, shall automatically terminate, unless this provision is waived in writing by the Hospital. Similarly, upon the termination for any reason of said medical staff appointment and clinical privileges, this Agreement and the Physician's employment hereunder shall terminate immediately. Any rights that the Physician may have to any hearing or appeal procedures prior to termination of medical staff appointment or clinical privileges, pursuant to the bylaws or policies of the Hospital or its medical staff, the Health Care Quality Improvement Act of 1986, or any other state or federal statute, regulation or judicial decision are hereby waived with respect to any suspension or termination of medical staff appointment or clinical privileges at the Hospital resulting from the termination of this Agreement or suspension of contractual duties pursuant to this Agreement.
- (c) In the event of any conflict between the terms of this Agreement and the medical staff bylaws or policies of the Hospital, this Agreement shall be controlling.
- (d) The Physician may be appointed to the medical staff of other hospitals only with the express written consent of the Hospital.

Section 12. Assignment

This Agreement and the Physician's rights and obligations hereunder may not be assigned by the Physician without the express written consent of the Hospital.

Section 13. Modification

This Agreement may not be orally canceled, changed, modified or amended, and no cancellation, change, modification or amendment shall be effective or binding, unless it is in writing and signed by both parties to this Agreement.

Section 14. Termination

- (a) Notwithstanding any of the provisions of this Agreement, the Hospital or Physician may terminate this Agreement at any time for any reason upon ninety (90) days written notice. The Hospital may, in its sole discretion, elect to give the Physician pay in lieu of notice.
- (b) The Hospital may also terminate the Physician's employment immediately in the event the Physician has been formally indicted or charged with any criminal violation involving violent crimes or any crimes relating to the practice of medicine, including, but not limited to, Medicare or Medicaid fraud or abuse or controlled substance violations. The Hospital may also terminate this Agreement immediately if the Physician's participation in the Medicare, Medicaid or any other Federal Health Program is terminated or if the Physician is otherwise precluded or excluded from participation in either of those programs. In such cases, the Hospital, in its sole discretion may elect in the alternative to indefinitely suspend the Physician from his contractual duties, without pay (which shall also result in suspension of the Physician's clinical privileges at the Hospital), pending resolution of the charges satisfactory to the Hospital.

Section 15. Non-Competition

Notwithstanding any other provision of this contract, for a period of one year after the expiration or termination of this Agreement the Physician shall not enter into a contract with or otherwise provide services to any health maintenance organization, preferred provider

organization, physician-hospital organization, hospital, health system, group medical practice, independent practice association, integrated delivery system, managed care organization or any other person, whereby the Physician will provide primary care services to individuals within a 35-mile radius of Clearfield, Pennsylvania, unless the Hospital has consented in writing to that contract, which consent may be withheld or granted by the Hospital within its complete discretion. The foregoing provision shall not prohibit the Physician from practicing medicine in Clearfield County as a sole practitioner so long as the foregoing provisions are complied with by the Physician. The Hospital may enforce this provision by seeking injunctive relief, the parties acknowledging that the Hospital would have no adequate remedy at law for a breach of this Agreement by the Physician. Furthermore, the fact that the Physician has alleged that the Hospital is in violation or breach of this Agreement will not prevent the Hospital from enforcing this Agreement and shall not be asserted by the Physician as a defense against any such enforcement action by the Hospital.

Section 16. Strict Performance

No failure by either party to insist upon the strict performance of any covenant, agreement, term or condition of this Agreement or to exercise a right or remedy shall constitute a waiver. No waiver of any breach shall affect or alter this Agreement, but each and every covenant, condition, agreement and term of this Agreement shall continue in full force and effect with respect to any other existing or subsequent breach.

Section 17. Entire Agreement

This Agreement represents the entire Agreement between the Hospital and the Physician with respect to the subject matter hereof, and all prior agreements relating to the employment of the Physician, written or oral, are nullified and superseded hereby and neither party shall have any further rights or obligations under such superseded agreements. Each party releases the other from all claims of any kind or nature arising from such superseded agreements. No change or addition to, or deletion of, any portion of this Agreement shall be valid or binding upon the parties hereto unless the same is approved in writing by the parties.

Section 18. Invalidity or Unenforceability of Particular Provisions

The invalidity or unenforceability of any particular provision of this Agreement shall not affect the other provisions hereof, and this Agreement shall be construed in all respects as if such invalid or unenforceable provisions were omitted.

Section 19. Governing Law

This Agreement shall be construed and enforced under, and in accordance with, the laws of the Commonwealth of Pennsylvania. Venue for jurisdiction of disputes shall be in Clearfield County, Pennsylvania.

Section 20. No Third-Party Rights

Nothing in this Agreement shall be construed as creating or giving rise to any rights in any third parties or any persons other than the parties hereto, with the exception of the Hospital.

Section 21. Construction of Headings

The captions or headings are for convenience only and are not intended to limit or define the scope or effect of any provision of this Agreement.

Section 22. Compliance Programs

The Physician shall fully cooperate with any corporate compliance program now or hereafter instituted by the Hospital.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and
year first written above.

CLEARFIELD HOSPITAL

BY: Robert B. Murray, III

Robert B. Murray, III
President and CEO

WITNESS: John McCormick

DATE: 11/7/05

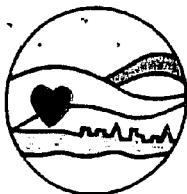
PHYSICIAN

BY: Amer S. Khouri

Amer S. Khouri, MD

WITNESS: Bilal Borkat

DATE: 11/7/05



Clearfield Hospital

H A N D D E L I V E R

February 1, 2007

Amer S. Khouri, MD
815 Doctors Drive
Clearfield, PA 16830

Dear Dr. Khouri:

This letter is to inform you that effective immediately, Clearfield Hospital is terminating its contract with you dated January 1, 2006, and your employment thereunder.

The reasons for termination are: 1) mishandling of pain medications that were inappropriately returned to you by patients at your direction or request / or otherwise came into your possession; 2) failing to discontinue, and engaging in this practice after you were told that it would not be tolerated / for failing to follow the instruction that any medications that might come into your possession were to be turned into the pharmacy to be logged in for destruction; and 3) maintaining inaccurate clinical records.

In addition, in accordance with Section 11(b) of your contract, your medical staff appointment and clinical privileges at Clearfield Hospital, which are incident to and conterminous with your employment contract, are automatically terminated, effective immediately.

Sincerely,


Robert B. Murray, III
President & CEO

<http://www.npdb-hipdb.hrsa.gov>

E. REPORT STATUS

Unless one or more boxes below are checked, the subject of this report identified in Section B has not contested this report.

- If box is checked, this report has been disputed by the subject identified in Section B.
- If box is checked, at the request of the subject identified in Section B, this report is being reviewed by the Secretary of the U.S. Department of Health and Human Services to determine its accuracy and/or whether it complies with reporting requirements. No decision has been reached.
- If box is checked, at the request of the subject identified in Section B, this report was reviewed by the Secretary of the U.S. Department of Health and Human Services. The Secretary's decision is shown below:

Date of Original Submission: 02/13/2007

Date of Most Recent Change: 02/13/2007

END OF REPORT

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

AMER S. KHOURI, an
individual,

Plaintiff,

v.

Clearfield Hospital, a
nonprofit corporation,
Defendant.

* No. 07 - 1420 - CD

* Type of Pleading:

* **PRAECIPE TO REINSTATE**

* Filed on behalf of:

* Plaintiff

* Counsel of Record for
this party:

* James A. Naddeo, Esq.

* Pa I.D. 06820

*

* Trudy G. Lumadue, Esq.

* Pa I.D. 202049

* NADDEO & LEWIS, LLC.

* 207 E. Market Street

* P.O. Box 552

* Clearfield, PA 16830

* (814) 765-1601

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FILED

~~OCT 03 2007~~

FILED pd \$7.00 A/H
0/3:57 cm Re: State
OCT 03 2007 Complaint
to A/H Naddeo

William A. Shaw
Prothonotary/Clerk of Courts

William A. Shaw
Prothonotary/Clerk of Courts

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

AMER S. KHOURI, an *
Individual, *
Plaintiff, *
*
vs. * No. 07 - 1420 - CD
*
Clearfield Hospital, a *
Nonprofit corporation *
Defendant. *

PRAECIPE TO REINSTATE

TO THE PROTHONOTARY OF CLEARFIELD COUNTY:.

Please reinstate the Complaint filed in the above-
captioned case.



James A. Naddeo

James A. Naddeo, Esquire
Attorney for Plaintiff

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA

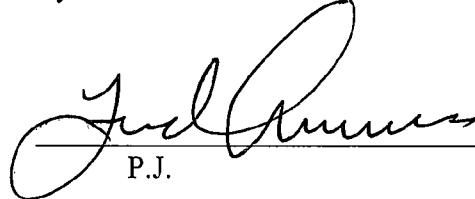
CIVIL ACTION - LAW

AMER S. KHOURI, :
an individual : No. 2007-1420-CD
Plaintiff, :
: v.
: :
CLEARFIELD HOSPITAL, :
a nonprofit corporation :
Defendant. :
:

SCEDULING ORDER

AND NOW, this 25 day of October, 2007, it is the ORDER of this Court that an argument on the Preliminary Objections filed by the Defendant is scheduled for the 5th day of December, 2007, at 9:30 A.m. in Courtroom No. 1, at the Clearfield County Courthouse, Clearfield, PA 16830.

By the Court:



P.J.

FILED 3CC
012-20207 Atty Yeager
OCT 26 2007
6K
William A. Shaw
Prothonotary/Clerk of Courts

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

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

CIVIL ACTION - LAW

AMER S. KHOURI,
an individual
Plaintiff,
v.
CLEARFIELD HOSPITAL,
a nonprofit corporation
Defendant.

File No. 2007-1420-CD
Type of Pleading:
Preliminary Objections
Filed on Behalf of: Defendant
Counsel of Record for this Party:
Michael P. Yeager, Esquire
Pa. Bar I.D. #: 15587
P.O. Box 752
110 North Second Street
Clearfield, PA 16830
Phone: 814-765-9611
Fax: 814-765-9503
Daniel M. Mulholland III, Esquire
Pa. Bar I.D. #: 28806
Lauren M. Massucci, Esquire
Pa. Bar I.D. #: 67566
HORTY, SPRINGER & MATTERN, P.C.
4614 Fifth Avenue
Pittsburgh, PA 15213
Phone: 412-687-7677
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FILED 3CC
04/3/07 BY
OCT 24 2007
Atty Yeager
(G)

William A. Shaw
Prothonotary/Clerk of Courts

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

CIVIL ACTION - LAW

AMER S. KHOURI, an individual	:	
Plaintiff,	:	No. 2007-1420-CD
v.	:	
CLEARFIELD HOSPITAL, a nonprofit corporation	:	
Defendant.	:	

PRELIMINARY OBJECTIONS

Defendant Clearfield Hospital, by the undersigned attorneys, preliminarily objects to Plaintiff's Complaint pursuant to Pa. R.C.P. 1028 and 1509. The Complaint is legally insufficient in that it fails to state a claim for which relief may be granted, for the following reasons, which shall be fully explained by Defendant at oral argument and, if requested by the Court, in a brief in support hereof.

A. Preliminary Objections to Counts III and IV:

1. Defendant is immune from liability for the National Practitioner Data Bank report filed with respect to the Plaintiff by virtue of 42 U.S.C. §11137(c).
2. Plaintiff has failed to allege a defamatory communication.
3. Plaintiff has failed to allege an abuse of a conditional privilege.

B. Preliminary Objections to Count III:

1. The Court lacks authority to require the Defendant to retract the National Practitioner Data Bank report filed with respect to the Plaintiff.

2. Plaintiff has an adequate remedy at law. Any harm resulting from said report is compensable by damages.

WHEREFORE, Defendant respectfully moves this Honorable Court to: (a) dismiss Counts III and IV of the Complaint, with prejudice; (b) award costs and attorney's fees to Defendant to the extent that the same may be permitted by law or the interests of justice; and (c) grant Defendant such other relief as may be appropriate.

Respectfully submitted,



October 24, 2007

Michael P. Yeager, Esquire
Pa. Bar I.D. #: 15587
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110 North Second Street
Clearfield, PA 16830
Phone: 814-765-9611
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Pittsburgh, PA 15213
Phone: 412-687-7677
Fax: 412-687-7692

CERTIFICATE OF SERVICE

The undersigned certifies that a copy of the foregoing document has been served on the attorney for the Plaintiff by hand delivery, addressed as follows:

James A. Naddeo, Esquire
Naddeo & Lewis, LLC
207 East Market Street
P.O. Box 552
Clearfield, PA 16830

October 24, 2007



Michael P. Yeager
Michael P. Yeager, Esquire

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

AMER S. KHOURI,
an individual
Plaintiff,
v.
CLEARFIELD HOSPITAL,
a nonprofit corporation
Defendant.

.: No. 2007-1420-CD
.: Type of Pleading:
.: **Motion for Rescheduling**
.: Filed on Behalf of Defendant
.: Counsel of Record for this Party:
.: Michael P. Yeager, Esquire
.: Pa. Bar. I.D.: #15587
.: P.O. Box 752
.: 110 North Second Street
.: Clearfield, PA 16830
.: Phone: 814-765-9611
.: Fax: 814-765-9503
.: Daniel M. Mulholland III, Esquire
.: Pa. Bar I.D.: #28806
.: Lauren M. Massucci, Esquire
.: Pa. Bar I.D.: #67566
.: HORTY, SPRINGER & MATTERN, P.C.
.: 4614 Fifth Avenue
.: Pittsburgh, PA 15213
.: Phone: 412-687-7677
.: Fax: 412-687-7692

Dated: November 1, 2007

FILED 4CC
NOV 3 2007 Atty
13:06:2007
2007
Yeager
William A. Shaw

William A. Shaw
Prothonotary/Clerk of Courts

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

AMER S. KHOURI, :
an individual :
Plaintiff, :
: No. 2007-1420-CD
v. :
CLEARFIELD HOSPITAL, :
a nonprofit corporation :
Defendant. :

MOTION FOR RESCHEDULING

COMES NOW, the Defendant, Clearfield Hospital, by and through its attorney,
MICHAEL P. YEAGER, ESQUIRE, and files the within Motion for Rescheduling
whereof the following is a statement:

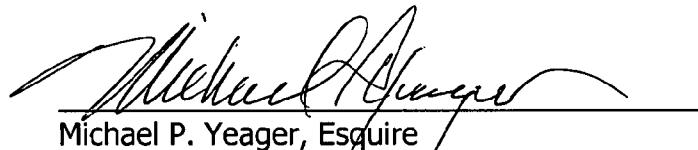
1. The date and time for the argument on the Preliminary Objections is the
above-captioned matter is currently set for December 5, 2007 at 9:30 A.M. in
Courtroom No. 1 of the Clearfield County Courthouse, Clearfield, PA 16830.
2. Defendant requests a rescheduling of that date for argument due to the
unavailability of counsel for the Defendant.

WHEREFORE, Defendant requests the Court to reschedule the date for

argument.

Respectfully submitted,

November 1, 2007



Michael P. Yeager, Esquire
Pa. Bar I.D. #: 15587
P.O. Box 752
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Phone: 814-765-9611
Fax: 814-765-9503

Daniel M. Mulholland III, Esquire
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FILED

NOV 01 2007

William A. Shaw
Prothonotary/Clerk of Courts

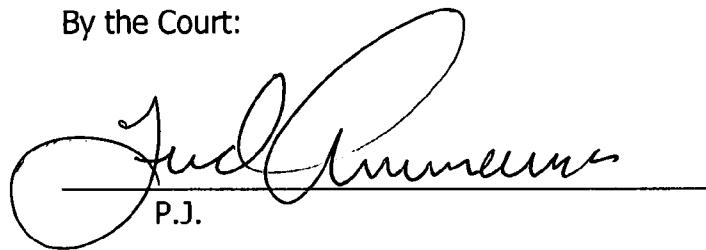
IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION - LAW

AMER S. KHOURI, :
an individual :
Plaintiff, :
No. 2007-1420-CD
v. :
CLEARFIELD HOSPITAL, :
a nonprofit corporation :
Defendant. :
:

RESCHEDULING ORDER

AND NOW, this 5th day of November, 2007, it is the ORDER of this Court that
an argument on the Preliminary Objections filed by the Defendant is rescheduled for the
21st day of December, 2007, at 9:00 A.M. in Courtroom No. 1, at
the Clearfield County Courthouse, Clearfield, PA 16830.

By the Court:



P.J.

FILED ^{4CC}
9/4/2007 Atty Yeager
NOV 05 2007
(GK)

William A. Shaw
Prothonotary/Clerk of Courts

FILED

NOV 05 2007

William A. Shaw
Prothonotary/Clerk of Courts

DATE: 11/5/07

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

AMER S. KHOURI

:

VS

: NO. 07-1420-CD

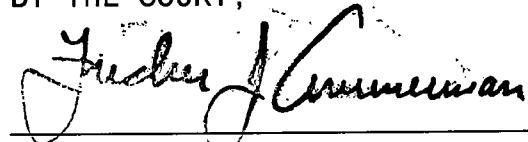
CLEARFIELD HOSPITAL

:

ORDER

NOW, this 21st day of December, 2007, following argument on the Defendant's Preliminary Objections, it is the Order of this Court that counsel for both parties have no more than twenty (20) days from this date in which to supply appropriate brief to the Court. The parties shall provide the Court with copies of any federal cases referenced in the briefs.

BY THE COURT,



President Judge

FILED

04:00 PM
DEC 21 2007

CC Atty's:
Naddo
Yeager
William A. Shaw
Prothonotary/Clerk of Courts

Mulholland & Massucci
(GK)

FILED

DEC 21 2007

William A. Shaw
Prothonotary/Clerk of Courts

DATE: 12/21/07

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

Service # 1 of 1 Services

Sheriff Docket # **103162**

AMER S. KHOURI

Case # 07-1420-CD

vs.

CLEARFIELD HOSPITAL

TYPE OF SERVICE COMPLAINT

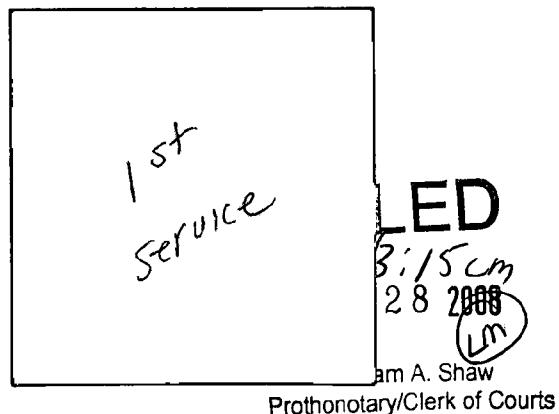
SHERIFF RETURNS

NOW January 28, 2008 RETURNED THE WITHIN COMPLAINT "NOT SERVED, TIME EXPIRED" AS TO CLEARFIELD HOSPITAL, DEFENDANT. DO NOT SERVE PER ATTORNEY

SERVED BY: /

Return Costs

PURPOSE	VENDOR	CHECK #	AMOUNT
SURCHARGE	NADDEO	664	10.00
SHERIFF HAWKINS	NADDEO	664	14.41

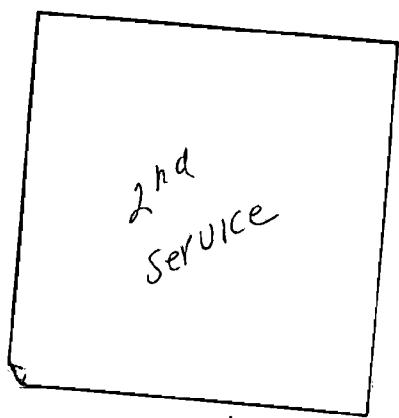


Sworn to Before me This

So Answers,

____ Day of _____ 2008

*Chester A. Hawkins
by Marilyn Harris*
Chester A. Hawkins
Sheriff



IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET # 103270
NO: 07-1420-CD
SERVICE # 1 OF 1
COMPLAINT

PLAINTIFF: AMER S. KHOURI, an individual
vs.
DEFENDANT: CLEARFIELD HOSPITAL, A nonprofit corporation

SHERIFF RETURN

NOW, October 08, 2007 AT 10:47 AM SERVED THE WITHIN COMPLAINT ON CLEARFIELD HOSPITAL, A Nonprofit Corporation DEFENDANT AT 809 TURNPIKE AVE., CLEARFIELD, CLEARFIELD COUNTY, PENNSYLVANIA, BY HANDING TO JON SHEEN, ATTORNEY FOR DEFENDANT A TRUE AND ATTESTED COPY OF THE ORIGINAL COMPLAINT AND MADE KNOWN THE CONTENTS THEREOF.

SERVED BY: HUNTER / DEHAVEN

PURPOSE	VENDOR	CHECK #	AMOUNT
SURCHARGE	NADDEO	765	10.00
SHERIFF HAWKINS	NADDEO	765	11.41

FILED
O/3:15 cm
JAN 28 2008
CLERK

William A. Shaw
Prothonotary/Clerk of Courts

So Answers,

Chester A. Hawkins
by *Marilyn Harris*
Chester A. Hawkins
Sheriff

Sworn to Before Me This

____ Day of _____ 2008

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

AMER S. KHOURI M.D., an adult

Plaintiff

v.

No. 2007-1420-CD

CLEARFIELD HOSPITAL,
a nonprofit corporation

Defendant

OPINION AND ORDER

Amer S. Khouri (hereafter Plaintiff) is a physician and on November 7, 2005, Plaintiff and Defendant entered into a Physician Employment Agreement (hereafter Agreement). On February 1, 2007, Defendant terminated its contract with Plaintiff, thereby terminating Plaintiff's employment. On or about February 13, 2007, Defendant made a report to the National Practitioner Data Bank (hereafter Data Bank) maintained by the United States Department of Health and Human Services pursuant to the Health Care Quality Improvement Act (hereafter HCQIA). That report stated in pertinent part:

Dr. Khouri was employed by Clearfield Hospital. His employment was terminated because, in the opinion of the hospital, he mishandled pain medications that came into his possession or that were returned to him by patients at his direction and failed to discontinue this practice after he was advised verbally and in writing that it would not be tolerated. Pursuant to his employment contract, his medical staff appointment and clinical privileges at the hospital automatically terminated as a result of the termination of his employment.

Exhibit C, Page 2, "Reasons for Action Taken."

The Plaintiff filed a Complaint with this Court on September 4, 2007 raising four Counts; the first two alleging breach of contract and the last two alleging defamation. On October 24, 2007, the Defendant raised Preliminary Objections to Counts III and IV that this Court addresses in the following Opinion.

FILED 2cc Atlys: Madden
1/2/2008
FEB 21 2008
Yeager
Mulholland & Massucci

William A. Shaw
Prothonotary/Clerk of Courts

CC: Law Library
D. Mikesell
(without memo)

2006). The rationale for this interpretation is that the “statutory privilege would be meaningless if it meant that one who accurately reported the stated reasons for a health care provider’s action would nonetheless have to defend the underlying validity of the stated reasons.” *Odom*, 999 P.2d 123, 130-1. Here, the report made to the Data Bank used the exact same language used in the letter of termination sent to the Plaintiff. Therefore, the immunity provided under 42 U.S.C. §11137(c) applies in the present case and Counts III and IV of the Complaint should be dismissed.

Further, PRIA provides in pertinent part:

- (a) Notwithstanding any other provision of law, no person providing information to any review organization shall be held, by reason of having provided such information, to have violated any criminal law, or to be civilly liable under any law, unless:
 - (1) such information is unrelated to the performance of the duties and functions of such review organization, or
 - (2) such information is false and the person providing such information knew, or had reason to believe, that such information was false.

63 Pa.C.S. § 425.3

Unlike the HCQIA, the Pennsylvania Supreme Court has analyzed the Pennsylvania statute. In *Cooper v. Delaware Valley Medical Center* the Supreme Court considered a case similar to the one under discussion and stated:

The legislature’s clear purpose in enacting the Peer Review Act was to protect peer review participants not just from liability but also from becoming involved in litigation at all. This purpose would be defeated if mere bald allegations or speculations about malicious intent were sufficient to pierce the immunity of The Act. A party seeking to circumvent the bar of The Act must set out his cause with specificity.

Cooper v. Delaware Valley Medical Center, 654 A.2d 547, 554 (Pa.1995).

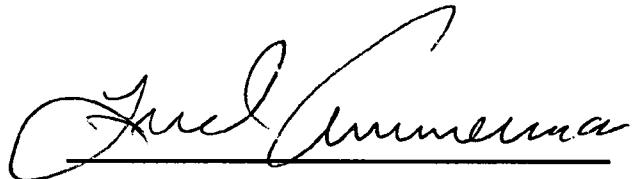
Here, the Plaintiff does not lay out with any specificity what is inaccurate in the Defendant’s report to the Data Bank. The Plaintiff’s Complaint states simply that the “statements made by the Defendant about the Plaintiff...are wholly false.” Plaintiff’s Complaint ¶ 33. As in

Cooper, such vague allegations are insufficient as a matter of law to pierce the protection of immunity afforded under both HCQIA and PRIA. Therefore, because the Plaintiff's assertions are non-specific and not supported by any particulars, Counts III and IV must be dismissed as the Defendant is protected by the immunity provisions of 42 U.S.C. §11101 *et seq* and 63 Pa.C.S.A. §§ 425.1-425.4.

ORDER

NOW, this 21st day of February, 2008, upon consideration of the Preliminary Objections filed on behalf of Defendant Clearfield Hospital (hereafter Defendant) and following argument on December 5, 2007, this Court hereby **GRANTS** Defendant's Preliminary Objection with regard to Counts III and IV. Counts III and IV of the Plaintiff's Complaint are hereby dismissed.

BY THE COURT:



FREDRIC J. AMMERMAN
President Judge

FILED

FEB 21 2008

William A. Shaw
Prothonotary/Clerk of Courts

DATE: 2/21/08

You are responsible for serving all appropriate parties.

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

Plaintiff(s) Plaintiff(s) Attorney Other

Defendant(s) Defendant(s) Attorney Other

Special Instructions:

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL ACTION - LAW

AMER S. KHOURI, M.D.,
an individual, : No. 2007-1420-CD

Plaintiff, : Type of Pleading:
: **ANSWER, NEW MATTER
AND COUNTERCLAIMS**

v. : Filed on Behalf of: Defendant

CLEARFIELD HOSPITAL, : Counsel of Record for this Party:
a nonprofit corporation, :

Defendant. : Michael P. Yeager
: Pa. Bar I.D. #: 15587
: P.O. Box 752
: 110 North Second Street
: Clearfield, PA 16830
: Phone: 814-765-9611
: Fax: 814-765-9503

: Daniel M. Mulholland III
: Pa. Bar I.D. #: 28806

: Lauren M. Massucci
: Pa. Bar I.D. #: 67566

: HORTY, SPRINGER & MATTERN, P.C.
: 4614 Fifth Avenue
: Pittsburgh, PA 15213
: Phone: 412-687-7677
: Fax: 412-687-7692

FILED 2CC
03/05/07 Atty Yeager
MAR 11 2007
(m)

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL ACTION - LAW

AMER S. KHOURI, M.D.,
an individual,

No. 2007-1420-CD

Plaintiff,

v.

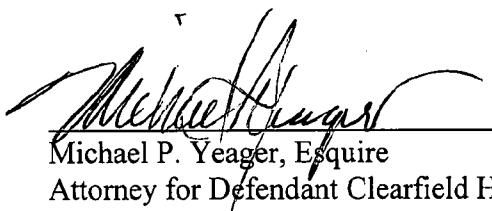
CLEARFIELD HOSPITAL,
a nonprofit corporation,

Defendant.

NOTICE TO PLEAD

TO THE PLAINTIFF:

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



Michael P. Yeager, Esquire
Attorney for Defendant Clearfield Hospital

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

CIVIL ACTION - LAW

AMER S. KHOURI, M.D.,
an individual, :
Plaintiff, : No. 2007-1420-CD
v. :
CLEARFIELD HOSPITAL,
a nonprofit corporation, :
Defendant. :

ANSWER, NEW MATTER AND COUNTERCLAIMS

And now comes Defendant Clearfield Hospital (the "Hospital"), through its attorneys, and hereby answers Counts I and II of the Plaintiff's Complaint and avers as follows:

1. The Hospital admits the averments in Paragraph 1 of the Complaint.
2. The Hospital admits the averments in Paragraph 2 of the Complaint.
3. The Hospital is without knowledge or information sufficient to determine the truth or falsity of the facts averred in Paragraph 3 of the Complaint. Strict proof of the same is demanded.
4. The Hospital admits the averments in Paragraph 4 of the Complaint.
5. The Hospital admits that pursuant to the Agreement, Dr. Khouri provided services as a physician at the Hospital from January 1, 2006 through January 31, 2007. Except as so

admitted, the averments contained in Paragraph 5 of the Complaint are denied. The Hospital avers that the services were not provided by Dr. Khouri and that Dr. Khouri breached his contractual obligations and his fiduciary obligations as an employee of the Hospital.

6. The Hospital admits the averments contained in Paragraph 6 of the Complaint.
7. The Hospital admits that it terminated Dr. Khouri's Agreement. Except as so admitted, the averments contained in Paragraph 7 of the Complaint are denied. The Hospital denies that Dr. Khouri's termination was without any prior notification. The Hospital avers that, as indicated in Exhibit B to the Complaint, prior to terminating Dr. Khouri's employment, the Hospital asked Dr. Khouri to discontinue mishandling pain medications that were returned to him by patients and to follow certain instructions, both of which he failed to do.

COUNT I

8. The Hospital incorporates Paragraphs 1-7 of this Answer as if fully restated herein.
9. The Hospital admits the averments contained in Paragraph 9 of the Complaint.
10. The Hospital denies the averments contained in Paragraph 10 of the Complaint. The Hospital avers that Section 14(b) of the Agreement, which speaks for itself, lists the circumstances that would lead to an immediate termination pursuant to Section 14(b) of the Agreement. Furthermore, the Hospital had the right to terminate the Agreement and Dr. Khouri's employment thereunder in the event that Dr. Khouri breached his contractual and/or fiduciary duties, which he did.
11. The Hospital denies the averments in Paragraph 11 of the Complaint that Dr. Khouri was not given any notice. The Hospital avers that prior to terminating Dr. Khouri's employment, it instructed Dr. Khouri to not take possession of patient pain medications,

to discontinue his mishandling of pain medications that were returned to him by patients or otherwise came into his possession and to follow certain instructions for handling any patient pain medications that might come into his possession, all of which he failed to do. The Hospital is without knowledge sufficient to determine the truth or falsity of whether at the time it terminated Dr. Khouri's employment, there was no criminal charge or indictment that had been brought against him and that Dr. Khouri's participation in the federal health programs had not been terminated or precluded. Strict proof of the same is demanded.

12. The averments in Paragraph 12 of the Complaint are conclusions of law to which no response is required. To the extent that any response is required, the Hospital denies the averments contained in Paragraph 12 of the Complaint. The Hospital avers that it had cause to terminate the Agreement and Dr. Khouri's employment thereunder.
13. The Hospital admits the averments in Paragraph 13 of the Complaint, and further avers that the Agreement speaks for itself.
14. The Hospital admits that it did not give Dr. Khouri 90 days' written notice of termination and did not pay him in lieu of giving such notice. Except as so admitted, the Hospital denies the averments in Paragraph 14 of the Complaint. The Hospital avers that it was not required to give Dr. Khouri 90 days' written notice or, in the alternative, pay him since Dr. Khouri had already breached his contractual and fiduciary obligations.
15. The averments in Paragraph 15 are conclusions of law to which no response is required. To the extent that any response is required, the Hospital denies the averments in Paragraph 15. The Hospital did not breach the Agreement since Dr. Khouri had already breached the Agreement and his fiduciary obligations.
16. The Hospital is without knowledge or information sufficient to determine the truth or falsity of the facts averred in Paragraph 16 regarding Dr. Khouri's expectations. Strict proof of the same is demanded.

17. The Hospital admits that it did not give Dr. Khouri 90 days' written notice and did not pay him for 90 days in lieu of giving such written notice. Except as so admitted, the Hospital denies the averments in Paragraph 17 of the Complaint. The Hospital was not required to give Dr. Khouri 90 days' written notice or, in the alternative, pay him since Dr. Khouri had already breached his contractual and fiduciary obligations. Furthermore, prior to terminating Dr. Khouri's Agreement, the Hospital instructed Dr. Khouri to not take possession of patient pain medications, to discontinue mishandling pain medications that were returned to him by patients or otherwise came into his possession and to follow certain instructions for handling any patient pain medications that might come into his possession, all of which he failed to do.
18. The averments in Paragraph 18 of the Complaint are conclusions of law to which no response is required. To the extent that any response is required, the Hospital denies the averments in Paragraph 18. On the contrary, the Hospital avers that it is not liable to Dr. Khouri for any payment since Dr. Khouri breached his contractual and fiduciary obligations.

COUNT II

19. The Hospital incorporates Paragraphs 1-18 of this Answer as if fully restated herein.
20. The Hospital admits the averments contained in Paragraph 20 of the Complaint.
21. The Hospital denies the averments contained in Paragraph 21 of the Complaint. On the contrary, the Hospital avers that Dr. Khouri did not meet all of the required thresholds set forth in Section 6(b) of the Agreement and therefore was only entitled to receive the \$125,000 that the Hospital paid to him. Furthermore, Dr. Khouri did not object to or raise any concerns regarding the \$125,000 bonus payment until the filing of his Complaint.

22. The Hospital admits that it paid Dr. Khouri \$125,000. Except as so admitted, the Hospital denies that it was required to pay Dr. Khouri \$175,000. The Hospital was not required to pay Dr. Khouri \$175,000 since he did not meet all of the thresholds set forth in Section 6(b) of the Agreement and since he had breached his contractual and fiduciary obligations.
23. The averments in Paragraph 23 of the Complaint are conclusions of law to which no response is required. To the extent that any response is required, the Hospital denies the averments in Paragraph 23. On the contrary, the Hospital denies that it owes Dr. Khouri \$50,000.
24. The Hospital denies the averments contained in Paragraph 24 of the Complaint. The Hospital paid Dr. Khouri the bonus amount that he was due pursuant to Section 6(b) of the Agreement, which was \$125,000.

NEW MATTER

AFFIRMATIVE DEFENSE – JUSTIFICATION

25. The Hospital incorporates Paragraphs 1-24 of its Answer as if fully restated herein.
26. Dr. Khouri engaged in unlawful and inappropriate conduct by mishandling pain medications that were inappropriately returned to him by patients at his direction or request, or otherwise came into his possession.
27. Dr. Khouri repeatedly failed to comply with the Hospital's requests and directives that he cease engaging in the conduct described in Paragraph 26 after being told that it would not be tolerated and further failed to follow the instructions that the Hospital gave him for handling patient medications that came into his possession, which instructions were given for the purpose of assuring compliance with applicable laws and regulations.

28. By engaging in the conduct described in Paragraphs 26 and 27, Dr. Khouri breached his contractual and fiduciary obligations. As a result, the Hospital was justified in terminating his Agreement and employment thereunder.

COUNTERCLAIMS

BREACH OF CONTRACT

29. The Hospital incorporates Paragraphs 1-28 of its Answer and New Matter as if fully restated herein.
30. By engaging in the conduct described in Paragraphs 26 and 27 herein, Dr. Khouri breached his contractual obligation to act in good faith pursuant to his Employment Agreement, as well as his specific obligation under Section 3(b) of the Agreement to devote his best efforts, skills and ability to his position, and his obligation under Section 22 of the Agreement to fully cooperate with the Hospital's corporate compliance program.
31. As a result and consequence of said breach, the Hospital suffered general damages which are the ordinary and usual and natural consequences of such breach, as well as damage to its business reputation, credit and character, which damages are in excess of \$25,000.

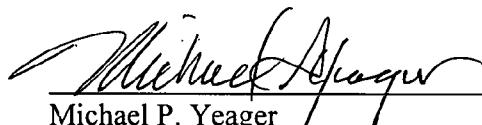
BREACH OF FIDUCIARY DUTY

32. The Hospital incorporates Paragraphs 1-31 of its Answer, New Matter and Counterclaims as if fully restated herein.
33. By engaging in the conduct described in Paragraphs 26 and 27 herein, Dr. Khouri breached the fiduciary duties that he owed to the Hospital as its employee.
34. As a result and consequence of said breach, the Hospital suffered general damages which are the ordinary and usual and natural consequences of such breach, as well as damage to its business reputation, credit and character, which damages are in excess of \$25,000.

WHEREFORE, the Hospital:

- (a) prays this Honorable Court to dismiss all claims against it, with prejudice;
- (b) demands judgment in its favor against Dr. Khouri under its Counterclaim for Breach of Contract in excess of \$25,000;
- (c) demands judgment in its favor against Dr. Khouri under its Counterclaim for breach of Fiduciary Duty in excess of \$25,000; and
- (d) prays that the Court award the Hospital all costs and such other relief as the Court deems just and equitable.

Respectfully submitted,



Michael P. Yeager
Pa. Bar I.D. #: 15587
P.O. Box 752
110 North Second Street
Clearfield, PA 16830
Phone: 814-765-9611
Fax: 814-765-9503

March __, 2008

Daniel M. Mulholland III
Pa. Bar I.D. #: 28806

Lauren M. Massucci
Pa. Bar I.D. #: 67566

HORTY, SPRINGER & MATTERN, P.C.
4614 Fifth Avenue
Pittsburgh, PA 15213
Phone: 412-687-7677
Fax: 412-687-7692

VERIFICATION

I, Jon Steen, having first been duly sworn, state that the allegations of fact contained within this Answer, New Matter and Counterclaims to Plaintiff's Complaint are true and accurate to the best of my knowledge, information, and belief. I understand that averments of fact in said document are made subject to the penalties of 18 Pa. C.S.A. § 4904, relating to unsworn falsifications to authorities.

Jon Steen

COMMONWEALTH OF PENNSYLVANIA)
)
 COUNTY OF CLEARFIELD) SS:

Subscribed and sworn to before me this 11th day of March 2008.

Notary Public

My commission expires: 5/11/2010

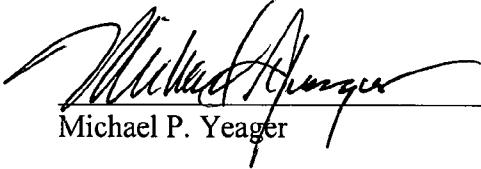
NOTARIAL SEAL
KAREN L VEIHDEFFER-RUBBE
Notary Public
CLEARFIELD BOROUGH, CLEARFIELD COUNTY
My Commission Expires May 11, 2010

CERTIFICATE OF SERVICE

The undersigned certifies that a copy of the foregoing document has been served on the attorney for the Plaintiff by hand delivery, addressed as follows:

James A. Naddeo, Esquire
Naddeo & Lewis, LLC
207 East Market Street
P.O. Box 552
Clearfield, PA 16830

March 11, 2008


Michael P. Yeager

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

AMER S. KHOURI, an
individual,

Plaintiff,

v.

Clearfield Hospital, a
nonprofit corporation,
Defendant.

* No. 07 - 1420 - CD

* Type of Pleading:

* **AMENDED COMPLAINT**

* Filed on behalf of:
* Plaintiff

* Counsel of Record for
* this party:

* James A. Naddeo, Esq.
* Pa I.D. 06820

* &
* Trudy G. Lumadue, Esq.
* Pa I.D. 202049

* NADDEO & LEWIS, LLC.
* 207 E. Market Street
* P.O. Box 552
* Clearfield, PA 16830
* (814) 765-1601

Dated: November 12, 2008

FILED *acc*
01/05/2008 Atty Naddeo
NOV 12 2008
GR

S
William A. Shaw
Prothonotary/Clerk of Courts

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

AMER S. KHOURI, an
individual,

Plaintiff,

v.

No. 07-1420-CD

Clearfield Hospital, a
nonprofit corporation,
Defendant.

NOTICE TO PLEAD

TO THE DEFENDANT/COUNTERCLAIM PLAINTIFF:

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

NADDEO & LEWIS, LLC

By



James A. Naddeo, Esquire
Attorney for Defendant

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

AMER S. KHOURI, an
individual,

Plaintiff,

v.

Clearfield Hospital, a
nonprofit corporation,
Defendant.

*
*
*
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*
*

No. 07-1420-CD

AMENDED COMPLAINT

NOW COMES the Plaintiff, Amer S. Khouri, and by his attorney, James A. Naddeo, Esquire, sets forth the following:

1. That the Plaintiff, Amer S. Khouri, is an adult individual who resides at 5234 Abington Way, Erie, PA 16506.

2. That the Defendant, Clearfield Hospital, is a nonprofit corporation and has a principal place of business at 809 Turnpike Avenue, Clearfield, Pennsylvania 16830.

3. That Plaintiff at the times herein mentioned and since his birth, has been a person of good name, credit and reputation, having a credible and good business and professional reputation as a physician and a law abiding citizen and was deservedly enjoying the esteem and good opinion of diverse persons.

4. That on or about November 7, 2005, Plaintiff and Defendant entered into a Physician Employment Agreement

(hereinafter "Agreement"). A true and correct copy of said Agreement is attached hereto as Exhibit "A."

5. That pursuant to the Agreement Plaintiff provided services as a physician at the Clearfield Hospital as agreed from January 1, 2006 through January 31, 2007.

6. That on or about February 1, 2007, Clearfield Hospital terminated its contract with Plaintiff, and thereby terminated Plaintiff's employment. A true and correct copy of said termination letter is attached hereto as Exhibit "B."

7. That the termination by Defendant was effective immediately and came to Plaintiff without any prior notification thereof.

COUNT I - BREACH OF CONTRACT - FAILURE TO
GIVE 90-DAYS NOTICE OR PAYMENT IN LIEU THEREOF

8. Plaintiff incorporates by reference Paragraphs one through seven above as if set forth in full herein.

9. That the Agreement between Plaintiff and Defendant provides at Section 14(b) certain circumstances where the Plaintiff might be terminated immediately and without notice.

10. That the circumstances to be met in Section 14(b) of the Agreement to allow for an immediate termination more specifically are that a formal criminal indictment or charge of certain named charges must have been brought against the

physician and/or that the physician's participation in Federal Health Programs have been terminated or precluded.

11. That at the time the Hospital terminated Plaintiff without notice, no criminal charge or indictment had been brought against the Plaintiff and Plaintiff's participation in Federal Health Programs had not be terminated or precluded.

12. That Defendant had no cause to terminate Plaintiff immediately and without notice.

13. That pursuant to Section 14(a) of the Agreement, the Agreement could be terminated by either party for any reason, so long as ninety days written notice (or payment in lieu thereof by the Hospital) was given to the other party.

14. That Defendant failed to give Plaintiff ninety days written notice and by its own admission terminated Plaintiff on February 1, 2007, "effective immediately" and that Defendant failed to give payment in lieu of the ninety days written notice requirement. See Exhibit B.

15. That said immediate termination by Defendant where the provisions in the contract were not met to allow for such and its failure to make payment in lieu of the agreed upon ninety day notice constitutes a breach of contract by the Defendant.

16. That Plaintiff expected to be given ninety days written notice prior to being terminated when an immediate

termination had not been agreed to under the terms of the contract or Plaintiff expected to be given pay in lieu of notice as provided for in Section 14(a) of the Agreement.

17. That as a result of Defendant's failure to give ninety days written notice or payment in lieu thereof, Plaintiff was denied and refused his employment and his salary (or pay) during said ninety days.

18. That Defendant is liable to Plaintiff for payment of the prorated value of 90-days of his annual salary (i.e. \$440,000.00) plus \$1500.00 per month (or per 30 days). See Section 6(a) of the Agreement.

WHEREFORE, Plaintiff, Amer S. Khouri, demands judgement against Defendant and in his favor in the amount of \$114,500.00 (One hundred fourteen thousand) dollars with costs and interest thereon.

COUNT II - BREACH OF CONTRACT (BONUS)

19. Plaintiff incorporates by reference Paragraphs one through eighteen above as if set forth in full herein.

20. That pursuant to Section 6(b) which details the bonus arrangement between Plaintiff and Defendant, Plaintiff was due a bonus of \$175,000.00 "each year that the number of visits exceeds certain average monthly thresholds." See Exhibit A.

21. That Plaintiff met the required average monthly thresholds as agreed upon and was due a bonus of \$175,000.00 for the 2006 calendar year.

22. That Defendant failed to pay to Plaintiff \$175,000.00 as agreed upon and instead paid to Plaintiff \$125,000.00.

23. That pursuant to Section 6(a) of the Agreement Defendant is liable to Plaintiff for the difference between what Plaintiff is owed (\$175,000.00) and what Plaintiff was paid (\$125,000.00); in particular Defendant owes Plaintiff the sum of \$50,000.00.

24. That Defendant fails and refuses to pay Plaintiff the amount due as described in Paragraph 23.

WHEREFORE, Plaintiff, Amer S. Khouri, demands judgement against Defendant and in his favor in the amount of \$50,000.00 (Fifty thousand) dollars with costs and interest thereon.

COUNT III - DUE PROCESS VIOLATION

25. Plaintiff incorporates by reference Paragraphs one through twenty-four above as if set forth in full herein.

26. That on or about February 13, 2007, Clearfield Hospital, by and through its employee, Jerrie A. Fida, did make an adverse report to the National Practitioner Data Bank in writing. A true and correct copy of said Adverse Action Report is attached hereto as Exhibit "C."

27. That Defendant failed to offer Plaintiff a peer review hearing as required by the laws of this Commonwealth and the federal laws of the United States.

28. That the Agreement was authored by Defendant.

29. That Defendant did not provide Plaintiff the opportunity to make suggestions or corrections before executing the Agreement.

30. That the Agreement contains at Section 11(b) a waiver of Plaintiff's rights to "any hearing or appeal procedures" as provided in the policies and/or bylaws of the Hospital, the Health Care Quality Improvement Act of 1986 or any other state or federal statute, regulation or judicial decision.

31. That this Agreement as it is written by the Defendant and required to be executed by Plaintiff in order to obtain employment is in violation of public policy.

32. That as a result of said Agreement Plaintiff was not afforded a proper investigation or a hearing prior to the report having been made to the Data Bank by Defendant.

33. Consequently, the report made by Defendant to the Data Bank is in violation of Plaintiff's fundamental due process rights.

34. That the same violation of due process has deprived plaintiff in his life, liberty and property. In particular, the

violation has deprived him of his career in the local area and potentially elsewhere and property which he derived there from.

WHEREFORE, Plaintiff, Amer S. Khouri, demands judgment against Defendant and respectfully requests relief be granted by your Honorable Court as follows:

- A) find that portion of the Agreement at issue which forced waiver of Plaintiff's due process rights in violation of public policy and strike the same from the Agreement; and
- B) issue an Order directing Defendant, Clearfield Hospital to rescind and retract the adverse report it made to National Practitioner Data Bank regarding Plaintiff without provision of due process rights being had prior to said report; and
- C) direct the Defendant to provide Plaintiff with appropriate measures of due process prior to any report being made to the Data Bank.

NADDEO & LEWIS, LLC

By James A. Naddeo
James A. Naddeo
Attorney for Plaintiff

V E R I F I C A T I O N

I, Amer S. Khouri, Plaintiff, verify that the statements made in the foregoing Amended Complaint are true and correct upon my personal knowledge or information and belief. I understand that false statements herein are made subject to the penalties of 18 Pa. C.S. Section 4904, relating to unsworn falsification to authorities:

By:



Amer S. Khouri, M.D.
Plaintiff

Dated: 11/15/2008

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

AMER S. KHOURI, an
individual,

Plaintiff,

v.

No. 07-1420-CD

Clearfield Hospital, a
nonprofit corporation,

Defendant.

CERTIFICATE OF SERVICE

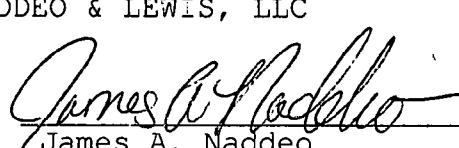
I, James A. Naddeo, Esquire, do hereby certify that a certified copy of Amended Complaint was served on the following and in the following manner on the 12th day of November, 2008:

First-Class Mail, Postage Prepaid

Michael P. Yeager, Esquire
P.O. Box 752
110 North Second Street
Clearfield, PA 16830

NADDEO & LEWIS, LLC

By:


James A. Naddeo
Attorney for Plaintiff

Agreement will only be open to renegotiation by both parties no later than 90 days prior to the end of the then current term.

Section 3. Provision of Services by Physician

- (a) The Physician is hereby employed by the Hospital to provide medical services (Oncology-Hematology) to patients who present themselves at the facility for such services and to such other patients who may be assigned to him by the Hospital.
- (b) The Physician's employment by the Hospital shall be full-time and exclusive and so long as the Physician is employed by the Hospital, the Physician will devote all of his business time and attention and his best efforts, skill and ability to his position with the Hospital.
- (c) The Physician shall perform such other duties and responsibilities as may be assigned to him from time to time by the President of the hospital or the President's designee.
- (d) Full-time employment shall consist of the Physician maintaining patient office hours for at least thirty six (36) hours each week. The Physician shall also spend such additional time as necessary to attend to hospital patients, perform administrative duties hereunder, and fulfill medical staff obligations required as a result of the Physician's appointment to the Active Medical Staff of Clearfield Hospital.
- (e) The Physician shall function as the Medical Director of the Hospice Program of Clearfield Hospital. The Medical Director is responsible for the overall medical component of the Hospice patient's plan of care. The Employee will act as the medical resource to team members and service area physicians concerning pain control and symptom management; will assist in the development and evaluation of patient plan of care; and will co-certify patient's terminal condition. The Physician must complete a monthly time-study documenting at least twelve (12) hours per month to these duties. (See attached Chief of Service Time Log)

- (f) The Physician shall make himself available for call ten days during any given month.
- (g) In all matters related to the discharge responsibilities under the term of this Agreement, the Physician shall be responsible to the President of the Hospital or the President's designee.

Section 4. Facilities and Personnel

The Hospital shall furnish the Physician with office space, equipment and personnel as the Hospital deems to be reasonably necessary for the performance of the Physician's duties hereunder. Billing for professional services rendered by the Physician for services defined in this Agreement shall be the responsibility of the Hospital.

Section 5. Professional Liability Insurance

The Hospital will provide professional liability insurance with tail coverage for the Physician in such minimum amounts as may be required by law or in such higher amounts as may be deemed necessary or desirable by the Hospital.

Section 6. Compensation will be replaced in its entirety as follows:

- (a) Effective January 1, 2006, for all services rendered by the Physician as an Employee of the Hospital, the Hospital as the Employer shall pay the Physician a salary of Four Hundred Thirty Thousand Dollars (\$430,000.) per annum, in accordance with general payroll policies of the Hospital. Effective January 1, 2007, the Physician shall receive an annual salary of Four Hundred Forty Thousand Dollars, (\$440,000.), and effective January 1, 2008, the Physician shall receive an annual salary of Four Hundred Fifty Thousand Dollars, (\$450,000.). Additionally the Physician Shall receive an amount of \$1,500 per month for duties performed as the Medical Director of the Hospice Program.

- (b.) Bonus: The Hospital will pay to the Physician a bonus of up to One Hundred Seventy Five Thousand Dollars (\$175,000) each year that the number of visits exceeds certain average monthly thresholds. The bonus will be paid within 30 days of the end of the contract year. A detailed listing of monthly visits will be provided to the Physician.

The breakdown of visit thresholds and the amount of the bonus related to each category is as follows:

- i. If the average number of visits per month were between 200-249, the bonus paid to the Physician would be \$31,250.
- ii. If the average number of visits per month were between 250-299, the bonus paid to the Physician would be \$62,500.
- iii. If the average number of visits per month were between 300-374, the bonus paid to the Physician would be \$93,750.
- iv. If the average number of visits per month were between 375-424, the bonus paid to the Physician would be \$125,000.
- v. If the average number of visits per month were between 425-474, the bonus paid to the Physician would be \$150,000.
- vi. If the average number of visits per months exceeds 475, the bonus paid to the Physician would be \$175,000.

Section 7. Benefits

The Physician shall be entitled to employee benefits as outlined in Attachment A to this Agreement. Benefits and Employee's cost of benefits will be explained by the Human Resources Department.

Section 8. Third-Party Reimbursement Programs and Assignment Agreements

- (a) The Physician shall assign to the Hospital or its designees all rights they may now or hereafter possess to receive income, payment and/or reimbursement for any and all professional medical services rendered by him to patients at the Hospital while this Agreement is in effect.

- (b) The Physician shall execute such documents as may be necessary, desirable or requested by the Hospital (1) to effectuate said assignment with respect to public and private third-party reimbursement programs, and (2) to become a participating provider in third-party reimbursement programs. As used in this Agreement, the term "third-party reimbursement program" shall include, but not

be limited to, Pennsylvania Blue Shield, the federal Medicare program, the Pennsylvania Medical Assistance program and such other health maintenance organizations, preferred provider organizations, or private health insurance programs as the Hospital shall direct. The Physician may not terminate his participation in any third-party reimbursement program or change or terminate any assignment of benefits or payments from such programs to the Hospital without the express written consent of the Hospital.

- (c) The Physician may not become a participating provider in any third-party reimbursement program (other than the ones specifically referred to above) or individual practice association, physician hospital organization or any other provider network or organization without the express written consent of the Hospital.
- (d) Under no circumstances shall the Physician bill any patient or any public or private third-party reimbursement program for any services for which the Physician has been compensated pursuant to this Agreement. Any violation of any provision of this Section by the Physician shall permit the Hospital, at its option, to terminate this Agreement immediately.

Section 9. Medical Records

Every practitioner on the Medical Staff of Clearfield Hospital is responsible for completion of all of his/her medical record documentation prior to leaving the Medical Staff with exclusion of an emergency situation. Failure to do so is considered a direct violation of the Medical Staff Bylaws of Clearfield Hospital, which is reportable to the National Data Bank.

Section 10. Information and Records

The Physician shall not disclose information relating to the operations of the Hospital or its affiliates to persons other than the board or management of the Hospital or such governmental or private accreditation or licensing bodies or third-party reimbursement programs with whom the Hospital has directed or authorized the Physician to deal, unless the Hospital shall have given written consent for the release of information. The above shall be

deemed to include patients' records and all other information kept in the normal operation of the Hospital. Patient and other records connected with services provided by the Physician at the facility pursuant to this Agreement are and shall remain the property of the Hospital.

Section 11. Medical Staff Appointment and Clinical Privileges

- (a) The Physician shall maintain medical staff appointment and clinical privileges at Clearfield Hospital commensurate with the services that shall be performed pursuant to this Agreement. Application for the same shall be processed pursuant to the applicable bylaws and policies of the Hospital and its medical staff.
- (b) Said medical staff appointment and clinical privileges shall be incident to and coterminous with this Agreement and, upon the termination of this Agreement prior to its expiration date, shall automatically terminate, unless this provision is waived in writing by the Hospital. Similarly, upon the termination for any reason of said medical staff appointment and clinical privileges, this Agreement and the Physician's employment hereunder shall terminate immediately. Any rights that the Physician may have to any hearing or appeal procedures prior to termination of medical staff appointment or clinical privileges, pursuant to the bylaws or policies of the Hospital or its medical staff, the Health Care Quality Improvement Act of 1986, or any other state or federal statute, regulation or judicial decision are hereby waived with respect to any suspension or termination of medical staff appointment or clinical privileges at the Hospital resulting from the termination of this Agreement or suspension of contractual duties pursuant to this Agreement.
- (c) In the event of any conflict between the terms of this Agreement and the medical staff bylaws or policies of the Hospital, this Agreement shall be controlling.
- (d) The Physician may be appointed to the medical staff of other hospitals only with the express written consent of the Hospital.

Section 12. Assignment

This Agreement and the Physician's rights and obligations hereunder may not be assigned by the Physician without the express written consent of the Hospital.

Section 13. Modification

This Agreement may not be orally canceled, changed, modified or amended, and no cancellation, change, modification or amendment shall be effective or binding, unless it is in writing and signed by both parties to this Agreement.

Section 14. Termination

- (a) Notwithstanding any of the provisions of this Agreement, the Hospital or Physician may terminate this Agreement at any time for any reason upon ninety (90) days written notice. The Hospital may, in its sole discretion, elect to give the Physician pay in lieu of notice.
- (b) The Hospital may also terminate the Physician's employment immediately in the event the Physician has been formally indicted or charged with any criminal violation involving violent crimes or any crimes relating to the practice of medicine, including, but not limited to, Medicare or Medicaid fraud or abuse or controlled substance violations. The Hospital may also terminate this Agreement immediately if the Physician's participation in the Medicare, Medicaid or any other Federal Health Program is terminated or if the Physician is otherwise precluded or excluded from participation in either of those programs. In such cases, the Hospital, in its sole discretion may elect in the alternative to indefinitely suspend the Physician from his contractual duties, without pay (which shall also result in suspension of the Physician's clinical privileges at the Hospital), pending resolution of the charges satisfactory to the Hospital.

Section 15. Non-Competition

Notwithstanding any other provision of this contract, for a period of one year after the expiration or termination of this Agreement the Physician shall not enter into a contract with or otherwise provide services to any health maintenance organization, preferred provider

organization, physician-hospital organization, hospital, health system, group medical practice, independent practice association, integrated delivery system, managed care organization or any other person, whereby the Physician will provide primary care services to individuals within a 35-mile radius of Clearfield, Pennsylvania, unless the Hospital has consented in writing to that contract, which consent may be withheld or granted by the Hospital within its complete discretion. The foregoing provision shall not prohibit the Physician from practicing medicine in Clearfield County as a sole practitioner so long as the foregoing provisions are complied with by the Physician. The Hospital may enforce this provision by seeking injunctive relief, the parties acknowledging that the Hospital would have no adequate remedy at law for a breach of this Agreement by the Physician. Furthermore, the fact that the Physician has alleged that the Hospital is in violation or breach of this Agreement will not prevent the Hospital from enforcing this Agreement and shall not be asserted by the Physician as a defense against any such enforcement action by the Hospital.

Section 16. Strict Performance

No failure by either party to insist upon the strict performance of any covenant, agreement, term or condition of this Agreement or to exercise a right or remedy shall constitute a waiver. No waiver of any breach shall affect or alter this Agreement, but each and every covenant, condition, agreement and term of this Agreement shall continue in full force and effect with respect to any other existing or subsequent breach.

Section 17. Entire Agreement

This Agreement represents the entire Agreement between the Hospital and the Physician with respect to the subject matter hereof, and all prior agreements relating to the employment of the Physician, written or oral, are nullified and superseded hereby and neither party shall have any further rights or obligations under such superseded agreements. Each party releases the other from all claims of any kind or nature arising from such superseded agreements. No change or addition to, or deletion of, any portion of this Agreement shall be valid or binding upon the parties hereto unless the same is approved in writing by the parties.

Section 18. Invalidity or Unenforceability of Particular Provisions

The invalidity or unenforceability of any particular provision of this Agreement shall not affect the other provisions hereof, and this Agreement shall be construed in all respects as if such invalid or unenforceable provisions were omitted.

Section 19. Governing Law

This Agreement shall be construed and enforced under, and in accordance with, the laws of the Commonwealth of Pennsylvania. Venue for jurisdiction of disputes shall be in Clearfield County, Pennsylvania.

Section 20. No Third-Party Rights

Nothing in this Agreement shall be construed as creating or giving rise to any rights in any third parties or any persons other than the parties hereto, with the exception of the Hospital.

Section 21. Construction of Headings

The captions or headings are for convenience only and are not intended to limit or define the scope or effect of any provision of this Agreement.

Section 22. Compliance Programs

The Physician shall fully cooperate with any corporate compliance program now or hereafter instituted by the Hospital.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and
year first written above.

CLEARFIELD HOSPITAL

BY: Robert B. Murray, III

Robert B. Murray, III
President and CEO

WITNESS: CDT/McCormick

DATE: 11/7/05

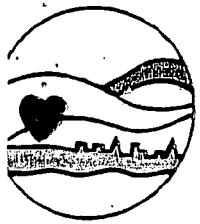
PHYSICIAN

BY: Amer S. Khouri

Amer S. Khouri, MD

WITNESS: Brian Boenish

DATE: 11/7/05



Clearfield Hospital

H A N D D E L I V E R

February 1, 2007

Amer S. Khouri, MD
815 Doctors Drive
Clearfield, PA 16830

Dear Dr. Khouri:

This letter is to inform you that effective immediately, Clearfield Hospital is terminating its contract with you dated January 1, 2006, and your employment thereunder.

The reasons for termination are: 1) mishandling of pain medications that were inappropriately returned to you by patients at your direction or request / or otherwise came into your possession; 2) failing to discontinue, and engaging in this practice after you were told that it would not be tolerated / for failing to follow the instruction that any medications that might come into your possession were to be turned into the pharmacy to be logged in for destruction; and 3) maintaining inaccurate clinical records.

In addition, in accordance with Section 11(b) of your contract, your medical staff appointment and clinical privileges at Clearfield Hospital, which are incident to and conterminous with your employment contract, are automatically terminated, effective immediately.

Sincerely,

Robert B. Murray, III
President & CEO

ADVERSE ACTION REPORT

TITLE IV CLINICAL PRIVILEGES ACTION

Report Number 550000045063563

This report is maintained in: The National Practitioner Data Bank

The Healthcare Integrity and Protection Data Bank

The information contained in this report is maintained by the National Practitioner Data Bank for restricted use under the provisions of Title IV of Public Law 99-660, as amended; and 45 CFR Part 60. All information is confidential and may be used only for the purpose for which it was disclosed. Disclosure or use of confidential information for other purposes is a violation of Federal law. For additional information or clarification, contact the reporting entity identified in Section A.

A. REPORTING ENTITY

Entity Name: CLEARFIELD HOSPITAL

Address: 809 TURNPIKE AVE

City, State, ZIP: CLEARFIELD, PA 16830-1243

Entity Internal Report Reference
(e.g., claim number):

Name or Office: JERRIE A. FIDA

Title or Department: MEDICAL STAFF COORDINATOR

Telephone: (814) 768-2180

Type of Report: INITIAL REPORT

B. SUBJECT IDENTIFICATION INFORMATION (INDIVIDUAL)

Subject Name: KHOURI, AMER SAMEER

Other Name(s) Used:

Gender: MALE

Date of Birth: 02/07/1967

Organization Name: CLEARFIELD HOSPITAL

Work Address: 809 TURNPIKE AVENUE
PO BOX 992

City, State, ZIP: CLEARFIELD, PA 16830

Country:

Home Address: 108 ELIZABETH STREET

City, State, ZIP: CLEARFIELD, PA 16830
Country:

Deceased: NO

Date of Death:

Social Security Numbers (SSN): 150-92-9368

Professional School(s) & Year(s) of Graduation: JORDAN UNIVERSITY MEDICAL SCHOOL 1990

Occupation/Field of Licensure (Code): PHYSICIAN (MD) (010)

State License Number, State of Licensure: MD056597L, PA

Other, as Specified:

EXHIBIT

CONFIDENTIAL DOCUMENT - FOR AUTHORIZED USE ONLY

tables®

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<http://www.npdb-hipdb.hrsa.gov>

Drug Enforcement Administration (DEA) Numbers: BK4599354

**C. INFORMATION
REPORTED**

Type of Adverse Action: TITLE IV CLINICAL PRIVILEGES

Adverse Action Classification Code(s): REVOCATION OF CLINICAL PRIVILEGES (1610)

Other, as Specified:

Date Action Was Taken: 02/01/2007

Date Action Became Effective: 02/01/2007

Length of Action: PERMANENT

Years:

Months:

Days:

Description of Act(s) or Omission(s) or Other

Reasons for Action Taken: DR. KHOURI WAS EMPLOYED BY CLEARFIELD HOSPITAL. HIS EMPLOYMENT WAS TERMINATED BECAUSE, IN THE OPINION OF THE HOSPITAL, HE MISHANDED PAIN MEDICATIONS THAT CAME INTO HIS POSSESSION OR THAT WERE RETURNED TO HIM BY PATIENTS AT HIS DIRECTION AND FAILED TO DISCONTINUE THIS PRACTICE AFTER HE WAS ADVISED VERBALLY AND IN WRITING THAT IT WOULD NOT BE TOLERATED. PURSUANT TO HIS EMPLOYMENT CONTRACT, HIS MEDICAL STAFF APPOINTMENT AND CLINICAL PRIVILEGES AT THE HOSPITAL AUTOMATICALLY TERMINATED AS A RESULT OF THE TERMINATION OF HIS EMPLOYMENT.

Basis for Action: OTHER - NOT CLASSIFIED, SPECIFY (99)

Other, as Specified: SEE NARATIVE ABOVE

**D. SUBJECT
STATEMENT**

If the subject identified in Section B of this report has submitted a statement, it appears in this section.

<http://www.npdb-hipdb.hrsa.gov>

E. REPORT STATUS

Unless one or more boxes below are checked, the subject of this report identified in Section B has not contested this report.

- If box is checked, this report has been disputed by the subject identified in Section B.
- If box is checked, at the request of the subject identified in Section B, this report is being reviewed by the Secretary of the U.S. Department of Health and Human Services to determine its accuracy and/or whether it complies with reporting requirements. No decision has been reached.
- If box is checked, at the request of the subject identified in Section B, this report was reviewed by the Secretary of the U.S. Department of Health and Human Services. The Secretary's decision is shown below:

Date of Original Submission: 02/13/2007

Date of Most Recent Change: 02/13/2007

END OF REPORT

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL ACTION & LAW

AMER S. KHOURI, : No. 2007-1420-CD
an individual, :
Plaintiff, : Type of Pleading:
: Preliminary Objections to
: Amended Complaint
v. : Filed on Behalf of: Defendant
CLEARFIELD HOSPITAL, : Counsel of Record for this Party:
a nonprofit corporation, :
Defendant. : Michael P. Yeager, Esquire
: Pa. Bar I.D. #: 15587
: P.O. Box 752
: 110 North Second Street
: Clearfield, PA 16830
: Phone: 814-765-9611
: Fax: 814-765-9503
: Daniel M. Mulholland III, Esquire
: Pa. Bar I.D. #: 28806
: Lauren M. Massucci, Esquire
: Pa. Bar I.D. #: 67566
: HORTY, SPRINGER & MATTERN, P.C.
: 4614 Fifth Avenue
: Pittsburgh, PA 15213
: Phone: 412-687-7677
: Fax: 412-687-7692

FILED *3CC 44-4*
11/25/08 Yeager
NOV 26 2008
S *LS*
William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL ACTION B LAW

AMER S. KHOURI, :
an individual, : No. 2007-1420-CD
: Plaintiff, :
: v. :
: CLEARFIELD HOSPITAL, :
a nonprofit corporation, :
: Defendant. :
:

PRELIMINARY OBJECTIONS

Defendant Clearfield Hospital, by its undersigned attorneys, hereby files the following preliminary objections to Plaintiff's Amended Complaint pursuant to Pa. R.C.P. 1028:

1. The Court lacks jurisdiction over the subject matter of the action due to the fact that primary and exclusive jurisdiction to resolve disputes regarding reports to the National Practitioner Data Bank is vested in the Secretary of the federal Department of Health and Human Services.
2. The Complaint is legally insufficient in that it fails to state a claim for which relief may be granted, for the following reasons:
 - a. Plaintiff has failed to adequately allege a violation of fundamental due process that deprives Plaintiff of life, liberty or property.
 - b. Plaintiff is not entitled to any due process under state or federal law.
 - c. Plaintiff has failed to adequately allege a violation of public policy.
 - d. There is no private cause of action under the Health Care Quality Improvement Act of 1986, 42 U.S.C. §11101 *et seq.*
 - e. Defendant is immune from liability pursuant to 42 U.S.C. §11137(c).

3. Plaintiff has failed to exercise or exhaust a statutory remedy, namely his right to dispute the Defendant's report to the National Practitioner Data Bank under 45 C.F.R. §60.14.
4. Plaintiff has a full, complete and adequate non-statutory remedy at law.

The foregoing Preliminary Objections shall be more fully explained by Defendant at oral argument and, if requested by the Court, in a brief in support hereof.

WHEREFORE, Defendant respectfully moves this Honorable Court to: (a) dismiss Count III of the Amended Complaint, with prejudice; (b) award costs and attorney's fees to Defendant to the extent that the same may be permitted by law or the interests of justice; and (c) grant Defendant such other relief as may be appropriate.

Respectfully submitted,

November 26, 2008



Michael P. Yeager, Esquire
Pa. Bar I.D. #: 15587
P.O. Box 752
110 North Second Street
Clearfield, PA 16830
Phone: 814-765-9611
Fax: 814-765-9503

Daniel M. Mulholland III, Esquire
Pa. Bar I.D. #: 28806
Lauren M. Massucci, Esquire
Pa. Bar I.D. #: 67566
HORTY, SPRINGER & MATTERN, P.C.
4614 Fifth Avenue
Pittsburgh, PA 15213
Phone: 412-687-7677
Fax: 412-687-7692

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA

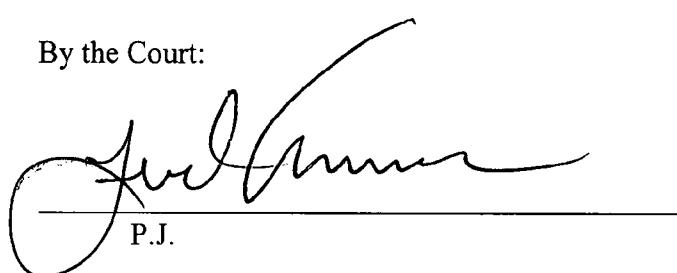
CIVIL ACTION - LAW

AMER S. KHOURI, :
an individual : No. 2007-1420-CD
Plaintiff, :
: v.
: :
CLEARFIELD HOSPITAL, :
a nonprofit corporation :
Defendant. :
:

SCHEDULING ORDER

AND NOW, this 26th day of November, 2008, it is the ORDER of this Court that an argument on the Preliminary Objections filed by the Defendant is scheduled for the 18th day of December, 2008, at 1:30 p.m. in Courtroom No. 1, at the Clearfield County Courthouse, Clearfield, PA 16830.

By the Court:



P.J.

FILED 3CC
014:00 PM Atty Yeager
DEC 01 2008 (CIO)
G William A. Shaw
Prothonotary/Clerk of Courts

FILED

DEC 01 2008

William A. Shaw
Prothonotary/Clerk of Courts

DATE: 12/1/08

You are responsible for serving all appropriate parties.

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

Plaintiff(s) Plaintiff(s) Attorney Other

Defendant(s) Defendant(s) Attorney

Special Instructions:

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

AMER S. KHOURI, : No. 2007-1420-CD
an individual :
Plaintiff, : Type of Pleading:
v. : Certificate of Service
CLEARFIELD HOSPITAL, : Filed on Behalf of Defendant
a nonprofit corporation : Counsel of Record for this Party:
Defendant. : Michael P. Yeager, Esquire
: Pa. Bar. I.D.: #15587
: P.O. Box 752
: 110 North Second Street
: Clearfield, PA 16830
: Phone: 814-765-9611
: Fax: 814-765-9503
: Daniel M. Mulholland III, Esquire
: Pa. Bar I.D.: #28806
: Lauren M. Massucci, Esquire
: Pa. Bar I.D.: #67566
: HORTY, SPRINGER & MATTERN, P.C.
: 4614 Fifth Avenue
: Pittsburgh, PA 15213
: Phone: 412-687-7677
: Fax: 412-687-7692

Dated: January 9, 2008

s
FILED
01/10/2008 2008
DEC 17 2008 *Mike Yeager*
William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

CIVIL ACTION - LAW

AMER S. KHOURI, an individual	:	No. 2007-1420-CD
Plaintiff,	:	
v.	:	
CLEARFIELD HOSPITAL, a nonprofit corporation	:	
Defendant.	:	

CERTIFICATE OF SERVICE

The undersigned certifies that a copy of the Preliminary Objections with attached Scheduling Order has been served on the attorney for the Plaintiff by hand delivery, addressed as follows:

James A. Naddeo, Esquire
Naddeo & Lewis, LLC
207 East Market Street
P.O. Box 552
Clearfield, PA 16830

December 8, 2008



Michael P. Yeager, Esquire
Attorney for Defendant

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

AMER S. KHOURI :
-VS- : No. 07-1420-CD
CLEARFIELD HOSPITAL :

FILED

DEC 19 2008

7 William A. Shaw
Prothonotary/Clerk of Courts

O R D E R

AND NOW, this 18th day of December, 2008,
following argument on Defendant's Preliminary Objections, it
is the ORDER of this Court that counsel for both parties
supply the Court with appropriate brief within no more than
twenty (20) days from this date.

BY THE COURT,

Federico Gómez

President Judge

FILED
DEC 19 2012
William A. Sperry
Prothonotary/Clerk of Courts

DATE: 12-19-05
 You are responsible for serving all appropriate parties.
 The Prothonotary's office has provided service to the following parties:
 Plaintiff(s) Plaintiff(s) Attorney Other
 Defendant(s) Defendant(s) Attorney Other
 Special Instructions:

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

AMER S. KHOURI, M.D., * No. 07-1420-CD
Plaintiff *
vs. *
CLEARFIELD HOSPITAL, a nonprofit corporation, *
Defendant *

O R D E R

AND NOW, this 9th day of January, 2009, in consideration of the Preliminary Objections to Amended Complaint filed on behalf of the Defendant on November 26, 2008; following argument and receipt of Plaintiff's letter conceding the issue, it is the ORDER of this Court that the said Preliminary Objections be and are hereby GRANTED. Count III of the Plaintiff's Amended Complaint is hereby dismissed, with prejudice. The Defendant shall file a Responsive Pleading to the remaining Counts of the Plaintiff's Amended Complaint as required by the Rules of Civil Procedure.

BY THE COURT,


FREDRIC J. AMMERMAN

President Judge

FILED

01/13/09
JAN 12 2009

S William A. Shaw
Prothonotary/Clerk of Courts

102 Atty's:

Yeager
Mulholland
Madden
(610)

FILED

JAN 12 2009

William A. Shaw
Prothonotary/Clerk of Courts

DATE: 11/20/09

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 Other
Special Instructions: _____

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL ACTION **B LAW**

AMER S. KHOURI, M.D., : No. 2007-1420-CD
an individual, :
Plaintiff, : Type of Pleading:
: **ANSWER, NEW MATTER**
: **AND COUNTERCLAIMS**
v. : Filed on Behalf of: Defendant
CLEARFIELD HOSPITAL, : Counsel of Record for this Party:
a nonprofit corporation, :
Defendant. : Michael P. Yeager
: Pa. Bar I.D. #: 15587
: P.O. Box 752
: 110 North Second Street
: Clearfield, PA 16830
: Phone: 814-765-9611
: Fax: 814-765-9503
: Daniel M. Mulholland III
: Pa. Bar I.D. #: 28806
: Lauren M. Massucci
: Pa. Bar I.D. #: 67566
: HORTY, SPRINGER & MATTERN, P.C.
: 4614 Fifth Avenue
: Pittsburgh, PA 15213
: Phone: 412-687-7677
: Fax: 412-687-7692

FILED

O 12.05 P.M. GK
JAN 29 2009

3cc Atty Yeager

William A. Shaw
Prothonotary/Clerk of Courts

(G10)

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

CIVIL ACTION - LAW

AMER S. KHOURI, M.D., an individual,	:	
	:	
	:	
Plaintiff,	:	No. 2007-1420-CD
	:	
	:	
v.	:	
	:	
	:	
CLEARFIELD HOSPITAL, a nonprofit corporation,	:	
	:	
	:	
Defendant.	:	
	:	
	:	

NOTICE TO PLEAD

TO THE PLAINTIFF:

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

Michael P. Yeager
Michael P. Yeager, Esquire
Attorney for Defendant Clearfield Hospital

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL ACTION B LAW

AMER S. KHOURI, M.D.,
an individual, :
Plaintiff, : No. 2007-1420-CD
v. :
CLEARFIELD HOSPITAL,
a nonprofit corporation, :
Defendant. :
:

ANSWER, NEW MATTER AND COUNTERCLAIMS

And now comes Defendant Clearfield Hospital (the "Hospital"), through its attorneys, and hereby answers Counts I and II of the Plaintiff's Amended Complaint and avers as follows:

1. The Hospital is without knowledge or information sufficient to determine the truth or falsity of the facts averred in Paragraph 1 of the Amended Complaint.
2. The Hospital admits the averments in Paragraph 2 of the Amended Complaint.
3. The Hospital is without knowledge or information sufficient to determine the truth or falsity of the facts averred in Paragraph 3 of the Amended Complaint. Strict proof of the same is demanded.
4. The Hospital admits the averments in Paragraph 4 of the Amended Complaint.

5. The Hospital admits that pursuant to the Agreement, Dr. Khouri provided services as a physician at the Hospital from January 1, 2006 through January 31, 2007. Except as so admitted, the averments contained in Paragraph 5 of the Amended Complaint are denied. The Hospital avers that Dr. Khouri breached his contractual obligations and his fiduciary obligations as an employee of the Hospital.
6. The Hospital admits the averments contained in Paragraph 6 of the Amended Complaint.
7. The Hospital admits that it terminated Dr. Khouri's Agreement. Except as so admitted, the averments contained in Paragraph 7 of the Amended Complaint are denied. The Hospital denies that Dr. Khouri's termination was without any prior notification. The Hospital avers that, as indicated in Exhibit B to the Amended Complaint, prior to terminating Dr. Khouri's employment, the Hospital asked Dr. Khouri to discontinue mishandling pain medications that were returned to him by patients and to follow certain instructions, both of which he failed to do.

COUNT I

8. The Hospital incorporates Paragraphs 1-7 of this Answer as if fully restated herein.
9. The Hospital admits the averments contained in Paragraph 9 of the Amended Complaint.
10. The Hospital denies the averments contained in Paragraph 10 of the Amended Complaint. The Hospital avers that Section 14(b) of the Agreement, which speaks for itself, lists the circumstances that would lead to an immediate termination pursuant to Section 14(b) of the Agreement. Furthermore, the Hospital had the right to terminate the Agreement and Dr. Khouri's employment thereunder in the event that Dr. Khouri breached his contractual and/or fiduciary duties, which he did.
11. The Hospital denies the averments in Paragraph 11 of the Amended Complaint that Dr. Khouri was not given any notice. The Hospital avers that prior to terminating

Dr. Khouri's employment, it instructed Dr. Khouri to not take possession of patient pain medications, to discontinue his mishandling of pain medications that were returned to him by patients or otherwise came into his possession and to follow certain instructions for handling any patient pain medications that might come into his possession, all of which he failed to do. The Hospital is without knowledge sufficient to determine the truth or falsity of whether at the time it terminated Dr. Khouri's employment, there was no criminal charge or indictment that had been brought against him and that Dr. Khouri's participation in the federal health programs had not been terminated or precluded. Strict proof of the same is demanded.

12. The averments in Paragraph 12 of the Amended Complaint are conclusions of law to which no response is required. To the extent that any response is required, the Hospital denies the averments contained in Paragraph 12 of the Amended Complaint. The Hospital avers that it had cause to terminate the Agreement and Dr. Khouri's employment thereunder.
13. The Hospital admits the averments in Paragraph 13 of the Amended Complaint, and further avers that the Agreement speaks for itself.
14. The Hospital admits that it did not give Dr. Khouri 90 days' written notice of termination and did not pay him in lieu of giving such notice. Except as so admitted, the Hospital denies the averments in Paragraph 14 of the Amended Complaint. The Hospital avers that it was not required to give Dr. Khouri 90 days' written notice or, in the alternative, pay him since Dr. Khouri had already breached his contractual and fiduciary obligations.
15. The averments in Paragraph 15 of the Amended Complaint are conclusions of law to which no response is required. To the extent that any response is required, the Hospital denies the averments in Paragraph 15. The Hospital did not breach the Agreement since Dr. Khouri had already breached the Agreement and his fiduciary obligations.

16. The Hospital is without knowledge or information sufficient to determine the truth or falsity of the facts averred in Paragraph 16 of the Amended Complaint regarding Dr. Khouri's expectations. Strict proof of the same is demanded.
17. The Hospital admits that it did not give Dr. Khouri 90 days' written notice and did not pay him for 90 days in lieu of giving such written notice. Except as so admitted, the Hospital denies the averments in Paragraph 17 of the Amended Complaint. The Hospital was not required to give Dr. Khouri 90 days' written notice or, in the alternative, pay him since Dr. Khouri had already breached his contractual and fiduciary obligations. Furthermore, prior to terminating Dr. Khouri's Agreement, the Hospital instructed Dr. Khouri to not take possession of patient pain medications, to discontinue mishandling pain medications that were returned to him by patients or otherwise came into his possession and to follow certain instructions for handling any patient pain medications that might come into his possession, all of which he failed to do.
18. The averments in Paragraph 18 of the Amended Complaint are conclusions of law to which no response is required. To the extent that any response is required, the Hospital denies the averments in Paragraph 18. On the contrary, the Hospital avers that it is not liable to Dr. Khouri for any payment since Dr. Khouri breached his contractual and fiduciary obligations.

COUNT II

19. The Hospital incorporates Paragraphs 1-18 of this Answer as if fully restated herein.
20. The Hospital admits the averments contained in Paragraph 20 of the Amended Complaint.
21. The Hospital denies the averments contained in Paragraph 21 of the Amended Complaint. On the contrary, the Hospital avers that Dr. Khouri did not meet all of the required thresholds set forth in Section 6(b) of the Agreement and therefore was only entitled to

receive the \$125,000 that the Hospital paid to him. Furthermore, Dr. Khouri did not object to or raise any concerns regarding the \$125,000 bonus payment until the filing of his Complaint.

22. The Hospital admits that it paid Dr. Khouri \$125,000. Except as so admitted, the Hospital denies that it was required to pay Dr. Khouri \$175,000. The Hospital was not required to pay Dr. Khouri \$175,000 since he did not meet all of the thresholds set forth in Section 6(b) of the Agreement and since he had breached his contractual and fiduciary obligations.
23. The averments in Paragraph 23 of the Amended Complaint are conclusions of law to which no response is required. To the extent that any response is required, the Hospital denies the averments in Paragraph 23. On the contrary, the Hospital denies that it owes Dr. Khouri \$50,000.
24. The Hospital denies the averments contained in Paragraph 24 of the Amended Complaint. The Hospital paid Dr. Khouri the bonus amount that he was due pursuant to Section 6(b) of the Agreement, which was \$125,000.

NEW MATTER

AFFIRMATIVE DEFENSE – JUSTIFICATION

25. The Hospital incorporates Paragraphs 1-24 of its Answer as if fully restated herein.
26. Dr. Khouri engaged in unlawful and inappropriate conduct by mishandling pain medications that were inappropriately returned to him by patients at his direction or request, or otherwise came into his possession.
27. Dr. Khouri repeatedly failed to comply with the Hospital's requests and directives that he cease engaging in the conduct described in Paragraph 26, after being told that it would not be tolerated. Dr. Khouri further failed to follow the instructions that the Hospital gave him for handling patient medications that came into his possession, which

instructions were given for the purpose of assuring compliance with applicable laws and regulations.

28. By engaging in the conduct described in Paragraphs 26 and 27, Dr. Khouri breached his contractual and fiduciary obligations. As a result, the Hospital was justified in terminating his Agreement and employment thereunder.

COUNTERCLAIMS

BREACH OF CONTRACT

29. The Hospital incorporates Paragraphs 1-28 of its Answer and New Matter as if fully restated herein.
30. By engaging in the conduct described in Paragraphs 26 and 27 herein, Dr. Khouri breached his contractual obligation to act in good faith pursuant to his Employment Agreement, as well as his specific obligation under Section 3(b) of the Agreement to devote his best efforts, skills and ability to his position, and his obligation under Section 22 of the Agreement to fully cooperate with the Hospital's corporate compliance program.
31. As a result and consequence of said breach, the Hospital suffered general damages which are the ordinary and usual and natural consequences of such breach, as well as damage to its business reputation, credit and character, which damages are in excess of \$25,000.

BREACH OF FIDUCIARY DUTY

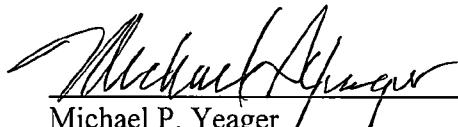
32. The Hospital incorporates Paragraphs 1-31 of its Answer, New Matter and Counterclaims as if fully restated herein.
33. By engaging in the conduct described in Paragraphs 26 and 27 herein, Dr. Khouri breached the fiduciary duties that he owed to the Hospital as its employee.

34. As a result and consequence of said breach, the Hospital suffered general damages which are the ordinary and usual and natural consequences of such breach, as well as damage to its business reputation, credit and character, which damages are in excess of \$25,000.

WHEREFORE, the Hospital:

- (a) prays this Honorable Court to dismiss all claims against it, with prejudice;
- (b) demands judgment in its favor against Dr. Khouri under its Counterclaim for Breach of Contract in excess of \$25,000;
- (c) demands judgment in its favor against Dr. Khouri under its Counterclaim for breach of Fiduciary Duty in excess of \$25,000; and
- (d) prays that the Court award the Hospital all costs and such other relief as the Court deems just and equitable.

Respectfully submitted,



Michael P. Yeager
Pa. Bar I.D. #: 15587
P.O. Box 752
110 North Second Street
Clearfield, PA 16830
Phone: 814-765-9611
Fax: 814-765-9503

January 29, 2009

Daniel M. Mulholland III
Pa. Bar I.D. #: 28806

Lauren M. Massucci
Pa. Bar I.D. #: 67566

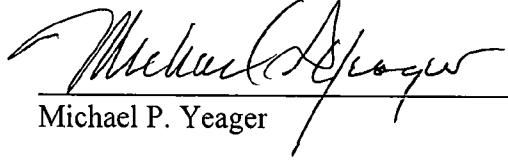
HORTY, SPRINGER & MATTERN, P.C.
4614 Fifth Avenue
Pittsburgh, PA 15213
Phone: 412-687-7677
Fax: 412-687-7692

CERTIFICATE OF SERVICE

The undersigned certifies that a copy of the foregoing document has been served on the attorney for the Plaintiff by first class United States mail, postage prepaid, addressed as follows:

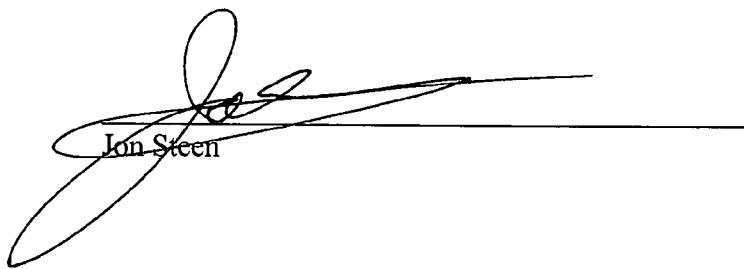
James A. Naddeo, Esquire
Naddeo & Lewis, LLC
207 East Market Street
P.O. Box 552
Clearfield, PA 16830

January 29, 2009


Michael P. Yeager

VERIFICATION

I, Jon Steen, having first been duly sworn, state that the allegations of fact contained within this Answer, New Matter and Counterclaims to Plaintiff's Complaint are true and accurate to the best of my knowledge, information, and belief. I understand that averments of fact in said document are made subject to the penalties of 18 Pa. C.S.A. § 4904, relating to unsworn falsifications to authorities.



Jon Steen

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

AMER S. KHOURI, an
individual,
Plaintiff
v.

Clearfield Hospital, a
nonprofit corporation,
Defendant.

* No. 07 - 1420 - CD

* Type of Pleading:

* REPLY TO NEW MATTER AND
* ANSWER TO COUNTERCLAIM

* Filed on behalf of:
* Plaintiff

* Counsel of Record for
* this party:

* James A. Naddeo, Esq.

* Ba T D 06820

* 10 11

* Trudy G. Lumadue,
* P.O. Box 202048

* NARDEO & LEWIS, LLC

NADDEO & LEWIS, LLC.
207 E. Main Street

207 E

* P.O. Box 552

* Clearfield, PA

* (814) 765-1601

Dated: February 19, 2009

FILED

⑤ FEB 19 2009
S 01043/09
William A. Shaw
Prothonotary/Clerk of Courts

2 Client to
Anne (61)

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

AMER S. KHOURI, an *
individual, *
Plaintiff, *
*
v. * No. 07-1420-CD
*
*
*
Clearfield Hospital, a *
nonprofit corporation, *
Defendant. *

REPLY TO NEW MATTER AND ANSWER TO COUNTERCLAIM

NOW COMES the Plaintiff, Amer S. Khouri, and by his attorney, James A. Naddeo, Esquire, sets forth the following reply to new matter and answer to counterclaim filed by Defendant:

REPLY TO NEW MATTER

25. Plaintiff incorporates its Amended Complaint (Paragraphs 1 through 24) as if the same were set forth at length herein.

26. Denied. On the contrary, it is alleged that at no time did Dr. Khouri unlawfully or inappropriately mishandle pain medication. To the contrary all pain medication was handled in accordance with the applicable standard of care.

27. Denied. On the contrary, it is alleged that the Hospital's directives with regard to the handling of pain medication were vague and contradictory. It is further alleged that

Plaintiff followed said vague and contradictory directives to the best of his ability.

28. States a conclusion of law to which no answer is required. To the extent an answer may be required said averment is denied.

WHEREFORE, Plaintiff respectfully requests judgment be entered in his favor and against the Defendant.

ANSWER TO COUNTERCLAIM

ALLEGED BREACH OF CONTRACT

29. Plaintiff incorporates its Amended Complaint (Paragraphs 1 through 24) and its Reply to New Matter (Paragraphs 25 through 28 herein) as if the same were set forth at length herein.

30. States conclusions of law to which no answer is required. To the extent an answer may be required said averment is denied.

31. States conclusions of law to which no answer is required. To the extent an answer may be required said averment is denied.

WHEREFORE, Plaintiff, Amer S. Khouri, respectfully requests Your Honorable Court enter judgment in favor of Plaintiff and dismiss the claims of Defendant.

ALLEGED BREACH OF FIDUCIARY DUTY

32. Plaintiff incorporates its Amended Complaint (Paragraphs 1 through 24) and its Reply to New Matter (Paragraphs 25 through 28 herein) and Paragraphs 29 through 31 as stated herein as if the same were set forth at length.

33. States a conclusion of law to which no answer is required. To the extent an answer may be required said averment is denied.

34. States conclusions of law to which no answer is required. To the extent an answer may be required said averment is denied.

WHEREFORE, Plaintiff, Amer S. Khouri, respectfully requests Your Honorable Court enter judgment in favor of Plaintiff and dismiss the claims of Defendant.

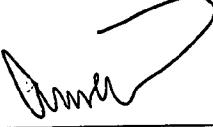
NADDEO & LEWIS, LLC

By James A. Naddeo
James A. Naddeo
Attorney for Plaintiff

V E R I F I C A T I O N

I, Amer S. Khouri, Plaintiff, verify that the statements made in the foregoing Reply to New Matter and Answer to Counterclaim are true and correct upon my personal knowledge or information and belief. I understand that false statements herein are made subject to the penalties of 18 Pa. C.S. Section 4904, relating to unsworn falsification to authorities.

By:



Amer S. Khouri, M.D.
Plaintiff

Dated:

2/14/09

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

AMER S. KHOURI, an
individual,

Plaintiff,

v.

*

*

*

*

No. 07-1420-CD

*

*

*

Clearfield Hospital, a
nonprofit corporation,

Defendant.

*

*

CERTIFICATE OF SERVICE

I, James A. Naddeo, Esquire, do hereby certify that a certified copy of Reply to New Matter and Answer to Counterclaim was served on the following and in the following manner on the 19th day of February, 2008:

First-Class Mail, Postage Prepaid

Michael P. Yeager, Esquire
P.O. Box 752
110 North Second Street
Clearfield, PA 16830

NADDEO & LEWIS, LLC

By: James A. Naddeo
James A. Naddeo
Attorney for Plaintiff

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

AMER S. KHOURI, an
individual,
Plaintiff,

v.

Clearfield Hospital, a
nonprofit corporation,
Defendant.

* No. 07 - 1420 - CD

* Type of Pleading:

* **CERTIFICATE OF SERVICE**

* Filed on behalf of:
* Plaintiff

* Counsel of Record for
* this party:

* James A. Naddeo, Esq.
* Pa I.D. 06820

* &
* Trudy G. Lumadue, Esq.
* Pa I.D. 202049

* NADDEO & LEWIS, LLC.
* 207 E. Market Street
* P.O. Box 552
* Clearfield, PA 16830
* (814) 765-1601

Dated: March 3, 2009

FILED 10:47 AM MAR 03 2009 S
06/10/47/09 Atty Naddeo
MAR 03 2009
60
William A. Shaw
Prothonotary/Clerk of Courts

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

AMER S. KHOURI, an
individual,

Plaintiff,

v.

*

*

*

*

No. 07-1420-CD

*

*

Clearfield Hospital, a
nonprofit corporation,

Defendant.

*

*

*

CERTIFICATE OF SERVICE

I, James A. Naddeo, Esquire, do hereby certify that a true and correct copy of Request for Production of Documents Directed to Defendant was served on the following and in the following manner on the 3rd day of March, 2009:

First-Class Mail, Postage Prepaid

Michael P. Yeager, Esquire
P.O. Box 752
110 North Second Street
Clearfield, PA 16830

NADDEO & LEWIS, LLC

By:


James A. Naddeo
Attorney for Plaintiff

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

AMER S. KHOURI, an
individual,

Plaintiff,

v.

Clearfield Hospital, a
nonprofit corporation,
Defendant.

* No. 07 - 1420 - CD

* Type of Pleading:

* **CERTIFICATE OF SERVICE**

* Filed on behalf of:

* Plaintiff

* Counsel of Record for
this party:

* James A. Naddeo, Esq.
* Pa I.D. 06820

* &
* Trudy G. Lumadue, Esq.
* Pa I.D. 202049

* NADDEO & LEWIS, LLC.
* 207 E. Market Street
* P.O. Box 552
* Clearfield, PA 16830
* (814) 765-1601

Dated: March 3, 2009

FILED

01/04/2009

Atty Naddeo

MAR 03 2009

S

William A. Shaw
Prothonotary/Clerk of Courts

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

AMER S. KHOURI, an
individual,

Plaintiff,

v.

No. 07-1420-CD

Clearfield Hospital, a
nonprofit corporation,

Defendant.

CERTIFICATE OF SERVICE

I, James A. Naddeo, Esquire, do hereby certify that a true and correct copy of Plaintiff's First Set of Interrogatories Directed to Defendant was served on the following and in the following manner on the 3rd day of March, 2009:

First-Class Mail, Postage Prepaid

Michael P. Yeager, Esquire
P.O. Box 752
110 North Second Street
Clearfield, PA 16830

NADDEO & LEWIS, LLC

By: James A. Naddeo
James A. Naddeo
Attorney for Plaintiff

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

AMER S. KHOURI,
an individual

Plaintiff,

v.

CLEARFIELD HOSPITAL,
a nonprofit corporation

Defendant.

No. 2007-1420-CD

Type of Pleading:

Certificate of Service

Filed on Behalf of Defendant

MAY 01 2009
073:38 AM
William A. Shaw
Prothonotary/Clerk of Courts
No 4C

Counsel of Record for this Party:

Michael P. Yeager, Esquire
Pa. Bar. I.D.: #15587
P.O. Box 752
110 North Second Street
Clearfield, PA 16830
Phone: 814-765-9611
Fax: 814-765-9503

Daniel M. Mulholland III, Esquire
Pa. Bar I.D.: #28806

Lauren M. Massucci, Esquire
Pa. Bar I.D.: #67566

HORTY, SPRINGER & MATTERN, P.C.
4614 Fifth Avenue
Pittsburgh, PA 15213
Phone: 412-687-7677
Fax: 412-687-7692

Dated: May 1, 2009

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

AMER S. KHOURI,
an individual

Plaintiff,

No. 2007-1420-CD

v.

CLEARFIELD HOSPITAL,
a nonprofit corporation

Defendant.

CERTIFICATE OF SERVICE

The undersigned certifies that the Response of Clearfield Hospital to First Set of Interrogatories of Amer S. Khouri, M.D. and the Response of Clearfield Hospital to First Request for Production of Documents of Amer S. Khouri, M.D. has been served on the attorney for the Plaintiff by hand delivery, addressed as follows:

James A. Naddeo, Esquire
Naddeo & Lewis, LLC
207 East Market Street
P.O. Box 552
Clearfield, PA 16830

May 1, 2009


Michael P. Yeager, Esquire
Attorney for Defendant

FILED

MAY 01 2009

William A. Shaw
Prothonotary/Clerk of Courts

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

AMER S. KHOURI, an
individual,

Plaintiff,

v.

Clearfield Hospital, a
nonprofit corporation,
Defendant.

* NO. 07 - 1420 - CD

* * * * * **FILED**
* * * * * MAY 20 2009
* * * * * 05/30/09 6:00
* * * * * William A. Shaw
* * * * * Prothonotary/Clerk of Courts

* * * * * **CERTIFICATE OF SERVICE**

* * * * * Filed on behalf of:
* * * * * Plaintiff

* * * * * Counsel of Record for
* * * * * this party:

* * * * * James A. Naddeo, Esq.
* * * * * Pa I.D. 06820
* * * * * &
* * * * * Trudy G. Lunadue, Esq.
* * * * * Pa I.D. 202049

* * * * * NADDEO & LEWIS, LLC.
* * * * * 207 E. Market Street
* * * * * P.O. Box 552
* * * * * Clearfield, PA 16830
* * * * * (814) 765-1601

* * *

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

AMER S. KHOURI, an
individual,

Plaintiff,

v.

No. 07-1420-CD

Clearfield Hospital, a
nonprofit corporation,

Defendant.

CERTIFICATE OF SERVICE

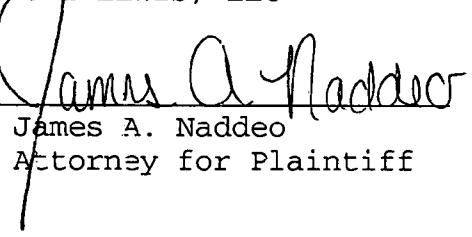
I, James A. Naddeo, Esquire, do hereby certify that a true and correct copies of Plaintiff's Second Set of Interrogatories Directed to Defendant and Second Request for Production of Documents Directed to Defendant were served on the following and in the following manner on the 20th day of May, 2009:

First-Class Mail, Postage Prepaid

Michael P. Yeager, Esquire
P.O. Box 752
110 North Second Street
Clearfield, PA 16830

NADDEO & LEWIS, LLC

By:


James A. Naddeo
Attorney for Plaintiff

FILED
MAY 20 2009
William A. Shaw
Prothonotary/Clerk of Courts

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

AMER S. KHOURI, an individual	:	No. 2007-1420-CD
Plaintiff,	:	Type of Pleading: Certificate of Service
V.	:	Filed on Behalf of Defendant
CLEARFIELD HOSPITAL, a nonprofit corporation	:	Counsel of Record for this Party:
Defendant.	:	Michael P. Yeager, Esquire Pa. Bar. I.D.: #15587 P.O. Box 752 110 North Second Street Clearfield, PA 16830 Phone: 814-765-9611 Fax: 814-765-9503
	:	Daniel M. Mulholland III, Esquire Pa. Bar I.D.: #28806
	:	Lauren M. Massucci, Esquire Pa. Bar I.D.: #67566
	:	HORTY, SPRINGER & MATTERN, P.C. 4614 Fifth Avenue Pittsburgh, PA 15213 Phone: 412-687-7677 Fax: 412-687-7692
	:	

Dated: July 17, 2009

FILED
07/17/09
JUL 17 2009
NO
cc

William A. Shaw
Prothonotary/Clerk of Courts

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

AMER S. KHOURI,
an individual

Plaintiff,

v.

CLEARFIELD HOSPITAL,
a nonprofit corporation

Defendant.

No. 2007-1420-CD

Type of Pleading:
Certificate of Service

Filed on Behalf of Defendant

Counsel of Record for this Party:

Michael P. Yeager, Esquire
Pa. Bar. I.D.: #15587
P.O. Box 752
110 North Second Street
Clearfield, PA 16830
Phone: 814-765-9611
Fax: 814-765-9503

Daniel M. Mulholland III, Esquire
Pa. Bar I.D.: #28806

Lauren M. Massucci, Esquire
Pa. Bar I.D.: #67566

HORTY, SPRINGER & MATTERN, P.C.
4614 Fifth Avenue
Pittsburgh, PA 15213
Phone: 412-687-7677
Fax: 412-687-7692

Dated: July 21, 2009

S
07/31/09
FILED
07/31/09
NO CC
JUL 21 2009

William A. Shaw
Prothonotary/Clerk of Courts

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

AMER S. KHOURI, :
an individual :
Plaintiff, : No. 2007-1420-CD
v. :
CLEARFIELD HOSPITAL, :
a nonprofit corporation :
Defendant. :

CERTIFICATE OF SERVICE

The undersigned certifies that Clearfield Hospital's First Request for Production of Documents Directed to Amer S. Khouri, M.D. has been served on the attorney for the Plaintiff by hand delivery, addressed as follows:

James A. Naddeo, Esquire
Naddeo & Lewis, LLC
207 East Market Street
P.O. Box 552
Clearfield, PA 16830

July 21, 2009



Michael P. Yeager, Esquire
Attorney for Defendant

FILED

JUL 21 2009

William A. Shaw
Prothonotary/Clerk of Courts

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

AMER S. KHOURI, an
individual.

Plaintiff,

v.

Clearfield Hospital, a
nonprofit corporation,
Defendant.

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No. 07 - 1420 - CD

*

*

Type of Pleading:

*

CERTIFICATE OF SERVICE

*

Filed on behalf of:

*

Plaintiff

*

*

Counsel of Record for

*

this party:

*

*

James A. Naddeo, Esq.

*

Pa I.D. 06820

*

&

*

Trudy G. Lumadue, Esq.

*

Pa I.D. 202049

*

*

NADDEO & LEWIS, LLC.

*

207 E. Market Street

*

P.O. Box 552

*

Clearfield, PA 16830

*

(814) 765-1601

*

*

*

s **FILED** No CC.

10:35 am
AUG - 6 2009

William A. Shaw
Prothonotary/Clerk of Courts

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

AMER S. KHOURI, an
individual,

Plaintiff,

v.

No. 07-1420-CD

Clearfield Hospital, a
nonprofit corporation,

Defendant.

CERTIFICATE OF SERVICE

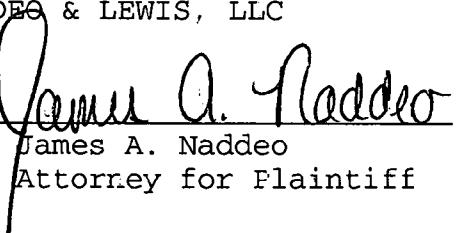
I, James A. Naddeo, Esquire, do hereby certify that true and correct copies of Plaintiff's Third Set of Interrogatories Directed to Defendant and Third Request for Production of Documents Directed to Defendant were served on the following and in the following manner on the 6th day of August, 2009:

First-Class Mail, Postage Prepaid

Michael P. Yeager, Esquire
P.O. Box 752
110 North Second Street
Clearfield, PA 16830

NADDEO & LEWIS, LLC

By:


James A. Naddeo
Attorney for Plaintiff

FILED

AUG - 6 2009

William A. Shaw
Prothonotary/Clerk of Courts

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

AMER S. KHOURI, an

individual,

Plaintiff,

v.

v.

No. 07-1420-CD
No. 07-1420-CD

Clearfield Hospital, a
Clearfield Hospital, a
nonprofit corporation, et al.

Defendant.

CERTIFICATE OF SERVICE

* Type of Pleading:

I, James A. Naddeo, Esquire, do hereby certify that a true and correct copy of Plaintiff's Response to Defendant's First

Request for Production of Documents was served on Plaintiff on the following and in the following manner on the 18th day of August, 2009:

* Counsel of Record for

First-Class Mail, Postage this party:

Michael P. Berger, Esquire
110 North Second Street
P.O. Box #52 Pa I.D. 06820

Clearfield, PA 16830 &

* Trudy G. Lumadue, Esq.

* Pa I.D. 202049

* NADDEO & LEWIS, LLC

* NADDEO & LEWIS, LLC

* 207 E. Market Street

* P.O. Box 552 Clearfield, PA 16830

* Clearfield, PA 16830 Plaintiff

* (814) 765-1601

August 18, 2009

FILED
07/10/2009
AUG 18 2009
NO CC
W.A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF (TRENTON) COUNTY, NEW JERSEY, U.S.A.

CIVIL DIVISION

FILED

AUG 18 2009

William A. Shaw
Prothonotary/Clerk of Courts

NAME: S. KHOURI, au

Plaintiff

Defendant

Classification: a
Court of Common Pleas
Defendant

CERTIFICATE OF SERVICE

James A. Nagle, Esq., do hereby certify that a true and correct copy of this instrument, relative to Plaintiff, a citizen of New Jersey, was served on the following:

First-Class Mail, package priority

Michael P. Yeadon, Esquire

110 North Second Street

P.O. Box 25

Cresskill, NJ 07626

KADDDO & TWEIS, LLC

James A. Nagle
Attorney for Plaintiff

FILED

AUG 23 2010

William A. Shaw, Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CUYAHOGA COUNTY
CIVIL DEPARTMENT

WILLIAM A. SHAW, CLERK

RECEIVED

NO. 03-1430-CD

DEFENDANT'S
DEPOSITION
NONBONA FIDE COMPLAINT
CLASSIFICATION NUMBER 51, a

CERTIFICATE OF SERVICE

I, James A. Nagle, Esquire, do hereby certify that a true and correct copy of both the Petition for Recognition of Documents directed to defendant was served on the following and in the following manner on the 33rd day of August, 2010:

Hix-Claire, Mail, Painesville

Wicasset P. Woods, Esquire
110 Rockwood Street
P.O. Box 25
Cleveland, OH 44113

ADDED A TIMES, INC.

James A. Nagle
Attorney for Plaintiff

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

AMER S. KHOURI,
an individual : No. 2007-1420-CD

Plaintiff : Type of Pleading:
**Joint Motion for Qualified
Protective Order**

v.
CLEARFIELD HOSPITAL,
a nonprofit corporation : Filed on Behalf of Plaintiff & Defendant

Defendant : Counsel of Record for these Parties:

For the Plaintiff:
James A. Naddeo, Esq.
Pa I.D. 06820
&
Trudy G. Lumadue, Esq.
Pa ID. 202049

NADDEO & LEWIS, LLC
207 E. Market Street
P.O. Box 552
Clearfield, PA 16830
(814) 765-1601

For the Defendant:
Michael P. Yeager, Esquire
Pa. Bar. I.D.: #15587
P.O. Box 752
110 North Second Street
Clearfield, PA 16830
Phone: 814-765-9611
Fax: 814-765-9503

Daniel M. Mulholland III, Esquire
Pa. Bar I.D.: #28806

Lauren M. Massucci, Esquire
Pa. Bar I.D.: #67566

HORTY, SPRINGER & MATTERN, P.C.
4614 Fifth Avenue
Pittsburgh, PA 15213
Phone: 412-687-7677
Fax: 412-687-7692

4
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SEP 02 2010
Atty
Yeager
William A. Shaw
Prothonotary/Clerk of Courts
(64)

FILED

SEP 02 2009

William A. Sherry
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL ACTION - LAW

FILED

01/11/2011
SEP 08 2010

William A. Shaw
Prothonotary/Clerk of Courts

3CC Atty Yeager
(60)

AMER S. KHOURI,
an individual,
Plaintiff, : No. 2007-1420-CD

v.

CLEARFIELD HOSPITAL,
a nonprofit corporation,
Defendant.

**QUALIFIED PROTECTIVE ORDER GOVERNING
CONFIDENTIALITY OF PROTECTED HEALTH INFORMATION**

Pursuant to stipulation of the parties and good cause appearing therefor:

IT IS HEREBY ORDERED:

1. Except as noted in this paragraph, this Order shall govern all documents and other materials used or disclosed by parties or non-parties in connection with this action which constitute Protected Health Information, as that term is defined in the Privacy Regulations promulgated pursuant to the Health Insurance Portability and Accountability Act, 45 C.F.R. Parts 160 and 164 (the "Privacy Regulations"), and any copies, summaries, pleadings, testimony or transcripts containing quotations therefrom or references thereto. This Order shall not apply to Protected Health Information disclosed pursuant to an order of the Court or the written authorization of the patient whose information is at issue. This Order is intended to constitute a "qualified protective order" as described in 45 C.F.R. § 164.512(e).
2. Any party preparing, serving or filing any document containing or referring to Protected Health Information shall mark such documents "Protected Health Information." With respect to any deposition in which Protected Health Information is the subject of examination, any party or third party may invoke this Order by stating on the record

FILED

SEP 08 2010

William A. Shaw
Prothonotary/Clerk of Courts

DATE: 9/8/10

You are responsible for serving all appropriate parties.

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

Plaintiff(s) Plaintiff(s) Attorney Other

Defendant(s) Defendant(s) Attorney

Special Instructions:

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

AMER S. KHOURI,
an individual
Plaintiff, : No. 2007-1420-CD
v.
CLEARFIELD HOSPITAL,
a nonprofit corporation
Defendant. : Type of Pleading:
Certificate of Service
: Filed on Behalf of Defendant
: Counsel of Record for this Party:
: Michael P. Yeager, Esquire
: Pa. Bar. I.D.: #15587
: P.O. Box 752
: 110 North Second Street
: Clearfield, PA 16830
: Phone: 814-765-9611
: Fax: 814-765-9503
: Daniel M. Mulholland III, Esquire
: Pa. Bar I.D.: #28806
: Lauren M. Massucci, Esquire
: Pa. Bar I.D.: #67566
: HORTY, SPRINGER & MATTERN, P.C.
: 4614 Fifth Avenue
: Pittsburgh, PA 15213
: Phone: 412-687-7677
: Fax: 412-687-7692

S **FILED** No CC
03:27pm
SEP 14 2010
WAS
William A. Shaw
Prothonotary/Clerk of Courts

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

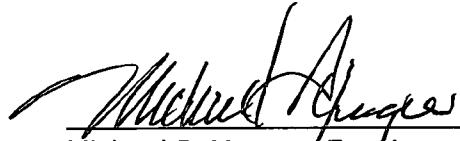
AMER S. KHOURI, :
an individual : No. 2007-1420-CD
Plaintiff, :
: v.
: :
CLEARFIELD HOSPITAL, :
a nonprofit corporation :
Defendant. :
:

CERTIFICATE OF SERVICE

The undersigned certifies that a certified copy of Qualified Protective Order
Governing Confidentiality of Protected Health Information has been served on the
attorney for the Plaintiff by hand delivery, addressed as follows:

James A. Naddeo, Esquire
Naddeo & Lewis, LLC
207 East Market Street
P.O. Box 552
Clearfield, PA 16830

September 14, 2010



Michael P. Yeager, Esquire
Attorney for Defendant

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

AMER S. KHOURI, an
individual,

Plaintiff,

v.

No. 07 - 1420 - CD

Clearfield Hospital, a
nonprofit corporation,
Defendant.

Type of Pleading:

CERTIFICATE OF SERVICE

Filed on behalf of:
Plaintiff

Counsel of Record for
this party:

James A. Naddeo, Esq.

Pa I.D. 06820

&

Trudy G. Lumadue, Esq.
Pa I.D. 202049

NADDEO & LEWIS, LLC.

207 E. Market Street

P.O. Box 552

Clearfield, PA 16830
(814) 765-1601

5
FILED
07/03/2011
AUG 23 2011
NO CC

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CINCINNATI, OHIO
CLAYTON M. DODD, PLAINTIFF

vs. HENRY S. FISHER, DEFENDANT

PLAINTIFF'S EX

NO. 03-1450-CO

Defendents,
Boudinot's Corporation,
Chillicothe Manufacturing Company, a

CERTIFICATE OF SERVICE

I, George A. Neffco, Resident to, do hereby certify that a
true and correct copy of this Petition for Production of Documents
directed to Defendants was served on the following day in the
following manner on the 23rd day of June, 2011:

First-Class Mail, Registered Priority

George A. Neffco
110 North Second Street
P.O. Box 23
Cincinnati, OH 45210

George A. Neffco
110 North Second Street
P.O. Box 23
Cincinnati, OH 45210

George A. Neffco
110 North Second Street
P.O. Box 23
Cincinnati, OH 45210

William A. Shaw
Prothonotary/Clerk of Courts

FILED

AUG 23 2011

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

AMER S. KHOURI, an
individual,

Plaintiff,

v.

Clearfield Hospital, a
nonprofit corporation,
Defendant.

* No. 07 - 1420 - CD

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FILED *cc A/H*
10:50am
OCT 13 2011
William A. Shaw
Prothonotary/Clerk of Courts

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

AMER S. KHOURI, an
individual,
Plaintiff,

v.

No. 07-1420-CD

Clearfield Hospital, a
nonprofit corporation,
Defendant.

MOTION TO COMPEL

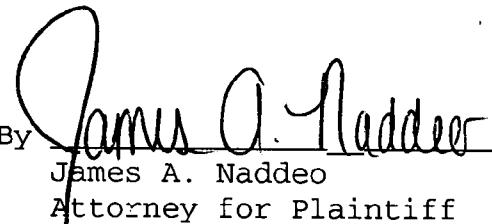
NOW COMES the Plaintiff, Amer S. Khouri, and by his attorney, James A. Naddeo, Esquire, sets forth the following:

1. On or about August 23, 2011, Plaintiff served Defendant, Clearfield Hospital with a Fifth Request for Production of Documents. A true and correct copy of the same is attached collectively hereto as Exhibit "A."
2. That the Defendant, Clearfield Hospital has offered no verified response to Plaintiff as to the Fifth Request for Production of Documents.
3. That Defendant, Clearfield Hospital has failed to file an appropriate objection nor has Defendant, Clearfield Hospital, applied for a Protective Order.
4. That Plaintiff's counsel notified Defendant, Clearfield Hospital of his intention to Request a Protective Order if

Defendant continued in its failure to comply on or before October 12, 2011.

WHEREFORE, Plaintiff requests that your Honorable Court enter an Order pursuant to 4019 (g)(1) directing that Defendant, Clearfield Hospital comply with Plaintiff's Motion to Produce.

NADDEO & LEWIS, LLC

By 
James A. Naddeo
Attorney for Plaintiff

Man 8/21

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

AMER S. KHOURI, an
individual,

Plaintiff,

v.

Clearfield Hospital, a
nonprofit corporation,
Defendant.

* No. 07 - 1420 - CD

* Type of Pleading:

* **FIFTH REQUEST FOR
PRODUCTION OF DOCUMENTS
DIRECTED TO DEFENDANT**

* Filed on behalf of:

* Plaintiff

* Counsel of Record for
this party:

* James A. Naddeo, Esq.

* Pa I.D. 06820

*

* Trudy G. Lumadue, Esq.

* Pa I.D. 202049

* NADDEO & LEWIS, LLC.

* 207 E. Market Street

* P.O. Box 552

* Clearfield, PA 16830

* (814) 765-1601

*

Exhibit "A"

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

AMER S. KHOURI, an
individual,

Plaintiff,

v.

No. 07-1420-CD

Clearfield Hospital, a
nonprofit corporation,
Defendant.

FIFTH REQUEST FOR PRODUCTION OF DOCUMENTS
DIRECTED TO DEFENDANT

Plaintiff, Amer S. Khouri, by his attorney, James A. Naddeo, directs the following Request for Production of Documents to Defendant.

Defendant is hereby requested to produce, for inspection and copying, the documents requested below at the office of James A. Naddeo, Esquire, 207 East Market Street, Clearfield, Pennsylvania 16830, within thirty (30) days of the date of service of this Request.

DEFINITIONS

1. "Document(s)" when used herein shall be used in its broadest sense and shall mean and include any and all written, recorded, graphic or tangible matter, whether produced by hand recorded, or reproduced, or whether electronically produced or reproduced, and without limiting the generality of the foregoing, shall include all correspondence, memoranda, whether external or

internal, records, reports, graphs, brochures, technical data, contracts, agreements, diagrams, maps, accounting records, accounting ledgers, financial statements, financial journals, check records, checks, tax records, photographs, films, telegrams, specifications, manuals, papers, letters, notes, notations, notebooks, minutes, or summaries of meetings, schedules, transcripts, diaries, publications, directives, instructions, computations, purchase orders, tabulations, invoices, bills, credit memos, receipts of delivery, mortgage documents, test records, laboratory reports, bills of lading, sketches, computer printouts, published sales aids, blueprints, plans design drawings, product brochures, sales literatures, records of shipment, advertisements, test films, laboratory notebooks, quality control tests, production records, and any drafts, revisions or amendments or copies of the above that are either in the knowledge, possession, custody, control or subject to the control of the Plaintiff, her representatives, agents or counsel.

2. In producing documents, please specify the paragraph to which the documents relate.

3. For each document otherwise falling within this Request which defendant contends are excludable from discovery, please note with the objection to production the following:

(a) The date of the document;

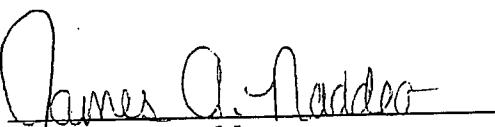
- (b) Its general nature, (e.g. letter, memorandum, test results, etc.);
- (c) The name(s) of the author(s);
- (d) The name(s) of the recipient(s) of the document and of any drafts or copies thereof;
- (e) The person(s) having present custody thereof;
- (f) The basis for such claim of privilege or exclusion.

REQUESTS

1. On Wednesday, July 13, 2011 Jon Steen testified in the case of the Commonwealth vs. Amer Sameer Khouri, CP -17-CR-423-2010 that he reviewed certain peer review files and saw peer review reports and documentation associated with it (peer reviews). Please provide a copy of the peer review files, peer review reports and documentation for each of the following individuals:

- a. Peter Baum
- b. Nancy Brolin
- c. Steven Briskar
- d. Scott Yeager

NADDEO & LEWIS, LLC

By 
James A. Naddeo
Attorney for Plaintiff

Filed
8-23-11

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

AMER S. KHOURI, an
individual,
Plaintiff,

v.

Clearfield Hospital, a
nonprofit corporation,
Defendant.

Exhibit "B"

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

AMER S. KHOURI, an
individual,

Plaintiff,

v.

*

*

*

*

*

*

*

No. 07-1420-CD

Clearfield Hospital, a
nonprofit corporation,
Defendant.

*

*

*

*

*

CERTIFICATE OF SERVICE

I, James A. Naddeo, Esquire, do hereby certify that a true and correct copy of Fifth Request for Production of Documents Direct to Defendant was served on the following and in the following manner on the 23rd day of August, 2011:

First-Class Mail, Postage Prepaid

Michael P. Yeager, Esquire
110 North Second Street
P.O. Box 752
Clearfield, PA 16830

NADDEO & LEWIS, LLC

By:


James A. Naddeo
Attorney for Plaintiff

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

AMER S. KHOURI, an
individual,

Plaintiff,

v.

No. 07-1420-CD

Clearfield Hospital, a
nonprofit corporation,

Defendant.

CERTIFICATE OF SERVICE

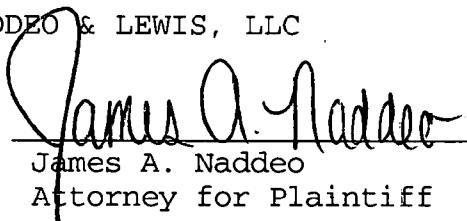
I, James A. Naddeo, Esquire, do hereby certify that a true and correct copy of Motion to Compel was served on the following and in the following manner on the 12th day of October, 2011:

First-Class Mail, Postage Prepaid

Michael P. Yeager, Esquire
110 North Second Street
P.O. Box 752
Clearfield, PA 16830

NADDEO & LEWIS, LLC

By:


James A. Naddeo
Attorney for Plaintiff

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

AMER S. KHOURI, an
individual,
Plaintiff,

v.

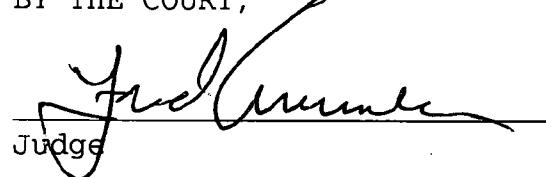
No. 07-1420-CD

Clearfield Hospital, a
nonprofit corporation,
Defendant.

ORDER

AND NOW, this 14 day of October, 2011, upon
consideration Motion to Compel filed on behalf of Plaintiff, it
is hereby ORDERED that the Defendant, Clearfield Hospital is
directed to produce the documents requested by Plaintiff in
Plaintiff's Fifth Request for Production of Documents no later
than 30 days from the date of this Order.
FSA

BY THE COURT,


Judge

5 **FILED** ICC
012:47 PM OCT 17 2011 Amy Nadelo
By William A. Shaw
Prothonotary/Clerk of Courts

FILED

OCT 17 2011

William A. Shaw
Prothonotary/Clerk of Courts

DATE: 10/17/11

You are responsible for serving all appropriate parties.

The Plaintiff'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

AMER S. KHOURI; an
individual,

Plaintiff,

v:

No. 07-1420-CL-CD

Clearfield Hospital,
Clearfield Hospital, a
nonprofit corporation, et al.

Defendant.

ERTI w * ERY. CL
* Type of Pleading:
* Plaintiff, et al. do hereby certify that
* **CERTIFICATE OF SERVICE**
certification of service was served on the following:
* Filed on behalf of:
in that Plaintiff, et al. of Plaintiff, et al.

James A. Naddeo, Esq., Counsel of Record for
this party:

James A. Naddeo, Esq.,
120 Market Street,
P.O. Box 52

Clearfield, PA 16830, James A. Naddeo, Esq.
Pa I.D. 06820

&

Trudy G. Lumadue, Esq.

Pa I.D. 202049

NADDEO & LEWIS, LLC

207 E. Market Street

P.O. Box 552 Plaintiff,

Clearfield, PA 16830

(814) 765-1601

FILED
OCT 18 2011
S. William A. Shaw
Promunatory/Clerk of Courts

FILED

OCT 18 2011

William A. Shaw
Prothonotary/Clerk of Courts

10

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

AMER S. KHOURI,
an individual

Plaintiff

v.

CLEARFIELD HOSPITAL,
a nonprofit corporation

Defendant

: No. 2007-1420-CD

: Type of Pleading:

: **Motion for Qualified
Protective Order**

: Filed on Behalf of: Clearfield Hospital

: Counsel of Record for these Parties:

For the Plaintiff:

James A. Naddeo, Esq.
Pa I.D. 06820
NADDEO & LEWIS, LLC
207 E. Market Street
P.O. Box 552
Clearfield, PA 16830
(814) 765-1601

For Clearfield Hospital

Michael P. Yeager, Esquire
Pa. Bar. I.D.: #15587
P.O. Box 752
110 North Second Street
Clearfield, PA 16830
Phone: 814-765-9611
Fax: 814-765-9503

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

AMER S. KHOURI, :
an individual, :
Plaintiff, : No. 2007-1420-CD
v. :
CLEARFIELD HOSPITAL, :
a nonprofit corporation, :
Defendant. :
:

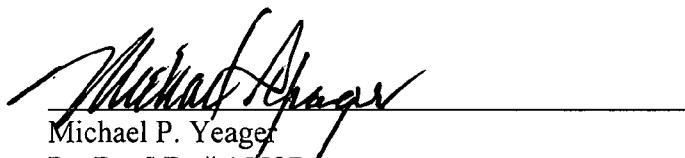
MOTION FOR QUALIFIED PROTECTIVE ORDER

In support of this Motion, Defendant states as follows:

Defendant received a request for production of documents from Plaintiff requesting the production of documents that are privileged under the Pennsylvania Peer Review Statute, 63 Pa. Stat. Ann. § 425.2 *et seq.* Defendant, by and through its undersigned attorney, hereby moves this Court to enter the attached Qualified Protective Order pertaining to documents that are privileged under the Pennsylvania Peer Review Statute, 63 Pa. Stat. Ann. § 425.2 *et seq.* which are designated "Confidential and Privileged Information Pursuant to 63 PA CSA & 425.2 et seq" ("Designated Material") by Defendant.

WHEREFORE, Clearfield Hospital respectfully requests that this Honorable Court enter the attached Qualified Protective Order.

Respectfully submitted this 21st day of October 2011.



Michael P. Yeager
Pa. Bar I.D. #:15587
P.O. Box 752
110 North Second Street
Clearfield, PA 16830
Phone: 814-765-9611
Fax: 814-765-9503
Attorney for Clearfield Hospital

ATTACHMENT 1

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

AMER S. KHOURI, :
an individual, :
Plaintiff, : No. 2007-1420-CD
v. :
CLEARFIELD HOSPITAL, :
a nonprofit corporation, :
Defendant. :
:

ATTACHMENT TO PROTECTIVE ORDER

I hereby certify that I have read the attached Protective Order in the above-captioned case and I understand that I may disclose materials marked "Confidential and Privileged Information Pursuant to 63 PA CSA & 425.2 et seq" only to those persons listed below and only as specifically provided:

- (a) counsel of record for any party in this action;
- (b) paralegal, stenographic, clerical and other employees of counsel of record in this action;
- (c) court reporters and employees of court reporters engaged by counsel to record and transcribe testimony in connection with this case;
- (d) independent experts and consultants employed by counsel for the parties to assist in the preparation or trial of this case;
- (e) any individual party and any directors, officers and employees of any party in this action to the extent that a particular disclosure of specific designated material is necessary with respect to the legal advice being rendered;
- (f) any person from whom testimony is taken or is to be taken in this action ("witness"), provided that such a person may be shown copies of designated

FILED

OCT 27 2011

William A. Shaw
Prothonotary/Clerk of Courts

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

AMER S. KHOURI, :
an individual, :
Plaintiff, : No. 2007-1420-CD
: :
v. :
: :
CLEARFIELD HOSPITAL, :
a nonprofit corporation, :
Defendant. : :
:

FILED
NOV 02 2011
William A. Shaw
Prothonotary/Clerk of Courts
CR

**QUALIFIED PROTECTIVE ORDER GOVERNING
CONFIDENTIALITY OF PEER REVIEW INFORMATION**

IT IS HEREBY ORDERED:

1. This Order shall govern all documents produced as part of the above action by Clearfield Hospital that are privileged under the Pennsylvania Peer Review Statute, 63 Pa. Stat. Ann. § 425.2 *et seq.* and designated by Clearfield Hospital “Confidential and Privileged Information Pursuant to 63 PA CSA & 425.2 *et seq.* (“Designated Material”).
2. The fact that any information is disclosed or produced in discovery, or any court proceeding, shall not be construed as a waiver in any other context or proceeding.
3. With respect to a deposition transcript in which Designated Material or information deemed to be confidential is the subject of examination, Clearfield Hospital may invoke this Order by stating, either on the record during the taking of the deposition or, in the alternative, in written correspondence sent within ten days of receipt of the deposition transcript, that some or all of the examination is confidential. All copies of the transcript of a deposition or the exhibits to a deposition which Clearfield Hospital has designated confidential in whole or in part shall be so marked by the court reporter.
4. Designated Material shall not be delivered, exhibited, disclosed or communicated to anyone other than the following persons:
 - (a) counsel of record for any party in this action;

- (b) paralegal, stenographic, clerical and other employees of counsel of record in this action;
- (c) court reporters and employees of court reporters engaged by counsel to record and transcribe testimony in connection with this case;
- (d) independent experts and consultants employed by counsel for the parties to assist in the preparation or trial of this case;
- (e) any individual party and any directors, officers and employees of any party in this action to the extent that a particular disclosure of specific Designated Material is necessary with respect to the legal advice being rendered;
- (f) any person from whom testimony is taken or is to be taken in this action (“witness”), provided that such a person may be shown copies of Designated Material only during his or her testimony or in the actual course of preparation therefore and may not retain any Designated Material; and
- (g) the Court and employees of the Court.

5. Designated Material shall be used solely for the purpose of conducting this action and not for any business or other purpose. Designated Material may be used in this action as follows:

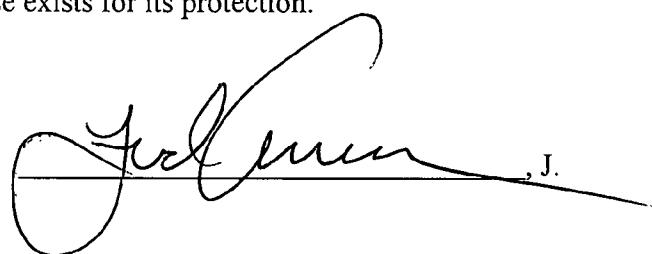
- (a) in materials filed with the Court under seal which shall bear on the cover of the sealed envelope the legend specified in Paragraph 1;
- (b) during the course of a deposition, provided that confidentiality is preserved;
- (c) to the extent necessary, in argument of any motions referring to Designated Material; and
- (d) at trial.

6. When Designated Material is presented as evidence at a hearing or other court proceeding, the record shall be maintained under seal and appropriate steps shall be taken to maintain the confidential nature of the Designated Material.

7. Designated Material shall not be disclosed to persons specified in subparagraphs 4(d), (e) and (f) until such persons have executed a written confidentiality agreement, in the form annexed hereto as Attachment 1, or have agreed to abide by the terms of this Order on the record of his or her deposition.

8. Upon final termination of this action, unless otherwise agreed in writing by an attorney of record for Clearfield Hospital, each party and person shall return all Designated Material, including all copies thereof, to Clearfield Hospital unless such material has been made public pursuant to this or subsequent Orders.
9. No part of the restrictions imposed by this Order may be terminated, except by stipulation executed by counsel of record for Clearfield Hospital. The provisions of this Order, insofar as they restrict the communication, treatment and use of confidential material, shall continue to be binding after the termination of this action, unless the Court orders otherwise.
10. Any party may object to the confidentiality designation of any Designated Material by serving written notice of objection on all parties, specifying with reasonable particularity the materials to which objection is made. If within 10 days after the service of such notice Clearfield Hospital with respect to such specified document does not file a motion for a determination by the Court as to the validity of the objection, the specified document shall be relieved from the restriction of this Protective Order. In the event such motion is filed, confidentiality of the material in issue shall be preserved pending resolution of the issue by the Court. Clearfield Hospital has the burden of proving that the Designated Material is or contains proprietary business information or other confidential information and that good cause exists for its protection.

DATE: November 2, 2011

A handwritten signature in black ink, appearing to read "John F. Culmer, J." The signature is fluid and cursive, with a large, sweeping "J" at the end.

FILED

NOV 02 2011

William A. Shaw,
Prothonotary/Clerk of Courts

DATE: 11/21/11

You are responsible for serving all appropriate parties.

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

Plaintiff(s) Plaintiff(s) Attorney Other

Defendant(s) Defendant(s) Attorney

Other

Plaintiff's instructions:

Defendant's instructions:

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

AMER S. KHOURI, an
individual, Plaintiff,

v.

Clearfield Hospital, a
Clearfield Hospital, a
nonprofit corporation, et.
Defendant.

No. 07 - 1420 - CD

~~PROSECUTOR~~ ~~DEFENDANT~~ Type of Pleading:

* PRAECIPE FOR STATUS
CONFERENCE

* Filed on behalf of:
Plaintiff

* Counsel of Record for
this party:

* James A. Naddeo, Esq.

* Pa. I.D. #068207

* Plaintiff

* NADDEO & LEWIS, LLC.
* 207 E. Market Street
* P.O. Box 552
* Clearfield, PA 16830
* (814) 765-1601

FILED 1CC
07/15/2011 Atty Naddeo
NOV 15 2011

William A. Shaw
Prothonotary/Clerk of Courts

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

AMER S. KHOURI, an
individual,

Plaintiff,

v.

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Clearfield Hospital, a
nonprofit corporation,
Defendant.

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No. 07-1420-CD

CERTIFICATE OF SERVICE

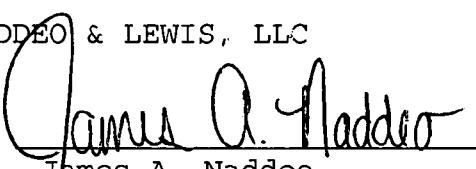
I, James A. Naddeo, Esquire, do hereby certify that a true and correct copy of Praeclipe for Status Conference was served on the following and in the following manner on the 15th day of November, 2011:

First-Class Mail, Postage Prepaid

Michael P. Yeager, Esquire
110 North Second Street
P.O. Box 752
Clearfield, PA 16830

NADDEO & LEWIS, LLC

By:


James A. Naddeo
Attorney for Plaintiff

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

AMER S. KHOURI

Plaintiff

vs.

NO. 2007-1420-CD

CLEARFIELD HOSPITAL

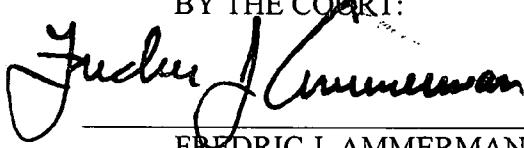
Defendant

ORDER

AND NOW, this 16th day of November, 2011, it is the ORDER of the Court
that a Status Conference in the above captioned case shall be and is hereby scheduled for
the 19th day of December, 2011 at 11:00 o'clock A.M. in Judge's Chambers, Court of
Common Pleas of Clearfield County, Pennsylvania.

One half hour has been set aside for this conference.

BY THE COURT:



FREDRIC J. AMMERMAN
President Judge

FILED

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NOV 17 2011

William A. Shaw
Prothonotary/Clerk of Courts

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Naddeo

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NOV 17 2011

William A. Shaw
Prothonotary/Clerk of Courts

DATE. 11-17-11

X You are responsible for serving all appropriate parties.

— The Procurator's office has provided service to the following offices:
— " — Plaintiff(s) Attorney — Other
— " — Defendant(s) Attorney — Other
— " — Plaintiff(s) Counsel — Other
— " — Defendant(s) Counsel — Other

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

AMER S. KHOURI, an
individual,

Plaintiff,

v.

Clearfield Hospital, a
nonprofit corporation,
Defendant.

* No. 07 - 1420 - CD

* Type of Pleading:

* **CERTIFICATE OF SERVICE**

* Filed on behalf of:

* Plaintiff

* Counsel of Record for
this party:

* James A. Naddeo, Esq.
* Pa I.D. 06820

* NADDEO & LEWIS, LLC.
* 207 E. Market Street
* P.O. Box 552
* Clearfield, PA 16830
* (814) 765-1601

FILED NOCC
11/3/2011
NOV 18 2011

William A. Shaw
Prothonotary/Clerk of Courts

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

AMER S. KHOURI, an
individual,

Plaintiff,

v.

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No. 07-1420-CD

Clearfield Hospital, a
nonprofit corporation,

Defendant.

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CERTIFICATE OF SERVICE

I, James A. Naddeo, Esquire, do hereby certify that a certified copy of Praecipe for Status Conference and a certified copy of Order dated November 16, 2011 was served on the following and in the following manner on the 18th day of November, 2011:

First-Class Mail, Postage Prepaid

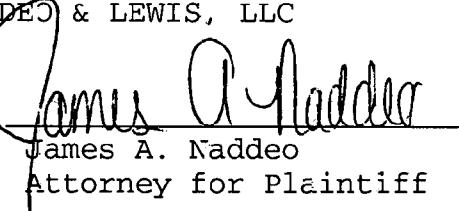
Michael P. Yeager, Esquire
110 North Second Street
P.O. Box 752
Clearfield, PA 16830

NADDEO & LEWIS, LLC

By:

James A. Naddeo

Attorney for Plaintiff



FILED

NOV 18 2011

William A. Shaw
Prothonotary/Clerk of Courts

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

AMER S. KHOURI, an individual,
Plaintiff

* NO. 2007-1420-CD

vs.

*

CLEARFIELD HOSPITAL, a nonprofit corporation,
Defendant

*

*

*

CASE MANAGEMENT ORDER

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Clerk to Mandeville
William A. Shaw, Esq.
Prothonotary/Clerk of Courts

NOW, this 19th day of December, 2011, following status conference among the Court and counsel for the parties; it is the ORDER of this Court as follows:

1. All discovery of any type whatsoever shall be completed by no later than August 31, 2012;
2. The report(s) and CV's of any expert(s) shall be provided to opposing counsel by no later than April 30, 2012;
3. Any Motion for Summary or Partial Summary Judgment shall be filed by no later than May 30, 2012; and
4. In the event the case will proceed to jury trial, jury selection shall be held on September 18, 2012, at 9:00 a.m. in Courtroom No. 1 of the Clearfield County Courthouse, Clearfield, Pennsylvania.

BY THE COURT,


FREDRIC J. AMMERMAN
President Judge

DATE: _____

You are responsible for serving all appropriate parties.

The Prothonotary's office has provided service to it. *Plaintiff(s)* *Defendant(s)* *Attorney* *Other* *Actions:*

FILED

DEC 21 1971

William A. Shaw
Clerk of Courts
Probationary Clerk of Courts

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

AMER S. KHOURI, an
individual,

Plaintiff,

v.

Clearfield Hospital, a
nonprofit corporation,
Defendant.

* No. 07 - 1420 - CD

* Type of Fleading:

* **CERTIFICATE OF SERVICE**

* Filed on behalf of:

* Plaintiff

* Counsel of Record for
this party:

* James A. Naddeo, Esq.
* Pa I.D. 06820

* NADDEO & LEWIS, LLC.
* 207 E. Market Street
* P.O. Box 552
* Clearfield, PA 16830
* (814) 765-1601

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01/10:45 AM
JAN 06 2012

William A. Shaw
Prothonotary/Clerk of Courts

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

AMER S. KHOURI, an
individual,

Plaintiff,

v.

Clearfield Hospital, a
nonprofit corporation,
Defendant.

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No. 07-1420-CD

CERTIFICATE OF SERVICE

I, James A. Naddeo, Esquire, do hereby certify that
Sixth Request for Production of Documents Directed to Defendant
was served on the following and in the following manner on the 6th
day of January, 2012:

First-Class Mail, Postage Prepaid

Michael P. Yeager, Esquire
110 North Second Street
P.O. Box 752
Clearfield, PA 16830

MADDEO & LEWIS, LLC
By: James A. Naddeo
James A. Naddeo, Esquire
Attorney for Plaintiff

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

AMER S. KHOUEI, an
individual,

Plaintiff,

v.

Clearfield Hospital, a
nonprofit corporation,
Defendant.

* No. 07 - 1420 - CD

* Type of Pleading:

* **PRAECIPE TO SETTLE
AND DISCONTINUE**

* Filed on behalf of:
* Plaintiff

* Counsel of Record for
this party:

* James A. Naddeo, Esq.
* Pa I.D. 06820

* NADDEO & LEWIS, LLC.
* 207 E. Market Street
* P.O. Box 552
* Clearfield, PA 16830
* (814) 765-1601

FILED
11:40 AM 16 JAN 2011
CCo/Cert. of Disc. to
William A. Shaw
Prothonotary/Clerk of Courts
Atty
GL

EXHIBIT A
IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL ACTION - LAW

AMER S. KHOURI, M.D., : No. 2007-1420-CD
an individual, :

Plaintiff, : Type of Pleading:
:

Discontinuance

v.

Filed on Behalf of: Plaintiff

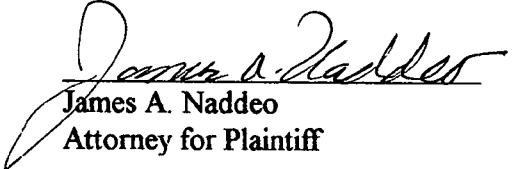
CLEARFIELD HOSPITAL,
a nonprofit corporation,

Defendant. :

TO THE PROTHONOTARY:

Mark this action discontinued.

January 16 2012


James A. Naddeo
Attorney for Plaintiff

FILED

JAN 16 2012

William A. Shaw
Prothonotary Clerk of Courts

COPY

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

Amer S. Khouri

Vs. No. 2007-01420-CD
Clearfield Hospital

CERTIFICATE OF DISCONTINUATION

Commonwealth of PA
County of Clearfield

I, William A. Shaw, Prothonotary of the Court of Common Pleas in and for the County and Commonwealth aforesaid do hereby certify that the above case was on January 16, 2012, marked:

Discontinued

Record costs in the sum of \$92.00 have been paid in full by James A. Naddeo, Esq.

IN WITNESS WHEREOF, I have hereunto affixed my hand and seal of this Court at Clearfield, Clearfield County, Pennsylvania this 16th day of January A.D. 2012.



William A. Shaw, Prothonotary